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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Monday, January 30, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He who would love life and see good days, let him turn away from evil and do right; let him seek peace and pursue it.—I Peter 3: 10, 11.

Almighty God and Father of us all, we come to Thee acknowledging our dependence upon Thee and offering unto Thee the devotion of our hearts. May the consciousness of Thy presence strengthen us by lifting us out of any discouragement we may have and by making us ready for the duties of these demanding days. Grant unto us wisdom and courage to fulfill the high positions of political prestige which are ours as leaders of our Nation. Let us not lose heart in our endeavors to work for the good of our people and the welfare of the whole human family.

Continue to bless our President, our Speaker, and Members of this House. Give them peace in their hearts and happiness in their homes as they seek to lead our Nation in the ways of justice, righteousness, and good will. Amen.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, on the basis of rule I, clause 1, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 17]

Addabbo	Cochran	Hollenbeck
Alexander	Cohen	Holtzman
Ambro	Conyers	Jeffords
Anderson, Ill.	Cotter	Kasten
Andrews, N.C.	D'Amours	Kostmayer
Andrews, N. Dak.	Dellums	Krueger
	Dent	Lehman
Applegate	Derwinski	Long, Md.
Archer	Diggs	McCloskey
Armstrong	Dornan	McDade
Ashley	Drinan	McKinney
Aspin	English	Maguire
AuCoin	Erlenborn	Mann
Beard, R.I.	Flood	Meeds
Bevill	Foley	Metcalfe
Biaggi	Fraser	Mikva
Bingham	Gephardt	Moorhead, Calif.
Boggs	Goldwater	
Boland	Gonzalez	Moorhead, Pa.
Bolling	Guyer	Moss
Brademas	Hagedorn	Murphy, Ill.
Burke, Calif.	Harrington	Murphy, Pa.
Burton, John	Harsha	Ottinger
Cederberg	Heckler	Pepper
Chappell	Hightower	Pursell
Chisholm	Hillis	Quie
Reuss	Shipley	Vander Jagt
Risenhoover	Shuster	Walsh
Rodino	Sisk	Watkins
Roncalio	Skubitz	Waxman
Roybal	St Germain	Wiggins
Ruppe	Steed	Wilson, C. H.
Ryan	Stratton	Wilson, Tex.
Scheuer	Teague	Wydler
Sebelius	Tucker	Zablocki
Seiberling	Van Deerlin	Zeferetti

The SPEAKER. On this rollcall, 326 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2960. An act to authorize the Secretary of the Interior to memorialize the fifty-six signers of the Declaration of Independence in Constitution Gardens in the District of Columbia; and

H.R. 5054. An act to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2220. An act to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board.

The message also announced that the Vice President, pursuant to section 1024 of title 15, United States Code, appointed Mr. McGOVERN to fill the vacancy of the majority party membership on the Joint Economic Committee.

LEGISLATIVE PROGRAM

(Mr. UDALL asked and was given permission to address the House for 1 minute.)

Mr. UDALL. Mr. Speaker, the first order of business scheduled today was a motion I was planning to make to suspend the rules and pass the bill, S. 2076.

I just learned a few minutes ago that another committee, the great Committee on Education and Labor, has some questions about the bill and has a jurisdictional problem. In order to see if we can resolve this matter, I am not going to make that motion today, but we hope to have it resolved and bring the bill back on the floor at a later date.

RED CARNATIONS DENOTE CELEBRATION OF McKINLEY'S BIRTHDAY

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, today we note the birthday of William McKinley, 25th President of the United States and the last Civil War veteran to be elected as President, by wearing the red carnation, the State flower of Ohio, and a great favorite of the martyred President.

William McKinley, who ably served the 16th District of Ohio for 13 years as a Member of this body, including 2 years as chairman of the Ways and Means Committee, had a distinguished career as a noted trial lawyer, Congressman, Governor of Ohio, and President from 1897 to 1901. He led the Nation through the Spanish-American War and the acquisition of vast overseas territories.

President McKinley shared a common political goal with our distinguished Speaker. His front porch campaign for reelection in 1900 emphasized his slogan, "Good work, good wages, good money and a full dinner pail." According to Congressional Insight in its January 13 publication this year, Speaker TIP O'NEILL's own priorities for the House will emphasize "work and wages." I would add that I hope our leader also adopts the third part of McKinley's platform and supports an anti-inflationary budget resolution that will maintain "good money" for the people of this Nation.

William McKinley was the first President to recognize the role of the

United States as a world power. Speaking at the Pan-American Exposition in Buffalo in 1901, he said:

The period of exclusiveness is past—God and man have linked the nations together—isolation is no longer possible or desirable.

In closing, he continued:

Let us ever remember that our real eminence lies in victories of peace, not those of war, our earnest prayer is that God will graciously vouchsafe prosperity, happiness and peace to all our neighbors—and like blessings to all peoples and powers on earth.

In the gallery today we have Mayor James Puckett and the reigning carnation queen, Terry Kent, from Carnation City, Alliance, Ohio, who have graciously helped distribute the red carnations on Capitol Hill and to our First Lady, Rosalynn Carter. Also we have in the gallery Sandy Durham, chairman of the carnation queens pageant, and Jim Giordano, general chairman of the carnation week. The red carnations for today's observance were made possible through the generosity of one of Stark County's public-spirited citizens, Mr. Chet Keller, president of United Floral Co.

STORM-DRIVEN MIDWEST STATES SHOULD BE DECLARED DISASTER AREA

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, I believe everybody in the country is aware of the tremendous disaster that has befallen several of the Midwestern States, particularly the States of Ohio, Illinois, Indiana, and Pennsylvania.

I was unable to get out to my district over the weekend. The Toledo airport was closed, and I could not have gotten into my district even if I had gotten to Toledo. Notwithstanding my inability to get back to the district, I have been in communication with the various county officials, State officials, and Federal officials attempting to assist in every way possible. One cannot imagine the magnitude of this disaster and the hardships people have endured and are still enduring. The President of the United States must recognize the magnitude of the disaster this horrendous snowstorm has inflicted upon our area. Yet, as I stand here before the membership, Mr. Speaker, the President has not declared this region a disaster area and has only placed us in a state of emergency. The benefits are not the same, as the Members are well aware, and these people need every benefit we can give them now! I ask the President to declare the region a disaster area forthwith!

STRIKE-CAUSED COAL SHORTAGE ADDS TO MIDWEST PROBLEMS

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, in conjunction with the remarks made by my colleague, the gentleman from Ohio (Mr. LATTA), in addition to the emergency situation brought about by the weather, there is the shortage of coal that has been caused by the continuing devastating strike on the part of the United Mine Workers.

We were in touch with the White House last week. We wrote letters urging the President to get off dead center and invoke the provisions of the Taft-Hartley Act, which would send the miners back to work at least for 80 days during the cooling-off period.

When we talk about an energy shortage in this country, we should remember that we have millions and millions of tons of coal available if these miners would get back to work. We call upon the President publicly to invoke the provisions of Taft-Hartley to take care of this situation because electric power is being shut off for the absence of coal, and another crisis is upon us.

UNITED STATES SHOULD NOT SIDE WITH RHODESIAN TERRORISTS

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I think it is highly regrettable that the United States should be engaged, together with Great Britain, in the meetings on the Island of Malta now taking place with acknowledged terrorists from Rhodesia, as happened over the weekend.

It is totally incomprehensible to me that the United States could side with these butchers who have slaughtered hundreds of blacks and whites in Rhodesia for the last 2 years.

Prime Minister Ian Smith is now engaged in what appears to be successful negotiations to bring about majority rule in Rhodesia. There is no place in those negotiations with the moderate black leaders for these kinds of Marxist butchers.

Again, it is strange to me that the United States should be exerting its will and using its resources to promote those who are pro-Communists and have shown no respect for the rights or lives of others.

Mr. Speaker, I hope that all of the Members saw the "60-Minutes" program last night on CBS, which gave for the first time, at least in my memory, a true picture of the racial accord that is being reached in Rhodesia. If we let them alone, Mr. Speaker, I think they will reach a peaceful solution of their own problems.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 27, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 10:10 a.m. on Friday, January 27, 1978, and said to contain a message from the President wherein he transmits the 13th annual report of the United States Information Agency on Special International Exhibitions.

With kinds regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

THIRTEENTH ANNUAL REPORT OF U.S. INFORMATION AGENCY ON SPECIAL INTERNATIONAL EXHIBITIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on International Relations:

To the Congress of the United States:

As required by law, I transmit to the Congress the Thirteenth Annual Report on Special International Exhibitions conducted under the authority of the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87–256).

This report covers exhibitions presented abroad by the U.S. Information Agency at international fairs and under East/West Cultural Exchange agreements, as well as exhibitions and labor missions presented abroad by the Department of Labor and the Department of Commerce. This report covers events prior to the beginning of my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *January 27, 1978.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives.

WASHINGTON, D.C.,
January 27, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 10:10 a.m. on Friday, January 27, 1978, and said to contain a message from the President wherein he transmits the 5th special message for fiscal year 1978 under the Impoundment Control Act of 1974.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW Jr.,
Clerk, House of Representatives.

THREE PROPOSED RESCISSIONS AND SIX NEW DEFERRALS UNDER IMPOUNDMENT CONTROL ACT OF 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–285)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompany-

ing papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three proposals to rescind a total of $55.3 million in budget authority previously provided by the Congress. In addition, I am reporting six new deferrals of budget authority totaling $1,517.1 million and seven revisions to previously transmitted deferrals increasing the amount deferred by $2.2 million in budget authority.

The rescission proposals affect the military assistance program, the Department of State's appropriation for contributions for international peacekeeping activities, and the revolving fund of the Federal Home Loan Bank Board.

The new deferrals and revisions to existing deferrals involve programs of the Departments of Agriculture, Commerce, Health, Education, and Welfare, Justice, Labor, Transportation, the Treasury, and the Panama Canal Zone Government, the National Science Foundation, and the United States Information Agency.

The details of each rescission proposal and deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *January 27, 1978.*

ELEVENTH QUARTERLY REPORT OF COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the eleventh quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council activities during the second quarter of 1977 in monitoring both prices and wages in the private sector and various Federal Government activities that lead to higher costs and prices without creating commensurate benefits. It discusses Council reports and analyses concerning the following matters: (1) the collective bargaining agreement reached in the steel industry; (2) the availability of home insulation materials; (3) prospects for a fertilizer shortage; (4) the prices of bakery products; (5) the price behavior of auto parts; and (6) U.S. production capacity of cement. The report also discusses the Council's filings before Federal regulatory agencies.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *January 30, 1978.*

AUTHORIZING APPROPRIATIONS FOR THE OFFICE OF RAIL PUBLIC COUNSEL

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5798) to amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5798, with Mr. BENJAMIN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill authorizes appropriations not to exceed $1 million for the Office of Rail Public Counsel in the Interstate Commerce Commission for fiscal year 1978.

An Office of Public Counsel was established within the Rail Services Planning Office of the ICC by the Regional Rail Reorganization Act of 1973. Congress directed that this Office be established in order to assure that all communities and users of rail services, regardless of size or location, were adequately represented during the reorganization process of the bankrupt railroads of the Northeast. Reportedly, the Office developed a highly successful mechanism for people affected by the rail reorganization to complain about the negative impact the reorganization plans caused by submitting the most persuasive evidence and arguments to further their interest. In light of this record, Congress decided that it was important to continue and expand this public representation especially as there are a number of very important decisions affecting railroad policies to be made in implementing the Railroad Revitalization and Regulatory Reform Act of 1976. Therefore, provision for the establishment of an independent office, called the Office of Rail Public Counsel, was included in the Railroad Revitalization and Regulatory Reform Act of 1976, which was enacted February 5, 1976.

In considering H.R. 5798, the committee recognized that Congress may desire to establish a consumer representation agency during this session. Nevertheless, the committee wishes to emphasize that the funding for the already established Office of Rail Public Counsel should not await the establishment of a consumer representation agency. Failure to timely fund the Office of Rail Public Counsel could cause considerable harm to the many communities in the country that are presently considering actions necessary for the continuation or abandonment of rail lines.

In the event a consumer representation agency is established, it is the intent of this committee to reconsider the matter of a Rail Public Counsel, and to determine at that time, whether the Office should be continued separately or included within the activities of the newly established representation agency. The committee will wish to determine whether the representation agency has the same degree of independence and whether it would be preferable for the Office of Rail Public Counsel to be included in the consumer representation agency, so that all the functions be conducted in a uniform manner. The committee, however, believes that this matter should be decided when the consumer representation agency is established and not at this time. Further, the administration obviously recognizes that that Office of Rail Public Counsel should be funded at this time and not await the establishment of a consumer representation agency as evidenced by the fact that the current budget provides $700,000 for the Office of Rail Public Counsel during fiscal year 1978.

The Congress is already on record that the Office of Rail Public Counsel should be established immediately. The 1976 Rail Act, which established the Office of Rail Public Counsel, provided that the President was to appoint a Director of the Office within 60 days after the enactment of the act. That is, a Director should have been appointed by April 6, 1976. Unfortunately, this appointment was not made by President Ford. President Carter, however, has appointed a Director, who was confirmed by the Senate last December and is presently establishing the Office.

The committee believes that the $1 million authorized by this bill is very reasonable. The amount compares favorably with the fact that for fiscal year 1977, and the transition quarter, Congress authorized and appropriated $2 million for the Office. None of this amount has been expended, however, because as I just indicated, there was no Director during that time. The committee does not believe that it is necessary to again authorize $2 million because there will be insufficient time for the Office to get organized and utilize the extensive staff originally contemplated.

The difference between the $1 million authorized by this bill and the $800,000 already appropriated for this Office represents an amount that may be necessary for certain contingencies. The committee believes that the difference between these two amounts is reasonable considering that there has been very little

experience in the types of activities that are going to be undertaken.

Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I thank the gentleman for yielding and I rise in support of H.R. 5798, a bill which authorizes an appropriation of $1 million for fiscal year 1978 to enable the Office of Rail Public Counsel to perform its statutory duties for the fiscal year 1978. An appropriation in the amount of $800,000 has already been made for the Office for this fiscal year.

In section 304(a) of the Railroad Revitalization and Regulatory Reform Act of 1976, Congress established the Office as an independent entity within the Interstate Commerce Commission to present the views of the public and represent the public interest in rail transportation matters subject to the Commission's jurisdiction. Prior to this congressional action, a similar administrative entity was created in 1974 by the Director of the Rail Services Planning Organization to assist shippers and communities in participating in aspects of the regional rail reorganization process affecting them. Recognition of the significant value of public participation in the reorganization process led to the statutory establishment of the Office of Rail Public Counsel, with expanded powers.

Mr. Chairman, President Carter has recently appointed the first Director of the Office of Rail Public Counsel, who has been confirmed by the Senate. Hopefully, the new Director will soon assume a leadership role in insuring active public participation and representation in the decisionmaking process at a time when decisions that affect the future of rail service in the United States are being made by the Commission, and other Federal agencies.

For these reasons, I urge passage of the bill.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support this bill which provides $1 million authorization for the Office of Rail Public Counsel.

This bill provides the necessary $1 million authorization to fund the Office of Rail Public Counsel. As you know, I have repeatedly expressed my concern—which is shared by Mr. SKUBITZ and many others in this body—that the Office of Rail Public Counsel was an unwise provision of the 4–R Act. It was unwise because it covers only rail matters before the ICC and does not apply to pipelines, motor carriers, or water carriers. If the idea of a Rail Public Counsel is a good one, it should apply to all modes of transportation.

As you also know, nearly 2 years elapsed before the executive branch sent a nominee to be the Rail Public Counsel. Finally last December a Rail Public Counsel was nominated and confirmed by the Senate. I would hope that the new Rail Public Counsel uses the powers of his Office to strengthen the railroad industry rather than to harass it. It is important for this Nation to have a strong railroad system. For too long public policy has so hamstrung the industry that it has a rate of return on investment of only 1.8 percent, and the bankruptcies of the Northeast have spread to the Midwest.

I support the passage of this bill and hope that the money it authorizes will be wisely used.

Mr. CONTE. Mr. Chairman, it is my pleasure to rise in support of Mr. ROONEY's bill, H.R. 5798, to amend the Interstate Commerce Act to authorize a $1 million appropriation for the Office of Rail Public Counsel for fiscal year 1978.

For too long, the only interests well represented in ICC rail proceedings were those of shippers and carriers, whose immediate interests were effected by the outcome of individual and rulemaking proceedings. Unheard before the Commission were the voices of the ultimate consumers of transportation services—such as small businessmen and members of the general public.

In 1974, it was discovered that this need not be so. As part of the Regional Rail Reorganization Act of 1973, Congress established a public counsel function in the Commission's Rail Services Planning Office to assist the public in the development of a plan to restructure the financially ailing or bankrupt northeast railroads. To the surprise of some, the Public Counsel and his staff were able to add much valuable information to the public docket through its representation of the views of affected communities and the general public.

Both Congress and the ICC recognized the validity of continuing at least some of the functions of the Office of Public Counsel and each moved to provide for such an Office at the Commission. Of the two, Congress acted more boldly and in 1976 we established, as part of the Railroad Revitalization Regulatory Reform Act, the Office of Public Counsel, giving it a considerable degree of independence.

Under section 304, the Office of Rail Public Counsel, among other things has standing to become a party to any Commission railroad proceeding; it may petition the ICC for the initiation of rail proceedings; seek judcial review of any ICC railroad action; gather, analyze and present the views of communities and users rail service effected by Commission proceedings; and otherwise represent the public interest wherever Federal policies and activities that effect rail transportation matters subject to Commission jurisdiction are involved. The Director of this Office, according to section 304, is to be appointed by the President with the advance and consent of the Senate.

Unfortunately, until very recently the Office was left unfilled by the White House. This action left the public without a valuable means of input in the ICC decisionmaking process, despite the fact that funding was authorized for the Office for fiscal years 1976 and 1977.

The negative results of this action were directly felt by New England and New York Farmers Associations, which in 1973 petitioned the ICC to investigate rail freight rates covering the transport of feed grains to New England. Results of the Commission's investigation were published in February 1977. The Commission found that, although some of the rates protested must be corrected, it was unable to document discrimination against New England feed grain recipients because of limited investigatory resources. A joint concurring opinion presented by ICC Chairman Daniel O'Neal and Vice Chairman Clapp highlighted this point. They stated, while they concurred that the record did not allow the Commission to conclude that New England feed producers suffered as a result of additional rates, disparities, and distortions, these findings were "only too predictable, given the fact that no Commission staff unit was assigned to aid in developing an adequate evidentiary record."

The Commissioners further stated that—

> Considering the broad competition and other economic issues involved and the complicated cost questions presented, this is the type of case that calls out for more than a passive judgment upon an incomplete adversary record which we are now able to render.

In other words, participation in this kind of case by an Office of Rail Public Counsel would have produced a better considered judgment.

In May 1977, 16 Congressmen, including myself, wrote President Carter, directing his attention to this grain rates decision and strongly urged Mr. Carter to immediately nominate a Director of the Office of Rail Public Counsel.

I am pleased to state that in November 1977 such a nomination was made and that it was an excellent one.

The President's nominee, who was recently confirmed by the Senate, is Attorney Howard A. Heffron. Mr. Heffron left a lucrative private practice to return to Government service. He brings to this post 25 years of rich legal experience, including service as Chief Counsel to the Federal Highway Adminstration from 1967 to 1969.

As his numerous legal writings indicate, Mr. Heffron is both a scholar and a strong consumer advocate. Therefore, it appears that the public interest will be ably represented before the Commission.

It is essential that there be no further delay in implementing the Office of Rail Public Counsel. Approval of the authorization sought here for fiscal 1978 will allow Mr. Heffron, at last, to begin the work long needed in this area.

Therefore, I strongly urge passage of H.R. 5798, which is totally consistent with our past actions.

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 5798, whch authorizes an appropriation of $1,000,000 for the Office of Rail Public Counsel in the Interstate Commerce Commission for fiscal year 1978.

This office was established in section 304(a) of the Railroad Revitalization and Regulatory Reform Act of 1976. I understand that the President has failed to date to appoint a Director to this office subsequent to the enactment of this legislation.

I support this appropriation because of the need for public oversight within the ICC. The Office, as established in the legislation of 1976, is charged with presenting the views of the public and representing the public and representing the public interest with respect to rail transportation.

Mr. Chairman, I submit that the experiences in my own part of New York State point to the crying need for this Counsel.

The Poughkeepsie Rail bridge, spanning the Hudson River, was the only rail link between New England and the rest of the Nation. The rail traffic on that bridge was halted by fire in May 1974. Commonsense dictates that speedy repair of the bridge was imperative not only for the economic well-being of southeastern New York and southern New England, but for national security as well. With the Poughkeepsie Bridge out of service, all rail traffic has been routed through the Selkirk rail yards near Albany, many miles to the north. This situation would be ludicrous were it not so tragic to the rail shippers of the area. Yet, ConRail consistently refuses to rectify the situation.

I have conducted several public hearings in my own congressional district. Most recently a hearing which I cochaired with my colleagues Mr. MOFFETT, Mr. FISH, and Mr. MCHUGH. At each of these hearings, scores of rail shippers, civic groups, and interested citizens pointed out the facts and figures which underscore the need for the repair of the Poughkeepsie Rail Bridge. Yet, ConRail consistently refuses to act.

The New York State Department of Transportation, the Connecticut Department of Transportation, and the Governor of the State of Connecticut have all strongly urged the repair of this vital transportation link. Still, ConRail turns a deaf ear to the logical pleadings of the people.

In addition, we have recently been horrified to learn of the massive abandonment of many rail lines in the Northeast. ConRail seems to be hell bent on exerting its independence and remaining aloof from the needs and desires of the public.

Mr. Chairman, I feel that the establishment of this Counsel is a must if our rail companies are going to see fit to run roughshod over the wants of the people.

I understand that the President is prepared to appoint the Director and other officials necessary for the functioning of this agency once we approve this legislation. Accordingly, I urge my colleagues, in the interest of progressive responsiveness to our rail users and the general public, to approve this appropriation for this most essential agency.

Mr. SKUBITZ. Mr. Chairman, I support this bill which provides a $1 million authorization for the Office of Rail Public Counsel. Having stated my support for the bill, I want to restate some of the difficulties inherent in the Office of Rail Public Counsel concept.

First, as you will recall, the Office of Rail Public Counsel was established under the 4–R Act when it was signed into law 2 years ago. At that time, I pointed out that it was nonsense to have a public counsel at the ICC concerned only with rail matters. Prior to the 4–R Act, the Commission itself had suggested the creation of an Office of Public Counsel which would have represented the public with respect to all modes of transportation under the jurisdiction of the Commission. Because of the jurisdictional limitations of the Committee on Interstate and Foreign Commerce, the public counsel concept was applied only to those matters before the Commission relating to railroads.

I continue to believe that we should either eliminate the Office of Rail Public Counsel or create an Office of Public Counsel which could serve the public with respect to trucks and water carriers as well as railroads. In my judgment, we are again discriminating against railroads and in favor of trucks and water carriers by failing to expand the jurisdiction of the office.

Second, for nearly the full 2 years that the Office of Rail Public Counsel has been established by law, there has been no activity because we waited and waited for a Rail Public Counsel to be appointed. Finally, the President sent an appointment to the Congress and that appointment has been confirmed by the Senate. I was disturbed by the delay in carrying out the law even though I have never been enthusiastic about the ability of the office to protect the public interest.

Third, I would hope that the Office of Rail Public Counsel would begin to represent the public in matters considered by the Commission. In my judgment, that public interest is best served at this time by the counsel vigorously supporting measures which will strengthen the railroad industry. As you know, Mr. Chairman, we have the problem of bankrupt railroads operating in the Midwest. We have the problems of ConRail failing to meet the expectations that we had for it just a short 2 years ago. We have rail passenger service deteriorating daily even though we are pouring millions of Federal dollars into Amtrak. We have quite frankly the need for public counsel to vigorously push for more favorable conditions in order for railroads to gain the necessary strength for this Nation to have a viable transportation system.

I support this bill, Mr. Chairman, and I am hopeful that the newly appointed Rail Public Counsel will push vigorously to see that railroads are given at least a fair shake before the regulatory bodies which have thus far nearly succeeded in toppling our entire industry.

Mr. ROONEY. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 5798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27(6) of the Interstate Commerce Act (49 U.S.C. 26b(6)) is amended—

(1) by striking out "and" immediately after "1976,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $1,000,000 for the fiscal year ending September 30, 1978".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with, that the bill be printed in the RECORD, and that it be open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments?

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just would like to mention to the House here that this bill dealing with the Office of Rail Public Counsel will be coming to our attention again next week when we debate a bill to create an Office of Consumer Representation. I and the gentleman from Iowa (Mr. LEACH) will be offering a substitute to that consumer bill which takes a different approach to better consumer representation, and as a part of that bill we are attempting to strengthen a unit such as the Rail Public Counsel without creating a central agency. I bring this to the attention of the chairman here as well as to the Members of the House.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Are there any amendments? If not, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCKAY) having assumed the chair, Mr. BENJAMIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5798) to amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978, pursuant to House Resolution 633, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 318, nays 44, not voting 70, as follows:

[Roll No. 18]

YEAS—318

Abdnor	Flippo	Mitchell, Md.
Akaka	Florio	Mitchell, N.Y.
Allen	Flowers	Moakley
Ammerman	Flynt	Moffett
Andrews, N.C.	Foley	Mollohan
Applegate	Ford, Mich.	Moss
Ashley	Ford, Tenn.	Murphy, N.Y.
Aspin	Forsythe	Murtha
Badham	Fountain	Myers, Gary
Bafalis	Fowler	Myers, John
Baldus	Frey	Myers, Michael
Barnard	Fuqua	Natcher
Baucus	Gaydos	Neal
Bauman	Giaimo	Nedzi
Beard, Tenn.	Gibbons	Nichols
Bedell	Gilman	Nix
Beilenson	Ginn	Nolan
Benjamin	Glickman	Nowak
Bennett	Gonzalez	O'Brien
Bevill	Goodling	Oakar
Blanchard	Gore	Oberstar
Blouin	Grassley	Panetta
Boggs	Gudger	Patten
Boland	Hall	Patterson
Bonior	Hamilton	Pattison
Bonker	Hammer-schmidt	Pease
Bowen		Perkins
Breaux	Hanley	Pettis
Breckinridge	Hannaford	Pickle
Brinkley	Harkin	Pike
Brodhead	Harrington	Pressler
Brooks	Harris	Price
Broomfield	Harsha	Pritchard
Brown, Calif.	Hawkins	Quillen
Brown, Mich.	Hefner	Rahall
Brown, Ohio	Heftel	Railsback
Broyhill	Hillis	Rangel
Buchanan	Holland	Regula
Burgener	Horton	Rhodes
Burke, Fla.	Howard	Richmond
Burke, Mass.	Hubbard	Rinaldo
Burlison, Mo.	Huckaby	Risenhoover
Burton, John	Hughes	Robinson
Burton, Phillip	Ireland	Roe
Butler	Jenkins	Rogers
Byron	Jenrette	Rooney
Caputo	Johnson, Calif.	Rose
Carney	Johnson, Colo.	Rosenthal
Carr	Jones, N.C.	Rostenkowski
Carter	Jones, Okla.	Runnels
Cavanaugh	Jones, Tenn.	Russo
Cederberg	Jordan	Santini
Chappell	Kastenmeier	Sarasin
Chisholm	Kazen	Satterfield
Clay	Kelly	Sawyer
Cleveland	Ketchum	Scheuer
Coleman	Keys	Schroeder
Collins, Ill.	Kildee	Schulze
Conte	Kindness	Seiberling
Conyers	Krebs	Sharp
Corcoran	LaFalce	Shipley
Corman	Latta	Shuster
Cornell	Le Fante	Sikes
Cornwell	Leach	Simon
Coughlin	Lederer	Sisk
D'Amours	Leggett	Skelton
Daniel, Dan	Lent	Slack
Daniel, R. W.	Levitas	Smith, Iowa
Danielson	Lloyd, Calif.	Smith, Nebr.
Davis	Lloyd, Tenn.	Solarz
de la Garza	Long, La.	Spellman
Delaney	Long, Md.	Spence
Dellums	Lujan	St Germain
Derrick	Luken	Staggers
Devine	Lundine	Stanton
Dickinson	McCormack	Stark
Dicks	McDade	Steed
Dodd	McEwen	Steers
Downey	McFall	Steiger
Drinan	McHugh	Stockman
Duncan, Oreg.	McKay	Stokes
Duncan, Tenn.	McKinney	Stratton
Early	Madigan	Studds
Eckhardt	Mahon	Thompson
Edgar	Markey	Thone
Edwards, Ala.	Marks	Thornton
Edwards, Calif.	Marlenee	Traxler
Eilberg	Marriott	Tsongas
Emery	Martin	Udall
Ertel	Mathis	Ullman
Evans, Colo.	Mattox	Vanik
Evans, Del.	Mazzoli	Vento
Evans, Ga.	Meeds	Volkmer
Evans, Ind.	Meyner	Waggonner
Fary	Michel	Walgren
Fascell	Mikulski	Walker
Fenwick	Mikva	Wampler
Findley	Milford	Waxman
Fish	Miller, Calif.	Weaver
Fisher	Mineta	Weiss
Fithian	Minish	Whalen
White	Wilson, Tex.	Yates
Whitehurst	Winn	Young, Alaska
Whitley	Wirth	Young, Mo.
Whitten	Wolff	Young, Tex.
Wilson, Bob	Wright	
Wilson, C. H.	Wylie	

NAYS—44

Anderson, Calif.	Gradison	Poage
	Hansen	Quayle
Archer	Holt	Roberts
Ashbrook	Hyde	Rousselot
Burleson, Tex.	Ichord	Rudd
Clausen, Don H.	Jacobs	Snyder
	Kemp	Stangeland
Clawson, Del	Lagomarsino	Stump
Cochran	Livingston	Symms
Collins, Tex.	Lott	Taylor
Conable	McClory	Treen
Cunningham	McDonald	Trible
Edwards, Okla.	Miller, Ohio	Tucker
English	Montgomery	Young, Fla.
Frenzel	Moore	
Gammage	Mottl	

NOT VOTING—70

Addabbo	Flood	Obey
Alexander	Fraser	Ottinger
Ambro	Gephardt	Pepper
Anderson, Ill.	Goldwater	Preyer
Andrews, N. Dak.	Guyer	Pursell
	Hagedorn	Quie
Annunzio	Heckler	Reuss
Armstrong	Hightower	Rodino
AuCoin	Hollenbeck	Roncalio
Beard, R.I.	Holtzman	Roybal
Biaggi	Jeffords	Ruppe
Bingham	Kasten	Ryan
Bolling	Kostmayer	Sebelius
Brademas	Krueger	Skubitz
Burke, Calif.	Lehman	Teague
Cohen	McCloskey	Van Deerlin
Cotter	Maguire	Vander Jagt
Crane	Mann	Walsh
Dent	Metcalfe	Watkins
Derwinski	Moorhead, Calif.	Wiggins
Diggs		Wydler
Dingell	Moorhead, Pa.	Yatron
Dornan	Murphy, Ill.	Zablocki
Erlenborn	Murphy, Pa.	Zeferetti

Mr. Addabbo with Mr. Alexander.
Mr. AuCoin with Mr. Cohen.
Mrs. Burke of California with Mr. Fraser.
Mr. Zeferetti with Mr. Brademas.
Mr. Biaggi with Mr. Gephardt.
Mr. Lehman with Mr. Dornan.
Mr. Flood with Mr. Pursell.
Mr. Beard of Rhode Island with Mr. Watkins.
Mr. Dent with Mr. Anderson of Illinois.
Mr. Pepper with Mr. Quie.
Mr. Zablocki with Mr. Ruppe.
Mr. Bingham with Mr. Derwinski.
Mr. Cotter with Mr. Walsh.
Mr. Diggs with Mr. Erlenborn.
Mr. Moorhead of Pennsylvania with Mr. Preyer.
Mr. Ryan with Mr. Andrews of North Dakota.
Mr. Roybal with Mr. Sebelius.
Ms. Holtzman with Mrs. Heckler.
Mr. Mann with Mr. Reuss.
Mr. Metcalfe with Mr. Wydler.
Mr. Ambro with Mr. Guyer.
Mr. Annunzio with Mr. Hagedorn.
Mr. Dingell with Mr. Armstrong.
Mr. Hightower with Mr. Goldwater.
Mr. Kostmayer with Mr. Kasten.
Mr. Maguire with Mr. McCloskey.
Mr. Murphy of Illinois with Mr. Skubitz.
Mr. Obey with Mr. Krueger.
Mr. Ottinger with Mr. Murphy of Pennsylvania.
Mr. Yatron with Mr. Moorhead of California.
Mr. Van Deerlin with Mr. Vander Jagt.
Mr. Teague with Mr. Jeffords.
Mr. Roncalio with Mr. Hollenback.
Mr. Rodino with Mr. Wiggins.

Messrs. SNYDER, TAYLOR, McCLORY, DEL CLAWSON, GAMMAGE, DON H. CLAUSEN, and LAGOMARSINO changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 5798.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ADVANCED ENERGY TECHNOLOGIES AND ENERGY CONSERVATION RESEARCH, DEVELOPMENT AND DEMONSTRATION OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT TODAY WHILE HOUSE IS IN SESSION

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration of the Committee on Sicence and Technology may be permitted to meet at 2 o'clock today, notwithstanding the fact that the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUIRING CONRAIL TO MAKE PREMIUM PAYMENTS UNDER CERTAIN MEDICAL AND LIFE INSURANCE PLANS

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5646) to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5646, with Mr. BENJAMIN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill provides authority whereby the U.S. Railway Association can loan funds to ConRail for the purpose of making premium payments on medical and life insurance policies for noncontract preconveyance retirees of the bankrupt railroads. The retirement program for these retirees provided that these insurance benefits would be continued by the railroad after retirement. This bill therefore merely provides that this provision in the retirement program be carried out. These persons worked and retired with the understanding that these benefits would be continued to be paid after retirement by the railroad. We want to make sure now, when the retirees are not in a position to make alternative arrangements, that the original commitment is fulfilled by the estate of the bankrupt railroad.

Last year, I was successful in having the Rail Transportation Improvement Act amended to provide, among other things, basically the same provisions as are in this bill. I offered the amendment at that time because I was informed that the health and life insurance protection for these preconveyance retirees were to cease as neither the estates nor ConRail was required to continue payment, and did not intend to voluntarily continue payment. I believed then, and continue to believe, that depriving these persons of these benefits would be an injustice that should not be tolerated.

Shortly after the enactment of the Rail Transportation Improvement Act, the estate of one of the bankrupt railroads went to court arguing that, despite the provision in the act, they should not have to continue to pay health and life insurance benefits to these retirees because the premiums did not meet the prerequisite of coming within the definition of an administrative expense. The court in the case brought by the Erie-Lackawanna agreed with the position of the estate. The court indicated that the act clearly states that pensions are an administrative expense but with regard to health and life insurance premiums the act provides they are to be paid only if they are deemed to be an administrative expense. This bill therefore is designed to overcome this adverse decision by correcting the deficiency in the drafting of the Rail Transportation Improvement Act.

It should be noted that the premiums for these policies are to be paid in the same manner as all other preconveyance claims. That is, the USRA loans funds to ConRail which makes the payment, and in turn, collects a like amount from the bankrupt estate. These funds are then repaid to USRA. There is no cost to the Government because the funds are loaned by USRA at an interest rate slightly higher than the interest rate paid by the Government to borrow the funds.

At this time, it is not clear as to exactly how much will have to be loaned for the purpose of paying these premiums. The reason it is not clear is that it is not known whether payment will be made on a single premium basis or a number of payments made extending over the life of the retirees. Moreover, it is also not known whether or not Penn Central intends to pay the premiums directly itself or to have ConRail make the payment from the loan funds. Assuming that Penn Central is included in the program, the total number of retirees involved would be 3,859, and the total loan to ConRail is estimated, on a single premium basis, at $33.2 million. On the other hand, if Penn Central is not included, only 1,073 retirees would be involved and the amount of the loan is estimated at $10.7 million. In any event, the committee understands that there are sufficient funds available at USRA under the previous authorization to make loans for that purpose.

In conclusion, it should be remembered that the bill does nothing more than has already been done for contract retirees, and all retirees with regard to their pensions—these benefits are part of the pension and should be considered in the same way in the act.

Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 5646. This bill amends section 303 (b) (6) of the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments necessary for the continuation of certain medical and life insurance coverage for preconveyance noncontract retirees of the bankrupt railroads whose assets have been transferred to ConRail. The retirees are legally entitled to these insurance benefits by reason of their prior service with the railroads but face the prospect of permanently losing the benefits due to the bankruptcy of their former employers. Loss of this insurance coverage could work severe financial hardship on many of the retirees who are living on fixed incomes.

Mr. Chairman, in cases where insurance coverage has lapsed as a result of nonpayment of premiums, ConRail is required to obtain similar coverage for the retirees and to pay claims thas would have been paid by the insurer but for the lapse of coverage.

The bill also provides that ConRail shall be entitled to a loan under section 211(h) of the 3–R Act from the U.S. Railway Association to fund the insurance coverage. Conrail, in turn, will have claims against each of the estates of the railroads to the extent of funds expended on their behalf to meet their obligations to their former employees. It is anticipated that a very substantial portion of these funds ultimately will be repaid.

Mr. Chairman, it should be noted that Congress recognized the human needs at stake here and attempted to accomplish the same goals intended by this bill in section 203 of the Rail Transportation Improvement Act of 1976. However, the reorganization court held in the Erie Lackawanna case that these particular obligations do not have administrative claim status and, therefore, were not eligible for section 211(h) loans. To correct this deficiency, H.R. 5646 provides that these obligations shall be deemed to be expenses of administration of the estates of the railroads.

For these reasons, I urge passage of the bill.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as you know, when this bill was reported from the committee, Mr. COLLINS filed minority views which were directed at the bad precedent established in the practice of permitting loans under section 211(h). It is clear that under normal bankruptcy procedure, claims such as those under H.R. 5646 would be routine business transactions and not entitled to have the highest claim against the asset. I support this provision because I feel strongly the retired individuals involved should not suffer. However, I believe that the drafting difficulties in this legislation should be noted, and it should be made clear that the Congress has no intention to unconstitutionally erode the estates.

Mr. Chairman, I reserve the balance of my time.

Mr. LUNDINE. Mr. Chairman, I rise in support of H.R. 5646, legislation that will provide for payment of the life and medical insurance premiums of certain retired railroad workers.

Last year, I had the privilege to submit my statement to the Subcommittee on Transportation and Commerce. My strong support of this bill arises from the unjust predicament in which many railroad retirees in my district in the Southern Tier of New York State find themselves.

These retired workers have faced a confusing and disappointing situation for many months. In June of 1976, the special court established by the Regional Rail Reorganization Act dismissed the petitions of the trustees of the bankrupt railroad estates to require ConRail to assume responsibility for life insurance premiums. However, the reorganization court did authorize the trustees of these estates to continue payment of the premiums but only through September 1976. After that date, many of the affected retirees were required to begin paying the entire premium in order to keep their insurance plans in force. This unanticipated financial burden has been a source of enormous hardship for many retired railroad workers because of their limited incomes and their inability to easily obtain comparable coverage elsewhere.

The legislation now before us would require ConRail to pay for these insurance premiums as expenses of administration of the respective estates of the railroads in reorganization and would thereby precipitate the release of the necessary loan funds by the U.S. Railway Association.

H.R. 5646 provides the vehicle to correct a serious injustice and to make a positive impact on the lives of retired individuals who have contributed many valuable years to the railroad industry. I urge my colleagues to support this bill.

Mr. SKUBITZ. Mr. Chairman, I have no objection to the passage of H.R. 5646. This bill pertains to the correction of another loose end involving the creation of ConRail. As you know, the 4–R Act established ConRail as part of the reorganization of the bankrupt railroads in the Northeast.

One of the mechanisms used to facilitate the creation of ConRail was the use of loans by the Government in order to make certain payments which eventually will be taken care of by the estates of the bankrupt railroads. The claims that are covered by subsection 211(h) of the 4–R Act are claims which have a special status either because of commitments made by the U.S. Government during the last days of the bankrupt railroads' operations or claims affecting the employees of the affected railroads.

In the original 4–R Act, we were careful to make sure that contract employees—the members of the brotherhoods—were amply protected by this provision. Unfortunately, we were not cognizant of the fact that certain employees who were not members of the union could also be adversely affected in having benefits delayed. The purpose of this bill is simply to make sure that some 4,000 employees of the various railroads do not lose supplemental health or life insurance benefits. The estates of the bankrupt railroads will eventually have to pay this cost but in the interim, 211(h) money can be used in order to alleviate any possible hardship to these men and women who have been caught up in the reorganization process through no fault of their own. As you know, Mr. Chairman, 211(h) provides for a revolving fund so that no additional appropriation will be needed as a result of this legislation. USRA will, from time to time, be able to obtain money from the estates in order to replenish that which has been loaned out under section 211(h).

In my judgment, the passage of this bill corrects an inadvertent inequity and I support its passage.

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 5646, a bill requiring ConRail to make premium payments under certain medical and life insurance plans.

This measure amends the Regional Rail Reorganization Act of 1973 for the purpose of requiring ConRail to assume obligations of the estates of now-bankrupt railroads so that medical and life insurance coverage will continue for employees who retired prior to the date the assets of these railroads were transferred to ConRail.

As the committee report accompanying H.R. 5646 indicates:

These retirees are legally entitled to the insurance benefits in question by reason of their prior service with the railroads but face the prospect of permanently losing such benefits due to the bankruptcy of their former employees. This loss could result in severe financial hardship for many of these individuals who are living on fixed incomes and could secure this insurance coverage only at substantial personal expense, if at all.

A number of my colleagues have portrayed the untenable financial situation into which constituents of theirs have been thrown due to the bankruptcy of major railroad corporations. Rail workers in my district, too, are facing this same crisis. For example, Ralph Van Inwegen of Hugenot, N.Y., relates that the failure of ConRail to pick up the employer's share of his $11,500 life insurance policy will jack up his insurance premium from $126.33 to $188.40.

Many other individuals—and, for that matter, municipalities owed back taxes by the bankrupt railroads—are suffering unfairly from the financial collapse of what were some of this Nation's major railroads.

Accordingly, I urge my colleagues to support H.R. 5646, so that we may remedy a serious inequity caused by the bankruptcy of these railroads.

Mr. ROONEY. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 5646

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (6) of section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended—

(1) by redesignating such paragraph (6) as paragraph (6)(A), and by redesignating clauses (A) and (B) in the first sentence thereof as clauses (i) and (ii), respectively; and

(2) by adding at the end thereof the following new subparagraph:

"(B) The Corporation shall make such premium payments as are necessary to maintain in effect all insurance policies providing medical or life insurance benefits to persons described in section 211(h)(1)(viii) of this Act, and shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for such premium payments. For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for such premium payments shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization.".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, strike out lines 7 through 17, inclusive, and insert the following:

"(B) The Corporation shall make such premium payments as may be necessary to maintain in effect any medical or life insurance policy which was maintained by a railroad in reorganization immediately prior to April 1, 1976, and which provides insurance benefits to individuals who retired, prior to April 1, 1976, from service with such a railroad. With respect to any such individual whose medical or life insurance coverage lapsed after April 1, 1976, due to nonpayment of premiums, the Corporation shall—

"(i) through the purchase of insurance or otherwise, provide medical or life insurance benefits of the same type and at the same or approximately the same level as were provided by the employer railroad in reorganization and in effect with respect to such individual immediately prior to April 1, 1976; and

"(ii) assume and pay any claim for such individual (or his personal representative) for any such insurance benefits, if—

"(I) such claim arose during the period beginning April 1, 1976, and ending on the date insurance coverage is provided pursuant to clause (i) of this subparagraph; and

"(II) such benefits were not paid by an insurer solely because of the lapse of the insurance coverage during such period.

The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the payment of insurance premiums and benefits described in this subparagraph. For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for the payment of such premiums and benefits shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of April 1, 1976.".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. ROONEY TO THE COMMITTEE AMENDMENT

Mr. ROONEY. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. ROONEY to the committee amendment: Page 4, strike out line 3 and insert in lieu thereof the following: "of April 1, 1976, or, in the case of a railroad in reorganization which is not subject to a bankruptcy proceeding, such amounts shall be deemed to be obligations of such railroad, due and payable as of such date, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4) and (5) of such section 211(h). As used in this subparagraph, the term 'railroad in reorganization' includes any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties to the date of such conveyance,".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the committee amendment be considered as read and printed in the RECORD.

The CHARIMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. ROONEY) is recognized for 5 minutes in support of his amendment.

Mr. ROONEY. Mr. Chairman, this amendment constitutes a relatively minor change to this bill. It has been brought to my attention that there is a railroad in existence called the Pennsylvania-Reading Seashore Lines, which was separately operated, but was controlled by the Reading Co. and the Penn Central Transportation Co. This railroad is not in reorganization, but most of its property was conveyed to ConRail pursuant to the Regional Rail Reorganization Act of 1973. It has 13 retired employees, who presently are not receiving life insurance benefits, but who would receive benefits if this amendment is adopted. The trustees of the Reading Co. have informed me that in order for the same benefits to be granted to these employees, as will be given to the retired employees of the other railroads which have conveyed most of their property to ConRail, this amendment is required.

I am sure that my colleagues will agree that 13 additional employees should not be denied these benefits, because of a technicality in the law.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ROONEY) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BENJAMIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5646) to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization, pursuant to House Resolution 632, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 314, nays 50, not voting 68, as follows:

[Roll No. 19]

YEAS—314

Abdnor	Dellums	Hyde
Akaka	Derrick	Ireland
Allen	Derwinski	Jacobs
Ambro	Dicks	Jenkins
Ammerman	Dingell	Jenrette
Anderson, Calif.	Dodd	Johnson, Calif.
Andrews, N.C.	Downey	Johnson, Colo.
Applegate	Duncan	Jones, N.C.
Ashley	Duncan, Oreg.	Jones, Tenn.
Aspin	Duncan, Tenn.	Jordan
Badham	Early	Kastenmeier
Baldus	Eckhardt	Kazen
Barnard	Edgar	Kemp
Baucus	Edwards, Ala.	Ketchum
Bedell	Edwards, Calif.	Keys
Bellenson	Eilberg	Kildee
Benjamin	Emery	Kostmayer
Bevill	English	Krebs
Blanchard	Ertel	LaFalce
Blouin	Evans, Colo.	Le Fante
Boggs	Evans, Del.	Leach
Boland	Evans, Ga.	Lederer
Bonior	Evans, Ind.	Leggett
Bonker	Fary	Lent
Bowen	Fascell	Lloyd, Calif.
Breckinridge	Fenwick	Lloyd, Tenn.
Brinkley	Fish	Long, La.
Brodhead	Fisher	Long, Md.
Brooks	Fithian	Lott
Broomfield	Flippo	Luken
Brown, Calif.	Florio	Lundine
Brown, Mich.	Flowers	McCormack
Brown, Ohio	Foley	McDade
Buchanan	Ford, Mich.	McEwen
Burgener	Ford, Tenn.	McFall
Burke, Fla.	Forsythe	McHugh
Burke, Mass.	Frenzel	McKay
Burlison, Mo.	Frey	McKinney
Burton, John	Fuqua	Madigan
Burton, Phillip	Gammage	Mahon
Byron	Gaydos	Markey
Caputo	Giaimo	Marks
Carney	Gilman	Marlenee
Carr	Ginn	Marriott
Carter	Glickman	Martin
Cavanaugh	Gonzalez	Mathis
Cederberg	Goodling	Mattox
Chisholm	Gore	Mazzoli
Clausen, Don H.	Gradison	Meeds
Clay	Gudger	Meyner
Cleveland	Hamilton	Michel
Coleman	Hanley	Mikulski
Collins, Ill.	Hannaford	Mikva
Conable	Harkin	Milford
Conte	Harrington	Miller, Calif.
Conyers	Harris	Miller, Ohio
Corcoran	Harsha	Mineta
Corman	Hawkins	Minish
Cornell	Hefner	Mitchell, Md.
Cornwell	Heftel	Mitchell, N.Y.
Coughlin	Hillis	Moakley
D'Amours	Holland	Moffett
Daniel, Dan	Holt	Mollohan
Danielson	Holtzman	Montgomery
Davis	Horton	Moore
de la Garza	Howard	Moss
Delaney	Hubbard	Motti
	Huckaby	Murphy, N.Y.
	Hughes	Murtha
Myers, Gary	Rogers	Stump
Myers, John	Rooney	Thompson
Myers, Michael	Rose	Thone
Natcher	Rosenthal	Traxler
Nedzi	Rostenkowski	Treen
Nichols	Runnels	Trible
Nix	Russo	Tsongas
Nolan	Santini	Tucker
Nowak	Sarasin	Udall
O'Brien	Sawyer	Ullman
Oakar	Scheuer	Vanik
Oberstar	Schroeder	Vento
Obey	Schulze	Volkmer
Panetta	Seiberling	Walgren
Patten	Sharp	Wampler
Patterson	Shipley	Waxman
Pattison	Shuster	Weaver
Pease	Sikes	Weiss
Perkins	Simon	Whalen
Pettis	Slack	White
Pickle	Smith, Iowa	Whitehurst
Pike	Smith, Nebr.	Whitley
Poage	Solarz	Whitten
Price	Spellman	Wilson, Bob
Pritchard	Spence	Wilson, C. H.
Pursell	St Germain	Wilson, Tex.
Quayle	Staggers	Winn
Quillen	Stangeland	Wirth
Rahall	Stanton	Wolff
Railsback	Stark	Wright
Rangel	Steed	Wylie
Regula	Steers	Yates
Richmond	Steiger	Yatron
Rinaldo	Stockman	Young, Mo.
Risenhoover	Stokes	Young, Tex.
Roberts	Stratton	
Roe	Studds	

NAYS—50

Archer	Edwards, Okla.	Livingston
Ashbrook	Findley	Lujan
Bafalis	Flynt	McClory
Bauman	Fountain	McDonald
Beard, Tenn.	Fowler	Neal
Bennett	Gibbons	Robinson
Breaux	Grassley	Rousselot
Broyhill	Hall	Rudd
Burleson, Tex.	Hammer-schmidt	Satterfield
Butler	Hansen	Skelton
Clawson, Del	Jones, Okla.	Snyder
Cochran	Kelly	Symms
Collins, Tex.	Kindness	Taylor
Cunningham	Lagomarsino	Thornton
Daniel, R. W.	Latta	Waggonner
Devine	Levitas	Walker
Dickinson		Young, Fla.

NOT VOTING—68

Addabbo	Gephardt	Preyer
Alexander	Goldwater	Quie
Anderson, Ill.	Guyer	Reuss
Andrews, N. Dak.	Hagedorn	Rhodes
Annunzio	Heckler	Rodino
Armstrong	Hightower	Roncalio
AuCoin	Hollenbeck	Roybal
Beard, R.I.	Ichord	Ruppe
Biaggi	Jeffords	Ryan
Bingham	Kasten	Sebelius
Bolling	Krueger	Sisk
Brademas	Lehman	Skubitz
Burke, Calif.	McCloskey	Teague
Chappell	Maguire	Van Deerlin
Cohen	Mann	Vander Jagt
Cotter	Metcalfe	Walsh
Crane	Moorhead, Calif.	Watkins
Dent	Moorhead, Pa.	Wiggins
Diggs	Murphy, Ill.	Wydler
Dornan	Murphy, Pa.	Young, Alaska
Erlenborn	Ottinger	Zablocki
Flood	Pepper	Zeferetti
Fraser	Pressler	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Anderson of Illinois.
Mr. Annunzio with Mr. McCloskey.
Mr. Rodino with Mr. Crane.
Mr. Zeferetti with Mr. Gephardt.
Mrs. Burke of California with Mrs. Heckler.
Mr. Biaggi with Mr. Pressler.
Mr. Lehman with Mr. Andrews of North Dakota.
Mr. Flood with Mr. Hollenbeck.
Mr. Beard of Rhode Island with Mr. Dornan.
Mr. Dent with Mr. Kasten.
Mr. Pepper with Mr. Erlenborn.
Mr. Zablocki with Mr. Preyer.

Mr. Bingham with Mr. Guyer.
Mr. Cotter with Mr. Quie.
Mr. Diggs with Mr. Armstrong.
Mr. Ryan with Mr. Fraser.
Mr. Roybal with Mr. Krueger.
Mr. Mann with Mr. Roncalio.
Mr. Metcalfe with Mr. Cohen.
Mr. AuCoin with Mr. Sebelius.
Mr. Alexander with Mr. Goldwater.
Mr. Brademas with Mr. Skubitz.
Mr. Chappell with Mr. Hagedorn.
Mr. Hightower with Mr. Ruppe.
Mr. Ichord with Mr. Vander Jagt.
Mr. Moorhead of Pennsylvania with Mr. Sisk.
Mr. Murphy of Illinois with Mr. Watkins.
Mr. Ottinger with Mr. Van Deerlin.
Mr. Reuss with Mr. Wydler.
Mr. Teague with Mr. Walsh.
Mr. Maguire with Mr. Young of Alaska.

Mr. MOORE changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR EMERGENCY DROUGHT RELIEF MEASURES

Mr. MEEDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10532) to amend Public Law 95–18, providing for emergency drought relief measures, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I was not able to attend the full Interior Committee meeting last week when this legislation was reported; but I understand, of course, the general principle of extending the drought relief program. The thing that does concern me, is that it is my understanding the legislation does not contain any cutoff date, that it is on open ended authorization. Why is that, and is this consistent with our budgetary procedure?

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the distinguished gentleman from Washington.

Mr. MEEDS. Mr. Speaker, this bill H.R. 10532 is an emergency measure to amend the act of April 7, 1977, as amended, to provide temporary authority to the Secretary of the Interior to facilitate measures to mitigate the effect of the drought of 1976–77. The only effect that the bill has is to extend for the time needed the period in which the Secretary can make payments for work performed under contracts entered into prior to September 30, 1977.

The act as it now stands requires that all work performed under its terms be completed by January 31, 1978. Due to labor problems, delayed delivery of construction materials, adverse weather conditions, and other factors not within the control of the contractors, there remains to be completed about $8,000,000 in important construction work on 22 separate Federal reclamation projects and 27 Indian tribal irrigation projects.

The measure authorizes no additional appropriations and, indeed, the funds involved have already been obligated. If we do not pass this bill in a timely manner the funds already expended will be to all intents and purposes wasted as many of the contractors do not have alternate sources of financing.

There is no known opposition to the measure in the committee and I understand that the Senate will take our bill immediately on its passage by the House. I strongly urge immediate adoption of this measure.

Mr. BAUMAN. Mr. Speaker, these projects have already begun and are underway and this is only for their completion?

Mr. MEEDS. That is correct.

Mr. BAUMAN. Am I correct also that the reason these projects have been delayed in construction, in many instances, is because of excessive rain which has removed the excessive drought conditions?

Mr. MEEDS. Mr. Speaker, if the gentleman will yield further, the gentleman is correct. Some projects, particularly in California, have because of adverse weather conditions. Of course, that may alleviate the drought problems today for this year, but in the future these programs could be used in the event we had another drought.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That cause (a) of the first section of the Act of April 7, 1977, entitled "An Act to provide temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–1977 drought" (91 Stat. 36), as amended, is hereby further amended by adding after "January 31, 1978;" the following: *"Provided further,* That where the Secretary finds that such construction activities have been diligently pursued but cannot be completed by January 31, 1978, due to bad weather, delays in delivery of required supplies, or other unanticipated and unavoidable circumstances, the Secretary is authorized to allow continuation and completion of construction for a reasonable time beyond January 31, 1978".

SEC. 2. Section 7 of such Act is amended by striking out "March" and substituting in lieu thereof "May".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 5646, previously passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERSONAL EXPLANATION

Mr. CHAPPELL. Mr. Speaker, on rollcall No. 19 I was unavoidably detained in my office. Had I been present, I would have voted "yea."

THE CARRYOVER SIMPLIFICATION AMENDMENTS OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 10 minutes.

Mr. STEIGER. Mr. Speaker, today I am introducing a bill to deal with a number of problems which have been brought to my attention concerning the carryover basis provisions of the Tax Reform Act of 1976. Both the American Bankers Association and the American Bar Association as well as many attorneys and trust officers throughout Wisconsin have raised objections about these complicated changes in the Federal estate law. I agree that the law is unnecessarily complex, but I am as yet not persuaded that the answer is to repeal carryover basis. The bill I am introducing is designed to correct most of the problems without repealing an important tax reform.

Prior to enactment of the 1976 act, property passing from a decedent generally received a stepped-up or stepped-down basis equal to its value at the decedent's death for purposes of determining gain or loss on a sale or exchange of the property by the decedent's heir or beneficiary.

In reviewing this rule in connection with the 1976 act, the Congress believed that the stepped-up basis rule resulted in inequitable treatment between the estates and heirs of decedents who had accumulated wealth through taxable earnings and the estates and heirs of decedents who accumulated wealth through unrealized appreciation in assets. In the latter case, the unrealized appreciation accruing before death was never subjected to an income tax because the heir's or beneficiary's basis for determining gain was stepped-up to the value at the decedent's death. Moreover, in my opinion, there was an unwarranted distinction between deathtime and lifetime transfers, because a donor's basis in property was generally carried over for purposes of determining gain or loss upon a sale or exchange by a donee.

The carryover basis provisions adopted by the 1976 act were intended to address these basic issues. However, the provision as adopted does raise serious administrative and compliance problems for executors, heirs, and beneficiaries, and the Internal Revenue Service. The burden is especially acute in the case of small and modest-sized estates. I believe that a number of changes can be made to substantially resolve the legitimate complaints involving the administrative problems and complexities and yet retain the basic reform embodied in the carryover basis provision. My bill contains a number of amendments which would achieve this objective.

My bill eliminates small- and moderate-sized estates from coverage under the carryover basis rules. It is in these cases where the burden of the rule has the most severe impact, because of the absence of adequate basis records and the compliance cost relative to the size of the estate. An outright exception would be provided for an estate consisting of $175,000 or less of carryover basis property. The $175,000 roughly approximates the exemption equivalent of the estate and gift tax unified credit when it is fully phased in by 1981. In these cases, the basis of assets would be stepped up as under prior law and no special reporting by the executor would be required. As a result of this change, it is estimated that only about the largest 2 percent of estates would have to comply with the carryover basis rules. In those remaining cases where the carryover basis rules would apply, the minimum basis adjustment would be increased from the $60,000 under present law to $175,000. Further, in order to simplify computations, this adjustment would be made before the adjustment provided for death taxes attributable to appreciation.

The 1976 act contained an exemption for $10,000 in personal and household effects to deal with the serious problems an executor would face in attempting to ascertain the decedent's bases for these assets. Experience with the new law indicates that the exemption level is inadequate in many cases. My bill would increase the exemption to $25,000.

Also, a number of problems have been brought to my attention concerning the basis adjustment for death taxes attributable to appreciation. This adjustment was designed to eliminate the inequity and possibly confiscatory level of taxation which would arise if the full amount of appreciation were subject to an estate tax and then subject to an income tax based on the appreciation without taking into account the estate tax paid. My bill would substantially simplify this adjustment and make it more equitable. The death tax adjustment would generally be made on the basis of the highest marginal estate tax rate rather than the average rate as under present law. This approach would provide substantially the same treatment for estates and heirs where assets had been retained until death as is the case for estates where assets are sold before death and the income tax liability incurred reduces the estate tax liability at the highest estate tax marginal rates. Under the bill, a simple percentage will be taken from the estate tax rate table and applied to the appreciation. The percentage will be the highest rate to which the estate is subject before credits are taken into account. However, the next highest percentage would be used if less than $50,000 were in the highest bracket. In this way, the need to make recomputations for audit adjustments will be minimized.

Since the death tax adjustment would be based on Federal rates before taking the credit for State death taxes into account, no separate adjustment for State death taxes would be required to be computed. Thus, the three possible death tax adjustments for Federal estate taxes, State death taxes paid by the estate, and State death taxes paid by the heir or beneficiary would be consolidated into a single calculation based on the highest precredit Federal estate tax rate and the Federal inclusion rules.

The bill also contains a number of changes to make the fresh-start adjustment for appreciation accruing before 1977 simpler and more equitable. The bill would permit the fresh-start adjustment to be made for purposes of determining loss as well as gain. Thus, heirs and beneficiaries would no longer be required to maintain a different basis for gain and for loss purposes. However, the liberalized adjustment for values on December 31, 1976, could not be used to increase the heir's basis above the value used for estate tax purposes. In addition, to deal with proof of basis problems for certain property acquired before 1977, a formula would be provided to establish a minimum fresh-start basis. Under this approach, it would only be necessary to determine the date of death value and establish that the property was held by the decedent on December 31, 1976. Property eligible for this treatment would include nonbusiness tangible personal property and a personal residence. It is in regard to these types of property where adequate basis records may not have been maintained before 1977. The formula assumes that the post-1976 appreciation will accrue at approximately 6 percent a year. In addition, in order to make the transitional fresh-start adjustment completely fair, the basis computed under the formula will never be reduced below 50 percent of the date of death value of the eligible property.

Under the 1976 act, the fresh-start adjustment for nonmarketable securities is determined by assuming that appreciation accrues uniformly over the holding period. Generally, in the case of preferred stock, the proration of appreciation based on the holding period reaches an inequitable result, because the value may fluctuate very little, if at all, and yet a portion of the appreciation is considered to accrue after 1976. Of course, the longer the preferred stock is held after 1976, the greater the amount of appreciation which is automatically treated as accruing after 1976. The bill would resolve this problem by treating preferred stock having a stated redemption price as a marketable security with a market value on December 31, 1976, equal to its stated redemption price. Regulations authority would also be granted to extend this rule to other cases such as nonmarketable stock, notes, or other evidences of indebtedness with a relatively fixed value. For example, the rule could be extended to closely held stock subject to a fixed-price buy-sell arrangement among shareholders.

Regulations authority would also be provided to permit the various basis adjustments to be made for certain classes of similar property rather than having to compute the adjustments for each separate item of property. This provision would permit the determination of original cost on an average basis in appropriate circumstances. For example, it is contemplated that the use of an average per-share cost would be permitted in the case of stock acquired under a dividend reinvestment plan where the aggregate cost for all shares is known.

The bill would also provide a rule to deal with proof of basis problems arising from various small improvements to a personal residence. For relatively small amounts, records are not usually maintained. My bill would allow an adjustment of $200 per year during the decedent's holding period of his personal residence to cover minor improvements which are not substantiated by documentary evidence or other records. For any year when substantiated improvements are greater than $200, the actual cost of the improvements would be taken into account rather than the fixed dollar amount.

The carryover basis reporting requirements would be revised in several respects. First, it would no longer be necessary for the executor to furnish information to the Internal Revenue Service. Second, information would be required to be furnished to the beneficiaries only when the gross estate, excluding property which is not carryover basis property by definition, exceeds $175,000. Third, the standard for imposing a penalty for failure to furnish this information to a beneficiary would be changed so that it would be imposed only if the failure is due to negligent or intentional disregard of the reporting requirement.

The bill would also extend capital gains treatment to sales or exchanges of artwork and similar property inherited from its creator In addition, capital gains treatment would be extended to sales or exchanges of livestock and crops by an estate during a 1-year period following the decedent's death. This treatment would not be available for an estate which continued in the trade or business of farming. The purpose of this amendment is to mitigate against having bunched income from the liquidation of crops and livestock by the estate subject to the regular progressive income tax rates of up to 70 percent. In effect, the capital gains treatment would result in a maximum regular income tax rate of 35 percent on this income. This treatment would assure the same treatment of crops and livestock which is available under existing law for certain liquidations of other types of property that had been inventory to the decedent.

Under present law, capital gains treatment is available for certain redemptions of closely held stock to pay death taxes. The general purpose of this provision is to facilitate the payment of death taxes, debts, and administration expenses in situations where the estate is illiquid, because it largely consists of closely held corporate stock. However, the provision does not apply to redemptions of stock to pay the income taxes attributable to a redemption to pay death taxes. As a result of the carryover basis provision, the amount of income taxes incurred on a redemption to pay death taxes could be substantial and, therefore, aggravate liquidity problems which would force further sales of family businesses. My

bill would alleviate this problem by extending capital gains treatment to redemptions to pay the income taxes incurred for qualified death tax redemptions.

My bill contains a number of other provisions to improve upon existing law. Under the bill, a decedent's estate would succeed to the decedent's unused capital loss carryovers. This treatment is consistent with the theory of carryover basis and would be justified on equitable grounds since unrealized gains would carryover to the estate or heirs. The bill also limits the amount of depreciation recaptured as ordinary income upon satisfaction of a pecuniary bequest to the gain recognized by the executor which is generally the amount of any post-death appreciation. Any remaining amount to be recaptured would be treated as ordinary income when the beneficiary disposed of the property. The bill also permits an estate to sell property on the installment method and distribute the installment obligations without triggering the recognition of income at that time. The beneficiaries would report the income as the installments are collected. In effect, this provision would extend the same tax treatment to sales followed by a distribution of the installment obligation as would occur if the property had been distributed and then sold on the installment basis by the distributees. Permitting the estate to make the sale without a difference in tax consequences resulting from the form rather than the substance of the transaction should facilitiate the administration of estates. The bill also contains a provision to facilitate changing a stock redemption plan funded by life insurance to a cross purchase plan among shareholders. This relief is provided, because the carryover basis rule resulted in different tax consequences depending upon which type of plan had been chosen in the past. Under prior law, there would have been no significant difference in tax treatment. Accordingly for plans in existence on December 31, 1976, a stock redemption plan can be changed to a cross purchase plan without adverse tax consequences if it is done before 1981.

Finally, the bill provides that eligibility for estate tax special valuation for farm and closely held business real property will not be lost because of the material participation requirements if the decedent or the surviving spouse had materially participated in the operations of the farm or business for 15 years. Thus, retirement after a substantial working career will not result in disqualification for the special estate tax benefits. In addition, recapture of the estate tax savings would not result from the operation of the farm or business by an agent if the qualified heir is a minor, a student, a handicapped person, or a surviving spouse who had attained age 62.

THE PANAMA CANAL TREATIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, earlier this month, speaking before the New Orleans Chamber of Commerce, Secretary of State Cyrus Vance described succinctly the Panama Canal treaties soon to be debated in the Senate.

Secretary Vance also explored a number of concerns which have been expressed relating to the treaties including possible construction of a sea level canal, preservation of the natural environment of Panama, protection of U.S. military and commercial interests, the cost of the treaties, and future operation of the canal by Panamanians.

I share Cyrus Vance's conclusion that these treaties look to the future. Our economic and military interests will be more secure under the new agreements than under the old. And our relations with our neighbors to the south will be enhanced and strengthened. I commend the Secretary's discussion of these issues to my colleagues:

The Panama Canal—Providing for the Future

I appreciate this opportunity to come to New Orleans tonight to talk to you about a major decision we now face as a nation.

In a few weeks, the U.S. Senate will decide whether to ratify the treaties that have been negotiated between the United States and Panama to provide for the future of the Panama Canal. It is a decision that has aroused strong feelings, although I think most Americans have reserved final judgment until they have considered all the arguments.

The debate over the treaties have been lively, at times even heated. It draws us back to a story Abraham Lincoln used to tell when discussions in his Oval Office began to boil over. Lincoln would interrupt and tell the story of a hunter who got lost in the forest when a fierce storm broke. The hard rain made it almost impossible for him to see where he was going. Night soon fell, and he had to fight the darkness as well as the rain to find his way. The thunder was deafening. Only occasional flashes of lightning showed him the trail. Finally, wet, tired, and frustrated, he fell to his knees in prayer. "If it's all the same to You, Lord," he cried, "I'd appreciate a little less noise and a lot more light."

Perhaps some of you have considered a similar prayer as you have listened to the canal debate.

This evening, I want to describe the treaties for you and then respond directly to many of the concerns that have been expressed. I hope I will shed more light than noise.

From the day we started construction over 70 years ago, the Panama Canal has always had an extra dimension for us, beyond its basic military and commercial importance. Building the canal was a remarkable feat for a young and emerging nation. Others had failed; yet we were able to cut through the mountains, cross the swamps, and control the diseases to complete a waterway that finally linked the Atlantic and the Pacific. The canal came to represent American perseverance and ingenuity, qualities that to this day continue to be among our most valuable assets as a nation.

But we all recognize, as well, that in the final analysis, the Panama Canal is not a monument. It is a navagational link that is important to this country's national interests. Our first concern must be to assure our continued ability to use the canal in the future.

It was that concern which led President Johnson in 1964, after consulting with former Presidents Truman and Eisenhower, to begin negotiations for a new treaty. Every American President since has concluded that a new treaty was necessary to secure the future availability of the canal for the ships of all nations. For that same reason, President Carter, on September 7, signed the treaties that resulted from those 14 years of negotiations.

Terms of the Treaties

Actually, two treaties have been negotiated. The first provides for the operation and defense of the canal until the end of this century. The second treaty provides for the permanent neutrality of the canal and has no termination date.

Under the terms of the first treaty, the United States will continue to operate the canal until the year 2000. A U.S. Government agency, to be called the Panama Canal Commission, will run the canal and will decide, in accordance with U.S. law, such matters as tolls and employment practices. A majority of its governing board must be American citizens. Panama will assume jurisdiction over the area of the present Canal Zone—the five-mile strip on either side of the canal—and the Canal Zone as such will cease to exist. However, until the end of this century, American bases and troops will remain in Panama, and the United States will have primary responsibility for defending the canal.

After the year 2000, Panama will be responsible for operating the canal. Well over 70 percent of the canal work force already is Panamanian. Over the next two decades, we will be training Panamanians in all aspects of operating and managing the canal.

The treaty provides extensive protections and privileges for the Americans who will be working in Panama in connection with the canal until the year 2000 and provides priority job placement and liberalized early retirement for Americans now working on the canal whose jobs ultimately will be filled by Panamanians.

The second treaty—the neutrality treaty—is of unlimited duration. It will remain in effect even after the year 2000. It commits each of the parties—the United States and Panama—to defend the canal and to keep it open to the ships of all nations.

Under the neutrality treaty—and I want to make this point very clear—the United States has the right to take any action we decide is necessary, including the use of troops, to meet any threat or aggression directed either against the canal or against the passage of any ship—ours or anyone else's—through the canal. That does not mean that we have the right to meddle in the internal affairs of Panama. It does mean, however, that we can defend and protect the canal, before and after the year 2000.

The neutrality treaty also provides for expeditious passage through the canal for American and Panamanian military vessels. In case of need or emergency, our military ships can pass through the canal more quickly than usual, and if necessary they can go to the head of the line.

Our interpretation of these rights is identical to Panama's. In October, President Carter and General Torrijos of Panama issued a statement of understanding which confirmed, in authoritative terms, these clear rights.

Sea Level Canal

There are other provisions in the treaties. One of them deals with the possibility of building a new-sea-level canal. The existing canal is too small for many of the modern supertankers and the giant new aircraft carriers. Several years ago, the United States conducted a study to determine whether it would be feasible and economical to build a new and larger canal. This study indicated that, if we were to go forward with plans for a new canal, the least expensive option by far—and the only feasible option that would not require nuclear explosives—would be to build such a canal in Panama.

Under the new treaties, we have agreed to reexamine, together with Panama, the feasibility of a new sea-level canal. The Panamanian Government has agreed that it will permit no one other than the United States to construct an interoceanic canal in Panama for the remainder of this century without our consent. We, in turn, have agreed that we will not build a new interoceanic canal anywhere in the Western Hemisphere except Panama during this same period.

NATURAL ENVIRONMENT

The treaties also commit the United States and Panama to carry out their treaty responsibilities in a manner consistent with protecting the natural environment of Panama, and they establish a joint commission to advise both governments on these essential environmental questions.

There are other provisions in the treaties, but those are their basic terms.

A number of questions and concerns have been raised about the treaties. I want to address them directly.

U.S. MILITARY POSITION

It has been asked whether these treaties adequately provide for our military needs. Do they safeguard our right to protect and defend the canal? The first place to look for an answer to these questions is to our top military advisers—the Joint Chiefs of Staff. They have the initial responsibility of our military defense. The Joint Chiefs worked closely with our negotiators every step of the way. In their judgment, these treaties fully satisfy our military interests. They afford us the rights we need to defend the canal and to assure that it remains open.

In fact, it is the view of the Joint Chiefs that these treaties not only protect our military position, they improve it. There are several reasons why:

First, in the process of negotiating the new treaties, we have separated out what is important to us—that is, continued use of the canal—from what is not important to our national interest—such as who has jurisdiction over traffic violations on the roads near the canal. We thus avoid the possibility of being drawn into disputes over matters that do not directly affect American interests.

Second, the treaties enhance our ability to defend the canal because, if that were ever necessary, we would be doing so based on agreements freely entered into by both parties and supported by the nations of Latin American and by world opinion.

Finally, our military position is enhanced because we would be defending the canal along with the Government and people of Panama. Panama's interest in defending the canal and keeping it open would be as great as our own.

PANAMANIAN ATTITUDES

The old treaty does not have the support of the Panamanian people. For them, it means their nation is divided in two. It means that a Panamanian traveling from one side of the country to the other must pass through foreign jurisdiction. It means that they cannot call all of their country their own. We do not think of our presence in Panama as colonial, but the Panamanians do.

All of these elements of an outmoded relationship would be eliminated with the new treaties. The longstanding dream of the Panamanian people for a nation undivided would be fulfilled. The people of Panama would receive a fair share of the revenue from the canal, which is, after all, their most valuable national resource.

Two-thirds of the Panamanian voters in their recent plebiscite expressed their support for these treaties. Many of those who voted against the treaties did so because they were concerned that Panama had conceded too much to the United States. Nonetheless, it is clear that these treaties have the broad approval of the Panamanian people.

If we ever have to defend the canal, we will do so. But by standing together with Panama in defense of the canal, we reduce the risk that our soldiers will ever be called upon to fight and to die defending the canal.

U.S. COMMERCIAL INTERESTS

What about our commercial interests in the canal? What effect will the new treaties have on the American economy? And what effect will they have on the Port of New Orleans? The primary consideration for businessmen who use the canal is to assure that it remains open and efficiently operated, that tolls remain reasonable, and that ships passing through the canal are safe. Companies that use the canal also want certainty about the future; they want a stable situation for the canal so that they can plan effectively. The treaties promote those interests.

PANAMANIAN OPERATION OF CANAL

As I have noted, the United States will operate the canal until the end of this century. During this period, Panamanians will gradually move into all aspects of the canal operation. Running the canal is a complex job, but the ability to perform the many tasks involved is not a question of nationality; it is a question of training. The treaty arrangements insure that Panama will be fully prepared to operate the canal effectively by the end of this period.

Keeping the canal open and running smoothly will be an economic imperative for Panama. It already derives more than 10 percent of its gross domestic product from canal-related activities. Moreover, under the new treaties, unlike the present situation, Panama's earnings from the canal will be directly related to the amount of traffic which passes through the canal. More ships will mean more money for Panama. For Panama to cut off access to any country, let alone to close the canal, would be for it to inflict a terrible wound on itself. As much as anything, that practical fact of life safeguards future access to the canal for the ships of all nations.

FUTURE TOLLS

The United States insisted during the negotiations that all payments to Panama for its contribution to the canal enterprise be drawn from the canal's revenues. To accomplish this and maintain the canal on a self-sustaining basis, some increase in the toll rate will be necessary. Our current study of the likely size of that increase is not yet completed, but it appears that it will be on the order of 30 percent. Is such an increase justified? And what will it mean for U.S. consumers and exporters?

Over the last 40 years, canal tolls have increased less than 40 cents per canal ton—from 90 cents to $1.29. These charges are far lower than tolls for the Suez Canal. The economic impact of the likely toll increase will not be substantial. For a bushel of Iowa corn being shipped to Japan from New Orleans, a 40 percent increase in canal tolls would increase current transportation costs, which are approximately 66 cents, by less than one-half cent per bushel. In terms of the overall purchase price, such a toll increase would represent a small fraction of 1 percent.

Based upon analysis that we have undertaken, a toll increase on this order would produce no significant impact upon the volume of trade to and from the Port of New Orleans. Tolls only make up a small part of the total cost of shipping a product or commodity.

But this port and this city and this entire region could be adversely affected if we don't act now to assure a secure future for the canal. Most of this country's grain exports are shipped from Gulf Coast ports. Virtually all of the grain exported to the Far East passes through the canal. Thousands of jobs rely on that trade. That trade—and those jobs—will be far more secure under the new treaties than the old.

The treaties mean far greater assurance that the canal will always remain open, that our use of it will never be interrupted, that ships passing through the canal will be safe, and that it will continue to operate as an important world trade route. I think that is important to each of us.

COST OF TREATIES

What about the cost of these treaties? It has been said that we are "paying Panama to take it." That simply is not true. Under the new treaties, Panama will be receiving greater earnings from the canal. But the payments to Panama for its contribution to the canal enterprise will be drawn from the canal's revenues. *The treaties require no payments of tax dollars from the U.S. Treasury to Panama, either now or in the future.* (Emphasis added.)

Separate from the treaties, we have agreed to seek certain loans, guarantees, and credits to assist Panama's development. All of these loans must be repaid. They are not grants. They will be used largely to finance U.S. trade and U.S. investments in Panama.

Some people have asked what happens if a Communist government takes over in Panama? What would happen to the canal? The fact is there is little Communist influence in Panama. Continued disagreement with Panama over the canal will only have the effect of increasing that influence. Panama has a free-enterprise economy. Its closest friends are the democratic Governments of Venezuela, Colombia, Costa Rica, and Mexico. Its ties to the United States are strong. And most important, as the canal becomes something that the Panamanian people value as much as we do now, the advantages of exploiting it for political purposes will be substantially diminished.

Finally, it is asked whether these treaties represent an American withdrawal from the world. Are they a sign of U.S. retreat?

TREATIES LOOK TO FUTURE

Just the opposite is true. These treaties are entered into by an America that is looking to the future. They are entered into by an America that is confident of its strength and prepared to act as a responsible world power.

The treaties look to the future of American trade. They promote the long-term interests of the United States as well as other maritime nations that benefit from an open and secure canal.

The treaties reflect America's future military requirements. They modernize and protect our right to defend the canal, and they enhance our ability to defend it if that is ever necessary.

The treaties look to the future of our relations with our neighbors in this hemisphere. The other nations of Latin America share Panama's opposition to the old treaty. They share Panama's support for the new treaties.

I believe most Americans want to establish a more mature partnership with Latin America, one that is based on mutual respect and admiration. Strong common interests bind the people and nations of Latin America and the United States. Our economies need that relationship. Latin America is a major market for U.S. exports and an important supplier of valuable natural resources.

By eliminating a major source of irritation that has existed between us, the new treaties enable us to strengthen our relationships throughout Latin America and reassert the most powerful source of our influence—our reputation for fairness and justice.

Finally, the treaties look to the future of our relations with the rest of the world.

They say to all the world that we will define our national interests carefully, and we will protect those interests.

They say to the world that disputes, even between large countries and small ones, can be resolved peacefully.

And they say that we will act in the world in a way that is true to our values as a nation.

The same resourcefulness and ingenuity that enabled us to build the Panama Canal now leads us to build a new arrangement for the canal that reflects present-day realities and provides for the future.

We are a nation that has been able to change with changing times. We have never rested on our laurels. We have always seized the opportunity to make things better.

The treaties serve America's interests. It is vitally important that they be approved by the U.S. Senate. Every American has a stake in the future they secure.

AMERICAN DREAM ACT INTRODUCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, today I am introducing legislation which will bring the American dream a little closer to millions of young couples and senior citizens. These are people who cannot afford to own their own homes or who may need additional income in order to stay in homes they already own.

The American dream has always been to own your own home and to have enough income to retire on in comfort. That is why I am calling this bill the American Dream Act. It will make that dream a more certain reality.

This double-barreled legislation will allow federally chartered savings and loan institutions to offer two types of alternative mortgages. The first, designed to help young couples and newlyweds, would be a form of graduated payment mortgage, or GPM. Monthly payments would begin at a reduced level and increase gradually over the life of the mortgage. Both the rate of increase and the interest rate would remain fixed for the duration of the loan.

Currently, many young people are forced to rent or to postpone buying a home—even though they may have a steady but small income. Their income, however, can be expected to rise and as it does, so does their ability to handle a larger mortgage payment. Under GPM, homeownership would now be possible for couples in the early years of marriage. And studies show that the impact would be tremendous. The graduated mortgage payment would allow 11 percent of current renters under the age of 35 and up to 2½ million couples to own their own homes.

The second kind of mortgage, called a reverse annuity mortgage or RAM, would permit senior citizens—many living on fixed incomes—to draw equity from their homes without having to sell. The homeowner would not only retain ownership but also receive a monthly cash payment based on the equity of his house. When the homeowner dies or decides to sell, the amount of these payments is merely deducted from the proceeds of the sale and returned to the lender.

Mr. Speaker, what happens today when these senior citizens leave the work force to live on social security or some other pension plan? In many cases inflation devours their pension income, yet that same inflation that increased the value of their homes cannot be used to make ends meet. Why should they have to wait until death to reap the economic fruits of 30 years of mortgage payments?

Under a RAM, senior citizens can live in their own homes for the rest of their lives—homes they bought and paid for. The potential is enormous. It is estimated that senior citizens currently have a net equity of $90 billion in their homes. And by the year 2000 one in four Americans will be 65 or older. The American Dream Act will help lay a foundation to deal with the problems senior citizens face and to offer a new source of income at a time when it is most needed.

I am firmly committed to the concepts of this bill. Since the American Dream Act merely grants permissive rather than mandatory authority to make the loans, I am optimistic that we can deal with it speedily, without protracted hearings. I would even attach this bill to another legislative vehicle if that could insure immediate relief for the millions of Americans who find their dreams slippery and elusive.

Mr. Speaker, the quicker we can get these mortgages on the books, the quicker we can help the people. I urge support for this bill and will do all I can to see it passed swiftly.

H.R. 10602

A bill to authorize the Federal Home Loan Bank Board to allow Federal savings and loan associations to issue graduated payment and reverse annuity mortgage instruments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The American Dream Act".

SEC. 2. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by inserting immediately after the first undesignated paragraph thereof the following new paragraph:

"Subject to the prohibitions, limitations, and conditions as the Board may prescribe by regulation, and association may make and invest in graduated payment mortgages and reverse annuity mortgages in all States where such associations are authorized to do business. The Board shall take into account appropriate consumer safeguards in adopting any regulations which allow associations to make and invest in graduated payment mortgages and reverse annuity mortgages.".

THE HUBERT H. HUMPHREY INSTITUTE OF PUBLIC AFFAIRS MEMORIAL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, it is my privilege to offer on behalf of myself and the gentleman from Minnesota (Mr. QUIE) a bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs.

This institute, on the campus of the University of Minnesota at Minneapolis, has been founded "to perpetuate the innovative, creative and humane approach to public service exemplified by the career of Senator Hubert H. Humphrey—a center for the education, stimulation and recruitment of bright young men and women for positions in public and community service."

Those are the words, Mr. Speaker, taken from the statement of principles of the founders of this institute.

At the institute, students and scholars will study the papers of the man whose legacy to this Nation includes the Civil Rights Act, the Peace Corps, the Job Corps, Fund for Peace, the Arms Control and Disarmament Agency and the Nuclear Non-proliferation Treaty.

Already individual citizens throughout the Nation, corporations, labor unions and cooperatives have joined together in a nonpartisan effort to finance an institute which will serve as a lasting memorial to one of America's greatest legislators and statesmen—the man we honored in this very House only a few short weeks ago in a tribute given to few Americans, and, I believe, to no U.S. Senator before him.

Indeed, the formation of this institute has stimulated widespread interest—emphasizing that Senator Humphrev was a man of truly world stature. The Prime Minister of Japan only this month notified the Institute that he was recommending to the Japanese diet the appropriation of a gift of $1 million to the institute, in memory of Senator Humphrey.

Other nations, I understand, are giving serious consideration to major gifts to the institute, in the belief that there will be created a center of great value to the international community, for Hubert Humphrey is remembered throughout the world as a man of peace, of good will, and of enlightened and humane foreign policy.

At the institute, in addition to an extensive outreach program housed in its own building on the University of Minnesota campus, there will not only be a vigorous program of research and study and training in the major fields in which Senator Humphrey spent his three decades of public service, but there will also be the Humphrey Archives, the Humphrey Library collection of public affairs documents, and a strong program of outreach into the community, the State and the Nation.

I would hope—and I am given to understand that this is under active consideration—that the institute would concentrate a major effort on the study and analysis of the legislative process—the decisionmaking which is the business of the Congress and of the State legislatures.

How fitting it would be if there could rise within this institute dedicated to the memory of this singular legislator such a program of concentration in the field in which he worked, fought and accomplished so much between 1949 and 1977.

But I am confident that the funds which this legislation would authorize—the sum of $5 million—will be put to creative, imaginative and constructive use for today's scholars and for generations of students and scholars yet to come, and that the institute will come forward with programs to commit these funds that we will all be proud of. For the institute's charter includes these important words—that it will be dedicated "to enhancing the quality of American public service and to strengthening the process of American democracy through broader participation in public policy issues by an informed citizenry at large."

That was what Hubert Humphrey was all about—and that is why I know that this bill will be supported by a broad and bipartisan cross-section of the Congress—by those who were proud to be colleagues of Senator Humphrey.

And it is important that members know that Senator Humphrey's last request, through his family, was that all memorials to him should go to the Hubert H. Humphrey Institute. So it is entirely in keeping with Senator Humphrey's wishes and desires that the Congress should respond to his intense interest in the creation of this institute in his memory.

WISCONSIN SUPPORT FOR ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, as the markup of the proposed Alaska National Interest Lands Conservation Act continues in the Subcommittee on General Oversight and Alaska Lands, I think it is useful to get some sense of the kind of support this legislation drew during the subcommittee's 6 months of hearings all over the country. While it is difficult to boil down into one succinct statement the testimony of the great majority who supported the bill among the 2,000-plus witnesses testifying in person, some of the newspaper editorials have expressed well the general tenor of this testimony.

The Milwaukee Journal, on October 1, 1977, took editorial notice of the importance of this conservation proposal, and analyzed the merits of contending arguments. I believe all of our colleagues, and especially those from Wisconsin, will find it of considerable interest. The full text of the editorial follows:

ALASKA—OUR LAST VAST WILDERNESS

Congress is about to undertake a colossal zoning job—the carving up of Alaska for various uses. It's a task that should be approached with some reverence and a great deal of thought for future generations.

Alaska is a vast, wild, indescribably beautiful state; a place of massive mountains, glaciers, tumbling rivers, sheltered ocean inlets; fragile habitat for whales, caribou and other endangered mammals; a summer refuge for millions of waterfowl that flock annually to all parts of North America.

It is a land whose grandeur can recharge the spirit of the sensitive visitor and strike awe even in the jaded. And it is home to 400,000 Americans, including the native Indians, Eskimos and Aleuts and thousands of settlers from the Lower 48 who were lured by the wilderness and solitude.

But the 49th state is also a repository of mineral wealth and a potential frontier for industrial development. Thus, Congress will be under a great pressure to give preference to the short term interests of extractive industries and land developers rather than to the long range need to protect precious environmental and esthetic values.

When Alaska became a state, 99% of its 365 million acres belonged to the federal government. But the federal share has shrunk substantially. The government yielded 104.5 million acres to the state itself, 44 million to the native peoples and 5.5 million to the oil pipeline corridor. Much of the remaining acreage was designated "public interest" land and was open to some development.

So, the amount of land available for preservation has dwindled greatly, although Congress still will have considerable leeway when it chooses among the various, competing proposals being pushed.

The two most commendable plans are those of Interior Secretary Andrus and Rep. Udall (D-Ariz.). Andrus wants to protect 92 million acres in national parks, wildlife refuges, wild and scenic rivers and ecological preserves. The Udall proposal is similar, but would encompass 115 million acres.

Least desirable of the major proposals is one offered by Alaska's Sen. Stevens. It would protect only 48 million acres and place 57 million acres in a vague category of "cooperative lands," a classification that might invite abuse by land developers and the mining and timber interests.

Congress should not accept modest goals when the issue is preservation of what Andrus has properly called "the crown jewels of Alaska." Better to set aside too much land than to squander environmental treasures that could never be retrieved.

WHY DOES THE UNITED STATES SUPPORT TERRORIST TACTICS IN RHODESIA?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, concern shown by Britain and the United States over the fact that Rhodesia's white government may be nearing accord with moderate black leaders for the establishment of a black majority government for that country appears to be approaching panic proportions.

Rhodesia's Prime Minister, Ian Smith, and three moderate black leaders are nearing agreement on a multiracial interim government. The United States has given no support to that effort. Apparently, we and the British, prefer to encourage terrorist tactics and bloody raids. The Smith government is negotiating with three black nationalist leaders who carry on their efforts within Rhodesia. They are Bishop Abel Muzorewa, the Reverend Ndabaningi Sithole, and Chief Jeremiah Chirau.

We have continued to ignore efforts for a peaceful settlement within Rhodesia. We concentrate on backing revolutionaries even though they have refused to accept the presence of a British resident commissioner in Rhodesia; they insist on superintending a revolutionary period leading to elections for a black majority government; and they resist the presence of a U.N. peace-keeping force. They want no guarantees for the white population. As an alternative to outright surrender to their demands, they promise to concentrate on an expanding civil war if Rhodesia is not handed over to them. These are the people our Government supports.

Andrew Young, U.S. Ambassador to the United Nations and British Foreign Secretary David Owen, are now meeting in Malta with radical black leaders in an effort to forestall the progress being made in Rhodesia.

The radical black leaders, Robert Mugabe and Joshua Nkomo operate from nations bordering Rhodesia. They conduct raids into Rhodesia killing and burning indiscriminately. They are Communist equipped and Communist trained. It is ironic that their terrorist tactics and their Communist backing do not dampen the enthusiasm of the United Nations, Britain, and the United States for their cause. In fact, our Mr. Young, personally escorted their leaders during conferences of the "World Conference for Action Against Apartheid," held in Nigeria last August.

It is not difficult to speculate on the outcome if efforts of Britain and the United States to set up a Rhodesian Government in exile are successful. A takeover of Rhodesia by the Communist-oriented front would simply provide a repetition of the Angola situation where the whites were killed or driven out and their property confiscated. In the case of Angola, the timid efforts by the United States in support of a more moderate faction were frustrated by Congress. Civil war conditions continue to exist in Uganda and over 20,000 Cuban troops are employed in maintaining the Marxists in power.

Many people in and out of the United States are disappointed at the inability of our country to formulate constructive foreign policies without kowtowing to the United Nations. It is not to our advantage to support Communist-dominated governments in any country. Yet, that is exactly what we are trying to do in Rhodesia. We are demanding the outright surrender of the present government and ignoring all efforts to establish a moderate government that would, at least, remain neutral toward Western policies.

TO INCREASE THE FEDERAL CROP INSURANCE PROGRAM

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, for many years I have advocated Federal insurance for crops in all counties. I feel that this offers one assured way of helping the farmer to overcome the hazards of weather in his crop production efforts. The farmer is, of course, subjected to the twin hazards of adverse weather and uncertain market conditions. Through an expanded crop insurance program, we can help to resolve at least one major part of this problem. I am now introducing legislation to accomplish this objective. I know that the Secretary of Agriculture favors an expansion of the crop insurance program. I hope that this bill and similar bills will have his support and that of the administration. It should receive early attention.

As a part of the new expanded crop insurance program, this bill would establish a new entity in the Department of Agriculture—the Farm Production Protection Corporation. The FPPC would be granted broad authority to provide protection against loss of investment due to natural hazards on any agricultural crop or livestock commodity in all geographic areas where such production is suitable. A new concept included in this proposed legislation is a Disaster Relief Fund from which indemities could be paid if production losses are above normal in any country and a catastrophic or disaster loss is declared by the Board.

The initial objectives of the Farm Production Protection Act will be to provide economic stability to producers of wheat, cotton, corn, barley, grain sorghum, and rice on a national basis. Also, it will expand this protection to producers of other major farm products as soon as the Secretary of Agriculture and the Board of Directors of the FPPC feel is prudent and are able to develop an appropriate actuarial structure. This will provide a strong program to prevent loss of the producers farm production costs in the face of unavoidable natural causes.

The primary purpose of the legislation is to assure a supply of food and fiber sufficient to meet the needs of domestic consumption and export demand and to permit a high export level for our agricultural products. Also, it will assure a strong and substantial rural agricultural and commercial financial structure. This economic protection will virtually assure the consumer of agriculture products in the marketplace and a long range continuation of a plentiful supply of food and fiber. This would be a major forward step in minimizing a conflict between the agricultural producer and the consumer.

Financing under this legislation during ordinary or nondisaster conditions will be by subscription of $300 million capital stock, premiums paid by participating farmers, and appropriated funds for operating expenses. Experienced gained from the existing crop insurance program has fully demonstrated the feasibility of the financing concept since premiums paid by farmers from 1948 through 1976 have been equal to indemnities incurred for losses.

In the event of catastrophic and disaster-type loss situations, the Secretary of Agriculture is empowered to expand whatever funds are necessary to meet the needs of the immediate situation in a timely manner. These expenditures will not be permitted to increase the premium costs or reduce the protection guarantees to participating farmers. This will prevent making the program cost prohibitive to participants and assure a continuation of the economic stability and protection needed in disaster areas.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. DORNAN (at the request of Mr. RHODES), for today, on account of illness.

Mr. GUYER (at the request of Mr. LATTA), for today and the remainder of this week, on account of impassable weather conditions in his Ohio district.

Mr. JEFFORDS (at the request of Mr. RHODES), for today, on account of official business in Vermont.

Mr. LEHMAN (at the request of Mr. WRIGHT), for January 30 through February 2, on account of illness in the family.

Mr. RONCALIO (at the request of Mr. WRIGHT), from January 30, through February 2, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EMERY) to revise and extend their remarks and include extraneous matter:)

Mr. STEIGER, for 10 minutes, today.

Mr. WHALEN, for 5 minutes, today.

(The following Members (at the request of Mr. CORNWELL) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EMERY) and to include extraneous material:)

Mr. VANDER JAGT.

Mr. QUIE.

Mr. ARMSTRONG.

Mr. LOTT.

Mr. KEMP in two instances.

Mr. BAUMAN in 10 instances.

Mr. YOUNG of Florida.

Mr. STEERS.

Mr. HYDE.

Mr. KEMP in two instances.

(The following Members (at the request of Mr. CORNWELL) and to include extraneous matter:)

Mr. MCHUGH.

Mr. NATCHER.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. MOTTL.

Mr. FRASER in 10 instances.

Mr. MAZZOLI in two instances.

Mr. DODD.

Mr. IRELAND.

Mr. MEEDS.

Mr. STOKES.

Mr. FLIPPO.

Mr. SIMON in two instances.

Mr. CONYERS.

Mr. BLANCHARD.

Mr. MURTHA.

Mr. NEDZI.

Mr. ALLEN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2220. An act to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board; to the committee on House Administration.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5054. An act to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia; and

H.R. 5322. An act to impose an excise tax on the sale of coal by the producer, to establish a black lung disability trust fund, and for other purposes.

ADJOURNMENT

Mr. CORNWELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 31 minutes p.m.), the House adjourned until tomorrow, Tuesday, January 31, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3096. A letter from the President of the United States, transmitting his determination that import relief for the U.S. high carbon ferrochromium industry is not in the national economic interest, pursuant to section 203(b)(2) of the Trade Act of 1974 (H. Doc. No. 95-286); to the Committee on Ways and Means and ordered to be printed.

3097. A letter from the vice president and general manager, Chesapeake and Potomac Telephone Co., transmitting a statement of receipts and expenditures of the company for 1977, pursuant to 33 Stat. 375, and a comparative general balance sheet, pursuant to

section 313 of title 43, District of Columbia Code; to the Committee on the District of Columbia.

3098. A letter from the Chairman, Commission on Federal Paperwork, transmitting a report with recommendations on administrative reform in welfare, pursuant to section 3(c) of Public Law 93–556; to the Committee on Government Operations.

3099. A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87) to raise certain authorized funding levels contained therein, and for other purposes; to the Committee on Interior and Insular Affairs.

3100. A letter from the Chairman, U.S. Water Resources Council, transmitting a draft of proposed legislation to amend the Water Resources Plannnig Act of 1965, as amended, to provide authorization of appropriations necessary to continue the Water Resources Council and its programs through fiscal year 1979; to the Committee on Interior and Insular Affairs.

3101. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Israel for permission to transfer certain U.S.-origin defense equipment to the Government of Honduras, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

3102. A letter from Secretary of the Treasury, transmitting a report on the status of active foreign credits of the U.S. Government as of September 30, 1977, pursuant to section 634(f) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3103. A letter from the Secretary of Transportation, transmitting his annual report on activities under the Emergency Rail Services Act of 1970, together with a report on the financial condition of the Chicago, Rock Island and Pacific Railroad Company, pursuant to section 10 of Public Law 91–663; to the Committee on Interstate and Foreign Commerce.

3104. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

3105. A letter from the Administrator of General Services, transmitting a prospectus proposing a succeeding lease for space currently occupied at 211 Main Street, San Francisco, Calif., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3106. A letter from the Administrator of General Services, transmitting a prospectus proposing the exercise of one 5-year renewal option for space currently occupied at 1405 Eye Street, NW., Washington, D.C., pursuant to section 7(a) of the Public Buildings Act of 1959 as amended; to the Committee on Public Works and Transportation.

3107. A letter from the Director, National Science Foundation, transmitting a draft of proposed legislation to authorize appropriations for the National Science Foundation for fiscal years 1979 and 1980; to the Committee on Science and Technology.

3108. A letter from the Vice Chairman, Federal Election Commission, transmitting a copy of correspondence sent to the Office of Management and Budget requesting a supplemental appropriation for fiscal year 1978, pursuant to section 310(d)(1) of the Federal Election Campaign Act of 1971, as amended; jointly, to the Committees on Appropriations and House Administration.

3109. A letter from the Comptroller General of the United States, transmitting a report on U.S. participation in international agricultural research (ID–77–55, January 27, 1978); jointly, to the Committees on Government Operations and International Relations.

3110. A letter from the Secretary of Commerce, transmitting a copy of the Fourth Annual Report on Ocean Pollution, Overfishing, and Offshore Development, pursuant to title II, section 202(c) of Public Law 92–532; jointly, to the Committees on Merchant Marine and Fisheries and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Jan. 25, 1978, the following report was filed on Jan. 27, 1978*]

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 9214. A bill to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund; with amendment (Rept. No. 95–853). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted Jan. 30, 1987*]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 10532. A bill to amend Public Law 95–18, providing for emergency drought relief measures (Rept. No. 95–854). Referred to the Committee of the Whole House on the State of the Union.

Mr. NICHOLS: Committee on Armed Services. H.R. 10341. A bill to amend title 10, United States Code, to authorize reserve enlisted members of the Army and the Air Force to retire with 20 years of service. (Rept. No. 95–855). Referred to the Committee of the Whole House on the State of the Union.

Mr. NICHOLS: Committee on Armed Services. H.R. 10342. A bill to revise the rule for recalculation of military retired or retainer pay to reflect later active duty with respect to later active duty performed between October 1, 1963, and October 1, 1973 (Rept. No. 95–856). Referred to the Committee of the Whole House on the State of the Union.

Mr. NICHOLS: Committee on Armed Services. H.R. 10343. A bill to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967 (Rept. No. 95–857). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FLIPPO (for himself, Mr. TEAGUE, Mr. FUQUA, Mr. FLOWERS, Mr. MCCORMACK, Mr WINN, Mr GAMMAGE, Mr. FREY, Mr. GLICKMAN, Mr. LLOYD of California, Mr. BLANCHARD, and Mr. MILFORD):

H.R. 10601. A bill to provide for a research development, and demonstration program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes; to the Committee on Science and Technology.

By Mr. ANNUNZIO:

H.R. 10602. A bill to authorize the Federal Home Loan Bank Board to allow Federal savings and loan associations to issue graduated payment and reverse annuity mortgage instruments; to the Committee on Banking, Finance and Urban Affairs.

H.R. 10603. A bill to require that imported meat and meat food products made in whole cr in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation; to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles, and for other purposes; to the Committee on Agriculture.

By Mr. COCHRAN of Mississippi:

H.R. 10604. A bill to amend title 39, United States Code, to prevent deceptive business solicitations by providing that any such solicitation which is designed to resemble a bill or statement of account shall be nonmailable matter; to the Committee on Post Office and Civil Service.

By Mr. FISH (for himself, Ms. FENWICK, Mr. MCCLORY, Mr. MCKINNEY, Mr. OTTINGER, Mr. GILMAN, Mr. JENRETTE, Mr. FLOOD, Mr. MATHIS, Mr. BEDELL, Mr. HYDE, and Mr. BAUCUS):

H.R. 10605. A bill to amend section 1332 of title 28, United States Code, to grant jurisdiction to the district courts to enforce any custody order of a State court against a parent who, in contravention of such order, takes a child to another State; to the Committee on the Judiciary.

By Mr. FORD of Michigan (for himself and Mr. QUIE):

H.R. 10606. A bil to authorize funds for the Hubert H. Humphrey Institute of Public Affairs; to the Committee on Education and Labor.

By Mr. MEEDS:

H.R. 10607. A bill to modify the authorization of the Skagit River levee and channel improvement project; to the Committee on Public Works and Transportation.

By Mr. MOTTL:

H.R. 10608. A bill to provide for the issuance of a commemorative postage stamp in honor of Gen. Casimir Pulaski and Americans of Polish descent; to the Committee on Post Office and Civil Service.

By Mr. NEAL:

H.R. 10609. A bill to provide that funds projected to be expended for a new program on smoking and health, announced by the Secretary of Health, Education, and Welfare on January 11, 1978, be redirected for research on the harmful effects of smoking; to the Committee on Interstate and Foreign Commerce.

Mr. OBERSTAR:

H.R. 10610. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting surplus school facilities to efficient, alternate uses, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. OBERSTAR (for himself, Mr. HYDE, Mr. LAGOMARSINO, Mr. FITHIAN, Mr. NOLAN, Mr. YOUNG of Missouri, Mr. MAZZOLI, and Mr. PRICE:

H.R. 10611. A bill to amend title XIX of the Social Security Act to eliminate Federal payments for abortions under the medicaid program except for abortions to prevent the death of the mother; to the Committee on Interstate and Foreign Commerce.

My Mr. OBERSTAR (for himself Mr. WALGREN, Mr. STEERS, and Mr. COCHRAN of Mississippi):

H.R. 10612. A bill to establish a national driver register to assist States in exchanging information regarding the motor vehicle

driving records of certain individuals, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 10613. A bill to amend chapter 5, title 37, United States Code, to restructure the rates of special pay for sea duty; to the Committee on Armed Services.

By Mr. SIMON:

H.R. 10614. A bill to amend title 38 of the United States Code to extend from 6 months to 9 months the period for which the Veterans' Administration may pay for certain nursing home care furnished to eligible veterans by private institutions; to the Committee on Veterans' Affairs.

By Mrs. SPELLMAN (for herself, Mr. FOWLER, Mr. HARKIN, Mr. KILDEE, Mr. MITCHELL of Maryland, Mr. MOFFETT, Mr. PICKLE, and Mr. ROE):

H.R. 10615. A bill to provide for the installation of telecommunications devices for the deaf in agencies of Federal, State, and local governments, in offices of Members of Congress, and in other locations; jointly, to the Committees on Government Operations, and House Administration.

By Mr. STEERS:

H.R. 10616. A bill to amend the Internal Revenue Code of 1954 to lower from 65 to 55 the age requirement for the exclusion of gain on the sale or exchange of a residence; to the Committee on Ways and Means.

By Mr. STEIGER:

H.R. 10617. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the carryover basis provisions which were added by the Tax Reform Act of 1976, and for other purposes; to the Committee on Ways and Means.

By Mr. WEAVER (for himself, Mr. FOLEY, Mr. AMMERMAN, Mr. AUCOIN, Mr. BAUCUS, Mr. BOWEN, Mr. BROWN of California, Ms. BURKE of California, Mr. DUNCAN of Oregon, Mr. FRASER, Mr. ICHORD, Mr. JEFFORDS, Mr. JENRETTE, Mr. JONES of Tennessee, Mr. MATHIS, Mr. MEEDS, Mr. OBERSTAR, Mr. RICHMOND, Mr. SYMMS, Mr. THORNTON, and Mr. UDALL):

H.R. 10618. A bill to provide for an expanded and comprehensive extension program for forest and range land renewable resources; to the Committee on Agriculture.

By Mr. YOUNG of Florida:

H.R. 10619. A bill to amend part B of title XVIII of the Social Security Act to provide for fair hearings on disputed medicare claims by an impartial person other than a carrier; jointly to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. BROOKS:

H. Res. 985. Resolution to provide funds for the Select Committee on Congressional Operations; to the Committee on House Administration.

By Mr. WHITTEN:

H. Res. 986. Resolution to maximize local nighttime radio service; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII,

287. The SPEAKER presented a memorial of the Legislature of the State of Delaware, requesting that Congress call a convention for the purpose of proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

By Mr. LEVITAS introduced a bill (H.R. 10620) for the relief of Carlo Avino, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

386. The SPEAKER presented a petition of the city council, Philadelphia, Pa., relative to human rights in Northern Ireland; to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. BREAUX:

(An amendment in the nature of a substitute:)

Strike all after the enacting clause and insert the following:

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TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for

the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(c)) is amended to read as follows:

"(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be.

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of (1) deposits of oil, natural gas, or other minerals, or (2) geothermal steam;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease, sale, or other activity proposed, conducted, or approved pursuant to the provisions of this Act, any coastal State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that, because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, or geothermal steam, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals, or geothermal steam, in paying quantities, including geophysical activity, drilling, platform construction, pipeline routing, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals, or geothermal steam, to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral, or geothermal steam (1) computed at a unit price equivalent to the average unit price at which such mineral or geothermal steam was sold pursuant to a lease during the period for which any royalty or net profit share is accrued to reserves to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral or geothermal steam was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral or geothermal steam from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal Action' means any action or proposal by the Secretary which is subject to the provisions of section (2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(q) The term 'frontier area' means any area where there has been no development of oil and gas prior to October 1, 1975, and includes the outer Continental Shelf off Southern California, including the Santa Barbara Channel.".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources and geothermal steam of the outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent wth the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources and geothermal steam of the outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations on the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficent to provent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333 (a)) is amended—

(1) in paragraph (1), by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,";

(2) in paragraph (1), by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources"; and

(3) in paragraph (2), by striking out "artificial islands and fixed structures erected thereon" and inserting in lieu thereof "those artificial islands, installations, and other devices referred to in paragraph (1) of this subsection".

(b) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(c) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(d) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(e) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(f) Section 4(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Any owner or operator of a vessel which is not a vessel of the United States shall, prior to conducting any activity pursuant to this Act or in support of any activity pursuant to this Act within the fishery conservation zone or within fifty miles of any artificial island, installation, or other device referred to in subsection (a) of this section, enter into an agreement pursuant to this paragraph with the Secretary of the Department in which the Coast Guard is operating. Subject to the provisions of subparagraph (B) of this paragraph, such agreement shall provide that such vessel, while engaged in the conduct or support of such activities, shall be subject, in the same manner and to the same extent as a vessel of the United States, to the jurisdiction of such Secretary with respect to the laws of the United States relating to the operation, design, construction, and equipment of vessels, the training of the crews of vessels, and the control of discharges from vessels.

"(B) An agreement entered into between the owner or operator of a vessel and the Secretary of the Department in which the Coast Guard is operating pursuant to subparagraph (A) of this paragraph shall provide that such vessel shall not be subject to the jurisdiction of such Secretary with respect to laws relating to vessel design, construction, equipment, and similar matters—

"(i) if such vessel is engaged in making an emergency call (as defined by such Secretary) at any artificial island, installation, or other device referred to in subsection (a) of this section; or

"(ii) if such vessel is in compliance with standards relating to vessel design, construction, equipment, and similar matters imposed by the country in which such vessel is registered, and such standards are substantially comparable to the standards imposed by such Secretary. "(C) As used in this paragraph—

"(i) the term 'vessel of the United States' means any vessel, whether or not self-propelled, which is documented under the laws of the United States or registered under the laws of any State;

"(ii) the term 'support of any activity' includes the transportation of resources from any artificial island, installation, or other device referred to in subsection (a) of this section; and

"(iii) the term 'fishery conservation zone' means the zone described in section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f) respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing in the outer Continental Shelf and shall prescribe or retain such regulations as necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein. Except as provided in this subsection, such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. No regulation promulgated under this Act affecting operations commenced on an existing lease before the effective date of such regulation shall impose any additional requirements which would result in delays in the exploration, development, or production of resources unless the Secretary publishes a finding that such regulation is necessary to prevent serious or irreparable harm or damage to health, life, property any mineral deposits or geothermal steam resources, or to the marine, coastal, or human environment.

In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General and the Federal Trade Commission with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee to facilitate proper development of a lease in the national interest, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall—

"(i) not occur unless and until operations under such lease or permit have been under suspension or temporary prohibition by the Secretary (with due extension of any lease or permit term) for a total period of five years or for a lesser period, in the Secretary's discretion, upon request of the lessee or permittee;

"(ii) in the case of a lease issued after the date of the enactment of this paragraph (other than a lease cancelled for reasons of national security or defense at the request of the Secretary of Defense), entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (I) the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on such lease, or (II) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement); and

"(iii) in the case of a lease issued before the date of the enactment of this paragraph, or a lease cancelled for reasons of national security or defense (whenever issued), entitle the lessee to receive fair value in accordance with subclause (I) of clause (ii) of this subparagraph;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitization, pooling, and drilling agreements;

"(5) for the subsurface storage of oil and gas other than by the Federal Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area;

"(8) for compliance with any standards established by a State pursuant to the Clean Air Act to the extent that activities authorized under this Act affect the air quality of such State;

"(9) for the establishment of air quality standards for operations on the outer Continental Shelf under this Act.

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral, or geothermal steam, under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) utilization of the best available and safest technology for pipeline burial and other procedures, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from such lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any district court of the United States having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(g)(1) In administering the provisions of this Act, the Secretary shall coordinate the activities of any Federal department or agency having authority to issue any license, lease, or permit to engage in any activity related to the exploration, development, or production of oil or gas from the outer Continental Shelf for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed upon any applicant for, or holder of, any such license, lease, or permit.

"(2) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify and consult with the Governor of any affected State and the Secretary may thereafter recommend such change or changes in such action as are considered appropriate.

"(h) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, an oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum as the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) fixed cash bonus of not less than sixty-two dollars per hectare with a work commitment stated in a dollar amount as the bid variable;

"(H) a fixed royalty at not less than 12½ per centum in amount or value of the production saved, removed, or sold, or a fixed per centum share of new profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area, with a work commitment stated in a dollar amount as the bid variable;

"(I) a fixed cash bonus of not less than sixty-two dollars per hectare, with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area with a work commit-

ment stated in dollar amounts as the bid variable; or

"(J) any modification of bidding systems authorized in subparagraphs (A) through (I) of this paragraph.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) Before utilizing any bidding system authorized in subparagraphs (C) through (J) of paragraph (1), the Secretary shall establish such system in accordance with this paragraph.

"(B) The establishment by the Secretary of any bidding system pursuant to subparagraph (A) of this paragraph shall be by rule after an opportunity for a hearing, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). Any modification of any such bidding system shall be by rule in accordance with such section 501.

"(C) Not later than thirty days before the effective date of any rule prescribed under subparagraph (B) of this paragraph, the Secretary shall transmit such rule to Congress.

"(5)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair and timely return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the Outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C) (1) The bidding systems authorized by subparagraphs (3) through (J) of paragraph (1) of this subsection shall not be applied to more than 50 per centum of the total area offered for lease each year, during the five-year period beginning on the date of enactment of this subsection, in each region in a frontier area.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding systems or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized;

"(v) if applicable, the reasons why more than 50 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection; and

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(vii) any recommendations, accompanied by detailed justifications, for additional legislation which would further revise the bidding systems used under this Act.

"(6)(A) In any lease sale where the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection and any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection are to be used, the Secretary shall publicly choose, by a random selection method, those tracts which are to be offered under the bidding system authorized by such subparagraph (A) and those which are to be offered under one or more of the bidding systems authorized by such subparagraphs (B) through (J).

"(B) The selection of tracts under this paragraph shall occur after the Secretary has determined the tracts to be included in such proposed lease sale.

"(C) Before selection of tracts for inclusion in the proposed lease sale, the Secretary shall publish a notice in the Federal Register describing the random selection method to be used and shall, immediately after such selection, publish a notice in the Federal Register designating the lease tracts selected which are to be offered under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1).

"(b) Subsection (c) of section 105 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6213) is amended to read as follows:

"(c) If the Secretary determines that exploration and development will occur only if the exemption is granted, he may exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development problems.".

"(c) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions, and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce oil and gas resources contained within the lease area, conditioned upon due diligent requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

"(7) provide a requirement that the lessee offer 20 per centum of its interest in the crude oil, condensate, and natural gas liquids produced from such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (h) through (n), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued if the Secretary finds after notice and hearing that an applicant for a lease, or a lessee, is not meeting due diligence requirements on other leases. In his notice of each lease sale the Secretary shall identify each lessee who has been notified by the Secretary that he, at the time of such notice, is not meeting due diligence requirements on one or more of his oil and gas leases. All other lessees not identified in such notice shall be conclusively presumed to be meeting due diligence requirements for the purposes of this subsection.

"(d) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General and the Federal Trade Commission.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization, immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing and which he concludes, in consultation with the Governor of such coastal State, may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and

lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(g) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.".

(c) Section 8(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(j)), as relettered by subsection (b) of this section, is amended—

(1) by inserting "and leases of geothermal steam" immediately after "sulphur"; and

(2) by inserting "or geothermal steam" immediately after "such mineral".

"(d) The Secretary shall exclude from any lease or pre-lease exploratory drilling any tract lying within fifteen miles of the boundaries of any National Wilderness Area existing as of the date of enactment of this section, except if a State conducts a leasing or development within its tidelands adjacent to such area.

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11. OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a) (1) The Secretary or any other agency of the United States and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the Outer Continental Shelf which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.

"(2) In order to obtain more accurate and adequate information regarding the oil and gas resources of the Outer Continental Shelf, prior to the first lease sale in each frontier area the Secretary shall publish in the Federal Register a request that potential permittees apply for a permit to participate in a continental offshore stratigraphic test or other such economically feasible off-structure test drilling operations as are authorized by regulation. Should no potential permittee apply for such a permit within sixty days of the publication in the Federal Register of the Secretary's invitation to participate, the Secretary may contract for such off-structure drilling: *Provided*, That no funds shall be appropriated for such drilling prior to the fiscal year beginning October 1, 1978: *Provided further*, That budget requests for the funds necessary to implement this subsection shall be displayed as a separate line item and appropriately justified, as part of the department's annual budget request.

"(3) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c) (1) Except as otherwise provided in this Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease or leases. The Secretary shall require such modifications or remodifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission or resubmission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of anticipated onshore activity resulting from such exploration, the effects and impacts of such activity, and the development and production intentions, which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e) (1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) Except as otherwise provided in this Act, all exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f) (1) Exploration activities pursuant to any lease on which a drilling permit had been issued prior to the date of enactment of this subsection shall be considered in compliance with this section, but the Secretary may require such activities to be described in an exploration plan, or require a revised exploration plan, and require any such plan to be accompanied by a general statement in accordance with subsection (c) (3) of this section.

"(2) In accordance with section 5(a) of this Act, the Secretary may require the submission of additional information or establish additional requirements on lessees conducting exploration activities pursuant to any lease issued prior to the date of enactment of this subsection.

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities:

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General, any plans for implementing recommended administrative changes, and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to insure an adequate supply of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is

amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d), shall prepare, periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) programs promulgated by coastal States and approved pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(H) whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner;

"(I) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

"(J) relevant baseline and predictive information for different areas of the outer Continental Shelf.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair value for the lands leased and the rights conveyed by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

"(3) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Attorney General and the Federal Trade Commission shall report to the Secretary with respect to the effect on competition of outer Continental Shelf exploration, development, and production. Such reports shall analyze competition and individual market shares within regional markets.

"(2) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider suggestions from any other person.

"(3) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (4) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor shall solicit comments from the executives of local governments in his State affected by the proposed program. If any comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (4) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(4) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, the Federal Trade Commission, the Governors of affected States, and through the Governors, the executives of affected local governments, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or a local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5) (A) coordination of the program with the management program being developed by any State pursuant to section 305 of the Coastal Zone Mnaagement Act of 1972, and (B) assuring consistency, as provided by the Coastal Zone Management Act, with the program of any State which has been approved pursuant to section 306 of such Act, to the maximum extent practicable.

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged information and may provide the Secretary with any privileged information he requests to assist him in preparing the leasing program. Privileged information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or sixty days after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for

full consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but not be limited to, the sharing of information (in accordance with the provisions of section 26 of this Act), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

"SEC. 20. BASELINE AND MONITORING STUDIES.—(a) (1) The Secretary shall conduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such areas or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held or scheduled before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The Secretary may utilize information collected in any study prior to such date of enactment in conducting any such study.

"(3) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) The Secretary shall consider available relevant baseline information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

"(e) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(f) In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

"SEC. 21. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, development, and production of the natural resources of the outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan to Congress of his proposals to promote safety and health in the exploration, development, and production of the natural resources of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology which the Secretary determines to be economically achievable, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technology.

"(c) Nothing in this section or in section 22 of this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety standards and regulations.

"(d)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 22. Enforcement of Environmental and Safety Regulations—

"(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental and safety regulations promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the Outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(c) The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to regulations issued pursuant to subsection (b), shall be authorized—

"(1) to enter without delay any part of the facility to conduct an on-site inspection; and

"(2) to examine such documents and records as are pertinent to such an inspection.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single twenty-four hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpoena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.

"SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having a valid legal interest which is adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United

States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act.

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; and

"(B) if the Secretary or his authorized representative, any other appropriate Federal official, or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action any person having a legal interest which is or may be adversely affected or aggrieved may intervene as a matter of right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately and irreparably affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Secretary, the Attorney General, or any other appropriate Federal official, if not a party, may intervene as a matter of right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in a frontier area, or issued or maintained prior to such date of enactment with respect to which no oil or gas has been discovered in commercial quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development, production, transportation, processing or refining of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for any privileged information (as such term is defined in regulations issued by the Secretary), the Secretary, who in ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and upon request, to the executive of any affected local government, and (B) make such plan and statement available to any other appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any frontier area, unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and

energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d)(1) The Secretary shall at least once in each frontier area declare the approval of a development and production plan or plans to be a major Federal action. In preparing an environmental impact statement on such action the Secretary shall evaluate the cumulative effect on such area and the affected states as a result of actions proposed in the plan or plans submitted for approval, plans previously approved and available preliminary plans for production in the area.

"(2) The Secretary may require lessees of tracts for which development and production plans have not been approved to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate interstate regional entity, and the executive of any affected local government area, for review and comment, and shall make such draft available to the general public.

"(f) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State, and the executive of any affected local government area shall have sixty days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(g)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (f) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or sixty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act. Any modification required by the Secretary which affects land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall be consistent with such program unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act;

"(B) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act, and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, and such approval occurs after the lessee has submitted a plan to the Secretary,

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection.

"(C) Upon the expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease. In the case of any lease canceled after disapproval of a plan under such subparagraph (B) which was issued after the date of enactment of this section, the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of—

"(i) the fair value of the cancelled rights as of the date of cancellation taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease; or

"(ii) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement). In the case of any lease cancelled after disapproval of a plan under subparagraph (B) of this paragraph which was issued before the date of enactment of this section, the lessee shall be entitled to receive fair value in accordance with clause (i) of this subparagraph. The Secretary may, at any time within the five-year period described in such subparagraph (B), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(h) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subject to the right of judicial review, in accordance with the provisions of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(j) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare any environmental impact statement which may be required pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting any studies which they may deem desirable pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental stud-

ies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedures applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and a representative interpretation of any such data, which the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States and to any requesting affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted, nor at any such inspection shall the appropriate State official be permitted to copy or abstract from, or in any way make written notes concerning, the privileged information inspected. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section.

"(f)(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government, or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

"(g) Any provisions of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(i) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease or permit issued or maintained under this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) Except as otherwise provided in section 12(b) of this Act, the United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued under this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed, or sold except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b)(1) The Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory alloca-

tion of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

"SEC. 28. LIMITATIONS ON EXPORT.—(a) Any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase the number of barrels of oil or cubic feet of gas imported into this country, are in the national interest, and are in accordance with the provisions and requirements of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing the findings made under this section, and after the date of receipt of such reports Congress shall have a period af sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section meet the requirements of subsection (b). If both Houses of Congress within such time period pass a resolution of disapproval stating disagreement with any of the President's findings concerning the requirements of subsection (b), further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience for increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.

"SEC. 29. RESTRICTIONS OF EMPLOYMENT.—No full time officer or employee of the Department of the Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity subject to regulation under this Act.

"SEC. 30. FISHERMEN'S GEAR COMPENSATION FUNDS.—(a) As used in this section, the term—

"(1) 'commercial fisherman' means any citizen of the United States whose primary source of income is derived from the harvesting of living marine resources for commercial purposes; and

"(2) 'fishing gear' means (A) any vessel, and (B) any equipment, whether or not attached to a vessel, which is used in the commercial handling or harvesting of living marine resources.

"(b)(1) The Secretary is authorized to establish and maintain a fishermen's gear compensation fund for any area of the outer Continental Shelf for the purpose of providing reasonable compensation for damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area. Such fund may sue or be sued in its own name.

"(2) After the date of enactment of this section, any lease issued by the Secretary to a lessee for a tract in an area of the outer Continental Shelf shall contain a condition that such lessee, upon request by the Secretary, shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of a fishermen's gear compensation fund for such area. No lessee shall be required by the Secretary to pay in any calendar year an amount in excess of $5,000 per lease.

"(3) For each fishermen's gear compensation fund established under paragraph (1) of this subsection there shall be established within the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to such fund to make payments pursuant to this section. Amounts collected by the Secretary under paragraph (2) of this subsection for use by such fund shall be deposited in such revolving account. Amounts in such revolving account shall be available for disbursement and shall be disbursed for only the following purposes:

"(A) Administrative and personnel expenses of such fund.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered in the area for which such fund was established.

"(4) Each fund established for an area of the outer Continental Shelf pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder in such area whose lease was issued after the date of enactment of this section.

"(5) Whenever the amount in a revolving account for a fund is not sufficient to pay obligations for which such fund is liable pursuant to this section, such fund may issue, in an amount not to exceed $1,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by such fund under this paragraph shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by such fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing, processing, and the fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface; and

"(C) establish regulations for all materials, equipment, tools, containers, and all other items used on the outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from the revolving account established for a fishermen's gear compensation fund for any area of the outer Continental Shelf to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment may be made by the Secretary from any revolving account established under this section—

"(i) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items the ownership and responsibility for which is known;

"(ii) in an amount in excess of $10,000 per claimant for any incident; and

"(iii) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim.

"(d)(1) Upon receipt of any notification of a claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Upon receipt of any notification of a claim under this section, the Secretary shall notify all lessees in the area, and any such lessee may submit evidence at any hearing conducted with respect to such claim. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

"(2) For the purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(3) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

"(4) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

"(e) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than sixty days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or in the United States Court of Appeals for the District of Columbia.

"(f) Notwithstanding any other provision of this title, no authority to enter into contracts, to incur obligations, or to make payments under this title shall be effective except to the extent or in such amounts as are provided in advance in appropriation acts.

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

"SEC. 301. For the purposes of this title, the term—

"(a) 'Secretary' means the Secretary of Transportation;

"(b) 'fund' means the fund established by section 302;

"(c) 'person' means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

"(d) 'incident' means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, or any combination thereof, which causes, or poses an imminent threat of oil pollution;

"(e) 'vessel' means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term 'Outer Continental Shelf' is defined in section 2(a) of the Outer Continental Self Lands Act (42 U.S.C. 1331(a))), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term 'navigable waters' is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)):

"(f) 'public vessel' means a vessel which—

"(1) is owned or chartered by demise, and operated by (A) the United States, (B) a State or political subdivision thereof, or (C) a foreign government, and

"(2) is not engaged, in commercial service;

"(g) 'ship' means either of the following types of vessels carrying oil in bulk as cargo;

"(1) a self-propelled vessel, or—

"(2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States;

"(h) 'facility' means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

"(i) 'offshore facility' includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

"(j) 'oil pollution' means—

"(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

"(2) The presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

"(A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.);

"(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

"(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

"(k) 'United States claimant' means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

"(l) 'foreign claimant' means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

"(m) 'United States' and 'State' include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

"(n) 'oil' means petroleum including crude oil or any fraction or residue therefrom;

"(o) 'cleanup costs' means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

"(p) 'damages' means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

"(q) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility;

"(r) 'claim' means a demand in writing for a sum certain;

"(s) 'discharge' means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

"(t) 'owner' means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or offshore facility, whether by lease, permit, contract, license, or other form of agreement; or with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment; but does not include a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect his security interest in the vessel or offshore facility;

"(u) 'operator' means—

"(1) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

"(2) in the case of an offshore facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

"(v) 'property' means littoral, riparian, or marine property;

"(w) 'removal costs' means—

"(1) costs incurred under section 5 of the Intervention on the High Seas Act; and

"(2) cleanup costs, other than the costs described in clause (1);

"(x) 'guarantor' means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

"(y) 'gross ton' means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel; and

"(z) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit.

FUND ESTABLISHMENT, ADMINISTRATIVE, AND FINANCING

"SEC. 302. (a) There is hereby established in the Treasury of the United States in Offshore Oil Pollution Compensation Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) and (3) of this section being paid into such fund. The fund shall be administered by the Secretary and the Secretary of the Treasury, as specified in this section. The fund may sue and be sued in its own name.

"(b) The fund shall be constituted from—

"(1) all fees collected pursuant to subsection (d);

"(2) all moneys recovered on behalf of the fund under section 308; and

"(3) all other moneys recovered or collected on behalf of the fund, under this title.

"(c) In addition to the processing and settlement of claims under section 307, the fund shall be immediately available for the removal costs described in section 301(w)(1), and the Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the fund for such purposes.

"(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

"(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the fund is maintained at a level not less than $100,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. No modified fees paid by any owner pending completion of judicial review of the modified fee regulation shall be repaid to such owner, notwithstanding the final judicial determination.

"(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount.

"(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

"(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

"(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the fund.

"(2) The Secretary of the Treasury may invest any excess in the fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund.

"(f) If at any time the moneys available in the funds are insufficient to meet the obligations of the fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

DAMAGES AND CLAIMANTS

"SEC. 309. (a) Claims for damages for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—

"(1) removal costs;

"(2) injury to, or destruction of, real or personal property;

"(3) loss of use of real or personal property;

"(4) injury to, or destruction of, natural resources;

"(5) loss of use of natural resources;

"(6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

"(7) loss of tax revenue for a period of one year due to injury to real or personal property.

"(b) A claim authorized by subsection (a) may be asserted—

"(1) under item 1, by any claimant: *Provided*, That the owner or operator of a vessel or offshore facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 304(c)(1) or 304(c)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 304(b): *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;

"(2) under items 2, 3, and 5, by any United States claimant, if the property involved is owned or leased or the natural resource involved is utilized, by the claimant;

"(3) under item 4, by the President, as trustees for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority; or by any State or natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item shall be used only for the restoration of the natural resources damaged or for acquisition of equivalent resources;

"(4) under item 6, by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

"(5) under item 7, by any State or political subdivision thereof;

"(6) under items 2 through 7, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

"(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

"(B) the claimant is not otherwise compensated for his loss;

"(C) the oil was discharged from an offshore facility or from a vessel in connection with the activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) and

"(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

"(7) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

"(c) If the Attorney General fails to take action under clause (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 306 any member of a group may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

"(d) If the number of members of a class in an action brought under subsection (b)(7) or subsection (c) exceeds one thousand, publication of notice of such action in local newspapers of general circulation in the areas in which the damaged persons reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

"LIABILITY

"SEC. 304. (a) Subject to the provisions of subsections (b) and (c), the owner and operator of a vessel other than a public vessel, or of an offshore facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(w)(1) of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 303.

"(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

"(1) in the case of a vessel, $250,000 or $300 per gross ton (up a maximum of $30,000,000), whichever is greater; or

"(2) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, the total of removal and cleanup costs, and other damages up to $35,000,000.

"(c) There shall be no liability under subsection (a)—

"(1) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection, or by a natural phenomenon of an exceptional, inevitable, and irresistible character;

"(2) to the extent that the incident is caused by an act or omission of a person other than—

"(A) the claimant,

"(B) the owner or operator,

"(C) an employee or agent of the claimant, the owner, or the operator, or

"(D) one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator;

"(3) as to a particular claimant, where the incident or the economic loss is caused,

in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

"(d) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b).

"(e)(1) Subject to the provisions of paragraph (2) hereof, the fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 303, to the extent that the loss is not otherwise compensated.

"(2) Except for the removal costs specified in clause (1) of section 301(w), there shall be no liability under paragraph (1) hereof—

"(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

"(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

"(f)(1) In addition to the damages for which claims may be asserted under section 303, and without regard to the limitation of liability provided in section 804(b), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 306, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

"(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

"(g) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a) hereof, other than as specified in this title.

"(h) Nothing in this title, including the provisions of subsection (g) hereof, shall bar a cause of action that an owner or operator, subject to liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

"(i) To the extent that they are in conflict with, or otherwise inconsistent with, any other provision of law relating to liability or the limitation thereof, the provisions of this section shall supersede all such other provisions of law, including those of section 4283(a) of the Revised Statutes as amended (46 U.S.C. 183(a)).

"FINANCIAL RESPONSIBILITY

"SEC. 305. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo), which uses an offshore facility shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title. Financial responsibility may be established by any one, or any combination, of the following methods acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

"(2) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States to any vessel, subject to this subsection, which does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

"(3) The Secretary, in accordance with regulations promulgated by him shall have access to all offshore facilities and vessels conducting activities under the Outer Continental Shelf Lands Act; and such facility or vessel shall, upon request, show certification of financial responsibility.

"(b) The owner or operator of a facility which (1) is used for drilling for, producing or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed, in a case where he would be entitled to limit his liability, in accordance with the provisions of section 304(b) of this title, or $35,000,000, whichever is less.

"(c) Any claim authorized by section 303(a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In determining such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this title. He shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but shall not be entitled to invoke any other defense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

"(d) The President shall conduct a study to determine (1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, and offshore facilities subject to liability under section 304, and (2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, coinsurance provisions and exclusions. The President shall submit the results of his study, together with his recommendations, within one year of the date of enactment of this Act, and shall submit an interim report on his study within three months of the date of enactment of this Act.

"NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

"SEC. 306. (a) The person in charge of a vessel or offshore facility, which is involved in an incident, shall immediately notify the Secretary of the incident, as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

"(b)(1) When the Secretary receives information, pursuant to subsection (a) or otherwise, of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source, and the guarantor, of that designation.

"(2) When a source designated under paragraph (1) is a vessel or offshore facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If the advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedure by which claims may be presented to that owner, operator, or guarantor.

"(c) In a case where—

"(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (b),

"(2) the source of the discharge was a public vessel or

"(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (b),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

"(d) Advertisement under subsection (b) shall commence no later than fifteen days from the date of the designation made thereunder to continue for a period of no less than thirty days.

"CLAIMS SETTLEMENT

"SEC. 307. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

"(b) All claims shall be presented to the fund—

"(1) Where the Secretary has advertised or otherwise notified claimants in accordance with section 306(c), or

"(2) where the owner or operator may recover under the provisions of section 303(b)(1).

"(c) in the case of a claim presented in accordance with subsection (a), and in which—

"(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

"(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 306(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the fund, that election to be irrevocable and exclusive.

"(d) In the case of a claim presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 304(b) or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund,

"(e) In the case of a claim which has been presented to any person, pursuant to sub-

section (a), and which is being presented to the fund, pursuant to subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

"(f) In the case of a claim presented to the fund, pursuant to subsection (b), (c) or (d), and in which the fund—

"(1) denies all liability for the claim, for any reason, or

"(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced pursuant to section 306(c), whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund pursuant to subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision, that election is to be irrevocable and exclusive.

"(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

"(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may ba made on a claim asserted by or on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

"(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

"(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special government employees, apply to panel members appointed from private life.

"(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge, appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h).

"(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit of the nearest circuit.

"(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

"(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, of the nearest district.

"(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the fund.

"(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

"(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

"(2) The fund may intervene in the action as a matter of right.

"(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

"(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

"(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 304(b) of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

"(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund under any provision of this title.

"(l) No claim may be presented, nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 303(a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

"SUBROGATION

"SEC. 308. (a) Any person or governmental entity, including the fund, who shall pay compensation to any claimant for an economic loss, compensable under section 303, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

"(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant pursuant to this title. Such an action may be commenced against any owner, operator or guarantor, or against any other person or governmental entity, who is liable, pursuant to any law, to the compensated claimant or to the fund, for damages for which the compensation was paid.

"(c) In all claims or actions by the fund against any owner, operator, or guarantor, pursuant to the provisions of subsections (a) and (b), the fund shall recover—

"(1) for a claim presented to the fund (where there has been a denial of source designation) pursuant to section 307(b)(1), or (where there has been a denial of liability) pursuant to section 307(c)(1)—

"(A) subject only to the limitation of liability to which the defendant is entitled under section 304(b), the amount the fund has paid to the claimant, without reduction.

"(B) interest on that amount, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

"(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

"(2) for a claim presented to the fund pursuant to section 307(c)(2)—

"(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

"(ii) interest, at the rate calculated in accordance with section 304(g)(2), for the period specified in clause (1) of this subsection; and

"(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs and attorneys' fees; or

"(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(i) the amount of the fund has paid to the claimant, without reduction;

"(ii) interest, at the rate calculated in accordance with section 34(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

"(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

"(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

"(e) The fund is entitled to recover for all interest and claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not liable for interest for that period; and

"(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction to the claim of the fund to the date which the fund shall accept that offer, inclusive.

"(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

"(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

"PROHIBITION

"SEC. 311. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful is prohibited.

"PENALTIES

"SEC. 312. (a)(1) Any person who fails to comply with the requirements of section 305, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not more than $10,000.

"(2) Such penalty may be assessed and compromised by the President or his designee, in connection with section 305(a)(1), and by the Secretary, in connection with section 305(a)(3) and section 305(b). No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

"(3) At the request of the official assessing the penalty, the Attorney General may bring an action in the name of the fund to collect the penalty assessed.

"(b) Any person in charge, subject to the jurisdiction of the United States, who fails to give the notification required by section 306(a) shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 313. (a) There is authorized to be appropriated for the administration of this title $10,000,000, for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000, for the fiscal year ending September 30, 1981.

"JURISDICTION AND VENUE

"SEC. 309. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

"(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

"PREEMPTION

"SEC. 310. (a) Except as provided in this title—

"(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economical loss described in section 303(a), a claim for which may be asserted under this title, and

"(2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for such a loss, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

"(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and pre-positioning of oil pollution cleanup and removal equipment.

"(c) Nothing in subsection (a) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid pursuant to this title.

"(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts, any disbursements of funds, and the issuance of notes or other obligations pursuant to section 302(f) of this title.

"(c) Notwithstanding any other provision of this title, the authority to make contracts, to make disbursements, to issue notes or other obligations pursuant to section 302(f) of this title, and to charge and collect fees pursuant to section 302(d) of this title or to exercise any other spending authority shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

"ANNUAL REPORT

"SEC. 314. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the fund and the administration of the liability provisions of this title.

"SEC. 314. (a) This section, subsection (d) of section 305, section 316, and all provisions of this title authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of this Act.

"(b) All other provisions of this title, and the regulations applicable thereto shall be effective on the one hundred and eightieth day after the date of enactment of this Act.

"SEC. 316. If any provisions of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby."

TITLE IV—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

SEC. 401. (a) Paragraph (2) of section 308 (b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)) is amended—

(1) by striking out "The amounts" and inserting in lieu thereof "Subject to paragraph (3) of this subsection, the amounts";

(2) by striking out "(A), (B), (C), and (D)" and inserting in lieu thereof "(A) and (B)";

(3) in subparagraph (A), by striking out "one-third" and inserting in lieu thereof "one-half";

(4 by striking out subparagraph (B);

(5) by relettering subparagraph (C), and any references thereto, as subparagraph (B), and by striking out "one-sixth" in such subparagraph and inserting in lieu thereof "one-half"; and

(6) by striking out subparagraph (D).

(b) Such section 308(b) is amended—

(1) by renumbering paragraphs (3) through (5), and any references thereto, as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Secretary shall not make grants under this subsection to any state in any fiscal year the total of which exceeds 30 per centum of the total amount available to the Secretary for payment to all states in such fiscal year.

"(B)(i) If, in any fiscal year, any coastal state will not receive a grant under subparagraph (A) or (B) of paragraph (2), the Secretary shall make a grant to such coastal state in an amount equal to 2 per centum of the total amount available for making grants to all states under such paragraph (2) in such fiscal year if any other coastal state in the same region is receiving a grant under either such subparagraph in such fiscal year.

"(ii) For purposes of this subparagraph—

"(I) the states of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia (the Atlantic coastal states) shall constitute one 'region';

"(II) the states of Alabama, Florida, Louisiana, Mississippi, and Texas (the Gulf coastal states) shall constitute one 'region';

"(III) the states of California, Oregon, and Washington (the Pacific coastal states) shall constitute one 'region'; and

"(IV) the state of Alaska shall constitute one 'region'.

"(C) If, in any fiscal year, the total amount of funds available for making grants to coastal states pursuant to this subsection is greater than the total amount of grants payable to such states pursuant to this subsection, the difference between such two amounts shall remain in the Treasury of the United States and be credited to miscellaneous receipts.

"(D) If, in any fiscal year, the total amount of funds available for making grants to coastal states pursuant to this subsection

is less than the total amount of grants payable to all coastal states pursuant to this subsection, there shall be deducted from the amount payable to each coastal state an amount equal to the product of—

"(i) the amount of which the total amount of grants payable to all coastal states exceeds the total amount of funds available for such grants; multiplied by

"(ii) a fraction, the numerator of which is the amount of grants payable to such coastal state in such fiscal year and the denominator of which is the total amount of grants payable to all coastal states in such fiscal year.".

(c) Paragraph (5)(B)(i) of such section 308(b) (as renumbered by subsection (b) of this section) is amended—

(1) by striking out "necessary, because of the unavailability of adequate financing under any other subsection," and inserting in lieu thereof "necessary"; and

(2) by striking out "new or expanded".

(d) Paragraph (6) of such section 308(b) (as renumbered by subsection (b) of this section) is amended to read as follows:

"(6) After making the calculations provided in paragraphs (2) and (3) of this subsection, the Secretary shall require each coastal state which is to receive grants under this subsection to provide adequate assurances of being able to return to the United States any funds to which paragraph (8) of this subsection may apply. After obtaining such assurances, the Secretary shall disburse the proceeds of such grants to such coastal state.

"(7) Any coastal state which receives proceeds of any grant under this subsection only may expend or commit such proceeds—

"(A) after a determination by the Secretary that such proceeds will be expended or committed by such state in accordance with the purposes set forth in paragraph (5) of this subsection; and

"(B) before the close of the fiscal year immediately following the fiscal year in which the proceeds were received.

"(8) The United States shall be entitled to recover from any coastal state an amount equal to all or any portion of a grant made to such state under this subsection which is not expended or committed in compliance with paragraph (7) of this subsection.".

(e) Paragraph (3) of section 318(a) of the Coastal Zone Management Act of 1972 is amended to read as follows:

"(3) such sums, not to exceed $50,000,000 for the fiscal year ending September 30, 1978, and not to exceed $125,000,000 for each of the fiscal years ending September 30 1979, September 30, 1980, September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984, as may be necessary for grants under section 308(b);".

(f) The amendments made by this section shall take effect on October 1, 1977.

"(g) Notwithstanding any other provision of this title, no authority to enter into contracts, to incur obligations, or to make payments under this title shall be effective except to the extent or in such amounts as are provided in advance in appropriation acts.

TITLE V—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 501. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 502. As soon as feasible but no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 503. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 504 Each Federal agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

SUNSHINE IN GOVERNMENT

SEC. 505. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to, the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

SEC. 506. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal departments and agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope, and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the national security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1) an independent determination of the MER (maximum efficient rate) and MPR (maximum production rate) in relation to the actual production from the fields, reservoirs, and wells on the Outer Continental Shelf commencing with production during the twelve-month period immediately prior to the date of enactment of this section, and an independent estimate indicating whether production from such fields, reservoirs, and wells has been less than the maximum efficient rate and maximum production rate, and, if so, the reason for such difference;

(2) an independent estimate of total discovered reserves (including proved and indicated reserves) and undiscovered resources (including hypothetical and speculative resources) of Outer Continental Shelf oil and natural gas by fields and reservoirs;

(3) a determination of the utilization of Outer Continental Shelf oil and natural gas

in terms of end-use markets so as to ascertain the consumpton by different classes and types of end users:

(4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense; and

(5) an independent evaluation of trade association estimates of Outer Continental Shelf reserves, ultimate recovery, and productive capacity since 1965 which shall be accompanied by a detailed description of procedures used by such associations and the manner in which their data relates to the results yielded in the investigation under this section. In order to provide maximum opportunity for evaluation and continuity, the Secretary of the Interior shall obtain all of the available data and other records which the trade associations have used in compiling their data with respect to reserves.

(e) The Secretary of the Interior shall, not later than six months after the date of enactment of this section, submit an initial report to the Congress on the results of the continuing investigation required under this section and shall submit subsequent reports annually thereafter. The initial report shall include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the required information within a year after the date of enactment of this section. The Secretary of the Interior shall make separate reports on past data as follows:

(1) within six months after the date of enactment of this section, on the acquisition and details of trade association data and information; and

(2) within twelve months after such date, an evaluation of the trade association materials, and within eighteen months after such date, the relationship between trade association data and the new data collected under this section.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

(g) For purposes of this section, the term "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act.

STATE MANAGEMENT PROGRAM

SEC. 507. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such verification is conclusively presumed as provided for in subparagraph (A), except that the time period after which such concurrence shall be presumed shall be three months; or".

RELATIONSHIP TO EXISTING LAW

SEC. 508. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 509. Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment, is properly trained to operate, or supervise the operation of such equipment, as the case may be.

RULE AND REGULATION REVIEW

SEC. 510. (a) Any rule or regulation prescribed pursuant to this Act or the Outer Continental Shelf Lands Act, as amended by this Act, by the head of any Federal department or agency may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the head of such department or agency. The head of any Federal department or agency who prescribes such a rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such resolution of disapproval by either House of Congress within such 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval of a rule or regulation promulgated under this Act or the Outer Continental Shelf Lands Act, as amended by this Act, shall not be deemed an expression of approval of such rule or regulation.

(c) The provisions of this section shall not apply to any finding or action by the Secretary of the Interior pursuant to section 8(a)(5)(C)(ii) or 8(b)(4) of the Outer Continental Shelf Lands Act, as amended by this Act.

By Mr. SANTINI:

Section 23, page 200, line 8: At the end of the first sentence of section 23(a)(5) of H.R. 1614, i.e., ending with the words "such award is appropriate." insert the following new sentence: "The court shall award such costs of litigation to the appropriate party if it finds that the litigation is frivolous, or was brought primarily for the purpose of delaying activities authorized by, or conducted pursuant to, this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act."

SENATE—*Monday, January 30, 1978*

(Legislative day of Tuesday, January 24, 1978)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by Hon. GAYLORD NELSON, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Lord of all life and God of our salvation, we thank Thee for our goodly heritage and all the achievements of our fathers. Clarify our vision of the unfinished task, the work yet to be done, and the goals yet to be attained. Match us to the challenge of our age. Rekindle our faith in a worthy national purpose that we may be builders of peace and justice in the world. Keep us mindful of Thy judgment. Lead us from strength to strength in the power of Thy spirit.

And to Thee shall be the praise and the glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 30, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GAYLORD NELSON, a Senator from the State of Wisconsin, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. NELSON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, January 27, 1978, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the sessions of the Senate on Monday, January 30—today—and Tuesday, January 31, 1978—tomorrow—to conduct confirmation hearings on the new Director of the Federal Bureau of Investigation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no request for the time under the standing order. I yield it back.

CRIMINAL CODE REFORM ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the

unfinished business, S. 1437, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1437) to codify, revise and reform title 18 of the United States Code, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on amendment No. 1677 by the Senator from Alabama (Mr. ALLEN).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, while we are awaiting the arrival of Mr. KENNEDY, Mr. ALLEN, and Mr. THURMOND, all of whom are in the Committee on the Judiciary, attending the confirmation hearings on Judge Webster to be Director of the FBI, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT—PM 146

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, together with an accompanying report, which, without being read, was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the eleventh quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council activities during the second quarter of 1977 in monitoring both prices and wages in the private sector and various Federal Government activities that lead to higher costs and prices without creating commensurate benefits. It discusses Council reports and analyses concerning the following matters: (1) the collective bargaining agreement reached in the steel industry; (2) the availability of home insulation materials; (3) prospects for a fertilizer shortage; (4) the prices of bakery products; (5) the price behavior of auto parts; and (6) U.S. production capacity of cement. The report also discusses the Council's filings before Federal regulatory agencies.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *January 30, 1978.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 1:03 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 5054. An act to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia.

H.R. 5322. An act to impose an excise tax on the sale of coal by the producer, to establish a Black Lung Disability Trust Fund, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. NELSON).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment:

S. Res. 370. An original resolution authorizing additional expenditures by the Committee on Governmental Affairs for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 371. An original resolution authorizing additional expenditures by the Committee on Banking, Housing, and Urban Affairs for inquiries and invesigations. Referred to the Committee on Rules and Administration.

By Mr. EAGLETON, from the Committee on Governmental Affairs, without amendment:

H.R. 7766. An act to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service with respect to the use of certain public air space in the District of Columbia (Rept. No. 95-622).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ANDERSON (for himself, Mr. PELL and Mr. JAVITS):

S. 2452. A bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs; to the Committee on Human Resources.

By Mr. YOUNG:

S. 2453. A bill to amend title XIX of the Social Security Act to provide that optional State coverage for medically needy individuals may be limited to those individuals under age 18; to the Committee on Finance.

By Mr. INOUYE:

S. 2454. A bill to amend the Fishery Conservation and Management Act of 1976 in order to provide the Northern Marianas with representation on the Western Pacific Regional Fisheries Management Council; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN:

S. 2455. A bill to amend the Home Owners' Loan Act of 1933 to authorize Federal savings and loan associations to invest in reverse annuity mortgage loans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS:

S. 2456. A bill for the relief of Elisabeth Wagner; to the Committee on the Judiciary.

S. 2457. A bill for the relief of Luis Alberto Beauge; to the Committee on the Judiciary.

By Mr. LAXALT:

S. 2458. A bill relating to grazing fees imposed with respect to the use of certain public lands; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself, Mr. KENNEDY, Mr. MAGNUSON, and Mr. HOLLINGS):

S.J. Res. 109. A joint resolution to authorize the President to issue a proclamation designating the week beginning on April 16 through April 22, 1978, "National Oceans Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ANDERSON (for himself, Mr. PELL and Mr. JAVITS):

S. 2452. A bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs; to the Committee on Human Resources.

HUBERT H. HUMPHREY INSTITUTE OF PUBLIC AFFAIRS ASSISTANCE ACT

Mr. ANDERSON. Mr. President, the introduction of a bill in this body is often a routine matter involving little emotion and only passing interest. Today, however, I introduce a bill which is of very special interest to me and, I think, to the people of this Nation.

S. 2452 authorizes $5 million in Federal grant funds for the Hubert H. Humphrey Institute of Public Affairs. It is being introduced in the House today in a bipartisan way by Congressman WILLIAM FORD of Michigan and Congressman ALBERT QUIE of Minnesota. I hope that all of my colleagues join me in supporting this bill as a fitting tribute to the public service of our departed colleague, Hubert H. Humphrey.

Clearly this is not only a bipartisan, but a national bill honoring a man who, as we have recently seen, was loved and respected throughout this land by people of every economic and social level. Hubert Humphrey was a hero of representative government for whom respect always crossed political party lines.

We need only recall the scene in the Capitol Rotunda just 2 weeks ago where two former Presidents and a former Vice President, all Republicans, joined a Democratic President and Vice President and many of us in paying their respects to Hubert. But love and respect for Senator Humphrey came not only from the leadership of this country, but also from the common people of this land who he loved and whose interests he represented in this body for 23 years.

Tens of thousands of people gathered here in the Capitol to pass by his bier, saluting the humanity and decency of this man, unequalled in his accomplishments as a modern public servant. When he returned home to Minnesota, thousands more braved the cold, coming from all parts of the Midwest, to say thank you and goodby.

Mr. President, what Hubert Humphrey meant in life has in a small way been institutionalized at the Institute at the University of Minnesota bearing his name. The Hubert H. Humphrey Institute "will be dedicated to the education, stimulation, and recruitment of bright young men and women for positions in public and community service."

As one of his last requests, this Institute will be the main memorial to Senator Humphrey. Nothing could be more fitting. For all of his life, Hubert Humphrey was a teacher and a guiding force who led young people into public service. It was true of my own life as it was true of Vice President MONDALE, Congressman DONALD FRASER, and literally hundreds of others. In every State of this Union, there are people in elective and community service because of Hubert Humphrey.

Now, with his physical presence gone, this Institute will become a national resource in his tradition. Hubert was firm in his belief that expenditures in education were an investment in the future.

At the Hubert Humphrey Institute, there will be substantial scholarships to attract the brightest and most creative young people to training which will make them leaders of this country in future years. An effort is being made by the Institute to "attract persons of national and international stature, recognized for their thinking, writing, and activities on the large questions of public concern."

In a way that Hubert Humphrey has approved, "a fund will be established to make grants to faculty and advanced students needing support for research projects in public policy and planning. The fund will also support the development of applied research projects for local officials and political units."

The abstract study of our political system is important, but Hubert was always a man who wanted to get things done, who wanted this country to move ahead to become a better society, a "good society."

Our help in funding this Institute through the passage of S. 2452 will insure that it will be able to accomplish what was the cornerstone of Hubert's philosophy as it was of our Founding Fathers: The pursuit of the public happiness.

The importance and value of the Hubert Humphrey Institute has been recognized by people in this country who have already contributed $5 million and impressively by the foreign governments of Japan and Iran who have contributed $1,250,000. Other governments are now in the process of determining their contributions and it is expected that they will soon total several additional millions of dollars.

Can we do less, we who have so directly benefited from the immense intellect of Hubert Humphrey, we who have learned from him, followed his wisdom and leadership, shared his energy and ideas? I think not.

There is ample precedent for S. 2452. In various ways, we have honored, by Federal expenditure, the memories of Wayne Morse, Dwight Eisenhower, Herbert Hoover, Harry S. Truman, Allen Ellender, Woodrow Wilson, Lyndon Johnson, and John Kennedy.

Each of those programs the Congress has supported have brought direct benefit to our Nation from the study of its institutions and from the encouragement of young men and women to participate in government and community service. I believe the Hubert Humphrey Institute of Public Affairs will uniquely add to this tradition.

Mr. President, I urge my colleagues to support S. 2452. I ask unanimous consent that the text of the Hubert H. Humphrey Institute of Public Affairs Assistance Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hubert H. Humphrey Institute of Public Affairs Assistance Act."

SEC. 2. In recognition of the public service of Senator Hubert H. Humphrey, the Commissioner of Education (hereafter in this Act referred to as the "Commissioner") is authorized to make grants in acordance with the provisions of this Act to assist in the development of the Hubert H. Humphrey Institute of Public Affairs, located at the University of Minnesota, Minneapolis-St. Paul.

SEC. 3. No payment may be made under this Act except upon an application at such time, in such manner, and containing or accompanied by such information as the Commissioner may require

SEC. 4. There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to this Act shall remain available until expended.

By Mr. YOUNG:

S. 2453. A bill to amend title XIX of the Social Security Act to provide that optional State coverage for medically needy individuals may be limited to those individuals under age 18; to the Committee on Finance.

Mr. YOUNG. Mr. President, I am introducing a bill at the request of Mr. T. N. Tangedahl, executive director of the North Dakota Social Service Board and North Dakota State Senator David Nething, which I believe has great merit.

Federal regulations currently permit States to provide coverage under medicaid to all medically needy individuals under age 21 or to limit medical assistance to "reasonable classifications" of these individuals, who are not otherwise eligible for assistance under the Aid to Families with Dependent Children or the Supplemental Security Income programs. The North Dakota Legislature during its last session, passed a bill to extend medical assistance benefits to children under the age of 18. However, they have not been able to implement this badly needed and very worthwhile program because the Department of Health, Education and Welfare in its regulations states, with questionable legal authority, that it is unreasonable to provide this assistance to a group of individuals based on age.

My bill will give the States the option of limiting this assistance to those individuals below the age of 18. I feel this legislation is warranted since the age of majority has been lowered to 18 and similar State options exist in other programs.

By Mr. INOUYE:

S. 2454. A bill to amend the Fishery Conservation and Management Act of 1976 in order to provide the Northern Marianas with representation on the Western Pacific Regional Fisheries Management Council; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, today I am introducing legislation to amend the Fishery Conservation and Management Act of 1976, in order to provide the Northern Marianas with representation on the Western Pacific Regional Fisheries Management Council.

The Fishery Conservation and Management Act of 1976 (P.L. 94–265) established a fishery conservation zone 200 nautical miles wide around the coasts of the United States, within which this country will exercise exclusive management authority over fisheries.

The act also established eight regional fishery management councils, each of which is responsible for developing a management plan for each fishery in the fishery conservation zone of its respective region. These management plans are recommended by the councils to the Secretary of Comerce, who implements them by appropriate regulations, enforced by the Coast Guard and the National Marine Fisheries Service.

Section 302 of the act specifies which States and territories shall make up each of the regional councils, the Western Pacific Council is defined as consisting of the State of Hawaii, Guam and American Samoa; and by virtue of section 101 of the act, and the definition given in section 3, there is a 200-mile fishery conservation zone offshore of each of the States, commonwealths, territories and possessions of the United States.

The Western Pacific Fishery Management Council has 11 voting members of which 7 are appointed by the Secretary, and of these 7 at least 1 comes from each of the 3 districts. The Northern Marianas Islands have nonvoting representation at the council meetings.

The Northern Marianas Islands are a group of 14 volcanic Islands extending North of Guam, and are geographically and ethnically a part of the same archipelago. The Northern Marianas is in the process of changing its status from that of a district of the trust territory of the Pacific Islands to that of a commonwealth of the United States. This is a process with many steps, and it will not be completed until at least 1981. However, along the way the Northern Marianas will gradually assume a number of

the attributes and responsibilities of a self-governing part of the United States.

As I understand it, a number of U.S. statutes which apply to Guam will also automatically become applicable to the Northern Marianas, once the constitution of the new commonwealth has received Federal approval. Among those statutes is the Fishery Conservation and Management Act. The Constitution has been approved and according to NOAA, the Fishery Conservation and Management Act became effective for the Northern Marianas on January 9 of this year.

According to the Fishery Conservation and Management Act, as it stands at present, the situation will then be that there will be a 200-mile fishery conservation zone extending the whole length of the Marianas group and covering about 300,000 square miles of ocean. It will become illegal for foreigners to fish in those waters without a permit from the United States after the act takes effect for the Northern Marianas.

The Northern Marianas will then be in a status similar to that of Wake Island or Johnston Island or any of a number of small U.S. possessions without permanent human populations. That is, there will be a zone of exclusive U.S. fishery jurisdiction, but there will be no provision for any systematic local contribution to the task of managing the fisheries and fishery resources within that zone.

The Northern Marianas are an extensive island group with a native population of more than 12,000. The people of the Northern Marianas see the development of fishery resources as one of their hopes for economic growth. The fishery conservation zone, as noted above, will be very extensive and contain important resources. The zone will be contiguous to that of Guam, with which the Northern Marianas have strong economic and cultural ties.

The people of the Northern Marianas, through representatives who have participated informally in the meetings of the Western Pacific Fishery Council, have evinced a strong interest in joining the council system, so that they can be represented in management decisions affecting their fisheries and gain the full benefits of the Fishery Conservation and Management Act. It does not seem reasonable that they, having chosen to throw in their lot with the United States, should be denied the chance to have a voice in the management of their fisheries, on an equal basis with Samoa, Guam, and Hawaii.

Accordingly, the legislation I am introducing today would amend section 302(a)(8) of the Fishery Conservation and Management Act by adding the name of the Northern Marianas after Hawaii, American Samoa, and Guam and increasing the voting membership to 13, including 8 appointed by the Secretary of Commerce pursuant to subsection (b)(1)(C). This will provide for the Northern Marianas to seat on the council their chief fishery administration official, ex officio, and one member nominated by their Chief Executive and appointed by the Secretary of Commerce. This would give them the same representation as American Samoa, which in terms of population and the state of development of their fisheries would seem appropriate.

By Mr. BIDEN:

S. 2455. A bill to amend the Home Owners' Loan Act of 1933 to authorize Federal savings and loan associations to invest in reverse annuity mortgage loans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

HOMEOWNER'S EQUITY ACT

Mr. BIDEN. Mr. President, it gives me pleasure to introduce the Homeowner's Equity Act. This legislation, would enable millions of American homeowners aged 65 and over, to enjoy the fruits of the equity which they have put into paying for and maintaining their homes.

Although Congress has passed many good programs to aid our senior citizens, too often we have concentrated on improving the lot of those older Americans who live in rental housing or nursing homes, while overlooking the fact that most older Americans still live in their own homes. It is estimated that 75 percent of the population over 65 live in their own homes. Many of these persons have adequate incomes, others do not.

For some of our senior citizens, a home represents their only major asset. Yet, for these citizens the home can also be a burden. Although the rent is free, taxes, insurance, utilities, and maintenance can funnel away dollars needed for other necessities. Some of our elderly try to save money by fixing their homes themselves, but home maintenance cannot replace an old furnace nor repair a leaky roof. Outside repair work is necessary and the money must be saved by skimping on food or health care or other necessities.

Other homeowners who are fortunate enough to have sufficient income to cover the cost of basic necessities may not have enough income to fully enjoy their years of retirement. Travel, hobbies and other recreational pursuits may have to be curtailed because they are unaffordable luxuries. Consequently, what should be the "golden years" of one's life, may turn out to be a tarnished bronze.

Mr. President, the bill I am introducing today will make it possible for homeowners aged 65 and over to regain some of the equity which they have earned from their homes during their lifetime. My bill would allow federally chartered savings and loan associations to make reverse annuity mortagages.

A reverse annuity mortage is an agreement between a lender and a homeowner whereby the lender will advance a lumpsum loan or a series of installment payments to the homeowner. The homeowner may then use this additional income to travel, fix up the house or for whatever purpose he wishes. The homeowner does not repay the loan until he dies, whereupon the loan is repaid out of the estate. If the homeowner sells the home before his death, the loan becomes repayable at the time of the sale. The security for this loan is the equity in the home which the homeowner has. The reverse annuity mortgage allows the homeowner to enjoy an increased income and at the same time retain the right to live in one's own home without fear of eviction. This is a concept which Prof. Jack Guttentag of the University of Pennsylvania has worked on and one which I believe is a good idea.

Under the present system, it is difficult for a similar type of arrangement to be worked out. Conceivably, a borrower may take out a second mortgage loan. But this second mortgage must be repaid during the lifetime of the borrower. So in effect, the borrower is giving back with one hand what he had been receiving in the other. The conventional loan mechanism may also be inadequate because of the reluctance of lenders to loan large sums to borrowers over 65. Other senior citizens have no desire to get into debt at an advanced age in their life.

Reverse annuity mortgages do not require amortization during the lifetime of the borrower, which may make it easier for senior citizens to obtain such loans. The terms of a reverse annuity mortgage may also be adjusted to meet the individual needs of the borrower. If a homeowner wishes to retain greater residual equity in his home, a smaller loan or annuity may be offered. The borrower may also arrange to receive one lump-sum payment or a series of monthly or annual payments. Arrangements may also be worked out to obtain a deferred annuity which may yield greater payments over a shorter period of time. One of the major advantages of the reverse annuity mortgage is its flexibility.

This is not a "handout" bill, but one which allows homeowners to enjoy the equity which they have earned. The reverse annuity mortgage works within the framework of existing lending institutions. Savings and loan associations would be responsible for orginating the loans. The repayment of the loans would occur using customary estate procedures. Government intervention should not be necessary to originate reverse annuity mortgages.

In conclusion, Mr. President, although reverse annuity mortgages are not going to solve all the income problems of older homeowners, I believe this legislation is a step in the right direction. I think it is important that we consider proposals which will enhance the flexibility of the private marketplace. The Homeowner's Equity Act is one such proposal and I look forward to working on it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Home Owners' Equity Act".

SEC. 2. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by adding at the end thereof the following undesignated paragraph:

"Without regard to any other provision of this subsection, other than the dollar

amount limitation and the area restriction, any such association is authorized to invest in reverse annuity mortgage loans in accordance with such regulations as the Board may prescribe. As used in this paragraph, the term 'reverse annuity mortgage loan, means a nonamortized loan which is secured by a first lien on the principal residence of a mortgagor who is at least 65 years of age, and which is repayable upon the death of the mortgagor, or upon any disposition of the property securing the loan, whichever first occurs.".

By Mr. LAXALT:

S. 2458. A bill relating to grazing fees imposed with respect to the use of certain public lands; to the Committee on Energy and Natural Resources.

GRAZING FEES ON PUBLIC LANDS

Mr. LAXALT. Mr. President, today, I am introducing legislation which would determine grazing fee levels on public lands. Until passage of the Federal Land Policy and Management Act in 1976, grazing fees were established under law and policy by the appropriate official under rather broad congressional guidelines. Section 401(a) of the BLM Organic Act mandates a study of grazing fees including a study of fees based on the cost of production.

On October 21, 1977, the Secretaries of Interior and Agriculture submitted a report to Congress which recommended an upward adjustment in grazing fees charged for domestic livestock grazing on public lands. The report submitted by the Secretaries rejected fees based on cost of production and recommended continuation of the principles of the current 1969 fee system with slight modifications.

Mr. President, the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources held hearings this morning on Senate Resolution 311 and S. 2297, legislation regarding a grazing fee moratorium. I was pleased to cosponsor both of these measures, but, in my view, a moratorium on grazing fee increases is only appropriate if Congress intends to enact legislation to provide an alternative method for determining grazing fees. With this view in mind, I am pleased to introduce this measure which would fix into statute a formula which would determine grazing fee levels on public lands that takes into consideration the cost of production normally associated with domestic livestock grazing in the Western States as well as livestock prices. This formula was recommended by the Technical Committee to Review Public Land Grazing Fees. This formula was recommended in the light that provides for a consistent and efficient method of pricing the public grazing resources.

The 11 Western States had about 18 percent of the beef cattle in the January 1, 1977, inventory. However, about one-half of the livestock in the Western States are on public lands administered by the Forest Service or the BLM and, while the Western States do not dominate the Nation's livestock industry, public land grazing is a highly significant portion of total grazing in some Western States. For example, about 68 percent of the total cattle in Nevada graze at least part of the time on public lands.

Each increase in grazing fees raises operating costs and reduces operators' returns, because a rancher has little control over the price he can demand for his product. So, in essence, each increase in grazing fees must be deducted from his profit.

To further emphasize the significance of grazing fee increases, it should be noted that cash flow problems often plague ranch owners—much more so than other businesses that have control over production and delivery schedules. Even a small increase in grazing fees can have serious impacts on some ranchers even to the extent of forcing some ranches out of business.

It is important to note that some rural communities throughout the Western States, as well as Nevada, have relied heavily on the livestock industry for their economic base. Major reductions in the size and profitability of the cattle industry could hurt these communities.

Mr. President, the present method of determining grazing fees arrives at fair market value by using the private lands lease rate survey. This data collection method has been attacked for many years by agricultural economists and even Federal land officials themselves.

A good example of the inadequacy of this plan is to look at Nevada's input into this survey. Nevada has over 900 permittees using the public lands. The following responses by year were used in Nevada to help determine what grazing fees should be:

1971—11 responses used.
1972—8 responses used.
1973—8 responses used.
1974—8 responses used.
1975—9 responses used.
1976—0 responses used.
1977—0 responses used.

Thus, in the last 2 years, Nevada's private pasture rate has not even been determined. Arizona's responses are similar. These two States have 26.2 percent of the total AUM's on the Federal lands.

Another recurring theme is that public grazing lands are of poorer quality than private lands. Public land grazing requires more acres to support an animal, thus significantly reducing weight gains and increasing costs, because of larger areas to fence and manage. Additionally, the rancher generally maintains the roads, develops water, and salts the land for the benefit of both livestock and wildlife.

Mr. President, I feel it is absolutely necessary that balancing factors be contained in a new grazing fee formula. The formula recommended by the Grazing Fee Technical Committee includes these balancing factors. In my view, this formula, Mr. President, will be equitable both to the United States, as mandated by the Federal Land Policy and Management Act of 1976, and to the grazers on Federal lands. For further clarification, Mr. President, I ask unanimous consent that the report of the Grazing Fee Technical Committee which was published in the Federal Register on February 4, 1977, be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[Department of Agriculture, Forest Service]

GRAZING FEE TASK FORCE

CHARTER AND REQUESTS FOR COMMENTS

CROSS REFERENCE: For a document issued jointly by the Department of Agriculture's Forest Service and the Department of the Interior's Bureau of Land Management on the subject of Grazing Fee Task Force Charter, see FR Doc. 77-3310 appearing in Part II of this issue.

[Department of the Interior, Bureau of Land Management]

GRAZING FEE TASK FORCE

CHARTER AND REQUEST FOR COMMENTS

Notice is hereby given that the Bureau of Land Management, Department of the Interior, and the Forest Service, Department of Agriculture, have jointly established a task force to study fees for grazing livestock on Federal lands the two agencies administer, and to prepare a report and recommendations. The purpose is to advise the public of the charter of the Grazing Fee Task Force and of the intent to request comments on grazing fees.

CHARTER OF GRAZING FEE TASK FORCE

In compliance with Section 401(a) of Pub. L. 94-579, a joint Bureau of Land Management and Forest Service Grazing Fee Task Force, will prepare the "Report of the Secretaries" for submission to the Congress on or before October 21, 1977.

TASK FORCE STAFF

Co-chairman:
William L. Evans, Director of Range Management, Forest Service, Department of Agriculture.
Kay W. Wilkes, Chief, Division of Range, Bureau of Land Management, Department of the Interior.

Members:
Melvin D. Bellinger, Forest Service.
Ronald J. Younger, Bureau of Land Management.

Consultant:
Economic Research Service, Department of Agriculture.

STATEMENT OF AUTHORITY

Section 401(a) of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), directs the Secretary of Agriculture and the Secretary of the Interior to jointly conduct a study to determine the value of grazing with a view to establishing a fee to be charged for livestock grazing which is equitable to the United States and to holders of grazing permits and leases. The Secretaries shall report to the Congress by October 21, 1977, the results of such study together with recommendations to implement a reasonable grazing fee schedule based on such study.

A letter dated December 29, 1976, and signed by the Assistant Secretary of the Interior and the Assistant Secretary of Agriculture, directed the Bureau of Land Management and the Forest Service to organize a Grazing Fee Task Force to prepare the "Report of the Secretaries."

The Economic Research Service, Department of Agriculture, will be a consultant to the Grazing Fee Task Force. Staff assigned by the Administrator of the Economic Research Service will participate in the collection and review of public comments and will provide advice on methodology, on evaluation of data, and on economic issues.

The task force co-chairmen are authorized to solicit assistance and advice from other sources as necessary.

STATEMENT OF ASSIGNMENT

The task force is assigned the responsibility for the accomplishment of all activities necessary to submit to the two Secretaries a grazing fee report, including recommendations, that will fulfill the requirements of Section 401(a) of the Federal Land Policy and Management Act. These activities in-

clude scheduling regional public meetings, obtaining necessary technical data, public release of the Technical Committee report, "Review of Public Land Grazing Fees," consultation with the Office of Management and Budget, and reporting back to the Assistant Secretary of the Interior for Land and Water Resources and the Assistant Secretary of Agriculture for Conservation, Research, and Education by August 1, 1977.

The Grazing Fee Task Force shall terminate not later than December 21, 1977.

The charter of the Grazing Fee Task Force is approved by:

Dated: January 28, 1977.

JOHN R. MCGUIRE,
Chief, Forest Service.
CURT BERKLUND,
Director, Bureau of Land Management.

REQUEST FOR COMMENTS

Pursuant to the charter, notice is given of intent to solicit suggestions, comments, statements, and recommendations from all parties interested in the establishment of fees for grazing livestock on the Federal lands in the western States administered by the Forest Service, Department of Agriculture, and the Bureau of Land Management, Development of the Interior. Any individual desiring to present data, suggestions, comments, and/or arguments orally may do so within available time limits at one of the scheduled meetings. Any interested person or organization may file a written statement with the task force at the scheduled meetings.

The Grazing Fee Task Force will consider comments regarding grazing fees on the following Federal lands:

1. Public lands administered by the Bureau of Land Management, Department of the Interior.

2. National Forest Lands in the eleven contiguous western States administered by the Forest Service, Department of Agriculture.

3. National Forest lands in South Dakota and Nebraska administered by the Forest Service.

4. All National Grasslands administered by the Forest Service.

Interested persons may submit written comments on grazing fees on or before April 8, 1977. Written communications should be directed to the Grazing Fee Task Force, Range Management Staff, P.O. Box 2417, Washington, D.C. 20013, or presented at any one of the seven scheduled public meetings. All Comments received will be available for public inspection during regular business hours in Room 610, 1621 North Kent Street, Arlington, Virginia, or in Room 5558, Department of the Interior Building, 17th and D Streets, Washington, D.C.

The public meetings are scheduled at the locations and dates listed below during the hours of 9:30 a.m., to 3:00 p.m.

Rapid City, S. Dak	Mar. 7, 1977
Missoula, Mont	Mar. 9, 1977
Boise, Idaho	Mar. 11, 1977
Reno, Nevada	Mar. 14, 1977
Denver, Colo	Mar. 16, 1977
Albuquerque, N. Mex	Mar. 18, 1977
Washington, D.C	Mar. 23, 1977

Further information about meeting locations may be obtained from the Bureau of Land Management or Forest Service offices in the cities listed above.

INFORMATION AVAILABLE

Special attention is directed to the following provisions of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579);

SECTION 102(a). The Congress declares that it is the policy of the United States that
* * *

(9) The United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

SECTION 401(a). The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after the date of approval of this Act, together with recommendations to implement a reasonable grazing fee schedule based upon such study. If the report required herein has not been submitted to the Congress within one year after the date of approval of this Act, the grazing fee charge then in effect shall not be altered and shall remain the same until such report has been submitted to the Congress. Neither Secretary shall increase the grazing fee in the 1977 grazing year.

REPORTS: "REVIEW OF PUBLIC LAND GRAZING FEES"

The Technical Committee report, "Review of Public Land Grazing Fees" was submitted in November 1976, in fulfillment of the Memorandum of Understanding signed in July 1976 between the Bureau of Land Management, Forest Service, Economic Research Service, and Statistical Reporting Service. We believe the report will fulfill the study requirements of Section 401(a) of Pub. L. 94–579. The report is expected to be a primary document used by the Grazing Fee Task Force and is being published here for the convenience of interested individuals and/or organizations that may desire to submit written comments regarding the "Review of Public Land Grazing Fees." The publication of the "Review of Public Land Grazing Fees" does not constitute approval of the report's recommendations by the Secretary of the Interior or Secretary of Agriculture. Issued in Washington, D.C., January 27, 1977, by the Chief, Forest Service and Director, Bureau of Land Management.

Dated: January 28, 1977.

JOHN R. MCGUIRE,
Chief, Forest Service.
CURT BERKLUND,
Director, Bureau of Land Management.

REVIEW OF PUBLIC LAND GRAZING FEES: NOVEMBER 15, 1976

A report prepared by the Technical Committee organized to review public land grazing fees, Department of the Interior, Bureau of Land Management, and Department of Agriculture, Economic Research Service, Statistical Reporting Service and the Forest Service.

REVIEW OF PUBLIC LAND GRAZING FEES: NOVEMBER 15, 1976

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Technical committee members

Dr. John Trierweiler, Chairman; Economic Research Service, USDA.
Melvin D. Bellinger, Forest Service, USDA.
James L. Olsen; Statistical Reporting Service, USDA.
Ronald J. Younger, Bureau of Land Management. USDI.

SUMMARY

The Technical Committee to Review Public Land Grazing Fees was formed by a Memorandum of Understanding on July 12, 1976 between ERS, USDA,; SRS, USDA; FS, USDA; and BLM, USDI. The committee was formed to prepare a report on "Public Land Grazing Fees." The specific tasks of the Technical Committee were:

A. To examine the present procedures for establishing grazing fees.

B. To examine the several alternatives which have been proposed as replacement or modification for all or portions of present procedure.

C. Identify available or additional secondary data which might enhance the present or alternative procedures for determining fees.

The review was conducted within existing administrative mandates that a fair market value fee must be collected and that permit value would not be considered a valid cost factor for determining public land grazing fees.

In order that the review be helpful in resolving, or reducing the controversy about grazing fees, two meetings were held so that the various interest groups could present their views on the public land grazing fee issue, suggested alternatives, and factors to be considered and/or clarified.

Evaluation of the existing system of fee determination or the suggested alternatives requires a criteria for comparison. Although there is no obvious way to determine what is "fair," it can be shown the the competitive norm satisfies the conditions of a welfare ideal. Few economists would claim that pure competition does or ever has existed, but it does provide a logical starting place for evaluation of great many economic problems. The competitive norm incorporates the efficiency concept of equimarginal resource returns, where the value of a resource is determined by its value in use.

The 1969 system (the method used during the 1969–1976 period for grazing fee determination by the BLM and FS) includes three major elements. The first is the economic model and data collection survey used to establish the fair market value fee level of 1966. Second is the ten-year adjustment of grazing fees from previous levels to the fair market value. Third, the procedure used to make annual adjustments in the fair market value. Nearly all of the controversy surrounding the grazing fees issue is with the adjustment factor. The procedure involves adjusting the 1966 base fee of $1.23 to current values by the Index of Private Land Lease Rates in the eleven Western States for dry land range.

A number of alternatives have been suggested by various groups to update or adjust the base fair market value fee of $1.23. Although each proposal is different they all bear the same basic concept, and that is adjustments should be made by changes in the price of output relative to changes in the price of inputs. The formula most often suggested was a Beef Price Index minus a Cost of Production Index. Other suggestions include arbitrary constraints on yearly adjustments or the use of moving averages.

A major concern at the external meetings was the quality of the data used to compute the Index on Private Land Lease Rates. There was also concern about the components of cost that were included in the Prices Paid Index (to be used as Cost of Production Index) as well as a redundancy between the Beef Price Index and the Prices Paid Index. The committee suggested that data on private land lease rates could be improved if it were collected on probability list frame sample that included only livestock operators instead of on a general Farm Report questionnaire. New questions were also suggested for the data collected. The Prices Paid Index could be improved by eliminating a number of cost items not relevant to western range livestock production. The redundancy in the Beef Price Index could be eliminated by excluding calves.

With a history of a market economy for all other products and resources used in agriculture, the obvious solution would be a competitive bidding system for the used of the public range. However, tenure arrangements, institutional goals, management restriction, and location of grazing lands has effectively eliminated the competitive requirement. Therefore less efficient administered pricing schemes must be developed. The task of the Technical Committee then became one of recommending the proper "proxi" for the competitive bid.

Adjusting grazing fees using the Index of Private Land Lease Rates (current method) may best be described as the comparative market approach. It is based on the premise that an individual will not pay more for the use of a resource than his next best alternative, or conversely, the owner of a resource should receive a value equivalent to that which could be realized from the next best alternative use of that resource. The committee felt that the index was a good indicator of long term adjustments taking place in western range livestock industry. It duplicates economic adjustments in the competitive sector, and is the only alternative suggested or discussed that incorporates measures of technical efficiency. Improvements made in the data collection process and discussed in the previous section should eliminate concern about the relevancy and accuracy of the data. However, the Technical Committee was concerned about the ability of the index to reflect short-run instabilities that result during periods of demand, supply and price disequilibrium. In the past this index has failed to account for short-run instabilities.

The combined index (Beef Price Index minus the Prices Paid Index) was rejected by the committee as the only adjustment factor in the grazing fee fromula because it does not respond to long-run adjustments in resource use or efficiency, and would result in a declining real rent over time. However, it was felt that the combined index did reflect short-run instabilities in the value of the range resource.

Recognizing the strengths and the weakness of the current formula as well as the alternative formulas, the Technical Committee recommended the following formula for determining grazing fees levels on public lands:

$$\text{FMV Fee/AUM} = \$1.23\left(\frac{L+P}{100}\right)$$

L = The improved Index of Private Land Lease Rates.

P = The reconstructed Index of Beef Prices minus the Prices Paid Index (selected items only).

This formula is recommended in the light that it provides for a consistent and efficient method of pricing the public grazing resources. The long-run trend is based on the value of the alternative resource while at the same time accounting for short-run instabilities in either livestock prices or input prices. The committee has further recommended an improvement in the data collection procedures on the private land lease rates. Some modification was also suggested for the Prices Paid Index to make it more accurately reflect western range livestock operations.

NOVEMBER 15, 1976.

I. INTRODUCTION

The Technical Committee to Review Public Land Grazing Fees was formed by a Memorandum of July 12, 1976, in response to the request of Subcommittee on Environment and Land Resources, Committee on Interior and Insular Affairs, United States Senate, at the April 30, 1976 Committee Hearings on S. 3071. This report of the Technical Committee is transmitted to the Assistant Secretary for Conservation, Research and Education, U.S. Department of Agriculture; Assistant Secretary, Land and Water Resources, U.S. Department of the Interior; and Director of Agricultural Economics, U.S. Department of Agriculture.

The purpose of the review is to reconsider and examine the present 8-year-old formula for determining grazing fees in light of the criticism directed at it and the alternatives proposed.

The review by the Technical Committee:

A. Examines the present procedures for establishing grazing fees in light of recent criticism, and in light of its fulfillment of expectations in 1968–69.

B. Examines the several alternatives which have been proposed as replacement or modification for all or a portion of present procedures.

C. Identifies available or additional secondary data which might enhance the present or alternative procedures for determining fees.

The Analysis by the Technical Committee:

A. Determines the validity of various fee procedure proposals relative to the existing system and the existing Administration mandates.

B. Indicates combinations of data or procedures which are compatible with existing Administration mandates.

C. Indicates the ranking of the several proposals based on economic criteria.

D. Indicates useable data in modification of existing procedures.

E. Provides the basis for decision within the Administration on further action regarding fees.

II. LIMIT OF SCOPE

The review was conducted within existing administration mandates that a fair market value fee must be collected (BOB, Circular No. A–25) and permit value would not be considered a valid cost factor for determining public land grazing fees. The collection of new primary data was not to be included in the study. However, the need for new studies and/or collection of primary data could be a conclusion of the review. The review and analysis was limited to a search of and use of available secondary data. New tabulation of existing data, new indexes, improved methods of collection of data for existing data series, or new use of existing data were considered.

External consultations

In order for this review to be helpful in resolving, or reducing the controversy about grazing fees, it must serve to increase general understanding as well as meet technical criteria. The livestock industry, through the American National Cattlemen's Association and the Public Lands Council, was fully informed and involved in defining the nature and extent of this Review of Grazing Fees. The appropriate professionals of the Western universities were informed and involved. The environmental concerns were kept appraised through the National Wildlife Federation and the Wildlife Management Institute.

A meeting was held in Denver, Colorado, on August 25, 1976. A second meeting was held in Washington, D.C., on September 20, 1976. At both meetings participants from the above listed interest groups presented their views on the public land grazing fee issue.

III. CRITERIA FOR DETERMINING FAIR MARKET VALUE OF PUBLIC GRAZING

An expression currently in vogue with younger people goes "whatever is fair", or a slightly different expression, "fair is fair". Like many slang expressions it does not have a precise dictionary definition, but its use connotation translates roughly "if you are satisfied, I'm satisfied". In short, "fair" expresses mutual satisfaction between parties involved. The key word is mutual. Fair also suggests justice or equity.

Economists have found no obvious way to determine what is "fair". Welfare comparisons would be relatively simple if it were possible to aggregate the utilities of individuals into a single utility function. However welfare comparisons of individual utilities are possible only in a very restricted sense. It is reasonable to postulate that social welfare transcends the more restricted notion of economic welfare, but for obvious reasons this analysis will be restricted to the latter.

Economic efficiency, often called Pareto optimality, states that the distribution of consumer goods and productive inputs are optimal if any feasible reallocation of goods or inputs causes a reduction in the satisfaction or output of any individual or firm. It can be shown that a perfectly competitive equilibrium satisfies these conditions, and thus perfect competition is a welfare ideal in this sense. Efficiency in the consuming and producing sectors implies further that the allocation of resources is pareto-optimal throughout the economy.[1]

A difficulty with the concept of economic efficiency or Pareto optimality as a welfare criteria is that it accepts the prevailing income distribution, i.e. return to resources. It is conceivable that the norm of perfect competition could lead to a condition in which the majority of individuals lived at subsistence or below. The analysis of welfare in terms of perfect competition leaves a considerable amount of indeterminancy in the solution. This indeterminancy results from the acceptance of the criteria that an increase in welfare was unambiguously defined as an increase in one individuals position without being accompanied by a deterioration in the position of another. This indeterminancy can only be removed by further value judgments.

An economic norm

The above discussion stresses the inability of economic analysis to handle a welfare criterion outside of the norm of economic efficiency. To do otherwise would require value judgments or ethical considerations outside the subject of economic analysis.

Few economists would claim that pure competition does or has ever existed in the United States economy. However, pure competition provides a logical starting place if one is to understand imperfect competition. Further it has been shown that a considerable amount of competition does exist, particularly in agriculture. and that the theory of pure competition gives valid answers to a great many economic problems.[2] Lastly the pure competition model provides a norm

[1] For a more theoretical approach see: Henderson, J. M. and Quandt, R. E. Microeconomic Theory, McGraw-Hill Book Company, 1968, Chapter 7, pages 203–207.

[2] The assumptions of pure and perfect competition are given in most introductory texts in Economics and will not be elaborated on at this time.

or ideal from which to appraise the workings of the economic system. In the latter sense it is often used for regulation of imperfectly structured sectors of the economy, such as public utilities, as well as many other public policy measures.

The term competition is used rather ambiguously in economic literature as well as in ordinary conversation. To many people the term commonly denotes rivalry. Whereas, when used along with the term pure or perfect, it takes on a different meaning. From the illustration and previous discussion competition implies mutual satisfaction, fair market value, and efficient resource allocation.

Resource pricing under pure competition

Pure competition in the resource market implies a number of conditions: One, no single firm controls enough of any given resource to be able to influence its price; two, no one supplier of a resource can place enough on the market to influence its price; and three, resources are mobile and can move between different uses and its prices are flexible.

How, then, are resources valued in production? Let us look at the simultaneously pricing and output of decisions involved in the use of a variable resource in the organization of production, Suppose two ranchers living in the same community, one with an excess of summer forage, the other badly in need of more summer forage. Further they know of each others problem. Rancher Tom, who needs more forage, goes to rancher Ray to see about renting some of his summer pasture.

"Ray", says Tom, "would you consider renting me some pasture for the summer, I need some grazing for one of my cows? I'd pay you $60 for the privilege."

Ray thinking to himself that the extra grass is only worth about $5 if he used it replies, "sure Tom glad to help out."

Tom was willing to pay $60 for the privilege while Ray figured it was only worth $5 in its existing use. Both men were satisfied and felt that a "fair" deal had been reached.

The bargaining is not over yet though. Ray having rented up a unit of summer grazing found he didn't have such an excess of pasture anymore. Tom's problem on the other hand was not so urgent anymore, as he didn't find himself in the same need for summer pasture. An additional unit of summer pasture is now only worth $40 to Tom. Trading of grazing privilege for rent would continue between Tom and Ray until eventually the forage was of equal value to both ranchers. In other words, the last unit traded would have equal marginal value to both Tom and Ray in production. Thus, a mutually advantageous trading situation had been achieved, and maximum efficiency had been attained by both. No further trading of grazing privileges would be advantageous to either party. The equimarginal principle has been achieved.

In a free competitive market for forage, both Tom and Ray would trade grazing privileges for cash rent until a "fair" market value had been reached by both parties. In addition, an efficient allocation of resource would have resulted. Generalizing from this simple illustration it may be said that the principle of equimarginal value in use asserts that an efficient allocation of forage has been attained when no mutually advantageous exchanges are possible between any pair of claimants.

Theoretically, the manager combines his resources such that the marginal value product or each resource is equal to the marginal value product of all other resources used in production. The attempt is to combine all of his resources (e.g., land, labor, capital) in such a manner that the productive values of the last unit of each resource added are all equal. To maximize profit, the manager organizes resources such that the marginal value product of each resource is equal to each other and to the marginal revenue received from the last unit of output. This procedure is called the equimarginal principle and can be defined by a simple formula:

(1) $MVP_a = MVP_b = MVP_c = MC_x = MR_x - P_x$

where:

MVP_i = marginal value product of the ith resource in production.

MC_x = sum of the marginal value products of the ith resources combined to produce output x, or the equivalent of marginal costs of production of the $x_{(i)_h}$ output.

MR_x = marginal revenue of the last unit of output x.

P_x = market price of output x.

In a competitively structured society the organization of production is determined by the principal forces of supply and demand. This basic framework along with the decisions of the human agents involved and tempered by the intensities created by time, form, and place lead to a reasonably efficient duality of resource pricing and allocation. This has been particularly true in agriculture because of the absence of barriers to entry (except high capital requirements), homogenity of the product between firms of like output, agriculture's atomistic structure, and the relative mobility of resources both into and out of agriculture. A large number of research studies have verified the long-run efficiency of agriculture.

The real world

The discussion to this point has considered only the "ideal" resource pricing and allocation system. Economic efficiency and the assumptions of a competitive system were discussed, as well as reference to U.S. agriculture industry generally conforming to these standards. Theoretically agriculture should be efficiently organized, at least in the long-runs adjustments period, and few people familiar with U.S. agricultural production would argue its resource and technological efficiency.

However, production levels, resource allocation and pricing has not been so efficient in the short-run adjustment period for many sectors in agriculture. Animal production, and in particular the primary production level for both beef and lamb have demonstrated relatively inefficient production adjustments in the short-run when measured against the neoclassical model which was described as the "ideal" system.

Twenty years ago Glen Johnson and others postulated the theory of fixed assets; where a fixed asset is defined as one for which the marginal value productivity of a resource in its present use neither justified acquisition of more of it, or its disposition. Acquisition cost is what a farm or ranch operator would have to pay in order to acquire more of a particular productive asset. Salvage value is what the operation would get for the asset if it were sold rather than used in production. Neoclassical theory, which defines the equimarginal principle, assumes that markets are such that a manager can purchase more of an asset if it were profitable and that he can dispose of unwanted quantities at the same price. This is tantamount to saying that a firm will continue to produce in the short-run as long as it realizes a return on its variable resources, or stated differently, a firm in the very short-run can survive with no return to its most fixed assets if its cash flow is adequate to cover variable expenses. However, the difference between the theory of fixed assets and neoclassical theory is that resources usually considered variable in production actually become fixed in their present use. For example, labor and capital are normally considered variable resources. However, at primary production levels these variable inputs actually become fixed to the firm because their alternative use outside of production can temporarily drop as far as zero. The value in use that would be expected to accrue to these resources is often used by managers to bid up the use value (returns) of resources that have continued to remain variable. In the theory of fixed assets Johnson has pinpointed the reason for extremely inelastic or irreversible supply functions during periods of decreasing marginal revenue.[3]

Let us examine some of the components of argiculture and in particular the primary production level of livestock that lead to this type of behavior during periods of decreasing product price levels.

First, the combination of resources used in the production process are not discrete, but a bundle or package of resources. Marginal changes in revenue may not cause an adjustment in output levels or resource use because the bundle of resources cannot easily be separated. For example, the physical amount of labor available to the operator may be fixed over a rather large range of production, but the use value of the labor is variable. The balance between summer and winter forage may be unalterable at least in the short-run. If a shortage of summer pasture should occur the firm may be forced to bid up the value of this resource while simultaneously taking smaller returns on the remaining resources in the bundle, even in the face of decreasing marginal revenue for their product.

Second, variable resources become fixed because of the length of the production process. The primary reason for this is the time required for the biological process for plant and animal production. It may take two or more years from the time a market stimulus is received at the primary production level until actual output adjustments can be achieved. Time requirements for an increase in production can take three years or more for obvious reasons. The time aspects alone could cause inelastic short-run adjustment in resource use and output levels.

Third, the demand curve faced by the firm is perfectly elastic while that of the industry is inelastic. Individual firms fail to adjust output levels in the short-run, because of the atomistic structure of the industry.

Fourth, the duality aspect of the price system may work imperfectly. The role of price as a mechanism of trade is generally regarded as extremely efficient; However, the role of price as an organizer of production generally lacks the same performance standard. The problem may be that the human agent may be unable to bridge the gap from present product prices to expected price levels in the future. This lack of adjustment is closely related to length of the production process.

In summary, this discussion has pointed out some of the reasons the competitive or "ideal" system leads to short-run imperfections regarding resource valuation at the primary production levels of agriculture. The principle reason cited was the concept of the fixity of assets. While the competitive norm

[3] The concept of asset fixity is well documented in the following list of publications:

a. The Overproduction Trap In U.S. Agriculture, Glen L. Johnson and C. Leroy Quance, Resources for "the Future, John Hopkin Press, 1972.

b. Glen L. Johnson and Lowell S. Hardin, "Economics of Forage Evaluation", Station Bulletin 623 (Lafayette: Purdue Univ. Agricultural Exp. Station, Apr 55).

c. Clark Edwards, "Resource fixity and Farm Organization; Journal of Farm Economics, 41, Nov. 1959).

d. G. L. Johnson, "Supply Function—Some Facts and Notions", Agriculture Adjustment Problems in a Growing Economy, (Ames, Iowa State College Press, 1958) p. 78.

accurately values resources in the long-run, it has some shortcomings in the short-run adjustment period. Short-run instabilities have a significant effect on the value of resources used in production. In the case of administered prices, failure to recognize potential imperfections in the price norm results in windfall gains and losses. During periods of increasing marginal revenue the government would fail to receive full fair market value for its range resources. Conversely during periods of decreasing marginal revenues the government may charge in excess of fair market value for the range resource. The equimarginal principal states that the value of a resource is determined by its value in use.

IV. CONDITIONS, ASSUMPTIONS AND ISSUES

The Committee uses the concept of an animal-unit-month (AUM) throughout the report. An AUM is the amount of forage consumed by a cow-calf unit during one month. Other livestock are converted to the AUM equivalent. However, the concept is extended to recognize that with the forage the consuming animal unit also has use of a habitat, a place to live. This habitat includes the forage, watering facilities, fencing and other improvements necessary to make the range usable by livestock and to provide for control of the livestock.

Institutional goals

It is the objective of the Forest Service and BLM to contribute to the economic stability of individual ranch units to the fullest extent possible and consistent with protection of the resource and its long term productivity This has resulted in establishment of policies which allocated grazing privileges based on:

A. Prior use;

B. Dependency, or the need for forage to round out a yearlong livestock enterprise;

C. Commensurability, the ability to carry livestock on home ranch lands during the time they were not on public lands; and

D. 10-year, renewable grazing privileges.

The effect of these actions is to maintain long term availability and use of public land associated with a given ranch unit. These provisions allow the operator to plan long-term enterprise development and investment.

Community stability

Grazing of livestock, under permit, on the Public Lands has a substantial impact on the rural communities associated with that grazing. The greater the percentage of land held in Federal ownership, the more the area or communities' basic economic activity relies on use of Federal land, and the greater the impact of Federal policies on the total economic activity and stability of those rural communities.

Conservation and economic efficiency of resource use

Direct involvement in the development and long term use of land resources is generally considered to provide incentives for protection and economic development of the resource. Essentially, security of tenure provides the ability to plan ahead for a reasonable length of time with some degree of certainty.

Relationship of fees to total complex of uses of public lands

Commercial enterprises using the public lands all pay fees which are intended to be the equivalent of fair market value. The only users exempt from payment of fair market value are those involved in individual or group activities primarily for personal enjoyment.

Adjustments in cost structure needed to reflect government requirements and environmental adjustment

It is claimed that there has been relative changes in the FS/BLM non-fee grazing cost over the private land leasing costs over the past eight years. The three most cited examples of increasedd cost to the rancher grazing on public lands are:

(1) Increased animal (sheep) losses because of restricted coyote control on public lands,

(2) Agency requirements for increased rancher participation in structure maintenance, and

(3) Agency requirement for increased participation of ranchers in grazing management practices.

If these claims were in fact true, then the next logical step would be to determine the magnitude of the cost change and make the corresponding corrections in the non-fee grazing cost which would increase combined federal grazing cost and reduce the base fair market value of $1.23 per AUM.

The fundamental basis for the claim of increased sheep losses due to predatation is the restrictions placed on some coyote control practices on public lands. While some individual rancher losses may have increased, there are no substantive data to quantify the claim. Also, the non-fee public grazing costs are weighted by corresponding AUM's for sheep and cattle and any increase in sheep cost would have limited effect on the weighted average.

The Federal agency policy for rancher participation in maintenance of livestock facilities has not changed. There has however been an increase in the application of the maintenance policy in some range areas that previously were not fully affected by maintenance requirements. In recent years it has been BLM policy not to encourage the rancher to construct facilities on public lands because of possible multiple use management conflicts. Again, there are no quantifying data to support the contention that relative changes have taken place in the over-all project maintenance and depreciation costs between private and Federal grazing lands.

The third item relates to increased emphasis placed on intensive grazing management of rangelands and usually associated with some "system" of grazing control. These grazing systems or management plans usually require the movement of livestock several times during the grazing season between pastures to insure that multiple use objectives are met and the physiological needs of the desirable vegetation are taken care of. While some increased operating cost may be incurred there are direct compensating benefits to the rancher of increased stocking date ctability, decreased livestock conflicts with wildlife habitat requirements, improved range conditions and usually increased animal production. Increasing numbers of ranchers are leading the way in intensifying grazing management efforts on private lands so the condition is not unique to public lands. The costs and benefits to the public land user resulting from intensive management cannot be identified in this review.

V. EXISTING AND SUGGESTED ALTERNATIVES FOR FEE DETERMINATIONS

The 1969 fee system (the current method used for grazing fee determination by the BLM and the FS) includes three major elements. The first is the economic model and data collection survey used to establish the fair market value fee level or 1966. Second is the ten year adjustment of grazing fees from previous levels to the fair market value level. Third, the procedure used to make annual adjustments in the fair market value.

The economic model and grazing survey of 1946

The economic model was designed to measure the value of grazing on public lands through a detailed comparison of grazing costs on public and privately owned leased lands. The model is based on the premise that the total on-the-range costs of grazing on public lands and on private owned leased lands should be equal and would represent a means for determining fair market value of public grazing. The public grazing fee would be the amount necessary to equalize the private land lease plus the on-range-cost of using the public lands.[4] In other words the public grazing fee would equal the private lease rate minus the difference in costs incurred in using public range versus private range.

The economic model, because it required only data from operating livestock production units eliminated most of the influence of non-livestock grazing related values, and only measured the level of total costs operators were willing to incur in leasing privately owned land for grazing purposes. The model specifically measures the different and varying requirements placed on the leasee or permittee by both the private and Government landowner. The model measured the value of contributions required by either landowner, including the requirement for construction, repair, replacement and maintenance of permanent improvements.

The data for use in the model were collected by the Statistical Reporting Service in 1966. Ten thousand (10,000) individuals were interviewed and over 14,000 questionnaires were completed. Interviewees included Forest Service and BLM grazing permittees, ranchers who leased private land, and lending institutions.

The data were analyzed by a Technical Committee composed of representatives of the Statistical Reporting Service, Economic Research Service, Forest Service, Bureau of Land Management, and the Bureau of the Budget (now Office of Management and Budget). The Technical Committee came to the following conclusions: first, the data did not provide a basis for differential fees between Forest Service and BLM. The data could be combined and single fee established for BLM and Forest Service grazing: two, the data did not provide a basis for establishing separate fees for cattle and sheep; three, the data and analysis provided a basis for a public land grazing fee of $1.23 per animal unit month.

The conclusion of the Technical Committee provided the basis for the establishment of $1.23 per AUM as the fair market value grazing fee level for 1966 on public lands in the West.

Ten year adjustment period

In order to minimize the impact of adjusting from BLM's 33 cent fee in 1966, and Forest Service's average fee of 51 cents, a 10-year schedule was developed for adjusting to the $1.23 fee level. By spreading the increase in fees over a period of time, the initial impact of the fee increase on the permittees would be minimized and allow a normal adjustment to this increase. The Forest Service starting in 1969 would add 7.2 cents to the fee charged in 1966 for each of the next ten years. BLM would add nine cents to the fee charged in 1966 for each of the next ten years. The result would be that by 1978 both FS and BLM would be at the 1966 fair market value figure of $1.23.

Adjustments in fair market value

Adjustments to the fair market value level of $1.23/AUM in 1966 were necessary to re-

[4] Specific items compared for differences in the cost of grazing on public lands compared to private lands include: Lost animals, Association fee, veterinary, moving livestock to and from allotment, herding, salt and feed, personal travel to and from allotment, water, horse, fence maintenance, water maintenance, development, depreciation, other costs, and private lease rate.

flect changes overtime in the profitability of range livestock production and prevent future inequities between federal grazing fees and the value of the range forage for grazing use. The base fee was adjusted annually with an index of private grazing land lease rates for the 11 Western states. The private grazing land lease rate is the charge per head per month for pasturing cattle on privately owned lands. The actual values are converted to an index (1964–68=100) in order to measure the rate of change in this price series. The index is then applied to the 1966 base of $1.23.

The private land-lease rate was selected for the adjustment factor because: one, it was an existing and available data series; and two, it represented changes in the economic value of grazing use. It is representative of the economic value of grazing because it is established by the amounts livestock producers are willing to offer for the use of available private grazing lands. Given these conditions, it is expected that these offers represent the value of grazing to the livestock producers.[5]

Alternative fee systems

A number of alternatives have been suggested by various groups to update or adjust the base fair market value fee of $1.23. Although each proposal is different they all have the same basic concept. This concept is that adjustments in the base value ($1.23) should be related to changes in the price of inputs. The procedure intends that when the change in value (price) of products (beef cattle) is larger than changes in price of inthe product and to changes in the price of puts (cost of production), then fees should increase. If the change in costs exceeds the change in product value, then the fee should decrease.

(BPI–PPI+100=CI)

This formula would replace the private land-lease rate formula for the necessary update adjustments for the 1966 base, and for lack of a better name is called the Combined Index. In this formula BPI is an index of the weighted average annual prices for beef cattle, excluding calves, for the 11 Western States. The base would be 1964–68=100. The Prices Paid Index (PPI) is an index of prices paid by farmers for commodities and services, interest, taxes and farm wages as collected and published by the Statistical Reporting Service, in "Agricultural Prices." The index would be adjusted to the base of 1964–68=100.

Another suggested alternative using the Combined Index as a replacement for the private land-lease rate would be that the data would represent a simple moving average. This would have the effect of reducing the impact of large yearly variations in the level of grazing fees.

A third suggested alternative would be to add the combined index to the currently used index of private land lease rates. In this formula, when divided by two, fifty percent of the change in the lease fair market value ($1.23) would result from the private land-lease rate index and fifty percent from the combined index.

Santini formula

This set of alternatives uses the combined index, but also replaces the $1.23 base for fair market value in 1966 with other value(s) for 1975. The Santini formula would establish two groups of grazing lands based on carrying capacity of the public lands. The constant or base figure for Group I lands is $1.70 and for Group II lands $1.40 per animal unit month (AUM).

A version of the above, called the Modified Santini Formula, would make adjustments using the combined index, but the base would be $1.51, the average grazing fee charged in 1976 by BLM and FS.

The Hansen formula, which was contained in S. 3071, is the same as the Santini Formula except the Beef Price Index would be computed using prices for the 48 states and the PPI and the BPI would be a moving three-year simple average.

Economic relief formula

The economic relief formula (so named for lack of an alternative) uses the current formula based on $1.23 and the private land-lease rate index, with a separate analysis of the PPI and BPI or some similar indices, to trigger needed adjustments in the current fee due to stress economic conditions as indicated by the BPI and PPI analysis.

A number of other alternatives have been suggested to limit the impact of large changes in economic conditions. One suggestion was to limit the amount of increase that could occur in any period by a fixed percentage. Another suggestion was to incorporate a rolling three-year average into the existing formula.

Discussion

Most all of the alternatives proposed have merit, and suggest the interest and responsibility of users of and those interested in the use of the public lands. All of the alternatives proposed including the current system have advantages and disadvantages. In other words, there is no perfect lease arrangement, but only better or worse arrangements. This may explain the large variability of lease arrangements in effect around the country between landlord and leasee. Logic and reasonableness does, however, provide a basis for reducing, if not eliminating, conflict between interested parties. The task of this technical committee is to consider the alternatives in light of the economic criteria and recommend a method for determining a fair market value.

VII. DATA SOURCES

A primary objective of this committee was to identify existing data sources and/or refinements to existing data sources, and/or additional data that might be collected to enhance the present or alternative procedures for determining grazing fees.

A major concern at the external group meetings was the quality of the data that are used to compute the index on private land lease rates. There was also concern about the components of cost that were included in the prices paid index, as well as a possible redundancy in the beef price index and the prices paid index.

Private land lease rates

The Statistical Reporting Service, USDA currently obtains information on the average rate for pasturing cattle on non-irrigated privately owned lands on a per head per month basis. The survey is a nonprobability survey; data is collected in March each year on a general Farm Report questionnaire. The table below indicates the number of responses to the question on pasturing cattle on privately owned non-irrigated pasture land for 11 Western states for the years 1967–75.

TABLE 1.—NUMBER OF RESPONSES BY STATE BY YEAR TO QUESTION ON PASTURING CATTLE ON PRIVATELY OWNED NON-IRRIGATED PASTURE LAND

State	Year								
	1967	1968	1969	1970	1971	1972	1973	1974	1975
Montana	242	148	196	239	151	168	180	194	159
Idaho	133	73	104	88	85	89	69	57	77
Wyoming	72	56	50	44	45	29	28	81	64
Colorado	219	177			229	213	242	260	28
New Mexico	76	65	34	39	39	36	49	31	39
Arizona	17	14	17	15	10	15	10	7	4
Utah	80	71	85	104	95	120	84	77	90
Nevada		19		17	11	8	8	8	9
Washington	176	132	132	128	115	81	104	66	97
Oregon	198	142	158	143	72	72	120	67	89
California	138	95	98	132	148	130	125	63	119
Total	1,351	992	874	939	1,000	961	1,019	821	965

The SRS Farm Report Questionnaire is mailed to a non-probability general purpose list, including grain farmers, dairy farmers, fruit farmers, etc. In the 11 Western States, approximately 12,500 questionnaires are mailed in March. The question on pasturing cattle on privately owned non-irrigated land is summarized and provided to the Economic Research Service, USDA for analysis and publication. Forest Service, USDA and Bureau of Land Management, U.S. Department of Interior, use these data in adjusting the range forage index each year based on an average head-month rental of $3.65 for the 1964–68 period equal to 100. The adjusted RFI for each year is the 11-State average head-month rental for that year divided by the $3.65 AUM average.

DATA IMPROVEMENT

The Statistical Reporting Service currently has operational two mid-year probability surveys in the 11 Western States. One of the mid-year surveys is a cattle multiple frame survey that utilizes a list frame with a non-response follow-up. The second probability survey, known as the June Enumerative Survey, consists of land areas and identifies operations not covered by the list frame. About 10,800 multiple frame questionnaires were tabulated in nine Western States in 1975. In addition, the June Enumerative Survey, a probability area frame survey, which is conducted in the other two Western States, had completed last year. If it is desirable to approximately 1,700 survey questionnaires have the adjustment factor for the Range Fee Index to be on a probability basis, the vehicle is available to provide this type information. Questions that would be added to the mid-year survey are as follows:

All Non-irrigated Grazing or Pasture Lands.

1. Average rate for pasturing cattle on privately owned land in this area this year per head per month_____

2. Do you personally rent privately owned non-irrigated pasture on:

(a) A per head per month basis?_____

(b) A per acre basis?_____

3. If yes, how many head of cattle are you pasturing this year on the privately owned non-irrigated pasture?_____

4. How many days will you have these cattle on the rented pasture?_____

5. Total rent paid for pasturing these cattle on privately owned pasture this year_____

The cost of adding these questions to the two surveys would be $20,000.

INDEX OF PRICES PAID BY FARMERS

The Index of Prices Paid by Farmers measures the average change in prices paid for commodities and services bought by farm families.

[5] See Appendix Tables 1 and 2 for charges resulting from the 1969 Fee System and the Source of Fee Increases.

The index is made up of five major components. In terms of farm expenditures, the two most important components are the index of prices paid for commodities used in farm production and the index of prices paid for commodities used in family living. These two indexes comprise the Index of Prices Paid by Farmers for Goods and Services. The remaining three components of the Index are: (1) Interest charges per acre on mortgage indebtedness secured by farm real estate; (2) Taxes payable per acre on farm real estate; and (3) Wage rates paid to hired farm labor.

Two major indexes within the Prices Paid by Farmers Index are stratified further into 18 group indexes. The Farm Production Index is divided into 12 group indexes—feed, feeder livestock, seed, fertilizer, agricultural chemicals, fuels and energy, farm and motor supplies, autos and trucks, tractors and self-propelled machinery, other machinery, building and fencing materials, and farm services and cash rent. The Family Living Index is divided into six group indexes—food, clothing, housing, autos and auto supplies, medical and health, and education, recreation, and other.

As of June 15, 1976, the farm production component of the Index included 169 different commodity price series; the family living component 152 items—for a total of 321. Prices for 25 items are used in both family living and production indexes leaving a net of 296 separate price series. In the Family Living Index the medical and health and education, recreation, and other indexes are based on Consumer Price Indexes from the Bureau of Labor Statistics, and are excluded from the commodity price series count.

Price data used in the computation of the various indexes are collected largely by mail from independent and chain stores serving rural areas. Separate commodity price estimates are made for independent and for chain stores as of the 15th of the quarterly month. These separate price estimates are weighted together to obtain averages of prices paid by farmers for most family living and farm production items. In other months, prices are estimated only for chain stores which provide the basis for current index computations for the interquarterly months.

The U.S. commodity prices are computed by weighting State estimates of average prices by the estimated quantities of products purchased by farmers in each State. U.S. average prices are then combined into the group indexes, using as weights the estimated quantities of the individual commodities purchased by farmers based on a 1971–73 surveys of farmers' expenditures. Official data of the Agricultural Research Service and the Agricultural Marketing Service are also used to supplement the survey indications.

Group indexes are combined into their respective family living and production indexes, using percentage weights representing the estimated proportion of expenditures of farmers for each commodity group. These also were derived primarily from the 1971–73 Expenditure Surveys. The family living and production indexes are in turn combined into the all-commodity index of prices paid, using weights representing the proportionate expenditures for these two segments. In like manner, all commodities, interest, tax, and wage rate components are weighted, on the basis of relative expenditures, for the Index Prices Paid by Farmers.

Data Refinement

If certain components of the index of prices paid were needed to comprise a new index to reflect cost of production of cattle producers in the United States, the Statistical Reporting Service could provide such an index. Possible components to use in indicating cost of cattle production from the Index of Prices Paid are motor supplies, motor vehicles, farm machinery, farm supplies, building and fencing materials, interest per acre and wage rates. Weights could be derived from the 1975 Meat Animals Cost of Production Survey conducted by SRS for the Economic Research Service. Data from this survey are currently being summarized by ERS and should be available for analysis by January 1, 1977. The new index could then be used in a combined index formula. One such formula would be to subtract the Prices Paid Index from a Beef Price Index. The resulting combined index multiplied by a base fee would result in the annual grazing fee. This, or some derivative, to determine an annual grazing fee, is possible to compute if such a formula were used.

Beef Cattle Price

Monthly, the Statistical Reporting Service publishes an all beef cattle price for all States and for the U.S. This price is comprised of a weighted average of (1) steer and heifer prices and (2) slaughter cow prices. An allowance, if necessary, is made for slaughter bulls. Data used in making these commodity estimates includes prices from market news sources, tabulated auction sales data and survey data from individual farmers.

State data are then weighted by historic beef cattle marketings, by month, for each State to establish the monthly beef cattle price for the U.S.

The Statistical Reporting Service can provide the annual average price for beef cattle and lambs for any grouping of States. Final State prices are weighted by marketing data. Groupings of 11 States and 15 States have been made available to Forest Service and BLM for many years, for administrative use only. Final annual average prices by States are published in the February issue of *Agricultural Prices*. The April issue contains U.S. averages.

VII. EVALUATION OF VARIOUS FEE FORMULAS

With a history of a market economy for all other products and resources used in agriculture, the obvious solution to the problem of pricing public grazing would be to open it up for competitive bidding. After all competitive bidding would extract the full fair market value of public range for the public coffers. It would allow all citizens to compete for the use of the resource, and at the same time keep our public ranges producing beef and mutton. In addition, resource use and product output would be at its marginal value product level, and the public good would almost certainly be served by the resultant competitive conditions.

However, a competitive bidding system would presume a relatively free and competitive market, a condition that does not exist for many users and potential users of public grazing on BLM and National Forests lands. Institutional goals, tenure arrangements, legislative requirements and management restrictions of the National Forest System and Taylor Grazing District effectively eliminate a competitive environment. The location of grazing allotments, property boundaries, terrain, and water development further reduce the competitive environment. It has been estimated that as much as twenty percent of BLM land is "captive in that it would be difficult if not impossible for any other livestock operator to use certain public land tracts. Other lands are grazed in common by a number of livestock operators and should not be broken up into separate allotments.

Thus, the competitive bidding system appears infeasible as the necessary conditions for an operational system does not exist, less efficient administered pricing schemes must be considered. In each of these pricing methods the objective is to stimulate the competitive bid by employing "proxi" variables derived from the competitive environment of the livestock industry.

It is the task of this Technical Committee to attempt to recommend the proper "proxi" for the competitive bid. Attention will be directed to the Index of Private Land Lease Rates and the Combined Index (BPI–PPI). The committee will also comment on the two tier fee system proposed in S. 3071.

Index of private land leased rates

This method may be best described as the comparative market approach. It is based on the premise that an individual will not pay more for the use of a resource than his next best alternative, or conversely, the owner of a resource should receive a value equivalent to that which could be realized from the next best alternative use of that resource. Using this premise the public grazing fee should equal the private grazing rate, less the difference in the cost of using public range over private range. In the grazing fee formula, the absolute level is ignored and only the rate of change over time is used to update the base fee of $1.23 for 1966.

The use of the comparative market approach has considerable merit. First, its value is derived from the competitive environment. Second, it theoretically measures changes in efficiency of range resource use over time. Third, it should give a close estimation of the fair market value that would be obtained under a competitive bidding system. Thus, it would also fulfill the criteria of the "ideal" pricing system. Fourth, it reflects changes in the level of economic parameters such as the inflation rate, purchasing power of the dollar, and the value of farm real estate.

Critics of the Index of Private Land Lease Rate point out that land prices and net rents have a strong functional relationship. They argue that land prices on a per acre basis have increased six fold during the last 30 years, while net farm income per acre has shown no distinct trend during the same period. This behavior is hypothesised to be related to pressure for farm and ranch enlargement. Because land is a limiting resource an increasing portion of net farm income is being capitalized into the land resource. Active farmers and ranchers attribute near zero value to their labor, management, and some of their invested capital in order to pay for land, thus violating the equimartinal principal for resource valuation.

Another argument against the Index of Private Land Lease Rates is directed at the accuracy of the data. It is argued that the data represents non-livestock uses. Others point out that typical leases in the private sector are not negotiated on a head month basis, and that those responding to the survey question are not making proper transition from the actual existing lease to the head month lease basis.

The position of the Technical Committee is that the Index of Private Land Rates is a good indicator of long term adjustments taking place in western range livestock industry. It duplicates economic adjustments in the competitive sector, and is the only alternative suggested or discussed that incorporates measures of technical efficiency. Improvements made in the data collection process and discussed in the previous section should eliminate concern about the relevancy and accuracy of the data. However, the Technical Committee is concerned about the ability of the Index to reflect short-run instabilities that result during periods of disequilibrium. In the past the Index has failed to account for short-run adjustments in resource valuation.

Combined Index

This formula consists of the Index of Beef Prices and the Prices Paid Index. The formula was suggested by the American National Cattlemens Association (ANCA) and is usually referred to as the parity formula or the "ability to pay" formula. Several slightly

differing versions have been offered but the Combined Index has been the nucleus of all of the proposals.

The goal of parity in the past was generally ridiculed by economists as not meaningful. But parity as defined in terms of equal resource returns should be close to their hearts after all the concept of "equal resource returns" is a primary condition defining the most efficient allocation of resources in the competitive market. When all factors are employed so that marginal returns to resources are equated within the industry and between agriculture and the nonfarm economy, maximum output of goods and services are obtained.

A second source of support for the combined index is related to economic stability. Returns to resources in the long-run have demonstrated an efficient agriculture and in particular beef cattle. However the cattle industry has shown a considerable degree of instability in the short-run return to resources. The instability results in windfall gains and losses to both the government and the ranchers alike.

Critics of the combined index insist that the formula is not directly measured in the competitive market, and consequently contains no measures of long run efficiency in resource use. It is based on the premise of constant purchasing power or constant relative income and does not allow for resource adjustment. A second part of the above argument is the cost of alternative or substitute inputs are not considered and thus it is not a fair proxi for the competitive market.

The formula has also been criticized for containing elements in the indices which are not used in western range livestock production (e.g. seed, fertilizer, and etc.). It was pointed out in the pervious section on Data Sources that these elements could be deleted from the prices paid index and proper weights be reassigned from the cost of production study currently in progress by the Economic Research Service and the Statistical Reporting Service.

The third major criticism relates to the fact that the index does not respond to the inflation rate or the value of the purchasing power of the dollar. If the combined index were used as the only method of adjusting grazing fees, the public would receive a declining real rent in the long-run. In effect the rent that the rancher paid for the use of the resource would only be at "fair market value" in the base period.

The Technical Committee noted the shortcomings as well as the advantages of the combined index. The index was recognized as a poor indicator of long-run adjustments because of the behavioral nature of indices measuring differing sectors of the supply-demand model simultaneuosly. For this reason the committee rejected the use of the combined index as the sole adjustment factor in any grazing fee formula. However, the committee also recognized the inability of the index of private land lease rates to measure short-run instabilities particularly in an environment where the value of value of the resource (public graing) is a derived demand from the product it produces (beef and lamb). Therefore the committee concluded that the range fee formula should include factors that measure changes in the value of the range resource in both the long-run and the short-run.

The two tier system, S. 3071

A procedure requiring the establishment of two levels of grazing fees based on the number of acres required for one animal unit month has been proposed by the Public Land Council and was outlined in S. 3071.

The variable fee hypothesis suggests that the value of native rangelands for livestock grazing is directly related to only one element of the lands, the density of desirable vegetation. If rangelands had no other characteristics and ranching operations were all the same, this hypothesis might be a reasonable assumption. However, these Federal rangelands have many features and conditions, some constant and some changeable, that affect their economic value to the individual stockman. Forage quantity, as a component of grazing value, varies in terms of quality from place to place and from season to season. These variations do not directly change the relative dollar value of the grazing since availability and cost of alternative feed sources for each individual rancher also impact on the economic value of the native forage to the livestock producer.

As an example of conditions that do not support the variable fee argument consider: (1) Grazing capacity allowance for livestock may be reduced to accommodate wildlife and wild horse habitat needs and therefore would not relate directly to forage quality or land productivity. (2) Intraallotment differences in forage production and grazing conditions are just as variable as interallotment differences. (3) Livestock water may be the limiting factor on some rangelands and not forage quantity and (4) Winter ranges (usually of low productivity) may have greater economic value to the stockman than summer ranges (usually of higher productivity) because the alternative is to feed expensive bay.

In setting up the 1966 Western Wide Grazing Fee Study, there was then as now a strong belief by some that a * * * of one or more of the qualitative variables such as grazing capacity, season of use, geographic area, or vegetative type. One of the conclusions of the study was that there was no basis for recommending differential base fees among ranching areas.[6] An independent analysis by the BLM during 1967 identified that there are larger user-cost differences between ranchers within any categorical grouping than between the groups.[7] In essence, there there was no statistical evidence in the study to support a variable fee. The Arthur D. Little Company, Inc., made an independent statistical analysis of the BLM and private grazing survey data. The results of this independent analysis supported the previous findings.[8]

The suggestion that an inequity is created when the same grazing fee is charged for grazing on high productivity land as for low productivity land is misleading because the unit of measurement for public land grazing is an animal unit month and not an acre of land. Also, there is no analysis availabe that the committee is aware of to support using 11 acres per AUM as the proper economic value point for dividing rangeland values for livestock grazing. The definition appears to be arbitrary and without foundation for establishing fees on public lands.

Under existing law and Executive policy a variable fee system is permitted but is not required unless specific inequities can be documented. Most of the questions and issues regarding grazing fees are related to managerial judgments and general economic factors more fundamental than public land user charges. Basically, the AUM and hence its general market value are the same from area to area since the grazing requirements of the animals are met and the yearly production cycle of the ranches are maintained. To recognize and differentiate public land grazing fees on the basis of detailed individual differences would require individual negotiation of fees with each of the 25,000 individuals using public lands.

VIII. Recommendations

Establishing a grazing fee formula which is completely acceptable to the various management agencies and the users of Public Lands is a difficult task. It must accurately reflect the value of the resource and still take into account institutional restrictions and goals. Given the inability of economics as a discipline to aggregate individual utilities onto a single function, the next best alternative appears to be a "proxi" for the norm of economic efficiency. In the absence of a better criteria this value judgment will have to be acceptable.

Because a competitive environment does not exist, and can not exist given the current institutional constraints and goals, the members of the Technical Committee recommend the following formula as a proxi for the competitive market bid for grazing on an AUM basis;

$$FMV = A\left(\frac{L+P}{100}\right)$$

FMV = Fair Market Value for public grazing.

A = $1.23 base established from 1966 survey.

L* = Index of Private Land Lease Rates.

P** = Combined Index (BPI–PPI).

*The data for construction of this index should come from the probability based combined list frame samples described in Section V.

**BPI is a weighted index of average annual beef cattle prices less calves in the 11 Western States. PPI is an index of prices paid for inputs and would include only the seven items listed in Section V, and weighted by the Cost of Production Survey.

This formula is recommended as it provides for a consistent and efficient method of pricing the public grazing resources. The formula will reflect long-run trends in grazing values while at the same time accounting for short-run instabilities in either livestock prices or input prices. The committee has further recommended an improvement in the data collection procedures on the private land lease rates. Some modification was also suggested for the prices paid index to make it more accurately reflect western range livestock operation.

The Technical Committee has recommended the above grazing fee formula on its logical consistency. The data recommended for construction of the indices are not available for testing at this time. However it was assumed that the values for private land lease rates to be collected using the recommended improvements would be identical to the current data methods because the values will come from the same universe. Therefore the value of $3.65 from the base period of 1964–68 would continue to be the proper base for the index of private land lease rates.

It is further recommended that the mechanics of the formula be developed in detail by a work group staffed by members of the Forest Service and the Bureau of Land Management. The committee believes an upper limit of 25 percent could be imposed in the event of changes in economic conditions that would force a sudden increase in grazing fees. Other mechanics are at the discretion of the management agencies.

[6] Housemen, Earl E., et al., "Special Report on Grazing Fee Study", USDA, Statistical Reporting Service, Oct. 24, 1968.

[7] Progress Report on Grazing Fee Study as of August 1, 1967, USDI, Bureau of Land Management.

[8] Arthur D. Little, Inc., "An Analysis of Western Livestock Grazing Costs, A Report to USDI," June 1967, Case No. 69463.

TABLE 2.—1969 FEE SYSTEM—FAIR MARKET VALUE AND FEES ACTUALLY CHARGED

[In dollars per AUM]

Year	Fair market value	National forest fees		BLM fee
		Average	High and low	
1966	1.23	0.51	1.64-0.19	0.33
1968		.56	1.80- .21	.33
1969	1.25	.60	1.25- .31	.44
1970	1.29	.60	1.25- .31	.44
1971	1.36	.78	1.36- .53	.64
1972	1.37	.80	1.37- .55	.66
1973	1.41	.91	1.41- .68	.78
1974	1.54	1.11	1.54- .92	1.00
1975	1.96	1.11	1.54- .92	1.00
1976	1.94	1.60	1.94-1.45	1.51

TABLE 3.—SOURCE OF INCREASE IN FEES

[In dollars per AUM]

	National forests to		BLM to	
	1976	1980	1976	1980
1966 base value	0.51	0.51	0.33	0.33
Sum of incremental adjustments	[1].38	.72	[2].47	.90
Sum of adjustments by private grazing land lease rate index	.71		.71	
Total fee	1.60	1.23	1.51	1.23

[1] 4 at 0.072 plus 1 at 0.09 equal 0.38.
[2] 4 at 0.09 plus 1 at 0.11 equal 0.47.

ADDITIONAL COSPONSORS

S. 456

At the request of Mr. LAXALT, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 456, a bill to amend the Internal Revenue Code of 1954.

S. 1390

At the request of Mr. PELL, the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 1390, a bill to extend civil service retirement for certain National Guard employment.

S. 1974

AMENDMENT NO. 849

At the request of Mr. NELSON, the Senator from Missouri (Mr. DANFORTH), the Senator from Maryland (Mr. MATHIAS), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 1974, the Regulatory Flexibility Act, and amendment No. 849, intended to be proposed to S. 1974.

SENATE RESOLUTION 370—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. RIBICOFF, from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 370

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Governmental Affairs, or any subcommittee thereof, is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $4,466,231, of which amount not to exceed $77,055 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public: *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting their particular branch of the Government;

(2) the extent to which criminal or other improper practices of activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) syndicated or organized crime which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions which are violation of the law of the United States or of the State in which the transactions occur, and, if so, the manner and extent to which, and the identity of the persons, firms or corporations or other entities by whom such utilization is being made, what facilities, devices, methods, techniques, and technicalities are being used or employed and whether or not organized crime utilizes such interstate facilities or otherwise operates in interstate commerce for the development of corrupting influences in violation of the law of the United States or the laws of any State, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activities have infiltrated into lawful business enterprise; and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against the occurrences of such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety;

(5) riots, violent disturbances of the peace, vandalism, civil and criminal disorder, insurrection, the commission of crimes in connection therewith, the immediate and long-standing causes, the extent and effects of such occurrences and crimes, and measures necessary for their immediate and long-range prevention and for the preservation of law and order and to insure domestic tranquility within the United States;

(6) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents, and

(C) the adequacy of present intergovernmental relationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(7) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals, with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into the discovery and development of alternative energy supplies;

Provided, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting that particular branch of the Government.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate or any power, or the discharge by such committee of any duty, conferred or imposed upon it

by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946 as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from July 1, 1977, through February 28, 1979, is authorized, in its, his, or their discretion (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 371—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 371

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1978 through February 28, 1979 in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis, the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee, or any subcommittee thereof, under this resolution shall not exceed $1,138,000.

SEC. 3. The committee shall report its findings together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE CONCURRENT RESOLUTION 63 AND SENATE CONCURRENT RESOLUTION 64—SUBMISSION OF CONCURRENT RESOLUTIONS APPROVING AMENDMENTS TO THE DISTRICT OF COLUMBIA CHARTER

Mr. EAGLETON submitted the following concurrent resolutions, which were referred to the Committee on Governmental Affairs:

S. CON. RES. 63

Resolved by the Senate (the House of Representatives concurring), That the Congress approves the action of the District of Columbia Council described as follows:

Amendment No. 1. (relating to initiative and referendum) to the District of Columbia charter, as stated in section 2 of the Initiative, Referendum, and Recall Charter Amendments Act of 1977, approved June 14, 1977 (Act 2-46), and as ratified by a majority of the registered qualified electors of the District of Columbia voting in the referendum held for such ratification on November 8, 1977, such amendment having been submitted to the Congress for its approval on December 2, 1977, pursuant to section 303 of the District of Columbia Self-Government and Governmental Reorganization Act.

S. CON. RES. 64

Resolved by the Senate (the House of Representatives concurring), That the Congress approves the action of the District of Columbia Council described as follows:

Amendment No. 2. (relating to recall of elected officials) to the District of Columbia charter, as stated in section 2 of the Initiative, Referendum, and Recall Charter Amendments Act of 1977, approved June 14, 1977 (Act 2-46), and as ratified by a majority of the registered qualified electors of the District of Columbia voting in the referendum held for such ratification on November 8, 1977, such amendment having been submitted to the Congress for its approval on December 2, 1977, pursuant to section 303 of the District of Columbia Self-Government and Governmental Reorganization Act.

Mr. EAGLETON. Mr. President, last November, the voters of the District of Columbia, by overwhelming margins, approved two amendments to the District Charter that will assure them greater access and participation in governing their own community. Under the District of Columbia Self-Government and Governmental Reorganization Act, these amendments must be approved by Congress. Consequently, I am submitting two concurrent resolutions for approval of the amendments. One amendment provides for initiative and referendum, whereby the voters themselves can pass on vital local legislation. The other establishes machinery for recall. These instruments of popular government are exercised in some 23 States across the country, and, since before the turn of the century, have been used to further reform. Local supporters view these petition rights as a strengthening of home rule. The amendments were approved unanimously by the District Council in June of last year and then were submitted to the voters in November. The vote for initiative and referendum was 27,094; for recall, 28,019.

Safeguards are built into the amendments to prevent possible abuse of orderly and effective representative government. In the case of initiative and referendum, at least 5 percent of the registered voters in five or more of the city's wards would have to sign a petition before an issue is placed on the ballot. Additionally, certain significant categories of legislation are not subject to initiative or referendum, including tax and spending legislation and emergency legislation and those areas reserved under home rule for Congress. The requirement for a recall petition is even more stringent—10 percent of the registered voters in at least five wards. These are sensible safeguards and should insure a careful and thoughtful approach in taking matters directly to voters of the District. Nonetheless, they will considerably expand community involvement and will give voters far more ability to influence matters before the District Government.

Initiative and referendum can be overused, and they can become the devices of slick, well-financed campaigns, but in the hands of an alert and concerned citizenry, they are the ultimate instruments of democratic authority.

I believe Congress has little to decide in this matter. The voters want this expanded power. They made this clear at the polls. They want expanded participation in local government, and I believe Congress has no grounds but to give it to them. I urge approval of these concurrent resolutions.

AMENDMENTS SUBMITTED FOR PRINTING

MULTIPURPOSE SERVICE CENTERS FOR DISPLACED HOMEMAKERS—S. 418

AMENDMENT NO. 1678

(Ordered to be printed and referred to the Committee on Human Resources.)

Mr. BAYH (for himself, Mr. ABOUREZK, Mr. ANDERSON, Mr. BENTSEN, Mr. BIDEN, Mr. CHURCH, Mr. CLARK, Mr. HATHAWAY, Mr. MARK O. HATFIELD, Mr. INOUYE, Mr. LEAHY, Mr. PERCY, Mr. PELL, Mr. RIBICOFF, Mr. SARBANES, Mr. STONE, Mr. KENNEDY, Mr. HART, Mr. CASE, and Mr. MATHIAS) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 418) to provide for the establishment of multipurpose service centers for displaced homemakers, and for other purposes.

Mr. BAYH. Mr. President, today on behalf of myself and 19 cosponsors, including Senators ABOUREZK, ANDERSON, BENTSEN, BIDEN, CHURCH, CLARK, HATHAWAY, MARK O. HATFIELD, INOUYE, LEAHY, PERCY, PELL, RIBICOFF, SARBANES, STONE, KENNEDY, HART, CASE, and MATHIAS I am introducing a revised version of S. 418, the Displaced Homemakers Act, introduced originally on January 24, 1977. The revised legislation we are introducing today is identical to H.R. 10270, introduced in the House of Representatives by Congresswoman YVONNE BURKE and 110 cosponsors. The revised legislation attempts to integrate a job training and placement program for older women into already existing Federal programs under the Comprehensive Employment and Training Act, while at the same time, retaining those features of the original legislation which were designed to address the specific needs of this category of disadvantaged workers.

I. NEED FOR THE LEGISLATION

During the last 15 years, we have made great strides toward eliminating dis-

crimination against women in employment. We have enacted the Equal Pay Act of 1963, title VII of the Civil Rights Act of 1964, and title IX of the Education Amendments of 1972. These legislative barriers against discrimination along with an increased societal awareness of the importance of the labor force participation of women have contributed to a significant increase in the number of women in the civilian work force over the last decade. In fact, during this period women accounted for nearly three-fifths of the total increase in the civil labor force. The Department of Labor now predicts that 9 out of every 10 young women will work at some time in their life.

With these employment advances for women, what have we done to assure the financial security of those 15 million married women who have chosen to be full-time homemakers? The answer is not nearly enough. To begin with, we have never adequately recognized the value of the homemaker's contribution to our Nation's economy. We have neglected the homemaker's contribution despite the fact that as early as 1918, the National Bureau of Economic Research estimated the value of the homemaker's work as one-fourth of the gross national product.

For the homemaker, who has spent a substantial number of years providing unpaid services to family members, we have provided little, if any, assistance to become a productive member of the labor force when faced with sudden financial insecurity due to the death of her spouse, divorce, or loss of traditional family income. These women, who are not in the labor force and are over the age of 40, are designated "displaced homemakers." It is difficult to estimate the number of women who would qualify as "displaced homemakers" since Government statistics are not collected on homemakers as such. However, we can see the scope of the problem faced by displaced homemakers by looking at some selected statistics; for example:

Thirty-five percent of all female heads of households were widowed in 1975;

Over the past decade, single parent families headed by women have grown 10 times as fast as two-parent families;

The highest rate of labor force participation by women family heads was among those 45 to 54 years of age where nearly 7 out of every 10 worked;

In 1975, there were 10,104,000 widows and 3,978,000 divorced women; a 45 percent increase in widows since 1950 and 223 percent increase in divorcees since 1950.

What happened to these displaced homemakers once they lost their traditional source of income? Many of these women try to reenter the work force without marketable job skills or training. Unable to secure employment on their own, some of these women turn to the Federal Government for assistance. Sadly, the eligibility criteria for most Federal programs do not cover displaced homemakers.

For example, take Mrs. Hill, a 53-year-old widow who has just lost her husband. After paying all the funeral expenses and the hospital bills for his illness, she started looking at her financial situation. Mrs. Hill called the social security office to find out approximately how much she would receive in widow's benefits. Since Mrs. Hill was not disabled, the social security office said that she would not be eligible for anything until she reached the age of 60. Mrs. Hill also inquired about the new supplemental security income program but those benefits are only available to individuals who are blind, disabled, or over 65. So before the age of 60 social security offers no coverage for an able-bodied widow.

Mrs. Hill was out of work and had lost her job as a homemaker. She was ineligible for unemployment insurance benefits because homemakers are not paid. Her other options were paid employment or welfare. Having been out of the labor force for over 30 years, Mrs. Hill experienced the following barriers: no recent work experience, age and sex discrimination which is still a reality in employment practices. She also went to the welfare office to see if she would be eligible for any assistance and found that she would be eligible for around $115 a month and food stamps, if she met the requirements. To meet those requirements she would have had to sell her home and move into a house or apartment or public housing with a maximum housing payment of $96. Mrs. Hill really did not want to move from her home and she did not want to have to take welfare assistance. She wanted to be a productive member of society.

Or what happens to a woman like Mrs. Adams, who has not worked since her marriage to Mr. Adams 19 years ago, when her marriage ends in divorce? She begins to look at existing programs to see if there is any assistance available. Going first to social security she finds that her marriage had to have lasted 20 years in order for her to be eligible for benefits on her former husband's earnings record. Had Mr. Adams been a Government employee, she would not have had a right to pension benefits no matter how long their marriage had lasted. Assuming Mr. Adams would have had the opportunity to take out an individual retirement account for Mrs. Adams, she would have had to have been 59½ years old in order to receive her retirement account payments. Mrs. Adams was awarded alimony by the court; however, she was unable to collect it regularly.

Mrs. Adams is not unique, according to a recent poll of 1,522 women conducted by the National Commission on the Observance of International Women's Year, about 86 percent of divorced women are not awarded alimony. Of the 14 percent who are, less than one-half of them collect it regularly. One might suggest that the Congress should enact legislation to increase the enforcement of court-awarded alimony and child support payments. However, from the results of this poll that 86 percent of divorced women are not awarded alimony, such a proposal would not assist the large majority of divorced women.

In the case of divorced mothers, the Commission poll reported that 44 percent were awarded child support by the courts. Again, less than half of all divorced mothers were regularly collecting these child support payments and these payments would end when the minor child reach the age of 18.

Unfortunately, cases such as Mrs. Hill and Mrs. Adams are not unique. At the present, there is no adequate help for these women on the part of the Federal Government. It is for this reason that I introduced S. 418, legislation which would provide multipurpose centers which would provide job counseling and placement services, job training, counseling in legal problems and financial management, and outreach information services to acquaint these women with existing assistance programs.

In the absence of this much-needed Federal legislation, several States have enacted State bills providing for pilot multipurpose centers for displaced homemakers. These States include: California, Colorado, Florida, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, Montana, Nebraska, New York, Oregon, and Texas.

To reemphasize the need to move on a national level to address the problems of the displaced homemaker, I want to briefly summarize some harmful myths about the needs of our Nation's homemakers.

First. Myth: All widows are financially protected at the death of their husbands by social security.

Fact: To be eligible for social security, a widow must be 60 years of age.

Second. Myth: Divorced women receive alimony.

Fact: According to a recent poll of 1,522 women conducted by the IWY Commission, 86 percent of divorced women are not awarded alimony, and of the 14 percent who are, only half collect regularly.

Third. Myth: Divorced mothers collect child support payments.

Fact: According to the IWY Commission poll only 44 percent of divorced mothers are awarded child support, with less than half collecting regularly.

Fourth. Myth: It is not difficult for any woman who wants to work to find a job.

Fact: For displaced homemakers who have not been in the labor force for several years, they face not only sex and probably age discrimination, but they have no recent work experience.

Fifth. Myth: The new individual retirement accounts will provide financial security for the nonworking spouse.

Fact: A divorced homemaker who has an IRA account must be 59½ years of age to be eligible to receive her retirement payments.

II. SUMMARY OF LEGISLATION

The revised legislation we are introducing today places the responsibility for job training and placement services for displaced homemakers under the aus-

pices of the Comprehensive Employment and Training Act. We are hopeful that both the House Employment Opportunities Subcommittee and the Senate Subcommittee on Employment, Poverty, and Migratory Labor will make our legislation a part of the reauthorization of CETA when both subcommittees consider this legislation this spring.

Our revised legislation retains the basic provisions of the original version of S. 418 in that it provides for the establishment of a minimum of 50 displaced homemakers centers which will provide job counseling, training, and placement services for work in both the private and public sectors. These centers would also provide referrals for existing services in health, legal assistance, education, and financial management. In this manner, our legislation will not be duplicating existing services, but will continue to provide the concept of centers to more adequately serve these disadvantaged older women.

Many of us are aware that in the past CETA has not been particularly responsive to the needs of older workers. Research has indicated that although CETA served some 1.5 million persons in 1975, only 3 percent of those workers were age 55 or older. Displaced homemakers have been neglected even further under CETA in the past. Since displaced homemakers have never worked outside the home, and since many of these women, until the loss of traditional financial security, have never had to rely on Federal assistance, they have not been perceived as a group in need of financial assistance.

Because CETA programs in the past have not been attuned to the needs of the older worker in general and the displaced homemaker in particular, our revised legislation places displaced homemakers under title III of CETA, which serves designated groups in need of special assistance. Funding would be available under title III to nonprofit and community based organizations which have to date been the most responsive to the needs of older women.

Statistical evidence indicated clearly that women are entering the labor force in increasing numbers for basic economic reasons. Older women, whether to support their children or themselves, are often ill prepared to enter the job market. If they do breach the barriers of age and sex discrimination they are still likely to be employed at menial, low-level occupations which provide only marginal income. This cycle can be broken only by supplementing their inadequacies of earlier education and training with counseling and training programs designed to provide better paying job opportunities. It is this need which would be addressed by the Displaced Homemakers Act.

Mr. President, I ask unanimous consent that this legislation be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1678

On page 1, line 3, strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Displaced Homemaker Assistance Act".

SEC. 2. Part A of title III of the Comprehensive Employment and Training Act of 1973 is amended by adding after section 304 the following new section:

"DISPLACED HOMEMAKER PROGRAMS

"SEC. 305. (a) The Congress finds that—

"(1) homemakers are an unrecognized and unpaid part of the national work force who make an invaluable contribution to the welfare and economic stability of the Nation but who receive no health, retirement, or unemployment benefits as a result of their labor;

"(2) an increasing number of homemakers, forty years of age and older, are displaced from their family role and left without any source of financial security because of divorce, the death of their spouse, or the loss of family income;

"(3) displaced homemakers are often subject to discrimination in employment because of age, sex, and lack of any recent paid work experience;

"(4) displaced homemakers are often without any other sources of income because—

"(A) they are ineligible for social security or other benefits because they are too young, or because they are divorced from the family wage earner;

"(B) they are ineligible for Federal welfare assistance if they are not physically disabled and their children are past a certain age;

"(C) they are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; and

"(5) due to the special nature of employment and training problems of displaced homemakers programs for job training and job creation for displaced homemakers can best be carried out through the establishment of multipurpose service centers which provide the necessary training, counseling, job creation, and other services for displaced homemakers to enable displaced homemakers to enjoy the independence and economic security vital to a productive life.

"(b) The Secretary is authorized and directed to make grants to community based organizations and other private nonprofit organizations, for the establishment of not less than fifty mulitpurpose service centers for displaced homemakers within two years after the date of enactment of this section. Each center shall provide—

"(1) job counseling services which will be specifically designed to assist displaced homemakers in acquiring knowledge of their talents and skills in relation to existing and future job opportunities;

"(2) job training and job placement services which will—

"(A) develop job training and placement opportunities for displaced homemakers in the public and private sectors by working with private employers and State and local agencies, including but not limited to prime sponsors;

"(B) identify community needs and endeavor to create new jobs for displaced homemakers in the public and private sectors;

"(3) health education and counseling services, in cooperation with existing health programs, which will assist displaced homemakers in overcoming health barriers to employment;

"(4) financial management services which will provide information and assistance with respect to insurance, taxes, estate and probate problems, and other related financial matters;

"(5) educational services, including information and outreach services concerning curricula of secondary and postsecondary education programs, and bilingual education programs, which may be of benefit or interest to displaced homemakers seeking employment; and

"(6) information and outreach services with respect to all employment, education, health, public assistance, and unemployment assistance programs.

"(c) In making assistance available under this section the Secretary shall seek to ensure supervisory technical and administrative positions relating to Centers established under this section will to the maximum extent feasible be filled by displaced homemakers.

"(d) Any trainee in a program established under subsection (b)(2) of this section who has demonstrated financial need to the satisfaction of the Secretary shall be paid a stipend at a rate not less than the minimum wage rate established under section 6(a)(1) of the Fair Labor Standards Act of 1938 while engaged in such program.

"(e) The Secretary shall reserve from funds available for this title an amount equal to not less than 1 percent of the amount allocated pursuant to section 103(a)(1) of this Act for the purpose of carrying out the provisions of this section. Funds available shall be granted by the Secretary to community based organizations and other private nonprofit organizations taking into account—

"(1) the location of any existing facilities for displaced homemakers and of any existing services similar to the services listed in subsection (b) of this section, which might be incorporated into a center;

"(2) the needs of each State, and of the various regions of the country for a center (although the Secretary shall not be required to select a site in each State); and

"(3) the needs of both urban and rural communities.

"(f) For purposes of this section the term—

"(1) 'displaced homemakers' means an individual who—

"(A) is forty years of age or older;

"(B) has worked in the home for a substantial number of years providing unpaid household services for family members;

"(C) has had, or would have, difficulty in securing employment;

"(D) is unemployed or underemployed; and

"(E) has been dependent on the income of another family member, but is no longer supported by that income, or is receiving spousal support but is within two years of losing that support, or has been supported by Government assistance as the parent of minor children but has lost or is within two years of losing that assistance; and

"(2) 'center' means any multipurpose service center for displaced homemakers established pursuant to subsection (b) of this section.".

SEC. 3. (a) The Secretary of Labor through the Women's Bureau of the Department of Labor, shall prepare and furnish to the Congress a study to determine the feasibility of and appropriate procedures for including displaced homemakers in—

(1) all Federal employment, education, and health assistance programs;

(2) programs established or benefits provided under Federal and State unemployment compensation laws by consideration of full-time homemakers as workers eligible for such benefits or programs.

(b) The Secretary shall submit to Congress a final report on the study required by

this section not later than two years after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the study conducted under this section together with such recommendations for legislative or other action as the Secretary may consider appropriate.

(c) There is authorized to be appropriated such sum, not to exceed $50,000, for the purpose of carrying out the studies required under this section.

DISPLACED HOMEMAKERS ACT

Mr. HATHAWAY. Mr. President, it is my pleasure to join with my colleagues in introducing the Displaced Homemakers Assistance Act. This legislation amends the Comprehensive Employment and Training Act (CETA) of 1973 to provide assistance to displaced homemakers. For the purposes of this bill, displaced homemakers are individuals 40 years of age or older who have worked in the home, unpaid, for a substantial number of years, have difficulty in securing employment, are unemployed or underemployed, and have been dependent on the income of another family member, but are no longer supported by that income, or are about to lose that support.

Specifically, the bill provides for the establishment of 50 multipurpose service centers offering job counseling, training and placement services for employment of displaced homemakers in the public and private sectors. It also provides for counseling and referrals for existing services in health, financial management, legal assistance, and education as well as information and outreach services relating to existing programs. In addition, the bill authorizes the payment of stipends to those demonstrating financial need. Finally, the bill requires the Secretary of Labor to conduct a study of the feasibility and procedures for including displaced homemakers in Federal employment, unemployment, education, and health assistance programs.

It becomes clear that such legislation is warranted when one reviews the situation confronting the displaced homemaker. This individual is typically a woman over 40, suddenly without financial support due either to death of a spouse or divorce. She either left the paid work force years ago, or never entered it, and has spent the intervening years raising her family. She has no job security, no retirement, no health insurance, no unemployment. Of greater impact, however, is that she often feels unable to cope, without any traditional marketable skills. The job market is often quick to confirm these feelings. She may find herself the subject of discrimination in the job market because of her age, sex, and lack of recent paid work experience.

These are women who have been homemakers for a significant number of years. Most have never asked for any public assistance. Many have filed joint income tax returns for years with their husbands and have, through their in-kind contributions to their families, worked to benefit all of society. With some initial assistance, these women become self-supporting, thus preventing any further trauma to themselves and to their families. Without assistance, a woman who is suddenly widowed or divorced, or who suffers some other loss of family income, is in a poor position to care for herself or others.

While she may feel unable to cope, this person is not without job skills. The homemaker develops a range of useful and potentially marketable skills which may be upgraded or supplemented by these programs to place her in a position to support herself and others. This bill will provide women with the choice of staying home to raise their children without the fear of being permanently shut out of the job market.

These people presently fall between the cracks of existing Federal income security programs as well as State aid. They are generally too young for social security, and may never be eligible if divorced from a family wage earner short of 20 years of marriage, 10 after December 1978. They are ineligible for aid to families with dependent children if all their children are over 18 and they are not disabled. They cannot receive unemployment because they have been engaged in unpaid labor within the home and cannot get a job because of "lack of experience."

This need has been recognized and addressed on the grassroots level. Over 14 States, including Maine, have adopted displaced homemakers legislation. Representative Merle Nelson of the Maine State Legislature successfully sponsored such legislation into law. The State of Maine has recognized the needs of displaced homemakers and the validity of programs targeted to deal with their specific needs. While the issue is already being addressed in various States, resources there are limited, and Federal aid is warranted.

The individuals who would benefit from this legislation are people who have been productive members of society. They have cared for their families, raised their children, worked without pay and often without recognition in their communities. This bill provides the opportunity, with minimal Federal assistance, for people to enter or return to the work force, to continue to contribute to society, to be independent and self-supporting. I look forward to supporting this legislation when it is considered by the Committee on Human Resources, on which I serve.

HEALTH WARNING ON ALCOHOLIC BEVERAGES—S. 1464

AMENDMENT NO. 1679

(Ordered to be printed and referred to the Committee on Human Resources.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill (S. 1464) to require a health warning on the labels of bottles containing certain alcoholic beverages.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business Subcommittee on Economic Development, Marketing, and the Family Farmer and the Senate Agriculture Subcommittee on Agricultural Credit and Rural Electrification will hold hearings to investigate recent difficulties that developed surrounding the delivery of Small Business Administration physical disaster loans for crop loss due to drought. The hearings will be held on January 30, 31, and February 1. They will begin at 10 a.m., in room 424 of the Russell Senate Office Building. The Senator from Georgia (Mr. NUNN) and the Senator from Alabama (Mr. ALLEN) will cochair the hearings.

Further information can be obtained from the committee office, room 424, Russell Senate Office Building, telephone 224–5175.

HEARINGS ON CAPITAL FORMATION PROBLEMS OF SMALL AND MEDIUM-SIZED INDEPENDENT ENTERPRISES

Mr. NELSON. Mr. President, I wish to announce hearings to be held by the Select Committee on Small Business on capital formation problems of small and medium-sized independent enterprises on February 8 and 10, 1978. These hearings will take place in the committee hearing room, 424 Russell Senate Office Building, Washington, D.C. 20510, beginning at 10 a.m. each day. All who are interested in these matters or who wish to testify may obtain further information from the committee offices (202) 224–5175.

The background for these hearings is contained in reports which were placed before the Senate on September 27, 1977 (CONGRESSIONAL RECORD, page 31199) and changes to December 15, 1977 (CONGRESSIONAL RECORD, page 39592).

They indicate that for even the most promising existing small firms in this country, it has become virtually impossible to obtain capital. For the 3 years 1974–76, only 41 U.S. companies with less than $5 million in net worth were able to sell stock in public securities markets.

The hearings are intended to explore the many facets of small business capital formation. The first phase of the hearings will attempt to carefully delineate the basic problems of attracting capital to smaller firms, including the amounts of capital which are needed at various points of the life cycle of new and small businesses in various industries.

Witness lists for these hearings will be released as soon as they are completed.

SUBCOMMITTEE OF CITIZENS AND SHAREHOLDERS RIGHTS AND REMEDIES

Mr. METZENBAUM. Mr. President, the Subcommittee on Citizens and Shareholders Rights and Remedies of the Committee on the Judiciary will hold a hearing on Monday, February 6, 1978, on S. 476, S. 477, S. 478, S. 1256, S. 1257, and H.R. 7819, pertaining to diplomatic immunity. The hearings will commence at 9 a.m., in room 2228, Dirksen Senate Office Building.

Anyone wishing to submit testimony for the record, contact Mr. Herman Schwartz, chief counsel, or Mr. Keith O'Donnell, counsel of the subcommittee, 4–B Russell Senate Office Building, Washington, D.C. 20510. Phone 202–224–4703.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAYH. Mr. President, I wish to announce hearings before the Select Committee on Intelligence on S. 1566, the Foreign Intelligence Surveillance Act of 1977, often referred to as the wiretap bill. Two panels of witnesses are scheduled to testify. The first panel includes Messrs. John Shattuck and Jerry Berman of the American Civil Liberties Union and Mr. Morton Halpern of the Center for National Security Studies. The second includes Dr. Christopher Pyle of Mount Holyoke College, privacy expert Mr. David Watters, and Mr. Steven Rosenfeld of the Association of the Bar of the City of New York. The hearings will be held on Wednesday, February 8, 1978, in 6226 Dirksen Senate Office Building.

COMMITTEE ON THE BUDGET

Mr. MUSKIE. Mr. President, the Senate Budget Committee will hold public hearings beginning on February 1 and running through March 17 in preparation for the first budget resolution for fiscal year 1979. The specific dates of the hearings are February 1, 2, 3, 8, 9, 21, 28, March 1, 2, 8, 9, 10, 15, 16, 17, and 20.

These hearings will form the basis for the committee's decisions with respect to the first budget resolution for fiscal year 1979. For the first time, the committee also plans to examine the 5-year implications of these decisions and will report back to the Congress on its findings.

The committee hearings will include panels of outside experts to closely examine the national priorities for Federal spending. The witnesses come from diverse backgrounds and their analyses should be helpful to the committee and to the Congress in analyzing the President's budget.

Hearings with administration witnesses will provide the committee the opportunity to evaluate the President's short- and long-run economic forecasts, to review the CBO analysis of the fiscal and economic objectives of the Carter budget, and to conduct a far-ranging examination of the spending programs proposed for fiscal year 1979.

On Wednesday, February 1, the committee will look at the short- and long-range economic forecasts as well as various policy options for sustaining the economic recovery. Our witnesses will be Dr. Charles Schultze, Chairman of the Council of Economic Advisers, and Dr. Alice M. Rivlin, Director of the Congressional Budget Office.

On Thursday, February 2, the Secretary of the Treasury, W. Michael Blumenthal, will discuss the President's tax cut and tax reform package, as well as the international financial situation.

On Friday, February 3, James McIntvre, the Acting Director of OMB, will highlight the major spending programs in the President's budget and detail the significant changes and developments in this first Carter budget.

The following week we will hear from public witnesses on national priorities and the fiscal crisis in State and local governments. On Wednesday, February 8, we will explore the fiscal dilemma of the cities and States with Gov. Brendan Byrne of New Jersey, Gov. James Thomson of Illinois, and Mayor Kevin White of Boston. On Thursday, February 9, we will examine the questions of national priorities. Our witnesses will include Douglas Fraser, the president of the United Auto Workers Union, Clarence Mitchell, the Washington director of the National Association for the Advancement of Colored People, and Rudolph Penner, program director of the American Enterprise Institute and former chief economist of OMB.

After the Lincoln Day recess, we will turn to the question of controlling inflation, a subject of critical importance to all Americans. On February 21, our witnesses will include Dr. Barry Bosworth, Director of the Council on Wage and Price Stability, Dr. Arthur Okun, senior fellow of the Brookings Institution, and Mr. Albert T. Sommers, senior vice president and chief economist of the Conference Board.

Starting on February 28, we will begin a week of hearings on the energy and the defense budgets. On February 28 our witnesses will include James Schlesinger, the Secretary of the Department of Energy and Paul MacAvoy of the Yale School of Organization and Management and former member of the Council of Economic Advisers.

On March 1, a panel of outside experts will analyze the President's defense proposals. The witnesses will include Townsend Hoopes, former Under Secretary of the Air Force, Herbert Scoville, former Deputy Director of the Central Intelligence Agency, and Eugene Restow, former Under Secretary of State.

On March 2, Secretary of Defense, Harold Brown, will present the administration's defense budget.

On March 8 and 9 we will look at the welfare reform, health and education programs in the 1979 budget. On March 8, our panel of experts will include Dr. John Knowles, president of the Rockefeller Foundation, Dr. Eli Ginsberg, chairman of the Committee on Manpower Policy, Dr. Frank Armbruster, of the Hudson Institute, and Dr. James Storey of the Urban Institute.

On March 10 we will discuss the administration's welfare, health, and jobs program with Secretary of HEW Joseph Califano and Secretary of Labor Ray Marshall.

On Wednesday, March 15, we will review the question of monetary policy with G. William Miller, the Chairman-designate of the Federal Reserve Board.

On Thursday, March 16, we will turn to the question of the administration's proposals for urban development. Witnesses will include a representative from the Conference of Mayors, Prof. George Steinlieber of Rutgers University, and Carla Hills, the former Secretary of HUD.

On Friday, March 17, the Secretary of Housing and Urban Development, Patricia Roberts Harris, will present the administration's plan for urban development. It is especially important that the committee has this opportunity to develop sound budget numbers for any new initiatives that have not been included in the January budget.

On Monday, March 20, Representative RICHARD BOLLING, chairman of the Joint Economic Committee, will present a summary of the JEC's March 15 report to the Budget Committee.

All hearings will be held in room 6202, Dirksen Senate Office Building, beginning at 10 a.m., except the February 3 hearing which will be held in room 318, Russell Senate Office Building. For further information, please contact Karen Williams, chief counsel of the Senate Budget Committee.

JOINT HEARINGS ON HUMPHREY-HAWKINS FULL EMPLOYMENT BILL

Mr. WILLIAMS. Mr. President, on behalf of the Senator from Wisconsin (Mr. PROXMIRE) and myself, I announce that a joint hearing will be held Thursday, February 2, 1978, by the Committee on Human Resources and the Committee on Banking, Housing, and Urban Affairs on S. 50, the Full Employment and Balanced Growth Act.

The hearing is scheduled to begin at 9:30 a.m. in room 1202 of the Dirksen Senate Office Building.

We anticipate hearing testimony from Mrs. Coretta Scott King and Murray H. Finley, cochairpersons of the Full Employment Action Council; Andrew Biemiller, legislative director of the AFL–CIO; and Irving Bluestone, vice president of the United Auto Workers.

Mr. President, I should like to speak briefly about this hearing and the legislative process that it will initiate.

This joint hearing by the two Senate committees to which this important legislation has been referred will begin a process of committee consideration that will culminate, under Senate rules, with a joint report to the Senate on the bill.

I have every confidence that full employment legislation can be enacted by Congress this year.

The focus of the joint hearing will be the revised version of the Full Employment and Balanced Growth Act of 1977 that was worked out with the White House by our late, beloved colleague, Senator Hubert Humphrey, and his collaborating author, Congressman AUGUSTUS HAWKINS of California.

This is the version of the bill that was endorsed by President Carter in respect to those provisions that do not deal with congressional procedures to be established under the act. As you know, Mr. President, these procedures relate to congressional consideration and adoption of an annual full employment and balanced growth program.

As I indicated, the joint hearing Thursday will initiate formal consideration in the Senate of the revised S. 50.

Within the Committee on Human Resources, the hearings will continue on Friday under the leadership of Senator GAYLORD NELSON, chairman of our Subcommittee on Employment, Poverty, and Migratory Labor. Subsequent hearings by the subcommittee, and by the Committee on Banking, Housing, and Urban Affairs, will be announced at the appropriate time.

ADDITIONAL STATEMENTS

AMERICAN FARMER

Mr. PEARSON. Mr. President, in recent days we have witnessed a genuine grassroots political movement in action. America's farmers have come to Washington to protest their serious economic condition. Because of their presence, the entire Congress has become more aware and more sensitive to their plight. The American agriculture movement has succeeded in focusing the attention of the entire Nation on the food-producing sector of our economy. Members of the movement should take great pride in their initial achievements.

The Kansas farmers who have visited my office have made it clear that they are no longer able or willing to accept the prevailing economic conditions on the farm. They want their fair share—no more, no less. And I think it is our responsibility to help them. We simply must find a way to keep family farmers on the farm.

Mr. President, I think the events of the last several days have been instructive to all concerned. I think many farmers through being here have come to understand something that is a constant frustration to all of us: the legislative process is complicated and arduous. And it is extremely time consuming. In the same way, Mr. President, we in Congress have come to realize that the farm problem is not imaginary. It is real and it threatens the well-being of our entire economy. It is no understatement to say that, unless current trends are reversed, the family farm is in grave danger.

Our Nation's farmers are feeling the unbearable pressure of huge debts and small returns for their products. And, while prices have been pushed lower, the increase in production costs has continued unabated. In only 4 years, fertilizer prices increased 75 percent, building and fencing materials 73 percent, and tractors and other farm machines 75 percent. Also, the cost of energy has continued to climb.

Mr. President, farm income has dropped every year since 1974. While farm income has been declining, farm indebtedness has been rising dramatically. In 1974, the total farm debt, including Commodity Credit Corporation loans, was $32.8 million. Preliminary figures for this year indicate that total farm debt exceeds $54 million, representing an increase of 65 percent.

But while farmers have been caught up in the price-cost crisis they have been producing more than at any time in our history. That is what is so unfair about this situation. As the farmer has contributed more to the national health, he has received less and less in return.

Mr. President, it is clear that American agriculture is in trouble. It is likely that a number of family farmers will be forced out of business this year. If economic conditions do not improve it is clear that banks will have to foreclose on a much larger number of family farms next year and the year after. Such an eventuality is clearly against the national interest and cannot be tolerated.

Last year the Congress devoted a great deal of time to studying farm conditions and developing a long range farm program. The bill which Congress finally approved did not contain all the provisions that many of us from farm States thought that it should. But on the whole the bill reflected an understanding of economic conditions on the farm at that time. It now appears that we may have misjudged those conditions. We were writing the bill at the time that prices were falling radically and surpluses were accumulating at a dramatic rate. The economic consequences of these trends may not have been fully anticipated.

Therefore, Mr. President, it seems imperative that the Agriculture Committees in both the Senate and the House immediately undertake a review of present farm conditions with the view of determining how the farm program should be altered to take account of these changed circumstances. Leaders of the American Agriculture Movement are arguing not only that the present program is wholly inadequate but that we should dramatically change the course of our price support policies. This proposal should be given serious consideration. It should not be dismissed out of hand. But it is also clear that the economic and political consequences of such a shift in policy are so enormous that we cannot move in that direction except after considerable analysis and debate.

In addition to urging the Agriculture Committees to reopen consideration of revising the Food and Agriculture Act of 1977, I would also urge the administration to reevaluate its own position. Secretary Bergland has been adamant in stating that the present farm program is adequate to meet present conditions and will provide the economic relief that is necessary. I think there is growing evidence to the contrary.

Last year I offered an amendment to the farm bill restating the traditional commitment by the Congress to maintaining the family farm system in this country. That amendment also required that the Secretary of Agriculture is to report to the Congress not later than July first of each year as to the condition of the family farm system and how present farm programs are serving to promote, or failing to promote, the family farm goal.

I have today written Secretary Bergland requesting that in view of present conditions he accelerate the preparation of these reports and that the findings required by section 102(B) be forwarded to the Congress at the earliest possible date. While the reports required by this section are comprehensive in nature I think it is vitally important that the Department of Agriculture gather at the earliest possible date all data relevant to farm indebtedness. In particular we need to have a quick and accurate assessment of the numbers and types of farms that may be facing foreclosure this year.

Mr. President, beyond the question of how we should revise the farm program, it is particularly clear, it seems to me, that we have to do a better job of expanding our export sales of grain to other countries and of improving international commodity prices. There are a number of actions that can be taken in this area that I believe would be of help. Greater export sales help to strengthen domestic prices and also reduce the farm balance of payments deficit. Significant increase of exports will be of enormous benefit, not only to American farmers, but to the economy as a whole.

In the near future I intend to introduce specific legislative proposals and other recommended courses of action to further this goal of expanded grain exports.

Mr. President the American Agriculture Movement has dramatically and effectively called to the Nation's attention the serious economic plight of much of our agriculture community. Their call for economic equality and their fair share of the economic pie is understood and endorsed by a great majority of the Congress. I would be less than honest if I were to say that a majority of my colleagues and I endorse all their policy demands at this time but I am convinced that I am right in saying to the American Agriculture Movement and to the American agriculture community as a whole that the Congress will take whatever steps are necessary to preserve the family farm. On this I believe there is universal agreement. We must now work out the procedures by which this commitment is to be fulfilled.

GEORGIA SUPPORTS FARMERS

Mr. TALMADGE. Mr. President, the Georgia State Senate recently adopted a resolution expressing their support of the American farmer and urging the U.S. Congress to take every possible action to strengthen American agriculture and improve farm income. The current farm situation is indeed a real and serious problem which affects the well-being of all Americans. It is imperative that we focus attention on the financial pressures presently confronting our farmers and take immediate action to help revitalize the faltering farm economy.

For myself and my colleague, Senator NUNN, I bring Georgia Senate Resolution 266 to the attention of my colleagues in the Senate, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Recognizing the plight of the American farmer and urging the United States Congress to take whatever steps are necessary and appropriate to assure economic parity for the farmer; and for other purposes

Whereas, the backbone of our free enterprise system and our American way of life is and always has been the untiring contributions of our farmers and since the founding

of this great nation the farmer has been the major source of stability and strength of America; and

Whereas, the American farmers has led the world in agricultural innovation and in solving chronic food shortages which have plagued the developed and undeveloped world alike; and

Whereas, agribusiness is the largest economic activity in Georgia and the citizens of the State of Georgia are deeply and forever indebted to Georgia farmers for their contributions to the overall standard of living and way of life Georgians enjoy and take pride in; and

Whereas, while the standard of living for many segments of our nation's economy has steadily increased, the farmer has been receiving a steadily decreasing share of the national income and this has led to an overall weakening of the agribusiness morale and if this adverse trend plaguing our farmers is not reversed, it most definitely will lead to a national economic crisis and will undermine our national strength in every area; and

Whereas, after suffering through escalating production costs, declining market prices, and extremely harsh weather conditions which literally destroyed whole crops, the farmers, out of virtual desperation, have joined together throughout this great State and nation under the banner of the American Agricultural Movement to peacefully, but dramatically, focus national attention on the economic woes of the agribusiness community; and

Whereas, although the Georgia Senate realizes the Congressional Delegation of the State of Georgia understands the plight of Georgia's farmers, there are those in the Congress of the United States who don't even have a single farmer in their district.

Now, therefore, be it resolved by the Georgia Senate that this body does hereby strongly support the farmer and hereby urge the United States Congress to take whatever steps are necessary and appropriate to assure economic parity for the farmer.

Be it further resolved that all members of the Georgia Senate are individually and collectively in support of the farmer and intend to do all in their power and authority to help the farmer resolve his economic dilemma and regain his long established leadership role in virtually every facet of American life.

Be it further resolved that the Secretary of the Senate is hereby authorized and directed to transmit appropriate copies of this Resolution to each member of the Georgia Congressional Delegation.

CIA DIRECTOR DEFENDS AGENCY'S SECRECY

Mr. CHAFEE. Mr. President, for the last year I have been privileged to serve as a member of the Senate Select Committee on Intelligence. As a member of that committee, I have time and time again been made aware of the dilemmas caused in this open and free society by the secrecy required to protect vital intelligence activities.

Adm. Stansfield Turner's thoughts on secrecy deserve to be read by all those who are trying to determine the appropriate place of intelligence activities in our system of government. Our Nation is fortunate to have the service of the dedicated and capable men and women who make up our CIA under Admiral Turner's able leadership.

Mr. President, I wish to share with my colleagues an article which appeared in the Providence Journal on January 13, entitled, "CIA Director Defends Agency's Secrecy." I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CIA DIRECTOR DEFENDS AGENCY'S SECRECY

WASHINGTON.—There have been stories in the media in recent weeks concerning a new book—*Decent Interval*, by Frank Snepp—that is critical of the CIA's role in the closing days of Vietnam. News stories question whether the CIA had the right to review this book or, by extension, any work before publication and, if so, whether it had the right to excise portions it reasonably considered damaging to national security.

The answer to the first question is unequivocally yes. The CIA had the right to review because the author had signed a specific agreement to that effect as part of the terms of his employment with the agency. At no time prior to publication did he challenge the validity of that agreement. Rather, he claims there is some higher right that gives him the privilege of breaking that oath.

Yet, all of the evidence upon which Snepp bases that rationale was available to him when he met with me on May 17 of last year. In that meeting he explicitly promised me that he would fulfill his written obligation to provide us his manuscript for review. More than that, he reaffirmed this obligation a few days later in writing.

The CIA and I, as director, accepted this man at his word. We made no effort to monitor the progress of his activities. He simply violated both his own oath and our trust. Moreover, his publisher, Random House, and his initial TV interviewer on "60 Minutes," have also acknowledged that they were party to this deliberate evasion of written and spoken promises.

Why do people and organizations feel that duplicity is justified in circumstances like these? Because, I suspect, of an erroneous premise, clearly expressed in some of the newspaper articles on this case, that government employees inevitably place covering their and their agencies' reputations above their duties and even above the law.

This is a common anti-establishment reaction that has become so familiar in recent years. Its fallacy lies in the absence of any evidence that the CIA, over the past year and a half when Snepp was writing his book, deliberately used secrecy to protect its reputation. To the contrary, the public record attests unequivocally to the agency's willingness to face the past squarely whatever the effect on its public reputation. The self-revelations last July of the MKULTRA drug-abuse activities of the 1950s and the 1960s are only the most recent examples of this forthright policy.

What is at stake, however, is a fundamental issue for our society. If the society cannot trust the judgment of its public servants regarding what should or should not be withheld from the public, then the society can in fact have no secrets at all. The logical extension of the (Daniel) Ellsberg-Snepp syndrome is that any of our 210 million citizens is entitled to decide what should or should not be classified information.

Secrecy is, of course, dangerous. It can be abused. Yet, some things must be secret. Clearly there must be checks and balances on those who decide. But because these judgments are difficult does not mean that the chaos of no regulation at all is to be preferred. I believe that the public recognizes the necessity for some secrecy in our modern society. There is no question that we each recognize it in our individual lives. Nor is there a question that we recognize it in the extension to government. None of us is so naive as to believe that we live in a totally open and benign world.

Many of our efforts, like those directed toward strategic-arms limitations, which could move us closer to the open and peaceful world that we all desire, would be impossible if we tried to negotiate from a position of total openness. Nonetheless, how much secrecy is necessary and who should decide what will remain secret are vexing issues.

How much must always be a matter of the subjective judgment of human beings. The best we can do is build into our system, as we have in the past few years, a series of bureaucratic checks and balances that will control secrets and secret activities, yet at the same time protect the public from any abuses that excessive secrecy can encourage.

Beyond that, another check is the ballot box, where the public exercises ultimate control over the quality of individuals in public office. And, also, the free media in our society can assist the public in ensuring against excesses of secrecy. However, such vigilance does not best proceed from the unsubstantiated assumption of evil motives on the part of all public servants.

Investigative reporting does imply some measure of investigation. No one from Random House or CBS, for instance contacted me or anyone else in the CIA to investigate the other side of this story. It would appear that they feared that we might have obtained an injunction against publication. Yet, an injunction is a legal mechanism of our judicial process. It, too, is a means of protecting the public. Should corporations be encouraged to skirt the legal mechanisms of our country by subterfuge?

This case in itself is not worthy of this much discussion. It is only of interest as an example of our dwindling capacity to maintain the minimal level of secrecy essential to the effective operation of our intelligence apparatus, as well as many other organs of our government. It is remarkable today, and I say this with no self-pride because I am a newcomer, that the CIA can operate as effectively as it does despite these circumstances.

President Carter has said, "One of the greatest surprises to me in coming to office is how effective the CIA is." The concomitant of this fine performance is the fundamentally healthy and patriotic attitude within the agency despite its being a frequent whipping boy. There is no question in my mind that the people of the United States recognize the need for good intelligence and can appreciate the destructive effort the carping of a Snepp can have. It is time, instead, to concentrate on the constructive role of the oversight of the CIA and other agencies of the government.

I hope that the public will join us in the CIA in seeking constructively to understand and build our role for the future. We need less encumbrance from national self-flagellation over the past and more interest in how we can achieve a workable balance between necessary secrecy on the one hand and oversight on the other.

Perhaps that venerable statesman Averell Harriman is overly generous when he often says, "The CIA is our first line of defense." But he is not far enough off that we can afford less than a constructive approach to what the CIA should be providing for the defense of our country and its institutions.

NUCLEAR ATTACK ON WASHINGTON

Mr. GLENN. Mr. President, more than 2 years of effort and 3,000 pages of testimony have gone into consideration of nuclear nonproliferation legislation soon to come before the U.S. Senate. More recently, the distinguished and able chairman of the Governmental Affairs Com-

mittee, Senator RIBICOFF, has been conducting a series of hearings on antiterrorism which have in part focused on the issue of nuclear terrorism. The nuclear nonproliferation act, S. 897, contains a number of provisions which are designed to protect against nuclear terrorism as well as the diversion of materials by a nation for the purpose of constructing nuclear weapons.

In the Outlook Section to the Washington Post on January 29, 1978, an article by Ms. Nan Randall appeared, vividly portraying the probable results of a nuclear weapon being detonated in or over the city of Washington. The horrors which are described in this article would be repeated for any American city subject to a nuclear attack, either by another nation or by terrorists.

I urge my colleagues to read this article and to give their support to prompt passage of the nuclear nonproliferation act when it comes up.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IF THE UNTHINKABLE HAPPENED HERE

(By Nan Randall)

SCENARIO I: NUCLEAR TERRORISTS

Around 11 in the morning on a pleasant Tuesday, a van with cheerful, striped curtains pulls into a two-hour metered parking space at 17th Street and Pennsylvania Avenue NW as an old VW bug pulls out. The occupants of the van feed four quarters into the meter and stroll in front of the White House. They accept a couple of flyers from the usual demonstrators and continue on to 11th and G. There they disappear into the subway and head for the shuttle at National Airport.

An hour and a half later, as lunch-hour promenaders clog the sidewalks, a 15-kiloton bomb rips a gaping hole in the heart of Washington.

Fifteen kilotons do not make a large weapon by today's standards. But 15 kilotons are close to the size of the bomb that dropped on Hiroshima and killed up to 100,000 people.

The terrorist bomb gives no warning. There is no siren or emergency broadcast. Just a flash.

The fireball reaches from the middle of the White House to the edge of the World Bank building. Both the old and new Executive Office Buildings are engulfed, along with the modern office buildings that border the White House grounds. Nothing remains in this area but a crater about 500 feet across at the point of the explosion. What was there before has been sucked up into the rising fireball.

The extent of very severe damage—in which no one survives but a few people who find themselves in a sturdy government building basement—reaches from L Street on the north to Constitution Avenue on the south. The glass buildings that have sprung up along L and K Streets are swept clean, leaving perhaps only the upright framing.

Fires start simultaneously in a wide circle around the explosion. Pedestrians at Washington Circle or walking on the Mall feel their clothes burst into flame and their skin sear from the thermal, or heat, radiation. Any barrier to the rays is effective shielding, so only those who stand completely exposed suffer. Still, at distances where the blast damage is survivable, the thermal radiation is fatal to an exposed body.

Shoppers emerging from the Discount Record Store off Dupont Circle have a 50 per cent chance of surviving the direct blast effects. But even though they are three-quarters of a mile away, heavy initial nuclear radiation (beta and gamma rays) reaches them. This initial radiation occurs in the first minute after the explosion. It is very intense but doesn't spread far, so it is only of major importance in small sized nuclear explosions. In big ones, you're pulverized anyway.

The explosion compresses the air around it and pushes outward with tremendous force. The moving shock wave creates winds many times the force of a hurricane, even at some distance. At Washington Circle the winds are almost 20 miles an hour, while the pressure of the shock wave knocks out electrical lines, shatters windows and collapses partitions. The air is thick with flying objects, including people. George Washington University Hospital, instead of coordinating relief efforts, is a casualty itself.

Within five minutes after the blast, the downtown Washington streets are littered with the dead and dying, many caught under the fallen debris. Fires flare, spread and move together over the city.

Yet the most unpredictable hazard has not yet occurred.

A terrorist bomb is likely to be an extremely "dirty" fission bomb, exploded on the ground. All that material blasted out of the crater and vaporized by the fireball has risen high into the stem of the mushroom cloud. But it will come back, at one time or another.

No one has ever exploded a test bomb at ground level in a city (Nagasaki, like Hiroshima, was a mid-air burst, so there was virtually no fallout), so no one is sure how the fallout will act. But the best educated guesses give an outline of the problem:

Within 5 to 10 minutes, the earliest fallout starts to settle. Because the prevailing winds are from the west, the point of greatest danger is east of the explosion; a mile and a half away, around the Capitol, people go underground for a couple of days. Senators, congressmen and pages huddle next to the Capitol's heating system in the basement.

One of the major effects of the fallout is to hamper rescue operations for those who are injured but not dead. The center of the blast area is so hot that those very few who are not killed outright will, nevertheless, die of radiation sickness soon. Those in the damage area and in a barely survivable state may not be rescued in time while radiation monitoring equipment is located for the rescue squads. (As fallout does not follow a consistent pattern, every rescue worker has to monitor the areas he or she enters at all times.) Even if neither the injury nor the radiation dose is, by itself, sufficient to kill, the combination of the two can be.

Rescue efforts start around the edges of the blast rather than in the center, partially because there are more rescuable patients—in disasters you rescue those who have a chance to pull through and leave the borderline cases for later—and because rescue squads can only penetrate into the fallout area for a short time, if at all. Firemen, the backbone of rescue operations normally, are tied up attempting to stem the spread of the multiple fires that have sprung up—where there is enough water pressure to use the hoses after a number of water mains have burst.

The news of the spreading fallout pattern precedes the radioactivity itself in areas such as Landover Mall and other close-by suburbs in Prince George's County. In Cheverly residents must go inside rather than hunt for loved ones in the blast area.

How would the social equilibrium of the city survive? In his book, "Nuclear Disaster," Dr. Tom Stonier quotes a Japanese survivor of Hiroshima, speaking of a period two weeks after the bomb: "The ruthless and greedy were ruling the city . . . People with evil faces and foul tongues were wearing the best clothes . . . A scarcity of sentries made looting easy. During the war no one would have thought of stealing and goods would lie in open fields without even the need for a guard, but now nothing was safe that was not locked up."

It happened in New York during the blackout and in Johnstown after the flood.

Then there will be the long-term effects, the lingering—the increased number of malformed infants born to mothers who were subjected to fallout in the waiting room at Columbia Hospital's clinic, or the sudden increase in leukemia 10 years later. Genetic damage might turn up generations later.

If a 15-kiloton terrorist bomb exploded in Washington, the carnage could be worse than Hiroshima's—our buildings downtown are less resistant to shock than the Japanese buildings. Based on the peak population in the downtown area at that time of day, the killed and severely injured would number 30,000 to 70,000.

SCENARIO II: ATTACKED BY MISSILES

Our first warning of a major nuclear attack comes from 30 feet under a cow pasture. The entrance to Region 2 headquarters of the Defense Civil Preparedness Agency (DCPA) in Olney, Md., looks a little like a fast food outlet. Its modernistic lines give little indication of the computers, monitoring equipment and broadcasting facilities hidden below ground—although the cows have to contend with a strange array of antennas in their grazing area.

But in a special bunker, hardened against blast effects, the East's hookup with the North American Defense Command (NORAD) is under 24-hour alert. In the event of an attack warning, a flashing light and warbling siren warn the monitors of a message coming from NORAD in Colorado Springs. If our elaborate DEW (Distant Early Warning) Line radar in the Arctic Circle picks up menacing shadows, the commander of NORAD issues the attack warning within seconds.

Immediately, 200 sirens and more than a thousand bell and light alerts are activated by the twist of a telephone dial on the communications console. All radio stations stop in mid-broadcast and a pre-recorded message from the President takes over the airwaves.

In Washington, the city's civil defense chief, George Rodericks, picks up the NORAD warning from a little speaker on his desk and prepares to start his area-wide broadcasts of instructions. Someone pushes the little red button on the communications console in the mayor's command center and Rodericks' instructions blast out of every Muzak speaker in every waiting room, supermarket or elevator. (The system is known as EMERZAK.)

But, in essence, all Rodericks can tell us is to get to shelter, fast.

We have only 5 to 20 minutes after the first shrieking wail of the warning sirens to run for cover—the time to run for basements or to crowd into the public fallout shelters scattered around the area. The warning does not leave us time to pick up children from school or husbands and wives from work or to locate the family pet roaming the neighborhood garbage cans.

Until the warheads explode, we do not know whether Washington is a target. Crowded into our fallout shelters—there is no blast shelter in Washington, at least for ordinary folk—we have to rely on luck and hope.

(Whether Washington would in fact be a target is a matter of dispute. Some argue that the capital would not be struck, because it is not strategically important and because the attacker would want to make sure there was someone in authority left to negotiate with

afterward. Others argue that Washington is the logical first-strike target, simply because of its symbolic importance—and that the President and his cabinet would be safely away and perfectly capable of negotiating. DCPA has awarded Washington the dubious honor of being counted as a Category II target—i.e., a major military complex. Category I includes all the big missile silos; no other U.S. city rates higher than Category III.)

Experts in the Pentagon make entire careers thinking up attack scenarios, but predicting what would land where is a risky business. Still, for the sake of demonstration and based on some realistic assumptions, suppose that four 1-megaton warheads landed on the White House, the Pentagon, the CIA in Langley and Andrews Air Force Base. (The selection of these targets is symbolic. Better targeting could be achieved by not bombing the White House and the Pentagon, as they are too close together. Humorists have suggested that bombing Pepco would create more havoc than going after the CIA. And we are assuming that the warheads hit their targets when, in reality, an error of 1 mile is typical of the state of Soviet missile art.)

A megaton-sized explosion (1 million tons of TNT) on a city is something no one has tested or experienced. Experts candidly admit that they can only make guesses about the devastation.

Some of today's weapons are as large as 20 megatons, which would produce a fireball one-fourth the size of the whole of the District of Columbia and would spread carnage and severe damage in a circle 16 miles in radius. But now even the Kremlin has come to recognize that a few smaller weapons are more accurate and more deadly than one large blunderbuss, so 1-megaton warheads are becoming the most common variety in the Soviet stockpile, and would be among the more likely ones to be used against Washington.

Miles away from a nuclear explosion, the flash is brighter than the sun at high noon. Close in, those who look at the blue white light are instantly blinded. The fireball, as hot as the center of the sun, vaporizes the surfaces it touches. This seething mass of heat lifts up into the air like a huge balloon, sucking tons of dirt, rock and debris behind it in a rising column. (In time, this will return to earth as radioactive fallout.) Far from the explosion, trees, houses, the clothes people wear spontaneously burst into flames. As yet, not a sound has been heard.

Then, as thunder follows lightning, a shock wave of crushing power rushes out from the epicenter, leveling buildings, bridges and monuments. It is followed by winds many times the force of a hurricane, which rip the landscape to shreds and toss people around in the air like leaves.

Seconds after the explosion on the White House, the fireball reaches from Dupont Circle to the Tidal Basin and from 6th Street to 25th Street NW. Everything—cars, buildings, trees, monuments and all living things—is engulfed. On a clear day, the flash from the one explosion is visible beyond Frederick, Md., some 40 miles away.

Two pulses of thermal radiation fly out from the center. The first, ultraviolet, causes eye damage or blindness. The second, infrared pulse lasts longer and inflicts first-degree burns on students walking around the University of Maryland campus in College Park, more than 11 miles away. It ignites trash and newspapers and sets clothing on fire in Seat Pleasant, 7 miles away. Multiple fires flash up all over the city—particularly in frame buildings such as those in Cleveland Park, and in offices with paper-strewn desks.

The explosion creates a crater just short of a half a mile across, and this material follows the fireball as it rises some 12 miles in the sky. The cloud cools from a reddish brown to white and spreads out into the familiar mushroom shape.

One-tenth of a second after the explosion, a tremendous shock wave, like a 1,000-foot tidal wave, roars out from the center, completely engulfing what pass for tall buildings in Washington. As one writer describes the effect of such a shock wave on buildings, "It squeezes them as a giant fist would . . . the blast from a bomb of this energy almost completely destroys all buildings within 2 miles of the explosion and severely damages everything up to 3 miles."

The blast wave destroys by overpressure, or that amount of pressure beyond the normal. Normally, we feel 14.7 pounds per square inch all around us. With overpressure, we are like divers under water—the deeper, the greater the pressure. People are less damaged by overpressure than buildings—we're more flexible—but the buildings often land on the people.

The same devastation takes place at the Pentagon and the other two blast sites. Pentagon City and Crystal City are reduced to piles of rubble and glass. Homes are leveled in Arlington, Glen Echo and Cabin John. Most of the shiny office buildings in Rosslyn are damaged beyond repair. Morningside and Camp Springs are mashed to ground level.

Not all the damage is uniform. As a shock wave passes, it creates various reflected waves which bounce back from the buildings. The combined results can be even stronger than the original shock wave.

Directly behind the shock wave, tremendous winds (250 miles an hour 2 miles from the blast center) topple many of those structures that are still standing. These winds uproot trees and toss them around, turn shards of glass into miniature missiles and blow bricks and aluminum siding around like feathers.

Even at some distance from the blasts, the shock plus wind damage is extensive. At the National Institutes of Health, the buildings are squeezed by overpressures sufficient to crack and weaken masonry and then buffeted by winds of close to 90 miles an hour. The laboratories disintegrate to a shambles of broken glass and squealing guinea pigs. The winds clog Wisconsin Avenue with fallen trees and tangled electrical wires.

But the electrical wires are useless anyway. Experts figure that you can count out the electricity at overpressures of 2 to 5 pounds per square inch or more—a radius of between 2½ and 4½ miles from the blast centers. There is a massive blackout.

In addition, gas and water pipes burst all over, setting additional fires and simultaneously losing the means of extinguishing them. Whether the shock wave and the high winds have put out some of the fires started by the heat pulse is unclear. But those that are not extinguished spread from house to house, setting additional fires many miles away days later.

Contrary to some popular conceptions, there probably is no firestorm. Washington is not sufficiently built up. Documented firestorms occurred in Dresden and Hamburg in World War II after incendiary bombs were rained on both cities expressly to create fires. However, one expert at DCPA estimates that in the damage areas "we would have fire damage of the kind we had during the 1968 riots."

In 1968, though, Washington had three separate fire corridors scattered across the city. This time, the fires start in Arlington, Bethesda and sections of Prince Georges' County as well as downtown, but they spread and merge, moving eastward fanned by the prevailing winds. Ultimately, a good part of the metropolitan area is threatened by uncontrolled conflagration.

And the people? On a normal weekday, there are some 1.4 million people in the District of Columbia, about three-quarters of them concentrated in the area of heaviest damage. Although many of the residents of Arlington quit their high-rise apartments during the day, many work in the Pentagon, Arlington and Alexandria.

Anyone close to the explosions, within about one and three-quarter miles, has probably been killed—even if they made it to a shelter—unless by some chance they survived in a massive basement or a subway tunnel. If so, they are severely injured or trapped by fallen debris. So close to the explosion, there is no chance for rescue; roads are impassable and the area heavily contaminated with early fallout.

Three miles from the blast, in District Heights or Bethesda, half the people are killed and nearly half injured. Those who survive are on their own to figure out how to "lurch and stumble toward help," according to one civil defense expert. In Vienna or Kensington, a quarter of the people are injured by the Langley blast, 7 miles away.

Many of the injuries to people in the 2-5-mile radius come from flying debris and collapsing buildings. In addition, the fierce winds pick people up and hurl them against walls and trees. Many are injured from burns if they did not take immediate shelter or if they got caught in the spreading fires.

It has been estimated that two dozen severe burn victims would tax the city's best burn treatment facilities to the limit; in a nuclear attack, there are many thousands. As the civil defense planners put it, "Medical services would be on the level of the Crimean War. Those who survived their injuries would be those who could get themselves to help."

And, in reality, many of those injured will ultimately succumb to radiation sickness. These effects of radiation add an invisible, unpredictable threat to any nuclear explosion, and most especially to a large, ground burst. If four 1-megaton warheads landed at ground level in the Washington area, the radiation danger might affect as many people downwind as the blasts themselves.

Of all the calculations you can make about the effects of nuclear weapons, those about fallout are the least sure. Fallout patterns drawn by planners resemble neat little cigar shapes, with one end on the blast center and the other reaching downwind in a consistent pattern. But fallout patterns from real blasts are amoeboid shapes, with uneven borders and many hot spots and cool spots in unpredictable places. Fallout actually drifts like snow and may pile up on one side of a wall and leave the other relatively cool—but you can't tell without monitoring equipment. You only know you've had an overdose of radioactivity by the symptoms.

The symptoms are not pleasant. Nausea, vomiting and diarrhea are the openers, followed by loss of hair, ulceration of the skin and bleeding. Death, if and when it occurs, is by infection which the body has no strength to resist. It can take weeks to die of radiation sickness.

The heaviest fallout reaches the Chesapeake Bay, 30 miles downwind, about three hours after the explosion, although some fallout settles near the site of the blast within about 15 minutes. Anyone near the blast area who is not very well protected is killed by the early radiation. It takes about 500 rads (a typical diagnostic abdominal X-ray uses about a quarter of a rad) to kill more than 50 per cent of the people, and considerably less (250 rads) to kill some—children, old people, the sick.

In the very high radiation areas, within some 5 miles downwind of the blast, fallout is radiating to the level of 500 to 1,000 rads an hour at the peak. Then, slowly, the rate of radiation falls off, but not to "safe" levels for weeks or more. (There is a good deal of discussion about what a safe level is. Some contend there is no safe level. Even dental X-rays pose a problem. The Civil Defense people are most concerned with survival for six months, not six years. So late-appearing cancers are not counted in their calculations.)

Annapolis, for example, is 35 miles east of Langley. As our prevailing winds blow west to east, it is fair to assume that Annapolis would have to live underground for a while. If the winds shifted to blow from the south, as winds are likely to do at times, Baltimore could be affected. However, it also is safe to assume that if four warheads landed on Washington, Baltimore might well have received a megaton or two on its own.

The fallout patterns would, most likely, blanket all areas east of Washington to the Chesapeake Bay with enough fallout to require spending two weeks underground. Farther away, on the Eastern Shore, the chickens would fare better than their owners. Chickens can withstand a lot of radiation, and they get slaughtered before they get cancer.

But would we be able to stay underground for two weeks? Psychiatrist Jerome D. Frank, vice chairman of the Federation of American Scientists, confesses to some doubts. "It is difficult enough to find suitable candidates for space missions or for submarine duty," he notes, "and those projects are slowly and carefully planned for. There is no element of fear or panic, as there would be with an attack . . . Here they talk about a group of strangers all cooped up together, not knowing where their loved ones are, or if they have survived or are dying slowly. They don't know if they have radiation sickness already; they don't know what is going on outside or what will be left when they get out . . . And remember, the symptoms of extreme anxiety may be the same as the first symptoms of radiation sickness." And he adds with irony that, though radiation sickness is not contagious, vomiting in a tight, confining space certainly is.

In the accounts following the bombing of Hiroshima and Nagasaki, there are grim stories of a population glazed by fear, or parents wandering through the streets looking for their dead children, oblivious to their pain or to the possibility of further attack. Others could not be prodded to move from where they huddled, even if relative safety were within sight. If a parent had managed to go to a shelter without his or her child, could that parent stay sheltered for two weeks without knowing what had happened?

Civil defense experts agree that the number of survivors from a nuclear attack would depend greatly on how much warning time there was. Generally, it is agreed that a major attack would not happen "out of the blue" but after a worsening political situation that would put everyone on edge. George Rodericks has testified that 30,000 to 40,000 Washington-area residents spontaneously "evacuated" the city during the 1962 Cuban missile crisis. But many more did not leave the city for safety in the hills.

If everyone fled to the hills to the west before the attack, there would obviously be fewer deaths from the blast—unless the Soviets decided to knock out Mount Weather, one of the homes away from home that the government has set aside for its top officials in time of nuclear danger.

But if the attack came on a midweek morning, after rising tensions but before a presidential order to evacuate, deaths and severe casualties in the Washington area would be close to a million.

This assumes that only Washington is hit, so that emergency medical services, fresh water, uncontaminated food, blankets and other relief can all be brought in to the survivors. It assumes that the rest of the nation would rush to aid the stricken capital. Yet that assumption is open to question.

Any nation that went for the capital of a country with such huge retaliatory powers would be crazy not to try to knock out our missile silos, our submarine bases and our Strategic Air Command bases. Under these circumstances, the picture would be quite different. Writing in Scientific American, physicists Sidney Drell of Stanford University and Frank Von Hippel of Princeton projected a situation in which the fallout from Soviet strikes against missile silos on the Great Plains would creep eastward to Virginia. With the unknown millions dead and injured even after a "limited" attack, Washington would be on its own to cope with possible epidemics, starvation, total social dislocation, and perhaps even an invasion of insects. (Cockroaches appeared on the earth before human beings and will likely outlast us. They practically thrive on radiation.)

The Civil Defense Preparedness Agency has published a scenario entitled "The Nuclear Crisis of 1979," in which the United States is attacked with a total of 5,000 megatons. In the imaginary year after, this most optimistic of agencies concluded, "There are still regions of the country which people simply avoid. The Eastern Megalopolis, for example, is a nightmare which is usually observed by airplane. Otherwise entering that region means that you would pick up an extra dose of radiation." In another section this evaluation of cities after an attack appears: "Increasingly the central cities were to become havens for 'derelicts' of society—those who took chances with alcohol, drugs, crime and nuclear threats . . . .

INFLATION

Mr. GARN. Mr. President, two problems are facing the Carter administration: The energy bill, now in conference between the House and Senate, and the slide of the dollar on foreign money markets. Let me suggest that there may be a connection.

Of course, not all the dollar's problems are caused by the increasing share of our energy needs that we must import, but it is undeniable that buying 45 percent of your oil overseas contributes to your trade imbalance. To the extent that the dollar's problems are tied to oil imports, the solution is simple: Remove controls over domestic energy. Imports would decrease, domestic production would increase, the dollar would begin to recover, and all would be well. Energy prices might go up, though there is a growing body of evidence that confirms economic theory that U.S. gasoline prices are already at world market prices. But even if they did, that would be preferable to the destruction of our economy which result from continued oil imports and the accompanying destruction of the dollar.

Mr. President, an editorial from Forbes magazine makes many of these same points. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows.

FACT AND COMMENT

(By Malcolm S. Forbes)

OVERNIGHT CARTER COULD CURE THE DOLLAR'S SICKNESS

The sharp rate of the dollar's decline won't be cured but only slowed by the Administration's new, now-sincere effort to firm up the buck. Federal Reserve fiddling with interest rates is not unlike giving painkillers to cancer patients.

It's not a cure and soon has most disastrous side effects. The cost for the Treasury's ongoing multibillion borrowings at the higher interest will shove the federal deficit deeply deeper. The government itself will thus fire inflation flames.

Everyone agrees that the problem is the incredible and ceaselessly climbing $billions we spend to import oil.

The day President Carter has the sense to see the need for—and the guts to ask for—the freeing of price ceilings on fuel, on gas (natural and liquid), virtually every objective he seeks becomes achievable.

Overnight.

The dollar will rebound because we know that, before 12 months have passed after such a presidential move, additional internal energy sources will be coming on stream. The initial added energy trickle will swiftly be a stream. Under present and proposed restrictions, energy companies that face a loss bringing in new supplies can be sued for irresponsible use of stockholder assets.

Profiteering?

What isn't spent developing new and additional sources can be largely taxed away by Washington—where I little doubt they will find the means of disposing of these princely sums.

The stock market will climb and climb.

Confidence indices of both consumers and companies will climb and climb.

So will business expansion, meaning more jobs—real jobs. Not federal make-work.

Instead of Carter being a villain for the increased fuels costs that he seeks, people can go right on blaming the oil companies, and they in turn can go right on trying to enlighten the public.

Everywhere else in the Free World motorists pay from a buck and a half to over $2 a gallon for fuel. As the Times of London commented in an editorial (reprinted in the *Wall Street Journal*): "A nation running an enormous deficit in order to avoid proper energy prices, and in order to keep the temperature of its homes and offices cooler in summer than in winter, does not make economic sense to the rest of the world." By making the cost of developing additional in-house energy profitless, our government is subsidizing, through the exports of $billions for imported oil, cheap fuel for the consumer and is endangering—everyday, more so—the dollar, Free World trade, U.S. credit and credibility.

"Oh, say, can you see?" Mr. President?

INFLATION'S NO MORE BEATABLE THAN ANY OTHER TAX

Just as there are blamed few ways to avoid—legally—any other tax, so too it's almost impossible to beat inflation's "take" from your take-home pay.

Inflation is not a mysterious Something Out There.

It's a wickedly regressive, painfully unhidden tax. It's only the terminology that makes it seem to be something else.

On the face of it, it seems so simple to pass, as Congress has done, a law that provides extreme penalties for any "bribing" of foreign officials by American corporations. The new law provides for a $1-million fine for a guilty company, with up to five years imprisonment and/or fines of up to $10,000 for the corporate officials involved—double the fine for those convicted of price-fixing.

As the President said when he signed the bill, "I share Congress' belief that bribery is ethically repugnant and competitively unnecessary."

No doubt about it—ethically repugnant.

Competitively unnecessary? Dream on.

In probably more countries than any reader can name offhand—there are now, you know, 220 of 'em—Who Gets the Order is determined by Who Places the Order. And the latter Whos, by long, rarely broken tradition, expect/demand their cut . . . call it commission, reimbursement or some other euphemism. Only when the product or service has no competition or when essential credit is supplied does the seller have clout beyond that of the buyer.

Regretting this is so doesn't make it less so. The new law, be it ever so applaudable, will mean less exports of U.S. goods and services, more sales for our foreign competitors.

Virtue has its price.

Isn't it wonderful that we can afford to pay it?

VIEWS OF DEAN LOUIS POLLAK ON THE PANAMA CANAL TREATY

Mr. CLARK. Mr. President, one of this country's outstanding constitutional lawyers is Dean Louis Pollak of the University of Pennsylvania Law School.

Dean Pollak, who has also been dean of the Yale Law School, has had a varied career including private practice and experience in Government; he has written a major work on "The Constitution and the Supreme Court." He has been studying the Panama Canal Treaties and carefully following the debate now taking place on the constitutional issues these treaties present. One of the most important of these is the treaty power in relation to the transfer of U.S. property and territory, a matter of great interest to the Senate.

He has sent me a short paper summarizing his views, which I believe will be highly informative to all taking part in the consideration of these treaties.

His conclusions are, first, that the Supreme Court has recognized that there is a power to dispose by treaty of territory belonging to United States which is independent of the concurrent congressional power, and second, that the discussion in the constitutional Convention of 1787 confirms the settled understanding of our treatymakers and of the Supreme Court that territory belonging to the United States may be ceded by treaty.

Mr. President, I ask unanimous consent that Dean Pollak's analysis be printed, in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAN THE UNITED STATES CEDE TO PANAMA, BY TREATY, UNITED STATES RIGHTS IN THE TERRITORY AND INSTALLATIONS OF THE CANAL ZONE?

On November 4, 1977, Senator Allen placed in the Congressional Record a statement by Raoul Berger, former Charles Warren Fellow at Harvard University, made in hearings on the Panama Canal Treaties held by the Senate Subcommittee on Separation of Powers. The thrust of Mr. Berger's statement was that cession to the Republic of Panama of such title as the United States possesses in (1) territory in the Canal Zone, and (2) United States installations in the Zone, cannot constitutionally be effectuated by treaty, but only by statute, for the reason that the disposition of territory and other property of the United States is vested by Article IV, § 3(2) of the Constitution exclusively in Congress. Mr. Berger is a constitutional lawyer and historian of great distinction, whose scholarly work has enriched our understanding of many aspects of the Constitution, and so it is appropriate to pay close attention to his views on major constitutional questions. Nonetheless, careful examination of the arguments advanced by Mr. Berger persuades me that in this instance he is in error. It is my submission that the proposed treaties with Panama, if consented to by the constitutionally required two-thirds of the Senate and duly ratified by the executive branch, will of their own force accomplish the cession to Panama of the territory and the installations in question:

A. THE DEVELOPMENT OF TREATY PRACTICE AND TREATY DOCTRINE

1. Broadly stated, Mr. Berger's thesis is that the treaty power, which the Constitution vests in the President and the Senate but does not define, cannot be read as giving to the President and the Senate powers concurrent with the powers specifically delegated to Congress by Article I, § 8, Article IV, § 3(2), and other provisions of the Constitution.

2. The thesis is not a new one. It was strongly advanced in 1795, in opposition to the Jay Treaty; and it was strongly resisted by no less a constitutional authority than John Marshall—the Virginia legislator who was later to be a Congressman, then Secretary of State and finally Chief Justice. Beveridge, in his authoritative biography of Marshall, sums up the argument:

"Among the many objections to the treaty, the principal one . . . was that it violated the Constitution. The treaty regulated commerce; the Constitution gave that power to Congress, which included the House of Representatives; yet the House had not been consulted. . . .

". . . Marshall's position was that a 'treaty is as completely a valid and obligatory contract when negotiated by the President and ratified by him, with the assent and advice of the Senate, as if sanctioned by the House of Representatives also, under a constitution requiring such sanction'; and he admitted only that the powers of the House in reference to a treaty were limited to granting or refusing appropriations to carry it into effect." [1]

3. Marshall's position anticipated the pattern which has in fact characterized the utilization of the treaty power. As Secretary of State (former Congressman, former Senator and former Vice President) John C. Calhoun observed in 1844, "From the beginning and throughout the whole existence of the Federal Government it has been exercised constantly on commerce, navigation and other delegated powers." *O. Wright, The Control of American Foreign Relations* (1922) 344. Moreover, such treaty provisions have routinely been treated as self-executing except where, as Professor Louis Henkin has put it in his definitive work, "the treaty-makers voluntarily left some subjects to regulation by Congress (*e.g.*, international tariffs and trade). . . ." *Henkin, Foreign Affairs and the Constitution* (1972) 149. Although the treaty-makers have generally supposed the treaty power to be concurrent with that of Congress with respect to commercial regulations, the disposition of American territory and other government property, and most of the other powers expressly lodged in Congress by the Constitution (and have routinely been sustained in this supposition), they have customarily felt obliged to seek statutory implementation of treaties touching the area of Congressional authority with respect to which Marshall felt action by the House of Representatives was constitutionally indispensable:—namely, "granting . . . appropriations." The reason for acknowledging an exclusivity in Congress with respect to the appropriations power, but not with respect to most of its other powers (the regulation of commerce, the disposition of the property of the United States, etc.) arises from the text of the Constitution. Most legislative powers are merely couched in the familiar phrase, "Congress shall have power . . ."—a phrase which, syntactically, does not preclude concurrent authority in the President and Senate as treaty-makers. But the spending power, although couched in the same general form, is also subject to an express constitutional limitation—"No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . ." [Article I, § 9(7)]—a limitation which arguably requires statutory implementation of a treaty commitment to make expenditures.[2]

4. The thesis which John Marshall steadfastly resisted in 1795 was adopted by Marshall's great rival, Thomas Jefferson, in his *Manual of Parliamentary Practice*. Jefferson—who as Secretary of State, Vice President and President "was no friend of the Treaty Power," [Henkin, *supra* at 142]—set forth four propositions, the second and fourth of which were as follows: "2. By the general power to make treaties, the Constitution must have intended to comprehend only those subjects which are usually regulated by treaty, and can not be otherwise regulated . . . 4. And also to except those subjects of legislation in which it gave a participation to the House of Representatives." *Ibid.* Marshall was not the only one of Jefferson's great contemporaries who was unpersuaded by Jefferson's narrow view of the treaty power. Justice Story noted that "The power 'to make treaties' is by the Constitution general; and of course it embraces all sorts of treaties, for peace or war; for commerce or territory; for alliance or succours; for indemnity for injuries or payments of debts; for the recognition and enforcement of principles of public law; and for any other purposes, which the policy or interests of independent sovereigns may dictate in their intercourse with each other." III *J. Story, Commentaries on the Constitution of the United States* (1833) 355. Story acknowledged that the treaty power was not unlimited; "A treaty to change the organization of the government, or annihilate its sovereignty, to overturn its republican form, or to deprive it of its constitutional powers, would be void; because it would destroy, what it was designed merely to fulfill, the will of the people. Whether there are any other restrictions, necessarily growing out of the structure of the government, will remain to be considered, whenever the exigency shall arise." *Id.* at 356. And then, in a footnote, Story dispatched Jefferson's constitutional doubtings: "Mr. Jefferson seems at one time to have thought that the Constitution only meant to authorize the president and senate to carry into effect, by way of treaty, *any power they might constitutionally exercise.* At the same time, he admits, that he was sensible of the weak points of this position. 4 Jefferson's Corresp. 498. What are such powers given to the president and senate? Could they make appointments by treaty?" [3]

5. Marshall and Story were early expositors of what—Jefferson and a few others apart—has always been the orthodox view that the President and the Senate, in making treaties, can regulate almost every subject matter also entrusted to the legislative authority of Congress. But it fell to Calhoun—speaking as a Congressman, a quarter-century before he became Secretary of State—to explain, with more precision than either of the great Justices achieved, the scope of the treaty power and the constraints which other parts of the Constitution impose upon its exercise [29 *Annals of Congress* 530–31 (Jan. 9, 1816)]:

"The grant of the power to make treaties is couched in the most general terms. The words of the Constitution are that the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senate concur. In a subsequent part of the Constitution, treaties are declared to be the supreme law of the land. Whatever limits are imposed in those general terms ought to be

Footnotes at end of article.

the results of the construction of the instrument. There appeared to him but two restrictions on its exercise; the one derived from the nature of our Government, and the other from that of the power itself. Most certainly all grants of power under the Constitution must be controlled by that instrument; for, having their existence from it, they must of necessity assume that form which the Constitution has imposed. This is acknowledged to be true of the legislative power, and it is doubtless equally so of the power to make treaties. The limits of the former are exactly marked; it was necessary to prevent collision with similar co-existing State powers. This country is divided into many distinct sovereignties. Exact enumeration here is necessary to prevent the most dangerous consequences. The enumeration of legislative power in the Constitution has relation then, not to the treaty-power, but to the powers of the State. In our relation to the rest of the world the case is reversed. Here the States disappear. Divided within, we present the exterior of undivided sovereignty. The wisdom of the Constitution appears conspicuous. When enumeration was needed, there we find the powers enumerated and exactly defined; when not, we do not find what would be vain and pernicious. Whatever, then, concerns our foreign relations; whatever requires the consent of another nation, belongs to the treaty power; can only be regulated by it; and it is competent to regulate all such subjects; provided, and here are its true limits, such regulations are not inconsistent with the Constitution. If so they are void. No treaty can alter the fabric of our Government, nor can it do that which the Constitution has expressly forbade to be done; nor can it do that differently which is directed to be done in a given mode, and all other modes prohibited. For instance, the Constitution of the United States says, no money 'shall be drawn out of the Treasury by by an appropriation made by law.' Of course no subsidy can be granted without an act of law and a treaty of alliance could not involve the country in war without the consent of this House." . . .

6. As Professor Henkin recently observed, Jefferson's conception of the treaty power "would outlaw treaties on matters as to which Congress could legislate domestically" and thus "would virtually wipe out the Treaty Power." *Henkin, supra* at 149. But Jefferson's conception, as Professor Quincy Wright stated over half a century ago, was "both erroneous and incomplete." *Wright, supra* at 123.

It is a conception which, as Professor Henkin has noted, "[e]ven in Jefferson's day . . . was hardly accepted by all; it has now been long dead. Treaties have dealt with many matters that were also subject to legislation. . . . The House of Representatives has frequently bristled, but its exclusion from the treaty process was the clear constitutional plan. . . ." *Henkin, supra* at 149. In short, Calhoun has won the day.

7. Among the many legislative powers which can also be exercised by treaty is the particular power which Mr. Berger would deny to the treaty-makers—the power to dispose of American territory and other property. The matter was clearly put over sixty years ago by Dr. Samuel Crandall in his illuminating comparative study of the treaty power:

"In respect of territory not within the boundaries of a State, the central government exercises, subject to the express prohibitions of the Constitution applicable thereto, all the powers of government enjoyed by both the central and State governments over territory within the limits of a State. Accordingly, the power to cede such territory, if it exists as a power of government, resides in the organs of the central government. That the consent of the inhabitants of the territory to be ceded is essential to give validity to the transfer cannot be maintained. The power to cede outlying territory is no less essential to the full exercise of the treaty-making power of the United States, which "extends to all the proper subjects of negotiation between our government and the governments of other nations," than is the power to acquire. Various treaties have been concluded by which the United States has relinquished extra-territorial rights theretofore enjoyed in other countries." [4]

B. JUDICIAL RECOGNITION THAT THERE IS A TREATY POWER TO DISPOSE OF AMERICAN TERRITORY WHICH IS INDEPENDENT OF THE CONCURRENT CONGRESSIONAL POWER

1. Dr. Crandall, as Mr. Berger has observed, is "a respected commentator." Text of Berger Statement, at note 42. But the decisive question is whether Dr. Crandall's view of the treaty power—incompatible with Jefferson's, but consonant with that of Marshall, Story, and Calhoun (and Professors Wright and Henkin)—is in accord with the views expressed by the Supreme Court. The answer is in the affirmative.

2. "It is settled," said the unanimous Court in *Jones* v. *Meehan*, 175 U.S. 1, 16 (1899), "that a good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe, without any act of Congress, or any patent from the Executive authority of the United States." This proposition, validating the power to alienate American territory by treaty, was central to the disposition of *Jones* v. *Meehan*. The principal issue before the Court was whether the Treaty with the Chippewas of 1863 conveyed full title to Chief Moose Dung of "six hundred and forty acres near the mouth of Thief River." The Court's holding was that:

"The title to the strip of land in controversy having been granted by the United States to the elder chief Moose Dung by the treaty itself, and having descended, upon his death, by the laws, customs and usages of the tribe, to his eldest son and successor as chief, Moose Dung the younger, passed by the lease executed by the latter in 1891 to the plaintiffs for the term of that lease; and their rights under that lease could not be divested by any subsequent action of the lessor, or of Congress, or of the Executive Departments. The construction of treaties is the peculiar province of the judiciary; and except in cases purely political, Congress has no constitutional power to settle the rights under a treaty, or to affect titles already granted by the treaty itself." [5]

3. The Court's holding in *Jones* v. *Meehan* is consistent not only with its earlier pronouncement in *Holden* v. *Joy*, 84 U.S. 211, 247 (1872) ("On the contrary, there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands (lands which belonged to the United States) without an act of Congress conferring it, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political"), but with its classic formulation of the scope of the treaty power in *Geofroy* v. *Riggs:*

"The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the government or of its departments, and those arising from the nature of the government and that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the Government or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent. *Fort Leavenworth Railroad Co.* v. *Lowe*, 114 U.S. 525, 541. But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country." [6]

4. Whether, as the Court said, the Constitution precludes treaty cession of territory within a state without the state's consent, may be debatable, for the Constitution does not in terms so confine the treaty power (or the concurrent legislative power to dispose of federal territory). Nonetheless the dictum is one which conforms at least in spirit to the Constitution's insistence that new states not be created out of the territory of existing states without the consent of the state or states affected. Article I, § 3(1).

And considerations of prudence would seem to support such a constraint on the exercise of the treaty power. (See the Court's discussion, in *Fort Leavenworth Railroad Co.* v. *Lowe* [cited in *Geofroy* v. *Riggs*] of the procedures followed in fashioning the Webster-Ashburton Treaty [the Washington Treaty of 1842], settling the long-vexed questions surrounding the United States-Canadian boundary: Justice Field noted that "it was deemed necessary on the part of our government to secure the cooperation and concurrence of Maine, so far as such settlement might involve a cession of her sovereignty and jurisdiction as well as title to territory claimed by her, and of Massachusetts, so far as it might involve a cession of title to lands held by her"). [7] In any event, it is plain that no consent, whether of the inhabitants or of Congress, is necessary where, as in the proposed Panama treaties, the land to be ceded by treaty is not located in a state. [8]

C. THE DISCUSSION IN THE CONSTITUTIONAL CONVENTION CONFIRMS THE SETTLED UNDERSTANDING OF OUR TREATY-MAKERS AND OF THE SUPREME COURT THAT AMERICAN TERRITORY MAY BE CEDED BY TREATY

1. The discussion of the treaty power in the Constitutional Convention plainly discloses the awareness of the framers that treaties might frequently be a mechanism for the cession of territory. Indeed, as Mr. Berger's Addendum shows, this awareness manifested itself more than once in proposals to surround the treaty-making process with special safeguards when it involved the cession of territory.

2. One such proposal would have stipulated "that no Treaty shall be made without the concurrence of the House of Representatives, by which the territorial boundaries of the United States may be contracted. . . ." IV *Farrand, The Records of the Federal Convention of 1787* (1937 ed.) 58. This proposal, advanced on September 7, 1787—very late in the Convention's deliberations—"was then debated, but the motion does not appear to have been made."

3. The lapsed motion of September 7 evidently reflected concern at the great power proposed to be lodged in two-thirds of the Senate. But there were counter-concerns—some members of the Convention were troubled at permitting one-third-plus-one of the Senate to block treaty ratification. Thus, on September 8, Rufus King "moved to strike out the 'exception of Treaties of peace' from the general clause requiring two-thirds of the Senate for making Treaties," and James Wilson then urged that "the requisition of two-thirds . . . be struck out altogether." And at this point, "A reconsideration of the whole clause was agreed to." II *Farrand* 547–48.

4. In the course of the ensuing debate, Roger Sherman stated that he "was agst leaving the rights, established by the Treaty of Peace, to the Senate, & moved to annex a 'proviso [sic] that no such rights shd be ceded without the sanction of the Legisla-

Footnotes at end of article.

ture." According to Madison's notes, "Mr. Govr. Morris seconded the idea of Mr. Sherman." Nonetheless, the proposal of September 8, like the proposal of September 7, does not appear to have ever been put to a vote.

5. Mr. Berger, in his Addendum, mentions the September 7 proposal and speculates on the inference to be drawn from the failure of the Convention to pursue the matter:

"Why was the motion not made after debate? Presumably, the matter was postponed for consideration [when Article IV,] Section 3(2) would come up for discussion. During this subsequent discussion of "The Legislature shall have power to dispose of . . . the territory. . . .", it is singular that no mention was made of an exception for disposition under the treaty power. II *Farrand* 466. Non-mention is the more remarkable because such an exception would carve out an area of undefined magnitude from the power conferred, a matter which would affront the democratically minded who placed their faith in the House. It seems more reasonable to infer from the history that Article IV, Section 3(2) was designed to set at rest the fears that territory might be ceded without the concurrence of the House."

6. Mr. Berger's inference might be thought to have some modest plausibility if the discussion of Article IV, § (2), to which Mr. Berger refers (the discussion summarized at II *Farrand* 466), had in fact been "subsequent" to the discussion of the treaty power. But it was not. The discussion of Article IV § 3(2) referred to by Mr. Berger took place on August 30, a little over a week prior to the debate on the treaty power adverted to above.

Conclusion

As noted earlier in this memorandum, the thesis put forward by Mr. Berger is essentially the narrow Jeffersonian conception of the treaty power which would "outlaw treaties on matters as to which Congress could legislate domestically"—a conception which "has now been long dead." *Henkin, supra,* at 149. In a sense, then, it seems anomalous to be reexamining this ground in 1978. And the anomaly is only underscored by the fact that, in our own time, the major constitutional debate about the scope of the treaty power has been of a wholly different nature: Can the treaty-makers, through the exercise of their authority to act on all matters of international concern, empower Congress to enact legislation going beyond its specifically enumerated grants of power?

Yes, the Supreme Court held, in *Missouri* v. *Holland.*[9] Is the treaty power then wholly unrestrained, provided it is exercised in an area of international concern? No, the Supreme Court announced, in *Reid* v. *Covert:*[10] the treaty-makers, like all other departments of government, are restrained by those prohibitions—most notably, those embodied in the Bill of Rights—to which all actions taken under the authority of the United States must conform. In sum, since 1920, when *Missouri* v. *Holland* was decided, the active questions as to the scope of the treaty power have grown out of the perception that the treaty power is, at least in theory, broader than the power of Congress to enact domestic legislation. Those questions are no longer as significant as they once were—in part because of the limitations on the treaty power announced in *Reid* v. *Covert,* and in part because the domestic legislative authority of Congress is now acknowledged to be far broader than was perceived half a century ago. In any event, the proposition that the treaty power is infinitely narrower than the Congressional power—the clear implication of the Jeffersonian conception which Mr. Berger has now revived—is a constitutional anachronism.[11]

If the proposed treaties with Panama are approved by a two-thirds vote of the Senate, and duly ratified, they will, in my judgment, of their own force effectuate the cession to Panama of American title to the land and installations of the Canal Zone.

LOUIS H. POLLAK [12]

January 19, 1978.

APPENDIX A

Exchange of Letters Between Governor Edward Everett and Mr. Justice Joseph Story, Taken From II, *W. W. Story, Life and Letters of Joseph Story* [1851], pp. 286–89:

To Hon. Joseph Story.

BOSTON, APRIL 14, 1838.

MY DEAR SIR: The legislature has adopted some resolves relative to the Northeastern Boundary of the United States, which have been presented to me for my official signature. One of them is in the following terms:

"*Resolved*, That no power delegated by the Constitution to the government of the United States authorizes them to cede to a foreign nation any territory lying within the limits of either of the States in the Union."

I beg leave to ask your opinion, (to be given confidentially or otherwise as you may deem proper,) whether you consider the principle asserted in this resolve, as a well-settled doctrine of Constitutional Law. I have carefully read what is said of the treaty-making power in your Commentaries, Volume iii. p. 354, et seq. At the close of § 1502, you name certain restrictions on the treaty-making power, which must be assumed; but that of ceding a part of a State is not one of them. You add, however, the remark, "Whether there are any other restrictions necessarily growing out of the structure of the government will remain to be considered whenever the exigency shall arise."

The restriction in question (if it exist) must be one of this character, and I should prefer to follow your wise counsel, and let it remain to be considered, when the exigency arises. The present controversy does not appear to me to create such an exigency, for it is a question not of ceding an admitted portion of the territory of Maine, but of ascertaining the boundary between the British territory and ours. The resolve of the legislature, however, raises the abstract question, and I wish your advice, whether I can safely affirm it.

I am, dear Sir, with the highest respect, And Sincere attachment,

Faithfully yours,

EDWARD EVERETT.

I would observe, that it is my present inclination, if I do not sign the Resolves, to let them pass *sub silentio*, as they are only expressions of the opinions of the legislature.

CAMBRIDGE, APRIL 17, 1838.

To His Excellency Edward Everett.

MY DEAR SIR: In reply to your favor of the 14th inst. which I received by yesterday's mail, I beg to say, that I consider the Resolve referred to as very objectionable as a matter of Constitutional Law, I cannot admit it to be universally true, that the Constitution of the United States does not authorize the government of the United States "to cede to a foreign nation any territory within the limits of the States of the Union." If the proposition is true, then in case of a war, it would be incompetent for the government by a treaty to cede any territory conquered during the war, and which might be indispensable to purchase peace. So a cession could not be made, even with the assent of the State within which the territory was situated; for neither the State nor the United States could alone cede it, and then both could not. Yet the cession might be of a nature calculated for the safety of both nations, and might be an equivalent for a like cession on the other side.

I remember to have had some conversation with Mr. Chief Justice Marshall, some years ago, when the subject was under discussion, with reference to the contested boundary in Maine. He was unequivocally of opinion, that the treaty-making power did extend to cases of cession of territory, though he would not undertake to say that it could extend to all cases; yet he did not doubt it must be construed to extend to some.

It appears to me that our legislature have very unnecessarily, and (as I think also) against our true public policy with reference to the contested boundary of Maine, stated this proposition. It may embarrass the government in its negotiations; and it is wholly gratuitous, — since, in a case of contested boundary, there is no pretence to say that an ascertainment of the true boundary involves the question of cession.

I always look with alarm and regret upon all attempts of our legislatures to settle constitutional questions in the heat of controversy, and under the impulses of party. Nor do I think that Massachusetts ought to commit herself upon any doctrine of this sort, at this time. I doubt its soundness; but I do not at all doubt its inexpediency. The time may arrive when our very existence and salvation as a nation, may depend upon the exercise of this very power. If the national government does not possess it, it is to all intents and purposes an extinguished right of sovereignty, for the States do not possess or retain it.

I see no objection to your leaving the resolve to its constitutional operation, *sub silentio*, if you think it best not to return it to the legislature with objections. I think the doubt of a constitutional point furnishes of itself a sufficient ground for rejecting a resolve embodying a positive declaration of it, unless there be an absolute necessity for some declaration on the subject.

What I have written I must ask you to consider as confidential, though I do not mean by this to say that I should object to its being seen by any of our confidential friends, such as Mr. Webster, if you should wish to consult him.

Believe me, with the highest respect,

Truly yours,

JOSEPH STORY.

FOOTNOTES

[1] II *A. Beveridge, The Life of John Marshall* (1916) 133–36. For tactical purposes, Marshall seems also to have argued that the Jay Treaty was so drawn as to leave to the House of Representatives leeway to determine whether to implement the commercial aspects of the Treaty; but this tactical concession respecting the form of a particular treaty was not at odds with Marshall's constitutional definition of the potential scope of the treaty power. *Ibid.*

[2] I say "arguably" because no such restraint on the treaty power was intimated by the Supreme Court in its classic exposition of the scope of the power in *Geofroy* v. *Riggs,* 133 U.S. 258, 267 (1890), quoted in the text *infra,* at note 6. Textual analysis akin to that dealing with the appropriations power provides an arguable basis for concluding that treaties cannot, without statutory implementation, levy taxes, since the Constitution specifies that "all Bills for raising Revenue shall originate in the House of Representatives." Article I, § 7(1). Congress' power to declare war may also be another power not shared by the treatymakers. See the quotation from Calhoun in the text, *infra* at n. 3.

[3] *Ibid.* at n. 2 (emphasis in original). That Story and Marshall were well aware that the treaty power includes authority to cede American territory is evident from the exchange of letters between Governor Edward Everett and Story set forth in Appendix A, *infra.*

[4] *S. Crandall, Treaties, Their Making and Enforcement* (2nd ed., 1916) 226–227. For concrete examples, see *id.* at 227–8.

[5] Mr. Berger discusses *Jones* v. *Meehan* in the light of an opinion rendered by Attorney General Taney before he became Chief Justice; the Taney opinion, dealing with an earlier transaction, was discussed by the Court and rejected as not controlling. See 174 U.S. at 12–18. See also *Percheman* v. *United States*, 32 U.S. (7 Pet.) 511 (1833), in which Marshall held that the Treaty with Spain of 1819 had of its own force confirmed the titles of pre-treaty owners of Florida land ceded to the United States by the Treaty; *Percheman* held that the interpretation of the 1918 Treaty approved in *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253 (1829) (a case relied on by Mr. Berger [Addendum to Statement, Part I]), was in error.

[6] 133 U.S. 258 (1890). *Geofroy* v. *Riggs* is a particularly strong illustration of the capacity of treaties to regulate matters delegated to Congress: That case applied a treaty to rights of inheritance in the District of Columbia, notwithstanding that Article I, § 8(17) confers on Congress the power of "exclusive legislation in all cases whatsoever" relating to the District.

[7] 114 U.S. 525, 541 (1885). See also the following in *The Writings and Speeches of Daniel Webster* (1903): vol. IX at 78 *et seq.*, vol. XI at 270 *et seq.*, and vol. XII at 21 *et seq.* Set forth below, in Appendix A of this memorandum, is an exchange of letters between Story and Massachusetts Governor Edward Everett which evidences Story's and Marshall's shared recognition of the capacity of a treaty to effectuate a cession of territory. (For having drawn my attention to the Everett-Story exchange, I am particularly indebted to Professor Stefan A. Riesenfeld, currently Counsellor to the Legal Advisor of the Department of State).

[8] With all respect, I submit that the two Supreme Court cases relied on by Mr. Berger to support the asserted exclusivity of legislative (as opposed to treaty) power to dispose of American territory, in no way undercut the doctrines so plainly announced in *Holden* v. *Joy*, *Jones* v. *Meehan*, and *Geofroy* v. *Riggs*. (1) The Court's opinion in *Sioux Tribe* v. *United States*, 316 U.S. 317 (1942), does refer, at pp. 324 and 326, to the "exclusive" Congressional power to dispose of United States territory, but the question which the Court there answered in the negative was whether the President, acting solely on his own authority, could "convey to the Tribe the same kind of interest in the lands affected *as it had acquired in the lands covered by the Fort Laramie Treaty. . . .*" (Id. at 324) (emphasis added.) Thus, *Sioux Tribe* v. *United States* properly held presidential power over federal lands to be subordinate to Congressional power, and did so against an historical background clearly illustrating that treaties are as effective as statutes to transfer title to federal lands. (2) *Wisconsin Central R.R. Co.* v. *Price County*, 133 U.S. 496 (1890), also relied on by Mr. Berger, holds state authority over federal lands to be subordinate to Congressional authority: when one bears in mind that the opinion was published in the same volume of the United States Reports as *Geofroy* v. *Riggs*, and indeed was written by the same Justice (Justice Field), it is quite clear that the Court's insistence on the paramountcy of Congressional power was directed solely at the rival power before the Court—state power—and not at the concurrent treaty power, which is, like Congressional power, part of "the Supreme Law of the Land." Article VI, § 2.

[9] 252 U.S. 416 (1920).

[10] 354 U.S. 1 (1957).

[11] Mr. Berger's concerns about the aggrandizement of executive authority—concerns rooted in the traumas of Vietnam and Watergate—do not advance analysis of the scope of the treaty power. Treaties are made by the President, but subject to the consent of two-thirds of the Senate—hardly a recipe for unrestrained Presidential power. Arguably, such concerns are pertinent when a President proposes to take major international initiatives on his own account by executive agreement with a foreign power. *Cf.* 39 Op. Atty. Gen. 484 1941. They are not pertinent—indeed, they may properly be termed impertinent—when a President, acting in meticulous conformity with the procedures specified in the Constitution, has asked the Senate to fulfill the partnership role in the making of treaties which the Constitution expressly contemplates.

[12] Dean of the University of Pennsylvania Law School; Albert M. Greenfield University Professor of Human Relations, History and Law.

TAX CUTS, ANYONE?

Mr. GARN. Mr. President, for the last couple of years, Republicans have been urging significant tax cuts as a spur to the economy and a way to reduce massive budget deficits. Finally, President Carter has joined in the call for cuts, but with the object in view of increasing the budget deficit. Still in the thrall of a discredited Keynesianism, he remains convinced that transferring income from the productive sector of our economy to consumers will get us out of our present economic stagnation.

He is wrong.

Tax rates are too high, particularly at the top, where those whose efforts have been judged by the rest of us to be valuable reside. Increasing taxes on these productive individuals, and transferring their income to those less likely to produce, but certain to consume, can only aggravate an already troublesome inflation. The President's proposals will not produce more goods and services. How can they? Those who are most productive will find themselves penalized if they produce any more goods and services, and so naturally, they will not do it. Those less likely to produce will find themselves with more money to spend, so they will bid up prices on the reduced supply of goods and services. Anyone can see where that will lead.

The answer, of course, is an across-the-board tax cut, making everyone better off. It has been many years since incentives to production were increased, and it is about time that it is tried. It is exactly that approach that is advocated in the Roth-Kemp tax cut bill, which I have cosponsored. There are those who argue that passage of such a tax cut will increase the budget deficit, and that Federal spending should be reduced before such a cut is enacted. I am all for holding down Federal spending, but if we wait for that day to arrive, there will never be a tax cut. Besides, there is very good evidence that a tax cut will increase tax revenues, not lower them, and lower the budget deficit.

In an article in the current issue of the Public Interest, Jude Wanniski discusses this phenomenon. Briefly stated, the thesis is that there are two tax rates that will produce the same amount of tax revenue. That this is true is easiest to see at tax rates of zero and 100 percent. In either case, tax revenue would be zero. If tax rates were 100 percent, revenues would be zero, and people would do everything for themselves. As tax rates are reduced from 100 percent, it becomes profitable to move into a money economy, and tax revenues increase.

I am not suggesting that tax rates today are 100 percent, but I do contend that they are high enough today to discourage economic efficiency, and that cutting taxes would permit increased efficiency and thus increased tax revenues. The Wanniski article is fascinating, and I commend it to the attention of every Senator before we consider the President's tax reform proposals later this year. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAXES REVENUES, AND THE "LAFFER CURVE"

(By Jude Wanniski)

(The diagram referred to in the following article is not reproducible in the RECORD.)

As Arthur Laffer has noted, "There are always two tax rates that yield the same revenues." When an aide to President Gerald Ford asked him once to elaborate, Laffer (who is Professor of Business Economics at the University of Southern California) drew a simple curve, shown on the next page, to illustrate his point. The point, too, is simple enough—though, like so many simple points, it is also powerful in its implications.

When the tax rate is 100 percent, all production ceases in the money economy (as distinct from the barter economy, which exists largely to escape taxation). People will not work in the money economy if all the fruits of their labors are confiscated by the government. And because production ceases, there is nothing for the 100-percent rate to confiscate, so government revenues are zero.

On the other hand, if the tax rate is zero, people can keep 100 percent of what they produce in the money economy. There is no governmental "wedge" between earnings and after-tax income, and thus no governmental barrier to production. Production is therefore maximized and the output of the money economy is limited only by the desire of workers for leisure. But because the tax rate is zero, government revenues are again zero, and there can be no government. So at a 0-percent tax rate the economy is in a state of anarchy, and at a 100-percent tax rate the economy is functioning entirely through barter.

In between lies the curve. If the government reduces its rate to something less than 100 percent, say to point A, some segment of the barter economy will be able to gain so many efficiencies by being in the money economy that, even with near-confiscatory tax rates, after-tax production would still exceed that of the barter economy. Production will start up, and revenues will flow into the government treasury. By lowering the tax rate, we find an increase in revenues.

On the bottom end of the curve, the same thing is happening. If people feel that they need a minimal government and thus institute a low tax rate, some segment of the economy, finding that the marginal loss of income exceeds the efficiencies gained in the money economy, is shifted into barter or leisure. But with that tax rate, revenues do flow into the government treasury. This is the situation at point B. Point A represents a very high tax rate and very low production. Point B represents a very low tax rate and very high production. Yet they both yield the same revenue to the government.

The same is true of points C and D. The government finds that by a further lowering of the tax rate, say from point A to point C, revenues increase with the further expansion

of output. And by raising tax rate, say from point B to point D, revenues also increase, by the same amount.

Revenues and production are maximized at point E. If, at point E, the government lowers the tax rate again, output will increase, but revenues will fall. And if, at point E, the tax rate is raised, both output and revenue will decline. The shaded area is the prohibitive range for government, where rates are unnecessarily high and can be reduced with gains in both output and revenue.

TAX RATES AND TAX REVENUES

The next important thing to observe is that, except for the 0-percent and 100-percent rates, there are no numbers along the "laffer curve." Point E is not 50 percent, although it may be, but rather a variable number: It is the point at which the electorate desires to be taxed. At points B and D, the electorate desires more government goods and services and is willing—without reducing its productivity—to pay the higher rates consistent with the revenues at point E. And at points A and C, the electorate desires more private goods and services in the money economy, and wishes to pay the lower rates consistent with the revenues at point E. It is the task of the statesman to determine the location of point E, and follow its variations as closely as possible.

This is true whether the political leader heads a nation or a family. The family who disciplines his son at point A, imposing harsh penalties for violating both major and minor rules, only invites sullen rebellion, stealth, and lying (tax evasion, on the national level). The permissive father who disciplines casually at point B invites open, reckless rebellion: His son's independence and relatively unfettered growth comes at the expense of the rest of the family. The wise parent seeks point E, which will probably vary from one child to another, from son to daughter.

For the political leader on the national level, point E can represent a very low or a very high number. When the nation is at war, point E can approach 100 percent. At the siege of Leningrad in World War II, for example, the people of the city produced for 900 days at tax rates approaching 100 percent. Russian soldiers and civilians worked to their physical limits, receiving as "pay" only the barest of rations. Had the citizens of Leningrad not wished to be taxed at that high rate, which was required to hold off the Nazi army, the city would have fallen.

The number represented by point E will change abruptly if the nation is at war one day and at peace the next. The electorate's demand for military goods and services from the government will fall sharply; the electorate will therefore desire to be taxed at a lower rate. If rates are not lowered consistent with this new lower level of demand, output will fall to some level consistent with a point along the prohibitive side of the "Laffer curve." Following World War I, for example, the wartime tax rates were left in place and greatly contributed to the recession of 1919–20. Warren G. Harding ran for President in 1920 on a slogan promising a "return to normalcy" regarding tax rates; he was elected in a landslide. The subsequent rolling back of the rates ushered in the economic expansion of the "Roaring Twenties." After World War II, wartime tax rates were quickly reduced, and the American economy enjoyed a smooth transition to peacetime. In Japan and West Germany, however, there was no adjustment of the rates; as a result, postwar economic recovery was delayed. Germany's recovery began in 1948, when personal income-tax rates were reduced under Finance Minister Ludwig Erhard, and much of the government regulation of commerce came to and end. Japan's recovery did not begin until 1950, when wartime tax rates were finally rolled back. In each case, reduced rates produced increased revenues for the government. The political leader must fully appreciate the distinction between tax rates and tax revenues to discern the desires of the electorate.

The easiest way for a political leader to determine whether an increase in rates will produce more rather than less revenues is to put the proposition to the electorate. It is not enough for the politician to propose an increase from, say, point B to point D on the curve. He must also specify how the anticipated revenues will be spent. When voters approve a bond issue for schools, highways, or bridges, they are explicitly telling the politician that they are willing to pay the high tax rates required to finance the bonds. In rejecting a bond issue, however, the electorate is not necessarily telling the politician that taxes are already high enough, or that point E (or beyond) has been reached. The only message is that the proposed tax rates are too high a price to pay for the specific goods and services offered by the government.

Only a tiny fraction of all government expenditures are determined in this fashion, to be sure. Most judgments regarding tax rates and expenditures are made by individual politicians. Andrew Mellon became a national hero for engineering the rate reductions of the 1920's, and was called "the greatest Treasury Secretary since Alexander Hamilton." The financial policies of Ludwig Erhard were responsible for what was hailed as "an economic miracle"—the postwar recovery of Germany. Throughout history, however, it has been the exception rather than the rule that politicians, by accident or design, have sought to increase revenues by lowering rates.

WORK VS. PRODUCTIVITY

The idea behind the "Laffer curve" is no doubt as old as civilization, but unfortunately politicians have always had trouble grasping it. In his essay, "Of Taxes," written in 1756, David Hume pondered the problem:

"Exorbitant taxes, like extreme necessity, destroy industry by producing despair; and even before they reach this pitch, they raise the wages of the labourer and manufacturer, and heighten the price of all commodities. An attentive disinterested legislature will observe the point when the emolument ceases, and the prejudice begins. But as the contrary character is much more common, 'tis to be feared that taxes all over Europe are multiplying to such a degree as will entirely crush all art and industry; tho' perhaps, their first increase, together with other circumstances, might have contributed to the growth of these advantages."

The chief reason politicians and economists throughout history have failed to grasp the idea behind the "Laffer curve" is their confusion of work and productivity. Through both introspection and observation, the politician understands that when tax rates are raised, there is a tendency to work harder and longer to maintain after-tax income. What is not so apparent, because it requires analysis *at the margin*, is this: As taxes are raised, individuals in the system may indeed work harder, but their productivity declines. Hume himself had some trouble with this point:

"There is a prevailing maxim, among some reasoners, that every new tax creates a new ability in the subject to bear it, and that each increase of public burdens increases proportionably the industry of the people. This maxim is of such a nature as is most likely to be abused; and is so much the more dangerous as its truth cannot be altogether denied: But it must be owned, when kept within certain bounds, to have some foundation in reason and experience."

Twenty years later, in "The Wealth of Nations," Adam Smith had no such problem: In his hypothetical pin factory, what is important to a nation is not the effort of individuals but the productivity of individuals working together. When the tax rates are raised, the workers themselves may work harder in an effort to maintain their income level. But if the pin-making entrepreneur is a marginal manufacturer, the increased tax rate will cause him to shift into the leisure sphere or into a lower level of economic activity, and the system will lose all the production of the pin factory. The politician who stands in the midst of this situation may correctly conclude that the increase in tax rates cause people to work harder. But it is not so easy for him to realize that they are now less efficient in their work and are producing less.

To see this in another way, imagine that there are three men who are skilled at building houses. If they work together, one works on the foundation, one on the frame, and the third on the roof. Together they can build three houses in three months. If they work separately, each building his own home, they need six months to build the three houses. If the tax rate on homebuilding is 49 percent, they will work together, since the government leaves them a small gain from their division of labor. But if the tax rate goes to 51 percent, they suffer a net loss because of their teamwork, and so they will work separately. When they were pooling their efforts, since they could produce six houses in the same time it would take them to build three houses working alone, the government was collecting revenues almost equivalent to the value of three completed homes. At the 51-percent tax rate, however, the government loses all the revenue, and the economy loses the production of the three extra homes that could have been built by their joint effort.

The worst mistakes in history are made by political leaders who, instead of realizing that revenues could be gained by lowering tax rates, become alarmed at the fall in revenues that results when citizens seek to escape high tax rates through barter and do-it-yourself labor. Their impulse is to impose taxes that cannot be escaped, the most onerous of which is a poll tax or head tax, which must be paid annually for the mere privilege of living. Hume had no difficulty in pointing out the fallacy of that line of thinking:

"Historians inform us that one of the chief causes of the destruction of the Roman state was the alteration which Constantine introduced into the finances, by substituting a universal poll tax in lieu of almost all the tithes, customs, and excises which formerly composed the revenue of the empire. The people, in all the provinces, were so grinded and oppressed by the publicans [tax collectors] that they were glad to take refuge under the conquering arms of the barbarians, whose dominion, as they had fewer necessities and less art, was found preferable to the refined tyranny of the Romans."

The trouble with a poll tax, as Hume noted, is that it can be escaped—one method being not to defend your country against an aggressor who promises to remove the tax as soon as he has gained power. Montesquieu made a similar observation in Book XIII of "The Spirit of the Laws:"

"Because a moderate government has been productive of admirable effects, this moderation has been laid aside; because great taxes have been raised, they wanted to carry them to excess; and ungrateful to the hand of liberty, of whom they received this present, they addressed themselves to slavery, who never grants the least favor.

"Liberty produces excessive taxes; the effect of excessive taxes is slavery; and slavery produces diminution of tribute. . . .

"It was this excess of taxes that occasioned the prodigious facility with which the Mohammedans carried on their conquests. Instead of a continual series of extortions devised by the subtle avarices of the Greek

emperors, the people were subjected to a simple tribute which was paid and collected with ease. Thus they were far happier in obeying a barbarous nation than a corrupt government, in which they suffered every inconvenience of lost liberty, with all the horror of present slavery."

Modern governments have at least abandoned the notion of using a poll tax to generate revenues. Instead, they often go directly to the barter economy in search of revenues. Activities previously not admitted to the money economy and public marketplace because of public disapproval—e.g., gambling and pornography—are welcomed because of the promise of revenues. But this process tends to lower the quality of the marketplace itself, hastening the exodus or discouraging the entry of enterprises that have earned public approbation.

"CRACKING DOWN"

Another timeless remedy of governments that find revenues falling in the face of rising tax rates is to increase the numbers and powers of the tax collectors. Invariably, this method further reduces the flow of revenues to the treasury. Yet even with a thousand-year history of failure, the policy of "cracking down" on tax evasion remains a favorite of modern governments. Here is Adam Smith, in "The Wealth of Nations," on why such policies are doomed from the start:

"Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury of the state. A tax may either take out or keep out of the pockets of the people a great deal more than it brings into the public treasury in the four following ways.

"First, the levying of it may require a great number of officers, whose salaries may eat up the greater part of the produce of the tax, and whose perquisites may impose another additional tax upon the people.

"Secondly, it may obstruct the industry of the people, and discourage them from applying to certain branches of business which might give maintenance and employment to great multitudes. While it obliges the people to pay, it may thus diminish, or perhaps destroy, some of the funds which might enable them to do so.

"Thirdly, by the forfeitures and other penalties which these unfortunate individuals incur who attempt unsuccessfully to evade the tax, it may frequently ruin them, and thereby put an end to the benefit which the community might have received from the employment of their capitals. An injudicious tax offers a great temptation to smuggling. But the penalties of smuggling must rise in proportion to the temptation. The law, contrary to all the ordinary principles of justice, first creates the temptation, and then punishes those who yield to it; and it commonly enhances the punishment too in proportion to the very circumstances which ought certainly to alleviate it, the temptation to commit the crime.

"Fourthly, by subjecting the people to the frequent visits and odious examination of the tax-gatherers, it may expose them to much unnecessary trouble, vexation, and oppression; and though vexation is not, strictly speaking, expense, it is certainly equivalent to the expense at which every man would be willing to redeem himself from it."

Adam Smith's point about smuggling may now seem obscure. After all, smuggling was something that went on in the 18th century, wasn't it? Consider the following excerpts from a recent editorial in The Wall Street Journal, which urged New York State and New York City to reduce their combined cigarette tax from 26¢ to 10¢ a pack:

"Through our browsings in the United States Tobacco Journal we have learned of estimates that half the cigarettes smoked in New York City are smuggled in from North Carolina, where the tax is 2¢ a pack. State Senator Roy M. Goodman, a Manhattan Republican, says the state and city are losing $93 million a year in this fashion. The smugglers load 40-foot trailers with 60,000 cartons purchased legally at $2.40 each and peddle them in the city via the organized crime network for $3.75, which is $1.25 or more below legitimate retail.

"Mr. Goodman recommends a one-year suspension of the city's 8¢-a-pack tax in order to break up the smuggling, plus an increase in the state enforcement field staff to 250 from the current 50, plus five years in jail for anyone caught smuggling 20,000 cartons or more. Last year only nine smugglers were jailed, each for a few months, with the common penalty $10 or $15.

"If Mr. Goodman's solution were adopted, at the end of the year the smugglers would be back, and the state would have a bigger bureaucracy. More smugglers would be caught, more judges and bailiffs and clerks would have to be hired, more jails would have to be built and more jailers hired. The wives and children of the jailed smugglers would go on welfare.

"Cutting the tax to 10¢ avoids all that. It immediately becomes uneconomic to smuggle. The enforcement staff of 50 can be assigned to more useful work, the state saving $1 million on that count alone. The courts would be less clogged with agents and smugglers, and the taxpayers would save court costs, as well as the costs of confining convicted smugglers and caring for their families.

"The state and city would appear to face a loss of $50 million or $60 million in revenues, but of course smokers would now buy their cigarettes through legitimate channels and the 10¢ a pack would yield about as much in revenue as 26¢ a pack yields now. But that's not all. Legitimate dealers would double their cigarette sales, earning higher business profits and personal income that the city and state then taxes.

"And don't forget the impact on the millions of cigarette smokers who would save 16¢ a pack. At a pack a day, that's $58.40 per year. At average marginal tax rates, a smoker has to earn more than $80 before Federal, state, and city taxes are deducted to get that amount. He can thus maintain his or her standard of living on $80 less in gross wage demands per year, which means it becomes economic for the marginal employer to do business in New York, increasing the number of jobs of all varieties and reducing cost and tax pressure on social services.

"Among other benefits, the industrious smugglers would have to find legitimate employment. It might be argued that they would be thrown on the welfare rolls. But if we know New York City, they are already on the welfare rolls, and would be forced to get off once they have visible jobs."

The Finance Office of New York City, unwilling to take the advice of either Adam Smith or *The Wall Street Journal*, simply rejected the idea that lowering rates would produce expanded revenues. But Adam Smith's advice was not even taken in England at the time he tendered it. The theory was not tested until 1827, and then only by accident, by an Act of Parliament. Oddly enough, the incident in question involved tobacco smuggling. Stephen Dowell gives the following account in *"A History of Taxation and Taxes in England."*

"The consumption of tobacco had failed to increase in proportion to the increase in the population. A curious circumstance had happened as regards the duty on tobacco. In effecting the statutory rearrangement of the duties in the previous year, the draughtsman of the Bill in error, allowed one fourth of the duty to lapse * * * he had accomplished a master stroke, for his reduction in the duty was followed by a decrease in smuggling so considerable as to induce [Chancellor of the Exchequer] Robinson to allow his [budget] surplus estimated at about £700,000, to go to continue the reduction thus unconsciously effected."

The Politburo of the Soviet Union has the same problem as the Finance Office of New York City: It also rejects the idea behind the "Laffer curve." The greatest burden to Soviet economic development is Soviet agriculture. Roughly 34.3 million Soviet citizens, out of a total population of 250 million, are engaged in producing food for the nation—and there is never enough. The United States, by contrast, employs only 4.3 million workers in food production, out of a total population of 200 million, generating an annual surplus for export equivalent to one-fourth the entire Soviet output. The drain on the Soviet economy is not only the low productivity of the farm sector. Because there are always shortages, and the state puts farm goods on the market at regulated prices rather than using the market system to allocate what is available, Soviet citizens spend billions of hours annually waiting on lines. If food were produced in plentiful quantities, it could still be allocated through regulated prices in conformance with Soviet ideology, but most of the lines would disappear, and the talents and energies of the urban work force would not be wasted in long lines.

The real source of this problem is the high marginal tax rates exacted on the state's collective farms. The state provides land, capital, housing, and other necessities on its collectives. It also permits the workers to keep 10 percent of the value of their production. The marginal tax rate is thus 90 percent. In agriculture, a small expenditure of effort might yield, say, 100 units of production; but twice the effort might be required for 150 units, and four times the effort for 200 units. The worker on the collective thus faces a progressive tax schedule so withering that any incentive to expend anything beyond a minimal effort is lost. With minimum work, he gets land, capital, housing, and other necessities, as well as 10 units of output. By quadrupling his effort (not necessarily physical effort, but perhaps increased attentiveness to details), he gets the same services and only 10 more units of output.

Meanwhile, however, the peasants on the collective farms are also permitted to tend private plots, the entire output of which is theirs to keep. The tax rate on these private plots is zero. Here is the result, as detailed by Hedrick Smith in "The Russians":

"Twenty-seven percent of the total value of Soviet farm output—about $32.5 billion worth a year—comes from private plots that occupy less than 1 percent of the nation's agricultural lands (about 26 million acres). At that rate, private plots are roughly 40 times as efficient as the land worked collectively. . . . Peasants farm their own plots much more intensively than they do collective land.

"Ultimately, the Communist ideal is to have this last embarrassing but necessary vestige of private enterprise wither away as industrialized state farming grows in scale and output. Nikita Khrushchev, in spite of rural roots, pursued that end vigorously and earned the enmity of the peasantry. He cut the size of private plots to a maximum of half an acre and made life difficult for the farm market trade. I was told by Russian friends that Ukrainian peasants became so irate that they stopped selling eggs as food and made paint out of them.

"Under Brezhnev things have improved. The maximum plot went back up to an acre and measures were taken to improve farm market operations. Soviet figures show the

private farm output grew nearly 15 percent from 1966 to 1973."

In terms of the "Laffer curve," what Khrushchev did by reducing the size of the private plots from one acre to one-half acre was to increase the marginal tax of the system from point C to point A. This was undoubtedly a major cause of his political downfall. On the other hand, Brezhnev moved the marginal tax rate of the system back to point C, increasing output and revenues to the previous levels. This was an "economic miracle" of minor dimensions, but it has undoubtedly contributed heavily to Brezhnev's durability as a political leader.

THE POLITICS OF THE "LAFFER CURVE"

The "Laffer curve" is a simple but exceedingly powerful analytical tool. In one way or another, all transactions, even the simplest, take place along it. The homely adage, "You can catch more flies with molasses than with vinegar," expresses the essence of the curve. But empires are built on the bottom of this simple curve and crushed against the top of it. The Caesars understood this, and so did Napoleon (up to a point) and the greatest of the Chinese emperors. The Founding Fathers of the United States knew it well; the arguments for union (in *The Federalist Papers*) made by Hamilton, Madison, and Jay reveal an understanding of the notion. Until World War I—when progressive taxation was sharply increased to help finance it—the United States successfully remained out of the "prohibitive range."

In the 20th century, especially since World War I, there has been a constant struggle by all the nations of the world to get down the curve. The United States managed to do so in the 1920's, because Andrew Mellon understood the lessons of the "Laffer curve" for the domestic economy. Mellon argued that there are always two prices in the private market that will produce the same revenues. Henry Ford, for example, could get the same revenue by selling a few cars for $100,000 each, or a great number for $1,000 each. (Of course, Ford was forced by the threat of competition to sell at the low price.) The tax rate, said Mellon, is the "price of government." But the nature of government is monopolistic; government itself must find the lowest rate that yields the desired revenue.

Because Mellon was successful in persuading Republican Presidents—first Warren G. Harding and then Calvin Coolidge—of the truth of his ideas the high wartime tax rates were steadily cut back. The excess-profits tax on industry was repealed, and the 77-percent rate on the highest bracket of personal income was rolled back in stages, so that by 1925 it stood at 25 percent. As a result, the period 1921–29 was one of phenomenal economic expansion; G.N.P. grew from $89.6 billion to $103.1 billion. And because prices fell during this period, G.N.P. grew even faster in real terms, by 54 percent. At the lower rates, revenues grew sufficiently to enable Mellon to reduce the national debt from $24.3 billion to $16.9 billion.

The stock market crash of 1929 and the subsequent global depression occurred because Herbert Hoover unwittingly contracted the world economy with his high-tariff policies, which pushed the West, as an economic unit, up the "Laffer curve." Hoover compounded the problem in 1932 by raising personal tax rates almost up to the levels of 1920.

The most important economic event following World War II was also the work of a finance minister who implicitly understood the importance of the "Laffer curve." Germany had been pinned to the uppermost ranges of the curve since World War I. It took a financial panic in the spring of 1948 to shake Germany loose. At that point, German citizens were still paying a 50-percent marginal tax rate on incomes of $600 and a 95-percent rate on incomes above $15,000. On June 22, 1948, Finance Minister Ludwig Erhard announced cuts that raised the 50-percent bracket to $2,200 and the 95-percent bracket to $63,000. The financial panic ended, and economic expansion began. It was Erhard, not the Marshall Plan, who saved Europe from Communist encroachment. In the decade that followed, Erhard again and again slashed the tax rates, bringing the German economy farther down the curve and into a higher level of prosperity. In 1951 the 50-percent bracket was pushed up to $5,000 and in 1953 to $9,000, while at the same time the rate for the top bracket was reduced to 82 percent. In 1954, the rate for the top bracket was reduced again, to 80 percent, and in 1955 it was pulled down sharply, to 63 percent on incomes above $250,000; the 50-percent bracket was pushed up to $42,000. Yet another tax reform took place in 1958: The government exempted the first $400 of income and brought the rate for the top bracket down to 53 percent. It was this systematic lowering of unnecessarily high tax rates that produced the German "economic miracle." As national income rose in Germany throughout the 1950's, so did revenues, enabling the government to construct its "welfare state" as well as its powerful national defense system.

The British empire was built on the lower end of the "Laffer curve" and dismantled on the upper end. The high wartime rates imposed to finance the Napoleonic wars were cut back sharply in 1816, despite warnings from "fiscal experts" that the high rates were needed to reduce the enormous public debt of £900 million. For the following 60 years, the British economy grew at an unprecedented pace, as a series of finance ministers used ever-expanding reveneus to lower steadily the tax rates and tariffs.

In Britain, though, unlike the United States, there was no Mellon to risk lowering the extremely high tax rates imposed to finance World War I. As a result, the British economy struggled through the 1920's and 1930's. After World War II, the British government again made the mistake of not sufficiently lowering tax rates to spur individual initiative. Instead, the postwar Labour government concentrated on using tax policy for Keynesian objectives—i.e., increasing consumer demand to expand output. On October 23, 1945, tax rates were cut on lower-income brackets and surtaxes were added to the already high rates on the upper-income brackets. Taxes on higher incomes were increased, according to Chancellor of the Exchequer Hugh Dalton, in order to "continue that steady advance toward economic and social equality which we have made during the war and which the Government firmly intends to continue in peace."

From that day in 1945, there has been no concerted political voice in Britain arguing for a reduction of the high tax rates. Conservatives have supported and won tax reductions for business, especially investment-tax income credits. But while arguing for a reduction of the 83-percent rate on incomes above £20,000 (roughly $35,000 at current exchange rates) of earned income and the 98-percent rate on "unearned income" from investments, they have insisted that government first lower its spending, in order to permit the rate reductions. Somehow, the spending levels never can be cut. Only in the last several months of 1977 has Margaret Thatcher, the leader of the opposition Conservative Party, spoken of reducing the high tax rates as a way of expanding revenues.

In the United States, in September 1977, the Republican National Committee unanimously endorsed the plan of Representative Jack Kemp of New York for cutting tax rates as a way of expanding revenues through increased business activity. This was the first time since 1953 that the GOP had embraced the concept of tax cuts! In contrast, the Democrats under President Kennedy sharply cut tax rates in 1962–64 (though making their case in Keynesian terms). The reductions successfully moved the United States economy down the "Laffer curve," expanding the economy and revenues.

It is crucial to Western economic expansion, peace, and prosperity that "conservative" parties move in this direction. They are, after all, traditionally in favor of income growth, with "liberals" providing the necessary political push for income redistribution. A welfare state is perfectly consistent with the "Laffer curve," and can function successfully along its lower range. But there must be income before there can be income redistribution. Most of the economic failures of this century can rightly be charged to the failure of conservatives to press for tax rates along the lower range of the "Laffer curve." Presidents Eisenhower, Nixon and Ford were timid in this crucial area of public policy. The Goldwater Republicans of 1963–64, in fact, emphatically opposed the Kennedy tax-rate cuts!

If, during the remainder of this decade, the United States and Great Britain demonstrate the power of the "Laffer curve" as an analytical tool, its use will spread, in the developing countries as well as the developed world. Politicians who understand the curve will find that they can defeat politicians who do not, other things being equal. Electorates all over the world always know when they are unnecessarily perched along the upper edge of the "Laffer curve," and will support political leaders who can bring them back down.

SCHWEPPES USA, LTD., CELEBRATES 25TH ANNIVERSARY

Mr. RIBICOFF. Mr. President, this is the 25th Anniversary of Schweppes, USA, Ltd., which has its headquarters in Stamford, Conn. This enterprise is an important firm in my State of Connecticut.

I would like to take the occasion of this anniversary commemoration to report on the history on Schweppes USA, Ltd.

Schweppes USA Ltd. is a unit of Cadbury Schweppes Limited, London, an international food and beverage organization with annual sales approaching $2 billion and approximately 45,000 employees worldwide.

With roots dating back to 1783, Schweppes is the world's oldest producer of carbonated beverages. It was founded by Jacob Schweppe, a Swiss who emigrated to England to establish a business for the production of carbonated water, using a principle uncovered about 20 years earlier by British scientist Joseph Priestly.

Bottled soda water initially was classified as a patent medicine by the British Government, which ascribed to it the medicinal quality of naturally carbonated mineral waters. But by the early 1800s people had begun to drink the sparkling beverage as a refreshment and it was not long before it was used as a mixer with wines and spirits. By 1824 Schweppes had three branches and was growing rapidly.

Schweppes is best known for its quinine-flavored tonic water, which was patented in 1858. Today, its principal products in this country also include bitter lemon, ginger ale, club soda and ginger beer.

While Schweppes tonic water was imported from England by affluent Americans as early as 1898, mass distribution of the brand was not begun in the United States until 1953. Schweppes discontinued shipping bottled beverages here and, instead, adopted a technique American companies had been using for years—supply the essence and have the beverage produced locally by authorized bottlers according to rigid specifications.

Currently some 100 independent bottlers produce and market Schweppes mixers in most major areas of the country. These firms also serve as authorized bottlers for Coca-Cola, Pepsi-Cola, 7-Up, and other soft drink companies.

Schweppes activities in the United States are under the direction of Robert E. Ix, of Greenwich, Conn., chairman and chief executive officer of the Cadbury Schweppes American Region, which also includes Canada and Latin America; and John B. Onthank, who lives in Wilton, Conn., the president of Schweppes USA Ltd.

Schweppes was one of the first beverage organizations to imprint its containers with a message urging consumers to dispose of them thoughtfully.

As Schweppes marks its 25th anniversary of partnership with its U.S. bottlers, I congratulate Schweppes USA Ltd. and its bottlers, and wish them continued good fortune.

TRIBUTE TO AMBASSADOR WOODCOCK

Mr. KENNEDY. Mr. President, during my recent trip to China I had the great pleasure to see once again Leonard Woodcock, who is now the chief of the U.S. Liaison Office in Peking. I was greatly impressed with the quiet and effective way in which Ambassador Woodcock is pursuing our Nation's interests in the People's Republic of China. We are fortunate indeed in having him as our representative as we move toward normalizing our relations with this key country in East Asia and the world.

Leonard has long been a good friend and adviser to my family, and one of the key supporters of my brothers when they ran for President. I was therefore particularly pleased to read the thoughtful article on Ambassador Woodcock, by Jay Mathews in the Washington Post. Mr. Mathews rightly points out that Leonard has won the respect of the Chinese and the admiration of the American community in Peking. He has my respect and admiration—and I believe that of my colleagues in this body—as well.

I ask unanimous consent that Mr. Mathews' article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 26, 1978]

WOODCOCK'S MARKS HIGH AS AMERICA'S CHINA ENVOY—BLENDS HARD WORK AND QUIET INTELLECT TO BREAK DOWN STEREOTYPE OF BACK-SLAPPING LABOR BOSS

HONG KONG.—When Leonard Woodcock arrived in Peking last July, many wondered how the 66-year-old labor leader would adjust to a new—and very different—life as America's top diplomat in China.

Six months later, Woodcock—blending an odd mixture of persistence, warmth, shyness and intellectual energy—has won the respect of many Chinese and the admiration of the little Peking colony of American China-watchers.

What's more, the former president of the United Auto Workers—a man who spent his entire adult life in the American labor movement—seems to have adapted very well to life in Peking, an uncomfortably isolated city for foreigners.

"The whole cultural atmosphere is entirely different (from Detroit)," Woodcock said in a recent interview. "It is a closed society. But I do like the Chinese people, and in a very simple sense, I've come to enjoy my life in Peking."

Woodcock has often surprised people who expected a back-slapping archetype of an American labor leader.

At first, he seemed diffident, withdrawn and almost inarticulate. Then people realized he was actually pausing to think about what he wanted to say.

Other than some personal reading begun years ago during an intense rethinking of the Vietnam issue, Woodcock had little contact with this part of the world before coming to Peking. Since his appointment, however, he has really "done his homework," a young China expert in the U.S. liaison office in Peking said.

"Once we were talking about Outer Mongolia and he reminded us of an important little development several years back that all the rest of us had forgotten," the expert recalled.

In the land of the dictatorship of the proletariat, where the blue-collar worker is officially enshrined as the vanguard of Chinese society, is this prominent leader of the American Labor movement deluged with questions about his life's work?

No.

"There has been no interest at all in my former labor association," Woodcock said during an interview after a conference for U.S. ambassadors here.

Chinese trade unions are just recovering from a long political eclipse, and "although I've visited 10 plants, in only one instance was a person introduced to me as being part of the local trade union," Woodcock said.

A Peking vice mayor asked some questions about Detroit and the auto industry after Woodcock remarked on the efficiency of city services in Peking, but that was the only conversation with a Chinese touching on his former life that he can remember.

As for the shift from labor leader to diplomat, "There's a great deal of reading, which is not that much different, from negotiation reports to diplomatic cables.

"The official meetings are highly stylized in the sense that both sides are very careful how they put things," Woodcock said. "But when you get to the critical phase of collective bargaining, both sides also tend to be very careful what they say, and sometimes you have to listen very carefully for what is not said as well as what is said," something that China-watchers must do every day.

If anyone could ever be mistaken for a union leader, it would be Huang Chen, the outgoing, burly Chinese diplomat often with an arm around someone's shoulder who until late last year was Woodcock's opposite number, heading the Chinese liaison office in Washington.

Woodcock has Huang's warmth, but not his style. He never had to win an election of the UAW membership. He was picked by the unions' governing board after Walter Reuther died in an airplane crash.

Woodcock provides a nice counterpoint to the young, often frenetic U.S. staff in Peking. After years of language training and study of lengthy name lists the American analysts are deep into the subject of China, and in many cases have developed a wild sense of humor to compensate for the single-mindedness of their profession and the isolation of Peking.

Woodcock seems much calmer. He has learned to break away from the daily obsession with China-watching through long walks or cycle rides. He has been separated for many years from his wife, and lives alone in an apartment on the second floor of the large quarters set aside for the liaison office chief.

"I've managed to read more books during seven months in Peking than I did during seven years as president of the UAW," he said. Right now, he is reading "China and The Search for Human Happiness" by Wolfgang Bauer.

"One of the points Bauer makes is that because of Chinas' pictographic language, it was able readily to assimilate foreign influences." Woodcock said. "They had to be described in that language, and thus were changed." Three days a week a language instructor sent by the Chinese government arrives to give Woodcock his language lesson.

"The man told me once, I think he considered it a compliment, that it was remarkable that a man of my age could remember so well," Woodcock said. "I find that just when I think I've gotten beyond asking for a cup of coffee, I'm thrown for a 10-yard loss."

Woodcock was offered the Peking job in a phone call from President Carter last spring.

"I would not have accepted any ambassadorial post where there was no challenge, but I do think we have made so many mistakes in this part of the world that I wanted to be a small part of making things better," he said.

Woodcock had impressed Carter by leading a U.S. mission to Hanoi earlier in 1977 to open talks on normalizing relations with reunified Vietnam. As for China, "I feel strongly that we should over time normalize relations," Woodcock said. "I think if we had done it immediately after 1949, the history of this region would have been quite different."

In a methodical way that those who watched his labor career consider typical, Woodcock has gone about opening up new contacts with the Chinese, conferring with people like the head of the Central Bank and the Sports Minister whom his predecessor had not been able to see.

He misses his children, whom he once publicly credited with changing his mind about American involvement in the Vietnam War.

His elder daughter, Leslie, 33, who teaches labor history at the University of Michigan, has promised to visit Peking when the school year ends, along with her husband their daughter and twin sons. Woodcock's son, John, 25, has just started work in the engineering department of Chrysler Corp.

His younger daughter, Janet, 30, does drug rehabilitation work in Boston.

They had an election to choose a Santa Claus for the U.S. liaison office Christmas party, and Woodcock was a candidate. Everybody knew he loved children, but his quiet demeanor cost him votes. Somebody else got the job.

Nonetheless he recalled, a three-year-old girl he befriended at a reception months before "came up to me at the Christmas party and squeezed my leg." "I had won," Woodcock says.

ADDRESS BY SENATOR KENNEDY AT HIROSHIMA UNIVERSITY

Mr. GLENN. Mr. President, no issue facing the Senate this year is more critical for the future well-being of the American people and indeed the people all over the world than the issue of nuclear proliferation.

The leadership has announced that as soon as action on the Criminal Code bill is completed, the Senate will take up S. 897, the Nuclear Non-Proliferation Act.

It is time for the U.S. Senate to take clearly needed legislative action to protect future generations from the scourge of nuclear war brought on by the proliferation of nuclear weapons. If we fail to take action—if we allow special interests to stand in the way of progress in this area through the blocking of passage of this moderate and sensible legislation—we will have abdicated our responsibilities to future generations. It is useful to be reminded of what failure to take action in this important area could mean. Anyone who has visited the cities of Hiroshima and Nagasaki, as I have, and has seen the effect of wartime destruction on people, as I have, has no difficulty dedicating himself to preventing the spread of nuclear weaponry.

Recently, the distinguished senior Senator from Massachusetts Senator EDWARD KENNEDY presented an address before the Japan-America Society at Hiroshima University dealing with various aspects of the problem of nuclear proliferation. Senator KENNEDY's thoughtful remarks are deserving of the attention of all those who are concerned with this most important problem of proliferation, and I ask unanimous consent that the full text of his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR EDWARD M. KENNEDY AT HIROSHIMA

It is a great honor for me to speak here today, in Hiroshima a city which has experienced appalling destruction but also magnificient recovery.

It is impossible to visit Hiroshima without feeling a deep obligation to avoid the holocaust which twice visited Japan. In his novel, Black Rain, the great writer Masuji Ibuse characterized the nuclear explosion as:

"More like a jellyfish than a mushroom—writhing and raging as though it might hurl itself on our heads at any moment. It was an envoy of the devil itself, I decided: who else in the whole wide universe would have presumed to summon forth such a monstrosity?"

This city stands as more than a monument to massive death and destruction. It stands as a living testament to the necessity for progress toward nuclear disarmament—for preventing the spread of nuclear weapons and for progressively reducing their numbers in the few countries that have them today.

We must all rededicate ourselves to forestalling the destructive application of nuclear energy—not merely for reasons of strategy but for reasons of humanity. The nuclear arms race of the past 25 years is a tragic story of continuing folly in the face of the lessons of history.

To its historic credit, Japan has long been committed to the objective of eliminating nuclear weapons from this earth. It has set a leading example through its three non-nuclear principles and its commitment never again to become an offensive military power.

The world has but to learn from Japan's re-emergence as a power that expresses its greatness in economic and political rather than in military terms. Like many states, Japan is surrounded by heavily militarized neighbors. Yet, unlike most major nations, Japan has achieved its greatness without maintaining a large military establishment.

To be sure, this accomplishment has depended substantially on continued international stability, on both the strategic and conventional military levels. We enjoy a strategic balance between the United States and the Soviet Union. We enjoy a regional balance in Europe as well as in the Far East. The United States is committed to maintaining this balance on which peace continues to depend. We place a very high value on the U.S.-Japan Security Treaty which is the foundation of our policy in East Asia.

But stability cannot be an end in itself. It must be the context for moving to reduce military forces, nuclear and conventional. Thus I welcome the negotiation of a SALT II agreement arresting the strategic arms race, but I look forward even more to a SALT III agreement which will reverse this race.

At long last, the US, UK and USSR are completing negotiations on a comprehensive ban of all nuclear testing. For several years, I have sponsored a resolution in the Senate supporting a comprehensive test ban. Japan has long advocated such a ban. We both can look with satisfaction to the completion of the process that began with the limited nuclear test ban under President Kennedy.

I recognize that, at its outset, a comprehensive test ban may not attract the support of all the nuclear weapons states. Even so, it will be an important step forward, one which I believe most nations will accept immediately and which I hope all nations will accept eventually. For those who will not accept the comprehensive ban immediately, I hope that they will adhere to the limited test ban treaty, or at least decide unilaterally to abandon all nuclear explosions in the atmosphere.

Never again should black rain fall.

Unfortunately, neither limiting strategic arms nor banning nuclear tests will guarantee that we can reduce rather than increase the number of nuclear weapons in the world. Much more is needed to prevent the spread of nuclear weapons and nuclear explosive capabilities.

We were sharply reminded of this fact with the detonation of a nuclear device by India in 1974. This explosion dramatized the danger that nuclear energy developed for peaceful purposes could be diverted—unless it is properly controlled—to construct nuclear explosives.

At the same time, international demand for nuclear power has increased geometrically with the quadrupling of oil prices since the 1973 OPEC embargo. As nuclear facilities spread worldwide, the potential for nuclear catastrophe also increases. We are all aware of how these plants can endanger the environment, become targets for terrorists, and tempt a government to manufacture nuclear weapons.

This audience, in this place, understands well the dangers of nuclear proliferation.

Both of our countries depend too much on oil imports from OPEC countries. But Japan's dependence on outside energy sources is greater than any other industrialized country. If 22% of American energy needs are presently met by imported oil, 73% of Japanese needs depend on imported oil. So I am especially conscious of Japan's need for energy security.

It is in our strong national interest to reduce this unacceptable dependence on outside energy sources, as well as to reduce our overall energy consumption. We in the United States have a special obligation as the world's most conspicuous and wasteful consumers of fossil fuels.

It is clear, moreover, that advanced energy sources—such as solar, geothermal, wind and bio-conversion—will not provide adequate energy security for the remainder of this century. By the year 2000, even the most optimistic estimates are that these sources will provide only marginal amounts of energy.

We should do our utmost to develop these alternative sources. I welcome the bilateral efforts underway between Japanese government agencies and the American Department of Energy, and the multilateral efforts in the context of the international energy agency and the new international nuclear fuel cycle evaluation program. I believe they should be expanded as rapidly as possible, with more resources devoted to this task.

But the implacable reality remains: over the next few decades we have no acceptable alternative to increased reliance on nuclear energy. With the benefits that nuclear energy implies comes the dangers of nuclear proliferation and environmental damage that it entails. We are thus confronted potentially with a terrible dilemma between diminished energy security and increased nuclear insecurity.

Fortunately, it is possible to discern a reasonable way out of this dilemma, which responds to our essential energy needs as well as to the imperative to avoid nuclear catastrophe. To succeed, this way out must combine both technical and political constraints against nuclear proliferation.

Historically, the most important constraints have been the nuclear Non-Proliferation Treaty (NPT) and the nuclear safeguards system administered by the International Atomic Energy Agency (IAEA), we are both members of the IAEA and parties to the NPT. Comprehensive and effective safeguards are indispensable to public confidence in and support for peaceful nuclear power—and rightly so. We must strive for maximum support for international safeguards and universal adherence to the NPT—which combines political commitments not to acquire or transfer nuclear explosives with acceptance of IAEA safeguards over all civil nuclear facilities in states party to the Treaty.

While important, these constraints are not sufficient. It would be an extremely serious act, but a sufficiently determined or desperate government could withdraw from the treaty and use its nuclear materials for weapons purposes. Subnational groups could seize nuclear explosive materials with the same purpose in mind.

These risks force all responsible people to focus on the nature of the nuclear facilities and nuclear materials themselves. To date, Japan and the United States have relied on conventional nuclear power reactors using low enriched uranium fuel. Neither the fuel nor the product of the reactors can be used directly to make nuclear bombs.

However, highly enriched uranium and plutonium can be used directly to make nuclear bombs. They can also be used as fuel for nuclear reactors, including the so-called breeder reactor which can regenerate the fuel it uses. There are no safeguards presently available which can detect diversion of these sensitive materials for nuclear weapons purposes in sufficient time for effective counter action by the international community.

This is why both Japan and the United States oppose the export of sensitive nuclear facilities, in contrast to the export of conventional nuclear reactors and fuel. This is why we have both deferred commercial reprocessing to produce plutonium—and undertaken to evaluate fuel cycle alternatives that can offer increased resistance to nuclear proliferation. This is also why we have both participated in the nuclear suppliers' group in London—to strengthen nuclear safeguards and controls and remove them from commercial competition. And this underscores why we have both engaged in the international nuclear fuel cycle evaluation—to make the next generation of nuclear technology at least as safe as the existing generation.

It is clear, then, that neither of our countries supports the spread of nuclear weapons materials or the sensitive plants which produce them. Both of our countries support strong nuclear controls in the context of the

IAEA and the NPT. I welcome this, and I believe that our cooperation in the non-proliferation field will be of great significance both globally and in East Asia.

Still facing Japan and the United States is an extremely serious issue of the direction of our domestic nuclear energy policies. If we decide to use sensitive nuclear materials, particularly plutonium, for commercial purposes, then I fear that other countries will follow suit. The resulting damage of our non-proliferation efforts could be great, even irreparable.

Last July several of my Senate colleagues and I opposed the operation of an American reprocessing plant in Barnwell, South Carolina, to produce plutonium. The Administration has decided to exclude producing plutonium at Barnwell, using it instead to develop more proliferation-proof technologies. Plutonium is not only highly explosive but is also one of the most toxic materials known to man. I am persuaded that there is ample uranium for existing and projected nuclear power reactors into the next century. We should make concerted efforts to identify and exploit uranium resources around the world. We always have the possibility of producing the plutonium at a later time—if it is safe to do so and if uranium becomes uneconomic as a fuel.

Most importantly, my colleagues and I feel that commercial production of plutonium would be an extremely bad example to set. Taiwan and South Korea have decided not to produce or use plutonium. They deserve credit for agreeing not to do so.

We are hopeful that other countries will abstain from developing a plutonium economy as well, as long as we lack adequate protection against diversion or withdrawal from safeguards. For them to acquire plutonium or the capability to produce it is for them to be one critical step closer to a nuclear weapons capability.

None of this is to deny the possibility of using plutonium in nuclear breeder reactors if and when we do develop adequate protection. During the current fiscal year, the Carter Administration is spending up to $483 million on breeder research and development, with special attention to new safeguards approaches. I support this expenditure as much as I do the decisions by President Ford and Carter to defer the commercialization of reprocessing and plutonium use in the United States.

Of course, the Tokai reprocessing facility presents a nuclear problem for Japan as well as for my country. Tokai would produce plutonium from uranium supplied by the United States. I welcome the interim approach we both reached last September on Tokai, which protected Japan's long term nuclear energy programs at the same time as it recognized the "serious proliferation danger" of plutonium and the need to avoid its premature commercialization.

This agreement now makes it possible for us to investigate objectively, over the next two years, the crucial issues of uranium availability and the control of the next generation of nuclear technology. We must use this time wisely, to develop new approaches to nuclear energy while reducing the nuclear hazards which have dogged us for the past three decades.

Many of the solutions can and should be developed in the context of the international nuclear fuel cycle evaluation, with the participation of both nuclear suppliers and nuclear consumers. I strongly believe that the United States and Japan should take the lead in achieving these solutions and in preventing the supplier/consumer divisions which have bedevilled international economic, including energy, negotiations in other areas. The key factors will be the example we ourselves set and our readiness to adopt a non-discriminatory approach to the peaceful uses of nuclear energy. In short, if we commercialize plutonium, it would be hypocritical to ask others not to.

Perhaps the most promising solutions will be in the fields of nuclear fuel supply and nuclear waste management. If these are addressed successfully, pressures for preprocessing and plutonium use can be sharply reduced.

I see great merit in proposals for an international nuclear fuel bank. Such a bank would enable the international community to "pool" uranium fuel, assuring ample, reliable and economic supply in return for effective safeguards and controls. I propose that our two countries consider together establishment of long-term fuel reserves, possibly through joint investment in uranium enrichment facilities which would contribute to such reserves. The objective would be to assure an attractive and stable international market for nuclear fuels, based on effective international safeguards and controls.

I also believe it is crucial to develop safe and ample international facilities for storing spent nuclear fuel, which can be retrieved if and when plutonium can be safely produced and used. Not only could such facilities eliminate the frequent argument that inadequate storage capacity forces reprocessing, even if the resulting plutonium is recognized to be unsafe, they would also prove to be less costly and dangerous under existing conditions. I propose that the United States and Japan establish a spent fuel storage center, possibly on territory owned by the US Government in the Pacific. This center would reduce pressures on Japanese storage facilities and would be open also to other nuclear consumers on the same non-proliferation terms as the uranium fuel reserves.

I see great hope for bold, imaginative, intensive cooperation between our two countries—cooperation which will meet our energy needs while reducing the dangers of nuclear proliferation. This cooperation would befit the increasingly close and varied relationship between our democratic, industrialized societies. It would take place in the multilateral supplier-consumer context of the international nuclear fuel cycle evaluation. This cooperation would accord with the profound non-nuclear tradition of Japan, with Japan's leading role in the field of nuclear disarmament.

We are now at a crucial stage, almost as crucial as the cold dawn of the nuclear era. We have learned how to control—effectively and safely—the first generation of nuclear reactors and nuclear fuel. Despite some follies in the atoms for peace period, we successfully established an unprecedented international safeguards system integrally tied to the IAEA and eventually the Non-Proliferation Treaty. International consensus on non-proliferation must be reinforced by elimination of nuclear tests, reaction of nuclear armaments and a general devaluation of the role of nuclear weapons in world politics.

We are now confronted with the spread of nuclear technology to other, less stable regions of the world. Nuclear controls must become even more effective, and must remain as non-discriminatory as possible in the peaceful, nuclear field.

We are confronted as well with increased pressures to move to a second, self-sustaining generation of nuclear technology in which the centerpiece is the breeder reactor. We must not enter it prematurely. We must recognize our obligation to protect our societies at least as well from the dangers of this second generation as from the first. At the same time, we can and should increase our energy security through assured supply of non-sensitive nuclear reactors and fuel under effective safeguards, and through active breeder research and development.

At the conclusion of "Black Rain", Shigematsu prophesized that "If a rainbow appears over those hills now, a miracle will happen. Let a rainbow appear—not a white one, but one of many hues—and Yasuko will be cured." He knew the miracle would never come true, but he kept his eyes on the nearby hills.

Let us keep our eyes on the nearby hills and work increasingly toward ridding this earth of the scourge of nuclear weapons. That miracle may never happen. But we will have justified all the painstaking efforts if we make our lives—and those of generations to come—even slightly more secure.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

John P. Volz, of Louisiana, to be U.S. attorney for the Eastern District of Louisiana for the term of 4 years vice Gerald J. Gallinghouse.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, February 6, 1978, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

DEPARTMENT OF EDUCATION

Mr. RIBICOFF. Mr. President, after years of neglect and inattention, American education badly needs solid, effective Federal guidance, and assistance.

For that reason, I am personally pleased with President Carter's leadership in the field of education. In his state of the Union address on January 19, the President said it is "time to take a major step by creating a separate Department of Education."

The Committee on Governmental Affairs will soon resume hearings on legislation to create a separate, Cabinet-level Department of Education. Senate bill 991, now before the committee, has 55 cosponsors.

We welcome the President's strong commitment to the establishment of an Education Department. It is my hope that Congress will move swiftly and judiciously on the legislation. The need for strong Federal leadership has never been greater.

Mr. President, syndicated columnist, Tom Braden, recently wrote about the need for a Department of Education. I ask unanimous consent that his column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VOTING "YES" ON EDUCATION

(By Tom Braden)

I don't suppose the country will suffer rapid decline if Jimmy Carter doesn't win Cabinet-level status for a new Department of Education. But it does seem to me that this is a sound organizational move, and that it ought to have been taken long ago.

The fact that the President is fulfilling a campaign promise that he made to the na-

tion's teachers seems to be irrelevant. Why shouldn't he make promises to the nation's teachers? There are about 3 million of them; and if our citizenry were categorized on a scale of "goodness," teachers would rank pretty high.

Moreover, it seems to me that the enormous constituency that is engaged in getting educated has long been neglected. We have a Department of Agriculture to advise a dwindling number of farmers; we have a Department of Labor that exists largely to help trade unionists; we have a Department of Commerce to offer aid to businessmen. Why shouldn't we have a department to guide, encourage and advise the more than 50 million of our population who are going to school?

It is at least arguable that, as a function of government, education is more important than some other functions that now rate Cabinet status. Our future and our hopes for high achievement rest on education.

Right now the federal government is spending about $30 billion a year on education, and the programs are scattered all over the place. About half of them are in the Department of Health, Education and Welfare and the rest are controlled by 20 other departments, agencies and bureaus, often necessitating long negotiation between rival empires to get anything done.

So from the standpoint of efficiency alone, a separate department would improve services. But there's also the matter of statute. In the last 23 years, the Division of Education within HEW has had 11 commissioners, most of them of not very high caliber. The job doesn't carry much prestige, and it pays somewhat less than a college president can make or a superintendent of schools in a large district. Cabinet stature might bring the best minds to the service of education.

That would mean we might be able to do some planning. Right now, for example, American schools are said to be very weak in foreign languages. What are we doing about it? If anybody in the federal government is speaking out on this subject, I've missed it. But if a Secretary of Education thought the lack was crucial and said so, we would hear about it on the evening news.

Opponents will surely point out that a department status for education will cost money and that, with a new department, there will be a tendency to spend more money.

Why not? What better objective than excellence in education can we spend money on?

Housed as it now is in HEW, education gets the leavings. The department's expenditures are based almost entirely on the numbers of aged or infirm who have a draft on the government. So there is little room for thinking in terms of spending innovatively. HEW Secretary Joseph Califano and his assistants can't do much planning because their main task is to keep up with the bills.

I don't blame Califano for opposing a Department of Education. No government official ever wants to surrender a piece of his turf. But on grounds of efficiency as well as the proper recognition of national values, it seems to me that Jimmy Carter's promise to the teachers is one we should help him fulfill.

THE DEATH OF E. HARRY AGNEW AND E. HUGH AGNEW

Mr. THURMOND. Mr. President, last November, in the brief space of one week, a distinguished South Carolina family lost two of its most outstanding representatives, and our State lost two citizens of character and ability who had rendered public service of the highest order. The 12th day of the month brought news of the untimely death of E. Harry Agnew, of Starr, S.C., judge of the 10th Judicial Circuit of South Carolina. Four days later, E. Hugh Agnew, also of Starr, the former president of the South Carolina Farm Bureau Federation and father of the judge, also passed away.

The senior Agnew, who was 83, experienced high accomplishment early in life. He graduated from Clemson College in 1916 as the top ranking military cadet. Thereafter, achievement followed achievement throughout his long life.

Among the many offices which he held at one time or another were directorships of the Saluda County Farm Bureau, the Southern Farm Bureau Casualty Insurance Co., and the South Carolina Chamber of Commerce; the presidency of the Farm Bureau Fire Insurance Co.; membership on the South Carolina Ports Authority Planning Commission, the South Carolina Highway Safety Administration, the Saluda County Farm Bureau, and the Clemson University Board of Visitors; and the chairmanship of the Anderson County Democratic Party and chapters of the American Red Cross, the T.B. Association, and the Cancer Crusade. He also served as assistant commandant at Clemson College and an officer of the Production Credit Association and National Farm Loan Association in Anderson and Oconee Counties.

He was best known, however, for his work as president of the South Carolina Farm Bureau Association, a post he held from 1945 to 1960. Under his leadership, the federation increased its membership tenfold, from 5,000 to more than 50,000.

His knowledge of farming was so extensive, and his reputation in the field was so high, that on numerous occasions he was invited to testify before congressional committees on agriculture. In 1952, Progressive Farmer magazine, in appreciation of his efforts on behalf of agriculture in South Carolina, named him "Man of the Year."

Hugh Agnew served his country as a first lieutenant in World War I, and was a faithful and active member of Starr Baptist Church. Somehow he also found time to rear a fine family of two sons and three daughters, in whom he instilled his concern for others and his zeal for public service. This was probably his greatest accomplishment.

One of his sons, E. Harry Agnew, grew up to become a lawyer. Like his father, he barely had time to complete a college degree before his career was interrupted by war. Shouldering his responsibility without hesitation, he compiled an exemplary record as a radar navigator-bombardier in the Army Air Force. He flew 30 missions in Europe during World War II.

After the war, he entered law school at the University of South Carolina—he had been an undergraduate at Furman—and also entered the State House of Representatives. The respect which he enjoyed among his fellow citizens of Anderson County is clearly demonstrated by their choice of him to represent them at such an early age.

Upon completion of law school, he opened an office in Anderson, S.C., and before long was serving as attorney for Anderson County as well as for the cities of Anderson, Honea Path, and Iva. The 10th circuit judge at that time, J. B. Pruitt, was Harry Agnew's uncle. When Judge Pruitt died in the middle of his term in 1966, his nephew was the logical choice to succeed him. He was unanimously reelected by the South Carolina General Assembly in 1973.

Judge Agnew was one of the most highly esteemed judges in the South Carolina judicial system. Courtroom observers often spoke of him as a possible future justice of the State supreme court. While he was scrupulously fair, he knew that we must not allow concern for the rights of the wrongdoer to deny justice to the victims of crime or protection to society. Several years ago, he summed up his judicial approach in a couple of sentences which, in my judgment, deserve to be framed and hung in every judge's chambers:

> Strict interpretation of the law is more wholesome for the future of the country. Too liberal an interpretation favors lawlessness and lack of respect for law and order.

Judge Agnew was only 55 years of age when he died. The best years of a judge's life are often his later years, when he has acquired more experience and has more time to cultivate the spirit of judicial detachment. It is a cruel misfortune that the people of South Carolina will be denied the benefit of the learning and wisdom of Judge Agnew which, having reached their full maturity, promised so much for the decade or two ahead.

We should not, however, lament over what might have been. We should rather rejoice over what was. That, in the case of both Judge Harry Agnew and his father, Hugh Agnew, was life lived as it should be—fully, energetically, courageously, for the benefit of family, friends, and country.

I extend my sincere condolences to all members of the Agnew family. Hugh Agnew leaves behind one son, John Pruitt Agnew of Piedmont, S.C.; three daughters, Mrs. J. Drayton Hopkins of Simpsonville, S.C., Mrs. Donald M. Camp of Bakersfield, Calif.; and Mrs. James E. Findley of Easley, S.C.; his brother Homer G. Agnew of Forest Park, Ga.; 28 grandchildren; and 2 great-grandchildren, The survivors of Harry Agnew include, beside his uncle, brother, sisters, nieces, and nephews, his wife, Mrs. Frances Leonard Agnew, his sons, Hugh, David, Paul, Harry, and Parker, and his daughter Patricia.

The Agnews are a large and close-knit family with great resources of character. While both Hugh and Harry Agnew were old friends of mine. I have had the pleasure of having on my staff for the past year or so Hugh Agnew's granddaughter—Judge Agnew's niece—Miss Georgia Camp, and through her I have gotten to know the Agnew family better than ever before. I admire them greatly. I know that the surviving Agnews will bear their grief with grace and dignity, and that they will carry on the family traditions of service and achievement for many years to come. I know, too, that Hugh

and Harry could not have, and would not want, a better monument.

Mr. President, during the sad month of November which saw the death of Hugh and Harry Agnew, a number of articles appeared in their honor in South Carolina newspapers. In order to provide further details of their lives and accomplishments, I ask unanimous consent that the following representative accounts be printed in the RECORD.

There being no objection, the accounts were ordered to be printed in the RECORD, as follows:

[From the Anderson (S.C.) Independent/ Daily Mail, Nov. 13, 1977]

JUDGE AGNEW DIES

Tenth Judicial Circuit Court Judge E. Harry Agnew, a jurist in Anderson and Oconee counties for the past 11 years, died at 8:40 a.m., Saurday at Anderson Memorial Hospital. He was 55.

Agnew, admitted to the hospital Oct. 15, had been listed in poor condition since abdominal surgery four weeks ago.

Services were scheduled for 3 p.m. Monday at Boulevard Baptist Church by the McDougald Funeral Home with Dr. J. K. Lawton and the Rev. David Wales officiating. Burial will follow in New Silverbrook Cemetery.

Reaction to Agnew's death from friends and the legal community was typical of remarks made by James Woodrow Lewis, chief justice of the S.C. Supreme Court: "Judge Agnew was a gentleman of integrity and honor. Harry was one of the outstanding circuit judges, a dedicated worker and an able judge. We will certainly miss him."

A replacement for Agnew will be nominated by a joint session of the House and Senate after the General Assembly convenes in January, state Sen. T. Ed Garrison, chairman of the Anderson County delegation, said.

A simple majority vote by the General Assembly is required for election, Garrison said. To be eligible, a candidate must be a lawyer with a minimum of five years legal experience and live in the 10th Judicial Circuit (Anderson and Oconee counties).

L. Ed Atwater, the state courts administrator, said in a telephone interview from Columbia the 10th Judicial Circuit will be served until the General Assembly election by a variety of Circuit Court judges with lighter caseloads. No interim judge will be appointed, he said.

Agnew is survived by his wife, Mrs. Frances Leonard Agnew of the home, 2809 Bellview Road; sons, Hugh, Paul and David Agnew of the home, Parker Agnew of Clemson University, Clemson, and Harry Agnew of the University of South Carolina, Columbia; daughter, Miss Patricia Agnew of Charleston; brother, John C. Pruitt Agnew of Piedmont; sisters, Mrs. J. Drayton (Betty) Hopkins of Simpsonville, Mrs. Donald (Izetta) M. Comp of Bakersfield, Calif., and Mrs. James (Floride) E. Findley of Easley.

Judge Agnew's father, E. Hugh Agnew, was listed in fair condition Saturday evening at Anderson Memorial Hospital.

Pallbearers for the funeral are Reese Fant Sr., Frank Williams, Bill Thompson, Jones Ellison, Hovie Watson, Ken Saylors, John Pracht and Jack Radcliffe. The state Supreme Court justices and Circuit Court judges of South Carolina will be honorary pallbearers.

Agnew was first elected judge of the 10th Judicial Circuit in 1966 to fill the unexpired term of his uncle, the late Judge J. B. Pruitt of Anderson. Pruitt died in April, 1966 of a heart attack.

Agnew was unanimously re-elected to his second six-year term in January, 1973 by the South Carolina General Assembly.

Agnew believed in a strict interpretation of the law, and said in an interview in 1971: "Strict interpretation of the law is more wholesome for the future of this country. Too liberal an intepretation favors lawlessness and lack of respect for law and order.

"The laws today are all too often designed to benefit the minority rather than to protect the rights of the majority."

Agnew also did not favor abuse of probation. "Probation is a privilege, not a right," he said. "Those who abuse the privilege should be required to serve some time in jail. . . . I've insisted that probationers comply strictly with the conditions of probation."

Agnew was a native of Starr and a son of Edwin Hugh and the late Izetta Agnew. Edwin Hugh Agnew was an Anderson County agricultural leader who was president of the South Carolina Farm Bureau for many years.

He was a graduate of Starr High School and attended Furman University, where he received his bachelor's degree in 1943.

Agnew then entered the U.S. Air Force and served as a radar navigator-bombardier in the 8th Air Force Division, participating in the European Theater during World War II.

He flew 30 missions in a B–17, and was awarded the Air Medal with five clusters and five campaign ribbons. Later he served as a radar technician instructor at the Yuma, Ariz., Air Force Base.

After his discharge from service, Agnew entered law school at the University of South Carolina. He represented Anderson County in the S.C. House of Representatives from 1947–1950 and was one of the few people named to serve in the General Assembly before completing law school.

He was graduated from the USC law school in 1948, returned to Anderson and opened a law office.

Before being elected judge of the 10th Judicial Circuit in 1966, Agnew served as Anderson County attorney and attorney for the cities of Anderson, Honea Path and Iva.

He also was the governor's appointee on the Reapportionment Committee in 1965 and served on the South Carolina Bar Association's Grievance Committee.

[From the Anderson (S.C.) Independent/ Daily Mail, Nov. 13, 1977]

HE'LL BE SORELY MISSED

Judge E. Harry Agnew had planned to go hunting in Delaware with former Tenth Circuit Solicitor Laniel Chapman and other friends this fall. Hunting and fishing were one of Agnew's favorite pastimes.

Judge E. Harry Agnew was a strict judge, one of the few who gave a sentence for marijuana possession. He was a prosecutor's judge, but he also believed in giving a first offender a second chance.

Judge E. Harry Agnew was a family man. He was a good friend, a good lawyer, a good legislator and a good judge. He flew World War II raids over Berlin, fought at the Battle of the Bulge. He won a cluster of ribbons.

He returned to South Carolina and graduated from the University of South Carolina law school. Once he wanted to be in the FBI. But instead he became a city attorney, a county attorney. He didn't complain about his work. His reputation was excellent and statewide.

That's how his friends remembered him. He was 55 years old when he died at Anderson Memorial Hospital at 8:40 a.m. Saturday. He had been sick for several weeks. Services are scheduled at 3 p.m. Monday at Boulevard Baptist Church.

The way the judiciary felt about Agnew statewide was summarized by Ed Atwater, state courts administrator: "He will be sorely missed. Everything I've ever heard about him was good. He was an excellent judge. I will be there for his funeral."

His close friends said this:

Judge W. Howard Ballenger, who holds the second of the two judgeships in the 10th Judicial Circuit (Anderson and Oconee Counties) and friend since 1954, in a telephone interview from his Walhalla home Saturday:

"I feel very inadequate in saying anything . . .

"I think he studied every case he had. He tried to find out as much as he could on a case. He had very high morals."

The circuit judgeship required Agnew to hold court in various places in the state most of the year and Ballenger said, "I ran into his friends everywhere over the state and they all admired him."

Agnew loved to hunt and fish, he said. "He'd get up real early to go fishing. I couldn't get up that early. He did like to hunt and fish but he took care of his business first."

Former Tenth Circuit Solicitor V. Laniel Chapman said Agnew "really enjoyed the outdoors. I think he was really more at peace with himself there than anywhere. We've fished and hunted together ever since he's been in Anderson.

Anderson lawyer Earl M. Rice, who said he had known Agnew "practically all his life" agreed in recalling him as one who loved to hunt "regardless of the success of the hunt"—deer, goose, duck, rabbit, dove and quail.

Rice said Agnew also did a lot of fishing, primarily in Lake Secession before Lake Hartwell was built—"bass, crappie, most anything that would bite."

Chapman said of his professional relationship with Agnew, "It was a pleasure to work with him as a lawyer and as a solicitor . . . I think the Tenth Judicial Circuit has lost an outstanding man that believed in law and order and upheld the legal profession in the highest esteem."

Chapman said he, Agnew and other friends had been making an annual trip to Delaware to go goose-hunting, and that Agnew had planned to go with them this year until he became ill.

Chapman said he regarded Agnew as a brother. "We'd have annual Christmas parties and we've always shared gifts for the last 10 years. . . . It just seems like a bad dream, and I'm going to wake up and it's not going to be true."

State Sen. T. Ed Garrison said of Agnew, "He was . . . very capable and one of the most dedicated judges we've had."

Rice said of Agnew, "He had a tremendous amount of common sense in addition to a good judicial temperament. I think he had a sense of fairness and justice from a common-sense basis that went a long way. He had a kind of innate sense of . . . fair play that kind of rounds out a judge."

Rice and Agnew attended Furman University together, and at that time, Rice said, he did not realize Agnew was interested in law. "I don't know when he made his decision, but it must've been during the war years."

During his undergraduate days, Agnew was "very interested in athletics" Rice recalled, and worked with the manager of the Furman football team, although he did not play on the team.

"I recall in his early days at the bar he considered seriously going into the FBI," Rice said.

Anderson lawyer Jack McIntosh, another longtime acquaintance of Agnew, said "Harry was first of all an excellent lawyer. Harry had a lot of integrity and he represented a wide range of people in his private practice.

"He was helpful to young lawyers when they'd come into practice. Especially, he was helpful to me. He was a well-established lawyer when I started."

Chapman recalled Agnew as a "prosecutor's judge", but a man who also was compas-

sionate. "He was the only judge in the state, I believe, who would give time for simple possession of marijuana. . . . Any and all solicitors, were happy to see him come in the circuit.

"He was assigned over the last five years to Columbia and other places where crime flourished. That's a hard responsibility. I don't think I ever heard him complain about his assignments."

"He did what he thought was right," Ballenger said. "I think he wanted to be as fair as he could."

[From the Anderson (S.C.) Daily Mail, Nov. 14, 1977]

COURTHOUSE CLOSED DURING AGNEW RITES

Anderson County Courthouse offices were to close today during the funeral services for Judge E. Harry Agnew who died early Saturday morning at Anderson Memorial Hospital.

A native of Anderson County, Judge Agnew had served the 10th Judicial Circuit for the past 11 years. Prior to his judgeship he had served as city and county attorney.

Services were scheduled for 3 p.m. today at Boulevard Baptist Church by Dr. J. K. Lawton and the Rev. David Wales with burial in New Silver Brook Cemetery.

Pallbearers were to be Reese Fant Sr., Frank Williams, Bill Thompson, Jones Ellison, Hovie Watson, Ken Saylors, John Pracht and Jack Radcliffe.

Supreme Court Justices of South Carolina and the Circuit Court Judges of South Carolina were to form the honorary escort.

Judge Agnew's father, E. Hugh Agnew of Starr, was listed in satisfactory condition at Anderson Memorial Hospital today. He has been in ill health for some time.

[From the Anderson (S.C.) Independent, Nov. 15, 1977]

COLLEAGUES PAUSE TO PAY TRIBUTE TO JUDGE AGNEW

More than 1,000 persons—including a number of state officials—gathered Monday at Boulevard Baptist Church for the funeral of Judge E. Harry Agnew, characterized by the Rev. David Wells as a man who "lived life to its fullest."

Agnew, 55, died early Saturday at Anderson Memorial Hospital. He had been listed in poor condition since abdominal surgery about four weeks ago.

The Anderson County Courthouse closed during the funeral and Oconee General Sessions Court will remain closed until Thursday in honor of Agnew, officials said Monday.

District Solicitor L. Henry Raines' motion was granted by Circuit Court Judge William H. Ballenger shortly after the court convened. Courtroom activity was postponed until 10 a.m. Thursday.

Mr. Wells, who knew Agnew as a fellow student at Furman University, a soldier in World War II, a state representative, lawyer and judge, told mourners he remembered once seeing a gravestone inscribed, "My friend is away—with a friend."

"Because of his courage, because of his faith, because of his integrity . . . I say Judge Agnew, is away with a friend," the minister said.

Dignitaries attending the 3 p.m. funeral at Boulevard Baptist Church included U.S. Senator Strom Thurmond, State Supreme Court Justice Woodrow Lewis and the five other Supreme Court justices, most state circuit court judges, SLED Chief J. P. Strom, former Third District Representative Bryan Dorn and Ed Atwater, acting director of state courts administration.

Agnew was elected judge of the 10th Judicial Circuit—Anderson and Oconee counties—in 1966 to fill the unexpired term of his uncle, the late J. B. Pruitt of Anderson. Pruitt died of a heart attack in April 1966.

Agnew was unanimously reelected to his second six-year term in January 1973 by the South Carolina General Assembly.

He believed in a strict interpretation of the law, and said in a 1971 interview, "Strict interpretation of the law is more wholesome for the future of this country. Too liberal an interpretation favors lawlessness and lack of respect for law and order.

"The laws today are all too often designed to benefit the minority rather than to protect the rights of the majority."

The Rev. J. K. Lawton, one of two ministers conducting the funeral on Monday, called Agnew "a man of great strength—deep inner strength—that furnished support for his family and his closest friends.

"He often expressed his disgust with men who put money first in their lives." Mr. Lawton said. "He loved his family and was generous with himself and his possessions toward them."

A native of Starr, Agnew entered the U.S. Air Force after graduating from Furman University in 1934, and served as a radar navigator-bombadier in the 8th Air Force Division, participating in the European Theater during World War II. He flew a total of 30 missions in a B–17, and was awarded the Air Medal with five clusters and five campaign ribbons. Later he served as a radar technician instructor at the Yuma, Ariz., Air Force Base.

After his discharge from service, Agnew entered law school at the University of South Carolina. He represented Anderson County in the S.C. House of Representatives from 1947 to 1950. He graduated from the USC law school in 1948. He returned to Anderson and opened a law office.

Before being elected judge on the 10th Judicial Circuit in (Anderson and Oconee Counties) in 1966, Agnew served as Anderson County attorney and attorney for the cities of Anderson, Honea Path and Iva. He also was the governor's appointee on the Reapportionment Committee in 1965 and served on the South Carolina Bar Association's Grievance Committee.

[From the Anderson (S.C.) Daily Mail, Nov. 14, 1977]

ABLE JURIST LOST

It didn't take long after Tenth Circuit Judge E. Harry Agnew took the oath of office for word to get around the state to those guilty of crimes with which they were charged they didn't want to appear in his court.

Judge Agnew won the reputation of a man who dispensed justice, not mercy, from the bench.

When he was administered the oath of office for his first term by Judge T. B. Greneker on May 14, 1966, he told those present in the court room for the ceremony:

"Uncle J. B. Pruitt filled the office in a manner to bring high praise to the judiciary and to this state.

"I know I can not replace him.

"But I will do my best to be a good judge. With God's help and your help the Tenth Judicial Circuit will have a good judge from now on.

"I want to be known as a good judge. I will strive to be fair and honest and I will work hard."

Judge Agnew filled every one of those pledges. He was known by lawyers and his fellow members of the bench as one of the hardest working judges in the state. He was known as one who did not hesitate to tackle the most difficult cases and to be ready to serve where he was needed.

A judge's post is not one from which popularity contests are usually won. Judge Agnew, because of the decisions he was called upon to make, naturally alienated some.

But by most he was regarded as a judge who was stern but fair. For the first time offender he could and did show compassion. The repeater found little sympathy when he stood before him for judgment.

Because of the high esteem with which he was held by both members of the bar and those who faced his Court, Judge Agnew was able to maintain discipline and order without flaunting judicial authority.

Judge and Mrs. Agnew, the former Frances Leonard, were parents of seven children. Judge Agnew was extremely proud of his family.

Judge Agnew's death at the age of 55 removes from the bench an able jurist at the height of his career. The man who follows him will find it extremely difficult to fill his shoes.

[From the Anderson (S.C.) Independent, Nov. 15, 1977]

"HARRY AGNEW: JURIST DEVOTED TO JUSTICE"

The death of Judge E. Harry Agnew of Anderson ended the career of one of the state's most capable jurists.

He was recognized as a judge who advocated firm, but fair, justice.

Judge Agnew took the oath in 1966 when major crime in the state was on the upswing.

He once said: "Strict interpretation of the law is more wholesome for the future of this country. Too liberal an interpretation favors lawlessness and lack of respect of law and order.

"The laws today are all too often designed to benefit the minority (the criminal element) rather than to protect the rights of the majority."

Simply put, he believed a felon should receive a sentence comparable with the seriousness of the crime.

Judge Agnew adhered to this philosophy during his 11 years on the bench. He represented the 10th Judicial Circuit (comprised of Oconee and Anderson counties) with great dedication.

He peppered the cases he presided over with understanding and mercy.

It was often said that having a judge on the state bench with Judge Agnew's personal concept of law and order was a comforting feeling to all law-abiding citizens.

State Supreme Court Chief Justice James Woodrow Lewis summed up the professional esteem for Judge Agnew best. "Judge Agnew was a gentleman of integrity and honor. Harry was one of the outstanding circuit judges, a dedicated worker and an able judge. We will certainly miss him."

But the judge will be missed in other fields other than the judiciary.

Even after he succeeded his late uncle, Judge J. B. Pruitt, on the bench, Judge Agnew never relinquished his interest in the affairs of his community. He was a native of Starr. He cherished his rearing on his family's farm.

He could always be counted on for wise counsel whenever a governmental problem arose, or when some worthwhile campaign seemed stalled.

Judge Agnew was a loving husband to his wife, Frances, and a devoted father to their seven beloved children.

He was an outdooorsman, who could always find a few hours" to go hunting and fishing with his sons or any number of a multitude of friends he amassed during his lifetime of public service.

Numerous praises will be written about Judge Agnew. He deserves all our plaudits. He was that kind of man.

It is tragic that his outstanding tenure on the bench was cut short as he neared the zenith of his career. He had been talked as a future justice on the State supreme court.

But he leaves behind a rich judicial and humanitarian heritage.

Of all his endearing attributes, the one which many of his associates and friends best recall is that he genuinely "cared." He cared about his family, his country, and his fellow man.

The ultimate tribute we can pay Judge Agnew is to encourage young judges, and attorneys aspiring to become judges, to emulate the high caliber example established by his distinguished service on the bench.

Judge Agnew's judicial career helped restore much of the lost meaning to the phrase "justice for all", and for this achievement he will be long remembered.

[From the Anderson (S.C.) Daily Mail, Nov. 16, 1977]

ELDER AGNEW DEAD AT 83

E. Hugh Agnew, 83, of Starr died early today at Anderson Memorial Hospital following several weeks illness. He was the father of the late E. Harry Agnew, former 10th judicial solicitor, who died Saturday.

The elder Agnew was a native of Canon, Ga., and was a son of the late Edgar Harrison and Jennie Edward Agnew and the widower of Izetta Pruitt Agnew.

He was a top-ranking military cadet at Clemson College in 1916 and was assistant commandant at Clemson College from December 1918 to June 1919. He served three months overseas as a first lieutenant in the infantry.

He was a land bank appraiser for two years and served three years as secretary-treasurer of the Anderson and Oconee Coordinated Unit of Production Credit Association (PCA) and National Farm Loan Association. He also was secretary-treasurer of the individualized PCA in Anderson for six years.

Elected president of the S.C. Farm Bureau Federation in 1945, a year after its organization, he remained in the office for 15 years while the federation grew from 5,000 members to its present membership of more than 50,000. He was also a member of the American Farm Bureau Federation's resolutions committee.

Agnew testified at congressional hearings before both Senate and House agricultural committees and assisted in preparing legislation from 1945–1960.

Progressive Farmer magazine named him "Man of the Year" for service to agriculture in South Carolina in 1952. He was a member of the S.C. Historical Society and Pendleton Farmer's Society and an honorary member of the Blue Key Fraternity at Clemson.

Agnew was a member of Starr Baptist Church where he was a member of the board of deacons, a former church treasurer and a men's Bible Class teacher.

Other offices and activities in which he was involved include: a lifetime membership in the Saluda County Farm Bureau; a member of the board of directors of Southern Farm Bureau Casualty Insurance Co. and the life insurance company; co-chairman S.C. Agricultural Public Relations Council; president of the Farm Bureau Fire Insurance Co.; director for eight years of the S.C. Chamber of Commerce; former member of the S.C. Ports Authority Planning Commission; member of the Clemson University Board of Visitors from 1952–1953; former member of the S.C. Highway Safety Committee; former chairman of the Anderson County Democratic Party, the American Red Cross chapter, T.B. Association and the Cancer Crusade; former producer delegate to the National Cotton Council; member of the Starr School Board for 30 years; member of Gamma Sigma Delton, the National Honor Society of Agriculture in May 1958; received the S.C. Agriculture Distinguished Service Award in 1960; consultant to Southern Railway System; received a Distinguished Alumni Award from the Clemson University Alumni; retired from active work as an Anderson realtor in 1975; founder of the Starr-Iva Water and Fire District.

Surviving are son, John C. Pruitt Agnew of Piedmont; daughters, Mrs. J. Drayton "Betty" Hopkins of Simpsonville, Mrs. Donald M. "Izetta" Camp of Bakerfield, Calif., Mrs. James E. "Floride" Findley of Easley; brother, Homer G. Agnew of Forest Park, Ga.; 28 grandchildren; two great-grandchildren.

Services will be at 11 a.m. Friday at Starr Baptist Church with burial in New Silver Brook Cemetery.

[From the Anderson (S.C.) Independent, Nov. 17, 1977]

E. HUGH AGNEW, FATHER OF JUDGE, DIES AT 83

E. Hugh Agnew, 83, Starr, died early Wednesday at Anderson Memorial Hospital, just four days after the death of his son, Judge E. Harry Agnew.

The elder Agnew, who died after several weeks' illness, was a native of Canon, Ga. and was a son of the late Edgar Harrison and Jennie Edward Agnew and the widower of Izetta Pruitt Agnew.

His son, a former judge of the 10th Judical Circut (Anderson and Oconee counties), died Saturday, about four weeks after undergoing abdominal surgery.

The elder Agnew graduated in 1916 as Clemson College's top ranking military cadet, and served as assistant commandant at the college from December, 1918 to June 1919. He was a first lieutenant in World War I and served three months overseas.

A land bank appraiser for two years, he served three years as secretary-treasure of the Anderson and Oconee Coordinated Unit of Production Credit Association (PCA) and National Farm Loan Association. He also was secretary-treasurer of the individualized PCA in Anderson for six years.

He was elected president of the S.C. Farm Bureau Federation in 1945 and held that office for 15 years while the federation's membership grew from 5,000 to 50,000. He also was a member of the American Farm Bureau Federation's resolutions committee.

Agnew testified at congressional hearings before both Senate and House agricultural committees and helped prepare legislation from 1945–1960.

Named "Man of the Year" in 1952 by Progressive Farmer magazine, he was a member of the S.C. Historical Society and Pendleton Farmer's Society and an honorary member of Clemson's Blue Key fraternity.

Agnew was a member of Starr Baptist Church where he was a member of the board of deacons, a former church treasurer and a men's Bible class teacher.

Other offices and activities in which he was involved include a lifetime membership in the Saluda County Farm Bureau; member of the board of directors of Southern Farm Bureau Casualty Insurance Co. and Life Insurance Co.

[From the Anderson (S.C.) Daily Mail, Nov. 22, 1977]

AGNEW'S INFLUENCE WIDE

There are few aspects of life in South Carolina upon which E. Hugh Agnew has not had an influence.

A native of Georgia, and a graduate of Clemson College where as a cadet his leadership potential became apparent, he spent most of his life as a resident of Anderson County.

His sharp, incisive mind led him to have a wide range of interests from agriculture to politics, to civic and church affairs. He had the will and the energy to be active in them all.

Mr. Agnew is best known statewide for his 15-year leadership of the South Carolina Farm Bureau. During his time at the helm of the organization, its membership soared from 5,000 to 50,000.

He was recognized in Washington as a highly informed spokesman on farm affairs and frequently testified before Congressional committees engaged in formulating agricultural legislation.

In his latter years, infirmities limited his mobility and his eyes failed, but not his mind. He continued alert and keenly interested in events.

His death at the age of 83 ends the career of a man who had contributed much to the progress of his county and his state.

HEALTH CARE FOR OLDER AMERICANS: THE ALTERNATIVES ISSUE

Mr. CHILES. Mr. President, at recent Committee on Aging hearings in northern Florida, I was greatly impressed with an example of how homemakers and home nurses make life much more happy and complete for many elderly. A man in Century, Fla., a very small rural town in Florida's Panhandle, had recently lost his wife, and he provided an unforgettable statement:

> When my wife came out of the hospital this last May I was the lonesomest man in the world. I never knew of homemakers, I never knew of these programs. I didn't know. . . I was so far away from reality. . . When I first took my wife home I spent the weekend all by myself. Finally a nurse came over and she got me acquainted with the homemakers. Well, not only are the homemakers doing a good job but this one particular person did such a good job on my home she also became a very, very good friend. She made me feel as though I was not alone anymore. You know, that lonesome feeling is the worst feeling in the world.

All over northern Florida I received similar testimonials and urgent pleas for an increased attention to the expansion of home nursing, home help, and other support services for chronically ill or temporarily homebound elderly.

At other hearings I chaired for the committee here in Washington it has become evident that most of the real initiatives being taken to improve health care for the elderly are being taken by the States. But these innovative programs are often difficult to achieve under Federal policies which have no focus on long-term care initiatives, impose regulatory obstacles preventing the most direct and innovative programs from ever getting off the ground, and hinder, rather than help, development of severely needed community alternatives.

As a result, the Department of Health, Education, and Welfare recently gave the committee its assurances that they will place a very high priority on improving the delivery of long-term care services to the elderly. At my urging, Secretary Califano has announced a consolidation of responsibility for policy development in strategies and services which will support independent living among the chronically ill or disabled within the new Health Care Financing Administration. A timetable for the first steps to be taken has also been provided to the committee, including assurances for development and testing of major structural reforms in service delivery and financing methods.

I know that all States would welcome any such commitment. In fact, State of-

ficials in some States are eager to share their experiences with us as we develop long-range policies in care for our Nation's chronically disabled and elderly.

The Florida Legislature recently initiated a promising program which could go a long way to meet the needs of many elderly as well as reverse the institutional bias in medicaid and medicare reimbursement policies, and lower State medicaid costs for support.

In order to encourage as many elderly as possible to remain in family living arrangements in private homes, even when special care is needed, the State will provide a direct subsidy to their families to cover added expenses, including medical and dental expenses not covered by medicare or medicaid and other specialized care needed by the elderly person. The program will enable middle-income families without the resources to keep an older family member at home. The family would normally be forced to find a nursing home, which could be paid for with medicaid funds. Florida's medicaid program pays, at the lowest level, from $535 to $680 a month to a nursing home for caring for an elderly person. Through Florida's new family placement program, similar care, and the added benefit of allowing an elderly person to remain with his own family, can be obtained through an estimated maximum State payment of $240 a month.

Another approach to meet support needs of the elderly is being taken by a nursing home located in a very rural area of north-central Florida. Begun as a skilled nursing facility a number of years ago, the Advent Christian Home in Dowling Park sought to expand its services to the needs of other elderly. The facility now combines a skilled nursing home, a medium-rise congregate housing facility, an outpatient geriatric clinic, completely independent housing units, and a program of home delivered services. This is an excellent example of how the health care and service base of a skilled nursing home can be developed and made available to elderly with many different needs within a community. But it took many years to develop and could not have been achieved if it had to rely on public funding.

The Florida Legislature's Ad Hoc Subcommittee on Nursing Homes has urged that more "campus-type" nursing home programs of this type be encouraged within the State. The subcommittee regards participation of the nursing home in the community to be an important element in improving quality care.

These are simply two new approaches which are being developed and tested in one State, and there are many more in others. The needs are clear. It is time we started asking States how we can help.

THE PANAMA CANAL TREATIES: A PROMINENT AMERICAN EXPRESSES CONCERN

Mr. DOLE. Mr. President, I recently received a most perceptive letter regarding the proposed Panama Canal treaties, and I want to take this opportunity to share it with my colleagues in the Senate. The letter comes from one of the more notable figures of our generation, Dr. Edward Teller, whose opinion on defense and foreign policy matters has long been widely respected.

Perhaps best known for his pioneering research work on the development of nuclear weapons, Dr. Teller has been and remains a strong advocate for the peaceful uses of atomic energy. At present, he is a senior fellow of the Hoover Institution on War, Revolution and Peace. Until recently, Dr. Teller served on the Rockefeller Commission on Critical Choices for Americans, and the President's Foreign Intelligence Advisory Board.

In his letter to me, Dr. Teller expresses concern about several specific aspects of the proposed Panama Canal treaties which relate to the future security of the Western Hemisphere. In particular, I find Dr. Teller's comments about the treaty provisions for a new sea-level canal to be of significance to the Senate.

Mr. President, I commend this letter to my colleagues for their thoughtful consideration, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LAWRENCE LIVERMORE LABORATORY,
January 13, 1978.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR DOLE: I note from accounts in the news that a strong campaign for ratification of the Panama Canal treaties is being launched. At the same time, need for amendments to the treaties are necessary. Also, the need for amendments for the treaties are more widely discussed. Apart from other amendments that may turn out to be necessary, I would like to emphasize the importance of three amendments. The first relating to a possible sea-level canal, the second to the role of the other American states in the question of the treaties and the third concerning unrestricted sovereignty of Panama over the Canal Zone.

In the first place, Article XII of the Panama Canal Treaties should be stricken since it would prevent the United States from negotiating or constructing any sea-level canal connecting the Atlantic and Pacific without Panamanian consent. Other provisions of Article XII do not seem particularly relevant.

COMMENTS

The construction of a sea-level canal across the American isthmus is not a remote possibility. The interoceanic canal studies issued by the Atlantic-Pacific Interoceanic Canal Commission in 1970 clearly explains the importance of such a canal. It also states that the most favorable route across Panama is route 10 which could be excavated by conventional, modern equipment for a cost of approximately three billion dollars. It seems reasonable that this canal should not be constructed except with the consent of Panama.

The Commission studied other routes, particularly Route 17 which lies farther to the east and close to the border of Columbia. This route would have to be excavated by nuclear explosives and the Commission found valid technical reasons against such a procedure. In particular, Route 17 would have to cross a geologic formation which could not sustain even a relatively gentle slope if it exceeds a ratio of 1 in 10 of elevation to distance.

Other routes that could be excavated by nuclear means were discussed in a less thorough manner. Of these, Route 23 through Columbia and Panama, Route 25 through Columbia alone and Route 8 through Nicaragua and Costa Rica were considered. Among these routes, 23 and 25 would be competitive with Route 10 while Route 8 would be twice as expensive. Among all the routes the Panamanian Route 10 and the Columbian Route 25 appear to be most promising. Route 25 was not taken seriously at the time of the study since the study concentrated on construction in Panama.

It is noteworthy that the U.S.S.R. would not be excluded from constructing a sea-level canal by means of nuclear excavation with or without involvement of Panama. The Soviet Union is in a particularly favorable position to take advantage of this possibility since they are actually practicing the art of nuclear excavation in the Pechora-Kama canal which would deflect the waters of the Pechora from the arctic into the Kama and Volga rivers and eventually into the Caspian Sea, thus preventing further drop of the level of the Caspian.

A sea-level canal, particularly a broad canal excavated in part by nuclear means could handle commercial and military traffic in a much more satisfactory manner, would be much less vulnerable, and would require minimal maintenance.

It would be difficult to conceive of a more persuasive, stable and diplomatically acceptable device to maintain friendly relations with Panama than to offer to join with her in construction of a sea-level canal. If we should be free to join with a third nation for a competitive enterprise, it would be much easier to obtain an agreement from Panama.

In the spirit of the rest of this letter I would hope that in future considerations of a sea-level canal, the interest and cooperation of other American states will be sought.

My second proposal, which would perhaps be more difficult to implement, is to require that in order for the treaties to be valid the Organization of American States should have to ratify these documents by two-thirds majority of its member states. This would help to recognize the common interest of American States in the interoceanic canal; it would also help remove objections against the U.S. that we are still behaving as a colonial power; and it would greatly enhance the posture, prestige, and future effectiveness of the OAS in the Western Hemisphere.

COMMENTS

The aims of the OAS include strengthening the peace and security of the Western Hemisphere as well as providing for the collective security of its members. The voice of this organization has not been heard nor has its opinion been asked for on this matter of great import to the organization and to the individual members. Reports of individual meetings between the President and leaders of member states should not be substitued for the official approval of the OAS acting as an independent agency.

The United States and Panama, as members of the OAS, may agree to submit the Panama Canal Treaties for OAS approval. If the need for formal ratification cannot be agreed upon, then the U.S. Senate, acting unilaterally, should request an expression of approval from that organization.

My third proposal is connected with the proposed unconditional transfer of sovereignty over the Canal Zone to the Panamanians. I suggest that we transfer sovereignty with the condition that any specific action of Panama in the Canal Zone which endangers the common defense of our hemisphere is subject to veto by the vote of two-thirds of the members of the OAS.

COMMENTS

By recognition of Panama's unqualified sovereignty over the Canal Zone, the U.S. takes a far-reaching and irrevocable step. Although the two treaties concerning the future of the Panama Canal purport to guarantee certain rights and privileges for the U.S. and Panama assumes duties and obligations in connection with operating the Canal, none of these grants or assumptions are made to the exclusion of Panama's sovereign rights, power, and authority.

Many provisions in these treaties are presently in contention because of the ambiguous treatment that they provide in establishing U.S. rights and interests. The nations of the Western Hemisphere, and in particular the United States, will have to remain responsible for the safety of this part of the world. We have reason to worry about further intrusion of Soviet Russia into the Western Hemisphere. The reasons are obvious: Cuba and the strength of the Russian navy. Such an intrusion would appear to be contrary to the common interest of the members of the OAS and the veto power of the OAS may become a badly needed protection. If the needed two-thirds majority should not be forthcoming, we would indeed be in a poor position independent of the issue of the Panama Canal.

The proposed changes would constitute real improvements in the safety of the sea lanes, particularly because our sister republics would become guarantors of the Treaty. This would be advantageous in case the question of Guantanamo Bay came up. The Panama Canal Treaty as it stands provides encouragement and opportunity for the Cubans to demand that we hand over Guantanamo Bay. A Russian naval base at that location could be much more dangerous to the American Navy, the Trident and Polaris force, and to the control of our vital sea lanes than anything that may happen in the present Canal Zone. If we strengthen the ties in the Organization of American States, particularly with reference to naval matters, then the dangers connected with Guantanamo Bay can be faced in a more effective manner.

Yours sincerely,

EDWARD TELLER.

CONSERVATION WHERE THE TALL CORN GROWS

Mr. CLARK. Mr. President, soil conservation is an issue of immediate concern to Iowans. We have more than 36 million acres of land in the State, and more than 20 million acres of that in row crops—and therefore extremely vulnerable to erosion. The U.S. Soil Conservation Service estimates that we lose on the average 13 tons per acre from sloping crop land. That level of soil loss is almost 3 times the 5 tons per acre loss that can be sustained by natural rebuilding. Even worse, during years of heavy rains like 1974, the loss figures climb to 40 or 50 tons per acre, or more.

We have good programs to deal with soil ersoion, but they have a huge task. To help, Iowa's farmers are looking closely at practices that greatly promote conservation like no-till farming. In a very timely article from Soil Conservation, the U.S. Department of Agriculture's monthly soil conservation report, Mr. William Brune, Iowa State Conservationist describes soil conservation needs and accomplishments in the State of Iowa. Mr. President, I ask unanimous consent that this important article be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONSERVATION—WHERE THE TALL CORN GROWS

(By William J. Brune)

You won't find major professional sports teams in Iowa. Or surfing. Or subways.

What you will find is high-producing farmland, and a lot of it. It's the State's most valuable natural resource, and everyone from the Governor on down will tell you so.

Iowa's first governor, Ansel Briggs, who settled in our Maquoketa Valley in the 1830's, ran for office on the slogan: "No banks but soil banks, and they well tilled."

Iowa is landlocked; we're about as far from an ocean (1,200 miles) as any State in the Union. Our "Little Switzerland" hills in the northeast corner of the State are beautiful, but they are unlikely to inspire a songwriter to compose "Iowa Mountain High." We don't have 10,000 natural lakes, like one of our neighbors. Most of our lakes are manmade, to provide water for drinking, for livestock and irrigation, and for fire protection and recreation.

What we do have is a reputation as the place "where the tall corn grows." We produce about one-fifth of the Nation's corn crop. We also produce more than one-fifth of the pork supply and one-seventh of the grain-fed beef. In all, with 95 percent of "the beautiful land" in agricultural use, Iowa produces 10 percent of America's food supply.

Our population is relatively small. Bordered on the east by the Mississippi River and on the west by the Missouri, Iowa's 36 million acres are home for fewer than 3 million people. That's half the population of Massachusetts, for example, in an area seven times as large. We still have room to stretch and breathe in Iowa.

While we're basically rural, we also have important industries Iowa is either home base or boasts the largest factory for John Deere, Maytag, Amana, Quaker Oats, Lennox, Massey-Ferguson, and Winnebago, to name but a few. Most of our industries either process farm products or sell to farmers.

With this farm orientation, people here believe that agriculture and soil and water management are pretty important. The town businessman is just as interested as the farmer in the weather, prices, and yields. One-third of all Iowa workers, in fact, depend directly on agriculture for their jobs, and another 50 percent depend on it indirectly.

Weather is the most popular topic of conservation, and we have all kinds. Take 1977, for example. After the worst drought in central Iowa in 40 years early last summer, we had the wettest August on record around Des Moines.

Our close ties to the land may explain why Iowa was one of the first States with an erosion control law and the first State to appropriate cost-share funds for soil conservation practices. Iowa has made about $4 million available to landowners in each of the past 2 years. That's in addition to Federal funds. (But we could always use more.)

The funds are put to good use to protect our soil and water. Of Iowa's 36 million acres, 26 million are cropland, with more than 20 million acres in row crops. Some of that land is flat, but much is gently rolling, formed by the action of glaciers in four ice ages.

The soils of Iowa vary widely. Along both of the great rivers that border the State, soils form "sugar clay" loess hills; along the Missouri some are more than 100 feet deep. In north-central Iowa, which is relatively flat, the fertile prairie soils from the State's best corn country. In both northern corners, there are steep hills, and a large part of the land is in grass. In the south, bordering Missouri, soils were formed under grass and forests and are not as productive. Most are on slopes and are subject to severe erosion.

Iowa is well suited to growing corn and soybeans, but the soil needs to be protected with carefully planned conservation systems. Progress in fighting erosion has been steady, but much remains to be done. The Soil Conservation Service estimates that about 40 percent of Iowa soils are adequately protected against erosion from water and wind. Coordinated private, local, State, and Federal efforts will be needed to finish the job.

Iowa needs more farmers with the positive attitude of Vernon "Slewfoot" Hoffman, a Buchanan County producer, who is undaunted by the cost of soil and water conservation measures on his $2,000 to $3,000 an acre farmland.

"I looked at my crops the other day and then told the bankers they'd better get their land tilled if they want a better crop next year," said Hoffman. He had just completed 6,000 feet of terraces on his sloping cropland, commenting "I don't know exactly how these terraces work, but I do know that I can't afford to let this high-priced soil wash away."

Technical help for farmers like Slewfoot Hoffman is provided through 100 soil conservation districts—one in each of our 99 counties and two in Pottawattamie County. SCS has a field office in each, typically with a district conservationist and a technician. The State Department of Soil Conservation hires a clerk for each office, as well as a conservationist aide in some. We really work as a team here in Iowa!

The three or four people in each office serve an average of 1,300 landowners, as well as other members of the public. So far, about half the farmers have conservation plans; the other half don't. But the number with plans and adequate measures installed is growing year by year. We'd like the number to grow faster!

The fact that we have so much crop-land in Iowa—more than 18 other States combined—accounts for our big need for soil and water conservation measures. We estimate that the average annual soil loss for sloping cropland in the State is 13 tons per acre. That's more than twice what it ought to be. During the heavy spring rains of 1974—a truly disastrous season—soil losses of 40 to 50 tons per acre were not uncommon. (Those rains, by the way, were followed by an unprecedented season of terrace-building. It's unfortunate that it takes such a hard lesson to teach some people the value of conservation.)

Today, Iowa's farmers are showing increasing interest in two conservation practices—conservation tillage, including no-till, and parallel terraces with tile drainage. More than 7 million acres of row crops are now grown under some kind of reduced tillage, although we're still arguing for more residue on some soil surfaces. About 2,000 miles of terraces were built in 1976, bringing Iowa's total to 60,000. But many more miles are needed before our soils receive adequate protection.

The installation of tile drains in conjunction with terraces was promoted in the early sixties by an SCS engineer in Iowa. It was his answer to the problem of too much water trapped in terrace channels after heavy rains, particularly in poorly drained soils. What that engineer fought to have accepted a few years ago has since been widely adopted throughout the Service.

The increase in soybean acreage is putting new demands on conservationists. SCS and the soil conservation districts have helped Iowa farmers protect about 5 million acres in the past 16 years. In the same period, however, soybean acreage also increased by 5 million acres, replacing small grains, grass,

or rotation crops. This change means we have to take another look at these 5 million "new" cropland acres to see if additional protective measures are needed.

But while we worry a lot about present and future needs, we are proud of past conservation accomplishments. We have 96 small watershed projects, with about one-fourth of them completed. Also in Iowa is the highly successful Little Sioux River Watershed Project, one of the 11 flood control projects authorized in 1944. More than 460 ponds and lakes and 6,200 miles of terraces are located in that project area alone.

Soils have been mapped in half the State's counties, and we're trying hard to complete four more counties a year in the cooperative soil survey program. Our goal is to have all Iowa mapped by 1986.

Four resource conservation and development areas are authorized and are experiencing success in solving local problems. Two other areas are organized and waiting.

In a nutshell, that's the story of conservation in Iowa. We've done a lot of work, but we still have much to do. We have confidence in the commonsense of Iowa farmers when it comes to taking good care of their valuable farmland. We believe that more of them each year are going to get behind soil and water conservation.

The people of Iowa also are optimistic. Where else would you find promoters holding "the world's largest hog race?" Where else would you find a young man selling T-shirts and posters inviting visitors to "Ski Iowa," showing nothing but a snow-covered haystack? SCS and the district commissioners try to share that optimism and look upon the job ahead, not as a trial, but as a challenge.

RESPONSIBILITY FOR HEALTH

Mr. BELLMON. Mr. President, Dr. John H. Knowles, president of the Rockefeller Foundation recently published in the December 1977 issue of Science an interesting and important statement on individual responsibility for health. He emphasizes that the idea of "right" to health should be replaced by that of a moral obligation to preserve one's own health. Unfortunately, according to Dr. Knowles:

> The idea of individual responsibility has given way to that of individual rights—or demands, to be guaranteed by government and delivered by public and private institutions.

Dr. Knowles goes on to suggest that major advances in health will not be achieved by national health insurance, more doctors, or high-cost technologies, but by what individuals are willing to do for themselves. Mr. President, I believe that Dr. Knowles' insights are especially relevant at this time in view of the growing national concern over health care costs and possible new administration proposals for national health insurance. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

RESPONSIBILITY FOR HEALTH

Most individuals do not worry about their health until they lose it. Uncertain attempts at healthy living may be thwarted by the temptations of a culture whose economy depends on high production and high consumption. Asceticism is reserved for hair-shirted clerics and constipated cranks, and every time one of them dies at the age of 50, the hedonist smiles, inhales deeply, and takes another drink.

Prevention of disease means forsaking the bad habits which many people enjoy—overeating, too much drinking, taking pills, staying up at night, engaging in promiscuous sex, driving too fast, and smoking cigarettes—or, put another way, it means doing things which require special effort—exercising regularly, improving nutrition, going to the dentist, practicing contraception, ensuring harmonious family life, submitting to screening examinations. The idea of individual responsibility flies in the face of American history, which has seen a people steadfastly sanctifying individual freedom while progressively narrowing it through the development of the beneficient state. On the one hand, social Darwinism maintains its hold on the American mind despite the best intentions of the neoliberals. Those who are not supine before the federal Leviathan proclaim the survival of the fittest. On the other, the idea of individual responsibility has given way to that of individual rights—or demands, to be guaranteed by government and delivered by public and private institutions. The cost of private excess is now a national, not an individual, responsibility. This is justified as individual freedom—but one man's freedom in health is another man's shackle in taxes and insurance premiums. I believe the idea of a "right" to health should be replaced by that of a moral obligation to preserve one's own health. The individual then has the "right" to expect help with information, accessible services of good quality, and minimal financial barriers. Meanwhile, the people have been led to believe that national health insurance, more doctors, and greater use of high-cost, hospital-based technologies will improve health. Unfortunately, none of them will.

The barriers to the assumption of responsibility for one's own health are lack of knowledge (implicating the inadequacies of formal education, the too-powerful force of advertising, and the informal systems of continuing education), lack of sufficient interest in and knowledge about what is preventable and the cost/benefit ratios of nationwide health programs, implicating the powerful interests in the health establishment, which could not be less interested, and calling for a much larger investment in fundamental and applied research), and a culture which has progressively eroded the idea of individual responsibility while stressing individual rights, the responsibility of society at large, and the steady growth of production and consumption ("We have met the enemy and he is us!").

The individual must realize that perpetuating the present system of high-cost, after-the-fact medicine will only result in higher costs and greater frustration. The next major advances in the health of the American people will be determined by what the individual is willing to do for himself and for society at large. If he is willing to follow reasonable rules for healthy living, he can extend his life and enhance his own and the nation's productivity. If he is willing to reassert his authority with his children, he can provide for their optimal mental and physical development. If he participates fully in private and public efforts to reduce the hazards of the environment, he can reduce the causes of premature death and disability. If he is unwilling to do these things, he should stop complaining about the rising costs of medical care and the disproportionate share of the gross national product that is consumed by health care. He can either remain the problem or become the solution to it; beneficent government cannot.

GENOCIDE AND HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, last Wednesday, Senator Humphrey's last piece of major legislation, the International Development Cooperation Act of 1978, was introduced. While I am not going to take this time to discuss the merits of this act, I would like to emphasize the concern of this humane and courageous man for our ability to help the poor and destitute in all parts of the world. I believe this concern is representative of our entire Nation's desire to help and protect such people.

However, it should not be forgotten that there is more to helping these individuals than promoting their economic well-being. The late Senator from Minnesota cited:

> The promise of America—a life with dignity in the pursuit of happiness in a free society for our own people and for those throughout the world.

But a free society throughout the world is not possible without necessary safeguards to prevent violations of human rights. Pursuit of happiness is not possible for individuals who live with the fear of being persecuted.

This is why it is time for our Nation to join the 83 other countries who have ratified the Genocide Treaty, which provides for the prevention and punishment of individuals committing this barbarous act. This treaty does more than condemn acts of genocide—it creates a climate of international vigilance for the protection of national, ethnical, racial, and religious groups.

In a world that is economically, politically, and technologically interrelated, moral approbation can be an effective method of protecting human rights. We must become a part of this moral persuasion. We must pass the Genocide Treaty immediately.

POSITION ON ROLLCALL VOTES, FRIDAY, JANUARY 27, 1978

Mr. DOLE. Mr. President, I was necessarily absent from the proceedings of the Senate on Friday, January 27. Because of the importance of the pending measure, S. 1437, I want to state how I would have voted.

Rollcall vote No. 14 Leg. (motion to table committee amendment creating a defense to obscenity prosecutions that that material is legal in the State in which it was disseminated)—I would have voted "yea."

Rollcall vote No. 15 Leg. (to request the attendance of absent Senators)—I would have voted "yea."

Rollcall vote No. 16 Leg. (motion to table an Allen amendment to the committee amendment on defenses to obscenity prosecutions)—I would have voted "nay."

Rollcall vote No. 17 Leg. (Allen amendment to limit the defense to obscenity prosecutions to material that is legal in the locality in which it was disseminated, rather than in the State)—I would have voted "yea."

Rollcall vote No. 18 Leg. (committee amendment to allow a defense to obscenity prosecutions if the material is legal where it was disseminated)—I would have voted "nay."

"THE NATION'S RURAL ELDERLY"

Mr. CHILES. Mr. President, nationally, about 28 percent of our Nation's growing older population reside in the most rural and isolated countryside and small towns. Even in Florida, with its growing retirement centers in and near the larger cities, 18 percent of the total population over 65 live in the most rural counties.

And the proportions of this rural population is increasing dramatically. Between 1960 and 1970, the elderly population of 16 rural counties in north-central Florida, where I recently conducted hearings, has increased by 74 percent. One-third of this rapidly increasing elderly population exist on incomes below the official poverty level. In each of these areas, the most pressing problems of inadequate retirement income, scarce work opportunities, inaccessible health care, and pervasive isolation are much more difficult to overcome.

As one witness described the poverty which plagues the rural elderly: "A lot of people are living in homes where the Moon is shining through." Another witness spoke of a survey of homes which found only 19 in 250 which had indoor toilet facilities.

A witness from a small town in Hamilton County described the differences between what she found there and what she was used to in Jacksonville, where she had lived and worked before retiring to her small, rural hometown. She was brought up very sharply when she found that none of the things many elderly took for granted in the city were available in her small town. There was no transportation and the nearest source of medical supplies was 30 miles away. There was still a grocery store which would deliver, but at an increased price.

It is evident that transportation is a major problem for the elderly in all rural areas of the Nation. This is a problem which has been with us, and recognized, for a long time but precious little has been accomplished.

Section 16(b)(2) of the Urban Mass Transportation Act provides capital assistance grants for private, nonprofit groups to purchase buses, but very few rural communities have been able to take advantage of this program. A rural highway public transportation demonstration project [section 147 of the Federal Aid Highway Act] is now in the second year of a 2-year demonstration to improve rural transportation systems, but there is no information yet available on results. I hope the administration will make strong recommendations early next year based on the results of these demonstrations, and I urge all my colleagues to study them carefully. We must find a way to help with this very urgent problem in rural areas.

The distribution of health services must also be improved. The impact of poor distribution is evident when medicare reimbursement patterns are examined: less than 25 percent of these funds go to the elderly rural areas.

At a hearing in Gainesville, Dr. Richard Reynolds, chief of the department of community health and family medicine at the University of Florida, described unique cooperation between the College of Medicine and nearby counties which has greatly improved ambulatory health care to rural citizens. Three rural health clinics staffed by the Florida College of Medicine faculty and students provide the major source of health care in one rural county and the only source in two other counties. A large share of the care is provided directly by physicians' assistants who reside full time in these communities and are largely responsible for the continuing care and health monitoring of residents. Research conducted as part of the program has shown that physicians' assistants and nurse practitioners can provide a significant portion of the health care needs of the rural elderly in clinics, homes, or extended care institutions. The health services supplied are of high quality, and there has been general acceptance of these practitioners by patients.

Florida's experience has been quite valuable in demonstrating the necessity for authorizing medicare financing for nurse practitioners in rural health clinics. I am very pleased that H.R. 8422, which was signed into law by the President on December 13, 1977 [Public Law 95–210], will greatly facilitate such programs by providing medicare reimbursement directly for physicians' assistants and nurse practitioners in rural clinics.

Other medicare policies which discriminate against rural areas must be thoroughly examined. According to Dr. Reynolds, medicare home health reimbursement policies still shortchange rural areas by requiring that home health agencies provide skilled nursing and one additional service, such as physical therapy, to be eligible for reimbursement. In many rural areas, home health agencies are never established because it is so difficult to acquire the trained personnel to provide the additional service. County health departments, fully capable of providing skilled nursing and other support services in the home, cannot qualify as a home health agency because they cannot meet this medicare guideline.

Two years ago, Congress passed a home health demonstration program to provide expansion and startup grants to home health agencies to help them train personnel, expand their services, and become qualified as home health providers. A number of grants have been made to small, rural county health departments, but the need is still much larger than this program has been able to meet. We need to do more to make it possible for rural county health departments to provide services to the rural elderly.

Other areas which require our attention are providing more incentives to physicians to locate and practice in our Nation's small towns, and further development of adequately trained and supervised paraprofessional personnel to provide support services to the elderly in their own homes.

During the committee's hearings, I was impressed with the opportunities which had been provided to many elderly persons themselves to engage in meaningful work and volunteer activities which at the same time filled the social service and personal support needs of many other elderly. The senior community service employment program, authorized under title IX of the Older Americans Act, has provided employment opportunities for many older Floridians. One program operated by the National Farmer's Union in northern Florida's rural counties, "Green Thumb," is employing close to 600 elderly, and more than one-half of them provide direct services to other elderly which enable them to remain in their own homes.

The Florida Green Thumb director, however, tells me that an additional 500 elderly in the most rural areas of the State are in need of such employment and could be put to work immediately providing services if additional funds were available.

Congress has recognized the immediate and direct impact of this program by almost doubling its funding during the last year, but it is evident that there is a much larger need than we are currently meeting. Florida has set a good example with its senior community service employment programs, demonstrating how a double impact can be obtained by closely coordinating its senior employment programs with manpower needs in services to other elderly.

The committee also received testimony in Florida which indicated the great potential for this "double impact" in senior employment and volunteer programs administered through ACTION. Retired senior volunteers, foster grandparents, senior companions, and older VISTA volunteers are also providing valuable services to other elderly. The funding levels for these programs have been so low, however, that their potential for community service has barely been scratched. It has been very disappointing to note that the ACTION budget estimate for fiscal year 1979 includes a drastic cut in funding for the retired senior volunteer program and no increase of any significance for the foster grandparent program or the senior companion program. This lack of support can only serve to hamper the development of these important volunteer programs. As a member of the Senate Appropriations Committee I will work to see that these budget cuts are restored to a level adequate to continue the growth of volunteer services.

The Older Americans Act must also be closely examined to make sure it does not unintentionally discriminate against rural areas. We heard from many witnesses of the problems encountered in establishing rural nutrition sites under title VII of the Older Americans Act. In order to meet Federal guidelines on the number of people required to set up a program, elderly often have to travel many miles to reach a site, therefore, excluding many from participation. In addition, it is just simply more expensive to provide services in rural areas because of the distances involved and the extra

effort which must be given to outreach activities and transportation. Yet, at the same time, the funding formulas under the Older Americans Act, because they are based solely on total elderly population, provide less money to the less densely populated rural areas.

Many people also spoke of the impracticality of the 3-year limitation on Federal funds which is imposed on programs funded under title III of the Older Americans Act. In rural areas, particularly, low tax bases make it more difficult to provide continuation funding for a needed program after the three-year period for Federal funding has expired. Often a local government is already contributing much more than is required under the matching formula in order to meet the needs and it simply cannot put more money into the program, no matter how essential it is. In addition, in rural areas there are rarely other service providers who can support a continuation of the program.

As soon as I returned to Washington, I and a number of my colleagues on the Senate Committee on Aging contacted Secretary Califano to ask that this needed flexibility be provided to rural areas by giving the States the opportunity to determine how long a project should be supported under Older Americans Act funds.

I am pleased to report that the Administration on Aging issued proposed new regulations on December 5, 1977, which would allow the States to make this determination. I think this is a step in the right direction, and I hope that once this change is fully implemented, Florida and other States will find it easier to continue support of many services in rural areas.

A TRIBUTE TO A RARE COLLEAGUE, HUBERT H. HUMPHREY

Mr. WILLIAMS. Mr. President, with the countless words of praise and affection that have filled our Nation's conscience, there is probably little more that can be said to illuminate our feelings for our dearest colleague and friend, Senator Hubert H. Humphrey. Yet we know that Hubert would never bypass a chance to say a few, or more than a few, important things about the people, problems, and politics that were woven into the fabric of American life during the past three decades. So it is fitting, today, after the more eloquent eulogies have been spoken, to celebrate the memory of Hubert as we all know it best, to recall his work as a Member of this body which he loved so well, and to think about his buoyant voice that will echo forever in this hallowed Chamber.

Few people have ever combined the extraordinary qualities of heart, mind, and energy as did Hubert Humphrey—a heart filled with compassion, a mind fertile with ideas and solutions, and the energy and ability to translate his beliefs into a towering record of achievement.

His craftsmanship correctly responded to the needs of our time and it is here, in his place of work, that he constructed the legislative memorial that will last always. From the battle for civil rights, to the struggle for justice and economic security for the aging, the poor, the ill, and the dispossessed—Hubert Humphrey as U.S. Senator left an imprint on virtually all our major domestic programs. It was here, too, that he voiced a call for human rights the world over, and he never let us forget that the same promise of dignity and security that we extend to our own countrymen and women is a pledge that we must earnestly extend to all citizens of the planet. His pioneering work on aid and development assistance to foreign countries, his abhorrence of nuclear weapons, and his steadfast search for a proper American role abroad reflected the same hopes and goals that he held for his constituencies in Minnesota and across the Nation.

Hubert's loss is an exceptional blow to the millions and millions of needy men and women here and abroad who benefited so directly from his uncommon and remarkable service. He was their champion, and he will live always in their hearts.

But Hubert's importance to all of us lies not so much in the legislation which bears his stamp, but in the impressions he left on our personalities and in our souls. He chided us always when we acted like a debating society instead of a great legislative body, yet it was his speech and his constant encouragement to do better that made him so dear. When our national spirit lagged, Hubert Humphrey was one of those rare and special people who could renew our hope and get us moving again in the right direction.

All of us have so many stories of Hubert's boundless good will and joy that we could surely go on as long as the best of his finest oratory. My happiest memories will always hark back to the campaign trail in New Jersey, which Hubert loved to travel. He was with me everytime I stood for election, beginning in 1953, and his endurance and vigor in all of his appearances in our State set records in New Jersey politics that few, if any, have ever matched. My wife, Jeanette, will treasure always the experience of working for Hubert when she first came to Washington. And many, many residents of New Jersey will ever regard Hubert as a very special source of inspiration. In all ways, he was New Jersey's favorite son, and in return, on his many visits to our State, he never failed to show his special affection for us.

Each of us will weigh the importance of Hubert in different ways, even as we agree on the special place he will always occupy in our minds. To me, no one will ever exceed his talent for comforting the afflicted and afflicting the comfortable at the crucial moments when both pain and consolation have been so vital to our development as a nation. His talent as a leader and his charm as a person made him the kind of Senator and human being that all of us can look on with great pride.

DR. R. GLENN REED, JR.

Mr. NUNN. Mr. President, on Friday, December 30, 1977, the State of Georgia lost one of its most outstanding citizens, Dr. R. Glenn Reed, Jr., of Marietta, Ga. His passing will leave a void, not only in the hearts of his family and his many friends throughout the State, but also in the hearts of the nearly 300,000 members of Kiwanis International whom he served so well during his presidency in 1966 and 1967.

Dr. Reed said, in his inaugural address:

> I challenge Kiwanians not just to talk, not just to think, but to see clearly our problems and our opportunities, and then to do something about them.

His year of Kiwanis leadership was based upon this challenge. One of the youngest men ever to hold the Kiwanis presidency—he was 42—he established a special organizational committee, whose findings led to dramatic changes in the organization; changes which, in his view as a young man, were mandatory if Kiwanis was to keep its philosophy and its activity in tune with the times.

One of the findings of the committee led to the establishment by Kiwanis of a system of biennial "major emphasis programs" aimed at helping solve pressing problems of the times. Among those undertaken were Operation Drug Alert, an educational program for parents, children, and citizens; Enrich the Lives of the Aging; and more recently Safeguard Against Crime. The latter, like Operation Drug Alert, was mainly an educational program for people of all ages.

The Special Organizational Study Committee also recommended guidelines for Kiwanis' rapidly expanding program of international extension. Dr. Reed himself chartered new clubs in Japan, the Philippine Islands, Nicaragua, Colombia, and Jamaica. He participated in the development of Kiwanis International Europe. At the time of his death, Kiwanis was serving in 61 nations around the world; and the impetus he and his colleagues provided continues to increase.

Dr. Reed, a licensed dentist, was not in practice at the time of his death, occupying his time, rather, with real estate development and warehousing in the Marietta area.

A lifelong resident of that area, he was a former Young Man of the Year for Cobb County (the county in which Marietta is situated); and one of Georgia's Five Young Men of the Year for 1960. He also served as a delegate to the White House Conference on Aging, and to the White House Conference on International Cooperation.

Dr. Reed leaves a wife, two married daughters, two grandchildren, and a single daughter. He also leaves a record of accomplishment in his professional life, and in his Kiwanis career which will never be forgotten, and which will live in the projects in which he pioneered and to which he gave life and direction.

COMMUNITY MENTAL HEALTH CENTERS AND BIOMEDICAL RESEARCH EXTENSION ACTS

Mr. SCHWEIKER. Mr. President, as the ranking Republican member of the Subcommittee on Health and Scientific Research, I joined with Senator KENNEDY last Friday in introducing S. 2450, legislation to extend with minor modifications some of our important biomedical research programs and Community Mental Health Centers programs. Unfortunately, my remarks on the bill were not included in the RECORD at the time. I would like to make a few brief points about the bill today.

Some of the health activities provided for in S. 2450 are already working well, such as our programs of assistance to medical libraries and the National Research Service Awards, so Senator KENNEDY and the other sponsors of the bill and I are proposing to extend them for 3 years at relatively stable authorization levels. Other programs scheduled to expire at the end of this fiscal year are still being reviewed by the subcommittee with an eye toward more substantive changes as a part of a comprehensive biomedical research policy initiative. In the meantime, however, they cannot be allowed to lapse. Therefore, we are proposing a 1-year extension of the important research and control work of the National Cancer Institute and the National Heart, Lung, and Blood Institute.

Of particular concern to me is the fate of the community mental health centers program. I believe that the CMHC Act badly needs a thorough reevaluation by our Health Subcommittee. Substantive changes in CMHC legislation were last enacted in 1975. Since then, many proposals for major modifications have been advanced by groups within the mental health community. Criticisms of the value of the program have also been voiced. The President's Commission on Mental Health will be formulating a final report in April which we will want to consider. I do not believe that we should act hastily, but we should examine proposals for change very carefully and give all sides an opportunity for a full and fair hearing. For this reason, I am joining with Senator KENNEDY in sponsoring a simple 1-year extension of current law, at the same authorization levels as fiscal year 1978 and with a few very technical modifications. Nothing in this proposal should be interpreted as a commitment to the status quo, and I intend to push for a comprehensive review of the CMHC Act by our subcommittee as soon as possible during this session.

A TRIBUTE TO THE LATE SENATOR METCALF

Mr. WILLIAMS. Mr. President, as we open this second session of the 95th Congress, we are without the firm leadership, experience, and devotion of the late Senator Lee Metcalf, who passed away so suddenly last week. A champion of the environment and a dear friend of the consumer, Lee became a truly national leader while never straying from his native Montana constituency. Throughout his 18-year career in the Senate, we often worked together, resulting in a true and lasting friendship. Lee was a good, effective Senator whose presence I am certain will be sorely missed by each and every one of us.

Although geographically, Lee and I represented States that were hundreds of miles apart, we were partners on a number of successful legislative projects. For example, together we fought for more Federal support for education, expansion of Federal assistance for the elderly and disabled, and stronger clean air and water legislation, as well as fair packaging and labeling laws and measures designed to make Government more responsive.

We must also not forget that Lee was a key figure in the 1974 passage of the Congressional Budget and Impoundment Control Act. This landmark legislation would not have overcome the hurdles it did without the hard work and careful analysis for which Lee had such a well-deserved reputation.

My closest and most recent partnership with Lee developed over our efforts to obtain accurate information about the ownership and control of our Nation's industry and business. Beginning in 1974 and 1975 with a report by Lee entitled "Corporate Ownership and Control," I sponsored legislation that was enacted following the close relationship between my subcommittee on securities and Lee's Subcommittee on Reports, Accounting, and Management in the Government Affairs Committee. As a result of this joint effort and Lee's personal involvement in this matter, I believe we are approaching the point where investors, regulators, the national policymakers will have before them firm and accurate information about who owns and controls our Nation's industry and business.

Lee Metcalf's death is a great loss to the people of Montana and the Nation. Jeanette and I offer our heartfelt condolences to his wife, Donna; his mother, Rhoda Metcalf; and his foster son, Jerry.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CRIMINAL CODE REFORM ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, does the Senate now resume consideration of the unfinished business?

The ACTING PRESIDENT pro tempore. The Senate will now resume the consideration of the unfinished business.

The Senate continued with the consideration of S. 1437.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 9375

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday of this week at 10 a.m. the Senate proceed to the consideration of the amendment in disagreement, Senate amendment No. 43 to H.R. 9375, the Supplemental Appropriation Act; that there be a debate on the amendment and all debatable motions relative thereto to be limited to 5 hours, not to exceed 5 hours, to be equally divided and controlled by the Senator from Mississippi (Mr. STENNIS) and the Senator from North Dakota (Mr. YOUNG); and that a vote occur no later than 3 p.m. on Wednesday.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. YOUNG. Does this meet with the approval of the chairman, Mr. STENNIS?

Mr. ROBERT C. BYRD. It does.

Mr. YOUNG. It is perfectly all right with me; yes.

Mr. ROBERT C. BYRD. I thank the Senator.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

AMENDMENT 1677

(Purpose: To clarify intent of current law that political contributions between members of, members elected of, and candidates for Congress are not unlawful)

Mr. ALLEN. Mr. President, I ask that the pending amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment numbered 1677:

On page 78, line 12, strike the word "oral".

Mr. ALLEN. Mr. President, existing law does not expressly criminalize false oral statements made to Government officials and is restrictive in requiring the false representation to be made in a matter within the official jurisdiction of a department or agency of the U.S. Government. The courts are currently divided as to whether the present statute should be interpreted to include false oral statements, inasmuch as the statute does not specifically make false oral statements criminal and because of obvious first amendment considerations. The criminality of false oral statements under existing law is probably best left to the judiciary, because the first amendment implications can be best decided in that branch of the Government. In no event should Congress now specifically

endorse a provision making criminal false oral statements to bureaucrats since such a provision invites abuse by law enforcement officials, because prosecutors could easily set up a "my word against yours" situation when a defendant and a Government official are the only two witnesses. The unfair advantage of the Government official's presumed greater credibility in the eyes of the jury could make the fabrication of charges a potential danger.

By codifying existing law, this amendment would also preserve the narrow construction of the phrase "jurisdiction of any department or agency of the United States" in order to insure that prosecution would only occur in cases involving the carrying out of an official act or investigation of a Federal agency in an area within the scope of that agency's particular authority.

Mr. KENNEDY. Mr. President, I hope that this amendment will not be accepted. I think one of the responsibilities of this legislation is to try to present to the courts the final and best judgment of the Members of the Legislature, rather than just leaving the issue open to how the courts would perceive adequate protections under this provision. The fact is, Mr. President, that five of the circuit courts have found that the application of the provisions which are included in this section apply not only to written but to oral statements as well. There is only one circuit, I understand, that has restricted these provisions to oral statements. Therefore, the great weight of authority is as we have it written here in this code. It seems to me that, since that represents, by about a 5-to-1 majority, the interpretations of the various circuit courts, we have some degree of responsibility for certainty in this particular provision. I believe that that is not an inconsequential consideration, when we consider the amendment of the Senator from Alabama.

Beyond that, Mr President, unlike the present law, the defendant, under S. 1437, must know that he or she is speaking to a Government agent. Thus, undercover agents may not trick an individual into uttering a falsehood when he is unaware of the true identity of the person to whom he is speaking.

Second, and most important, S. 1437 provides that an oral false statement may not be prosecuted unless, before it was given, the defendant was advised that making such statement would be an offense or the statement was volunteered. Even though it is our understanding that the law would include written as well as oral statements, we have added these additional defenses. Thus, before an oral false statement may form the basis of an offense under the proposed new code, either the defendant must have been put on notice that he is under constraint to speak truthfully, or he must have initiated the statement, such as by telephoning the FBI and making a false statement or accusation of a crime—if they volunteer it.

Beyond that, Mr. President, there is the recantation defense, which does not exist in law. That means that, even if the defendant knows that he is talking to a law enforcement official, even if he has been warned on the nature of the statement, and even if he gives a false statement, if he recants it within a period of 7 days, he cannot be prosecuted under this provision.

So these, I think, are very substantial improvements in terms of the protection of rights and liberties.

I think, Mr. President, the practical fact is that we do not have prosecutions that are brought when there is just the word of one individual against another.

With these provisions, Mr. President, the bill represents a marked improvement over current law. It justly punishes persons who deliberately would mislead the Government in an official matter, while containing safeguards that serve to shield the person, who makes a casual false oral remark to a Government investigator, from being criminally prosecuted. Mr. President, the pending amendment seeks to undo the improvements that the Judiciary committee has made in this area.

For these reasons, Mr. President, we have sought to clarify, for the purposes of the Criminal Code, what our belief is on the application of oral and written false statements.

Second, we believe it does represent the current law, the clear majority of the decisions of the circuits.

Third, we believe that the defenses which are included in this provision in terms of knowledge that it is an official, that they be warned about the nature of the statement, and the recantation defense, improve this important area.

Therefore, it seems to me it would be a mistake to accept the amendment of the Senator from Alabama.

Mr. President, I pointed out that 18 U.S.C. 1001 has been interpreted to cover oral as well as written statements and it has been upheld in the United States against McCue.

Mr. President, I ask unanimous consent to have printed in the RECORD the pertinent cases of the various circuit courts and the revelant sections of those cases, which would reflect what current law for the great majority of the American people is in this particular area.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. v. Lambert (5th Cir.) (including Alabama)—

Receiving and acting on statements of one kind or another is central to the function of the FBI. Perversion of a governmental body's function is the hallmark of a § 1001 offense. United States v. Gilliland, 312 U.S. 86, 93, 61 S.Ct. 518, 522, 85 L.Ed. 598, 603–604 (1941). Statements such as that given by appellant and falsely pointing to possible criminal conduct that is within the power of the FBI to investigate carry a substantial potential for wasting the Bureau's time and thus perverting its central function. We, therefore, hold that such a statement is a "matter within [FBI] jurisdiction" under § 1001.

U.S. v. Mahler, 363 F. 2d 673 (CA 2, 1966)—

Similarly, 18 U.S.C. § 1001 covers oral as well as written statements, and Mahler's testimony was the sort that has been held in this circuit to violate the section. United States v. McCue, supra 301 F.2d at 454–456.

United States v. Goldfine 538 F. 2d 815 (1976)—

In the course of the investigation of this case, Darrell Goldfine, after having received *Miranda* warnings, was asked by Compliance Investigators of the Drug Enforcement Administration whether he had made any out-of-state purchases. The investigators already knew that he had. He stated that he had not. For that false statement he was charged with a violation of § 1001.

[8] Relying on *United States* v. *Bedore*, 455 F.2d 1109 (9th Cir. 1972), Goldfine contends that the statement here was not the kind of statement that the statute was intended to reach.

The statement here was made by a registrant in the course of an inspection conducted by the regulatory agency charged with the duty of investigating the manner in which he was complying with the requirements imposed upon him by law. This is far different from the sort of statement discussed in *Bedore* which the court there noted was "unrelated to any claim of the declarant to a privilege from the United States * * *." 455 F.2d. at 1111.

[9] Goldfine contends that the statement should fall within the "exculpatory-to" exception recognized by some courts, e.g. *Paternostro* v. *United States*, 311 F.2d 288 (5th Cir. 1972); *United States* v. *Chevar*, 526 F.2d 178 (1st Cir. 1975); *United States* v. *Bush*, 503 F.2d 813(5th Cir. 1974). In *Brandow* v. *United States*, supra, this court refused to give recognition to this exception in a case where the exculpatory denial was given to agents of a regulatory agency conducting a criminal investigation legitimately within its purview. This holding has been followed in *United States* v. *Ratner*, 464 F.2d 101,102–5 (9th Cir. 1972). See also: *Cooper* v. *United States*, 282 F.2d 127 (9th Cir. 1960).

We conclude that the conviction of Darrell Goldfine of violation of 18 U.S.C. § 1001 was not erroneous.

United States v. *Adler* 380 F.2d 917 (1967)—

Moreover, the *Friedman* majority's restrictive interpretation of the word "jurisdiction" as used in § 1001 cannot be reconciled with the broad interpretation applied to other terms in the statute. The word "statement" has been construed to include statements not required to be made by law, not under oath, and not in writing.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was rejected.

COMMITTEE AMENDMENT—PAGE 76, LINE 19

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 76, line 19, after the colon, strike "a Class E felony." and insert in lieu thereof the following:

"(1) a Class E felony in the circumstances set forth in subsection (a)(2);

"(2) a Class A misdemeanor in the circumstances set forth in subsection (a)(1).

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, one reason that the bill has taken so long to clear the Senate is the fact that a number of changes need to be made in the bill. Some of the committee amendments needed to be considered separately, not considered en bloc. Some needed to be rejected, most of them accepted.

But by keeping the bill before the Senate for several days, we have given Senators an opportunity to study this tremendous bill which, supposedly, embraces all of the Federal statutory law, and as we noticed in the argument by the distinguished manager of the bill, also, the decision law of the Federal courts in criminal matters. Literally dozens of amendments have been accepted by the managers of the bill. A number of committee amendments have been rejected.

I heard just the other day from the Alabama director of the Department of Conservation which handles the enforcement of our game and fish laws, and he was afraid that under the wording of the bill the Federal Government was moving into the area of enforcing criminal laws with respect to nonmigratory birds.

I understood that that was not the intention of the bill, but yet, the wording did alarm my State officials and has been one of my objections to the bill throughout, that it does increase Federal jurisdiction in areas that heretofore have been reserved to the States.

As the distinguished manager of the bill knows, section 1862 of the bill would continue, at least to some extent, the provisions of the Assimilative Crimes Act by making criminal under Federal law violations of State or local law in a Federal enclave. The report on S. 1437 states that section 1862 is not intended to disrupt the general rules which have developed in the case law over the years in interpreting the Assimilative Crimes Act both with respect to the elements of the State or local crime assimilated and with respect to the types of crimes that are assimilated under the act.

The present situation under the Assimilative Crimes Act with respect to State game laws is that State officials have exclusive authority to enforce State game laws even within Federal enclaves. This exclusive authority is inferred from the fact that the Congress in 1916 enacted the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) which gave the Federal Government exclusive authority over game laws regarding migratory birds and implied thereby that States would continue to have exclusive authority over nonmigratory animals.

Is it the understanding of the distinguished manager of the bill that section 1862(a)(3) preserves to the States exclusive authority to enforce State game laws even within Federal enclaves?

Mr. KENNEDY. The Senator is correct.

That is the intent of that subsection of the section dealing with violators of State or local law in a Federal enclave.

The Senator stated it correctly.

Mr. ALLEN. I thank the distinguished manager of the bill.

That will remove the objection that Mr. Claude Kelly, director of the Department of Conservation of the State of Alabama, had to the bill.

I thank the distinguished manager of the bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

ORDER FOR RECESS TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIMINAL CODE REFORM ACT OF 1977

The Senate continued with the consideration of S. 1437.

Mr. ROBERT C. BYRD. Mr. President, I hope that the Senate will continue to make progress on the pending business today, and if in the opinion of the manager of the bill, Mr. KENNEDY, and the ranking manager, Mr. THURMOND, it would be productive to go into the evening today, then the leadership on this side of the aisle certainly is in accordance with that viewpoint.

I would hope it would be possible to complete action on this bill today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

UP AMENDMENT NO. 1150

Mr. ALLEN. Mr. President, I send to the desk an amendment and ask unanimous consent that it may be considered at this time.

The PRESIDING OFFICER (Mr. REIGLE). Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1150:

On page 373, line 28, delete "an offense" and insert in lieu thereof "a misdemeanor".

Mr. ALLEN. Mr. President, this amendment amends the bill at page 373, starting on line 26.

Under the committee amendment, it is provided that an Indian juvenile, or Indian person, between the ages of 18 and 21, if arrested and charged with an offense and an Indian tribe has concurrent jurisdiction over the conduct, the Attorney General may forgo prosecution and surrender the person to the jurisdiction of the tribe governing such area of Indian country, the trouble being that the Indian tribe has authority to levy a sentence, or impose a sentence, of only 6 months.

With the wording of the amendment—it uses the words "an offense"—it could be a felony and even could be a capital case or one in which a long sentence is imposed.

All this amendment does is to provide that if such person is charged with a misdemeanor, it changes the word "offense" to "misdemeanor." So if a misdemeanor is committed, then they would have authority to turn it over to the Indian tribe, rather than for the Federal courts to handle the matter, inasmuch as they do have the authority to impose a 6-month sentence.

I have talked to the distinguished manager of the bill about this matter, and I hope he will agree to the amendment.

Mr. KENNEDY. Mr. President, we will accept the amendment.

The Senator from Alabama correctly states the provisions in the legislation which give the Attorney General discretion—I underscore the term "discretion"—to forgo prosecution of an Indian less than 21 years of age who is charged with an offense, and surrender such Indian person to the Indian tribe having "concurrent jurisdiction" of the conduct. The Senator from Alabama is apparently concerned that this will permit the Attorney General to forgo prosecution even of an Indian juvenile charged with a serious Federal felony.

Let me assure the Senator from Alabama that no such result is intended or possible under this provision. That is so because, under the provisions of title 25 of the United States Code, tribal courts have no jurisdiction over serious felonies—they can only prosecute for minor or petty offenses. Accordingly, this provision would not confer authority on the Attorney General to turn over to a tribe an Indian charged with a serious felony. However, in order to further clarify this matter, I would not object to an amendment to explicitly limit the provision to minor crimes, by deleting the words "an offense" and inserting in lieu thereof "a misdemeanor."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1151

Mr. ALLEN. Mr. President, I send an amendment to the desk, and I ask unanimous consent that it may be in order to consider the amendment at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1151:

On page 28, lines 25 and 26 strike the following:

"(c) Jurisdiction not an element of the offense—the existence of Federal jurisdiction is not an element of the offense."

Mr. ALLEN. Mr. President, this is a most important amendment. It goes to the very basic thrust of the entire bill. It knocks out two lines in the bill, but in a sense they are the very heart of the bill. It knocks out the following language on page 28, starting on line 25:

Jurisdiction Not an Element of Offense. The existence of federal jurisdiction is not an element of the offense.

We are codifying the Federal criminal statutory law and the Federal criminal decision law. To say that the existence of Federal jurisdiction is not an element of the offense certainly would go contrary to the very nature and thrust of the bill, because we are supposed to be talking about Federal jurisdiction and we are supposed to be talking about Federal criminal law. If we provide that the existence of Federal jurisdiction is not an element of the offense, under the present law it would be a question of fact for the jury to determine whether the facts constituted or allowed for Federal jurisdiction.

I understand that the purpose of the thrust of this change would be that the court would determine whether Federal jurisdiction did exist. But to say bluntly that the existence of Federal jurisdiction is not an element of the offense certainly would seem to go contrary to the very purpose of the bill.

It seems to me, as I view the whole thrust of the bill, that this is another power grab for the Federal courts, in that it does extend the jurisdiction of the Federal court to matters now within the jurisdiction of State courts. It looks as though the purpose of this is to increase and broaden the jurisdiction of the Federal courts, and I feel that the provision should be stricken from the bill.

I believe that this is so important that I ask for the yeas and nays at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, under most existing Federal criminal statutes, the basis for the exercise of Federal criminal jurisdiction is commingled with the description of the criminal misconduct. In fact, in existing statutes the jurisdictional factor is often cast as the prominent factor, making the underlying criminal misconduct appear as a matter of secondary importance. For example, what would be cast in a State statute as robbery is case in one of the equivalent Federal statutes as obstruct[ing] or delay[ing], commerce . . . by robbery; what would be cast in a State statute as "kidnapping" was cast until 1972 in the equivalent Federal statute as "transport[ing] in interstate or foreign commerce, any person who has been . . . kidnapped." The historical reason for such an approach to the drafting of Federal offenses is, of course, to assure the appropriate limitation of the reach of Federal power to that granted the Federal Government by the Constitution. But in the course of limiting the reach of Federal jurisdiction, the current approach has several disadvantages. First, it leads to the formulation of offenses which, by design or by interpretation, unnecessarily require proof that the defendant know or intended that his conduct would violate a Federal interest (for example, that the mails would be used by an accomplice in the commission of a major fraud). Second, it encourages considerable redundancy in that each time Congress applies a criminal offense in a new situation (for example, covering assault on an "official guest of the United States") an entire new statute setting forth the underlying misconduct is required (instead of simply adding, for example, to a general assault statute a new jurisdictional base permitting prosecution if the victim is an "official guest of the United States"). Third, in the course of writing such redundant definitions of the same misconduct, troublesome variations occur when they are interpreted and applied by the courts (for example, an assault occurring upon a Federal officer may be interpreted differently from an assault occurring upon a citizen in a national park). Fourth, it permits the unnecessary multiplication of the potential criminal charges (for example, theft of a Government check from the mails on a military base today may be prosecuted as three offenses—theft of Government property, theft from the mails, and theft in a geographic area under Federal jurisdiction). Fifth, it frustrates extradition of American criminals who have fled to other nations since most applicable extradition treaties describe offenses in terms of the underlying misconduct rather than a jurisdictional factor (for example, "interstate travel with intent to . . ."), and several foreign nations have refused to extradite criminals when the peculiar American definition of such offenses comes to their attention. Several other difficulties also exist with the current approach.

The code takes a far simpler approach to Federal jurisdiction, but an approach that still permits the restraint of Federal jurisdiction to its appropriate boundaries. It defines offenses in terms of the underlying misconduct (for example, the conduct constituting kidnaping) just as a State criminal code does, but in a separate subsection of each offense it specifies the particular circumstances under which the Federal Government may exercise jurisdiction to investigate and prosecute for the criminal conduct (for example, the transportation of a kidnaping victim across a State line). The basis for Federal jurisdiction is not a part of the offense that is required to be proved to a jury; but in each case it will still have to be proved to a judge bevond a reasonable doubt. This approach to Federal jurisdiction permits far clearer definitions of offenses and much simpler instructions to juries, and it allows consolidation of numerous existing offenses into a single offense with several jurisdictional bases (for example, the code single theft offense is possible because in a separate subsection there is a listing of several specified circumstances that would each permit the Federal Government to prosecute for the theft). Throughout the code, the jurisdictional bases have been carefully tailored to avoid any unnecessary expansion of the reach of existing Federal jurisdiction.

Mr. President, I think this is an extremely important amendment, and for the reasons that I mentioned here I hope that the amendment will be defeated.

Mr. ALLEN. Mr. President, as we understood this bill is supposed to be a codification of existing stautory law and the decision law that is clear and unequivocal.

However, this does make a basic change in who shall determine jurisdiction, whether it shall be by the jury, which always has been the body that decides questions of fact, or shall it be by a Federal judge jealous of his jurisdiction and prerogative. I believe we will have come much nearer having a fair decision if we left in the hands of the jury the right to determine issues of fact.

So what we are doing here is greatly changing the existing Federal law. Far from being merely a codification of existing law, this changes the whole basic concept of who shall determine the existence of the fact of jurisdiction or the nonexistence of that fact. Traditionally, juries have been determiners of fact and courts have been the appliers of law based on those facts.

So this changes the whole concept of the corresponding duties and functions of the jury vis-a-vis the court. And I would much rather leave this question in the hands of the jury than to leave it in the hands of a life-appointed Federal judge, jealous of his jurisdiction.

The amendment is striking out this language changing the matter of jurisdiction of offenses, and I hope that the amendment will be agreed to.

Mr. KENNEDY. May I ask the Senator from Alabama a question? We were able to consolidate various offenses, for example, 70 different theft offenses that appear throughout the criminal code, and bring them into one section. In theft, for example, there is one section with many different jurisdictional bases. Would the Senator not agree with me that if the amendment of the Senator from Alabama were accepted we would have to go back to the existing law—70 offenses of theft, for example? We would be right back to where we started in terms of a current hodgepodge code. Obviously one of the bases for this codification is to try and simplify it and make it understandable.

Obviously what we did is consider jurisdiction separately. We defined the offense of theft and consider jurisdiction separately. If we had to establish the Federal jurisdiction for each and every

theft offense, we would be right back where we were with 70 different theft offenses in the Criminal Code, each one of them drawn or stated differently. Would that not in effect be one of the practical effects of the Senator's amendment?

Mr. ALLEN. No, I do not think so. I think that under the present law it is up to the jury to determine this fact, and I do not know that it is any more a difficult determination than any other fact that might be submitted to them, and I believe the distinguished Senator's statement that the court would determine the matter of jurisdiction beyond a reasonable doubt is based upon an amendment that has not yet been agreed to. Is that correct?

Mr. KENNEDY. Will the Senator state it again, please?

Mr. ALLEN. I am under the impression that the Senator's statement that the question of jurisdiction is to be determined by the court if my amendment is not agreed to and that decision must be on a finding beyond all reasonable doubt—and that is true—is based upon a committee amendment that has not yet been agreed to. Is that not correct?

Mr. KENNEDY. The Senator is correct. The provisions under the committee amendment at 326 require that. The Government has the burden of proving the existence of Federal jurisdiction over the offense as set forth in title 18 United States Code, beyond a reasonable doubt. We have been moving, as the Senator well knows, through various committee amendments, and that one has not yet been accepted. But it will be if we are successful.

Mr. ALLEN. I understand. The Senator was speaking of that as though it were a present fact. I do not believe that is in the bill as of now.

But the fact remains that the Senator is taking this determination, even under the committee amendment yet to be adopted, out of the hands of the jury and placing it in the hands of the court, even though the statement is made time and time again here on the floor that we are just codifying the present law and the present decision law.

All my amendment does in knocking out these two lines is to leave present law where it is and leave this important determination in the hands of the jury, and I would certainly rather risk my faith at the bar of justice if I were accused of violating the Federal law, and I would rather leave the matter of determining the facts involving jurisdiction in the hands of a jury rather than in the hands of a Federal judge.

Mr. KENNEDY. Mr. President, I will not delay the Senate long. I point out that this issue was gone into in depth by the Brown Commission and they made the recommendation which we have accepted in this legislation. In the court holdings, for example, U.S. against Miller, the Federal courts have taken judicial notice of the existence of Federal jurisdiction. So in many instances today the Federal courts understand that the issue of jurisdiction is an issue of law and not an issue of fact. It is an issue of law and they have made such findings. This concept is a linchpin in terms of our ability to consolidate under S. 1437.

We believe the court holdings are such that the courts themselves take judicial notice of this fact, and we believe, as the Brown Commission pointed out, this issue is basically an issue of law and not an issue of fact.

So, for those reasons, we are opposed to this amendment.

Mr. ALLEN. As to the question of jurisdiction being a question of law, of course, under present law it is a question of fact and then it would be entirely appropriate that the court apply the law after the jury has determined the facts. That would keep the traditional relationship between court and jury intact. That is the tradition which has existed in Anglo-Saxon jurisprudence, I assume, for centuries, that the jury is the determiner of the facts and the court is the applier of the law based on the facts determined by the jury.

I do not believe this matter of jurisdiction not being an element of the offense, as provided in the bill, should be allowed to remain in the bill, and the amendment would strike it out.

Mr. THURMOND. Mr. President, usually the distinguished Senator from Alabama (Mr. ALLEN) and I are on the same side.

I think, however, in this case I will have to oppose this amendment.

I might say in the report on the Criminal Code Reform Act of 1977 on page 40,* this statement was made on this particular subject:

> Subsection (c) states that the existence of Federal jurisdiction is not an element of an offense. The purpose of this provision is to lay the groundwork for the Committee's decision, implemented in the procedural portion of the subject bill,[44] that the question whether Federal jurisdiction has been proved be for the court rather than the jury.[45] The National Commission included in an identical sentence in its proposed Code.[46] As it aptly observed: "Jurisdiction is not an element of an offense . . . because jurisdiction goes only to the power of a government to prosecute. Whether or not it is proper for the federal government to prosecute is a separate question from whether or not the defendant has done something criminal." [47] Although current Federal statutes are almost all written so as to commingle the issue of jurisdiction with the elements of the offense,[48] some courts have recognized that jurisdiction is a severable issue which is no part of the crime.[49] Indeed, Federal Courts have taken judicial notice of the existence of Federal jurisdiction.[50]

Now, Mr. President, we feel that the way this statute is written, it is embodied in the Federal code here, is proper and it should remain.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. KENNEDY. Mr. President, if the Senator from Alabama has nothing further, I make a motion to table, and I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table of Mr. ALLEN's UP Amendment No. 1151. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from South Dakota (Mr. ABOUREZK) and (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I also announce that the Senator from Louisiana (Mr. LONG) is absent because of illness.

The result was announced—yeas 75, nays 20, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—75

Anderson	Gravel	Metzenbaum
Baker	Griffin	Moynihan
Bartlett	Hansen	Muskie
Bayh	Hart	Nelson
Bentsen	Haskell	Packwood
Biden	Hatfield, Mark O.	Pearson
Brooke	Hatfield, Paul G.	Pell
Bumpers	Hathaway	Percy
Burdick	Hayakawa	Proxmire
Byrd, Robert C.	Heinz	Randolph
Cannon	Hodges	Ribicoff
Case	Hollings	Riegle
Chafee	Huddleston	Roth
Church	Inouye	Sarbanes
Clark	Jackson	Sasser
Cranston	Javits	Schmitt
Culver	Johnston	Schweiker
Danforth	Kennedy	Stafford
DeConcini	Leahy	Stevens
Domenici	Lugar	Stevenson
Durkin	Magnuson	Thurmond
Eagleton	Mathias	Wallop
Ford	Matsunaga	Weicker
Garn	Melcher	Williams
Glenn	Metcalf	Young
Goldwater		

NAYS—20

Allen	Eastland	Scott
Bellmon	Hatch	Sparkman
Byrd, Harry F., Jr.	Helms	Stennis
Chiles	Laxalt	Stone
Curtis	McClure	Talmadge
Dole	Morgan	Tower
	Nunn	Zorinsky

NOT VOTING—4

Abourezk	McGovern	McIntyre
Long		

So the motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. GLENN). The question now recurs on the committee amendment on page 76. All those in favor of the committee amendment, signify by saying, "aye," opposed, "nay." The nays appear to have it.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which——

The PRESIDING OFFICER. The result has not been announced.

Mr. KENNEDY. I ask for a division, Mr. President.

The PRESIDING OFFICER. A division has been requested. Senators in favor of the amendment will rise and stand until counted.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

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*Footnotes are not printed.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair asks that we have order, please. I think some of the confusion of a few moments ago was due to too much noise on the floor.

Mr. KENNEDY. Mr. President, the purpose for the division was to get a positive vote on the committee amendment on page 76. Basically, it is on the grading provision, and strikes "a class E felony." I hope that the committee amendment will be accepted.

I understand that a division is in order, so those who support the basic committee amendment at the time of the division will indicate by rising.

Mr. ALLEN. Mr. President, did not the Chair announce the voice vote?

The PRESIDING OFFICER. No, the Chair did not announce the result of the voice vote. The Chair said it appeared that the nays had it.

Mr. ALLEN. I have no objection to the amendment, but I thought it carried by a top-heavy vote of 1 to 0.

The PRESIDING OFFICER. A division has been requested. Those Senators in favor of the committee amendment on page 76 will rise and stand until counted.

Mr. KENNEDY. Mr. President, I hope those who support the committee amendment will all rise at this time.

I thank those who rise at this time.

The PRESIDING OFFICER (after a pause). Those opposed will rise and stand until counted.

On a division, the committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 78, line 15, after "assigned" insert "noncriminal";

Mr. KENNEDY. Mr. President, I understand that the Senator from Alabama has a question that he wants to raise. I am glad to entertain a colloquy with the Senator.

Mr. ALLEN. I thank the distinguished Senator from Massachusetts.

Mr. President, the distinguished manager of the bill has, I am sure, noted the slight change in the wording of present law regarding tax evasion which is made in section 1401 of the bill. The bill provides that it is an offense to "evade liability for a tax," whereas present law refers to "evading a tax." I am advised that the reason for inserting the words, "liability for," is strictly a drafting preference and is not intended in any way to change the mens rea requirements of present law or to increase the scope of present law.

In other words, the insertion of the words, "liability for," does not imply that the mental state of seeking to avoid liability for a tax in some fashion thought by the taxpayer to be lawful would satisfy the culpability standard prescribed in this section of the bill. Is it correct, then, that the insertion of the words, "liability for," does not in any way change the existing culpability level required by present tax law?

Mr. KENNEDY. Mr. President, the answer is yes, this change was made merely for consistency in drafting and is not intended to increase the scope of the statute or to modify the mens rea requirements of present law.

Mr. ALLEN. I thank the distinguished floor manager.

UP AMENDMENT NO. 1152

(Purpose: To insure that judges do not improperly invade the province of juries by intimation or action)

Mr. MORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the amendment?

Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 1152:

On page 14, after line 13, insert the following:

"§ 105. Comments by Judges

"No judge, during the course of a criminal trial or in giving a charge to a jury in a criminal action under this Title, shall give an opinion whether a fact is fully or sufficiently proven, that being the true office and province of the jury."

Mr. MORGAN. Mr. President, if my colleagues will give me about 5 minutes of their time, I think this is an important amendment.

I must say in all candor, I approached the manager of the bill rather late with it. I am not on the Judiciary Committee, and I have other duties with other committees. I have not kept abreast of this bill as much as I would like to.

But this is an amendment I feel very strongly about. I believe if the Senate were aware of it, they would vote with us.

The findings of facts in a jury case, in a criminal case, and in many civil cases, is within the province of the jury.

In the State of North Carolina, and in most States, there is a prohibition against judges expressing an opinion with regard to the credibility of the evidence in a trial of a case.

Mr. President, this does not apply to Federal courts. A Federal judge can, if he wants to, in the presence of the jury just simply say, "Now, while, gentlemen of the jury, it is your prerogative to find the facts, I do not believe the testimony of this witness, and I do not think you believe it," just so long as he reminds the jury it is their province to find the facts, he can say anything he wants to.

That is a two-edged sword, Mr. President. I have tried a lot of cases in Federal court and I can name one Federal judge who thinks everybody ought to be in prison. He is sort of prosecution-minded. He has been a former U.S. attorney. We come in with a defense, present the finest witnesses in the world, and he can just express his opinion to the jury that he does not believe what the witness had to say. But as long as somewhere along the way he emphasizes or says, "It is your province to find the facts," it is permissible under the Federal law.

We have another Federal judge down my way, and I will not call any names, who does not think anybody ought to be in jail. He is right on the other side. He will, quite frankly, tell the jury while a law enforcement officer is testifying on the stand that he does not think this witness is worthy of belief, that he questions the credibility of the witness.

This presents a rather difficult situation, and I have had it happen to me many times.

If we look under rule 30 of the Federal Rules of Criminal Procedure found in title 18 of the Code, we will find several cases under this section. I had intended to bring it over, but I did not realize we were likely to finish this bill tonight as quickly as we are going to.

We will find many cases that have gone to the courts of appeals or to the Supreme Court in which it is spelled out that the judge in the Federal court has that prerogative as long as he emphasizes that it is a jury's final prerogative. But in almost every case that has gone to a court of appeals or the Supreme Court, the trial judge has been reversed for abuse of discretion.

But the difficulty is, Mr. President, it takes $2,500 as a minimum to appeal a case from a district court to a court of appeals. How many poor defendants have been convicted or, on the other hand, how many have been turned loose, by a judge expressing an opinion on the credibility of evidence?

And the judges become somewhat, sometimes, biased or calloused no matter how hard they try not to become that way.

I think if we are going to have the jury system that the judge ought not. We ought to leave it to the jury. It has worked very well in North Carolina for 200 years.

I want to read just a quote from one case in the North Carolina Supreme Court with regard to this very matter.

The North Carolina Supreme Court said that the founders of our legal system intended that the right to trial by jury should be a vital force in the administration of justice. They realized that this could not be if the jury should become a mere unthinking echo of the judge's will. To insure against this, they clearly demarcated the respective functions of the judge and the jury in criminal trials by State law.

The section I seek to add to S. 1437 would simply incorporate this approach into Federal law. It would deny a judge presiding at a jury trial the right in any manner or in any form, by word of mouth or by action, to invade the prerogative of the jury in its right to find the facts. The section is designed to make

effective the right of every litigant to have his cause considered with the "cold neutrality of the impartial judge" and the equally unbiased mind of a properly instructed jury. As we all know, this is vital, for the slightest intimation from a judge as to the strength of the evidence, or as to credibility of the witness, will always have great weight with the jury, and, therefore we must be careful to see that there is no undue prejudice by any expression from the bench.

That statement, Mr. President, is a direct quote from the court of appeals, and I have forgotten the circuit, but it is 447 2d Federal Reporter on this very case.

Let me say it again:

The slightest intimation from a judge as to the strength of the evidence, or as to credibility of the witness, will always have great weight with the jury, and, therefore we must be careful to see that there is no undue prejudice by any expression from the bench.

If we take a 12-man jury, they have high regard for the judge, and the judge can almost indicate his feeling to them by his demeanor, the tone of his remarks. But to let him go ahead and express his opinion as to whether or not a witness is telling the truth and then cover it up by saying,, "Well, now, I don't believe him, but you know, you are the finders of the fact," I think puts an undue burden on the defendant.

As I say, almost every case that has ever gone to the court of appeals or Supreme Court, the judge has been reversed. But I have had clients. and I have had it done to me and my clients, when we could not afford to appeal.

I think if it has worked in the State courts it should work in the Federal courts.

I thank my distinguished colleague (Mr. KENNEDY), who has done such a good job on this bill, for his willingness to try to work out something later on. He agreed that maybe if I would hold the amendment we would work, probably, with the House. I think we may still be able to. But, on the other hand, I would rather take it the other way, if the Senate will adopt it, and then if the House is not willing to buy it, we will drop it in the committee and then I will offer it as a separate bill.

But it is something I feel very strongly about. I will not talk about the quality of cases I have represented because a lot of them were moonshine cases. But I expect I have tried as many criminal cases in the Federal courts as maybe any Member of the Senate, and this is something that has always sort of stuck in my craw.

So, Mr. President, I hope my colleagues will adopt it. Then if Senator KENNEDY finds in steering this bill through the House that it puts any undue problem, I will be willing to drop it and come back with a separate bill later.

I thank the Chair.

Mr. KENNEDY. Mr. President, the Senator from North Carolina has followed this bill closely. I recall seeing him in the Chamber during the opening statements. He has taken an interest in the issues that are before us. He is a member of the bar and has been a distinguished attorney general. We welcome his comments and his help on many matters that come before the Judiciary Committee.

The concern I have is that there really has not been a record of abuse in this area.

As I understand, one of the major reasons for this particular authority in the Federal courts is that in many cases that come before the Federal courts—such as securities cases, antitrust cases, and complex narcotics cases—it is of some value for judges to be able to comment on the evidence in a fair and dispassionate way, so that there can be a fairer rendering of the verdict. This is one of the principal reasons why there is a reluctance to deny the judges the opportunity to comment.

We have not found this to be an area of any abuse. Obviously, if there is such abuse in the Federal courts, it can be appealed and reversed. So protections are there, and the appellate courts have placed strong restrictions on the lower courts in these areas.

Mr. President, I am extremely reluctant to accept this measure without comment from the bar, the judicial conference and others. I mentioned that to the Senator from North Carolina, and he said, "We know how they will come out on it." That may very well be true.

However, with the understanding of the Senator from South Carolina, I would be willing to accept the amendment and explore the matter further; with the understanding that we will make inquiry of the particular interest groups. We will have a few months to inquire. If this is going to present any significant problem, we will find it difficult to press it in conference. We will ask that it be accepted for the time being.

I should like the Senator from North Carolina to join the Senator from South Carolina, and I in addressing letters to inquire of the various groups which would have an interest in this area. We will do that immediately.

We will talk with the House Members; and if the case can be made, I am sure they will accept it. If the case cannot be made, we will follow the orderly route and reject the amendment in conference.

If that is agreeable to the Senator from North Carolina, and with the understanding of the Senator from South Carolina, we will be willing to accept the amendment.

Mr. MORGAN. I thank the distinguished Senator. I appreciate that. I understand his point of view. If it will cause any problems later, I will understand.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, because of a prior commitment, I may not be present in the Chamber when the final vote occurs. Therefore, I wish to take this opportunity to commend the distinguished floor leaders of this bill, Senator KENNEDY and Senator THURMOND, for the very fine job they have done, and to commend the entire Judiciary Committee, which has spent endless hours working on what is perhaps one of the most complex and important bills to come before the Senate, one that has been badly needed for many, many years.

As an attorney general of North Carolina, I undertook to codify the criminal code of North Carolina which had been enacted over a period of 200 years. I know how difficult it was then to pull together all the criminal laws of the State in one bill which could be acceptable to a majority of the members of the legislature. The Judiciary Committee has done a splendid job, and they should be commended.

I have had correspondence from some of my constituents and have read editorials in some of the newspapers in my State opposing provisions of this bill. I say to those who have opposition to some provisions of the bill that I am not entirely sold on it, but I do not believe anyone could draft a bill of this magnitude that would please everybody. I am sure that I could not draft one that I could look back on 2 months from now and be satisfied with. The committee deserves the praise of the entire Senate. I expect to cast my vote for the bill because it is badly needed.

One final word: I commend the distinguished Senator from Alabama. He has remained in the Chamber and has considered this bill diligently. He has offered many amendments, most of which I voted against. But the floor managers have accepted many of his amendments, and I believe they add to the strength of this bill. He deserves the appreciation of the Senate and the country. It is a better bill decause of what he has done. Because of his diligence, the bill has been discussed more thoroughly and can be understood more thoroughly by the people around the country.

I just wanted to express these views for the record, in case I were not present when the final vote occurred.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. ALLEN. Mr. President, I thank the distinguished Senator for his kind and generous remarks about my efforts with respect to the bill.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Mr. Richard Arnold of my staff be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1153

Mr. ALLEN. Mr. President, I send an amendment to the desk and ask unanimous consent that it may be considered at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment wil be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes unprinted amendment No. 1153. .

Mr. ALLEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 261, strike out lines 28, 29, 30, and 31, and substitute in lieu thereof the following:

"'(b) Psychiatric Examination and Report.—Prior to the date of the hearing, the court may order that a psychiatric examination of the defendant be conducted and that a psychiatric report be filed with the court; provided however, that if the hearing shall be conducted on motion of the attorney for the government, then the defendant may refuse such psychiatric examination or, in the alternative, may designate an additional examiner to those examiners as may be selected by the court pursuant to section 3616(b); provided further, that any psychiatric examination and report ordered under this section shall not be a basis for commitment of the person to be examined except for the period of the examination itself, not to exceed fifteen (15) days and such commitment shall be to the custody of the attorney general of the court for placement in the suitable facility closest to the court. As used herein, "suitable facility" means a facility that is suitable to provide for prompt psychiatric examination of the defendant given the nature of the offense and the characteristics of the defendant.

Mr. ALLEN. Mr. President, this amendment will modify the novel procedure set forth in the proposed code which permits incarceration for a period of up to 45 days, without a prior hearing, for the purpose of conducting a psychiatric examination of a defendant. The potential for abuse of this section is so obvious as to merit little discussion.

The proposed amendment, the amendment I have just offered, would allow psychiatric examination after a motion for a hearing to determine mental competency to stand trial and before a hearing on that issue. But it would include minimal safeguards against abuse by allowing the defendant to refuse such examination if the motion for a hearing to determine competency were made in the first instance by the attorney for the Government, and it would further permit the defendant, in that case, to designate at least one examiner in the event the defendant did consent to the examination. If the defendant moved for, or the court, sua sponte, ordered, a hearing to determine competency to stand trial, then in the court's discretion the defendant could be required to undergo psychiatric examination and would not have the right to designate an examiner. However, the examination would still be limited to a period not to exceed 15 days. It changes the 45 days down to 15 days, which should be sufficient incarceration for the purpose of making a psychiatric examination.

I have discussed this matter with the managers of the bill, and I believe they are willing to accept it.

Mr. KENNEDY. Mr. President, this has been an area which has been of great interest to our colleague, the Senator from Wyoming, who spent a good deal of time on this particular issue.

I am going to recommend we accept this amendment. I will point out that we reduced the time from 60 days to 45 days during the course of our markup, and now the Senator wants to cut it down to 15 days.

What we are obviously balancing here is sufficient time to get a proper psychiatric examination versus delay in the release of an offender. I think one would be hard-pressed, quite frankly, to get a proper examination within 15 days. But I will agree to the amendment.

I would point out a couple of other safeguards. We write into the law the right of habeas corpus. Any member of the family, even during this period, can sue for release—any member of the family.

Second, we do require a higher standard for commitment. Instead of "a preponderance of the evidence," we require "clear and convincing evidence" that it is necessary, so we have raised the standard.

The real question as to time is what is needed to make an adequate, fair test. But we are sensitive to the issue of individual liberty.

I think this is satisfactory, this shorter period of time, and I am willing to accept the amendment.

Mr. THURMOND. Mr. President, we have no objection.

Mr. ALLEN. I thank the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

UP AMENDMENT NO. 1154

Mr. ALLEN. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) on behalf of himself, Mr. HATCH, and Mr. HELMS, proposes an unprinted amendment numbered 1154.

Mr. ALLEN. Mr. President, I ask unanimous consent that it may be in order to consider this amendment at this time. It is not to the committee amendment or to the bill itself but to one of the composite amendments that will later be filed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 211, delete lines 27 through 36 and insert in lieu thereof:

(1) by amending subsection (e) by adding at the end thereof the following new sentence: "The provisions of section 1617 of title 18, United States Code, do not apply to an offense under this subsection.".

On line 37, delete "(3)" and insert "(2)"

Mr. ALLEN. Mr. President, this is a very important amendment and the distinguished manager of the bill recogizes the merit of it. The amendment is to a large amendment which is to be filed, No. 1624, and it contains a provision amending the OSHA statute.

It provides that the first offense after the assessment of a penalty against an employer under the OSHA statute should constitute an offense.

Heretofore these have been civil impositions of penalties. This would be a radical departure from the OSHA statute, and at a time when we are having a measure of success in having the OSHA statute applied in a reasonable fashion rather than for employers to be penalized for minor infractions, it seems that it would certainly be ill advised to move in the opposite direction and make a criminal out of an employer for the first offense after a penalty has been assessed. That would make him a criminal for the rest of his life and go against his record.

I do not believe, and apparently the committee agrees, that that was the intent of this amendment. But this amendment that I am now offering knocks out this language and leaves the present OSHA statute as it is. It does not criminalize the offenses or the violations under the OSHA statute.

I have discussed it with the managers of the bill, and I believe they agree that the amendment should be agreed to.

Mr. KENNEDY. Mr. President, we will be willing to accept this amendment, although I personally am reluctant to do so.

Under the present law the only criminal penalty that results is when there is death. Anything less than death results in no criminal penalty.

But the Judiciary Committee is not the appropriate forum to make a judgment on this particular issue. The committee that is involved here ought to make the judgment on it.

The amendment of the Senator from Alabama is basically a restatement of current law, and I am very much aware of what the mood of the Senate is with regard to OSHA penalties, so by accepting the amendment of the Senator from Alabama we will effectively return to current law. That seems to me to be the

best way to handle this particular situation.

As the Senator from Alabama correctly pointed out, in this particular area we raised the penalty. The Senator wants to restore existing law, and that is satisfactory to me. I would hope the amendment would be agreed to.

Mr. ALLEN. Mr. President, if the Senator will yield, I believe what the amendment does is it eliminates what the Senator's amendment does, it eliminates this requirement that death result, and imposes a criminal penalty for the second offense no matter whether injury or death is involved, and that is what we eliminate.

Mr. THURMOND. Mr. President, I think the amendment of the distinguished Senator from Alabama is wholesome and will be helpful, and we are pleased to accept it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

UP AMENDMENT NO. 1155

Mr. ALLEN. I send another amendment to the desk and I ask unanimous consent that it may be in order to consider the amendment at this time, and I further risk unanimous consent after the amendment is stated that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1155 to amendment 1624.

The amendment is as follows:

On page 246, add the following new subparagraph after line 8:

"(p) A new section 6035 of title 39, United States Code, is added to read as follows:

"SEC. 6035. Mailing, importing, or transporting obscene matter.

"(a) Every article or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use; and

"Every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing abortion, or for any indecent or immoral purpose; and

"Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means abortion may be produced, whether sealed or unsealed; and

"Every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can, be used or applied for producing abortion, or for any indecent or immoral purpose; and

"Every description calculated to induce or incite a person to so use or apply any such article, instrument, substance, drug, medicine, or thing—

"Is declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

"Whoever knowingly uses the mails for the mailing, carriage in the mails, or delivery of anything declared by this subsection or section 3001(3) of title 39 to be nonmailable, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, or knowingly takes any such thing from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be guilty of a Class D felony.

"The term 'indecent', as used in this subsection includes matter of a character tending to incite arson, murder, or assassination.

"(b) Whoever brings into the United States, or any place subject to the jurisdiction thereof, or knowingly uses any express company or other common carrier, for carriage in interstate commerce or foreign commerce any drug, medicine, article, or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advestisement, or notice of any kind giving information, directly or indirectly, where, how or of whom, or by what means any of such mentioned articles, matters, or things may be obtained or made; or whoever knowingly takes from such express company or other commn carrier any matter or thing the carriage of which is herein made unlawful, shall be guilty of a Class D felony.".

On page 246, line 9, delete "(p)" and insert "(q)".

On page 246, after line 12, delete the quotation marks and second period at the end of the item relating to section 6034.

On page 246, after line 12, add after the item relating to section 6034 the following new item:

"6035. Mailing, importing, or transporting obscene matter.".

On page 246, line 13, delete "(q)" and insert "(r)".

Mr. ALLEN. Mr. President, the committee amendments dropped the prohibition against advertising for abortions. What this amendment does is reinsert that provision and maintain the present law.

I understand that the committee is reducing the penalty in obscenity cases, I believe, from 5 years down to 2, and while I oppose that, I am not making any point about it. But this amendment does reinstate the penalty against disseminating materials urging abortions or advertising for an abortion. I believe that, as was the case with the other amendments, the manager of the bill will accept the amendment.

Mr. KENNEDY. Mr. President, this is a case where we will have the restoration of current law. No cases have ever been prosecuted under this provision. I myself have some questions about its constitutionality, but I do not object to the restoration of the current law, and I urge the Senate to accept the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, the amendment is acceptable to us.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 1156

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) offers an unprinted amendment numbered 1156.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. Mr. President, reserving the right to object, I object. I have no idea what this amendment is. I have been here 5½ hours, and this is the first I have heard of it.

The PRESIDING OFFICER. Objection is heard. The clerk will state the full amendment.

The assistant legislative clerk read as follows:

On page 78, line 12, after "(A)" insert the following: "willfully and knowingly".

On page 78, line 22, after "(B)" insert the following: "willfully and knowingly".

On page 78, line 23, after "(C)" insert the following: "willfully and knowingly".

On page 78, line 26, after "(D)" insert the following: "willfully and knowingly".

On page 78, line 29, after "(E)" insert the following: "willfully and knowingly".

Mr. BUMPERS. Mr. President, let me say I will not press this point, because the point is fairly clear from the amendment, but I will say that this whole section 1343 on making false statements causes me considerable pause. When I discovered that a person could be charged with a criminal offense for making a statement which was false but not known to him to be false at the time, or could even, under subsection (C), omit a material fact necessary to make a written statement not misleading, and none of these things have to be done willfully and knowingly on the part of the person making the statement, and yet he could be charged with the offense, it seemed to me that the very least we could do would be to provide that people who make innocent statements not be subjected to prosecution, particularly when they are making them to some person who appears, just on the face of it, to be a Federal bureaucrat.

I think every aggressive prosecutor in the country could urge this provision to get everybody he did not happen to like. So I urge the committee to accept these qualifying terms.

I do not know of any State criminal code in the United States that does not provide that any statement, in order for the maker to be charged with perjury or anything else, has to be made knowingly and willfully.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the adding of the particular words "willfull and reckless" that the Senator adds in these particular provisions—or "willfull and knowing" is unnecessary. First of all, whenever the state of mind is not stated, as it is not stated in these particular offenses, S. 1437 states in chapter 3 section 303(b) that the required state of mind for an existing circumstance, if not specified is "reckless."

"Reckless" is defined on page 34 as follows:

A person's state of mind is reckless with respect to:

"(1) an existing circumstance if he is aware of a risk that the circumstance exists but disregards the risk;

"(2) a result of his conduct if he is aware of a risk that the result will occur but disregards the risk;

* * * The risk must be of such a nature and degree that to disregard it constitutes a *gross deviation* of the standard of care that a reasonable person would exercise in such a situation. (Emphasis added.)

Then it is further defined, on page 35:

'reckless', this requirement can be satisfied alternatively by proof of an 'international' or 'knowing' state of mind;

So the fact that we did not describe the nature of the state of mind is already predetermined in other provisions of the legislation, as to what standard will apply. What we have provided in this particular offense is that "reckless" would apply to the issue of the defendant's awareness of the existence of the falsity of his statement. This is intended to parallel and incorporate the "conscious disregard" for the truth standard of the Hanlon case.

The only reluctance we have to use the Senator's words, is that what we have tried to do is reduce the number of possibilities from 80 to 4. We have defined those standards as clearly and precisely as we could to include the various courses of conduct, which would indicate to juries as well as prosecutors and others what they would have to prove to establish clearly the proper state of mind.

I want to assure the Senator from Arkansas that those provisions which the Senator read have not been created without a state of mind as we defined it. They would be covered by "reckless," and I believe that establishes the level of culpability, particularly as it is defined, which the Senator from Arkansas would seem to want.

Mr. BUMPERS. Mr. President, looking at the language which is described by the Senator from Massachusetts, I see where it says, in section 303, at line 33, that a state of mind must be proved with respect to the element of an offense, except that:

no state of mind must be proved with respect to a particular element of an offense if that element is specified in the description of the offense as existing or occurring 'in fact';

That is not totally clear to me, but it looks to me as though it could be an exception.

Second, it says:

no state of mind must be proved with respect to any element of an offense described in a statute outside this title, or described in this title as a violation of a statute outside this title, or described in a regulation or rule issued pursuant to such a statute, if the description of the offense does not specify any state of mind with respect to that element and the legislative purpose of the statute does not compel a contrary interpretation.

First of all, I defy any judge in the United States to know what that means.

Mr. KENNEDY. That does not apply, Senator. That does not apply to any offense within this new title 18. It has absolutely no application.

Mr. BUMPERS. What part of the statute is the Senator relying on?

Mr. KENNEDY. Well, the language the Senator just read makes it clear that it applies to the regulatory offenses which are not incorporated in title 18, but the provision the Senator reads does not apply to the code offenses.

Mr. BUMPERS. What citation was the Senator referring me to?

Mr. KENNEDY. Section 303(a)(2).

We have established, as I mentioned before, that if culpability is not specified, rather than writing "reckless" into every part, or "knowingly" into every part—there are four different culpabilities as descriptive words in every part of this statute. What we have done is indicate where those particular standards apply. In this, I just want to give assurance—because of the way the Senator presented it, I think it would appear that we did not have a culpability term. We do. "Reckless" applies to these different provisions.

If the Senator wanted to change the word "reckless" to "knowingly," we could probably do that if the Senator feels better. We could clarify that in a clarifying amendment. I would not have any objection to that. That would be entirely satisfactory to us, provided that its purpose is to clarify the fact that we are only seeking to preserve existing law. To insure that no person is unfairly charged for mere forgetfulness, or a merely negligent ommission. That was never intended, as I am sure a careful reading of the culpability sections and the committee report will indicate.

The only other point is that I am reminded that "reckless," is the closest term which is consistent with the case law in this particular crime. That is the reason we have used it.

Mr. BUMPERS. In the definition of "reckless," it says:

A person's state of mind is reckless with respect to: (1) an existing circumstance if he is aware of a risk that the circumstance exists but disregards the risk.

The reason for the amendment is precisely to overcome that very point, that he may not know that there is a risk.

Mr. KENNEDY. If he is not aware of the risk there is no offense. Will the Senator continue reading?

Mr. BUMPERS. No. (2) says:

(2) a result of his conduct if he is aware of a risk that the result will occur but disregards the risk; except that awareness of the risk is not required if its absence is due to self-induced intoxication.

Mr. KENNEDY. But it also says:

The risk must be of such a nature and degree that to disregard it constitutes a gross deviation from the standard of care that a reasonable person would exercise in such a situation.

This last phrase is very important because it makes it very clear that mere error, mere negligence, is not a crime.

I am glad to work with the Senator. I think we are very close. We are basically taking what is case law on this, the closest case law that we could get fitted into the "reckless" definition. We have reduced the number, as I mentioned before, of culpability terms.

We are glad to work and add a better word. We shall be glad to add "knowingly" in this area if the Senator wants to clarify that mere unintentional errors are not an offense and that this clarifying amendment would carry forward existing standards.

Mr. BUMPERS. This amendment, I say to the Senator, that I have offered goes only to section 1343, which deals with falsification of statement. But the same omission occurs in the charge of perjury.

This language dealing with "reckless" may be a qualification of case law. But in all the years of my trial practice, about the only time I ever saw the term "reckless" used was in tort cases, personal injury cases, and automobile accidents. It occurs to me that when we are dealing with a prosecutor's right—which is, I think, more powerful than most of the people in this Chamber understand. We are saying over here in one section, if he makes a false statement or if he makes a statement or he omits to tell something that he should have told, just standing on the face of it, there is no clear reference there that he has to do it intentionally or knowingly. He can do it quite innocently. But then he comes in with a defense, when they charge him, and he says, "Yes, but look over on page 34, where it says 'reckless'."

It occurs to me that any prosecutor would say that a person's state of mind is reckless with respect to an existing circumstance if he is aware of it.

The prosecutor, admittedly, would have to prove that he is aware of it. But why put him to all of that task when every State code in the United States for perjury or falsified statements requires that such omissions or falsifications or perjury have to be intentional and willful?

I cannot see anything that the committee would lose by inserting it in two cases where it is always—always—required as a matter of proof.

Quite frankly, the Senator has called my attention to a part of the bill that I had not seen previously. I did not realize that "knowing" and "reckless" were in here, but I honestly do not believe the term "reckless" covers the two cases I pointed out nearly clearly enough, because it states that his state of mind is reckless if he is aware of the risk. What if he is not aware of the risk and omits to tell something, and he does it quite innocently, because he is not aware of the risk?

The chances are that he can go to jail and there are a few instances of innocent people who did go to jail. In this instance, there might be a bunch of them who will go.

As I say, I would like to see—the "willful" and "knowing" amendment I have offered only goes to 1343, which deals with falsified statements to some Government agent or, really, some bureaucrat who has the authority to administer oaths and it does not make much difference in what form he delivers the oath. There is another provision in here saying that that is not a defense, that he gave an irregular oath.

It is not even a defense that the declarant did not have the authority to make the statement in the first place. So it occurs to me that we are really getting terribly liberal with the prosecutors in this country and giving them freedom to prosecute honestly innocent people in this country who may not look right to them or who may look like a devious character, anyway.

At another time, I shall offer an amendment dealing with the perjury statute. Those are the two statutes I think are important when people give statements and are going to be charged with a crime, that they at least know they are telling a lie when they do it.

Mr. KENNEDY. Mr. President, this offense is outlined in 18 U.S.C. 1001. The case law interpretation of 18 U.S.C. 1001 is "reckless." We have basically incorporated that. The Senator from Arkansas, as his amendment now reads, wants to raise the standard. That is a major difference in terms of the current law, in terms of the criteria. Prosecution for innocent errors could not occur, contrary to the Senator's suggestion, because if the defendant is not aware of the risk his statement is false, he is not reckless.

If that is the will of the Senate, then they can make that judgment. But the basic fact is that we have recodified the existing law in terms of the interpretation of the cases.

We have taken the standard of culpability that is in the various cases and brought it in here. The Senator from Arkansas comes in here at the end—and we are glad to entertain it—and asks us to change that particular standard on this particular crime.

Mr. BUMPERS. Will the Senator yield?

Mr. KENNEDY. No, I shall not yield yet.

It is against that background, Mr. President, that we find on page 34 the best definition taken from law and from language which exists in the case:

A person's state of mind is reckless with respect to:

"(1) an existing circumstance"

Referring back to the particular offense—

if he is aware of a risk that the circumstance exists but disregards the risk;

"(2) a result of his conduct if he is aware of a risk that the result will occur but disregards the risk;

except that awareness of the risk is not required if its absence is due to self-induced intoxication. The risk must be of such a nature and degree that to disregard it constitutes a gross deviation from the standard of care that a reasonable person would exercise in such a situation.

Now, the culpability level, coupled with the requirement that the conduct be knowingly engaged in, carries forward effectively the current law, 18 U.S.C. 1001. That is effectively what was recommended to the Brown Commission and others. As I say, the Senate is quite within its power if it wants to vary the criteria.

(Mr. METZENBAUM assumed the chair.)

Mr. KENNEDY. But I just want the Senate to know what the committee did on this particular issue.

It is basically a restatement of existing law. I can understand about the words defined here in section 1343 also relating to another section. But that is what the existing law is in spades—in spades. That is at least the committee's position and the reason for it.

I think the Senate and the committee's position should be sustained.

Mr. BUMPERS. First of all, I do not think the Senator, because of the lateness of the hour, will suggest the language of the bill is sacrosanct.

Second, I would like to point out to the Senator that in section 302, dealing with the words "international, knowing, reckless and negligent states of mind," here is what the bill says.

I want everybody here to understand that an Internal Revenue Service agent, somebody from the Agriculture Department, or any other Federal agent, comes in to ask a question and you think it is a perfectly harmless question, he is not going to give you a Miranda ruling or anything else, but he would like to ask a few questions and you answer the questions as best you can, as honestly as you know how to.

I say that under this bill, in its present state, if you fail to say something you should have said, or something, in all innocence, that turns out to be a misrepresentation, you will be charged, or at least you are subjecting yourself to a criminal charge.

Here, this bill says in section 302——

Mr. KENNEDY. The Senator——

Mr. BUMPERS. Wait a minute.

Mr. KENNEDY. The only point I will press again because the Senator is completely misrepresenting and distorting provisions of the legislation—it clearly does not apply to innocent misstatement errors.

The Miranda requirements in terms of notification are outlined on line 19.

Mr. BUMPERS. Mr. President——

Mr. KENNEDY. And in fact, if the Senator will read what is in there, I understand his wanting the high culpability standard, but the only point I make is that I will intercede if there is going to be misrepresentation of what is stated in this.

I will certainly accede to the Senator's right to change the culpability. But when he represents what is in this bill in terms of this particular provision, I feel——

Mr. BUMPERS. I am not on this floor advocating that people misrepresent or lie to a Federal agent or anybody else. What I am concerned about is innocent people.

I practiced trial law for 18 years, and I know what people are capable of doing to themselves. I have tried too many cases in which I have seen too many aggressive, overly ambitious prosecutors trying to stick it in those people. I am trying to protect them from those prosecutors sticking it in, so that the proof required will be substantive and the man actually will be guilty of knowingly and intentionally doing something wrong.

Under this section, where it is intentional and knowing, intentional, reckless, willful. It does not say if a man tells something to another person, as in 1343. It does not say anything about willful or knowing.

There is not any reference back to these definitions. These are simply definitions to be used where those words are found in the statute and they are not found in section 1343 or 1341.

Mr. President, I am just saying that I do not want any innocent people suffering as a result of what we did in haste. I know the hour is late and everybody wants to go home. I do, too. But I want Senators to know I was alarmed when I found out people could be charged for simply making a statement to a bureaucrat who walks into his office, for telling something they did not know was untrue, or for omitting to tell something they did not know anything about.

I just say that under this statute they can be, and I do not think that is what the Senate wants.

I think knowingly and willfully misrepresenting things is the least of justice and something a prosecutor should have to prove in order to charge him with perjury.

He has to in every State law in the world, and I hope he forever has to prove those things.

Mr. KENNEDY. Mr. President, the Senator from Arkansas made a very eloquent statement about the existing law. and what is wrong with it, about false statements to various inspectors, and all the rest, and what is wrong with it. But I must correct one thing the Senator is wrong in saying these definitions apply only when written in a section. They apply throughout the code.

In this statute, 1437, we can open it up on page 78.

First of all, the defendant has to know he is a law enforcement officer. Can the Senator find where that is stated in the existing law?

He has to know it is an officer. It does not exist.

The concern the Senator from Arkansas has is a legitimate concern with the current law. That is why we are trying to change it, use the same culpability standard which is the existing law and add a couple of other facts.

Second, and then line 19, and in fact, such statement is made after the person has been advised making such a statement is an offense, a Miranda warning.

Find that in existing law. It does not exist.

The Senator makes an eloquent statement why it should be changed. But let alone the recantation defense, I will not even bring that up, which we added, where if he knows he is an officer, he gets Miranda warnings, he lies to them and then within 7 days he says:

I really didn't understand the question.

He has a recantation defense.

That is not under existing law.

Three new protections for him.

If the Senator wants, in terms of the language, to change the particular language to "knowingly" from "reckless" because he thinks it is clearer, I will accede. But I want to study exactly where we will add this language.

I will ask the Senator's amendment be modified if he wants to use another culpability standard.

I think what we attempted to do is restate the existing law on the culpability standard. I think it is reasonable in this particular area, even with the protections, to change the word "knowingly" at an appropriate point.

I will be glad to offer that amendment or, if the Senator would offer his amendment to that, I would urge that the Senate approve it and we could get on with it.

I will be glad to talk to the Senator. We could have worked out this particular part. But, as I say, we did not know this was coming up until it was read. I am sure we could have worked it out.

Mr. BUMPERS. Mr. President, I do think it is one of the most serious omissions in the bill.

I want to come back in just a moment to the Senator's offer to modify this. But I would like to refer the Senator to the statute he referred me to a moment ago referring to "reckless."

The Senator said "reckless" is codified. He gave me 18, 1001. Here is what it says:

Whoever, in any matter within the jurisdiction of any department or agency of the United States *knowingly and willfully* falsifies, conceals or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false * * *.

That is the law the Senator said was codified in this bill. But it is not. The term "reckless" is used.

So I am saying to the Senate that I like that law. I think it makes the prosecutor prove his case, as he ought to. I think it protects innocent people, and that they ought to be protected.

The Senator just made an offer a while ago to accept a modification of the amendment. If he would restate that, I will entertain the idea.

Mr. KENNEDY. I am glad to restate it.

If the Senator would take "knowingly" and "willfully" as defined in case law, the Senator has got a bargain.

Mr. BUMPERS. Just simply add that?

Mr. KENNEDY. All I say is, as the Senator knows, the courts interpret these provisions. It is interpreted in many cases. In a number of those cases culpability was defined as "reckless." Those words are there, as defined by case law, as reckless, and that is where we reached it. We were not trying to put a lower or higher standard on this part.

I would like to move beyond these points, if it is agreeable, and take the word "knowingly," at the proper place if that would be acceptable to the Senator and with the understanding that this is done to preserve existing case law. I do not have the particular line reference, but I will suggest the absence of a quorum, and we can try to work it out.

Mr. BUMPERS. I will accept the Senator's modification of "knowingly" if the Senator will accept it also on the perjury sections, 1341 and 1342.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the previous amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1157

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask unanimous consent that it be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes unprinted amendment numbered 1157.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT OF MR. BUMPERS TO S. 1437

On page 77, line 24, after "he" insert "knowingly".

On page 77, line 35, after "he" insert "knowingly".

On page 78, line 10, after "if" insert "he knowingly"; line 11, after "he" insert "knowingly".

Mr. BUMPERS. Mr. President, the distinguished Senator from Massachusetts and I have talked about this. We have submitted this amendment as a substitute for the one I just withdrew as one which will add the word "knowingly" to both the perjury charge and the false statement charge. It is a little less lengthy but accomplishes the same purpose, and certainly it will satisfy most of the reservations I have about those two sections.

Mr. KENNEDY. Mr. President, I accept the amendment. I believe that it is basically a restatement of the current law, but I think it perhaps clarifies it, and I move its adoption.

Mr. THURMOND. Mr. President, the amendment is acceptable to us.

Mr. BROOKE. Mr. President, section 1343 provides, among other things, that a person is guilty of an offense if "in a Government matter" he makes "a material oral statement that is false" to a person he knows is "a law enforcement officer" or a person assigned noncriminal investigative responsibility "by statute or regulation, or by the head of a Government agency."

The Bumpers amendment would provide that the false oral statement and all other statements under this section would have to be made knowingly. There are several important reasons for supporting such an amendment.

First, section 1343 goes beyond the present law on false statements and the recommendations of the Brown commission report on that issue. For the first time there is a specific provision making false oral statements made to a law enforcement official punishable. The present false statement statute, 18 U.S.C. 1001, provides:

Whoever in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

Up to now there has been a conflict among the various circuits as to whether false oral statements should be included. For example, in *United States* v. *Bedore*, 455 F. 2d 1109 (9th Cir. 1972) the court of appeals held that the statute was not intended to embrace oral, unsworn statements, unrelated to any claim of declarant to a privilege from the United States or a claim against the United States while in *United States* v. *Adler*, 380 F. 2d 917 (2d Cir. 1967), the court of appeals included oral false statements where the defendant voluntarily offered statements which were aimed at initiating criminal investigations against another person.

And the Brown commission report excluded any oral statements unless there is a legal duty to divulge or there is an intent to implicate another person. The report discussed the judicial concern about the apparent coverage of 18 U.S.C. 1001 to include statements made to investigating authorities:

An inquiry might be made of any citizen concerning criminal cases of a minor nature, or even of civil matters of little consequence, and if he willfully falsified his statements, it would be a violation of this statute. It is inconceivable that Congress had any such intent when this portion of the statute was enacted. A literal construction of a statute is not to be resorted to when it would bring about absurd consequences, or flagrant injustices, or produce results not intended by Congress. *Paternostro* v. *United States*, 311 F.2d 298, 303 (5th Cir. 1962).

The Brown report went on to state that—

The basic concern is that the use of the statute by agents with the authority to investigate crime generally might subject persons to unlimited questioning, without the procedural safeguards afforded by grand jury investigations, or administrative safeguards afforded by the clear delineation of jurisdiction in other governmental agencies.

In many of those decisions which have held that 18 U.S.C. 1001 covered false oral statements only allowed those oral statements that were volunteered in an attempt to investigate an action against another person, or related to a privilege from the United States, or related to an existent legal duty on the part of the

one providing the false statement. *United States* v. *Goldfine*, 538 F.2d 815 (9th Cir. 1976) (a privilege received from United States existed); *United States* v. *Adler*, 380 F.2d 917 (2d Cir. 1967) (action initiated by defendant); *c.f. Friedman* v. *United States*, 374 F.2d 363 (8th Cir. 1967) (where defendant voluntarily gave statement but held not to be within the jurisdiction of the FBI with reference to this section.)

In an attempt to avoid restrictions indicated by the courts to be relevant the proposed law includes the proviso that a statement is safeguarded by the requirement that it be "volunteered or * * * made after the person is advised that making such a statement is an offense." But this is not enough. If oral statements are to be admitted at all, they should be limited strictly to those cases where the individual knowingly made a false oral statement. Only then can the constitutional rights of the individual be adequately protected.

The second major factor supporting the Bumpers amendment is that section 1343 would significantly change the mens rea standard in present law; 18 U.S.C. 1001 makes it a criminal offense, inter alia, for any person "knowingly and willfully" to falsify or conceal a material fact or make any false, fictitious, or fraudulent statements or representations. The proposed S. 1437 provision, section 1343, would change the present mens rea requirements section as follows: First, it would eliminate any need for proof that the accused knew his statement would be used in connection with a Government matter; it would be sufficient that he acted in reckless disregard of the possibility that the statement would be so used; and second, more fundamental, section 1343 would no longer require the Government to prove that the accused knew the statement to be false, the proof of state of mind required would only be that of recklessness.

As a general matter, the culpability level of recklessness is undesirable because criminal liability may attach to the conduct of a person who did not have fair notice that his conduct was unlawful. It is particularly undesirable where the accused may be convicted of making a false statement if he was merely reckless as to the falsity of the statement. If the Government does not have to prove that the accused knew the statement was false, any false statement made in a Government matter could subject the maker to criminal prosecution under this provision. This standard is simply too loose where the stakes are criminal liability.

Second, the loose mens rea requirements are compounded by the broad and nearly open-ended definitions of the conduct which section 1343 would prohibit. Thus, a person comes within the section's prohibitions if he "omits * * * a material fact in a written statement," "submits or invites reliance on a material writing that is false * * * altered, or otherwise lacking in authenticity," "submits or invites reliance on a sample * * * or other object that is misleading in a material respect," or "fraudulently uses a * * * scheme, or device that is misleading in a material respect."

These prohibitions, applicable to any kind of a statement, oral or written, in any Government matter, are limited in their potential coverage only by the ingenuity of Government prosecutors. One result of such a sweeping delegation of prosecutorial authority would likely be to discourage citizens and institutions from coming forward to present information or testimony to Government authorities.

Two cases are cited in the committee report for the proposition that section 1343 reflects existing case law in requiring only recklessness with regard to the falsity of a statement. These cases are *United States* v. *Egenberg*, 441 F. 2d 441, 444 (2d Cir.), cert. denied, 404 U.S. 994 (1971), and *United States* v. *Clearfield*, 358 F. Supp. 564, 574 (E.D. Pa. 1973). Neither case supports the proposition that recklessness alone is sufficient to satisfy the "knowing" and "willful" standard of 18 U.S.C. 1001, and a review of the case law under this statute and others using the same language shows that the interpretation of "knowing" and "willful" in 18 U.S.C. 1001 is not the equivalent of "recklessness" as defined in S. 1437. Section 1343 would clearly accomplish a change in existing law in this regard, by allowing conviction upon proof that the defendant's state of mind with regard to the falsity of his statement was merely reckless.

The prevailing case law under 18 U.S.C. 1001 requires proof of an "intent to deceive or mislead." *United States* v. *Lange*, 528 F. 2d 1280, 1286 n. 10 (5th Cir. 1976). See also *United States* v. *Snider*, 502 F. 2d 645, 651–652 (4th Cir. 1974); *United States* v. *Smith*, 523 F. 2d 771 (5th Cir. 1975). The third circuit interprets 18 U.S.C. 1001 to require "proof of an evil motive." *United States* v. *Weiler*, 385 F. 2d 63, 67 (3d Cir. 1967). The eighth circuit, construing the terms "knowingly and willfully" in a false-statement prosecution under 15 U.S.C. 1717 (Interstate Land Sales Act), referred to decisions construing 18 U.S.C. 1001 and concluded that "knowingly" means "that the defendant must have a 'certain and clear perception of the falsity of the claim made.'" *United States* v. *Steinhilber*, 484 F. 2d 386, 390 (8th Cir. 1973).

The cases cited by the report—United States against Egenberg and United States against Clearfield—are not contrary to this mainstream case law but fully consistent with it. Each deals with the recognized principle that a jury may convict a defendant of knowing falsehood even though there is no direct evidence of his knowledge. As in any other case, the jury may rely on circumstantial evidence to conclude that the defendant had the requisite knowledge. The factual context of Egenberg shows that no general rule of mere recklessness was intended:

> Appellant claims that there was insufficient evidence to sustain a conviction on the charge of falsely stating on Sisten Ehrling's return of April 17, 1965 that Ehrling did not intend to return to the United States. The government provided that appellant had examined Ehrling's file at Columbia Artists Management, Inc., and that this file contained several contracts obligating Ehrling to return to the United States before the end of 1965. The court correctly charged that in order to convict under 18 U.S.C. Section 1001 (1964) the jury need only find that the defendant acted with reckless disregard of whether the statement * * * was true or that appellant acted with a conscious purpose to avoid learning the truth. See *United States* v. *Abrams*, 427 F. 2d 86, 91 (2d Cir. 1970)." (441 F. 2d at 444).

A later decision of the second circuit makes the intent of Egenberg even clearer. In *United States* v. *Hanlon*, 548 F. 2d 1096 (2d Cir. 1977), the court defined the issue: "The crucial element in this case was guilty knowledge on the part of the defendants." (548 F. 2d at 1100.) The court then discussed the trial court's charge on guilty knowledge, which had allowed the jury to attribute to the defendant knowledge of facts that were obvious to him. The second circuit upheld the conviction, interpreting the trial judge's charge to be proper on a theory of "conscious avoidance."

> It is settled law that a finding of guilty knowledge may not be avoided by a showing that the defendant closed his eyes to what was going on about him; "see no evil" is not a maxim in which the criminal defendant should take any comfort. *United States* v. *Bernstein*, 533 F. 2d 775, 796–98 (2d Cir. 1976); *United States* v. *Jewel*, 532 F. 2d 697, (9th Cir. 1976) (*en banc*). See *Leary* v. *United States*, 395 U.S. 6, 46, 89 S. Ct. 1532, 23 L.Ed 2d 57 (1969); American Law Institute Model Penal Code Section 2.02(7) (Proposed Official Draft 1962). There can be no doubt that the "conscious avoidance" standard set forth in Judge Pollack's charge was entirely proper. (548 F. 2d at 1101.)

The appellate court, however, was highly critical of the trial judge's use of the term "reckless"—

> We are troubled, however, by the repeated use of the term "reckless." This Court has previously had occasion to criticize the use of this "technical and confusing" term. *United States* v. *Gentile, supra*, 530 F. 2d at 470; *United States* v. *Bright, supra*, see *United States* v. *Sarantos, supra*. The distinction between recklessness and negligence is elusive enough for even the most respected legal scholars. See Prosser on Torts, 32, 184–86 (4th ed. 1971). It follows that to the layman on the jury, it might prove a significant source of confusion. It is thus preferable, in the cases such as this, to omit the use of the term. It adds nothing to the "conscious avoidance" language which we have approved, and might tend to mislead the jury. We are satisfied that, in this case the challenged portion of the charge was not error, plain or otherwise. However, should trial courts continue to employ this disfavored language, we will not hesitate to take appropriate corrective measures. (*Id.* at 1101–1102.)

The quoted language leaves no room to doubt that the second circuit has not embraced the notion that the mental elements "knowing" and "willful" may be satisfied by simple proof that a defendant recklessly disregarded a possibility that his statement was false.

Therefore, it is necessary that the Senate add the provision that false statements would have to be made knowingly.

Mr. President, I urge the Senate to adopt the Bumpers amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

Without objection, the amendment is agreed to.

Mr. BUMPERS. Mr. President, will the Senator from Alabama yield to me?

Mr. ALLEN. I yield.

Mr. BUMPERS. I make one statement as a sort of caveat to the Senate about this whole subject of false statements.

It is the section in here that troubles me a great deal because I have seen too many overzealous prosecutors, and I know what they can do with an omission in the drafting of laws.

But on this 7-day recantation, which has been alluded to, I shall point out one thing to the Senate.

It is true that he must know that the person he is talking to is an officer, a law enforcement officer, and now he must knowingly, he must know that he makes a false statement, which takes care of 90 percent of my concern. But under the bill I invite the Senate's attention to pages 78 to 79 there on false statements. He does not have an automatic 7 days in which to recant. He has a maximum of 7 days in which to recant, but he must do so before it has become obvious that his falsification might be exposed and before the Government has been misled, which means that the prosecutor can say. "It is too late to recant because we had another witness over here that was just about to expose you. It is too late to recant because we have already started pursuing a line of questioning with other folks because of your misrepresentation or your omission."

Finally, I want to make two other points about that section. It provides that a person can be charged not because the Government was misled, not because the statement is admissible in court, but that the person making the statement might have been exposed, that the statement could—not necessarily did—have misled, and even if the statement was not admissible.

I am telling the Senate that we are getting terribly lax and indifferent when it comes to protecting the innocent people in this country, and I rise to simply point this out because I want to refer back to the CONGRESSIONAL RECORD one day, and say, "I told you so." I am going to predict that we will see a rash of harassing cases across this country in the next decade as a result of the language in that provision.

UP AMENDMENT NO. 1158

Mr. ALLEN. Mr. President, I send an amendment to the desk and ask unanimous consent that it may be considered at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1158.

Mr. ALLEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 331, after line 29, insert the following new subdivision:

"'(d) Modification of a Sentence.—The court may reduce a sentence, including a reduction to probation pursuant to the provisions applicable to the initial imposition of the sentence, within 120 days after the sentence is imposed, unless a notice of appeal has been filed for review of the sentence under 18 U.S.C. 3725.

Mr. ALLEN. This amendment is designed to continue the present power of the court to modify a sentence imposed by reducing it so long as such modification is made during a 120-day period following the imposition of the sentence. Additionally, the amendment would permit a judge to reduce a sentence from a term of imprisonment to probation only or to a combination of probation and a sentence of imprisonment, this obviously consistent with an overall reduction in the original sentence imposed. Unfortunately, present case law does not permit a judge to reduce a sentence of imprisonment to probation only or to a combination of probation and a term of imprisonment, and my amendment would correct the problems created by that decisional court-made law.

Mr. President, I have received a letter, dated January 16, 1978, from one of the distinguished district judges in the northern district of Alabama, calling my attention by reference to a letter from Judge J. Foy Guin, Jr., to Hon. JAMES O. EASTLAND, by letter of the same date, and I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DISTRICT COURT,
NORTHERN DISTRICT OF ALABAMA,
Birmingham, Ala., January 16, 1978.

Re: S–1437, New Federal Criminal Code.
Hon. JAMES B. ALLEN,
U.S. Senator, Dirksen Senate Office Building, Washington, D.C.

DEAR JIM: I have written the chairman of the Senate Judiciary Committee and am enclosing a copy of that letter, stating my views concerning the proposed new criminal code. The bill in the Senate is S–1437. I do not know the number in the House.

I think it would be a serious mistake to eliminate the authority of a sentencing judge to reduce a sentence, as is presently provided by law.

I also think it would be a serious mistake to make a drastic change in the present system of parole so as effectively to substitute a system of relatively short sentences without, usually, parole supervision after release for the present system which would put most prisoners back into society at about the same time but leave them under parole restraints and supervision for many years. This keeps a "handle" on the parolee which I think is not only valuable but necessary.

With very best wishes to you and yours for the new year.

Sincerely,

J. FOY GUIN, Jr.,
Judge.

U.S. DISTRICT COURT, NORTHERN DISTRICT OF ALABAMA,
Birmingham, Ala., January 16, 1978.

Re: S–1437 New Federal Criminal Code.
Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR EASTLAND: I was interviewed recently for about two hours by a representative of G.A.O., seeking my views on the sentencing and parole provisions in particular of the proposed new federal criminal code. I appreciate very much the Congress seeking the views of the judiciary, and especially appreciate the opportunity to discuss the matter in person with the G.A.O. representative. I will not restate here the views I stated in that lengthy interview, since I know you have access to them in his report.

I am concerned about two things which have been mentioned in "The Third Branch," the December 1977 issue, this being the bulletin of the federal courts, published by the Administrative Office and the Federal Judicial Center and circulated to all federal judges. There is an article on page nine attempting to summarize the provisions of S–1437 and of the companion bill in the House, the number of which is not known to me. I read this article after the G.A.O. interview, and it has two comments I find disturbing.

The article says that the bill will amend Federal Rule of Criminal Procedure 35 so as to eliminate the present power of the sentencing judge merely to reduce a sentence within 120 days after the sentence is imposed. The judge will only retain the power to correct a sentence imposed in an illegal manner or to correct a sentence on remand when the appellate court has determined that it is clearly unreasonable. I think it is a mistake to take away from the sentencing judge this power. Frequently, on reflection, a judge decides that he ought to make a change in a sentence he has imposed. It will add greatly to the burden of a sentencing judge if he is not allowed the right to rethink his sentence and make what he considers to be an appropriate correction of it. This change would put us in the position of the king of the Medes and Persians who was forced to throw his friend Daniel into the lion's den because once he had pronounced something he could not take it back. Every judge ought to have the right to reconsider what he has done for an appropriate length of time. On the civil side of the court I get many motions for reconsideration and have granted several. In fact, the granting of a motion for reconsideration on the civil side by me is not at all uncommon. It is more common than the granting of similar motions on the criminal side, but I have granted criminal motions to reconsider sentences and feel very distressed that the power to reconsider what I have done is about to be taken away from me on the criminal side. I just don't think I'm so perfect that I never have to reconsider a sentence. Nor do I think any other judge is that perfect. I do appeal to you to allow us to continue to have this power to reconsider our sentences and reduce them within 120 days, as is provided by present law.

The other proposed change which the article discusses is not really made very clear by the article. I refer to the change in the parole system. The article indicates that a prisoner may be placed on parole upon his release even though he has served his full term. It also indicates that the judge can provide for early release eligibility in his sentence, which evidently will require his release at that time rather than simply making it possible for the Parole Commission to give him consideration at the early release date stated in the sentence. The article says parole will be redefined as a period of supervision in addition to the sentence. Consequently, my remarks may not be applicable, because I may not fully understand what is planned.

If I do understand the proposed changes in the system, parole will be used only in exceptional circumstances. I believe the approach is to provide for sentences which will be fully served without, usually, an expectation of early release on parole unless specifically provided in the judge's sentence.

I do like the idea of being able to provide for an early release date in my sentence which will carry more weight than it presently does. On the other hand, the caseworkers in the prison are able to judge much better than I whether a prisoner is ready for release. I have to look to the future and try

to guess what kind of changes the prisoner will make, and I am not gifted with the power of prophecy. The caseworkers, operating as a team, in the various prisons have impressed me with their knowledgeability. They know prisoners try to fool them and they are hard to fool. I would rather the decision were made by the caseworker team after observing the prisoner in the institution than for me to make it in advance, as a binding decision on my part. I think the present Parole Commission does not give enough weight to the opinions of caseworkers and has been too rigidly bound to its guidelines. I think they have tended to release prisoners on a slide rule basis, rather than a subjective human analysis of the prisoner and his behavior. I realize that subjective judgments are not in fashion presently among many people, but it has been my experience that the only way to predict human behavior is subjectively. It may not be a perfect process, but it is the only way. This is not to imply that some objective standards are not useful in making a subjective judgment.

In my G.A.O. interview I expressed some views recommending change in the present guideline system of the Parole Commission. On the other hand, I strongly urged that the Commission not be abolished and that we not substitute a system of relatively short sentences without parole for a system of longer sentences which assume that at some point, assuming good behavior predictive of further future good behavior, there would be a release on parole prior to the end of the sentence in a great majority of cases. I admit that the present system can be criticized. I believe, however, that there is more to criticize in what I perceive as the proposed new system.

I have read widely on this subject since being appointed almost five years ago, because I understand the seriousness of my task in sentencing people. I am a strong believer in probation for those who are entitled to it, and the probationers of this court have succeeded in over 95 percent of the cases since I have been on the court in completing their probationary terms successfully. In fact, the record of the court for 1964 through 1974 was 98 percent successful completion! I have never refused probation to a defendant who had a favorable recommendation from a probation officer of this court because of the tremendous success we have had, as indicated by these figures. On the other hand, I have imposed some very long sentences in appropriate cases. There are five judges, including one senior judge, of this court imposing criminal sentences. Of the five, over the past two years I have averaged longer sentences than any other judge. The disparity is not great, and all of us are around the national median, but I do wish to point out that I am not "soft" on the subject. I believe in protecting the public. I also know from experience that many people convicted in my court can be rehabilitated, and know of specific examples of those who have. This is true especially of those placed on probation but is also true of many of those sent to prison.

In other words, I have not completely given up on rehabilitation, athough I am not blind to the fact that there are some people who simply need to be "warehoused" and kept out of society. I have identified these "warehouse" cases and have given them very long sentences, which raises my average and makes me appear to be the hardest sentencing judge on this court.

I say this by way of background. I believe there is rehabilitative benefit in keeping a man on parole after he is released from prison. I also believe there is benefit to society by keeping him in fear of having to go back. He is less likely to commit a crime if he is under supervision and afraid of having to go back. In other words, I would rather see a man get a 15-year sentence with release on parole after five years and 10 years continuous supervision than to see him get a five-year sentence, all of which he must serve, but with no continuous supervision after his release. I use these figures only for illustration. It is my fear that the sentencing commission will put such strictures upon us that the senences which will actually result from this new system will be relatively short and the beneficial aspects of parole in the present system will be virtually eliminated.

I hope I have understood the article incorrectly. If I have, then this part of my letter may be ignored. If, on the other hand, I have understood it correctly, I do appeal for a reconsideration of the basic approach to the parole system contemplated by this bill.

Sincerely,

J. Foy Guin, Jr.

P.S.—Not only do I plead that the 120-day sentence reduction provision be retained—I strongly urge that the Congress permit this to be extended to judgments of modification reducing a sentence to probation or to a sentence including probation, such as a split sentence. The Supreme Court has held twice that a judge cannot modify a sentence so as to impose probation. On reconsideration of a sentence the judge should have the full panoply of the options that he has initially, including the right to impose probation in place of custodial sentence or to impose a split sentence, which is a combination of custodial sentence with probation.

Mr. ALLEN. Mr. President, I call attention to one paragraph which has reference to the amendment that I have offered.

Not only do I plead that the 120-day sentence reduction provision be retained—I strongly urge that the Congress permit this to be extended to judgments of modification reducing a sentence to probation or to a sentence including probation, such as a split sentence. The Supreme Court has held twice that a judge cannot modify a sentence so as to impose probation. On reconsideration of a sentence the judge should have the full panoply of the options that he has initially, including the right to impose probation in place of custodial sentence or to impose a split sentence, which is a combination of custodial sentence with probation.

This amendment would allow the court to reduce a sentence within 120 days after the sentence is imposed, unless a notice of appeal has been filed for review of the sentence under section 3725.

I have discussed this matter with the distinguished manager of the bill, and I understand that he is agreeable to accepting the amendment.

Mr. KENNEDY. Mr. President, this would restore current law. The reason it was dropped is because of the guidelines, which give us a sense of predictability and certainty not found today. The ability to appeal if the sentence goes below or above the guidelines and to give the right of appeal even within the guidelines if the guidelines have been wrongfully applied, make a motion to reduce unnecessary.

Now, the Senator would permit up to 120 days for reduction by the same sentencing officer. As I understand, this is so only if there has not been a filing for an appeal.

Mr. ALLEN. That is correct.

Mr. KENNEDY. I have no objection to it. It is an additional protection for the defendant, but I do not think—given the fact that we will have guidelines—that it is really necessary. But I have no objection to the amendment.

Mr. THURMOND. Mr. President, the amendment is acceptable to us.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

UP AMENDMENT NO. 1159

Mr. HATCH. Mr. President, I call up an unprinted amendment and ask unanimous consent that it be in order to be considered at this time.

The PRESIDING OFFICER. Without objection it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. Hatch), for himself and Mr. Helms, proposes an unprinted amendment numbered 1159.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 171, line 27, after the semicolon add the following language:
"and shall include non-profit means of mass communication;".

Mr. HATCH. Mr. President, what this amendment does is close one of the loopholes of the obscenity part of the statute. Under the definition of "commercially disseminate" it means to disseminate for profit. We would add at this point that it should include nonprofit means of mass communications as well, which will close one of the loopholes we were able to find today.

I understand both the majority manager and the minority manager will accept the amendment.

Mr. KENNEDY. We have no objection. Obviously, the definition of "commercially disseminate" should apply to both the profit and nonprofit networks.

Mr. THURMOND. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I would appreciate if the distinguished manager of the bill would engage in a short colloquy with respect to the introduction of an amendment I have prepared. I would like to inquire of the distinguished manager of the bill inasmuch as the bill in its very first section here, section 101, amends title 18, and the amendment is, in effect, a repeal because it says "title 18 of the United States Code which may be cited as '18 U.S.C. —' or as 'Federal Criminal Code —,' is amended to read as follows," so that any provision of title 18, which is the section on Federal crimes, if every single provision of title 18 is repealed, except to the extent that it is carried forward in S. 1437, because title 18 will be no more except as it is brought forward in this bill, I would like to ask the distinguished manager of the bill a question.

I think it is very important that this information be elicited. I would like to

ask the manager of the bill how many separate acts embodied in title 18 were dropped from S. 1437, and if the Senator does have that information please supply the identification of the acts which were not carried forward in S. 1437?

I might state I have had called to my attention the fact that the Logan Act, which prevents private citizens from carrying on foreign relations negotiations with foreign countries is dropped from S. 1437, it is not carried forward.

Since that is an important omission I am just wondering how many other omissions there are.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the best estimate we have is that approximately 10 to 12 crimes are repealed, archaic provisions such as interfering with a government carrier pigeon, seducing a female passenger aboard a ship, the Logan Act, and so forth.

Mr. ALLEN. The Senator thinks that ought to be permitted?

Mr. KENNEDY. Is the Senator offering an amendment to restore it?

[Laughter].

This is the type of section eliminated.

I want to point out that with regard to the Logan Act, that was agreed to be taken out of S. 1 and the legislation which preceded S. 1; it is not a part of the agreement I entered into with Senator McClellan.

It was urged upon us by the Justice Department. It has been on the books since 1799, and they urged us to strike it. I think it should be stricken.

Mr. ALLEN. Would the Senator be kind enough for the Record to insert a list of the acts——

Mr. KENNEDY. Yes.

Mr. ALLEN. A list of the provisions of title 18 that were not brought forward in S. 1437?

Mr. KENNEDY. I will do so as soon as a comprehensive list can be prepared.

Mr. President, before proceeding further, I wish to comment further on the amendment of Mr. HUDDLESTON's, agreed to last week which deals with the witness protectio program.

The amendment would permit a plaintiff in a civil suit brought against a relocated witness for a cause of action arising before the witness was relocated to use the Attorney General to serve process on the witness so that the suit can go forward. In addition, if a judgment results and the Attorney General determines that reasonable efforts to satisfy the judgment are not being made by the witness, then the Attorney General, in his discretion after weighing the danger that could result to the witness, may release his new name and location to the plaintiff for collection purposes.

The amendment seeks to draw a balance between the importance to law enforcement of the witness relocation program and the need to protect otherwise innocent civil litigants who are left with no one to sue. The Department of Justice wishes to protect those in its relocation program while at the same time not wishing to have the program misused by the relocated witnesses to avoid paying their just debts.

This amendment draws the balance adequately. It permits the plaintiff to serve process against the witness who can then adequately defend himself while still shielded under the relocation program. When it comes to satisfying the judgment, if one is rendered against the relocated person, he would be expected to behave like any other citizen. Only if he fails to make reasonable efforts to satisfy the judgment will the Attorney General consider further action. Here is the heart of the amendment. It grants discretion to the Attorney General to release the identity and location of the witness to the plaintiff so that he may collect from a recalcitrant judgment debtor.

However, that discretion is to be exercised only after an examination of the risks to the life and safety of the relocated person. If the risk of retaliating action is too great then the identity must remain secret; quite bluntly the right to property and money cannot be raised above the right to life. Moreover, if the relocated witness is penniless there is no reason to release his new name and endanger him. The Attorney General must take care that those seeking to kill a witness who has testified against them cannot pursue a sham civil action to judgment as a vehicle for finding the witness.

If the danger has passed, and if the safety of the witness can be assured, then it is expected that the discretion of the Attorney General will be exercised in favor of release. The threat of release of the new identity is also a powerful weapon for the Attorney General to use to persuade the judgment debtor to make reasonable efforts to satisfy the judgment.

As long as the ultimate decision to release the new identity is left to the Attorney General's discretion to be exercised in terms of the ultimate safety of the relocated person, then the amendment is acceptable.

I would also like to clarify the record as to the application of the extortion amendment, No. 1085, passed by the Senate on January 19. That amendment makes clear that "the pendency of a labor dispute, the outcome of which could result in the obtaining of employment benefits by" an individual committing an act of damage is not, in and of itself, probative of extortion. The amendment is intended to avoid an implication that if violence occurs incidental to a labor dispute, the violence could be attributed to the union as a tactic for extortion where there was no evidence that that was the purpose of the violent conduct. The amendment means that more than the mere coincidence of a labor dispute and violence is needed to show that violence was intended to be a means of extorting anything from the employer. A case of extortion could not be proved in a labor dispute situation just because fighting or other violence occurs—this is the intent of the amendment.

In fact, the Government would not even attempt to prosecute as extortion most cases of violence associated with a labor dispute. The amendment is a recognition that tempers often flare in labor dispute situations. In a case where there was evidence that there was an agreement among people involved in the labor dispute to use violence against the employer as a means of achieving the goals of the labor union, such as dynamiting a plant, that evidence would establish a prima facie case.

In the absence of such evidence, a defendant would be entitled to dismissal of the case. In fact, in the absence of such evidence, such matters should be left to the States, which are fully capable of dealing with disorderly conduct, assault, property destruction, and other lesser crimes. And that is what these minor offenses are in the absence of a plan or conspiracy to extort.

Mr. President, one other matter. In light of questions that have been raised as to the effect of the modification of the language of the present 18 U.S.C. 1961 by section 1806(e), I wish to stress that under the code we intend the courts to follow the limiting gloss on the present law stated by Judge Pierce in *United States* v. *Stofsky*, 409 F. Supp. 609 (S.D.N.Y.):

> This court therefore construes the word "pattern" as including a requirement that the racketeering acts must have been connected with each other by some common scheme, plan, or motive so as to constitute a pattern and not simply a series of disconnected acts.

Moreover, it should also be noted in this connection that while the word "conducts" in section 1802 is, as stated in the committee report—page 776—to be construed "broadly," it does not include acts by officers and employees for their own financial benefit which do not increase their domination of the organization's affairs or further unlawful activity by the organization.

Mr. CRANSTON. Mr. President, I would like to ask the distinguished floor manager several questions which have been raised by members of the press who have expressed some concerns over certain provisions of S. 1437.

Mr. KENNEDY. I will be glad to respond to the Senator's questions.

Mr. CRANSTON. I would like to ask the floor manager a question regarding section 1311, hindering law enforcement. Specifically, paragraph (1)(D) of subsection (a) which is an offense for altering, destroying, concealing a record or document if the conduct is done to interfere with or hinder the discovery, apprehension, prosecution, conviction, or punishment of another person when the actor knows that the other person has committed a crime or is charged with or is being sought for a crime. The question is: would a reporter be guilty of concealing a document containing evidence of unlawful conduct if he did not turn in his notes regarding Government corruption which he had obtained in an interview with a confidential source?

Mr. KENNEDY. No. The formulation of this offense including the altering,

destroying, or concealing of evidence is based upon the Model Penal Code and the Brown Commission. Its purpose is to prohibit such things as the destruction or alteration of the Watergate tapes, attempts to "deep six" evidence and other such conduct. There is no evidence that the Brown Commission intended this offense to interfere with the right of reporters to maintain the confidentiality of their notes. As used in this offense, concealing requires some affirmative conduct so it would not interfere with the ability of investigative reporters to protect the confidentiality of their sources.

Mr. CRANSTON. Would a reporter be guilty of concealing if, under persistent questioning by Federal investigators, he refused to divulge the identity of a source or a suspect or refused to make his notes and other material available?

Mr. KENNEDY. No. So long as his conduct consists of keeping silent on the subject, the reporter has not engaged in conduct constituting concealing.

Mr. CRANSTON. Would a reporter be guilty of an offense if he destroyed his notes or erased tapes or other work product knowing that these contained evidence sought by law enforcement agencies?

Mr. KENNEDY. No, unless the evidence had been subpenaed or otherwise lawfully requested. And, if the reporter destroyed his notes in the normal course of his work and did not destroy them with the intent to prevent law enforcement agencies from obtaining them through proper process, no offense would have been committed since the requisite intent was absent.

Mr. CRANSTON. I thank the distinguished floor manager.

Does section 1324, an offense for retaliating against a witness, apply to a newspaper which reports the testimony of a witness. Specifically, subsection (a)(2) makes it an offense to "improperly" subject another person to economic loss or injury to his business because a person has testified as a witness in an official proceeding. Would the press be subject to this offense if publication of the witness' testimony, which included evidence of his own unlawful conduct, caused economic loss to the witness?

Mr. KENNEDY. No. It is not "improper" to publish information including the testimony of a witness even if such publication causes humiliation or economic loss to the witness. The offense is designed and intended to prohibit retaliation against a witness on account of his appearance as a witness. In a situation of publication by a newspaper of a witness' testimony, the newspaper would not be retaliating for his appearance as a witness, but merely publishing information made available through the witness' testimony. This is precisely why the term "improperly" is included in the offense.

Let me give some examples of what this offense would apply to. First, if a public servant testified before Congress concerning corruption in a Government agency or cost overruns on a Government project, it would be an offense if his superiors discharged such a person or denied him promotion because of his appearance to give testimony which was embarrassing to the agency. Another example might be a situation where a farmer reported kickbacks given by the operators of a grain elevator to grain inspectors and the subsequent cancellation and breach of a contract between the grain elevator and the farmer because of his testimony.

Mr. CRANSTON. I would like to ask another question of clarification. The contempt section provides a specific defense for gag orders. Would a reporter be able to claim a reporter's privilege?

Mr. KENNEDY. Yes. Section 1331, contempt must be read together with section 1333 refusal to testify which provides an affirmative defense if information is privileged. Nothing in the code is intended to preclude the judicial development and recognition of a newman's privilege and the specific privilege for gag orders in section 1331 is not intended to override any privilege that a witness may have under the law. The bill is silent on this.

It is also important to note that section 104 states that the code is not intended to affect the civil contempt authority of courts which they may choose to utilize in those cases where there is a good faith claim of privilege.

Mr. CRANSTON. Does either section 1331, contempt, or section 1333, refusing to testify, eliminate any right of a newsman to claim a privilege for confidential information?

Mr. KENNEDY. No. Section 1331 in general, simply restates the existing contempt power in section 401 of title 18. It would not alter or diminish the right of a newsman to claim a privilege.

Second, section 1333 specifically provides an affirmative defense if a witness has a privilege not to testify. This is intended to cover lawyer-client, doctor-patient, and other such privileges. In 1974, when Congress enacted the Federal rules of evidence, it included rule 501, which left the recognition and development of privileges up to the courts. Nothing in section 1333 would alter this authority. A number of first amendment commentators have concluded that a qualified newsman's privilege is emerging. This is based on such civil cases as *Baker* v. *F & F Investment*, 470 F.2d 778 (2 Cir. 1972), cert. denied, 411 U.S. 966 (1973), and *Cervantes* v. *Time, Inc.*, 464 F.2d 968 (8th Cir. 1972) cert. denied 409 U.S. 1125 (1973). There have been a few Federal criminal cases directly addressing this point subsequent to Branzberg, but in one notable State case. Justice Poff of the Virginia Supreme Court, a former Congressman and member of the Brown Commission, recognized a privilege. See *Brown* v. *Commonwealth*, 204 S.E. 2d 429 (1974), cert. denied 419 U.S. 966 (1974).

In sum, the answer is that nothing in the code would alter or eliminate any privilege which a reporter is entitled to claim, nor the authority of the courts to continue to develop the law in this area.

Mr. JAVITS. Mr. President, I would like to express a concern that I have with section 1525 of this bill. That section would provide for criminal penalties for the release by Government employees of certain information where confidential treatment of that information is mandated by another statute, regulation, rule, or order.

The area of confidential treatment of information in government files is currently a complex and confusing one. There already is a statute on the books—18 U.S.C. 1905—that prohibits the release of confidential information by government employees on pain of criminal penalties, and this bill preserves that section. A large number of other statutes also prohibit individual agencies from releasing certain types of confidential data in their files.

Further, it has been held by some courts that the exemptions from mandatory disclosure contained in the Freedom of Information Act also prohibit the release of certain information. Both 18 U.S.C. 1905 and the Freedom of Information Act exemptions have been cited by those who, for one reason or another, wish to restrict the release of information in Government files, and the court decisions interpreting those sections have been contradictory.

I believe that Congress should carefully review the whole subject of Government information policy on information received by the Government as confidential with a view toward clearing up present ambiguities, and making available to the public as much information as possible, while protecting from disclosure information that is legitimately entitled to confidential treatment. I am concerned that the addition of yet another confidentiality statute proposed by section 1525 of the bill to the current law, without an adequate analysis of the relationship between that section, section 1905, the Freedom of Information Act, and prohibitions on individual agencies, may further confuse an already confusing area.

Although I do not propose to offer an amendment to strike section 1525, I would hope that the conferees will consider carefully whether or not there is a need for this additional section, and will spell out in detail how this section relates to existing law. I believe that the public interest will best be served if the law enables all interested parties to know with greater certainty what information is public, and what information is properly confidential and not to be released.

In the event that neither the House committee in their deliberations on this bill nor the conferees address the question that I have raised here, I would consider requesting the Governmental Affairs Committee to look into this matter in detail.

Mr. ALLEN. I have only one more amendment, in view of the Senator's explanation. I will not offer it at this time. I have only one more amendment, and that is to reinsert the provisions of the Logan Act. The Logan Act provides that a private individual may not carry on negotiations with a foreign government with regard to the foreign relations policy of the U.S. Government.

To knock this act out or to fail to bring it forward would, in effect, not make every man a king, as was the cry of some candidates of the past, some public figures of the past, but it would make every man a secretary of state. So I do not believe we need to have millions of secretaries of state running about carrying on foreign negotiations with foreign governments.

They say, "Well, there have not been any prosecutions under it." I believe it is a deterrent.

I was talking with one of the distinguished Senators who went down to Panama, and he said before going down he called the President of the United States and asked him to send someone down with his part to represent the State Department. He did not want to be charged with carrying on foreign relations negotiations.

I do believe it will serve as a deterrent against having private citizens carry on or seek to carry on negotiations of a foreign relations nature with foreign governments.

I believe that is the prerogative of the President of the United States and the State Department, subject to the control of Congress in approval of treaties by the Senate, and the power of the purse that Congress has.

That is the only amendment I have remaining, and on the adoption of that amendment I would offer no further amendments and would not seek to see the bill carried over for another day.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, much as I would like to move the process forward, I would have to resist this amendment.

This provision has been on the books since 1799, and the Justice Department tells me that there has not been one prosecution under it. Not one. They say it is one of the most antiquated provisions in the current code. They asked Senator McClellan, Senator Hruska, and the rest of us to take it out.

If we talk about the opportunities for mischief in terms of governmental prosecution, I look at the Logan Act. Businessmen or laborers or commercial interests may visit different countries, trying to work out commercial agreements with another nation. I mean there are a thousand different fact situations where this particular provision, in the wrong hands, could be abused.

I think the most compelling factor for its repeal, Mr. President, is that it has been on the books since 1799 and has never been used. But it still lies there. This amendment is strongly recommended by the Justice Department. I think, in a recodification of the criminal code, sentimentality about a particular provision, "the good old Logan Act," has no place. We are either serious in terms of trying to deal with these issues, or not.

I respect the sincerity of the Senator from Alabama on this issue, but I feel that we should repeal it. I am reminded that in the report is says:

Although the Act enjoys a venerable history dating from 1799, it has not been used for prosecution and is constitutionally suspect, both on grounds of vagueness and undue interference with free speech.

On those bases, Mr. President, I would hope that the amendment would be defeated.

Can we have a voice vote?

Mr. ALLEN. I have not offered it yet.

Mr. KENNEDY. Oh, I see. I thought the Senator had.

Mr. ALLEN. Mr. President, what is the pending amendment?

COMMITTEE AMENDMENT—PAGE 78, LINE 15

The PRESIDING OFFICER. The pending question is on agreeing to the committee amendment on page 78 at line 15.

Mr. ALLEN. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to, as follows:

On page 78, line 15, after "assigned" insert "noncriminal";

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 78, line 19, after "and" insert "in fact";

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ALLEN. Mr. President, I wonder if the manager of the bill would explain the amendment. I think the Senate would be interested in knowing what it is.

Mr. KENNEDY. Is it on page 79, did I understand?

The PRESIDING OFFICER. Page 78.

Mr. KENNEDY. For clarification. The amendment on line 19 is to clarify the words that follow it.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 78, line 23, after "omits" insert "a material fact necessary to make a written statement not misleading,";

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum. This will be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HELMS. Mr. President, will the Senator withhold that just one moment?

Mr. KENNEDY. I withhold it.

Mr. HELMS. Mr. President, as we conclude consideration of S. 1437, it is well to remember that many Senators who took an active part in this debate were not notified that the bill would be considered until 2 days before it was taken up. Many Senators had only 1 or 2 days' notice to consider the many detailed and technical provisions of this bill which contains more than 280 pages of criminal laws—laws by which millions of Americans may one day have the legality of their conduct measured.

Mr. President, although codification and revision of the Federal Criminal Code has been a goal of the Senate for some time and many States have already codified their criminal laws, the clear lesson of this process is that codification is not automatically reform and revision is not automatically improvement. The provisions contained in this bill affect Americans' fundamental civil, political, economic, and constitutional rights. Through this code the U.S. Government seeks to fulfill its responsibility to protect and preserve the life, liberty, and property of its citizens.

In so doing, it is essential that Congress maintain the proper perspective regarding the role of the National Government in our delicate federal system. Historically, the primary responsibility for the protection of people from criminal activity has rested with the States. Cautious exceptions to this primary State jurisdiction were made over time, but with an ever-watchful eye toward the possibility of Federal preemption in the area of criminal law and an accompanying national police force.

In considering this bill, I believe we have not been cautious enough regarding the large increases in Federal jurisdiction which it establishes. We have not been jealous enough, as representatives of the States, of the primacy of State jurisdiction in the criminal law. Furthermore, we have failed to take the careful, systematic analysis of the provisions of this bill, which I believe our responsibility to preserve the freedoms of Americans requires. Therefore, when S. 1437 is considered for final passage, I must vote against it.

We have considered S. 1437 for more than a week beyond what was originally scheduled. During this time the Senate has approved important changes in the bill to protect the liberties of Americans.

We provided that local areas could apply their own standards of obscenity in accord with recent Supreme Court rulings regarding the dissemination of obscene materials.

We sought to protect communities from criminal violence by permitting judges to deny pretrial release to persons charged with serious crimes such as rape, kidnapping, armed robbery, when those persons pose a continuing danger to the community.

We maintained the traditional common law rule to protect innocent defendants from overly broad criminal laws by specifying that criminal statutes be strictly construed with ambiguities interpreted in favor of the defendant.

We rejected a de facto Gun Control Act proposed in the bill which would have imposed a 2-year mandatory prison sentence for possession of a firearm during the commission of a Federal crime. For example, until amended, a hunter arrested for reckless driving on Federal property, and found to have his shotgun in his car, would have been subject to the 2-year mandatory sentence for "possession of a firearm" during the commission of a misdemeanor.

During the past several days much has been done to correct deficiencies in S. 1437, yet substantial defects remain in the bill.

The bill makes it a crime to make a false oral statement to a law enforcement or other Government official, even without the presence of an attorney or a corroborating witness. Regardless of legislative history attempting to explain this provision, it nevertheless would give broad power to FBI agents, OSHA investigators, IRS and customs officials and many other Federal investigators. The addition of the word "knowingly" improves the provision, but by no means sufficiently. Prosecution of this offense invites abuse by setting up a "my word against yours" situation where the defendant and the Federal official are the only witnesses. Finally, unlike present law, this provision would make persons criminally liable for honest mistakes, since it does not require a finding that the defendant made an "intentionally" false statement.

The National Commission on Reform of Federal Criminal Laws recommended that this provision apply only to official Government proceedings, and to statements relating to such violations as false fire alarms, bomb scares, and incrimination of innocent people. Unfortunately, the bill does not reflect the Commission's advice.

Elsewhere, the bill subjects businessmen to criminal liability for honest mistakes and unintentional violations of very technical and complicated laws involving securities and investments. Many of these laws presently require an intentional violation before a businessman may be arrested and criminal proceedings begun.

The bill also grants broad authorization to the Internal Revenue Service to use paid informants in obtaining criminal charges against taxpayers. Late last year, an extensive Government Accounting Office report found substantial misuse of informants by the IRS. Although the use of informants is important in cases regarding organized crime, the serious risks to all taxpayers' rights—which the use of informers poses—require strong controls, not the broad authorization this bill establishes.

The bill repeals present Federal law making it a crime to advocate the violent overthrow of the Government. In light of the rigorous standards and supervision which the Supreme Court has given this law to protect academic or innocent speech not intended to produce violence or subversive activity, it is difficult to understand why it should be summarily repealed.

The bill provides defenses to pornographers which may undermine recent Supreme Court decisions enabling local communities to protect themselves from obscene materials; see for example, *Smith* v. *United States* 45 L. W. 4495 (1977).

The bill repeals the present Federal sanctions against engaging in prostitution on U.S. military bases.

It greatly increases the power and discretion of prosecuting attorneys by establishing such criminal laws as "Section 1623, Criminal Restraint—A person is guilty of an offense if he restrains another person." What are the implications of that section, Mr. President?

Organizations so diverse as the American Civil Liberties Union and the Americans for Constitutional Action have voiced concern about procedural aspects of the bill as well as the definitions of many crimes.

Furthermore, the sentencing mechanism which the bill seeks to establish is a novel one representing a major departure from existing practice. Presently, several States have instituted new sentencing procedures and standards which have not yet been proven by experience. I believe that it would be wiser to study the results of these State initiatives before enacting such a substantial redirection of the Federal sentencing system. Very little time has been spent during the past several days discussing the merits and potential risks in adopting the proposed sentencing plan.

Mr. President, we have not squarely faced issues such as the substantial increase in Federal jurisdiction; the increase in prosecutorial discretion; the drafting of broad rather than specific criminal statutes; and the removal of "intentionality" and "knowledge" as elements from many offenses.

This bill may very well be an improvement over its predecessor S. 1, however, this is not sufficient reason to pass this legislation at this time.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1160

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the amendment may be considered at this time?

Mr. THURMOND. Yes, I do.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 1160.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 164, strike out lines 32 through 37, as amended, and insert in lieu thereof the following:

"(1) a Class C felony in the circumstances set forth in subsection (a)(1);

"(2) a Class D felony in the circumstances set forth in:

"(A) subsection (a)(2), if the violation is of a provision set forth in subsection (a) through (1) of section 1103 of the Organized Crime Control Act of 1970, as amended (15 U.S.C. ——); or

"(B) subsection (a)(5);

Mr. THURMOND. Mr. President, all this amendment does is to correct an error that was made in a Javits amendment that the Senate has adopted. It is purely a technical amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. Without objection, the amendment is agreed to.

The question recurs on agreeing to the committee amendment on page 78, at line 23. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 78, line 27, after "false" insert "or it";

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 90, line 9, strike "or";

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 92, line 9, strike "in fact";

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 92, line 21, strike "in fact";

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 96, line 24, strike "to be" and insert "is";

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 96, line 26, after "Class" strike "A misdemeanor" and insert "E felony";

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 1161

Mr. ALLEN. Mr. President, I send to the desk an amendment and ask unanimous consent that it be in order to consider it at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1161: Amend amendment No. 1624. On page 333 between lines 11 and 12 add the following new section:

"SEC.—REENACTMENT OF LOGAN ACT—

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend Amendment No. 1624. On page 333 between lines 11 and 12 add the following new section:

"SEC.—REENACTMENT OF LOGAN ACT—

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

"This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects."

Mr. ALLEN. Mr. President, this amendment would reenact the Logan Act, which prevents a private citizen from carrying on or seeking to carry on relations with foreign governments having to do with the foreign relations policy of the U.S. Government. Without this amendment reinstating the Logan Act, which was dropped by the bill, as I pointed out, every man in the country or every woman in the country would be a secretary of state. They would not be precluded from personally seeking to carry on negotiations with foreign governments. With this provision, which, it has been pointed out, has not had any prosecutions under it, I would feel that the existence of the act is a deterrent to individuals, whether they be in an official capacity, outside of the State Department or the President, from seeking to carry on foreign negotiations.

We have seen some Senators going abroad and, apparently, seeking to advocate policies contrary to the policy of the U.S. Government. This would be some sort of deterrent to that type of activity.

I am hopeful that the distinguished manager of the bill will reconsider his previously stated opposition to the amendment and will see the wisdom of accepting the amendment.

Mr. KENNEDY. Mr. President, I am reminded that the Senate has to do business and that there is a busy schedule. I move that we accept the amendment and I hope that my good friend from Alabama is going to be in the conference to fight for it fiercely so it will not get lost on the way over to wherever that conference is.

Mr. ALLEN. I am afraid if it is left up to the Senator from Massachusetts, it will get lost. We do seek to keep it in.

I appreciate the graciousness and courtesy of the distinguished manager of the bill. Also, I commend the distinguished majority leader for pushing this bill along. It has taken only some 8 days to finish and the distinguished manager of the bill had allocated 3 weeks to it. I feel that the Senate has acted expeditiously, but I do believe that carrying the matter over for as long as we have has allowed constructive amendments to come in. I am hopeful that the bill is a much improved one from the bill that came out of the committee. It has not been improved to the point where the Senator from Alabama can vote for it, but I do believe that it is a much better bill.

I appreciate the cooperation that the distinguished manager of the bill has given me in my efforts to make some small changes in the bill.

Mr. KENNEDY. I thank the Senator from Alabama. There have been some valuable contributions made to this legislation. I thank the Senator from Alabama for his involvement in its development here, on the floor, and in the committee.

Mr. President, I send to the desk technical amendments——

Mr. ALLEN. Mr. President, I do not believe we have had a unanimous vote on my amendment yet.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I ask unanimous consent that the remainder of the committee amendments may be considered en bloc.

Mr. SCOTT. Mr. President, reserving the right to object.

Several days ago, I offered an amendment that would restore the death penalty in a number of instances. It is my understanding that the distinguished Senator from Massachusetts opposed this. It was not adopted, even though he indicated at the time that he would make every effort to see that the bill was reported out of the committee, but he would vote against the amendment.

There is a large amendment here—it is amendment No. 1624—by the distinguished Senator from Massachusetts. It would take a long time to read this; it is 333 pages long. I believe it takes unanimous consent to waive the reading of an amendment. It would take a long time to vote on it if we had a division of the amendment. I understand that, somewhere within these 333 pages, there is a provision that does away with the crime of murder, except for skyjacking, where someone is killed when an airplane is taken over in an unlawful manner.

If that is true, that would mean that the bill, as proposed by former Senator McClellan and 19 cosponsors, would not be properly drawn. This is something that concerns me. I should not want to ask that this entire amendment be read. I would not want to take the time of the Senate by asking that the amendment be divided so that we would have a separate vote on each portion of this 333-page amendment. Yet, I think that, in fairness, the portion of this amendment that would require that the McClellan death penalty bill be rewritten should be eliminated in the event that it is in this amendment, as I understand it to be.

I wonder if the distinguished Senator from Massachusetts will address himself to this.

Mr. KENNEDY. I am not sure what the particular question is that the Senator from Virginia asks.

Mr. SCOTT. I have just gone over it. Perhaps the Senator had some other business that he was transacting at the time.

The distinguished Senator will remember that a few days ago, I did offer an amendment that would reestablish the death penalty for murder in those instances where murder is made a Federal crime under present law, provided that certain procedures were followed as set forth in a rather extensive bill that had been offered by the late Senator McClellan. The distinguished Senator from Massachusetts saw fit to oppose the amendment, but he said at the time that, even though he would vote against the amendment, he would work to see that the death penalty bill was reported out of the Committee on the Judiciary. Yet I am told that, in this comprehensive amendment 1624, there is a provision that eliminates the crime of murder as a Federal crime, except for hijacking, when murder is committed when an airplane is hijacked.

Am I wrong in my assumption that that is in this amendment?

Mr. KENNEDY. The Senator is correct that the provisions of the death penalty that have been included in this bill are limited to the skyjacking provisions because that is the only death penalty bill that has been passed subsequent to the Supreme Court decision on the death penalty. With regard to the pending Senate death penalty bill, I am certain it will be recodified into this law at the appropriate time.

We will be passing additional laws, obviously, concerning different crimes and they will be codified into this law.

The Senator is correct in stating that the only provisions on the death penalty in S. 1437 are the provisions that have been passed subsequent to Supreme Court decision.

Mr. SCOTT. The death penalty is still in the code as presently enacted.

Mr. President, I must apologize for my voice. I have had a cold over the weekend and I am taking medication that makes my throat dry.

Mr. President, it is my understanding that within the Federal code as it presently exists, the crime of murder where the death penalty is provided is set forth in a number of instances, that the proposed amendment by the distinguished Senator from Massachusetts, this lengthy amendment which I have not read, but contains 333 pages, has a provision in it that would strike out the death penalty except where death is during the skyjacking situation.

I would ask that that portion be deleted so that we would still have the crime of murder in the instances where it is presently in the code, even though it may be that the death penalty would be contrary to some recent decisions of the Supreme Court, because these violations of the Constitution would be cured by the McClellan bill. There is no use to offer a bill to make lawful a matter that is in the code now, but is being stricken by this amendment that is proposed by the Senator from Massachusetts. I am sure that the staff member of the com-

mittee knows where this provision is, he showed it to me a few days ago, and I would ask that that provision be stricken before we act on this amendment No. 1624.

Mr. KENNEDY. Do I understand the Senator correctly that he wants to strike the aircraft piracy provision?

Mr. SCOTT. No. I want to retain the various crimes of murder as capital offenses as are presently in the code as written before the consideration of this bill.

Mr. KENNEDY. The way that S. 1437 was drafted was to carry forward the existing law on the death penalty. This particular provision was drafted by Senator McClellan; he, in addition, offered a separate bill on the death penalty because he wanted it more comprehensive. We recodified in terms of what the existing law was at the time.

As I stated earlier, because of the Supreme Court decision no expansion of the death penalty takes place in S.1437, the Senate will have an opportunity to speak on that issue. A separate bill will be incorporated.

We dealt with this issue the other evening through your amendment which was intended to draft a death penalty along the lines of Senator McClellan's separate bill. That was rejected.

Now, I gather from what the Senator says that he wants to restore by some means in this recodification the other various words that exist in the current law which have been declared unconstitutional.

Mr. SCOTT. Mr. President, we do not seem to have a meeting of the minds.

I object to the unanimous-consent request.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. Mr. President, would the Senator object to a unanimous consent that all amendments with the exception of this one he is talking about be adopted en bloc?

Mr. SCOTT. Mr. President, I object to the adoption en bloc of the various amendments.

Mr. ROBERT C. BYRD. The Senator would not object to the adoption en bloc of amendments that are not related to this issue?

Mr. SCOTT. My thought is this, it is about 20 minutes after 7 and I would like to have an opportunity to study the matter that I am referring to because I have not studied it in detail. It will take sufficient time to read these various amendments to give me that opportunity, if the Senator from Massachusetts does not see fit to understand what I am talking about.

I object, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, could the Senator identify the particular amendment he has in mind?

Mr. SCOTT. The staff man knows what it is.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Massachusetts.

UP AMENDMENT NO. 1162

Mr. KENNEDY. Mr. President, this amendment would correct clerical errors and eliminate technical drafting oversights and make other minor changes needed which were discovered during the staff work. They have been gone over en bloc as a single amendment.

I ask unanimous consent that in such instance they be considered out of order, and I move adoption of this amendment en bloc.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted technical amendments numbered 1162.

The amendment is as follows:

(1) On page 1, line 3, strike out "1977" and insert in lieu thereof "1978".

(2) On page 15, lines 26 and 27, insert the words "or employee' after the word "officer".

(3) On page 21, line 5, before the word "government", insert the words "United States".

(4) On page 21, lines 9 and 10, strike out the words "person to whom it was addressed" and insert in lieu thereof the words "intended recipient".

(5) On page 22, line 13, after the semicolon, add the following: "the second clause of this definition does not apply to parts III and IV of this title;".

(6) On page 25, line 19, after the word "sell", insert the word "pledge".

(7) On page 35, line 5, strike out the word "compel" and insert in lieu thereof the word "indicate".

(8) On page 37, strike out line 28 and insert in lieu thereof the following:

"(b) BAR TO PROSECUTION.—It is a bar to a prosecution in which the criminal'."

(9) On page 42, strike out line 8 and insert in lieu thereof the following:

"(c) BAR TO PROSECUTION.—It is a bar to a prosecution under this section'."

(10) On page 52, line 17, strike out the word "or"; insert the following subsection following line 17: "(3) he violates section 633 (A) of the Criminal Code Reform Act of 1977 (22 U.S.C. —); or"; in line 18, strike out "(3)" and insert "(4)".

(11) On page 52, strike out line 28 and insert in lieu thereof: "section (a)(1), (a)(2), or (a)(3);".

(12) Beginning on page 54, strike out lines 30 through line 5 on page 55 and insert in lieu thereof the following:

"(c) BAR TO PROSECUTION.—It is a bar to a prosecution under this section that all of the persons with whom the defendant is alleged to have conspired have been acquitted because of insufficient evidence, not occasioned by a suppression order, that a conspiracy existed.

"(d) DEFENSES PRECLUDED.—Except as provided in subsection (c), it is not a defense to a prosecution under this section that one or more of the persons with whom the defendant is alleged to have conspired has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense, was incompetent or irresponsible, or is immune from or otherwise not subject to prosecution.

"(e) DEFINITION.—As used in this section, a renunciation is not 'voluntary and complete' if it is motivated in whole or in part by a decision to postpone the commission of the crime until another time or to substitute another victim or another but similar objective."

(13) On page 55, line 6, reletter subsection "(e)" as "(f)".

(14) On page 56, line 14, strike out the word "material" and insert in lieu thereof the word "matter".

(15) On page 109, line 10, after the word "section", insert the following: "1611(c)(2)(F) or section".

(16) On page 140, strike out lines 33 and 34 and insert in lieu thereof the following:

"(C) a security or a tax stamp, and (i) is moving in interstate or foreign commerce or constitutes or is part of interstate or foreign commerce, or (ii) is moved across a state or United States boundary in or after the commission of the offense;"

(17) On page 160, at the end of line 15, add the words ", after consideration of the factors set forth in section 2003(a),".

(18) On page 160, line 18, insert the word "during" before the words "at least".

(19) On page 166, line 17, insert a comma after "(a)(2)".

(20) On page 166, line 18, insert after the words "sentence him" the words ", after consideration of the factors set forth in section 2003(a),".

(21) On page 166, line 22, insert the words "at least" after the word "during".

(22) On page 166, line 23, insert after the words "section (a)(1) or" the words "at least the first"; and strike out the word "one".

(22a) On page 168, lines 33 through 35, strike out the sentence beginning with the word "Riot".

(23) On page 179, line 30, before the word "sentencing" insert the words "kinds of sentence and the".

(24) On page 180, line 6, before the word "outside" insert the words "of a different kind, or".

(25) On page 180, line 6, strike out "(3)" and insert in lieu thereof "(4)".

(26) On page 180, line 7, strike out the words "outside such range" and insert in lieu thereof the words "different from that described in subsection (a)(4)".

(27) On page 181, line 29, strike out "section 3725" and insert in lieu thereof "sections 3723, 3724, and 3725 of this title, by section 1291 of title 28,".

(28) On page 184, line 29, after "2103(b)(11)" add "or 2103(b)(12)".

(29) On page 188, line 6, strike out the words "AVAILABILITY OF" and insert in lieu thereof the words "ELIGIBILITY FOR".

(30) On page 188, line 8, after the word "defendant's" insert the words "eligibility for".

(31) On page 188, line 9, strike out the word "any" and insert in lieu thereof the words "posed to be served in full.".

(32) On page 188, line 18, strike out the words "whether any" and insert in lieu thereof the words "during what"; and at the end of the line add ", if any, the defendant".

(33) On page 188, line 19, strike out the words "subject to the defendant's" and insert in lieu thereof the words "eligible for".

(34) On page 188, lines 24 through 27, strike out the sentence beginning "If the court" and insert in lieu thereof "The defendant shall be eligible for early release only if the court designates a portion of the term during which the defendant is eligible for early release.".

(35) On page 188, line 7, after the word "defendant's" insert the words "eligibility for".

(36) On page 189, line 9, after the word "defendant's" insert the words "eligibility for".

(37) On page 189, line 22, strike out the words "a Class A misdemeanor" and insert in lieu thereof "two or more misdemeanors".

(38) On page 189, line 24, after the word "served" insert the words "by a defendant who was released pursuant to section 3824(a)(1), or, if the contingent term of imprisonment is longer, by a defendant who was released pursuant to section 3824(a)(2)".

(39) On page 189, strike out lines 26 and 27 and insert in lieu thereof: "in confinement prior to the defendant's release.".

(40) On page 190, line 22, strike out the words "subject to" and insert in lieu thereof "eligible for".

(41) On page 195, line 14, strike out the words "Notwithstanding the provisions of 10 U.S.C. 127, the" and insert in lieu thereof the word "The".

(42) On page 262, line 11, add a colon at the end of the line.

(43) On page 270, line 19, insert a semicolon after "3613".

(44) On page 271, line 31, strike out the words "mental hospital" and insert in lieu thereof the words "suitable facility".

(45) On page 272, line 38, strike out the words "drug treatment" and insert in lieu thereof the words "the protracted use of psychotropic drugs".

(46) On page 273, line 2, strike out the words "if such consent is not possible" and insert in lieu thereof the words "if such person is incompetent or otherwise incapable of rendering informed consent".

(47) On page 273, line 7, strike out the word "full".

(48) On page 273, lines 13, 14, and 16, strike out the word "probable" and insert in lieu thereof the word "possible".

(49) On page 273, line 13, strike out the word "its" and insert in lieu thereof the word "their".

(50) On page 273, lines 17 and 18, strike out the words "degree and extent of memory loss" and insert in lieu thereof the words "likelihood of memory loss".

(51) On page 273, line 25, add the following sentence: "The provisions of this section shall not apply to the emergency administration of medication."

(52) On page 279, line 21, after the word "defendant's" insert the words "eligibility for".

(53) On page 280, line 1, after the word "defendant's" insert the words "eligibility for".

(54) On page 282, line 30, after the word "confinement" insert the words ", or while in pre-release custody pursuant to the provisions of section 3824(c)".

(55) On page 282, strike out line 32.

(56) On page 283, line 14, strike out the word "retransfer" and insert in lieu thereof the words "later transfer".

(57) On page 283, strike out line 19 and insert in lieu thereof "If there is probable cause to believe that a probationer has violated a condition of his probation, he may".

(58) On page 287, line 30, strike out the word "correction" and insert in lieu thereof the word "correctional".

(59) On page 287, line 35, insert a comma after the word "prisoner".

(60) On page 289, line 37, strike out the words "subject to" and insert in lieu thereof the words "eligible for".

(61) On page 290, line 5, strike out the words "subject to" and insert in lieu thereof "eligible for".

(62) On page 290, line 13, after the words "imprisonment of" insert the words "more than".

(63) On page 290, line 14, strike out the words "or more".

(64) On page 290, line 16, strike out the words "subject to" and insert in lieu thereof the words "eligible for".

(65) On page 290, line 19, strike out the word "if" and insert in lieu thereof the word "unless".

(66) On page 290, line 20, after the word "has", insert the word "not".

(67) On page 290, strike out lines 28 and 29 and insert in lieu thereof the following: "Such credit toward service of sentence vests at the time that it is received. Credit that has vested may".

(68) On page 290, strike out lines 32 through 39 and insert in lieu thereof the following:

"(c) PRE-RELEASE CUSTODY.—The Bureau of Prisons shall, to the extent practicable, assure that a prisoner serving a term of imprisonment of:

"(1) more than one year spends his last six months; or

"(2) one year or less spends his last thirty days; under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for his re-entry into the community. The".

(69) On page 291, line 17, after the word "prisoner" insert the words "who was sentenced to a term of imprisonment in excess of one year and who is".

(70) On page 292, line 6, strike out the words "subject to" and insert the words "eligible for".

(71) On page 293, lines 33 and 34, strike out the words "or of any other matter within its jurisdiction".

(72) On page 293, lines 36 and 37, strike out the words "or parolee".

(73) On page 294, strike out lines 1 and 2 and insert in lieu thereof the following: "believes will be helpful with respect to its determination whether and when to grant the prisoner early release."

(74) On page 294, line 14, strike out the words "a parole" and insert in lieu thereof the words "an early release".

(75) On page 294, line 18, strike out the words "on parole".

(76) On page 296, line 23, strike out the word "terms" and insert in lieu thereof the word "term".

(77) On page 296, line 27, strike out the word "terms" and insert in lieu thereof the word "term".

(78) On page 296, line 28, strike out "or of any other matter within its jurisdiction".

(79) On page 296, line 31, strike out the words "or parolee".

(80) On page 296, strike out lines 33 and 34 and insert in lieu thereof the following: "officer or agency believes will be helpful with respect to the setting of the term and conditions of parole."

(81) On page 297, line 22, strike out the words "Upon a determination to" and insert in lieu thereof the words "Prior to the".

(82) On page 297, strikes lines 37 and 38 and through line 2 on page 298 and insert in lieu thereof the following:

"(b) AUTHORIZED TERMS OF PAROLEE.—The authorized terms of parole are:

(83) On page 298, line 3, 5, 7, 9, and 11, strike out the word "at".

(84) On page 299, line 1, after the word "imprisoned" insert the words ", other than as a condition of probation under section 2103(b)(11) or as a condition of probation or parole under section 2103(b)(12),".

(84) On page 299, line 20, after the word "A", insert the following: "summons for a parolee to appear at a hearing conducted pursuant to subsection (b) or".

(85) On page 299, line 29, after the word "delay," insert the words "and a parolee summoned pursuant to subsection (a) shall appear,".

(86) On page 299, line 37, after the word "violation", insert the words "of a condition of parole has".

(87) On page 300, line 1, after the word "alleged" insert the words ", or if the parolee is convicted of committing a federal, state, or local crime during the term of parole.".

(88) On page 300, line 4, after the words "with respect to the" insert the words "revocation of".

(89) On page 301, line 3, before the word "policy" insert the words "guidelines and".

(90) On page 301, line 9, after the words "imprisoned for" insert the words "no more than the longer of".

(91) On page 301, line 36, after the words "reimprisoned for" insert the words "a maximum of the longer of".

(92) On page 302, line 1, strike out the words "if no" and insert in lieu thereof the words "minus the".

(93) On page 302, line 1, strike out the word "was".

(94) On page 302, line 6 strike out "994(f)(1)" and insert in lieu thereof "994(e)(1)".

(95) On page 302, strike out line 8 and insert in lieu thereof the following: "(1) a term or condition of parole is imposed other than".

(96) On page 302, strike out line 11 and insert in lieu thereof: "(2) a term or condition of parole is modified or parole is".

(97) On page 328, line 26, strike out the words "The probation service of the court" and insert in lieu the words "A probation officer".

(98) On page 329, line 4, after the words "the defendant's case; the" insert the words "kinds of sentence and the".

(99) On page 329, line 9, strike out the words "lesser or greater" and insert in lieu thereof "of a different kind or of a different length".

(100) On page 329, line 10, strike out the words "sentencing range" and insert in lieu thereof the word "guideline".

(101) On page 329, line 26, after the word "If" insert the following: "there is probable cause to believe that".

(102) On page 329, line 26, strike out the word "violates" and insert in lieu thereof the words "has violated".

(103) On page 329, line 31, insert a comma after the word "district"; and after the words "issue a" insert the words "summons to the defendant or a".

(104) On page 329, line 32, after the word "is" insert the words "summoned or".

(105) On page 329, line 33, after the word "that" insert the words "there is probable cause to believe that".

(106) On page 330, lines 6, 13, 15, 20, 22, and 35, strike out the word "federal" and insert in lieu thereof the words "judge or United States".

(107) On page 331, lines 3 and 4, strike out the word "federal" and insert in lieu thereof "judge or United States".

(108) On page 331, strike line 22 and insert in lieu thereof "SENTENCE ON REMAND".

(109) On page 331, line 24, after "3725" insert the following: "or that is determined on review of an order, pursuant to 18 U.S.C. 3723(b) or 3724(d), granting or denying a motion to correct a sentence under Rule 35(b)(2) to be the result of incorrect application of the guidelines,".

(110) On page 331, line 26, after the words "imposition of a" insert the words "different kind of sentence or of a".

(111) On page 340, line 31, insert after the word "locality" the words ", or, at the request of the tribal leaders, with an Indian tribe,".

(112) On page 340, line 34, insert after the word "territory" the words "or Indian tribe".

(114) On page 350, line 28, before the word "terms" insert the word "initial".

(115) On page 351, line 4, after the word "office" insert the word "as".

(116) On page 351, line 9, insert quotation marks at the beginning of the line.

(117) On page 351, line 31, insert the words "eligibility for" before the words "early release".

(118) On page 351, line 34, insert after the word "sentencing" the words ", including the appropriate use of the sanctions provided in sections 2004, 2005, and 2006 of title 18,".

(119) On page 353, line 19, strike out the word "released" and insert in lieu thereof

the words "whose terms of imprisonment exceed one year".

(120) On page 353, line 22, insert the word "Sentencing" before the word "Commission".

(121) On page 353, lines 25 and 30, insert after "(a)(1)" the words "and (e)(1)".

(124) On page 354, line 22, insert after the word "guidelines" the words "promulgated pursuant to subsection (a)(1) and (e)(1)".

(125) On page 355, line 12, strike out "(f)(1)" and insert in lieu thereof "(e)(1)".

(126) On page 355, line 19, strike out the words "Commission shall require that the".

(127) On page 355, line 20, insert after the word "officer" the word "shall".

(128) On page 356, strike out lines 32 through 34.

(129) On page 356, line 35, strike out "(12)" and insert in lieu thereof "(11)".

(130) On page 356, line 38, strike out "(13)" and insert in lieu thereof "(12)".

(131) On page 357, renumber paragraphs (14) through (23) as paragraphs (13) through (22).

(132) On page 358, strike out line 2 and insert in lieu thereof the following: "power to establish general policy statements and guidelines pursuant to sectons 994(a) and (e), the issuance of general policies and promulgation of rules and regulations pursuant to subsection (a)(1) of this section; and the decisions as to the factors to be considered in establishment of categories of offenses and offenders pursuant to section 994(b).".

ADDITIONAL TECHNICAL AMENDMENTS

(1) Page 51, line 7, strike "2001" and insert "2201".

(2) Page 241, line 20, strike "3617(d)" and insert "3616(d)".

(3) Page 304, lines 9 and 10, strike out "or 1517 (Making a Political Contribution as a Foreign National)".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the remaining committee amendments that have not yet been considered be adopted and where appropriate by virtue of such action of the Senate be adopted as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 55, line 32, after "or" insert "an";

On page 61, beginning with line 10, insert the following:

"(b) BAR TO PROSECUTION.—It is a bar to a prosecution under this section that the offense was committed solely for the purpose of disseminating information to the public.

On page 61, line 23, strike "federal";

On page 61, line 26, strike "federal";

On page 85, line 27, strike "or";

On page 85, beginning with line 28, strike through and including line 29;

On page 85, line 32, strike the colon and "(1)";

On page 85, line 33, strike "in the circumstances set forth in subsection (a)(1)";

On page 85, beginning with line 34, strike through and including line 35;

On page 96, line 34, strike "or";

On page 96, line 36, strike "occurs;" and insert "occurs";

On page 96, beginning with line 37, strike through and including line 40;

On page 97, line 1, strike "is:";

On page 97, line 2, strike "(1)" and insert "is";

On page 97, line 2, strike "in the circumstances set forth in subsection (a)(1) or (a)(2);" and insert a period;

On page 97, beginning with line 4, strike through and including line 5;

On page 98, line 11, after "Class" strike "A misdemeanor" and insert "E felony";

On page 98, beginning with line 13, strike through and including line 20;

On page 99, beginning with line 3, strike through and including line 11;

On page 112, line 20, strike "unlawfully and";

On page 112, beginning with line 28, insert the following:

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under section 1622(a)(2) or 1623 that the actor is either a parent or guardian who was first awarded lawful custody of the person restrained and that the person restrained is under fourteen years of age.

"(c) A person under the age of fourteen who has been restrained in violation of section 1622(a)(2) or 1623 shall be returned unharmed to the parent or guardian who was first awarded lawful custody of said person. In determining the sentencing guidelines pursuant to the above sections, the Sentencing Commission shall consider the fact of return of the person restrained to the parent or guardian having lawful custody of said person.

"(d) The Federal Bureau of Investigation may not commence an investigation into an offense as described in section 1622(a)(2) or 1623 where the defendant is a parent or guardian who was not first awarded lawful custody of the person restrained unless the parent or guardian who was first awarded lawful custody has reported the restraint of the person within ninety days of the restraint and that at least sixty days have lapsed from the time of the filing of a missing persons report so as to allow state and local authorities sufficient time to investigate the alleged unlawful restraint.

On page 113, beginning with line 9, strike through and including line 12;

On page 113, beginning with line 13, insert the following:

"(e) INITIATION OF INVESTIGATION.—In the absence of facts indicating a lack of federal jurisdiction, the failure to release the victim of an offense under section 1621, 1622, or 1623 within twenty-four hours of the offense is a sufficient indication of the possibility that federal jurisdiction exists, by virtue of the movement of the victim across a state or United States boundary, to justify the commencement of a federal investigation of the offense.

On page 114, line 15, strike "who is not his spouse,";

On page 114, line 21, after "has" insert a comma and "with intent to engage in a sexual act,";

On page 114, line 23, after "a" insert "substance that he knows is a";

On page 115, line 23, strike "any" and insert "a";

On page 120, beginning with line 22, strike through and including line 25;

On page 120, line 32, strike "(c)" and insert "(b)";

On page 122, line 3, strike "United States post office or postal";

On page 122, line 4, after "facility" insert "of a Federal government agency";

On page 122, line 6, strike "post office" and insert "facility";

On page 122, beginning with line 26, strike through and including line 28;

On page 125, line 22, strike "States." and insert "states; or";

On page 125, line 23, insert the following:

"(D) an internationally protected person.

On page 130, line 16, after "or is" insert "ammunition, a firearm, or";

On page 144, line 1, strike "(2)" and insert "makes, traffics in, or";

On page 144, line 20, after "bond" insert "treasury bond,";

On page 144, line 20, strike "or" and insert "certificate of deposit,";

On page 144, line 21, after "coupon," insert "or any form of debt instrument bearing interest,";

On page 144, beginning with line 24, insert the following:

"(3) the implement which is the subject of the offense:

"(A) is moving in interstate or foreign commerce or constitutes or is part of interstate or foreign commerce; or

"(B) is moved across a state or United States boundary in or after the commission of the offense.

On page 144, beginning with line 29, strike through and including line 31;

On page 150, line 2, strike 'improperly";

On page 150, line 10, strike "DEFINITION" and insert "DEFINITIONS,";

On page 150, line 10, strike "section," and insert "section;";

On page 150, beginning with line 11, insert the following:

"(1) 'anything of value' does not include bona fide salary, wages, fees, or other compensation paid in the usual course of business;

On page 150, line 14, before "publicly" insert "(2)";

On page 153, line 17, strike 'The provisions of section 1345 that apply to section 1343 (Making a False Statement) apply also to this section." and insert "To the extent that conduct described in section 1343(a)(1) is an element of an offense described in this section, the provisions of section 1345(b)(2) and (c)(2) that apply to section 1343 (Making a False Statement) apply also to this section.";

On page 153, line 23, strike "is:" and insert "is";

On page 153, line 153, beginning with line 24, strike "(1)";

On page 153, line 24, after "felony" insert a period and strike the remaining through and including line 27;

On page 161, line 24, strike "other than 10 grams or less of marihuana";

On page 161, beginning with line 29, insert the following:

"(c) ARREST PRECLUDED.—Notwithstanding any other provision of law, a person who commits an offense consisting solely of an infraction under this section may not be arrested for the offense, but instead shall be issued a summons.

On page 161, line 33, strike "(c)" and insert "(d)";

On page 161, beginning with line 38, strike through and including page 162, line 2;

On page 162, beginning with line 3, insert the following:

"(B) 150 grams or more of marihuana; or

"(C) a substance other than an opiate or marihuana;

"(3) a Class C misdemeanor if the controlled substance is more than 30 grams but less than 150 grams of marihuana;

"(4) an infraction if the controlled substance is 30 grams or less of marihuana. Notwithstanding the provisions of part III of this title, the authorized fine is not more than $500 for a Class C misdemeanor, not more than $500 for an infraction involving more than 10 grams of marihuana, if the defendant had twice been convicted of an offense under federal, state, or local law relating to marihuana, and not more than $100 for an infraction in any other case; the court shall sentence the defendant to pay the maximum authorized fine if the defendant is convicted of an infraction involving more than 10 grams of marihuana, or if the defendant is convicted of a Class C misdemeanor or an infraction and had

twice been convicted of an offense under federal, state, or local law relating to marihuana; and the court may not sentence the defendant to a term of imprisonment for an infraction.

On page 166, line 20, strike "and to a term of parole ineligibility of not less than" and insert "without designating eligibility for early release during the first";

On page 166, line 22, after "years" insert "of the term";

On page 166, line 23, after "year" insert "of the term";

On page 166, line 31, beginning with the comma, strike through and including line 32, the word "defendant's" and insert "whose";

On page 167, line 7, strike "Agency" and insert "Administration";

On page 168, line 18, strike "A misdemeanor" and insert "E felony";

On page 168, line 32, after "causing" insert "bodily";

On page 172, line 37, strike "in" and insert "of";

On page 176, line 7, strike "of a public servant" and insert "that he knows is issued by a law enforcement officer, or by a public servant assigned public safety responsibilities,";

On page 176, line 21, after "the" insert "law enforcement officer or other";

On page 176, line 36, after the semicolon, strike "or";

On page 177, line 4, strike "year." and insert "year; or";

On page 177, beginning with line 5, insert the following:

"(3) an infraction if the only penalty authorized by the State or local law is a criminal fine.

On page 178, line 9, strike "found guilty of an offense";

On page 178, line 23, strike "the defendant's previous delinquency or criminal experiences; his social background; his capabilities; his mental, emotional, and physical health; and the rehabilitative resources or programs that may be available to suit his needs" and insert "are pertinent to the factors set forth in section 2003(a)";

On page 178, line 32, after "report of the" insert "pertinent";

On page 178, line 35, strike "may" and insert "shall";

On page 178, line 36, strike "category of offense and category of offender set forth in the";

On page 178, line 37, strike "issued" and insert "and policy statements, promulgated";

On page 178, line 38, strike "(1)";

On page 179, line 9, strike "examination by two or more examiners" and insert "examination";

On page 192, line 1, after "revenue" insert "or other offenses for which investigative responsibility is provided for in this paragraph;";

On page 192, beginning with line 27, strike through and including "(f)(8)" on line 31, and insert in lieu thereof the following:
in section 1746 (f)(2), (f)(3), (f)(4), or (f)(8) offenses described in section 1357(a)(2); offenses described in section 1732, if there is or may be Federal jurisdiction over the offense as set forth in section 1732(c)(2); offenses described in subchapter E of chapter 17 if there is or may be Federal jurisdiction over the offenses based upon the written instrument being a security:

"(A) made or issued by or under the authority of, or guaranteed by, the United States other than a money order issued by or under the authority of, or guaranteed by, the United States Postal Service; or

"(B) made or issued by or under the authority of a foreign government.

On page 193, line 19, after the semicolon, insert "offenses described in subchapter E of chapter 17 if there is or may be Federal jurisdiction over the offense based upon the written instrument being a security made or issued by or under the authority of, or guaranteed by, the United States Postal Service or its predecessor,";

On page 195, beginning with line 12, insert the following:

"§ 3033. Investigation of Offenses Subject to Extraterritorial Jurisdiction

"Notwithstanding the provisions of 10 U.S.C. 127, the Armed Forces of the United States may be used outside the United States to assist a law enforcement agency in the detection, investigation, and preparation for trial of, and in the apprehension of offenders for, offenses subject to the extraterritorial jurisdiction of the United States.

On page 199, line 9, strike 'A" and insert "Subject to the Attorney General, a";

On page 199, line 35, strike "regulations" and insert "standards";

On page 203, line 15, after "802)" insert "or in illicit or untax-paid liquor or cigarettes, or";

On page 203, line 17, after "theft," insert "trafficking in stolen property,";

On page 206, line 31, strike out "he" and insert "and does not also relate to an offense specified in the order of authorization or approval, the attorney for the government";

On page 206, line 35, strike "an application, in accordance with section 3102," and insert "a motion";

On page 206, line 36, strike "as soon as practicable after the unrelated interception";

On page 210, line 25, strike "No part of the contents of a private oral communication that has been unlawfully intercepted, and no evidence derived from such contents, may" and insert "If the motion is granted, the contents of the intercepted private oral communication, and evidence derived from such contents, may not";

On page 216, line 4, after "Columbia" insert a comma and "and the United States Court of Military Appeals";

On page 216, beginning with line 7, strike through and including line 23, and insert in lieu thereof the following:

"§ 3121. Witness Relocation and Protection

"(a) Relocation. The Attorney General may provide for the relocation of a government witness or a potential government witness in an official proceeding involving racketeering activity, an offense similar in nature, or an offense the investigation or prosecution of which appears likely under the circumstances to cause the commission of an offense described in section 1323 (Tampering with a Witness or an Informant) or 1324 Retaliating against a Witness or an Informant). The Attorney General may also provide for the relocation of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered.

"(b) Related Protective Measures. In connection with the relocation of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General may take any action he determines to be necessary to protect such person from bodily injury, and otherwise to assure his health, safety, and welfare, for as long as, in the judgment of the Attorney General, such danger exists. The Attorney General may:

"(1) provide suitable official documents to enable the person relocated to establish a new identity:

"(2) provide housing for the person relocated;

"(3) provide for the transportation of household furniture and other personal property to the new residence of the person relocated;

"(4) provide a tax free subsistence payment, in a sum established in regulations issued by the Attorney General, for such time as the Attorney General determines to be warranted;

"(5) assist the person relocated in obtaining employment; and

"(6) refuse to disclose the identity or location of the person relocated, or any other matter concerning the person or the relocation program, after weighing the danger such a disclosure would pose to the person relocated, the detriment it would cause to the general effectiveness of the relocation program, and the benefit it would afford to the public or to the person seeking the disclosure.

On page 226, line 32, strike "estraditable" and insert "extraditable";

On page 235, line 32, strike "(c)" and insert "(d)";

On page 240, line 38, strike "$30" and insert "$45";

On page 240, line 39, strike "$20' and insert "$30";

On page 241, line 10, strike "$1,000" and insert "$1,500";

On page 241, line 12, strike $400" and insert "$600";

On page 241, line 16, strike "$1,000" and insert "$1,500";

On page 241, line 21, strike "$250" and insert "$375";

On page 242, line 24, strike "$150" and insert "$225";

On page 242, line 29, strike "$300" and insert "$450";

On page 245, line 26, strike "other than section 3404, shall";

On page 249, line 5, after "judge" insert "may order the arrest of such witness and";

On page 251, line 24, strike "against him";

On page 251, line 29, after "that" insert "there is a special interest warranting";

On page 251, line 29, strike "is in the interest of justice";

On page 252, line 33, strike "insofar as possible" and insert "after it is determined that he is a juvenile";

On page 253, beginning with line 5, strike through and including line 16, and insert in lieu thereof the following:

"(c) RELEASE.—The judge shall release the juvenile pending trial pursuant to the provisions of section 3502, and may impose any condition set forth in such section, other than subsection (a)(4), that will reasonably assure:

"(1) the presence of the juvenile before the appropriate court as required; or

"(2) that the juvenile will not inflict serious bodily injury on another person.

If the judge determines, after a hearing, that official detention pending trial of such juvenile is required to insure that the juvenile will not inflict serious bodily injury on another person pending disposition, the judge may order such detention upon setting forth in writing the reasons for that determination. If a juvenile is held in official detention pending trial pursuant to this subsection and is not brought to trial within thirty days from the date upon which the detention was begun, the information shall be dismissed on motion of the juvenile or at the direction of the court, unelss the Attorney General shows that additional delay was caused by the juvenile or his counsel, was consented to by the juvenile and his counsel, or would be in the interest of justice in

On page 254, beginning with line 1, insert the following:

"(d) GUARDIAN AD LITEM.—The judge may appoint a guardian ad litem at any stage of the proceedings against a juvenile if he has reason to believe that the parent or guardian of the juvenile:

"(1) is or will not be present;

"(2) will not cooperate with the juvenile in preparing for trial; or

"(3) has interests that are adverse to those of the juvenile.

"(e) RIGHT TO ASSISTANCE OF COUNSEL.—A juvenile has the right to be represented by counsel at every judicial stage of the procedings under this subchapter and this right may not be waived by a juvenile under the age of eighteen for any offense set forth in section 3601(a).

"(f) INTAKE SCREENING.—After the issuance of a warrant or summons for a juvenile for, or the initial appearance in court of a juvenile charged with, an offense set forth in section 3601(a), and prior to any other proceeding or action other than an appearance required pursuant to Rule 5 of the Federal Rules of Criminal Procedure, the court shall refer the case to a probation officer to conduct an intake screening review of the facts and evidence in the case and of all information available as to the background and characteristics of the juvenile. The review may include an interview with the juvenile, his parents, the complainant, a witness to the offense, and any other person whose information would appear to be useful. At the conclusion of the review, the probation officer shall promptly make a recommendation, based upon his determination of the best interests of the juvenile and the interests of justice, to the attorney for the government concerning the disposition of the case. The recommendation may include:

"(1) dismissal of the case on any appropriate ground, including lack of evidence;

"(2) referral of the juvenile to any available state or local program or agency;

"(3) referral of the juvenile to any available federal pretrial diversion program;

"(4) proceeding against the juvenile as a juvenile delinquent; or

"(5) proceeding against the juvenile as an adult pursuant to section 3602 (a)(2) or (a)(3).

If no recommendation is made within thirty days of the referral to the probation officer, the attorney for the government may proceed pursuant to the provisions of this subchapter. If the attorney for the government accepts a recommendation set forth in paragraph (2) or (3), the probation officer shall prepare a written statement, to be signed by the juvenile, the attorney for the government, the probation officer, and an official of the program or agency, setting forth all of the conditions of the agreement. The acceptance of the agreement by the juvenile must be voluntary and made upon the advice of counsel, or, in the absence of counsel, made with the consent of his parent or guardian. The agreement may not extend beyond a period of six months. At the end of such period, the attorney for the government shall request a prompt report from the appropriate officials of the agency or program as to the juvenile's compliance with the conditions of the agreement. If the report indicates that the juvenile has fully complied with the conditions of the agreement, the attorney for the government shall file a motion for the dismissal of the case. If the report indicates that the juvenile has not fully complied with the conditions of the agreement, or if no report has been filed, the attorney for the government may, within thirty days after the receipt of the report, or, if no report has been filed, within thirty days after the end of the period of the agreement, proceed against the juvenile pursuant to the provisions of this subchapter. A failure to proceed within thirty days of receipt of the report is grounds for dismissal of the case upon motion of the juvenile.

On page 259, beginning with line 14, insert the following:

"(k) BAR TO SUBSEQUENT PROSECUTION.—Once a juvenile has entered a plea of guilty or the proceeding has reached the stage that evidence has begun to be taken with respect to an offense or an alleged act of juvenile delinquency, a subsequent criminal prosecution or juvenile proceeding based upon such alleged act of juvenile delinquency is barred.

"(l) APPLICATION OF FEDERAL RULES OF CRIMINAL PROCEDURE.—In any proceeding conducted under this subchapter the Federal Rules of Criminal Procedure are applicable to the extent set forth in Rule 54(b)(5) of such rules.

"(m) INDEPENDENT FACT FINDER.—Insofar as possible, a judge who conducts a hearing pursuant to this subchapter, upon motion of the juvenile charged with the offense, shall not participate in a subsequent fact finding proceeding related to the offense.

On page 264, line 12, after "domiciled" insert "or was tried";

On page 264, beginning with line 14, insert the following:

The Attorney General shall make all reasonable efforts to cause such a state to assume such responsibility. If, notwithstanding such state will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility, until:

"(1) such a state will assume such responsibility; or

"(2) the person's mental condition is such that his release would not create a substantial risk of serious bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a state to assume such responsibility for the person's custody, care, and treatment.

On page 264, line 25, after the period, strike all through and including line 32;

On page 265, beginning with line 12, strike through and including page 266, line 25;

On page 266, line 26, strike "3615" and insert "3614";

On page 266, line 29, strike "A" and insert "If a";

On page 266, line 30, strike "or" and insert "objects either in writing or through his attorney to being transferred to a suitable facility for care or treatment,";

On page 268, line 27, after "domiciled" insert "or was";

On page 268, line 28, after the period, insert the following:

"The Attorney General shall make all reasonable efforts to cause such a state to assume such responsibility. If, notwithstanding such efforts, neither such state will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility, until:

"(1) such a state will assume such responsibility; or

"(2) the person's mental condition is such that his release would not create a substantial risk of serious bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a state to assume such responsibility for the person's custody, care, and treatment."

On page 268, line 39, after the period, strike through and including page 269, line 7;

In page 269, line 35, after "domiciled" insert "or was tried";

On page 269, line 36, after "If" insert "neither";

On page 269, line 36, strike out "not";

On page 270, line 14, strike "at least two" and insert "a";

On page 270, line 15, after "certified" insert "psychiatrist, or clinical psychologist and medical doctor, or, if the court finds it appropriate, by additional examiners. Each ";

On page 270, line 19, after "3612" insert "or";

On page 270, line 19, strike "or 3614;";

On page 270, line 20, strike "shall include one psychiatrist or clinical psychologist";

On page 270, line 21, after the comma, insert "upon the request of the defendant, an additional examiner may be";

On page 270, line 23, strike "3615 or 3616" and insert "3614 or 3615";

On page 270, beginning with line 24, strike through and including line 28, and insert in lieu thereof the following:

"For the purposes of an examination pursuant to an order under section 3611 or 3614, the court may commit the person to be examined for a reasonable period, but not to exceed thirty days, and under section 3612, 3613, or 3615, for a reasonable period, but not to exceed forty-five days, to the custody of the Attorney General for placement in a suitable facility. Unless impracticable, the psychiatric examination shall be conducted in the suitable facility closest to the court. The Director of the facility may apply for a reasonable extension, but not to exceed fifteen days under section 3611 or 3614, and not to exceed thirty days under section 3612, 3613, or 3615, upon a showing of good cause that additional time is necessary to observe and evaluate the defendant.

On page 271, line 11, strike "examiners' " and insert "examiner's";

On page 271, line 12, strike "examiners' " and insert "examiner's";

On page 271, line 24, strike "3616" and insert "3615";

On page 271, line 28, strike "or 3615";

On page 272, line 22, strike "3616" and insert "3615";

On page 272, beginning with line 25, insert the following:

"(i) DISCHARGE FROM SUITABLE FACILITY.—Regardless of whether the director of the facility in which a person is hospitalized has filed a certificate pursuant to the provisions of subsection (e) of section 3611, 3613, 3614, or 3615, counsel for the person or his legal guardian may, at any time during such person's hospitalization, file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility. A copy of the motion shall be sent to the director of the facility in which the person is hospitalized and to the attorney for the government.

"(j) APPLICATION OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE REGULATIONS.—The Secretary of the Department of Health, Education, and Welfare shall promulgate regulations to take effect on or before the effective date of this title pertaining to the use of psychosurgery, electric shock treatment, and drug treatment applicable to a person under this subchapter. Such regulations shall insure at a minimum that no such procedures shall be permitted without the informed consent of the person or, if such consent is not possible, the informed consent of a guardian or other person appointed to represent the interests of the person committed. To constitute voluntary informed consent, the following information shall be provided to the person both in a written consent form, to be promulgated by the Department of Health, Education, and Welfare, and by a full supplementary oral explanation at least twenty-four hours before the consent form is signed by the person or his appointed representative:

"(1) the reason for treatment, including the nature and seriousness of the person's illness, disorder, or defect;

"(2) the nature of the procedure to be used in the proposed treatment, including its probable frequency and duration;

"(3) the probable degree and duration of improvement or remissions expected with or without such treatment;

"(4) the nature, degree, duration, and probable side effects and significant risks, of such treatment, including the degree and extent of memory loss and its irreversibility;

"(5) the reasonable alternative treatments,

including why the physician is recommending this particular treatment; and

"(6) the right of the person to accept or refuse the proposed treatment and, if the person consents, the right to revoke the consent, for any reason, at any time prior to or between treatments.

Both the oral explanation and execution of the consent forms shall be in the presence of at least one independent witness.

On page 277, line 16, strike "provision of law" and insert "federal statute";

On page 278, line 19, strike "or";

On page 278, line 20, after the comma, insert "permitting withdrawal of a plea of guilty or nolo contendere, or granting a new trial verdict or judgment,";

On page 279, beginning with line 6, insert the following:

"(d) REVIEW OF AN ORDER UNDER RULE 35 (b)(2).—The Government may file with a United States court of appeals a petition for leave to appeal an order of a district court granting or denying a motion to correct a sentence pursuant to Rule 35(b)(2) of the Federal Rules of Criminal Procedure.

On page 279, beginning with line 13, insert the following:

"(f) CONSTRUCTION.—The provisions of this section shall be liberally construed to effectuate their purposes.

On page 284, line 7, after the comma, insert "or a conviction that is the subject of an expungement under subsection (c),";

On page 284, line 11, after "(a)" insert "or the expungement provided in subsection (c)";

On page 284, line 12, after the comma, insert "or a conviction that is the subject of an expungement order under subsection (c),";

On page 284, beginning with line 17, strike through and including line 20, and insert in lieu thereof the following:

"(c) EXPUNGEMENT OF RECORD OF DISPOSITION.—If the case against a person found guilty of an offense under section 1813 (Possessing Drugs):

"(1) is the subject of a disposition under subsection (a), and the person was less than twenty-one years old at the time of the offense, the court shall enter an expungement order upon the application of such person; or

"(2) consists solely of an offense involving:

"(A) 30 grams or less of marihuana, the court shall enter an expungement order after such person's payment of any fine imposed by the court, and, for a third offense, after the passage of one year since the date of the conviction; or

"(B) more than 30 grams of marihuana, the court may enter an expungement order after such person's payment of any fine imposed by the court and after the passage of one year since the date of the conviction.

The expungement order shall direct that there be expunged from all official

On page 286, line 24, after "6323," insert other than 6323(f)(4),";

On page 286, line 28, after "7605," insert "7609, 7610,";

On page 289, beginning with line 27, strike through and including line 33, and insert in lieu thereof the following:

"(a) DATE OF RELEASE.—Except as otherwise provided:

"(1) a prisoner sentenced to a term of imprisonment that does not include a specified portion of the term during which the prisoner is subject to early release shall be released by the Bureau of Prisons on the date of the expiration of his term of imprisonment, less any time credited toward the service of his sentence as provided in subsection (b); and

"(2) a prisoner sentenced to a term of imprisonment that includes a specified portion of the term during which the prisoner is subject to early release shall be released by the Bureau of Prisons on the date directed by the Parole Commission pursuant to the provisions of subchapter D, or on the date of the expiration of his term of imprisonment, whichever is earlier.

If the date for a prisoner's release falls on a Saturday, a Sunday, or a legal holiday, the prisoner may be released by the Bureau on the last preceding weekday.

"(b) CREDIT TOWARD SERVICE OF SENTENCE FOR SATISFACTORY BEHAVIOR.—A prisoner who is serving a term of imprisonment of one year or more, other than a term of imprisonment for the duration of his life, that does not include a specified portion of the term during which the prisoner is subject to early release, shall receive credit toward the service of his sentence, beyond the time served, of three days at the end of each calendar month of his term of imprisonment, beginning after the first year of the term, if the Bureau of Prisons determines that, during that month, he has satisfactorily complied with such institutional disciplinary regulations as have been approved by the Attorney General and issued to the prisoner. If the Bureau determines that, during that month, the prisoner has not satisfactorily complied with such institutional regulations, he shall receive no such credit toward service of his sentence or shall receive such lesser credit as the Bureau determines to be appropriate. The Bureau's determination shall be made within two days after the end of each month. Such credit toward service of sentence vests upon the determination by the Bureau that it has been earned. Credit that has been earned may not later be withdrawn, and credit that has not been earned may not later be granted.

"(c) PRE-RELEASE CUSTODY.—The Bureau of Prisons shall, where a sentence to a term of imprisonment of more than one year is being served, to the extent practicable, assure that a prisoner's last six months prior to release are spent under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for his reentry into the community. Where a sentence to a term of imprisonment of one year or less is being served, the provisions of this subsection shall be applicable to the last 30 days of such term. The United States Probation System shall, to the extent practicable, offer assistance to a prisoner during such prerelease custody.

On page 291, beginning with line 17, insert the following:

"(e) CONDITIONAL NATURE OF RELEASE.—A prisoner released by the Bureau of Prisons under the provisions of subsection (a)(1) or (a)(2) shall be released on parole pursuant to the provisions of subchapter E.

On page 292, line 8, after "consider" insert "whether a prisoner should be granted early release";

On page 292, line 9, strike the following:

the parole of a prisoner serving a term of imprisonment totaling:

"(1) more than one year, at least sixty days prior to the later of:

"(A) the date upon which he will become eligible for parole; or

"(B) the date upon which he will complete the service of one fourth of the term of imprisonment or of the first year of the term of imprisonment, whichever is earlier;

"(2) six months or more but not more than one year,

On page 292, line 21, after "FOR" insert "EARLY RELEASE";

On page 293, beginning with line 10, strike through and including line 13;

On page 293, line 20, after "as" insert "are pertinent to the factors set out in section 3931(c)" and strike out "the prisoner's previous delinquency or criminal experience; his social background; his capabilities; his mental, emotional, and physical health; and the rehabilitative resources or programs that may be available to suit his needs.";

On page 294, line 3, strike "PREPAROLE" and insert "PRE-RELEASE";

On page 294, line 6, strike "Parole" and insert "Release";

On page 294, line 8, strike "parole" and insert "early release";

On page 294, line 9, strike "of:";

On page 294, line 10, strike "(1)";

On page 294, line 10, after "(b)" strike "(1)";

On page 294, line 10, after "specified," insert "be";

On page 294, line 11, strike "be afforded a parole interview unless he signs a written waiver of such an interview;";

On Page 294, line 13, strike "(2) section 3831(b)(2), shall, within the time specified, be";

On page 294, line 15, strike "(A)" and insert "(1)";

On page 294, line 16, strike "(B)" and insert "(2)";

On page 294, line 19, strike "parole" and insert "such early release';

On page 294, line 21, strike "parole" and insert "early release";

On page 294, line 28, strike "a parole" and insert "an early release";

On page 295, line 3, strike "a parole" and insert "an early release";

On page 295, line 9, strike "parole" and insert "early release";

On page 295, line 10, strike "or if discretionary conditions of parole are imposed other than those incorporated by reference in section 3834(c);";

On page 295, line 14, strike "parole" and insert "early release";

On page 295, beginning with line 16, insert the following:

"§ 3834. Appeal from Parole Commission Determination

"(a) APPPEAL IN GENERAL.—In any case in which early release is denied, the person to whom such decision applies may file with the National Appeals Board a written appeal from such decision not later than thirty days after the decision is rendered. In any case in which any decision with respect to early release is rendered, the Attorney General may file with the National Appeals Board a written appeal from such decision not later than thirty days after the decision is rendered. An appeal shall be decided by a majority vote of the three commissioners on the National Appeals Board within sixty days after receipt of the appellant's papers.

"(b) APPEAL IF ORIGINAL JURISDICTION RETAINED.—In accordance with regulations and rules issued by the Parole Commission, in any case in which original jurisdiction is retained by the Commission the initial decision shall be made by a majority vote of a panel of five commissioners. The panel's decision may be appealed on the motion of any commissioner on the panel, or on the application of the individual to whom such decision applies, or on the motion of the Attorney General, directly to the National Appeals Board, which shall either affirm the decision or schedule a review by the full Commission.

"(c) PARTICIPANT IN PRIOR DECISION BARRED.—No commissioner may participate as a member of the National Appeals Board in the consideration of an appeal from a decision in which he had earlier participated.

"§ 3835. Inapplicability of the Administrative Procedure Act

"The provisions of 5 U.S.C. 554 through 557, and 701 through 706, do not apply to the making of any determination, decision, or order under this subchapter.

"Subchapter E.—Parole

"Sec.
"3841. Release Subject to Parole.
"3842. Pre-Parole Reports.
"3843. Term and Conditions of Parole.
"3844. Revocation of Parole.

"3845. Appeal from Parole Commission Determination.
"3846. Inapplicability of the Administrative Procedure Act.

"§ 3841. Release Subject to Parole

A prisoner who is released from imprisonment after having been sentenced to a term of imprisonment in excess of one year shall be released on parole, whether granted early release under the provisions of subchapter D, whether granted credit for satisfactory behavior under the provisions of section 3824(b), or whether released on the expiration of his term of imprisonment.

"§ 2842. Pre-Parole Reports

"(a) PRE-PAROLE STUDY and REPORT BY BUREAU OF PRISONS.—An adequate time prior to the date upon which a prisoner is to be released, the Bureau of Prisons, under such regulations as the Attorney General may prescribe, shall conduct a complete study of the prisoner with regard to such matters as are pertinent to the factors set out in section 3843(a). At least ninety days prior to the date upon which the prisoner becomes eligible for release, the Bureau shall provide the Parole Commission with a written report of the pertinent results of the study and shall make to the Commission whatever recommendations the Bureau believes will be helpful in determining the appropriate terms and conditions of parole.

"(b) PRE-PAROLE REPORT BY PROBATION OFFICERS AND GOVERNMENT AGENCIES.—Upon request of the Parole Commission, prior to its consideration of the terms and conditions of parole for a prisoner to be released or of any other matter within its jurisdiction, a probation officer or a government agency shall provide the Commission with whatever information is available to such officer or agency concerning the prisoner or parolee and shall, if not inconsistent with the public interest, make to the Commission whatever recommendations such officer or agency believes will be helpful with respect to the matter concerning which the request was made.

"(c) OTHER PRE-PAROLE INVESTIGATION.—The Parole Commission may make such other investigation as it may consider warranted.

"(d) CONSOLIDATION WITH PRE-RELEASE REPORT.—In cases where a prisoner is eligible for early release, pursuant to the provisions of subchapter D of chapter 38, the information required by this section and that required by section 3832 (Pre-Release Reports) may be included in a single report.

"(e) ACCESS TO REPORTS.—The prisoner shall be afforded reasonable access to such reports and other materials as are prepared by, or for the use of, the Parole Commission in making its determination, except that the prisoner shall not be afforded access to matters that, if they appeared in a report of a presentence investigation, would not be revealed to a defendant under the provisions of Rule 32 of the Federal Rules of Criminal Procedure. If access to any such material is withheld from the prisoner on such grounds, the Commission, or, if the material was withheld at the request of the Bureau of Prisons or another agency, the Bureau or such other agency, shall summarize the basic contents of the material to the extent that is possible without violating a pledge of confidentiality or endangering any person, and the Commission shall furnish such summary to the prisoner.

On page 304, line 21, strike "fraudulently advertised property" and insert "the property offered as part of the scheme or artifice, the instrumentalities used in the execution of the scheme or artifice, or the proceeds of the scheme or artifice";

On page 304, line 25, strike "a fraudulently advertised property" and insert "the property offered, advertised for sale, or sold, or the proceeds of such sale";

On page 310, line 32, strike "his";

On page 310, line 33, strike "business" and insert "affairs";

On page 310, line 36, strike "business" and insert "affairs";

On page 311, line 29, strike "equitable";

On page 311, beginning with line 30, insert the following:

"Subchapter D.—Restriction on Imposition of Civil Disabilities
"Sec.
"4031. Restriction on Imposition of Civil Disabilities.

"§ 4031. Restriction on Imposition of Civil Disabilities

"No person acting under color of federal law shall impose on another person any civil disability by reason of the other person's conviction of, or sentence for, any offense described in this title unless:

"(a) the offense occurred in connection with the particular right, privilege, or opportunity withheld by reason of that disability; or

"(b) there is a substantial probability, in light of the offense and other relevant circumstances, that the person so convicted will abuse the right, privilege, or opportunity withheld by reason of that disability.

On page 312, line 10, after "his" insert "person,";

On page 312, line 17, after "other" insert "investigation and";

On page 312, line 26, after "other" insert "investigation and";

On page 313, line 4, after "other" insert "investigation and";

On page 314, line 8, after "payment" strike "of" and insert "of,";

On page 318, beginning with line 9, insert the following:

TITLE II—AMENDMENTS TO THE FEDERAL RULES OF CRIMINAL PROCEDURE

SEC. 111. The Federal Rules of Criminal Procedure are amended as follows:

(a)(1) Rule 1 is amended by deleting "of the United States, as defined in Rule 54(c)" and inserting in lieu thereof "enumerated in Rule 54(a)";

(2) Rule 4 is amended by deleting "If it appears" in the first sentence of subdivision (a) and inserting in lieu thereof "Except as provided in 18 U.S.C. 1813(c), if it appears".

(b) Rule 5 is amended:

(1) by deleting "authorized by 18 U.S.C. 3041" in the first sentence of subdivision (a);

(2) by deleting "3401" in subdivision (b) and inserting in lieu thereof "3302"; and

(3) by adding at the end of subdivision (c) the following new sentence: "If a defendant is entitled to a preliminary examination and is not accorded a preliminary examination within the time limits specified in this subdivision or within any authorized extension of such time limits, he shall be discharged from custody, or from the requirement of bail or any other condition of release, without prejudice to the institution of further criminal proceedings against him upon the charge for which he was arrested.".

(c) Rule 6(g) is amended by adding after the words "18 months" in the first sentence the words "unless the court extends the service of the grand jury for a period of six months or less upon a finding that such extention is in the public interest.".

(d) A new Rule 6.1 is added after Rule 6 to read as follows:

"Rule 6.1.—The Special Grand Jury

"(a) SUMMONING SPECIAL GRAND JURIES.—The court is a district:

"(1) in which there are located more than four million inhabitants; or

"(2) concerning which the Attorney General, the Deputy Attorney General, or any designated Assistant Attorney General, certifies in writing to the chief judge that in his judgment a special grand jury is necessary because of criminal activity in the district;

shall order a special grand jury to be summoned at least once every eighteen months unless another special grand jury is then serving. If the court at any time determines that the volume of business of the special grand jury exceeds its capacity to discharge its obligations, the court may order an additional special grand jury to be impaneled in that district.

"(b) TERM.—A special grand jury shall serve for a term of eighteen months unless, after a determination of the special grand jury by majority vote that its business has been completed, an order for its discharge is entered earlier by the court. If, at the end of the term or any extension of the term, the court determines that the business of the special grand jury has not been completed, the court may enter an order extending the term for an additional period of six months. If a court fails to extend the term of a special grand jury or enters an order for its discharge before the special grand jury determines that it has completed its business, the special grand jury, upon the affirmative vote of a majority of its members, may apply to the chief judge of the judicial circuit within which the court is located for an order continuing the term. Upon the making of such an application, the term shall continue until the entry of an appropriate order by the chief judge of the circuit. No term of a special grand jury, however extended, shall exceed a total of thirty-six months, except as provided in subdivision (f)(1).

"(c) INVESTIGATION.—A special grand jury shall inquire into offenses alleged to have been committed within the district. Such alleged offense may be brought to the attention of the special grand jury by the court or by an attorney for the government. An attorney for the government, upon receipt of information concerning an alleged offense from a person requesting that the information be transmitted to the special grand jury, shall inform the grand jury of the alleged offense and of the identity of such person, and shall make a recommendation on the matter to the special grand jury.

"(d) SUBMISSION OF REPORT.—A special grand jury, with the concurrence of a majority of its members, may, upon completion of its term or any extension of its term, submit to the court a report:

"(1) concerning noncriminal misconduct, malfeasance, or misfeasance in office by a federal, state, or local public servant, and recommending removal of, or disciplinary action against, such public servant;

"(2) stating that after investigation of a federal, state, or local public servant it find no misconduct, malfeasance, or misfeasance in office by him, and that such public servant has requested the submission of the report;

"(3) concerning organized crime conditions in the judicial district; or

"(4) proposing, upon the basis of stated findings, recommendations for legislative, executive, or administrative action in the public interest.

"(e) ACCEPTANCE OF REPORT.—Upon receipt of a report submitted under subdivision (d), the court shall examine the report and the minutes of the special grand jury and, except as otherwise provided in subdivisions (f) and (g), shall make an order accepting and filing the report as a public record if it is satisfied that:

"(1) the report complies with the provisions of subdivision (d);

"(2) the report is based upon facts revealed in the course of an investigation authorized by subdivision (c) and is supported by a preponderance of the evidence;

"(3) to the extent that the report is submitted under subdivision (d)(1), each person named in the report, and a reasonable number of witnesses in his behalf who were designated by him to the foreman of the special grand jury, were afforded an opportunity to testify prior to the filing of the report; and

"(4) to the extent that the report is submitted under subdivision (d)(3) or (d)(4), the report is not critical of an identified person.

"(f) PROCEDURES FOR REPORT CRITICAL OF A PUBLIC SERVANT.—

"(1) RETURN OF REPORT TO SPECIAL GRAND JURY.—If a court to which a report is submitted under subdivision (d)(1) is not satisfied that the report complies with the provisions of subdivision (e), the court may return the report to the special grand jury and direct that additional testimony be taken. The term of a special grand jury may be extended by the court beyond thirty-six months in order that such additional testimony may be taken and the provisions of subdivision (e) met. Upon the taking of additional testimony, the special grand jury may resubmit the report, or a modified version of the report, to the court.

"(2) TEMPORARY SEALING OF ACCEPTED REPORT.—A report submitted under subdivision (d)(1), and the order accepting the report, shall be sealed by the court and shall not be filed as a public record, produced under subpoena, or otherwise made public:

"(A) until at least thirty-one days after a copy of the order and report are served upon each public servant named in the report, and until an answer has been filed or the time for filing an answer has expired; or

"(B) if an appeal is taken, until all rights of review of the public servant named in the report have expired or terminated in an order accepting the report.

No order accepting a report submitted under subdivision (d)(1) shall be entered until thirty days after the delivery of the report to the public servant or government agency under paragraph (4). The court may issue such orders as it deems appropriate to prevent unauthorized publication of the report.

"(3) ANSWER TO REPORT BY PUBLIC SERVANT.—A public servant named in a report may file with the clerk of the court a verified answer to the report not later than twenty days after service of the order and report upon him. Upon a showing of good cause, the court may grant such public servant an extension of time within which to file a verified answer and may authorize such limited publication of the report as may be necessary for him to prepare an answer. The answer shall plainly and concisely state the facts and law constituting the public servant's defense to the charges in the report. Except for those parts that the court determines to have been inserted scandalously, prejudiciously, or unnecessarily, the answer shall become an appendix to the report.

"(4) DELIVERY OF REPORT TO PUBLIC SERVANT'S SUPERIORS.—Upon the expiration of the times set forth in paragraphs (2)(A) and (2)(B), the attorney for the government shall deliver a copy of the report, and the appendix, if any, to the public servant or government agency having jurisdiction, responsibility, or authority over each public servant named in the report.

"(g) SEALING OF REPORT PENDING CRIMINAL PROCEEDINGS.—If the court finds that the filing as a public record of a report submitted under subdivision (d) may prejudice fair consideration of a pending criminal matter, the report shall be sealed by the court and shall not be filed as a public record, produced under subpoena, or otherwise made public during the pendency of such criminal matter, except upon order of the court.

"(h) APPLICABILITY OF OTHER RULES.—The provision of these rules applicable to regular grand juries also apply to special grand juries to the extent that they are not inconsistent with this rule.".

(e) Rule 7(c) is amended:

(1) by deleting the period at the end of paragraph (1) and inserting in lieu thereof the following: ", the grade of the offense, and, if Federal jurisdiction over the offense exists only under specified circumstances, the citation of the jurisdictional provisions alleged to be applicable. The indictment or information need not allege the nonexistence of a defense.";

(2) by deleting in paragraph (2) the word "criminal" and inserting after "forfeiture" the phrase "as part of the sentence".

(f) Rule 8(a) is amended by deleting "or both" and inserting in lieu thereof "or infractions or a combination thereof".

(g) Rule 9 is amended:

(1) by deleting "Upon the request" in the first sentence of subdivision (a) and inserting in lieu thereof "Except as provided in 18 U.S.C. 1813(c), upon request";

(2) by deleting the second sentence of subdivision (c)(1) and inserting in lieu thereof: "A summons to an organization shall be served by delivering a copy to an agent of the organization or to any other person authorized by appointment or by law to receive service of process and, if delivered to a person authorized by statute to receive service and the statute so requires, by also mailing a copy to the organization's last known address within the district or at its principal place of business elsewhere in the United States.".

(h) Rule 11 is amended:

(1) by deleting "corporation" in subdivision (a) and inserting in lieu thereof "organization";

(2) by deleting the word "crime" each time it appears in subdivision (e)(6) and inserting in lieu thereof the word "offense".

(i) Rule 12.2 is amended:

(1) by deleting "crime" in subdivision (a) and inserting in lieu thereof "offense";

(2) by deleting "mental state" in subdivision (b) and inserting in lieu thereof "state of mind";

(3) by deleting "by a psychiatrist designated for this purpose in the order of the court" in subdivision (c) and inserting in lieu thereof "pursuant to 18 U.S.C. 3612"; and

(4) by deleting "mental state" in subdivision (d) and inserting in lieu thereof "state of mind".

(j) Rule 15(e) is amended by deleting "rules of evidence" in the first sentence and inserting in lieu thereof "Federal Rules of Evidence".

(k) Rule 16 is amended:

(1) by deleting "a corporation, partnership, association or labor union" in subdivision (a)(1)(A) and inserting in lieu thereof "an organization";

(2) by deleting the words "officer or employee" wherever they appear in subdivision (a)(1)(A) and inserting in lieu thereof "agent";

(3) by deleting "case, or of statements made by government witnesses or prospective government witnesses except as provided in 18 U.S.C. 3500" in subdivision (a)(2) and inserting in lieu thereof "case. Statements made by government witnesses or prospective government witnesses may not be the subject of discovery or inspection under this rule, but shall be the subject of discovery or inspection only in accordance with the provisions of Rule 26.1."; and

(4) by adding a new subdivision (f) as follows:

"(f) INDICTMENT AND LIST OF JURORS AND WITNESSES FOR PRISONER IN CAPITAL CASES.—A person charged with a capital offense shall at least three entire days before commencement of trial be furnished with a copy of the indictment and a list of the veniremen, and of the witnesses to be produced at the trial for proving the indictment, stating the place of abode of each venireman and witness.".

(l) Rule 17 is amended:

(1) by redesignating subdivisions (d) through (g) as subdivisions (e) through (h), respectively; and

(2) by adding a new subdivision (d) to read as follows:

"(d) INFORMATION NOT SUBJECT TO SUBPENA.—Statements made by government witnesses or prospective government witnesses may not be the subject of a subpena under this rule, but shall be subject to production only in accordance with the provisions of Rule 26.1.".

(m) Rule 20 is amended:

(1) by deleting "5031" in subdivision (d) and inserting in lieu thereof "3606"; and

(2) by deleting "act in violation of a law of the United States not punishable by death or life imprisonment" in subdivision (d) and inserting in lieu thereof "offense other than a Class A felony";

(3) by adding a new subdivision (e) as follows:

"(e) OFFENSES APPLICABLE EXCLUSIVELY IN THE DISTRICT OF COLUMBIA.—This Rule applies to indictments, informations, and complaints charging violations of an Act of Congress applicable exclusively in the District of Columbia.".

(n) Rule 24(b) is amended:

(1) by deleting "punishable by imprisonment for more than one year" in the second sentence and inserting in lieu thereof "another felony"; and

(2) by deleting "punishable by imprisonment for not more than one year or by fine or both" in the third sentence and inserting in lieu thereof "a misdemeanor or an infraction".

(o) A new Rule 25.1 is added after Rule 25 to read as follows:

"Rule 25.1.—Burdens of Proof

"(a) Proof of Guilt—

"(1) PROOF OF OFFENSES.—The Government has the burden of proving each element of the offense beyond a reasonable doubt.

"(2) PROOF OF DEFENSES.—If a defendant raises a defense at trial and there is sufficient evidence of the defense to support a reasonable belief as to its existence, the Government has the burden of proving the nonexistence of the defense beyond a reasonable doubt.

"(3) PROOF OF AFFIRMATIVE DEFENSES.—If a defendant raises an affirmative defense at trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

"(4) PROOF OF GRADING.—The lowest grade of an offense shall be applicable unless the Government proves the elements of a higher grade beyond a reasonable doubt.

"(5) PRESUMPTIONS.—If a statute provides that a given fact gives rise to a presumption, the statute has the following consequences:

"(A) TRIAL BY JURY.—In a case tried before a jury:

"(i) if there is sufficient evidence of the fact that gives rise to the presumption to support a reasonable belief as to the fact's existence beyond a reasonable doubt, the court shall submit the issue to the jury unless the evidence as a whole clearly precludes a reasonable juror from finding the presumed fact beyond a reasonable doubt; and

"(ii) in submitting to the jury the issue of the existence of the presumed fact, the court shall, upon request of the Government, charge that, although the evidence as a whole must establish the presumed fact beyond a reasonable doubt, the jury may arrive at the judgment on the basis of the presumption alone, since the law regards the

fact giving rise to the presumption as strong evidence of the fact presumed.

"(B) TRIAL BY COURT.—In a case tried before the court sitting without a jury, although the evidence as a whole must establish the presumed fact beyond a reasonable doubt, the court may arrive at that judgment on the basis of the presumption alone.

"(6) PRIMA FACIE EVIDENCE.—If a statute provides that a given fact constitutes prima facie evidence, the statute has the following consequences:

"(A) TRIAL BY JURY.—In a case before a jury:

"(i) if there is sufficient evidence of the fact that constitutes prima facie evidence to support a reasonable belief as to fact's existence beyond a reasonable doubt, the court shall submit the issue to the jury unless the evidence as a whole clearly precludes a reasonable juror from finding the inferred fact beyond a reasonable doubt; and

"(ii) in submitting to the jury the issue of the inferred fact concerning which the given fact is prima facie evidence, the court, upon the request of the Government or the defendant, shall charge that, although the evidence as a whole must establish the inferred fact beyond a reasonable doubt, the jury may consider that the given fact is ordinarily a circumstance from which the existence of the inferred fact may be drawn.

"(B) TRIAL BY COURT.—In a case before the court sitting without a jury, although the evidence as a whole must establish the inferred fact beyond a reasonable doubt, the court may consider that the given fact is ordinarily a circumstance from which the existence of the inferred fact may be drawn.

"(b) Proof of Jurisdiction.

"(1) PROOF.—The Government has the burden of proving the existence of Federal jurisdiction over the offense, as set forth in 18 U.S.C. 201, beyond a reasonable doubt.

"(2) PRESENTATION TO COURT DURING TRIAL.—The existence of Federal jurisdiction over the offense is an issue to be decided by the court. The evidence relating to jurisdiction may be presented by the Government in open court in the course of its presentation of the evidence relating to guilt. Any evidence relating to jurisdiction that is not so presented in open court may be presented to the court, out of the presence of the jury, during the course of the presentation of the Government's evidence relating to guilt or after the close thereof. At the close of the presentation of the Government's evidence relating to guilt and of any subsequent presentation of evidence relating to jurisdiction, the issue shall be determined by the court.

"(3) PRESENTATION TO COURT BEFORE TRIAL.—Upon a timely pretrial motion by the attorney for the Government, the issue of the existence of Federal jurisdiction shall be heard by the court before trial and, notwithstanding the provisions of Rule 12(e), shall be determined before trial and may not be deferred for determination at a later time.".

(p) Rule 27 is repealed.

(q) Rule 26.1 is redesignated Rule 27.

(r) A new Rule 26.1 is added after Rule 26 to read as follows:

"Rule 26.1.—Production of Statements of Witnesses

"(a) MOTION FOR PRODUCTION.—After a witness called by the government has testified on direct examination, the court, on motion of the defendant, shall order the attorney for the government to produce, for the examination and use of the defendant, any statement of the witness that is the possession of the United States and that relates to the subject matter concerning which the witness has testified.

"(b) PRODUCTION OF ENTIRE STATEMENT.—If the entire contents of the statement relate to the subject matter concerning which the witness has testified, the court shall order that the statement be delivered directly to the defendant.

"(c) PRODUCTION OF EXCISED STATEMENT.—If the attorney for the government claims that the statement contains matter that does not relate to the subject matter of the testimony concerning which the witness has testified, the court shall order that it be delivered to the court in camera. Upon inspection, the court shall excise the portions of the statement that do not relate to the subject matter concerning which the witness has testified, and shall order that the statement, with such material excised, be delivered to the defendant. Any portion of the statement that is withheld from the defendant over his objection shall be preserved by the attorney for the government, and, in the event of a conviction and an appeal by the defendant, shall be made available to the appellate court for the purpose of determining the correctness of the decision to excise the portion of the statement.

"(d) RECESS FOR EXAMINATION OF STATEMENT.—Upon delivery of the statement to the defendant, the court, upon application of the defendant, may recess proceedings in the trial for such time as is reasonably required for the examination of the statement by the defendant and for his preparation for its use in the trial.

"(e) SANCTION FOR FAILURE TO PRODUCE STATEMENT.—If the attorney for the government elects not to comply with an order to deliver a statement to the defendant, the court shall order that the testimony of the witness be stricken from the record and that the trial proceed, or shall declare a mistrial if required by the interest of justice.

"(f) DEFINITION.—As used in this rule, a 'statement' of a government witness means:

"(1) a written statement made by the witness that is signed or otherwise adopted or approved by him;

"(2) a substantially verbatim recital of an oral statement made by the witness that is recorded contemporaneously with the making of the oral statement and that is contained in a stenographic, mechanical, electrical, or other recording or a transcription thereof; or

"(3) a statement, however taken or recorded, or a transcription thereof, made by the witness to a grand jury.".

(s) Rule 32 is amended:

(1) by deleting the second sentence of subdivision (a)(1) and inserting in lieu thereof the following:

"Before imposing sentence the court shall state in open court the classification of the offense and of the defendant, under the categories established by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), that it believes to be applicable to the defendant's case. The court shall afford the counsel for the defendant and the attorney for the Government an opportunity to comment upon the classification determined by the court to be applicable. Before imposing sentence, the court shall also afford counsel for the defendant an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of the sentence.";

(2) by adding after the words "right to appeal" in the first sentence of subdivision (a)(2) the words "from the conviction, of his right, if any, to obtain review of the sentence,";

(3) by deleting "right of appeal" in the second sentence of subdivision (a)(2) and inserting in lieu thereof "right to appeal or right to obtain review";

(4) by amending the first sentence of subdivision (c)(1) to read as follows:

"The probation service of the court shall make a presentence investigation and report to the court before the imposition of sentence unless the court finds that there is in the record information sufficient to enable the meaningful exercise of sentencing authority pursuant to 18 U.S.C. 2003, and the court explains this finding on the record.";

(5) by amending subdivision (c)(2) to read as follows:

"(2) REPORT.—The report of the presentence investigation shall contain:

"(A) information about the history and characteristics of the defendant, including his prior criminal record, if any, his financial condition, and any circumstances affecting his behavior that may be helpful in imposing sentence or in the correctional treatment of the defendant;

"(B) the classification of the offense and of the defendant under the categories established by the Sentencing Commission pursuant to 28 U.S.C. 994(a) that the probation officer believes to be applicable to the defendant's case; the sentencing range suggested for such a category of offense committed by such a category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1); and an explanation by the probation officer of any factors that may indicate that a sentence lesser or greater than one within the applicable sentencing range would be more appropriate under all the circumstances;

"(C) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2); and

"(D) such other information as may be required by the court.";

(6) by deleting "or the Youth Correction Division of the Board of Parole pursuant to 18 U.S.C. §§ 4208(b), 4252, 5010(e), or 5034" in subdivision (c)(3)(E) and inserting in lieu thereof "pursuant to 18 U.S.C. 2002(b) or 3603(d)";

(7) by deleting "or imposition of sentence is suspended;" in subdivision (d) and inserting in lieu thereof a comma;

(8) by deleting subdivision (e); and

(9) by redesignating subdivision (f) as subdivision (e), amended to read as follows:

"(e) REVOCATION OF PROBATION.—

"(1) ARREST OF PROBATIONER.—If a defendant violates a condition of his probation at any time prior to the expiration or termination of the term of his probation, the court that imposed the sentence of probation, or, if jurisdiction over the defendant has been transferred to the court for another district, the court for such other district may issue a warrant for the arrest of the defendant.

"(2) PRELIMINARY HEARING.—Whenever a probationer is taken into custody on the ground that he has violated a condition of his probation, he shall be afforded a prompt hearing before any judge, or a United States magistrate who has been given authority pursuant to 28 U.S.C. 636(b) to conduct such hearings, in order to determine whether there is probable cause to hold the probationer for a revocation hearing. The probationer shall be given:

"(A) notice of the hearing and its purpose and of the alleged violation of probation;

"(B) an opportunity to appear at the hearing and present evidence in his own behalf;

"(C) upon request, the opportunity to question witnesses against him unless, for good cause, the federal magistrate decides that justice does not require the appearance of the witness; and

"(D) notice of his right to request counsel. Upon the request of the probationer, counsel shall be appointed if it appears that there is an issue of fact whether a violation of probation has occurred. If counsel is not

appointed upon request, the federal magistrate shall make his reasons for such refusal a matter of record.

the federal magistrate shall maintain a record of what occurs at the hearing. If he finds probable cause to exist, he shall indicate the evidence that supports such finding and hold the probationer for a revocation hearing before the appropriate judge or United States magistrate. The probationer may be released pursuant to rule 46(c) pending the revocation hearing. If the federal magistrate does not find probable cause to exist, the proceedings shall be dismissed and the federal magistrate who issued the warrant shall be immediately notified of such discharge. A copy of the written report of the hearing shall be transmitted to the district of probation jurisdiction.

"(3) REVOCATION HEARING.—The revocation hearing, unless waived by the probationer, shall be held within a reasonable time before the judge or United States magistrate of the district of probation jurisdiction. The probationer shall be given:

"(A) written notice of the alleged violation of probation;

"(B) disclosure of the evidence against him;

"(C) an opportunity to appear and to present evidence in his own behalf;

"(D) the opportunity to question witnesses against him unless, for good cause, the federal magistrate decides that justice does not require the appearance of the witness; and

"(E) notice of his right to request counsel. Upon the request of the probationer, counsel shall be appointed if it appears that there is an issue of fact whether a violation of probation has occurred or if there is a question whether, assuming a violation, it is in the interest of justice to revoke probation. If counsel is not appointed upon request, the federal megistrate shall make his reasons for such refusal a matter of record.

"(4) REVIEW OF REVOCATION.—A decision of a United States magistrate to revoke probation shall be subject to review upon appeal to a judge of the district court. A decision to revoke by a judge of the district court shall be subject to review upon appeal to the court of appeals.".

(t) Rule 35 is amended to read as follows:

"Rule 35.—Correction of Sentence

"(a) CORRECTION OF AN ILLEGAL SENTENCE.—The court may correct an illegal sentence at any time.

"(b) CORRECTION OF AN ILLEGALLY OR ERRONEOUSLY IMPOSED SENTENCE.—The court may correct:

"(1) a sentence imposed in an illegal manner; or

"(2) a sentence imposed as a result of incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a);

within 120 days after the sentence is imposed.

"(c) CORRECTION OF A CLEARLY UNREASONABLE SENTENCE.—The court shall correct a sentence that is determined on appeal or certiorari to be clearly unreasonable under 18 U.S.C. 3725, upon remand of the case to the court:

"(1) for imposition of a greater or lesser sentence; or

"(2) for further sentencing proceedings, if after such proceedings the court determines that the original sentence was incorrect.".

(u) Rule 38 is amended:

(1) by amending the caption to read: "Stay of Execution";

(2) by deleting subdivisions (b) and (c);

(3) by redesignating subdivisions (a)(1) through (a)(4) as subdivisions (a) through (d), respectively;

(4) by deleting the words "is taken" in subdivision (a) and inserting in lieu thereof "from the conviction is taken or a petition for review of sentence is filed";

(5) by deleting the words "is taken" in the first sentence of subdivision (b) and inserting in lieu thereof "from the conviction is taken or a petition for review of sentence is filed";

(6) by deleting the words "or a fine and costs" in the first sentence of subdivision (c);

(7) by deleting the words "and costs" in the second sentence of subdivision (c); and

(8) by amending subdivision (d) to read as follows:

"(d) PROBATION.—A sentence of probation may be stayed if an appeal from the conviction is taken or a petition for review of sentence is filed, If stayed, the court shall fix the terms of the stay.".

(v) Rule 40 is amended:

(1) by deleting "3146 and 3148" in subdivision (b)(2) and inserting in lieu thereof "3502";

(2) by deleting "3146 and 3148" in subdivision (b)(4) and inserting in lieu thereof "3502 and 3503"; and

(3) by adding at the end thereof the following new subdivision:

"(c) WARRANT FOR REMOVAL.—Only one warrant of removal is necessary to remove a person from one district to another. One copy of the warrant may be delivered to the officer from whose custody the person is taken, and another to the officer to whose custody he is committed, and the original warrant, with the executed return, shall be returned to the clerk of the district to which he is removed.".

(w) Rule 41 is amended:

(1) by amending the fifth sentence of subdivision (c)(1) to read as follows:

"The warrant shall be directed to a federal law enforcement officer or to a person authorized by the President of the United States to enforce or assist in enforcing any law of the United States.";

(2) by redesignating subdivisions (e) through (h) as subdivisions (f) through (i), respectively;

(3) by redesignating the last three sentences of subdivision (d) as subdivision (e) and amending the caption to read:

"Return with Inventory."; and

(4) by adding a new subdivision (d) to read as follows:

"(d) EXECUTION.—

"(1) PERSONS AUTHORIZED TO EXECUTE.—The warrant may be executed by the officer to whom it is directed or by any other officer authorized by law to execute such a warrant, and such officer may be assisted in the execution by other persons acting at his request and in his presence.

"(2) USE OF FORCE.—The officer may break open any outer or inner door or window of a building, or any part of a building, or anything in a building, to execute the warrant if, after notice of his authority and purpose, he is not granted admittance, or if necessary to liberate himself or a person assisting him in the execution of the warrant.

"(3) RECEIPT FOR PROPERTY TAKEN.—The Officer taking property under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant taken or shall leave the copy and receipt at the place from which the property was taken.".

(x) Rule 43 is amended:

(1) by deleting "A corporation" in subdivision (c)(1) and inserting in lieu thereof "An organization";

(2) by deleting "offenses punishable by fine or by imprisonment for not more than one year or both" in subdivision (c)(2) and inserting in lieu thereof "misdemeanors or infractions"; and

(3) by deleting "reduction" in subdivision (c)(4) and inserting in lieu thereof "correction".

(y) Rule 46 is amended:

(1) by deleting "3146, 3148, or 3149" in subdivision (a) and inserting in lieu thereof: "3502, 3503, and 3505"; and

(2) by deleting "3148" in subdivision (c) and inserting in lieu thereof "3504".

(z) Rule 50(b) is amended by deleting "chapter 208 of title 18" and inserting in lieu thereof "chapter 114 of title 28".

(aa) Rule 53 is amended by adding after the word "radio" the words "or television".

(bb) Rule 54 is amended:

(1) by deleting "3238" in subdivision (b)(2) and inserting in lieu thereof "3312";

(2) by deleting "3043" in subdivision (b)(3) and inserting in lieu thereof "3509";

(3) by deleting "Chapter 403" in subdivision (b)(5) and inserting in lieu thereof "chapter 36, subchapter A";

(4) by deleting the words ", authorized by 18 U.S.C. § 3041 to perform the functions prescribed in Rules 3, 4, and 5" in the definition of the word "Magistrate" in subsection (c); and

(5) by amending the definition of "Petty offense" in subdivision (c) to read as follows: "'Petty offense' means a class B or C misdemeanor or an infraction.".

(cc) The Table of Rules that precedes Rule 1 is amended as follows:

(1) The following new items are added after the item relating to Rule 6(g):

"6.1 The Special Grand Jury

"(a) Summoning Special Grand Juries.
"(b) Term.
"(c) Investigation.
"(d) Submission of Report.
"(e) Acceptance of Report.
"(f) Procedures for Report Critical of a Public Servant.
"(1) Return of Report to Special Grand Jury.
"(2) Temporary Sealing of Accepted Report.
"(3) Answer to Report by Public Servant.
"(4) Delivery of Report to Public Servant's Superiors.
"(g) Sealing of Report Pending Criminal Proceedings.
"(h) Applicability of Other Rules.".

(2) The items relating to subdivisions (d) through (g) of Rule 17 are deleted and the following items are inserted in lieu thereof:

"(d) Information Not Subject to Subpena.
"(e) Service.
"(f) Place of Service.
"(1) In United States.
"(2) Abroad.
"(g) For Taking Deposition; Place of Examination.
"(h) Contempt.".

(3) The following new items are added after the item relating to Rule 25(b):

"25.1 Burdens of Proof

"(a) Proof of Guilt.
"(1) Proof of Offenses.
"(2) Proof of Defenses.
"(3) Proof of Affirmative Defenses.
"(4) Presumptions.
"(A) Trial by Jury.
"(B) Trial by Court.
"(5) Prima Facie Evidence.
"(A) Trial by Jury.
"(B) Trial by Court.
"(b) Proof of Jurisdiction.
"(1) Proof.
"(2) Presentation to Court during Trial.
"(3) Presentation to Court before Trial.".

(4) The item relating to Rule 27 is deleted.

(5) The item relating to Rule 26.1 is amended by deleting "26.1" and inserting in lieu thereof "27".

(6) The following new items are added after the item relating to Rule 26:

"26.1 Production of Statements of Witnesses.

"(a) Motion for Production.

"(b) Production of Entire Statement.

"(c) Production of Excised Statement.

"(d) Recess for Examination of Statement.

"(e) Sanction for Failure to Produce Statement.

"(f) Definition.".

(7) The items relating to Rules 32(e) and 32(f) are deleted and the following is inserted in lieu thereof:

"(e) Revocation of Probation.

"(1) Arrest of Probationer.

"(2) Hearing.".

(8) The item relating to Rule 35 is amended by deleting the words "or Reduction".

(9) The item relating to Rule 38 is amended to read as follows:

"38. Stay of Execution

"(a) Death.

"(b) Imprisonment.

"(c) Fine.

"(d) Probation.".

(10) The item relating to Rule 40 is amended by adding after the item relating to Rule 40(b)(5) the following new item:

"(c) Warrant for Removal.".

(11) The items relating to Rules 41(d) through 41(h) are deleted and the following items inserted in lieu thereof:

"(d) Execution.

"(1) Persons Authorized to Execute.

"(2) Use of Force.

"(3) Receipt for Property Taken.

"(e) Return with Inventory.

"(f) Motion for Return of Property.".

SEC. 112. The Rules of Procedure for the Trial of Minor Offenses Before United States Magistrates are amended as follows.

(a) Rule 1 is amended:

(1) by deleting the words "(including petty offenses)"; and

(2) by deleting "3401" and inserting in lieu thereof "3302".

(b) Rule 9 is amended by deleting the words "as defined in title 18, U.S.C., § 1(3)".

(c) A new Rule 12 is added at the end thereof to read as follows:

"Rule 12.—Definitions

"As used in these rules:

"(1) 'minor offense' means a misdemeanor or an infraction;

"(2) 'petty offense' means a Class B or C misdemeanor or an infraction.".

(d) The Table of Rules that precedes Rule 1 is amended by adding at the end thereof the following new item:

"12. Definitions".

On page 336, beginning with line 22, insert the following:

TITLE III—AMENDMENTS TO TITLE 28, UNITED STATES CODE

SEC. 121. Chapter 37 of title 28, United States Code, is amended as follows:

(a) The chapter is redesignated chapter 36.

(b) Sections 561 to 575 are renumbered as sections 551 to 565, respectively.

(c) The analysis at the beginning of the chapter is amended by renumbering the items relating to sections 561 to 575 to refer to sections 551 to 565, respectively.

SEC. 122. The following new chapter is added after redesignated chapter 36 of title 28, United States Code:

"Chapter 37.—BUREAU OF PRISONS

"Sec.

"571. Organization, Director, and responsibilities.

"572. Character of a prison facility.

"573. Contracting for a State or local facility.

"574. Federal institutions in a State without an appropriate facility.

"575. Appropriations and acquisitions.

"576. National Institute of Corrections.

"577. Inapplicability of the Administrative Procedure Act.

"§ 571. Organization, Director, and Responsibilities

"(a) The Bureau of Prisons shall be established within the Department of Justice in the charge of a Director serving under the direction of the Attorney General.

"(b) The Attorney General shall appoint as the Director of the Bureau of Prisons a person qualified for such position by his educational background, professional experience in correctional administration or planning or comparable experience in a related field, and by his demonstrated interest and knowledge of criminal justice administration.

"(c) In order to achieve the purposes set forth in section 101(b) of title 18:

"(1) the director shall promulgate rules for the governance of federal penal and correctional facilities and related services and shall appoint all necessary officers and employees, in accordance with chapters 51 and 53 of title 5, and applicable regulations, and, notwithstanding any other provisions of law, may accept voluntary and uncompensated services from any person;

"(2) the Bureau of Prisons shall have charge of the management and regulation of all federal penal and correctional facilities, except military or naval facilities, and shall provide facilities for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses or held as witnesses or otherwise remanded to its custody pursuant to law;

"(3) the Bureau of Prisons may establish and conduct industries, farms, and other activities; classify offenders according to the criteria set forth in section 572(a); provide for the proper governance, discipline, training, and employment of offenders while incarcerated, and employment placement of offenders; and, as part of the expenses of operating any correctional facility or activity, pay offenders or their dependents pecuniary earnings, under such rules and regulations as the Director may prescribe;

"(4) the Bureau of Prisons shall, insofar as practical, make available to each offender an opportunity to participate in correctional programs designed to rehabilitate the offender;

"(5) the Bureau of Prisons may make available to a federal government agency or to a state or locality the services of offenders in a federal penal or correctional facility upon mutually agreed upon rates, terms, and conditions for constructing or repairing a road or other public facility; clearing, maintaining, and reforesting public lands; building a levee; constructing or repairing a public work project financed in whole or in part by federal funds; or working on any other project in the public interest; and any payment received by the Bureau of Prisons for services rendered pursuant to this paragraph shall be deposited in the Treasury to the credit of the appropriation available for providing such services;

"(6) the Bureau of Prisons may assist and serve in a consulting capacity to a federal, state, or local government agency in the development, maintenance, and coordination of custody, counseling, training, and correctional programs with respect to persons charged with or convicted of criminal offenses under the laws of the United States or any state, and in providing such services, is authorized to:

"(A) devise and conduct seminars, workshops, and training programs for law enforcement officers, judges, and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including lay and para-professional personnel, connected with the custody of, and provision of correctional programs for, persons charged with or convicted of offenses;

"(B) provide technical assistance to aid in the development of seminars, workshops, and training programs with the State and local agencies which work with prisoners, parolees, probationers, and other offenders; and

"(C) provide, where appropriate, for tuition, travel expenses, and other necessary expenses of individuals participating in such seminars, workshops, or training programs;

"(7) the Bureau of Prisons shall collect, develop, and maintain statistical information concerning offenders, sentencing practices, and correctional programs which may be useful in practical penological research, planning, and evaluation or in the development of treatment programs;

"(8) the Bureau of Prisons may provide review of applications for grants-in-aid, technical assistance or other services provided by federal agencies to state and local governments;

"(9) the Bureau of Prisons shall provide training for all officers, officials, and employees of the Bureau; and

"(10) the Attorney General shall pay from such appropriation to the Department of Justice as the Attorney General shall direct all expenses attendant upon the official detention and transportation of persons committed to the custody of the Bureau of Prisons as a result of arrest, conviction, or other commitment; upon the maintenance and subsidy of correctional facilities and programs involving such persons; and upon the execution of any sentence of a court of the United States respecting such persons; and

"(11) the Bureau of Prisons shall, through the Director, exercise all powers and perform all duties necessary and proper in carrying out the responsibilities of the Bureau.

"(d) An officer or employee of the Bureau of Prisons may, pursuant to rules and regulations of the Director, summarily seize any object introduced into a federal penal or correctional facility or possessed by an inmate of such a facility in violation of a rule, regulation, or order promulgated by the Director, and such object shall be forfeited to the United States.

"§ 572. Character of a Prison Facility

"(a) A federal prison facility shall be so planned and limited in size as to facilitate the development of an integrated system which will assure the proper classification of a federal offender according to the nature and circumstances of the offense committed, the history and characteristics of the offender, and such other factors as should be considered in providing an individualized system of discipline and care of, and correctional programs for, a person committed to such facility.

"(b) The Director of the Bureau of Prisons may provide within a prison facility, or within a separate institution or agency, specialized programs for classes of offenders, such as narcotic addicts, drug abusers, alcoholics, youthful offenders, or other similar classes of offenders. The programs may include individual confinement, medical treatment, education, farming, or residence at a camp, community program or at any other agency that will provide the needed program with adequate supervision. In providing for such specialized programs the Director may conduct research and provide services, facilities, or any other needed program resources through any means appropriate, and the director shall periodically report to the Attorney General, the Administrative Office of the United States Courts, and the Congress, on the nature and effectiveness of such research and programs.

"(c) The Secretary of Health, Education, and Welfare, upon the request of the Direc-

tor, shall provide regular and reserve commissioned officers of the Public Health Service and other employees of the Public Health Service to the Bureau of Prisons for the purpose of supervising and furnishing medical, dental, psychiatric, and other technical and scientific services to a federal penal or correctional facility. The compensation, allowances and expenses of such personnel may be paid from:

"(1) applicable appropriations of the Public Health Service subject to reimbursement from applicable appropriations of the Department of Justice; or

"(2) allotments of funds and transfers of credit from the Attorney General to the Public Health Service

pursuant to the laws and regulations governing the personnel of the Public Health Service. The Director may directly appoint health personnel or contract with a public or private agency or organization or a person to provide medical services to a federal penal or correctional facility or to a federal offender.

"§ 573. Contracting for a State or Local Facility

"(a) The Director of the Bureau of Prisons may contract with the proper authorities of a State, territory, or locality for the official detention of a Federal offender, including safekeeping, care, subsistence, correctional programs, and employment, or with a private organization for a service to be provided or a program to be offered to a Federal offender. Factors to be taken into account in determining the rates to be paid under such contracts include not only the character of the physical facilities and the quality of the services but also the need for improved correctional programs and practices such as educational and vocational training, specialized treatment, and work release.

"(b) The Director may contract with the proper authorities of a State, territory, or locality for the official detention, including safekeeping, care, subsistence, correctional programs, and employment, in a Federal penal or correctional facility, of a person convicted of an offense in a court of such State or territory, if the Director finds that proper and adequate treatment facilities and personnel are available. Each such contract may provide for reimbursement to the United States for any service rendered or incurred. Funds received under such contracts shall be deposited in the Treasury to the credit of the appropriation available for providing such services. Each such contract which does not provide for the cash reimbursement for a service rendered on a cost incurred shall include a provision for the exchange of services of offenders on a man-day basis. Except as otherwise provided in the contract, a person committed to the official detention of the United States under this subsection shall be subject to all the provisions of law applicable to a Federal offender that are not inconsistent with his sentence or with the laws of the State in which the sentence was imposed.

"(c) The Director may contract with the proper authorities of a State, territory, or locality or an appropriate private organization or person for supervisory aftercare of a released offender for the purpose of providing or obtaining a facility, service, or program not otherwise available.

"§ 574. Federal Institutions in a State Without an Appropriate Facility

"If there is not a valid contract with a state or locality for the official detention of a federal offender, and if there is no suitable and sufficient facility available at reasonable cost, the Director of the Bureau of Prisons may select a site within or convenient to such state or locality and erect a penal or correctional facility. Such facility may be used for the official detention of persons held under the authority of title 18 or of any other Act of Congress and of any other person who, in the opinion of the Director, is a proper subject for official detention in such facility.

"§ 575. Appropriations and Acquisitions

"(a) The Director of the Bureau of Prisons, in order to provide the facilities set forth in section 571(c)(2), may authorize the expenditure of a sum not to exceed $100,000 in each instance to prepare plans for or to purchase, lease, or build any site for such facilities. If such monetary limitation is insufficient to secure a proper site or to construct the necessary facilities, the Director may authorize the expenditure of a sum not to exceed $10,000 in each instance to secure options and to make preliminary surveys or plans for such facilities. Upon selection of an appropriate site, the Director shall submit to the Congress an estimate of the cost of purchasing such site and of remodeling, constructing, and equipping the necessary buildings for such facilities. A sum authorized under this subsection shall be payable from any unexpended balance of the appropriation 'Support of United States prisoners.'

"(b) The Director may acquire land adjacent to or in the vicinity of a federal penal or correctional facility if he considers the additional land essential to the protection of the health or safety of the offenders in the facility.

"(c) A collection in cash for meal, laundry, uniforms, equipment, and other property and services for which payment is made originally from an appropriation for the maintenance and operation of a federal penal or correctional facility shall be deposited in the Treasury to the credit of the appropriation available for such property and services at the time the collection is made.

"§ 576. National Institute of Corrections

"(a) There is hereby established within the Bureau of Prisons a National Institute of Corrections.

"(b) The overall policy and operations of the National Institute of Corrections shall be under the supervision of an Advisory Board. The Board shall consist of seventeen members. The following seven individuals shall serve as members of the Institute ex officio: the Chairman of the United States Sentencing Commission or his designee, the Director of the Bureau of Prisons or his designee, the Director of the Federal Judicial Center or his designee, the Chairman of the United States Parole Commission or his designee, the Administrator of the Law Enforcement Assistance Administration or his designee, the Deputy Assistant Administrator for the National Institute for Juvenile Justice and Delinquency Prevention or his designee, and the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare or his designee.

"(c) The remaining ten members of the Board shall be selected as follows:

"(1) Five shall be appointed initially by the Attorney General of the United States for staggered terms; one member shall serve for one year, one member for two years, and three members for three years. Upon the expiration of each member's term, the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be qualified as a practitioner (Federal, State, or local) in the field of corrections, probation, or parole.

"(2) Five shall be appointed initially by the Attorney General of the United States for staggered terms, one member shall serve for one year, three members for two years, and one member for three years. Upon the expiration of each member's term the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be from the private sector, such as business, labor, and education, having demonstrated an active interest in corrections, probation, or parole.

"(d) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States. Members of the Institute who are full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Board. Other members of the Board shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Institute pursuant to this title, be entitled to receive compensation at the rate not to exceed the daily equivalent of the highest rate now or hereafter prescribed for grade 18 of the General Schedule (5 U.S.C. 5332), including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Board shall elect a chairman from among its members who shall serve for a term of one year. The members of the Board shall also elect one or more members as a vice-chairman.

"(f) The Board is authorized to appoint, without regard to the civil service laws, technical, or other advisory committees to advise the Institute with respect to the administration of this title as it deems appropriate. Members of these committees not otherwise employed by the United States, while engaged in advising the Institute or attending meetings of the committees, shall be entitled to receive compensation at the rate fixed by the Board but not to exceed the daily equivalent of the highest rate now or hereafter prescribed for grade 18 of the General Schedule (5 U.S.C. 5332), and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(g) The Board is authorized to delegate its powers under this title to such persons as it deems appropriate.

"(h) The Institute shall be under the supervision of an officer to be known as the Director, who shall be appointed by the Attorney General after consultation with the Board. The Director shall have authority to supervise the organization, employees, enrollees, financial affairs, and all other operations of the Institute and may employ such staff, faculty, and administrative personnel, subject to the civil service and classification laws, as are necessary to the functioning of

"(j) The Institute shall on or before the power to acquire and hold real and personal property for the Institute and may receive gifts, donations, and trusts on behalf of the Institute. The Director shall also have the power to appoint such technical or other advisory councils comprised of consultants to guide and advise the Board. The Director is authorized to delegate his powers under this title to such persons as he deems appropriate.

"(i) In addition to the other powers, express and implied, the National Institute of Corrections shall have authority—

"(1) to receive from or make grants to and enter into contracts with Federal, State, and general units of local government, public and private agencies, educational institutions, organizations, and individuals to carry out the purposes of this chapter;

"(2) to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on corrections, including, but not limited to,

programs for prevention of crime and recidivism, training of corrections personnel, and rehabilitation and treatment of criminal and juvenile offenders;

"(3) to assist and serve in a consulting capacity to Federal, State, and local courts, departments, and agencies in the development, maintenance, and coordination of programs, facilities, and services, training, treatment, and rehabilitation with respect to criminal and juvenile offenders;

"(4) to encourage and assist Federal, State, and local government programs and services, and programs and services of other public and private agencies, institutions, and organizations in their efforts to develop and implement improved corrections programs;

"(5) to devise and conduct, in various geographical locations, seminars, workshops, and training programs for law enforcement officers, judges, and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including law ex-offenders, and paraprofessional personnel, connected with the treatment and rehabilitation of criminal and juvenile offenders;

"(6) to develop technical training teams to aid in the development of seminars, workshops, and training programs within the several States and with the State and local agencies which work with prisoners, parolees, probationers, and other offenders;

"(7) to conduct, encourage, and coordinate research relating to corrections, including the causes, prevention, diagnosis, and treatment of criminal offenders;

"(8) to formulate and disseminate correctional policy, goals, standards, and recommendations for Federal, State, and local correctional agencies, organizations, institutions, and personnel;

"(9) to conduct evaluation programs which study the effectiveness of new approaches, techniques, systems, programs, and devices employed to improve the corrections system;

"(10) to receive from any Federal department or agency such statistics, data, program reports, and other material as the Institute deems necesary to carry out its functions. Each such department or agency is authorized to cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information to the Institute;

"(11) to arrange with and reimburse the heads of Federal departments and agencies for the use of personnel, facilities, or equipment of such departments and agencies;

"(12) to confer with and avail itself of the assistance, services, records, and facilities of State and local governments or other public or private agencies, organizations, or individuals;

"(13) to enter into contracts with public or private agencies, organizations, or individuals, for the performance of any of the functions of the Institute; and

"(14) to procure the services of experts and consultants in accordance with section 3109 of title 5 of the United States Code, at rates of compensation not to exceed the daily equivalent of the highest rate now or hereafter prescribed for grade 18 of the General Schedule (5 U.S.C. 5332).

"(j) The Institute shall on or before the 31st day of December of each year submit an annual report for the preceding fiscal year to the President and to the Congress. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this title and may include such recommendations related to corrections as the Institute deems appropriate.

"(k) Each recipient of assistance under this section shall keep such records as the Institute shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(l) The Institute, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purposes of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this section.

"(m) The provision of this section shall apply to all recipients of assistance under this title, whether by direct grant or contract from the Institute or by subgrant or subcontract from primary grantees or contractors of the Institute.

"§ 577. Inapplicability of the Administrative Procedure Act

"The provisions of 5 U.S.C. 554 through 557, and 701 through 706, do not apply to the making of any determination, decision, or order under this chapter."

SEC. 123. A new chapter 40 of title 28, United States Code, is added as follows:

"Chapter 40.—UNITED STATES VICTIM COMPENSATION BOARD

"Sec.
"595. Organization and Membership.
"596. Powers of the Board.
"597. Procedures.
"598. Review.

"§ 595. Organization and Membership

"(a) The United States Victim Compensation Board is hereby established within the Department of Justice to administer the victim compensation program set forth in subchapter B of chapter 41 of title 18. The Board shall be composed of not more than three members to be appointed by the Attorney General. The Attorney General shall designate one of the members of the Board to serve as Chairman.

"§ 596. Power of the Board

"(a) Under regulations promulgated by the Attorney General, the Board is authorized in carrying out its functions to:

"(1) appoint and fix the compensation of such personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

"(2) procure temporary and intermitten services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of subchapter B of chapter 41 of title 18 of the United States Code;

"(4) request and use the service, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(5) enter into and perform, without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(6) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(7) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the Attorney General, delegate and authorize the redelegation of any of its powers under this section;

"(8) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(9) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(10) establish a program to assure extensive and continuing publicity for the provisions relating to compensation under subchapter B of chapter 41 of title 18 of the United States Code, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"§ 597. Procedures

"(a) The Board:

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (e) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Board, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law, provided it is relevant; and

"(3) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(b) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(c) A claim for compensation under subchapter B of chapter 41 of title 18 of the United States Code may be acted upon by a member designated by the Chairman to act on behalf of the Board. In the event the disposition by a member as authorized in the preceding sentence is unsatisfactory to the claimant, the claimant shall be entitled to a de novo hearing of record on his claim by the full Board.

"(d) Decisions of the full Board shall be in accord with the will of a majority of the members and shall be based upon a preponderance of the evidence.

"(e) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(f) The Attorney General shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings. After such a fee statement is filed by an attorney, the Board shall award a fee to such attorney on substantially similar terms and conditions as are provided for the payment of representation under section 3403 of title 18 of the United States Code.

"§ 598. Review

The United States Court of Appeals for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

SEC. 124. A new chapter 58 of title 28, United States Code, is added after chapter 57, to read as follows:

"Chapter 58.—UNITED STATES SENTENCING COMMISSION

"Sec.
"991. United States sentencing Commission, establishment and purpose.
"992. Terms of office; compensation.
"993. Powers and Duties of Chairman.
"994. Duties of the Commission.
"995. Powers of the Commission.
"996. Director and staff.
"997. Annual report.
"998. Definitions.

"§ 991. United States Sentencing Commission; establishment and purpose

"(a) There is hereby established as an independent Commission in the judicial branch a United States Sentencing Commission which shall consist of seven members. The President shall appoint, by and with the advice and consent of the Senate, four members of the United States Sentencing Commission, one of whom shall be appointed, by and with the advice and consent of the Senate, as the chairman. The Judicial Conference shall designate three members of the United States Sentencing Commission. The Chairman and members of the Commission shall be subject to removal from the Commission by the authority appointing or designating them only for malfeasance in office. The Commission shall have both judicial members and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the criminal justice process.

"(b) The purposes of the United States Sentencing Commission are to:

"(1) establish sentencing policies and practices for the federal criminal justice system that:

"(A) assure the meeting of the purposes of sentencing as set forth in section 101(b) of title 18, United States Code;

"(B) provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentence disparities among defendants with similar records who have been found guilty of similar criminal conduct while maintaining sufficient flexibility to permit individualized sentences when warranted by mitigating or aggravating factors not taken into account in the establishment of general sentencing practices;

"(C) reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process; and

"(2) develop means of measuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing as set forth in section 101(b) of title 18, United States Code.

"§ 992. Terms of office; compensation

"(a) The members of the United States Sentencing Commission shall be designated or appointed for six-year terms, except that the terms of the first members of the Commission shall be staggered so that:

"(1) one member designated by the Judicial Conference and two members appointed by the President, including the chairman, serve terms of six years;

"(2) one member designated by the Judicial Conference and one member appointed by the President serve terms of four years; and

"(3) one member designated by the Judicial Conference and one member appointed by the President serve terms of two years.

"(b) No member may serve more than two full terms. A member designated or appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was designated or appointed shall be designated or appointed only for the remainder of such term.

"(c) Each member of the Commission shall be compensated during the term of office a member of the Commission at the rate at which judges of the United States courts of appeals are compensated. A federal judge may serve as a member of the Commission without resigning his appointment as a federal judge.

"§ 993. Powers and Duties of Chairman

The Chairman shall:

"(a) call and preside at meetings of the Commission; and

"(b) direct:

"(1) the preparation of requests for appropriations for the Commission; and

"(2) the use of funds made available to the Commission.

"§ 994. Duties of Commission

"(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of this title and title 18, shall promulgate and distribute to all courts of the United States and to the United States Probation Service:

"(1) guidelines, as described in subsection (b) through (d) and (f) through (m), for use of a sentencing court in determining the sentence to be imposed in a criminal case, including:

"(A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment;

"(B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment; and

"(C) a determination whether a portion of a term of imprisonment should be designated as subject to a defendant's early release, and, if so, the length of such portion of the term; and

"(2) general policy statements regarding application of the guidelines or any other aspect of sentencing that in the view of the Commission would further the purposes set forth in section 101(b) of title 18, United States Code.

"(b) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code. If a sentence specified by the guidelines includes a term of imprisonment:

"(1) the maximum of the range established for such a term shall not exceed the minimum of that range by more than 25 percent; and

"(2) the guidelines shall specify that the term of imprisonment is not to be subject to a defendant's early release, other than in an exceptional situation in which a term subject to the defendant's early release is necessary to satisfy the purposes to be served by the sentence and is consistent with the court's specific findings made pursuant to subsection (j).

"(c) The Commission, in establishing categories of offenses for use in the guidelines governing imposition of sentences of probation, a fine, or imprisonment, and governing imposition of other authorized sanctions, shall consider, but shall not limit its consideration to the relevancy of:

"(1) the grade of the offense;

"(2) the circumstances under which the offense was committed which mitigate or aggravate the seriousness of the offense;

"(3) the nature and degree of the harm caused by the offense, including whether it involved property, irreplaceable property, a person, a number of persons, or a breach of public trust;

"(4) the community view of the gravity of the offense;

"(5) the public concern generated by the offense;

"(6) the deterrent effect a particular sentence may have on the commission of the offense by others; and

"(7) the current incidence of the offense in the community and in the nation as a whole.

"(d) The Commission in establishing categories of defendants for use in the guidelines governing imposition of sentences of probation, a fine, or imprisonment, and governing imposition of other authorized sanctions, shall consider, but shall not limit its consideration to, the relevancy of a defendant's:

"(1) age;
"(2) education;
"(3) vocational skills;
"(4) mental and emotional conditions to the extent that such condition mitigates the defendant's culpability or to the extent that such condition is otherwise plainly relevant;
"(5) physical condition, including drug dependence;
"(6) previous employment record;
"(7) family ties and responsibilities;
"(8) community ties;
"(9) role in the offense;
"(10) criminal history; and
"(11) degree of dependence upon criminal activity for a livelihood.

"(e) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of this title and title 18, United States Code, shall promulgate and distribute to the United States Parole Commission:

"(1) guidelines consistent with those promulgated pursuant to subsection (a)(1) of this section for use of the United States Parole Commission in making decisions within its jurisdiction, including whether to grant early release to a prisoner who is eligible for such release and the length of the term and conditions of parole for all prisoners released; and

"(2) general policy statements regarding application of the guidelines or any other aspect of early release or parole that in the view of the Commission would further the purposes set forth in section 101(b) of title 18, United States Code.

"(f) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall promote the purposes set forth in section 991(b)(1), with particular attention to the requirements of subsection 991(b)(1)(B) for providing certainty and fairness in sentencing and reducing unwarranted sentence disparities.

"(g) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall seek to satisfy the purposes of sentencing as set out in section 101(b) of title 18, United States Code, taking into account the nature and capacity of the penal, correctional, and other facilities and services available in order not only to assure that the most appropriate facilities and services are utilized to fulfill the applicable purposes but also to assure that the available capacities of such facilities and services will not be exceeded.

"(h) The Commission shall assure that the guidelines will specify a sentence to a substantial term of imprisonment in a case in which the defendant:

"(1) has a history of prior federal, state, or local felony convictions for offenses committed on different occasions;

"(2) committed the offense as part of a pattern of criminal conduct from which he derived a substantial portion of his income; or

"(3) committed the offense in furtherance of a conspiracy with three or more persons engaging in a pattern of racketeering activity in which the defendant participated in a managerial or supervisory capacity.

"(i) The Commission shall insure that the guidelines reflect the appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender under twenty-six years of age who has not been convicted of a crime of violence or an otherwise serious offense.

"(j) The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of providing the defendant with needed educational or vocational training, medical care, or other correctional treatment, other than in an exceptional case in which imprisonment appears to be the sole means of achieving such purpose and in which the court makes specific findings as to that fact.

"(k) The Commission shall insure that the guidelines reflect the appropriateness of imposing an incremental penalty for each offense in a case in which a defendant is convicted of multiple offenses committed at different times.

"(l) The Commission, in initially promulgating guidelines for particular categories of cases, shall take into consideration the average sentences imposed in such categories of cases prior to the creation of the Commission, and in cases involving sentences to terms of imprisonment, the length of such terms actually served.

"(m) The Commission periodically shall review and revise, in consideration of comments and data coming to its attention, the guidelines promulgated pursuant to the provisions of this section. In fulfilling its duties and in exercising its powers, the Commission shall consult with authorities on, and individual and institutional representatives of, various aspects of the federal criminal justice system. The United States Probation System, the United States Parole Commission, the Bureau of Prisons, the Judicial Conference of the United States, the Criminal Division of the United States Department of Justice, and a representative of the Federal Pubic Defenders shall submit to the Commission any observations, comments, or questions pertinent to the work of the Commission whenever it believes such communication would be useful, and shall, at least annually, submit to the Commission a written report commenting on the operation of the Commission's guidelines, suggesting changes in the guidelines that appear to be warranted, and otherwise assessing the Commission's work.

"(n) The Commission, at or after the beginning of a regular session of Congress but not later than the first day of May, shall report to the Congress the guidelines promulgated pursuant to subsection (a)(1) or (f)(1), and the guidelines shall take effect one hundred and eighty days after the Commission reports them.

"(o) The Commission shall ensure that the general policy statements promulgated pursuant to subsection (a)(2) include a policy limiting consecutive terms of imprisonment for an offense involving a violation of a general prohibition and for an offense involving a violation of a specific prohibition encompassed within the general prohibition.

"(p) The Commission shall require that the appropriate judge or officer submit to the Commission in connection with each sentence imposed a written report of the sentence, the offense for which it is imposed, the age, race, and sex of the offender, information regarding factors made relevant by the guidelines, and such other information as the Commission finds appropriate. The Commission shall submit to Congress at least annually an analysis of these reports and any recommendation for legislation that the Commission concludes is warranted by that analysis.

"(q) The provisions of 5 U.S.C. 553 shall apply to the promulgation of guidelines pursuant to subsections (a) through (m).

"§ 995. Powers of Commission

"(a) The Commission, by vote of a majority of the members present and voting, shall have the power to:

"(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

"(2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332);

"(3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chairman;

"(4) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

"(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(6) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 655(b));

"(8) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

"(9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;

"(10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

"(11) devise and conduct periodic programs of instruction in sentencing techniques for judges, probation officers, and other persons connected with the sentencing process;

"(12) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

"(13) establish a research and development program within the Commission for the purpose of:

"(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices;

"(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

"(14) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

"(15) publish data concerning the sentencing process;

"(16) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the factors set forth in section 2003(a) of title 18, United States Code;

"(17) collect systematically and disseminate information regarding effectiveness of sentences imposed;

"(18) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

"(19) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

"(20) study the feasibility of developing guidelines for the disposition of juvenile delinquents;

"(21) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy;

"(22) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties; and

"(23) perform such other functions as are required to permit Federal courts to meet their responsibilities under section 2003(a) of title 18, United States Code, and to permit others involved in the Federal criminal justice system to meet their related responsibilities.

"(b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate other than the power to establish general policies, guidelines, rules, and factors.

"(c) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

"(d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursuant to sections 994 (a) through (m) and (o), the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.

"(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member of any action taken by it.

"§ 996. Director and Staff

"(a) The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to him by the Commission.

"(b) The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 81 (Compensation for work injuries), 83 (Retirement), 85 (Unemployment compensa-

tion), 87 (Life insurance), and 89 (Health insurance).

"§ 997. Annual Report

"The Commission shall report annually to the United States Judicial Conference, the Congress, and the President of the United States on the activities of the Commission.

"§ 998. Definitions

"As used in this chapter:

"(a) 'Commission' means the United States Sentencing Commission;

"(b) 'Commissioner' means a member of the United States Sentencing Commission;

"(c) 'guidelines' means the guidelines promulgated by the Commission pursuant to section 994(a) or (e) of this title; and

"(d) 'rules and regulations' means rules and regulations promulgated by the Commission pursuant to section 995 of this title.".

SEC. 125. The analysis at the beginning of title 28, United States Code is amended by adding after the item relating to chapter 57 the following new item:

"58. United States Sentencing Commission ---------- 991".

SEC. 126. The analysis at the beginning of part III of title 28, United States Code, is amended by adding after the item relating to chapter 57 the following new item:

"58. United States Sentencing Commission ---------- 991".

SEC. 127. Section 1291 of title 28, United States Code, is amended by deleting "Supreme Court." and inserting in lieu thereof "Supreme Court, and may review decisions made pursuant to Rule 35(b)(2) of the Federal Rules of Criminal Procedure on petition for leave to appeal granted at the request of the United States or the defendant.".

On page 359, beginning with line 16, insert the following:

TITLE IV—GENERAL PROVISIONS

SEC. 131. SEVERABILITY.—If a provision of this Act is held invalid, the validity of the other provisions of the Act shall not be affected. If an affirmative defense set forth in this Act is held invalid then the offense shall be read as if the affirmative defense had not been set forth. If an application of a provision of this Act to a person or circumstance is held invalid, the validity of the application of the provisions to another person or circumstance shall not be affected.

SEC. 132. TRANSITIONS.—(a) The Bureau of Prisons created under chapter 303 of title 18, United States Code, as that chapter existed before the effective date of this Act, is continued as the Bureau of Prisons established under section 571 of title 28, United States Code. The Director of the Bureau of Prisons in office on the effective date of this Act shall continue to hold office under section 571(b) of title 28 United States Code.

(b) The Federal Prison Industries created under section 4121 of title 18, United States Code, as that section existed prior to the effective date of this Act, is continued as the Federal Prison Industries created under section 581 of title 28, United States Code. A member of the board of directors shall continue to hold office under the provisions of section 581 to title 28, United States Code.

(c) The United States Parole Commission created under section 4202 of title 18, United States Code, as that section existed prior to the effective date of this Act, is continued as the United States Parole Commission established under section 591(a) of title 28, United States Code. A Commissioner shall continue to hold office under section 591(a) of title 28, United States Code.

SEC. 133. AUTHORIZATION.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions and purposes of this Act.

SEC. 134. EFFECTIVE DATE.—This Act shall take effect on the first day of the first calendar month beginning twenty-four months after the date of enactment of this Act, except that chapter 58 of title 28, United States Code, shall take effect on the date of enactment of this Act or October 1, 1978, whichever occurs later. For the purposes of section 992(a) of title 28, United States Code, the terms of the first members of the United States Sentencing Commission shall not begin to run until the effective date of the Criminal Code Reform Act of 1977.

On page 360, beginning with line 15, insert the following:

TITLE V—TECHNICAL AND CONFORMING AMENDMENTS CROSS-REFERENCED IN TITLE 18

On page 362, line 21, strike "1812" and insert "1821";

On page 270, line 24, strike "Reckless Endangerment (section 1617),";

On page 371, line 1, after "subsection" insert "(c) and";

On page 371, line 2, strike "listed in subsection (f)." and insert ", subject to State jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588) or any other federal statute authorizing a State to assume jurisdiction over Indians or Indian country within its boundaries.";

On page 371, beginning with line 7, strike through and including line 13, and insert in lieu thereof the following:

(f) Any State which comes within either of the following classifications may exercise jurisdiction over any offense committed by or against Indians in those specific areas of Indian country within its borders to the same extent that such State has jurisdiction over offenses committed elsewhere within the State and the criminal laws of such State shall have the same force and effect within such Indian country as they have elsewhere within the State:

(1) States which have been granted or have assumed criminal jurisdiction over any portion of Indian country within their respective borders pursuant to sections 2, 6, and 7 of the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of August 8, 1958 (72 Stat. 545) and the Act of November 25, 1970 (84 Stat. 1358), and which jurisdiction has not been retroceded to the United States pursuant to section 403 of the Act of April 11, 1968 (82 Stat. 79).

(2) States which have assumed or in the future do assume criminal jurisdiction over any portions of Indian country within their respective borders pursuant to section 401 of the Act of April 11, 1968 (82 Stat. 78), and which jurisdiction has not been retroceded to the United States pursuant to section 403 of the Act of April 11, 1968 (82 Stat. 79), or the provisions of this Act.

On page 372, line 6, strike "(2)";

On page 372, beginning with line 18, strike through and including line 20;

On page 372, line 21, strike "State of" and insert "States of Iowa and";

On page 372, line 23, strike "State of" and insert "respective States of Iowa and";

On page 372, line 25, strike "state" and insert "respective States";

On page 372, line 26, strike "of the State" and insert "thereof";

On page 373, line 4, after "shall" insert "upon its consent,";

On page 373, beginning with line 26, insert the following:

(k) Notwithstanding section 3601(a) and (b) of title 18, if an Indian juvenile or Indian person between the ages of eighteen and twenty-one is arrested and charged with an offense and an Indian tribe has concurrent jurisdiction of the conduct, the Attorney General may forego prosecution and surrender the person to the jurisdiction of the tribe governing such area of Indian country.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Virginia (Mr. SCOTT). I think he has performed a service and when the McClellan bill is reached by the Senate I will confer with him and be working with him and with the Senator from Massachusetts in the pursuit of the objective which he has expressed concern about.

Mr. SCOTT. Mr. President, I appreciate the courtesies of the distinguished majority leader.

Mr. THURMOND. Mr. President, as one of the managers of the bill I also express my appreciation to the able Senator from Virginia, and assure him that his position, I think, on capital punishment is the same as mine. When the bill comes up, I will be glad to cooperate with him.

AMENDMENT NO. 1624, AS AMENDED

Mr. KENNEDY. Mr. President, I also ask that the Senate consider amendment 1624 as amended to S. 1437.

The PRESIDING OFFICER (Mr. HODGES). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment No. 1624, as amended.

The amendment is as follows:

At the end of the bill add a new title as follows:

TITLE VI.—TECHNICAL AND CONFORMING AMENDMENTS

PART A—AMENDMENTS RELATING TO THE CONGRESS, TITLE 2, UNITED STATES CODE

SEC. 201. Section 204(a) of the Act of September 22, 1970 (2 U.S.C. 25 note), is amended by deleting "Federal Corrupt Practices Act" and inserting in lieu thereof "Federal Election Campaign Act of 1971, as amended,".

SEC. 202. Section 6 of the Act of March 3, 1925, as amended (2 U.S.C. 162), is amended by deleting "the proviso contained in the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1918, and for other purposes, approved March 3, 1917, in Thirty-ninth Statutes at Large, at page 1106" and inserting in lieu thereof "section 9108 of title 5".

SEC. 203. Section 8 of the Act of August 4, 1950 (2 U.S.C. 167g), is amended to read as follows:

"SEC. 8. Whoever violates any provision of sections 2 to 6, inclusive, of this Act, or of a regulation prescribed under section 7 of this Act, is guilty of a Class B misdemeanor. Violations shall be prosecuted by the United States attorney or his assistants in the name of the United States. Prosecutions may be in the Superior Court of the District of Columbia.".

SEC. 204. Section 102 of the Revised Statutes, as amended (2 U.S.C. 192), is repealed.

SEC. 205. Section 104 of the Revised Statutes, as amended (2 U.S.C. 194), is amended by deleting "witness summoned as mentioned in section 102" and inserting in lieu thereof "person summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or a joint committee established by a joint or concurrent resolution of the two Houses of Congress, or a committee of either House of Congress,".

SEC. 206 Section 307 of the Act of August 2, 1946 (2 U.S.C. 266) is amended by deleting "Federal Corrupt Practices Act" and inserting in lieu thereof "Federal Election Campaign Act of 1971, as amended".

SEC. 207. The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is amended:

(a) by deleting in section 310(a) "misdemeanor, and shall be punished by a fine of not more than $5,000 or imprisonment for not more than twelve months, or by both such fine and imprisonment" and inserting in lieu thereof "Class B misdemeanor";

(b) by deleting in section 310(b) ", upon conviction thereof, be guilty of a felony, and shall be punished by a fine of not more than $10,000, or imprisonment for not more than five years, or by both such fine and imprisonment" and inserting in lieu thereof "be guilty of a Class A misdemeanor"; and

(c) by deleting in section 311 "Federal Corrupt Practices Act" wherever it appears and inserting in lieu thereof "Federal Election Campaign Act of 1971, as amended".

SEC. 208. Section 11 of the Federal Contested Elections Act (2 U.S.C. 390) is repealed.

SEC. 209. The Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 et seq.), is amended as follows:

(a) Section 313, as added by section 208 (a) of the Federal Election Campaign Act Amendments of 1974, as redesignated and amended (2 U.S.C. 437g), is amended:

(1) by deleting "1001" in subsection (a)(1) and inserting in lieu thereof "1343";

(2) by deleting the words "and willful" in subsection (a)(5)(D) wherever they appear;

(3) by deleting the words "and willful" in subsection (a)(6)(A);

(4) by deleting the words "and willful" in subsection (a)(7);

(5) by deleting the words "and willful" in subsection (a)(12); and

(6) by amending subsection (c) to read as follows:

"(c) A person who violates the provisions of subsection (a)(3)(B) is guilty of an infraction, except that the maximum fine shall be $2,000 and an individual convicted of an offense shall not be sentenced to a term of imprisonment. A person who knowingly violates the provisions of subsection (a)(3)(B) is guilty of an infraction, except that the maximum fine shall be $5,000 and an individual convicted of an offense shall not be sentenced to a term of imprisonment.".

(b) Section 327(2), as added by section 112 of the Federal Election Campaign Act Amendments of 1976 (2 U.S.C. 441h(2)), is amended by deleting "willfully and".

(c) Sections 600 and 601 of title 18, United States Code, as they existed the day before the effective date of this Act, are reenacted and redesignated as sections 328A and 328B of the Federal Election Campaign Act of 1971, and amended as follows:

(1) Section 328A (formerly 18 U.S.C. 600) is amended by deleting "shall be fined not more than $10,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(2) Section 328B (formerly 18 U.S.C. 601) is amended:

(A) by deleting "or attempts to cause" in subsection (a);

(B) by deleting "shall be fined not more than $10,000, or imprisoned not more than one year, or both" in subsection (a) and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(e) Section 329, as added by section 112 of the Federal Election Campaign Act Amendments of 1976 (2 U.S.C. 441j), is amended:

(1) by amending the first sentence of subsection (a) to read: "Except as provided in section 1517 of title 18, United States Code, and section 328B of this Act, a person who knowingly violates a provision or provisions of this Act which involve the making, receiving, or reporting of a contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year is guilty of a Class A misdemeanor, except that the maximum fine for an individual is $25,000 or three times the amount of the expenditure or contribution, whichever is greater; and the maximum fine for an organization is $100,000 or three times the amount of the expenditure or contribution, whichever is greater."; and

(2) by deleting the words "and willful" each time they appear in the second and third sentences of subsection (a).

(f) Section 406, as added by section 302 of the Federal Election Campaign Act of 1974, as amended (2 U.S.C. 455), is amended to read as follows:

"BAR TO PROSECUTION

"SEC. 406. Notwithstanding any other provision of law, no criminal proceeding shall be instituted against any person for any act or omission which was a violation of title III of this Act, as it was in effect on December 31, 1974, if such act or omission does not constitute a violation of any such provision, as amended by the Federal Election Campaign Act Amendments of 1974. Nothing in this section shall affect any proceeding pending in any court of the United States on January 1, 1975.".

PART B—AMENDMENTS RELATING TO THE PRESIDENT, TITLE 3, UNITED STATES CODE

SEC. 211. Section 8 of the Act of April 9, 1966, as added by section 609(a) of the Military Construction Authorization Act, 1975 (3 U.S.C. 111 note), is amended to read as follows:

"SEC. 8. Subject to the direction of the Secretary of the Treasury, the United States Secret Service, Department of the Treasury, is authorized to pay expenses for unforeseen emergencies of a confidential nature under the direction of the Secretary of the Treasury and accounted for solely on his certificate.".

SEC. 212. Chapter 3 of title 3, United States Code, is amended as follows:

"§ 209. Temporary residence of the President

"(a) It shall be unlawful for a person:

"(1) knowingly to enter or remain in:

"(A) any building or grounds designated by the Secretary of the Treasury as a temporary residence of the President and his staff, and in which the President is or will be temporarily living or staying; or

"(B) any posted, cordoned off, or otherwise restricted area of a building or grounds where the President is or will be temporarily visiting, if the restrictions are necessary to protect the President's safety and to permit his ingress or egress to the building or grounds;

"(2) with intent to impede or disrupt the orderly conduct of Government business or official functions, to engage in disorderly or disruptive conduct in, or within such proximity to, any building or grounds designated in paragraph (1) when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions;

"(3) knowingly to obstruct or impede ingress or egress to or from any building; grounds, or area designated or enumerated in paragraph (1); or

"(4) knowingly to engage in an act of physical violence against any person or property in any building, grounds, or area designated or enumerated in paragraph (1).

"(b) Violation of this section is a Class B misdemeanor.

"(c) Violation of this section shall be prosecuted by the United States attorney in the Federal district court having jurisdiction of the place where the offense occurred.

"(d) The Secretary of the Treasury is authorized—

"(1) to designate by regulations the buildings and grounds which constitute the temporary residences of the President and the temporary offices of the President and his staff, and

"(2) to prescribe regulations governing ingress to or egress from such buildings and grounds and to posted, cordoned off, or otherwise restricted areas where the President is or will be temporarily visiting.

"(e) None of the laws of the United States or of the several States and the District of Columbia shall be superseded by this section.".

(b) The analysis at the beginning of the chapter is amended by adding at the end thereof the following new item:

"209. Temporary residence of the President.".

PART C—AMENDMENTS RELATING TO THE FLAG AND SEAL, TITLE 4, UNITED STATES CODE

SEC. 221. (a) Chapter 1 of title 4, United States Code, is amended as follows:

(1) Section 3 is amended by deleting "deemed guilty of a misdemeanor and shall be punished by a fine not exceeding $100 or by imprisonment for not more than thirty days, or both, in the discretion of the court" and inserting in lieu thereof "guilty of a Class C misdemeanor".

(2) Section 700 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 4 of title 4, United States Code, and amended:

(A) by deleting "; penalties" in the caption;

(B) by deleting "shall be fined not more than $1,000 or imprisoned for not more than one year, or both" in subsection (a) and inserting in lieu thereof "is guilty of a Class A misdemeanor"; and

(C) by deleting subsection (c).

(3) The analysis at the beginning of the chapter is amended by adding the following new item at the end thereof:

"4. Desecration of the flag of the United States.".

(b)(1) Section 713 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 43 of title 4, United States Code, and amended by deleting the words "shall be fined not more than $250 or imprisoned not more than six months, or both" wherever they appear in subsections (a) and (b) and inserting in lieu thereof the words "is guilty of a Class B misdemeanor".

(2) The analysis at the beginning of chapter 2 of title 4, United States Code, is amended by adding the following new item at the end thereof:

"43. Use of likenesses of the great seal of the United States, and of the seals of the President and Vice President.".

(c)(1) Section 701 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 171 of title 4, United States Code, and amended by deleting "shall be fined not more than $250 or imprisoned not more than six months, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

(2) Section 712 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 172 of title 4, United States Code, and amended to read as follows:

"§ 172. Misuse of names, words, emblems, or insignia

"Whoever, being engaged in collecting his own debts or obligations, or being engaged in the business of collecting or aiding in the collection of private debts or obligations of another, or being engaged in furnishing private police, investigation, or other private detective services, uses as part of the firm name of such business, or employs in any communication, correspondence, notice, advertisement, or circular the words 'national', 'Federal', or 'United States', the initials 'U.S.', or any emblem, insignia, or name, for the purpose of conveying the false impression that such person or business is a department, agency, bureau, or instrumentality of the United States, is guilty of a Class A misdemeanor.".

(3) The following caption and chapter analysis are added before section 171 of title 4, United States Code:

"Chapter 6.—OTHER INSIGNIA OF THE UNITED STATES

"Sec.
"171. Official badges, identification cards, other insignia.
"172. Misuse of names, words, emblems, or ther insignia.

(4) The analysis at the beginning of title 4, United States Code, is amended by adding after the item relating to chapter 5 the following new item:

"6. Other insignia of the United States_ 171".

PART D—AMENDMENTS RELATING TO GOVERNMENT ORGANIZATION AND EMPLOYEES, TITLE 5, UNITED STATES CODE

SEC. 231. (a) Chapter 5 of title 5, United States Code, is amended as follows:

(1) Section 551 is amended by deleting "or fine" in paragraph (10)(C).

(2) Section 552a is amended:

(A) by deleting "willfully" in subsection (g)(5) and inserting in lieu thereof "knowingly";

(B) by amending subsection (i) to read as follows:

"(i)(1) CRIMINAL PENALTIES.—Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules and regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, knowingly discloses the material in any manner to any person or agency not entitled to receive it, is guilty of an infraction, except that the maximum fine shall be $5,000, and the person shall not be sentenced to a term of imprisonment.

"(2) Any officer or employee of any agency who knowingly maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section is guilty of an infraction, except that the maximum fine shall be $5,000, and the person shall not be sentenced to a term of imprisonment.

"(3) Any person who knowingly requests or obtains any record concerning an individual from an agency under false pretenses is guilty of an infraction, except that the maximum fine shall be $5,000, and the person shall not be sentenced to a term of imprisonment."; and

(C) by deleting "section 3056" in subsection (k)(3) and inserting in lieu thereof "section 3013".

(3) Section 5(h) of the Privacy Act of 1974 (5 U.S.C. 552a note) is amended to read as follows:

"(h)(1) Any member, officer or employee of the Commission, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section, and who knowing that disclosure of the specific material is so prohibited, knowingly discloses the material in any manner to any person or agency not entitled to receive it, is guilty of an infraction, except that the maximum fine shall be $5,000 and the person shall not be sentenced to a term of imprisonment for the offense.

"(2) Any person who knowingly requests or obtains any record concerning an individual from the Commission under false pretenses is guilty of an infraction, except that the maximum fine shall be $5,000 and the person shall not be sentenced to a term of imprisonment.".

(b) Section 701(b)(1)(B) of title 5, United States Code, is amended by adding the words "and the United States Sentencing Commission" after the words "United States".

(c) Section 1917 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 1309 of title 5, United States Code, and amended:

(1) by deleting "willfully and corruptly" and inserting in lieu thereof "knowingly";

(2) by deleting the words "title 5" wherever they appear in subsection (1) and inserting in lieu thereof "this title";

(3) by adding after the words "section 1302(a) of this title" in subsection (1) the words ", or according to regulations prescribed by the Postal Service"; and

(4) by deleting "shall, for each offense, be fined not less than $100 nor more than $1,000 or imprisoned not less than ten days nor more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(2) The analysis at the beginning of chapter 13 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"1309. Interference with civil service examinations.".

(d) Chapter 15 of title 5, United States Code, is amended by adding "or false swearing" after the word "perjury" in section 1507(c).

(e)(1) Section 2075 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 2955 of title 5, United States Code, and amended by deleting "shall be fined not more than $1,000" and inserting in lieu thereof "is guilty of an infraction".

(2) The analysis at the beginning of chapter 29 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"2955. Officer failing to make returns or reports.".

(f) Chapter 31 of title 5, United States Code, is amended as follows:

(1) Section 3102 is amended by deleting the words "section 209 of title 18" in subsection (b) and inserting in lieu thereof the words "section 9108 of this title".

(2) The last sentence of section 3103 is amended to read: "An individual who violates this section is guilty of a Class A misdemeanor.".

(3) The second paragraph of section 211 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 3111 of title 5, United States Code, and amended:

(A) by inserting after the word "Whoever" in the first sentence the word "knowingly"; and

(B) by deleting "shall be fined not more than $1,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(4) The analysis at the beginning of the chapter is amended by adding at the end thereof the following new item:

"3111. Acceptance or solicitation to obtain appointive public office.".

(g) Chapter 33 of title 5, United States Code, is amended as follows:

(1) Section 3343 is amended by deleting the words "section 209 of title 18" in subsection (e) and inserting in lieu thereof the words "section 9108 of this title".

(2) Section 3374(c)(2) is amended to read as follows:

"(2) is an employee of the agency for the purpose of chapter 73 and sections 9102, 9104, 9106, 9107, 9108, 9115, and 9301 of this title, section 638a of title 31, and the Federal Tort Claims Act and any other Federal tort liability statute; and is a federal public servant for the purpose of sections 1351, 1352, 1353, 1354, 1355, 1356, 1514, 1515, and 1731 of title 18; and".

(h) Section 4111 of chapter 41 of title 5, United States Code, is amended by deleting "section 209 of title 18" and inserting in lieu thereof "section 9108 of this title".

(i) Chapter 73 of title 5, United States Code, is amended:

(1) by inserting the designation "(a)" before the words "An individual" at the beginning of section 7311;

(2) by adding a new subsection (b) at the end of section 7311 as follows:

"(b) An individual who violates this section is guilty of a Class A misdemeanor.";

(3) by adding "or leading" after "inciting" in section 7313(a)(1); and

(4) by deleting the word "participating" in section 7313(a)(2) and inserting in lieu thereof the word "engaging".

(j)(1) Section 1922 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 8152 of title 5, United States Code, and amended:

(A) by deleting the words "title 5" wherever they appear and inserting in lieu thereof "this title";

(B) by deleting the word "willfully" wherever it appears and inserting in lieu thereof "knowingly";

(C) by deleting "or knowingly files a false report,"; and

(D) by deleting "shall be fined not more than $500 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(2) Section 292 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 8153 of title 5, United States Code, and amended:

(A) by deleting the words "title 5" each time they appear and inserting in lieu thereof the words "this title"; and

(B) by deleting "Shall, for each offense, be fined not more than $1,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "Is guilty of a Class A misdemeanor".

(3) The analysis at the beginning of chapter 81 of title 5, United States Code, is amended by adding after the item relating to section 8150 the following new items:

"8152. Withheld report concerning Federal employee's compensation.
"8153. Solicitation of employment and receipt of unapproved fees concerning Federal employees' compensation.".

(k) Subchapter III of chapter 81 of title 5, United States Code, is amended by deleting the words "a crime" wherever they appear in section 8191 and inserting in lieu thereof "an offense".

(l) Chapter 83 of title 5, United States Code, is amended as follows:

(1) Section 8312(b)(1) is amended to read as follows:

"(1) An offense within the purview of—

"(A) section 1121 (espionage), 1122 (disseminating national defense information), 1123 (disseminating classified information), 1124 (receiving classified information), or 1311 (hindering law enforcement) (if the offense involves a person the offender knows or has reasonable grounds to suspect has committed an offense under section 1121, 1122, 1123, or 1124 of title 18) of title 18;

"(B) section 1111 (sabotage), 1112 (impairing military effectiveness), 1302 (obstructing a government function by physical interference), subchapter A of chapter 17 (arson and other property destruction offenses, if the offense involves the national defense), or section 1712 or 1713 (criminal entry or criminal trespass) (if the offense involves the national defense) of title 18;

"(C) section 1101 (treason), 1102 (armed rebellion or insurrection), 1115 (obstructing military recruitment or induction), 1116 (inciting or aiding mutiny, insubordination, or desertion), 1203 (entering or recruiting for a foreign armed force), or 1311 (hindering law enforcement) (if the offense involves a person the offender knows or has reasonable grounds to suspect has committed or is about to commit an offense described in section 1101 or 1102 of title 18) of title 18;

"(D) section 1002 (criminal conspiracy) of title 18, if the conspiracy relates to an offense listed in paragraph (1)(A), (1)(B) or (1)(C) of this subsection;

"(E) section 1131 (atomic energy offenses) of title 18, insofar as the conduct is engaged in with intent that it operate to the prejudice of the safety or interest of the United States or to the advantage of a foreign power; or

"(F) an earlier statute on which a statute named by subparagraph (A), (B), (C), or (D) of this paragraph (1) is based.".

(2) Section 8312(c)(1) is amended to read as follows:

"(1) An offense within the purview of—

"(A) section 1131 (atomic energy offenses) of title 18, insofar as the conduct is engaged in with intent that it operate to the prejudice of the safety or interest of the United States or to the advantage of a foreign power;

"(B) section 1121 (espionage), 1122 (disseminating national defense information), 1123 (disseminating classified information), or 1124 (receiving classified information) of title 18);

"(C) section 1101 (treason), 1102 (armed rebellion or insurrection), or 1103 (engaging in para-military activities) of title 18.".

(3) The amendments made by subsection (l) (1) and (2) of this section are not applicable, for the purposes of subsections (b) and (c) of section 8312, section 8313, and section 8315 of title 5, United States Code, to a convicted individual referred to in such subsection (b) or (c) of section 8312, 8313, or 8315 if the commission of the offense occurred prior to the effective date of this subsection. The provisions of subsections (b) and (c) as they existed on the date immediately preceding the effective date of this subsection shall continue to apply to such individual in the same manner and to the same extent as if the amendments made by this section were never enacted.

(4) Section 8313(a)(2) is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

(5) Section 8314(a) is amended by deleting "and willfully".

(6) Section 8315(a) is amended by deleting the words "and willfully" wherever they appear.

(m)(1) Sections 202 through 209 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as sections 9101 through 9108 of title 5, United States Code, respectively, and amended as follows:

(A) Section 9101 (formerly 18 U.S.C. 202) is amended:

(i) by deleting "203, 205, 207, 208, and 209" in the first sentence of subsection (a) and inserting in lieu thereof "9102, 9104, 9106, 9107, and 9108";

(ii) by adding the word ", judicial," after the word "executive" in the first sentence of subsection (a);

(iii) by deleting "a part-time United States commissioner," in subsection (a);

(iv) by deleting "section 29 (c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r (c) and (d))" in subsection (a) and inserting in lieu thereof "sections 502, 2105, and 5534 of this title";

(v) by deleting "203 and sections 205 through 209 and 218" in the fourth sentence of subsection (a) and inserting in lieu thereof "9102 and sections 9104 through 9108 of this title";

(vi) by deleting "203, 205, 207 through 209, and 218" in the last sentence of subsection (a) and inserting in lieu thereof "9102, 9104, and 9106 through 9108"; and

(vii) by deleting "205 and 207" in subsection (b) and inserting in lieu thereof "9104 and 9106".

(B) Section 9102 (formerly 18 U.S.C. 203) is amended by deleting "Shall be fined not more than $10,000 or imprisoned for not more than two weeks, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States" and inserting in lieu thereof "Shall be guilty of a Class A misdemeanor".

(C) Section 9103 (formerly 18 U.S.C. 204) is amended by deleting "shall be fined not more than $10,000 or imprisoned for not more than two years, or both, and shall be incapable of holding any office of honor, trust, or profit under the United States" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(D) Section 9104 (formerly 18 U.S.C. 205) is amended:

(i) by deleting "Shall be fined not more than $10,000 or imprisoned for not more than two years, or both" and inserting in lieu thereof "Is guilty of a Class A misdemeanor"; and

(ii) by deleting "203" each time it appears and inserting in lieu thereof "9102 of this title, or in section 1353 or 1354 of title 18, United States Code,".

(E) Section 9105 (formerly 18 U.S.C. 206) is amended to read as follows:

"9105. Exemptions

"Sections 9102 and 9104 of this title shall not apply to—

"(a) any person specifically excepted by Act of Congress; or

"(b) to a retired officer of the uniformed services of the United States while not on active duty and not otherwise an officer or employee of the United States, except that:

"(1) section 9102 shall apply to any retired officer representing any person in the sale of anything to the Government through the department in whose service he holds a retired status; and

"(2) section 9104 shall apply to any retired officer acting as agent or attorney for prosecuting or assisting in the prosecution of any claim against the United States—

"(A) involving the department in whose service he holds retired status, within two years next after his retirement; or

"(B) involving any subject matter with which he was directly connected while he was in an active-duty status.".

(F) Section 9106 (formerly 18 U.S.C. 207) is amended:

(i) by deleting "Shall be fined not more than $10,000 or imprisoned for not more than two years, or both" in subsection (b) and inserting in lieu thereof "Is guilty of a Class A misdemeanor";

(ii) by deleting "Shall be fined not more than $5,000, or imprisoned for not more than one year, or both" in subsection (c) and inserting in lieu thereof "Is guilty of a Class A misdemeanor"; and

(iii) by deleting "203, 205, and 207" in the last sentence and inserting in lieu thereof "9102, 9104 and 9106".

(G) Section 9107 (formerly 18 U.S.C. 208) is amended by deleting "Shall be fined not more than $10,000, or imprisoned not more than two years or both" in subsection (a) and inserting in lieu thereof "Is guilty of a Class A misdemeanor".

(H) Section 9108 (formerly 18 U.S.C. 209) is amended:

(i) by deleting "Shall be fined not more than $5,000 or imprisoned not more than one year, or both" in subsection (a) and inserting in lieu thereof "Is guilty of a Class A misdemeanor"; and

(ii) by deleting, "the Government Employees Training Act (Public Law 85-507, 72 Stat. 327; 5 U.S.C. 2301-2319, July 7, 1958)" in subsection (d) and inserting in lieu thereof "chapter 41 of this title".

(2) Section 219 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 9109 of title 5, United States Code, and amended by deleting "shall be fined not more than $10,000 or imprisoned for not more than two years, or both" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1126 of title 18".

(3) Sections 431 through 433 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as sections 9110 through 9112 of title 5, United States Code, and amended as follows:

(A) Section 9110 (formerly 18 U.S.C. 431) is amended by deleting "shall be fined not more than $3,000" and inserting in lieu thereof "is guilty of an infraction, except that the maximum fine for an individual shall be $3,000 or the maximum fine available under section 2201(c) of title 18, whichever is higher".

(B) Section 9111 (formerly 18 U.S.C. 432) is amended by deleting "shall be fined not more than $3,000" and inserting in lieu thereof "is guilty of an infraction, except that the maximum fine for an individual shall be $3,000 or the maximum fine available under section 2201(c) of title 18, whichever is higher".

(C) Section 9112 (formerly 18 U.S.C. 433) is amended:

(i) by deleting "431 and 432" in the first sentence and inserting in lieu thereof "9110 and 9111";

(ii) by deleting "the Federal Farm Loan Act, the Emergency Farm Mortgage Act of 1933, the Farm Credit Act of 1933" and inserting in lieu thereof "the Farm Credit Act of 1971"; and

(iii) by deleting "the Farmers' Home Administration Act of 1933" and inserting in lieu thereof "the Consolidated Farm and Rural Development Act".

(4) Sections 436 and 437 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as sections 9113 and 9114 of title 5, United States Code, and amended as follows:

(A) Section 9113 (formerly 18 U.S.C. 436) is amended:

(i) by deleting "Whoever" and inserting in lieu thereof "Except as provided in section 3822 of title 18 and chapters 37 and 38 of title 28, whoever"; and

(ii) by deleting "shall be fined not more than $1,000 or imprisoned not more than three years, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(B) Section 9114 (formerly 18 U.S.C. 437) is amended by deleting "shall be fined not more than $5,000 or imprisoned not more than six months, or both; and removed from office" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

(5) Section 218 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 9115 of title 5, United States Code, and amended by deleting the words "this chapter, and the United States shall be entitled to recover in addition to any penalty prescribed by law or in a contract the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof" and inserting in lieu thereof "this chapter or section 1351, 1352, 1353, 1354 or 1355 of title 18, United States Code".

(6) Section 1913 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 9116 of title 5, United States Code, and the last paragraph is amended to read as follows:

"Whoever, being an officer or employer of the United States or of a department or agency thereof, violates this section, is guilty of a Class A misdemeanor.".

(7) The following subtitle caption and chapter analysis are added before section 9101 of title 5, United States Code:

"SUBPART H—STANDARD OF CONDUCT

"CHAPTER 91.—CONFLICTS OF INTEREST

"Sec.

"9101. Definitions.

"9102. Compensation to Members of Congress, officers, and others in matters affecting the Government.

"9103. Practice in Court of Claims by Members of Congress.
"9104. Activities of officers and employees in claims against and other matters affecting the Government.
"9105. Exemptions.
"9106. Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners.
"9107. Acts affecting a personal financial interest.
"9108. Salary of Government officials and employees payable only by the United States.
"9109. Officers and employees acting as guests agents of foreign principals.
"9110. Contracts by Members of Congress.
"9111. Officer or employee contracting with Members of Congress.
"9112. Exemptions with respect to certain contracts.
"9113. Convict labor contracts.
"9114. Indian contracts for goods and supplies.
"9115. Voiding transactions in violation of chapter.
"9116. Lobbying with appropriated moneys.".

(8) Section 1905 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 9301 of title 5, United States Code, and amended:

(A) by deleting the word "generally" in the caption; and

(B) by deleting "shall be fined not more than $1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

(9) The following chapter caption and analysis are added before section 9301 of title 5, United States Code:

"Chapter 93.—DISCLOSURE OF INFORMATION

"Sec.
"9301. Disclosure of confidential information.

(10) The analysis at the beginning of Part III of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBPART H.—STANDARDS OF CONDUCT

"91. Conflicts of Interest 9101
"93. Disclosure of Information ..... 9301".

PART E.—AMENDMENT RELATING TO AGRICULTURE, TITLE 7, UNITED STATES CODE

SEC. 241. 4–H CLUB EMBLEM FRAUDULENTLY USED.—

Whoever, with intent to defraud, wears or displays the sign or emblem of the 4–H clubs, consisting of a green four-leaf clover with stem, and the letter H in white or gold on each leaflet, or any insignia in colorable imitation thereof, for the purpose of inducing the belief that he is a member of, associated with, or an agent or representative for the 4–H clubs; or

Whoever, whether an individual, partnership, corporation or association, other than the 4–H clubs and those duly authorized by them, the representatives of the United States Department of Agriculture, the land grant colleges, and persons authorized by the Secretary of Agriculture, uses, within the United States, such emblem or any sign, insignia, or symbol in colorable imitation thereof, or the words "4–H Club" or "4–H Clubs" or any combination of these or other words or characters in colorable imitation thereof—

Is guilty of a Class B misdemeanor.

This section shall not make unlawful the use of any such emblem, sign, insignia, or words, which was lawful on June 25, 1948.

SEC. 242. 4–H CLUB MEMBERS OR AGENTS.—

Whoever, falsely and with intent to defraud, holds himself out as or represents or pretends himself to be a member of, associated with, or an agent or representative for the 4–H clubs, an organization established by the Extension Service of the United States Department of Agriculture and the land grant colleges, is guilty of a Class B misdemeanor.

SEC. 243. The Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), is amended as follows:

(a) Section 4b, as added by section 5 of the Act of June 15, 1936, and amended (7 U.S.C. 6b), is amended:

(1) by deleting "willfully" in paragraphs (B) and (C) and inserting in lieu thereof "knowingly"; and

(2) by deleting "willfully and" in paragraph (D)

(b) Section 6(a), as amended (7 U.S.C. 8), is amended:

(1) by adding after the words "provisions of this Act" the words "or of section 1763(a)(1) of title 18, United States Code, or of section 1731 of title 18, United States Code, if there is jurisdiction of the offense under section 1731(c)(20) of title 18,"; and

(2) by deleting "thereunder" and inserting in lieu thereof "issued under those provisions".

(c) Section 6(b), as amended (7 U.S.C. 9), is amended:

(1) by deleting "willfully" wherever it appears and inserting in lieu thereof "knowingly";

(2) by inserting after the words "provisions of this Act" the second time they appear the words ", or of section 1763(a)(1) of title 18, United States Code, or of section 1731 of title 18, United States Code, if there is jurisdiction of the offense under section 1731(c)(20) of title 18,"; and

(3) by deleting the word "thereunder" and inserting in lieu thereof "issued under those provisions".

(d) Section 8, as amended (7 U.S.C. 12, 12–1), is amended by adding after the words "provisions of this Act" in the first proviso the words "or of section 1763(a)(1) of title 18, United States Code, or of section 1731 of title 18, United States Code, if there is jurisdiction of the offense under section 1731(c)(20) of title 18,".

(e) Section 8a, as added by section 10 of the Act of June 15, 1936, and amended (7 U.S.C. 12a), is amended by deleting the word "willfully" in paragraph (2)(B) wherever it appears and inserting in lieu thereof the word "knowingly".

(f) Section 9, as amended (7 U.S.C. 13), is amended to read as follows:

"Sec. 9. (a) It is an unlawful act which is an offense described in section 1763 of title 18, United States Code, for a person to manipulate or attempt to manipulate the price of a commodity in interstate commerce or for future delivery on or subject to the rules of a contract market, or knowingly to corner any such commodity, or knowingly to deliver for transmission through the mails or in interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of a commodity in interstate commerce.

"(b) Except as provided in paragraph (a) of this section, and in section 1731 of title 18, United States Code, if jurisdiction is based on section 1731(c)(19), it is a Class A misdemeanor for a person to violate a provision of section 4, section 4a, section 4b, section 4c, section 4d, section 4e, section 4h, section 4i, section 4k, section 4n, section 4o, or section 8b, or to fail to evidence a contract mentioned in section 4 of this Act by a record in writing as therein required, except that the maximum fine for an offense by an individual shall be $100,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.

"(c) It is an unlawful act which is an offense described in section 1763 of title 18, United States Code, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or "decline guaranty', or for any such person to participate directly or indirectly, in any investment transaction in an actual commodity: *Provided*, That such prohibition against any investment transaction in an actual commodity shall not apply to a transaction in which such person buys an agricultural commodity or livestock for use in his own farming or ranching operations or sells an agricultural commodity which he has produced in connection with his own farming or ranching operations nor to any transaction in which he sells livestock which he has owned at least three months. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public.

"(d) It is an unlawful act which is an offense described in section 1763 of title 18, United States Code, (1) for any Commissioner of the Commission or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been made public to impart such information with intent to assist another person, directly or indirectly, to participate in any transaction in commodity futures any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'; and (2) for any person to acquire such information from any Commissioner of the Commission or any employees or agent thereof and to use such information in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'."

SEC. 244. Section 1(b) of the Act of August 28, 1958 (7 U.S.C. 13–1), is amended to read as follows:

"(b) A person who violates the provisions of this section is guilty of an infraction, except that the maximum fine for an individual shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

SEC. 245. The Commodity Exchange Act as amended (7 U.S.C. 1 et seq.), is amended as follows:

"(a) Section 6b, as added by section 9 of the Act of June 15, 1936, and amended (7 U.S.C. 13a), is amended by deleting the words 'misdemeanor and, upon conviction thereof, shall be fined not more than $100,000 or imprisoned for not less than six months nor more than one year, or both' and inserting in lieu thereof 'Class A misdemeanor except that the maximum fine for an individual shall be $100,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher'.".

(b) Section 6c, as added by section 211 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 13a–1, is amended by adding after the words "this Act" wherever they appear the words "or section 1763 of title 18, United States Code, or of section 1731 of title 18, if there is jurisdiction under section 1731(c)(19) of title 18".

(c) Section 6(c), as added by section 17 of the Act of February 19, 1968 (7 U.S.C. 13b), is amended to read as follows:

"(c) If a person (other than a contract market) is manipulating or attempting to

manipulate or has manipulated or attempted to manipulate the market price of a commodity, in interstate commerce, or for future delivery on or subject to the rules of a contract market, or otherwise is violating or has violated a provision of this Act, or of section 1763 of title 18, United States Code, or of section 1731 of title 18, if there is jurisdiction of the offense under section 1731(c)(19) of title 18, or of the rules, regulations, or orders of the Secretary of Agriculture or the commission under those provisions, the Secretary may, upon notice and hearing, and subject to appeal as in other cases provided for in paragraph (b) of this section, make and enter an order directing that the person cease and desist therefrom, and, if the person thereafter and after the lapse of the period allowed for appeal of the order or after the affirmance of the order, fails or refuses to obey or comply with the order, the person is guilty of a Class A misdemeanor, except that if the failure or refusal to obey or comply with the order involves an offense within subsection (a) of section 9 of this Act, or an offense within section 1731 of title 18, United States Code, if jurisdiction of the offense is based on section 1731(c)(19), the person shall be subject to the applicable sentence prescribed for a violation of those provisions. A cease and desist order against a respondent in a case of manipulation of, or attempt to manipulate, the price of a commodity shall be issued only in conjunction with an order issued against the respondent under section 6(b) of this Act. Each day during which the failure or refusal to obey or comply with the order continues is a separate offense.".

(d) Section 13(a), as added by section 26 of the Act of February 19, 1968 (7 U.S.C. 13c(a)), is amended to read as follows:

"(a) A person who commits, or who knowingly aids, abets, counsels, commands, induces, or procures the commission of, a violation of a provision of this Act, or of section 1731 of title 18, United States Code, if there is jurisdiction of the offense under section 1731(c)(19) of title 18, or of section 1763 of title 18, or of a rule, regulation, or order issued pursuant to those provisions, or who acts in combination or concert with another person in such a violation, or who knowingly causes an act to be done or omitted which if directly performed or omitted by him or another would be a violation of a provision of this Act, or of section 1731 of title 18, United States Code, if there is jurisdiction of the offense under section 1731(c)(19) of title 18, or of section 1763 of title 18, or of a rule, regulation, or order issued pursuant to those provisions, may be held responsible in administrative proceedings under this Act as a principal."

SEC. 246. Section 217(b) of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a(b)) is amended by deleting "9(c)" and inserting in lieu thereof "9(b)".

SEC. 247. Section 1 of the United States Cotton Futures Act (7 U.S.C. 15b) is amended:

(a) by repealing subsection (d)(3); and

(b) by amending subsection (k) to read as follows:

"(k) VIOLATIONS.—A person who knowingly violates a regulation made in pursuance of this section is guilty of a Class B misdemeanor.".

SEC. 248. Section 17 of the Commodity Exchange Act, as added by section 301 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 21), is amended:

(a) by adding before the word "penalty" in subsection (b)(9)(D) the word "civil";

(b) by adding before the word "penalty" each time it appears in subsection (l)(2) the word "civil";

(c) by deleting the word "willfully" wherever it appears in subsection (1)(2)(B) and inserting in lieu thereof "knowingly"; and

(d) by deleting "willfully" in subsection (l)(3) and inserting in lieu thereof "knowingly".

SEC. 249. Section 2 of the Joint Resolution approved March 3, 1933 (7 U.S.C. 51b), is amended by adding after the words "improper purpose" the words ", or has violated a provision of title 18, United States Code, if the violation relates to an activity or function under that Act".

SEC. 250. Section 3 of the United States Cotton Standards Act (7 U.S.C. 53) is amended by adding after the words "improper purpose" in the second sentence the words ", or has violated a provision of ttile 18, United States Code, if the violation relates to an activity or function under this Act".

SEC. 251. Section 9 of the United States Cotton Standards Act (7 U.S.C. 60) is amended to read as follows:

"Sec. 9. That (a) a person who knowingly violated a provision of section 2 or 8 of this Act, or (b) a person licensed under this Act who, for the purposes of or in connection with a transaction or shipment in commerce, knowingly classifies cotton improperly, or knowingly falsifies or forges a certificate of classification, is guilty of a Class B misdemeanor.".

SEC. 252. The United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.), is amended as follows:

(a) The proviso of section 8, as amended (7 U.S.C. 84(d)), is amended to read as follows: *"Provided:* That such person shall be considered in the performance of only official inspection, official weighing, or supervision of weighing function as prescribed by this Act or by the rules and regulations of the Administrator, as a Federal public servant for the purpose of determining the application of sections 1351 and 1352 of title 18, United States Code, and as a Federal public servant who is a law enforcement officer for purposes of subchapters A and B of chapter 16 of title 18, United States Code.".

(b) Section 9, as amended (7 U.S.C. 85), is amended:

(1) by deleting "knowingly or carelessly";

(2) by deleting "improperly" and inserting in lieu thereof "in reckless disregard of whether the grain was inspected or weighed properly";

(3) by deleting "or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty,"; and

(4) by inserting before the words "or has otherwise violated" the words "or has violated a provision of title 18, United States Code, in connection with an activity or function under this Act.".

(c) Section 10(a), as amended (7 U.S.C. 86(a)), is amended by adding after "violation of section 13 of this Act" the words "or of title 18, United States Code, in connection with an activity or function under this Act,".

(d) Section 13, as amended (7 U.S.C. 87b), is amended:

(1) by deleting the word "knowingly" wherever it appears;

(2) by deleting the words "make," and "alter," in subsection (a)(1);

(3) by adding after the words "official inspection mark" in subsection (a)(1) the words ", in reckless disregard of whether the certificate, form, or mark is falsely issued, forged, or counterfeited";

(4) by amending subsection (a)(2) to read as follows:

"(2) utter, publish, or use as true any falsely issued, forged or counterfeited official certificate or other official form or official inspection mark, in reckless disregard of the fact that the certificate, form, or mark is falsely issued, forged, or counterfeited; possess, without promptly notifying the Secretary or his representative, or fail to surrender to such a representative upon demand, any falsely issued, forged, or counterfeited official inspection certificate or other official form, in reckless disregard of the fact that the certificate or form is falsely issued, forged, or counterfeited; or possess any grain in a container bearing any falsely issued, forged, or counterfeited official inspection mark, in reckless disregard of the fact that the mark is falsely issued, forged or counterfeited, without promptly giving notice to the Secretary or his representative;"

(5) by repealing subsection (a)(3);

(6) by deleting "unless" in subsection (a)(5) and inserting in lieu thereof "in reckless disregard of the fact that";

(7) by adding after the words "false representation" in subsection (a)(6) the words ", in reckless disregard of the fact that the representation is false,";

(8) by repealing paragraphs (7), (8), (9), (10), and (12) of subsection (a);

(9) by repealing subsections (b)(4) and (c);

(10) by deleting the word "; or" at the end of subsection (b)(3) and inserting a period in lieu thereof; and

(11) by adding the word "or" at the end of subsection (b)(2). (e) Section 14, as added by section 1 of the Act of August 15, 1968, and amended (7 U.S.C. 87c), is amended:

(1) by amending subsection (a) to read as follows:

"(a) A person who commits an offense prohibited by section 13 (except an offense prohibited by subsection (a)(3), in which case he shall be subject to the general penal statutes in title 18 of the United States Code relating to offenses against the United States) is guilty of a Class A misdemeanor; but each offense committed after a previous conviction for an offense subject to this subsection is a Class E felony."; and

(2) by amending subsection (c) to read as follows:

"(c) An officer or employee of the Department of Agriculture assigned to perform weighing functions under this Act shall be considered as a Federal public servant who is a law enforcement officer for purposes of subchapters A, B, and C of chapter 16 of title 18, United States Code.".

(f) Section 17(e), as added by section 1 of the Act of August 15, 1968, and amended (7 U.S.C. 87f(e)), is repealed.

SEC. 253. Section 6 of the Naval Stores Act (7 U.S.C. 96) is amended to read as follows:

"SEC. 6. That a person who knowingly violates a provision of section 5 of this Act is guilty of a Class A misdemeanor.".

SEC. 254. The Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136 et seq.), is amended as follows:

(a) Section 14(b), as added by section 2 of the Federal Environmental Pesticide Control Act of 1972 (7 U.S.C. 136*l*(b)), is amended to read as follows:

"(b) CRIMINAL SANCTIONS.

"(7) IN GENERAL.—A registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates a provision of this Act is guilty of a Class A misdemeanor, except that the maximum fine for an individual is $25,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.

"(2) PRIVATE APPLICATOR.—A private applicator or other person not included in paragraph (1) who knowingly violates a provision of this Act is guilty of a Class C misdemeanor.

"(3) DISCLOSURE OF INFORMATION.—A person who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, commits an unlawful act that is an offense described in section 1737 of title 18, United States Code.".

(b) Section 19(b), as added by the Federal Environmental Pesticide Control Act of 1972 (7 U.S.C. 136q(b)), is amended by deleting

"the Transportation of Explosives Act (18 U.S.C. 831–835)" and inserting in lieu thereof "sections 1101 through 1105 of the Criminal Code Reform Act of 1977".

SEC. 255. Section 108 of the Federal Plant Pest Act (7 U.S.C. 150gg) is amended to read as follows:

"SEC. 108. (a) A person who violates section 103 of this Act or any regulation promulgated under this Act is guilty of a Class A misdemeanor.

"(b) A person who forges, counterfeits, or without authority from the Secretary uses, alters, or defaces a permit or other document provided for by this Act or the regulations thereunder, is guilty of a Class A misdemeanor."

SEC. 256. Section 10 of the Plant Quarantine Act (7 U.S.C. 163) is amended to read as follows:

"SEC. 10. That a person who violates a provision of this Act, or who forges, counterfeits, defaces, or destroys a certificate provided for in this Act or in the regulations of the Secretary of Agriculture, is guilty of a Class A misdemeanor. It is a defense to a prosecution of a common carrier under this section if the carrier did not knowingly receive for transportation or transport nursery stock or other plants or plant products as such from one State, Territory, or District of the United States into or through any other State, Territory, or District. It is the duty of the United States attorneys diligently to prosecute any violations of this Act which are brought to their attention by the Secretary of Agriculture or which come to their notice by other means.".

SEC. 257. The Terminal Inspection Act, as amended (7 U.S.C. 166), is amended:

(a) by deleting ", firm, or corporation"; and

(b) by deleting "shall be punished by a fine of not more than $100" and inserting in lieu thereof "is guilty of an infraction".

SEC. 258. The Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), is amended as follows:

(a) Section 203(b), as amended (7 U.S.C. 193(b)), is amended by deleting the word "offense" in the fourth sentence and inserting in lieu thereof the word "violation".

(b) Section 205, as amended (7 U.S.C. 195 (3)), is amended by deleting "shall on conviction be fined not less than $500 nor more than $10,000, or imprisoned for not less than six months nor more than five years, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(c) Section 303, as amended (7 U.S.C. 203), is amended by deleting the word "offense" in the last sentence and inserting in lieu thereof the word "violation".

(d) Section 306 (7 U.S.C. 207) is amended:

(1) by deleting "offense" in subsection (g) and inserting in lieu thereof "violation"; and

(2) by amending subsection (h) to read as follows:

"(h) Whoever knowingly fails to comply with the provisions of this section or of a regulation or order of the Secretary made thereunder is guilty of a Class A misdemeanor.".

(e) Section 312(b), as amended (7 U.S.C. 213(b)), is amended by deleting the word "offense" in the third sentence and inserting in lieu thereof the word "violation".

(f) Section 314, as amended (7 U.S.C. 215), is amended:

(1) by deleting "offense" each time it appears in subsection (a) and inserting in lieu thereof "violation"; and

(2) by deleting the last sentence of subsection (b).

(g) Section 502(a), as added by the Act of August 14, 1935 (7 U.S.C. 218a(a)), is amended by deleting the last sentence and inserting in lieu thereof: "A person who violates a provision of this subsection is guilty of a Class B misdemeanor.".

(h) Section 401, as added by the Act of August 14, 1935 (7 U.S.C. 221), is amended by deleting "shall upon conviction be fined not more than $5,000, or imprisoned not more than three years, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 259. Section 30 of the United States Warehouse Act, as amended (7 U.S.C. 270), is amended to read as follows:

"SEC. 30. (a) A person who falsely represents or without proper authority uses, a license issued by the Secretary of Agriculture, or his designated representative, under this Act, or who violates or fails to comply with a provision of section 8 of this Act, or who uses for purposes of securing a loan or removes from a licensed warehouse contrary to this Act, or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, is guilty of a Class A misdemeanor.

"(b) A person who draws, with intent to deceive, a false sample of any agricultural products stored or to be stored under the provisions of this Act, or who knowingly mutilates a sample drawn under this Act, is guilty of a Class B misdemeanor.

"(c) The owner of agricultural products converted, used, or removed in violation of subsection (a), or of section 1731 of title 18, United States Code, in connection with agricultural products stored in a licensed warehouse, or of subchapter E of chapter 17 of title 18, United States Code, in connection with a license issued by the Secretary under this Act, may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected, by check drawn on the Treasury at the direction of the Secretary of Agriculture for the value of such products to the extent that such owner has not otherwise been reimbursed.".

SEC. 260. Section 2 of the Act of August 31, 1922, as amended (7 U.S.C. 282), is amended to read as follows:

"Sec. 2. A person who violates a provision of section 1 of this Act or a regulation issued under this Act is guilty of a Class A misdemeanor.".

SEC. 261. The Cotton Statistics and Estimates Act, as amended (7 U.S.C. 471 et seq.), is amended as follows:

(a) The second sentence of section 2 (7 U.S.C. 472) is amended by deleting "misdemeanor and shall, upon conviction thereof, be fined not less than $300 or more than $1,000, or imprisoned for a period of not exceeding one year, or both so fined and imprisoned, at the discretion of the court" and inserting in lieu thereof "Class B misdemeanor".

(b) The last sentence of section 3 (7 U.S.C. 473) is amended to read as follows:

"An owner, president, treasurer, secretary, director, or other officer or agent of a cotton warehouse, cotton ginnery, cotton mill, or other place or establishment where cotton is stored, or an owner or holder of cotton or the agent or representative of any such owner or holder, who, under the conditions hereinbefore stated, refuses or knowingly neglects to furnish information herein provided for or refuses to allow agents or employees of the Department of Agriculture to examine or classify cotton in store in any such establishment, or in the hands of an owner or holder or of the agent or representative of any such owner or holder, is guilty of an infraction.".

(c) Section 3c–1, as added by the Act of July 5, 1960 (7 U.S.C. 473c–1) is amended:

(1) by deleting ", or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as a sampler" in subsection (a);

(2) by deleting subsection (b);

(3) by deleting "or cause to be altered" in subsection (c); and

(4) by deleting ", or attempt to cause," in subsection (d).

(d) Section 3c–2, as added by the Act of July 5, 1960 (7 U.S.C. 473c–2), is amended to read as follows:

"SEC. 3c–2. A person who violates a provision of section 3c–1 of this Act is guilty of a Class A misdemeanor.".

SEC. 262. Section 1 of the Act of March 3, 1927 (7 U.S.C. 491), is amended:

(a) by deleting the words "firm, association, or corporation" the first time they appear;

(b) by deleting the words ", or through collusion with any person"; and

(c) by deleting "misdemeanor and upon conviction shall be punished by a fine of not less than $100 and not more than $3,000, or by imprisonment for a period of not exceeding one year, or both, at the discretion of the court" and inserting in lieu thereof "Class A misdemeanor".

SEC. 263. The Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. 499a et seq.), is amended as follows:

(a) Section 3(a), as amended (7 U.S.C. 499c(a)), is amended by deleting the word "offense" and inserting in lieu thereof the word "violation", and by deleting the word "willful" and inserting in lieu thereof the word "knowing".

(b) Section 8(a), as amended (7 U.S.C. 499h(a)), is amended by adding after the words "having violated" the words "or solicited the violation of".

(c) Section 14(b), as amended (7 U.S.C. 499n(b)), is amended to read as follows:

"(b) Whoever falsely issues, forges, or counterfeits a certificate of inspection issued under authority of this Act, the Produce Agency Act of March 3, 1927 (7 U.S.C. sec. 491–497), or an Act making appropriations for the Department of Agriculture, or utters or publishes as true a false, forged, altered, or counterfeited certificate, for a fraudulent purpose, is guilty of a Class A misdemeanor.".

SEC. 264. Section 3 of the Act of January 14, 1929, as amended (7 U.S.C. 503), is amended by deleting the last sentence and inserting in lieu thereof: "A person required by this Act to furnish a report who refuses or knowingly neglects to furnish any of the information required by this Act is guilty of a Class A misdemeanor.".

SEC. 265. The Tobacco Inspection Act (7 U.S.C. 511 et seq.), is amended as follows:

(a) Section 10 (7 U.S.C. 511i) is amended:

(1) by deleting in subsection (b) the words ", or aid, cause, procure, or assist in or be a party to the false making, issuing, altering, forging, or counterfeiting of";

(2) by deleting in subsection (d) ", or to issue any false certificate under this Act, or to accept money or other consideration, directly or indirecly, for any neglect or improper performance of duty as an inspector, sampler, or weigher";

(3) by deleting subsections (e) and (f);

(4) by deleting in subsection (g) ", or attempt to substitute,";

(5) by deleting in subsection (h) "or for any person knowing that tobacco has been so loaded, packed, or arranged to offer it for inspection or sampling without disclosing such knowledge to the inspector or sampler before inspection or sampling"; and

(6) by deleting in subsection (i) the world "willfully" and inserting in lieu thereof the word "knowingly".

(b) Section 12 (7 U.S.C. 511k) is amended to read as follows:

"SEC. 12. That a person who violates a provision of section 5 or 10 of this Act is guilty of a Class A misdemeanor.".

SEC. 266. Section 2 of the Act of June 5, 1940 (7 U.S.C. 517), is amended to read as follows:

"SEC. 2. A person who violates a provision of this Act is guilty of a Class A misdemeanor.".

SEC. 267. The last sentence of section 6 of the Act of June 10, 1933 (7 U.S.C. 586), is amended to read as follows: "A person who violates a provision of this Act is guilty of an

infraction, except that the maximum fine for an individual shall be $10,000 or the maximum fine available under section 2201 (c) of title 18, United States Code, which ever is higher.".

SEC. 268. The last sentence of section 6 of the Act of September 2, 1960 (7 U.S.C. 596), is amended to read as follows:

"A person who violates a provision of this Act is guilty of an infraction, except that the maximum fine for an individual shall be $10,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

SEC. 269. The Agricultural Adjustment Act, as amended (7 U.S.C. 601 et seq.), is amended as follows:

(a) Section 8c(14), as added by section 5 of the Act of August 24, 1935, reenacted by the Act of June 3, 1937, and amended (7 U.S.C. 608c(14)), is amended to read as follows:

"Violation of Order

"(14) A handler subject to an order issued under this section or an officer, director, agent, or employee of such handler who violates a provision of the order (other than a provision calling for payment of a pro rata share of expenses) is guilty of an infraction, and each day that such violation continues is a separate offense. It is a defense that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, and the defendant shall have an affirmative defense under this subsection for offenses which occurred between the date upon which the defendant's petition was filed with the Secretary and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15).".

(b) The last sentence of section 8d(2), as added by section 6 of the Act of August 24, 1935, and amended (7 U.S.C. 608d(2)), is amended by deleting "upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both" and inserting in lieu thereof "be guilty of a Class B misdemeanor".

(c) The last sentence of section 8e, as added by section 401(e) of the Act of August 28, 1954, and amended (7 U.S.C. 608e-1), is amended to read as follows: "A person who violates a provision of this section or of a rule, regulation, or order promulgated hereunder, is subject to a forfeiture in the amount prescribed in section 8a(5) or to the sentence prescribed for an offense covered by section 8c(14) of the Act, or to both the forfeiture and sentence.".

(d) Section 10, as reenacted by the Act of June 3, 1937, and amended (7 U.S.C. 610), is amended:

(1) by adding the word "civil" before the word "penalty" in subsection (c); and

(2) by amending the last sentence of subsection (g) to read: "A person who violates this subsection is guilty of a Class A misdemeanor.".

(e) Subsections (b-3) (1) through (3) of section 15, as amended (7 U.S.C. 615(b-3) (1) through (3)), are repealed.

(f) Section 20, as added by section 16 of the Act of May 9, 1934 (7 U.S.C. 620), is repealed.

SEC. 270. The last sentence of section 3 of the Act of June 24, 1936, as amended (7 U.S.C. 953), is amended to read as follows: "A person required by this Act, or the regulations promulgated thereunder, to furnish reports or information, and an officer, agent, or employee thereof, who refuses to give reports or information is guilty of a Class A misdemeanor.".

SEC. 271. The Sugar Act of 1948, as amended (7 U.S.C. 1100 et seq.), is amended as follows:

(a) Section 403(a) (7 U.S.C. 1153(a)) is amended by deleting the last sentence and inserting in lieu thereof: "A person who knowingly violates an order or regulation issued pursuant to this Act is guilty of an infraction.".

(b) The last sentence of section 406 (7 U.S.C. 1156) is amended to read: "A person who knowingly fails or refuses to furnish the information is guilty of an infraction.".

(c) Section 407, as amended (7 U.S.C. 1157), is amended by deleting the second sentence and inserting in lieu thereof: "A person who violates this section is guilty of a Class A misdemeanor.".

SEC. 272. The Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), is amended as follows:

(a) The last sentence of section 373(a), as amended (7 U.S.C. 1373(a)), is amended to read: "A person who fails to make a report or keep a record required by this subsection is guilty of an infraction, except that a knowing violation of this subsection is a Class B misdemeanor. An offense shall be deemed to have been committed knowingly if the person fails to remedy a violation by keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of the violation. Notice of the violation shall be served upon the person by mailing the same to him by registered mail or by posting the same at any established place of business operated by him, or both.".

(b) Section 379i, as added by section 324(2) of the Act of September 27, 1962, and amended (7 U.S.C. 1379i), is amended:

(1) by amending subsection (b) to read as follows:

"(b) A person, except a producer in his capacity as a producer, who knowingly violates a provision of this subtitle, or of a regulation, governing the acquisition, disposition, or handling of marketing certificates or who knowingly fails to make a report or keep a record required by section 379h is guilty of an infraction, except that the maximum fine for an individual shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher."; and

(2) by deleting subsection (d).

(c) Section 380o(a), as added by section 501(3) of the Act of May 28, 1956 (7 U.S.C. 1380o(a)), is amended by deleting "or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $2,000 for each such violation" and inserting in lieu thereof "is guilty of an infraction except that the maximum fine for an individual shall be $2,000".

(d) Secton 386 (7 U.S.C. 1386) is amended by deleting "sections 114 and 115 of the Criminal Code of the United States (U.S.C., 1934 edition, title 18, secs. 204 and 205)" and inserting in lieu thereof "sections 9110 and 9111 of title 5, United States Code,".

SEC. 273. Section 4 of the Act of September 21, 1959, as amended (7 U.S.C. 1427 note), is amended by deleting "misdemeanor and upon conviction thereof shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year" and inserting in lieu thereof "Class A misdemeanor".

SEC. 274. Section 421 of the Agricultural Act 1949, as added by section 2 of the Act of September 11, 1964 (7 U.S.C. 1433), is amended by deleting the words "misdemeanor and upon conviction thereof shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year" and inserting in lieu thereof "Class A misdemeanor".

SEC. 275, The Federal Seed Act, as amended, is amended as follows:

(a) Section 406(a), as amended (7 U.S.C. 1596(a)), is amended to read as follows:

"(a) A person who engages in conduct which recklessly violates a provision of this Act or the rules and regulations promulgated thereunder is guilty of an infraction. Conviction of a subsequent offense is punishable as a Class B misdemeanor.".

(b) Section 408 (7 U.S.C. 1598) is amended by deleting "prevent" and insert in lieu thereof "present".

SEC. 276. Section 203(h) of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622(h)), is amended by deleting the last sentence and inserting in lieu thereof: "Whoever knowingly falsely issues, forges, or counterfeits an official certificate, memorandum, mark, or other identification, or device for making such mark or identification, with respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized under this section, or whoever knowingly possesses, without promptly notifying the Secretary of Agriculture or his representative, or utters, publishes, or uses as true, any such falsely made, altered, forged, or counterfeited official certificate, memorandum, mark, identification, or device, or whoever knowingly represents that an agricultural product has been officially inspected or graded (by an authorized inspector or grader) under the authority of this section when such commodity has in fact not been so graded or inspected, is guilty of a Class A misdemeanor.".

SEC. 277. Section 3 of the Act of August 27, 1958 (7 U.S.C. 1903), is amended by deleting the last sentence and inserting in lieu thereof: "After June 30, 1960, each supplier from which livestock products are procured by an agency of the Federal Government shall be required by the agency to make a statement of eligibility under this section to supply the livestock products.".

SEC. 278. The last sentence of section 336 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1986) is amended to read: "A person who violates a provision of this section is guilty of a Class A misdemeanor.".

SEC. 279. The Food Stamp Act of 1964, as amended (7 U.S.C. 2011 et seq.), is amended as follows:

(a) Section 6, as amended (7 U.S.C. 2015), is amended:

(1) by amending subsection (b)(2) to read as follows:

"(2) A person who fails to provide a report required under paragraph (1) of this subsection is guilty of a Class A misdemeanor.";

(2) by repealing subsection (b)(3); and

(3) by amending subsection (c)(2) to read as follows:

"(2) A person who violates a regulation issued under paragraph (1) of this subsection is guilty of a Class A misdemeanor.".

(b) Section 7(d), as amended (7 U.S.C. 2016(d)), is amended:

(1) by amending paragraph (2)(B) to read as follows:

"(B) A person who violates the regulations issued under subparagraph (A) of this paragraph is guilty of a Class A misdemeanor.";

(2) by amending paragraph (3)(B) to read as follows:

"(B) A person who violates subparagraph (A) of this paragraph commits an unlawful act that is an offense described in section 1731 of title 18, United States Code.";

(3) by amending paragraph (4)(B) to read as follows:

"(B) A person who fails to provide the notice required under subparagraph (A) of this paragraph is guilty of a class A misdemeanor.";

(4) by repealing paragraph (4)(C);

(5) by amending paragraph (5)(B) to read as follows:

"(B) A person who fails to provide any notice required under subparagraph (A) of this paragraph is guilty of a class A misdemeanor."; and

(6) by repealing paragraph (5)(C).

(c) Section 14, as amended (7 U.S.C. 2023), is amended:

(1) by amending subsection (b) to read as follows:

"(b) Whoever knowingly uses, transfers, acquires, or possesses coupons or authorization to purchase cards in a manner not authorized by this Act or the regulations issued pursuant to this Act is guilty of a class A misdeameanor."; and

(2) by repealing subsections (c) and (d).

SEC. 280. The Farm Labor Contract Registration Act of 1963, as amended (7 U.S.C. 2041 et seq.), is amended as follows:

(a) Section 5(b)(7) (7 U.S.C. 2044(b)(7)) is amended to read as follows:

"(7) has been convicted of a crime under State or Federal law relating to gambling or to the sale, distribution, or possession of alcoholic liquors in connection with or incident to his activities as a farm labor contractor; or has been convicted of a crime under State or Federal law involving robbery, bribery, felonious theft, burglary, arson, drug felony, murder, rape, attempted murder, maiming, aggravated battery, or prostitution;"

(b) Section 9, as amended (7 U.S.C. 2048), is amended:

(1) by amending the first sentence of subsection (a) to read as follows: "A farm labor contractor or employee thereof who knowingly violates a provision of this Act is guilty of a class A misdemeanor, except that a second or subsequent offense is a class E felony"; and

(2) by repealing subsection (c).

SEC. 281. The Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.) is amended as follows:

(a) The last sentence of section 6(c) (7 U.S.C. 2105(c)) is amended by deleting "shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both" and inserting in lieu thereof "is guilty of a class B misdemeanor".

(b) Section 13(b) (7 U.S.C. 2112(b)) is amended by deleting the word "willfully" wherever it appears and inserting in lieu thereof the word "knowingly", and by deleting the word "offense" and inserting in lieu thereof the word "violation".

SEC. 282. The Animal Welfare Act, as amended (7 U.S.C. 2131 et seq.), is amended as follows:

(a) Section 16, as amended (7 U.S.C. 2146), is amended:

(1) by repealing subsection (b); and

(2) by deleting in subsection (c) ", and the provisions of Title II of the Organized Crime Control Act of 1970 (62 Stat. 856; 18 U.S.C. 6001 et seq.),".

(b) Section 19, as amended (7 U.S.C. 2149), is amended:

(1) by deleting the word "offense" in subsection (b) each time it appears and inserting in lieu thereof "violation";

(2) by deleting the words "shall, on conviction thereof, be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both" in the first sentence of subsection (d) and inserting in lieu thereof the words "is guilty of a Class A misdemeanor"; and

(3) by deleting "sections 3401 and 3402" in the second sentence of subsection (d) and inserting in lieu thereof "section 3302".

(c) Section 26(e), as added by section 17 of the Animal Welfare Act Amendments of 1976 (7 U.S.C. 2156(e)), is amended to read as follows:

"(e) Any person who violates subsection (a), (b), or (c) is guilty of a Class A misdemeanor.".

SEC. 283. That part of the matter under the headings "MISCELLANEOUS" contained in the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1920", approved July 24, 1919, comprising the last paragraph beginning on page 270 of volume 41, United States Statutes at Large, as amended by section 5 of the Act of September 3, 1954 (68 Stat. 1227; 7 U.S.C. 2220), is amended by deleting "section 1914 of title 18" and inserting in lieu thereof "section 9108 of title 5".

SEC. 284. Section 128(b) of the Plant Variety Protection Act (7 U.S.C. 2568(b)) is amended by deleting the words "shall be fined not more than $10,000 and not less than $500" and inserting in lieu thereof "is guilty of an infraction, except that the maximum fine for an individual is $10,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher".

SEC. 285. The Potato Research and Promotion Act (7 U.S.C. 2611 se seq.), is amended as follows:

(a) The last sentence of section 310(c) (7 U.S.C. 2619(c)) is amended by deleting "shall upon conviction be subject to a fine of not more than $1,000 or imprisonment for not more than one year, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

(b) Section 312(b) (7 U.S.C. 2621(b)) is amended:

(1) by deleting "criminal prosecution and shall be fined" and inserting in lieu thereof "a civil penalty of"; and

(2) by deleting "offense" and inserting in lieu thereof "violation".

(c) Section 313 (7 U.S.C. 2622) is amended:

(1) by repealing subsection (b); and

(2) by deleting the designation "(a)" at the beginning of the section.

SEC. 286. The Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) is amended as follows:

(a) Section 7(c) (7 U.S.C. 2706(c)) is amended by deleting ", upon conviction, be subjected to a fine of not more than $1,000 or to imprisonment for not more than one year, or both" and inserting in lieu thereof "be guilty of a Class B misdemeanor".

(b) Section 15(b) (7 U.S.C. 2714(b)) is amended:

(1) by deleting the word "willfully" whenever it appears and inserting in lieu thereof "knowingly";

(2) by adding before the word "penalty" the word "civil"; and

(3) by deleting the word "offense" and inserting in lieu thereof "violation".

SEC. 287. Section 8 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2807) is amended to read as follows:

"SEC. 8. A person who knowingly violates section 4 or 5 of this Act, or a regulation promulgated under this Act, is guilty of a Class A misdemeanor.".

SEC. 288. The Beef Research and Information Act (7 U.S.C. 2901 et seq.) is amended as follows:

(a) Section 7(c) (7 U.S.C. 2906(c)) is amended by deleting the words "shall, upon conviction, be subjected to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both" and inserting in lieu thereof the words "is guilty of a Class B misdemeanor".

(b) Section 14(b) (7 U.S.C. 2913(b)) is amended by deleting "willfully" wherever it appears and inserting in lieu thereof "knowingly".

PART F—AMENDMENTS RELATING TO ALIENS AND NATIONALITY, TITLE 8, UNITED STATES CODE

SEC. 293. The Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), is amended as follows:

(a) Section 106, as added by section 5(a) of the Act of September 26, 1961 (8 U.S.C. 1105a), is amended:

(1) by adding after the words "violation of subsection (d) or (e) of section 242 of this Act" each time they appear in subsection (a)(6) the words ", or of section 1331, 1332, 1333, or 1334 of title 18, United States Code, if the offense relates to proceedings under section 242 of this Act,"; and

(2) by adding after the words "subsection (d) and (e) of section 242 of this Act" in subsection (a)(7) the words "and with sections 1331, 1332, 1333, and 1334 of title 18, United States Code, if the offense relates to proceedings under section 242 of this Act".

(b) Section 212, as amended (8 U.S.C. 1182), is amended:

(1) by amending the second sentence of subsection (a)(9) to read: "An alien who would be excludable because of the conviction of an offense for which the sentence actually imposed did not exceed a period of six months, or who would be excludable as one who admits the commission of an offense for which a sentence not to exceed one year imprisonment or both, might have been imposed upon him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided*, That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense.";

(2) by deleting "willfully misrepresenting a material fact" in subsection (a)(19) and inserting in lieu thereof "knowingly making a material statement that is false"; and

(3) by adding "or false statement" after the word "perjury" in subsection (1).

(c) Section 215 (8 U.S.C. 1185) is amended:

(1) by deleting "or attempt to depart from or enter" in subsection (a)(1);

(2) by deleting "or attempt to transport" in subsection (a)(2);

(3) by deleting subsection (a)(3);

(4) by deleting "or attempt to furnish" in subsection (a)(4);

(5) by deleting "or attempt to use" in subsection (a)(5);

(6) by repealing subsection (a)(6);

(7) by amending subsection (a)(7) to read as follows:

"(7) for any person to use or furnish to another for use any permit or evidence of permission which, though originally valid, has become or been made void or invalid";

(8) by deleting ", or attempt to depart from or enter," in subsection (b);

(9) by amending subsection (c) to read as follows:

"(c) A person who knowingly violates a provision of this section, or of an order or proclamation of the President promulgated, or of a permit, rule, or regulation issued thereunder, is guilty of a Class A misdemeanor, unless the offense is an offense described in section 1211 (unlawfully entering the United States as an alien), 1212 (smuggling an alien into the United States), or 1215 (fraudulently acquiring or improperly using evidence of citizenship) of title 18, United States Code. A vehicle, vessel, or aircraft together with its appurtenances, equipment, tackle, apparel, and furniture concerned in a violation of this section shall be forfeited to the United States.".

(d) Section 233(d) (8 U.S.C. 1223(d)) is amended to read as follows:

"(d) A person who refuses or fails to comply with the provisions of this section is subject to the civil penalties provided in section 237(b) of this Act.".

(e) The last sentence of section 237(b) (8 U.S.C. 1227(b)) is amended by deleting "fine" wherever it appears and inserting in lieu thereof "civil penalty".

(f) Section 241, as amended (8 U.S.C. 1251), is amended:

(1) by adding after "violation of this chapter" in subsection (a)(2) the words "or of section 1211, 1215, or 1216 of title 18, United States Code,";

(2) by amending subsection (a)(5) to read as follows:

"(5) has failed to comply with the provisions of section 265 unless he establishes to the satisfaction of the Attorney General that such failure was excusable or was not intentional or has been convicted under any of the following provisions or an amendment or predecessor thereto: section 1301, 1341 or 1343 of title 18, United States Code, with

regard to an application for registration as required under section 262 of this title and the provisions cited therein or with regard to an immigrant or nonimmigrant visa, permit or other document for entry into the United States, or under section 36(c) of the Alien Registration Act, 1940, or has been convicted of violating or conspiracy to violate a provision of the Act entitled 'An Act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States and for other purposes', approved June 8, 1938, as amended, or section 1126 of title 18, or has been convicted under section 1211 or 1215 of title 18, or has been convicted under section 1741, 1742, 1743, or 1744 of title 18, if the offense involved a written instrument which is or purports to be an immigrant or nonimmigrant visa, permit, or other document for entry into the United States, or under section 1744 of title 18, if the offense involved a counterfeiting implement designed for or suited for making a counterfeited immigrant or nonimmigrant visa, permit, or other document for entry into the United States;";

(3) by repealing subsection (a) (6) (E);

(4) by deleting "(and did not thereafter and prior to the date upon which such organization was registered or required to be registered under section 7 the Subversive Activities Control Act of 1950 have such knowledge or reason to believe)" in subsection (a) (7);

(5) by deleting "title I of the Alien Registraction Act, 1940" in subsection (a) (15) and (16) and inserting in lieu thereof "section 1126 of title 18, United States Code, or attempting to violate that provision"; and

(6) by amending subsection (a) (17) to read as follows:

"(17) the Attorney General finds to be an undesirable resident of the United States because he has been convicted of a violation or conspiracy to violate a provision of any of the following or an amendment or predecessor thereto, the judgment on the conviction having become final: section 1101, 1102, 1111, 1112, 1114, 1117, 1121, 1122, 1123, 1124, or 1201 of title 18, United States Code; section 1311 (a) (1) (A) of title 18, United States Code, if the person who is harbored or concealed or whose identity is concealed has committed, or is charged with or being sought for, an offense under section 1111, 1112, 1121, 1122, 1123, or 1124 of title 18; or section 1614, 1615, or 1616 of title 18, if the victim of the offense is the President or a successor to the presidency, as defined in section 111 of this title 18; an Act entitled 'An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes', approved June 15, 1917, or the amendment thereof approved May 16, 1918; section 215 of this Act; and Act entitled 'An Act to authorize the President to increase temporarily the Military Establishment of the United States', approved May 18, 1917, or any amendment thereof or supplement thereto; the Selective Training and Service Act of 1940; the Selective Service Act of 1948; the Universal Military Training and Service Act; the Trading With the Enemy Act; or".

(g) Section 242, as amended (8 U.S.C. 1252), is amended:

(1) by deleting the last sentence of subsection (d) and inserting in lieu thereof: "An alien who knowingly fails to comply with a regulation, or knowingly fails to submit to medical or psychiatric examination, or knowingly violates a reasonable restriction imposed upon his conduct or activity, is guilty of a Class A misdemeanor.";

(2) by deleting "willfully" whenever it appears in the first sentence of subsection (e) and inserting in lieu thereof "knowingly"; and

(3) by deleting "upon conviction be guilty of a felony, and shall be imprisoned not more than ten years" in the first sentence of subsection (e) and inserting in lieu thereof "be guilty of an offense under section 1211 (a) (4) of title 18, United States Code".

(h) Section 246(b) (8 U.S.C. 1256(b)) is amended by deleting "willful" and inserting in lieu thereof "knowing".

(i) Section 251(d) (8 U.S.C. 1281(d)) is amended by deleting "fine" whenever it appears and inserting in lieu thereof "civil penalty".

(j) Section 252(c) (8 U.S.C. 1882(c)) is amended to read as follows:

"(c) An alien crewman who knowingly remains in the United States in excess of the number of days allowed in a conditional permit issued under subsection (a) of this section, is guilty of a Class B misdemeanor.".

(k) Section 254(a) (8 U.S.C. 1284(a)) is amended by deleting "fine" wherever it appears and inserting in lieu thereof "civil penalty".

(l) Section 255 (8 U.S.C. 1285) is amended by deleting "fine" in the last sentence and inserting in lieu thereof "civil penalty".

(m) Section 256 (8 U,S,C. 1286) is amended by deleting "fine" in the last sentence and inserting in lieu therof "civil penalty".

(n) The last sentence of section 264(e) (8 U.S.C. 1304(e)) is amended by deleting "misdemeanor and shall upon conviction for each offense be fined not to exceed $100 or be imprisoned not more than thirty days, or both" and inserting in lieu thereof "Class C misdemeanor".

(o) Section 266 (8 U.S.C. 1306) is amended to read as follows:

"PENALTIES

"SEC. 266. (a) An alien required to apply for registration and to be fingerprinted in the United States who knowingly fails or refuses to make such application or to be fingerprinted, and a parent or legal guardian required to apply for the registration of an alien who knowingly fails or refuses to file application for the registration of such alien is guilty of a Class B misdemeanor.

"(b) An alien or a parent or legal guardian in the United States of an alien who fails to give written notice to the Attorney General, as required by section 265 of this Act, is guilty of a Class C misdemeanor. Irrespective of whether an alien is convicted and punished as herein provided, an alien who fails to give written notice to the Attorney General, as required by section 265, shall be taken into custody and deported in the manner provided by chapter 5 of this title, unless such alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not reckless.

"(c) An alien convicted of filing an application for registration containing statements known by him to be false, or of procuring or attempting to procure registration of himself or another person through fraud, shall, upon the warrant of the Attorney General, be taken into custody and be deported in the manner provided in chapter 5 of this title.

"(d) The Attorney General may prescribe rules and regulations concerning when a person may photograph, print, or in any manner make or execute an engraving, print, or impression in the likeness of a certificate of alien registration or an alien registration receipt card or a colorable imitation thereof.".

(p) Section 272, as amended (8 U.S.C. 1322), is amended:

(1) by deleting "fine" in subsection (c) and inserting in lieu thereof "civil penalty";

(2) by deleting "fines" wherever it appears in subsection (c) and inserting in lieu thereof "civil penalties"; and

(3) by deleting "fine" in subsection (d) and inserting in lieu thereof "civil penalty".

(q) Section 273(d) (8 U.S.C. 1323(d)) is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

(r) Sections 274 to 278 (8 U.S.C. 1324 to 1328) are repealed.

(s) Section 279 (8 U.S.C. 1329) is amended by deleting "section 275 or 276" and inserting in lieu thereof "section 1211 of title 18, United States Code,".

(t) Section 280 (8 U.S.C. 1330) is amended by deleting "fine,".

SEC. 294. The paragraph in section 1 of the Sundry Civil Expenses Appropriation Act for the fiscal year ending June 30, 1922 (March 4, 1921, 41 Stat. 1367), which constitutes the second paragraph on page 1424 of volume 41 of the Statutes at Large, as amended (8 U.S.C. 1353c), is amended by deleting "1914 of Title 18" and inserting in lieu thereof "9108 of title 5".

SEC. 295. The Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), is amended as follows:

(a) Section 286(b) (8 U.S.C. 1356(b)) is amended by deleting "fines and".

(b) Section 287(b) (8 U.S.C. 1357(b)) is amended by deleting "; and any person to whom such oath has been administered (or who has executed as unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) under the provisions of this Act, who shall knowingly or willfully give false evidence or swear (or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code) to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621, title 18, United States Code".

(c) Section 340, as amended (8 U.S.C. 1451), is amended:

(1) by deleting "willful" wherever it appears in subsection (a) and inserting in lieu thereof "knowing";

(2) by deleting "willful" in subsection (b) and inserting in lieu thereof "knowing";

(3) by deleting "willful" in subsection (c) and inserting in lieu thereof "knowing";

(4) by deleting "willful" in subsection (d) and inserting in lieu thereof "knowing";

(5) by deleting "willful" wherever it appears in subsection (f) and inserting in lieu thereof "knowing";

(6) by deleting "section 1425" in subsection (g) and inserting in lieu thereof "section 1215"; and

(7) by adding after the words "violation of law," in subsection (g) the words "or under section 1301, 1341, 1343, 1741, 1742, or 1743 of title 18 if the offense involves procuring naturalization,".

(d) Section 349(a)(9), as amended (8 U.S.C. 1481(a)(9)), is amended by deleting the words "section 2383 of title 18, United States Code, or willfully performing any act in violation of section 2385 of title 18, United States Code, or violating section 2384 of said title by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them" and inserting in lieu thereof the words "section 1101 or 1102 of title 18".

(e) (1) Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end thereof the following new sections:

"FALSE REPRESENTATION OF CITIZENSHIP

"SEC. 361. Whoever knowingly misrepresents himself to be a citizen of the United States is guilty of a Class A misdemeanor.

"SALE OF NATURALIZATION OR CITIZENSHIP PAPERS

"SEC. 362. Whoever knowingly and in violation of law sells or disposes of a declaration of intention to become a citizen, certificate of naturalization, certificate of citizenship or copies or duplicates or other documentary evidence of naturalization or citizenship, is guilty of a Class A misdemeanor.

"SURRENDER OF CANCELED NATURALIZATION CERTIFICATE

"SEC. 363. Whoever, having in his possession or control a certificate of naturalization or citizenship or a copy thereof which has been canceled as provided by law, fails to surrender the same after at least sixty days' notice by the appropriate court or the Commissioner or Deputy Commissioner of Immigration, is guilty of a Class A misdemeanor.".

(2) The analysis at the beginning of the Act is amended by adding after the item for section 360 the following new items:

"361. False representation of citizenship.

"362. Sale of naturalization or citizenship papers.

"363. Surrender of canceled naturalization certificate.".

PART G—AMENDMENTS RELATING TO ARMED FORCES, TITLE 10, UNITED STATES CODE

SEC. 301. (a)(1) Section 1385 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 127 of title 10, United States Code, and amended to read as follows:

"§ 127. Use of Army, Navy, or Air Force as posse comitatus

"Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, knowingly uses any part of the Army, Navy, or Air Force as a posse comitatus or otherwise to execute the laws is guilty of a class A misdemeanor. Nothing in this section shall be construed to affect the law enforcement functions of the United States Coast Guard.".

(2) Section 593 of title 18, United States Code, as it existed the day before the effective date of this Act, is reenacted and redesignated as section 128 of title 10, United States Code, and amended to read as follows:

"§ 128. Interference by Armed Forces in elections

"Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes, whether by proclamation, order, or otherwise, the qualifications of voters at any election in any State; or

"Whoever, being such officer or member, orders or compels an election officer in any State to receive a vote from a person not legally qualified to vote; or

"Whoever, being such officer or member, imposes any regulations for conducting any general or special election in a State different from those prescribed by law; or

"Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties;

"Is guilty of a Class A misdemeanor.

"This section shall not prevent an officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district.".

(3) The analysis at the beginning of chapter 3 of title 10, United States Code, is amended by adding at the end thereof the following new items:

"127. Use of Army, Navy, and Air Force as posse comitatus.

"128. Interference by Armed Forces in elections.".

(b) Chapter 45 of title 10, United States Code, is amended as follows:

(1) Section 772(f) is amended by deleting "if the portrayal does not tend to discredit that armed force".

(2) Section 244 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 775 of title 10, United States Code, and amended to read as follows:

"§ 775. Discrimination against person wearing uniform of Armed Forces

"Whoever, being a proprietor, manager, or employee of a theater or other public place of entertainment or amusement, knowingly discriminates against a person wearing the uniform of an armed force of the United States because of that uniform, is guilty of a class A misdemeanor.".

(3) Section 702 of title 18 United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 776 of title 10, United States Code, and amended to read as follows:

"§ 776. Unauthorized use of uniform of Armed Forces

"Whoever, in any place within the jurisdiction of the United States or in the Canal Zone, without authority, knowingly wears the uniform or a distinctive part thereof or anything similar to a distinctive part of the uniform of any of the Armed Forces of the United States, or any auxiliary of such, is guilty of a Class B misdemeanor.".

(4) The analysis at the beginning of the chapter is amended by adding at the end thereof the following new items:

"775. Discrimination against person wearing uniform of Armed Forces.

"776. Unauthorized use of uniform of Armed Forces.".

(c) Chapter 47 of title 10, United States Code, is amended:

(1) by repealing section 847; and

(2) by amending the item relating to section 847 in the analysis at the beginning of subchapter VII to read as follows:

"847. Repealed.".

(d)(1) Section 704 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 1127 of title 10, United States Code, and amended:

(A) by deleting "Military" in the caption and inserting in lieu thereof "Unauthorized wearing, manufacture, or sale of military"; and

(B) by deleting "shall be fined not more than $250 or imprisoned not more than six months, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

(2) The analysis at the beginning of chapter 57 of title 10, United States Code, is amended by adding the following new item at the end thereof:

"1127. Unauthorized wearing, manufacture, or sale of military medals or decorations.".

(e)(1) Section 710 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 1489 of title 10, United States Code, and amended by deleting "shall be fined not more than $250 or imprisoned for not more than six months, or both" and inserting in lieu thereof "shall be subject to a civil penalty, recoverable in a civil suit brought in the name of the United States, of no more than $1,000 or twice the amount of personal injury or property damage caused by the violation, whichever is higher".

(2) The analysis at the beginning of chapter 75 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"1489. Cremation urns for military use.".

(f) Section 1551 of title 10, United States Code, is amended by deleting "a crime" and inserting in lieu thereof "an offense".

(g) Section 2276(c) of title 10, United States Code, is amended to read as follows:

"(c) Whoever intentionally deprives the United States of the benefit of a full and free competition under this chapter or of a full and free audit, so far as necessary to disclose the cost of executing the contract, of the books of a person carrying out a contract under this chapter is guilty of a Class A misdemeanor, except that the maximum fine for an individual shall be $20,000 or the maximum fine available under section 2201(c) of title 18, whichever is higher.".

(h) Section 816 of the Act of October 7, 1975 (10 U.S.C. 2304 note), is amended:

(1) by amending subsection (d)(4) to read as follows:

"(4) A person who knowingly performs an act prohibited, or knowingly fails to perform an act required, by paragraph (1) of this subsection, or a rule, regulation, or order issued under paragraph (2) of this subsection, is guilty of a Class A misdemeanor.";

(2) by amending the second sentence of subsection (d)(5) to read: "A person who knowingly violates this section is guilty of a Class B misdemeanor.";

(3) by deleting "willfully" in the last sentence of subsection (d)(5) and inserting in lieu thereof "knowingly";

(4) by deleting "shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both" in the last sentence of subsection (d)(5) and inserting in lieu thereof "is guilty of a Class B misdemeanor";

(5) by repealing subsection (d)(7);

(6) by deleting "willful" in subsection (e)(2) and inserting in lieu thereof "knowing";

(7) by amending subsection (f) to read as follows:

"(f) A person who knowingly discriminates as prohibited by subsection (b)(1) of this section is guilty of a Class A misdemeanor, except that the maximum fine for an individual is $100,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher."; and

(8) by deleting "willfully" in subsection (h)(1) and inserting in lieu thereof "knowingly".

(i) Section 2671(c) of title 10, United States Code, is amended by deleting "a like offense and is subject to a like punishment" and inserting in lieu thereof "an offense under section 1862 of title 18".

(j) Section 4501(f) of title 10, United States Code, is amended to read as follows:

"(f) Whoever fails to comply with this section is guilty of a Class A misdemeanor, except that the maximum fine for an individual shall be $50,000 or the maximum fine available under section 2201(c) of title 18, whichever is higher.".

(k) Section 7430(1) of title 10, United States Code, is amended:

(1) by deleting the word "or" at the end of paragraph (4);

(2) by deleting the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) section 1764 of title 18, United States Code.".

(l) Section 7678 of title 10, United States Code, is amended (1) by deleting "willfully does, or aids or advises in the doing of," and inserting in lieu thereof "knowingly does", and (2) by deleting "fined not more than $10,000 or imprisoned not more than five years, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor. Nothing in this section shall preclude prosecution for another federal offense.".

(m) Section 9501(f) of title 10, United States Code, is amended to read as follows:

"(f) Whoever fails to comply with this section is guilty of a Class A misdemeanor except that the maximum fine for an individual shall be $50,000 or the maximum fine available under section 2201(c) of title 18, whichever is higher.".

PART H—AMENDMENTS RELATING TO BANKRUPTCY, TITLE 11, UNITED STATES CODE

SEC. 311. The Bankruptcy Act of July 1, 1898, as amended (11 U.S.C. 1 et seq.), is amended as follows:

(a) Section 14.c(1), as amended (11 U.S.C. 32(c)(1)), is amended to read: "(1) committed offense proscribed by section 1735 of

title 18, United States Code, or, in relation to the bankruptcy proceeding, committed an offense proscribed by section 1321, 1322, 1323, 1341, 1342, 1343, 1344, 1351, or 1731 of title 18; or".

(b) Section 17, as amended (11 U.S.C. 35), is amended:

(1) by deleting "willful and malicious conversion of the property of another" in subsection a(2) and inserting in lieu thereof "theft";

(2) by deleting ", embezzlement, misappropriation, or defalcation" in subsection a(4) and inserting in lieu thereof "or theft";

(3) by deleting "willful" in subsection a(8) and inserting in lieu thereof "intentional"; and

(4) by deleting "conversion" subsection a(8) and inserting in lieu thereof "theft".

(c) The second sentence of section 20.b., as amended (11 U.S.C. 43(b)), is repealed.

(d) Section 39, as amended (11 U.S.C. 67), is amended by adding at the end thereof the following new subsection:

"(d). Whoever knowingly acts as a referee in a case in which he is directly or indirectly interested; or

"Whoever, being a referee, knowingly purchases, directly or indirectly, any property of the estate of which he is such officer in a bankruptcy proceeding; or

"Whoever being such officer, knowingly refuses to permit a reasonable opportunity for the inspection of the documents and accounts relating to the affairs of estates in his charge by parties in interest when directed by the court to do so—

"Is guilty of an infraction, and shall forfeit his office, which shall thereupon become vacant.".

(e) Section 47, as amended (11 U.S.C. 75), is amended by adding at the end thereof the following new subsection:

"d. Whoever, being a receiver, custodian, trustee, marshal, or other officer of the court, knowingly purchases, directly or indirectly, any property of the estate of which he is such officer in a bankruptcy proceeding; or

"Whoever, being such officer, knowingly refuses to permit a reasonable opportunity for the inspection of the documents and accounts relating to the affairs of estates in his charge by parties in interest when directed by the court to do so—

"Is guilty of an infraction, and shall forfeit his office, which shall thereupon become vacant.".

(f) The following new sections are added after section 53 (11 U.S.C. 81):

"§ 54. Fee agreements in bankruptcy proceedings

"Whoever, being a party in interest, whether as a debtor, creditor, receiver, trustee or representative of any of them, or attorney for any such party in interest, in any receivership, bankruptcy or reorganization proceeding in any United States court or under its supervision, enters into any agreement, express or implied, with another such party in interest or attorney for another such party in interest, for the purpose of fixing fees or other compensation to be paid to any party in interest or to any attorney for any party in interest for services rendered in connection therewith, from the assets of the estate; or

"Whoever, being a judge of a court of the United States knowingly approves the payment of any fees or compensation so fixed—

"Is guilty of a Class A misdemeanor.

"§ 55. Bankruptcy investigations

"(a) Any referee, receiver, or trustee having reasonable grounds for believing that any violation of the bankruptcy laws or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans has been committed, or that an investigation should be had in connection therewith, shall report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed. Where one of such officers has made such report, the others need not do so.

"(b) The United States attorney thereupon shall inquire into the facts and report thereon to the referee, and if it appears probable that any such offense has been committed, shall without delay, present the matter to the grand jury, unless upon inquiry and examination he decides that the ends of public justice do not require investigation or prosecution, in which case he shall report the facts to the Attorney General for his direction.".

(g) Section 64, as amended (11 U.S.C. 104), is amended by deleting the words "Chapter 9 of Title 18 of the United States Code" both times they appear and inserting in lieu thereof the words "section 39(d), or 47(d), of this Act (11 U.S.C. 67(d), or 75(d), or under section 1735 of title 18, United States Code, or, in relation to the bankruptcy proceeding, under section 1321, 2223, 1323, 1341, 1342, 1343, 1399, 1351 or 1731 of title 18."

(h) The fourth paragraph of section 77(p), as added by section 1 of the Act of March 3, 1933, and amended (11 U.S.C. 205(p)), is amended to read as follows:

"A person who knowingly violates a provision of this subsection, or a rule or regulation made thereunder the violation of which is made unlawful, is guilty of a Class A misdemeanor.

PART I—AMENDMENTS RELATING TO BANKS AND BANKING, TITLE 12, UNITED STATES CODE

SEC. 321. OFFER OF LOAN OR GRATUITY TO BANK EXAMINER.—

Whoever, being an officer, director or employee of a bank which is a member of the Federal Reserve System or the deposits of which are insured by the Federal Deposit Insurance Corporation, or of any land bank, Federal land bank association or other institution subject to examination by a farm credit examiner, or of any small business investment company, makes or grants a loan or gratuity, to an examiner or assistant examiner who examines or has authority to examine such bank, corporation, or institution, is guilty of a Class A misdemeanor.

The provisions of this section and section 323 of this Act shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or insured banks, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve Agent, by a Federal Reserve bank or by the Federal Deposit Insurance Corporation, or appointed or elected under the laws of any State; but shall not apply to private examiners or assistant examiners employed only by a clearinghouse association or by the directors of a bank.

SEC. 322. ACCEPTANCE OF LOAN OR GRATUITY BY BANK EXAMINER.—

Whoever, being an examiner or assistant examiner of member banks of the Federal Reserve System or banks the deposits of which are insured by the Federal Deposit Insurance Corporation, or a farm credit examiner, or an examiner of small business investment companies, accepts a loan or gratuity from any bank, corporation, association or organization examined by him or from any person connected therewith, is guilty of a Class A misdemeanor.

SEC. 323. VOIDING TRANSACTIONS.—

In addition to any other remedies provided by law the President, or under regulations prescribed by him, the head of a department or agency involved, may declare void and rescind a contract, loan, grant, subsidy, license, right, permit, franchise, use, authority, privilege, benefit, certificate, ruling, decision, opinion, or rate schedule awarded, granted, paid, furnished, or published, or the performance of a service or transfer or delivery of any thing to, by or for an agency of the United States or officer or employee of the United States or person acting on behalf thereof, in relation to which there has been a final conviction for a violation of section 321 or 322 of this Act, or for a violation of section 1351, 1352, 1353, 1354, or 1355 of title 18, United States Code, if the offense involved a federal public servant who is an examiner described in section 321 or 322 of this Act.

SEC. 324. DISCLOSURE OF INFORMATION BY BANK EXAMINER.—

Whoever, being an examiner, public or private, discloses the names of borrowers or the collateral for loans of any member bank of the Federal Reserve System, or bank insured by the Federal Deposit Insurance Corporation, examined by him, to other than the proper officers of such bank, without first having obtained the express permission in writing from the Comptroller of the Currency as to a national bank, the Board of Governors of the Federal Reserve System as to a State member bank, or the Federal Deposit Insurance Corporation as to any other insured bank, or from the board of directors of such bank, except when ordered to do so by a court of competent jurisdiction, or by direction of the Congress of the United States, or either House thereof, or a committee of Congress of either House duly authorized shall be guilty of class B misdemeanor.

SEC. 325. DISCLOSURE OF INFORMATION BY FARM CREDIT EXAMINER.—

Whoever, being a farm credit examiner or any examiner, public or private, discloses the names of borrowers of any Federal land bank association or Federal land bank, or any organization examined by him under the provisions of the Farm Credit Act of 1971, to other than the proper officers of such institution or organization, without first having obtained express permission in writing from the Governor of the Farm Credit Administration or his designee or from the board of directors of such institution or organization, except when ordered to do so by a court of competent jurisdiction or by direction of the Congress of the United States or either House thereof, or any committee of Congress of either House duly authorized is guilty of a Class B misdemeanor.

SEC. 326. EXAMINER PERFORMING OTHER SERVICES.—

Whoever, being a national-bank examiner, Federal Deposit Insurance Corporation examiner, farm credit examiner, or an examiner for the Federal Reserve System, performs any other service, for compensation, for any bank or banking or loan association, or for any officer, director, or employee thereof, or for any person connected therewith in any capacity, is guilty of a Class A misdemeanor.

SEC. 327. MUTILATION OF NATIONAL BANK OBLIGATIONS.—

Whoever mutilates, cuts, defaces, disfigures, or perforates, or unites or cements together, or does any other thing to any bank bill, draft, note, or other evidence of debt issued by any national banking association, or Federal Reserve bank, or the Federal Reserve System, with intent to render such bank bill, draft, note, or other evidence of debt unfit to be reissued, is guilty of a Class B misdemeanor.

SEC. 328. RUMORS REGARDING FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION.—

Whoever knowingly makes, circulates, or transmits to another any statement or rumor, written, printed or by word of mouth, which is unutrue in fact and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of the Federal Savings and Loan Insurance poration, is guilty of a Class A misdemeanor.

SEC. 329. FALSE ADVERTISING OR MISUSE OF NAMES TO INDICATE FEDERAL AGENCY.—

Whoever, except as permitted by the laws of the United States, uses the words "national", "Federal", "United States"', "reserve", or "Deposit Insurance" as part of the business or firm name of a person, corporation, partnership, business trust, association or other business entity engaged in the bank-

ing, loan, building and loan, brokerage, factorage, insurance, indemnity, savings or trust business; or

Whoever falsely advertises or represents, or publishes or displays any sign, symbol or advertisement reasonably calculated to convey the impression that a nonmember bank, banking association, firm or partnership is a member of the Federal reserve system; or

Whoever, except as expressly authorized by Federal law, uses the words "Federal Deposit", "Federal Deposit Insurance", or "Federal Deposit Insurance Corporation" or a combination of any three of these words, as the name or a part thereof under which he or it does business, or advertises or otherwise represents falsely by any device whatsoever that his or its deposit liabilities, obligations, certificates, or shares are insured or guaranteed by the Federal Deposit Insurance Corporation, or by the United States or by any instrumentality thereof, or whoever falsely advertises that his or its deposits, shares, or accounts are federally insured, or falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which the deposit liabilities of an insured bank or banks are insured by the Federal Deposit Insurance Corporation; or

Whoever falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, or shares are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or, being an insured credit union as defined in that Act, falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which shareholdings in such credit union are insured under such Act; or

Whoever, not being an institution subject to the supervision of the Farm Credit Administration, advertises or represents that it makes Federal Farm loans or advertises or offers for sale as Federal Farm loan bonds any bond not issued under the Farm Credit Act of 1971 (12 U.S.C. 2001–2259) or uses the word "Federal" or the words "United States" or any other words implying Government ownership, obligation or supervision in advertising or offering for sale any bond, note, mortgage or other security not issued by the Government of the United States under the provisions of such Act or some other Act of Congress; or

Whoever uses the words "Federal Home Loan Bank" or any combination or variation of these words alone or with other words as a business name or part of a business name, or falsely publishes, advertises or represents by any device or symbol or other means reasonably calculated to convey the impression that he or it is a Federal Home Loan Bank or member of or subscriber for the stock of a Federal Home Loan Bank; or

Whoever uses the words "Federal intermediate credit bank" as part of the business or firm name for any person, corporation, partnership, business trust, association or other business entity not organized as an intermediate credit bank under the laws of the United States; or

Whoever uses as a firm or business name the words "Department of Housing and Urban Development", "Housing and Home Finance Agency", "Federal Housing Administration", "Government National Mortgage Association", "United States Housing Authority", or "Public Housing Administration" or the letters "HUD", "FHA", "PHA", or "USHA", or any combination or variation of those words or the letters "HUD", "FHA", "PHA", or "USHA" alone or with other words or letters reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely claims that any repair, improvement, or alteration of any existing structure is required or recommended by the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof, for the purpose of inducing any person to enter into a contract for the making of such repairs, alterations, or improvements, or falsely advertises or falsely represents by any device whatsoever that any housing unit, project, business, or product has been in any way endorsed, authorized, inspected, appraised, or approved by the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof—

Is guilty of a Class A misdemeanor.

This section shall not make unlawful the use of any name or title which was lawful on June 25, 1948.

This section shall not make unlawful use of the word "national" as part of the name of any business or firm engaged in the insurance or indemnity business, whether such firm was engaged in the insurance or indemnity business prior or subsequent to the date of enactment of this paragraph.

A violation of this section may be enjoined at the suit of the United States attorney, upon complaint by any duly authorized representative of any department or agency of the United States.

SEC. 330. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TRANSACTIONS.—

Whoever induces or influences the Department of Housing and Urban Development to purchase or acquire any property or to enter into a contract and knowingly fails to disclose any interest which he has in such property or in the property to which the contract relates, or any special benefit which he expects to receive as a result of such contract is guilty of a Class A misdemeanor.

SEC. 331. Section 5136A of the Revised Statutes, as added by section 1(a) of the Act of December 15, 1967 (12 U.S.C. 25a), is amended by adding at the end thereof the following new subsection:

"(f) Whoever knowingly violates a provision of this section or a regulation promulgated thereunder is guilty of a Class A misdemeanor."

SEC. 332. Section 5147 of the Revised Statutes, as amended (12 U.S.C. 73), is amended by deleting "willingly" and inserting in lieu thereof "knowingly".

SEC. 333. The second sentence of section 1(h) of the Act of September 28, 1962 (12 U.S.C. 92a(h)), is amended by deleting "may be fined not more than $5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court" and inserting in lieu thereof, "commits an unlawful act that is an offense described in section 1731 of title 18, United States Code."

SEC. 334. Section 5239 of the Revised Statutes, as amended (12 U.S.C. 93), is amended by adding after the words "of this Title" in the first sentence the words "or of section 327 or 328 of the Criminal Code Reform Act of 1977, or with respect to a national banking association, of section 1731 or 1743 of title 18, United States Code", and by deleting the words "Such violation" in the second sentence and inserting in lieu thereof "Grounds for forfeiture under this section".

SEC. 335 The second sentence of section 4 of the Act of March 9, 1933 (12 U.S.C. 95), is amended to read:

"Whoever violates this section is guilty of a Class A misdemeanor.".

SEC. 336. Section 5(b)(3) of the Trading With the Enemy Act, as amended (12 U.S.C. 95a(3)), is amended by deleting the last two sentence and inserting in lieu thereof: "Whoever knowingly violates a provision of this subdivision or of a license, order, rule or regulation issued thereunder, commits an unlawful act that is an offense described in section 1206 of title 18, United States Code.".

SEC. 337. Section 5172 of the Revised Statutes, as amended (12 U.S.C. 104), is amended by deleting "fraudulent alterations" and inserting in lieu thereof "forgery".

SEC. 338. The Bank Conservation Act, as amended (12 U.S.C. 201 to 211), is amended as follows:

(a) Section 209, as amended (12 U.S.C. 209), is amended by deleting "shall be subject to the provisions of and to the penalties prescribed by sections 334, 656, and 1005 of Title 18, United States Code; and sections 202, 216, 281, 431, 432 and 433 of such Title 18" and inserting in lieu thereof "shall be deemed to be agents or employees of the bank for purposes of the provisions of sections 1343, 1741, 1742, 1743, 1744, and 1751 of title 18; and sections 9101, 9110, 9111, and 9112 of title 5".

(b) The second sentence of section 211 (12 U.S.C. 211) is amended to read: "Whoever violates a rule or regulation made pursuant to this section is guilty of a Class A misdemeanor.".

SEC. 339. The Federal Reserve Act, as amended (12 U.S.C. 221 et seq.), is amended as follows:

(a) Paragraph 4 of section 9, as amended (12 U.S.C. 324), is amended by deleting "shall also be subject to the provisions of and to the penalties prescribed by sections 334, 656, and 1005 of Title 18, United States Code, and".

(b) Paragraph 7 of section 9, as amended (12 U.S.C. 327), is amended by adding after the words "made pursuant thereto," in the first sentence the words "or of section 1343, 1731, 1741, 1742, 1743, or 1744 of title 18, United States Code,".

(c) Section 9A, as added by section 2 of the Act of December 15, 1967 (12 U.S.C. 339), is amended by adding at the end thereof the following new subsection:

"(f) Whoever knowingly violates a provision of this section or a regulation promulgated thereunder is guilty of a Class A misdemeanor.".

(d) Section 19(d), as added by section 11(a) of the Act of June 16, 1933 (12 U.S.C. 374a), is amended by deleting "fine" wherever it appears and inserting in lieu thereof "civil penalty".

SEC. 340. Section 21(b) of the Act of June 16, 1933, as amended (12 U.S.C. 378(b)), is amended to read as follows:

"(b) Whoever knowingly violates a provision of this section is guilty of a Class A misdemeanor.".

SEC. 341. Section 22(f) of the Federal Reserve Act, as added by section 5 of the Act of September 26, 1918, and amended (12 U.S.C. 503), is amended by deleting "sections 217, 218, 219, 220, 655, 1005, 1014, 1906, or 1909 of Title 18, United States Code" and inserting in lieu thereof "section 9109 of title 5, United States Code, section 1343(a)(2), 1343(a)(3), 1351, 1352, 1353, 1731 (where there is jurisdiction under section 1731(c)(10)), 1741, 1742, 1743, or 1744 of title 18, United States Code, or section 323, 324, or 326 of the Criminal Code Reform Act of 1977.".

SEC. 342. Section 5207 of the Revised Statutes (12 U.S.C. 582) is amended to read as follows:

"SEC. 5207. No national banking association shall hereafter offer or receive United States notes or national-bank notes as security or as collateral security for any loan of money, or for a consideration agree to withhold the

same from use, or offer or receive the custody or promise of such notes as security, or as collateral security, or consideration for any loan of money. Whoever violates this section is guilty of an infraction.".

SEC. 343. The Federal Reserve Act, as amended (12 U.S.C. 611 et seq.). is amended as follows:

(a) The third sentence of the eleventh paragraph of section 25(a), as added by the Act of December 24, 1919 (12 U.S.C. 617), is amended to read: "It is unlawful for a director, officer, agent, or employee of any such corporation to use the credit, the funds, or the power of the corporation to fix or control the price of any such commodities, and a person who violates this provision commits an unlawful act that is an offense described in section 1763 of title 18, United States Code.".

(b) The sixteenth paragraph of section 25(a), as added by the Act of December 24, 1919, and amended (12 U.S.C. 622), is amended by adding after the words "the provisions of this section" the words "or with any provision of section 1343(a)(2), 1731, 1743, or 1744 of title 18, United States Code".

(c) The twenty-fourth paragraph of section 25(a), as added by the Act of December 24, 1919, and amended (12 U.S.C. 630), is repealed.

(d) The twenty-fifth paragraph of section 25(a), as added by the Act of December 24, 1919 (12 U.S.C. 631), is amended by deleting "shall be punished by a fine of not more than $10,000 and by imprisonment for not more than five years" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1343 of title 18, United States Code".

SEC. 344. Section 11 of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635h), is amended by deleting "section 955 of Title 18, United States Code" and inserting in lieu thereof "section 630 of the Criminal Code Reform Act of 1977".

SEC. 345. Section 15 of the Agricultural Marketing Act, as amended (12 U.S.C. 1141j), is amended:

(a) by repealing subsection (b);

(b) by deleting "shall be fined not more than $5,000, or imprisoned not more than five years, or both" in subsection (c) and inserting in lieu thereof "is guilty of a Class A misdemeanor"; and

(c) by amending the second sentence of subsection (d) to read: "An officer or employee of the United States who knowingly issues or publishes such a report, bulletin, or other publication containing any such prediction is guilty of a Class B misdemeanor, except that this subdivision does not apply to the Governor of the Farm Credit Administration when engaged in the performance of his duties herein provided.".

SEC. 346. Section 308 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1457) is amended:

(a) by deleting the last three sentences of subsection (a) and inserting in lieu thereof: "An organization or an officer or member of an organization who knowingly violates a provision of this subsection is guilty of a Class A misdemeanor. Any other individual who knowingly violates a provision of this subsection is guilty of an infraction, except that the maximum fine for an individual is $10,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.";

(b) by repealing subsections (b), (c), and (d);

(c) by amending subsection (e) to read as follows:

"(e) The terms 'agency' and 'agencies' shall be deemed to include the Corporation wherever used with reference to an agency or agencies of the United States in section 172 of title 4 and in sections 9101, 9102, 9104, 9106, 9107, and 9108 of title 5. Any officer or employee of the Corporation shall be deemed to be a federal public servant within the meaning of section 9301 of title 5 and of sections 1351, 1352, 1354, 1722, 1723, 1731, and 1732 of title 18."; and

(d) by amending subsection (f) to read as follows:

"(f) The terms 'obligation of the United States' and 'obligation or other security of the United States' in section 1746 of title 18, United States Code, are extended to include any obligation or other security of or issued by the Corporation.".

SEC. 347. Section 5 of Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464), is amended:

(a) by deleting "willful" in subsection (d)(6)(A)(iv) and inserting in lieu thereof "knowing";

(b) by amending subsection (d)(12)(A) to read as follows:

"(12)(A) A director or officer, or former director or officer of an association, or any other person, against whom there is outstanding and effective a notice or order (which is an order which has become final) served upon the person under paragraph (4)(C), (4)(D), or (5)(A) of this subsection, and who (i) participates in any manner in the conduct of the affairs of such association, or solicits, procures, transfers or votes any proxies, consents, or authorizations in respect of any voting rights in such association, or (ii) without the prior written approval of the Board, votes for a director or serves or acts as a director, officer, or employee of an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, is guilty of a Class A misdemeanor.";

(c) by deleting "willful" in subsection (d)(12)(B) and inserting in lieu thereof "knowing"; and

(d) by deleting "shall be punishable by a fine of not more than $5,000 or imprisonment for not more than one year, or both" in subsection (d)(12)(C) and inserting in lieu thereof "is a Class A misdemeanor".

SEC. 348. Section 912 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1709–2) is amended:

(a) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(b) by deleting "shall be fined not more than $5,000 or imprisoned not more than three years, or both" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1737 of title 18, United States Code".

SEC. 349. The National Housing Act, as amended (12 U.S.C. 1701 et seq.), is amended as follows:

(a) The last sentence of section 207(b), as amended (12 U.S.C. 1713(b)), is amended to read: "Violation of the certification is an infraction.".

(b) Section 239(b), as added by section 302 of the Act of August 1, 1968 (12 U.S.C. 1715z–4(b)), is amended:

(1) by deleting "willfully" in clause (1) and inserting in lieu thereof "knowingly";

(2) by deleting "willfully and" in clause (2); and

(3) by deleting "shall be fined not more than $5,000 or imprisoned not more than three years, or both" and inserting in lieu thereof "commits an unlawful act that is offense described in section 1737 of title 18, United States Code".

(c) The last sentence of section 402(g), as amended (12 U.S.C. 1725(g)), is amended to read: "A violation of this subsection is a Class A misdemeanor.".

(d) Section 407(p), as amended (12 U.S.C. 1730(p)), is amended:

(1) by amending paragraph (1) to read as follows:

"(1) D director of officer, or former director or officer, of an insured institution or an institution any of the accounts of which are insured, or any other person, against whom there is outstanding and effective a notice or order (which is an order which has become final) served upon the person under subsection (g)(3), (g)(4), or (h) of this section, and who (A) participates in any manner in the conduct of the affairs of such institution, or solicits, procures, transfers, or votes any proxies, consents, or authorizations in respect to any voting rights in such institution, or (B) without the prior written approval of the Corporation, votes for a director or serves or acts as a director, officer, or employee of any insured institution, is guilty of a Class A misdemeanor."; and

(2) by deleting "willful" in paragraph (2) and inserting in lieu thereof "knowing".

(e) Section 408(j), as added by the Act of September 23, 1959, and amended (12 U.S.C. 1730(j)), is amended to read as follows:

"(j) PENALTIES.—

"(1) A company which knowingly violates a provision of this section, or a rule, regulation, or order thereunder, is guilty of an infraction, except that the maximum fine shall be $1,000 for each day during which the offense continues, or the maximum fine available under section 2201 of title 18, United States Code, whichever is higher.

"(2) An individual who knowingly violates a provision of this section, or a rule, regulation, or order thereunder, is guilty of a Class A misdemeanor.".

(f) Section 410, as added by section 4 of the Act of December 15, 1967 (12 U.S.C. 1730c), is amended by adding at the end thereof the following new subsection:

"(f) Whoever knowingly violates a provision of this section or a regulation promulgated thereunder is guilty of a Class A misdemeanor.".

(g) Section 512, as added by section 132 of the Act of August 2, 1954, and amended (12 U.S.C. 1731a), is amended by deleting "or willfully" in clause (1).

(h) Section 603(a), as added by section 1 of the Act of March 29, 1941, and amended (12 U.S.C. 1738(a)), is amended by deleting "a misdemeanor punishable by a fine of not to exceed $500" and inserting in lieu thereof "an infraction".

(i) The last sentence of section 903(a), as added by section 201 of the Act of September 1, 1951, and amended (12 U.S.C. 1750b(a)), is amended to read: "Violation of a certification is an infraction.".

SEC. 350. The Federal Credit Union Act, as amended (12 U.S.C. 1751 et seq.), is amended as follows:

(a) Section 202, as added by section 1(3) of the Act of October 19, 1970 (12 U.S.C. 1782), is amended:

(1) by deleting "willfully" in subsection (a)(3) and inserting in lieu thereof "knowingly";

(2) by deleting "willfully" in subsection (d)(2) and inserting in lieu thereof "knowingly"; and

(3) by deleting "shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both" in the second sentence of subsection (d)(3) and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(b) Section 204(c), as added by section 1(3) of the Act of October 19, 1970 (12 U.S.C. 1784(c)), is amended by deleting the last sentence.

(c) Section 205, as added by section 1(3) of the Act of October 19, 1970 (12 U.S.C. 1785), is amended:

(1) by deleting "willful" in the second sentence of subsection (d) and inserting in lieu thereof "knowing"; and

(2) by deleting "larcenies" in subsection (e)(1) and inserting in lieu thereof "thefts".

(d) Section 206(k), as added by section 1(3) of the Act of October 19, 1970 (12 U.S.C. 1786(k)), is amended to read as follows:

"(k) Any director, officer, or committee member, or former director, officer, or committee member, of an insured credit union or of a credit union any of the member accounts of which are insured, or any other person against whom there is outstanding and effective any notice or order (which is

an order which has become final) served upon such director, officer, committee member, or other person under subsection (g)(3), (g)(4), or (h) of this section and who (i) participates in any manner in the conduct of the affairs of the credit union involved, or solicits, procures, transfers, or votes, any proxies, consents, or authorizations in respect of any voting rights in such credit unions, or (ii) without the prior written approval of the Administrator votes for a director, serves or acts as a director, officer, committee member, or employee of any credit union, is guilty of a Class A misdemeanor.".

SEC. 351. The Federal Deposit Insurance Act, as amended (12 U.S.C. 1811 et seq.), is amended as follows:

(a) Section 2(8)(j), as amended (12 U.S.C. 1818(j)), is amended to read as follows:

"(j) Any director or officer, or former director or officer of an insured bank, or any other person, against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such director, officer, or other person under subsection (e)(5), (e)(7), (e)(8), or (g) of this section, and who (i) participates in any manner in the conduct of the affairs of the bank involved, or solicits, procures, transfers, or votes any proxies, consents, or authorizations in respect of any voting rights in such bank, or (ii) without the prior written approval of the appropriate Federal banking agency, votes for a director, serves or acts as a director, officer, or employee of any bank, is guilty of a Class A misdemeanor.".

(b) Section 18, as amended (12 U.S.C. 1828), is amended:

(1) by deleting "shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both" in subsection (b) and inserting in lieu thereof "is guilty of a Class A misdemeanor";

(2) by adding after the words " 'antitrust laws' means" in subsection (c)(8) the words "section 1764 of title 18, United States Code,"; and

(3) by deleting "willfully" in subsection (h) and inserting in lieu thereof "knowingly".

(c) Section 19 (12 U.S.C. 1829) is amended by deleting "willful" and inserting in lieu thereof "knowing".

(d) Section 20, as added by section 3 of the Act of December 15, 1967 (12 U.S.C. 1829a), is amended by adding at the end thereof the following new subsection:

"(f) Whoever knowingly violates a provision of this section or a regulation promulgated thereunder is guilty of a Class A misdemeanor.".

SEC. 352. The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended as follows:

(a) Section 8 (12 U.S.C. 1847) is amended to read as follows:

"PENALTIES

"SEC. 8. A company which knowingly violates a provision of this Act, or a regulation or order issued by the Board pursuant thereto, is guilty of an infraction, except that the maximum fine shall be $1,000 for each day during which the offense continues. An individual who knowingly violates a provision of this Act or regulation or order issued by the Board pursuant thereto is guilty of a Class A misdemeanor.".

(b) Section 11(f), as amended (12 U.S.C. 1849(f)), is amended by adding after the words " 'antitrust laws' means" the words "section 1764 of title 18, United States Code,".

SEC. 353. Section 3(a) of the Bank Protection Act of 1968 (12 U.S.C. 1882(a)) is amended by deleting "larcenies" and inserting in lieu thereof "thefts".

SEC. 354. Section 4(d) of the Council on Wage and Price Stability Act (12 U.S.C. 1904 note) is amended by deleting "section 1905 of title 18" and inserting in lieu thereof "section 9301 of title 5".

SEC. 355. The Credit Control Act (12 U.S.C. 1901 et seq.) is amended as follows:

(a) Section 209(a) (12 U.S.C. 1908(a)) is amended by deleting "willful" and inserting in lieu thereof "knowing".

(b) Section 210 (12 U.S.C. 1909) is amended to read as follows:

"§ 210. Criminal offense

"Whoever knowingly violates a regulation under this title is guilty of a Class A misdemeanor.".

SEC. 356. The Act of October 26, 1970 (12 U.S.C. 1951 et seq.) is amended as follows:

(a) Section 125(a) (12 U.S.C. 1955(a)) is amended by deleting willful" and inserting in lieu thereof "knowing".

(b) Sections 126 and 127 (12 U.S.C. 1956 and 1957) are repealed.

SEC. 357. Section 8(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2607(d)) is amended:

(a) by amending paragraph (1) to read as follows:

"(1) A person who violates a provision of this section is guilty of a Class A misdemeanor."; and

(b) by deleting "by paragraph (1) of this subsection" in paragraph (2) and inserting in lieu thereof "for violation of this section".

PART J—AMENDMENTS RELATING TO THE CENSUS, TITLE 13, UNITED STATES CODE

SEC. 361. Chapter 7 of title 13, United States Code, is amended as follows:

(a) Section 211 is amended to read as follows:

"§ 211. Receiving or securing compensation

"Whoever in any way receives or secures to himself any part of the compensation paid to another person appointed as supervisor, enumerator, clerk, or other officer or employee of the Department of Commerce or bureau or agency thereof, referred to in subchapter II of chapter I of this title, is guilty of a class A misdemeanor.".

(b) Section 212 is amended by deleting "shall be fined not more than $500" and inserting in lieu thereof "is guilty of an infraction".

(c) Section 213 is repealed.

(d) Section 214 is amended by deleting "shall be fined not more than $5,000 or imprisoned not more than five years, or both" and inserting in lieu thereof "is guilty of a class B misdemeanor".

(e) Section 221 is amended:

(1) by deleting "willfully" in subsection (a) and inserting in lieu thereof "intentionally";

(2) by deleting "fined" in subsection (a) and inserting in lieu thereof "subject to a civil penalty of";

(3) by deleting "willfully" in subsection (b) and inserting in lieu thereof "knowingly"; and

(4) by deleting "fined" in subsection (b) and inserting in lieu thereof "subject to a civil penalty of".

(f) Section 222 is amended by deleting "shall be fined not more than $1,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(g) Section 223 is amended:

(1) by deleting "willfully" and inserting in lieu thereof "intentionally"; and

(2) by deleting "shall be fined not more than $500" and inserting in lieu thereof "is guilty of an infraction".

(h) Section 224 is amended:

(1) by deleting the word "fined" wherever it appears and inserting in lieu thereof "subject to a civil penalty of"; and

(2) by deleting "willfully" and inserting in lieu thereof "knowingly".

(i) Section 225 is amended:

(1) by adding after the words "of this title" in subsection (a) the words "and of section 1343 of title 18, United States Code,";

(2) by adding after the words "of this title" in subsection (b) the words "and of section 1343 of title 18, United States Code,";

(3) by adding after the words "of this title" in subsection (c) the words "and of section 1343 of title 18, United States Code,"; and

(4) by adding after the words "under this chapter" in subsection (d) the words "or section 1343 of title 18, United States Code".

(j) The analysis at the beginning of the chapter is amended:

(1) by amending the item relating to section 211 to read as follows:

"211. Receiving or securing compensation."; and

(2) by amending the item relating to section 213 to read as follows:

"213. Repealed.".

SEC. 362. Section 307 of title 13, United States Code, is amended by deleting "213,".

PART K—AMENDMENTS RELATING TO THE COAST GUARD, TITLE 14, UNITED STATES CODE

SEC. 371. Chapter 5 of title 14, United States Code, is amended as follows:

(a) Section 83 is amended by deleting "shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense" and inserting in lieu thereof "is guilty of an infraction".

(b) Section 84 is amended:

(1) by deleting "willfully" in the first sentence and inserting in lieu thereof "knowingly"; and

(2) by amending the second sentence to read: "Whoever violates a provision of this section is guilty of an infraction.".

(c) Section 85 is amended by deleting "a misdemeanor and shall be punished, upon conviction thereof, by a fine of not exceeding $100 for each day during which such violation continues" and inserting in lieu thereof "an infraction, except that the maximum fine is $100 for each day the violation continues, or the maximum fine available under section 2201 of title 18, United States Code, whichever is higher.".

(d) Section 89(a) is amended by deleting the words "fine or" wherever they appear.

SEC. 372. Section 431(c) of Title 14, United States Code, is amended by deleting "deemed guilty of a misdemeanor, and upon conviction thereof, shall for each and every offense, be fined not exceeding $500 or be imprisoned not exceeding one year, or both, in the discretion of the court" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 373. Chapter 17 of title 14, United States Code, is amended as follows:

(a) Section 634(b) is amended by deleting "Commissioners" and inserting in lieu thereof "Magistrates", and by deleting the word "Commissioner" wherever it appears and inserting in lieu thereof "Magistrate".

(b) The last sentence of section 638(b) is amended to read: "Whoever violates this subsection is guilty of a Class A misdemeanor.".

(c) The last sentence of section 639 is amended to read: "Whoever violates this section is guilty of a Class A misdemeanor.".

SEC. 374. Section 892 of title 14, United States Code, is amended by deleting "shall be fined not more than $500" and inserting in lieu thereof "is guilty of an infraction".

PART L—AMENDMENTS RELATING TO COMMERCE AND TRADE, TITLE 15, UNITED STATES CODE

SEC. 383. Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 236), as amended, is amended to read as follows:

"SEC. 1201. The Congress hereby finds and declares that the receipt, possession, or transportation of a firearm by felons, veterans who are discharged under dishonorable conditions, mental incompetents, aliens

who are illegally in the country, and former citizens who have renounced their citizenship, constitutes—

"(1) a burden on commerce or threat affecting the free flow of commerce,

"(2) a threat to the safety of the President of the United States and Vice President of the United States,

"(3) an impediment or threat to the exercise of free speech and the free exercise of a religion guaranteed by the first amendment to the Constitution of the United States, and

"(4) a threat to the continued and effective operation of the Government of the United States and of the government of each State guaranteed by article IV of the Constitution.

"SEC. 1202. (a) Any person who—

"(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, or

"(2) has been discharged from the Armed Forces under dishonorable conditions, or

"(3) has been adjudged by a court of the United States or of a State or any political subdivision thereof being mentally incompetent, or

"(4) having been a citizen of the United States has renounced his citizenship, or

"(5) being an alien is illegally or unlawfully in the United States, or

"(6) is an unlawful user of or addicted to marihuana or any depressant or stimulant substance or narcotic drug as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802),

and who receives, possesses, or transports any firearms commits an unlawful act that is an offense described in section 1822(a)(4) of title 18, United States Code.

"(b) Any individual who to his knowledge and while being employed by any person who—

"(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, or

"(2) has been discharged from the Armed Forces under dishonorable conditions, or

"(3) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, or

"(4) having been a citizen of the United States has renounced his citizenship, or

"(5) being an alien is illegally or unlawfully in the United States, or

"(6) is an unlawful user of or addicted to marihuana or any depressant or stimulant or narcotic drug as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), and who, in the course of such employment, receives, possesses, or transports any firearms commits an unlawful act that is an offense described in section 1822(a)(4) of title 18, United States Code.

"(c) As used in this title—

"(1) 'commerce' means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country;

"(2) 'felony' means any offense punishable by imprisonment for a term exceeding one year, but does not include any offense (other than one involving a firearm or explosive) classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of two years or less;

"(3) 'firearm' means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; or any destructive device. Such term shall include any handgun, rifle, or shotgun;

"(4) 'destructive device' means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device; and includes any type of weapon which will or is designed to or may readily be converted to expel a projectile by the action of any explosive and having any barrel with a bore of one-half inch or more in diameter;

"(5) 'handgun' means any pistol or revolver originally designed to be fired by the use of a single hand which is designed to fire or capable of firing fixed cartridge ammunition, or any other firearm originally designed to be fired by the use of a single hand;

"(6) 'shotgun' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fired shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger; and

"(7) 'rifle' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

"SEC. 1203. This title shall not apply to—

"(1) any prisoner who by reason of duties connected with law enforcement has expressly been entrusted with a firearm by competent authority of the prison; and

"(2) any person who has been pardoned by the President of the United States or the chief executive of a State and has expressly been authorized by the President or such chief executive, as the case may be, to receive, possess, or transport a firearm.".

MISCELLANEOUS AMENDMENTS

SEC. 384. TRANSPORTATION OR IMPORTATION OF PRISON-MADE GOODS.—

(a) Except as permitted under section 3822 of title 18, United States Code; chapters 37 and 38 of title 28, United States Code; and any statute of any State or political subdivision thereof authorizing release of inmates for purposes of employment; whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, is guilty of a Class A misdemeanor.

(b) Sections 384 and 385 of this Act shall not apply to agricultural commodities or parts for the repair of arm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or political subdivision of a State.

SEC. 385. MARKING PACKAGES.—

(a) Except as permitted under section 3822 of title 18, United States Code; chapters 37 and 38 of title 28, United States Code; and any statute of any State or political subdivision thereof authorizing release of inmates for purposes of employment; all packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package.

(b) Whoever violates this section is guilty of an infraction, and any goods, wares, or merchandise transported in violation of this section or section 384 of this Act shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law.

SEC. 386. TRANSPORTATION OF DENTURES.—

Whoever transports by mail or otherwise to or within the District of Columbia, the Canal Zone or any possession of the United States or uses the mails or any instrumentality of interstate commerce for the purpose of sending or bringing into any State or Territory any set of artificial teeth or prosthetic dental appliance or other denture, constructed from any cast or impression made by any person other than, or without the authorization or prescription of, a person licensed to practice dentistry under the laws of the place into which such denture is sent or brought, where such laws prohibit:

(1) the taking of impressions or casts of the human mouth or teeth by a person not licensed under such laws to practice dentistry;

(2) the construction or supply of dentures by a person other than, or without the authorization or prescription of a person licensed under such laws to practice dentistry; or

(3) the construction or supply of dentures from impressions or casts made by a person not licensed under such laws to practice dentistry—

Is guilty of a Class A misdemeanor.

SEC. 387. FALSE WEATHER REPORTS.—

Whoever knowingly issues or publishes any counterfeit weather forecast or warning of weather conditions falsely representing such forecast or warning to have been issued or published by the National Weather Service, United States Signal Service, or other branch of the Government service, is guilty of a Class C misdemeanor.

SEC. 388. The Act of October 9, 1962, entitled "An Act to provide criminal penalties for trafficking in phonograph records bearing forged or countrefeit labels," as amended, is amended by striking all after the enacting clause and inserting in lieu thereof the following:

"(a) Whoever knowingly and with fraudulant intent transports, cause to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted or affixed any forged or countrefeit label, knowing the label to have bene falsely made, forged, or counterfeited, is guilty of a Class A misdemeanor for the first offense. A second or subsequent offense is a Class E felony.

"(b) When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have such labels affixed.

"(c) Except to the extent that they are inconsistent with the provisions of this section, all provisions of section 509 of title 17, United States Code, are applicable to violations of subsection (a).".

SEC. 389. The Sherman Act, as amended (15 U.S.C. 1 et seq.), is amended as follows:

(a) The last sentence of section 1, as amended (15 U.S.C. 1), is amended to read: "Every person who shall make any contract or engage in any combination or conspiracy declared by this Act to be illegal commits an unlawful act that is an offense described in section 1764 of title 18, United States Code.".

(b) Section 2, as amended (15 U.S.C. 2), is amended by deleting "shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other person, one hundred thousand dollars, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1764 of title 18, United States Code".

(c) The second sentence of section 3, as amended (15 U.S.C. 3), is amended to read: "Every person who makes any such contract or engages in any such combination or conspiracy commits an unlawful act that is an offense described in section 1764 of title 18, United States Code.".

SEC. 390. The second sentence of section 73 of the Wilson Tariff Act, as amended (15 U.S.C. 8), is amended to read: "Every person who is or shall hereafter be engaged in the importation of goods or any commodity from any foreign country in violation of this section, or who shall combine or conspire with another to violate the same, is guilty of a Class A misdemeanor.".

SEC. 391. The second paragraph of section 3 of the Act of June 19, 1936 (15 U.S.C. 13a) (commonly known as the Robinson-Patman Price Discrimination Act), is amended to read as follows:

"A person who violates a provision of this section is guilty of a Class A misdemeanor.".

SEC. 392. The Clayton Act, as amended (15 U.S.C. 12 et seq.), as amended as follows:

(a) Section 1(a) (U.S.C. 12(a)) is amended by adding after the words "'Antitrust laws,' as used herein, includes" the words "section 1764 of title 18, United States Code,".

(b) Section 10 (15 U.S.C. 20) is amended.

(1) by amending the second paragraph to read as follows:

"Any person who shall do anything to prevent anyone from bidding, or shall do any act to prevent free and fair competition among the bidders or those desiring to bid, shall be punished as prescribed in this section"; and

(2) by amending the last sentence to read as follows:

"Whoever shall knowingly violate this section shall be guilty of a Class A misdemeanor.".

(c) Section 11(1), is amended (15 U.S.C. 21(1)), is amended by deleting "offense" wherever it appears and inserting in lieu thereof "violation".

(d) Section 13 (15 U.S.C. 23) is amended by deleting "case, civil or criminal," and inserting in lieu thereof "civil case".

(e) Section 14 (15 U.S.C. 24) is repealed.

SEC. 393. The Federal Trade Commission Act, as amended (15 U.S.C. 41 et seq.), is amended as follows:

(a) Section 4, as amended (15 U.S.C. 44), is amended by adding after the words "'Antitrust Acts' means" the words "section 1764 of title 18, United States Code,".

(b) Section 5(l), as amended (15 U.S.C. 45(l)), is amended by deleting "offense" each time it appears and inserting in lieu thereof "violation".

(c) Section 10, as amended (15 U.S.C. 50), is amended:

(1) by deleting the first paragraph;

(2) by amending the second paragraph to read as follows:

"Except as provided in sections 1333, 1343, and 1344 of title 18, United States Code, a person who knowingly makes a false entry in an account, record, or memorandum kept by a corporation subject to this Act, or who knowingly neglects or fails to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the corporation, or who knowingly removes out of the jurisdiction of the United States, or knowingly mutilates, alters, or by any other means falsifies any documentary evidence of such corporation, or who shall knowingly refuse to submit to the Commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, is guilty of a Class A misdemeanor."; and

(3) by amending the last paragraph by deleting "deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court" and inserting in lieu thereof "guilty of a class B misdemeanor".

(d) Section 14(a), as added by section 4 of the Act of March 21, 1938 (15 U.S.C. 54 (a)), is amended:

(1) by deleting "misdemeanor, and upon conviction shall be punished by a fine of not more than $5,000 or by imprisonment for not more than six months, or by both such fine and imprisonment" and inserting in lieu thereof "Class B midemeanor"; and

(2) by deleting "punishment shall be by a fine of not more than $10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment" and inserting in lieu thereof "the person, partnership, or corporation shall be guilty of a class A misdemeanor".

SEC. 394. Section 5 of the Webb-Pomerene Act, as amended (16 U.S.C. 65), is amended by deleting the last sentence of the first paragraph.

SEC. 395. The Wool Products Labeling Act of 1939 (15 U.S.C. 68 et seq.) is amended as follows:

(a) The second paragraph of section 5 (15 U.S.C. 68c) is amended by deleting "wood" and inserting in lieu thereof "wool".

(b) The first paragraph of section 10 (15 U.S.C. 68h) is amended to read as follows:

"SEC. 10. Any person who knowingly violates section 3, 5, 8, or 9(b) of this Act is guilty of a class A misdemeanor. Nothing herein shall limit other provisions of this Act.".

SEC. 396. Section 11(a) of the Fur Products Labeling Act (15 U.S.C. 691(a)) is amended to read as follows:

"(a) Any person who knowingly violates section 3, 6, or 10(b) of this Act is guilty of a class A misdemeanor.".

SEC. 397. Section 11(a) of the Textile Fiber Products Identification Act (15 U.S.C. 70i (a)) is amended to read as follows:

"(a) Any person who knowingly does an act which by section 3, 5, 6, 9, or 10(b) is declared to be unlawful is guilty of a class A misdemeanor. Nothing in this section shall limit any other provision of this Act.".

SEC. 398. The Act of September 18, 1916 (15 U.S.C. 71 et seq.), is amended as follows:

(a) The second paragraph of section 801 (15 U.S.C. 72) is amended to read as follows:

"Any person who violates this section is guilty of a Class A misdemeanor.".

(b) Section 805 (15 U.S.C. 76) is amended by deleting "or persons who shall import, or attempt or conspire to import, or be concerned in importing, such article or articles, into the United States contrary to the prohibition in such proclamation, shall be liable to a fine of not less than $2,000 nor more than $50,000, or to imprisonment not to exceed two years, or both, in the discretion of the court" and inserting in lieu thereof "who shall import such article into the United States contrary to the prohibition in such proclamation shall be guilty of a Class A misdemeanor, except that the maximum fine for an individual shall be $50,000 or the maximum fine available under section 2201 (c) of title 18, United States Code, whichever is higher".

(c) Section 805 (15 U.S.C. 77) is amended:

(1) by deleting "or persons who shall furnish or attempt or conspire to furnish or be concerned in furnishing or in the concealment of furnishing facilities or privileges to ships or persons contrary to the prohibition in such proclamation shall be liable to a fine of not less than $2,000 nor more than $50,000 or to imprisonment not to exceed two years, or both, in the discretion of the court" in the second paragraph and inserting in lieu thereof "who furnishes or conceals the furnishing of facilities or privileges to ships or persons contrary to the prohibition in such proclamation is guilty of a Class A misdemeanor, except that the maximum fine for an individual shall be $50,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher"; and

(2) by deleting "shall be severally liable to a fine of not less than $2,000 nor more than $10,000, or to imprisonment not to exceed two years, or both" in the third paragraph and inserting in lieu thereof "shall each be guilty of a Class A misdemeanor".

SEC. 399. The Securities Act of 1933, as amended (15 U.S.C. 77a et seq.), is amended as follows:

(a) Section 8(d), as amended (15 U.S.C. 77h(d)), is amended by deleting the word "untrue" in the first sentence and inserting in lieu thereof "false".

(b) Section 10(b), as amended (15 U.S.C. 77j(b)), is amended by deleting "untrue" in the third sentence and inserting in lieu thereof "false".

(c) Section 11, as amended (15 U.S.C. 77k), is amended:

(1) by deleting the word "untrue" wherever it appears in subsection (a) and inserting in lieu thereof "false";

(2) by deleting "untruth" in subsection (a) and inserting in lieu thereof "falsity"; and

(3) by deleting "untrue" wherever it appears in subsection (b)(3) and inserting in lieu thereof "false".

(d) Section 12, as amended (15 U.S.C. 77l), is amended:

(1) by deleting "untrue" in paragraph (2) and inserting in lieu thereof "false"; and

(2) by deleting "untruth" in paragraph (2) and inserting in lieu thereof "falsity".

(e) Section 13, as amended (15 U.S.C. 77m), is amended by deleting "untrue" in the first sentence and inserting in lieu thereof "false".

(f) Section 17(a)(2), as amended (15 U.S.C. 77q(a)(2)), is amended by deleting "untrue" and inserting in lieu thereof "false".

(g) Section 20(b), as amended (15 U.S.C. 77t(b)), is amended:

(1) by deleting "under this title" in the second sentence and inserting in lieu thereof "under section 1761 of title 18, United States Code"; and

(2) by deleting the third sentence.

(h) Section 22(a), as amended (15 U.S.C. 77v(a)), is amended by deleting the words "offenses and" in the first sentence.

(i) Section 23 (15 U.S.C. 77w) is amended by deleting "an untrue" and inserting in lieu thereof "a false".

(j) Section 24 (15 U.S.C. 77x) is amended to read as follows:

"SEC. 24. (a) A person who knowingly violates a provision of section 5, 17, or 23 of this title commits an unlawful act that is an offense described in section 1761 of title 18, United States Code. A person who knowingly violates section 6(d) of this title is guilty of a Class B misdemeanor.

"(b) A person who knowingly makes a false statement of a material fact or omits to state a material fact required to be stated or necessary to make a statement not misleading, in a registration statement, offering circular, application, report, or other document filed or required to be filed, or kept or required to be kept, under thfs title, commits an unlawful act that is an offense described in section 1761(a)(2) of title 18, United States Code.

"(c) A person who engages in conduct in reckless disregard of the fact that the conduct violates a provision of this title (other than section 6(d)), or a rule, regulation, or order promulgated by the Commission thereunder, the violation of which is made unlawful or the observance of which is required, is guilty of a Class A misdemeanor.".

SEC. 400. The Trust Indenture Act of 1939, as amended (15 U.S.C. 77aaa), is amended as follows:

(a) Section 321(b), as added by the Act of August 3, 1939 (15 U.S.C. 77uuu(b)), is amended by adding before the period at the end of the last sentence the words "or section 1761 of title 18, United States Code".

(b) Section 322(b), as added by the Act of August 3, 1939 (15 U.S.C. 77vvv(b)), is

amended by deleting the words "offenses and".

(c) Section 325, as added by the Act of August 3, 1939 (15 U.S.C. 77yyy), is amended to read as follows:

"SEC. 325. (a) A person who knowingly violates section 306 or 324 of this title commits an unlawful act that is an offense described in section 1761 of title 18, United States Code. A person who knowingly violates section 321 (b) of this title is guilty of a Class B misdemeanor.

"(b) A person who knowingly makes a false statement of a material fact or omits to state a material fact required to be stated or necessary to make a statement not misleading, in an application, report, or other document filed or required to be filed, or kept or required to be kept, under this title, commits an unlawful act that is an offense described in section 1761(a)(2) of title 18, United States Code.

"(c) A person who engages in conduct in reckless disregard of the fact that the conduct violates a provision of this title (other than section 321(b)), or a rule, regulation, or order promulgated by the Commission thereunder, the violation of which is made unlawful or the observance of which is required, is guilty of a Class A misdemeanor.".

SEC. 401. Section 8(c) of the Foreign Investment Study Act of 1974 (15 U.S.C. 78b note) is amended:

(a) by deleting the word "willfully" wherever it appears and inserting in lieu thereof "knowingly"; and

(b) by deleting "shall, upon conviction, be fined not more than $10,000 or, if a natural person, may be imprisoned for not more than one year or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 402. The Securities Exchange Act of 1934, as amended (15 U.S.C. 78a et seq.), is amended as follows:

(a) Section 3(a)(39)(E), as amended (15 U.S.C. 78c(a)(39)(E)), is amended by deleting "willfully".

(b) Section 6(b)(6), as amended (15 U.S.C. 78l(j)), is amended by inserting after "the words "regulations thereunder," the words "section 1761 of title 18, United States Code.".

(c) Section 9(e) (15 U.S.C. 78i(e)) is amended by deleting "willfully" in the first sentence.

(d) Section 11A(b)(6), as added by section 7 of the Securities Acts Amendments of 1975 (15 U.S.C. 78k-1(b)(6)), is amended by adding after the words "regulations thereunder" the words "or of section 1761 of title 18, United States Code".

(e) Section 12(j), as amended (15 U.S.C. 78l(j), is amended by inserting after "the issuer of such security has" in the first sentence the words "violated section 1761 of title 18, United States Code, or has".

(f) Section 15, as amended (15 U.S.C. 78o), is amended:

(1) by deleting "willfully" in subsection (b)(4)(A);

(2) by deleting the word "larceny," in subsection (b)(4)(B)(iii);

(3) by deleting the words "counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds," in subsection (b)(4)(B)(iii) and inserting in lieu thereof the words "or counterfeiting of funds";

(4) by amending subsection (b)(4)(B)(iv) to read as follows:

"(iv) involves the violation of section 1351, 1734, or 1735 of title 18, United States Code, or of subchapter E of chapter 13 or subchapter E of chapter 17 of title 18, United States Code.";

(5) by deleting "willfully" in subsection (b)(4)(D);

(6) by inserting in subsection (b)(4)(D) after the word "violated" the words "section 1761 of title 18, United States Code, or";

(7) by deleting in subsection (b)(4)(E) "willfully aided, abetted, counseled, commanded, induced, or procured" and inserting in lieu thereof "aided, abetted, or solicited"; and

(8) by deleting "willfully to become, or to be" in subsection (b)(6) and inserting in lieu thereof "engage in conduct in reckless disregard of the fact that the conduct will result in his becoming, or being";

(g) Section 15A, as added by section 1 of the Act of June 15, 1938, and amended (15 U.S.C. 78o-3), is amended:

(1) by adding after the words "regulations thereunder," in subsection (b)(2) the words "section 1761 of title 18, United States Code,";

(2) by adding after the words "regulations thereunder," in subsection (b)(7) the words "section 1761 of title 18, United States Code,"; and

(3) by adding after the words "regulations thereunder," in subsection (h)(1) the words "section 1761 of title 18, United States Code,".

(h) Section 15B, as added by section 13 of the Securities Acts Amendments of 1975 (15 U.S.C. 78o-4), is amended:

(1) by deleting "willfully to become, or to be" in subsection (c)(4) and inserting in lieu thereof "engage in conduct in reckless disregard of the fact that the conduct will result in his becoming, or being"; and

(2) by deleting "willfully" in subsection (c)(8).

(i) Section 19, as amended (15 U.S.C. 78s), is amended:

(1) by adding after the words "regulations thereunder," in subsection (e)(1)(A) the words "section 1761 of title 18, United States Code,";

(2) by adding after the words "regulations thereunder," in subsection (h)(1) the words "section 1761 of title 18, United States Code,";

(3) by deleting "willfully" in subsection (h)(2);

(4) by adding after the words "this title," in subsection (h)(2)(A) the words "section 1761 of title 18, United States Code,";

(5) by adding after the words "this title," in subsection (h)(2)(B) the words "section 1761 of title 18, United States Code,";

(6) by deleting "willfully" in subsection (h)(3);

(7) by adding after the words "this title," in subsection (h)(3)(A) the words "section 1761 of title 18, United States Code,";

(8) by adding after the words "this title," in subsection (h)(3)(B) the words "section 1761 of title 18, United States Code,";

(9) by deleting the word "willfully" the first time it appears in subsection (h)(4);

(10) by adding after the words "regulations thereunder," in subsection (h)(4) the words "section 1761 of title 18, United States Code,"; and

(11) by deleting the word "willfully" the second time it appears in subsection (h)(4) and inserting in lieu thereof the word "knowingly".

(j) Section 21, as amended (15 U.S.C. 78u), is amended:

(1) by adding after the words "regulations thereunder," in subsection (a) the words "section 1761 of title 18, United States Code,";

(2) by repealing the last sentence of subsection (c);

(3) by adding after the words "regulations thereunder," in subsection (d) the words "section 1761(a)(1)(C), (a)(2)(C), (a)(3), or (a)(4)(A) of title 18, United States Code,";

(4) by adding after the words "orders thereunder," each time they appear in subsection (e) the words "section 1761(a)(1)(C), (a)(2)(C), (a)(3), or (a)(4)(A) of title 18, United States Code,"; and

(5) by deleting the words "and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.)," in subsection (g) and inserting in lieu thereof "the Securities Protection Act of 1970 (15 U.S.C. 78aaa et seq.) and section 1761 of title 18, United States Code".

(k) Section 27, as amended (15 U.S.C. 78aa), is amended:

(1) by deleting the second sentence; and

(2) by deleting "any such district" in the third sentence and inserting in lieu thereof "any district wherein an act or transaction constituting the violation occurred".

(l) Section 32(a), as amended (15 U.S.C. 78ff(a)), is amended to read as follows:

"(a)(1) A person who knowingly violates a provision of section 7(c), 7(d), 7(f), 9(a)(2), 9(a)(3), 9(a)(4), 9(a)(5), 10(a), or 10(b) by violating a provision of 17 C.F.R. Sec. 240.10b-5, 14(a) by violating a provision of 17 CFR Sec. 240.14a-9, 14(c) by violating a provision of 17 CFR Sec. 240.14c-6, 14(e), 16(a), or 16(c) of this title commits an unlawful act that is an offense described in section 1761 of title 18, United States Code.

"(2) A person who knowingly makes a false statement of a material fact or omits to state a material fact required to be stated or necessary to make a statement not misleading, in an application, report, or document filed or required to be filed, or kept or required to be kept, under this title, or required by any self-regulatory organization in connection with an application for membership or participation therein or to become associated with a member thereof, commits an unlawful act that is an offense described in section 1761(a)(2) of title 18, United States Code.

"(3) A person who knowingly violates section 4(a) of this Act is guilty of a Class A misdemeanor. A person who knowingly violates section 24(c) of this Act is guilty of a Class B misdemeanor.

"(4) A person who engages in conduct in reckless disregard of the fact that the conduct violates a provision of this title (except section 4(a) or 24(b)), or a rule, regulation, or order promulgated by the Commission thereunder, the violation of which is made unlawful or the observance of which is required, is guilty of a Class A misdemeanor.".

SEC. 403. Section 10(c) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78jjj(c)) is amended by deleting "shall be fined not more than $50,000 or imprisoned not more than five years or both" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1731 of title 18, United States Code."

SEC. 404. The Public Utility Holding Company Act of 1935, as amended (15 U.S.C. 79 et seq.), is amended as follows:

(a) Section 18, as amended (15 U.S.C. 79r), is amended:

(1) by repealing the last sentence of subsection (d); and

(2) by adding after the words "this title" in the last sentence of subsection (f) the words "or section 1761 of title 18, United States Code".

(b) Section 22(c) (15 U.S.C. 79v(c)) is amended by adding at the end thereof the following new sentence: "An offense described in this section is a Class B misdemeanor.".

(c) Section 25, as amended (15 U.S.C. 79y), is amended:

(1) by repealing the second sentence; and

(2) by deleting the words "any such district" in the third sentence and inserting in lieu thereof "any district wherein any act or transaction constituting the violation occurred".

(d) Section 29 (15 U.S.C. 79z–3) is amended to read as follows:

"SEC. 29. (a) A person who knowingly violates a provision of section 12(h) or 17(a) of this title commits an unlawful act that is an offense described in section 1761 of title 18, United States Code. A person who knowingly violates a provision of section 22(b) of this title is guilty of a Class B misdemeanor.

"(b) A person who knowingly makes a false statement of a material fact or omits to state a material fact required to be stated or necessary to make a statement not misleading, in an application, report, document, account, or record filed or required to be filed, or kept or required to be kept, under this title, commits an unlawful act that is an offense described in section 1761(a)(2) of title 18, United States Code.

"(c) A person who engages in conduct in reckless disregard of the fact that the conduct violates a provision of this title (other than section 22(b)), or a rule, regulation, or order promulgated by the Commission thereunder, the violation of which is made unlawful or the observance of which is required, is guilty of a Class A misdemeanor.".

SEC. 405. The Investment Company Act of 1940, as amended (15 U.S.C. 80a–1 et seq.), is amended as follows:

(a) Section 9(b), as amended (15 U.S.C. 80a–9(b)), is amended:

(1) by deleting "willfully" in paragraph (1);

(2) by deleting "willfully" in paragraph (2); and

(3) by deleting "willfully aided, abetted, counseled, commanded, induced, or procured" in paragraph (3) and inserting in lieu thereof "aided, abetted, or solicited".

(b) Section 30(f) (15 U.S.C. 80a–29(f)) is amended by adding after the words "section 16 of the Securities Exchange Act of 1934" the words "or section 1761(a)(3) of title 18, United States Code,".

(c) Section 34 (15 U.S.C. 80a–33) is amended:

(1) by deleting "willfully to destroy, mutilate, or alter" in subsection (a) and inserting in lieu thereof "to engage in conduct in reckless disregard of the fact that the conduct destroys, mutilates, or alters".

(2) by deleting "untrue" in subsection (b) and inserting in lieu thereof "false".

(d) Section 37 (15 U.S.C. 80a–36) is repealed.

(e) Section 42, as amended (15 U.S.C. 80a–41), is amended:

(1) by repealing the last sentence of subsection (c); and

(2) by adding after the words "under this title" in the last sentence of subsection (e) the words "or under section 1761 of title 18, United States Code".

(f) Section 44, as amended (15 U.S.C. 80a–43), is amended:

(1) by repealing the second sentence; and

(2) by deleting "any such district" in the fourth sentence and inserting in lieu thereof "any district wherein the defendant is an inhabitant or maintains his principal office or place of business".

(g) Section 49 (15 U.S.C. 80a–48) is amended to read as follows:

"SEC. 49. (a) A person who knowingly violates a provision of section 7, 17(a), 17(d), 17(e), or 21 of this title, or knowingly fails to file a report or document required to be filed under section 30(f) of this title, commits an unlawful act that is an offense described in section 1761 of title 18, United States Code. A person who knowingly violates a provision of section 45(a) of this title is guilty of a Class B misdemeanor.

"(b) A person who knowingly files a false statement of a material fact or omits to state a material fact required to be stated or necessary to make a statement not misleading in a registration statement, application, report, account, record, or other document filed or required to be filed, or kept or required to be kept, under this title, commits an unlawful act that is an offense described in section 1761(a)(2) of title 18, United States Code.

"(c) A person who engages in conduct in reckless disregard of the fact that the conduct violates a provision of this title (other than section 45(a)), or a rule, regulation, or order promulgated by the Commission thereunder, the violation of which is made unlawful or the observance of which is required, is guilty of a Class A misdemeanor.".

SEC. 406. The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended as follows:

(a) Section 203, as amended (15 U.S.C. 80b–3), is amended:

(1) by deleting "willfully" in subsection (e)(1);

(2) by deleting "larceny," in subsection (e)(2)(C);

(3) by deleting "counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation" in subsection (e)(2)(C) and inserting in lieu thereof "or counterfeiting";

(4) by deleting "section 152, 1341, 1342, or 1343 or chapter 25 or 47" in subsection (e)(2)(D) and inserting in lieu thereof "section 1351, 1734, or 1735, or of subchapter E of chapter 13 of subchapter E of chapter 17";

(5) by deleting "willfully" in subsection (e)(4);

(6) by adding after the words "this title," in subsection (e)(4) the words "section 1761 of title 18, United States Code,";

(7) by deleting "willfully aided, abetted, counseled, commanded, induced, or procured" in subsection (e)(5) and inserting in lieu thereof "aided, abetted or solicited";

(8) by adding after the words "this title," in subsection (e)(5) the words "section 1761 of title 18, United States Code,"; and

(9) by deleting "willfully to become, or to be" in the second sentence of subsection (f) and inserting in lieu thereof "to engage in conduct which recklessly results in his becoming, or being".

(b) Section 207 (15 U.S.C. 80b–7) is amended by deleting "willfully" wherever it appears and inserting in lieu thereof "recklessly".

(c) Section 209, as amended (15 U.S.C. 80b–9), is amended:

(1) by repealing the last sentence of subsection (c);

(2) by deleting "counseled, commanded, induced, or procured, is aiding, abetting, counseling, commanding, inducing, or procuring, or is about to aid, abet, counsel, command, induce, or procure" in subsection (e) and inserting in lieu thereof "or solicited, is aiding, abetting, or soliciting, or is about to aid, abet, or solicit"; and

(3) by adding after the words "under this title" in the last sentence of subsection (e) the words "or under section 1761 of title 18, United States Code".

(d) Section 214 (15 U.S.C. 80b–14) is amended:

(1) by deleting the second sentence; and

(2) by deleting "any such district" in the third sentence and inserting in lieu thereof "any district in which an act of transaction constituting the violation occurred".

(e) Section 217, as amended (15 U.S.C. 80b-17), is amended to read as follows:

"SEC. 217. (a) A person who knowingly violates a provision of section 206 (1), (2), or (3) of this title commits an unlawful act that is an offense described in section 1761 of title 18, United States Code.

"(b) A person who knowingly files a false statement of a material fact or omits to state a material fact required to be stated or necessary to make a statement not misleading in a registration, application, or report filed or required to be filed, kept or required to be kept, under section 203 or 204 of this title, commits an unlawful act that is an offense described in section 1761(a)(2) of title 18, United States Code.

"(c) A person who knowingly violates section 210(b) of this Act is guilty of a Class B misdemeanor.

"(d) A person who engages in conduct in reckless disregard of the fact that the conduct violates a provision of this title (other than section 210(b)), or a rule, regulation, or order promulgated by the Commission thereunder, the violation of which is made unlawful or the observance of which is required, is guilty of a Class A misdemeanor.".

SEC. 407. The China Trade Act, 1922, as amended (15 U.S.C. 141 et seq.), is amended as follows:

(a) Section 20(a), as amended (15 U.S.C. 146a), is amended by deleting "(except as provided by the Act entitled 'An Act creating a United States Court for China and prescribing the jurisdiction thereof,' approved June 30, 1906, as amended)".

(b) The last sentence of section 18 (15 U.S.C. 159) is amended to read: "Whoever violates a provision of this section is guilty of a Class A misdemeanor.".

(c) The second sentence of section 19 (15 U.S.C. 159) is amended to read:: "Whoever violates this section is guilty of an infraction.".

SEC. 408. Section 2 of the Act of March 4, 1915 (15 U.S.C. 235), is amended:

(a) by deleting "willful" and inserting in lieu thereof "knowing"; and

(b) by deleting "deemed guilty of a misdemeanor and be liable to a fine not to exceed $500, or imprisonment not to exceed six months, in the court of the United States having jurisdiction" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 409. Section 5 of the Act of August 23, 1916 (15 U.S.C. 241), is amended by deleting "deemed guilty of a misdemeanor and be liable to a fine not exceeding $100" and inserting in lieu thereof "guilty of an infraction".

SEC. 410. Section 2 of the Act of February 21, 1905 (15 U.S.C. 293), is amended to read as follows:

"SEC. 2. That a person who knowingly violates a provision of this Act is guilty of a Class A misdemeanor.".

SEC. 411. Section 5(a) of the Act of June 13, 1960, as amended (15 U.S.C. 298(a)), is amended to read as follows:

"(a) That a manufacturer of or a wholesale or retail dealer in gold or silver jewelry, gold ware, silver goods or silverware, who knowingly violates a provision of this Act is guilty of a Class B misdemeanor.".

SEC. 412. The Act of December 18, 1971 (15 U.S.C. 330 et seq.), is amended as follows:

(a) Section 3(c) (15 U.S.C. 330b(c)) is amended by deleting "1905 of Title 18" and inserting in lieu thereof "9301 of title 5".

(b) Section 5 (15 U.S.C. 330d) is amended to read:

"SEC. 5. A person who knowingly violates section 2 of this Act is guilty of an infraction, except that the maximum fine for an individual is $10,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

SEC. 413. Section 3 of the Act of August 9, 1955 (15 U.S.C. 377), is amended to read as follows:

"SEC. 3. Whoever violates a provision of this Act is guilty of a Class B misdemeanor.".

SEC. 414. The Small Business Act, as amended (15 U.S.C. 631 et seq.), is amended as follows:

(a) Section 7(e), as amended (15 U.S.C. 636(e)), is amended by deleting "319,".

(b) Section 16, as amended (15 U.S.C. 645), is amended to read as follows:

"SEC. 16. Whoever gives any unauthorized information concerning any future action or plan of the Administration that might affect the value of securities is guilty of a Class B misdemeanor.".

SEC. 415. The Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), is amended as follows:

(a) Section 309(a), as added by section 9 of the Act of October 3, 1961, and amended (15 U.S.C. 687a(a)), is amended by deleting "willful" wherever it appears and inserting in lieu thereof "knowing".

(b) Section 313(a), as added by section 7 of the Act of November 6, 1966 (15 U.S.C. 687e(a)), is amended by deleting the words "willfully and" wherever they appear.

SEC. 416. Section 15 of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714m), is amended to read as follows:

"Applicability of Standards

"(a) Section 9110 and 9111 of title 5, United States Code, shall not apply to contracts or agreements of a kind which the Corporation may enter into with farmers in a program of the Corporation.

"Use of the Words 'Commodity Credit Corporation'

"(b) A person who uses the words 'Commodity Credit Corporation' or any combination of the same, as the name or a part thereof under which he does or purports to do business, is guilty of a Class A misdemeanor.".

SEC. 417. The Act of February 22, 1935, popularly known as the Connally Hot Oil Act, as amended (15 U.S.C. 715 et seq.), is amended as follows:

(a) Section 6 (15 U.S.C. 715e) is amended to read as follows:

"SEC. 6. A person who knowingly violates a provision of this Act or a regulation prescribed thereunder is guilty of a Class B misdemeanor.".

(b) Section 10(c) (15 U.S.C. 715i(c)) is amended:

(1) by repealing the second sentence; and

(2) by deleting "any such district" in the third sentence and inserting in lieu thereof "any district wherein any act or transaction constituting the violation occurred".

SEC. 418. The Natural Gas Act, as amended (15 U.S.C. 717 et seq.), is amended as follows:

(a) Section 10(b) (15 U.S.C. 717i(b)) is amended by deleting "willfully" and insert ing in lieu thereof "knowingly".

(b) Section 14(d), as amended (15 U.S.C. 717m(d)), is amended by repealing the last sentence.

(c) Section 21 (15 U.S.C. 717t) is amended to read as follows:

"SEC. 21. (a) A person who knowingly violates a provision of this Act is guilty of a Class A misdemeanor.

"(b) A person who knowingly violates a rule, regulation, restriction, condition, or order imposed by the Commission under authority of this Act, is, in addition to any other penalties provided by law, guilty of an infraction, except that the maximum fine is $500 for each and every day during which such offense occurs or the maximum fine available under section 2201 of title 18, United States Code, whichever is higher.".

(d) Section 22, as amended (15 U.S.C. 717u), is amended:

(1) by repealing the second sentence; and

(2) by deleting "any such district" in the third sentence and inserting in lieu thereof "any district wherein any act or transaction constituting the violation occurred".

SEC. 419. Section 5(a) of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 754(a)), is amended:

(a) by amending paragraph (3)(B) to read as follows:

"(B) Whoever knowingly violates any provision of such regulation, or any such order is guilty of a Class A misdemeanor, except that if the violation is with respect to activities relating to:

"(i) the production or refining of crude oil, the maximum fine for an offense committed by an individual is $40,000, or the maximum fine available under section 2201 (c) of title 18, United States Code, whichever is greater;

"(ii) the distribution of residual fuel oil or any refined petroleum product (other than at the retail level), the maximum fine for an offense committed by an individual is $20,000, or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is greater."; and

(b) by deleting the words "and willfully" in paragraph (4).

SEC. 420. The Federal Energy Administration Act of 1974, as amended (15 U.S.C. 761 et seq.), is amended as follows:

(a) Section 4(i)(1) (15 U.S.C. 763(i)(1)) is amended by deleting "208(b) of title 18" and inserting in lieu thereof "9107(b) of title 5".

(b) Section 14(b) (15 U.S.C. 773(b)) is amended by deleting the words "1905 of title 18" wherever they appear and inserting in lieu thereof "9301 of title 5".

(c) Section 55(d), as added by section 142 of the Energy Conservation and Production Act (15 U.S.C. 790d(d)), is amended:

(1) by deleting "willfully" in paragraph (2) and inserting in lieu thereof "knowingly"; and

(2) by deleting "shall be fined not more than $40,000, or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor, except that the maximum fine for an individual is $40,00, or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher".

SEC. 421. Section 12 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 797) is amended:

(a) by amending subsection (b)(2) to read as follows:

"(2) Whoever knowingly violates a provision of subsection (a) shall be guilty of an infraction, except that the maximum fine for an individual shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.";

(b) by deleting "and willfully" in subsection (b)(3); and

(c) by deleting "fined not more than $50,000, or imprisoned not more than six months, or both" in subsection (b)(3) and inserting in lieu thereof "guilty of a Class B misdemeanor, except that the maximum fine for an individual shall be $50,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher".

SEC. 422. Section 3 of the Act of March 14, 1944 (15 U.S.C. 1004), is amended to read as follows:

"SEC. 3. Whoever secures the exemption from toll provided for in this Act or an authorization referred to in section 2 knowing that he is not entitled thereto, and whoever signs or issues any such authorization certifying to such right of exemption, knowing that such right does not exist, is guilty of an infraction.".

SEC. 423. Section 3 of the Act of July 1, 1946 (15 U.S.C. 1007), is amended to read as follows:

"SEC. 3. Whoever secures the exemption from toll provided for in this Act or an authorization referred to in section 2, knowing that he is not entitled thereto, and whoever signs or issues any such authorization certifying to such right of exemption, knowing that such right does not exist, is guilty of an infraction.".

SEC. 424. Section 5(f) of the Employment Act of 1946, as amended (15 U.S.C. 1024(f)), is amended by deleting "sections 281, 283, or 284 of title 18" and inserting in lieu thereof "sections 9102, 9104, and 9106 of title 5".

SEC. 425. The Act of January 2, 1951, as amended (15 U.S.C. 1171 et seq.), is amended as follows:

(a) Section 2, as amended, (15 U.S.C. 1172), is amended by repealing the first paragraph.

(b) Section 3(e)(2), as amended (15 U.S.C. 1173(e)(2)), is amended to read as follows:

"(2) A person who knowingly makes a false entry in a record required to be kept under this section commits an unlawful act that is an offense described in section 1343 of title 18, United States Code.".

(c) Section 5 (15 U.S.C. 1175) is amended to read as follows:

"SEC. 5. It shall be unlawful to manufacture, recondition, repair, sell, transport, possess, or use any gambling device, in the District of Columbia, in any possession of the United States, or in the special jurisdiction of the United States as defined in section 203 of title 18, United States Code.".

(d) Section 6 (15 U.S.C. 1176) is amended to read as follows:

"SEC. 6. Whoever knowingly violates a provision of section 3 (other than subsection (e)(2)), section 4, or section 5 of this Act is guilty of a Class A misdemeanor."

SEC. 426. The Flammable Fabrics Act, as amended (15 U.S.C. 1191 et seq.), is amended as follows:

(a) Section 4(c), as amended (15 U.S.C. 1193(c)), is amended by deleting "1905 of title 18" and inserting in lieu thereof "9301 of title 5".

(b) Section 7 (15 U.S.C. 1196) is amended to read as follows:

"SEC. 7. A person who knowingly violates section 3 or 8(b) of this Act is guilty of a Class A misdemeanor. Nothing in this section shall limit other provisions of this Act.".

SEC. 427. Section 2 of the Act of August 2, 1956, 15 U.S.C. 1212), is amended to read as follows:

"SEC. 2. A person who violates the first section of this Act is guilty of a Class A misdemeanor.".

"SEC. 428. Section 4 of the Automobile Information Disclosure Act (15 U.S.C. 1233) is amended to read as follows:

"SEC. 428. Section 4 of the Automobile Information Disclosure Act (15 U.S.C. 1233) is amended to read as follows:

"SEC. 4. (a) Any manufacturer of automobiles distributed in commerce who knowingly fails to affix to any automobile manufactured or imported by him the label required by section 3 of this Act is guilty of an infraction. Such failure with respect to each automobile shall constitute a separate offense.

"(b) Any manufacturer of automobiles distributed in commerce who knowingly fails to endorse clearly, distinctly and legibly any label as required by section 3 of this Act, or who makes a false endorsement of any such label, is guilty of an infraction. Such failure or false endorsement with respect to each automobile shall constitute a separate offense.

"(c) Any person who knowingly removes, alters, or renders illegible any label affixed to a new automobile pursuant to section 3 of this Act or any endorsement thereon, prior to the time that such automobile is delivered to the actual custody and possession to the ultimate purchaser of such new automobile, except where the manufacturer relabels the automobile in the even the same is rerouted, repurchased, or reacquired by the manufacturer of such automobile, shall be guilty of a Class A misdemeanor. Such removal, alteration, or rendering illegible with respect to each automobile shall constitute a separate offense.".

SEC. 429. The Act of August 12, 1958 (15 U.S.C. 1241 et seq.) is amended as follows:

(a) Section 2 (15 U.S.C. 1242) as amended by deleting "fined not more than $2,000 or imprisoned for not more than five years, or

both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(b) Section 3 (15 U.S.C. 1243) is amended to read as follows:

"SEC. 3. Whoever, within any Territory or possession of the United States, or within the special jurisdiction of the United States (as defined in section 203 of title 18, United States Code), manufactures, sells, or possesses a switchblade knife, shall be guilty of a Class A misdemeanor.".

SEC. 430. Section 5(a) of the Hazardous Substances Act, as amended (15 U.S.C. 1264(a)), is amended to read as follows:

"(a) A person who violates a provision of section 4 is guilty of a Class B misdemeanor; but an offense committed with intent to defraud or mislead, or a second or subsequent offense, is a Class A misdemeanor.".

SEC. 431. The Act of September 13, 1961 15 U.S.C. 1281 and 1282), is repealed.

SEC. 432. Section 3(i)(7)(B) of the Antitrust Civil Process Act, as amended (15 U.S.C. 1312(i)(7)(B)), is amended by deleting "part V" and inserting in lieu thereof "subchapter B of chapter 31".

SEC. 433. Section 9 of the Federal Cigarette Labeling and Advertising Act, as amended (15 U.S.C. 1338), is amended to read as follows:

"SEC. 9. A person who violates a provision of this Act is guilty of an infraction, except that the maximum fine for an individual is $10,000.".

SEC. 434. The National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 et seq.), is amended as follows:

(a) Section 112(e), as amended (15 U.S.C. 1401(e)), is amended by deleting "1905 of title 18" and inserting in lieu thereof "9301 of title 5";

(b) Section 158(a)(2)(B), as added by section 102 of the Motor Vehicle and Schoolbus Safety Amendments of 1974 (15 U.S.C. 1418(a)(2)(B)), is amended by deleting "1905 of title 18" and inserting in lieu thereof "9301 of title 5".

SEC. 435. The Truth in Lending Act, as amended (15 U.S.C. 1601 et seq.), is amended as follows:

(a) Section 112 (15 U.S.C. 1611) is amended:

(1) by deleting "willfully and";

(2) by deleting "gives false or inaccurate information or" in clause (1); and

(3) by deleting "shall be fined not more than $5,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(b) Section 134, as added by section 502(a) of the Act of October 26, 1970, as amended (15 U.S.C. 1644), is amended:

(1) by deleting "Whoever" in subsection (a) and inserting in lieu thereof "Except as provided in section 1731 of title 18, United States Code, whoever";

(2) by adding after the word "transaction" wherever it appears in subsections (a) and (f) the words "or series of transactions".

(3) by deleting "or attempts or conspires to use" in subsection (a);

(4) by adding after the words "credit card" wherever they appear in subsections (a), (b), (c), (d), and (f) the words "or cards";

(5) by deleting "unlawful or fraudulent intent" in subsection (b) and inserting in lieu thereof "intent to defraud";

(6) by deleting "or attempts or conspires to transport" in subsection (b);

(7) by deleting "unlawful or fraudulent intent" in subsection (c) and inserting in lieu thereof "intent to defraud";

(8) by deleting "Whoever" in subsection (d) and inserting in lieu thereof "Except as provided in section 1731 of title 18, United States Code, whoever"; and

(9) by deleting "fined not more than $10,000 or imprisoned not more than ten years, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 436. Section 304(b) of the Consumer Credit Protection Act (15 U.S.C. 1674(b)) is amended to read as follows:

"(b) Whoever knowingly violates subsection (a) of this section is guilty of a Class A misdemeanor.".

SEC. 437. The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended as follows:

(a) Section 616 (15 U.S.C. 1681n) is amended:

(1) by deleting "willful" in the caption and inserting in lieu thereof "knowing"; and

(2) by deleting "willfully" and inserting in lieu thereof "knowingly".

(b) Section 618 (15 U.S.C. 1681p) is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

(c) Section 619 (15 U.S.C. 1681q) is amended to read as follows:

"§ 619. Obtaining Information Under False Pretenses

"A person who knowingly obtains information on a consumer from a consumer reporting agency under false pretenses is guilty of a Class A misdemeanor.".

(d) Section 620 (15 U.S.C. 1681r) is amended to read as follows:

"§ 620. Unauthorized Disclosures by Officers or Employees

"An officer or employee of a consumer reporting agency who knowingly provides information concerning an individual from the agency's files to a person not authorized to receive that information is guilty of a Class A misdemeanor.".

(e) The item relating to section 616 in the analysis at the beginning of the Act (84 Stat. 1127) is amended to read:

"616. Civil liability for knowing noncompliance.".

SEC. 438. The Interstate Land Sales Full Disclosure Act, as amended (15 U.S.C. 1701 et seq.), is amended as follows:

(a) Section 1410 (15 U.S.C. 1709) is amended:

(1) by deleting "an untrue" in subsection (a) and inserting in lieu thereof "a false";

(2) by deleting "untruth" in subsection (a) and inserting in lieu thereof "falsity"; and

(3) by deleting "an untrue" in subsection (b)(2) and inserting in lieu thereof "a false".

(b) Section 1418 (15 U.S.C. 1717) is amended to read as follows:

"SEC. 1418. A person who knowingly violates a provision of this title (other than section 1404), or the rules and regulations prescribed pursuant thereto, is guilty of a Class A misdemeanor.".

SEC. 439. The Horse Protection Act of 1970, as amended (15 U.S.C. 1821 et seq.), is amended as follows:

(a) Section 6(a) (15 U.S.C. 1825(a)) is amended to read as follows:

"(a)(1) Except as provided in paragraph (2) of this subsection, a person who knowingly violates section 5 is guilty of a Class A misdemeanor.

"(2)(A) If a person knowingly violates section 5, after one or more prior convictions of such person for such a violation have become final, such person is guilty of a Class E felony.

"(B) a person who knowingly neglects or fails to make full, true, and correct entries in an account, record, or memorandum required to be established and maintained by any person or in any notification or other information required to be submitted to the Secretary under section 4 of this Act, is guilty of a Class A misdemeanor.".

(b) Section 7 (15 U.S.C. 1826) is amended by deleting "willful" and inserting in lieu thereof "knowing".

SEC. 440. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended as follows:

(a) Section 104(b) (15 U.S.C. 1914(b)) is amended by deleting "1905 of Title 18" and inserting in lieu thereof "9301 of title 5".

(b) Section 107 (15 U.S.C. 1917) is amended:

(1) by amending subsection (b) to read as follows:

"(b) A person who knowingly violates section 106(a)(1) of this Act after having received notice of noncompliance from the Secretary is guilty of a Class A misdemeanor, except that the maximum fine for an individual shall be $50,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher."; and

(2) by deleting the words "and willful" in the second sentence of subsection (c)(1).

(c) Section 204(f) (15 U.S.C. 1944(f)) is amended by deleting "1905 of Title 18" and inserting in lieu thereof "9301 of title 5".

(d) Section 413, as added by section 408 of the Motor Vehicle Information and Cost Savings Act Amendments of 1976 (15 U.S.C. 1990c), is amended to read as follows:

"CRIMINAL PENALTIES

"SEC. 413. A person who knowingly violates a provision of this title is guilty of a Class A misdemeanor, except that the maximum fine for an individual is $50,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

(e) Section 414(d), as added by section 408 of the Motor Vehicle Information and Cost Savings Act Amendments of 1976 (15 U.S.C. 1990d(d)), is amended by deleting "1905 of title 18" and inserting in lieu thereof "9301 of title 5".

SEC. 441. The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended as follows:

(a) Section 3(a)(1), as amended (15 U.S.C. 2052(a)(1)), is amended by deleting "845(a)(5) of title 18, United States Code" and inserting in lieu thereof "1106(a)(5) of the Organized Crime Control Act of 1970".

(b) Section 6(a)(2) (15 U.S.C. 2055(a)(2)) is amended by deleting "1905 of Title 18" and inserting in lieu thereof "9301 of title 5".

(c) Section 20 (15 U.S.C. 2069) is amended:

(1) by deleting "knowingly" in subsection (a)(1) and inserting in lieu thereof "recklessly";

(2) by deleting the word "offense" wherever it appears in subsection (a)(1) and inserting in lieu thereof "violation"; and

(3) by repealing subsection (c).

(d) Section 21 (15 U.S.C. 2070) is amended to read as follows:

"SEC. 21. A person who knowingly violates section 19 of this Act after having received notice of noncompliance from the Commission is guilty of a Class A misdemeanor, except that the maximum fine for an individual shall be $50,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

(e) Section 23(a) (15 U.S.C. 2072(a)) is amended by deleting "(including willful)" and "(including willfully)".

SEC. 442. Section 20 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2217) is amended:

(a) by deleting "1905" and inserting in lieu thereof "1524"; and

(b) by adding after the words "United States Code," the second time they appear, the words "and of section 9301 of title 5, United States Code,".

SEC. 443. The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended as follows:

(a) Section 14(d) (15 U.S.C. 2613(d)) is amended:

(1) by deleting "willfully" and inserting in lieu thereof "knowingly";

(2) by adding before the word "misdemeanor" the words "Class B";

(3) by deleting "and fined not more than $5,000 or imprisoned not more than one year, or both"; and

(4) by deleting "1905 of title 18" and inserting in lieu thereof "9301 of title 5".

(b) Section 16(b) (15 U.S.C. 2615(b)) is amended to read as follows:

"(b) CRIMINAL.—A person who knowingly violates a provision of section 15(1), 15(2), or 15(3) is guilty of a Class A misdemeanor, except that the maximum fine is $25,000 for each day of violation or the maximum fine available under section 2201 of title 18, United States Code, whichever is higher.".

(c) Section 26(e) (15 U.S.C. 2625(e)) is amended:

(1) by amending paragraph (4) to read as follows:

"(4) This subsection does not supersede any requirement of subchapter F of chapter 13 of title 18, United States Code, or of chapter 91 of title 5, United States Code."; and

(2) by deleting "shall be fined not more than $2,500 or imprisoned not more than one year, or both" in paragraph (5) and inserting in lieu thereof "is guilty of a Class A misdemeanor".

PART M—AMENDMENTS RELATING TO CONSERVATION, TITLE 16, UNITED STATES CODE

SEC. 451. HUNTING, FISHING, TRAPPING; DISTURBANCE OR INJURY ON WILDLIFE REFUGES.—Whoever, except in compliance with rules and regulations promulgated by authority of law, traps, captures, knowingly disturbs or kills any bird, fish or wild animal of any kind whatever, or takes or destroys the eggs or nest of any such bird or fish, on any lands or waters which are set apart or reserved as sanctuaries, refuges or breeding grounds for such birds, fish, or animals under any law of the United States, is guilty of a Class B misdemeanor.

SEC. 452. IMPORTATION OR SHIPMENT OF INJURIOUS MAMMALS, BIRDS, FISH (INCLUDING MOLLUSKS AND CRUSTACEA), AMPHIBIA, AND REPTILES; PERMITS, SPECIMENS FOR MUSEUMS; REGULATIONS.—

(a)(1) The importation into the United States, any territory of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States, or any shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possesion of the United States, of the mongoose of the species Herpestes auropunctatus; of the species of so-called "flying foxes" or fruit bats of the genus Pteropus; and such other species of wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, or the offspring or eggs of any of the foregoing which the Secretary of the Interior or the Secretary of Commerce, as appropriate for the species involved, may prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is hereby prohibited. All such prohibited mammals, birds, fish (including mollusks and crustacea), amphibians, and reptiles, and the eggs or offspring therefrom, shall be promptly exported or destroyed at the expense of the importer or consignee. Nothing in this section shall be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act. Also, this section shall not authorize any action with respect to the importation of any plant pest as defined in the Federal Plant Pest Act, insofar as such importation is subject to regulation under that Act.

(2) As used in this subsection, the term "wild" relates to any creatures that, whether or not raised in captivity, normally are found in a wild state; and the terms "wildlife" and "wildlife resources" include those resources that comprise wild mammals, wild birds, fish (including mollusks and crustacea), and all other classes of wild creatures whatsoever, and all types of aquatic and land vegetation upon which such wildlife resources are dependent.

(3) Notwithstanding the foregoing, the Secretary of the Interior or the Secretary of Commerce, as appropriate for the species involved, when he finds that there has been a proper showing of responsibility and continued protection of the public interest and health, shall permit the importation for zoological, educational, medical, and scientific purposes of any mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles, or the offspring or eggs thereof, where such importation would be prohibited otherwise by or pursuant to this section or section 453 of this Act, and these sections shall not restrict importations by Federal agencies for their own use.

(4) Nothing in this subsection shall restrict the importation of dead natural history specimens for museums or for scientific collections, or the importation of domesticated canaries, parrots (including all other species of psittacine birds), or such other cage birds as the Secretary of the Interior may designate.

(5) The Secretary of the Treasury and the Secretary of the Interior or the Secretary of Commerce, as appropriate for the species involved, shall enforce the provisions of this subsection, including any regulations issued hereunder, and, if requested by the Secretary of the Interior or the Secretary of Commerce, as appropriate for the species involved, the Secretary of the Treasury may require the furnishing of an appropriate bond when desirable to insure compliance with such provisions.

(b) Whoever violates this section, or any regulation issued pursuant thereto, is guilty of a Class B misdemeanor.

(c) The Secretary of the Treasury shall prescribe such requirements and issue such permits as he may deem necessary for the transportation of wild animals and birds under humane and healthful conditions, and it shall be unlawful for any person, including any importer, knowingly to cause or permit any wild animal or bird to be transported to the United States, or any Territory or district thereof, under inhumane, or unhealthful conditions or in violation of such requirements. In any criminal prosecution for violation of this subsection and in any administrative proceeding for the suspension of the issuance of further permits—

(1) the condition of any vessel or conveyance, or the enclosures in which wild animals or birds are confined therein, upon its arrival in the United States, or any Territory or district thereof, shall constitute relevant evidence in determining whether the provisions of this subsection have been violated; and

(2) the presence in such vessel or conveyance at such time of a substantial ratio of dead, crippled, diseased, or starving wild animals or birds shall be deemed prima facie evidence of the violation of the provisions of this subsection.

SEC. 453. TRANSPORTATION OF WILDLIFE TAKEN IN VIOLATION OF STATE, NATIONAL, OR FOREIGN LAWS; RECEIPT; MAKING FALSE RECORDS.—

(a) Any person who—

(1) delivers, carries, transports, or ships, by any means whatever, for commercial or noncommercial purposes or sells any wildlife taken, transported, or sold in any manner in violation of any Act of Congress or regulation issued thereunder, or

(2) delivers, carries, transports, or ships, by any means whatever, for commercial or noncommercial purposes or sells in interstate or foreign commerce any wildlife taken, transported, or sold in any manner in violation of any law or regulation of any State or foreign country; or

(b) Any person who—

(1) sells any products manufactured, made, or processed from any wildlife taken, tranported, or sold in any manner in violation of any Act of Congress or regulation issued thereunder, or

(2) sells in interstate or foreign commerce any products manufactured, made, or processed from any wildlife taken, transported, or sold in any manner in violation of any law or regulation of a State or a foreign country, or

(3) having purchased or received wildlife imported from any foreign country or shipped, transported, or carried in interstate commerce, makes any false record, account, label, or identifiation thereof, or

(4) receives, acquires, or purchases for commercial or noncommercial purposes any wildlife—

(A) taken, transported, or sold in violation of any law or regulation of any State or foreign country and delivered, carried, transported, or shipped by any means or method in interstate or foreign commerce, or

(B) taken, transported, or sold in violation of any Act of Congress or regulation issued thereunder, or

(5) imports from Mexico to any State, or exports from any State to Mexico, any game mammal, dead or alive, or part or product thereof, except under permit or other authorization of the Secretary or, in accordance with any regulations prescribed by him, having due regard to the requirements of the Migratory Birds and Game Mammals Treaty with Mexico and the laws of the United States forbidding importation of certain live mammals injurious to agriculture and horticulture;

shall be subject to the penalties prescribed in subsection (c) and (d) of this section.

(c)(1) Any person who engages in conduct in reckless disregard of the fact that the conduct violates any provision of subsection (a) or (b) of this section may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation shall be a separate violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed under this paragraph, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty de novo.

(2) Any employee authorized by the Secretary to enforce the provisions of this section, or any officer of the customs, shall have authority, in addition to any other authority provided by law relating to search and seizure, to execute any warrant to search for and seize any wildlife, product, property, or item used or possessed in violation of this section with respect to which a civil penalty may be assessed pursuant to paragraph (1) of this subsection. Such wildlife, product, property, or item so seized shall be held by such employee pending disposition of proceedings by the Secretary involving the assessment of a civil penalty pursuant to paragraph (1) of this subsection; except that the Secretary may, in lieu of holding such wildlife, product, property, or item, permit such person to post a bond or other surety satisfactory to the Secretary. Upon the assessment of a civil penalty pursuant to paragraph (1) of this subsection for any violation of this section, such wildlife, product, property, or item so seized may be proceeded against in any court of competent jurisdiction and forfeited to the Secretary for disposition by him in such manner as he deems

appropriate. The owner or consignee of any such wildlife, product, property, or item so seized shall, as soon as practicable following such seizure, be notified of that fact in accordance with regulations established by the Secretary or the Secretary of the Treasury. Whenever any wildlife, product, property, or item is seized pursuant to this subsection, the Secretary shall move to dispose of the civil penalty proceedings pursuant to paragraph (1) of this subsection as expeditiously as possible. If, with respect to any wildlife, product, property, or item so seized, no action is commenced in any court of competent jurisdiction to obtain the forfeiture of such wildlife, product, property or item within thirty days, following the disposition of proceedings involving the assessment of a civil penalty, such wildlife, product, property or item shall be immediately returned to the owner or the consignee in accordance with regulations promulgated by the Secretary.

(d) Except as provided in section 1411 of title 18, United States Code, any person who knowingly violates any provision of subsection (a) or (b) of this section is guilty of a Class A misdemeanor.

(e) Any wildlife or products thereof seized in connection with any violation with respect to which a sentence may be imposed pursuant to subsection (d) shall, upon conviction of such violation, be forfeited to the Secretary to be disposed of by him in such manner as he deems appropriate. Any other property or item so seized may, upon conviction, in the discretion of the court, be forfeited to the United States or otherwise disposed of. The owner or consignee of any such wildlife, product, property, or item so seized shall, as soon as practicable following such seizure, be notified of that fact in accordance with regulations established by the Secretary or the Secretary of the Treasury. If no conviction results from any such alleged violation, such wildlife, product, property or item so seized in connection therewith shall be immediately returned to the owner or consignee in accordance with regulations promulgated by the Secretary, unless the Secretary, within thirty days following the final disposition of the case involving such violation, commences proceedings under subsection (c) of this section.

(f) For the purpose of this section, the term—

(1) "Secretary" means the Secretary of the Interior or the Secretary of Commerce, as appropriate for the species involved;

(2) "person" means any individual, firm, corporation, association, or partnership;

(3) "wildlife" means any wild mammal, wild bird, amphibian, reptile, mollusk, or crustacean, or any part, egg, or offspring thereof, or the dead body or parts thereof, but does not include migratory birds for which protection is afforded under the Migratory Bird Act, as amended;

(4) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam; and

(5) "taken" means captured, killed, collected, or otherwise possessed.

SEC. 454. MARKING PACKAGES OR CONTAINERS.—

Whoever ships, transports, carries, brings or conveys in interstate or foreign commerce any package containing any wild mammal, wild bird, amphibian, or reptile, or any mollusk or crustacean, or the dead body or parts or eggs thereof, without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee and with an accurate statement showing the contents by number and kind; or

Whoever ships, transports, carries, brings or conveys in interstate commerce, any package containing migratory birds included in any convention to which the United States is a party, without marking, labeling, or tagging such package as prescribed in such convention, or Act of Congress, or regulation thereunder; or

Whoever ships, transports, carries, brings or conveys in interstate commerce any package containing furs, hides, or skins of wild animals without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee—

Is guilty of a Class B misdemeanor, and the shipment shall be forfeited.

In any case where the marking, labeling, or tagging of a package under this section indicating in any way the contents thereof would create a significant possibility of theft of the package or its contents, the Secretary of the Interior may, upon request of the owner thereof or his agent or by regulation, provide some other reasonable means of notifying appropriate authorities of the contents of such packages.

SEC. 455. (a) Any employee authorized by the Secretary of the Interior or the Secretary of Commerce to enforce sections 451, 452, 453, and 454 of this Act, and any officer of the customs, in addition to any other authority provided by law, may arrest any person who violates section 451, 452, or 454 or who such employee or officer of the customs has probable cause to believe is knowingly violating section 453, in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of such sections.

(b) Any employee authorized by the Secretary of the Interior or the Secretary of Commerce to enforce sections 451, 452, 453, and 454 of this Act, and any officer of the customs, in addition to any other authority provided by law, shall have authority to execute any warrant to search for and seize any wildlife, product, property, or item used or possessed in connection with a violation of section 451, 452 or 454, or in connection with a knowing violation of section 453, and any such wildlife, product, property, or item so seized shall be held by him or by the United States marshal pending disposition thereof by the court.

SEC. 456. TRANSPORTATION OF WATER HYACINTHS.—

(a) Whoever knowingly delivers or receives for transportation, or transports, in interstate commerce, alligator grass (alternathera philoxeroides), or water chestnut plants (trapa natans) or water hyacinth plants (eichhornia crassipes) or the seeds of such grass or plants; or

(b) Whoever knowingly sells, purchases, barters, exchanges, gives, or receives any grass, plant, or seed which has been transported in violation of subsection (a); or

(c) whoever knowingly delivers or receives for transportation, or transports, in interstate commerce, an advertisement, to sell, purchase, barter, exchange, give, or receive alligator grass or water chestnut plants or water hyacinth plants or the seeds of such grass or plants—

Is guilty of a class M misdemeanor.

SEC. 457. USE OF AIRCRAFT OR MOTOR VEHICLE TO HUNT CERTAIN WILD HORSES OR BURROS; POLLUTION OF WATERING HOLES.—

(a) Whoever uses an aircraft or a motor vehicle to hunt, for the purpose of capturing or killing, any wild unbranded horse, mare, colt, or burro running at large on any of the public land or ranges is guilty of a class B misdemeanor.

(b) Whoever pollutes or causes the pollution of any watering hole on any of the public land or ranges for the purpose of trapping, killing, wounding, or maiming any of the animals referred to in subsection (a) of this section is guilty of a class B misdemeanor.

(c) As used in subsection (a) of this section—

(1) The term "aircraft" means any contrivance used for flight in the air; and

(2) the term "motor vehicle" includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land.

SEC. 458. THE GOLDEN EAGLE INSIGNIA.—

As used in this section, "The Golden Eagle Insignia" means the words "The Golden Eagle" and the representation of an American Golden Eagle (colored gold) and a family group (colored midnight blue) enclosed within a circle (colored white with a midnight blue border) framed by a rounded triangle (colored gold with a midnight blue border) which was originated by the Department of the Interior as the official symbol for Federal recreation fee areas.

Whoever, except as authorized under rules and regulations issued by the Secretary of the Interior, knowingly manufactures, reproduces, or uses "The Golden Eagle Insignia," or any facsimile thereof in such a manner as is likely to cause confusion, or to cause mistake, or to deceive, is guilty of a class B misdemeanor.

The use of any such emblem, sign, insignia, or words which was lawful on July 11, 1972, shall not be a violation of this section.

A violation of this section may be enjoined at the suit of the Attorney General upon complaint by the Secretary of the Interior.

SEC. 459. "SMOKEY BEAR" and "WOODSY OWL".—

(a) As used in this section—

(1) the term "Woodsy Owl" means the name and representation of a fanciful owl, who wears slacks (forest green when colored), a belt (brown when colored), and a Robin Hood style hat (forest green when colored) with a feather (red when colored), and who furthers the slogan, "Give a Hoot, Don't Pollute", originated by the Forest Service of the United States Department of Agriculture;

(2) the term "Smokey Bear" means the name and character "Smokey Bear" originated by the Forest Service of the United States Department of Agriculture in cooperation with the Association of State Foresters and the Advertising Council;

(3) the term "Secretary" means the Secretary of Agriculture.

(b) Whoever, except as authorized under rules and regulations issued by the Secretary after consultation with the Association of State Foresters and the Advertising Council, knowingly and for profit manufactures, reproduces, or uses the character "Smokey Bear", originated by the Forest Service, United States Department of Agriculture, in cooperation with the Association of State Foresters and the Advertising Council for use in public information concerning the prevention of forest fires, or any facsimile thereof, or the name "Smokey Bear" is guilty of a Class B misdemeanor.

(c) Whoever, except as authorized under rules and regulations issued by the Secretary, knowingly and for profit manufactures, reproduces, or uses the character "Woodsy Owl", the name "Woodsy Owl", or the associated slogan, "Give a Hoot, Don't Pollute", is guilty of a Class B misdemeanor.

SEC. 460. Section 3 of the Act of August 25, 1916, as amended (16 U.S.C. 3), is amended by deleting "punished by a fine of not more than $500 or imprisonment for not exceeding six months, or both, and be adjudged to pay all costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 461. Section 1 of the Act of March 2, 1933 (16 U.S.C. 9a), is amended by deleting "and willfully violates any such regulation shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $100 or by imprisonment for not more than three months, or by both such fine and imprisonment" and inserting in lieu thereof "violates any such regulation is guilty of a Class B misdemeanor".

SEC. 462. The first paragraph of that portion designated "GENERAL EXPENSES, FOREST SERVICE" of the Act of March 3, 1905 (33

Stat. 872; 16 U.S.C. 10), is amended by deleting the word "commissioner" wherever it appears and inserting in lieu thereof "magistrate".

SEC. 463. The Act of May 7, 1894, as amended (16 U.S.C. 24 et seq.), is amended as follows:

(a) Section 4, as amended (16 U.S.C. 26), is amended:

(1) by deleting the fourth sentence;

(2) by deleting "deemed guilty of a misdemeanor, and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings" in the fifth sentence and inserting in lieu thereof "guilty of a Class B misdemeanor".

(b) Section 9 (16 U.S.C. 30) is amended by deleting "commissioner" and inserting in lieu thereof "magistrate".

SEC. 464. Section 5 of the Act of July 3, 1926 (16 U.S.C. 45e), is amended by deleting "deemed guilty of a misdemeanor, and shall be subjected to a fine of not more than $500 or imprisonment not exceeding six months or both" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 465. The Act of June 2, 1920, as amended (16 U.S.C. 57 et seq.), is amended as follows:

(a) Section 1, as amended (16 U.S.C. 57), is amended by deleting "crimes" and inserting in lieu thereof "offenses".

(b) Section 5 (16 U.S.C. 63) is amended by deleting "or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this Act, and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other" and inserting in lieu thereof "who shall violate any of the".

SEC. 466. The Act of June 30, 1916, as amended (16 U.S.C. 95 et seq.), is amended as follows:

(a) Section 1 (16 U.S.C. 95) is amended by deleting "crimes" and inserting in lieu thereof "offenses".

(b) Section 4 (16 U.S.C. 98) is amended:

(1) by deleting "or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this section, and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other" in the fourth sentence and inserting in lieu therof "who shall violate any of the";

(2) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings" in the fourth sentence and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 467. Section 4 of the Act of June 29, 1906 (16 U.S.C. 114), is amended:

(a) by deleting "or persons";

(b) by deleting "willfully remove, disturb or molest";

(c) by deleting "deemed guilty of a misdemeanor, and upon conviction before any court having jurisdiction of such offenses shall be fined not more than $1,000 or imprisoned not more than twelve months, or such person or persons may be fined and imprisoned, at the discretion of the judge, and" and inserting in lieu thereof "guilty of a Class A misdemeanor. A person convicted under this section or convicted of any offense described in title 18, United States Code, relating to such property from said park".

SEC. 468. The Act of April 25, 1928, as amended (16 U.S.C. 117 et seq.), is amended as follows:

(a) Section 1 (16 U.S.C. 117) is amended by deleting "crimes" and inserting in lieu thereof "offenses".

(b) Section 4 (16 U.S.C. 117c) is amended:

(1) by deleting "or persons, or stage or express company or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this section and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or" in the fourth sentence;

(2) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor";

(3) by amending the proviso to read: "*Provided, however,* That any person who may, without permission from the Secretary of the Interior, in any manner knowingly disturb or molest any of the ruins, mounds, buildings, graves, relics, or other evidences of an ancient civilization from said park shall be guilty of a Class A misdemeanor. A person convicted of an offense described in title 18, United States Code, with respect to such property in the park or of a Class A misdemeanor described in this section shall be required to restore the property disturbed, if possible.".

SEC. 469. Section 3 of the Act of May 22, 1902, as amended (16 U S.C. 123), is amended by deleting "punished by a fine of not more than five hundred dollars, or by imprisonment for not more than one year" in the first sentence and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 470. The Act of August 21, 1916, as amended (16 U.S.C. 124 et seq.), is amended as follows:

(a) Section 1 (16 U.S.C. 124) is amended by deleting "crimes" and inserting in lieu thereof "offenses".

(b) Section 4 (16 U.S.C. 127) is amended:

(1) by deleting "or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this section and sections 1 and 5 of this Act and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other" and inserting in lieu thereof "who shall violate any of the";

(2) by deleting "deemed guilty of a misdemeanor, and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 471. Section 6 of the Act of January 9, 1903 (16 U.S.C. 146), is amended to read as follows:

"SEC. 6. That a person who violates a rule or regulation prescribed under this Act is guilty of a Class B misdemeanor.".

SEC. 472. The last proviso in the fourth paragraph of section 18 of the Act of April 21, 1904, as amended (16 U.S.C. 152), is amended to read: "*And provided further,* That whoever violates a rule or regulation prescribed by the Secretary of the Interior relative to the use of the waters of said springs and creeks and the use and occupation of the lands in said reservation is guilty of a Class B midemeanor.".

SEC. 473. The Act of August 22, 1914, as amended (16 U.S.C. 163 et seq.), is amended as follows:

(a) Section 1 (16 U.S.C. 163) is amended by deleting "crimes" and inserting in lieu thereof "offenses."

(b) Section 4 (16 U.S.C. 170) is amended:

(1) by deleting "or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this section and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or"; and

(2) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500, or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 474. The Act of March 2, 1929, as amended (16 U.S.C. 198 et seq.), is amended as follows:

(a) Section 1 (16 U.S.C. 198) is amended by deleting "crimes" and inserting in lieu thereof "offenses".

(b) Section 4 (16 U.S.C. 198c) is amended:

(1) by deleting "or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this section and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or"; and

(2) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 475. The Act of April 16, 1928, as amended (16 U.S.C. 204 et seq.), is amended as follows:

(a) Section 1 (16 U.S.C. 204) is amended by deleting "crimes" and inserting in lieu thereof "offenses".

(b) Section 4 (16 U.S.C. 204c) is amended:

(1) by deleting "or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this section, and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other" and inserting in lieu thereof "who shall violate any of the"; and

(2) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all the costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 476. Section 3 of the Act of March 6, 1942 (16 U.S.C. 256b), is amended:

(a) by deleting "or persons, stage or express company, railway or other transportation company, who knows or has reason to believe that such wild birds, fish or animals were taken or killed contrary to the provisions of said sections or the rules and regulations promulgated by the Secretary of the Interior, and who receives for transportation the dead bodies or any part thereof of the wild birds, fish, or animals so taken or killed, or who shall violate any of the other" and inserting in lieu thereof "who shall violate any of the"; and

(b) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all the costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 477. Section 8 of the Act of February 26, 1917 (16 U.S.C. 354), is amended to read as follows:

"SEC. 8. That, except as provided in subchapter A of chapter 17 of title 18, United States Code, a person who violates a provision of this Act is guilty of a Class B misdemeanor.".

SEC. 478. Section 4 of the Act of March 3, 1891, as amended (16 U.S.C. 364), is amended by deleting "and any such person making a false oath or affidavit in the premises shall be guilty of perjury, and, upon conviction, subject to all the pains and penalties of perjury under the statutes of the United States;".

SEC. 479. The Act of March 2, 1911, as

amended (16 U.S.C. 371), is amended by deleting ", and any person desiring to bathe at the free bathhouse on the Hot Springs National Park making a false oath as to his financial condition shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than $25 nor more than $300 and be imprisoned for not more than sixty days".

SEC. 480. The Act of April 20, 1904, as amended (16 U.S.C. 372 et seq.), is amended as follows:

(a) Section 3 (16 U.S.C. 373) is amended by deleting "shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not more than one hundred dollars and be adjudged to pay all costs of the proceedings" and inserting in lieu thereof "commits an unlawful act that is an offense described in subchapter A of chapter 17 of title 18, United States Code".

(b) The language preceding the first proviso in the first sentence of section 4, as amended (16 U.S.C. 374) is amended to read:

"That any person who shall, except in compliance with such rules and regulations as the Secretary of the Interior may deem necessary, enter upon said tract, take, use, bathe in water of any spring located thereon, or without presenting satisfactory evidence that he (provided he is under medical treatment) is the patient of a physician registered at the office of the Superintendent of the Hot Springs National Park as one qualified, under such rules which the Secretary of the Interior may have made or shall make, to prescribe the waters of the Hot Springs, commits an unlawful act that is an offense described in section 1713 of title 18, United States Code:".

SEC. 481. The Act of April 19, 1930, as amended (16 U.S.C. 395 et seq.) is amended as follows:

(a) Section 1 (16 U.S.C. 395) is amended by deleting "crimes" and inserting in lieu thereof "offenses".

(b) Section 4 (16 U.S.C. 395c) is amended:

(1) by deleting "or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this section and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or"; and

(2) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 482. The Act of August 19, 1937, as amended (16 U.S.C. 403c–1 et seq.), is amended as follows:

(a) Section 1, as amended (16 U.S.C. 403c–1), is amended:

(1) by deleting "crimes" in subsection (a) and inserting in lieu thereof "offenses"; and

(2) by deleting "crimes" in subsection (c) and inserting in lieu thereof "offenses".

(b) Section 3 (16 U.S.C. 403c–3) is amended:

(1) by deleting "or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this section, and who receives for transportation any of said animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other" and inserting in lieu thereof "who shall violate any of the"; and

(2) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 483. The Act of April 29, 1942, as amended (16 U.S.C. 403h–1 et seq.), is amended as follows:

(a) Section 1 (16 U.S.C. 403h–1) is amended by deleting "crimes" and inserting in lieu thereof "offenses".

(b) Section 3 (16 U.S.C. 403h–3) is amended:

(1) by deleting "or persons, stage or express company, railway of other transportation company, who knows or has reason to believe that such wild birds, fish, or animals were taken or killed contrary to the provisions of said sections or the rules and regulations promulgated by the Secretary of the Interior, and who receives for transportation the dead bodies or any part thereof of the wild birds, fish, or animals so taken or killed, or who shall violate any of the other" and inserting in lieu thereof "who shall violate any of the"; and

(2) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all the costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 484. Section 3 of the Act of June 5, 1942 (16 U.S.C. 404c–3), is amended:

(a) by deleting "or persons, stage or express company, railway or other transportation company, who knows or has reason to believe that such wild birds, fish, or animals were taken or killed contrary to the provisions of said sections or the rules and regulations promulgated by the Secretary of the Interior, and who receives for transportation the dead bodies or any part thereof of the wild birds, fish, or animals so taken or killed, or who shall violate any of the other" and inserting in lieu thereof "who shall violate any of the"; and

(b) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all the costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 485. The Act of March 6, 1942, as amended (16 U.S.C. 408i et seq.), is amended as follows:

(a) Section 1 (16 U.S.C. 408i) is amended by deleting "crimes" and inserting in lieu thereof "offenses".

(b) Section 3 (16 U.S.C. 408k) is amended:

(1) by deleting "or persons, stage or express company, railway or other transportation company, who knows or has reason to believe that such wild birds, fish, or animals were taken or killed contrary to the provisions of said sections or rules and regulations promulgated by the Secretary of the Interior, and who receives for transportation the dead bodies or any part thereof of the wild birds, fish, or animals so taken, or killed, or who shall violate any of the other" and inserting in lieu thereof who shall violate any of the";

(2) by deleting "deemed guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment not exceeding six months, or both, and be adjudged to pay all costs of the proceedings" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 486. The Act of March 3, 1897, as amended (16 U.S.C. 413), is amended as follows:

(a) Section 1 (16 U.S.C. 413) is repealed.

(b) Section 2 (16 U.S.C. 414) is amended to read as follows:

"SEC. 2. That a person who hunts any kind of game with gun or dog on a national military park, or who sets a trap or net or other device whatsoever thereon for the purpose of catching game of any kind, is guilty of a Class B misdemeanor.".

SEC. 487. Section 5 of the Act of June 2, 1926, as amended (16 U.S.C. 422d), is amended to read as follows:

"SEC. 5. A person who, except by permission of the Secretary of the Interior, disturbs or removes any battle relic or hunts within the limits of the park is guilty of a Class B misdemeanor.".

SEC. 488. Section 7 of the Act of June 3, 1926, as amended (16 U.S.C. 423f), is amended to read as follows:

"SEC. 7. Any person who, except by permission of the Secretary of the Interior, disturbs or removes any battle relic or hunts within the limits of the park is guilty of a Class B misdemeanor.".

SEC. 489. Section 8 of the Act of February 14, 1927, as amended (16 U.S.C. 425g), is amended:

(a) by deleting the word "offense" wherever it appears and inserting in lieu thereof the word "violation"; and

(b) by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 490. Section 10 of the Act of March 3, 1927, as amended (16 U.S.C. 426i), is amended to read as follows:

"SEC. 10. Any person who, except by permission or the Secretary of the Interior, disturbs or removes any battle relic within the park is guilty of a Class B misdemeanor.".

SEC. 491. Section 10 of the Act of March 26, 1928, as amended (16 U.S.C. 428i), is amended to read as follows:

"SEC. 10. Any person who, except by permission of the Secretary of the Interior, disturbs or removes any battle relic within the park is guilty of a Class B misdemeanor.".

SEC. 492. The last sentence of section 7 of the Act of March 2, 1917, as amended (16 U.S.C. 430i), is amended to read: "Any person who, except by permission of the Secretary of the Interior, disturbs or removes any battle relic or hunts within the park is guilty of a class B misdemeanor.".

SEC. 493. Section 8 of the Act of June 21, 1934 (16 U.S.C. 430q), is amended to read as follows:

"SEC. 8. Any person who, except by permission of the Secretary of the Interior, disturbs or removes any battle relic or hunts within the park is guilty of a class B misdemeanor.".

SEC. 494. The second sentence of section 3(b) of the Act of June 26, 1935 (16 U.S.C. 430v(b)), is amended to read: "A person who violates regulations is guilty of a class B misdemeanor.".

SEC. 495. Section 1 of the Act of June 8, 1906 (16 U.S.C. 433), is amended to read as follows:

"That any person who shall excavate any historic or prehistoric ruin or monument, or any object of antiquity, as defined by the Secretary of the Interior, situated on lands owned or controlled by the Government of the United States, without permission of the Secretary of the Department of the Government having jurisdiction over the lands on which such antiquities are situated shall be guilty of a class B misdemeanor.".

SEC. 496. Section 4 of the Act of December 22, 1944, as amended (16 U.S.C. 460d), is amended:

(a) by deleting "shall be punished by a fine of not more than $500 or imprisonment for not more than six months, or both" in the fifth sentence and inserting in lieu thereof "is a class B misdemeanor"; and

(b) by deleting "3401" in the sixth sentence and inserting in lieu thereof "3302".

SEC. 497. Section 4 of the Act of September 28, 1962 (16 U.S.C. 460k–3), is amended:

(a) by amending the third sentence to read: "A violation of the regulations is a class B misdemeanor."; and

(b) by adding at the end the following new sentence: "The provisions of any such regulations shall be enforced by any officer or employee of the Department of the Interior designated by the Secretary of the Interior.".

SEC. 498. Section 4(e) of the Land and Water Conservation Fund Act of 1965, as

added by section 2 of the Act of July 11, 1972 (16 U.S.C. 4601–6a (e)), is amended:

(a) by deleting the third sentence; and

(b) by amending the last sentence to read: "A violation of a rule or regulation issued under this subsection is an infraction.".

SEC. 499. The Act of October 8, 1964 (16 U.S.C. 460n et seq.), is amended as follows:

(a) Section 6 (16 U.S.C. 460n–5) is amended by deleting "misdemeanor, and may be punished by a fine of not more than $500, or by imprisonment not exceeding six months, or by both such fine and imprisonment" and inserting in lieu thereof "Class B misdemeanor".

(b) Section 9 (16 U.S.C. 460n–8) is amended:

(1) by deleting "commissioner" wherever it appears in the first paragraph and inserting in lieu thereof "magistrate"; and

(2) by amending the second paragraph to read as follows:

"The functions of the magistrate shall include the trial and sentencing of persons charged with the commission of misdemeanors and infractions as defined in section 111 of title 18, United States Code. The magistrate shall act in accordance with the provisions of section 3302 of title 18 and the rules prescribed by the Supreme Court for the performance of duties by magistrates.".

SEC. 500. The last sentence of section 2(k) of the Act of August 21, 1935, as amended (16 U.S.C. 462(k)), is amended to read: "A person who violates a rule or regulation authorized by this Act is guilty of an infraction.".

SEC. 501. Section 4 of the Act of May 28, 1940 (16 U.S.C. 552d), is amended to read as follows:

"SEC. 4. A violation of the regulations issued under this Act is a Class A misdemeanor.".

SEC. 502. The second paragraph of the language relating to the Forest Service in the Act of March 3, 1905 (16 U.S.C. 559) is amended by deleting the word "commissioner" each time it appears and inserting in lieu thereof "magistrate".

SEC. 503. Section 3 of the Act of June 3, 1878 (16 U.S.C. 606), is amended to read as follows:

"SEC. 3. A person who violates a provision of this Act, or any rule or regulation in pursuance thereof made by the Secretary of the Interior, is guilty of a Class B misdemeanor.".

SEC. 504. Section 7 of the Act of March 10, 1934, as added by the Act of August 14, 1946 (16 U.S.C. 666a), is amended to read as follows:

"SEC. 7. A person who violates a rule or regulation promulgated in accordance with this Act is guilty of a Class A misdemeanor.".

SEC. 505. The Act of June 8, 1940, as amended (16 U.S.C. 668 et seq.), is amended as follows:

(a) Section 1, as amended (16 U.S.C. 668), is amended:

(1) by deleting "knowingly, or with wanton disregard of the consequences of his act" in subsection (a) and inserting in lieu thereof "recklessly";

(2) by deleting "fined not more than $5,000 or imprisoned not more than one year or both" in subsection (a) and inserting in lieu thereof "guilty of a Class A misdemeanor";

(3) by deleting "fined not more than $10,000 or imprisoned not more than two years, or both" in subsection (a) and inserting in lieu thereof "guilty of a Class E felony"; and

(4) by deleting "offense" in the second second sentence of subsection (b) and inserting in lieu thereof "violation".

(b) Section 3(a), as amended (16 U.S.C. 668b(a)), is amended:

(1) by deleting "commissioner" in the last sentence and inserting in lieu thereof "magistrate"; and

(2) by amending the first sentence to read: "The provisions of this Act and any regulations made pursuant thereto shall be enforced by any officer or employee of the Department of the Interior designated by the Secretary of the Interior.".

SEC. 506. Section 4 of the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd), is amended:

(a) by amending subsection (e) to read as follows:

"(e) A person who violates or fails to comply with a provision of this Act or any regulations issued thereunder is guilty of a Class B misdemeanor."; and

(b) by amending the first sentence of subsection (f) to read: "The provisions of this Act and any regulations made pursuant thereto shall be enforced by any officer or employee of the Department of the Interior designated by the Secretary of the Interior.".

SEC. 507. Section 204 of the Act of September 15, 1960, as amended (16 U.S.C. 670j), is amended:

(a) by deleting "fined not more than $1,000, or imprisoned not more than six months, or both" in subsection (a)(1) and inserting in lieu thereof "guilty of a Class B misdemeanor";

(b) by deleting "fined not more than $500, or imprisoned not more than six months, or both" in subsection (a)(2) and inserting in lieu thereof "guilty of a Class B misdemeanor"; and

(c) by deleting "3401" in subsection (b)(3) and inserting in lieu thereof "3302".

SEC. 508. The Act of April 23, 1928, as amended (16 U.S.C. 609 et seq.), is amended as follows:

(a) Section 6, as amended (16 U.S.C. 690e (a)), is amended:

(1) by amending the first sentence to read: "The provisions of this Act and any regulations made pursuant thereto shall be enforced by any officer or employee of the Department of the Interior designated by the Secretary of the Interior."; and

(2) by deleting "commissioner", in the second sentence and inserting in lieu thereof "magistrate".

(b) Section 9 (16 U.S.C. 690g) is amended to read as follows:

"SEC. 9. That, except as provided in chapter 17 of title 18, United States Code, a person who violates or fails to comply with a provision of, or a regulation made pursuant to, this Act, is guilty of a Class B misdemeanor.".

SEC. 509. Section 2 of the Act of June 13, 1933, as amended (16 U.S.C. 693a), is amended by deleting "punished by fine of not more than $500 or imprisonment for not more than six months or both" and inserting in lieu thereof "a Class B misdemeanor".

SEC. 510. The Migratory Bird Treaty Act, as amended (16 U.S.C. 703 et seq.), is amended as follows:

(a) Section 5, as amended (16 U.S.C. 706), is amended:

(1) by amending the first sentence to read: "The provisions of this Act and any regulations made pursuant thereto shall be enforced by any officer or employee of the Department of the Interior designated by the Secretary of the Interior."; and

(2) by deleting "commissioners" in the second sentence and inserting in lieu thereof "magistrates".

(b) Section 6, as amended (16 U.S.C. 707), is amended:

(1) by amending subsection (a) to read as follows:

"(a) That, except as otherwise provided in this section, a person who violates a provision of said conventions or of this Act, or who violates or fails to comply with a regulation made pursuant to this Act, is guilty of a Class B misdemeanor,"; and

(2) by deleting "felony and shall be fined not more than $2,000 or imprisoned not more than two years or both" in subsection (b)(2) and inserting in lieu thereof "Class A misdemeanor".

SEC. 511. The Act of March 16, 1934, as amended (16 U.S.C. 718 et seq.), is amended as follows:

(a) Section 5(b), as amended (16 U.S.C. 718e(b)), is repealed, and the designation "(a)" at the beginning of section 5(a) is deleted.

(b) Section 6, as amended (16 U.S.C. 718f), is amended:

(1) by deleting the first sentence and inserting in lieu thereof: "The provisions of this Act shall be enforced by any officer or employee of the Department of the Interior designated by the Secretary of the Interior. Any judge of any court established under the laws of the United States, and any United States magistrate within his respective jurisdiction, may, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.";

(2) by deleting the word "commissioners" wherever it appears and inserting in lieu thereof "magistrates";

(3) by deleting "such Acts" in that last sentence and inserting in lieu thereof "this Act"; and

(4) by changing the comma after the words "Migratory Bird Treaty Act" in the last sentence to a period and deleting the rest of the sentence.

(c) Section 7 (16 U.S.C. 718g) is amended to read as follows:

"SEC. 7. A person who violates a provision of this Act, or who violates or fails to comply with a regulation made pursuant thereto, is guilty of a Class B misdemeanor.".

SEC. 512. The Upper Mississippi River Wildlife and Fish Refuge Act, as amended (16 U.S.C. 721 et seq.), is amended as follows:

(a) Section 8(a) (16 U.S.C. 727(a)) is amended:

(1) by amending the first sentence to read: "The provisions of this Act and any regulations made pursuant thereto shall be enforced by any officer or employees of the Department of the Interior designated by the Secretary of the Interior."; and

(2) by deleting "commissioner" and inserting in lieu thereof "magistrate".

(b) Section 11 (16 U.S.C. 730) is amended to read as follows:

"SEC. 11. A person who violates or fails to comply with a provision of or a regulation made pursuant to this Act is guilty of a Class B misdemeanor.".

SEC. 513. Section 13 of the Fish and Wildlife Act of 1956, as added by section 1 of the Act of November 18, 1971, and amended (16 U.S.C. 742j–1), is amended:

(a) by deleting "shall be fined not more than $5,000 or imprisoned not more than one year, or both" in subsection (a) and inserting in lieu thereof "is guilty of a Class A misdemeanor"; and

(b) by amending the first two sentences of subsection (d) to read: "The Secretary of the Interior shall promulgate such regulations as he deems necessary and appropriate to carry out the enforcement of this section. The provisions of this section and any regulations made pursuant thereto shall be enforced by any officer or employee of the Department of the Interior designated by the Secretary of the Interior.".

SEC. 514. Section 6(a) of the Northern Pacific Halibut Act of 1937, as amended (16 U.S.C. 772e(a)), is amended to read as follows:

"(a) A person who violates a provision of section 3 of this Act is guilty of a Class A misdemeanor.".

SEC. 515. The Sockeye Salmon or Pink Salmon Fishing Act of 1947, as amended (16 U.S.C. 776 et seq.), is amended as follows:

(a) Section 4, as amended (16 U.S.C. 776b), is amended by deleting "or any person who furnishes a false return, record, or report, upon conviction shall be subject to such fine as may be imposed by the court not to exceed $1,000" and inserting in lieu thereof "shall be guilty of an infraction".

(b) Section 5(a), as amended (16 U.S.C. 776c(a)), is amended by deleting "upon conviction shall be fined not more than $1,000 or be imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(c) Section 6(d), as amended (16 U.S.C. 776d(d)), is amended by deleting "commissioners" in the third sentence and inserting in lieu thereof "magistrates".

SEC. 516. Section 3 of the Act of August 15, 1914 (16 U.S.C. 783), is amended by deleting "every person, partnership, or association guilty of a violation of the provisions of this Act shall be liable to a fine of not more than $500, and in addition such fine" and inserting in lieu thereof "a person who violates a provision of this Act is guilty of an infraction and the fine".

SEC. 517. The Federal Power Act, as amended (16 U.S.C. 791a et seq.), is amended as follows:

(a) Section 18, as amended (16 U.S.C. 811), is amended:

(1) by deleting "deemed guilty of a misdemeanor, and upon conviction shall be"; and

(2) by deleting "willful" and inserting in lieu thereof "knowing".

(b) Section 304(b), as added by section 213 of the Act of August 26, 1935 (16 U.S.C. 825c(b)), is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

(c) Section 307(c), as added by section 213 of the Act of August 26, 1935, and amended (16 U.S.C. 825f(c)), is amended by repealing the last sentence.

(d) Section 315(a), as added by section 213 of the Act of August 26, 1935, and amended (16 U.S.C. 825n(a)), is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

(e) Section 316, as added by section 213 of the Act of August 26, 1935 (16 U.S.C. 825o), is amended to read as follows:

"SEC. 316. (a) A person who knowingly does an act, matter, or thing in this Act prohibited or declared to be unlawful, or who knowingly omits or fails to do any act, matter, or thing in this Act required to be done, is guilty of a Class A misdemeanor.

"(b) A person who knowingly violates a rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this Act, or a rule or regulation imposed by the Secretary of the Army under authority of Part I of this Act, is guilty of an infraction, and each day the offense occurs is a separate offense.".

(f) Section 317, as added by section 213 of the Act of August 26, 1935, and amended (16 U.S.C. 825p), is amended:

(1) by deleting the second sentence; and

(2) by deleting "such district" in the third sentence and inserting in lieu thereof "district where in any act or transaction constituting the violation occurred".

SEC. 518. Section 21 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831t) is amended to read as follows:

"SEC. 21. Any person who shall receive any compensation, rebate, or reward, or enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the Corporation or wrongfully or unlawfully to defeat its purpose shall be guilty of a Class A misdemeanor.".

SEC. 519. The Act of May 20, 1926, as amended (16 U.S.C. 851 et seq.), is amended as follows:

(a) Section 2(3), as amended (16 U.S.C. 852(3)), is amended by deleting "section 10" and inserting in lieu thereof "section 111".

(b) Section 6(a), as added by the Act of July 2, 1930, and amended (16 U.S.C. 852d (a)), is amended:

(1) by adding after the word "Act" in the first sentence the words ", in addition to any authority provided by law"; and

(2) by deleting the word "commissioner" in the second sentence and inserting in lieu thereof "magistrate".

(c) Section 7, as added by the Act of July 2, 1930, and amended (16 U.S.C. 853), is amended to read as follows:

"SEC. 7. In addition to any forfeiture herein provided, a person who violates a provision of this Act is guilty of a Class B misdemeanor.".

SEC. 520. The Whaling Convention Act of 1949 (16 U.S.C. 916 et seq.) is amended as follows:

(a) Section 7 (16 U.S.C. 916e) is amended to read as follows:

"SEC. 7. Any person who fails to make, keep, or furnish any catch return, statistical record, or any report that may be required by the convention, or by any regulation of the Commission, or by this Act, or by a regulation of the Secretary of the Interior is guilty of an infraction. Any person who furnishes a false return, record, or report commits an unlawful act that is an offense described in section 1343 of title 18, United States Code. In addition to conviction under this section or section 1343 of title 18, the person shall be prohibited from whaling, processing, or possessing whales and whale products from the date of conviction until such time as any delinquent return, record, or report shall have been submitted or any false return, record, or report shall have been replaced by a certified correct and true return, record, or report to the satisfaction of the court. The penalties imposed by section 8 of this Act shall be invoked for failure to comply with requirements with respect to returns, records, and reports.".

(b) Section 8 (16 U.S.C. 916f) is amended by deleting "upon conviction, shall be fined not more than $10,000 or be imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(c) Section 9(a) (16 U.S.C. 916g(a)) is amended:

(1) by deleting "section 3041" and inserting in lieu thereof "section 3302"; and

(2) by deleting "commissioners" and inserting in lieu thereof "magistrates".

SEC. 521. The Tuna Conventions Act of 1950, as amended (16 U.S.C. 851 et seq.), is amended as follows:

(a) Sections 8(d), (e), and (f), as amended (16 U.S.C. 957(d), (e), and (f)), are amended to read as follows:

"(d) A person who violates a provision of subsection (a) of this section is guilty of an infraction, except that the maximum fine for the first offense is $25,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher, and the maximum fine for each subsequent offense is $50,000 or the maximum fine available under section 2201(c) of title 18, whichever is higher.

"(e) A person who violates a provision of subsection (b) of this section is guilty of an infraction, except that the maximum fine for a second or subsequent offense by an individual is $5,000.

"(f) A person who violates a provision of subsection (c) of this section is guilty of an infraction, except that the maximum fine for an individual shall be $100,000 or the maximum fine available under section 2201 (c) of title 18, United States Code, whichever is higher.".

(b) Section 10(a), as amended (16 U.S.C. 959(a)), is amended by deleting "commissioners" and inserting in lieu thereof "magistrates".

SEC. 522. The Northwest Atlantic Fisheries Act of 1950, as amended (16 U.S.C. 981 et seq.), is amended as follows:

(a) Section 5, as amended (16 U.S.C. 984), is amended by deleting "section 202 of title 18" and inserting in lieu thereof "section 9101 of title 5".

(b) Section 10, as amended (16 U.S.C. 989), is amended:

(1) by deleting ", upon conviction, shall be fined for a first offense not more than $500 and for a subsequent offense committed within five years not more than $1,000 and for such" in subsection (a) and inserting in lieu thereof "shall be guilty of an infraction and for a"; and

(2) by amending subsection (b) to read as follows:

"(b) Any person violating subsection (c) of section 9 of this Act or any regulation adopted pursuant to this Act is guilty of a Class B misdemeanor if the offense is a first offense, and is guilty of a Class A misdemeanor if the offense is a subsequent offense committed within five years of a previous offense.".

(c) Section 11(a), as amended (16 U.S.C. 990(a)), is amended:

(1) by deleting "section 3041" and inserting in lieu thereof "section 3302", and

(2) by deleting "Commissioners" and inserting in lieu thereof "magistrates".

SEC. 523. The North Pacific Fisheries Act of 1954, as amended (16 U.S.C. 1021 et seq.), is amended as follows:

(a) Section 11, as amended (16 U.S.C. 1030), is amended to read as follows:

"SEC. 11. (a) Any person violating subsection (b), (c), or (d) of section 10 of this Act shall be guilty of an infraction, except that the maximum fine for an individual shall be $10,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher, and for such offense the court may order forfeited, in whole or in part, the fish concerned in the offense, or the fishing gear involved in such fishing, or both, or the monetary value thereof. Such forfeited fish or fishing gear shall be disposed of in accordance with the direction of the court.

"(b) Any person violating subsection (e) of section 10 of this Act shall be guilty of an infraction, except that the maximum fine for an individual shall be $10,000 or the maximum fine available under section 2201 (e) of title 18, United States Code, whichever is higher.

"(c) Any person violating subsection (f) of section 10 of this Act shall be deemed guilty of a Class A misdemeanor, and for each such offense the court may order forfeited, in whole or in part, the fish and fishing gear on board the vessel, or the monetary value thereof. Such fish or fishing gear shall be disposed of in accordance with the direction of the court.

"(d) Any person violating any other provision of this Act or any regulation adopted pursuant to this Act, shall be guilty of an infraction, and for a second or subsequent offense the court may order forfeited, in whole or in part, the fish taken by such person, or the fishing gear involved in such fishing, or both or the monetary value thereof. Such forfeited fish or fishing gear shall be disposed of in accordance with the direction of the court.".

(b) Section 12(a), as amended (16 U.S.C. 1031(a)), is amended by deleting "section 3041" and inserting in lieu thereof "section 3302".

SEC. 524. The Fur Seal Act of 1966 (16 U.S.C. 1551 et seq.) is amended as follows:

(a) Section 207 (16 U.S.C. 1167) is amended by deleting "shall be fined not more than $500 or be imprisoned not more than six months, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

(b) Section 402(b) (16 U.S.C. 1182(b)) is amended by deleting "commissioners" and inserting in lieu thereof "magistrates".

(c) Section 404 (16 U.S.C. 1184) is amended by deleting "shall be fined not more than $2,000, or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 525. Section 7(i) of the National Trail Systems Act (16 U.S.C. 1246(i)) is amended by deleting "misdemeanor, and may be punished by a fine of not more than $500, or by imprisonment not exceeding six months, or by such fine and imprisonment"

and inserting in lieu thereof "Class B misdemeanor".

SEC. 526. Section 8(a) of the Act of December 17, 1971 (16 U.S.C. 1338(a)), is amended:

(a) by deleting the word "willfully" in paragraphs (1) and (6) and inserting in lieu thereof the word "knowingly";

(b) by deleting "or attempts to remove" in paragraph (1);

(c) by deleting "maliciously" in paragraph (3) and inserting in lieu thereof "knowingly commits an act which recklessly";

(d) by deleting the words "shall be subject to a fine of not more than $2,000, or imprisonment of not more than one year, or both" and inserting in lieu thereof the words "is guilty of a Class A misdemeanor"; and

(e) by deleting the last sentence.

SEC. 527. Section 105 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) is amended:

(a) by deleting "offense" in subsection (a) and inserting in lieu thereof "violation"; and

(b) by amending subsection (b) to read as follows:

"(b) A person who knowingly violates a provision of this subchapter or of a permit or regulation issued thereunder is guilty of a Class A misdemeanor, except that the maximum fine for an individual shall be $20,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

SEC. 528. Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended:

(a) by deleting "offense" in the fifth sentence of subsection (a)(1) and inserting in lieu thereof "violation";

(b) by amending subsection (b)(1) to read as follows:

"(b)(1) A person who knowingly commits an act which violates a provision of this Act, of a permit or certificate issued hereunder, or of a regulation issued in order to implement subsection (a)(1)(A), (B), (C), (D), (E), or (F); (a)(2)(A), (B), or (C), (c), (d) (other than a regulation relating to recordkeeping, or filing of reports), (f), or (g) of section 9 of this Act is guilty of a Class A misdemeanor, except that the maximum fine for an individual shall be $20,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher. Notwithstanding the provisions of section 1411 of title 18, United States Code, a person who knowingly commits an act which violates a provision of any other regulation issued under this Act is guilty of a Class B misdemeanor, except that the maximum fine is $10,000 for an individual or the maximum fine available under section 2201(c) of title 18, whichever is higher.";

(c) by deleting the words "violation of" wherever they appear in subsection (b)(2) and inserting in lieu thereof "offense described in";

(d) by deleting "criminal violation" in subsection (d) and inserting in lieu thereof "criminal offense"; and

(e) by deleting "criminal violation" in subsection (e)(4)(B) and inserting in lieu thereof "criminal offense".

SEC. 529. The Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) is amended as follows:

(a) Section 201(c)(2)(A)(ii) (16 U.S.C. 1821(c)(2)(A)(ii)) is amended by adding after the words "section 307" the words ", or, if the offense relates to the enforcement of this Act, of section 1302, 1311, 1357(a)(1), or 1358 or subchapter A or B of chapter 16 of title 18, United States Code".

(b) Section 204(b)(12) (16 U.S.C. 1824(b)(12)) is amended by adding after the words "section 307" the words ", or, if the offense relates to the enforcement of this Act, by section 1302, 1311, 1357(a)(1), or 1358 or subchapter A or B of chapter 16 of title 18, United States Code".

(c) Section 307(1) (16 U.S.C. 1857(1)) is amended by repealing paragraphs (D), (E), (F), and (H).

(d) Section 308(a) (16 U.S.C. 1858(a)) is amended by deleting the word "offense" in the third sentence and inserting in lieu thereof the word "violation".

(e) Section 309 (16 U.S.C. 1859) is amended to read as follows:

"SEC. 309. CRIMINAL OFFENSES.

"(a) OFFENSES.—A person is guilty of an offense if he violates section 307(2).

"(b) GRADING.—An offense described in this section is a Class A misdemeanor, except that the maximum fine for an individual is $100,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

(f) Section 310(a) (16 U.S.C. 1860(a)) is amended by adding after the words "section 307" the words "or, if the offense relates to the enforcement of this Act, by section 1302, 1311, 1357(a)(1), or 1358 or subchapter A or B of chapter 16 of title 18, United States Code".

(g) Section 311 (16 U.S.C. 1861) is amended:

(1) by adding after the words "section 307" in subsection (b)(1)(A) the words ", or, if the offense relates to the enforcement of this Act, by section 1302, 1311, 1357(a)(1) or 1358 or subchapter A or B of chapter 16 of title 18, United States Code";

(2) by adding after the words "section 307," in subsection (e)(2) the words ", or, if the offense relates to the enforcement of this Act, by section 1302, 1311, 1357(a)(1), or 1358 or subchapter A or B of chapter 16 of title 18, United States Code".

SEC. 530. Section 13(d) of the Act of September 28, 1976 (16 U.S.C. 1912 (d)), is amended by deleting "shall be fined not more than $2,500 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 531. Section 10 of the Act of August 18, 1970, as added by section 2 of the Act of October 7, 1976 (90 Stat. 1939), is amended:

(a) by repealing subsection (b); and

(b) by deleting "paragraphs (1), (2), and (3) of subsection (b) of this section" in subsection (c)(1) and inserting in lieu thereof "sections 3001(a)(9) and 3019 of title 18, United States Code".

PART N—AMENDMENTS RELATING TO COPYRIGHTS, TITLE 17, UNITED STATES CODE

SEC. 541. Chapter 1 of title 17, United States Code, as in effect on January 1, 1978, is amended as follows:

(a) Section 111 is amended:

(1) by deleting "willful" in subsection (c)(2) and inserting in lieu thereof "knowing"; and

(2) by deleting "willfully" in subsection (c)(3) and inserting in lieu thereof "knowingly".

(b) Section 116(d) is amended to read as follows:

"(d) CRIMINAL PENALTIES.—A person who knowingly affixes a certificate issued under clause (1)(B) of subsection (b) to a phonorecord player other than the one it covers is guilty of an infraction, except that the maximum fine for an individual is $2,500 or the maximum fine available under section 2201(c) of title 18, whichever is higher.".

SEC. 542. Section 407(d) of title 17, United States Code, as in effect on January 1, 1978, is amended:

(a) by deleting the word "fine" wherever it appears and inserting in lieu thereof the words "civil penalty"; and

(b) by deleting "willfully" in paragraph (3) and inserting in lieu thereof "knowingly".

SEC. 543. Chapter 5 of title 17, United States Code, as in effect on January 1, 1978, is amended as follows:

(a) Section 504(c)(2) is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

(b) Section 506 is amended:

(1) by amending subsection (a) to read as follows:

"(a) CRIMINAL INFRINGEMENT.—A person who infringes a copyright knowingly and for purposes of commercial advantage or private financial gain is guilty of a Class A misdemeanor, except that the maximum fine for an individual convicted of a first offense of infringing knowingly and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsection (1), (2), or (3) of section 106 or the copyright in a motion picture afforded by subsection (1), (3), or (4) of section 106 is $25,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher. An individual or organization convicted of a second or subsequent offense of infringing knowingly and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsection (1), (2), or (3) of section 106 or the copyright in a motion picture afforded by subsection (1), (3), or (4) of section 106 is guilty of a Class E felony.";

(2) by deleting "shall be fined not more than $2,500" in subsection (c) and inserting in lieu thereof "is guilty of an infraction, except that the maximum fine for an individual shall be $2,500 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher";

(3) by deleting "shall be fined not more than $2,500" in subsection (d) and inserting in lieu thereof "is guilty of an infraction, except that the maximum fine for an individual is $2,500 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher"; and

(4) by repealing subsection (e).

(c) Section 507 is amended:

(1) by repealing subsection (a); and

(2) by deleting "(b) Civil Actions." at the beginning of subsection (b).

PART O—AMENDMENTS RELATING TO CUSTOMS DUTIES, TITLE 19, UNITED STATES CODE

SEC. 551. Whoever, being an officer of the revenue, knowingly admits to entry, any goods, wares, or merchandise, upon payment of less than the amount of duty legally due, is guilty of a Class A misdemeanor.

SEC. 552. Whoever, being an officer of the United States, without lawful authority comprises or abates any claim of the United States arising under the customs laws for any fine, penalty or forfeiture, or in any manner relieves any person, vessel, vehicle, merchandise or baggage therefrom, is guilty of a Class A misdemeanor.

SEC. 553. Whoever, without authority, affixes or attaches a customs seal, fastening, or mark or any seal, fastening, or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, warehouse, or package; or

Whoever, without authority, knowingly removes, breaks, injures, or defaces any customs seal or other fastening or mark placed upon any vessel, vehicle, warehouse, or package containing merchandise or baggage in bond or in customs custody—

Is guilty of a Class A misdemeanor.

SEC. 554. IMPORTING LOTTERY TICKETS.—

(a) Whoever brings into the United States for the purpose of disposing of the same, any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon a lot or chance, or any advertisement of, or list of the prizes drawn or awarded by means of, any such lottery, gift enterprise, or similar scheme, or knowingly takes or receives any such paper, certificate, instrument, advertisement, or list so brought, shall be guilty of a Class A misdemeanor.

(b) This section shall not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of State law—

(1) contained in a newspaper published

in such State or in an adjacent State which conducts such a lottery; or

(2) broadcast by a radio or television station licensed to a location in that State or an adjacent State which conducts such a lottery.

(c) The provisions of this section shall not apply to the transportation or mailing to addresses within a State of tickets and other material concerning a lottery conducted by that State acting under authority of State law.

(d) This section shall not apply to an advertisement, list of prizes, or information concerning a lottery, gift enterprise or similar scheme conducted by a nonprofit or charitable organization in accordance with State and local law—

(1) published in a newspaper in that State or in a State in which such lottery, gift enterprise or similar scheme is legal; or

(2) broadcast by a radio or television station licensed to a location in that State or in a State in which such lottery, gift enterprise or similar scheme is legal.

(e) The provisions of this section shall not apply to the transportation or mailing to addresses within a State of tickets and other materials concerning a lottery, gift enterprise or similar scheme conducted by a charitable or nonprofit organization in accordance with State and local law in that State from a State in which such lottery, gift enterprise or similar scheme is legal.

(f) For the purposes of this section "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(g) For the purposes of this section "lottery" means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. "Lottery" does not include the placing or accepting of bets or wagers on sporting events or contests.

SEC. 555. Merchandise that has been concealed in, removed from, or repacked in a bonded warehouse, and packages in bonded warehouses that have been altered, defaced, or obliterated in violation of section 1411 of title 18, United States Code, or in an attempt or conspiracy to violate that section, shall be forfeited to the United States.

SEC. 556. Section 2636 of the Revised Statutes (19 U.S.C. 60) is amended by deleting "offense" and inserting in lieu thereof "occurrence".

SEC. 557. Section 3068 of the Revised Statutes, as amended (19 U.S.C. 70), is amended by deleting "offense" and inserting in lieu thereof "occurrence".

SEC. 558. The Act of June 18, 1934, as amended (19 U.S.C. 81a et seq.), is amended as follows:

(a) Section 18(a), as amended (19 U.S.C. 81r(a)), is amended by deleting "willful" and inserting in lieu thereof "intentional".

(b) Section 19 (19 U.S.C. 81s) is amended:

(a) by deleting "fine" and inserting in lieu thereof "civil penalty"; and

(b) by deleting "offense" and inserting in lieu thereof "violation".

SEC. 559. Section 3113 of the Revised Statutes (19 U.S.C. 283) is amended:

(a) by adding before the word "penalty" the word "civil"; and

(b) by deleting ", and shall be punishable by imprisonment for not less than three months and not more than two years".

SEC. 560. Section 12 of the Act of March 1, 1879, as amended (19 U.S.C. 468), is amended by deleting "and penalties of section thirty-three hundred and twenty-four of the Revised Statutes of the United States" and inserting in lieu thereof "sections 5205(g) and 5604(a) of the Internal Revenue Code of 1954 and section 1403(a)(7) of title 18, United States Code".

SEC. 561. Section 3071 of the Revised Statutes (19 U.S.C. 507) is amended by deleting "deemed guilty of a misdemeanor, punishable by a fine of not more than two hundred dollars, nor less than five dollars" and inserting in lieu thereof "guilty of an infraction".

SEC. 562. The Tariff Act of 1930, as amended (19 U.S.C. 1202 et seq.), is amended as follows:

(a) Section 304(e), as amended (19 U.S.C. 1304(e)), is amended by deleting ", upon conviction, be fined not more than $5,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "be guilty of a Class A misdemeanor".

(b) Section 341 (19 U.S.C. 1341) is repealed.

(c) Section 431(b), as amended (19 U.S.C. 1431(b)), is amended by deleting "fine or" in the last sentence and inserting in lieu thereof "civil".

(d) Section 436, as amended (19 U.S.C. 1436), is amended to read as follows:

"SEC. 436. Every master who fails to make the report or entry provided for in section 433, 434, or 435 of this Act shall, for each such offense, be guilty of an infraction, and if the vessel has, or is discovered to have had, on board, any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wine, or other alcoholic liquor, such master shall be guilty of a Class A misdemeanor.".

(e) Section 438, as amended (19 U.S.C. 1438), is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

(f) Section 445, as amended (19 U.S.C. 1445), is amended by deleting "offense" and inserting in lieu thereof occurrence."

(g) The last sentence of section 455, as amended (19 U.S.C. 1455), is repealed.

(h) The first sentence of section 460, as amended (19 U.S.C. 1460), is amended by deleting "offenses" and inserting in lieu thereof "violation".

(i) Section 464 (19 U.S.C. 1464), is amended by deleting "felony and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than five years, or both" and inserting in lieu thereof "Class A misdemeanor".

(j) Section 465 (19 U.S.C. 1465), is amended by repealing the last sentence.

(k) Section 510, as amended (19 U.S.C. 1510), is amended:

(1) by adding before the word "penalty" the word "civil";

(2) by deleting "shall willfully and corruptly swear falsely on an examination before any judge of the United States Customs Court, or appropriate customs officer, shall be deemed guilty of perjury; and if he" and inserting in lieu thereof "is convicted of violating section 1341 or 1342 of title 18, United States Code, in connection with a customs matter, or who is held liable to a civil penalty under this section, and who".

(l) Section 527(c)(1) (19 U.S.C. 1527(c)(1)) is amended by deleting "section 241 of the Criminal Code" and inserting in lieu thereof "section 452 of the Criminal Code Reform Act of 1977".

(m) Section 581(c), as amended (19 U.S.C. 1581(c)), is repealed.

(n) Section 586(e), as amended (19 U.S.C. 1586(e)), is amended by deleting "liable to imprisonment for not more than two years" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(o) Section 592, as amended (19 U.S.C. 1592), is amended by deleting "willful" in the first sentence and inserting in lieu thereof "knowing".

(p) Section 595(a), as amended (19 U.S.C. 1595(a)), is amended by deleting "commissioner" and inserting in lieu thereof "magistrate".

(q) The last sentence of section 599 (19 U.S.C. 1599) is amended to read: "A person who violates this section is guilty of an infraction.".

(r) Section 613, as amended (19 U.S.C. 1613), is amended:

(1) by deleting "willful negligence" in the second sentence and inserting in lieu thereof "recklessness"; and

(2) by deleting "fine" in paragraph (3) and inserting in lieu thereof "penalty".

(s) Section 618, as amended (19 U.S.C. 1618), is amended:

(1) by deleting the words "fine or";

(2) by deleting the word "fine," wherever it appears; and

(3) by deleting the words "willful negligence" and inserting in lieu thereof "recklessness".

(t) Section 620 (19 U.S.C. 1620) is amended by deleting "felony and, upon conviction thereof, shall be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or both" and inserting in lieu thereof "Class A misdemeanor".

(u) Section 621, as amended (19 U.S.C. 1621), is amended by deleting "offense" and inserting in lieu thereof "violation".

(v) Section 641(b) as amended (19 U.S.C. 1641(b)), is amended by deleting "willfully and" in the fifth sentence of the first paragraph.

SEC. 563. Section 8(b) of the Anti-Smuggling Act (19 U.S.C. 1708(b)) is repealed, and the designation "(a)" at beginning of the section is deleted.

SEC. 564. Section 319 of the Trade Expansion Act of 1962 (19 U.S.C. 1919) is repealed.

SEC. 565. The Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended as follows:

(a) Section 244 (19 U.S.C. 2316) is repealed.

(b) Section 259 (19 U.S.C. 2349) is repealed.

(c) The Table of Contents at the beginning of the Act is amended:

(1) by deleting the item relating to section 244 and inserting in lieu thereof:

"Sec. 244. Repealed."; and

(2) by deleting the item relating to section 259 and inserting in lieu thereof:

"Sec. 259. Repealed.".

PART P—AMENDMENTS RELATING TO EDUCATION, TITLE 20, UNITED STATES CODE

SEC. 571. Section 1001 of the National Education Act of 1958, as amended (20 U.S.C. 581), is amended:

(a) by deleting the word "crimes" wherever it appears in subsection (f)(2) and inserting in lieu thereof "offenses";

(b) be repealing subsection (f)(3); and

(c) by amending subsection (f)(4)(B) to read as follows:

"(B) A person who knowingly violates subparagraph (A) of this paragraph is guilty of a Class A misdemeanor.".

SEC. 572. The Higher Education Act of 1965 as amended (20 U.S.C. 1001 et seq.), is amended as follows:

(a) Section 440, as amended (20 U.S.C. 1087–4), is amended:

(1) by repealing subsections (a), (b), and (c);

(2) by amending subsection (d) to read as follows:

"(d) A person who knowingly makes an unlawful payment to an eligible lender as an inducement to make, or to acquire by assignment, a loan insured under this part is guilty of a Class A misdemeanor."; and

(3) by repealing subsection (e).

(b) Section 497(b), as added by section 139B(a) of the Act of June 23, 1972, and amended (20 U.S.C. 1088f(b)), is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

PART Q—AMENDMENTS RELATING TO FOOD AND DRUGS, TITLE 21, UNITED STATES CODE

SEC. 581. Section 2 of the Act of July 1, 1902 (21 U.S.C. 17), is amended to read as follows:

"SEC. 2. That if a person violates a provision of this Act, he shall be guilty of an infraction, except that the maximum fine

for an individual shall be $2,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

SEC. 582. Section 3 of the Act of March 4, 1923 (21 U.S.C. 63), is amended to read as follows:

"SEC. 3. A person who violates a provision of this Act is guilty of a Class A misdemeanor.".

SEC. 583. The last sentence of section 6 of the Act of August 30, 1890, as amended (21 U.S.C. 104), is amended to read: "A person who violates the foregoing provisions shall be guilty of a Class A misdemeanor, and any vessel or vehicle used in such unlawful importation or in violation of section 1411 of title 18, United States Code, with regard to such diseased animals within the knowledge of the master or owner of such vessel or vehicle that such importation is diseased or has been exposed to infection as herein described, shall be forfeited to the United States.".

SEC. 584. Section 7 of the Act of May 29, 1884, as amended (21 U.S.C. 117), is amended by deleting "misdemeanor, and, upon conviction, shall be punished by a fine of not less than one hundred nor more than five thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment" and inserting in lieu thereof "Class A misdemeanor.".

SEC. 585. Section 3 of the Act of February 2, 1903, as amended (21 U.S.C. 122), is amended to read as follows:

"SEC. 3. That a person who knowingly violates a provision of this Act or the orders or regulations made in pursuance thereof is guilty of a Class A misdemeanor.".

SEC. 586. Section 6 of the Act of March 3, 1905 (21 U.S.C. 127), is amended to read as follows:

"SEC. 6. That a person who violates a provision of section 2 or 4 of this Act is guilty of a Class A misdemeanor.".

SEC. 587. The Act of July 2, 1962, as amended (21 U.S.C. 134 et seq.), is amended as follows:

(a) Section 5 (21 U.S.C. 134d) is amended by deleting "commissioner" in the second to last sentence and inserting in lieu thereof "magistrate".

(b) Section 6(a) (21 U.S.C. 134e(a)), is amended to read as follows:

"(a) Except as provided in section 1411 of title 18, United States Code, a person who knowingly violates a regulation promulgated pursuant to the provisions of sections 1 through 5 of this Act is guilty of a Class A misdemeanor.".

SEC. 588. Section 2 of the Act of May 6, 1970 (21 U.S.C. 135a), is amended to read as follows:

"SEC. 2. The bringing of an animal to the quarantine station or the subsequent movement of animals to other parts of the United States, including Puerto Rico, Guam, and the Virgin Islands, contrary to the conditions prescribed by the Secretary in regulations issued hereunder, shall be deemed an introduction of the animal into the United States for purposes of section 1411 of title 18, United States Code.".

SEC. 589. The Act of February 15, 1927, as amended (21 U.S.C. 141 et seq.), is amended as follows:

(a) Section 3, as amended (21 U.S.C. 143), is amended:

(1) by deleting "prescribed by" in the last proviso of the second paragraph and inserting in lieu thereof "prescribed for violation of"; and

(2) by deleting "prescribed by" in the proviso of the third paragraph and inserting in lieu thereof "prescribed for violation of".

(b) Secton 5 (21 U.S.C. 145), is amended to read as follows:

"SEC. 5. Except as provided in section 1411 of title 18, United States Code, a person who knowingly violates a provision of this Act is guilty of a Class A misdemeanor.".

SEC. 590. The Seventh paragraph under the heading "General Expenses, Bureau of Animal Industry" of the Act of March 4, 1913 (21 U.S.C. 158), is amended by deleting "Any person, firm, or corporation who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not exceeding $1,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court." and inserting in lieu thereof: "A person who violates a provision of this Act (other than the provision set forth in the second sentence of the seventh paragraph under the heading 'General Expenses, Bureau of Animal Industry' of this Act (21 U.S.C. 152)) is guilty of a Class A misdemeanor.".

SEC. 591. The Act of March 3, 1915 (38 Stat. 817, 21 U.S.C. 201 to 215) is repealed.

SEC. 592. The Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301 et seq.), is amended as follows:

(a) Section 301, as amended (21 U.S.C. 331), is amended by deleting "and the causing thereof" in the introductory language.

(b) Sections 303 (a) and (b), as amended (21 U.S.C. 333 (a) and (b)), are amended to read as follows:

"(a) Except as provided in sections 1343, 1741, 1742, 1811, 1812, 1813, and 1851(a)(4) of title 18, United States Code, a person who violates a provision of section 301 of this Act is guilty of a Class A misdemeanor.

"(b) If a person commits a violation punishable under subsection (a) of this section after a conviction of him under this section or under section 9301 of title 5 or under section 1343, 1741, 1742, 1811, 1812, 1813, or 1851(a)(4) of title 18 for an offense that is a violation of section 301 has become final, he is guilty of a Class E felony.".

(c) Section 505(e), as amended (21 U.S.C. 355(e)), is amended by deleting "untrue" in clause (4) and inserting in lieu thereof "false".

(d) Sections 512(e)(1)(D) and (m)(4)(A)(i), as added by section 101(b) of the Act of July 13, 1968 (21 U.S.C. 360b(e)(1)(D) and (m)(4)(A)(i)), are amended by deleting "untrue" and inserting in lieu thereof "false".

(e) Section 702A, as amended (21 U.S.C. 372a), is amended by deleting "misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than one year or a fine of not less than $1,000 nor more than $5,000, or both such imprisonment and fine" and inserting in lieu thereof "Class A misdemeanor".

SEC. 593. The Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.), is amended as follows:

(a) Section 5(c), as amended (21 U.S.C. 454(c)) is amended:

(1) by adding after the words "22 of this Act" in subsection (c)(1) the words "and sections 1851(a)(1) and 1852(a)(1) of title 18, United States Code"; and

(2) by adding after the words "said sections of this Act" wherever they appear in subsections (c)(1) and (3) the words "and title 18".

(b) Section 12, as amended (21 U.S.C. 461), is amended:

(1) by amending subsection (a) to read as follows:

"(a) Except as provided in title 18, United States Code, a person who violates a provision of section 9, 10, 11, 14, or 17 of this Act is guilty of a Class A misdemeanor.";

(2) by adding after the words "this Act" in subsection (b) the words "or section 1851(a)(1) or 1852(a)(1) of title 18, United States Code"; and

(3) by repealing subsection (c).

(c) Section 13 (21 U.S.C. 462) is amended by adding after the words "this chapter" wherever they appear the words "or section 1851(a)(1) or 1852(a)(1) of title 18, United States Code,".

(d) Section 20(a), as added by section 17 of the Act of August 18, 1968 (21 U.S.C. 467b(a)), is amended:

(1) by adding after the words "in violation of this Act" each time they appear in the first sentence the words "or of section 1851(a)(1) or 1852(a)(1) of title 18, United States Code"; and

(2) by adding after the words "contrary to the provisions of this Act" each time they appear the words "or of section 1851(a)(1) or 1852(a)(1) of title 18, United States Code".

(e) Section 21, as added by section 17 of the Act of August 18, 1968 (21 U.S.C. 467c), is amended:

(1) by adding after the words "violations of, this Act" in the first sentence the words "and sections 1851(a)(1) and 1852(a)(1) of title 18, United States Code";

(2) by adding after the words "cases arising under this Act" in the first sentence the words "or section 1851(a)(1) or 1852(a)(1) of title 18, United States Code"; and

(3) by adding after the words "violations of this Act" in the second sentence the words "and sections 1851(a)(1) and 1852(a)(1) of title 18, United States Code,".

(2) by adding after the words "cases arising under this Act" in the first sentence the words "or section 1851(a)(1) or 1852(a)(1) of title 18, United States Code"; and

(3) by adding after the words "violations of this Act" in the second sentence the words "and sections 1851(a)(1) and 1852(a)(1) of title 18, United States Code,".

(f) Section 22, as added by section 17 of the Act of August 18, 1968 (21 U.S.C. 467d), is amended by deleting ", and the provisions of subsection 409(*l*) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409(*l*)," in the first sentence.

SEC. 594. The Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), is amended as follows:

(a) Section 22, as amended (21 U.S.C. 622), is repealed.

(b) Section 301(c), as added by section 15 of the Act of December 15, 1967 (21 U.S.C. 661(c)), is amended:

(1) by adding after the words "title I and IV of this Act" and "titles I and IV of this Act" and "titles I and IV" and "title I and title IV of this Act" and "titles I and IV of the Act" wherever they appear in paragraph (1) the words "and sections 1851(a)(2) and 1852(a)(2) of title 18, United States Code";

(2) by adding after the words "titles I and IV" wherever they appear in paragraph (3) the words "of this Act and sections 1851(a)(2) and 1852(a)(2) of title 18, United States Code".

(c) Section 403(a), as added by section 16 of the Act of December 15, 1967 (21 U.S.C. 673(a)), is amended by adding after the words "in violation of this Act" and "provisions of this Act" each time they appear the words "or section 1851(a)(2) or 1852(a)(2) of title 18, United States Code".

(d) Section 404, as added by section 16 of the Act of December 15, 1967 (21 U.S.C. 674), is amended by adding after the words "this Act" the first two times they appear the words "and sections 1851(a)(2) and 1852(a)(2) of title 18, United States Code".

(e) Section 405, as added by section 16 of the Act of December 15, 1967 (21 U.S.C. 675), is repealed.

(f) Section 406, as added by section 16 of the Act of December 15, 1967 (21 U.S.C. 676), is amended:

(1) by amending subsection (a) to read as follows:

"(a) A person who violates a provision of this Act for which no other criminal penalty is provided by this Act or by title 18, United States Code (except subsection E of chapter 17) is guilty of a Class A misdemeanor: *Provided*, That no person shall be subject to penalties under this section or section 1851 or 1852 of title 18, United States Code, for receiving for transportation any article or animal in violation of this Act or section

1851 or 1852 of title 18, United States Code, if such receipt was made in good faith, unless the person refuses to furnish on request of a representative of the Secretary the name and address of the person from whom be received the article or animal, and copies of all documents, if any there be, pertaining to the delivery of the article or animal to him."; and

(2) by adding after the words "this Act" each time they appear in subsection (b) the words "or section 1851(a)(2) or 1852(a)(2) of title 18, United States Code,".

(g) Section 407, as added by section 16 of the Act of December 15, 1967 (21 U.S.C. 677), is amended by deleting ", and the provisions of subsection 409(*l*) of the Communications Act of 1934 (48 Stat. 1096, as amended, 47 U.S.C. 409 (*l*))".

SEC. 595. The Controlled Substances Act, as amended (21 U.S.C. 801 et seq.), is amended as follows:

(a) Section 102 (21 U.S.C. 802) is amended:

(1) by amending paragraph (4) to read as follows:

"(4) The term 'Drug Enforcement Administration' means the Drug Enforcement Administration in the Department of Justice.";

(2) by deleting "lawful" in the first sentence of paragraph (10);

(3) by deleting in paragraph (15) "The term 'marihuana' means all parts of the plant Cannabis sativa L., whether growing or not" and inserting in lieu thereof "The term 'marihuana' means all parts of the plant botanically classified as genus Cannabis. The term 'Cannabis' includes all species of the genus Cannabis. 'Marihuana' means all parts of the Cannabis plant, whether growing or not"; and

(4) By deleting "lawfully" in paragraph (25).

(b) Section 304(a)(2) (21 U.S.C. 824(a)(2)) is amended by deleting "this title or title III" and inserting in lieu thereof "subchapter B of chapter 18 of title 18, United States Code,".

(c) Section 401 (21 U.S.C. 841) is repealed.

(d) Section 402(c) (21 U.S.C. 842(c)) is amended:

(1) by amending paragraph (2) to read as follows:

"(2) A person who knowingly violates this section commits an unlawful act that is an offense described in section 1814 of title 18, United States Code,"; and

(2) by deleting "under the conditions specified" in paragraph (3) and inserting in lieu thereof "as provided".

(e) Section 403 (21 U.S.C. 843) is amended:

(1) by deleting the words "or intentionally" at the beginning of subsection (a);

(2) by amending the first sentence of subsection (b) to read: "It shall be unlawful for any person knowingly to use any communication facility in committing or in causing or facilitating the commission of an act constituting a felony under subchapter B of chapter 18 of title 18, United States Code,"; and

(3) by amending subsection (c) to read as follows:

"(c)(1) A person who violates a provision of subsection (a)(1), (2), (3), or (5) of this section commits an unlawful act that is an offense described in section 1814 of title 18, United States Code.

"(2) A person who violates a provision of subsection (a)(4) of this section commits an unlawful act that is an offense described in section 1343 of title 18, United States Code.

"(3) A person who violates a provision of subsection (b) of this section is guilty of a Class A misdemeanor.".

(f) Sections 404, 405, 406, 407, 408, 409, 410, and 411 (21 U.S.C. 844, 845, 846, 847, 848, 849, 850, and 851) are repealed.

(g) Section 501(b) (21 U.S.C. 871(b)) is amended by adding after the words "this title" the words "or subchapter B of chapter 18 of title 18, United States Code".

(h) Section 508 (21 U.S.C. 878) is repealed.

(i) Section 511 (21 U.S.C. 881) is amended:

(1) by adding after the words "of this title" in subsection (a)(1) the words "or of subchapter B of chapter 18 of title 18, United States Code";

(2) by adding after the words "of this title" in subsection (a)(2) the words "or of subchapter B of chapter 18 of title 18, United States Code";

(3) by adding after the words "or title III" in subsection (a)(4)(A) the words "or subchapter B of chapter 18 of title 18, United States Code";

(4) by adding after the words "of this title" in subsection (a)(5) the words "or of subchapter B of chapter 18 of title 18, United States Code";

(5) by adding after the words "of this title" in subsection (b)(4) the words "or of subchapter B of chapter 18 of title 18, United States Code";

(6) by deleting "Bureau of Narcotics and Dangerous Drugs" in subsection (e)(4) and inserting in lieu thereof "Drug Enforcement Administration";

(7) by adding after the words "of this title" in subsection (f) the words "or of subchapter B of chapter 18 of title 18, United States Code,"; and

(8) by adding after the words "of this title" in subsection (g)(1) the words "or of subchapter B of chapter 18 of title 18, United States Code".

(j) Section 512(a) (21 U.S.C. 882(a)) is amended by adding after the words "of this title" the words "and of subchapter B of chapter 18 of title 18, United States Code".

(k) Section 513 (21 U.S.C. 883) is amended:

(1) by adding after the words "of this title" the words "or of subchapter B of chapter 18 of title 18, United States Code"; and

(2) by deleting "Director of the Bureau of Narcotics and Dangerous Drugs" and "Director" and inserting in lieu thereof "Administrator of Drug Enforcement" and "Administrator", respectively.

(l) Section 514 (21 U.S.C. 884) is repealed.

(m) Section 515 (21 U.S.C. 885) is amended:

(1) by adding after the words "under this title" in subsection (a)(1), the words "or subchapter B of chapter 18 of title 18, United States Code,";

(2) by deleting "section 404(a)" in subsection (a)(2) and inserting in lieu thereof "section 1813 of title 18, United States Code,";

(3) by adding after the words "of this title" in subsection (c) the words "and of subchapter B of chapter 18 of title 18, United States Code,";

(4) by deleting "sections 2234 and 2235 of title 18, United States Code" in subsection (d) and inserting in lieu thereof "section 1501 of title 18, United States Code, if the offense involves the procurement or execution of a warrant"; and

(5) by adding after the words "enforcement of this title" in subsection (d) the words "or subchapter B of chapter 18 of title 18, United States Code".

(n) Section 516 (21 U.S.C. 886) is amended:

(1) by deleting the words "Bureau of Narcotics and Dangerous Drugs" wherever they appear and inserting in lieu thereof "Drug Enforcement Administration";

(2) by adding after the words "of this title" in subsection (a) the words "or of subchapter B of chapter 18 of title 18, United States Code"; and

(3) by deleting the word "Bureau" in subsection (b) and inserting in lieu thereof "Administrator".

"(o) Section 202 (21 U.S.C. 812) is amended:

"(1) by repealing '(7) Phencyclidine.' in Schedule III(b), and

"(2) by adding at the end of Schedule I (c) the following: '(18) Phencyclidine.' ".

SEC. 596. The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended as follows:

(a) Sections 1002 and 1003 (21 U.S.C. 952 and 953) are amended to read as follows:

"IMPORTATION OF CONTROLLED SUBSTANCES

"SEC. 1002. (a) It is lawful, under such regulations as the Attorney General may prescribe, to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, only—

"(1) such amounts of crude opium and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and

"(2) such amounts of any controlled substance in schedule I or II of title II or any narcotic drug in schedule III, IV, or V of title II that the Attorney General finds to be necessary to provide for the medical, scientific, or other legitimate needs of the United States—

"(A) during an emergency in which domestic supplies of such substance or drug are found by the Attorney General to be inadequate, or

"(B) in any case in which the Attorney General finds that competition among domestic manufacturers of the controlled substance is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 303.

No other controlled substance in schedule I or II of title II or narcotic drug in schedule III, IV, or V of title II may be so imported. No crude opium may be so imported for the purpose of manufacturing heroin or smoking opium.

"(b) It is lawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any nonnarcotic controlled substance in schedule III, IV, or V only if such nonnarcotic controlled substance—

"(1) is imported for medical, scientific, or other legitimate uses, and

"(2) is imported pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe.

"(c) In addition to the amount of coca leaves authorized to be imported into the United States under subsection (a), the Attorney General may permit the importation of additional amounts of coca leaves. All cocaine and ecgonine (and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made) contained in such additional amounts of coca leaves imported under this subsection shall be destroyed under the supervision of an authorized representative of the Attorney General.

"EXPORTATION OF CONTROLLED SUBSTANCES

"SEC. 1003. (a) It is lawful to export from the United States a narcotic drug in schedule I, II, III, or IV only if—

"(1) it is exported to a country which is a party to—

"(A) the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925; or

"(B) the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by

the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948; or

"(C) the Single Convention on Narcotic Drugs, 1961, signed at New York, March 30, 1961;

"(2) such country has instituted and maintains, in conformity with the conventions to which it is a party, a system for the control of imports of narcotic drugs which the Attorney General deems adequate;

"(3) the narcotic drug is cosigned to a holder of such permits or licenses as may be required under the laws of the country of import, and a permit or license to import such drug has been issued by the country of import;

"(4) substantial evidence is furnished to the Attorney General by the exporter that (A) the narcotic drug is to be applied exclusively to medical or scientific uses within the country of import, and (B) there is an actual need for the narcotic drug for medical or scientific uses within such country; and

"(5) a permit to export the narcotic drug in each instance has been issued by the Attorney General.

"(b) Notwithstanding subsection (a), the Attorney General may authorize any narcotic drug (including crude opium and coca leaves) in schedule I, II, III, or IV to be exported from the United States to a country which is a party to any of the international instruments mentioned in subsection (a) if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

"(c) It is lawful to export from the United States any nonnarcotic controlled substance in schedule I or II only if—

"(1) it is exported to a country which has instituted and maintains a system which the Attorney General deems adequate for the control of imports of such substances;

"(2) the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of the country of import;

"(3) substantial evidence is furnished to the Attorney General that (A) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country to which exported, (B) it will not be exported from such country, and (C) there is an actual need for the controlled substance for medical, scientific, or other legitimate uses within the country; and

"(4) a permit to export the controlled substance in each instance has been issued by the Attorney General.

"(d) Notwithstanding subsection (c), the Attorney General may authorize any nonnarcotic controlled substance in schedule I or II to be exported from the United States if the particular substance is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

"(e) It is lawful to export from the United States to any other country any nonnarcotic controlled substance in schedule III or IV or any controlled substance in schedule V only if—

"(1) there is furnished (before export) to the Attorney General documentary proof that importation is not contrary to the laws or regulations of the country of destination;

"(2) a special controlled substance invoice, in triplicate, accompanies the shipment setting forth such information as the Attorney General may prescribe to identify the parties to the shipment and the means of shipping; and

"(3) two additional copies of the invoices are forwarded to the Attorney General before the controlled substance is exported from the United States.".

(b) Section 1005 (21 U.S.C. 955) is repealed.

(c) Section 1006(a) (21 U.S.C. 956(a)) is amended by deleting "1005" and inserting in lieu thereof "subchapter B of chapter 18 of ttle 18, United States Code".

(d) Section 1007 (21 U.S.C. 957) is amended to read as follows:

"PERSON REQUIRED TO REGISTER

"SEC. 1007. (a) A person may—

"(1) import into the customs territory of the United States from any place outside thereof (but within the United States), or import into the United States from any place ouside thereof, any controlled substance, or

"(2) export from the United States any controlled substance in schedule I, II, III, or IV,

only if there is in effect with respect to such person a registration issued by the Attorney General under section 1008, or if such person is exempt from registration under subsection (b).

"(b) (1) The following persons shall not be required to register under the provisions of this section and may lawfully possess a controlled substance:

"(A) An agent or an employee of any importer or exporter registered under section 1008 if such agent or employee is acting in the usual course of his business or employment.

"(B) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of his business or employment.

"(C) An ultimate user who possesses such substance for a purpose specified in section 102(25) and in conformity with an exemption granted under section 1006(a).

"(2) The Attorney General may, by regulation, waive the requirement for registration of certain importers and exporters if he finds it consistent with the public health and safety; and may authorize any such importer or exporter to possess controlled substances for purposes of importation and exportation.".

(e) Sections 1009 and 1010 (21 U.S.C. 959 and 960) are repealed.

(f) Section 1011(2) (21 U.S.C. 961(2)) is amended to read as follows:

"(2) A person who knowingly violates section 1004 commits an unlawful act that is an offense described in section 1814 of title 18, United States Code."

(g) Sections 1012, 1013, and 1014 (21 U.S.C. 962, 963, and 964) are repealed.

(h) Section 1015 (21 U.S.C. 965) is amended:

(1) by deleting "Bureau of Narcotics and Dangerous Drugs" and inserting in lieu thereof "Drug Enforcement Administration"; and

(2) by adding after the words "violations of this title" the words "and subchapter B of chapter 18 of title 18, United States Code".

SEC. 597. The Table of Contents at the beginning of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (84 Stat. 1236), is amended:

(a) by deleting the items relating to sections 404, 405, 406, 407, 408, 409, 410, and 411 (21 U.S.C. 844, 845, 846, 847, 848, 849, 850, and 851) and inserting in lieu thereof the following:

"404. Repealed.
"405. Repealed.
"406. Repealed.
"407. Repealed.
"408. Repealed.
"409. Repealed.
"410. Repealed.
"411. Repealed.";

(b) by deleting the item relating to section 508 (21 U.S.C. 878) and inserting in lieu thereof the following:

"508. Repealed.";

(c) by deleting the item relating to section 514 (21 U.S.C. 884) and inserting in lieu thereof the following:

"514. Repealed.";

(d) by deleting the item relating to section 1005 (21 U.S.C. 955) and inserting in lieu thereof the following:

"1005. Repealed.";

(e) by deleting the items relating to section 1009 and 1010 (21 U.S.C. 959 and 960) and inserting in lieu thereof the following:

"1009. Repealed.
"1010. Repealed." and

'f) by deleting the items relating to sections 1012, 1013, and 1014 (21 U.S.C. 962, 963, and 964) adn inserting in lieu thereof the following:

"1012. Repealed.
"1013. Repealed.
"1014. Repealed.".

SEC. 598. The Egg Products Inspection Act, as amended (21 U.S.C. 1031 et seq.), is amended as follows:

(a) Section 12 (21 U.S.C. 1041) is amended:

(1) by amending subsection (a) to read as follows:

"(a) Except as provided in sections 1343, 1851, and 1825 of title 18, United States Code, a person who violates section 8 of this Act is guilty of a Class A misdemeanor.";

(2) by adding after the words "of this Act" the first time they appear in subsection (b) the words "or section 1851(a)(3) or 1852 (a)(3) of title 18, United States Code"; and

(3) by repealing subsection (c).

(b) Section 13 (21 U.S.C. 1042) is amended by adding after the words "this Act" or "the Act" each time they appear the words "or section 1851(a)(3) or 1852(a)(3) of title 18, United States Code,".

(c) Section 19 (21 U.S.C. 1048) is amended by adding after the words "this Act" each time they appear the words "or section 1851 (a)(3) or 1852 (a)(3) of title 18, United States Code".

(d) Section 20(a) (21 U.S.C. 1049(a)) is amended by adding after the words "the Act" the first, second, fourth, and fifth times they appear the words "or section 1851(a)(3) or 1852(a)(3) of title 18, United States Code".

(e) Section 21 (21 U.S.C. 1050) is amended by adding after the words "this Act" the first and fourth times they appear the words "and sections 1851(a)(3) and 1852(a)(3) of title 18, United States Code".

(f) Section 22 (21 U.S.C. 1051) is amended by deleting ", and the provisions of subsection 409(1) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409(1)),".

SEC. 599. Section 408(f) of the Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1175(f)), is amended to read as follows:

"(f) A person who violates a provision of this section or any regulation issued pursuant to this section is guilty of an infraction, except the maximum fine for a second or subsequent offense by an individual shall be $5,000.".

PART R—AMENDMENTS RELATING TO FOREIGN RELATIONS AND INTERCOURSE, TITLE 22, UNITED STATES CODE

SEC. 621. SMUGGLING GOODS INTO FOREIGN COUNTRIES.—

A person owning in whole or in part a vessel of the United States who employs the vessel for the purpose of smuggling any merchandise into the territory of a foreign government in violation of the laws there in force, if under the laws of the foreign governments a penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, and a citizen of, or person domiciled in, or a corporation incorporated in, the United States, controlling or substantially participating in the control of any such vessel, whether through

ownership of corporate shares or otherwise, and allowing the employment of said vessel for any such purpose, or a person found, or discovered to have been on board of any such vessel so employed, is guilty of a class A misdemeanor.

It shall constitute an offense under this section to hire out or charter a vessel if the lessor or charterer has knowledge or reasonable grounds for belief that the lessee or person chartering the vessel intends to employ such vessel for any purposes described in this section and if such vessel is, during the time such lease or charter is in effect, employed for any such purpose.

SEC. 622. UNIFORM OF FRIENDLY NATION.—

Whoever, within the jurisdiction of the United States, with intent to deceive and mislead, wears any naval, military, police, or other official uniform, decoration, or regalia of any foreign state, nation, or government with which the United States is at peace, or anything so nearly resembling the same as to be calculated to deceive, is guilty of a Class B misdemeanor.

SEC. 623. SWISS CONFEDERATION COAT OF ARMS.—

A person who, within the United States, knowingly uses as a trade mark, commercial label, or portion thereof, or as an advertisement or insignia for any business or organization or for any trade or commercial purpose, the coat of arms of the Swiss Confederation, consisting of an upright white cross with equal arms and lines on a red ground, or any simulation thereof, is guilty of a Class B misdemeanor.

This section shall not make unlawful the use of any such design or insignia which was lawful on August 31, 1948.

SEC. 624. STRENGTHENING ARMED VESSEL OR AIRCRAFT OF FOREIGN NATION.—

Whoever, within the United States, increases or auguments the force of any ship of war, cruiser, or other armed vessel or aircraft which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel or aircraft, in the service of a foreign power, the same being at war with any foreign power with which the United States is at peace, by adding to the number of the guns of such vessel or aircraft or by changing those on board of her for guns of a larger caliber, or by adding thereto any equipment solely applicable to war, is guilty of a Class A misdemeanor.

SEC. 625. ARMING VESSEL OR AIRCRAFT AGAINST FRIENDLY NATION.—

Whoever, within the United States, furnishes, fits out, or arms a vessel or aircraft, with intent that such vessel or aircraft shall be employed in the service of any foreign power, to cruise, or commit hostilities against the subjects, citizens, or property of any foreign power with which the United States is at peace; or

Whoever issues or delivers a commission within the United States for any vessel, to the intent that she may be so employed—

Is guilty of a Class A misdemeanor.

Every such vessel or aircraft, her tackle, apparel, and furniture, together with all materials, arms, ammunitions, and stores which may have been procured for the building and equipment thereof, shall be forfeited, one half to the use of the informer and the other half to the use of the United States.

SEC. 626. DETENTION OF ARMED VESSEL OR AIRCRAFT.—

During a war in which the United States is a neutral nation, the President, or any person authorized by him, may detain any armed vessel or aircraft owned wholly or in part by citizens of the United States, or any vessel or aircraft, domestic or foreign (other than one which has entered the ports of the United States as a public vessel), which is manifestly built for warlike purposes or has been converted or adapted from a private vessel or aircraft to one suitable for warlike use, until the owner or master, or person having charge of such vessel or aircraft, shall furnish proof satisfactory to the President, or to the person duly authorized by him, that the vessel or aircraft will not be employed to cruise against or commit or attempt to commit hostilities upon the subjects, citizens, or property of any foreign power with which the United States is at peace, and that the said vessel or aircraft will not be sold or delivered to any belligerent foreign power, or to an agent, officer, or citizen of such nation, by them or any of them, within the jurisdiction of the United States, or upon the high seas.

SEC. 627. VERIFIED STATEMENTS AS PREREQUISITE TO VESSEL'S DEPARTURE.—

During a war in which the United States is a neutral nation, every master or person having charge or command of any vessel, domestic or foreign, whether requiring clearance or not, before departure of such vessel from port shall, in addition to the facts required by sections 4197, 4198, and 4200 of the Revised Statutes (46 U.S.C. 91, 92, and 94) to be set out in the masters' and shippers' manifests before clearance will be issued to vessels bound to foreign ports, deliver to the appropriate customs officer for the district wherein such vessel is then located a statement, duly verified by oath, that the cargo or any part of the cargo is or is not to be delivered to other vessels in port or to be transshipped on the high seas, and, if it is to be so delivered or transshipped, stating the kind and quantities and the value of the total quantity of each kind of article so to be delivered or transshipped, and the name of the person, corporation, vessel, or government to whom the delivery or transshipment is to be made; and the owners, shippers, or consignors of the cargo of such vessel shall in the same manner and under the same conditions deliver to the collector like statements under oath as to the cargo or the parts thereof laden or shipped by them, respectively.

The Secretary of the Treasury is authorized to promulgate regulations upon compliance with which vessels engaged in the coastwise trade of fisheries or used solely for pleasure may be relieved from complying with this section.

SEC. 628. DEPARTURE OF VESSEL FORBIDDEN FOR FALSE STATEMENTS.—

Whenever it appears that the vessel is not entitled to clearance or whenever there is reasonable cause to believe that the additional statements under oath required in section 627 of this Act are false, the appropriate customs officer for the district in which the vessel is located may, subject to review by the head of the department or agency charged with the administration of laws relating to clearance of vessels, refuse clearance to any vessel, domestic or foreign, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, forbid the departure of the vessel from the port or from the United States. It shall thereupon be unlawful for the vessel to depart.

SEC. 629. DEPARTURE OF VESSEL OR AIRCRAFT FORBIDDEN IN AID OF NEUTRALITY.—

During a war in which the United States is a neutral nation, the President, or any person authorized by him, may withhold clearance from or to any vessel or aircraft, domestic or foreign, or, by service of formal notice upon the owner, master, or person in command or in charge of any domestic vessel or aircraft not required to secure clearances, may forbid its departure from port or from the United States, whenever there is reasonable cause to believe that such vessel or aircraft is about to carry fuel, arms, ammunition, men, supplies, dispatches, or information to any warship, tender, or supply ship of a belligerent foreign power in violation of the laws, treaties, or obligations of the United States under the law of nations. It shall thereupon be unlawful for such vessel or aircraft to depart.

SEC. 630. FINANCIAL TRANSACTIONS WITH FOREIGN GOVERNMENTS.—

Whoever, within the United States, purchases or sells the bonds, securities, or other obligations of any foreign government or political subdivision thereof or any organization or association acting for or on behalf of a foreign government or political subdivision thereof, issued after April 13, 1934, or makes any loan to such foreign government, political subdivision, organization or association, except a renewal or adjustment of existing indebtedness, while such government, political subdivision, organization or association is in default in the payment of its obligations, or any part thereof, to the United States, is guilty of a Class A misdemeanor.

This section is applicable to individuals, partnerships, corporations, or associations other than public corporations created by or pursuant to special authorizations of Congress, or corporations in which the United States has or exercises a controlling interest through stock ownership or otherwise. While any foreign government is a member both of the International Monetary Fund and of the International Bank for Reconstruction and Development, this section shall not apply to the sale or purchase of bonds, securities, or other obligations of such government or any political subdivision thereof or of any organization or association acting for or on behalf of such government or political subdivision, or to the making of any loan to such government, political subdivision, organization, or association.

SEC. 631. FALSE USE OF PASSPORT.—

Whoever knowingly uses or furnishes to another a passport validly issued which has become void by the occurrence of a condition therein prescribed invalidating the same is guilty of a Class A misdemeanor.

SEC. 632. MISUSE OF PASSPORT.—

Whoever knowingly uses a passport in violation of the conditions or restrictions therein contained, or of the rules prescribed pursuant to the laws regulating the issuance of passports, is guilty of a Class A misdemeanor.

SEC. 633. SAFE CONDUCT VIOLATION.—

Whoever violates any safe conduct or passport duly obtained and issued under authority of the United States is guilty of a Class A misdeameanor.

SEC. 634. PROTECTION OF FOREIGN OFFICIALS AND OFFICIAL GUESTS.—

(a) Section 112(b) of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 5(a) of the Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons in lieu of the present text of section 5 and amended to read as follows:

"SEC. 5. (a) Whoever knowingly:

"(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties; or

"(2) within the United States but outside the District of Columbia and within one hundred feet of any building or premises in whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by:

"(A) a foreign government, including such use as a misison to an international organization;

"(B) an international organization;

"(C) a foreign official; or

"(D) an official guest;

congregates with two or more persons with intent to violate section 1611, 1612, 1613, 1614, or 1615 of title 18, United States Code, when there is jurisdiction of the offense under section 1611(c)(2)(D), (c)(2)(E), or (c)(2)(F) of title 18; or to violate section

1701, 1702, or 1703 of title 18 if there is jurisdiction of the offense under section 1701(c)(3)(C), (c)(3)(D), or (c)(3)(E) of title 18 and if the offense is likely to endanger the person or liberty of a foreign official, official guest, or internationally protected person;

is guilty of a Class B misdemeanor.".

(b) Section 970(b) of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 5(b) of the Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons and amended:

(1) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(2) by deleting "shall be fined not more than $500 or imprisoned not more than six months, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

((c) Section 112(d) of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 5(c) of the Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons.

(d) Section 112(e) of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 5(d) of the Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons, and amended to delete the words "provisions of sections 5 and 7 of this title and" and to insert in lieu thereof the words "definition of 'United States' contained in section 111 of title 18, United States Code, and any place described in".

SEC. 635. INTERNEE OF BELLIGERENT FOREIGN POWER.—

Whoever, within the jurisdiction of the United States, aids or entices any person belonging to the armed forces of a belligerent foreign power who is interned in the United States in accordance with the law of nations, to escape or attempt to escape from the jurisdiction of the United States or from the limits of internment prescribed is guilty of a Class A misdemeanor.

SEC. 636. INTERNED BELLIGERENT NATIONALS.—

Whoever, belonging to the armed land or naval forces of a belligerent foreign power and being interned in the United States, in accordance with the law of nations, leaves or attempts to leave said jurisdiction, or leaves or attempts to leave the limits of internment without permission from the proper official of the United States in charge, or recklessly overstays a leave of absence granted by such official, shall be subject to arrest by any federal law enforcement officer authorized to arrest for violations of the federal criminal laws, and shall be taken to an appropriate place of internment and there confined and safely kept for such period of time as the official of the United States in charge shall direct.

SEC. 637. Sections 1693, 4083 through 4091, 4097 through 4122, and 4125 through 4130, of the Revised Statutes, as amended (22 U.S.C. 141 to 181 and 183), are repealed.

SEC. 638. Section 1 of the Act of March 23, 1874, ch. 62 (22 U.S.C. 182), is repealed.

SEC. 639. Section 4064 of the Revised Statutes (22 U.S.C. 253), is amended by deleting "imprisoned for not more than three years, and fined at the discretion of the court" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 640. Section 4080 of the Revised Statutes, as amended (22 U.S.C. 257), is amended by deleting the word "commissioner" wherever it appears and inserting in lieu thereof "magistrate".

SEC. 641. Section 4081 of the Revised Statutes, as amended (22 U.S.C. 258), is amended by deleting the word "commissioner" in the second sentence and inserting in lieu thereof "magistrate".

SEC. 642. Section 271 of the Act of March 3, 1911 (22 U.S.C. 258a), is amended:

(a) by deleting the word "commissioners" wherever it appears and inserting in lieu thereof the word "magistrates"; and

(b) by deleting the word "commissioner" in the first sentence and inserting in lieu thereof "magistrate".

SEC. 643. Section 5 of the Act of April 29, 1964 (22 U.S.C. 277d–21), is amended by deleting "fined not more than $2,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 644. Section 8(c) of the Act of July 31, 1945 (22 U.S.C. 286f(c)), is amended by deleting ", upon conviction, be fined not more than $5,000, or imprisoned not more than five years, or both" and inserting in lieu thereof "be guilty of a Class B misdemeanor".

SEC. 645. Section 5(b) of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c(b)), is amended to read as follows:

"(b) A person who, being aware of a legal duty under an order, rule, or regulation issued by the President pursuant to paragraph (a) of this section, intentionally violates such order, rule, or regulation commits an unlawful act that is an offense described in section 1206 of title 18, United States Code. Any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.".

SEC. 646. The Act of November 4, 1939 (22 U.S.C. 441 et seq.), is amended as follows:

(a) Section 7(c), as amended (22 U.S.C. 447(c)), is amended to read as follows:

"(c) Whoever knowingly violates a provision of this section or a regulation issued thereunder commits an unlawful act that is an offense described in section 1206 of title 18, United States Code.".

(b) Section 10(a) (22 U.S.C. 450(a)) is amended by deleting "section 1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U.S.C., 1934 edition, title 18, sec. 31)" and inserting in lieu thereof "section 1204 of title 18, United States Code".

(c) Section 15 (22 U.S.C. 455) is amended to read as follows:

"Sec. 15. A person who violates a provision of this joint resolution or a rule or regulation issued pursuant thereto, where a specific penalty is not provided in this joint resolution or in section 1204 of title 18, United States Code, is guilty of a Class A misdemeanor.".

SEC. 647. The Act of March 4, 1909 (22 U.S.C. 461 et seq.), is amended as follows:

(a) Section 14 (22 U.S.C. 461) is amended:

(1) by adding after the word "vessel" wherever it appears the words "or aircraft";

(2) by deleting the words "this chapter" wherever they appear and inserting in lieu thereof "section 1204 of title 18, United States Code, and sections 624 and 625 of the Criminal Code Reform Act of 1977";

(3) by deleting the words "foreign prince or state, or of any colony, district, or people" wherever they appear and inserting in lieu thereof "foreign power"; and

(4) by deleting "with whom the United States are at peace" in the last sentence and inserting in lieu thereof "with whom the United States is at peace".

(b) Section 15, as amended (22 U.S.C. 462), is amended:

(1) by deleting "land or naval forces of the United States, or of the militia thereof," and inserting in lieu thereof "armed forces of the United States"; and

(2) by adding after the word "vessel" each time it appears the words "or aircraft".

(c) Section 16 (22 U.S.C. 463) is amended by deleting "foreign prince or state, or of any colony, district, or people, with whom the United States are at peace" and inserting in lieu thereof "foreign power with which the United States is at peace".

(d) Section 17 (22 U.S.C. 464) is amended:

(1) by deleting "collectors of the customs" and inserting in lieu thereof "customs officers"; and

(2) by deleting "foreign prince or state, or of any colony, district, or people with whom the United States are at peace" and inserting in lieu thereof "foreign power with which the United States is at peace".

SEC. 648. Section 9 of the Act of June 15, 1917 (22 U.S.C. 465), is amended to read as follows:

"SEC 9. That the President may employ such part of the armed forces of the United States as he may deem necessary to carry out the purposes of this title and sections 1201 and 1204 of title 18, United States Code, and sections 626 to 629, and 635, of the Criminal Code Reform Act of 1977.".

SEC. 649. The Foreign Agents Registration Act of 1938, is amended (22 U.S.C. 611 et seq), is amended as follows:

(a) Section 2, as amended (22 U.S.C. 612), is amended:

(1) by deleting "section 613 of title 18" in subsection (a)(8) and inserting in lieu thereof "section 324 of the Federal Election Campaign Act of 1971, as added by section 112(2) of the Federal Election Campaign Act Amendments of 1976 (2 U.S.C. 441e)"; and

(2) by amending subsection (d) to read as follows:

"(d) The fact that a registration statement or supplement thereto has been filed shall not necessarily be deemed a full compliance with this Act and the regulations thereunder on the part of the registrant; nor shall it indicate that the Attorney General has in any way passed upon the merits of the registration statement or supplement thereto; nor shall it preclude prosecution under section 1126 of title 18, United States Code, for knowingly failing to file a registration statement or supplement thereto or under section 1343 of title 18 for knowingly making a false statement of a material fact therein or knowingly omitting a material fact required to be stated therein or knowingly omitting a material fact or copy of a material document necessary to make the statements made in a registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.".

(b) Section 4(d), as amended (22 U.S.C. 614(d)), is amended by deleting the words "section 1 of title XII of the Act of June 15, 1917 (40 Stat. 230)" wherever they appear and inserting in lieu thereof "section 6020 of title 39".

(c) Section 5, as amended (22 U.S.C. 615) is amended:

(1) by deleting "willfully" in the last sentence and inserting in lieu thereof "knowingly"; and

(2) by deleting ", or to cause to be concealed, destroyed, obliterated, mutilated, or falsified," in the last sentence.

(d) Section 8, as added by section 1 of the Act of April 29, 1942, and amended (22 U.S.C. 618), is amended:

(1) by amending subsection (a) to read as follows:

"(a) Except as provided in section 1126 of title 18, United States Code, a person who knowingly violates a provision of this Act or any regulation thereunder, is guilty of a Class B misdemeanor.";

(2) by adding after the words "this Act" each time they appear in subsections (b) and (c) the words "or section 1126 of title 18, United States Code,";

(3) by repealing subsection (e); and

(4) by adding after the words "this Act" each time they appear in subsection (f) the words "or section 1126 of title 18, United States Code.".

SEC. 650. Section 3(c) of the Act of June 30, 1944, as amended (22 U.S.C. 703(c)), is amended by deleting "fined not more than

$2,000 or imprisoned for not more than six months, or both" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 651. Section 2 of the Act of June 30, 1902 (22 U.S.C. 1179), is amended to read as follows:

"SEC. 2. (a) That a consular office who accepts an appointment to an office of trust mentioned in the preceding section without first having complied with the provisions thereof by due execution of a bond as therein required is guilty of a Class A misdemeanor.

"(b) That a consular officer who knowingly fails or neglects to account for, pay over, and deliver any money, property, or effects so received to a person lawfully entitled thereto, after having been requested by the latter, his representative or agent so to do, commits an unlawful act that is an offense described in section 1731 of title 18, United States Code.".

SEC. 652. Section 1716 of the Revised Statutes (22 U.S.C. 1182) is amended by deleting "punishable by imprisonment for not more than one year, or by a fine of not more than two thousand dollars" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 653. Section 1734 of the Revised Statutes, as amended (22 U.S.C. 1198), is amended:

(a) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(b) by deleting "shall be deemed guilty of embezzlement, and shall be punishable by imprisonment for not more than five years, and by a fine of not more than two thousand dollars" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1731 of title 18, United States Code".

SEC. 654. Sections 1735 and 1736 of the Revised Statutes, as amended (22 U.S.C. 1199), are amended:

(a) by deleting the word "willfully" wherever it appears and inserting in lieu thereof "knowingly";

(b) by deleting "willful" and inserting in lieu thereof "knowingly"; and

(c) by deleting "; and for all malversation and corrupt conduct in office, he shall be punishable by imprisonment for not more than five years and not less than one, and by a fine of not more than ten thousand dollars and not less than one thousand".

SEC. 655. Section 1737 of the Revised Statutes, as amended (22 U.S.C. 1200) is repealed.

SEC. 656. The third sentence of section 1750 of the Revised Statutes, as amended (22 U.S.C. 1203), is amended to read: "Any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal and signature of the officer administering or taking the testimony contained in such document shall be admitted in evidence without proof of any such seal or signature being genuine or the official character of any such person.".

SEC. 657. The International Claims Settlement Act of 1950, as amended (22 U.S.C. 1621 et seq.), is amended as follows:

(a) Section 3, as amended (22 U.S.C. 1623), is amended:

(1) by deleting "in section 1001 of title 18" in subsection (e) and inserting in lieu thereof "for violation of section 1343 of title 18, United States Code"; and

(2) by deleting "fined not more than $5,000 or imprisoned not more than twelve months or both" in subsection (f) and inserting in lieu thereof "guilty of a Class A misdemeanor".

(b) Section 215, as added by section 3 of the Act of August 9, 1955 (22 U.S.C. 1631n), is amended to read as follows:

"SEC. 215. Whoever knowingly violates a provision of this title or a rule or regulation issued hereunder, and whoever knowingly violates, neglects, or refuses to comply with an order of the President or of a designee of the President under this title, issued in compliance with the provisions of this title is guilty of a Class A misdemeanor.".

(c) Section 312, as added by section 3 of the Act of August 9, 1955 (22 U.S.C. 1641k), is amended:

(1) by deleting "chapter 115" and inserting in lieu thereof "section 1101, 1102, 1103, 1111, 1112, 1114, 1116, 1117, or 1126"; and

(2) by deleting "crime" and inserting in lieu thereof "offense".

(d) Section 317(a), as added by section 3 of the Act of August 9, 1955 (22 U.S.C. 1641p (a)), is amended by deleting "fined not more than $5,000 or imprisoned not more than twelve months, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(e) Section 409, as added by section 1 of the Act of August 8, 1958 (22 U.S.C. 1642h), is amended:

(1) by deleting "chapter 115" and inserting in lieu thereof "section 1101, 1102, 1103, 1111, 1112, 1114, 1116, 1117, or 1126"; and

(2) by deleting "crime" and inserting in lieu thereof "offense".

(f) Section 414, as added by section 1 of the Act of August 8, 1958 (22 U.S.C. 1642m), is amended by deleting "misdemeanor, and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both" and inserting in lieu thereof "Class A misdemeanor".

(g) Section 512, as added by the Act of October 16, 1964 (22 U.S.C. 1643k), is amended by deleting "fined not more than $5,000 or imprisoned not more than twelve months, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 658. Section 8 of the Fishermen's Protective Act of 1967, as added by the Act of December 23, 1971 (22 U.S.C. 1978), is amended:

(a) by deleting "fined" in subsection (d) (1) and inserting in lieu thereof "subject to a civil penalty of"; and

(b) by deleting "commissioners" in subsection (e)(2) and inserting in lieu thereof "magistrates".

SEC. 659. Section 635(j) of The Foreign Assistance Act of 1961, as amended (22 U.S.C. 2395(j)), is amended by deleting "section 955 of title 18 of the United States Code" and inserting in lieu thereof "section 630 of the Criminal Code Reform Act of 1977".

SEC. 660. Section 19(b)(2) of the Peace Corps Act, as amended (22 U.S.C. 2518(b)(2)), is amended by deleting "shall be fined not more than $500 or imprisoned not more than six months, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

SEC. 661. Section 44 of the Arms Control and Disarmament Act, as amended (22 U.S.C. 2584), is amended by deleting "section 281, 283, 284, or 1914 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99)" and inserting in lieu thereof "chapter 91 of title 5".

SEC. 662. Section 2 of the Act of June 29, 1955, as added by section 4 of the Act of August 27, 1964 (22 U.S.C. 2667), is amended by deleting "section 111 or 112 of title 18, United States Code, in their presence" and inserting in lieu thereof "in their presence section 1302, 1357, or 1358 of title 18, United States Code, section 1611, 1612, 1613, 1614, or 1616 of title 18 where there is jurisdiction under section 1611(c)(2), of section 1621, 1622, or 1623 of title 18, where there is jurisdiction under section 1621(c)(2), or section 1823 of title 18 if the offense occurs during the commission of any of these offenses,".

SEC. 663. Section 9 of the Act of August 1, 1956 (22 U.S.C. 2676), is amended by deleting "section 431 of title 18" and inserting in lieu thereof "section 9110 of title 5".

SEC. 664. The Foreign Military Sales Act, as amended (22 U.S.C. 2751 et seq.), is amended as follows:

(a) Section 38(c), as added by section 212 (a)(1) of the International Security Assistance and Arms Control Act of 1976 (22 U.S.C. 2778(c)), is amended to read as follows:

"(c) A person who, with intent to conceal any matter from a governmental agency authorized to administer this section, or being aware of a legal duty under this section, section 39, or a rule or regulation issued under this section, intentionally violates a provision of this section or section 39, or a rule or regulation issued under this seciton commits an unlawful act that is an offense described in section 1206 of title 18, United States Code.".

(b) Section 39, as added by section 604(b) of the International Security Assistance and Arms Control Act of 1976 (22 U.S.C. 2779) is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 38(c), a person who knowingly violates a provision of this section is guilty of a Class A misdemeanor.".

SEC. 665. Section 604(a) of the Act of July 13, 1972 (22 U.S.C. 2824(a)), is amended by deleting "sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194)" and inserting in lieu thereof "sections 103 and 104 of the Revised Statutes of the United States (2 U.S.C. 103 and 194) and sections 1332 and 1333 of title 18, United States Code,".

SEC. 666. The International Investment Survey Act of 1976 (22 U.S.C. 3101 et seq.) is amended as follows:

(a) Section 5(d) (22 U.S.C. 3104(d)) is amended to read as follows:

"(d) A person who knowingly violates subsection (d) is guilty of an infraction, except that the maximum fine for an individual shall be $10,000, or the maximum fine applicable under section 2201(c) of title 18, United States Code, whichever is higher, and the person shall not be sentenced to a term of imprisonment.".

(b) Section 6(c) (22 U.S.C. 3105(c)) is amended to read as follows:

"(c) Whoever knowingly fails to submit information required under this Act, whether required to be furnished in the form of a report or otherwise, or knowingly violates a rule, regulation, order, or instruction promulgated under this Act, is guilty of a Class A misdemeanor.".

PART S—AMENDMENTS RELATING TO HOSPITALS, ASYLUMS, AND CEMETERIES, TITLE 24, UNITED STATES CODE

SEC. 671. Section 4 of the Act of March 22, 1906 (24 U.S.C. 154), is amended to read as follows:

"SEC. 4. That a person who violates a rule or regulation prescribed hereunder is guilty of a Class A misdemeanor.".

SEC. 672. Section 4851 of the Revised Statutes of the United States, as amended (24 U.S.C. 211), is amended by deleting "crime" and inserting in lieu thereof "an offense".

SEC. 673. Section 4855 of the Revised Statutes of the United States, as amended (24 U.S.C. 211b), is amended by deleting the word "crime" wherever it appears and inserting in lieu thereof the words "an offense".

PART T—AMENDMENTS RELATING TO INDIANS, TITLE 25, UNITED STATES CODE

SEC. 681. INDIAN CONTRACTS FOR SERVICES GENERALLY.—

Whoever receives money contrary to section 2103 or 2104 of the Revised Statutes (25 U.S.C. 81 or 82) is guilty of a Class B misdemeanor, and shall also forfeit the money so received.

SEC. 682. INDIAN ENROLLMENT CONTRACTS.—

Unless the United States consents, all contracts made with any person or persons, applicants for enrollment as citizens in the Five Civilized Tribes for compensation for services in relation thereto, shall be void, and—

Whoever collects or receives any moneys from any such applicants for citizenship, is guilty of a Class B misdemeanor.

SEC. 683. COUNTERFEITING INDIAN ARTS AND CRAFTS BOARD TRADEMARK.—

Whoever counterfeits or colorably imitates any Government trademark used or devised by the Indian Arts and Crafts Board in the Department of the Interior as provided in section 2 of the Act of August 27, 1935, as amended (25 U.S.C. 305a), or, except as authorized by the Board, affixes any such Government trademark, or knowingly affixes and reproduction, counterfeit, copy, or colorable imitation thereof upon any products, or to any labels, signs, prints, packages, wrappers or receptacles intended to be used or in connection with the sale of such products—

Is guilty of a Class B misdemeanor; and shall be enjoined from further carrying on the act or acts complained of.

SEC. 684. MISREPRESENTATION IN SALE OF PRODUCTS.—

Whoever knowingly offers or displays for sale any goods, with or without any Government trademark, as Indian products or Indian products of a particular Indian tribe or group, resident within the United States, when such person knows such goods are not Indian products or are not Indian products of the particular Indian tribe or group, is guilty of a Class B misdemeanor.

SEC. 685. INTOXICANTS DISPENSED IN INDIAN COUNTRY.—

(a) Whoever knowingly introduces any malt, spiritous, or vinous liquor, including beer, ale, and wine, or any ardent or intoxicating liquor of any kind whatsoever into the Indian country other than in conformity with an ordinance adopted pursuant to subsections (b) or (c) is guilty of a Class B misdemeanor. The term "Indian country" as used in this section does not include fee-patented lands in non-Indian communities or rights-of-way through Indian reservations.

(b) An Indian tribe having jurisdiction over Indian country, as defined in section 144 of this Act, may adopt ordinances concerning dispensing, possession, and use of liquor in Indian country over which it has jurisdiction, consistent with the laws of the State in which the Indian country is located. Such ordinances shall be certified by the Secretary of th Interior and published in the Federal Register. All distribution of liquor in Indian country for which an Indian tribe has adopted such ordinances shall be distributed in accord with those ordinances.

(c) Nothing in this section shall alter the effectiveness of ordinances heretofore adopted by Indian tribes, certified by the Secretary of the Interior, and published in the Federal Register pursuant to the Act of August 15, 1953 (67 Stat. 586).

SEC. 686. DESTROYING BOUNDARY AND WARNING SIGNS.—

Whoever knowingly destroys, defaces, or removes any sign erected by an Indian tribe, or a Government agency (1) to indicate the boundary on an Indian reservation or of any Indian country as defined in section 144 of this Act, or (2) to give notice that hunting, trapping, or fishing is not permitted thereon without lawful authority or permission, commits an unlawful act that is an offense described in section 1703 of title 18, United States Code.

SEC. 687. HUNTING, TRAPPING, OR FISHING, ON INDIAN LAND.—

Notwithstanding the provisions of section 1713 of title 18, United States Code, whoever, without lawful authority or permission, knowingly goes upon any land that belongs to any Indian or Indian tribe, band, or group and either is held by the United States in trust or is subject to a restriction against alienation imposed by the United States, or upon any lands of the United States that are reserved for Indian use, for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish therefrom, is guilty of a Class B misdemeanor; and all game, fish, and peltries in his possession shall be forfeited.

SEC. 688. Section 3(c) of the Act of August 10, 1967, as amended (25 U.S.C. 70b(c)), is amended by deleting "fined not more than $10,000 or imprisoned not more than two years, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 689. Section 3(b) of the Joint Resolution of January 2, 1975 (88 Stat. 1910, 25 U.S.C. 174 note), is amended by deleting "192 through 194, inclusive, of title 2, United States Code," and inserting in lieu thereof "sections 103 and 104 of the Revised Statutes of the United States (2 U.S.C. 193 and 194) and sections 1332 and 1333 of title 18, United States Code,".

SEC. 690. Section 2124 of the Revised Statutes (25 U.S.C. 201), is amended:

(a) by deleting "arrested or"; and

(b) by deleting "prosecution" and inserting in lieu thereof "action".

SEC. 691. The second sentence of section 5 of the Act of June 25, 1910 (25 U.S.C. 202), is amended to read: "Any person who violates this provision is guilty of an infraction if the offense is the first such offense, and is guilty of a class A misdemeanor if the offense is a second or subsequent offense: *Provided*, That this section shall not apply to any lease or other contract authorized by law to be made."

SEC. 692. The Act of July 2, 1948 (25 U.S.C. 232), is repealed.

SEC. 693. The ninth paragraph of section 26 of the Act of June 30, 1919, as amended (25 U.S.C. 399), is amended by deleting "; and any person making any false statement, representation, or report under oath in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, shall be subject to punishment as for perjury".

SEC. 694. Section 6 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450d) is repealed.

SEC. 695. Section 105(j) of the Indian Self-Determination Act (25 U.S.C. 450i(f)), is amended by deleting "sections 205 and 207 of title 18" and inserting in lieu thereof "sections 9104 and 9106 of title 5".

SEC. 696. The Act of April 11, 1968 (25 U.S.C. 1301 et seq.) is amended as follows:

(a) Section 202(7) (25 U.S.C. 1302(7)) is amended by deleting "$500" and inserting in lieu thereof "$10,000".

(b) Section 403(a) (25 U.S.C. 1323(a)) is amended by deleting "section 1162 of title 18 of the United States Code" and inserting in lieu thereof "section 144(e) of the Criminal Code Reform Act of 1977".

PART U—AMENDMENTS RELATING TO THE INTERNAL REVENUE CODE, TITLE 26, UNITED STATES CODE

SEC. 701. Section 205(c)(2) of the Emergency Jobs and Unemployment Assistance Act of 1974 (26 U.S.C. 3304 note) is amended by deleting "section 1001" and inserting in lieu thereof "section 1343".

SEC. 702. Chapter 1 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 1 et seq.), is amended as follows:

(a) Section 856(g)(4)(C), as amended (26 U.S.C. 856(g)(4)(C)), is amended by deleting "willful" and inserting in lieu thereof "knowing".

(b) Section 911(f)(1), as amended (26 U.S.C. 911(f)(1)), is amended by adding after the words "of subtitle F" the words "of this title, and the provisions of subchapter A of chapter 14 of title 18, United States Code".

(c) Section 999(f), as added by section 1064(a) of the Tax Reforml Act of 1976 (26 U.S.C. 999(f)), is amended to read as follows:

"(f) KNOWING FAILURE TO REPORT.—A person (within the meaning of section 6671(b)) required to report under this section who knowingly fails to make such report is guilty of a class A misdemeanor, except that the maximum fine for an individual is $25,000, or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

SEC. 703. Section 3402(q)(7) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 3402(q)(7), is amended by adding after the words "section 7205)" the words "of this title and of subchapter A of chapter 14 of title 18, United States Code,".

SEC. 704. Section 4182(c) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 4182(c)), is amended:

(a) by deleting "sections 922(b)(5) and 923(g) of title 18, United States Code" and inserting in lieu thereof "sections 103(b)(5) and 104(g) of the Gun Conutrol Act of 1968, as amended";

(b) by deleting "chapter 44 of title 18, United States Code" and inserting in lieu thereof "title I of the gun control Act of 1968, as amended".

SEC. 705. Section 4363 of chapter 34 of the Internal Rvenue Code of 1954, as amended (26 U.S.C. 4363), is amended by adding after the words "subtitle F" the words "of this title and subchapter A of chapter 14 of title 18, United States Code".

SEC. 706. Chapter 35 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 4401 et seq.), is amended as follows:

(a) Section 4405 (26 U.S.C. 4405) is amended by adding after the words "subtitle F" the words "of this title; and subchapter A of chapter 14 of title 18, United States Code".

(b) Section 4414 (26 U.S.C. 4414) is amended by adding after the words "subtitle F" the words "of this title; and subchapter A of chapter 14 of title 18, United States Code".

SEC. 707. Chapter 36 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 4461 et seq.), is amended as follows:

(a) Section 4463(b) (26 U.S.C. 4463(b)) is amended by adding after the words "subtitle F" the words "of this title, and subchapter A of chapter 14 of title 18, United States Code".

(b) Section 4484, as added by section 206(a) of the Highway Revenue Act of 1956 (26 U.S.C. 4484), is amended by adding after the words "subtitle F" the words "of this title and subchapter A of chapter 14 of title 18, United States Code".

(c) Section 4494, as added by section 206(a) of the Airport and Airway Revenue Act of 1970 (26 U.S.C. 4494), is amended by adding after the words "subtitle F" the words "of this title and subchapter A of chapter 14 of title 18, United States Code".

SEC. 708. Section 4942(a)(2)(A) of the Internal Revenue Code of 1954, as added by section 101(b) of the Act of December 30, 1969 (26 U.S.C. 4942(a)(2)(A)), is amended by deleting "willful" and inserting in lieu thereof "done knowingly".

SEC. 709. Chapter 51 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 5001 et seq.), is amended as follows:

(a) Section 5045, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5045), is amended by adding after the words "subchapter J" the words "of this chapter, and title 18, United States Code".

(b) Section 5054(c), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5054(c), is amended by adding after the word "applicable", the words "and the provisions of subchapter A of chapter 14 of title 18, United States Code, subchapter E of chapter 17 of title 18, and section 1343 of title 18".

(c) Section 5084(4), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5084(4)) is amended:

(1) by adding after words "subchapter J" the words "of this chapter"; and

(2) by adding after words "subtitle F" the words "of this title and title 18, United States Code".

(d) Section 5114(c)(2), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5114(c)(2)), is amended by adding after the words "section

5603" the words "of this title and sections 1301, 1302, 1343, 1344, and 1403 of title 18, United States Code".

(e) Section 5148, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5148), is amended:

(1) by amending subsection (1) to read as follows:

"(1) For offense of nonpayment of special taxes, see section 5691 of this Act and section 1402 of title 18, United States Code.";

(2) by adding after the words "subchapter J" in subsection (2) the words "of this chapter and title 18, United States Code"; and

(3) by adding after the words "subtitle F" in subsection (c) the words "of this title, and title, 18 United States Code".

(f) Section 5171(c), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5171(c)), is amended:

(1) by deleting the words "penalty for" the first time they appear and inserting in lieu thereof "offense of";

(2) by deleting "5601(a)(2)" and inserting in lieu thereof "1403 of title 18, United States Code";

(3) by deleting the words "penalty for the" the second time they appear and inserting in lieu thereof "offense of"; and

(4) by deleting "5601(a)(3)" and inserting in lieu thereof "1403 of title 18, United States Code".

(g) Section 5177(b)(2), as added by section 201 of the Excise Tax Technical Changes Act of 1958, and amended (26 U.S.C. 5177(b)(2)), is amended by adding after the words "and 5615(3)" the words "of this Act and sections 1343 and 1403 of title 18, United States Code".

(h) Section 5205(1)(5), as added by section 1 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5205(1)(5)), is amended:

(1) by deleting "7208,"; and

(2) by adding after the words "and 7209" the words "of this title and subchapter A of chapter 14 of title 18, United States Code, subchapter E of chapter 17 of title 18, and sections 1301 and 1343 of title 18, United States Code".

(i) Section 5207(e), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5207(e)), is amended by adding after the words "and 5615(5)" the words "of this title and sections 1301, 1343, 1344, and 1403 of title 18, United States Code".

(j) Section 5271(e)(5), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5271(e)(5)), is amended by adding after the words "such offense" the words "or of any felony under subchapter A of chapter 14 of title 18, United States Code, or of any felony under subchapter E of chapter 17 of title 18 relating to federal tax stamps, or of a conspiracy to violate such provisions of title 18".

(k) Section 5505(i), as added by section 201 of the Excise Tax Technical Changes Act of 1958, and amended (26 U.S.C. 5505(i)), is amended:

(1) by deleting "provided in" and inserting in lieu thereof "provided for violation of"; and

(2) by adding after the words "and 5687" the words "of this title and sections 1301, 1302, 1343, 1401, 1402, and 1403 of title 18, United States Code,".

(l) Section 5557(a), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5557(a)), is amended:

(1) by deleting "commissioners" and inserting in lieu thereof "magistrates"; and

(2) by repealing the last sentence.

(m) Section 5558, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5558), is amended to add after the words "section 7608" the words "of title 26 and chapter 30 of title 18, United States Code."

(n) Section 5601(a), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5601(a)), is amended by deleting "shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, for each such offense" and inserting in lieu thereof "commits an unlawful act that is of an offense described in section 1403 of title 18, United States Code"; and

(o) Section 5602, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5602), is amended:

(1) by deleting "attempts to defraud,"; and

(2) by deleting "fined not more than $10,000, or imprisoned for not more than 5 years, or both" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code".

(p) Section 5603, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5603), is amended:

(1) by deleting subsection (a)(4);

(2) by redesignating subsection (a)(5) as subsection (a)(4);

(3) by deleting "or who shall, with intent to defraud the United States, cause or procure the same to be done, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, for each such offense" in subsection (a) and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code";

(4) by deleting subsection (b)(4); and

(5) by deleting "or who shall, otherwise than with intent to defraud the United States, cause or procure the same to be done, shall be fined not more than $1,000, or imprisoned for not more than 1 year, or both, for each such offense" in subsection (b) and inserting in lieu thereof "shall be guilty of a Class A misdemeanor".

(q) Section 5604(a), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5604(a)), is amended:

(1) by deleting ", or cause to be emptied," in paragraph (3);

(2) by deleting "willfully" in paragraph (16) and inserting in lieu thereof "knowingly";

(3) by deleting ", or cause to be affixed," in paragraph (19); and

(4) by deleting "shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, for each such offense" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code".

(r) Section 5605, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5605), is amended to read as follows:

"SEC. 5605. Penalty Relating to Return of Materials Used in the Manufacture of Distilled Spirits, or From Which Distilled Spirits May Be Recovered

"Any person who knowingly violates a provision of section 5291(a), or of a regulation issued pursuant thereto, commits an unlawful act that is an offense described in section 1403 of title 18, United States Code.".

(s) Section 5606, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5606), is amended to read as follows:

"Sec. 5606. Penalty Relating to Containers of Distilled Spirits

"Whoever violates a provision of section 5301, or of a regulation issued pursuant thereto, or the terms and conditions of any permit issued pursuant to the authorization contained in such section, shall be guilty of a Class A misdemeanor.".

(t) Section 5607, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5607), is amended:

(1) by deleting "or attempts to recover" in paragraph (4); and

(2) by deleting "shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, for each such offense" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code".

(u) Section 5608, as added by section 201 of the Excise Tax Technical Changes Act of 1958, and amended (26 U.S.C. 5608), is amended:

(1) by deleting "shall be imprisoned not more than 5 years" in subsection (a) and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code";

(2) by deleting "shall be fined not more than $5,000, or imprisoned not more than 3 years, or both" in subsection (a) and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code"; and

(3) by deleting "shall be fined not more than $5,000, or imprisoned not more than 3 years, or both" in subsection (b) and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code".

(v) Section 5661, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5661), is amended:

(1) by deleting "shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, for each such offense" in subsection (a) and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code"; and

(2) by deleting "or who aids or abets in any such violation, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, for each such offense" in subsection (b) and inserting in lieu thereof "shall be guilty of a Class A misdemeanor".

(w) Section 5662, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5662), is amended by deleting "fined not more than $1,000, or imprisoned not more than 1 year, or both, for each such offense" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(x) Section 5663, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5663), is amended:

(1) by adding after the words "part IV" the words "of this subchapter, and subchapter A of chapter 14 of title 18, United States Code"; and

(2) by adding after the words "part I" the words "of this subchapter, and subchapter A of chapter 14 of title 18, United States Code".

(y) Section 5671, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5671), is amended by deleting "shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, for each such offense" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code".

(z) Section 5672, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5672), is amended by deleting "fined not more than $1,000, or imprisoned not more than 1 year, or both, for each such offense" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(aa) Section 5673, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5673), is amended by deleting "willful" and inserting in lieu thereof "intentional".

(bb) Section 5674, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5674), is amended:

(1) by deleting "or in any way aids in the removal"; and

(2) by deleting "fined not more than $1,000, or imprisoned not more than 1 year, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(cc) Section 5681, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5681), is amended:

(1) by deleting "fined not more than $1,000, or imprisoned not more than 1 year, or both" in subsection (b) and inserting in lieu thereof "guilty of a Class A misdemeanor";

(2) by deleting "fined not more than $1000, or imprisoned not more than 1 year, or both" in subsection (b) and inserting in lieu thereof "guilty of a Class A misdemeanor";

(3) by deleting "fined not more than $1,000, or imprisoned not more than 1 year, or both" in subsection (c) and inserting in lieu thereof "guilty of a Class A misdemeanor".

(dd) Section 5682, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5682), is amended by deleting "shall be fined not more than $5,000, or imprisoned not more than 3 years, or both" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code".

(ee) Section 5683, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5683), is amended by deleting "or causes such act to be done, he shall be fined not more than $1,000, or imprisoned not more than 1 year or both" and inserting in lieu thereof "he shall be guilty of a Class A misdemeanor".

(ff) Section 5684(d), as added by section 201 of the Excise Tax Technical Changes Act of 1958, and amended (26 U.S.C. 5684(d)), is amended:

(1) by deleting "section 7201" in paragraph (4) and inserting in lieu thereof "section 1401 of title 18, United States Code";

(2) by deleting "willful" in paragraph (5) and inserting in lieu thereof "knowing"; and

(3) by deleting "section 7203" in paragraph (5) and inserting in lieu thereof "section 1402 of title 18, United States Code".

(gg) Section 5685, as added by section 201 of the Excise Technical Changes Act of 1958 (26 U.S.C. 5685), is repealed.

(hh) Section 5686(a), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5686(a)), is amended by deleting "fined not more than $5,000, or imprisoned not more than 1 year, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(ii) Section 5687, as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5687), is amended by deleting "fined not more than $1,000, or imprisoned not more than 1 year, or both for each offense" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(jj) Section 5691(a), as added by section 201 of the Excise Tax Technical Changes Act of 1958 (26 U.S.C. 5691(a)), is amended:

(1) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(2) by deleting "shall be fined not more than $5,000, or imprisoned not more than 2 years, or both, for each such offense" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code".

SEC. 710. Chapter 52 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 5701 et. seq.), is amended as follows:

(a) Section 5761(a), as amended (26 U.S.C. 5762), is amended:

(1) by deleting "shall, for each such offense "shall, for each such offense, be fined not more than $10,000, or imprisoned not more than 5 years, or both" in subsection (a) and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1403 of title 18, United States Code"; and

(2) by deleting ", for each such offense, be fined not more than $1,000, or imprisoned not more than 1 year or both" in subsection (b) and inserting in lieu thereof "be guilty of a Class A misdemeanor".

SEC. 711. Section 5871 of the Internal Revenue Code of 1954, as added by section 201 of the Act of October 22, 1968 (26 U.S.C. 5871), is amended to read as follows:

"§ 5871. Penalties

"Any person who violates or fails to comply with a provision of this chapter commits an unlawful act that is an offense described in section 1822(a)(3) of title 18, United States Code.".

SEC. 712. Chapter 61 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6001 et seq.), is amended as follows:

(a) Section 6013(b)(5)(B), as amended (26 U.S.C. 6013(b)(5)(B)), is amended by deleting "7206" (1) and (2) and section 7207" and inserting in lieu thereof "sections 1401 and 1402 of title 18, United States Code".

(b) Section 6038(e)(1), as added by section 6(a) of the Act of September 14, 1960, and amended (26 U.S.C. 6038(e)(1)), is amended by deleting "section 7203" and inserting in lieu thereof "section 1402 of title 18, United States Code".

(c) Section 6046(f), as amended (26 U.S.C. 6046(f)), is amended by adding after the words "sections 6679 and 7203" the words "of this title and section 1402 of title 18, United States Code".

(d) Section 6047(e), as added by section 7(m)(1) of the Act of October 10, 1962, as redesignated and amended (26 U.S.C. 6047(e)), is amended to read as follows:

"(e) CROSS REFERENCES.—

"(1) For provisions relating to offenses of failure to file a return required by this section, see subchapter A of chapter 14 of title 18, United States Code.

"(2) For criminal offenses of furnishing fraudulent information, see section 1343 of title 18, United States Code.

"(3) For provisions relating to civil penalties for failure to file a return required by this section, see section 6652(f).".

(e) Section 6048(d), as added by section 7(f) of the Act of October 16, 1962, and amend (26 U.S.C. 6048(d)), is amended by deleting "sections 6677 and 7203" and inserting in lieu thereof "section 6677 of this title and section 1402 of title 18, United States Code".

(f) Section 6103, as amended (26 U.S.C. 6103), is amended:

(1) by adding after the words "under this title" in subsection (b)(2)(A) the words "or related provisions of title 18, United States Code,"; and

(2) by deleting "section 3500 of title 18, United States Code, or rule 16" in subsection (h)(4)(D) and inserting in lieu thereof "rule 16 or rule 26.1".

(g) Section 6110(c), as added by section 1201(a) of the Tax Reform Act of 1976 (26 U.S.C. 6110(c)), is amended by deleting "or willful" in the last sentence.

SEC. 713. Chapter 65 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6401, et seq.), is amended as follows:

(a) Section 6420(h)(3), as added by section 1 of the Act of April 2, 1956, as amended (26 U.S.C. 6420(h)(3), is amended:

(1) by adding after the words "chapter 75" the words "of this title";

(2) by deleting "section 7201 and following,"; and

(3) by adding after the word "forfeitures)" the words "and subchapter A of chapter 14 of title 18, United States Code".

(b) Section 6421(j)(3), as added by section 208(c) of the Highway Revenue Act of 1956, as amended by (26 U.S.C. 6421(j)(3)), is amended:

(1) by adding after the words "chapter 75" the words "of this title";

(2) by deleting "section 7201 and following"; and

(3) by adding after the word "forfeitures)" the words "and subchapter A of chapter 14 of title 18, United States Code".

(c) Section 6422(12), as amended and redesignated (26 U.S.C. 6422(12)), is amended by adding after the words "subtitle E" the words "of this title and section 1403 of title 18, United States Code".

(d) Section 6424(g)(2), as added by section 202(b) of the Excise Tax Reduction Act of 1965, as amended (26 U.S.C. 6424(g)(2), is amended:

(1) by adding after the words "chapter 75" the words "of this title";

(2) by deleting "section 7201 and following,"; and

(3) by adding after the word "forfeitures)" the words "and subchapter A of chapter 14 of title 18, United States Code".

(e) Section 6427(i)(2), as added by section 207(a) of the Airport and Airway Revenue Act of 1970, and amended (26 U.S.C. 6427(i)(2), is amended:

(1) by adding after the words "chapter 75" the words "of this title";

(2) by deleting "section 7201 and following,"; and

(3) by adding after the word "forfeitures)" the words "and subchapter A of chapter 14 of title 18, United States Code".

SEC. 714. Chapter 66 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6501 et seq.), is amended as follows:

(a) Section 6531 (26 U.S.C. 6531) is amended to read as follows:

"SEC. 6531. Periods of Limitation on Criminal Prosecutions

"For the purpose of determining the periods of limitation under section 511 of title 18, United States Code, for criminal prosecutions for violations relating to the internal revenue laws, the rules of section 6513 of this title shall be applicable.".

(b) Section 6533(3) (26 U.S.C. 6533(3)) is repealed.

SEC. 715. Chapter 68 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6651 et seq.), is amended as follows:

(a) Section 6651(a), as amended (26 U.S.C. 6651(a)), is amended by deleting the words "willful neglect" wherever they appear in paragraphs (1), (2), and (3) and inserting in lieu thereof "recklessness".

(b) Section 6652, as amended (26 U.S.C. 6652), is amended:

(1) by deleting the word "willful neglect" wherever they appear in subsection (a), (b), and (c) and inserting in lieu thereof the word "recklessness"; and

(2) by deleting "subtitle E" in subsection (g) and inserting in lieu thereof "subchapter A of chapter 14 of title 18, United States Code".

(c) Section 6656(a), as amended (26 U.S.C. 6656(a)), is amended by deleting "willful neglect" and inserting in lieu thereof "recklessness".

(d) Section 6672 (26 U.S.C. 6672) is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

(e) Section 6674, as amended (26 U.S.C. 6674), is amended:

(1) by deleting "penalty provided by section 7204" and inserting in lieu thereof "offense under section 1402(a)(4) of title 18, United States Code"; and

(2) by deleting the word "willfully" wherever it appears and inserting in lieu thereof the word "knowingly".

(f) Section 6678, as added by section 19(e) of the Act of October 16, 1962, and amended (26 U.S.C. 6678), is amended by deleting "willful neglect" and inserting in lieu thereof "recklessness".

(g) Section 6684(2), as added by section 101(c) of the Act of December 30, 1969 (26 U.S.C. 6684(2)), is amended by deleting "both willful and flagrant" and inserting in lieu thereof "done intentionally".

(h) Section 6685, as added by section 101(e)(4) of the Act of December 30, 1969 (26 U.S.C. 6685), is amended:

(1) by deleting "the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents)" and inserting in lieu thereof "other penalties provided by law"; and

(2) by deleting "willful" and inserting in lieu thereof "done knowingly."

(i) Section 6686, as added by section 504 (d) of the Act of December 10, 1971 (26 U.S.C. 6686), is amended by deleting "the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax)" and inserting in lieu thereof "other penalties provided by law."

(j) Section 6688, as added by section 1(c) of the Act of October 31, 1972, and renumbered (26 U.S.C. 6688) is amended by deleting "willful neglect" and inserting in lieu thereof "recklessness".

(k) Section 6690, as added by section 1031 (b)(2) of the Employee Retirement Income Security Act of 1974 (26 U.S.C. 6690), is amended:

(1) by deleting the word "willfully" wherever it appears and inserting in lieu thereof "knowingly"; and

(2) by adding before the word "penalty" the word "civil".

(l) Section 6692, as added by section 1033 (b) of the Employee Retirement Income Security Act of 1974 (26 U.S.C. 6692), is amended by adding the word "civil" before the word "penalty".

(m) Section 6694, as added by section 2005 (d)(2) of the Tax Reform Act of 1976 (26 U.S.C. 6694), is amended by deleting the words "willful neglect" wherever they appear and inserting in lieu thereof "recklessness".

(n) Section 6694(b), as added by section 1203(b) of the Tax Reform Act of 1976 (26 U.S.C. 6694(b)), is amended by deleting the word "willful" each time it appears in the caption or the body of the section and inserting in lieu thereof the word "knowing".

(o) Section 6695, as added by section 1203 (f) of the Tax Reform Act of 1976 (26 U.S.C. 6695), is amended by deleting the words "willful neglect" wherever they appear and inserting in lieu thereof the word "recklessness".

SEC. 716. Section 7123(a) of the Internal Revenue Code of 1954 (26 U.S.C. 7123(a)) is amended by deleting "section 7206" and inserting in lieu thereof "title 18, United States Code".

SEC. 717. Chapter 75 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7201 et seq.), is amended as follows:

(a) Sections 7201 and 7202 (26 U.S.C. 7201 and 7202) are repealed.

(b) Section 7203, as amended (26 U.S.C. 7203), is amended to read as follows:

"SEC. 7203. Failure To Supply Information, Keep Records, or Pay Tax

"Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to keep any records or supply any information, who knowingly fails to pay such estimated tax or tax, keep such records, or supply such information at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a Class A misdemeanor.

(c)(1) Sections 7204, 7206, 7208, and 7209 (26 U.S.C. 7204, 7206, 7208, and 7209) are repealed.

(2) Section 7207 (26 U.S.C. 7207) is amended:

(A) by deleting "willfully" wherever it appears and inserting in lieu thereof "knowingly"; and

(B) by striking out "shall be fined not more than $1,000, or imprisoned not more than one year, or both" each place it appears and inserting in lieu thereof "shall be guilty of a Class A misdemeanor".

(d) Section 7205, as amended (26 U.S.C. 7205), is amended:

(1) by deleting the word "willfully" wherever it appears and inserting in lieu thereof "knowingly"; and

(2) by deleting "upon conviction thereof, be fined not more than $500, or imprisoned not more than 1 year, or both" and inserting in lieu thereof "be guilty of a Class C misdemeanor".

(e) Section 7210, as amended (26 U.S.C. 7210), is amended by deleting ", upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with costs of prosecution" and inserting in lieu thereof "be guilty of a Class A misdemeanor".

(f) Section 7211 (26 U.S.C. 7211) is amended by deleting "misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000, or by imprisonment for not more than 1 year, or both" and inserting in lieu thereof "Class A misdemeanor"

(g) Section 7212 (26 U.S.C. 7212) is repealed.

(h) Section 7213, as amended (26 U.S.C. 7213, is amended:

(1) by amending the second sentence of subsection (a) (1) to read: "An intentional violation of this paragraph is a Class B misdemeanor.";

(2) by amending the second sentence of subsection (a)(2) to read: "An intentional violation of this paragraph is a Class B misdemeanor.";

(3) by amending the second sentence of subsection (a)(3) to read: "An intentional violation of this paragraph is a Class B misdemeanor.";

(4) by deleting "It" at the beginning of the first sentence of subsection (a) (4) and inserting in lieu thereof "Except as provided in subchapter F of chapter 13 of title 18, United States Code, it";

(5) by deleting "felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years" in subsection (a) (4) and inserting in lieu thereof "Class B misdemeanor.";

(6) by amending the second sentence of subsection (a)(5) to read: "An intentional violation of this paragraph is a Class B misdemeanor.";

(7) by amending subsection (b) to read as follows:

"(b) DISCLOSURE OF OPERATIONS OF MANUFACTURER OR PRODUCER.—Any officer or employer of the United States who intentionally divulges or intentionally makes known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties is guilty of a Class B misdemeanor."; and

(8) by deleting "1905" in subsection (d)(2) and inserting in lieu thereof "1525 and 5 U.S.C. 9301".

(i) Section 7214, as amended (26 U.S.C. 7214) is amended:

(1) by deleting "extortion or willful" in subsection (a)(1) and inserting in lieu thereof "knowing";

(2) by repealing subsection (a)(4), (5), (6), (7), and (9);

(3) by deleting "or" at the end of subsection (a)(8);

(4) by deleting ", upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both" in subsection (a) and inserting in lieu thereof "shall be guilty of a Class A misdemeanor";

(5) by deleting "the fine so imposed" in subsection (a) and inserting in lieu thereof "a fine imposed for violation of this subsection or for violation of subchapter F of chapter 13 of title 18, United States Code, by a federal public servant acting in connection with any revenue law of the United States,";

(6) by deleting the words "internal revenue" in the caption and body of subsection (b) and inserting in lieu thereof "Bureau of Alcohol, Tobacco, and Firearms";

(7) by deleting "fined not more than $5,000" in subsection (b) and inserting in lieu thereof "guilty of an infraction, except that the maximum fine shall be $5000 or the maximum fine available under section 2201 (c) of title 18, United States Code, whichever is higher"; and

(8) by deleting "1901" in subsection (c) and inserting in lieu thereof "1731".

(j) Section 7215(a), as added by section 2 of the Act of February 11, 1958 (26 U.S.C. 7215(a)), is repealed.

(k) Section 7216(a), is added by section 316(a) of the Act of December 10, 1971, and amended (26 U.S.C. 7216(a)), is amended by deleting "misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution" and inserting in lieu thereof "Class A misdemeanor."

(l) Section 7217(b)(1), as added by section 1202(e) of the Tax Reform Act of 1976 (26 U.S.C. 7217(b)(1)), is amended by deletting "willful" and inserting in lieu thereof "knowing".

(m) The analysis at the beginning of part I of subchapter A of chapter 75 is amended to read as follows:

"PART I.—GENERAL PROVISIONS

"Sec.
"7201. Repealed.
"7202. Repealed.
"7203. Failure to supply information, keep records, or pay tax.
"7204. Repealed.
"7205. Fraudulent withholding exemption certificate or failure to supply information.
"7206. Repealed.
"7207. Repealed.
"7208. Repealed.
"7209. Repealed.
"7210. Failure to obey summons.
"7211. False statements to purchasers or lessees relating to tax.
"7212. Repealed.
"7213. Unauthorized disclosure of information.
"7214. Offenses by officers and employees of the United States.
"7215. Defenses with respect to collected taxes.
"7216. Disclosure or use of information by preparers of returns.
"7217. Civil damages for unauthorized disclosure of returns and return information.".

(n) Section 7231 (26 U.S.C. 7231) is amended by deleting "misdemeanor and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 1 year, or both" and inserting in lieu thereof "Class A misdemeanor"

(o) Section 7232, as amended (26 U.S.C. 7232), is amended to read as follows:

"SEC. 7232. FAILURE TO REGISTER BY MANUFACTURER OR PRODUCER OF GASOLINE OR LUBRICATING OIL

"Any person who fails to register, as required by section 4101, or who in connection with any purchase of gasoline or lubricating oil falsely represents himself to be registered as provided by section 4101, shall be guilty of a Class A misdemeanor.".

(p) Section 7240 (26 U.S.C. 7240) is amended to read as follows:

"SEC. 7240. OFFICIALS INVESTING IN SUGAR

"Any person, while acting in an official capacity in the administration of chapter 37, relating to manufactured sugar, who invests in sugar or liquid sugar, contracts relating thereto, or the stock or membership interests of any association or corporation engaged in the production or manufacture of sugar or liquid sugar, shall be guilty of a Class A misdemeanor.

(q) The analysis at the beginning of part II of subchapter A of chapter 75 is amended:

(1) by deleting the items relating to section 7232 and 7233 and inserting in lieu thereof the following:

"7232. Failure to register by manufacturer or producer of gasoline or lubricating oil"; and

(2) by amending the item relating to section 7240 to read as follows:

"7240. Officials investing in sugar.".

(r) Section 7261 (26 U.S.C. 7261) is amended by deleting "on conviction thereof be fined not more than $1,000" and inserting in lieu thereof "be guilty of an infraction".

(s) Section 7262 (26 U.S.C. 7262) is amended by deleting "fined not less than $1,000 and not more than $5,000" and inserting in lieu thereof "be guilty of an infraction, except that the maximum fine for an individual shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher".

(t) Section 7268 (26 U.S.C. 7268) is amended by adding before the word "penalty" the word "civil".

(u) Section 7270 (26 U.S.C. 7270) is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

(v) Section 7271, as amended (26 U.S.C. 7271) is amended by deleting "liable for each such offense to a penalty of $50" and inserting in lieu thereof "guilty of an infraction".

(w) Section 7272(a), as amended (26 U.S.C. 7272(a)), is amended by deleting "liable to a penalty of $50" and inserting in lieu thereof "guilty of an infraction".

(x) Section 7273 (26 U.S.C. 7273) is amended by deleting "willful neglect" and inserting in lieu thereof "recklessness".

(y) Section 7275(c), as added by section 203 (c)(1) of the Act of May 21, 1970, and amended (26 U.S.C. 7275(c)), is amended to read as follows:

"(c) Penalty.

"A person who violates a provision of subsection (a) or (b) of this section is guilty of an infraction.".

(z) Section 7302 (26 U.S.C. 7302) is amended by deleting "chapter 205 of".

(aa) Section 7303, as amended (26 U.S.C. 7303), is amended by deleting "7207 relates" in paragraph (3) and inserting in lieu thereof "1343 of title 18, United States Code, relates if the offense involves a false statement to the Secretary or his delegate in connection with a list, return, account, statement, or other document in an international revenue matter".

SEC. 718. Chapter 76 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7401 et seq.), is amended as follows:

(a) Section 7401 (26 U.S.C. 7401) is amended by deleting "fine, penalty," and inserting in lieu thereof "penalty".

(b) Section 7407(b)(1)(A), as added by section 1203(g) of the Tax Reform Act of 1976 (26 U.S.C. 7407(b)(1)(A)), is amended by adding after the words "this title" the words "or by subchapter A of chapter 14 of title 18, United States Code".

(c) Section 7427, as added by section 1203 (b)(2) of the Tax Reform Act of 1976 (26 U.S.C. 7427), is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

SEC. 719. Chapter 77 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7501 et seq.), is amended as follows:

(a) Section 7501(b) (26 U.S.C. 7501(b)) is amended by deleting "and 7202" and inserting in lieu thereof "of this title and sections 1401 and 1402 of title 18, United States Code".

(b) Section 7513(c), as added by section 90(a) of the Act of September 2, 1958 and amended (26 U.S.C. 7513(c)), is amended by adding after the words "section 7213" the words "of this title and section 1524 of title 18, United States Code".

SEC. 720. Chapter 78 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7601 et seq.), is amended as follows:

(a) Section 7601(b) (26 U.S.C. 7601(b)) is amended by deleting "section 7212" and inserting in lieu thereof "sections 1302 and 1357 of title 18, United States Code, and chapter 16 of title 18".

(b) Section 7604(c)(2), as amended (26 U.S.C. 7604(c)(2)), is amended by adding after "section 7210" the words "and sections 1332 and 1333 of title 18, United States Code".

(c) Section 7608, as added by section 204(14) of the Act of September 2, 1958, and amended (26 U.S.C. 7608), is amended to read as follows:

"SEC. 7608. Any criminal investigator of the Intelligence Division or of the Internal Security Division of the Internal Revenue Service, any agent of the Bureau of Alcohol, Tobacco and Firearms, or any investigating agent, or other internal revenue officer by whatever term designated, whom the Secretary charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the internal revenue laws, or of any other law for the enforcement of which the Secretary is responsible relating to internal revenue or to commodities subject to tax, may make seizures of property subject to forfeiture under such laws.

(d) Section 7609(e), as added by section 1205(a) of the Tax Reform Act of 1976 (26 U.S.C. 7609(e)), is amended by deleting "section 6531" and inserting in lieu thereof "section 511 of title 18, United States Code".

SEC. 721. Section 9012 of the Presidential Election Campaign Fund Act, as added by section 801 of the Act of December 10, 1971 (26 U.S.C. 9012), is amended:

(a) by deleting the words "and willfully" wherever they appear in subsection (a)(1);

(b) by amending subsection (a)(2) to read as follows:

"(2) A person who violates paragraph (1) is guilty of a Class A misdemeanor.";

(c) by deleting "and willfully" in subsection (b)(1);

(d) by deleting "and willfully" in subsection (b)(2);

(e) by amending subsection (b)(3) to read as follows:

"(3) A person who violates paragraph (1) or (2) is guilty of a Class A misdemeanor.";

(f) by repealing subsection (c);

(g) by amending subsection (d) to read as follows:

"(d) Furnishing records.

"It shall be unlawful for a person knowingly to fail to furnish to the Comptroller General any records, books, or information requested by him for purposes of this chapter. A person who violates this provision shall be guilty of a Class A misdemeanor.";

(h) by repealing subsections (e)(1) and (e)(2);

(i) by deleting "by paragraph (2)" in subsection (e)(3) and inserting in lieu thereof "for violation of section 1751 of title 18, United States Code";

(j) by deleting the designation "(3)" at the beginning of subsection (a)(e)(3);

(k) by deleting "and willfully" in subsection (f)(1);

(l) by amending subsection (f)(3) to read as follows:

"(3) A person who violates paragraph (1) is guilty of a Class A misdemeanor."; and

(m) by amending subsection (g)(2) to read as follows:

"(2) A person who violates paragraph (1) is guilty of a Class A misdemeanor.".

SEC. 722. Section 9042 of the Presidential Primary Matching Payment Account Act (26 U.S.C. 9042) is amended to read as follows:

"SEC. 9042. KICKBACKS AND ILLEGAL PAYMENTS.—

"In addition to the penalty for a violation of section 1751 of title 18, United States Code, any person who accepts a kickback or illegal payment in connection with any qualified campaign expense of a candidate or his authorized committee shall pay the Secretary for deposit in the matching payment account, an amount equal to 125 percent of the kickback or payment received.".

SEC. 723. REVENUE OFFENSES.—Violation of title 18, United States Code, pertaining or relating to the internal revenue of the United States shall be considered, for all relevant purposes, offenses or matters arising under the revenue laws of the United States.

SEC. 724. EXPENDITURES BY INTERNAL REVENUE SERVICE.—

"Moneys expended from Internal Revenue Service appropriations to place wagers in connection with investigations of wagering tax violations and subsequently recovered shall be reimbursed to the appropriation current at the time of the deposits.".

PART V—AMENDMENTS RELATING TO INTOXICATING LIQUORS, TITLE 27, UNITED STATES CODE

SEC. 725. ENFORCEMENT, REGULATIONS, AND SCOPE.—

(a) The Secretary of the Treasury shall enforce the provisions of sections 725 to 729 of the Criminal Code Reform Act of 1977. Regulations to carry out these provisions shall be prescribed by the Director, Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury.

(b) There is Federal jurisdiction over an offense described in sections 725 to 729 if the offense is committed in the general jurisdiction of the United States as defined in section 202 of title 18, United States Code, except that there is no Federal jurisdiction of an offense committed in the Canal Zone.

SEC. 726. TRANSPORTATION INTO STATE PROHIBITING SALE.—Whoever knowingly imports, brings, or transports any intoxicating liquor into any State, Territory, District, or Possession in which all sales, except for scientific, sacramental, medical, or mechanical purposes, of intoxicating liquor containing more than 4 per centum of alcohol by volume or 3.2 per centum of alcohol by weight are prohibited, otherwise than in the course of continuous interstate transportation through such State, Territory, District, or Possession:

(a) if such liquor is not accompanied by such permits or licenses therefor as may be required by the laws of such State, Territory, District, or Possession, or

(b) if all importation, bringing, or transportation of intoxicating liquor into such State, Territory, District, or Possession is prohibited by the laws thereof.

is guilty of a Class A misdemeanor.

In the enforcement of this section, the definition of intoxicating liquor contained in the laws of the respective States, Territories, Districts, or Possessions shall be applied, but only to the extent that sales of such intoxicating liquor except for scientific, sacramental, medicinal, and mechanical purposes are prohibited therein.

SEC. 727. MARKS AND LABELS ON PACKAGES.—Whoever knowingly ships into any place within the United States any package containing any spirits, wine, or beer, or any compound containing any spirits, wine, or beer fit for use for beverage purposes, unless such shipment is accompanied by copy of a bill of lading, or other document showing the name of the consignee, the nature of its contents, and the quantity contained therein, is guilty of a Class A misdemeanor.

SEC. 728. DELIVERY TO CONSIGNEE.—Whoever, being an officer, agent, or employee of any railroad company, express company, or other common carrier, knowingly delivers to any person other than the person to whom it has been consigned, unless upon the written order in each instance of the bona fide consignee, or to any fictious person, or to any person under a fictitious name, any spirituous, vinous, malted, or other fermented liquor or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, which has been shipped into any place within the United States, is guilty of a Class A misdemeanor.

SEC. 729. C.O.D. SHIPMENTS PROHIBITED.—Any person who, in connection with the transportation of any spirituous, vinous, malted, or other fermented liquor, or any

compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, into any State, Territory, District or Possession of the United States, which prohibits the delivery or sale therein of such liquor, collects the purchase price or any part thereof, before, on, or after delivery, from the consignee, or from any other person, or in any manner acts as the agent of the buyer or seller of any such liquor, for the purpose of buying or selling or completing the sale thereof, saving only in the actual transportation and delivery of the same, is guilty of a Class A misdemeanor.

SEC. 730. LIQUORS AND RELATED PROPERTIES; DEFINITIONS.—All liquor involved in any violation of sections 725 to 729 of this Act, the containers of such liquor, and every vehicle or vessel used in the transportation thereof, shall be seized and forfeited and such property or its proceeds disposed of in accordance with the laws relating to seizures, forfeitures, and dispositions of property or proceeds, for violation of the internal revenue laws.

As used in this section, "vessel" includes every description of watercraft used, or capable of being used, as a means of transportation in water or in water and air; "vehicle" includes animals and every description of carriage or other contrivance used, or capable of being used, as a means of transportation on land or through the air.

SEC. 731. The Federal Alcohol Administration Act, as amended (27 U.S.C. 201 et seq.), is amended as follows:

(a) Section 4(e)(1), as amended (27 U.S.C. 204(e)(1), is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

(b) Section 6(b), as amended (27 U.S.C. 206(b)), is amended by deleting ", upon conviction thereof, be fined not more than $5,000 or imprisoned for not more than one year or both" and inserting in lieu thereof "be guilty of a Class A misdemeanor".

(c) Section 7, as amended (27 U.S.C. 207), is amended by amending the second sentence to read: "A person who violates a provision of section 3 or 5 is guilty of an infraction.".

(d) Section 8(d), as amended (27 U.S.C. 208(d)), is amended to read as follows:

"(d) Any individual taking office in violation of this section is guilty of an infraction.".

(e) Section 17(a)(1), as amended (27 U.S.C. 211(a)(1)), is amended to delete the words "Alaska, Hawaii, and".

PART W—AMENDMENTS RELATING TO JUDICIARY AND JUDICIAL PROCEDURE, TITLE 28, UNITED STATES CODE

SEC. 733. Chapter 21 of title 28, United States Code, is amended as follows:

(a) Section 454 is amended by adding after the words "high misdemeanor" the words "under Article II, section 4 of the United States Constitution".

(b) Section 460 is amended by adding after the words "Sections 452–459" the words "and 461–462".

(c) The following new sections are added at the end of the chapter:

"§ 461. Purchase of claims for fees by judges

"Whoever, being a judge of any court of the United States or a Territory or Possession thereof, purchases, at less than the full face value thereof, any claim against the United States for the fee, mileage, of such court, is guilty of an infraction.

"§ 462. Nepotism in appointment of receiver or trustee

"Whoever, being a judge of any court of the United States, appoints as receiver, or trustee, any person related to such judge by consanguinity, or affinity, within the fourth degree—

"Is guilty of a class A misdemeanor.".

(d) The analysis at the beginning of the chapter is amended by adding at the end thereof the following new items:

"461. Purchase of claims for fees by judges.
"462. Nepotism in appointment of receiver or trustee.".

SEC. 734. Section 509 of title 28, United States Code, is amended:

(a) by deleting "Federal Prison Industries, Inc." in paragraphs (2) and (3) and inserting in lieu thereof "Federal Prison Industries"; and

(b) by deleting "Board of Parole" in paragraph (4) and inserting in lieu thereof "United States Parole Commission".

SEC. 735. Chapter 31 of title 28, United States Code, is amended as follows:

(a) Paragraph (2) of section 522 is amended by adding after the words "United States" the words ", including statistics of the total number of prosecutions commenced during the preceding fiscal year under each section of title 18, identifying the number of such prosecutions commenced under each Federal jurisdictional base applicable to each such section".

(b) Subsection (a)(2) of section 526 is amended by deleting "commissioners" and inserting in lieu thereof "magistrates".

(c) The following new sections are added at the end thereof:

"§ 527. Conviction records

"(a) The Attorney General is authorized to establish and maintain in the Department of Justice a repository of records of convictions and determinations of the validity of such convictions.

"(b) Upon the conviction of an offender for a felony in a court of the United States or the District of Columbia the Commonwealth of Puerto Rico, or a territory or possession of the United States, or a political subdivision of such Commonwealth, territory, or possession, or upon judicial review of such a conviction on collateral review, the court shall cause a certified record of the conviction or determination to be sent to the repository in such form, and containing such information, as the Attorney General may by regulation prescribe

"(c) Records maintained in the repository shall not be public records, but certified copies of the records:

"(1) may be furnished for law enforcement purposes on the request of a court, law enforcement officer, or officer of a facility for the confinement of convicted offenders of the United States, or the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States or a political subdivision of such Commonwealth, territory, or possession;

"(2) may be furnished for law enforcement purposes on request of a court, law enforcement officer or officer of a facility for the confinement of convicted offenders, or a State or a political subdivision thereof, if a statute of such State requires that, upon the conviction of a defendant in a court of the State or a political subdivision thereof for an offense for which a sentence of death or imprisonment in excess of one year is authorized under the law of such State, or upon a judicial determination of the validity of such a conviction on collateral review, the court cause a certified record of the conviction or determination to be sent to the repository in such form, and containing such information, as the Attorney General may by regulation prescribe;

"(3) shall be prima facie evidence in a court of the United States, or the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States, or a political subdivision of such Commonwealth, territory, or possession that the conviction occurred and that on collateral review the conviction was judicially determed to be valid or invalid.

"(d) Before prescribing regulations under this section, the Attorney General shall give reasonable public notice of, and shall afford to interested parties an opportunity for a hearing upon, the proposed regulations.

"§ 528. Law enforcement assistance from other federal, state, and local agencies.

"The Attorney General may request assistance, notwithstanding any statute, rule, or regulation to the contrary, from any federal, state, or local agency, including the Army, Navy, and Air Force, in the course of enforcement of any of the following provisions of law:

"(a) section 1601 (murder), 1602 (manslaughter), or 1603 (negligent homicide) of title 18, United States Code, if there is federal jurisdiction over the offense under section 1601 (e)(2) (A), (e)(2)(C), (e)(2)(D), (e)(2)(E), or (e)(2)(F) of title 18;

"(b) section 1611 (maiming), 1612 (aggravated battery), 1613 (battery), 1614 (menacing), or 1615 (terrorizing) of title 18, United States Code, if there is federal jurisdiction over the offense under section 1611 (c)(2)(A), (c)(2)(C), (c)(2)(D), (c)(2)(E), or (c)(2)(F) of title 18;

"(c) section 1621 (kidnapping), 1622 (aggravated criminal restraint), or 1623 (criminal restraint) of title 18, United States Code, if there is federal jurisdiction over the offense under section 1621 (c)(2)(A), (c)(2)(C), (c)(2)(D), (c)(2)(E), or (c)(2)(F) of title 18;

"(d) section 1701 (arson), 1702 (aggravated property destruction), or 1703 (property destruction) of title 18, United States Code, if there is federal jurisdiction over the offense under section 1701(c)(3);

"(e) section 5(a) of the Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons, as amended by section 634 of the Criminal Code Reform Act of 1977; or

"(f) section 1001 (criminal attempt) or 1002 (criminal conspiracy) of title 18, United States Code, if the offense is an attempt or conspiracy to commit an offense described in subsection (a), (b), (c), (d), or (e).".

(d) The analysis at the beginning of the chapter is amended by adding at the end thereof the following new items:

"527. Conviction records.
"528. Law enforcement assistance from other federal, state, and local agencies.".

SEC. 736. Chapter 33 of title 28, United States Code, is amended as follows:

(a) Section 533 is amended by deleting the word "crimes" wherever it appears and inserting in lieu thereof "offenses".

(b) Section 535 is amended:

(1) by deleting "crimes" in the caption and inserting in lieu thereof "offenses"; and

(2) by deleting the words "of title 18" wherever they appear and inserting in lieu thereof "of the federal criminal law'.

(c) A new section is added at the end thereof as follows:

"§ 538. False advertising or misuse of the name of the Federal Bureau of Investigation

"Whoever, except with the written permission of the Director of the Federal Bureau of Investigation, knowingly uses the words 'Federal Bureau of Investigation' or the initials F.B.I., or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the Federal Bureau of Investigation is guilty of a Class A misdemeanor.

This section shall not make unlawful the use of any name or title which was lawful on August 27, 1954.

A violation of this section may be enjoined at the suit of the United States Attorney, upon complaint by any duly authorized representative of any department or agency of the United States.

(d) The analysis at the beginning of the chapter is amended:

(1) by amending the item relating to section 535 to read as follows:

"535. Investigations of offenses involving Government officers and employees; limitations."; and

(2) by adding at the end thereof the following new item:

"538. False advertising or misuse of the name of the Federal Bureau of Investigation.".

SEC. 737. Section 567, as renumbered to section 557 by section 121 of the Criminal Code Reform Act of 1977, is amended:

(a) by adding the designation "(a)" before the words "Under regulations"; and

(b) by adding a new subsection (b) at the end thereof as follows:

"(b) A court of the United States may direct the marshal for judicial district to furnish subsistence and transportation to the place of trial, under regulations promulgated by the Attorney General, to a person who is unable to pay those expenses and who is released under section 3502 or 3503 of title 18 pending trial.".

SEC. 738. (a) The following new chapter is added after chapter 37 of title 28, United States Code:

"Chapter 38.—FEDERAL PRISON INDUSTRIES

"Sec.
"581. Organization.
"582. Administration.
"583. Federal purchase of goods and services of prison industries.
"584. Prison Industries Fund.

"§ 581. Organization

"(a) The Federal Prison Industries, a government corporation established in the District of Columbia, shall be administered by a board of directors.

"(b) The board of directors of the corporation shall consist of six persons appointed by the President to serve at the will of the President. The directors shall include a representative of (1) industry; (2) labor; (3) agriculture; (4) retailers and consumers; (5) the Secretary of Defense; and (6) the Attorney General.

"(c) The board of directors shall make an annual report to Congress on the conduct of the business of the corporation and on the condition of its funds.

"(d) In the event of a failure of the board of directors to act, the Attorney General shall not be limited in carrying out any duty conferred upon him by law.

"§ 582. Administration

"(a) The Federal Prison Industries shall determine the manner and extent to which industrial operations shall be carried on in each Federal prison facility for the production of goods and services for consumption in such facility or for sale. The industries may be located either within an existing Federal prison facility or in a convenient locality where property may be obtained by purchase, lease, or other arrangement. Goods and services produced by such industries may be sold to the public in competition with private enterprise, unless the Secretary of Commerce certifies to the Attorney General that the sale of such particular types of goods or services would harm private enterprise.

"(b) The board of directors of the corporation is authorized, where appropriate, to provide employment for offenders in Federal prison facilities, to diversify prison operations as far as practicable, to operate in such a manner that no single private industry bears an undue burden of competition from the product of its industries, and to reduce to a minimum undue competition with private industry or free labor.

"(c) The board of directors may make such contracts, loans, grants, leases, or other agreements as are necessary to effectuate the purposes of this chapter.

"(d) The board of directors may provide for the vocational training of a qualified offender without regard to his industrial or other assignment. To the extent practicable, a form of employment shall be provided as will give an offender a maximum opportunity to acquire a knowledge and skill in a trade or occupation that will provide him with a means of earning a livelihood upon release.

"(e)(1) The provisions of this chapter shall apply to the employment and training of an offender convicted by a general court martial and confined in a facility under the jurisdiction of the Department of Defense, to the extent and under terms and conditions agreed upon by the Secretary of Defense, the Attorney General, and the board of directors.

"(2) Any department or agency of the Department of Defense may, without exchange of funds, transfer to the corporation any property or equipment suitable for use in performing a function or duty covered by an agreement entered into under paragraph (1).

"§ 583. Federal purchase of goods and services of prison industries

"The goods and services of the industries authorized by this chapter shall be purchased by a federal government agency if they meet the requirements of such agency and are available at prices that do not exceed current market price. A dispute as to the price, quality, character, or suitability of such goods and services shall be arbitrated by a board consisting of the Comptroller General of the United States, the Administrator of General Services, and the Director of the Office of Management and Budget, or their representatives. The decision of such board shall be final and binding on the parties.

"§ 584. Prison industries fund

"(a) All money under the control of the Federal Prison Industries, or received from the sale of the goods, services, or by-products of an industry under the corporation, or received for the services of federal offenders, shall be deposited in the Treasury to the credit of the Prison Industries Fund and withdrawn from the fund only under accountable warrants or certificates of settlement issued by the General Accounting Office. A valid claim or obligation payable out of the fund shall be assumed by the corporation.

"(b) The corporation, in accordance with the laws generally applicable to expenditures by a Federal Government agency, is authorized to employ the fund, and any earnings that may accrue to the corporation:

"(1) as operating capital in performing a duty imposed by this chapter;

"(2) in the repair, alteration, erection, and maintenance of an industrial building and equipment;

"(3) in providing an educational or vocational training program for offenders without regard to their industrial or other assignments; and

"(4) in paying compensation, under rules and regulations promulgated by the Director of the Bureau of Prisons, to:

"(A) offenders employed in any such industry;

"(B) offenders performing meritorious or outstanding services in prison facility operations; and

"(C) offenders or their dependents for injuries suffered in any industry or in any work activity in connection with the maintenance or operation of the prison facility where confined, except that compensation shall not be paid in an amount greater than that provided for a Federal employee under chapter 81 of title 5.

"(c) Accounts of all receipts and disbursements by the corporation shall be rendered to the General Accounting Office for settlement and adjustment, as required by the Comptroller General. The accounting shall include all fiscal transactions of the corporation, whether involving appropriated moneys, capital, or receipts from other sources.

"(d) The Director of the Bureau of Prisons may review an award for or against payment of compensation under subsection (b)(4)(C) in the same manner as the Secretary of Labor may review an award for or against payment of compensation under section 8128 of title 5."

SEC. 739. (a) Sections 4202 through 4204 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as sections 591 through 593 of title 28, United States Code, respectively, and amended as follows:

(1) Section 592 (formerly 18 U.S.C. 4203) is amended:

(A) by amending subsection (a)(1) to read as follows:

"(1) promulgate such rules and regulations as are necessary to carry out the functions of the Parole Commission consistent with the guidelines and policy statements issued by the Sentencing Commission for use of the Parole Commission pursuant to section 994(e) of this title and to carry out the purposes of this chapter and of subchapters D and E of chapter 38 of title 18;";

(B) by redesignating subsections (b)(1) through (b)(3) as subparagraphs (A) through (C) of subsection (a)(1), respectively;

(C) by amending the language in subsection (b) that precedes redesignated subparagraph (A) of subsection (b)(1) to read as follows:

"(b) The Commission, by majority vote, and pursuant to rules and regulations promulgated under this chapter and subject to the provisions of subchapters D and E of chapter 38 of title 18, shall have the power:

"(1) pursuant to the guidelines and policy statements issued by the Sentencing Commission pursuant to section 994(e) of this title, to:";

(D) by deleting "parole" in redesignated subsection (b)(1)(A) and inserting in lieu thereof "grant early release to";

(E) by amending redesignated subsections (b)(1)(B) and (b)(1)(C) to read as follows:

"(B) set the term and conditions of parole of a prisoner released on parole;

"(C) modify or revoke parole or the conditions of parole pursuant to the provisions of subchapter E of chapter 38 of title 18;";

(F) by adding after redesignated subsection (b)(1)(C) the following new subparagraph:

"(D) establish the maximum length of time which any person whose parole has been revoked shall be required to serve, and, where such revocation is based upon a subsequent conviction of the parolee under any Federal or State law for an offense committed subsequent to this release on parole, determine whether all or any part of the term required to be served shall run concurrently or consecutively with the sentence imposed for such subsequent offense;";

(G) by redesignating subsection (b)(4) as subsection (b)(2), and by inserting the word "to" before the words "request probation officers";

(H) by adding the following new paragraphs after redesignated paragraph (2) of subsection (b):

"(3) to reimburse the Federal Government

or a State government for services performed pursuant to subsection (c)(3); and

"(4) to subpena witnesses to testify or to produce evidence at a parole revocation hearing, and may pay such witness fees as established for witnesses in the courts of the United States. If a person refuses to obey such a subpena, the Commission may petition a court of the United States for the judicial district in which such parole proceeding is being conducted, in which such person resides or carries on business, or in which such person may be found, to order such person to attend and to testify or to produce evidence. The court may issue an order requiring such person to appear before the Commission if the court finds such testimony is directly related to a matter with respect to which the Commission is empowered to make a determination under section 3844 of title 18, United States Code. All process in such a case may be served in the judicial district in which such a parole proceeding is being conducted, in which such person resides or carries on business, or in which such person may be found."; and

(I) by deleting "4214" in subsection (c)(3) and inserting in lieu thereof "3844 of title 18".

(2) Section 593 (formerly 18 U.S.C. 4204) is amended:

(A) by deleting "4203" wherever it appears in subsections (a)(1) and (a)(5) and inserting in lieu thereof "592";

(B) by amending subsections (a)(6) and (a)(7) to read as follows:

"(6) make periodic reports to the Attorney General, the Judicial Conference of the United States, the United States Sentencing Commission, and the Congress; and

"(7) perform such administrative and other duties and responsibilities as may be necessary to carry out the provisions of this chapter and of subchapters D and E of chapter 38 of title 18."; and

(C) by amending subsection (c) to read as follows:

"(c) In carrying out his functions under this section, the Chairman shall be governed by the rules and regulations promulgated by the Commission.".

(b) The following new section is added after section 593 of title 28, United States Code:

"§ 594. Applicability of the Administrative Procedure Act to rulemaking

"Rules and regulations promulgated under the authority of this chapter shall be promulgated pursuant to the provisions of section 553 of title 5, United States Code, except that, for the purposes of this chapter, section 553(b)(3)(A) shall be deemed not to include the phrase 'general statements of policy'.".

(c) The following chapter caption and section analysis are added before section 591 of title 28, United States Code:

"Chapter 39—UNITED STATES PAROLE COMMISSION

"Sec.
"591. Parole Commission created.
"592. Powers and duties of the Commission.
"593. Powers and duties of the Chairman.
"594. Applicability of the Administrative Procedure Act in rulemaking.".

SEC. 740. Section 604 of title 28, United States Code, is amended:

(a) by deleting "3152 of title 18" in subsection (a)(9) and inserting in lieu thereof "651 of this title";

(b) by deleting the words "and commissioners" in subsection (a)(10);

(c) by redesignating subsection (e) as subsection (f); and

(d) by adding a new subsection (e) as follows:

"(e) The director of the Administrative Office of the United States Courts, or his delegate, shall:

"(1) fix, under the supervision and direction of the Judicial Conference of the United States, the salaries of probation officers, and provide for their necessary expenses including clerical service and travel expenses;

"(2) prescribe forms for records and statistics to be kept by probation officers and formulate general rules for the proper conduct of probation work;

"(3) have access to the records of probation officers;

"(4) investigate the work of probation officers and make recommendations concerning such officers to the respective courts by which they were appointed;

"(5) collect and publish statistical and other information concerning the work of probation officers and the conduct and adjustment of probationers as a class under the supervision of such officers;

"(6) endeavor by all suitable means to promote the efficient administration of the probation system and the enforcement of the probation laws;

"(7) incorporate in his annual report a statement concerning the operation of the probation system; and

"(8) make recommendations concerning the probation system to the Judicial Conference of the United States.".

SEC. 741. (a) Section 620(b)(3) is amended by deleting "commissioners" and inserting in lieu thereof "magistrates".

SEC. 742. Section 636 is amended:

(a) by deleting "section 3146" in subsection (a)(2) and inserting in lieu thereof "chapter 35";

(b) by adding after the words "title 18," in subsection (a)(2) the words "except when the person is charged with a Class A felony,";

(c) by deleting "section 3401" in subsection (a)(3) and inserting in lieu thereof "section 3302"; and

(d) by deleting "section 3402" in subsection (c) and inserting in lieu thereof "section 3702".

SEC. 743. Sections 3152 through 3156 of title 18, United States Code, as they existed the day before the effective date of this Act, are reenacted and redesignated as sections 651 through 655 of title 28, United States Code, respectively, and amended as follows:

(a) Section 651 (formerly 18 U.S.C. 3152) is amended by deleting the words "this chapter" wherever they appear and inserting in lieu thereof "chapter 35 of title 18".

(b) Section 653 (formerly 18 U.S.C. 3154) is amended:

(1) by deleting "3146(e) or section 3147" in subsection (2) and inserting in lieu thereof "3502(e) or 3506 of title 18"; and

(2) by deleting the words "this chapter" wherever they appear in subsections (3), (4), (6) and (7) and inserting in lieu thereof "chapter 35 of title 18".

(c) Section 654(a) (formerly 18 U.S.C. 3155(a)) is amended:

(1) by deleting "this chapter" in paragraph (1) and inserting in lieu thereof "chapter 35 of title 18"; and

(2) by deleting "this chapter" in paragraph (3) and inserting in lieu thereof "subchapter A of chapter 35 of title 18".

(d) Section 655 (formerly 18 U.S.C. 3156) is amended to read as follows:

"§ 655. Definitions

"As used in this chapter—

"(a) The term 'judicial officer' means, unless otherwise indicated, any person or court authorized pursuant to section 3501 of title 18 of this title, or the Federal Rules of Criminal Procedure, to bail or otherwise release a person before trial or sentencing or pending appeal in a court of the United States, and

"(b) The term 'offense' means any Federal criminal offense which is in violation of any Act of Congress and is triable by any court established by Act of Congress (other than an infraction, a class B or C misdemeanor, or an offense triable by court-martial, military commission, provost court, or other military tribunal).".

(e) The following caption and analysis are added before section 651:

"Chapter 44.—PRETRIAL SERVICES AGENCIES

"Sec.
"651. Establishment of pretrial services agencies.
"652. Organization of pretrial services agencies.
"653. Functions and powers of pretrial services agencies.
"654. Report to Congress.
"655. Definitions.".

SEC. 744. Section 753(f) of title 28, United States Code, is amended by deleting "Criminal Justice Act (18 U.S.C. 3006A)" and inserting in lieu thereof "chapter 34 of title 18".

SEC. 745. Chapter 57 of title 28, United States Code, is amended as follows:

(a) Section 957 is amended by deleting "commissioner" wherever it appears and inserting in lieu thereof "magistrate".

(b) The following new sections are added at the end thereof:

"§ 964. Purchase of claims for fees by court officials

"Whoever, being a clerk or deputy clerk of any court of the United States or a Territory or Possession thereof, or a United States attorney, assistant United States attorney, marshal, deputy marshal, magistrate, or other person holding any office or employment, or position of trust or profit under the United States, directly or indirectly purchases at less than the full face value thereof, any claim against the United States for the fee, mileage, or expenses of any witness, juror, deputy marshal, or any other officer of such court, is guilty of an infraction.

§ "965. Receiver mismanaging property

"Whoever, being a receiver, trustee, or manager in possession of any property in any cause pending in any court of the United States, fails to manage and operate such property in reckless disregard of the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof, is guilty of a Class A misdemeanor.

"§ 966. Filing of documents by clerk of United States district court

"Whoever, being a clerk of a district court of the United States, refuses or neglects to make or forward any reports, certificate, statement, or document in reckless disregard of the fact it is required by law, is guilty of a Class A misdemeanor.".

(c) The analysis at the beginning of the chapter is amended by adding at the end thereof the following new items:

"964. Purchase of claims for fees by court officials.
"965. Receiver mismanaging property
"966. Filing of documents by clerk of United States district court."

SEC. 746. Section 1355 is amended by adding the word "civil" before the word "fine".

SEC. 747. Chapter 208 of title 18, United States Code, as it existed the day before the effective date of this Act, is reenacted and redesignated as chapter 114 of title 28, United States Code, with former sections 3161 through 3174 of title 18 redesignated as sections 1701 through 1714 of title 28, respectively. Chapter 114 of title 28 is amended as follows:

(a) Section 1701 (formerly 18 U.S.C. 3161) is amended:

(1) by amending subsections (f) and (g) to read as follows:

"(f) Notwithstanding the provisions of subsection (b) of this section, for the twelve-month period beginning July 1, 1976, the time limit imposed with respect to the period between arrest and indictment by subsection (b) of this section shall be sixty

days, for the twelve-month period beginning July 1, 1977, such time limit shall be forty-five days and for the twelve-month period beginning July 1, 1978, such time limit shall be thirty-five days.

"(g) Notwithstanding the provisions of subsection (c) of this section, for the twelve-month period beginning July 1, 1976, the time limit with respect to the period between arraignment and trial imposed by subsection (c) of this section shall be one hundred and eighty days, for the twelve-month period beginning July 1, 1977, such time limit shall be one hundred and twenty days, and for the twelve-month period beginning July 1, 1978, such time limit with respect to the period between arraignment and trial shall be eighty days."; and

(2) by deleting the number "3161" each time it appears in subsection (i) and inserting in lieu thereof "1701".

(b) Section 1702 (formerly 18 U.S.C. 3162) is amended:

(1) by deleting "3161(b)" in subsection (a)(1) and inserting in lieu thereof "1701(b)";

(2) by deleting "3161(h)" in subsection (a)(1) and inserting in lieu thereof "1701(h)";

(3) by deleting "3161(c)" in subsection (a)(2) and inserting in lieu thereof "1701(c)";

(4) by deleting "3161(h)" in subsection (a)(2) and inserting in lieu thereof "1701(h)";

(5) by deleting "3161(h)(3)" in subsection (a)(2) and inserting in lieu thereof "1701(h)(3)";

(6) by deleting "willfully" in subsection (b)(4) and inserting in lieu thereof "knowingly";

(7) by deleting "3161" in subesction (b)(4) and inserting in lieu thereof "1701"; and

(8) by deleting "section 3006A of this title" and inserting in lieu thereof "chapter 34 of title 18".

(c) Section 1703 (formerly 18 U.S.C. 3163) is amended to read as follows:

"§ 1703. Effective dates

"(a) The time limitation in section 1701(b) of this chapter—

"(1) shall apply to all individuals who are arrested or served with a summons or after July 1, 1976; and

"(2) shall commence to run on such date to all individuals who are arrested or served with a summons prior to July 1, 1976, in connection with the commission of an offense, and with respect to which offense no information or indictment has been filed prior to such date.

"(b) The time limitation in section 1701(c) of this chapter—

"(1) shall apply to all offenses charged in informations or indictments filed on or after July 1, 1976; and

"(2) shall commence to run on such date as to all offenses charged in informations or indictments filed prior to that date.

"(c) Section 1702 of this chapter shall become effective July 1, 1979.".

(d) Section 1704 (formerly 18 U.S.C. 3164) is amended:

(1) by deleting "3161(b)" in subsection (a) and inserting in lieu thereof "1701(b)";

(2) by deleting "3161(c)" in subsection (a) and inserting in lieu thereof "1701(c)"; and

(3) by adding a new subsection (d) at the end thereof to read as follows:

"(d) The periods of delay enumerated in section 1701(h) shall be excluded in computing the time specified in section 1704(b) for the commencement of trial.".

(e) Section 1705 (formerly 18 U.S.C. 3165) is amended:

(1) by deleting "3168" in subsection (a) and inserting in lieu thereof "1708";

(2) by deleting "3161(b)" whenever it appears in subsections (e)(1) and (e)(2) and inserting in lieu thereof "1701(b)"; and

(3) by deleting "3161(c)" wherever it appears in subsections (e)(1) and (e)(2) and inserting in lieu thereof "1701(c)".

(f) Section 1706 (formerly 18 U.S.C. 3166) is amended:

(1) by deleting "3161(h)" in subsection (b)(2) and inserting in lieu thereof "1701(h)";

(2) by deleting "3161(b)" in subsection (b)(8) and inserting in lieu thereof "1701(b)";

(3) by deleting "3165" in subsection (c) and inserting in lieu thereof "1705"; and

(4) by deleting "3170" in subsection (e) and inserting in lieu thereof "1710".

(g) Section 1707(a) (formerly 18 U.S.C. 3167(a)) is amended:

(1) by deleting "3165" and inserting in lieu thereof "1705"; and

(2) by deleting "3165(a)" and inserting in lieu thereof "1705(e)".

(h) Section 1708(a) (formerly 18 U.S.C. 3168(a)) is amended:

(1) by deleting "3165" and inserting "1705"; and

(2) by deleting "3171" and inserting in lieu thereof "1711".

(i) Section 1710 (formerly 18 U.S.C. 3170) is amended by deleting "3166(b)" wherever it appears and inserting in lieu thereof "1706(b)".

(j) Section 1712(2) (formerly 18 U.S.C. 3172(2)) is amended by deleting "a petty offense as defined in section 1(3) of this title" and inserting in lieu thereof "an infraction or a Class B or Class C misdemeanor".

(k) Section 1714 (formerly 18 U.S.C. 3174) is amended:

(1) by deleting "3161(c)" wherever it appears in subsection (a) or (b) and inserting in lieu thereof "1701(c)";

(2) by deleting "3161(b)" in subsection (b) and inserting in lieu thereof "1701(b)"; and

(3) by deleting "3162" in subsection (b) and inserting in lieu thereof "1702".

SEC. 748. Section 1825 is amended:

(a) by deleting "Commissioner" in the first paragraph and inserting in lieu thereof "Magistrate"; and

(b) by deleting "commissioner" in the first paragraph and inserting in lieu thereof "magistrate".

SEC. 749. Chapter 121 of title 28, United States Code, is amended as follows:

(a) Section 1862 is amended:

(1) by adding the designation "(a)" before the words "No citizen"; and

(2) by reenacting the body of section 243 of title 18, United States Code, as it existed the day before the effective date of this Act, as subsection (b) section 1862, amended to deleted "shall be fined not more than $5,000" and to insert in lieu thereof "is guilty of an infraction".

(b) Section 1864(b) is amended to read as follows:

"(b) A person summoned to appear pursuant to subsection (a) of this section who fails to appear shall be ordered by the district court forthwith to appear and show cause for his failure to comply with the summons. A person who fails to appear pursuant to such order commits an unlawful act that is an offense described in section 1331 of title 18. A person who fails to show good cause for noncompliance with the summons is guilty of an infraction.".

(c) The last sentence of section 1866(g) is amended to read:

"Any person who fails to show good cause for noncompliance with a summons is guilty of an infraction.".

(d) Section 1867 is amended:

(1) by deleting "crime" in subsection (e) and inserting in lieu thereof "offense"; and

(2) by amending the last sentence of subsection (f) is read: "Any person who discloses the contents of any record or paper in violation of this section is guilty of a Class B misdemeanor".

(d) Section 1871 is amended by deleting "commissioners" in the first paragraph and inserting in lieu thereof "magistrates".

SEC. 750. Chapter 123 of title 28, United States Code, is amended as follows:

(a) Section 1918(a) is amended by deleting "fine' 'and inserting in lieu thereof "penalty".

(b) Section 1921 is amended by adding after the word "misdemeanor" in the ninth paragraph the words "or infraction".

(c) Section 1922 is amended by deleting "commissioner" and inserting in lieu thereof "magistrate".

SEC. 751. Section 2007(b) is amended by deleting "commissioner" and inserting in lieu thereof "magistrate".

SEC. 752. Chapter 131 of title 28, United States Code, is amended as follows:

(a) by adding at the end thereof the following new section:

§ 2077. Rules of procedure for courts of appeals

"(a) The Supreme Court of the United States may prescribe amendments to the Federal Rules of Appellate Procedure and may otherwise prescribe rules of pleading, practice, and procedure with respect to appeals from decisions, orders, and judgements entered in suits of a civil nature in the district courts of the United States. A provision of law in conflict with a rule prescribed pursuant to this section shall be of no further force or effect after such rule has taken effect.

"(b) Rules prescribed pursuant to this section shall be reported to Cangress by the Chief Justice at or before the beginning of a regular session of Congress but not later than the first day of May, and shall take effect one hundred and eighty days after they have been reported. The Supreme Court may fix a later date upon which such rules shall take effect, and may fix the extent to which they shall apply to proceedings then pending."; and

SEC. 753. Section 2321 is amended by deleting "fines," in the first paragraph.

SEC. 754. The second paragraph of section 2678 is amended by deleting "shall be fined not more than $2,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 755. Chapter 175 of title 28, United States Code, is amended as follows:

(a) Section 2901 is amended:

(1) by amending subsection (c) to read as follows:

"(c) 'Crime of violence' includes murder, manslaughter, maiming, kidnapping, rape, arson, burglary, robbery, extortion by threatening or placing another person in fear that any person will be subjected to bodily injury or kidnapping, using a weapon in the course of an assault, or an attempt or conspiracy to commit any of the foregoing offenses.".

(2) Subsection (e) is amended by deleting "section 1 of".

(b) Sestion 2902(e) is repealed.

SEC. 756. The Federal Rules of Evidence are amended as follows:

(a) Rule 404 is amended:

(1) by deleting "Crimes" in the caption and inserting in lieu thereof "Offenses";

(2) by deleting "crime" in subsection (a)(2) and inserting in lieu thereof "offense"; and

(3) by deleting the word "crimes" wherever it appears in subsection (b) and inserting in lieu thereof "offenses".

(b) Rule 410 is amended:

(1) by deleting the word "crime" wherever it appears in the first sentence and inserting in lieu thereof "offense"; and

(2) by deleting "perjury or" in the second sentence and inserting in lieu thereof "perjury, false swearing, or making a".

(c) Rule 609 is amended:

(1) by deleting "Crime" in the caption and inserting in lieu thereof "an Offense";

(2) by deleting "a crime" in subsection (a) and inserting in lieu thereof "an offense"; and

(3) by deleting "the crime" in subsection (a) and inserting in lieu thereof "the offense".

(d) Rule 612 is amended by deleting "section 3500 of title 18, United States Code" and inserting in lieu thereof "the Federal Rules of Criminal Procedure".

(e) Rule 1101(e) is amended by deleting "minor and petty offenses" and inserting in lieu thereof "misdemeanors and infractions".

(f) The Table of Contents at the beginning of the Federal Rules of Evidence is amended:

(1) by deleting "crimes" in the item relating to Rule 404 and inserting in lieu thereof "offenses";

(2) by deleting "crimes" in the item relating to Rule 404(b) and inserting in lieu thereof "offenses"; and

(3) by deleting "crime" in the item relating to Rule 609 and inserting in lieu thereof "an offense".

SEC. 757. The analysis at the beginning of title 28, United States Code, is amended:

(a) by deleting the item relating to chapter 37 and inserting in lieu thereof the following:

"36. United States Marshals 551
"37. Bureau of Prisons 571
"38. Federal Prison Industries 581
"39. United States Parole Commission 591
"40. United States Victim Compensation Board ..... 595";

(b) by adding after the item relating to chapter 43 the following new item:

"44. Pretrial Services Agencies ..... 651";

(c) by adding after the item relating to chapter 57 the following new item:

"58. United States Sentencing Commission ..... 091"; and

(d) by adding after the item relating to chapter 113 the following new item:

"114. Speedy trial ..... 1701".

SEC. 758. The analysis at the beginning of Part II of title 28, United States Code, is amended by deleting the item relating to chapter 37 and inserting in lieu thereof the following:

"36. United States Marshals 551
"37. Bureau of Prisons 571
"38. Federal Prison Industries 581
"39. United States Parole Commission 591
"40. United States Victim Compensation Board ..... 595".

SEC. 759. The analysis at the beginning of Part III of title 28, United States Code, is amended:

(a) by adding after the item relating to chapter 43 the following new item:

"44. Pretrial Services Agencies ..... 651"; and

(b) by adding after the item relating to chapter 57 the following new item:

"58. United States Sentencing Commission ..... 991".

SEC. 760. The analysis at the beginning of Part V of title 28, United States Code, is amended by adding after the item relating to chapter 113 the following new item:

"114. Speedy Trial ..... 1701".

SEC. 761. (a) The Rules Governing Section 2254 Cases in the United States District Courts are amended as follows:

(1) Rule 6(a) is amended by deleting "3006A(g)" and inserting in lieu thereof "3403(d)"

(2) Rule 8(c) is amended:

(A) by deleting "3006A(g)" in the first sentence and inserting in lieu thereof "3403(d)"; and

(B) by deleting "18 U.S.C. § 3006A" in the second sentence and inserting in lieu thereof "chapter 34 of title 18, United States Code,".

(b) The Rules Governing Section 2255 Proceedings for the United States District Courts are amended as follows:

(1) Rule 6(a) is amended by deleting "3006A(g)" and inserting in lieu thereof "3403(d)"; and

(2) Rule 8(c) is amended:

(A) by deleting "3006A(g)" in the first sentence and inserting in lieu thereof "3403(d)"; and

(B) by deleting "18 U.S.C. § 3006A" in the second sentence and inserting in lieu thereof "chapter 34 of title 18, United States Code,".

PART X—AMENDMENTS RELATING TO LABOR, TITLE 29, UNITED STATES CODE

SEC. 765. Section 12 of the National Labor Relations Act, as amended (29 U.S.C. 162), is amended:

(a) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(b) by deleting "punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 766. Section 302 of the Labor Management Relations Act, as amended (29 U.S.C. 186), is amended:

(a) by repealing subsection (a)(4), and by deleting "; or" at the end of subsection (a)(3) and inserting in lieu thereof a period;

(b) by adding after the words "this section" at the beginning of subsection (c) the words "and sections 1752(a)(1), (a)(3), and (a)(4) of title 18, United States Code,";

(c) by amending subsection (d) to read as follows:

"(d) A person who knowingly violates a provision of this section is guilty of a Class A misdemeanor."; and

(d) by amending subsection (e) to read as follows:

"(e) The district courts of the United States and the United States courts of the Territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 of the Federal Rules of Civil Procedure (relating to notice to opposite party) to restrain violations of this section or section 1752 of title 18, United States Code, without regard to the provisions of sections 6 and 20 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (15 U.S.C. 17 and 29 U.S.C. 52), and of the Act entitled 'An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes', approved March 23, 1932, as amended (29 U.S.C. 101 to 115) and of Rule 42(b) of the Federal Rules of Criminal Procedure. The United States shall be a proper party to bring an action under this section.".

SEC. 767. The Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), is amended as follows:

(a) Section 15(a)(5), as amended (29 U.S.C. 215(a)(5)), is amended by deleting "filed or".

(b) Section 16(a), as amended (29 U.S.C. 216(a)), is amended to read as follows:

"(a) A person who knowingly violates a provision of section 15, if the offense is a first offense, is guilty of an infraction, except that the maximum fine for an individual is $10,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher. A second or subsequent offense is a Class B misdemeanor.".

SEC. 768. The Labor-Management Reporting and Disclosure Act of 1959, as amended (29 U.S.C. 401 et seq.), is amended as follows:

(a) Section 209 (29 U.S.C. 439) is amended:

(1) by amending subsection (a) to read as follows:

"(a) A person who knowingly violates this title is guilty of a Class A misdemeanor."; and

(2) by repealing subsections (b) and (c).

(b) Section 301 (29 U.S.C. 461) is amended:

(1) by amending subsection (c) to read as follows:

"(c) A person who knowingly violates this section is guilty of a Class A misdemeanor."; and

(2) by repealing subsection (d).

(c) Section 303(b) (29 U.S.C. 463(b)) is amended to read as follows:

"(b) A person who knowingly violates this section is guilty of a Class A misdemeanor.".

(d) Section 501(c) (29 U.S.C. 501(c)) is repealed.

(e) Section 502(b), as amended (29 U.S.C. 502(b)), is amended to read as follows:

"(b) A person who knowingly violates this section is guilty of a Class A misdemeanor.".

(f) Section 503 (29 U.S.C. 503) is amended:

(1) by deleting "willful" in subsection (b) and inserting in lieu thereof "knowing"; and

(2) by amending subsection (c) to read as follows:

"(c) A person who knowingly violates this section is guilty of a Class A misdemeanor.".

(g) Section 504 (29 U.S.C. 504) is amended:

(1) by deleting "grand larcency" in subsection (a) and inserting in lieu thereof "theft punishable by more than one year's imprisonment";

(2) by deleting "assault with intent to kill, assault which inflicts grievous bodily injury" in subsection (a) and inserting in lieu thereof "attempted murder, maiming";

(3) by deleting "Board of Parole" and "Board" in clause (B) of subsection (a) and inserting in lieu thereof "Parole Commission" and "Commission", respectively;

(4) by amending subsection (b) to read as follows:

"(b) A person who knowingly violates this section is guilty of a Class A misdemeanor.".

(h) Section 602 (29 U.S.C. 522) is repealed.

(i) Section 604 (29 U.S.C. 524) is amended to read as follows:

"SEC. 604. Nothing in this Act shall be construed to impair or diminish the authority of any State to enact and enforce general criminal laws with respect to robbery, bribery, extortion, theft punishable by more than one year's imprisonment, burglary, arson, violation of narcotics laws, murder, rape, maiming, aggravated assault, attempted murder, or conspiracy to commit any of such crimes.".

(j) Section 608 (29 U.S.C. 528) is repealed.

(k) Section 610 (29 U.S.C. 530) is amended to read as follows:

"DEPRIVATION OF RIGHTS UNDER ACT BY VIOLENCE

"SEC. 610. It shall be unlawful for a person through the use of force or violence, or threat of the use of force or violence, to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of this Act, Any person who intentionally violates this section is guilty of a Class A misdemeanor.".

SEC. 769. Section 10 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 629) is repealed.

SEC. 770. The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended as follows:

(a) Section 15 (29 U.S.C. 664) is amended by deleting "1905 of title 18" and inserting in lieu thereof "9301 of title 5".

(b) Section 17 (29 U.S.C. 666) is amended:

(1) by amending subsection (e) by adding at the end thereof the following new sentence: "The provisions of section 1617 of title 18, United States Code, do not apply to an offense under this subsection.".

(2) by repealing subsection (g).

SEC. 771. The Comprehensive Employment and Training Act of 1973 (29 U.S.C. 801 et seq.) is amended as follows:

(a) Section 406(c) (29 U.S.C. 916(c)) is amended by deleting "section 1001" and inserting in lieu thereof "section 1341".

(b) Section 418(b) (29 U.S.C. 928(b)) is amended by deleting "section 602" and inserting in lieu thereof "section 1516".

SEC. 772. The Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended as follows:

(a) Section 411 (29 U.S.C. 1111) is amended:

(1) by deleting "embezzlement" in subsection (a) and inserting in lieu thereof "theft";

(2) by deleting "grand larceny," in subsection (a);

(3) by deleting "assault with intent to kill" in subsection (a) and inserting in lieu thereof "maiming, aggravated battery";

(4) by deleting "chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951 or 1954" in subsection (a) and inserting in lieu thereof "section 1302, 1321, 1322, 1323, 1324, 1325, 1326, 1343, 1344, 1352, 1357, 1358, 1401, 1403, 1723, 1731, 1734, 1742, 1752, 1811, 1812, 1813, or 1814";

(5) by deleting the words "Board of Parole" wherever they appear in subsection (a) and inserting in lieu thereof "Commission";

(6) by deleting "the Board shall" in subsection (a) and inserting in lieu thereof "the Commission shall";

(7) by deleting "the Board's" in subsection (a) and inserting in lieu thereof "Commission's";

(8) by deleting "fined not more than $10,000 or imprisoned for not more than than one year, or both" in subsection (b) and one year, or both" in subsection (b) and inserting in lieu thereof "guilty of a Class A misdemeanor".

(b) Section 501 (29 U.S.C. 1131) is amended to read as follows:

"CRIMINAL PENALTIES

"SEC. 501. A person who knowingly violates any provision of part 1 of this subtitle, or any regulation or order issued under any such provision, shall be guilty of a Class A misdemeanor.".

(c) The last sentence of section 511 (29 U.S.C. 1141) is amended to read: "A person who knowingly violates this section is guilty of a Class A misdemeanor.".

PART Y—AMENDMENTS RELATING TO MINERAL LANDS AND LEASING, TITLE 30, UNITED STATES CODE

SEC. 775. Section 1 of the Act of March 2, 1907 (30 U.S.C. 49e), is amended by deleting ", and the provisions of sections fifty-three hundred and ninety-two and fifty-three hundred and ninety-three of the Revised Statutes are extended to such affidavits".

SEC. 776. The Mineral Lands Leasing Act, as amended (30 U.S.C. 181 et seq.), is amended as follows:

(a) Section 27(*l*)(4), as added by section 15 of the Federal Coal Leasing Amendments Act of 1975 (30 U.S.C. 184(*l*)(4)) is amended:

(1) by deleting the word "or" at the end of subparagraph (D);

(2) by deleting the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) section 1764 of title 18, United States Code.".

(b) Section 2(b)(4), as amended (30 U.S.C. 201(b)(4)), is amended:

(1) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(2) by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 777. Section 3(d) of the Act of July 7, 1960 (30 U.S.C. 663(d)), is amended to read as follows:

"(d) For purposes of chapter 91 of title 5, United States Code, a member of such an advisory committee is a special Government employee as defined in section 9101 of title 5.".

SEC. 778. Section 9 of the Act of October 3, 1961, as amended (30 U.S.C. 689), is amended to read as follows:

"SEC. 9. A person convicted of a violation of section 1001, 1343, or 1731 of title 18, United States Code, in connection with the procurement or attempted procurement of a payment under this Act to which he is not entitled shall thenceforth be entitled to no benefits under this Act.".

SEC. 779. Section 14(b) of the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 733(b)) is amended:

(a) by deleting "shall upon conviction thereof be punished for each such offense by a fine of not less than $100, or more than $3,000, or by imprisonment not to exceed sixty days, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor"; and

(b) by repealing the last sentence.

SEC. 780. Section 109 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 819) is amended:

(a) by deleting "willfully" in subsection (a)(2) and inserting in lieu thereof "knowingly";

(b) by amending subsection (b) to read as follows:

"(b) An operator who knowingly violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with an order issued under section 104 of this title, or an order incorporated in a final decision issued under this title, except an order incorporated in a decision under subsection (a) of this section 110(b)(2) of this title, is guilty of a Class A misdemeanor, except that if the operator convicted of an offense under this subsection is an individual, the maximum fine shall be $25,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher. If the conviction is for an offense committed after the first conviction of such operator under this Act, the operator shall be guilty of a Class E felony."; and

(c) by repealing subsection (d).

PART Z—AMENDMENT RELATING TO MONEY AND FINANCE, TITLE 31, UNITED STATES CODE

SEC. 781. ISSUANCE OF CIRCULATING OBLIGATIONS OF LESS THAN $1.—

Whoever knowingly makes, issues, circulates, or pays out any note, check, memorandum, token, or other obligation for a less sum than $1, intended to circulate as money or to be received or used in lieu of lawful money of the United States, is guilty of a Class B misdemeanor.

SEC. 782. COINS AS SECURITY FOR LOANS.—

Whoever knowingly lends or borrows money or credit upon the security of such coins of the United States as the Secretary of the Treasury may from time to time designate by proclaimation published in the Federal Register, during any period designated in such a proclamation, is guilty of a Class A misdemeanor.

SEC. 783. IMITATING OBLIGATIONS OF SECURITIES; ADVERTISEMENTS.—

Whoever designs, engraves, prints, makes, or executes, or utters, issues, distributes, circulates, or uses any business or professional card, notice, placard, circular, handbill, or advertisement, in the likeness or similitude of any obligation or security of the United States issued under or authorized by any Act of Congress or writes, prints, or otherwise impresses upon or attaches to any such instrument, obligation, or security, or any coin of the United States, any business or professional card, notice, or advertisement, or any notice or advertisement whatever, is guilty of an infraction.

SEC. 784. UTTERING COINS OF GOLD, SILVER OR OTHER METAL.—

Whoever, except as authorized by law, makes or utters or passes, any coins of original design of gold or silver or other metal, or alloy of metals, intended for use as current money, is guilty of a Class A misdemeanor.

SEC. 785. TOKENS OR PAPER USED AS MONEY.—

(a) Whoever, being 18 years of age or over, not lawfully authorized, makes, issues, or passes any, coin, card, token, or device in metal or its compounds, intended to be used as money, or whoever, being 18 years of age, or over, with intent to defraud, makes, utters, inserts, or uses any card, token, slug, disk, device, paper, or other thing similar in size and shape to any of the lawful coins or other currency of the United States or any coin or other currency not legal tender in the United States to procure anything of value, or the use or enjoyment of any property or service from any automatic merchandise vending machine, postage-stamp machine, turnstile, fare box, coinbox telephone, parking meter or other lawful receptacle, depository, or contrivance designed to receive or to be operated by lawful coins or other currency of the United States, is guilty of a Class A misdemeanor.

(b) Whoever manufactures, sells, offers, or advertises for sale, or exposes or keeps with intent to furnish or sell any token, slug, disk, device, paper, or other thing similar in size and shape to any of the lawful coins or other currency of the United States, or any token, disk, paper, or other device issued or authorized in connection with rationing or food and fiber distribution by any agency of the United States, with knowledge or reason to believe that such tokens, slugs, disks, devices, papers, or other things are intended to be used unlawfully or fraudulently to procure anything of value, or the use or enjoyment of any property or service from any automatic merchandise vending machine, postage-stamp machine, turnstile, fare box, coinbox telephone, parking meter, or other lawful receptacle, depository, or contrivance designed to receive or to be operated by lawful coins or other currency of the United States is guilty of a Class A misdemeanor.

(c) "Knowledge or reason to believe", within the meaning of subsection (b) of this section, may be shown by proof that any law enforcement officer has, prior to the commission of the offense with which the defendant is charged, informed the defendant that tokens, slugs, disks, or other devices of the kind manufactured, sold, offered, or advertised for sale by him or exposed or kept with intent to furnish or sell, are being used unlawfully or fraudulently to operate certain specified automatic merchandise vending machines, postage-stamp machines, turnstiles, fare boxes, coin-box telephones, parking meters, or other receptacles, depositories, or contrivances, designed to receive or to be operated by lawful coins of the United States.

SEC. 786. FORFEITURE OF COUNTERFEIT PARAPHERNALIA.—

All counterfeits of any coins or obligations or other securities of the United States or of any foreign government, or any articles, devices, and other things made, possessed, or used in violation of section 327, 781, 783, 784, 785, or 787 of this Act, or of subchapter E of chapter 17 of title 18, United States Code, or any material or apparatus used or fitted or intended to be used, in the making of such counterfeits, articles, devices or things, found in the possession of any person without authority from the Secretary of the Treasury or other proper officer, shall be forfeited to the United States.

Whoever, having the custody or control

of any such counterfeits, material, apparatus, articles, devices, or other things, fails or refuses to surrender possession thereof upon request by any authorized agent of the Treasury Department, or other proper officer, is guilty of a Class A misdemeanor.

Whenever, except as hereinafter in this section provided, any person interested in any article, device, or other thing, or material or apparatus seized under this section files with the Secretary of the Treasury, before the disposition thereof, a petition for the remission or mitigation of such forfeiture, the Secretary of the Treasury, if he finds that such forfeiture was incurred without recklessness or without any intention on the part of the petitioner to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or the mitigation of such forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just.

If the seizure involves offenses other than offenses against the coinage, currency, obligations or securities of the United States or any foreign government, the petition for the remission or mitigation of forfeiture shall be referred to the Attorney General, who may remit or mitigate the forfeiture upon such terms as he deems reasonable and just.

SEC. 787. MAKING OR POSSESSING LIKENESSES OF COINS.—

Whoever, within the United States, makes or brings therein from any foreign country, or possesses with intent to sell, give away, or in any other manner uses the same, except under authority of the Secretary of the Treasury or other proper officer of the United States, any token, disk, or device in the likeness or similitude as to design, color, or the inscription thereon of any foreign country issued as money, either under the authority of the United States or under the authority of a foreign government is guilty of an infraction.

SEC. 788. MAKING, SELLING, OR IMPORTING ILLUSTRATIONS OR LIKENESSES OF UNITED STATES AND FOREIGN OBLIGATIONS AND SECURITIES.—

Whoever, except as authorized under rules and regulations issued by the Secretary of the Treasury, knowingly makes, sells, or imports an illustration or likeness of:

(a) a revenue stamp of the United States,

(b) any other obligation or other security, except a postage stamp, of the United States, or

(c) a postage stamp, revenue stamp, note, bond, or any other obligation or other security of a foreign government, bank, or corporation,

or a part thereof, is guilty of a Class B misdemeanor.

SEC. 789. PRINTING AND FILMING OF UNITED STATES AND FOREIGN OBLIGATIONS AND SECURITIES.—

Notwithstanding the provisions of section 6016 of title 39, United States Code, and of sections 781, 783, 785, 786, 787, and 788 of this Act, the following are permitted:

(a) the printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing of illustrations of—

(1) postage stamps of the United States,

(2) revenue stamps of the United States,

(3) any other obligation or other security of the United States, and

(4) Postage stamps, revenue stamps, notes, bonds, and any other obligation or other security of any foreign government, bank, or corporation,

for philatelic, numismatic, educational, historical, or newsworthy purposes in articles, books, journals, newspapers, or albums (but not for advertising purposes, except illustrations of stamps and paper money in philatelic or numismatic advertising of legitimate numismatists and dealers in stamps or publishers of or dealers in philatelic or numismatic articles, books, journals, newspapers, or albums). Illustrations permitted by the foregoing provisions of this section shall be made in accordance with the following conditions—

(A) all illustrations shall be in black and white, except that illustrations of postage stamps issued by the United States or by any foreign government may be in color;

(B) all illustrations (including illustrations of uncanceled postage stamps in color) shall be of a size less than three-fourths or more than one and one-half, in linear dimension, of each part of any matter so illustrated which is covered by paragraph (1), (2), (3), or (4) of this subsection, except that black and white illustrations of postage and revenue stamps issued by the United States or by any foreign government and colored illustrations of canceled postage stamps issued by the United States may be in the exact linear dimension in which the stamps were issued; and

(C) the negatives and plates used in making the illustrations shall be destroyed after their final use in accordance with this section,

(b) the making or importation but not for advertising purposes except philatelic advertising, of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States, and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation. No prints or other reproductions shall be made from such films or slides, except for the purposes of subsection (a), without the permission of the Secretary of the Treasury.

For the purposes of this section the term "postage stamp" includes a postage meter stamp.

§ 789A. Photocopying certain securities

(a) Whoever knowingly photostats, reproduces, duplicates, or in any manner executes a copy, or any part thereof, of:

(1) any note, stock certificate, treasury stock certificate, bond, interest coupon, treasury bond, debenture, certificate of deposit, any other form of debt instrument bearing interest, or any blank certificate of any of the above, other than currency, which is issued by any corporation, business, or foreign government; or

(2) any bond, interest coupon, note, or other obligation issued or guaranteed by any State, possession, Commonwealth, or territory of the United States or by any political subdivision of a State, possession, Commonwealth, or territory or by any public instrumentality of one or more States, possessions, Commonwealths, or territories;

without the written approval of an authorized official of the issuing corporation, business, or government is guilty of a Class A misdemeanor.

(b) Nothing contained in subsection (a) prohibits the true owner, or his authorized agent, legal custodian, or an authorized official of—

(1) a national credit institution, as defined in section 111 of title 18, United States Code;

(2) a member of, or business insured by, the Securities Investor Protection Corporation;

(3) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15(a)(1) of the Securities Exchange Act of 1934; or

(4) any employee benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

from making a photostatic noncolor copy of any document enumerated in subsection (a) (1) or (a)(2) for the purposes of record-keeping or validation.

SEC. 790. DEPOSITORIES FAILING TO SAFEGUARD DEPOSITS.—

If the Treasurer of the United States or any public depositary fails to keep safely all moneys deposited by any disbursing officer or disbursing agent, as well as all moneys deposited by any receiver, collector, or other person having money of the United States, he is guilty of a Class A misdemeanor.

SEC. 791. EXPENDITURES BY SECRET SERVICE.—

Moneys expended from Secret Service appropriations for the purchase of counterfeits and subsequently recovered shall be reimbursed to the appropriation current at the time of the deposit.

SEC. 792. Section 13 of the Act of July 31, 1894, as amended (31 U.S.C. 84), is amended by deleting "Commissioners" and inserting in lieu thereof "Magistrates".

SEC. 793. Section 243 of the Revised Statutes, as amended (31 U.S.C. 163, and 1003), is amended by deleting "deemed guilty of a high misdemeanor and forfeit to the United States the penalty of three thousand dollars, and shall upon conviction be removed from office, and forever thereafter be incapable of holding any office under the United States; and if any other person than a public prosecutor shall give information of any such offense, upon which a prosecution and conviction shall be had, one-half the aforesaid penalty of three thousand dollars, when recovered, shall be for the use of the person giving such information" and inserting in lieu thereof "guilty of a Class A misdemeanor. And if any other person than a law enforcement officer acting in the course of his duties shall give information of any such offense, upon which a conviction and prosecution shall be had, one-half the fine, up to $1,500, when recovered, shall be for the use of the person giving such information".

SEC. 794. The second sentence of section 3492 of the Revised Statutes, as amended (31 U.S.C. 233), is repealed.

SEC. 795. The last sentence of section 8 of the Military Personnel and Civilian Employees' Claims Act of 1964, as added by section 5 of the Act of September 15, 1965 (31 U.S.C. 243), is amended to read: "A person who violates this provision is guilty of an infraction.".

SEC. 796. Section 105(b) of the Act of July 23, 1965 (31 U.S.C. 395(b)), is amended by deleting "shall be fined not more than $10,000, or imprisoned not more than five years, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 797. Section 3679(i)(1) of the Revised Statutes, as amended (31 U.S.C. 665(i)(1)), is amended:

(a) by deleting "and willfully"; and

(b) by deleting ", upon conviction, be fined not more than $5,000 or imprisoned not more than two years, or both" and inserting in lieu thereof "be guilty of a Class A misdemeanor".

SEC. 798. Section 750 of the Act of September 22, 1976 (31 U.S.C. 699b), is amended by deleting "shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1341 of title 18, United States Code".

SEC. 799. Section 244 of the Revised Statutes (31 U.S.C. 1018) is amended to read:

"SEC. 244. Every clerk employed in the Treasury Department who carries on a trade or business in the funds or debts of the United States, or of any State, or in any kind of public property, is guilty of an infraction.".

SEC. 800. Section 1 of the Act of August 11, 1955, as amended (31 U.S.C. 1034), is amended by deleting "section 545" and inserting in

lieu thereof "section 1411, 1811(a)(3), 1812 (a)(3), or 1814(a)(3)".

SEC. 801. The Currency and Foreign Transactions Reporting Act (31 U.S.C. 1051 et seq.) is amended as follows:

(a) Section 203(k) (31 U.S.C. 1052(k)) is amended to read as follows:

"(k) For the purposes of section 1343 of title 18, United States Code, the contents of reports required under any provision of this Act are statements and representations in a government matter.".

(b) Section 207(a) (31 U.S.C. 1056(a)) is amended:

(1) by deleting "willful" and inserting in lieu thereof "knowing"; and

(2) by deleting "willfully" and inserting in lieu thereof "knowingly".

(c) Sections 209, 210, and 211 (31 U.S.C. 1058, 1059, and 1060) are repealed.

PART AA—AMENDMENTS RELATING TO NAVIGATION AND NAVIGABLE WATERS, TITLE 33, UNITED STATES CODE

SEC. 805. The second sentence of section 4 of the Act of August 8, 1894, as amended (33 U.S.C. 1), is amended to read: "Such regulations shall be posted in conspicuous and appropriate places, for the information of the public; and a person who shall violate such a regulation shall be guilty of a Class B misdemeanor.".

SEC. 806. Section 5 of the Act of March 3, 1909 (33 U.S.C. 2), is amended by deleting "and any willful violation of any rule or regulation made by the Secretary of the Army in pursuance of this section shall be deemed a misdemeanor, for which the owner or owners, agent or agents, master or pilot of the vessel so offending shall be separately or collectively responsible, and on conviction thereof shall be punished by a fine of not less than one hundred dollars, nor exceeding five hundred dollars, or by imprisonment for not exceeding three months, or by both fine and imprisonment, at the discretion of the court" and inserting in lieu thereof "and any person knowingly violating any rule or regulation made by the Secretary of the Army pursuant to this section shall be guilty of a Class B misdemeanor".

SEC. 807. Section 3 of chapter XIX of the Act of July 9, 1918 (33 U.S.C. 3), is amended by deleting "and every corporation which shall willfully violate any regulations made by the said Secretary pursuant to this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine not exceeding $500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court" and inserting in lieu thereof "shall knowingly violate any regulation made by the said Secretary pursuant to this section shall be guilty of a Class B misdemeanor".

SEC. 808. Section 15 of the Act of May 29, 1908 (33 U.S.C. 153), is amended by deleting less".

SEC. 809. Section 1(c) of the Act of October 30, 1963 (33 U.S.C. 157a(c)), is amended by inserting the word "civil" before the word "penalty" each time it appears.

SEC. 810. The Act of June 7, 1897, as amended (33 U.S.C. 156 et seq.), is amended as follows:

(a) Section 3, as amended by inserting the word "civil" before the word "penalty".

(b) Section 4, as amended (33 U.S.C. 159), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 811. Section 2 of the Act of February 8, 1895, as amended (33 U.S.C. 244), is amended by inserting the word "civil" before the word "penalty" each time it appears.

SEC. 812. The second sentence of section 3 of the Act of February 19, 1895 (33 U.S.C. 303), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 813. Section 4233B of the Revised Statutes, as added by section 4 of the Act of May 21, 1948 (33 U.S.C. 354), is amended by inserting the word "civil" before the word "penalty".

SEC. 814. Section 4233C of the Revised Statutes, as added by section 4 of the Act of May 21, 1948 (33 U.S.C. 355), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 815. Section 13 of the Act of June 20, 1874, as amended (33 U.S.C. 364), is amended by repealing the last sentence.

SEC. 816. Section 2 of the Act of September 4, 1890 (33 U.S.C. 368), is amended by deleting "deemed guilty of a misdemeanor, and shall be liable to a penalty of one thousand dollars, or imprisonment for a term of not exceeding two years" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 817. Sections 4300 to 4305 of the Revised Statutes, as amended (33 U.S.C. 391 to 396), are repealed.

SEC. 818. Section 12 of the Rivers and Harbors Appropriation Act of 1899, as amended (33 U.S.C. 406), is amended:

(a) by deleting "and every corporation"; and

(b) by deleting "deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding twenty-five hundred dollars nor less than five hundred dollars, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 819. The last sentence of section 2 of the Act of May 9, 1900 (33 U.S.C. 410), is amended to read: "And such rules and regulations when so prescribed and published as to any such stream or waterway shall have the force of law, and a person who shall knowingly violate such a rule or regulation shall be guilty of a Class A misdemeanor.".

SEC. 820. The Rivers and Harbors Appropriations Act of 1899, as amended (33 U.S.C. 401 et seq.), is amended as follows:

(a) Section 16 (33 U.S.C. 411 and 412) is amended:

(1) by amending the first paragraph to read as follows:

"That a person who violates a provision of section thirteen, fourteen, or fifteen of this Act is guilty of a Class A misdemeanor, and one-half of the fine, up to $1,250, shall be paid to the person or persons giving information which leads to conviction.";

(2) by deleting the word "willfully" wherever it appears and inserting in lieu thereof "knowingly"; and

(3) by deleting "deemed guilty of a violation of this Act, and shall upon conviction be punished as provided in this section" and inserting in lieu thereof "guilty of a Class A misdemeanor". (b) Section 17 as amended (33 U.S.C. 413), is amended:

(1) by deleting "collectors of customs" and inserting in lieu thereof "customs officers"; and

(2) by deleting the word "commissioner" wherever it appears and inserting in lieu thereof "magistrate".

SEC. 821. Section 4 of the Act of March 3, 1905 (33 U.S.C. 419), is amended:

(a) by deleting "or corporation which" and inserting "who"; and

(b) by deleting "deemed guilty of a misdemeanor and shall be subject to the penalties prescribed in section sixteen of the river and harbor Act of March third, eighteen hundred and ninety-nine, for violation of provisions of section thirteen of the said Act" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 822. The Act of June 23, 1910 (33 U.S.C. 421), is amended:

(a) by deleting ", or cause, suffer, or procure, to be thrown, discharged, dumped, or deposited,"; and

(b) by amending the last sentence to read: "A person who violates a provision of this section is guilty of an infraction.".

SEC. 823. The Act of June 29, 1888, as amended (33 U.S.C. 411 et seq.), is amended as follows:

(a) Section 1, as amended (33 U.S.C. 441), is amended by deleting "misdemeanor, and every person engaged in or who shall aid, abet, authorize, or instigate a violation of this section, shall, upon conviction, be punishable by fine or imprisonment, or both, such fine to be not less than two hundred and fifty dollars nor more than two thousand five hundred dollars, and the imprisonment to be not less than thirty days nor more than one year, either or both united, as the judge before whom conviction is obtained shall decide, one-half of said fine" and inserting in lieu thereof "Class A misdemeanor, one-half of any fine, but not more than $1,250,".

(b) Section 3, as amended (33 U.S.C. 443 et seq.), is amended.

(1) by deleting "deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than one thousand dollars nor less than five hundred dollars" in the first paragraph, as amended (33 U.S.C. 443), and inserting in lieu thereof "guilty of an infraction";

(2) by adding before the word "misdemeanor" in the second paragraph, as amended (33 U.S.C. 444), the words "Class A";

(3) by deleting "Failure to comply with any of the foregoing provisions shall render the owner of such scow or boat liable upon conviction thereof to a penalty of not more than five hundred dollars" in the third paragraph, as amended (33 U.S.C. 445), and inserting in lieu thereof "If such a scow or boat fails to comply with any of the foregoing provisions, the owner of the scow or boat shall be guilty of an infraction";

(4) by deleting the word "commissioner" wherever it appears in the fourth paragraph, as amended (33 U.S.C. 446), and inserting in lieu thereof "magistrate";

(5) by repealing the fifth paragraph, as amended (33 U.S.C. 447); and

(6) by deleting "fine" in the sixth paragraph, as amended (33 U.S.C. 448), and inserting in lieu thereof "civil penalty".

(c) Section 4, as amended (33 U.S.C. 449), is amended by deleting "offense against this act, and shall be punished by a fine" and inserting in lieu thereof "infraction, except that the fine shall be".

SEC. 824. Section 2 of the Rivers and Harbors Appropriations Act of 1894 (33 U.S.C. 452), is amended:

(a) by deleting "or persons" wherever it appears;

(b) by deleting "deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine or imprisonment, or both, such fine to be not more than two hundred and fifty dollars nor less than fifty dollars, and the imprisonment to be not more than six months nor less than thirty days, either or both united, as the judge before whom conviction is obtained shall decide" and inserting in lieu thereof "guilty of a Class B misdemeanor"; and

(c) by deleting "commissioner" wherever it appears and inserting in lieu thereof "magistrate".

SEC. 825. Section 3 of the Act of March 6, 1896, as amended (33 U.S.C. 474), is amended:

(a) by inserting before the word "penalty" the word "civil"; and

(b) by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 826. Section 5 of the Act of March 23, 1906, as amended (33 U.S.C. 495), is amended:

(a) by deleting "deemed guilty of a violation of this Act, and any persons who shall be guilty of a violation of this Act, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not

exceeding five thousand dollars" and inserting in lieu thereof "guilty of an infraction, except that the maximum fine for an individual shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher"; and

(b) by deleting "to the penalties above described" and inserting in lieu thereof a comma.

SEC. 827. Section 5 of the Rivers and Harbors Appropriation Act of 1894, as amended (33 U.S.C. 499), is amended:

(a) by deleting "willfully" and inserting "knowingly";

(b) by deleting "deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two thousand dollars nor less than one thousand dollars, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court" and inserting in lieu thereof "guilty of a Class A misdemeanor"; and

(c) by deleting the word "commissioner" wherever it appears and inserting in lieu thereof "magistrate".

SEC. 828. Section 18 of the Rivers and Harbors Appropriation Act of 1899, as amended (33 U.S.C. 502), is amended:

(a) by deleting "persons or corporations" in the first sentence and inserting in lieu thereof "person"; and

(b) by amending the last sentence to read: "If a person owning or controlling a railroad or other bridge shall, after receiving notice to that effect, as hereinbefore required, from the Secretary of Transportation, and within the time prescribed by him knowingly fail or refuse to remove the same or to comply with the lawful order of the Secretary of Transportation in the premises, the person shall be guilty of an infraction, except that the maximum fine for an individual shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher, and every month the person remains in default in respect to the removal of such bridge is a new offense and shall subject the person so offending to the penalties above prescribed.".

SEC. 829. The Act of August 21, 1935, as amended (33 U.S.C. 503 et seq.), is amended as follows:

(a) The last sentence of section 4, as amended (33 U.S.C. 506), is repealed.

(b) Section 5 (33 U.S.C. 507) is amended by deleting ", upon conviction thereof, be punished by a fine of not to exceed $1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment" and inserting in lieu thereof "be guilty of a Class A misdemeanor".

SEC. 830. Section 9 of the Act of June 21, 1940 (33 U.S.C. 519), is amended:

(a) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(b) by deleting "deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding $5,000" and inserting in lieu thereof "guilty of an infraction, except that the maximum fine for an individual shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher".

SEC. 831. Section 510 of the Act of August 2, 1946 (33 U.S.C. 533), is amended:

(a) by deleting ", or who refuses to produce books, papers, or documents in obedience to a subpoena or other lawful requirement under this title,"; and

(b) by deleting ", upon conviction thereof, be punished by a fine of not to exceed $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment" and inserting in lieu thereof "be guilty of a Class A misdemeanor".

SEC. 832. Section 2 of the Act of February 21, 1891 (33 U.S.C. 554), is amended to read as follows:

"SEC. 2. That a person who violates a provision of this Act is guilty of a Class C misdemeanor.".

SEC. 833. The second paragraph of section 11 of the Rivers and Harbors Appropriation Act of 1922 (33 U.S.C. 555), is amended to read as follows:

"That a person who violates a provision of this section is guilty of a Class C misdemeanor.".

SEC. 834. That part of the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 11, 1888 (25 Stat. 400), comprising the third sentence of the last paragraph beginning on page 419 of volume 25 of the United States Statutes at Large (33 U.S.C. 601) is amended to read: "And any person who knowingly violates such rules and regulations shall be guilty of a Class B misdemeanor.".

SEC. 835. Section 22 of the Act of March 1, 1893 (33 U.S.C. 682), is amended to read as follows:

"SEC. 22. That a person who mines by the hydraulic process directly or indirectly injuring the navigable waters of the United States, in violation of the provisions of this Act is guilty of a Class A misdemeanor.".

SEC. 836. The Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 901 et seq.), is amended as follows:

(a) Section 15(a) (33 U.S.C. 915(a)) is amended by deleting "a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $1,000" and inserting in lieu thereof "an infraction".

(b) Section 28(e), as amended (33 U.S.C. 928(e)), is amended by deleting "shall upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or both such fine and imprisonment" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(c) Section 31 (33 U.S.C. 931) is repealed.

(d) The last sentence of section 37 (33 U.S.C. 937) is amended to read: "A person who violates a provision of this section is guilty of a Class A misdemeanor.".

(e) Section 38, as amended (33 U.S.C. 938), is amended to read as follows:

"SEC. 38. (a) An employer required to secure the payment of compensation under this Act who fails to secure such compensation is guilty of a Class A misdemeanor; and in any case where the employer is a corporation, the president, secretary, and treasurer thereof shall be severally liable, jointly with the corporation, for any compensation or other benefit which may accrue under the said Act in respect to any injury which may occur to any employee of the corporation while it shall so fail to secure the payment of compensation as required by section 32 of this Act.

"(b) An employer who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes, or destroys any property belonging to such employer, after one of his employees has been injured within the purview of this Act, and with intent to avoid the payment of compensation under this Act to such employee or his dependents, commits an unlawful act that is an offense described in section 1325 of title 18, United States Code.

"(c) This section shall not affect any other liability of the employer under this Act.".

(f) Section 41(f), as amended (33 U.S.C. 941(f)), is amended to read as follows:

"(f) An employer who knowingly violates or fails or refuses to comply with a provision of subsection (a) of this section, or with a lawful rule, regulation, or order adopted to carry out the provisions of this section, and an employer or other person who knowingly interferes with, hinders, or delays the Secretary or his authorized representative in carrying out his duties under subsection (c) of this section by refusing to admit the Secretary or his authorized representatives to any place, or to permit the inspection or examination of any employment or place of employment, or who knowingly hinders or delays the Secretary or his authorized representatives in the performance of his duties in the enforcement of this section, is guilty of an infraction, except that the maximum fine for an individual convicted under this section shall be $3,000. The liability hereunder shall not affect any other liability of the employer under this Act.".

SEC. 837. Section 9 of the Act of May 13, 1954 (33 U.S.C. 990), is repealed.

SEC. 838. The Oil Pollution Act, 1961, as amended (33 U.S.C. 1001 et seq.), is amended as follows:

(a) Section 7, as amended (33 U.S.C. 1005), is amended:

(1) by amending subsection (a) to read as follows:

"(a) A person who recklessly discharges oil or oily mixture from a ship in violation of this Act or the regulations thereunder is guilty of a Class A misdemeanor."; and

(2) by deleting "willfully or" in subsection (b).

(b) Section 9(a), as amended (33 U.S.C. 1007(a)), is amended by deleting the words ": *And provided further*, That whenever any arrest is made under the provisions of said sections the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States".

SEC. 839. Section 107 of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1227) is amended to read as follows:

"SEC. 107. A person who knowingly violates a regulation issued under this Act is guilty of a Class A misdemeanor, except that the maximum fine for an individual shall be $50,000.".

SEC. 840. The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), is amended as follows:

(a) Section 309(c), as added by section 2 of the Act of October 18, 1972 (33 U.S.C. 1319(c)), is amended to read as follows:

"(c)(1) A person who knowingly engages in conduct that negligently violates section 301, 302, 306, 307, or 308 of this Act, or a permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, commits an unlawful act that is an offense described in section 1853 (Environmental Pollution) of title 18, United States Code.

"(2) A person who knowingly falsifies, tampers with, or renders inaccurate a monitoring device or method required to be maintained under this Act, is guilty of a class B misdemeanor.".

(b) Section 310(d), as amended by section 2 of the Act of October 18, 1972 (33 U.S.C. 1320(d)), is amended by deleting "'section 1905 of Title 18" and inserting in lieu thereof "section 9301 of title 5".

(c) Section 311, as added by section 2 of the Act of October 18, 1972 (33 U.S.C. 1321), is amended:

(1) by deleting "willful negligence or willful misconduct" in subsection (b)(2)(B)(ii) and inserting in lieu thereof "recklessness or knowing misconduct";

(2) by deleting "shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both" in subsection (b)(5) and inserting in lieu thereof "is guilty of a Class A misdemeanor";

(3) by deleting the word "offense" wherever it appears in subsection (b)(6) and inserting in lieu thereof "violation";

(4) by deleting "willful negligence or willful misconduct" in subsection (f)(1) and inserting in lieu thereof "recklessness or knowing misconduct";

(5) by deleting "willful negligence or willful misconduct" in subsection (f)(2) and inserting in lieu thereof "recklessness or knowing misconduct";

(6) by deleting "willful negligence or willful misconduct" in subsection (f)(3) and inserting in lieu thereof "recklessness or knowing misconduct"; and

(7) by deleting "willful negligence or willful misconduct" in subsection (g) and inserting in lieu thereof "recklessness or knowing misconduct";

(8) by deleting "offense" in subsection (j)(2) and inserting in lieu thereof "violation"; and

(9) by deleting "fine" in subsection (p)(4) and inserting in lieu thereof "civil penalty".

(d) Section 312, as added by section 2 of the Act of October 18, 1972 (33 U.S.C. 1322), is amended:

(1) by deleting "section 1905 of title 18" in subsection (g)(3) and inserting in lieu thereof "section 9301 of title 5"; and

(2) by deleting "offense" in subsection (j) and inserting in lieu thereof "violation".

(e) Section 508(a), as added by section 2 of the Act of October 18, 1972 (33 U.S.C. 1386(a)), is amended by adding after the words "section 309(c) of this Act" the words ", or under section 1853 of title 18, United States Code, or under section 1343 or 1344 of title 18, United States Code (if the offense involved an application, record, report, plan, or other document filed or required to be maintained under this Act),".

(f) Section 509(a)(1), as added by section 2 of the Act of October 18, 1972 (33 U.S.C. 1369(a)(1)), is amended by deleting "section 1905 of Title 18" and inserting in lieu thereof "section 9301 of title 5".

SEC. 841. Section 105 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415) is amended:

(a) by deleting "shall be fined not more than $50,000, or imprisoned for not more than one year, or both" in subsection (b) and inserting in lieu thereof "is guilty of a Class A misdemeanor, except that the maximum fine for an individual convicted under this subsection shall be $50,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher";

(b) by adding after the word "Separate" in the caption of subsection (c) the words "violations and";

(c) by adding after the word "violation" in subsection (c) the words "or offense"; and

(d) by adding after the word "separate" in subsection (c) the words "violation or".

SEC. 842. Section 12(a) of the Intervention on the High Seas Act (33 U.S.C. 1481(a)) is amended:

(a) by deleting "willfully" wherever it appears and inserting in lieu thereof "knowingly"; and

(b) by deleting "shall be fined not more than $10,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 843. The Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) is amended as follows:

(a) Section 3(3) (33 U.S.C. 1502(3)) is amended to read as follows:

"(3) 'antitrust laws' includes the Act of July 2, 1890, as amended, section 1764 of title 18, United States Code, the Act of October 15, 1914, as amended, the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and sections 73 and 74 of the Act of August 27, 1894, as amended:".

(b) Section 8(a) (33 U.S.C. 1507(a)) is amended by deleting "chapter 39 of title 18, United States Code (18 U.S.C. 831–837)" and inserting in lieu thereof "sections 1101 through 1106 of the Criminal Code Reform Act of 1977".

(c) Section 14(b) (33 U.S.C. 1513(b)) is amended by deleting "section 1905 of title 18" and inserting in lieu thereof "section 9301 of title 5".

(d) Section 15(a) (33 U.S.C. 1514(a)) is amended to read as follows:

"(a) Any person who knowingly violates a provision of this Act or a rule, order or regulation issued pursuant thereto is guilty of a Class A misdemeanor, except that the maximum fine is $25,000 for each day of violation or the maximum fine available under section 2201 of title 18, United States Code, whichever is higher.".

(e) Section 16(b)(1)(B) (33 U.S.C. 1515(b)(1)(B)) is amended to read as follows:

"(B) if the Secretary or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such civil action any person may intervene as a matter of right; or"

(f) Section 18 (33 U.S.C. 1517) is amended:

(1) by amending the third sentence of subsection (a)(2) to read: "Each violation is a separate violation.";

(2) by amending subsection (b) to read as follows:

"(b) Any individual in charge of a vessel or a deepwater port shall notify the Secretary as soon as he has knowledge of a discharge of oil. Any such individual who fails to notify the Secretary immediately of such discharge is guilty of a Class A misdemeanor. Notification received pursuant to this subsection, or information obtained by the use of such notification, shall not be used against any such individual in any criminal case, except a prosecution for perjury, false swearing, or making a false statement.";

(3) by deleting "willful" in subsection (d) and inserting in lieu thereof "knowing"; and

(4) by deleting "willful" in subsection (e) and inserting in lieu thereof "knowing".

PART BB—AMENDMENTS RELATING TO PATENTS, TITLE 35, UNITED STATES CODE

SEC. 850. Section 25(b) of title 35, United States Code, is amended to read as follows:

"(b) Whenever such written declaration is used, the document must warn the declarant that knowingly making a false statement or omitting or concealing a material fact in a written statement is an offense described in section 1343 of title 18, United States Code.".

SEC. 851. Section 33 of title 35, United States Code, is amended by deleting "Shall be fined not more than $1,000 for each offense" and inserting in lieu thereof "is guilty of an infraction".

SEC. 852. Section 186 of title 35, United States Code, is amended to read as follows:

"§ 186. Penalty

"Whoever, during the period or periods of time an invention has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 181 of this title, knowingly publishes or discloses the invention, or material information with respect thereto, or whoever, in violation of the provisions of section 184 of this title, knowingly files in a foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of an invention made in the United States, is guilty of a Class A misdemeanor.".

SEC. 853. Section 292(a) of title 35, United States Code, is amended by deleting "Shall be fined not more than $500 for every such offense" and inserting in lieu thereof "Is subject to a civil penalty of not more than $500 for every such violation".

PART CC—AMENDMENTS RELATING TO PATRIOTIC SOCIETIES AND OBSERVANCES, TITLE 36, UNITED STATES CODE

SEC. 855. Red Cross.—

Whoever wears or displays the sign of the Red Cross or any insignia colored in imitation thereof for the fraudulent purposes of inducing the belief that he is a member of or an agent for the American Red Cross; or

Whoever, other than the American National Red Cross and its duly authorized employees and agents and the sanitary and hospital authorities of the armed forces of the United States, uses the emblem of the Greek red cross on a white ground, or any sign or insignia made or colored in imitation thereof or the words "Red Cross" or "Geneva Cross" or any combination of these words—

Is guilty of a Class B misdemeanor.

This section shall not make lawful the use of any such emblem, sign, insignia or words which was lawful on June 25, 1948.

SEC. 856. RED CROSS MEMBERS OR AGENTS.—

Whoever, within the United States, falsely or fraudulently holds himself out as or represents or pretends himself to be a member of or an agent for the American National Red Cross for the purpose of soliciting, collecting, or receiving money or material, is guilty of a Class A misdemeanor.

SEC. 857. BADGE OR MEDAL OF VETERANS' ORGANIZATIONS.—

Whoever knowingly manufacturers, reproduces, sells or purchases for resale, either separately or on or appended to, any article of merchandise manufactured or sold, any badge, medal, emblem, or other insignia or any colorable imitation thereof, of any veterans' organization incorporated by enactment of Congress, or of any organization formally recognized by any such veterans' organization as an auxiliary of such veterans' organization, or knowingly prints, lithographs, engraves or otherwise reproduces on any poster, circular, periodical, magazine, newspaper, or other publication, or circulates or distributes any such printed matter bearing a reproduction of such badge, medal, emblem, or other insignia or any colorable imitation thereof, except when authorized under rules and regulations prescribed by any such organization is guilty of a Class E misdemeanor.

SEC. 858. The last sentence of section 3 of the Act of October 17, 1942, as amended (36 U.S.C. 181), is amended to read: "A person who manufactures any such service flag or service lapel button without having first obtained such a license, or otherwise violates this Act, is guilty of an infraction.".

SEC. 859. The last sentence of section 9 of this Act of September 21, 1950 (36 U.S.C. 379), is amended to read: "A person who violates a provision of this section is guilty of a Class A misdemeanor.".

PART DD—AMENDMENTS RELATING TO VETERANS' BENEFITS, TITLE 28, UNITED STATES CODE

SEC. 861. Section 218(b) of title 38, United States Code, is amended to read as follows:

"(b) Whoever violates a rule or regulation issued pursuant to subsection (a)(1) of this section is guilty of a Class C misdemeanor.".

SEC. 862. Chapter 18 of title 38, United States Code, is amended as follows:

(a) Section 787 is repealed:

(b) The item in the analysis at the beginning of the chapter relating to section 787 is amended to read as follows:

"787. Repealed.".

SEC. 863. Section 1790(d) of title 38, United States Code, is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

SEC. 864. Section 3301(f) of title 38, United States Code is amended:

(a) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(b) by deleting "a misdemeanor and" and inserting in lieu thereof "an infraction. Notwithstanding the provisions of part III of title 18, United States Code, a person convicted of violating this provision shall not be sentenced to a term of imprisonment but shall".

SEC. 865. Chapter 59 of title 38, United States Code, is amended as follows:

(a) Section 3402(c) is amended by deleting "sections 203, 205, 206, or 207 of title 18" and inserting in lieu thereof "chapter 91 of title 5".

(b) Section 3405 is amended to read as follows:

"§ 3405. Offenses

"Whoever solicits, contracts for, charges, or receives any fee or compensation except as provided in section 3404 or 784 of this title, is guilty of a Class A misdemeanor.".

(c) The item relating to section 3405 in the analysis at the beginning of the chapter is amended to read as follows:

"3405. Offenses.".

SEC. 866. Chapter 61 of title 38, United States Code, is amended as follows:

(a) Sections 3501 and 3502 are repealed.

(b) Section 3505(b) is amended to read as follows:

"(b) The offenses referred to in subsection (a) of this section are those offenses described (1) in the following provisions of title 18, United States Code: sections 1101, 1102, 1111, 1112, 1114, 1117, 1121, 1122, 1123, 1124, 1131, 1203, and 1311 (if the offense committed or alleged to have been committed by the person harbored or whose identity is concealed is an offense described in section 1113, 1117, 1121, 1122, or 1123 of title 18), or a conspiracy to commit one of those offenses; (2) in the Uniform Code of Military Justice, articles 94, 104, and 106; and (3) in sections 222 and 223 of the Atomic Energy Act of 1954, as amended.".

(c) Section 290 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 3506 of title 38, United States Code, and amended by deleting "shall be fined not more than $500 or imprisoned not more than six months, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

(d) The analysis at the beginning of the chapter is amended:

(1) by amending the items relating to sections 3501 and 3502 to read as follows:

"3501. Repealed.

"3502. Repealed."; and

(2) by adding the following new item at the end thereof:

"3506. Discharge papers withheld by claim agent.".

SEC. 867. Section 4132(f) of title 38, United States Code, is amended to read as follows:

"(f) A person who violates a provision of this section or a regulation issued pursuant to this section is guilty of an infraction, except that the maximum fine for the first offense is $500 and the maximum fine for each subsequent offense is $5,000, and an individual convicted of violating this section shall not be sentenced to a term of imprisonment.".

PART EE—AMENDMENTS RELATING TO POSTAL SERVICE, TITLE 39, UNITED STATES CODE

SEC. 870. Section 410 of title 39, United States Code, is amended:

(a) by redesignating subsection (b)(1) as subsection (b)(1)(A), and by adding the word "and" at the end of the subsection;

(b) by adding the following new subsection after subsection (b)(1)(A):

"(B) section 2955 (failure to make returns or reports) and chapters 91 (conflicts of interest) and 93 (disclosure of information) of title 5;" and

(c) by amending subsection (b)(2) to read as follows:

"(2) all provision of title 18 dealing with the mails, property, or Federal public servants;".

SEC. 871. Section 602(c) of title 39, United States Code, is amended by deleting "section 1699 of title 18" and inserting in lieu thereof "section 6011 of this title".

SEC. 872. Section 1008 of title 39, United States Code, as amended:

(a) by deleting "chapter 83 of title 18" in subsection (a) and inserting in lieu thereof "chapter 60 of this title";

(b) by repealing subsection (b); and

(c) by deleting the designation "(a)" at the beginning of the section.

SEC. 873. Section 2201 of title 39, United States Code, is amended by deleting "chapter 307 of title 18" and inserting in lieu thereof "chapter 38 of title 28".

SEC. 874. Chapter 30 of title 39, United States Code, is amended as follows:

(a) Section 3001 is amended:

(1) by amending subsection (a) to read:

"(a) Matter is nonmailable if sending or disseminating the matter is an offense described in section 1841 or 1842 of title 18, or if the use of the mails for the matter would result in Federal jurisdiction of an offense described in section 1601, 1602, 1603, 1611, 1612, 1613, or 1734 of title 18, or if deposit or transmittal of the matter in the mails is punishable under section 6016, 6017, 6018, 6020, or 21 of this title or under section 26 of the Animal Welfare Act.";

(2) by deleting "chapters 71 and 83 of title 18" in subsection (f) and inserting in lieu thereof "chapter 60 of this title"; and

(3) by deleting "section 1716 of title 18" in subsection (g) and inserting in lieu thereof "section 6018 of this title".

(b) Section 3003(a) of title 39, United States Code, is amended by deleting "sections 1302, 1341, and 1342" and inserting in lieu thereof "section 1734 or 1841".

(c) Section 3011(e) of title 39, United States Code, is amended by deleting "section 1461 or 1463" and inserting in lieu thereof "section 1842".

SEC. 875. Chapter 52 of title 39, United States Code, is amended as follows:

(a) Section 5206 is amended:

(1) by deleting "Fines" in the caption and inserting in lieu thereof "Civil penalties";

(2) by deleting "fine" in subsection (a) and inserting in lieu thereof "impose a civil penalty on";

(3) by deleting "fine" in subsection (b) and inserting in lieu thereof "impose a civil penalty on"; and

(4) by deleting "fine" in subsection (c) and inserting in lieu thereof "civil penalty".

(b) The item in the analysis at the beginning of the chapter relating to section 5206 is amended by deleting "Fines" and inserting in lieu thereof "Civil penalties".

SEC. 876. Chapter 54 of title 39, United States Code, is amended as follows:

(a) Section 5403 is amended:

(1) by deleting "Fines" in the caption and inserting in lieu thereof "Civil penalties"; and

(2) by deleting "fines" and inserting in lieu thereof "civil penalties".

(b) The item in the analysis at the beginning of the chapter relating to section 5403 is amended to read as follows:

"5403. Civil penalties.".

SEC. 877. Chapter 56 of title 39, United States Code, is amended as follows:

(a) Section 5603 is amended by deleting "fined" and inserting in lieu thereof "subject to a civil penalty of".

(b) Section 5604 is amended:

(1) by deleting "Fines on" in the caption and inserting in lieu thereof "Civil penalties against"; and

(2) by deleting "fines on" and inserting in lieu thereof "civil penalties against".

(c) The item in the analysis at the beginning of the chapter relating to section 5604 is amended to read as follows:

"5604. Civil penalties against ocean carriers.".

SEC. 878. (a) Sections 440 and 441 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as sections 6001 and 6002 of title 39, United States Code, and amended as follows:

(1) Section 6001 (formerly 18 U.S.C. 440) is amended by deleting "shall be fined not more than $5,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(2) Section 6002 (formerly 18 U.S.C. 441) is amended by deleting "shall be fined not more than $5,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(b)(1) The body of section 1302 of title 18, United States Code, is reenacted and redesignated as section 6003(a) of title 39, United States Code, and amended:

(A) by deleting "Any article described in section 1953 of this title—"; and

(B) by deleting "Shall be fined not more than $1,000 or imprisoned not more than two years, or both; and for any subsequent offense shall be imprisoned not more than five years" and inserting in lieu thereof "Shall be guilty of a Class A misdemeanor, except that a second or subsequent offense shall be a Class E felony".

(2) The body of section 1303 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 6003(b) of title 39, United States Code, and amended by deleting "shall be fined not more than $100 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(3) Sections 1307 (a), (b), (c), and (d) of title 18, United States Code, are reenacted and redesignated as sections 6003 (c), (d), (g), and (h), of title 39, United States Code, respectively, and amended:

(A) by deleting "sections 1301, 1302, 1303, and 1304" is subsection (c) and inserting in lieu thereof "this section"; and

(B) by deleting "sections 1301, 1302, and 1303" in subsection (d) and inserting in lieu thereof "this section".

(4) Section 6003 of title 39 United States Code, is amended by adding the following subsections after subsection (d):

(e) This section shall not apply to an advertisement, list of prizes, or information concerning a lottery, gift enterprise or similar scheme conducted by a nonprofit or charitable organization in accordance with State and local law

(1) published in a newspaper in that State or in a State in which such lottery, gift enterprise or similar scheme is legal; or

(2) broadcast by a radio or television station licensed to a location in that State or in a State in which such lottery, gift enterprise or similar scheme is legal.

(f) The provisions of this section shall not apply to the transportation or mailing to addresses within a State of tickets and other materials concerning a lottery, gift enterprise or similar scheme conducted by a charitable or nonprofit organization in accordance with State and local law in that State from a State in which such lottery, gift enterprise or similar scheme is legal.

(c) Sections 1692 through 1700 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as sections 6004 through 6012 of title 39, United States Code, and amended as follows:

(1) Section 6005 (formerly 18 U.S.C. 1693) is amended by deleting "shall be fined not more than $50 or imprisoned not more than

thirty days, or both" and inserting in lieu thereof "is guilty of a Class C misdemeanor".

(2) Section 6006 (formerly 18 U.S.C. 1694) is amended by deleting "fined not more than $50" and inserting in lieu thereof "guilty of an infraction".

(3) Section 6007 (formerly 18 U.S.C. 1695) is amended by deleting "fined not more than $50 or imprisoned not more than thirty days, or both" and inserting in lieu thereof "guilty of a Class C misdemeanor".

(4) Section 6008 (formerly 18 U.S.C. 1696) is amended:

(A) by deleting "shall be fined not more than $500 or imprisoned not more than six months, or both" in subsection (a) and inserting in lieu thereof "is guilty of a Class B misdemeanor";

(B) by deleting "shall be fined not more than $50" in subsection (b) and inserting in lieu thereof "is guilty of an infraction"; and

(C) by deleting "title 39" in subsection (c) and inserting in lieu thereof "this title".

(5) Section 6009 (formerly 18 U.S.C. 1697) is amended by deleting "shall be fined not more than $150" and inserting in lieu there- "is guilty of an infraction".

(6) Section 6010 (formerly 18 U.S.C. 1698) is amended:

(a) by deleting "shall be fined not more than $150" and inserting in lieu thereof "is guilty of an infraction"; and

(b) by deleting the last sentence.

(7) Section 6011 (formerly 18 U.S.C. 1699) is amended by deleting "shall be fined not more than $100" and inserting in lieu thereof "is guilty of an infraction".

(8) Section 6012 (formerly 18 U.S.C. 1700) is amended:

(A) by deleting "voluntarily" and inserting in lieu thereof "intentionally"; and

(B) by deleting "shall be fined not more than $500 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(d) Subsection (b) of section 1703 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 6013 of title 39, United States Code, and amended to read as follows:

"§ 6013. Delay of mail or newspapers

"Whoever, being a Postal Service officer or employee, or mail contractor or employee of such contractor, improperly detains or delays any newspaper or other mail, or permits any other person to detain or delay the same, or opens, or permits any other person to open, any mail or package of newspapers not directed to the office where he is employed; or

"Whoever, without authority, opens any mail or package of newspapers not directed to him;

"Is guilty of a Class A misdemeanor.".

(e) The second paragraph of section 1711 of title 18, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 6014 of title 39, United States Code, and amended by deleting "This section" and inserting in lieu thereof "Section 1731 of title 18".

(f) The second and third paragraphs of section 1712 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as section 6015 of title 39, United States Code, and amended to read as follows:

"§ 6015. Inducements to increase compensation

"Whoever, being a Postal Service officer or employee in any post office or postal facility thereof, for the purpose of increasing the emoluments or compensation of his office, induces any person to deposit mail matter in, or forward in any manner for mailing at, the office where such officer or employee is employed, knowing such matter to be properly mailable at another post office or postal facility, is guilty of a Class A misdemeanor.".

(g) The following new section is added after section 6015 of title 39, United States Code:

"§ 6016. Illustration or likeness of postage stamp

"Whoever, except as authorized under section 789 of the Criminal Code Reform Act of 1977, or under rules and regulations issued by the Postal Service, knowingly makes, sells, or imports an illustration or likeness of a postage stamp of the United States, or parts thereof, is guilty of a Class B misdemeanor.".

(h) Sections 1715 through 1717 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as sections 6017 through 6020 of title 39, United States Code, and amended as follows:

(1) Section 6017 (formerly 18 US.C. 1715) is amended by deleting "shall be fined not more than $1,000 or imprisoned not more than two years, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(2) Section 6018(h) (formerly 18 U.S.C. 1716(h)) is amended:

(A) by deleting "shall be fined not more than $1,000 or imprisoned not more than one year, or both" in the second paragraph and inserting in lieu thereof "is guilty of a Class A misdemeanor"; and

(B) by repealing the last two paragraphs.

(3) Section 6019 (formerly 18 U.S.C. 1716A) is amended by deleting "title 39, shall be fined not more than $1,000, or imprisoned not more than one year, or both" and inserting in lieu thereof "this title, is guilty of a Class A misdemeanor".

(4) Section 6020 (formerly 18 U.S.C. 1717) is amended to read as follows:

"§ 6020. Letters and writings as nonmailable

"(a) Every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book, or other publication, matter, or thing, the mailing of which is an offense under, or the mailing of which results in federal jurisdiction of an offense, or the mailing of which is involved in an offense under section 1101, 1102, 1114, 1116, 1117, 1121, 1122, 1123, 1124, 1125, 1131, 1201, 1202, 1204, 1211, 1212, 1215, 1301 if the offense involves the fraudulent use of the seal of a department or agency of the United States, 1303, 1343 if there is jurisdiction under subsection (c)(2), 1741, or 1742 of title 18, or which contains any matter advocating or urging treason, armed insurrection, or forcible resistance to any law of the United States, is nonmailable and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

"(b) Whoever uses the mails or Postal Service for the transmission of any matter declared by this section to be nonmailable, is guilty of a Class A misdemeanor.".

(i) Sections 1723 through 1725 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as section 6021 through 6023 of title 39, United States Code, and amended as follows:

(1) Section 6021 (formerly 18 U.S.C.1723) is amended:

(A) by deleting the words "by stamps affixed" in the first paragraph; and

(B) by deleting the words "shall be fined not more than $100" in the second paragraph and inserting in lieu thereof "is guilty of an infraction".

(2) Section 6023 (formerly 18 U.S.C. 1725) is amended to read as follows:

"§ 6024. Postage unpaid on deposited mail matter

"Whoever knowingly mails any mailable matter on which the lawful postage has not been paid with intent to avoid payment of lawful postage thereon, is guilty of an infraction.".

(j) Sections 1729 through 1731 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as section 6024 through 6026 of title 39, United States Code, and amended as follows:

(1) Section 6024 (formerly 18 U.S.C. 1729) is amended by deleting "shall be fined not more than $500" and inserting in lieu thereof "postal service, mail service, or similar words which imply that the office or business is conducted by authority of the Postal Service, is guilty of an infraction.".

(2) Section 6025 (formerly 18 U.S.C. 1730) is amended to read as follows:

"§ 6025. Uniform of postal employees

"Whoever, not being an employee or agent of the Postal Service, wears the uniform or badge which may be described by the Postal Service to be worn by an employee or agent of the Postal Service authorized to wear that uniform or badge, is guilty of a Class B misdemeanor.

"The preceding paragraph shall not apply to an actor or actress in a theatrical, television, or motion-picture production (other than a commercial advertisement) who wears the uniform or badge of an employee of the Postal Service while portraying a member of that service.".

(3) Section 6026 (formerly 18 U.S.C. 1731) is amended to read as follows:

"§ 6026. Vehicles falsely labeled as carriers.

"It shall be unlawful to paint, print, or in any manner to place upon or attach to any conveyance operating by land, air, or water not actually used in carrying the mail, the words 'United States Mail', or any words, letters, or characters of like import; or to give notice, by publishing in any newspaper or otherwise, that any such conveyance is used in carrying the mail, when the same is not actually so used.

"Whoever violates a provision of this section is guilty of a Class B misdemeanor.".

(k) Sections 1734 through 1737 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as sections 6027 through 6030 of title 39, United States Code, and amended as follows:

(1) Section 6027 (formerly 18 U.S.C. 1734) is amended:

(A) by deleting "entered as second class mail" and inserting in lieu thereof "entitled to a periodical publication rate"; and

(B) by deleting "shall be fined not more than $500" and inserting in lieu thereof "is guilty of an infraction".

(2) Section 6028 (formerly 18 U.S.C. 1735) is amended:

(A) by deleting the word "willfully" wherever it appears in subsection (a)(1) and inserting in lieu thereof "knowingly";

(B) by deleting the words "title 39" wherever they appear in subsection (a) or (b) and inserting in lieu thereof the words "this title"; and

(C) by deleting "shall be fined not more than $5,000 or imprisoned not more than five years, or both, for the first offense, and shall be fined not more than $10,000 or imprisoned not more than ten years, or both, for any second or subsequent offense" in subsection (a) and inserting in lieu thereof "is guilty of a Class A misdemeanor, except that a second or subsequent offense committed after a first conviction shall be a Class E felony".

(3) Section 6029 (formerly 18 U.S.C. 1736) is amended by deleting the words "title 39" wherever they appear in subsection (a) and (b) and inserting in lieu thereof "this title".

(4) Section 6030 (formerly 18 U.S.C. 1737) is amended:

(A) by deleting the words "title 39" wherever they appear in subsections (a) and (b) and inserting in lieu thereof the words "this title"; and

(B) by deleting "shall be fined not more than $5,000 or imprisoned not more than five years, or both, for the first offense, and shall be fined not more than $10,000 or imprisoned not more than ten years, or both, for any second or subsequent offense" in subsection (a) and inserting in lieu thereof "is guilty of a Class A misdemeanor, except that a second or subsequent offense committed after a first offense shall be a Class E felony".

(l) The second and third paragraphs of section 1704 of title 18, United States Code, as they existed on the day before the effective date of this Act, are reenacted and redesignated as section 6031 of title 39, United States Code, and amended:

(A) by deleting the words "stolen or" in the caption;

(B) by amending the first paragraph (formerly the second paragraph of 18 U.S.C. 1704) to read as follows:

"Whoever knowingly and unlawfully makes, forges, or counterfeits a key suited to a lock adopted by the Post Office Department or the Postal Service and in use on any of the mails or bags thereof, or a key to a lock box, lock drawer, or other authorized receptacle for the deposit or delivery of mail matter, or knowingly and unlawfully makes, forges, or counterfeits such a mail lock, with the intent unlawfully to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfuly or improperly used, sold, or otherwise disposed of; or"; and

(C) by deleting "fined not more than $500 or imprisoned not more than ten years, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(m) Section 1713 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 6032 of title 39, United States Code, and amended by deleting "shall be fined not more than $500" and inserting in lieu thereof "is guilty of an infraction".

(n) Section 1732 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and United States Code, and amended to read as follows:

"§ 6033. Approval of bond or sureties by representatives of Postal Service

"Whoever, being a contracting officer or other authorized representative of the Postal Service, affixes his signature to the approval redesignated as section 6033 of title 39, of a bond of a bidder, or to the certificate of sufficiency of sureties in a contract, before the said bond or contract is signed by the bidder or contractor and his sureties, or approves a bond of a bidder in reckless disregard of the fact that the bond has insufficient sureties, shall be guilty of a Class A misdemeanor.".

(o) Section 1705 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 6034 of title 39, United States Code, and amended to read as follows:

§ 6034. Destruction of letter boxes

"Whoever knowingly injures, tears down, or destroys a letter box or other receptacle intended or used for the receipt or delivery of mail on any mail route is guilty of a Class A misdemeanor.".

(p) A new section 6035 of title 39, United States Code, is added to read as follows:

"Sec. 6035. Mailing, importing, or transporting obscene matter.

"(a) Every article or thing designed, adapted, or intended for producing abortion or for indecent or immoral uses; and

"Every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing abortion, or for any indecent or immoral purpose; and

"Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means abortion may be produced, whether sealed or unsealed; and

"Every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can, be used or applied for producing abortion, or for any indecent or immoral purposes; and

"Every description calculated to induce or incite a person to so use or apply any such article, instrument, substance, drug, medicine, or thing—

"Is declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

"Whoever knowingly uses the mails for the mailing, carriage in the mails, or delivery of anything declared by this subsection or section 3001(3) of title 39 to be nonmailable, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, or knowingly takes any such thing from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be guilty of a Class D felony.

"The term 'indecent', as used in this subsection includes matter of a character tending to incite arson, murder, or assassination.

"(b) Whoever brings into the United States, or any place subject to the jurisdiction thereof, or knowingly uses any express company or other common carrier, for carriage in interstate commerce or foreign commerce any drug, medicine, article, or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how or of whom, or by what means any of such mentioned articles, matters, or things may be obtained or made; or whoever knowingly takes from such express company or other common carrier any matter or thing the carriage of which is herein made unlawful, shall be guilty of a Class D felony.".

(q) The following caption and analysis are added before section 6001 of title 39, United States Code:

"PART VI.—POSTAL OFFENSES

"Chap. Sec.
"60. Postal Offenses 6001

"Chapter 60.—POSTAL OFFENSES

"Sec.
"6001. Mail contracts.
"6002. Postal supply contracts.
"6003. Lotteries.
"6004. Foreign mail as United States mail.
"6005. Carriage of mail generally.
"6006. Carriage of matter out of mail over post routes.
"6007. Carriage of matter out of mail on vessels.
"6008. Private express for letters and packets.
"6009. Transportation of persons acting as private express.
"6010. Prompt delivery of mail from vessel.
"6011. Certification of delivery from vessel.
"6012. Desertion of mails.
"6013. Delay of mail or newspaper.
"6014. Misappropriation of postal funds.
"6015. Inducements to increase compensation.
"6016. Illustration or likeness of postage stamp.
"6017. Firearms as nonmailable; regulations.
"6018. Injurious articles as nonmailable.
"6019. Nonmailable motor vehicle master keys.
"6020. Letters and writings as nonmailable.
"6021. Avoidance of postage by using lower class matter.
"6022. Refusal of mail by foreign vessel.
"6023. Postage unpaid on deposited mail matter.
"6024. Post office conducted without authority.
"6025. Uniforms of postal employees.
"6026. Vehicles falsely labeled as carriers.
"6027. Editorials and other matter as advertisements'.
"6028. Sexually oriented advertisements.
"6029. Restrictive use of information.
"6030. Manufacturer of sexually related mail matter.
"6031. Keys or locks reproduced.
"6032. Issuance of money orders without payment.
"6033. Approval of bonds or sureties by representative of Postal Service.
"6034. Destruction of letter boxes.
"6035. Mailing, importing, or transporting obscene matter.".

(r) The analysis at the beginning of title 39, United States Code, is amended by adding at the end thereof the following new item:

"VI. Postal Offenses 6001".

PART FF—AMENDMENTS RELATING TO PUBLIC BUILDINGS, PROPERTY, AND WORKS, TITLE 40, UNITED STATES CODE

SEC. 880. Section, 8 of the Act of August 18, 1949, as amended (40 U.S.C. 13m), is amended to read as follows:

"SEC. 8. Except as provided in title 18, United States Code, a person who violates a provision of sections 2 to 6, inclusive, of this Act, or of a regulation prescribed under section 7 of this Act, is guilty of a Class C misdemeanor. Prosecution of offenses under this section shall be in the Superior Court of the District of Columbia, upon information by the United States attorney or any of his assistants.".

SEC. 881. The second sentence of section 15 of the Act of July 29, 1892, as amended (40 U.S.C. 101), is repealed.

SEC. 882. The Act of July 31, 1946, as amended (40 U.S.C. 193a et seq.), is amended as follows:

(a) Section 6(b), as amended (40 U.S.C. 193f(b)), is amended by deleting "willfully and".

(b) Sections 8 (a) and (b), as amended (40 U.S.C. 193h (a) and (b)), are amended to read as follows:

"(a) A violation of section 6(a) of this Act is a Class A misdemeanor.

"(b) Except as provided in title 18, United States Code, a violation of section 2, 3, 4, 5, 6(b), or 7 of this Act is a Class B misdemeanor.".

SEC. 883. Section 6 of the Act of October 24, 1951, as amended (40 U.S.C. 193s), is amended to read as follows:

"SEC. 6. A person who violates a provision of sections 2 to 4, inclusive, of this Act, or a regulation prescribed under section 5 of this Act, is guilty of a Class C misdemeanor, and prosecution for such offenses shall be in the Superior Court of the District of Columbia, upon information by the United States attorney or any of his assistants.".

SEC. 884. Section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c), is amended by deleting "Section 1001" and inserting in lieu thereof "Section 1343".

SEC. 885. Section 4 of the Act of June 1, 1948 (40 U.S.C. 318c), is amended to read as follows:

"SEC. 4. A person who violates a rule or regulation promulgated pursuant to section 2 of this Act is guilty of a Class C misdemeanor.".

SEC. 886. The Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327 et seq.), is amended as follows:

(a) Section 106 (40 U.S.C. 332) is amended by deleting "deemed guilty of a misdemeanor, and for each and every such offense shall, upon conviction, be punished by a fine of not to exceed $1,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction therof" and inserting in lieu thereof "guilty of a Class B misdemeanor".

(b) Section 107(d)(1), as added by section 1 of the Act of August 9, 1960 (40 U.S.C. 333 (d)(1)), is amended by deleting "willful" and inserting in lieu thereof "knowing".

SEC. 887. The Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), is amended as follows:

(a) Section 207(d), as amended (40 U.S.C. 488(d)), is amended by adding after the words " 'antitrust laws' includes" the words "section 1764 of title 18, United States Code,".

(b) Section 211(*l*), as added by section 5(c) of the Act of September 5, 1950, and amended (40 U.S.C. 491(*l*)) is amended by deleting the words "section 641" each time they appear and inserting in lieu thereof "section 1731 or 1732".

SEC. 888. Section 14 of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 883) is repealed.

SEC. 889. Section 108 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 108) is amended:

(a) by deleting "fined not more than $10,000, or imprisoned not more than two years, or both" in subsection (a) and inserting in lieu thereof "guilty of a Class A misdemeanor";

(b) by deleting "fined not more than $5,000, or imprisoned not more than one year, or both" in subsection (c) and inserting in lieu thereof "guilty of a Class A misdemeanor";

(c) by deleting "sections 202 through 209 of title 18" in subsection (d) and inserting in lieu thereof "chapter 91 of title 5"; and

(d) by deleting "sections 202 through 209, title 18" in subsection (e) and inserting in lieu thereof "chapter 91 of title 5".

PART GG—AMENDMENTS RELATING TO PUBLIC CONTRACTS, TITLE 41, UNITED STATES CODE

SEC. 891. CONTRACTS IN EXCESS OF SPECIFIC APPROPRIATION.—

Whoever, being an officer or employee of the United States, knowingly contracts for the erection, repair, or furnishing of any public building, or for any public improvement, to pay a larger amount than the specific sum appropriated for such purpose, is guilty of a Class A misdemeanor.

SEC. 892. WAR CONTRACTS.—

Whoever knowingly secretes, mutilates, obliterates, or destroys—

(a) any records of a war contractor relating to the negotiation, award, performance, payment, interim financing, cancellation or other termination, or settlement of a war contract of $25,000 or more; or

(b) any records of a war contractor or purchaser relating to any disposition of termination inventory in which the consideration received by any war contractor or any government agency is $5,000 or more,

before the lapse of (1) five years after such disposition of termination inventory by such war contractor or government agency, or (2) five years after the final settlement of such war contract, or (3) five years after 12 o'clock noon of December 31, 1946, whichever applicable period is longer, is guilty of a Class A misdemeanor.

The Administrator of General Services, by regulation, may authorize the destruction of such records upon such terms and conditions as he deems appropriate, including the requirement for the making and retaining of photographs or microphotographs, which shall have the same force and effect as the originals thereof.

The definitions of terms in section 3 of the Act of July 1, 1944 (41 U.S.C. 103), shall apply to similar terms used in this section.

SEC. 893. Section 8 of the Act of June 30, 1936 (41 U.S.C. 42), is amended by deleting "the Act entitled 'An Act to provide for the diversification of employment of Federal prisoners, for their training and schooling in trades and occupations, and for other purposes, approved May 27, 1930, and amended and supplemented by the Act approved June 23, 1934" and inserting in lieu thereof "chapter 38 of title 28, United States Code".

SEC. 894. Section 3 of the Act of June 25, 1938, as amended (41 U.S.C. 48), is amended:

(a) by deleting "chapter 307 of title 18" and inserting in lieu thereof "chapter 38 of title 28"; and

(b) by deleting "section 4124" and inserting in lieu thereof "section 583".

SEC. 895. Section 4 of the Act of March 8, 1946, as amended (41 U.S.C. 54), is repealed.

SEC. 896. Section 20(f) of the Contract Settlement Act of 1944, as amended (41 U.S C. 120(f)), is amended by deleting "section 109 of the Criminal Code (18 U.S.C. 198)" and inserting in lieu thereof "section 9104 of title 5".

PART HH—AMENDMENTS RELATING TO PUBLIC HEALTH AND WELFARE, TITLE 42, UNITED STATES CODE

SEC. 900. UNIFORM OF PUBLIC HEALTH SERVICE.—

Whoever, in any place within the jurisdiction of the United States or in the Canal Zone, without authority, knowingly wears the uniform or a distinctive part thereof or anything similar to a distinctive part of the uniform of the Public Health Service, is guilty of a Class B misdemeanor.

SEC. 901. VIOLATION OF REGULATIONS OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—

Whoever knowingly violates a regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration for the protection or security of any laboratory station, based or other facility, or part thereof, or any aircraft, missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody of the Administration, or any real or personal property or equipment in the custody of any contractor under any contract with the Administration or any subcontractor of any such contractor, is guilty of a Class A misdemeanor.

SEC 902. Whoever directly or indirectly deprives or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes, on account of political affiliation, race, color, sex, religion, or national origin, is guilty of a Class A misdemeanor.

SEC 903. The Public Health Service Act, as amended (42 U.S.C. 201 et seq.), is amended by deleting "sections 203, 205, 207, 208, and 209 of title 18" and inserting in lieu thereof "sections 9102, 9104, 9106, 9107, and 9108 of title 5 and subchapter F of chapter 13 of title 18, United States Code".

(b) Section 323 (42 U.S.C. 250) is amended by deleting "the Act of May 13, 1930, as amended (U.S.C., 1940 edition, title 18, secs. 751, 752)," and inserting in lieu thereof "section 572 of title 28, United States Code".

(c) The first sentence of section 341(a), as amended (42 U.S.C. 257(a)), is amended to read: "The Secretary of Health, Education, and Welfare is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts and other persons with drug abuse and drug dependence problems who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United States, including persons convicted by courts-martial and consular courts.".

(d) Section 346, as amended (42 U.S.C. 261), is amended:

(1) by deleting "or attempts to introduce" in subsection (a);

(2) by deleting "a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years" in subsection (a) and inserting in lieu thereof "introducing a narcotic drug or controlled substance into an official detention facility in violation of section 1314(a)(1) of title 18, United States Code";

(3) by repealing subsections (b) and (c); and

(4) by repealing the designation "(a)" at the beginning of the section.

(e) Section 351(f), as amended (42 U.S.C. 262(f)), is amended to read as follows:

"(f) Except as provided in title 18, United States Code, a person who violates a provision of this section is guilty of a Class A misdemeanor.".

(f) Section 353(h), as added by section 5 (a) of the Act of December 5, 1967 (42 U.S.C. 263a(h)), is amended to read as follows:

"(h) Except as provided in section 1301 and 1343 of title 18, United States Code, a person who knowingly violates a provision of this section or a rule or regulation promulgated thereunder is guilty of a Class A misdemeanor.".

(g) Section 359(d), as added by section 2(3) of the Act of October 18, 1968 (42 U.S.C. 263g(d)), is amended by deleting "1905 of title 18" and inserting in lieu thereof "9301 of title 5".

(h) Section 360A(e), as added by section 2(3) of the Act of October 18, 1968 (42 U.S.C. 263i(e)), is amended by deleting "section 1905 of title 18" and inserting in lieu thereof "section 9301 of title 5.".

(i) Section 368(a), as amended (42 U.S.C. 271(a)), is amended by deleting "shall be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 904. Section 205 of the Family Planning and Population Research Act of 197i (42 U.S.C. 300a–8) is amended:

(a) by deleting the words "or endeavor to coerce"; and

(b) by deleting "shall be fined not mor than $1,000 or imprisoned not more than on year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 905. The Public Health Service Act, as amended (42 U.S.C. 300f et seq.), is amended as follows:

(a) Section 1414(c) (42 U.S.C. 300g–3(c)) is amended:

(1) by deleting "willfully" in the last sentence and inserting in lieu thereof "knowingly"; and

(2) by deleting "fined not more than $5,000" in the last sentence and inserting in lieu thereof "guilty of an infraction, except the maximum fine for an individual shall be $5,000".

(b) Section 1424(c)(2) (42 U.S.C. 300h–3 (c)(2)) is amended to read: "(2) if such violation is committed knowingly, such person is, in lieu of the civil penalty authorized by clause (1), guilty of an infraction, except that the maximum fine shall be $10,000 per day of violation."

(c) Section 1431(b) (42 U.S.C. 300i(b)) is amended:

(1) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(2) by deleting "fined not more than $5,000

for each day in which such violation occurs or failure to comply continues" and inserting in lieu thereof "found guilty of an infraction, except that the maximum fine shall be $5,000 for each day in which such violation occurs or failure to comply continues".

(d) Section 1441 (42 U.S.C. 300j(e)(1)) is amended by deleting "fined not more than $5,000 for each such failure to comply" in subsection (e)(1) and inserting in lieu thereof "guilty of an infraction, except that the maximum fine for an individual shall be $5,000 for each such failure to comply".

(e) Section 1445 (42 U.S.C. 300j–4) is amended:

(1) by deleting "may be fined not more than $5,000" in subsection (c) and inserting in lieu thereof "shall be guilty of an infraction, except that the maximum fine for an individual shall be $5,000";

(2) by deleting "1905 of title 18" in subsection (d)(1) and inserting in lieu thereof "9301 of title 5".

SEC. 907. Section 24 of the United States Housing Act of 1937, as amended (42 U.S.C. 1422), is repealed.

SEC. 908. Section 109(b) of the Housing Act of 1949, as amended (42 U.S.C. 1459(b)), is amended by deleting "title 18 U.S.C., section 874" and inserting in lieu thereof "sections 1722 and 1723 of title 18, United States Code".

SEC. 909. Section 310(b) of the Defense Housing and Community Facilities and Services Act of 1951, as amended (42 U.S.C. 1592i (b)), is amended by deleting "section 874" and inserting in lieu thereof "sections 1722 and 1723".

SEC. 910. The War Hazards Compensation Act, as amended (42 U.S.C. 1701 et seq.), is amended as follows:

(a) Section 203 (42 U.S.C. 1713) is repealed.

(b) Section 204, as amended (42 U.S.C. 1714), is amended by deleting: "misdemeanor and upon conviction thereof shall, for each offense, be fined not more than $1,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "Class A misdemeanor".

SEC. 911. The Clean Air Act, as amended (42 U.S.C. 1857 et seq.), is amended as follows:

(a) Section 113(c), as added by section 4(a) of the Clean Air Amendments of 1970, and amended (42 U.S.C. 1857c–8(c)), is amended to read as follows:

"(c) Offenses.

"(1) Any person who knowingly—

"(A) violates any requirement of an applicable implementation plan (i) during any period of Federally assumed enforcement, or (ii) more than 30 days after having been notified by the Administrator under subsection (a)(1) of this section that such person is violating such requirement, or

"(B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a), or

"(C) violates section 111(e), or section 112 (c), or section 119(g);

commits an unlawful act that is an offense described in section 1853 of title 18, United States Code.

"(2) A person who knowingly falsifies, tampers with, or knowingly renders inaccurate a monitoring device or method required to be maintained under this Act is guilty of a Class B misdemeanor.".

(b) Section 114(c), as added by section 4(a) of the Clean Air Amendments of 1970 (42 U.S.C. 1857c–9(c)), is amended by deleting "1905 of title 18" and inserting in lieu thereof "9301 of title 5".

(c) Section 115(j)(1) as added by section 1 of the Act of December 17, 1963, and amended (42 U.S.C. 1857(j)(1)), is amended by deleting "section 1905 of title 18" and inserting in lieu thereof "section 9301 of title 5".

(d) Section 205, as added by section 101 (8) of the Act of October 20, 1965, and amended (42 U.S.C. 1857f–4), is amended by deleting "offense" and inserting in lieu thereof "violation".

(e) Section 208(b), as added by section 101(8) of the Act of October 20, 1965, and amended (42 U.S.C. 1857f–6(b)), is amended by deleting "section 1905 of title 18" and inserting in lieu thereof "section 9301 of title 5".

(f) Section 307(a), as added by section 12(a) of the Clean Air Amendments of 1970, and amended (42 U.S.C. 1857h–5(a)), is amended by deleting "section 1905 of title 18" and inserting in lieu thereof "section 9301 of title 5".

SEC. 912. Section 15(d) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1874(d)), is amended:

(a) by deleting "section 1001" in paragraph (1) and inserting in lieu thereof "section 1341"; and

(b) by deleting "fined not more than $10,000, or imprisoned not more than five years, or both" in paragraph (2)(B) and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 913. The Voting Rights Act of 1965, as amended (42 U.S.C. 1973 et seq.), is amended as follows:

(a) Section 7(b) (42 U.S.C. 1973e(b)) is amended by adding before the words "section 12" the words "chapter 15 of title 18, United States Code, or".

(b) Section 11, as amended (42 U.S.C. 1973i) is repealed.

(c) Section 12, as amended (42 U.S.C. 1973j), is amended:

(1) by repealing subsection (a);

(2) by deleting "fined not more than $5,000, or imprisoned not more than five years, or both" in subsection (b) and inserting in lieu thereof "commits an unlawful act that is an offense and described in section 1344 of title 18, United States Code";

(3) by repealing subsection (c);

(4) by deleting "11," in subsection (d); and

(5) by adding after the words "subsection (b) of this section" in subsection (d) the words ", or by subchapter A or B of chapter 15 of title 18, United States Code, if the offense relates to voting in a Federal, State, or local general, special, or primary election,".

(d) Section 202(i), as added by section 6 of the Act of June 22, 1970 (42 U.S.C. 1973aa–1(i)), is repealed.

(e) Section 205, as added by section 6 of the Act of June 22, 1970, and redesignated and amended by sections 302 and 304 of the Act of August 6, 1975 (42 U.S.C. 1973aa–3), is amended to read as follows:

"PENALTY

"SEC. 205. Whoever deprives a person of a right secured by section 201, 202, or 203 of this title commits an unlawful act that is an offense described in section 1501 of title 18, United States Code.".

(f) Section 301(b), as amended (42 U.S.C. 1973bb(b)), is repealed.

SEC. 914. Section 5 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd–3) is amended:

(a) by amending subsection (b) to read as follows:

"(b) Whoever knowingly deprives a person of a right secured by this Act commits an unlawful act that is an offense described in section 1501 of title 18, United States Code."; and

(b) by repealing subsection (c).

SEC. 915. The Civil Rights Act of 1960 (42 U.S.C. 1974 et seq.) is amended as follows:

(a) The last sentence of section 301 (42 U.S.C. 1974) is amended to read: "Any officer of election or custodian who knowingly fails to comply with this section is guilty of a Class A misdemeanor."

(b) Section 302 (42 U.S.C. 1974a) is amended to read as follows:

"SEC. 302. A record or paper required by section 301 to be retained and preserved by a federal government record for purposes of sections 1344, 1701, 1702, 1703, and 1731 of title 18, United States Code.".

SEC. 916. The Civil Rights Act of 1957, as amended (42 U.S.C. 1975 et seq.), is amended as follows:

(a) Section 102(g), is amended (42 U.S.C. 1975a(g)), is amended to read as follows:

"(g) No evidence or testimony or summary of evidence or testimony taken in executive session under subsection (e) may be used or released in public without the consent of the Commission. Whoever knowingly releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session is guilty of a Class B misdemeanor.".

(b) Section 105(d), as amended (42 U.S.C. 1975d(d)), is repealed.

SEC. 917. Section 1982 of the Revised Statutes, as amended (42 U.S.C. 1987), is repealed.

SEC. 918. Sections 1983 and 1984 of the Revised Statutes, as amended (42 U.S.C. 1989), are amended:

(a) by deleting the word "commissioners" wherever it appears and inserting in lieu thereof "magistrates"; and

(b) by deleting "chapter seven of the Title 'Crimes,' " and inserting in lieu thereof "offenses described in section 1302, 1311, 1313, 1314, 1356, 1357, 1501, or 1622 of title 18, United States Code,".

SEC. 919 Section 5517 of the Revised Statutes (42 U.S.C. 1990) is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 920. Section 1987 of the Revised Statutes (42 U.S.C. 1991) is amended by deleting the word "commissioner" wherever it appears and inserting in lieu thereof "magistrate".

SEC. 921. Section 1988 of the Revised Statutes, as amended (42 U.S.C. 1992), is amended by deleting "chapter seven of the Title CRIMES" and inserting in lieu thereof "section 1302, 1311, 1313, 1314, 1356, 1357, 1501, or 1622 of title 18, United States Code".

SEC. 922. The first paragraph of section 151 of the Act of September 9, 1957 (42 U.S.C. 1995), is amended to read as follows:

"Criminal contempt arising under a provision of this Act is an offense described in section 1331 of title 18, United States Code.".

SEC. 923. The Civil Rights Act of 1964, as amended (42 U.S.C. 2000a et seq.), is amended as follows:

(a) Section 304 (42 U.S.C. 2000b–3) is amended to read as follows:

"SEC. 304. A complaint as used in this title is a statement in a government matter within the meaning of section 1343 of title 18, United States Code.".

(c) Section 702, as amended (42 U.S.C. 2000e–1), is amended by adding after the words "this title" the words "and section 1504 of title 18, United States Code".

(b) The second sentence of section 407(c) (42 U.S.C. 2000c–6(c)) is amended to read: "A 'complaint' as used in this section is a statement in a government matter within the meaning of section 1343 of title 18, United States Code".

(d) Section 706(b), as amended (42 U.S.C. 2000e–5(b)), is amended by deleting "shall be fined not more than $1,000 or imprisoned for not more than one year, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

(e) Section 709(e), as amended (42 U.S.C. 2000e–8(e)), is amended by deleting "a misdemeanor and upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year" and inserting in lieu thereof "Class B misdemeanor".

(f) Section 711(b) (42 U.S.C. 2000e–10(b)) is amended to read as follows:

"(b) A person who knowingly violates this section is guilty of an infraction.".

(g) Section 714, as amended (42 U.S.C. 2000e–13), is repealed.

(h) Section 1003(b) (42 U.S.C. 2000g–2 (b)) is amended by deleting "deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than one year" and inserting in lieu thereof "guilty of a Class B misdemeanor".

(i) Section 1101 (42 U.S.C. 2000h) is amended:

(1) by amending the first paragraph to read as follows:

"Criminal contempt arising under title II, III, IV, V, VI, or VII of this Act is an unlawful act that is an offense described in section 1331 of title 18, United States Code."; and

(2) by deleting "intentional" in the second paragraph and inserting in lieu thereof "done knowingly".

(j) Section 1102 (42 U.S.C. 2000h–1) is repealed.

"SEC. 924. The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), is amended as follows:

(a) Section 105(a), as amended (42 U.S.C. 2135(a)), is amended by adding after the words "operation of" in the first sentence the words "section 1764 of title 18, United States Code, and".

(b) The third sentence of section 157 a., as amended (42 U.S.C. 2187(a)), is repealed.

(c) Section 163, as amended (42 U.S.C. 2203), is repealed.

(d) Section 204 (42 U.S.C. 2254) is amended by deleting "sections 102 to 104, inclusive, of the Revised Statutes, as amended" and inserting in lieu thereof "sections 103 and 104 of the Revised Statutes, as amended, and sections 1332 and 1333 of title 18, United States Code".

(e) Section 221, as amended (42 U.S.C. 2271), is amended:

(1) by adding after the words "this Act" in subsection (b) the words "or section 1131 of title 18, United States Code";

(2) by adding after the words "this act" in subsection (c) the words "or section 1131 of title 18, United States Code,"; and

(3) by adding after the words "section 222, 223, 224, 225, or 226" in subsection (c) the words "of this Act, as amended, or section 1131 of title 18, United States Code,".

(f) Sections 229 b, and c, as added by section 6 of the Act of August 6, 1956 (42 U.S.C. 2278a(b) and (c)), are amended to read as follows:

"b. Except as provided in section 1713 of title 18, United States Code, whoever knowingly violates a regulation of the Commission issued pursuant to subsection a. is guilty of an infraction.

"c. Whoever knowingly violates a regulation of the Commission issued pursuant to subsection a. with respect to any installation or other property which is enclosed by a fence, wall, floor, roof, or other structural barrier is guilty of a class A misdemeanor."

(g) Section 230, as added by section 6 of the Act of August 6, 1956 (42 U.S.C. 2278b), is amended by deleting "an offense, punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or both" and inserting in lieu thereof a Class A misdemeanor".

(h) Section 232, as amended (42 U.S.C. 2280), is amended by adding before the words "of this Act" the words "of section 1121(a)(2), 1122(a)(2), 1124(a)(2), or 1131 of title 18, or".

SEC. 925. Section 6(g) of the Act of November 18, 1969, as amended (42 U.S.C. 2462(g)), is amended by deleting "misdemeanor and shall, upon conviction thereof, be punished by not more than six months in prison or a fine of not more than $1,000, or both" and inserting in lieu thereof "Class B misdemeanor".

SEC. 926. Section 205(e) of the Manpower Development and Training Act of 1962, as amended (42 U.S.C. 2585(e)), is repealed.

SEC. 927. Section 626 of the Economic Opportunity Act of 1964, as added by section 9(d) of the Headstart, Economic Opportunity and Community Partnership Act of 1974 (42 U.S.C. 2971f), is repealed.

SEC. 928. The Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 et seq.), is amended as follows:

(a) Section 508 (42 U.S.C. 3188) is amended:

(1) by amending the last sentence of subsection (a) to read:

"A person who violates a provision of this subsection is guilty of a Class A misdemeanor.";

(2) by amending the last sentence of subsection (c) to read: "A person who violates a provision of this subsection is guilty of a Class A misdemeanor.";

(3) by deleting "sections 202 through 209 of title 18" in subsection (d) and inserting in lieu thereof "chapter 91 of title 5, United States Code, and subchapter F of chapter 13 of title 18"; and

(4) by deleting "sections 202 through 209, title 18" in subsection (e) and inserting in lieu thereof "chapter 91 of title 5, United States Code, and subchapter F of chapter 13 of title 18".

(b) Section 710 (42 U.S.C. 3220) is repealed.

SEC. 929. The Narcotic Addict Rehabilitation Act of 1966, as amended (42 U.S.C. 3401 et seq.), is amended as follows:

(a) Section 315 (42 U.S.C. 3425) is repealed.

(b) Section 316 (42 U.S.C. 3426) is repealed.

SEC. 930. The Act of April 11, 1968 (42 U.S.C. 3601 et seq.), is amended as follows:

(a) The last sentence of section 810(a) (42 U.S.C. 3610(a)) is amended to read: "An employee of the Secretary who makes public any information in violation of this provision is guilty of a Class B misdemeanor.".

(b) Section 811(f) (42 U.S.C. 3611(f)) is amended to read as follows:

"(f) Any person who, with intent thereby to mislead the Secretary, shall knowingly neglect or fail to make full, true, and correct entries in such reports, accounts, records, or other documents, is guilty of a Class A misdemeanor.".

(c) Section 901 (42 U.S.C. 3631) is repealed.

SEC. 931. The Omnibus Crime Control and Safe Streets Act, as amended (42 U.S.C. 3701 et seq.), is amended as follows:

(a) Section 524(c), as added by section 2 of the Act of August 6, 1973 (42 U.S.C. 3771 (c)), is amended by deleting "fined" and inserting in lieu thereof "subject to a civil penalty".

(b) Part H of title I, as added by section 10 of the Act of January 2, 1971, and amended (42 U.S.C. 3791 to 3793), is repealed.

SEC. 932. Section 333(f) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended (42 U.S.C. 4582(f)), is amended to read as follows:

"(f) A person who violates a provision of this section or a regulation issued pursuant to this section is guilty of an infraction, except that a person who is convicted of violating this provision shall not be sentenced to a term of imprisonment or probation and the maximum fine for a second or subsequent offense by an individual shall be $5,000.".

SEC. 933. The Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), is amended as follows:

(a) Section 11(a) (42 U.S.C. 4910(a)) is amended to read as follows:

"(a) A person who knowingly violates paragraph (1), (3), (5), or (6) of subsection (a) of section 10 of this Act commits an unlawful act that is an offense described in section 1853 of title 18, United States Code.".

(b) Section 13 (42 U.S.C. 4912) is amended:

(1) by deleting "1905 of title 18" in subsection (b)(1) and inserting in lieu thereof "9301 of title 5"; and

(2) by amending subsection (c) to read as follows:

"(c) A person who knowingly falsifies, tampers with, or renders inaccurate a monitoring device or method required to be maintained under this Act is guilty of a Class B misdemeanor.".

SEC. 934. Section 317 of the Disaster Relief Act of 1974 (42 U.S.C. 5157) is amended:

(a) by repealing subsection (a); and

(b) by deleting "subject to a fine" in subsection (c) and inserting in lieu thereof "guilty of an infraction, except that the fine shall be".

SEC. 935. The Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended as follows:

(a) Section 611(b) (42 U.S.C. 5410(b)) is amended:

(1) by deleting "and willfully"; and

(2) by deleting "shall be fined not more than $1,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(b) Section 621 (42 U.S.C. 5420) is amended:

(1) by deleting "and willfully"; and

(2) by deleting "may be fined up to $1,000 or imprisoned for up to one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 936. Section 10(b) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5909(b)) is amended:

(a) by deleting the word "and" at the end of paragraph (4);

(b) by deleting the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(c) by adding the following new paragraph at the end thereof:

"(6) section 1764 of title 18, United States Code.".

SEC. 937. The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended as follows:

(a) Section 3(9) (42 U.S.C. 6202(9)) is amended:

(1) by deleting the word "and" at the end of paragraph (D);

(2) by deleting the period at the end of paragraph (E) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(F) section 1764 of title 18, United States Code.".

(b) Section 254(e) (42 U.S.C. 6274(e)) is amended by deleting "1905 of title 18" and inserting in lieu thereof "9301 of title 5".

(c) Section 333 (42 U.S.C. 6303) is amended:

(1) by deleting "knowingly" in subsection (a) and inserting in lieu thereof "recklessly"; and

(2) by repealing subsection (b).

(d) Section 502(e)(2) (42 U.S.C. 6382(e)(2)) is amended to read as follows:

"(2) Any person who knowingly discloses information in violation of paragraph (1) is guilty of a Class B misdemeanor.".

(e) Section 522(d) (42 U.S.C. 6392(d)) is amended to read as follows:

"(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) is guilty of a Class A misdeameanor.".

(f) Section 525 (42 U.S.C. 6395) is amended:

(1) by amending subsection (b) to read as follows:

"(b) Whoever knowingly violates section 524 is guilty of an infraction, except that the maximum fine for an offense committed by an individual is $10,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.";

(2) by deleting "and willfully" in subsection (c);

(3) by deleting "shall be fined not more than $50,000 or imprisoned not more than 6 months, or both" in subsection (c) and inserting in lieu thereof "is guilty of a Class B misdemeanor, except that the maximum fine for an offense committed by an individual is $50,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher".

SEC. 938. The Solid Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.), is amended as follows:

(a) Section 1007(d) (42 U.S.C. 6906(d) is amended by deleting "shall be fined not more than $2,500 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(b) Section 3007(b) (42 U.S.C. 6927(b)) is amended by deleting "1905 of title 18" and inserting in lieu thereof "9301 of title 5".

(c) Section 3008(d) (42 U.S.C. 6928(d)) is amended to read as follows:

"(d) Criminal Offense.—A person who knowingly:

"(1) transports any hazardous waste listed under this subtitle to a facility which does not have a permit under section 3005 (or 3006 in the case of a State program); or

"(2) disposes of any hazardous waste listed under this subtitle without having obtained a permit therefor under this subtitle;

commits an unlawful act that is an offense described in section 1853(a)(4) of title 18, United States Code.".

PART II—AMENDMENTS RELATING TO PUBLIC LANDS, TITLE 43, UNITED STATES CODE

SEC. 941. "JOHNNY HORIZON" CHARACTER OR NAME.—

As used in this section, the name or character of "Johnny Horizon" means the representation of a tall, lean man, with strong facial features, who wears slacks and sport shirt buttoned to the collar (both green, when colored), no tie, a field jacket (red, when colored), boot-type shoes (brown, when colored) and who carries a backpack, which was originated by the Bureau of Land Management, United States Department of the Interior, as the official symbol for a public service anti-litter program to maintain the beauty and utility of the Nation's public lands. Whoever, except as authorized under rules and regulations issued by the Secretary of the Interior, knowingly manufactures, reproduces, or uses the character "Johnny Horizon", or any facsimile thereof, or the name "Johnny Horizon" as a trade name or mark, or in such a manner as suggests the character "Johnny Horizon", so that such use is likely to cause confusion, or to cause mistake, or to deceive, is guilty of a Class B misdemeanor.

This section shall not make unlawful the use of any such emblem, sign, insignia or words which was lawful on September 25, 1970.

A violation of this section may be enjoined at the suit of the Attorney General, upon complaint by the Secretary of the Interior.

SEC. 942. FIRES LEFT UNATTENDED AND UNEXTINGUISHED.—

Whoever, having kindled or caused to be kindled, a fire in or near any forest, timber or other inflammable material upon any lands owned controlled or leased by, or under the partial, concurrent, or exclusive jurisdiction of the United States including lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, and including any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under the authority of the United States, or any Indian allotment while the title to the same is held in trust by the United States, or while the same shall remain inalienable by the allottee without the consent of the United States, leaves said fire without totally extinguishing the same, or permits or suffers said fire to burn or spread beyond his control, or leaves or suffers said fire to burn unattended, is guilty of a Class B misdemeanor.

SEC. 943. BIDS AT LAND SALES.—

Whoever bargains, contracts, or agrees with another that such other shall not bid upon or purchase any parcel of lands of the United States offered at public sale; or

Whoever, by intimidation, combination, or unfair management, hinders or prevents any person from bidding upon or purchasing any tract of land so offered for sale—

Is guilty of a Class A misdemeanor.

SEC. 944. DECEPTION OF PROSPECTIVE PURCHASERS.—

Whoever, for a reward paid or promised to him in that behalf, undertakes to locate for an intending purchaser, settler, or entryman any public lands of the United States subject to disposition under the public-land laws, and who knowingly and falsely represents to such intending purchaser, settler, or entryman that any tract of land shown to him is public land of the United States subject to sale, settlement, or entry or that it is of a particular surveyed description, with intent to deceive the person to whom such representation is made, or who, in reckless disregard of the truth, represents to any such person that any tract of land shown to him is public land of the United States subject to sale, settlement, or entry, or that it is of a particular surveyer description, thereby deceiving the person to whom such representation is made, is guilty of a Class A misdemeanor.

SEC. 945. SURVEY MARKS REMOVED.—Whoever knowingly destroys, defaces, changes or removes to another place any section corner, quarter-section corner, or meander post, on any Government line of survey, or knowingly cuts down any witness tree or any tree blazed to mark the line of a Government survey, or knowingly defaces, changes, or removes any monument or bench mark of any Government survey, shall be guilty of a Class B misdemeanor.

SEC. 946. The Act of January 31, 1903 (43 U.S.C. 102 et seq.), is amended as follows:

(a) Section 3, as amended (43 U.S.C. 104), is repealed.

(b) Section 4, as amended (43 U.S.C. 105), is amended:

(1) by deleting "commissioner" in the second sentence and inserting in lieu thereof "magistrate"; and

(2) by amending the third sentence to read: "Subpoenas for witnesses before the officer taking depositions may issue from the office of the officer designated by the Secretary of the Interior or may be issued by the officer taking the depositions; and the witness shall receive the same fees and mileage as in the case of a subpoena to appear before the officer designated by the Secretary of the Interior and subject to the same limitations."

SEC. 947. The last sentence of section 2 of the Taylor Grazing Act (43 U.S.C. 315a), is amended by deleting "willful violation of the provisions of this Act or of such rules and regulations thereunder after actual notice thereof shall be punishable by a fine of not more than $500" and inserting in lieu thereof "person who knowingly violates a provision of this Act or of a rule or regulation thereunder after actual notice thereof is guilty of an infraction".

SEC. 948. Section 12 of the Act of March 4, 1927 (43 U.S.C. 316k), is amended:

(a) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(b) by deleting ", upon conviction, be punished by a fine of not more than $500" and inserting in lieu thereof "be guilty of an infraction".

SEC. 949. Section 3 of the Act of August 21, 1916 (43 U.S.C. 362), is amended:

(a) by deleting the words "willfully or maliciously" wherever they appear and inserting in lieu thereof "knowingly";

(b) by deleting "injure, destroy, deface, or"; and

(c) by deleting "fined not more than $1,000 or imprisoned not more than three years, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 950. Section 4 of the Act of February 25, 1885, as amended (43 U.S.C. 1064), is amended to read as follows:

"SEC. 4. That a person who violates a provision hereof is guilty of a Class A misdemeanor.".

SEC. 951. Section 2 of the Act of June 3, 1948 (43 U.S.C. 1212), is amended by deleting "section 35(A) of the Criminal Code (35 Stat. 1095, 18 U.S.C. Sec. 80), as amended" and inserting in lieu thereof "section 1343 of title 18, United States Code".

SEC. 952. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended as follows:

(a) The second sentence of section 4(e)(2) (43 U.S.C. 1333(e)(2)) is amended by deleting "a misdemeanor and shall be fined not more than $100 for each offense" and inserting in lieu thereof "an infraction".

(b) The first sentence of section 5(a)(2) (43 U.S.C. 1334(a)(2)) is amended to read: "A person who knowingly violates a rule or regulation prescribed by the Secretary for the prevention of waste, the conservation of the natural resources, or the protection of correlative rights is guilty of a Class B misdemeanor, and each day of violation is a separate offense.".

SEC. 953. Section 8(a) of the Act of September 19, 1964, as amended (43 U.S.C. 1398(a)), is amended by deleting "sections 102–104, inclusive, of the Revised Statutes (2 U.S.C. 192–194)" and inserting in lieu thereof "sections 103 and 104 of the Revised Statutes (2 U.S.C. 193 and 194) and sections 1332 and 1333 of title 18, United States Code".

SEC. 954. Section 20(f)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1619 (f)(2)) is amended by deleting "misdemeanor and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than twelve months, or both" and inserting in lieu thereof "Class A misdemeanor".

SEC. 955. The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) is amended as follows:

(a) Section 303(a) (43 U.S.C. 1733(a)) is amended:

(1) by amending the second sentence to read: "A person who knowingly violates a regulation which is lawfully issued pursuant to this Act is guilty of a Class A misdemeanor."; and

(2) by deleting the third sentence.

(b) Section 313(d) (43 U.S.C. 1743(d)) is amended by deleting "shall be fined not more than $2,500 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(c) Section 510(c)(2) (43 U.S.C. 1770(c)(2)) is amended:

(1) by deleting the word "and"; and

(2) by adding after the words "August 27, 1894" the words "; and section 1764 of title 18, United States Code".

PART JJ—AMENDMENTS RELATING TO PUBLIC PRINTING AND DOCUMENTS, TITLE 44, UNITED STATES CODE

SEC. 956. (a) Section 442 of title 18, United States Code, as it existed on the day before the effective date of this Act, is reenacted and redesignated as section 518 of title 44, United States Code, and amended by deleting "shall be fined not more than $1,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "is guilty of a Class A misdemeanor".

(b) The analysis at the beginning of 287 chapter 5 of title 44, United States Code, is

amended by adding at the end thereof the following new item:

"518. Printing Contracts.".

PART KK—AMENDMENTS RELATING TO RAILROADS, TITLE 45, UNITED STATES CODE

SEC. 957. Section 2 of the Act of May 6, 1910 (45 U.S.C. 39), is amended to read as follows:

"SEC. 2. That any common carrier failing to make such report within thirty days after the end of the month is guilty of an infraction, except that the maximum fine is $100 for each day during which it fails to make the report after the time herein specified for making the same or the maximum fine available under section 2201 of title 18, United States Code, whichever is higher. In lieu of the foregoing, any such carrier may be required to pay a civil penalty pursuant to subsections (b) and (c) of section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(b)).".

SEC. 958. Section 10 of the Employers' Liability Act of 1908, as added by section 3 of the Act of August 11, 1939 (45 U.S.C. 60), is amended by deleting ", upon conviction thereof, be punished by a fine of not more than $1,000 or imprisoned for not more than one year, or by both such fine and imprisonment, for each offense" and inserting in lieu thereof "be guilty of a Class A misdemeanor".

SEC. 959. Section 5(c) of the Hours of Service Act, as added by section 1 of the Act of December 26, 1969 (45 U.S.C. 64a(c)), is amended by deleting "prosecutions" and inserting in lieu thereof "suits".

SEC. 960. Section 4 of the Act of September 3, 5, 1916 (45 U.S.C. 66), is amended to read as follows:

"SEC. 4. That a person who violates a provision of this Act is guilty of a Class A misdemenor".

SEC. 961. Section 3 of the Cruelty to Animals Act (45 U.S.C. 73) is amended by deleting "and willfully".

SEC. 962. Section 5256 of the Revised Statutes (45 U.S.C. 81) is amended by deleting "punished by imprisonment not exceeding two years, and by fine not exceeding five thousand dollars" in the last sentence and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 963. Section 15 of the Act of July 2, 1864, as amended (45 U.S.C. 83), is amended by deleting "deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not exceeding one thousand dollars, and may be imprisoned not less than six months" and inserting in lieu thereof "guilty of a Class B Misdemeanor".

SEC. 964. The first sentence of the tenth paragraph of section 2 of the Railroad Labor Act, as amended (45 U.S.C. 152), is amended to read: "Any carrier which, being aware of a legal duty under the terms of the third, fourth, fifth, seventh, or eighth paragraph of this section intentionally violates such duty, is guilty of a Class B misdemeanor, except that the maximum fine is $20,000 for an individual. Each day during which a carrier knowingly fails to comply with the said paragraphs of this section shall constitute a separate offense.".

SEC. 965. Section 13(a) of the Railroad Retirement Act of 1935, as amended (45 U.S.C. 231*l*(a)), is amended by deleting "punished by a fine of not more than $10,000 or by imprisonment not exceeding one year, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 966. The Railroad Unemployment Insurance Act, as (45 U.S.C. 351 et seq.), is amended as follows:

(a) Section 4(a-2)(i)(B), as amended (45 U.S.C. 354(a-2)(i)(B)), is amended by adding after the words "of this Act" the words "and section 1343 of title 18, United States Code".

(b) The last sentence of section 5(i), is amended (45 U.S.C. 355 (i)), is amended to read: "A person who violates a provision of this subsection is guilty of a Class A misdemeanor.".

(c) Section 9 (45 U.S.C. 359) is amended:

(1) by amending subsection (a) to read as follows:

"(a) A person who knowingly fails or refuses to make a report or furnish information required by the Board in the administration of this Act is guilty of a Class A misdemeanor.";

(2) by deleting "punished for each such violation by a fine of not more than $10,000 or by imprisonment not exceeding one year, or both" in subsection (b) and inserting in lieu thereof "guilty of a Class A misdemeanor";

(3) by deleting "punished for each such violation by a fine of not more than $1,000 or by imprisonment not exceeding one year, or both" in subsection (c) and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 967. Section 209(c) of the Federal Railroad Saftey Act of 1970 (45 U.S.C. 438 (c)) is amended by deleting "offense" and inserting in lieu thereof "violation".

PART LL—AMENDMENTS RELATING TO SHIPPING, TITLE 46, UNITED STATES CODE

SEC. 973. DEFINITIONS.—

As used in section 973 and 974 of this Act:

The term "gambling ship" means a vessel used principally for the operation of one or more gambling establishments.

The term "gambling establishment" means any common gaming or gambling establishment operated for the purpose of gaming or gambling, including accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value.

The term "vessel" includes every kind of water and air craft or other contrivance used or capable of being used as a means of transportation on water, or on water and in the air, as well as any ship, boat, barge, or other water craft or any structure capable of floating on the water.

The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented or numbered under any laws of the foreign country, if such vessel is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

SEC. 974. TRANSPORTATION BETWEEN SHORE AND SHIP; PENALTIES.—

(a) It is unlawful to operate or use, or to permit the operation or use of, a vessel for the carriage or transportation or for any part of the carriage or transportation, either directly or indirectly, of any passengers, for hire or otherwise, between a point or place within the United States and a gambling ship which is not within the jurisdiction of any State. This section does not apply to any carriage or transportation to or from a vessel in case of emergency involving the safety or protection of life or property.

(b) The Secretary of the Treasury shall prescribe necessary and reasonable rules and regulations to enforce this section and to prevent violations of its provisions.

For the operation or use of any vessel in violation of this section or of any rule or regulation issued hereunder, the owner or charterer of such vessel shall be subject to a civil penalty of $200 for each passenger carried or transported in violation of such provisions, and the master or other person in charge of such vessel shall be subject to a civil penalty of $300. Such penalty shall constitute a lien on such vessel, and proceedings to enforce such lien may be brought summarily by way of libel in any court of the United States having jurisdiction thereof. The Secretary of the Treasury may mitigate or remit any of the penalties provided by this section on such terms as he deems proper.

SEC. 975. ABANDONMENT OF SAILORS.—

Whoever, being master or commander of a vessel of the United States, while abroad, maliciously and without justifiable cause forces any officer or mariner of such vessel on shore, in order to leave him behind in any foreign port or place, or refuses to bring home again all such officers and mariners of such vessel whom he carried out with him, as are in a condition to return and willing to return, when he is ready to proceed on his homeward voyage, is guilty of a Class B misdemeanor.

SEC. 976. EXPLOSIVES OR DANGEROUS WEAPONS ABOARD VESSELS.—

(a) Whoever brings, carries, or possesses any dangerous weapon, instrument, or device, or any dynamite, nitroglycerin, or other explosive article or compound on board of any vessel registered, enrolled, or licensed under the laws of the United States, or any vessel purchased, requisitioned, chartered, or taken over by the United States pursuant to the provisions of the Act of June 6, 1941, ch. 174, 55 Stat. 242, as amended, without previously obtaining the permission of the owner or the master of such vessel; or

Whoever brings, carries, or possesses any such weapon or explosive on board of any vessel in the possession and under the control of the United States or which has been seized and forfeited by the United States or upon which a guard has been placed by the United States pursuant to the provisions of section 1 of title II of the Act of June 15, 1917, as amended (50 U.S.C. 191), without previously obtaining the permission of the captain of the port in which such vessel is located, is guilty of a Class A misdemeanor.

(b) This section shall not apply to the personnel of the Armed Forces of the United States or to officers or employees of the United States or of a State or of a political subdivision thereof, while acting in the performance of their duties, who are authorized by law or by rules or regulations to own or possess any such weapon or explosive.

SEC. 977. VESSELS CARRYING EXPLOSIVES AND STEERAGE PASSENGERS.—

The amount of any fine imposed upon the master of a steamship or other vessel under the provisions of section 976 of this Act shall be a lien upon such vessel, and such vessel may be libeled therefor in the district court of the United States for any district in which such vessel shall arrive or from which it shall depart.

SEC. 978. FORFEITURE OF MISUSED VESSEL.—

If with the knowledge of the owner or master or other person in charge or command thereof, the owner, master or person in charge or command of only private vessel, foreign or domestic, or a member of the crew or other person, within the territorial waters of the United States, knowingly causes or permits the destruction or injury of such vessel or knowingly permits said vessel to be used as a place of resort for any person conspiring with another or preparing to commit any offense against the United States, or any offense in violation of the treaties of the United States or of the obligations of the United States under the law of nations, or to defraud the United States; or knowingly permits such vessel to be used in violation of the rights and obligations of the United States under the law of nations, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws.

SEC. 979. BOARDING VESSELS BEFORE ARRIVAL.—

Whoever, not being in the United States service, and not being duly authorized by law for the purpose, goes on board any vessel about to arrive at the place of her destination, before her actual arrival, and before she has been completely moored, is guilty of a Class B misdemeanor.

The master of such vessel may take any such person into custody, and deliver him up forthwith to any law enforcement officer, to be by him taken before any committing magistrate, to be dealt with according to law.

SEC. 980. Section 5294 of the Revised Statutes, as amended (46 U.S.C. 7), is amended by deleting "fine, penalty," and inserting in lieu thereof "penalty".

SEC. 981. Section 26 of the Act of June 26, 1884, as amended (46 U.S.C. 8), is amended by deleting the word "fine," wherever it appears.

SEC. 982. Section 4144 of the Revised Statutes (46 U.S.C. 22) is amended by deleting, "but the master shall be liable to a penalty of one thousand dollars".

SEC. 983. Section 4146 of the Revised Statutes, as amended (46 U.S.C. 23), is amended by deleting "willful negligence" in the last paragraph and inserting in lieu thereof "recklessness".

SEC. 984. Section 4177 of the Revised Statutes, as amended (46 U.S.C. 45), is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 985. Section 4187 of the Revised Statutes, as amended (46 U.S.C. 58), is repealed.

SEC. 986. Section 4188 of the Revised Statutes (46 U.S.C. 59) is amended to read as follows:

"SEC. 4188. If any person authorized and required by this title to perform, as an officer, any act or thing, knowingly neglects to do or perform the same, according to the true intent and meaning of this title, he shall, if not subject to section 1301 or 1343 of title 18, United States Code, or subchapter F of chapter 13 of title 18, United States Code, and to the disqualification prescribed in section 4187 of this title, be subject to a civil penalty of $500.".

SEC. 987. Section 4191 of the Revised Statutes (46 U.S.C. 62) is repealed.

SEC. 988. Section 4153 of the Revised Statutes, as amended (46 U.S.C. 77(j)), is amended by deleting "fine" in the last sentence and inserting in lieu thereof "civil penalty".

SEC. 989. Section 13 of the Act of September 29, 1965 (46 U.S.C. 831), is repealed.

SEC. 990. Section 11 of the International Voyage Load Line Act of 1973 (46 U.S.C. 86l) is amended:

(a) by deleting "shall be fined not more than $1,000 or imprisoned not more than one year, or both" in subsection (d) and inserting in lieu thereof "is guilty of a Class A misdemeanor"; and

(b) by deleting "shall be fined not more than $2,000 or imprisoned not more than two years, or both" in subsection (e) and inserting in lieu thereof "is guilty of a Class A misdemeanor".

SEC. 991. Section 8 of the Coastwise Load Line Act, 1935, as amended (46 U.S.C. 88g), is amended:

(a) by deleting the word "offense" wherever it appears in subsections (a), (b), and (c) and inserting in lieu thereof the word "violation";

(b) by deleting "or attempt to cause" in subsection (d);

(c) by deleting ", in respect of each offense, be guilty of a misdemeanor and shall be punished by a fine not to exceed $1,000 or by imprisonment not to exceed three months or both such fine and imprisonment, in the discretion of the court" in subsection (d) and inserting in lieu thereof "be guilty of a Class B misdemeanor";

(d) by deleting "or shall suffer any person under his control to conceal, remove, alter, deface, or obliterate" in subsection (e); and

(e) by deleting "in respect of each offense be guilty of a misdemeanor and shall be punished by a fine not to exceed $2,000, or by imprisonment not to exceed one year, or both such fine and imprisonment, in the discretion of the court" in subsection (e) and inserting in lieu thereof "be guilty of a Class A misdemeanor".

SEC. 992. Section 4197 of the Revised Statutes, as amended (46 U.S.C. 91), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 993. Section 4123 of the Revised Statutes, as amended (46 U.S.C. 101, is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 994. Section 17 of the Act of June 19, 1886 (46 U.S.C. 142), is amended by deleting "misdemeanor, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years" and inserting in lieu thereof "Class A misdemeanor".

SEC. 995. The last sentence of the Act of March 3, 1887 (46 U.S.C. 143), is amended by deleting "deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding two years, or by both said punishments, in the discretion of the court" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 996. The Passenger Act of 1882, as amended (46 U.S.C. 151 et seq.), is amended as follows:

(a) The second sentence of the first paragraph of section 1, as amended (46 U.S.C. 151), is amended to read: "The master of a vessel coming to a port or place in the United States in violation of a provision of this section shall be guilty of an infraction; and if the number of steerage passengers carried or brought in the vessel, or in any compartment, space, poop or deck house thereof, is greater than the number allowed to be carried or brought therein, respectively, as hereinafter prescribed, the said master shall be guilty of a Class B misdemeanor.".

(b) The last sentence of section 2 (46 U.S.C. 152) is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

(c) The sixth sentence of section 4 (46 U.S.C. 154) is amended to read: "A master of a vessel who knowingly violates a provision of this section is guilty of a Class B misdemeanor.".

(d) The last sentence of section 8, as amended (46 U.S.C. 156a), is amended by deleting "deemed guilty of a misdemeanor, and shall be fined not exceeding one thousand dollars, and be imprisoned for a period not exceeding one year" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(e) Section 7 (46 U.S.C. 157) is amended to read as follows:

"SEC. 7. That neither the officers, seamen, nor other persons employed on any such steamship or other vessel shall visit or frequent any part of the vessel provided or assigned to the use of such passengers, except by the direction or permission of the master of such vessel first made or given for such purpose. Any officer, seaman, or other person employed on board of such vessel who violates the provisions of this section shall be guilty of an infraction. The master of such vessel who directs or permits any officer, seaman, or other person employed on board the vessel to visit or frequent any part of the vessel provided for or assigned to the use of such passengers, or the compartments or spaces occupied by such passengers, except for the purpose of doing or performing some necessary act or duty as an officer, seaman, or other person employed on board of the vessel shall be guilty of an infraction. A copy of this section, written or printed in the language or principal languages of the passengers on board, shall, by or under the direction of the master of the vessel, be posted in a conspicuous place on the forecastle and in the several parts of the vessel provided and assigned for the use of such passengers, and in each compartment or space occupied by such passengers, and the same shall be kept so posted during the voyage; and if any such master neglects so to do, he shall be guilty of an infraction."

(f) Section 9, as amended (46 U.S.C. 158), is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

(g) Section 12 (46 U.S.C. 161) is amended by deleting "deemed guilty of a misdemeanor, and may be fined not exceeding one thousand dollars, and be imprisoned not exceeding one year" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 997. Section 2 of the Act of March 31, 1900, as amended (46 U.S.C. 163), is amended to read: "A person who violates such a regulation is guilty of a Class B misdemeanor.".

SEC. 998. Section 4472 of the Revised Statutes, as amended (46 U.S.C. 170), is amended:

(a) by deleting "Interstate Commerce Commission under section 835 of title 18 of the United States Code" in subsection (7) (e) and inserting in lieu thereof "Secretary of Transportation under section 1105 of the Criminal Code Reform Act of 1977"; (b) by amending the first sentence of subsection (14) to read: "Whoever shall knowingly violate a provision of this section, or of a regulation established under this section, commits an unlawful act that is an offense described in section 1821(a)(3)(A) of title 18, United States Code."; and

(c) by amending subsection (15) to read as follows:

"(15) Whoever knowingly violates a provision of this section or a regulation made in pursuance thereof is guilty of a Class A misdemeanor.".

SEC. 999. Section 5 of the Act of February 13, 1893 (46 U.S.C. 194), is amended:

(a) by deleting the word "fine" wherever it appears and inserting in lieu thereof "civil penalty";

(b) by deleting "vessel guilty of" and inserting in lieu thereof "vessel who committed"; and

(c) by deleting "is guilty of" and inserting in lieu thereof "has committed".

SEC. 1000. Section 4292 of the Revised Statutes (46 U.S.C. 203) is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1001. Section 4442 of the Revised Statutes, as amended (46 U.S.C. 214), is amended by deleting "willful" and inserting in lieu thereof "knowing".

SEC. 1002. Section 4438 of the Revised Statutes, as amended (46 U.S.C. 224), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1003. Section 4438a of the Revised Statutes, as added by the Act of July 17, 1939, and amended (46 U.S.C. 224a), is amended:

(a) by deleting "offense" in subsection (5) and inserting in lieu thereof "violation"; and

(b) by deleting "fine or" in subsection (10).

SEC. 1004. Section 4439 of the Revised Statutes, as amended (46 U.S.C. 226), is amended by deleting "willful" and inserting in lieu thereof "knowing".

SEC. 1005. Section 4440 of the Revised Statutes, as amended (46 U.S.C. 228), is amended by deleting "willful" and inserting in lieu thereof "knowing".

SEC. 1006. Section 4441 of the Revised Statutes, as amended (46 U.S.C. 229), is amended by deleting "willful" and inserting in lieu thereof "knowing".

SEC. 1007. The Act of May 12, 1948 (46 U.S.C. 229a et seq.), is amended as follows:

(a) Section 2 (46 U.S.C. 229b) is amended by deleting "offense" and inserting in lieu thereof "violation".

(b) Section 5 (46 U.S.C. 229e) is amended:

(1) by repealing the third paragraph; and

(2) by deleting ", for every such offense, upon conviction, be punished by a fine of not more than $500 or by imprisonment at hard labor for a term not exceeding three years" and inserting in lieu thereof "be guilty of a Class A misdemeanor".

(c) Section 6 (46 U.S.C. 229f) is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 1008. Section 4445 of the Revised Statutes, as amended (46 U.S.C. 231), is amended:

(a) by deleting the third paragraph; and

(b) by deleting ", for every such offense, upon conviction, be punished by a fine of not more than five hundred dollars or by imprisonment at hard labor for a term not exceeding three years" and inserting in lieu thereof "be guilty of a Class A misdemeanor".

SEC. 1009. Section 4446 of the Revised Statutes, as amended (46 U.S.C. 232), is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 1010. The last sentence of section 3 of the Act of May 11, 1918 (46 U.S.C. 235), is amended to read: "A person who violates this section shall be subject to a civil penalty of $100.".

SEC. 1011. Section 4450 of the Revised Statutes, as amended (46 U.S.C. 239), is amended:

(a) by deleting "willfully" in subsection (g) and inserting in lieu thereof "knowingly"; and

(b) by repealing subsection (i).

SEC. 1012. Section 5 of the Act of August 1, 1939 (46 U.S.C. 246), is amended:

(a) by deleting "offense" in subsection (a) and inserting in lieu thereof "violation";

(b) by deleting "punished by a fine" in subsection (b) and inserting in lieu thereof "subject to a civil penalty"; and

(c) by deleting "willful" in subsection (c) and inserting in lieu thereof "knowing".

SEC. 1013. The last sentence of section 4 of the Act of July 24, 1956 (46 U.S.C. 249c), is amended to read: "Whoever violates a provision of this section is guilty of a Class B misdemeanor.".

SEC. 1014. Section 4311(c) of the Revised Statutes, as amended (46 U.S.C. 251(c)), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1015. Section 2 of the Act of September 13, 1961 (46 U.S.C. 251a), is amended by deleting "fine, penalty," and inserting in lieu thereof "penalty".

SEC. 1016. Section 4336 of the Revised Statutes, as amended (46 U.S.C. 277), is amended by deleting "willful, in which case he shall be liable to a penalty of $1,000 and to a fine of not more than $1,000 or imprisonment for not more than one year, or both" and inserting in lieu thereof "done knowingly, in which case he shall be guilty of a Class A misdemeanor".

SEC. 1017. Section 4370(a) of the Revised Statutes, as amended (46 U.S.C. 316(a)), is amended:

(a) by deleting "fine" and inserting in lieu thereof "civil penalty"; and

(b) by deleting "fines" and inserting in lieu thereof "civil penalties".

SEC. 1018. The Act of June 19, 1886, as amended (46 U.S.C. 319 et seq.), is amended as follows:

(a) Section 7, as amended (46 U.S.C. 319), is amended by deleting the word "fine" every place it appears and inserting in lieu thereof the words "civil penalty".

(b) Section 9, as amended (46 U.S.C. 320), is amended:

(1) by deleting "fines" and inserting in lieu thereof "civil penalties";

(2) by deleting "offense" and inserting in lieu thereof "violation"; and

(3) by deleting "willfully" and inserting in lieu thereof "knowingly";

SEC. 1019. Section 4373 of the Revised Statutes, as amended (46 U.S.C. 321), is amended:

(a) by deleting "willfully" and inserting in lieu thereof "knowingly";

(b) by deleting ", shall be liable to a penalty of five hundred dollars, and" and inserting in lieu thereof "shall"; and

(c) by adding at the end thereof: "A person who commits a violation of this section not covered by title 18 of the United States Code shall be subject to a civil penalty of $500.".

SEC. 1020. Section 4374 of the Revised Statutes (46 U.S.C. 322) is amended:

(a) by deleting "willfully" and inserting in lieu thereof "knowingly";

(b) by adding after the words "in the preceding section" the words "or in title 18, United States Code"; and

(c) by deleting the word "offense" wherever it appears and inserting in lieu thereof the word "violation".

SEC. 1021. Section 4375 of the Revised Statutes (46 U.S.C. 323) is amended by deleting "shall be liable to a penalty of five hundred dollars" and inserting in lieu thereof "commits an unlawful act that is an offense described in section 1741 or 1742 of title 18, United States Code."

SEC. 1022. Section 4376 of the Revised Statutes (46 U.S.C. 324) is repealed.

SEC. 1023. Section 5(e) of the Act of May 27, 1936, as amended (46 U.S.C. 369(e)), is amended to read as follows:

"(e) That a person who alters, defaces, obliterates, removes, or destroys any plans or specifications approved as provided in this Act, with intent to deceive or delay any officer of the United States in the discharge of his duties under this Act, commits an unlawful act that is an offense described in section 1344 of title 18, United States Code.".

SEC. 1024. Section 4417a(11)(B) of the Revised Statutes, as added by the Act of June 23, 1936, and amended (46 U.S.C. 391a(11)(B)), is amended to read as follows:

"(B) The owner, master, or person in charge of any vessel subject to the provisions of this section who knowingly violates a provision of this section or a rule or regulation established hereunder, is guilty of a Class A misdemeanor, except that the maximum fine for an individual offender shall be $50,000, or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

SEC. 1025. Section 13 of the Act of May 28, 1908 (46 U.S.C. 398), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1026. Section 4424 of the Revised Statutes, as amended (46 U.S.C. 402), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1027. Section 4425 of the Revised Statutes (46 U.S.C. 403) is repealed.

SEC. 1028. The first sentence of section 4429 of the Revised Statutes, as amended (46 U.S.C. 407), is amended by deleting "fined" and inserting in lieu thereof "liable to a civil penalty of".

SEC. 1029. Section 4430 of the Revised Statutes, as amended (46 U.S.C. 408), is amended by deleting ": *Provided*, That any person, firm, or corporation who affixes any false, forged, fraudulent, spurious, or counterfeit of the stamp herein authorized to be put on by a Coast Guard official shall be deemed guilty of a felony and shall be fined not less than $1,000 nor more than $5,000 and imprisoned not less than two years nor more than five years".

SEC. 1030. Section 4432 of the Revised Statutes, as amended (46 U.S.C. 410), is amended to read as follows:

"SEC. 4432. A person who counterfeits a mark or stamp prescribed for iron or steel plates or other material tested or inspected under this Act, or who knowingly stamps any such plates or material; and a person who stamps or marks any such plates or material with the name or trademark of another, with the intent to mislead or deceive, shall be guilty of a Class A misdemeanor.".

SEC. 1031. Section 4437 of the Revised Statutes, as amended (46 U.S.C. 413), is amended:

(a) by deleting "intentionally" and inserting in lieu thereof "knowingly"; and

(b) by deleting "misdemeanor, and shall be fined two hundred dollars, and may also be imprisoned not exceeding five years" and inserting in lieu thereof "Class A misdemeanor".

SEC. 1032. Section 4454 of the Revised Statutes, as amended (46 U.S.C. 436), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1033. Section 4465 of the Revised Statutes, as amended (46 U.S.C. 452), is amended by deleting "liable to a fine of not more than $100 or imprisonment of not more than thirty days, or both" and inserting in lieu thereof "guilty of a Class C misdemeanor".

SEC. 1034. Section 2 of the Act of March 3, 1891, as amended (46 U.S.C. 466b), is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

SEC. 1035. Section 4478 of the Revised Statutes (46 U.S.C. 471) is amended by deleting "fined" and inserting in lieu thereof "liable to a civil penalty of".

SEC. 1036. Section 4486 of the Revised Statutes (46 U.S.C. 479) is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 1037. Section 4488(d) of the Revised Statutes, as amended (46 U.S.C. 481(d), is amended:

(a) by deleting "willfully and"; and

(b) by deleting "fined not more than $10,000 and may, in addition thereto, in the discretion of the Court, be imprisoned for a term not exceeding five years" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 1038. Section 4493 of the Revised Statutes (46 U.S.C. 491) is amended by deleting "willful" and inserting in lieu thereof "knowing".

SEC. 1039. Section 4497 of the Revised Statutes (46 U.S.C. 495) is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1040. The first sentence of section 4499 of the Revised Statutes, as amended (46 U.S.C. 497), is amended by deleting the word "offense" each time it appears and inserting in lieu thereof the word "violation".

SEC. 1041. Section 4500 of the Revised Statutes (46 U.S.C. 498) is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 1042. Section 15 of the Act of April 25, 1940 (46 U.S.C. 526n), is amended by deleting "section 13" and inserting in lieu thereof "section 12(c) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1461 (c))".

SEC. 1043. Section 17 of the Act of April 25, 1940, as amended (46 U.S.C. 526p), is amended:

(a) by deleting "fine, penalty," in the second sentence and inserting in lieu thereof "penalty"; and

(b) by deleting, "except the penalties provided for in section 14 hereunder".

SEC. 1044. Section 4595 of the Revised Statutes, as amended (46 U.S.C. 542a), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1045. Section 2 of the Act of June 19, 1886, as amended (46 U.S.C. 563), is amended by deleting "deemed guilty of a misdemeanor, and shall be imprisoned not more than six months or fined not more than five hundred dollars, or both" in the last sentence and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 1046. Section 4511 of the Revised Statutes, as amended (46 U.S.C. 564), is amended by deleting "fines" in paragraph Seventh and inserting in lieu thereof "penalties".

SEC. 1047. Section 4514 of the Revised Statutes (46 U.S.C. 567) is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1048. Section 10 of the Act of June 26, 1884, as amended (46 U.S.C. 599), is amended:

(a) by amending the second sentence of subsection (a) to read: "Any person violating any of the foregoing provisions of this section is guilty of a Class B misdemeanor.";

(b) by amending the last sentence of subsection (a) to read: "If any person shall demand or receive from any seaman or other person seeking employment, as seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, he shall be guilty of a Class B misdemeanor."; and

(c) by amending the second sentence of subsection (d) to read: "Except as provided in section 1731 of title 18, United States Code, any person who shall falsely claim to be such relation, as above-described, or to be a savings bank and as such an allottee of the seaman under this section, is guilty of a Class B misdemeanor.".

SEC. 1049. Section 4540 of the Revised Statutes, as amended (46 U.S.C. 623), is amended by deleting the word "offense" wherever it appears and inserting in lieu thereof the word "violation".

SEC. 1050. Section 4550 of the Revised Statutes, as amended (46 U.S.C. 642), is amended by deleting "offense" in the first sentence and inserting in lieu thereof "violation".

SEC. 1051. Section 4551 of the Revised Statutes, as amended (46 U.S.C. 643), is amended:

(a) by deleting the last sentence of subsection (a) and inserting in lieu thereof: "A person who issues any such book or certificate, or makes a statement or endorsement therein, except as authorized by the provisions of this section, or issues an imitation of any such book or certificate is guilty of a Class C misdemeanor.";

(b) by deleting "be deemed guilty of a misdemeanor; and, on conviction thereof, shall be punishable by a fine of not more than $1,000 or imprisonment for not more than one year, at the discretion of the court" in the first paragraph of subsection (g) and inserting in lieu thereof "guilty of a Class A misdemeanor";

(c) by deleting "be deemed guilty of a misdemeanor and, on conviction thereof before any district court of the United States, shall be fined not more than $1,000 or imprisoned for not more than one year, in the discretion of the court" in the second paragraph of subsection (g) and inserting in lieu thereof "commit an unlawful act that is an offense described in section 1343 of title 18, United States Code";

(d) by deleting "fined" in subsection (k) and inserting in lieu thereof "liable to a civil penalty"; and

(e) by deleting "offense" in subsection (k) and inserting in lieu thereof "violation".

SEC. 1052. Section 4555 of the Revised Statutes, as amended (46 U.S.C. 652), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1053. The third sentence of section 4561 of the Revised Statutes, as amended (46 U.S.C. 658), is amended to read: "Except as provided in section 1617 of title 18, United States Code, if a person knowingly sends an American ship to sea, in the foreign or coastwise trade, in such an unseaworthy state that the life of any person is likely to be thereby endangered, he shall be guilty of a Class A misdemeanor. It shall be an affirmative defense that either he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in an unseaworthy state was, under the circumstances reasonable and justifiable.".

SEC. 1054. Section 4563 of the Revised Statutes (46 U.S.C. 660) is amended by deleting "punishable by a fine of one hundred dollars for each offense" and inserting in lieu thereof "subject to a civil penalty of $100 for each violation".

SEC. 1055. Section 4(b) of the Act of June 25, 1936, as amended (46 U.S.C. 660a(b)), is amended by deleting "willfully" and inserting in lieu thereof "knowingly".

SEC. 1056. Section 4568 of the Revised Statutes, as amended (46 U.S.C. 665), is amended by deleting "willfully" in the first sentence and inserting in lieu thereof "knowingly".

SEC. 1057. Section 4570 of the Revised Statutes (46 U.S.C. 667), is amended:

(a) by deleting the word "offense" each time it appears and inserting in lieu thereof the word "violation"; and

(b) by deleting "offenses" and inserting in lieu thereof "violations".

SEC. 1058. Section 4571 of the Revised Statutes (46 U.S.C. 668) is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1059. Section 13 of the Act of March 4, 1915, as amended (46 U.S.C. 672), is amended:

(a) by deleting "deemed guilty of perjury and upon conviction thereof shall be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or by both such fine and imprisonment, within the discretion of the court" in subsection (d) and inserting in lieu thereof "guilty of perjury under section 1341 of title 18, United States Code"; and

(b) by deleting "offense" in subsection (i) and inserting in lieu thereof "violation".

SEC. 1060. Section 5(d) of the Act of June 25, 1936, as amended (46 U.S.C. 672a(d)), is amended by deleting "offense" and inserting in lieu thereof "violation".

SEC. 1061. Section 4575 of the Revised Statutes, as amended (46 U.S.C. 676), is amended by deleting "punishable by a fine of one hundred dollars for each offense" and inserting in lieu thereof "subject to a civil penalty of $100 for each violation".

SEC. 1062. Section 4576 of the Revised Statutes, as amended (46 U.S.C. 677), is amended by deleting "offenses against" and inserting in lieu thereof "violations of".

SEC. 1063. Section 4582 of the Revised Statutes, as amended (46 U.S.C. 684), is amended by deleting "fine" and inserting in lieu thereof "civil penalty".

SEC. 1064. Section 4596 of the Revised Statutes, as amended (46 U.S.C. 701), is amended:

(a) by adding before the words "as follows" in the introductory paragraph the words "as provided in title 18, United States Code, and";

(b) by deleting "willful" in paragraph Fourth and inserting in lieu thereof "knowing";

(c) by deleting "placed in irons" in paragraph Fourth and inserting in lieu thereof "detained";

(d) by amending paragraph Fifth to read as follows:

"Fifth. For continued knowing disobedience or continued knowing neglect of duty at sea, upon arrival in port he may be found guilty of a Class C misdemeanor, except that, notwithstanding the provisions of section 2201 of title 18, United States Code, the maximum fine shall be twelve days' pay.";

(e) by deleting "by imprisonment for not more than two years" in paragraph Sixth and inserting in lieu thereof "be subject to punishment for violation of subchapter B of chapter 16 of title 18, United States Code";

(f) by deleting "willfully" in paragraph Seventh and inserting in lieu thereof "knowingly";

(g) by deleting ", and also imprisonment for not more than twelve months" in paragraph Seventh; and

(h) by deleting ", and he shall be liable to imprisonment for a period of not more than twelve months" in paragraph Eighth.

SEC. 1065. Section 4605 of the Revised Statutes, as amended (46 U.S. 707), is repealed.

SEC. 1066. Section 4607 of the Revised Statutes, as amended (46 U.S.C. 709), is amended by deleting ", for every such offense, be punishable by a fine of not more than fifty dollars, or by imprisonment for not more than three months" and inserting in lieu thereof "be guilty of a Class C misdemeanor".

SEC. 1067, Section 4610 of the Revised Statutes, as amended (46 U.S.C. 711), is amended

(a) by deleting the word "offense" wherever it appears and inserting in lieu thereof the word "violation";

(b) by deleting the word "offender" wherever it appears and inserting in lieu thereof the word "violator";

(c) by deleting "and if a conviction is had, and the sum imposed as a penalty by the court is not paid either immediately after the conviction, or within such period as the court at the time of conviction appoints, it shall be lawful for the court to commit the offender to prison, there to be imprisoned for the term provided in case of such offense, the commitment to be terminable upon payment of the amount and costs;".

SEC. 1068. Section 4611 of the Revised Statutes, as amended (46 U.S.C. 712), is amended by deleting "section 2191" and inserting in lieu thereof "section 1611, 1612, 1613, 1622, or 1623".

SEC. 1069. Section 2 of the Act of August 1, 1912 (46 U.S.C. 728), is amended by deleting ", upon conviction, be liable to a penalty of not exceeding one thousand dollars or imprisonment for a term not exceeding two years, or both" and inserting in lieu thereof "be guilty of a Class A misdemeanor".

SEC. 1070. This Act of June 25, 1936 (46 U.S.C. 738 et seq.), is amended as follows:

(a) Section 3(b) (46 U.S.C. 738b(b)) is amended by deleting "offense be liable to a fine not exceeding $100" and inserting in lieu thereof "violation be liable to a civil penalty not exceeding $100".

(b) Section 4(b) (46 U.S.C. 738c(b)) is amended by deleting "for each offense be liable to a fine not exceeding $500" and inserting in lieu thereof "guilty of an infraction".

SEC. 1071. The Shipping Act, 1916, as amended (46 U.S.C. 801 et seq.), is amended as follows:

(a) The last paragraph of section 9, as amended (46 U.S.C. 808), is amended by deleting "misdemeanor and subject to a fine of not more than $5,000, or to imprisonment for not more than five years, or both" and inserting in lieu thereof "Class A misdemeanor".

(b) The last paragraph of section 14, as amended (46 U.S.C. 812), is amended by deleting "misdemeanor punishable by a fine of not more than $25,000 for each offense" and inserting in lieu thereof "infraction, except that the maximum fine shall be $25,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher".

(c) Section 16, as amended (46 U.S.C. 815), is amended:

(1) by deleting "and willfully" in the first paragraph; and

(2) by deleting "a misdemeanor punishable by a fine of not more than $5,000 for each offense" in the last paragraph and inserting in lieu thereof "an infraction, except that the maximum fine for an individual offender shall be $5,000, or the maximum fine avail-

able under section 2201(c) of title 18, United States Code, whichever is higher"; and

(3) by adding at the end the following new sentence: "A government entity may be prosecuted for a violation of this section and, if it is convicted, shall be subject to the sentence applicable under title 18 to an organization.".

SEC. 1072. The Act of July 7, 1960 (46 U.S.C. 817b et seq.), is amended as follows:

(a) The last sentence of section 3 (46 U.S.C. 817b) is amended by deleting "upon conviction thereof be fined not less than $500 nor more than $10,000 at the discretion of the courts for each such violation" and inserting in lieu thereof "be guilty of an infraction, except that the maximum fine be for individual offender shall be $10,000".

(b) The last sentence of section 4, as added by section 3 of the Act of October 24, 1962 (46 U.S.C. 817c), is amended by deleting "upon conviction thereof be fined not less than $500 nor more than $10,000 at the discretion of the courts for each such violation" and inserting in lieu thereof "be guilty of an infraction except that the maximum fine for an individual offender shall be $10,000".

SEC. 1073. The Shipping Act, 1916, as amended (46 U.S.C. 801 et seq.), is amended as follows:

(a) The last sentence of section 21, as amended (46 U.S.C. 820), is amended to read as follows: "A government entity may be prosecuted for violating section 1343 or 1344 of title 18, United States Code, in connection with a violation of this section and, if it is convicted, shall be subject to the same sentence as provided for an organization pursuant to title 18.".

(b) Section 32(b), as amended (46 U.S.C. 831(b)), is amended by deleting "a misdemeanor, punishable by a fine not to exceed $5,000" and inserting in lieu thereof "an infraction, except that the maximum fine for an individual offender shall be $5,000 or the maximum fine available under section 2201 (c) of title 18, United States Code, whichever is higher"; and by adding at the end thereof the following new sentence: "A government entity may be prosecuted for a violation of this provision and, if convicted, shall be subject to the same sentence as provided for an organization pursuant to title 18.".

(c) The seventh paragraph of section 37, as added by section 4 of the Act of July 15, 1918, and amended (46 U.S.C. 835), is amended to read as follows:

"Whoever violates a provision of this section is guilty of a Class A misdemeanor.".

(d) The second paragraph of section 40, as added by section 4 of the Act of July 15, 1918, and amended (46 U.S.C. 838), is repealed.

(e) The second paragraph of section 41, as added by section 4 of the Act of July 15, 1918, and amended (46 U.S.C. 839), is repealed.

SEC. 1074. Subsection J of section 30 of the Act of June 5, 1920, as amended (46 U.S.C. 941), is amended:

(a) by deleting "willfully" in subsection (a) and inserting in lieu thereof "knowingly"; and

(b) by amending the first sentence of subsection (b) to read: "A mortgagor who, with intent to defraud, violates a provision of subsection F is guilty of a Class A misdemeanor."

SEC. 1075. The Act of February 6, 1941, as amended (46 U.S.C. 1119a et seq.), is amended as follows:

(a) Section 1, as amended (46 U.S.C. 1119a), is amended by deleting the last two provisos.

(b) Section 2, as amended (46 U.S.C. 1119b), is amended by deleting "section 7 of the Act of May 27, 1930 (46 Stat. 391)" and inserting in lieu thereof "section 583 of title 28, United States Code".

SEC. 1076. The Merchant Marine Act, 1936, as amended (46 U.S.C 1101 et seq.), is amended as follows:

(a) Section 302(e), as amended (46 U.S.C. 1132(e)), is amended by deleting ", upon conviction thereof, be fined $50 for each person so employed" and inserting in lieu thereof "be guilty of an infraction, except that the maximum fine shall be $50 for each person so employed or the maximum fine available under section 2201 of title 18, United States Code, whichever is higher".

(b) The last sentence of section 601(b), as amended (46 U.S.C. 1171(b)), is repealed.

(c) Section 801(4), as amended (46 U.S.C. 1211(4)), is amended by deleting "willful" and inserting in lieu thereof "knowing".

(d) Section 805, as amended (46 U.S.C. 1223), is amended:

(1) by adding before the word "misdemeanor" in subsection (a) the words "Class A";

(2) by deleting "willful" in subsection (f) and inserting in lieu thereof "knowing";

(3) by deleting "willfully" in subsection (f) and inserting in lieu thereof "knowingly"; and

(4) by adding before the word "misdemeanor" in subsection (f) the words "Class A".

(e) Section 806(a), as amended (46 U.S.C. 1224), is amended by adding before the word "misdemeanor" the words "Class A".

(f) The last sentence of section 807, as amended (46 U.S.C. 1225), is amended by adding before the word "misdemeanor" the words "Class A".

(g) Section 808 (46 U.S.C. 1226) is amended by adding before the word "misdemeanor" the word "Class A".

(h) Section 806, as amended (46 U.S.C. 1228), is amended:

(1) by repealing subsection (b);

(2) by deleting "and willfully" in subsection (d);

(3) by deleting "upon conviction thereof be subject to a fine of not more than $500" in subsection (d) and inserting in lieu thereof "be guilty of an infraction"; and

(4) by deleting the word "violation" each time it appears in subsection (d) and inserting in lieu thereof "offense".

(i) Section 1106, as added by section 46 of the Act of June 23, 1938, and amended (46 U.S.C. 1276), is repealed.

SEC. 1077. Section 3(e) of the Act of June 12, 1940, as amended (46 U.S.C. 1333 (e)), is amended to read as follows:

"(e) A violation of this section or of a regulation issued hereunder by a vessel, or an owner or officer thereof, is a Class A misdemeanor.".

SEC. 1078. The last sentence of section 259 of the Act of March 4, 1909 (46 U.S.C. 1356), is amended to read: "Whoever shall violate the prohibition of this section shall also forfeit and pay a sum of money equal to double the value of his right or property in such vessel.".

SEC. 1079. The Federal Boat Safety Act of 1971 (46 U.S.C. 1451 et seq.) is amended as follows:

(a) Section 14(b) (46 U.S.C. 1463(b)) is amended:

(1) by deleting "1905 of title 18" and inserting in lieu thereof "section 9301 of title 5".

(b) Section 34 (46 U.S.C. 1483) is amended to read as follows:

"SEC. 34. A person who knowingly violates section 12(c) of this Act or the regulations issued thereunder is guilty of a Class A misdemeanor.".

(c) Section 35(a) (46 U.S.C. 1484(a)) is amended by deleting the words "and willfully" wherever they appear.

PART MM—AMENDMENTS RELATING TO TELEGRAMS, TELEPHONES, AND RADIO TELEPHONES, TITLE 47, UNITED STATES CODE

SEC. 1084. Section 5 of the Act of August 7, 1888, as amended (47 U.S.C. 13), is amended by deleting "shall in every case of refusal or failure be guilty of a misdemeanor, and on conviction thereof, shall in every such case be fined in a sum of not exceeding $1,000 and may be imprisoned not less than six months" and inserting in lieu thereof "shall be guilty of a Class B misdemeanor".

SEC. 1085. The Submarine Cable Act, as amended (47 U.S.C. 21 et seq.), is amended as follows:

(a) Sections 1 and 2 (47 U.S.C. 21 and 22) are repealed.

(b) Section 3 (47 U.S.C. 23) is amended to read as follows:

"SEC. 3. It is an affirmative defense to a prosecution under section 1702 or 1703 of title 18, United States Code, or other federal criminal statute, for breaking or injuring a submarine cable that the cable was broken or injured in an effort to save the life or limb of the actor or of any other person, or to save his own or any other vessel, and that reasonable precautions were taken to avoid such breaking or injury.".

(c) Section 4 (47 U.S.C. 24) is amended by deleting "misdemeanor, and on conviction thereof, shall be liable to imprisonment for a term not exceeding one month, or to a fine of not exceeding five hundred dollars" and inserting in lieu thereof "Class C misdemeanor".

(d) Section 5 (47 U.S.C. 25) is amended by deleting "a misdemeanor, and on conviction thereof, shall be liable to imprisonment for a term not exceeding ten days, or to a fine not exceeding two hundred and fifty dollars, or to both such fine and imprisonment, at the discretion of the court" and inserting in lieu thereof "an infraction".

(e) Section 7 (47 U.S.C. 27) is amended:

(1) by adding after the word "That" at the beginning of the section the words ", except as provided in title 18, United States Code,"; and

(2) by deleting "misdemeanor, and on conviction thereof shall be liable to imprisonment not exceeding two years, or to a fine not exceeding five thousand dollars, or to both fine and imprisonment, at the discretion of the court" and inserting in lieu thereof "Class A misdemeanor".

(f) Section 8 (47 U.S.C. 28) is amended by deleting "in this act" and inserting in lieu thereof "for violation of sections 1702 and 1703 of title 18, United States Code,".

(g) Section 9 (47 U.S.C. 29) is amended by deleting "against this act" and inserting in lieu thereof "of breaking or injuring a submarine cable in violation of section 1702 or 1703 of title 18, United States Code,".

(h) Section 11 (47 U.S.C. 31) is repealed.

(i) Section 13, as amended (47 U.S.C. 33), is amended:

(1) by deleting "infraction" and inserting in lieu thereof "violation"; and

(2) by deleting "Criminal actions and proceedings for a violation of the provisions of this act shall be commenced and prosecuted in the district court for the district in which the offense was committed, and when not committed in any judicial district, then in the district court for the district in which the offender may be found; and suits" and inserting in lieu thereof "Suits".

SEC. 1086. Section 4 of the Act of May 27, 1921 (47 U.S.C. 37), is amended to read as follows:

"SEC. 4. That whoever knowingly violates section 1 of this Act is guilty of a Class A misdemeanor.".

SEC. 1087. The Communications Act of 1934, as amended (47 U.S.C. 151 et seq.), is amended as follows:

(a) Section 202(c), as amended (47 U.S.C. 202(c)), is amended by deleting the word "offense" wherever it appears and inserting in lieu thereof the word "violation".

(b) Section 205(b) (47 U.S.C. 205(b)) is amended by deleting the word "offense" wherever it appears and inserting in lieu thereof the word "violation".

(c) Section 220 (47 U.S.C. 220) is amended:

(1) by deleting "offense" in subsection (d) and inserting in lieu thereof "violation";

(2) by amending subsection (e) to read as follows:

"(e)(1) Any person who shall knowingly neglect or fail to make full, true, and correct entries in accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, shall be guilty of a Class A misdemeanor.

"(2) The Commission may, in its discretion, issue orders specifying such operating, accounting, or financial papers, records, books, blanks, or documents which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved.".

(d) Section 223, as added by section 1 of the Act of May 3, 1968 (47 U.S.C. 223), is amended by deleting "shall be fined not more than $500 or imprisoned not more than six months, or both" and inserting in lieu thereof "is guilty of a Class B misdemeanor".

(e) Section 303(m)(1), as amended (47 U.S.C. 303(m)(1)), is amended by deleting "willfully" in clauses (C) and (E) and inserting in lieu thereof "knowingly".

(f) Section 312, as amended (47 U.S.C. 312), is amended:

(1) by deleting the word "willful" wherever it appears in subsections (a)(3), (a)(4), and (a)(7) and inserting in lieu thereof "knowing";

(2) be deleting "section 1304, 1343, or 1464 of title 18 of the United States Code" in subsection (a)(6) and inserting in lieu thereof "section 1734 or 1851 of title 18, United States Code, where the offense involved the use of a facility of wire, radio, or television communication, or section 512 of this Act"; and

(3) by deleting "section 1304, 1343, or 1464 of title 18 of the United States Code" in subsection (b)(2) and inserting in lieu thereof "of section 1734 or 1841 of title 18, United States Code, where the offense involved the use of a facility of wire, radio, or television communication, or of section 512 of this Act".

(g) Section 364, as added by section 10(b) of the Act of May 20, 1937, and amended (47 U.S.C. 362), is amended:

(1) by deleting "offense" in subsection (a) and inserting in lieu thereof "violation"; and

(2) by deleting "willful" in subsection (b) and inserting in lieu thereof "knowing".

(h) Section 386, as added by section 1 of the Act of August 6, 1956 (47 U.S.C. 386), is amended:

(1) by deleting "offense" in subsection (a) and inserting in lieu thereof "violation"; and

(2) by deleting "willful" in subsection (b) and inserting in lieu thereof "knowing".

(i) Section 409(m), as amended (47 U.S.C. 409(m)), is repealed.

(j) Section 501, as amended (47 U.S.C. 501), is amended to read as follows:

"SEC. 501. Any person who knowingly does any act, matter, or thing, in this Act prohibited or declared to be unlawful, or who knowingly omits or fails to do any act, matter, or thing in this Act required to be done, shall, for any offense for which no penalty (other than a forfeiture) is provided in this Act, be guilty of a Class A misdemeanor, except that any person, having been once convicted of an offense under this section, who is subsequently convicted of violating any provision of this Act punishable under this section shall be guilty of a Class E felony.".

(k) Section 502 (47 U.S.C. 502) is amended:

(1) by deleting "willfully and"; and

(2) by deleting "punished, upon conviction thereof, by a fine of not more than $500 for each and every day during which such offense occurs" and inserting in lieu thereof "guilty of an infraction, except that the maximum fine shall be $500 for each and every day during which the offense occurs or the maximum fine available under section 2201 of title 18, United States Code, whichever is higher".

(l) Section 503(b)(1), as amended (47 U.S.C. 503(b)(1)), is amended:

(1) by deleting "willfully" in subparagraphs (A) and (B) and inserting in lieu thereof "knowingly";

(2) by deleting "section 1304, 1343, or 1464 of title 18 of the United States Code" in subparagraph (E) and inserting in lieu thereof "section 1734 or 1851 of title 18, United States Code, where the offense involves the use of facility of wire, radio, or television communication, or of section 512 of this Act"; and

(3) by deleting "offense" and inserting in lieu thereof "violation".

(m) Section 505 (47 U.S.C. 505) is repealed.

(n) Section 506, as added by the Act of April 16, 1946 (47 U.S.C. 506), is amended:

(1) by deleting "or attempt to coerce, compel, or constrain" in subsection (a);

(2) by deleting "or attempt to coerce, compel, or constrain" in subsection (b); and

(3) by amending subsection (d) to read as follows:

"(d) Whoever knowingly violates a provision of subsection (a) or (b) of this section is guilty of a Class A misdemeanor.".

(o) Section 507, as added by section 3 of the Act of August 13, 1954 (47 U.S.C. 507); is amended:

(1) by deleting "offense" in subsection (a) and inserting in lieu thereof "violation"; and

(2) by deleting "willful" in subsection (b) and inserting in lieu thereof "knowing".

(p) Section 508(g), as added by section 8(b) of the Act of September 13, 1960 (47 U.S.C. 508(g)), is amended to read as follows:

"(g) A person who violates a provision of this section is guilty of a Class A misdemeanor.".

(q) Section 509, as added by section 9 of the Act of September 13, 1960 (47 U.S.C. 509), is amended:

(1) by deleting "knowing or having reasonable ground for believing that" in subsection (a)(4) and inserting in lieu thereof "being reckless as to whether";

(2) by repealing subsection (a)(5); and

(3) by deleting "fined not more than $10,000 or imprisoned not more than one year, or both" in subsection (c) and inserting in lieu thereof "guilty of a Class A misdemeanor".

(r) Section 510 as added by section 1 of the Act of May 11, 1962 (47 U.S.C. 510), is amended:

(1) by deleting "offense" in the third sentence of subsection (a) and inserting in lieu thereof "violation"; and

(2) by deleting "willful" in subsection (b) and inserting in lieu thereof "knowing".

(s) The following new sections are added after section 510:

"SEC. 511. When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of Federal, State, or local law, it shall discontinue or refuse the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

"SEC. 512. BROADCASTING LOTTERY INFORMATION.—

"(a) Whoever broadcasts by means of any radio station for which a license is required by any law of the United States, or whoever, operating any such station, knowingly permits the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, is guilty of a Class A misdemeanor.

"(b) This section shall not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of State law broadcast by a radio or television station licensed to a location in that State or an adjacent State which conducts such a lottery.

"(c) This section shall not apply to an advertisement, list of prizes, or information concerning a lottery, gift enterprise or similar scheme conducted by a nonprofit or charitable organization in accordance with State and local law

"(1) published in a newspaper in that State or in a State in which such lottery, gift enterprise or similar scheme is legal; or

"(2) broadcast by a radio or television station licensed to a location in that State in which such lottery, gift enterprise or similar scheme is legal.

"(d) The provisions of this section shall not apply to the transportation or mailing to addresses within a State of tickets and other materials concerning a lottery, gift enterprise or similar scheme conducted by a charitable or nonprofit oragnization in accordance with State and local law in that State from a State in which such lottery, gift enterprise or similar scheme is legal.

"(e) For the purposes of this section 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

"(f) For the purposes of this section 'lottery' means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. 'Lottery' does not include the placing or accepting of bets or wagers on sporting events or contests.

"SEC. 513. FISHING CONTESTS.—

"The provisions of section 5136A of the Revised Statutes, as amended (12 U.S.C. 25a), section 9A of the Federal Reserve Act, as amended (12 U.S.C. 339), section 410 of the National Housing Act, as amended (12 U.S.C. 1730c), section 20 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1829a), section 512 of this Act, section 1841 of title 18, United States Code, and section 6003 of title 39, United States Code, shall not apply with respect to any fishing contest not conducted for profit wherein prizes are awarded for the specie, size, weight, or quality of fish caught by contestants in any bona fide fishing or recreational event.

"SEC. 514. BROADCASTING OBSCENE LANGUAGE.—

"Whoever utters any obscene, indecent, or profane language by means of radio communciation is guilty of a Class A misdemeanor.".

(t) Section 605, as amended (47 U.S.C. 605), is amended by deleting "chapter 119", and inserting in lieu thereof "subchapter A of chapter 31".

(u) Section 606, as amended (47 U.S.C. 606), is amended:

(1) by deleting "or willfully" in subsection (b); and

(2) by amending subsection (h) to read as follows:

"(h) Any person who knowingly does any act prohibited pursuant to the exercise of the President's authority under this section, or who knowingly fails to do any act which he is required to do pursuant to the exercise of the President's authority under this section, shall be guilty of a Class A misdemeanor.".

PART NN—AMENDMENTS RELATING TO TERRITORIES AND INSULAR POSSESSIONS, TITLE 48, UNITED STATES CODE

SEC. 1091. Section 32 of the Organic Act of the Virgin Islands of the United States (48 U.S.C. 1406d) is amended by deleting "$100 or" and inserting in lieu thereof "$10,000 and".

SEC. 1092. Section 5576 of the Revised Statutes (48 U.S.C. 1417) is repealed.

SEC. 1093. The Organic Act of Guam, as amended (48 U.S.C. 1421 et seq.), is amended as follows:

(a) Section 31, as amended (48 U.S.C. 1421i), is amended:

(1) by adding after "1954" the first time it appears in subsection (d)(1) the words "and subchapter A of chapter 14 of title 18, United States Code"; and

(2) by adding after "1954" in subsection (f) words "and subchapter A of chapter 14 of title 18, United States Code".

(b) Section 22(b), as amended (48 U.S.C. 1424(b)), is amended by deleting "sections 3771 and 3772" and inserting in lieu thereof "section 3702".

SEC. 1094. Section 8 of the Act of March 22, 1882 (48 U.S.C. 1461), is repealed.

SEC. 1095. Section 23 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1613) is amended by deleting "$100" and inserting in lieu thereof "$10,000".

PART OO—AMENDMENTS RELATING TO TRANSPORTATION, TITLE 49, UNITED STATES CODE

SEC. 1101. DEFINITIONS.—

As used in sections 1101 through 1106 of this Act—

Unless otherwise indicated, "carrier" means any person engaged in the transportation of passengers or property by land, as a common, contract, or private carrier, or freight forwarder as those terms are used in the Interstate Commerce Act, as amended, and officers, agents, and employees of such carriers.

"Person" means any individual, firm, copartnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"For-hire carrier" includes common and contract carriers.

"Shipper" shall be construed to include officers, agents, and employees of shippers.

"Interstate and foreign commerce" means commerce between a point in one State and a point in another State, between points in the same State through another State or through a foreign country, between points in a foreign country or countries through the United States, and commerce between a point in the United States and a point in a foreign country or in a Territory or possession of the United States, but only insofar as such commerce takes place in the United States. The term "United States" means all the States and the District of Columbia.

"State" includes the District of Columbia.

"Detonating fuses" means fuses used in military service to detonate the explosive charges of military projectiles, mines, bombs, or torpedoes.

"Fuzes" means devices used in igniting the explosive charges of projectiles.

"Fuses" means the slow-burning fuses used commercially to convey fire to an explosive combustible mass.

"Fusees" means the fusees ordinarily used on steamboats, railroads, and motor carriers as night signals.

"Radioactive materials" means any materials or combination of materials that spontaneously emit ionized radiation.

"Etiologic agents" means the causative agent of such diseases as may from time to time be listed in regulations governing etiologic agents prescribed by the Secretary of Transportation under section 1104 of this Act.

SEC. 1102. TRANSPORTATION OF EXPLOSIVES, RADIOACTIVE MATERIALS, ETIOLOGIC AGENTS, AND OTHER DANGEROUS ARTICLES.—

(a) Any person who knowingly transports, carries, or conveys within the United States, any dangerous explosives, such as and including, dynamite, blasting caps, detonating fuzes, black powder, gunpowder, or other like explosive, or any radioactive materials, or etiologic agents, on or in any passenger car or passenger vehicle of any description operated in the transportation of passengers by any for-hire carrier engaged in interstate or foreign commerce, by land, is guilty of a Class A misdemeanor: *Provided, however,* That such explosives, radioactive materials, or etiologic agents may be transported on or in such car or vehicle whenever the Secretary of Transportation finds that an emergency requires an expedited movement, in which case such emergency movements shall be made subject to such regulations as the Secretary may deem necessary or desirable in the public interest in each instance: *Provided further,* That under this section it shall be lawful to transport on or in any such car or vehicle, small quantities of explosives, radioactive materials, etiologic agents, or other dangerous commodities of the kinds, in such amounts, and under such conditions as may be determined by the Secretary of Transportation to involve no appreciable danger to persons or property: *And provided further,* That it shall be lawful to transport on or in any such car or vehicle such fusees, torpedoes, rockets, or other signal devices as may be essential to promote safety in the operation of any such car or vehicle on or in which transported. This section shall not prevent the transportation of military forces with their accompanying munitions of war on passenger-equipment cars or vehicles.

(b) No person shall knowingly transport, carry or convey within the United States liquid nitroglycerin, fulminate in bulk in dry condition, or other similarly dangerous explosives, or radiactive materials, or etiologic agents, on or in any car or vehicle of any description operated in the transportation of passengers or property by any carrier engaged in interstate or foreign commerce, by land, except under such rules and regulations as the Secretary of Transportation shall specifically prescribe with respect to the safe transportation of such commodities. The Secretary shall from time to time determine and prescribe what explosives are "other similarly dangerous explosives"; and many prescribe the route or routes over which such explosives, radioactive materials, or etiologic agents shall be transported. Any person who violates this provision, or any regulation prescribed hereunder by the Secretary of Transportation, is guilty of a Class A misdemeanor.

(c) Any shipment of radioactive materials made by or under the direction or supervision of the Nuclear Regulatory Commission or the Department of Defense which is escorted by personnel specially designated by or under the authority of the Nuclear Regulatory Commission or the Department of Defense, as the case may be, for the purpose of national security, shall be exempt from the requirements of sections 1101 to 1105 of this Act and the rules and regulations prescribed thereunder. In the case of any shipment of radioactive materials made by or under the direction or supervision of the Nuclear Regulatory Commission or the Department of Defense, which is not so escorted by specially designated personnel, certification upon the bill of lading by or under the authority of the Nuclear Regulatory Commission or the Department of Defense, as the case may be, that the shipment contains radioactive materials shall be conclusive as to content, and no further description shall be necessary or required; but each package, receptacle, or other container in such unescorted shipment shall on the outside thereof be plainly marked "radioactive materials", and shall not be opened for inspection by the carrier.

SEC. 1103. MARKING PACKAGES CONTAINING EXPLOSIVES AND OTHER DANGEROUS ARTICLES.—

Any person who knowingly delivers to any carrier engaged in interstate or foreign commerce by land or water, and any person who knowingly carries on or in any car or vehicle of any description operated in the transportation of passengers or property by any carrier engaged in interstate or foreign commerce, by land, any explosive, or other dangerous article, specified in or designated by the Secretary of Transportation pursuant to section 1104 of this Act, under any false or deceptive marking, description, invoice, shipping order, or other declaration, or any person who so delivers any such article without informing such carrier in writing of the true character thereof, at the time such delivery is made, or without plainly marking on the outside of every package containing explosives or other dangerous articles the contents thereof, if such marking is required by regulations prescribed by the Secretary of Transportation, is guilty of a Class A misdemeanor.

SEC. 1104. REGULATIONS BY SECRETARY OF TRANSPORTATION.—

(a) The Secretary of Transportation shall formulate regulations for the safe transportation within the United States of explosives and other dangerous articles, including radioactive materials, etiologic agents, flammable liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gases, and poisonous substances, which shall be binding upon all carriers engaged in interstate or foreign commerce which transport explosives or other dangerous articles by land, and upon all shippers making shipments of explosives or other dangerous articles via any carrier engaged in interstate or foreign commerce by land or water.

(b) The Secretary, of his own motion, or upon application made by any interested party, may make changes or modifications in such regulations, made desirable by new information or altered conditions. Before adopting any regulations relating to radioactive materials the Secretary of Transportation shall advise and consult with the Nuclear Regulatory Commission.

(c) Such regulations shall be in accord with the best-known practicable means for securing safety in transit, covering the packing, marking, loading, handling while in transit, and the precautions necessary to determine whether the material when offered is in proper condition to transport.

(d) Such regulations, as well as all changes or modifications thereof, shall, unless a shorter time is specified by the Secretary, take effect ninety days after their formulation and publication by the Secretary and shall be in effect until reversed, set aside, or modified.

(e) In the execution of sections 1101 through 1105 of this Act, the Secretary may utilize the services of carrier and shipper associations, including the Bureau for the Safe Transportation of Explosives and other Dangerous Articles, and may avail himself of the advice and assistance of any department, commission, or board of the Federal

Government, and of State and local governments, but no official or employee of the United States shall receive any additional compensation for such service except as now permitted by law.

(f) Whoever knowingly violates any such regulation is guilty of a Class A misdemeanor.

SEC. 1105. ADMINISTRATION.—

(a) The Secretary of Transportation is authorized and directed to administer, execute, and enforce all provisions of sections 1101 through 1105 of this Act, to make all necessary orders in connection therewith, and to prescribe rules, regulations and procedure for such administration, and to employ such officers and employees as may be necessary to carry out these functions.

(b) The Secretary is authorized to make such studies and conduct such investigations, obtain such information, and hold such hearings as he may deem necessary or proper to assist it in exercising any authority provided in sections 1101 through 1105 of this Act. For such purposes the Secretary is authorized to administer oaths and affirmations, and by subpoena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(c) In administering and enforcing the provisions of sections 1101 through 1106 of this Act and the regulations prescribed thereunder, the Secretary shall have and exercise all the powers conferred upon the Interstate Commerce Commission by law, including procedural and investigative powers and the power to examine and inspect records and properties of carriers engaged in transporting explosives and other dangerous articles in interstate or foreign commerce and the records and properties of shippers to the extent that such records and properties pertain to the packing and shipping of explosives and other dangerous articles and the nature of such commodities.

SEC. 1106. TRANSPORTATION OF FIREWORKS INTO STATE PROHIBITING SALE OR USE.—

Whoever, otherwise than in the course of continuous interstate transportation through any State, transports fireworks into any State, or delivers them for transportation into any State, knowing that such fireworks are to be delivered, possessed, stored, transshipped, distributed, sold, or otherwise dealt with in a manner or for a use prohibited by the laws of such State specifically prohibiting or regulating the use of fireworks, is guilty of a Class A misdemeanor.

This section shall not apply to a common or contract carrier or to international or domestic water carriers engaged in interstate commerce or to the transportation of fireworks into a State for the use of Federal agencies in the carrying out of the furtherance of their operations.

In the enforcement of this section, the definitions of fireworks contained in the laws of the respective States shall be applied.

As used in this section, the term "State" includes the several States, Territories, and possessions of the United States, and the District of Columbia.

SEC. 1107. TRANSPORTING LOTTERY TICKETS.—

(a) Whoever knowingly deposits with any express company or other common carrier for carriage, or carries in interstate or foreign commerce any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any advertisement of, or list of the prizes drawn or awarded by means of, any such lottery, gift enterprise, or similar scheme; or knowingly takes or receives any such paper, certificate, instrument, advertisement, or list so brought, deposited, or transported, is guilty of a Class A misdemeanor.

(b) This section shall not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of State law—

(1) contained in a newspaper published in such State or in an adjacent State which conducts such a lottery, or

(2) broadcast by a radio or television station licensed to a location in that State or an adjacent State which conducts such a lottery.

(c) The provisions of this section shall not apply to the transportation or mailing to addresses within a State of tickets and other material concerning a lottery conducted by that State acting under authority of State law.

(d) For the purposes of this section "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(e) For the purposes of this section "lottery" means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. "Lottery" does not include the placing or accepting of bets or wagers on sporting events or contests.

SEC. 1108. Part I of the Interstate Commerce Act, as amended (49 U.S.C. 1 et seq.), is amended as follows:

(a) Section 1, as amended (49 U.S.C. 1), is amended:

(1) by deleting the last two sentences in paragraph (7) and inserting in lieu thereof "Any common carrier violating this provision is guilty of an infraction, except that the maximum fine shall be $2,000 or the maximum fine available under section 2201 of title 18, United States Code, whichever is higher. Any person, other than a person excepted in this provision, who uses any such interstate free ticket, free pass, or free transportation shall be guilty of an infraction, except that the maximum fine shall be $2,000 or the maximum fine available under section 2201 of title 18, United States Code.";

(2) by deleting the word "offense" wherever it appears in paragraph (12) and inserting in lieu thereof the word "violation";

(3) by deleting the word "offense" wherever it appears in paragraph (17)(a) and inserting in lieu thereof the word "violation"; and

(4) by deleting "deemed guilty of a misdemeanor and be subject for each offense to a fine of not more than $1,000, or imprisonment in the penitentiary for a term of not more than two years, or both such fine and imprisonment" in paragraph (17)(b) and inserting in lieu thereof "guilty of a Class A misdemeanor".

(b) Section 5b(1)(b), as added by section 208(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 5b(1)(b)), is amended by adding after the words "(15 U.S.C. 1 et seq.)," the words "section 1764" of title 18, United States Code,".

(c) Section 6(10), as amended (49 U.S.C. 6(10)), is amended by deleting the word "offense" wherever it appears and inserting in lieu thereof the word "violation".

(d) Section 10, as amended (49 U.S.C. 10), is amended to read as follows:

"SEC. 10. (1)(a) That, except as provided in subparagraph (b) of this paragraph, a person who knowingly does anything prohibited or declared to be unlawful under this part or who knowingly fails to do anything required by this part or who violates a provision of this part for which no penalty is otherwise provided shall be guilty of an infraction, except that the maximum fine shall be $5,000 or the maximum fine available under section 2201 of title 18, United States Code, whichever is higher.

"(b) A person who knowingly discriminates in rates, fares, or charges for the transportation of passengers or property or the transmission of intelligence, in violation of this part, is guilty of a Class A misdemeanor.

"(2) A common carrier subject to the provisions of this part, who, by means of false billing, false classification, false weighing, or false report of weight, or by any other device or means, shall knowingly assist, or shall knowingly permit or suffer, any person to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such common carrier, shall be guilty of a Class A misdemeanor.

"(3) Any person who shall deliver property for transportation to any common carrier subject to the provisions of this part, or for whom, as consignor or consignee, any such carrier shall transport property, who shall knowingly, directly or indirectly, by false billing, false classification, false weighing, false representation of the contents of the package or the substance of the property, false report of weight, false statement, or by any other device or means, whether with or without the consent or connivance of the carrier, its agent, or officer, obtain transportation for such property at less than the regular rates then established and in force on the line of transportation; or who shall knowingly, by false statement or representation as to cost, value, nature, or extent of injury, or by the use of any false bill, bill of lading receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to be false, fictitious, or fraudulent, or to contain any false, fictitious, or fraudulent statement or entry, obtain any allowance, refund, or payment for damage or otherwise in connection with or growing out of the transportation of or agreement to transport such property, whether with or without the consent or connivance of the carrier, whereby the compensation of such carrier for such transportation, either before or after payment, shall in fact be made less than the regular rates then established and in force on the line of transportation, shall be guilty of a Class A misdemeanor.

"(4) If any person shall, by payment of money or other thing of value, solicitation, or otherwise, induce any common carrier subject to the provisions of this part, or any of its officers or agents, to discriminate unjustly in his favor as against any other consignor or consignee in the transportation of property, such person shall be guilty of a Class A misdemeanor. The person or persons who violate this paragraph including an officer or agent of a corporation or company who violates this paragraph and the common carrier, shall be liable, jointly or severally, in an action to be brought by any consignor or consignee discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom.".

(e) Section 15(14), as amended (49 U.S.C. 15(14)), is amended to read as follows:

"(14) A person who violates a provision of paragraph (11) of this section is guilty of an infraction.".

(f) Section 16(8), as amended (49 U.S.C. 16(8)), is amended by deleting the word "offense" wherever it appears and inserting in lieu thereof the word "violation".

(g) Section 19a(k), as added by the Act of March 1, 1913, and amended (49 U.S.C. 19a(k)), is amended by deleting the word "offense" wherever it appears and inserting in lieu thereof the word "violation".

(h) Section 20(7), as amended (49 U.S.C. 20(7)), is amended:

(1) by deleting "offense" in subparagraph (a) and inserting in lieu thereof "violation";

(2) by amending subparagraph (b) to read as follows:

"(b) A person who knowingly neglects or fails to make full, true, and correct entries in accounts, records, or memoranda, kept by a carrier or required to be kept by a lessor or other person, of all facts and transactions appertaining to the business of the carrier, lessor, or person, or shall knowingly keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, is guilty of a Class A misdemeanor. The Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of such carriers, lessors, or other persons, as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.";

(3) by deleting "and willfully" in subparagraph (f); and

(4) by deleting a "misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than $500 or imprisonment for not exceeding six months, or both" in subparagraph (f) and inserting in lieu thereof "Class B misdemeanor".

(i) Section 20a, as added by section 439 of the Act of February 28, 1920, and amended (49 U.S.C. 20a), is amended:

(1) by deleting "misdemeanor and upon conviction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court" in paragraph (11) and inserting in lieu thereof "Class A misdemeanor"; and

(2) by amending the last sentence of paragraph (12) to read as follows: "A violation of these provisions is a Class A misdemeanor.".

SEC. 1109. Section 1(1) of the Act of February 19, 1903, as amended (49 U.S.C. 41(1)), is amended:

(a) by deleting "willful" in the second sentence and inserting in lieu thereof "knowing";

(b) by deleting "misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than $1,000 nor more than $20,000 for each offense" in the second sentence and inserting in lieu thereof "Class A misdemeanor";

(c) by deleting "misdemeanor, and on conviction thereof shall be punished by a fine of not less than $1,000 nor more than $20,000" in the third sentence and inserting in lieu thereof "Class A misdemeanor, except that the maximum fine for an individual shall be $20,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher";

(d) by deleting the proviso in the third sentence; and

(e) by deleting the last sentence.

SEC. 1110. The Act of February 11, 1893 (27 Stat. 443), as amended (49 U.S.C. 46), is repealed.

SEC. 1111. Section 41 of the Act of August 29, 1916 (49 U.S.C. 121), is amended to read as follows:

"SEC. 41. That any person who, knowingly or with intent to defraud, falsely makes, alters, forges, counterfeits, prints or photographs any bill of lading purporting to represent goods received for shipment among the several States or with foreign nations, or with like intent utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed or photographed bill of lading, knowing it to be falsely altered, forged, counterfeited, falsely printed or photographed, or issues or negotiates or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter, or who with intent to defraud, violates, or fails to comply with any provision of this Act, shall be guilty of a Class A misdemeanor.".

SEC. 1112. Section 222 of the Interstate Commerce Act, as added by the Act of August 9, 1935, and amended (49 U.S.C. 322), is amended:

(a) by deleting "and willfully" in subsection (a);

(b) by deleting ", upon conviction thereof, be fined not less than $100 nor more than $500 for the first offense and not less than $200 nor more than $500 for any subsequent offense" in subsection (a) and inserting in lieu thereof "be guilty of an infraction";

(c) by deleting ", whether carrier, shipper, consignee, or broker, or any officer, employee, agent, or representative thereof," in subsection (c);

(d) by deleting the words "and willfully" in subsection (c) each time they appear;

(e) by deleting "deemed guilty of a misdemeanor and upon conviction thereof be fined not less than $200 nor more than $500 for the first offense and not less than $250 nor more than $2,000 for any subsequent offense" in subsection (c) and inserting in lieu thereof "guilty of an infraction, except that the maximum fine for a second or subsequent offense by an individual offender shall be $2,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher";

(f) by deleting "and willfully" in subsection (d);

(g) by deleting "misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more $500 or imprisonment not exceeding six months, or both" in subsection (d) and inserting in lieu thereof "Class B misdemeanor";

(h) by amending subsection (g) to read as follows:

"(g) Any person who shall knowingly fail or refuse to make a report to the Commission as required by this part, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall knowingly neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person required under this part to keep the same, or shall knowingly keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, shall be guilty of an infraction, except that the maximum fine for an individual offender shall be $5,000. As used in this subsection, the words 'keep' and 'kept' shall be construed to mean made, prepared, or compiled, as well as retained.";

(i) by deleting the word "offense" wherever it appears in subsection (h) and inserting in lieu thereof the word "violation";

(j) by deleting the word "offender" wherever it appears in subsection (h) and inserting in lieu thereof the word "violator"; and

(k) by repealing the last sentence of subsection (h).

SEC. 1113. Section 7(f) of the Act of August 9, 1939, as amended (49 U.S.C. 787(f)), is amended by deleting "section 8" and inserting in lieu thereof "section 1746".

SEC. 1114. Part III of the Interstate Commerce Act, as amended (49 U.S.C. 901 et seq.), is amended as follows:

(a) Section 316(a), as added by section 201 of the Act of September 18, 1940, and amended (49 U.S.C. 916(a)), is amended by deleting "and the Compulsory Testimony Act (27 Stat. 443).".

(b) Section 317, as added by section 201 of the Act of September 18, 1940 (49 U.S.C. 917), is amended to read as follows:

"UNLAWFUL ACTS AND PENALTIES

"SEC. 317. (a) A person who knowingly violates a provision of this part, or rule, regulation, requirement, or order thereunder, or a term or condition of a certificate or permit, for which no penalty is otherwise provided, is guilty of an infraction. Each day of the violation shall constitute a separate offense.

"(b) A water carrier who knowingly offers grants, or gives a rebate, deferred rebate, or other concession, in violation of the provisions of this part, or who, by any device or means, knowingly assists, or knowingly suffers or permits any person to obtain transportation subject to this part at less than the rates, fares, or charges lawfully in effect, is guilty of an infraction, except that the maximum fine for an individual offender shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.

"(c) Any person who knowingly solicits, accepts, or receives a rebate, deferred rebate, or other concession in violation of the provisions of this part, or who by any device or means, whether with or without the consent or connivance of a water carrier or his or its officer, agent, employee, or representative, knowingly obtains transportation subject to this part at less than the rates, fares, or charges lawfully in effect, or knowingly, directly or indirectly, by false claim, false billing, false representation, or other device or means, obtains any allowance, refund, or repayment in connection with or growing out of such transportation, whether with or without the consent or connivance of such carrier or his or its officer, agent, or representative, whereby the compensation of such carrier for such transportation or service, either before or after payment, is less than the rates, fares, or charges lawfully in effect, shall be guilty of an infraction, except that the maximum fine for an individual offender shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.

"(d) A person who knowingly fails or refuses to make a report to the Commission as required by this part, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or who knowingly neglects or fails to make full, true, and correct entries in such accounts, records or memoranda of all facts and transactions as required under this part, or knowingly keeps any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, is guilty of an infraction, except that the maximum fine for an individual offender shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher. As used in this subsection, the word 'keep' shall be construed to mean made, prepared, or compiled as well as retained.

"(e) Any special agent, accountant, or examiner of the Commission who knowingly divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of section 313, except as he may be directed by the Commission or by a court or judge thereof, shall be guilty of a Class B misdemeanor.

"(f) It shall be unlawful for a common carrier by water, or any officer, receiver, trustee, lessee, agent, or employee of such carrier, or for any other person authorized by such carrier or person to receive information knowingly to disclose to or permit to be acquired by a person other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any prop-

erty tendered or delivered to such carrier for transportation subject to this part, which information may be used to the detriment or prejudice of such shipper or consignee, or which may or does improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly receive any such information which may be or is so used. A person who violates a provision of this subsection is guilty of an infraction, except that the maximum fine for an individual offender shall be $2,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher. Nothing in this part shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States, or of any State, Territory, or District thereof, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of offenses, or to another carrier, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers.".

SEC. 1115. Section 421 of the Interstate Commerce Act, as added by section 1 of the Act of May 16, 1942 (49 U.S.C. 1021), is amended to read as follows:

"UNLAWFUL ACTS AND PENALTIES

"SEC. 421. (a) A person who knowingly violates a provision of this part, or a rule, regulation, requirement, or order thereunder, or a term or condition of a permit, for which no penalty is otherwise provided, is guilty of an infraction. Each day of such violation constitutes a separate offense.

"(b) A freight forwarder who, by any device or means, knowingly assists, or knowingly suffers or permits, a person to obtain service subject to this part at less than the rates or charges lawfully in effect, is guilty of an infraction, except that the maximum fine for a second or subsequent offense by an individual shall be $2,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.

"(c) A person who by any device or means, whether with or without the consent or connivance of a freight forwarder or its officer, agent, employee, or representative, knowingly obtains service subject to this part at less than the rates or charges lawfully in effect, or knowingly, directly or indirectly, by false claim, false billing, false representation, or other device or means, obtains an allowance, refund, or repayment in connection with or growing out of such service, whether with or without the consent or connivance of such forwarder or its officer, agent, employee, or representative, whereby the compensation of such forwarder for such service, either before or after payment, is less than the rates or charges lawfully in effect, is guilty of an infraction, except that the maximum fine for a second or subsequent offense by an individual shall be $2,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.

"(d) A freight forwarder who knowingly fails or refuses to make a report to the Commission as required under this part, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, or keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or knowingly neglects or fails to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the freight forwarder, or knowingly keeps any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, is guilty of an infraction, except that the maximum fine for an individual shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher. As used in this subsection, the word 'keep' shall be construed to mean make, prepare, or compile, as well as retain.

"(e) A special agent, accountant, or examiner of the Commission who knowingly divulges any fact or information which may come to his knowledge during the course of an examination or inspection made under authority of this part, except as he may be directed by the Commission or by a court or judge thereof, is guilty of a Class B misdemeanor.

"(f) It shall be unlawful for any freight forwarder or any officer, agent, employee, or representative of such forwarder, or for any other person authorized by such forwarder or any such person to receive information, knowingly to disclose to, or permit to be acquired by, a person other than the shipper or consignee, without the consent of the shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee or routing of any property tendered or delivered to such forwarder in service subject to this part, which information may be or issued to the detriment or prejudice of such shipper or consignee, or which may or does improperly disclose his business transactions to a competitor; and it shall also be unlawful for a person to solicit or knowingly receive any such information which may be or is so used. A person who violates a provision of this subsection is guilty of an infraction. Each day of such violation shall constitute a separate offense. Nothing in this part shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States or of any State, Territory, or District thereof, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of offenses, or to another freight forwarder, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such forwarders.

"(g) The provisions of the Elkins Act of February 19, 1903, as amended (U.S.C. 1940 ed., title 39, secs. 41, 42, and 43), shall apply to service subject to this part, and to freight forwarders and shippers in respect to such service, and shall apply for purposes of enforcement of this part; and the provisions of such Act shall be considered to apply in addition to, and not to the exclusion of the provisions of this part.".

SEC. 1116. The last sentence of section 10 (a) of the International Aviation Facilities Act (49 U.S.C. 1159(a)) is amended:

(a) by deleting "and willfully"; and

(b) by deleting "deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500 or to imprisonment not exceeding six months, or to both such fine and imprisonment" and inserting in lieu thereof "guilty of a Class B misdemeanor".

SEC. 1117. The Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), is amended as follows:

(a) Section 316(e)(2), as added by section 202 of the Air Transportation Security Act of 1974 (49 U.S.C. 1357(e)(2)), is amended by deleting "or 902(n)" and by adding after the words "of this Act" the words "or section 1631 of title 18, United States Code".

(b) Section 409 (49 U.S.C. 1379) is amended:

(1) by deleting "and willfully" in subsection (a)(2); and

(2) by deleting "and willfully" in subsection (a)(5).

(c) Section 901(a)(1), as amended (49 U.S.C. 1471(a)(1)), is amended by deleting "offense" and inserting in lieu thereof "violation".

(d) Section 902, as amended (49 U.S.C. 1472), is amended:

(1) by deleting "and willfully" in subsection (a);

(2) by deleting "deemed guilty of a misdemeanor and upon conviction thereof shall be subject for the first offense to a fine of not more than $500, and for any subsequent offense to a fine of not more than $2,000" in subsection (a) and inserting in lieu thereof "guilty of an infraction, except that the maximum fine for a second or subsequent offense by an individual offender shall be $2,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher";

(3) by amending subsection (b) to read as follows:

"(b) Any person who knowingly forges, counterfeits, alters, or falsely makes any certificate authorized to be issued under this Act, or knowingly uses any such fraudulent certificate, and any person who knowingly displays on any aircraft, any marks that are false or misleading as to the nationality or registration of the aircraft, shall be guilty of a Class A misdemeanor.";

(4) by deleting "subject to a fine of not exceeding $5,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment" in subsection (c) and inserting in lieu thereof "guilty of a Class A misdemeanor";

(5) by amending subsection (d)(1) to read as follows:

"(d)(1) Any air carrier, foreign air carrier, or ticket agent who shall knowingly offer, grant, or give any rebate or other concession in violation of the provisions of this Act, or who, by any device or means, shall knowingly assist, or shall knowingly suffer or permit, any person to obtain transportation or services subject to this Act at less than the rates, fares, or charges lawfully in effect, shall be guilty of an infraction, except that the maximum fine for an individual offender shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.";

(6) deleting "and willfully" in subsection (d)(2);

(7) by deleting "shall be fined not less than $100, nor more than $5,000, for each offense" in subsection (d)(2) and inserting in lieu thereof "is guilty of an infraction, except that the maximum fine for an individual shall be $5,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is greater";

(8) by amending subsection (e) to read as follows:

"(e) Any air carrier who shall knowingly fail or refuse to make a report to the Board or Secretary of Transportation as required by this Act, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board or Secretary, shall be guilty of an infraction, except that the maximum fine for an individual offender shall be $5,000.";

(9) by deleting "and willfully" in subsection (f);

(10) by deleting "upon conviction thereof be subject for each offense to a fine of not more than $5,000 or imprisonment for not more than two years, or both" in subsection (f) and inserting in lieu thereof "be guilty of a Class B misdemeanor".

(11) by repealing subsection (g);

(12) by amending subsection (h)(2) to read as follows:

"(2) A person commits an unlawful act that is an offense described in section 1821 (a)(3)(B) of title 18, United States Code, if he knowingly delivers to an air carrier or to the operator of a civil aircraft for transportation in air commerce, or if he causes the transportation in air commerce of, any shipment, baggage, or other property with reck-

less disregard of the fact that it contains a hazardous material, in violation of a rule, regulation or requirement issued by the Secretary of Transportation under this Act with respect to the transportation of hazardous materials.";

(13) by deleting "section 232" in subsection (h)(3) and inserting in lieu thereof "section 111";

(14) by amending subsection (i) to read as follows:

"(i) Notwithstanding the provisions of part III of title 18, United States Code, whoever commits an offense described in section 1601 (Murder) of title 18, United States Code, that is committed during the commission or attempted commission of an offense described in section 1631 (Aircraft Hijacking) of title 18, United States Code, shall be subject to the penalty of death as provided in section 903(c) of this Act.";

(15) by deleting "fined not more than $10,000 or imprisoned not more than twenty years, or both" in subsection (j) and inserting in lieu thereof "guilty of a Class A misdemeanor";

(16) by deleting the last sentence in subsection (j);

(17) by repealing subsections (k)(1), (l)(1), and (l)(2);

(18) by amending subsection (l)(3):

(A) by deleting the designation "(3)"; and

(B) by deleting "This subsection"' and inserting in lieu thereof "Section 1824 of title 18, United States Code,".

(19) by repealing subsections (m) and (n);

(20) by deleting "subsections (i) through (n), inclusive" in subsection (o) and inserting in lieu thereof "subsection (l) of this section, and of chapter 16 of title 18, United States Code, and of sections 1731 and 1732 of title 18, United States Code, if the title 18 offense is committed in the special aircraft jurisdiction"; and

(21) by deleting "subject to a fine of no less than $100 nor more than $5,000, or imprisonment for not more than one year, or both" in subsection (p) and inserting in lieu thereof "guilty of an offense under section 1325 of title 18, United States Code".

(e) Section 903, as amended (49 U.S.C. 1473), is amended:

(1) by repealing subsection (a);

(2) by deleting "prohibited by" in subsection (c)(1) and inserting in lieu thereof "described in";

(3) by deleting "or 902(n)" in subsection (c)(1);

(4) by deleting "offense under section 902 (i) or 902(n)" in subsection (c)(2) and inserting in lieu thereof "offense described in section 902(i)"; and

(5) by adding the following new paragraphs to subsection (c):

"(8) A person who has been sentenced pursuant to the provisions of paragraph (7) shall be delivered to the custody of the Bureau of Prisons until the sentence is to be implemented. The Bureau shall release the person to the custody of a United States marshal, who shall supervise the implementation of the sentence in the manner prescribed by the law of the state in which the sentence is imposed. If the law of such state does not provide for the implementation of such a sentence, the court shall designate another state, the law of which does so provide, and the sentence shall be implemented in the latter state in the manner prescribed by such law. A sentence imposed under paragraph (7) may not be implemented while the defendant is pregnant.

"(9) A United States marshal charged with the supervision of the implementation of a sentence under paragraph (7) may use appropriate state or local facilities for the purpose, may use the services of an appropriate state or local official or of a person he employs for the purpose, and may pay the costs thereof in an amount approved by the Attorney General.

"(10)(A) PETITION.—In a case in which a sentence is imposed pursuant to the first sentence of paragraph (5), a petition to a United States Court of Appeals for review of the sentence may be filed by the defendant within the time specified for the filing of a notice of appeal. If such a petition is filed by the defendant, it shall be granted by the court of appeals and shall have priority over all other cases.

"(B) REVIEW.—The court of appeals shall review the entire record in the case, including:

"(i) the evidence submitted during the trial;

"(ii) the presentence report, if any;

"(iii) the information submitted during the sentencing hearing;

"(iv) the procedures employed in the sentencing hearing; and

"(v) the findings under paragraph (4).

"(C) CONSIDERATIONS.—Upon review of the entire records, the court of appeals shall determine whether:

"(i) the procedures employed in the sentencing hearing were contrary to law; and

"(ii) the findings under paragraph (4) were clearly erroneous, having regard for the opportunity of the jury, or if there was no jury, the district court, to observe the defendant.

"(D) DECISION AND DISPOSITIONS.—If the court of appeals:

"(i) determines that:

"(a) the procedures employed in the sentencing hearing were not contrary to law, or were contrary to law only in a manner constituting harmless error; and

"(b) the findings under paragraph (4) were not clearly erroneous, or were clearly erroneous but the sentence was not affected;

it shall affirm the sentence;

"(ii) determines that the procedures employed in the sentencing hearing were contrary to law in a manner not constituting harmless error, it shall set aside the sentence and remand the case for redetermination of sentence in accordance with the provisions of paragraph (5); or

"(iii) determines that a finding under paragraph (4) was clearly erroneous and that the sentence was affected by such finding, it shall set aside the sentence and remand the case for imposition of a sentence other than a sentence imposed pursuant to the first sentence of paragraph (5).".

(e) Section 1203 (49 U.S.C. 1523) is amended:

(1) by deleting "or willfully"; and

(2) by deleting "deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not exceeding $10,000 or to imprisonment not exceeding one year, or to both such fine and imprisonment" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 1118. Section 6(e)(4) of the Department of Transportation Act (49 U.S.C. 1655 (e)(4)) is amended by deleting "Sections 831–835 of title 18, United States Code, as amended" and inserting in lieu thereof "Sections 1101 to 1103 of the Criminal Code Reform Act of 1977".

SEC. 1119. The Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671 et seq.), is amended as follows:

(a) Section 10(a) (49 U.S.C. 1679(a)) is amended by deleting "and willful".

(b) Section 12(d) (49 U.S.C. 1681(d)) is amended by deleting "1905 of title 18" and inserting "1903 of title 5."

SEC. 1120. Section 25 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1725), is repealed.

SEC. 1121. The Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) is amended as follows:

(a) Section 107(c) (49 U.S.C. 1806(c)) is amended by deleting "section 232" and inserting in lieu thereof "section 111".

(b) Section 110 (49 U.S.C. 1809) is amended:

(1) by deleting "offense" in the second sentence of subsection (a)(1) and inserting in lieu thereof "violation"; and

(2) by amending subsection (b) to read as follows:

"(b) CRIMINAL.—A person who knowingly violates a provision of this title or a regulation issued under this title commits an unlawful act that is an offense described in section 1821(a)(3)(C) of title 18, United States Code.".

(c) Section 112(c) (49 U.S.C. 1811(c)) is amended by deleting "chapter 39 of title 18, United States Code" and inserting in lieu thereof "sections 1101 through 1106 of the Criminal Code Reform Act of 1977".

SEC. 1122. Section 306(b) of the Independent Safety Board Act of 1974 (49 U.S.C. 1905 (b)) is amended by deleting "section 1905 of title 18" and inserting in lieu thereof "section 9301 of title 5".

PART PP—AMENDMENTS RELATING TO WAR AND NATIONAL DEFENSE, TITLE 50, UNITED STATES CODE

SEC. 1311. PHOTOGRAPHING AND SKETCHING DEFENSE INSTALLATIONS.—

(a) Whenever, in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military and naval installations or equipment without first obtaining permission of the commanding officer of the military or naval post, camp, or station, or naval vessels, military and naval aircraft, and any separate military or naval command concerned, or higher authority, and promptly submitting the product obtained to such commanding officer or higher authority for censorship or such other action as he may deem necessary.

(b) Whoever violates this section is guilty of a Class A misdemeanor.

SEC. 1132. USE OF AIRCRAFT FOR PHOTOGRAPHIC DEFENSE INSTALLATIONS.—

Whoever uses or permits the use of an aircraft or any contrivance used, or designed for navigation or flight in the air, for the purpose of making a photograph, sketch, picture, drawing, map, or graphical representation of vital military or naval installations or equipment, in violation of section 1131 of this Act, is guilty of a Class A misdemeanor.

SEC. 1133. PUBLICATION AND SALE OF PHOTOGRAPHS OF DEFENSE INSTALLATIONS.—

On and after thirty days from the date upon which the President defines any vital military or naval installation or equipment as being within the category contemplated under section 1131 of this Act, whoever reproduces, publishes, sells, or gives away any photograph, sketch, picture, drawing, map, or graphical representation of the vital military or naval installations or equipment so defined, without first obtaining permission of the commanding officer of the military or naval post, camp, or station concerned, or higher authority, unless such photograph, sketch, picture, drawing, map, or graphical representation has clearly indicated thereon that it has been censored by the proper military or naval authority, is guilty of a Class A misdemeanor.

SEC. 1134. Whoever knowingly violates a duly authorized and promulgated order or regulation of the President governing persons or vessels within the defensive sea areas, which the President, for purposes of national defense, may from time to time estab-

lish by Executive order, is guilty of a Class A misdemeanor.

SEC. 1135. Section 13 of the Helium Act, as added by section 2 of the Act of September 13, 1960 (50 U.S.C. 167k), is amended to read as follows:

"SEC. 13. Whoever knowingly violates a provision of this Act or a regulation or order issued or any terms of a license granted thereunder shall be guilty of a Class A misdemeanor.".

SEC. 1136. Section 2 of the Act of June 15, 1917, as amended (50 U.S.C. 192), is amended to read as follows:

"SEC. 2. (a) If any owner, agent, master, officer, or person in charge or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this title, the person commits an unlawful act that is an offense described in section 1113 (violating an emergency regulation) of title 18, United States Code.

"(b) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this title, he commits an unlawful act that is an offense described in section 1113 (violating an emergency regulation) of title 18, United States Code.

"(c) If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this title, or obstructs or interferes with the exercise of any power conferred by this Act, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws.".

SEC. 1137. Section 5306 of the Revised Statutes (50 U.S.C. 210) is amended to read as follows:

"SEC. 5306. Every officer of the United States, civil, military, or naval, and every soldier, marine, or other person, who takes into a State declared to be in insurrection, or to any other point to be thence taken into such State, or who transports or sells, or otherwise disposes of therein, any goods, wares, or merchandise whatsover, except in pursuance of license and authority of the President, as provided in this Title, or who, under any license or authority obtained, knowingly transports, sells, or otherwise disposes of any other goods, wares, or merchandise than such as are in good faith so licensed and authorized, or who knowingly transports, sells, or disposes of the same, or any portion thereof, in violation of the terms of such license or authority, or of any rule or regulation prescribed by the Secretary of the Treasury concerning the same, or (except as provided in section 1731 of title 18, United States Code) who is guilty of theft, as defined in section 1731 of title 18, of public or private money or property, shall be guilty of a Class A misdemeanor. Violations of this section shall be cognizable before any court, civil or military, competent to try the same.".

SEC. 1138. Section 5313 of the Revised Statutes (50 U.S.C. 217) is amended by deleting "deemed guilty of a misdemeanor, and shall be fined not more than five thousand dollars, and imprisoned not more than three years" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 1139. Section 303(b) of the Act of July 26, 1947, as amended (50 U.S.C. 405 (b)), is amended to read as follows:

"(b) Service of an individual as a member of any such advisory committe, or in any other part-time capacity for a department or agency hereunder, is service as a special Government employee for purposes of chapter 91 of title 5, United States Code.".

SEC. 1140. The Subversive Activities Control Act of 1950, as amended (50 U.S.C. 780 et seq.), is amended as follows:

(a) Section 4 (50 U.S.C. 783) is amended:

(1) by repealing subsection (a); and

(2) by deleting "subsection (a) or" in subsection (f).

(b) Section 14(d)(3), as amended (50 U.S.C. 792(d)(3)), is repealed.

(c) Section 13A(e)(7)(A), as added by section 10 of the Act of August 24, 1954, and amended 50 U.S.C. 792a(e)(7)(A)), is amended to read as follows:

"(A) in any conduct punishable under section 15 of this Act or under section 1101, 1102, 1111, 1112, 1113, 1117, 1121, 1122, 1123, 1124, 1125, 1126, or 1203 of title 18, United States Code, or in a conspiracy to violate one of those sections of title 18; or".

(d) Section 16, as amended (50 U.S.C. 794), is amended to read as follows:

"SEC. 15. An organization which violates a provision of section 10 of this title is guilty of a Class A misdemeanor. An individual who violates a provision of section 5 or 10 of this title is guilty of a Class A misdemeanor.".

(e) Section 21(a) (50 U.S.C. 797(a)) is amended:

(1) by deleting "willfully" and inserting in lieu thereof "knowingly"; and

(2) by deleting "misdemeanor and upon conviction thereof shall be liable to a fine of not to exceed $5,000 or to imprisonment for not more than one year, or both" and inserting in lieu thereof "Class A misdemeanor".

SEC. 1141. Section 4(a) of the Communist Control Act of 1954 (50 U.S.C. 843(a)) is amended by deleting "and willfully".

SEC. 1142. The Act of August 1, 1956 (50 U.S.C. 851 et seq.), is amended as follows:

(a) Section 6 (50 U.SC. 855) is repealed.

(b) Section 7 (50 U.S.C. 856) is repealed.

SEC. 1143. Section 410(g) of the Act of November 19, 1969 (50 U.S.C. 1436(g)), is amended to read as follows:

"(g) Any person who knowingly fails to comply with the filing requirements of this section is guilty of a Class B misdemeanor.".

SEC. 1144. The Trading with the Enemy Act, as amended (50 U.S.C. App. 1 et seq.), is amended as follows:

(a) Section 3 (50 U.S.C. App. 3) is amended:

(1) be deleting, "or attempt to trade," in subsection (a);

(2) by deleting the words "or attempt to transport" wherever they appear in subsection (b);

(3) by deleting "or attempted to be transported" in subsection (b);

(4) by deleting, "or attempt to send, or take out of, or bring into" in subsection (c);

(5) by deleting, "or attempt to send, take or transmit" in subsection (c);

(6) by deleting "willfully" in subsection (d) and inserting in lieu thereof "knowingly";

(7) by deleting "or attempts to evade" in subsection (d); and

(8) by deleting "shall be punished as provided in" in subsection (d) and inserting in lieu thereof "commits an unlawful act that is an offense described in".

(b) Section 5(b)(3), as amended (50 U.S.C. App. 5(b)(3)), is amended by deleting the last two sentences and inserting in lieu thereof: "Whoever, being aware of a legal duty under a provision of this subdivision or of a license, order, rule, or regulation issued thereunder, intentionally violates a provision of this subdivision or of a license, order, rule or regulation issued thereunder, commits an unlawful act that is an offense described in section 1206 of title 18, United States Code.".

(c) The second sentence of the fourth paragraph of section 12, as amended (50 U.S.C. App. 12), is repealed.

(d) Section 16 (50 U.S.C. App. 16) is amended to read as follows:

"SEC. 16(a). Except as provided in section 1206 of title 18, United States Code, whoever knowingly violates a provision of this Act or of a license, rule or regulation issued thereunder, and whoever knowingly violates, neglects, or refuses to comply with an order of the President issued in compliance with the provisions of this Act, is guilty of a Class A misdemeanor.

"(b) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in a violation of this Act shall be forfeited to the United States.".

(e) Section 19 (50 U.S.C. App. 19) is amended:

(1) by deleting "ten days after the approval of this Act and until the end of the war" in the first paragraph and inserting in lieu thereof "during any period of war declared by Congress";

(2) by deleting "the Act relating to espionage, approved June fifteen, nineteen hundred and seventeen" in the second paragraph and inserting in lieu thereof "section 6020 of title 39, United States Code, if the matter involves a violation of chapter 11 of title 18, United States Code"; and

(3) by amending the last paragraph to read as follows:

"Except as provided in section 1343 of title 18, United States Code, any person who violates a requirement of this section shall be guilty of a Class A misdemeanor.".

(f) Section 34(a), as added by section 1 of the Act of August 8, 1946, and amended (50 U.S.C. App. 34(a)), is amended:

(1) by deleting "sections 1–6 of the Criminal Code (18 U.S.C. 1–6), title I of the Act of June 15, 1917 (ch. 30, 40 Stat. 217), as amended; the Act of April 20, 1918 (ch. 59, 40 Stat. 534), as amended;" and inserting in lieu thereof "chapter 11 of title 18, United States Code; section 1131 through 1133 of the Criminal Code Reform Act of 1977,"; and

(2) by deleting "the Act of January 12, 1938 (ch. 2, 52 Stat. 3); title I Allen Registration Act, 1940 (ch. 439, 54 Stat. 670); the Act of October 17, 1904 (ch. 897, 54 Stat. 1201);".

SEC. 1145. Section 7 of the Act of March 31, 1947 (50 U.S.C. App. 327) is amended by deleting ", upon conviction thereof in the district court of the United States having jurisdiction thereof, be punished by imprisonment for not more than five years, or a fine of not more than $10,000, or both such fine and imprisonment" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 1146. The Military Selective Service Act, as amended (50 U.S.C. App. 451 et seq.), is amended as follows:

(a) Section 10(b)(3), as amended (50 U.S.C. App. 460(b)(3)), is amended by adding after the words "section 12 of this title" the words "or section 1114 or 1115 or title 18, United States Code,".

(b) Section 12, as amended (50 U.S.C. App. 462), is amended:

(1) by amending subsection (a) to read as follows:

"(a) Except as provided in sections 1114 and 1115 of title 18, United States Code, any member of the Selective Service System or any other person charged as herein provided with the duty of carrying out any of the provisions of this title, or the rules or regulations made or directions given thereunder, who shall knowingly fail or neglect to perform such duty, shall be guilty of a Class A misdemeanor.";

(2) by amending subsection (b) to read as follows:

"(b)(1) Any person who knowingly transfers or delivers to another, for the purpose

of aiding or abetting the making of any false identification or representation, any registration certificate, alien's certificate of nonresidence, or any other certificate issued pursuant to or prescribed by the provisions of this title, or rules or regulations promulgated thereunder, or who, with intent that it be used for any purpose of false identification or representation, has in his possession any such certificate not duly issued to him, or who knowingly violates or evades any of the provisions of this title or rules and regulations promulgated pursuant thereto relating to the issuance, transfer, or possession of such certificate, is guilty of a Class A misdemeanor.

"(2) Whenever on trial for a violation of this subsection (b) the defendant is shown to have or to have had possession of any certificate not duly issued to him, such possession shall be deemed sufficient evidence to establish an intent to use such certificate for purposes of false identification or representation, unless the defendant explains such possession to the satisfaction of the jury.";

(3) by adding after the words "this section" in subsection (c) the words "or section 1114 or 1115 of title 18, United States Code,"; and

(4) by amending subsection (d) to read as follows:

"(d) Notwithstanding the provisions of section 511 of title 18, United States Code, no person shall be prosecuted, tried, or punished for evading, neglecting, or refusing to perform the duty of registering imposed by section 3 of this title unless the indictment is found within 8 years next after such person attains the age of 18, or within 5 years of the day when such person is first required to perform his duty to register, whichever is later.".

(c) Section 13(a), as amended (50 U.S.C. App. 463(a)), is amended by deleting "section 203, 205, or 207 of title 18" and inserting in lieu thereof "section 9102, 9104, or 9106 of title 5".

(d) Section 18 (50 U.S.C. App. 468) to read as follows:

"(f) A person who knowingly fails or refuses to carry out any duty imposed upon him by subsection (b) of this section is guilty of a Class A misdemeanor, except that the maximum fine for an individual offender shall be $50,000 or the maximum fine available under section 2201(c) of title 18, United States Code."; and

(2) by amending the last sentence of subsection (h)(1) to read: Any such producer of steel who refuses to comply with such requirement is guilty of a Class A misdemeanor, except that the maximum fine for an individual offender shall be $50,000 or the maximum fine available under section 2201(c) of title 18, United States Code, whichever is higher.".

SEC. 1147. Section 6 of the Act of June 19, 1951 (50 U.S.C. App. 473), is amended by deleting "deemed guilty of a misdemeanor and be punished by a fine of not more than $1,000 or imprisonment for not more than twelve months, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

SEC. 1148. The Soldiers' and Sailors' Relief Act of 1940, as amended (50 U.S.C. App. 501 et seq.), is amended as follows:

(a) Section 200, as amended (50 U.S.C. App. 520), is amended by repealing subdivision (2).

(b) Section 202 (50 U.S.C. 522) is amended by deleting the words "fine or" wherever they appear and inserting in lieu thereof the word "civil".

(c) Section 300(3), as amended (50 U.S.C. App. 530(3)), is amended to read as follows:

"(3) Any person who shall knowingly take part in any eviction or distress otherwise than as provided in subsection (1) hereof shall be guilty of a Class A misdemeanor.".

(d) Section 301(2), as amended (50 U.S.C. App. 531(2)), is amended to read as follows:

(2) Any person who shall knowingly resume possession of property which is the subject of this section, otherwise than as provided in subsection (1) hereof or in section 107, shall be guilty of a Class A misdemeanor.".

(e) Section 302(4), as amended (50 U.S.C. App. 532(4)), is amended to read as follows:

(4) Any person who shall knowingly make any sale, foreclosure, or seizure of property, defined as invalid in subsection (3) hereof shall be guilty of a Class A misdemeanor.".

(f) Section 304(3), as added by section 12 of the Act of October 6, 1942 (50 U.S.C. App. 534(3)), is amended by deleting "or attempts so to do, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year or by fine not to exceed $1,000, or both" and inserting in lieu thereof "shall be guilty of a Class A misdemeanor".

(g) Section 305(3), as added by section 12 of the Act of October 6, 1942 (50 U.S.C. App. 535(3)), is amended to read as follows:

"(3) Any person who shall knowingly take any action contrary to a provision of this section shall be guilty of a Class A misdemeanor."

SEC. 1149. The Act of March 27, 1942, as amended (50 U.S.C. App. 643 et seq.), is amended as follows:

(a) Section 1302, as amended (50 U.S.C. App. 643a), is amended by deleting "a felony and upon conviction thereof shall be fined not exceeding $1,000, or be imprisoned not exceeding two years, or both" and inserting in lieu thereof "a Class B misdemeanor".

(b) The last sentence of section 1303 (50 U.S.C. App. 643b) is repealed.

SEC. 1150. The Act of June 25, 1942, is amended (50 U.S.C. App. 781 et seq.), is amended as follows:

(a) Section 1 (50 U.S.C. App. 781) is amended by deleting the words "and willfully" wherever they appear.

(b) Section 3 (50 U.S.C. App. 783) is amended to read as follows:

"SEC. 3. Whoever knowingly violates a provision of this Act is guilty of a Class A misdemeanor.".

SEC. 1151. Section 2(a) of the Act of June 29, 1940, as amended (50 U.S.C. App. 1152(a)), is amended:

(a) by deleting "a felony and upon conviction thereof shall be fined not exceeding $1,000, or be imprisoned not exceeding two years or both" in paragraph (4) and inserting in lieu thereof "a Class B misdemeanor."

(b) by amending paragraph (5) to read as follows:

"(5) Any person who knowingly performs any act prohibited, or knowingly fails to perform any act required by, any provision of this subsection (a) or any rule, regulation, or order thereunder whether heretofore or hereafter issued, shall be guilty of a Class A misdemeanor.";

(c) by deleting the second sentence in paragraph (6); and

(d) by deleting the words ", civil or criminal," in the fourth sentence of paragraph (6).

SEC. 1152. The last sentence of section 403(c)(5)(A) of the Sixth Supplemental National Defense Appropriation Act, 1942, as amended (50 U.S.C. App. 1191(c)(5)(A)), is amended to read: "Any person who knowingly fails or refuses to furnish any statement, information, records, or data required of them under this subsection, is guilty of a Class A misdemeanor.".

SEC. 1153. Section 3(h) of the Renegotiation Act of 1948, as amended (50 U.S.C. App. 1193(h)), is amended to read as follows:

"(h) Any person who knowingly fails or refuses to furnish any information, records, or data required of him under this section shall be guilty of a Class A misdemeanor.".

SEC. 1154. The Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 et seq.), is amended as follows:

(a) The last sentence of section 105(e)(1), as amended (50 U.S.C. App. 1215(e)(1)), is amended to read: "Any person who knowingly fails or refuses to furnish any statement, information, records, or data required of him under this subsection is guilty of a Class A misdemeanor.".

(b) Section 113, as amended (50 U.S.C. App. 1223), is amended by deleting "title 18, United States Code, sections 281 and 283, or in section 190 of the Revised Statutes (U.S.C., title 5, sec. 99)" and inserting in lieu thereof "sections 9102, 9104, and 9106 of title 5, United States Code,".

SEC. 1155. Section 4 of the Housing and Rent Act of 1947, as amended (50 U.S.C. App. 1884), is repealed.

SEC. 1156. The Rubber Producing Facilities Act of 1953, as amended (50 U.S.C. App. 1941 et seq.), is amended as follows:

(a) Section 3(e), as amended (50 U.S.C. App. 1941a(e)), is amended by adding after the words " 'antitrust laws' includes" the words "section 1764 of title 18, United States Code,".

(b) The last sentence of section 6(b), as amended (50 U.S.C. App. 1941d(b)), is amended to read:

"Any person who violates a provision of this subsection shall be guilty of a Class A misdemeanor.".

SEC. 1157. Section 5 of the Act of July 2, 1948 (50 U.S.C. App. 1985), is amended by deleting "misdemeanor, and shall upon conviction thereof be subject to a fine of not more than $2,000, or imprisonment for not more than one year, or both" and inserting in lieu thereof "Class A misdemeanor".

SEC. 1158. The War Claims Act of 1948, as amended (50 U.S.C. App. 2001 et seq.), is amended as follows:

(a) Section 10, as amended (50 U.S.C. App. 2009), is amended by deleting "deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both" and inserting in lieu thereof "guilty of a Class A misdemeanor".

(b) Section 208, as added by section 103 of the Act of October 22, 1962 (50 U.S.C. App. 2017g), is amended by deleting "chapter 115," and inserting in lieu thereof "section 1101, 1102, 1103, 1114, 1117, or 1203 of".

(c) Section 214, as added by section 103 of the Act of October 22, 1962 (50 U.S.C. App. 2017m), is amended by deleting "misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months or both" and inserting in lieu thereof "Class A misdemeanor".

SEC. 1159. Section 106 of the Micronesian Claims Act of 1971 (50 U.S.C. App. 2019e) is amended by deleting "misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both" and inserting in lieu thereof "Class A misdemeanor".

SEC. 1160. The Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), is amended as follows:

(a) Section 705, as amended (50 U.S.C. App. 2155), is amended:

(1) by amending subsection (d) to read as follows:

"(d) Any person who knowingly performs any act prohibited or knowingly fails to perform any act required by the above pro-

visions of this section, or any rule, regulation, or order thereunder, shall be guilty of a Class A misdemeanor."; and

(2) by deleting the words ", and any person willfully violating this provision shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both" each time they appear in subsection (e) and inserting in lieu thereof "knowingly violating this provision shall be guilty of a Class B misdemeanor".

(b) Section 706(b), as amended (50 U.S.C. App. 2156(b)), is amended:

(1) by deleting the second sentence; and

(2) by deleting ", criminal or civil,".

(c) Section 708(b), as amended (50 U.S.C. App. 2158(b)), is amended:

(1) by deleting the word "and" at the end of paragraph (5);

(2) by deleting the comma at the end of paragraph (6) and inserting in lieu thereof: "; and "; and

(3) by adding at the end thereof the following new paragraph:

"(7) section 1764 of title 18, United States Code.".

(d) Section 710, as amended (50 U.S.C. App. 2160), is amended:

(1) by deleting by words "sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99)" wherever they appear in subsections (b) (4), (c), (d), and (e) and inserting in lieu thereof "chapter 91 of title 5, United States Code"; and

(2) by repealing subsection (f).

(e) Section 712(c), as amended (50 U.S.C. App. 2162(c)), is amended:

(1) by deleting "sections 102 to" and inserting in lieu thereof "sections 103 and"; and

(2) by adding after the words "Revised Statutes" the words "and sections 1332 and 1333 of title 18, United States Code,".

SEC. 1161. The Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), is amended as follows:

(a) Section 402 (50 U.S.C. App. 2254) is amended by deleting "sections 281, 283, 284, 434 and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99.)" and inserting in lieu thereof "chapter 91 of title 5, United States Code".

(b) The last sentence of section 403(b), as amended (50 U.S.C. App. 2255(b)), is repealed.

(c) Section 204 (50 U.S.C. App. 2284) is amended by deleting "unlawful and shall subject such person to a fine of not more than $1,000 or imprisonment of not more than one year, or both" and inserting in lieu thereof "a Class A misdemeanor".

SEC. 1162. The Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 et seq.), is amended as follows:

(a) Sections 6 (a) and (b) (50 U.S.C. App. 2405(a) and (b)) are amended to read as follows:

"(a) Except as provided in subsection (b) of this section, whoever knowingly violates a provision of this Act or a regulation, order, or license issued thereunder is guilty of a Class A misdemeanor, except that a second or subsequent offense shall be a Class E felony.

"(b) Whoever knowingly exports anything contrary to a provision of this Act or a regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any Communist-dominated nation designated as such by regulations issued pursuant to this Act, commits an unlawful act that is an offense described in section 1206 of title 18, United States Code.".

(b) Section 7(b) (50 U.S.C. App. 2406(b)) is repealed.

"SEC. . REENACTMENT OF THE LOGAN ACT

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

PART QQ—MISCELLANEOUS AMENDMENTS

SEC. 1171. Section 2 of the Act of June 6, 1968 (82 Stat. 170), is amended by deleting "3056" and inserting in lien thereof "3013 (c)".

SEC. 1172. Section 2 of the Act of October 23, 1962 (76 Stat. 1126), is amended by deleting the words "(except as they may apply to retired officers of the armed forces of the United States)".

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, is the Senator offering amendment 1624?

Mr. KENNEDY. The Senator is correct.

Mr. ALLEN. The Senator is going to ask unanimous consent for the consideration en bloc, is that correct?

Mr. KENNEDY. I am sorry.

Mr. ALLEN. Is the Senator going to ask for consideration en bloc?

Mr. KENNEDY. The Senator is correct.

Mr. ALLEN. Mr. President, I request a rollcall vote on this amendment. I have no objection to consideration en bloc. But I wish a rollcall vote and a rollcall vote on final passage also.

The majority leader might want to make either both 10-minute rollcalls or the second one 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the first vote be a 10-minute rollcall vote and on the second one I will be glad to stay around and maintain watch over the situation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of this amendment the Senate proceed immediately without further motion or amendment or debate to third reading and immediately to a vote on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I call for the yeas and nays on amendment No. 1624.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1624, as amended.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. DURKIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Louisiana (Mr. LONG) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 82, nays 4, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—82

Baker	Griffin	Moynihan
Bartlett	Hansen	Muskie
Bellmon	Hart	Nelson
Bentsen	Haskell	Nunn
Biden	Hatch	Pearson
Brooke	Hatfield, Mark O.	Pell
Bumpers	Hatfield, Paul G.	Percy
Burdick	Hathaway	Proxmire
Byrd, Harry F., Jr.	Hayakawa	Randolph
Byrd, Robert C.	Heinz	Ribicoff
Cannon	Hodges	Riegle
Case	Hollings	Roth
Chafee	Huddleston	Sarbanes
Church	Inouye	Sasser
Clark	Jackson	Schmitt
Cranston	Javits	Schweiker
Culver	Johnston	Stafford
Danforth	Kennedy	Stevens
DeConcini	Leahy	Stevenson
Dole	Lugar	Stone
Domenici	Magnuson	Talmadge
Eagleton	Mathias	Thurmond
Eastland	Matsunaga	Tower
Ford	McGovern	Wallop
Garn	McIntyre	Weicker
Glenn	Melcher	Williams
Goldwater	Metzenbaum	Zorinsky
Gravel		

NAYS—4

Allen	McClure	Scott
Helms		

NOT VOTING—13

Abourezk	Durkin	Sparkman
Anderson	Laxalt	Stennis
Bayh	Long	Young
Chiles	Morgan	
Curtis	Packwood	

So amendment numbered 1624, as amended, was agreed to.

Mr. BAYH. Mr. President, I am pleased that the Senate has adopted S. 1437—the criminal code bill. It is indeed an historic occasion since this is the first time this body has enacted such an extensive code since the founding of the Republic.

This task has not been an easy one, or one hastily completed. In 1966 the Congress recognized the need for reform and established the National Commission on Reform of Federal Criminal Laws—known as the Brown Commission. Its work was indeed monumental and several legislative versions of its recommendations have been introduced over the last three Congresses. The predecessor to the bill we are adopting today, S. 1, was per-

haps the best known, most controversial and least desirable of the lot. It also bore little resemblance to the Brown Commission's recommendations.

Mr. President, this legislation is, I believe, a tremendous step forward for the fair, just, and efficient administration of criminal laws in the United States. The Criminal Code Act repeals outmoded offenses and consolidates numerous similar criminal statutes that are currently scattered throughout hundreds of criminal laws. For example, there exists today literally dozens of theft offenses each describing the crime of theft in different terms and prescribing widely different penalties for the same crime. Not only does this situation create inefficiencies, confusion, and backlogs in our court system but it also constitutes a constant danger of abuse in terms of treatment for a particular defendant. When the same criminal act can be treated either too lightly or too harshly depending on the particular theft statute a prosecutor happens to pick, our criminal justice system is in danger of becoming a process based more on arbitrary luck than firm, fair, and consistent enforcement of our laws.

In addition to different definitions for the same offense, current Federal law also uses a broad range of terms to describe the state of mind a defendant must have to commit a particular crime. In its study of the code the committee discovered some 79 different terms such as "maliciously," "improperly," and "feloniously." Obviously, this situation is likely to cause more confusion than clarity and can only result in a loss of both effectiveness and fairness—a loss which can no longer be tolerated in our criminal justice system.

I am pleased therefore that this legislation will remedy many of these inequities found in our present set of criminal laws.

Of course, Mr. President, any attempt to codify so many statutes must lead to some disagreements. As it was originally introduced there were still areas of this bill which caused me some concern. At the Judiciary Committee consideration of S. 1437, therefore, I introduced a series of amendments mostly aimed at improving the civil liberties and freedom of press aspects of the bill. I was pleased that most of these were adopted by the committee, and I believe they represent not only a strengthening of certain fundamental constitutional rights but also an improvement in the effective allocation of Federal Government resources in the fight against crime. They are:

First. Sections 1331 and 1335 criminal contempt and disobeying a judicial order: My amendment provides that a defendant to a charge of violating a court order may raise the defense that the order was invalid if it constituted a prior restraint on the collection or dissemination of news. Under the bill as originally drafted and under current law a reporter who violates a court order can be jailed even if the order is subsequently found to be invalid.

Second. Section 1813 possessing drugs: This amendment eliminates arrest and imprisonment penalties for simple possession of small amounts of marijuana. It also provides for a summons rather than an arrest procedure, imposition of a fine rather than imprisonment, and the expungement of arrest and correction records.

Third. Section 1641 rape: As drafted the code would have prevented any rape charge between spouses regardless of the severity of the assaults or threats used in the commission of the crime. My amendment eliminated this immunity thus allowing a rape conviction of a spouse if in fact sufficient abusive force or threats of serious bodily harm was employed.

Fourth. Sections 1332 and 1333 contempt penalties: As drafted the code would have set penalties for contempt at 3 years. The amendment would set the penalty at 1 year for Congress while retaining the 3-year punishment for contempt of administrative agencies.

Fifth. Section 1343 making a false statement: As drafted the code would have provided criminal penalties for making a false statement to a law enforcement officer. The amendment requires that before oral statements can be subject to this provision the officer must give warnings to the citizen that his or her response may be subject to criminal penalties.

Sixth. Section 1861 failure to obey a public safety officer: As originally drafted the code would have allowed any Federal employee (including Federal jurors) to issue orders at a fire, flood, or emergency. Failure to obey these orders would be a criminal offense. The amendment limited the power to issue such orders to law enforcement and public safety officers such as fire or forest service personnel.

Seventh. Section 3613 discharge procedures for persons confined for mental illness: This amendment provides additional protections for persons involuntarily confined for treatment following a finding of not guilty by reason of insanity. It allows for a patient's guardian or lawyer to make a request of the judge for a hearing on the issue of a timely release.

Eighth. Title III, section 994: Amendment to duties of sentencing commission encouraging alternatives to incarceration for young first offenders convicted of a nonviolent offense.

Ninth. Section 1112 impairing military effectiveness: As originally drafted this section of the code would have punished reckless conduct which could impair, interfere with or distract the ability of the United States to prepare for its defense. My amendment narrowed this overly-broad applicability of the offense to times of war or the actual damage inflicted on a major weapon system.

Mr. President, I am particularly pleased that an amendment offered on the floor by Senator CHURCH and myself has been incorporated in the Criminal Code bill. This amendment would make it a Federal offense to rob in excess of $500 worth of narcotics, amphetamines, or barbiturates from a pharmacy. Such robberies would be punishable by a fine of no more than $100,000 and imprisonment of up to 12 years.

The purpose of this amendment is to prevent the diversion of dangerous drugs into our communities. It is a result of several studies and investigations which I was privileged to undertake in my former role as chairman of the Juvenile Delinquency Subcommittee. In 1974 I held hearings before the subcommittee entitled "Drug Abuse—the Pharmacist" which studied the background and feasibility of this amendment. The hearings were part of the subcommittee's ongoing investigation of drug traffic and its assessment of the effectiveness of the 1970 Controlled Substances Act which the subcommitee had written to halt the widespread diversion and theft of legal drugs as well as the illicit traffic in dangerous drugs. As a consequence of this legislation, there was a drastic reduction of the illicit traffic and the clandestine manufacture of barbiturates and amphetamines. Thus, pushers and abusers alike began concentrating their attention on the legitimate sources of these drugs, particularly pharmacies.

Today, nearly 80 percent of all thefts of controlled drugs from registrants are from pharmacies and 89 percent of all drugs stolen from registrants are taken from pharmacies. Almost half of the total volume of drugs stolen are amphetamines and barbiturates. During fiscal year 1975, the latest year for which we have figures, 7,565 such thefts were reported from pharmacies as contrasted with 4,333 for fiscal year 1973.

I am pleased therefore, that the Senate has adopted this amendment thus allowing the Federal Government to assist State and local officials in halting this dangerous flow of illicit drugs into our neighborhoods.

Mr. President, in closing I want to congratulate Senators KENNEDY and THURMOND for the work they have done not only as floor managers of this bill, but also for their labors in the committee. As one who has been interested and involved in this legislation throughout this process I am aware of the tremendous time and effort they have invested in the Criminal Code.

We should also bear in mind the efforts by our former colleague Senator Hruska and by two Members of this body who have passed away—Senators McClellan and Hart. Without the combbined efforts and dedication of all these individuals the legislation we are passing today would not be possible.

Mr. President, I am proud to have been a part of this historic process.

While there are parts of this legislation with which I am not in total agreement I believe the compromises we reached are reasonable ones and have contributed to enacting a realistic Criminal Code that will better serve America, and the cause of Justice, for many years.

Mr. STENNIS. Mr. President, it is most appropriate that S. 1437, the Criminal Code Reform Act of 1977, should be the first bill to be considered by the Senate during this session. I know that my friend, the late Senator McClellan, would have been pleased and gratified by this because the consideration of this bill by the Senate marks an important and significant step toward the goal for

which the former Senator from Arkansas, the distinguished Senator from Massachusetts (Mr. KENNEDY), and many others worked so diligently for more than 10 years. This goal was and is a truly modern Federal Criminal Code.

I am glad to support S. 1437, Mr. President, not merely because of sentimental reasons involving Senator McClellan, but rather because, on the merits, I am convinced that the existing unhappy and unsatisfactory state of Federal criminal laws cries out for prompt corrective action. The need for codification and revision of Federal criminal laws should be uncontroverted. The present statutes have more or less "grown up" in a haphazard and illogical manner during the past 200 years. Many of them have become outdated or contain imprecise, conflicting and inconsistent provisions. Many no longer reflect the values or meet the requirements of our modern society. For many years now our efforts to protect life, property and human rights have been hobbled and impeded by the most fundamental element of a criminal justice system—the law itself.

The legislation we are now considering is a massive effort to codify and update some 3,000 Federal criminal statutes. It is the culmination of a monumental undertaking which started in 1966 when the Congress established the National Commission on Reform of Federal Criminal Laws. It constitutes the most important and far-reaching attempt in history to reorganize and streamline the administration of Federal criminal justice.

Many people, in and out of Congress, contributed significantly to the effort and to its culmination. I have already mentioned the outstanding work of Senator McClellan and Senator KENNEDY. While I make no effort to give an even partially complete list, I do want to pay tribute to the contributions made by the distinguished former Senator from Nebraska, Roman Hruska, the late Philip Hart, an outstanding Senator from Michigan, and to the distinguished former Governor of California, Pat Brown, who chaired the National Commission on Reform of Federal Criminal Laws.

It is impossible, Mr. President, for me to discuss this monumental legislation in any detail. I do, however, want to stress the fact that there is a clear need for prompt reform if we are to preserve the liberties the criminal law is designed to protect. As Senator McClellan said on the floor of the Senate on January 12, 1973:

> If we delay reform too long, we run the real risk that the price of delayed reform may be that the framework of civil liberty and federalism embodied in our Constitution and Bill of Rights will be condemned and abolished by those seeking to achieve only efficiency in the operation of our system of criminal justice. We cannot permit that to happen.

Let me point out, Mr. President, that I had the privilege to serve for several years as a trial judge of a court of unlimited civil and criminal jurisdiction. In that capacity I was called upon to perform the full range of judicial duties. The most important of these was the imposition of sentences upon persons convicted of crimes. I believed then, and believe now, that the sentences imposed must be stringent enough to deter the wrongdoer. Our people are entitled to the full protection of the law to insure their safety and the imposition of proper, positive, and reasonable sentences is a part of this protection.

Therefore, I want to take this opportunity to comment specifically on the provisions of the bill relating to sentencing in Federal courts. One of the objectives of the bill is to lay down a sentencing guideline which will attack to some extent the problem of unwarranted disparity in sentencing by different Federal judges.

This is a welcome step toward eliminating the wide differences in criminal sentencing which now result in some criminals receiving far greater penalties than others convicted of the same crime. I endorse this step and hope it will be followed by others. Logic and history prove that the most effective deterrent to crime is the certainty of swift, sure, and appropriate punishment. There must be a punishment that will carry a real sting to the offender and that "sting" must be sufficient to deter him from coming back for another dose.

Penal rehabilitation is a fine ideal and goal, but I feel that punishment of the offender must be a major factor in the sentence imposed if it is to be a real deterrent to crime. Criminals will be deterred only when the system of criminal justice operates so as to convince them, either from observation or personal experience, that if they are convicted of a criminal offense, punishment fitting the crime will surely and inexorably be visited upon them. Those who commit felonies must be made to know without doubt that, if apprehended and convicted, they will certainly be held to full account for their transgressions against society.

Mr. President, although I support the objectives of this bill I certainly do not suggest that it is written in concrete or that I agree with all of its provisions. Compromises, concessions, and accommodations have already been made to get the bill before the Senate. Additional compromises, concessions, and accommodations may be necessary or desirable. I am certainly more than willing to support any amendment which will make it a better bill. In the end, however, I hope that an understanding of the depth of public concern and a recognition of the long standing need for reform will lead us to pass an acceptable bill and send it to the House of Representatives.

Mr. ALLEN. Mr. President, I voted not to report S. 1437 when the bill was considered in the Committee on the Judiciary. The bill has been somewhat improved by action here on the floor, but the bill is still inherently defective and I intend to vote against passage of the bill here in the Senate.

S. 1437 introduces a completely new way of defining Federal criminal offenses. Each crime is defined without reference to the factors which give rise to Federal interest in prohibiting the conduct proscribed. Each crime is defined simply in general terms similar to those used to define criminal conduct at common law or in State statutes. Only in a separate subsection of each crime enumerated is a list given of factors that give the Federal Government jurisdiction over the particular offense. For example, robbery is defined in section 1721 as taking property from the person or presence of another by force or by threat of imminent bodily injury, but a separate subsection entitled "Jurisdiction" lists the basis upon which a Federal prosecution can be brought for robbery and includes simply that the robbery affected interstate commerce as a factor giving the Federal courts jurisdiction over the crime. This is a novel approach.

The significance of this novel approach followed in this proposed criminal code—the significance of this change in drafting style in defining Federal crimes—is that a jurisdictional factor will no longer be considered an element of the offense—and that fact is stated explicitly in section 201(c) of the proposed code. Since jurisdiction will no longer be considered an element of the offense, this in turn means that the determination as to whether the jurisdictional circumstance exists will be a determination of law made by the judge, not by the jury. Apparently, the judge would not apply a reasonable doubt standard, as is presently the case, in making that determination. Whether this procedure is constitutional or not remains to be determined, but in any event it is clear that no mens rea—or culpability of mind—would be required as to the jurisdictional factor. In other words, it would not be necessary to determine that the accused knew that interstate commerce would be affected by his robbery .

Obviously, I believe that robbery should be punished to the fullest extent of the law, but this change is a serious infringement on the right to a jury trial because S. 1437 takes away from the jury the resolution of factors giving rise to Federal jurisdiction. Current Federal statutes include in the definition of the offense all factors giving rise to a Federal interest, and a jury determines if those factors are present. The circumstances of jurisdiction are an element of the offense and must be found to exist by the jury beyond a reasonable doubt.

But, Mr. President, the most dangerous change made by S. 1437 is that it would give—by its broadly drawn jurisdictional provisions—to the Federal Government concurrent jurisdiction with the States over a significant portion of the crimes that have traditionally been exclusive State jurisdiction. For the most part, S. 1437 does not criminalize conduct which is not already made criminal under State law. But it does effect a fundamental redistribution of power between the States and the Federal Government. The bill would go a long way toward turning the Federal Criminal Code into a national Criminal Code. It would go a long way toward turning Federal investigative agencies into national police forces having an enforce-

ment responsibility for crimes having little or no true Federal significance.

This proposed increase in Federal jurisdiction over crimes is an unfortunate continuation of an historical process that dates from the beginning of this century. Until that time, Federal criminal statutes were limited in nature and were designed to forbid conduct clearly affecting a Federal interest. Until that time, there had been no significant Federal police force, save for a few Treasury agents and postal inspectors. But with the gradual enactment of criminal statutes based on the interstate commerce clause, the Federal law enforcement forces have grown significantly. I think that trend has been, on the whole. beneficial. But, Mr. President, the time has not come to draw the line. This country is not ready for a national police force, and I do not believe this country is ready to have its basic criminal statutes enforced by the Federal Government to the exclusion of the States nor do I believe this country will ever be ready to adopt a criminal code which will provide a framework for the development of a national police force with plenary law enforcement authority.

Mr. DOLE. Mr. President, S. 1437, the Criminal Code Reform Act, has been extensively debated by the Senate. Many amendments have been adopted but many meritorious amendments have been defeated. S. 1437 would correct flaws in the Criminal Code, but would create a great many new problems. This legislation is superior to S. 1 in the last Congress, but many improvements need to be made. Therefore, I am voting against S. 1437 in the hope that the Judiciary Committee will continue its work and report out a more acceptable version of the Criminal Code Reform Act.

LAW MUST REFLECT OUR GOALS

Any set of criminal laws has at least two primary purposes. One is the protection of society from those who are not willing to respect the rights of others. The preservation of an orderly society requires that laws exist to deter those tempted to crime and punish those who violate the rules of society.

The other essential purpose of a criminal code is to administer justice on an individual basis. Justice requires both an impartial trier of fact and similar treatment of persons in similar circumstances. S. 1437 should be a step away from disparate treatment of individuals with essentially the same degree of culpability who have committed the same crime.

SOME SUBSTANTIVE CHANGES ARE IMPORTANT

The primary innovation in S. 1437 is in the sentencng area. The entire structure of Federal sentencing will be altered by S. 1437. The new U.S. sentencing Commission is given the responsibility of establishing guidelines for sentencing. The goal is to give to society a guaranty that an appropriate sentence will be imposed and to the offender the knowledge that he will be treated equally with other offenders. If a sentence is imposed outside the guidelines, the party adversely affected, either the convicted or the Government, can appeal the sentence as a matter of right. This attempt at instituting uniformity in sentencing may or may not work. The Sentencing Commission has enormous discretion. The Senator from Kansas believes that the Senate should make instructions to the Commission more explicit. Too often the intent of Congress is subverted because we fail to adequately direct the use of the discretion we give to the bureaucrats.

MOST FAULTS ARE FROM OMISSIONS

Unlike its highly controversial predecessor, S. 1, this legislation has avoided taking a position on many volatile issues. Many of these omissions such as the lack of a comprehensive death penalty section are viewed as defects by the Senator from Kansas. The Judiciary Committee made a conscious and conscientious effort to reduce the controversy to a minimum. The legislation would have been greatly improved with a few important additions. The result of avoiding controversy has been an inadequate bill.

AMENDMENTS HAVE IMPROVED THE BILL

The Senate debate on S. 1437 has been extensive and beneficial. Several areas of weakness in the bill have been corrected. Three amendments I offered to the bill were adopted and have improved the legislation.

REPEATERS FACE STIFF SENTENCES

The first amendment will insure that a person convicted of a crime which was committed while the criminal was on release for another crime, will receive a substantial term of imprisonment. Those hardened criminals who commit crimes of violence while on release pending trial, sentencing, or appeal will be assured of extensive jail terms. Knowledge that they face stiff punishment for violent crimes while out on bail will deter some repeat offenders. Those who do not heed the warning will be dealt with severely.

COMMUNITY GIVEN PROTECTION

The second amendment I offered increases the number of offenses for which pretrial release on bail may be denied by Federal judges if the defendant is shown to be a danger to the community. The new offenses are murder, rape, armed robbery, armed kidnapping, and hostage-taking. Before release could be denied, the Government would have to convince the judge that the accused represents a continuing danger to the community.

Only when this heavy burden of proof is met would the judge be able to deny pretrial release. This section will only operate against the most serious offenders but these are the criminals who pose the greatest threat to the community.

LOCALITY SHOULD DECIDE

The final amendment which I offered was accepted by an extremely close margin. This amendment places the Federal Government in its proper role in the suppression of obscenity. The Government may prosecute obscenity anywhere but my amendment requires that the people of that area be allowed to judge for themselves whether the publication is obscene. The State or local community will be given the right to apply its own standard of obscenity and not some mythical national standard. The Supreme Court has expressly ruled that the standard used in my amendment is constitutional but not constitutionally required. My amendment will insure that the State or local community is given the final voice in obscenity prosecutions.

TWO IMPORTANT SENATORS MISSING

Mr. President, two of the men most responsible for the bill that is now before us are no longer in the Senate. One, Senator Roman Hruska, has gone back to his native Nebraska, the State which he served so well. Before his retirement at the end of the 94th Congress, Senator Hruska left his indelible mark on this Criminal Code reform. As ranking minority member of the Judiciary Committee, Senator Hruska combined the leadership and insight necessary to shape this reform into an acceptable package.

The other former Senator who played such an important role in bringing this bill to the floor is the late Senator John L. McClellan whose sudden death last year saddened every Member of this body. Nevertheless, the spirit of compromise that he showed in reshaping S. 1 of the 94th Congress into S. 1437 now on the floor was instrumental in bringing this legislation before the Senate today.

BILL IS PART OF CONTINUING PROCESS

Mr. President, the legislation now before us is not the last word in Federal criminal law. Title 18 of the United States Code will continue to be changed as our Nation needs change. The Senator from Kansas is disappointed that several important areas are not included in this bill. I am voting against this bill not because I am against every provision in it but rather because of the failure of this legislation to cover very important issues in the Federal criminal law.

Mr. RIEGLE. Mr. President, I intend to vote against this bill. Although I am sensitive to the need for a recodification of the federal criminal code, I do not believe that S. 1437 is an acceptable way to meet this need.

In all the debate on this bill and its predecessors, it has been very clear that constitutional rights and civil liberties have been the subject of considerable compromise. In some areas, these compromises have led to advances over current law—the repeal of the Smith Act, more sensitive provisions concerning rape victims, and more effective protections against unlawful discrimination, for example. In other areas, however, our constitutional rights have been compromised away. Rights of free speech and protest against Government activity have been weakened, in one provision after another. S. 1437 strengthens the power of the Federal Government to investigate and prosecute citizens who, for one reason or another, disagree with Government policy.

In revamping the Federal criminal code, the bill does not address the true nature of our mounting crime problem. It does not deal with the vast majority of violent crimes, which are handled by hard-pressed State and local authorities under state law. The Federal Government must expand its partnership with these authorities to help develop effective means of preventing and eliminating murder, rape, muggings, and theft. These deadly serious problems will not be solved by passing a bill whose taproots

can still be traced back to the paranoia and repressiveness of the Nixon administration. It is a mistake to pass a law criminalizing legitimate protest when our efforts should be directed to helping the States deal with violent crimes.

For these reasons I must reluctantly oppose this recodification bill.

Mr. McCLURE. Mr. President, I rise to announce my intention to oppose S. 1437.

It is poorly drafted. It vastly expands the ambit of criminality. And makes large numbers of policy decisions which have been inadequately presented to this body.

What the late Senator John McClellan worked long and hard to produce is a document which restated current law, resolved contradictions and ambiguities, and brought together disparate criminal proscriptions scattered throughout judicial opinions and civil law.

What S. 1437 has become is a law unto itself—a massive re-creation whose full implications are known only by its prosecutorial draftsmen.

There are probably few in this body who recognize that S. 1437 would make criminal unintentional business peccadillos, bureaucratic lies, and joking threats. In many cases, these acts are already subject to civil remedies and job disciplinary action. There is a question, however, at whether these everyday acts should also become Federal crimes; and there is an even more serious question of whether such law should be silently enacted in the entrails of a monstrous, 324-page bill.

At first, I thought such law expansion simply represented careless draftsmanship. After negotiating with the Justice Department over the questions of whether duck hunters should be subject to a 2-year mandatory minimum sentence, however, I have come to realize that many of the policy decisions were deliberate.

They ask: "Why are you so obsessed with current law?" The answer is that I am not. But, to the extent that current law is to be changed to criminalize vast amounts of near-ordinary conduct, I thing it is the elected Representatives who should make the decision to do so, not some faceless prosecutorial bureaucrat interested only in increasing his own trial leverage.

Mr. CRANSTON. Mr. President, I will vote against S. 1437, the Criminal Code Reform Act, because the bill will tip the delicate balance of police power in our Nation too much in the direction of the Federal Government and it inhibits whistle blowing on Government wrongdoing.

Americans enjoy unparalleled civil and political freedom partly because our Constitution, in addition to the specific guarantees of the Bill of Rights, does not concentrate police power in any one place. On the contrary, the Constitution deliberately disrupts and makes difficult the consolidation of power. Between the cracks and the gaps, freedom, like an alpine flower flourishes.

The Department of Justice wants the bill passed because existing law is inconsistent, contains omissions and is difficult to enforce from a prosecutor's point of view. When the plastering over of existing cracks and filling the gaps is completed, the Department will have in its grasp a monolithic prosecutorial and investigative jurisdiction capable of reaching virtually every nook and cranny of American life. The only practical limitation on this jurisdiction will be the limits of the ingenuity of the prosecutors and of their resources.

Another consequence of S. 1437 will be the vast grant of new interpretative authority and discretion given to the Department of Justice and courts. S. 1437 will permit the Department and the courts to reinterpret and redefine virtually all Federal statutory criminal law. Congress in the past has enacted recodifications of Federal criminal law. But S. 1437 as all agree is more than merely a reorganized compilation of criminal statutes.

The bill consolidates and collapses numerous specific offenses into new general offenses. In the process the new offense becomes greater than the sum of its parts. The committee recognizes this fact throughout the committee report. I am not satisfied that the work done to date on the bill has adequately assessed the impact of these new offenses on conduct not previously within the effective scope of the present Federal criminal law. This is particularly true with respect to chapter 13 dealing with offenses involving Government process and the inchoate crimes provisions in chapter 10.

The bill also takes vague and unenforceable provisions from existing law and by redefining them in a more limited way—which in one sense is praiseworthy—makes them enforceable as a practical matter. This is a mixed blessing.

For example, in the critical area of disclosing national defense information, difficulties imposed on prosecutors required by due process have had the practical effect of permitting the free flow of information to the public of such defense-related issues as cost-overruns and abuses by the CIA and similar actions of wrongdoing by Government. To the extent that even a simple misdemeanor in this area becomes easily enforceable it automatically will constrict the public's knowledge of what their Government is doing other than that which the Government wants them to know.

Similarly, many provisions of S. 1437 will provide prosecutors with refurbished tools for going after activity which hitherto for practical reasons they could not reach. This may be both good and bad. But what we do not know is what will happen and whether we ought to consider limitations not proposed by the committee or thought of by critics of the bill who may not be familiar with all activities of citizens which could come within the scope of prohibitions of S. 1437.

I have mentioned chapter 13 as a particular instance of a considerable expansion of Federal criminal jurisdiction in ways which can limit citizens' freedoms.

This chapter arms the Government with criminal sanctions to back up the edicts, paperwork requirements, and actions of any army of 100,000 bureaucrats with law enforcement responsibilities in 87 departments and agencies. Under certain circumstances citizens can run afoul of Federal criminal law in confrontations with Federal contractors and consultants who in one way or another may be carrying out functions protected by chapter 13 and S. 1437.

A sampling of the new agencies covered by chapter 13 include OSHA with its powers to enter the some 4 million workplaces in the United States, EPA, ERISA, and CPSC. In addition, to the extent that Congress may create new administrative enforcement agencies to meet the energy crisis and the as yet unforeseen crisis ahead of us, we automatically will be promoting the growth of Federal criminal jurisdiction.

Chapter 13's reach is best summed up by the committee report which says:

> The scope of the subchapter is as broad as the range of governmental functions.

For example, section 1302, "Obstructing a Government Function by Physical Interference," makes some basic changes in law. The report explains:

> These [existing] statutes are deficient in that, while numerous, they nonetheless fail to encompass all of the types of physical obstruction that may occur, they mingle assaultive conduct with other forms of physical obstruction, and they lack overall grading consistency.

The report adds:

> Current law also contains a judicial defense of uncertain scope with respect to the right to resist by force an unlawful government function, such as an unlawful arrest or search.

This common law defense is virtually eliminated by section 1302. In other words, if DEA raids the wrong house in the middle of the night by mistake but has a proper warrant for the right house, the unlucky homeowner who blasted away at the intruders with a shotgun will not have a defense to his actions.

Section 1335, disobeying a judicial order, establishes as a criminal offense conduct previously only punishable as contempt under 18 U.S.C. 401(3).

In the explanation of section 1343, "Making a False Statement," the report language specifically expresses the drafts men's hopes that—

> This more rational grading structure will . . . reduce the incentive for courts to create exceptions to the coverage under this section, which is intended to have broad application.

Mr. President, I do not think it is an exaggeration to describe S. 1437 as representing a major expansion of Federal criminal jurisdiction in ways which can limit the freedoms of Americans.

Most citizens tend to cooperate with Government. They would at first find life under a benevolent dictatorship essentially little different and perhaps even more orderly than the lives they now lead. But what of the uncooperative, cantankerous individualist. He or she would not fare well.

I strongly believe that much of our basic freedom exists because the Federal Government cannot always do what it wants to do—no matter how well mo-

tivated the intentions. S. 1437 asks for too much. It represents a vote of confidence in the discretion of our Federal law enforcement agencies at a time when they have yet to demonstrate that they have earned our confidence and trust after the disclosures of Watergate and of CIA-FBI abuses.

S. 1437 has been many years in the works. Time and effort have improved the bill and I think more work will result in more improvements. I have tried to do my part. Beginning with the bill's earlier version, S. 1, I publicly urged amendments to meet those provisions which constituted an official secrets act. I joined with our late colleague Phil Hart to prepare an amendment to substitute for the committee version of the espionage and related offenses chapter.

The distinguished floor manager, Senator KENNEDY, is to be commended for his diligence in seeking to cut out of S. 1437 those provisions which might limit first amendment rights. I was pleased to join him earlier in a colloquy further clarifying the intention of the committee to limit possible infringements on a free press and the free flow of information. I do think more can be done, however.

Senator KENNEDY also was very cooperative in working out an accommodation to accept my amendment that our Federal criminal law should be construed strictly. I have also cosponsored amendments offered by my colleagues to limit further the impact of the bill on the free expression of constitutional rights.

Progress in improving the bill has been made. More can be done. We can take chances with a housing or jobs bill. But we cannot and seldom do take chances on a national defense bill, and we should not on the criminal law either. Criminal law takes away freedom and prohibits conduct. We are not talking about street crime or coddling—muggers, robbers, rapists, murderers, violent criminals. My concerns are with those provisions which may directly affect ordinary citizens in their everyday working lives. These must be reworked so that they are more precisely aimed at the type of criminal activity sought to be punished.

In the strong hope that S. 1437 will be considered further and improvements will be made, I vote no.

Mr. THURMOND. Mr. President, very shortly the Senate will vote on final passage of S. 1437. This event is a milestone in American jurisprudence.

For 200 years we have had, at the Federal level, an inadequate and outdated criminal code. For 11 years a massive effort has been underway to correct this situation.

Progress has been slow but the comprehensive nature of the bill demanded caution. We have now come to the point where the bill is acceptable to the overwhelming majority of Senators without regard to party or politics. A consensus has been achieved.

That consensus has not been easy to achieve. Over the past several days we have seen debated here virtually every area of the criminal law. Inevitably, in a bill so long and so encompassing, there are areas that each of us would object to if brought up as a separate legislation. At the same time, there are provisions that if brought up separately would have the support of this Senator but be objected to by others. These objections pale, however, in the face of the broad areas of agreement that have been forged during the last few days and weeks.

The result of this effort has been a bill which provides law enforcement officials with powerful new tools to combat criminal elements. Instead of crimes being defined in terms of the Federal jurisdiction, they are defined in common law terms. The old system proving Federal jurisdiction was confusing to juries and an unnecessary obstruction to prosecutors. S. 1437 is a great improvement.

The new code has uniform definitions and terms of culpability which bring clarity to the law while eliminating needless and repetitive litigation. It is written in clear, concise language so that everyone who deals with it will be able to dispense justice swiftly and fairly.

The code eliminates overlapping and duplicative sections reducing substantially the number of provisions in the Criminal Code without reducing the necessary coverage of the code.

Mr. President, the code deletes antiquated rules of evidence requiring two witnesses to establish perjury and corroboration of a rape victim's testimony.

At the same time that it enhances our ability to punish crimes, the code is extremely sensitive to the civil liberties of our citizens. It provides new protections for reporters subjected to illegal gag orders. It provides carefully drafted protections for the offender who is truly suffering from a mental disorder. It defines "obscenity" in terms approved by the Supreme Court so that all may know what is actually forbidden by the law.

I would be remiss at this point if I did not pay tribute to those who have labored so long and hard on the codification project. Senator McClellan and Senator Hruska who served on the Brown commission and presided over 4 years of hearings on the Criminal Code deserve a major share of the credit for keeping this work alive through years of controversy and development. Their devotion to this idea and the enormous effort they made to bring it to fruition are what made today's vote possible.

Senator Humphrey, along with Senator HATCH, joined the original sponsors, Senators KENNEDY and McClellan, last year to establish the effort as a genuinely nonpartisan one.

Senator KENNEDY deserves special praise for managing the bill with great skill and scrupulous fairness. His efforts to consider carefully the views of all Senators are to be commended, as well as the outstanding leadership provided during consideration of the bill.

I want to pay special tribute to the able and distinguished Senator from Alabama for his hard work on this bill. Throughout the deliberations on this measure on the Senate floor, the Senator from Alabama has served his country and the Senate well. His keen insights, observations, and analysis of the many provisions of this legislation have made a valauble contribution to the bill. I personally want to thank him for a job well done.

Mr. President, I must also extend my appreciation and thanks to Senator HATCH and Senator WALLOP, my distinguished colleagues on the Judiciary Committee. They were active in the committee on this measure and were equally supportive of efforts during consideration here on the Senate floor. Their assistance to me, as the Republican floor manager, was outstanding and most helpful. Again, I thank them both for their dedicated work and support.

Mr. President, other Senators on both sides of the aisle should be commended for their contributions to this new code. Many Senators and their staffs have worked closely and in a spirit of cooperation in achieving a bill worthy of passage by the U.S. Senate.

Mr. President, there should also be special thanks extended to staff members of the Subcommittee on Criminal Laws and Procedures of the Judiciary Committee. I want to thank Paul Summit, the subcommittee's chief counsel, Russell Coombs, its deputy chief counsel, and Eric Hultman, the minority counsel for their long hours of work over the past few weeks and months. I want to also thank Ken Feinberg of Senator KENNEDY's staff for his work on this measure.

Mr. President, the passage of this bill has been a bipartisan effort by both Senators and their staffs. The ability of our staffs to work closely together to resolve differences and work out amendments was most helpful in moving this measure along to final passage.

The Attorney General and his staff have also labored long and hard to seek a bill that is fair to all interests and they should be commended for their part in this legislation.

Mr. President, this is a historic moment and one of which we in the Senate can be justifiably proud as we send the bill to the House for consideration.

All of us, I believe, share the hope that the other body will move quickly but carefully and that the United States can have a modern criminal code in this Congress.

Mr. President, I ask unanimous consetn that an article by Mr. James J. Kilpatrick, supporting passage of S. 1437, which appeared in the January 28, 1978, edition of the Washington Star, be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THIS RECODIFICATION BILL SHOULD PASS

The Senate came back to town on the 19th, and plunged swiftly into debate on one of the most important measures of this session. This is S. 1436, the bill to recodify the federal criminal code. After 12 years of patient labor, the time has come to push the bill to enactment.

Unhappily, the bill has provoked a kind of Pavlovian reaction on both right and left. Say "S. 1437" to some of my conservative friends, and their adrenals start pumping. At the other end of the spectrum, the American Civil Liberties Union is having the purple conniption fits; in a shameful display of ad hominem rhetoric, the ACLU denounces the bill because Richard Nixon and John Mitchell once had something to do with it.

For a time, it appeared that Jesse Helms of North Carolina was seeking to kill the bill by delaying it to death. He invoked Senate rules to prevent en bloc consideration of committee amendments. He was sore because he felt the leadership was trying to railroad a long and complicated bill to premature passage, and it may be that Majority Leader Robert Byrd erred in pressing too hard.

But in the end Helms relented and threw his own valued influence among conservatives into the cooperative effort. He is not happy with a number of provisions; he fears one result may be to clog the federal courts with appeals from state court convictions. I think his fears in this regard are overblown, but until we have a few years of experience, we won't know.

The point is that in a legislative field as controversial as this one, senators at the ends of opposition must give a little toward the center. This is not like a Panama Canal treaty, to be voted up or voted down with no opportunity for committees to do their work of refinement. In this matter of recodification, scores of interested parties have labored earnestly to rewrite the old Senate Bill One that raised such turmoil two years ago. In the process, an infinitely better bill has been perfected.

What is insufficiently understood is that virtually all of the most objectionable features of Senate Bill One have been eliminated from the measure emerging from the Senate. Within the Judiciary Committee, liberals and conservatives have struggled to reach agreements tolerable to both points of view.

These months of hard work have brought together such ordinary opposites as Kennedy of Massachusetts and Thurmond of South Carolina. We saw a yielding by the liberal Bayh of Indiana and the conservative Garn of Utah. Senators as far apart as Abourezk of South Dakota and the late John McClellan of Arkansas agreed to half loaves as better than none.

The sponsoring senators understand the pressing need to get a recodification law onto the books. The Federal Criminal Code is a patchwork proposition of conflicting and ambiguous statutes loosely stitched together over the course of 200 years. It cries out for orderly revision and modernization.

The bill would be justified for one reason alone: It would impose some sensible limitations upon the almost unlimited discretion of federal judges in imposing sentences on convicted defendants. It is simply bizarre that robbery, on the average, is punished by 39 months in prison in northern New York and by nearly 19 years in Texas. Substantially identical offenses by similarly situated defendants ought to result in fairly comparable punishments. That would seem to be elementary justice. The pending bill would take us in the right direction.

But there is much more in this bill that is good. Such stains on the Criminal Code as the old Smith Act would be removed entirely. The last vestigial remnants of the Comstock Act would be replaced by some rational provisions on pornography. We of the press would gain new protection against the unconstitutional gag orders of despotic judges.

This past Monday, in a healing gesture of statesmanship, Helms himself moved for adoption of 300 uncontested, perfecting amendments. If the same constructive approach can be obtained in the House, by the end of the year the task of recodification could be complete. Count it a milestone in our law, and let us get there soon.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. KENNEDY. I ask for the yeas and nays, Mr. President.

Mr. THURMOND. Yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Louisiana (Mr. LONG) is absent because of illness.

On this vote, the Senator from South Dakota (Mr. ABOUREZK) is paired with the Senator from Louisiana (Mr. LONG). If present and voting, the Senator from South Dakota would vote "nay" and the Senator from Louisiana would vote "yea."

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "yea."

The result was announced—yeas 72, nays 15, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—72

Baker	Hatfield,	Moynihan
Bentsen	Mark O.	Muskie
Biden	Hatfield,	Nelson
Brooke	Paul G.	Nunn
Bumpers	Hathaway	Pearson
Burdick	Hayakawa	Pell
Byrd,	Heinz	Percy
Harry F., Jr.	Hodges	Proxmire
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Ribicoff
Case	Inouye	Roth
Chafee	Jackson	Sarbanes
Church	Javits	Sasser
Clark	Johnston	Schmitt
Culver	Kennedy	Schweiker
Danforth	Leahy	Stafford
DeConcini	Lugar	Stevens
Eagleton	Magnuson	Stevenson
Ford	Mathias	Stone
Glenn	Matsunaga	Talmadge
Goldwater	McGovern	Thurmond
Gravel	McIntyre	Wallop
Hart	Melcher	Weicker
Haskell	Metzenbaum	Williams
Hatch	Morgan	Zorinsky

NAYS—15

Allen	Domenici	Helms
Bartlett	Eastland	McClure
Bellmon	Garn	Riegle
Cranston	Griffin	Scott
Dole	Hansen	Tower

NOT VOTING—12

Abourezk	Curtis	Packwood
Anderson	Durkin	Sparkman
Bayh	Laxalt	Stennis
Chiles	Long	Young

So the bill (S. 1437) was passed.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the bill be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to S. 1437.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, first of all, I thank my colleagues for the strong support they have shown in this vote on the recodification of the criminal code. I think this overwhelming vote constitutes a very firm commitment toward bringing some sense and order out of the chaotic current criminal code. Especially in the sentencing area we attempt to provide a degree of certainty, fairness, equity, and predictability which simply does not exist today.

I think it is a very clear indication to the American people that the Senate of the United States is strongly committed—on a bipartisan basis—to the goal of a modern criminal code. I am grateful for the support we received from the membership and from my colleagues on the Committee on the Judiciary.

I want, in particular, to thank the distinguished Senator from South Carolina (Mr. THURMOND), who has been a steadfast supporter of this legislation. He has been tireless in his pursuit of a fair consideration of this legislation, both during our markup period and again on the floor.

I thank the leadership for scheduling this legislation at an early time. I think we are all grateful to the majority leader (Mr. BYRD) and the minority leader (Mr. BAKER), since this bill is right on track in terms of the House of Representatives. It is going to take a good deal of work and effort in the House but I believe it would be tragic if this golden opportunity were lost. By indicating its will by a vote of 72–15, the Senate has served notice as to its concern; I hope and trust we can get similar favorable action in the House of Representatives. So I am grateful that the majority and minority leaders scheduled this bill as the first order of business.

With the days that we spent on S. 1437 and the hours that were spent by many Members of the Senate and their staffs on reviewing this complex bill, I think that, although it is highly complex and comprehensive, the Senate understood the magnitude of this legislation and the importance of it.

Mr. President, the vote this evening is a vindication of the extraordinary work of our former colleague and chairman of the Criminal Laws Subcommittee, Senator John McClellan, who had worked tirelessly with many members to fashion a compromise which would be in the national interest. I think, as has been stated here, that many of us, if we were drafting this legislation ourselves, would have changed many provisions. But as one who has had wiretap legislation before the Judiciary Committee for 9 years and has followed this debate for over a decade, I know some of the political realities. These adjustments, Mr. President, do not diminish the very, very important work exemplified by S. 1437. I think the bill is a substantial improvement over what we started with.

I am mindful of the work of the chairman of that committee, John McClellan; of Senator Hruska, who spent many days and hours on the issue of recodification; of Senator Philip Hart, who tragically left us a little over a year ago, and who was, I think, for all of us, the real conscience of the Senate in the area of individual rights and liberties.

He insisted that this legislation be a significant and substantial improvement over current law in the protection of individual liberties. We have, I believe, succeeded in that goal.

I thank the Brown Commission, and particularly Governor Brown who, even though he has no official responsibility in terms of the legislation, was never far from the barricades in wanting to be of help and assistance, tireless in the pursuit of this legislation. I note his work this evening.

Mr. President, it was not long ago that the Attorney General of the United States, Griffin Bell, during the consideration of his appointment before the Committee on the Judiciary, spoke very strongly about the importance of this legislation.

(Mr. CRANSTON assumed the chair.)

Mr. KENNEDY. He had a keen awareness of the importance of this legislation.

We are mindful of the strong commitment of Attorney General Bell, as well as the President concerning this recodification. It has been through the direct intervention of Attorney General Bell that S. 1437 has received such widespread, bipartisan support.

During the past few days there has been tucked away here in the Capitol a number of Justice Department staff. Ron Gainer, who has been of great help. No matter how excited or emotional any of us got during the consideration of S. 1437, Ron was always cool, an encyclopedia of knowledge about S. 1437. We are very grateful for his work.

He has been enormously helpful to all of us.

We, in the United States Senate, are dependent on the help and expertise of talented men and women. I think all of us are very fortunate in having that kind of assistance from the Justice Department. I think over the history of this country that the Justice Department has symbolized excellence it has been a goal of many, young and old alike, to serve there.

Roger Pauly, Fred Hess, Karen Skrivseth, Denis Hauptly, Richard Evans, Helen Jones and Christal Goode—all of them were tremendously helpful. The Attorney General has my deep thanks and appreciation.

I would also think, Mr. President, in mentioning John McClellan, that we mention his able right hand Paul Summit, who was absolutely invaluable to Senator McClellan and to all of us on the committee. I think we have all profited from his work, his understanding of the issues and his keen insight into criminal codes past and present. He has my personal thanks, as do Russell Coombs, Mabel Downey, and Shari Owens of the subcommittee.

I also want to pay special thanks to Eric Hultman, Senator THURMOND's assistant. He was as much a help to me as to Senator THURMOND. I am very grateful.

And a word of thanks to Michael Mullen of the Commerce Committee, formerly a key aide of Senator Philip Hart, who never lost his interest in the codification effort.

Finally, I am enormously grateful to my own administrative assistant, Kenneth Feinberg, who for so many years has been of tremendous assistance to me and to the committee. He performed yeoman service in fashioning—along with Paul, Senator McClellan and many others, including Senator THURMOND—the basic package which the Judiciary Committee moved forward to final passage.

I think all of us, perhaps, remember that it was not long ago that we all worked with a very distinguished former chief of staff of an important committee, Larry Woodworth, who subsequently went to the administration, and served that administration with distinction until he died. At his funeral, it was an important reminder—to me and I think to the other Members of the Congress who were there—of the extraordinary contribution that these men and women make to the legislative process.

It is extremely important, and I have certainly valued it and profited from it.

I am not going to take any more time to mention others, but the other members of the Judiciary Committee, and their very able staff all have my deepest thanks.

I just close with the very real hope that we can see early action in the House of Representatives and a short conference committee.

Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. HODGES). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to express appreciation to the able majority leader for scheduling this bill, and for the fine cooperation he has given to us during its consideration.

I would also like to express appreciation to the able minority leader for the fine cooperation he has given us during the consideration of this bill.

The Senate is fortunate in having such able men as ROBERT C. BYRD and HOWARD BAKER to be the leaders here in the Senate, and we appreciate the splendid cooperation and assistance they have given us on this particular piece of legislation.

In my remarks before passage I paid tribute to Senator KENNEDY, Senators of the majority and the minority who were active in the legislation, and various staff members who were so helpful in the preparation of the legislation and during its consideration in the committee and on the floor of the Senate. I also paid tribute to the Attorney General and the Justice Department for the valuable help they gave in connection with the bill. I paid special tribute to the Senator from Alabama (Mr. ALLEN) for the active and beneficial role he played in consideration of the bill all the way through. Without the help of these people and many others this milestone legislation could not have been achieved.

Mr. ROBERT C. BYRD. Mr. President, today the Senate has enacted what is without exaggeration truly landmark legislation.

Never before in the 200-year history of this Nation has the attempt even been made to systematically organize, revise and reform the Federal criminal laws so that they actually reflect as a body the needs and the values of the country.

Instead, our Federal criminal laws have grown up over the years in a haphazard random manner as a response to specific problems as they arose.

The result has been that those laws are often outdated and even inconsistent, thereby making more difficult rather than facilitating the administration of justice.

S. 1437 will change that. It will provide the people of this country with a system of laws that will be both coherent and rational. It will permit individual liberties while at the same time enabling each citizen to feel more secure in both his person and his property.

Mr. President, on what is certainly a momentous occasion, it is only appropriate to state for the RECORD that the passage of the Criminal Code Reform Act of 1978 could not have happened today without the efforts of four Senators: our late, departed colleague Senator John L. McClellan and our former colleague Senator Roman Hruska and the two distinguished managers of the bill, Senator KENNEDY and Senator THURMOND.

As all Members of the Senate are well aware, both Mr. McClellan and Mr. Hruska were in the forefront of this effort.

Both originally served as members of the Commission on Reform of Federal Criminal Laws. It was this commission that served as the genesis of the Criminal Code Act. Both of these Senators presided over years of hearings in their effort to obtain the goal of codification; but even all these efforts would have been for naught were it not for the labors of the managers of the bill, the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from South Carolina (Mr. THURMOND), who have themselves been interested and actively involved in the attempt to codify the criminal laws for years.

Few bills have involved more controversial or emotional issues than has the criminal code. Its enactment could never have been achieved without their expertise and their willingness to make appropriate compromises on matters where their philosophies may have differed. For the sake of the greater goal of codification, thanks to their efforts and to their skillful management, the Nation will have a body of criminal laws that will be more understandable to the people, will better meet the needs of our judicial system, and will facilitate rather than hamper the organization of justice. So that these men deserve great commendation for their achievement.

I share the hope that has been expressed by Mr. KENNEDY that the House of Representatives will move expeditiously to consider this matter and to enact it into law, so that it may be sent to the President's desk during this session of Congress.

On this subject, I already have spoken to the Speaker of the House of Representatives at least twice, alerting him to the fact that the Senate was considering this important and complex bill and expressing the hope that the House would be able to move forward in this session so that this great effort by these two Senators who have managed the bill and the efforts by Mr. McClellan and Mr. Hruska will not have been lost. The Speaker of the House indicated a desire to move ahead with the bill on his side of the Hill; and I express the deep hope and will continue to urge that the House act on that bill as expeditiously as possible, so that it may be sent to the President's desk and signed into law.

The Senate is in the debt of these men. I personally express my own deep gratitude to them, and I salute them.

Mr. BAKER. Mr. President, I join the distinguished majority leader in paying my respects and extending my compliments to the distinguished Senator from Massachusetts and the equally distinguished Senator from South Carolina, who have acted so diligently, so skillfully, so carefully, and with such patience to bring about this legislative synthesis. As a Senator who practiced law for 17 years, I have some appreciation, I believe, for the complexity of the task and the difficulty of its attainment.

Codification of this code will mark a milestone in the further evolution and development of American jurisprudence. I believe it will extend still further the rights and indeed the duties, the responsibilities, and the protections of every American citizen in a solid foundation of justice in government.

I reiterate my special tribute to the distinguished Senator from South Carolina, the ranking member of the Judiciary Committee. I appreciate his long hours on the floor, his incisive debate, his efforts on behalf of the passage of this monumental piece of legislation.

Mr. CHURCH. Mr. President, we have just completed action of a historic nature. For over 10 years, we have struggled to modernize Federal criminal statutes.

The effort has been controversial and complex. Without the dedication and leadership of Senator KENNEDY and our colleagues on the Judiciary Committee, past and present, this important task would never have been completed.

Compromises have necessarily resulted. Certainly the bill we passed today does not entirely reflect my viewpoint. But in any undertaking of this scope, there are bound to be disagreements over particulars. Senator KENNEDY has been a catalyst in bringing the diverse viewpoints of this body together to resolve their differences.

In his work on this legislation and his able management of this bill, Senator KENNEDY has performed an important service for the country that will long be remembered and I commend the distinguished floor manager.

HISTORY OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PELL, I send to the desk a resolution which has been cleared all around, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 372) authorizing the Printing of a recent history of the Senate Committee on Commerce, Science, and Transportation as a Senate Document.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PELL, I send to the desk a statement by Mr. PELL in explanation of the resolution, and I ask unanimous consent that the statement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. PELL

Mr. PELL. The resolution which I have submitted provides for the printing as a Senate Document of a brief history of the Senate Committee on Commerce, Science, and Transportation on the thirtieth anniversary of the committee reforms instituted by the Legislative Reorganization Act of 1946. I am confident that this document will serve as a valuable historical resource.

The publication of this document seems to be particularly appropriate at this time. As Senators know, Senator Magnuson has now relinquished the Chairmanship of the Committee to assume the Chairmanship of the Committee on Appropriations. In his 23 years of service as Chairman of the Committee, which is the longest consecutive service as a committee chairman in the history of the Senate, and over 30 years as a member of the Committee, Senator Magnuson has proven to be a strong and effective leader. During the 17 years that I have served in the Senate, I have worked closely with Senator Magnuson to preserve and develop our ocean resources, an issue of great concern to both of us. His dynamic leadership in this area has led to the passage of such landmark bills as the Coastal Zone Management Act, the Marine Mammal Protection Act, and the Fisheries Conservation and Management Act.

The Commerce Committee has also been in the forefront of legislative developments in such other areas as consumer protection, transportation, and communications. The last thirty years have been a dynamic period and the Commerce Committee has continuously provided the nation with responsive and innovative leadership.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The resolution was agreed to, as follows:

Resolved, That there be printed as a Senate document a compilation of materials relating to the history of the Senate Committee on Commerce, Science, and Transportation and its predecessor committees on the occasion of the thirtieth anniversary of the changes in committee structure commenced by the reforms of the Legislative Reorganization Act of 1946; and that there be printed for the use of that committee five thousand additional copies of such document.

EMPLOYMENT PREFERENCE FOR CERTAIN EMPLOYEES OF THE BUREAU OF INDIAN AFFAIRS AND THE INDIAN HEALTH SERVICE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 561, which I understand has been cleared on the other side of the aisle.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 666) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. BAKER. Mr. President, I rise only to say that this item, Calendar No. 561, has been cleared on this calendar, and we have no objection to its passage.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert the following:

That section 8336 of title 5, United States Code, is amended by redesignating subsection (h) as subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) (1) Except as provided in paragraph (3), an employee is entitled to an annuity if he—

"(A) is—

"(i) separated from the service after completing 25 years of service before December 31, 1985, or after becoming 50 years of age and completing 20 years of service before December 31, 1985, or

"(ii) involuntarily separated, except by removal for cause on charges of misconduct or delinquency, during the 2-year period prior to the date on which he would meet the years of service and age requirements under clause (i),

"(B) was employed in the Bureau of Indian Affairs, the Indian Health Service, a tribal organization (to the extent provided in paragraph (2)), or in any combination thereof continuously from June 17, 1974, to the date of his separation, and

"(C) is not—

"(i) an Indian entitled to a preference under section 12 of the Act of June 18, 1934

(48 Stat. 986), or any other provision of law granting a preference to Indians in promotions and other personnel actions, or

"(ii) a Native entitled to receive lands and benefits under the Alaska Native Claims Settlement Act (85 Stat. 688).

"(2) Employment in a tribal organization may be considered for purposes of paragraph (1)(B) only if—

"(A) the employee was employed by the tribal organization after January 4, 1975, and immediately prior to such employment he was an employee of the Bureau of Indian Affairs or the Indian Health Service, and

"(B) at the time of such employment such employee and the tribal organiaztion were eligible to elect, and elected, to have the employee retain the coverage, rights and benefits of this chapter under section 105(e)(2) of the Indian Self-Determination Act.

"(3)(A) An employee shall not be entitled to an annuity under paragraph (1) unless he is separated from the service within 5 years after the later of—

"(i) the date of the enactment of this subsection, or

"(ii) the first day on which he meets the years of service and age requirements under paragraph (1)(A)(i).

"(B) The provisions of subparagraph (A) shall have no effect on the entitlement of an employee to an annuity under any provision of law other than this subsection.

"(4) For purposes of this subsection the term 'Bureau of Indian Affairs' includes all positions in the Bureau of Indian Affairs and all other organizational units in the Department of the Interior directly and primarily related to providing services to Indians.".

SEC. 2. Section 8339 of title 5, United States Code, is amended—

(1) by inserting in subsection (f), immediately after "subsections (a)–(e)", the following: "and (n)";

(2) by inserting in subsection (i), immediately after "subsections (a)–(h)", the following: "and (n)";

(3) by inserting in subsections (j) and (k)(1), immediately after "subsections (a)–(i)" each time it appears, the following: "and (n)";

(4) by inserting in subsection (l), immediately after "subsections (a)–(k)," the following: "and (n)";

(5) by inserting in subsection (m), immediately after "subsections (a)–(e)", the following: "and (n)"; and

(6) by adding at the end thereof the following:

"(n) The annuity of an employee retiring under section 8336(h) of this title is—

"(A) 2½ percent of his average pay multiplied by so much of his total service as does not exceed 20 years; plus

"(B) 2 percent of his average pay multiplied by as much of his total service as exceeds 20 years.".

SEC. 3. (a) Section 8341 of title 5, United States Code, is amended—

(1) by inserting in subsection (b)(1), immediately after "section 8339(a)–(i)", the following: "and (n)"; and

(2) by striking out of subsection (d) "section 8339(a)–(f) and (i)" and inserting in lieu thereof the following: "section 8339(a)–(f) and (n)".

(b) Section 8344(a)(A) of such title is amended by striking out "and (i)" and inserting in lieu thereof "(i), and (n)".

SEC. 4. (a) Except as provided in subsection (b), the Secretary of the Interior or the Secretary of Health, Education, and Welfare may provide for one or more postponements of the retirement of any employee of their agency who is eligible for immediate retirement under section 8336(h) of title 5, United States Code, if—

(1) the employee consents to such postponement, and

(2) such postponement is necessary for the continued effective operation of the agency.

(b) The period of any postponement under subsection (a) shall not exceed 12 months and the total period of all postponements with respect to any individual shall not exceed 5 years.

(c) Notwithstanding the provisions of subsection (h) of section 8336 of title 5, United States Code, an employee whose retirement is postponed under subsection (a) shall be entitled to an annuity under that subsection if but for any such postponement he is otherwise entitled to an annuity under that subsection.

SEC. 5. Section 12 of the Act of June 18, 1934 (48 Stat. 986) is amended—

(a) by striking out "The Secretary of the Interior" and inserting in lieu thereof "(a) The Secretary of the Interior";

(b) by adding at the end of subsection (a) thereof, as so designated by subsection (a), the following new sentence: "In the case of any reduction in force, any Indian appointed under this section (regardless of whether such appointment was to the competitive or excepted service) shall be included in the appropriate order of retention category and shall have preference to appointments in such category."; and

(c) by adding at the end thereof, as amended by subsections (a) and (b), the following new subsections:

"(b) Notwithstanding the provisions of subsection (a) or any other provision of law granting employment preference to Indians, any vacancy may be filled without regard to Indian preference by the reassignement, without promotion or with reduction in grade, of qualified non-Indian employees if such reassignment—

"(1) is necessary for the health or safety of such employees or their families,

"(2) is in the course of a reduction in force but only if the non-Indian employee qualifies for the position of an Indian employee who is (A) in the same or immediately lower 2 grades, and (B) in a lower order of retention category, or

"(3) is determined necessary because the non-Indian employee's working relationship with a tribe has so deteriorated that the employee cannot provide effective service for such tribe or the Federal Government.

The authority to make any determination under paragraph (1), (2), or (3) is delegated to the Secretary and, notwithstanding any other provision of law, the Secretary shall not delegate such authority to any individual other than an Under Secretary or Assistant Secretary.

"(c) The Secretaries of Interior and Health, Education, and Welfare shall each submit to the Congress a report following the close of each fiscal year with respect to the actions which they took in such fiscal year to recruit and train Indians to qualify them for positions which are subject to Indian preference. Such report shall also include information as to the grade levels and occupational classifications of Indian and non-Indian employees in the Bureau of Indian Affairs and the Indian Health Service.".

SEC. 6. (a) The Civil Service Commission shall provide all appropriate assistance to the Bureau of Indian Affairs and the Indian Health Service in placing non-Indian employees of such agencies in other Federal positions. All other Federal agencies shall cooperate to the fullest extent possible in such placement efforts.

(b) The Secretaries of Interior and Health, Education, and Welfare, and the Chairman of the Civil Service Commission shall each submit a report to Congress following the close of each fiscal year with respect to the actions which they took in such fiscal year to place non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service in other Federal positions.

SEC. 7. (a) The provisions of, and amendments made by, the first section and sections 2, 3, and 4 of this Act shall apply only with respect to individuals who are separated from the service on or after the date of the enactment of this Act.

(b) The provisions of section 12(b) of the Act of June 18, 1934 (48 Stat. 986), as added by section 5(c) of this Act, shall apply to vacancies occurring on or after the date of enactment of this Act.

Mr. STEVENS. Mr. President, S. 666 is a bill which I introduced on February 10, 1977, with the cosponsorship of Senators BURDICK, DOMENICI, MARK O. HATFIELD, MCGOVERN, ABOUREZK, GRAVEL, BARTLETT, MELCHER, BELLMON, and SCHMITT. Hearings were held before the Civil Service and General Services Subcommittee on September 10, 1977, at which time we heard supporting testimony from several witnesses, including my eminent colleague, Senator PETE DOMENICI. Recommended changes were made in the bill, and it was ultimately approved, unanimously, by the Governmental Affairs Committee on December 15, 1977.

In a nutshell, this bill has two basic and vital objectives. First, it would provide a fair and equitable retirement formula to encourage the early retirement of non-Indians within the Bureau of Indian Affairs and the Indian Health Service. I hasten to add that this is not a windfall formula, but one that is carefully designed to compensate non-Indian career employees, who for reasons I will explain have been trapped in these agencies without any hope of promotion or opportunity to develop their full career potential. Second, the bill will take a major step in the direction of attaining the laudable and long-sought goals of Indian self-determination and Indian preference within the Bureau of Indian Affairs and the Indian Health Service.

We have been working with various versions of this legislation since the 93d Congress and it has evolved to the point where I am convinced we now have a bill that is well designed to deal with this very difficult problem. In handling this legislation during this Congress, we have worked closely with the Select Committee on Indian Affairs and I am glad to say we have their reassurance and support in helping secure passage of this bill. Before I get too far, however, I think it would be appropriate to provide some background on the historical facts that have brought about the need for this bill.

The Wheeler-Howard Act, passed in 1934, provided for radical reform of the administration of Indian affairs. Among its farsighted goals was preferential hiring of Indians into the Bureau of Indian Affairs and the application of Indian preference and subsequent promotions within the Bureau. For a number of reasons, the Department of Interior did not totally enforce Indian preference as it was intended in Wheeler-Howard. As a result, non-Indians developed their civil service careers in the Bureau of Indian Affairs and the Indian Health Service, and these non-Indians were assured that they would be accorded all of the benefits available to any other civil servant

under normal civil service merit principles.

Times, however, have changed. Indians have become dissatisfied and have discovered their rights to promotional preference and have claimed these as clear Indian rights under the law. In addition, there are now large numbers of educated and trained Indians, well qualified to fill the positions which have, up until now, been held by non-Indians. As a result, there is now a concerted effort in the direction of total application of Indian self-determination and Indian preference.

In 1974, the issue culminated in the Mancari against Morton decision, where the U.S. Supreme Court unanimously upheld the application of Indian preference in all of its aspects, as embodied in Wheeler-Howard. The result has been that 3,000 to 4,000 non-Indian employees of the Bureau of Indian Affairs and Indian Health Service have been told, in effect that they no longer have any meaningful career potential in either agency. As a direct result of the inconsistencies in enforcement of the Indian preference law, the promotion and reassignment prospects of many Indian and non-Indian employees have been seriously impaired. Understandably, this situation has caused serious morale and management problems which have limited the efficient operation of these two agencies and the delivery of vital services to Indian people. Every possible solution has been attempted, including out-placement, and nothing has worked.

In light of these developments it is my view that the only fair approach is to give non-Indian employees the opportunity to relinquish their jobs with dignity, pride, and self respect, and have a pension that reflects the fact that such employees, through no fault of their own, have no decent career advancement opportunities. In doing that, we would also be encouraging the full realization of the principles of Indian self-determination and Indian preference.

S. 666 has been tailored to provide the necessary inducement to encourage the early retirement of many, if not most, non-Indian employees of the Bureau of Indian Affairs. Such action is fair and equitable in view of the difficulties endured by many of these individuals, and I commend the Committee on Governmental Affairs and particularly the Subcommittee on Civil Service and General Services for dealing with this very difficult problem. I urge all Senators to vote for this vital and necessary bill.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR ADJOURNMENT UNTIL 10:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, I believe the Senate is to convene at 10 o'clock tomorrow morning. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I ask unanimous consent that the convening hour be changed to 10:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF S. 1976, REDWOOD NATIONAL PARK BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after Mr. EAGLETON has been recognized under the order previously entered, the Senate proceed to the consideration of Calendar No. 532, S. 1976, the Redwood National Park bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the order has been entered previously to the effect that on Wednesday, at 10 a.m., the Senate will proceed to the consideration of the amendment in disagreement between the two Houses on the supplemental appropriation bill. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And there is a time limitation of not to exceed 5 hours for debate on that amendment and on all motions relating to the same. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

NUCLEAR NON-PROLIFERATION ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with the understanding that there be no action on the measure today and that there be no speeches thereon, the Senate proceed to the consideration of Calendar No. 432, S. 897.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 897) to strengthen United States policies on non-proliferation and to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the bill under the terms described by the majority leader.

The Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment; from the Committee on Energy and Natural Resources, with amendments; and from the Committee on Foreign Relations, with an amendment.

ORDER REGARDING REDWOOD NATIONAL PARK BILL AND SUPPLEMENTAL APPROPRIATIONS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will have before it the Redwood National Park bill, and on Wednesday the Senate will have before it the matter involving the disagreement between the two Houses on the supplemental appropriations conference report.

I ask unanimous consent that no call for the regular order dispose of either the redwood bill or the matter involving the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEN-SECOND ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 10 seconds.

There being no objection, the Senate, at 7:30 p.m. on Monday, January 30, 1978, adjourned until 7:30 p.m. the same day.

AFTER ADJOURNMENT

MONDAY, JANUARY 30, 1978

The Senate met at 7:30 p.m., pursuant to adjournment, and was called to order by Hon. KANEASTER HODGES, a Senator from the State of Arkansas.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the Proceedings be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO DISPENSE WITH MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to dispense with morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR NON-PROLIFERATION ACT OF 1977

The Senate continued with consideration of S. 897.

Mr. ROBERT C. BYRD. Mr. President, the bill, S. 897, has now become the unfinished business, am I not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, there will be no action on that bill tomorrow, and there will be no action on that bill Wednesday, in conformity with my assurance to the distinguished minority leader and the Senator from Idaho (Mr. MCCLURE).

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—this request

having been cleared on the other side of the aisle—that the Armed Services Committee be authorized to meet during the session of the Senate tomorrow, January 31, to consider the Panama Canal treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—this request having been cleared on the other side of the aisle—that the Human Resources Committee be authorized to meet until 2 p.m. during the session of the Senate on Thursday, February 2—which is groundhog day—to consider S. 50, the Humphrey-Hawkins full employment and balanced growth bill; and that the Subcommittee on Employment, Poverty, and Migratory Labor of the Human Resources Committee be authorized to meet until 2 p.m. during the session of the Senate on Friday, February 3—regardless of whether or not the groundhog saw his shadow on the previous day—to consider the same piece of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 95–45, appoints the following Senators to the Interparliamentary Union Spring Meeting, to be held in Lisbon, Portugal, March 27–31, 1978: the Senator from Alabama (Mr. SPARKMAN), chairman; the Senator from Connecticut (Mr. RIBICOFF); the Senator from Indiana (Mr. BAYH); the Senator from Wisconsin (Mr. NELSON); and the Senator from Vermont (Mr. STAFFORD).

The Chair, on behalf of the Vice President, pursuant to Public Law 92–484, appoints the Senator from Illinois (Mr. STEVENSON) to the Technology Assessment Board, in lieu of the Senator from Minnesota (Mr. Humphrey), deceased.

The Chair, on behalf of the Vice President, pursuant to Public Law 86–42, appoints the following Senators to attend the Canada-United States Interparliamentary Conference, to be held in New Orleans, La., February 9–13, 1978: the Senator from Alabama (Mr. SPARKMAN), the Senator from Alaska (Mr. GRAVEL), the Senator from Vermont (Mr. LEAHY), the Senator from Tennessee (Mr. SASSER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Alaska (Mr. STEVENS).

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will take up the redwoods bill, S. 1976. There will be votes on amendments and motions in relation to the same, and on Wednesday the Senate will take up the matter involving the B–1, amendment 43 to H.R. 9375, and there will undoubtedly be rollcall votes during the day on that matter.

Mr. BAKER. Mr. President, if the majority leader will yield, I followed the outline of the Senate's schedule with interest.

It appears, then, that consideration of the Nuclear Fuel Export Act probably will be resumed by the Senate on Thursday of this week.

Mr. ROBERT C. BYRD. That is correct.

May I say to the distinguished minority leader that if all sides can make themselves available on the waterway users bill and if they are agreeable to proceeding with that bill on Thursday, it is to be my hope that the Senate will take up that bill on Thursday under the circumstances.

Mr. BAKER. In advance of the resumption of the consideration of the Nuclear Fuel Export Act?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the majority leader.

RECESS UNTIL 10:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10:45 a.m. tomorrow.

The motion was agreed to, and at 8:34 p.m., the Senate recessed until Tuesday, January 31, 1978, at 10:45 a.m.

NOMINATIONS

Executive nominations received by the Senate January 30, 1978:

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

Captain Bernie E. Thompson, [redacted].
Captain Clifford F. DeWolf, [redacted].
Captain Harold W. Parker, Jr., [redacted].
Captain Henry H. Bell, [redacted].
Captain Alfred P. Manning, Jr., [redacted].
Captain Richard J. Knapp, [redacted].

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. Wilbur Lyman Creech, [redacted], U.S. Air Force.

The following-named officer under the provisions of Title 10, United States Code, section 8066, for confirmation of recess appointment to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Gen. James Erskine Hill, [redacted], U.S. Air Force.

Gen. Robert J. Dixon, U.S. Air Force, (age 57), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Gen. Felix M. Rogers, U.S. Air Force, (age 56), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. John George Albert, [redacted], U.S. Air Force.

The following officers for temporary appointment in the United States Air Force under the provisions of Chapter 839, Title 10 of the United States Code:

To be major general

Brig. Gen. James A. Abrahamson, [redacted], regular Air Force.
Brig. Gen. Anderson W. Atkinson, [redacted], regular Air Force.
Brig. Gen. Walter H. Baxter, III, [redacted] regular Air Force.
Brig. Gen. Robert W. Bazley, [redacted] regular Air Force.
Brig. Gen. Rufus L. Billups, [redacted], regular Air Force.
Brig. Gen. Robert M. Bond, [redacted] regular Air Force.
Brig. Gen. Max B. Bralliar, [redacted], regular Air Force, medical.
Brig. Gen. Bruce K. Brown, [redacted], regular Air Force.
Brig. Gen. Kenneth D. Burns, [redacted], regular Air Force.
Brig. Gen. Gerald J. Carey, Jr., [redacted], regular Air Force.
Brig. Gen. Robert W. Clement, [redacted], Regular Air Force.
Brig. Gen. Robert F. Coverdale, [redacted], Regular Air Force.
Brig. Gen. James E. Dalton, [redacted], Regular Air Force.
Brig. Gen. Van C. Doubleday, [redacted], Regular Air Force.
Brig. Gen. Howard M. Estes, Jr., [redacted], Regular Air Force.
Brig. Gen Martin C. Fulcher, [redacted] Regular Air Force.
Brig. Gen. Robert T. Herres, [redacted], Regular Air Force.
Brig. Gen. William J. Kelley, [redacted], Regular Air Force.
Brig. Gen. William B. Maxson, [redacted], Regular Air Force.
Brig. Gen. Thomas H. McMullen, [redacted], Regular Air Force.
Brig. Gen. John L. Piotrowski, [redacted] Regular Air Force.
Brig. Gen. Andrew Pringle, Jr., [redacted] Regular Air Force.
Brig. Gen. John E. Ralph, [redacted], Regular Air Force.
Brig Gen. George W. Rutter, [redacted] Regular Air Force.
Brig. Gen. Stuart H. Sherman, Jr., [redacted], regular Air Force.
Brig. Gen. Robert B. Tanguy, [redacted], regular Air Force.
Brig. Gen. Robert L. Thompson, Jr., [redacted], regular Air Force, medical.
Brig. Gen. Daryle E. Tripp, [redacted] regular Air Force.
Brig. Gen. Jack L. Watkins, [redacted] regular Air Force.
Brig. Gen. Charles E. Woods, [redacted] regular Air Force.

The following officers for appointment in the Regular Air Force to the grades indicated, under the provisions of Chapter 835, Title 10 of the United States Code:

To be major general

Maj. Gen. William H. Ginn, Jr., [redacted] (brigadier general, regular Air Force) U.S. Air Force.
Maj. Gen. Billy M. Minter, [redacted] (brigadier general, regular Air Force) U.S. Air Force.
Maj. Gen. James P. Mullins, [redacted] (brigadier general, regular Air Force) U.S. Air Force.
Maj. Gen. John J. Murphy, [redacted] (brigadier general, regular Air Force) U.S. Air Force.
Maj. Gen. Paul W. Myers, [redacted] (brigadier general, regular Air Force) U.S. Air Force, medical.
Maj. Gen. William R. Nelson, [redacted]

[redacted] (brigadier general, regular Air Force) U.S. Air Force.

Maj. Gen. Carl D. Peterson, [redacted] (brigadier general, regular Air Force) U.S. Air Force.

Maj. Gen. Thomas M. Sadler, [redacted] (brigadier general, regular Air Force) U.S. Air Force.

Maj. Gen. Henry B. Stelling, Jr., [redacted] (brigadier general, regular Air Force) U.S. Air Force.

Lt. Gen. George H. Sylvester, [redacted] (brigadier general, regular Air Force) U.S. Air Force.

Maj. Gen. John C. Toomay, [redacted] (brigadier general, regular Air Force) U.S. Air Force.

To be brigadier general

Brig. Gen. Robert W. Bazley, [redacted] (colonel, regular Air Force) U.S. Air Force.

Brig. Gen. Max B. Bralliar, [redacted] (colonel, regular Air Force) U.S. Air Force, medical.

Maj. Gen. James L. Brown, [redacted] (colonel, regular Air Force) U.S. Air Force.

Brig. Gen. Norma E. Brown, [redacted] (colonel, regular Air Force) U.S. Air Force.

Brig. Gen. William E. Brown, Jr., [redacted] (colonel, regular Air Force) U.S. Air Force.

Maj. Gen. Gerald E. Cooke, [redacted] (colonel, regular Air Force) U.S. Air Force.

Maj. Gen. Hans H. Driessnack, [redacted] (colonel, regular Air Force) U.S. Air Force.

Maj. Gen. Walter D. Druen, Jr., [redacted] (colonel, regular Air Force) U.S. Air Force.

Maj. Gen. Billy J. Ellis, [redacted] (colonel, regular Air Force) U.S. Air Force.

Brig. Gen. Irwin P. Graham, [redacted] (colonel, regular Air Force) U.S. Air Force.

Maj. Gen. David L. Gray, [redacted] (colonel, regular Air Force) U.S. Air Force.

Brig. Gen. Patrick J. Halloran, [redacted] (colonel, regular Air Force) U.S. Air Force.

Brig. Gen. Paul T. Hartung, [redacted] (colonel, regular Air Force) U.S. Air Force.

Maj. Gen. Gerald K. Hendricks, [redacted] (colonel, regular Air Force) U.S. Air Force.

Maj. Gen. Andrew P. Iosue, [redacted] (colonel, regular Air Force) U.S. Air Force.

Brig. Gen. Charles B. Jiggetts, [redacted] (colonel, regular Air Force) U.S. Air Force.

Brig. Gen. George J. Kertesz, [redacted] (colonel, regular Air Force) U.S. Air Force.

Lt. Gen. Richard L. Lawson, [redacted] (colonel, regular Air Force) U.S. Air Force.

Maj. Gen. Howard W. Leaf, [redacted] (colonel, regular Air Force) U.S. Air Force.

Brig. Gen. William G. MacLaren, Jr., [redacted] FR, (colonel, regular Air Force) U.S. Air Force.

Brig. Gen. Thomas H. McMullen, [redacted] (colonel, regular Air Force) U.S. Air Force.

Maj. Gen. Warren C. Moore, [redacted] (colonel, regular Air Force), U.S. Air Force.

Brig. Gen. Don H. Payne, [redacted] (colonel, regular Air Force), U.S. Air Force.

Brig. Gen. Thomas C. Pinckney, Jr., [redacted] (colonel, regular Air Force), U.S. Air Force.

Maj. Gen. Freddie L. Poston, [redacted] (colonel, regular Air Force), U.S. Air Force.

Brig. Gen. Dennis B. Sullivan, [redacted] (colonel, regular Air Force), U.S. Air Force.

Brig. Gen. Herman O. Thomson, [redacted] (colonel, regular Air Force), U.S. Air Force.

Maj. Gen. Stanley M. Umstead, Jr., [redacted] (colonel, regular Air Force), U.S. Air Force.

Maj. Gen. Hoyt S. Vandenberg, Jr., [redacted] (colonel, regular Air Force), U.S. Air Force.

Brig. Gen. Mele Vojvodich, Jr., [redacted] (colonel, regular Air Force), U.S. Air Force.

Brig. Gen. Garry A. Willard, Jr., [redacted] (colonel, regular Air Force), U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Richard Greenleaf Trefry, [redacted], Army of the United States (brigadier general, U.S. Army).

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of Title 10, United States Code, Sections 3284 and 3307:

To be major general

Maj. Gen. George S. Patton, [redacted], Army of the United States (brigadier general, U.S. Army).

Lt. Gen. DeWitt C. Smith, Jr., [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Homer D. Smith, Jr., [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Eugene P. Forrester, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Philip R. Feir, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Joseph P. Kingston, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Robert C. Kingston, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Gerd S. Grombacher, [redacted], Army of the United States (brigadier general, U.S. Army).

Lt. Gen. Eugene J. D'Ambrosio, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Ennis C. Whitehead, Jr., [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Robert L. Kirwan, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. George L. McFadden, Jr., [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Julius W. Becton, Jr., [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. R. Dean Tice, [redacted], Army of the Uited States (brigadier general, U.S. Army).

Maj. Gen. Harry A. Griffith, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Richard L. Prillaman, [redacted], the Army of the United States (brigadier general, U.S. Army).

Maj. Gen. David E. Grange, Jr., [redacted], Army of the United States (brigadier general, U.S. Army).

Lt. Gen. Arthur J. Gregg, [redacted], Army of the United States (brigadier general, United States Army).

Maj. Gen. Bennett L. Lewis, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. John A. Wickham, Jr., [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Wallace H. Nutting, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Richard G. Trefrey, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. James M. Lee, [redacted], Army of the United States (brigadier general, U.S. Army).

Lt. Gen. Volney F. Warner, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Charles F. Means, [redacted], Army of the United States (bridgadier general, U.S. Army).

Maj. Gen. John J. Koehler, Jr., [redacted], Army of the United States (brigadier general, U.S. Army).

Lt. Gen. Eivind H. Johansen, [redacted], Army of the United States (brigadier general, U.S. Army).

Maj. Gen. William R. Todd, [redacted], Army of the United States (brigadier general, U.S. Army).

The following-named Army Medical Department officers for temporary appointment in the Army of the United States, to the grades indicated, under the provisions of Title 10, United States Code, Sections 3442 and 3447.

MEDICAL CORPS

To be major general,

Brig. Gen. Enrique Mendez, Jr., [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general

Col. Bernhard Theodore Mittemeyer, [redacted], Medical Corps, U.S. Army.

The following-named Army Medical Department officer for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284, 3306 and 3307.

To be brigadier general

Maj. Gen. William Sinclair Augerson, [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

IN THE NAVY

The following named officer having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. George E. R. Kinnear II, U.S. Navy.

The following named captains of the Reserve of the U.S. Navy for temporary promotion to the grade of rear admiral, pursuant to the provisions of title 10, United States Code, section 5910, subject to qualification therefor as provided by law:

LINE

Benjamin Joseph Lehman.
Philip Wesley Smith, Jr.
George William Lotzenhiser.
James William Gray, Jr.
Donald Sebring Albright, Jr.
Carl August Brettschneider.

MEDICAL CORPS

Park Weed Willis III.
John Robert Senior.

SUPPLY CORPS

Frank James Allston.

CHAPLAIN CORPS

Gerald Edwin Kuhn.

DENTAL CORPS

Frank Hannum Anderson.

IN THE MARINE CORPS

The following named officers of the Marine Corps for permanent appointment to the grade of major general under the provisions

of title 10, United States Code, sections 5769 and 5780:

Richard C. Schulze	Hal W. Vincent
William R. Maloney	Stephen G. Olmstead
David M. Twomey	Bernard E. Trainor
Joseph V. McLernan	Marc A. Moore

The following named officers of the Marine Corps for permanent appointment to the grade of brigadier general under the provisions of title 10, United States Code, sections 5769 and 5780:

Hugh S. Aitken	Wesley H. Rice
Bain McClintock	Gregory A. Corliss
Roy E. Moss	Joseph J. Went
William Weise	Raymond A. Shaffer
James P. King	Harold G. Glasgow
Harry T. Hagaman	Clayton L. Comfort
John Phillips	

IN THE AIR FORCE

The following named officers for promotion in the United States Air Force, under the appropriate provisions of Chapter 839, Title 10, United States Code, as amended.

Lieutenant colonel to colonel

LINE OF THE AIR FORCE

Ackerlund, Walter E., xxx-xx-xxxx.
Acres, Robert D., xxx-xx-xxxx.
Adams, Thomas R., xxx-xx-xxxx.
Ahlborn, John F., xxx-xx-xxxx.
Alewine, Mirtin A., Jr., xxx-xx-xxxx.
Alexander, Robert M., xxx-xx-xxxx.
Alexander, William D., xxx-xx-xxxx.
Allen, James S., xxx-xx-xx...
Alley, Gerald W., xxx-xx-xxxx.
Amos, Robert C., xxx-xx-xxxx.
Anderson, Alan H., xxx-xx-xxxx.
Anderson, Calvin C., xxx-xx-xxxx.
Anderson, Thomas I., xxx-xx-xxxx.
Andrews, Leonard E., xxx-xx-xxxx.
Angell, Jerry W., xxx-xx-xxxx.
Anonsen, Charles E., xxx-xx-xx...
Ardern, William E., xxx-xx-xxxx.
Arias, Roger F. A., xxx-xx-xxxx.
Armistead, Samuel E., Jr., xxx-xx-xxxx.
Arnau, Robert R., xxx-xx-xxxx.
Ashley, Clifford B., xxx-xx-xxxx.
Ashley, Donald L., xxx-xx-xxxx.
Atkinson, Rowland R., Jr., xxx-xx-xxxx.
Bache, Alexander D., xxx-xx-xxxx.
Baker, Duane A., xxx-xx-xx...
Baker, Woody R., Jr., xxx-xx-xxxx.
Bale, William F., xxx-xx-xxxx.
Baltzell, Robert E., xxx-xx-xxxx.
Banholzer, Alfred E., II, xxx-xx-xxxx.
Bannon, Paul W., xxx-xx-xxxx.
Barlow, Robert C., xxx-xx-xxxx.
Barnes, William A., xxx-xx-xxxx.
Barrett, Archie D., xxx-xx-xxxx.
Barry, Daniel P., xxx-xx-xxxx.
Barton, George C., xxx-xx-xxxx.
Bates, John A., xxx-xx-xxxx.
Baumgardner, Max E., xxx-xx-xxxx.
Bays, Brooks G., xxx-xx-xxxx.
Beale, Robert E., xxx-xx-xxxx.
Beard, James P., xxx-xx-xxxx.
Beardsley, Ralph J., xxx-xx-xx...
Bellion, Clement E., Jr., xxx-xx-xxxx.
Bernert, George W., xxx-xx-xxxx.
Berry, John K. D., xxx-xx-xxxx.
Berry, Stanley D., xxx-xx-xxxx.
Berta, Michael A., xxx-xx-xxxx.
Biancur, Andrew W., xxx-xx-xxxx.
Bigelow, Daniel J., xxx-xx-xxxx.
Bigham, Larry J., xxx-xx-xxxx.
Blackwell, James R., xxx-xx-xxxx.
Blaidsell, Allan C., xxx-xx-xxxx.
Blanch, Claude C., xxx-xx-xxxx.
Blom, Roger L., xxx-xx-xxxx.
Boivin, Richard H., xxx-xx-xxxx.
Bolton, Malcolm F., Jr., xxx-xx-xxxx.
Bonner, William T., Jr., xxx-xx-xxxx.
Boston, Leo S., xxx-xx-xx...
Bowman, Robert U., xxx-xx-xxxx.
Bozeman, Gerald E., xxx-xx-xxxx.
Brabson, George D., Jr., xxx-xx-xxxx.
Bracken, Edward R., xxx-xx-xxxx.
Bradley, Edgar A., xxx-xx-xxxx.
Bradley, James P., Jr., xxx-xx-xxxx.
Braman, Marvin L., xxx-xx-xxxx.
Branan, Carl K., xxx-xx-xxxx.
Branham, Ruel K., xxx-xx-xxxx.
Braun, Cecil O., xxx-xx-xx...
Bright, Mahrlon R., xxx-xx-xx...
Brock, Eugene B., xxx-xx-xxxx.
Brog, David, xxx-xx-xxxx.
Bronson, Howard F., III, xxx-xx-xxxx.
Brown, Billy J., xxx-xx-xxxx.
Brown, Bruce L., xxx-xx-xxxx.
Brown, Charles J., xxx-xx-xxxx.
Brown, Donald N., xxx-xx-xxxx.
Brown, Richard A., xxx-xx-xxxx.
Brown, Walter T., Jr., xxx-xx-xxxx.
Budzowski, Benjamin M., xxx-xx-xxxx.
Burbey, Gene P., xxx-xx-xxxx.
Burer, Arthur W., xxx-xx-xxxx.
Burke, Donald M., xxx-xx-xxxx.
Burkett, Theodore J., xxx-xx-xxxx.
Burney, David L., xxx-xx-xxxx.
Burton, James G., xxx-xx-xxxx.
Bustle, Lawrence E., Jr., xxx-xx-xxxx.
Butkewicz, Peter J., xxx-xx-xxxx.
Butschek, Robert J., xxx-xx-xxxx.
Butterfield, John D., xxx-xx-xxxx.
Butts, Duncan R., xxx-xx-xxxx.
Cable, Dick A., xxx-xx-xxxx.
Caldwell, Robert W., Jr., xxx-xx-xxxx.
Cannon, Daniel P., xxx-xx-xxxx.
Caras, Franklin A., xxx-xx-xxxx.
Carlton, James E., xxx-xx-xxxx.
Carr, Richard E., xxx-xx-xxxx.
Carter, Donald M., xxx-xx-xx...
Carver, Richard C., xxx-xx-xxxx.
Chambers, James E., xxx-xx-xxxx.
Chambers, William R., xxx-xx-xxxx.
Chappelle, Robert L., xxx-xx-xxxx.
Charles, Cecil M., xxx-xx-xxxx.
Chason, Lloyd R., xxx-xx-xxxx.
Chatfield, George A., Jr., xxx-xx-xxxx.
Christensen, Allan R., xxx-xx-xxxx.
Christman, Donald O., xxx-xx-xx...
Christy, Frank J., xxx-xx-xxxx.
Church, Larry D., xxx-xx-xxxx.
Ciambrone, Thomas W., xxx-xx-xxxx.
Clark, Leonard L., xxx-xx-xxxx.
Clark, Milton M., xxx-xx-xxxx.
Clark, Richard R., xxx-xx-xxxx.
Claymore, Paul T., xxx-xx-xxxx.
Cleary, Patrick J., xxx-xx-xxxx.
Coats, George E., xxx-xx-xxxx.
Cody, Thomas J., Jr., xxx-xx-xxxx.
Cole, Alan R., xxx-xx-xxxx.
Collipi, Thomas C., xxx-xx-xxxx.
Colter, Craig G., xxx-xx-xxxx.
Conger, Douglas J., xxx-xx-xxxx.
Connally, James W., xxx-xx-xxxx.
Conran, Philip J., xxx-xx-xxxx.
Conry, James M., xxx-xx-xxxx.
Cook, Lee R., xxx-xx-xxxx.
Coolidge, John K., xxx-xx-xxxx.
Cooper, Leroy D., xxx-xx-xxxx.
Corder, Charles V., Jr., xxx-xx-xxxx.
Corlett, Robert M., xxx-xx-xxxx.
Corley, Parris L., xxx-xx-xxxx.
Cothran, Thurman D., Jr., xxx-xx-xxxx.
Coulter, Richard P., xxx-xx-xxxx.
Cox, Rodney V., Jr., xxx-xx-xxxx.
Craig, James T., Jr., xxx-xx-xxxx.
Crist, Robert B., xxx-xx-xxxx.
Crumroy, Otto F., Jr., xxx-xx-xxxx.
Dabrowski, Charles T., xxx-xx-xxxx.
Daniels, Preston J., xxx-xx-xxxx.
Davey, John M., xxx-xx-xxxx.
Davidson, Alfred H., III, xxx-xx-xxxx.
Davis, Duane M., xxx-xx-xxxx.
Davis, Lowell J. K., xxx-xx-xxxx.
Davis, Ronald R., xxx-xx-xxxx.
Davis, William R., xxx-xx-xxxx.
Dayton, Allen D., xxx-xx-xxxx.
Deal, Kenneth L., xxx-xx-xxxx.
Demchuk, Sergi L., xxx-xx-xxxx.
Demers, Bernard G., xxx-xx-xxxx.
Dennis, Lawrence V., xxx-xx-xxxx.
Denton, Murray B., xxx-xx-xxxx.
Dettmer, John W., xxx-xx-xxxx.
Dezutter, James E., xxx-xx-xxxx.
Diangelo, Henry J., xxx-xx-xxxx.
Dickson, Foster N., xxx-xx-xxxx.
Dickson, John E., Jr., xxx-xx-xxxx.
Dietz, Arthur H., xxx-xx-xxxx.
Dill, Donald W., xxx-xx-xxxx.
Dobson, William J., Jr., xxx-xx-xxxx.
Dodd, Claude S., Jr., xxx-xx-xxxx.
Doughty, Jack C., xxx-xx-xxxx.
Downey, Clark H., Jr., xxx-xx-xxxx.
Drew, Philip M., xxx-xx-xxxx.
Dubolse, Donald E., xxx-xx-xxxx.
Dundervill, Robert F., Jr., xxx-xx-xxxx.
Durkin, Robert F., xxx-xx-xxxx.
Dyczkowski, Robert R., xxx-xx-xxxx.
Ebert, Hugh D., Jr., xxx-xx-xxxx.
Edsall, Philip V., xxx-xx-xxxx.
Edwards, Herbert H., xxx-xx-xxxx.
Ellithorpe, Robert C., xxx-xx-xxxx.
Ello, John V., xxx-xx-xx...
Elsby, C. N., xxx-xx-xxxx.
Emmons, Robert H., Jr., xxx-xx-xxxx.
Emory, James W., xxx-xx-xxxx.
Engebretson, Roger W., xxx-xx-xxxx.
Engelage, Donald L., xxx-xx-xxxx.
English, Delmar L., xxx-xx-xxxx.
Epifani, Louis R., xxx-xx-xxxx.
Evgenides, Constantine N., xxx-xx-xxxx.
Fabyanic, Thomas A., xxx-xx-xxxx.
Fake, Mary L., xxx-xx-xxxx.
Farney, Earl J., xxx-xx-xxxx.
Farrington, Anthony J., Jr., xxx-xx-xxxx.
Farrington, John R., xxx-xx-xxxx.
Fay, Leland G., xxx-xx-xx...
Federici, Fred J., Jr., xxx-xx-xxxx.
Felock, Joseph W., Jr., xxx-xx-xxxx.
Fender, Johnny C., xxx-xx-xxxx.
Findlay, Gary W., xxx-xx-xxxx.
Fisher, Paul T., xxx-xx-xxxx.
Flowers, Ansel T., xxx-xx-xx...
Folts, Lavens D., xxx-xx-xxxx.
Forrest, John G., Jr., xxx-xx-xxxx.
Forsyth, Milton D., Jr., xxx-xx-xxxx.
Forsythe, Conrad O., xxx-xx-xxxx.
Foster, Harl R., xxx-xx-xxxx.
Foster, Raymond L., xxx-xx-xxxx.
Foy, William M., xxx-xx-xxxx.
Frazier, Lester G., xxx-xx-xxxx.
Fred, Richard E., xxx-xx-xxxx.
Freeman, Dan W., xxx-xx-xxxx.
Frick, Glenn E., xxx-xx-xxxx.
Friedman, Joseph C., xxx-xx-xxxx.
Fruehauf, Benjamin F., Jr., xxx-xx-xxxx.
Fryer, John C., Jr., xxx-xx-xxxx.
Fullerton, Charles G., xxx-xx-xxxx.
Gadd, Robert F., III, xxx-xx-xxxx.
Galbraith, Patrick E., xxx-xx-xxxx.
Gardner, Ronald E., xxx-xx-xxxx.
Gargus, John, xxx-xx-xxxx.
Garove, Eugene, xxx-xx-xxxx.
Gasior, Kenneth V., xxx-xx-xxxx.
Gebhard, James B., xxx-xx-xxxx.
Germann, David B., xxx-xx-xxxx.
Gibson, Charles H., xxx-xx-xxxx.
Giglio Michael A., xxx-xx-xxxx.
Gilbert, Stephen W., xxx-xx-xx...
Gilbreath, James B., xxx-xx-xxxx.
Gillespie, Fred D., xxx-xx-xxxx.
Gillis, Richard F., xxx-xx-xxxx.
Gingrich, Franklin J., Jr., xxx-xx-xxxx.
Glass, George J., xxx-xx-xxxx.
Glyphis, Benedict E., xxx-xx-xxxx.
Goetz, Michael B., xxx-xx-xxxx.
Goldberg, William, xxx-xx-xxxx.
Gonzales, Conrad C., xxx-xx-xxxx.
Goodrich, Jerome C., xxx-xx-xxxx.
Goodwin, Reginald S., Jr., xxx-xx-xxxx.
Goodyear, William G., xxx-xx-xxxx.
Gordon, Sidney H., xxx-xx-xxxx.
Gorman, William J., xxx-xx-xxxx.
Gould, Frank A., xxx-xx-xxxx.
Graham, Raymond L., Jr., xxx-xx-xxxx.
Greer, Lee V., xxx-xx-xxxx.
Gregorios, Basil D., xxx-xx-xxxx.
Grigsby, Bert E., xxx-xx-xxxx.
Grimaud, Maurice L., xxx-xx-xxxx.
Gross, Alan, xxx-xx-xxxx.
Groves, Harold L., xxx-xx-xxxx.
Guemmer, Arthur P., xxx-xx-xxxx.
Guest, Richard P., Jr., xxx-xx-xxxx.
Guest, Tommy D., xxx-xx-xxxx.
Guidi, Adolph M., Jr., xxx-xx-xxxx.
Gumbrecht, George E., xxx-xx-xxxx.
Haber, Frederich J., xxx-xx-xxxx.
Haerle, Peter J., xxx-xx-xx...
Hafner, Patrick H., xxx-xx-xxxx.
Haldeman, Robert B., xxx-xx-xxxx.

Hall, Keith N., [redacted]
Halley, John T., [redacted]
Hally, Thomas J., [redacted]
Halpin, William G., [redacted]
Hamilton, Richard A., [redacted]
Hammond, George R., [redacted]
Hancock, Charles C., Jr., [redacted]
Hancock, Robert N., [redacted]
Hanna, William C., [redacted]
Hansen, Ernest L., [redacted]
Hansen, Walter [redacted]
Hargrove, Floyd E., [redacted]
Harmon, Jerry P., [redacted]
Harmon, Kenneth T., [redacted]
Harpster, Milton H., [redacted]
Harrison, Tommy G., [redacted]
Hartke, Richard H., [redacted]
Harty, John R., [redacted]
Hass, Paul H., [redacted]
Havard, Robert N., [redacted]
Hawley, Richard E., [redacted]
Haynes, William J., [redacted]
Hearne, Richard E., [redacted]
Hellings, Frazier J., [redacted]
Helmich, Gerald R., [redacted]
Hemphill, Dewey K., [redacted]
Henderson, Ronald P., [redacted]
Hensley, Billie L., [redacted]
Herbert, John D., [redacted]
Herfel, David L., [redacted]
Hermanson, Robert F., [redacted]
Hernandez, John E., [redacted]
Hesse, Kenneth R., [redacted]
Hesterman, John W., Jr., [redacted]
Hetherington, Robert B., [redacted]
Heverly, Robert E., [redacted]
Hilgenberg, John F., [redacted]
Hillyer, George W., III, [redacted]
Hinson, Joshua M., [redacted]
Hipp, Joe W., [redacted]
Hirst, Donald L., [redacted]
Hoblit, Jerry N., [redacted]
Hodge, Ralph L., [redacted]
Hogendorf, Heinrich F., [redacted]
Hohlstein, Robert P., [redacted]
Holaday, Burton H., [redacted]
Hollingsworth, Clyde E., [redacted]
Hooker, Charles W., [redacted]
Horney Warren R., [redacted]
Horrigan, Roger C., [redacted]
Host, Bruce J., [redacted]
Hostetler, Connie M., [redacted]
Hover, Robert C., [redacted]
Hughes, J. D., [redacted]
Hunsuck, John D., [redacted]
Hunter, William R., [redacted]
Hurley, Phil C., [redacted]
Ingram, Campbell B., [redacted]
Ivey, James C., Jr., [redacted]
Jackson, Clifford M., [redacted]
Jagrowski, Gerald L., [redacted]
Jalcks, Frederick B., [redacted]
James, Gobel D., [redacted]
Janzen, Robert L., [redacted]
Jaques, Richard P., [redacted]
Jenkins, LeVaughn, [redacted]
Jennings, Robert S. F., [redacted]
Jenrich, Edwin, [redacted]
Jensen, Norman K., [redacted]
Jensen, Ted W., [redacted]
Johnson, Allen T., [redacted]
Johnson, Chandois H., [redacted]
Johnson, Edward E., [redacted]
Johnson, Edward H., [redacted]
Johnson, Joe E., [redacted]
Johnson, John T., [redacted]
Johnson, Richelieu N., [redacted]
Johnson, Tony M., [redacted]
Jones, Bobbie L., [redacted]
Jones, Donald E., [redacted]
Jones, Richard A., [redacted]
Joyce, James J., [redacted]
Kane, Donald G., [redacted]
Karpen, Donald J., [redacted]
Katz, Stephen E., [redacted]
Kaufman, Donald L., [redacted]
Kautz, James G., [redacted]
Kazanjian, Ramon J., [redacted]
Kean, Jerry J., [redacted]
Kearl, Gordon C., [redacted]
Kehler, William A., [redacted]
Keith, Larry R., [redacted]
Keller, Bruce G., [redacted]
Keller, William M., [redacted]
Kelly, Dana K., [redacted]
Kelly, John J., [redacted]
Kelm, James E., [redacted]
Kelsey, David S., [redacted]
Kemmerling, Paul T., Jr., [redacted]
Kennedy, Richard E., [redacted]
Kibbey, Richard A., [redacted]
Keifel, Ernst P., Jr., [redacted]
Kiplinger, Keith E., [redacted]
Kirby, Bobby A., [redacted]
Knickerbocker, Stanley P., [redacted]
Koch, William C., Jr., [redacted]
Kohut, Joseph, [redacted]
Kolofske, Bruce F., [redacted]
Kornitzer, William J., Jr., [redacted]
Kozelka, Robin M., [redacted]
Kruger, Lorin B., II, [redacted]
Kubin, John S., [redacted]
Kuhlman, Charles A., [redacted]
Kulp, Charles G., Jr., [redacted]
Kurzenberger, John L., [redacted]
Lacasse, Joseph W., [redacted]
Lace, William H., [redacted]
Lady, Richard H., Jr., [redacted]
Laehr, Arthur E., [redacted]
Lambert, Luther E., [redacted]
Lamping, Neal E., [redacted]
Landers, Bobbie J., [redacted]
Landers, Paul E., Jr., [redacted]
Langston, Lloyd H., [redacted]
Lapham, George B., [redacted]
Laplante, Thomas A., [redacted]
Lapp, Martin F., [redacted]
Larsen, Robert D., [redacted]
Lawton, Timothy G., [redacted]
Leach, Jack A., [redacted]
Ledford, Robert E., [redacted]
Lee, Charles S., [redacted]
Lee, Norman W., Jr., [redacted]
Lehigh, Donald L., [redacted]
Lehman, Charles A., [redacted]
Lehman, Hilbert C., [redacted]
Leverette, Robert R., [redacted]
Lewark, William H., Jr., [redacted]
Lewis, Merrill R., Jr., [redacted]
Lewis, Roger C., [redacted]
Lewis, Victor L., [redacted]
Lindbergh, Charles, [redacted]
Lindsay, Nathan J., [redacted]
Lindsey, Clarence H., Jr., [redacted]
Lineberger, Harold B., [redacted]
Litzler, Albert F., Sr., [redacted]
Litzsinger, Orville J., [redacted]
Lloyd, Thomas E., [redacted]
Loh, John M., [redacted]
Long, Steven W., Jr., [redacted]
Lough, Roland K., [redacted]
Loy, Noah E., [redacted]
Loy, Ronald L., [redacted]
Lucas, Ray E., [redacted]
Ludwig, Robert H., [redacted]
Luse, Charles G., [redacted]
Lynch, John C., [redacted]
MacDonald, Vincent J., [redacted]
Macomber, Thomas E., [redacted]
Madonna, Donald E., [redacted]
Maheu, Robert F., [redacted]
Maio, Armand D., [redacted]
Mallette, Elmer, Jr., [redacted]
Maloney, Douglas H., [redacted]
Manion, Adelbert J., [redacted]
Manning, John M., [redacted]
Mannion, Thomas J., Jr., [redacted]
Margenthaler, Charles R., [redacted]
Markey, John P., [redacted]
Marsh, Donald D., [redacted]
Martin, Joseph W., Jr., [redacted]
Martin, Martin, D., [redacted]
Martini, Ralph J., [redacted]
Maxwell, Donald J., [redacted]
May, Charles A., Jr., [redacted]
Maye, Paul A., [redacted]
Mayo, Robert E., [redacted]
McCausland, Roger W., [redacted]
McCaushland, Roger W., [redacted]
McClaren, Kenneth R., [redacted]
McCoy, Ivy J., Jr., [redacted]
McCoy, Robert P., [redacted]
McCracken, Hugh D., Jr., [redacted]
McCracken, James D., [redacted]
McDaniel, Norman A., [redacted]
McDonald, Warren R., [redacted]
McGhee, Bernice, [redacted]
McIntyre, John R., Jr., [redacted]
McKinley, Howard L., Jr., [redacted]
McPherson, John W., [redacted]
McPherson, Orville L., [redacted]
McQueen, James E., [redacted]
McWilliams, John R., [redacted]
Meder, Paul O., [redacted]
Meredith, Robert N., [redacted]
Merkl, Eldred D., [redacted]
Miles, Richard A., [redacted]
Miller, Ralph D., Jr., [redacted]
Millett, Thomas O., [redacted]
Milligan, Alexander M. IV., [redacted]
Milnes, Richard C. II, [redacted]
Mohn, William T., Jr., [redacted]
Mohr, William F., Jr., [redacted]
Mon, Henry B., [redacted]
Montgomery, Glen D., [redacted]
Montgomery, Robert L., [redacted]
Moore, Billy L., [redacted]
Moore, Richard A., [redacted]
Mooy, Olin R., [redacted]
Morthland, Samuel, [redacted]
Moser, Robert W., [redacted]
Mouton, Gerald L., [redacted]
Murphy, Lawrence J., [redacted]
Murphy, William J., [redacted]
Murray, Reginald A., [redacted]
Mustico, Richard J., [redacted]
Myer, Jonathan, [redacted]
Myers, James T., [redacted]
Nations, William O., [redacted]
Nelson, Haywood B., [redacted]
Nichols, Albert P., [redacted]
Nicolai, Leland M., [redacted]
Nicoli, Remo J., [redacted]
Nimmo, Edward H., [redacted]
Noe, Charles G., [redacted]
Nolan, Richard A., [redacted]
Nolan, Robert E., Jr., [redacted]
Nolen, James E., Jr., [redacted]
O'Brien, Robert J., Jr., [redacted]
Oliver, Robert L., [redacted]
Olmstead, Freeman B., [redacted]
Olson, Wayne A., [redacted]
Orr, Robert L., [redacted]
Orsini, Richard A., [redacted]
Osborn, Richard D., [redacted]
Osuchowski, Edward A., Jr., [redacted]
Oswald, Lamont J., [redacted]
Othling, William L., Jr., [redacted]
Pagani, Albert L., [redacted]
Page, William F. H., [redacted]
Paiva, Virgil J., [redacted]
Palko, Edmund P., [redacted]
Pantle, William S., [redacted]
Patrick, Robert B., [redacted]
Patton, David D., [redacted]
Patton, James F., [redacted]
Paul, Richard D., [redacted]
Paxton, Pat R., [redacted]
Pendergast, James F., [redacted]
Penland, Charles E., [redacted]
Pentz, Russell H., [redacted]
Perelstein, Erwin S., [redacted]
Perrine, Elton L., [redacted]
Perritano, Frank R., [redacted]
Petersen, James D., [redacted]
Petranick, Albert G., [redacted]
Petry, Jack R., [redacted]
Pettit, Richard J., [redacted]
Phillips, William F., [redacted]
Pinkham, Charles T., [redacted]
Pinsky, David H., [redacted]
Pitzer, Lee R., [redacted]
Place, Hubert C., [redacted]
Place, Stephen B., [redacted]
Planchon, Auguste J., [redacted]
Porter, William J., [redacted]
Posey, Milton L., [redacted]
Potter, Jerome, [redacted]
Powell, Purney, Jr., [redacted]
Powell, Lee R., [redacted]

Preston, Charles R., XXX-XX-XXXX.
Price, Billy F., XXX-XX-XXXX.
Price, John C., XXX-XX-XXXX.
Prince, Neil E., XXX-XX-XXXX.
Prosper, Victor A., Jr., XXX-XX-XXXX.
Pugh, Thomas S., XXX-XX-XXXX.
Purves, Robert E., XXX-XX-XXXX.
Quinn, Thomas D., XXX-XX-XXXX.
Rabe, Walter J., XXX-XX-XXXX.
Rafter, Eugene J., XXX-XX-XXXX.
Ramirez, Enrique H., XXX-XX-XXXX.
Randall, Horace J., XXX-XX-XXXX.
Raymond, Robert M., XXX-XX-XXXX.
Redding, Robert J., XXX-XX-XXXX.
Redenbacher, Leon R., XXX-XX-XXXX.
Reed, Donald D., XXX-XX-XXXX.
Reed, Gerald F., XXX-XX-XXXX.
Reese, William D., XXX-XX-XXXX.
Reeves, Jack W., XXX-XX-XXXX.
Reid, James D., XXX-XX-XXXX.
Reid, Richard G., XXX-XX-XXXX.
Reid, Robert D., XXX-XX-XXXX.
Remey, Robert A., XXX-XX-XXXX.
Reynolds, Robert E., XXX-XX-XXXX.
Richards, Jerry D., XXX-XX-XXXX.
Richards, William L., XXX-XX-XXXX.
Richardson, Jimmy A., XXX-XX-XXXX.
Riggs, Douglas C., XXX-XX-XXXX.
Rittenhouse, Ray D., XXX-XX-XXXX.
Roberson, Russell L., XXX-XX-XXXX.
Roberts, Edward H., Jr., XXX-XX-XXXX.
Roberts, Philip T., XXX-XX-XXXX.
Roberts, Wilbur E., XXX-XX-XXXX.
Robinson, Kenneth D., XXX-XX-XXXX.
Robinson, William T., XXX-XX-XXXX.
Roche, James E., XXX-XX-XXXX.
Rodriguez, Robert, XXX-XX-XXXX.
Rogers, Joe N., XXX-XX-XXXX.
Roland, Carl J., XXX-XX-XXXX.
Rosane, Edwin L., XXX-XX-XXXX.
Rosenzweig, Joel M., XXX-XX-XXXX.
Rothwell, Roger D., XXX-XX-XXXX.
Royer, Erlind G., XXX-XX-XXXX.
Rubeor, Russell G., XXX-XX-XXXX.
Runge, Norman H., XXX-XX-XXXX.
Ruple, Marion T., Jr., XXX-XX-XXXX.
Rush, Thomas A., XXX-XX-XXXX.
Rush, Thomas A., XXX-XX-XXXX.
Russell, Edward B., XXX-XX-XXXX.
Russell, Horace L., XXX-XX-XXXX.
Ryan, Glen A., XXX-XX-XXXX.
Ryan, Martin J., Jr., XXX-XX-XXXX.
Samay, Raphael S., XXX-XX-XXXX.
Sauerbrei, Merrill A., Jr., XXX-XX-XXXX.
Schaefer, Charles A., XXX-XX-XXXX.
Schafer, James R., XXX-XX-XXXX.
Schafer, John V., Jr., XXX-XX-XXXX.
Schaff, William J., XXX-XX-XXXX.
Schaum, Craig O., XXX-XX-XXXX.
Schneider, Benjamin F., Jr., XXX-XX-XXXX.
Schneider, John R., XXX-XX-XXXX.
Schneiders, Thomas H., XXX-XX-XXXX.
Schroeder, John G., XXX-XX-XXXX.
Schultz, Sterling E., XXX-XX-XXXX.
Schwartz, Raymond G., XXX-XX-XXXX.
Schwehm, Paul J., XXX-XX-XXXX.
Schweigerdt, David H., XXX-XX-XXXX.
Searock, Charles J., Jr., XXX-XX-XXXX.
Seastrom, Dale E., XXX-XX-XXXX.
See, Dennis R., XXX-XX-XXXX.
Seh, Robert H., Jr., XXX-XX-XXXX.
Sessa, Patrick C., XXX-XX-XXXX.
Sharp, James C., XXX-XX-XXXX.
Sheats, Benton E., XXX-XX-XXXX.
Shelton, Richard L., XXX-XX-XXXX.
Sherman, Vincent J., XXX-XX-XXXX.
Sickenberger, William L., XXX-XX-XXXX.
Sievertson, John F., XXX-XX-XXXX.
Siferd, Raymond E., XXX-XX-XXXX.
Signet, Paul A., XXX-XX-XXXX.
Simmons, Ross W., XXX-XX-XXXX.
Simmons, Warren L., XXX-XX-XXXX.
Simmons, William W., XXX-XX-XXXX.
Simons, Richard W., XXX-XX-XXXX.
Sinclair, Waymon L., XXX-XX-XXXX.
Singer, Ronald M., XXX-XX-XXXX.
Sink, James R., XXX-XX-XXXX.
Skinner, Eleanor L., XXX-XX-XXXX.
Smiley, Kenneth S., Jr., XXX-XX-XXXX.
Smith, Carl D., XXX-XX-XXXX.
Smith, Colin A., XXX-XX-XXXX.
Smith, Harold C., XXX-XX-XXXX.
Smith, Roger C., XXX-XX-XXXX.
Smith, William K., XXX-XX-XXXX.
Snoreck, Harry P., XXX-XX-XXXX.
Snow, William M., Jr., XXX-XX-XXXX.
Sorensen, Roger A., XXX-XX-XXXX.
Soule, Covert A., Jr., XXX-XX-XXXX.
Sparks, William L., XXX-XX-XXXX.
Spencer, Gary K., XXX-XX-XXXX.
Spiers, Joseph K., XXX-XX-XXXX.
Stachelczyk, Victor S., XXX-XX-XXXX.
Stallings, William T., XXX-XX-XXXX.
Stanley, William T., XXX-XX-XXXX.
Staten, James D., XXX-XX-XXXX.
Steeves, Thomas W., XXX-XX-XXXX.
Stempson, James A., XXX-XX-XXXX.
Sterrett, Charles R., XXX-XX-XXXX.
Stewart, George R., XXX-XX-XXXX.
Stewart, John J., XXX-XX-XXXX.
Stewart, Tom E., Jr., XXX-XX-XXXX.
Stockton, Douglas W., XXX-XX-XXXX.
Stoffel, Francis B., XXX-XX-XXXX.
Stone, James E., XXX-XX-XXXX.
Stoob, John C., XXX-XX-XXXX.
Stowell, Dibrell C., XXX-XX-XXXX.
Strange, John E., Jr., XXX-XX-XXXX.
Suits, Norman L., XXX-XX-XXXX.
Sullivan, Hiram R., XXX-XX-XXXX.
Sullivan, Robert T., XXX-XX-XXXX.
Surovic, Arthur F., XXX-XX-XXXX.
Suter, Richard M., XXX-XX-XXXX.
Sutton, Glenn H., XXX-XX-XXXX.
Swain, Donald W., XXX-XX-XXXX.
Swearengen, John F., XXX-XX-XXXX.
Sweeney, Patrick J., XXX-XX-XXXX.
Tarleton, Bobby L., XXX-XX-XXXX.
Tarsoly, John B., XXX-XX-XXXX.
Tatum, Charles S., II, XXX-XX-XXXX.
Tatum, Walter F., Jr., XXX-XX-XXXX.
Taylor, Alvin, Jr., XXX-XX-XXXX.
Taylor, James W., XXX-XX-XXXX.
Taylor, John H., XXX-XX-XXXX.
Taylor, John R., XXX-XX-XXXX.
Taylor, John T., XXX-XX-XXXX.
Tayler, Vess J., XXX-XX-XXXX.
Thaanum, Thomas R., XXX-XX-XXXX.
Thoden, Richard M., Jr., XXX-XX-XXXX.
Thompson, Andrew C., Jr., XXX-XX-XXXX.
Thompson, Dale W., Jr., XXX-XX-XXXX.
Thompson, George E., XXX-XX-XXXX.
Thompson, James D., XXX-XX-XXXX.
Thompson, Robert M., XXX-XX-XXXX.
Thompson, Thomas B., XXX-XX-XXXX.
Thornal, Leroy W., XXX-XX-XXXX.
Tice, Robert K., XXX-XX-XXXX.
Tillman, John B., XXX-XX-XXXX.
Tooke, Richard E., XXX-XX-XXXX.
Toye, Richard G., XXX-XX-XXXX.
Treece, James A., XXX-XX-XXXX.
Turley, Mack C., XXX-XX-XXXX.
Tuzzolo, Frank G., XXX-XX-XXXX.
Utley, Roger R., XXX-XX-XXXX.
Uyeyama, Terry J., XXX-XX-XXXX.
Vaninwegen, Earl S., XXX-XX-XXXX.
Varley, Franklin C., XXX-XX-XXXX.
Verna, Joseph B., Jr., XXX-XX-XXXX.
Vickery, Charles A., XXX-XX-XXXX.
Vikan, Dean F., XXX-XX-XXXX.
Virant, Richard A., XXX-XX-XXXX.
Voehl, Richard K., XXX-XX-XXXX.
Voland, Paul M., XXX-XX-XXXX.
Waggener, James S., Jr., XXX-XX-XXXX.
Waggoner, Hal F., XXX-XX-XXXX.
Wagnon, Bobby D., XXX-XX-XXXX.
Waite, Leland K., XXX-XX-XXXX.
Waite, Merrill J., XXX-XX-XXXX.
Walker, Phillip J., XXX-XX-XXXX.
Walker, Phillip N., XXX-XX-XXXX.
Walker, Thomas E., XXX-XX-XXXX.
Wallace, Kenneth H., XXX-XX-XXXX.
Wallace, Roy G., XXX-XX-XXXX.
Waller, Benjamin E., III, XXX-XX-XXXX.
Walters, Charles M., XXX-XX-XXXX.
Walters, Ralph D., XXX-XX-XXXX.
Walton, Gary K., XXX-XX-XXXX.
Ward, Bobby L., XXX-XX-XXXX.
Warner, Robert E., Jr., XXX-XX-XXXX.
Webb, John A., XXX-XX-XXXX.
Webb, Walter E., III, XXX-XX-XXXX.
Welch, Robert J., XXX-XX-XXXX.
Wells, Frederick L., XXX-XX-XXXX.
West, Charles B., XXX-XX-XXXX.
Westbrook, Sam W., III, XXX-XX-XXXX.
Westmoreland, Barney, Jr., XXX-XX-XXXX.
Weston, Walter F., XXX-XX-XXXX.
Wetzel, William T., XXX-XX-XXXX.
White, Donald D., XXX-XX-XXXX.
White, George A., XXX-XX-XXXX.
Wiedmaier, Marcel A., XXX-XX-XXXX.
Wiggins, Frank S., XXX-XX-XXXX.
Wilby, Walter L., XXX-XX-XXXX.
Wilks, Carlton O., XXX-XX-XXXX.
Williams, William T., IV, XXX-XX-XXXX.
Williamson, Roger C., XXX-XX-XXXX.
Willson, Richard D., XXX-XX-XXXX.
Wolfe, James L., XXX-XX-XXXX.
Wolfe, John W., XXX-XX-XXXX.
Wollaston, Dean E., XXX-XX-XXXX.
Wood, Charles N., XXX-XX-XXXX.
Woods, James C., XXX-XX-XXXX.
Wooten, John P., Jr., XXX-XX-XXXX.
Worch, Peter R., XXX-XX-XXXX.
Worley, John N., XXX-XX-XXXX.
Wright, Francis M., Jr., XXX-XX-XXXX.
Wright, Larry D., XXX-XX-XXXX.
Wucher, Jerome M., XXX-XX-XXXX.
Yingst, H. Sheldon, XXX-XX-XXXX.

CHAPLAIN CORPS

Brucato, Robert A., XXX-XX-XXXX.
Bumpus, John C., XXX-XX-XXXX.
Chace, Alston R., XXX-XX-XXXX.
Collins, John A., XXX-XX-XXXX.
McDonald, Paul F., XXX-XX-XXXX.
McGahren, Joseph J., XXX-XX-XXXX.
Mundinger, Carl S., Jr., XXX-XX-XXXX.
Ofsdahl, Donald C., XXX-XX-XXXX.
Rice, Frank A., XXX-XX-XXXX.
Rushe, George M., XXX-XX-XXXX.
Thurman, James M., XXX-XX-XXXX.
Ulrich, Donald W., XXX-XX-XXXX.
Vaughan, Earl F., XXX-XX-XXXX.
Wantz, Earl B., XXX-XX-XXXX.

JUDGE ADVOCATE

Beckham, Donald D., XXX-XX-XXXX.
Bowlden, Max S., XXX-XX-XXXX.
Dunham, Robert A., XXX-XX-XXXX.
Farina, Anthony F., XXX-XX-XXXX.
Finder, Jack L., XXX-XX-XXXX.
Foray, John, XXX-XX-XXXX.
Fowler, Charles W., XXX-XX-XXXX.
Franco, John J., Jr., XXX-XX-XXXX.
Hodgson, Earl E., Jr., XXX-XX-XXXX.
Lee, Richard R., XXX-XX-XXXX.
Morehouse, David C., XXX-XX-XXXX.
Ratcliff, Kenneth E., XXX-XX-XXXX.
Sanders, Stark O., Jr., XXX-XX-XXXX.
Squires, Edward A., XXX-XX-XXXX.
Williams, Cecil W., XXX-XX-XXXX.
Wirin, William B., XXX-XX-XXXX.

NURSE CORPS

Candella, Josephine M., XXX-XX-XXXX.
Hagan, Faye T., XXX-XX-XXXX.
Hollen, Marriane R., XXX-XX-XXXX.
Matheson, Billie G., XXX-XX-XXXX.
Nelson, Ethel A., XXX-XX-XXXX.
Ruotsala, Ella M., XXX-XX-XXXX.
Sturim, Constance R., XXX-XX-XXXX.
Whitley, Helen B., XXX-XX-XXXX.

MEDICAL SERVICE CORPS

Freistedt, Calvin H., XXX-XX-XXXX.
Graves, Frederick J., XXX-XX-XXXX.
Herman, Kenneth G., XXX-XX-XXXX.
Martino, Charles W., XXX-XX-XXXX.
Parker, Lester B., XXX-XX-XXXX.
Perri, Frank J., XXX-XX-XXXX.
Redman, Ronald A., XXX-XX-XXXX.
Riley, John F., XXX-XX-XXXX.
Smith, Thomas L., XXX-XX-XXXX.
Ussery, Wendell O., XXX-XX-XXXX.
Walker, Kenneth C., XXX-XX-XXXX.

Watson, John R. [redacted]
Yeomans, Richard C., [redacted]

VETERINARY CORPS

Casey, Harold W., [redacted]
Flentge, Robert L., [redacted]
Smith, Alvin W., [redacted]

BIOMEDICAL SCIENCE CORPS

Black, Gerald N., [redacted]
Briggs, Thomas H., Jr., [redacted]
Furtado, Victor C., [redacted]
Gunter, James J., [redacted]
Lahood, George A., [redacted]
McKinney, Vernor L., [redacted]
Moll, Marlene J., [redacted]
Nikolewski, Robert F., [redacted]
Pilmer, Richard B., [redacted]
Sears, William J., [redacted]

IN THE ARMY

The following named officers for appointment in the Regular Army, by transfer in the grade specified, under the provisions of Title 10, United States Code, sections 3283 through 3294:

To be second lieutenant, regular Army and first lieutenant, Army of the United States

Jones, Monte L., [redacted]

To be second lieutenant, regular Army and second lieutenant, Army of the United States

Georgulas, George F., [redacted]

The following named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of Title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Clark, Michael H., [redacted]
Jackson, Charles W. Jr., [redacted]
Laughman, Gary F., [redacted]
Scobie, Timothy C., [redacted]
Spaulding, Albert R., [redacted]

To be captain

Adam, Klaus M., [redacted]
Adams, Walter R., [redacted]
Adkins, Terrence L., [redacted]
Alexander, Bernard D., [redacted]
Allen, Fredrrick A., [redacted]
Anderson, Phillip A., [redacted]
Anderson, Robert C., [redacted]
Anderson, William L. [redacted]
Barber, James F., [redacted]
Berger, Floyd K., [redacted]
Bieneman, William C., [redacted]
Bishop, Lewis M., Jr., [redacted]
Bowen, Joseph C., [redacted]
Brillante, Phillip, [redacted]
Carr, William L., III, [redacted]
Christie, James, III, [redacted]
Collins, Oliver J., [redacted]
Condon, Peter J., [redacted]
Cook, Samuel C., [redacted]
Corrado, Warren H., [redacted]
Costigan, Daniel, [redacted]
Cowden, Sammy J., [redacted]
Crockett, Johnnie R., [redacted]
Demoney, Jerry A., [redacted]
Dunfield, William B., [redacted]
Dye, John W., III, [redacted]
Dyer, Herbert D., [redacted]
Eggleston, William E., [redacted]
Ervin, Bobby J., [redacted]
Feldmayer, Charles F., [redacted]
Ferguson, Grady J., [redacted]
Fish, John H., Jr., [redacted]
Fitzgerald, Henry E., [redacted]
Fuller, Joe D., [redacted]
Ginac, William G., [redacted]
Graves, Arthur J., [redacted]
Griggs, Ronnie D., [redacted]
Gulyas, Stephen M., [redacted]
Hall, Finley L., [redacted]
Havach, Emil L., [redacted]
Havenhill, Larry G., [redacted]
Hicks, Charles R., Jr., [redacted]
Hines, Jerry T., [redacted]
Hodges, Michael T., [redacted]
Hooper, Thomas A., [redacted]
Hutchinson, Robert L., [redacted]
Johnson, Antione D., [redacted]
Johnson, Michael T., [redacted]
Kazmierczak, Thomas E., [redacted]
Keith, Norman E., [redacted]
Kopacki, George F., [redacted]
Krize, Terrence E., [redacted]
Krynovich, Daniel G., [redacted]
Lackey, Glenn C., [redacted]
Lamprecht, Ronald M., [redacted]
Lantz, William H., [redacted]
Larsen, Kurt L., [redacted]
Lesser, Harry K., Jr., [redacted]
Mancuso, Joseph M., Jr., [redacted]
Marlar, Gary J., [redacted]
McCormick, Arthur N., [redacted]
McNair, Edward W., [redacted]
Meese, Lawrence R., [redacted]
Millar, Roy D., [redacted]
Minter, William H., Jr., [redacted]
Morris, Douglas R., [redacted]
Neilson, Graham M., [redacted]
Nelson, David M., [redacted]
Nicholson, Arthur D., [redacted]
Nida, Ross D., [redacted]
Obert, John L., [redacted]
Oebbecke, Joseph C., [redacted]
Parr, Vincent H., [redacted]
Pavlik, Donald C., [redacted]
Petty, Paul A., [redacted]
Powell, William D., [redacted]
Pulley, James G., [redacted]
Purcell, Clifford B., [redacted]
Quinten, Keith P., [redacted]
Rains, Thomas D., [redacted]
Richardson, Gary K., [redacted]
Riolo, Augustine G., [redacted]
Ritchey, James C., [redacted]
Sateia, Gilbert C., [redacted]
Senne, David G., [redacted]
Sherfield, Michael B., [redacted]
Simpson, James M., [redacted]
Siverling, Reuben H., [redacted]
Soderlund, Paul R., [redacted]
Sova, John J., [redacted]
Springer, Francis J., [redacted]
Stephenson, Joel S., [redacted]
Stoner, William L., III, [redacted]
Swift, George J., Jr., [redacted]
Swift, John E., III, [redacted]
Swinford, Marvin V., [redacted]
Tarantola, Michael R., [redacted]
Tartella, John, [redacted]
Tier, John B., III, [redacted]
Tolleson, Jesse D., [redacted]
Truax, Richard G., [redacted]
Uliano, Gary L., [redacted]
Walker, Richard R., [redacted]
Wharton, William D., Jr., [redacted]
Wilkerson, Lawrence B., [redacted]
Williams, Gary D., [redacted]
Wilson, Thomas A., [redacted]
Wray, Roger L., [redacted]
Wright, Garry R., [redacted]

To be first lieutenant

Abington, Kerry S., [redacted]
Amacker, Steven D., [redacted]
Amende, Roger A., [redacted]
Ashworth, Robert L., Jr., [redacted]
Bralley, Neal H., [redacted]
Breslow, Marc R., Jr., [redacted]
Brooks, Barry D., [redacted]
Burton, Nancy E., [redacted]
Butler, Winfried W. P., [redacted]
Carcamo, Billy E., [redacted]
Carraway, William D., [redacted]
Cecalupo, John V., [redacted]
Chilton, James P., [redacted]
Crader, John W., [redacted]
Crook, Thomas M., [redacted]
Davis, Richard H., III, [redacted]
Delcarlo, George H., [redacted]
Dille, Mark W., [redacted]
Dotson, James E., [redacted]
Druffner, Richard A., [redacted]
Duling, William B., [redacted]
Edwards, John E., [redacted]
Eley, Howard L., [redacted]
Ellison, James D., [redacted]
Etchieson, Marcene, [redacted]
Ferguson, Hugh F., [redacted]
Finan, John F., Jr., [redacted]
Firer, John B., [redacted]
Frisbie, Robert P., [redacted]
Fulmore, Charles S., [redacted]
Giles, Wilbur C., Jr., [redacted]
Gonzalez, Miguel A., [redacted]
Goulette, James P., [redacted]
Grady, Larry D., [redacted]
Greaney, Kevin J., [redacted]
Ham, Wilton L., [redacted]
Harrington, John L., [redacted]
Harvey, Christopher L., [redacted]
Henderson, Alvin R., Jr., [redacted]
Hibbert, Philip B., [redacted]
Hill, David J., [redacted]
Ingham, David A., [redacted]
Kavina, James A., [redacted]
Kirkpatrick, Charles E., [redacted]
Klasse, Dorothy F. [redacted]
Koellhoffer, Eugene M., [redacted]
Kubiszewski, Robert, [redacted]
Lovejoy, John M., [redacted]
MacGarvey, Scott D., [redacted]
Madden, James E., [redacted]
Mandro, Theodore J., [redacted]
Mann, William R., [redacted]
McGill, Brian F., [redacted]
McGuckian, Dennis M., [redacted]
Merkt, Carl R., [redacted]
Miller, David, [redacted]
Mohnsen, David L., [redacted]
Molaschi, David L., [redacted]
Morehouse, Thomas P., III, [redacted]
Oliver, Daniel E., [redacted]
Page, Daniel H., [redacted]
Perry, William B., [redacted]
Petryk, Gene R., [redacted]
Philpot, Ronnie D., [redacted]
Powell, Owen C., Jr., [redacted]
Pugh, William H., Jr., [redacted]
Queen, Sam S., Jr., [redacted]
Radford, James H., [redacted]
Rahaeuser, John J., [redacted]
Rauth, Jeffrey T. [redacted]
Renfrow, Roger L., [redacted]
Rhodes, Joseph L., [redacted]
Riley, Robert M., [redacted]
Ripple, Robert R., [redacted]
Ritter, Harry S., [redacted]
Sadler, Johnie M., [redacted]
Schoeppner, Dennis W., [redacted]
Sciuto, Joseph F. [redacted]
Scott, Paula F., [redacted]
Simpson, Charles W., Jr., [redacted]
Souser, William N., [redacted]
Sowa, Lawrence J., [redacted]
Stahl, Alan B., [redacted]
Sherwood, Michael H., [redacted]
Stinnett, Gary W., [redacted]
Terry, Jo C., [redacted]
Thompson, Ronald D., [redacted]
Tyson, Bruce T., [redacted]
Urrutia, Michael B., [redacted]
Vernon, Patricia P., [redacted]
Visnlesky, Lawrence E., [redacted]
Walker, Kenneth M., [redacted]
Watts, William J., [redacted]
Webers, Joseph V., [redacted]
Welch, Richard S., [redacted]
Wilk, Dennis G., [redacted]
Williams, John J., Jr., [redacted]
Wolcoff, Edward, [redacted]
Wolff, Jerome B., [redacted]
Wood, Michael H., [redacted]

To be second lieutenant

Damoth, John A., [redacted]
Gant, Charles L., Jr., [redacted]
Huff, Steven T., [redacted]
Wright, Linda L., [redacted]

EXTENSIONS OF REMARKS

NUTRITION PROBLEMS IN LATIN AMERICA

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. SIMON. Mr. Speaker, the Chicago Tribune has launched an unusual and substantial series of articles on South America.

In the opening salvo of stories was a small one entitled: "Malnutrition Is Always on the Menu," written by Ronald Yates.

I call it to the attention of my colleagues because soon we are going to have to make decisions which will affect the lives of many who are in desperate need.

No. 1 KILLER: MALNUTRITION IS ALWAYS ON THE MENU

(By Ronald Yates)

"He dies as an old man before 30.
He dies of violence before 20.
He dies of hunger a little bit every day."
Joao Cabral de Melo Neto, Brazilian poet.

LIMA, PERU.—Dolores Bravo Herlinda reached down and shoved her dark brown fingers into the soft clay outside her reed and mud shack. She lifted the grey soil up to her face and put her lips to it.

"This is what my children eat when I am not watching—they eat it to fill their bellies because sometimes I run out of rice and beans," she said. "I think their minds are dying because sometimes they only sit and stare and say nothing."

Like the 200,000 other squatters who have staked out a few square feet of land in Via El Salvador, a barrio 30 minutes south of Lima, Dolores Bravo is engaged in a constant fight for survival.

"Every day children die here and we carry them up on that hill and we bury them," she said, nodding toward a barren mound of earth dotted with tiny wood crosses. "We have no coffins, so we wrap their bodies in old linen. Sometimes someone donates a shroud or an old trunk. And we lower them into the same clay that killed them.

"So far my children are still alive," she said, gathering her six children, who range in age from 2 to 9, around her. "I hope God will spare them for a while."

It is a hope which echoes over the vast tableau of South America, from the tips of the towering Andes to the jungles of Peru and Brazil, to the altiplano of Bolivia to the pampas of Argentina.

But it is a blind hope, for hunger—even more than human rights violations, inflation, and wobbly governments—is South America's most serious problem.

Hunger is a spectre over the land. It is everywhere. Children gone blind because of a lack of Vitamin A beg on the streets of South America's capitals; other children, their bodies stunted and crippled by lack of nutrition, drag themselves along sidewalks in search of fresh garbage to eat.

In Brazil's northeast, they eat sugar cane or drink sugar juice, which provides energy, but no nutrition.

In the Andes of Peru and Bolivia, children and adults chew coca leaves to kill the hunger pangs.

In Bogota, Colombia, children run down and beat to death cats and dogs in order to add some meat to a diet mostly of beans.

From one end of South America to the other, governments admit malnutrition is the No. 1 killer of their people; the prime crippler of minds and bodies in nations where healthy minds and bodies are in short supply.

"One of our greatest problems is the proportion of children suffering from malnutrition with all its physical and intellectual consequences," said Venezuelan President Carlos Andres Perez. "Without question, this is the most serious problem in South America."

At the other end of the South American continent, the military junta of Chile agrees.

"In Chile right now we have thousands of children suffering from third-degree malnutrition," said Gen. Gustavo Leigh Guzman, one of the four generals in Chile's rightist military junta.

"But we are doing something about it, which is more than the previous regime [that of leftist President Salvador Allende, deposed in 1973] did," he said.

While Chile's move to help its undernourished thousands may be the first of its kind in all of South America, it is still barely making a dent among the estimated half million hungry people who surround Santiago, the nation's sprawling capital.

"Two years ago I had five children," said Thelia Ojeda, hunkering down in front of her tarpaper shack on the outskirts of Santiago. "Today I have two. The other three died. Two died in their sleep, but the third died with foam on his mouth. The doctor said he went crazy with hunger. I shall never forget his suffering. His blood is on the hands of all Chileans who walk the streets with fat bellies."

In Brazil and other South American countries often cited for human rights violations, people are desperately trying to focus the world's attention on the problem of hunger instead of political repression.

"Torture is only one side of human rights," said Paulo Cardinal Arns, archbishop of Sao Paulo, Brazil. "The worst part is that we have such bad salaries for our people that they can't afford to feed themselves. As a result thousands of children are dying in the first year of their lives. This is much more important than one case of human rights violation."

In the favelas or slums of Rio de Janeiro the basic diet is rice with bean water and almost never meat.

Near Recife, Brazil, Jose Consalves, 50, has raised three sons on a salary of 65 cents a day, picking cotton and corn for rich landowners.

Near Salvador, Brazil, Lina Capistano de Amor, 54, weighs sugar cane cut by laborers who earn about 40 cruzeiros [$2.75] a day. Most cutters, he says, have 5 to 10 children. How do they live?

"God must give," he shrugs. "And they eat the cane."

In eastern Bolivia 90 per cent of all children have parasites which thrive in bad water, or hookworms.

As in most villages in Peru and Bolivia, people live in mud huts with pigs and chickens. The result is a high rate of dysentery and other diseases.

"In the town of Vila Bandeirande in northeastern Brazil 76 per cent of all children under 5 suffer from malnutrition," said Heraldo Souto Maior, a sociology professor at the University of Recife.

"Because of this malnutrition, the children suffer anemia or blindness and have hardly any resistance to the most basic diseases."

In rural areas of Bolivia, Peru, and Ecuador only about 4 per cent of the people have drinkable water within a mile of their homes. Only 2 per cent have sanitary facilities—the rest simply use roadbeds or streams from which other people draw their cooking and drinking water.

"My life is miserable," said Dolores Bravo, kicking at the damp clay which covered the ground like a huge wet slate. "But it is the only life I have and I am going to make sure my children survive—even if I have to teach them to steal to do it."

THE BWCA—A WILDERNESS WELL SUITED TO USE BY THE ELDERLY AND HANDICAPPED

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. FRASER. Mr. Speaker, it has been alleged that my bill to bring full wilderness protection to the Boundary Waters Canoe Area would prevent the handicapped, senior citizens, and the less physically able from using the area. This is a serious concern, but one I feel does not hold up under close examination. In fact, the BWCA is a wilderness ideally suited for use by members of these groups. Whereas most western wilderness areas demand hiking and climbing that is difficult or impossible for the less-than-hardy, the BWCA lakes allow a person's weight to be borne in a canoe for all or much of a trip. Additionally, paddling is extremely healthful and need not be overly strenuous. Rough water can present problems, but such problems would face any BWCA traveler and can be met by waiting on shore for conditions to improve.

To remove the lakes on the BWCA's periphery from the wilderness, as Congressman OBERSTAR's bill would do, would only make access to the wilderness more difficult for the elderly and handicapped. Were these lakes placed in a national recreation area, a person would have no choice but to travel across lakes and portages simply to enter the wilderness. Under my bill, a wilderness experience would be available immediately upon entering the canoe country.

I would like to call my colleagues' attention to a recent letter to the editor of the Minnesota Daily. Written by Alan Watson, the letter is an incisive statement of the issues that lie at the heart of the argument over access to the area. Watson observes:

The handicapped are no different from the rest of us . . . To assume that only people with motors or hearty people need the solitude and peace of the true wilderness is a terrible injustice—a slam against the recreational and spiritual needs of all people.

The letter follows:

[From the Minnesota Daily, Jan. 3, 1978]

PERIPHERAL CONCERNS

(By Alan L. Watson)

There is legitimate concern that the Fraser bill (H.R. 2820), which restricts motorboats from the entire 1-million-acre Boundary Waters Canoe Area (BWCA), is discriminatory against the handicapped, senior citizens and the less physically able. Rep. Oberstar, whose competing bill (H.R. 8722) would reduce the wilderness by 40 percent and allow logging and motorized recreation, feels that his bill ensures that everyone will have access to the BWCA.

Just the opposite is true. The Fraser bill provides maximum wilderness recreational opportunities for the handicapped, the seniors and the less physically able and ensures

that all people have the same options, regardless of physical health or age.

The handicapped are no different from the rest of us, who are not always more healthy overall. To assume that only people with motors or hearty people need the solitude and peace of the true wilderness is a terrible injustice—a slam against the recreational and spiritual needs of all people.

The Fraser bill ensures that the entire BWCA is managed as wilderness—not just interior zones that only the strong and healthy can reach after days of strenuous canoeing and portaging. In Fraser's bill, all entry points along the periphery will have full wilderness status and be immediately accessible to those very groups who must not be denied access to the wilderness.

Hence, the Oberstar bill actually reduces opportunities for all people by turning the periphery of the BWCA into a recreational area resembling those already available throughout the state, denying access to the primeval wilderness to those very people he is only superficially concerned about.

It is inexcusable to assume that those less physically able do not want the options available to the rest of us.

UKRAINIAN INDEPENDENCE DAY

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. BLANCHARD. Mr. Speaker, January 22 marked the 60th anniversary of the Proclamation of Independence of Ukraine, the largest non-Russian captive nation.

Although the Ukrainian nation had less than 4 years of independence before being overpowered by Russian forces and coerced into the Soviet Union, the Ukrainian people have never given up their struggle for freedom.

For 60 years, the Soviets have attempted to erase each aspect of a separate Ukrainian nation—its church, its universities, its art and literature, its government, even the people themselves. Yet this "fusion" of Ukraine has not succeeded, because of the strength of the 50 million Ukrainians around the world.

Today, the work of the group of dissidents monitoring Soviet compliance with the human rights provisions of the Helsinki accords offers fresh testimony to the spirit of the Ukrainians. But their struggle is not over. The Soviet arrest—less than 1 year ago—of two members of that monitoring group, Mykola Rudenko and Oleksa Tykhy, is only further evidence, if any is needed, of the true policies of the Soviet Union regarding human rights.

I believe we have a responsibility to say "no" to Soviet repression. Our Nation has long been a symbol of liberty and justice, and we have a responsibility to reach out beyond that symbolism, with our actions and policies. The lack of freedom for any nation ultimately diminishes our own, and so we stand side by side with the Ukrainians in their struggle.

I have joined with other Congressmen in recent months to make clear to the Soviet Union our determination to make human rights an unbending priority. I believe these actions give very real support to those working for human rights within Ukraine and in other captive nations. We will continue to speak out.

Mr. Speaker, I am proud to join my colleagues in observing the 60th anniversary of Ukrainian Independence Day.

A PROGRAM WHOSE TIME WILL COME

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. BROWN of California. Mr. Speaker, over the past decade or so we have heard a great deal about the need for land use planning and land use controls. A number of laws have been promoted, or enacted at the local, State, and Federal level to deal with a variety of land use issues. Today, more than ever, we have the need for effective and comprehensive land use management. The area most in need of protection, largely because of our failure to act in the past, is prime agricultural lands.

The State of California has for several years attempted to enact an agricultural land conservation law, only to lose the crucial vote by a narrow margin in the State legislature. One of the key authors of that legislation was Charles Warren, now Chairman of the President's Council on Environmental Quality. Other knowledgeable and committed individuals are now members of the Carter administration, and in a position to contribute to the development of a sane Federal land use policy. Today, in California the need to control the spread of urban developments away from prime agricultural land is urgent. Cities all over the State are enacting ad hoc growth management policies that are frequently too little and too late. Only a comprehensive approach will succeed in both preserving prime agricultural lands, and helping urban development programs that benefit the maximum number of people. The public supports such programs now; it is only a matter of time before the legislatures of this land, including the Congress, respond.

The White House Conference on Balanced National Growth and Economic Development, which begins today, should be discussing the relationship between urban growth policies, and agricultural growth policies. An urban development strategy could, and should be consistent with an agricultural land preservation strategy. There is no fundamental reason why these two important growth policies should be in conflict.

Mr. Speaker, at this time I insert the California poll on land use controls in the RECORD.

The item follows:

[From The Enterprise (Riverside, Calif.) Jan. 20, 1978]

CALIFORNIA POLL: PUBLIC FAVORS LAND CONTROLS

(By Mervin D. Field)

In a sharp reversal of the public mood which generated this state's housing boom of the 1950s and '60s, the public today overwhelmingly favors stricter control of "urban spread."

The California Poll found in a recent survey that the public clearly considers farmland protection to have the highest priority.

When asked whether they believe there is still plenty of land left in California for both farms and people, or whether the spread of cities needs to be controlled, only one out of four persons felt there is "plenty of land for both." Nearly three out of four say they favor controlling the spread of cities:

	Percent
Plenty of land for both farms and people	24
Spread of cities needs to be controlled	71
No opinion	5

What about the American dream of a house, a yard and wide open spaces that fueled California's surburban boom of the last generation? Would people really favor slowing urban growth if it meant fewer houses in suburbs and the country? When offered the choice, a large majority of Californians—84%—agree that California should keep as much of its productive land in food-growing as possible, even if it means building fewer houses in suburbs or the country.

In response to a series of trade-off questions, farming is preferred by the public nearly eight to one over housing (82% to 11%) and industry (80% to 12%), and by almost four to one over parks and recreation (73% to 19%).

Timber production also takes precedence over parks and recreation in the responses, but by the smaller margin of 50% to 40%.

Government controls which would prohibit housing and industrial growth in prime agricultural areas drew support among those polled by a two to one margin, 64% to 32%.

Tax breaks for farmers who agree to keep their land in production, as provided by the 1965 Land Conservation Act, also drew strong support, 86% to 11%. Those tax breaks should have strings attached, those polled said (83% to 12%), restricting the right of farmers to develop their land after receiving tax breaks.

Most Californians agree (80% to 16%) that one way to slow urban sprawl would be to arrest the deterioration of the inner cities, making the quality of city life more attractive to middle-class people.

The task of rebuilding the cities toward that end should be supported with state and federal tax monies, a substantial majority (70% to 25%) agreed.

COMMEMORATIVE STAMP HONORING GENERAL PULASKI

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. MOTTL. Mr. Speaker, today, I am introducing a bill to provide for the issuance of a commemorative postage stamp in honor of General Pulaski, a Polish patriot and Revolutionary soldier, to whom generations of Americans have paid homage for his devotion to the American cause of independence. Even though he died before he could taste the sweetness of America's victory, his contribution was fundamental to the struggle. General Pulaski, his spirit, dedication and commitment to the ideals of liberty and the rights of the individual, surely has become a model to us all.

And as we honor General Pulaski, we are also paying tribute to the millions of Americans of Polish descent, who have

upheld the legacy of this valiant general in continuing to make significant contributions to our country.

So, in salute to Gen. Casimir Pulaski and to the indefatigable zeal of Polish Americans, I submit this bill for congressional consideration and approval.

HEW IGNORES LEGISLATIVE INTENT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. HYDE. Mr. Speaker, the word "outrageous" seems somehow inadequate to describe the regulations issued on January 26, 1978, through HEW Secretary Joseph H. Califano designed to implement the law respecting Federal funding of abortions. If ever a case in point can be made for regulatory reform, this is it. The legislative intent of the law as finally passed on December 7, 1977, can most authoritatively be determined from the person who authored the amendment, Congressman ROBERT MICHEL, of Illinois. It is clear that his views as expressed in debate and correspondence with Secretary Califano have been totally ignored.

Anyone familiar with the extensive floor debates on this issue ought to have reasonably concluded that very tight regulations were called for which would prevent abuse by abortion practitioners. Instead, HEW issued the weakest regulations possible, inviting massive fraud and providing no protection whatever to prenatal life. The regulations have effectively cancelled the amendment, which sought to protect preborn human life insofar as medicaid abortions are concerned. The HEW regulations, I predict, will result in 100,000 or more federally funded abortions this year. Lest these figures seem too partisan, the Washington Star noted on January 26, 1978:

> On almost every key point in dispute about what Congress had meant in the new law, the regulations are closer to the liberal view held generally in the Senate than to the strongly conservative view that prevailed in the House.

In other words, the regulations are not even remotely a "compromise."

Those who advocate permissive abortion were delighted by the regulations. The Religious Coalition for Abortion Rights described the regulations as "compassionate and fair." As someone has noted "when the religious Coalition for Abortion Rights calls an abortion law 'compassionate and fair,' you had better count on a lot of babies dying."

Particularly outrageous is the 60-day reporting requirement following rape or incest. I hope in our further negotiations concerning the Panama Canal Treaty that "prompt passage" of our ships through the canal in time of emergency means sooner than 60 days. The amendment as passed by Congress requires prompt reporting of rape or incest. Apparently the word "prompt"—not to be confused with any reasonable dictionary definition—means two months to the regulators at HEW.

The Carter/Califano regulations emasculate the law in at least the following ways:

First. They interpret the words "medical procedure" to include abortions despite the fact that those offering the final language said on the House floor that they did not. If the term "abortion" were meant to apply to treatment following rape, the amendment would have said so. "Medical procedure" is clearly treatment of a far less drastic nature than abortion and a reasonable reading of the amendment in question requires this distinction;

Second. They fail to require any documentation that a preexisting or present health problem warrants an abortion under the "life of the mother" or "severe and long-lasting physical health damage" exceptions. Only a physician's signed certificate of need is required. And physicians have been assured by a high-ranking official at HEW that checking up on "fraud" would not include second-guessing of doctors' medical decisions, by either State or Federal officials—Washington Star, January 27, 1978;

Third. An abortion clinic physician can certify the need for an abortion after performing the abortion under the "life" exception. Under the health exception, two abortion clinic physicians, who may be coworkers, can certify the need, after one of them performs the abortion;

Fourth. Any pregnant young woman, if her age falls within the provisions of her State's law on statutory rape, is eligible for a federally funded abortion;

Fifth. Also, under the rape and incest exception, reporting of the incident of rape—statutory as well as forced—may be done by anyone, after the abortion has been performed, as long as the report is made within 60 days of the incident. The report can be made by mail and only the rape victim's name is required; no address is necessary. Consequently, a woman can go to an abortion clinic, tell the receptionist she has been raped, get an abortion and afterward the receptionist need only send the woman's name to a law enforcement agency or public health facility—a public health facility may be a public hospital that has a permissive policy on abortion.

We know from years of experience with State abortion statutes that if abortion-physicians are not required by law to actually document the need for abortions, they will abuse the law, in some instances massively. Secretary Califano has required no such accountability. Furthermore, women need only claim that they were the victims of a statutory or forced rape or incest; no additional accountability is required of them.

The regulations have made a mockery of the legislative intent of Congress and have nullified the persistent efforts of a majority of the House of Representatives. Far from contributing to any spirit of compromise on this issue, the regulations have underscored the impossibility of compromise and will fuel further controversy not only in Congress but throughout the Nation.

REDS ON THE BLUE MEDITERRANEAN

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Washington Star, Jan. 26, 1978]

Letters to the editor

REDS ON THE BLUE MEDITERRANEAN

The fall of the Italian government could signal peril ahead for the fragile fabric of the free world. Italy, a stalwart member of NATO, makes a major contribution to the security of Southern Europe and to its soft underbelly, the Mediterranean. The Italian navy, for example, presently shares with the U.S. Navy key responsibilities in keeping that body of water a relatively peaceful lake.

The large and growing Soviet naval presence in the area, coupled with the withdrawal of the British and our own increasingly strained naval resources, makes Italian support all the more valuable. Further, if it weren't for the availability of Italian port facilities, we would not be able to maintain anywhere near the peace-keeping presence there that we do now. The critically important stabilizing presence of the Sixth Fleet during the 1973 Middle East war would not have been possible without our use of these ports.

For one reason or another, most other Mediterranean ports have been closed to us, and the potential loss of Italian ports or, indeed, any weakening of Italy's NATO resolve and cooperation as a result of Communist influence within their government would be cataclysmic to the West.

The makeup of the new Italian government will thus be watched with greater than usual interest in the West. Southern Europe or, to be more precise, Latin Southern Europe, is faced with an inexorable advance of Communist parties from within. In Italy, France and Spain, Communist parties owe much of their success to their promise to build a different kind of Communist society, one more human than those in Eastern Europe, and independent of Moscow. Their leaders have repeatedly professed attachment to the principles of democracy and independence, have publicly criticized the repression of human rights in East European Communist countries and have promised that each Communst party has the right to decide on all internal matters without Moscow's interference.

Even if we don't question their sincerity, the real question is whether they can keep their promises once in power.

Let's take a closer look at the history of communism. Most Communist parties have started their political growth in "alliance" with other "progressive forces" in an attempt to solve some crucial national issue, usually to form a government. The next step is to share power in a government of "national unity," followed by a coup that leaves the Communists as the sole government.

The Communist moderate leaders of this first period are inevitably overthrown by hard-liners who accuse the former of weakness towards capitalism. The party is purged, bringing to the top those demanding "ideological purity." "Workers" and "peasants" replace intellectuals in key party positions. The terror begins: actual and potential opponents are physically exterminated, especially the moderate members of the Com-

munist party. All revolutions must first devour their young.

One might argue that while this happened in Russia in 1917 (years later Kerensky, himself, told me how this process worked in his case) and in Eastern Europe in the late 1940s, times have changed. Not true. Look at the recent "national emergency" governments in South Vietnam and Cambodia in the transition period. The Communists first used representatives of churches and the bourgeoisie to gain their goals, then purged them all and even cracked down on the social categories that their former allies represented.

What this all means is that even if present Southern European Communist leaders were sincere in their desire to avoid the classical form of repressive communism, they would probably not be able to do so because of the unavoidable mechanics of the system.

It should be clear that the independence of Communist countries towards Russia is imperfect and most temporary, while their sense of solidarity to Communist doctrine is constant. We should not underestimate the importance of their sharing a Communist ideology—they speak the same language. And there is also an emotional element: whatever differences exist, Russia remains the mother Communist country, and Moscow a Mecca for all Communists. Russian help will always be the preferred option to losing political power, because a pro-Moscow faction will always exist in any Communist party.

The recent very commendable statement by our State Department decrying Communist participation in the Italian government has been received with mixed feelings in Europe, and questions have been raised about our right to express opinions concerning momentous events in other countries. Like it or not, the fact remains that the United States is the main economic and military power in the free world, upon whose strength so many countries now depend. But we, too, depend on them. We cannot for long disregard what happens in other parts of the world. Embattled democratic forces in Southern Europe, under threat of communism, wait, ever long, for our support.

Finally and more particularly, what these critics overlook is that we and Italy are members of a fundamental alliance and that the question of Communist participation in the government of an alliance member impinges directly on the solidarity and future of that alliance. The toleration shown by the democratic world to fascism in the 1930s led to the Second World War. We learned a bitter lesson the hard way. Let's not make the same mistake again.

J. WILLIAM MIDDENDORF II.

WASHINGTON, D.C.

(NOTE.—Mr. Middendorf was Secretary of the Navy in the years 1974–'77.)

SKAGIT RIVER LEVEE IMPROVEMENT PROJECT

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. MEEDS. Mr. Speaker, I have today introduced legislation which would modify the Flood Control Act of 1966 in regard to the Skagit River levee and channel improvements project which is located in Skagit County, Wash., in my district.

The current authorization provides for raising and strengthening existing levees downstream from Burlington, Wash., in the vicinity of Interstate 5 bridge to the river's mouth and minor channel improvements to increase channel capacities. Also, this project will supplement the flood protection being provided by Puget Sound Power & Light Co.'s modified operation of their Upper Baker project.

Since authorization of the levee and channel improvement in 1966, extensive development has occurred in the Burlington-Sedro Woolley area upstream and it now appears to be necessary for flood protection in that area also. Flood protection studies should consider the improvement and extension of approximately 4 miles of levee from Burlington to the vicinity of Sedro Woolley as an integral part of the Skagit River levee and channel improvement project.

The legislation I have introduced will fine tune the authorization granted in 1966.

SOLAR POWER SATELLITE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM ACT OF 1978

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. FLIPPO. Mr. Speaker, solar energy presents mankind with a great challenge and with great opportunities for the future. We have the challenge to find the means to harness the full potential of the Sun as an energy source. Our Nation has developed the essential technology through the space program which will enable us to explore the frontiers of solar energy. Collection of solar energy in space provides us with an energy source which has demonstrated great promise as a cost-efficient means of supplying future energy needs.

The potential of solar power satellites to meet energy demands deserves close scrutiny and complete study to assure that this energy source is available for our future. Collection of solar energy in space offers an environmentally sound, renewable energy source of great magnitude.

Solar energy may offer us the least costly source of energy and reduce the dependence of our Nation on shrinking fossil fuel supplies and foreign suppliers. We are dependent on foreign sources of energy which threatens our economic and national security. This current situation is due to our lack of planning in the past. We must begin now to develop sources of energy that will meet our needs in the future. Solar energy may offer us a cost-efficient, clean source of energy. Congress must act now to assure the necessary steps are taken to reach a full understanding of the availability and advisability of entering the solar age through the use of satellite solar power systems.

I am introducing here today the Solar Power Satellite Research, Development, and Demonstration Program Act of 1978. This is a bill to provide for a research, development, and demonstration program to determine the feasibility of collecting in space solar energy to be transmitted to earth and used to generate electricity for domestic purposes.

This legislation would provide the necessary focus to insure that the resource of solar energy is fully explored by the United States. The Congress should declare that it is the policy of the United States to pursue a vigorous research and development program on solar power satellites as a major source of energy to satisfy our national energy needs. This would provide for the development and demonstration of practical means to employ solar power satellites.

This proposal would direct the Department of Energy and the National Aeronautics and Space Administration to initiate the program by carrying out research and development for the purpose of resolving the major technical problems in implementing the solar power satellite concept. The Energy Secretary with the assistance of NASA would be required under the bill to submit a comprehensive plan for the program and for continuing research on solar power satellites by September 30, 1978.

The comprehensive plan would be designed to provide for the conduct of definitive studies and ground-based research leading to a solar power satellite total system definition and the placing of a demonstration satellite unit or units into orbit to determine the economic viability of collecting and transmitting solar energy for commercial purposes.

The Energy Department and NASA would identify the basic elements of the program and the program schedule. They would set a series of decision points at which the advisability and feasibility of continuing the program would be evaluated, so that completion can be determined at each stage. The funding required to carry out each major element of the program in each fiscal year would be subject to congressional review.

The solar power satellite research, development, and demonstration program would be established to provide a clearly defined charter for the agencies to engage in this essential work. There would be established within the Department of Energy an office to manage this program. The bill would authorize $25 million for the first year of the program.

The Department of Energy would contract with NASA to conduct and coordinate all space-related research, development, and demonstration projects. The purpose would be to utilize to the maximum extent possible the existing technology, facilities, and expertise of the space program. The Department of Energy would coordinate with appropriate power distribution agencies to evaluate the ground portion of the program and provide a report on its potential impact on the power network. This element of the program could be extremely beneficial in the integration of the Nation's energy network.

The technology necessary to place solar power satellites in space is available now and was paid for through the development of our space program. The space shuttle and other relevant technology already under development provide a substantial impetus to accomplish

such a program. Extensive solar energy efforts are already being made with ground-based equipment. These results are very encouraging. But many studies now indicate that a satellite-based system would be vastly superior. The construction of a solar power satellite system would provide economic stimulation throughout our Nation. What now must be determined are the economic and ecological effects of developing a solar power satellite system.

The research and development programs would resolve major technical problems. To provide a basis for planning and phasing the research and development program would include systems definition studies, space-related technology, health, safety, and environmental studies, socio-economic studies, and a comparative evaluation of the solar power satellite concept and the terrestrial alternative to this concept. Comparative technology assessments of the solar power satellite concept and the terrestrial alternatives would be made. These would include photovoltaic concepts; solar thermal concepts, such as the Closed Brayton Cycle, thermionic conversion, and cascaded system; and nuclear concepts, such as the Closed Brayton Cycle and thermionic conversion. Engineering developments indicate that the ultimate cost to the consumer of space solar power may be less than other competing systems, including earth-based solar power.

We must provide for the future welfare of our country by taking the initiative now to develop new energy sources. It is in the best interest of our Nation to expedite the long-term development of renewable and non-polluting energy resources. Our economic system and the continuation of industrialized society for both developed and developing nations will require new energy.

We are not facing the world's first energy crisis. The first crisis came in the 16th century when it was realized that wood no longer sufficed as an energy supplier. In England, the solution was first sought in imports and then in indigenous resourcefulness provided by technological application. The transition to coal was made and existence on a coal economy lasted for 300 years. In the wake of the industrial revolution, the world transitioned to an oil economy. Shocking as it may seem, oil sufficiency has lasted less than a century.

The fact is that while consumption of energy is increasing at an unsustainable pace, the fossil fuels upon which we depend are depleting at the same rate. Fossil fuels cannot satisfy the needs of the world indefinitely. The stark economic realities of energy-induced inflation contribute to our deteriorating balance of payments and increase our vulnerability as a free nation.

The United States is faced with an unparalleled increase in energy consumption as well as the manifold increase in the cost of energy. The imbalance in domestic supply and domestic demand seems to persist in spite of conservation measures. This is likely to continue, especially if the economy is able to expand.

The depletion of fossil fuels is adversely affecting the quality of life enjoyed by the average American citizen, both economically and ecologically. We must therefore take action now to utilize one of the most abundant and environmentally safe sources of energy available to us. Future generations depend on the action we take now. Through the use of the tools of our vast technology I believe we can responsibly face and master the problems presented by the energy crisis.

The concern of Congress is not only to resolve the energy crisis but to insure that our route to this solution is as efficient as is possible. The solar power satellite program shows the promise to warrant our attention and action. It should be established clearly, just as our authority to monitor and terminate the program on its merits is also clear. This is not a visionary program, but a practical proposal which will be evaluated on results.

We must find the best means to use the almost infinite energy potential of the Sun. Solar power satellites may prove to be the most practical, efficient, least costly means. The solar power satellite method of gathering the energy resources of the Sun must be fully investigated. This is the intent of the Solar Power Satellite Research, Development, and Demonstration Program Act of 1978.

IS THIS NEW "CREATURE" NECESSARY?

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. VANDER JAGT. Mr. Speaker, in recent days as all our colleagues are well aware, we have experienced a considerable "upheat" on activity concerning the probable upcoming vote within the next 2 or 3 weeks on H.R. 9718, legislation creating a Consumer Protection Agency. I say "probable" vote because, as we know, the legislation may be withdrawn from our House calendar at any time as in the past. Also, I am not certain precisely if this is the Consumer Protection Agency as called by the Washington Post, the Office of Consumer representation, or something else. But these really are not of vital concern.

What is really important as far as I am concerned is whether proponents of this legislation finally are able to answer two very critical and key questions that were raised by two distinguished individuals in the article entitled "Consumer 'Protection' Consumers Don't Need" which appears in the February 1978, edition of the Reader's Digest.

I ask each of you to give thoughtful consideration to these two questions raised by Richard O. Simpson, former Chairman of the Consumer Product Safety Commission, and Senator ROBERT DOLE of Kansas, the latter who once backed a consumer agency.

Mr. Simpson commented:

If we accept the premise that federal agencies are not responsive to the interests of consumers, by what logic should we create another federal agency and expect thereby to correct the deficiency?

Senator DOLE questioned:

If reorganization to make government more responsive and efficient is a sincere concept, why then do we need a super-agency to police that government?

He concluded:

We should follow the President's lead in putting our governmental house in order before we create an independent agency to do it for us.

I would personally hope, now that the White House is planning to call in more than 60 national voluntary organizations to a conference this week designed to promote passage of this legislation, that placed on the agenda for appropriate response would be the comments by Senator DOLE and Mr. Simpson, as well as this excellent commentary in the Reader's Digest article, which follows:

CONSUMER "PROTECTION" CONSUMERS DON'T NEED

(By Ralph Kinney Bennett)

The issues are clearly drawn. Supporters like Sen. Abraham Ribicoff (D., Conn.) say the legislation would "ensure that regulatory agencies take into consideration the views of consumers before making important decisions which have significant impact." Opponents echo the argument of Rep. Samuel Stratton (D., N.Y.) that this is no time "to create a whole new layer of bureaucracy to do essentially what existing federal agencies ought to be doing now."

After more than eight years of debate on Capitol Hill, a showdown is near on what many consumerists believe is the single most important piece of domestic legislation—creation of a tax-funded Office of Consumer Representation (OCR). They envision it as a grand watchdog that would intervene on behalf of consumers in the regulatory rulings and decisions of the federal government. It would serve as a countervailing force to regulatory agencies which, they contend, are captives of business and unresponsive to the consumer.

OCR's chief backer, Ralph Nader, originally envisioned the proposed agency as a "consumer strike agency" that would move throughout the federal regulatory system and "revolutionize" government. Over the years, efforts to make the concept more palatable for Congressional passage have perhaps made it less of a "strike agency." But they have not changed the basic thrust of the legislation, which would enable OCR to intervene in federal court against those agencies it felt were contravening the consumer interest. It could request those agencies to use their subpoena powers to extract sensitive, competitive information from businesses. Nader says this power is needed "to defend against corporate crime, against rapacious business practices." Moreover, supporters claim that the agency would have no greater power than any private party involved in regulatory matters.

To equate OCR with a private party is misleading. In a detailed analysis prepared for the Chamber of Commerce of the United States, regulatory-affairs attorney Mark Schultz notes: "OCR would have greater rights of judicial review of other federal decisions than any business entity. OCR has statutory authority to review any decision or action of government. No other public, private or governmental entity enjoys this same right."

In fact, it is precisely this power—unchanged through each form the bill has taken—that caused former Special Prosecutor Leon Jaworski to warn in April 1977 that a consumer agency "would be vested with authority so broad it could easily be turned

to the political advantage of those who control it. There are no checks sufficient to harness that authority."

OCR's potential to disrupt normal dealings of various businesses and industries is awesome. An air-fare increase, duly deliberated and approved by the Civil Aeronautics Board, could be blocked by OCR and involved in litigation. Approval of a drug after lengthy study by the Food and Drug Administration might nonetheless be halted indefinitely by OCR. Banks, businesses, industries could be left in a state of apprehension and confusion by a single administering agency acting in the name of an undefined "interest."

Former Sen. Sam Ervin (D., N.C.), one of the nation's most respected authorities on constitutional law, warns that an OCR "would have all the rights of a regulatory agency, yet none of the responsibilities. It would have more power than real consumers ever dreamed of exercising."

OCR backers like Nader and Presidential consumer-affairs adviser Esther Peterson nevertheless continue to press for the agency's creation. Back in 1971, the 92nd Congress was just seizing consumerism as a solid voter issue when the House of Representatives passed a consumer-agency bill by an overwhelming vote of 344 to 44. In the 93rd Congress, the vote for an OCR was 293 to 94. When the 94th Congress voted on the measure in 1975, opposition in the House had grown to the point that it was barely approved, 208 to 199. Although the Senate had also passed the bill, certainty of a Presidential veto torpedoed it.

Last year, despite President Carter's strong support, the consumer-agency bill failed to reach the floor of either chamber for a vote. Clearly, many Congressmen who had previously voted for the measure had changed their minds. Rep. Patricia Schroeder (D., Colo.), one of the most ardent consumerists on Capitol Hill, questioned the need for an agency which, she says, "may satisfy the desires of a few consumer-advocate lawyers, but not necessarily the consumer." More than 400 newspapers across the country, including The Wall Street Journal, Chicago Daily News, Washington Star, Houston Chronicle and Boston Herald American, have editorialized against a consumer agency.

Late last year, the White House and consumerists amended the bill (changing the name from Agency for Consumer Protection to Office of Consumer Representation, but not changing the essential thrust of the agency as a powerful instrument for intervention). House leadership counted noses and found that this bill, too, could not pass. Rather than risk defeat in the waning days of the Congress, supporters promised to drive for passage early this session.

Why the dramatic legislative turnaround?

Polls have shown the public to be concerned over a broad range of consumer problems, but they also reflect a disillusionment with government as the potential solution, a disillusionment that seems to have been nourished by many consumer-oriented laws passed by Congress in the past decade. Enacted into law were dozens of new statutes from the Hazardous Substances Act to the Fair Labeling and Packaging Act, from the National Traffic and Motor Vehicle Safety Act to the Consumer Goods Pricing Act. A White House office of consumer affairs was enlarged, and a Consumer Product Safety Commission was created to eliminate unsafe products from the marketplace. The country seemed to be embarking on a new era of assured quality and safety.

But the public quickly discovered that federal involvement on behalf of the consumer too often meant exasperating and expensive intrusion. One of the first ways this hit the public was through a piece of bureaucratic intervention called the ignition interlock. In the name of consumer safety, Americans could not start their new cars unless they fastened themselves into a harness of seat- and shoulder-belts. Congress was hit with a blizzard of angry mail and finally rescinded the law—but not before it had cost consumers $2.4 billion extra for their new cars.

But soon there was another well-meaning, ill-conceived rush to protect everybody from everything.

For example, when the Employe Retirement Income Security Act (ERISA) was passed to protect employe pensions, companies faced immense additional clerical work loads. A few companies estimated that costs of ERISA paperwork would exceed the amount of their annual contribution to their annual contribution to their retirement plans. In 1975, the first full year under the law, ERISA regulations were a factor in 23 percent of the 4000 defined-benefit pension plans dropped. In 1976, 7300 plans were dropped and ERISA rules were a factor in 35 percent of them.

Well-meant regulations have often tended to disconcert consumers. Many people (those with arthritis, for instance) have found themselves frustrated by government-decreed child-proof caps on medicine bottles.* It is likely that many others would be frustrated by a new proposal that power lawnmowers be fitted with a device that would shut down the engine every time the machine came to a halt. Such a device could increase power-mower prices by as much as $100.

The cost of all this "protection" has been staggering. Washington University's Center for the Study of American Business estimates that federal regulation cost $65.5 billion in 1976; that's about $300 per citizen.

At the root of consumerism lies an elitist notion, say the opponents of the proposed OCR, that a *third* party knows better than either producer or consumer. Writing in the New York *Times*, Robert T. Quittmeyer, president of the Amstar Corporation, calls this "the arrogant desire to substitute some personal vision of order for the apparent disorder of the marketplace."

Consumerists insist that Office of Consumer Representation officials will have no difficulty in determining just what is in the consumer's interest. That interest, says Ralph Nader's organization, Public Citizen, is usually "apparent and uniform." But is it? Here are a few vexing policy areas in which OCR would have to decide, Solomon-like, the consumer interest.

The Food and Drug Administration wants saccharin banned on the ground it causes cancer in rats who ingest it in massive quantities. But what of the tens of millions of Americans, who, *knowing this*, want saccharin to control their weight or because they suffer from diabetes?

Consumerists tend to favor continued federal controls of natural gas which keep prices low. Some consumers benefit—at least in the short run. But what about those consumers who may get sharply limited amounts of gas because of price-induced shortages?

Dubious light is cast on OCR when one considers the important aspects of consumer interest that would not be covered, under the bill, because of political expediency.

As the price for organized labor's backing of the bill, OCR legislation exempts any intervention in matters regarding union agreements or labor disputes. Yet such agreements and disputes affect consumers through the higher product prices caused in part by wage hikes or long work stoppages, or through the sheer unavailability of, say, certain makes of cars during an auto strike.

Also exempted from OCR scrutiny would be a great many activities of the Department of Agriculture, virtually removing one of the prime consumer interests—food and food prices—from any consideration. License-renewal proceedings of radio and television broadcasting stations have also been exempted. In fact, at least 37 different exemptions were "sold" for support of a consumer agency. Says Sen. James Allen (D., Ala.): "This is evidence to me that those advocating further federal involvement want an official slot in government at any price. They are prepared to trade scope so they can get power."

Richard O. Simpson, former chairman of the Consumer Product Safety Commission, raises an interesting question: "If we accept the premise that federal agencies are not responsive to the interests of consumers, by what logic should we create another federal agency and expect thereby to correct the deficiency?"

If the votes to create an OCR, Congress will be going on record as unable to control the many agencies which it has set up over the years, unable to make them respond to the needs of the people—who are, after all, the consumers. And President Carter, who has proclaimed himself the nation's "top consumer advocate" has pledged his Administration to *reducing* the bureaucracy while making it more efficient and responsive.

Sen. Robert Dole (R., Kan.), one of those who once backed a consumer agency but now strongly opposes such legislation, says: "If reorganization to make government more responsive and efficient is a sincere concept, why then do we need a super-agency to police that government? I find the two concepts utterly inconsistent. We should follow the President's lead in putting our governmental house in order before we create an independent agency to do it for us."

* Bottles with ordinary caps can be obtained, on request, at pharmacies.

GOV. MILTON SHAPP SPEAKS ON THE NATION'S RAILROAD POLICY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. MURTHA. Mr. Speaker, Gov. Milton Shapp of Pennsylvania has spent many years in study of the Nation's railroads, their problems, and the policies needed for their revitalization. His comments have always been provocative. His suggestions have always been creative.

For the information of the Members, I insert into the RECORD remarks made recently by the Governor on recent railroad problems:

GOVERNOR SHAPP URGES FEDERAL INVESTIGATION FOR DECLINING RAILROADS

I appreciate the opportunity to be here today at this public meeting on the Midwest Railroad problem that has been spurred by the December bankruptcy declaration by the Milwaukee Road.

Railroads have been a special interest of mine for years—long before I became Governor of the Commonwealth of Pennsylvania. I consider railroads crucial to the economy of this nation. I consider the demise of our railroads since World War II to be inseparably linked with the economic upheavals and a substantial part of the inflation we have experienced.

I believe too that the rebuilding of our railroads will be the key to resolving our energy problems, much of our steel industry problem and some of the other economic ills that have beset us in recent years . . . particularly the high rate of unemployment, for throughout history it has been axiomatic that no nation or region of the world has enjoyed prosperity without possessing an efficient method of transporting the goods then in demand.

As Governor of Pennsylvania I have grave concern for the problems of the Midwest

railroads because, although they do not serve Pennsylvania directly, our economy is highly dependent upon them. Pennsylvania's economy has not yet recovered from damage caused by the bankruptcy of the Penn Central in 1970. Many of the major economic dislocations in Pennsylvania and throughout the Northeast-Midwest Region were worsened by the creation of Conrail in 1976, with its emphasis upon contraction rather than improvement of service in the area served.

Now I fear that the mistakes of the Penn Central merger, many of which were repeated when Conrail was created, will be repeated again in the case of the Midwest railroads and the entire American economy will feel these new shock waves.

Merger, consolidation and abandonment of so-called "excess lines" will not solve the problems of the Midwest railroads any more than they solved the problems of the eastern carriers. Today in Pennsylvania, after the merger of the bankrupt Penn Central, Reading, Erie Lackawanna and Lehigh Valley railroads to form Conrail and after the abandonment of many hundreds of miles of rail line in the past three years, our state's economy continues to be held captive to costly, inefficient rail service.

The merger of these so-called "duplicate" rail lines has cut competition and cut service to the point where transportation costs are actually driving industry out of our state and out of our region. When VW was planning to locate its American plant in Pennsylvania, we were fortunate that we had two competitive carriers in the Western Pennsylvania area—the Chessie and the N. & W. Conrail wasn't interested in taking any steps to help us attract this company to Pennsylvania by even building a few miles of inter connecting track.

In the last several weeks a major shipper of auto parts decided against locating a new facility in Pennsylvania largely because of the poor, high-cost rail service. This facility which would have created 500 new jobs, would have cost a great deal more to operate and would have been solely dependent on Conrail in our state. The shipper located elsewhere.

What an irony it is that in this case, the attitude and policies of a railroad actually caused an industry not to locate in its territory when, throughout the history of industrialization in this and other countries, railroads have played just the opposite role.

We had similar problems of non-cooperation from Conrail after the recent floods in Johnstown, and even despite pressure from the White House, Conrail refused to rebuild a few miles of damaged track and this has forced the closing of a major coal mine with several hundreds of jobs lost.

As a private citizen I opposed the merger of the New York Central and Pennsylvania railroads in the mid-1960's, taking my fight all the way to the U.S. Supreme Court. In fact, you will find that the only case against the merger was Shapp vs. the United States. I argued then that merger and abandonment would not produce profits—and I submit that history has borne out my predictions.

Following the bankruptcy of the Penn Central in 1970, I testified on numerous occasions before Congressional committees and the Interstate Commerce Commission—and again I opposed the merger-and-abandonment approach to railroad revitalization. Based on the poor service and enormous losses of Conrail to date, despite the infusion of more than $1 billion in Federal funds since its creation less than two years ago, I would say that it is likely that I will again be proven correct by history.

I don't enjoy playing the prophet of doom. In fact, from the beginning I have advocated positive and practical solutions to our railroad problems . . . solutions which are still valid today.

Back in 1974, I called for a federally established Rail Trust Fund, similar in nature to the existing Highway Trust Fund. This highway fund has been immensely successful in building our network of interstate highways, and has been completely paid for by the users of those roads through the collection of gasoline and excise taxes.

The rebuilding of our railroads in the Midwest and East calls for an investment of about $20 to $22 billion. This investment could be repaid by adding a small surcharge on the rail freight bills. As I mentioned, this concept is not new. The four cent per gallon federal gasoline tax and the excise taxes on tires and auto accessories has already brought many billions more dollars back to the United States Treasury than the total amount invested in building the interstate highway system.

Actually, Congress adopted the principles of the Rail Trust Fund program in the 1976 Rail Act, setting aside $600 million for purchase of preference shares in railroads and $1 billion in loan guarantees, all to be used for rail improvements, including electrification. Under these programs money is to be advanced to the railroads and repaid to the federal treasury over a period of years.

The money authorized is not nearly enough money to do the job, but to date neither the U.S. Transportation Department, nor the railroads has fully implemented even this program. I see no way to stop the spreading cancer of railroad bankruptcy and service cut-backs without a realistic program to provide reasonable cost financing for rehabilitation and modernization of the entire rail transportation system.

The rail financing components of the 1976 Rail Act should be revised and expanded to do this, along the lines of the Rail Trust Fund I proposed previously. Among the principles which should be included in such a plan:

Rehabilitation and modernization funding should be available to all carriers an off-balance-sheet transaction.

Funding should be increased from the $1.6 billion in the Rail Act to a level that more accurately approximates real needs.

Funding for improvements to vital rail segments should be made available on a expedited schedule, without years of delay.

Joint use of facilities and consolidation of main line service should be encouraged but abandonment of vital rail service must be avoided, and no large scale abandonments should be permitted until after mainlines are thoroughly modernized and railroads are running efficiently once again. Then, and only then will it be possible to judge whether these lines produce profits or losses.

I think it is time to re-examine the Rail Trust Fund plan, for it attacks the triple problem of our energy shortage, deteriorating railroads and the steel crisis.

The energy crisis ties into the railroad situation because there is no way we can possibly fulfill President Carter's national energy objective to increase coal production to a billion tons a year without modern, high-speed rail service in the Appalachian, Mid-West, Mid-Atlantic and New England states.

Further, rebuilding our railroads should include their electrification and improvement that would greatly ease this nation's dependence on oil.

The Pennsylvania Energy Council has estimated a 34% savings in energy could be achieved utilizing electric power. Electrification of just 10% of the present rail mileage (in the densely populated, heavy industrialized areas) could result in a 40% reduction of rail diesel fuel consumption.

In addition to freight benefits, electrification of rail lines in and around our big cities greatly relieve present traffic jams by reducing the number of automobiles on the road.

Safety is one factor. Statistics indicate that a rail passenger will travel 20 times further than a motorist before befalling a serious accident.

A few judiciously selected commuter lines near our major cities could readily replace a quarter million automobile passenger trips a day saving almost 40 million gallons of gasoline a year without government "coercion" or the imposition of heavy penalties. Thus, with rail modernization, the potential for oil saving is substantial. It's surprising how readily people are willing to leave their cars home if comfortable, high speed commuter service is available. I live along the main line of the old Pennsy and see this happening every day.

To illustrate the unfilled potential for oil savings, it is important to emphasize that rail passenger service today attracts only 1% of the nation's passenger trips. With electrification, this would rise dramatically. Electrification would make possible short, fast and frequent train service near and in our cities.

Importantly, electrifying railroads offers the best chance to turn present red ink operations into profitable operations, for electrification offers the greatest hope for our railroads to obtain high rateable commercial and industrial products for haul.

Rebuilding our railroads would contribute significantly to the recovery of our steel industry. To rebuild rail roadbeds throughout the nation will require more than five million tons of steel. New locomotives and freight cars and electrification of rail lines will demand many additional millions of tons of steel.

What America does with its railroads, therefore, is critical to every other phase of our economy. Further mergers and consolidations, as I have pointed out many times for many years, only leads to a shrinkage of service and further deterioration of our rail system.

The establishment of a federal Rail Trust Fund is the financial answer to the current plight of our railroads. And electrification is the cornerstone upon which we can build a modern, efficient and profitable railroad system.

I do not wish to take much more of your time, so let me leave you with these points:

Its time to rebuild and modernize the railroads of America. A program to finance modernization makes a great deal of engineering and economic sense.

It will increase rail efficiency and lower the cost of transporting goods.

Modernization of our railroads will increase employment in America by creating many hundreds of thousands of useful jobs in the plants manufacturing the equipment for construction crews—and most importantly, by making rail service more competitive and thus creating thousands of permanent new rail jobs.

We can help start a new industrial revolution in America if we utilize logical programs to conserve on fuel and improve transportation facilities.

Modernization of our railroads is a major step needed to achieve this goal.

The economies are all favorable. It's time to move forward. Certainly it is time for new thinking in order to stop repeating the mistakes of the past.

Thank you.

IN OPPOSITION TO H.R. 6362

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. BRECKINRIDGE. Mr. Speaker, I would like to join with my colleague from California, JOHN KREBS, in his continuing

opposition to H.R. 6362, a bill which contains provision for the repeal of the sealed bidding section of the National Forest Management Act of 1976 (Public Law 94–588).

The House Agriculture Committee, of which I am a member, ordered H.R. 6362 reported May 23, by a vote of 22 to 20, at which time I supported Mr. KREBS' opposition to the bill. Fourteen members of the Agriculture Committee filed dissenting views to the committee report on the bill and pointed out that it was a matter of record that those "regions of the country where sealed bidding has been the exclusive method used in the sale of timber, there has been no evidence of collusive or preclusive activities." On the other hand, in the Western and Pacific Northwestern States where oral auction has been the predominant method of bidding there have been strong indications of collusive practices. I understand that the Justice Department is conducting several major investigations of possible collusive bidding practices on timber sales and that, according to Justice sources, each of these investigations concern an area where oral bidding was the predominant method of selling timber.

As the chairman of the Antitrust, Consumers and Employment Subcommittee of the Small Business Committee, I should like to join with the distinguished Senator from Massachusetts, EDWARD KENNEDY, chairman of the Senate Antitrust and Monopoly Subcommittee of the Senate Judiciary Committee, in opposing H.R. 6362 and its Senate counterpart, S. 1360. Senator KENNEDY has declared that there is "no adequate justification * * * for altering the bidding procedures of section 14(e) of the National Forest Management Act of 1976." I was impressed with the Senator's remarks in the September 14, 1977, CONGRESSIONAL RECORD (pp. S14835–14837) wherein he indicated that the sealed bidding process was the preferred method for conducting sales of Federal property unless special circumstances dictate otherwise. Sealed bidding is the method used in the South, the East, and the lake States for the sale of Government-owned timber. I also join with the distinguished Senator in his opposition to any action which would jeopardize these ongoing Justice Department investigations. I concur with his remarks, and direct the attention of my colleagues and the American people to his thoughtful statement.

In addition to making collusion more difficult, sealed bidding produces more revenue for the Federal Government. In support of this statement I would like to quote the Forest Service figures for the first 6 months of 1977 for timber sales in Washington and Oregon. Sealed bid sales in the western Cascades produced $274.7 million, or $115.9 million more than the Forest Service appraised price. Sales under the oral auction bidding method in the western Cascades produced $51.1 million, only $19.2 million above the approved prices. The Forest Service further estimates that the Government would have lost between $20 and $35 million if all sales in this area for the 6-month period had been conducted under the oral auction bidding procedure.

Opponents of sealed bidding claim that this method allows larger buyers to outbid smaller buyers, thereby depriving dependent communities of a constant supply of timber. However the Forest Service has been unable to find a dependent community that failed because it could not obtain timber under the sealed bidding process.

I also oppose passage of H.R. 6362 on the grounds that the repeal of sealed bidding is premature. Section 14(e) of the National Forest Management Act of 1976 has not been in effect long enough to prove its effectiveness. I would also like to point out that the U.S. Department of Agriculture, the Department of Justice, and the Office of Management and Budget oppose the passage of H.R. 6362.

Mr. Speaker, for the varied reasons expounded by the good Senator from Massachusetts, EDWARD KENNEDY, by my fellow colleagues on the House Agriculture Committee, including the Honorable JOHN KREBS of California, I shall oppose H.R. 6362 and urge my colleagues to work for its defeat on the floor of Congress.

HUBERT H. HUMPHREY INSTITUTE LEGISLATION

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. QUIE. Mr. Speaker, as the senior Member of the Minnesota congressional delegation and ranking minority member of the Committee on Education and Labor, it is a pleasure to cosponsor this bill to authorize a $5 million grant for the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota in Minneapolis-St. Paul. These funds will give a much-needed boost to the estimated $20 million necessary to open doors of the institute to students by July 1, 1978. Already nearly $7 million has been raised for the institute.

We in Minnesota are especially proud of the accomplishments, energy, and enthusiasm of the man, Hubert H. Humphrey. We are also proud of the fact that an institute such as this one, dedicated to improving public service and promoting greater participation in Government by an informed public, exists in Minnesota. The institute, an expansion of the University of Minnesota School of Public Affairs on the Twin Cities campus, offers a unique and extensive program in public administration for students who are interested in becoming legislators and administrators. It also offers programs of continuing education and training to professionals already in the private or public sector and to the general public.

The institute is unique in that it is structured to meet the needs of changing times and changing policies much like Mr. Humphrey himself was eager and open to face changes and new ideas and to deal with new problems. New programs at the institute will focus on such things as technology planning which will include issues dealing with environmental quality. It will also focus on human services and include an examination of the problems of aging in our society. Curriculum will incorporate the social sciences, political philosophy, economics, computer science, mathematics, and the natural biological and environmental sciences.

The institute, like the current school of public affairs at the university, will offer two degree programs, the master of arts in public affairs and the master of arts in planning to its expected beginning enrollment of 100 students. It will also offer joint degree programs with the university's Institute of Technology and College of Business Administration.

On the $20 million necessary to open doors, only about $3 million will be earmarked for construction. The remainder will be reserved for students and programs. Fund raising efforts began last March and since that time $6.8 million has been raised including a $1 million pledge from our international friend, Japan. Former Secretary of State Henry Kissinger and Iranian Ambassador Ardeshir Zahedi are heading international fundraising efforts.

Students at the institute are particularly fortunate to have as a model a man like Hubert H. Humphrey. His papers will be accumulated and cataloged in the Humphrey Archives, a part of the institute. I only hope that the institute can instill in its students half of the boundless energy and enthusiasm for their work possessed by Hubert Humphrey.

Enthusiasm for Government is often in short supply. But it is essential in a democracy for the public to be informed and to actively and effectively express their wishes and needs. Government, in turn, must be responsive to those needs. The institute has an important role in advancing American democracy through the training of competent public servants and an informed and active public. We in Congress also have a role and a responsibility to aid in this pursuit and to celebrate the memory of a man who spent 30 years of his life serving the people. That is why I am cosponsoring, along with Mr. FORD of Michigan, the authorization of funds for the institute in the sum of $5 million with the hope that it will be supported by you, the Members of Congress, in response to our role and responsibility.

EQUAL JUSTICE FOR ALL

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. YOUNG of Florida. Mr. Speaker, today I have introduced legislation that would amend the Social Security Act to require a fair hearing by an impartial person—other than the carrier—on disputed medicare claims.

Under present law, the carrier for medicare has the total authority to make

final determinations on disputed part B medicare claims. This gives the individual no opportunity to have his case reviewed by any one completely disassociated with the carrier. In many cases, these people are living on small, fixed incomes and the difference in the figure that the carrier has allowed and the amount of money actually paid out for medical services can be very important. Therefore, I feel it is vital that these people receive every possible opportunity for a fair hearing and a thorough review of their claims.

Medicare claims under part A—the hospital insurance program—allow an individual the right to appeal disputed claims over $100 to the Social Security Bureau of Hearings and Appeals thereby allowing consideration of claims by someone other than the carrier.

Considering the fixed incomes of many of these individuals, and in view of the fact that under part A of medicare, appeals can be heard by the Bureau of Hearings and Appeals, I think serious consideration must be given to this legislation.

UKRAINIAN INDEPENDENCE DAY

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. McHUGH. Mr. Speaker, it is with pride that I salute the bravery and determination of the Ukrainian people during the 60th anniversary of the Ukraine's declared independence.

In my congressional district, there live large numbers of people of Ukrainian descent, and many more Ukrainian Americans travel sizeable distances each year to various parts of my district to take advantage of excellent vacation facilities managed by Ukrainian organizations.

The members and leaders of these organizations are to be commended for the perseverance and dignity with which they preserve the Ukrainian heritage for their children's children through their societal activities, their cultural programs and youth organizations. At the same time that we are inspired by the energy and dedication of these efforts, however, we are reminded that they occur from one generation to another in order to compensate for the tragic fact of the Ukraine's continuing subjugation by the Soviet Union.

For so many years now, the efforts of the Ukraine's Soviet captors have been directed to the physical and spiritual extinction of an entire people and their identity—a continuing form of genocide that should serve as a warning to all those who take freedom for granted.

As we salute the Ukrainian people during this commemoration, Mr. Speaker, it is incumbent on us to renew our resolve that the blessings of liberty on this planet should not be apportioned by international power struggles, from which no victors emerge. Rather, the history of untold human suffering throughout the world in our lifetime should convince us that it is in the deepest self-interest of every nation that basic human rights and national self-determination become both the birthright and the precious inheritance of all peoples.

UNITED STATES-SOVIET MILITARY BALANCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. HAMIILTON. Mr. Speaker, I would like to insert my Washington Report for January 18, 1978, into the CONGRESSIONAL RECORD:

UNITED STATES-SOVIET MILITARY BALANCE

Most of the experts are confident that a military balance now exists between the United States and the Soviet Union. They do not believe that the Soviet Union has achieved military superiority over the United States, but they are less sure about the future.

Since the mid-1960's the Soviet defense budget has grown steadily, averaging about 3% annually when expressed in constant U.S. prices. One fact stands out to all observers: the Soviet Union is in the process of acquiring military power comparable to that of the United States. The build up of Soviet armed forces, both in the size of the forces and in new generations of equipment, continues without apparent let up. Although the risk of a U.S.-Soviet armed confrontation may appear low at the present time, it is not negligible. Conflicts could develop in several "hot spots" around the world.

The main defense objective of the United States must be to maintain the overall military balance with the Soviet Union, a balance at least as favorable as that which now exists. The maintenance of a stable and visible balance of military power is essential to prevent adverse political developments. The concern here is that the Soviet Union is increasing the quality and the quantity of military power that it can bring to bear in support of its political objectives around the world. Although there is no reason for panic (an overreaction by the United States could lead to a dangerous and expensive leap in the arms race) Soviet military superiority is not something that the United States can or need accept.

In assessing the military balance, strategic and conventional forces must be considered. In the view of experts a strategic nuclear attack from the Soviet Union is the least likely contingency that the United States faces. But Soviet leaders have placed a high priority on their strategic nuclear capability, increasing it roughly five-fold since 1964, and they have underway a number of impressive strategic programs to strengthen that capability. Strategic nuclear balance between the United States and the Soviet Union exists today and one of our most vital tasks is to maintain it. In these matters what really counts is what the Soviet leaders believe about strategic balance. They must not see their strategic nuclear forces as instruments to be used for military conquest or political leverage. Thus, an essential equivalence with Soviet forces must be maintained. The United States would prefer to maintain a strategic deterrence through equitable and verifiable agreements on nuclear arms limitations and reductions, but the United States must maintain the strategic balance by whatever means are necessary. U.S. performance must not be, and must not be seen to be, inferior to the performance of the Soviet Union. With the three components of its strategic offensive forces—land-based intercontinental ballistic missiles (ICBMs), sea-based nuclear submarines with sea-launched ballistic missiles (SLBMs) and strategic bombers—the United States must be able to inflict unacceptable damage on the Soviet Union after an all-out Soviet strike against the United States.

The United States must also be concerned about the balance of conventional or "general purpose" forces. As the strategic nuclear balance between the Soviet Union and the United States becomes one of rough equivalence, the balance of conventional forces becomes more important as a deterrent against an attack. Since 1970 both U.S. and Soviet forces have been expanding and modernizing at comparable rates. The current balance of forces is such that neither side could be guaranteed a favorable outcome should war break out. The best judgment of the experts is that deterrence on the level of conventional arms still exists. Nonetheless there is room to worry about the West's ability to defend itself, especially if all Warsaw Pact forces were committed on short warning or if NATO were slow to mobilize.

Since the Soviet Union continues to improve its capability to launch a major attack on Western Europe, NATO must be prepared to make a flexible response with conventional or nuclear weapons and to maintain a defense posture that permits the U.S. and its allies to respond effectively to any assault.

The strength of two countries must be measured not only in military terms, but by all the elements of national power: political stability at home, geographic strengths and weaknesses, the economy and natural resources, industrial capacity, finances, leadership, technology, and, most important of all, the character, mood and number of people. Using this overall concept of strategic power, the United States is substantially ahead of the Soviet Union.

But the military relationship remains important. No antagonist should be permitted to believe that it can bully or coerce the United States and its allies by threat or use of force. My observation is that the President and the Congress are determined that we will maintain our military options and that we will continue to build and improve our military forces.

REMEMBERING A GREAT PRESIDENT, A GREAT NATION

HON. L. A. (SKIP) BAFALIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 26, 1978

Mr. BAFALIS. Mr. Speaker, a quarter of a century ago, Dwight D. Eisenhower took the oath of office as President of the United States. A man from the heartland of the United States, he had served his nation honorably and well as a soldier, then was prevailed upon to serve as President.

A leader in the truest and best sense of the word, President Eisenhower presided over a country much different than the United States today.

The United States, in the 8 years of the Eisenhower administration, was a nation of confident men and women—individuals aware of our country's problems and shortcomings, yet convinced the problems could be solved and the shortcomings corrected.

It was then a nation which looked to individuals to solve problems, not to Washington.

It was that kind of a nation because

of President Eisenhower's leadership. He believed in human rights and in the free enterprise system. He believed the Federal Government's role in business, education and all other spheres of our every day life was an extremely limited one.

Like most Americans who remember the Eisenhower years, I do so fondly. I remember them fondly because I much prefer a nation responding to his confidence, his integrity and his determination to keep the government the servant of the people.

THE 20TH ANNIVERSARY OF EXPLORER I

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. TEAGUE. Mr. Speaker, 20 years age today, the United States entered the space age with its successful orbiting of the free world's first satellite, Explorer I.

That satellite was the beginning of the events in the field of space exploration that saw our country catch up to and forge ahead of the space capabilities of the Soviet Union to become the first nation to land men on the Moon and return them safely to Earth.

To appreciate the importance of Explorer I, it must be remembered that it was orbited as the American response to the challenge faced by the free world as a result of the Russian satellite achievement, Sputnik I. That satellite, orbited on October 4, 1957, led the world into the space age.

And, it must also be remembered that plans were yet to be formulated for a space program for the United States when, on November 3, 1957, the Russians announced yet another outstanding satellite achievement. On that date, it had launched Sputnik II, the first satellite to carry a living organism into orbit, a dog named Laika.

Mr. Speaker, the political benefits gained by the Russian people were of tremendous value as their achievements made banner headlines around the world. And, too, the U.S.S.R. had demonstrated through its satellite program its capacity for launching international ballistic missiles, and its intention of exploring a new environment whose control could affect methods of maintaining peace and waging war.

From its beginning, numerous and difficult technical problems were posed for the U.S. ballistic missile development program. In 1957, five systems accounted for most of the U.S. ballistics missile activities and were carried out by the three military services and their respective industrial contractors. And, the United States had joined in the preparations, as a participating nation, of the International Geophysical Year.

The IGY was a scientific undertaking sponsored by an international organization of scientists and designed to promote a worldwide investigation of the Earth and its environment. The U.S. IGY program was to develop and procure a satellite-launching vehicle, to place at least one satellite into orbit around the Earth during the International Geophysical Year, to accomplish one scientific experiment and to track the flight to demonstrate that the satellite actually attained orbit.

Although this satellite program was mainly a civilian-scientific effort, military participation was necessary because most of the national competence to the all-important launch field was centered in the military services and their ballistic missile programs.

From proposals submitted to the IGY program by the three military branches in an intense interservice rivalry, it was decided to use most of the elements of the one submitted by the Naval Research Laboratory known as Project Vanguard. The Army's proposal was known as Project Orbiter and had been developed by the Wernher von Braun team of the Redstone Arsenal in Huntsville, Ala.

As a result of Sputniks I and II, the U.S. efforts to launch a satellite intensified. The Vanguard failed to perform during its initial launch attempt on December 6, 1957. Success came, however, on January 31, 1958, when the Nation's first artificial satellite, Explorer I, reached orbital velocity of just over 18,000 miles per hour 7½ minutes after lift-off. It was launched with a Redstone missile modified by the Wernher von Braun team and was built, managed, and tracked by the Jet Propulsion Laboratory in Pasadena, Calif. And, on-board instruments built by the James A. Van Allen discovered the radiation belt which surrounds the Earth.

Mr. Speaker, from the beginning of our Nation's entry into the space age with the orbiting Explorer I, we have seen many spectacular and amazing accomplishments not only in the history of space developments but in all areas of science and technology. We have gained much basic knowledge in those ensuing years and that knowledge, in keeping with the peaceful purposes and the encouragement of international cooperation of our space program, has been freely shared with the other countries of the world.

The knowledge gained from the vast investment of our country made in our space program is now one of our greatest national assets. It is, therefore, only fitting that we recognize today as the 20th anniversary of Explorer I, the symbol of our country's successful entry into the space age.

HOMEMAKING IS FOR EVERYONE—FUTURE HOMEMAKERS OF AMERICA, 1978

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. NATCHER. Mr. Speaker, homemaking is for everyone. Young people across the country will be observing Future Homemakers of America National Week during February 12–18. I am proud to note that the Future Homemakers of America is the largest organization for our youth in the secondary schools. FHA is cosponsored by the U.S. Office of Education and the American Homemakers Economic Association.

While placing an emphasis on consumer education, homemaking, family life, job preparation, and career goals with a recognition that today's workers also fill multiple roles as homemakers and community leaders, FHA/HERO chapters, across our Nation, are indeed responsive to the needs of our students. FHA recognizes that conditions and circumstances do change, and likewise, the leaders and members are receptive to new approaches, methods, and ideas.

The role of the homemaker is changing and Future Homemakers of America is part of that change. Mindy Wigginton, a national FHA officer from Kentucky states:

> To become successful leaders in tomorrow's society, we . . . need to become involved and concerned today. As members of Future Homemakers of America we have the chance to test our abilities, set our own goals, practice decision-making, chart our own course . . . experience leadership.

Today homemaking is a vital role, not separate, but rather an integral part of every citizen. More and more men and women in today's society are sharing the rewards and responsibilities of homemaking. A homemaker builds more than just a home environment. A homemaker builds families and creates solid foundations in order that every member of that family can explore and pursue their own individual ambitions and skills. It takes special talent, Mr. Speaker, to create that environment. Every man, woman, and child involved in the family becomes a homemaker. They care. They share.

We hear today, Mr. Speaker, that our families are in collapse. Although formal structures are changing, families are indeed permanent and are adapting to the economic demands of our country. Future Homemakers of America fosters and strengthens the function of the families as the basic unit of our society. All FHA members learn of their responsibilities as homemakers and wage earners. Tomorrow's family structures, whatever form, depend on the vision of our youth today and their perception of life. Future Homemakers of America finds exciting tools and methods to help our youth in this essential educational endeavor.

Contrary to the "Susie Homemaker" stereotype, Future Homemakers of America is comprised of men and women, boys and girls who are looking for ways to help themselves assume their future roles in society through personal growth, developing leadership skills, and community involvement. Today's Future Homemakers are much more likely to be comparing résumés than recipes.

FHA members are individuals who appreciate the heritage of our great land and grasp the needs of their home communities and seek positive action to meet these needs. Under the theme, "Leadership '78—Explore Roles, Set Goals," Future Homemakers will be demonstrating projects that have real value for our youth in preparation for present and future responsibilities.

For the past 2 years Future Homemakers of America has been working in conjunction with the National Foundation March of Dimes on a national project entitled "Healthy Babies—Chance or Choice." The Kentucky Association of Future Homemakers of America has chosen to become involved with this peer education effort as its statewide impact project. For the next 2 years FHA and HERO chapters will be working cooperatively throughout the State on individual projects, classroom programs, and community outreach projects to teach teenagers about the prevention of birth defects and the rights and responsibilities of parenthood.

Future Homemakers of America encourages democracy and cooperative action in the home and the community. It encourages individual and group involvement in helping achieve worldwide brotherhood; it encourages a greater understanding between our youth and adults; it encourages decisionmaking and responsibility. All of these goals are put into action when we consider the many projects that FHA members have carried out in your community and mine. They work with children, peers, adults, and the elderly of all ages, races, and status. They work in day care centers, schools, and hospitals. They supervise playgrounds and tutor the hard of hearing. They assist in immunization programs, vocational home economics education, antilitter campaigns, elderly visitation and care programs. They give their time and service in love of their fellow man. This, Mr. Speaker, is homemaking.

Kentucky State president, Dorothy Hardesty, said that through her FHA/HERO activities she had grown, as a leader by "striving for my best, giving credit where it is due, sharing the limelight, and being a responsible guide for others."

As an honorary member of the Future Homemakers of America, Mr. Speaker, I have seen leaders and members alike put action behind their concerns. I wish and can foresee nothing but continued success for the Future Homemakers of America. Their past years have been fine ones—the years ahead can only be better.

SERIOUS NUCLEAR QUESTIONS POSED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. SIMON. Mr. Speaker, Stephen Rosenfeld, an editorial writer and columnist for the Washington Post, recently had a very disturbing column about the new Chairman of the Nuclear Regulatory Commission.

I hope what he has to say is wrong, but I have found that Steve Rosenfeld's columns have balance and good sense and I hope that some people high in the administration and some of our colleagues on the appropriate committees in the House and Senate take a good hard look at what he has to say.

There should be no pussyfooting leadership in an area as vital as the Nuclear Regulatory Commission. I want leadership that understands full well the dangers of a nuclear explosion anywhere in our world. And that is what the American people want too.

I hope my colleagues will read Steve Rosenfeld's column:

[From the Washington Post, Jan. 13, 1978]

A NUCLEAR GUARDIAN'S UNALARMED VIEW

(By Stephen S. Rosenfeld)

Does President Carter know that the man he appointed as the final guard at the gate to ensure that peaceful nuclear exports won't be diverted into bombs is a cold-blooded engineer inclined to rate the risks of nuclear proliferation as somewhat less alarming than the chance of being hit by a car when you step off a curb?

I learned this about Joseph M. Hendrie, chairman of the independent Nuclear Regulatory Commission, when he dropped by the paper the other day and agreeably answered questions on the record for an hour and a half. A physicist from the Brookhaven Nuclear Laboratory, Hendrie, 52, came to the five-member NRC as chairman last August.

He has, in the eyes of his peers, substantial technical and scientific credentials. What came through at our lunch, however, was a sense of the particular ideological or emotional framework in which he weighs, as the law instructs the NRC to weigh, whether a proposed export of nuclear fuel or equipment is "inimical to the common defense and security of the United States." That is, of course, not a scientific question but a political one.

Hendrie identified three levels of nuclear anxiety. The first is a Soviet-American nuclear war—a "donnybrook"—which he regards as a greater than 1 in 100 probability. To avert this calamity, he said, it would be worth doing anything and everything by way of limiting nuclear power, if that would help. So far so good.

On the second level of his concern lies a nuclear exchange between two small countries. Hendrie offered two illustrations, a "mythical" war in which Switzerland delivered, say, 17 bombs on Spain and Spain hit Switzerland with 7, and a conflict between Israel (which is thought to possess at least a nuclear capability) and Libya (whose current leader publicly pines for a bomb). Hendrie explained his relative equanimity toward outbreaks like these by saying that he did not think they would affect his children, as a Soviet-American holocaust surely would.

As for the manufacture or theft of a nuclear bomb by terrorists, this prospect was on the third level. If, for example, terrorists took out Washington and Chicago, Hendrie said, it would be bad for those who happen to live there but not necessarily for their children.

Someone at lunch suggested that it would be a disaster "beyond history," Hiroshima and Nagasaki aside. Hendrie replied that the threat of a major earthquake in California actually was greater. He went on to note that it was dangerous to cross the street, too.

Now, I am trying hard to be fair. Hendrie, talks engineer talk: He approaches in a tone of familiarity and routine, matters that others address differently. No question has so far been publicly raised about the nuclear-export decisions in which he has participated. He was offering what he called his "personal views," and he provided no grounds for us to suspect he was not doing his duty as he sees it at the NRC.

Nonetheless, I found it appalling that someone who tends a crucial valve in the nuclear-export pipeline has such a mechanical and seemingly indifferent attitude toward the proliferation threat, which the NRC is charged with helping to diminish. On close calls, where a conscientious person would find it difficult to determine if a given export were "inimicial," what would one expect from someone who is relatively at peace with the notion the Israelis and Libyans might have a nuclear go or that terrorists might obliterate Washington and Chicago? Rationality unleavened by a measure of alarm appropriate to the nuclear peril is scary.

Should Hendrie be running the Nuclear Regulatory Commission? We didn't discuss that at lunch but Hendrie had a relevant proposal, and that is to remove from the NRC the statutory responsibility to pass upon peaceful nuclear exports. His argument is that the NRC is essentially an agency to regulate the safety of the domestic nuclear-power industry and that it has neither the broad expertise nor the "nose to steel" access to information to judge exports to foreign countries.

Whether it's wise to dispense altogether with the NRC's capability of providing independent technical advice, I'm not sure. But certainly it's so that the export question touches considerations of international relations, diplomacy, intelligence and weaponry that the NRC is not competent to deal with. It is not beyond the wit of Congress to confine the NRC to the task it performs best. Hendrie proves the point.

REMARKS COMMEMORATING THE 25TH ANNIVERSARY OF THE INAUGURATION OF DWIGHT DAVID EISENHOWER

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. QUILLEN. Mr. Speaker, I am pleased to join my colleages in commemoration of the silver anniversary of the inauguration of one of this century's greatest Americans to the Presidency of the United States.

Dwight David Eisenhower's years in the White House were indeed silver ones, leaving many of us with the hope that what once was can be again.

Ike recognized the true heart of America, for he was its son. He loved the land, guarded it, protected it, fought for it, and sought to leave it better for his having been here.

He carried into the White House with him the same philosophy he carried into battle—that a leader who can inspire a unity of purpose among his countrymen can inspire victory in any situation.

By uniting forces, he said:

The result you get is not the sum of their separate powers. You multiply their power, rather than add.

This philosophy touched his every effort in behalf of his country. Militarily he won battles by uniting the land, sea, and air efforts of Allied soldiers. As President, he united the country by inspiring its citizens' confidence, and leading them into an era of prosperity and serenity that has since gone unequaled.

I recall attending the 1952 and 1956 national conventions that nominated this gentle man to the high office of the Presidency. I remember, with the same nostalgia, the "I like Ike" buttons, and the warmth of spirit that existed in America then.

Dwight Eisenhower brought out the best in us, because he gave to us the best of himself—in strength, in diplomacy, and in leadership. He will be forever remembered, and forever admired.

ADVANCEMENTS IN SOLAR ENERGY

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. STEERS. Mr. Speaker, in the Washington Post of January 28, 1978, there was a story of the continuing struggle to make solar energy price competitive with other forms of energy. The Solarex Corp. of Rockville, Md., has developed technology that reduces the cost of energy generated by solar cells to $6 per watt. This is just more evidence of the fact that solar energy is now competitive for small applications and will be competitive for other applications before the close of the 1980's.

I have had the pleasure of touring the Solarex facilities that are located in Montgomery County. I am impressed with the dedication of the people at Solarex and their continued growth as leaders in the solar energy field. I believe that it will only be through these "partnerships' between Government and private industry that we will be able to find alternative sources of energy that will, in the long run, provide the answers to our energy problems.

I am submitting the article from the Washington Post of January 28 for the RECORD for all of my colleagues to read:

AT SOLAREX INSTALLATION—SOLAR POWER EQUIPMENT COSTS CUT

(By Jerry Knight)

The cost of equipment to generate electricity with solar energy will be cut in half by a new installation to be built this summer by Solarex Corp. of Rockville.

The 250-kilowatt solar electrical generator will be part of the largest solar power project ever, a community college complex in Mississippi County, Ark.

In bidding on the Department of Energy demonstration project, Solarex said it could supply concentrating solar cells that would cost less than $6 for every watt of electricity they produce.

Previous solar electricity generating gear has cost at least twice that much, although Solarex's $6-a-watt cost is still several times the cost of conventional power plants, which cost around a dollar a watt to build.

But Solarex officials say the technical innovations that allowed them to cut costs in half in one jump are another milestone en route to the Energy Department's goal of bringing the cost of solar electricity down to $2 a watt by 1982 and to 50 cents by 1986.

Solar cells cost $500 a watt when Solarex was founded in 1973 by Dr. Joseph Lindmayer and Dr. Peter Varadi, who are still its top executives.

"All the government studies said it would be impossible to bring costs down to 1/1000th," admits Lindmayer.

He and Varadi worked on solar cells for Comsat, which uses them to power its communications satellites. Because Comsat's charter prohibits down-to-earth projects, the two scientists started their own firm to pursue photovoltaic research and development.

Barely five years later, Solarex is the bigbest manufacturer in the tiny solar electricity business. In a plant off I-270, its 150 workers produced $3 million worth of solar cells last year, out of an industry output estimated at $10 million.

Besides making the biggest solar generating unit ever, Solarex also makes some of the smallest—the solar cells that power watches, calculators and flashlights.

"The thing that makes us unique is that we make competitively-priced cells and are very good at research and development," said Anthony Clifford, assistant to the president.

Solar cells are thin wafers of silicon crystals that emit a tiny electrical current when the sun shines on them.

Although the phenomenon—called the photo-voltaic effect—has been known for a century, it was not until 1955 that Bell Laboratories demonstrated workable solar cells and not until the space program that solar cells found a use.

With sky's-the-limit budgets, space scientists powered their mechanical moons with solar rays that cost $500 a watt—generating enough power to light a 100-watt bulb required a $50,000 investment.

Research has brought the cost down and raised the efficiency of solar cells so they now can turn about 14 or 15 percent of the solar energy they receive into electricity.

Solarex's state-of-the-art system is the first full-scale use of concentrating solar cells. Since the silicon cells are the most costly part of solar electricity generating gear. Solarex reduced the number of cells needed by concentrating the sunlight on the cell surface.

It's done with mirrors, curved reflectors with a mechanical system that tracks the sun across the sky, focusing bright rays on the cells. The reflectors and tracking gear—built by Honeywell, Inc.—will amount to about half the cost of the system.

With concentrators the cells receive up to 40 times normal sunlight—"40 suns" as solar scientists put it.

Solarex began making concentrator cells 2½ years ago, getting a head start on competitors which enabled it to win DOE's contract for the $1.1 million solar generating project at the Arkansas community college.

The college will be completely solar powered, using various kinds of solar collectors to make electricity, heat buildings and water and run air conditioners. It will also test new batteries for storing solar-generated power and computerized controls for the solar systems.

"Nobody has ever merged all these elements," explained Lindmayer, who said there is a backlog of technology that has never been fully utilized. "Now we will learn how to put the pieces together."

Solarex will start producing the cells this spring for the system, which will use 300 concentrator units, each 16 feet long. The federal contract calls for an output of 250 kilowatts, but Clifford said the Solarex system will put out about 360 kilowatts on clear days.

Lindmayer said concentrating cells appears to be the best method of producing immediate reductions in solar generating costs and opening up the market.

When costs get into the $2 range "all sorts of markets appear," he said. Now solar cells are used only in situations where no cheaper source of power is available.

They power navigation lights on buoys—ending the need for replacing batteries—and run remote weather stations on mountain tops—saving the cost of stringing cables for miles.

Lindmayer forsees highway lights powered by solar cells, irrigation pumps run by the sun, and extensive use of solar electricity in developing countries which lack interconnected electrical systems.

Solarex, he noted, has doubled in size every year since it was started and probably can maintain that pace as the industry expands with encouragement from federal subsidies.

Owned by about two dozen local investors, the company ideally ought to go public someday, but that isn't possible in the current stock market, the founder said.

Solarex is working on more advanced concentrator systems under a $287,000 contract with the Department of Energy's Sandia Laboratories. Contract research brings in about $1 million of its current annual sales.

The Sandia contract includes developing a high-technology manufacturing process capable of turning out large quantities of solar cells.

Even though it is the biggest manufacturer in the business, Solarex's production basically is a hand assembly operation.

Solar cell technology is changing too fast for automation, Lindmayer explained. By the time engineers could design and build an automated assembly line, the product it would produce would be obsolete.

TAX RELIEF ACT OF 1978

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. ARMSTRONG. Mr. Speaker, today, never as before, the American taxpayer needs a meaningful tax cut. So I am pleased to join my colleague JACK KEMP and other House Republicans in the introduction of the Tax Relief Act of 1978.

In a moment, I will explain the details of this tax relief proposal. But first, I would like to point out exactly why this legislation is so urgently needed.

During the last 10 years, taxes have risen dramatically. For example, taxes have tripled for a typical family of four earning the median income. Direct Federal, State, and local taxes have gone up from $2,276 to an estimated $6,333 for 1978. And this does not include the social security tax increases already written into law for 1979 and subsequent years. Nor do these figures take into account the oil and gas tax increases recommended by President Carter which would cost each American family an additional $300 to $1,600 per year.

Let me put these figures in a slightly different perspective. Although family income has risen steadily in recent years, taxes have gone up even faster. As a consequence, a median income family will pay an estimated 37.3 percent in taxes in 1978 compared with 28.9 percent a decade ago.

But even so, are not median income families better off in dollars? Even after paying higher taxes, do we not really have more spendable income? Unfortunately, the answer is no. Families today are earning more but keeping less. After deducting higher taxes and taking into account effects of inflation, the median income family ends up with less money to live on than 10 years ago; aftertax income is down from $5,607 to an estimated $5,228 this year measured in constant (inflation adjusted) dollars.

What it comes down to is this—an average taxpayer works nearly 3 hours out of a typical 8-hour day just to pay taxes, longer than for any other household budget item, nearly twice as long as for food or shelter. I think most taxpayers will agree—it is time for a substantial tax reduction.

The kind of tax cut which I propose will not only give a break to families, it is the essential medicine needed to cure the Nation's economic illness—stagflation. During recent years we have been experimenting with various kinds of Federal employment programs, pump-priming and subsidies while taxes have gone

higher and higher. The results have been a new form of economic illness in our State and Nation—stagflation, chronic inflation, and chronic unemployment. Here in Colorado we have been more fortunate than other parts of the Nation, but even so the rate of unemployment has risen from 3.6 to 5.6 percent with 69,400 Coloradans out of work. Based on past experience, the surest and most appropriate way of coping with this economic problem is through a substantial tax cut.

The Tax Relief Act of 1978 will reduce all individual tax rates by an average of 33 percent, reducing the present tax rates of between 14 and 70 percent to a range of 8 to 50 percent. This tax rate reduction would provide substantial tax relief to all taxpayers, but will help in particular lower- and middle-income taxpayers. The rates on lower income taxpayers would be reduced by as much as 42.8 percent, while the highest rates would be reduced by approximately 28 percent.

These rate reductions would be phased in over a 3-year period. After the full 3-year period, implementation of the proposal would have reduced the tax burden of a family of four earning $8,000 by 90 percent. A family of four earning $10,000 annually would have their taxes lowered 50 percent; while one earning $15,000 would save 38 percent. Families earning more than $20,000 would have their tax bills reduced by approximately 33 percent.

Income	Present tax	Proposed tax	Tax cut	Percent cut
$8,000	$120	$12	$108	90.0
$10,000	446	226	220	49.3
$12,500	917	547	370	40.3
$15,000	1,380	852	528	38.2
$17,500	1,926	1,223	703	36.5
$20,000	2,480	1,600	880	35.4
825,000	3,570	2,341	1,230	34.4

Our proposal also will reduce the corporate tax rate by 1 percentage point a year for 3 years, from the current 48 to 45 percent, and increase the small business surtax exemption from $50,000 to $100.000.

During the last 3 or 4 years there has been much discussion of tax reform. I believe that the time is now right for permanent and substantial tax reductions of the kind which I am recommending; that is, the kind of reform our economy needs, the kind of reform the Nation's wage earners need. This legislation is an idea whose time has come.

FAMILY TAX RATES—THEY NEED REDUCTION

[In percent]

Income after deductions	Present rates	Rates under the Tax Relief Act of 1978		
		1978	1979	1980 (and after)
$1,000	14.0	12.0	10.0	8.0
$4,000	15.5	13.5	11.5	10.0
$8,000	17.3	15.9	13.3	11.4
$12,000	18.8	16.5	14.5	12.6
$16,000	20.4	17.9	15.7	13.7
$20,000	21.9	19.3	16.9	14.7
$30,000	26.3	23.2	20.3	17.6
$50,000	34.1	30.3	26.7	23.3
$100,000	45.2	40.3	35.5	31.4
$200,000	55.5	49.8	44.2	39.0
$400,000	62.8	56.4	50.1	44.4
Highest possible rate	70.0	63.0	56.0	50.0

Source: IRS.

EARNING MORE, KEEPING LESS

Year	Median income [1]	Total taxes [2]	Inflation	Income after taxes and inflation [3]
1967	$7,883	$2,276		$5,607
1968	8,444	2,593	$236	5,615
1969	9,277	2,938	387	5,952
1970	9,750	3,155	621	5,974
1971	10,314	3,269	865	6,180
1972	11,152	3,594	1,212	6,346
1973	11,895	4,054	2,020	5,821
1974	13,004	4,494	3,195	5,315
1975	14,156	4,654	4,069	5,433
1976	15,016	5,131	4,483	5,402
1977	16,248	5,733	2,205	5,310
1978 (estimate)	17,000	6,333	5,439	5,228

[1] Median income, family of 4.
[2] Includes Federal income taxes, social security taxes, State and local income taxes, property taxes, and sales taxes.
[3] Expressed in 1967 dollars.

Sources: Commerce Department, IRS, Statistical Abstract of the U.S. Tax Foundation.

DIPLOMACY OR GUNS

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. BAUMAN. Mr. Speaker, every passing day brings new expressions of concern regarding the declining military security of this Nation. The latest of these numerous expressions comes from the Banner, a daily newspaper published on the Eastern Shore of Maryland in my district. Noting the Carter administration's poor record in the field of foreign relations, particularly with reference to our military strength and that of the Soviet Union, the Banner's editorialist concludes that the President seems incapable of applying either diplomacy or unquestionable strength to this crucial field. I commend the following editorial to the attention of my colleagues:

DIPLOMACY OR GUNS

While proclaiming the desire for agreements with the Soviet Union on the limitations of strategic weapons, on banning chemical weapons, on measures to prevent the dangerous proliferation of nuclear weapons and on limiting export of weapons, the president at the same time sidestepped the recent decisions of the present administration on the manufacture and deployment of cruise missiles, the neutron bombs and other new systems of weapons of mass annihilation which seriously complicate the attainment of the aims proclaimed by the president of the United States.

The above is the reaction by "Pravda," the Moscow newspaper that is more or less the official voice of the Soviet leadership, to the speech President Jimmy Carter made in Charleston, S.C., July 21.

While Americans, many of them, are deeply concerned by what they view as this country's worsening defense posture, it is clear that many Russians are also concerned by the status of their own armed forces vis-a-vis the United States.

These fears inevitably lead to new pressures for arms escalation that no government can long resist. The SALT I agreement is about to expire with little hope that a new one will be negotiated any time soon.

The Carter administration has had remarkably little success in the foreign policy field, if you discount still-to-be-ratified Panama Canal treaties, and in the crucial area of this country's relations with the Soviet Union the situation is obviously a declining one.

Two of the administration's foreign policy "initiatives" have been particularly galling to the Soviet Union—Mr. Carter's "human rights" campaign and his overt wooing of the People's Republic of China.

This country can afford foreign policy mistakes in many parts of the world; it cannot afford them in its relations with the Soviet Union. The impression given thus far by the Carter team is not an encouraging one.

If the Soviets cannot be finessed with diplomacy, then Mr. Carter had better be prepared to face them down with unquestioned strength. Thus far, there are few signs that he is doing either.

RECOGNITION OF DAVIS BROTHERS OPENS BLACK HISTORY CELEBRATION IN CLEVELAND

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. STOKES. Mr. Speaker, in accordance with Black History Month, I would like to take this opportunity to honor two outstanding men of Cleveland, Ohio, who have made immeasurable contributions in the areas of education, history, and public service. Brothers Harry E. and Russell H. Davis spent their entire careers enriching the lives of their fellow man. It is particularly proper that these gentlemen be acknowledged on the occasion of Black History Month, for in addition to their own notable careers, they have done much to reveal the many historical contributions of Blacks in the Cleveland area and nationwide. Mr. Speaker, both of these gentlemen are now deceased, and with their passing have become a part of history. So that you and my colleagues in the House can become familiar with the notable contributions of the Davis brothers, I would like to take this opportunity to relate to you some of the highlights of their careers.

Harry E. Davis, the elder brother, was born in 1882 in Cleveland and spent the next 73 years of his life in public service.

After graduation from the law school of Western Reserve University in 1908, he became a careful, thoughtful counselor and attorney, a member of Masonic bodies, and an organizer and supporter of the NAACP. In 1920 Davis was elected to the State legislature. His four terms were so successful that many journalists characterized him as the most able member in a quarter century. From 1928–1934, the Cleveland City Council chose him to be civil service commissioner. In 1947, he was elected to the State senate and again in 1953. Davis was the second black man to be elected to this high office. While in the senate, Davis' work led to the passage of legislation improving

statewide fair employment practices. Harry Davis' induction into the Prince Hall Masons in 1910, marked the beginning of an intense and scholarly interest in black history. In 1946, after years of research, his "Freemasonry Among Negroes in America" was published. Davis collaborated on several other books and studies with his brother, Russell, which I shall comment on later.

Mr. Speaker, Harry E. Davis died in 1955, leaving behind a legacy of his extraordinary accomplishments. In 1962, the Cleveland Board of Education named the Harry E. Davis Junior High School in his honor.

The younger brother, Russell H. Davis, was born in 1897, and like his older brother, spent his entire life in service to the citizens of Cleveland. Russell graduated from Western Reserve University in 1920, received a degree in chemical engineering from Case School of Applied Sciences in 1922, and in 1933, a masters degree from Western Reserve. Early in his career, he was a chemical engineer at Grasseli Chemical Co. before embarking on a career as an educator.

Mr. Davis became the first black secondary school principal in Cleveland's history when he was named head of Central Junior High School in 1940 after having taught science and math for more than a decade. He later held principalships at Rawlings Junior High and the Harry E. Davis Junior High which was named after his brother.

Mr. Speaker, after 37 years of service in education, he retired from the Cleveland Board of Education in 1965. During his life, he sat on many local boards. He was a trustee and treasurer of Karamu House and a trustee of Family Service Association, Garden Valley Neighborhood, and the Maternal Health Association. He also helped organize the Glenville Area Council and was its first president.

Russell Davis shared his brother's avid interest in history. Together they collaborated on two important documents, "Memorable Negroes in Cleveland's Past" and "Black Americans in Cleveland."

On February 12, Mr. Speaker, the Black History Archives of the Western Reserve Historical Society will present a program and opening of a special exhibit in honor of Harry E. and Russell H. Davis. I am particularly pleased that the society has chosen to honor these two distinguished sons of Cleveland. Just as they revealed the lives and deeds of Cleveland's notable historical blacks, it is fitting that the historical society continue this process by illuminating the contributions of the Davises.

In recognition of Black History Month, Mr. Speaker, I would like to ask that you and my colleagues in the U.S. House of Representatives join me in recognition of Harry E. and Russell H. Davis. They have taken their place among the great men and women of history and will stand as a shining example to all of us of the courage, commitment, and determination of the black citizens of Cleveland and the Nation.

OIL FLUSHING ON THE HORIZON

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mrs. SCHROEDER. Mr. Speaker, remarkable as it may sound, around 70 percent of the oil in our country's oil reservoirs has never been touched.

The following article tells the full story:

[From the New York Times, April 28, 1977]

PHYSICISTS HEAR PLAN TO PRODUCE MORE OIL—SPECIALISTS SAY FLUSHING METHODS COULD YIELD BILLIONS OF BARRELS FROM DEPLETED U.S. FIELDS

(By Walter Sullivan)

WASHINGTON, April 27.—Physicists were told today that, by using enhanced recovery methods, it might be possible to extract from currently depleted oilfields more oil than they originally produced.

The proposal was made at the American Physical Society's annual meeting as government and industry specialists discussed current efforts at such recovery. They said that 70 percent of the oil that originally filled the depleted reservoirs was still there, but was unavailable by conventional extraction methods.

The chairman of the meeting, Dr. Arnold Goldburg, senior engineer for the enhanced recovery programs of the Gary Operating Company in Colorado, said that, from experiments conducted so far, between 15 and 60 percent of the remaining oil in such fields could be recovered. Extraction of 30 percent would equal all of the oil production in the United States to date.

In a $5 million project whose costs are being equally divided between owners of the field and the Energy Research and Development Administration, an effort will be initiated next year to see how much oil can be extracted from Unit A of the Bell Creek field in southeastern Montana, using one of two methods based on flushing with detergents. The Bell Creek field is operated by Gary on behalf of more than 50 owners.

In one method, developed by the Union Oil Company of California, the injected detergent is mixed with oil. In the other, offered by the Atlantic Richfield Company, water is mixed with the detergent plus chemicals (polymers) to make the mixture more "oil-like" in behavior.

The energy research agency has contracted for more than $50 million of developmental work in enhanced oil recovery in at least a dozen projects. Dr. Goldburg said that, in contrast to other and more exotic energy sources, all of the required "infrastructure" already existed—pipelines, refineries and a national distribution system. The environmental impact, he added, is virtually nil.

NEVER IN A PURE FORM

The reason that only about 30 percent of the oil in any reservoir is extracted by ordinary methods is either that the oil is too viscous—that is, it flows poorly—or that it is held within the pores of reservoir rock (typically sandstone) by surface tension. This prevents the oil from forming droplets small enough to escape the pores or from mixing with the salty water usually present in the reservoir. Sometimes, both viscosity and surface tension are limiting factors.

The participants said at the meeting, at a news conference and in interviews that, contrary to popular belief, oil never accumulated in pure form as though in a giant tank. It is dispersed in porous rock often mixed with high pressure gas and brine—a relic of its marine origin.

Where viscosity is the problem, hot steam or hot air is sometimes injected with a view—in the case of hot air—to setting fire to some of the oil, creating enough heat and pressure to drive the rest of it out.

Detergents reduce surface tension and allow water to flush out the oil much as they do in a laundry. The problem is cost, and the challenge is to find ways to minimize the amount of detergent needed to extract a barrel of oil.

Industry participants predicted that enhanced oil recovery would cost at least $10 a barrel, and therefore would not be attractive unless they were allowed to sell it at world market prices rather than the lower price permitted for domestic production.

President Carter's recently announced energy program would allow the world price for oil recovered from "stripper" wells—those wells that each produce less than 10 barrels a day. The industry participants said it was not clear to what extent this would also apply to less fully depleted fields, where enhanced oil recovery would probably be more productive.

MANY FACTORS AT WORK

The world market price is about $14.50 a barrel, as against $9 a barrel for domestic production.

Harvey S. Price of Intercomp Resource Development and Engineering Inc. told of its efforts at mathematical representation of all the factors affecting success of a recovery effort. Whereas 80 to 100 percent of the oil in rock samples can be extracted in the laboratory, he said, the rate in field experiments has ranged from 15 to 65 percent, indicating that many factors—some still unknown—are at work.

There are wide variations as well from oilfield to oilfield. Industry specialists hope that the mathematical attack will bring into play the many factors affecting these variables, such as the role of certain types of rock in annulling the effectiveness of a detergent, aiding the oil companies in choosing the most effective method for a particular situation.

The mathematical modeling was initiated in 1973 with support from 13 major oil companies, Mr. Price said.

One of the more conventional extraction methods discussed today is the injection of high pressure carbon dioxide gas. This acts somewhat like a detergent and ejects the oil similar to the way fluid spurts out when a bottle of carbonated beverage is opened. It is applicable, however, only in limited situations.

Dr. Goldburg said the United States once had about 440 billion barrels of oil, of which 100 billion has been extracted and another 40 billion is accessible by conventional means. He believes that about one-third of the remaining 300-billion barrels can be obtained by flushing and other techniques.

15.2-BILLION-BARREL GOAL

According to Jerry D. Ham, assistant director for oil and natural gas in the Energy Research and Development Administration, that agency's goal for added recovery from existing reservoirs by the end of this century is 15.2 billion barrels. It is also hoped that the rate of extraction from all reservoirs can be increased from a current average of 32 percent of the original amount to between 34.5 and 38.4 percent.

Mr. Ham added, however, that industry enthusiasm is dampened not only by technological uncertainties, but also by such factors as price regulations, tax requirements and fear of antitrust action.

[From the New York Times, Dec. 11, 1977]

OIL RECOVERY

TO THE FINANCIAL EDITOR:

The article "Billions of Barrels of Oil, Waiting" (Nov. 27) correctly points out the unbelievable reality that we now leave about

70 percent of the oil in the ground. Thermal and chemical enhanced-recovery techniques are aimed at this 300-billion-barrel petroleum resource.

Not mentioned in the article, but equally important, are two facts:

In-situ thermal and chemical techniques have essentially zero environmental impact.

All of their infrastructure—pipelines, refineries and the like—is already in place.

It is apparent that these two tremendous advantages of enhanced oil recovery as an alternate energy source are not enjoyed by the other, more publicized technologies of shale and coal synfuel. And, in the case of enhanced recovery, no additional exploration is required.

Thus, it is our belief (at the Gary Operating Company, an independent oil producer) that full-scale exploitation of in-situ thermal and chemical flooding techniques should receive the same Federal economic incentives—such as guaranteed loans—as are now in existence or being planned for shale and synfuels.

ARNOLD GOLDBURG,
Manager, Enhanced Recovery,
Gary Operating Co.

ENGLEWOOD, COLO., *November 29, 1977.*

CHARLES J. WARTMAN: A VOICE FOR PROGRESS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. CONYERS. Mr. Speaker, I was saddened to learn of the recent death of Charles J. Wartman. "Duke" Wartman was a major black voice in Michigan affairs during the 1940's, 1950's, and 1960's, and his outstanding reputation for wisdom, reliability, and objectivity continues to be an inspiration for those of us who knew him.

As an editor of the Michigan Chronicle for 16 years after World War II, he was largely responsible for the paper's role as the only consistent public articulator of black issues. Under his editorial direction, the Chronicle fought problems like police brutality and provided needed communication between Detroit's many black communities and churches: A role the paper pursues to this day.

Mr. Wartman was influential in Michigan's Democratic Party, and as a key adviser to former Gov. G. Mennen Williams, was responsible for statewide black appointments and forward-looking programs. A close friend to labor leaders, he helped forge an ongoing coalition between the black community and the United Auto Workers.

He served on Detroit public school's Equal Educational Opportunity Study Commission and received two coveted writing awards: The National Negro Newspaper Publishing Award for editorial writing in 1955, and the National Newspaper Publishing Association Award for outstanding columnist in 1957.

A historian, writer, community leader, and scholar, Duke Wartman left us a legacy of leadership and progressive policies. He will be sorely missed.

A COMMONSENSE APPROACH TO THE FARMERS' PROBLEM

HON. CLIFFORD ALLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. ALLEN. Mr. Speaker, "The only way you are going to solve your city problems is to solve your rural problems."

This profound truth was given expression in the first sentence of a white paper on rural migration, emceed by newscasters Edwin Newman and Garrick Utley, back in 1971.—"The only way you are going to solve your city problems is to solve your rural problems."

Seven and one-half years have since passed, and we are no nearer solving either the city problems or our rural problems than we were then.

It is unfortunate that so many people who live in the cities do not realize that farming and agricultural production constitute the very backbone of America and its economy.

More than 71 percent of all new wealth, including food, fiber, and raw materials produced in the world today, comes from the land and farms. And in America, our farmers have developed the most efficient and productive agriculture in the world.

We who live in the cities and towns must come to recognize that almost everything we consume—not just the food we eat—but virtually all of the material possessions and comforts we enjoy are fabricated from what is extracted from the soil and the good Earth.

And it is time for us to realize and appreciate the fact that those who have invested their money, and who toil on the farms from sunup to sundown, are entitled to share fairly in the wealth which they have produced.

They are not sharing in that wealth today.

And mere expressions of sympathy by high officials, from the President of the United States, the Secretary of Agriculture, and the Members of Congress—no matter how sincere or well intended—will not put 1 penny in the pockets of a single farmer until they are prepared to say what they are willing to do about it—and do it.

We must have affirmative action—and that affirmative action must come from the President and the Congress of the United States.

The Tennessean in Nashvile ran a lead editorial, January 4, in which the editor correctly stated in the headline: "The Farmers' Problems Are the Nation's Problems." This editorial concluded with this statement:

> What the farmers demand, however, calls for action by Congress * * *. It will require political efforts on the part of the farmers in concert with others who see the danger of permitting the Nation's food production to fall into the hands of monopoly interests.

And that is exactly what is at stake in this fight.

If individual family farmers are driven to the wall of bankruptcy, because of the low and inadequate prices they are getting for what they produce, and cannot pay their bills, they will be forced to sell their land or to rent it out to big corporations, which are buying up more and more of the productive farmland in this Nation.

If the giant corporations gain a monopoly in the agribusiness—if that happens—the consumers, the housewives, and others should be made aware of what else will happen.

The prices of farm produce, groceries, clothing, and all the other things fabricated from products of the soil, will skyrocket just like the price of gas and oil and electricity, and all the other things where the market is controlled by monopolies, whose primary interest is profit and how much they can extract from the consumer.

If we do not want this to happen, therefore, we need to pass certain legislation that will at least protect and guarantee the farmers—and I mean bona fide, independent, family farmers and farm operators, who derive at least two-thirds of their annual income from farming and farm operations—that henceforth they can count on a fair and just price for what they produce.

And this can be done—contrary to the conventional wisdom in Washington, believe it or not—without raising the prices of food in the grocery stores, if we avoid the administrative blunders and mistakes which have characterized this Nation's agricultural programs of the past.

But however the problem is to be met, what is generally agreed by almost every thoughtful and informed person on this subject is that the Federal Government must do something for the farmers, the same as it has done for factory workers and other employees, through minimum wage laws, and what it has done, and is preparing to do still more, for big business and the giant utilities. That is, simply to assure the independent, family farmers of a fair price—but only a fair price—for what they produce, and to which they are justly entitled, if they are to avoid going broke and being driven from the land.

An example of the general recognition of this fact was ably expressed, the evening of January 6, on WTVF-TV in Nashville in an editorial by Mr. Harold Crump of that station. Mr. Crump said, speaking for channel 5:

> We believe Congress should take a serious look at the farmers' complaints. Farmers blame high food prices on the middle man . . . the middle man says it is due to the increased costs of doing business. If the trend continues, the individually owned family farm will be replaced by large corporate farms. The family farm system has served this country well and we strongly believe it should be preserved. As the congressional debate over farm policies begins, we also feel the farmers themselves should take a hard critical look at their present marketing practices to see if that can be reorganized in a way to make the farmer more competitive in today's free enterprise system. WTVF strongly urges the public to support the farmers in their efforts to get a fair profit for their labors.

Notice again the recognition that channel 5 gave to the very real hazard, the same as the Tennessean did in its

editorial, that "if the trend continues, the individually owned family farm will be replaced by large corporate farms."

If the farmers and the consumer groups can drive this truth home to the housewives and those who buy food for the family table, and clothes fabricated from cotton and wool produced now by the independent, family farmers—if the general public is made to realize the real danger to their way of life, and the increased drain that will be on their pocketbooks, if the independent farmers are driven into bankruptcy, and we must depend on large monopolistic corporations to take over most of the productive farmland and thereby gain control of agricultural production in this country—if we can get this one thought across to the people, the task of persuading Congress to act will be made much easier. Perhaps we can then come up with an agricultural bill that will be fair to both the farmers and the consumers, so that all share equally in the wealth produced by this, the greatest and most blessed Nation on Earth.

The question is, "How can this be accomplished?"

Unlike members of organized labor working in many businesses and industries across this Nation, the farmers cannot effectively go on strike for a few weeks or a month or two, pending negotiations, with the expectation of then going back to work.

If the farmers fail to plant a crop during the planting season, they know that in effect they will be striking, not for weeks or a month or two, but for a full year, until the next planting season. And how can dairy farmers go on strike? Can they stop milking their cows, or simply pour their milk on the ground? Or should they dispose of their herds—and, if so, to whom?

And with household and family expenses going on, and the payments and interest that must be met on their mortgages and on the many thousands of dollars they have had to invest in farm machinery and equipment, where will many of them be if they do not produce and do not have an income for a full year—or, like the dairy farmers, find themselves out of business entirely.

Those who are calling for a strike are surely aware of these harsh realities and intolerable consequences to themselves and their families, in seeking to engage in a truly effective strike. Nevertheless, I must compliment those who have had the courage and determination so dramatically to call to the attention of public officials, and to the people of the entire Nation, the dire and unfair financial circumstances in which farmers find themselves, because of the low and unprofitable prices at which they are compelled to sell what they produce at the grain elevators, stockyards, and to the other processors and middlemen, on whom they must rely to sell their produce.

The newly organized American Agricultural Movement, which is now attracting thousands and thousands of new recruits throughout the Nation, is calling for 100 percent of parity for farm products. Just what years would be used in determining what constitutes parity, and actual prices which farmers would get for the different grades and quality of each of the various items they have to sell, have not been spelled out in actual dollars and cents. But that the farmers are entitled to a fair price to assure them of at least a reasonable profit on their investments and labor, cannot be denied by those of us who believe in fairness and equity.

The problem is how the Federal Government can do this without an additional, tremendous drain on the National Treasury, and without fanning the flames of inflation by raising the prices of food at the grocery stores and the prices of so much else on which we must depend from what the farmers produce.

The Secretary of Agriculture, Mr. Bob Bergland, recently indicated on national television that to guarantee prices to the farmers at 100 percent of parity would cost the Treasury $15 billion a year. To this he said would be added $20 billion a year to the prices housewives would have to pay for food at the grocery stores. I do not quarrel with Mr. Bergland's first figure. The Federal Treasury is already spending approximately $7½ billion to the farmers under the present program. So $15 billion a year seems to me to be a very conservative estimate of what it would cost the Government to support farm prices at 100 percent of parity. Indeed, I think it would probably be substantially more than that.

In projecting how much it would raise the price of food at the grocery stores, however, I would respectfully suggest that the distinguished Secretary of Agriculture was probably thinking about how price supports were guaranteed in past years, when the Government support prices were charged and added to the amount paid out not only by the U.S. Treasury, but also to the prices that were charged and paid by the grain elevators, cotton gins, stockyards, meat packers, and by the other processors and middlemen. So the taxpayers and consumers were having to pay twice—first in increased taxes, and second in increased retail prices at the stores. And there is no question, if price supports in the future are to be handled in the same way they were supported in years gone by, the increased prices which the middlemen and processors would have to pay for farm produce would be passed on in increased prices on the grocery shelves, at the clothing stores, and everywhere else where goods are made from the produce of the soil. So once again the public would be paying double.

But does it really need to be handled in this way?

Certainly there is a better way for the Government to support the prices which farmers get for their goods than by guaranteeing to lend to the farmers the amount of money their produce would command at the prices supported by the Government. Obviously, if the farmers can take their wheat and secure a loan from a Federal agency, without recourse, at $4.50 a bushel—and this is just an example—they are not going to sell it to the grain elevator at a lower price. Thus, the price the grain elevator and the miller must pay for wheat is pegged at this price, and is added to the price of flour and bread on the grocery shelves.

But let us consider a different approach similar to the target price program. Why would it not be feasible, using this same example and target price approach, for the Government to fix the price which a farmer should get for his top quality wheat at $4.50 a bushel, but actually let the farmer sell the wheat for whatever it will bring on the open market, as dictated by the law of supply and demand? Under target price programs, it is demonstrably possible for the Government to pay directly to the farmer the amount by which he falls short of getting the fixed price for his wheat or other produce, so that the prices to the processors and middlemen would not be affected. They could then buy on the market, in free and open competition, what the farmer has to sell, and that price would not be affected or increased by any later payment which may be made to the farmer by the Government—it would not in any way increase the prices of food on the grocery shelves.

I recognize that certain safeguards and protections would have to be written into any such program to prevent fraud and the other problems which I can clearly foresee.

Nevertheless, it does seem to me that any support prices the farmers can persuade the Congress to establish for what the farmers produce should be handled in this way. If the Government simply pays to the farmers directly the difference between the guaranteed support prices for what they produce, and what the farmer actually gets from the middlemen and processors for their goods, the farmers would be assured of a certain price on which they could depend for their produce, while the processors and middlemen would still be buying agricultural products at whatever the open market dictates. The prices of the processed and manufactured goods on the shelves at the stores would not be affected.

Indeed, it is entirely possible, if not probable, that the retail prices of food on the grocery shelves would go down, under a program such as this. I am thinking particularly of the prices of those products of the soil which are presently supported under the current agricultural program, whereby farmers are permitted to borrow money from Federal agencies at prices about the market. This forces the processors and middlemen to pay these higher loan prices, which in turn must be added to the price which they get for their products and finished goods.

What I am suggesting here is a way, already demonstrated under target price programs, of guaranteeing to the farmers a fair and resonable price for what they produce, so they can share fairly in the wealth produced by this Nation, without increasing or skyrocketing the prices of groceries and other goods made from products of the soil.

How much this would cost the Government would depend, of course, on what prices or percent of parity Congress may decide to use to peg farm products, and what crops and other produce may be included in this price support program.

To help defray this cost, the Economic Council to the President says every dollar the farmers receive and spend adds $7 to the national economy—in increased goods manufactured and sold, increased employment in the factories, stores, and service establishments, and increased wages, salaries, and profits on which the Government collects increased taxes. So such a program could prove to be self-supporting—or almost so—depending on how much it stimulates the economy and business activities.

But the program should be limited, in my judgment, to genuine, independent and family farmers, two-thirds of whose income is derived from farming and agricultural production.

Great care and consideration must be given in the formulation of this plan. In this way we can profit from the mistakes and misguided agricultural programs of the past which turned out to be counterproductive, and in some cases an outright catastrophe.

Consider, for example, the program which the Federal Government followed for years of pegging the prices of agricultural products at substantially higher prices than the market would support, and in which various agencies of the Agriculture Department loaned billions of dollars to farmers at these prices. What happened? It wound up by having to take millions of tons of wheat, corn, and potatoes, and other farm products off farmers' hand and transport and store them in warehouses that did not even exist, but had to be built. In some cases, wheat and corn had to be stored outside until warehouses and bins could be constructed to store and take them out of the weather, causing untold loss of spoiled foods of various kinds. At the same time people were going hungry because they could not pay the artificially inflated prices for food at the grocery stores, because processors could not buy the farmers' products at less than the loan price guaranteed by the Government.

None of us wants this to happen again, nor do we want to contemplate a revival of the ill-fated, disastrous, and costly land bank program instituted by President Eisenhower's Secretary of Agriculture, Mr. Benson, which not only wound up by costing the Federal Government untold billions of dollars in direct payment to landowners, but created and compounded the unemployment and social problems of the big cities, for which we are still paying to this date billions and billions of dollars a year in welfare and relief programs to take care of the untold millions who were driven from the land.

As you will recall, under the Benson land bank program, billions and billions of dollars of the taxpayers' money was paid out by the Treasury, over a period of 20 years, to large corporations and other big landowners who were willing to agree to keep their land out of cultivation and production and to let it lie fallow.

I have in my Nashville office a Government document of 2,012 pages of fine type, listing farmowners, State by State, who were paid $5,000 or more in 1969, 8 years after Dwight D. Eisenhower ceased to be President, which shows a drain on the Treasury for that 1 year of $3,794,350,000 paid to corporations and other farmowners, many for keeping their land out of production when they had no intention of cultivating it in the first place.

Here are a few examples of how the money was spent:

In the State of California, County of Kings, J. G. Boswell Co., a corporation of Corcoran, Calif., was paid $4,370,657,000 for this 1 year alone, supposedly for not cultivating certain parts of its land.

In the State of Kentucky, Union County, the Aluminum Co. of America was paid $48,414. Think about it. The Aluminum Co. of America, $48,414.

In Mississippi, Bolivar County, Delta & Pine Land Co., of Scott, another corporation, was paid $731,772. And in the same State, the Eastland Plantation Co., of Doddsville, owned and controlled by one of Mississippi's most prominent citizens, was paid $146,792.

In Tennessee, Fayette County, Jerry Skelton, of Collierville, was paid $82,779, that year, and the Cowan Bros., of LaGrange, were paid $79,392.

And on and on and on—costing the taxpayers $3.8 billion for just this 1 year.

But what happened to all of the tenant farmers and sharecroppers and their families who were driven off the farms by these billions and billions of dollars spent by the Federal Government to entice landowners, many of them large corporations, to take their land out of cultivation? Millions of innocent victims of this misguided program wound up in the hard core of the big cities, living in rundown, miserable slums, with their children playing on rooftops or on the streets and sidewalks—many driven by despair to crime, dope, and muggings on the street—and the Government spending, and still spending, literally billions and billions of dollars more each year to take care of them on welfare and other forms of aid—surely the most wasteful and costly blunder ever made by the Government in Washington.

Compare that with what the farmers are now asking. That is, simply a fair price and equitable share of the wealth of America for producing the food and fiber to help feed and clothe and house the people of this Nation and around the world.

Given a fair price for what they produce, many farmers would have the money to hire help they cannot now afford, and bring a number of these tenant farmers and sharecroppers and their families, who were driven from the land into the squalor and jungle of the hard core of the big cities across the Nation, back to the farms and be given employment.

And instead of manufacturing, selling, and giving away more and more arms and weapons of death around the world, how much better it would be if we could be using our surplus farm produce of both food and fiber as an instrument of peace in our relations with many of the underdeveloped nations around the world.

And so I say the farmers are at long last on the right track in dramatizing this problem and what needs to be met; and if the best brains in the administration and the Congress will simply put their minds to work in developing and perfecting a program along the lines here suggested, it will be not only a great blessing to our Nation and its people, but to the millions and millions of hungry and underprivileged people around the world.

The Bible speaks of hammering our swords into plowshares. This is a part of the basic teachings of almost every religion around the world. Let us at least make a start, bearing in mind what Ed Newman and Garrick Utley said on NBC in 1971, that—

> The only way you are going to solve your city problems is to solve your rural problems.

Farming is, indeed, the business of America, and the bedrock of our economy. Let us nurture and prize it as America's most precious asset.

AMERICAN BENEVOLENCE IN PANAMA

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. BAUMAN. Mr. Speaker, amid cries of "Yankee, Go Home" from Latin American political agitators and self-righteous accusations regarding American "imperialism" from domestic politicians, this Nation has provided the Republic of Panama the highest per capita income in Central America. The economic and humanitarian benefits we have showered upon Panama far exceed that we have provided any other country in the world.

Far from being the hapless and helpless victim of rapacious exploitation by the United States, the Republic of Panama's well-being has been vastly enhanced by this Nation's generosity. For this reason, I find the portrayal by many supporters of the Panama Canal treaties proposed by the Carter administration of American sins in this regard particularly offensive. An excellent refutation of the America the gringo colonialist myth was published January 29 in the Baltimore Sun. Written by Mr. Martin D. Tullai of Brooklandville, Md., the article precisely dissects the myth and provides some excellent food for thought for every Member of this Congress. Having just traveled to Panama and seen first-hand the positive impact of the American canal at Panama, I commend Mr. Tullai's words to my colleagues:

AMERICAN BENEVOLENCE IN PANAMA

SIR: As the U.S. Senate prepares to face its moment of truth regarding the Panama Canal Treaties, there seems to be a revival of the absurd contention that the U.S. has been the aggressive exploiter of Panama. Myths like this, repeated often enough, die

hard. And one would be remiss to allow them to stand without refutation, for a dispassionate appraisal of the facts reveals otherwise.

Although no more than a pestilential swamp in 1903, Panama is today a fairly prosperous nation almost entirely due to our generosity and monies that poured into the region because of the canal. Panama has been and still is the greatest single beneficiary of the canal enterprise. Harold R. Parfitt, governor, Panama Canal Zone, has testified that, "the presence of the Panama Canal has infused much money into the Panamanian economy and is responsible for the high standard of living in that part of Central America." This claim is not difficult to substantiate. Consider some facts:

(1) There is an inflow to the economy of Panama of between $240 million and $250 million annually. In addition, it receives an *annuity* of $2,328,000. The initial annuity was set at $250,000. In 1936, this was increased to $430,000; it was raised again in 1955 to $1,930,000. Today it stands at the aforementioned $2,328,000.

This is not a rental fee as some have mistakenly construed. It was an annuity designed to assume the annual franchise payment which the Panama Railroad formerly paid to Colombia. It did not affect the status of the Canal Zone, but was the obligation of the railroad to Colombia. This obligation was now assumed by the United States which paid Panama the annuity or "compensation." This was not a rental or lease—these words do not appear in the treaty, but significantly, the term "grants" appears 19 times.

(2) The canal is larger than any other single source of employment in Panama. About 10,000 people—72 percent of the total work force of the Panama Canal Company and the Canal Zone Government—are Panamanian nationals; thousands more work for the U.S. military.

(3) Panama has the highest per capita income in all of Central America ($1,375) and stands fourth of 19 nations in all of Latin America. It has twice the per capita wealth of Colombia, the nation from whom she declared her independence.

(4) The U.S. has favored Panama with more per capita foreign aid than any other country in the world. Between 1947 and 1973, this amounted to $342 million.

(5) American businessmen have contributed to Panama's economy with investments approximating $250 million.

(6) Until 1975, Panama had one of the lowest inflation rates in Latin America.

(7) In addition to direct economic boosts, Panama has gained much from a variety of beneficent projects. These include a bridge and highway across the Canal, built at U.S. expense to link the two parts of Panama; the country's deep water ports are U.S. built and operated; its principal international airfield was U.S. built; the U.S. constructed its transisthmian road and railroad; Panama's water supply comes largely from reservoirs and purification systems constructed by the U.S.: its sanitation system was primarily the result of U.S. efforts; and U.S.-owned merchant ships flying Panama's flag of convenience add to her economic well-being, just as tourism, attracted by the Canal, adds many dollars to the merchants' coffers.

(7) The picture of health and social statistics is also quite striking. After the French failure, due largely to tropical fevers, U.S. physicians and scientists conquered the endemic, devastating diseases. They sanitized Panamanian swamps and established an extremely effective health system. Some results of these programs point up their successes:

Panama's infant mortality per 1,000 live births in 1970 was 3.0—lowest in all of Latin America, Argentina's being 60.1, Brazil's 84 to 95, Bolivia's 159.0 and Haiti's 149.1; Panamanians have the fourth best life expectancy in Latin America—66.5 years; at 5.3 per thousand, its mortality rate in 1974 was the second lowest in Latin America; Panama's literacy rate of 84.0 stands fifth in all of Latin America—well above fourteen other nations of that region.

These obvious benefits have made Panama, despite its unstable and dictatorial government, one of the most favored nations in all of Latin America. It is evident that Panama's well-being has been greatly enhanced by the American presence in the Canal Zone. The canal is Panama's greatest single revenue source.

Hanson Baldwin, noted military expert and writer for the New York *Times*, has declared: "The exploitation myth is just that: a propaganda ploy fostered by Panama's politicians, by Castro's Cuba and by the Soviet bloc to help force the United States out of the zone. It has no basis in fact."

MARTIN D. TULLAI.

BROOKLANDVILLE.

FLEXTIME AND PART-TIME BILLS REPORTED

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mrs. SCHROEDER. Mr. Speaker, on January 25 the Committee on Post Office and Civil Service reported two bills to expand alternative work scheduling in the Federal Government.

H.R. 7814 calls for a 3-year experiment within the Federal work force with expanded use of flexible work hours and the compressed workweek, which would be monitored and evaluated by the Civil Service Commission.

The use of flextime by the Federal Government began in 1974 with a small program involving 400 employees of the Social Security Administration aimed at reducing loss of worktime due to high rates of tardiness. While flextime has frequently been introduced to solve personnel problems, it has also been successful with employees, since it gives them greater control over their work schedules. On September 27, 1977, the General Accounting Office made its second report on flextime (FPCD–77–62) recommending changes in title 5 and the Fair Labor Standards Act which impede experimentation with flexible work scheduling.

H.R. 10126 establishes a uniform policy on part-time career employment, authorizing the Civil Service Commission to provide technical assistance and the agencies to establish part-time hiring programs, setting their own goals and timetables. In addition, the bill provides that for purposes of the OMB agency personnel ceilings, part-time employees be counted by the number of hours worked. Currently, an employee is counted as one personnel slot, whether the employee works 20 hours or 40 hours, which penalizes managers who hire part-time workers.

My Subcommittee on Employee Ethics and Utilization held extensive hearings (serial No. 95–28) on the growing use of alternative work scheduling because of the needs of employees and the benefits for employers. The GAO reported that 10,000 private sector organizations with 1.2 million employees are using compressed schedules and from 300,000 to 1 million private sector employees are on flexible work schedules.

I attach for the interest of my colleagues a recent series of articles from the Washington Post by Kathy Sawyer citing part-time hiring experience in D.C. schools and at the Control Data bindery plant in Minneapolis:

[From the Washington Post, Dec. 26, 1977]

JOB SHARING: GROWING TREND

(By Kathy Sawyer)

At the Fillmore School in Georgetown, when a student gets sent to the principal's office, he can't be sure which "half" of the principal it will be because two women are sharing the job.

In California, a young man was offered the job of comptroller of a large school but wanted more time with his family than the high-pressure position would allow. Since his wife had skills similar to his own, they offered themselves as a team, and got the job.

At the admissions office of Goucher College in Towson, Md., a job cut reduced three positions to one. The three women who held the jobs decided to offer themselves for the one job, and they got it.

Such examples of job sharing are increasing, although they are still rare. Getting an employer to agree to such an arrangement and then making it work well takes a special combination of skills, personalities, work environment and luck, according to those who are in the thick of the movement.

Many employers and supervisors have resisted job-sharing and other kinds of reduced-hours arrangements in most higher-paying occupations because of concern about extra costs and administrative inconveniences, and because of the ingrained belief that employees who want to work part-time are not as committed or skilled as full-time workers.

For the three working mothers at Goucher College, the arrangement works "because we're compatible, we think alike," says Janet Kantor, one of the three. "Each of us knows what the others are doing and is familiar with the people the others deal with."

Their job involves setting up a program in which college alumnae speak to prospective students and generally serve as liaison between the alumnae and the admissions staff.

"One of us is almost always available. Sometimes we work at home at night, or very early in the morning. But if one of us has a sick child or something like that, the other two will cover for her."

Sharing a job can be "tricky," according to Maureen McCarthy, of the Committee on Alternative Work Patterns in Washington. "You either have to define pretty well what each person's responsibilities are, or they have to be very compatible, or you can get into trouble."

"You have to guard against the staff playing one of you against the other, things like that," said another Washington professional.

One of the few settings in which the mechanics and the effects of such work arrangements can be observed in a variety of professional and paraprofessional jobs is Wisconsin. An experimental, federally funded program called Project Join (Job Opportunities and Innovations) has taken 30 full-time state government positions and transformed them into 60 part-time or shared positions. There is one year left in a two-year grant. Its initial intention was to include women and other categories of workers who couldn't work full-time.

The first surprise, according to program chief Carol Lobes, was in the breadth of em-

ployee interest. "We had in essence excluded men, unless they were older workers with special needs. But we found some young, career men interested, too, because of family interests or for various other reasons."

Supervisors, on the other hand, have resisted the plan. "That has been an uphill struggle," Lobes said, "We found an interim step necessary. Supervisors are more willing to first allow an existing employee to reduce hours and then hire a second, rather than taking one vacant position and hiring two new people."

Not every job is adaptable to part-time or job sharing, but, according to Lobes and others, in jobs where an alternative schedule could be worked out, supervisors' reactions have been generally favorable.

"It doesn't make management's job any easier, but I think it's a good thing overall," says supervisor Michael Lovejoy, of the state's Office of Policy and Program Analysis. He oversees a staff of 46 business administration professionals, which now includes one who works half-time.

There is some "subconscious screening," he adds. "One management technique is to load people up with too much work, and then let them—if they've good—sort out what's important. But you look at the part-time person and think, 'I can't load them up with that.' I think you tend to give the part-time persons the more structured projects. The full-timers tend to get the flaky, and often enjoyable and creative projects."

Carol Gannon, a medical technician for the the state of Wisconsin, said the biggest problem in her job-sharing situation is "communication. My 'other half' and I leave a lot of little notes for each other about what we've done."

"Job sharing allows the employer to get two different people who, taken together, make one person who's perfect for the job" says Jor Jan Brolin, a community services technician who gathers data on the state's community action programs. "I'm better at some things and the other person has strengths in other areas."

She wanted to work part-time because she needs time for weekly therapy for a paralysis in her legs caused by an accident six years ago.

The most strenuous objections by employers concern the added costs of fringe benefits for part-time workers, which can be several hundred dollars a year or more extra per worker.

Public agencies do not pay the same penalty as private employers in unemployment compensation or Social Security. But many public agencies are required to pay all employees full health benefits.

Many collective bargaining agreements require a full day's pay for a worker called in for any part of the day. Or they require full fringe benefits to be paid to all workers. These too, raise the cost of part-time employment.

In a preliminary cost study of the Wisconsin program, according to codirector Mary Cirilli, "the state seems to be saving money based on the salaries and benefits overall." She said the extra costs in benefits are offset by lower salaries being paid to some half-job holders.

Carol Gannon, for instance, had been the full-time head of a state medical project. When she asked to share her job, the other half was assigned only research work at lower pay.

Some employee benefits, such as paid vacation time, can be prorated in job-sharing arrangements. But other employee benefits that are mandated by law for workers can raise an employers' cost if there is job sharing.

It is in the category of "fixed cost" benefits mandated by law for each worker that costs increase for part time workers, though this varies. For private employers, for instance, unemployment insurance contributions cost more for two part timers than for one full timer. And yet many part timers don't work enough hours to collect a share of unemployment compensation. (If payments are required on the first $6,000 of annual salary, the employer pays one amount for one $12,000 salary and twice that amount for two $6,000 salaries. Social security costs present a similar disadvantage in certain pay brackets.

"Employers do have a gripe right now" about the cost of part-time arrangements, said Wisconsin state Rep. Midge Miller, who has been active in pushing for more flexible work arrangements.

"Well, men made these rules. They can change them."

[From the Washington Post, Dec. 26, 1977]

AT FILLMORE, PRINCIPAL IS ACTUALLY TWO WOMEN

Working 10 days a week is not only possible, but common, for the principal of Georgetown's Fillmore School, according to Andrea Adler and Pat Mitchell.

Together, the two women are the principal, or director, of the school and they figure their bosses in the Washington school system are getting more than full value for their one GS–9 salary of $15,502.

"They were aware when they hired us that they would get more than two-halves," Adler said. "We aren't each taking half. We are each taking all of this job."

Dr. Dorothy Johnson, school superintendent for that region of the city, agrees. "They say two heads are better than one and in this case it's true."

Johnson said she has seen other such job sharing attempts fail. This one is successful, she feels, "because these two women have a very good relationship, both personal and professional, besides being highly competent and motivated."

The women wanted to share the job for the usual reasons. Adler has two children, including a preschooler, and Mitchell has four children in three different public schools.

Adler wanted to be able to help out at her child's nursery school one day a week. Mitchell wanted to be able to go home "at the critical times of day" when her own children are coming home from school." If either has a sick child, the other can come in "at a moment's notice."

Surrounded by art done by the students, their routine punctuated by the clanging class bells, they each work three day's a week, overlapping each other on Wednesdays. "We're in close communication on the days when only one of us is here. And we keep a log of our decisions," Pat said. "When Andrea speaks, she speaks for me, and vice versa."

The only disadvantage, they agree, is the economic one. Besides sharing the wages they lose their benefits completely. "The bureaucracy apparently doesn't know how to split a GS–9 salary, so they converted us to hourly wages, which don't carry benefits," Andrea said. "We need this income, but we both have other benefits through our husbands, we weren't willing to jeopardize this opportunity over benefits."

[From the Washington Post, Dec. 27, 1977]

TAILORING SCHEDULES TO SUIT WORKERS

(By Kathy Sawyer)

In a little bindery plant in an inner city neighborhood of St. Paul, Minn., a large computer firm has tailored its work schedule to suit the needs of mothers like Mamie Curtis, who wanted jobs there.

Until she was hired at the Control Data Corporation's bindery plant there five years ago, Curtis who is 32 and the mother of three small children, was out of work and on welfare. Now she is one of about 140 employees at the plant, all of whom work only part-time. Curtis, for example, works only the five hours when her children are in school.

"I hadn't felt I could work full time while I had small children," she said. Her only previous work experience had been as a kitchen aide and a cannery worker years earlier.

Now she can see her children off to school, walk to the plant three blocks from her home and "get home the same time the kids do," she said.

Each day, Curtis punches holes in thousands of pages that are then bound into technical manuals. Under the supervision of a black manager, she and the other women, most of whom are also black, work at long rows of tables to the accompaniment of the constant drone of the "joggers," machines that vibrate a platform to help the women align the tens of thousands of pages they assemble into technical manuals and brochures. Some women spend their hours at the tedious task of taking pages off stacks and collating them, watching a seemingly infinite procession of the mysterious symbols of the computer age—4,000 pages an hour if they're good.

When the "mothers' shift" of about 70 women ends at 2:30 p.m., a three- or four-hour shift for students begins.

Control Data, a computer and financial service conglomerate with 41,000 employees in 33 countries, initiated the bindery operation in a converted bowling alley seven years ago, following the urban riots of the late 1960's.

"It was our plan to provide the kind of employment most needed, in the place it was most needed" said James Bowe, vice president of Control Data.

On the other hand, he emphasized, the plant is "not a charitable operation . . . We may have a jump on a lot of companies in thinking you can make money by solving social problems."

Last year, the bindery plant turned a profit of $20,000 and picked up 75 new customers for work ranging from biblical posters to promotional material for the St. Paul Chamber of Commerce. The operation did so well that the company built a new plant, using black contractors.

Like other Control Data operation in depressed neighborhoods, this one has had its difficulties. Most of the employees had been out of work, and many were strangers to the requirements of a job, according to senior vice president Norbert Berg.

The company had to contend with such problems as absenteeism and tardiness. "We got into providing legal counselling, financial loans, we've bailed people out of jail, provided day care, nutritional help," Berg said. "We had to learn how to do these things."

Berg believes the plant has given the whole neighborhood a lift. In an area of boarded-up store fronts and sporadic vandalism, he pointed out that the building is free of paint or graffiti. "You'll notice we've got a basketball hoop in the parking lot, where the kids play. We make it a point to keep a net on that hoop and one kid told us that net is as important as anything else we do here."

The bindery workers' hourly pay ranges from $2.71 to $3.12 (after a year) to $5, according to plant manager Richard Mangram. Employees earn on the average $80 a week for 25 hours.

In addition to her wages, a mother employed at the plant might get an additional $270 monthly welfare grant (compared with $400 a month if she were unemployed), so that the job plus the welfare check means a boost in her income of perhaps $190 a month.

The company estimates that its payroll has saved almost $600,000 in local welfare costs over the past seven years.

Though the bindery jobs require little skill, the plant offers training and a chance to move into full-time work for women who want to do so. Mangrum said about 150 employees so far have done that.

Mamie Curtis said she hopes to do the same, "as soon as my kids are old enough."

The workers' benefits include paid vacations, holidays, legal aid, retirement eligibility and access to a government health plan that the company administers but does not pay for.

The printing trade unions in the St. Paul area, however, take a dim view of the nonunion bindery operation. Some of the members "have figured out that these part-time workers are less efficient than union workers by about half," according to one union spokesman. "And also the wage rates are just about half what they would pay professionals. So, it's not exactly philanthropic."

He said a union book binder in the Twin Cities area earns about $5.49 for the same work that earns a Control Data worker $2.71.

Plant manager Mangrum maintains that the plant is competitive because of its low overhead, low absenteeism and turnover, and its high productivity per worker.

"This is no plaything," says plant manager Mangram. "I look at the production records daily. We have sophisticated cost accounting methods. We know who is slack."

While the workers tend to be hired on the basis of need, he said, "if there's a slough off, we deal with it."

The workers praised the plant's efforts to accommodate them in other ways.

"If a child gets sick, I can call in and say I won't be in. And yesterday they let me go over to the school for my grandson's conference," said Mabel Burch, 51, who works the shrink wrapping machine, sealing a clear plastic wrap over posters, books and the like. She is mother of seven children, with custody of a grandchild as well, she said. Her husband has been working two jobs so she could stay home with the children when they were all smaller.

"This job helped us a lot. I don't need special training for it. Anybody could do it, really. I'm not a fast worker," she added, "but I'm constant."

Like most of the other workers, she is able to walk to work, or on bad days, take a bus.

The Control Data executives are not sure why more firms have not followed their example. "The problems are solved, we're making money and yet we're still the only ones around (the inner city)," Bowe said.

"This could be such a big part of that big Carter problem—the unemployment that everybody's scratching his head about. Think of the corporate power to do something about it. All you need is a modest government incentive for business to go in and do it."

The bindery program is no panacea, he added. "It's just a nice combination of things that's working well."

[From the Washington Post, Dec. 28, 1977]

UNPAID TIME OFF STUDIED

(By Kathy Sawyer)

Last year when Santa Clara County, Calif., faced a budget crisis and the threat of employee layoffs, county officials discovered that many of the county's employees were willing to reduce their work hours and take pay cuts to save their jobs.

Seventeen per cent of the county's work force of 10,000 voluntarily applied to reduce their hours. The budget crisis was averted just before schedules were changed but the majority of those who had applied wanted reduced hours anyway and the county granted their wishes.

"Unpaid time off is now viewed as an employee benefit," California State Sen. James R. Mills notes.

In view of such signals from the work force and the persistence of high rates of unemployment, a number of thinkers and planners are now urging programs for voluntary reduction of work hours as an added weapon in the arsenal to combat unemployment.

These proposals would transform work schedules in a variety of ways: shorter work weeks, months, years, or even shorter work lives.

One million jobs would be created if just 20 per cent of the work force volunteered to work 7 per cent fewer hours—that is, three hours less a week, for instance, or 20 days less a year, according to one manpower study group.

Around the country, not just in Santa Clara County, there are increasing signs that because of dramatic changes occurring in the lives they lead and the values they hold, a number of American workers would indeed be willing to make such a trade.

Mills is working up a proposal for work sharing in his state. "The worker who trades income for leisure," he says, "is simply buying that extra leisure from someone who has too much, such as a welfare recipient."

Wisconsin Sen. Gaylord Nelson (D) who conducted hearings last year into a range of alternatives to traditional work, is arguing for more part-time job opportunities as part of the government's welfare reform package.

Jules Sugarman, vice chairman of the Civil Service Commission, has proposed an especially offbeat approach for redistributing work: a sabbatical plan in which most American workers would put aside 6 per cent of their salaries in order to withdraw from their jobs one year out of every 10.

Faced with an army of 14 million unemployed, the government last turned to reduced hours and work sharing measures in the early 1930s, during the Depression. Then legislation that had a major impact on establishing the size and shape of jobs today was enacted.

With unemployment now at around 7 per cent, thinkers and planners disagree over the need for such measures and over their probable impact. The arguments have not changed much in recent years, according to Janice Hedges of the Bureau of Labor Statistics.

The work week has always been reduced only as a dividend of greater productivity. "The theory is that you can reduce the week from 48 to 40 or below and get increases in productivity (because of less worker fatigue, better morale, less absenteeism, and the like), and the cost of goods and services won't go up," she said. "But in a reduction from 40 to, say, 32, there's not as likely to be an increase in the output per hour."

Some unions, such as the 1,500,000 member United Auto Workers, recently have settled for more time off instead of more pay. "More time off is one of the most salient demands of workers now," said a UAW spokesman.

Other unions have fought for a cut in the work week without a reduction in pay. This would be inflationary, economists say, and also would quicken employers' efforts to replace expensive workers with more economical machinery.

"On the other hand, if you reduce hours as an alternative to laying people off," said the BLS' Hedges, "you are not increasing or decreasing efficiency. You're just redistributing earnings."

Proponents of work sharing to replace layoffs argue that it could ease the hardships especially on last-hired, first-fired minorities and women, and on blue collar workers who normally suffer more in a recession than managers and professionals.

The attitude of organized labor generally toward such variations from tradition has been one of suspicion, if not always outright opposition.

"Work sharing is not just work sharing," says John Zalusky, of the AFL–CIO, "It is also unemployment sharing."

He said that reducing the hours of all workers in order to avoid laying some off unless it is very short-term, merely "spreads the misery" and may also be a ploy by the employer to avoid the extra unemployment compensation costs connected with layoffs.

"It's better to pay the unemployment compensation to people who are laid off, and let them look for full-time work."

The AFL–CIO opposes the growing movement to create part-time work in place of full-time jobs because, Zalusky says, it is likely to lure more people into the job market at a time when jobs are scarce, and because it is likely to depress the wages of full-time workers.

Ron Wackett, of the retail clerks international, describes his organization as "torn between two lovers—the need for jobs for the army of the unemployed versus the need for more flexible work arrangements."

Members of that union are among those who traditionally have worked part-time, not for the benefit of the workers but to suit the employers' need to take advantage of peaks and valleys in business. Wackett called that situation "an albatross about the neck of those who want to make careers in the retail trades—full-time careers."

The union has proposed a plan for reducing hours for older workers who want to "phase out," Wackett said, but it is planned "to suit the workers' needs and not the employers."

Some unions appear to be taking a closer look at some of the alternatives to traditional work. Patsy Fryman, of the 600,000 member Communication Workers of America, says the union already has taken steps in its collective bargaining to promote more flexible working hours in the form of flexitime, which allows employees to vary their starting and quiting times but does not reduce working hours. (CWA's membership includes telephone operators, repairmen, cashiers and other crafts.)

In order to study the effects of reduced hours, part-time work and "the full range of alternatives," Fryman said, CWA is sponsoring a trip by 14 trade union officials from six different unions next spring, to European countries such as England, Germany and Switzerland where such measures are in wide use.

"Labor is not oblivious," Fryman said. "But there are plenty of questions still to be answered. What happens to benefits, seniority, premium pay for overtime, all those things? These are the kinds of questions that cause labor to hesitate. We need more study."

Undeniably, innovations in the way jobs are packaged will involve certain costs. "But these costs may be preferable," notes George Washington University economist Sar Levitan, "when you compare them with the alternative costs of continued widespread forced idleness."

Interest in work sharing programs is "gradually accumulating a critical mass," according to Fred Best, of the National Commission for Manpower Policy. "I sense that the issue will get on the political agenda in the next year or so, and that there will be some moves in that direction in the next two years."

[From the Washington Post, Dec. 28, 1977]

PART-TIME JOBS APPEAL TO GROWING NUMBER OF WORKERS

The desire of the American worker for jobs packaged in nontraditional sizes is demonstrated most dramatically by the growth of the country's "permanent part-time" work force.

Virtually nonexistent at the turn of the century, it now is the fastest growing segment of the work force and includes 16 million people.

Most part-timers are women, especially married women with children, and most of them (80 per cent) are working part-time because they prefer it to full time—not because they prefer it to full-time jobs.

The bulk of part-time jobs is in the lower-paying "women's occupations"—retail sales and services, and clerical work.

It is in these fields that the number of part-time workers—who usually are on the job 18 to 20 hours each week—has increased the most, according to Stanley D. Dollen of Georgetown University. In the last 15 years, the number of part-time workers in these jobs has risen by 40 per cent to 50 per cent.

This rise has been accompanied by an increase in the temporary help industry which also includes mostly clerical and service jobs. Temporary workers are sent out by agencies, established for that purpose, to fill short term vacancies and may work an 8-hour day when employed. Part-time workers are employed on a permanent basis but for less than a standard work day or work week.

In 1946, there were only a few thousand temporary workers, according to Martin Gannon of the University of Maryland. Though data in this area are less reliable than most employment statistics, he says, estimates are that are now between 1.6 million and 3 million temporaries employed in the nation.

Some temporary workers simply lack the skills to get full-time jobs, many others prefer to have less income and in some cases receive no fringe benefits at all rather than work full-time.

"The attitude toward temporaries is that they are people who can't keep a permanent job. But we're not all turkeys," said Judy Lynn Lawson, 23, of Greenbelt, who is proud of her 104-word-per-minute typing speed. "A lot of us do it because it suits our life style best."

Gannon said a study of workers who did not work full-time showed that working mothers often had tried full-time work but then "reverted to regular part-time positions" as the best way to reconcile the conflicting demands of work and home.

There is growing pressure now to alter negative attitudes toward temporary and part-time workers so that they are considered for promotion and given a fair share of benefits. There also is pressure to expand part-time job opportunities into professional and managerial level jobs.

The Carter administration has taken some steps to expand part-time job opportunities in the U.S. government. One of the main deterrents, according to officials, is the federal personnel ceiling imposed by the Office of Management and Budget. Currently, employees are counted the same way whether they work two hours a week or 39, critics say.

OMB counters that the ceilings are necessary to check the growth of agencies, and that in many cases the ceilings allow for some part-time hiring but that many managers do not understand that.

Currently there are about 40,000 part-time federal employees (not including the Postal Service) or about 2 per cent of the total federal work force.

An advantageous combination of circumstances made it possible for economist Betty Barker, a GS–15 supervisory level professional at the Commerce Department to get the part-time schedule she wanted after she became a mother. These circumstances include the type of work she does, and the agency for which she does it.

Barker helps supervise 50 people in the Bureau of Economic Analysis and, she says, "My work involves not so much the day-to-day fire fighting, but is generally research analysis, writing and editing papers, designing a survey . . . Other people in the office have been able to plan things around the days I'm in the office."

Supporters of expanded part-time and other flexible job opportunities argue that employers will find enough advantages to outweigh any extra costs in greater management flexibility, and improved morale and productivity among the employees.

For example, supervisors' ratings on women working part-time in professional and technical positions at the Department of Health, Education, and Welfare show that 55 per cent of them are more productive on a work-per-hour basis than full-time workers.

In Boston, half-time public welfare caseworkers handled higher caseloads per hour than their full-time coworkers. They actually averaged 20 per cent more phone contacts with clients than the full-time workers. School administrators in several cities have maintained that their half-time teachers gave them two-thirds as much work for one-half as much pay.

While many temporary workers are housewives who want to re-enter the full-time job market eventually, increasingly temporary work opportunities are appealing to members of the mobile, freedom-loving generation of younger workers, according to Barry Wright, of Temporaries, Inc.

"Washington is a typical example of a transient glamorous place to come and make your mark," he said. "In a situation like this, these young people use temporary employment as a way to get familiar with the local labor market. Some turn it in a life style and travel from city to city."

TAX CUTS, INFLATION, AND UNEMPLOYMENT—PART II

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. CONYERS. Mr. Speaker, on Thursday last I inserted in the RECORD the first part of a major analysis of the 1964 general tax cut written by the noted economist at Michigan State University, Dr. Charles Killingsworth. The 1964 tax cut was the model for all subsequent ones and the claim that it stimulated the economy and created a great many new jobs in the late 1960's has been used by subsequent administrations to justify all future tax cuts.

In the first part of the article, "Tax Cuts and Employment Policy," Dr. Killingsworth effectively refutes the notion that the 1964 tax cut was chiefly responsible for the 2 percent drop in unemployment between 1963 and 1968. This development was, in fact, attributable to the Vietnam war, a diminished labor force participation rate, and technical changes in the way unemployment was measured.

In the second half of the article, which follows, Dr. Killingsworth offers a cost-benefit analysis of tax cuts and public service employment in relation to unemployment and inflation. On every major ground—the savings/consumer spending ratio; targetability; multiplier effect; inflation impact—he concludes that direct jobs spending is far more cost-efficient than tax cutting in creating jobs for the long-term unemployment and in targeting stimulus to the places and people where and for whom it is most appropriate.

The economic history of the past two decades amply demonstrates that traditional policies, in particular tax cutting, cannot promote employment opportunity for millions of young people in the central cities, or eliminate structural barriers to employment that minority groups suffer or, for that matter, have much impact on efforts to revitalize depressed local economies. A series of tax cuts during the past decade have had little effect in lessening the economic disparities between cities and suburbs, the old industrial centers of the Northeast and the new ones in the Southwest and, espeically, among different ethnic and age groups. For example, in 1969, the best employment year in the past 25 years, an overall jobless rate of 3.5 percent meant twice that rate for black Americans and a 25 percent jobless rate among black teenagers. These disparities have only deepened and worsened in the last several years.

I urge my colleague to consider carefully Dr. Killingsworth's analysis, and the alternative to tax cutting that he recommends.

The material follows:

PART II. TAX CUTS AND EMPLOYMENT POLICY

(By Charles C. Killingsworth and Christopher T. King)

STRENGTHS AND WEAKNESS OF TAX CUTS FOR JOB CREATION

Tax cuts are presumed, no doubt correctly, to have strong political appeal. That was the stated basis for the preference of the Council of Economic Advisors in 1961 and 1962 for tax cuts over government expenditure programs. (The more purely economic arguments for the most part were not elaborated until after 1964.) The sources of appeal should be examined and evaluated briefly. If two economic policy instruments are equally effective, but one has greater political appeal, it may make good sense to support the latter. But if the political appeal is based on myth rather than reality, or expectations that are unrealistic, the reliance on political appeal may backfire.

THE APPEAL OF TAX CUTS

So let us analyze the sources of the political popularity of tax cuts. Many more individuals are likely to benefit from tax cuts than from direct job creation programs reserved for the unemployed. Business firms can usually argue successfully, on alleged equity grounds, for a business tax cut whenever a personal tax cut is enacted. Political conservatives may welcome tax cuts as a way to reduce the size of government. Obviously, if the tax cut results in a larger deficit rather than a cutback in government expenditure (as it must if it is to have any net effect on the economy), the conservative expectation is disappointed. But the larger deficit may become a talking point to use against any new programs.

There is another, related kind of ideological appeal of tax cuts. The provide an increase in purchasing power for the individual that may be spent as the recipient sees fit—that is, through the market system. Economists are trained to regard market as the all-round most effective instrument for optimizing and maximizing. Tax cuts operate through and strengthen the private sector of the economy. Perhaps a first cousin to this view is the faddish generalization that "government programs never work." Generally speaking, tax cuts do not require the creation of any new government bureaucracy, with its red tape and maze of regulations. When you create a bureaucracy, its natural tendency is to perpetuate itself and its program. A tax cut can be worded so that it expires automatically at a previously-designated time. Finally, tax cuts can be designed to have an immediate effect on the job market, while government programs are notoriously slow in getting started.

THE WEAKNESS OF TAX CUTS

We begin with some practical, general objections to tax cuts. Some of them are the mirror image of some of the appeals stated

above. From the political standpoint, present tax cuts may render unavailable the funds for some future projects or programs. There is some doubt that business tax cuts result in reductions in unemployment; the Congressional Budget Office estimating procedure assumes that they do not.

Whether or not a tax cut can be made effective much more rapidly than, say, a direct job creation program is by no means clear, and the answer may differ depending on several factors. One major policy question that must be faced when a tax cut is under consideration is whether it should be temporary or permanent. Another closely-related question is whether the cut should be disbursed to taxpayers in a single lump sum or spread over a year. How should the cut be allocated as between low-income, middle-income and high-income taxpayers? Should some kind of payment be made to persons who are too poor to pay income taxes? It is not always easy for Congress and the Administration to reach agreement on these points. In 1977, President Carter formally presented his proposals to Congress a few days after his inauguration in January; by mid-April, when he withdrew the rebate proposal, many points of disagreement remained between the Administration and the Congressional Committees considering the matter.

In our judgment, this listing of pros and cons in the abstract does not carry us very far. More alleged strengths and weaknesses could be set forth, and the discussion would still be inconclusive in the sense that some people would judge that the pros would outweigh the cons and some would reach the opposite judgment. Instead of pursuing this abstract and perhaps sterile approach, we turn to what we regard as a more realistic basis for evaluation.

TAX CUTS AND PSE COMPARED

In this kind of policy analysis, we believe that it is much more useful to compare one kind of policy instrument with one or more alternative instruments, if such alternatives are available. In current discussion, a program of direct job creation such as the Public Service Employment (PSE) program is often compared with tax cutting as an instrument of employment policy. We believe that useful conclusions can be reached on the basis of such a comparison, and we turn to that kind of analysis now.

COST EFFECTIVENESS

One obvious criterion of ecectiveness is the number of jobs created by equal dollar expenditures. Some might question the appropriateness of the term "expenditure," when applied to a tax cut; but we think that when government transfers dollars to individuals, or forgives tax payments that would otherwise be due, then that transaction is as appropriately regarded as an expenditure as is the payment of wages for services performed. Until recently, little attention had been given to the "cost" of tax reduction compared with the "cost" of PSE. In 1975, however, Senator Edmund S. Muskie requested the Congressional Budget Office (CBO) to prepare estimates of the costs and effectiveness of certain "Temporary Measures to Stimulate Employment," and a study with that title was released in September, 1975. The CBO study implies that the gross cost per job created by a tax cut is about $25,000, and the gross cost for a PSE job is about $8,000. Part of this rather large cost difference is explained by the CBO assumption that one-third of the tax cut goes to corporations rather than individuals, and the further assumption that the corporate tax reductions create few if any new jobs. We believe that the underlying reasons for this large difference in cost effectiveness deserves closer attention than they have previously received.

Slippages. When the government provides a tax refund to a household or an individual, or reduces withholding rates, the recipient usually saves at least part of this money. Some economists argue that the proportion saved will be much higher if the money gain is regarded as temporary than if it is regarded as the first installment of a permanent addition to the recipient's income. The debate on this point continues. There is general agreement, however, that some part of the tax cut will be saved for some period of time by the recipients. That portion which is saved does not create jobs. Most of the proceeds of the tax cut will be spent. However, not all of the spending will create new jobs. To some extent, business firms can produce additional goods and services without hiring additional workers. They can increase the hours of work of those already on the payroll; during a recession, in some industries, the hours lost from part-time work may be as many as the hours lost from layoffs. In retail stores, sales personnel may be more fully utilized without any formal increase in hours of duty. Some firms will have accumulated unwanted inventories of goods during slack times and will fulfill increased demand by drawing down the excessive inventories. There are other forms of slippage, of course, but the nature of the phenomenon is illustrated by the examples given.

With a PSE program, on the other hand, virtually all of the funds expended go directly to payrolls and job creation. With a gross cost of $8,000 per job, close to 1,000,000 new jobs will be created by an expenditure of $8 billion. Thus, on the first round, virtually all of the slippage that is inherent in the tax cut is avoided. To put the matter in simple terms, a tax rebate is a transfer of money to a large number of individuals whose labor market status is not directly affected by the transaction. Employment and unemployment are affected only by what the recipient does with the money that he or she gets. A PSE program is a transfer of money to a smaller number of individuals who must agree to perform services in return for the money; thus, the creation of new jobs is an integral part of the process. The PSE program is usually designed so that the labor market status of the recipient is changed, and the national statistics on employment and unemployment are also affected, by the first-round transaction.

Recently much attention has been given to a particular kind of slippage in the PSE program. This has been called "substitution" or "displacement." In the current PSE program, the federal government provides funds to state and local units of government and instructs them to use the money for job creation. Some of the jobs that are "created" are jobs that the governmental units would have financed with their own funds if federal money has not been given to them; and some of the jobs that are financed are previously-existing jobs that have been vacated by layoffs or attrition. In other words, the state and local units simply substitute some of the federal dollars for their own dollars, and there is no real increase in employment. Or so some analysts have seemed to suggest.

We believe that the magnitude of the problem has been considerably exaggerated. Various analysts have presented "estimates" of substitution that have ranged from 40 to 90 percent, over varying time periods. We have several comments on the alleged problem. The estimates are not based on direct observation or nose-counting, but are derived by piling inference on assumption. The fact is that no one has discovered a reasonably defensible estimating technique. To the extent that there is substitution, it can be minimized if not eliminated by partial or complete federal administration of the PSE program; and there are indications that the present administration does plan to place a substantial part of the PSE funds under direct federal control, in addition to providing more careful checking on substitution by state and local units (the federal statute and regulations require "maintenance of effort" by recipient units).

But the real significance of "substitution" appears to have escaped some analysts. Some studies seem to imply—or have been interpreted to imply—that money which the local units use to employ people whom they would otherwise have paid from their own funds is money that is somehow lost from the system. The CBO has taken a more realistic view of the matter. CBO analysts assume a substitution rate of 40 percent, but they treat the funds "saved" as the equivalent of general revenue sharing grants. Such grants have three to four times the job-creating potential of federal tax cuts, according to the analysts of the CBO. In any event, the basic point is that substitution does not destroy the job-creating capacity of PSE funds, although that capacity is somewhat diminished. In simpler terms, money which the local units "save" by substitution is not burned or buried; it is most commonly spent for goods and services, or, to a lesser extent, it substitutes for higher local tax rates (and thus has effects comparable to a federal tax cut).

Targeting. We have already discussed the fact that most of the jobs created by the 1964 tax cut appear to have gone to the better-educated members of the labor force, and that there is no evidence that the labor market prospects of the least-educated and least-skilled workers were improved by that tax cut. Analytically, there appears to be no reasonable basis for thinking that an acceleration of economic growth by cutting taxes would change the previously existing patterns of demand for labor. In the current vernacular, the targetability of a federal tax is close to zero.

The potential targetability of a PSE program is quite high. Far less than the full potential has been realized under the 1971 Emergency Employment Act and under the Comprehensive Employment and Training Act (CETA) embodiments of the PSE. For example, data from the Department of Labor shows that about 75 percent of the participants in Title VI programs under CETA in the final quarter of 1976 had 12 or more years of education, and only half were classified as "economically disadvantaged." However, late in 1976 Congress substantially tightened the eligibility requirements under Title VI, and the new requirements may be expected to target the program more precisely. In any event, it is clear that the program can be directed to the labor force groups and the geographical areas with the highest unemployment rates.

MULTIPLIER EFFECTS

Too little attention has been given, up to now, to the large differences between PSE programs and tax cuts with regard to their multiplier effects. Let us visualize two parallel columns, one tracing the job-creating effects of an $8 billion tax cut and the other showing the effects of an $8 billion PSE program. In the tax cut column, we see the federal government mailing checks to perhaps 75 or 100 million taxpayers. As already explained, the checks do not affect the labor market status of any of them; in other words, the first step in the chain or transactions has no job-creating effect. The taxpayers save part of the money received and spend part of it. That which they spend does create jobs, subject to the slippages discussed above. Those who are hired to fill the newly-created jobs themselves in turn save part of their earnings and spend part, thus creating more jobs, and so on. The CBO estimates imply that approximately 320,000 jobs will ultimately be created by a tax cut of $8 billion. For the reasons discussed in an earlier section, we believe that the CBO estimates may be biased upward. But for the analysis of this point, this quibble is irrelevant.

Now let us turn our eyes to the parallel PSE column. And let us ignore some complications the first time through. The federal government sets up a PSE program with an appropriation of $8 billion. With an average salary of $8,000, a total of 1,000,000 workers can be hired. Obviously, this transaction changes their labor market status; 1,000,000 new jobs have been created, and unemployment has been reduced by some amount close to 1,000,000. But the process does not end there. The newly-hired PSE workers now have salaries to dispose of. Let us assume that they save part and spend part, in the same proportions as the taxpayers in the parallel tax cut column. If this spending assumption is made, then it follows that the second and successive rounds of expenditure will create as many *additional* jobs as the spending of the tax cut money. If the tax cut ultimately creates 320,000 new jobs, then the spending of their salaries (or the portion not saved) by the PSE workers must have the same quantitative effect—provided that they do not save a larger percentage of their incomes than the taxpayers. In this oversimplified illustration, the *total* new employment from the $8 billion PSE program is 1,320,000, or about four times as many jobs as we get from the same expenditures on tax cuts.

We must now consider some of the complications. Suppose—despite the best efforts of the federal authorities—there is a 40 percent substitution rate. This means that only 600,000 new jobs are created in the initial transaction, and the annual payroll is $4.8 billion. If, as before, we assume the same multiplier as for the tax cut, the spending of the unsaved portion of this payroll will ultimately create another 192,000 jobs. But the "substitution" will also give us what we may call the "revenue-sharing effect." To be ultra-conservative, let us assume that these funds, in the hands of these spending units, have no greater job-creating power than the tax cut funds in the hands of the taxpayer-recipients. (As already noted, the CBO assumes a much larger job-creating potential in the revenue-sharing funds.) The $3.2 billion saved by the local units by substitution is spent mainly on goods and services and creates another 128,000 jobs; or a grand total of 920,000 (600,000 on PSE; 192,000 from multiplier on PSE payroll; 128,000 from revenue-sharing effect).

Perhaps it is unrealistic to assume that the saving rate of the new PSE hires would be as high as that of taxpayer-recipients. On the other hand, some of the PSE funds would go for supervision and materials; and some of the PSE hires would have been receiving unemployment compensation and welfare payments. We think that the saving rate assumption for PSE hires is more than sufficient to offset the administrative costs and the savings on welfare and unemployment payments.

PRIVATE SECTOR VERSUS PUBLIC SECTOR JOBS

Many economists have a surprisingly negative attitude toward PSE programs, and the apparent cause is their belief that a PSE program means simply jobs in the public sector. Many economists view public sector jobs with deep suspicion, if not outright disapproval. Some even go so far as to suggest that only market-created jobs are "real" jobs. And, as discussed in a preceding section, that is one of the major reasons for favoring tax cuts over other instruments of employment policy, especially PSE. We believe that the analysis just presented reveals that this alleged advantage of the tax-cut instrument is simply an illusion.

A PSE program almost certainly creates as many jobs *in the private sector* as a tax cut involving an equal number of dollars. This holds true even if we assume a fairly high rate of substitution. These private sector jobs will be market-created jobs in precisely the same sense as the jobs resulting from the tax cut. In a real sense, then, the public sector jobs might be viewed as a cost-free bonus! Semantics aside, our analysis suggests that, with equal magnitudes, the PSE instrument creates many more jobs than the tax cut instrument; and although a large proportion of those new PSE jobs will indeed be in the public sector, the PSE multiplier will create about as many private sector jobs as the tax cut.

CONCLUSION

At the regular monthly hearing before the Joint Economic Committee on the latest employment and unemployment survey on May 6, 1977, BLS Commissioner Julius Shiskin said that it was hard to find anything but "good news" in the April employment report. The overall rate of unemployment was down to 7.0 percent, the lowest rate in more than two years, and employment had risen by 2.3 million over the past six months. However, amidst all the good news, Commissioner Shiskin did find two less cheering items. He remarked about the emergence of what he called a "two-tier pattern of unemployment," with certain labor force groups—especially teenagers and women—showing little or no improvement despite substantial declines in the average unemployment rate. Second, his report showed a further decline in the labor force participation rate for adult males despite substantial employment gains from this group.

We read this report with a sense of *deja vu*—we are seeing a replay of the early 1960s. The "two-tier pattern of unemployment" and the declining participation rates for some groups of adult males were clearly in evidence then. Manpower programs, changes in the definition of unemployment, and the Vietnam War temporarily masked these patterns in the late 1960s. For the last two years, the worst of the postwar recessions also masked the patterns. Now, the laggard recovery has finally brought these underlying problems to the surface again.

If past experience is a valid guide to the future, economic recovery will not solve the chronic problems of imbalance in the labor market. Indeed, a case can be made that the tasks of employment policy become more urgent as hardship becomes more concentrated. And it also becomes more urgent to examine as realistically as possible the strengths and the weaknesses of the instruments of employment policy. Up to now, the conventional wisdom of most economists has been that the most powerful and generally satisfactory instrument of employment policy is tax cuts. With all deference to the good faith of those who have expressed that view so consistently and so frequently in the past two decades, we conclude that it is supported mainly by nostalgia, private sector bias, and simplistic analysis. Most of the employment and unemployment effects attributed to the tax cut of 1964 were actually produced by other factors, and beneath the surface appearance, the currents of the labor market were running strongly against the least-educated and the least-skilled males. In the Kennedy days, some economists were fond of saying that a rising tide lifts all boats. They forgot the exception: the shipwrecks that are already on the bottom.

We do not question the claim that a tax cut can create jobs. We can agree that some of the newly-created jobs may be filled by people who have been classified as "hard-core unemployed." But economists particularly are supposed to be concerned with costs compared with benefits, and with the optimum use of scarce resources. Our analysis leads us to the conclusion that for equal expenditures of public funds, a program of direct job creation can yield three to four times as many jobs as the tax cut approach. Private sector employment will be expanded at least as much by the direct job creation approach as by tax cuts. And the direct job creation program can provide jobs for the groups and areas that are the least likely to succeed in the regular labor market.

Part of the American ethic is that every individual who is willing and able to work should have a chance to work. Public policy up to now has provided only feeble support for that ethic, partly because of excess reliance on an inadequate policy instrument. We believe that Congress has become convinced of that fact, and that this helped to kill the administration proposal for a multi-billion-dollar tax rebate. We may be seeing the beginning of a fundamental redirection of the employment policy of this country—toward much greater effectiveness.

RALPH K. BENNETT SHOWS HOW THE "CONSUMER PROTECTION AGENCY" WOULD BE "ANTICONSUMER"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. KEMP. Mr. Speaker, the current issue of Reader's Digest carries an important article by the very respected journalist Ralph Bennett which thoroughly dissects the plan to create an Office of Consumer Representation.

As the article makes clear, such an office would simply result in one more layer of bureaucracy on top of all the others already here in Washington. And it would increase the cost of living for both consumer and producer without providing any discernable benefits.

I urge my colleagues to read this article and to speak out against passage of this "anticonsumer" legislation.

[From the Reader's Digest]

CONSUMER "PROTECTION" CONSUMERS DON'T NEED

(By Ralph Kinney Bennett)

The issues are clearly drawn. Supporters like Sen. Abraham Ribicoff (D., Conn.) say the legislation would "ensure that regulatory agencies take into consideration the views of consumers before making important decisions which have significant impact." Opponents echo the argument of Rep. Samuel Stratton (D., N.Y.) that this is no time "to create a whole new layer of bureaucracy to do essentially what existing federal agencies ought to be doing now."

After more than eight years of debate on Capitol Hill, a showdown is near on what many consumerists believe is the single most important piece of domestic legislation—creation of a tax-funded Office of Consumer Representation (OCR). They envision it as a grand watchdog that would intervene on behalf of consumers in the regulatory rulings and decisions of the federal government. It would serve as a countervailing force to regulatory agencies which, they contend, are captives of business and unresponsive to the consumer.

OCR's chief backer, Ralph Nader, originally envisioned the proposed agency as a "consumer strike agency" that would move throughout the federal regulatory system and "revolutionize" government. Over the years, efforts to make the concept more palatable for Congressional passage have perhaps made it less of a "strike agency." But they have not changed the basic thrust of the legislation, which would enable OCR to intervene in federal court against those agencies it felt were contravening the consumer interest. It could request those agen-

cies to use their subpoena powers to extract sensitive, competitive information from businesses. Nader says this power is needed "to defend against corporate crime, against rapacious business practices." Moreover, supporters claim that the agency would have no greater power than any private party involved in regulatory matters.

To equate OCR with a private party is misleading. In a detailed analysis prepared for the Chamber of Commerce of the United States, regulatory-affairs attorney Mark Schultz notes: "OCR would have greater rights of judicial review of other federal decisions than any business entity. OCR has statutory authority to review any decision or action of the government. No other public, private or governmental entity enjoys this same right."

In fact, it is precisely this power—unchanged through each form the bill has taken—that caused former Special Prosecutor Leon Jaworski to warn in April 1977 that a consumer agency "would be vested with authority so broad it could easily be turned to the political advantage of those who control it. There are no checks sufficient to harness that authority."

OCR's potential to disrupt normal dealings of various businesses and industries is awesome. An air-fare increase, duly deliberated and approved by the Civil Aeronautics Board, could be blocked by OCR and involved in litigation. Approval of a drug after lengthy study by the Food and Drug Administration might nonetheless be halted indefinitely by OCR. Banks, businesses, industries could be left in a state of apprehension and confusion by a single administering agency acting in the name of an undefined "interest."

Former Sen. Sam Ervin (D., N.C.), one of the nation's most respected authorities on constitutional law, warns that an OCR "would have all the rights of a regulatory agency, yet none of the responsibilities. It would have more power than real consumers ever dreamed of exercising."

OCR backers like Nader and Presidential consumer-affairs adviser Esther Peterson nevertheless continue to press for the agency's creation. Back in 1971, the 92nd Congress was just seizing consumerism as a solid voter issue when the House of Representatives passed a consumer-agency bill by an overwhelming vote of 344 to 44. In the 93rd Congress, the vote for an OCR was 293 to 94. When the 94th Congress voted on the measure in 1975, opposition in the House had grown to the point that it was barely approved, 208 to 199. Although the Senate had also passed the bill, certainty of a Presidential veto torpedoed it.

Last year, despite President Carter's strong support, the consumer-agency bill failed to reach the floor of either chamber for a vote. Clearly, many Congressmen who had previously vtoed for the measure had changed their minds. Rep. Patricia Schroeder (D., Colo.), one of the most ardent consumerists on Capitol Hill, questioned the need for an agency which, she says, "may satisfy the desires of a few consumer-advocate lawyers, but not necessarily the consumer." More than 400 newspapers across the country, including *The Wall Street Journal*, Chicago *Daily News*, Washington *Star*, Houston *Chronicle* and Boston *Herald American*, have editorialized against a consumer agency.

Late last year, the White House and consumerists amended the bill (changing the name from Agency for Consumer Protection to Office of Consumer Representation, but not changing the essential thrust of the agency as a powerful instrument for intervention). House leadership counted noses and found that this bill, too, could not pass. Rather than risk defeat in the waning days of the Congress, supporters promised to drive for passage early this session.

Why the dramatic legislative turn-around?

Polls have shown the public to be concerned over a broad range of consumer problems, but they also reflect a disillusionment with government as the potential solution, a disillusionment that seems to have been nourished by many consumer-oriented laws passed by Congress in the past decade. Enacted into law were dozens of new statutes from the Hazardous Substances Act to the Fair Labeling and Packaging Act, from the National Traffic and Motor Vehicle Safety Act to the Consumer Goods Pricing Act. A White House office of consumer affairs was enlarged, and a Consumer Product Safety Commission was created to eliminate unsafe products from the marketplace. The country seemed to be embarking on a new era of assured quality and safety.

But the public quickly discovered that federal involvement on behalf of the consumer too often meant exasperating and expensive intrusion. One of the first ways this hit the public was through a piece of bureaucratic intervention called the ignition interlock. In the name of consumer safety, Americans could not start their new cars unless they fastened themselves into a harness of seat- and shoulder-belts. Congress was hit with a blizzard of angry mail and finally rescinded the law—but not before it had cost consumers $2.4 billion extra for their new cars.

But soon there was another well-meaning, ill-conceived rush to protect everybody from everything.

For example, when the Employee Retirement Income Security Act (ERISA) was passed to protect employe pensions, companies faced immense additional clerical work loads. A few companies estimated that costs of ERISA paperwork would exceed the amount of their annual contribution to their retirement plans. In 1975, the first full year under the law, ERISA regulations were a factor in 23 percent of the 4,000 defined-benefit pension plans dropped. In 1976, 7,300 plans were dropped and ERISA rules were a factor in 35 percent of them.

Well-meant regulations have often tended to disconcert consumers. Many people (those with arthritis, for instance) have found themselves frustrated by government-decreed child-proof caps on medicine bottles.[1] It is likely that many others would be frustrated by a new proposal that power lawnmowers be fitted with a device that would shut down the engine every time the machine came to a halt. Such a device could increase power-mower prices by as much as $100.

The cost of all this "protection" has been staggering. Washington University's Center for the Study of American Business estimates that federal regulation cost $65.5 billion in 1976; that's about $300 per citizen.

At the root of consumerism lies an elitist notion, say the opponents of the proposed OCR, that a *third* party knows better than either producer or consumer. Writing in the New York *Times*, Robert T. Quittmeyer, president of the Amstar Corporation, calls this "the arrogant desire to substitute some personal vision of order for the apparent disorder of the marketplace."

Consumerists insist that Office of Consumer Representation officials will have no difficulty in determining just what is in the consumer's interest. That interest, says Ralph Nader's organization, Public Citizen, is usually "apparent and uniform." But is it? Here are a few vexing policy areas in which OCR would have to decide, Solomon-like, the consumer interest.

The Food and Drug Administration wants saccharin banned on the ground it causes cancer in rats who ingest it in massive quantities. But what of the tens of millions of Americans' who, knowing this, want saccharin to control their weight or because they suffer from diabetes?

Consumerists tend to favor continued federal controls of natural gas which keep prices low. Some consumers benefit—at least in the short run. But what about those consumers who may get sharply limited amounts of gas because of price-induced shortage?

Dubious light is cast on OCR when one considers the important aspects of consumer interest that would not be covered, under the bill, because of political expediency.

As the price for organized labor's backing of the bill, OCR legislation exempts any intervention in matters regarding union agreements or labor disputes. Yet such agreements and disputes affect consumers through the higher product prices caused in part by wage hikes or long work stoppages, or through the sheer unavailability of, say, certain makes of cars during an auto strike.

Also exempted from OCR scrutiny would be a great many activities of the Department of Agriculture, virtually removing one of the prime consumer interests—food and food prices—from any consideration. License-renewal proceedings of radio and television broadcasting stations have also been exempted. In fact, at least 37 different exemptions were "sold" for support of a consumer agency. Says Sen. James Allen (D., Ala.): "This is evidence to me that those advocating further federal involvement want an official slot in government at any price. They are prepared to trade scope so they can get power."

Richard O. Simpson, former chairman of the Consumer Product Safety Commission, raises an interesting question: "If we accept the premise that federal agencies are not responsive to the interests of consumers, by what logic should we create another federal agency and expect thereby to correct the deficiency?"

If it votes to create an OCR, Congress will be going on record as unable to control the many agencies which it has set up over the years, unable to make them respond to the needs of the people—who are, after all, the consumers. And President Carter, who has proclaimed himself the nation's "top consumer advocate" has pledged his Administration to reducing the bureaucracy while making it more efficient and responsive.

Sen. Robert Dole (R., Kan.), one of those who once backed a consumer agency but now strongly opposes such legislation, says: "If reorganization to make government more responsive and efficient is a sincere concept, why then do we need a super-agency to police that government? I find the two concepts utterly inconsistent. We should follow the President's lead in putting our governmental house in order before we create an independent agency to do it for us."

[1] Bottles with ordinary caps can be obtained, on request, at pharmacies.

1978 PRESIDENTIAL CLASSROOM FOR YOUNG AMERICANS

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, January 30, 1978

Mr. LOTT. Mr. Speaker, I would like to take this opportunity to recognize four outstanding young people from the Fifth Congressional District of Mississippi, Martha A. Cuellar and Jewel R. Lee of Petal, and Rebecca J. Banks and Thomas J. Wiltz III, of Vancleave, who are here in Washington this week to participate in the 1978 Presidential Classroom for Young Americans.

I always enjoy discussing the operations of our Federal Government with the Presidential Classroom students and commend these young Americans on their interest and attitude toward our Nation's destiny.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, January 31, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 1

9:00 a.m.

Human Resources
Aging Subcommittee
To hold oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon — 6226 Dirksen Building

9:30 a.m.

Energy and Natural Resources
To hold hearings on proposed authorizations for fiscal year 1979 for the Department of Interior.
3110 Dirksen Building

Environment and Public Works
To continue hearings on proposed authorizations for fiscal year 1979 for the EPA.
4200 Dirksen Building

Human Resources
To hold hearings on legislative proposals concerning reform of labor laws.
4232 Dirksen Building

Joint Economic
To continue hearings to receive testimony on the President's economic report.
345 Cannon Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
To hold a business meeting.
322 Russell Building

Armed Services
To continue hearings on the military aspects of the Panama Canal Treaty and Treaty Concerning the Permanent Neutrality and Operations of the Panama Canal (Exec. N, 95th Cong., 1st sess.).
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To resume markup of bills proposing simplification in the "truth-in-lending" laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

Budget
To hold hearings in preparation for reporting the first concurrent resolution of the fiscal year 1979 congressional budget.
6202 Dirksen Building

Finance
International Trade Subcommittee
To hold hearings on U.S.-Japanese trade relations and on the status of the multilateral trade negotiations.
2221 Dirksen Building

Select Small Business
Economic Development, Marketing, and the Family Farmer Subcommittee
To continue hearings jointly with Agriculture, Nutrition, and Forestry Subcommittee on Agriculture Credit and Rural Electrification on SBA physical disaster loans for crop loss due to drought.
424 Russell Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Department of Labor.
1223 Dirksen Building

3:00 p.m.

Conferees
On H.R. 3816, authorizing funds for fiscal years 1978 through 1981 for the Federal Trade Commission.
Until 5 p.m. — S–207, Capitol

FEBRUARY 2

9:30 a.m.

Appropriations
To hold hearings to determine where Federal policy and funds should be directed in the development of alcohol fuels.
1202 Dirksen Building

Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Department of the Interior.
4200 Dirksen Building

Human Resources
Child and Human Development Subcommittee
To hold hearings on the proposed Carnegie/White House Conference on Families.
Until 12:30 p.m. — 1318 Dirksen Building

Human Resources
Employment, Poverty and Migratory Labor Subcommittee
To hold hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. — 1202 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 2410, amending certain sections of the Public Health Service Act relative to health planning and health resources development.
5302 Dirksen Building

10:00 a.m.

Budget
To continue hearings in preparation for reporting the first concurrent resolution of the fiscal year 1979 congressional budget.
6202 Dirksen Building

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

Finance
International Trade Subcommittee
To hold hearings on H.R. 8149, the Customs Procedural Reform Act.
2221 Dirksen Building

10:30 a.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings to receive testimony from Secretary of Labor Marshall on proposed budget estimates for fiscal year 1979 for the Department of Labor.
S–128, Capitol

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To hold hearings to receive testimony from Secretary of HEW Califano on proposed budget estimates for fiscal year 1979 for the Department of HEW.
S–128, Capitol

FEBRUARY 3

9:00 a.m.

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To hold joint hearings with Banking, Housing, and Urban Affairs on S. 50, the Full Employment and Balanced Growth Act.
4232 Dirksen Building

9:30 a.m.

Human Resources
Aging Subcommittee
To resume oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon — 457 Russell Building

Human Resources
Health and Scientific Research Subcommittee
To continue hearings on S. 2410, amending certain sections of the Public Health Service Act relative to health planning and health resources development.
1318 Dirksen Building

Veterans' Affairs
To hold hearings on S. 2384, the proposed Veterans and Survivors Income Security Act.
6202 Dirksen Building

10:00 a.m.

Budget
To continue hearings in preparation for reporting the first concurrent resolution of the fiscal year 1979 congressional budget.
318 Russell Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings to receive testimony from the Department of the Interior on S. 1829, to establish the Jean Lafitte National Historic Park, Louisiana.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold hearings to receive testimony on Federal dam safety requirements.
4200 Dirksen Building

Finance
To hold a business meeting.
2221 Dirksen Building

Governmental Affairs
To hold hearings on the handling of discrimination complaints in the Senate (pursuant to Rule 50 and Section 310 of S. Res. 110).
3302 Dirksen Building

Joint Economic
To resume hearings to receive testimony on the President's economic report.
345 Cannon Building

11:00 a.m.

Foreign Relations
African Affairs Subcommittee
To hold hearings to receive testimony on conditions in South Africa.
4221 Dirksen Building

3:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Department of Labor.
1223 Dirksen Building

FEBRUARY 6

9:00 a.m.
Judiciary
Citizen and Shareholders Rights and Remedies Subcommittee
To hold hearings on S. 476, 477, 478, and related bills to amend the laws concerning diplomatic immunity.
2228 Dirksen Building

9:30 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To resume hearings on H.R. 7747, to amend the D.C. Code with regard to pretrial release and detention.
6202 Dirksen Building

10:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold hearings to receive testimony from Comptroller General Staats on the costs of an all volunteer army.
1114 Dirksen Building
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on exchange rate policy.
5302 Dirksen Building
Energy and Natural Resources
To resume hearings on pending nominations.
3110 Dirksen Building
Finance
Taxation and Debt Management Subcommittee
To resume hearings to receive testimony on the public debt and the implications of President Carter's budget upon the debt.
2221 Dirksen Building
Joint Economic
To resume hearings to receive testimony on the President's economic report.
345 Cannon Building

11:00 a.m.
Foreign Relations
To hold hearings on U.S. policy with respect to the exploitation of Antarctic resources.
4221 Dirksen Building

6:00 p.m.
Veterans' Affairs
To hold hearings on a National Academy of Science study of health care for American veterans.
6226 Dirksen Building

FEBRUARY 7

9:00 a.m.
Human Resources
Aging Subcommittee
To resume oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 6202 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the future of space science and space applications.
235 Russell Building
Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Federal Highway Administration, and to receive testimony from Secretary of Transportation Brock Adams on the Administration's highway legislative proposals.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for the Departments of Labor-HEW, and related agencies.
S-128, Capitol
Banking, Housing, and Urban Affairs
To hold oversight hearings on the budgets of bank regulatory agencies.
5302 Dirksen Building
Finance
Public Assistance Subcommittee
To hold hearings to receive testimony from HEW Secretary Joseph A. Califano, Jr., on S. 2084, the proposed "Better Jobs and Income Act."
2221 Dirksen Building
Government Affairs
Federal Spending Practices and Open Government Subcommittee
To resume hearings on alleged irregularities in certain spending practices of the Small Business Administration.
457 Russell Building
Select Small Business
To hold hearings on S. 2259, the Small Business Procurement Expansion and Simplification Act.
EF-100, Capitol
Joint Economic
To continue hearings to receive testimony on the President's economic report from OMB Director McIntyre.
2154 Rayburn Building

FEBRUARY 8

9:00 a.m.
Human Resources
Aging Subcommittee
To continue oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 457 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Nuclear Regulatory Commission.
4200 Dirksen Building
Environment and Public Works
Transportation Subcommittee
To hold hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate System, and the costs of maintenance on the Federal highway system.
1318 Dirksen Building
Human Resources
Child and Human Development Subcommittee
To hold hearings in review the current programs on child care and child development and the need for additional legislation.
Until 12:30 p.m. 4232 Dirksen Building
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on the extension of NIH research authorities and community mental health centers.
Until 12:30 p.m. S-207, Capitol
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act.
2228 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Fine Arts Commission, Woodrow Wilson Center, National Capitol Planning Commission, and the National Gallery of Art, Department of the Interior and related agencies.
1114 Dirksen Building
Banking, Housing, and Urban Affairs
To continue oversight hearings on the budgets of bank regulatory agencies.
5302 Dirksen Building
Finance
International Trade Subcommittee
To hold hearings on H.R. 5643, to implement the U.N. Convention on the means of prohibiting and preventing illicit import, export, and transfer of ownership of cultural property.
2221 Dirksen Building
*Select Intelligence
To hold hearings on S. 1566, to establish procedures for electronic surveillance in the area of foreign intelligence information.
6226 Dirksen Building
Joint Economic
To continue hearings to receive testimony on the President's economic report.
2337 Rayburn Building

FEBRUARY 9

7:00 a.m.
Human Resources
Child and Human Development Subcommittee
To hold hearings on the reauthorization of the ACTION agency (P.L. 93-113).
Until 11:00 a.m. 4232 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Edith B. Sloan and Susan B. King, both of the District of Columbia, each to be a Commissioner of the Consumer Product Safety Commission.
235 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for Title V's Regional Commissions of the Public Works and Economic Development Act of 1965, and the Appalachian Regional Commission.
4200 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act.
2228 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Advisory Council on Historic Preservation, Museum Services, and Pennsylvania Avenue Development Corporation.
1318 Dirksen Building
Finance
Public Assistance Subcommittee
To resume hearings to receive testimony from Secretary of Labor F. Ray Marshall on S. 2084, the proposed "Better Jobs and Income Act".
2221 Dirksen Building
Joint Economic
To continue hearings to receive testimony on the President's economic report from Treasury Secretary Blumenthal.
5110 Dirksen Building

FEBRUARY 10

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the implementation of the National Science and Technology Policy Act (P.L. 94-282).
235 Russell Building
Environment and Public Works
Water Resources Subcommittee
To mark up H.R. 7744, to permit the contract dredging for improvement of rivers and harbors by private industry.
4200 Dirksen Building

10:00 a.m.
Joint Economic
To continue hearings to receive testimony on the President's economic report from Secretary of Commerce Kreps and Secretary of Labor Marshall.
345 Cannon Building

FEBRUARY 15

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the National Bureau of Standards.
235 Russell Building

FEBRUARY 20

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for programs within the Department of the Interior, including General Services building proposals.
4200 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Navajo-Hopi Relocation Commission, and Alaska Land Use.
1114 Dirksen Building
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for HUD.
5302 Dirksen Building

6:00 p.m.
Human Resources
Child and Human Development Subcommittee
To resume hearings to review the current programs on child care and child development and the need for additional legislation.
Until 9:00 p.m. 4332 Dirksen Building

FEBRUARY 21

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for the Economic Development Administration.
4200 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of the Secretary.
114 Dirksen Building
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Health Services Administration, Department of HEW.
S-128, Capitol
Banking, Housing, and Urban Affairs
Housing, and Urban Affairs Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for HUD.
5302 Dirksen Building
Foreign Relations
To hold hearings on H.R. 7819, S. 1256, and S. 1257, to guarantee fair and equitable compensation for Americans injured in auto accidents with diplomatic personnel, and to require compulsory auto liability insurance for all diplomats.
4221 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To mark up S. 1753, to extend and amend the Elementary and Secondary Education Act.
Until noon 4232 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Center for Disease Control, Department of HEW.
S-128, Capitol

FEBRUARY 22

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Water Research and Technology.
1114 Dirksen Building
Appropriation
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S-128, Capitol
Banking, Housing, and Urban Affairs
To hold oversight hearings on HUD crime and riot reinsurance programs.
5302 Dirksen Building
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for the Army Corps of Engineers.
4200 Dirksen Building
Joint Economic
To resume hearings to receive testimony on the President's economic report.
1202 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S-128, Capitol

FEBRUARY 23

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold hearings on S. 1820, to preserve examples of America's diverse natural ecological resources for classification, identification, and protection.
4200 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings to receive testimony from Secretary of the Interior Cecil Andrus, on proposed budget estimates for fiscal year 1979 for the Department of the Interior.
1114 Dirksen Building
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S-128, Capitol
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on U.S. export policy.
5302 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S-128, Capitol

FEBRUARY 24

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To continue hearings on S. 1820, to preserve examples of all of America's diverse natural ecological resources for classification, identification, and protection.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Alcohol, Drug Abuse, and Mental Health Administration, Department of HEW.
S-128, Capitol

FEBRUARY 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the impact of building codes on housing rehabilitation.
5302 Dirksen Building
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume oversight hearings on U.S. export policy.
Room to be announced
Joint Economic
To resume hearings to receive testimony on the President's economic report.
1202 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Health Resources Administration, Department of HEW.
S-128, Capitol

FEBRUARY 28

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold oversight hearings on the Resource Conservation and Recovery Act (P.L. 94-580).
4200 Dirksen Building
Veterans' Affairs
To consider committee budget resolution.
412 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings to consider additional funding for items of the Department of the Interior, and related agencies, proposed to be included in a second supplemental appropriations.
1114 Dirksen Building
Select Small Business
To hold hearings on small business aspects of the Administration's 1978 tax program.
424 Russell Building

10:30 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Department of HEW.
S-128, Capitol

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

MARCH 1

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Outdoor Recreation, and Land and Water Conservation Fund.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for elementary and secondary education programs, Department of HEW.
S-128, Capitol

Joint Economic
To resume hearings to receive testimony on the President's economic report.
1202 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for school assistance in Federally-affected areas, and emergency school aid programs, Department of HEW.
S-128, Capitol

MARCH 2

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Park Service.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

MARCH 3

9:30 a.m.
Environmental and Public Works
Resources Protection Subcommittee
To mark up S. 1820, to preserve examples of America's diverse natural ecological resources for classification, identification, and protection, and S. 1140, to encourage and assist States in development of improved programs for the conservation of "non-game" species of fish and wildlife.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on spending practices of individual departments (Mission Budgeting) at HEW, and on proposed budget estimates for fiscal year 1979 for the Health Care Financing Administration, Department of HEW.
S-128, Capitol

MARCH 6

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate System, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

6:00 p.m.
Veterans' Affairs
To resume hearings on a National Academy of Science study of health care for American veterans.
Until 10:30 p.m. 6226 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

MARCH 7

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

Human Resources
Employment, Poverty and Migratory Labor Subcommittee
To resume hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Fish and Wildlife Service.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Human Development and special institutions, Department of HEW.
S-128, Capitol

Banking, Housing, and Urban Affairs
To hold hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by bank holding companies and other banks.
5302 Dirksen Building

11:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from officials of the VFW.
318 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Office of Human Development and special institutions, Department of HEW.
S-128, Capitol

MARCH 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

Human Resources
To continue hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Endowment for the Arts.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To continue hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by bank holding companies and other banks.
5302 Dirksen Building

MARCH 9

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Surface Mining.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Department of HEW.
S-128, Capitol

MARCH 13

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To resume hearings on S. 2090, 2081, and 1919, to extend certain programs authorized by the Economic Opportunity Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

Foreign Relations
To hold hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

7:00 p.m.
Human Recources
Child and Human Development Subcommittee
To hold hearings on S. 258, the Children and Youth Camp Safety Act.
Until 10:30 p.m. 4232 Dirksen Building

MARCH 14

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue hearings on S. 2090, 2081, and 1919, to extend certain programs authorized by the Economic Opportunity Act.
Until 12:30 p.m. 6220 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Forest Service, Department of Agriculture.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

Foreign Relations
To continue hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

MARCH 15

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Foreign Relations
To continue hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

MARCH 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Smithsonian Institution.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on FDIC report on preferential bank lending policies.
5302 Dirksen Building

MARCH 20

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 2040, the Comprehensive Drug Amendments Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Mines.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 21

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

Veterans' Affairs
To mark up S. 364, to provide for judicial review of administrative decisions promulgated by the VA, and to allow veterans full access to legal counsel in proceedings before the VA, and S. 2384, the Veterans and Survivors Income Security Act.
412 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Land Management.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 22

9:00 a.m.
Human Resources
To hold hearings to receive testimony on S. 2084, the Administration's proposed welfare reform legislation.
Until 12:30 p.m. 4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

MARCH 23

9:00 a.m.
Human Resources
To continue hearings to receive testimony on S. 2084, the Administration's proposed welfare reform legislation.
Until 12:30 p.m. 4232 Dirksen Building

APRIL 3

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Endowment for the Humanities.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 4

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Indian Affairs.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To continue oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 5

10:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from AM-VETS, Paralyzed Veterans of America, and Veterans of World War I.
Until 1:00 p.m. 6226 Dirksen Building

APRIL 6

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume oversight hearings on the National Bureau of Standards.
235 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Geological Survey.
1114 Dirksen Building

APRIL 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 12

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 24

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

APRIL 25

10:00 a.m
Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building

SENATE—*Tuesday, January 31, 1978*

(Legislative Day of Monday, January 30, 1978)

The Senate met at 10:45 a.m., on the expiration of the recess, and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"O God, our help in ages past,
Our hope for years to come,
Our Shelter from the stormy blast
And our eternal home"

—ISAAC WATTS.

Dear Lord and Father of mankind, come graciously near to all who suffer from cold or hunger or disease amid the winter's storms. Strengthen and guide those on missions of mercy that healing and warmth and comfort may be the possession of our common humanity. Bind into one fellowship those who suffer with those who help, that sharing one another's burdens we may fulfill the law of Christ, remembering how He said: "I was an hungered, and Ye gave me meat: I was thirsty and Ye gave me drink: I was a stranger, and Ye took me in: naked and Ye clothed me: I was sick and Ye visited me." Reward Thy servants with hearts at peace with Thee. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 31, 1978.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. CLARK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, January 30, 1978, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no requirement for my time. Therefore, I yield it back.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senate minority leader.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order and I yield it back.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized for not to exceed 15 minutes.

S. 2459—INCOME TAX CREDIT FOR SOCIAL SECURITY CONTRIBUTIONS

Mr. EAGLETON. Mr. President, as my colleagues are well aware, President Carter has submitted to Congress a $34 billion tax cut proposal. Aside from the reform aspects of the tax reduction plan, this proposal is designed to stimulate the economy—with about $23.5 billion in individual tax reductions as a compensation for recent and projected tax increases, including, of course, the social security legislation.

Congress recently voted to increase social security taxes to resolve that system's financial difficulties. It was the largest single peacetime tax increase in this country's history. As a result, the wage earner who contributes the maximum amount to the social security trust fund will pay approximately $21,500 in social security taxes during the next 10 years—an increase of about $6,250 over the previous law. Obviously, Congress could not allow the social security system to go bankrupt, but in my opinion, we have raised the social security tax beyond the breaking point for the average American worker and employer. In the process of raising these taxes, we have, in the opinion of the President, caused economic problems which are serious enough to demand a tax cut as a remedy.

While I support the President's proposal to cut taxes, I am concerned about the equity of his particular plan. Specifically, I feel that action is needed to prevent the portion of the tax cut designed to compensate persons paying higher social security taxes from becoming a windfall for individuals who do not participate in the social security system. For example, under the President's proposal, a Government worker earning $20,000 annually with a family of four who is not participating in the social security program would receive a $270 reduction in income taxes in 1979. The same worker in private industry, however, would net only a $9 tax reduction because during 1978 and 1979 he would be paying $261 more in social security taxes.

The latest available IRS figures, which are for the year 1976, indicate that of the approximately 110 million individual income tax payers, only about 90 million contribute to social security. Only these 90 million will be paying the increased payroll tax mandated by the recent social security bill, and I believe equity demands that only these Americans receive the benefits of that portion of the tax cut aimed at relieving this new social security burden. To do otherwise would not only be inequitable, but it would also seriously dilute the tax benefit that otherwise would accrue to social security participants.

In 1979, the social security trust fund will receive approximately $65 billion in employee and self-employed contributions. The legislation that I am introducing today will authorize an income tax credit for each individual taxpayer equivalent to 15 percent of the amount he or she has contributed to social security. Fifteen percent of $65 billion is $9.75 billion, which would be the maximum cost in 1979 of this credit to general revenues. The remainder of the tax cut—whatever its final amount—would be shared equally by all income-tax payers.

The Social Security Administration estimates that the average social security participant contributes about $600 per year. Assuming a 15-percent credit, the average social security taxpayer could expect to receive an income tax credit of approximately $90 in addition to the benefits of the tax cut that all taxpayers will receive. Of course, those who pay more than the $600 average would receive a proportionately greater credit.

As my colleagues know, the railroad retirement system is closely tied to the social security trust fund in that the approximately 500,000 railroad employees pay the same tax, based upon the same wage base that is used in the social security system. In 1978 these employees contributed $0.6 billion to the railroad retirement system. Therefore, since the social security and railroad retirement systems are so closely associated, I propose that these employees also benefit from my tax credit proposal.

Mr. President, I will offer the legislation I have introduced today at the appropriate time as an amendment to the Carter tax cut proposal. In offering this legislation, I do not necessarily suggest that the total dollar amount of the tax cut should be increased in order to allow for my provision, even though I understand many economists would prefer a larger tax cut. I am proposing that whatever the total dollar figure settled on by the Senate Finance Committee and the House Ways and Means Committee be divided fairly. The logic behind my amendment is very simple—the President has recognized that a portion of the tax cut is necessary to partially compensate taxpayers for higher social security taxes, and only those taxpayers who have to pay the higher social security taxes should receive that part of the tax cut. To do otherwise would be unfair.

I send my bill to the desk and ask that it be printed and referred to the appropriate committee.

The ACTING PRESIDENT pro tempore. The bill will be received and printed, and will be appropriately referred.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business of not to exceed 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER THAT CERTAIN MEASURES BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and this request has been cleared with the minority side, that at such time as H.R. 5646, H.R. 5798, and H.R. 10532 are received from the other body, they be held at the desk until further order of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:22 p.m., a message from the House of Representatives, delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5646. An act to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization.

H.R. 5798. An act to amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978.

H.R. 10532. An act to amend Public Law 95-18, providing for emergency drought relief measures.

At 3:35 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the joint resolution (H.J. Res. 386) to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

R. David Pittle, of Maryland, to be a Commissioner of the Consumer Product Safety Commission.

Ernest Ambler, of Maryland, to be Director of the National Bureau of Standards.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committees of the Senate.)

Mr. CANNON. Mr. President, as in executive session, I report favorably from the Committee on Commerce, Science, and Transportation, sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 20, 1978, at the end of the Senate proceedings.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Arthur T. Tienken, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Gabonese Republic.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committees of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Arthur T. Tienken.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and Spouses: Mrs. Judy T. Nelson (daughter)—none.

Names Lawrence Nelson—none; Mrs. Nancy T. Milburn (daughter)—none, David Milburn—none; Caro Jean Tienken (daughter)—none.

4. Parents names: Mr. Arthur Tienken (father)—none.

5. Grandparents names: not applicable.

6. Brothers and spouses names: Mr. Robert L. Tienken (brother)—none, Mrs. Janet S. Tienken—none.

7. Sisters and spouses names: not applicable.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

William E. Schaufele, Jr., of Ohio, to be Ambassador Extraordinary and Penipotentiary of the United States to Poland.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committees of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William E. Schaufele, Jr.

Post: Career Minister.

Contributions, amount, date, and donee: (If none, write none).

1. Self, William E. Schaufele, Jr., none.

2. Spouse, Heather Moon Schaufele, none.

3. Children and spouses names: Steven W. Schaufele, none, Peter H. Schaufele, none.

4. Parents names: Mrs. Lillian Schaufele, none, (father deceased).

5. Grandparents names: deceased.

6. Brothers and spouses names:

7. Sisters and spouses names: Mr. and Mrs. Fred O. Sloane, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Richard J. Bloomfield, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States to Portugal.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committees of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard J. Bloomfield.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names: Thomas and Mary Bloomfield, Richard Bloomfield II, John Bloomfield, Ann Bloomfield, William Bloomfield, none.

4. Parents names: John J. Bloomfield, Alice M. Bloomfield, deceased.

5. Grandparents names: deceased.

6. Brothers and spouses, names: No brothers or sisters.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Robert W. Buchheim, of the District of Columbia, for the rank of Ambassador during the tenure of his services as the U.S. Commissioner on the United States-Soviet Standing Consultative Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committees of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert William Buchheim.

Post: Ambassador (Rank of).

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, none.

3. Children and spouses names: Robert K. Buchheim, Linda S. Buchheim, none.

4. Parents names: Irene G. Buchheim, none.

5. Grandparents names:

6. Brothers and spouses names: Thomas J. Buchheim, Mary Buchheim, none.

7. Sisters and spouses names:

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Thomas John Watson, Jr., of Connecticut, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committees of the Senate.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Select Committee on Ethics, without amendment:

S. Res. 373. An original resolution authorizing the Select Committee on Ethics to participate in judicial proceedings to obtain information regarding its Korean inquiry (Rept. No. 95-623).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 374. An original resolution authorizing additional expenditures by the Committee on Commerce, Science, and Transportation for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. ABOUREZK, from the Committee

on Energy and Natural Resources, with amendments:

S. 1671. A bill to designate the Absaroka-Beartooth Wilderness, Custer and Gallatin National Forests, in the State of Montana (Rept. No. 95-624).

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

S. Res. 377. An original resolution authorizing additional expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States (Rept. No. 95-625). Referred to the Committee on Rules and Administration.

By Mr. NELSON, from the Select Committee on Small Business, without amendment:

S. Res. 378. An original resolution authorizing additional expenditures by the Select Committee on Small Business for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

S. Res. 379. An original resolution authorizing additional expenditures by the Committee on Environment and Public Works, for inquiries and investigations. Referred to the Committee on Rules and Administration.

ENDANGERED AMERICAN WILDERNESS ACT OF 1978—CONFERENCE REPORT

Mr. CHURCH, from the committee on conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes (Rept. No. 95-626).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Res. 380. An original resolution authorizing additional expenditures by the Committee on Rules and Administration for inquiries and investigations (Rept. No. 95-627).

By Mr. CRANSTON, from the Committee on Veterans' Affairs, without amendment:

S. Res. 382. An original resolution authorizing additional expenditures by the Committee on Veterans' Affairs for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. BAYH, from the Select Committee on Intelligence, without amendment:

S. Res. 383. An original resolution authorizing additional expenditures by the Select Committee on Intelligence. Referred to the Committee on Rules and Administration.

By Mr. WILLIAMS, from the Committee on Human Resources, without amendment:

S. 2467. An original bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act (together with minority views) (Rept. No. 95-628).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EAGLETON:

S. 2459. A bill to amend the Internal Revenue Code of 1954 to allow an individual a credit against tax equal to 15 percent of the social security taxes paid by that individual during the taxable year; to the Committee on Finance.

By Mr. ABOUREZK:

S. 2460. A bill to amend the Indian Self-Determination and Education Assistance Act; to the Select Committee on Indian Affairs.

By Mr. HATHAWAY:

S. 2461. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the carryover basis provisions which were added by the Tax Reform Act of 1976, and for other purposes; to the Committee on Finance.

By Mr. DOLE:

S. 2462. A bill to amend the Internal Revenue Code of 1954 to permit a limited individual retirement deduction to individuals who are participants in retirement plans; to the Committee on Finance.

By Mr. JACKSON (by request):

S. 2463. A bill to amend the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) to raise certain authorized funding levels contained therein, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ALLEN:

S. 2464. A bill for the relief of Han Bae Hyun; to the Committee on the Judiciary.

By Mr. JACKSON (by request):

S. 2465. A bill to designate lands in the State of Alaska as units of the National Park, National Forest, National Wildlife Refuge, Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes. Referred to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, Mr. WILLIAMS, and Mr. JAVITS):

S. 2466. A bill to amend the Public Health Service Act to establish the National Institutes of Health Care Research; to extend and revise the assistance programs for health services research and health statistics; to establish the National Center for the Evaluation of Medical Technology, and for other purposes; to the Committee on Human Resources.

By Mr. WILLIAMS:

S. 2467. A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act. Original bill reported from the Committee on Human Resources and placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON:

S. 2459. A bill to amend the Internal Revenue Code of 1954 to allow an individual a credit against tax equal to 15 percent of the social security taxes paid by that individual during the taxable year; to the Committee on Finance.

(The remarks of Mr. EAGLETON when he introduced the bill appear earlier in today's proceedings.)

By Mr. HATHAWAY:

S. 2461. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the carryover basis provisions which were added by the Tax Reform Act of 1976, and for other purposes; to the Committee on Finance.

ESTATE AND GIFT TAX AMENDMENTS ACT OF 1978

Mr. HATHAWAY. Mr. President, last October 26 I introduced a bill, S. 2238, to offer clarifying, correcting, and technical amendments to the estate and gift tax provisions of the Tax Reform Act of 1976. In large part, these amendments were designed to address a number of administrative and compliance problems created for executors, heirs, and the Internal Revenue Service in connection with the carryover basis provisions adopted by the 1976 Act.

Prior to enactment of the 1976 legislation, property passing from a decedent generally received a stepped-up or stepped-down basis equal to its fair market value on the decedent's death for purposes of determining gain or loss upon a sale or exchange of the property by the decedent's heir or beneficiary. In 1976, the Congress believed that the stepped-up basis rule resulted in inequitable treatment because a greater overall tax burden was imposed on estates and heirs of decedents who had accumulated wealth through taxable earnings as compared with the estates and heirs of decedents who accumulated wealth through unrealized appreciation in assets. In the latter case, the unrealized appreciation accruing before death was never subjected to an income tax since the heirs or beneficiaries bases for determining gain were stepped to estates tax values. Moreover, there was a distinction between deathtime and lifetime transfers because a donor's basis in property transferred by gift was generally carried over to the donee for purposes of determining gain or loss upon a subsequent sale or exchange by the donee.

The carryover basis amendments of S. 2238 were designed to retain the basic reform of the 1976 act but make those provisions simpler and more equitable. As a result of the testimony received on this issue in the October hearings conducted by the Subcommittee on Taxation and Debt Management of the Committee on Finance and other comments and suggestions received by me from Treasury officials and other interested persons, I believe that further improvements can be made to achieve greater simplification and equity. Accordingly, I am introducing another bill to respond to these most helpful comments and suggestions. In particular, I believe this bill will go a great deal further in alleviating the compliance and administrative burdens for small and modest sized estates where the problems are more acute because of the inadequacy of basis records and compliance costs relative to the amount of property involved.

My bill completely eliminates small and moderate sized estates from coverage under the carryover basis rules. It is in these cases where the burden of the rule has the most severe impact because of the absence of adequate basis records and the compliance cost relative to the size of the estate. An outright exception would be provided for an estate consisting of $175,000 or less of carryover basis property. The $175,000 roughly approximates the exemption equivalent of the estate and gift tax unified credit when it is fully phased in by 1981. In these cases, the basis of assets would be stepped up as under prior law and no special reporting by the executor would be required. As a result of this change, it is estimated that only about 2 percent of estates would have to comply with the carryover basis rules. In those cases where the carryover basis rules would apply, the adjustment would be increased from the $60,000 under present law to $175,000. Unlike S. 2238, the $175,000 amount would not

be phased-in but would be available immediately for estates by decedents dying after 1976. In order to simplify the computations, this adjustment would be made before the adjustment provided for death taxes attributable to appreciation.

The 1976 act contained an exemption for $10,000 in personal and household effects to deal with the serious problems an executor would face in attempting to ascertain the decedent's bases for these assets. Experience with the new law indicates that the exemption level is inadequate in many cases. My bill would increase the exemption to $25,000.

Also, a number of problems have been brought to my attention concerning the basis adjustment for death taxes attributable to appreciation. This adjustment was designed to eliminate the inequity and possibly confiscatory level of taxation which would arise if the full amount of appreciation were subject to an estate tax and then subject to an income tax based on the appreciation without taking into account the estate tax paid. My bill would substantially simplify this adjustment and make it more equitable.

The death tax adjustment would generally be made on the basis of the highest marginal estate tax rate rather than the average rate as under present law. This approach would provide substantially the same treatment for estates and heirs where assets had been retained until death as is the case for estates where assets are sold before death and the income tax liability incurred reduces the estate tax liability at the highest estate tax marginal rates. Under the bill, a simple percentage will be taken from the estate tax rate table and applied to the appreciation. The percentage will be the highest rate to which the estate is subject before credits are taken into account. However, the next highest percentage would be used if less than $50,000 were in the highest bracket. In this way, the need to make recomputations for audit adjustments will be minimized.

Since the death tax adjustment would be based on Federal rates before taking the credit for State death taxes into account, no separate adjustment for State death taxes would be required to be computed. Thus, the three possible death tax adjustments for Federal estate taxes, State death taxes paid by the estate, and State death taxes paid by the heir or beneficiary would be consolidated into a single calculation based on the highest precredit Federal estate tax rate and the Federal inclusion rules.

Unlike S. 2238, the death tax adjustment would be made only for property "subject" to the estate tax. Thus, no adjustment would be made for property passing to a charity or to a surviving spouse to the extent taken into account for the marital deduction.

The bill contains a number of changes to simplify the operation of the carryover basis fresh-start adjustment for appreciation accruing before 1977. The fresh-start adjustment would be permitted for purposes of determining loss as well as gain. However, the liberalized adjustment for values on December 31, 1976, could not be used to increase the heir's basis above the value used for estate tax purposes. Thus, the "split-basis" for gain or loss under present law would be eliminated. In addition, a formula would be provided to determine a minimum basis for fresh-start purposes. It would apply to nonbusiness tangible personal property and to a personal residence. Unlike S. 2238, intangible assets such as stock in a closely held business would not be eligible under the formula since basis records are ordinarily available for these assets. It is in the case of tangible personal property and a residence where it is most likely that a decedent would not have kept adequate basis records before 1977.

In general, the formula assumes that the post-1976 appreciation accrues at approximately 6 percent a year rather than the 8-percent factor which had been proposed in S. 2238. In addition, the requirement under S. 2238 that an eligible residence must have been used by the decedent for 5 out of the 8 years preceding his death as a personal residence would be revised so that a residence would be eligible for the formula method of determining the fresh-start adjustment if it had been used as the decedent's personal residence for 5 years at any time. Finally, the bill would provide that the formula would not reduce the fresh-start basis to less than 25 percent of the value of the property at the time of the decedent's death.

Under the 1976 act, the fresh-start adjustment for nonmarketable securities is determined by assuming that appreciation accrues uniformly over the holding period. Generally, in the case of preferred stock, the proration of appreciation based on the holding period reaches an inequitable result because the value may fluctuate very little, if at all, and yet a portion of the appreciation is considered to accrue after 1976. Of course, the longer the preferred stock is held after 1976, the greater the amount of appreciation which is automatically treated as accruing after 1976.

The bill would resolve this problem by treating preferred stock having a stated redemption price as a marketable security with a market value on December 31, 1976, equal to its stated redemption price. Regulations authority would also be granted to extend this rule to other cases such as nonmarketable stock, notes, or other evidences of indebtedness with a relatively fixed value. For example, the rule could be extended to closely held stock subject to a fixed-price buy-sell arrangement among shareholders.

Regulations authority would also be provided to permit the various basis adjustments to be made for certain classes of similar property rather than having to compute the adjustments for each separate item of property.

The bill would also provide a rule to deal with proof of basis problems arising from various small improvements to a personal residence. For relatively small amounts, records are not usually maintained. My bill would allow an adjustment of $250 per year during the decedent's holding period of his personal residence to cover minor improvements which are not substantiated by documentary evidence or other records. For any year when substantiated improvements are greater than $250, the actual cost of the improvements would be taken into account rather than the fixed dollar amount.

The carryover basis reporting requirements would be revised in several respects. First, it would no longer be necessary for the executor to furnish information to the Internal Revenue Service. Second, information would be required to be furnished to the beneficiaries only when the gross estate, excluding property which is not carryover basis property by definition, exceeds $175,000. Third, the standard for imposing a penalty for failure to furnish this information to a beneficiary would be changed so that it would be imposed only if the failure is due to negligent or intentional disregard of the reporting requirement.

My bill contains a number of other provisions to improve upon existing law. Under the bill, a decedent's estate would succeed to the decedent's unused capital loss carryovers. This treatment is consistent with the theory of carryover basis and would be justified on equitable grounds since unrealized gains would carry over to the estate or heirs.

The bill also limits the amount of depreciation recaptured as ordinary income upon satisfaction of a pecuniary bequest to the gain recognized by the executor which is generally the amount of any post-death appreciation. Any remaining amount to be recaptured would be treated as ordinary income when the beneficiary disposed of the property.

The bill also permits an estate to sell property on the installment method and distribute the installment obligations without triggering the recognition of income at that time. The beneficiaries would report the income as the installments are collected. In effect, this provision would extend the same tax treatment to sales followed by a distribution of the installment obligation as would occur if the property had been distributed and then sold on the installment basis by the distributees. Permitting the estate to make the sale without a difference in tax consequences resulting from the form rather than the substance of the transaction should facilitate the administration of estates.

The bill also contains a provision to facilitate changing a stock redemption plan funded by life insurance to a cross purchase plan among shareholders. This relief is provided because the carryover basis rule resulted in different tax consequences depending upon which type of plan had been chosen in the past. Under prior law, there would have been no significant difference in tax treatment. Accordingly, for plans in existence on December 31, 1976, a stock redemption plan can be changed to a cross purchase plan without adverse tax consequences if it is done before 1981.

As under S. 2238, the bill changes the material participation requirements for purposes of the special estate tax valuation rules for farm or closely held business real property. Under present law, the decedent or a member of his family must have materially participated in the operation of the farm or business for 5 out of the 8 years preceding the decedent's death. In addition, there is a recapture of the estate tax savings if the

qualified heir or member of his family does not materially participate in the farm or business operations. In either case, the activities of an agent are not taken into account. These qualification requirements were intended to distinguish a family owned and operated business from an ordinary investment. However, there are situations where the material participation requirements impose some hardship.

For example, no farmer or businessman could retire without risking loss of eligibility for the special use valuation provision if no member of the family could step in and run the farm or business. In addition, there are situations where the qualified heir may be incapable of running the farm or business and must use the services of an agent. My bill would deal with the retirement problems by providing that eligibility for special use valuation will not be lost because of the material participation requirement if the decedent or the surviving spouse had operated the farm or business for 20 years. The bill would also provide that the activities of an agent will be treated as material participation for an heir if the heir is a minor, a student, a disabled person, or a surviving spouse who has attained age 62.

As under S. 2238, the bill also conforms the definition of a closely held business for purposes of the two special extended payment provisions for estate taxes.

As under S. 2238, the bill also amends the provision which requires the inclusion in a decedent's gross estate of all gift transfers made within 3 years of death. Thus, although these transfers have been subjected to the unified transfer system once as a lifetime transfer, these gifts must be revalued at the time of the decedent's death for inclusion in the gross estate. Since an estate tax credit is allowed for any gift taxes paid, the net effect of the inclusion rule is to tax any appreciation accruing between the time of the gift and the donor's death. This is inconsistent with a unified system and imposes an additional burden upon executors to have new appraisals made for the property. The bill would generally provide that the value used for gift tax purposes would also be used as the value for the estate tax 3-year-within-death transfer rule. This will eliminate the burden imposed on executors to have a second appraisal. However, by continuing the basic inclusion rule, gifts in anticipation of death cannot be made solely to satisfy the percentage requirement for special use valuation, closely held stock redemptions, or the extended payment rules for estate tax attributable to a closely held business.

By Mr. DOLE:

S. 2462. A bill to amend the Internal Revenue Code of 1954 to permit a limited individual retirement deduction to individuals who are participants in retirement plans; to the Committee on Finance.

INCREASED RETIREMENT BENEFITS

Mr. DOLE. Mr. President, I send to the desk a bill to provide increased retirement benefits for millions of Americans.

INDIVIDUAL RETIREMENT ACCOUNTS

Many Americans have availed themselves to the individual retirement account created under the Employee Retirement Income Security Act of 1974. Under the law, a taxpayer who is not an active participant in a qualified pension plan, may establish an individual retirement account. The participant can contribute a maximum of $1,500 per year for himself and, in some instances, $250 for a nonworking spouse. The taxpayer is allowed an immediate tax deduction for the contribution and to defer the tax on interest earned. When the account holder reaches age 59 the fund is available for retirement.

INFLATION

Since the enactment of ERISA, the consumer price index has increased dramatically. Unfortunately, with the policies of the administration, it appears that we will continue to experience a rise in prices probably for the remainder of the decade. Although the taxpayer gets a tax deferred buildup of earnings from an IRA, the principal is constantly being eroded by inflation. To counteract this problem, I have introduced S. 1981 to annually adjust the levels of contributions. This would enable a taxpayer to keep up with inflation and preserve the purchasing power of the fund.

CURRENT LAW INADEQUATE

Mr. President, in many cases, the amount that is contributed to a pension plan on behalf or for a worker is limited to a percentage of the worker's salary or by the plan itself. Thus, many workers do not have an opportunity to have the $1,500 allowed by an IRA to be put aside for retirement. Today, I am introducing legislation to allow active participants in other plans of qualified deferred compensation to establish a limited individual retirement account. This proposal, if enacted, will open up increased retirement benefits for millions of Americans.

LIRA

My bill allows a worker to contribute to the limited IRA the difference between the maximum amount allowable, currently 15 percent and the amount contributed to a qualified pension plan. The rules regarding distribution and plan structures have not been changed.

Mr. President, this proposal is designed to assist low income Americans and workers participating in low benefit pension plans. It is of national importance that Congress assure our citizens, who have spent their careers in useful and productive work, adequate incomes upon retirement. The enactment of this legislation is a step in the right direction.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF DEDUCTION.

(a) Deduction Under Section 219.—

(1) Individuals covered by other plans.—Section 219(b)(2) of the Internal Revenue Code of 1954 (relating to limitations and restrictions on the deduction allowable to individuals covered by certain other plans) is amended to read as follows:

"(2) INDIVIDUALS COVERED BY CERTAIN OTHER PLANS.—In the case of an individual who, for any part of the taxable year, was covered by another retirement plan, the amount allowable as a deduction under subsection (a) to that individual for the taxable year after the application of paragraph (1) of this subsection shall be reduced by an amount equal to the sum of the amounts contributed by or on behalf of such individual to such plan for the taxable year.".

(2) COVERAGE DEFINED.—Section 219(c) of such Code (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(5) COVERED BY ANOTHER RETIREMENT PLAN.—For purposes of this section an individual is treated as covered by another retirement plan for the taxable year if for any part of such year—

"(A) he was an active participant in—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a),

"(iii) a qualified bond purchase plan described in section 405(a), or

"(iv) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

"(B) amounts were contributed by his employer for an annuity contract described in section 403(b) (whether or not his rights in such contract are nonforfeitable).".

(b) Deduction Under Section 220.—

(1) Individuals covered by other plans.—Section 220(b)(3) of the Internal Revenue Code of 1954 (relating to limitations and restrictions on the deduction allowable to individuals covered by certain other plans) is amended to read as follows:

"(3) INDIVIDUALS COVERED BY CERTAIN OTHER PLANS.—In the case of an individual who, for any part of the taxable year, was covered by another retirement plan, the amount allowable as a deduction under subsection (a) to that individual for the taxable year after the application of paragraph (1) of this subsection shall be reduced by an amount equal to the sum of the amounts contributed by or on behalf of such individual or his spouse to such plan for the taxable year.".

(b) Coverage Defined.—Section 220(c) of such Code (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) COVERED BY ANOTHER RETIREMENT PLAN.—For purposes of this section an individual is treated as covered by another retirement plan for the taxable year if for any part of such year—

"(A) he or his spouse was an active participant in—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a),

"(iii) a qualified bond purchase plan described in section 405(a), or

"(iv) a plan established for its employees by the United States, by a State or political subdivision thereof, or an agency or instrumentality of any of the foregoing, or

"(B) amounts were contributed by his employer for an annuity contract described in section 403(b) (whether or not rights in such contract are nonforfeitable).".

SEC. 2. REPORTS.—The plan administrator of a plan described herein shall furnish, a report to each active participant of such plan who requests such report. The request and the report shall be made at such times and in such manner as the Secretary shall by

regulation prescribe. The report shall provide such information as is required by such regulations including the amount of contributions made during the taxable year on behalf of and by such active participant."

SEC. 3. EFFECTIVE DATE.—The amendments made by section 1 of this Act shall apply to taxable years beginning after September 30, 1978.

By Mr. JACKSON (by request):

S. 2463. A bill to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87) to raise certain authorized funding levels contained therein, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87) to raise certain authorized funding levels contained therein, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Acting Assistant Secretary of the Interior be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, D.C., January 27, 1978.

HON. WALTER F. MONDALE,
President of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a bill "To amend the Surface Mining Control and Reclamation Act of 1977 (P.L. 95–87) to raise certain authorized funding levels contained therein, and for other purposes."

We recommend that the bill be introduced and that it be promptly enacted.

In refining the initial plans for implementing the new surface mining law and establishing the new Office of Surface Mining Reclamation and Enforcement, it has become apparent that the authorized funding levels contained in the Surface Mining Control and Reclamation Act of 1977 will not be sufficient. Therefore I recommend that the Act be amended as provided in the attached bill.

The bill would raise the authorization ceiling in Section 712(a) from $10,000,000 in fiscal year 1979 to $19,068,000.

Section 712(a) authorizes $10,000,000 in fiscal years 1979 and 1980 for administration and funding of (1) the initial regulatory program including Federal enforcement and reimbursement grants to the States, (2) the Federal lands program to be in effect within one year of enactment, and (3) the Indian lands program. Our recent best estimate of the cost of such activities during fiscal year 1979 is $19,068,000 excluding annual pay raises. Raising the authorization level is necessary to adequately accommodate the projected need for funds.

We believe the proposed amendment is necessary for effective implementation of the Surface Mining Control and Reclamation Act in a manner consistent with its objectives. Early action on the amendment is necessary to meet the time frames in that Act.

We, therefore, respectfully request that the bill be promptly introduced and enacted.

The Office of Management and Budget advises that presentation of the attached bill would be in accord with the Administration's program.

Sincerely,

CHARLES P. EDDY,
Acting Assistant Secretary.

By Mr. JACKSON (by request).

S. 2465. A bill to designate certain lands in the State of Alaska as units of the National Park, National Forest, National Wildlife Refuge, Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes. Referred to the Committee on Energy and Natural Resources.

ALASKAN NATIONAL INTEREST LANDS CONSERVATION ACT

Mr. JACKSON. Mr. President, I introduce today a bill which embodies the position of the administration on the Alaska national interest lands legislation. To date the administration has presented its position solely in the form of amendments to a House bill, H.R. 39. In order to permit members of this committee on the public to fully apprise themselves of the administration's position. I asked Secretary of the Interior Cecil Andrus to incorporate that position in the form of clean bill. The measure I introduce today is his response to my request.

The administration's position and the draft bill were presented in testimony before our committee by Secretary Andrus on January 19, 1978. I ask unanimous consent that the text of the bill and of the Secretary's remarks be printed at the conclusion of my statement.

The committee has now completed 4 days of hearings on the Alaska national interest lands legislation during which we have heard from the administration, the conservationists (on S. 1500) and the Governor of Alaska (on S. 1787). In addition, last August three members of the committee visited many of the lands involved in the legislation on a 2-week field trip in Alaska and staff members conducted workshops in seven Alaska Native villages on national interest lands issues of concern to village Alaska. The next step in the committee's deliberations on this legislation will be staff-chaired workshops held in Alaska during the February recess. At the workshops "on-the-ground" experts will be asked to provide the best available information on present and prospective uses and values of each area addressed by the various Alaska national interest lands bills. Following the workshops we will schedule additional public hearings to receive testimony of other bill sponsors and members of the public.

There being no objection, the bill and statement were ordered to be printed in the RECORD, as follows:

S. 2465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska National Interest Lands Conservation Act."

SEC. 2. (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain wildlands and rivers in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the areas described in title I are, subject to valid existing rights, hereby declared to be units of the National Park System; the areas described in title II are, subject to valid existing rights, hereby declared to be units of the National Wildlife Refuge System; the areas described in title III are, subject to valid existing rights, hereby declared to be units of the National Wild and Scenic Rivers System; lands described in title IV are, subject to valid existing rights, added to units of the National Forest System; and lands designated in title V are, subject to valid existing rights, hereby declared to be units of the National Wilderness Preservation System.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, resident and nonresident wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered aretic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities within large arctic and subarctic wildlands and on freeflowing rivers; and to maintain opportunities for scenic research and undisturbed ecosystems.

(c)(1) Areas established in titles I and II of this Act shall, subject to valid existing rights, comprise the lands, waters, and interests therein within the boundaries generally depicted on the maps bearing the following designations:

TITLE I—NATIONAL PARK SYSTEM

Aniakchak National Monument/Preserve, numbered ANIA–90,002

Bering Land Bridge National Preserve, numbered BELA–90,002

Cape Krusenstern National Monument, numbered CAKR–90,005

Denali National Park, numbered DENA–90,002, and Denali Wilderness, numbered DENA–90,003

Gates of the Arctic Wilderness National Park, numbered GAAR–90,006, and Gates of the Arctic Wilderness, numbered GAAR–90,007

Glacier Bay National Park, numbered GLBA–90,000, and Glacier Bay Wilderness, numbered GLBA–90,001

Katmai National Park, numbered KATM–90,002, and Katmai Wilderness, numbered KATM–90,003

Kenai Fjords National Park, numbered KEFJ–90,003, and Kenai Fjords Wilderness, numbered KEFJ–90,004

Kobuk Valley National Park, numbered KOVA–90,006

Lake Clark National Park/Preserve, numbered LACL–90,004, and Lake Clark Wilderness, numbered LACL–90,005

Noatak National Ecological Preserve, numbered NOAT–90,000

Wrangell-St. Elias National Park/Preserve, numbered WRST–90,002, and Wrangell-St. Elias Wilderness, numbered WRST–90,003

Yukon-Charley National Rivers, numbered YUCH–90,005

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM

Alaska Marine Resources, numbered FWS 71–00–0101

Arctic, numbered FWS 71–00–0301

Becharof, numbered FWS 71–00–0401

Innoko, numbered FWS 71–00–0601

Kanuti, numbered FWS 71–00–0701

Kenai, numbered FWS 71–00–0801

Koyukuk, numbered FWS 71–00–0901

Nowitna, numbered FWS 71–00–1001

Selawik, numbered FWS 71–00–1100

Tetlin, numbered FWS 71–00–1201

Togiak, numbered FWS 71–00–1301

Yukon Delta, numbered FWS 71–00–1401

Yukon Flats, numbered FWS 71–00–1501

The boundaries of areas added to the National Park and Wildlife Refuge Systems shall, in coastal areas, not extend seaward beyond the mean high tide line to include

lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

TITLE IV—NATIONAL FOREST SYSTEM

NFS Alaska, dated , for those lands in Title IV.

(2) The maps described in subsection (c) of this section shall be on file and available for public inspection in the office of the Secretary of the Interior (hereafter referred to as the "Secretary"), or the Secretary of Agriculture with regard to the National Forest System.

(3) As soon as practicable after enactment of this Act, a map and legal description of each change in land management status effected by this Act in the four national conservation systems, including the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Secretary. Whenever possible, boundaries shall follow hydrographic divides or embrace other topographic features in all cases where straight line map boundaries approximate such features. Following reasonable notice in writing to the Congress of his intention to do so, the Secretary of Interior and the Secretary of Agriculture may make minor adjustments in the boundaries of the areas added to or established as units of the National Park, Wildlife Refuge, Wild and Scenic Rivers, and the National Forest Systems by this Act.

TITLE I–NATIONAL PARK SYSTEM

PART A—ESTABLISHMENT OF NEW AREAS

SEC. 101. (a) The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such lands and under the provisions of this Act:

(1) Gates of the Arctic Wilderness National Park, containing approximately 8.12 million acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the environmental integrity and scenic beauty of the mountains, forelands, rivers, lakes, and other natural features; to protect habitat for and populations of fish and wildlife, including but not limited to, caribou, grizzly bear, Dall sheep, moose, wolves, and raptorial birds; and in a manner consistent with the foregoing, to provide opportunities for water recreation on wild rivers, hiking, camping, and other outdoor recreation activities.

(2) Yukon-Charley National Rivers, containing approximately 1.69 million acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the entire Charley River basin, including streams, lakes, and other natural features, in its undeveloped natural condition for public benefit and scientific study; to protect habitat for, and populations of, fish and wildlife, including but not limited to the peregrine falcon and other raptorial birds, caribou, moose, grizzly bear, and wolves; and in a manner consistent with the foregoing, to interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area, and provide opportunities for water recreation on the Yukon and Charley Rivers, hiking, camping, and other outdoor recreation activities.

(3) Kobuk Valley National Park, containing approximately 1.67 million acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the boreal forest, and the Great Kobuk Sand Dunes, in its undeveloped state; to protect and interpret, in cooperation with Native Alaskans, archeological sites associated with Native cultures; to protect migration routes for the Arctic caribou herd; to protect habitat for and populations of, fish and wildlife including but not limited to caribou, moose, black and grizzly bear, wolves, and waterfowl; and in a manner consistent with the foregoing, to provide opportunities for continued subsistence uses and hiking, camping, and other outdoor recreation activities.

(4) Cape Krusenstern National Monument, containing approximately 0.36 million acres of Federal lands, which shall be managed for the following purposes, among others: To protect and interpret a series of archeological sites depicting every known cultural period in arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect seals and other marine mammals, birds, and other wildlife and fish resources; and in a manner consistent with the foregoing, to provide opportunities for continued subsistence uses and outdoor recreation activities.

(5) Wrangell-St. Elias National Park, containing approximately 9.56 million acres of Federal lands, and Wrangell-St. Elias National Preserve, containing approximately 2.49 million acres of Federal lands. The park and preserve shall be managed for the following purposes, among others: To maintain unimpaired the scenic beauty and quality of glacial systems, high mountain peaks, foothills, lakes and streams, and valleys in their natural state; to protect habitat for and populations of fish and wildlife, including but not limited to caribou, grizzly bear, Dall sheep, moose, wolves, trumpeter swans and other waterfowl, and marine mammals; and in a manner consistent with the foregoing, to provide opportunities for camping and hiking, and other outdoor recreation activities.

(6) Lake Clark National Park, containing approximately 2.43 million acres of Federal lands, and Lake Clark National Preserve, containing approximately 0.71 million acres of Federal lands. The park and preserve shall be managed for the following purposes, among others: To protect the watershed necessary for perpetuation of the red salmon fishery in Bristol Bay; to maintain unimpaired the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, wild rivers, lakes, waterfalls, and alpine meadows in their natural state; to protect habitat for and populations of fish and wildlife including but not limited to the Mulchatna caribou herd, Dall sheep, grizzly bear, bald eagle, peregrine falcon; and in a manner consistent with the foregoing, to provide opportunities for water recreation, nature study, sightseeing, hiking, camping, and other outdoor recreation activities.

(7) Kenai Fjords National Park, containing approximately 0.41 million acres of Federal lands, which shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding icefield, its outflowing glaciers, and coastal fjords and islands in their natural state; to protect seals, sea lions, other marine mammals, and marine and other birds and maintain their hauling and breeding areas in their natural state free of human activity which is disruptive to their natural processes; and in a manner consistent with the foregoing, to provide opportunities for sightseeing, nature study, touring, hiking, and other outdoor recreation activities.

(8) Aniakchak National Monument, containing approximately 0.34 million acres of Federal lands, and Aniakchak National Preserve, containing approximately 0.16 million acres of Federal lands. The monument and preserve shall be managed for the following purposes, among others: To maintain the caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams, in their natural state; to study, interpret, and assure continuation of the natural process of biological succession; to protect habitat for and populations of fish and wildlife, including but not limited to grizzly bears, moose, caribou, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl; and in a manner consistent with the foregoing, to interpret geological and biological processes for visitors and provide opportunities for river running, hiking, and other outdoor recreation activities.

(9) Bering Land Bridge National Preserve, containing approximately 2.34 million acres of Federal land, which shall be managed for the following purposes, among others: To protect and interpret examples of arctic plant communities, volcanic lava flows, ash explosions, and other geologic processes; to protect habitat for internationally significant populations of migratory birds; to provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, to North America from the Asian continent; to protect habitat for, and populations of, fish and wildlife including but not limited to marine mammals, grizzly bear, moose, and wolf; and in a manner consistent with the foregoing, to provide opportunities for continued subsistence uses and outdoor recreation activities.

(10) Noatak National Ecological Preserve, containing approximately 5.96 million acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the Noatak River and adjacent uplands within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activity; to protect habitat for and populations of fish and wildlife, including but not limited to the Arctic caribou herd, grizzly bear, Dall sheep, moose, wolves, and for waterfowl, raptors, and other species of birds; and in a manner consistent with the foregoing, to provide opportunities for scientific research, and for hiking, camping, and other outdoor recreation activities. The Secretary may establish a board consisting of scientists and other experts in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve.

PART B—ADDITIONS TO EXISTING AREAS

SEC. 102. (a) The following units of the National Park System are hereby expanded:

(1) Mount McKinley National Park by the addition of an area containing approximately three million eight hundred fifty thousand acres of Federal land, for the purposes of protecting the entire mountain massif and additional scenic mountain peaks and formations and to protect moose, caribou, and wolves and their habitat; furthermore, (i) the park is hereby redesignated as "Denali National Park," and (ii) that portion of The Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary, with the concurrence of the Secretary of Transportation, may determine;

(2) Katmai National Monument by the addition of an area containing approximately one-million ninety-nine thousand acres of Federal land for the purposes of protecting high concentrations of grizzly (brown) bear and their denning areas and habitat for other wildlife and to maintain unimpaired the water habitat for significant salmon populations; furthermore, the monument is hereby redesignated as "Katmai National Park";

(3) Glacier Bay National Monument by the addition of an area containing approximately five hundred eighty eight thousand acres of Federal land for the purposes of protecting the northwest slope of Mount Fairweather, portions of the Alsek River, and animal habitat and migration routes; furthermore, the monument is hereby redesignated as "Glacier Bay National Park".

PART C—ADMINISTRATIVE PROVISIONS

SEC. 103. The Secretary shall administer the lands, waters, and interests therein added to existing areas or established by the foregoing sections of this title as new areas of the National Park System, pursuant to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and under the provisions of this Act: *Provided, however,* That hunting may be permitted under the provisions of section 701 of this Act. All proclamations and executive orders establishing, reserving lands for, or revising the boundaries of, the former Katmai and Glacier Bay National Monuments shall remain in full force and effect, except to the extent they may be inconsistent with the Alaska Native Claims Settlement Act or the purposes of any unit established or expanded by this Act, and in such case the provisions of this Act shall prevail. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park or Glacier Bay National Park, as appropriate. Valid Native selections or nominations of lands within the Gates of the Arctic Wilderness National Park and within the Killik Wild River corridor are hereby recognized and shall be honored and conveyed by the Secretary in accordance with Alaska Native Claims Settlement Act: *Provided,* That within a zone which the Secretary shall designate surrounding Kurupa Lake and within the Killik Wild River corridor, the Secretary shall convey title to the subsurface estate and such conveyance shall provide that the right to extract oil and gas from such subsurface estate may be exercised only by directional drilling from adjacent private lands. Any conveyance of the subsurface estate pursuant to this section shall count against the total surface and subsurface acreage entitlement of the corporation to which such estate is conveyed.

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM

PART A—ESTABLISHMENT OF NEW AREAS

SEC. 201. (a) The following areas are hereby established as units of the National Wildlife Refuge System and shall be administered by the Secretary pursuant to the provisions of law governing the administration of such lands and under the provisions of this Act:

(1) Selawik National Wildlife Refuge, containing approximately 2.15 million acres of Federal land, which shall be managed for the following purposes, among others: To protect the crossroads of the Asiatic and North American Flyways, with their significant populations of snow geese, ducks and swans, sandhill cranes, and shorebirds; to protect habitat for and populations of fish and wildlife, including but not limited to caribou on the lands and sheefish in the waters; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities and for continued subsistence uses.

(2) Yukon Flats National Wildlife Refuge, containing approximately 8.45 million acres of Federal land, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the Yukon River within the area; to protect nationally significant fall flights of ducks and geese; to protect habitat for and populations of fish and wildlife, including but not limited to other birds, moose, wolves, bears, furbearers, and salmon; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to these resources, and for continued subsistence uses.

(3) Koyukuk National Wildlife Refuge, containing approximately 3.33 million acres of Federal lands, which shall be managed for the following purposes, among others: To assure continued high levels of waterfowl production, including ducks, geese, and swans; to protect habitat for and populations of fish and wildlife, including but not limited to the numerous bird species, moose and the Beaver Mountain caribou herd, beaver, and salmon; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to permit hunting, fishing, and other activities with respect to these resources, including continued subsistence uses.

(4) Innoko National Wildlife Refuge, containing approximately 2.84 million acres of Federal land, which shall be managed for the following purposes, among others: To assure continued high level fall flights of ducks and geese; to protect habitat for and populations of fish and wildlife, including but not limited to moose and furbearers; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to these wildlife resources, including continued subsistence uses.

(5) Togiak National Fish and Wildlife Refuge, containing approximately 3.84 million acres of Federal land, which shall be managed for the following purposes, among others: To protect and maintain the environmental integrity of the watershed of Bristol and Kuskokwim Bays; to perpetuate the significant marine bird and mammal and other migratory bird and fishery resources of the mountain, river and marine habitats of the Togiak area; to protect habitat for and populations of fish and wildlife resources of the area; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to these fish and wildlife resources, including continued subsistence uses.

(6) Alaska Marine Resources National Wildlife Refuge, containing approximately 430,000 acres of Federal land: (i) which shall be managed for the purposes of protecting internationally significant marine, birds and mammals and the land, water, and other marine resources on which they rely, perpetuating other indigenous fish and wildlife resources of the coastal marine environment, and providing for national and international research on marine resources; and (ii) which shall consist of the following specifically described units together with all other federally owned islands, islets, rocks, reefs, and spires within six miles of the coast of Alaska:

Chukchi Sea unit—including Cape Lisburne, Cape Thompson, and the existing Chamisso National Wildlife Refuge;

Bering Sea unit—including the existing Bering Sea and Pribilof (Walrus and Otter Islands and Sea Lion Rocks) National Wildlife Refuges, Hagemeister Island, Fairway Rock, King Island, Sledge Island, Bluff Unit, Besboro Island, Egg Island, and the Punuk Islands;

Aleutian Islands unit—including the existing Aleutian Islands and Bogoslof National Wildlife Refuges, and all other Federal lands in the Aleutian Islands;

Alaska Peninsula unit—including the existing Simeonof and Semidi National Wildlife Refuges, Puale Bay, Chignigak Bay, and all Federal lands south of Katmai National Park to False Pass; and

Gulf of Alaska unit—including the existing Forester Island, Hazy Islands, St. Lazaria, and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor, Pye, and Chiswell Islands, the Capes of the Aialik and Harris Peninsulas, and islands, islets, rocks or spires surrounding Kodiak and Afognak Islands and all other Federal lands in the Gulf of Alaska reserved for purposes of classification under section 17(d)(1) of Alaska Native Claims Settlement Act, excluding lands within the National Forest System.

(7) Kanuti National Wildlife Refuge, containing approximately 1.20 million acres of Federal land, which shall be managed for the following purposes, among others: To perpetuate nationally significant migratory waterfowl and mammal populations utilizing the lands and waters of the Kanuti area; to protect habitat for and populations of fish and wildlife, including but not limited to these waterfowl, other birds, moose and furbearers, and caribou; and in a manner consistent with the conservation and protection of the fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to the wildlife resources, including continued subsistence uses.

(8) Kenai National Moose Refuge, by the addition of an area containing approximately 203,600 acres of Federal land to the existing Kenai National Moose Range (hereby redesignated as part of the refuge), which refuge shall be managed for the following purposes, among others: To perpetuate a nationally significant population of moose; to protect habitat for and populations of fish and wildlife, including but not limited to moose and other mammals and waterfowl; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for wildlife oriented recreation.

(9) Nowitna National Wildlife Refuge, containing approximately 1.45 million acres of Federal land, which shall be managed for the following purposes, among others: To perpetuate the nationally significant waterfowl utilizing the lands and waters of the Nowitna area; to protect habitat for and populations of fish and wildlife, including but not limited to waterfowl, other migratory birds, mammals, and migrating chum, coho, chinook, and other fish populations; and in a manner consistent with the conservation and protection of the fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to the fish and wildlife resources, including continued subsistence uses.

(10) Becharof National Wildlife Refuge, containing approximately 1.03 million acres of Federal land, which shall be managed for the following purposes, among others: To protect the habitat for and populations of fish and wildlife, including but not limited to the nationally significant population of brown bear, caribou, marine mammals, waterfowl, peregrine falcons, eagles and other birds; and in a manner consistent with the conservation and protection of the fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to the wildlife resources.

(11) Tetlin National Wildlife Refuge, containing approximately 0.765 million acres of Federal land, which shall be managed for the following purposes, among others: To perpetuate the fall flight of ducks; to assure maximum opportunities for successful nesting of canvasback ducks; to protect the habitat for and populations of fish and wildlife, including but not limited to the Forty-

mile and Metastz caribou herds and the calving ground of the Chisana caribou herd, waterfowl, and other birds, large mammals, and furbearers; to provide a variety of opportunities for interpretive, educational, and scientific fish and wildlife oriented recreational uses; and in a manner consistent with the conservation and protection of such fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to fish and wildlife, including continued subsistence uses. The Secretary may, regardless of any requirement that a study be conducted of areas within the Tetlin National Wildlife Refuge in accordance with subsection 3 (c) and (d) of the Wilderness Act, authorize and grant rights-of-way for pipelines and other facilities that may be required pursuant to section 9 of the Alaska Natural Gas Transportation Act of 1976.

PART B—ADDITIONS TO EXISTING AREAS

SEC. 202. (a) The following units of the National Wildlife Refuge System are hereby expanded:

(1) Clarence Rhode National Wildlife Range and Hazen Bay National Wildlife Refuge by the addition of an area containing approximately 10.59 million acres of Federal lands; furthermore, the Clarence Rhode National Wildlife Range and Hazen Bay National Wildlife Refuge are hereby redesignated as the Yukon Delta National Wildlife Refuge, which shall be managed for the following purposes, among others: To perpetuate the significant fall flights of ducks, swans, and geese, including large numbers of emperor geese, cackling geese, and large numbers of black brant; to perpetuate significant numbers of shorebirds and waterbirds, including the bristle-thighed curlew; to protect habitat for and populations of fish and wildlife, including but not limited to the internationally significant migratory bird, fish, and marine mammal resources; to maintain the environmental integrity of the Andreafsky River and other rivers and lakes; and in a manner consistent with the conservation and protection of the fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to these resources, including continued subsistence uses.

(2) Arctc National Wildlife Range by the addition of an area containing approximately 8.85 million acres of Federal land for the purposes, among others, of protecting internationally significant populations of caribou and migratory birds, perpetuating other migratory and resident fish and wildlife populations, protecting representative Arctic life zones and the wilderness character of these habitats, and in a manner consistent with the foregoing to provide continued opportunity for subsistence uses.

(b) All proclamations, executive orders, public land orders and similar actions reserving any lands, waters, or interests therein for refuge purposes within the boundaries of the areas designated as, or added to, units of the National Wildlife Refuge System by this Act shall remain in full force and effect, except as they may be inconsistent with the purposes of any unit established by this Act, and in such case the provisions of this Act shall prevail. Any funds available on the effective date of this section for the purposes of any reservation shall continue to be available for the purposes of the unit established by this Act.

(c) The Secretary, in consultation with the Governor of Alaska and affected Native corporations, shall conduct a study of the lands and resources on the Alaska Peninsula between the southern boundary of the Becharof National Wildlife Refuge and the northeastern boundary of the Izembek National Wildlife Range, excluding Aniakchak National Monument and Preserve, within the area generally depicted on the map entitled "Alaska Peninsula Study Area" numbered FWS 71-00-0201 and dated September 1977, which shall be on file and available for public inspection in the office of the Director, Fish and Wildlife Service, Department of the Interior. The Secretary shall, not later than June 30, 1983, submit a report of the study, together with recommendations to the Congress for such legislation as may be appropriate to designate additions to or establish new units of the National Wildlife Refuge System within the area. Prior to submitting the report to the Congress, the Secretary shall solicit the written comments of the Governor of Alaska and the affected Native corporations on his recommendations, and shall include these comments as a part of this report. Effective on the date of enactment of this Act and continuing until the expiration of three years following the submission of the report of the Secretary, the Federal lands within the study area are hereby withdrawn from all forms of entry under the public land laws of the United States and from location, entry, and patent under the United States mining laws, and from operation of the Mineral Leasing Act of 1920, as amended, except that the Secretary is authorized in his discretion to provide for access for oil and gas pipelines under the Mineral Leasing Act of 1920 during such period.

SEC. 203. With respect to the area of the Iliamna watershed described as those lands and waters generally depicted on the map numbered FWS 71-00-1601 and dated September 1977, which map shall be on file and available for public inspection in like manner as the boundary maps referred to in section 2 of this Act, it is the express intention of the Congress that the lands and waters be protected and managed for the primary purposes of watershed protection and fishery production. The Secretary is authorized to enter into a cooperative agreement with the State of Alaska in order that the United States and the State shall each manage its lands in this area for such purposes. Within such area, except pursuant to the Act of January 2, 1976 (P. L. 94-204), the Secretary shall permit no selection of lands by, nor shall he make any conveyance of lands to, the State unless and until he determines that the State, by appropriate legislation has authorized, and is ready, willing, and able to implement, a plan for protection and management of the watershed and the fishery resources consistent with the intention expressed above. The Secretary may, if he finds that the management and use of the area is inconsistent with the foregoing express intention, and following notice in writing to the Governor and a 90-day period thereafter in which to correct such management and use, establish by appropriate order one or more units of the National Wildlife Refuge System within the area referred to on such map.

TITLE III—NATIONAL WILD AND SCENIC RIVERS SYSTEM

PART A—WILD AND SCENIC RIVERS WITHIN NATIONAL PARK SYSTEM

SEC. 301. DESIGNATION. Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907), as amended (16 U.S.C. 1274(a)), as further amended by adding the following new paragraphs:

—. Alagnak, Alaska—the major tributary to the Alagnak, the Nonvianuk River, within Katmai National Park; to be administered by the Secretary of the Interior.

—. Alatna, Alaska—the main stem within the Gates of the Arctic Wilderness National Park; to be administered by the Secretary of the Interior.

—. Aniakchak, Alaska—that portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak National Monument and National Preserve; to be administered by the Secretary of the Interior.

—. Bremner, Alaska—the main stem, and the North, South, and Middle Forks within the Wrangell-St. Elias National Park/Preserve; to be administered by the Secretary of the Interior.

—. Charley, Alaska—the entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek, Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley National Rivers; to be administered by the Secretary of the Interior.

—. Chilikadrotna, Alaska—that portion of the river within the Lake Clark National Park/Preserve; to be administered by the Secretary of the Interior.

—. Chitina, Alaska—that portion of the river within the Wrangell-St. Elias National Park/Preserve; to be administered by the Secretary of the Interior.

—. Copper, Alaska—that portion of the river within the Wrangell-St. Elias National Park/Preserve; to be administered by the Secretary of the Interior.

—. John, Alaska—that portion of the river within the Gates of the Arctic Wilderness National Park; to be administered by the Secretary of the Interior.

—. Killik, Alaska—that portion of the river, including its major tributary, Easter Creek, within the Gates of the Arctic Wilderness National Park; to be administered by the Secretary of the Interior.

—. Kobuk, Alaska—that portion within the Gates of the Arctic Wilderness National Park; to be administered by the Secretary of the Interior.

—. Mulchatna, Alaska—that portion within the Lake Clark National Park/Preserve; to be administered by the Secretary of the Interior.

—. Noatak, Alaska—the river from its source in the Gates of the Arctic Wilderness National Park to its confluence with the Kelly River in the Noatak National Ecological Preserve; to be administered by the Secretary of the Interior.

—. North Fork of the Koyukuk, Alaska—that portion within the Gates of the Arctic Wilderness National Park; to be administered by the Secretary of the Interior.

—. Salmon, Alaska—that portion within the Kobuk Valley National Park; to be administered by the Secretary of the Interior.

—. Tinayguk, Alaska—that portion within the Gates of the Arctic Wilderness National Park; to be administered by the Secretary of the Interior.

—. Tlikakila, Alaska—that portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.

SEC. 302. ADMINISTRATIVE PROVISIONS. (a) The river segments designated in section 301 of this title are hereby classified and designated, and shall be administered, as wild river areas pursuant to the Wild and Scenic Rivers Act.

(b) The provisions of subsection 3(b) and section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments listed in section 301. The provisions of sections 701 and 702 of this Act shall supercede those of section 13(a) of the Wild and Scenic Rivers Act, concerning fish and wildlife.

PART B—WILD AND SCENIC RIVERS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 303. DESIGNATION. Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907) as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

—. Andreafsky, Alaska—that portion from its source, including all headwaters, and the East Fork, within the boundary of the Yukon Delta National Wildlife Refuge; to be administered by the Secretary of the Interior.

—. Ivishak, Alaska—that portion from its source, including all headwaters and an unnamed tributary to Porcupine Lake within the boundary of the Arctic National Wildlife

Refuge; to be administered by the Secretary of the Interior.

—. Kanektok, Alaska—that portion within the boundary of Togiak National Fish and Wildlife Refuge, from Kagati Lake to a point sixteen miles above the mouth; to be administered by the Secretary of the Interior.

—. Nowitna, Alaska—the segment within the Nowitna National Wildlife Refuge downstream to its confluence with the Yukon River; to be administered by the Secretary of the Interior.

—. Porcupine, Alaska—the segments within the Arctic National Wildlife Refuge and the Yukon Flats National Wildlife Refuge; to be administered by the Secretary of the Interior.

—. Sheenjek, Alaska—the segments within the Yukon Flats National Wildlife Refuge and the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

—. Wind, Alaska—that portion from its source, including all headwaters and one unnamed tributary in Township 13S, within the boundaries of the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

SEC. 304. ADMINISTRATIVE PROVISIONS. (a) The river segments designated in section 303 of this title are hereby classified and designated and shall be administered as wild river areas.

(b) Notwithstanding any provisions to the contrary of the Wild and Scenic Rivers Act (82 Stat. 907; 17 U.S.C. 1271), the boundaries of the river segments referred to in section 303 of this title may include an area extending up to two miles from the mean high water level on either side of the river segments. Notwithstanding the provisions of section 3(b) of such Act, the Secretary shall establish boundaries of the river segments referred to in section 303 of this title within three years after the date of enactment of this title.

(c) The provisions of section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments referred to in section 303 of this title.

PART C—ADDITIONS TO NATIONAL WILD AND SCENIC RIVERS SYSTEM LOCATED OUTSIDE NATIONAL PARK AND NATIONAL WILDLIFE REFUGES

SEC. 305. DESIGNATION. Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907) as amended (16 U.S.C. 1274(a)) is further amended by adding the following paragraphs:

—. Alagnak, Alaska—the portion beginning at the source and running to the west boundary of Township 13S, R43W; the segment not to exceed 120,000 acres; to be administered by the Secretary of the Interior.

—. Beaver Creek, Alaska—the segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to the southern boundary of the Yukon Flats National Wildlife Refuge, the segment not to exceed 200,000 acres; to be administered by the Secretary of the Interior.

—. Birch Creek, Alaska—the segment of the main stem from the vicinity of the confluence of North Fork downstream to the southern boundary of the Yukon Flats National Wildlife Refuge, the segment not to exceed 200,000 acres; to be administered by the Secretary of the Interior.

—. Colville, Alaska—the segment of the main stem from the headwaters to Umiat, the segment not to exceed 500,000 acres; to be administered by the Secretary of the Interior.

—. Copper, Alaska—the segment from the confluence with the Chitina River to the boundary of the Chugach National Forest addition pursuant to section 401, to be administered by the Secretary of the Interior.

—. Delta, Alaska—the segment from the headwaters to Black Rapids Glacier, the segment not to exceed 66,000 acres; to be administered by the Secretary of the Interior.

—. Fortymile, Alaska—the main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchison Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek, the segments not to exceed 320,000 acres; to be administered by the Secretary of the Interior.

—. Gulkana, Alaska—the main stem from Paxton Lake to Sourdough and the entire West and Middle Forks; the segments not to exceed 165,000 acres; to be administered by the Secretary of the Interior.

—. Killik, Alaska—from the point where it exits the northern boundaries of the Gates of the Arctic Wilderness National Park to its confluence with the Colville River, the segment not to exceed 152,000 acres; to be administered by the Secretary of the Interior.

—. Kisaralik, Alaska—from the headwaters to where the river leaves Federal lands in T8N, R64W, the segment not to exceed 92,000; to be administered by the Secretary of the Interior.

—. Nowitna, Alaska—the segment from the point where the river crosses the west boundary of section 6, township 17 south, range 22 east, Fairbanks Principal Meridian, downstream to the southern boundary of the Nowitna National Wildlife Refuge, the segment not to exceed 230,000 acres; to be administered by the Secretary of the Interior.

—. Unalakleet, Alaska—the segment of the main stem beginning at 159° 21'06.156'' west longitude approximately six miles from the headwaters extending downstream 60 miles to 160° 19'15.031'' west longitude in the vicinity of the confluence of the Chiroskey River, the segment not to exceed 104,000 acres; to be administered by the Secretary of the Interior.

—. Utukok, Alaska—from the headwaters to where an unnamed tributary flows from the south into the river in T5N, R36W, the segment not to exceed 254,000 acres; to be administered by the Secretary of the Interior.

SEC. 306. DESIGNATION FOR STUDY. Section 5 (a) of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), as amended, is further amended as follows:

(a) After paragraph ( ) insert the following new paragraphs:

( ) Copper (Iliamna), Alaska
( ) Holitna-Hoholitna, Alaska
( ) Koyuk, Alaska
( ) Melozitna, Alaska
( ) Nelchina-Tazlina, Alaska
( ) Nuyakuk, Alaska
( ) Situk, Alaska
( ) Stikine, Alaska
( ) Susitna, Alaska

(b) The studies of the rivers in paragraphs ( )-( ) shall be completed and reports transmitted thereon not later than five full fiscal years from date of enactment of this paragraph.

SEC. 307. ADMINISTRATIVE PROVISIONS. (a) The Alagnak, Beaver Creek, Birch Creek, Colville, Killik, Gulkana, Kisaralik, Nowitna, Utukok, and Unalakleet components as well as the segment of the Delta component from the lower lakes area to a point opposite milepost 212 on the Richardson Highway; the Mosquito Fork downstream from the vicinity of Kechumstuk to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek segments of the Fortymile component, and the segment of the Copper (Wrangells) component from its source to the north boundary of the Wrangell-St. Elias National Park/Preserve and from the north end of Wood Canyon to the new national forest boundary designated in section 305 of this title, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The Wade Creek unit of the Fortymile component is classified and designated and shall be administered as scenic river areas, pursuant to such Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall not preclude such access across those river segments as the Secretary determines to be necessary to permit commercial development of asbestos deposits in the North Fork drainage. The Secretary shall issue regulations to restrict use of those portions of the Colville under his jurisdiction during the peregrine falcon nesting season.

(b) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act to establish detailed boundaries and formulate detailed development and management plans within one year after the date of enactment of this title with respect to the Delta, Fortymile, and Gulkana components; within two years with respect to the Beaver Creek and Birch Creek components; within three years with respect to the Alagnak, Colville, Killik, Nowitna, and Utukok components; and within four years with respect to the Kisaralik, the entire Copper (Wrangells), and Unalakleet components, except that the boundaries for the Copper (Wrangells) component shall not include lands within the Wrangell-St. Elias National Park/Preserve. The detailed plan for each river shall include the identification of a line based essentially on line-of-sight from the river within which mining will be controlled as provided in subsection (e). In no event will the line-of-sight line extend beyond the corridor provided in subsection (c).

(c) Notwithstanding any provisions of the Wild and Scenic Rivers Act (82 Stat. 907; 16 U.S.C. 1271) to the contrary, an area extending two miles from the mean high water level on either side of the river segments referred to in section 305 of this title is hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including in both cases amendments thereto, pending establishment of the detailed boundaries provided for in subsection (e).

(d) The provisions of section 305 of this title specifying maximum permissible acreages for individual components shall supercede any provisions to the contrary of the Wild and Scenic Rivers Act.

(e) Notwithstanding the provisions of section 9(a)(iii) of the Wild and Scenic Rivers Act, the minerals in all Federal lands within the line-of-sight line established in subsection (b) included in any component or part of a component designated by this section as a wild river area are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto. The Secretary is authorized to open the remainder of the river corridor to mining subject to such regulations as he may prescribe.

(f) The Secretary may seek cooperative agreements with the owners of non-Federal lands adjoining the wild and scenic rivers established by this title to assure that the purpose of such reservations are served to the greatest extent feasible.

(g) Notwithstanding any other provision of law or of this Act to the contrary, with respect to components of rivers herein designated and administered by the Secretary outside the boundaries of units of the National Park and Wildlife Refuge Systems, the Secretary may grant access for oil and gas pipelines in accordance with the Mineral

Leasing Act of 1920, and he may permit, subject to such terms and conditions as he deems necessary, access for roads across, through, or over such river components.

TITLE IV—NATIONAL FOREST SYSTEM

SEC. 401. The following units of the National Forest System are hereby expanded:

(1) Tongass National Forest by the addition of three areas, Kates, Needle, Juneau Icefield and Brabazon Range, containing approximately one million four hundred and forty-four thousand acres depicted on a map entitled "Additions to the Tongass National Forest" dated November 1977, which shall be filed and made available for public inspection in accordance with the provisions of section 2.

(2) Chugach National Forest by the addition of three areas, Nellie Juan, College Fiord and Copper River containing approximately one million five hundred and ninety-one thousand acres as depicted on a map entitled "Additions to the Chugach National Forest" dated November 1977, which shall be filed and made available for public inspection in accordance with the provisions of section 2. The Secretary of Agriculture shall administer the Copper River additions and adjacent lands in the Copper River Delta in accordance with the laws, rules, and regulations applicable to the National Forests, and in accordance with land management plans which provide for adequate protection of significant fish and wildlife values and protection of other resource values which do not substantially interfere with such fish and wildlife values.

TITLE V—NATIONAL PETROLEUM RESERVE IN ALASKA

SEC. 501. Notwithstanding any contrary provision of Public Law 94–258, during the review of land uses pursuant to section 105 (c) of Public Law 94–258 and until Congress has determined otherwise, the Secretary shall manage the National Petroleum Reserve in Alaska in such a manner as to recognize subsistence use, and preserve scenic, historical, archeological, recreational, fish and wildlife, wilderness, and other surface values.

TITLE VI—DESIGNATION OF WILDERNESS AREAS

SEC. 601. (a) In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the lands, waters, and interests therein within the boundaries depicted as "Proposed Wilderness" on the maps referred to in section 2 of this Act are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below:

NATIONAL PARK SYSTEM

(1) Denali Wilderness of approximately 5.49 million acres;

(2) Gates of the Arctic Wilderness of approximately 8.10 million acres;

(3) Glacier Bay Wilderness of approximately 2.25 million acres;

(4) Katmai Wilderness of approximately 2.69 million acres;

(5) Kenai Fjords Wilderness of approximately 0.33 million acres;

(6) Lake Clark Wilderness of approximately 2.55 million acres; and

(7) Wrangell-St. Elias Wilderness of approximately 8.85 million acres.

NATIONAL WILDLIFE REFUGE SYSTEM

(1) Arctic Wilderness of approximately 8.8 million acres;

(2) Kenai Wilderness of approximately 1.3 million acres; and

(3) Alaska Marine Resources Wilderness of approximately 2.6 million acres.

(b) Lands designated as wilderness by this section shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this section, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary.

(c) Within seven years from the effective date of this section, the Secretary shall report to the President, in accordance with subsections 3(c) and 3( ) of the Wilderness Act (78 Stat. 890); 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the units of the National Park System and National Wildlife Refuge System, other than the units referred to in subsection (a) of this section, established or to which lands are added by titles I and II of this Act, for preservation as wilderness, and any designation of any such area as a wilderness shall be in accordance with the Wilderness Act. Pending the designation by the Congress of any such area as wilderness, the Secretary is authorized to develop, on not more than 1,000 acres within each unit, facilities needed for the administration and management of each unit.

DESIGNATION OF WILDERNESS AREAS WITHIN UNITS OF THE NATIONAL FOREST SYSTEM

SEC. 602. In furtherance of the purposes of the Wilderness Act (78 Stat. 890), there are hereby designated as a unit of the National Wilderness Preservation System certain lands in the Tongass National Forest which comprise approximately 1.0 million acres which are depicted on a map entitled "Admiralty Island Wilderness—Proposed (FS/USDA, , 1977)" and on file in the office of the Chief of the Forest Service, Washington, D.C., and which shall be known as the Admiralty Island Wilderness.

ADMINISTRATIVE PROVISIONS

SEC. 603. Wilderness areas designated by section 602 shall be administered in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

TITLE VII—GENERAL ADMINISTRATIVE PROVISIONS

SEC. 701. (a) Except as otherwise provided by Federal law, the State of Alaska is authorized to permit subsistence uses of fish, wildlife, and plant resources within designated subsistence management zones by:

(1) Defining "Subsistence uses" to include the taking and use of customary or traditional wild foods and other renewable biological resources from lands and waters for personal or family consumption; provided that such taking is not accomplished in a wasteful manner. Such uses may also involve the customary trade or barter among qualified subsistence users for personal or family consumption, and the sale of traditional Native handicrafts made out of the non-edible by-products of resources taken for personal or family consumption pursuant to this subsection;

(2) Prescribing conditions under which subsistence uses may be permitted, including but not limited to, the establishment of limits on season length, take, and number and type of fish, wildlife, or plant species to be utilized; provided, however, that the level of subsistence uses may not be significantly expanded beyond those in existence prior to December 18, 1971.

(3) Determining, without regard to race or ethnic origins, who is qualified for subsistence uses within subsistence management zones based upon: customary and direct dependency upon the use of subsistence resources as the mainstay of one's livelihood; area of domicile; availability of alternative resources; and cultural needs.

(4) Creating a system of local subsistence advisors to assist in determining who is qualified for subsistence uses within subsistence management zones; and

(5) Giving subsistence uses preference over any other competing consumptive use within subsistence management zones. When actual or anticipated population declines in a specific subsistence resource would be aggravated by continued subsistence uses or other competing consumptive uses, the State shall first curtail the other consumptive uses, and as a last resort, subsistence uses, to the extent necessary to protect the viability and well being of the fish, wildlife, and plant populations affected.

(b) The Secretaries of the Interior and Agriculture shall designate by regulation subsistence management zones within their respective units added to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems by this Act. Such subsistence management zones shall be designated only within those units where subsistence uses were customarily occurring on or before December 18, 1971, and where continued subsistence uses would be consistent with the purposes for which the area was established and is being managed. The appropriate Secretary is authorized to periodically revise the boundaries of subsistence management zones in order to reflect changes in fish, wildlife or plant populations, migration patterns or subsistence needs.

(c) The appropriate Secretary may close any subsistence management zone or portion thereof to subsistence uses for reasons of public safety, fish and wildlife management, administration, or public use and enjoyment of the area; and notwithstanding any other provision of this section, if the appropriate Secretary determines that conditions imposed by the State of Alaska under subsection (a)(2) of this section are inconsistent with the purposes for which any area was established or constitute a danger to the population of any species, he may close the area to subsistence uses.

(d)(1) Except for those subsistence uses authorized in this section all areas of the National Park System in the State of Alaska shall be closed to hunting and trapping, but may be open to fishing in accordance with the applicable laws of the United States and the State of Alaska; provided, however, the Secretary shall permit fishing, trapping, and non-commercial hunting within areas established by this Act as "national preserves" and "national rivers" in accordance with the applicable laws of the United States and the State of Alaska.

(2) The Secretary may designate for all units of the National Park System, the National Wildlife Refuge System and the Wild and Scenic Rivers System in the State of Alaska areas where, and periods when, no hunting, fishing, trapping or entry may be limited or proscribed for reasons of public safety, administration, protection and management of living resources, preservation of subsistence resources, or public use and enjoyment. Except in emergencies, any regulation prescribing such restrictions relating to hunting, fishing, trapping or entry shall be put into effect only after consultation with the appropriate State agency having jurisdiction over such activities.

(e) Any person who violates or fails to comply with any regulation issued pursuant to subsection (c) or (d) of this section shall be fined not more than five hundred dollars or imprisoned for not to exceed six months, or both.

(f) The Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit a report every two years to the President of the Senate and the Speaker of the House of Representatives on subsistence uses within designated subsistence management zones. The report shall include among other things the status of wildlife populations impacted by subsistence uses, the number of persons engaged in subsistence uses,

the status of subsistence in the native cultures, the scope, nature and effectiveness of the State subsistence program, whether the State is in compliance with the standards set forth in this Act on subsistence use, and whether there is a need for new legislation modifying the existing subsistence use system.

(g) Nothing in this section shall be deemed to modify or repeal the provisions of the Fur Seal Act of 1966 (16 U.S.C. Sections 1151 et seq.); the Endangered Species Act of 1973 (16 U.S.C. Sections 1531 et seq.); the Marine Mammal Protection Act (16 U.S.C. Sections 1361 et seq.); or the Migratory Bird Treaty Act (16 U.S.C. Sections 701 et seq.).

(h) Notwithstanding any other provision of law or any other provision of this Act to the contrary, the Secretary may permit the winter use of snowmobiles for subsistence purposes.

SEC. 702. All lands designated by this Act as units of the National Park System and National Wildlife Refuge System, and, notwithstanding the provisions of section (9)(a)(iii) of the Wild and Scenic River Act (82 Stat. 907) as amended (16 U.S.C. 1274 (2)), wild rivers, as provided in section 307 (e) of this Act, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto: *Provided,* That with respect to areas added by this Act to the National Wildlife Refuge System the Secretary may permit, in his discretion, and consistent with the provisions of the National Wildlife Refuge System Administration Act, oil and gas leasing, including construction and operation of pipelines, under the Mineral Leasing Act of 1920, as amended. Any and all withdrawals and reservations for powersite purposes applicable to the Federal lands and interests therein within the boundaries of any unit of the National Park, Wildlife Refuge, or Wild and Scenic Rivers Systems referred to in titles I–III of this Act are hereby rescinded to the extent of such applicability.

SEC. 703. All lands within the areas added to existing units or established by titles I, II, III, and IV of this Act, which are subject to selection or selected by Native Corporations under the terms of the Alaska Native Claims Settlement Act, and which are not selected by or conveyed to those corporations under the terms of that Act are hereby added to and incorporated within the appropriate area, to be administered under the terms of this Act, at such time as the relinquishment of Native rights becomes final.

SEC. 704. Within the boundaries of the units of the national conservation systems established by or pursuant to this Act, the Secretary or the Secretary of Agriculture with respect to national forests may acquire lands and interest in lands within areas placed under their respective jurisdictions by donations, purchase, exchange, or otherwise.

SEC. 705. The Secretary may establish administrative sites or visitor facilities outside of the boundaries of any area established under this Act, or protect any significant archeological sites outside the boundaries of the area described in section 101(a)(2), section 101(a)(3), and section 101(a)(9) of this Act. For these purposes he may establish on Federal lands or acquire other lands not to exceed one thousand acres for administrative and visitor facilities for each area, and no more than seven thousand five hundred acres for archeological or paleontological sites outside the boundaries of each of the areas referred to herein: *Provided,* That no such administrative site, visitor facility, or archeological site may be established on National Forest System lands without the concurrence of the Secretary of Agriculture.

SEC. 706. (a) The Secretary shall, with the concurrence of the Native Corporation involved, attempt to locate administrative sites and visitor facilities for areas established under this Act on adjacent Native-owned lands, wherever possible and desirable.

(b) Notwithstanding any other provision of law, before entering into contract for the provision of revenue-producing visitor services, the Secretary shall grant the village and/or regional corporations most directly affecting the first right of refusal to provide such services within the unit under such terms and conditions as he may by agreement prescribe.

SEC. 707. (a) Each area encompassed within the boundaries on the maps referred to in section 2 and depicted as "Area of Environmental Concern" is hereby declared to be an area of land and waters which contains resources that are a part of the total ecosystem, geological formation, or which reflects a cultural heritage directly related to the areas authorized herein as units of the four land conservation systems. Within units established by this Act and within each area of environmental concern so designated, the Secretary is authorized to cooperate and seek agreements with the heads of other Federal agencies and the owners of lands and waters including, without limitation, the State of Alaska or any political subdivision thereof, any Native corporation, village, or group having traditional cultural or resource-based affinities for such areas, and, with the concurrence of the Secretary of State, the governments of foreign nations. Such agreements shall have as their purpose the assurance that resources will be used, managed, and developed in such a manner as to be consistent with the preservation of the environmental quality of such areas and management of units established by this Act. The agreements may also provide for access by visitors to and across the lands which are the subject of the agreements.

(b) With respect to lands, waters, and interests therein which are subject to a cooperative agreement in accordance with subsection (a), the Secretary may provide technical assistance in planning and resource use, and he may assist, without provision for reimbursement if he determines to do so is in the public interest, the landowner in fire control, trespass control, and law enforcement within the limits of available appropriations.

(c) The head of any Federal agency, other than agencies that are parties to cooperative agreements pursuant to subsection (a) of this section, having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within, adjacent to, or related to areas added to existing units or established by titles I, II, III, IV, and VI of this Act and the head of any Federal department or interdepartmental agency, other than parties to such agreements, having authority to license any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking.

SEC. 708. (a) There is hereby established the Alaska Cooperative Planning Commission (hereinafter referred to as the "Commission"). The Commission shall consist of the field directors of all Federal bureaus having administrative jurisdiction over Federal lands in Alaska and, to the extent the State of Alaska shall concur, the heads of all State agencies having administrative jurisdiction over State lands, together with four public members, of whom not less than two shall be representatives of Native corporations. The Secretary shall appoint two of the public members and the Governor of Alaska shall appoint the other two public members.

In addition to the foregoing members, there is hereby established the position of Chairman of the Commission, who shall be appointed by the Secretary, and who shall serve at his pleasure. In the event the State of Alaska shall have designated the heads of State agencies as members of the Commission, the Secretary may appoint the Chairman only with the concurrence of the Governor of Alaska. The Chairman shall be compensated by the Secretary at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code. The Secretary shall, not less than once each year, publish a list of the membership of the Commission in the Federal Register.

(b) The function of the Commission shall be to conduct studies and advise the Secretary, other Federal agencies, the State of Alaska, and Native corporations with respect to ongoing, planned, and proposed land and resource uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural development, coastal zone management, and such other matters as may be submitted for advice by the members.

(c) Federal members of the Commission shall receive no compensation for service on the Commission as such. Public members shall receive compensation at not to exceed $100 per day and shall be entitled to reimbursement for expenses reasonably incurred by them in carrying out their responsibilities. The agencies represented by Federal members shall contribute such funds, staff, and property to the Commission as are necessary to enable it to carry out its functions. As an express condition of State membership on the Commission, members from the Government of the State shall contribute such funds, staff, and property to the Commission as are appropriate, but not less than 50 per centum of the annual expenses of the Commission. The Commission shall meet at the call of the Chairman, but not less than once each calendar year. A report of each meeting, together with any recommendations as may be appropriate, shall be submitted to the Secretary, the Governor of Alaska, and the head of each Native regional corporation. Commission meetings shall be open to the public.

(d) The Commission shall adopt such internal rules of procedure and organization as it deems necessary. The Commission and its operations shall be subject to the provisions of the Federal Advisory Committee Act.

(e) The Commission may, with the concurrence of the members having administrative jurisdiction over the lands and waters and fish and wildlife resources therein, recommend cooperative planning and management zones, consisting of areas of the State of Alaska in which the management of lands or resources by one member materially affects the management of lands or resources of another member or members. Federal members of the Commission are hereby authorized and encouraged to enter into cooperative agreements with other Federal members and with State and Native members providing for mutual consultation, review, and coordination of resource management plans and programs within such zones.

(f) The Commission shall have no classification authority and will have only an advisory role with respect to cooperative planning and management zones.

SEC. 709. The Secretary shall direct the Fish and Wildlife Service to participate, where appropriate, in fish and wildlife studies and resource planning on units authorized by this Act as components of the National Park and Wild and Scenic Rivers System. The Secretary shall also direct the National Park Service, where appropriate, to participate in recreation planning, interpretation, historic resources protection, and ecological research on areas authorized by this Act as units of the National Wildlife Refuge and Wild and Scenic Rivers Systems.

SEC. 710. PLANNING. Except as otherwise provided, within five years from the effective date of this section, the Secretary shall

formulate (and he may from time to time revise) a detailed resource management and use plan for each unit of the systems established in titles I and II of this Act. Lands within the area of environmental concern may be added to the plan through voluntary cooperative agreements with other Federal agencies, the State of Alaska, or private landowners. Where units of the National Wildlife Refuge System and the National Park System share important biological and physical characteristics which control the natural occurrence and the management of fish and wildlife and their habitat, and scenic, historical, and archeological resources within each unit, a single plan shall be developed for the management and use of such resources. Each plan shall identify management practices, which the Secretary shall adopt and implement, that will accomplish the specific purposes of the areas set forth in titles I and II.

The Secretary shall formulate each plan and any revision thereof only after holding one or more public hearings in the vicinity of the affected unit or units, and only after consultation with the appropriate agencies of the State of Alaska.

SEC. 711. AUTHORITY TO CONSTRUCT CAPITAL IMPROVEMENTS ON NON-FEDERAL LANDS. Notwithstanding any other provision of law, the Secretary is authorized to construct, operate, and maintain, with funds appropriated for the purposes of this Act, such permanent and temporary buildings and facilities as he deems appropriate to provide visitor services and for administrative purposes, on lands within and outside the boundaries of the units established by this Act, without regard as to whether title to the underlying land is in the United States: *Provided*, That in the case of buildings and facilities constructed on non-Federal land, the owner shall have entered into a cooperative agreement with the Secretary, the terms of which shall assure the continued use of such buildings and facilities for the purposes of this section.

SEC. 712. STATE LAND EXCHANGES. In the exercise of his authority to acquire lands, waters, and interests therein for the purposes of this Act, the Secretary may utilize the provisions of subsection 22(f) of the Alaska Native Claims Settlement Act, as amended. Property acquired within the boundaries of the areas added to the four conservation systems by this Act shall become part of the area within which it is located, and subject to the laws and regulations applicable to such area.

SEC. 713. AUTHORITY TO HIRE LOCAL RESIDENTS. The Secretary shall give full consideration to employing qualified persons whom, by reason of their having lived, worked, or studied in or near the units of the national conservation systems established by this Act, the Secretary determines have special knowledge or expertise concerning the resources of such units and the management thereof, in accordance with applicable Civil Service Commission laws and regulations.

SEC. 714. Within areas added to the National Park, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems by this Act, access to, and operation and maintenance of, air and water navigation aids, communications sites, and related facilities shall be permitted in accordance with the laws and regulations applicable to the National Park, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems, as appropriate. Access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities notwithstanding any other provisions of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation, and maintenance within wilderness areas designated by this Act.

TITLE VIII—MINERAL MANAGEMENT ZONES

SEC. 801. (a) Within the areas identified as Mineral Management Zones on the map referred to in section 2 designating the boundary of the Wrangell-St. Elias National Preserve, the Secretary is authorized to study, or to grant permits for study of these zones to determine the mineral potential of the areas and to determine whether further mineral exploration and extraction activities may be conducted in the zones in a manner consistent with the purposes for which the area was established. Such studies may be conducted only by means that do not substantially alter surface features of the zones.

(b) If, based upon the information obtained by any study authorized under subsection (a) of this section, the Secretary determines that there is a possibility that surface-disturbing exploration for and extraction of minerals within the zones may be conducted in a manner consistent with the purposes for which the area was established and that any surface disturbed by such activities may be substantially restored to its original condition, he is authorized to issue permits for such exploration and extraction.

(c)(1) If the Secretary determines, based on the information obtained as a result of study permit, that exploration and extraction permits may be granted in accordance with subsection (b) of this section, the study permittee shall be given the right of first refusal to receive the exploration and extraction permit. If the exploration and study permittee refuses the offer, the Secretary may offer the lands for lease on the basis of competitive bidding.

(2) If, as a result of information obtained by any means other than a study permit, the Secretary determines that mineral exploration and extraction should be permitted in accordance with subsection (b) of this section, the Secretary may issue mineral exploration and extraction permits on the basis of competitive bidding.

(d) For the purposes of this section, the term minerals shall include only those minerals that were subject to disposition under the Mining Law of 1872 on January 1, 1977.

(e) The Secretary is authorized to issue regulations to implement this section, which regulations shall include provisions for:

(1) the duration, assignment, and renewal of any permit;

(2) the establishment of a fee and royalty schedule for issuance and maintenance of permits;

(3) the terms by which a permit under subsections (b) and (c) of this section may be issued;

(4) stipulations to ensure that all activities undertaken under any permits shall be consistent with the purposes for which the area was established; and

(5) for removal of associated minerals.

(f) Notwithstanding the provisions of section 5, U.S.C. 552(b)(4) and (b)(9) of the Freedom of Information Act, any information made available to the Secretary by an applicant or permittee under this section shall be available to the public.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. IDITAROD NATIONAL HISTORIC TRAIL.—(a) Section 5(a) of the National Trails System Act (82 Stat. 919; U.S.C. 1241) is amended by inserting the following new paragraph at the end of said section:

( ) The Iditarod National Historic Trail, including the main route (approximately 1,100 miles) and branch segments (approximately 930 miles), extending from Seward to Nome, Alaska, following the route depicted on the maps, identified as "Seward-Nome Trail" in the Department of the Interior Iditarod Trail study report dated ———, 1977: *Provided*, (i) That while this Act will commemorate the entire route of the Iditarod Trail by designation as the Iditarod National Historic Trail, only those segments which are within the exterior boundaries of federally administered areas and which meet the national historic trail criteria established in this Act, are established initially as components of the Iditarod National Historic Trail, and (ii) that the Secretary of the Interior may designate lands outside of the exterior boundaries of federally administered areas as segments of the Iditarod National Historic Trail upon application from State or local government agencies or private interests involved if such segments meet the national historic trails criteria established in this Act and such criteria supplementary thereto as the Secretary may prescribe, and are administered by such agencies or interests without expense to the United States, and (iii) that notwithstanding the provisions of section 7(c) of the National Trails System Act, the use of motorized vehicles on segments of the Iditarod National Historic Trail will be permitted in accordance with regulations prescribed by the appropriate Secretary.

(b) The responsibility for coordination of Iditarod National Historic Trail matters shall rest with the Secretary in consultation with the heads of other Federal and State agencies where lands administered by them are involved. Such responsibilities shall include:

(1) Selecting the specific trail route, as provided for in section 7(a) of the National Trails System Act, within three years after the date of enactment of this section.

(2) Developing a plan and guidelines for the acquisition, development, management and maintenance of the trail with the advice and assistance of other Federal, State, and local agencies and organizations; such plan and guidelines to include provisions for the acquisition, retention, or dedication of significant historic sites and for a right-of-way or easement along most or all of the route to protect historic values and segments for potential future recreational trail development and to insure continued public travel along the various trail segments.

SEC. 902. KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK. The Act approved June 30, 1976 (90 Stat. 717), providing for the establishment of the Klondike Gold Rush National Historical Park, is amended by revising the second sentence of subsection (b)(1) of the first section to read as follows:

Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange: *Provided*, That notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), the State may include the minerals in any such transaction.

SEC. 903. The provisions of section 2 and 8 of P.L. 94-429, 16 U.S.C. 1902, 1908, are hereby extended to all units of the National Wildlife Refuge System established by this Act. For the purposes of this section, the term "National Wildlife Refuge System" shall be substituted for the term "National Park System" and the Act of October 15, 1966, as amended (16 U.S.C. 668dd, et. seq.), for the Act of August 25, 1916, as amended (16 U.S.C. 1), wherever those terms appear in sections 2 and 8 of P.L. 94-429.

SEC. 904. COOPERATIVE INFORMATION CENTER. The Secretary is authorized, in consultation with other Federal Agencies, to investigate and plan for an information and education center for visitors to Alaska on not to exceed one thousand acres of Federal land, at a site adjacent to the Alcan Highway. For the purposes of this investigation, the Secretary shall seek participation in the program planning, and/or operation of the center from appropriate agencies of the State of Alaska and representatives of Native groups in Alaska, and he is authorized to accept contributions of funds, personnel, and planning and program assistance from such State

agencies, other Federal agencies, and Native representatives.

TITLE X—APPROPRIATIONS

SEC. 1001. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

STATEMENT OF SECRETARY OF THE INTERIOR CECIL D. ANDRUS

Mr. Chairman, I appreciate your invitation to testify today. It is my privilege to present President Carter's recommendations on your legislative initiative for new National Parks, Wildlife Refuges, Forests, Wild and Scenic Rivers and wilderness areas in Alaska.

Since your hearings and the House Committee's hearings earlier this year, after lengthy study we have developed our views on the pending legislation. These comments were prepared in the form of amendments to H.R. 39, which is nearly identical to S. 1500. For the Committee's convenience, we have now put those amendments in the form of a draft bill which at your request I recently submitted to the Committee. We urge its enactment.

I want to begin my presentation today, Mr. Chairman, by recalling the long and close association between this Committee—and its Chairman—with the State of Alaska and its predecessor territory. At every step along the road to statehood and through the sometimes difficult first years afterward, this Committee has been intimately involved in national decisions affecting Alaska. Members of this Committee recognized the needs of Alaska's Native citizens and addressed them through the Alaska Native Claims Settlement Act. Later, members of this Committee took the lead in making sure that Alaska's Prudhoe Bay oil was available for an energy hungry nation.

Today we come to ask you to complete business begun six years ago when the Native Claims Act put into motion a process for setting land aside for the national interest. Only in Alaska do we still have the opportunity to set aside whole ecosystems, entire watersheds and river basins for future generations to enjoy and learn from. It is only in Alaska—out of all our great Nation—where we can still see land much as the first migrants across the Bering Sea from Asia must have seen it tens of thousands of years ago. The free roaming herds of caribou and the million-bird flocks that still fill the skies are national treasures which until recently thrived as we ignored them. Today, though, we can no longer depend on distance to protect Alaska's wildland resources.

Increasing and conflicting uses of Alaska make it necessary for us to act now to protect its most important scenic wonders and wildland habitats. And the pressure to act gives us an historic opportunity. The creation of 92.5 million acres of new National Parks, Wildlife Refuges, Wild and Scenic Rivers and National Forests is at the top of this Administration's environmental priority list. In his Environmental Message last May, President Carter cited the Alaska lands recommendations, saying "No conservation action the 95th Congress could take would have more lasting value than this."

The recommendations we offer today provide an unusual opportunity to act in everybody's best interest. For seven years the future of Alaskan development has been clouded by uncertainty over the final boundaries of the Alaska National Interest Lands and the delays in conveying the land entitlements. No situation is more likely to discourage investment.

And until the investment climate in Alaska becomes more hospitable, neither the State nor its Native citizens will be able to realize the full potential of their combined 150 million acre land base. By adopting our recommendation, Congress can, in one stroke, clear away this uncertainty. Development will proceed according to demands of the marketplace, rural Alaskans will benefit through protection of lands and waters that support their subsistence lifestyle, and the national interest will be served through protection of the essence of this country's last remaining wild regions. It is only recommendations such as ours, which draw the final boundaries, that can accomplish this goal.

Mr. Chairman, I am confident that this Committee's long association with Alaska gives it the resources and the perspective to forthrightly complete our unfinished business for the national interest in Alaska.

Mr. Chairman, for almost half a millenium man has put ever increasing pressures upon the ecology of the North American continent. The "lower 48" with a population of perhaps one million Native Americans five centuries ago, today supports some 213 million and serves as breadbasket and manufacturer to much of the rest of the world.

Alaska had perhaps 75,000 inhabitants when the Russians arrived. Now it has several times that population—and is growing rapidly. It is looked upon as a potential source of fuels, minerals, timber and fish for the lower 48 and for other nations.

Until recently the essence of our national policy has been the unplanned, rapid development and consumption of the resources of this continent. In establishing the first national parks and wildlife reservations a little more than a century ago, the Congress acted with foresight for the future of America, and of the world. At a time when much of America was still wide open space, it took courage to cut against the grain of "common sense" and protect some of our most spectacular areas. Unfortunately, we were not always able to move resolutely enough to protect all that deserved protection. Recently we have found ourselves forced to expand some parks, including Redwoods and Everglades, at great cost, in order to protect resources we once thought safe.

Now in Alaska—we have an opportunity to look to the future as we learn from the past. Alaska is a rare second chance for us as a people—a chance to preserve a major portion of our national heritage—to strike a balance between extracting important natural resources and protecting our last great region of wildlands.

Through enactment of our proposals, we can be certain that the crown jewels of Alaska—its most spectacular natural environments, recreation areas, and wildlife habitats—will remain intact for the benefit of our Nation's citizens.

Some people seem to fear that we are trying to hoard resources needed by Americans today and in the immediate future. That is not the case. Our proposal has been prepared with sensitivity to the resource needs of Alaska and America both now and for the coming years.

There are conflicts between some of our proposed parks and refuges and potential petroleum and mineral activity. We have not tried to gloss over them, nor have we exaggerated their importance. It would be impossible to make recommendations on this scale without encountering some potential use conflicts.

In the final analysis, though, I had to make some hard decisions based on all available information. Our recommendations for National Parks, Wildlife Refuges, Wild and Scenic Rivers and National Forests in Alaska reflect my best judgment. And they reflect the Interior Department's and this Administration's commitment to protect Alaskan wildlands while remaining sensitive to Alaska's and the Nation's need to own and develop resources.

As we grapple with this legislation in the coming months we should remember there are roughly 375 million acres in Alaska. Our proposal involves approximately 92.5 million acres. The State of Alaska will be receiving over 103 million acres, much of which will be open to development. The Natives are receiving more than 44 million acres, some of which will be developed. And, in addition, there will be up to 100 million acres, some of which will be developed. And, in addition, there will be up to 100 million acres of federal land remaining outside of parks and refuges which will be available for mining, timber harvesting, hunting, fishing, and other multiple uses for the benefit of Alaska and the Nation.

It is worth noting here, too, that enactment of our recommendations is bound to have a beneficial impact on the State's economy through the inevitable increase in tourism—an industry which has already edged ahead of Alaska's $145 million per year fishing industry. Every year thousands of people are drawn to Alaska to experience the feeling of true wilderness. As that resource dwindles in the rest of the Nation, Alaskans, and all Americans, will see the wisdom of the actions we take now to protect our last reservoir of wildlands in Alaska.

The question I ask is why—with all of the lands we are leaving open to potential development—should we also invite development and risk the destruction of those areas which are important for their beauty, their wildlife, or their ecological and cultural significance?

Why shouldn't we protect some of these resources so that through the years—and during our own lifetimes—the untrammeled glory of Alaska may be savored and shared. Vistas, wildlife and free-running rivers can be used over and over, but only if protected now.

Let me suggest this:

If we err in this decision and exclude some precious and delicate areas from the four systems, they could be lost forever. Americans in the future could neither enjoy them nor benefit from production from them. Alaska would be left to salvage these areas rather than treasure them.

But if we err by setting aside too much, that decision can always be changed in the future. Our system of government responds to pressures from the people. In the future the people may decide they so urgently need the resources from one of the protected areas that they will act to redesignate it—or allow development under stringent controls. This can be done. I am sure that future Congresses will not be insensitive to such needs—when they are real and present—just as I am sure this Congress will be sensitive to the real and present need to preserve and protect these natural values.

Deciding today what to do with this enormous landscape to preserve its essence for the future is staggering. It would be natural to fear that we lack the imagination to deal with conflicts of the scope presented by Alaska, but we should not fear failure simply because we cannot see all that is in the future.

Failure will come only if we choose not to act now. Until now inaccessibility and a harsh climate have shielded Alaska from the impacts of "progress" that we have experienced in the lower 48. Now, however, that shield has been penetrated.

Alaska Natives whose lives were once totally dependent upon wildlife are now shareholders in regional and village corporations. As a result of the growth and economic development throughout the State the need to change from a subsistence lifestyle to a cash economy has been sudden and painful for many. Others are accommodating to modern life without abandoning either traditional pursuits or ancient values.

We will not try to stop these changes. But we intend to protect and wisely manage some

of what is unchanged. Without forcing people either to stay on the land or to leave their Native villages, we can see to it that the opportunity to follow a subsistence lifestyle is not lost.

We cannot be, and we have not been, unresponsive to the needs of the people of the State of Alaska. My staff and I have sought the views of Governor Hammond, the State Legislature's Steering Council for Alaska Lands, the Land Use Planning Commission, representatives of the Native groups, conservation organizations, resource users and concerned citizens. I have visited Alaska and discussed this legislation with many of these people personally. Many of the decisions I have reached concerning our proposals have been difficult. I have tried, however, to accommodate as many of the views expressed as possible and still remain true to my responsibilities as Secretary of the Interior.

Governor Hammond has stated eloquently that "it is not easy to be both oil barrel to the Nation and National Park to the world," but to a great extent Alaska can be both. The Governor and Senator Stevens and the Land Use Planning Commission have both made "d-2" proposals which recognize this dilemma and treat it responsibly.

The recommendations which I am presenting for your consideration today draw heavily on those proposals, and, I am pleased to say, are in large measure compatible with them. We are deeply indebted to both for their resource information in dealing with the d-2 questions.

All proposals have identified the same nationally significant areas; the differences are in the type of management and extent of the boundaries.

Our proposal would place approximately 92.5 million acres of Alaska lands into the "Four Systems" management units.

We recommend establishing ten new units and expanding three existing units of the National Park System.

We also recommend establishing nine new units and expanding five units of the National Wildlife Refuge System.

These recommendations would constitute approximately 41.7 million acres in National Parks and Monuments and 45.1 million acres in National Wildlife Refuges.

We recommend adding 33 rivers to the Wild and Scenic River System, comprising about 2.3 million acres.

We recommend adding approximately 3.0 million acres to the existing National Forest System.

Our recommendations cover the full range of Alaska's natural areas, its unique cultural associations and its key fish and wildlife habitat needed to sustain its wild creatures. Let me describe, briefly, these areas to you:

WILDLIFE REFUGE SYSTEM

1. Arctic National Wildlife Refuge additions. The 8.85 million acres include lands that are critical for the 120,000 member Porcupine Caribou herd. This is one of the largest herds of free-roaming animals left in the world. The area also includes nesting, resting and feeding grounds for millions of birds. These additions would complete protection of this country's last remaining essentially untouched total arctic ecosystem stretching from the Arctic Ocean to the southern slope of the Brooks Range.

2. Yukon Flats National Wildlife Refuge. 8.45 million acres, including 40,000 lakes and potholes which are the most productive per acre waterfowl breeding ground in the State, as well as supporting major moose, bear, wolf and salmon populations.

3. Tetlin National Wildlife Refuge. 765,000 acres, where waterfowl including Canvasback and Redhead ducks breed, relying on this area when potholes in Canada are dry.

4. Kanuti National Wildlife Refuge. 1.2 million acres, including high-density nesting areas for White-Fronted Geese that winter along the Gulf of Mexico.

5. Nowitna National Wildlife Refuge. 1.45 million acres, produces nearly a quarter of a million birds for the Central flyway and is home to caribou, bear and moose.

6. Koyukuk National Wildlife Refuge. 3.33 million acres, a basin that produces 75,000 geese and 300,000 ducks every year and is key habitat for furbearers and moose.

7. Innoko National Wildlife Refuge. 2.84 million acres, producing 380,000 ducks which migrate to Washington and California each year. There are large numbers of beaver and other furbearers significant in local economies as well.

8. Yukon Delta National Wildlife Refuge. 10.59 million acres of watery tundra that annually sends south 100 million shore and water birds of many species and three million ducks and geese. The area supports an important salmon run. There is a wide diversity of other animals as well.

9. Selawik National Wildlife Refuge. 2.15 million acres which is the breeding ground for birds from Asia, Australia, New Zealand, Antarctica, South America, and Africa, grizzly bears, caribou and wolves. The sheefish lives in local waters.

10. Togiak National Fish and Wildlife Refuge. 3.84 million acres, with varied habitats supporting 1.7 million salmon, eagles and falcons, millions of seabirds and a wide array of land and marine mammals.

11. Kenai Moose Range additions. 234,000 acres rounding out habitats for the Kenai moose, trumpeter swans, Dall sheep, mountain goats and a diverse list of other fish and wildlife.

12. Becharof National Wildlife Refuge. 1.03 million acres including major denning areas for the giant peninsula brown bear and habitats for caribou, moose, and marine birds and mammals.

13. Alaska Marine Resources National Wildlife Refuge. 430,000 acres comprising the rocks, islands, spires and capes which host millions of breeding seabirds and most of the marine mammal species around the Alaskan coast.

NATIONAL PARK SYSTEM

1. Gates of the Arctic Wilderness National Park. 8.1 million acres of the Central Brooks Range north of the Arctic Circle. This is the heart of the Brooks Range, a vast, beautiful wilderness.

2. Kobuk Valley National Park. 1.67 million acres, including migration routes of the Arctic caribou herd, the Great Kobuk Sand Dunes, and important archeological sites.

3. Cape Krusenstern National Monument. 360,000 acres containing horizontal beach ridges and evidence of human occupation going back 4,000 years.

4. Aniakchak National Monument and Preserve. 495,000 acres, including one of the world's largest dry calderas, the remains of ancient volcanic explosions.

5. Katmai National Monument additions. 1.1 million acres that include critical brown bear denning and feeding habitat.

6. Kenai Fjords National Park. 412,000 acres, including the great Harding Icefield and associated coastal fjords.

7. Lake Clark National Park and Preserve. 3.14 million acres of diverse mountain scenery whose waters form part of the Bristol Bay watershed so important to Alaska's salmon fishing industry.

8. Mount McKinley National Park additions. 3.85 million acres to bring into the park the entire mountain massif and important wildlife habitat.

9. Wrangell-St. Elias National Park Preserve. 12.05 million acres of spectacular mountains, and the greatest assemblage of glaciers on the continent.

10. Yukon-Charley National Rivers. 1.7 million acres including an untouched entire river basin and critical nesting areas for falcons.

11. Bering Land Bridge National Preserve. 2.34 million acres, the remains of the land bridge that once linked Asia and North America, including rich archeological resources.

12. Glacier Bay National Monument additions. 580,000 acres of land important for wildlife habitat and migration routes.

13. Noatak National Ecological Preserve. 5.96 million acres encompassing the largest river system in the country still unaltered by western man.

WILD AND SCENIC RIVERS

Thirty-three beautiful and free-flowing rivers are proposed for designation, assuring for future generations a chance to enjoy recreational rivers use for all time. In addition, we propose nine rivers for study. A complete listing is attached to my testimony.

NATIONAL FORESTS

We are recommending additions of some 3.0 million acres to existing National Forests.

Parcels of isolated public land remain in southeast Alaska. All are in areas where there is dominant management by the Forest Service (and have not been identified as having national significance for Park or Refuge designation). Land management patterns and management efficiencies could be achieved by adding these parcels to the National Forest System (approximately 2.1 million acres).

In September, we recommended to the House Interior Committee that 1.6 million acres of these isolated parcels be transferred to the Forest Service. Since that time, we have reached agreement with the Department of Agriculture for the transfer of an additional 0.5 million acres which include the Nellie Juan and College Fiord areas adjacent to the Chugach National Forest.

Also to be transferred to the Forest Service to consolidate ownership is an area of 0.9 million acres in the Copper River delta. The Forest Service agrees that the millions of migrating birds which funnel through here every year require that this area be managed for protection of the fish and wildlife and their habitats.

The Administration recommends the establishment of Admiralty Island as wilderness under the jurisdiction of the Forest Service. In recommending wilderness designation, the Administration does not propose to take away the selection rights of the Native Corporations of Sitka and Juneau. We are hopeful that voluntary arrangements will be made with those corporations for the exchange of their selections on Admiralty Island for other forest lands in Southeast Alaska.

This million-acre island is home to some of the Nation's largest populations of bald eagles and brown bears. It contains one of the Nation's largest stands of virgin forest. The Tlingit Village of Angoon is one of the last remaining traditional Indian Villages of Southeast Alaska. Wilderness designation for this island would preserve not only the land but also protect the lifestyle of those people whose ancestors moved there hundreds of years ago.

I would like to comment specifically on one area, Iliamna. We considered including it in the National Wildlife Refuge System, but I have decided it is not appropriate for inclusion. Although the fish and wildlife values of the Iliamna area are tremendous, I did not propose a refuge because the Natives have made large selections and the State wishes to make selections in the area.

The State places great importance on State regulation of fishery resources and assures us that it will sensitively manage this area for its fish and wildlife values.

We will depend upon the State to protect the fish and wildlife in the Iliamna area. Our recommended language will provide sufficient authority to protect this important resource if the State has not established a management plan which is consistent with such protection prior to conveyance. After conveyance, if the Secretary determines that State managemnt is inconsistent with protection of this resource he may, by appropriate order, establish one or more units of the National Wildlife Refuge System on remaining Federal lands within the area.

A special study area is being proposed on the Alaska Peninsula, which contains some of the highest wildlife resource values in the State. Because of mixed land ownership patterns on the Peninsula, we did not propose immediate establishment of a refuge there. However, the Federal lands would be protected during the study period to assure that wildlife values are maintained, while efforts are made to consolidate land ownership patterns. Upon completion of the study in June of 1983, a specific proposal would be made to the Congress on how we can best provide long term protection of wildlife resources, possibly including establishment of one or more Refuges.

Mr. Chairman, certain working principles have guided our deliberations in developing these recommendations. For example, wherever possible we have tried to protect whole watersheds; resources rather than acreage have been the guide to the boundaries we have drawn. The preservation of natural and cultural diversity and habitat for fish and wildlife are primary reasons for all of our recommendations.

In order to recognize total ecosystems, our boundaries include some lands selected by the States and the Natives. Land selections so included would be treated as inholdings in existing Parks and Refuges. We are hopeful that the State and the Natives will work with us in the management of these areas to the benefit of all concerned.

My staff and I worked hard to draw boundaries that will adequately protect these truly significant wildlands while excluding wherever possible areas of potential conflict. We had available a computerized resource evaluation and other materials prepared by the State of Alaska to aid the State in making its selections. We studied mineral maps prepared by the Joint Federal-State Land Use Planning Commission, the U.S. Bureau of Mines and the Geological Survey. We used the most varied and up-to-the-minute data base we could compile. Even though we may never have complete mineral resource information for Alaska, we do have substantial data delineating the mineral potential of the State.

Just as important, we have enormous amounts of information on the surface values of the places we recommended for protection. Studies for parks and refuges in Alaska date back to the turn of the century, with an acceleration in research following passage of the Alaska Native Claims Settlement Act in 1971. In 1973 the Interior Department prepared a 28-volume environmental impact statement on the areas covered in Secretary Morton's recommendations, which identified the basic ecosystems contained within our recommendations.

We continue to sponsor scientific investigation by biologists, archeologists, anthropologists and geologists. Every river proposed for Wild and Scenic River status has been viewed or floated by professional planners who compared it favorably with the other rivers in the system. Every area proposed for park status has been explored by men and women with years of experience in identifying lands with park potential. And every proposed wildlife refuge has been selected by biologists and other natural resource scientists based on the number of birds or caribou which are dependent upon these breeding and feeding grounds.

The initial proposals recommended by Assistant Secretary Herbst to the Department were drawn on ecosystem and watershed boundaries and encompassed more than 120 million acres. Though deletions to avoid conflicts we cut those boundaries down to some 92 million acres.

We recognize that some conflicts remain. There are areas within our proposals which have a high mineral potential, such as in the Gates of the Arctic Wilderness National Park. We excluded a large portion of the Killik River basin from our Gates of the Arctic proposal because the Arctic Slope Regional Corporation wishes to develop the oil and gas in the area. It is a dual withdrawal d–2 area. We decided they should have the opportunity to do so and did not include it in our proposal. We also deleted some of the high hardrock mineral areas from our Gates proposal, but we did not exclude the entire mineral zone. To do so would have violated the principle of protecting the park ecosystem, including its wildlife and botanical resources, as well as some of Alaska's best scenic and recreational resources. Where we could not resolve the conflicts, it was our considered judgment that known public values were greater than the known mineral values.

That was the case with our recommendation that the existing Arctic National Wildlife Range be designated as wilderness. Some day perhaps we may elect to tap the oil which may underlie the coastal plain of the Range. But we believe that wilderness status is essential to protect the 120,000 caribou and millions of birds and other wildlife who depend on this ecosystem. Our Nation can afford to let them live undisturbed, at least for now, and we strongly recommend wilderness designation for the Range.

Where conflicts with sport hunting arose that could not be resolved by exclusive boundary designation we have used a "park-preserve" concept. Similar to Big Thicket and Big Cypress, National Preserves may accomodate a variety of uses including sport hunting, under regulation, which do not significantly impair the natural or cultural values for which the preserve is established.

Our recommendations represent the bottom line of what is necessary to protect the unique values that really make Alaska the special place it is. The land management designations are carefully attuned to the values of each area. We feel strongly that it is appropriate and in the national interest to classify these areas according to our recommendations.

Mr. Chairman, I would now like to discuss several important issues which have an overall application to our d–2 proposal.

COOPERATIVE PLANNING AND MANAGEMENT

There is widespread consensus that some sort of cooperative planning and management is needed among Federal, State and private landowners. ANCSA and Alaska Statehood provisions are resulting in divergent landholdings in every area of the State. Decisions on wildlife, transportation, watersheds and various developments of national significance cut across these property boundaries. Several proposals have been advanced by Governor Hammond, members of the Alaska delegation and the Land Use Planning Commission to formalize a means by which Federal and State cooperation can best be obtained.

To facilitate overall planning and management cooperation in the State, we propose the establishment of a statewide Cooperative Planning Commission. This commission would serve as the statewide focus for cooperative planning, doing not only its own work on major issues, but also serving as the catalyst and organization for State/Federal/Native planning, interagency studies and meetings. The Commission would be advisory to land managers and could make such recommendations as land use designations outside of Federal management areas. The Chairman would be appointed by the Secretary with the concurrence of the Governor and would serve on a full-time basis. The Commission would be composed of public members, Native representatives and land managers who represented each of the Federal land management agencies in Alaska and their counterpart State land management agency representatives.

Further, included in many of our d–2 area proposals, we have identified adjacent areas within which resource use and development are critically important to the proper protection, management and interpretation of the natural and wildlife resources within the d–2 area. We urge legislative designation of those areas.

We have designated these as "areas of environmental concern" (AEC). We propose that the Departments be authorized to enter into *voluntary* cooperative agreements with the landowners in these AEC's so that some form of cooperative planning and consultation can be achieved between the d–2 land management agency and the adjacent public and private adjacent landowners on matters related to the purposes of the d–2 lands. I want to emphasize that we are *not* proposing any regulatory authority in these areas other than that already applicable in those areas under existing Federal law, such as the Federal Water Pollution Control Act. Rather, the AEC's would be related to the cooperative planning and management effort to be undertaken by the proposed Advisory Commission.

Additionally, we propose that the Secretary be authorized to enter into cooperative agreements with the State and Native corporations within Cooperative Planning and Management Zones established by the Commission. These Zones could be established by mutual agreement by the Department, the State and the Native corporations whose lands would be included within a zone. We propose this Cooperative Planning and Management Zone mechanism as a means by which cooperative planning and management can be employed to protect a particular resource in whole ecosystem-wide areas, such as the North Slope, the Beaufort Sea, the Bristol Bay salmon fishery watershed or the Arctic caribou herd migration area.

In all instances cooperative arrangements would be advisory only. We are not proposing that any responsibility of the Secretary of the Interior be delegated to any Board or Commission by agreement or otherwise. Nor are we suggesting that Congress delegate its authority over land classification to any other body. We would actively oppose such a proposal.

SUBSISTENCE

Although hunting activities have traditionally been allowed on certain Federal lands, they have generally been prohibited in areas of the National Park System. However, legitimate subsistence uses occur in some of the proposed park system areas, and we recognize them. We also recognize that Park and Refuge lands will aid in maintaining subsistence lifestyles in Alaska by safeguarding important wildlife habitat. We believe that life based on subsistence is an integral and important part of rural Alaska.

In areas added to the National Wildlife Refuge system, we recommend a provision recognizing subsistence uses similar to that for the Parks. Additionally, the refuges would be open to sport hunting within the framework of Federal and State law.

Refuge areas could also be closed in whole or part to hunting, both sport and subsistence, if necessary to protect the resources of the area.

This legislative proposal would authorize the Secretary within areas authorized or added to the Four Systems to designate sub-

sistence use zones, which recognize the traditional subsistence uses prior to the 1971 level. The land manager would be authorized to close all or part of these subsistence zones for various reasons associated with management, administration, and fish and wildlife protection. This closure authority is necessary to assure that the areas are managed for the purposes for which they are established and to preserve the total ecology of the area. To the extent that consumptive uses of the fish and wildlife resources are authorized on a given area, however, a preference would be given to subsistence uses.

This proposal is based upon the concept that the regulation of subsistence hunting, as with the taking of resident wildlife generally, should be managed under State authority consistent with existing Federal law and policy. In addition, we believe that subsistence users should not be racially defined.

WILDERNESS

Studies have now been completed as to the suitability for designation as wilderness on three existing National Park System areas and on thirteen existing national wildlife refuges in Alaska as required by the Wilderness Act. Due to the pending d–2 additions, and due to the Native selections within existing refuges, wilderness recommendations on existing areas, with four exceptions, have not previously been submitted to the Congress. Our wilderness proposals spring from a long process of study and evaluation.

We propose wilderness in three existing units of the National Park System in Alaska, totalling 6.7 million acres, and in four existing refuges totalling 12.5 million acres for a total of 19.2 million acres of wilderness in existing areas.

Our studies indicate that selective immediate wilderness designation is highly desirable for some of the new d–2 areas which we propose. Therefore, we recommend designation of wilderness in four new Park System areas, totalling 23.6 million acres, and designation in two new refuge additions, totalling 0.51 million acres. The total for existing and new areas is 43.31 million acres.

All other new park and refuge system additions and remaining established wildlife refuges will be formally studied under the Wilderness Act and recommendations made in 3 to 7 years as to wilderness suitability. We will attempt to complete some of these studies within 3 years and others will be scheduled for completion within 3 to 7 years. Due to weather and manpower limitations, and the need for surveys of other resources, we could not complete all of these studies within 3 years. Congress would then decide whether to designate these studied areas as wilderness. We recommend no wilderness designation for wild and scenic rivers outside national interest areas.

Aircraft, motorboats and snowmachines are the principal means of motorized access in remote parts of Alaska, and the use of snowmachines is widespread for subsistence purposes. The Wilderness Act permits the established use of motorboats and the landing of aircraft in wilderness areas by regulation. We propose to allow such use in Alaska.

Further, we propose that the use of snowmachines in wilderness areas be allowed but strictly limited to subsistence use, emergencies and management.

Our proposals will, of course, allow for continued use of navigational aids and access to them for administrative purposes in wilderness areas.

MINERALS

Let me discuss briefly the range of permissible mineral activities for those areas included in our proposal.

National parks, monuments, and wild rivers established by this legislation will be withdrawn from all new mineral exploration, entry, and location, or leasing, subject to valid existing rights. In accordance with recent amendments to ANCSA, oil and gas development will take place where the Natives own subsurface rights within the Aniakchak National Preserve. Refuges would also be withdrawn from location and entry for hardrock minerals, but we propose that discretionary oil and gas leasing be permitted in the new refuges where compatible with the purposes for which the lands are established, and following appropriate classification by the Department.

All units of the National Park System in the United States are closed to mineral entry and location under the Mining Law of 1872. In those areas of the National Park System where valid claims existed prior to closure, mining activities may continue subject to strict control under the terms of the Mining in the Parks Act, P.L. 94–429, 16 U.S.C. 1901 *et seq.*

Within the proposed Wrangell-St. Elias National Preserve, we have recognized two areas containing potentially significant mineral resources, primarily copper. The possible importance of these two areas is such that further mineral study and controlled mineral extraction are warranted.

Accordingly, this legislation identifies the land containing the mineral management zones and authorizes the Secretary to conduct mineral studies and mineral extraction under a permit system, with strict environmental controls.

In these zones, we propose that the Department be authorized to undertake exploration studies or issue study and exploration permits to private concerns. The purpose would be to determine the nature of the minerals in these zones, and the feasibility of extraction in a manner consistent with the purposes for which the preserve was established.

After reviewing the information obtained as a result of this study and exploration in the mineral management zones of the Wrangell preserve, we would determine whether minerals could be extracted in a manner consistent with the purposes for which the preserve was established and whether reclamation is possible. If so, we would have discretion to issue a mineral extraction permit. The permit would contain necessary stipulations and conditions to insure the protection of the environmental integrity of the area.

The only minerals available for extraction under this approach are hardrock minerals (those locatable under the Mining Law of 1872). Minerals covered under the Mineral Leasing Act (e.g., oil and gas), and the Materials Act (e.g., sand and gravel), are not included.

We anticipate that there will be a number of valid existing mining claims within the boundaries of new Alaskan units of the National Wildlife Refuge System, and that regulatory control of activities on these claims will be required. Although designation of an area as a wildlife refuge is an implied delegation of regulatory authority, the authority contained in the Mining in the Parks Act is the type of specific language that not only provides a basis for efficient regulation but also provides a standard for the exercise of this authority. This authority will automatically apply to all new units of the National Park System. We propose that this authority be extended to all new Alaskan units of the National Wildlife Refuge System.

The effect of this addition would lead to a consistency in treatment of valid claims in Alaska on parks and refuges, would support environmental regulations, and would require registration of claims within 1 year of passage of this Act, rather than by October 1979 as required by the BLM Organic Act.

Finally, recognizing that we need to continually improve our understanding of the mineral potential of Alaska, the Geological Survey will continue mineral evaluations in all areas under its long-term Alaska Mineral Resource Assessment Program. Maps from these assessments will provide more detail than currently available on mineral potential, and will be periodically available as they are completed over the next 20 to 25 years.

ACCESS AND RIGHTS-OF-WAY ACROSS PARKS AND REFUGES

We strongly believe that the application of existing law and procedures, such as section 4(f) of the Department of Transportation Act and Section 4 of the National Wildlife Refuge Administration Act, as amended, is sufficient to determine need for access through newly proposed d–2 areas. Under existing law, rights-of-way may be granted across parks for electrical transmission lines, and federal-aid highways.

Pipelines and utility rights-of-way may be granted on refuges if they are compatible with the purposes for which these areas were established. We will examine carefully on a case-by-case basis any right-of-way request to assure that it does not adversely affect the natural values sought to be protected and managed in the legislation establishing a particular area. Existing law will be adequate to accomodate most legitimate right-of-way needs.

We reject the thought that transportation corridors be carved out of nationally significant d–2 lands before the need for such access is established, the impact on the resources is known, and all viable alternatives have been considered. We do, however, endorse the need for ongoing planning for future transportation access needs.

WILD AND SCENIC RIVERS

Alaska's wild and scenic rivers represent some of the finest water-related recreation opportunities in the country. We recommend that the bill designate all 33 qualified rivers as units of the Wild and Scenic Rivers System, regardless of whether they occur within or outside of parks and refuges. Those rivers designated outside of parks and refuges should be managed by the federal agency managing the adjacent federal lands. It would be inefficient and confusing to the public if one agency had management authority over the river corridor and another was responsible for adjacent lands and resource uses.

We recognize that designation of several of the rivers we propose as components of the National Wild and Scenic Rivers System will affect their use as potential sites for the development of hydroelectric power. However, with the exception of the Susitna, which we recommend for study designation, we believe that the potential for economic development of hydroelectric power on these rivers is far too speculative to justify withholding wild and scenic river designation at this time.

We are not recommending that wild and scenic rivers be designated as wilderness. The protection afforded designated rivers under the Wild and Scenic Rivers Act is adequate. Moreover, wilderness designation would conflict with future needs for access across these rivers for such facilities as pipelines, for which our language specifically grants authority.

EXPRESS AUTHORITY TO EFFECT LAND EXCHANGES

In general, the State has selected lands based on their known potential for mineral development, other commodity use, or for population growth.

We have drawn our recommended boundaries for the most part to exclude State-selected lands which have high development potential. Our boundaries do, however, include some areas of State selected lands, some of which have been tentatively approved for conveyance to the State. We

have also tried to exclude Native-selected lands in cases where Natives preferred not to be included within our boundaries.

Mr. Chairman, we do not propose to revoke valid State or Native selections. Within the boundaries of the proposed d–2 acres, the Department should be given express authority to acquire lands, waters, and interests therein by donation, purchase, or exchange. This authority should provide, however, that property owned by the State of Alaska or any political subdivision thereof may be acquired only upon the consent of the State. In this same regard, this express acquisition authority in the Secretary should provide that property conveyed under ANCSA and owned by any Native corporation may be acquired only with the consent of the owner.

CONVEYANCE OF LAND TO THE STATE AND NATIVES

The concern of the Native corporations to receive title to lands granted them under the ANCSA is one with which I agree. Unfortunately, to assure that the title they receive is good and "bankable" and to meet other requirements of the ANCSA, there are various steps that the Department must take in processing these conveyances. I assure you that all members of my staff and I are fully committed to seeking ways to resolve existing problems and to expedite the necessary conveyances. An intensive policy level review of ANCSA has been underway for several months, and I expect to be making decisions at the end of this month to resolve the issues which have delayed conveyance. I will inform the Committee on my decisions concerning these issues at that time.

The State's remaining land selection entitlement will come from lands left after Native selections and d–2 areas are completed. The State has made known its specific areas of interest for selections, and these are being analyzed by the Department. Our objective will be to seek conveyance of State selections not in conflict with Native selections, national interest land, or good land planning management principles as agreed with the State at the time the final bill is passed. If we are successful, a substantial percentage of State entitlement can be conveyed on this schedule.

Following passage, work should continue to make further selections and improve the overall land pattern, especially with regard to inholdings, by exchanges and cooperative planning and management.

COASTAL AREAS OF REFUGES AND PARKS

Mr. Chairman, I would like to emphasize to the Committee and to the State the importance with which I view the zones offshore from the proposed refuges and parks. I don't think that anyone will deny that the waters adjacent to a coastal area are an integral part of the coastal ecosystem. There is a vital link between the wildlife values of the shoreline area and the wildlife values of the waters and the offshore islands. We initially considered including these zones within area boundaries, but did not so as to avoid conflict with the State.

However, we are quite concerned about the wildlife which are so abundant within a six-mile area offshore from these refuges and parks. Within a six-mile area offshore, our studies show that the greatest number of marine mammals and the largest number of seabirds are found feeding, rearing their young, staging and resting during migration. Such areas offshore require extremely sensitive management to protect these habitats.

We believe that the Department, the National Oceanic and Atmospheric Administration, and the State can work together to manage cooperatively these adjacent offshore areas to avoid environmentally disturbing conflicts. These areas should be included in one or several cooperative planning zones under our proposed cooperative planning scheme.

Mr. Chairman, since the early beginning of the Alaska Native Claims Settlement Act legislative process, over 10 years ago, the Department and the Congress have been involved in a long, continuous process o growth and innovation in dealing with the unique and challenging problems concerning Alaska. We are now nearing the end of the ANCSA process and the enactment of this d–2 legislation will be the last major legislative initiative in that process.

We have a task before us of historic significance. We have an opportunity to preserve and protect the valuable natural, scenic, and wildlife resources of Alaska.

The President and I are totally committed to early passage of a strong d–2 legislative package. I pledge to you the full support of the department in working on this legislation. We also look forward to working with the State, the Natives, and the existing Federal-State Land Use Planning Commission to arrive at cooperative means to plan for the future of Alaska and the Nation.

Mr. Chairman, with this legislation we have a one-time opportunity to protect important resources in Alaska in a manner that has been lost forever in most of the lower 48 States. When I say "we" have an opportunity, I mean all of us—the American people, the Federal Government, the Government of the State of Alaska, the Natives whose lifestyle is as integral a part of the land as the rivers, the wildlife and the mountains—we have the opportunity now to protect and preserve the future of millions of acres of Federal lands which belong to all the citizens of this Nation.

Mr. Chairman, I will be pleased to answer any questions which the Committee members might have at this time.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, Mr. WILLIAMS, and Mr. JAVITS):

S. 2466. A bill to amend the Public Health Service Act to establish the National Institutes of Health Care Research; to extend and revise the assistance programs for health services research and health statistics; to establish the National Center for the Evaluation of Medical Technology, and for other purposes; to the Committee on Human Resources.

NATIONAL INSTITUTES OF HEALTH CARE RESEARCH ACT OF 1978

Mr. KENNEDY. Mr. President, I am pleased to introduce on behalf of myself and Senators SCHWEIKER, WILLIAMS and JAVITS, the National Institutes of Health Care Research Act of 1978. This legislation, if enacted, would create a seventh major agency in the Public Health Service. Its function would be to plan and undertake a broad series of research and related activities aimed at improving our health care delivery system. These include the collection and analysis of health statistics, the conduct of epidemiological research in the health area, the support of health services research, and the evaluation of medical technologies.

In the past, the Federal Government has invested meagerly, if at all, in these activities. In my view, this has been a grave mistake. It is my conviction that the enactment of this legislation would be a first step toward reversing that pattern of neglect. It is also my hope that this new institutional structure will give new focus and definition to these related research activities, and give them the prominence they deserve in the Federal Government.

The National Institutes of Health Care Research Act of 1978 would accomplish the following specific reforms:

First. It would create a National Institutes of Health Care Research modeled upon and parallel to the National Institutes of Health. This umbrella organization would provide overall policy guidance and coordination for its component institutions.

Second. It would create a National Center for the Evaluation of Medical Technologies, a new agency within the NIHCR. Its major purpose would be to assess cost and effectiveness of medical practices and procedures.

Third. It would expand, redirect, and rename the National Center for Health Statistics. This agency would become the National Institutes for Health Statistics and Epidemiology, and would become a component agency of the NIHCR.

Fourth. It would expand, redirect, and rename the National Center for Health Services Research, which would become the National Institute for Health Policy Research. This new agency would also become a component part of the NIPH.

Let me take each of these proposed changes and explain the justification for them. The creation of the National Institutes of Health Care Research would, in my view, fill a major gap in the institutional support for health research and development in our Government. The National Institutes of Health has become the major supporter of biomedical research in this country. It currently spends $2.8 billion a year generating new medical knowledge and new clinical applications of that knowledge.

However, biomedical research is not the only form of health-related inquiry which deserves Federal support. There are other research disciplines and pursuits which, while they do not involve laboratories and chemicals, can still yield impressive dividends by improving the quality, efficiency and effectiveness of the Nation's health services. These lines of health inquiry include:

First. Health services research and development: The study of the organizations and functioning of our health delivery system for the purpose of perfecting its performance.

Second. Health statistics: The gathering of information on the health of our population. This data allows us to trace the strengths and weaknesses of our health care system as it impacts on the health of Americans.

Third. Epidemiology: The collection and analysis of health data looking for clues about how to prevent and cure illness.

Fourth. Technology evaluation: The study of the usefulness, cost, economic and social impact of medical practices and procedures.

All these activities are supported in varying degree by the Federal Government, but that funding is not only inadequate, but so scattered through the Federal hierarchy that the dollars are difficult to track. For instance, health

statistics are gathered by 182 separate programs in HEW alone, often with little or no coordination. Health services research is conducted out of the Veterans' Administration, the Center for Disease Control, the National Center for Health Services Research, the Health Care Financing Administration and, to a limited degree, NIH.

We cannot expect research investments to pay off unless we provide the disciplines involved the sustenance they need to flourish. Health services research, health statistics, and their related research activities need better support. But just as much as more money, they need a defined institutional home, and a more hospitable organizational climate.

Since they are related but distinct disciplines, these research activities need to be coordinated but given enough room to follow separate leads. They need policy guidance to keep them accountable. But they also need protection from political interference. Otherwise, they will not be able to pursue excellence in their respective fields.

For the traditional biomedical sciences, the NIH fulfills these institutional requirements. Mr. President, it is my contention that the creation of a National Institutes of Health Care research can do the same for the health services research area and its related fields. It is time we permitted these research disciplines the fertile institutional soil they have always lacked.

Among the proposed activities of the National Institutes of Health Care research, those of its National Center for the Evaluation of Medical Technologies are probably least familiar to my colleagues. This is understandable for the charge to this new agency would be as innovative as it would be important. NCEMT would have the job of supporting evaluations of new and existing medical technologies. No Federal agency currently has clear responsibility to undertake this task. Yet the better evaluation of new medical technologies and existing health practices is absolutely critical to reducing the cost of medical care and improving its quality.

It has been estimated that one-half of the annual increase in the cost of a day of hospital care can be attributed to the use of more technology in medical practice. That means that between 1966 and 1976 expenditures for medical technology added $8 to $12 billion to our national hospital bill, which totaled $55 billion in 1977.

What are we buying with this outlay of funds for additional technology, Mr. President? Are these expenditures improving the health of the American people? The tragic truth is that in many cases we simply do not know

Last summer, Mr. President, in hearings before the Subcommittee on Health and Scientific Research, we heard testimony about the cost and effectiveness of surgery for coronary artery disease. The debate about this procedure has been spreading, and well it should. Each such operation costs from $10,000 to $12,500, and national expenditures for coronary artery surgery alone are approaching $1 billion a year.

Mr. President, this new surgical procedure was in widespread use before any comprehensive studies had been done to establish its efficiency. The result, predictably, is that there is growing consensus that it is being overused, with substantial adverse consequences for the health of some patients and the costs of medical care generally.

Mr. President, I yield to no one in my desire to see the products of biomedical research transferred rapidly and appropriately to the bedside. But recently, I have been impressed with the arguments of thoughtful medical and social scientists who are pointing out that we are seeing more and more instances in which the products of research are being transferred too rapidly in practice. The consequences of such overly rapid application of new technologies can be disastrous. Not just because new practices are costly. Not just because it has become fashionable to talk about controlling medical expenditures in this country. But because unproven treatments can hurt people. They raise hopes only to dash them. They can inflict pain. They can even maim and kill.

The creation of a National Center for the Evaluation of Medical Technology is an essential step toward assuring that the health practices commonly employed in the United States are efficacious and cost effective. The NCEMT will have the task of setting priorities for the study of new and existing health practices, of funding such studies through extramural grants and intramural programs, of training health professionals and other personnel with the needed talents to conduct health practice evaluations, and of establishing three extramural Centers for the Evaluation of Medical Technologies.

The Center will be advised in these tasks by a National Council for the Evaluation of Medical Technologies. The Council would be chaired by the Surgeon General. It would be composed of distinguished physicians, scientists, lawyers, economists, and laypeople. It would also have as members representatives of the agencies in the Federal Government with an interest in the evaluation of medical technologies, including the Food and Drug Administration, the Health Care Financing Alministration, the National Institutes of Health, and the National Professional Standards Review Council.

Aside from advising the NCEMT, the National Council would have the function of issuing, where appropriate, exemplary standards for the use of health technologies. These exemplary or model standards would be widely distributed through the National Library of Medicine.

In order to undertake these activities, the NCEMT would be authorized to expend $25 million in fiscal year 1979, $35 million in fiscal year 1980 and $50 million in fiscal year 1981.

It would not be expected that the NCEMT would be solely responsible for the evaluation of medical technologies in the United States. The Food and Drug Administration would continue to perform its statutory duties in requiring industry studies of the safety and effectiveness of drugs and devices. Also the National Institutes of Health and the Center for Disease Control would continue to perform clinical trials as before.

However, it would be the responsibility of the NCEMT to insure that health practices needing evaluation received them, and to assist other agencies in designing studies to establish the efficacy, cost-effectiveness, economic, and social impact of technologies.

Mr. President, the establishment of NCEMT and its Advisory Council are essential first steps toward permitting rational decisionmaking concerning the use of medical technologies in this country. I think they are structures whose creation has been long overdue.

Another key element of the National Institutes of Health Care Research Act of 1978 is the establishment of the National Institutes of Health Statistics and Epidemiology (NIHSE). This new entity would incorporate the mission of the National Center for Health Statistics, and add some crucial new functions to the Center's activities.

It is difficult to exaggerate the importance of the job the NIHSE will perform. Like the National Center for Health Statistics before it, it will be the Nation's window on its own health. It will continue the excellent and widely acknowledged health surveys and monitoring activities of the NCHS, which have kept us informed about such crucial matters as the relative burdens of various diseases in our country, the Nation's infant mortality rates, the frequency with which we see physicians and use hospital beds, and the levels of our expenditures on these and other health related resources.

In addition, however, the NIHSE will have two functions which the NCHS never fully addressed or implemented:

First. It will become by law the Secretary's instrument for coordinating health data collection in the Department of Health, Education, and Welfare, and for eliminating overlap, duplication and lack of standardization in data gathering.

Second. It will take on major new responsibilities aimed at bolstering the Nation's capacity to perform epidemiological work aimed at improving our health.

The need for improved coordination of the Department's health statistical activities has long been recognized both in the administration and in the Congress. The NCHS, under its mandate to establish the cooperative health statistics system, has made some progress recently in achieving coordination of data gathering activities within the Public Health Service. However, progress has been slow, and there remain substantial problems in assuring cooperation between the Health Care Financing Administration and the Public Health Service.

This is an intolerable situation. There is no excuse for gathering the same data twice, for refusing to share data among

agencies (provided assurances of confidentiality are honored) and for permitting each agency to define unique standards for data collection with the result that statistics are frequently noncomparable from one agency to another.

The National Institute of Health Statistics and Epidemiology should, under its revised authority, have the capacity to eliminate finally these costly and inefficient practices. They would have responsibility for reviewing data collection activities in the health field throughout HEW. The aim of this provision would be to insure that HEW programs have sufficient flexibility to meet their unique program needs but that their data collection not duplicate that of other agencies, and that the statisics they collect be comparable.

Consistent with this expanded mandate, the legislation provides the NIHSE an authorization of $65 million in fiscal year 1979, $70 million in fiscal year 1980, and $75 million in fiscal year 1981. These increased authorizations will permit the NIHSE to expand the cooperative health statistics systems substantially. It will permit the Institute to arrange for three components of the system to be in place in all 50 States by the end of next year. By 1983, if the sums suggested become available, the CHSS should be fully installed throughout the United States.

In addition, the added money should permit the NIHSE to begin undertaking an expanded program of intramural and extramural epidemiology and data analysis. The NIHSE could make a major contribution in environmental health monitoring, in unraveling the causes of trends in health levels in the U.S. population (for instance, the cause of the dramatic recent decline in deaths from heart disease), and in perfecting methodology in statistical work and epidemiology. Currently, the NCHS spends less than $300,000 out of a budget of $36 million on original research.

Finally, Mr. President, the National Institutes of Public Health Act of 1978 will create a National Institute of Health Policy Research whose functions will be to incorporate and expand current activities at the National Center for Health Services Research. The legislation would authorize a modest increase in appropriations for health services research, from $28.6 million in 1978 to $34 million in 1979, $40 million in 1980 and $45 million in 1981. In addition, the NIHPR would acquire a specific mandate to conduct training programs for health services researchers and to fund the development and evaluation of medical information systems. This last directive grows out of a comprehensive Office of Technology Assessment study which illustrated the pressing need for work on medical information systems, particularly as they employ computer technologies.

Mr. President, it is no secret that the National Center for Health Services Research has had problems in recent years. But it is not clear that those problems are exclusively the Center's fault or that they imply that its work has no utility. The need for reform in the National Center's mandate and functioning is clear. So, I feel, is the need to continue in some form the work it is doing. The creation of a National Institute of Health Policy Research would, in my view, lay the institutional groundwork for a revitalized and strengthened health services research facility.

Before proceeding, Mr. President, I would like to comment on the widespread myth that health services research has no relevance to policy problems. This is widely alleged and never proven, for the facts demonstrate the contrary.

The history of the National Center, troubled as it has been, shows repeated instances in which its work has contributed directly to major legislative initiatives. Research and development work at the NCHSR laid the groundwork for the professional standards review organization and the cooperative health statistics system. Research at the NCHSR helped lay the basis for the Rural Health Clinic Services Act and for the Health Professions Assistance Act of 1976. Finally, work funded by the NCHSR was instrumental in justifying the National Consumer Health Information and Health Promotion Act of 1976. This was accomplished despite a budget which fell from $58 million in 1973 to $24 million in 1977. And it was accomplished in the face of continued reorganizations, changes in leadership, and the consequent demoralization of Agency personnel.

If the National Institutes of Health had to work in the face of comparable budget cuts and personnel difficulties, and if it faced the same expectation of dramatic, short-term program relevance, I doubt NIH would be held in high regard. Federal support of health services research has entered a tailspin, and prophecies of poor performance have become self-fulfilling. If we do not reverse this trend, we will find that, as our health care system becomes increasingly expensive and complex, we will lack the trained professionals and the knowledge base to help us with its reform.

The creation of a National Institutes of Health Policy Research will express Congress sense that health services research needs to be preserved and strengthened, but that it needs to be redefined and revitalized as well. The transformation of NCHSR into an institute within the NIPH will convey a series of central messages:

First. Health services research has to be regarded as research discipline, not simply a short-term aid to policy formation.

Second. Health services research must be protected from political interference and harassment so that excellent research can be conducted and so that talented personnel can be recruited.

Third. Health services research must remain relevant to policy needs—thus the Institute for Health Policy Research—but the time frame for its payoff must be reasonable.

Finally, the National Institutes of Health Care Research Act of 1978 will express the Congress sentiment that the excessive fragmentation of health services research must be ended. This would permit quality control and accountability in this important but troubled research field.

Mr. President, the National Institutes of Health Care Research Act of 1978 will, in my view, provide this country for the first time with an integrated research program in the areas of health service delivery, health statistics, and epidemiology. It will initiate a critically needed new program in the evaluation of medical technology. And it will lay the groundwork for revitalizing our flagging efforts in the health services research area. For all these reasons, it deserves the Senate's favorable consideration.

I ask that the National Institutes of Health Care Research Act of 1978 be printed in its entirety in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE: REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "National Institutes of Health Care Research Act of 1978".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 101. Section 304 and the heading thereto are amended to read as follows:

"National Institutes of Health Care Research

"SEC. 304. (a) The Secretary shall establish, in the Department of Health, Education, and Welfare, the National Institutes of Health Research (hereinafter in this section referred to as the "Institutes"). The Institutes shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. The Director, with the approval of the Secretary, may appoint a Deputy Director and may employ and prescribe the functions of such officers and employees as are necessary to administer the activities to be carried out through the Institutes.

"(b) (1) The Secretary, acting through the Institutes, shall conduct and support research, demonstrations, evaluations and statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.

"(2) In carrying out paragraph (1), the Secretary, acting through the Institutes, shall give appropriate emphasis to research, demonstrations, evaluations and statistical and epidemiological activities respecting—

"(A) the accessibility, acceptablity, planning, organization, distribution, utilization, and financing of systems for the delivery of health care,

"(B) alternative methods for measuring and evaluating the quality of systems for the delivery of health care,

"(C) the collection, analysis, and dissemination of health related statistics,

"(D) alternative methods to improve and promote health statistical epidemiological activities,

"(E) the safety, efficacy, effectiveness, cost effectiveness, and social, economic and ethical impacts of medical technologies, and

"(F) alternative methods for disseminating knowledge concerning health and health related activities.

"(3) The Secretary, acting through the Institutes, shall (through National Research Service Awards) undertake and support manpower training programs to provide for an expanded and continuing supply of individuals qualified to perform the research, evaluation, and demonstration projects as set forth in sections 305, 306, and 306A.

"(4) The Secretary, acting through the Institutes, shall supervise the administration and operation of the National Institute for Health Policy Research, the National Institute for Health Statistics and Epidemiology, and the National Center for the Evaluation of Medical Technology in order to assure that (A) the programs carried out through each such Institute and Center receive appropriate and equitable support, and (B) there is cooperation among the Institutes and the Center in the implementation of such programs.

"(c) To implement subsection (b), the Secretary may, in addition to any other authority which under other provisions of this Act or any other law may be used by him to implement such subsection, do the following:

"(1) utilize personnel and equipment, facilities, and other physical resources of the Department of Health, Education, and Welfare, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such development, provide technical assistance and advice, make grants to public and nonprofit entities and individuals, and, when appropriate, enter into contracts with public and private entities and individuals;

"(2) secure, from time to time and for such periods as the Secretary deems advisable, the assistance and advice of experts and consultants from the United States or abroad. In addition, the Director of the National Institute for Health Policy Research and the Director of the National Institute for Statistics and Epidemiology, in order to assist each of them in carrying out the functions set forth in sections 305 and 306 respectively, and without regard to any other provision of this Act, are each authorized to obtain the services of not more than fifteen experts or consultants who have appropriate scientific or professional qualifications; and,

"(3) acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary; and acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia.

"(d) The Secretary shall coordinate all research, evaluation, demonstration, and statistical and epidemiological activities referred to in subsection (b) undertaken and supported through units of the Department of Health, Education, and Welfare. Such coordination shall be carried out through the Institutes.

"(e) The Director of the Institutes shall submit a report to the Secretary for simultaneous transmittal, not later than October 30 of each year, to the President and to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives setting forth the program accomplishments of the Institutes in the preceding fiscal year and the objectives and priorities for the current fiscal year.".

SEC. 102. (a) The heading for section 305 is amended to read as follows: "NATIONAL INSTITUTE FOR HEALTH POLICY RESEARCH."

(b) Section 305(a) is amended to read as follows: "(a) There is established in the National Institutes of Health Care Research the National Institute for Health Policy Research (hereinafter in this section referred to as the "Institute") which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Director of the National Institutes of Health Care Research.".

(c) Section 305(b) is amended by—

(1) striking "304(a)" and inserting in lieu thereof "304(b)";

(2) striking "Center" and inserting in lieu thereof "Institute";

(3) striking "may undertake" and inserting in lieu thereof "shall undertake";

(4) striking "and" after "evaluation," and inserting in lieu thereof "and/or";

(5) striking "technology," in paragraph (1);

(6) striking "and" after "manpower;" in paragraph (2);

(7) striking the period in paragraph (3) and inserting in lieu thereof ", and"; and

(8) adding at the end thereof the following new paragraph:

"(4) the uses of computer science in health services delivery and medical information systems.".

(d) Section 305(c) is amended by striking "Center" and inserting in lieu thereof "Institute".

(e) Sections 305(d)(1) and 305(d)(2)(A) are amended by inserting ", acting through the Institute," after "Secretary" each place it occurs.

(f) Subsection (e) of section 305 is redesignated subsection (f) and is amended by (1) striking "304(b)" and inserting in lieu thereof "304(c)" and (2) striking "(b), (c), and (d)" and inserting in lieu thereof "(b), (c), (d), and (e)".

SEC. 103. (a) The heading to section 306 is amended to read as follows:

"NATIONAL INSTITUTE FOR HEALTH STATISTICS AND EPIDEMIOLOGY".

(b) Section 306(a) is amended to read as follows:

"There is established in the National Institutes of Health Care Research the National Institute for Health Statistics and Epidemiology (hereinafter in this section referred to as the "Institute") which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Director of the National Institutes of Health Care Research.".

(c) Section 306(b) is amended by—

(1) striking "304(a)" and inserting in lieu thereof "304(b)";

(2) striking "Center" and inserting in lieu thereof "Institute";

(3) striking "may" and inserting in lieu thereof "shall";

(4) striking "and" after "dissolution" in paragraph (1)(H);

(5) inserting "or both" after "contract" in paragraph (2);

(6) striking "and" after "demonstrations," in paragraph (2) and inserting in lieu thereof "and/or"; and

(7) adding at the end thereof the following new paragraph:

"(3) undertake and support (by grant or contract or both) epidemiological research, demonstrations, and evaluations on the matters referred to in paragraph (1).".

(d) Section 306(c) is amended by—

(1) striking "Center" and inserting in lieu thereof "Institute";

(2) by inserting "and epidemiological" after "statistical" each place it occurs; and

(3) striking "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

(e) Section 306(d) is amended by striking "Center" and inserting in lieu thereof "Institute".

(f) Section 306(e) is amended by—

(1) inserting ", through the Institute," after "Secretary";

(2) inserting "to be known as the Cooperative Health Statistics System" after "levels" in paragraph (1);

(3) striking "such cooperative system" each place it occurs and inserting in lieu thereof "such System";

(4) inserting "or both" after "contract" in paragraph (3);

(5) striking "system" in paragraph (5) and inserting in lieu thereof "System".

(g) The first sentence of section 306(f) is amended by inserting ", through the Institute," after "Secretary".

(h) Section 306(g) is amended by inserting ", through the Institute," after "health data, the Secretary".

(i) Section 306(i)(1) is amended by striking "United States".

(j) Section 306 is amended by adding at the end thereof the following new subsection:

"(j) In carrying out the requirements of sections 304(d) and paragraph (2) of subsection (e), the Secretary, acting through the Institute, shall coordinate health statistical and epidemiological activities of the Department of Health, Education, and Welfare by—

"(1) developing in consultation with the National Committee on Vital and Health Statistics, promulgating by regulation, and maintaining the minimum sets of data needed on a continuing basis to fulfill the collection requirements of subsection (b)(1),

"(2) after consultation with the National Committee on Vital and Health Statistics, establishing, by regulation, standards to assure the quality of health statistical and epidemiological data collection, processing, and analysis,

"(3) reviewing periodically all existing health statistical data collections of the Department that were previously approved pursuant to the Federal Reports Act of 1942 to determine whether such collections conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (1) and (2). If any such collections are found not to be in conformance, the Secretary shall take the necessary action to assure that any future collections (effective ninety days after the review) are in conformance.

"(4) reviewing all proposed health statistical data collections of the Department that require approval pursuant to the Federal Reports Act of 1942 to determine whether such proposed collections conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (1) and (2). If any such proposed collections are found not to be in conformance, the Secretary shall take the necessary action to bring them into conformance before such proposed collections are initiated.".

SEC. 104. Title III is amended by adding after section 306 the following new heading and section:

"NATIONAL CENTER FOR THE EVALUATION OF MEDICAL TECHNOLOGY

"SEC. 306A. (a) There is established in the National Institutes of Health Care Research the National Center for the Evaluation of Medical Technology (hereinafter in this section referred to as the "Center") which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Director of the National Institutes of Health Care Research.

"(b) The Secretary, acting through the Center, shall—

"(1) establish, in consultation with the Council for the Evaluation of Medical Technology, priorities for research, demonstrations, and evaluations of medical technologies as prescribed by paragraph (2)(A). In establishing such priorities, particular emphasis should be placed on—

"(A) the actual or potential risks and the actual or potential benefits to patients associated with the use of the medical technology,

"(B) per use and/or aggregate cost of the medical technology,

"(C) the rate of utilization of the medical technology, and

"(D) the stage of development of the medical technology; and

"(2) undertake and support (by grant or contract or both) research, demonstrations, and evaluations concerning—

"(A) the safety, efficacy, effectiveness, cost effectiveness, and social, ethical, and economic impact of particular medical technologies;

"(B) the factors that affect the utilization of medical technologies throughout the United States;

"(C) alternative methods for disseminating information on medical technologies to health professionals;

"(D) alternative methods for measuring the quality of health services; and,

"(E) the effectiveness, administration and enforcement of quality assurance programs.

"(c) To assist in carrying out this section, the Secretary, acting through the Center, shall cooperate and consult with the National Institutes of Health, the Veterans' Administration and any other interested Federal departments or agencies and with State and local health departments and agencies.

"(d)(1) The Secretary, acting through the Center, shall, by grants or contracts, or both, assist public and/or private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers for multidisciplinary research, evaluations, and demonstrations respecting the matters referred to in paragraph (2) of subsection (b). To the extent practicable, the Secretary shall take such actions, in accordance with the requirements of this subsection and section 308, to assure that three such centers shall be operational by September 1, 1981.

"(2)(A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary, acting through the Center, determines that when it is operational it will meet the requirements listed in subparagraph (B), and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

"(B) Each center shall meet the following requirements:

"(i) there shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in research, demonstrations, and evaluations respecting the matters referred to in paragraph (2) of subsection (b), and there shall be such additional full-time professional staff as may be appropriate;

"(ii) the staff of the center shall have expertise in the various disciplines needed to conduct multidisciplinary research, evaluations and demonstrations respecting the matters referred to in paragraph (2) of subsection (b);

"(iii) the center shall be located within an established academic or research institution with departments and resources appropriate to the programs of the center; and

"(iv) each center shall meet such additional requirements as the Secretary may by regulation prescribe.

"(e)(1) There is established in the Center a National Council for the Evaluation of Medical Technologies (hereinafter in this subsection referred to as the 'Council') to be composed as follows:

"(A) the Surgeon General, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration, the Chairman of the National Professional Standards Review Council (or their designees), and three other employees of the Department of Health, Education, and Welfare (or their designees) appointed by the Secretary, shall be ex officio members of the Council.

"(B) Sixteen members appointed by the Secretary. Seven of the appointed members shall be selected from among leading medical or scientific authorities; two of the appointed members shall be selected from members of the general public who are leaders in the field of economics; two of the appointed members shall be selected from members of the general public who are leaders in the field of law; and five of the appointed members shall be selected from outstanding members of the general public who, based on their interests, disciplines, and/or expertise, would be appropriate members of the Council.

"(2)(A) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(ii) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment. Appointed members may serve after the expiration of their terms until their successors have taken office.

"(B) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(C) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) The Council shall annually elect one of its appointed members to serve as Chairman until the next election.

"(4) The Director of the Center shall (1) designate a member of the staff of the Center to act as Executive Secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(5) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"(6) The Council is authorized to—

"(A) advise, consult with, and make recommendations to the Secretary, the Director of the National Institutes of Health Care Research, and the Director of the Center with respect to carrying out the provisions of this section;

"(B) after consultation with appropriate public and private entities, advise the Secretary concerning the safety, efficacy, effectiveness, cost effectiveness, and the social and economic impact of particular medical technologies;

"(C) after consultation with appropriate public and private entities, develop, when appropriate and to the extent practicable, exemplary standards, norms, and criteria concerning the utilization of particular medical technologies;

"(D) publish, make available and disseminate, through the National Library of Medicine, promptly in understandable form and as widely as possible, but, at a minimum, to all health systems agencies, to all Professional Standards Review Organizations and to the health facilities of the Veterans' Administration the standards, norms, and criteria developed pursuant to paragraph (C); and

"(E) review and approve any grant that the Center proposes to make and any contract the Center proposes to enter pursuant to this section if such grant or contract is in an amount exceeding $35,000 of direct costs.

"(f) For purposes of this section, medical technology means any discrete and identifiable medical or surgical regimen or modality used to diagnose or treat illness, prevent disease, support life, or maintain patient well-being.

SEC. 105. (a) The heading to section 308 is amended by striking "304, 305, 306, and 307" and inserting in lieu thereof "304, 305, 306, 306A, and 307".

(b) Section 308(a)(1) is repealed.

(c) Section 308(a)(2) is amended by (1) redesignating it as section 308(a)(1) and (2) striking "the National Center for Health Services Research and the National Center for Health Statistics" and inserting in lieu thereof "the National Institutes of Health Care Research".

(d) Section 308(a)(3) is redesignated as section 308(a)(2).

(e) Section 308(b)(1) is amended by inserting "306A," after "306".

(f) Section 308(d) is amended by (1) inserting "306A," before "or 307" and (2) by inserting "or epidemiological" after "statistical" in paragraph (1).

(g) Section 308(e) is amended by inserting "306A," after "306" each place it occurs.

(h) Section 308(f) is amended by striking "or 306" and inserting in lieu thereof "306, or 306A".

(i) Section 308(g)(2) is amended by striking "and 306" and inserting in lieu thereof "306, and 306A".

(j) Section 308(h)(1) is amended by striking "or 306" each place it occurs and inserting in lieu thereof "306, or 306A".

(k) Section 308(i)(1) is amended to read as follows:

"(i)(1) For health services research, evaluation, and demonstration activities undertaken or supported under Section 304 or 305, there are authorized to be appropriated $34 million for the fiscal year ending September 30, 1979; $40 million for the fiscal year ending September 30, 1980; and $45 million for the fiscal year ending September 30, 1981. Of the funds appropriated under this paragraph for any fiscal year, at least 15 per centum of such funds shall be available only for health services research, evaluation, and demonstration activities directly undertaken by the National Institute for Health Policy Research and at least 5 per centum of such funds or $1 million, whichever is less, shall be available only for dissemination activities directly undertaken by the Center."

(l) Section 308(i)(2) is amended to read as follows:

"(i)(2) For health statistical and epidemiological activities undertaken or supported under section 304 or 306, there are authorized to be appropriated $60,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981. Of the funds appropriated under this paragraph for any fiscal year commencing after September 30, 1978, at least 15 per centum of such funds shall be available only for health statistical and epidemiological activities directly undertaken by the National Institute for Health Statistics and Epidemiology.".

(m) Section 308(1) is amended by adding at the end thereof the following new paragraph:

"(3) For medical technology research, evaluation, and demonstration activities undertaken or supported under section 304 or 306A, there are authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, and $50,000,000 for the fiscal year ending September 30, 1981. Of the funds appropriated under this paragraph for any fiscal year commencing after September 30, 1980, at least 15 per centum of such funds shall be available only for medical technology research, evaluation, and demonstration activities directly undertaken by the National Center for the Evaluation of Medical Technology.".

SEC. 106. (a) Section 472(a)(1)(A) is amended by—

(1) striking "and" after "private institutions," in clause (iii);

(2) redesignating clause (iv) as clause (vii); and (3) inserting after clause (iii) the following:

"(iv) research at the National Institutes of Health Care Research,

(v) training at the National Institutes of Health Care Research to undertake such research,

(vi) research on the matters set forth in section 304(b)(2) at public institutions and at nonprofit private institutions, and".

(b) The last sentence of section 472 (a)(1) is amended by inserting ", National Institutes of Health Care Research," after "National Institutes of Health".

SEC. 107. Part k of Title III is repealed in its entirety.

SEC. 108. Title IV is amended by adding at the end thereof the following new section:

"SEC. 477. The Director of the National Institutes of Health shall make available annually to the National Center for the Evaluation of Medical Technology and the Council for the Evaluation of Medical Technology a list of all technologies (as defined in section 306A(q)) of which he is aware that are under development and that appear likely to be used in medical practice in the near future.".

Mr. SCHWEIKER. Mr. President, I am today joining with Senator KENNEDY in sponsoring a bill which will reorganize health statistics and epidemiological activities within the Department of Health, Education, and Welfare and create a new National Center for the Evaluation of Medical Technologies.

The Subcommittee on Health and Scientific Research, of which I am the ranking Republican member, has been conducting hearings of federally supported research activities over the past year. In the course of these hearings, it has become clear that not enough research in the area of health services delivery is now being done. I have concluded that the current governmental research entities in many cases could not, and in other instances, would not, give this area the priority it deserves.

I do not in any way wish to suggest that the research currently being conducted at NIH, NIMH and other places is undesirable or unnecessary, but I am convinced that greater attention to health services research, epidemiological studies, and the assessment of medical technologies is warranted. In addition, current statistical activities supported by various agencies within HEW have at times proved to be less useful than they could have been, due to problems of coordination and comparability of data. I hope that the bill we introduce today will go a long way toward improving statistical and epidemiological activities by strengthening the mandate of the present National Center for Health Statistics, forming a National Institute of Health Statistics and Epidemiology. This Institute, along with the National Institute for Health Policy Research (which will succeed the present National Center for Health Services Research) and the Center for the Evaluation of Medical Technology, will comprise the National Institutes for Health Care Research, according to the terms of this proposal.

It is not my intention in supporting a new National Center for the Evaluation of Medical Technologies to create a Federal agency which will regulate medical technology or medical practice. Rather, I seek to establish a National Center to serve as a focal point for medical technology assessment activities, to evaluate appropriate technologies for safety and effectiveness and share the results of these evaluations with the appropriate public and private entities.

As the subcommittee conducts its hearings with regard to this proposal, I would hope that public and private members of the research and health care communities will work with us to assure that the result is a strong program whose work will contribute to the body of knowledge and to the governmental decisionmaking process.

Mr. JAVITS. Mr. President, I am pleased to join with Senator KENNEDY today in introducing the National Institutes of Health Care Research Act of 1978. This bill, which establishes a new agency in the Public Health Service, is designed to consolidate and give emphasis to the activities of the National Center for Health Statistics and the National Center for Health Services Research and to establish a new National Center for the Evaluation of Medical Technologies. This new entity would be charged primarily with evaluating the cost and efficacy of new medical technologies.

Although the Federal Government invests heavily in basic and applied biomedical research, the Federal effort has been clearly inadequate in the areas of the collection and analysis of national morbidity, mortality, and disability data. This, of course, impacts on our ability to evaluate biomedical research efforts. Furthermore, I believe we have not placed enough emphasis on research into better methods of organizing and managing the delivery of health care services. Therefore, I support the concept of consolidating the activities of the National Center for Health Statistics and the National Center for Health Services Research into a new agency.

Although I anticipate that the proposed reorganization of the activities of the National Center for Health Statistics and the National Center for Health Services Research will be keenly debated during the hearings on this legislation, I hope also that the recommendation for the establishment of a National Center for the Evaluation of Medical Technologies will get careful analysis by biomedical researchers and health practitioners. This proposal, as I envision it, is not to regulate the practice of medicine or limit the development of medical discoveries. It should not interfere with the Food and Drug Administration mandate to insure the safety and effectiveness of drugs and devices. It should not interfere with clinical trials performed by the National Institutes of Health and the Center for Disease Control.

The new National Center for the Evaluation of Medical Technologies would, however, assure that medical professionals—and the public—are made aware of the efficacy and cost-effectiveness of new medical technologies by periodic published reports. I have long believed that the best method of preventing abuses is by the availability of timely, informative, and reliable information for both practitioners and consumers.

I recognize that we guard scrupulously against any agency having a potential to inhibit innovation and research in the development of new medical technology. This is not my intention, nor, I believe, the intention of this legislation. Accordingly, during hearings on this proposal, I invite the research community and medical professionals to come forward with their analysis and evaluation of this measure in the light of these concerns. Also, at the same time I look forward to receiving the views of the Secretary of HEW as to the advisability of his vesting his authority respecting technology assessment in the proposed institutes of health care research.

Although the precise mechanism for accomplishing such goals may vary from this proposal, I think it is time that we assure both the physician and the consumer that the billions of additional dollars we spend each year are for medical care of the highest quality will result in an improved health status for the American people.

ADDITIONAL COSPONSORS

S. 897

At the request of Mr. GLENN, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 897, a bill to strengthen United States policies of nonproliferation and to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

S. 2142

At the request of Mr. PACKWOOD, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 2142, a bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable.

S. 2204

At the request of Mr. GRAVEL, the Senator from Colorado (Mr. HART), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2204, a bill to amend section 4940 of the Internal Revenue Code of 1954 to reduce

the excise tax based on the investment income of private foundations from 4 percent to 2 percent.

S. 2296

At the request of Mr. JOHNSTON, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 2296, the Minority Business and Economic Development Act.

SENATE RESOLUTION 373—ORIGINAL RESOLUTION REPORTED AUTHORIZING PARTICIPATION IN JUDICIAL PROCEEDINGS

Mr. STEVENSON, from the Select Committee on Ethics, reported the following original resolution, which was ordered placed on the calendar:

S. RES. 373

Resolved, That the Select Committee on Ethics is authorized, on behalf of the Senate or on behalf of Members, officers or employees of the Senate who have been sued for actions taken in an official capacity, to participate in any judicial proceeding, whether initiated by the Select Committee or any other person, to obtain testimony, documents or other evidence concerning or relating in any way to its inquiry into or investigation of allegations that Members, officers, or employees of the Senate have been the object of efforts on behalf of the Republic of Korea, or of persons acting on behalf of or in connection with the Republic of Korea, to influence improperly the conduct of Members, officers or employees of the Senate.

SENATE RESOLUTION 374—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. CANNON, from the Committee on Commerce, Science, and Transportation, reported the following original resolution which was referred to the Committee on Rules and Administration:

S. RES. 374

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation, or any subcommittee thereof, is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,677,800, of which amount not to exceed $100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 375—SUBMISSION OF A RESOLUTION AUTHORIZING EXPENDITURES

Mr. CHURCH (for himself and Mr. DOMENICI) submitted the following resolution, which was referred to the Committee on Rules and Administration, by unanimous consent:

S. RES. 375

Resolved, That the Special Committee on Aging, established by section 104 of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, is authorized from March 1, 1978, through February 28, 1979, in its discretion to provide assistance for the members of its professional staff in obtaining specialized training, in the same manner and under the same conditions as a standing committee may provide such assistance under section 202(j) of the Legislative Reorganization Act of 1946, as amended.

SEC. 2. In carrying out its duties and functions under such section and conducting studies and investigations thereunder, the Special Committee on Aging is authorized from March 1, 1978, through February 28, 1979, to expend $321,000 from the contingent fund of the Senate, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 376—SUBMISSION OF A RESOLUTION REGARDING APPLICABILITY OF THE LEGISLATIVE REORGANIZATION ACT

Mr. CHURCH (for himself and Mr. DOMENICI) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 376

Resolved, That section 104(a)(2) of Senate Resolution 4, 95th Congress, agreed to February 4 (legislative day, February 1), 1977, is amended by inserting "and for purposes of sections 133(g), 134, and 202 of the Legislative Reorganization Act of 1946," before "the special committee".

SENATE RESOLUTION 377—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 377

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Foreign Relations, or any subcommittee thereof, is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,231,000 of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 378—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. NELSON, from the Select Committee on Small Business, reported the following original reolution, which was referred to the Committee on Rules and Administration:

S. RES. 378

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by section 134(a) of the Legislative Reorganization Act of 1946, as amended, and S. Res. 58, Eighty-first Congress, agreed to February 20, 1950, as amended and supplemented, in accordance with its jurisdiction under such Senate Resolution, the Select Committee on Small Business, or any subcommittee thereof, is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (4) to procure the temporary services (not in excess of one year) or intermittent services of individuals, consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, as amended.

SEC. 2. The expenses of the committee under this resolution shall not exceed $285,500, of which amount not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations

for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 379—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 379

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1978 through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,414,500, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 380—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the Calendar:

S. RES. 380

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1978, through February 28, 1979, in its discreation (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $739,000, of which amount not to exceed $76,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 382—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. CRANSTON, from the Committee on Veterans' Affairs, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES 382

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Veterans' Affairs, or any subcommittee thereof, is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $279,000, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 383—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES

Mr. BAYH, from the Select Committee on Intelligence, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 383

Resolved, That the Select Committee on Intelligence, in carrying out the duties and functions prescribed by Senate Resolution 400, Ninety-fourth Congress, agreed to May 19, 1976, as amended, is authorized from March 1, 1978, through February 28, 1979, to make expenditures from the contingent fund of the Senate not to exceed $1,925,000, of which amount not to exceed $12,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 2. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

AMENDMENTS SUBMITTED FOR PRINTING

NAVIGATION DEVELOPMENT ACT—H.R. 8309

AMENDMENT NO. 1680

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed to amendment No. 1460 intended to be proposed to the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

AMENDMENT NO. 1681

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (H.R. 8309), supra.

AMENDMENT NO. 1682

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH submitted an amendment intended to be proposed to amendment No. 1460 intended to be proposed to the bill (H.R. 8309), supra.

USER FEES ON DEEP DRAFT PORTS AND HARBORS

Mr. DANFORTH. Mr. President, Senator DOMENICI's proposed amendment to H.R. 8309 will impose a charge on commercial users of the inland waterway system. This charge, after full implementation, will recover all Federal expenditures for operations, maintenance and repair and 50 percent of Federal expenditures for construction. Today, I am introducing an amendment to extend the same charge to deep draft ports and harbors.

The administration in its fervor to get passed into law the concept of user charges is practicing the age-old art of divide and conquer. In an August 1977 report on "Deep Draft Navigation User Charges: Recovery Options and Impacts," the Department of Transportation studied the extent and effect of Federal expenditures in maintaining and developing this Nation's deep draft ports and harbors. These expenditures are approximately two-thirds of that expended on the inland water system.

If the administration is to be consistent in the application of its philosophy, then it will soon propose a user charge, comparable to that Senator DOMENICI is proposing for the inland waterway system on commercial users of deep draft ports and harbors. In the executive summary of the DOT study it was noted:

The development of a constant and equitable approach to recovery of all federal deep-draft costs was mandated by section 80(c) of the Water Resource Development Act of 1974.

Mr. President, my colleagues, whose States have deep draft ports or harbors, should be aware that the concept they intend to support when voting for Senator DOMENICI's amendment more than likely will be applied against their interests next. I want my colleagues to cast an informed vote.

NOTICES OF HEARINGS

DEPARTMENT OF ENERGY URANIUM ENRICHMENT POLICY

Mr. CHURCH. Mr. President, for the information of the Senate and the general public, the Senate Energy and Natural Resources Committee's Subcommittee on Energy Research and Development will conduct a public hearing on the Department of Energy's uranium enrichment policy. The hearing has been scheduled for Tuesday, February 7, 1978, to be held in room 3110 of the Dirksen Senate Office Building beginning at 9 a.m.

Mr. William R. Voight, Jr., of the Department of Energy and his associates will present testimony. Additionally, the General Accounting Office and other expert witnesses have been invited to testify.

Anyone wishing additional information with regard to the hearings should contact the subcommittee staff director, Will Smith, at (202) 224–4431.

SELECT COMMITTEE ON SMALL BUSINESS HEARING LOCATIONS

Mr. NELSON. Mr. President, the previously announced hearings to be convened by the Select Committee on Small Business on the subject of agricultural labor certification programs and small growers will be held on February 10, 1978, in Portland, Oreg., in the New Federal Building Conference Room 1578 at 8:30 a.m., and on February 13, 1978, in Medford, Oreg., in the Jackson County Courthouse Auditorium at 8:30 a.m.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. RIBICOFF. Mr. President, I would like to announce that the Committee on Governmental Affairs will have hearings on lobbying reform legislation on February 6 and 7 at 10 a.m. in room 3302, Dirksen Senate Office Building.

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Tuesday, February 7, 1978, at 10:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Jack E. Tanner, of Washington, to be U.S. district judge for the eastern and western districts of Washington, vice William N. Goodwin, deceased;

Robert F. Collins, of Louisiana, to be U.S. district judge for the eastern district of Louisiana, vice Alvin B. Rubin, elevated;

A. David Mazzone, of Massachusetts, to be U.S. district judge for the district of Massachusetts, vice Frank J. Murray, retired;

Almeric L. Christian, of the Virgin Islands, to be a judge of the district court of the Virgin Islands for a term of 8 years (reappointment).

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

ADDITIONAL STATEMENTS

THE PANAMA CANAL TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, one of the Nation's ablest military experts is Adm. Thomas H. Moorer, U.S. Navy (retired).

Admiral Moorer is the only person in the history of our Nation to serve as commander in chief, Pacific Fleet, commander in chief, Atlantic Fleet, Chief of Naval Operations, and Chairman of the Joint Chiefs of Staff.

Admiral Moorer testified today before the Senate Armed Services Committee in regard to the proposed Panama Canal treaties.

His statement to the committee is an excellent one which I ask unanimous consent to print in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY ADM. THOMAS H. MOORER, U.S. NAVY, RETIRED

Mr. Chairman and Distinguished Members of the Senate Armed Services Committee: I am honored to be here as a witness before this Committee. For the past 12 years I have appeared here many times as a member of the Executive Branch of our Government. Today, I would like to make clear that I do not represent any particular Group, Organization, or Political Party. Rather, I am here as a very concerned Citizen who has had a high level professional involvement in the use of the Panama Canal—in peace as well as war—as it relates to the military security of the people of the United States.

Although I am prepared to answer questions concerning any aspect of the proposed treaties, I will focus my statement primarily on defense of the Canal in a local sense as well as the defense of the United States in a global sense.

While I was opposed to the disposal of the Panama Canal from the outset for global strategic reasons, and so informed the President in writing, I have now carefully studied the proposed treaties in detail and am even more convinced that ratification in their present form would be very detrimental to the national interests of the people of the United States for years and years to come.

As you know, Mr. Chairman, what we are addressing here today is two Treaties, three Annexes, a Protocol, two Implementary Agreements—and now we have under consideration a sugar coated Amendment which is claimed to give the United States the "right" to defend the Canal and to "go to the head of the line" with her ships. The complexity of such a conglomeration together with the ambiguities in meaning have already surfaced and in my view will continue indefinitely. Certainly there has been quote after quote from Torrijos and his associates contradicting the interpretations placed on these Treaties by the U.S. negotiators. I can supply these quotes for the record, if desired.

Turning now to the global implications contained in these proposed Treaties. The Panama Canal is one of the four maritime gateways of the world, together with the Malacca Straits, the Suez Canal, and the Gibraltar Straits. Anyone who has observed Soviet actions since World War II and studied their literature concerning maritime affairs soon learns that the Soviets fully understand the importance of the Panama Canal, even if some here in Washington do not. Only last August a Soviet strategist, writing in Red Star—later published in England as well as in Cuba—stated that "the Canal Zone must be considered by the Soviet Union as a "Priority Zone." He then goes on to describe ways to attack the Canal, using Cuba, Puerto Rico and Colombia. Writings of this kind which have appeared from time to time over the years serve to reinforce my view that the prime reason that the Soviet Union accepts the burdensome support of Cuba is due to their desire to dominate the Caribbean, including the Panama Canal, as they greatly expand their maritime capabilities—both warships and merchant ships. We have here the development of a Torrijos-Castro-Moscow Axis. Castro has sent thousands of troops to Angola, Ethiopia, and Mozambique armed and transported by the Soviets. He has been to Moscow where he is greeted with open arms. Torrijos has been to Havana where he has been decorated by Castro while both extolled the success of their respective revolutions. He has been to Libya to visit Qaddafi who, next to Castro, is the most active international revolutionary—and rich besides after, like Castro, confiscating millions of dollars worth of property belonging to American citizens. When Torrijos overflew Havana on his return to Panama after the signing of the Treaties in Washington last fall, he sent the following message to Castro: "On my return trip to my country and flying above the sky of Cuba I salute you with friendship always. . . . In Latin America your name is associated with feelings about dignity that have been channeled toward a shameful period of colonialism." Also noteworthy is the fact that in July of last year a Soviet commission visited Panama seeking port and airport concessions and offering economic assistance.

I mention these things, Mr. Chairman, not because I am one who cannot keep up with the times and am still fighting the Cold War, as my critics suggest, but because I am convinced that the above actions and attitudes clearly point to the fact that these proposed Treaties are not, as claimed by the proponents, simply a long-delayed redress of the wrongs of American colonalism imposed on a helpless tiny nation. They cannot be viewed in such a simplistic way since they have worldwide implications. The defense and use of the Panama Canal is wrapped unextricably with the overall global strategy of the United States and the security of the Free World. I submit that, if the United States opts to turn over full responsibility for the maintenance and operation of such an important waterway to a very small, resource-poor and unstable country as Panama and then withdraws all U.S. presence, a vacuum will be created which will quickly be filled by proxy or directly by the Soviet Union as is their practice at every opportunity.

So, Mr. Chairman, and Members of the Committee, do not be surprised if this Treaty is ratified in its present form, to see a Soviet and/or Cuban presence quickly established in Panama. In any event any confrontation over the "neutrality" of the Canal then becomes a confrontation with the Soviet Union rather than with Panamanian

guerrillas or terrorists. With the Soviets already on the scene, fighting our way in—with or without the help of the small 1500-men Panamanian Army will not be without unnecessary loss of U.S. men and material, not to mention loss of the use of the Canal.

I believe a permanent U.S. presence in the Panama Canal Zone to be the only feasible and safe posture for all of the nations of this hemisphere. In saying this I must also emphasize that the year 2000 is meaningless insofar as the requirements for the security of this hemisphere are concerned. The threat, the problems, the global balance will not change as if by magic in the year 2000, so why should we pass this dilemma down to our children and grandchildren?

In view of the above, Mr. Chairman, I have yet to hear any convincing justification advanced as to why the United States should willingly sacrifice the strategic and economic advantages afforded the United States—and indeed all our friends and allies—by our exercise of full control and economical operation of the Panama Canal as we do today and have done for years. In fact, stripped to the essence I have heard only three reasons put forward in support of the proposed treaties: (1) By signing the new Treaties we will divest ourselves of the stigma and guilt we should feel over our ruthless colonialization of Panama. (2) If we do not surrender the Canal some unknown individuals in the Isthmus of Panama will blow it up. Since we are interested in use and not control let us give it away, it is defenseless any way unless we deploy 100,000 troops to Panama and start another Vietnam. (3) The Canal is not of much use. Traffic between oceans is a convenience but is not vital. Besides aircraft carriers and big tankers cannot use the canal and less than 10 percent of the merchant ships fly the American flag—so why the concern? The American people do not buy such logic, Mr. Chairman. Despite a steady drumbeat of often misleading statements highlighting the above positions even the staunchest supporter of the Treaties will readily admit that the American people are two to one against ratification of these Treaties. The people are well aware that the United States has never had a colony of any kind for the purpose of exploitation and that they have paid out more blood and treasure on behalf of mankind, worldwide, than any nation in history. They are aware of the effort it took to construct the Panama Canal. They know that Panama achieved her freedom and her very existence due to the Canal. The Canal does not owe its existence to Panama. The American people are aware of the part often played by the Canal in the rapid transfer of Naval Forces from ocean to ocean in case of an international emergency. But above all, the American people recoil over the thought that we should base our foreign policy on sheer fright or in response to threats. Nevertheless, they have been warned many times lately that failure to ratify these Treaties will result in riots and sabotage. Such encouragement to lawlessness and violence by the advocates of these Treaties could well make them self-fulfilling prophets.

With the above as background I would now like to be more specific as to the military aspects of the proposed Treaties as they relate to: (1) the military value of the Panama Canal to our global strategy; (2) the defense of the Canal against an external threat; (3) defense against the internal threat; (4) the capability of Panama to defend, maintain, and operate the Canal, particularly after the year 2000 when American assistance is no longer available.

(1) The Military Value of the Panama Canal To Our Global Strategy.

The intrinsic value of the Panama Canal lies in its linkage of the Atlantic and Pacific Oceans, thereby saving 8,000 miles and 20 to 30 days steaming time from ocean to ocean. Expressed in military terms, the Canal provides the following: rapid transit of ships, personnel and supplies during periods of tension or actual conflict; flexibility in application of force; timely arrival at the scene of conflict; efficient use of shipyards, warehouses and training areas on both coasts of the United States, and a steady flow of logistic support. In fact, there is no feasible war plan for the United States, taking into account our reduced forces and extended commitments, that does not assume that the Panama Canal will be available for full time priority use. The only alternative that would permit the meeting of time scales of current war plans based on the threat in both the Atlantic and Pacific oceans would be a major buildup of Naval combat forces overall, together with a very large expansion of supply and ammunition storage facilities for both the Army and the Air Force on both coasts. The utility of the Canal has been demonstrated over and over again in times of emergency. World War I, World War II, the Korean War, the Cuban Crisis, and the Vietnam War all placed heavy loads on the Panama Canal which were efficiently handled to the great benefit of the United States.

I see no change whatever in the critical contribution of the Canal to our military strength in the near future or in the out years far beyond the meaningless years of 2000. Only this week the Department of Defense announced a military policy focused on NATO which is time-sensitive and hence demands early Naval use of the Canal. Furthermore, in any NATO war, which by definition is a war with Soviet Russia and hence World War III, the United States will require in Panama air bases, communications, fueling facilities, air defenses, etc., in order to conduct anti-submarine warfare against Soviet submarines which are bound to concentrate in the approaches to the Canal and use the bases we have allowed them to acquire in Cuba, such as Cienfuegos. Therefore, I believe it is most unwise to surrender all of our Panama bases as proposed in these Treaties.

(2) The external threat.

In my view there is no external overt threat to the Panama Canal except in the context of World War III involving the Soviet Union. Here the main thrust of our defense would be primarily the interception of any hostile or suspicious ship well clear of the territorial waters of Panama. However, this operation is now complicated by the inclusion in the proposed Treaties of the dangerous proviso that permits the warships and auxiliary vessels of all nations to transit the Canal freely, without inspection, search, or even surveillance, in time of war or peace, while the policing of the Canal is entrusted exclusively to the Panamanian police and fire departments. This guarantee to all nations does not wait until the year 2000 to become operative. It is immediately applicable despite the fact that the United States "shall have primary responsibility to protect the Canal" until the year 2000. This is responsibility without authority. We were not quite so foolish in World War I and World War II. President Wilson not only barred all enemy ships but also proclaimed that no enemy alien should "enter or be found within the Canal Zone." President Roosevelt amplified these prohibitions in World War II and no nation in the world ever questioned our right to protect, defend, and police the Canal and Canal Zone and adjacent waters, or to sink and destroy enemy warships wherever found. Even the Treaty of Versailles, which was not exactly favorable to the Germans, granted them the right to protect the Kiel Canal in time of war.

The external covert threat is real and exists today. As I have explained earlier, there is a link between Torrijos, Castro, and Moscow. The Soviets have air and naval base rights in Cuba, and they frequently deploy aircraft and ships to Cuba. We would be naive indeed if we did not expect the Soviets to establish direct or proxy presence in Panama at the earliest opportunity.

(3) The Internal Threat.

The proponents of these Treaties proclaim again and again that the only way to handle the internal threat is to ratify the Treaties and give up the Canal. It is repeated over and over again that we are not interested in ownership, only continued use, which can be acquired only with the help of the Panamanians. Otherwise, they say, 100,000 troops will be required to defend the Canal and we will immediately be plunged into another Vietnam. I do not accept any of these scare statements. In the first place, a major part of the income of Panama is due directly to the existence of an operating Canal. If the Panamanians make an effort to sabotage the Canal they are the ones that will be harmed. Most of them know this. In the second place, it is a gross overstatement to suggest that 100,000 men will be required to defend against saboteurs even if they are supported by the 1,500 men Panamanian armed forces. I estimate that 50,000 or less would be adequate even in the face of an unusually large scale determined effort. The most likely attacks can be handled with present forces. So far as the fear of another Vietnam is concerned, there is absolutely no comparison. Vietnam is on the other side of the world, 10,000 miles away. It had at least 17 battle-hardened infantry divisions. It was supported materially and politically by both Soviet Russia and The People's Republic of China. The people of the United States were divided over Vietnam; but in this case the majority are firmly united when it comes to their Panama Canal. Finally, the Canal itself is tough. One hand grenade, or stick of dynamite, will not bring the Canal operations to a complete halt as some suggest. While I do not doubt that there could be student demonstrations motivated from time to time by—to quote Ambassador Bunker—"persons trained in communist countries for political action," I do not think they comprise a threat that will bring about closing of the Canal or serious confrontation. I should point out, however, that under the terms of the proposed treaties, the Canal Zone disappears immediately and this will complicate the defense against intruders and those bent on sabotage since no longer will it be possible to emplace secure electronic warning devices.

(4) The capability of Panama to defend, maintain, and operate the Canal after the year 2000.

The overall capability of Panama to maintain and operate the Canal after the year 2000 when the United States is required to withdraw is a troublesome point. In my view the custodian of such a waterway, so important to so many nations is obligated to operate it at minimum cost for the benefit of all, as the United States has done over the years. We have already had one sad experience in the case of Egypt, which assumed control of the Suez Canal in 1956. First Egypt chose to use the Canal for her own political purposes and denied its use to Israel. Israel retaliated and sank several ships in the Canal. Egypt, lacking any industrial capacity could do nothing about it. The Canal remained closed to all shipping for several years, causing great increases in the cost of world commerce. The Suez Canal would be closed today if the United States Navy had not opened it in 1974. In the case of Panama, her capabilities are far more limited than Egypt with a population of 40 million. In the first place, the Panama Canal with its locks, pumps, and electrical controls is extremely more complex technically than the sea level Suez Canal. Furthermore, Panama is a very small country with a population about the

size of Atlanta, Georgia., i.e., 1.7 million. She is led by a military dictator with Marxist leanings. Political opponents have been exiled. Until recently all political activity had been outlawed. The press is controlled. The country is heavily in debt, and spending 40 percent of its income carrying its debt. Panama has no heavy industry worth the name and is woefully lacking in management skills as evidenced by the fact that several large-scale construction projects attempted recently have failed. It is very doubtful whether Panama will acquire the capability to maintain and efficiently operate an industrial complex the size of the Panama Canal, even long after the year 2000.

Along with the capability to operate and maintain the Canal one must consider the contribution of the Panamanian Armed Forces in the defense of the Canal. What will happen when the United States leaves in the year 2000 under the terms of these proposed Treaties? How long before the Canal falls in unfriendly hands? With the second smallest population in Latin America, Panama's army consists of nothing more than 1,500 light infantry with no modern equipment. In addition, there are about 6,000 of the Guardia Nacional who are assigned police duties, including making certain that Torrijos remains in power through removal of political opponents. It is apparent that some of the Guardia Nacional, such as Colonel Noriega, the director of intelligence, are hostile to the United States. In any event, Panama's capability to defend the Canal is practically nil.

I would like to note at this time that the proponents of these Treaties frequently claim that ratification will not result in cost to the American taxpayer. This leaves me confused since the U.S. investment in the Canal is about $7 billion and it will take about $40 to $50 million of appropriated funds simply to rearrange the U.S. base structure. Furthermore, the sudden increase of 30 to 40 percent in tolls is bound to be felt by both the U.S. importer and exporter of consumer goods and could become critical to our friends and allies in South America. Panama has already announced she intends to raise tolls and operate the Canal for profit.

Finally, Mr. Chairman, I will close with a brief discussion of the proposed Amendment which, it has been reported, has been designed to soften the strong and vociferous opposition that has been continuously voiced by the American people at large. As I understand it, the proposed Amendment will cover two points: the right of the United States to defend the Canal against a threat to its "neutrality", and the right of U.S. ships to expeditious passage. With respect to the first point: who will decide that the neutrality has been violated? Suppose the existing government of Panama supports the insurgents, or claims that there has been no violation? Does the United States make a unilateral decision to intervene militarily in order to force the maintenance of neutrality? If so, how do we reconcile such action with another proviso in the Treaties whereby we agree not to interfere with the internal affairs of Panama? Listen to General Torrijos on this subject, while speaking to the 10th Congress of the Panamanian Students Federation on 15 September 1977. "I am not afraid, nor am I denying that I signed a clause which if misinterpreted by future U.S. generations could give rise to intervention. But I am not afraid, I know the youth we are producing. And in order for there to be intervention there must be people willing to accept intervention and these people here have no intention of accepting it." Rousing applause. The new amendment now being proposed may solve our domestic political problems but the big question still unanswered is: What problems will the United States face when she sets about to correct violations of neutrality and what practical actions do we propose to take? This has not been examined in depth.

Neither has the other point in the proposed amendment, "expeditious passage," been thought through in a practical way. Now listen to Mr. Escobar Bethancourt, one of the Panamanian negotiators on the subject: "Expeditious passage does not mean privileged passage. As a matter of fact the concept of privileged passage is rejected. . . . If, after examining the provision, the Gringos say 'I want to go first,' then that is their problem with the other ships waiting there. We cannot go that far." What do we do even if the Panamanians permit U.S. ships to go to the "head of the line" but then simply walk off the job for a coffee break? The captain of a ship cannot bull his way through this lock-type canal. He must have all controls skillfully manned.

What is very unclear in many of the Annexes, Amendments, etc., is who actually enforces the terms of these agreements. There are all kinds of guarantees but no guarantor. It is shocking, and indeed frightening, to me to observe that so many of my countrymen in high places are supporting the idea that if we try to keep the Canal, Panama will deprive us of its use, and therefore the only solution is to give it away thereby placing all the complex, delicate machinery and controls in the hands of a country whose interests, under influence of our enemies, could well be contrary to those of the United States.

Mr. Chairman, as I pointed out before, the American people are opposed to these Treaties by a significant majority. No one can contradict this fact simply by suggesting that the American people don't understand the fine print. They understand it only too well. So it is of some concern and disappointment to me to learn through the press that plans are now underway to utilize the new amendment so as to permit individual Senators, who choose to do so, to vote for ratification of the Treaties, while at the same time demonstrating to their constituents that they are strongly supporting their opposing position.

Assuming these press reports are correct, it is my judgment that the American people will not be deceived by such a tactic.

Mr. Chairman and Members of the Committee, during the past year the policy of the United States has been to loudly proclaim our support together with our willingness to punish those who oppose majority rule in far away places. The Panama Canal issue is one issue about which a very significant majority of the American people have taken a firm and public position. Why cannot we begin with majority rule right here at home?

In closing, let me repeat that I am strongly convinced of the following:

1. A maritime link between the Atlantic and the Pacific is vital to the security of the United States and will always be so.

2. The Canal is not vulnerable and can be defended.

3. A permanent U.S. presence will provide the best defense and the best insurance against a major conflict in the Caribbean area.

4. There is no reason whatever for the United States to feel guilty about our construction and operation of the Canal for the benefit of all maritime nations and Panama in particular.

5. Our South American friends, despite their public statements, do not want the United States to withdraw from Panama.

6. The provision in these Treaties will cost the American tax payer millions of dollars.

Thank you Mr. Chairman.

SUPPORT FOR EXPANDED EXPORT GRAIN SALES

Mr. PEARSON. Mr. President, today American grain farmers are in economic trouble. Their costs of production have soared but the prices that they have received for their commodities have dropped.

There are a number of things that might be done to strengthen the farm economy. But certainly one of the most important is to increase our foreign exports. A significant increase in export levels would help reduce surpluses here at home while strengthening domestic prices. Moreover this would also help to reduce our balance of payments deficit and this would have a beneficial impact on the entire national economy.

The State Legislature of the State of Kansas has recognized the importance of expanding our export markets and both houses of the legislature have adopted a resolution which calls upon the President and the Congress to develop and implement programs to expand our export sales. I ask unanimous consent that a copy of this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION NO. 1655

Whereas, The United States has led the world in agricultural production, and

Whereas, American agriculture has made a substantial contribution toward feeding the peoples of the world; and

Whereas, Kansas, the largest wheat producer in the nation, ranks fifth among all states in exporting agricultural products; and

Whereas, Farmers have experienced serious declines in prices for their products while costs of production have soared; and

Whereas, Continuation of current trends in the agricultural market will endanger the nation's economy and world food supplies: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the President and the Congress of the United States are hereby urged to develop and implement payment programs for the export sale of grain in order to insure fair prices for farm products, to reduce the grain surplus and to strengthen our nation's economy by returning dollars to the United States thereby improving our balance of payments; and

Be it further resolved: That the Secretary of State be directed to transmit copies of this resolution to the President and the Secretary of Agriculture of the United States and to each member of the Kansas congressional delegation.

INDIAN CONSTRUCTION ACTIVITIES

Mr. ABOUREZK. Mr. President, I strongly support quick passage of H.R. 10532, a bill to extend the time in which Indian tribes and local units of government can complete construction activities authorized under the Emergency Drought Relief Act of 1977. Extreme weather conditions have delayed or slowed down many drought relief construction projects across the Nation. This bill would allow those contractors already on the job to complete their work. Failure to act quickly in a positive fashion on this legislation will result in disruption on construction work sites, half finished projects, and a frustration of the intent of Congress in authorizing the drought relief activity.

Though I am in complete support of

this bill, I do want my colleagues to be aware that its provisions do not address a related problem, that is, the negligent way in which this Congress and the administration has treated 16 tribes who, though completely eligible for assistance under the act, were effectively barred from contracting until too late. The net result was that of the total $25 million which the Bureau of Indian Affairs—BIA—had to allocate under the authority of this act, $5.6 million were never obligated and thus were returned to the General Treasury unspent. In short, the needs of 16 tribes that were to be addressed by this act and the accompanying appropriation act, remain unaddressed.

Last August, Congress saw fit to amend Public Law 95–18, the Emergency Drought Relief Act of 1977, by extending the Interior Secretary's program authority and the project construction authority to November 30, 1977, and January 31, 1978, respectively. This action was deemed necessary because of problems encountered by tribes, local governmental units, and the administration agencies in carrying out the intent of the act within the act's deadlines, due to extreme weather conditions and other unavoidable events.

However, in a disastrous oversight, Congress failed at that time to also extend the funding authority of the fiscal year 1977 supplemental appropriation. Apparently, the BIA erroneously informed the 16 tribes that the funding authority had been extended, assisted them in preparing plans for drought relief projects, continued contract negotiations, and then weeks after the actual funding authority had ended, belatedly informed the tribes of the expiration of funding authority. In November, Congress, acting on its own initiative, inserted language in the yet to be approved fiscal year 1978 supplemental known as H.R. 9375 which would extend funding authority for the Emergency Drought Relief Act up to November 30, 1977. Obviously, even if this fiscal year 1978 supplemental is finally approved in one form or another in the next few weeks, it will do nothing to relieve the 16 tribes, since the extension provision expired 2 months ago, thus forcing them to unfairly bear the brunt of the 1977 drought without Federal assistance.

Mr. President, H.R. 10532 which is before this body today, is sorely needed by the many tribes and local governmental units faced with harsh weather conditions beyond their control and should, therefore, be passed immediately without referral to committee and without amendment in order to avoid undue and inappropriate delays.

However, because this bill does not and cannot appropriately address those 16 tribes faced with bureaucratic conditions beyond their control which barred them from participating under the drought relief program, I feel it is now incumbent upon the Department of the Interior to accept the responsibility to immediately assess the remaining needs of these 16 tribes—especially in light of the long delays—and then propose either new authorizing legislation and the necessary appropriations, or, seek the necessary appropriations under other existing program authority in order to carry out the remaining responsibilities which the Federal Government has to the 16 tribes impacted by the drought of 1977.

PRODUCTION OF CRUDE OIL AND NATURAL GAS

Mr. BARTLETT. Mr. President, Mr. C. H. Keplinger of Tulsa, Okla., is a renowned oil and gas consultant with over 30 years' experience. In a recent letter he described the necessity to increase our domestic production of crude oil and natural gas.

His arguments are articulate and well thought out, and I offer a copy of his letter for the benefit of my colleagues. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

REALISTIC LOOK AT IMPORTED OIL, OR "YOU CAN'T HAVE YOUR CAKE AND EAT IT TOO"

The old cliché that appears in the title of this New Year energy message to you can be paraphrased—"Reduction of imported oil cannot take place without replacement with domestic oil and gas." No matter how noble our political endeavors are, we cannot create a vacuum in our dynamic economic system. Our economic wellbeing in America is keyed directly to efficient energy consumption. Future growth of our National Gross Product will be proportional to energy use.

This paper addresses itself on "what can we do" about the huge deficiency in the United States trade balance and corresponding "weakness" of the dollar in international monetary markets of the world. The U.S. trade deficiency—the difference between our imports and exports of goods before considering our foreign bond sales—totals about $30 billion for 1977. Our oil imports cost about $45 billion.

All economic experts and energy expert advisors to government and business alike agree that we simply cannot cut back drastically on our consumption of imported oils which are providing over 50 percent of the crude oil supply to fuel our economy. Slower domestic growth cannot reduce our present use of expensive imported foreign crude oil and products. Economic experts all agree that using large volumes of imported foreign oil is the equivalent of reducing the U.S. Union labor force by thousands of men and women per year and causes serious unemployment problems.

We cannot increase efficiency of energy use beyond the point of no return. The year 1977, through Prsident Carter's encouragement and efforts, has been a banner year on energy conservation—homeowners have spent millions of dollars on insulating their homes, and much effort on turning off unneeded electric lights; and industrial, chemical, and utility companies have made big savings in fuel consumption in many of their plants—in many cases reported to exceed 10 percent decrease in fuel consumption. Paper mills are using leftover wood pulp for fuel to reduce purchases of oil and gas. We know now from experience that we cannot solve the energy problem by conservation alone.

The U.S. consumer from New England to California now comprehends the impact of the cost of substitute fuels for natural gas. Reports on the cost of substitute fuels for natural gas in Ohio, New York, and Pennsylvania are excessive and the changeover to alternate fuel is very expensive. New Englanders are spending millions of dollars more for gas during their heating season due to increasing use of high-cost supplements. Industrial plants have converted to high-cost fuel oil to replace natural gas. Utility companies, during the winter peak-demand period, are drawing high percentages of their gas deliveries from supplemental sources—at prices of $4.50 per MCF for SNG, over $3.00 per MCF for LNG, and more than $7.00 per MCF for propane. The Eastern U.S. consumer knows from recent cost experience that we cannot solve satisfactorily the Eastern residential gas heating problem with high-cost substitute fuels.

In analyzing what we can do about correcting the deficit U.S. trade balance caused by purchases of imported foreign oil, we must first answer the question—"How much crude oil and natural gas is underground in America waiting to be drilled?" We have all heard "expert" predictions on future American reserves ranging from calamitous pessimism to enthusiastic optimism.

The problem can be clarified when you realize that the various authorities are citing four different kinds of reserves: proved, probable, possible, and potential. Within each category there is little disagreement between industry and government experts.

Proved reserves are those that are known to exist and can with reasonable certainty be produced and marketed. One step down from that and we get into probable reserves, defined as those resulting from the probable growth of existing fields and supported by engineering and geological studies.

Possible reserves are somewhat less certain, such as large step-outs in existing fields and in new fields within formations that are known to be productive elsewhere.

Most risky of all are potential reserves which lie in formations or geological areas that have not been known to contain oil or gas in the immediate area. An example would be the Atlantic East Coast offshore area.

At this time, the consensus is that responsible estimators are considering that the undiscovered potential in the U.S. is 150 billion barrels for oil and 600 trillion cubic feet for gas—sizable numbers of conventional supply which our government should encourage the oil and gas operators to find and produce. Successful discovery would provide many years of future supply at present U.S. producing rates of three billion barrels per year for oil and 20 trillion cubic feet per year for gas.

The only factor that will hold down the development of U.S. oil and gas potential is price—price for new oil and gas discovered. The proponents of deregulation of new natural gas are not asking for legislation to deregulate the price of old interstate gas. An adequate price incentive for new oil and gas is the cancer that has been destroying the energy potential and economic strength in America in the last few years. The record of oil and gas discovery has shown less reserves found each year and that the present replacement cost for new oil and gas exceeds $13.48 per barrel for oil and $2.24 per MCF for gas.

The situation has deteriorated to such a point that now utility companies, large industrial users, steel companies, automobile companies, chemical companies, paper companies, and the large interstate natural gas pipeline companies have seen their future domestic petroleum supply severely threatened by inadequate domestic drilling. Federal regulation of prices has forced both large and small users of natural gas to attempt to explore for gas in the unregulated intrastate areas of Texas, Louisiana, Oklahoma, Alabama, Mississippi, New Mexico, and the Rocky Mountain states.

The success record has been outstanding in the finding of gas in the intrastate, non-

regulated area. During the last five years there has been an increase in new supply of gas available in the intrastate market which greatly exceeds what was found for the interstate market. During 1975, the interstate new gas supply was increased by 1.3 trillion cubic feet, or 13 percent of the total gas new supply; whereas the intrastate new gas supply was 8.7 trillion cubic feet, or 87.5 percent of the new gas supply. This significant difference is additional proof that the unregulated intrastate market has a better chance of meeting the gas supply requirements for natural gas.

The recent Senate approved Natural Gas Policy bill with a form of phased deregulation included is persuasive evidence that the facts are being considered in Washington. While the Senate's view on this issue does not coincide with President Carter's original position, there is increasing congressional recognition of support for deregulation.

Had it not been for the success in the unregulated intrastate area our purchases of foreign oil would be much greater than they are because every trillion cubic feet of gas produced in the unregulated intrastate market replaces 180 million barrels of foreign oil with a savings in dollars in the balance of payments equal to an estimated $2.7 billion at present prices for foreign oil.

We look to increased development in the intrastate market from large users of gas if the intrastate market is not placed under Federal jurisdiction as proposed by President Carter's national energy plan. Along the Gulf Coast of Louisiana and Texas, many of the large chemical companies are taking part in oil and gas exploration as partners with oil and gas operators. The Borden Company is exploring for oil and gas in Louisiana. Dow Chemical Company and du Pont are exploring for oil and gas in Texas and other states. The Williams Companies have a subsidiary which has been actively searching for oil and gas to supply their future oil and gas requirements. W. R. Grace Company has acquired numerous companies, both producing companies and drilling companies, and is looking for its own oil and gas supplies to supply its petroleum needs. International Paper Company purchased General Crude Oil Company and has a large exploration department looking for its own oil and gas. Last year, General Electric purchased Utah International and Ladd Petroleum Company to protect its future supplies for its operations. The list of names of large gas users who are being forced to look for their own oil and gas supplies is growing larger every day.

In conclusion, we can reduce foreign oil purchases by replacing them with new domestic oil and gas if Congress allows domestic oil and gas prices equal to the cost of foreign oil or realistic oil and gas replacement costs. With realistic oil and gas prices and maximum use of coal, our energy scenario could change drastically in five years.

We need a strong U.S. domestic drilling segment which would be capable of drilling approximately 80,000 wells per year instead of the 44,000 wells drilled in 1977.

UNITED STATES/UNITED KINGDOM TAX TREATY

Mr. GRAVEL. Mr. President, as many of my colleagues know, one provision of the United Kingdom Tax Treaty now pending before this body has aroused intense opposition. This provision, article 9(4), would severely limit the ability of the States to determine the taxable income of multinational corporations. It would force upon the States an audit method which the U.S. Treasury itself has not been able to apply effectively.

The States and others have been chastized for criticizing a treaty which allegedly would bring the U.S. Treasury large amounts of money. A recent Wall Street Journal editorial claimed that the treaty as whole "amounts to several hundred millions of dollars to—the Treasury."

Before accepting such assertions, my colleagues should read a study of this United Kingdom Treaty prepared by the Joint Committee on Taxation. This study contradicts the Wall Street Journal editorial. It asserts that the refund of British taxes for U.S. shareholders in British corporations, that is the supposed revenue producer for the Treasury, "will not significantly increase U.S. tax revenues because of the special rules contained in the Treaty and Treasury's technical explanation."

Other provisions of the United Kingdom Treaty will cost the Treasury millions of dollars. The reduction in U.S. withholding rates on dividends paid to British shareholders in U.S. corporations will cost the Treasury $70 million each year. The tax credit for oil companies producing in the North Sea will cost millions more. All this is in addition to the hundreds of millions that article 9(4) will cost the States.

When the United Kingdom Tax Treaty comes up for debate this session, I hope that we will not hear cries of the new revenues at stake for the U.S. Treasury. The study cited here makes any revenue gains at all appear highly dubious.

Important as revenues are, however, there are more important issues at stake. The attempt of the U.S. Treasury to dictate tax policy to the States is just one of these issues. This treaty challenges as well the ability of the Congress to determine the broad Federal taxing policy of this Nation.

Treaties are supposed to iron out the wrinkles in U.S. tax laws as they affect citizens of other countries. This treaty goes further, and not just concerning the States. It attempts to establish broad and perhaps irreversible tax policy for the Federal Government as well. Take, for example, the provision of the treaty which would grant a tax refund to U.S. shareholders in British corporations.

This may be a worthy goal, but doing it through a treaty instead of legislation carries serious consequences. It could severely limit Congress' options in considering one of the most sensitive and difficult tax issues before it, the integration of the personal and corporate income taxes. In the words of the joint committee's report:

(I)f the U.S. adopts an integration system, other countries will be able to use it (the treaty) as a precedent for U.S. refunds to foreign shareholders of some or all of the U.S. tax paid by U.S. corporations.

In short, the State's opposition to article 9(4) of the United Kingdom Tax Treaty has served to focus needed attention on the tax treaty process itself. There is a danger that the Treasury Department is overstepping its role, and is using the treaty process to bypass the Senate Finance Committee and the House Ways and Means Committee and establish far-reaching tax policy changes of which these committees might not approve. This is another of those quiet, subtle invasions by the Executive of this body's constitutional powers, invasions which have often gone unnoticed until they had become difficult to reverse.

This is a serious matter. I commend the Joint Committee on Taxation's study to my colleagues, and therefore ask unanimous consent that it be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

ISSUES RELATING TO PROPOSED INCOME TAX TREATIES WITH THE UNITED KINGDOM, THE PHILIPPINES, AND KOREA

I. UNITED KINGDOM INCOME TAX TREATY

The proposed tax treaty was signed on December 31, 1975, and was amended by a subsequent Exchange of Notes and two Protocols. The proposed treaty, as amended by the Exchange of Notes and the first Protocol, has been approved by the United Kingdom House of Commons. The second Protocol has not been ratified.

The proposed treaty is intended to replace the existing tax treaty between the two countries. It is substantially similar to other recent United States income tax treaties and to the model tax treaty of the Organization for Economic Cooperation and Development (OECD). The most significant and controversial departures from standard treaty provisions are summarized below.

A. Limitations on State taxation

The proposed treaty contains a new provision (*Article 9(4). Associated enterprises*) not found in other tax treaties, which places limitations on the combined reporting method used by certain States of the United States to determine the taxable income which corporations derive from sources within the State. Under this apportionment method there is taken into account on a consolidated basis the operations of all related corporations, both domestic and foreign. The proposed treaty provides generally that in determining the tax liability of a British corporation doing business within a State, or of any U.S. or foreign corporation doing business within a State which is controlled by a British corporation, the State may not use the combined reporting method to take into account the operations of any related foreign enterprise which is not doing business within the State.

The principal arguments presented to the committee in favor of this provision are:

(1) The combined reporting method used by these States creates problems in our international relations because foreign governments and companies view the method as subjecting foreign corporations to State tax on business profits which are not properly attributable to operations in these States.

(2) The internationally accepted norm for allocating income among related corporations is the arm's-length method which is used by the Federal Government. The use by the States of a different method often results in double taxation of the same income.

(3) The combined reporting method used by the States can misallocate income where the various corporations in the combined group operate in countries where the profit levels are considerably higher relative to payroll and property values than is generally the case in the United States.

(4) The combined reporting method creates serious reporting burdens because a separate allocation of income is required for State tax purposes from the allocation required for Federal and foreign tax purposes.

This separate allocation requires the companies to collect and submit substantial financial and operating data for all affiliates worldwide which would not otherwise need to be collected. Moreover, this administrative burden is substantially increased because the records and information must be translated from foreign languages, currencies, and accounting systems.

(5) Even assuming the combined reporting method is theoretically acceptable where the business operations of the various corporations in a combined group are closely interrelated, in practice serious distortions of income occur because the States apply the method too broadly, sometimes in situations where the operations of the foreign affiliates have no significant connection with the State.

(6) The provision was a U.S. concession required to obtain beneficial provisions in the treaty, such as the refund of U.K. Advance Corporation Tax (Act) for U.S. direct investors. Thus, a reservation on the limitation on combined reporting might jeopardize U.S. final ratification of the entire treaty.

The principal arguments presented in opposition to this provision are:

(1) It is an unprecedented interference by the Federal Government (through legislation or treaty) with the traditional taxing powers of the States and was negotiated without prior consultation with the States.

(2) It will have a substantial impact on those States using the combined reporting method, causing a significant revenue loss (particularly if extended in future treaties to other countries).

(3) It is not at all clear that the unitary method is a less accurate method of allocating income among affiliated corporations than the arm's-length method.

(4) The treaty provision results in discrimination against U.S. multinationals and multinationals from third countries that complete with British multinationals in those States because their State tax liabilities will continue to be determined under the combined reporting method.

(5) States may be "whipsawed" because British multinationals may be able to compute their State tax liability under the combined reporting method where it is more favorable than the arm's-length method but will be able to insist on the arm's-length method under the treaty when the combined reporting method is less favorable. (The States may be able to solve this problem by denying the use of the combined reporting method to companies entitled to treaty protection, provided such legislation would not violate State constitutional provisions relating to nondiscrimination.)

(6) Because the provision is drafted in general terms, interpretative questions are likely to arise in the determination of the State tax liability of British multinationals. However, the procedures for resolving such disputes do not provide for any formal involvement of the State governments whose tax laws and revenues are at stake.

(7) Even assuming that it may be appropriate for the Federal Government to place some limitations on the States' use of the combined reporting method, it would be preferable to impose any such limitations by legislation rather than by treaty. Serious issues of Federalism and tax policy are involved, and the legislative process would give both Houses of Congress and the tax-writing committees an opportunity to consider the matter. The legislative process would permit the affected parties, the States, to participate in the formulation of limitations. In addition, legislation would permit uniform rules to be applied to all taxpayers, U.S. and foreign.

B. Dividends and the ACT

The proposed treaty contains a new and complex set of provisions (*Articles 10 and 23*) with respect to the taxation of dividends. Under the new British tax system, a tax is imposed upon U.K. corporations with respect to dividend payments (the ACT), and it is refunded to U.K. shareholders. No refunds are paid to nonresident aliens, however, in the absence of an income tax treaty.

Under the proposed treaty, the U.K. is to provide full refunds of the ACT to U.S. portfolio investors in British corporations, but the ACT refunds and dividend payments are to be subject to a 15-percent withholding tax. In the case of U.S. corporate direct investors, the proposed treaty provides for a refund of one-half of the ACT, but also for a 5-percent withholding tax on the dividend and the refund.

The proposed treaty also provides rules governing the treatment of the ACT for U.S. foreign tax credit purposes and provides for the allowance of an indirect foreign tax credit for ACT which is not refunded.

The United States agrees to reduce its withholding tax to 15 percent on dividends to United Kingdom portfolio investors and to 5 percent on dividends to United Kingdom direct investors.

The following factors are relevant to the consideration of the treatment of dividends:

(1) The discrimination of the British integration system against U.S. shareholders is eliminated (in the case of portfolio shareholders) or substantially reduced (in the case of direct investors). This is the first U.S. tax treaty which provides for refunds to foreign direct investors.

(2) The treaty will be an important precedent in U.S. treaty negotiations with other foreign countries (e.g., France, Germany, Denmark, and Canada) which in part integrate corporate and shareholder taxation. On the other hand, if the U.S. adopts an integration system, other countries will be able to use it as a precedent for the U.S. refunds to foreign shareholders of some or all of the U.S. tax paid by U.S. corporations.

(3) U.S. shareholders of U.K. corporations will receive substantial refunds of British taxes (approximately $90 million a year). The ACT refunds of U.K. tax paid to U.S. shareholders in British corporations will not significantly increase U.S. tax revenues because of the special rules contained in the treaty and Treasury's technical explanation which govern the treatment of the ACT for U.S. tax credit purposes. While these technical rules may be appropriate in the context of this particular treaty, the application of those rules to other situations raise complex and difficult issues which require careful examination. Consequently, the committee may want to indicate that these rules should not necessarily be considered a precedent for future treaties.

(4) If the ACT would not be treated as a creditable tax for U.S. foreign tax credit purposes in the absence of the treaty (it is not clear how it would be treated), the treatment of it as a creditable tax results in a substantial U.S. revenue loss. In addition, the treaty reduction in the statutory U.S. withholding tax rates on dividends paid to British shareholders in U.S. corporations results in a U.S. revenue loss of roughly $70 million a year.

C. Petroleum revenue tax

The proposed treaty provides (Article 23) that the U.K. Petroleum Revenue Tax (the PRT) is to be treated as a creditable income tax for U.S. foreign tax credit purposes. The PRT is imposed at a 45-percent rate on assessible profits from oil and gas extraction activities in the United Kingdom (including the North Sea) on a field-by-field basis. It is in addition to, and separate from, the regular U.K. corporate tax and a separate royalty.

The IRS has indicated that in the absence of a treaty provision it would not view the PRT as a creditable tax for U.S. foreign tax credit purposes.

It can be argued that the determinations of whether a foreign income tax is creditable should be solely a matter of tax policy and thus should only be determined by the Internal Revenue Service through its normal administrative processes. In this particular case, however, it can also be argued that the economic substance of the tax is closely comparable to U.S. notions of what constitutes an income tax and that the treaty can thus be viewed as merely overcoming technical deficiencies in the structure of the U.K. tax.

D. Public entertainers and athletes

The proposed treaty contains a separate set of rules, not contained in the existing treaty, which govern the taxation of income earned by public entertainers and athletes (*Article 17*). These rules provide that public entertainers and athletes who are residents of either the U.S. or the U.K. and whose gross receipts from performing in the other country exceed $15,000 for the year may be taxed on that income by the country where the services are performed. These rules insure that highly paid entertainers and athletes will be taxable in the country where they perform regardless of the length of their stay in that country.

The arguments presented to the committee against the provision are:

(1) The provision discriminates against entertainers and athletes. Personal service income earned by other individuals is generally taxable only by the country of their residence. (Articles 14 and 15) as long as they are present in the other country for no more than 183 days during the year. In contrast, income earned by entertainers and athletes will be taxed by the source country without regard to the amount of time spent there during the year if the $15,000 limit is exceeded.

(2) The discriminatory treatment of entertainers and athletes will serve as a precedent for similar treatment in other U.S. tax treaties. This is particularly true since it is the current U.S. treaty negotiating position to apply this special treatment to entertainers and athletes.

The arguments in favor of the provision are:

(1) Separate rules for entertainers and athletes recognize that their situation is somewhat different than most individuals earning income in a foreign country on a temporary basis. Entertainers and athletes often receive large amounts of income over a relatively short period of time, and in most cases there is no substantial problem in determining the amount of income attributable to their performances in a particular country.

(2) Because of the special circumstances, most tax treaties of other countries do not provide any exemption for services performed by public entertainers. Similarly, the OECD model tax treaty does not exempt income earned by public entertainers. Thus, the proposed treaty is more favorable to U.S. entertainers than the international standard.

(3) This is not the first U.S. tax treaty providing that the country of source may tax income of public entertainers which exceeds a dollar (rather than duration of stay) limit. Similar provisions are contained in the recent U.S. tax treaties with Belgium, Iceland, Japan, Romania, and Trinidad and Tobago.

(4) The British tax rates applicable to income earned by U.S. entertainers in the U.K. are generally lower than the U.S. rates. Although British tax rates on British residents are high, U.S. entertainers are only subject to British tax on half of their income earned in the U.K. (provided they do not work for a British company).

(5) U.S. entertainers will not be subject to double taxation on income earned in the U.K. because the foreign tax credit will reduce any U.S. tax on that income dollar-for-dollar.

E. Shipping income

The treaty provides (under Article 8) that income of ships or aircraft in international traffic operated by residents of one country is to be exempt from tax in the other country. By itself, this provision does not represent a major departure from past treaties, although it does not require, as many prior U.S. tax treaties do, that a ship be registered in the country of the operator's residence to qualify for the treaty exemption.

International shipping generally pays no tax anywhere in the world. In recent years there has been significant interest in changing the U.S. tax laws, and the U.S. negotiating position in tax treaties, to tax shipping into and out of the United States at least in some cases. Those arguing for such a change (including a Task Force of the Ways and Means Committee) believe it can be a first step toward initiating international arrangements (through bilateral treaties and perhaps multilateral agreements) whereby all international shipping income would generally be taxed in some jurisdiction. Moreover, some advocates view these changes as an effort toward minimizing the competitive advantages of operators locating their shipping operations in countries which do not tax shipping income. It is likely that Congress will seriously consider statutory changes in this area when it takes up the Administration's tax reform proposals.

The United Kingdom has been regarded as one country which effectively exempts from tax the shipping income of its residents (including U.K. corporations owned by U.S. interests) even in cases where these ships are not engaged in the international commerce of the United Kingdom. As a result, some U.S. companies (and other non-U.K. companies) have tended to establish U.K. corporations to conduct worldwide shipping operations. They thus avoid any tax liability in any country in the world. The treaty provision, in effect, validates this method of operation.

If the United States changes its policy toward international shipping, it can be argued that the exemption in the proposed treaty should be modified. Consequently, it may be appropriate to make it clear in the committee report that the treaty should not be viewed as a precedent for future U.S. treaty policy—particularly as that policy applies to countries which encourage the incorporation and registry of ships which neither operate in the international commerce of that country nor are owned ultimately by residents of that country.

F. Compensation of Government employees

Questions have been raised as to the tax treatment of governmental employees provided under the proposed U.S.-U.K. Income Tax Treaty. The provision of the proposed treaty dealing with governmental employees follows the OECD model tax treaty. It provides that compensation (other than pensions) paid by the government of either country to an individual for services rendered in the other country is generally taxable only by the first country. There are, however, two exceptions to that general rule relating to situations in which the employee is a resident of the country where the services are performed. Such compensation is taxable in the country in which the services are being performed if the recipient is either (1) a resident national of that country, or (2) did not become a resident of that country solely for purposes of performing the services.

This second exception is not contained in the existing treaty with the United Kingdom. As a result, U.S. citizens employed by the U.S. Government in the United Kingdom, who are presently exempt from British taxes under the existing treaty, will be subject to British tax under the proposed treaty if they are residents of the U.K. and if they did not become British residents solely for purposes of performing the services (e.g., they were British residents before they began to work for the U.S. Government). These individuals will also be subject to U.S. tax on the income earned in the U.K. as U.S. Government employees (Article 1(3)), but the foreign tax credit allowed with respect to those British taxes will reduce their U.S. tax on the income on a dollar-for-dollar basis.

This revised treaty provision will not affect dependents and spouses of military personnel. They will remain exempt from British tax pursuant to the Status of Forces Agreement regardless of their reasons for becoming residents of the U.K.

CRIMINAL CODE REFORM WOULD AID LIBERTY

Mr. SCHMITT. Mr. President, yesterday's passage of S. 1437, the Federal Criminal Code bill was a major event in this Nation's legal history. It is obvious to all concerned individuals that there exists a pressing need for a modern Federal Criminal Code to replace the hodgepodge of outdated statutes which form the present law.

Efforts to achieve a modern code have been underway since 1966 when the Congress established the National Commission on Reform of the Criminal Laws. This Commission, the famous Brown commission, named after its chairman, former Governor of California, made its report in 1971. During the course of the past 7 years, a series of bills were proposed and revised until finally S. 1437 was reported out of the Senate Judiciary Committee.

Senators KENNEDY and THURMOND deserve much credit in bringing this bill to the floor. Not to be overlooked, however, are the monumental efforts made by two former Members of this body. I am, of course, referring to the late Senator John McClellan and former Senator Roman Hruska. These two men devoted a large part of their Senate careers to achieving the reform of our criminal laws and the country is deeply indebted to them for their efforts.

In this case, like most legislation which is brought to the Senate floor, S. 1437 is not perfect nor do its adherents make such claims. There are some provisions upon which not everyone agreed. This is to be expected and I think the Judiciary Committee has tried very hard to accommodate various Senators.

For example, it accepted the amendment offered by Senator CRANSTON and others which adopted the rule of strict construction of the Criminal Code. I supported this amendment and believe the bill is better because of its acceptance. Of course, there remain some issues upon which the Senate is sharply divided. But with a bill of this magnitude this is to be expected. Instead of focusing upon these differences, I would like to highlight some of the major achievements of this bill.

First of all, the new code will be a much simpler code. It will be orderly and comprehensible. This in itself, is no small achievement and should well serve the cause of justice at every step in our legal system.

Second, the bill reforms certain aspects of present law. These changes reflect some of our evolving social values. For example, chapter 15 deals with civil liberties and reflects legal and social theories that have been voiced in various court decisions and civil legislation.

An example of an area of much needed reform is reflected in how the bill addresses sex offenses. S. 1437 eliminates the requirement of corroboration in rape cases. It also severely restricts inquiries into the sex history of rape victims. Furthermore, it expands the categories of sex offenses to include those committed by force against males as well as females.

Additional provisions of this legislation are concerned with those who would recklessly endanger the lives and health of others such as polluters and negligent manufacturers. Nor are the grave problems of organized crime, governmental corruption, or haphazard sentencing ignored.

I could continue to discuss the many good provisions of this bill, but others who have worked closely with it have done so and there is no need to be repetitive. The fact is, however, that overall this legislation is good for the country and, as such, deserved to pass the Senate. It now can go to the House where those who might still object to certain provisions will have an opportunity for another hearing. Hopefully the House will act quickly on this measure so that the House-Senate conference will have time to resolve whatever issues are still outstanding.

Mr. President, I ask unanimous consent that a letter written by Senator KENNEDY to the Los Angeles Times explaining his position on S. 1437 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CRIMINAL-CODE REFORM WOULD AID LIBERTY

(By EDWARD M. KENNEDY)

Contrary to the surprising conclusion reached in a recent editorial in The Times, the enactment of the comprehensive criminal-code reform legislation now pending in Congress would bring significant progress to a wide range of civil-liberties issues.

In urging the defeat of this legislation, The Times does a disservice to the cause of both responsible law enforcement and individual freedom.

The current Senate bill, S. 1437, is the culmination of a decade of effort to modernize the federal criminal code. Experts from one end of the philosophic spectrum to the other have described the present code as "archaic," "repressive," "unfair" and "a threat to the civil liberties of every American."

The pending reform would promote civil liberties in a variety of ways. It would repeal the infamous Smith Act, which was used to hound academics and intellectuals during the McCarthy Era. It would decriminalize the possession of marijuana, modernize civil-rights laws, repeal the sexist stereotypes that have made a nightmare of rape laws and establish a generous compensation program for victims of crime. The measure would also enlarge the right of privacy by prohibiting

the interception of correspondence, and protect the press against contempt charges for violating invalid judicial "gag" orders. For the first time, political "dirty tricks" would be outlawed. In addition, the proposed reform would make hundreds of other fundamental changes in the areas of assembly and free speech, thus breathing new life into the Bill of Rights.

No such comprehensive reform has ever been achieved before. Overall, the bill would streamline and restructure the 3,000 separate pieces of criminal legislation passed by Congress over the past 200 years. For example, a single new section would replace more than 70 confusing theft statutes.

Moreover, 50 perjury statutes would be reduced to three provisions, and four specifically defined states of mind (intentional, knowing, reckless and negligent) would replace more than 70 undefined, vague terms. Also, the legislation would harmonize and clarify scores of other legal terms to assure uniform interpretation.

Most important, the bill would provide the first comprehensive reform of federal policy on punishing convicted criminals. It would phase out both indeterminate sentencing and parole, which have been criticized by law-enforcement experts and prisoners alike as abusive and unfair, and would establish a commission to provide sentencing guidelines for judges. For the first time, sentences would be subject to appellate review.

Some liberals who oppose the bill do so on the ground that it does not go far enough in improving the chaotic state of current law. Beyond a reasonable doubt, that sort of "all-or-nothing" approach will doom the bill to defeat, despite its numerous major improvements. In my view, the continuing opposition from this quarter is a hangover from the amply justified and extremely passionate attacks on S 1 in the past Congress, an early precursor of the present bill that I did not support.

General rhetoric about "eternal vigilance" is no substitute for careful examination of the details of the legislation. Particularly troublesome are the inaccurate statements and misleading assertions made by many of the bill's opponents. Reasonable people may disagree on whether S 1437 should be enacted into law, but there is no justification for distorting and misconstruing its various provisions. The public is entitled to know exactly what the bill would and would not accomplish. Among the most frequently distorted parts of the bill are these six issues:

No section would make it a crime for the press to refuse to disclose confidential sources. Indeed, the bill would provide a defense for refusing to testify or produce documents if a person had a legal privilege to refuse to disclose the information. Nor would S 1437 confer new power on the courts to issue "gag" orders. The bill would simply recodify the existing law of contempt.

The conspiracy section is actually somewhat narrower than current law, since it would allow a person to withdraw from a conspiracy before the illegal object was achieved. Nor would "agreement," in and of itself, be sufficient to make a person a member of a conspiracy; conduct with intent to carry out an objective of the conspiracy would also be made an essential element of the crime. In this respect, the proposed reform is actually more "liberal" than California's own conspiracy law.

The proposal in the area of criminal solicitation would not make it a "new and elastic federal crime," as The Times maintains. In fact, this section simply would redefine a similar federal offense, and follow recommendations by the American Law Institute's progressive Model Penal Code and by the National Commission on Reform of Federal Criminal Laws established in 1966 by President Johnson. The language of the reform would require both "intent" to encourage a crime and "circumstances strongly indicative of that intent." Why shouldn't soliciting a bribe or suborning perjury be a federal offense? In fact, a precedent for considering these acts a federal crime dates back to at least 1949, and the Catrino decision in California. The reform bill would merely recodify existing law to take this, and subsequent rulings, into account, and to conform with recommendations of the American Bar Assn.

Another section would create a new federal offense carrying a maximum term of five days' imprisonment for disobeying an order issued in case of fire, flood, riot or other conditions that created a serious risk to people or property. But, before a conviction for the offense could be obtained, the order would have to be found lawful and reasonably designed. Sen. McClellan and I are taking another look at this provision in light of The Times' concern, to ensure that it is not an invitation to abuse. But should not an official at the scene of an actual or imminent disaster be able to issue orders to save lives or property—and have those orders obeyed?

Contrary to some assertions, the bill would not "expand" the authority of the FBI by making it a crime to give a false statement to a law-enforcement officer. In fact, the bill would substantially narrow the current broad law in this area; the revised provision would come into play only if the false statement was "volunteered" or made after Miranda-type warnings had been given. The defendant would have to know that he was speaking to a law-enforcement officer, and would have to be afforded an opportunity to retract the false statement. None of these protections exist today.

Finally, critics like The Times fasten on the "use-immunity" portions of the bill. But these provisions are found in the current statute, and have been upheld by the Supreme Court as recently as last June. I share The Times' concern with the potential abuses of use immunity, but to argue that the provisions are a clear violation of the Fifth Amendment is to ignore express Supreme Court opinions to the contrary.

In general, the pending legislation follows the recommendations of the Brown Commission, a bipartisan group chaired by former California Gov. Edmund G. Brown and composed primarily of liberal academicians. Indeed, the bill would add additional civil-liberties safeguards that conservative members of the commission opposed.

Opponents of the bill are unfairly confusing the issue by constant and unwarranted references to the now-defunct S 1. The real comparison should be made between the current bill and current law. It is fair to object to the reform proposals because they do not go far enough in some areas—but wrong to castigate them as a step backward.

We now have a rare opportunity to take a giant step forward for the benefit of both law enforcement and civil liberties. It would be foolish to miss this opportunity for truly major advancement because of an "S 1 complex" and the impossible dreams of those who refuse to help lay the foundation for progress unless Rome is built today.

TWENTIETH ANNIVERSARY OF EXPLORER I

Mr. ALLEN. Mr. President, today marks the 20th anniversary of America's first satellite, Explorer I, sent into orbit by a Jupiter C launch vehicle which was developed by the U.S. Army Ballistic Missile Agency (ABMA) headquartered at Redstone Arsenal, Ala.

The launch of this first U.S. satellite followed two successful satellite launches by the Soviet Union. Sputnik I was put into orbit on October 4, 1957, and was joined 1 month later by Sputnik 2, carrying the dog Laika for biological experimentation. The Russians' success caused great concern in the United States, and the public began asking why the Soviet Union had been able to beat us into space.

The answer to that question revolves around President Eisenhower's 1955 approval of the plan to put an American satellite into orbit during the International Geophysical Year (1957–58), while concurrently insisting that this satellite effort be separate and distinct from the military program for intercontinental ballistic missiles which was being conducted at the Army's missile and rocket laboratories at Redstone Arsenal by ABMA. Not only did this directive require development of a new launch vehicle, but it accorded the program relatively low priority within the Department of Defense, which had responsibility for satellite and missile program at that time which was before the creation of the National Aeronautics and Space Administration.

The civilian satellite program, called Vanguard, was assigned to the Naval Research Laboratory which had no involvement in the military missile program. The project had low level support in DOD, although once the Russians had launched their first satellite, it achieved new priority. In the postsputnik rush to achieve a successful launch, testing procedures normally associated with such endeavors were shortened to speed up the program. Those associated with the Vanguard program were not completely surprised, therefore, when the much publicized full-fledged test of Vanguard proved a dismal failure. At 11:45 a.m. on December 6, 1957, the launch buttons were pushed and Vanguard lifted about 1 meter off its launch pad, then crashed to the ground in a fiery display.

Following this embarrassing failure, President Eisenhower reversed his stance and authorized the Army to proceed with its satellite program. The ABMA team at Redstone Arsenal, under the leadership of Dr. Wernher von Braun, had already achieved success with a Jupiter C launch vehicle in September 1956. Had the Jupiter's fourth stage been fueled, a satellite could have been placed into orbit at that time, but the Army was prohibited from embarking on a satellite program. Now the authorization was given and, on January 31, 1958, a Jupiter C booster placed Explorer I into a perfect orbit. Although the U.S. satellite was considerably smaller than its Russian counterparts, it revealed important scientific information. Radiation instruments on board Explorer I discovered what are now known as the Van Allen belts of radiation which encircle the Earth.

On March 17, 1958, a successful Vanguard launch was achieved, and so began the U.S. space program, and the American-Russian space race. The National Aeronautics and Space Administration

was created in 1958 to conduct the civilian aspects of the U.S. space program, and the space exploration efforts at Redstone Arsenal were taken from Army management and transferred to the George C. Marshall Space Flight Center which was established in Huntsville by NASA. Since that time 12 Americans have explored the Moon and returned safely home, four of the other eight planets in the solar system have been explored by automated spacecraft carrying cameras and scientific instruments, and the inhabitants of plant Earth have become routine users of satellite for communications, weather forecasting, earth resources monitoring, and a variety of other purposes.

So, Mr. President, as we celebrate the 20th anniversary of American space flight, we are also celebrating the opening of a new frontier for exploration and development by mankind. I am proud of the important part played by Alabama and Alabamians in helping our Nation come from behind in the space race and in establishing clear leadership for the United States in this exciting and important contest.

RHODESIAN DEVELOPMENTS

Mr. WALLOP. Mr. President, the United States appears to be pursuing a policy of confusion with regards to the Rhodesian situation. We are confusing long- and short-term objectives, we are using the wrong means to obtain our objectives, and we are underestimating the importance of those objectives.

Political developments in Rhodesia have reached a critical stage. American statesmanship can conceivably influence the outcome of a delicately poised situation. I believe that the influence of the United States should be directed toward the evolution of a stable and prosperous Zimbabwe with political institutions firmly rooted in democratic principle.

Two diverse attempts are being made to resolve the present conflict in Rhodesia. One is generated by internal initiatives; the other by external forces, including the British and United States Governments but involving other elements, not all of which share our objectives.

During the last 2 months the internal initiative has made impressive progress and gives promise of producing early agreement on new constitutional arrangements between Mr. Smith's government and representatives of black political groups which together represent, according to the best available information, the overwhelming majority of the Rhodesian people. It is evident that whatever agreement is reached will entrench the principle of majority rule with minority safeguards. This seems to me to be deserving of American support.

It is an outcome compatible with our own perceptions of democratic order, since it will have been reached by parties that are willing to submit themselves to an electoral test. It answers to the principle of self-determination, since it will have been reached by black and white Rhodesians cooperating together without external pressure. It will be conducive to economic prosperity because it promises to retain the confidence of white Rhodesians, who hereafter will play only a subordinate role in the political life of their country but can be expected to continue to make a significant contribution to its economic well-being.

None of these merits are apparent in the alternative arrangements that are being discussed in Malta this week between militant forces and the British Government, with our U.N. Ambassador in attendance. I note that these radical forces have rejected the opportunity of participating in the internal discussions and that they decline to submit themselves to the test of the ballot box. This seems to be an eloquent commentary on their expectations of popular support.

To say, as we have heard said, that failure to bring this militant group within the ambit of an agreement will threaten an escalation of the conflict is to give hostages to violence, which is surely inconsistent with our principles in this or any other situation. In practical terms, there are good grounds for believing that violence will subside once the objective of majority rule is secured. To the extent that it persists, it will be the work of a disappointed minority faction or of a foreign subversive power. In either event, it will be our responsibility not to bow to it but to support a freely elected government of Zimbabwe in resisting it.

Mr. President, it is my hope that the administration will give its early endorsement to an agreement reached in Salisbury and will do its utmost to insure the success of such an agreement by offering cooperation in its implementation.

A TRIBUTE TO ALAN H. OLMSTEAD

Mr. RIBICOFF. Mr. President, I would like to share a happy occasion with my colleagues. Alan H. Olmstead of Connecticut has been named Citizen of the Year by the participants on "Fourth Estate," a Connecticut public television program.

Almost 40 years ago Alan Olmstead was graduated from Yale and became a reporter for the Bridgeport Times-Star. In 1941 he started the "Connecticut Yankee" column in the Bridgeport Telegram. It has been published in that paper and in several others in Connecticut ever since.

For more than 30 years Alan was editor of the editorial page of the Manchester Evening Herald. His editorials were recognized as being in a special class. They rivaled the columns of the best newspapers in the country. Alan could have accepted offers of "promotion" to greater challenges elsewhere. That he belonged to Connecticut and chose to stay has been our good fortune.

The title "Citizen of the Year" is fitting because it suggests what Alan is: a man of many parts. He is a citizen and cares about his town and State as well as his country. He is also a farmer. For years Alan ran his farm at both ends of the day and wrote his columns in between. Another part appreciates the nature of Connecticut. Readers of the "Talk of the Town" in the New Yorker have long read Alan's beautiful prose on nature. But the greatest part is humanist. He is a reader and one who draws from literature in his writing and in his life.

I first met Alan years ago when I ran for the office of Governor. I had great respect for his independence and his open minded approach to politics. The people of Connecticut know Alan as a man who thinks for himself. His columns reveal a sensitive and benevolent but tough minded man. He is a thoughtful, subtle writer, and therefore a powerful one. His readers know that Connecticut politicians are mortals capable of all manner of foolishness. And none is prouder than he who wins a favorable word in a Connecticut Yankee column.

In addition to his columns he also had two books published by Harper & Row. The first, "Threshold," is a journal which lives his adjustment from a daily job to retirement. The second, "In Praise of Seasons," is the most eloquent tribute to New England I have read.

Perhaps because he has more time to devote to his column, Alan Olmstead appears to be having more fun than usual. This past year he has been fresher and more delightfully perceptive than ever. As the soul of Connecticut writers he does honor to the term "Connecticut Yankee." In selecting him as Citizen of the Year the Fourth Estate pays tribute to a remarkable man. Connecticut is proud of Alan Olmstead.

Another perceptive editor, Joseph Owens, of the Bridgeport Telegram, wrote an excellent column on Alan and I ask unanimous consent to print it in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Bridgeport (Conn.) Telegram, Jan. 5, 1978]

MAN OF THE YEAR

(By Joseph A. Owens)

The conscience of the state capitol is being honored by a group of journalists. Alan H. Olmstead richly deserves the distinction being bestowed upon him by the participants on Fourth Estate, a statewide Connecticut Public Television program.

Customarily, the editors, who each week discuss events in the Constitution State, select their Citizen of the Year during the final program in December. In the past, the award has gone to such giants on the political scene as Senators Ribicoff and Weicker and Governor Grasso.

This year, the politicians were put aside and a native of Bridgeport, who is scrupulously dedicated to his craft as well as all that is good in Connecticut, was chosen.

No better choice could have been made.

Through his column, which has appeared on the editorial page of The Telegram continuously since 1941, Alan quietly and unobtrusively labors diligently to keep the citizenry aware of activities in the political arena. At the same time, in his dignified style, Olmstead transmits between-the-lines messages to the congressional delegation, the governor, members of the General Assembly and the leaders of both political parties.

Though he was editor of the editorial page of The Manchester Evening Herald for more than three decades and his commentaries on national and international issues were

thoughtful and logical, Connecticut politics remained closest to his heart. His views, expressed in several newspapers thrice weekly, long ago brought him the respect and admiration of his colleagues.

With the patience of Job, he will sit for hours during a public hearing in the capitol taking notes. Perhaps he will write a column about that session. Maybe not.

There are occasions when he will stand in a doorway for a few minutes and during that time gain special insight into the whys and wherefores of the eventual fate of a legislative proposal.

Elected and appointed officeholders are keenly aware of his ability to see through facades. They know, or suspect, he has detected the motivations for their actions.

During recess periods of Democratic and Republican state conventions in Hartford, Alan perches himself inconspicuously on a small wall, about two feet high, outside the Bushnell Memorial. Politician after politician make the pilgrimage to his station. When activities resume in the auditorium, Olmstead moves into the shadows on the stage savoring the happenings on the convention and podium as well.

His newspaper career began on the old Times-Star in 1928, after Alan graduated from Yale. His first boss was Jim McGovern.

In those days, legislators from Fairfield County would ride the train to Hartford. Olmstead would board it in Bridgeport. Many were the days when he gleaned enough news from the lawmakers enroute that he was able to arrive in the capital city and immediately take the next train back to Bridgeport and write six or seven interesting news reports, with time to spare.

This 1933 graduate of Central High School (he spent some of his boyhood in Newtown) never pretends to be anything other than a newsman earning a living. As he goes his way, he strives for perfection, a model for young journalists to emulate. When the ownership of The Manchester Herald changed hands, Alan would not compromise his principles, so he voluntarily left the paper in 1972.

In nominating Alan for the CPTV award, Sherman London of The Waterbury Republican and American took note of the fact that Alan ended his daily routine gracefully and has continued to be productive through his column and two books published by Harper & Row, London, in a good presentation, credited the tall, distinguished-looking gentleman with being the foremost opponent of legalized gambling in Connecticut. Further, he lauded Alan's concern over the changes of questionable worth taking place in the state he loves.

Seven other nominations were offered, including mine of Harry J. Gray, chief executive officer of the United Technologies. But, as moderator Joe Steinberg, a lawyer, author and teacher observed, it was destined to be Alan's night. There was following the voting unanimous agreement an excellent choice had been made. Soon he will be presented a plaque on a Fourth Estate show.

There is more than one side to Alan Olmstead. He writes not only about politics but also portrays nature as he sees and enjoys it. And for many years, while working full time as an editor and columnist, he would actually till the soil with the arrival of the sun for an hour or two, and then again in the evening after a full day at the office he would labor over his crops.

The passage of time forced his retirement from farming. He still sells evergreen trees at Christmas. Many, many years ago, he purchased seedlings from the old state Agriture Department and carefully nurtured them to maturity. Anyone who purchases an Olmstead-grown tree must do his or her own chopping.

Through his column, Olmstead has allowed his affection for Ray Baldwin and John Dempsey to be obvious. Yet, in his book, "Threshold," Alan revealed that Abe Ribicoff "remains the best-balanced, most intelligent, most responsive political figure I have known."

It is possible that, whether he realizes it or not, Olmstead—the man of fairness—was partly responsible for Dempsey's rise to the governorship. In the early fifties when the Irishman from Putnam was the minority leader in the House, voting was done by paper ballot. A legislator with, in Alan's words, "a vicious streak in him" sought to unseat a judge.

Olmstead suspected that the ballot box was being stuffed. Quietly, he called the matter to Dempsey's attention. An appeal by Dempsey for a more closely monitored vote centered attention on him and the judge retained his seat.

Olmstead, not mentioning his role in the drama, wrote a column about the honesty, courage, character and decency of John Dempsey. Abe Ribicoff, out of office at the time, was impressed and told Dempsey so in a letter. Conceivably, Alan's comments may have influenced Abe's decision to select Dempsey as a running mate in the 1954 gubernatorial race.

As a Yankee, Alan often laments in print the passing of the true Connecticut Yankee from high political office. He is most pleased when he sees an individual in government "rise above himself."

Alan is embarrassed about the high praise he received over the ultra high frequency TV airwaves by men he has known and worked with for a long time, because he sincerely seeks no personal acclaim. The most Alan H. Olmstead will say is, "It has been fun over the years."

THE PANAMA CANAL TREATIES

Mr. GRIFFIN. Mr. President, yesterday the Committee on Foreign Relations, by a vote of 14 to 1, favorably reported the Panama Canal treaties.

I ask unanimous consent that a statement which I prepared for use during committee deliberations be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

This has been one of the most difficult issues I have confronted in my 21 years in the Congress. I have long recognized that a major revision in our treaty relationship with the Republic of Panama is desirable and could be in the interests of both countries.

I recognize the importance of maintaining close and friendly relations with the people of Panama and with the people of other nations throughout the hemisphere. I am deeply conscious of, and concerned about, the impact that outright rejection of the treaties could have on our relations in the hemisphere.

Sometimes political responsibility imposes upon public officials the necessity of choosing among several undesirable courses of action. That may seem to be the dilemma that we face with these treaties.

After months of agonizing consideration, I have concluded that I cannot consent to ratification of the treaties before us. I think they are fatally flawed in a number of substantive respects. In my view they do not adequately protect the interests of the United States or of other nations which depend upon the canal.

I will, of course, be more specific in a statement of my individual views which will be filed with the committee report. I might just point, however, to Article XII of the Panama Canal treaty, which deeply concerns me. It takes away an option of the United States, between now and the year 2000, to even consider the possibility of building a second canal, possibly a sea-level canal, in another country. Under these treaties we would tie our hands and deny ourselves that option, which I think could be very valuable and important.

I am concerned that too much of the treaty language (and in very important areas) is full of ambiguities—ambiguities so apparent that people representing each country are telling their respective constituents that the language means different things.

If there is concern now about defending the canal—with the troops we have stationed there—and that seems to be a concern of many people who support these treaties, there should be greater concern about what would happen after the year 2000 under the provisions embodied in these treaties. I don't find that the understanding reached (between President Carter and General Torrijos) is adequate to cover that concern.

I am also disturbed that between now and the year 2000 a dwindling number of United States citizens and a growing number of Panamanian citizens would be expected to operate and maintain the canal "as employees of the United States"—but under the laws of Panama, except to the extent that there is other provision made in these treaties. Not in the year 2000, but in 30 months after the treaties are ratified, the area now included in the Canal Zone would become subject to the laws of Panama, to the police of Panama, and to the courts of Panama. I think that is a situation that would be fraught with great difficulty. There is no mechanism, no machinery provided for in these treaties to resolve the disputes that would arise.

Furthermore, I believe the defects—and I have only focused on a few of those which concern me—are so basic and so serious that they cannot be remedied by trying to rewrite the treaties on the Senate Floor.

Although these treaties should not be ratified, I believe there is a course open to the Senate other than outright rejection. Despite all of his knowledge about the history of the canal, or perhaps because of it, David McCullough, the distinguished author of "The Path Between the Seas" acknowledged before the committee that he had experienced great difficulty in reaching a personal decision about the merit of these treaties. Although he finally decided, on balance, to support the treaties, he made a very profound and perceptive point in his testimony before this committee. I would like to quote him:

". . . if we say 'yes' to these (treaties) in a grudging way . . . (because we think) we have painted ourselves into a corner and we have to get out . . . (that would be) unfortunate . . . (and) just as wrong, and in some ways a greater mistake than to say 'no' in the spirit of saying 'no' because (it should be) done right—because we don't want to have to come back in 15 or 20 years and have to do it all over again."

Under the Constitution, of course, the Senate's role is one of "advice and consent." Instead of consenting to these treaties, I believe it would be a wiser course for the Senate to exercise only its "advice" authority. In other words, without rejecting these treaties outright, I believe it would be wise for the Senate in this instance to advise the President to send the negotiators back to the drawing boards with instructions to persist until a more acceptable treaty can be fashioned.

I want to say in all sincerity that I respect the two Senate leaders and those of my colleagues who have come to a contrary conclusion—those who in their own minds are convinced that these treaties do serve the best interests of the United States. To the extent that they have the courage of their convictions, that is in the best interest of the Senate, because I believe with Edmund Burke that a Senator owes his constituents his judgment and should not sacrifice it to public opinion alone.

But, when the call on the merits of an issue is as close as this is, or as I perceive it to be, I think the judgment of the people ought not to be taken lightly. Very honestly and frankly, I have come to the conclusion that in this situation, as is often the case, the people are right.

TWENTY-SEVEN NATIONAL GROUPS OPPOSE B–1

Mr. PROXMIRE. Mr. President, I would like to draw attention to a press release and letter signed by 27 national organizations in support of the deappropriation of $462 million in funding for 2 more B–1 bombers.

This letter is signed by Common Cause, the Oil Chemical and Atomic Workers, National Association of Social Workers, Environmental Action, Business Executives Move for New National Priorities, International Longshoremen and Warehousemen's Union and many other national organizations.

In addition I would like to deal with three of the principal fallacies of the pro B–1 position:

Fallacy No. 1 is that the B–1 is a more cost-effective cruise missile carrier than the B–52 or a wide bodied jet.

According to the Pentagon's own analysis, for equal effectiveness over 20 years in constant dollars, the B–1 cruise missile carrier is 60% more expensive than a wide-bodied jet cruise missile carrier and 20 percent more expensive than a B–52 cruise missile carrier. For equal effectiveness, the B–1 would cost $17.7 billion over 20 years while the B–52 would cost $14.8 billion and the wide bodied jet would cost $10.9 billion.

Fallacy No. 2 is that the B–1 can penetrate more successfully than any other aircraft or cruise missile.

Consider for a moment that the Soviets have invested tens of billions into a massive air defense network against bombers—10,000 surface to air launchers, 6,500 air defense radars, and 2,540 interceptors. Nowhere in the world is there such a massive bomber defense. And now this defense stands naked to the cruise missile. It is the Soviet version of the Great Wall of China. Why?

Because the cruise missile technology can be pressed faster than any air defense deployments and at a fraction of the cost.

Because the present radars, fighters, and surface to air missiles cannot track or intercept even our first generation of cruise missiles.

Because by the time the Russians spend billions on an entire new defense, we will have our second generation cruise missile with built-in maneuverability and supersonic dash speed and possibly even electronic countermeasures.

Those that follow military affairs will recognize this trend as the primacy of the offense over the defense—a fact of life that has been with us at least since the advent of the ICBM.

The third fallacy is the statement that for only $225 million, we can produce two more B–1 bombers as insurance against the future.

Consider the facts.

Of the $1.16 billion appropriated for such production before President Carter's decision, $401 million has been spent.

Contract termination will cost another $297 million.

This leaves $462 million to be saved by deappropriation.

To this must be added $280 million for testing the two additional B–1's. You just can't leave them on the runway.

Thus the true total costs of the two additional B–1's ($1.16 appropriated—$280 million testing) would be $1.44 or $720 million each.

I used to think that a $100 million B–1 was expensive but this is ridiculous.

Mr. President, I have noted that my distinguished colleague from Utah (Mr. GARN) has distributed a series of questions and answers from the Pentagon on the B–1 along with rebuttals prepared by Congressman JACK KEMP. The Defense Department believes these rebuttals to be without merit and has provided me with thorough answers to each of the rebuttal points.

Therefore in order to make the Pentagon's views known in detail, I ask unanimous consent that the official policy statements of the Defense Department, in reply to the aforementioned rebuttals, be printed in the RECORD.

I also ask unanimous consent that the letter signed by 27 national groups be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CAMPAIGN
TO STOP THE B–1 BOMBER,
Washington, D.C., January 1978.

DEAR MEMBER OF CONGRESS: In the next few days you will vote on whether or not to rescind almost half a billion dollars in excess funding for the B–1 bomber. The President has requested the rescission, and the question will arise when you reconsider the FY 1978 Supplemental Appropriations Bill.

We strongly urge you to support such a deappropriation. It is past time for the Senate and House to affirm the President's termination of this very costly and unneeded program.

We have long opposed the B–1 as wasteful and unnecessary, but never before has the program seemed so obviously a creature of the special interests who would benefit from its production. The B–1 prime contractor, Rockwell International Corp., claims that the money in question ($462 million) is needed for further testing of the system. With the funds, Rockwell would build two more B–1s to go with the current "fleet" of four bombers, which were bought at a price of about $3.5 billion, despite the fact that even the Air Force says that "the first four aircraft are adequate to complete the B–1 development program should this be necessary." Proponents of the bomber also conveniently neglect to state that there is already over half a billion dollars in the FY 1978 budget for B–1 research and development.

Your vote can prevent throwing more good money after bad. The B–1 production program has been cancelled. The Congress rejected FY '78 B–1 funding, and the President has made it clear that he will not request further B–1 money in the future. In the eyes of the public, production of two more bombers for a fleet already cancelled must be viewed as pure pork barrel politics.

Spending another half billion dollars may seem trivial when compared to the astronomical total B–1 costs (which would have exceeded $100 billion), but the sum is exorbitant when one considers the severe belt-tightening imposed on so many domestic programs by the President's new budget. As *Business Week* magazine said when it endorsed the President's initial rescission request, "The nation's taxpayers deserve something better."

Our organizations and our friends across the country have been working against the B–1 for as long as five years now. We will be watching carefully to see if the Congress finally extinguishes the B–1 boondoggle, as it ought to do with dispatch.

Sincerely,

Terry Provance, American Friends Service Committee.
Chauncey Alexander, Executive Director, National Association of Social Workers.
L. Calvin Moore, Legislative Director, Oil, Chemical & Atomic Workers (AFL–CIO).
Henry E. Niles, Chairman, Business Executive Move for New National Priorities.
Jeffrey Knight, Legislative Director, Friends of the Earth.
Michael Cole, Legislative Director, Common Cause.
Norma Becker, Chairperson, War Resisters League.
Rick Boardman, Director, Clergy and Laity Concerned.
Edward F. Snyder, Executive Secretary, Friends Committee on National Legislation.
Maggie Kuhn, National Convenor, Grey Panthers.
Norman E. Hunt, Executive Director, World Federalists Association.
Robert Z. Alpern, Director, Washington Office, Unitarian Universalist Association.
Steve Pearlman, Legislative Representative, Environmental Action.
Patrick Tobin, Washington Representative, International Longshoremen's and Warehousemen's Union.
Nancy Ramsey, Legislative Liaison, Women's International League for Peace and Freedom.
David Cortright, Executive Director, SANE.
Rev. Charles McCollough, United Church of Christ (Board for Homeland Ministries)*
Bruce Cameron, Legislative Representative, Americans for Democratic Action.
Carol Coston, O.P., Executive Director, NETWORK.
Florence Ain, President, Another Mother for Peace.
Gordon Adams, Director of Military Research, Council on Economic Priorities.*
Raymond Nathan, Director Washington Office, American Ethical Union.
Ethel Taylor, National Coordinator, Women Strike for Peace.
Dana Grubb, Executive Committee, Episcopal Peace Fellowship.
Barton Hunter, Executive Secretary, Fellowship of Reconciliation.
Ruby Rhoads, Director, Washington Office, Church of the Brethren.
Steve Chapman, Legislative Representative, National Taxpayers Union.
Alan R. Ferguson, President, Public Interest Economics Center.*

* For identification only.

Sanford Gottlieb, Arms Reduction Coordinator, New Directions.

Fr. Jim Stormes, Director, Jesuit Social Ministries Office.

Dave Fleishman, John Cort, Directors, Washington Peace Center.

VIEWS ON THE B-1 BOMBER

ARGUMENTS MADE ON THE FLOOR

1. "We need to complete aircraft 5 and 6 in order to finish critical research and development testing."

DOD response: The first four aircraft are adequate to complete the B-1 development program. B-1 Aircraft 5 and 6 were originally intended to be used for operational test and evaluation, including weapons certification, prior to the delivery of these aircraft to the operational forces. Since these are deployment related tasks, they are not required at this time.

Rebuttal: At the time the President announced his decision to terminate production of the B-1 in June, he asserted that he wished to retain the B-1 production option in what he described as the "unlikely" circumstance that his cruise missile alternative failed to provide a fully adequate substitute for the B-1. Completion of Aircraft Nos. 5 and 6 insure that should deployment be required by international circumstances, it could be accomplished with minimum delay. The R&D to be accomplished with Aircraft 5 and 6 are crucial to timely deployment. Testing the aircraft for their ability to resist the "electromagnetic pulse" (EMP) from nuclear detonations can only be carried out on an aircraft fully equipped with instrumentation, cabling, aerodynamic configuration, and other characteristics of the full production version of the aircraft. Similarly, nuclear weapons certification can only be carried out on a regular production version of the aircraft. This is an eighteen month long process. Only with the completion of Aircraft 5 and 6 will we have full confidence that an early production option will be available if necessary. Congressional responsibility under the Constitution to raise an Army and Navy makes support of funding for No. 5 and 6 an appropriate and prudent step to take.

Sur-Rebuttal: None of the testing described in the rebuttal must be accomplished prior to the initiation of any B-1 production program. Electromagnetic Pulse Testing can be accomplished on Aircraft 4, the last RDT&E aircraft. Such testing would evaluate the different design approaches incorporated to achieve system hardness against nuclear effects.

2. "The SALT limitation of 1500 nm on cruise missile range will make it essential that the U.S. deploy a manned penetrating bomber." (Please indicate what effect the proposed 1500 nm limitation will have in the cruise missile program.)

DOD response: With a cruise missile range of 2500 km cruise missile carriers can stand outside Soviet defenses through the mid-1980s and cover almost all Soviet targets. Having cruise missiles with ranges greater than 2500 km would not significantly improve target coverage in the face of current and near-term defenses. We plan to maintain some B-52s as manned penetrators (as long as they remain effective) because cruise missiles and penetrating bombers are complementary. They are different types of threats which stress Soviet defenses differently. The mixed force complicates the Soviet air defense problem and, in this way, increases our confidence in the overall bomber force capability to successfully carry out its mission. However, the manned bomber is not necessary for target coverage—especially since we also cover targets in the Soviet Union with ICBMs and SLBMs.

It is important to note that the 2500 km ALCM range limit is contained in the 3-year Protocol. Our studies have shown that the 2500 km is sufficient through at least the mid-to-late 1980s when examined against very conservative estimates of future Soviet defenses. Should Soviet air defenses improve much faster than our intelligence projections, we have the option of insisting on a greater range after the Protocol period. The cruise missile program will be adjusted to be consistent with the limitations agreed in SALT. This, however, will not require major changes.

Rebuttal: There are many unresolved elements of the SALT Protocol relating to cruise missiles. While a 1500 n.m. range cruise missile may be sufficient to engage many targets, it is by no means clear that the Protocol will permit "system operational range" characteristics to proscribe the range of an air launched cruise missile. The Soviet Union is insisting upon a "straight line" range limitation; a limitation which will reduce the operating range of the cruise missile to only 1100 n.m., and with a nominal standoff range of 300 n.m., only 800 n.m. of Soviet airspace can be penetrated by a cruise missile. System operating range makes allowance for the substantial deviation from a straight line course required by a cruise missile to evade known defensive positions.

Soviet air defenses have already improved faster than projected now that evidence has been provided which reveals that the Soviets have initiated deployment of their advanced SA-10 SAM. DoD acknowledgement that manned penetrators are to be kept in the force "as long as they remain effective" demonstrates that it is necessary to maintain a penetrator against Soviet air defenses to force the Soviets to dissipate their air resources over the cruise missile and the short-range attack missile (SRAM) and gravity bomb threat posed by the penetrating bomber. There is great precedent value in a range limitation sanctified by a "temporary" three year Protocol which does not provide too much confidence that "we have the option of insisting on a greater range after the Protocol period."

Sur-Rebuttal: First, the definition of cruise missile range is under discussion in the SALT negotiations. We will agree only to a definition of cruise missile range that allows adequate target coverage.

Second, Soviet air defenses do not appear to be improving faster than projected. Soviet development of an AWACS is a good example of one part of their air defense which is progressing more slowly than we expected.

Third, if future developments indicate (in our view) the national security interests of the U.S. are threatened because the cruise missile range limits in the Protocol were too low, then we would insist on higher limits. This is the reason the limits belong in the Protocol and not the Treaty.

3. "The proposed limits on cruise missile carriers will make it essential that the U.S. deploy a manned penetrating bomber."

DoD Response: Cruise missile carriers will be counted in the 1320 aggregate level (which also includes MIRVed missiles); non-cruise missile carrying heavy bombers (i.e., penetrating bombers) will not, although they will be counted in the overall aggregate level of strategic nuclear delivery vehicles. The fact that ALCM-carrying heavy bombers are limited differently from other heavy bombers in no way leads to a requirement that the U.S. must deploy a manned penetrating bomber. The merits of maintaining a penetrating bomber are dictated by other factors, including those discussed in the answer to the question just preceding. An advanced manned penetrating bomber is one of the options we would consider for additional capability if we did not reach agreement in SALT and the Soviets continued a rapid buildup.

Rebuttal: The proposed terms of a SALT II agreement, while not yet completed suggest severe limits on cruise missile carriers due to the fact that we must maintain a large MIRV ICBM/SLBM force. With a MIRV ceiling of 1,320 or less—with some proposals being considered as low as 1,200 MIRV vehicles (including cruise missile carriers)—our cruise missiles will be heavily concentrated in a very small number of aircraft, less than 150. Such a massive concentration of offensive firepower creates a powerful incentive for the Soviet Union to make a major investment to defeat cruise missile carriers. Owing to their large size and slow speed, the cruise missile carrier will be severely vulnerable to long-range aircraft with a capability to engage cruise missile carriers long before they reach their launch point of 300 n.m. from the Soviet coast. Some obvious candidate aircraft already in the Soviet inventory as platforms for long-range air-to-air missiles include the TU-26 Backfire and the TU-16/TU-22 medium bomber force. The grave long-term risk to large cruise missile carriers unable to penetrate hostile air defenses makes it necessary to maintain a penetrating bomber capability (which DoD acknowledges).

Sur-Rebuttal: Those B-52s that are being modified to carry cruise missiles will have a modernized defensive avionics capability to defend against long range fighter attacks. It would be difficult for the Soviets to establish a barrier defense three hundred miles offshore, and eventually if they do so, we will have a number of effective counters to it.

The certainty in the effectiveness of the cruise missile in the long term is greater than for the manned bomber. As in the case of our current bomber and submarine forces, the number of carriers would be balanced with the certainty of effectiveness.

4. "We must have aircraft 5 and 6 to keep open the option of a manned penetrating bomber."

DoD Response: We currently have a penetrating bomber in the B-52 which, when combined with cruise missiles, will be effective into the late eighties. The B-1 program with the production of aircraft 4 keeps a B-1 production option open until late 1978. The addition of aircraft 5 and 6 would extend the production option only a short period—about a year and a half. After that time, additional funding would be required to maintain the option. In this connection, as you know there is RD funding in the FY 78 budget for the B-1.

Rebuttal: It cannot be determined how effective the B-52 will be in the late 1980s. Professor Albert Wohlstetter (in his essays in Foreign Policy) has demonstrated the persistent failure of the intelligence community to estimate Soviet military capabilities for more than 15 years. The intelligence community has almost always underestimated Soviet strategic forces as a consequence of their preference for attributing American values and objectives to the Soviet military and political leadership. When such crucial issues as the contours of a SALT agreement, and subsequent modifications of the Protocol are unresolved, it would be imprudent for the Congress to prejudice a future decision to accelerate deployment of a manned penetrator by terminating R&D work on Aircraft 5 and 6.

Corrected DoD response: No. Aircraft 5 and 6 are not needed to have the option of a manned penetrating bomber in the future. Spending $500 million for aircraft 5 and 6 is a waste of scarce defense dollars and would have no meaningful effect on a penetrating bomber option.

5. "The cost of cancelling the B-1 program is $750 million compared to $975 million for completing aircraft 5 and 6. Therefore, for only $225 million, the U.S. would obtain two usable aircraft."

DoD Response: The estimates quoted are Rockwell estimates of the cost to terminate the B-1 program and the cost to build air-

craft 5 and 6. The Air Force has estimated the cost to terminate the B–1 production program at $698 million and the cost to continue to produce aircraft 5 and 6 at $116 million. The Air Force estimates are based on data from Rockwell, the airframe contractor; Boeing, the offensive avionics contractor; and General Electric, the engine contractor. Using the Air Force estimates the marginal cost to produce aircraft 5 and 6, over that to terminate, is $462 million.

Neither of these estimates include the cost to operate and support these aircraft upon their completion. The Air Force estimates that approximately $280 million would be required to conduct an operational test and evaluation program with these aircraft.

Rebuttal: Testimony taken by the Defense subcommittee last year from the B–1 prime contractor (Rockwell International) stated that Aircraft 5 and 6 could be completed for $965 million as of 1 October 1977, not $116 suggested by the DoD response.

Sur-Rebuttal: The Air Force estimate is based on data from all three prime contractors and uses accepted estimating techniques. It is our understanding that the Rockwell estimate was based on estimates for their own portion of the production program and extrapolations of that data, based on historical RDT&E relationships, for the other two prime contractors. The historical RDT&E funding relationships cannot be used in establishing a production program estimate since the work force composition, subcontractor mix, and materials percentages differ from RDT&E to production.

6a. Criticisms of the cruise missile program: "The cruise missile is still basically only on paper."

DoD Response: The cruise missile is not a "paper missile" by any stretch of the imagination. There have been six ALCM test flights and more than 20 Tomahawk test flights. The ALCM (AGM–86) evolved from the Subsonic Cruise Armed Decoy (SCAD) program dating back to 1972 and earlier cruise missile research. The technology being applied to both the Tomahawk (AGM–109) and the ALCM (AGM–86) is well tested. The engine has over 2,800 hours of test time which includes 500 hours of simulated flight time in the wind tunnel and over 20 hours of actual flight test. The engine has been started over 7,100 times of which 125 have been cartridge starts.

The navigation guidance system (TERCOM) has compiled over 2,200 fixes from various platforms. From the accuracy data obtained from these tests we expect to exceed our originally planned goals.

Both the Tomahawk and the ALCM have been tested in various flight profiles with the ALCM being flown from a B–52 under simulated operational conditions. Although the ALCM tested was the shorter range version, the data derived from these tests is applicable to the long range version.

In summary, there has been a sufficient amount of data compiled for us to have very good confidence in the cruise missile.

Rebuttal: While the cruise missile is well-advanced in its flight test program, it is well removed from being an operational system, a fact supported by the Administration's posture on the SALT protocol concerning cruise missiles to the effect that the three-year duration of the Protocol will not interfere with the U.S. cruise missile program as it is unlikely that the long range ALCM will be deployed during that period.

DoD has shifted its rationale for the cruise missile program to meet the contingency brought about by the President's unanticipated cancellation of the B–1. The cruise missile program (e.g. ALCM–A) was presented to the Defense Subcommittee as an adjunct to a manned penetrator to facilitate penetration of hostile airspace. Now that the President has cancelled the B–1 production program, DoD has shifted its cruise missile rationale in favor of the cruise missile as a substitute for the B–1. As a substitute for a manned penetrator, the cruise missile is an untested concept.

Sur-Rebuttal: Increased emphasis was placed on development and production of the ALCM as a result of the decision to cancel the B–1. The major effects of the decision on the cruise missile program were to accelerate the IOC and to proceed with cruise missile designs of suitably long range for the standoff mission. These objectives have been incorporated into the program and we see no difficulty in meeting them. We believe the technology is well understood. Only in the sense that the air launched cruise missile has never been a part of the U.S. weapons inventory, is it an untested concept.

6b. Criticisms of the cruise missile program: "The cruise missile program has encountered serious development difficulties and several failures."

DoD Response: The cruise missile program has to be considered one of the more successful undertaken by DoD. Failures, indeed, have occurred. This is normal for a program as it proceeds through advanced and full scale development. Of the 29 flights in support of air launched cruise missile objectives only four can be considered failures and, even so, much useful information was gained during these tests. We do not believe any deficiencies have developed which cannot be fixed with known engineering techniques. Also, see 6a above.

Rebuttal: The cruise missile flight test program has been a successful one, but the program has encountered serious difficulty from the perspective of integrating a missile designed to be carried by a penetrating bomber to enhance its penetration prospects to the role of partial or complete substitute for the manned penetrator. The complications imposed on targeting policy and command-control-communications by the employment of cruise missiles on a large scale is a major development risk.

Sur-Rebuttal: In addressing the Senate Armed Services Subcommittee on Arms Control on 9 December 1977, Lt. General Alton Slay made the following statement regarding cruise missiles: "As far as mission planning, it is going to be basically the same as it is now being done for bombers. We will have to take the intelligence that DIA–CIA gives us and that we gather on our own and we have to do the analysis just as we do today. Our target selection will be the same as we do it today. Our weapon allocation will have the same procedures but, of course, with different application of weapons due to the fact that we have cruise missiles, and our deconfliction procedures will be the same. We still have to build up weapon folders, and we still have to distribute them, but we can continue to analyze as we do and continually update the SIOP. There is no really major change to SAC in the way that they do business." There will undoubtedly be some differences in changing from penetrating bombers to cruise missiles; however, we emphatically do not believe they represent the major development risk cited.

6c. Criticisms of the cruise missile program: "The cruise missile does not have the penetrating capability of the B–1. It is too slow, not maneuverable, less accurate than the B–1."

DOD Response: The currently estimated weapons delivery accuracy for cruise missiles is projected to be comparable to that of the B–1 and cruise missile speed is virtually the same as the B–1. The cruise missile can be programmed to maneuver, but its ability to penetrate is not dependent upon maneuverability. Other characteristics such as flight altitude, radar cross section (RCS), and electronic countermeasures (ECM) are also important factors to consider when comparing cruise missile forces, penetrating bomber forces, and mixtures thereof. The penetrating bomber and the cruise missile each has combinations of qualities that aid in their penetration of defenses. The cruise missile depends primarily on low altitude and low radar cross section to penetrate. The B–1 depends primarily on low altitude flight and ECM.

There are, of course, uncertainties inherent in the projections of defenses that would be deployed in response to our force modernization—both in technological possibility and economic practicability. But we have more confidence in the ability of the cruise missile to penetrate (because of its low altitude flight and small size) than in the ability of B–1 ECM to defeat future defenses. Detailed analyses of the technical and operational strengths and weaknesses of Soviet air defenses indicate that the current first generation of cruise missiles would suffer low attrition. It is estimated that cruise missile attrition would not increase significantly over the next decade since we believe that the cruise missile will be improved at least as fast as Soviet defenses. The picture is not so clear for the B–1. The B–1 would be highly dependent on ECM; if ECM failed, B–1 attrition could be very high.

Rebuttal: The DOD response overlooks important operational details associated with the Electronic Countermeasures (ECM) carried by a manned penetrator when compared to a cruise missile which carries none. When the higher penetration speed (the B–1 is capable of supersonic dash) and the effect of employing ECM against Soviet aid defenses, the B–1 percent of time it is vulnerable to attack by air defenses per air defense encounter is an order of magnitude less than the first generation cruise missile. Moreover, when the B–1 is compared with the cruise missile, the effective visibility of the B–1 to Soviet radar (its "radar cross section") is less than the cruise missile. The short range attack missile (SRAM) carried by the B–1 has a radar cross section 40–50 times *smaller* than the cruise missile. For this reason, the Strategic Air Command studies normally for the cruise missile as opposed to a 100 percent survival probability for the SRAM.

Sur-Rebuttal: Although speed is a contributor to B–1 survival, its ability to penetrate depends more on the ability to degrade defenses by use of ECM. The capability for low altitude dash consumes so much fuel that it could only be employed very sparingly. Because of Soviet advances in electronic warfare technology, it is becoming increasingly more difficult to develop effective bomber ECM, and thus there is considerable uncertainty regarding the B–1's penetration capabilities. We have more confidence in the ability of the small radar cross section cruise missile to penetrate defenses than in the ability of ECM to defend the B–1. While SRAMs can be used to strike defended targets, the ability of a SRAM to destroy a target depends on the bomber's penetration capabilities; the bomber must penetrate to the neighborhood of the target before launching its SRAM. The radar cross section of the B–1 itself is much larger than that of the cruise missile.

6d. Criticisms of the cruise missile program: "It would be more difficult and more expensive for the USSR to defend against the B–1 than the cruise missile."

DoD Response: Defense against either the B–1 or the cruise missile would be difficult and expensive. However, we believe that defense against the cruise missile would present the greater difficulty. This is primarily because current Soviet defenses are designed against bombers. It would, thus, be easier for

the defense to react to new bomber developments.

Defense against low altitude, low radar cross-section cruise missiles requires an almost complete change in defense philosophy. The defenses would have to be oriented to attack cruise missile carriers very far (over 1,000 n.m.)" from Soviet frontiers. Moreover, local area and point of defenses at the targets would have to be very dense to engage cruise missiles which were launched despite the forward defenses. Such a defense combination would require far more equipment than is now deployed, the equipment would have to be much more effective, and personnel requirements, both qualitative and quantitative, would be severe.

Rebuttal: Defense against cruise missile carriers do not need to be effective "over 1,000 n.m." from Soviet frontiers to be effective under proposed SALT constraints because most important Soviet targets are located well inland. Moreover, DoD has testified that if cruise missile carriers were to be denied overflight rights over Scandinavian territory, a very substantial fraction of Soviet targets could not be engaged by cruise missiles. Recent information concerning the deployment of the SA–10 indicates that the Soviet Union intends to increase the effectiveness of its terminal air defenses, a development which makes the absence of ECM on cruise missiles a more significant shortcoming, and makes a manned penetrator more important as a delivery system than would have been the case in the absence of the deployment of an advanced air defense system. The vast increase in the number of mobile air defenses such as the SA–6 complicates cruise missile penetration but does not alter manned bomber penetration probabilities.

Sur-Rebuttal: It would be very difficult for the Soviets to defend against cruise missile carriers at long distances from the Soviet Union because of the vast resource requirements. We believe that most cruise missiles would be launched from their carriers and that the Soviets would have to defend against them in flight. We do not project sufficient deployments of cruise missile defenses to provide coverage of a large portion of the target base. In any event, a sizeable deployment of such defenses would complicate both bomber and cruise missile penetration. Moreover, such large deployments, while imaginable, would be very costly for the Soviets. Large scale deployment of existing defense systems could be highly effective against bombers but would not have significant capabilities against cruise missiles. Defending against cruise missiles would, in essence, require the fielding of large amounts of new equipment. Thus, defense against the cruise missile would be more costly to the Soviets than defense against the B–1.

6e. Criticisms of the cruise missile program: "The ability to destroy the cruise missile is within state-of-the-art for Soviet air defenses."

DoD Response: There are no operationally deployed defensive systems that pose a serious threat to the cruise missile. Most would have no capability to engage an in-flight cruise missile. Any current system which might be able to engage would be able to do so only under the most favorable conditions and kill probability would be so low that a true defense would not be possible.

Rebuttal: Studies conducted by the Defense Science Board indicate that the technology which threatens the cruise missile has been available to the Soviets since 1970. Much of that technology is embodied in the new Soviet SAM, the SA–10 now being deployed. The U.S. cruise missile is several years away from its Initial Operating Capability. It is not correct to state that "there are no operationally deployed defensive systems that pose a serious threat to the cruise missile." Even if the SA–10 were not currently deployed, the significant issue would be to what extent a threat could be posed by Soviet air defense systems by the time the cruise missile became a significant component of our strategic force.

Sur-Rebuttal: Although the basic technology is available, the ability to incorporate this technology into an effective operational system is highly questionable.

Even if new defenses incorporated all the needed technology, the numerical requirements for coverage of strategic targets in the USSR would exceed even the most extreme forecasts for the foreseeable future. Defensive deployments on this large a scale would make both bomber and cruise missile penetration more difficult; to argue that such deployments are likely is not an argument in favor of the B–1. Moreover, we have high confidence that cruise missile technology will advance at least as fast as Soviet air defense technology.

7. The cost of the cruise missile carrier will be $93 million each with a total program cost of $16.5 billion for 114 aircraft.

DoD Response: These figures come from past examinations of a wide-body cruise missile carrier and still appear to be valid for comparison with $22.1B of procurement costs for an equally effective force of 240 B–1s ($20.6B for aircraft and $1.5B for SRAM). Our current plans are to use some of the B–52s as cruise missile carriers. We consider the wide body carrier to be an option for rapidly expanding our planned force capabilities, if we should see the need to do so in the future. The number of wide body carriers that might be needed in addition to our planned B–52/FB–111 force would be determined by the events that dictate the need for expanding strategic capabilities.

Rebuttal: The response neglects to note that a B–1 can, with minor modifications be equipped to carry up to 50 cruise missiles both internally and externally, and can be employed as an advanced penetrator as well. A wide-bodied aircraft cannot perform as a penetrator nor can it carry SRAM missiles. The B–52/FB–111 are inferior to the B–1 as penetrators, and cannot carry as large a cruise missile payload.

Sur-Rebuttal: The B–1 was developed as an advanced penetrating bomber and would be an inefficient cruise missile carrier. A cruise missile carrier version of the B–1 would require extensive tanker support when loaded with 50 cruise missiles because of the heavy payload weight and the large amount of drag of the externally carried cruise missiles.

8. "The President has violated PL 93–344 by not releasing B–1 funds to the prime contractor."

DoD Response: The President has released B–1 funds which were apportioned to the Department of Defense and made available to the Air Force for B–1 production. The Air Force has obligated $5.7 million of such funds to date. Until the contractors have submitted cost and pricing data, it would be imprudent to obligate funds at a substantially higher rate.

In addition, proceeding without a definite contract at this time would be undesirable because there is about a $200 million difference between the contractor's estimate and the Government's estimate of the cost to complete two aircraft, and considerable uncertainty as to the exact configuration of the aircraft to be manufactured. In early March, we expect to receive from all three prime contractors fixed price proposals including cost and pricing data from subcontrators and vendors, information which is not currently available. Until that time we believe it would be imprudent to obligate funds at a greater rate than is now being obligated.

Rebuttal: Under the terms of the Budget Impoundment and Control Act, when the Congress did not take action to support the President's request to rescind funds for Aircraft 5 and 6, the Administration was required to obligate the funds in violation of the intent of Congress when it passed the 1974 Act. The Administration is obligated to execute the FY 77 program as approved by the Congress.

Sur-Rebuttal: There is no requirement in the Impoundment Control Act of 1974 to obligate funds without regard to sound financial practices. The B–1 funds have been released to the Air Force and those funds are, in accordance with the Act, available for obligation. Those funds are being obligated by the Air Force to the extent it is reasonable and prudent to do so. Until cost and pricing data are received from the prime contractors and the configuration of the aircraft is established it would be inconsistent with sound procurement practices and the financial responsibilities of Defense officials to obligate funds at a substantially higher rate.

9. "Top Air Force officials have acknowledged the Congressional Committees that if the B–52 is used to carry our cruise missile, a significant degradation in Americas' nuclear retaliatory capability will result."

DoD Response: The President's decision to deploy cruise missiles on B–52s as the best way to modernize our bomber force for the 1980s was based on the conclusion that this was the most cost-effective option. The high penetration ability of ALCMs, the fact that B–52s can carry more long-range ALCMs than gravity weapons and the fact that the costs to convert a B–52 to a stand-off bomber are not great all entered into this assessment. Arming the B–52s with cruise missiles will enhance America's nuclear retaliatory capability substantially.

Rebuttal: At present the B–52 force operating as a penetrating bomber carries more than fifty percent of the strategic force megatonnage. By diverting a substantial fraction of the B–52 force to the cruise missile carrier role, a sharp reduction in megatonnage will result. The lower probability of penetration of a cruise missile (compared to a SRAM) will raise the cost per weapon delivered substantially.

Sur-Rebuttal: A reduction will occur in total bomber force megatonnage, on the order of about 20%, by converting some B–52s to cruise missile carriers. However, megatonnage alone is not the sole measure of the ability to destroy targets. Equivalent megatonnage (a measure of capability against area targets) will increase by about 15%, while warheads (a measure of the ability to attack point targets) will increase by about 85%. In addition, our analyses have shown that overall bomber force effectiveness will increase by about 40% by using a portion of the B–52s as cruise missile carriers.

10. "If we equip the B–52 with cruise missiles with a 1500 nm limitation under SALT, a very large portion of the most important targets within the Soviet Union will be out of reach."

DoD Response: That is incorrect. ALCMs with a system operational range of 2500 km, when launched from outside current Soviet peripheral defenses, could cover nearly all Soviet targets. The remaining targets could be covered with ICBMs, SLBMs, and penetrating B–52s.

Rebuttal: The deployment of "cold launched" ICBMs which are reloadable are a potentially important target for the highly accurate cruise missile. Although the cruise missile could not be employed as a first strike weapon, it could be employed to attack a silo to prevent it from being reloaded once a missile has been launched. The location of Soviet ICBM complexes on the "ICBM belt" in the Central Asian, Transbaikal, Turkestan, and Far Eastern Military districts along the Trans-Siberian railway puts them out of

range of cruise missiles under proposed SALT constraints, especially if circumstances require greater than a 300 n.m. standoff.

Sur-Rebuttal: Most Soviet ICBM complexes on the "ICBM belt" in the Central Asian, Transbaikal, Turkestan, and Far Eastern Military Districts along the Trans-Siberian railway could be attacked with cruise missiles if all directions of possible attack are considered. Moreover, these targets could be struck with ICBM/SLBM warheads and later by penetrating bomber weapons if desired.

11. "The Secretary of Defense does not even know which aircraft would make the best cruise missile carrier."

DoD Response: We are currently planning to deploy cruise missiles on B–52s since B–52s are clearly the first choice for carrying cruise missiles. Since we are unsure of the final outcome of current SALT negotiations, we must preserve the option for expansion of our planned strategic retaliatory capability. Deploying cruise missiles on other aircraft provides the only option for substantially increasing our capability before 1985. For this reason, and as a hedge against possible growth in future targeting requirements, we are considering several commercial and military aircraft as candidates for cruise missile carriers. If expanded warhead carrying capacity should be needed, it could come from new wide-body CMCs.

Rebuttal: Future requirements for strategic cruise missile carriers are ill-defined by DoD because of the uncertainties in SALT, the Soviet air defense threat, and the evolving targeting policy of the Administration. The protracted lead-times for new delivery systems makes the uncertainty within DoD about a future cruise missile carrier risky.

Sur-Rebuttal: We will continue to review our options in light of SALT and other developments. We currently plan to deploy cruise missiles on part of the existing B–52 fleet. Some variant of existing commercial or military aircraft seems to be a good approach for rapid expansion of our air breathing force capabilities, if such expansion should become necessary.

QUESTIONS OF FACT

1. "If aircraft 5 and 6 are not funded, what would it cost to reopen the production line? Compare this to reopening the production line if 5 and 6 are funded."

DoD Response: The decision not to delay the B–1 weapon system came before an actual production line was established. About $390 million of the FY 1977 B–1 procurement funds were to be expended for B–1 production tooling and an additional $710 million would have been expended over the entire program to achieve an interim production rate of two aircraft per month and then progress to four aircraft per month. Only $165 million of the FY 1977 funds was actually expended or committed on tooling prior to the decision not to deploy the B–1. Since the Congress did not appropriate funds for a FY 1978 B–1 buy, no further expenditures for tooling are planned. The remainder of the funding would be required to produce aircraft 5 and 6.

Thus, since no production line exists, the cost to establish such a production line would be the same whether or not aircraft 5 and 6 are funded. The only difference would be the cost to rehire personnel if aircraft 5 and 6 are not built now.

Rebuttal: The DoO response overlooks the circumstances which could arise when rapid deployment of the B–1 might be required. If Aircraft 5 and 6 are not produced, long and costly delays will be imposed while preproduction R&D is completed. The costs of starting production if 5 and 6 are not built promptly will be significantly higher than if they are produced.

Sur-Rebuttal: Rapid deployment of the B–1 is not a real possibility whether aircraft 5 and 6 are built now or not. From the time of production start to the initial operational capability date would require about seven years under the best circumstances. While building aircraft 5 and 6 would provide a 6 to 10 month advantage in achieving the initial operational capability should production be restarted in late 1979, this advantage dissipates when the aircraft are completed and personnel leave the program.

2. "Are aircraft 5 and 6 true production models to be constructed on a production assembly line or are they 'handmade' as with the other R&D aircraft?"

DoD Response: As stated in the response to Question 1, aircraft 5 nd 6 were to be built on production tooling, building up to assembly line and production rate techniques. If the Air Forces were now required to build aircraft 5 and 6, they would be built using the same methods and development tooling as aircraft 4. The development tooling allows a lower capital investment but is more labor intensive, thus the term "Handmade."

The aircraft that are produced will, however, be true production models.

No rebuttal presented in the Record.

3. What is the estimated cost to the Soviet Union to defend against the cruise missile? What would it require the U.S.S.R. to deploy, over what time period, and with what success? Would the second generation cruise missile overcome these anticipated Soviet defenses?

DOD. response: It is not possible to provide a precise cost of a Soviet cruise missile defense. Our analyses indicate that such an effort would be as great or greater than the effort which went into the development and deployment of the present Soviet air defense network. A cruise missile defense would require:

Major new research and development programs in a number of different fields including look-down radars, interceptor aircraft, air-to-air missiles, and advanced surface-to-air missile systems.

Very large deployment of the new systems.

We believe that the minimum deployment requirements for defense against cruise missiles would include:

Hundreds of air warning and control (AWACS) aircraft with capabilities at least comparable to the U.S. E–3A,

Several thousand interceptors with look-down/shoot-down capabilities at least as good as the U.S. F–14 or F–15, and

For a bare minimum, many hundreds of surface-to-air missile battalions capable of detecting and engaging reliably very low altitude, low radar cross-section targets.

No such system is deployed today, but new systems might possess these capabilities.

It is not believed that the U.S.S.R. could field such defenses within the next decade. Further, it appears that relatively small improvements in the current cruise missiles, such as those being proposed for the second generation of cruise missiles, could offset the improved Soviet defenses to a large degree.

Rebuttal: The response overstates the required Soviet response. Due to the small number of cruise missile carriers feasible within SALT constraints, the launch platforms will be vulnerable to modest improvements in the Soviet long range air defense capability that is certainly within the state-of-the-art. The complacent notion that "it is not believed that the U.S.S.R. could field such defenses within the next decade" has been the type of bromide which has resulted in a much larger than anticipated Soviet strategic threat. The Soviet-American military balance no longer has a substantial margin for error.

Sur-Rebuttal: Although the basic technology is probably available, intelligence analyses do not project that it is within the Soviet state of the art to incorporate this technology into operational systems of the type needed to defend against cruise missiles for the next decade. We do not, for example, project the Soviets deploying an AWACS comparable to ours, in this period. Our forecasts of Soviet defensive capabilities, including technology, have historically been highly accurate.

4. Please compare the radar cross section of the B–1 with the cruise missile in technical and practical terms.

DoD Response: If there were no other factors, a radar could detect the B–1 at 5 to 10 times the range that it would detect the cruise missile. However, at low altitudes a radar's line of sight is very limited. At short ranges, a large difference in radar cross section is not a factor. Instead, the primary consideration is that the cruise missile is small enough that radar return from ground objects obscures the cruise missile. While there are radar solutions to the problem, present radars (enemy as well as domestic) have been designed for aircraft detection and the very low cruise missile RCS will probably require a new generation of radars to provide a satisfactory detection capability.

Rebuttal: The DoD response failed to address the influence of ECM in offsetting differences in radar cross section. With ECM and high speed penetration, the effective RCS of the B–1 is less than the first generation cruise missiles. Moreover, the employment of SRAMs on the B–1 to assist penetration with a RCS of one-fiftieth of a cruise missile obscures the B–1 RCS issue.

Sur-Rebuttal: The ECM factor was not addressed in the basic question nor in the DoD response. The fact that the radar cross section of cruise missiles will require a new generation of radars to properly detect and track them in a low altitude environment remains unaltered. ECM on the other hand, could increase the probability that the B–1 would be detected.

5. Is the B–52 a capable cruise missile carrier? How many cruise missiles can it carry? Please compare it in cost effective terms to the B–1 cruise missile carrier and the wide bodied jet cruise missile carrier.

DoD Response: There are many existing aircraft that could be adapted for cruise missile carriage and could function effectively in a standoff role. The B–52 has an advantage for early cruise missile deployment in that it is in our inventory and requires relatively modest investment for modification compared to the acquisition cost of a new airframe. Additionally, the B–52 is configured with defensive avionics should they be required during a standoff mission.

Each designated B–52 cruise missile carrier will be modified to accommodate up to 20 cruise missiles. On an equally effective basis, the 20-year system cost (in present value dollars) for a force of fully loaded B–52 CMCs is about 20 percent less than a redesigned B–1 CMC force and about 35 percent more than a typical wide-body CMC force. The wide-body CMC is cheaper because it carries so many cruise missiles per aircraft (about 60). However, the wide-body CMC carries the risk of "too many eggs" in a basket. This risk would be considerably less worrisome if the wide-body CMC were deployed along with, say, 200 B–52s carrying cruise missiles. For this reason deployment of cruise missiles on B–52s is the first step we are taking. Deployment of cruise missiles on B–52s minimizes near-term costs, maintains penetrating bomber options, and provides a capability to penetrate possible Soviet long range defenses.

Rebuttal: The cost analysis of the B–52 versus alternative new cruise missile carrier systems commits a frequently repeated error of government accountants, namely to compare the B–52 based on 20 year-old historic costs with a new system at current costs. By failing to compare systems on their replacement value, it overstates the cost advantage

of existing, but costly to replace systems. By the mid-1980s, there will be insufficient B–52s available to perform the manned penetrator and cruise missile carrier missions. A new aircraft will be needed to perform some of these tasks; the DoD response does not provide sufficient information to arrive at an answer to the question posed.

Sur-Rebuttal: The DoD cost estimate for the B–52s included current cost estimates for modifying the B–52s as cruise missile carriers and did not include the cost for a new aircraft. If additional capability is needed later, the wide-body cruise missile carrier offers the best option. In evaluating this option, the cost of new aircraft was included.

6. "What dollar sum has been released to Rockwell International for the B–1 program (A/C 5–7) and what sums are expected to be released for the next several months? What are these funds dedicated to?"

DoD Response: Through November 1977, the Air Force has obligated $655.8 million of FY 1976/Transition Quarter/FY 1977 production funds to Rockwell International, the Boeing Company, and General Electric. These funds were to be used for production of aircraft 5–7, purchase of production tooling, and purchase of long lead items for the FY 1978 production aircraft. Funds are currently being expended for transition back into a production program for aircraft 5 and 6, as well as for termination of aircraft 7, long lead items for the FY 1978 buy, and unnecessary production tooling.

In December 1977, the Air Force released $2.0 million to continue the transition effort as well as begin preparation of definitive contractor proposals to restart Aircraft 5 and 6. These proposals will include detailed pricing information from contractors, subcontractors and vendors.

For the month of January 1978, the Air Force released $3.5 million for the contractors to continue preparation of proposals for production of aircraft 5 and 6 and for the planning necessary to restart production.

No rebuttal presented in the Record.

7. How many jobs are contingent on funding A/C 5 and 6?

DoD Response: At the manpower peak approximately 11,900 jobs would be involved in completing A/C 5 and 6. This total includes 4,300 jobs at the prime contractors and about 7,100 at the suppliers and interdivisional work transfers.

No rebuttal presented in the Record.

8. Please explain why there are three aircraft involved in the rescission (A/C 5–7) but only two are being discussed for construction.

DoD Response: Prior to the President's decision to cancel B–1 production, the Air Force was procuring materials and tooling for the first production lot (aircraft 5, 6, and 7) and long lead materials for the second production lot (aircraft 8, 9, 10, 11, and 12). As a result of the termination action and subsequent interruption in the program as well as the requirement to build the aircraft on development tooling, only two aircraft could be manufactured now within the $1,160 million appropriated for B–1 production. The estimated $1,160 million cost to build aircraft 5 and 6 includes termination charges for aircraft 7, tooling, and long lead materials.

No rebuttal presented in the Record.

9. Given the same mission, does the B–52 have to release its cruise missiles earlier than the B–1? Is there any significant variance in the range or loiter capability of the B–1 and B–52 (cruise missile carrier versions)?

DoD Response: Against current Soviet defenses, the release points would be approximately the same for the B–52 and the B–1 aircraft. The location of launch points might change in the future, depending on Soviet reaction to cruise missile deployment. But, this would probably not change the relative launch positions of the B–1 and B–52.

The following table compares the total unrefueled mission time for the cruise missile version of the B–1 (with one weapon's bay fuel tank) and the B–52 cruise missile carrier. Some of the difference in endurance can be attributed to aircraft design. The B–52 was originally designed for high altitude missions whereas the B–1 was optimized for low altitude. With aerial refueling, the airborne time for either bomber is limited only by the crew endurance or aircraft systems failure.

[In hours]

Cruise missile carrier	Endurance with cruise missile load	
	Internal only	Internal and external
B–1	14.7	9.3
B–52	16.0	9.5

Rebuttal: The DoD response neglects the fact that the cruise missile will not be deployed "against current Soviet defenses" but will have to survive in an environment where Soviet defenses react to the U.S. shift in emphasis on cruise missiles. As a cruise missile carrier or penetrator, the B–1 is more survivable against current or future defenses than the B–52. As a consequence, the B–1 will have a capability of releasing its cruise missiles closer to the Soviet coastline than would be the case with the B–52.

Sur-Rebuttal: As discussed in previous remarks, it is highly unlikely that the Soviets could deploy sufficient high technology defenses at long ranges to be effective against cruise missile carriers. As a hedge against this unlikely threat, we have advanced developments on cruise missiles underway and would not agree in SALT to cruise missile range limitations that threaten the effectiveness of this force. The costs for all modifications to the B–52s (cruise missiles and improved avionics) is considerably less than the cost of adding B–1s to the force—and we have more confidence in the cruise missile addition than we would have in the B–1 addition.

10. Please break down what the $442 million in FY 78 R&D funds for the B–1 are being spent on.

DoD response: The chart below shows the allocation of the B–1 fiscal year 1978 RDT&E funds. During FY 78 aircraft 4 will be structurally completed, the completed defensive avionics system will be installed and checkout of the integrated system will begin. Flight tests of the first three development aircraft will continue to provide data over the full operating envelope. Weapons testing will continue. Ground structural fatigue testing will be completed and an extensive teardown inspection and analysis will be conducted. The continued engine development program which provides improvements in reliability, maintainability, and life cycle costs as well as flight test support will continue.

Fiscal year 1978 R.D.T. & E. appropriation

[In millions]

System	$223.0
Engine	71.4
Avionics	63.3
Flight test extension	50.0
Other Government costs	35.7
Total	443.4

System: Tasks currently on contract with Rockwell International includes production of A/C 4, flight test of A/C 1&2, and structural fatigue testing.

Engine: Tasks currently on contract with General Electric. Includes production of engines for A/C 4, flight test support for A/C 1&2, engine reliability, maintainability, and life cycle cost improvements.

Avionics: Tasks currently on contract with Boeing and AIL. Includes defensive avionics development, support of A/C 4 production and support of flight test.

Flight Test Extension: Support of A/C 3 and 4 fight test. This work is not yet on contract.

Other Government Costs: Funds for Air Force and other government agencies that support the B–1, engineering change orders, and program margin.

No rebuttal presented in the Record.

11. Even if aircraft 5 and 6 are completed, which major R&D testing or evaluation steps remain to be accomplished before the B–1 could go into full-scale production? Please include defensive and offensive avionics in your answer.

DOD Response: The B–1 program was structured to complete a comprehensive test program prior to a production decision being made in late 1976. When production readiness was reviewed at the Defense Systems Acquisition Review Council, the principals agreed that the B–1 had successfully met the stringent criteria for proceeding into a full-scale production program with the airframe, engines and offensive avionics systems.

In order to provide the most responsive defensive avionics to the postulated threat, the start of the defensive system development was delayed. It will be flown for the first time on aircraft 4 in early 1979. The Air Force would have been able to make a defensive avionics production decision after six months of flight testing.

None of the testing to establish B–1 production readiness was dependent on aircraft 5 and 6.

No rebuttal presented in the Record.

12. Could aircraft 1–4 be used for electromagnetic hardening tests? Can such tests be simulated with high confidence?

DoD Response: Hardness testing is an integral part of the qualification of all the hardware used on the B–1. The individual testing of components does not, however, answer the question of total weapon system reaction to electromagnetic pulse (EMP) phenomena. For this reason a full-scale system level test was planned on a production aircraft at the Trestle Facility at Kirtland AFB, New Mexico. It is possible to use one of the development aircraft for this test. Aircraft 1, 2 & 3 are not considered to be similar enough to the production aircraft to provide adequate data for this system level test. Although some configuration differences would have to be analyzed in detail, aircraft 4 is considered the best candidate for the test. Although not a complete production aircraft, EMP test of aircraft 4 would be beneficial in evaluating the different design approaches incorporated to achieve system level hardware and to further our knowledge of complex EMP analysis. There is no analytical equivalent to the system level test planned for the Trestle Facility; however, we are confident of the hardness design and would expect any test to verify that the B–1 is designed hard.

No rebuttal presented in the Record.

13. If the B–1 is redesigned as a cruise missile carrier or dual role cruise missile carrier and penetrator, what impact would this have on the planned tests for aircraft 5 and 6?

DoD Response: Since design and mission differences exist between a B–1 cruise missile carrier, a dual role cruise missile carrier/penetrator and the current B–1 bomber, se-

lection of one of the cruise missile carriers would change the flight testing on A/C–5 and 6.

The basic flight test objectives for the three options are essentially the same since the basic aerodynamics and systems responses of the aircraft would not be changed. The emphasis and the test data requirements would change, particularly in weapons separation accuracy. No preliminary flight testing was accomplished on A/C 1, 2 or 3 on weapon separations from external carriage and these tests would have to be done on aircraft 5 or 6. In the case of the non-penetrating "cruise missile carrier," this testing would replace tasks planned for low level/high speed weapon separation and accuracy testing. In the case of the duel-role B–1 this effort would be totally additive.

Flutter, EMP system level testing and offensive avionics evaluations would be essentially the same as planned for A/C 5 and 6, if they are built, although expanded somewhat for external carriage considerations. The planned flutter testing would have to be examined for either configuration to determine if changes exist in the basic A/C stiffness and mass distribution. Testing required by these changes would be dependent on definitive analyses of the final design. The net result would be a program of approximately the same number of flight test hours (±20 percent) for a nonpenetrating "cruise missile carrier" as compared to the program we would pursue on A/C 5 and 6. In the case of the "dual-role" B–1 the planned flight test hours would increase by approximately 50 percent. The present R&D budget does not include funds for A/C 5 and 6 flight testing, instrumentation or spares. These tasks would increase funding requirements by approximately $280 million.

In addition to flight test, ground testing would also be required for a redesigned aircraft. This testing would include wind tunnel tests for aerodynamics and acoustics, and static and fatigue structural testing.

No rebuttal presented in the Record.

14. Please supply a detailed analysis, if available, of the Rockwell International study on the cost effectiveness of the B–1 as a cruise missile carrier compared to the FB–111H, with bodied jet cruise missile carrier, and B–52.

DOD Response: Information obtained from Rockwell International discussed the nuclear hardness of the B–1 and the proposed design modifications to make the B–1 serve as a standoff cruise missile carrier. Our evaluation of costs for a B–1 cruise missile carrier showed that, for equal effectiveness, the 20-year system cost (in FY 1978 dollars) was about 60 percent higher than for a wide-bodied cruise missile carrier and about 20 percent higher than for a B–52 cruise missile carrier. The same comparison in terms of present value dollars shows the B–1 cruise missile carrier to be about 70 percent higher than the wide body carrier and about 30 percent higher than the B–52 carrier.

While the B–1 prelaunch survivability was the best of all cruise missile carrier alternatives examined, neither the B–52 nor the wide bodied cruise missile carrier suffered significant losses. Although no detailed examination of the FB–111 H as a cruise missile carrier has been made, its prelaunch survivability would be similar to that of the B–1.

Rebuttal: The accuracy of the DOD response cannot be determined from the information provided in their statement because assumptions made by DOD analysis are not explicated.

No surrejoinder required.

15. How long would it take and what would be the cost of converting the B–1 into a cruise missile carrier?

DoD Response: If directed to complete only A/C 5 as a cruise missile carrier prototype, a program could be structured that would deliver one prototype aircraft in late 1980 for approximately $960M of the available $1160M of B–1 production funds. In the RDT&E program, approximately $300M additional would be required for flight test and an additional $100M to "productionize" the aircraft and qualify the design through ground tests if a production decision were made.

Rebuttal: The DoD response misstates the costs of converting the B–1 to a cruise missile carrier. The modifications required are trivial; an internal bulkhead needs to be moved to accommodate the internal stowage of cruise missiles—a change which can be made without structural change, the addition of hard points for the external carriage of cruise missiles, and modifications to the bombing and navigation electronics to accommodate the additional cruise missiles. The $300 million would be required for the flight test program of any new aircraft, and is not unique to a cruise missile carrying version of the B–1. This is also true for the $100 million to "productionize" the aircraft.

Sur-Rebuttal: While the modifications required to convert the B–1 to a cruise missile carrier may seem trivial in terms of the effort involved in designing the complete B–1 aircraft, a significant amount of engineering design, test, and analysis must still be completed. The bulkhead change moves a structural member of the aircraft, requiring detailed stress analysis. The addition of missiles external to the aircraft must be carefully investigated, requiring analysis of wind tunnel aerodynamic data, new computations of drag and performance characteristics, and airload analysis and structural testing. The interactions of the new air flow patterns and the engine inlet air flows must be ascertained.

All of the performance, airloads, and aerodynamic analysis must be verified by flight test. In addition, missile release characteristics from all aircraft stations must be established.

No attempt was made in the DoD response to compare the cost to convert a B–1 into a cruise missile carrier with another aircraft; rather the response answered the question "How long would it take and what is the cost of converting the B–1 into a cruise missile carrier?"

16. As now designed, is the B–1 a cost effective cruise missile carrier?

DoD Response: The present B–1 offers levels of designed-in nuclear hardness not yet available in existing aircraft. However, even considerable redesign of the B–1 for a standoff role does not make it competitive because of the additional development costs involved and the high start-up and production costs of this airframe relative to modification costs for B–52s or wide-body carriers. The costs for equally effective pure forces of three cruise missile carrier aircraft are shown in the following table.

20-year program costs

[Dollars in billions]

Cruise missile carrier	Fiscal year 1978	Present value*
B–1	$17.7	$9.4
B–52	14.8	7.3
Wide body	10.9	5.4

*Discounted at a rate of 10 percent per year.

Rebuttal: DoD overstates the cost of cruise missile conversion for the B–1. The structural modifications are modest. Moreover, the comparison understates the cost of the B–52 by undervaluing the aircraft through the use of historic cost rather than replacement cost. The inability of the wide-bodied cruise missile carrier to be employed in a penetrating role makes it a single purpose airframe, therefore implicitly more expensive in terms of defense resources than the multi-purpose B–1 or B–52. The costs asserted by DoD in their response do not consider the B–1 in its cruise missile carrier configuation. In its full scale all-cruise missile configuration, the 20 year life cycle cost in FY 78 dollars is not $17.7 as DoD asserts, but $12 billion. DoD failed to note that the B–1 can be equipped to carry as many as 50 cruise missiles; its comparison only considered internal stowage of cruise missiles.

Sur-Rebuttal: The major difference between the $17.7 billion and the $12 billion is that the first figure assumes 30 cruise missiles on the B–1 and the second figure assumes 50. In view of the design of the B–1 for penetration, it is highly doubtful that it could carry 50 cruise missiles in an efficient manner. In particular, the tanker needs would be extremely large and the heavy load and drag would severely reduce its advanced performance characteristics.

In the case of the B–52, the rebuttal indicates that we understated the cost of the B–52 through the use of historic rather than replacement cost. In fact, the DoD estimate includes modification of B–52s as cruise missile carriers and did not include any cost for new aircraft. Since there was no intention of buying new aircraft, the argument over historic versus replacement cost is not relevant.

17. For how long do you have confidence that the B–52 can perform the penetrating mission?

DoD Response: Current Soviet air defenses are estimated to be poor agaist low altitude B–52s. However, on-going Soviet air defense improvement programs will probably cause the effectiveness of the penetrating bomber force to decline unless the force is modernized. It should be noted that no known Soviet air defense program has the potential of totally defeating U.S. bombers.

The planned program that modernizes the force with cruise missiles will compound the Soviet's defense problem. In the face of different types of penetrating vehicles (a mix of cruise missiles and bombers) that may demand a combination of defensive responses (instead of a single defense initiative against a pure force of cruse missiles or bombers), the penetrating bomber component should retain present levels of survival through the 1980s and into the 1990s.

Rebuttal: Inasmuch as more than half of America's force megatonnage is in the penetrating bomber force, the continuing effectiveness of the B–52 is of major importance to our ability to deter war. It is not sufficient to assert that "no known Soviet air defense program has the potential of totally defeating U.S. bombers." The ability of Soviet forces to exact substantial attrition from the bomber force will be sufficient to leave important targets "uncovered" thereby weakening deterrence. Considerable testimony has been given to the Defense subcommittee concerning the approaching vulnerability of the B–52. The assertion that the "penetrating bomber component should retain present levels of survival" through the 1980s and into the 1990s contradicts more than five years of DoD testimony.

Sur-Rebuttal: The complementary aspects of modernizing the force with cruise missiles will, over the coming years, maintain the viability of the penetrating bomber force at levels reasonably close to that of the current force.

18. According to the preface of *Janes All the Worlds Aircraft*, the U.S. B–1 decision will create an imbalance of military power between the U.S. and USSR and 1977 (the year of the B–1 decision) "might be recorded as the year in which the seeds of defeat of

the Western powers were sown". Please comment on the accuracy of this assessment.

DoD Response: Since we do not have the benefit of any analysis the author may have done, we cannot comment as to the specifics that might support his editorial remark. However, as stated in some of the preceding responses, we are confident that the cruise missile approach to bomber force modernization is the best one. The B–1 would undeniably give the U.S. a robust strategic penetrating bomber force; but, the B–52/cruise missile combination will confront the Soviets with a formidable threat—a force that gives us higher confidence than the B–1 and that costs less. Furthermore, with our lead in cruise missile technology, we will retain our perceived parity with the Soviets in the long term. And, if the Soviets should decide to abrogate SALT agreements, or if we should decide to expand our forces, the cruise missile offers the best option for rapidly increasing our force capability.

Rebuttal: DoD studies have shown that the most militarily effective force consists of a mixed force of cruise missiles, penetrating bombers with gravity bombs as well as short range attack missiles. It is this force which forces the Soviets to divert the greatest amount of their defense resources away from the strategic attack forces which directly threaten American territory and compels them to invest in anti-aircraft defenses which do not threaten U.S. territory. By cutting off all other production options (as would be the case if 5 and 6 are not procured), cruise missiles will be our only option to increase our strategic capability should the Soviets elect to abrogate an arms control agreement. The lack of alternatives which can be readily exploited by the U.S. in the event that the current "fair" diplomatic weather turns foul will contribute to a perception of declining military potential to the United States in an environment when the momentum of Soviet programs is undisturbed.

Sur-Rebuttal: We have confidence that our B–52 fleet, when used in conjunction with cruise missiles, will be able to penetrate Soviet defenses through the 1980s. To hedge against longer-run needs, we are working on further developments for the cruise missile. Whether or not aircraft 5 and 6 are built, cruise missiles provide the quickest way of increasing our strategic capability; moreover, we plan to complete R&D on the B–1. Maintaining an option, for a year or so, to produce the B–1 very quickly is simply not worth 742 million dollars, i.e., $462 million to build and $280 million to test.

19. Is the Administration going to request any funding for the FB–111H in FY 1979?

DoD Response: We do not contemplate a request for the FB–111H in the FY 1979 budget.

Rebuttal: Although no funds are provided in the FY 79 budget, the FB–111H was authorized in the FY 78 supplemental authorization bill. The Administration may propose a supplemental appropriation at any time through September 30, 1978 to fund the FB–111H program. Strong Administration support for the FB–111H in the FY 78 supplemental authorization/appropriation debate makes one skeptical that the FB–111H program has been forever abandoned by the Administration.

No surrejoinder is required.

20. Please describe the study on the penetrating bomber mission which the press has indicated Dr. Perry may be contemplating. Since this request was stricken from the Conference report on the Defense Supplemental, why now is it being considered again? In what ways would this study be different from the Strategic Bomber Studies under Presidents Ford and Carter?

DoD Response: A strategic bomber study is planned which will be completed in approximately six months. The objective of this study is to conduct a comprehensive review of strategic penetrating bomber alternatives which might provide a viable bomber force beyond 1985. The purpose is to assist the Secretary of Defense in selecting alternatives for maintaining a production option for a strategic penetrating bomber. It will focus on the B–1, B–52 and FB–111H.

B–1 production has been terminated but the R&D program is being continued to provide the option to add the B–1 to our forces if totally unexpected events should so require. Further examination is required to determine whether this or some other option is most cost effective for the future.

This study differs from previous studies in that they focused on strategic bomber program alternatives while this study will focus on strategic bomber production options. These objectives are different in that the most desirable program alternative might not be the most desirable option or hedge position.

No rebuttal presented in the Record.

THE PANAMA CANAL TREATIES: FURTHER MODIFICATION IS ESSENTIAL

Mr. DOLE. Mr. President, the Senate Foreign Relations Committee completed markup on the proposed Panama Canal treaties yesterday. Their recommendation of an amendment to the neutrality treaty concerning American defense and passage rights through the canal signaled a major shift on the part of both the committee and the State Department, regarding modification of the treaties.

The amendment recommended by the committee is, of course, virtually identical to my proposal of last October that the text of the "Carter-Torrijos understanding" be incorporated directly into the treaty itself—not as an "understanding," not as a "protocol" or "annex," but as an integral feature of the document we are asked to ratify.

When the Senator from Kansas introduced the same amendments on October 17, there were some who said it was an obstructionist tactic. Others said that an understanding might be needed to clarify U.S. defense and passage rights, but that a treaty amendment was neither practical nor necessary. Still others—including the State Department—said that the treaties would stand on their own merits and no further alterations were desirable or necessary. I am happy to say that after 4 months of work by this Senator, as well as others, we appear to have got our point across.

MORE TO BE DONE

But let me emphasize that this initial improvement does not eliminate some of the most troublesome aspects of the proposed treaties. While progress has been made in protecting America's vital interests, the threshold of acceptability has not yet been crossed, in this Senator's view. There is more that can and must be accomplished if the Panama Canal treaties are to guarantee that future generations do not have to grapple with problems created by these treaties. My position is not one of obstinacy, but of commitment to the principle that we should not create problems for the long run, by glossing over our misgivings in the short run.

The Senate must still confront the very important issues of the duration of the transition period, our rights to a base agreement in Panama after the year 2000, and whether we are to close our options to construct a new canal outside Panama if we so choose. These and other matters will be thoroughly discussed, I am sure, during the forthcoming Senate debate on these treaties.

Finally, I think it is important to note that the Senate's primary responsibility in the ratification process is to determine whether these treaties are in the Nation's best interests—not whether or not our actions might lead to further negotiations or referendums in Panama. There has developed among some Members a "preoccupation with the plebiscite problem," to the extent that this has become the foremost point of attention in their treaty ratification efforts. In making every effort to avoid the necessity of further treaty negotiations or popular referendums in Panama, the Senate risks the obvious inclination to overlook serious defects and shortcomings in the treaties. As undesirable as further delays might be to the State Department or the Panamanian Government, it is essential that the U.S. Senate fulfill its obligation to fully "advise and consent" on the substance of the treaties.

That is why further amendments and reservations may be necessary, and may well be approved by the Senate during the next several weeks. Our attention must remain directed to the long-term consequences of the treaty, and not to the inconveniences of the moment.

HUBERT H. HUMPHREY

Mr. NELSON. Mr. President, we grope, so haltingly, for words to honor our friend Hubert Humphrey—the man who was never himself at a loss for words. We remember his words inspiring us; he spoke with such conviction, such compassion, such hope for the future. Our own tributes now fall short.

Everyone will remember Hubert in his own special way. He was so many things to each of us—the quintessential campaigner, the eloquent statesman, the tireless civil rights pioneer, the crusader against poverty and injustice, the people's friend.

With all deference to our neighbor State of Minnesota, the people of Wisconsin also remember Hubert Humphrey as their third Senator, their "adopted." I remember well how often during the 1950's I would call Hubert with a problem. He would handle it as he would for one of his constituents.

The man who never won what is, in politics, the ultimate prize, will always be honored as a winner. He is a winner of a very special kind—the kind that can count his political opponents among his friends, whose personal defeats failed to dim his spirit or cause his commitment to waiver.

Most men slow down with age, some are defeated in spirit when they are weakened in body. But Hubert Humphrey was not an ordinary man. His words and his resolve grew stronger as the terrible pain of cancer racked his body.

Our images of Hubert are the images

of a fighter. They are the images of a young man rising before the 1948 Democratic Convention, imploring his party to reject the politics of racism and to embrace the politics of morality. They are the images of a man who would energetically barnstorm a State to help elect a fellow Democrat to a minor political office. They are the images of a man who could become enraged at the sight of injustice, but never intolerant with a fellow human being. They are, finally, the images of a man who was never too busy or too important to shake another hand or offer another encouraging word.

Those of us who had the privilege of serving with Hubert in the Senate remember also a man of unlimited energy bounding down the corridors of the Capitol or the Senate Office Building on the way to a vote or a hearing or to make another impassioned floor speech. The corridors and the Senate floor are quieter now; they echo with his step. The country, too, is quieter. There exists a void that will not be filled. We will be, nonetheless, consoled, buoyed, refreshed, and cheered by his memory for so long as we live.

Lawrence Millman wrote a charming book about Irish story tellers entitled "Our Like Will Not Be There Again." For Hubert the title will be "His Like Will Not Be There Again."

THE PANAMA CANAL TREATIES: ANSWERS TO QUESTIONS ABOUT SENATE RATIFICATION

Mr. DOLE. Mr. President, I want to direct the attention of my colleagues to two documents which may facilitate the forthcoming Senate debate on the proposed Panama Canal Treaties. Both contain highly relevant information pertaining to the treaty ratification processes of the United States and Panama, and I believe that every Member of the Senate will want to be thoroughly familiar with these basic facts before debate begins.

The first document, prepared by the Senate steering committee, is an authoritative review of the distinctions between treaty amendments, reservations, and understandings. Citing a number of historical precedents, this paper clarifies the impact and the consequences of the various treaty modification procedures. There are important differences that every Member of the Senate should be aware of, as this may well be a point of contention in the forthcoming debate.

The second item is a report prepared by the Library of Congress at my request, detailing the treaty ratification provisions of the Panamanian Constitution. The report suggests specific conditions under which a new popular plebiscite might be required in Panama as a result of Senate action.

Mr. President, I ask unanimous consent that both of these documents be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

UNDERSTANDINGS, RESERVATIONS, AND AMENDMENTS TO THE INTERNATIONAL TREATIES

Under the Constitution, the Senate has the role of providing advice and consent to the President on international treaties. The popular misconception notwithstanding, the Senate does not ratify treaties; this act is constitutionally part of the President's role. The "advice" it provides is nonetheless binding on the Chief Executive. In its first years of existence, the Senate limited its actions to acceptance or rejection of treaties. A precedent was set in 1794, however, when an amended version of the Jay Treaty was approved; since then modifications have been included in about sixteen per cent of all international treaties approved by the Senate.

In approving changes on the floor of Congress, the action of the Senate is not technically that of "amending" a treaty (an act which is not within its constitutional province), but rather that of giving detailed "advice" to the President, who, if he decides to proceed with the treaty, is bound to accept it and initiate whatever additional negotiations with the other parties these changes might entail. Changes made by the Senate have at times been quite substantive. The Gadsden Purchase Treaty of 1853 with Mexico was virtually redrafted on the Senate floor; this example, although not representative, indicates the degree to which the Senate may impose fundamental changes. In stipulating conditions, moreover, the Senate has often approved provisions differing sharply with the views of the President or the other nation involved. According to statistics compiled in 1967, one out of every three treaties approved conditionally by the Senate up to that time was subsequently rejected either by the President or another party for the agreement.

There are several kinds of modifications: statements, declarations, understandings, reservations and amendments. All have been employed by the Senate at one time or another. Unlike treaties, which must be approved by two-thirds of those Senators present and voting, these modifications are adopted by a simple majority vote. The Senate may also choose to express its views in the Committee Report, thus making its concerns part of the legislative history of the treaty.

The terms "understanding," "statement," and "declaration" are generally used for statements which clarify or explain a country's position on a given matter in the treaty, or which give notice of a certain policy or principle; these, in other words, are statements which clarify but do not change a contractual relationship.

A reservation, by contrast, is a statement whose effect is to alter the contractual relationship. The difference between an amendment and a reservation is not necessarily one of substance, but rather of procedure. By definition an amendment involves a change in the authentic text of the treaty, and results (if the President wants to proceed with the treaty) in further negotiations with the other parties leading to the adoption of new language. While new rounds of talks are frequently held as a result of reservations, a fundamental difference between amendments and reservations is that the latter do not organically lead to such exchanges.

Although the country imposing conditions may use whatever terms it chooses (understanding, reservation, etc.) to describe them, it is ultimately their substance, and in particular the other parties' perception of this substance, that determines how they are treated. Country A might label a condition as an "understanding," thereby implying that the statement is tangential to the basic operation of the treaty; Country B, however, may feel it is substantial enough to be a "reservation," and treat it as such. Similarly, just as Country A is free to describe a reservation as relating exclusively to its personal obligations, Country B has the right to assert is changes the contractual relationship between all the parties.

Upon receipt of the Senate's conditional consent, the President has several options. He may ratify the treaty, and later notify the other parties of the conditions (or follow these steps in reverse order): he may fail to execute ratification if he considers the conditions to be totally objectionable; and he may also return the treaty to the Senate with additional explanation or for further consideration. There are no limits, either procedurally or legally, to the number of times the Senate might be asked by the President to reconsider conditions it has already insisted on.

With regard to acceptance of reservations (or understandings, statements or declarations) by the other government involved, it is customary in bilateral Inter-American treaties for that government's view to be sought and obtained before ratification takes place. If the conditions are found acceptable, ratification, whereby the instruments of ratification are exchanged by the two nations, can take place.

The second country may convey its acceptance of a reservation either explicitly or tacitly. With reference to the latter, if a country ratifies an agreement without making reference to a reservation by the other nation, but being in full knowledge of it, under traditional law its approval of the treaty is interpreted to embrace acceptance of the reservation.

While this procedure does not normally result in problems, confusion has occasionally arisen, with nations lodging objections after the ratification ceremony.

The second nation may also make explicit reference to its acceptance of a reservation in its instruments of ratification. This procedure makes its acceptance of the reservation binding beyond dispute. Consequently, were the legislative body of Country A concerned about Country B respecting its reservations, it could make ratification by the Chief Executive contingent of receipt of diplomatic messages from Country B explicitly acknowledging and accepting these reservations.

The response of the second party is not always one of simple acceptance of a reservation. At times, it may attach reservations of its own in response to those imposed by the first party. Traditionally, when such reservations are received by the United States after the Senate has finished its consideration of the treaty, they are dealt with by the Executive Branch. The President consults with the Senate on them, but does not normally submit them to that body for official consideration.

Other options open to the second country upon inclusion of reservations by the first are to indicate a desire to reopen negotiations, or to simply withdraw from the treaty.

Amendments, as has been stated previously, automatically lead to further negotiations, in the course of which the Chief Executive of the nation proposing these changes seeks to obtain the approval of the other party for the substitute language. The reopening of negotiations per se does not annul the agreement which has already been signed. Consequently, if an American President fails to achieve agreement by the other party on the proposed changes, he may resubmit the original text to the Senate for renewed consideration.

If any changes are made at all in the wording of the treaty, a new signing ceremony must take place, and the text submitted to the Senate for approval as though it were a new treaty. If this occurs, and the new language agreed to by the second party incorporates some, but not all, of the changes stipulated by the Senate, it is then up to that body to decide between approval of the new text of insistence on the remainder of its earlier amendments. Should it vote to take the latter course, the President would have to reopen negotiations yet another time.

In the case of amendments, the other parties to the treaty would also have to follow the steps provided for under its laws to gain approval of the new language. In the case of Panama, for example, that country's constitution requires a national referendum on any treaty relating to the Canal. Presumably, then, modification of the language of the Panama Canal treaties already approved by the Panamanian people would be contingent on a second referendum. According to the State Department, were General Torrijos to ratify an amended text on his own initiative, the legality of that treaty would be highly susceptible to challenge (and, by inference, the possibility exists that the 1903 treaty would still be in force).

SUMMARY

Historically, the Senate has frequently imposed conditions on the ratification of international agreements. If the Senate uses the language of "understanding," the implication is that the contractual relationship between the parties is merely being clarified. If the Senate attaches a "reservation," to the resolution of advice and consent, the inference is that the obligation incurred under the treaty is being modified. Finally, if the Senate adds an amendment, a change is being made which involves an alteration of the actual treaty text.

Upon receipt of the Senate's advice and consent, the President may ratify the treaty, informing the other parties of the Senate's conditions in the process (in the case of reservations and understandings); he may return the treaty to the Senate for further consideration; or he may simply lay the treaty aside, taking no further steps toward its ratification. When amendments have been added to the treaty by the Senate, the President must initiate further negotiations with the other parties, unless he selects to simply put the treaty aside. If a new text emerges from these negotiations, it must be submitted to the Senate for advice and consent as though it were a new treaty. Before ratification can take place, the other parties to the treaty also have to obtain approval for the new text in accordance with the steps called for under their legal systems and constitutions.

PLEBISCITE FOR AMENDMENTS TO PANAMA CANAL TREATIES

PANAMA

The requester desires an opinion as to whether amendments to the Panama Canal Treaties would require a new plebiscite in Panama.

I. Constitutional provisions

The Constitution currently in force in Panama was enacted and came into effect on October 11, 1972.[1] According to its article 163 (4) one of the functions of the President of the Republic is "to conduct foreign relations, to accredit and receive diplomatic and consular agents, and to enter into international treaties and agreements, which shall be submitted to the National Assembly for consideration."

This provision, also present in all past Panamanian constitutions, has two important exceptions in the current constitution. First, article 277 (transitory) recognizes Brigadier General Omar Torrijos Herrera, Commander in Chief of the National Guard, as the Supreme Leader of the Panamanian Revolution, and, in order to ensure the fulfillment of the objectives of the revolutionary process, authorizes him to exercise for a 6-year period a number of public functions, one of which is the direction of the country's foreign relations.

The second exception related to treaties dealing with the Panaman Canal, which under the purview of articles 274 (transitory) of the Constitution, which reads as follows:

Art. 274. Treaties which may be signed by the Executive Organ with respect to the Panama Canal, its adjacent zone, and the protection of the said Canal, and for the construction of a new Canal at sea level or of a third set of locks, shall be submitted to a national plebiscite.

Finally, article 141 of the Constitution provides that the functions of the National Assembly of Municipal Representatives (*Asamblea Nacional de Representates de Corregimientos*) include enacting laws for several purposes, among which is: "1. To approve or reject public treaties signed by the Executive."

As far as we can ascertain no other constitutional or statutory provisions regulate this subject.

II. The plebiscite of October 23, 1977

Law 33 of September 13, 1977,[2] submitted the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal to a plebiscite in the following terms:

Act 1. A plebicite is hereby convened that shall take place on October 23, 1977, [with the purpose] that the citizens through their vote shall decide whether or not they approve the new Treaty of the Panama Canal, the Treaty concerning the permanent neutrality of the Panama Canal, and the related agreements and annexes signed between the Governments of Panama and the United States of America on Wednesday, September 7, 1977.

According to article 11 of the same law voters had to choose between ballots saying "yes" or "no" to the following proposition provided by article 10 of the same law:

"I agree with the new Treaty of the Panama Canal, the Treaty concerning the Permanent Neutrality of the Canal and the Operation of the Panama Canal, the minutes agreed upon, the exchanges of notes, maps, the related agreements, and the annexes signed between the Governments of Panama and the United States of America on Wednesday, September 7, 1977."

Neither the text of the ballot nor any other provisions of Law 33 of 1977 referred to future amendments to the treaties being approved by the Plebiscite of October 23, 1977.

In the Plebiscite the Canal treaties were approved by a wide margin by Panamanian voters.[3] It appears, therefore, that the remaining constitutional step would be the enactment of the treaties as a law by the National Assembly, according to article 141 of the Constitution, cited above.

III. Conclusions

The 1972 Panamanian Constitution requires that treaties signed by the Executive concerning the Panama Canal must be submitted to a national plebiscite for their approval. Neither the Constitution nor any statutory provision states whether or not a plebiscite is required in the case of amendments to treaties already approved by a plebiscite. Therefore, the law governing the subject must be interpreted by resorting to sources other than the statutes themselves.

The requirement of a plebiscite for the approval of treaties dealing with the Canal was established for the first time in the 1972 Panamanian Constitution. Unfortunately, the materials available to this Library do not cover the legislative history of this Constitution or provide any other judicial, administrative, or even monographic sources related to this problem, preventing us from issuing a substantiated opinion on the subject at the present time.

We can note, however, some of the basic elements that may be considered, within the context of Panamanian law, for arriving at a definite opinion on the subject:

(1) The Plebiscite of October 23, 1977, as noted in part II above, approved the text of the Panama Canal treaties and related agreements and documents as signed by the Governments of Panama and the United States on a specific date: September 7, 1977.

(2) The eventual amendments to the treaties could range from mere formalities to substantial modifications to the nature, extent, and content of the treaties; therefore, the content and nature of the amendments to be introduced to the treaties may determine, to an important extent, the necessity for a new plebiscite.

(3) According to Panamanian law, the interpretation of this legal problem can be considered an attribute of the Executive, which is in charge of the conduct of foreign relations, but the National Assembly of Municipal Representatives could consider the problem while passing the treaties as a law. Also, the Supreme Court could eventually be asked to rule about the legality of the treaties and their formal approval is an important element of the case.[4]

(Prepared by Eduardo Abbott, Legal Specialist, Hispanic Law Division, Law Library, Library of Congress, January 1978.)

INTERNAL SETTLEMENT IN RHODESIA THE BEST SOLUTION

Mr. ALLEN. Mr. President, I have been greatly encouraged over the past weeks and days by news accounts of progress made in Salisbury, Rhodesia, in negotiations between Prime Minister Ian Smith and leaders of the black community in Rhodesia. All men of good will certainly wish success to these talks and hope for a solution to the problems besetting Rhodesia which will guarantee the freedom of all people in Rhodesia and which will not bring to power a Communist government.

As these talks continue, Mr. President, I encourage our own Department of State to stay out. The bunglers at the Department of State had best stay clear of these negotiations else we can be assured that the talks will fail and that the prospects of an ultimate Communist takeover in Rhodesia will be enhanced. So let us keep our nose out of Rhodesia's business for a change and give Mr. Smith and the moderate black leaders some chance of reaching an internal settlement without outside pressure. And let us stop also, Mr. President, giving encouragement to the Communist terror-

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[1] *Constitution of Panama* [Organization of American States, Washington, 1974] (English version).

[2] *Gaceta Oficial*, Sept. 19, 1977.

[3] New York *Times*, Oct. 25, 1977.

[4] Art. 188 of the 1972 Panamanian Constitution entrusts the Supreme Court with several functions, among which is the following: "1. Guardianship of the integrity of the Constitution, to which end it shall decide, after hearing the Attorney General of the Republic or the Solicitor General, on the constitutionality of laws, decrees, decisions, resolutions and other acts challenged before it by any person on the grounds of content or form." Based on similar provisions of past constitutions the Supreme Court has ruled on the constitutionality of laws and decrees approving treaties. For example: Judgments 1/63 of Jan. 22, 1963, and 12/63 of July 29, 1963, *in* 1 *Jurisprudencia Constitucional* 424–26, 438–39 (Universidad de Panamá, Sección de Investigación Jurídica, Panama City, 1967).

ists who are operating in Rhodesia acting indiscriminately against all of the people of Rhodesia—but chiefly against the black civilian population. These terrorists do not represent the people of Rhodesia but instead represent solely the interests of world communism and the interest of those who would enslave all populations by terror.

These terrorist bands are primarily backed by the Soviet Union through the KGB; however, to our disgrace, these bands also receive support from misguided, or perhaps corrupt, charitable organizations within the United States and elsewhere in the free world. Inasmuch as it has become critical to all civilized countries that terrorists everywhere be held in check and brought to justice and because of the particular importance to world peace of the success of the Rhodesian negotiations, I urge that the administration act responsibly over the next few months in its dealings in southern Africa, and particularly, I urge that no support whatsoever be given or expressed for the so-called Patriotic Front murderers operating from Zambia and Mozambique against Rhodesia. I urge finally that the committees of the Congress take care not to include in any appropriations bill any funds which might in any fashion be diverted, directly or indirectly, to the use of these marauding bands of terrorists or to the Communist governments in Africa which are supporting and encouraging terrorism in Rhodesia and throughout the continent.

I ask unanimous consent that an article dealing with this subject by Robert Morris published in the Ocean County Citizen in Lakewood, N.J., be printed in the RECORD for the review of Senators and their staffs.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REALITY IN RHODESIA

(By Robert Morris)

Prime Minister Ian Smith of Rhodesia recently took the peace initiative in Rhodesia from Dr. David Owen of Great Britain and Ambassador Andrew Young of the United States and followed through on his internal solution. He reiterated his offer of September 1976 to effect a transfer to black majority rule and ordered a devastating "hot pursuit" raid against the terrorist guerrilla bases across the border in Mozambique. Both have been successful thus far.

Before then the world had been led to believe that Prime Minister Ian Smith of Rhodesia has been a stumbling block to a smooth transition from a harsh white minority regime to peaceful black majority rule for that lovely land.

Dr. David Owen of Great Britain and Ambassador Andrew Young of the United States have been holding conferences all over Europe and Africa trying to effect the change of government, but always criticizing Ian Smith for his intransigence.

The so-called Front Line States (although Tanzania and Angola do not border on Rhodesia) Angola, Botswana, Mozambique, Zambia and Tanzania, dominated by the Communists in Mozambique and Angola are made parties to the settlement. And two groups of terrorists, one operating out of Zambia and the other out of Mozambique earn with Owen and Young the euphoric title of the "Patriotic Front" and are made prime beneficiaries of the concessions proposed.

The target of all these negotiations, the Rhodesian Government which declared itself independent of Great Britain in 1965 is deemed illegal and is accorded the most contumelious treatment of all the parties involved.

Rhodesia has been a self-governing colony of Great Britain since 1923 and declared its independence after a long series of lengthy sessions in both London and Salisbury.

I am doing a research project on terror and I visited Rhodesia in October and find that the scenario being held forth by Dr. Owen and Andrew Young is just not related to reality as it exists today.

The individual who is most dedicated to a peaceful transfer to black majority rule is Prime Minister Ian Smith.

In September 1976 he entered into an agreement—some say belated—with the United States Secretary of State, Dr. Henry Kissinger, whereunder he agreed to transfer power, in two years, to a duly elected black majority on a one man one vote basis. There were several safeguards written into the agreement, the two year interval for necessary preparations and steps necessary to protect the interests of the minority from a precipitous change.

When the agreement was made Smith was assured by Dr. Kissinger that the agreement had the approval of a majority of the "Front Line States." However, after it was made public, a shadowy figure who dominates the whole scene, Russian Ambassador to Zambia, Vasily Solodovnikov, pressured the left-leaning President of Tanzania Julius K. Nyerere to breach his oral agreement with Kissinger and Nyerere voted with Presidents Neto of Angola and Machel of Mozambique to reject the agreement by a 3 to 2 count.

When Dr. Kissinger was asked to publicly state what had transpired, an account that would have been helpful to Ian Smith's reputation, he declined saying it was an exercise in futility to call Nyerere a liar.

The world should have then recognized that Smith had done everything he had promised to effect a transfer of power to a black majority government.

But as he persisted in his efforts, he realized that Ivar Richards, Owen's predecessor and Andrew Young were giving forth statements that implied that he rather than Nyerere was responsible for the failure to transfer power.

The British negotiators and Young, working closely with an Andrew Lake in the State Department thereupon embarked on a long series of sessions with the terrorists whom they persisted in calling the "Patriotic Front", each time making more and more concessions to their recalcitrance.

I have seen the latest United States-British proposals submitted to Prime Minister Smith on September 1 of last year. They are severe enough but at a press conference held simultaneously with the submission, Dr. Owen, speaking for the two governments issued a statement saying that the "liberation army" would be "the basis" of the new Rhodesia Army that would police the transition. In other words, the terrorists would become the policemen!

The terrorists are of two factions, one headed by Robert Mugabe who educated himself while in Rhodesian detention and who operates out of Maputo the capital of Mozambique.

Mugabe's defense minister is a grim character by the name of Josiah Tongonara who murdered his fellow terrorist leader, Chitepo and was lodged in a Zambia jail for that crime. He was mysteriously released by the Zambians to attend the conference in Geneva that was to settle the fate of Rhodesia. Mugabe recently visited Peking for support. Machel, the Frelimo terrorist who came to power when Portugal abandoned its colony, Mozambique, was originally a proxy of Communist China but who, of late, has been shifting his allegiance to Moscow. The organization these characters operate is called ZANU or the Zimbabwe African National Union.

The guerrilla force operating out of Zambia is called ZAPU or Zimbabwe African Peoples Union and is headed by Joshua Nkomo. Nkomo has a 3,000 man force whose build-up was supervised by Ambassador Solodovnikov. Nkomo's forces, for the most part are recruited by the terrorists kidnapping 14 and 15 year old blacks in Western Rhodesia, some by bus loads, and sending them North for training as guerrillas. These abductions are, understandably enraging the black Rhodesian mothers who, many believe, will dispatch Nkomo if he ever enters the country to stand for election.

The two guerrilla forces sometimes converge in their incursions and when they do they clash, and the number of internecine killings is extensive.

The two terrorist forces are killing hundreds of Rhodesians, mostly blacks. I have seen the photographs taken after the terrorists have struck. Innocent farmers (black and white) and their families are slaughtered often in the dead of night, with the guerrillas conspicuously maiming their victims in order to strike terror in the countryside. Even forced cannibalism is imposed on the victims—with women forced to eat the corpses of their murdered husbands.

Yet these are the people whom Andrew Young is proposing as policemen of Rhodesia.

Ian Smith should be applauded rather then besmirched for refusing to turn his people over to the mercies of these murderers. He would not be a leader worthy of the name if he surrendered his constituents, 4 million black and 270,000 white to these terrorists.

I have seen the mass of arms captured by the Rhodesia security forces. The cannons, mortars, machine guns, automatic rifles and assorted weaponry bear the markings of Communist China, Yugoslavia, Czechoslovakia, East Germany and Russia. The Western world which now professes to be outraged by acts of terror in the skies is not raising a voice in protest against these instruments of death being shipped into Rhodesia to kill innocent men, women and children.

Rather than deploring these acts, men otherwise civilized, are subsidizing them. While I was in Rhodesia, Judith Hart, the overseas minister of the British Labor Government made a clandestine $9 million interest free loan to the Frelimo Government of Mozambique. Our State Department tried to grant that terrorist regime $15 million but Senator James Allen (D. Ala.) mercifully filibustered the effort.

The World Council of Churches has been regularly subsidizing the terrorists, making the thoroughly naive distinction that their funds are going to bandages and medicines rather than guns. I noted that the World Council of Churches recently made a $10 million grant to two Australian Communist organizations. The purpose of the grant was to prevent White Rhodesians from emigrating to Australia.

The man pulling the strings on this whole terror operation is Russian Ambassador Vasily Solodovnikov who operates out of Zambia. When he was appointed he had no diplomatic experience but headed the African Institute of the USSR Academy of Science and was Chairman of the Commission for African Countries. Intimately involved with the KGB his formal mission is "to create an anti-imperialist solidarity front of Africa and Soviet peoples." At a reception in 1976 he declared that his country was "support-

ing the liberation movements of Zimbabwe (Rhodesia) Namibia (S.W. Africa) and South Africa", a condition that Dr. Owen recently acknowledged in a London journal.

These terrorists do not want majority rule. They want a Communist dictatorship such as exists in Angola and Mozambique. Nkomo has almost no support from the Black Rhodesians. The Black National leaders, Bishop Abel Muzorewa, N. Sithole and Chief Chirau would, in the opinion of everyone here, receive the overwhelming majority of any votes cast. For that reason the "Patriotic Front" will not allow a peaceful transfer of power.

President Kenneth Kaunda, of Zambia, let the snake out of the bag on the day I was leaving Salisbury. He openly declared that he did not believe there was need to rush into elections, and that they could be deferred for one or two years after the liberation forces took over the role of policemen. He pointed to the precedent set in Mozambique by Frelimo leader Machel.

The whole situation is so deplorable that I cannot comprehend why my country can support such a mindless policy. Andrew Young, Anthony Lake and these men shaping this policy should account to the American people for these occurrences which are clearly driving another Western country into the Soviet orbit and subjecting 5 million peaceful people now living in relative peace and prosperity to an impoverished Marxist dictatorship.

JOHN SPARKMAN

Mr. CHURCH. Mr. President, our colleague from Alabama, JOHN SPARKMAN, has announced that he will retire from the Senate at the end of his present term a year from now. Having had the privilege and pleasure of serving with him for over 21 years, I know him as a friend, as a valued colleague, and, unfailingly, as a gentleman.

In his retirement statement, Senator SPARKMAN said that he takes "satisfaction in knowing that I have always done all that I could for Alabama and for my country."

That understatement, Mr. President, is a mark of his modesty, for in reality, JOHN SPARKMAN has left an imprint on this institution that will long be remembered. His legislative role, both in the House and in the Senate, has had a major impact upon our country.

During his years of service as chairman of the Senate Banking Committee, Senator SPARKMAN was instrumental in moving through Congress new and far-reaching housing legislation that committed the Federal Government to helping those in need by providing financial resources to States large and small to do the job. He was responsible for new banking measures and laws benefiting small businessmen.

Since 1975, Senator SPARKMAN has served as chairman of the Senate Foreign Relations Committee, and it is on this committee that I have come to know him best.

JOHN SPARKMAN has presided over the Foreign Relations Committee during a period of transition, as the country moved from the end of our involvement in Indochina to a new era of peace. It has been a period during which Congress has turned away from old habits of uncritical acceptance of Executive judgments in foreign policy to a more self-confident awareness of its own powers and responsibilities. The change has often produced tension and strain. It has fallen to JOHN SPARKMAN, as chairman of the Foreign Relations Committee, to preside over this transition, and he has done so with patience, skill, and grace. He has provided an even hand of leadership, always scrupulously fair, always respecting the differing views of individual Senators, while guiding us toward resolution of the issues confronting us.

In his 42 years in Congress, JOHN SPARKMAN has served with eight Presidents, beginning with Franklin Roosevelt. In 1952, he ran for Vice President on the Democratic ticket with Adlai Stevenson. He has witnessed history in the making, and he has been part of it. His record of service to his country and State is matched by few others. It is a record in which he can take justifiable pride.

In all of his future endeavors, Mr. President, I wish for JOHN SPARKMAN only the best: The pleasure of family and friends, a time for reflection and good books, and many more years of that special satisfaction which comes from a long life well spent.

ACTION IS NECESSARY ON THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, when I first entered this Chamber over 20 years ago, there was before this body a treaty which would have condemned the commission of genocide as an international crime. It was my wish then and it is my wish today that I could speak in praise of the action of the Senate in this matter. But it is an embarrassment to me, to this body, and I believe, to this great country, that we have yet to approve this treaty.

Our country has prided itself in the past, and indeed it prides itself today, on its leadership in the field of human rights. The very documents on which this country laid its foundation, the Declaration of Independence and the Constitution, assert repeatedly the importance of individual rights. Will we not today, many years after the signing of these historic documents, welcome the opportunity to reaffirm our commitment to even the most basic human rights as they are so forthrightly expressed in the Genocide Convention?

I call upon the Senate to condemn genocide as a heinous crime, as 82 other nations have already done. I call upon the Senate to correct our failure to act on this matter. I call upon the Senate to pass the Genocide Convention as soon as possible.

PRESERVING AMERICA'S NATURAL DIVERSITY—LEE METCALF'S LEGACY

Mr. RIBICOFF. Mr. President, preserving the quality of the environment and defending the Nation's rich and often endangered natural resources were lifelong tasks of our late colleague, Lee Metcalf.

Lee was always at the forefront of efforts to prevent the needless destruction of forests and streams, to focus attention on dwindling resources, and to maintain the delicate balance between man and his environment. Senator Metcalf was especially concerned over the orderly management of public lands.

In recent times Lee focused his energies in developing a program to preserve America's natural diversity. The "natural diversity" is defined as individual plant and animal species and their associated habitats, aquatic environment, plant communities, geological features, ecosystems and other ecological phenomena. This deep interest and concern became embodied in the Natural Diversity Act, S. 1820, which Senator Metcalf authored. I am honored to be a primary cosponsor of this measure.

The Natural Diversity Act supplements current State programs to protect their natural diversity. It creates a mechanism to provide technical and financial aid to all States for natural diversity programs and biological management systems. It requires Federal land management agencies to initiate programs which complement those of the States. Enactment of this innovative and affirmative program would be a fitting tribute to Lee Metcalf.

Mr. President, the current issue of The Nature Conservancy News contains an article written by Senator Metcalf and Representative KEITH SEBELIUS, the House sponsor of the Natural Diversity Act. I ask unanimous consent that this informative and timely article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A PROGRAM FOR PRESERVING AMERICA'S NATURAL DIVERSITY

(By Senator Lee Metcalf and Congressman Keith Sebelius)

At the time of the European discovery, North America was an incredibly rich land. Early explorers were awed by the beauty of the continent's varied landscapes and its diversity and abundance of plants and wildlife. Nearly all narratives of America's exploration contain descriptions similar to one made by an English sea captain on the Delaware River in 1634:

"The land is very good and fruitful, and withal very healthful. The soil is sandy and produceth divers sorts of fruits, especially grapes, which grow wild in great quantity, of which I have eaten six several sorts, some of them as good as they are ordinarily in Italy or Spain . . . The earth, being fruitful, is covered over with woods and stately timber, except only in those places where the Indians had planted their corn. The country is very well replenished with deer, and in some places store of elks. The low grounds, of which there is great quantity, are excellent for meadows and full of beaver and otter. The quantity of fowl is so great as can hardly be believed; we took at one time 48 partridges together as they crossed the river, chased by wild hawks. I myself sprang, in two hours, five or six coveys in walking of a mile. There are infinite number of wild pigeon, blackbirds, turkeys, swans, wild geese, ducks, teals, widgeons, brants, herons, cranes, etc. of which there is so great abundance as that the rivers and creeks are covered with them in winter.

"Of fish here is plenty, but especially sturgeon all the summertime, which are in such

abundance in the upper parts of the river, as that great benefit might be raised by setting up a fishing for them . . . Here are also great store of wild hops, yet excellent good and as fair as those in England. Here are also divers other things which with industry will prove excellent good commodities . . ." (Charles Norman, Discoverers of America, 1968)

With colonization and settlement, our forebears set in motion a vast, continuing transformation of the continent and its "excellent good commodities." As population and economic activity have grown, more and more natural land has been converted to intensive use by millions of individuals, each acting independently and each unaware of the aggregate impact of their actions on the nation's natural biological resources. Ordinary human activities—agriculture, timbering, wetlands drainage, urbanization, reservoir construction, mining and transportation, and energy-related construction—have often destroyed significant natural land and its constituent plant and animal life. While the transformation of the American landscape has helped create an economic standard of living unparalleled in any other civilization, it also has severely depleted the nation's storehouse of biological resources in both numbers and variety.

Already, the impacts of this transformation have been colossal. Large ecosystems have been irretrievably disrupted and destroyed. The prairies that once blanketed nearly a third of the nation have been greatly reduced, as have the virgin swamplands which once covered millions of acres of the southeastern United States. The country's few remaining primeval forests of any significant size are found only in the northwest.

Most states, particularly those east of the Mississippi River, have suffered extensive losses of their natural lands. In the State of Ohio, 99 percent of the original landscape has been altered. The wetlands of Wisconsin have decreased from 7 million to 1.5 million acres, a 79 percent reduction. Illinois estimates that only 1,000 tracts of relatively undisturbed land remain in the state; they are being destroyed at the rate of 15 percent annually. After two years of research, Tennessee has been able to locate high quality examples of only 72 percent of its 132 native plant communities. In Mississippi, over 2,400 miles of the state's streams and rivers have been channelized during the past 15 years; an additional 1,500 miles are planned for channelization.

With the destruction of natural land and ecosystems, hundreds of plant and animal species have become extinct or are threatened with extinction, largely because their natural habitats have been disrupted or destroyed. An estimated 500 extinctions of plant and animal species have occurred in North America since the early 1600's. The Smithsonian Institution reports that 10 percent of the higher plant species of the U.S. are now endangered or threatened with extinction, while the Fish and Wildlife Service lists 177 animals as endangered throughout all or a significant portion of their range, and an additional 18 species as threatened. Another 1,800 plants are being evaluated for possible listing. Also, individual states concerned with perpetuating their resident plants and animals have developed lists of hundreds of species that may soon disappear without deliberate efforts to preserve them. One prediction estimates that 15 percent of all remaining U.S. plant and animal species may become extinct over the next 20 years if current trends continue.

Furthermore, the rate of loss of America's natural diversity is accelerating. In 1975 the President's Council on Environmental Quality estimated that 1.25 million acres of natural and agricultural land—an area the size of Delaware—are annually converted to more intensive uses. Urban expansion alone consumes 740,000 acres; transportation projects 130,000 acres; and reservoirs 300,000 acres. Even the remotest areas of the country are now being developed. As biologist David Ehrenfeld has so aptly noted. "No matter where one goes, nature is somewhere else."

Maintaining or increasing the quantity of each biological species is a desirable goal, but even more important is that the overall diversity of species be perpetuated. Yet all signs point to the irretrievable loss of this diversity. Unless a systematic program is designed and quickly initiated to counteract the negative impacts of the random, pervasive alteration of America's natural lands and resources, present and future generations will be deprived of a resource having incalculable value.

THE CONCEPT OF NATURAL DIVERSITY

The term "natural diversity" refers to the full array of biological species—plants, mammals, birds, insects, reptiles, amphibians, fish, snails, clams, and crustaceans—that have evolved over the last 600 million years, as well as to the different types of terrestrial and aquatic communities and ecosystems into which these species are organized. Collectively, these life forms constitute a vast genetic reservoir that supplies the material for the continuing evolution of planetary life.

Any attempt to maintain or preserve natural diversity must focus on the tangible "elements" of diversity that can be located on the landscape. These elements include:

(1) individual species of plants and animals that are in danger of extinction, and their habitats;

(2) terrestrial plant community types, such as an oak-hickory forest or a tallgrass prairie;

(3) aquatic community types, such as a fresh-water lagoon or an oxbow lake;

(4) outstanding geological features that illustrate geologic processes or the history of the earth; and

(5) miscellaneous biological phenomena of significance, such as a heron rookery.

By locating high quality examples of each of the various elements and protecting them from destruction, we act to preserve natural diversity. The more kinds of elements we protect, the more we contribute to maintaining the maximum amount of diversity in Earth's genetic reservoir.

THE VALUE OF NATURAL DIVERSITY

Although few people recognize it, natural diversity may be reckoned as one of our most valuable assets, for a number of reasons:

First, each element of diversity plays a unique role in the ecosphere. It is now widely acknowledged that all life forms are linked in a complex system of relationships with each other and with the differing physical and chemical properties of the environment. Yet scientists have barely begun to understand the functions that each element plays and how ecosystems and biological communities operate. Sheer logic dictates that we not destroy what we do not understand, especially when the consequences might be drastically adverse for the human race.

Second, maintaining the widest possible spectrum of diversity maximizes our potential for deriving "direct" benefits from the natural world. Each species is a unique biochemical factory containing substances and capabilities found in no other. Our civilization is sustained by our ability to efficiently utilize plant and animal species for food, fiber, chemicals for industry and medicine, and for general research.

Scientists are constantly discovering new uses for species. For example, the substance mercenene, produced by a species of mollusk, has shown the ability to prevent or retard cancer growths in test animals, and is being further researched. An oil produced by the jojoba plant, a southwestern desert shrub, may prove suitable as a substitute for whale sperm oil in certain industry machinery. Agricultural scientists are constantly producing new disease-resistant varieties of food grains by crossbreeding wild grains with domesticated varieties. In fact, few people probably realize that all our grains and cereals were developed from wild grasses.

Although a plan or animal species may seem "insignificant" today, we cannot predict what benefits it may produce tomorrow. Species utility is always relative to a society's evolving needs and circumstances. The Egyptians, for example, once used the papyrus plant for paper, but now rely on paper products made from trees. Preserving the widest possible spectrum of plant and animal life maintains our resource options for the future, and therefore should be a key goal of natural resource management.

Third, maintaining natural diversity through the preservation of natural areas and reserves provides a wide array of other benefits—cultural, scientific, recreational—that enhance our everyday living. Protecting examples of all the elements that collectively constitute this nation's natural biological and geological heritage provides future generations with an important perspective on our natural history. We now preserve the artifacts of our cultural heritage and civilization in museums. Why not maintain examples of our natural heritage—native ecosystems, biological communities, and plant and animal species—in "living museums"?

Protected natural areas are necessary for scientific research and education. Such areas are models of healthy ecosystems from which we can derive information needed to better design the man-made environment. They are particularly useful as undisturbed baseline sites against which we can measure the impacts of our activities on other similar ecosystems.

Natural areas also offer Americans opportunities for recreation and relaxation. A homogenized world comprised only of cornfields, monoculture pine forests, and paved urban settlements would be monotonous and unpleasant. Humans seek and require natural areas to escape the pressures and problems of their urban environments, to maintain their mental well-being, and to reaffirm their ties with the natural world. We need natural areas as places where we can study and observe nature, relax, play, hike, and enjoy other forms of nondestructive recreation.

Fourth, a growing number of people believe that maintaining the earth's diversity of life is, in itself, an intrinsically valuable goal. Humans neither created the natural world, nor should they obliterate it. Noah built an ark to save all species, not just the ones he "liked" or directly used. As the Earth's stewards, we have an obligation to protect the widest array of our planet's biological elements—not only because we must share the same biosphere, but also because our very existence is linked, no matter how remotely, to the existence of every other species.

THE NEED FOR A NATIONAL PROGRAM

As competition for land intensifies and with limited resources available for countering destructive and homogenizing land-use practices, it is critical that we *systematically* identify those areas of land and water which should be set aside to assure protection of the best remaining examples of America's elements of natural diversity. Unfortunately, the information needed to determine the status and location of the nation's elements of diversity, as well as the ecosystems most critical to their preservation, is not available.

This information gap has persistently hampered the conservation planning and

protection activities of federal and state governments and private conservation organizations, as well as the implementation of otherwise well-planned development. There is simply no single source from which one can obtain a comprehensive picture of the natural biological resources that still exist in America—how many are left, where they can be found, and what their condition and protection status is. Without such precise information, we can be sure that randomly occurring human activities will continue to inadvertently eradicate element after element of the diverse natural world.

Biological resource conservation efforts of federal, state, and local governments, and private conservation organizations must become "information smart," and direct more of their resources toward a *new* objective—preserving the full array of natural diversity—rather than just a few species of birds and mammals that are hunted, studied, or otherwise considered of value. *All* plant and animal species, biological community types, ecosystem types, and significant geological features are important to preserving our country's natural ecological heritage, and we must act decisively to preserve examples of each.

THE NATURAL DIVERSITY ACT

During the first session of the 95th Congress, we introduced legislation to establish a national policy and program for maintaining America's natural diversity (S. 1820 in the Senate and H.R. 8650 in the House). These bills differ in several respects and undoubtedly will be refined during the legislative process. There are, however, several major provisions that the final bill might contain:

First, a national goal must be established to systematically *classify, inventory, monitor,* and *protect* the nation's elements of diversity on a continuing basis.

Second, as the most effective strategy for achieving this goal, the states should be given primary responsibility for classifying, inventorying, monitoring, and protecting their natural diversity resources, and for maintaining biological data banks that can be easily consulted by all government agencies, university researchers, industry, and conservation organizations.

Third, successful implementation of this program will require close cooperation between the federal and state governments. A new federal office is needed within the Department of Interior to provide technical and financial assistance to the states, to coordinate and standardize state programs, and to provide a national perspective on the status of America's natural diversity. Federal land managing agencies must adopt the goal of maintaining natural diversity on federal lands and waters, and cooperate with state inventory programs by providing information on the elements of diversity found on federal lands.

Fourth, each state should receive a planning grant to achieve the following objectives:

(1) Designate an individual charged with responsibility for the program, and provide an adequate professional staff to carry it out.

(2) Develop a classification of the elements of natural diversity within the state's boundaries to include:

All types of distinct plant communities;

All types of distinct aquatic communities;

All types of distinct geological features;

All native plant and animal species that—without deliberate efforts to protect them or their habitats—may be eliminated from the state's biota; and

Such other elements of diversity as the state and the Secretary of Interior mutually agree are desirable.

(3) Collect and compile information about the attributes of each element in the clsasification, including, but not confined to, the element's biology, ecology, limiting factors, and other data that are relevant to its perpetuation within the state.

(4) Collect and compile information about locations within the state where remaining examples of each element in the classification currently exist. (This data collection effort should include an inventory of currently protected lands, regardless of ownership and method of protection, to identify high quality examples of the classified elements that are already preserved.)

(5) Consolidate all information into an accessible, standardized, well organized data bank to facilitate continuous maintenance, revision, updating, and utilization by state and federal agencies, private conservation groups, and other users.

(6) Select a list of priority sites worthy of protection by using the information compiled in the data bank. (This list should consist of sites that collectively contain as many high quality examples of each classified element as practicable. The goal is to protect at least one example of each element before resources are committed to protecting a second or third example of the same element. The priority list should be revised as necessary, but not less than once a year.)

(7) Prepare, implement, and annually revise a plan for the protection of priority sites by acquisition or other less costly methods.

(8) Provide timely data obtained by the natural diversity program to state and federal agencies which fund, license, or take actions that directly affect or alter the landscape, and to other information users.

Fifth, states with ongoing diversity programs should receive an annual protection grant from the federal government to safeguard priority sites identified by their inventory and analysis process. To maximize resource protection dollars, the Secretary of Interior must promote the use of effective methods that are less expensive than land acquisition. Some percentage of the federal share should be available for non-acquisition protection techniques, although land acquisition will still be the preferred protection method in certain cases. Furthermore, once a site has been purchased or its owner has agreed to its long-term preservation, the site should be entered on a National Registry of Natural Diversity Reserves. The federal government would be prohibited from taking any action that would adversely impact or destroy sites on the Registry.

Sixth, because of the rate and magnitude of natural diversity destruction, federal financial assistance to the states should be substantial and reliable for at least a 10-year period. Altogether the fifty states need an estimated $10 million annually in federal assistance for data collection and program planning, and $100 million a year for the protection of priority sites identified by the inventory and data analysis process. The federal matching share for each of these activities should be high enough to stimulate timely state participation. A 70:30 ratio of funds (federal:state) should be considered. Allocation of both program and protection assistance to the states should be on a need basis, except that there should be a minimum and maximum amount that any one state could receive annually.

OTHER BENEFITS OF THE LEGISLATION

A key feature of the Natural Diversity Act is that each state, to take advantage of the funding, must establish a standardized data bank capable of continually collecting compiling, analyzing, and updating biological information on the existence, characteristics, numbers, condition, location, distribution, and protection status of the state's elements of natural diversity. The state data banks will provide a valuable resource for environmental impact assessment, biological research, conservation planning and management activities, and will improve the implementation of existing conservation laws.

One of the major deficiencies of the environmental impact assessment process required by the National Environmental Policy Act (NEPA) is the current inability of federal and state agencies to accurately evaluate a proposed project's impact on the natural diversity of a region, a state, or the nation. This failure is primarily due to the lack of organized, accessible data. For example, many environmental impact statements reviewed by the North Carolina Natural Heritage Program showed one or more of the following deficiencies:

(1) No consideration given to plants or animals on the project site.

(2) Contained some analysis of impacts on wildlife, but ignored plants.

(3) Contained a list of plant or animal species at the project location that was taken from range maps in naturalist field guides, but the species were not verified as actually occurring in the project area.

(4) Generally discussed common flora and fauna at the site, but made no mention of the project's possible impacts on these species.

A state-wide data bank can help correct these assessment deficiencies. Such a system will enable planners to compare the relative biological impact of various development siting alternatives, thereby guiding development to the location least destructive to the state's elements of diversity. If biological information is available and consulted early in the planning process, "environment vs. development" confrontations that result in costly delays for federal and state projects can be avoided. Likewise, the data banks can be voluntarily used by private developers to avoid significant biological areas and costly conflicts.

A central data bank can also be used to organize and direct biological research. It is astonishing how little information most states have about their own biological resources. The Ohio Natural Heritage Program, for example, has just completed a one-year assessment of existing data in an attempt to locate known examples of 888 elements of diversity. The Ohio Heritage staff discovered that 10 percent of the state's counties (9 out of 89) accounted for 37 percent of all known element examples. Twenty-one counties had only 10 or fewer examples of the elements being inventoried. This unevenness of previous field survey and research work can now be corrected by directing researchers to those counties and places in Ohio about which little is known.

From a conservation management point of view, a state data bank can improve the effectiveness of public land management programs by identifying and keeping current information on the elements of diversity found within a managed unit. A national park superintendent, for example, can use maps showing the location of elements to accurately determine which areas within the park may be suitable for intensive human use and which are not.

Finally, data banks will be extremely helpful in implementing existing conservation laws. Under the Endangered Species Act, federal officials must sift through volumes of published and unpublished data to determine the status of species proposed for listing as endangered or threatened. They must also define what constitutes a species' critical habitat and the precise location of the habitat. All these questions can be answered more quickly and effectively if each state has a comprehensive biological data bank continually updated and refined by an ongoing inventory process.

CONCLUSION

Randomly occurring development activity has severely diminished America's natural diversity. We are now in a race against time

to preserve examples of the few relatively undisturbed ecosystems, biological communities, and rare species habitats that remain. Once protected, these resources would occupy only a small fraction of the total U.S. landscape. A system of publicly and privately owned natural diversity reserves would in no way jeopardize the nation's overall economic development. In nearly all instances, a development project that would adversely affect an area rich in natural diversity can either be located at a suitable alternative site, or else designed to minimize its detrimental impact on the area's resources.

A number of states, with the assistance of The Nature Conservancy, have already initiated programs to inventory and protect their diverse natural resources. These pilot efforts have shown that the task is accomplishable and that states are willing to do the work. Current state efforts, however, would be greatly augmented by federal financial and technical assistance. The Natural Diversity Act will provide the federal support needed by states to preserve our country's rich natural heritage.

PANAMA CANAL TREATIES

Mr. ROBERT C. BYRD. Mr. President, I testified last Thursday at the Senate Foreign Relations Committee hearings on the Panama Canal treaties.

I ask unanimous consent that my testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE HONORABLE ROBERT C. BYRD

Thank you, Mr. Chairman and members of the committee. I will not unduly detain the committee and its work today.

I certainly want to express my appreciation for the opportunity to appear before the committee today.

I want to commend you, Mr. Chairman, and commend the members of the committee for the diligence of the committee in giving such extensive consideration to the treaties and to the issues that are related to the treaties.

The record you have made in your hearings, involving a wide range of witnesses, constitutes an invaluable source of information on this subject for the public and for the Senate.

I particularly appreciate, Mr. Chairman, the manner in which you and the committee are responding to my request in regard to the timing of the conclusion of your action on the treaties. In my letter of December 1, 1977, to you, Mr. Chairman, I asked the committee to attempt to report the treaties by about January 25 so that the Senate would be able to move to consideration of the treaties shortly thereafter, certainly in early February. I am gratified that the committee has been able to adhere to that schedule.

I know, Mr. Chairman, that you and your colleagues are aware of my announced position in support of the treaties, provided certain conditions, which I will shortly refer to, are met.

Today I want to reiterate that strong support. It will not be a passive support; it will be an active support. And, I want to elaborate on some of the reasons why I believe that ratification is the right step to take.

In reaching this decision, I have attempted to consider all of the relevant factors in an objective manner. An important part of this process was the visit to Panama in November by a delegation of Senators which I led. It was a seven-member Senate delegation, and on that delegation was Senator Sarbanes, who is present. I believe that he was the only member of your committee on that particular visit.

I am pleased to see that most members of this committee have also visited Panama in recent weeks.

I suspect that, as in my own case, the trip was of great benefit in furthering your knowledge and understanding of the issues involved.

Since I first had the opportunity to review the treaties in September, it has been apparent to me that it would be necessary to clarify and guarantee at least two important points, and that this would need to be done in order to gain public support for, and Senate approval of, the treaties. I stated this position as early as last September.

The two critical points as far as I am concerned are:

One, the rights of the United States to guarantee neutral access to the canal at all times, beyond the year 2000; and

Two, expeditious, or "head-of-the-line", passage for United States military and auxiliary vessels.

I stressed to President Carter the the importance of clarifying these matters, these two points, before the Panamanian plebiscite on the treaties on October 23. Some members of this committee will recall a subsequent meeting at the White House at which this was discussed. Thereafter, on October 14, President Carter and General Torrijos agreed to the Statement of Understanding clarifying these two important points.

Our Senatorial delegation discussed this Statement of Understanding with General Torrijos when we were in Panama, as did your group and as did the delegation led by the distinguished member of the committee, our distinguished Minority Leader, Senator Baker. General Torrijos stated to our delegation clearly that he subscribed to the agreement and would be willing to sign it.

Furthermore, it was clear that the Panamanian people had been fully informed about these points before the plebiscite, particularly through the televised address to the nation by General Torrijos on October 20, as well as through newspaper accounts. Our delegation viewed a videotape of General Torrijos' October 20 address while we were in Panama.

In view of all this, there should not be any doubt about our right—and about the recognition of that right by the Panamanians—to defend the canal. However, because this will be a matter of importance to future generations—and so that there can be no question about the interpretation as enunciated by General Torrijos and President Carter in their joint statement—I have consistently taken the position that the substance of the October 14 statement should be formally approved and incorporated in appropriate language and through the proper parliamentary technique by the Senate. Senator Baker, the Minority Leader, has expressed similar concerns, and he and I have, upon several occasions, discussed the necessity for the Senate to take some formal, positive action in this regard. It is our intention to continue to work with members of the committee and with other Senators in seeing that such action is taken.

Senator Baker and I discussed this with some of you recently. We will continue to discuss it with you. The committee is well aware of our position in this regard.

Like most Americans, I take great pride in the Panama Canal. It represents a monumental achievement. Even in today's space age it remains one of history's outstanding engineering feats. As David McCullough, who testified before you a few days ago, wrote in "The Path Between the Seas," the creation of a water passage across Panama was one of the supreme human achievements of all time, the culmination of a heroic dream of 400 years and of more than 20 years of phenomenal effort and sacrifice.

However, while taking justifiable pride in the role that the United States played in constructing and operating the canal, we must also try to understand the pride and the aspirations of the Panamanians. It is their nation—their nation, not ours, it is not my State of West Virginia—that is bisected by a strip of land and water controlled by a foreign power. It is their country that is bisected by the Canal Zone.

One of the benefits of travelling to Panama was the opportunity not only to see things on a first-hand basis, but also to hear the views of the Panamanians. The trip of my delegation to Panama certainly heightened my awareness of how the Panamanians feel, of how American businessmen feel who are in Panama, of how Americans who are living in Panama feel, and of how Americans who live in the Canal Zone feel.

We met with people who are opposed to and supportive of the treaty. We met with the opposition lawyers group. We met with students. We met with Panamanian government officials and with our own government officials. We tried to get a first-hand basic viewpoint from as many sources as possible—both pro and con.

Our discussions with Panamanians, as well as with U.S. citizens, served as a reminder that the 13 years of negotiations under Republican and Democratic Administrations which led to the treaties involved a two-sided process, attempting to reconcile the interests of both nations.

During the period since the treaties were signed, I have been impressed by the good faith exhibited by the Panamanians. Panama's interests and our own interests are closely interwoven. And, after visiting Panama, I am more hopeful and more confident about that country's future political direction, particularly if the Senate approves these treaties, and if they are ratified by the President.

The Senatorial delegation of which I was a member expressed some strong concerns to General Torrijos about human rights and civil liberties in Panama. Senator Sarbanes, in particular, Senator Metzenbaum, and Senator Riegle were among those who expressed these concerns. General Torrijos pledged to that delegation that steps would be taken to abrogate certain repressive laws, including those which had limited the right of assembly and had provided for summary trial and detention.

He has subsequently informed me that these laws have been abrogated, and that action is being taken to insure greater press freedom as well.

Mr. Chairman, I have tried to focus my own analysis of the treaties on one basic question and I stated this in Panama. May I say, parenthetically, that there is no political mileage for any United States Senator in voting for these treaties. Any Senator who votes for these treaties, in my judgment, will have some of the political skin taken off his political nose. And, that is true in the State of West Virginia as elsewhere.

But I believe that as people become better informed concerning the history of the treaties, the content of the treaties, and the implications upon future relations with other countries, particularly Latin American countries, of ratification of the treaties—or, on the other hand, rejection thereof—I believe that a well-informed public, will see that the treaties in the long run are in the best interests of the United States.

This has been the basic question on which I have tried to focus, and I believe that my delegation felt the same. What is in the best interests of the United States? Is ratification of the treaties in the best interests of the United States?

I have concluded that the weight of the evidence argues convincingly that approval and ratification of the treaties are in the

best interests of the United States. Indeed, these treaties better protect our long-term interests than does the 1903 Hay-Bunau-Varilla Treaty, which was never signed by any Panamanian.

Panamanians have long resented that treaty and the unusual circumstances under which it was concluded.

The new treaties would provide Panama with a greater stake in the canal and thus a stronger interest in its efficient and unimpeded operation.

I believe that those of us who have been to the canal are aware of the potential vulnerability of many of the canal facilities. I was particularly impressed by the obvious vulnerability of the facilities to sabotage, to terrorist activity, to guerrilla action. This was particularly apparent during our helicopter overflight of the canal. The potential threats cannot be overlooked.

However, under these treaties the United States would retain a high degree of control over the canal through the end of this century, as well as defense rights thereafter. We will have the right to take action against any aggression, or threat directed against the canal, or the peaceful transit of vessels through the canal after the year 2000.

This must be made clear by the United States Senate as it acts on the approval of these treaties.

In my view, these treaties are the best means of assuring continued access to and use of the canal—and that should be our primary concern.

I have been particularly impressed by the testimony of our top-ranking military officers in support of the treaties. The men who are responsible today—not yesterday, not 50 years ago—but those who are responsible today for the defense of this country support these treaties. The Joint Chiefs of Staff have pointed out that the strategic value of the canal, is in its use, in keeping it open. That is more easily assured if we enjoy cooperation and goodwill from the Panamanians, rather than confrontation with Panama or resentment on the part of the Panamanians.

Although we want to maintain ready access to the canal, there have been significant changes and advances in alternative modes of transportation in recent years. Further, our giant aircraft carriers, as well as the largest cargo ships and the new super tankers, are too big to transit the canal.

Mr. Chairman, I know the committee has looked at all aspects of the treaties, as I have endeavored to do. They rank among the foremost international issues of our time. The committee's action will, I believe, affect the course of international relations with Latin America for many years.

I hope the committee will conclude that, in the final analysis, these treaties are true to our own national values, and that ratifying them will be consistent with our role as a leader among nations. Approval of the treaties is particularly important for our future relations with Latin America and should open a new era of mutual trust and cooperation in inter-American relations.

In discussions with representatives of Colombia and Venezuela, I have found that they are very supportive of the treaties.

It has been claimed by some that approval of the treaties would give rise to increased communist influence in Panama. In my judgment, just the opposite is true. The best way to prevent increased communist influence is to approve the treaties. Our failure to do so would almost certainly give renewed impetus to extremist elements on the right and on the left in the area and would open the way for greater Soviet and Cuban involvement.

As I mentioned earlier, Panama's history is closely interwoven with our own. I believe that the Panamanians desire friendly relations with us. That is their natural inclination. These treaties offer the best way to assure good relations between our nations and to discourage the rise of communism in that area.

In closing, Mr. Chairman, I want to express the hope that the committee, in its recommendations to the Senate, will provide guidance for the Senate as to how the Senate might best meet the concerns that many of us have about the treaties, without creating the necessity for reopening the negotiations, and, I would hope, without creating the necessity for another plebiscite in Panama. That could be a situation fraught with danger and uncertainty and could undercut all that has been done to move us toward a successful resolution of the matter.

Mr. Chairman, the Panama Canal, as David McCullough has written, is an expression of that old and noble desire to bridge the divide, to bring people together. Certainly, the canal has done this in many respects. Now, however, the time has come to bridge the divide between Panama and the United States and for the two nations to work together in seeing that the canal continues to serve the people of the United States and Panama and the world.

I thank you, Mr. Chairman.

TELEPHONE PRIVACY ACT

Mr. ANDERSON. Mr. President, since Congressman LES ASPIN and I introduced the Aspin-Anderson Telephone Privacy Act in October, our offices have received hundreds of letters from all over the country expressing strong support for the legislation (S. 2193 and H.R. 9505). My interest in protecting the privacy of telephone subscribers, fed up with constant and increasing interruptions of their home lives by peddlers of all forms of goods and services, strikes a responsive chord in many, many Americans.

Mr. President, I believe that the citizen's right to privacy is paramount to a salesperson's right to use an individual's telephone for business purposes. No one has the right to invade the privacy of our homes 24 hours a day. The Aspin-Anderson Telephone Privacy Act gives citizens the freedom to choose whether to receive unsolicited commercial telephone calls.

I would like to share two local editorials expressing support for the Aspin-Anderson Telephone Privacy Act. The Washington Post editorial, "Hold Those Calls," appeared on January 23, 1978, and the Washington Star editorial, "Dial Us Not Sequentially," appeared on January 30, 1978.

Mr. President, I ask unanimous consent that the editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

HOLD THOSE CALLS

Have you been called lately by a machine? A lot of people have, especially since something called automated sequential dialing devices came into use last year. These gadgets can automatically dial, in turn, every conceivable phone number—including unlisted ones. Whenever anybody answers, the machine will play a taped commercial spiel and then record the listener's response.

Commercial users say that these low-cost "junk calls" bring good returns and may become a better mass-marketing method than bulk mail. But unsolicited phone calls are also much more intrusive and annoying than unsolicited mail. The new machines, dialing 100 calls per hour or more, have already gotten a lot of people up from dinner or out of the bathtub. One result has been a surge of calls for action by the Federal Communications Commissions, Congress and the states.

Some proposals now pending would bar robot calls entirely. Others would curb some of their habits, such as staying on the line if you hang up before the tape has run its course. Aiming new rules at one particular device, though, strikes us as about as illogical as outlawing computer-generated commercial letters but letting hand-addressed bulk mail go through.

We think people who don't want to be bothered should be able to hold off all unsolicited business calls. Rep. Les Aspin (D-Wis.) and Sen. Wendell Anderson (D-Minn.) are sponsoring bills under which anyone could ask his local telephone company to put his number on a no-call list that phone solicitors—except charities, political groups and politakers—would have to respect. Similiar plans are being used by some bulk mailers and seem to work well.

The mailers' initiatives have had one interesting result. Despite all the complaints about "junk mail," relatively few people register not to get it—and a substantial number, if given the chance, sign up to go on mailing lists for catalogs, magazines and the like. Regarding phone calls, we suspect that the proportions would be different. But if any of you have strong feelings about machines and companies that have your number and use it indiscriminately, we'd be interested in hearing them—by letter. If public sentiment is emphatic enough, perhaps the solicitors will get the message and hang up.

DIAL US NOT SEQUENTIALLY

What we live in is the Insistent Society. Cajoled, admonished, lectured, mandated and solicited from stump, store and pulpit. We are besieged at all hours on behalf of all causes, crises and products.

Something called the "automatic sequential dialing device" is the latest, and most insidious, insistence: "robot phones" dispensing "junk calls." This computerized system can digest in sequence all the telephone numbers of a given exchange at the rate of 100 an hour and then dial every tenth one and present a recorded sales pitch or message. Some of the robot machines refuse to click off when a telephone is hung up, blacking out that telephone until the recorded voice has exhausted itself. Unlisted numbers are no defense.

Happily, this automated intrusion is being resisted. The Maryland Senate on Wednesday approved a bill by Sen. C. Lawrence Wiser, D-Montgomery, that would prohibit the devices. Similar proposals are pending in the House. Del. Marilyn Goldwater, also a Montgomery County Democrat and also a sponsor of restricting legislation, fears—not unreasonably—that the more refined the equipment becomes, the more the 7.5-cent cost of a business call will be able to compete with the approximately 7-cent bulk postage rate for advertising.

In Virginia, after several regulatory bills were unsuccessful in last year's General Assembly, the State Corporation Commission told telephone companies to conduct a study on curbing abuses in phone solicitation. Said study is now in progress.

In federaldom, the White House Office of Telecommunications Policy has urged the FCC to consider banning or limiting all telephone soliciting. But so encompassing a prohibition would be itself an example of insistence.

A more sensible limitation is contained in two bills before Congress—by Rep. Les Aspin,

D-Wis., and Sen. Wendell Anderson, D-Minn. These would permit a customer to tell the telephone company to count them out of automated solicitation—and fine firms which violate the "no call" provision up to $1,000. The soliciting firms also would have to pay for updating phone-customer lists once a year. Because the issue involves interstate activity, a federal role seems unavoidable.

None of the proposals in the Maryland legislature or in Congress, The Star's Sheila Kasi points out, would stop politicians, polltakers or charitable groups from making automated calls. One or all of the above, however, might be sensitive to the risk of angering more people than they can persuade.

For most of us, the telephone's ring is an irresistible summons, out of apprehension, hope or curiosity, and privacy increasingly becomes an endangered value. The "automated sequential dialing devices" are an infringement, even in the Insistent Society.

TRIBUTE TO SENATOR LEE METCALF OF MONTANA

Mr. NELSON. Mr. President, the death of Lee Metcalf leaves a large void in the Senate that will not easily be filled. After over 40 years of public service at the State and Federal levels, the last 17 years of service in the Senate, the Nation has lost a compassionate, thoughtful, and far-sighted individual.

Much has already been said about Lee's role in the House of Representatives, about his work in the field of education, about his role in founding the Democratic Study Group. The passage of the Surface Mining Control Act last year, after a 10-year battle, is characteristic of Lee's unwavering commitment to the stewardship of the public domain and of the foresight and wisdom he brought to our system of government.

Lee strongly believed that the public had a right to know who was advising the various Federal departments and agencies. The long overdue reform of the Federal Advisory Committee structure in practice did not represent the public, was started by Senator Metcalf. The public's right to know was fervently protected by Lee's successful efforts to reform the executive branch's advisory committee system through the enactment of the Federal Advisory Committee Act of 1972.

During my tenure on the old Senate Interior and Insular Affairs Committee, I met and quickly learned to respect Lee Metcalf's judgment. He was one of only a few national leaders who foresaw this Nation's crises in natural resources, environmental protection, and energy. And, he was one of a handful of legislators who, early in the 1960's before it became fashionable or politically acceptable, spoke out strongly and repeatedly for conservation and environmental protection legislation.

This Nation owes a great debt to Lee Metcalf. Lee, for over 10 years carried on the fight for a uniform and strong surface mining control law. He chaired the hearings, developed the legislation and never gave up even when this most needed legislation was twice vetoed by Republican Presidents. Lee Metcalf was instrumental in developing the National Wilderness Preservation System and his presence and strong advocacy for wilderness will be missed in the future as we face more difficult and controversial decisions in this field.

As an environmentalist, as an advocate for consumer protection, and as a believer that the public must be supplied with adequate amounts of energy at fair, reasonable prices, the death of Lee Metcalf comes as a significant loss. We who worked with him and admired him have a responsibility to carry on his most important work.

AGRICULTURE DEPARTMENT RECOMMENDS STRICT ACREAGE LIMITATION IN FEDERAL RECLAMATION PROJECTS

Mr. ABOUREZK. Mr. President, Agriculture Secretary Bob Bergland has written to Secretary Andrus this week to report on the Agriculture Department's study of farming in Federal reclamation projects. The report has been eagerly awaited by all sides in the recent dispute over acreage limitations in Federal reclamation projects. I think that this report should go a long way toward resolving the dispute.

Secretary Bergland, in essence, has concluded that the Interior Department's proposed regulations for acreage limitation in reclamation projects are not strong enough. The Department's data show that farmers can make a good living on 320 acres even at current low prices when they have the assistance of subsidized irrigation water from Federal projects. This subsidy can reach staggering proportions—in the Westlands District in California, for instance, it is equal to $76,000 per 640 acre farm per year. Secretary Bergland properly points out that such subsidies cannot be justified, especially when so many farmers across the country are unable to make a living at all.

Secretary Bergland's comments and the USDA study give strong support, I think, to S. 1812, the Reclamation Lands Family Farm Act, which I have cosponsored with Senators NELSON, HASKELL, BAYH, ANDERSON, and RIEGLE. If anything, our bill has more lenient limitations than this report would support.

I urge everyone concerned with this issue to read the Secretary's remarks carefully. I ask unanimous consent that the text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., January 25, 1978.

Hon. CECIL D. ANDRUS,
Secretary of the Interior,
Washington, D.C.

DEAR CECIL: I am writing to offer you the Department of Agriculture's comments on the Department of Interior's proposed reclamation rules and regulations for acreage limitation (Federal Register, Vol. 42, No. 165, August 25, 1977).

At my request, the Economics, Statistics and Cooperatives Service (ESCS) of this Department has analyzed the potential economic impacts of the proposed rules. This study provides insight into some of the key questions surrounding the implementation of more stringent rules for the distribution of reclamation benefits. Among the questions studied are: the minimum acreage in a Federal Reclamation Project which constitutes a viable family farm in today's economy; the potential disruption to the surrounding communities; and the economic impacts of the proposed regulations on cost of production, production patterns and product prices.

To answer these questions, the study team looked at four reclamation projects; two in California, the Imperial Irrigation District and the Westlands Water District; and two in other locations, the Columbia Basin project in Washington and the North Platte project in Nebraska and Wyoming.

In summary, and subject to the qualifications and caveats detailed in the text, the report shows that the income possibilities on a relatively small farm irrigated by subsidized reclamation water are substantial. Annual returns to management and operator labor by farm size vary among the four regions studied. All farm sizes considered in the Westlands and Columbia Basin result in annual returns exceeding median family income. In Imperial and North Platte, using current land prices, 320 acres are required to achieve annual returns equal or greater than median family income. In view of rising production costs, price variability and other risks not considered fully in the analysis, larger operating units may be necessary to provide a return to management and operator labor sufficient to maintain a viable farming operation over time. The other economic impacts are expected to be relatively slight under the proposed regulations. Copies of the study will be made available to you and your staff and, of course, the ESCS staff will be available to work with your staff if there is need for greater detail than the study provides.

Beyond the economic analysis, I would like to draw your attention to some related points that I feel should be resolved before the final rules are promulgated. I concur with the basic and broad objectives of the Reclamation Act of 1902 and your desire to administer that policy fully and equitably. However, though the proposed rules and regulations move in the right direction. I am concerned that under the proposed regulations it would still be possible to comply with the letter of the law, while frustrating its basic intent to use federally subsidized water to encourage the development of small family owned farms.

One such point is the determination of the maximum size acreage which qualifies as a small family farm, and is therefore eligible for subsidized water. Under the current proposed regulations, it would be possible to acquire ownership or use of an area of land, benefitted by federal water, in excess of a size that anyone could classify as a small family farm: with 320 acres allowed a husband and wife, plus an additional 160 for each child and as much through leasing, even a typical family of four could put together an operating unit of 1,280 acres eligible for project water, and, conceivably with more children, larger units could be formed. According to USDA projections in the study, in the two areas in which pre-project land prices have been established, the Westlands Water District and the Columbia Basin, the net income generated from a 640 acre farm under the provisions of the proposed rules, would be $81,000 per year and $189,000 per year respectively. (For the Westlands calculation, projected seasonal average prices for 1977 were used. In the Columbia Basin, wheat was priced at $2.57 per bushel, and potatoes at $54 per ton.)

In 1976, 83 percent of this nation's farmers grossed less than $40,000 in sales. I believe that this discrepancy points out the need for a more precise limit of the total benefits which will accrue to a single operating or

ownership unit than is currently provided under the proposed regulations.

Furthermore, on those farms which benefit from the Reclamation Project water, the federal subsidy is a major portion of the total income. According to the Department of Interior's estimates, the per acre subsidy available in Westlands, for example, is $1,540. If that figure is converted to an annuity for the 50 year project life, at 6½ percent interest, it would equal $118.68 per acre per year. On a 640 acre farm, then, the annual subsidy would be around $76,000. Again, in an average year, according to our study, the net income from a 640 acre farm in Westlands would be around $81,000. The magnitude of these income and subsidy calculations emphasize that this issue cannot be viewed simply from an agricultural perspective, but rather must be evaluated in the broader context of the distribution of social and economic benefits through the Reclamation Projects. (It is perhaps noteworthy that the maximum welfare payment under Aid to Families with Dependent Children for a family of four in the state of California is $5,076.)

Therefore, I recommend that we examine carefully the question of the maximum acreage eligible for subsidized water, with the intent of dispersing the benefits of the reclamation projects as widely as possible, in accordance with the purpose of the Act, yet permitting the establishment of farming units of sufficient size to be economically viable both now and in the foreseeable future. This maximum should be established individually for each project, and even within projects, taking into account the different income possibilities determined by the radically different soils and growing conditions in reclamation projects.

Current levels of income among farmers on irrigated land show the inadvisability of a single maximum acreage for eligibility. For example, in California, the average gross crop value per irrigated acre is $781. In South Dakota, the average per irrigated acre is $128, less than a third of that. Although establishing a series of maximum acreages for eligibility will be difficult and time consuming, it is key to the acceptance and the equity of efforts to enforce the Reclamation Act.

I believe also that, for reasons of administrative convenience and equity, the maximum acreages eligible for subsidized water should be established without respect to the number of persons in a family. The number of persons in a family might change for a number of reasons, and does not seem to be greatly relevant to eligibility for subsidized water. I would suggest instead that eligibility should be determined on the basis of the total amount of land owned by a single person, family, partnership, or other combination thereof, with appropriate language to preclude the possibility of a person participating in more than one farm unit, and, as you have provided, in more than one water district.

A second point of the proposed regulation which concerns me is the 50 mile "neighborhood" designation. A meaningful residency requirement is essential to the fulfillment of the intent of the Reclamation Act. However, the 50 mile limit does not preclude the possibility of investors purchasing the land as an investment, with no intention of farming, and then leasing the land to bona fide farmers. The use of the public subsidy involved in reclamation projects as an investment to support income in this manner was not intended by the Act. To avoid this, it might be useful to require that purchasers of excess land actually farm the land, and live on or near it in order to be eligible for project water.

A related point is the leasing provision under the proposed rates. As you know, leasing can be an important opportunity for young people entering farming; it is also a way for the established farmer to respond to changing market conditions. Further, there are many small landlocked parcels in the Reclamation Projects which are not large enough to provide an adequate income by themselves. However, despite the advantages leasing provides, in the history of Reclamation Act administration, many of the most flagrant violations of the intent of Congress to foster small family farms have transpired through leasing and leaseback arrangements. For this reason, leasing under the new regulations should be limited so that it does not provide a vehicle for avoiding the basic purpose of the law. The language of the regulation should allow exceptions for people who retire or become disabled and the families of deceased farmers.

A third point is the proposed lottery for distribution of excess lands. I foresee a number of problems with this approach. The conclusion of USDA analysts that the smaller farms resulting from the proposed rules are viable is based on an assumption of average or better management abilities. Should excess land be distributed by a random method which fails to consider the experience and capacities of prospective farm buyers, income could be significantly lower than those estimates.

Moreover, distribution of land should be accomplished with consideration for eligible tenants who currently farm land rented from excess landholders. There is no provision in the proposed regulations permitting these tenants to buy their farmsteads. Divestiture of land by excess landholders will effectively end the tenure of those tenants and throw their homes into the lottery as part of larger excess land packages.

I was in California recently and discussed the situation with a number of these families. They are understandably concerned. Much of this land has been rented and farmed by these families for many years, and though they do not own the property, in all other aspects it is their home. I think that it would be consistent with the spirit of the 1902 Reclamation Act to offer these small farmers the first opportunity to own the land they have worked for years.

For these reasons, I recommend that we seek an alternative to the lottery method of distributing the land. I understand that the lottery system was suggesed to ensure fairness and to prevent those with an "inside track" from unfairly obtaining the benefits of the redistribution. Nonetheless, I believe it is possible to develop a method which could ensure fairness, and yet would take into account the experience of prospective buyers, and the human investment that current farm tenants have in particular parcels of land.

A fourth point you may wish to consider relates to the broader issues of federal water policy. As I mentioned earlier, the subsidy to those who receive water under the provisions of the Reclamation Act is very large. Under the proposed regulations, the subsidy would be twofold: the buyer of the excess land would pay "pre-project" prices which are in the range of a third to half the current market price; and in addition, the buyer would then continue to receive the water at a price much below its value as a production input.

I understand that the purpose of charging the pre-project land price is to prevent current owners from enjoying a windfall profit by excluding from their selling price the value of the subsidy provided by the public. Of course, I agree with this goal. However, I am concerned with the magnitude of the federal subsidy resulting from the combination of pre-project land prices and the cheap water it provides, and the dependence of the new farms on this subsidy.

In formulating the 1977 Farm Bill, this Administration took special care to provide an equality of benefits among farmers in various regions of the country who grow different crops. Too often farm programs have distorted market patterns and have provided substantial benefits to one set of growers, while providing relatively little to another.

The size of the subsidy available to those eligible for reclamation project water and the resulting income possible on a given acreage is much more than in other areas in the country which do not benefit from reclamation water. For example, as I mentioned before, our study shows that *net* income on a 640 acre farm in the Westlands would average around $81,000, in Columbia Basin $189,000. Using the same budget techniques to measure income on 640 acres in the High Plains of Texas under the typical conditions of partially irrigated farming and partial dryland farming, the results are remarkably different. On 640 acres, the net income for the same period of time was $79. A dryland wheat farmer in Nebraska last year would actually have a negative net income on 640 acres. Although I understand that these three situations are not strictly comparable, I do think that we need to look at the magnitude of the income provided by the subsidized water in comparison to farms of a comparable size in other areas of the country to gain some perspective on the equity question involved.

It seems to me that the Administration's water policy has been moving toward a system which puts increased emphasis on conservation and under which beneficiaries pay a share of the total cost more commensurate with the benefits received. One way to encourage conservation consistent with this Administrations' water policies in other areas of the country, while at the same time to encourage small family farmers, would be to develop a water pricing system in which smaller farmers would pay a lower rate, with higher rates charged to larger operating units.

This pricing system would be in addition to, not in lieu of, the establishment of maximum eligibility acreages, although the reduced income possibilities which would result from the reduced subsidy would have to be considered in the acreage formula. This would permit recovery of some of the massive federal subsidy involved in these projects without endangering the viability of irrigated farming in these areas. I realize that a pricing scheme poses administrative difficulties but these may be justified if a more equitable solution to the subsidy problem can be achieved.

In summary, I would suggest that the proposed regulations be changed to reflect these considerations:

Maximum acreage size for eligibility for federal project water be determined on a project by project basis, to allow for different soil and growing conditions;

Maximum size would be determined without reference to family size, but rather on the basis of total ownership units, whether composed of a family, an individual, a partnership, or any combination thereof;

Purchasers of excess land must operate the farm and live on or near it to be eligible for reclamation benefits. Leasing should also be limited;

An alternative to the lottery be designed for the distribution of the excess land which takes into account factors such as farming experience and tenancy;

The Department of Interior, in consultation with the Department of Agriculture, look into the possibility of developing a pricing policy which would recoup some of the massive public subsidy in these projects, while still supporting the primary goal of the Reclamation Act to encourage the establishment of small viable family owned farms.

I appreciate the opportunity to share these comments and hope you will let me know if we can be of any further help.

Sincerely,

BOB BERGLAND.

A CASE FOR DICKEY-LINCOLN

Mr. MUSKIE. Mr. President, the release of the draft environmental impact statement on the Dickey-Lincoln hydroelectric project in Maine has dramatically intensified debate on the project.

An environmental impact statement is by its nature a negative document. It describes in great detail the effects of the project on the land, air, and water, fish, and wildlife in the affected area on the upper St. John River. The document was seized upon by opponents of the project, some of whom implied that it provided dramatic new evidence that the project was not worthwhile and should not be built. Of course, the EIS did nothing of the sort.

In fact, it revealed there were few environmental effects we had not foreseen a dozen years ago when the project was authorized.

I expect opponents of the project to seize every opportunity to make debating points. But I was saddened that the vast majority of the Maine press was taken in by the tactic. The displacement of deer, the flooding of land, the loss of timber became almost a litany, repeated again and again across the pages of our newspapers. It was as if no one had realized before that when a river is dammed, land is flooded.

The environmental effects ought to be brought to light. I have enthusiastically supported the environmental study process because I believe we must know all Dickey-Lincoln's costs, and we must explore all the alternatives.

But we must also weigh the benefits. And in making a final judgment, we must determine what we are willing to give up in turn for the benefits we will receive.

I know as well as anyone that when it comes to energy and the environment, there are no benefits without costs. There are no projects built without environmental sacrifice; there are not projects foregone without sacrifice of another sort, or environmental costs at another place.

We have heard much recently about the benefits of small site hydro, for example, but very little about the cumulative environmental costs of those projects. And there has been no attempt to describe the environmental effects of such alternatives to Dickey as nuclear power or coal-fired generating plants.

The Maine media, with some notable exceptions, have for the most part ignored the story of Dickey-Lincoln's benefits. The editorial writers of our major newspapers certainly could not make a balanced judgment on Dickey-Lincoln just by reading their own newspapers. So it is not surprising that although 74 percent of Maine people recently surveyed favor new hydroelectric projects in Maine, the majority in favor of Dickey-Lincoln was only 48 to 41 percent.

It was a public service then for the Maine Sunday Telegram to publish a lengthy article in last Sunday's edition which dispassionately reviews the Dickey-Lincoln debate.

The article was prepared by John Goodwin, director of Maine Citizens for Dickey-Lincoln, which is attempting to present a balanced view of the project, its costs and benefits. Citizens for Dickey-Lincoln supports the project. And the article was properly printed as an opinion. Yet those who read it will find a more balanced and forthright assessment than could be found in the news columns on any given day.

I want to welcome Citizens for Dickey-Lincoln to the fight for the project, and congratulate them for their effort.

Mr. President, I ask unanimous consent that the article, "A Case for Dickey," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A CASE FOR DICKEY

(By John Goodwin)

Is there nothing to be said for Dickey-Lincoln?

Are the advocates all black hats determined to ruin the environment, drive people from their homes, chase the deer out of their yards and drown the Furbish lousewort?

And just so people in Boston can more conveniently run their electric toothbrushes?

Much of the discussion over the past year or so has made it seem that way.

But the argument, for example, that "all the power from Dickey-Lincoln will be going out of state," doesn't hold up.

Forty-four percent of the total power generated at Dickey-Lincoln will be available to Maine residents, according to the State Department of Conservation. All the base load power at the site has been earmarked for Maine.

Maine will also get 75 percent of the up to 1,900 construction jobs involved. And benefits from Dickey-Lincoln will flow into Maine long after it's constructed.

Historically, light but high-energy-use industries have located near a source of relatively low-cost electric power.

Hydro-electric power is low cost, because its source—the water—is free and immune to inflationary pressures that affect oil, coal and wood.

That Dickey-Lincoln will most definitely be a source of low-cost power is borne out by a Department of Conservation study.

It found that power from a coal-fired plant CMP plans to build on Sears Island will be selling for 5.5 cents per kilowatt; Dickey-Lincoln's will sell for 3.9 cents.

This differential is likely to increase even more in the future.

Because of its low cost, the power from Dickey-Lincoln will mean that Maine consumers will save millions of dollars annually on their electric bills: More than $12 million, according to the Eastern Maine Electric Cooperative based in Calais.

All of Maine will benefit, but especially the eastern and northern sections, where more and cheaper power is most needed for development.

Construction of the dam will mean an immediate boost to the economy of Aroostook County, from which the Corps of Engineers estimates that 29 percent of the dam's labor force will be hired.

The minimum wage paid at the site will be $5.70 an hour—good by any standard, but particularly in a state which has had a history of low wages.

Some critics have claimed that high wages will cause an "adverse impact" in Aroostook County, others that the jobs are only temporary and not worth having. And still others claim that people in Aroostook can't do the work.

But if a low wage is a Maine tradition then it's one that should be ended as soon as possible.

And all construction jobs are temporary. When a project is done, the workers move on to something else. This does not mean, however, that Maine people don't take advantage of jobs that do become available.

Aroostook County workers can't do the work? Maine people drive trucks, operate bulldozers and use back hoes, cranes and so forth—the kind of equipment that will be used for Dickey—every day.

Indeed, the Corps of Engineers estimates that 60 of the 68 people actually operating the dams after construction will be from Maine.

Another myth is that the dams involved will flood and destroy a virgin wilderness.

The area is far from a wilderness. It's largely cut over, with hauling roads and skid trails sometimes just yards apart.

Much of it is owned by a Canadian conglomerate based in St. John, N.B. Much of the cutting in the area is done by Canadian workers, and 90 percent of the saw logs taken from the area are processed in Canada by Canadian workers.

One cost of building the project is the flooding of about 88,000 acres of land behind the Dickey dam, but the potential timber loss there can be more than made up by better management of what remains, according to the Corps of Engineers' Environmental Impact Statement and the Department of Conservation study.

Also, because the existing private road system will be disrupted, the landowners in the area might begin processing more timber in Maine, thus creating more jobs for people in this state.

Is Dickey-Lincoln something the state and region needs at all? It is, now more than ever before.

CMP President E. W. Thurlow says that by the mid-1980s, a significantly base load electrical energy deficit in Maine is projected as demand for power outstrips the available supply. "Unless the state continues to expand its generating capacity, Maine could be subject to power outages, power rationing and inordinately high energy costs."

Just a couple of weeks ago newspaper headlines were saying "It Was So Cold The Clocks Slowed Down," meaning power was so scarce there wasn't enough to keep electric clocks running accurately.

The private power firms have plans to meet a substantial portion of the near-term growth in base load demand (base load is the electric power needed during the normal course of a given day).

In Maine, an addition to the oil-fired plant at Cousins Island in Yarmouth is now nearing completion. A coal-fired plant is scheduled for Sears Island. Small hydro plants are also planned at a number of locations around the state.

The private utilities had been planning a second Maine nuclear power plant to be completed sometime in the 1990s.

However, CMP's Thurlow has announced the indefinite shelving of this project pending further clarification of the nation's nuclear policy.

The various projects planned by the private utilities could substantially meet Maine's base load demand if they are built and if the fuel to power them is available at all and at a feasible price.

Coal and oil, for example, are very expensive and will become more expensive in the future. Yet CMP will burn oil at its 600-megawatt addition at Cousins Island and coal at the new Sears Island plant.

CMP has just asked the Public Utilities Commission for a $24.7 million rate increase and it will be back for more as oil and coal prices rise.

Dickey-Lincoln will replace 2.3 million barrels of oil annually, more than 1 million barrels (42 million gallons) in Maine alone. At today's price of about 50 cents a gallon for

home heating oil, that could mean a saving of $21 million a year.

Also, when the source of electric power is water, there's no "fuel adjustment charge" involved, for the "fuel" is free. It's also non-polluting, renewable and reliable.

CMP is projecting a total electric power demand growth of 5.5 percent over the next ten years (historically, it has increased seven percent annually).

But this forecast may be too conservative. During 1976, CMP saw demand increase eight percent. The pulp and paper companies alone used 27 percent more electric power in the first quarter of 1977.

Peaking power demands is also expected to leap by nearly 75 percent in New England by 1987–88.

If more electricity is to be consumed in the future, then it naturally follows that dependable sources of supply must be developed.

There should also be a good mix of power sources: that is, we should not rely solely on coal, oil, water or anything else.

Maine is fortunate in now having a fairly good mix and Dickey-Lincoln will put us in an even more favorable position.

For even if the coal, oil, and small-site hydro plants proposed for Maine are built as planned, none would be efficient in meeting peaking power needs.

Dickey-Lincoln, on the other hand, is ideal for this purpose. Its basic energy source can be stored and kept available almost instantly when needed.

This single electrical source will meet 25 percent of Maine's and 17 percent of New England's peaking needs.

Opponents sometimes say that Dickey-Lincoln could only operate two hours a day.

Not true.

The dam would operate at varying capacities, depending on peaking power demands.

During periods of low demand, as on weekends and nights during the spring, the generators would hardly run at all.

This is good, for the primary source of the water at Dickey-Lincoln is the spring runoff. This low-demand period is when the Dickey reservoir is replenishing itself.

At peak periods, such as in January and February, Dickey dam would be operated for periods extending up to eight or nine hours daily.

The Lincoln School regulating dam below would normally operate 10 hours a day, seven days a week. When Dickey is operating seven or more hours a day, Lincoln School would be capable of generating electricity for 24 hours a day at full capacity.

Total capacity of the Dickey-Lincoln project is 900 megawatts.

Dickey dam, located just above the juncture of the Allagash and St. John rivers, will be capable of generating 1,183 million kilowatt hours (kwh) annually. This would be primarily peaking power.

Lincoln School dam, 11 miles below Dickey, would have a capability of 262 million kwh of base load power annually, all designated for Maine.

The two dams would increase the capacity of downstream hydro plants in New Brunswick by 350 million kwh annually, half of which would be returned to the United States.

Total cost of Dickey-Lincoln, in 1977 dollars, was projected at $690 million. But taking inflation into account before completion in 1986, the figure is likely to be nearer $1 billion.

Although the U.S. taxpayer will have to meet the initial bill, 98 percent of it will be repaid with interest from revenues derived through power sales.

There has recently been some discussion about the safety of the project. It's been suggested that the dam might collapse or an earthquake may shake it apart.

No dam built by the Corps of Engineers has ever collapsed anywhere in the United States. Not a single life has ever been lost due to a Corps of Engineers dam.

In designing Dickey-Lincoln, the Corps, in consultation with outside seismological and geological experts, has taken into consideration the fact that there is an earthquake-prone region in the St. Lawrence River Valley about 50 miles away from the dam site.

Records dating back to 1638 show no major earthquakes within a 20-mile radius of the dam site. Within a 20- to 40-mile radius, there have been only four recorded events since 1638, all minor.

The dam is designed to withstand the maximum tremor of the largest credible earthquake in the St. Lawrence Valley.

The corps of Engineers, as part of its Environmental Impact Statement on the project, examined 24 alternatives.

The only one close to meeting the peaking power capability of Dickey-Lincoln was to build gas turbine plants which would be fueled by oil.

But oil is becoming prohibitively expensive and scarce. We should be moving away from oil, not building plants to consume more.

The private utilities have been counting on nuclear power to meet a substantial portion of their base load demand. But planned facilities have been long delayed and may never be built.

In any case, there are many unresolved difficulties with nuclear power, such as the disposal of radioactive waste and of the physical plant once its life cycle has been exhausted.

Coal-fired plants aren't trouble free either. The Sears Island plant will burn something like 420,000 pounds of coal per hour, which has to be hauled to the site and an almost equal amount of waste trucked away.

Small dams on the state's rivers are useful for generating moderate amounts of electricity. They have been neglected in recent years, but they can be valuable sources of base load power, and the state's utilities should develop as many as possible.

But these small hydro sites are basically "flow-of-the-river" systems. That is, the power they generate depends on how much water is flowing at a given time. There is no storage behind, and thus no substantial peaking capability.

A spokesman for the American Wildlife Federation said at one Dickey hearing that another alternative would be wood-fired power plants.

But for such plants to meet Dickey-Lincoln's peaking capacity they would consume more than 16,000 tons of wood chips a day. At that rate, all the timber in the Dickey-Lincoln impoundment area would be consumed in just over seven months.

What about the sun and the wind? Isn't there enough energy here to meet our needs forever?

Perhaps someday, but no technology yet exists to harness these sources on a large scale.

Further, if all the heat and hot water in the country were obtained from solar energy, the total electrical power demands would drop by less than five per cent.

Peak load pricing has been held out as another possible alternative to Dickey-Lincoln.

Basically, this means paying more for power during peak periods. Alternatively, a box in the house or factory would regulate power usage. People would be allocated only so much power during these periods and no more.

Some idea of what peak load pricing might mean for Maine can be obtained by looking at what's going on in Massachusetts.

Peak load pricing there will be in effect sometime later this year. The proposal before the Department of Public Utilities is that peak rates be nine times the normal rate for the weekday hours 11 a.m. to 5 p.m. from June through September. During those same months, power costs from 5 p.m. to midnight and from 9 a.m. to 11 a.m. on weekdays would be four times the normal rate.

The lowest rate would be on weekends and daily from midnight to 9 a.m.

Of course, a special meter is needed to tell when you've used electric power. That will cost between $100 and $200.

Central Maine Power has found it would cost its customers $36 million just for the meters and take 15 years to get them installed.

CMP's own proposal now before the PUC is to charge three times as much for power used between 8 a.m. and 10 p.m. on weekdays as would be charged between 10 p.m. and 8 a.m.

The customers would have to buy the meters to take advantage of this pricing, but they could be paid for over a period of time as part of the monthly electric bill.

The latest alternative to grab attention has been pumped storage. In such a system, water is pumped from a lower reservoir into a higher one. When needed, the water from the higher level descends through the force of gravity to turn the turbines.

A pumped storage facility on the Kennebec near Bingham would provide more peaking power at half the cost, it has been suggested.

But to get two kilowatts of power out of such a system, you have to use three kilowatts to pump the water.

There is no such surplus power available today in the New England system, and there are no plans to have such a surplus in the near future.

Dickey-Lincoln is partially a pumped storage project. One of its four generators is reversible so that during off-peak hours it can recycle water from Lincoln back to the much larger Dickey reservoir.

Dickey-Lincoln makes economic sense even without this feature, and even more with it since it can take advantage of whatever small amounts of surplus power might be available. But the whole project does not depend on the availability of such power.

There are obviously social, environmental and economic costs involved in construction of Dickey-Lincoln.

The Corps of Engineers is now doing a complete life-cycle study, but there are some preliminary figures, and Maine's Department of Conservation has examined them very closely. As conservative as the department was in its approach, it concluded that Dickey-Lincoln would mean very real benefits to Maine now and even more so in the future, most particularly after considering the price of the alternatives such as oil-fired plants.

The environmental cost is principally the flooding of 83,000 acres behind Dickey dam and the loss of about 60 miles of the St. John River in its present state.

In total, the impoundment area behind the dam amounts to less than one-half of one percent of the state's forest land.

There were some 2,328 visitor days of canoeing on the St. John in 1975, but only 447 were represented by Maine people.

Whitewater canoeing is a marvelous experience, however, and it ought to be available even if only a small number of people appear interested.

The Allagash Wilderness Waterway will not be affected at all by Dickey-Lincoln. Indeed, one proposed site for the project was rejected precisely because it would disturb this wilderness river where, among other things, whitewater canoeing is available.

Building Dickey-Lincoln will mean 161 families in Allagash and St. Francis having to move.

All steps have been and will be taken to

assure that they can be relocated with as little disturbance as possible.

Federal law requires that they be fairly compensated for their property loss. Further, up to $15,000 can be paid each family to compensate for the inconvenience of moving.

Much mention has been made of the "destruction" of Allagash as a community as a result of building Dickey-Lincoln. I contend that the people don't see it that way.

There's no question many families will have to move if the dam is built, but that's a very long way from saying the community will be "destroyed."

During the peak construction period at the dam up to 1,900 people will be working, 75 per cent of them from Maine and 29 per cent from the local area.

Past history indicates that construction at Dickey-Lincoln will cause no more of a "boom and bust" than any other project of its size.

For example, at the new paper mills built recently in the communities of Hinckley and Jay, there were approximately the same number of people working as there will be at Dickey-Lincoln.

Both towns were able to absorb this temporary influx without social or economic damage.

It's often forgotten that Dickey-Lincoln is a dual-purpose project, designed to control the waters of the St. John, which periodically overflows its banks, as well as to generate electricity. Construction of the dam will end the threat of flooding.

As with any project of this sort, the costs—social, environmental and economic—have to be weighed against the benefits.

Clearly, I would suggest, the benefits far outweigh the costs. As Senator Muskie has put it, "In 10 to 15 years Dickey-Lincoln will look like a bargain. We should not pass it up."

LEAA WINS JANUARY GOLDEN FLEECE AWARD

Mr. PROXMIRE. Mr. President, I am giving my Golden Fleece of the Month for January for a $2 million prototype police patrol car. The car ended up as an earthbound space ship on wheels. This experimental car would make James Bond green with envy. It should leave the taxpayers purple with rage.

The "Fleece" winner for January is the Law Enforcement Assistance Administration (LEAA), which spent the money to develop this car. Fortunately, this is one space capsule that never got off the ground. Because its load of problems exceeded even its load of gadgets, plans for field testing the model car were halted. But this welcome relief came only after $2 million had been drained from the Federal Treasury to pay for this ill-conceived project.

What we have here is an idea which might originally have had some merit. But the car was so loaded down with one gold-plated item after another that ultimately it became a Golden Fleece.

Mr. President, as Senators know, I make monthly "Golden Fleece" awards for the biggest, most ridiculous, or most ironic example of wasting Federal tax funds.

I should point out, too, that I sit on the Senate Appropriations Committee, which oversees LEAA's budget.

What was the purpose of LEAA's so-called "Police Patrol Car System Improvement Program?" According to that agency's draft summary final report on the program, the objective was: Incorporating into the police car the expressed requirements of the police community for a number of technical improvements and the evaluation and demonstration of an improved police car to enhance capabilities, utility, safety, economy, and, ultimately, police officer productivity.

In view of this seemingly noble goal, why does LEAA deserve the "Fleece" for January? There are at least three good reasons.

First, let us look at what LEAA tried to cram into and onto its model car and what this would mean, in practical terms, for the police officer trying to use such a vehicle.

A policeman who was thrust behind the wheel of this wonder car would have a lot on his mind besides crime prevention and law enforcement. In addition to driving the vehicle and thinking about the usual things found on a normal car, he would have to worry about his multiple spark discharge ignition system while grasping his hand-held voice/digital terminal while reading his heads-up display while listening to his audio recorder while looking at his wide-angle periscope rearview mirror.

If this did not keep our beleaguered patrolman busy enough, he would be further occupied by the need to check out his tire sensor, his brake wear sensor, his catalytic converter/exhaust temperature sensor, and seven different condition sensors.

On top of this, he would have to be concerned about keeping tabs on his carbon monoxide monitor, using his voice/digital transceivers, and operating his microcomputer mass memory, while at the same time keeping a watchful eye on his digital cassette reader and his keyboard.

Rather than too little, too late, this is an example of too much, too soon. The result of this equipment overkill would be, in effect, a gold-plated police car suitable, perhaps, for a potentate or a playboy, but not, in my view, for the average working patrolman in this country. What this mountain of equipment suggests is not a close encounter of the third kind but an extravagant encounter of the worst kind with the taxpayers' hard-earned money.

Moreover, anyone who believes that a car with all these gadgets would get more miles per gallon and have lower maintenance costs, as the contractor claims, would also have to believe that Tampa Bay won the Super Bowl and the tooth fairy is alive and well in Keokuk.

Second, LEAA itself, in the draft report referred to earlier, cites a number of shortcomings and problems in its prototype car. Here are some examples from that report:

The multiple spark discharge ignition system "was prone to failure while the vehicle was in operation" and "did not demonstrate any substantive improvement in vehicle operating economics."

Speaking of the hands-free voice communication systems, the report said, "Where officers must hook their radios as well as themselves into the system, rapid ingress and egress, especially under stressful situations, could be hampered by the additional necessary disconnect/connect functions." (In other words, they could get stuck in the car.)

In the case of the hand-held audio-digital terminal, "A problem was the rather large size of the combined unit that includes the terminal, batteries, and two-way radio," and also, "Battery life was quite short due to the high power requirements of the display."

The report, in discussing the wide-angle rearview mirror, said that "It was considered doubtful that a satisfactory design to meet all specifications could be achieved without expensive roof modifications."

These and other difficulties noted in the LEAA report contributed to the demise of this project. But again, this termination came about only after $2 million of tax dollars had gone down the drain.

Third, a critique of this LEAA program by an outside, nonofficial, analyst provided further reasons why it was a wasteful and unwise expenditure of Federal funds. Two points, in particular, stood out.

This observer reported, first of all, that the median price, in 1976, of the LEAA-recommended police-car package would have been $49,078 per automobile, above and beyond the sticker price of the car itself. This amount that local police departments would have had to pay per car was based on an assumption that a city or county would initially invest in 20 prototype cars, choosing what LEAA calls "sophisticated features" midway between the lowest priced and highest priced. Where in the world would local governments get that kind of money, even if these cars were worth every penny?

And second, this critic of the LEAA model car project charged that working police input was ignored by LEAA in developing the prototype. This charge was supported in a General Accounting Office report on the LEAA. Clearly, this failure on the part of LEAA is indefensible, especially when we stop to realize that the kind and amount of equipment in a police patrol car may mean the difference between life and death for the officers in that vehicle.

In 1976, I was one of two U.S. Senators to vote against reauthorizing LEAA. I wanted to abolish the agency entirely. I still do, as I recently indicated to President Carter in soliciting his help to bring this about.

If I am successful in getting rid of LEAA, the taxpayers will not be burdened with paying for projects like this one. In the meantime, I intend to tell the American people about LEAA's wasteful spending practices. And that's why LEAA gets the "fleece" for January.

JOHN LEWIS PAYS TRIBUTES

Mr. KENNEDY. Mr. President, on January 16, 1977, John Lewis who directs our domestic programs at ACTION gave a truly moving speech at a special service honoring Dr. Martin Luther King, Jr., and Senator Hubert H. Humphrey. Mr. Lewis said:

Hubert Humphrey was a man who demonstrates to all of us, as Martin Luther King Jr., did, that one man can, indeed, change the world.

John Lewis worked with, and was influenced by, both these men as they struggled for human rights for all people.

Mr. President, I ask unanimous consent that the full text of Mr. Lewis' speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY MR. JOHN LEWIS

It is difficult for me to find the right words to express my feelings about Dr. Martin Luther King, Jr. He was a man whom I knew personally and regarded as a brother, a spiritual leader, a prophet, and just a good human being filled with love, and compassion for all people.

I will never forget my first impression of the man, Martin Luther King, Jr., while living at my home near Troy, Alabama. I was fifteen years old when I first heard of the Montgomery Bus Boycott and Dr. King in 1955. As a black child deep in the heart of rural Alabama, I had tasted the bitter fruit of racism. As I watched the unfolding drama in Montgomery, just 50 miles away, the concept of nonviolent confrontation with the forces of segregation brought a ray of hope to me, just as it did to people throughout the nation.

I saw him as a very young man, a product of the South. I saw him as a young minister whose way was trying to make his religion relevant to the needs of his people, and I admired that. In my mind he was a Moses, using organized religion and the emotionalism within the black church as an instrument, as a vehicle toward freedom.

Our first meeting in 1958 was the beginning of a long and beautiful relationship. After that, our paths were to cross often in the sit-ins, during the freedom rides, in organizing the 1963 March on Washington, in Mississippi in 1964, on the March from Selma to Montgomery in 1965, and in preparation for his ultimate quest, the poor Peoples Campaign of 1968.

As I grew to know Dr. King intimately in the activities of the movement, my admiration for the man also grew. He was a spokesman, not only for blacks, but for human beings everywhere. Martin Luther King, more than any other figure of our time, had the power to bring people together to do good—black and white; Protestant, Catholic, and Jew; rich and poor; young and old. His message was love. His weapon was truth. His method was creative nonviolence. His goal was the Beloved Community—a community of justice, a community of compassion, a community at peace with itself.

He was a beautiful man—so Black and so American. He could speak and the masses understood from his words that they were "somebody." He was a gentle man who used the teachings of Jesus and the tools of Ghandi. He was a strange man who spoke a strange language—the philosophy of passive resistance to evil and the use of nonviolence in the struggle for good. He was a radical man far too advanced in his concepts of love and peace for the violent times of the nation in which he lived. And so the violence of his beloved nation destroyed him.

It is not insignificant that the first person in line this morning, who had waited in sub-degree temperatures to pay respect to Senator Humphrey was a 75 year old Black woman, who said that Hubert Humphrey had "meant the world to her". Her feeling is shared by millions of Americans.

For Black Americans, this century produced two courageous giants: Dr. Martin Luther King, Jr., and Hubert Humphrey. It is symbolic that one of these is black and one is white, because both of them lived lives—lives committed to the human dignity and human rights for all people.

Throughout our history, those Americans most left out and left behind have been Black Americans. As a champion for the rights of all people, Hubert Humphrey was a major force in helping Black Americans gain their rights.

In 1948, Hubert Humphrey was warned that his strong speech at the Democratic National Convention in favor of civil rights for Blacks would mark the end of his political career. Instead, it marked the beginning of his career as a champion of the American dream. For nearly 30 years, Hubert Humphrey led the forces for good in America. His life was an inspiration for us all.

During the 1960s I had the honor of being a participant in private and public meetings with Dr. Martin Luther King, Jr., and Senator Humphrey. I believe that Dr. King saw in Hubert Humphrey a lasting friend. So this afternoon we also pay tribute to more than a former Mayor, a Vice President, a leader of the Senate, we pay tribute to a lasting friend.

Hubert Humphrey never backed down on a fight for what he believed in. Hubert Humphrey was a man who demonstrated to all of us, as Martin Luther King, Jr., did, that one man can, indeed, change the world.

Let us rededicate ourselves to the struggle that was their struggle and continue to seek the goals which were their goals.

Let us use our skills and the resources of our government to look out for all humankind. But uniting and working with our brothers and sisters, I am confident that one day we will be able to complete the building of the New World—that beloved community which we seek.

SOVIET HELSINKI MONITORING GROUPS HONORED

Mr. JACKSON. Mr. President, at its fifth anniversary dinner in Washington, D.C., on January 26, 1978, the Coalition for a Democratic Majority, presented the 1977 CDM Human Rights Award to the Soviet Helsinki monitoring groups.

On that occasion the honored guests included a unique assemblage of Helsinki monitoring group members and their representatives:

Lyudmila Alekseeva.

Tatyana Yankelevich (on behalf of her mother Yelena Bonner, wife of Andrei Sakharov).

Andrei Grigorenko (on behalf of his father, Peter).

Olga Piamm (on behalf of her father, Naum Meiman).

Yuri Mnyukh.

Avital Shcharansky (on behalf of her husband, Anatoly).

Alexander Slepack (on behalf of his father, Vladimir).

Lydia Voronina.

Tomas Venclova.

I ask unanimous consent to place my remarks on that historic evening in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HENRY M. JACKSON

I want to welcome all of you to this gathering of the Coalition for a Democratic Majority.

The Coalition's Fifth Birthday is cause for celebration. Five-year-olds are supposed to be seen and not heard. The Coalition has been both seen *and* heard since its founding. It is a robust and healthy five-year-old and we can take pride in that fact.

We are gathered together tonight to honor some absent friends: those brave men and women who have dared to insist that their government abide by the human rights provisions of the Helsinki Final Act.

Some languish in exile. Others are behind the barbed-wire and gun towers of the labor camps. Still others continue to risk arrest and punishment to carry on the struggle for individual rights in the Soviet Union.

I am proud to join in honoring them.

We have filled this room tonight to say to Orlov and Rudenko and Ginsburg and Slepak and their colleagues: you are not alone.

We have filled this room tonight to say to the Soviet prosecutor: stop this ridiculous attempt to accuse Anatoly Shcharansky of spying—let this brave and long-suffering young man leave and join his wife.

We have filled this room tonight to say: the great tradition of a commitment to individual liberty is alive and well and living in Washington.

The Coalition for a Democratic Majority is serious about the cause of human rights. Not just this month or this year. But unceasingly. After all, we fought for human rights before it became fashionable. And we will continue even after the fainthearted have tired of the struggle. Persistence has its rewards, my friends. And Simas Kudirka is with us tonight to prove it.

In 1972 I introduced in the Senate an amendment that made trade concessions to the Soviets contingent upon a liberalization of emigration policies that had turned the Soviet Union into the world's largest prison.

It was opposed by the Nixon Administration.

It was fought by some self-interested businessmen who thought they saw great profits out of trade with the Soviets.

It was opposed by the detente theorists who subscribed to the view that to get along, it was necessary to go along.

It took us two and a half years to get the Jackson amendment adopted. But when the dust had cleared, the Congress of the United States had passed the first statute in this century linking economic policy with respect for international human rights.

In supporting the Jackson amendment for freer emigration, we have international law on our side. By adhering to the Universal Declaration of Human Rights and to the UN Human Rights Conventions, and by signing the Helsinki Final Act, signatories have made the right to emigrate a matter of legitimate international concern—indeed of international responsibility.

The fight for the Jackson amendment was long and hard. The Soviets and their friends lobbied and threatened and cajoled and maneuvered. When they thought they could defeat us by defusing the issue, the Soviets temporarily opened the gates and let more than 50,000 out in the two years while the amendment was pending in the Congress. They have turned the flow of exit visas on again and off again in a cynical campaign to influence the Congress, to weaken our resolve.

In the three years since we passed the amendment, the Soviet economy has stagnated, her hard-currency debt has mounted and her economic prospects have become increasingly bleak. Labor and energy shortages are on the horizon while the Soviets stagger under a military budget that takes twice as much of their resources as our budget takes of ours.

Now, the Jackson amendment is based on the simple principle that the Soviet leadership must choose between the denial of basic rights and economic assistance from us.

They cannot have both. And as their economy deteriorates, the continued choice of repression becomes more and more costly. We can afford to be patient until the Soviets recognize where their true interests lie. Three years after its passage in the Congress, the Jackson amendment constitutes the sort of leverage that we ought to be using on behalf of fundamental liberties.

The Carter Administration has committed itself to human rights. President Carter has pledged, in writing, the full implementation of the Jackson amendment. But like bad pennies, we keep turning up bureaucrats, in this agency or that, who haven't got the message—who draft position papers and circulate memos speculating on and sometimes urging repeal of the amendment.

I call upon the President to instruct the executive agencies—the State Department, the Treasury, the Commerce Department—to join the Administration's campaign for human rights. I urge President Carter to make it clear to the bureaucracies in Moscow and in Washington that we are going to implement the Jackson amendment fully; there will be no MFN, there will be no flow of credits until there is a flow of people.

As we move to increase trade, let us move to decrease tyranny.

As we talk about free trade, let us talk about free people.

We are serious about human freedom.

My friends, we must press our commitment to human rights in our relations not with the Soviet Union, not only because this commitment is a most solemn pledge, only because these values are right in themselves, but because it must be a purpose of our relationship to help bring the Soviet Union into the community of nations—to hasten the end of what that great and courageous man, Andrei Sakharov, has called "an intolerable isolation, highly perilous for all mankind."

Without greater individual liberty in the Soviet Union, without greater freedom of conscience, without the freer flow of people and ideas across the barriers that divide East from West—there can be no sure movement toward a more peaceful world. If we permit the human rights struggle to falter, we will not only fail to keep our own most solemn commitments, we will, in the long run, fail to keep the peace.

THE DEATH OF A DAUGHTER

Mr. KENNEDY. Mr. President, I want to share with my colleagues Victor and Rosemary Zorza's touching and inspirational article about their beloved daughter, Jane, which appeared in the Washington Post on January 22, 1978.

This article has already given so much hope to so many people—including myself—that I believe it ought to be read by everybody who has lost or is afraid of losing one of their loved ones from cancer or any similar affliction. It will give comfort not only to those who fear physical suffering, but it will also provide moral sustenance and a special kind of strength to those—and that surely means all of us—who find it difficult to come to terms with the idea of dying—with the death of someone close to them, and indeed, with their own maturity.

This article has no religious theme—and yet it is profoundly religious in the broadest sense of that word. It has no political content—and yet it is deeply political in the sense that true politics is about ethics and morality, and the purpose is to enable us to live our lives honestly, decently, and to die with dignity in the knowledge that we have tried to make this world a little better place for others.

Jane's story shows that she tried and succeeded—and that we too can succeed if we try. She wanted us to help others to succeed by setting up hospices to make it possible for others to die as "happily"—her own word—as she did, and thus I have agreed to become a member of a committee to provide information on hospices.

Jane Zorza's gallant spirit lives on and embraces us all. We are beholden to her loving father and mother for enriching and ennobling life's meaning by sharing with us their daughter's beautiful and compelling message, and for their commitment to establishing hospices in this country.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 22, 1978]

THE DEATH OF A DAUGHTER

(By Victor and Rosemary Zorza)

Sometimes the things that we dread the most turn out to be altogether different than we anticipated. The particularly painful way in which our daughter Jane's cancer developed seemed to presage a period of suffering and torment so great that we quailed at the prospect. As things worked out, the time of greatest suffering was when the doctors were refusing to tell her what her chances of survival were. Once she was told, after several months of uncertainty, that she has less rather than more time to live, she cried a little, and then smiled through her tears. There was no great, anguished sobbing, but a sad, resigned little sigh, almost of relief, and just a few tears.

"Now that I know," she said, "I want to enjoy every day I have left. I want to be happy—and I want you to help me be happy." Slowly, she dragged herself round the garden with the aid of a stick—she had come home from the hospital in between treatments to spend the weekend with us. It was to be the last time she walked under the trees, the last time she watched the still waters of the pond and heard the rustle of the stream that feeds it. She smiled at the sound. "Could you cut my hair," she said to a friend who was visiting us. "It got too long at the hospital." And to us she said, "Every extra day is a bonus now."

We promised her that she would die at home, but first the hospital would have to be informed. When they previously refused to tell her she was dying, we said we might talk to her ourselves, but the doctors said they knew better. "You don't tell a 25-year-old she is dying, and make the rest of her days a misery," they said. "You don't know whether she is going to have weeks, months, or years. Why, we have known remissions . . ." The doctors brainwashed us so completely—"We know how to handle this, we have had so many of these cases"—that when Jane's brother bombarded us with phone calls from America, insisting that he knew she would want to be told, we could only reply weakly that the doctors knew better. "It's her life," Richard kept saying. "Let her decide what she wants to do with what's left of it."

The doctors wanted to give her another course of radiation treatment, more chemotherapy, to fit her out with a stiff collar to ease the pain in her neck—all of which meant staying in the hospital. They had been trained to save lives, and all their actions and emotions—because in their own way they were as emotional about Jane as her friends and relations—were dedicated to making Jane live longer, even when they knew that her chances were infinitesimal. "We must not give up," the young doctor kept saying. "She is too young to die." He, who had seen death so many times, had still not come to terms with it.

Before long Jane was moved to the farthest corner of the ward, where the nurses had few occasions to pass. They would come only to administer the pain killers, and that only after all the other patients had been taken care of, although Jane had been ready and crying for a pill long before. They had strict orders that the pills were to be given only every two or three hours—so, to be on the safe side, they made it every three hours. They who had come to love Jane and joke and pass the time of day with her earlier did not now dare to come and sit with her for a moment. They were too busy with the other patients, for whom they could still do something.

In the end it was our local general practitioner, the doctor who had known Jane since she was a child, who told her the truth. Once the hospital knew that she had been told, they hurried up her various treatments so that she could be discharged.

We brought her home from the hospital in London to the quiet English countryside, to Dairy Cottage in Buckinghamshire, where she could look out from her bed by the window, at the squirrels feeding in the garden. Once or twice she came out on the terrace, but no further, to take in the view, the land falling away steeply to the pond at the bottom of the garden, and the hill rising from there up to where it met the sky, so that she was enclosed in her own little universe with no other house in sight.

But there was a good deal of life around her, and she loved it. Sometimes the cows on the hillside would stampede to the bottom in a mad rush, and she would look up with interest. The ageless feeling of the garden gave her comfort, for the old avenue of tall yew trees reminded her, she said, of all the beauty that was there before her, and would remain after her.

We were confident we could nurse her at home. Our family doctor—we had become his patients under the National Health Services when we first came to live there in the early Sixties—said he would come at any time of day or night if Jane wanted him. The "district nurses"—also part of the health service—had worked out a roster so that they would come several times a day. The "district health visitor" came every day to see if she could help with any problems that were not strictly medical, talked to us learnedly about the care of the dying, about other families in the same predicament, about how we can adjust to it—and then she went in to meet Jane. She came out crying. She did not know until she saw Jane that she had met her before, when Jane was a teacher at a local school and the health visitor had gone to see her to help sort out the health problem of one of the children. "It is always more difficult when it is someone you know," the health visitor said, half apologetically.

Jane was more comfortable than she had been at the hospital. Her pain had eased a little. She had said earlier that she wanted to die at home, but at the same time she was uneasy about it. "I'll be such a nuisance to you," she said. She was reassured a little when she saw all the help we were getting from the National Health Service.

In all these months of hospitals, tests, treatments, operations, money was never mentioned—it was never an issue. Under the "socialized medicine" system of the National Health Service, all this is paid for out of

taxes. From the first local hospital to the two London hospitals with highly specialized facilities, the treatment she received was the best available—as good, we found out when we considered bringing her to the United States, as any in the world.

Her friends came from London, sat by her bed, talked about oldtimes, held her hand, cooked her favorite vegetarian dishes. Her brother had come from America. We put up a bird table just outside the window by her bed. All day the birds and squirrels came. We robbed the pantry and put out raisins, wheat, nuts, all the leftovers. More birds came every hour, and Jane would say with delight: "A greenfinch . . . a sparrow . . . " She was enjoying herself, forgetting all the claustrophobic months in the hospitals, telling us which of her friends should come to stay and make their farewells—when the cancer again began moving in on her, more and more rapidly. The pain in her body grew to the point where she couldn't bear us to touch her, let alone lift her or even wash her. She needed expert care day and night, but most of all she needed relief from pain. Our doctor gave her everything he knew, but relief never lasted long. Once again we were becoming desperate, squirming with a pain deep inside us every time she winced, every time she held back a complaint.

Jane knew about the hospices for the dying, several of which had been opened recently under the National Health Service, and she had expressed a mild interest in them once or twice when she worried about "being a nuisance." But how could we, having promised her that she would die at home now tell her that she might be better off in the hospice?

She solved the problem herself. Would they really be able to control the pain? That was all she cared about now, for the pain was getting worse not just day by day, but hour by hour. She had to be moved—yet we dared not, for fear of causing her more pain. The nurses came, did whatever was necessary, but the slightest motion still made her grimace with pain—yet she only cried out once. As the ambulance men carried her gently out of the house wrapped in a red blanket, up the steep path, the younger man fumbling at what was obviously a new job to him, the birds were still singing—but she gave no sign of hearing them now.

What does a father think when his 25-year-old daughter is being carried off to a home for the dying? This father thought, with a shudder, that she would never see her home again—and that she would be much better off at the hospice than at home. What does a mother think? This mother thought that the most terrible moment of all had come, and she was overcome by a sense of failure—a feeling that she had failed to preserve a child to whom she had given life and had nurtured for so many years.

The ambulance journey was a nightmare. With every jolt, with every grimace, it was as if a knife was being driven into Jane, deeper every time. The younger man drove, very slowly, very carefully. The older man stood up in the back, with us, watching Jane's face, repeatedly telling the driver to go more gently, trying to make bright conversation to distract her, while her eyes reflected the pain and the desperation which communicated itself from Jane to him at every jolt. In the end, he told the driver to go more quickly rather than more slowly—the injection the doctor gave her at the outset was wearing off, and the ambulance man decided that the quicker we got to the hospice the better. But the pain was now so intense that the decision had obviously come too late. It was good to have someone else make the decision.

By the time Jane was carried into the single room they had prepared for her at the hospice, the pain which was already unbearable when she left home had become doubly so. How does an unbearable pain become even more so? As the hospice doctors told us later, anxiety and the expectation of pain can greatly increase the level of pain. Now, in spite of all the pain killers Jane had been given before and after arriving at the hospice, the pain was becoming still worse. The first increase in pain had generated the fear and expectation of more pain.

Instead of the relief we had promised Jane, the hospice was proving a disaster. Wouldn't she have been better off if left to die at home, among the things she loved, the faces she knew?

What happened next was not a miracle, but the slow and thoughtful application of medical knowledge and of living care by the nurses to yet another cancer patient—and the patient's family. What did Jane want, the doctors asked her. She wanted one of us, her father or mother, to be with her—always, until she died. That was easy. The nurses wheeled another bed into Jane's room, and from then on one of us was with her day and night—except once or twice, when we were talking to the doctor. Then a nurse—or once, when the nurses were too busy, the hospice porter—came to hold her hand and talk to her.

They asked if we would rather take turns at going home to rest, or did we want to stay at the hospice. We didn't want to go home. Home was where Jane was. So they gave us a room with two beds. Earlier, when Jane had been told that she might not have much time left, I (Victor) told her that I would give up writing my column for the duration of her illness, so that I might devote myself completely to her. Jane's reply was to cry out in mock horror. "Help!" she exclaimed—and she made me promise that I would keep up the column, whatever happened. She did not, she said with a smile, want me to devote myself "completely" to her—or there might be trouble. Now, at the hospice, they gave me the other empty room which they kept for visitors, and I used it as a study. It was important, as they explained to us later, that the patient should be comfortable—but it was no less important that she should know that her loved ones are suffering no undue discomfort or disturbance on her account. Helping the family was as important as helping the patient. Jane would adjust to the hospice far better, they explained, if she knew we were happy.

Happy? What a word to use in the circumstances. And yet that was the word Jane used herself, repeatedly, once her pain had been brought under control. She used it to describe her own state of mind—and she urged me to share it with her. I pretended that I did—of course, I would do anything to make her happy. If she was happy, then so was I—or so I said, automatically, for the word meant nothing to me. Jane looked up at me, thoughtfully, with a small smile. "Dad, you're just saying it. That's no good. There is only one way that I know to make you accept it—by a dialectical discussion."

And into a dialectical discussion we went—to please her—to and fro, back and forth, session after session. We had never before discussed my attitude to death. Now Jane was telling me something I had never fully reasoned out with myself. I was afraid of dying, Jane told me, and so long as I remained afraid for myself, I would be afraid for her. But, she said, she herself could only retain the state of happiness about her own dying if she could make me share in it. She could only be happy if she could make us happy too, she said.

Jane was quite unashamedly calculating about it. She worked on her friends who came to see her as she had worked on me. If she could only leave that to us, she said, if she could only make me accept the thought I had always pushed away, if she could show us that it was possible to die with peace and in dignity when our time came—that, she said, would be a great thing to leave behind her. It would be the greatest gift she could bestow on us. And in the very act of accepting the gift, we would be returning it to her and making her own dying easy. And that is how it worked.

Of all Jane's friends, only one, her childhood companion since the age of 5, could not reconcile herself to the thought of Jane dying. ("Don't let her drive home alone," Jane said after her friend had came to make her last farewell. "She's too upset.") To the rest of us Jane gave something that will always be with us, something that we will be able to pass on to others—for she asked us to do so. She made us promise that we would write about it. Perhaps this might make the hospice movement known more widely in England and beyond, she said. The National Health Service has only half a dozen or so hospices. The one Jane was in has only 25 beds—13 of them empty because funds are short. In the United States, 300,000 people die of cancer every year, so that hardly a family can remain untouched by it. There are so many people who could be helped, she said, if only they knew about the hospices.

A girl of about the same age as Jane who remained in the London hospital after Jane left died in torment and in misery, in great pain and in anguish of mind, without being told that she was dying though no doubt suspecting it and fearing it. She needn't have—if only she had been moved to the hospice. They gave the other girl all the conventional pain killers, but still it did not help. At the hospital, Jane had to beg for pain killers, but she would be given pills only as prescribed by the doctors, at regular intervals. At the hospice, the doctors had studied carefully the sources and the channels of the pain coursing through her body—they identified eight of these—and treated each of them separately. They didn't wait the regulation two hours, until the effect of the pain killer had worn off. They made sure that the drugs would be administered to Jane before the pain had a chance to start clawing at her again. They didn't make her into a zombie filled with drugs.

During the first couple of days the drugs—some of which would be forbidden in the United States as habitforming—did bring on hallucinations from time to time, but these eased off later. On one occasion she informed me, with a wicked smile, that my face was "quite funny." My ear was where my nose should be, my eye was in my chin, and there was a gaping hole in my forehead through which, she said, she could see the sky. When I looked distressed, she consoled me. "It's rather like a good Picasso," she said. Next time this happened, she said she could only see half of my face, inordinately elongated. "Very interesting," she chuckled. What, I asked, another Picasso? No, she answered thoughtfully, rather like a Modigliani.

Soon the drugs brought the pain under control. She was probably never completely out of it, but after what she had been through, the relief was so great as to make it possible for her to forget the physical discomfort. She was able to give her mind to music. One morning I had put on a Mozart tape for her, just as she was waking up. She slowly opened her eyes, listened with obvious enjoyment for a few minutes, and glanced at me. What can she be thinking of, I wondered, when she is listening to Mozart—that she will have to leave all this loveliness behind her, to go into nothingness? She was not thinking that at all. "How beautiful you are making it for me to die," she said slowly.

The tape was still on when the doctor came in. "Ah," he said with the air of a connoisseur, "Mozart." When he left the room, Jane turned her head toward me. "He's to have my Mozart tapes." The doctor was a deeply religious man, and we had been a little concerned that Jane's atheism might cause problems. There was a priest at the hospice for those who wanted him. When we arrived, we were asked what Jane's religion was, and

when we said "none," the subject was never mentioned again.

She used to have long talks with the doctor and the nurses. Everybody had time for her, as for any other patient who wanted to talk. That was part of the treatment. "I cannot keep calling you Dr. whatever-it-is," Jane said to him after a few days. "Call me Robert, then," he said matter-of-factly.

"What will it be like to be dying?" she asked on another occasion, and before we had time to frame a suitable reply, the nurse who had just come into Jane's room said: "You'll probably just go to sleep, Jane, and you won't feel anything." The nurse knew, as we didn't, that what Jane was really asking was whether there would be a great flash of pain, a violent convulsion, a breaking up of her body, a tearing of her organs. Jane closed her eyes briefly, to absorb the information the nurse had just given her, and then opened them up again with an expression, which showed that she believed what she had been told. This gave her greater peace than she had known since her illness began. That was another important thing about the hospice. At the hospital, Jane could never be sure they were telling her the truth. At the hospice, she knew that they would never tell her a lie. When you are dying, this can be more important than any medical treatment.

When we ask ourselves what it was that made it possible for Jane to say again and again at that time that she was happy to be dying, we can think of no single answer. The only satisfactory answer would be made up of the hundreds of little incidents of life at the hospice during her last days. Like the time when she said "I would like to touch a piece of velvet before I die"—and soon a piece of velvet was brought to her. She touched it, and a nurse then put it on her bare shoulder, where it remained—forever. Or the time when a friend brought a bunch of roses, put it by her bed, extracted one flower, and held it out to Jane. "Would you like one?" the friend asked. "I have always wanted to wear a rose in my hair," Jane said, "but never dared." The nurse put the red flower in her hair, and there it stayed—forever. Every time Jane was turned to make her more comfortable—which happened every hour or two—the piece of velvet and the red rose were handled with the greatest gentleness and delicacy, as if nothing in the world was more precious.

The atmosphere of the hospice, relaxed and casual, more like that of a family home than an institution, makes an important contribution to the patient's—and the family's—ease of mind. Before that terrible ambulance journey; Richard had gone ahead to the hospice to prepare Jane's room for her, to make it as homelike as possible, to arrange her personal belongings around it, to put on her bed the woolen shawl she had crocheted and treasured so much—and, very important, to put food on the bird table outside the window.

There is no sense of hurry at the hospice, no clatter of busy feet on hard floors, no sense that someone much more important, more seriously ill, is next in line, as might happen in a hospital. The doctor comes not at the head of a swift-moving posse of assistants, nurses and juniors, but usually alone, moving and speaking gently, without noise or stress. He talked alone to Jane for long periods, often late at night, sometimes on his way home from dinner in town. The second doctor was quiet too. One day he came when she was almost asleep. He tiptoed to the bed, bent over, and they whispered together.

Perhaps the best explanation of what the hospice does was given by Robert, the doctor. Its approach, he said, was based on providing relief from symptoms as well as emotional support—and on being honest with the patient. And relieving symptoms was not just relieving pain, important as that was, but also easing nausea to prevent vomiting, or a sore throat, or an itch, or a hundred other small things, such as helping Jane to wash out her mouth when she could hardly part her lips—but could still express her delight at the feeling of freshness it gave her.

It helped, too, that the hospice windows looked out over the countryside. One early evening, outside the open door the sky glowed a rosy pink. The sun had set some time ago, and soon the stars would come out. But as yet there was still plenty of light to see by. We listened to the nightingales singing in the trees. I (Rosemary) tried to describe the evening for her. "A rabbit is coming out from under the hedge, Jane," I said. "He's eating the grass the other side of the path."

"A rabbit," Jane exclaimed, thrilled. "I must see him. Lift me up."

"It will hurt you, Jane," I said, doubtful.

"Oh, Mum, my last rabbit," she begged—and I knew I must help her do whatever she wanted, even though it would hurt her, even though she could not see clearly by now. I put her arms over my shoulders and lifted her body. Her hands hung limply down my back. No, she couldn't see the rabbit—but her memory of other rabbits was refreshed by this visitor.

During her long illness she must have imagined more than once how horrible the final coming apart of everything might be—and yet now that it was happening, it wasn't horrible at all. The contrast between what she had once expected and the present reality must have helped a lot—and for this the hospice alone was responsible. These were the happiest days of her life, she said, because there is nothing more important in life than being born and dying. At birth, she said, I knew nothing. At death, she said, I know everything that I will ever know, and everything around me is good, not evil. That's a good way to die.

She had been in the hospice for eight days. As she sank into unconsciousness, and her breathing became more and more shallow, she was still being turned over by the nurses every few hours to make sure she was comfortable. As the rose in her hair faded and withered, so did Jane's body. Then, as we sat by her bedside, each of us holding one of Jane's hands, she breathed her last, quietly, easily, deep in sleep, as the nurse had promised her. We sat with her for a little while, kissed her lips, and touched the piece of red velvet and the red rose. As we walked out of the hospice, we knew that one day we would tell others how Jane had died—hoping that it would help them, too. We cried a little—but we were able to smile, all at the same time.

Jane died on June 25, at 5 o'clock. She had been ill since February. Her ashes were scattered over the garden, as she had asked. She wanted no funeral, but asked that we should instead give a party in the garden, to make up to her for the 25th birthday party she had missed because she was in the hospital. It was a beautiful day. All her friends came, and the doctor and the nurses from the hospice, and all the people who had helped us during her illness. We made more friends during those few months than we had made for years.

Now that we are back in Washington, we notice one important change. We think far more than we ever did about what really matters in life, about feelings, about the more abiding human values, about people—about people as individuals. Jane talked about these things in her last weeks, and she made them more real to us than they had been. She also took pleasure in giving her more cherished possessions to her friends. She gave a lot of thought to it. She liked to see them walk away with something she had given them, after they had said goodbye.

"I don't need a thing to remember Jane by," said one of her friends. "Jane taught me how to make bread. Whenever I make bread, I think of her." Before she died, we talked of how people live on in what they had done, in their actions, in the memories of those they had influenced. That's how Jane hoped she would live on. And she will.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

REDWOOD NATIONAL PARK

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1976, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1976) to add certain lands to the Redwood National Park in the State of California, to strengthen the economic base of the affected region, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 2, line 11, strike "167–80005–A and dated June 1977" and insert "167–80005–C and dated October 1977";

On page 2, line 17, after the period, insert the following:

tion (b), delete "by donation only". At the end of section 2, insert the following new subsection "(c)":

"(c) Within the area outside the boundaries of Redwood National Park indicated as the 'Park Protection Zone' on the map entitled 'Proposed Additions, Redwood National Park, California,' numbered 167–80005–C and dated October 1977, the Secretary is authorized to acquire lands and interests in land upon a finding that failure to acquire all or a portion of such lands could result in physical damage to park resources and following notice to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Any lands so acquired shall be managed in a manner which will maximize the protection of the resources of Redwood National Park.".

On page 3, beginning with line 21, strike through and including page 4, line 8, and insert in lieu thereof:

(4) In subsection 3(b)(1), after "NPS–RED–7117–B", insert "and effective on the date of enactment of this phrase, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the area indicated as 'Proposed Additions' on the map entitled 'Proposed Additions, Redwood National Park, California,' numbered 167–80005–C and dated October 1977, and all right, title, and interest in, and the right to immediate possession of, all down tree personal property (trees severed from the ground by man) severed after October 15, 1977, within the area indicated as 'Proposed Additions' on the map, entitled 'Proposed Additions, Redwood National Park, California,' numbered 167–80005–C and dated October 1977,". The Secretary shall permit continued access and use of the K and K, L line M line, and Bald Hills roads at existing levels of access and use.

On page 6, line 10, strike "Within one year of the date of the enactment of this sentence, the Secretary is authorized and directed to convey a right way;" and insert in lieu thereof "Provided the State of Cali-

fornia shall have designated a right-of-way for a bypass highway around the eastern boundary of Prairie Creek Redwood State Park within three years from the date of enactment of this provision, the Secretary is authorized and directed to acquire such lands or interests in lands as may be necessary for such a highway and shall thereupon donate the designated right-of-way";

On page 8, line 21, after the period, strike through and including page 9, line 25, ending with the period;

On page 11, line 15, strike "167-80005-A and dated June 1977" and insert "167-80005-C and dated October 1977";

On page 12, line 3, beginning with "Act:" strike through and including line 16, and insert "Act.";

On page 14, line 15, strike "full consideration" and insert "preference";

On page 14, line 17, strike "in accord with" and insert "notwithstanding";

On page 15, line 2, strike "full consideration" and insert "preference";

On page 15, line 4, strike "in accordance with" and insert "notwithstanding";

On page 15, line 12, strike "full consideration" and insert "preference";

On page 15, line 17, strike "in accord with" and insert "notwithstanding";

On page 17, line 10, strike "$12,000,000" and insert "$33,000,000";

On page 19, beginning with line 10, strike through and including page 20, line 19;

On page 20, line 20, strike "10" and insert "9";

The ACTING PRESIDENT pro tempore. The time for debate on this bill is limited to 2 hours, to be equally divided between and controlled by the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Wyoming (Mr. HANSEN), with 1 hour on any amendment in the first degree, 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, appeal, or point of order.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that James Beirne, Thomas Williams, Michael Harvey, Tony Bevinetto, Daniel Dreyfus, and Marsha Williams, and Jeanne Delsener may have the privilege of the floor during consideration of and vote on S. 1976; also Beverly M. M. Charles of Senator JAVITS' staff, and Bob Cooper of Senator BARTLETT's staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, in 1968, the Redwood National Park was created to preserve and protect significant examples of the primeval coastal redwood forests and the streams and seashores with which they are associated. The boundaries of the original measure enacted by the Senate were reduced and modified in conference to a configuration which we anticipated could be protected with the use of supplementary authority granted to the Secretary of the Interior. Such has not been the case.

The threat to the present park resources is immediate, direct, extensive, and, without prompt congressional action, may very well be fatal. This was recognized by the Federal District Court for northern California which stated in a memorandum of decision that—

The court further finds that, in order adequately to exercise its powers and perform its duties in a manner adequately to protect the Park, Interior now stands in need of new Congressional legislation and/or new Congressional appropriations.

It follows that primary responsibility for the protection of the Park rests, no longer upon Interior, but squarely upon Congress . . .

Mr. President, this bill, as reported from the committee, fully meets that responsibility. If enacted as reported, it will provide the necessary lands and authorities for the Secretary of the Interior to administer, manage, and protect a national park which future generations will have to enjoy.

Mr. President, this measure is the result of exhaustive consideration by the committee. I must add that, personally, I regret that the committee did not accept an amendment which I, together with Senator CRANSTON, had proposed to directly address any possible impact on the woods and mill workers in the area. I appreciate the efforts of Senator JACKSON, the chairman of the committee, Senator HANSEN, and the other Members who supported my efforts. I understand that the objections of those who opposed the amendment were not based on any lack of concern for the workingman. It is and will remain my intention and hope that any adversely impacted worker will be taken care of through the jobs created by this measure, new employment as a result of economic diversification with the administration's assistance, or by other means. With that single reservation, I wholeheartedly endorse this measure.

Mr. President, I want to express my thanks to the minority manager of this legislation, Mr. HANSEN, whose work I have appreciated very much on this bill.

I reserve the remainder of my time and yield to Senator HANSEN now.

Mr. HANSEN. I thank the Senator very much.

Mr. President, when Congress established Redwood National Park in 1968, many thought a significant example of coastal redwoods would be preserved for future generations to enjoy. The world's tallest trees were thought to be protected by the inclusion of a narrow peninsula following Redwood Creek and extending upstream from the main body of the park. The tall tree grove is proof of national, and for that matter, worldwide significance. We are here today, hopefully, to finish the job that was started in 1968. That narrow peninsula, called the worm, drains an unstable, silt-laden watershed that is currently being harvested.

The purpose of this proposed expansion of some 48,000 acres is primarily to acquire this watershed ridge to ridge. An additional 30,000 acres will be established as a park protection zone which can only be acquired if land practices occur that would result in actual physical damage to the park.

The legislation has many unique, if not controversial, provisions. It calls for a legislative taking. The days of carving national parks primarily from the public domain are over. This taking is of private productive redwood forest lands owned and utilized by the redwood timber industry. It is expensive. Some lands are cutover lands.

One could reasonably ask, Why are cutover lands included within a national park? I answer: First, to save the remnant patches of old-growth redwoods that remain on the steepest slopes, creek bottoms, and other areas that would make logical extensions of the park. Second, if the cutover lands are properly managed to assure succession of the native redwood species, and you and I were able to return some 200 to 400 years from now, we would see an entire and complete redwood forest that would approximate the size of the old-growth trees now being cut. Finally, most of the land is needed to form an ecologically manageable unit.

Mr. President, this bill also contains provision for a forest rehabilitation program which proposes to repair and patch the land damaged from prior timbering practices. The company's timbering practices, today and in the last few years, are excellent and do minimal damage to the land, but older timbering practices did scar and tear the land and rehabilitation is needed.

The committee deleted provisions which mandated rehabilitation and expanded the regulatory authority of the Secretary of the Interior. The committee added acquisition authority in the park protection zone. I believe the Secretary possessed sufficient authority to protect our national parks under current law. I urge the Secretary to use the acquisition authority in the park protection zone judiciously. If retained in the final bill, I would say the content is clear that the authority given is not a regulatory club, but rather a last resort to prevent physical damage to park resources.

I opposed the effort to include provisions calling for income maintenance of "jobs" for protection of workers who would theoretically be displaced by park expansion. The committee defeated the attempts to add these provisions. The bill as reported goes a long way in using existing Federal programs to mitigate the effect of park expansion. The forest rehabilitation program is labor intensive. I think a dangerous precedent would have been set if the committee adopted a so-called "jobs package." Park expansion is not the root cause of unemployment in Humboldt and Del Norte Counties. I firmly believe that, over the long run, national parks have become positive economic forces in the region in which they are established. The transition in local economies may be rough with some displacement. But, time after time, a national park makes a real contribution to the regional economy. I know from close observation of the symbiotic relationship of Grand Teton National Park and Teton County, Wyo., that this does occur.

In summary, Mr. President, I recognize that this is complex and expensive corrective park legislation. I support it with those reservations.

Mr. CRANSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time to the Senator from California?

Mr. ABOUREZK. I yield 15 minutes to Senator CRANSTON.

Mr. CRANSTON. I thank the Senator from South Dakota.

Mr. President, I rise in support of S. 1976, to enlarge the Redwood National Park. This legislation is essential to protect the investment the Federal Government has already made in the existing park. Logging in the Redwood Creek watershed is causing serious erosion and siltation in the creek which, in turn, threatens the stability of the grove of the world's tallest trees within the park.

I want to take this opportunity to express my appreciation to the chairman of the Energy and Natural Resources Committee, Mr. JACKSON, the chairman of the Parks and Recreation Subcommittee, Mr. ABOUREZK—who has been of such great help—and the ranking minority member on the committee, Mr. HANSEN, for their great assistance in reporting the Redwood Park expansion bill. I also want to thank the distinguished majority leader, Mr. ROBERT C. BYRD, for his invaluable help both in clearing this legislation with the Senate Appropriations Committee on which he serves and in scheduling the bill for floor action so promptly in this second session of the 95th Congress.

Mr. President, S. 1976 adds 48,000 acres to the existing Redwood National Park and gives the Secretary of the Interior the authority, where necessary to protect the park, to acquire additional lands upstream within a 30,000-acre area. The bill authorizes funds for watershed rehabilitation, payments in lieu of taxes to Humboldt and Del Norte Counties, and moneys from the Land and Water Conservation Fund for land acquisition purposes. Secretary of the Interior Cecil Andrus has indicated that the total cost of the lands is $359 million.

There have been assertions that the expansion of the Redwood National Park would result in the closure of mills and the loss of over 2,000 jobs in the north coast area. In considering the Redwood Park expansion bill, the Committee on Energy and Natural Resources looked into this issue. The committee found that the range of job loss will be between a minimum of 260 and a maximum of 921 jobs—far less than earlier estimates.

Because of the possible loss of jobs and decline in the local economies as a result of the Redwood Park expansion and reduced logging, the bill contains a number of measures designed to mitigate any adverse effects on the local economy that might result from the expansion of the park. These include the waiving of civil service requirements and preferential hiring in the watershed rehabilitation program for those individuals affected by this taking, a directive to the Secretary of Interior to analyze appropriate Federal actions to mitigate adverse economic impacts to the economy and to report back to Congress, authorization to appoint and fix compensation for personnel to achieve protection and enhancement of park values and for maximum visitor use and enjoyment, and a directive to the Secretaries of Commerce and Labor to take all appropriate actions to implement available authority to mitigate adverse unemployment and economic impacts resulting from the park expansion.

I was very pleased that the Energy and Natural Resources Committee adopted my amendment to increase funds for the watershed rehabilitation program from the $12 million requested by the administration to $33 million. The watershed rehabilitation work is extremely important to stabilize the soils and control the erosion of the slopes which is damaging the park. The additional funds will permit a labor-intensive watershed rehabilitation program which will provide hundreds of job opportunities and guard against the use of heavy equipment which could cause further erosion and damage to the park. These are jobs which call for much the same skills as those possessed by people now employed in the lumber industry in the area.

Unfortunately, the Energy Committee did not accept a second amendment I offered to maintain the incomes of those individuals whose jobs are downgraded or terminated as a result of the Redwood Park expansion.

While I hope that the watershed rehabilitation program, job training, and the implementation of existing programs of the Departments of Commerce and Labor will provide sufficient opportunities for employment, I favor the inclusion of an employee protection provision in the bill to be applied as a measure of last resort to deal with temporary dislocations. I do not intend to offer my income maintenance amendment here on the floor, but I hope that such a provision will be part of the final Redwood National Park expansion bill.

Mr. President, the need for the legislation is urgent and great. There are 10 timber harvest plans within the acquisition area which have been approved by the State of California but not cut. In addition, the California Board of Forestry last spring denied eight timber harvest plans within the Redwood Creek drainage without prejudice until November 7 to give Congress an opportunity to show some progress on the park expansion bill. Largely because of Senate committee action on S. 1976, the board of forestry earlier this month resisted pressures to allow additional timber harvesting in the proposed park additions and again disapproved the eight timber harvest plans which were resubmitted by the timber companies. However, the State board made it clear that it is unlikely to extend the disapprovals beyond May 1.

Presently pending before the board of forestry are two additional timber harvest plans for cutting in the park acquisition area, one involving 19 acres of old growth in skunk cabbage. Also, the California Regional Water Quality Control Board in February will consider two timber harvest plans which are directly across Redwood Creek from the tall trees grove. Passage of this bill by the Senate again could tip the balance against approval of these additional harvest plans.

Finally, I have been advised by the National Park Service that the 3 timber companies which own the land have 36 additional harvest plans in the proposed park addition which will be submitted to the State Board of Forestry in the very near future, all of which could be approved in the absence of immediate Senate action.

Redwoods, Mr. President, are not just a California resource but a national heritage. Preserving them is not just a California problem but a national challenge. Here is what some newspapers across the country have said about the giant redwoods and this bill to expand the Redwood National Park:

Detroit Free Press (Apr. 5, 1977): Since the Redwood National Park was established in 1968 . . . 12,000 acres of some of the finest remaining redwoods in the world (have been cut).

Kentucky Courier-Journal (Apr. 30, 1977): If America's natural resources were ranked for interest and beauty, the California redwood would stand as tall as the trees themselves.

Washington Post (May 3, 1977): There are few things on earth as magnificent as those giant redwoods and the policy of the government ought to be to preserve as many, not as few, of them as it can. Redwood National Park should be expanded. And this should be done not merely to protect the watershed of the existing park . . . but also to protect additional trees. The question is not one of serving just a few thousand acres of redwoods so that future generations can know what they look like, but rather of saving a part of our national heritage.

Battle Creek (Michigan) Enquirer & News (June 2, 1977): A century ago, two million acres of redwood forest flourished in ranks 30 miles wide from south of San Francisco to Oregon. Now only a small portion of that acreage remains. It is making a last stand against the intrusion of man. . . . Congress should take appropriate action to save the giant trees within the park and outside its borders. That way, men and women of the future can stand in awe of nature's giants instead of wondering why we, in a previous generation, did not fight to save them.

Houston (Tex.) Post (Aug. 2, 1977: Take a building—a 25-story building. . . . The redwood would shade the top floors of the skyscraper. The building can be demolished and rebuilt in a few months or years. The redwood cannot be regrown in the lifetime of the living. It takes 20 to 25 generations to grow a giant redwood. Some are 15 to 22 centuries old . . . Congress . . . should act quickly to protect a national heritage comparable to Grand Canyon, Monument Valley and Niagara Falls. Once gone, the redwood giants will never again scrape the skies of America.

Fort Wayne (Ind.) Journal Gazette (Aug. 4, 1977): Redwood National Park is 2,300 miles from Indiana on California's north coast, but distance and problems close to home shouldn't deter Hoosiers from safeguarding the park's grand forest of giant trees, a unique part of nature's gift to all Americans.

Mr. President, the rugged, lonely coastline stretching northward from San Francisco is a land of rolling fog, breakers smashing against high bluffs, and of moist, deep mossy forests. The most renowned of these hold the stately redwoods, which soar to 200 or 300 feet in height and endure for a lifespan over many centuries.

Few human experiences compare to standing within a grove of those ancient redwoods, where the light is a dim cathedral luminescence broken by occasional beams of sunlight filtering through to the forest floor.

In 1820, when California logging began, there were 2,000,000 acres of redwoods in a strip extending from the Big Sur country south of San Francisco into northern California, the far North. Today, less than 270,000 acres of virgin redwoods still stand. And all but a few thousand acres stand in danger of desecration by the end of this century.

The Redwoods National Park, which was established in 1968, will preserve for posterity 58,000 acres of the most handsome virgin redwood stands. But the park is oddly shaped as it now stands. To reach it, one often has to drive past huge sawmills and tepee burners and fight for highway space—even on roads through the national forest. One writer describes it as "an impoverished little park—whose resources are constantly menaced, whose peace and quiet are reserved for the hard of hearing and whose unspoiled vistas are most impressive to those with tunnel vision."

As a Nation, we sometimes too easily use superlatives without thinking about what they mean. And so the idea of saving the world's tallest trees may not have immediate significance when we hear the words.

But think about it: The tallest living things—the greatest expanse of life from deep within our Earth, stretching into the heavens.

What better symbol is there for the eternal struggle of all living things to live, to grow, and to improve. These trees are the tap roots of eternity. To lose them would be to lose part of that divine spark which must inspire all of the work of man and nature.

Surely in this eighth decade of the 20th century we can resolve the economic problems of a few hundred men and women without destroying these creations of the ages.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ABOUREZK. Mr. President, I think we have to agree to the committee amendments first.

Mr. President, I reserve the remainder of the time that was yielded by Senator CRANSTON.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be treated as original text for the purpose of further amendment.

Mr. HANSEN. Mr. President, I join with my colleague in supporting these committee amendments.

The amendments are acceptable to this side.

Mr. ABOUREZK. Unless Senator HAYAKAWA wishes to speak on the committee amendments, we will move them.

Mr. HAYAKAWA. Mr. President, I have no objection to the committee amendments.

Mr. ABOUREZK. I move the committee amendments, then.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. ABOUREZK. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABOUREZK. Mr. President, I reserve the remainder of my time.

UP AMENDMENT NO. 1163

Mr. ABOUREZK. Mr. President, I propose and send to the desk an unprinted amendment.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an unprinted amendment numbered 1163:

Page 7, beginning on line 13, delete "Effective on the date of enactment of this sentence, there are made available from the amounts provided in section 1(c) herein such sums as may be necessary for the acquisition of interests in land."

Mr. ABOUREZK. Mr. President, the amendment which I have proposed is acceptable to the sponsor of this legislation and has been cleared with the minority. This is a technical amendment to eliminate an inappropriate reference. The language to be deleted is an amendment to the 1968 act which refers to a section of this measure rather than to section 10 of the 1968 act. The sentence, if modified to refer appropriately, would merely restate the intent of Congress in 1968 and is not necessary. The Congress intended and still intends that within the limitations imposed by section 10 of the 1968 act, the Secretary should exercise his full authority for cooperative agreements and contracts. It is not necessary to restate that any sums still authorized but unappropriated in the 1968 act will continue to be available to him for those purposes.

Mr. HANSEN. I have no objection to the adoption of the technical amendments, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, the technical amendments are agreed to.

Mr. ABOUREZK. I move to reconsider the vote by which the amendments were agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, I yield to the Senator such time as he may desire.

Mr. HAYAKAWA. I thank the Senator.

Mr. President, I am very much opposed to S. 1976, a bill which expands the Redwood National Park by 48,000 acres. This Government takeover of private land is extremely controversial, and the cost of the land alone is in excess of $359 million, at a time when we are trying to balance our budget. This averages out to $7,500 per acre. It is the most valuable timberland in the country.

In 1968 a proposal came before Congress to create a 90,000-acre national park to preserve virgin redwoods. When the final bill reached the President, the acreage figure had been reduced to 28,000 acres. Now, only 9 years later, Members of the U.S. Senate are back on this issue, trying to expand the park by an additional 48,000 acres. In 1968, that 28,000 acres was regarded as a reasonable compromise; but, like other reasonable compromises, in the face of those who are determined to ignore those compromises, we are being pushed now to add another 48,000 acres.

Mr. President, the 28,000-acre park we created in 1968 is already the most expensive national park in the entire country. Although the estimated costs were $92 million for the original park, the cost has since increased to $172 million to date, with an additional $110 million being disputed in court. We have not finished paying for the original national park, yet here we are adding another 48,000 acres to it.

People emotionally argue that we must protect beautiful old-growth redwoods for future generations. Yet we have the finest groves of redwoods already set aside in local, State, and Federal parkland combined. I yield to no one in my admiration and love of the redwood tree. Nothing so inspires all of us, as Californians, to visit these parks, but not everybody does. We already have 181,000 acres of old growth redwoods set aside, as I say, in local, State, and Federal parkland.

Contrary to what people say about destroying this natural resource, timber is a renewable resource. If managed properly, harvesting timber and replanting seedlings will guarantee redwoods for future generations. Northern coastal redwoods replace themselves faster than any other type of tree. Whereas most trees have a hundred year growth cycle or longer, redwoods mature between 40 and 60 years, or about twice as fast as any other kind of tree.

The entire Redwood National Park expansion argument was originally based on the need to round out the park boundaries to provide recreational facilities in northern California—a reasonable desire. However, this argument did not stand up, because the Redwood National Park is the third least visited national park in the United States, besides being the most expensive. The park protection argument was then developed. Department of the Interior employees and members of various conservation groups stated their case for park expansion on the idea that the worm-shaped southern portion of the park was endangered by the harvesting of timber on hillslopes in the same watershed.

This argument has been refuted by many experts. Witnesses for the Department of the Interior, in testifying for the expansion case, have qualified their remarks to the extent that the companies have often quoted them in their arguments for not expanding the park. For any witness who will make a case for expanding the park, there are experts who will refute their statements. There are many acres of privately owned land, miles south of the park boundary. Any cutting of timber on these lands results in sediment eroding into the Redwood Creek, which eventually flows through the worm. Most people agree that the

sediment in the stream beds in the park is the result of logging miles upstream, and not the result of logging on adjacent hillslopes.

The redwood tree has an amazing ability to survive and regenerate. One has to visit, for example, the redwood parks themselves and see them in the wet, foggy climate of our coastal woods to realize how amazing they are in their capacity to regenerate. When a redwood is cut down, new trees begin to grow out of the old stump. By the way, that is happening in my own backyard in Mill Valley. I have seen old redwood stumps with as many as five or six new trees growing from them. Another physical characteristic of redwoods is that in cases where there is sediment buildup around the base of the trees, they simply grow new roots closer to the surface. This factor alone discounts the sediment argument for park expansion. It is true that with some trees, when their roots become covered by sediment, the trees die, but redwoods grow new roots closer to the surface.

The old growth in the Tall Trees Grove, near the central portion of the worm, has survived two major floods and several minor floods in recent years. They can certainly adapt to any gradual sediment buildup. I have seen documented photographs taken more than 30 years ago which show that there was a gravel build up even then. The difference was that the companies who owned the land used to clear out the streambed, and use the gravel for constructing roadbeds. I believe that the park protection arguments that we heard in hearings and that will probably be reiterated on the Senate floor today are nothing but an excuse for an excessive land grab on the part the Federal Government.

I repeat, this legislation before us today will more than double the cost of the Redwood National Park, already more expensive than all other national parks combined. The visitor figures for the 28,000 acres of Redwood National Park we already have are so unconvincing; yet, we face the probability of a 48,000 acre park expansion. There are many places all over the country which are desperately in need of park funds, including the southern portion of California. In the 9 years since the first legislative taking, virtually nothing has been done to make the area more accessible to visitors. Those 28,000 acres remain largely unvisited. In fact, the old logging roads into the woods are blocked off to any vehicles except for those of park personnel. What good is that to the general public? The only people who really want the Redwood National Park expanded are the hikers who want to expand their already enormous playground.

The labor force is very much opposed to this bill, and has been very vocal in expressing opposition to S. 1976. There was an income maintenance provision in the bill, but it was knocked out of the Senate bill in committee. Labor has repeated its position that they are not really interested in receiving Government handouts, and I do not blame them. They have a trade; they have a profession. They have worked at it all their lives. They love those forests. They do not want to lose their jobs, and they do not want Government handouts in place of their jobs. As a result of this bill, the jobs of many people will be sacrificed in order to fulfill the recreational demands of a few.

This bill also has a provision on a "Park Protection Zone" which was substituted for a regulatory provision in the bill. Although I am very happy that the regulatory provision was taken out during markup, I am still concerned about this "Park Protection Zone." This area is 30,000 acres of land south of the park boundary in the Redwood Creek Basin.

If the Secretary of the Interior finds that a failure to acquire all or part of the 30,000 acres south of the park would result in or is likely to result in physical damage to park resources, he may simply acquire these lands. Now most of you can figure out the result of this provision. After the necessary 60 days the Secretary will probably be contacting the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources and report such damages or potential damages. At that time, unless the committees disapprove such action, which would seem highly unlikely, we will have a 78,000 Redwood National Park expansion, instead of the 48,000 acre expansion that we are discussing. This will practically double the costs of expansion of the Redwood National Park, and is unwarranted government intrusion on privately owned land.

I believe that the California State laws are certainly strict enough to guarantee protection to the national park.

One of the problems that I see here in Congress so often is sort of the assumption that the States are not able to take care of themselves. I wish to inform this body that the State of California in its policy of protecting trees and protecting the future of trees is a very rigid and very strict and a very wise one. What we are considering with this provision is providing a buffer zone to the buffer zone of 48,000 acres of park expansion. In other words, what we are doing is to provide buffer zones to buffer zones to the third and fourth power to protect ultimately the worm. This land grab is completely unjustified. Such legislation reflects an attitude of indifference on the part of the U.S. Congress to the well-being of the people who live there and the economic well-being of the State as a whole.

The economy of northern California is dependent on timber as its one major industry, with all other jobs as sort of a spin-off from this industry in one way or another. The unemployment rate, which is 15 percent already in northern California, will certainly rise. Although the land rehabilitation program will provide make-work at the cost of $33 million, and this is not productive makework, this will not satisfy many workers who will not be able to find jobs as fulfilling as the jobs that will be taken away from them as a result of this Federal takeover of private land.

I cannot express in strong enough words my complete opposition to this legislation, and I would urge my colleagues here in the Senate to join me in opposing this unjustified and enormously expensive land grab of the most productive timber land in the entire country.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. HAYAKAWA. I yield.

Mr. CURTIS. Mr. President, the distinguished Senator from California has enumerated a number of facts which are most interesting and helpful in the consideration of this matter. I particularly refer to his statement as to the characteristics of the redwood tree, the relative short period of time it takes to reproduce, as well as the other facts relating thereto.

Certain question have arisen concerning other facts connected with this. They have been reduced to writing, and I wonder if the Senator will respond to these questions?

Mr. HAYAKAWA. I am very happy to respond.

Mr. HANSEN. Mr. President, will the Senator yield for 1 moment so that I might offer a unanimous-consent request?

Mr. CURTIS. I yield.

Mr. HANSEN. Mr. President, I ask unanimous consent that Eddie Tweely of Senator THURMOND's staff be accorded the privilege of the floor during debate of the redwood bill, S. 1976.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Nebraska.

Mr. CURTIS. What is the slope of the land—the gradation—in the area of the existing Redwood Park, the area proposed to be added, and the drainage area upstream?

Mr. HAYAKAWA. The slope of the land both within and outside the park ranges from about 18 to 45 percent. The average slope is 25 to 30 percent.

In the top 6 to 8 miles of Redwood Creek, the slope is very steep. For this reason, water causes erosion and carries the sediment downstream. In the western section which is about 40 miles in length, the creek's gradation is in the intermediate range. It contains both areas where erosion occurs and areas where sediment is deposited. The lower sections of the stream, which includes the Tall Trees Grove, has a slope which is very much flatter. This, then, is where the remaining sediment from upstream is deposited.

Mr. CURTIS. What is the research, data or evidence regarding siltation, sediment buildup in the lower stream area of the tall growth area, over the years?

Mr. HAYAKAWA. There have been only two studies concerning this erosion and depositing which are based on scientific data. These two are the U.S. Geological Survey Study and the Winzler and Kelly Study, both of which were initiated in 1973.

There have, of course, been other reports on the Redwood Creek basin, but these were based upon hypothesis

and personal opinion—not upon scientific research.

Mr. CURTIS. I understand that a few years ago a Government team went into the area to research land mass shift, but that a report on the study was not conclusive. From what I have been told that was because the heavily wooded areas had rather large shifts of surface that made it impossible to insert testing and measurement instruments in the ground tubes, while those areas that had been forested and replanted were able to be recorded. Has there been any research or scientific study to determine the various effects on erosion and land mass shift between and from areas of heavy timber growth and those of forested and replanted areas?

Mr. HAYAKAWA. The Coleman thesis, which used photographs of the basin before and after logging, is the only source of information we have concerning land mass shifts in logged versus unlogged areas. The report revealed no change in the total miles of slide along the creek because of the logging operations. We also learned that over 60 percent of the banks along the entire main Redwood Creek are sliding and eroding.

Mr. CURTIS. What is the situation with the sedimentation and siltation in the tall trees area—that is, does that sedimentation come from the area proposed to be included in the park expansion, or does it come from further upstream in the steep sloping area of the drainage basin?

Mr. HAYAKAWA. The scientific data available on the sedimentation shows conclusively that the major contributor of the silt is the upper drainage area, which is upstream from any redwood logging. If all of man's activities in the basin were to cease, the natural erosion and subsequent depositing would not decrease significantly.

Mr. CURTIS. How long has this sedimentation and siltation been accumulating—how many years has the process been going on and is there any record that this does or does not destroy the redwood stands?

Mr. HAYAKAWA. The sediment being carried downstream and deposited within the Redwood Creek today is the same type which has been carried down for over 4,000 years. This fact was substantiated by radiocarbon tests made on the soil from test holes within the Orick Floodplain. Orick is just above Eureka.

While soil deposits can destroy trees, it should be noted that the Tall Trees Grove is located on the flat which was formed by this very process. The soil is not topsoil from logging areas, but it is from the stream side slides and deep seated mass movements of soil and, therefore, not at all attributable to logging.

Mr. CURTIS. Is there any evidence or data to show that the sedimentation and siltation in the Tall Trees area is caused directly by cutting of the forest upstream, or that this is a natural occurrence that has probably been going on for decades or longer?

Mr. HAYAKAWA. I call the attention of the Senator from Nebraska again to the Winzler and the Kelly report, the USGS study, and the Department of Agriculture's river basin planning staff which confirm that the sedimentation material is identical to the material carried downstream over 3,000 years ago. 75 to 80 percent of all the erosion in the Redwood Creek Basin is caused by the natural streamside phenomena of "sliding," "creeping," and "bank cutting."

Mr. CURTIS. Is there any data or research to show the suitability for other vegetative cover in the upstream areas of the Redwood Creek drainage basin that may help reduce downstream sedimentation?

Mr. HAYAKAWA. Since 75 to 80 percent of the erosional process is not related to topsoil conditions, the process will continue regardless of what we do to try to reduce it.

Mr. CURTIS. Does the logging industry now apply management practices in this area in the cutting of forest for lumber—by that I mean does it cut percentages of growth every few years and replant cut areas?

Mr. HAYAKAWA. The timber companies, I am glad to inform the Senator from Nebraska, recognize the importance of land management to their survival in future years.

Long-term planning is essential to the timber industry, because the time needed for a seedling to become a harvestable tree is 40 to 60 years. This planning dictates that every single acre of old-growth that is harvested must be immediately restocked with seedlings or replanted with conifer seeds.

I may interject that so many of the popular beliefs about the rape of the forest, and so on, are based upon what people remember or understand of forestry practices of two or three generations ago. In that intervening period there was an enormous growth in forestry science and scientific forestry management as there has been in other fields of science, so many of the analogies of the rape of the forests that we know from three generations ago no longer hold.

In addition, all of the companies owning land in the proposed expansion areas utilize intense forest management practices in order to maximize regeneration efforts, and to minimize environmental impacts. Their practices include fertilizing, thinning, ground maintenance and erosion control.

This land management will permit the companies to sustain their operations in perpetuity, and that is their aim.

Mr. CURTIS. On an average basis, what is the annual yield of board feet from the area that would be added to the national park under the Senate and House bills?

Mr. HAYAKAWA. According to the Department of the Interior, the 48,000-acre expansion area presently contains 1.6 billion board-feet of merchantable old-growth timber. In addition, the area is capable of producing approximately 1,500 to 2,000 board feet of timber per acre per year.

Mr. CURTIS. How much is that in terms of new houses that could be built by this lumber?

Mr. HAYAKAWA. If we use an average of 12,000 board feet of lumber per house, the present growth would supply enough timber to construct 133,000 new homes. Further, the new growth from replantation could supply the timber for 6,000 new homes every year in perpetuity. There is enough timber to construct an additional 3,750 homes every year in the 30,000 acres in the standby acquisition area.

May I add very recently the Secretary of HUD, Patricia Harris, was making a great row about how the price of lumber has gone up enormously in the last few years, and she wanted to have an investigation of the matter. No investigation is necessary. We are cutting down the number of resources right and left through actions of this kind that are now before this Congress, and no wonder the price of lumber goes up. Here is a place where we can stop lumber prices from going up by making supplies of lumber available to the building industry.

Mr. CURTIS. What will the impact be on the local economy if the Redwood Park expansion bills pass the House and the Senate?

Mr. HAYAKAWA. Should this bill pass both Houses of Congress, approximately 2,000 workers in the north coast area of California will lose their jobs. Many other people will be forced to move out of the community because their businesses are reliant on the people of the town.

Just yesterday I heard about 250 houses being put on sale in the Eureka area because there are no buyers inasmuch as people are moving out. It is a real disaster.

When the 1968 taking was considered by Congress, great promises were made. The jobs eliminated by the establishment of the original 28,000 acres of Redwood National Park were to be replaced by the growth of a tourism-oriented economy, centered around the park. This was the promise made in 1968. These new tourist-oriented jobs were supposed to more than offset the decreased forest industry employment. None of this actually took place. At this time the Redwood National Park is the sixth least visited park in the entire United States—it is also by far the most expensive.

To give you some idea, let me tell you what has happened to the town of Orick, Calif., which was most affected by the 1968 act. In 1968 there were seven service stations in Orick. Today there are three. Nine years ago there were five cafes and four grocery stores, while today there are only two cafes and two grocery stores. In 1968 there were six motels, today there are five. The number of dairy farms in Orick has gone from 20 to 5 in the last 9 years. The number of residents has been reduced from 1,200 to only 600.

I will not believe false promises about the benefits of park expansion to the local communities. The park expansion means only economic disaster to the residents of northern California.

Mr. CURTIS. I want to say to my distinguished friend from California that I have a very special interest in our forest lands. I come from a State that had no trees. In fact, the nickname for Nebraska is "the tree planters' State." Our prairies were devoid of trees. The only places you found the trees were along the streams. Consequently, we have been engaged in planting trees.

Arbor Day, which is the holiday observed in more countries in the world than any other holiday as promoted, inaugurated by the country's first Secretary of Agriculture, J. Sterling Morton of Nebraska City.

We have had our project of planting trees, and because of this great interest in it I have studied and observed what has happened in our great forested areas.

It seems to be a well-established fact that forests which have scientific, honest, and conscientious management, and where the trees are cut, survive better, produce more lumber for the future, preserve the environment better than if we merely close it off and do nothing about it.

Does the Senator concur in that observation?

Mr. HAYAKAWA. I certainly concur with the Senator from Nebraska.

I want to call attention to certain analogies. There are great forests, for example, in Germany and in Japan, both nations which have no resources compared with those of the United States, where trees have been harvested for generation after generation after generation. There are good trees, and wise conservation practices have kept those forests going for a long time. Good lumber comes from it. The fact that there is this kind of continuing attention to reforestation perpetual yield which has been in operation for a long time in older nations than ours proves the necessity of following their example in situations like this.

Mr. CURTIS. I am interested in that because after I came to the Washington area, since that time so much building expansion has taken place, and it has been a heartbreak to me to see so bulldozers come in and destroy trees just to give somebody a bare yard rather than keeping them.

Incidentally, in the State of Nebraska we have the only manmade forest in North America. We lost quite a bit of it by fire a few years ago, but there is a national forest that was planted by our Government, and which is maintained as such, the only manmade forest in North America.

As I said a bit ago, due to my long interest in this I am convinced that good forest management does more for trees than the absence of it. It does more to preserve the beauty, the trees and lumber for future generations than letting the land just stand unaided by man and, at the same time, serves our present needs for lumber and the providing of jobs.

The answers that the distinguished Senator has given have been very helpful, and I thank him.

Mr. HAYAKAWA. I thank the distinguished Senator from Nebraska for his penetrating remarks and his equally penetrating questions.

Mr. President, I ask unanimous consent that Mary Goedde of my staff have the privilege of the floor during the consideration of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, is it an appropriate moment to offer an amendment at this time?

The ACTING PRESIDENT pro tempore. The bill is open to amendment.

UP AMENDMENT NO. 1164

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) offers an unprinted amendment numbered 1164:

On page 14 between lines 4 and 5 insert the following:

(c) The Secretary of Agriculture within one year after the date of enactment of this Act, shall prepare and transmit to Congress a study of timber harvest scheduling alternatives for the Six Rivers National Forest. Such alternatives shall exclude the timber inventories now standing on units of the Wilderness Preservation System and shall be consistent with laws applicable to management of the national forests. In developing the alternatives, the Secretary shall take into consideration economic, silvicultural, environmental and social factors.

Mr. HAYAKAWA. Mr. President, the purpose of this amendment is for the Secretary of Agriculture to study timber harvest scheduling alternatives on the Six Rivers National Forest, and to report back to Congress within a year. The Six Rivers National Forest is in the same general area as the Redwood Park expansion acreage and the timber sales from this forest serve the same general economy of northern California.

By studying the timber harvest scheduling alternatives, the Secretary may determine that the Forest Service could in fact increase the annual timber yield on the Six Rivers National Forest.

My concern stems from the fact that if this legislation, S. 1976, becomes public law, approximately 2,000 people will lose their jobs. It will be extremely difficult for these people to relocate into alternative jobs that would be as lucrative as those jobs they presently hold.

Many people claim that the job loss will be much less severe, but I know for a fact that one of the companies that logs redwoods has already had to lay off over 400 workers. This is because the landowners have not been able to get any timber harvest plans approved in any of the proposed park expansion areas since last spring. People tend to downplay the anticipated unemployment due to park expansion, but I want to emphasize that the situation is quite serious.

I came across an interesting bit of information just recently. In the north coast region of California, in the communities affected by park expansion, there are usually between 25 and 40 houses on the real estate market. At this time there are over 250 houses on the market—250. There are many people willing to sell their homes, but no buyers. Imagine the plight of a logger who is forced out of a job, and who must move to another area, maybe to a different State or even to a different region of the country. Such families will have no one to buy their homes, so they will be faced with losing not only their jobs, but also a lifetime's investment in their homes.

In order to seek alternative employment possibilities, I have introduced this amendment for a study of timber harvest scheduling alternatives on the Six Rivers National Forest. By assessing the existing timber on this national forest the Department of Agriculture may find that there is enough timber available so that the annual cut levels may be increased without any danger to water quality in the streams, or to the environment in general. Northern California's economy is heavily dependent on logging. There are many expert woodsmen in the vicinity of Northern California who feel that the cut levels on the Six Rivers National Forest are not nearly as high as they could be and should be. By this study I hope that the Secretary will determine that this is in fact true. As a result of this study, I hope that the Secretary finds that he can raise the timber harvest levels on the Six Rivers National Forest, that we can employ some of the people in timber jobs from an increased cut—some of the workers who will be losing their jobs as a result of park expansion. This would allow people to remain in their communities and to keep their homes. They would not be forced into uprooting their families and seeking jobs in new places, or in industries they are not familiar with.

It is easy for us here in the Senate to throw around solutions such as job training in new fields, but that is not an easy concept to swallow for a person who has just lost his job. Many of the people who face the prospects of unemployment have been in the logging industry for many, many years. It is an extremely difficult thing for someone who has been a logger for 15 or 20 years to suddenly face the loss of his job and to have nowhere to turn for employment in his field.

In studying the timber harvest scheduling alternatives on the Six Rivers National Forest I am optimistic that the Secretary will turn up facts in support of raising the annual timber outputs on this forest land. In addition I hope that the Secretary will find that by employing intensified timber management methods, we can have a higher board feet yield of timber per acre on this land.

I would like to see some positive results from this study, so that we can keep some of these 2,000 lumbermen in jobs—not just any jobs, but employment in the field in which they are trained—namely forestry.

My office has had informal discussions with Department of Agriculture officials who work in the Forest Service, and they have indicated that there are no serious

problems with this amendment. The 1-year period for conducting the study is a reasonable period according to the Department of Agriculture, and the objective of the study presents no problem. I hope that my colleagues will lend their support for this amendment, the ultimate aim of which is to alleviate to some extent the serious unemployment that will result from Redwood National Park expansion.

I wish to announce, Mr. President, that my distinguished colleague from California (Mr. CRANSTON) has agreed to cosponsor this amendment.

Mr. CRANSTON. Mr. President, I am pleased to join the junior Senator from California (Mr. HAYAKAWA) in sponsoring this amendment to direct the Secretary of Agriculture to conduct a study of timber harvest scheduling alternatives for the Six Rivers National Forest.

Employment in the timber industry in the north coast region of California has been declining for a number of years. While the expansion of the Redwood National Park is not a significant factor in this decline, the debate over the legislation has made it clear that we need to develop a coordinated strategy to arrest this decline.

There are many options which could be considered. One alternative is to see if the harvest levels on the nearby national forests can be increased. I think we should examine this option, and for this reason I am cosponsoring this amendment.

However, every recent study of the economy of the north coast area has come to the conclusion that a viable alternative to the single-based timber industry economy must be found regardless of the park expansion. In recognition of this finding, the Carter administration has pledged up to $40 million in existing Federal programs for Humboldt and Del Norte Counties. These programs will be utilized to bring new job opportunities into the area and help diversify the local economy, now dependent upon the declining timber industry.

Even in bolstering the timber sector of the region's economy, options other than altering the cutting rates on the national forests need to be considered. These should include finding improved methods of utilizing wood fiber, restricting the export of unfinished wood products, finding ways to market more hardwood species, improving management of small private holdings, increasing efforts of rehabilitating and stocking damaged and understocked sites, coordinating management of public and private timber holdings, and analyzing the comparative economic/environmental effects of utilizing different logging methods.

In proposing a study of timber harvest scheduling alternatives on the Six Rivers National Forest I want to make it clear that we cannot assume that harvest levels can or should be increased. We must know what the tradeoffs are in cutting more timber now and doing without later.

The amendment directs the Secretary to consider environmental, silvicultural and social factors as well as economic ones in conducting the study. I believe a wide range of alternatives will allow the Secretary to take such factors into consideration. Moreover, the alternatives must fit within the constraints of existing laws that require multiple use and sustained yield that is in accordance with the even-flow provisions of the National Forest Management Act of 1976 as well as with the other provisions of that act and the National Environmental Policy Act. The Six Rivers National Forest has many uses and values, ranging from its important commercial fisheries and high quality wildlife habitats to its active use by native Americans for traditional spiritual activities. In addition, it should be noted that the Secretary is currently reviewing all roadless areas in the national forest system to bring new proposals for wilderness to Congress in the near future. The study should consider the timber resources in relation to these other resource values.

In sum, this study should help us know more about one of the options for supporting employment levels in the forests products industry in the future in the north coast region, and I urge acceptance of this amendment.

Mr. ABOUREZK. Mr. President, I have discussed this matter with the minority manager of the bill. We are prepared to accept this amendment. I am convinced that current law provides the Forest Service adequate authority to get this kind of information, and even in some instances requires that they in fact gather it, but I have no objection to including this language in the statute.

I emphasize one important point, however. I want to seek the Senator's assurances that my interpretation of this amendment is correct.

It is my understanding that the study, including any alternatives derived from it, shall be in accordance with the applicable provisions of law, including the Forest and Rangelands Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.

Mr. HAYAKAWA. I am sure I can give the distinguished Senator from South Dakota that assurance.

Mr. ABOUREZK. All right. I wish to make one other point before I yield to the Senator from Wyoming.

The Senator from California (Mr. HAYAKAWA) has stated a figure of the number of jobs lost which is the same figure used in newspaper advertising by a front committee for the timber companies: That 2,000 jobs would be lost.

I know the Senator is not aware of this, or he would not have used that figure. We sent an informal committee of the logging workers, the committee staff, and the Labor Department out to California to determine how many jobs would be lost. They went directly to the timber companies, and asked the timber companies the maximum number of jobs, and asked them to identify each one.

According to the information they received, the maximum number would be 921 jobs. That is the worst possible case. The best case was something like 200 odd jobs that would be lost with this taking. So I hope the Senator will acknowledge what comes out of the mouths of the timber companies themselves when asked directly, and not when they advertise in the Washington Post.

Mr. HAYAKAWA. I might say to the distinguished Senator from South Dakota, there are 600 who have already been laid off by one company. Another company has refrained from hiring between 100 and 115 this year. The sum of the many, many figures like that coming into our office makes 2,000, which is a very big figure to us.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that this study be printed in the RECORD. This is the result of the report of that informal committee. It includes the number of jobs for each company.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

IMMEDIATE DIRECT EMPLOYMENT IMPACTS ASSOCIATED WITH 48,000 ACRE EXPANSION OF REDWOOD NATIONAL PARK

INTRODUCTION

This analysis has been prepared to detail the potential immediate employment impacts associated with the 48,000 proposed expansion of Redwood National Park. The timeframe selected is two years and the area of concern is Humboldt and Del Norte Counties. The timeframe was selected as a period when company harvest adjustments could result in employment impacts quite different from "average" impacts that have been projected over longer timeframes. It is also a planning period necessary before the proposed Economic Development Administration (EDA) projects can begin economic diversification projects. The area of concern is Humboldt and Del Norte Counties because the primary impact and potential mitigation is concentrated there. Impacts such as those on Louisiana-Pacific's Mendocino operations are not included.

Information for this analysis was gathered in the area during May-September, 1977. Both large and small operations were visited. The large affected companies were better able to define their options than small companies dependent on the large ones.

The options available to each company preclude a precise estimate of how many people will be employed or when they will become unemployed. In general terms, woods workers will be first affected, followed by sawmill workers and finally remanufacturing employees.

SUMMARY OF COMPANY OPTIONS AND ASSOCIATED EMPLOYMENT IMPACTS

The timber supply reduction directly affects three companies: Simpson Timber Company, Arcata Redwood Company, and Louisiana-Pacific Corporation. Direct impacts to other companies buying logs or lumber from these larger companies is also likely. The magnitude of impact is least for Simpson, moderate on Arcata Redwood, and most significant for Louisiana-Pacific. A summary of potential impacts is presented below, followed by a more detailed analysis for each company.

Simpson Timber Company Options. Options to deal with a 10MM loss include:

(1) increase cut on other lands by 10 MM.

(2) maintain planned cut in other areas and internally absorb the 10 MM loss.

(3) maintain planned cut in other areas and reduce log sales by 10 MM:

(a) reduce log sales to firms with alternate supply over short run.

(b) reduce log sales to firms with little or no alternate supply over the short run.

The range of Simpson's employment impact is from 0-15 jobs over the 2 year period.

Arcata Redwood Company Options. The park expansion proposal takes all of Arcata's old growth in nothern Humboldt County and leaves them with roughly 7,000 acres of old growth in Del Norte County. The Company options include:

(1) increase cut on Del Norte County lands to replace 200–300 acre annual planned cuts in Redwood Creek area (California Forest Practice Act and good watershed management may not allow this, but it may be feasible).

(2) maintain planned cut in other areas and reduce woods, sawmill, and remanufacturing employment.

The range of employment impact is from 0–169 jobs depending on the options chosen. Arcata, which now sells its whitewoods, has plans to build a mill to process this timber which will eventually cause employment shifts, but these plans are beyond the 2-year immediate impact period discussed here.

Louisiana-Pacific Corporation Options. This company is the most heavily impacted in the expansion proposal because it has the highest acreage and proportion of old growth timber involved. L–P loses roughly 5,800 acres of old growth and is left with about 2,900 acres of intact old growth and 7,500 acres of residual (primarily redwood) timber. The company options include:

(1) increase cut on remaining lands and accelerate purchase of whitewoods on open market.

(2) maintain cut on remaining lands and accelerate purchase of whitewoods on open market.

(3) maintain cut or slightly increase cut on remaining lands and maintain past timber purchases.

The range of employment impact is 188–573 jobs depending on the option chosen. Because Louisiana-Pacific cannot in all probability maintain its redwood volume even if this was the corporate choice, an unavoidable impact to its old growth redwood milling operations will occur.

Other companies. There is some direct impact on other companies from the company options presented above; the actual impacts are difficult to quantify due to large company options. The small company direct impact is:

Simpson buyers. If Simpson increases its cut, little impact on other companies will occur. If Simpson reduces its 10 MM log sales only to McNamara and Peepe, which has 50 MM of Forest Service timber already purchased, no immediate job loss will occur. Only if Simpson reduces its sales to firms with no inventories will losses of up to 65 mill jobs be lost.

Arcata and Louisiana-Pacific buyers. Several small remanufacturing mills obtain their supplies of redwood timber from Arcata and L-P. Arcata appears to supply a very small proportion of raw material (5-15 percent) compared to L-P (85–95 percent). Up to 72 additional employees could be affected.

Contract loggers. Additional loggers to those directly employed by the companies may be affected. This impact may total 27 people.

Combined Employment Impacts. The integration of all these potential impacts produces an employment loss in the range of 260–921 for the first two years. The Redwoods Interagency Task Force, basing its findings on the Greenacres Report, predicted that maximum immediate impact might be up to 25 percent higher than the average job loss over the first 20 years, or 893 jobs. This figure is reasonably close to the high end of the immediate impact summarized in this analysis.

Induced employment losses through the multiplier effect are not considered in this analysis. However, without mitigation of forest products employment losses, the multiplier effect would become partially operative within the two-year timeframe.

SIMPSON TIMBER COMPANY IMPACTS

The impact of park expansion on Simpson's operation are recognized by all concerned to be minimal. Simpson annually cuts about 200 million board feet (200 MM), and processes close to 150 MM. The annual impact of park expansion is about 10 MM. Simpson's options include increasing cuts on other lands by 10 MM, reducing its processing of wood by 10 MM, or reducing log sales (now over 50 MM) by 10 MM.

Increase Cut on Other Lands. Simpson owns about 285,000 acres of land in the area, and has over 10,000 acres of old growth plus many thousands of acres of residual timber. It is conceivable that Simpson could increase its cut on these lands to produce an annual 10 MM increase to offset the park expansion effect. Company officials have indicated that they do not prefer this option.

Maintain Planned Cut and Reduce Internal Processing. Company officials and others have indicated they will maintain the volume of wood they now process, so that this option is not likely. The company has not estimated employment losses due to this option, but it would be in the range of 15 logging jobs and 50–55 mill jobs for Simpson employees.

Maintain Planned Cut and Reduce Log Sales. Company officials have indicated this as their preferred option. The employment impact depends on which mills are cut off from buying logs from Simpson. If, for example, only McNamara and Peepe, which purchase 54 MM from Simpson last year, is affected, they have sufficient reserves on Forest Service land to last 1½ years even if they are simultaneously affected by Arcata's reduced whitewood supply. If, on the other hand, a mill with little or no inventory is affected, employment impact will occur and could total 65 mill jobs to the small mills. Under this option Simpson's woods operation would be reduced by about 15 jobs.

SIMPSON OPTIONS AND IMPACTS

	Increase cut on other lands	Maintain cut, reduce internal processing	Maintain cut, reduce log sales
Woods	0	15	15
Mills	0	65	[1]0
Total	0	80	15

[1] Under this option, other mills would be affected—see "other mills impacts" section.

ARCATA REDWOOD COMPANY IMPACTS

Park expansion impacts on Arcata Redwood will be intermediate between those on Simpson and Louisiana-Pacific. Arcata now has close to 10,000 acres of old growth, and will be left with about 7,000 acres of old growth in Del Norte County. The company has traditionally milled only redwood and sold its intermixed whitewoods to other mills. After park expansion, the company has indicated it will build a new mill capable of processing whitewoods. However, this development will not be significant in the context of immediate impacts over the next two years The company has essentially two options on its remaining old growth lands in Del Norte County.

Increase Cut on Remaining Lands to Maintain Present Production. Cutting in the Purchase Unit would have to be increased 200–300 acres per year in order to replace volumes lost from the Redwood Creek area. This may not be possible if present timber distributions are such that spacing of alternate cuts as mandated by State regulation will constrain accelerated cutting. It is also a good watershed management principle to refrain from excessive cutting in one area at one time. This option would also considerably shorten Arcata Redwood's lifespan. Although company officials have indicated they could but will not choose this option, it nevertheless may be further considered by management and must be considered an available option. Employment impacts over the short run would be zero.

Maintain Planned Cut on Remaining Lands. This option is preferred by Arcata Redwood, and has definite woods, primary mill, and remanufacturing mill employment. After woods workers are affected by lack of raw supply, primary mill employment (Mill A) will suffer cutbacks in employment. Remanufacturing employment can be maintained for at least one year. Total short run impacts would be 169 jobs under this option.

ARCATA OPTIONS AND IMPACTS

	Increase cut on other lands	Maintain cut-reduce local remanufacture
Woods	0	29
Primary mill	0	40
Remanufacture	0	96
Other	0	4
Total	0	169

LOUISIANA-PACIFIC CORPORATION IMPACTS

Louisiana-Pacific (L–P) owns over 125,000 acres in Humboldt County, and has about 9,000 acres of old growth timber. The park expansion leaves L–P with about 2,900 acres of intact old growth and 7,500 acres of residual (primarily redwood) timber. While a continued supply of old growth redwood is assured, lower production and employment in old growth redwood will occur. Within these constraints, L–P has several options.

Increase Cut on L–P Lands, Accelerate Purchase and/or Cutting of Public Timber. This option is limited by the amount of L–P's old growth and residual redwood that could be cut in the short term and the availability of additional public timber (if only usual amounts of public timber were available, L–P's purchase would only deprive another mill). This option could result in maintaining the Big Lagoon mill employment, reduce woods impact, and maintain the plywood and stud mill operations at Samoa. The study mill and plywood mill would require about 60 million board feet (60 MM) each year of whitewoods, a significant volume. However, L–P now has cutting rights on 50–75 MM of public timber on nearby national forests, and the availability of at least 75 MM per year for 2 years as salvage from the "Hog" fire on Klamath National Forest could supply all of L–P's needs each of the next two years. If implemented, a temporary layoff of workers at the Plywood and stud mills might occur, due to present inventories that may expire before new supplies become available.

Maintain Cut on Remaining Lands, Accelerate Purchase and Cut of Public Timber. This option is similar to the first option, except that redwood production is decreased as in the third option.

Maintain Cut on Remaining Lands and Maintain Past Public Timber Cut. This option is what the company expects to occur. Under this option, redwood production at Big Lagoon and Samoa are curtailed, and the plywood and stud mills are closed. Production is concentrated at the Carlotta Mill where no impacts occur.

L-P OPTIONS AND IMPACTS

	Increase cut on own lands plus public timber [1]	Maintain cut on other L-P lands, increase public cut [1]	Maintain cut on other L-P lands and public timber
Big Lagoon logging	40	80	103
Big Lagoon sawmill	0	26	26
Samoa plywood	[2] 0	[2] 0	227
Samoa studmill	[2] 0	[2] 0	46
Samoa redwood	108	108	108
Redwood engineering	12	12	12
Samoa log handling	3	5	11
Samoa salaried	25	30	40
Total	188	261	573

[1] These options constrained by availability of public timber.
[2] Temporary layoffs possible.

OTHER DIRECT IMPACTS

The removal of Redwood Creek timber will have some direct impacts on other companies. Some of this impact can be directly tied to one of the three major companies, but most are tied to two or all three. Interviews with many smaller operators failed to define precisely what impacts would occur because they were uncertain of supply restrictions which in turn depend on company options.

Some clarifications on information provided by Arcata Redwood and Louisiana-Pacific are in order. Arcata did not include truckdrivers in its employment impact, so that about 10 will be added here. Because remaining log hauls from Klamath to Mill A will be longer no more than 10 drivers should be put out of work. The range of truck driver impact will be 0–10 depending on the Arcata Redwood choice of options. Louisiana-Pacific (9/15/77) notes that an additional 74–84 contract logging employees will be put out of work initially in addition to the 103 woods employees of L-P. This figure is far too high, if justified at all. Based on L-P's production figures from Redwood Creek no more than 120 woods employees should be affected in total. Furthermore all old growth logging is done by union employees, and contract logging is only done on residual acreage. A figure of 17 employees on an annual basis is a more likely estimate for maximum contract employees affected, making a total of 120 woods employees as a maximum impact. These 17 employees could be hired by L-P if public timber were available thus making the employment impact range 0–17.

Other operators affected are listed below with their projected impacts. These projections were based on inadequate knowledge of what the actual large company responses would be. For example several mills depending on Simpson for supply (*) estimated a total log supply reduction from Simpson equal to three or four times what Simpson anticipates removing from its log sales program.

Company:	*Company estimate employees affected*
Britt Lumber	15
Schmidbauer	20
Mission Fence	10
Ramey Lath	10
Boyd Wood Products	5
Amarant	Unknown
Welco	6
McAllister Lath	6
Trend Lumber	*50
Cal-Pacific	*29
Twin Parks	*50
McNamara & Peepe Arcata	*125
McNamara & Peepe Cres. City	*105

McNamara and Peepe have an inventory of public timber sufficient to carry them through the immediate future. Trend, Cal-Pacific, and Twin Parks estimate a combined reduction approaching 20 million board feet from Simpson, while Simpson projects only a 10 million board feet reduction. If McNamara and Peepe are eliminated from immediate impact consideration because of its public timber supply, and the impact to Trend, Cal-Pacific, and Twin Parks reduced by 50 percent (could be reduced to 0 if impact is on McNamara and Peepe) the maximum impact assigned to asterisked mills is about 65 for the near future. This figure correlates well with mill employment required to process 10 million board feet. This figure could also approach 0 if the large companies chose to maintain present supply as much as possible.

The unasterisked mills are primarily involved with remanufacturing of small redwood products (Schmidbauer mill impact is fencing). The same problem of several firms expecting that each of them will be the hardest hit exists here. However, any reduction in impact for this analysis would be arbitrary, and it is possible that several small firms have been omitted from this list. Therefore, the total of 72 will be left unchanged.

Large company response

	Try to maintain present supply	Reduce supply
Arco Truckers	0	10
LP Woods Contractors	0	17
Other mills	72	137
Total	72	164

JOB TYPES, WAGES, AND AGE LEVELS AFFECTED

Jobs were categorized by classes that could be replaced by alternative opportunities or by general skill class (determined by wage level). Woods jobs were primarily classified by job type, while mill jobs were primarily classified by skill level. Actual job types affected can be found in Appendices A and B. The distribution of affected workers by category is also shown below.

Job type:	*Percent affected*
Woods	18.5
Heavy equipment	5.5
Fallers	2.5
Mechanics	1.5
Truck drivers	2.0
Other woods	7.0
Mill	75.5
Vehicle operators	6.5
Skilled workers	9.0
Moderately skilled	11.0
Low skilled	49.0
Supervisor support	6.0

Wage levels were not precisely established, but most job types could be assigned a general wage range. The wage levels shown are based on the 1978 wage levels of Local Union 2592, Lumber and Sawmill Workers Union. These rates apply directly to Louisiana-Pacific employees, and comparable scales are applicable to Simpson and Arcata Redwood employees, even though Arcata employees are not unionized. The independent mills discussed under "other direct impact" are primarily non-union and probably have lower wage rates; this effect is not analyzed.

Benefits of union and non-union employees range from complex to nonexistent. The benefits impact is not discussed here but should be considered for alternative job opportunities.

Job type:	*Pay range*
Woods jobs	
Heavy equipment	$8.16–8.93/hr.
Fallers	20,000–30,000/yr.
Mechanics	7.50–8.00/hr.
Truck drivers	8.16/hr.
Other woods	7.40–9.08/hr.
Mill jobs	
Vehicle operators	7.50–7.77/hr.
Skilled workers	8.50–9.37/hr.
Moderately skilled	7.75–8.50/hr.
Low-skilled	7.50/hr.
Supervisor-support	Unknown ($10–25,000/yr.?)

A weighted average wage can be computed using the figures for proportions of workers by job type and the wage ranges for job types. The average wage is about $7.80 based on 1978 wage scales. This includes the hourly wages of woods workers who usually work 7–8 months of the year.

One obvious problem of this type of analysis in terms of affected employees is that some interval company reshuffling occurs. Senior employees denoted as being unemployed (as, for example, a sawyer or filer) may actually bump a younger person off the job. The result is the senior employee working for a lower wage and the junior employee being unemployed.

Age of affected employees is not well known. Some people of all ages will be affected, and in some operations more older people could be affected than in others. It is probable that the bulk of affected employees will be young, because they will generally have lower seniority. However, if an entire mill closes, then all employees at that mill will be affected.

TIMEFRAMES ASSOCIATED WITH MINIMUM-MAXIMUM UNEMPLOYMENT SCENARIOS

Several alternative unemployment scenarios are possible after park expansion. Rather than attempt to delineate each of them, a choice of the minimum-maximum scenarios were believed to be most informative. The minimum scenarios involves 260 employees and the maximum scenario involves 921 employees. Each is briefly described as a prelude to the timeframe.

Minimum unemployment scenario

The minimum scenario involves no impact on Simpson Timber and Arcata Redwood as they are assumed to increase cuts on their own lands to replace that volume lost from Redwood Creek. Louisiana-Pacific is assumed to increase cuts on its own land and substitute whitewood losses by the availability of additional public timber. At least two and perhaps all three companies have indicated that this option is not a preferred one, and for Louisiana-Pacific it includes public timber constraints not wholly within company control. The main impacts in this scenario are to L–P's old growth redwood operations and associated small company remanufacturing. Big Lagoon logging is curtailed by 40, Samoa Redwood by 108, and other Samoa L–P operations by 40. Local small remanufacturing impact is 72 for a total impact of 260.

Maximum unemployment scenario

The maximum scenario involves some impact to Simpson Timber Company log buyers, significant impact to Arcata Redwood's sawmill and remanufacturing facilities, significant impact to Louisiana-Pacific's sawmill operations, and significant impact to other firms buying logs or lumber from the three large companies. Simpson loses 15 logging employees, Arcata loses 29 woods and 140 mills, remanufacturing, and office employees, Louisiana-Pacific loses 103 woods employees and 470 mill and office employees, and other companies may lose up to 27 woods

workers and 137 mill workers, for a total of 921 employees.

Comparison of timeframes

The actual direct impacts over time by park expansion will range within the limits of the minimum-maximum unemployment schedule shown here. Actual effects on the local economy will depend on integrating these potential job losses with potential job gains and resulting induced employment effects.

Range of potential direct unemployment

Month 1	22–86
Month 3	40–174
Month 6	224–785
Month 9	260–821
Month 12	260–871
Month 18	260–921
Month 24	260–921

MINIMUM UNEMPLOYMENT SCENARIO TIME FRAME

	Month—						
	1	3	6	9	12	18	24
WOODS JOBS							
Heavy equipment	6	11	11	11	11	11	11
Fallers	2	4	4	4	4	4	4
Mechanics	2	3	3	3	3	3	3
Truck drivers	5	9	9	9	9	9	9
Others	7	13	13	13	13	13	13
MILL JOBS							
Vehicle operators	0	0	20	22	22	22	22
General-skilled	0	0	20	24	24	24	24
General-moderately skilled	0	0	13	19	19	19	19
General-low skilled	0	0	102	124	124	124	124
Supervisory-support	0	0	29	31	31	31	31
Total jobs	22	40	224	260	260	260	260

Assumptions: 1. Total woods impact in 3 mo. 2. Total L–P impact in 6 mo. 3. Total remanufacturing impact in 9 mo. 50 percent by 6 mo.

MAXIMUM UNEMPLOYMENT SCENARIO TIME FRAME

	Month—						
	1	3	6	9	12	18	24
WOODS JOBS							
Heavy equipment	25	51	51	51	51	51	51
Fallers	12	23	23	23	23	23	23
Mechanics	7	14	14	14	14	14	14
Truck drivers	10	19	19	19	19	19	19
Others	32	64	64	54	57	59	64
MILL JOBS							
Vehicle operators	0	0	51	54	57	59	59
General-skilled	0	0	71	75	78	81	81
General-moderately skilled	0	0	83	88	95	102	102
General-low skilled	0	0	365	389	421	454	454
Supervisory-support	0	3	44	44	49	54	54
Total jobs	86	174	785	821	871	921	921

Assumptions: 1. Total woods impact in 3 mo. 2. Primary sawmill impact in 6 mo. 3. Local remanufacturing impact; 50 percent in 6 mo., 100 percent in 9 mo. 4. ARCO remanufacturing; 50 percent in 12 mo., 100 percent in 18 mo.

Mr. ABOUREZK. I want to emphasize that that is the information that came from the timber companies themselves, when they were asked directly.

I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I support the amendment offered by our distinguished colleague from California (Mr. HAYAKAWA). I think it is important to understand that the study that has been offered as an amendment by the distinguished junior Senator from California is directed at the concern we all feel for people who may be out of work. My point now is to underscore the importance of that study.

I think what we have in mind is that the Forest Service is to determine the feasibility of increasing the allowable cut on Forest Service lands. I think it calls for an intensive and accelerated evaluation of the potential allowable cut on Forest Service lands in the area by the Department of Agriculture and the Forest Service.

I point out further that this is not a routine study. So many, many times, Mr. President, as Senators know, when you really do not want to do anything, you call for a study. That is not the purpose of the amendment offered by the distinguished junior Senator from California. Rather, it is to take a good, tough, close look immediately at the possibility and the feasibility of increasing that cut out there in order that the adverse impact upon workers may be kept as minimal as possible.

I would say that the study addresses a unique situation that will be examined by the Forest Service and by the Department of Agriculture, and I anticipate a positive response by the Forest Service when its examination has been completed.

I ask my colleague from South Dakota if he does not share generally those sentiments, that we want to do all we can to minimize the adverse impact suffered by people who may be out of jobs.

Mr. ABOUREZK. Absolutely. I agree.

Mr. HANSEN. I thank my colleague.

Mr. HAYAKAWA. I thank the Senator from Wyoming.

Mr. ABOUREZK. I am ready to yield back the remainder of my time on this amendment.

The ACTING PRESIDENT pro tempore. Does the Senator from California wish to yield back his time?

Mr. HAYAKAWA. I am perfectly willing to yield back my time.

Did anyone else wish to speak on this?

Mr. HANSEN. I am not aware of anyone.

Mr. HAYAKAWA. I am prepared to yield back my time.

Mr. HANSEN. I am happy to yield back my time.

Mr. HATCH. Will the Senator yield for a unanimous consent request?

Mr. HANSEN. Yes, I yield.

Mr. HATCH. Mr. President, I ask unanimous consent that Tom Parry, of my staff, may be accorded the privilege of the floor during the debate and vote on S. 1976.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is all time yielded back? All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HANSEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HAYAKAWA. I have another amendment.

Mr. HANSEN. Mr. President, under the previous order, it is my understanding that the Senator from California may proceed on his own time. He has an hour on each of the amendments he proposes to offer.

UP AMENDMENT NO. 1165

(Purpose: To retain the jurisdiction of the U.S. Court of Claims and to provide a mechanism for the halt of interest-running)

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask that it be considered.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes unprinted amendment numbered 1165.

Beginning with "district" on page 5, line 7, strike out all through the period on line 15 and insert in lieu thereof the following: "Court of Claims. At any time after the expiration of six months from the date of enactment of this phrase, the United States may initiate proceedings in the United States Court of Claims or in the District Court for the district in which the property is located, without regard to the amount in controversy, seeking a determination of just compensation for the lands, or interests therein, or down tree personal property, taken by the United States pursuant to the provisions of this Act: *Provided*, That the landowner shall not have previously initiated an action against the United States in the United States Court of Claims for the recovery of just compensation for such lands and property so taken. In any action or proceeding for the recovery of just compensation for the lands and interests therein, and for the down tree personal property, taken pursuant to the provisions of this Act, the United States may deposit in the registry of the court in which any such action or proceeding is pending, the estimated amount of just compensation or any portion thereof due to the former owner of the property generally in accordance with the procedure described in the first section of the Act of February 26, 1931 (40 U.S.C. 258a). Interest shall not be allowed on such amounts as shall have been paid in the court from and after the date of such deposit.".

Mr. HAYAKAWA. Mr. President, the legislation presently under consideration, S. 1976, proposes to change existing law by providing that determination of just compensation be made in the U.S. district court instead of the Court of Claims which is the proper forum. Current law, (28 U.S.C. 1491) provides that the Court of Claims has the jurisdiction in this type of case.

This change in court jurisdictions is in fact "forum shopping" on the part of the U.S. Government.

This amendment would retain the jurisdiction to the Court of Claims. This would follow the original intent of Congress as established in the original legislation of 1968 which we are now amending.

Some people claim that the U.S. district court should have the jurisdiction in this case because it is the court closest to the people. I point out that a jury trial is optional in the U.S. district court, and that Federal Government attorneys have indicated that they would not seek a jury trial in any settlement cases that might result from this legislation.

Because the Court of Claims handled the cases resulting from the 1968 taking of redwood timberlands, this court has

the expertise in matters of timber valuation, volumes and discounting. If this matter were to be taken up in the U.S. district court, the settlement would most surely take a longer time because of the lengthy education process involved. This would result in higher costs to both the taxpayers and the former landowners.

My amendment specifically addresses two problems related to the 1968 taking. The amendment provides that if the former landowners have not acted within 6 months of the enactment of this legislation, the Federal Government may initiate proceedings in either the Court of Claims or the U.S. district court. Second, my amendment permits the deposit of all or any funds by the Federal Government for just compensation and eliminates the need for interest payments on the funds deposited. This will resolve the problem that existed in 1968 of excessive cost to the taxpayer and the former landowners because there was no interest cutoff mechanism in the Court of Claims.

Mr. President, I emphasize that S. 1976 provides for a "legislative taking" of land and not for a condemnation proceeding. This case would automatically be referred to the Court of Claims, which has the proper jurisdiction and the previous experience, if there were no new provision in the bill, as this legislation amends the Redwood National Park Act of 1968.

This amendment has the endorsement of the Washington, D.C., Bar Association, and is acceptable to many of my colleagues of both parties, including many members of the Senate Committee on the Judiciary.

I thank the Chair.

Mr. THURMOND. Mr. President, will the Senator yield me about 5 minutes?

Mr. HAYAKAWA. I am happy to yield to the Senator from South Carolina.

Mr. ABOUREZK. Mr. President, I shall give back the time, but I want to ask for the yeas and nays on the amendment now.

The PRESIDING OFFICER (Mr. GRAVEL). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I rise in support of Senator HAYAKAWA's amendment retaining the jurisdiction of the U.S. Court of Claims in S. 1976.

S. 1976, like the Redwood National Park Act of 1968, involves the legislative taking of property. Jurisdiction matters involving legislative taking of lands for the Redwood National Park have traditionally been vested in the U.S. Court of Claims, rather than the U.S. district court.

The bill before us is a legislative taking in that, upon enactment, the right of possession of the property in question would immediately vest in the Government. In such a circumstance the only issue to be decided is the question of just compensation. This differs from condemnation situations in which the Government seeks to exercise right to property under previously granted legislative authority. In these latter situations the Government seeks the U.S. district court's order to obtain possession and title to property as well as determining compensation for the item being acquired.

Mr. President, the Congress correctly recognized in the 1968 Redwood Act that proper jurisdiction in these matters was within the Court of Claims. S. 1976, as it presently stands, ignores not only the 1968 act but other firm precedents in this area of the law.

In addition to the legal precedents, the severe practical effect of failure to amend this bill would be to throw out the vast amount of expertise gained by the Court of Claims in determining timber and land values stemming from the cases it handled in the 1968 taking.

Mr. President, the U.S. Government should not be in the business of forum shopping between separate jurisdictions when such an action would not be in the best interests of judicial economy and in direct conflict with the precedents set forth in the original Redwood National Park Creation Act of 1968.

In summary, Mr. President, the provision of S. 1976, which Senator HAYAKAWA seeks to amend, presently contains a special exception to the judicial code of the United States. I do not believe that the necessity for such a precedent setting exception has been demonstrated. The amendment before us solves the problems of interest running payments, the right of the Government to initiate the legal proceedings and also the right to proceed in the district court should the landowners not act themselves within 6 months.

Senator JACKSON stated in floor debate on the 1968 act that even if no reference to court jurisdiction were included in the language of the bill, that the litigation would still be heard in the Court of Claims. It made sense in 1968 and it makes sense today, to see that any such litigation resulting from this bill be adjudicated in the proper court of jurisdiction, for the sake of economy if for no other reason.

Mr. President, when this bill was first reported, I was somewhat disturbed by certain of its provisions on the legislative taking, and felt that it should be rereferred to the Committee on the Judiciary for evaluation. I believe, however, that Senator HAYAKAWA's amendment resolves the concerns I previously had. The amendment gives the United States the opportunity to sue within 6 months and insures that interest would not be incurred against the Government pending final disposition.

For these reasons, Mr. President, I urge the adoption of the amendment by the distinguished Senator from California (Mr. HAYAKAWA).

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA. I thank the distinguished Senator from South Carolina.

Mr. President, I would like to add that the Government paid only 6 percent of the money, on the money not yet paid out for landowners. The companies, on the other hand, have to pay the payments between 12 to 13½ percent interest. Therefore, the companies are likely to lose some $3,000 to $4,000 a day, and if they changed courts, our additional process will be very lengthy.

This is another reason for not changing courts.

I yield to the distinguished Senator from Utah.

Mr. HATCH. I thank the distinguished Senator from California.

Mr. President, I rise to support the position of the distinguished Senator from California in this matter because I believe he is doing the State of California, the owners of the redwoods, and of course the Government, a great service, it seems to me, in providing this amendment for consideration by the Senate.

S. 1976 and H.R. 3813, a proposal to expand the Redwood National Park, proposes to change existing law by providing that determination of just compensation for lands taken for the park be made in the U.S. District Court and not in the Court of Claims. Absent this provision granting jurisdiction to the district court, the court with jurisdiction under established jurisdictional statutes and the 1968 Redwood Park Act [1] would be the U.S. Court of Claims.

Although it is unclear why such a complete jurisdictional change is necessary for this park expansion, a number of reasons have been advanced for the change.

The House report suggests, as one reason in support of the transfer provision, that before the district court, "the landowner's rights to a jury proceeding are . . . protected." [2] It is true that the Court of Claims does not provide for jury trials. However, trial in the district court for condemnation lawsuits does not automatically guarantee a jury trial. The case may be heard by a jury, by the court itself or by a valuation commission appointed by the court.[3] Furthermore, there is a substantial question whether cases resulting from the legislative taking proposed in this legislation are best heard by a jury in any event. Indeed, when the 1968 act was under consideration, the Department of the Interior supported the Court of Claims as the proper forum precisely because there would be no jury involved:

> We believe that there are sound reasons for using a tribunal other than the jury trial. First, the bill will condemn a large area of very similar land, involving a number of owners. The Court of Claims' approach affords an opportunity to insure uniformity in awards and avoid the inconsistency that the jury system tends to promote. This assures fairness to all former landowners and to the Government alike. . . .[4]

Thus, the very reason which was used to urge retention of the established jurisdictional framework in the 1968 act is now turned around to support an amendment to that act which would disrupt that framework. Moreover, that amendment is advanced allegedly to protect landowners when the landowners have made no such request. Under the circumstances, it is apparent that the concern for the affected landowners ex-

Footnotes at end of article.

pressed in this regard is unnecessary. More than likely, these claims would be heard by a judge or three-man commission rather than a jury even if tried in the district court because of the magnitude and the complexities of the claims involved.[5] The reasons advanced by the Department of the Interior in 1968 apply equally today, and support retention of jurisdiction in the Court of Claims, not transfer to the district court.

The lack of a deposit mechanism for receiving estimated amounts of just compensation has been cited in support of a change in jurisdiction.[6] This mechanism would enable the Government to make deposits of estimated compensation and thereby stop the running of interest on the deposit.

It should be pointed out that the lack of a deposit mechanism was not solely responsible for interest payments to landowners following the 1968 Act. A deposit into court stops the running of interest only on the amount deposited by the United States. Any judgment in excess of the deposit will accrue damages for delay in its payment in either the U.S. District Court or the Court of Claims. Delay damages of this type represented a significant portion of the interest paid pursuant to the 1968 Act and was not the result of a lack of a deposit mechanism.[7]

An additional reason offered to support the transfer of jurisdiction is that "the Court of Claims has traditionally not been an available forum through which the United States can initiate an action to pay just compensation."[8] It is true that the Court of Claims normally hears citizens' claims against the United States and therefore the Government is the defendant but the relationship to the jurisdiction question is unclear. If the statement means that it is the desire of Congress that the United States be the plaintiff in these actions rather than the defendant, then the only apparent basis for that desire is to give the United States the ability which the plaintiff has to determine when the litigation will be commenced.[9] Such control over the timing of the suit does give the United States an advantage in the normal condemnation case, since the date of valuation can, in effect, be chosen by the condemning agency. Thus, in the normal situation, the United States could withhold commencement of the suit until market prices were down, and gain the benefit of the lower values on the date selected for filing the declaration of taking. In this instance, however, no such advantage can accrue to the United States, since the date of taking (and thus, the date of valuation) will be fixed immediately upon the enactment of the legislation into law.

If, on the other hand, the concern underlying this rationale for the transfer provision is that the landowners will delay the commencement of litigation, several points can be made. First, no advantage could accrue to the landowners by reason of any such delay, as such delay would only increase their cost of borrowing money at market rates higher than those historically ordered by the court. On the contrary, it is in their best interests to conclude the litigation as quickly as possible in order to reinvest the proceeds. Second, if no deposit is paid in the Court of Claims, the United States gains the benefit of the use of the moneys which would otherwise be deposited during the period between appropriation and payment. Third, the United States can, if it wishes, proffer its estimate of just compensation to the landowner at any time prior to or during the course of the litigation. The landowner would undoubtedly accept such as proffer. Even if the proffer were rejected, however, the landowner would still be barred from claiming delay damages on the amount proffered from the date of the proffer.

The reasons offered in support of a change in jurisdiction do not withstand analysis, particularly in view of the reasons supporting retention of the Court of Claims.

Another argument is that disruption of the court jurisdiction on a piecemeal basis, in response to concerns which may or may not be present in a given specific case, ought to be avoided in the absence of overwhelming justification to the contrary. Ad hoc selection of a court through legislation presents serious questions as a precedent for future actions and if such selections could be justified, requires consideration by the appropriate congressional committees. Therefore, I think we can avoid piecemeal legislation if we support Senator HAYAKAWA's good amendment.

With regard to judicial economy, the Court of Claims' general experience in complex litigation and in the field of property evaluation should not be ignored. In addition, its considerable experience with the creation of the park in 1968 will likely create a judicial climate favorable to prompt action on any new park expansion that may be approved by the Congress. The benefits from such expeditious litigation will flow both to the Government and the landowner. In contrast, an interruption in what can be viewed as a single chain of events with relationship to the park by changing to a new court at this time would only serve to increase the chances of delay.

With regard to consistent awards, as one of the Department of Interior's own reasons for preferring the Court of Claims in 1968, the concern of uniformity in awards should not be ignored. The judicial goal of consistency is best served by returning to the Court of Claims to complete the valuation of park land. Properties of similar locale, quality, and value, should be judged in similar conditions with differences rationally supported. Continuation of claims arising from the expansion of the park in the Court of Claims would serve this goal, while a change to a new court would jeopardize this goal.

While the concerns expressed for removing jurisdiction from the Court of Claims do not justify the proposed remedy, the primary concerns can be effectively met without a complete disruption of established jurisdictional statutes. An approach contained in the attached amendment is responsive to the problem raised by the House and Senate committees.

Specifically the amendment provides that the United States may initiate action, seeking a determination of just compensation, in either the U.S. district court or the Court of Claims if, after 6 months from the date of taking the landowner shall not have previously initiated action in the Court of Claims. In addition, the amendment provides for the deposit of funds in the Court of Claims in accordance with 40 U.S.C.A. § 258(a), and on those funds deposited, interest shall not be allowed.

Adoption of the amendment would continue in force the fundamental elements of the current law which has provided the Court of Claims with jurisdiction over this type of claim for over 90 years under the Tucker Act. The substantial justification and careful consideration which should accompany such a significant departure as proposed by the pending bills is lacking. Jurisdictional shifts based on anything less than that consideration and justification can only be described as forum shopping and should be rejected. The amendment, however, provides the Government with the flexibility it seeks without a radical jurisdictional change or disrupting basic notions of judicial evenhandedness through legislative action.

FOOTNOTES

[1] 28 U.S.C. §§ 1346(a)(2), 1491 (1970); 16 U.S.C. § 79(c)(b)(2) (1970).

[2] H.R. Rep. No. 95-581, 95th Cong., 1st Sess. 27 (1977).

[3] Fed. R. Cir. P. 71A(h) provides that the court hearing a condemnation case may, in its discretion, refer the issue of just compensation to a valuation commission for an initial determination when such reference is warranted by the "character, location, or quantity of the property to be condemned, or for other reasons in the interests of justice." Thus, the right to a jury trial in condemnation cases is not, absolute. Often, in large or complicated cases, such a commission will be appointed; or the court may order trial to the court itself. *See United States* v. *Reynolds*, 397 U.S. 14 (1970); *United States* v. *Cunningham*, 246 F. 2d 330 (4th Cir. 1957).

[4] Letter from Edward Weinberg, Solicitor, Department of Interior, to Sen. Henry M. Jackson (Sept. 18, 1968); cited with approval as part of the debate on S. 2515, Cong. Rec. Sept. 19, 1968, S. 11046.

[5] Such complexity has frequently been recognized as supporting the denial of a demand for a jury trial in a condemnation case. *See, e.g., United States* v. *Chamberlain Wholesale Grocery Co.*, 226 F. 2d 491 (8th Cir. 1955), *cert. denied* 350 U.S. 989 (1956).

[6] H.R. Rep. No. 95-581, 95th Cong., 1st Sess. 27 (1977), and *See* Report of Comptroller General, "Information on the Acquisition of Lands for Redwood National Park", B-125035, 13 (Aug. 16, 1977).

[7] Report of the Comptroller General, "Information on the Acquisition of Lands for Redwood National Park", B-125035, 4 (Aug. 16, 1977).

[8] H.R. Rep. No. 95-581, 95th Cong., 1st Sess., 27 (1977).

[9] It should be noted that the language of the amendment as presently drawn does not preclude the landowners from beginning the litigation in the district court and casting the United States in the role of defendant. The language provides: "Any action against the United States with regard to the provi-

sions of this Act and for the recovery of just compensation for the lands and interests therein taken by the United States . . . shall be brought in the United States district court. . . ."

Mr. HAYAKAWA. I thank the distinguished Senator from Utah.

Mr. President, I believe that the Senator from Alaska would like to make some comments at this time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ABOUREZK. The time to be charged against whom?

Mr. HAYAKAWA. I ask unanimous consent that the time be charged to me.

The PRESIDING OFFICER. On the amendment.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of and voting on S. 1976: Fred Craft; Ted Orf; Tom Imeson; Kit Caples, of Senator McCLURE's staff; Patty McDonald, of Senator WALLOP's staff; Jim Range, of Senator BAKER's staff; and Charles Wood, of Senator DANFORTH's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum, on behalf of the Senator from California.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is the time controlled?

The PRESIDING OFFICER. Time is controlled.

Mr. STEVENS. Mr. President, will the Senator yield me some time?

Mr. HAYAKAWA. I am happy to yield.

The PRESIDING OFFICER. The Senator from California has 8 minutes remaining.

Mr. STEVENS. Three or four minutes will be sufficient.

Mr. HAYAKAWA. I yield 3 or 4 minutes to the Senator from Alaska.

Mr. STEVENS. Mr. President, I have received a letter from the Bar Association of the District of Columbia concerning the pending Hayakawa amendment. I should like to inform the Senate of the position of the bar association.

There is strong opposition to the bill as it stands now from the Bar Association of the District of Columbia, and they do support the Hayakawa amendment, which is pending.

I have looked through their memorandum and their position, and I ask unanimous consent to have printed at this point in the RECORD the letter that the bar association has sent to me. I assume they have sent it to other Senators along with a brief summary of the bar association's position on this amendment.

Mr. ABOUREZK. Is that the District of Columbia Bar Association or the California Bar Association?

Mr. STEVENS. The District of Columbia Bar Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
January 12, 1978.

Re pending legislation affecting the traditional jurisdiction of the United States Court of Claims.

Hon. TED STEVENS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR: Currently before Congress are two bills (H.R. 3813 and S. 1976) which propose certain amendments to the 1968 Redwood National Park Act, including the legislative taking of additional properties for this National Park. One provision, present in both versions of the bill, would divest the United States Court of Claims of its traditional jurisdiction to hear claims arising from legislative takings, transferring such jurisdiction in this instance to the United States District Court for the district wherein the taken property is located. The Bar Association expresses no view on any other portion of the proposed Park Expansion legislation, nor does it take any position with respect to whether the legislation as a whole should be enacted.

As President of the Bar Association of the District of Columbia, I would like to communicate to you the Bar Association's strong opposition to the passage of the proposed jurisdictional amendment and briefly summarize the reasons for our position. Please find enclosed a memorandum which sets forth in more detail the views of the Bar Association summarized herein.

The Bar Association opposes passage of the proposed jurisdiction amendment to the Redwood National Park Act for several reasons. At the outset, it must be emphasized that absent any mention in the 1968 Act or in the proposed legislation, all claims by affected landowners for payment of just compensation for property legislatively taken could be brought properly *only* in the Court of Claims, pursuant to 28 U.S.C. § 1491 and § 1346(a)(2). This provision, which would oust the jurisdiction of the United States Court of Claims in favor of the district court, constitutes an unprecedented and undesirable alteration of well-established jurisdictional statutes granting the Court of Claims sole power to hear suits arising out of legislative takings, such as occurred under the original 1968 Redwood National Park Act and as are proposed in the current legislation. Such well-established statutes, both of general and specific applicability, should not be disturbed absent overwhelming justification and should be revised only after full consideration of overall policy implications has been completed by the appropriate Congressional Committees on the Judiciary. It is the Bar Associations' opinion that legislation affecting the jurisdiction of federal courts must always be approached with overall judicial policy in mind, rather than merely as a response to specific concerns which may or may not be present in a given narrow situation.

Furthermore, the Bar Association does not find the various reasons advanced in support of jurisdictional transfer away from the Court of Claims to be convincing. The argument that the numerous claims could be heard by juries in district court is clearly unpersuasive, since it is doubtful that such cases would actually go to juries even if that trial method were available. Rather, it is more likely that these complicated claims would be determined, in actual practice, by a district court judge and/or a valuation commission appointed pursuant to the applicable Federal Rules of Civil Procedure. (Jury trials are not guaranteed in district court condemnation trials. The court may, in its discretion, refer the issue of just compensation to a valuation commission or hear the case itself without a jury.) It should be noted also that the federal government has recognized the inherent problems which exist when the jury system is relied upon to decide numerous, complicated legislative taking cases and has specifically questioned the soundness of attempting to use jury trials for the determination of claims arising under the Redwood National Park Act.

Arguments for transfer of jurisdiction predicated on the availability in district court of provisions allowing the government to deposit its estimate of just compensation are also not convincing. In the first place, there is no basis in fact for the allegations that damages for delay in payment, as determined by the Court of Claims in prior litigation under the 1968 Act, have been excessive. Instead, an objective study of past Redwood National Park Act litigation indicates that the Court's decision in this regard was, if anything, conservative and that current precedent governing district court decisions might well mandate use of a substantially higher rate of interest to measure damages for delay in payment of just compensation. Furthermore, while such a deposit in district court could perhaps *partially* terminate the running of interest as damages for delay in payment, several viable alternative methods could be utilized in the Court of Claims with the same result. After considerable study on this matter, it is the belief of the Bar Association that sound judicial policy is best served by use of these available methods at the Court of Claims, rather than by the adoption of a jurisdictional provision which would result in such drastic revision of the traditional methods of handling legislative taking litigation.

An additional argument which has been proffered in support of the transfer of jurisdiction to the district courts claims that the United States is somehow put at a disadvantage by not being the named plaintiff in Court of Claims litigation. This argument seemingly does not comprehend the "uniqueness" of legislative takings, especially with regard to the fact that the date of valuation is automatically set upon the signing of the relevant legislation by the President. A proper understanding of the differences between a legislative taking and a taking through "normal" condemnation procedures is extremely important and indicates that the proper forum for the claims arising under the Redwood National Park Act is the Court of Claims, even if the United States is not technically named plaintiff in the litigation.

It should be noted that even if the above-described arguments possessed more merit than they do, they would be overwhelmingly outweighed by the presence of factors which strongly support retention of jurisdiction at the Court of Claims. Specifically, retention of jurisdiction in the Court of Claims would avoid the possible effect of the proposed jurisdictional amendment as precedent for piecemeal jurisdictional legislation, and would allow both the government and the affected landowners to benefit in future litigation from the experience already gained by the Court of Claims in complex valuation cases generally, and Redwood cases in particular. Retaining jurisdiction in the Court of Claims would also serve the interests of all parties in securing uniform and consistent awards for the various landowners

affected, and would help assure that the judgments as to the determined values of different properties differ only on rational bases related to identifiable differences between them. As stated previously, the United States has noted the possibility of widely inconsistent jury verdicts which would be present if the cases were heard in district court. This problem would not exist if the cases were heard in the Court of Claims.

Finally, any provisions transferring jurisdiction over these cases to a district court would be undesirable when, as here, there are less drastic alternative actions available. These alternative methods easily can be designed to respond to the concerns raised by various parties, without the drastic effect that the jurisdictional transfer provision would have. These alternative methods could assure expenditious litigation of these cases, prompt payment of deposits of estimated just compensation and would assist in fulfilling the Constitutional mandate of the Fifth Amendment that fair and reasonable just compensation be paid for property taken by the United States.

After a full consideration of all the relevant factors, the Bar Association is of the view that enactment into law of the jurisdictional provision now included in the bills proposing to expand the Redwood National Park would constitute an undesirable and unwarranted derogation of well-established jurisdictional statutes, which would work to the detriment of sound judicial policy. Accordingly, the Bar Association opposes enactment of any provision transfering jurisdiction of claims arising under the Redwood National Park Act away from the United States Court of Claims.

The Bar Association of the District of Columbia appreciates this opportunity to present its views concerning this important matter. We will be glad to provide whatever further information or assistance you may desire.

Sincerely,

JOHN P. ARNESS,
President, Bar Association of the District of Columbia.

BRIEF SUMMARY OF BAR ASSOCIATION'S POSITION

The attached memorandum fully explains the opposition of the Bar Association of the District of Columbia to those provisions of H.R. 3813 and S. 1976 which provide that claims by landowners for just compensation for property legislatively taken be heard in the U.S. District Court and not in the U.S. Court of Claims, as is provided under existing applicable jurisdictional statutes and prior Redwood National Park legislation.

(1) Current law provides that the Court of Claims is the proper court of jurisdiction. Congress reaffirmed that jurisdiction in the 1968 Redwood National Park Act.

(2) Legislative takings and condemnation actions are separate and distinct. The Court of Claims has possessed jurisdiction over legislative takings for ninety years. An abrupt divestiture of Court of Claims jurisdiction ignores substantial Court of Claims expertise, precedents, and disregards judicial economy.

(3) Arguments in favor of transferring jurisdiction of these claims away from the Court of Claims are not convincing. However, even if the concerns of proponents of the jurisdictional transfer provision were more convincing, less drastic alternatives are available to meet those concerns without wholesale alteration of established jurisdictional statutes.

(4) Retention of jurisdiction in the Court of Claims provides numerous advantages including avoidance of piecemeal litigation, consistency of awards (advanced by the Department of Interior in support of Court of Claims jurisdiction in 1968) and proper utilization of the Court's experience in handling complex timber valuation cases.

Mr. STEVENS. Mr. President, a very lengthy memorandum has been prepared by the District of Columbia Bar Association. I think it is too long to place in the RECORD at this point. The summary does explain their position.

Basically, it seems to me that the amendment of the Senator from California to retain the jurisdiction of the Court of Claims is the proper way to deal with this question.

Later, I will have some comments, and I hope to be able to discuss with the managers of the bill the references to the land and water conservation fund. In any event, I think that the jurisdiction here should not be changed and the Court of Claims should have jurisdiction over suits for compensation which arise from the expansion of this park. I believe that the position of the Bar Association of the District of Columbia, which has not taken a position on the bill itself, but is taking a position on the jurisdictional question, should be given great weight by the Members of the Senate.

Therefore, I do support the Senator from California and his amendment to restore jurisdiction to the Court of Claims.

Mr. HAYAKAWA. I thank the Senator from Alaska.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, I yield myself 3 minutes.

Mr. President, I have a statement on this amendment that I wish to read after we come back in. I understand we are going to recess very shortly and come back in about an hour or so. But I shall make a couple of comments about some of the statements that have been made on this amendment in direct response to the arguments in favor of the amendment.

The phrase has been used over and over again in the speeches supporting the amendment that the bill would change existing law by keeping the condemnation cases in the district court in San Francisco. The fact is it is not a change in existing law. The change occurred in 1968 when for the first time a condemnation case was taken out of the district court where it belonged under Federal jurisdiction law and put it in the Court of Claims. That happened in 1968, and I am going to tell you why in just a minute. The existing law is that all condemnation cases go into the district court for the district where the taking is happening. Let me tell you why the timber companies want this in the Court of Claims rather than the district court. When the original redwoods park bill was passed in 1968 the timber companies fought against the concept that jurisdiction should go in the Court of Claims. They said they wanted a jury trial. Naturally you would expect the timber companies to try for every single advantage they could get, and they thought the advantage would be in the district court back in 1968. Somebody, I do not know who, decided to put it in the Court of Claims in 1968.

All right. Since that time the timber companies have found that the Court of Claims has been extremely generous to them with taxpayer money in paying out money to the timber companies for the taking that was affected in the 1968 redwoods bill. And the timber companies have also found out that just last year a declaration of taking was filed on a new piece of the Redwod Park. The jurisdiction went into the Federal District Court in San Francisco, and the timber companies found out that the district court was not as generous as the Court of Claims was. So that is what this is all about.

What surprises me? It does not surprise me that the timber companies want to shoot for every advantage they can get to drain the Treasury of whatever money they can get out of the U.S. Treasury. What surprises me is this lineup of conservatives, conservative Republicans standing up here, on the one hand, and saying it is costing too much to take the park and save it for our future generations and, on the other hand, trying to put it into a jurisdiction that will rip off the taxpayer for the benefit of the timber companies. That is what surprises me.

After listening to this lineup of Republican speakers on this side just a few minutes ago, I was reminded of what happens in a circus. There was a bunch of Republican elephants all lined up with the trunk of the one elephant wrapped around the tail of the one ahead of him and they would just go around in circles and around and around and around.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ABOUREZK. When I am through.

Mr. STEVENS. Will the Senator yield first to me on that last comment?

Mr. ABOUREZK. Mr. President, I choose not to yield at this point.

The PRESIDING OFFICER. The Senator from South Dakota has the floor.

Mr. McCLURE. Will the Senator inform the Senator from Idaho when he is going to be through so he will yield?

Mr. ABOUREZK. I will be happy to.

Mr. McCLURE. Can we have an estimate of that time?

Mr. ABOUREZK. Mr. President, may we have order in the Senate here?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ABOUREZK. I just think we ought to lay it out as to why the supporters of the timber companies over here want to put this into the Court of Claims. It is just purely a matter of money. I do not even mind that so badly. That does not bother me so much.

But whoever was foolish enough to put it in the Court of Claims in 1968, and it

was not the timber companies then, did a very foolish and ridiculous thing, I think. You took it out of a court where jurisdiction belongs for taking, where they have equity jurisdiction, where they can decide issues other than the value of the land. That is what the district court has been set up to do, not the Court of Claims.

And when you do that you actually turn Federal jurisdiction law upside down. Why they did it I do not know. But let me say this, that upon principle I am opposed to making the same mistake they did 10 years ago. I am opposed to compounding the stupidity of putting it in the Court of Claims then. And I think at some point we have to stop allowing these little bitty compromises where they eat you up bit by bit until they finally get everything they want, and in this case it is the timber companies that want to get everything they want.

So, Mr. President, when we come back in from the recess, I have another statement to make, but I thought it would be appropriate at this time to try to correct some of the misstatements made by some of the speakers who tried to do sort of an Alice-in-Wonderland thing by setting the truth and the facts on its head by saying that in this bill we are changing the law. Changing the law? We are trying to keep the law the same. It is they who are trying to change the law.

I reserve the remainder of my time.

Mr. McCLURE. Will the Senate yield before yielding the floor?

Mr. ABOUREZK. I will yield on the Senator's time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Is the Senator through with his remarks? He indicated he would yield to the Senator from Idaho for a question.

Mr. ABOUREZK. If he has some time, I will yield on his time.

Mr. STEVENS. Yield time on the bill?

Mr. HANSEN. I yield such time as the Senator needs.

Mr. McCLURE. Will the Senator from Wyoming yield 2 minutes to the Senator from Idaho?

Mr. HANSEN. I yield 2 minutes to the Senator from Idaho.

Mr. McCLURE. I am amazed at my friend. He is always adroit at trying to inject issues that do not really pertain to the issue at hand in order to divert the attention away from the real issue. And to try to convert this into some kind of a partisan show is obviously either an attempt to obfuscate the issue or the result of a lack of information on the part of my friend from South Dakota, because if ever there were an organization which is not known as a stalwart, mainline, conservative Republican association, it is the AFL–CIO, and I think my friend from South Dakota would admit that. And, as a matter of fact, the AFL–CIO supports the provision that would require it to be in the Court of Claims rather than the district court.

Maybe my friend from South Dakota is unaware of that or maybe he has decided that the AFL–CIO has suddenly become a stalwart, conservative, mainline Republican organization, and perhaps he has some information to that effect and, if so, the Senator from Idaho would be glad to know that.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to my friend.

Mr. STEVENS. I wish to add to my friend from South Dakota that this is a legislative taking. A legislative taking is different from the filing of condemnation procedure pursuant to authorization granted after seeing exactly what is going to be taken. This is a broad brush, just open-ended legislation taking, and the only place under tradition where that should be reviewed, since it is an act of Congress as opposed to an act of the Executive pursuant to an act of Congress, is the Court of Claims. The 1968 act was absolutely correct and followed the traditions of this Congress over many years, and the attempt now to put it in the district court, because some one perceives here may be some advantage——

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. STEVENS. Will the Senator yield 1 more minute on the bill.

Mr. HANSEN. I yield 1 additional minute.

Mr. STEVENS. There may be some advantage in going to the district court in San Francisco which seems to me warrants the attack that has been made by the bar association of the District of Columbia. Here is a disinterested group on the issue itself that says we are bastardizing the jurisdictional concepts of the Federal U.S. courts if this does not go to the Court of Claims where it should go.

Mr. ABOUREZK. I yield myself 2 minutes, Mr. President. I just want to make a response to what Senator STEVENS said. If I may have the attention of the Senator from Alaska, I just want to respond to what the Senator said.

When the Senator said it belongs in the Court of Claims, because it is a legislative taking, let me say that the Court of Claims handles only inverse condemnation cases where the Federal Government has been found to have acquired land by ignoring private property rights. That is not the case with a legislative taking. Every legislative taking in the world goes into a district court in the location of the taking.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

RECESS UNTIL 1:45 P.M.

Mr. CRANSTON. Mr. President, I move that the Senate now stand in recess until the hour of 1:45 p.m.

The motion was agreed to, and at 12:40 p.m. the Senate recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ALLEN).

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. I suggest the absence of a quorum with the time charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. BUMPERS assumed the chair.)

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, how much time do I have left on this amendment?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. ABOUREZK. Mr. President, the committee carefully considered the arguments in support of this amendment to change jurisdiction from the district court in San Francisco to the Court of Claims. But the committee itself, by a vote, defeated the amendment and refused to repeat the error of the 1968 act.

The amendment would compound that error by modifying the procedures of the Court of Claims until it begins to resemble the district court. Turning the Court of Claims into a district court is not the solution. We have learned through experience that the Court of Claims is not the appropriate forum, either procedurally or substantively, to consider a condemnation action. Claims arising from acquisition of land pursuant to condemnation have been required since 1888 to be heard in the Federal district court. The district courts have procedures and remedies to resolve all of the issues which accompany a condemnation action and the ability to consolidate all issues within one forum. The Court of Claims does not.

The proponents of this amendment recognize the deficiencies of the Court of Claims and have sought to graft procedures of the district court onto the Court of Claims. I do not think that it is appropriate to turn the Court of Claims into a district court. The legislation reported by the committee proposes an exercise of eminent domain power of the U.S. Government; in short, a condemnation action. The committee saw no reason to repeat the error of the 1968 act and place this condemnation action in a forum other than that forum in which Federal land acquisition type actions are tried; that is, the appropriate Federal district court.

These courts have a set and orderly procedure for handling such cases. There is absolutely no justification for continuing to have an inappropriate court handle the redwood cases. There is no

reason for separating jurisdiction into the Court of Claims for the three timber companies and the district court for everyone else and I can see absolutely no justification for turning the Court of Claims into a district court.

Mr. President, it is worth noting that the district court in California has extensive experience in Federal land acquisition. As of December 27, 1974, the district court had cases covering 89 tracts of land. On November 28, 1975, the district court had cases covering 80 tracts. In January 1977, the district court had cases covering 88 tracts and in June of 1977 cases covering 142 tracts. The most recent figure, from earlier this month, was that the district court had cases covering 133 tracts. Some of these cases, Mr. President, were major timber valuations. As recently as last year, the United States filed a declaration of taking in the redwood timber land within the boundaries of Redwood National Park. Clearly, the weight of experience, especially in this area, lies in the district court.

Moreover, it is important to remember that the Court of Claims does not have equity jurisdiction. It cannot enforce decisions on the duties and obligations which one landowner owes to his neighbor. These questions which have arisen in the context of the 1968 act can only be litigated with finality in the district court.

Mr. President, it has been alleged that a legislative taking is akin to inverse condemnation, over which the Court of Claims has jurisdiction pursuant to the Tucker Act. This argument boggles the mind. There is nothing inverse about this bill. This measure contains the ultimate exercise of the Federal Government's power of eminent domain. It is a straight, unconcealed, direct condemnation. I hasten to point out that the Court of Claims itself agrees. Judge Lydon, of the Court of Claims, in one of the Redwood cases, specifically found that the legislative taking was not analogous to a Tucker Act inverse condemnation but was, rather, a straightforward condemnation by legislative flat.

Mr. President, I ask unanimous consent that a letter from the Deputy Assistant Secretary for Fish and Wildlife and Parks of the Department of the Interior, enclosing two analyses by the Associate Solicitor in support of district court jurisdiction, together with an excerpt from Judge Lydon's opinion, and a letter from the Justice Department, James Moorman, Assistant Secretary for Lands, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C.

HON. JAMES ABOUREZK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABOUREZK: This is in response to your call of yesterday, January 19, 1978, requesting this Department's analysis of the position of the Bar Association of the District of Columbia in opposition to a portion of the proposed Redwood National Park expansion legislation presently under consideration by Congress. As you know, S. 1976 contains a provision that would divest the United States Court of Claims of its jurisdiction to hear claims arising from the proposed legislative taking, as the 1968 Redwood Act had provided, and place that jurisdiction with the United States District Court for the District where the land is located. The Bar Association is opposed to that change.

Enclosed is a memorandum from our attorneys analyzing the basis for that opposition. As indicated, they do not agree that the Court of Claims is a traditional forum to hear legislative taking cases. In their view, the legislative taking is analogous to a condemnation action not an inverse taking as the Bar Association seems to suggest.

Sincerely yours,

DAVID HALES,
Deputy Assistant Secretary, Fish and Wildlife and Parks.

Enclosure.

JANUARY 20, 1978.

MEMORANDUM

To Deputy Assistant Secretary, Fish and Wildlife and Parks
From Associate Solicitor, Conservation and Wildlife
Subject Redwoods—

On January 12, 1978, the Bar Association of the District of Columbia sent a letter to the Speaker of the House—the Honorable Thomas P. O'Neill—to communicate "strong opposition" to the passage of a portion of the proposed Redwood National Park expansion legislation presently under consideration by Congress. A copy of that letter is attached. As indicated therein, both S. 1976 and H.R. 3813 contain a provision that would divest the United States Court of Claims of its jurisdiction to hear claims arising from the proposed legislative taking, as the 1968 Redwood Act had provided, and place that jurisdiction with the United States District Court for the district where the property is located. The Bar Association is opposed to that change. You have asked that we review their letter and provide our comments to you.

The Bar Association's position is that under current law the Court of Claims is the proper court of jurisdiction and that Congress reaffirmed that jurisdiction in the 1968 Redwood National Park Act. In defense of this position they argue that legislative takings and condemnation actions are separate and distinct and that the Court of Claims has possessed jurisdiction over legislative takings for ninety years. Finally, the Bar Association acknowledges that there were problems with the grant of jurisdiction to the Court of Claims in the 1968 Act, but suggests these are correctable without change of court.

We disagree that the Court of Claims is the proper court of jurisdiction. As suggested by the problems that developed with the 1968 Act—there is no tradition of vesting claims for just compensation from the legislative taking of real property in the Court of Claims. The tradition is to permit the Court of Claims to retain jurisdiction over inverse condemnation situations—where property is taken by the physical act of possession by the Executive. *See, Mitchel* v. U.S., 267 U.S. 341. A legislative taking—where property is identified and taken by act of law not by physical possession—is quite different. The 1968 Redwood Act was really the first law to confront the direct legislative taking issue.[1] Accordingly, while the Court of Claims would have residual power to hear these legislative taking cases if Congress did not direct otherwise,[2] there is no basis to argue that the Court of Claims was the correct, or traditional, forum.

The Congress has not permitted all claims against the United States to be heard by the Court of Claims. There are numerous situations where the Congress has directed that such claims be heard in a different forum. Claims arising from acquisition of land pursuant to condemnation action have traditionally been heard in an appropriate Federal District Court as required by statute since 1888, 28 U.S.C. § 1403. Similarly, the Congress has recently directed that actions for just compensation by mining claim holders under the 1976 "Mining in the Parks" legislation may be brought in the United States District Court, Pub. L. 94–499, 16 U.S.C. § 1901, 1910. Congress has also directed that actions to quiet title in real property may also be initiated in the appropriate Federal District Court, Pub. L. 92–562, 28 U.S.C. § 2409 *et seq.*

The real question concerns whether the Court of Claims or the applicable Federal District Court is the more appropriate forum. This question was debated in 1968 after the Conference Committee added the legislative taking provision and provided that the actions arising from those takings would be heard in the Court of Claims. *See,* Congressional Record, September 17 and 19, 1968, p. 27154 *et seq.* and p. 27583 *et seq.*

As explained in our legal memorandum of October 4, 1977, a copy of which is attached hereto, the Administration sought to change that provision in the 1968 law because of a variety of problems that developed thereafter. While most of the problems that arose in implementing that provision could be remedied by proposed changes in the procedures of the Court of Claims, the fundamental issue remains. That issue is whether such a legislative taking should be treated as if it were a condemnation action or as if it were an inverse taking.

The traditional inverse condemnation situation is reflected in *Mitchel v. U.S.*, 263 U.S. 341 (1924). That case concerned a statute that authorized the President to physically take land necessary to increase facilities for testing ordnance materials and authorized the landowner to sue for just compensation in the Court of Claims. No specific land was identified. Rather the Executive was given broad discretion to identify those lands nec-

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[1] In a legal opinion prepared to support the adoption of the 1968 legislative taking, the Solicitor of the Department of the Interior cited 5 statutes said to constitute legislative takings. Each of those Acts concerned Indian Tribal lands, however, which are in a somewhat unique position to the United States. *See,* Congressional Record, Sept. 19, 1968, p. 27154 *et seq.* Several of these statutes also required the initiation of a condemnation action, if agreement could not be reached concerning just compensation. The Bar Association has cited no examples of legislative takings prior to 1968 to support its position.

[2] Should Congress pass a legislative taking without spelling out which court should handle questions of just compensation—the Court of Claims would have jurisdiction. Absent such jurisdiction the taking would be unconstitutional. *See, Regional Rail Reorganization Act Cases,* 419 U.S. 102 (1974) (Rail Act Cases).

essary for military purposes and to take possession. Inverse condemnation also occurs when the actions of the Executive constitute a taking although that result was not intended. *See. U.S. v. Causby*, 328 U.S. 256 (1945), *Benenson v. United States*, No. 368-75, Ct. Cl. (Jan. 26, 1977).

These inverse condemnation actions are now penalized. Under § 304(c)(3) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. § 4651 *et seq.*, the United States must pay litigation expenses if it is determined that an inverse condemnation has occurred.

The legislative taking in Redwoods is strikingly different. In 1968, and in the proposed legislation, the land to be taken is specifically identified. The landowners are on notice of the deliberations of the Congress. No physical taking has or will occur until after the passage of the legislation. This procedure is a taking by legal process—not by physical action as in an inverse condemnation.

In this regard, we note that in the litigation in the Court of Claims concerning the 1968 taking it was concluded that the legislative taking was not an inverse condemnation. In *Arcata* v. *United States*, Judge Lydon specifically found that the United States was not liable for attorney fees under § 304(c) of the Uniform Relocation Assistance Act, *supra*. That provision is applicable if "(3) a property owner brings an action in the nature of inverse condemnation and obtains an award of compensation". He concluded that provision was not applicable. The recommended opinion stated as follows:

The thrust of the above underscored language, *supra*, [§ 304(c)(3)] manifests a congressional intent to allow litigation expenses only in those instances where a property owner is forced to bring a Tucker Act suit in order to establish liability, *i.e.*, that the government by its actions did take the owner's property.[57] Where the government legally condemns property, and the only viable issue is one of amount, Public Law 91-646 does not purport to allow for recovery of litigation expenses if suit ensues over the amount of just compensation due. Any contrary holding, as noted in the excerpt from H.R. Rep. No. 91-1656, *supra*, would be an "invitation to increased litigation." The result should not be different, under the purpose and rationale of Public Law 91-646, because legislative fiat and not condemnation results in a taking of the property. In either case, the property owner does not have to litigate liability and this is the situation to which the purpose and force of Public Law 91-646 was directed. Plaintiff is not entitled to recover litigation expenses, *Rocca* v. *United States* Ct. Cl. No. 27-70, Slip Op. filed July 19, 1974.[58]

Arcata National Corp. v. *United States*, No. 777-71, Slip. Op. at 133 and 134 (Ct. Cl. July 25, 1974) (opinion).

Clearly this conclusion demonstrates beyond a doubt that the proposed legislative taking in Redwoods is not an inverse condemnation and should not be controlled by the precedent applicable to such takings. The recommended opinion in the *Arcata* case concluded that the legislative taking in the 1968 Redwood Act was analogous to a condemnation action, not an inverse condemnation.

In our view, this conclusion is correct. We believe that the legislative taking in the Redwood bill is similar to an action in condemnation—not an inverse taking—and that the traditional vesting of jurisdiction in the Federal District Court should be followed.

JAMES D. WEBB.

MEMORANDUM

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 4, 1977.

To Assistant Secretary, Fish and Wildlife and Parks.

From Associate Solicitor, Conservation and Wildlife.

Subject Redwoods Expansion Proposal—Jurisdiction in the District Court.

This responds to your request that we further articulate the need for those provisions of the Redwoods legislation—S. 1976—providing that claims for just compensation shall be brought in an appropriate federal district court. The applicable portion of subsection 1(a)(5) of this proposed legislation is as follows:

(5) In subsection 3(b)(2), delete the last sentence and add the following sentences at the end of the paragraph: "Any action against the United States with regard to the provisions of this Act and for the recovery of just compensation for the lands and interests therein taken by the United States, and for the down tree personal property taken, shall be brought in the United States district court for the district where the land is located without regard to the amount claimed. The United States may initiate proceedings at any time seeking a determination of just compensation in the district court in the manner provided by sections 1358 and 1403 of title 28, United States Code, and may deposit in the registry of the court the estimated just compensation, or a part thereof, in accordance with the procedure generally described by section 258a of title 40, United States Code. Interest shall not be allowed on such amounts as shall have been paid into the court."

As indicated, the effect of this amendment would be to vest jurisdiction over these claims with the district court, not the Court of Claims as in the original Redwoods Act.

Initially, we note that the original selection of the Court of Claims was closely debated in 1968. The provision was added at Conference. Upon consideration of the Conference Report on the floor of the Senate there was significant opposition. As indicated in the Congressional Record, private property owners protested this section; this provision was said to have "caused considerable concern among the lumber companies and the management of the forest industry in the West." Two basic reasons for this opposition were provided. First, the various district courts handle the vast majority of land acquisition matters undertaken by the United States. Second, placing these cases with the Court of Claims would remove the possibility of trial by jury. Copies of these portions of the Congressional Record for September 17 and 19, 1968, are enclosed herewith.

The last nine years have established that the choice of the Court of Claims was indeed unwise for three essentially procedural, but very important, reasons. First, there was no way the United States could initiate these suits. Second, once the suit was initiated, there was no way the United States could make a deposit into the court to stop the running of interest. And, third, the Court of Claims does not have the jurisdictional basis to resolve all issues—there is no way to consolidate all of the various claims that have arisen and will continue to arise under this legislation.

The first two points have been amply documented. The GAO report of August 16, 1977, copy enclosed, clearly establishes the problems faced by this Department in attempting to make partial payments to the companies to stop the running of interest. There can be no question that the procedures inherent in the selection of the Court of Claims were detrimental to the interests of the United States.

The third problem with continuing jurisdiction in the Court of Claims is even more fundamental. The Court of Claims does not have the jurisdiction to resolve fully all the issues in dispute. As was discussed in the 1968 debates, and as remains true today, the Court of Claims has jurisdiction only to award money judgments—it cannot issue any form of equitable order. While this would not appear to present any particular problem, the litigation with Georgia-Pacific over the values of their lands taken in 1968 has demonstrated the concern.

At this time, the United States has settled all claims with Georgia-Pacific except the question of severance damages. The value of land and timber has been settled at $36,942,000. The issue of severance has not been resolved because Georgia-Pacific is claiming an additional severance cost in excess of $51 million. The United States appraisal indicates severance should not exceed $1.8 million.

The almost 50 million dollar difference on this issue of severance turns on a question that the Court of Claims can only partially resolve. The Georgia-Pacific claim is that severance should reflect the fact that a willing buyer would not want to buy land that is next to a park—and would discount its value accordingly—because of the foreseeable possibility of environmental litigation or other restrictions being placed on those lands.

The obvious defense available to the United States is that such foreseeable changes in timber harvest practices would be the result of the National Park Service seeking to enforce a landowner's general duties to a downstream owner and that no owner should be paid to comply with existing laws.

The United States is presently briefing the Georgia-Pacific severance issues. We do not yet know how this will be resolved. We do know, however, that these types of issues should be consolidated in the same court. If this matter were in the district court, the United States could defend itself adequately against this severance claim on the basis of existing laws of nuisance. As it presently stands, such a defense may be beyond the jurisdiction of the Court of Claims. Certainly any finding by the Court of Claims as to the duties owned under existing law cannot be enforceable; that court cannot issue an order requiring either side to perform any actions whatsoever. Accordingly, the best the United States can do in the Georgia-Pacific case is establish that it should not pay twice the value of the land taken—no park protection will ever be established by this case. Should the United States seek a court order to enjoin harmful timber harvest practices, the district court

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[57] A perfect example is to be found in *Drakes Bay Land Co.* v. *United States*, 191 Ct. Cl. 389, 424 F. 2d 574 (1970) wherein the land owner successfully established that governmental action constituted a taking of its property and subsequently was awarded litigation expenses on the authority of Public Law 91-646. *Drakes Bay Land Co.* v. *United States*, 198 Ct. Cl. 506, 521-22, 459 F.2d 504, 512 (1972).

[58] Findings of Fact and Recommended Conclusion of Law underscoring the above determinations are set out in a separate document which accompanies this recommended opinion.

will have to reconsider similar factual issues.

As presently reflected in Rule 42 of the Federal Rule of Civil Procedure, consolidation of such claims is well recognized. Based upon traditional concepts of judicial economy and a need for the same court to resolve related issues, the concept of consolidation would encourage a district court to take all these issues at the same time. Vesting of jurisdiction in the Court of Claims prohibits such a logical approach.

These three problems should be resolved. As indicated, it has been our opinion that the most appropriate solution is to simply place jurisdiction with the appropriate federal district court—in the manner provided by the declaration of taking provisions—so that the United States can utilize the already existing procedures to initiate litigation, to pay into the Court as appropriate, and to consolidate all related claims. This solution is not a reflection on the quality of these various courts or an attempt to choose a substantively more desirable forum—it is an effort to resolve problems of legal procedure and jurisdiction. The traditional approach to land acquisition situations—placing jurisdiction with the local federal district court—is such a solution.

We trust this memorandum will answer the questions that have arisen concerning the development of this provision by the Department. If we can be of further assistance, we will be happy to do so.

JAMES D. WEBB.

Enclosures.

ARCATA NATIONAL CORPORATION v. THE UNITED STATES

Richard Murray, attorney of record for plaintiff. Hudson, Creyke, Koehler, Brown & Tacke and McCutchen, Doyle, Brown & Enersen, of counsel.

Howard O. Sigmond, with whom was Assistant Attorney General Wallace H. Johnson, for defendant.

OPINION [1]

Lydon, Trial Judge: Public Law 90-545, approved October 2, 1968, 82 Stat. 932, 16 U.S.C. § 79, established a Redwood National Park in Del Norte and Humboldt Counties, California. The Park was comprised of some 28,000 acres and included property formerly owned by the plaintiff herein. The appropriation of plaintiff's property for Park purposes by Public Law 90-545 has been characterized as a "pure legislative taking." *Drakes Bay Land Co.* v. *United States*, 191 Ct. Cl. 389, 408, 424 F. 2d 574, 584 (1970). Plaintiff in this action seeks to recover, under the allowance of compound interest in just compensation cases as well as in other types of cases. Plaintiff is entitled to simple interest as part of the just compensation determination in this case.

VII

Plaintiff also seeks to recover litigation expenses actually incurred in litigating herein the amount of just compensation to which it believes itself entitled. Plaintiff relies, in this regard, on the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, 91st Cong., 2d Sess., approved January 2, 1971, 84 Stat. 1894, 42 U.S.C. § 4651. In particular plaintiff points to section 304(c) of said Act, which provides as follows:

(c) The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a)(2) or 1491 of title 28, United States Code, awarding compensation for the taking of property by a Federal agency, or the Attorney General effecting a settlement of any such proceeding shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will in the opinion of the court or the Attorney General reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

Defendant maintains that plaintiff is not entitled to recover litigation expenses, especially attorneys' fees, relying on the well established prohibition against recovery of such costs absent specific statutory authorization for the same.

* * * * *

Dohany v. *Rogers*, 281 U.S. 362, 36 (1930), *United States* v. *100 Acres of Land, supra*, 468 F.2d at 1270; *see United States* v. *Worley*, 281 U.S. 339, 344 (1930).

The question here is whether Public Law 91-646, *supra*, specifically authorizes the award of litigation expenses to plaintiff under the circumstances of this case.

Plaintiff, in arguing that Public Law 91-646 justifies an award of litigation expenses to it, stresses that it sought relief herein under 28 U.S.C. 1491, relative to the taking by the United States of its property, and thus the language of section 304(c), *supra*, supports its entitlement to recover litigation expenses. Defendant, on the other hand, points out that section 304(c) is for application where the taking of property is by a *Federal agency*. Since plaintiff's property was taken by legislative action, no Federal agency was involved and thus the Act in question is not for application under these circumstances.[55] It seems clear that legislative and not executive action was responsible for the taking of plaintiff's land, and this conclusion is not affected merely because the President, as head of the Executive Branch of Government, signed into law the Redwood National Park Act, or that executive acts, *e.g.*, surveys, boundary determinations and occupation of the Park by the National Park Service, were necessary to fully consummate the taking. As indicated earlier, the taking that occurred in this case has been described as a "pure legislative taking." *Drakes Bay Land Co.* v. *United States*, *supra*, 191 Ct. Cl. at 408, 424 F. 2d at 584. On its face, section 304(c) does not apply to takings achieved by legislative fiat.[56] To construe section 304(c) otherwise would do violence to the words chosen by Congress and any such undertaking by the court must be avoided. *See Crawford* v. *United States*, 179 Ct. Cl. 128, 138, 376 F. 2d 266, 272 (1967). Accordingly, the prohibition against awarding litigation expenses such as are sought herein, mandated by *Dohany* v. *Rogers*, *supra*, must be observed.

The legislative history of Public Law 91-646 also lends support to denial of plaintiff's claim for litigation expenses. The purpose of section 304, *supra*, was set out in H.R. Rep. No. 91-1656, 91st Cong., 2d Sess. 25 (1970), in the following language:

Section 304 would authorize the reimbursement of owner of any right, or title to, or interest in real property for reasonable expenses of litigation, including legal, appraisal and engineering fees, actually incurred because of the taking of real property by Federal agencies, where (1) the court determines that a condemnation was unauthorized, (2) the Government abandons a condemnation, or (3) *a property owner brings an action in the nature of inverse condemnation and obtains an award of compensation.* (Tucker Act)

Ordinarily the Government should not be required to pay expenses incurred by property owners in connection with condemnation proceedings. The invitation to increased litigation is evident. [Emphasis supplied.]

The thrust of the above underscored language, *supra*, manifests a congressional intent to allow litigation expenses only in those instances where a property owner is forced to bring a Tucker Act suit in order to establish liability, *i.e.*, that the government by its actions did take the owner's property.[57] Where the government legally condemns property, and the only viable issue is one of amount, Public Law 91-646 does not purport to allow for recovery of litigation expenses if suit ensues over the amount of just compensation due. Any contrary holding, as noted in the excerpt from H.R. Rep. No. 91-1656, *supra*, would be an "invitation to increased litigation." The result should not be different, under the purpose and rationale of Public Law 91-646, because legislative fiat and not condemnation results in a taking of the property. In either case, the property owner does not have to litigate liability and this is the situation to which the purpose and force of Public Law 91-646 was directed. Plaintiff is not entitled to recover litigation expenses, *Rocca* v. *United States*, Ct. Cl. No. 27-70, Slip Op. filed July 19, 1974.[58]

DEPARTMENT OF JUSTICE,
Washington, D.C., January 26, 1978.

Hon. JAMES T. ABOUREZK,
Chairman, Parks and Recreation Subcommittee of the Senate Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR ABOUREZK: The Assistant Secretary for Fish and Wildlife and Parks of the Department of the Interior has requested that we clarify the Administration's position concerning a portion of S. 1976, a bill to expand and protect the Redwood National Park. As you are aware, the Administration has adopted the position that claims for just compensation arising from a legislative taking—as provided by S. 1976—are more properly litigated in the appropriate Federal District Court.

We have now been advised by the Department of the Interior that questions have arisen concerning this position. Accordingly,

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[1] The trial judge's recommended decision and conclusion of law are submitted in accordance with Rule 134(h).

[55] Public Law 91-646 defines a "Federal agency" as "any department, agency, or instrumentality in the executive branch of the government * * *." Section 101(1), 84 Stat. 1894, 42 U.S.C. § 4601.

[56] Whether legislative takings should be covered by the provisions of Public Law 91-646 is a matter for legislative determination not judicial decision. Plaintiff cites a bill (S. 261) introduced in the 93d Congress wherein it is proposed to amend section 101(1) so as to include legislative takings within the coverage of Public Law 91-646. *See* H.R. Rep. No. 93-747, 93d Cong., 1st Sess. (1973). Plaintiff sees in this bill and the House Report, *supra*, which accompanies it, support for its argument the Congress intended legislative takings to be considered within the scope of Public Law 91-646 coverage. However, such an amendment, even if enacted, would reflect at best an expression of how a subsequent Congress interpreted a statute passed by a prior Congress or intended that it be so construed. * * *

[57] A perfect example is to be found in *Drakes Bay Land Co.* v. *United States*, 191 Ct. Cl. 389, 424 F. 2d 574 (1970) wherein the landowner successfully etablished that governmental action constituted a taking of its property and subsequently was awarded litigation expenses on the authority of Public Law 91-646. *Drakes Bay Land Co.* v. *United States*, 198 Ct. Cl. 506, 521-22, 459 F. 2d 504, 512 (1972).

[58] Findings of Fact and Recommended Conclusion of Law underscoring the above determinations are set out in a separate document which accompanies this recommended opinion.

at Interior's request we have reviewed the arguments pro and con on this issue as presented in Interior's legal memorandum of January 23, 1978 and October 4, 1977 and the attachments thereto, as previously provided to you. We have concluded that the District Court would be an appropriate forum for determining just compensation for the takings contemplated by S. 1976.

Sincerely yours,

JAMES W. MOORMAN,
Assistant Attorney General,
Land and Natural Resources Division.

Mr. ABOUREZK. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, I am ready to vote if Senator HAYAKAWA is.

The PRESIDING OFFICER. The Senator from South Dakota has all the time remaining. The Senator from California has no time remaining.

Mr. CRANSTON. Mr. President, if my colleague needs time, we should yield him time, because it was used up in a quorum call while he was absent.

The PRESIDING OFFICER. Does the Senator make a unanimous-consent request?

Mr. ABOUREZK. Does the Senator want some more time?

Mr. HAYAKAWA. No, I do not need any more time. I am prepared to yield back any time left.

Mr. ABOUREZK. I yield back my time. I am ready to vote.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from California. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from New York (Mr. MOYNIHAN), the Senator from Florida (Mr. STONE), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The result was announced—yeas 36, nays 57, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—36

Allen	Griffin	Pearson
Baker	Hatch	Percy
Bartlett	Hayakawa	Roth
Bellmon	Helms	Schmitt
Chafee	Huddleston	Schweiker
Curtis	Inouye	Stevens
Danforth	Laxalt	Talmadge
DeConcini	Lugar	Thurmond
Dole	McClure	Tower
Domenici	Morgan	Wallop
Garn	Muskie	Weicker
Goldwater	Packwood	Young

NAYS—57

Abourezk	Church	Haskell
Bayh	Clark	Hatfield, Mark O.
Bentsen	Cranston	Hatfield, Paul G.
Biden	Culver	Hathaway
Brooke	Durkin	Heinz
Bumpers	Eagleton	Hodges
Burdick	Eastland	Hollings
Byrd, Harry F., Jr.	Ford	Jackson
Byrd, Robert C.	Glenn	Javits
Cannon	Gravel	Johnston
Case	Hansen	Kennedy
	Hart	Leahy
	Nelson	Magnuson
	Nunn	Matsunaga
	Pell	McGovern
	Proxmire	McIntyre
	Randolph	Melcher
	Ribicoff	Metzenbaum
	Riegle	Sarbanes
	Sasser	Scott
	Sparkman	Stafford
	Stennis	Stevenson
	Williams	Zorinsky

NOT VOTING—6

Anderson	Long	Moynihan
Chiles	Mathias	Stone

So Mr. HAYAKAWA's amendment was rejected.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1166

(Purpose: To authorize appropriations for this act under general revenues)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1166:

On page 11, line 23 and 24, strike the words: pursuant to the Land and Water Conservation Fund Act (78 stat. 897) as amended.

On page 19, delete lines 8 and 9.

Mr. STEVENS. Mr. President, what is the time limitation on this amendment?

The PRESIDING OFFICER. One hour, 30 minutes to each side.

Mr. STEVENS. Mr. President, I shall not consume much time. I call the attention of the Senate to the report that was filed by the Appropriations Committee on this bill. That report, basically, did not take a position but did raise the question of the spending problem under this bill.

I am disturbed that the moneys are earmarked to come from the land and water conservation fund. I believe that a taking of this type, a legislative taking, on a bill that is considered to be an extraordinary approach to a problem concerning the national parks, should not be funded from the land and water conservation fund. This is a legislative taking, there is no definite estimate of the amount of money that will be required to satisfy the taking here under the Constitution.

It seems to me that to earmark the Land and Water Conservation Fund is going to disrupt the normal priorities.

As is pointed out on page 3 of the Appropriations Committee report:

It should be noted further that the bill provides for acquisition costs to be borne by moneys deposited to the Land and Water Conservation Fund. This fund, financed primarily by oil and gas receipts from Outer Continental Shelf leases, currently finances the bulk of Federal recreation land acquisition as well as providing assistance to the States for recreation development. The Redwood National Park expansion, then, will substantially encumber the fund and disrupt normal spending priorities.

I think we should remove the potential that was pointed out by the Appropriations Committe report, that this expansion bill would encumber the fund and disrupt normal spending priorities of the land and water conservation fund.

I also point out that, in connection with the Alaska lands bill, my bill provides for the creation of a fund into which moneys derived from the utilization of Alaska's resources would be placed to augment the moneys that are available for acquisitions such as this.

What this really means is that acquisitions of this type should be financed by normal appropriations.

I think the statement in the bill, in section 8, that Congress acknowledges and directs that the full faith and credit of the United States is pledged to the prompt payment of just compensation as provided for by the fifth amendment to the Constitution, for the lands taken by this act, is sufficient. That is a full and immediate obligation for just compensation.

To encumber the fund is going to put us in the position of having an overdraft on that fund, and it could well jeopardize the assistance that is provided to the States for recreation and development, in my opinion.

I hope that the committee will not oppose this amendment. I can understand the problem with regard to the Budget Committee, and I hope the Budget Committee, too, will understand.

If we do not do this—if we do not take this language out of there—we will have to get from the authorization committee and on the floor, by May 1, a change in this fund, because this is an open-ended commitment of the Land and Water Conservation Fund account to settle the Redwood National Park obligations. Since they are not subject to being estimated, the whole fund, whatever we put in there, is encumbered, in my opinion, by this act, if it is passed in this fashion.

That overrides the priorities that we have set for State assistance to recreation and would really just amount to Congress deciding the Land and Water Conservation Fund is going to be tied up until the Redwood National Park additions have been compensated for according to the Constitution. I think that is wrong to do that, and I hope the committee would agree and let us take this reference to the Land and Water Conservation Fund out of the bill.

Mr. BUMPERS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ABOUREZK. I yield.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Ark Monroe, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I reserve the remainder of my time.

Mr. ABOUREZK. Mr. President, I personally am in a difficult position on this particular amendment. I agree with it. The problem is that when we gave our redwoods bill to the Budget Committee to look over, they approved it on the basis that the money would come out of the Land and Water Conservation Fund and not out of general appropriations. The

committee, therefore, took that position. So I am not in a position, and I do not think Senator HANSEN is either, to accept the amendment. What I would have to suggest to the Senator from Alaska is that we have a vote on it. I will just have to say what I said, and I am ready to vote.

Mr. STEVENS. Does the Senator wish a rollcall vote on it?

Mr. ABOUREZK. I think we better, yes.

Mr. HANSEN. Mr. President, I too am in a difficult situation as I was on the last vote. I am sympathetic with the point made by the distinguished Senator from Alaska and shall support him. However, in order that the record be kept clear and there be no misunderstanding, I think, as far as the Energy and Natural Resources Committee goes, our position must be to resist the amendment as representatives of that committee. If the issue is brought to a vote, I intend to support the Senator from Alaska.

Mr. STEVENS. Mr. President, again I have feelings about what the acquisition means here, this legislative taking, but this is not brought forward as one who opposes or supports the bill. I am bringing this forward because of our role on the Appropriations subcommittee that deals with this Land and Water Conservation Fund. It is my position that since this is a commitment to compensation, the amount of which is undefined, no matter how much money we put in the Land and Water Conservation Fund, it would be encumbered until that amount was defined by the court, and under those circumstances, we could not in good conscience tell the States that they could have their distribution this year out of the Land and Water Conservation Fund. I believe by taking this reference out—I understand the budget problem—we will face the proposition of making the moneys available because it is in fact a legislative taking and under the Constitution we have no alternative but to fund this taking. We do have an alternative to fund the taking of a bill where we authorize an acquisition through negotiation or through a declaration of taking procedure. That is another matter. But this one since there is a legislative taking the compensation, as is pointed out by section 8, is in fact pledged by all of the moneys that Congress has at its disposal. Unfortunately, by tying it in the Land and Water Conservation Fund, we then complicate the problem and really I think put a burden on the other States they should not have.

Mr. HANSEN. I yield back any time I have.

Mr. ABOUREZK. I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time and move the adoption of the amendment.

Mr. McCLURE. Mr. President, will the Senator yield for just a moment?

Mr. STEVENS. Withhold that.

I yield.

Mr. McCLURE. I thank the Senator for yielding because I want to ask the manager of the bill one question about the Land and Water Conservation Fund. I do not want the impression left incorrectly that the expenditure of money from the Land and Water Conservation Fund might take away all of the money that is available to the States. There is an allocation formula in the Land and Water Conservation Fund in which the States are guaranteed a portion of that fund which could not be deprived them with this expenditure. I wonder if the manager of the bill might respond?

Mr. ABOUREZK. What is the Senator's question?

Mr. McCLURE. What is the allocation formula in the land and water conservation fund? And as a matter of fact this will automatically take the money away from the State's share in the land and water conservation fund.

Mr. ABOUREZK. I am just told by committee staff that the Appropriations Committee determines the States' share.

Mr. STEVENS. That is right.

Mr. ABOUREZK. So that is what it amounts to.

Mr. HANSEN. It would not affect them.

Mr. STEVENS. It is not automatic, I tell the Senator from Idaho.

Mr. McCLURE. It is not automatic. All right.

Mr. STEVENS. It could happen. That the impact of this could encumber the fund to the extent that we would not have the normal amounts available for distribution to the States. It is not an automatic thing.

Mr. McCLURE. Mr. President, if the Senator will yield further, the reason I mention that is that I was opposed to the change in the law in the allocation formula between the State and Federal Government for precisely this reason, that the States do have a great backlog of demand as does the Federal Government in demand against these expenditures from the land and water conservation fund.

While we change the formula to guarantee the Federal would not get less, we set a minimum for the Federal Government, but we set no minimum for the State allocation. That, in my judgment, was an error when we did that but we did it with the expectation that, the fund being enlarged, the States share would not be diminished, not in terms of percentage but in terms of dollars, and I wish to reaffirm that understanding here today that there is no expectation that the Appropriations Committee is going to reduce the States allocations in dollars below what they enjoy before the change in the allocation formula. We have been fighting for a long while to make certain that the land and water conservation fund was there, that the money would be appropriated and available, that the plans being made by both the Federal agencies and the State agencies could be met because the fund would be fully appropriated. I resisted the change in the fund from a dedicated fund, a trust fund concept to an appropriation concept for precisely the same reasons, and I lost in that effort. But now to come in here and suggest that somehow the States are going to lose flies right in the face of all of the assurances that we were given throughout all of the debate in the committee and on the floor with respect to the States funding under the Land and Water Conservation Fund Act. Certainly, this would increase the pressures, but I would hope that the record would reflect all of the earlier commitments that were made, that the amount of money to be given to the States and allocated to the States in this fund would not be reduced under the dollar amounts that were allocated to the States under the prior formula.

Mr. HANSEN. Mr. President, although Public Law 95–42 did authorize an additional $300 million for the Federal side for fiscal year 1978 to bring a total authorization to $900 million, it may not be enough to cover the cost of legislative taking.

I agree with my distinguished friend from Alaska. I urge the adoption of the amendment.

Mr. McCLURE. Mr. President, will the Senator yield further?

Mr. STEVENS. I yield.

Mr. McCLURE. I thank the Senator for yielding.

I do not disagree with my friend from Wyoming and I do not oppose the amendment of the Senator from Alaska. This is one way of protecting the Land and Water Conservation Fund from the consequences that might flow in the way that he has described them.

But I am alarmed if we start talking about the State fund being reduced, because the assurances have been made all the way along that State funding would not be reduced irrespective of the action we might take on this.

I think what this debate may focus on, though, is whether or not this bill, this expenditure of money from the Treasury, has that kind of a priority call upon the moneys that are available for this kind of a Federal activity.

My judgment is if we really look at it arrayed against all of the other possible expenditures for land and water conservation, acquisition of land for protection and recreation, we would not assign this high a priority to this particular project. And if, as a matter of fact, the committee had looked at it in terms of whether this was the most important activity of the Federal Government in this area should it move ahead of all the rest, that the committee might well have turned down this request rather than having passed this legislation.

So I do not oppose the amendment of my friend from Alaska; I support it. But I think again it underscores the lack of wisdom on the part of the committee in having adopted this particular bill.

Mr. STEVENS. Mr. President, I want to underscore again that I do not have any disagreement with the Senator from Idaho; that the provision of the bill I am trying to delete is this. It says:

> From the appropriations authorized for fiscal year 1978 and succeeding fiscal years pursuant to the Land and Water Conservation Fund Act (78 Stat. 897), as amended, such sums as may be necessary may be expended for the acquisition of lands and interests in lands, and down tree personal property, authorized to be acquired, or acquired, pursuant to the provisions of this act.

I understand what the Senator is saying. No one should read into my comments any intent to in any way abrogate

the understandings we have about the moneys that are available to the States.

My point is this is an open ended amount. I mean we have no way of defining how much money is to be charged against the land and water conservation fund pursuant to Redwood acquisition. By virtue of the fact that all of the funds deposited in the land and water conservation fund are earmarked for that acquisition, we have no leeway in terms of the moneys that are there. They are first obligated to this Redwood Park acquisition. Until that is settled, how can we make payments to anybody, States or for the Federal portion of acquisitions, from moneys that we have available in that fund under the circumstances?

I just merely seek to delete the reference of the land and water conservation fund because, therefore, it is an open ended authorization for appropriations which Congress has no alternative but to provide if the bill passes.

I again yield back the remainder of my time, and I ask for a vote on this amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I have yielded my time back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. HANSEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1167

(Purpose: To exclude certain areas from the Park; to prohibit certain other areas from being subsequently included in the Park)

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1167:

On page 2, line 17, beginning with the word "At", strike out all through line 6 on page 3.

Mr. HAYAKAWA. Mr. President, the purpose of this amendment is to simply delete from the bill the section known as the park protection zone.

This so-called park protection zone is an additional 30,000 acres south of the park expansion area of 48,000 that would be added to the Redwood National Park by this legislation.

Mr. ABOUREZK. Does the Senator want a rollcall vote on this amendment? I think we should get the yeas and nays now.

Mr. HAYAKAWA. Yes, I do.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HAYAKAWA. Mr. President, as I say, this so-called park protections zone is an additional 30,000 acres south of the park expansion area of 48,000 that would be added to the Redwood National Park by this legislation.

After 60 days, if the Secretary of the Interior finds that activities on this 30,000 acres could even potentially result in what he terms "physical damage to the park resources" then he may report such findings to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs. The Secretary may then acquire some or all of the 30,000 acres unless the committees disapprove.

Mr. President, this is an incredible provision. First of all, I have no doubt that within 2 months after passage of this bill the Redwood National Park will then be expanded by 78,000 acres instead of by the proposed 48,000 acres that we are talking about today. Let us say that one of the landowners decides to cut a few trees on the land that he owns. The Secretary need only to decide that potentially this action could be dangerous to park resources by causing some soil erosion that would eventually flow through the Redwood Creek that goes through the Redwood National Park. The Secretary would then merely report to the proper Senate and House Committees that this future activity could possibly cause some soil erosion that would affect the park, and he has the right to go in and condemn this privately owned land, which is then taken over by the Federal Government. The trees would never even have to be cut. Nothing would ever have to affect the park. But if future activity on any of that 30,000 acres could in any way possibly affect the park, and the Secretary decides that it is recommended that the Federal Government take over that land, he may do so.

There is room for every kind of arbitrary decision of this nature.

Now there are no specific guidelines as to how the Secretary may or should take over any of the land if he decides this is "necessary to protect park resources." For example he could take parcels of land in checkerboard fashion. He could take the outer perimeter of land, and leave a parcel in the middle. He could take the entire 30,000 acres at once and get it over with.

Mr. President, the original Redwood National Park is only 28,000 acres. That land alone cost more than all other national parks combined. The reason for the high cost is that we are taking over prime timber land—these redwoods are the fastest growing trees in the entire United States of America. The 1968 legislative taking of redwoods was debated by the House and the Senate. The results of this legislative taking have deeply affected the northern California region whose economy is heavily dependent on the timber industry.

To take over an additional 48,000 acres is incomprehensible to the people who live in the area and depend on the logging of redwoods for their livelihood. And yet we casually toss in this so-called "park protection zone" which gives the Federal Government the right to take over an additional 30,000 acres without any concern whatsovever.

I would hate to own a 7-acre parcel of land or a 19-acre parcel, or several hundred acres or even any of that land, and have to face extremely depressed market values if I put that land an the market, as a result of the stringent Federal Government controls over any activity on it. Our country was founded on the concept of freedom, and I think it is wrong for our U.S. Congress, made up of elected officials, to pass legislation that imposes strict Federal controls on privately owned land.

People will be afraid to make a move on their land for fear that the U.S. Government will step in and take it away from them. I believe that this so-called park protection zone is nothing but an excuse for the Government to expand the Redwood National Park by another 30,000 acres making the total expansion acreage for this legislative taking 78,000 acres rather than the 43,000 acres as stated in S. 1976. If the private property rights of the citizens of this Nation are jeopardized, then we no longer live in a free society.

Mr. President, imagine how each of my colleagues would feel it the Federal Government had the license to come in at any time and take over their private homes and their property, because they decided to cut down some trees in their yard, or they wanted to use their land in any way that the Government suddenly determined could be damaging to other property several miles away.

This is what the land owners in the 30,000 acre area of so-called "park protection zone" face at this very moment. I believe that this section of the legislation is an incredible infringement on private property rights, and should be removed from the bill.

I must emphasize that the State of California operates under the most strict set of State forestry laws in the entire country.

Any timber harvests must first be approved by the California State Board of Forestry, and timber harvests must be conducted under the strict State regulations.

The assumption of all this is that the State is not capable of protecting its own resources, and the Federal Government has to do it for them.

Given these circumstances, I certainly see no reason for this added 30,000 acres of park. We do not need to add a buffer zone to protect the buffer zone to the park.

I would like to point out that the properties involved here, this 30,000 acres, involves an awful lot of individuals and corporations. I will not read the whole list, but let me give a sample:

Louisiana Pacific, 4,328 acres.
Simpson Timber, 6,973 acres.
A. M. Lyons, 979 acres.
Barnum Timber, 2,189 acres.
Mr. Steele, 200 acres.
Mr. Gould, 38 acres.
Mr. Anderson, 40 acres.
Mr. Peters, 35 acres.
Mr. Eller & Son, 45 acres.
Sierra Pacific, 19 acres.

And so on. There is a whole cluster of individual owners.

These data are as of the fall of 1976. This is the kind of private property into which this measure intrudes.

Throughout this discussion, Mr. President, I would like to protest what seems to me to be a stereotyping, here, of the opposing forces on this legislation. It has been alleged that we who hold a position opposed to the Redwood Park expansion are tools of the great big, rich lumber companies, as opposed to, let us say, the common people. This kind of stereotype, I think, is based on what I would term a kind of vulgar Marxism of the most debased kind.

The people of the State of California include the large corporations, and they include the many thousands of hard-working men and women who make their living off those forests. One does not have to be a tool of the corporations to be interested in the common fate of the men, the truck drivers, the woodsmen, the people who work the saws, the landscape, and the trees, who cut the lumber and shape it for the market. One does not have to pit one against the other to realize that they are all bound together in a common enterprise.

The one very important thing about the great lumber industry is that it is because they are large—outfits like Arcata, Georgia Pacific, Weyerhauser, and many other companies—it is because they are large that they are able to put in the capital investment that makes possible perpetual yield from these forests, so that decade after decade, century after century, these trees will continue to produce, and produce for the benefit of all our posterity. Therefore, the false dichotomy of these large corporations versus the common people is an absurdity.

What I wish to call attention to is the fact that because these large corporations exist, they have foresters on their staffs who understand the principles of scientific forestry; because they have the capital to pay to put money into this kind of long-range development, we can preserve the jobs of the common people and the forests for all the people, for posterity, better than we can by simply abandoning them to no use whatsoever, as is proposed, in the redwood parks.

I say no use whatsover, because we know what has happened to the 28,000 acres already appropriated under the 1968 act. As I have pointed out, the parks are not used. They are abandoned. The economic life of the entire area of the State has declined, and with the passage of such legislation it will decline further.

To return to the particular provision of which I am speaking, I regard the 48,000 acres to be a great enough deprivation of the future of the people of California. If we go to an additional 30,000 acres being taken arbitrarily by individual decisions on the part of some higher bureaucracy, it is a frightening prospect indeed. This is why I urge my colleagues to vote in favor of my amendment to delete this section that provides for a park protection zone of an additional 30,000 acres.

Mr. McCLURE. Mr. President, will the Senator from California yield?

Mr. HAYAKAWA. I yield.

Mr. McCLURE. I join the Senator in the hope that the Senate will delete this provision from the bill, for the many reasons which he has stated.

I would like to ask the managers of the bill a question concerning the construction of the language, so that we might be better able to understand the impact of the proposed language; and I take the floor at this time for that purpose.

As the managers of the bill will recall, there was a provision giving the Secretary discretionary authority to acquire land, and that provision was changed by the committee to provide for this standby authority to protect the park's values.

There is in the committee report language, which appears on page 8, with regard to the establishment of guidelines, for the Secretary to establish guidelines and standards for violation of the guidelines before he moves to acquire lands and interests in lands in the protection zone.

That is, as I understand, the response of the committee in the concern that the landowner might find himself subjected to an acquisition authority without knowing what it was he had done wrong. It was felt that it was fair that guidelines be established against which he could make judgments and take actions, knowing in advance of the actions he took whether they would meet the guidelines or be in violation of the guidelines.

But the underlying requirement, in the event he decides the guidelines have been violated, is still a finding in the courts that the values of the Redwood National Park are being threatened by the land use practices outside. In other words, the Secretary would still have to establish that by evidence in court—not simply a violation of the guidelines.

There is a fear on the part of some that once the guidelines have been established, then that in itself becomes evidentiary in proceedings to justify acquisition of the land. My understanding of the intention of the committee is that that not be the case, that it would still require a finding of adverse impact upon the park lands themselves, and the guidelines are simply a means to notify the property owner of what is expected, rather than a means of establishing evidence in court that there was an impact.

I wonder if the managers of the bill might be able to comment on that, and confirm my understanding of the intention of this provision in the bill and the language in the committee report, on page 8 of the report, dealing with the establishment of guidelines.

Mr. ABOUREZK. I was talking to somebody else. Would the Senator mind repeating his question?

Mr. McCLURE. I noticed that.

Would the Senator assure the Senator from California that if we run out of time repeating the question, the Senator from South Dakota will yield him some time?

Mr. ABOUREZK. It looks like the Senator would have gotten my attention before he asked.

Mr. McCLURE. I did my best, I say to the Senator.

Mr. ABOUREZK. I shall yield the time if necessary.

Mr. McCLURE. We established in the legislation the opportunity for the Secretary of the Interior to acquire lands or interest in lands if necessary to protect against damage to the parklands themselves. The Senator from California has suggested that that provision be stricken. What I am seeking is an understanding of what the provision means.

On page 8 of the committee report, it is stated that the Secretary should establish guidelines. That was written in as an attempt to say to the property owner, "You are entitled to know, before you take action, whether or not the Secretary is going to deem that action likely to adversely affect the parklands themselves."

That is to put him on notice, give him a standard against which to manage his lands; rather than substitute a new test as the basis for the taking of the property. My understanding of that provision is that this is not evidentiary in the court proceedings, that the guidelines were violated. That does not establish anything that would justify the taking of lands or interests. The underlying test would still be whether or not, as a matter of fact, the value of the lands and the assets of the park were being damaged by this action taken outside.

Mr. ABOUREZK. My understanding of that section is that the guidelines do not constitute the standard, but physical damage would constitute the standard of evidence for determining whether a taking order ought to occur.

Mr. McCLURE. In other words, violation of the guidelines does not, of itself, establish the right to the taking.

Mr. ABOUREZK. The guidelines are more for notice to the landowners and purposes of discussion, and so on. It would give the landowners some kind of idea. The physical damage that would be proved through the hearing process is what really would count.

Mr. McCLURE. The Secretary would still have to establish that. Even though they might be able to show the guidelines had been violated, they would still have to show that that violation or that conduct resulted in physical damage to the park land.

Mr. ABOUREZK. That is correct.

Mr. McCLURE. I thank the Senator for that response, because I think it is important that we not elevate the guidelines to evidentiary standing; they are simply guidelines for the notice of the parties.

I am concerned, with my friend from California, that we are establishing a precedent for Federal control of lands outside of Federal lands, in a buffer zone in which we really inhibit the operation and the ownership, and diminish the value and diminish the dominion of the people who own those lands, without any compensation and without due process of law. As a matter of fact, it is possible that this provision might fall as a result of the constitutional prohibition against taking of property without due process.

Regardless of that, I do not believe that there was any compelling evidence produced in the committee that what was happening or was likely to happen on these lands would have that kind of effect.

Redwood National Park was established to preserve for future generations large stands of very large trees. If we remember that that is what the purpose is, then we begin to see what effect operations outside will have. Was there any showing or is there any showing that operations on lands outside will have an adverse effect upon the tall trees, the large trees, or any very large number of large trees, within the park? I would say the answer is "No."

As a matter of fact, the strongest evidence was it had some effect upon the aquatic stream. That was not the reason the park was established. We have extrapolated from one purpose, the protection of the park, for an entirely unrelated purpose, maybe something that is worthy of discussion, and perhaps of some consideration by Congress. But we should not understand that what we are doing with this 30,000-acre zone, let alone the 48,000 acres being acquired, is to protect tall trees. It is not. It is to protect an aquatic environment in one stream.

Congress is being asked to spend hundreds of millions of dollars and interfere with the livelihood of hundreds of men and women in order to do that one thing which has never been clearly identified to Congress as the purpose of this legislation.

I think it is significant that there has been no effort made to settle on that basis, because there is no expectation in the minds of the sponsors that Congress would begin to disrupt the lives and the communities in this part of the State and expend hundreds of millions of dollars of taxpayers' money for the reason that is really the fundamental reason behind this legislation.

It is an emotional issue. It is one in which we have chosen sides—are you for or against redwoods on the basis of this bill? That is nonsense.

I was a Member of the other body at the time the original bill passed through. I was a member of the Parks and Recreation Subcommittee of the Interior Committee in the House at the time this bill was passed. I participated in all of the hearings, including the field hearings on site. I have been on the ground. I have been up Redwood Creek. I have looked at the tall trees. I can say without any doubt and without any fear of contradiction that the original bill, a compromise, that was drawn at that time would adequately meet the needs of the United States in preserving what is not a recreational park and not intended to be for the use of people, but for the preservation of tall trees.

As a matter of fact, some of our colleagues may have seen the National Geographic special on television this last Sunday, in which they were looking a national parks. The redwoods were identified by National Park Service in the National Geographic special as being not recreational parks, not for the use of human beings, because they were not suited to that use. How many thousands of acres of tall trees do we have to have to preserve that kind of thing for future generations and for the scientific community that may look at it when, as a matter of fact, is it not intended that human beings will have any use of it other than as a scientific preservation of an existing bionic system?

I think that, for those reasons, it ought to be abundantly clear that we do not need the passage of this legislation. Certainly we do not need to extend the Federal grasp beyond the boundaries we are extending by saying to the owners of another 30,000 acres, "You must subject your lands to our control, even though we do not intend to buy them from you."

Mr. HAYAKAWA. I thank the Senator from Idaho for his very eloquent and perceptive remarks.

Mr. President, I might add that there are more old redwood trees under preservation than any other tree at the present time. Not only that, of the 48,000 acres which we wish to add to Redwood Park, only 1 in 5 acres actually contains old redwood growth. Most of the rest—all of the rest—is in second growth. Therefore, on this whole matter of preserving trees for the sake of preserving trees, we have gone to absolutely absurd lengths. Therefore, to add to that this additional 30,000 acres of protection is the height of absurdity.

Mr. HANSEN. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. I yield time, whatever the Senator needs.

Mr. HANSEN. Mr. President, it pains me to have to disagree in any respect with my esteemed colleague from California. I would say, on this specific provision, that it was very carefully gone over. We tried as best we could to insure, first of all, that there would be no additional taking if actual fiscal damage did not result. In the event that it did, I think we then tried to provide a mechanism whereby the property owner would be treated fairly, where the value of the property that would be taken by the Government would be adequately compensated for.

I just have to say that, given the parameters within which we were working, I think we tried to approach the problem at arms' length; first, to insure that no additional land would be taken unless the actions on the outside lands contributed to actual physical damage within the park. I appreciate the concern of my friend from California and I am grateful, as well, for the observations made by the Senator from Idaho. But I think we really tried to deal with the problem at arms' length and come up as best we could with a fair solution all the way around.

Mr. ABOUREZK. That is right.

Mr. President, we had three alternatives we looked at in the committee. This is the one we adopted by a substantial vote. If I recall, I think it was 15 to 2 in the committee. It was a sizable vote. We defeated the effort to delete this provision.

We could either have taken 78,000 acres, included this 30,000 acres in the taking, or we could have put in regulatory authority, which we talked about and rejected in the committee, regulatory authority over this additional 30,000. But we adopted this approach which gave the Secretary standby authority under certain procedural safeguards, hearings.

The Secretary would have to make a showing if there is physical damage to the existing park and only then could he exercise his authorization to take or condemn the additional 30,000 acres, or any part of it.

I think it is probably the best way to do it. We do not want to go back to 1968 again when we did not take enough the first time. That is why we are back in 1978 trying to protect what is left of the old trees.

I might say one thing that has been repeated time and again here, that redwoods grow fast, and all we have to do is give them some time and they will grow back again. The roots stay alive even though we kill the trunk.

All that is very true. I went out to the Redwood Park and I saw what the redwood can do.

But we are not talking about producing more timber; we are talking about saving the old trees. The only way we can regenerate the old trees is to wait 1,500 to 2,000 years.

I do not think anybody, including my colleagues from Wyoming, wants to wait that long.

So we have to preserve those trees now, and that is exactly what this will do.

If we do not give them standby acquisition authority in this bill, we will have to have another fight 5 years from now, 10 years from now, and I do not think we ought to visit that kind of situation on our colleagues who will be in the Senate then.

Mr. McCLURE. Will the Senator yield?

Mr. ABOUREZK. I yield 1 minute to the Senator.

Mr. McCLURE. I thank the Senator.

If we have no interest in waiting for trees, why is it that of the 48,000 acres being taken nearly all is second growth in which we will have to wait to have any kind of a park purpose in having it?

Mr. ABOUREZK. The reason for taking second growth timber is because it is the watershed which protects against erosion for the old growth trees that exist near the stream beds, below where the new growth is.

That is the exact purpose.

Mr. McCLURE. That is the exact statement of purpose. But, as a matter of fact, the evidence does not sustain the need to do that.

As a matter of fact, all of the evidence, the very great part of the evidence, is that only a very small number of tall trees are affected by the condition of the stream. A small number are.

There might be an argument, but if the Senator had been at the tall trees grove, as I have, and looked at the sedimentation that occurred, and prior to this time, prior to any activity upstream,

he would note that there are at least 11 to 12 feet around the base of the trees already and they are continuing to grow as they have hundreds upon hundreds of years.

So the addition of some further siltation is a perfectly normal happening in that area, something to which the trees have long been accustomed and grown and survived, no threat to them, even the ones on the stream bank, but the great majority of them are not on the stream bank.

Mr. ABOUREZK. Every single expert on the redwoods in California, with the Government, outside the Government, with the exception of the timber company foresters, has said there is a danger.

Mr. McCLURE. That, I would say to my friend, is not exactly true. But it may make good debate.

Mr. ABOUREZK. Mr. President, I reserve the remainder of my time.

The committee opposes this amendment very strongly.

Mr. President, I am ready to yield back the remainder of my time.

Mr. HAYAKAWA. I yield back the remainder of my time.

Mr. ABOUREZK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from California. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from New York (Mr. MOYNIHAN), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 28, nays 65, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—28

Allen	Hatch	Schmitt
Bartlett	Hayakawa	Schweiker
Bellmon	Helms	Scott
Byrd, Harry F., Jr.	Laxalt	Sparkman
	Lugar	Stevens
Curtis	McClure	Thurmond
Dole	Morgan	Tower
Garn	Nunn	Wallop
Goldwater	Pearson	Young
Griffin	Roth	

NAYS—65

Abourezk	DeConcini	Heinz
Bayh	Domenici	Hodges
Bentsen	Durkin	Hollings
Biden	Eagleton	Huddleston
Brooke	Eastland	Inouye
Bumpers	Ford	Jackson
Burdick	Glenn	Javits
Byrd, Robert C.	Gravel	Johnston
Cannon	Hansen	Kennedy
Case	Hart	Leahy
Chiles	Haskell	Long
Church	Hatfield, Mark O.	Magnuson
Clark		Matsunaga
Cranston	Hatfield, Paul G.	McGovern
Culver		McIntyre
Danforth	Hathaway	Melcher
Metzenbaum	Randolph	Stevenson
Muskie	Ribicoff	Talmadge
Nelson	Riegle	Weicker
Packwood	Sarbanes	Williams
Pell	Sasser	Zorinsky
Percy	Stafford	
Proxmire	Stennis	

NOT VOTING—6

Anderson	Chafee	Moynihan
Baker	Mathias	Stone

So Mr. HAYAKAWA's unprinted amendment No. 1167 was rejected.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABOUREZK, Mr. President, I ask unanimous consent that Tom Graham, of Senator DURKIN's staff, have floor privileges during this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will the Senator from South Dakota yield for a question?

Mr. ABOUREZK. I yield.

Mr. McCLURE. I thank the Senator for yielding.

A question was asked by Members coming in asking about the last amendment that seems to me might well be an issue which could be laid to rest, and that is whether or not any land acquired under the authority of the Secretary to acquire land in the protection zone that land itself then must be protected from other uses. Does it become a part of the park, thus subjecting other lands to the burden of necessary protection of those lands thus acquired?

Mr. ABOUREZK. In the legislation those lands are not defined as part of the park. So I think that if there is a concern about that, there need not be since to come in and enlarge the park beyond what we are enlarging it here today would require a new definition of boundary and a new definition of what the park is. This standby—taking authority according to the legislation would merely be there available for protection of the existing park boundaries.

Mr. McCLURE. So that would be the land that is in the park now, the land would be added by this bill, but not any land that might be acquired within the protection zones themselves?

Mr. ABOUREZK. Without the standby authority zone, that is my understanding of the legislation.

Mr. McCLURE. That is my understanding as well, and I thank the manager of the bill for making that clarification.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 1168

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes unprinted amendment numbered 1168.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page —, line —, insert the following:

On page 2 line 12 and on lines 22 and 23 strike the following: "167–80005–C and dated October 1977" and insert the following: "167–80005–D (excludes Skunk Cabbage and Lost Man Creeks) and dated January 1978".

On page 2 line 14 delete the following: "one hundred and six thousand" and insert the following: "ninety-eight thousand".

On page 4 lines 15 and 16 delete the following: "167–80005–C and dated October 1977" and insert the following: "167–80005–D and dated January 1978".

On page 4 line 22 delete the following: "167–80005–C and dated October 1977" and insert the following: "167–80005–D and dated January 1978".

On page 11 line 16 delete the following: "167–80005–C and dated October 1977" and insert the following: "167–80005–D and dated January 1978".

Mr. HAYAKAWA. Mr. President, the amendment I just submitted would delete two parcels of land commonly known as Skunk Cabbage and Lost Man from the proposed park expansion areas. These two areas are to the north of the existing Redwood National Park and are not immediately adjacent to the rest of the proposed expansion areas.

There is a very simple reason for not including these two parcels of land in the park expansion area. They are in a different watershed from the rest of the land in question.

There is no possible way that any logging on this land can cause soil erosion that would affect the trees in the Tall Trees Grove, the center of these discussions on Redwood Park expansion. There is no apparent reason for including Skunk Cabbage and Lost Man in the park expansion area, and I propose to take them out. The only reason I can see is that this 8,300 acres in question is merely a small part of the enormous land grab we are now dealing with. I do not believe that we can justify including this land merely for the sake of rounding out the park boundaries, which is apparently what some people claim.

Mr. President, this Redwood Park expansion affects a large number of people in the northern part of California. It is not a simple matter to be locking up valuable timber lands in unneeded parks, just because some people thousands of miles away in Washington, D.C., think that this sounds like a great idea—save the redwoods. But we already have the best redwoods set aside. In fact, we have 181,000 acres of the most beautiful north coast redwoods preserved in Federal, State, and local parks. There is absolutely no reason to add 48,000 acres to the 181,000 acres we already have. The absurdity of this expansion is really magnified by the inclusion of these two parcels, Skunk Cabbage and Lost Man. It is very obvious that activities on these two parcels could not possibly be damaging to the Tall Trees Grove, or indeed any part of the "worm," as they are not even in the same watershed.

In addition to not needing this 8,300 acres, we also cannot overlook the tre-

mendous cost of this land, which averages out to over $7,500 per acre. Why pay for 8,300 acres of timberland when we could keep this land in production? Mr. President, time and again this Congress is responsible for passing legislation that is meant to do well. I believe that many people feel that expanding the Redwood National Park is a good cause, and so they will support it. But the citizens of Humboldt and Del Norte Counties already face an unemployment rate of about 15 percent. Today we are considering a proposal to lock up 48,000 acres of their most productive timber land, under the pretenses of "park protection." I believe that we have a responsibility to weigh the consequences of putting about 2,000 people out of work. Why should we include two parcels of over 8,000 acres, when the issue of park protection is not even related to them?

Mr. President, if we are going to expand the Redwood National Park, let us at least do so for a reason. I certainly object to throwing an additional 8,000 acres into the park without substantial cause. I hope my colleagues here in the Senate will join with me today in at least limiting this Federal park expansion to a sensible degree.

Mr. ABOUREZK. Mr. President, I yield myself whatever time I might consume.

This amendment from the distinguished Senator from California would delete Skunk Cabbage and Lost Man, two units, from the proposed park expansion which are critical from a park management and visitor interpretation and enjoyment standpoint. These areas were included by the Senate in the original 1968 measure but were, unfortunately, deleted in conference.

The reasons for their inclusion in 1968 are all the more significant now. The addition of these units would provide a continuous belt from the ocean to the first inland ridge, including over 1,000 acres of old growth forest. These units are necessary to connect sections of the present park and provide a link between State and National Park units. The inclusion of these units would add tributaries which are now partly in the park as management units. These areas are critical from a physical standpoint to protect the existing park lands in the lower reaches which are still threatened by erosion from recently logged-over land.

Mr. President, we have learned here as we have learned elsewhere that the failure to protect park resources and to think in terms of ecosystems can be disastrous. The failure to acquire the watersheds will repeat the error made in 1968 when this body excluded them in conference.

So I have to say the committee very strongly opposes the deletion of these units.

I am ready to vote, and I yield back the remainder of my time.

Mr. HAYAKAWA. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

(Putting the question).

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, I withhold that. I ask for a division instead of a rollcall vote.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ABOUREZK. I ask for a division.

The PRESIDING OFFICER. A division is requested. Senators in favor of the amendment will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, the amendment was rejected.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open for further amendment.

Mr. ABOUREZK. So far as I know, there are no further amendments—at least we have not been notified of any—so I am ready to yield back my time on the bill, except I want to take care of technical amendments.

Mr. BENTSEN. Mr. President, I would like to add my support to S. 1976, the redwoods expansion bill and congratulate my colleague, the senior Senator from California for his untiring efforts to protect a truly magnificent resource in his State.

The marvelous redwoods that this bill proposes to protect comprise only a small portion of the 2 million-acre redwood forest that spread along California's coast when it became a U.S. territory over a century ago. Unique in the world their stateliness and majesty awed even the early explorers. Efforts to protect the resource began as early as 1850, and finally in 1968, Congress created the Redwoods National Park to "preserve significant examples of the primeval coastal redwood forest and the streams and seashores with which they are associated for purposes of public inspiration, enjoyment, and scientific study." The grandeur and serenity that awed our western explorers would now be preserved for present and future generations to experience.

Unfortunately, due to the acquisition pattern set up by the 1968 law and logging activities occurring upstream from the park, the preservation goals established by the act are not being met in certain areas of the park.

The Congress, in establishing boundaries for the original park in 1968 did not acquire whole watersheds, but rather relied upon the authority of the Secretary of the Interior to enter into cooperative agreements with timber companies as a means of protecting the park resources from potential damage. However, the Congress simply underestimated the magnitude of the damage that was to occur as a result of continued logging upstream within the portion of the watershed excluded from the 1968 park legislation.

According to a study conducted for the U.S. Park Service, this logging activity and associated roadbuilding have accelerated the natural processes of erosion and initiated additional new processes, so that the present basinwide rate of erosion is now more than seven times the natural rate. The result: Streamside trees have been directly toppled by bank erosion, others have been killed by overbank deposits or drowned by locally elevated groundwater levels. Tributary streams that flow into the park have been transformed from idyllic havens to nightmarish tangles of debris and gravel. This damage, unfortunately, is not subsiding and any addition of sediment, even a relatively small addition, has the potential to do a disproportionately large amount of damage.

Something needs to be done to protect these valuable resources. One of the favorite sites in the park, the Tall Trees Grove, which contains the first, third, and sixth tallest trees known in the world will face growing danger from damage, if steps are not taken to remedy this problem.

Mr. President, S. 1976 provides the protection that should have been provided in 1968. Not only do we now find it necessary to provide additional protection for these environmental treasures that once lost will never be duplicated; but we also find ourselves in a position of having to protect the Federal investment that has and will continue to be made in the present park.

Mr. President, I am supporting S. 1976 today so that the present park will be preserved as originally intended by Congress and generations to come will be able to share in the beauty and awesomeness of this truly unique resource.

Mr. LAXALT. Mr. President, S. 1976 has become a highly emotional issue and is a classic example of the conflict between conservation and jobs. It is estimated that this proposal to take over 48,000 acres of privately owned land will cost the American taxpayer $359 million to $400 million. However, Mr. President, this dollar figure does not include the cost resulting from the anticipated unemployment or the so-called rehabilitation of the land.

With respect to the unemployment situation, the areas that would be affected by this park expansion already face a 14–15 percent rate of unemployment. The estimated job loss due to park expansion is somewhere between 1,200 and 2,400 jobs, depending on whose figures one relies. So, it is obvious to me, Mr. President, that we are considering more than just a proposal to expand the Redwood National Park. It is a measure which could make displaced citizens out of hundreds of hard-working, self-respecting, and self-supporting people and their families.

Mr. President, the land use policies and land withdrawal programs of Fed-

eral and State governments are destroying the resource base and economy of the California north coast area. The net result of these land withdrawal programs is that the timber industry in the north coast area is being destroyed with a dramatic increase in the area's unemployment.

Direct employment by the timber industry has fallen sharply—from 8,850 in 1969—or 38 percent of all workers in the area—to 6,950 in 1977—or 24 percent of all such workers. If the Redwood National Park is expanded as proposed by this measure, the unemployment in the areas affected would rise an additional 4 percentage points. Mr. President, that would be the equivalent of the loss of 4 million jobs on a national scale. Further, Mr. President, the total annual earnings of the workers in the areas would be reduced by about $26 million. Mr. President, these cold statistics do not truly express the agony of dislocated families, stripped of their livelihoods, and torn from community and cultural ties.

Mr. President, I am of the opinion that S. 1976 is unnecessary, because the Redwood is already the most protected species of trees in the United States, unwarranted—because a little over half of the proposed addition is downstream from the area that is to be protected and less than 25 percent has old growth redwoods, and too costly, because this addition will triple the cost of what is already the most expensive park in the National Park System. Mr. President, S. 1976 is economically extravagant, of dubious environmental merit, and will bring economic disaster to hundreds of people in northern California.

Mr. President, there are those who want to save some trees, but, in my view, it is much more important to save jobs. I urge my colleagues to reject S. 1976 in its present form.

Mr. DOLE. Mr. President, a good deal of controversy has surrounded the "Redwood National Park expansion bill" since its introduction last summer. On the one hand, there are those who claim that its provisions are vital to the environment. Others maintain that the bill will cripple local industry through extravagant and unnecessary protection devices.

The Senate must, of course, weigh the alternatives. While threats to the natural environment are vitally important and must be faced, so must the threats to our social and economic environment be rationally considered. A balance must be struck between our need to preserve the environment and our need to live and prosper in it. In most cases these can be compatible if we allow for continued use of some resources while setting others aside for protection.

CALIFORNIA REDWOODS NOT ENDANGERED

The California redwood forest is certainly a valuable national resource. Congress would be remiss if it allowed the best redwoods to perish through inaction. But this is not the case. Excluding Redwood National Park, there are already over 153,000 acres of redwoods protected in other national, State, and local parks in California. The redwood is not in danger of becoming extinct, but in fact is one of the best preserved species in the country.

Proponents of the expansion of the park contend that eroded sediment from the Redwood Creek may affect the tall trees. But this cannot be substantiated by the evidence. Logging has occurred in the north coast region for over 40 years. The area, due to natural causes, is highly erodible and subject to disastrous flooding, yet the tall trees are still standing after 600 years. While the debate over whether logging operations actually accelerate erosion has been intense, the evidence is at best inconclusive.

DAMAGING TO AREA'S ECONOMY

While the evidence that continued logging accelerates the rate of erosion is inconclusive, the evidence that enactment of S. 1976 will erode the economic base of the north coast region is overwhelming. The Sierra Club, the Friends of the Earth, the Environmental Defense Fund, many other environmental groups, and the administration all support passage of S. 1976. However, those who stand to be directly affected by the bill oppose it. The board of supervisors of Del Norte and Humboldt Counties as well as the mayor of Eureka, the largest city in the region, have been quite vocal in their opposition to the bill. The presidents of the three timber companies to be affected maintain that it will cripple their industry. And the representatives of organized labor in the north coast region are opposed to it because it will mean the loss of over 1,800 jobs. Unemployment in the region is already 14 percent—over twice the national average—and passage of S. 1976 will increase that figure to 18 percent.

Mr. President, our choice is not one between trees and no trees; it is a choice between trees and money, trees and jobs, trees and people. I have never advocated environmental callousness, but I believe that in an area where 80 percent of the population make their livelihood from the timber industry, it makes little sense to beleaguer families and communities with nonessential preservationist causes.

TIMBER INDUSTRY'S CONCERN

You may recall that last spring a caravan of logging trucks, from as far away as Alaska, came to Washington, D.C. protesting this needless reduction in the amount of harvestable timber. Earlier 7,000 loggers had staged a rally in San Francisco during congressional hearings on this bill, urging its defeat. Many argue that the forestry industry in foundering and that increased unemployment would occur anyway, regardless of the effects of S. 1976. The evidence suggests otherwise. From 1966 to 1976, employment by the three timber companies affected actually increased substantially. This may be an environmental issue for us, but for the loggers of Humboldt and Del Norte Counties, it is a bread and butter issue.

COST OF BILL EXTREME

Finally I would like to point out that passage of this bill will entail an expenditure of approximately $359 million. This will bring the total land acquisition cost of Redwood National Park to over 6 times that of the other 36 national parks combined. This estimate is conservative. It does not include the dollars lost from the region's eroded tax base, nor does it include the potential cost of retraining loggers who already have a skill, for new jobs which they do not need or want.

Redwood National Park does not exist in an environment of untouched natural beauty as in the past, but is unalterably connected with the present. It is impossible to divorce the North Coast Redwood forests from the communities which make their living from them. I believe there is a general public understanding that the economic base for this area must be protected, and that this security cannot be provided wthout some minimal impact on the environment.

The California Redwood is a vital natural resource and must be protected. However, I do not believe the evidence indicates that the Redwood is in any danger. In trying to insure a balance between our environmental concerns and our economic concerns, we must be sure that the scales do not tip too far to one side.

Mr. CRANSTON. Mr. President, I wish to comment on the potential acquisition of State parklands within Redwood National Park and to request that the Sectary of the Interior consider the appropriateness of using the discretionary exchange authority granted him by the Congress in Public Law 95–579, the Federal Land Policy and Management Act of 1976, in acquiring the State parks.

The act to establish Redwood National Park Included Prairie Creek, Jedediah Smith, and Del Notre State Parks within its boundaries, but recognized donation by the State as the only possible method of transfer to the Federal Government, as does this bill.

California has done an excellent job in the management of its parks and indeed the current value of the 28,000 acres preserved in these three parks is conservatively estimated at $700,000,000 based upon the price per acre paid by the Federal Government in its recent acquisition of comparable land in Skunk Cabbage Creek.

It is important to note, however, that in carrying out its responsibility in the acquisition and preservation of the coastal redwoods, California has often had to defer recreation needs within its urban areas.

The State recognizes that both the State and Federal redwood parks should be planned and operated as a single unit to provide for sound ecological management and visitor service. However, I believe it is proper for the Secretary to consider the possibility of exchanging Federal lands within the State that could be used for urban recreation for the State parks. There are probably many suitable Federal lands in or near urban areas within the State that would make wonderful, well used urban recreation areas. If such exchange or exchanges could occur, we would be responding to park needs in both Redwood National Park and the State's urban areas.

In the Federal Land Policy and Man-

agement Act of 1976, we have provided the Secretary with appropriate discretionary authority to consider the exchange of lands in cases such as this where the public interest would be served and have set criteria by which to determine the appropriateness of such exchange.

I would like to review the criteria because it is particularly appropriate to the potential acquisition of the State parks:

When considering the public interest, the Secretary shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation needs . . .

The Secretary should consider the acquisition of the State parks through exchange for Federal lands within the State, particularly those suited for urban recreational needs, if it would lead to better Federal land management by allowing for the unified management of Redwood National Park and give full consideration to the needs of the State and local people by providing an increase in urban recreation.

I therefore request that the Secretary investigate the possibility of using his discretionary authority to exchange lands for the State parks and report back to the Senate if he determines the use of that authority to be appropriate.

Mr. BAKER. Mr. President, I rise in support of the Senator from California, Mr. HAYAKAWA, and in opposition to S. 1976. The expansion of the Redwoods National Park has been an extremely complex and highly emotional issue. It would appear from the facts before us, however, that the expansion does not make either economic or environmental sense.

First, there are already more than 283 square miles of prime redwoods timberlands preserved in State parks and reserves across the State of California.

Second, the existing Redwood Park is more than adequate in size and contains virtually the entire natural spectrum of species representative of redwood forests.

Third, while I agree that the Park's resources should be adequately protected from outside influences, I do not feel expansion is the answer. Information I have received indicates that outside the Park's boundaries the California's Forest Practices Act controls timber operations throughout the State. Members of industry and the conservation community agree that this act is one of the most stringent anywhere in the Nation. I feel that this legislation along with local industry's consent to carry on any timbering operations adjacent to the Park under supervision of the Park Service will provide an adequate measure of protection to the resources within the Park.

Finally, the cost of expanding the Park (estimated at approximately $600 million) and resulting job loss will be tremendous. This cost coupled with the projected use of the Park, which is one of the Nation's lowest, bring into serious doubt the economic wisdom of this proposed expansion.

For these reasons, I would urge my colleagues to reject S. 1976 and consider other mechanisms for preservation and protection of this beautiful area.

Mr. PELL. Mr. President, the Senate today is voting on legislation to protect an irreplaceable natural resource—the Redwood National Park in California.

When legislation was passed in 1968 establishing the original Redwood National Park, I believe the Congress at that time committed the Government to full moral and financial support in efforts to preserve the unique and awesome beauty of the Redwood Park. Indeed, I believe we in Congress have a responsibility to the citizens of this country to preserve the integrity of this magnificent and irretrievable natural resource.

The Washington Post of April 15, 1977, in an editorial regarding the Redwood National Park issue, state,

The question is not one of saving just a few thousand acres of redwoods so that future generations can know what they look like, but rather of saving a part of our national heritage.

In protecting all of the virgin resources which we have designated for the enjoyment of this and future generations, I believe the role of the Government should be an aggressive and enlightened one. Because I share in that commitment to the people of this Nation, I intend to vote in favor of final passage of S. 1976, which is presently before this body.

Mr. President, although I intend to vote in favor of final passage of this legislation, I must at the same time admit my strong reservations regarding the financial commitment of the Government involved in passage of this bill. We have seen, 10 years after the enacting legislation establishing the Redwood National Park, that the actual costs of acquiring these lands was far greater than the estimated costs of acquisition at the time of enactment. Congress in 1968 appropriated $92 million for the acquisition of 28,000 acres of park lands. To date, over $170 million has been expended, and another $100 million is pending in the courts.

The National Park Service estimates that the acquisition of these additional 48,000 acres will cost the Federal Government approximately $359 million. In passing this legislation, the Congress again makes a total moral and financial commitment to future protection of the Redwood National Park.

I am concerned not so much over the total estimated cost of acquisition, as I am over the potential for a soaring and unforeseen increase over this present estimate.

The report of the Senate Committee on Appropriations stated that the estimated cost of acquisition of $359 million "is not based on appraisals, and can be considered preliminary at best," and that "in the committee's judgment" the actual cost is "likely to increase well beyond that figure."

Mr. President, I fear that we may reach a point in the next few years where the cost of land acquisitions such as this will become prohibitive to the protection of those resources which we wish to preserve.

Although I support the efforts of the Congress and the administration to preserve this vast and irreplaceable national heritage, I would strongly urge the administration to consider its imperative responsibility of containing future cost increases, and urge the Department of the Interior to carefully administer this act so as to prevent any recurrence of the staggering cost increases which have accompanied the original acquisition.

Mr. ROBERT C. BYRD. Mr. President, a decade ago Congress enacted a law to preserve much of the redwood forest in California as a national park. Our purpose was to insure that future generations would be able to enjoy the natural splendor of this primeval woodland.

Now, the survival of the Redwood National Park is threatened. As trees are cut from the watersheds on the edge of the park, soil erosion at seven times the normal rate has occurred along Redwood Creek. Streams are clogged with sediment; trees topple into them or are flooded. It is clear that the park is not receiving the protection mandated by the National Park Service Act of 1916.

After more than 5 years of determined effort on the part of judicial and other bodies, this problem has not been resolved. Those involved in the dispute have turned to Congress for direction. Mr. President, I believe that S. 1976 provides the necessary direction.

A key concern is the economic well-being of the area near the park. S. 1976 provides for several forms of economic aid. One of the most significant of these is a $33 million land rehabilitation program, which will generate hundreds of jobs for lumbermen in the area and restock the land with trees, thus beginning the restoration process.

Federal economic assistance programs already in existence will provide additional protection to the lumbermen. New employment programs would be established to alleviate specific problems as they arise in the local economy. Beginning in fiscal year 1979, up to $40 million could be made available to finance supplementary assistance should it be needed. In addition, the Economic Development Administration is planning the promotion of other industries in the area, such as fisheries, agriculture, transportation, and tourism. Each of these measures will help sustain and revitalize the economy near the park.

At the same time that we insure the economic health of the region, we must reaffirm our commitment to preserve the natural resources of the region. To that end, S. 1976 provides for an expansion of Redwood National Park. Heavily logged land will be replanted with seedlings and watersheds will be rehabilitated to slow down erosion.

Mr. President, we cannot allow this land to further deteriorate. S. 1976 will satisfy both the need to protect the land and to protect the legitimate economic concerns of the residents of the area.

The PRESIDING OFFICER. Is there further amendment?

Mr. HANSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further amendment, the question

is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from New York (Mr. MOYNIHAN), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting the Senator from New York (Mr. MOYNIHAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. CHAFEE) would vote "yea."

The result was announced—yeas 74, nays 20, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—74

Abourezk	Hart	Nelson
Bayh	Haskell	Nunn
Bentsen	Hatfield,	Packwood
Biden	Mark O.	Pearson
Brooke	Hatfield,	Pell
Bumpers	Paul G.	Percy
Burdick	Hathaway	Proxmire
Byrd, Robert C.	Heinz	Randolph
Cannon	Hodges	Ribicoff
Case	Hollings	Riegle
Chiles	Huddleston	Sarbanes
Church	Inouye	Sasser
Clark	Jackson	Schmitt
Cranston	Javits	Sparkman
Culver	Johnston	Stafford
Danforth	Kennedy	Stennis
DeConcini	Leahy	Stevenson
Domenici	Long	Talmadge
Durkin	Magnuson	Thurmond
Eagleton	Matsunaga	Wallop
Eastland	McGovern	Weicker
Ford	McIntyre	Williams
Glenn	Melcher	Young
Gravel	Metzenbaum	Zorinsky
Griffin	Morgan	
Hansen	Muskie	

NAYS—20

Allen	Dole	Lugar
Baker	Garn	McClure
Bartlett	Goldwater	Roth
Bellmon	Hatch	Schweiker
Byrd,	Hayakawa	Scott
Harry F., Jr.	Helms	Stevens
Curtis	Laxalt	Tower

NOT VOTING—5

Anderson	Mathias	Stone
Chafee	Moynihan	

So the bill (S. 1976) was passed, as follows:

S. 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to protect existing irreplaceable Redwood National Park resources from damaging upslope and upstream land use, to provide a land base sufficient to insure preservation of significant examples of the coastal redwood in accordance with the original intent of Congress, and to establish a more meaningful Redwood National Park for the use and enjoyment of visitors, the Act entitled "An Act to establish a Redwood National Park in the State of California, and for other purposes", approved October 2, 1968 (82 Stat. 931), is amended as follows:

(1) In subsection 2(a) after "September 1968," insert "and the area indicated as 'Proposed Additions' on the map entitled 'Proposed Additions, Redwood National Park, California,' numbered 167–80005–C and dated October 1977,".

(2) In section 2, subsection (a), delete "fifty-eight thousand" and substitute "one hundred and six thousand" and delete the period at the end of the subsection and add "and publicly owned highways and roads." In section 2, subsection (b), delete "by donation only". At the end of section 2, insert the following new subsection "(c)":

"(c) Within the area outside the boundaries of Redwood National Park indicated as the 'Park Protection Zone' on the map entitled 'Proposed Additions, Redwood National Park, California', numbered 167–80005–C and dated October 1977, the Secretary is authorized to acquire lands and interests in land and upon a finding that failure to acquire all or a portion of such lands could result in physical damage to park resources and following notice to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Any lands so acquired shall be managed in a manner which will maximize the protection of the resources of Redwood National Park.".

(3) In subsection 3(a), delete the period at the end of the sentence and add the following: "which donation of lands or interests in lands may be accepted in the discretion of the Secretary subject to such preexisting reverters and other conditions as may appear in the title to these lands held by the State of California, and such other reverters and conditions, as may be consistent with the use and management of the donated lands as a portion of Redwood National Park. Notwithstanding any other provision of law, the Secretary may expend appropriated funds for the management of and for the construction, design, and maintenance of permanent improvements on such lands and interests in land as are donated by the State of California in a manner not inconsistent with such reverters and other conditions.".

(4) In subsection 3(b)(1), after "NPS–RED–7114–B", insert "and effective on the date of enactment of this phrase, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the area indicated as 'Proposed Additions' on the map entitled 'Proposed Additions, Redwood National Park, California', numbered 167–80005–C and dated October 1977, and all right, title, and interest in, and the right to immediate possession of, all down tree personal property (trees severed from the ground by man) severed after October 15, 1977, within the area indicated as 'Proposed Additions' on the map entitled 'Proposed Additions, Redwood National Park, Calif', numbered 167–80005–C and dated October 1977,". The Secretary shall permit continued access and use of the K and K, L line, M line, and Bald Hills roads at existing levels of access and use.

(5) In subsection 3(b)(2), delete the last sentence and add the following sentences at the end of the paragraph: "Any action against the United States with regard to the provisions of this Act and for the recovery of just compensation for the lands and interests therein taken by the United States, and for the down tree personal property taken, shall be brought in the United States district court for the district where the land is located without regard to the amount claimed. The United States may initiate proceedings at any time seeking a determination of just compensation in the district court in the manner provided by sections 1358 and 1403 of title 28, United States Code, and may deposit in the registry of the court the estimated just compensation, or a part thereof, in accordance with the procedure generally described by section 258a of title 40, United States Code. Interest shall not be allowed on such amounts as shall have been paid into the court. In the event that the Secretary determines that the fee simple title to any property (real or personal) taken under this section is not necessary for the purposes of this Act, he may, with particular attention to minimizing the payment of severance damages and to allow for the orderly removal of down timber, revest title to such property subject to such reservations, terms, and conditions, if any, as he deems appropriate to carry out the purposes of this Act, and may compensate the former owner for no more than the air market value of the rights so reserved, except that the Secretary may not revest title to any property for which just compensation has been paid. To the extent that revestment is not feasible, as provided above, the Secretary may sell at fair market value without regard to the requirements of the Federal Property and Administrative Services Act of 1949, as amended, such down timber as in his judgment may be removed without damage to the park, the proceeds from such sales being credited to the Treasury of the United States: *Provided*, That the State of California shall have designated a right-of-way for a bypass highway around the eastern boundary of Prairie Creek Redwood State Park within three years from the date of enactment of this provision, the Secretary is authorized and directed to acquire such lands or interests in lands as may be necessary for such a highway and shall thereupon donate the designated right-of-way to the State of California subject to such conditions as the Secretary may determine necessary to assure the adequate protection of Redwood National Park for a new bypass highway from a point south of Prairie Creek State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County. Such acreage as may be necessary in the judgment of the Secretary for this conveyance, and for a buffer thereof, shall be deemed to be a publicly owned highway for purposes of section 1(a)(2) of this amendment effective on the date of enactment of this section. Any relocation of United States Route 101 to this corridor shall be constructed by the State of California as a part of the Federal aid primary system and shall be financed from funds appropriated to the State for expenditure on the Federal aid primary system under provisions of section 104(b)(1) of title 23, United States Code.

(6) In subsection 3(e), delete "sixty days" in the last sentence and add the following sentences at the end of the subsection: "Effective on October 1, 1978, there are authorized to be appropriated such sums as may be necessary for the implementation of contracts and cooperation agreements pursuant to this subsection: *Provided*, That it is the express intent of Congress that the Secretary shall to the greatest degree possible insure that such contracts and cooperative agreements provide for the maximum retention of senior employees by such owners and for their utilization in rehabilitation and other efforts. The Secretary, in consultation with the Secretary of Agriculture, is further authorized, pursuant to contract or cooperative agreement with agencies of the Federal Executive, the State of California, any political or governmental subdivision thereof, any corporation, not-for-profit corporation, pri-

vate entity or person, to initiate, provide funds, equipment, and personnel for the development and implementation of a program for the rehabilitation of areas within and upstream from the park contributing significant sedimentation because of past logging disturbances and road conditions, and, to the extent feasible, to reduce risk of damage to streamside areas adjacent to Redwood Creek and for other reasons: *Provided*, That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. Such contracts or cooperative agreements shall be subject to such other conditions as the Secretary may determine necessary to assure the adequate protection of Redwood National Park generally, and to provide employment opportunities to those individuals affected by this taking and to contribute to the economic revival of Del Norte and Humboldt Counties in northern California. The Secretary shall undertake and publish studies on erosion and sedimentation originating within the hydrographic basin of Redwood Creek with particular effort to identify sources and causes, including differentiation between natural and man-aggravated conditions, and shall adapt his general management plan to benefit from the results of such studies. The Secretary shall also manage any additional French lands under his jurisdiction that are within the hydrographic basin of Redwood Creek in a manner which will minimize sedimentation which could affect the park, and in coordination with plans for sediment management within the basin. To effectuate the provisions of this subsection, and to further develop scientific and professional information and data concerning the Redwood Forest ecosystem, and the various factors that may affect it, the Secretary may authorize access to the area subject to this subsection by designated representatives of the United States.".

(b) That the first section of the Act of August 18, 1970 (84 Stat. 825), is amended by adding the following: "Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 2 of the Act of August 18, 1970 (16 U.S.C. 1c(a)), shall be consistent with and founded in the purpose established by the first section of the Act of August 25, 1916, to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.".

(c) Notwithstanding any provision of the Act of October 2, 1968, supra, the vesting in the United States of all right, title, and interest in, and the right to immediate possession of, all real property and all down tree personal property within the area indicated as "Proposed Additions" on the map entitled "Proposed Additions, Redwood National Park California", numbered 167–80005–C and dated October 1977, established by subsection (a)(4) of the first section of this Act shall be effective on the date of enactment of this section. The provisions of subsection 3(b)(3) of the Act of October 2, 1968, supra, shall also relate to the effective date of this section. From the appropriations authorized for fiscal year 1978 and succeeding fiscal years, such sums as may be necessary may be expended for the acquisition of lands and interests in lands, and down tree personal property, authorized to be acquired, or acquired, pursuant to the provisions of this Act.

SEC. 2. (a) The Secretary of the Interior, in consultation with the Secretaries of Agriculture, Commerce, and Labor, shall conduct an analysis of appropriate Federal actions that may be necessary or desirable to mitigate adverse economic impacts to public and private segments of the local economy, other than the owners of properties taken by this Act, as a result of the addition of property to Redwood National Park under the first section of this Act. Not later than September 30, 1977, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a report of his analysis, including his recommendations with respect to actions that should be taken to mitigate any significant short-term and long-term adverse effects on the local economy caused by such addition.

(b) The Secretary of Commerce and the Secretary of Labor, in consultation with the Secretary of the Interior, and pursuant to his study, shall apply such existing programs as are necessary and appropriate to further mitigate identified employment and other adverse economic impacts on public and private segments of the local economy, other than with regard to the payment of just compensation to the owners of properties taken by this Act and by the Act of October 2, 1968, supra. In addition to the land rehabilitation and employment provisions of this Act, which should have a substantial positive economic effect on the local economy, the Secretaries of Commerce and Labor are further authorized and directed to implement existing authorities to establish employment programs, pursuant to such grants, contracts, and cooperative agreements with agencies of the Federal Executive, the State of California, any political or governmental subdivision thereof, any corporation, not-for-profit corporation, private entity or person, for the development and implementation of such programs, as, in the discretion of the Secretaries of Commerce and Labor may be necessary, to provide employment opportunities to those individuals affected by this taking and to contribute to the economic revival of the Del Norte and Humboldt Counties, in northern California.

(c) The Secretary of Agriculture within one year after the date of enactment of this Act, shall prepare and transmit to Congress a study of timber harvest scheduling alternatives for the Six Rivers National Forest. Such alternatives shall exclude the timber inventories now standing on units of the Wilderness Preservation System and shall be consistent with laws applicable to management of the national forests. In developing the alternatives, the Secretary shall take into consideration economic, silvicultural, environmental and social factors.

SEC. 3. (a) In order to utilize the skills of individuals presently working in the woods and in the mills to the greatest degree possible to both ease the personal economic effects of this taking, and to assist in the necessary rehabilitation, protection, and improvement of lands acquired by this Act through implementation of sound rehabilitation and land use practices, the Secretary shall have power to appoint and fix the compensation of additional full-time and temporary personnel to assist in carrying out such programs necessary for the protection and enhancement of Redwood National Park. In filling these positions, preference shall be given to those applicants affected by this taking for a period ending on September 30, 1983, notwithstanding applicable civil service laws and regulations.

(b) In order to effectively administer the expanded Redwood National Park created by this Act in a manner that will provide maximum protection to its resources and to provide for maximum visitor use and enjoyment to ease the local economic effects of this taking, the Secretary shall have power to appoint and fix the compensation of additional full-time and temporary employees in the competitive service. In filling these positions, preference shall be given to those applicants affected by this taking for a period ending on September 30, 1983, notwithstanding applicable civil service laws and regulations. The Secretary shall further have power to appoint and fix the compensation of additional full-time and temporary employees in the competitive service as provided by this subsection at the time of the donation of those park lands or interests in land owned by the State of California as are within the boundaries of Redwood National Park as provided herein. In filling these positions, preference shall be given to those State employees affected by this transfer for a period not to exceed six years from the date of transfer; permanent State civil service employees shall be provided the opportunity to transfer to a comparable Federal civil service classification notwithstanding applicable civil service laws and regulations.

(c) Employees appointed pursuant to this section shall have their compensation fixed at rates not to exceed that now or hereafter prescribed for the highest rate of grade 15 of the General Schedule under section 5332 of title 5, United States Code.

SEC. 4. (a) The Secretary shall submit an annual written report to the Congress on January 1, 1979, and annually thereafter for ten years, reporting on the status of payment by the Secretary for real property acquired pursuant to section 1(a)(4) and section 1(c) of this amendment; the status of the actions taken regarding land management practices and watershed rehabilitation efforts authorized by section 1(a)(6) and section 2(b) of this amendment; the status of the efforts to mitigate adverse economic impacts as directed by this Act; the status of National Park Service employment requirements as authorized by section 3 of this amendment; the status of the new bypass highway and of the agreement for the donation of the State park lands as contemplated by section 1(a)(5) of this amendment; and the status of the National Park Service general management plan for the park.

(b) No later than January 1, 1980, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and to the Committee on Energy and Natural Resources of the Senate, a comprehensive general management plan for Redwood National Park, to include but not be limited to the following:

(1) the objectives, goals, and proposed actions designed to assure the preservation and perpetuation of a natural redwood forest ecosystem;

(2) the type and level of visitor use to be accommodated by the park, by specific area, with specific indications of carrying capacities consistent with the protection of park resources;

(3) the type, extent, and estimated cost of development proposed to accommodate visitor use and to protect the resource, to include anticipated location of all major development areas, roads, and trails including the specific locations and types of foot trail access to the Tall Trees Grove.

SEC. 5. Effective on October 1, 1978, there is hereby authorized to be appropriated $33,000,000 to carry out the rehabilitation provisions of this Act.

SEC. 6. (a) Notwithstanding any contrary provision of the Act entitled "An Act to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality", approved October 20, 1976 (90 Stat. 2662), the Secretary is authorized and directed to make payments on a fiscal year basis to each unit of local government, in the manner provided by the Act of October 20, 1976, in which lands owned by the United States within Redwood National Park are located. Such payments may be used for any governmental purpose. The amount of

such payments shall be computed as provided in subsections (b) and (c).

(b) Payment made for any fiscal year to a unit of local government shall include that amount determined pursuant to the provisions of section 2 of the Act of October 20, 1976.

(c) Payment made for any fiscal year to a unit of local government shall also include that amount determined pursuant to the provisions of section 3 of the Act of October 20, 1976: *Provided, however,* That any amount computed as provided by section 3(c)(1) of the Act of October 20, 1976, but not paid because of the limitation of subsection (c)(2) and subsection (d) of that section shall be carried forward and shall be applied to future years in which this portion of the total payment would not otherwise equal the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest was acquired for addition to Redwood National Park until such amount is exhausted.

(d) The Redwoods Community College District shall be considered as an affected school district for purpose of section 3(a) of the Act of October 20, 1976, as amended herein.

SEC. 7. The Secretary is further authorized, and the Congress specifically directs that it shall be a purpose of this Act, that the community services and employment opportunities provided by Redwoods United, Incorporated, a non-profit corporation located in Manila, California, shall be maintained at the present rate of employment to the greatest degree practicable.

SEC. 8. The Congress further acknowledges and directs that the full faith and credit of the United States is pledged to the prompt payment of just compensation as provided for by the fifth amendment to the Constitution of the United States for those lands and properties taken by this Act.

SEC. 9. Unless otherwise indicated hereinbefore, a reference to the Secretary will refer to the Secretary of the Department of the Interior.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, first of all, I want to express my thanks to everybody who assisted on this legislation. It has been quite a long time since we started working on it. Particularly, Senator HANSEN, the minority leader as far as this bill is concerned in the Energy Committee, has been a very hard worker for the establishment of Redwood Park. I am very grateful for his help.

I thank Senator CRANSTON, especially without whose help we could not have gotten this through the committee. Even though he is not a member of the Energy Committee, he sat in during the mark-up session, and I hate to use this word, but he "muscled" everybody he had to to get the bill through. It was due to Senator CRANSTON that we were able to get as far as we have. I express my appreciation.

Mr. CRANSTON. I want to thank the Senator very much. I rise on a point of personal privilege. I never "muscle" anybody.

Mr. ABOUREZK. He persuaded everyone.

Mr. CRANSTON. I thank the Senator for his wonderful help on this bill. He has been magnificent.

Mr. ABOUREZK. I ask unanimous consent that S. 1976 be ordered printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to S. 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I want again to express my thanks to JIM ABOUREZK for his remarkably effective work on this bill and his dedication to a matter that was far removed from his own State. He was magnificient in the work he did on this.

I also thank Senator HANSEN for his fine work. He was most cooperative and helpful. Senator JACKSON was also a great source of strength to us in this effort.

Senator ROBERT BYRD, the majority leader, was of great help in getting this through the Committee on Appropriations at a difficult point in the career of this legislation. I am deeply grateful to him for that and also for helping get it scheduled in time to meet some important deadlines that will save many trees. Finally, I want to thank Jim Beirne of the Senate Energy Committee staff, Tony Beunito of Senator HANSEN'S staff, and Roy Greenaway, Kathy Files, and Ann Wray of my own staff for their invaluable assistance.

The important thing is that the Senate has passed this bill—and I am confident that the House will soon pass a bill matching this one. We have accomplished the saving of some magnificent trees that are a great national heritage, precious not only to the people of California and the West but also to all the people of our Nation and, indeed, to many people throughout the world who have visited or will visit these redwood groves to see these magnificent trees in their natural home.

I thank all Senators for their help.

SENATE RESOLUTION 375—AUTHORIZATION FOR EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, I send to the desk a resolution authorizing expenditures by the Special Committee on Aging for the coming year, March 1, 1978, through February 28, 1979; and I ask unanimous consent that the resolution may be referred to the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY DROUGHT RELIEF MEASURES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 10532.

The PRESIDING OFFICER laid before the Senate H.R. 10532, an act to amend Public Law 95–18, providing for emergency drought relief measures.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration. I do this on behalf of Mr. JACKSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, on Wednesday, January 25, the Senate Committee on Energy and Natural Resources, during a full committee business meeting, discussed the request by the administration for an amendment to Public Law 95–18, the Emergency Drought Act of 1977. The committee was unanimous in reaching the decision that the proposed amendment should be acted upon as rapidly as possible and on the following day, January 26, I introduced S. 2439, a companion measure to H.R. 10532.

As the members will recall, last spring the Congress acted with expediency in passing the Emergency Drought Act of 1977. In August, as experience with the drought program dictated, the Congress amended the act to provide for an extension of the drought relief program to January 31, 1978.

On January 20, Secretary of the Interior Cecil D. Andrus submitted a draft bill to provide for a further extension of the drought program. As the Secretary pointed out in his letter of transmittal, unforeseen delays caused by adverse weather, scarcity of supplies or other conditions will prevent the completion of at least 66 drought-related construction projects by the January 31 deadline for completion as stipulated in Public Law 95–18.

As passed by the House, H.R. 10532 will not authorize any new projects or new funds. Simply, the bill provides the needed time to complete construction which is already underway, utilizing funds that have already been obligated.

I ask unanimous consent that the letter of transmittal from the Secretary of the Interior and a list of the projects on which construction will not be completed by January 31, 1978, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., January 20, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Emergency Drought Act of 1977 (P.L. 95–18) as amended, requires that all construction activities undertaken to implement the programs authorized by the Act be completed by January 31, 1978. Our approval of drought assistance requests has been based on the ability of the recipient to complete the proposed project before the January 31, 1978, deadline, and that date has been included in each contract.

It has now come to our attention that there are several instances where we have obligated funds, where construction work has begun and is being diligently pursued, but where delays in delivery of required supplies,

bad weather, or other unforeseen circumstances will not permit completion of all construction by January 31, 1978.

We have carefuly examined the provisions of the Emergency Drought Act, and find that we are without authority to allow construction work undertaken with funds provided by that Act to continue past the statutory deadline. The Act is clear in setting a cut-off date on construction activities. The language provides no exceptions to this limit. In extending the Act once already (P.L. 95–107), Congress has again provided no exceptions. Therefore, we must conclude that we have no authority to administratively grant exceptions.

We are, of course, in sympathy with those who have diligently pursued construction activities but will be unable to complete them because of unforeseen circumstances. Therefore, we would support legislation further amending P.L. 95–18 to authorize us to allow construction to continue past the current deadline to permit completion of work in special circumstances such as those outlined above.

In order to assist in achieving this objective, we have attached a proposed bill providing authority to the Secretary to allow, in his discretion, continuation of construction activities for a reasonable time. No new projects or new funds are authorized. Extended construction activities would utilize funds already appropriated and obligated.

The bill would also extend the time for the Secretary to report to the Congress and the President on activities under the Act from March 1, 1978, to May 1, 1978. This change would be necessary to accommodate the program extension.

We would recommend that the bill be introduced and swiftly enacted. If the Congress has another approach to resolving the problem, we would be most interested in working with you. Of course, time is of the essence on this matter.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed draft bill from the standpoint of the Administration's objectives.

Sincerely,

CECIL D. ANDRUS,
Secretary.

Enclosure.

EMERGENCY DROUGHT ACT OF 1977 (P.L. 95–18) CONSTRUCTION PROJECTS WHICH WILL NOT BE COMPLETED BY JANUARY 31, 1978

REGION: 1 PN

1. Okanogan Irrigation District—Washington ($1,750,000)—replace pumping plant—might make it by January 31, 1978, but probably not quite—due to various delays in deliveries and weather—would need additional couple of weeks at most.

2. B and P Irrigation District—Idaho ($30,000)—to drill new well—work is continuing but do not expect completion by January 31, 1978—delay caused by bad weather, late start—would need extra couple of weeks.

REGION 2: MP

1. Santa Ynez River Water Conservancy District—California ($340,000)—two wells and pumps—one pump is not yet installed—late delivery and bad weather—would need extra 2 weeks to finish (weather permitting).

2. Chowchilla Water District—California ($4,500,000)—wells, tailwater return system pipelines—most work is completed but some pump installations are not finished—delay due to back log of work for electrical contractor and bad weather—need about another month to finish.

3. Georgetown Divide Public Utility District—California ($184,750)—four diversion structures and pipelines—having trouble doing concrete work because of bad weather—rest of work done—need another month or 2 of good weather to finish.

4. Merquin County Water District—California ($440,000)—20 wells and pumps—not all pumps have been installed on the wells due to electrical contractor's back log of work and also due to poor weather conditions and a late start—need another month to finish.

5. Madera Irrigation District—California ($1,193,273)—pipelines, pumps, and meters—some pipelines not yet installed due to bad weather—but work might be completed on time if weather improves.

6. Placer County Water Association—California ($201,020)—pipeline—contractor can't get additional pipes delivered until end of January—would need about a month to finish after pipes arrive.

7. West Side Irrigation District—California ($569,000)—replace 10 miles open ditch with pipelines—late delivery of pipe, not all pipe installed yet—would need additional month to complete.

8. Natomas Central Mutual Water Conservancy—California ($250,000)—modify pump station, install pumps, dredging and pilings—most work completed, but final placement of concrete being delayed by weather—need additional month or more (depending on weather) for completion.

9. Jacob Rancho Water Conservancy—California ($500,000)—five deep wells—wells completed but bad weather has hampered installation of pumps—work might be completed by January 31, 1978, if weather improves—otherwise they will need additional time.

10. El Nido Irrigation District—California ($1,000,000)—new wells—wells completed but pumps not all installed—due to contractor's back log and bad weather—need additional month to finish.

11. Truckee Carson Irrigation District—Nevada ($268,400)—pumps, meters and lining of ditches—bad weather has slowed work and all lining might not be completed by January 31, 1978, unless weather improves.

12. State of California—grant for $3,604,-103—State would like more time for removal of Delta barriers—State's weather modification program is just starting and will probably not use all of the obligated Federal funds by January 31, 1978.

REGION 3: LC

Not aware of any, although some of the Fish and Wildlife projects were on tight schedules and might not quite make deadline.

REGION 4: UC

1. Muddy Creek Irrigation Company—Utah ($600,000)—repairs to Emery Reservoir—start delayed 3 months by Forest Service's refusal to approve permit—now weather is bad—not much work has been done—work would not be finished until spring at earliest.

2. Newton Water Users Association—Utah ($65,000)—to line 13,040 feet of ditch—cold weather has prevented final concrete work from being completed—other than that job is completed—estimated 90% complete—final completion would have to wait for warmer weather.

REGION 5: SW

1. New Mexico Department of Game and Fish ($223,000)—various water saving features at hatcheries and wildlife areas—work about 75% done, some final installations not yet completed due to delays caused by bids, slow deliveries and weather—would need about an extra month to complete all work.

REGION 6: UM

Not aware of any problems.

REGION 7: LM

1. Gering Irrigation District—Nebraska ($247,300)—to line canals—request was submitted late and not approved until November 29, 1977—also weather delays—work is progressing but it's expected they need another month.

2. Pathfinder Irrigation District—Nebraska ($534,400)—to line laterals—late request, late start, bad weather—work is progressing but will need additional month or 2 to complete.

3. Amity Mutual Irrigation Conservancy—Colorado ($194,000)—repair and line canals—late request and late start, bad weather—need additional month to complete.

4. Central Nebraska Powerplant and Irrigation District—Nebraska ($346,400)—13.2 miles of pipeline—work is progressing but is being hampered by weather—need another month to finish.

INDIAN PROJECTS NEEDING EXTENSION FOR DROUGHT IMPROVEMENTS

	Total drought improvements	Total funds obligated
Idaho: Fort Hall Tribes	12 irrigation wells drilled, cased and equipped	$528, 500
New Mexico:		
Isleta Pueblo	20 irrigation wells	530, 000
Jemez Pueblo	4 irrigation wells	60, 000
Picuris Pueblo	4,000 ft concrete canal lining	48, 300
Pojoaque Pueblo	Rehabilitate diversion dam	23, 600
San Juan Pueblo	8,800 ft concrete cana. lining	94, 500
Santa Ana Pueblo	4 irrigation wells	60, 000
Santo Domingo Pueblo	5 irrigation wells	114, 000
Taos Pueblo	12,500 ft concrete and lining, rehabilitation of of canal and 1 irrigation well.	402, 200
Zia Pueblo	Enlargement of storage reservoir	139, 200
Mescalero Apache	7,000 ft concrete pipeline	137, 000
Navaio	Lining looking siphon	200, 000
Total		1, 808, 800
Washington:		
Colville	2 irrigation wells and equipment	55, 000
Yakima	Development equip irrigation wells	5, 000, 000
Hoh Fishery	1 well	7, 500
Lower Elwa Fishery	New diversion structure and lining of rearing ponds.	243, 000
Lummi Fishery	Well drilling and stream diversion	103, 000
Muckleshoot Fishery	To acquire water source	36, 000
Nisqually Fishery	Acquisition of water source and develop wells	230, 000
Skokomish Fishery	Install well and rearing ponds	155, 600
Total		5, 830, 100
Arizona:		
Gila River (Pima)	Drill and equip 15 wells	1, 500, 000
Kaibab	Spring development and pipeline	71, 000
San Carlos Apache	Wells and river pumps	128, 100
Total		1, 699, 100
Nevada:		
Campbell Ranch	Drill and equip wells	148, 000
Fort McDermitt	do	226, 000
Pyramid Lake (Fishery)	Rehabilitate 1 well	8, 400
Summit Lake (Fishery)	Drill and equip 1 well	44, 000
Walker River	Drill and equip 4 wells	186, 000
Yomba	Drill and equip 3 wells	145, 000
Total		757, 400

Mr. HASKELL. Mr. President, the Emergency Drought Assistance Act of 1977, which I sponsored, has been most helpful to Colorado. It has enabled local communities to mitigate the disastrous effects of last year's paucity of rainfall. We in the West have long appreciated the need to conserve water for periods of drought.

Communities such as those represented by the Amnity Mutual Ditch Co. and the Central Colorado Water Conservancy District have participated in the program established by this act. They and the Department of the Interior deserve our acclaim for the enthusiasm with which they have embraced this program and have worked to see that it was quickly implemented. Unfortunately, it is not always possible to control delay caused by frozen ground and equipment failure. It was never this body's intention to impose unrealistic timetables upon those who must implement this program. It is my understanding that the extension of this program will allow the time necessary to complete these vital projects. This is as it should be, for our desire is to see that drought is mitigated, not that incomplete projects result. Mr. President, I wholeheartedly support the extension of this program.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OFFICE OF RAIL PUBLIC COUNSEL

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5798.

The PRESIDING OFFICER laid before the Senate H.R. 5798, an act to amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978.

Mr. ROBERT C. BYRD. I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-334), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE AND SUMMARY

The reported bill amends section 27(6) of the Interstate Commerce Act to authorize an appropriation of $1,000,000 for the Office of Rail Public Counsel in the Interstate Commerce Commission (ICC or Commission) for fiscal year 1978.

Basis and need for the legislation

In section 304(a) of the Railroad Revitalization and Regulatory Reform Act of 1976, amending the Interstate Commerce Act, Congress established the Office of Rail Public Counsel as an independent office affiliated with the ICC. The Office is charged with presenting the views of the public and representing the public interest with respect to rail transportation matters subject to the jurisdiction of the ICC.

The administrative forerunner of the Office of Rail Public Counsel was the Office of Public Counsel, established in 1974 by the Director of the Rail Services Planning Organization (RSPO) in the Commission, pursuant to the discretion vested in him by section 205 of the Regional Rail Reorganization Act of 1973. This office was instrumental in procuring and assisting the participation of traditionally unrepresented and underrepresented segments of the public, such as communities and users of rail service, in aspects of the regional rail reorganization process affecting them.[1] Subsequently, Congress provided for the establishment of the Office of Rail Public Counsel, with expanded powers.

To assure vigorous public participation and representation in the governmental decision-making process affecting rail service, Congress empowered the Office to participate as a party in proceedings before the Commission, initiate such proceedings, and, in accordance with applicable law, to seek judicial review of Commission action, where such proceedings or action involve a common carrier by railroad subject to Part I of the Interstate Commerce Act. The Office is also directed to solicit and present in proceedings before the Commission the views of communities and users of rail service affected by such proceedings when such communities or users might not otherwise be adequately represented and to evaluate, represent, and assist the representation of the public interest in safe, efficient, reliable, and economical rail transportation services before the Commission and other Federal agencies.

The active public participation and representation envisioned by Congress in formulation by the Commission of decisions affecting rail service has been thwarted by the failure of the Executive to appoint a Director of the Office of Rail Public Counsel, as mandated by statute. In its proposed budget the new Administration has requested $700,000 to fund the Office for fiscal year 1978 and apparently intends to submit to the Senate a nomination for Director in the near future. Congress originally authorized to be appropriated to the Office $500,000 for the fiscal year ending June 30, 1976; $500,000 for the fiscal year transition period ending September 30, 1976; and $2,000,000 for the fiscal year ending September 30, 1977. The Committee urges the prompt appointment and confirmation of a Director and recommends that $1,000,000 be authorized for the Office for fiscal year 1978. These funds would enable the Office to perform its critical functions in a period during which the nature and extent of rail transportation service are undergoing considerable change and a large segment of the railroad industry remains in a state of upheaval.

The Committee is cognizant that legislation for the creation of a Federal agency for consumer protection is under consideration by Congress. It is not the intent of the Committee that the functions of the Office of Rail Public Counsel be performed by or within two Federal agencies, resulting in unnecessary duplication. However, the Committee firmly supports the objectives embodied in the legislation creating the Office and believes that the performance of the responsibilities of the Office should not be delayed further to the detriment of communities and users of rail services. Should a consumer protection agency be established, serious consideration should be given to whether the Office should be made a part of such agency. A determination should be made whether the performance of the responsibilities of the Office and hence the attainment of the statutory objectives can better be accomplished within or without the framework of such an agency. The Committee does not intend this authorization to preclude any action which would strengthen and make more effective the activities of a public counsel acting with respect to rail matters before the ICC.

[1] In its Report on Federal Regulation and Regulatory Reform, October, 1976, pp. 358-65, the Committee's Subcommittee on Oversight and Investigations evaluated the activities of the Office of Public Counsel and concluded that the public participation in the reorganization process made possible through the efforts of the Office had contributed significantly to the reorganization process.

ORDER THAT COMMITTEE HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Human Resources have until midnight tonight to file a report on a clean bill dealing with labor law reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I believe an order has been entered that after the two leaders or their designees have been recognized on tomorrow under the standing order, Mr. LEAHY will be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. That order has already been entered.

Mr. ROBERT C. BYRD. I thank the Chair.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 448.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 286) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 897.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution.

The Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, I rise only to inform my friend, the majority leader, that the item is cleared on this calendar. We have no objection to it passing.

Mr. ROBERT C. BYRD. I thank my friend.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 897. Such waiver is necessary because hearings were delayed in order to accommodate the Administration in formulating its position on nuclear nonproliferation and to await its substantive testimony which did not occur until May 6, 1977. Furthermore, the Administration bill, S. 1432, was not introduced until April 29, 1977, and three committees were given jurisdiction over it. The number of hearings which were required in order to receive input from all necessary groups of witnesses made the May 15 deadline impossible to meet.

The effect of defeating consideration of the authorization will be to substantially reduce the program of cooperation and assistance to developing countries for the purpose of developing indigenous energy resources. In particular, a program to promote exchange of United States scientists, technicians, and energy experts with those of developing countries will have to be deferred.

The desired authorization will not delay the appropriations process and can be easily accommodated in a supplemental appropriation.

An authorization of this kind was contemplated in the congressional budget. There is a $5,000,000 authorization for "international cooperation" in the fiscal year 1978 Energy Research and Development Administration authorization bill. The present authorization raises this amount to $10,000,000.

This authorization is sufficiently small that it will not significantly affect the congressional budget. However, its impact in terms of nuclear proliferation will be considerable in relations to its size, it is therefore considered an important part of the Nuclear Nonproliferation Act of 1977.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DRUG ABUSE CONFERENCE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution on behalf of Mr. JACKSON and Mr. MAGNUSON and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows.

A resolution (S. Res. 381) to express the sense of the Senate in support of the National Drug Abuse Conference in Seattle on April 3–8, 1978.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JACKSON. Mr. President, this year the National Drug Abuse Conference will be held in Seattle on April 3–8, 1978. NDAC 1978 is the largest and most comprehensive drug and alcohol conference in the world and is expected to attract representatives from the drug and alcohol abuse, social services, law enforcement, medical, psychological, psychiatric, and pharmaceutical fields from around the world. Ethnic and cultural groups, the young, the elderly, and the military will be represented. Some 5,000 people are expected to be in attendance.

The spread of drug abuse across America continues to threaten the quality of our national life. It is destroying individual lives, dividing families and disrupting the social structures of our cities and communities. The economic cost alone, in terms of lost productivity, narcotics-related crime and drug abuse prevention programs, is estimated in excess of $10 billion a year. The toll of human suffering is beyond measure.

The Conference is designed to help people working in the drug abuse field to improve professional skills, increase knowledge of the drug and alcohol abuse field and share their experiences and ideas.

I believe there is a need to highlight the international scope of the dangerous substance abuse problem, to focus attention on the cultural and topical issues in the field, to address the critical issues which concern those working in the field, and to increase the public awareness and understanding of drug abuse, prevention methods, education, treatment, and research. I believe that this Conference will achieve these objectives; I wholeheartedly support the efforts and objectives of the Conference organizers; and I am introducing this resolution to aid in increasing national awareness of both the Conference and the nationwide dangerous substance abuse problem.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 381) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 381

Whereas the National Drug Abuse Conference is being held in Seattle on April 3–8, 1978; and

Whereas it is the purpose of the Conference to bring together those people involved in the drug and alcohol abuse fields for an exchange of ideas and information on treatment, education, research and techniques; and

Whereas it is also the purpose of the Conference to increase public awareness and understanding of substance abuse problems, solutions and treatments available; Now, therefore, be it

Resolved, That it is the sense of the Senate that it is fully supportive of the principles behind, and the goals and objectives of, this Conference.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Mr. LEAHY under the order previously entered there be a brief period for the transaction of routine morning business on tomorrow, until the hour of 10 o'clock a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may be permitted to speak during that period for the transaction of routine morning business for not to exceed 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has an order been entered already to the effect that at 10 o'clock tomorrow morning the Senate will proceed to the consideration of the amendment that is in disagreement between the two Houses on the supplemental appropriations bill?

The PRESIDING OFFICER. Such an order has already been entered.

Mr. ROBERT C. BYRD. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now, again, be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there morning business?

COMMUNICATIONS ACT AMENDMENTS OF 1977

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1547, Calendar No. 534, a bill to amend the Communications Act of 1934.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAKER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee, the minority leader.

Mr. BAKER. I would only say to my friend from South Carolina that this item was carried until a moment ago when it was cleared and we have no objection to proceeding to its consideration and passing at this time.

Mr. HOLLINGS. I thank the minority leader.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1547) to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures, and to authorize the Federal Communications Commission to regulate pole attachments, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science and Transportation with amendments as follows:

On page 1, line 5, strike "Communication" and insert "Communications";

On page 7, beginning with line 15, strike through and including page 8, line 18, and insert in lieu thereof:

SEC. 5. Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking the word "Subject" and inserting in lieu thereof the following "Except as provided in section 224 and subject".

SEC. 6. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"REGULATIONS OF POLE ATTACHMENTS

"SEC. 224. (a) As used in this section:

"(1) The term 'utility' means any person whose rates or charges are regulated by the Federal Government or a State and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communication. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State.

"(2) The term 'Federal Government' means the Government of the United States or any agency or instrumentality thereof.

"(3) The term 'State' means any State, territory, or possession of the United States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof.

"(4) The term 'pole attachment' means any attachment by a cable television system to a pole, duct, conduit, or right-of-way owned or controlled by a utility.

"(b)(1) Subject to the provisions of subsection (c) of this section, the Commission shall regulate the rates, terms, and conditions for pole attachments to provide that such rates, terms, and conditions are just and reasonable, and shall adopt procedures necessary and appropriate to hear and resolve complaints concerning such rates, terms, and conditions. For purposes of enforcing any determinations resulting from complaint procedures established pursuant to this subsection, the Commission shall take such action as it deems appropriate and necessary, including issuing cease and desist orders, as authorized by section 312(b) of title III of the Communications Act of 1934, as amended.

"(2) Within 180 days from the date of enactment of this section the Commission shall prescribe by rule regulations to carry out the provisions of this section.

"(c)(1) Nothing in this section shall be construed to apply to, or to give the Commission jurisdiction with respect to rates, terms, and conditions for pole attachments in any case where such matters are regulated by a State.

"(2) Any State which regulates the rates, terms, and conditions for pole attachments shall certify to the Commission that it regulates the rates, terms and conditions for pole attachments.

"(d)(1) For purposes of subsection (b) of this section, a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

"(2) As used in this subsection, the term 'usable space' means the space above the minimum grade level which can be used for the attachment of wires, cables, and associated equipment.

"(e) Upon the expiration of the 5-year period that begins on the date of enactment of this Act the provisions of subsection (d) of this section shall cease to have any effect.".

On page 11, line 8, strike "6" and insert "7";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Communications Act Amendments of 1977".

SEC. 2 Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended to read as follows:

"(b) Any person who is determined by the Commission, in accordance with paragraph (3) or (4) of this subsection, to have—

"(A) willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument or authorization issued by the Commission;

"(B) willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act or under any treaty, convention, or other agreement to which the United States is a party and which is binding upon the United States;

"(C) violated any provision of section 317 (c) or 509(a) of this Act; or

"(D) violated any provision of section 1304, 1343, or 1464 of title 18, United States Code;

shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this subsection shall be in addition to any other penalty provided for by this Act; except that this subsection shall not apply to any conduct which is subject to forfeiture under title II, part II or III of title III, or section 507 of this Act.

"(2) The amount of any forfeiture penalty determined under this subsection shall not exceed $2,000 for each violation. Each day of a continuing violation shall constitute a separate offense, but the total forfeiture penalty which may be imposed under this subsection, for acts or omissions described in paragraph (1) of this subsection and set forth in the notice or the notice of apparent liability issued under this subsection, shall not exceed—

"(A) $20,000, if the violator is (i) a common carrier subject to the provisions of this Act, (ii) a broadcast station licensee or permittee, or (iii) a cable television operator; or

"(B) $5,000, in any case not covered by subparagraph (A).

The amount of such forfeiture penalty shall be assessed by the Commission, or its designee, by written notice. In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(3)(A) At the discretion of the Commission, a forfeiture penalty may be determined against a person under this subsection after notice and an opportunity for a hearing before the Commission or an administrative law judge thereof in accordance with section 554 of title 5, United States Code. Any person against whom a forfeiture penalty is determined under this paragraph may obtain review thereof pursuant to section 402(a).

"(B) If any person fails to pay an assessment of a forfeiture penalty determined under subparagraph (A) of this paragraph, after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the Commission, the Commission shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the forfeiture penalty shall not be subject to review.

"(4) Except as provided in paragraph (3) of this subsection, no forfeiture penalty shall be imposed under this subsection against any person unless and until—

"(A) the Commission issues a notice of apparent liability, in writing, with respect to such person;

"(B) such notice has been received by such person, or until the Commission has sent such notice to the last known address of such person, by registered or certified mail; and

"(C) such person is granted an opportunity to show, in writing, within such reasonable period of time as the Commission prescribes by rule or regulation, why no such forfeiture penalty should be imposed.

Such a notice shall (i) identify each specific provision, term, and condition of any Act, rule, regulation, order, treaty, convention, or other agreement license, permit, certificate, instrument or authorization which such person apparently violated or with which such person apparently failed to comply; (ii) set forth the nature of the act or omission charged against such person and the facts upon which such charge is based; and (iii) state the date on which such conduct occurred. Any forfeiture penalty determined under this paragraph shall be recoverable pursuant to section 504(a) of this Act.

"(5) No forfeiture liability shall be determined under this subsection against any person, if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, unless, prior to the notice required by paragraph (3) of this subsection or the notice of apparent liability required by paragraph (4) of this subsection, such person (A) is sent a citation of the violation charged; (B) is given a reasonable opportunity for a personal interview with an official of the Commission, at the field office of the Commission which is nearest to such person's place of residence; and (C) subsequently engages in conduct of the type described in such citation. The provisions of this paragraph shall not apply, however, if the person involved is engaging in activities for which a license, permit, certificate, or other authorization is required. Whenever the requirements of this paragraph are satisfied with respect to a particular person, such person shall not be entitled to receive any additional citation of the violation charged with respect to any conduct of the type described in the citation sent under this paragraph.

"(6) No forfeiture penalty shall be determined or imposed against any person under this subsection if—

"(A) such person holds a broadcast station license issued under title III of this Act and if the violation charged occurred—

"(i) more than 1 year prior to the date

of issuance of the required notice or notice of apparent liability; or

"(ii) prior to the date of commencement of the current term of such license,

whichever is earlier so long as such violation occurred within 3 years prior to the date of issuance of such required notice; or

"(B) such person does not hold a broadcast station license issued under title III of this Act and if the violation charged occured more than 1 year prior to the date of issuance of the required notice or notice of apparent liability.".

SEC. 3. (a) The first sentence of section 504(a) of the Communications Act of 1934 (47 U.S.C. 504(a)) is amended by inserting immediately after "recoverable" the following: ", except as otherwise provided with respect to a forfeiture penalty determined under section 503(b)(3) of this Act,".

(b) Section 504(b) of such Act is amended (1) by striking out "parts II and III of title III and section 503(b), section 507, and section 510" and inserting in lieu thereof "title II, parts II and III of title III, and sections 503(b) and 507"; and (2) by striking out ", upon application therefor,".

SEC. 4. Section 510 of the Communications Act of 1934 (47 U.S.C. 510) is repealed in its entirety.

SEC. 5. Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking the word "Subject" and inserting in lieu thereof the following "Except as provided in section 224 and subject".

SEC. 6. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"REGULATIONS OF POLE ATTACHMENTS

"SEC. 224. (a) As used in this section:

"(1) The term 'utility' means any person whose rates or charges are regulated by the Federal Government or a State and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communication. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State.

"(2) The term 'Federal Government' means the Government of the United States or any agency or instrumentality thereof.

"(3) The term 'State' means any State, territory, or possession of the United States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof.

"(4) The term 'pole attachment' means any attachment by a cable television system to a pole, duct, conduit, or right-of-way owned or controlled by a utility.

"(b)(1) Subject to the provisions of subsection (c) of this section, the Commission shall regulate the rates, terms, and conditions for pole attachments to provide that such rates, terms, and conditions are just and reasonable, and shall adopt procedures necessary and appropriate to hear and resolve complaints concerning such rates, terms, and conditions. For purposes of enforcing any determinations resulting from complaint procedures established pursuant to this subsection, the Commission shall take such action as it deems appropriate and necessary, including issuing cease and desist orders, as authorized by section 312(b) of title III of the Communications Act of 1934, as amended.

"(2) Within 180 days from the date of enactment of this section the Commission shall prescribe by rule regulations to carry out the provisions of this section.

"(c)(1) Nothing in this section shall be construed to apply to, or to give the Commission jurisdiction with respect to rates, terms, and conditions for pole attachments in any case where such matters are regulated by a State.

"(2) Any State which regulates the rates, terms, and conditions for pole attachments shall certify to the Commission that it regulates the rates, terms, and conditions for pole attachments.

"(d) (1) For purposes of subsection (b) of this section, a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

"(2) As used in this subsection, the term 'usable space' means the space above the minimum grade level which can be used for the attachment of wires, cables, and associated equipment.

"(e) Upon the expiration of the 5-year period that begins on the date of enactment of this Act the provisions of subsection (d) of this section shall cease to have any effect.".

SEC. 7. The amendments made by this Act shall take effect on the thirtieth day after the date of enactment of this Act; except that the provisions of sections 503(b) and 510 of the Communications Act of 1934, as in effect on such date of enactment, shall continue to constitute the applicable law with the respect to any act or omission which occurs prior to such thirtieth day.

Mr. HOLLINGS. Mr. President, the Committee on Commerce, Science, and Transportation held 2 days of hearings on this bill on June 23 and 24, 1977. Thereafter, after study of additional statements and official reports of the FCC, the committee amended the bill in executive session in October and reported the bill as amended to the full Senate on November 2.

This bill accomplishes two major objectives. First, it would expand, simplify and enlarge the scope of the forfeiture provisions of the Communications Act to provide the Commission with more adequate enforcement powers over persons and entities subject to its regulation. However, while giving the FCC greater enforcement authority, the bill at the same time establishes certain guarantees of due process and fair warning for some persons or entities which are not presently subject to FCC forfeiture liability. Thus, for certain parties the Commission is required to issue, in effect, a "warning" citation before fining for infraction of the rules. Only if a person so warned again commits the same violation of FCC rules would he or she become liable for a forfeiture.

Mr. President, the forfeitures portion of S. 1547 is identical to S. 2343, which passed the Senate in the 94th Congress. I believe that the Commission requires the extra authority which this bill would provide in order to assure the persons who benefit from use of our Nation's electromagnetic spectrum adhere closely to the terms of the Communications Act and FCC rules promulgated thereunder.

The integrity of the Commission's regulatory authority must be fostered. The FCC presently experiences severe difficulty in enforcing some of its rules. For example, because it lacks forfeiture authority over cable television the Commission must resort to the cumbersome and time-consuming procedures of cease-and-desist proceedings. None of the parties involved in those proceedings profits from lengthy and costly adjudication.

I am sensitive, nevertheless, to the concerns expressed by some of the smaller cable system operators that FCC forfeitures may be indiscriminately imposed upon parties unable to absorb large fines, and for rule violations which have insignificant impact on other interested parties. I note, however, that the bill directs the Commission whenever considering imposition of a fine, to consider the gravity of the offense and the ability to pay. Moreover, the committee report expresses confidence, which I share, that the Commission will exercise its new enforcement powers over regulatees not previously liable for forfeitures in an evenhanded and equitable fashion.

Another reason for providing statutory guidance to the Commission in the matter of rates is to avoid lengthy start-up proceedings at the Commission before it begins active regulation. I am concerned that in view of the long period of time that has already elapsed while the FCC has had pole attachments under study that we do not allow further delay in giving cable television its right to be heard in any pole attachment dispute. The need for a forum exists today, not at some indefinite point in the future after further lengthy study.

Of equal significance to expedition is the need for a simple and effective procedure for resolution of disputes. Accordingly, this bill directs the Commission to institute a simple complaint procedure to adjudicate pole attachment disputes when such disputes are brought to the Commission. The bill does not contemplate the inauguration of a full-scale, common carrier-type regulatory plan, whereby utility companies would have to file tariffs or seek other authority to set pole rental rates at a predetermined level. Essentially, the FCC's involvement would arise only where the parties to the dispute are unable to agree among themselves as to the appropriate rates, terms, and conditions. The Commission may, however, publish advisory guidelines to assist the parties in reaching a mutually satisfactory rental agreement.

S. 1547 as amended in committee exempts telephone and electric cooperatives and municipally owned utilities from FCC regulation. It is believed that these utilities are of a different type than investor-owned utilities in that they are closer to the grassroots level of government whose discretion in this matter the bill seeks to protect.

Because the pole rates charged by municipally owned and cooperative utilities are already subject to a decision-making process based upon constituent needs and interests, S. 1547 precludes substitution of the Commission's judgment for that of locally elected managers of municipal utilities and the managers of customer-owned cooperatives.

Mr. President, I wish to take this opportunity to clear up some other ques-

tions which have recently arisen as to the pole attachment provisions of S. 1547. First, it has been said that the bill would take away the inherent power of the States to regulate CATV pole attachments. This is decidedly not the case. No State which regulates pole attachments on the effective date of this bill would loose jurisdiction. For a State which is not so regulating upon the effective date, its unexercised powers would be displaced only to the extent necessary to give cable television systems in that State a forum to take their complaints regarding unjust or unreasonable pole attachment arrangements. Should that State at any time act to provide that forum, the FCC would drop out of the picture. Furthermore, this bill contains no restrictions nor imposes any guidelines as to the manner by which a State may regulate. The rate-setting formula in this bill applies only to the FCC, and for only a period of 5 years. It is not intended to be a precedent to the States, or the Commission for that matter, after its 5-year life has expired. Thus, the inherent power of a State to regulate CATV pole attachments in a manner of its own choosing is preserved. There is consequently no need to create a "window" or delay period before the FCC may act.

Second, questions have arisen regarding the Federal ratesetting formula contained in the bill. It has been said that this formula would require a cable television system to pay a proportional share of the pole's costs attributable only to the usable space on the pole, and not a proportional share of the costs of the entire pole. Some ambiguity did exist on this point in the language of the bill as introduced. However, the Commerce Committee amendment makes abundantly clear that cable will pay a share of the costs of the entire pole. For example, on a typical pole 35 feet in length there are 11 feet of usable space. CATV usually occupies 1 foot of these 11 feet of usable space. Cable's share of the total capital costs and operating expenses would be one-eleventh of those total costs for all 35 feet, not one eleventh of the costs attributable to the 11 feet of usable space, and not one thirty-fifth of the costs of the pole. There should be no confusion on this point; the language of the bill as amended by the committee is unmistakable. The committee's report reiterates this clearly defined cost allocation.

Another question relating to the bill's Federal ratesetting formula has to do with a purported conflict between the language of the bill and language in the committee's report. It is said that the report errs in suggesting that pole rates can be based on "future" as opposed to "embedded" costs, since section 224(d)(1) of the bill refers to "actual capital costs".

It is said that the terms "future capital costs" and "actual capital costs" are mutually exclusive. However, this purported inconsistency is based upon a misapprehension of the pertinent discussion of the formula in the committee's report. As the report makes clear, it is not the purpose of this bill to require the FCC "to establish a separate system of accounting to determine operating expenses and capital costs attributable to poles, or to reexamine on its own initiative, the reasonableness of the cost methodology made by the utilities and sanctioned by State or local regulatory agencies." Thus, if a utility employs a cost methodology incorporating future as opposed to embedded costs, and that particular methodology is sanctioned by a regulatory body, then there is not need for the Commission to embark upon its own accounting system. It may simply consider the sanctioned use of future or replacement cost methodology in its own deliberations in a particular pole attachment complaint proceeding. There is no need to foreclose the Commission from accepting a replacement cost approach in a particular situation where that approach has the approval of a State public utility commission in analogous contexts. The report of the committee merely recognizes that establishment of pole attachment rates using a longer term "future" costs or "replacement costs" methodology is fraught with uncertainty, and will probably give rise to debate as to its reasonableness. Nevertheless, the committee recognizes that in some limited situations determination of rates based upon future as opposed to embedded costs of pole space may be entirely appropriate. Not wishing to foreclose the Commission from accepting any particular costing methodology, the committee merely seeks to permit the Commission to consider each case on its own merits and according to its own facts.

One further point deserves comment. The report of the committee (No. 95–580) (page 15) appears to suggest that as a jurisdictional requirement for FCC pole attachment authority a cable television facility must already be attached to a utility pole. While it is true, as the report explains that this bill does not grant a CATV system a right of access to the poles of a utility company, it is not necessary in all situations that a cable system be physically attached on a utility pole for FCC jurisdiction to arise. Thus, where an electric power company contracts with a cable company for the latters initial leasing of space on an electrict utility pole, FCC jurisdiction arises upon execution of the contract, regardless of the fact that at the moment the CATV system has not yet attached its facilities to the utility company's poles. Thus, following the reasoning of the report, if, the contract between the electric power company and the CATV company makes provision of communications space for attachment of cable TV facilities, a communications nexus is established sufficient to justify, in a jurisdictional sense, the potential involvement of the Commission. While the bill would not require a power company to dedicate a portion of its pole plant to communications use, if it voluntarily chooses to do so by contracting with a CATV company, it has submitted itself to FCC jurisdiction in this area.

Mr. President, I ask unanimous consent that the committee amendments be considered and adopted en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

UP AMENDMENT NO. 1169

Mr. HOLLINGS. Mr. President, I send to the desk a technical amendment on behalf of myself and Senator MAGNUSON.

The PRESIDING OFFICER. The clerk will state the technical amendment offered by the Senator.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes certain technical amendments, unprinted amendment numbered 1169.

The amendment is as follows:

On page 10, strike out lines 13 through 16 and insert in lieu thereof the following:

"(2) Each State which regulates the rates, terms and conditions for pole attachments shall certify to the Commission that—

"(A) it regulates such rates, terms and conditions; and

"(B) in so regulating such rates, terms and conditions, the State has the authority to consider and does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services.

Mr. HOLLINGS. Mr. President, the amendment which I offer today would express more clearly the intent of the bill to assure that pole attachment regulation by the States be conducted in a just fashion, and that due consideration be given by the States to the interests of all parties involved in pole attachment disputes. My amendment would make explicit what is now implicit in S. 1547—a State choosing to preempt Federal pole attachment regulation must certify to the FCC that it has the authority to consider and considers the interests of both utility and cable television customers. All State public utility commissions, of course, regulate utilities under a mandate to serve the interests of the consumers of utility services—the customers of electric power and telephone companies. However, in most States cable television is not regulated as a public utility service. Consequently, State or local regulatory bodies in many cases may not feel that their regulatory duties encompass the interests of the consumers of cable television services—in each case the State will have to determine for itself whether existing statutory or other legal authority is sufficiently broad to permit the regulatory body to act in behalf of CATV as well as utility customers.

Since pole attachment disputes involve cable television as well as utility companies, and ultimately their customers, it is only fair that State or local regulatory forums which will consider pole attachment disputes consider the interests of all parties to a dispute; any forum which undertakes to adjudicate these disputes must consider the interests of the public represented on both sides of the dispute.

My amendment would require any State wishing to recapture its authority to regulate in this area to represent to the FCC that its regulation of pole attachments will be based upon even-handed consideration of the interests of both utility and cable television custom-

ers. I believe that this amendment expresses the intent of the Commerce Committee that pole attachment regulation, whether conducted at the Federal or State or local level, be carried out in a fair and reasonable manner.

However, I must emphasize that it is not the intent of my amendment to authorize the Federal Communications Commission to pass upon the regulatory program of any State. Any state certification to the FCC which complies with the two simple requirements of my proposal—subsection (c)(2) (A) and (B)—will have the effect of automatically foreclosing further Commission pole attachment authority within that State—(of course, there will be a need for cooperation between the FCC and State or local regulatory bodies during the transition from Federal to local jurisdiction.) The FCC will not be called upon to look behind the certification to determine whether in fact the statements made are accurate.

Any discrepancy between the representations made in the certification and actual circumstances should be resolved at the State level. I ask unanimous consent that the technical amendment be agreed to.

Mr. President, I ask for adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

UP AMENDMENT NO. 1170

Mr. HOLLINGS. Mr. President, I send to the desk a technical amendment, No. 2, on behalf of the distinguished Senator from Hawaii (Mr. INOUYE), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS), for Mr. Inouye, proposes certain technical amendments, unprinted amendment No. 1170.

The amendment is as follows:

On page 11, strike line 8 and insert in lieu thereof the following:

SEC. 6. Section 222(a)(10) of the Communications Act of 1934 (47 U.S.C. 222(a)(10)) is amended by striking out ", except Hawaii".

SEC. 7. Section 222 of the Communications Act of 1934 (47 U.S.C. 222), as amended, is further amended by adding at the end thereof the following new subsection:

"(g)(1) The authority of any carrier to provide any service or operate any facilities which it is authorized to provide or operate on the date of enactment of this subsection shall not be altered solely by the inclusion of Hawaii within the definition of 'Continental United States', nor shall such inclusion restrict or impair any carrier's eligibility after the date of enactment of this subsection for new or additional authority.

(2) Whenever, upon a complaint or upon its own initiative, and after opportunity for a hearing, the Commission finds that any charge, classification, regulation, or practice relating to intercarrier arrangements of any carrier serving Hawaii is or will be unjust, unreasonable, discriminatory, or not in the public interest, the Commission shall determine and prescribe what charge, classification, regulation, or practice, or such other remedy as is or will be just, reasonable, nondiscriminatory and in the public interest to be thereafter followed.".

SEC. 8. The amendments made by this Act shall take * * *.

Mr. INOUYE. Mr. President, this amendment is intended to remove the anomalous designation of the State of Hawaii as an international point under section 222 of the Communications Act of 1934. It would do this by amending section 222(a)(10) to include Hawaii within the definition of "Continental United States." It thus would remove the applicability of the international/domestic dichotomy to the Hawaiian market and would foster competition among all carriers serving that market. My amendment would further amend section 222 by adding a new subsection, which would provide that carriers currently serving the Hawaiian market may continue to do so. Additionally, it would provide for the entry of additional carriers and the offering of new or additional services to the Hawaiian market, subject to the approval of the Federal Communications Commission.

Mr. President, my amendment is identical to S. 1866 which passed the Senate unanimously last August.

Before the Senate passed S. 1866, extensive hearings were held on the issue by the Senate Committee on Commerce, Science, and Transportation.

Nearly all witnesses, including representatives from the State of Hawaii, the Federal Communications Commission, the IRC's, the Office of Telecommunications Policy, and Hawaiian business and consumer groups testified in favor of extending to Hawaii telecommunications services comparable to those available in the continental United States.

S. 1866 is currently pending before the House Communications Subcommittee. In response to my inquiries, the chairman of that subcommittee has said he has no problem with S. 1866, but inasmuch as he believes section 222 of the Communications Act should be repealed in its entirety, he prefers to consider S. 1866 in that overall context at a later, unspecified date. Meanwhile, Mr. President, the consumers in Hawaii and those on the mainland wishing to communicate with Hawaii suffer.

This situation is especially exasperating for those who wish to communicate between Hawaii and the mainland because the House could pass S. 1866, without jeopardizing its consideration of legislation to repeal section 222. In other words, the one does not preclude the other.

I therefore urge the Senate to once again in the form of my amendment pass the necessary legislation to treat Hawaii equally with her 49 sister States.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, I ask that the Senate proceed to third reading of S. 1547, as amended.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for third reading, was read the third time, and passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of H.R. 7442 and that the Senate proceed to its immediate consideration, and that the text of S. 1547 as amended be substituted for the text of H.R. 7442.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the passage of S. 1547 will be vitiated.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 7442) was read the third time and passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which H.R. 7442 was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further consideration of S. 1547 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I thank the distinguished majority leader and the distinguished minority leader for their consideration.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 9:30 a.m.

After the two leaders or their designees have been recognized under the standing order, Mr. LEAHY will be recognized for not to exceed 15 minutes, following which there will be a period for the transaction of routine morning business, with a limitation of statements therein of 2 minutes each, and such period to culminate at 10 a.m.

At 10 a.m., the Senate, under the previous order, will proceed to the consideration of the amendment involving the disagreement between the two Houses on the supplemental appropriations bill. There is a time limitation on that amendment and motions in relation to the same of not to exceed 5 hours, with the final vote to occur not later than 3 p.m. tomorrow. So Senators may expect a rollcall vote or rollcall votes on tomorrow.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance

with the order previously entered, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 4:22 p.m. the Senate recessed until tomorrow, February 1, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 31, 1978:

NATIONAL COUNCIL ON THE ARTS

The following-named persons to be members of the National Council on the Arts for the terms indicated:

For the remainder of the term expiring September 3, 1982:

Theodore Bikel, of Connecticut, vice Hal C. Davis, deceased.

For a term of 6 years expiring January 26, 1984:

Maureen Dees, of Alabama, vice Mrs. David K. Wilson, term expired.

Jacob Lawrence, of Washington, vice Richard F. Brown, term expired.

IN THE ARMY

The followir y-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Marion Collier Ross, [redacted], U.S. Army.

HOUSE OF REPRESENTATIVES—*Tuesday, January 31, 1978*

The House met at 12 o'clock noon.

The Reverend H. Bailey Stone, Jr., pastor, First Baptist Church, Bryan, Tex., offered the following prayer:

Our Father, in this day of awesome challenge, we sense the tremendous pressure placed squarely on the shoulders of these who debate issues so vital to the national and international well-being of our great Nation. Decisions made here can well affect for good or for ill the future generations of Americans.

Responsibility such as this demands selflessness. Father, thank you for making your wisdom available. Please rest our minds and wills in your hands. In this day of challenge may we heed the admonition of the great Moses, "Be strong and of a good courage; fear not, neither be afraid of them, for the Lord your God, He it is who goes with you; He will not fail you nor forsake you."

In Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 666. An act to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 92–484, appointed Mr. STEVENSON to be a member, on the part of the Senate, of the Technology Assessment Board, vice Mr. Humphrey, deceased.

And that the Vice President, pursuant to Public Law 86–42, appointed, Mr. SPARKMAN, Mr. GRAVEL, Mr. LEAHY, Mr. SASSER, Mr. DURKIN, Mr. CURTIS, Mr. GRIFFIN, and Mr. STEVENS to attend, on the part of the Senate, the Canada-United States Interparliamentary Conference, to be held in New Orleans, La., February 9–13, 1978.

And that the Vice President, pursuant to Public Law 95–45, appointed Mr. SPARKMAN (chairman), Mr. RIBICOFF, Mr. BAYH, Mr. NELSON, and Mr. STAFFORD as members, on the part of the Senate, to the Interparliamentary Union spring meeting, to be held in Lisbon, Portugal, March 27–31, 1978.

PRESIDENT SHOULD EXERCISE LEADERSHIP IN DEALING WITH COAL STRIKE

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, the State of Ohio continues to be in an emergency situation because of the recent blizzard. I recall the President earlier talking about seeking alternative sources of energy, and Ohio responded and converted to coal in many instances. This emergency has been compounded because we cannot get coal due to the strike of the United Mine Workers. I looked with great sorrow on the President's press conference yesterday, wherein he said that he did not intend at this time to invoke the provisions of the Taft-Hartley law as it relates to this coal strike.

Mr. Speaker, we need leadership in the White House, not timidity. It seems to me that the President should exercise leadership and not be afraid of how his actions might offend the United Mine Workers. The welfare of the people of Ohio and surrounding States facing shortages of coal and electricity should take preference over what appears to be the President's preoccupation with labor votes. Many rank-and-file coal miners want to go back to work and the President should do his duty and invoke the provisions of Taft-Hartley.

INTRODUCTION OF LEGISLATION ESTABLISHING PERMANENT OFFICE OF SPECIAL PROSECUTOR

(Mr. COCHRAN of Mississippi asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COCHRAN of Mississippi. Mr. Speaker, I take this opportunity to advise the Members of the House that my friend and colleague, the gentleman from California (Mr. KETCHUM), and I are introducing legislation to establish and make permanent the Office of Special and Independent Prosecutor.

I think that the events of the last several days have indicated to us quite clearly that there is a growing suspicion throughout the country that there should be an investigation into the circumstances surrounding the dismissal of David Marston, and that in fact the entire procedure for selecting and dismissing U.S. attorneys needs the careful scrutiny of this body. We do not know but what the conclusions that have been reached were tainted with political and not just legal considerations.

Whenever Members or public officials are involved, Mr. Speaker, in possible wrongdoing, we think that in order to insure that there is a fair and impartial and enthusiastic investigation and prosecution of such persons, an independent prosecutor is necessary. I would like to invite all Members to look carefully at the legislation and join with us in the sponsorship of this needed change.

ESTABLISHMENT OF INDEPENDENT PROSECUTOR SEEN AS NECESSARY FOR PROPER INVESTIGATIONS

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KETCHUM. Mr. Speaker, as indicated by my friend and colleague, the gentleman from Mississippi, THAD COCHRAN, we shall today introduce legislation establishing a special prosecutor.

One might ask why. Is this just something for the press?

I would say no. Last week we read with interest headlines in the Washington Post which said, "Justice Department Clears Carter and Bell." We read a few weeks before that: "Justice Department States Only Nonincumbents May Be Indicted in the Korean Affair."

It seems to me, Mr. Speaker, that it is time we establish an independent prosecutor so that those who are accused may be assured of a proper investigation and either cleared or indicted. The American public expects no less. They do not trust us now; they read the papers.

Mr. Speaker, this is so reminiscent of Watergate that it is disgusting. I think it is time that we establish an independent Office of Special Prosecutor to handle these cases and to handle them in the best interests of the people of the United States.

ANNOUNCEMENT OF DEATH OF FORMER CONGRESSMAN, HON. WILLIAM T. MURPHY

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Speaker, it is with regret that I inform the House of the death of a former colleague, the Honorable William T. Murphy. Our friend, Bill Murphy, who served in the House from the 86th through the 91st Congresses, passed away yesterday in Chicago at the age of 79.

An outstanding Member of Congress, Bill Murphy served as the alderman from Chicago's 17th ward for almost 25 years before his election to this House. Many people were unaware that besides being an attorney for 50 years, Bill was also a licensed professional engineer and a registered land surveyor. He served with distinction as a member of the Chicago Planning Commission from 1947 to 1959.

I am sure that many of my fellow Members of the class of the 86th Congress remember the dedication and the expertise that Bill brought to his service on the Foreign Affairs Committee, where he served as chairman of the Asian and Pacific Affairs Subcommittee.

Bill was an extremely interesting man whose interests were varied and not restricted to the legislative process. He certainly knew more about geography and ancient history than any man I have ever known. He was also one of the warmest men that I have ever known. It was good just to be around him.

Bill is survived by his two sons, William T. Murphy, Jr., of Washington, D.C., and Dr. John P. Murphy of Bethesda, Md., and by his daughter, Mrs. William Blyth of La Grange, Ill. He is presently being waked at the Sheehy Funeral Home at 107th and Crawford Streets in Chicago. The funeral services will be at 11:30 a.m. on Thursday at St. Christina's Church, 111th and Homas Streets, Chicago, Ill.

Mr. Speaker, I expect that at some time in the near future, our colleague, the gentleman from Illinois, MORGAN MURPHY, will take a special order so that we may commemorate the life, contributions and public service of our friend, Bill Murphy.

PROVIDING FOR STRIKING OF NATIONAL MEDAL IN COMMEMORATION OF BICENTENNIALS OF HISTORIC EVENTS AND PERSONALITIES FROM 1777 TO 1789

Mr. BARNARD. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 386) to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Page 4, lines 2 and 3, strike out "less than one medal each year for thirteen years" and insert "more than 104,000 medals".

Page 4, line 6, strike out "thirteen".

Page 4, line 10, strike out "1989" and insert "1978".

Page 4, line 10, strike out all after "1989." down to and including "Congress." in line 14.

Page 4, line 15, strike out "thirteen".

Page 4, line 21, after "expenses" insert ", plus a surcharge equal to 25 per centum of such cost of manufacture. Such surcharge shall be deposited in the Treasury as miscellaneous receipts".

Page 4 line 21, strike out all after "expenses." down to and including "Mint." in line 24.

Page 5, lines 2 and 3, strike out "and announcement of the medals."

Amend the title so as to read: "Joint resolution to provide for the striking of a national medal to commemorate the bicentennial of an outstanding historic event or personality during 1977.".

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. LEACH. Mr. Speaker, I reserve the right to object.

Mr. BARNARD. Mr. Speaker, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Speaker, the chairman of the Coinage Subcommitee sponsored this resolution for the U.S. Capitol Historical Society last year, and it was passed by the House last year.

The resolution authorizes the U.S. Mint to strike and furnish to the U.S. Capitol Historical Society national medals commemorating historic events that occurred during the Revolutionary era.

All costs would be reimbursed by the society, and there would, therefore, be no expense to the Government.

Joining in the sponsorship of the resolution is the ranking Republican member of the Subcommittee on Historic Preservation and Coinage, Mr. LEACH. They were joined by Mr. WRIGHT, the Democratic leader, and Mr. RHODES, the Republican leader, and by Mr. CONABLE and Mr. PICKLE, who are members of the board of the U.S. Capitol Historical Society. The chairperson of the Joint Committee on the Arrangements for the Bicentennial, Mrs. BOGGS, also joined us in sponsoring this resolution. The joint committee, of course, ceased to exist at the end of the 94th Congress.

The departmental report, sent to the House last year, indicated that the administration had no objection to this bill, although the Director of the Mint did later object before the Senate Banking Committee to one provision involving the use of a mailing list. As a result, an amendment striking this provision was offered and was passed by the Senate.

While other amendments passed by the Senate may not have been desired by the leadership of the U.S. Capitol Historical Society, I have been advised by the society's president, the Honorable Fred Schwengle, a distinguished former Member of the House, that he favors our acceptance of the amendments at this time.

The resolution in the House was earlier unanimously favorably reported by both the Subcommittee on Historic Preservation and Coinage as well as the Committee on Banking, Housing, and Urban Affairs.

Mr. Speaker, I urge the adoption of House Joint Resolution 386, as amended.

Mr. LEACH. Further reserving the right to object, Mr. Speaker, the minority strongly supports this joint resolution.

Under the direction of the Honorable Fred Schwengle, the Capitol Historical Society has done an outstanding job; for the time being this resolution adequately meets their needs.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Georgia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

IMPROVED CARGO AIR SERVICE

Mr. ANDERSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9851) to amend the Federal Aviation Act of 1958 to improve cargo air service.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 418(a) of the Federal Aviation Act of 1958 is amended by renumbering paragraph (3) and any reference thereto as paragraph (4) and by adding immediately after paragraph (2) the following new paragraph:

"(3) Any citizen of the United States who has a valid certificate issued under section 401(d)(3) of this title and who provided supplemental air transportation carrying only cargo at any time during the period from January 1, 1977, through the date of enactment of this section may, during the forty-five day period which begins on the date of enactment of this paragraph, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.".

SEC. 2. Section 418(b)(1)(A) of the Federal Aviation Act of 1958 is amended by deleting "or (2)" and by inserting in lieu thereof ", (2), or (3)".

SEC. 3. Section 418(b)(1)(B) of the Federal Aviation Act of 1958 is amended by deleting "(3)" and inserting in lieu thereof "(4)".

The SPEAKER pro tempore. Is a second demanded?

Mr. SNYDER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. ANDERSON) and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. ANDERSON)?

There was no objection.

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 9851 makes one limited change in Public Law 95–163 which we passed last session to establish a program of regulatory reform of air cargo service. H.R. 9851 modifies the cargo deregulation program to permit supplemental air carriers to participate in the program immediately rather than requiring these carriers to wait 1 year.

The early participation of supplementals in the new program for air cargo will improve service to the shipping public. Supplemental carriers have been pioneers in the development of all-cargo equipment and have a substantial cargo life capability which they can use to provide scheduled all-cargo service under the new program. Exclusion of the supplementals from the first stage of the program could have an adverse economic impact on these carriers since they would be subject to new competition from scheduled carriers, but would not have the opportunity to compete by instituting new scheduled all-cargo service. H.R. 9851 resolves these problems by permitting supplementals to participate in the first stage of the cargo program.

Mr. Speaker, I urge my colleagues to pass this needed legislation.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I fully concur with the remarks of the gentleman from California (Mr. ANDERSON) in support of the pending bill, H.R. 9851. This legislation simply corrects a flaw in the air cargo deregulation provisions of H.R. 6010—the omnibus aviation bill which was signed into law by the President on November 9, 1977 (Public Law 95–163).

As I stated during our conference committee deliberations on H.R. 6010, and again on the floor during consideration of the conference report, the cargo deregulation language in the bill—Senate language, I might add—precluded supplemental (charter) air carriers which provide all-cargo service from applying immediately for new all-cargo certificates. Instead, they were required to wait until 365 days after the legislation was signed—until November 9, 1978—to submit their applications.

The conferees recognized that this exclusion would work to the disadvantage of the supplementals, because other all-cargo air carriers would have a substantial head start in establishing service in lucrative markets. In fact, the chairman of the conference, Senator HOWARD W. CANNON, agreed with me that our intent was to apply the cargo deregulation provisions to all categories of all-cargo air carriers—and he went on to state that "it was probably inadvertent on my part" that the supplementals were not included. Because inclusion of the supplementals would have gone beyond the scope of the conference—due to the fact that there was no House provision on cargo deregulation—the conferees decided to go with the Senate language—and remedy the problem involving the supplementals at a later date.

The bill before us today, H.R. 9851, accomplishes this result. It places the all-cargo supplemental air carriers on the same footing as all other all-cargo carriers in terms of their eligibility for new all-cargo certificates—although it is true that they will be penalized to some degree because the Civil Aeronautics Board already has issued 54 new all-cargo certificates under the authority provided in Public Law 95–163.

Mr. Speaker, I urge my colleagues to support H.R. 9851. Equity and fair play dictate that we eliminate the present disparity in the law—and it is essential that we have prompt action. If passed by the House today, we have every reason to expect that the Senate will follow suit without delay.

Thank you, Mr. Speaker.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I am happy to yield to my distinguished colleague, the gentleman from Alabama (Mr. DICKINSON) such time as he may consume.

Mr. DICKINSON. Mr. Speaker, I rise in support of H.R. 9851, the purpose of which is to improve cargo air service.

The legislation introduced by the gentleman from California and others is of great interest to the citizens of Alabama. Being off the mainstream of most trunk carrier service routes, the cities of Alabama have for the most part not received the air freight and mail service enjoyed by others. The rapidly growing industrial centers in Alabama require healthy all-cargo service patterns in order to provide the product distribution capabilities necessary to compete in both domestic and world markets.

The supplemental carriers, many of which presently fly scheduled all-cargo service domestically for the Department of Defense, have the fleets of all-cargo aircraft to greatly improve this short to medium haul lift. Additionally, as was mentioned, it was the initial congressional intent to test the deregulation theories, particularly that of free entry, on the air cargo industry. Without the presence of the supplementals, the free entry provision would only receive token attention. The 401(d)(1) carriers who presently qualify for the grandfather provision of H.R. 6010 basically operate all-cargo aircraft suited primarily to long-haul high density markets. Their economic ability to enter the short and medium haul markets are either limited or nonexistent. The other group of carriers qualifying under the grandfather provision operate small air taxi type equipment, not suitable for larger shipments or the majority of air cargo containers presently in use today.

Mr. Speaker, if the deregulated air cargo environment is to receive a true test, it is imperative that H.R. 9851 be passed without delay. Therefore, I urge that the Members of the House support it.

Mr. SNYDER. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. ANDERSON of California. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. Mr. Speaker, I rise in support of H.R. 9851 which will return equality to air cargo service.

Last year legislation was passed deregulating air cargo service and grandfathering certificate rights to a large group of airlines—many more than had actually been in the cargo business, at least to any significant degree. But that legislation excluded one small, but significant group—supplemental airlines or airlines that operate charter service.

This situation has been described as an oversight by our honorable colleague in the other body, Senator CANNON, the chairman of the committee with jurisdiction over the matter. This view is shared by Chairman JOHNSON and Chairman ANDERSON, which is why late in the closing days of the last session they brought this bill forward for a floor vote. Because of the lateness in the session, the bill was brought up by unanimous consent. But even though the bill was described as correcting an oversight, there was an objection and the bill was forced to languish until this year.

The result of this has been to unfairly place supplemental airlines at a competitive disadvantage. Since passage of the legislation I referred to last year, the Civil Aeronautics Board has granted all-cargo grandfather certificates to 53 airlines. Action is pending on another 18.

It is my understanding that many of these airlines are commuter carriers which had operated only minimal cargo service with small aircraft. It also is my understanding that the law passed last year gave vast new potential authority to an airline the size of Pan American which previously never enjoyed any domestic route authority.

I do not regard this as necessarily bad. Quite the contrary. The purpose of deregulation is to allow the marketplace to shape competition, to give the consuming public more choices.

But I think it is contrary to the spirit of deregulation, not to mention competitive fair play, to deny the same treatment to the historically active supplemental airlines who have been left behind.

The reason for my interest in this matter is because one of the supplemental airlines affected has its corporate headquarters in McMinnville, Oreg., in

my district. I make no bones about it that I am concerned about what this unequal footing will do to this employer's ability to continue to operate profitably.

This company, Evergreen International Airlines operates 15 airplanes and is buying 5 more. It has a total capital investment in this aircraft of more than $17 million and another $3.2 million is devoted to annual leases. The portion of the company involved in the charter airline service totals 220 employees. The company's total payroll is 787 people.

The company has two primary service contracts that engages its fleet of planes. It flies a cargo transport service between Air Force bases and it provides overnight cargo delivery between major and intermediate destinations for a cargo company, which incidentally serves a host of small American cities.

Evergreen flies good size all-cargo planes, including two DC-8's, three DC-9's, five Convair 580's and a C-46. It is buying three Lockheed Electras and two other planes.

So what is Evergreen's problems? It is simple.

Because it is regulated—while its competitors are not—Evergreen is required to sell its cargo space on any given plane to a single customer. It cannot take on two or a combination of customers to fill the plane to capacity. It is one customer or nothing.

It does not take an economist to figure out the competitive disadvantage of that position when a competitor is able to make whatever kind of a deal he can with customers. It gives competitors the opportunity to serve medium and small shippers and, quite possibly, to make a good offer to larger shippers.

That is exactly Evergreen's fear.

Under present law, Evergreen and other supplemental airlines may apply to the CAB for an all-cargo certificate after 1 year. After lengthy review, they probably would get the certificate. But in the meantime, their competition would be able to erode their traditional routes and raid their markets.

I do not question the wisdom of the legislation passed last year, only the wisdom of helping one competitor and hurting another. I do not say this was intentional. But the fact is it happened. And I say it should be corrected. This bill makes that correction. I urge my colleagues to support it.

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman from Oregon (Mr. AuCoin) for the contribution he has made.

Mr. HARSHA. Mr. Speaker, throughout 1977, committees in both Houses of Congress devoted considerable time and attention to legislation which would substantially deregulate the air transportation industry. The adoption of meaningful deregulation legislation, however, has been delayed due to the many questions which have been raised as to whether free market entry would create destructive overcapacity on some routes and reduced service on others, and whether greater pricing freedom would damage the shaky financial condition of some of our major scheduled passenger carriers. It finally was decided that the air cargo industry—severely underdeveloped from the beginning—could be used to test the highly controversial issues of a total deregulation bill—without running the risk of derogating our existing scheduled passenger service.

In the fall of 1977, the Senate added an amendment to the omnibus aviation bill (H.R. 6010) which provided for deregulation of the air cargo industry. The language, however, as my colleagues have noted, precluded the immediate certification of supplemental carriers—thereby creating not only a competitive disadvantage for them, but also failing to accomplish the stated purpose of the bill.

Prior to the enactment of H.R. 6010 into law—in fact during the conference on H.R. 6010—some of my colleagues on the conference committee pointed out the error, but, due to the legislative situation, the necessary changes could not then be incorporated in the bill. In order to remedy the problem, and with the full concurrence of the Senate conferees and the able and willing assistance of the gentlemen from California (Messrs. JOHNSON and ANDERSON), H.R. 9851 was developed and promptly reported by both the Aviation Subcommittee and the full Committee on Public Works and Transportation.

Mr. Speaker, enactment of H.R. 9851 is a matter of simple justice. It will provide for inclusion of our supplemental air carriers in the all-cargo deregulation program—along with the other all-cargo carriers already covered by Public Law 95-163. The supplementals operate the majority of the large, modern all-cargo aircraft in our civil fleet. Several have been true pioneers in aviation development over the years. It is simply wrong to exclude them—and I urge my colleagues to support the pending bill.

Thank you, Mr. Speaker.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 9851.

The bill will permit supplemental air carriers, who have pioneered in the development of air charters of cargo, to begin providing scheduled cargo service for domestic shippers.

In recent years the all-cargo service provided by scheduled airlines has declined substantially.

The cargo deregulation bill, Public Law 95-163, which was passed last session, will help remedy the situation by giving the scheduled airlines freedom to adjust their service and rates to the demands of the marketplace. H.R. 9851 will allow the supplemental air carriers, who have been leaders in meeting the needs of the traveling and shipping public, to begin providing scheduled all-cargo service.

The new service which supplementals will provide should be of great value to shippers of cargo by air.

Mr. Speaker, I urge my colleagues to support this legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the bill H.R. 9851.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 403, nays 0, answered "present" 1, not voting 28, as follows:

[Roll No. 20]

YEAS—403

Abdnor	Cornwell	Harkin
Addabbo	Cotter	Harrington
Akaka	Coughlin	Harris
Allen	Crane	Harsha
Ambro	Cunningham	Hawkins
Ammerman	D'Amours	Heckler
Anderson, Calif.	Daniel, Dan	Hefner
	Daniel, R. W.	Heftel
Anderson, Ill.	Danielson	Hillis
Andrews, N.C.	Davis	Holland
Andrews, N. Dak.	de la Garza	Hollenbeck
	Delaney	Holt
Annunzio	Derrick	Holtzman
Applegate	Derwinski	Horton
Archer	Devine	Howard
Ashbrook	Dickinson	Hubbard
Ashley	Dicks	Huckaby
Aspin	Dingell	Hughes
AuCoin	Dodd	Hyde
Badham	Downey	Ichord
Bafalis	Drinan	Ireland
Baldus	Duncan, Oreg.	Jacobs
Barnard	Duncan, Tenn.	Jeffords
Baucus	Early	Jenkins
Bauman	Eckhardt	Jenrette
Beard, R.I.	Edgar	Johnson, Calif.
Beard, Tenn.	Edwards, Ala.	Johnson, Colo.
Bedell	Edwards, Calif.	Jones, N.C.
Beilenson	Edwards, Okla	Jones, Okla.
Benjamin	Eilberg	Jordan
Bennett	Emery	Kasten
Bevill	English	Kastenmeier
Biaggi	Erlenborn	Kazen
Blanchard	Ertel	Kelly
Blouin	Evans, Colo.	Ketchum
Boggs	Evans, Del.	Keys
Boland	Evans, Ga.	Kildee
Bonior	Evans, Ind.	Kindness
Bonker	Fary	Krebs
Bowen	Fascell	Krueger
Brademas	Fenwick	LaFalce
Breaux	Findley	Lagomarsino
Breckinridge	Fish	Latta
Brinkley	Fisher	Leach
Brodhead	Fithian	Lederer
Brooks	Flippo	Leggett
Broomfield	Flood	Lent
Brown, Mich.	Florio	Levitas
Brown, Ohio	Flowers	Livingston
Broyhill	Flynt	Lloyd, Calif.
Buchanan	Foley	Lloyd, Tenn.
Burgener	Ford, Mich.	Long, La.
Burke, Fla.	Ford, Tenn.	Long, Md.
Burke, Mass.	Forsythe	Lott
Burleson, Tex.	Fountain	Lujan
Burlison, Mo.	Fowler	Luken
Burton, Phillip	Fraser	Lundine
Butler	Frenzel	McClory
Byron	Frey	McCloskey
Caputo	Fuqua	McCormack
Carney	Gammage	McDade
Carr	Gaydos	McEwen
Carter	Gephardt	McFall
Cavanaugh	Giaimo	McHugh
Cederberg	Gibbons	McKay
Chappell	Gilman	McKinney
Chisholm	Ginn	Madigan
Clausen, Don H.	Glickman	Maguire
	Goldwater	Mahon
Clawson, Del	Gonzalez	Mann
Clay	Goodling	Markey
Cleveland	Gore	Marks
Cochran	Gradison	Marlenee
Cohen	Grassley	Marriott
Coleman	Gudger	Mathis
Collins, Ill.	Hagedorn	Mattox
Collins, Tex.	Hall	Mazzoli
Conable	Hamilton	Meeds
Conte	Hammer-schmidt	Metcalfe
Conyers		Meyner
Corcoran	Hanley	Michel
Corman	Hannaford	Mikulski
Cornell	Hansen	Mikva

Milford	Regula	Stokes
Miller, Calif.	Reuss	Stratton
Miller, Ohio	Rhodes	Studds
Mineta	Richmond	Stump
Minish	Rinaldo	Symms
Mitchell, Md.	Risenhoover	Taylor
Mitchell, N.Y.	Roberts	Thompson
Moakley	Robinson	Thone
Moffett	Rodino	Thornton
Montgomery	Roe	Traxler
Moore	Rogers	Treen
Moorhead, Pa.	Rooney	Trible
Mottl	Rose	Tsongas
Murphy, Ill.	Rosenthal	Tucker
Murphy, N.Y.	Rostenkowski	Udall
Murphy, Pa.	Rousselot	Ullman
Murtha	Roybal	Van Deerlin
Myers, Gary	Rudd	Vander Jagt
Myers, John	Runnels	Vanik
Myers, Michael	Russo	Vento
Natcher	Ryan	Volkmer
Neal	Santini	Waggonner
Nedzi	Sarasin	Walgren
Nichols	Satterfield	Walker
Nix	Sawyer	Walsh
Nolan	Scheuer	Wampler
Nowak	Schroeder	Watkins
O'Brien	Schulze	Waxman
Oakar	Sebelius	Weaver
Oberstar	Seiberling	Weiss
Obey	Sharp	Whalen
Ottinger	Shipley	White
Panetta	Shuster	Whitehurst
Patten	Sikes	Whitley
Patterson	Simon	Whitten
Pattison	Sisk	Wiggins
Pease	Skelton	Wilson, Bob
Pepper	Slack	Wilson, C. H.
Perkins	Smith, Iowa	Wilson, Tex.
Pettis	Smith, Nebr.	Winn
Pickle	Snyder	Wirth
Pike	Solarz	Wolff
Poage	Spellman	Wright
Pressler	Spence	Wylie
Preyer	St Germain	Yates
Price	Staggers	Yatron
Pritchard	Stangeland	Young, Alaska
Pursell	Stanton	Young, Fla.
Quayle	Stark	Young, Mo.
Quie	Steed	Young, Tex.
Quillen	Steers	Zablocki
Rahall	Steiger	Zeferetti
Railsback	Stockman	

NAYS—0

ANSWERED "PRESENT"—1

Kemp

NOT VOTING—28

Alexander	Dornan	Moorhead,
Armstrong	Guyer	Calif.
Bingham	Hightower	Moss
Bolling	Jones, Tenn.	Rangel
Brown, Calif.	Kostmayer	Roncalio
Burke, Calif.	Le Fante	Ruppe
Burton, John	Lehman	Skubitz
Dellums	McDonald	Teague
Dent	Martin	Wydler
Diggs	Mollohan	

The Clerk announced the following pairs:

Mr. Bingham with Mr. McDonald.
Mrs. Burke of California with Mr. Wydler.
Mr. Lehman with Mr. Dornan.
Mr. Hightower with Mr. Skubitz.
Mr. Le Fante with Mr. Moorhead of California.
Mr. Jones of Tennessee with Mr. Roncalio.
Mr. Rangel with Mr. Ruppe.
Mr. John L. Burton with Mr. Teague.
Mr. Brown of California with Mr. Martin.
Mr. Dent with Mr. Mollohan.
Mr. Diggs with Mr. Moss.
Mr. Alexander with Mr Guyer.
Mr. Dellums with Mr. Kostmayer.

Mr. ERTEL and Mr. WEAVER changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1977

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 1614, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, January 26, 1978, title I was under consideration.

Are there any amendments to title I? If not, the Clerk will designate the next title of the bill.

The Clerk read as follows:

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(c)) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration, development, or production (or a combination thereof as provided in section 8(b)(4) of this Act) of (1) deposits of oil, gas, or other minerals, or (2) geothermal steam;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, or geothermal steam, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological strucures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals, or geothermal steam, in paying quantities, including geophysical activity, drilling, platform construction, pipeline routing, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals, or geothermal steam, to shore,

operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral, or geothermal steam (1) computed at a unit price equivalent to the average unit price at which such mineral or geothermal steam was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral or geothermal steam was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral or geothermal steam from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(q) The term 'frontier area' means any area where there has been no development of oil and gas prior to October 1, 1975, and includes the outer Continental Shelf off Southern California, including the Santa Barbara Channel.".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources and geothermal steam of the outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources and geothermal steam of the outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations on the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)) is amended—

(1) in paragraph (1), by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,";

(2) in paragraph (1), by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources"; and

(3) in paragraph (2), by striking out "artificial islands and fixed structures erected thereon" and inserting in lieu thereof "those artificial islands, installations, and other devices referred to in paragraph (1) of this subsection".

(b) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(c) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(d) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(e) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(f) Section 4(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Any answer or operator of a vessel which is not a vessel of the United States shall, prior to conducting any activity pursuant to this Act or in support of any activity pursuant to this Act within the fishery conservation zone or within fifty miles of any artificial island, installation, or other device referred to in subsection (a) of this section, enter into an agreement pursuant to this paragraph with the Secretary of the Department in which the Coast Guard is operating. Subject to the provisions of subparagraph (B) of this paragraph, such agreement shall provide that such vessel, while engaged in the conduct or support of such activities, shall be subject, in the same manner and to the same extent as a vessel of the United States, to the jurisdiction of such Secretary with respect to the laws of the United States relating to the operation, design, construction, and equipment of vessels, the training of the crews of vessels, and the control of discharges from vessels.

"(B) An agreement entered into between the owner or operator of a vessel and the Secretary of the Department in which the Coast Guard is operating pursuant to subparagraph (A) of this paragraph shall provide that such vessel shall not be subject to the jurisdiction of such Secretary with respect to laws relating to vessel design, construction, equipment, and similar matters—

"(i) if such vessel is engaged in making an emergency call (as defined by such Secretary) at any artificial island, installation, or other device referred to in subsection (a) of this section; or

"(ii) if such vessel is in compliance with standards relating to vessel design, construction, equipment, and similar matters imposed by the country in which such vessel is registered, and such standards are substantially comparable to the standards imposed by such Secretary.

"(C) As used in this paragraph—

"(i) the term 'vessel of the United States' means any vessel, whether or not self-propelled, which is documented under the laws of the United States or registered under the laws of any State;

"(ii) the term 'support of any activity' includes the transportation of resources from any artificial island, installation, or other devices referred to in subsection (a) of this section; and

"(iii) the term 'fishery conservation zone' means the zone described in section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f) respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing in the outer Continental Shelf and shall prescribe or retain such regulations as necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the

natural resources of the outer Continental Shelf, and the protection of correlative rights therein. Except as provided in this subsection, such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. No regulation promulgated under this Act affecting operations commenced on an existing lease before the effective date of such regulation shall impose any additional requirements which would result in undue delays in the exploration, development, or production of resources unless the Secretary makes a finding that such regulation is necessary to prevent serious or irreparable harm or damage to health, life, property, any mineral deposits or geothermal steam resources, or to the marine, coastal, or human environment. The finding shall be final and shall not be reviewable unless arbitrary or capricious. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General and the Federal Trade Commission with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall—

"(i) not occur unless and until operations under such lease or permit have been under suspension or temporary prohibition by the Secretary (with due extension of any lease or permit term) for a total period of five years or for a lesser period, in the Secretary's discretion, upon request of the lessee or permittee;

"(ii) in the case of a lease issued after the date of the enactment of this paragraph (other than a lease cancelled for reasons of national security or defense), entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (I), the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on such lease, or (II) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement); and

"(iii) in the case of a lease issued before the date of the enactment of this paragraph, or a lease cancelled for reasons of national security or defense (whenever issued), entitle the lessee to receive fair value in accordance with subclause (I) of clause (ii) of this subparagraph;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitization, pooling, and drilling agreements;

"(5) for the subsurface storage of oil and gas other than by the Federal Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area;

"(8) for compliance with any standards established by a State pursuant to the Clean Air Act to the extent that activities authorized under this Act affect the air quality of such State; and

"(9) for the establishment of air quality standards for operations on the outer Continental Shelf under this Act.

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral, or geothermal steam, under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) utilization of the best available and safest technology for pipeline burial, shrouding, and other procedures, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from such lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any district court of the United States having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(g)(1) In administering the provisions of this Act, the Secretary shall coordinate the activities of any Federal department or agency having authority to issue any license, lease, or permit to engage in any activity related to the exploration, development, or production of oil or gas from the outer Continental Shelf for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed upon any applicant for, or holder of, any such license, lease, or permit.

"(2) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify and consult with the Governor of any affected State and the Secretary may thereafter recommend such change or changes in such action as are considered appropriate.

"(h) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to

grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, an oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a percentum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) fixed cash bonus of not less than sixty-two dollars per hectare with a work commitment stated in a dollar amount as the bid variable;

"(H) a fixed royalty at not less than 12½ per centum in amount or value of the production saved, removed, or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area, with a work commitment stated in a dollar amount as the bid variable;

"(I) a fixed cash bonus of not less than sixty-two dollars per hectare, with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area with a work commitment stated in dollar amounts as the bid variable; or

"(J) any modification of bidding systems authorized in subparagraphs (A) through (I) of this paragraph and any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this section, including leasing systems in which exploration lessees share in the costs of exploration and the consideration received from sale of subsequent leases for development and production, notwithstanding any inconsistent provisions of sections 8(b)(4), 8(k), and 9 of this Act, except that any payment in connection with any bidding system authorized pursuant to this subparagraph shall not exceed amounts appropriated for that purpose by Congress.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) Before utilizing any bidding system authorized in subparagraphs (C) through (J) of paragraph (1), the Secretary shall establish such system in accordance with this paragraph.

"(B) The establishment by the Secretary of any bidding system pursuant to subparagraph (A) of this paragraph shall be by rule on the record after an opportunity for an agency hearing. Any modification by the Secretary of any such bidding system shall be by rule.

"(C) Not later than thirty days before the effective date of any rule prescribed under subparagraph (B) of this paragraph, the Secretary shall transmit such rule to Congress.

"(5)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C)(i) Except as provided in clause (ii), the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection shall not be applied to more than 50 per centum of the total area offered for lease each year, during the five-year period beginning on the date of enactment of this subsection, in each region in a frontier area. The Secretary shall define such regions of the outer Continental Shelf. For purposes of this subparagraph, in calculating the total area offered for lease each year in accordance with the bidding system authorized by such paragraph (A), the Secretary shall not take into account any area offered for lease in accordance with such bidding system if the lease for such area is offered in accordance with terms set forth in subsection (b)(4)(B) of this section.

"(ii) If, during the first year following the date of enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (i) would unduly delay development of the oil and gas resources of the outer Continental Shelf, he may exceed that limitation after he submits to the Senate and the House of Representatives a report stating his finding and the reasons therefor. If, in any other year following the date of enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (i) would unduly delay efficient development of the oil and gas resources of the outer Continental Shelf, result in less than a fair return to the Federal Government, or result in a reduction of competition, he shall submit to the Senate and House of Representatives a report stating his specific findings and detailed reasons therefor. The Secretary may thereafter, for that year, exceed such limitations unless either the Senate or the House of Representatives passes a resolution of disapproval of the Secretary's finding within sixty days after receipt of such report (not including days when Congress is not in session).

"(iii) Clauses (iv) through (xi) of this subparagraph are enacted by Congress—

"(I) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the Rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this subparagraph, and they supersede other Rules only to the extent that they are inconsistent therewith; and

"(II) with full recognition of the constitutional right of either House to change the Rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other Rule of that House.

"(iv) A resolution disapproving a proposal of the Secretary shall immediately be referred to a committee (and all resolutions with respect to the same proposal shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(v) If the committee, to which has been referred any resolution disapproving a proposal of the Secretary has not reported the resolution at the end of ten calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same proposal which has been referred to the committee.

"(vi) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(vii) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same proposal.

"(viii) When the committee has reported, or has been discharged from further consideration of, a resolution as provided, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ix) Debate, on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to

move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(x) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to a proposal, and motions to proceed to the consideration of other business, shall be decided without debate.

"(xi) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a request shall be decided without debate.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding systems or systems to be utilized;

"(iii) the benefits and costs assoociated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized;

"(v) if applicable, the reasons why more than 50 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection; and

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(6)(A) In any lease sale where the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection and any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection are to be used, the Secretary shall publicly choose, by a random selection method, those tracts which are to be offered under the bidding system authorized by such subparagraph (A) and those which are to be offered under one or more of the bidding systems authorized by such subparagraphs (B) through (J).

"(B) The selection of tracts under this paragraph shall occur after receipt by the Secretary of public nominations of lease tracts to be included in a proposed lease sale, but before the initial announcement of the tracts selected for inclusion in such proposed lease sale.

"(C) Before selection of tracts for inclusion in the proposed lease sale the Secretary shall publish a notice in the Federal Register describing the random selection method to be used and shall, immediately after such selection, publish a notice in the Federal Register designating the lease tracts selected which are to be offered under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1).

"(D) The Secretary may exclude a tract from the use of a random selection technique under this paragraph if, after receipt by the Secretary of public nominations of lease tracts to be included in a proposed lease sale, the Secretary makes a finding that use of such technique would unduly delay or hinder exploration, development, and production of oil and gas, or prevent the receipt of fair return for the lease.

"(7) The Secretary may, by regulation, permit submission of bids made jointly by or on behalf of two or more persons for an oil and gas lease under this Act unless more than one of the joint bidders, directly or indirectly, controls or is chargeable worldwide with an average daily production of one million six hundred thousand barrels a day or more, or the equivalent, in crude oil, natural gas, and liquefied petroleum products.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions, and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

"(4)(A) entitle the lessee to explore, develop, and produce oil and gas resources contained within the lease area, conditioned upon due diligent requirements and the approval of the development and production plan required by this Act; or

"(B) entitle the lessee to explore, or develop and produce, the oil and gas resources within all or any part of the lease area, unless within sixty days after the date of the submission by the Secretary to the Congress of a proposal to award one or more leases in a specific lease sale in accordance with this subparagraph (not including days when Congress is not in session), the Senate and the House of Representatives pass a joint resolution disapproving such proposal, in accordance with the procedures described in clauses (iii) through (xi) of subsection (a)(5)(C) of this section;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

"(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced from such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsection (c) through (i), and all references thereto, as subsections (h) through (n), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued if the Secretary finds that an applicant for a lease, or a lessee, is not meeting due diligence requirements on other leases. Innocent or nonnegligent parties to any joint lease which is cancelled due to the failure of one or more partners to exercise due diligence on other leases may seek damages for such loss from the responsible partner or partners.

"(d) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of, and subject to renegotiation by, the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General and the Federal Trade Commission.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing and which he concludes, in consultation with the Governor of such coastal State, may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(g) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.".

(c) Section 8(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(j)), as relettered by subsection (b) of this section, is amended—

(1) by inserting "and leases of geothermal steam" immediately after "sulphur"; and

(2) by inserting "or geothermal steam" immediately after "such mineral".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11. OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a)(1) The Secretary or any other Federal department or agency, and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations, including core and test drilling, in the outer Continental Shelf, which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Except as otherwise provided in this Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease or leases. The Secretary shall require such modifications or remodifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission or resubmission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of anticipated onshore activity resulting from such exploration, the effects and impacts of such activity, and the development and production intentions, which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) Except as otherwise provided in this Act, all exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f)(1) Exploration activities pursuant to any lease on which a drilling permit had been issued prior to the date of enactment of this subsection shall be considered in compliance with this section, but the Secretary may require such activities to be described in an exploration plan, or require a revised exploration plan, and require any such plan to be accompanied by a general statement in accordance with subsection (c)(3) of this section.

"(2) In accordance with section 5(a) of this Act, the Secretary may require the submission of additional information or establish additional requirements on lessees conducting exploration activities pursuant to any lease issued prior to the date of enactment of this subsection.

"(g)(1) The Secretary may permit qualified applicants to conduct geological explorations, including core and test drilling, in those areas and subsurface geological structures of the outer Continental Shelf which the Secretary or the applicants believe contain significant hydrocarbon accumulations.

"(2) The Secretary shall, at least once during the two-year period beginning on the date of enactment of this subsection, offer persons wishing to conduct geological explorations pursuant to permits issued under paragraph (1) of this subsection an opportunity to apply for such permits.

"(3) The Secretary shall provide by regulation the length of time during which he will offer applicants the opportunity to obtain a permit pursuant to this subsection.

"(h) Any permit for geological explorations authorized by this section shall be issued only if the Secretary determines, in accordance with regulations issued by the Secretary, that—

"(1) the applicant for such permit is qualified;

"(2) the exploration will not interfere with or endanger operations under any lease issued or maintained pursuant to this Act; and

"(3) such exploration will not be unduly harmful to aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance".

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General, any plans for implementing recommended administrative changes, and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to insure an adequate supply of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d), shall prepare, periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) programs promulgated by coastal States and approved pursuant to the Coastal

Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(H) whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner;

"(I) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

"(J) relevant baseline and predictive information for different areas of the outer Continental Shelf.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair value for the lands leased and the rights conveyed by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

"(3) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Attorney General and the Federal Trade Commission shall report to the Secretary with respect to the effect on competition of outer Continental Shelf exploration, development, and production. Such reports shall analyze competition and individual market shares within regional markets.

"(2) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, from the Governor of any State which may become an affected State under such proposed program, and from the executive of any affected local government unit in such an affected State. The Secretary may also invite or consider suggestions from any other person.

"(3) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (4) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor shall solicit comments from the executives of local governments in his State affected by the proposed program. If any comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (4) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(4) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, the Federal Trade Commission, the Governors of affected States, and through the Governors, the executives of affected local governments, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or a local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5)(A) coordination of the program with the management program being developed by any State pursuant to section 305 of the Coastal Zone Management Act of 1972, and (B) assuring consistency, as provided by the Coastal Zone Management Act, with the program of any State which has been approved pursuant to section 306 of such Act, to the maximum extent practicable.

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged information and may provide the Secretary with any privileged information he requests to assist him in preparing the leasing program. Privileged information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or ninety days after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for full consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations are not consistent with the national interest shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but not be limited to, the sharing of information (in accordance with the provisions of section 26 of this Act), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

"SEC. 20. BASELINE AND MONITORING STUDIES.—(a)(1) The Secretary shall conduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held or scheduled before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The

Secretary may utilize information collected in any study prior to such date of enactment in conducting any such study.

"(3) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) The Secretary shall consider available relevant baseline information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

"(e) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(f) In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

"SEC. 21. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, development, and production of the natural resources of the outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan to Congress of his proposals to promote safety and health in the exploration, development, and production of the natural resources of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology which the Secretary determines to be economically achievable, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technology.

"(c)(1) Within sixty days after the date of enactment of this section, the Secretary of Labor shall promulgate interim regulations or standards pursuant to the Occupational Safety and Health Act of 1970 applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, determines such regulations or standards are necessary. Such regulations or standards may be modified from time to time as necessary, and shall remain in effect until final regulations or standards are promulgated.

"(2) Notwithstanding section 4(b)(1) of the Occupational Safety and Health Act of 1970, regulations for occupational safety and health shall be promulgated and enforced by the Department of Labor and the Department in which the Coast Guard is operating, in accordance with their respective statutory authority. The two Departments shall coordinate their activities in a manner which avoids duplication of effort and maximizes protection of employees.

"(d) Nothing in this section shall affect or duplicate any authority provided by law to the Secretary of Transportation to establish and enforce pipeline safety standards and regulations.

"(e)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 22. ENFORCEMENT.—(a) The applicable Federal officials shall strictly enforce safety and environmental regulations promulgated pursuant to this Act. Each Federal department and agency may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of other Federal departments and agencies for the enforcement of their respective regulations.

"(b) It shall be the duty of any holder of a lease or permit under this Act to—

"(1) maintain all places of employment within such lease area or within the area covered by such permit in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the lease holder or permit holder or of any contractor or subcontractor operating within such lease area or within the area covered by such permit on the outer Continental Shelf;

"(2) maintain all operations within such lease area or within the area covered by such permit in compliance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf; and

"(3) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

"(c) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection, at least once a year, without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil over a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.

"(2) The Secretary or the Secretary of Labor shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.

"(3) For purposes of carrying out their responsibilities under this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal department or agency.

"(e) The Secretary, or, in the case of occupational safety and health, the Secretary of Labor, shall consider any allegation from any person of the existence of a violation of a safety regulation issued under this Act. The respective Secretary shall answer such allegation no later than ninety days after receipt thereof, stating whether or not such alleged violation exists and if so, what action has been taken.

"(f) In any investigation conducted pursuant to this section, the Secretary, the Secretary of Labor, or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in district courts of the United States. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

"(g) The Secretary shall, after consultation with the Secretary of Labor and the Secretary of the Department in which the Coast Guard is operating, include in his annual report to Congress required by section 15 of this Act the number of violations of safety regulations reported or alleged, the investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations.

"SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act.

"(2) Except as provided in paragraph (3) of this subsection, no action may be commence under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; and

"(B) if the Secretary or his authorized representative, any other appropriate Federal official, or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action any person having a legal interest which is or may be adversely affected or aggrieved may intervene as a matter or right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Secretary, the Attorney General, or any other appropriate Federal official, if not a party, may intervene as a matter of right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and the Attorney General.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the action involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in a frontier area, or issued or maintained prior to such date of enactment with respect to which no oil or gas has been discovered in commercial quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development, production, transportation, processing, or refining of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for any privileged information (as such term is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and upon request, to the executive of any affected local government, and (B) make such plan and statement available to any other appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any frontier area, unless such lease requires that development

and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d)(1) The Secretary shall, at least once prior to approving a development and production plan in any frontier area, declare approval of a plan for a lease or set of leases to be a major Federal action. For the purposes of this section, such approval shall be deemed to be a major Federal action.

"(2) The Secretary may require lessees on adjacent or nearby leases to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate interstate regional entity, and the executive of any affected local government area, for review and comment, and shall make such draft available to the general public.

"(f) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State, and the executive of any affected local government area shall have ninety days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(g)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (f) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or sixty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraphs (8) and (9) of section 5(a) of this Act. Any modification required by the Secretary which affects land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall be consistent with such program unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraphs (8) and (9) of section 5(a) of this Act;

"(B) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act, and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease area, exceptional resources values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, and such approval occurs after the lessee has submitted a plan to the Secretary,

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove or require modifications of a plan in accordance with this subsection.

"(C) Upon the expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease. In the case of any lease canceled after disapproval of a plan under such subparagraph (B) which was issued after the date of enactment of this section, the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of—

"(i) the fair value of the canceled rights as of the date of cancellation taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease; or

"(ii) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement).

In the case of any lease canceled after disapproval of a plan under subparagraph (B) of this paragraph which was issued before the date of enactment of this section, the lessee shall be entitled to receive fair value in accordance with clause (i) of this subparagraph. The Secretary may, at any time within the five-year period described in such subparagraph (B), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(h) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subject to the right of judicial review, in accordance with the provisions of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(j) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare any environmental impact statement which may be required pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting any studies which they may deem desirable pursuant to that agreement shall be adopted by the other agency, and such other agency

shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"(k) An oil and gas lease issued or maintained under this Act which is located in any area which is not a frontier area shall be subject to the provisions of this section if the Secretary determines, pursuant to regulations prescribed by the Secretary, that the likely environmental or onshore impacts of the development and production of such lease make the application of the provisions of this section in the public interest.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and any interpretation of any such data, as the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States and to any requesting affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section.

"(f)(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

"(g) Any provisions of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(i) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease or permit issued or maintained under this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) Except as otherwise provided in section 12(b) of this Act, the United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued under this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b)(1) The Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated

price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of this gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

"SEC. 28. LIMITATIONS ON EXPORT.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accordance with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.

SEC. 29. RESTRICTIONS OF EMPLOYMENT.—No full-time officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity subject to regulation under this Act.

"SEC. 30. FISHERMEN'S GEAR COMPENSATION FUNDS.—(a) As used in this section, the term—

"(1) 'commerical fisherman' means any citizen of the United States whose primary source of income is derived from the harvesting of living marine resources for commercial purposes; and

"(2) 'fishing gear' means (A) any vessel, and (B) any equipment, whether or not attached to a vessel, which is used in the commercial handling or harvesting of living marine resources.

"(b)(1) The Secretary is authorized to establish and maintain a fishermen's gear compensation fund for any area of the outer Continental Shelf for the purpose of providing reasonable compensation for damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area. Such fund may sue or be sued in its own name.

"(2) After the date of enactment of this section, any lease issued by the Secretary to a lessee for a tract in an area of the outer Continental Shelf shall contain a condition that such lessee, upon request by the Secretary, shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of a fishermen's gear compensation fund for such area. No lessee shall be required by the Secretary to pay in any calendar year an amount in excess of $5,000 per lease.

"(3) For each fishermen's gear compensation fund established under paragraph (1) of this subsection there shall be established within the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to such fund to make payments pursuant to this section. Amounts collected by the Secretary under paragraph (2) of this subsection for use by such fund shall be deposited in such revolving account. Amounts in such revolving account shall be available for disbursement and shall be disbursed for only the following purposes:

"(A) Administrative and personnel expenses of such fund.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered in the area for which such fund was established.

"(4) Each fund established for an area of the outer Continental Shelf pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder in such area whose lease was issued after the date of enactment of this section.

"(5) Whenever the amount in a revolving account for a fund is not sufficient to pay obligations for which such fund is liable pursuant to this section, such fund may issue, in an amount not to exceed $1,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by such fund under this paragraph shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by such fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing, processing, and the fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface; and

"(C) establish regulations for all materials, equipment, tools, containers, and all other items used on the outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from the revolving account established for a fishermen's gear compensation fund for any area of the outer Continental Shelf to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment may be made by the Secretary from any revolving account established under this section—

"(i) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items the ownership and responsibility for which is known;

"(ii) in an amount in excess of $10,000 per claimant for any incident; and

"(2) For the purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(3) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

"(4) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

"(e) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than sixty days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or in the United States Court of Appeals for the District of Columbia.

"SEC. 31. DOCUMENTATION, REGISTRY, AND MANNING REQUIREMENTS.—Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall by regulation require that any vessel, rig, platform, or other vehicle or structure—

"(1) which is used at any time after the one-year period beginning on the effective date of such regulation for activities pursuant to this Act shall be manned or crewed by citizens of the United States or aliens lawfully admitted to the United States for permanent residence, unless (A) specific contractual provisions or national registry manning requirements in effect on such date of enactment provide to the contrary, or (B) there are not a sufficient number of such citizens or aliens who are qualified and available for such work;

"(2) which is used at any time after the one-year period beginning on the effective date of such regulation for activities pursuant to this Act and which is built or rebuilt at any time after such one-year period, when required to be documented, shall be documented under the laws of the United States; and

"(3) which is used for activities pursuant to this Act, shall comply with such minimum standards of design, construction, alteration, and repair as the Secretary of the Department in which the Coast Guard is operating establishes.".

The CHAIRMAN. Are there any amendments to title II of the bill?

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN: Page 135, strike out lines 1 through 4 and insert in lieu thereof: "of this Act and which authorizes exploration for, and development and production of (1) oil, gas, or other minerals, or (2) geothermal steam;"."

Page 158, strike out the comma on line 12 and all that follows down through "Congress" on line 21.

Page 161, line 6, strike out "For" and all that follows down through the period on line 12.

Page 168, line 10, strike out "(A)".

Page 168, line 14, strike out "or".

Page 168, strike out lines 15 through 25.

Mr. TREEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TREEN. Mr. Chairman, this is a very simple amendment in its impact. This would remove from H.R. 1614 the authority for a new concept for leasing on the Outer Continental Shelf. The concept is referred to as "dual leasing." It is a concept which the Secretary of the Interior recommended to the committee be included, and the committee did include it, in the bill. The Secretary of the Interior has had some difficulty defining this concept, and that is understandable because of the uncertain nature of it. Under our present system of leasing on the Outer Continental Shelf, after the Secretary of the Interior has satisfied himself that he has whatever information is needed, he will put up tracts for lease for exploration, development and production, a unitary lease for all three of these activities. Under the bill's provisions we would break these activities into two segments.

First, there would be an exploratory lease and then, later on, there would be a development and production lease. Thus, the term "dual leasing" rather than the unitary system which we have had since the inception of OCS activities.

There are lots of reasons why dual leasing is a disaster, but let me touch on four, very briefly.

First of all, a lease just for exploration is totally unworkable. The idea is, according to the Secretary of the Interior, as described on page 124 of the committee report, and I quote:

The bidders for these leases would bid to become partners with the Government, with the Government paying a share of the costs of exploration, and the bidder assuming the rest of the costs in return for a percentage of the bonus or other Government revenues received from the sale of subsequent leases which would allow the continued exploration, development and production.

The idea is that tracts would be put up for bid for an exploratory lease. It is not clear exactly what the bidder would be bidding on. Presumably the bid constant would be the performance of a certain amount of exploratory work. This would probably be a work commitment in terms of dollars. Then, in order to determine who would be the lowest bidder, the bid variable would be for a share of the resources that would ultimately be brought on stream by the subsequent production lease.

This is not workable because of the great uncertainties involved. The prospective exploratory lessee would not even know that the Federal Government would ever get around to leasing that tract for production. Certainly he would not know when that lease might bring about production. He would not know what type of lease there would be. He would not know whether, because of environmental suits or findings by the Secretary which could prevent him from going into production, there would ever be a production lease.

So I suggest that it is unworkable, because one would never really know if there would be any resource which would ultimately compensate for the exploration work.

Second, this system is anticompetitive. Because of these very uncertainties that I have talked about, the little fellow is not going to be able to get into the game of exploratory leases. What banker is going to lend to him if he has no control over the subsequent production whatsoever? Because of all these uncertainties, no one considering financing an exploration lease would lend any money. So it would be anticompetitive. Only the really big operators could gamble with an exploratory lease.

Third, the Government does become a partner under this concept. In the words of the Government itself, the Government becomes a partner in the exploration.

Now, if that is what the Members want then they should vote against my amendment. But if they are concerned about the Federal Government getting into exploration, then they should vote in favor of my amendment, because this is a surefire way, as I say, in the words of the Secretary himself, for the Government to become a partner in OCS exploration.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has expired.

(By unanimous consent, Mr. TREEN was allowed to proceed for 2 additional minutes.)

Mr. TREEN. Mr. Chairman, in my judgment, if my amendment is not adopted, the next step would be to propel us into Government exploration.

The fourth reason why I think the Members should support my amendment—and this is the most important one—has to do with the delay that would be involved in dual leasing, the delay in producing our OCS resources. We can have legitimate arguments about the overall effect of the bill insofar as delay is concerned, but I really do not think there can be any argument about the fact that this one item, dual leasing, will cause substantial delay in the production of OCS resources. That is something all of us want to avoid.

The reason for that is this: Under the

present system, when one gets a lease, he has obtained the right to explore, to develop, and to produce. That is one segment. When the lessee obtains a lease, he starts exploration, and as soon as he is convinced there is some economic justification for production, he starts producing; but he does not stop exploration; that goes on and on.

Now, if we segmentize this so that we have one lease under which all the exploration is to be done, and then we stop and prepare for another lease sale and go through all the rigmarole and put the tract up for production bids—if we have these two segments with all the interruptions in between—that is going to cause substantial delay—delays of up to 2 years. As I say, under the present unitary system exploration keeps gong on. That is in the interest of both the lessee and of the Federal Government.

Therefore, Mr. Chairman, I ask the Members to support this amendment. It is a very simple amendment. It removes the authority of the Secretary to utilize dual leasing. If, later on, he wants to come back and further define his ideas, then, of course, I am sure that this House and this Congress would consider amendments to the law; but I say it is a dangerous concept in terms of our energy needs—and that is the bottom line—we cannot afford to have this sort of delay.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: On page 173, strike lines 4 through 14, and insert in lieu thereof the following:

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended by inserting "(a)(1)" before "Any", and by adding at the end thereof the following:

Mr. STUDDS. Mr. Chairman, this is an exceptionally simple amendment, which will probably come as a surprise to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I ask the gentleman, To what portion of the bill does this amendment apply?

Mr. STUDDS. It is on page 173.

Mr. Chairman, if the gentleman will permit, I think in two sentences I can make clear what the amendment does, when taken in conjunction with the amendment offered by the gentleman from Louisiana (Mr. TREEN), which was just adopted by the committee.

Mr. Chairman, my amendment, which I assume will be opposed by absolutely no one, with the possible exception of myself, will remove all mention or consideration of any kind of the possibility of Federal exploratory drilling.

What my amendment does is that in section 11 of the bill, page 173, the first paragraph of section 11, which includes those words which have become such a red flag in this debate, especially to the gentleman from Louisiana (Mr. BREAUX) and to members of this minority, it strikes the words "including core and test drilling" from the bill. That paragraph is replaced by the paragraph in the original law.

The effect really of this change is none other than to remove the words "including core and test drilling" from this bill. The original language in the statute, which has been in effect for over 20 years, as the committee knows, will be returned, too.

That is the only change made by this amendment. The original language in the statute appears on page 257 of the committee report, and it reads exactly as the paragraph contained in the bill, except that it does not have the words "including core and test drilling."

Therefore, Mr. Chairman, in sum, the only real effect of my amendment is to remove those highly controversial words, "including core and test drilling" from this bill.

Let me say again that it should be taken in concert with what has just been adopted when we agreed to the amendment of the gentleman from Louisiana (Mr. TREEN). The amendment of the gentleman from Louisiana removed the section on dual leasing from the bill. My amendment removes the only remaining language in the bill which has been construed by some as authorizing Federal exploratory drilling.

If and when this amendment is adopted, there cannot be, in the course of debate on this bill, any further discussion whatsoever with respect to the desirability of the Federal Government's undertaking exploratory drilling, because with the adoption of the Treen amendment and mine, all sections and all language in the bill referring to this subject will have been stricken.

Therefore, Mr. Chairman, it is my fond hope that those who have serious reservations about the legislation can now, upon the adoption of these two amendments, address themselves to the substantial issues contained in the bill, and thereby enable us to remove from our consideration what I can only refer to as the red herring which have been cast into this debate.

This was particularly the case in the series of extraordinary ads appearing last week in the Washington Post which focused again and again and again on the establishment of a Federal Government oil company, "FOGCO," doing Federal exploratory drilling and the Federal Government getting into this process.

Let me say once more that I happen to be a member of the minority of our committees, and I know a member of the minority of this House, who favors Federal exploratory drilling, but, Mr. Chairman, I can count, and I know, based on our experience in the last Congress and in this Congress that this is a minority position. Therefore, hopefully to clarify the remaining debate on this bill I am moving through this amendment to remove effectively once and for all this issue.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding. I wonder whether the gentleman from Massachusetts (Mr. STUDDS) would tell me—and I believe that I understand what the amendment does if what he is saying in effect is that the language in the legislation before us would not change the existing authority of the Department of the Interior or in trying to collect geological and geophysical and other data prior to a lease sale?

Mr. STUDDS. That is right.

Mr. HUGHES. So that in effect we are removing superfluous language from the bill?

Mr. STUDDS. We are removing language in the bill, language that the gentleman from Louisiana (Mr. BREAUX) has interpreted to go beyond existing law. That is what I want to remove, I want to remove all doubt about that. I want to remove that language.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I want to congratulate the gentleman from Massachusetts (Mr. STUDDS) for his very astute analysis of what could be a stumbling block in the minds of people who are not as specifically acquainted with the legislation as is the gentleman from Massachusetts and others who are members of the committee.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

The gentleman from Maryland has had as one of his major objections to this bill the section which the proposed amendment offered by the gentleman from Massachusetts (Mr. STUDDS) would modify. Mr. Chairman, I have had, as many other Members have had, the concern that this language, if left intact, would permit the Department of the Interior eventually to engage not only in exploration but in the production of oil and gas in the frontier and other areas. However, the rather cleverly worded belated amendment by the gentleman from Massachusetts (Mr. STUDDS) does not go the whole mile, as I see it.

The gentleman from Louisiana (Mr. TREEN) intended to offer an amendment that would in fact go further, and just a cursory reading of the language of the amendment offered by the gentleman from Massachusetts (Mr. STUDDS) insofar as its impact, would still leave in the geophysical and geological exploration which could be interpreted and used to guarantee adequate data. I would assume that authorization could be the basis for the Department of the Interior to justify Government exploration and production.

I would say, so far as the offering of this amendment, it indicates a massive retreat by the sponsors of this bill from a controversial section which they

claimed was absolutely essential in order to have a rational OCS policy. I have disagreed from the beginning with that idea, but it may well be that, as I suggested in the debate last Thursday, they have finally learned how to count, and that the votes are not here for one of the most controversial sections of the legislation. However, I do hope that in the haste of the offering of this amendment, and this suddenly dawning of light in the minds of my colleagues on the majority side, that we do not adopt an amendment that really does not do what they claim it is going to do, and that is to keep the Government out of the oil and gas business in the Outer Continental Shelf areas.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding. I want to thank the gentleman for his overwhelming praise for what he refers to as the "retreat" of this gentleman. I regret that he does not think the retreat has been either far enough or fast enough.

Mr. BAUMAN. I would not characterize it as a retreat. I think it is progress on the gentleman's part for a change.

Mr. STUDDS. I would call it something else, but, as I said to the gentleman, the gentleman knows my own feelings. Let me say that the gentleman has heard the supporters, those whose views are generally in accordance with those of the industry, and those who have serious reservations about the legislation argue that the existing statute which has been in effect for over two decades is perfectly fine and good enough for this business, and we ought not to tamper with it. The gentleman has heard of the phrase, "If it ain't broke, don't fix it."

All this does is return to the language which has been the law for 20 years. It makes no change of any kind.

Mr. BAUMAN. I appreciate the gentleman's assurances, but I must confess that there is some division of opinion, and since this is a case of first impression, that is to say, the gentleman from Massachusetts' withdrawing from his previously established position, our staff and Members on this side were so overwhelmed that we would like to check it out to make sure that the amendment's import is as the gentleman describes it.

Mr. STUDDS. If the gentleman will yield further, I apologize for being responsible for a trauma on the minority side.

Mr. BAUMAN. We have traumas going on over here all the time.

Mr. STUDDS. I can assure the gentleman that the sum total of my amendment is simply and purely nothing other than the restoration of existing statutory language.

Mr. BAUMAN. The gentleman understands our trepidation at any gentleman from Massachusetts bearing gifts.

Mr. STUDDS. Oh, yes.

Mr. BAUMAN. So I would hope that we can accomplish what the gentleman says he suddenly now seeks after 3 years of deliberations on this bill. I congratulate him if, indeed, it turns out that he is doing what he says he is doing. I congratulate him on his conversion.

Mr. Chairman, I yield back the remainder of my time.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I read the amendment offered by the gentleman from Massachusetts, at first glance it is a definite improvement because I all along have very sincerely felt that that section of the bill was a specific and very clear authorization for the Federal Government to actually get in the business of drilling for oil and gas, and that is how I interpret it, including core and test drilling, to clearly mean. Those who support the Federal Government's ability to get into the business of drilling on the Outer Continental Shelf have always taken the position—and which I think the gentleman from New Jersey, my colleague on the committee has also clearly indicated that they already felt—that the Secretary has that authority and, therefore, it is not necessary to have it included in this legislation because they interpret the existing legislation to clearly give the Secretary the authority to go out and do drilling in the Outer Continental Shelf for oil and gas. They interpreted this section, at least it is my opinion, before they kind of put the clinching deal on the section, that it clearly says obviously you cannot go ahead and do off-structure oil and gas drilling. I would oppose those who support eliminating it while the gentleman from Massachusetts' amendment would indicate they can go ahead and do it, even without this authorization. So they figure if they take it out, it might add a few votes to the committee bill, because they would think that the Secretary can do it anyway. I would hope that is not their intent. I would hope that the intent is to eliminate core and test drilling. I am going to support the gentleman's amendment because I think it is better than the committee print at the present time; but I would remind my colleagues that at the proper time I will be offering an amendment in the nature of a substitute which will clearly, once and for all, set out the fact that if the Federal Government is going to be involved in any off-structure drilling, he is going to have to come to the Congress and ask the Congress for specific clear authorization for the funds to do that actual drilling. That is the major difference in the legislation and in the substitute that I am going to offer, because it clearly spells out that if the Secretary wants to do off-structure drilling, he is going to have to make his request to the Congress. He is going to have to ask us for the amount of money after he determines how much it is going to cost, and then he is going to have to go through the appropriation process to obtain those funds. I do not think we should give him a blank check and say, You can do off-structure drilling, which he can clearly do even if the gentleman from Massachusetts' amendment passes, without knowing how much it is going to cost, without knowing how it is going to be conducted, and without knowing everything that is completely involved in this program.

So I say let us support the gentleman from Massachusetts' amendment, but let us also at the proper time support my substitute, because I think it clearly, once and for all, nails down that if the Secretary is going to do any drilling off-structure or on-structure, he must come back to Congress and get that money appropriated. I think that is the proper procedure.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Does the gentleman not see the possibility that if we keep the amendment in the bill, there might not be a need for a substitute amendment?

Mr. BREAUX. The gentleman's amendment is a good amendment, but it clearly does not go as far as the substitute I will offer at the proper time, my substitute that would eliminate core and test drilling, that says that the Secretary, if the Federal Government is going to do any drilling on-structure or off-structure, is going to have to come to Congress to get an appropriation for it.

If the gentleman would want to offer that amendment, I would gladly support it.

Mr. STUDDS. I would say to the gentleman from Louisiana, it is my understanding that is the case with existing law.

Mr. BREAUX. No, clearly it is not, in that it clearly does not require a specific authorization and line item authorization, which my substitute would require him to obtain.

Mr. STUDDS. Does the gentleman perceive this as the last moment of harmony for the next several hours?

Mr. BREAUX. No, I am just trying to get the gentleman to see the reasonableness of my position.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, as a tactical maneuver, which this obviously is, on the part of the opponents of the legislation, there is a possibility if the gentleman's substitute is not adopted later this afternoon that this bill could go to conference and be rewritten back into the form in which it now exists. That may be the desire of some, although I do not want to impugn the motives of anyone dealing with this legislation, but it might just be the better part of valor to have rollcalls on some of these amendments and nail them in so the other body understands now the bipartisan and broad support many of these changes have.

Mr. BREAUX. The gentleman is absolutely correct. What we see is not purely cosmetic but represents the position of the House.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope there can be no accusation of prolonging the debate on this amendment. It is just that it took the minority a few minutes to get its composure back and rethink several amendments we did not know had been adopted verbatim by the majority.

If I can address some questions for purposes of clarification to the author, the gentleman from Massachusetts (Mr. STUDDS), his amendment purports to strike or does strike lines 4 through 14 in the committee bill, on page 173, and it also amends the existing law, section 11 of the Outer Continental Shelf oil and gas exploration law. I will read that section 11. It says:

[SEC. 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATION.—Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area.]

It is my understanding that the gentleman's amendment would thereby eliminate the words "The Secretary or any other Federal department or agency, and". Is that correct?

Mr. STUDDS. Mr. Chairman, if the gentleman will yield, the amendment is drafted so it strikes that entire paragraph, lines 7 through 14, and replaces it with the paragraph which is in existing law, which I will be happy to read the gentleman if he likes. It is essentially the same, without the offending words "including core and test drilling."

Mr. FISH. Then I am not sure I understand. The amendment says:

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended by inserting "(a)(1)" before "Any", . . .

And the first "any" we get to in the existing statute follows the words "The Secretary."

Mr. STUDDS. If the gentleman will yield, I can explain. The wording which the gentleman just read is highly technical and is only conforming, technical language. The word "any" is the first word of the paragraph which reads:

Any agency of the United States and any person authorized by the Secretary . . .

Mr. FISH. Is the gentleman looking at the section 11 which says:

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the Outer Continental Shelf . . .?

It says any person or agency so authorized.

Mr. STUDDS. That is correct.

Mr. FISH. So we will have in the law the fact that a Federal agency is still able to get a permit. That is not struck out.

Mr. STUDDS. If the gentleman will yield further, the existing section 11 of existing law, which has been law for a number of years, is one sentence long. It would remain the law.

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the Outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area.

That is in existing law. That is left in by this amendment I am offering.

Mr. FISH. I commend the gentleman for his statement in introducing his amendment, that he wants to avoid all chance of Federal exploration. I think nobody can argue with that. But I do think the way to lay this issue to rest is to be sure that a Federal agency may not get a permit to go in the Outer Continental Shelf.

I think that the gentleman from Louisiana (Mr. TREEN) will be recognized next and will have some proposed language changes in the gentleman's amendment that we can all agree to.

Mr. Chairman, let me ask the gentleman one more question. It is really more profitable for the gentleman to address the gentleman's own amendment. Assuming the gentleman's amendment passes, can we count on diligence, not only by the gentleman, but by the chairman of the Select Committee in conference, where we know we have a problem with the Durkin amendment on the Senate side?

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr FISH. I yield to the gentleman from New York.

Mr. MURPHY of New York. Well, the gentleman from New York knows from my last conference that the House side passed an amendment on which we disagreed but I sustained the House position.

The CHAIRMAN. The time of the gentleman from New York (Mr. FISH) has expired.

(By unanimous consent, Mr. FISH was allowed to proceed for 1 additional minute.)

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield further, the House conferees are committed to keeping the House position and we succeeded in doing this in the last conference and I will make every endeavor to do the same, hopefully, in the forthcoming conference.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I would say to the gentleman that the logic used by myself, which the minority found somewhat overwhelming, namely my support of this bill and my desire to see it become law, regardless of this particular issue, would pertain to the conference report as well as to this bill in the House.

This Member would not like to see an amendment come back to the House that would jeopardize the entire bill.

Let me say to the gentleman, the existing law has been in effect over two decades and there has been no Federal exploratory drilling.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

First of all, I want to congratulate my colleague, the gentleman from Massachusetts, for offering an amendment that at least takes some of the firepower from the opponents of the bill.

I do not kid myself a bit that this is going to diffuse the propaganda that surrounds this legislation. I just think this is one of the handles that the oil industry has latched onto to try to defeat the bill in its entirety. I think what is significant about the amendment, and this is the essence of what a lot of us said right along, that existing law does permit the Secretary of the Interior to conduct such geophysical and other exploration on the Outer Continental Shelf as is necessary to enable the Secretary to discharge his responsibilities.

I would like to address a question to the chairman of the committee. It is my recollection that the Secretary came before our committee last year and testified that he believes that under existing law he had the authority, although he had not used it, to conduct such tests as are necessary to secure geological and other information.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. MURPHY of New York. Yes, he and his predecessor.

Mr. HUGHES. In essence, what we are doing is eliminating superfluous language in the bill.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield further, we are eliminating and allying the fears of those who feel somehow a Federal oil and gas company could possibly be formed and move into this area. This is, I think, a very legitimate concern and we are dispelling that problem for the rest of this debate and, hopefully, for the rest of the history of this bill.

Mr. HUGHES. It is interesting to me that the opponents of the legislation, on the one hand, suggest there is going to be delay after delay. It has been speculated that there will be a 6-year delay based on all kinds of mythical assumptions; yet my colleague, the gentleman from Louisiana, now indicates that he is going to offer an amendment that would hamper the Secretary's effort to secure more information about the lands that he holds in public trust. I do not understand the reasoning of that. We understand from the General Accounting Office report of June 1977, that in lease sale No. 40, the Baltimore Canyon sale, the Secretary of the Interior had no information whatsoever, no seismic, no geological information, on some 25 percent of the acreage in that sale.

And yet my colleagues on the minority side, in particular, and my colleague from Louisiana, would further tie the Secretary's hands in trying to determine, first of all, what is in the public interest as we sell those resources. We are not in the business of selling just land. We are in the business, I believe, of trying to properly manage our oil and gas resources. I hope the gentlemen are not suggesting that the Secretary should come to the Congress every time he wants to learn more about the resources contained within our public lands.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Louisiana.

Mr. TREEN. I am not sure I understand what the gentleman is saying, that some of us have suggested that the Sec-

retary come back to the Congress. During my explanation of my dual leasing amendment, I said it was a concept that was so indefinite that perhaps it should await new legislation later, but I do not know of anybody who suggested that the Secretary come back to Congress for these various authorities. In the sale the gentleman refers to, if the Secretary did not have sufficient information on which to lease these tracts, that is his fault. He should have had it. He has, it seems to me, under existing law, the right to get that information.

Mr. HUGHES. Perhaps my colleague is correct, but certainly the Secretary should have the wherewithal to get the seismic and geophysical and other information necessary to make an intelligent sale of our resources. I suggest to my colleague that if, in fact, we tie the Secretary's hands so that he does not have the tools necessary to get that information, where industry does not produce it, then I do not think we are comporting with our public duties in connection with these lands held in the public trust.

AMENDMENT OFFERED BY MR. TREEN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. STUDDS

Mr. TREEN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN as a substitute for the amendment offered by Mr. STUDDS: Page 173, line 7, strike "The" and all that follows through "and" on page 173, line 8.

Page 173, line 8, strike "any" and insert in lieu thereof "Any".

Page 173, lines 10 and 11 strike the words "including core and test drilling".

Mr. TREEN. Mr. Chairman, the amendment by my colleague from Massachusetts (Mr. STUDDS) would make one change, essentially, in the bill itself; and that is to take out the reference to core and test drilling and, in effect, would return us to the law as it exists.

Now, because of the debate that we have had about whether or not this bill would propel the Government into exploration, and in order that we might have a discussion of that, I have offered this substitute, which would do the same thing as that offered by Mr. STUDDS. But, in addition, it would, with respect to the existing statute, remove the words, "Any agency of the United States and . . ."

It would begin that section with the word, "any." So that if the substitute were adopted, any person authorized by the Secretary could conduct geological and geophysical explorations in the Outer Continental Shelf. In effect, what this substitute would do would be to take out that language of the law which says that any agency of the United States may conduct the geological and geophysical explorations.

This does not prevent the Secretary of the Interior from authorizing by permit geological and geophysical explorations on the OCS by others. But it does make clear that the Government itself would not be able to get into the business of exploration.

I appreciate that the gentleman from Massachusetts (Mr. STUDDS) says taking out core and test drilling would have that effect. But I am not at all sure that that would accomplish my purpose and apparently his purpose.

Mr. STUDDS. Mr. Chairman, would the gentleman yield?

Mr. TREEN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Chairman, while I am a bit surprised that the gentleman from Louisiana (Mr. TREEN) appears not to be as happy as he has contended that he has been for over two decades with the existing statute, for the purposes of expediting the procedure I, as author of the amendment to which the gentleman offered his substitute, am quite prepared to accept his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN) as a substitute for the amendment offered by the gentleman from Massachusetts (Mr. STUDDS).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. STUDDS), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 328, noes 77, not voting 27, as follows:

[Roll No. 21]

AYES—328

Abdnor	Burleson, Tex.	Erlenborn
Addabbo	Burlison, Mo.	Ertel
Akaka	Butler	Evans, Del.
Alexander	Byron	Evans, Ga.
Ambro	Caputo	Evans, Ind.
Anderson, Calif.	Carney	Fary
	Carr	Fascell
Anderson, Ill.	Carter	Fenwick
Andrews, N.C.	Cederberg	Findley
Andrews, N. Dak.	Chappell	Fish
	Chisholm	Fithian
Annunzio	Clausen, Don H.	Flippo
Applegate		Flood
Archer	Clawson, Del	Florio
Ashbrook	Cleveland	Flowers
Ashley	Cochran	Flynt
Aspin	Cohen	Ford, Mich.
AuCoin	Coleman	Ford, Tenn.
Badham	Collins, Tex.	Forsythe
Bafalis	Conable	Fountain
Barnard	Corcoran	Fowler
Baucus	Cornell	Frenzel
Bauman	Cotter	Frey
Beard, R.I.	Coughlin	Fuqua
Beard, Tenn.	Crane	Gammage
Benjamin	Cunningham	Gaydos
Bennett	Daniel, Dan	Gephardt
Biaggi	Daniel, R. W.	Giaimo
Boggs	Danielson	Gilman
Boland	Davis	Ginn
Bowen	de la Garza	Glickman
Brademas	Delaney	Goldwater
Breaux	Derwinski	Gonzalez
Breckinridge	Devine	Goodling
Brinkley	Dickinson	Gradison
Brooks	Dingell	Grassley
Broomfield	Dodd	Gudger
Brown, Mich.	Duncan, Oreg.	Hagedorn
Brown, Ohio	Duncan, Tenn.	Hall
Broyhill	Edwards, Ala.	Hamilton
Buchanan	Edwards, Okla.	Hammer-schmidt
Burgener	Eilberg	
Burke, Fla.	Emery	Hanley
Burke, Mass.	English	Hannaford
Hansen	Miller, Ohio	Schulze
Heckler	Mineta	Sebelius
Hefner	Minish	Seiberling
Heftel	Mitchell, Md.	Sharp
Hillis	Mitchell, N.Y.	Shipley
Hollenbeck	Moakley	Shuster
Holt	Mollohan	Sikes
Howard	Montgomery	Sisk
Hubbard	Moore	Skelton
Huckaby	Moorhead, Pa.	Slack
Hughes	Murphy, Ill.	Smith, Iowa
Hyde	Murphy, N.Y.	Smith, Nebr.
Ichord	Murphy, Pa.	Snyder
Ireland	Murtha	Spence
Jacobs	Myers, Gary	Staggers
Jeffords	Myers, John	Stangeland
Jenkins	Myers, Michael	Stanton
Johnson, Calif.	Natcher	Steed
Johnson, Colo.	Neal	Steiger
Jones, N.C.	Nedzi	Stockman
Jones, Okla.	Nichols	Stratton
Jordan	Nix	Studds
Kasten	Nowak	Stump
Kazen	O'Brien	Symms
Kelly	Panetta	Taylor
Kemp	Patten	Teague
Ketchum	Pease	Thompson
Kindness	Pepper	Thone
Krebs	Perkins	Thornton
Krueger	Pettis	Traxler
LaFalce	Pickle	Treen
Lagomarsino	Pike	Trible
Latta	Poage	Tsongas
Leach	Pressler	Tucker
Lederer	Preyer	Udall
Lent	Price	Ullman
Levitas	Pritchard	Van Deerlin
Livingston	Pursell	Vander Jagt
Lloyd, Calif.	Quayle	Vanik
Lloyd, Tenn.	Quie	Volkmer
Long, La.	Quillen	Waggonner
Long, Md.	Rahall	Walker
Lott	Railsback	Walsh
Lujan	Regula	Wampler
Luken	Rhodes	Watkins
Lundine	Richmond	Waxman
McClory	Rinaldo	Whalen
McCloskey	Risenhoover	White
McDade	Roberts	Whitehurst
McEwen	Robinson	Whitley
McFall	Roe	Whitten
McHugh	Rooney	Wiggins
McKay	Rose	Wilson, Bob
McKinney	Rosenthal	Wilson, C. H.
Madigan	Rostenkowski	Wilson, Tex.
Mahon	Rousselot	Winn
Mann	Roybal	Wirth
Marks	Rudd	Wright
Marlenee	Runnels	Wylie
Marriott	Ruppe	Yatron
Mathis	Russo	Young, Alaska
Mattox	Ryan	Young, Fla.
Mazzoli	Santini	Young, Mo.
Metcalfe	Sarasin	Young, Tex.
Michel	Satterfield	Zablocki
Mikulski	Sawyer	Zeferetti
Milford	Schroeder	

NOES—77

Allen	Edgar	Moffett
Ammerman	Edwards, Calif.	Mottl
Baldus	Evans, Colo.	Nolan
Bedell	Fisher	Oakar
Bellenson	Foley	Oberstar
Bevill	Fraser	Obey
Blanchard	Gibbons	Ottinger
Blouin	Gore	Patterson
Bolling	Harkin	Rangel
Bonker	Harrington	Reuss
Brodhead	Harris	Rodino
Burton, John	Hawkins	Scheuer
Burton, Phillip	Holland	Simon
Cavanaugh	Holtzman	Solarz
Clay	Jenrette	Spellman
Collins, Ill.	Kastenmeier	St Germain
Conte	Keys	Stark
Conyers	Kildee	Steers
Corman	Kostmayer	Stokes
D'Amours	McCormack	Vento
Dellums	Maguire	Walgren
Derrick	Markey	Weaver
Dicks	Meeds	Weiss
Drinan	Meyner	Wolff
Early	Mikva	Yates
Eckhardt	Miller, Calif.	

NOT VOTING—27

Armstrong	Dent	Hightower
Bingham	Diggs	Horton
Bonior	Dornan	Jones, Tenn.
Brown, Calif.	Downey	Le Fante
Burke, Calif.	Guyer	Leggett
Cornwell	Harsha	Lehman

McDonald	Moss	Skubitz
Martin	Pattison	Wydler
Moorhead, Calif.	Rogers	
	Roncalio	

Messrs. PHILLIP BURTON, GORE, BONKER, Ms. OAKAR, Mr. CLAY, Mrs. COLLINS of Illinois, Messrs. D'AMOURS, HARRINGTON, ST GERMAIN, and ALLEN, changed their vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RYAN. Mr. Speaker, I wish the record to show that I missed the vote on the Wiggins amendment to H.R. 1614, rollcall No. 22, and that if I had been present I would have voted "no."

Mr. Speaker, I was on the Senate floor at the time, assisting in the work on passage of the bill to expand the Redwoods National Park.

AMENDMENT OFFERED BY MR. JOHN L. BURTON

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON: On page 177, line 14, add new section (i) as follows:

"(i) The Secretary shall exclude from any lease or pre-lease exploratory drilling any tract lying within fifteen miles of the boundaries of any existing National Wilderness Area, except if a State conducts a leasing or development within its tidelands adjacent to such area."

Mr. JOHN L. BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. JOHN L. BURTON. Mr. Chairman, this is the same, this is the identical amendment that was adopted to the Breaux substitute that affects only that one existing wilderness area in northern California.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I will be happy to yield to the gentleman. It is the same amendment exactly.

Mr. TREEN. I thank the gentleman for yielding.

Can the gentleman tell me that in taking this area out of possible exploration, off the coast of northern California, we are not precluding production in an area which is suspected to have good potential resource recovery?

Mr. JOHN L. BURTON. My answer can only be the answer I gave the last time.

Mr. TREEN. I just want it again.

Mr. JOHN L. BURTON. There is no evidence of a great deal of dinosaurs having been laid to rest off in the wilderness of California.

Mr. TREEN. I appreciate there may not be any dinosaurs, but there might be other resources. Can the gentleman say, or does he have any information one way or the other, as to whether or not we are taking out of possible production an area of potentially good resource recovery? By "resource" I mean the resource that this bill is concerned with, oil and gas.

Mr. JOHN L. BURTON. I cannot tell the gentleman that there are not a couple of barrels of oil, or whatever, to be found in that area. It is not a prime area for oil reserves. That is my understanding. It is the same amendment with the same facts that were presented to this body and unanimously adopted to the Breaux substitute.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, we discussed this amendment at the time the Breaux substitute was offered. The amendment was acceptable to the committee at that time and it is acceptable at this time.

Mr. JOHN L. BURTON. I thank the gentleman.

I ask for an "aye" vote.

The CHAIRMAN pro tempore (Mr. ROBERTS). The question is on the amendment offered by the gentleman from California (Mr. JOHN L. BURTON).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer a series of amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. DINGELL: Page 134, line 21, strike out "Paragraph (c)" and insert "Paragraphs (b) and (c)".

Page 134, line 22, strike out "is" and insert "are".

Page 134, after line 23, insert the following:

"(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be.".

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with and that they be printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, my colleagues on the committee have seen this amendment before, so I will take very little time. It was adopted by the committee to the amendment offered by our good friend and colleague, the gentleman from Texas (Mr. BROOKS).

I offer it on behalf of the ranking minority member of the Subcommittee on Energy and Power, Congressman BROWN of Ohio, and myself. It is supported by the administration.

Mr. Chairman, on August 2, 1977, Congress passed the conference report establishing the new Department of Energy. Seven days earlier, H.R. 1614 was ordered reported by the ad hoc committee. Quite clearly, the committee did not know to what extent the functions of the Secretary of the Interior would be transferred to the new Energy Department and the Federal Energy Regulatory Commission.

As we now know, Congress, in establishing the new Energy Department, transferred to the DOE, at the request of President Carter, certain functions concerning oil and gas leasing, including functions relating to competition, alternative bidding, and rates of production. Included in this transfer were certain provisions of the Energy Policy and Conservation Act that apply to the OCS. That act originated in the Committee on Interstate and Foreign Commerce and in the subcommittee which I chair.

However, H.R. 1614 is technically deficient because it fails to recognize this statutory transfer. It uses the term "Secretary" throughout the bill. That term is defined in the 1953 act to mean the Secretary of the Interior, and that definition is not changed by this bill. Taken literally, it might be construed to change the DOE Act. I am assured by Chairman MURPHY that this was not intended.

Also, I point out that section 707 of the DOE Act would appear to preclude such a construction. It states:

SEC. 707. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or officer the functions of which are so transferred shall be deemed to refer to the Secretary, the Federal Energy Regulatory Commission, or other official or component of the Department in which this Act vests such functions.

However, in order to be certain, we offer this amendment to redefine the term "Secretary" to mean, as appropriate, the Secretary of the Interior, the Secretary of Energy, and FERC. Each of these agencies currently has functions under the OCS Act and the DOE Act. We urge support for this technical amendment.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the chairman of the committee, the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, the committee is happy to accept this amendment. It is grateful to the chairman of the Subcommittee on Energy and Power for bringing it to the attention of the committee. We are happy to accept it.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I want to thank the distinguished gentleman for bringing this matter before the committee and for persisting with this amendment in this legislation.

Mr. DINGELL. I thank the gentleman.

I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Michigan (Mr. DINGELL).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 40, line 13, after the word "California" insert the following new language: "including the Santa Barbara Channel, except for those tracts in the Channel in which leasing was begun prior to October 1, 1975, and on which exploration, or development, or production was begun prior to January 1, 1978."

Mr. GOLDWATER. Mr. Chairman, the purpose of my amendment is to better clarify the definition of frontier area as it pertains to the Santa Barbara Channel. In the language of the bill, frontier area means any area where there has been no development prior to October 1, 1975. I have no quarrel with that. In fact, I support the inclusion of those areas where there has been no development prior to a certain date. However, by inclusion further down in the definition of the Santa Barbara Channel we are including those areas where there are, in fact, leases let and developments underway under the term "frontier area."

The purpose of my amendment is to exclude from the definition of frontier area, those areas in the Santa Barbara Channel where there has been explorations, development or production begun prior to January 1, 1978. The rest of those areas that do not fall into that definition would be excluded and they would be considered frontier areas as defined in the act.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I think my colleague, the gentleman from California, has correctly stated the situation. But it was the intent of the committee to make sure that, in designating frontier areas, we designate those areas of the channel where there had been no exploration, development or production.

I believe, speaking for the majority of the committee, that the amendment serves to clarify that situation and we thank the gentleman for his help. We will accept the amendment on this side.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman. I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

I might say, within the hour I talked to the board of supervisors of Santa Barbara County. They are very concerned about what they thought was going to be an amendment exempting Santa Barbara from exploration; however, when I explained the amendment that I thought the gentleman was going to offer, they did not seem to have any concern. They were primarily concerned about the pending resale of lease No. 48. It is the understanding of the gentleman from California that the amendment will not in any way affect lease sale No. 48.

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield further, I would say that the intent of the committee bill is to take into consideration not only the pending sale, but to protect those people who already have a vested right and investment in existing law. I think we have preserved the concern of the gentleman and the people of the area.

Mr. GOLDWATER. Mr. Chairman, the purpose of my amendment again would be to protect those areas where exploration and development had not begun prior to January 1, 1978; so those areas the gentleman has referred to would be included in the frontier areas.

Mr. Chairman, I thank the gentleman from California (Mr. MILLER) and I ask for an "aye" vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 150, strike out line 4 and all that follows through line 18 on page 151 and insert in lieu thereof the following:

"(B) that such cancellation shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law;"

Page 211, line 20, strike out "In the case" and all that follows through "this subparagraph." On line 20 on page 212 and insert in lieu thereof "Such cancellation shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law."

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WIGGINS. Mr. Chairman, if I may have the attention of the gentleman from New York, this is the cancellation amendment. It is identical in terms to the amendment which I offered to the Breaux amendment. At that time, the majority expressed no opposition, and I will ask the gentleman now if he intends to resist this amendment.

Mr. MURPHY of New York. The committee intends to oppose this amendment.

Mr. WIGGINS. In that event, I will use my 5 minutes.

Mr. Chairman, this section deals with cancellation of leases. It is to be understood that developing and producing oil in the Outer Continental Shelf is an expensive business. It would not be beyond the realm of reasonable contemplation that a lessee would have tens, and perhaps hundreds, of millions of dollars invested in the lease itself, in exploration, in production facilities, and in onshore facilities to receive and process the oil. That investment is subject to being canceled by the Secretary upon the payment of what is generally understood to be just compensation.

The formula in the bill provides that if the lease is canceled by reason of certain overriding national concerns such as threatened environmental damage, which were not within the contemplation of the parties at the time the lease was negotiated, the lessee in that event is entitled to recover his investment less the amount of money that he may have received in revenues on that investment. I believe it is clearly understood that under that formula it would be possible, and indeed likely, in the event of a profitable lease, that the lessee would receive nothing by reason of his very substantial investment.

My amendment proposes to change that formula. My amendment would authorize the lessee under those circumstances to receive that compensation to which he is entitled under the Constitution; namely, just compensation. The issue is, first, whether or not the conduct of the Secretary in canceling a lease is a taking in a fifth amendment sense. That question has been addressed by the courts heretofore, and in a case decided in the ninth circuit captioned, "Union Oil vs. Morton," the ninth circuit panel concluded that an absolute suspension of production was tantamount to a taking. Clearly, a cancellation is a permanent suspension and is a taking.

The next issue, then, is whether in the event of a taking the lessee is entitled to just compensation or to the lesser standard contained in the bill. The only argument known to me as to why a lessee would be denied his normal constitutional right to just compensation would be that he waived that right by executing a lease in which the lessor, the Secretary of the Interior, is given the right to give him less than full compensation.

That question, Mr. Chairman, raises a complicated legal issue as to the conditions which may be attached to the enjoyment of a Federal program, and indeed to the enjoyment of a constitutional right. I am mindful that the Secretary of the Interior, in dealing with Federal lands, has broad authority not unlike the authority of a landlord dealing with an ordinary tenant. But, I am also mindful that the Secretary of the Interior is more than a landowner. He is an agent of the United States of America. Our Government exists to secure constitutional rights, not to compel their waiver.

There is a line of cases, Mr. Chairman, which says that the Government cannot impose unconstitutional conditions upon its citizens who seek to participate in a Federal program. Here, without much question, the Government does impose that limitation upon a lessee, and I contend that it may do so only for overriding and compelling national reasons. The record of our ad hoc committee, and surely the debate thus far in this House, establishes no compelling reasons for refusing to pay a tenant his just compensation. The only reason that comes to mind is that we are frugal, and do not want to do so. That, I sugest, is not an overriding national interest which would

justify the denial to a lessee of constitutional rights.

I urge the adoption of my amendment.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, four times in the committee deliberations we considered this amendment offered by the very astute gentleman from California (Mr. WIGGINS) and we rejected his proposal. The amendment the gentleman has offered is to provide a very vague standard for compensation for the cancellation of any lease, and this would, initially, I believe, lead to many lawsuits and, of course, an extension of the time-span that will be needed as we move to develop the Outer Continental Shelf.

Under the gentleman's proposed amendment, the lessee and the public would not be aware of the amounts of money to be paid because of a cancellation until a claim is made for such compensation and a court determines what compensation is appropriate. As stated by the gentleman, his amendment would require a case by case determination whether a cancellation involves a "taking" and what would be the compensation for that "taking." To avoid such delays and to provide for more certainty for both industry and the Government, the administration suggested, and the committee accepted, a highly complex and fair provision providing for standards for compensation, upon a lease cancellation. Specifically, this provision would provide that a lessee would be entitled to the compensation for the value of the rights of which the lessee is deprived, or restitution of the excess of cost over revenues, whichever is less. This amount bears a closer relation to the values, for which a lessee is being deprived by cancellation, of the amount of just restitution for operations on a lease. To provide even more guarantees for the leases presently in existence, at the time of passage of this act, total compensation for the value for the right is provided for the cancellation for any existing lease.

By specifically detailing the amount of compensation upon cancellation, the bill allows all concerned to adequately evaluate the cost of continued activity, as against cancellation, so as to make a valid determination as to when cancellation should, or should not, be secured.

In addition it allows potential lessees to calculate, as part of their bid, the risk of cancellation and the compensation to be paid if such cancellation occurs.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, two points are clear, from the gentleman's statement, and should be in the minds of all of the Members when they vote on this amendment. First, it is true that my amendment would require a case by case adjudication of the value of the interest taken. And what is so novel about that? That is the way it is done. Second, we should all understand that the formula cranked into this bill in certain cases would entitle the lessee to nothing at all, notwithstanding an enormous investment. And that simply is not fair.

The CHAIRMAN pro tempore (Mr. MURTHA). The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and on a division (demanded by Mr. WIGGINS) there were—ayes 20, noes 24.

RECORDED VOTE

Mr. WIGGINS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 194, not voting 30, as follows:

[Roll No. 22]

AYES—208

Abdnor	Fountain	Myers, Gary
Alexander	Frenzel	Myers, John
Ambro	Frey	Neal
Anderson, Ill.	Fuqua	Nichols
Andrews, N.C.	Gammage	O'Brien
Andrews, N. Dak.	Gibbons	Perkins
Archer	Gilman	Pettis
Ashbrook	Goldwater	Pickle
Badham	Gonzalez	Preyer
Bafalis	Goodling	Pritchard
Barnard	Gradison	Quayle
Bauman	Grassley	Quie
Beard, Tenn.	Gudger	Quillen
Benjamin	Hagedorn	Railsback
Bennett	Hall	Regula
Boggs	Hammer-schmidt	Rhodes
Bowen	Hannaford	Risenhoover
Breaux	Hansen	Roberts
Breckinridge	Harsha	Robinson
Brinkley	Hefner	Rose
Brooks	Hillis	Rousselot
Broomfield	Holland	Rudd
Brown, Mich.	Holt	Runnels
Broyhill	Horton	Ruppe
Buchanan	Huckaby	Russo
Burgener	Hyde	Sarasin
Burke, Fla.	Ichord	Satterfield
Burleson, Tex.	Ireland	Sawyer
Butler	Jeffords	Schulze
Byron	Jenkins	Sebelius
Caputo	Johnson, Colo.	Shuster
Carter	Jones, N.C.	Sikes
Cederberg	Jones, Okla.	Sisk
Chappell	Jordan	Smith, Nebr.
Clausen, Don H.	Kasten	Snyder
Clawson, Del	Kazen	Spence
Cleveland	Kelly	Stangeland
Cochran	Kemp	Stanton
Coleman	Ketchum	Steed
Collins, Tex.	Kindness	Steers
Conable	Krueger	Steiger
Corcoran	Lagomarsino	Stockman
Cornwell	Latta	Stump
Coughlin	Leach	Symms
Crane	Lent	Taylor
Cunningham	Livingston	Teague
Daniel, Dan	Lloyd, Tenn.	Thone
Daniel, R. W.	Long, La.	Thornton
Davis	Lott	Treen
de la Garza	Lujan	Trible
Derwinski	Lundine	Vander Jagt
Devine	McClory	Waggonner
Dickinson	McCloskey	Walgren
Duncan, Oreg.	McDade	Walker
Duncan, Tenn.	McEwen	Wampler
Edwards, Ala.	McKay	Watkins
Edwards, Okla.	McKinney	White
Emery	Madigan	Whitehurst
English	Mahon	Whitley
Erlenborn	Mann	Whitten
Evans, Colo.	Marlenee	Wiggins
Evans, Del.	Marriott	Wilson, Bob
Evans, Ga.	Mathis	Wilson, Tex.
Findley	Mattox	Winn
Fish	Mazzoli	Wright
Flippo	Michel	Wylie
Flowers	Milford	Young, Alaska
Flynt	Miller, Ohio	Young, Fla.
Forsythe	Montgomery	Young, Tex.
	Moore	

NOES—194

Addabbo	Ford, Tenn.	Nolan
Akaka	Fowler	Nowak
Allen	Fraser	Oakar
Ammerman	Gaydos	Oberstar
Anderson, Calif.	Gephardt	Obey
Annunzio	Giaimo	Ottinger
Applegate	Ginn	Panetta
Ashley	Glickman	Patten
Aspin	Gore	Patterson
AuCoin	Hamilton	Pattison
Baldus	Hanley	Pease
Baucus	Harkin	Pepper
Beard, R.I.	Harrington	Pike
Bedell	Harris	Pressler
Beilenson	Heckler	Price
Bevill	Heftel	Rahall
Biaggi	Hollenbeck	Rangel
Blanchard	Holtzman	Reuss
Blouin	Howard	Richmond
Boland	Hubbard	Rinaldo
Bonior	Hughes	Rodino
Bonker	Jacobs	Roe
Brademas	Jenrette	Rooney
Brodhead	Johnson, Calif.	Rosenthal
Burke, Mass.	Kastenmeier	Rostenkowski
Burlison, Mo.	Keys	Roybal
Burton, Phillip	Kildee	Santini
Carney	Kostmayer	Scheuer
Carr	Krebs	Schroeder
Cavanaugh	LaFalce	Seiberling
Chisholm	Lederer	Sharp
Clay	Leggett	Shipley
Cohen	Levitas	Simon
Collins, Ill.	Lloyd, Calif.	Skelton
Conte	Long, Md.	Slack
Conyers	Luken	Smith, Iowa
Corman	McCormack	Solarz
Cornell	McFall	Spellman
Cotter	McHugh	St Germain
D'Amours	Maguire	Staggers
Danielson	Markey	Stark
Delaney	Marks	Stokes
Dellums	Meeds	Stratton
Derrick	Metcalfe	Studds
Dicks	Meyner	Traxler
Dingell	Mikulski	Tsongas
Dodd	Mikva	Tucker
Drinan	Miller, Calif.	Udall
Early	Mineta	Ullman
Eckhardt	Minish	Van Deerlin
Edgar	Mitchell, Md.	Vanik
Edwards, Calif.	Mitchell, N.Y.	Vento
Eilberg	Moakley	Volkmer
Ertel	Moffett	Walsh
Evans, Ind.	Mollohan	Waxman
Fary	Moorhead, Pa.	Weaver
Fascell	Motti	Weiss
Fenwick	Murphy, Ill.	Whalen
Fisher	Murphy, N.Y.	Wirth
Fithian	Murphy, Pa.	Wolff
Flood	Murtha	Yates
Florio	Myers, Michael	Yatron
Foley	Natcher	Young, Mo.
Ford, Mich.	Nedzi	Zablocki
	Nix	Zeferetti

NOT VOTING—30

Armstrong	Guyer	Poage
Bingham	Hawkins	Pursell
Bolling	Hightower	Rogers
Brown, Calif.	Jones, Tenn.	Roncalio
Brown, Ohio	LeFante	Ryan
Burke, Calif.	Lehman	Skubitz
Burton, John	McDonald	Thompson
Dent	Martin	Wilson, C. H.
Diggs	Moorhead, Calif.	Wydler
Dornan	Moss	
Downey		

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. Le Fante against.

Mr. McDonald for, with Mr. Thompson against.

Mr. Hightower for, with Mr. Bingham against.

Mr. Brown of Ohio for, with Mr. Dent against.

Mr. Dornan for, with Mr. Hawkins against.

Mr. Guyer for, with Mr. Rogers against.

Mr. Martin for, with Mr. Diggs against.

Mr. Skubitz for, with Mr. Lehman against.

Mr. Wydler for, with Mrs. Burke of California against.

Mr. Moorhead of California for, with Mr. Charles H. Wilson of California against.

Mr. LUKEN changed his vote from "aye" to "no."

So the amendment was agreed to.

(The result of the vote was announced as above recorded.)

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: On page 152, strike lines 5 through 8, and insert in lieu thereof:

"(8) For compliance with the national ambient air quality standards or requirements pursuant to the Clean Air Act, to the extent that activities authorized under this Act affect the air quality of any state; and"

Strike line 11, and insert in lieu thereof: "Act consistent with standards or requirements under the Clean Air Act."

The CHAIRMAN. The gentleman from California (Mr. MILLER) is recognized for 5 minutes in support of his amendment.

Mr. MILLER of California. Mr. Chairman, section 5 of the legislation deals with the administration of the leasing of the Outer Continental Shelf.

In the committee bill, the committee included an amendment which I sponsored to make sure that the development of the Outer Continental Shelf did not interfere with the air quality of onshore areas. We have a situation in California where prevailing winds take the emission from the Outer Continental Shelf and blow it on shore, thereby raising the air pollution on shore and prohibiting new development in the State of California.

I suspect this can also be the case in the east coast at some point.

What we have done, after some counsel with the gentleman from Florida (Mr. ROGERS) from the Committee on the Interstate and Foreign Commerce, and with industry, is to offer this amendment in order to clarify that we have the Secretary of the Interior administer this provision in accordance with the standards and requirements of the Clean Air Act. He would not simply promulgate standards for the OCS, and apply those standards in the development of the Outer Continental Shelf, so we do not have the strange situation where, 3 miles outside the jurisdiction of EPA, you cause pollution which does not allow for the development of onshore facilities you need to develop the Outer Continental Shelf. This is a clarifying amendment. It is a section already adopted by the committee.

Mr. Chairman, I ask for a "aye" vote.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the committee strongly supports the amendment of the gentlemon from California (Mr. MILLER) to revise the present OCS clean air requirements to make them more consistent with the present law.

The committee was concerned about the effects of OCS activities on the quality of air above the adjacent on-shore coastal areas, particularly in those areas in the State of the gentleman, where there are prevailing atmospheric conditions, that would have a very serious effect on the air in the shore areas. The gentleman's amendment would not modify section 5(a)(9) of the bill, dealing with regulations regarding OCS activities. It would simply make the Clean Air requirements, as to state impacts, consistent with the present Clean Air Act.

Mr. Chairman, I would urge support for the amendment.

Mr. Chairman, in our earlier colloquy with the distinguished gentleman from Florida (Mr. ROGERS), chairman of the Public Health Subcommittee, the gentleman clearly understood and supported the committee bill. The gentleman supported the Miller amendment, since it more clearly states the committee policy as indicated by the committee earlier.

We appreciate the support of the gentleman from Florida in this endeavor.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to point out initially that a list of amendments by title was prepared and delivered to us last night by the majority. It brought to our attention for the first time the number of the majority amendments. This entire amending process could be expedited if we could be given a copy of these amendments before the sponsor of the amendments stands up and starts talking about it, since that gives us a very short time to consider the amendment on its merits.

Mr. Chairman, I would like to address a question to the gentleman from California, who I assume is far more familiar with the Clean Air Act than I am. Is it not true that under existing law, the Clean Air Act would not be applicable beyond the 3-mile limit?

Mr. MILLER of California. Mr. Chairman, that is my understanding.

Mr. FISH. In other words the gentleman's amendment is going to be an extension of the Clean Air Act, to the Outer Continental Shelf.

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, that I think, in fact, is true. What we are saying, it will require the operation of the development of the Outer Continental Shelf and give us the facts, so that we do not disturb the intent of the Clean Air Act; so, in fact, it is an extension, but only for the purpose of OCS development. We are not talking about shipping. We are not talking about the vessels that go in and out on the 200-mile limit or the 300-mile limit.

Mr. FISH. That was going to be my next question. What about a vessel that is directly involved in OCS activities, such as delivering foodstuffs or equipment to a rig, or indeed bringing in oil?

Mr. MILLER of California. I would answer the gentleman in this fashion: That they would have to be in compliance, certainly in our State, to operate out of a port in that State. If they were going in and out of Long Beach or Santa Barbara, they would have to comply with all of the standards as set out under the Clean Air Act. I do not see that as a problem. We are really talking about a leak outside the jurisdiction of both State and Federal Government in terms of the Clean Air Act.

Mr. FISH. I have one more question. I think the gentleman mentioned the name of the chairman of the subcommittee——

Mr. MILLER of California. Mr. ROGERS of Florida.

Mr. FISH. Has the gentleman discussed this issue with him?

Mr. MILLER of California. Yes, we have, and his concern was the gentleman's, whether or not we were expanding the Clean Air Act, the authority under the Clean Air Act. The fact is, no, we are taking the authority under the Clean Air Act and applying it to OCS.

Mr. FISH. I thank the gentleman. If I could address a question to the chairman of the ad hoc select committee, who is also chairman of the Committee on Merchant Marine and Fisheries, is it his understanding that the effect of this amendment would be in accordance with what the gentleman from California has said?

Mr. MURPHY of New York. Yes, I concur in the responses of the gentleman from California to the question of the gentleman from New York.

Mr. FISH. So that at no time will foreign flag vessels or U.S. vessels that navigate those waters not involved in OCS drilling activities, be subject to two standards?

Mr. MURPHY of New York. That is correct. As the gentleman from California stated, the State requirements in ports would certainly govern the operaof those vessels in port, but the point is it would not govern past the 3-mile limit.

Mr. FISH. Well, does not this bill extend those requirements to the OCS, beyond the 3-mile limit?

Mr. MURPHY of New York. It would not for vessels.

Mr. FISH. I thank the gentleman.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield.

Mr. FORSYTHE. I would like to ask another question of the gentleman from California. I sympathize very greatly with the west coast situation, where prevailing winds and relatively near offshore operations can have impact on the coast very significantly. On the east coast we may have different situations where, at least off our coast, we are talking about 50 miles offshore and prevailing winds pretty much going the other way. Would this cover a situation regardless of its distance from the shoreline?

Mr. MILLLER of California. The amendment as drafted applies to OCS, whether it is in the gulf or the Northeast.

Mr. FORSYTHE. So it does not depend on the impact on land mass. It is the impact on the installation offshore.

Mr. MILLER of California. The amendment would allow, however, the Secretary to draw regulations that may be more stringent for the west coast than they are for the east coast.

Certainly, that is taken into account because the development of OCS in the Northeast may very well not have the impact that so concerns us on the west coast.

Mr. FORSYTHE. I think if there is that possibility, I cannot see any problem here.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. FISH was allowed to proceed for 3 additional minutes.)

Mr. FISH. If I could get further clarification, because, as I say, this is a matter of first impression for me. On the other hand, the gentleman from California, I am sure, has thought through some of the problems connected with his amendment. We have some pristine areas we are considering for leasing in the frontier areas; for example, in the Gulf of Alaska. Has the gentleman contemplated the fact that there may be an effect by requiring adherence to the Clean Air Act on the Secretary's ability to carry out frontier leasing where shipping is involved and drilling rigs and everything else that is involved in OCS development would add some new pollutants to the pristine areas? These things are going to have effects a few miles out on the OCS and they may even prevent new exploration and production?

Mr. MILLER of California. The gentleman is talking about the reverse. The amendment does not speak to that. Under the Clean Air Act the authority would already exist for the purpose of curtailing that pollution source. The authority is already there in existing law. The point is that on OCS the authority is not there.

Mr. FISH. The gentleman does not see a problem in relation to stopping any OCS activities in frontier areas?

Mr. MILLER of California. No, that is not the intent, and I do not believe the amendment speaks to that.

Mr. FISH. I thank the gentleman.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the chairman of the committee and the gentleman from California a couple of questions about the bill and the Miller amendment. First, it is my understanding that the basic purpose of paragraphs (8) and (9) on page 152 of the bill is to assure that actions authorized by this act will be consistent with, and comply with, the Clean Air Act. Is that a correct statement of the intended effect of these two paragraphs?

Mr. MURPHY of New York. Yes, it is.

Mr. ROGERS. I believe the intention of the Miller amendment is essentially the same. It is my understanding that it merely clarifies that the Secretary's regulations will assure compliance and consistency with national ambient air quality standards as well as all other Clean Air Act requirements. Am I correct in that belief and understanding?

Mr. MILLER of California. Yes, you are correct. Moreover, neither the committee bill, nor the Miller amendment would in any way restrict or limit any authority or requirement under the Clean Air Act.

Mr. ROGERS. I am pleased to hear that. It appears to me that the policy of the bill is basically the same as that of the Miller amendment. In either event, the intent is to assure compliance with national ambient air quality standards, nonattainment area tradeoff requirements, implementation plans, and all other standards and limits under the Clean Air Act. I assume that under the bill or the amendment, the Secretary will solicit and give due consideration to the views of the Administrator of the Environmental Protection Agency in developing his regulations for paragraphs (8) and (9).

Mr. MURPHY of New York. The gentleman from Florida is correct in both respects.

Mr. ROGERS. With this understanding, I can and do support the committee bill generally. I also support the Miller amendment, since it more clearly states the committee's policy, as indicated by the chairman and Representative MILLER.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MCKINNEY

Mr. McKINNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McKINNEY: "Section 28 is struck in its entirety. Insert in lieu thereof the following:

"SEC. 28. LIMITATIONS ON EXPORTS.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

"(b) Before any oil or gas subject to this section may be exported under their requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase the number of barrels of oil or cubic feet of gas imported into this country, are in the national interest, and are in accordance with the provisions and requirements of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing the findings made under this section, and after the date of receipt of such reports Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section meet the requirements of subsection (b). If Congress within such time period passes a concurrent resolution of disapproval stating disagreement with any of the President's findings concerning the requirements of subsection (b), further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons of the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, or which is exchanged or exported pursuant to an existing international agreement.".

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. McKINNEY. Mr. Chairman, this is the same amendment adopted by the House twice already, reflecting our common belief that any OCS legislation must contain a firm and tightly drafted restriction on the exportation of our offshore resources. However, at the suggestion of the Departments of State and Energy, I have added one additional provision which exempts oil exchanged or exported pursuant to an existing international agreement from the export restrictions of the amendment. This is necessary, I am told, to ease the fears of our allies, mainly Israel, that the United States would be unable to respond in the event of an international emergency. Mr. Chairman, I think the history of that provision gives a valuable insight into our overall energy problem and further indicates why I think the amendment, in its augmented form, deserves the full support of the House one final time.

As many of you recall, this amendment is similar to one I offered to the Export Administration Act Amendments (H.R. 5840) to make it unmistakably clear that Alaskan crude would not be diverted to the "business as usual" energy picture which will contribute the lion's share of our greatest trade deficit ever—$26 billion. Just as that oil is a domestic resource for domestic use, Outer Continental Shelf resources are being extracted at a great environmental and governmental price. That investment by the American people in devoting large portions of public lands to energy production should not be discounted by vague export provisions which give the President the power to export OCS crude. It was this rationale which prompted my amendment and it was this rationale which I hope will prompt this House to reject proposed language to restrict only those transactions which significantly increase our dependence on foreign sources. This is the language originally proposed to me by State and DOE. Based on the President's call to arms, I was and remain under the impression that no increase in our dependence could be hereafter termed insignificant when every additional OPEC barrel destroys American jobs and economic strength.

Instead, I have added far more specific language to deal with our international commitments without clouding the bill with the hazy statutory adjectives and adverbs which are the repositories of so much executive power. The amendment places additional restrictions on the export of OCS oil—to complement the Export Administration Act—to reflect the price we are paying and the value of that energy to our national energy effort. It permits those exports, accompanied by the requisite Presidential findings, to proceed for 60 days while Congress has the opportunity to examine those findings and disapprove the transaction. Also, the new language allows petroleum and gas sharing in the event of an emergency without allowing that emergency

to be permanently extended to the detriment of our domestic energy program.

Frankly, Mr. Chairman, I have been mystified by the President's insistence on what he calls "flexibility" to meet international emergencies when our own severe energy emergency goes, for the most part, unattended. While well intended, I think the committee's export restrictions give the President far more flexibility than anyone so allegedly committed to solving our energy problems should want or need. I urge adoption of my amendment.

Basically, Mr. Chairman, the words that have been added to this amendment since the last two times the House passed it are, simply, in paragraph (d) to say, "or which is exchanged or exported pursuant to an existing international agreement."

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, I support this amendment. I support it even in its more revised form, as compared to the form in which the gentleman offered it last week.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the committee accepts the gentleman's amendment.

Mr. McKINNEY. I appreciate the gentleman's support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKINNEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: On page 153, line 16, strike everything down through line 16 on page 154, and insert in lieu thereof the following:

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of minerals under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate by the Secretary of Transportation, including utilization of the best available and safest technology in accordance with the standard established in section 21(b) of this Act. All pipelines constructed on rights-of-way or constructed pursuant to easements granted under this Act, except pipelines operated entirely within a single lease, shall (1) be subject to regulation under the Natural Gas Act, as amended, in the case of pipelines carrying natural gas, and under the Interstate Commerce Act, as amended, in the case of other pipelines, and shall (2) accept, convey, transport or purchase, without discrimination and at reasonable rates, minerals produced from submerged lands in the vicinity of the pipeline in such proportionate amounts as the Secretary of Energy in the case of energy minerals, and the Interstate Commerce Commission in the case of other minerals, may determine to be reasonable, taking into account, among other things, conservation of resources and the prevention of waste. Grants of rights-of-way or easements for such pipelines for energy minerals shall be subject to any other reasonable condition deemed necessary by the Secretary of Energy, after consideration of the views of the Attorney General, to promote competition, including, without limitation, conditions requiring open and non-discriminatory access to such pipelines, conditions requiring the construction and nondiscriminatory operation of oil storage facilities and any other facilities directly related to such pipelines, and conditions relating to the initial sizing or subsequent expansion of throughput capacity of such pipelines and facilities within technological limits and economic feasibility; *Provided*, That subsequent throughput capacity expansion may be ordered pursuant to this subsection only upon the specific request of one or more shippers, owners or non-owners able to provide a guaranteed level of throughput and on the condition that the person or persons requesting such expansion shall be responsible for bearing the costs and risks related to the requested expansion, except where the Secretary of Energy determines that an alternative allocation of the costs and risks is equitably required; *And provided further*, That authority to require throughout capacity expansion pursuant to this subsection shall not apply to any pipeline for which United States Government approvals have been obtained or construction begun, on or before the effective date of this subsection. After giving the Secretary of Energy and the Attorney General reasonable opportunity for comment, the Secretary may by order or regulation exempt from any or all requirements of the preceding two sentences any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or into a facility where oil and gas are first separated, dehydrated or otherwise processed. Failure to comply with the provisions of this subsection or the regulations and conditions prescribed under this subsection shall be grounds for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any district court of the United States having jurisdiction under the provisions of this Act. For purposes of this subsection, the term 'energy minerals' shall incorporate those minerals listed in section 2 of the Department of Energy Organization Act. As to any authority or functions under this subsection which are exercised by the Federal Energy Regulatory Commission, or which are similar to those exercised by the Federal Energy Regulatory Commission with respect to onshore pipelines, the term 'Secretary of Energy' shall be deemed to mean the Federal Energy Regulatory Commission."

Mr. SEIBERLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Chairman, this is an administration-supported amendment with two principal purposes. The first purpose is to transfer the Interior Department's authority to regulate OCS oil pipelines—in such matters as rates and valuations—to the Department of Energy and specifically to the Federal Energy Regulatory Commission (FERC). The second major purpose is to promote transportation efficiency by giving appropriate government officials the authority to prevent OCS pipelines from becoming "bottleneck monopolies." A bottleneck monopoly occurs when a single company controls the only transportation system available to move its petroleum and all other companies' petroleum from the OCS to a point onshore. The amendment would help prevent a situation in which the owner of a pipeline refused to transport other companies' petroleum or a situation in which the pipeline was deliberately undersized and the other companies found themselves unable to transport as much petroleum as they wanted to produce.

Let me return to the first point for a moment. Right now, the Department of Energy and the Federal Regulatory Commission—which is the successor agency to the Interstate Commerce Commission with respect to oil pipelines—may regulate interstate oil pipelines. However, the Interstate Commerce Act's definition of "interstate" does not cover a pipeline from the OCS to a point onshore unless that pipeline is an integral part of an interstate system beginning at that point onshore. The result is that the ICC never had regulatory authority over OCS oil pipelines, except that granted in section 5(c) of the existing OCS Act, which gives the ICC authority to proration oil in OCS pipelines. All other regulatory authority over OCS pipelines is vested by section 5(c) in the Interior Department. What happened in fact is that neither the Interior Department nor the ICC ever actively regulated OCS oil pipelines. In fact, in the 25-year history of the OCS Act, only five OCS oil pipelines have ever filed tariffs with the ICC. Because we need to have OCS oil pipelines regulated effectively by some agency, and because the DOE Organization Act did not transfer Interior Department's regulatory authority to DOE or FERC, we should insist upon that transfer in this act. The administration agrees, and so do industry and consumer groups, that DOE and FERC should be regulating OCS oil pipelines.

You will note that my amendment also gives DOE and FERC authority to regulate OCS gas pipelines. In fact, they already have that authority because the Natural Gas Act's definition of interstate commerce reaches all OCS gas pipelines. The amendment does, however, eliminate what is now a concurrent regulatory jurisdiction resulting from the language in the current section 5(c) giving the Secretary of the Interior authority to regulate OCS gas pipelines.

The amendment states clearly that DOE and FERC will regulate OCS oil pipelines under the Interstate Commerce Act in the same manner as onshore interstate oil pipelines and that DOE and FERC will regulate OCS gas pipelines under the Natural Gas Act in the same manner as onshore interstate gas pipelines.

Turning to the second purpose, namely giving the Government the authority to prevent bottleneck monopolies, it should be clearly understood that bottleneck monopoly abuses have been illegal for over 65 years since the 1912 Supreme Court case United States against Terminal Railroad Association of St. Louis. The cases hold that a company with dominant power over a particular seg-

ment of an industry upon which all companies in the industry must rely has a duty to be fair and nondiscriminatory.

We faced a very similar situation in the 94th Congress when we considered the Alaska Natural Gas Transportation Act. Congress required that the Alaska natural gas pipeline accept all gas delivered to it and transport that gas without discriminating against companies that produced Alaska natural gas but that did not own the pipeline. In its report to Congress pursuant to the Seiberling amendment to the act, the Justice Department concluded that there was a danger that the owner of the new pipeline system would be able to limit throughout in an effort to maximize its profits. The Justice Department made several recommendations to the President on ways to prevent bottleneck monopolies. These were incorporated into the final contract with ALCAN. My amendment contains authority, then, for the Department of Energy to impose certain reasonable conditions needed to promote competition and specifically to prevent bottleneck monopolies. I would note that the problem of bottleneck monopolies is much more likely to exist in the transportation of OCS oil than in the transportation of OCS gas. However, as the Justice Department's report makes clear, the problems can exist in both industries, especially if there is ever a different form of oil and gas price regulation.

Mr. Chairman, this amendment must be read and understood in light of several key documents and reports, which explain the concerns which the amendment's supporters are addressing. These documents and reports explain the possibilities for abuses by pipeline owners, especially by the integrated oil companies which may have an incentive to limit production—particularly of domestic oil. The reports and documents to which I am referring are the 1973 FTC staff report of its investigation of the petroleum industry, the 1975 paper written by Richard Levy for the National Science Foundation entitled "The Regulation of Offshore Crude Oil Pipelines and the Consequences for Competition," the 1975 testimony of Dr. Walter Measday on OCS pipelines during the Senate Judiciary Subcommittee on Antitrust hearings on the petroleum industry, the reports of the FTC and Justice Department on deepwater ports, the 1977 report of the Attorney General on the transportation of Alaska natural gas, the 1977 letter from Assistant Attorney General Shenefield to OCS Chairman MURPHY outlining the problems relating to vertically integrated companies owning pipelines, and the 1978 report by the General Accounting Office entitled "Review of Outer Continental Shelf Pipeline Problems."

DOES THIS AMEND THE NATURAL GAS ACT?

No. It states that the Natural Gas Act shall apply to OCS gas pipelines.

Of course, the Natural Gas Act provides that the FPC—now the Federal Energy Regulatory Commission—may provide certificates of public convenience and necessity. What the amendment does, in essence, is to permit FERC to consider conditions needed to prevent OCS gas pipeline bottleneck monopolies. The right-of-way issued to a gas pipeline company would be contingent on the company's having a certificate of public convenience and necessity.

The amendment is not intended to broaden the authority in section 7(a) of the Natural Gas Act (15 U.S.C. 717f(a)) to require the extension of facilities related to gas pipelines.

The amendment simply gives FERC the authority to require conditions which are reasonable and which are needed to promote competition, and particularly to prevent bottleneck monopolies.

I would note that the language permitting these conditions is intended primarily to prevent oil pipeline bottleneck monopolies. Gas pipeline bottleneck monopolies are most likely to occur when the pipeline owner is the producer of the natural gas, since that is the situation which most likely gives the pipeline company the incentive and opportunity to limit throughput in order to maximize profits.

WHY NOT GIVE A STATUTORY EXEMPTION TO ALL GATHERING LINES?

The bill gives a statutory exemption to all pipelines operated within a single lease. This will cover most of the gathering lines, but obviously there will be gathering and operating lines which would be covered since they go beyond the borders of the lease.

The amendment contemplates that the Secretary of Interior, after consultation with the Secretary of Energy and the Attorney General, will by regulation exempt a class of gathering lines provided that exemption is not likely to create bottleneck monopoly situations. Obviously, the Secretary of the Interior will want to promulgate regulations rather than consider each application for an exemption on a case-by-case basis.

The fundamental problem with the administration of the OCS Act has been the issuance of pipeline easements by the USGS under section 5(a)(1). Some of these lines have been deemed gathering lines by USGS, even though they are probably trunk lines. Under the amendment, all pipelines issued under the act would be 5(e) pipelines subject to the provisions of the amendment, unless they fell into a category exempted by the statute, by new regulations, or by new orders.

Mr. Chairman, I understand that the gentleman from Michigan (Mr. DINGELL) desires to enter into a colloquy at this point.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I would like to ask the gentleman some questions about his amendment and the present provisions of section 5(e) in H.R. 1614. I note that the bill, which was drafted prior to enactment of the DOE Act, quite properly recognizes that the then Federal Power Commission, in the case of natural gas, and the Interstate Commerce Commission, in the case of oil, has certain responsibilities under existing law. Is that not correct?

Mr. SEIBERLING. The gentleman is correct.

Mr. DINGELL. As the gentleman knows, the recently enacted DOE Act transferred to the DOE, including the new Federal Energy Regulatory Commission, these functions. Included in this transfer to FERC was the authority of the ICC over the transportation of oil by pipeline. Is that not correct?

Mr. SEIBERLING. Again, I agree fully with the gentleman from Michigan.

Mr. DINGELL. It is my understanding that your amendment does not change, in any way, and that you do not intend to change, the responsibilities that the DOE has under the DOE Act or that FERC, as successor to the FPC, has traditionally had in regard to the natural gas developed on the OCS, or has acquired, in the case of oil, under the DOE Act. It is my further understanding, both under the bill as amended by the committee and under your amendment, that it is the clear intention of the ad hoc committee and you to preserve and recognize those responsibilities in those agencies without change. Is that your understanding?

Mr. SEIBERLING. Mr. Chairman, I am in full accord with the just mentioned understandings of the gentleman from Michigan. Indeed, I am advised by representatives of the DOE and FERC, that, immediately upon enactment, any ambiguities concerning those responsibilities will be resolved by clear delegation of all of them to FERC from the Secretary of Energy. I know the gentleman from Michigan and his subcommittee will insist that this be done promptly.

Mr. DINGELL. I thank the distinguished gentleman from Ohio and I support his amendment with these understandings. The gentleman is quite right regarding my intention to follow this matter quite closely.

Under the DOE Act and under FERC procedures, there is an opportunity for hearings in the case of matters contained in the amendment you are offering. Would you agree that those hearing provisions would apply here and that a hearing would be required under section 501(c)(1) of the DOE Act because such actions would most likely have a substantial impact or involve substantive questions of fact or law?

Mr. SEIBERLING. I certainly would agree with the gentleman's understanding, and that is certainly my intention.

Mr. DINGELL. I thank the gentleman from Ohio, and I support the amendment.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word, and I rise in support of the gentleman's amendment, which is also supported by the administration. It would increase competition among energy suppliers by providing access to pipelines, and I think his language constitutes a worthy addition to the bill.

Mr. Chairman, again, I am happy to support the gentleman's amendment.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to take this time to ask the author of the amendment a couple of questions.

Most of the information that I have been hearing about the gentleman's amendment is that it makes no substantive changes in the existing law.

What I would like to ask the gentleman is, What, in effect, does it change? I am trying to pinpoint exactly what the amendment does which is apparently not already being done under existing provisions of law.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, that is a very good question.

I do not really think it changes existing law. However, it does change the way that the law has been interpreted and applied by the Secretary of the Interior in the past. For example, section 5(c) of the existing law in the Outer Continental Shelf Lands Act does require that "oil and gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said submerged lands in the vicinity of the pipeline * * *."

Mr. MURPHY of New York. That is existing law; is that correct?

Mr. SEIBERLING. That is existing law, but not existing law as applied by the Interior Department.

Early on, after the act was passed, the Secretary exempted so-called operating lines from the requirements of the statute; and these were originally defined as pipelines used in connection with any lease operation for moving production to a central point for purposes of gathering, treating, or storing.

The exemption did not apply to pipelines used for transporting oil, gas, or other production after it had been treated and measured. However, in 1969, the Secretary of the Interior broadened the exemptive language so that operating lines were defined so as to include delivery of production to a point of sale and delivery of production to a pipeline operated by a transportation company.

Obviously, that could mean that any pipeline which carries only the owner's oil is an operating line; and it is an operating line until the oil is sold or delivered to a transportation company, which could well be an onshore line; and that certainly is not what I think the original language of the act was intended to mean.

However, the only clear way to change that is to pass this amendment which makes the necessary changes in the language of the act so that that no longer would apply.

Mr. BREAUX. Mr. Chairman and members of the committee, I find at first glance, having just had the opportunity to look at the gentleman's amendment, that one section refers to grants of rights-of-way to pipelines for transportation of minerals, subject to any reasonable condition thought necessary by the Secretary of Energy, after consideration of the views of the Attorney General, to promote competition, including, without limitation, conditions requiring open and nondiscriminatory access to such pipelines.

One section says:

> Grants of rights-of-way . . . for energy minerals shall be subject to any other reasonable condition deemed necessary by the Secretary of Energy at the consideration of the views of the Attorney General, to promote competition, including, without limitation, conditions requiring open and nondiscriminatory access to such pipelines . . . .

What I am really concerned about is that what we are doing is that the Secretary can come up with any regulation he deems necessary, that we are giving him a broad blank check to come back and decide what conditions he would like to have without any congressional review whatsoever, and saying that he can impose any of these conditions as long as he determines they are reasonable conditions so far as granting pipeline rights-of-way are concerned.

I think this is much too broad a description to give to the Secretary of the Interior.

For that reason I would hope that the gentleman's amendment, although I think it will pass, that the gentleman from Ohio (Mr. SEIBERLING) fully understands my deep concern as to the very broad and very "blanket" conditions we are going to confer that he may impose any such conditions that he wants.

Mr. SEIBERLING. Certainly it is not my intention to do that and I do not think the language gives him such blanket permission to impose any unreasonable conditions he deems necessary, because they are all limited to conditions to promote competition. That is the way it is defined, and I do not believe that is defined without any limit so far as discretionary access to the common carrier aspect.

Mr. BREAUX. I would interpret that to give discretionary powers to the Secretary to promote competition but that in so doing he may only give the right to one of the major oil companies to build the pipeline. That will promote competition but not promote pipelines being built.

Mr. SEIBERLING. Let me say that that would not promote competition. It is certainly not my intention to promote any sort of condition as that.

Mr. BREAUX. The problem is what you and I on the floor of the House might not think that a reasonable condition, but the Secretary of the Interior in his terms considers it is, I do not think there is anything we can do except enact a statute that says they cannot do that.

Mr. SEIBERLING. It seems to me if we read the rest of that provision, it is spelled out in such detail as to the kinds of things we are dealing with, all of which relate to making access to the pipelines as common carriers more available. It seems to me also that to say certain companies could not build pipelines would have the opposite effect.

Mr. BREAUX. I am afraid that is already the existing law and we have gone too far.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FISH. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

Mr. Chairman, this is an amendment which is similar to a concept which was rejected by the ad hoc committee during the markup. The net effect of this amendment would be that nonowners of pipelines would be allowed to force expansion of the throughput capacity of a pipeline while not being forced to bear the cost or the risks associated with such an expansion. However, the language of the amendment, as I interpret it, gives the Secretary of Energy the power to determine that only owners will pay if, and I quote:

> . . . alternative allocation of costs and risks is equitably required; . . .

This excessively vague language, Mr. Chairman, I submit offers no real guideline to the Secretary and is an open invitation to lawsuits. Should the Secretary make a determination that an allocation of costs is "equitably required," owners of an affected pipeline would surely sue in an attempt to have nonowners pay for the expansion of the pipeline that their actions have prompted. The converse is also true. If the Secretary requires nonowners to pay for the expansion of the pipeline's capacity, it is not difficult to imagine those nonowners bringing suit, claiming that the ownership should have, equitably, paid for the expansion.

Mr. Chairman, there is another glaring weakness in this amendment. In proposing this amendment, the administration stated that—

> . . . we do not believe, however, it is necessary to regulate purely proprietary gathering lines which do not cause bottlenecks in the transportation of oil and gas to the shore.

Unfortunately, the language of the amendment states clearly that such pipelines are to be regulated unless the Secretary specifically, by order or regulation, exempts them from overall regulation. The regulation of such pipelines was not advocated during the 2½ years of hearings held by the select committee, and I see no reason for the adoption of such regulations at this time.

I urge the defeat of this amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I thought I understood the gentleman to say the administration is opposing this amendment.

Mr. FISH. It is proposing the amendment.

Mr. SEIBERLING. Of course, the administration supports this.

Mr. FISH. I understand that. This is a a Johnny-come-lately administration amendment that we did not have during the hearings when the committee was considering this.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The question was taken; and on a division (demanded by Mr. FISH) there were—ayes, 20, noes, 19.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN:

Page 156, line 22, insert "or" immediately after the semicolon.

Page 156, strike line 23 and all that follows down through line 12 on page 158 and insert in lieu thereof the following:

"(C) any modification of bidding systems authorized in subparagraphs (A) and (B) of this paragraph and any other system of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this section,

Page 159, line 8, strike out "in subparagraphs (C) through (J)" and insert in lieu thereof "by subparagraph (C)".

Page 159, line 21, strike out "subparagraphs (B) and (C)" and insert in lieu thereof "subparagraph (B)".

Page 160, strike out line 24 and all that follows through line 26 on page 164.

Page 165, line 1, strike out "(D)" and insert in lieu thereof "(C)".

Page 165, line 14, insert "and" immediately after the semicolon.

Page 165, strike out lines 15 through 20.

Page 165, line 21, strike out "(vi)" and insert in lieu thereof "(v)".

Page 166, line 2, strike out "subparagraphs (B) through (J)" and insert in lieu thereof "subparagraph (B) or (C)".

Page 166, beginning on line 7, strike out "subparagraphs (B) through (J)" and insert in lieu thereof "subparagraph (B) or (C)".

Page 166, beginning on line 22, strike out "subparagraphs (B) through (J)" and insert in lieu thereof "subparagraphs (B) or (C)".

Page 168, line 23, strike out "proposal" and all that follows through line 25 and insert in lieu thereof "proposal;".

Mr. TREEN (during the reading). Mr. Chairman, I ask unanimous consent that the reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TREEN. Mr. Chairman, this is a very simple amendment which has a number of advantages, not the least of which is that it will take out a lot of material from this bill, a lot of excess baggage.

This amendment affects the section on new bidding systems. Under the present law there are two forms of bidding for OCS tracts. One is bidding with a fixed royalty with a variable bonus, and then the reverse of that is a fixed bonus with a variable royalty. In the bill we have approximately seven new forms of bidding systems, and then we also have a catchall provision that authorizes any other system of bidding, including terms, bid variables, that the Secretary by regulation may promulgate.

Then there is a long section in the bill, taking several pages, that has to do with congressional review of the provision in the bill that mandates that new bidding systems be used in at least 50 percent of the areas in the frontier. Under the bill, if the Secretary wishes after the first year to use the bonus bid system for more than 50 percent of the area, then he must file a report with the Congress saying that he wishes to do this, noting the reasons why. Then the Congress has 60 legislative days in which to disapprove that report by a one-House veto.

The bill provides that the 60 days shall not include days in which the House is not in session. So if a report were sent by the Secretary for the purpose of relieving him of that mandatory requirement, it is possible that up to 6 months could elapse before he could move on his request because of the fact that 60 days of continuous session would have to elapse. Counting weekends and holidays and the fact that we could be in recess for 3 months—say from the middle of October until the beginning of January—we could easily use up 6 months.

I would think this amendment would appeal very much to the proponents of this bill. Now what my amendment does is give the Secretary complete flexibility. He may propose any of the seven new bidding systems described in the committee bill, or any other new bidding system the Secretary wants to provide for. He may provide for these by regulation, but we do not mandate any particular new system.

The benefit of this is that it gives the Secretary complete flexibility. He can use 100 percent work commitment bidding if he wants; 100 percent profit sharing; 100 percent royalty bidding; 100 percent bonus bidding; he can use any system he wants to. Of course, with new bidding systems, he would establish them by regulation.

It eliminates all this ponderous business of congressional review. The main point is that it eliminates again the possibility of delay, because if the Secretary determines that he really needs to exceed 50 percent new frontier area bonus bidding, he can do so without the possibility of having a 6-month delay here in Congress.

I have faith that Secretary Andrus would utilize this flexible leasing provision in a proper way.

I would hope, as I say, this would appeal to the committee majority by adding a great deal of flexibility to the bidding system and eliminating a lot of baggage from this bill.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, do I understand the gentleman's position here to be that the Secretary would not be restricted under the gentleman's amendment to any fixed percentage of any laundry list of existing known bidding systems or even the experimental ones that have not been tried to date? Would he be able in the course of exploration and development of the Outer Continental Shelf to use even a bidding system totally unknown to us today that he thought up? Would he have the authority under the amendment to proceed?

Mr. TREEN. Mr. Chairman, yes; but in fairness, he would have that authority under the bill, too.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. TREEN was allowed to proceed for an additional 2 minutes.)

Mr. FISH. Mr. Chairman, if the gentleman will yield further, is the new part of the gentleman's amendment the question of rulemaking by the Secretary; will he be able to promulgate new systems by rule?

Mr. TREEN. That is correct; not only the Congress, but industry, environmentalists, all who would like to comment with respect to the new bidding systems would have that opportunity under the Administrative Procedures Act; but I think one of the main things is that we do eliminate the possibility of an additional 6 months' delay. If he finds in the national interest, or for some other reasons that we should be proceeding with bonus bidding in more than 50 percent of the tracts, he can do so and does not have to go through this congressional procedure.

Mr. FISH. On the other hand, if the bidding procedure would be appropriate at 10 or 20 percent, that would be all right?

Mr. TREEN. Yes; he can use net profit sharing, royalty bidding, or anything. He can use those in 100 percent of the cases. He does not have to use any of those systems at all. Under the Breaux substitute bonus bidding was mandated in at least in 50 percent of the tracts leased. Under my amendment the Secretary does not have to use bonus bidding at all if he does not want to.

Mr. MURPHY of New York. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. Chairman, this amendment strikes at the very heart of this bill—promotion of competition. During its almost 3 years of hearings, the committee heard repeatedly about the lack of competition in offshore leasing. In fact, the reason for this lack of competition is because of the present bidding system—the use of high front-end bonus bids which create a barrier for the entry of small- and medium-sized oil firms as well as other potential exploration and development companies. Even the larger oil companies, through their representatives, indicated that payment of high front-end bonus bids can lead to some capital formation problems, and thus to a decrease in the amounts available for rapid exploration. After much discussion, and much debate, the committee decided to include many new bidding options as part of the Outer Continental Shelf Lands Act.

In addition, because of the prior administration's reluctance to use new bidding systems, it included a provision providing that such new bidding systems must be used in at least 50 percent of the leases offered in frontier areas during the next 5 years. Selection of tracts for leasing under the various leasing systems is to be on a random selection method—thus allowing the collection of adequate information as to which bidding systems are appropriate for which kind of leases.

This mandate of use of new bidding systems is strongly supported by the present Carter administration. Recognizing the need to not only experiment but use new bidding systems, the Secretary of the Interior has repeatedly stated to our committee that he believes that having such a mandate will be a positive incentive to doing extensive and detailed background, experimentation, and followup on new bidding systems.

Recognizing that this mandate must maintain some flexibility, the committee included in the bill a provision that the Secretary can exceed the limitations the first year by merely reporting to Congress his findings and reasons why use of the new bidding systems would unduly delay the OCS development. In future years, he can use the existing bonus bid system in 50 percent or more of the lease areas offered if he can detail why use of the new bidding systems in the mandated amounts would unduly delay efficient development, result in a less than fair return to the Federal Government, or in a reduction to competition.

Congress would have 30 days to review this report and could disapprove the request by resolution of either House.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Louisiana.

Mr. TREEN. For the sake of accuracy, I think the bill provides 60 days. The gentleman just said 30 days.

Mr. MURPHY of New York. We adopted the gentleman's language in committee, to be 60 days.

The present provision therefore provides an incentive to use new bidding systems, and sufficient flexibility to the Secretary of Interior to experiment, study and finalize the use of the new bidding systems. In addition, while the committee and I personally have every confidence in the present Secretary of the Interior that he will keep his commitment to use new bidding systems, Congress has the duty to pass laws for whomever the Executive is—and as prior history has indicated, you cannot be absolutely assured that the present Secretary will remain in his position during the entire period of leasing of frontier areas.

Accordingly, we oppose this amendment.

Mr. FORSYTHE. Mr. Chairman, I move to strike the last word.

I rise to support the amendment offered by Mr. TREEN. It is true that we heard during the hearings about lack of competition. We did not hear that from industry members except in a very, very minor way. I think it is very, very evident that the present bidding system does produce competition. It produces a lot of competition for these bids. Small companies do gain access to the resources, and are developing them. As a matter of fact, most of the discoveries are made, not by the larger companies, but by the smaller companies.

I think to burden this whole operation with a mandate of these new bidding systems just must create delay. I think that this amendment, which does give the Secretary substantial freedom if, in his wisdom, he wants to proceed by rulemaking to develop new bids and systems, but who says that we have the wisdom to write what are the new bidding procedures in law, and to say that this is better than what is going to be developed in the years ahead?

So, I urge the committee to adopt the amendment.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. Yes.

Mr. TREEN. I ask the gentleman to yield because I wanted to direct a question to the chairman of the committee. Does the chairman understand that the amendment gives complete flexibility? In other words, we are not mandating the use of any kind of bidding system to any extent whatsoever. We are giving the Secretary complete flexibility, complete freedom. There was an indication during committee hearings that the administration would appreciate having the flexibility. I realize it did not object to the mandating as written, but there seemed to be, throughout the testimony by Secretary Andrus and the Under Secretary of Energy Mr. O'Leary, the feeling that they would be happy to have the complete flexibility.

Does the chairman understand that we are not trying to mandate any kind of bidding with this amendment?

Mr. MURPHY of New York. The gentleman states the case fairly well, but I would object to the understanding of his amendment as he portrays it. Am I not correct in coming to the conclusion that the flexibility is so great in his amendment that 100 percent of the bidding could be bonus bidding.

Mr. TREEN. That is correct.

Mr. MURPHY of New York. That is correct. And that is a situation we would like to get away from, because we have watched it for 25 years. We want to have competition and, consequently, we are mandating the Secretary's use of alternative bidding systems.

Mr. TREEN. The chairman has indicated there can be a situation in which in the national interest the resort to more than 50-percent bonus bidding might occur. I think tne gentleman has alluded to that.

Mr. MURPHY of New York. Yes.

Mr. TREEN. One of the problems here with this bill is that if he decides the Secretary wants to go to more than 50-percent bonus bidding, then that could, depending upon whether we are in session or not, add another 6 months' delay, and I do not think that is in the national interest.

Mr. MILLER, of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment for, first of all, the reason included in the colloquy that has just taken place. While the amendment gives, as the author of the amendment would say, completes flexibility to continue the existing system and the practices of the past, which is to basically rely on all but 2 or 3 percent of the leases on the bonus bid system. I think it is very clear that in the past, while people make the claim that the bonus bid system has worked very well, it can also be clearly stated that the bonus bid system may fall under its own weight. Because as we embark on an accelerated lease program, with the passage of this bill, when we see a diminishing of the lawsuits, of the obstructions placed in the way of the Federal Government by the State and local governments by environmental groups, and we start leasing in an accelerated amount, there simply is no way that the major oil companies can continue to lay out the massive amounts of front-end capital for these sales. It was fine at one time they could lay out $600 or $900 million for Destin Dome and not find oil. But as the amount of acreage begins to expand, as we have already seen in the California sale, the amounts bid per tract will drop. We will see an increase in the single bid per tract, so that the oil companies will select the tracts they want to bid on. There will be no other bids. And, in fact, those bids will be low as a result of that. We have had testimony before the chairman of the subcommittee, the gentleman from Michigan (Mr. DINGELL), and others, who engaged in a colloquy with the president of Gulf Global Exploration, with the vice president of Standard Oil of California, with the vice president of Atlantic Richfield, in which this problem was discussed. It was said in 1974 hearings these tremendous capital outlays required by the front-end bonus bidding system would dampen the ability of the oil companies to go out to develop and to continue to explore, if they have to continue the layout. I have recited to the committee in the past the capital shortage this causes. These bonus payments have no relationship to the value, as we found out in Florida. We had one sale where the Government let go a lease for $112,000 and it turned out to be worth over $20 million. So I think it is very clear that, by mandating that at least 50 percent of the leases be offered in alternative systems, we are protecting ourselves against a policy that would be at the whim of the individual Secretary of the Interior. The committee position would be a policy that was written by the Congress based upon the evidence of the past. I think that is a rational way to do it. While the opposition to the committee bill can cite that this present Secretary wants this authority, wants this kind of flexibility, we have seen in the past—and in my short time here we have gone through a lot of Secretaries of the Interior, they have a short tenure in office—that they have not exercised that authority.

They have not exercised that flexibility, but have gone the way the major oil companies have preferred the system to continue.

I think we will see, with the increase in royalty bidding, with the increase in net profitsharing, and with sliding royalties, that for the first time we will have major competition. While statistics are

given out about the participation of the independent oil companies and the minor oil companies, as opposed to the majors, they are not participating in ownership, they are participating in a share of that ownership. They have been brought in, I suspect, for some of the capital reasons that other Members and I have cited, to participate in these leases, but in a minority capacity.

But now for the first time, under royalty systems, there will be competition from the gas companies, and there will be competition from the gas companies, and there will be competition, I suspect, even from utility companies which are seeking to acquire resources. There will truly be competition from the independents, and no longer will we have statements like that by Mr. Mull, who is president of the Mull Drilling Co., who said when questioned by the gentleman from Michigan (Mr. DINGELL), that—

In fact, the majors would just sort of laugh at us, I suppose, if we talked to them.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, Mr. Mull said further:

There has been very little independent participation in the offshore for that one reason.

We cannot come up with the massive amounts of capital the front-end bonus bidding requires.

He also stated in his testimony before the Committee on Small Business that he thought that over half of the 10,000 independents were qualified to embark on exploration and development of the Outer Continental Shelf if the barrier of the bonus bid was removed and if they could share with the Government the risk and share with Government the profits.

So I think that is what the committee bill is designed to do, and I think it is rational. I do not believe that it is the duty of this Government to try to extract maximum amounts of money from the oil companies on the theory that we should get a windfall when they do not find any oil. That is not in the national interest in the middle of an energy crisis. Our goal is not to build up the Treasury of the United States at the expense of the oil companies. The national interest is to provide oil and remove the barriers for the exploration and development of that oil. I think the compromise that has been arrived at with the committee bill best suits that intent.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, may I say to the gentleman that I do not think the minority makes many points in arguing for this amendment on the grounds of the adequacy and sufficiency of the bonus system, about which the gentleman and many other Members have been highly critical—and, I think, quite rightly so.

I think somewhat seductive on the part of the minority in the offering of the amendment is the contention that this erodes selection or participation, and that in fact the current Secretary is inclined to use that flexibility, which is true.

Would the gentleman tell us, in the 24 or 25 years during which this section has been in effect, under his predecessors, just how many times the Secretary of the Interior has used, for example, the current system under bonus bidding, which he could use under the current law; namely, royalty bidding?

Mr. MILLER of California. Mr. Chairman, it is my understanding that until very recently, it had been used on just four occasions. If we are speaking of alternative systems which have been used, some would say they have been used on less than four occasions.

I would suggest to the gentleman that under current law, he does not have the flexibility to reduce the royalties in the future, so that we could make sure we completely strip those wells of the resources so vitally needed by this country. He does not have that flexibility now.

What the bill does is to supply all the flexibility the gentleman from Louisiana (Mr. TREEN) would have us have. If the Secretary chose to use an alternative system, which is not compatible with the development of the OCS in the national interest, when they come back and ask us for an increase in that percentage, we would refuse.

But the fear is that we go along and then after reforming this bill, after this legislation was written in 1953, we then today say, "You have the permission of the Congress to go along in the same old manner as we went along before." And I suspect that the "same old manner as we went along before" is not relevant to oil exploration today.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has again expired.

(On request of Mr. TREEN and by unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, I just want to clear up one point.

Would the gentleman suggest that under my amendment the Secretary would not be able to provide for a bidding system in which the royalty would be diminished?

Mr. MILLER of California. No, I am not suggesting that that is the flaw. While some people would argue that, I did not say that in regard to the gentleman's amendment. Some people would argue that, but I would say that while he already has the flexibility I would suggest the existing law is not flexible enough, because it does not allow for sliding royalties below 12½ percent, and the gentleman's amendment would allow that.

Mr. TREEN. Mr. Chairman, I agree that the law does not allow that. It would not permit that, but under my amendment the same formula, in addition to other systems, including declining royalty systems, would be used.

Mr. MILLER of California. That is correct. The concern of the committee and of this gentleman is that that flexibility would allow the Secretary to continue to do business as he has done it during the last 25 years, and that is with almost total reliance on the bonus bidding system.

Let me say finally that this amendment in the committee bill only requires that the Secretary offer these alternative systems.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has again expired.

(On request of Mr. FISH and by unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. If the Secretary rejects the bid as being too low or if the oil companies do not bid on it, he has the power and can then go ahead and offer another system.

Mr. Chairman, let me tell this committee that in those cases where bids have been rejected, 3 months, 6 months, or 9 months later, when the tract was again offered for lease, strangely enough, the bid received was, on the average, 13 times higher than the original bid made on that tract.

Therefore, Mr. Chairman, I suggest that we do not know that much about the existing bid system and the actual return to the Federal Government. However, what I do know is that we cannot continue to rely on it, and we cannot give the ability to a future Secretary to continue to rely on the bonus bidding system exclusively. That is what the amendment by the gentleman from Louisiana (Mr. TREEN) would allow.

Mr. Chairman, I understand that he is trying to say his intent is to allow all of these other systems to come into play.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(On request of Mr. FISH and by unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I asked that the gentleman have this additional time because in the colloquy with the gentleman from Massachusets, I am afraid the House may have been misled.

The statement was made that in the last 25 years there has been no experimentation.

Mr. MILLER of California. No.

Mr. FISH. I think that the facts speak for themselves. Up to now, there have been only two systems available. That was the uncontroverted testimony before our committee, and I mention only one person, Mr. Meade of California, which was to the effect that the royalty system was a poor second of the two available

There has been no dispute between the majority and minority up to this point that alternative bidding systems were a good thing to bring into legislation as an option. We simply disagree as to the mandate provisions, as will become clearer as this debate develops and we have a substitute amendment to the pending amendment offered by the gentleman from Ohio (Mr. BROWN).

Mr. Chairman, I thank the gentleman for yielding.

Mr. MILLER of California. I would say to the gentleman, Mr. Chairman, that is one thing that makes sense.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Treen amendment.

Current bidding systems for the lease of the rights to extract energy resources on the OCS include the traditional bonus bid with a minimum royalty of 12½ percent, and the variable bonus, with a sliding royalty scale. These systems are proven and have returned enormous revenues to the Treasury estimated, along with taxes, to exceed 83 percent of the value to all energy extracted from the OCS.

However, during hearings, it was determined that perhaps alternative systems, would offer the opportunity for not only improving the already high level of competition but for returning larger revenues to the Treasury. For these reasons, H.R. 1614 creates seven new, unproven, experimental bidding systems, and gives the Secretary authority to establish his own systems.

While the traditional proven systems may turn out to be the best systems, the new untried systems should be used in some areas in order to properly make this determination. The problem lies in the fact that H.R. 1614 mandates their use in at least 50 percent of the areas for use (USGS has stated they plan to use the unknown system in 70 percent of the time). This is fiscally irresponsible, poor management practice, and could result in the wholesale giveaway of the public's energy resources on the OCS.

The Congressional Budget Office stated, in the report on H.R. 1614, that they could not properly estimate the revenues from the unknown systems, but that their use—50 percent of the time, not the 70 percent stated by USGS—would result in billions of dollars being lost to the Treasury. It was not until after the report was published that they could make a final determination, which was that there would be a $2.02 billion cost to the Government for using these experimental systems, in just the first 5 years of the program.

Once a lease is let, we cannot undo it. It takes approximately 8–12 years from the time exploration begins for production to take place. It would, therefore, take quite a while for us to determine what is the true worth of these systems while additional leases are being let under that system.

These experimental systems should be used but we should remember that they are just that—experimental. The Secretary should be mandated to use them in order to conduct experiments to determine their worth; however, the percentage of use should be smaller, in order that any detrimental impact will be minor, and not result in a giveaway of the public energy resources. No one has, or can, estimate what the return for these systems will be, and these unknown experimental systems should not be applied wholesale simply on the basis of the hope or faith that revenues might be increased in 1986–89.

The experimental alternative bidding should be tried, but the percentage of use by the Secretary should be limited to a much smaller percentage until we find out if the public will indeed benefit.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, first of all, the systems are not untried or untested.

Mr. ROUSSELOT. That is what the Congressional Budget Office says.

Mr. MILLER of California. Let me tell the gentleman that they are only untried and untested in one major country in the world, and that is the United States, because the same companies that are fighting this alternative are chomping at the bit to bid in the North Sea.

Mr. ROUSSELOT. No company has talked to me about this issue.

Mr. MILLER of California. If I could get oil at 16 percent royalty to the Government, I would certainly do it.

Mr. ROUSSELOT. I sit here and listen to the gentleman from California (Mr. MILLER) and listen to other Members of this committee discuss this issue. However, I did read what the Congressional Budget Office said to the committee on that issue; and I have some interest in that because I am a member of the Committee on the Budget.

The Budget Office tells me that you are going to give up revenues by this provision in the bill and therefore I stand up on the floor to ask questions about it. The gentleman is not arguing that it is going to potentially reduce revenues as the Congressional Budget Office says, is the gentleman? Is the gentleman going to argue with respect to that?

Mr. MILLER of California. Yes.

Mr. ROUSSELOT. Could the gentleman explain it?

Mr. MILLER of California. If the gentleman will yield further, I never cease to be amazed by the gentleman from California (Mr. ROUSSELOT). Let me say that if you take 1 year and 50 percent of the leases are offered under an alternative system, where you do not have bonus bidding, then you will lose 50 percent of the bonus.

Mr. ROUSSELOT. Correct. We are speaking about a proven and a tried system, is that not right?

Mr. MILLER of California. Like all the other systems were.

Mr. ROUSSELOT. And yet the gentleman wishes to give it up for something that is unproven, except for the ability to produce oil and gas in foreign countries at prices four times as high as we have in the United States.

Mr. FISH. Will the gentleman yield?

Mr. ROUSSELOT. I will yield to my colleague, the gentleman from New York (Mr. FISH) in a moment but first I will continue to yield to my colleague, the gentleman from California (Mr. MILLER).

Mr. MILLER of California. The point is that in many cases the revenues are only deferred, and they may even be greater than we realized out of the bonus bidding.

Mr. ROUSSELOT. But we do not know that, is that correct? We do not know that they will be better.

Mr. MILLER of California. They cannot be much worse.

Mr. ROUSSELOT. I see. The gentleman considers that it is a bad system.

Mr. MILLER of California. Time and time again it has been proved so. There have been cases that have proven that way. I believe the No. 1 case involved the situation where one company produced resources of great value through a very small bid. They bid $144,000, and the resources turned out to be $20 million. They should have bid $6 million instead of $144,000.

Mr. ROUSSELOT. All I know is that the Congressional Budget Office says that they set down the losses in billions of dollars, not in millions, being lost through the Treasury. That is what the Congressional Budget Office says. Is the gentleman from California saying that the Congressional Budget is totally useless?

Now I yield to my friend, the gentleman from New York (Mr. FISH).

Mr. FISH. There is one thing that interests me when we talk about this being only experimental.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. FISH, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. FISH. If the gentleman will yield further, I believe the gentleman was being told by the other gentleman from California (Mr. MILLER) that the only thing experimental about these experimental bidding systems is the fact that they have not been used in the United States.

I wonder if my colleague, the gentleman from California (Mr. ROUSSELOT), would like to inquire of the other gentleman from California (Mr. MILLER) whether one of the countries that has used these experimental bidding systems is Indonesia? Because the last report we received is that the Indonesian National Oil Co. is in serious financial trouble. It might be because of the fact that there is such a long time lag until after production starts.

Mr. ROUSSELOT. I will be glad to yield to my colleague, the gentleman from California (Mr. MILLER) to answer that question.

Mr. MILLER of California. Mr. Chairman, first of all, I would like to hear the question.

Mr. FISH. I said that I wondered if Indonesia is one of the examples of a success in the gentleman's view of the foreign use of alternative systems, experimental systems?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, I would be happy to respond to that question. The financial difficulty of the Indonesian National Oil Co. was not due to the bidding systems but it has been troubled by many programs, all of an extremely ambitious nature not relating to oil and gas recovery, and they did not occur at one period of time.

We had seen the problem of industries that get committed on large capital scales and without a steady cash flow. What happened in that instance was the barrels-per-day production decreased whereas Indonesia had expected it to increase. It therefore fell into a short cash position, and the problems of that company have nothing to do with the bidding for that type of lease.

Mr. STUDDS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I intend to give most of this time to the exasperated gentleman from California (Mr. MILLER), but first, since the other gentleman from California (Mr. ROUSSELOT) is so fond of quoting so often to us the assumptions of the Congressional Budget Office, I think it only appropriate that the record reflect the precise words of the Congressional Budget Office. The sentence the gentleman from California (Mr. ROUSSELOT) referred to is as follows:

> The assumption is made that the bidding experimentation would be implemented for the minimum 50 percent of the leases and that this would result in a decrease of approximately one-half for the bonus revenues of this 50 percent of the leases.

That is the sentence to which the gentleman from California referred, but the gentleman neglected to share with the House the following sentence which reads as follows:

> These experimental methods are designed to increase revenues in the production phase of OCS activity; however, these revenue increases would occur after fiscal year 1982, which is outside the scope of this estimate.

I would hope that would set the record clear.

I yield now, Mr. Chairman, to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. STUDDS) for yielding.

That is a very important point. I appreciate what the gentleman from California (Mr. ROUSSELOT) has advocated, which is money for the Treasury. What I am trying to suggest is, if we are trying to resolve the energy problem, that the issue is how to get production. We should remove the barriers from those people who are competent to speed up production and exploration. The way to do that is to remove the reliance on front end capital which requires a great deal of capital outlay at the beginning.

I suggest we give the Secretary the mandate to go out and use these alternative, not new and untried, systems, but alternative systems, so we can get the greatest amount of participation and also have the greatest chance of producing revenues.

I think it is wrong—I repeat, I think it is wrong to go around beating our chests and saying that we got $600 million from the oil companies when they did not find any oil. I suggest that is very damaging to a fundamental industry of this country. That $600 million could be put into exploration in areas where oil is promising or the frontier areas where it is more expensive to develop. We know from the North Sea experience that some of the rigs they are going to build go into the frontier areas will cost up to one-quarter of a billion dollars. For $900 million, I suggest we could build three or four of those rigs, and it would be more important to have that rig capacity than it would be for the Treasury to have the $900 million.

It is very convenient to have those moneys to be put into the Treasury. We saw President Ford try to balance his budget by saying we would get $8 billion off the Outer Continental Shelf. That is not the purpose of this bill. The purpose of this bill is to bring oil into production for an oil-short country. That is what we are trying to bring about.

The Congressional Budget Office study suggests that, in fact, the income to the Government will be deferred, not lost, because of the absence of the bonus bid. But if we can talk about a 30- or 40- or 50-percent sliding scale royalty and work product effort, we will perhaps increase royalties. But one thing is very sure: We will increase competition and the likelihood of immediate production.

They will not have to scramble around. Once they have laid their money on the table, as they say in the industry, they would not have to look for additional capital.

All the evidence from investigations by this Government, by people who have been involved—and very interestingly enough, the Republican administration prior to the introduction of this administration—advocate use of alternative systems, and doing away with these tremendous capital requirements. Now we find when the effort has come and the pressure is on the bill I suspect the majors want to keep that barrier for the major companies, and keep the independent oil companies away from participation. That is the question: How much oil are we going to have, and how fast will the exploration be? In my district I suspect some 15,000 people are involved in the oil industry.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. STUDDS) has expired.

(At the request of Mr. MILLER of California, and by unanimous consent, Mr. STUDDS was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, it is very clear, I am told by representatives of the petroleum industry, and I have seven or eight major refineries in my district, that the passage of this bill and production in the OCS can mean up to 3,000 or 4,000 new jobs in that area. So I do not think this is offered as a smoke screen to kill the OCS leasing program or to hamper it.

I honestly believe this is the means by which we can get the most rapid development of the OCS without mandating huge capital requirements. As the president of Atlantic Richfield has stated, as the president of Standard Oil of California and the presidents of Gulf Global and Mobil Oil have testified, when we bring on these incredible amounts of acreage to be explored, the industry is not going to be able to sustain the exploration if we rely on this bonus system.

AMENDMENT OFFERED BY MR. BROWN OF OHIO AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. TREEN

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. BROWN of Ohio as a substitute for the amendment offered by Mr. TREEN: Page 160, strike out line 24 and all that follows down through and including line 23 on page 165 and insert in lieu thereof the following:
>
> "(C) The bidding systems authorized by subparagraphs (C) through (I) of paragraph (1) of this subsection shall be applied to not less than 10 per centum and not more than 30 per centum of the total area offered for lease each year during the five-year period beginning on the date of enactment of this subsection, unless the Secretary determines that the requirement set forth in this subparagraph is inconsistent with subparagraph (A) of this paragraph.
>
> "(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress with respect to the use of the various bidding options provided for in this subsection. Such report shall include—
>
> "(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;
>
> "(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;
>
> "(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;
>
> "(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized; and
>
> "(v) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.".

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, I rise solemnlike in this moment of passion between the two gentlemen from California, in the hope of offering a compromise that perhaps will resolve this family fight between the gentleman from California (Mr. MILLER) and the gentleman from California (Mr. ROUSSELOT) and to try to bring to a conclusion this part of the debate. While we are debating this amendment we are importing more and more oil from the OPEC nations which is having more and more impact on our outflow of dollars and a deleterious effect on our balance of payments and our whole economy. I would like to have the issue resolved in a way

that we can get on with this legislation and go about our business.

Mr. Chairman, the amendment I am offering would modify those provisions of H.R. 1614 dealing with the mandatory use of alternative bidding systems.

Under present law, two systems are authorized (bonus bid and variable royalty), but the bonus bid system has been used almost exclusively. Under H.R. 1614, as now drafted, the bonus bid system shall not be used for more than 50 percent of the acreage leased in any one year. In the place of the bonus bid system, the legislation would require the Secretary of the Interior to experiment with seven new systems and in addition would allow the Secretary of the Interior to establish any other bid system at his discretion.

Although the proponents of these new systems have failed to prove the inadequacy of the bonus bid system, I have no objection to providing the Secretary of the Interior with the authority to utilize bidding systems other than those presently authorized under law. However, I do object to this Congress telling some future Secretary of the Interior that he must use certain enumerated systems despite the fact that these systems may be proven to be counterproductive. In my view, it makes no sense to impose absolute restrictions on the use of any bidding system before the facts on a particular system become known. Only by experimentation will the suitability of the various bidding systems become known.

The amendment I am offering would help alleviate some of the problems with the bidding provisions of H.R. 1614 by providing the Secretary of the Interior with the discretion to apply the alternative bidding systems authorized by this section to not less than 10 percent nor more than 30 percent of the total area offered for each year during the 5-year period beginning on the date of enactment of the section. In addition, my amendment would give the Congress an opportunity to review the results under the bidding system selected by the Secretary by providing that the Secretary shall report to the Congress with respect to the use of the various bidding systems provided under this bill within 6 months after the end of each fiscal year. This report shall include the schedule of all lease sales held during the year and the bidding system or systems utilized, the reasons why a particular system has not been utilized, and an analysis of the capability of each bidding system to accomplish the purposes and policies of this section.

Mr. Chairman, if there is an advantage to the use of any one of these new systems, then my amendment will permit the Secretary maximum flexibility in employing them where they are appropriate. I feel that this discretion is particularly important in view of the fact that many of these bidding systems provided for in H.R. 1614 are experimental and may indeed prove to be unsatisfactory under some, if not many, circumstances.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Yes.

Mr. HUGHES. I wonder if the gentleman will answer a question. As I examine his amendment it would appear that the Secretary would have to submit to the Congress within 6 months, a schedule of all lease sales held during the year and the bidding system or systems utilized; and under subsection (ii), a schedule of all lease sales to be held the following year and bidding system or systems to be utilized.

My question would be, suppose the Secretary during the early part of that year examined available data and determined that one particular lease system is not in the public interest, but that this particular system has been slated for that year; under the report that has to be submitted to the Congress it would appear that the gentleman's amendment would lock the Secretary into that system for that particular sale.

Mr. BROWN of Ohio. No, I do not think it would. I think that what we are asking the Secretary to do is to give us the results, and what he has scheduled up to that point, and then if the Congress finds that those results are not desirable, or if the system does not have the attractive qualities that the Secretary thought, and the Secretary had it scheduled for the next year, the Congress could come in and say, "Mr. Secretary, we are concerned about your using this system," or in the alternative, not using this system.

The Congress will have a chance to play a part. It does not say that the Secretary cannot alter the system he proposes for the next year.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will try not to take the full 5 minutes.

I think that my colleague's amendment is, indeed, flawed. In fact, I think it is more rigid than the language in the committee bill, in that the way I read the amendment offered by the gentleman from Ohio, the Secretary would be locked in under his amendment to the lease systems for the sales that are to take place in the ensuing year.

I do not see any flexibility in the amendment for the Secretary to change that, once a report has been submitted to Congress. But I do not think that is the major problem with this particular amendment. I think there is an even greater, basic danger with the effort to scuttle this section of the bill.

Let us face it, the opponents of H.R. 1614 have talked all around the major problems they see with the bill. We have finally got to the hub of why the major oil companies are opposed to H.R. 1614. It is because we are tampering with the bonus bid system. It is as simple as that. All the other is window dressing.

The arguments about Federal exploration and delays and the attack on the provisions which involve OSHA certainly have been made, and made well, in the media and elsewhere, for the 3 years I have served on the ad hoc committee. But their real objection to H.R. 1614 deals with our efforts to change the bid system. The major oil companies are alarmed at the possible erosion of the bonus bid system that has served them so well.

The frontier waters we are about to develop are the last virgin areas where we have a potential for sizable quantities of fossil fuels. It is in this area that it is so important that we bring in the independent oil companies as we try to identify and retrieve commercially extractable oil and gas resources.

It has been said time and again on and off the floor of this House that we are dealing with experimental bidding systems. It is ironic, because this country is the only country in the world that relies on the bonus bid system. The systems we are trying to encourage the Department of the Interior to utilize as alternative bidding systems have been tried and tested and found not to be wanting in other parts of the world. They are not experimental.

Mr. Chairman, we traveled, as part of the ad hoc select committee, to a number of different areas in the North Sea, where other systems are being utilized very successfully. So it just does not really hold water when it is suggested that these are experimental systems. Why we in this legislation directed the Secretary to utilize the alternative systems is because we want to give the alternative systems a fair chance, something they have not had in this country in the entire 25-year history of oil and gas development in America. We want to give these other systems a fair trial.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I want to try them too.

The gentleman characterizes my amendment improperly when he says I am trying to discourage it. I want to try it. I think it is important. But I want to say to the gentleman that I do not want to throw out the baby with the bath water.

I think we have a system, to some extent, and it has been proved to be successful in particular instances. Perhaps it is questionable in others. But I would like to see a minimum of 10 percent for systems used experimentally and a maximum of 30 percent, and then this Congress, where the responsibility ought to repose, can make a change in the system.

As to the Secretary being locked in, I wish to say to the gentleman that I voted for the sunshine-in-government legislation. I think we ought to know what the Secretary is going to do, and we ought to call him in and say, "Now, Mr. Secretary, justify your position." If we do not like it, we ought to tell him what he ought to do.

They work for us; right?

Mr. HUGHES. Mr. Chairman, the gentleman from Ohio (Mr. BROWN) makes a very persuasive case and, in fact, it was debated, I think, quite actively in our

committee before we decided upon the 50-percent formula contained in the bill.

However, our legislation contains all kinds of safeguards.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(On request of Mr. BROWN of Oho, and by unanimous consent, Mr. HUGHES was allowed to proceed for 4 additional minutes.)

Mr. HUGHES. Mr. Chairman, to continue, if in fact the Secretary finds that it is too rigid, that in fact it is not in the public interest, the Secretary does have the authority in this legislation to submit to the Congress a report indicating the difficulties with the different forms of alternative bidding and explaining why the 50 percent formula should not be followed.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Mr. Chairman, let me just finish my statement, and then I will yield.

But I think the fact of the matter is that we need to send a clear signal to the Secretary of the Interior to utilize in a realistic fashion during the next 5 years systems other than the bonus bidding systems. We think the 50-percent formula will insure that the Secretary will give the alternative bidding systems a fair try.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I will say to the gentleman that I am a convert to what I think has been the gentleman's position over the last few years—and I believe it is still his position—and that is that the Congress ought to reassert itself not only in the responsibility of making these major decisions about where we are headed in our future but that we must not yield up all those decisions to Secretaries and bureaucrats, and that we also ought to exercise what is a fundamental responsibility of this Congress, and that is the oversight of these things that we undertake experimentally as they progress.

If the new systems are desirable and are more desirable than what we are now doing, I would say that we should come back and modify this proposal and go to 50 percent, 70 percent, or even 100 percent, if that is desirable.

All I want to do is to know where we are headed. These are some kind of fog lights. Let us try the 30-percent or 10-percent limit now instead of mandating a 50 percent and instead of just chopping in half what we are currently doing and insisting that the Secretary do so much and give him the option to do some more.

But we should stay on top of it so we know what he is doing is either squaring with what we think ought to be done, or, if it is not, we should come back and tell him. That is all there is to it. There is nothing sinister about it.

Mr. HUGHES. Mr. Chairman, I am happy to hear that the gentleman is a convert, and that the gentleman does understand fully the importance of mandating that a certain portion of the lease sales be under alternative bidding systems. That is inherent in the gentleman's amendment.

Some 10 percent is mandated as a minimum. I think that is a step in the right direction, but I still think the committee bill has arrived at a better solution. We have clearly stated the Congress wants the Secretary to try in a meaningful fashion the alternative bidding systems.

It is ironic that the industry on the one hand wants the Secretary to have the flexibility of the various alternative bidding systems but, on the other hand, the industry is challenging the Secretary's exercise of discretion at every turn, when, of course it benefits them.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield for one more point?

Mr. HUGHES. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I sit on the Committee on Interstate and Foreign Commerce, and we tried to resolve a problem similar to this one in that committee. That concerned our powerplants sited, and unfortunately we got into one of those three-way splits. One-third of the membership of the committee wanted one thing, another third wanted another thing, and the remaining third had a different position. As a result, we did not bring back powerplant sited legislation as yet.

All I am trying to do is to come to an understanding.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not really sure whether any Member here has not yet decided on how he is going to vote on these two amendments that are pending, but I think some points should be made for the record to try to set this in perspective.

No. 1, since we have had leasing offshore since approximately 1953, we have used since that time basically two bidding systems: One, a cash bonus bid with a fixed royalty, and No. 2, a second system with a veritable royalty. Those are the two systems this country has used basically since 1953.

What are the results since 1953? One of the results is that the U.S. Treasury has received under those two systems 83 percent, and these are USGS figures.

That is, 83 percent of all of the revenues being derived from any OCS activity whatsoever. The Federal Government is getting 83 percent of all of those revenues.

Therefore, Mr. Chairman, anyone who argues that perhaps the Federal Treasury is not getting a fair shake under the existing system, in my opinion, is just not looking at the facts. The facts show that way over three-quarters of all of the money is coming back to the U.S. Treasury.

Therefore, to say, "You have to experiment and try some other systems to see if we are getting enough money," to me does not make any sense.

Mr. Chairman, the second argument is that we should try some experimental bid systems to bring in some smaller companies.

Let us look at the facts. In the last 20 years of OCS, some 150 oil companies, other than the 8 largest domestic producers, the so-called big oil companies, have acquired interests in something like 66 percent of all of the leases and have obtained something like 49 percent of the ownership.

Therefore, with respect to the two arguments which people are using, including saying that we need to try to experiment, if we look at the facts, No. 1, the Federal Treasury is getting a tremendously fair return; and No. 2, the smaller companies, the 150 companies I have just cited, have participated in the sales and have acquired ownership and interests in all of those sales. Consequently, the two systems we have are working.

Now, Mr. Chairman, the committee has come up with 10 new bid systems, basically 8 new ones, plus the old existing 2.

They say, "At least 50 percent of the time you are going to have to try these new experiments." My colleague, the gentleman from Louisiana (Mr. TREEN), has indicated that we should not have to try them at all. The gentleman from Ohio (Mr. BROWN) has taken the approach that it should be done at least 10 percent of the time but no more than 30 percent of the time.

Mr. Chairman, in the interest of coming up with a true compromise, the substitute which I will be offering after other amendments are presented, simply says that I will take the eight new bid systems plus the old two and that we will take the 10 bid systems and split them so as to enable the Secretary to experiment if he should decide to try to experiment. Let us try it, Mr. Chairman, but let us not go overboard in trying it. The Breaux compromise says that he can try it, try the new experimental bid systems in the frontier areas up to 50 percent of the time, anywhere from zero to 50 percent of the time, but no more than that.

Mr. Chairman, if we are going to experiment, I think that is a fair experiment. We do not know what the results of these experiments will be. We are not the only country that has tried these experimental bid systems. Let us look at the results in Europe and in other foreign countries which have tried these experimental bid systems. I do not think we want those results. They are paying $3 or $4 a gallon for gas in Europe. They tried the experimental bid systems. They are burning wood to heat their homes because they cannot afford to buy heating oil, and the government owns most of the companies over there, so that they are able to do what they want and decide how they want to do it.

Therefore, Mr. Chairman, I do not think that the results in areas which have tried it would mandate that this Congress say, "Go ahead and try it at least 50 percent of the time." I do not think those results are what our constituents or gas consumers would want when the price of heating oil is going out of sight in foreign countries and they have to ration gas because they cannot afford to buy it.

All of those results are from new-fangled experiments that are used overseas.

Mr. Chairman, I say no to that type of experiment. I say, let us take a moderate approach, a compromise approach; and that is what the Breaux compromise is going to do.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, does the gentleman from Louisiana (Mr. BREAUX) support the two pending amendments?

Mr. BREAUX. I support the Breaux compromise but am not in favor of either one of those amendments.

If I had my preference, I would prefer both of them as against the committee bill. I am going to vote for them because I think they are much more preferable to what the committee bill has in it; but at the proper time, I will offer my compromise which, of course, would eliminate both of those amendments, because I think it is a middle-of-the-road approach.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think I will take the 5 minutes.

In looking across the aisle here, Mr. Chairman, I see some faces of Members who, I am sure, have heard what I have had to say before.

H.R. 1614, we have heard over and over again today, is bringing up untried systems that must be used in 50 percent of the areas offered for lease.

I think one missing link in all our discussion has been, Where did this come from, this 50 percent? Suddenly 50 percent becomes holy; but, Mr. Chairman, I remember 3 years ago when the chairman, the gentleman from New York (Mr. MURPHY), introduced the bill. What was the percentage mandated? It was 10 percent, the 10 percent that is now the bottom of the range in the Brown amendment; and suddenly it is such an awful thing.

Mr. Chairman, I remember when the committee voted to increase the 10 percent to the one-third, the 33 percent. It was not until markup in 1977, following a recommittal of this bill, that, by a vote in committee of—guess what?—10 to 9, we suddenly went up to that 50 percent.

Mr. Chairman, I suggest that this is one of the fundamental problems with this bill. We have gotten tremendous cooperation from the majority today in terms of just compensation and in terms of dual leasing. This is a major issue.

The safety regulations are one.

Mr. Chairman, I would not be at all surprised if when we complete this matter today or tomorrow, we will come out with a pretty good bill. But this, as I think my colleagues on both sides know perfectly well, is one of the central issues. I just hope that what I have alluded to here and showing the progression of how we arrived at having 50 percent in the bill, causes all kinds of problems. It ties the hands of the Secretary by its very language, even if he thinks the systems are detrimental he must then come to the Congress for approval. In the amendment offered by the gentleman from Ohio (Mr. BROWN) that is not the case.

The same untried systems are contained in the substitute if the Secretary wants to use them. The authority is also granted for the new systems that are contained in (j) of H.R. 1614, but we do not require that he await action by one House of Congress for approval, before he can deviate from use of alternative systems.

These experimental systems should be used. There is, once again, no dispute between the minority and the majority on that subject, but we should remember the new alternative, experimental systems are just that—experimental. The Secretary should be mandated to use them in order to conduct experiments but the percentage must be smaller than is proposed in the committee bill in order that the detrimental impact will be as minor as possible and we will not be responsible for a wholesale giving-away of our public energy resources.

I think that is the simple issue. We do not know what these experimental systems will do. We have never been told what can be expected from them. In spite of the fact that there is apparently some use of these alternative systems in some of the foreign nations, it is not apparently known how they have worked by those who have alluded to them. We do know that the authorities say it will be 8 or 10 to 12 years before there is production, and before there is revenue received from these systems. So we should not stand here running a risk to our energy resources through untried systems, by not taking the prudent course offered to us in the amendment offered by the gentleman from Ohio (Mr. BROWN).

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, when the original report was filed on this bill in 1976, the gentleman from Delaware, our former colleague Mr. DuPont and I filed supplemental views. One of the points we found attractive in those minority views, and I still find attractive, is that this legislation introduces alternative bidding systems which it is hoped will open up these frontier areas to some of the smaller companies giving them the possibility of being able to enter into the Outer Continental Shelf development. I think it is a pretty good way to move. We deal so often in imponderables in this chamber in many areas of legislation, and I believe that one of the largest risks so far as the energy needs of a majority of the country is concerned is in the mandating that 50 percent of the OCS bidding be by new alternate systems.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. BAUMAN, and by unanimous consent, Mr. FISH was allowed to proceed for 2 additional minutes.)

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield still further, let me repeat that, one of the largest risks or imponderables in this debate is that we do not know what these alternative systems will produce in the way of revenues. It is not an imponderable, however, that the Congressional Budget Office which is charged by statute to give us the estimated cost of legislation has told us that the cost will be at least $2.2 billion over a 5-year period, if this legislation goes through as it is now written, because of the losses these new systems will produce.

We have been told by the Geological Survey that 70 percent of all bidding at least will be under these new experimental systems. So what they are telling us—and this is not a disputed fact; it has never been disputed; I asked the chairman of the committee last week to dispute it and he never did; no one ever has—is that the taxpayers are going to lose $2 billion as this bill now stands. It appears to me that prudence would dictate that we at least reduce this loss by a 10 to 30 percent minimum and maximum on these alternate bidding systems used. If they work out—I hope they work out—let us come back and amend the law and mandate that they all 100 percent be under alternate systems. But to blunder into this thing on the blind faith of a figure picked out of the air to the detriment of oil and gas production and to the detriment of the U.S. Treasury is doing a favor to the oil companies and it is doing a disfavor to the people of the United States.

So I hope the amendment of the gentleman from Ohio is adopted. This is a middle ground between complete discretion or the 50 to 70 percent mandated position, the rigid position of the bill. It is something from which I think Americans will benefit.

Mr. FISH. I thank the gentleman. He is absolutely right. I would like to repeat that really the Brown amendment and the language in the committee bill are not that far apart. The same bidding systems are encouraged.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. FISH was allowed to proceed for 2 additional minutes.)

Mr. FISH. It is a percentage use of these systems that I think the vast majority of the Congress and the American people are interested in more than the fact that a percentage is mandated in the committee bill.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

It may be, Mr. Chairman, a little bit peculiar for a member of the Energy Conference Committee to speak of the importance of compromise in this Chamber, but it seems to me that one of the problems that we have had with our energy program over the last 2 or 3 or 4 years is its unpredictability because of the unwillingness of elements in this body and in the other body to compromise, to sort of chart our course of mod-

erate change slowly so that people will know what they can expect in the future.

What concerns me about this is that we have an issue here that was resolved in the position of the committee on a 10-to-9 basis, and we are going to force that through, except that what people outside really read of the Congress is that we may get a bill that has a very close vote on it and then they are not sure but what we may be changing the game in the future. I think we would be much better off to try to get a piece of legislation—and I think that some of the progress we have made today is in that vein; it looks to me as if there is a spirit of taking some of the untoward things out of this bill—so that we can get a fairly good majority in support of it. I would like to see us be able to get a piece of legislation out in the energy field that did not come out by a gnat's eyelash but rather came out with a good strong majority supporting it. I think that the compromise I have offered can help accomplish that. It was certainly offered in that spirit. It was not meant to do anything harmful to the bill, but rather to see that we take a slight step down the road of innovation without vacillating to the point that people would not be in favor of the bill.

Mr. TREEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the 5 minutes. There has been, it seems to me, a suggestion in the Chamber by some who insist on mandated experimental bidding, that somehow those of us who do not think that is a good idea are taking that position because that is what big oil wants. I do not give a hoot about big oil in that connection. My motivation—and I sincerely believe the motivation of others who oppose the mandate of experiments—is our concern for energy production and our concern for delay.

My amendment, to which Mr. BROWN of Ohio has offered an amendment, would provide complete flexibility with the Secretary of the Interior so that he could move to 100 percent experimental bids such as work commitment bidding or work profit share bidding. In other words, he would not have to do any bonus bidding whatsoever. And if the "big oil" is in favor of mandating a certain amount of bonus bidding, it would not support this type of amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, one of the matters here the members of the Committee should be aware of is this: The provision in the committee bill is identical to the provision in the Senate-passed bill. The 50 percent is there. This is it. This is the one chance we have to correct this situation, because the issue will not be conferenceable if the committee provision prevails at the end of the consideration of this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN) as a substitute for the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 17, noes 19.

Mr. FISH. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The chair will count. Fifty-seven Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from New York (Mr. FISH) for a recorded vote.

Does the gentleman insist upon his request?

Mr. FISH. I do, Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 207, not voting 29, as follows:

[Roll No. 23]

AYES—196

Abdnor	Duncan, Oreg.	Kindness
Anderson, Ill.	Duncan, Tenn.	Krueger
Andrews, N.C.	Edwards, Ala.	Lagomarsino
Andrews, N. Dak.	Edwards, Okla.	Latta
Applegate	Emery	Leach
Archer	English	Livingston
Ashbrook	Erlenborn	Lloyd, Tenn.
Badham	Evans, Colo.	Long, La.
Bafalis	Evans, Del.	Lott
Barnard	Findley	Lujan
Bauman	Fish	McClory
Beard, Tenn.	Flippo	McCloskey
Boggs	Flowers	McCormack
Bowen	Flynt	McDade
Breaux	Foley	McEwen
Brinkley	Forsythe	McKay
Brooks	Fountain	McKinney
Broomfield	Frenzel	Madigan
Brown, Mich.	Frey	Mahon
Brown, Ohio	Fuqua	Marks
Broyhill	Gammage	Marlenee
Buchanan	Gibbons	Marriott
Burgener	Glickman	Mattox
Burke, Fla.	Goldwater	Michel
Burleson, Tex.	Goodling	Milford
Butler	Gradison	Miller, Ohio
Caputo	Grassley	Mitchell, N.Y.
Carter	Hagedorn	Mollohan
Cederberg	Hall	Montgomery
Chappell	Hammer-schmidt	Moore
Clausen, Don H.	Hansen	Myers, Gary
Clawson, Del	Harsha	Myers, John
Cleveland	Heckler	Nichols
Cochran	Hefner	Pettis
Cohen	Hillis	Pickle
Coleman	Holt	Pressler
Collins, Tex.	Hubbard	Preyer
Conte	Huckaby	Pritchard
Corcoran	Hyde	Pursell
Cornwell	Ichord	Quayle
Coughlin	Ireland	Quie
Crane	Jeffords	Quillen
Cunningham	Johnson, Colo.	Railsback
Daniel, Dan	Jones, N.C.	Regula
Daniel, R. W.	Jones, Okla.	Rhodes
de la Garza	Kasten	Risenhoover
Derwinski	Kazen	Roberts
Devine	Kelly	Robinson
Dickinson	Kemp	Rose
	Ketchum	Rousselot
		Rudd
		Runnels
		Ruppe
		Russo
		Sarasin
		Satterfield
		Sawyer
		Schulze
		Sebelius
		Shuster
		Sikes
		Smith, Nebr.
		Snyder
		Spence
		Stangeland
		Stanton
		Steed
		Steers
		Steiger
		Stockman
		Stump
		Symms
		Taylor
		Thone
		Thornton
		Trible
		Tucker
		Vander Jagt
		Waggonner
		Walker
		Walsh
		Wampler
		Watkins
		White
		Whitehurst
		Whitley
		Whitten
		Wiggins
		Wilson, Bob
		Wilson, Tex.
		Winn
		Wirth
		Wydler
		Wylie
		Young, Alaska
		Young, Fla.
		Young, Tex.

NOES—207

Addabbo	Ford, Mich.	Nowak
Akaka	Ford, Tenn.	O'Brien
Alexander	Fowler	Oakar
Allen	Fraser	Oberstar
Ambro	Gaydos	Obey
Ammerman	Gephardt	Ottinger
Anderson, Calif.	Giaimo	Panetta
Annunzio	Gilman	Patten
Ashley	Ginn	Patterson
Aspin	Gonzalez	Pease
AuCoin	Gore	Pepper
Baldus	Gudger	Perkins
Baucus	Hamilton	Pike
Beard, R.I.	Hanley	Price
Bedell	Hannaford	Rahall
Beilenson	Harkin	Rangel
Benjamin	Harris	Reuss
Bennett	Hawkins	Richmond
Bevill	Heftel	Rinaldo
Biaggi	Holland	Rodino
Blanchard	Hollenbeck	Roe
Blouin	Holtzman	Rogers
Boland	Howard	Rooney
Bolling	Hughes	Rosenthal
Bonior	Jacobs	Rostenkowski
Bonker	Jenkins	Roybal
Brademas	Jenrette	Ryan
Breckinridge	Johnson, Calif.	Santini
Brodhead	Jordan	Scheuer
Burke, Mass.	Kastenmeier	Schroeder
Burlison, Mo.	Keys	Seiberling
Burton, John	Kildee	Sharp
Burton, Phillip	Kostmayer	Shipley
Byron	Krebs	Simon
Carney	LaFalce	Sisk
Carr	Lederer	Skelton
Cavanaugh	Leggett	Slack
Chisholm	Levitas	Smith, Iowa
Clay	Lloyd, Calif.	Solarz
Collins, Ill.	Long, Md.	Spellman
Conyers	Luken	St Germain
Corman	Lundine	Staggers
Cornell	McFall	Stark
Cotter	McHugh	Stokes
D'Amours	Maguire	Stratton
Danielson	Mann	Studds
Davis	Markey	Thompson
Delaney	Mathis	Traxler
Dellums	Mazzoli	Treen
Derrick	Meeds	Tsongas
Dicks	Metcalfe	Udall
Diggs	Meyner	Ullman
Dingell	Mikulski	Van Deerlin
Dodd	Mikva	Vanik
Drinan	Miller, Calif.	Vento
Early	Minish	Volkmer
Eckhardt	Mitchell, Md.	Walgren
Edgar	Moakley	Weaver
Edwards, Calif.	Moffett	Weiss
Eilberg	Moorhead, Pa.	Whalen
Ertel	Murphy, Ill.	Wilson, C. H.
Evans, Ga.	Murphy, N.Y.	Wolff
Evans, Ind.	Murphy, Pa.	Wright
Fary	Murtha	Yates
Fascell	Myers, Michael	Yatron
Fenwick	Natcher	Young, Mo.
Fisher	Neal	Zablocki
Fithian	Nedzi	Zeferetti
Florio	Nix	
	Nolan	

NOT VOTING—29

Armstrong	Harrington	Moorhead, Calif.
Bingham	Hightower	Moss
Brown, Calif.	Horton	Mottl
Burke, Calif.	Jones, Tenn.	Pattison
Conable	LeFante	Poage
Dent	Lehman	Roncalio
Dornan	Lent	Skubitz
Downey	McDonald	Teague
Flood	Martin	Waxman
Guyer	Mineta	

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. Le Fante against.

Mr. McDonald for, with Mr. Dent against.

Mr. Hightower for, with Mr. Mineta against.

Mr. Teague for, with Mrs. Burke of California against.

Mr. Conable for, with Mr. Bingham against.

Mr. Dornan for, with Mr. Mottl against.

Mr. Martin for, with Mr. Lehman against.

Mr. Moorhead of California for, with Mr. Waxman against.

Mr. Skubitz for, with Mr. Harrington against.

Mr. Guyer for, with Mr. Flood against.

Messrs. VANIK, ROSTENKOWSKI, STAGGERS, and ULLMAN changed their vote from "aye" to "no."

Mr. PRESSLER and Mr. CONTE changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

PARLIAMENTARY INQUIRY

Mr. TREEN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. TREEN. Mr. Chairman, my parliamentary inquiry is this: The next vote will be on the Treen amendment?

The CHAIRMAN (Mr. NATCHER). The gentleman is correct.

Mr. TREEN. Is that open to amendment?

The CHAIRMAN. The gentleman is correct, it is open for amendment at this point.

Mr. TREEN. I thank the Chairman.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words, and I yield to the author of the pending amendment, the gentleman from Louisiana (Mr. TREEN).

Mr. TREEN. Mr. Chairman, I thank my colleague, the gentleman from Maryland, for yielding in order to give me an opportunity to explain to the Members what the pending amendment is now.

Mr. Chairman, the Brown amendment to my amendment having failed, a vote will occur on my amendment. Let me explain briefly what my amendment does. Under existing law there are two forms of bidding that are permitted for OCS tracts: bonus bidding and royalty bidding. Under the committee bill seven additional forms of bidding that we have never used before are set forth. In addition to that, there is a catchall provision which would permit the Secretary of the Interior to devise any other form of lease, including its terms and conditions, and so forth, of that lease.

The bill as written also provides that the Secretary of the Interior in the frontier areas must use, for at least 50 percent of the tracts, bids other than bonus bidding. Royalty bidding, or one of these new experimental-type bids, or some other bid arrangement that he would promulgate by regulation would have to be used for 50 percent of the tracts. My amendment goes to that question of mandating. My amendment would take out the detailed description of additional experimental bids, but it would preserve—and let me emphasize this—the Secretary's right to devise any form of bidding system that he wished to. He could devise any terms, any conditions, a work commitment bid, a profit-sharing bid, employing any variables, any type of bid that he wanted to. He could use experimental bidding for 100 percent of the tracts, or for 80 percent of the cases. He could use bonus bidding in 100 percent or in zero percent. In other words, this gives the Secretary of the Interior complete flexibility, and it avoids the dangers inherent in our mandating the Secretary that he must use new and untried bidding systems on at least 50 percent of the tracts.

This amendment also takes a lot of garbage out of this bill. Under the reported bill, if the Secretary decides that he cannot go to experimental bidding with respect to 50 percent of the tracts after the first year, he must come to the Congress and make a report. We have 60 days while we are in session to act on that report. If we are not in session, those days would not be counted. It could take as much as 6 months for this Congress to act on a request to be relieved of the mandate for 50 percent experimental bidding, and that could cause additional delay.

Please bear in mind my amendment does not preserve bonus bidding. The Secretary does not have to let 1 acre through bonus bidding. What we are doing is giving him flexibility, while also insuring that we are not going to have these long delays in implementation of the leasing schedule that could come about as a result of the committee bill.

I urge an aye vote on this amendment.

Mr. DODD. Mr. Chairman, I move to strike the last word.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I thank my colleague, the gentleman from Connecticut, for yielding.

I would like to capsulize in as short a period of time as I can the opposition of the committee to the language offered by the gentleman from Louisiana (Mr. TREEN). The language in the bill at the present time requires competition in the leasing arrangements on the Continental Shelf. What the present language calls for is a 5-year period during which the Secretary must use alternative types of bidding procedures in 50 percent of the lease sales. At the present time we find almost 100 percent of the bidding is the bonus-bid, up-front, big-cash-expenditure type of bidding that dominates the sale of tracts in the Outer Continental Shelf.

The purpose of the committee saying that the Secretary should utilize alternate forms of bidding for only 5 years is that after 5 years the Secretary will have made his analysis as to which are the most cost-effective methods of bidding on the public lands.

This amendment is a flexible amendment. It is so flexible that we could go back under another Secretary to 100-percent bonus bidding—something we do not want to do. We have seen the problems related to the current system: the total domination by major interests of the Continental Shelf.

Please reject this amendment and let us have the flexibility wherein the requirement is that 50 percent of the bids will be experimental for only 5 years. At that time the Secretary will have had the experience as to which would be the most proper and effective way of leasing on the Outer Continental Shelf.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. TREEN. Mr. Chairman, will the gentleman yield for a moment?

Mr. BREAUX. I yield to the gentleman from Louisiana (Mr. TREEN).

Mr. TREEN. Mr. Chairman, I appreciate the gentleman yielding.

I just want to make this response to the chairman of the committee: that is, the energy crisis is in the country now. It will be here over the next 3 years. We know we will have this Secretary of the Interior or one appointed by this administration over the next 3 years. These are the critical years. These are the years when we should not hamper ourselves by mandating the Secretary try something we do not know will work or not.

Mr. BREAUX. Mr. Chairman, it seems that all afternoon when we debated this bill today on the OCS, the committee have been debating the bill among themselves. We have been doing that for the past 3 years. I think that this gives me an opportunity to share with those who are not members of the OCS Committee some of my concerns about the present situation with regard to the committee on these mandated experimental lease systems.

The committee bill very clearly says that at least in one-half of all the new leases that are going to be granted we have to use new, untried, experimental bid systems. Those who argue for that position say, "Well, we should try something else."

We have been operating under a system since 1953 which has given back to the U.S. Treasury something like 83 percent of all the revenues coming from the OCS. That has gone to the U.S. Treasury under the existing system. I think that is better than a fair return to the Federal Government.

For those who use the argument that, "Well, we ought to try something else to see if we cannot get more revenues," I think they are not realistic in looking at what the situation is today. Some say that we should try new experimental systems so we can bring in other companies. The surveys we have had in the committee say in the last 20 OCS sales we have had something like 150 companies other than the largest eight major companies that have acquired an interest in something like 66 percent of all leases given. They have gone to 150 companies in this country, so the small companies are participating in OCS.

That is why the IPAA (the Independent Petroleum Association of America) opposes this committee bill in its present form.

But some say: "Other countries are trying new experimental bid systems."

That is true. They are trying that in Europe. And what are they paying for gas in Europe? They are paying $3 and $4 per gallon for gas in Europe.

I repeat, they are paying $3 and $4 a gallon for gas in Europe. They tried the experimental bid business and look at what has happened. Look at what they pay for heating oil that is being rationed. They are burning wood because they cannot get heating oil but they are trying these experimental systems.

Mr. Chairman, at the proper time when all the amendments will be completed, I have a compromise that we plan to offer. On this particular issue my compromise says yes, let us try the experimental bid system the committee has set out. I have all 10 in my compromise; but instead of saying let us do it 50 percent of the time or 100 percent of the time, if we are going to experiment, let us try it up to 50 percent of the time.

The Office of Budget and Management estimates we will lose $1.325 billion in U.S. revenues as the result of this legislation over the life of the bill. That is too much of a price tag to pay for experiments, particularly when experiments are not necessary.

Mr. Chairman, I support the Treen amendment, but if the Treen amendment is not passed, at the proper time I hope we can see fit to take the middle ground, the compromise position that I have, that says, let us try it, but only up to 50 percent of the time.

AMENDMENT OFFERED BY MR. EMERY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. TREEN

Mr. EMERY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY as a substitute for the amendment offered by Mr. TREEN: Page 160, strike out line 24 and all that follows down through and including line 23 on page 165 and insert in lieu thereof the following:

"(C) The bidding systems authorized by subparagraphs (C) through (I) of paragraph (1) of this subsection shall be applied to not less than 20 per centum and not more than 50 per centum of the total area offered for lease each year during the five-year period beginning on the date of enactment of this subsection, unless the Secretary determines that the requirement set forth in this subparagraph is inconsistent with subparagraph (A) of this paragraph.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized; and

"(v) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

Mr. EMERY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. EMERY. Mr. Chairman, as one of the Members from the Northeast States, I could not help but be impressed by the logic of the compromise that was proposed by the gentleman from Ohio (Mr. BROWN).

Many of us who represent the New England area and the Northeast are very often looked upon as being anti-energy, antidevelopment, anti-industry, and in some cases, I have to admit, it has been true, but nevertheless, we have a responsibility to help resolve our national energy problems. If we are looking at leasing operations on the Outer Continental Shelf, and on the Georges Bank east of New England especially, we should create whatever system will provide energy resources, if those energy resources exist.

We have been discussing various leasing alternatives here today and we very nearly reached a compromise a few minutes ago wherein a minimum of 10 percent of the new leasing would be under new experimental systems. A maximum of 30 percent would be allowed under that same provision in the bill.

My amendment makes one change to the substitute offered a few minutes ago by the gentleman from Ohio (Mr. BROWN). It changes the 10-percent minimum experimental leasing figure to 20 percent, and it changes the maximum from 30 to 50 percent, so under my substitute a minimum of 20 percent of all leasing would be under new experimental techniques and the maximum would be 50 percent, which is equivalent to the provision in the committee bill.

Mr. Chairman, I urge a positive vote for the amendment.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope not to take the full 5 minutes, because we are scheduled to rise in half an hour, and I would like to put this issue of the mandates cranked into the committee bill, having to do with these bidding systems, to rest this afternoon so that we can hope for early completion of this bill when we resume tomorrow, because the issues left will not be that great.

There is no dispute about the validity and usefulness of untried systems—all sides agree to that. The committee bill says, however, that they must be used in 50 percent of the areas offered for lease, whether or not the Secretary of the Interior in his judgment thinks that they are effective, or even detrimental. His hands are tied if he so thinks. He must then come back to the Congress for approval to exceed that figure.

Like Mr. BROWN'S amendment, the pending amendment by Mr. EMERY removes that. The Secretary can do this by rule, and does not have to come back to the House and not have his hands tied. Like the previous amendment, there is the authority in the section to create new systems if, indeed, our experience in the Outer Continental Shelf over the next few years shows that a bidding system we have not even dreamed of is a good idea, he has the authority to proceed.

But, it is clear by the very close vote on the Brown amendment that the House is deeply troubled. There was a spread of only 10 votes, and the Members are deeply troubled by the issue of mandating 50 percent of the leases. Maybe the slender majority thought that the range of 10 to 30 percent of a ceiling on alternative systems was too low, inasmuch as our expression of support for alternative systems. Here we are with an amendment that goes from 20 to 50 percent. The very effect of the committee bill could be carried out without us deciding for the Secretary but by allowing him to make that judgment himself.

Let me tell the Members the story of how we got to this 50 percent. If for some reasons Members think the 50 percent in the committee bill has some great sanction, some magic behind it, let me tell the Members that when this bill came before this committee 3 years ago, in the original draft the figure was 10 percent. It was only in the committee deliberations and on the floor that it went to 33 percent, and it was only after the 1976 consideration of this measure by this body, in the markup in 1977, by a vote of what—a vote of 10 to 9—did we reach that 50 percent.

Ladies and gentleman, this 50-percent provision is identical to that in the Senate bill. It will mean that we have no conferenceable issue if we do not pass the Emery amendment right now, and failing that, the Treen proposal.

These experimental systems should be used, but we should remember that they are just that, experimental. While we mandate the Secretary to use them in the future to conduct experiments, the percentage of use should certainly not be mandated as it is in the committee bill, which could easily result in a give-away of the public energy resources. I sincerely hope that this amendment will be adopted.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Treen amendment in its total flexibility would be so flexible as to be able to mandate 100 percent of the bidding to be bonus bids. The various substitutes that we now see being proposed to it—first, the Brown substitute, which the committee in its wisdom defeated—mandated 10 percent, and went to 30 percent. That was clearly anti-competitive in comparison with the 50 percent which resulted from the deliberations and the recommendations of the ad hoc committee.

Now we see a further anticompetitive move, perhaps a shade less, of mandating 20 percent to 50 percent. But what we are doing is, we are mandating this for a Secretary. The committee felt that we should have 50 percent of the leases experimental to guarantee competition and a valid test of their viability. I would clearly ask for the committee to reject the amendment offered by the gentleman from Maine and to support the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. EMERY) as a substitute for the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. EMERY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 188, not voting 25, as follows:

[Roll No. 24]

AYES—219

Abdnor	Frenzel	Nichols
Anderson, Ill.	Frey	O'Brien
Andrews, N.C.	Fuqua	Pettis
Andrews, N. Dak.	Gammage	Pickle
Applegate	Gibbons	Poage
Archer	Gilman	Preyer
Ashbrook	Ginn	Pritchard
Badham	Glickman	Pursell
Bafalis	Goldwater	Quayle
Barnard	Goodling	Quie
Bauman	Gradison	Quillen
Beard, Tenn.	Grassley	Railsback
Boggs	Hagedorn	Regula
Bowen	Hall	Rhodes
Breaux	Hammer-schmidt	Rinaldo
Brinkley	Hansen	Risenhoover
Brooks	Harsha	Roberts
Broomfield	Heckler	Robinson
Brown, Mich.	Hefner	Rousselot
Brown, Ohio	Hillis	Rudd
Broyhill	Hollenbeck	Runnels
Buchanan	Holt	Ruppe
Burgener	Horton	Russo
Burke, Fla.	Hubbard	Sarasin
Burleson, Tex.	Huckaby	Satterfield
Butler	Hyde	Sawyer
Caputo	Ichord	Schroeder
Carter	Ireland	Schulze
Cederberg	Jenkins	Sebelius
Chappell	Johnson, Colo.	Shuster
Clausen, Don H.	Jones, N.C.	Sikes
Clawson, Del	Jones, Okla.	Sisk
Cleveland	Kasten	Skelton
Cochran	Kazen	Smith, Nebr.
Cohen	Kelly	Snyder
Coleman	Kemp	Spence
Collins, Tex.	Ketchum	Stangeland
Conte	Kindness	Stanton
Corcoran	Krueger	Steed
Cornwell	Lagomarsino	Steers
Coughlin	Latta	Steiger
Crane	Leach	Stockman
Cunningham	Lent	Stump
Daniel, Dan	Levitas	Symms
Daniel, R. W.	Livingston	Taylor
de la Garza	Lloyd, Tenn.	Thone
Derwinski	Long, La.	Thornton
Devine	Lott	Trible
Dickinson	Lujan	Tucker
Dicks	McClory	Ullman
Duncan, Oreg.	McCloskey	Vander Jagt
Duncan, Tenn.	McCormack	Volkmer
Edwards, Ala.	McDade	Waggonner
Edwards, Okla.	McEwen	Walgren
Emery	McKay	Walker
English	McKinney	Walsh
Erlenborn	Madigan	Wampler
Evans, Colo.	Mahon	Watkins
Evans, Del.	Marks	White
Evans, Ga.	Marlenee	Whitehurst
Fenwick	Marriott	Whitley
Findley	Mathis	Whitten
Fish	Mattox	Wiggins
Fisher	Michel	Wilson, Bob
Flippo	Milford	Wilson, Tex.
Flowers	Miller, Ohio	Winn
Flynt	Mitchell, N.Y.	Wirth
Foley	Mollohan	Wright
Ford, Tenn.	Montgomery	Wydler
Forsythe	Moore	Wylie
Fountain	Murtha	Yatron
Fowler	Myers, Gary	Young, Alaska
	Myers, John	Young, Fla.
		Young, Tex.

NOES—188

Addabbo	Baucus	Bolling
Akaka	Beard, R.I.	Bonior
Alexander	Bedell	Bonker
Allen	Beilenson	Brademas
Ambro	Benjamin	Breckinridge
Ammerman	Bennett	Brodhead
Annunzio	Bevill	Burke, Mass.
Ashley	Biaggi	Burlison, Mo.
Aspin	Blanchard	Burton, John
AuCoin	Blouin	Burton, Phillip
Baldus	Boland	Byron
Carney	Jeffords	Pepper
Carr	Jenrette	Perkins
Cavanaugh	Johnson, Calif.	Pike
Chisholm	Jordan	Pressler
Clay	Kastenmeier	Price
Collins, Ill.	Keys	Rahall
Conyers	Kildee	Rangel
Corman	Kostmayer	Reuss
Cornell	Krebs	Richmond
Cotter	LaFalce	Rodino
D'Amours	Lederer	Roe
Danielson	Leggett	Rogers
Davis	Lloyd, Calif.	Rooney
Delaney	Long, Md.	Rose
Dellums	Luken	Rosenthal
Derrick	Lundine	Rostenkowski
Diggs	McFall	Roybal
Dingell	McHugh	Ryan
Dodd	Maguire	Santini
Drinan	Mann	Scheuer
Early	Markey	Seiberling
Eckhardt	Mazzoli	Sharp
Edgar	Meeds	Shipley
Edwards, Calif.	Metcalfe	Simon
Eilberg	Meyner	Slack
Ertel	Mikulski	Smith, Iowa
Evans, Ind.	Mikva	Solarz
Fary	Miller, Calif.	Spellman
Fascell	Minish	St Germain
Fithian	Mitchell, Md.	Staggers
Flood	Moakley	Stark
Florio	Moffett	Stokes
Ford, Mich.	Moorhead, Pa.	Stratton
Fraser	Murphy, Ill.	Studds
Gaydos	Murphy, N.Y.	Thompson
Gephardt	Murphy, Pa.	Traxler
Giaimo	Myers, Michael	Treen
Gonzalez	Natcher	Tsongas
Gore	Neal	Udall
Gudger	Nedzi	Van Deerlin
Hamilton	Nix	Vanik
Hanley	Nolan	Vento
Hannaford	Nowak	Waxman
Harkin	Oakar	Weaver
Harris	Oberstar	Weiss
Hawkins	Obey	Whalen
Heftel	Ottinger	Wolff
Holland	Panetta	Yates
Holtzman	Patten	Young, Mo.
Howard	Patterson	Zablocki
Hughes	Pattison	Zeferetti
Jacobs	Pease	

NOT VOTING—25

Anderson, Calif.	Downey	Mineta
Armstrong	Guyer	Moorhead, Calif.
Bingham	Harrington	Moss
Brown, Calif.	Hightower	Motti
Burke, Calif.	Jones, Tenn.	Roncalio
Conable	Le Fante	Skubitz
Dent	Lehman	Teague
Dornan	McDonald	Wilson, C. H.
	Martin	

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. Le Fante against.

Mr. McDonald for, with Mr. Motti against.

Mr. Hightower for, with Mrs. Burke of California against.

Mr. Teague for, with Mr. Harrington against.

Mr. Conable for, with Mr. Dent against.

Mr. Dornan for, with Mr. Bingham against.

Mr. Guyer for, with Mr. Lehman against.

Mr. Martin for, with Mr. Charles H. Wilson of California against.

Mr. Moorhead of California for, with Mr. Mineta against.

Mr. Skubitz for, with Mr. Anderson of California against.

Mrs. HECKLER, Mr. FOWLER, and Mr. WALGREN changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN) as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 159, strike out lines 13 through 15 and insert the following: "shall be by rule, after an opportunity for a hearing, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). Any modification of any such bidding system shall be by rule in accordance with such section 501."

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I might state to the gentleman from Michigan that we do not know what the amendment is.

Mr. DINGELL. Mr. Chairman, I will explain the amendment. I would advise my good friend, the gentleman from Maryland (Mr. BAUMAN) that he has seen the amendment before. It is printed in the RECORD and it had been accepted at a time earlier.

Mr. BAUMAN. Is this the "on the record" amendment?

Mr. DINGELL. It is.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, this amendment had been offered earlier to the Breaux amendment and was accepted by the committee. It is, as referred to by my friend, the gentleman from Maryland (Mr. BAUMAN), the "on the record" amendment. I offer it on behalf of the ranking minority member of the Subcommittee on Energy and Power, the gentleman from Ohio (Mr. BROWN) and myself.

Mr. Chairman, H.R. 1614 provides for the establishment of several types of bidding systems. In establishing any such system, the bill requires that it be "by rule on the record after an opportunity for an agency hearing." There is a technical problem with these "magic" words.

Under the DOE Act, the functions concerning competitive bidding were transferred to the Secretary of Energy. However, section 402(d) of the DOE Act provides that FERC, not the Secretary, "shall have jurisdiction to hear and determine" any matter "required by law to be made on the record after an opportunity for an agency hearing." H.R. 1614 would be such a law. FERC is under our subcommittee's jurisdiction. It is understaffed and underfunded. It has no expertise in this area. It should not carry out this function. I am sure Chairman MURPHY and the committee did not intend this result. Indeed, they were unaware of this provision in the DOE Act when H.R. 1614 was reported. Our amendment makes it clear that the Secretary of Energy, not FERC, will estab-

lish these bidding systems. At the same time, we retain the provision for a public hearing and require that the procedures adopted by the House in the DOE Act, pursuant to a floor amendment by Congressmen Moss and BROWN and myself be followed.

I urge my colleagues to support our technical amendment. It is supported by the administration.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman for yielding.

The amendment offered by the gentleman from Michigan (Mr. DINGELL), would provide that the existing procedures applicable with respect to OCS hearings would be applicable to all other regulations.

We accept the amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I just want to say that the minority are very happy that the gentleman from Michigan (Mr. DINGELL) has presented this amendment to the committee, as he did in the past, and I am very happy to accept the amendment.

Mr. DINGELL. I thank both of the gentlemen from New York, Mr. MURPHY and Mr. FISH.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 223, immediately after the period on line 8, insert the following new sentence: "Any oil sold or allocated to small refiners under this paragraph shall be credited against the amount required to be offered to small refiners under section 8(b)(7) of this Act.".

Mr. GOLDWATER. Mr. Chairman, this amendment has a simple, clear purpose. Under the small business set-aside provision the Secretary of Interior is directed to reserve from leases 20 percent of the oil and gas produced.

Later in the bill the Secretary is authorized—actually directed—to reserve an additional 16⅔ percent of purchase oil for small business.

The total federally controlled aspect of OCS oil production therefore comes to 36⅔ percent.

Not only is the result a requirement that the Federal Government control over ⅓ of production distribution, but it is required to do so whether or not small business needs the allocation or can accommodate it.

The natural operation of the marketplace has directed as estimated 26 percent to small businesses already and there is no evidence that this sector either needs more or can at this time accommodate it.

Thus, my amendment simply credits the purchase oil against the royalty lease allocation. Nothing more.

This amendment does not work against the interests of small businesses or developers and it does get the Federal Government out of a dominant allocation role.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the chairman of the ad hoc committee, the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding. The committee has studied the amendment of the gentleman from California. In an earlier provision, we provided for a set-aside for small refiners. We also provided in this section that royalty is to go to such refiners. The gentleman's amendment can provide that such requirements—are cumulative—be allocated under one credit to the other. I have no opposition to this amendment.

Mr. GOLDWATER. I thank the gentleman.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Because of the noise in the House, I would just like to clarify that this is the amendment that deletes the 20 percent set-aside for small refineries; is that correct?

Mr. GOLDWATER. Yes, that is correct.

Mr. FISH. I am very happy to accept it on the minority side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

PERMISSION TO MAKE TECHNICAL CORRECTIONS TO CONFORM WITH RULES OF THE HOUSE

Mr. GOLDWATER. Mr. Chairman, pending a vote on this amendment, I would ask unanimous consent that I may make technical corrections to an amendment that I offered earlier involving the Santa Barbara Channel just to correspond with the rules of the House.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DRINAN. Mr. Chairman, I rise in support of the Outer Continental Shelf Lands Act Amendments of 1978, H.R. 1614. This bill would make changes in the Outer Continental Shelf Lands Act of 1953 which are needed to allow the efficient and equitable development of those lands—development which is crucial to America's energy future, but which must be controlled in order to preserve our environmental heritage.

Official Geological Survey estimates indicate that one-third of our recoverable oil reserves and 22 percent of gas deposits are located offshore. However, these reserves account for only 17 percent of current domestic production. It is clear that the energy crisis requires responsible, yet accelerated development of these lands. H.R. 1614, the culmination of nearly 2 years of effort in the Congress, expands upon the general guidelines in the existing act in a way which will allow orderly development while protecting the environment, the health and safety of workers, and the rights of States and localities, while maximizing competitiveness in development by the oil and gas industry.

A key provisions of the bill would require the Interior Department to prepare a 5-year leasing program, in consultation with State and local governments and the Attorney General. The program would include a study of ecological conditions in the affected areas and the possible environmental impact of development. The bill would also increase Federal financial assistance to coastal States provided under the Coastal Zone Management Act of 1976.

In addition, new systems of bidding for leases would be instituted. The Secretary of the Interior would be able to choose among these systems in order to insure safety, efficiency, and fair competition. This provision would allow participation in offshore development by smaller independent concerns, including many based in New England, rather than leaving the field under the domination of the major oil companies.

The leasing systems themselves would also be revised to allow separation of the leases for exploration from those for production and development. The Government would participate and share costs in the exploration phase. Production and development lessees operating in previously undeveloped "frontier" areas, including the Atlantic Shelf, would be required to submit development plans to the Interior Department. State and local governments affected by the plan would then have the opportunity to submit comments and recommendations. The Secretary of the Interior would have the authority if necessary to reject a plan or to suspend, cancel, or adjust the terms of a lease.

The bill provides for the Interior, Labor, and Transportation Departments to cooperate in studying existing safety regulations and making recommendations to promote safety and health in the development of the Outer Continental Shelf. It also would require use of the best available and safest technology on all new operations, and important existing ones, and authorizes regulations to control air pollution caused by offshore development. These occupational and environmental safety standards would be strictly enforced under this bill.

H.R. 1614 also establishes an offshore oil pollution fund in order to pay damages for an oil spill beyond a maximum liability of the owner or operator. The bill defines recoverable damages and fixes the level of maximum private liability. The money in the fund could also be used in the immediate cleanup of

an oil spill and later be recovered, up to the limit of liability, from the owner or operator.

Another provision would allow compensation to commercial fishermen for equipment damage caused by oil and gas exploration and development, thus protecting this important industry against possible harm. The bill would also insure that U.S. citizens and permanent residents be given priority in employment relating to leasing activities on the Outer Continental Shelf.

Coming from New England, with its above-average energy costs, I am acutely aware of the need to further develop all available energy resources. But protection of coastal and ocean ecosystems, such as the Georges Bank area off New England, is also a vital concern, for the impact of fishing and tourism on the region's economy runs into the billions of dollars. In addition, we all share an interest in the safety and health of workers and the maintenance of fair industrial competition.

I am convinced that H.R. 1614 adequately considers these factors and strikes an effective and reasonable balance among them. I urge my colleagues to support this legislation, which will form a vital part of our Nation's energy policy.

Mr. SIKES. Mr. Chairman, many of us supported the Breaux substitute which was before us during the consideration of H.R. 1614 last week. It was narrowly defeated. The revised Breaux substitute meets many of the objectives which were offered to the original substitute last week. I believe it is a better bill than the committee bill. It is identical to the version reported by the committee insofar as is concerned amendments to the Coastal Zone Management Act. The revised Breaux substitute does not disrupt in any way Federal funds made available to States via the coastal impact fund. It increases such funds in the same measure as does the committee bill.

The revised Breaux substitute also includes, as does the committee bill, authority for the Secretary of the Interior to promulgate regulations to improve air quality over the Outer Continental Shelf.

Many of us are disturbed by the fact that the committee bill will cost U.S. taxpayers $1.325 billion in lost OCS revenues according to the Congressional Budget Office. This is because of mandated 50 percent experimental bidding systems. The Breaux substitute, on the other hand, will increase Federal OCS revenues.

Backers of the committee bill say that the oil companies have been ripping off the U.S. Treasury by obtaining OCS leases and then making windfall profits on the oil and gas produced from them. But there are provisions in the committee bill mandating experimental bidding which almost literally give OCS leases away for peanuts and only require lessees to pay the Government for leases if they produce oil and gas. The Breaux substitute, on the other hand, mandates no giveaways.

The backers of the committee reported bill also say that they are opposed to the Government getting into the offshore oil and gas business. But they include provisions in the bill authorizing Government drilling and include dual leasing as one of the new experimental bidding forms.

Dual leasing means that the Government gets drilling contractors to bid on exploration leases for a share of the benefits from subsequent production leases. Under the exploration lease phase of dual leasing the Government literally hires companies to drill when, where, and how the Government tells them to and pays them with OCS revenues which otherwise would go to the U.S. Treasury. Under the core and test drilling section of the committee bill the Government would be authorized to drill for oil and gas itself or otherwise hire companies to do it. That is getting the Government into the offshore oil and gas business.

The Breaux substitute, on the contrary, eliminates dual leasing and only allows the Government to contract for offshore drilling after the Secretary offers private industry the opportunity to do the drilling at no cost to the Government and the industry refuses to do it.

Next the backers of the committee reported bill say that they are opposed to delays in offshore oil and gas development. Then they include provisions in the committee reported bill which would add over 50 new Federal regulations to the already highly regulated OCS program and on top of that they invite citizen suits in sections 23 and 25 which would cause even further delays.

The Breaux substitute cuts down significantly on new Federal regulations while still improving environmental protection. The Breaux substitute allows, but does not encourage, citizen suits.

Finally, backers of the committee reported bill say that in their bill they regulate the majors while protecting the little companies that want to get into, or stay in, the offshore oil and gas business. Then they add provisions to the committee bill which make it nearly impossible for the small operator to survive in the offshore oil and gas business.

The delays inflate the cost of doing business offshore. Second, the delays can stretch out the time—as much as 3 to 6 years—required to deliver to consumers oil and gas produced on the OCS.

Until the oil and gas is delivered the producers do not get paid for it. Until they get paid for it they do not earn a dime on their investment.

The delays also hurt the smaller offshore service companies who—under contract to OCS lessees—do about 95% of the work that goes on offshore. The delays slow down business for the offshore service companies causing them to lay off employees.

Now the major oil companies doing business offshore can afford these inflated costs and the long delays before they start earning a return on their investment.

The independent producers and the smaller offshore service companies can not afford these delays. Because they can not afford the delays, they can not afford to do much business offshore.

That leaves the big oil companies as the only ones who have a large enough stack of chips to play in the OCS poker game. The little companies just do not have the chips.

The Breaux substitute was designed specifically to cut down on offshore delays so that the little people could afford to play. That is why some of the major oil companies are opposed to it.

The Breaux substitute also calls for experimental bidding systems to be used to help independent producers and calls for a set-aside of up to 20 percent of offshore oil production to be made available to independent refineries.

I think it is undeniable that the Breaux substitute provides a better break for the small producer. I feel that it will help in many ways to bring about increased energy supplies from the OCS. I am convinced that the Breaux substitute is a better bill for our country than the committee bill.

This is why I am going to vote for it and why I hope that a solid majority of my colleagues will join me in supporting the Breaux substitute.

MAKING IN ORDER DURING CONSIDERATION OF TITLE IV THE CONSIDERATION OF AMENDMENTS TO TITLE II

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent that it may be in order during consideration of title IV of the bill for amendment to consider amendments which insert in title II of the bill amendments to section 9 of the Outer Continental Shelf Lands Act, notwithstanding completion of consideration of title II.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Reserving the right to object, I wonder if the gentleman can explain the necessity for the request and what the amendments are.

Mr. MURPHY of New York. If the gentleman will yield, in title IV we will consider the question of revenue sharing, and the question is to bring all of those into title IV, notwithstanding that some could be offered under title II under section 9 of the OCS Lands Act of 1953.

Mr. BAUMAN. With that explanation I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. FISH. Reserving the right to object, Mr. Chairman, I am sorry. The Chairman had not discussed it with me, and I am not sure I understand it. Mr. Chairman, may I ask my chairman of my committee about the urgency. I thought he was rising to move that the Committee do now rise. Could not this request be made at the opening of our deliberations tomorrow?

Mr. MURPHY of New York. If the gentleman will yield, it would be at the convenience of the minority. This request was simply a unanimous-consent request so that we could consolidate all revenue sharing matters under title IV rather than title II, and our counsel had discussed this with the minority.

Mr. FISH. Mr. Chairman, I further reserve the right to object.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Louisiana.

Mr. TREEN. I thank the gentleman for yielding.

As I understand, there are a couple of amendments that have to do with revenue sharing that would fall in title II, and what the chairman is requesting is that those amendments be in order when we are considering title IV, as I understand the request. We are still on title II, and we will be on title II when we convene tomorrow.

Mr. MURPHY of New York. Yes. That is correct.

Mr. FISH. So I have an offer of one of the amendments and also the gentleman from New Jersey (Mr. HUGHES) is offering another amendment that this affects. We have no objection to the request.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, had come to no resolution thereon.

REQUEST THAT JOINT ECONOMIC COMMITTEE BE GRANTED EXTENSION OF TIME TO FILE A REPORT

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Joint Economic Committee be granted an extension of time from March 1, 1978, to March 31, 1978, to file a report of its findings and recommendations with respect to the economic report of the President, as required by section 5(b)(3) of Public Law 79-304.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, why do we need an extra month?

Mr. BOLLING. Mr. Speaker, if the gentleman will yield, we need an extra month not, I think, because we are going to have to take the month, but because we need the time to be sure that the Members will have an opportunity to examine the report after it is developed. We did not want to have a deadline of the 15th of March. We thought the end of March would be better for the Members.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, obviously if it is that complicated and that extensive, we need that extra month.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONFERENCE REPORT ON H.R. 3454, DESIGNATING CERTAIN ENDANGERED PUBLIC LANDS AS WILDERNESS

Mr. MEEDS. I ask unanimous consent on behalf of the gentleman from Arizona, Mr. UDALL to file a conference report and statement on the bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Washington (Mr. MEEDS)?

There was no objection.

(The conference report and statement follow:)

CONFERENCE REPORT (H. REPT. No. 95-861)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Endangered American Wilderness Act of 1978".

STATEMENT OF FINDINGS AND POLICY

SECTION 1. (a) The Congress finds that—

(1) many areas of underdeveloped national forest land possess and exhibit outstanding natural characteristics giving them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) certain of these undeveloped national forest lands meet all statutory criteria for suitability as wilderness as established by subsection 2(c) of the Wilderness Act (78 Stat. 890), but are not adequately protected and lack statutory designation pursuant to the Wilderness Act as units of the National Wilderness Preservation System;

(3) these and other undeveloped national forest lands exhibiting wilderness values are immediately threatened by pressures of a growing and more mobile population, large-scale industrial and economic growth, and development and uses inconsistent with the protection, maintenance, restoration, and enhancement of their wilderness character; and

(4) among such immediately threatened areas are lands not being adequately protected or fully studied for wilderness suitability by the agency responsible for their administration.

(b) Therefore, the Congress finds and declares that it is in the national interest that certain of these endangered areas be promptly designated as wilderness within the National Wilderness Preservation System, in order to preserve such areas as an enduring resource of wilderness which shall be managed to promote and perpetuate the wilderness character of the land and its specific multiple values for watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people of present and future generations.

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act, the following lands (hereinafter referred to as "wilderness areas"), as generally depicted on maps appropriately referenced, dated January 1978, are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(a) certain lands in the Coronado National Forest, Arizona, which comprise about fifty-six thousand four hundred and thirty acres, are generally depicted on a map entitled "Pusch Ridge Wilderness Area—Proposed", and shall be known as the Pusch Ridge Wilderness;

(b) certain lands in the Inyo and Sequoia National Forests, California, which comprise about three hundred and six thousand acres, are generally depicted on a map entitled "Golden Trout Wilderness Area—Proposed", and shall be known as the Golden Trout Wilderness;

(c) certain lands in and adjacent to the Los Padres National Forest, California, which comprise about twenty-one thousand two hundred and fifty acres, are generally depicted on a map entitled "Santa Lucia Wilderness Area—Proposed", and shall be known as the Santa Lucia Wilderness: *Provided*, That the tract identified on said map as "Wilderness Reserve" is designated as wilderness, subject only to the removal of the existing and temporary nonconforming improvement, at which time the Secretary of Agriculture (hereinafter referred to as the "Secretary") is directed to publish notice thereof in the Federal Register. Pending such notice, and subject only to the maintenance of the existing nonconforming improvement, said tract shall be managed as wilderness in accordance with section 5 of this Act. In order to guarantee the continued viability of the Santa Lucia watershed and to insure the continued health and safety of the communities serviced by such watershed, the management plan for the Santa Lucia area to be prepared following designation as wilderness shall authorize the Forest Service to take whatever appropriate actions are necessary for fire prevention and watershed protection including, but not limited to, acceptable fire presuppression and fire suppression measures and techniques. Any special provisions contained in the management plan for the Santa Lucia Wilderness area shall be incorporated in the planning for the Los Padres National Forest: *Provided*, That the Forest Service is authorized to continue fire presuppression, fire suppression measures and techniques, and watershed maintenance pending completion of the management plan for the Santa Lucia area;

(d) certain lands in the Los Padres National Forest, California, which comprise about sixty-one thousand acres, are generally depicted on a map entitled "Ventana Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of, the Ventana Wilderness as designated by Public Law 91-58. In order to guarantee the continued viability of the Ventana watershed and to insure the continued health and safety of the com-

munities serviced by such watershed, the management plan for the Ventana area to be prepared following designation as wilderness shall authorize the Forest Service to take whatever appropriate actions are necessary for fire prevention and watershed protection including, but not limited to, acceptable fire presuppression and fire suppression measures and techniques. Any special provisions contained in the management plan for the Ventana Wilderness area shall be incorporated in the planning for the Los Padres National Forest:

(e) certain lands in the White River National Forest, Colorado, which comprise approximately seventy-four thousand four hundred and fifty acres, are generally depicted as area "A" on a map entitled "Hunter-Fryingpan Wilderness Area—Proposed", and shall be known as the Hunter-Fryingpan Wilderness. The area commonly known as the "Spruce Creek Addition", depicted as area "B" on said map and comprising approximately eight thousand acres, shall, in accordance with the provisions of subsection 3(d) of the Wilderness Act, be reviewed by the Secretary as to its suitability or nonsuitability for preservation as wilderness. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Spruce Creek area as wilderness not later than two years from the date of enactment of this Act. Subject to valid existing rights, the wilderness study area designated by this subsection shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. No right, or claim of right, to the diversion and use of the waters of Hunter Creek, the Fryingpan or Roaring Fork Rivers, or any tributaries of said creeks or rivers, by the Fryingpan-Arkansas Project, Public Law 87–590, Eighty-seventh Congress, and the reauthorization thereof by Public Law 93–493, Ninety-third Congress, under the laws of the State of Colorado, shall be prejudiced, expanded, diminished, altered, or affected by this Act. Nothing in this Act shall be construed to expand, abate, impair, impede, or interfere with the construction, maintenance, or repair of said Fryingpan-Arkansas Project facilities, nor the operation thereof, pursuant to the Operating Principles, House Document Numbered 130, Eighty-seventh Congress, and pursuant to the water laws of the State of Colorado;

(f) certain lands in the Cibola National Forest, New Mexico, which comprise about thirty-seven thousand acres, are generally depicted on a map entitled "Manzano Mountain Wilderness Area—Proposed", and shall be known as the Manzano Mountain Wilderness;

(g) certain lands in Cibola National Forest, New Mexico, which comprise about thirty thousand nine hundred and thirty acres, are generally depicted on a map entitled "Sandia Mountain Wilderness Area (North and South Units)—Proposed", and shall be known as the Sandia Mountain Wilderness;

(h) certain lands in the Santa Fe and Carson National Forests, New Mexico, which comprise approximately fifty thousand three hundred acres, are generally depicted on a map entitled "Chama River Canyon Wilderness Area—Proposed", and shall be known as the Chama River Canyon Wilderness;

(i) certain lands in Wasatch and Unita National Forests, Utah, which comprise about twenty-nine thousand five hundred and sixty-seven acres, are generally depicted on a map entitled "Lone Peak Wilderness Area—Proposed", and shall be known as the Lone Peak Wilderness: *Provided*, That the Forest Service is directed to utilize whatever sanitary facilities are necessary (including but not limited to vault toilets, which may require service by helicopter) to insure the continued health and safety of the communities serviced by the Lone Peak watershed; furthermore, nothing in this Act shall be construed to limit motorized access and road maintenance by local municipalities for those minimum maintenance activities necessary to guarantee the continued viability of whatsoever watershed facilities currently exist, or which may be necessary in the future to prevent the degradation of the water supply in the Lone Peak area;

(j) certain lands in the Medicine Bow National Forest, Wyoming, which comprise about fourteen thousand nine hundred and forty acres, are generally depicted on a map entitled "Savage Run Wilderness Area—Proposed", and shall be known as the Savage Run Wilderness; and

(k) certain lands in Lolo National Forest, Montana, which comprise approximately twenty-eight thousand four hundred and forty acres are generally depicted on a map entitled "Welcome Creek Wilderness Area—Proposed", and shall be known as the Welcome Creek Wilderness.

OREGON OMNIBUS WILDERNESS ACT OF 1978

SEC. 3. In furtherance of the purposes of the Wilderness Act, the following lands (hereinafter referred to as "wilderness areas") as generally depicted on maps appropriately referenced, dated January 1978, are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(a) certain lands in the Siskiyou National Forest, Oregon, which comprise about ninety-two thousand acres, are generally depicted on a map entitled "Kalmiopsis Wilderness Additions—Proposed", and which are hereby incorporated in and shall be deemed to be a part of the Kalmiopsis Wilderness as designated by Public Law 88–577;

(b) certain lands in the Siskiyou National Forest, Oregon, which comprise about thirty-six thousand seven hundred acres, are generally depicted on a map entitled "Wild Rogue Wilderness—Proposed", and shall be known as the Wild Rogue Wilderness: *Provided*, That the portion of the segment of the Rogue River designated as a component of the National Wild and Scenic Rivers System by section 3(a)(5) of the Wild and Scenic River Act (82 Stat. 906, as amended) which lies within the Wild Rogue Wilderness shall be managed as a wild river notwithstanding section 10(b) of that Act or any provisions of the Wilderness Act to the contrary:

(c) certain lands in the Umatilla National Forest, Oregon and Washington, which comprise about one hundred and eighty thousand acres, are generally depicted on a map entitled "Wenaha-Tucannon Wilderness—Proposed", and shall be known as the Wenaha-Tucannon Wilderness;

(d) certain lands in the Mount Hood National Forest, Oregon, which comprise about thirty-three thousand acres, are generally depicted on a map entitled "Mount Hood (Zig Zag) Proposed Wilderness Additions", and which are hereby incorporated in, and shall be deemed to be a part of the Mount Hood Wilderness as designated by Public Law 88–577; and

(e) certain lands in the Willamette National Forest, Oregon, which comprise about forty-five thousand four hundred acres, are generally depicted on a map entitled "French Pete Creek and Other Proposed Additions, Three Sisters Wilderness", and which are hereby incorporated in, and shall be deemed to be a part of, the Three Sisters Wilderness as designated by Public Law 88–577.

GOSPEL-HUMP AREA

SEC. 4. (a)(1) In furtherance of the purposes of the Wilderness Act, certain lands in the Nezperce National Forest, Idaho, which comprise about two hundred and six thousand acres, as generally depicted under the category "Wilderness" on a map entitled "Gospel-Hump Planning Unit" and dated January 1978, are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System.

(2) Certain other contiguous roadless lands which comprise about ninety-two thousand acres, as generally depicted on said map as "Management Areas" shall be managed in accordance with the multipurpose resource development plan required by this section.

(3) Certain other contiguous roadless lands which comprise about forty-five thousand acres, as generally depicted on said map as "Development Areas" shall be immediately available for resource utilization under the existing applicable Forest Service land management plans.

(b)(1) Within ninety days after enactment of this Act, the Secretary shall appoint a seven-member Advisory Committee (hereinafter referred to as the "Committee") on the management of the Gospel-Hump Area who shall advise the Secretary as to the progress of the fish and game research program, and the multipurpose resource development plan required by this section, and who shall evaluate the results of the research program and development plan on an ongoing basis.

(2) The Committee shall be comprised of two members of the timber industry who purchase timber from the Nezperce National Forest, two members from organizations who are actively engaged in seeking the preservation of wilderness lands, and three members from the general public who otherwise have a significant interest in the resources and management of the Gospel-Hump Area.

(3) Committee members shall serve without pay except that while away from their homes or regular places of business in performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703(b) of title 5 of the United States Code.

(4) The Secretary shall provide that the Committee shall meet as soon as practicable after all the members are appointed, but in no case later than one hundred and fifty days after the enactment of this Act. Subsequently, the Committee shall meet every one hundred and eighty days, or as often as the Secretary deems necessary.

(5) The Committee shall terminate one hundred and fifty days after transmittal of the completed multipurpose resource development plan required under this section.

(c)(1) The Secretary shall cooperate with agencies and institutions of the State of Idaho, and with the Secretary of the Interior, in conducting a comprehensive fish and game research program within the Gospel-Hump Area and surrounding Federal lands in north-central Idaho. The Secretary shall assure that this research program includes detailed investigations concerning resident and anadromous fisheries resources (including water quality relationships) and the status, distribution, movements, and management of game populations, in order to provide findings and recommendations concerning integration of land management and development with the protection and enhancement of these fish and game resources.

(2) To carry out the comprehensive fish and game research program, the Secretary is authorized to make grants of funds to agencies and institutions of the State of Idaho and to provide the assistance of personnel from agencies under his jurisdiction.

(3) The Secretary shall assure that the comprehensive fish and game research program is scheduled and progressing on a timely basis so that findings and recommendations are fully integrated in preparation of the multipurpose resource development plan required by this section.

(d)(1) Within four years after enactment of this Act, the Secretary shall implement a multipurpose resource development plan for development of the Federal lands identified on the map referenced in this section as "Management Areas".

(2) The multipurpose resource development plan shall comply with the provisions of the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 1601) as amended, and shall conform in all respects to the provisions of the National Forest Management Act of 1976 (90 Stat. 2949; 16 U.S.C. 1600), including the regulations, guidelines, and standards promulgated pursuant to those Acts. In preparing the multipurpose resource development plan, the Secretary shall take particular care to gather and integrate detailed field data on soil types and soil hazards, and to consider timber volumes, timber site classes, and productivity. The current findings and recommendations of the comprehensive fish and game research program and other available information shall be integrated into the preparation of the multipurpose resource development plan. The multipurpose resource development plan may be periodically revised to accommodate new information as it becomes available.

(3) In preparing the multipurpose resource development plan, the Secretary shall assure adequate public involvement, and he shall make full use of the recommendations of the Committee established by this section.

(4) One year after the date of enactment of this Act and every year thereafter, the Secretary shall review the multipurpose resource development plan being prepared in accordance with this section to determine which lands, if any, might be scheduled for development prior to the completion of the final multipurpose resource development plan.

(5) The Secretary shall publish a notice of the completion of the multipurpose resource development plan or a portion thereof in the Federal Register and shall transmit it to the President and to the Senate and House of Representatives. The completed multipurpose resource development plan or relevant portions thereof shall be implemented by the Secretary no earlier than ninety days and no later than one hundred and fifty calendar days from the date of such transmittal.

(e) The Secretary shall prepare a wilderness management plan for the Gospel-Hump Wilderness designated pursuant to this section, taking into account the findings of the comprehensive fish and game research program.

(f) Within thirty days after the date of enactment of this Act, the Secretary shall include the timber resources on the lands identified on the map referenced in this section as "Development Areas" and "Management Areas" within the annual allowable timber harvest level for the Nezperce National Forest.

(g) Nothing in this Act shall prevent within the Gospel-Hump Wilderness Area any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary, the Gospel-Hump Wilderness Area shall be surveyed on a planned recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present, and the results of such surveys shall be made available to the public and submitted to the President and the Congress.

(h) There are hereby authorized to be appropriated after October 1, 1978, such funds as may be necessary to carry out the comprehensive fish and game research program and the multipurpose resource development plan authorized under this section. Appropriations requests by the President to implement the multipurpose resource development plan shall express in qualitative and quantitative terms the most rapid and judicious manner and methods to achieve the purposes of this Act. Amounts appropriated to carry out this Act shall be expended in accordance with the Budget Reform and Impoundment Control Act of 1974 (88 Stat. 297).

ADMINISTRATION OF WILDERNESS AREAS

SEC. 5. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act: *Provided further*, That with respect to the Gospel-Hump Wilderness Area designated by section 4(a)(1) of this Act, all references under section 4(d)(3) of the Wilderness Act of 1964 to December 31, 1983, shall be deemed to be December 31, 1988, and any reference to January 1, 1984, shall be deemed to be January 1, 1989: *Provided, however*, That all activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within the Gospel-Hump Wilderness Area shall be subject to regulations prescribed by the Secretary as he deems necessary or desirable for the preservation and management of this area.

FILING OF MAPS AND DESCRIPTIONS

SEC. 6. As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

And the Senate agree to the same.

MO UDALL,
BOB KASTENMEIER,
TENO RONCALIO,
JIM WEAVER,
BRUCE F. VENTO,
JAMES P. JOHNSON,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
JAMES ABOUREZK,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

1. FINDINGS

Both the House bill and the Senate amendment contain a section setting out congressional findings relative to the need to add lands to the National Wilderness Preservation System. Differences between the two versions are very minor and the conferees agreed to adopt the Senate language.

2. DESIGNATION OF WILDERNESS AREAS

A. Pusch Ridge, Ariz.

Both the House bill and the Senate amendment designate a 56,530 acre Pusch Ridge Wilderness.

B. Golden Trout, Calif.

The House bill designates a 179,625 acre wilderness while the Senate amendment would designate a 333,100 acre area as wilderness. The conference substitute adopts the Senate acreage with two exclusions. The deletions include some 6,100 acres in the Burro Creek/North Alder Creek area and approximately 21,000 acres south of Soda Creek including Bonita Flats and the Rattlesnake Creek drainage. The final Golden Trout wilderness agreed to by the conferees totals approximately 306,000 acres.

Prior to the first meeting of the conferees, the city of Los Angeles raised several questions with regard to the eastern boundary of the proposed Golden Trout wilderness. Specifically, there was some concern expressed that the eastern boundary of the wilderness proposed by the Senate amendment extended in to the Los Angeles Aqueduct and incorporated a related intake facility. Upon careful examination of a more accurate map of the area, it is clear that the boundary does not extend into the aqueduct nor does it encompass the intake facility. A similar concern was raised by the city of Los Angeles with regard to the Owens George power transmission line. However, the eastern boundary of the wilderness as proposed in the Senate amendment and adopted in the conference substitute does not interfere with the power line. It is the view of the conferees that these facilities will not be affected in any way by wilderness designation for the Golden Trout area.

The city of Los Angeles also requested that the access road to the Horseshoe Meadows area be excluded from the wilderness. The conferees noted that the Senate, in approving the 333,100 acre wilderness, made minor boundary adjustments in the Horseshoe Meadows area especially to exclude the access road and right-of-way to the Meadows. These adjustments were adopted in the conference substitute.

Although the issue is discussed on page 7 of House Report 95–540, accompanying H.R. 3454, the conferees would again stress that the snow pillow facilities operated by the city of Los Angeles within the proposed Golden Trout Wilderness are compatible with wilderness designations and may be monitored and maintained in accordance with past practices.

In agreeing to the approximate 21,000-acre deletion in the Rattlesnake Creek drainage area, the conference committee noted that some 21 million board feet of timber located in roadless lands in the vicinity of Bonita Flat, Lion Meadows, and Beach Meadows has been recently burned over. In the view of the conferees, the Forest Service should make every effort to offer this timber in a salvage sale as soon as feasible, if such a sale is found to be in the interest of sound multiple-use management.

During the hearings in both bodies on H.R. 3454, some concern was expressed that wilderness designation for the Golden Trout area might place constraints on the efforts of Federal and State officials to protect and

propagate the rare golden trout (especially the Little Kern Golden Trout) which inhabits the area. The conferees agree with the language of page 7 of House Report 95–540 which states:

Fisheries enhancement activities and facilities are permissible and often highly desirable in wilderness areas to aid in achieving the goal of "preserving the wilderness character of the area" as stated in section 4(b) of the Wilderness Act. Such activities and facilities include fish traps, stream barriers, aerial stocking, and the protection and propagation of rare species.

C. Santa Lucia, Calif.

Both the House bill and the Senate amendment would designate a 21,250 acre Santa Lucia wilderness.

The conferees emphasized the fact that the 115 KV transmission line which bisects the proposed wilderness may be maintained in a manner consistent with past practices. The conferees also agree that when the permit for this 115 KV facility expires in the year 2001, the language of the bill does not require the Secretary to refuse to renew the utility's easement, and in no way constrains him from exercising his authority to renew the easement at that time if he feels it is appropriate to do so. The wilderness "reserve" delineated in the bill will be automatically included in the wilderness if the transmission line is ever removed.

D. Ventana Additions, Calif.

The House bill would add 61,080 acres to the existing Ventana Wilderness while the Senate amendment adds 61,000 acres.

The Senate amendment excluded 75 acres including the summit of Junipero Sierra Peak plus a corridor for an access road in order to allow for the possible future construction of an astronomical observatory on this site. An additional exclusion of 5 acres was approved by the Senate amendment in order to permit vehicular access over a route of one-half to one mile long to the property of Dr. Gerald Petkins who is in the process of establishing a modest facility for treating and sheltering injured wildlife.

The conference substitute adopts the provisions of the Senate amendment.

E. Hunter-Fryingpan, Colo.

The House bill would designate a 68,000 acre Hunter-Fryingpan Wilderness while the Senate amendment made two additions to the proposed wilderness totaling approximately 14,000 acres.

The conference substitute designates an area of approximately 74,150 acres as wilderness and provides for a wilderness study of the 8,000-acre Spruce Creek area. The Secretary is directed to complete his review and the President is to submit his recommendation with respect to designation of the Spruce Creek area as wilderness not later than two years from the date of enactment of this Act. Subject to valid existing rights, and until Congress determines otherwise, the wilderness study area is to be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

F. Manzano Mountain, N. Mex.

Both the House bill and the Senate amendment would designate a 37,000 acre Manzano Mountain Wilderness.

G. Sandia Mountain, N. Mex.

Both the House bill and the Senate amendment would designate a 30,930 acre Sandia Mountain Wilderness.

H. Chama River Canyon, N. Mex.

Both the House bill and the Senate amendment would designate a 50,300 acre Chama River Canyon Wilderness.

I. Lone Peak, Utah

Both the House bill and the Senate amendment would designate a 29,567 acre Lone Peak Wilderness.

J. Galiuro Additions, Ariz.

The House bill would designate a 55,210 acre addition to the existing Galiuro wilderness. The Senate amendment contains no such provision.

The conference committee agreed to accept the Senate position and delete the proposed additions from the bill. In so doing, the conferees recognize that the administration has recommended that the area be added to the wilderness, and stress that its deletion from H.R. 3454 should in no way be construed as prejudicing the possible future inclusion of the 55,210 acre area, and/or any contiguous roadless areas, in the Wilderness System. However, in order to allow for a reconsideration of precise boundaries and possible conflicting uses in portions of the area, the conference committee requests that the Forest Service initiate a study, with local public input, to expeditiously reevaluate its wilderness recommendation with a view toward determining whether certain boundary adjustments might be appropriate.

Of course, as with all roadless areas under wilderness study and review, the conferees expect that area will be managed so as to preserve presently existing wilderness characteristics and thereby protect Congress prerogative to make the final wilderness boundary determinations.

K. Welcome Creek, Mont.

The House bill designates a 28,400-acre wilderness. The Senate amendment has no Welcome Creek provision.

The conference substitute adopts the House provision and includes the area.

L. Savage Run, Wyo.

The House bill designates a 14,940-acre Savage Run Wilderness. The Senate amendment has no Savage Run provision.

The conference substitute adopts the House provision and includes the area. Descriptions of both the Welcome Creek and Savage Run areas can be found in House Report 95–540.

3. OREGON OMNIBUS WILDERNESS ACT

On June 20, 1977, the Senate passed S. 658, the Oregon Omnibus Wilderness Act. The Senate amendment to H.R. 3454 incorporates several provisions of S. 658 and retains the title of the Senate passed bill.

The House passed bill does not make specific reference to the Oregon Omnibus Wilderness Act.

The conference substitute adopts the Senate approach and incorporates the various proposed Oregon wilderness areas in a separate Oregon section.

A. Kalmiopsis Additions, Oreg.

The House bill designates a 280,000 acre addition to the existing Kalmiopsis Wilderness. The Senate amendment would increase the present wilderness by approximately 82,400 acres.

The conference substitute designates an area of approximately 92,000 acres for addition to the existing Kalmiopsis Wilderness. This area consists of the 82,400 acres contained in the Senate amendment and an additional area comprising some 10,000 acres south of the proposed Senate addition.

In agreeing to enlarge the Kalmiopsis Wilderness by 92,000 acres, the conferees recognize that additional acreage of roadless land surrounds this area. Much of this contiguous land was included in the House-passed bill and should be considered by the Forest Service in its Roadless Area Review and Evaluation program (RARE II).

In excluding the additional lands in the House-passed bill from the present wilderness additions, the conference committee stresses that it does not intend to prejudice further consideration of the wilderness suitability of these lands nor to prejudge in any way the possibility that some additional acreage may be proposed at a later time for addition to the enlarged Kalmiopsis Wilderness. The conferees direct that these lands be considered in the RARE II program.

B. Wild Rogue, Oreg.

The House bill designates a 38,200 acre Wild Rogue Wilderness. The Senate amendment contains no comparable provision.

The conference substitute designates a Wild Rogue Wilderness comprising approximately 36,700 acres. The conferees agreed to delete some 1,500 acres from the House proposal to exclude several areas which have recently been timbered.

The conferees also agreed to adopt a provision making it clear that the portion of the Wild Rogue wild and scenic river which flows through the proposed wilderness will continue to be managed as a wild river in accordance with the provisions of the Wild and Scenic Rivers Act, not withstanding any provisions of that act or the Wilderness Act to the contrary.

The conferees noted that the Wild Rogue Wilderness Area and the additions to the Kalmiopsis Wilderness Area as proposed in the conference substitute include certain acreages of Oregon and California revested grant lands that are congressionally dedicated to commercial forest production and are managed by the Bureau of Land Management and the U.S. Forest Service. The fact that these special act lands which are intermingled with national forest lands are now designated as wilderness should not be considered as precedent setting. They are included because of their own unique wilderness qualities when combined with other Federal lands.

C. Wenaha-Tucannon, Oreg./Wash.

The House bill designates a 175,000 acre Wenaha-Tucannon Wilderness while the Senate amendment proposes a 185,000 acre wilderness.

The conference substitute designates a 180,000 acre wilderness, deleting approximately 5,700 acres from the Senate amendment and adding approximately 700 acres. The deletion consists of 3 parcels; the approximately 3,300 acre Bear Canyon area and two portions of the Wenaha Breaks area totalling approximately 2,400 acres. The addition eliminates an error in the Senate map and adopts the House boundary which adds approximately 700 acres to the wilderness by correctly placing the boundary line in the northwest portion of the proposed wilderness along Big Turkey Tail Ridge rather than along the Turkey Creek stream bottom.

During congressional consideration of possible wilderness designation in the Wenaha-Tucannon area of the Umatilla National Forest, it has become clear that this portion of the forest contains a multitude of resources. Not only do the lands contiguous to the proposed Wenaha-Tucannon Wilderness, as approved by the conference committee, embrace many merchantable stands of timber, but these lands are important habitat for Rocky Mountain Elk as well.

The conference, after some deliberation, felt that it was possible to allow some logging in those portions of the Upper Tucannon Roadless Area of the Oregon Butte Planning Unit (as referenced in the U.S.D.A. Forest Service Final Environmental Statement for the Oregon Butte Planning Unit, dated April 22, 1977), lying outside of the boundaries of the Wenaha-Tucannon Wilderness proposed in H.R. 3454, if certain prescriptions were followed to minimize the effects of such

logging activities on the region's resident and migratory elk populations. Thus, the Secretary of Agriculture is directed to manage the above-mentioned areas for multiple-use purposes and to allow such logging activities provided that:

1. All roads built into these areas for the purpose of timber harvesting are to be designed and built to minimize soil disturbance and the possible adverse effects of these roads on fish and wildlife populations, including but not limited to:

a. constructing and maintaining such roads at the minimum widths necessary to safely accommodate logging trucks, but in no case wider than 12 feet on the running surface;

b. maintaining standards of alignment, and grade that will allow these roads to follow, as nearly as possible, the contours of the land with a minimum of excavation and earth movement to accomplish the construction; and

c. installing the types and quantities of drainage structures associated with these roads which will continue to function properly for several years without periodic maintenance.

2. Roads built into timber harvest areas shall be closed to all motorized use during the interim period between each harvesting or reforesting operation, unless needed in emergency situations for the protection of life or property. During the closure periods, measures shall be taken to ensure that motorized vehicles cannot enter onto or travel upon these roads. These measures are to include steel gates with suitable locks. In addition, roads shall be treated in these closure periods so as to minimize the danger of soil erosion. Erosion control measures to be taken might include, but need not be limited to:

a. revegetation of the roadbed with herbaceous species,

b. outsloping,

c. crossditching,

d. covering with logging slash, and

e. hand maintenance of drainage structures.

3. Timber harvest activities are not to be permitted in these areas during the months of October and November, or during the elk calving season in the spring.

4. The roads built into timber harvest areas be permanently closed at the conclusion of logging and reforestation activities and suitable measures shall be taken to assure their revegetation, and continued closure to motorized vehicle use.

5. No clearcuts shall be permitted within these areas.

Both the House and Senate recognized and approved of the long established use of much of the Wenaha-Tucannon area for hunting. Although wilderness designation does not affect hunting activity per se, the conferees want to emphasize the importance of this use in the Wenaha-Tucannon area and make clear that congressional intent is that Forest Service management policies, when at all possible, should make allowance for and not conflict with this activity. Established rustic shelters or structures, in particular, should not be disturbed. The use and some limited maintenance of these existing structures should be allowed to continue until their presence creates a clear conflict with the area's wilderness values. Of course, the use of motorized vehicles and chain saws in connection with hunting activities in the proposed wildernes, will not be allowed under wildernes designation.

D. Zig Zag (Mt. Hood Additions), Oreg.

The Senate amendment to H.R. 3454 designates a 33,000-acre addition to the existing Mt. Hood Wilderness. The House bill contains no such provision.

The conference substitute adopts the Senate provision and includes the area. A description of the proposed Mt. Hood additions can be found in Senate Report 95-329.

E. French Pete, Oreg.

Both the House bill and the Senate amendment would designate a 45,400 acre French Pete Wilderness.

4. GOSPEL-HUMP AREA, IDAHO

The Senate amendment to H.R. 3454 contains a section detailing wilderness designation and additional management direction for the Gospel-Hump area in north-central Idaho. Under the provisions of the Senate amendment, a 206,000 acre Gospel-Hump wilderness would be designated. An additional 92,000 acres of contiguous land classified by map reference as "management areas" are to be managed in accordance with a multipurpose/resource development plan for the area also required by the Senate amendment. Finally, an additional 45,000 acres of land contiguous to the proposed wilderness area are classified by map reference as "development areas" and are to be available for immediate resource utilization in accordance with existing applicable Forest Service land management plans.

The Senate amendment also provides for a seven-member advisory committee on the management of the Gospel-Hump area and directs the Secretary of Agriculture to conduct, in addition to the multipurpose resource plan, a comprehensive fish and game research program for the Gospel-Hump area and surrounding Federal lands in north-central Idaho.

The House bill does not include a Gospel-Hump provision.

The conference substitute adopts the Senate language concerning Gospel-Hump with one exception. The conferees agreed to delete those portions of subsection 4(e) of the Senate amendment giving the Secretary the authority to permit, under certain very limited conditions, the use of snowmobiles along a single trail across the northern portion of the proposed Gospel-Hump Wilderness. While the conferees recognized the fact that this use was to be extremely limited, it was felt that such a provision could establish a precedent for more extensive snowmobile or other motorized vehicular use within other units of the National Wilderness Preservation System; and, that such a precedent should not be established.

In this context, it is the intent of the conferees that the three established roads (outside the proposed 206,000-acre Wilderness) which currently provide access to the high country—the Gospel Peak-Square Mountain Road on the west; the Wild Horse Lake Road on the east; and the Sourdough Peak Road on the north will continue to serve this important function and remain open for their traditional uses—including snowmobile use. These roads are to be marked for snowmobile travel during the winter months. The maintenance of these three roads during other times of the year is to be specifically provided for in the wilderness management plan to be developed by the Forest Service for the proposed Gospel-Hump Wilderness.

5. ADMINISTRATION OF WILDERNESS AREAS

Both the House bill and the Senate amendment contain sections regarding the management of the proposed wilderness areas. Although both versions are very similar, the conference substitute adopts the Senate language as it extends the deadline for location of mining claims contained in the Wilderness Act for a 5-year period with regard to Gospel-Hump. The Senate language also extends for 5 years the date on which minerals in the Gospel-Hump area are no longer available for appropriation under the mining laws.

6. FILING OF MAPS AND LEGAL DESCRIPTIONS

Both the House bill and the Senate amendment contain identical language with regard to the filing of official maps and descriptions of the various areas and the authority of the Secretary to correct typographical errors that may be present in such maps.

It is with deep sadness that the conferees note the passing of our colleague and friend Senator Lee Metcalf, who, at the time of his death was a member of this conference. He was one of the sponsors of the original wilderness bill in 1956 and played a leading role in enactment of the Wilderness Act in 1964. Senate Metcalf's long-time dedication to the protection of our precious wildernes areas will be long remembered.

MO UDALL,
BOB KASTENMEIER,
TENO RONCALIO,
JIM WEAVER,
BRUCE F. VENTO,
JAMES P. JOHNSON,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
JAMES ABOUREZK,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

PAYMENT OF OPERATION AND MAINTENANCE CHARGES ON CERTAIN PUEBLO INDIAN LANDS

Mr. MEEDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2719) to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, after "That" insert "(a)".

Page 1, line 3, strike out "(49 Stat. 887)" and insert "(Ch. 745, 49 Stat. 887)".

Page 1, line 4, strike out "(52 Stat. 779)" and insert "(Ch. 525, 52 Stat. 779)".

Page 1, line 5, strike out "(60 Stat. 121)" and insert "(Ch. 219, 60 Stat. 121)".

Page 1, line 6, strike out "(70 Stat. 221)" and insert "(Public Law 546, 70 Stat. 221)".

Page 1, lines 6 and 7, strike out "(79 Stat. 285)" and insert "(Public Law 89-94, 79 Stat. 285)".

Page 1, after line 8, insert:

"(b) The Secretary of the Treasury is authorized and directed to make payments under the authority of the Act amended by Subsection (a) of this Act for all such periods between the date of expiration or lapse of such Act and the date of enactment of this Act."

Mr. MEEDS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Speaker, I will be pleased to explain the amendment of the Senate. As my colleagues will remember the purpose of H.R. 2719 is to provide continuing authority for the Secretary of the Interior to reimburse the Middle Rio Grande Conservancy District of New Mexico for actual costs incurred in operating and maintaining its irrigation delivery system for service to Indian-owned lands. This is a practice that goes back to the beginning of the project in the 1940's.

The Secretary's previous authority to make this reimbursement expired on December 31, 1974, and there was no legislative authorization for the required appropriations for fiscal years 1975 through 1977. Despite this lack of authority, the Congress appropriated the funds for the reimbursement in each of those fiscal years and they are available for disbursement in the account of the Bureau of Indian Affairs. Realizing that such funds had, indeed, been appropriated and no further legislative authority was needed with respect to them, the bill as passed in the House made no reference to the prior 3 fiscal years.

For some reason, not completely clear, the Senate saw fit to amend H.R. 2719 to specifically direct the Secretary of the Treasury to disburse these funds. This is a harmless amendment, albeit an unnecessary one, and I recommend that it be agreed to.

It should also be noted that the Senate amendment also amended the statutory citations found in the House bill by adding the chapter number in each instance. I likewise recommend that this aspect of the amendment be agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

B–1 AIRCRAFT NO. 5 AND NO. 6; PRESERVING A NECESSARY OPTION

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, later this week, the Senate is expected to resume consideration of the supplemental appropriations bill and their amendment proposing "deappropriation" of fiscal year 1977 moneys for production of B–1 aircraft No. 5 and No. 6.

In December, the House rejected a motion to accept the Senate deappropriation measure. I believe it essential that the House maintain its position. B–1 aircraft No. 5 and No. 6 must be built if the United States is to have at least an option to someday produce an advanced manned bomber.

Proponents of the Senate deappropriation amendment offer the misleading assertion that this amendment affects the entire B–1 program, and that their amendment amounts to a yes or no decision on the program. This is not true. The simple issue is whether the United States will proceed with, to completion, two aircraft put into production in fiscal year 1977, which are presently approximately one-third completed.

Completing aircraft No. 5 and No. 6 will provide, through 1979, some B–1 production capability. Why do we need any production capability; has not the administration determined that the United States does not need an advanced manned bomber? Well, while the administration has no present plans to begin production of the B–1, it is important that some option for possible production be maintained. In an October letter to several Members of this body, President Carter stated:

> The penetrating bomber continues to be part of our strategic triad. While I hope that it will not be necessary to produce a new aircraft, it is conceivable, though not likely, that future developments would necessitate such action.

The important point here is that even President Carter refuses to slam shut, the door on the B–1. If problems develop in the cruise missile program, or there are difficulties in maintaining the B–52's, it may be necessary to produce an advanced manned bomber. It is logical, that if such production is necessary the aircraft developed be the B–1. No other strategic system on the drafting board, or in the inventory, is as advanced as the B–1 program.

Even while the United States decides whether to build two B–1 aircraft, the Central Intelligence Agency reports that the Soviet Union continues to exceed U.S. spending for defense. Last week, a CIA research paper on U.S./U.S.S.R. defense spending was made public. The conclusion of their report was that for the period 1967–77, the Soviets had an average of about 3 percent compound growth each year, while U.S. outlays has steadily declined.

Perhaps as important as over-all defense spending, is money invested in research, design, testing, and evaluation. While U.S. outlays for R.D.T. & E. have declined steadily, Soviet expenditures in this area are described as "large and growing," by the CIA.

Somewhere up in the frozen tundra of the Canadian wilderness, a search team has discovered fragments, radioactive pieces, of a Soviet reconnaissance satellite. The crashing to Earth of this device, makes very clear, our vulnerability to any missile returning from space. American and Canadian authorities had known for weeks that the orbit of the Soviet vehicle was decaying, and that the satellite would be returning.

Yet, even though the authorities knew that the satellite would be returning to Earth, there was no defense or effective way to prevent its fall. Were it a warhead, instead of a reconnaissance satellite, persons in the northwestern section of North America would have been vulnerable.

The only means presently available to us, to prevent the initiation of hostilities is through the establishment of a creditable strategic deterrent. Unfortunately, in not proceeding with the B–1, while the Soviet continue to spend their spending for R.D.T. & E., general force levels, and strategic systems, one of the most essential components in our strategic deterrent has been removed from our inventory.

Building B–1 aircraft No. 5 and No. 6 simply provides another option available to our country, should a determination be made that an advanced manned bomber is necessary.

Another area of concern to me, is the manner in which this fiscal year 1977 deappropriation has been pursued. When this matter is finally resolved, one casualty will most certainly be the Budget Impoundment Control Act.

The Senate amendment in question has been referred to, incorrectly, as a rescission. While a rescission is always a deappropriation, a deappropriation is not always a rescission.

Under the Budget Impoundment Control Act of 1974 (Public Law 93–344) a very specific and clear procedure has been established for the rescission of budget authority. Section 1012(B) of the Impoundment Act states:

> Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in a special message shall be made available unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved.

The language is clear enough, the President presents a special rescission message to the Congress requesting that a rescission of existing budget authority be made. Congress then has a 45-day period, during which they can agree to the rescission by approving a rescission bill. They may reject the proposed rescission by voting down a rescission bill, or by simply not acting on the rescission message. In either case, the law is quite specific. The money shall be made available "unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill."

On June 30, 1977, President Carter announced that he would not proceed with production of the B–1, and that afternoon, the Air Force issued "stop-work" orders to the major contractors. On July 6, 1977, the Air Force formally terminated all B–1 contracts.

Now, as I understand the Impoundment Act, a rescission bill should have been presented to Congress the moment the Air Force terminated the B–1 contracts. Instead, the President did not present his rescission message until almost 2 weeks later, on July 19, when he requested rescission of $462 million for unobligated budget authority remaining from the fiscal year 1977 B–1 appropriation.

With the rescission message submitted on July 19, 1977, the 45-day period of continuous congressional session, during which a rescission bill could be considered and enacted, expired on October 4, 1977.

During the prescribed 45-day period, the House Appropriations Committee rejected the proposed B–1 rescission. By a vote of 34 to 21, the committee voted down the requested rescission. On a subsequent vote they also rejected a motion to report the rescission bill unfavorably.

Thus, we reached October 4, 1977, without passage of the necessary legislation. Now one of the first questions to arise is, has the Air Force been complying with the Impoundment Act since the October 4 rescission milestone? I think the answer is no. The Air Force, the Office of Management and Budget have violated both the spirit and letter of the

Impoundment Act by not providing sufficient funds to resume work on aircraft No. 5 and No. 6.

In the period between the awarding of the contract for aircraft No. 5 and No. 6 and No. 7, in December 1976, and the President's termination decision in July 1977, the Air Force made $160 million in B–1 contract payments for work on those three aircraft.

After the October 4 milestone, B–1 expenditures were: $88,000 for October 1977; $100,000 for November 1977; $1.8 million for December 1977; and, for January 1978, $3.5 million.

The Air Force maintains that the obligation of this money is preparatory to resuming B–1 production. However, the General Accounting Office has stated that the contractors needed at least $10 million in the first 30 days following the rescission milestone to reinstitute production, and another $15 million during the next 30-day period. Had this funding level been met, B–1 contractors would have received at least $25 million. Instead they have received less than $6 million. Hardly a trickle.

Instead of resolving this matter under the existing statutes, the administration has succeeded only in compromising the legitimacy of the Impoundment Act.

After all this confusion, the only reasonable decision is to complete B–1 aircraft No. 5 and No. 6.

ECONOMIC PLIGHT OF THE AMERICAN FARMER

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, today the economic plight of the American farmer is at its lowest level since the depth of the depression. Every week hundreds of farms across this country go out of business—driven out of business because of disastrously low farm prices coupled with the high cost of production.

I am concerned, Mr. Speaker, lest the Washington Post and some members of Congress misinterpret the purpose which has brought thousands of farmers to Washington in recent days. The American farmer is not in Washington seeking Government handouts. They are not here seeking unreasonable Government support prices nor are they seeking that they be guaranteed a profit in their farming operations.

They seek only redress from the Congress and from this administration in attaining price levels for farm products at a rate sufficient so they may continue to produce food and fiber for this nation and I do not view this request as in any way being unreasonable.

This morning, Mr. Speaker I have met with several of the leaders in the American Agriculture Movement from Alabama who advise me that this movement is attempting to solidify a nationwide volunteer agreement to reduce their planted acreage in cotton, in corn, in wheat, and in feed grains to reflect substantially less than was planted last year. I commend this policy to farmers in my State and throughout the Nation and would further suggest to the House Committee on Agriculture that our colleague from Georgia, the Honorable DAWSON MATHIS, has introduced legislation which would effect a mandatory 20-percent reduction in planted acreage on the above crops.

Mr. Speaker, I support such a program believing that it represents a sensible approach tailored along the lines of supply and demand which would serve to strengthen the farmers' position in the marketplace.

A healthy America, and ultimately the social fabric of the Nation, depends on the well-being of our family farms. The requests which the American farmer are making are reasonable and deserve the concern and support of this Congress.

EMERGENCY INTERIM CONSUMER PRODUCT SAFETY RULE ACT

(Mr. MOFFETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOFFETT. Mr. Speaker, I am today introducing the Emergency Interim Consumer Safety Rule Act of 1978. This act, designed to protect consumers from the dangers of flammability and corrosiveness characterizing some cellulose insulation products, has already been passed by the Senate on January 23, 1978.

We are presently experiencing a national home insulation boom, spurred on by rising fuel costs and the President's energy program. Last April, President Carter went on national television and asked Americans to insulate their homes. Encouraging them to do so with the promise of a tax credit on insulation, already passed by the House-Senate energy conference. This national home insulation boom has created a shortage of fiberglass insulation, the preferred insulating material. This means more and more people will be turning to cellulose insulation, basically shredded paper treated with a chemical to make it flame-resistant.

The root of the present crisis is that there are no national and few State standards to govern the safety and performance of cellulose insulation. This means that consumers are virtually unprotected from health and safety hazards associated with the use of insulation.

When cellulose insulation is produced with quality control, the end product can be an effective, comparatively low cost insulator. However, cellulose, as with each of the major insulation materials holds a potential for harm and fraud when marketed by unscrupulous sellers, installed by untrained personnel, or handled by unknowing do-it-yourself consumers. Largely because of relatively small startup costs and an uncomplicated production technology, the number of cellulosic manufacturers has tripled over the last 2 years. While some are highly competent, many are inexperienced and a good number are simply "fly-by-night" con men hoping to cash in on the home insulation boom.

Many Federal agencies, including the Department of Energy, the FTC and HUD are now working to develop such guidelines and appropriate enforcement programs. However, the problem is time, these agencies will need many months, and possibly more that a year, to issue permanent regulations.

The Federal agency with the broadest legal jurisdiction in this area is the Consumer Product Safety Commission. The CPSC has been aware of the fire hazard presented by improperly treated cellulose insulation since June of 1975 when it was alerted to the danger by its Denver district office. Yet, today, 2½ years later the CPSC has done virtually nothing, despite vocal support from the industry itself for the establishment of minimum standards.

I have been in contact with the governors of the 50 States, and received dozens of letters expressing concern and noting the immediate need for Government safety and enforcements. The Commissioner of the Connecticut Department of Consumer Protection has written both to me and the Commissioner of the CPSC expressing her conviction that national standards are necessary.

The legislation I have introduced would help to protect the public from the unnecessary risks they now face. First, the act directs the CPSC to adopt, within 120 days, an interim mandatory consumer product safety standard for the flammability and corrosiveness of cellulose insulation. Second, it directs the CPSC to conduct an interagency study on the various safety aspects of all forms of insulation, to provide Congress with an interim report within 6 months, and to make a final report and recommendations within a year.

The President has set a goal of insulating 90 percent of all homes in the United States by 1985. We cannot afford to reach that goal, only to find that we have allowed the public to buy insulation which has exposed their homes to fire and flood and endangered their health and safety. It is the responsibility of Congress to see that consumers who purchase home insulation, at our encouragement, can be reasonably certain that it is safe.

Mr. Speaker, I hope that my colleagues will join me in urging that this vital legislation be passed as soon as possible.

A BILL TO INCREASE TO 15 PERCENT THE INVESTMENT TAX CREDIT FOR QUALIFIED FARM PROPERTY

(Mr. THORNTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. THORNTON. Mr. Speaker, our Nation's serious farm problems require action now to make it possible for family farms to produce the food and fiber on which this Nation depends. Farmers are faced with ever increasing costs, declining farm income, enlarged surpluses, while our Nation is experiencing a worsening balance of trade and continuing inflation.

The fastest way to help is by a strong export policy, accomplished by divorcing agricultural exports from foreign policy, while developing intermediate term

credit programs and better use of the Public Law 480 program.

Improvements are needed in Farmers Home Administration loans to increase limits and provide emergency loans with extended repayment terms. The Small Business Administration's economic injury loans should be expanded, and consumers must be protected from imports of products which do not meet U.S. health standards.

In addition to these measures for immediate relief, I believe long-term revisions of agriculture policy must be considered. On December 6 before the Arkansas Farm Bureau meeting in Hot Springs, Ark., I suggested that the Internal Revenue Code of 1954 should be amended to increase the investment tax credit for qualified farm property to 15 percent.

Today I am introducing such a measure. It would have the effect of rescuing farmers from the destructive effects of inflation while giving them hope for the future. Under the present law, an investment tax credit is made available for most types of property used in a trade or business, including the trade or business of farming. This investment credit enables a farmer to recover, through a reduction in his income tax liabilities, a percentage of his investment in equipment and other property used in his farming business. The rate of the investment credit is presently 10 percent.

My bill would increase the rate of the investment credit for farm property to 15 percent. This increased rate would be available for equipment and other qualifying property placed in service for farming purposes. Farming for this purpose includes agricultural, horticultural, animal husbandry, and timber raising activities. The increased investment credit under this bill would be effective for tax years after December 31, 1975.

I have been concerned about the prices paid by farmers which have continued to climb at a rapid rate. This is particularly true for farm machinery and related costs which have skyrocketed in the past few years. In 1971 a farmer paid $18,000 for a large capacity, self-propelled combine. By 1977 this cost had more than doubled to $45,000. Tractor prices have also doubled. The increase in the amount of machinery sold has also increased significantly. The total value of shipments from manufacturers of farm machinery in use in the United States has gone from $2.9 billion in 1970 to $7.5 billion in 1976.

While we must establish emergency programs to address today's needs, we should also think of ways to improve farm economics in a longer term, through research programs such as the development of gasohol, through set-asides and diversions of production, and through tax relief such as is proposed by this bill.

OLD MATH, NEW MATH, CARTER MATH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is recognized for 30 minutes.

Mr. MICHEL. Mr. Speaker, during the last week or so we have been going over the finer points of President Jimmy Carter's budget and tax message. Pack your bags, my fellow Americans, the President is taking us for a ride.

The budget and the tax package are difficult to unravel. The computations are not based on the old math and they are not based on the new math. They are derived from the Carter math and it goes something like this: 2 plus 2 equals 1 if you are spending, and 2 plus 2 equals 5 if you are saving. Minuses are sometimes pluses and pluses are sometimes minuses. If he gives you three apples and takes away one you are left with two oranges.

Simply put, both the budget and tax plan are fraudulent political documents designed to deceive.

We have found that the Carter administration misrepresented the scheduled increases in the social security tax so it could be shown that families with an income as high as $40,000 would still benefit from the Carter tax reductions. That is not true and the administration knows it. What is true is that families with an income in excess of $20,000, especially those with two breadwinners, will be burdened with a tax increase.

We found that the projections of a $500 billion budget with a $60 billion deficit are thoroughly misleading.

The budget will be much, much higher and the deficit could exceed a staggering $100 billion.

The President ought to be a circus performer. His sleight of hand is flawless. His juggling is breathtaking and his fast-talking sales spiel rivals the best of them.

The tragedy is that the American people are the ones who will be left holding the bag, an empty one I might add, should the Congress accept any or all of the administration's handiwork. He proposes to cut veterans' benefits by nearly $1 billion. He proposes to cut conservation and land management by $650 million and he proposes to slash the Small Business Administration by more than $700 million. He proposes to cut such popular legislative programs as impact aid, nursing education, community mental health centers, payments to schools of medicine, and water projects. He has seriously understimated the cost of farm price supports and disaster relief, assuming that the 12 months of fiscal 1979 are going to be among Mother Nature's finest. This Democrat-controlled Congress is not going to make these cuts. You know that Mr. Speaker, the Congress knows that and the President knows that. The people are being deceived and the people are the ones who will be hurt.

The President has reduced health care cost by $1 billion under the assumption that Congress will pass his hospital cost containment program and that it will work. He has cut another $600 million on the assumption Congress is going to reform social security and that that will work. He has underestimated the actual spending of the Government by more than $20 billion, and that was not a typographical error or an accidental slip-up.

He is taking initial steps to undermine the stability of the Commodity Credit Corporation by cheating it out of about $4 billion.

He is undermining agricultural research in a budget he sent to Congress only days after telling the Nation's farmers in the state of the Union address that as a humble peanut farmer he understood their plight.

I understand what the President is trying to do. He is trying to hold together the divergent coalition which elected him. He is trying to maintain a broad base of support in all segments of society. In order to do that he has to deal in terms of confusion and contradiction. The President said economic recovery depends upon the private sector and then he reiterated his support for massive public service employment. He said he was a fervent believer in limited government and now he is in the process of molding three new major agencies of Government—energy, education, and consumer protection. He proposed a $2 billion increase in spending for his new welfare scheme and then he added $12 billion in the budget for it. The same thread is woven through everything he does.

The Congress is faced with an awesome task this session. The President has given us an economic Rube Goldberg machine. The Congress will have to make sense out of it and the Congress will get the blame when the public finally realizes that all those promises cannot be translated into legislative action.

PRODUCTIVITY AND LABOR-MANAGEMENT COOPERATION IN 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

Mr. CORCORAN of Illinois. Mr. Speaker, the declining rate of productivity growth in the United States is of great concern to me, as it should be to the entire citizenry of our Nation. The rate of U.S. productivity growth was only 1.5 percent a year between 1967 and 1977, compared with an annual growth rate of 3.2 percent between 1947 and 1966. These trends are even more alarming when compared with the far greater increase in productivity growth in other advanced industrial nations.

These and many other facts on productivity trends were included in the annual report of the National Center for Productivity and Quality of Working Life for fiscal year 1977 which was sent to Members of Congress earlier this month. The report points out that the decline in the rate of growth in productivity has contributed to increased unemployment and inflation as well as a lower gross national product than we could have otherwise achieved.

I would call your attention to the use-

fulness of the annual report in reminding us the problem of productivity and highlighting developments of substantive interest to the Congress.

Included with the report was an index of highlights, listing Federal agency programs for improving productivity within their own organizations, and programs designed to improve productivity within the private sector, as well as in State and local agencies of Government. Geographical areas involved in the text of the report are cited in the index of highlights, enabling Members and their staffs to quickly discern matters of specific interest.

For example, as a member of the Post Office and Civil Service Committee's Subcommittee on Employee Ethics and Ultilization, I was interested in the reports of the extension of flexible working hours in a growing number of Federal Government agencies, such as the Social Security Administration, as well as private concerns. "Flexitime" legislation has recently been the subject of hearings before our subcommittee and the full Post Office Committee reported out this legislation on January 25. Legislation which authorizes the creation of part-time employment in the Federal Government was also reported out of my committee. I was pleased to be a cosponsor of this bill.

As a Member from Illinois, I was pleased to see the numerous references to projects of interest to Illinois.

Fully convinced that labor-management cooperation is a key element in productivity improvement, I sponsored a labor-management seminar on productivity in Aurora, Ill., last summer. The National Center for Productivity and Quality of Working Life, which the Congress created in 1975 as an independent Federal agency, assisted me in organizing this seminar. The center, and particularly its Chicago regional office, was most helpful in this effort. This provided an opportunity for labor and management leaders in my district to learn more of the benefits of labor-management cooperation.

While I feel that the primary effort of improving productivity and quality of working life must come from the private sector, I was impressed with the many areas where the National Center has been able to stimulate and aid improvement in productivity in both the private and public sectors.

Mr. Speaker, it is reassuring to know that there is such an independent agency created to support improved productivity and cooperation in the United States, with the full knowledge that the effort is crucial to our economy.

I urge my colleagues to note the work of the National Center and particularly urge Members and appropriate staff to review the agency's 1977 annual report.

CARTER CAPITULATION TO UNITED NATIONS POINTS TO NEED FOR BRICKER AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. Mr. Speaker, we have seen all too many unfortunate examples of the Carter administration's tendency to ratify U.N. actions and arrogate its questionable policies to a position over the best interests of American sovereignty and our taxpayers. Just last month, in the waning moments of the 1st session of the 95th Congress, the administration move behind the scenes to gut my amendment which would have prohibited "direct or indirect" aid to Communist Vietnam, Cambodia, or Cuba. They could live with the word "direct" but they could not live with the word "indirect." Why? Very simply. Administration bureaucrats funnel American tax dollars to that "Ship of Fools" in New York City, the United Nations, and that erstwhile organization in turn directs our money, repeat our money, to those same Communist tyrannical regimes, thus accomplishing indirectly what the public would never stand for directly .

It happened and the UNDP (United Nations Development Program) now channels our money to Vietnam and other Red nations. The World Bank will do the same thing later this year.

American sovereignty should in no way be diminished, threatened, or transferred by these back-door liaisons with the United Nations. President Carter has already indicated that he wants more of our foreign aid channeled through multilateral agencies. This is bad. As terrible as foreign aid is and as bad a travesty as it has been to the American taxpayers when administered by our own citizens, it would be far worse to take our money and let some multilateral world bank or foreign agency with no restraint and no necessity to answer to the American people, dispense our eroding largess to the beggar nations of the world, friend and foe alike, Communist and non-Communist alike.

Since I first came to the Congress, I have introduced at the start of each session the famous Bricker amendment. It bears the name of that great patriot and Senator from my State of Ohio, John W. Bricker. Incidentally, it was my privilege to be present at a meeting of the United Conservatives of Ohio in Columbus last Wednesday night and to introduce Senator Bricker and Senator Lausche when they received the well-deserved recognition the UCO bestowed upon them. Both men are in their eighties but there are few now serving in the U.S. Senate who could match their intelligence, understanding of the issues, clarity of thought and speech and, even more important, patriotism and commitment to American principles. The Senate knows few John Brickers and Frank Lausches today.

I pointed out last Wednesday night that it was a day that will live in infamy, February 25, 1954, when the Senate by a vote of 60–31 fell one vote short of passing the Bricker amendment. Simply stated, the Bricker amendment made clear as does my House Joint Resolution 32, that no treaty shall take precedent over the law of the land as embodied in our Constitution, and the laws and decisions handed down in this country pursuant to that Constitution.

At this point in the RECORD, I include the full text of the Bricker amendment as it has endured through this quarter century from 1954 to now, embodied in my House Joint Resolution 32:

H.J. SES. CB

Joint Resolution proposing an amendment to the Constitution of the United States relative to force and effect of treaties

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. A provision of a treaty which denies or abridges any right enumerated in this Constitution shall not be of any force or effect.

"SEC. 2. No treaty shall authorize or permit any foreign power or any international organization to supervise, control, or adjudicate rights of citizens of the United States within the United States enumerated in this Constitution or any other matter essentially within the domestic jurisdiction of the United States.

"SEC. 3. A treaty shall become effective as internal law in the United States only through the enactment of appropriate legislation by the Congress.

"SEC. 4. All executive or other agreements, between the President or any international organization, foreign power, or official thereof shall be made only in the manner and to the extent to be prescribed by law. Such agreements shall be subject to the limitations imposed on treaties, or the making of treaties, by this article.

"SEC. 5. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.".

NEW DANGER IN UN COVENANTS

Mr. Speaker, it was completely predictable, because President Carter is surrounded by one-worlders who are bent on giving up major portions of American sovereignty to the United Nations, in SALT disarmament talks and in the Panama Canal treaty, that he would quickly and quietly move to urge the Senate to ratify two dangerous UN covenants, the U.N. Covenant on Civil and Political Rights and the U.N. Covenant on Economic, Social, and Cultural Rights. Both sound innocuous on their face but they are the cutting edge of the efforts of our enemies to thrust world courts, the United Nations and other "outside forces" into our everyday life and restructure our constitutional system. Carter signed both of them as our elected leader although he was not speaking or acting for the overwhelming majority of patriotic Americans who do not want foreigners to guide the internal destiny of this Republic.

The Founding Fathers foresaw what might happen in the future and while they did not write a Bricker amendment into the original Constitution, they undoubtedly would support it now. Take one basic right threatened by these dangerous covenants, the right of property. Few people in the world really have any property rights. The framers of our Constitution had the benefit of dictatorial rule by King George fresh in their minds. They knew what rights needed to be clearly spelled out in their written document, to be protected. They had seen the seizure of property arbitrarily ordered by distant tyrants and they wanted none of it here.

Our Constitution in the fifth amendment, specifically guarantees:

> No person shall be . . . deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

The problem now is that "due process" could be legally met in the liberal one worldism of this administration by acceding to the orders, regulations, and fiat of a United Nations or World Court decree. That is why the Bricker amendment is so important and, even before that, the defeat of these dangerous covenants.

By contrast to our Constitution and our 200-year history, the United Nations from year one has shown no real concern for property rights. On the list of basic human rights, you can look but you will not see the right to own property and to be protected from arbitrary seizure without compensation as worthy of mention. An oversight? Hardly. Communists have had a guiding hand in the affairs of the U.N. from the beginning and you know what property rights amount to in the U.S.S.R. The so-called Third World looks at property rights in only one way, the right to take away your property, or to redistribute it, or to get their "fair share" by expropriation or give-away, not by hard work as Americans have. The Third World runs the United Nations and you do not have to be a Phi Beta Kappa to know what they would do with these covenants if the Senate ever approves them. Also, the ravings of our United Nations Ambassador, Mr. Young, can give you little cause for comfort. He is the leading bombthrower among the Third World forces, again a Carter appointee with a Carter approach to these matters.

Moreover, in 1966, there was an effort to amend these covenants and add property rights to the human rights declarations. This move was roundly defeated.

This is the basic reason why six previous Presidents—Truman, Eisenhower, Kennedy, Johnson, Nixon, and Ford—all refrained, properly I believe, from signing these terrible and mischievous covenants. That line of correct, pro-American leadership stopped with Carter. The signal has gone out in many, many ways—this being the worst of them all—that the U.N. is a higher body of law and morality to which the United States should succumb.

You can well imagine what would happen if some world body like the U.N. could legally and constitutionally become involved in our American judicial system whenever terrorists, radicals, or leftists cry that they are political prisoners. Or that they are "victims" of racial oppression. It could happen. Think of the Wilmington 10 or Bobby Seale or Communist Angela Davis having an outside, non-American tribunal, outside of our constitutional system, to take their radical grievances for redress. There has been a problem of justice in this country but not the type that they argue. The problem, from the point of view of the average American who obeys the law, is that radicals like Joan Little, Bobby Seale, Mark Rudd, Angela Davis, and others all too often seem to get off scot free. Juries are radicalized. Millions are spent to sway public opinion. The left mobilizes behind its showcase radicals and the scene is repeated, over and over.

We need the Bricker amendment now as never before. Patriotic groups must rally behind this cause. The preservation of American sovereignty, once never in doubt, once never questioned, is now imperiled. We must rally the American people to defeat these dangerous Carter-backed covenants which would move the U.N. one step closer to world domination. Our future and, I might add, your constitutional right to own property, might well hinge on the outcome of this historic struggle.

SMALL BUSINESS TAX REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 10 minutes.

Mr. COHEN. Mr. Speaker, last week, I reintroduced legislation to establish a graduated corporate income tax to provide much-needed tax relief to small businesses.

My bill would replace the present system with a progressive, six-step corporate income tax. The Small Business Tax Reform Act would tax corporate income according to the following schedule:

[In percent]

Corporate Taxable Income:	Tax rate
$0 to $20,000	12
$20,001 to $40,000	16
$40.001 to $60,000	20
$60,001 to $80,000	26
$80,001 to $100,000	32
$100,000 and over	48

In his recent tax message to Congress, President Carter also recommended revisions in the corporate tax structure. To facilitate comparison between the President's proposed corporate tax deductions and my own, I am inserting into the RECORD a chart illustrating the impact of both proposals on business taxes. Although both proposals would reduce corporate taxes, smaller businesses would benefit more under the provisions of my legislation, while larger corporations would pay less tax under the President's plan.

For example, a corporation with taxable income of $40,000 would pay taxes of $7,500 under the President's proposal, but only $5,600 under my legislation. Conversely, a corporation with taxable income of $1,000,000 would pay $453,200 according to my proposed rates but considerably less under the Carter plan. Large corporations would have their taxes reduced still further in 1980 when the President's proposal would reduce the top corporate rate by another point from 45 percent to 44 percent. Corporations with taxable income of under $50,000 would not benefit from this further reduction.

Not only would the legislation I have introduced benefit small businesses more than would the Carter proposal, but it is also far less costly. The Treasury Department estimates the revenue loss for the administration's proposal to be $6 billion for 1979. For my legislation, the cost would be $3.5 billion. For 1980, when the President proposes to reduce the top corporate rate by another point, the revenue loss would increase to $8.52 billion. By contrast, the revenue loss for 1980 under my legislation would be less than half that amount, $4.1 billion.

I am pleased to announce that the following list of Members have joined me in cosponsoring this legislation:

1. Congressman Mark Andrews, Republican of North Dakota.
2. Congressman Blanchard, Democrat of Michigan.
3. Congressman Carr, Democrat of Michigan.
4. Congressman Cochran, Republican of Mississippi.
5. Congressman Corcoran, Republican of Illinois.
6. Congressman Emery, Republican of Maine.
7. Congressman Eilberg, Democrat of Pennsylvania.
8. Congressman Fish, Republican of New York.
9. Congressman Frey, Republican of Florida.
10. Congressman Goodling, Republican of Pennsylvania.
11. Congressman Grassley, Republican of Iowa.
12. Congressman Gudger, Democrat of North Carolina.
13. Congressman Hughes, Democrat of New Jersey.
14. Congressman Lagomarsino, Republican of California.
15. Congressman Le Fante, Democrat of New Jersey.
16. Congressman Jim Lloyd, Democrat of California.
17. Congresswoman Marilyn Lloyd, Democrat of Tennessee.
18. Congressman Mathis, Democrat of Georgia.
19. Congressman McDade, Republican of Pennsylvania.
20. Congresswoman Meyner, Democrat of New Jersey.
21. Congressman Milford, Democrat of Texas.
22. Congressman Pattison, Democrat of New York.
23. Congressman Quie, Republican of Minnesota.
24. Congressman Rinaldo, Republican of New Jersey.
25. Congressman Simon, Democrat of Illinois.
26. Congressman Spence, Republican of South Carolina.
27. Congressman Trible, Republican of Virginia.

28. Congressman Yatron, Democrat of Pennsylvania.
29. Congressman Baucus, Democrat of Montana.
30. Congressman Cornwell, Democrat of Indiana.
31. Congressman Pursell, Republican of Michigan.

The Small Business Tax Reform Act would achieve the goals of tax reform legislation. The graduated corporate tax would be a simple, fair, and progressive means of stimulating our economy and of providing relief to our Nation's small businesses. I am convinced that a healthy small business community is the key to a prosperous economy, and reducing corporate taxes is the most direct way to help small businesses survive and compete in today's marketplace. And in helping small businesses grow, we create job opportunities for millions of unemployed Americans.

The comparison chart follows:

IMPACT OF PROPOSED CORPORATE TAX REDUCTIONS

[In percent]

CURRENT LAW	
$0 to $25,000	20
$25,001 to $50,000	22
$50,001 and over	48
PRESIDENT'S PLAN	
$0 to $25,000	18
$25,001 to $50,000	20
$50,001 and over	**45
COHEN'S PLAN	
$0 to $20,000	12
$20,001 to $40,000	16
$40,001 to $60,000	20
$60,001 to $80,000	26
$80,001 to $100,000	32
$100,001 and over	48

**January 1, 1980, this rate would decrease to 44%.

The revenue loss for 1979 for the Carter proposal is $6 billion. For the Cohen proposal, it is $3.5 billion. For 1980, when Carter proposes to reduce the corporate tax rate by another point from 45 per cent to 44 per cent, the revenue loss rises to $8.52 billion. The revenue loss for 1980 under the Cohen proposal is $4.1 billion.

Selected examples: a comparison among present law, the President's proposal, and the Cohen legislation

1. For a corporation with taxable income of $20,000:
Current taxes: $4,000 (20% of $20,000).
President's plan: $3,600 (18% of $20,000).
Cohen's plan: $2,400 (12% of $20,000).

2. For a corporation with taxable income of $40,000:
Current taxes: $8,300 (20% of $25,000 +22% of $15,000).
President's plan: $7,500 (18% of $25,000 +20% of $15,000).
Cohen's plan: $5,600 (12% of $20,000 +16% of $40,000).

3. For a corporation with taxable income of $80,000:
Current taxes: $24,900 (20% of $25,000 +22% of $25,000+48% of $30,000).
President's plan: $23,000/$22,700 (the second figure would represent the 1980 tax reduction from 45% to 44% on taxable income in excess of $50,000).
Cohen's plan: $14,800 (12% of $20,000 +16% of $20,000+20% of $20,000+26% of $20,000).

4. For a corporation with taxable income of $100,000:
Current taxes: $34,500.
President's plan: $32,000 ($31,500 in 1980).
Cohen's plan: $21,200.

5. For a corporation with taxable income of $300,000:
Current taxes: $130,500.
President's plan: $122,000 ($119,500 in 1980).
Cohen's plan: $117,200.

6. For a corporation with taxable income of $500,000:
Current taxes: $226,500.
President's plan: $212,000 ($207,500 in 1980).
Cohen's plan: $213,200.

7. For a corporation with taxable income of $1,000,000:
Current taxes: $466,500.
President's plan: $437,000 ($427,500 in 1980).
Cohen's plan: $453,200.

CONCLUSIONS

Corporate income taxes would be reduced by either the Cohen or the President's proposal. However, Cohen's legislation would benefit corporations with taxable income of less than $400,000 more than would the President's proposal. Conversely, corporations with taxable income in excess of $400,000 would benefit more under the President's schedule. Large corporations will have their taxes reduced further in 1980 when the Carter proposal would reduce the top corporate rate by another point.

In general, the Cohen legislation would cost about half of the President's proposal.

NATIONAL SCIENCE FOUNDATION COMMENDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOLLENBECK) is recognized for 10 minutes.

Mr. HOLLENBECK. Mr. Speaker, the National Science Foundation is to be commended for its record of support for basic research and for innovative science education in our universities, community colleges, and schools. I am confident that this support will continue with the encouragement of the Subcommittee on Science, Research and Technology.

I note, for instance, that funding for educational resources at our 2 and 4 year colleges will be increased by 9 percent, which represent a modest real growth. However, I am particularly pleased by the study initiatives in science education and science education research which Dr. Rutherford described in his testimony to the subcommittee last week. In that testimony he identified a new mission when he stated:

We need to broaden the opportunity for participation in Science and this includes much more than career development alone. It is also a matter of sharing scientific knowledge and scientific thinking with all persons, not with those who are also scientists not just those who go to college . . .

While it is essential that bright young people are attracted to careers in science, it is equally important that we, as a nation, develop greater appreciation for the discoveries of science and for the humility of the process of scientific inquiry. Only if both coordinates are fulfilled can we face the tremendous changes brought about by growing populations by shortages of material and energy resources and by man's impact or his natural and social environment.

Dr. Rutherford's program to improve science teaching at the junior high school level, where it appears many students, particularly women and minorities, lose interest in science serves both objectives. At an even earlier age his proposal to produce a science equivalent of "Sesame Street" is intriguing. It is at the very youngest ages that the greatest opportunities exist to instill a feeling for the process of scientific research even if the child cannot comprehend the exciting discoveries which our generation of scientists are making.

And these discoveries are truly amazing. From the theoretical reconstruction of the first 3 minutes of the cosmic explosion which began the universe, to the deciphering of the genitic code, to magnetic tracing of continental evolution, and to trails of the clinical basis of emotions, we are living thrivingly our unparalleled explosion of scientific knowledge. You and I, Mr. Speaker, are truly fortunate to be living now—to bear witness to the extraordinary expansion of man's consciousness of this place on Earth and in the universe.

Will our children grow up to enjoy the benefits of our discoveries and more important, will their education enable them to make their own? That depends on our degree of support for basic research and for science education of future scientists and citizens alike. Thus, I am disappointed by the President's requested budget for basic research.

Close examination reveals that it represents incrementalism camouflaged by inflation. The President calls for an 11-percent increase in funds for basic research. But, after discounting for inflation at 6 percent, the real growth is only around 4 to 5 percent, exactly paralleling the projected real growth of the economy under the economic policies which the President proposes. The National Science Foundation's budget would grow by 4 percent on real terms and members of our subcommittee last week suggested that the Foundation have proposed stronger programs in their fields, like astronomy where scientists are eager to work because the challenges are so great. These budgets do not indicate an awareness of the great importance of basic research. And of the tremendous possibilities which lie ahead.

It is history that in 1944 President Roosevelt instructed Dr. Vannivar Bush, then director of the Office of Scientific Research and Development, to find a way for the Nation to benefit in peacetime from the wartime experience of Dr. Bush's office and to assure U.S. scientific strength. But the questions which face basic research and the reasons for the support of science and science education now do not grow out of a wartime experience, they grow out of one of the longest periods of prosperity that this country has enjoyed. They grow out of an unparalleled quarter century of economic development and growth—a quarter century whose assumptions are now challenged by limits to natural resources by growing populations, and by man's impact on the environment.

Why do we support basic research and science education? Perhaps partly to lay the foundations for increasing the stock of technical knowledge with which to assure continued prosperity in an era of

limited resources; partly, to assist in the achievement of national security and partly because like art and music, they are cultural activities essential to mans identity—an identity without which we are little more than Diogenes' plucked chicken—the cynics version of Plato's man.

Our temporary chairman, Mr. HARKIN, in his opening remarks last week observed that:

Basic research is an important cultural activity without which the spirit of man would be unpoverished regardless of material consequences. It is unfortunate that last fact by itself is insufficient to win strong support for basic research.

I would concur and further add that the material consequence of famished spirits will be unpoverishment for it will require a great leap of imagination to see the possibilities beyond the problems of energy, population, and environment.

PANAMA CANAL TREATIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 10 minutes.

Mr. METCALFE. Mr. Speaker, recently the National Black Caucus of State Legislators and the National Black Caucus of Local Elected Officials endorsed the proposed Panama Canal treaties.

The National Black Caucus of State Legislators was formed in August of 1977 and represents 294 black State legislators in the United States.

The National Black Caucus of Local Elected Officials was formed 7 years ago and represents more than 2,000 black local elected officials.

The resolutions adopted by these organizations follow:

NATIONAL BLACK CAUCUS OF STATE LEGISLATORS

PANAMA CANAL TREATY

Whereas, our capability to defend the Panama Canal will be enhanced under the new treaty through cooperation with the government of Panama; and

Whereas, no country large or small should agree to another nation holding parts of its territory in perpetuity as we do under the 1903 Treaty; and

Whereas, these new treaties protect the vital commerce and security interest of the U.S.A.; and

Whereas, the 1903 Treaty represents a U.S.A. foreign policy philosophy of the early 1900's, not the 1970's; and

Whereas, the new treaties are in the national interest of the U.S.A. and consistent with the traditional U.S.A. support for self determination and respect for the dignity of all nations great and small; and

Whereas, the new treaties assure a peaceful, prosperous and secure international waterway for the commerce of all nations; and

Whereas, the new treaties are firmly supported by all the nations of the hemisphere; and

Whereas, approval of these treaties will say to the world that the U.S.A. is true to its word about dealing on a fair and equitable basis with all nations.

Now, therefore, be it resolved that the National Black Caucus of State Legislators supports the President's proposed Panama Canal Treaties.

Adopted November 20, 1977.

NATIONAL BLACK CAUCUS OF LOCAL ELECTED OFFICIALS

PANAMA CANAL TREATY

Whereas, our capability to defend the canal will be enhanced under the new treaty through cooperation with the government of Panama; and

Whereas, no country large or small should agree to another nation holding parts of its territory in perpetuity as we do under the 1903 Treaty; and

Whereas, these new treaties protect the vital commerce and security interest of the U.S.A.; and

Whereas, the 1903 Treaty represents a U.S.A. foreign policy philosophy of the early 1900's, not the 1970's; and

Whereas, the new treaties are in the national interest of the U.S.A. and consistent with the traditional U.S.A. support for self determination and respect for the dignity of all nations great and small; and

Whereas, the new treaties assure a peaceful, prosperous and secure international waterway for the commerce of all nations; and

Whereas, the new treaties are firmly supported by all the nations of the hemisphere; and

Whereas, approval of these treaties will say to the world that the U.S.A. is true to its word about dealing on a fair and equitable basis with all nations.

Now, therefore, be it resolved that the National Black Caucus of Local Elected Officials supports the President's proposed Panama Canal Treaties.

Adopted December 6, 1977.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. BEARD) is recognized for 5 minutes.

Mr. BEARD of Rhode Island. Mr. Speaker, my absence from this Chamber on Monday, January 30, was caused by my attendance at a congressional hearing held in Boston where I joined Hon. JOHN BRADEMAS, chairman of the Select Subcommittee on Education, in hearing testimony on legislation calling for a White House Conference on the Arts and the Humanities.

If I had been present yesterday, my votes would have followed administration recommendations.

MORE RESEARCH, LESS PROPAGANDA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, I am today reintroducing—with the entire North Carolina delegation as cosponsors—a bill which would prevent the Department of Health, Education, and Welfare from going ahead with Secretary Joseph Califano's crusade against smoking.

The legislation would prevent HEW from reshuffling funds to pay for a program which, in our judgment, would be a waste of the taxpayers' money.

Lest my colleagues come to the erroneous conclusion that I am not interested in public health, but concerned only with an industry that is vital to the economy of my district and the State of North Carolina, I want to point out that my bill would direct HEW to make a far more productive use of the money Mr. Califano proposes to spend on an information and education program.

However well intended, we all know that the program Mr. Califano has proposed would constitute little more than a media blitz and classroom instruction based on the Surgeon General's warnings. Surely the American people have received that message by now. For the past 14 years, it has appeared on every package of cigarettes, in all cigarette advertising, and has been the subject of widespread conversation and debate. I doubt that there are many parents who have not counseled their children not to smoke. Now, it becomes necessary for reasonable people to ask: "Is it necessary to spend large amounts of taxpayers' money to plow over this unfertile ground again and again?"

Instead of wasting money on such a program, my bill would prohibit HEW from reshuffling any funds "projected" for use in the new antismoking program. Instead, the money it proposes to reprogram would be used for research to identify the potentially harmful properties of tobacco and to determine in what manner they affect human health. The importance of such information should be obvious:

First. It would go far beyond the surgeon general's warmed over statistical data, upon which the present warning label and Secretary Califano's proposals are based.

Second. It would be of incalculable value to medical science in the treatment and prevention of diseases which may have been proven to be related to smoking.

Third. It would provide new information upon which the individual might base the personal choice of whether to smoke or not to smoke.

Fourth. It would enable cigarette manufacturers to remove or neutralize the substances which would have been identified in the studies as casual or contributory to human illness.

Mr. Speaker, I believe my colleagues who are cosponsoring this bill will affirm that the people who grow tobacco, the cigarette manufacturers, and the hundreds of thousands of people who depend economically on tobacco have no desire to "poison" the Nation or wreck the public health. But because tobacco is the lifeblood of their economy—and has been for more than two centuries—they do not want to see the industry destroyed for less than compelling reasons. They have witnessed other crusaders. Many of them are old enough to remember prohibition, so they understand the futility of the Califano approach. I personally believe that many Americans will choose to

smoke, no matter what the Government does to try to prevent or persuade them. I further believe that they have the right to make that choice of their personal lives, and that Government must beware intruding upon that right.

Mr. Califano's proposals come perilously close to such an infringement. His program would cast the smoker in the role of a social outcast, worthy of the scorn of nonsmokers. His "back of the bus" approach would only inflame the growing friction between smokers and nonsmokers, blocking the way to reasonable accommodation of the rights of both groups. He would encourage the States to limit the movements and restrict the public access of persons who smoke. He has publicly applauded an employment policy (in the Alexandria Fire Department) which denies jobs to people who smoke. He would encourage insurance companies to penalize people who smoke, and to take punitive tax measures against people who smoke. One is bound to wonder what further steps he would contemplate should these initial efforts succeed.

Mr. Speaker, I recognize full well Mr. Califano's responsibilities in public health. I also know that the Congress has an overriding responsibility in this area, and an equal, if not superior, responsibility to the protection of individual freedom. We, far more than Mr. Califano, must weigh both these responsibilities before we permit HEW to send another pack of hounds barking down the trail of a rabbit it has been chasing for 14 years.

Mr. Speaker, the text of my bill follows and I commend it to the attention of my colleagues.

H.R. 10638

A bill to provide that funds projected to be expended for a new program on smoking and health, announced by the Secretary of Health, Education, and Welfare on January 11, 1978, be redirected on any potentially harmful properties of tobacco

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any provision of law which does not expressly make this Act inapplicable, none of the funds appropriated for expenditure by any officer or employee of the Department of Health, Education, and Welfare may be used during fiscal years 1978 or 1979 to carry out any activity included in the program on smoking and health described by the Secretary of such department of January 11, 1978, in his address before the National Interagency Council on Smoking and Health, except for any activity described in subsection (b)(2) of this section.

(b)(1) Notwithstanding any provision of law which does not expressly make this Act inapplicable, during each of the fiscal years 1978 and 1979, no funds in excess of the amounts requested before October 1, 1977, for expenditure in fiscal year 1978 by the Department of Health, Education, and Welfare for the activities described in paragraph (2) of this subsection may be used for such activities.

(2) The activities referred to in paragraph (1) of this subsection are the activities which are included in the program on smoking and health described in subsection (a) of this section and were conducted by the Department of Health, Education, and Welfare at any time during the period beginning October 1, 1977, and ending January 10, 1978.

SEC. 2. Any funds which were projected (based on the most recent projection made for the Secretary of Health, Education, and Welfare on or before January 11, 1978) for expenditure to carry out any activity included in the program on smoking and health described in subsection (a) of the first section of this Act, except for funds which may be obligated for the activities described in subsection (b)(2) of such first section, shall be obligated during fiscal year 1978 or 1979 (as the case may be) for additional research to identify the potentially harmful properties of tobacco and determine the manner in which they affect human health.

HIGHWAY SAFETY ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. JOHNSON) is recognized for 5 minutes.

Mr. JOHNSON of California. Mr. Speaker, I am today introducing the Highway Safety Act of 1978 on behalf of Mr. HARSHA and myself at the request of the administration.

The Committee on Public Works and Transportation will shortly consider this legislation in depth. This is a major part of our transportation program and will eventually be considered in a larger package that will include authorizations for both highway and mass transportation programs.

Under leave to extend my remarks, I include the letter from the Secretary of Transportation, the Honorable Brock Adams, to the Speaker of the House, the Honorable THOMAS P. O'NEILL, transmitted with the legislation I am introducing today.

SECRETARY OF TRANSPORTATION,
Washington, D.C., January 30, 1978.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The Department of Transportation is submitting for your consideration and appropriate reference a draft bill to amend the Highway Safety Act of 1966 to authorize appropriations, and for other purposes.

The bill represents the last stage in a process that began with the passage of the Highway Safety Act of 1976. In response to the directive in that Act to study and report on the adequacy and appropriateness of the highway safety program standards, the Department undertook what was to become the most comprehensive review ever made of the highway safety program. In reporting the results of its review to Congress on July 1, 1977, the Department recommended a number of changes in the highway safety program that could be accomplished only through legislation. The draft bill reflects the recommended changes.

The Department has gone to great lengths to insure the meaningful involvement of the highway safety community in its review of the program. The views of the community have been solicited continually, both in the preparation of the report and in the development of this legislative proposal. Throughout, the agencies and organizations concerned with highway safety have responded with useful ideas and perceptive criticism. Although there is not unanimity on all issues, the Department is confident that the draft bill reflects a solid consensus on the basic direction of the program.

Of the first importance among the changes proposed in the bill is a shift away from reliance on mandatory standards as the nucleus of the highway safety program. The Department found the prevailing opinion to be that the initial standards had achieved their purpose, and that the States were now able to draw on their own experience to frame priorities for their programs. Accordingly, the draft bill proposes to replace the standards-oriented provisions of the Act with a new section that places greater emphasis on the States' obligation to identify their own problems, devise remedies, and evaluate the results. There would still be a role for uniform requirements, but confined to requirements designed to promote uniformity in the collection and analysis of data and to facilitate safe interstate travel.

Enactment of the draft bill would be followed by a period of adjustment in which the old standards would be retired and the new requirements would be shaped. The content of the new requirements would be drawn from the recommendations in the July 1977 report, and would be developed in close coordination with the States, local subdivisions, and other interested agencies and organizations. It should be emphasized that a program area that is no longer covered by a standard would by no means be consigned to an inferior role. The Department expects that the States will continue to find such programs as police traffic services and emergency medical services to be essential to their highway safety programs.

The draft bill effects a greater separation between the highway-related requirements administered by the Federal Highway Administration and the requirements administered by the National Highway Traffic Safety Administration. Although the bill includes traffic control devices and highway design, construction and maintenance as subjects for the new requirements, all funding for the implementation of these requirements would be provided through authorizations under a proposed new section 151 in title 23. The new section, contained in the Department's proposed Highway and Public Transportation Improvement Act of 1978, would permit better coordination between the highway safety requirements under Chapter 4 and the safety construction program under Chapter 1. As a consequence, this bill proposes to incorporate those provisions of Chapter 1 that are applicable to the highway safety program into the new Chapter 4 and to delete the former cross-references to Chapter 1.

A third noteworthy change proposed in the bill is the abandonment of the sanction affecting the apportionment of highway safety authorizations. The 1976 amendments have already gone some distance in this direction, by deleting the 10 percent sanction on the Federal-aid construction funds and increasing the flexibility of the sanction of highway safety funds. It was, however, the consensus of the highway safety community that sanctions had outlived their usefulness and should be abandoned altogether. The bill accordingly omits the apportionment sanction, leaving in its place only an explicit statement of the conventional authority to disapprove unsatisfactory programs.

The Highway Safety Act of 1973 (P.L. 93–87) established a program of incentive awards for States that enacted safety belt use laws or that achieved significant reductions in their highway fatality rates. The Highway Safety Act of 1976 (P.L. 94–280) added a third incentive, for actual reductions in fatalities. In the process of reviewing the program pursuant to the mandate of the 1976 Act, the Department was impressed by

the widespread opinion among the States that none of the incentives was acting to foster improved highway safety programs. The awards were commonly viewed as a reward for historical events which might or might not be attributable to programs initiated by the States. After considerable discussion with representatives of the highway safety community, the Department has concluded that the approach most likely to act as a true incentive would be one in which innovation is specifically encouraged by being made the principal basis for an award. The attached bill would therefore establish a program of innovative project grants, under which the Secretary would be directed to work with the States, local subdivisions, and other highway safety organizations to devise appropriate criteria for the selection and award of grants. The process of devising such criteria would begin immediately to allow time for an orderly review before the award of the first grants in fiscal year 1980.

Among the other changes proposed by the bill would be a more explicit direction to the State highway safety agencies to help the political subdivisions to identify and correct their highway safety problems. In keeping with the Department's desire to have the State highway safety agencies seen as integral parts of State government rather than as Federal grant management offices, the bill proposes to require the States to provide a hard match for Federal funds expended to support the planning and administrative functions of the State highway safety agencies.

The bill would continue the highway safety research and development program without major change. Two study provisions, relating to administrative adjudication and to the effectiveness of driver education, would be deleted. Significant progress has been made under each of these studies and the work now in progress would be continued under the general research and development authority.

The National Highway Safety Advisory Committee would be continued as presently constituted. Although the bill would replace chapter 4 in its entirety with a new chapter 4, the replacement would be instantaneous, and the members of the existing Committee would continue to serve the terms of their present appointments.

The bill proposes to shift the period of authorization from two years to four years, and therefore requests authorizations through fiscal year 1982. It is the Department's view that the longer authorization cycle will promote greater stability within the program. The authorization would begin at $135 million for fiscal year 1979 and increase to $200 million for fiscal years 1981 and 1982. The bill proposes that of the funds to be apportioned to the States, up to 25 percent would be separately apportioned for high priority safety projects, thereby providing almost $200 million over the life of the authorizations for programs such as the expansion of the 55 mph speed limit enforcement program. The proposed amount thus provides for modest growth in both the basic program and in high priority areas. It is contemplated that the high priority funds would be devoted at first almost entirely to expansion of the States' 55 mph enforcement programs. The provision of funds for speed limit enforcement responds to the urgent and repeated requests of the States for assistance in this critical program.

In addition to the proposed amendment of chapter 4, the proposed bill would amend the national maximum speed limit program in significant respects. Currently, section 154 of title 23, United States Code, provides that the Secretary shall not approve any project under section 106 of that title in any State which has a maximum speed limit in excess of 55 miles per hour on any public highway within its jurisdiction. Section 141 of title 23 provides that each State shall certify that it is enforcing the speed limit and directs the Secretary to withhold approval of all projects under section 106 in any State that does not so certify.

The proposed bill would retain the current sanctions intact, but would supplement the current sanction of section 141 for failure to certify enforcement with a new provision focused on the actual speeds traveled by motorists. The penalty applicable to enforcement would be strengthened by a 5 to 10 percent penalty applicable to compliance. A schedule is proposed to be established for the States to bring their speeds below certain levels in successive years beginning in calendar year 1978. For fiscal years 1980–1982, it is proposed to withhold up to 5 per centum of a State's Federal-aid highway apportionments, other than Interstate and safety construction apportionments, in any year for which the State's speeds do not fall below the specified level. The apportionments would be withheld until such time as the State's speeds fall to the level specified for the year for which the apportionments were withheld. The penalty would increase to 10 percent in subsequent years. It is the Department's view that such sanctions provide a strong inducement to the States to improve their speed limit enforcement programs. Although the penalty would be less severe than the total withholding of project approvals provided by section 141, the basis for the penalty would be much more clearly stated and its imposition therefore more certain in the event a State failed to meet a specified level. The compliance levels proposed in the bill begin at the existing level of compliance and require steady improvement in each succeeding year.

Additional details concerning these proposals and a discussion of several other, largely technical proposals are contained in the attached combined section-by-section analysis and justification.

It is the judgment of this Department, based on available information, that no significant environmental or inflationary impact would result from the implementation of this bill.

The Office of Management and Budget advises that this proposed bill is in accord with the Administration's objectives.

Sincerely,

BROCK ADAMS.

SOUTHERN WEST VIRGINIA NEEDS A DAM, NOT MORE STUDIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. RAHALL) is recognized for 5 minutes.

Mr. RAHALL. Mr. Speaker, I rise today to again inform my colleagues that the Fourth Congressional District of West Virginia, which I represent, has again been hit by substantial flooding. As some of you may recall, over $150 million in damages were the result of the massive flood which occurred last April.

Recently, a committee appointed by Governor Rockefeller concluded that the best form of long-term flood protection for the residents of the Tug Fork Valley, would be the construction of brick and mortar flood projects. However, the U.S. Army Corps of Engineers have informed me that the cost of such a project would be astronomical.

Now, I am sure many of my colleagues have had some experience with the Corps of Engineers, and I would like to say that a flood dam could be constructed in southern West Virginia from the tons and tons of reports and studies that the Corps keeps spitting out just like every other Federal agency. Southern West Virginia residents do not need more studies, they need a dam.

The Federal Government's second rate recovery effort that took place last April cost over $104 million If the proper steps had been taken a few years back, that $104 million could have provided the beginning for the dam that is desperately needed.

In the recent Federal budget presented to this body last week, $7.7 billion is outlayed for assistance to foreign countries. I want to know why cannot American citizens have a few million for a worthwhile project that will protect their homes and families? It is absolutely ridiculous, and I am going to make it very clear, Mr. Speaker, that I will continue to stand up and speak for the people that elected me, because I believe our American taxpayers deserve whatever this Nation can possibly do to help them when they need help.

STATUS OF THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 5 minutes.

Mr. GIAIMO. Mr. Speaker, as called for in the Congressional Budget Act, the House Budget Committee has notified the Speaker of the House on the status of the fiscal year 1978 congressional budget. A copy of my letter to the Speaker and the committee's report are attached at the end of these remarks. I would like to inform my colleagues of the House how Congress stands with regard to the budget resolution it adopted on September 15 as we begin this 2d session of the 95th Congress.

Since my last report to the House on November 29, the Congress has enacted into law H.R. 9346—Social Security financing amendments, as well as several other spending measures. The current level also reflects the enactment of House Joint Resolution 662, further continuing appropriations for the Departments of Labor and HEW, the District of Columbia and the Small Business Administration disaster loan program, in addition to the 11 regular appropriation bills which have been previously enacted. Therefore, within the spending ceilings adopted by the Congress last session, $15 billion remains in budget authority and $4 billion in outlays for the remainder of fiscal year 1978.

Other major legislation on the schedule for this session such as the energy package and welfare reform, may have a spending or revenue impact in fiscal year 1978. And as my colleagues are aware, the President has transmitted the fiscal year 1979 budget to the Congress. To the extent that any new legislation is enacted, or revisions to spending estimates for fiscal year 1978 take place, adjustments will be made to the current level for spending and revenues.

Thank you, Mr. Speaker.

The material follows:

COMMITTEE ON THE BUDGET,
Washington, D.C., January 31, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedures which it had adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the status report under H. Con. Res. 341, the Second Budget Resolution for FY 1978. This report reflects the resolution of September 15, 1977, and estimates of budget authority, outlays and revenues based on all completed action on spending and revenue measures as of close of legislative business, December 15, 1977.

Sincerely,

ROBERT N. GIAIMO,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1978 CONGRESSIONAL BUDGET, ADOPTED IN HOUSE CONCURRENT RESOLUTION 341

(Reflecting completed action as of December 15, 1977.)

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	$500,100	$458,250	$397,000
Current level	485,065	454,315	398,067
Amount remaining	15,035	3,936	1,067

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $15,035 million for fiscal year 1978, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 341 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $3,936 million for fiscal year 1978, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 341 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $1,067 million for fiscal year 1978, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 341.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., January 19, 1978.

Hon. ROBERT N. GIAIMO,
Chairman,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for these items contained in the most recently agreed to concurrent resolution on the 1978 budget. The current level estimates are as of the beginning of the second session of the 95th Congress, January 19, 1978.

There is no change in the totals as shown in my previous report. This report consolidates all action completed in the 1st session of the 95th Congress.

(In millions of dollars)

	Budget authority	Outlays	Revenues
Enacted	479,689	448,970	398,067
Entitlement authority and other mandatory items requiring further appropriation action	5,376	5,344	-------
Continuing resolution authority	-------	-------	-------
Conference agreements ratified by both Houses	-------	-------	-------
Current level	485,065	454,315	398,067
Second Concurrent Resolution	500,100	458,250	397,000
Amount remaining:			
Under ceiling	15,035	3,936	-------
Over ceiling	-------	-------	1,067

Sincerely,

ALICE M. RIVLIN,
Director.

Parliamentarian status report supporting detail, fiscal year 1978, as of close of business, January 18, 1978

[In millions]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	234,727	219,555
Offsetting receipts	−61,020	−61,020
Enacted last session	305,981	290,435
Total, enacted	479,689	448,970
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Function 050:		
Retired pay (anticipated supplemental)	93	93
Department of Defense, civilian and military pay (anticipated supplemental)	2,673	2,593
Function 350:		
Federal Crop Insurance Corporation authority (P.L. 95–181) (anticipated supplemental)	22	22
Function 500:		
Child care services (P.L. 95–171) (anticipated supplemental)	200	200
Function 600:		
Child nutrition (P.L. 95–171) (anticipated supplemental)	28	25
Public assistance changes (H.R. 9346) (anticipated supplemental	186	186
Function 700:		
Veterans Disability and Survivor Benefits Act (P.L. 95–117) (anticipated supplemental)	363	335
Veterans pension benefits increase (P.L. 95–204) (anticipated supplemental)	129	114
Veterans education benefits (P.L. 95–202) (anticipated supplemental)	546	546
Veterans automobile adaptive assistance (P.L. 95–116)	1	1
Veterans' Administration physician and dentist pay comparability (P.L. 95–201)	4	4
Function 800:		
Payment to Civil Service Retirement and Disability Trust Fund (anticipated supplemental)	319	319
Offsetting receipts	−319	−319
Function 920:		
Civilian agency pay raise (anticipated supplemental)	1,131	1,224
Total, entitlement authority	5,376	5,344
III. Continuing resolution authority	(1)	(1)
IV. Conference agreements ratified by both Houses	-------	-------
Total current level, as of January 18, 1978	485,065	454,315
Current resolution of September 15, 1977	500,100	458,250
Amount remaining:		
Over ceiling	-------	-------
Under ceiling	15,035	3,936

[1] Continuing Resolution (P.L. 95–205) authority provides funding through September 30, 1978 for: Labor-HEW appropriations, at level of conference agreement on H.R. 7555; District of Columbia appropriations, at 1977 rate; and SBA disaster loans, at level of conference agreement on H.R. 9375. Amounts are shown in the enacted category above.

DISARMAMENT: THE ECONOMIC ADJUSTMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 5 minutes.

Mr. WEISS. Mr. Speaker, one of the most formidable obstacles facing those of us who want to reduce unnecessary military spending is the adverse effect this reduction could have on our Nation's economy. The gains we make toward world peace through disarmament should not be made at the expense of abandoning the workers in our Nation's defense plants. If our defense-related industries are to convert to more peaceful purposes, they need incentive and support.

That is why I am introducing S. 2279, the Defense Economic Adjustment Act, in the House today. The bill, introduced in the Senate last November by Senator MCGOVERN, provides for economic assistance to those communities, industries and workers affected by reductions in defense expenditures. The act authorizes appropriations for a Defense Economic Adjustment Council in the Executive Office of the President, alternative use committees to undertake economic conversion planning, an economic adjustment reserve trust fund, economic assistance for workers displaced by cuts in defense spending, and research into projects for the nondefense sector. In this way, disarmament will not only have international benefits, but domestic ones as well.

I believe this bill will help the defense industry make a smooth and economically painless transition to more peaceful production.

COMPANY'S RESPONSE TO "DISTORTIONS IN MOBIL OIL CORP. ADVERTISING CAMPAIGN"

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, on October 20 I addressed this body concerning certain distortions of fact by Mobil Oil Corp. in advertisements on the energy bill. Mobil has replied to my statement and in the interest of preserving debate on this important issue I am entering a copy of the corporation's remarks in today's RECORD. I want to emphasize that I do not concur with or endorse Mobil's remarks.

MOBIL OIL CORPORATION,
New York, N.Y., November 3, 1977.

Hon. JAMES M. HANLEY,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HANLEY: We were deeply concerned to read your remarks entitled "Distortions in Mobil Oil Corp. Advertising Campaign" in the October 20 CONGRESSIONAL RECORD. Your comments on several issues are seriously misleading and we would like to set the record straight.

Your central criticism of Mobil is that Mobil spent less on "exploration" in 1973–76 than on acquisition of Marcor, and you draw conclusions that "Mobil's hyprocrisy is transparent" etc. In reply, I suggest we review the figures.

Mobil's capital and exploration expenditures for the years 1973 through 1976 were as follows:

[In millions of dollars]

	1973	1974	1975	1976
U.S. PETROLEUM OPERATIONS				
Exploration expenses	67.7	91.0	118.0	116.1
Producing:				
Offshore lease bonuses	384.4	479.1	13.1	147.3
Other [1]	113.6	140.5	209.3	231.4
Total	529.7	710.6	340.4	494.8
FOREIGN PETROLEUM OPERATIONS				
Exploration expenses	80.3	98.7	124.8	91.4
Producing	97.3	132.8	243.6	188.0
Total	177.6	231.5	368.4	279.4
Total worldwide capital and exploration outlays for petroleum operations	707.3	942.1	708.8	774.2

[1] Includes development drilling, offshore platforms, equipment and construction for improved recovery, gas processing plants and capital equipment including gathering lines.

As you will see from the above table, your own statement gives only a fraction of Mobil's total expenditure for exploration and producing operations within the United States and overseas. Not only do we conduct "exploration" but we pay tremendous sums in lease bonuses to the U.S. government just for the privilege of looking (and no guarantee of finding anything). Once we find oil in commercial quantities, we must still pay out huge sums for further drilling, for offshore platforms if the wells are in deep water, and for all kinds of other equipment. And as the search for oil has moved increasingly into the new frontier areas—Alaska and the Outer Continental Shelf—expenditures have skyrocketed.

We have spent more than *$3 billion* in 1973–76, rather than the $725 million you credit us with, for these operations. We would, indeed, have spent more if Federal lease sales had not been delayed (and our future spending would be severely restricted if the proposed OCS legislation goes through.) From these considerations, I think you will agree that Mobil has nothing to apologize for when it comes to making maximum efforts to find oil and gas for the American consumer. In this connection, I would like to make two points:

One, oil companies should not be blamed for spending more or less on foreign as against domestic exploration in any given year. International oil companies look for oil wherever they have the opportunity. And, while the United States is dependent on foreign oil, the *U.S. consumer* benefits from foreign exploration as the supply and variety of source of foreign oil expand.

Second, exploration and producing of oil in the United States is limited by price controls, by a maze of red tape, and by lawsuits and other delays which prevent us from developing new reserves. In addition, Congress is constantly threatening to break up the oil industry or otherwise penalize it. Is there any wonder that companies seek to diversify their operations? To do otherwise, I suggest, would be to neglect the legitimate interests of our stockholders, without whose money and trust we would be unable to carry on our petroleum operations.

Let me make some other comments on your statement, going through it in order.

Mobil's "new advertising campaign" is not designed "to enhance the media image Mobil has been pursuing since the Arab oil embargo." Our concern was to make it clear to the American public that the House-passed energy bill contained serious deficiencies—a fact since recognized by the Senate. Incidentally, we began to take advertising space to explain the energy facts to the American people long before the Arab embargo.

The House-passed version of the energy bill will not, as you state, give the oil industry "substantial additional revenues", if by this you mean funds adequate to do the job. The petroleum production goals on which the House bill is based would require a substantial increase in capital investment for exploration and development. Over the three years, 1973–75, oil companies' annual expenditures for exploration and development in the U.S. averaged about $10 billion. By way of comparison, oil companies would have to spend an estimated average of $23.3 billion per year (in 1976 dollars) between 1977 and 1982 in order to meet the 1985 production goals for oil and natural gas implicit in the House-passed omnibus energy bill. This average spending level would be more than double the petroleum industry's 1973–1975 average for exploration and development and 94 percent higher than 1976's $12 billion. Yet the House-passed bill could actually have the effect of reducing the amount of capital currently available to oil companies.

As for natural gas, the House decision to extend Federal controls to intrastate markets, which up to now have been free not only of controls but of serious shortages, would result in a net decrease in funds available for exploration and development, according to a study for the industry's Natural Gas Supply Committee. The House's proposed control price of $1.75 Mcf would therefore have the effect of increasing the need for imports of foreign crude oil and of natural gas in liquefied form, both at much higher prices.

Your comments on coal suggest that Mobil is unwilling to do its part in restoring the environment after strip-mining operations. This is emphatically not the case. But we *were* concerned that legislation could result in cancellation of our permit processing and force us to reapply under a new permit system. Even more significant, we were and are concerned about the myriad of permits which must be obtained, and the lengthy procedures involved in satisfying state, local and federal requirements, all of which delay the start of actual mining.

A final comment. On rereading your letter, I was struck by your use of highly emotional terms—"highway robbery", "unbridled profits", etc. Frankly, I do not think the use of such terms contributes to the national debate on energy. I hope we can get away from such terms, get rid of prejudices, and look at facts—*all* the facts. If we do this, we have a chance together to get this country on the road to a sounder national energy position.

I am enclosing copies of Mobil's 1976 Annual Report and Financial and Operating statistics. I hope you will agree that this letter should be placed in the *Congressional Record* to set that record straight on this important issue.

Sincerely,

HERBERT SCHMERTZ.

SEATTLE SUPPORT FOR ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Committee on Interior and Insular Affairs' Subcommittee on General Oversight and Alaska Lands is continuing its markup of H.R. 39, the Alaska National Interest Lands Conservation Act, sponsored by numerous Members, and authored by Mr. UDALL, the distinguished

chairman of our Committee on Interior and Insular Affairs.

Yesterday, the subcommittee adopted a revised title VIII of the bill, dealing with the problem of protecting the subsistence lifestyle of the rural residents of Alaska, many of whom—especially the Natives—are almost totally dependent on the fish and game that they can catch or kill. While this was a subject whose importance was stressed during our many months of hearings on this legislation, there were great differences of opinion as to how subsistence uses could be protected, and to what extent. Many people doubted that a provision could be drafted that would be acceptable to all concerned. However, through continuing collaboration between the subcommittee's majority and minority staff, the State of Alaska's Government, representatives of the Alaskan Natives and rural residents, and the Department of Interior, and with the continued insight and participation of our colleagues, Don Young and Lloyd Meeds and other members of the subcommittee, a consensus title on subsistence was agreed to. I consider this to be one of the miracles of the day.

On October 16, 1977, the Seattle Post-Intelligencer took editorial notice of the importance of the Alaskan lands legislation and the recommendations of the Carter administration concerning it. The editorial urges timely action on this legislation to safeguard the "crown jewels of Alaska." Such action, it appears, is on the way.

The text of the editorial follows these remarks:

[From the Seattle Post-Intelligencer, Oct. 16, 1977]

A GREAT LAND

Interior Secretary Cecil Andrus said recently that Alaska park legislation now before Congress is "the most important land conservation program in the history of this country."

The Aleut word "Alaska" means "the Great Land," and no phrase better describes lands that Congress is being asked to set aside as national parks, national wildlife refuges, wilderness areas and links in the National Wild and Scenic Rivers System.

Added together, these federal lands are equal in size to California and total a quarter of the "Great Land." Congress has already provided other lands for Alaska's development. The Alaska Statehood Law presented the state with 103 million acres of public land—more land, actually and by percentage, than any state has ever received—and the Alaska Native Claims Settlement Act provided for conveyence of another 40 million acres (with a cash payment of about $1 billion) to native peoples.

It is now time to claim, for all Americans and generations to come, what Secretary Andrus calls "the crown jewels of Alaska."

No existing American park lands can match the peaks and glaciers of the St. Elias Mountains, the lakes and trout streams of the "Alaska Alps" near Lake Clark, nor the wildlife habitats, austere mountains and epic rafting rivers of the Brooks Range.

These places aren't household names now, and probably won't become much-visited Yosemites tomorrow. But as national park planner John Kauffman points out: "The park proposals up here are for the future, as Yellowstone was . . . We're talking about 50 and more years hence, when there may be nowhere else to go to a place that is avoid and unexplored."

Some Alaska politicians say their state's wilderness is rough enough to protect itself. They want wildlands left open to mineral exploration and whatever commercial development is possible on the fringes.

But Alaska's rapid, sometimes poorly planned growth—with already-seen consequences such as the decline of wildlife populations—makes it necessary that the state's wonderlands get immediate federal protection.

The big issue is how much protection. Conservation groups have lined up behind a 114-million acre plan sponsored by U.S. Rep. Morris Udall. Secretary Andrus has proposed a 91.7-million acre plan.

Alaska's U.S. Sen. Ted Stevens and U.S. Rep. Don Young initially wanted no new parklands before the year 2000. They've now come up with a 25-million acre plan that creates national parks consisting mainly of rocks and ice.

The Andrus plan appears to be the best alternative for protecting the world's most spectacular unspoiled wilderness while accommodating recreational and resource use.

The proposal has made adjustments to Alaskan's lifestyles. Standards of the 1964 Wilderness Act are modified where necessary to guarantee access. Seaplanes would be allowed on some remote lakes. Wilderness cabins would be permissible in some of North America's most rained on places.

Limited hunting would take place in park-bordering "national preserves" accounting for one-third of the 41.7-million acres to be managed by the National Park Service. Strictly regulated oil, gas and mineral leasing would be allowed in national wildlife refuges.

This last matter is of utmost concern and Congress must pay close attention to it.

The wildlife preserves are absolutely necessary to maintain caribou, moose, bear and other animals under pressures working against their survival. At the same time, the nation is in desperate need of new energy supplies of its own. Most of those supplies are actually in or thought to be in Alaska.

A balance has to be struck that maintains the wildlife populations without precluding all future oil and gas exploration and developments in wildlife areas, particularly in the arctic, where huge oil and gas deposits have been found and where development impacts have been great.

Alaska Gov. Jay Hammond, officially a backer of the Stevens-Young plan, has praised the Andrus bill as a "responsible and constructive balancing of interests."

Secretary Andrus's compromise should help Congress to act with all deliberate speed. Congressman Udall, who has scaled down his own proposals, says he hopes to have a bill on President Carter's desk "in five or six months."

That kind of timetable is needed to safeguard the crown jewels of Alaska.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HIGHTOWER (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. BINGHAM (at the request of Mr. WRIGHT), for January 31 and February 1, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EMERY) to revise and extend their remarks and include extraneous material:)

Mr. MICHEL, for 30 minutes, today.

Mr. CORCORAN of Illinois, for 5 minutes, today.

Mr. KEMP, for 5 minutes, today.

Mr. ASHBROOK, for 30 minutes, today.

Mr. COHEN, for 10 minutes, today.

Mr. HOLLENBECK, for 10 minutes, today.

(The following Members (at the request of Mr. CAVANAUGH) to revise and extend their remarks and include extraneous material:)

Mr. METCALFE, for 10 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BEARD of Rhode Island, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. JOHNSON of California, for 5 minutes, today.

Mr. RAHALL, for 5 minutes, today.

Mr. GIAIMO, for 5 minutes, today.

Mr. WEISS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EMERY) and to include extraneous material:)

Mr. DICKINSON.

Mr. YOUNG of Florida.

Mr. KEMP in four instances.

Mr. CRANE.

Mr. KETCHUM.

Mr. HAGEDORN.

Mr. LAGOMARSINO in two instances.

Mr. WHALEN in two instances.

Mr. ASHBROOK in three instances.

Mr. SCHULZE.

Mr. PURSELL.

Mr. SYMMS.

Mr. MCCLOSKEY in three instances.

Mr. CUNNINGHAM.

Mr. COHEN.

Mr. GILMAN.

Mr. HOLLENBECK.

Mr. EVANS of Delaware.

Mr. ABDNOR in two instances.

(The following Members (at the request of Mr. CAVANAUGH) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. FLIPPO.

Mr. MAZZOLI in two instances.

Mr. EILBERG.

Mrs. KEYS.

Mr. IRELAND.

Mr. ROE in two instances.

Mr. MURPHY of Illinois.

Mr. CLAY in 10 instances.

Mr. CARNEY in two instances.

Mr. PEASE in two instances.

Mr. ROSTENKOWSKI.

Mr. EDWARDS of California in two instances.

Mr. PEPPER.

Mr. HOWARD.

Mr. WON PAT.

Mr. MILFORD.

Mr. BAUCUS.

Mr. CONYERS in two instances.

Mr. HARKIN.

Mr. JOHNSON of California.
Mr. MOORHEAD of Pennsylvania in 10 instances.
Mr. BALDUS.
Mr. BRECKINRIDGE.
Mr. BONKER.
Mr. RUSSO.
Mr. WAXMAN.
Mrs. SCHROEDER.
Mr. MATHIS in two instances.

ADJOURNMENT

Mr. CAVANAUGH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 5 o'clock and 45 minutes p.m.) the House adjourned until tomorrow, Wednesday, February 1, 1978, at 3 o'clock p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3111. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to repeal the statutes relating to the publishing of cotton price predictions in Government reports and the issuance of cotton crop reports; to the Committee on Agriculture.

3112. A letter from the Secretary of Defense, transmitting the fourth annual report on rationalization standardization within NATO, pursuant to section 302(c) of Public Law 93–365, as amended, and section 814(b) of Public Law 94–106, as amended; to the Committee on Armed Services.

3113. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–133. "To establish a hazardous waste management program for the District of Columbia," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3114. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting a proposed final regulation amending the family contribution schedules for use during the 1978–79 academic year under the basic educational opportunity grant program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

3115. A letter from the Staff Secretary, National Security Council, transmitting the Council's annual report for calendar year 1977 on its activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3116. A letter from the General Counsel, Copyright Office, Library of Congress, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3117. A letter from the Director, Office of Administrative Services and Procurement, Department of Commerce, transmitting the annual report for fiscal year 1977 on the Department's disposal of foreign excess property, pussuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

3118. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize additional appropriations for the Department of State for fiscal year 1978; to the Committee on International Relations.

3119. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize appropriations for the Department of State for fiscal years 1979, 1980 and for other purposes; to the Committee on International Relations.

3120. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Morocco for permission to transfer certain U.S.-origin military equipment to Iran, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

3121. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to the Philippines (MC–2–78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

3122. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Robert W. Buchheim and by members of his family, pursuant to section 6 of Public Law 93–126 to the Committee on International Relations.

3123. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate William E. Schaufele, Jr., and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

3124. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassadors-designate Arthur T. Tienken and Richard J. Bloomfield, and by members of their families, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

3125. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the Commission's recommended authorization levels for its programs during fiscal years 1979, 1980, and 1981, pursuant to section 27(k)(1) of Public Law 92–573; to the Committee on Interstate and Foreign Commerce.

3126. A letter from the Administrator of Veterans' Affairs, transmitting a report on the study analyzing and evaluating the non-service-connected pension program pursuant to section 404(b) of Public Law 94–432; to the Committee on Veterans' Affairs.

3127. A letter from the Special Representative for Trade Negotiations, Executive Office of the President, transmitting a report covering the 6 months ended December 31, 1977, on reviews and hearings arising from complaints of unfair trade practices by foreign governments, pursuant to section 301(d)(2) of the Trade Act of 1974; to the Committee on Ways and Means.

3128. A letter from the Comptroller General of the United States, transmitting a report on practices in the Office of the Secretary of Defense in managing major weapon system acquisition programs (PSAD–78–14, January 30, 1978); jointly, to the Committees on Government Operations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RODINO: Committee on the Judiciary. H.R. 7843. A bill to provide for the appointment of additional district and circuit judges, and for other purposes; with amendment (Rept. No. 95–858). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 9757. A bill entitled "Grazing Fee Moratorium of 1977" (Rept. No. 95–859). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. Senate Joint Resolution 4. Joint resolution establishing the Aboriginal Hawaiian Claims Settlement Study Commission, and for other purposes; with amendment (Rept. No. 95–860). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee of conference. Conference report on H.R. 3454 (Rept. No. 95–861). Ordered to be printed.

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X,

Referral of H.R. 3350. A bill to promote the orderly development of hard mineral resources in the deep seabed pending adoption of an international regime; which was referred to the Committee on International Relations, extended for an additional period ending not later than February 17, 1978.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX:

H.R. 10621. A bill to amend the Federal Food, Drug and Cosmetic Act; to the Committee on Interstate and Foreign Commerce.

H.R. 10622. A bill to amend the Shipping Act, 1916, as amended, to provide for the prompt and effective implementation of certain equal access, pooling, rationalization, apportionment, and related reciprocal ocean transportation agreements entered into between carriers of the flags of the United States and of the nations with which we trade and to provide immunity for such agreements from the application of the antitrust laws; to the Committee on Merchant Marine and Fisheries.

By Mr. BREAUX (for himself and Mr. PRITCHARD):

H.R. 10623. A bill to improve operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BURLESON of Texas (for himself, Mr. WRIGHT, Mr. FITHIAN, Mr. GAMMAGE, Mrs. LLOYD of Tennessee, Mr. MILFORD, and Mr. WHITE):

H.R. 10624. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. BURLESON of Texas (for himself and Mr. POAGE):

H.R. 10625. A bill to suspend the duty on natural graphite until the close of June 30, 1981; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mr. BEVILL, Mr. DEVINE, Mr. EVANS of Delaware, Mr. HALL, Mr. HUBBARD, Mr. HUCKABY, Mr. LIVINGSTON, Mr. MCEWEN, Mr. MANN, Mr. MARRIOTT, Mr. QUIE, Mr. REGULA, Ms. SPELLMAN, Mr. YOUNG of Alaska, and Mr. ZEFERETTI):

H.R. 10626. A bill to provide that in civil actions where the United States is a plaintiff, a prevailing defendant may recover a reasonable attorney's fee and other reasonable litigation costs; to the Committee on the Judiciary.

By Mr. DRINAN:

H.R. 10627. A bill to amend the Office of Federal Procurement Policy Act to require

the payment of interest by Federal agencies on overdue payments to small business concerns; jointly, to the Committees on Government Operations and Small Business.

By Mr. FINDLEY (for himself, Mr. ERLENBORN, Mr. MCCLORY, and Mr. SIMON):

H.R. 10628. A bill to amend the Internal Revenue Code of 1954 to allow any State taxing authority which receives Federal tax return information to disclose such information to a State auditing agency for the purpose of auditing the activities of the taxing authority; to the Committee on Ways and Means.

By Mr. FORD of Michigan (for himself, Mr. QUIE, Mr. VENTO, Mr. OBERSTAR, Mr. FRASER, Mr. NOLAN, and Mr. SIMON):

H.R. 10629. A bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs; to the Committee on Education and Labor.

By Mr. GLICKMAN (for himself, Mr. NOLAN, Mr. MOFFETT, and Mr. PATTERSON of California):

H.R. 10630. A bill to encourage the use of alcohol in motor vehicle fuels by requiring certain retailers to make alcohol-blended fuels available for sale, by allowing the rapid amortization of facilities producing alcohol for use in motor vehicle fuels, and by exempting alcohol-blended fuels from certain requirements of the Clean Air Act; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. IRELAND:

H.R. 10631. A bill to amend the Farm Labor Contractor Registration Act of 1963, as amended, and for other purposes; to the Committee on Education and Labor.

H.R. 10632. A bill to amend the Small Business Act to provide regulatory flexibility for small business in certain instances so that the effect of regulation matches the size of business regulated; to the Committee on Small Business.

By Mr. JENRETTE:

H.R. 10633. A bill to amend title 5, United States Code, to provide that certain air traffic specialists be considered as air traffic controllers for retirement and certain other purposes; to the Committee on Post Office and Civil Service.

By Mr. KEMP:

H.R. 10634. A bill to provide for the issuance of a commemorative postage stamp in observance of the 30th anniversary of the founding of the modern state of Israel; to the Committee on Post Office and Civil Service.

H.R. 10635. A bill to amend the Tariff Schedules of the United States to provide duty-free treatment for horses; to the Committee on Ways and Means.

By Ms. KEYS:

H.R. 10636. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the carryover basis provisions which were added by the Tax Reform Act of 1976 and for other purposes; to the Committee on Ways and Means.

By Mr. MOFFETT:

H.R. 10637. A bill to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. NEAL (for himself, Mr. FOUNTAIN, Mr. BROYHILL, Mr. JONES of North Carolina, Mr. PREYER, Mr. ANDREWS of North Carolina, Mr. MARTIN, Mr. ROSE, Mr. HEFNER, Mr. GUDGER, and Mr. WHITLEY):

H.R. 10638. A bill to provide that funds projected to be expended for a new program on smoking and health, announced by the Secretary of Health, Education, and Welfare on January 11, 1978, be redirected for research on any potentially harmful properties of tobacco; to the Committee on Interstate and Foreign Commerce.

By Mr. QUILLEN:

H.R. 10639. A bill to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RINALDO:

H.R. 10640. A bill to amend the Internal Revenue Code of 1954 to provide graduated corporate income tax rates; to the Committee on Ways and Means.

By Mr. RISENHOOVER:

H.R. 10641. A bill to amend the Consolidated Farm and Rural Development Act to provide an alternate method of financing the land, equipment, and operating expenses of qualified farm families, including young farmers, and shall help provide the farm family with adequate standards of living and the consumer with reasonable prices for agricultural products, and for other purposes; to the Committee on Agriculture.

By Mr. ROE:

H.R. 10642. A bill to encourage participation by children whose language is English in bilingual education programs under the Bilingual Education Act; to the Committee on Education and Labor.

H.R. 10643. A bill to amend title 38, United States Code, to establish a court of veterans' appeals and to prescribe its jurisdiction and functions; to the Committee on Veterans' Affairs.

By Mr. SHIPLEY:

H.R. 10644. A bill to authorize the Secretary of Agriculture to provide 100-percent parity to farmers; to the Committee on Agriculture.

H.R. 10645. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. SIKES:

H.R. 10646. A bill to provide a voluntary self-help program which is designed to assist producers of agricultural products to protect themselves against loss of cost of production when natural or uncontrollable conditions adversely affect production and which will assure consumers that producers will be able to continue to produce food and fiber; to the Committee on Agriculture.

By Mr. UDALL (for himself, Mr. SIMON, Mr. STEERS, Mr. BAUCUS, Mr. STARK, Mr. KOSTMAYER, Mr. WALGREN, Mr. GLICKMAN, Mr. HANLEY, Mr. SOLARZ, Mr. PRITCHARD, Mr. AKAKA, Mr. MOAKLEY, Mr. VAN DEERLIN, Mr. LLOYD of California, Mr. ROE, Mr. PRICE, Mr. NEAL, Mr. BENNETT, Mr. VENTO, Mr. BALDUS, Mr. HAGEDORN, Mrs. MEYNER, Mr. EDGAR, and Mr. DRINAN):

H.R. 10647. A bill to amend title 5, United States Code, to promote proper and efficient activities of the Government, and to protect Federal employees disclosing situations in which such activities are not proper or efficient; to the Committee on Post Office and Civil Service.

By Mr. WEISS:

H.R. 10648. A bill to facilitate the economic adjustment of communities, industries, and workers to civilian-oriented initiatives, projects, and commitments when they have been substantially and seriously affected by reductions in defense contracts, military facilities, and arms export which have occurred as a result of the Nation's efforts to pursue an international arms control policy and to realine defense expenditures according to changing national security requirements, and to prevent the ensuing dislocations from contributing to or exacerbating recessionary effects; jointly, to the Committees on Armed Services, Banking, Finance and Urban Affairs, Education and Labor, Government Operations, and Ways and Means.

By Mr. WHALEN (for himself, Mr. BEDELL, Mr. BROWN of Ohio, Mr. HUCKABY, Mr. MARKS and Mr. QUIE):

H.R. 10649. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product liability claims and related expenses shall be exempt from income tax, and that a deduction shall be allowed for contributions to such trusts; to the Committee on Ways and Means.

By Mr. WRIGHT (for himself and Mrs. SPELLMAN):

H.R. 10650. A bill to amend title 5, United States Code, to provide survivor annuities to subsequent spouses of certain additional classes of deceased annuitants who died after making available survivor annuities for previous spouses at the time of retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BALDUS:

H.R. 10651. A bill to amend the Small Business Act to define certain small business concerns as family enterprises; to the Committee on Small Business.

By Mr. BONKER:

H.R. 10652. A bill to amend the Social Security Act to require the issuance of social security cards designed to reveal any unauthorized alteration, to require that alien employment restrictions be marked on such cards and that such cards be presented to employers by prospective employees, to limit the use of such cards as identification cards, and for other purposes; to the Committee on Ways and Means.

By Mr. COTTER:

H.R. 10653. A bill to amend the Internal Revenue Code of 1954 with respect to the redemption of United States Railway Association certificates of value issued to railroads in reorganization; to the Committee on Ways and Means.

By Mr. DAN DANIEL:

H.R. 10654. A bill to provide for the removal of a barricade on abandoned Virginia Route 776 at Philpott Lake, Va.; to the Committee on Public Works and Transportation.

By Mr. HOLLENBECK (for himself, Mr. JONES of North Carolina, Mr. MOAKLEY, Mr. LAGOMARSINO, Mr. PRICE, Mr. EDWARDS of Oklahoma, Mr. STEERS, Mr. ERTEL, Mr. HUGHES, Mr. ROE, Mr. KOSTMAYER, and Mr. MARRIOTT):

H.R. 10655. A bill to amend the Internal Revenue Code of 1954 to permit individuals to deduct qualified smoke detector expenses; to the Committee on Ways and Means.

By Mr. JOHNSON of California (for himself, and Mr. HARSHA) (by request):

H.R. 10656. A bill to amend the Highway Safety Act of 1966 to authorize appropriations, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HARRIS (for himself, Mr. UDALL, and Mrs. SCHROEDER):

H.R. 10657. A bill to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McCLOSKEY:

H.R. 10658. A bill to amend the Shipping Act, 1916, to authorize closed conferences and shippers councils; to the Committee on Merchant Marine and Fisheries.

By Mr. McKINNEY:

H.R. 10659. A bill to amend the District of Columbia Election Act to remove the prohibition on certain officeholders in the District

of Columbia being candidates for certain other offices, to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the authority of the government of the District of Columbia with respect to political activities of District of Columbia employees, and for other purposes; to the Committee on the District of Columbia.

By Mr. MATHIS (for himself, Mr. POAGE, Mr. WAMPLER, Mr. KREBS, Mr. GLICKMAN, Mr. COLEMAN, Mr. MARLENEE, Mr. GRASSLEY, Mr. MOORE, Mr. BURLESON of Texas, Mr. ANDREWS of North Dakota, Mr. QUIE, Mr. BRINKLEY, Mr. EVANS of Georgia, Mr. KRUEGER, and Mr. HUCKABY):

H.R. 10660. A bill to strengthen the economy of the United States through increased sales abroad of American farm products; jointly, to the Committees on Agriculture, and International Relations.

By Mr. MURPHY of New York (for himself, Mr. BREAUX, Mr. RUPPE, Mr. LEGGETT, Mr. BIAGGI, Mr. FORSYTHE, Mr. DE LA GARZA, Mr. STUDDS, Mr. PRITCHARD, Mr. BOWEN, Mr. DE LUGO, Mr. EMERY, Mr. HUBBARD, Mr. BONKER, Mr. EVANS of Delaware, Mr. AUCOIN, Mr. ZEFERETTI, Mr. HUGHES, Ms. MIKULSKI, Mr. BONIOR, Mr. AKAKA, and Mr. MCCLOSKEY):

H.R. 10661. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal years 1979 and 1980; jointly, to the Committees on Merchant Marine and Fisheries, and Science and Technology.

By Mr. PURSELL (for himself, Mr. CARR, Mr. EILBERG, Mrs. FENWICK, Mr. FISH, Mr. GLICKMAN, Mr. HAGEDORN, Mr. HARRINGTON, Mrs. HECKLER, Mr. HUGHES, Mr. LAGOMARSINO, Mr. MOAKLEY, Mr. STOCKMAN, Mr. TRAXLER, Mr. WALKER, and Mr. WEISS):

H.R. 10662. A bill to amend section 1304 of the Internal Revenue Code of 1954 relating to income tax returns of married individuals; to the Committee on Ways and Means.

By Mr. ROONEY (for himself and Mr. STAGGERS):

H.R. 10663. A bill to amend part I of the Interstate Commerce Act to grant access over railroad rights-of-way; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE (by request):

H.R. 10664. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Technology.

By Mr. THORNTON:

H.R. 10665. A bill to amend the Internal Revenue Code of 1954 to increase the investment tax credit for qualified farm property to 15 percent, effective as of January 1, 1976; to the Committee on Ways and Means.

By Mr. THORNTON (for himself, Mr. BYRON, Mr. WAMPLER, Mr. MANN, Mr. ANDREWS of North Carolina, and Mr. SKELTON):

H.R. 10666. A bill to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture.

By Mr. CORNELL:

H.J. Res. 697. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year staggered terms for Members of the House of Representatives, to provide that no person may be elected as Representative or Senator for more than three consecutive terms, and for other purposes; to the Committee on the Judiciary.

By Mr. FAUNTROY (for himself, Mr. EDWARDS of California, Mr. MCCLORY, Mr. BALDUS, Mr. BEILENSON, Mr. BEDELL, Mr. BENJAMIN, Mr. BLOUIN, Mr. BLANCHARD, Mr. BOLLING, Mr. BONIOR, Mr. BRODHEAD, Mr. BRADEMAS, Mr. BUCHANAN, Mrs. BURKE of California, Mrs. CHISHOLM, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. CORRADA, Mr. COTTER, Mr. D'AMOURS, Mr. DAVIS, Mr. DELLUMS, and Mr. DE LUGO):

H.J. Res. 698. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

By Mr. FAUNTROY (for himself, Mr. EDWARDS of California, Mr. MCCLORY, Mr. DERRICK, Mr. DIGGS, Mr. DRINAN, Mr. EDGAR, Mr. EILBERG, Mr. EMERY, Mr. FASCELL, Mr. FLOOD, Mr. FORD of Tennessee, Mr. FRASER, Mr. GRADISON, Mr. HANLEY, Mr. HAMILTON, Mr. HARRINGTON, Mr. HARRIS, Mr. HAWKINS, Mrs. HECKLER, Mr. JACOBS, Miss JORDAN, Mr. KASTENMEIER, Mrs. KEYS, and Mr. KILDEE):

H.J. Res. 699. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

By Mr. FAUNTROY (for himself, Mr. EDWARDS of California, Mr. MCCLORY, Mr. HUGHES, Mr. AUCOIN, Mr. CARR, Mr. PEASE, Mr. VAN DEERLIN, Mr. JOHNSON of California, Mr. ROSE, Mr. JOHN L. BURTON, Mr. BROWN of California, Mr. CORMAN, and Mr. MURPHY of Illinois):

H.J. Res. 700. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

By Mr. FAUNTROY (for himself, Mr. EDWARDS of California, Mr. MCCLORY, Mr. MCHUGH, Mr. MCKINNEY, Mr. MAGUIRE, Mr. MAZZOLI, Mr. METCALFE, Mrs. MEYNER, Mr. MIKVA, Ms. MIKULSKI, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY Mr. MOFFETT, Mr. MOSS, Mr. NIX, Mr. NOLAN, Mr. OTTINGER, Mr. PANETTA, Mr. PATTISON of New York, Mr. PEPPER, Mr. PRICE, Mr. PRITCHARD, and Mr. RANGEL):

H.J. Res. 701. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

By Mr. FAUNTROY (for himself, Mr. EDWARDS of California, Mr. MCCLORY, Mr. RAHALL, Mr. RICHMOND, Mr. RODINO, Mr. ROSENTHAL, Mr. REUSS, Mr. Mr. SCHEUER, Mr. SEIBERLING, Mr. SIMON, Mrs. SPELLMAN, Mr. STARK, Mr. STEERS, Mr. STOKES, Mr. STUDDS, Mr. THOMPSON, Mr. TRAXLER, Mr. TSONGAS, Mr. UDALL, Mr. VENTO, Mr. WAXMAN, Mr. WON PAT, Mr. WOLFF, and Mr. BRINKLEY):

H.J. Res. 702. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

By Mr. FUQUA:

H.J. Res. 703. Joint resolution to provide for the designation of the week of February 12 to 18, 1978, as National Vocational Education Week; to the Committee on Post Office and Civil Service.

By Mr. MAHON (for himself, Mrs. BOGGS, and Mr. CEDERBERG):

H.J. Res. 704. Joint resolution to provide for the appointment of Anne Legendre Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

H.J. Res. 705. Joint resolution to provide for the reappointment of John Paul Austin as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

H.J. Res. 706. Joint resolution to provide for the reappointment of A. Leon Higginbotham, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

By Mr. ROE (for himself, Mr. HOWARD, and Mr. THOMPSON):

H.J. Res. 707. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. THONE:

H.J. Res. 708. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. HANSEN (for himself, Mr. MURPHY of New York, Mr. COCHRAN of Mississippi, Mr. MINISH, Mr. LONG of Maryland, Mr. FLIPPO, Mr. FOUNTAIN, Mr. HOLLAND, Mr. JENRETTE, Mr. TEAGUE, Mr. MILFORD, Mr. HUGHES, Mr. EILBERG, Mr. GINN, Mr. RAHALL, Mr. BENNETT, Mr. SLACK, Mr. BENJAMIN, Mr. BUCHANAN, Mr. ARCHER, Mr. THORNTON, Mr. FUQUA, Mr. WHITTEN, Mr. DON H. CLAUSEN, and Mr. FORSYTHE):

H. Con. Res. 462. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. ROE:

H. Con. Res. 463. Concurrent resolution directing the Congress and the executive agencies to determine how they may aid in achieving national goals in outer space; to the Committee on Science and Technology.

By Mr. HOLLENBECK:

H. Res. 987. Resolution relating to the future telecommunications policy of the Nation; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H. Res. 988. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

By Mr. SCHEUER:

H. Res. 989. Resolution to provide for the expenses of investigations and studies to be conducted by the Select Committee on Population; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

288. By the SPEAKER: Memorial of the House of Representatives of the State of Georgia, relative to funding for Amtrak service from Chicago to Florida through Atlanta and Savannah; to the Committee on Appropriations.

289. Also, memorial of the Legislature of the State of Delaware, requesting that Congress call a convention for the purpose of proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RAHALL introduced a bill (H.R. 10667) for the relief of Kumarlal Khemchand

Nichani, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

387. By the SPEAKER: Petition of the Texas and Southwestern Cattle Raisers Association, Fort Worth, Tex., relative to proposed reorganization of the Department of Agriculture; to the Committee on Agriculture.

388. Also petition of Mission Hiring Hall, Inc., San Francisco, Calif., relative to extending the period of eligibility for a Vietnam-era veteran's readjustment appointment within the Federal Government; to the Committee on Veterans' Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8336

By Mr. SEBELIUS:

Page 3, line 3, after the word "exchange", replace the period with a colon and add the following: "*Provided*, That no Federal funds shall be appropriated until the Governor of the State of Georgia executes a written agreement on behalf of the State, suitable to the Secretary, which provides for (1) the acceptance by the State of the transfer by donation of all Federally owned lands, waters, and developments thereon, and interests therein, within the recreation area and (2) the acceptance by the State of the obligation of continued operation and maintenance of those federally transferred lands within the recreation area in accordance with the objectives of this Act, such transfer and acceptance to occur by no later than September 30, 1980. All ownership and operation of the area by the Secretary under terms of this Act shall terminate by no later than September 30, 1980, except that the Secretary and the Governor may mutually agree to limited continued Federal operations for a reasonable period beyond that date in order to provide for an orderly transition. Any transfer of lands and interests therein by the Secretary to the State shall assure provision that such lands or interests therein shall revert to the property of the United States at any time that such lands or interests may be subjected to uses substantially contrary to the uses intended by this Act."

Page 8, line 20, add the following at the end of subsection 105(a):

"It is the express intent of the Congress that the Secretary should substantially complete, by September 30, 1980, no less than 60% (in terms of authorization dollars) of the land acquisition program contemplated by this Act, whereafter such date no further appropriations may be made under terms of this Act."

In all places where it appears, relative to the name of the area, delete the word "national".

Page 2, line 11, delete "CHAT–20,000" and insert "CHAT–20,000–B", and delete "July 1976" and insert "February 1978".

Page 8, line 12, delete subsection 104(c).

H.R. 9214

By Mr. HARKIN:

(1) The United States Executive Director on the Executive Board of the International Monetary Fund shall initiate a wide consultation with the Managing Director of the Fund and other member country Executive Directors with regard to encouraging the IMF staff to formulate stabilization programs which, to the maximum feasible extent, foster a broader base of productive investment and employment, especially in those productive activities which are designed to meet basic human needs.

(2) In accordance with the unique character of the International Monetary Fund, the U.S. Executive Director shall take all necessary steps to insure that all Fund transactions, including economic programs developed in connection with the utilization of Fund resources, do not contribute to the deprivation of basic human needs, nor to the violation of basic human rights, such as torture, cruel or inhumane treatment or degrading punishment, prolonged detention without charge, or other flagrant denials of life, liberty and the security of person; and shall oppose all such transactions which would contribute to such deprivations or violations.

(3) In order to gain a better understanding of the social, political and economic impact of the Fund's stabilization programs on borrowing countries, especially as it relates to the poor majority within those countries, the Executive Director representing the United States to the Fund shall prepare and submit, not later than 60 days after the close of each calendar year, a report to the Congress. Such report shall evaluate, with respect to countries to which loans are made by the Fund during such year, the effects of fiscal and monetary policies of those countries which result from the standby agreement(s), on the ability of the poor in such countries to obtain:

(1) an adequate supply of food with sufficient value to avoid the debilitating effects of malnutrition;

(2) shelter and clothing;

(3) public services, including health care, education, clean water, energy resources, and transportation;

(4) productive employment that provides a reasonable and adequate wage.

By Mr. MATHIS:

Amend the title to read "To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund, and for other purposes.

Add the following new section:

"SEC. . The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is further amended by adding at the end thereof the following new sections:

"SEC. . The President shall, in implementing the authority granted under this Act, insure that the United States Government opposes and votes against any loan or other financial assistance for the production of palm oil, sugar, or citrus.

" 'SEC. . The President shall, in implementing the authority granted under this Act, insure that the United States Government opposes and votes against any loan or other financial assistance for projects that would tend to increase exports of any agricultural commodity that competes with agricultural commodities produced in the United States, unless United States producers of any such agricultural commodity are receiving average prices of at least one hundred percent of parity as determined by the Secretary of Agriculture at the time such loan or assistance is authorized.'."

Amend the title to read "To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund, and for other purposes."

Add the following new section:

"SEC. . The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is further amended by adding at the end thereof the following new section:

" 'SEC. . All authorities granted under this Act shall terminate on October 1, 1979.' "

Amend the title to read "To mend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund, and for other purposes."

Add the following new section:

"SEC. . The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is further amended by adding at the end thereof the following new section:

" 'SEC. . All authorities granted under this Act authorizing and governing United States membership in the Fund shall terminate on October 1, 1979.'."

EXTENSIONS OF REMARKS

SERVICE ACADEMY?

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. COHEN. Mr. Speaker, I want to bring the following article from Parade magazine concerning service academies to the attention of my colleagues. I feel it discusses some of the day-to-day activities at the academies that are not always brought to light before one enters, and could have a bearing on a youngsters' final decision:

SHOULD YOUR SON OR DAUGHTER GO TO A SERVICE ACADEMY

(By Peter J. Ognibene)

If you are a parent with children in college, no one needs to tell you about the skyrocketing costs of higher education.

There are, however, some 15,000 students at five schools who receive free tuition, housing and meals. In addition, students at four of the schools get a salary of some $4000 a year. Uncle Same picks up the tab, which can run from $40,000 to $100,000 per graduate.

These are, of course, the cadets and midshipmen of the nation's five service academies. The Department of Defense is responsible for three: the Air Force Academy near Colorado Springs, Col.; the Military Academy at West Point, N.Y., and the Naval Academy here in Annapolis.

The Department of Transportation is responsible for the Coast Guard Academy at New London, Conn., and the Department of Commerce oversees the Merchant Marine Academy at Kings Point, N.Y.

At the end of four years, graduates are awarded bachelor of science degrees and launched into well-paid careers. Most alumni of Kings Point are hired by American shipping firms. Graduates of the other four academies become second lieutenants or ensigns in their services and are obliged to put in a five-year tour of active duty.

Cadets and midshipmen find nearly every aspect of their lives minutely regulated. They must be up at dawn; their academic, athletic

and military duties usually keep them busy until late at night. They need permission to leave the campus even for a few hours; that permission, however, is rarely accorded freshmen.

Because the work is hard, generally one of every three quits before graduation. Some flunk out, but most leave of their own volition.

"Probably the biggest problem is parental pressure on a son or daughter to go to the academy," says Arthur Athens, a senior who commands Annapolis' Brigade of Midshipmen. "This place is not for everybody. It's a tough program, and you have to want to do it."

Rear Adm. Kinnaird R. McKee, Superintendent of the Naval Academy, told PARADE: "The guy that we want, or the girl, has to have both the talent and the inclination to handle the core program in math, science and engineering. . . . They also have to be pretty independent. We want to teach them how to live in this environment and yet keep that spark of independence.

"LOOK ELSEWHERE"

"The kind of guy we don't want is the one who doesn't want to be a line officer in the Navy or Marine Corps. We don't expect every young person at age 17 to have made up his mind, but the guy who's already made up his mind that he wants to be a doctor, lawyer, or veterinarian would do well to look elsewhere."

The admiral's remarks apply in general to the other academies.

Summer training of freshman year is as tough as any "boot camp." The Air Force Academy frankly warns prospective cadets what to expect:

"For each of the 42 days, there are about 15 hours of scheduled activity. Basic cadets have very little time to call their own. . . . [It] starts with lines. There's a line for everything: turning in money and personal possessions, filling out all sorts of forms, picking up uniforms, shoes and boots, and a rifle. There are more lines for physical examinations, weighing, haircuts, and shots. . . . Each new basic cadet is assigned to one of the [training] squadrons and is given a room with one or two cadets, probably total strangers. . . . The room is clean and well-equipped, but it's stark and with it come many rules on how to keep it looking spotless and military. . . . Tremendous physical exertion will be required of you. . . . Physical conditioning exercises, devised by officers and administered by the upper-class, increase in difficulty every day, pushing new cadets hard for maximum development. . . . Basic cadets run or march everywhere they go. You must undergo an obstacle course and a confidence course which are very tough and demanding physically. The academy is well over a mile above sea level and the air is thin and dry, which also takes a toll of your energy. Sometimes you may be so tired you hurt all over. . . ."

Entering freshmen at West Point, Annapolis and the Coast Guard Academy face a similarly tough summer of basic training. New midshipmen at the Merchant Marine Academy have a two-week "orientation period" that is considerably less rigorous; they receive no pay except on cruises.

HONOR CODES DIFFER

All the service schools have honor codes. At Annapolis, New London and Kings Point, the concept is simply stated: midshipmen or cadets will not lie, cheat or steal. Cadets at the Military and Air Force academies have an additional requirement: they must report the honor code violations of their fellow cadets. Thus, the student who sees another cheating but fails to report it is considered to have breached the code himself. If caught, both would probably be expelled.

Lt. Gen. Andrew J. Goodpaster, the Superintendent of West Point, explains the rationale: "The honor code is not an all-inclusive prescription for moral behavior, but it does contain a hard core of irreducible standards central to honorable behavior—cadets will not lie, cheat or steal. Additionally, the code includes the fundamental tenet of self-enforcement—the requirement that cadets not tolerate actions of those who fail to adhere to the fundamental standards of conduct embodied in the honor code."

West Point suffered a cheating scandal in 1976 in which 152 cadets were found to have either cheated on a take-home exam or failed to report classmates who had. A national controversy arose not so much over the dismissal of those who cheated but over those who did not turn in the violators. Breaking with precedent, the Secretary of the Army permitted those dismissed for honor violations in 1976 to return to West Point last September; 98 accepted this second chance.

Rep. Thomas J. Downey (D., N.Y.), at 28 the second youngest member of Congress, has been serving on the Board of Visitors to West Point, which oversees the school's operation. He finds the differences between honor codes troubling. "Honor is not divisible," he says. "It is an ethic that must mean the same thing to the officers of each branch of the service. Disparate views about the nature of honor should not be nurtured at our academies."

In 1974, the Merchant Marine Academy admitted female students; the first will graduate next June. An act of Congress opened the other academies to women in 1976. So far, they seem to be doing every bit as well as their male counterparts. Academic standards are exactly the same for both sexes, but women are not permitted to play contact sports such as football or wrestling. They do compete with men in marksmanship, sailing and other sports. They are also developing their own intercollegiate teams to challenge other college women in volleyball, basketball, etc.

4,000 GUYS, 80 GIRLS

Kathy Walsh of Corry, Pa., is a "youngster" (academy slang for sophomore) and a member of the first class of women to enter Annapolis. She says, "I didn't come here for the guys, even though my friends back home said, 'Wow—4000 mids and only 80 women!' " In her first year Walsh proved to be an outstanding athlete ("the brigade jock," cracked one of her male classmates) on the women's volleyball and basketball teams. Her academic major is oceanography.

Sara Franke, a freshman or "plebe" from Santa Ana, Cal., has an older brother who was graduated from Annapolis last June. His experience convinced her to apply, and she is glad she did. "Being here you feel just like one of them," she says of her classmates, male and female.

Were there any differences in the treatment accorded male and female midshipmen? Franke thought for a moment and replied: "For the dances here, they import girls from the surrounding schools but not guys."

The service academies have much in common: a military atmosphere, a vigorous athletic program and a limited amount of freedom to choose academic courses. Curricula differ considerably.

Competition for academy appointments is keen, but students in the upper 40 percent of their high school class who enjoy sports and extra-curricula activities stand a good chance. Political pull is not important. Although Congressional appointments are the primary means of gaining admission to all but the Coast Guard Academy, in practice most Senators and Representatives turn over the actual selection to the academies. (The Coast Guard Academy runs its own selection system.)

Should your son or daughter go to a service academy? That is, ultimately, a question that only he or she should answer. Everyone I spoke with about the academies stressed the importance of an individual's commitment to succeed; the young person pushed by parents to go to an academy runs a high risk of becoming disillusioned and dropping out.

A FAIRNESS DOCTRINE?

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. EVANS of Delaware. Mr. Speaker, the Board for International Broadcasting, which supervises Radio Free Europe and Radio Liberty, has recently proposed allowing officials of the Soviet Union and other Eastern European dictatorships free air time on these U.S. taxpayer-supported stations. The purpose of this generous action, according to the Board, would be to allow Communist officials to respond to material carried on RFE and RL, in return for keeping our broadcasts free from jamming.

As a former chairman of Radio Free Europe in Delaware, I find this recommendation incredible. In reading this report, one would think that the Communist regimes did not have the opportunity to air their views. Of course, nothing could be further from the truth. The Communist governments bombard their people continuously with propaganda which often has little basis in truth. Radio Free Europe and Radio Liberty are but a small attempt to counteract these overwhelming distortions. The mere fact that the Soviets feel the need to jam these broadcasts is the best tribute I know of to their effectiveness.

When our Government gets equal time on Radio Moscow, then we can talk about equal time for the Communists on Radio Free Europe and Radio Liberty. But not before.

I ask unanimous consent that an editorial from the Wall Street Journal of January 24, 1978, entitled "A Fairness Doctrine?" be included in the RECORD.

[From the Wall Street Journal, January 24, 1978]

A FAIRNESS DOCTRINE?

Radio Free Europe and Radio Liberty, which broadcast Western news and information to East bloc nations, typically respond to "jamming" by increasing signal power.

But now the Board for International Broadcasting, which supervises the two stations on the U.S. behalf, has come up with what the administration calls "a civilized alternative" to the spiral of increased jamming and increased broadcasting volume. The idea is to "make air time available to officials of the Soviet Union and East Europe for responses to those specific complaints that have merit."

As the report says, "No radio enterprise broadcasting 980 hours a week can avoid committing an occasional inaccuracy." So, behaving with a modesty and objectivity that would do any journalist proud, the

board is offering to give the opposition time to air its views.

But ths admirable attempt at fairness may be a little misplaced. For one thing, it's not as if our radio stations were really depriving the Communist regimes of their chance to make their views known to their populations: These governments, after all, do have just about total control of the indigenous media in their countries and so plenty of opportunity to get their perspective across. More important, it's a pretty dangerous thing to try to strike a bargain that trades on-the-air corrections for freedom from jamming.

It's not likely, after all, that the Eastern governments are going to be satisfied with making sure that the stations are reporting correct crop-yield figures. The pressures for access to air time are likely to keep growing, and the pressures on the broadcasters to mitigate their views or face jamming are liable to grow as well.

By all testimony, these radio stations have wide audiences in Communist nations. The board should think twice before doing something that might compromise that impact without really being able to insure the safety it's designed to buy.

UKRAINIAN SITUATION

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. HOLLENBECK. Mr. Speaker, on January 22 Ukrainians throughout the world reflected on the ruthless tactics which made their homeland part of the Soviet Union, and renewed their commitment to preserve their unique cultural identity.

Sixty years ago, the Ukrainian Parliament declared the Ukraine to be an independent republic. This measure was possible only after decades of staunch commitment by Ukrainians who share a recognition of their heritage and yearned for the day when they could live in an independent nation.

However, independence was short lived. Bolsheviks and counterrevolutionary White Russians invaded the Ukraine from all sides. Under Soviet rule, the Ukraine was devastated by the revolution and civil war that swept Russia. It also suffered great loss of life during the famine of 1921–22.

As a concession to strong Ukrainian nationalism, the Ukrainian Soviet Republic was established within the U.S.S.R. in 1922. Today, the Ukraine represents the largest non-Russian republic in the U.S.S.R. with a population of 50 million and a land area of 232,000 square miles. It is richly endowed with natural resources and comprises a major segment of the Soviet power base.

Despite the Great Purge under Joseph Stalin, the Ukraine has never become Russianized. The Ukrainians have not sacrificed or compromised their staunch commitment to their cultural heritage. Soviet propaganda might lead the uninformed to believe that the Ukrainians are a people wholly committed to the U.S.S.R. I firmly believe that this is not the case, for the Ukrainians have a tradition of national independence that emerged in early history and continues unimpaired to the present.

It might be easy to conclude that the present situation is hopeless. However, the patient determination of Ukrainians throughout the world proves otherwise. I only hope for the day when, rather than reflect on their nation's short lived independence, they can celebrate the unthreatened freedom of their homeland.

PROHIBIT SOUTH AFRICAN TENNIS TEAM FROM DAVIS CUP PLAY IN TENNESSEE

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mrs. CHISHOLM. Mr. Speaker, the racist policies of the South African regime are well documented and must be condemned at every turn. We in this country in government cannot speak in lofty prose of the violation of human rights in South Africa and then permit representatives of that country's policies to come here and compete in a sporting event.

Such an event is in the offing this March. The U.S. Tennis Association (USTA) has invited the South African Davis Cup tennis team to participate in the Davis Cup competition on the grounds of Vanderbilt University, in Nashville, Tenn., on March 17, 18, and 19.

The invitation should be withdrawn There is no room for politics and racism in sports. The former Ambassador to Ghana, Franklin H. Williams, who is currently president of the Phelps-Stokes Fund, has documented this travesty of human rights.

Here are the facts: South African athletics are strictly regulated by apartheid, which separates the races in virtually every aspect of life. International team competition is open only to the white minority (20 percent of the population) by law.

Nearly every major international sports body has barred South African membership, including the International Olympic Committee. The one, outstanding exception is the International Tennis Federation (ITF).

South African racial policies violate the cardinal principle of all sports competition—that excellence alone must be the criterion for participation.

The United States is the only team in the American zone which has agreed to compete with South Africa. Canada, Mexico, Venezuela, and the Caribbean nations have withdrawn from the Davis Cup rather than play South Africa, while the Colombian Government has refused visas to their team.

The U.S. Tennis Association (USTA), which has a weighted voting advantage in the ITF, has consistently prevented the majority of ITF member countries from excluding South Africa.

The USTA's position has been that only through sports contacts with South Africa will apartheid in sports be changed. This is ridiculuos, reverse logic and flaunts numerous resolutions of the United Nations and the Organization of African Unity mandating an end to such sports contacts.

The South African team is clearly not representative of the country and should be barred from competing in this country with our team.

It is my hope that my colleagues in this body will join me and millions of other Americans who are concerned with violations of human rights in protesting this scheduled event in Nashville, Tenn.

H.R. 8615—TAX AVERAGING EQUITY ACT

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. PURSELL. Mr. Speaker, today I am reintroducing the Tax Averaging Equity Act, a bill designed to ease some of the financial burden which many women—and some men—face with regard to income taxes in the area of tax averaging. This bill would amend the Internal Revenue Code to allow qualified individuals to disregard the income of a former spouse—whether divorced or widowed—in the computation of base period income for income averaging purposes.

Since I first introduced this bill in July, 1977, 11 national organizations have endorsed it. These organizations include: The American Physical Society; the Business and Professional Women's Clubs, Inc.; the Center for Women Policy Studies; the Commission on the Status of Women—Adult Education Association of the United States; the National Association for Female Executives; the National Association of Women in Construction; the National Organization for Women; the Princeton Center for Alternative Futures, Inc.; the American Institute of Chemists, Inc.; the Women's Caucus for Art; and the Women's Caucus of the Population Association of America. In addition, 15 of my colleagues have joined me in cosponsorship of this bill.

I think the reintroduction of this legislation is most timely as the Ways and Means Committee is about to begin its deliberations on the administration's tax package. I would hope that we could include the provisions of the Tax Averaging Equity Act in the tax reform bill which finally emerges from the committee, as I believe it is a very important change which should be made in our tax laws. I urge all of my colleagues to support this legislation, as it would bring us a step closer to equal justice for all.

TRIBUTE TO E. MANNING SELTZER

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. JOHNSON of California. Mr. Speaker, after 39 years of dedicated public service, Mr. E. Manning Seltzer, chief counsel of the Corps of Engineers, U.S. Army, retired at the end of December 1977.

On behalf of the Committee on Public Works and Transportation, I wish to express my appreciation for the almost four decades of outstanding service that Mr. Seltzer has provided to the Nation.

Mr. Seltzer, a native of Philadelphia, Pa., received his B.S. degree from Villanova University in 1934 and his law degree from Harvard Law School in 1937. He is admitted to practice law in Pennsylvania and the District of Columbia.

In 1938, after a short period performing tax research for a private law firm, Mr. Seltzer began his distinguished legal career in Federal service with his appointment to the legal staff of the Public Works Administration in Washington, D.C. With the abolishment of that agency in 1940, Mr. Seltzer joined the staff of Legal Counsel, Army Quartermaster, Construction Division, under the command of General Summerville. In December 1941, this component was transferred to the Army Corps of Engineers, Contract and Claims Branch. As chief of the Tax Unit, he was responsible for all tax questions arising out of War Department military and civil construction programs and the engineer supply procurement program. During the Second World War, Mr. Seltzer volunteered to serve in the Army and was assigned with the Corps of Engineers as a corps officer. His legal service to the corps specifically related to contract administration, claims and litigation, taxes, and terminations. He was also legal adviser on labor relations and special counsel to the Army Lumber Agency in the Office of the Chief of Engineers.

After the war, Mr. Seltzer, although returning to civilian life, continued on with the Corps of Engineers, achieving the position of chief, Contracts Branch, Legal Division, Office of the Chief of Engineers in 1946 and, in 1949, assistant chief, Legal Division. In the latter position he advised the chief of engineers on all legal matters pertaining to contractual matters. Mr. Seltzer represented the chief in negotiations with industry, officials of other agencies, and other technical services. He was particularly involved in negotiations on construction in overseas areas involving special agreements with foreign nations.

In 1956, Mr. Seltzer was the first civilian appointed chief of the Legal Division of the Office of the Chief of Engineers, and in 1959 he was appointed chief counsel of the Corps of Engineers. Mr. Seltzer was responsible for the legal system of the corps and for its varied legal activities which are carried out worldwide with a staff of approximately 460 attorneys.

Mr. Seltzer has chaired numerous boards and committees concerned with developing and modernizing construction contracting methods and types of contracts. He has been actively involved with the Interdepartmental Committee for the Revision of the Construction Contract prescribed for use by all Federal agencies concerned with construction. The changes, differing site conditions, and suspension of work clauses for construction contracts are the result of the efforts of this committee. He has been instrumental in developing the cost-plus fixed-fee—CPFF—construction and architect-engineer contract forms used by the Department of the Army. He had a major role in writing the manuals for negotiation methods and fee determinations for CPFF contracts.

Because of his organization's involvement worldwide in construction, he has served as a member of U.S. teams in drafting and negotiating diplomatic and technical agreements for carrying out construction in foreign countries. He is the author of several articles dealing with many of the major problems facing the construction industry.

Throughout his distinguished career, Mr. Seltzer has been of invaluable assistance to the Congress in shaping legislation for the development and conservation of the water and related land resources of the United States and in his agency's implementation of its responsibilities in this extremely important area.

Mr. Seltzer is the recipient of the Army Commendation Medal for his military service. He has also received the Meritorious Civilian Service Award from the Chief of Engineers and two decorations for Exceptional Civilian Service presented by the Secretary of the Army.

Mr. Seltzer is married to Grace Brown Seltzer, his wife of 41 years. They live in Washington, D.C. He has two daughters, Mrs. Sue Ellen Hersh and Mrs. Carol Rosen, both residing in the Washington, D.C. area.

I am sure that my colleagues join with me in this expression of respect and appreciation, with the knowledge and expectation that Mr. Seltzer's wise counsel and advice will still be available to the Congress and the Nation.

AMERICAN AGRICULTURE'S TRIBUTE TO BOB POAGE

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. MATHIS. Mr. Speaker, on March 14 a committee of about 70 agriculture related organizations, chaired by Mr. Ed Jaenke of E. A. Jaenke & Associates, is sponsoring a banquet for Congressman BOB POAGE in recognition of his 42 years of service in Congress. The committee has asked me to serve as master of ceremonies for this event and I have gladly accepted.

The members of the committee who have worked and contributed to making the banquet a success are to be commended for honoring a person who has done more for American agriculture than anyone in history. The committee has received 100 percent cooperation from the agricultural community and from everyone who has known and worked with BOB POAGE over the years, demonstrating the deep respect and widespread admiration he has earned.

Sponsors of the BOB POAGE appreciation banquet are inviting a number of other persons to the function, including the present and former Secretaries of Agriculture, Presidents Carter and Ford, Members of Congress, and many others. It promises to be one of the largest gatherings of persons with an interest in agriculture to be held in a long time.

I personally look forward to joining this tribute to BOB POAGE, and I am sure my colleagues will want to extend the committee their best wishes for a very successful banquet.

UPON THE REINTRODUCTION OF LEGAL COMPENSATION LEGISLATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. CRANE. Mr. Speaker, with the reintroduction of this bill today, and the addition of 15 cosponsors, I am proud to say I now have 101 Members who share in my sentiment that successful defendants in suits brought against them by the Federal Government should be reimbursed for the legal fees incurred. I intend to urge the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice to resume hearings on attorney's fees at the earliest possible date so that enactment of this bill can take place early in 1978.

To enlighten the rest of my colleagues as to the reasoning behind this concept, the following scenario should be ample demonstration of the need for legal compensation. In the face of strong evidence to the contrary, the Equal Employment Opportunity Commission filed a racial discrimination case against the Mail-O-Graph Co. in Kewanee, Ill. The EEOC's investigator's notes alleged that four black employees at Mail-O-Graph had been discriminated against for racial reasons. Yet, in testimony, all but one stated they had experienced no racial discrimination. Testimony from all witnesses, including one from the Government, substantiated Mail-O-Graph's contention that the fourth employee in question was incompetent and unqualified for promotion. Statistical data introduced by Mail-O-Graph proved that, when compared with whites, black employees were receiving a higher percentage of promotions. Moreover, the overall statistics reflect that the percentage of black employees at Mail-O-Graph is more than twice the percentage of black residents in the community. Yet the EEOC continued to press their case, in-

troducing erroneous data which was later thrown out by the court due to errors in compilation resulting in gross distortion of the hiring and promotion data. The court found for Mail-O-Graph and against the EEOC as well as the fourth defendant with an award of $4,000.

In defending the obviously erroneous charges filed by the EEOC, Mail-O-Graph incurred approximately $6,000 in legal fees. Even to a successful firm such as Mail-O-Graph, $6,000 is a staggering bill—a large price to pay to clear the firm's name of outrightly questionable allegations. Obviously, many small businesses and individual citizens are reluctant to take on the Government, even against trumped-up charges, when faced with whopping attorney's fees at the end of the line. The award of the costs of litigation to a successful defendant is thus emminently justifiable, in order to assure every American his or her right to due process under the law.

In fact, just last week, the Supreme Court ruled similarily in the case of Christiansburg Garment Co. against EEOC. Although this particular suit involved the awarding of attorney's fees in title VII of the Civil Rights Act of 1964 litigation, the court's comments offer substantive precedent for application in similar attorney's fee award cases. The court pointed out that:

> It cannot be lightly assumed that in enacting § 706(k) (Civil Rights Act of '64), Congress intended to distort that process by giving the private plaintiff substantial incentives to use, while foreclosing to the defendant the possibility of recovering his expenses in resisting even a groundless action unless he can show that it was brought in bad faith.

Thus, the court found that attorney's fees may be awarded to a successful defendant, in a title VII case, "upon a finding that the plaintiff's action was frivolous, unreasonable or without foundation, even though not brought in subjective bad faith." Pointing to the legislative history of the Civil Rights Act, the court notes that several Senators explained on the floor that allowance of awards to defendants "would serve 'to deter the bringing of lawsuits without foundation,' 'to discourage frivolous suits,' and 'to diminish the likelihood of unjust suits being brought.' "

Obviously, legal compensation for successful defendants in Government-initiated suits is a concept whose time has come. We must provide all citizens equal access to the courts and legal compensation offers that direct route.

WHY THE HUMPHREY-HAWKINS BILL SHOULD NOT BE PASSED

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. SYMMS. Mr. Speaker, after the death of Hubert Humphrey, many people feel that the Humphrey-Hawkins bill should be passed as a tribute to the late Senator. I do not believe that this bill which would heighten inflation and create more costly jobs in the public sector is a fitting tribute to anyone. I submit the following article from Barron's Weekly, January 23, 1978, which highlights many of the problems with this bill:

UNWORTHY TRIBUTE—THE HUMPHREY-HAWKINS BILL IS A POOR MONUMENT TO ANYONE

De mortuis nil nisi bonum, adjured the Romans; of the dead, (speak) nought but good. Regarding the late Hubert Horatio Humphrey, we cheerfully respect the conventions. Like the rest of our colleagues in the press, we're pleased to note that for more than three decades—as Mayor of Minneapolis, Senator and Vice President—the late Minnesota lawmaker and perennial Presidential hopeful served his country long and honorably. When his career of public service drew to a close, his fellow citizens paid him a fitting tribute by having him join the score or so of distinguished Americans who have lain in state in the Capitol Rotunda. And together with all those who admire grace in adversity, we cannot help but salute the unflagging courage with which he met his end; of the late Senator Humphrey, indeed, it may truly be said that few things so became him in his life like the leaving it.

Let the dead past bury its dead. Unfortunately, however, the "great liberal" and "Happy Warrior" has left his countrymen, besides a wealth of memories, a political legacy which, with the best will in the world, we can only view as unwelcome: the Humphrey-Hawkins bill, currently pending in House and Senate. Thanks to the orgy of emotionalism which has swept the nation, prospects of its passage, as a kind of farewell gesture or final tribute to the departed, have sharply improved. Thus, to quote the resident Washington sob-sister of The New York Daily News: "So the basic question now, with Hubert's body buried in the snow-covered frozen ground of his beloved Minnesota, is, in the words of the country song, 'Will the circle be unbroken?' A definitive answer is not possible yet and probably won't emerge for several years, but the first important test may well come when Congress takes up the landmark Humphrey-Hawkins bill later this year."

If a camel is a horse designed by a committee, a legislative monument, so the record suggests, tends to be a monstrosity. On this score, let's not forget the disastrous spate of measures, including the first of many subsequent one-way grain deals with the Soviet Union, which a sorrowing Congress sped to passage after the assassination of JFK. Again, if one is to believe Nelson Rockefeller, the incredibly wasteful and inept Urban Development Corp. in New York State became a kind of monument to Martin Luther King.

More recently, as a tribute to the late Senator Philip A. Hart (D. Mich.), the legislators, with the cry "let's pass this one for Phil," whipped into law the Hart-Rodino-Scott Anti-Trust Amendments of 1976, an ill-conceived, misguided bill which, at the ultimate expense of business and the public, vastly enhances the authority of the trust-busters. Bad enough that for years, the purse strings in the House of Representatives were clutched by a payroll-padder, and that most of the nation's postwar tax enactments were the hnadiwork of a drunk. Far worse to have public policy, so to speak, held hostage to the survival of some good ol' boy on Capitol Hill.

All of which brings us to Humphrey-Hawkins, or the camel-like measure which still bears the name. Since its introduction several years ago as a not-so-tentative blueprint for national planning, the bill (also known euphemistically as the Full Employment and Balanced Growth Act—that talented bureaucratic phrase-maker at work again) a number of times has undergone drastic surgery. In the process, some of the more objectionable features, including provisions to turn the U.S. into a regimented economy, have been either softened or cut out altogether. However, what's left—as a spokesman for the U.S. Chamber of Commerce had the unenviable task of trying to explain last Thursday to a grieving Hill—is wrongheaded and mischievous enough.

Despite overwhelming evidence that the official statistics on unemployment are exaggerated, Humphrey-Hawkins would commit the country to a rigid and historically unrealistic numerical target for joblessness. To achieve it, the measure would put the Federal Reserve System not just partly but wholly in thrall to the White House, and, at unspecified but no doubt heavy cost to the taxpayer, make the federal government—at not less than the minimum wage, naturally—employer of last resort. At any time (as Congress, with its bouts of rewriting and recurrent qualms, and even the White House, by a belated endorsement, clearly underscore), Humphrey-Hawkins would give any sensible man pause. Today, with the threat of inflation mounting and confidence, at home and abroad, at low ebb, it's a folly the U.S. no longer can afford.

From the word go, the legislation, smacking as strongly of statism as it did, was thoroughly suspect. Back in early 1975, as the U.S. was struggling with the worst bout of stagflation (triggered largely by unsound monetary and fiscal policies, aggravated by price controls) in domestic history, an abortive wave of support for so-called national planning, backed by such prestigious figures as Wassily Leontieff, Nobel laureate, the UAW's Leonard Woodcock and Bendix Corp.'s Michael Blumenthal, abortively surfaced. Though cooler heads soon prevailed, the movement found an echo on Capitol Hill, where Senators Humphrey and Javits introduced the Balanced National Growth and Development Act, the main tenets of which swiftly found their way into Humphrey-Hawkins.

Though the measure was widely touted the following year as a sure bet for passage by a populist Congress with the bit in its teeth, a funny thing happened on the way to the forum. In particular, Charles L. Schultze, then of the Brookings Institution and currently chairman of the President's Council of Economic Advisers, criticized Humphrey-Hawkins as inflationary. "Almost overnight," said the National Journal, "a large group of freshmen Democrats in the House, with their eyes on the coming elections, pleaded with the leadership to keep the bill off the floor . . . the Humphrey-Hawkins bubble burst."

Not for long. In the past 18 months, the pending measure, as noted, has gone through repeated blue-penciling, a process which has stripped it of some of its worst and most unworkable provisions. Gone, for example, is the ponderous planning machinery through which the Chief Executive, in effect, would have become full-time (or perhaps overtime) economic dictator, while the timetable for lowering the rate of unemployment to the sought-after level has been stretched out. The measure also now at least pays lip service to the need for curbing inflation. Last fall, the latest version of Humphrey-Hawkins won a hesitant nod from the President, who, in the current mawkish climate of opinion, reiterated his stand in Thursday's State of the Union message. "A major step in the right direction," so Jimmy Carter told his fellow countrymen, "would be the early passage of a greatly improved Humphrey-Hawkins bill."

While Jimmy Carter would never lie to us, that last statement, hopefully will be a matter of debate. For even as endlessly amended, the pending measure contains far too much of its original inflationary bias. Thus, it would establish as a national goal the "right of all Americans able, willing and seeking work to full opportunities for useful paid employment at fair rates of compensation," regardless of the state of the job market or the ability of this country's employers to compete in the world, and, at incalculable cost, would if necessary vastly expand the ranks of public service jobholders. Again, to quote the Chamber of Commerce, "H.R. 50 reduces the independence of the Federal Reserve System . . . the bill makes the System a tail to fiscal policy, fully expected to swing in response to Administration recommendations. . . ." Now as our hardbitten Managing Editor likes to say, the Fed today may be as independent as Hungary, but things could be worse—would you buy Byelorussia, Lithuania or Latvia? As to mandating a 3 percent unemployment rate (for adults over 20) within a half decade of passage Humphrey-Hawkins would make the law of the land a will-o-the-wisp attained no more than a handful of times, at subsequent heavy economic cost, since World War II, and a goal which the shifting nature of the labor force, as well as built-in incentives for the lower-paid to stay at home, has rendered illusory. Times change, but liberal myths and shibboleths evidently live forever.

In the circumstances, the truth inevitably gets lost. For example, despite the hue and cry over unemployment, the private sector last year created more jobs—over four million—than ever before in history. By contrast, our elected representatives distinguished themselves solely by polluting the economic climate. According to projections made by the Chamber's Forecasting Center, a clutch of laws enacted at the last session, notably the hikes in the minimum wage and the Social Security tax, by 1980 will cost the U.S. over two million jobs. In the realm of unemployment, in sum, as in so many others, Congress is not the solution; it's the problem. Instead of monuments, what this country desperately needs is good government.—ROBERT M. BLEIBERG.

INTERNATIONAL SHIPPING

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. McCLOSKEY. Mr. Speaker, I invite my colleagues' attention to legislation I have introduced today that will alter the fundamental nature of our international shipping policy. It provides greater antitrust immunity for groups of carriers to limit entry so as to prevent overtonnaging in our trades, authority for the consumers of shipping services to organize to bargain with carrier conferences, and Federal Maritime Commission arbitration of rate disputes.

I had intended to offer this as an amendment to H.R. 9518, the antirebating bill, which was marked up in the Merchant Marine Subcommittee today. However, Chairman MURPHY has agreed to consider this subject in separate hearings beginning in March. Consequently, I have introduced this bill to begin the process. Hopefully, it can be refined in the next few days so that Chairman MURPHY and I can jointly sponsor a bill that will be the subject of the March hearings.

TIME TO REFORM THE PRESIDENTIAL PRIMARY SYSTEM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. ASHBROOK. Mr. Speaker, I am jointly sponsoring a bill with my distinguished colleague from Arizona, MORRIS UDALL, that would reform the Presidential primary system. This bill is called the National Primary Act of 1977.

The need for reform in this area is great. For too long the votes of individuals in the Presidential primaries have not had the weight that they deserve, because of the nature of the primary process.

The Udall-Ashbrook proposal would make four basic changes in the election laws. First, it would establish four dates for Presidential primaries, these being the second Tuesdays of March, April, May, and June. Each State holding a primary would decide which date to select. This would correct the current chaotic situation where there are more than 100 separate filing dates, selection dates, and election days.

Second, the ballot in each State would contain the names of all generally recognized Presidential candidates as determined by the Federal Election Commission. Third, crossover voting would be prohibited. Fourth, allocation of delegates in each State holding a Presidential primary would be proportional with any candidate receiving more than 10 percent of the vote in any State receiving his share of the delegates.

Well-known columnist Charles Bartlett has urged passage of this proposal as a fitting tribute to former Senator and Presidential aspirant Hubert Humphrey. According to Mr. Bartlett, "the Udall-Ashbrook reform can be a perfect memorial to a great professional." It would "put the candidates to a severe test without reducing them to exhausted discomposure."

Following is the text of Mr. Bartlett's remarks which appeared in the January 20 Washington Star:

IN MEMORIAM: REFORM THE PRIMARY SYSTEM

(By Charles Bartlett)

Politics is a practical game, and moves have gotten quickly underway to recruit the emotion stirred by the death of Hubert Humphrey in behalf of one or another of his causes.

The spirit of "let's do this one for Hubert" will be compelling on the Hill for at least the first weeks of the new session. Humphrey was a lively flag-carrier for many causes, so old allies feel justified in hoping that green and sorrowing memories of his persuasive charm will ring up one last legislative triumph in his name.

The labor lobbyists are moving to insure that the Humphrey-Hawkins "full employment" bill will be an inside contender for a ride on the wave of sentiment. It is a likely candidate because even in its compromise condition, the bill remains a sparkling product of the politics of hope, an expression of Humphrey's eagerness to make life rosier for all.

"He worked for anything and everything that we were for," George Meany of the AFL–CIO declared in extolling Humphrey.

While the Humphrey-Hawkins bill is a message of hope to the unemployed, its wistful treatment of inflation and private-sector job creation may quickly sour the rejoicing that will come at its passage. As legislation, this is an uncertain leap into a murky pond and experts may still be debating its wisdom when we are all dead.

Better to do for Hubert what he and no other presidential contender has ever been able to do for themselves. This is to rationalize the presidential primary system into a procedure that will leave those who enter the lists in a better state than the one in which they emerge now.

The aim is to put the candidates to a severe test without reducing them to exhausted discomposure. A bill to accomplish this has already been proposed by Reps. Morris Udall, D-Ariz., and John Ashbrook, R-Ohio.

Under the Udall-Ashbrook proposal, all states bent on holding presidential primaries would be required to schedule them on the first Tuesdays of either March, April, May or June. To insure that all contenders face equal exposure to voter sentiment, all the ballots on each Tuesday will carry the same names. To prevent Republicans from swinging Democratic contests and vice versa, crossover voting will be uniformly prohibited in all states.

Some of those difficulties which Humphrey encountered in pursuing the presidency have been assuaged by federal help in meeting campaign expenses. But his lingering sense of injustice at the fact that one state, West Virginia, was make-or-break in his 1960 contest with John Kennedy, as well as his dismay over the debilitating character of the primary exertions, would find a remedy in the Udall-Ashbrook reform.

The Winograd commission of the Democratic National Committee, scheduled to propose changes in party rules soon, is reported ready to embrace a move that would compress all delegate selection activities into the period between the first Tuesday in March and the second Tuesday in June.

Held on a tight rein in the White House, key figures in the commission are sheepish at the fact that change will make it harder for rivals to challenge Jimmy Carter. It will not bring order out of the chaos.

The chaos is what damages and deters politicians whose ambitions soar like Humphrey's. It discourages voters who are straining to find a leader. This is why the Udall-Ashbrook reform can be a perfect memorial to a great professional.

TIMBER BIDDING PRACTICES ON THE NATIONAL FORESTS

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. BAUCUS. Mr. Speaker, this week the House will be considering H.R. 6362, a bill dealing with bidding practices on national forest timber sales:

The objective of this legislation is to protect communities dependent upon national forest timber in the West. The economic health of these communities is currently threatened by Forest Service use of sealed bidding.

For the most part, sealed bidding is not appropriate in the West, because this sale method denies mills in local communities the opportunity to respond to outside competition for nearby timber. In many parts of the West, the national forests are the only source of timber, and individual Forest Service timber sales tend to be large. Failure to successfully obtain one or two critical sales can create an economic hardship on a local mill and on the community which the mill supports. Oral bidding is often the best way to insure a full opportunity for local mill operators to compete for the timber.

It is my understanding Chairman FOLEY intends to offer S. 1360, which passed the Senate last year by a vote of 60 to 29, as a substitute for the House version, H.R. 6362.

Contrary to what the opponents of this legislation contend, all that S. 1360 would do is allow the Forest Service to return to historic bidding methods.

The substitute which will be offered by Chairman FOLEY contains clear direction to the Secretary on his obligation to combat collusion.

It would authorize continuation of the present Forest Service system of monitoring timber sale bidding patterns and require that the Forest Service notify the Justice Department if collusion is suspected. It eliminates the apparent mandate in section 14(e) of the National Forest Management Act to use sealed bidding in all situations and restores flexibility to use whatever bidding methods are determined will insure open and fair competition. Authority is provided to alter bidding methods or take whatever action is appropriate in situations in which collusion is suspected.

Other major provisions of Chairman FOLEY's substitute are that the Secretary must insure that the Federal Government receive not less than the appraised fair market value for the sale and that in his choice of bidding methods he must give consideration to the economic stability of communities dependent upon national forest timber.

I would like to clarify some of the arguments being advanced in opposition to this legislation:

First. Sealed bidding is used for most other Government contracts and should also be used for national forest timber sales.

There are several critical differences between national forest timber sales and other Government contracts which account for the desirability of oral bidding methods. One of the most significant ones is that the national forest hold virtually a monopoly position in many parts of the country with respect to timber supply.

Oral bidding is necessary to permit timber purchasers reliant on a single raw material source to respond to outside competition. Its use is necessary to protect the economic stability of local communities because: First, a sawmill involves a heavy fixed investment and, of course, is immobile; second, specific rather than random sales must often be obtained; third, individual sales are often very large in relation to total annual timber supply in an area; fourth, there usually are no alternate sources of timber supply to the national forests; and fifth, many communities depend almost entirely on one or two mills for their employment and economic stability.

Second. Sealed bidding is used to sell the national forest timber in the East and South. There is no reason it should not be used in the West.

In the South the use of oral bidding is unnecessary due to several factors:

First. Individual timber sales are comparatively small in size in relation to Western timber sales. Between 1964 and 1972, sales averaged only 800,000 board feet in the East and South as compared to over 11 million board feet in California during the same period. Thus, each individual timber sale is much more important to a local community in the West than it is in the South. If an individual firm loses a timber sale in the South, it does not create the economic hardship or the threat of bankruptcy that such a loss could create for an independent western mill.

Second. National forest timber, although important in the South, is not the only source of supply. It amounts to only about 6 percent of the timber supply in the South, whereas in the West many communities are totally reliant on national forest timber. In the southern Rocky Mountain areas as a whole, national forest timber accounts for over 80 percent of the total timber supply. If a Southern firm loses a national forest timber sale, there is usually timber available on adjacent private lands to fill the gap. In many parts of the West the national forests are essentially the "only store in town."

Third. The use of sealed bidding to combat collusion in sale of national forest timber has been supported by several authoritative studies, including one done by a professor from California.

Opponents of oral bidding have used as an authority to support the use of sealed bidding on Federal timber sales the earlier writings of Walter J. Mead, professor of economics at the University of California, who at one time favored the use of sealed bidding for national forest timber. However, after further review of the issue, in a paper published in 1967, Professor Mead discussed the characteristics of buyer industries which indicate the desirability of utilizing oral bidding methods:

> The basic characteristics of buyer industries may constrain the public policy choice of bidding method. Thus, an industry that has an existing heavy fixed investment, uses raw materials that are relatively immobile economically, must acquire several successive leases or sales in the life of its fixed plant, is dependent on a single raw material source, must plan its purchases subject to severely limited financing, and requires that specific rather than random sales be obtained, will probably insist on the oral bidding method. *Oral bidding is more suitable under these circumstances (or even a few of them) since it permits a buyer to react to challenges from other bidders and to protect his resource position.* (Emphasis added.)

Most of the above are characteristics of the forest products industry, particularly those heavily dependent upon national forest timber. The desirability of maintaining oral auction as the normal bidding method in these situations is clear.

Fourth. Oral bidding makes it easier to collude than does sealed bidding.

No evidence has ever been presented to support this conclusion. Forest Service Chief John McGuire has repeatedly testified to that fact before various committees of Congress.

The only case in which there has been a conviction for collusion in timber sale bidding (*U.S. v. Champion International Corp., et al.*) involved oral bidding in Oregon. In reaching its decision, the court found that those convicted had met and, relying on circumstantial evidence, concluded that they had reached understandings prior to the sales. This is directly contrary to the Justice Department's assertion that collusion at an oral bidding sale is harder to prove, because the participants need not make such prior agreements. It is also contrary to Justice's assertion that convictions cannot be obtained unless there is an informer or other direct evidence of a conspiracy.

In the face of all the evidence to the contrary, the Justice letter offers no evidence to support its assertion. The only conclusion that can be drawn from the existing evidence is that those inclined to collude will do so under any bidding mechanism, and that collusive activities under either mechanism will be essentially similar.

Fifth. The Justice Department has said that collusion is very difficult to prove, and so sealed bidding is necessary to reduce the risk of it occurring.

Justice has said (in an April 26 letter to the Secretary of Agriculture) that convictions for collusion are very difficult to obtain unless there is an informer or other direct evidence of an agreement.

This is not true. The Ninth Circuit Court of Appeals recently upheld the convictions rendered by a lower court for collusion in timber sale bidding in Oregon (under oral bidding methods). The appeals court confirmed that direct evidence of a collusive agreement is unnecessary and found that circumstantial evidence is sufficient to prove the existence of a "tacit agreement." This opinion, which was rendered after the Justice letter was written, provides the ease of prosecution that the Justice Department has said it needs. Therefore, there is no reason to threaten the economic stability of dependent communities by requiring the use of sealed bidding.

Sixth. Present Forest Service regulations should be given a chance to work. They adequately protect dependent communities so there is no reason to change the law.

The Forest Service performance in implementing the regulations under section 14(e) of the National Forest Management Act does not give one cause for optimism. In initial regulations after NFMA was passed, the Forest Service virtually eliminated the use of oral bidding on national forest timber, a result that was hardly anticipated by the Members of Congress who were involved in the development of 14(e).

On June 2, 1977, the Forest Service published final regulations for the sale of national forest timber. Although under these final regulations the requirements for sealed bidding originally contained in the Forest Service interim regulations are considerably relaxed, the final regulations would still be adverse to the economic stability of local dependent communities.

The final regulations provide that in areas determined by the Forest Service to be dependent, a mix of bidding methods will be used amounting to approximately 75-percent oral and 25-percent sealed bidding by volume. The proportion of volume sold by oral auction may be increased if very large sales are involved or if the volume purchased by firms outside of the tributary area increases above historic levels.

Although the Forest Service is to be commended for significantly improving the final regulations in comparison to those originally drafted, the final regulations still would be adverse to the economic stability of local dependent communities. Even in communities which the Forest Service determines to be substantially dependent upon national forest timber, the Forest Service will offer up to 25 percent of the volume on a sealed bid basis. The "safeguard" which the regulations provide for increasing the percentage of timber offered by oral auction if a substantial portion of the sales end up being purchased by outside firms has the obvious and critical flaw that nothing will be done unless substantial, and in all likelihood permanent and irreparable damage has been done to the local economy.

Many small operators in certain parts of the country specialize in specific types of sales that have particular species or grades of logs. These small operators must obtain every single sale which comes up having the kinds of products they specialize in. If, by chance, that sale is one of those offered under sealed bidding, it puts the operator in an untenable position due to uncertainty over what he must bid to obtain the sale.

Another difficulty is created by the fact that in the past few years the amount of timber offered from the national forests has been reduced significantly in some parts of the West. In these areas the Forest Service is selling hardly enough to maintain existing mills on a break-even point. Putting into jeopardy 25 percent of the volume in these areas would be enough to severely damage the local economy.

Seventh. Sealed bidding returns more revenue to the Government than does oral auction.

The data on this issue is inconclusive. The position of the Forest Service is that existing data is preliminary and no conclusion can be reliably drawn on the question.

Bid monitoring data gathered since the National Forest Management Act (NFMA) was passed show a slight edge in favor of sealed bidding in total returns to the Government. However, the data also show that in major regions (such as California) oral bidding holds the edge. It should be pointed out that experience with sealed bidding has been under highly unusual conditions not typical of what would occur over the long term. A new bidding system was imposed after no timber had been sold from the national forests for several months (until interim regulations for sale of timber were adopted after the NFMA was passed). Then, virtually 100 percent sealed bidding was used. Many purchasers expressed a high level of anxiety over the critical need to obtain adequate supplies of timber, compounded by the uncertainties of a new bidding method. Bid data gathered under such conditions is virtually meaningless.

In testimony before the Forests Subcommittee of the House Agriculture Committee on February 7, Forest Service Chief John McGuire stated that the data is inadequate to provide a statistical basis for coming to a firm conclusion on this issue. Chief McGuire stated:

> The data that we do have available . . . suggest:
>
> (1) In competitive areas (where bid prices are substantially above the apprised value), oral auction tends to give higher average bids than sealed bidding. This is typified by bidding found in areas tributary to the Willamette Valley in Oregon. . . .
>
> (2) In areas of moderate competition, it appears that the method of bidding has no significant impact on the price paid for timber.
>
> (3) In areas of relatively low competition, where a small number of large businesses dominate, oral auction gives lower average bids than sealed bidding. Parts of eastern Oregon and central California typify this situation.

It must be emphasized, and it was recognized by Chief McGuire, that these assumptions are based on sketchy data.

Eighth. Sealed bidding has caused no disruptions or timber dislocations in the West where it has occurred.

This is not true. Although data on this issue is admittedly sketchy, what is available indicates substantial dislocations in some areas. Between November 1976, when sealed bidding was initiated on the Klamath National Forest in California, and May 1977, 42 percent of the total volume was purchased by first-time buyers. In addition, in the area near Roseburg, Oreg., before sealed bidding was used, there was an outflow of about 20 percent of the volume to other communities. After sealed bidding was initiated the outflow jumped to over 41 percent.

For the consideration of my colleagues I include in the RECORD a summary statement concerning the effects of sealed bidding on industry concentration:

THE SEALED BIDDING REQUIREMENT HAS CAUSED SUBSTANTIAL ECONOMIC DISRUPTION AND WILL REDUCE COMPETITION

A survey of National Forest timber sales in Oregon since passage of Section 14(e) dramatically demonstrates that disruption of community stability is no academic, theoretical consequence of sealed bidding. Consider the following examples, which are by no means exhaustive.

SOME EXAMPLES OF ECONOMIC DISRUPTION AND COMMUNITY INSTABILITY

1. Roseburg, Oreg.

Roseburg is located in Douglas County whose population was 78,000 in 1973. Of the 10,810 persons employed that year in manufacturing, 9,160 or 85 percent were employed in the wood products industry. Roseburg is the headquarters of the Umpqua National Forest. Ease of access from surrounding areas has caused increasing pressure on local timber supplies.

In calendar 1976, when oral bidding was used, 80.2 percent of Umpqua National Forest timber remained in the Roseburg area. By February 8, 1977, 41.3 percent of the timber sold by sealed bid left the area—some of it purchased by mills that had never before bid on Umpqua timber. Fred Sohn, President of Sun Studis, Inc., a Roseburg mill, testified that "if this rate of outflow is sustained, in a coupe of years one or two major operating plants in our area will probably be eliminated." During the succeeding months the outflow continued, as the following table indicates:

Sample sales from the Umpqua National Forest to companies outside the Roseburg community

Date, company, location of nearest mill, million board feet purchased

March 9, 1977, Southwest Forest Industries, Medford, Oreg., 13.0.

March 16, 1977, Nordic Plywood, Eugene, Oreg., 3.2.

March 24, 1977, Cabax Mills, Eugene, Oreg., 7.1.

April 27, 1977, Robert Dollar Company, Glendale, Oreg., 7.1.

May 25, 1977, Boise Cascade, Medford, Oreg., 1.8.

June 9, 1977, Rosboro Lumber Company, Springfield Oreg., .24.

June 9, 1977, Golden State Building Products, Shingle Springs, Calif. .21.

To make matters worse, the U.S. Forest Service has announced that it intends to reduce the annual sales volume on the Upmqua.

2. The Klamath Basin, Oreg.

In 1973, the Klamath County population was 52,750. Of the 5,990 persons employed in manufacturing in the county, 3,650 or 61 percent were employed in the wood products industry. The city of Klamath Falls is the headquarters of the Winema National Forest. The entire Klamath Basin is a dependent community.

Before sealed bidding, about one-third of the volume of National Forest timber sold left the Basin. During the recent period of sealed bid sales, outside operators purchased 67 percent of the volume. These figures prompted the Forest Supervisor to take steps to change back to oral sales. "To do otherwise, in my judgment, would be contrary to the intent of the regulations and would be disadvantageous to the dependent community." He warned that "timber supply problems west of the Klamath Basin will be causing an increase in competition for Klamath Basin timber," and urged "maximum flexibility in making these kinds of decision at the Forest level."

3. The Bend-Prineville Bidding War

Bend and Prineville are both dependent communities, located about 35 miles apart. Bend is west of Prineville, and is tributary to the Deschutes National Forest located west of Bend. Prineville is tributary to the Ochoco National Forest, located east of Prineville. The Bend mills have always looked to the Deschutes for their supply, and the Prineville mills to the Ochoco. But the introduction of sealed bidding made "raiding" possible, and touched off a destructive bidding war.

Bend, Oreg. The 1973 Deschutes County population was 36,800. There were 2,150 persons employed in the wood products industry out of a total manufacturing payroll of 3,080 (over 70 percent). On May 31, 1977, Louisiana-Pacific of Prineville purchased 18.3 million feet at a sealed bid sale in Bend. The second high bidder was Boise-Cascade from

Medford. The third high bidder was a local company, Brooks-Scanlon. The community lost more than 18 million board feet of timber to an outside mill—nearly a year's supply for a small mill which would employ about 75 persons directly and another 75 in logging, transportation and related operations.

The State and local press understood the adverse consequences and dire implications of this raid. On June 1, the day after Louisiana-Pacific of Prineville purchased 18.3 gonian reported:

BEND.—The controversial sealed-bid system has cost Brooks-Scanlon Corp. a majority timber sale in Deschutes National Forest, company President Michael Hollern said Wednesday.

"In confirms what we've been saying since the Forest Service introduced sealed bidding. It offers a less than adequate means for a local mill to protect its tremendous investment in plant, equipment and people," Hollern said.

* * * * *

The sale would have provided about 10.5 months log supply for the Brooks-Wilamette sawmill at Redmond that employs 60 persons, the company reported.

"We submitted a sealed bid that was $400,000 more than the advertised price of the timber. Because of the inherent unfairness of sealed bidding, we were not allowed to exceed the bids of outside competitors as we have consistently done in the past through open oral auction," Hollern said.

On June 6, 1977, The Prineville Central Oregonian printed an editorial entitled "Black Marble Bingo," a reference to the Forest Service's practice of picking black and white marbles, to determine which sales should be sealed bids and which by oral. It expressed the vain hope that:

"Now that blood has been drawn on the Deschutes National Forest, let us hope that the Forest Service continues to "get its money" there without the game getting out of hand here.

"We might do alright if Brooks-Scanlon doesn't find out L–P is a Prineville mill. Because, if the white marble shows up in Prineville, Brooks-Scanlon might, also."

The white marble showed. On June 30, 1977, Brooks-Scanlon took nearly 20 million board feet out of the Ochoco.

Prineville, Oregon. In 1976, the Cook County population was approximately 11,500; about one-third of those employed were engaged with the wood products industry (1,700 of 5,000). Less than a month after the raid by Louisiana-Pacific of Prineville, Brooks-Scanlon struck back. At a sealed bid sale, Scanlon purchased 19.8 million board feet on the Ochoco, out-bidding all local Prineville firms. The sale equaled 17 percent of the entire annual cut from the Ochoco.

The loss of this timber to Prineville will have severe consequences. Prineville is a community in which mill capacity far exceeds supply. The loss of a sale of this magnitude, particularly to the local mill with the shortest supply, could be catastrophic. Ironically, L–P, the company that started the war, is least likely to suffer from it. A large company with mills throughout the West, L–P has the deep pocket to withstand a bidding war while smaller, independent mills may be driven out of business.

Following this classic example of retaliatory bidding, which sealed bid proponents said would never happen, an editorial in the Bend Bulletin lamented another aspect of the wasteful results of sealed bidding:

"The 18 million board feet of logs from the Pine Flat sale now will be hauled 50 miles to Prineville, on the average, rather tnan 31 miles to Bend. That's an extra 19 miles for each of 3,272 truckloads of logs, plus an extra 19 miles on the empty return trip, if we figure it correctly. That's about 125,000 miles of extra log-truck driving on the sale purchased by Louisiana-Pacific.

"The Sand Springs sale, bought by Brooks-Scanlon, is 86 miles from Bend, 54 from Prineville. The Toggle sale is 110 miles from Bend, and 78 from Prineville. About 3,600 truckloads of logs are involved. Each truck will have to cover an extra 64 miles on the round trip. That's about 230,000 extra miles of driving.

"Between the three sales Forest Service bidding regulations caused more than 350,000 extra miles of driving. (Log trucks get about 4.5 miles to the gallon of diesel fuel. That's 77,777 extra gallons of fuel.) That's saving energy with a vengence."

The Prineville Central Oregonian was even more concerned about the situation.

"Last week's unprecedented action by Brooks-Scanlon seemed to signal the beginning of an undeclared timber sale war that would see Prineville firms bidding consistently on the Deschutes National Forest and Brooks-Scanlon continuing their interest on the Ochoco National Forest.

"When Brooks-Scanlon came to the Ochoco National Forest last week they won the largest and generally considered the best timber sale by the controversial sealed bidding method of timber sale purchase.

"Others speculated that Prineville operators might move further east in an effort to replace lost timber from last week's action. An effort in that direction would create a confrontation between local operations and Hines Lumber Company, Burns, as well as Hudspeth Sawmill Company, John Day.

* * * * *

"Speculation will continue, but one thing is certain and that is the repercussions will be felt for years to come and some traditional operation areas are likely to become very confused."

The areas mentioned as possible targets for raids by Prineville operators are, of course, themselves dependent communities. Burns, Oregon had a population of 4,900 in 1973. The lumber industry accounts for 100 percent of the manufacturing payroll. John Day, Oregon had a 1975 population of 1,900. The wood products industry in that community is nearly 100 percent of the total manufacturing payroll.

Unfortunately, in March 1977, on the Umatilla National Forest, the Kinzua Corporation made an unexpected bid in an area outside their customary purchasing territory, buying 17.7 million feet in the Heppner District where L–P has never before bid. The message is clear: the bid wars are spreading.

4. The long-range buyers and the timber speculators

Tomco Lumber Company of Sweet Home and Albany. Oregon recently purchased 8.2 million feet on the Suisiaw National Forest. Tomco is located in the Willamette National Forest area between Salem and Eugene and has only recently begun purchasing timber in the Suislaw. Since the introduction of sealed bidding, Tomco has also made a sealed bid purchase in the La Grande area (nearly 300 miles from its closest mill) and has been attempting to purchase timber in the panhandle country of Northern Idaho, nearly 450 miles away.

Tomco does in fact process at least some of the timber it has been able to buy through long-range, "surprise" sealed bids. But some of the surprise bidders are speculators. Anyone can bid on federal timber who can post the necessary bond. Speculators purchase timber contracts which they never intend to process themselves. Rather, they treat the 3 to 6 years contract term as an opportunity to play the timber "futures" market. If the price goes up, they can resell later, perhaps at a handsome profit.

Even if the price does not increase, the speculator may be able to sell at a handsome profit to a local mill which must make a purchase to stay in business. For example, on January 26, 1977, a retired logger, who owns no mill, was the successful high bidder on a 13.9 million board foot sealed bid sale within the Federal sustained yield unit in the Fremont National Forest. Three local mills are dependent on the Fremont sustained yield unit for raw material. Their combined capacity exceeds the annual supply. Under regulations governing sustained yield units, the timber must be processed locally. Therefore the successful bidder must either build a new facility in an area which already has excess capacity or, much more likely, sell the timber to one of the three existing mills at a handsome profit.

Speculation poses a serious threat to operating mills, especially in view of the current shortage of supply. Sealed bidding has made it easier for speculators to move into the timber markets by removing the option of bidding further on a sale which a local operator needs to stay in business.

SEALED BIDDING WILL INCREASE CONCENTRATION IN THE TIMBER INDUSTRY

The final irony of the uneconomic and disruptive raiding caused by sealed bidding is that it will ultimately lessen competition. It will thereby defeat the very purpose of the sealed bid provision Daniel L. Goldy, Oregon's Economic Development Director, testified about the inevitable anticompetitive effect of sealed bidding.

If this continues, we will have mortality, particularly [among] the small independent operators. Only the giants in the industry will survive.

Right now we have in the forest products industry, in lumber and plywood, one of the most competitive industries in the United States. We have an industry where prices go up and down with supply and demand.

This is unlike many basic industries in this country where if demand falls off and overhead goes up prices go up to cover the costs.

We have here a case, in terms of end products, of perfect competition.

If [sealed bidding] persists and we undermine these communities and we undermine the small plants that are in them, we will wind up with an industry of giants where, again, prices will go up when demand falls off and you will eliminate any competitive bidding for Government timber.

Chief McGuire also testified as to the anticompetitive effects of sealed bidding during a colloquy with Congressman Johnson.

"Mr. JOHNSON. In the area, the scene where I am, it seems to me that sealed bidding could result in higher prices or in actually driving smaller timber operators out of business. Would you agree with that?

"Mr. MCGUIRE. It could do that.

"Mr. JOHNSON. It could, couldn't it, even if there were no collusion involved?

"Mr. MCGUIRE. That's right. Whether it could continue over a period of time is something about which I am uncertain. Certainly, it could take away from small business some vital sale that the business would have to have, and it might be the marginal sale that would drive that small business out of production."

It is indeed ironic that the sealed bidding provision, intended to stop supposed anticompetitive activity will lessen competition by concentrating the industry. The winners of the bid wars, the mills that survive the disruption caused by sealed bidding, will be the large, deep pocket companies. Independent mills will no longer have the capability to keep their supply of raw material up at competitive prices. Sealed bidding may cause the very evils it was supposed to eradicate.

WILMINGTON 10

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. EDWARDS of California. Mr. Speaker, there has been much comment made by Governor Hunt and others in North Carolina concerning outside interference in the Wilmington 10 case.

I thought my colleagues would like to know what the North Carolina press has to say about Governor Hunt's decision.

An editorial in the Raleigh News and Observer, January 24, 1978, states that Governor Hunt's decision will only prolong this matter unnecessarily. He could have laid this case to rest but unfortunately did not.

The Charlotte Observer, on the same day, was concerned that some questions are still unanswered and without these answers, justice may not have prevailed.

For the edification of my colleagues I insert in the CONGRESSIONAL RECORD, editorials from these two influential North Carolina newspapers:

[From the News and Observer, Jan. 24, 1978]

HUNT'S DECISION FALLS SHORT

Gov. James B. Hunt Jr. had a chance last night to defuse the lingering controversy over the conviction and imprisonment of the Wilmington 10. Unfortunately, the governor did not move far enough in the right direction. North Carolina this morning could have breathed a sigh of relief if the governor had mustered a few more ounces of compassion and political courage to commute the sentences of the nine remaining in jail to time already served.

It appears unwise, in particular, to keep Ben Chavis behind bars for two more years. As the key figure in this racial dispute that sticks in the craws of North Carolina and the nation, Chavis will remain in the public eye as a martyr in what has come to be widely believed, rightly or wrongly, as an act of injustice. This will prolong a contentious matter unnecessarily.

The governor, it seems, sought to please both sides and wound up pleasing neither. He may well have faced a "no win" situation politically in view of the sharply divided sentiment on the fate of the Wilmington 10. But it could hardly have cost him any more to offer a uniform commutation and be done with the matter.

Despite the serious questions that surrounded the credibility of three witnesses who said the defendants conspired and then burned a Wilmington grocery and fired at emergency personnel during racial disturbances in 1971, the record did not justify a a pardon of innocence for the defendants. Court appeals and reviews of the trial have found neither substantial errors justifying retrial nor violations of the defendants' constitutional rights.

However, there is no question about the severity of the sentences of up to 29 years, a total of 282 for 10 defendants in a state where there is no sentence review by the courts. Few North Carolinians would want their friends or relatives imprisoned on the word of convicted felon Allen Hall. It was Hall who recanted the testimony he had given at the trial and then recanted his recantation in a telephone call to the prosecutor. Even state officials have conceded the 10 could not be convicted on retrial if Hall's testimony were impeached.

There is much to regret about this case. There was the explosive racial atmosphere in Wilmington, which turned a civil rights protest by blacks into an armed confrontation with angry whites. There was the year's lapse before charges were brought in the grocery burning. There was the false start on the trial, when due to a prosecutor's illness a mistrial was declared before the jury of 10 blacks and two whites could hear the case. The next jury contained 10 whites and two blacks. And there was the surprisingly weak defense offered by the '10's' lawyers.

In short, it was a racial and judicial mess that simply got messier with time. It was high time someone in authority set the matter to rest. The governor could have done so. Unfortunately for all concerned, he did not.

HUNT TAKES THE MIDDLE ROUTE

Gov. Jim Hunt's action in the Wilmington 10 case seemed that of a man who had struggled long and hard with the facts and his sense of obligation as Governor to do what he considered right.

The text of his speech is printed in full on today's Viewpoint Page. The effect of his action—to make eight of the nine men eligible for release from prison this year—makes the sentences more merciful.

Not surprisingly, Gov. Hunt took the middle route between the extreme options of pardoning or doing nothing. After satisfying himself that the trial was fair, he directed his attention solely to the sentences. In doing so, he avoided challenging the findings of the courts or the jury.

He was correct in saying his action won't please everyone. We wish he had enabled all the men to be released from prison now. We think substantial questions remain about the case. To say that is not to accuse the judge or jury of wrongdoing. But some testimony given in the case was possibly perjured. And some witnesses were not available at the trial. It is possible that the verdict, while correct as based on the evidence presented, may have fallen short of justice.

Unless a federal appeal succeeds in reopening the case, that doubt will not be resolved. Gov. Hunt has done what he considered right. In doing it, he has made a bad situation better.

EQUAL RIGHTS AMENDMENT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVI

Tuesday, January 31, 1978

Mrs. SCHROEDER. Mr. Speaker, in this morning's Washington Post, Ellen Goodman solves the ERA extension puzzle. I share her article with those who hope the ERA will vanish if the 1979 deadline is not met.

Ms. Goodman's article follows:

[From the Washington Post, Jan. 31, 1978]

THE NAME OF THE (ERA) GAME IS POLITICS

BOSTON.—As the movement to extend the deadline for ratification of the Equal Rights Amendment gains momentum, I keep hearing pro-ERA forces accused of "trying to change the rules in the middle of the game."

I am well aware that women are generally held up to the purest standards that can dance on the head of a pedestal. But this is ridiculous. The name of the ERA game is, after all, politics. These people are not trying to change the rules; they are trying to use them to win. Which is the point of the game.

The ERA was passed by Congress in 1972. There was nothing especially sacred about the seven-year limitation for state ratification. "Seven" was the number arrived at, not by tarot cards or the Constitution, but by custom and political compromise.

At the time, ERA supporters agreed to this figure despite the warnings of old hands like Alice Paul. They felt as hopeful as Martha Griffiths, who probably remembers every night before she goes to sleep that she once said, "Personally, I have no fears that this amendment will be ratified . . . as quickly as the 18-year-old vote."

Now, led by the National Organization of Women, they are trying the perfectly legal tactic of urging the Congress to extend the limit for seven more (and final) years. This extension is the prerogative of the Congress. It is well within the rule book known as the Constitution.

But what bothers me most about the whole "rules of the game" chatter is the sheer chutzpah of the chatterers. It is the ERA opponents who should be thrown into the penalty box.

While the pro-ERA forces have been playing chess, their opposite numbers have been playing rugby. It was the pros who behaved like good little Goo-Goos, targeting their candidates, signing nomination papers and getting the votes out—just like it says in government classes. If the fix hadn't been in, the ERA would have passed its last three states months ago.

In Nevada, 11 state legislators who were elected on pro-ERA platforms went sheepishly over to the other side at the first cry of "Red Rover." Eight of them (may their debts swell and block their gateway to paradise) accepted pro-ERA campaign contributions.

This charming athletic display was reenacted in Florida. There, the women voted out the anti-ERAs and voted in the pros, and then watched as the two pivotal "yes" votes turned into "no's."

The Illinois rematch, on the other hand, looked like something created by Dick Tuck from his bag of tricks. Twice the ERA gathered a majority vote in the state legislature. In any other state, that simple majority would have meant passage. But in Illinois, you need a three-fifths majority under the new state constitution although—excuse me while I break into hives—this rule is generally considered unconstitutional.

As Ellie Smeal, president of NOW, puts it: "We were ignored in the election process." Speak to me not of rule-rigging.

Only in the past year have the pro-ERA forces learned the effectiveness of end runs around politics. The "conventions boycott" in nonratified states has been deliciously successful. This vision of clout has done the amendment more good than all the "due process."

But we still are in a situation in which the "will of the majority" has been thwarted by a handful of legislators. A full two-thirds of the states have passed this amendment. A majority of people polled—including those in unratified states—are in favor of it. The younger population overwhelmingly supports it. Yet it is in great danger of failing.

Some crucial state legislatures won't even meet again to vote until after March 1979. Perhaps the most potent problem facing passage before the deadline is the deadline itself. During the Florida fight, buttons sprang up with the slogan "ERA Won't Go Away." The pro-ERA people were aware that the opposition tactic was to convince legislators that if they held firm one more time, the amendment would just disappear.

The ERA won't go away. But if it fails to meet the deadline, it could become part of the collective consciousness of women in this country. They would realize that they had experienced disappointment and betrayal precisely because they believed—not wisely but too well—in the game.

The pro-ERA people wouldn't be purists if they neglected to press for extension. They'd be pure fools.

MEDICARE

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. IRELAND. Mr. Speaker, I have submitted the following remarks in written rather than oral form in order to avoid tying up the House's time for discussion.

Dr. Robert E. Windom, a distinguished physician from Sarasota, Fla., has sent the following letter to HEW Secretary Califano and has made a copy available to me.

I am impressed with Dr. Windom's letter and disturbed by the problems he enumerates. For, as he points out, these problems are not unique to him.

At a time when we are all concerned with rising health costs and the burden of overregulation, I wanted to take this opportunity to share Dr. Windom's concerns with my colleagues:

SARASOTA, FLA.,
January 11, 1978.

JOSEPH A. CALIFANO,
Secretary,
Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I am dictating this letter to you on a Saturday as I sit at my desk doing some of the unnecessary paperwork caused by rules and regulations from government channels. I feel compelled to call this matter to your attention because it may have a personal effect on me later.

Part of this paper work is the endorsing of eleven checks which were made payable to me through the Medicare intermediary in Florida. These checks are not due me, but because of the system they have been made out in my name. Therefore, I call to your attention that when you accumulate figures for physician's income you specifically look at my listing, and take into consideration that for the past eleven months erroneous allocations have been made in my name. The checks I endorse today are only eleven but come to $274.20. These are just a small number of the hundreds that I have had to endorse during the year, therefore, I am certain the amount will be quite significant. Also, I am not the only physician affected by this system.

The reason I have to do this is because of a requirement that was placed upon the intermediary in January of 1977 which changed a computer program. This in turn effected the computer billing done from the local area. I, personally, along with my office manager, have spent considerable time during these eleven months discussing this with representatives of Blue Shield on the state and local level and with the local computer billing service. As a result of this eleven month discussion, the situation remains the same. By no means am I an expert in computers. However, I understand that the experts yet have not been able to adapt a program procedure to meet the federal requirements, nor those of the Internal Revenue Service. For eleven previous years the billing program was working well for our group of physicians who interpret electrocardiograms. Because of certain new regulations, changes occurred which resulted in a system creating much extra work, time, and significant financial involvement for those concerned. For example, my office manager has spent many hours during the past year working on this. Her salary is paid entirely by me, yet I receive no compensation to pay her for this extra work. This has also consumed a considerable amount of my professional time which could have been well spent for patient care or, when possible, to enjoy some free time of my own. Would you think that it might be proper for the federal government to reimburse private citizens for the service they render as a result of government regulations? Is it proper to expect patients to pay for this service which adds unnecessary expense to their health costs?

Mr. Secretary, this is just one of the many glaring examples of problems created by government intervention into the field of health care. I read almost daily about comments about how "fat" the hospitals are in our country, how the great majority of physicians are overpaid, yet I do not see statistics justifying these quotations in any fair or equitable manner. Nowhere have I seen any remarks by you praising the great number of physicians, plus others in professional health fields, who are making efforts daily to provide the best care possible at the most reasonable cost. If a proper analysis were made, it is very possible that this group would be the great majority.

It is relatively easy for a general to direct a war many miles away from the battlefront. However, no one really knows what goes on until he is a part of the front line. This analogy is no different from that of your position as a leader for health. If you continue to direct this area as you have, I urge you to develop a cadre of front line physicians throughout this country who can tell you the story as it is—not to have you misled by those who never have been actively involved in direct patient-physician relationships, thus not knowing what is involved in the actual delivery of medical services.

I feel certain that I am only one of many physicians in this country who are adversely affected financially, as far as reporting is concerned, by the system that I have described. This letter is to clarify the issue in my own personal situation so that you will have advanced knowledge should the figures from my income meet your criteria for publication.

Very truly yours,

ROBERT E. WINDOM, M.D.

EXPLORER I LAUNCHED 20 YEARS TODAY

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. FLIPPO. Mr. Speaker, 20 years ago, January 31, 1958, America's space age dawned with the launching of the first U.S. satellite, Explorer I.

Today the community of Huntsville, Ala., is paying tribute to that major milestone in our Nation's scientific history.

It was Explorer I, launched atop a Jupiter B rocket developed by the late Dr. Wernher von Braun and his team of scientists at the Army's Redstone Arsenal in Huntsville, which led to the national commitment by President Kennedy in 1961 to "the goal, before this decade is out, of landing a man on the Moon and returning him safely to Earth."

The National Aeronautics and Space Act of 1958, which created NASA, assigned to the civilian space agency "the preservation of the role of the United States as a leader in aeronautical and space science and technology and in application thereof to the conduct of peaceful activities within and outside the atmosphere."

We as a nation have taken "giant steps forward for mankind" in the two decades following the launching of Explorer I, but we have only begun to satisfy our scientific curiosity and to enhance our store of knowledge about the cosmos in which we live.

Our space agency is an irreplaceable national asset. It was created, because our Nation had a very definite vision. That vision gave dramatic focus of America's need to realize its potential for greatness, for the betterment of mankind.

Now, however, instead of visions of continuing to take giant scientific steps forward for mankind, we find this national asset deteriorating. NASA was created in a spirit of boldness and innovation, but in recent years there has developed an image of holding back and status quo as far as important new programs are concerned.

The fiscal year 1979 NASA budget is, generally speaking, a status quo budget lacking in the kind of action, boldness, and innovation which should characterize scientific leadership.

We need to revitalize our national asset in aeronautics, space science, and technology through important new initiatives and examination of evolutionary steps to develop the technology base to determine the viability of having a space-to-Earth solution for our Earth energy problems.

In spite of all of the other demands on our national budget, I believe it would be tragic if America abandoned the vision which was launched with Explorer I.

History will take great note of President Kennedy's space commitment and America's accomplishments thereafter. I am truly hopeful that President Carter will not be willing to accept an ultimate verdict of history that his administration had an opportunity to give that vision new direction, but chose instead to continue the status quo.

It has been only 20 years since America vigorously reached out to explore. As we recall with pride that beginning, I would submit that the national space program decisions made in 1978 by this administration and this Congress will be just as important in our future as the Explorer beginning two decades ago today.

PANAMA CANAL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of

my colleagues my views on the issue of the Panama Canal. My comments originally appeared in a report of a study mission to Panama in which I participated.

VIEWS OF HON. ROBERT J. LAGOMARSINO ON THE ISSUE OF THE PANAMA CANAL

The issue of Panama and the Canal Zone is important not only to the United States, but to South and Central America, and, for that matter, to all the rest of the world. To all parties involved, the canal is both an economic issue and emotional symbol. I personally am not opposed to some sort of negotiated settlement of Panama Canal questions. I am sympathetic to granting Panama a greater share in operating and maintaining the canal and to revenues therefrom. However, I do have serious opposition to the recently signed treaties.

My main concern is that of defense. Under these treaties, the right of the United States to intervene after the year 2000 to maintain the neutrality and accessibility of the canal is stated in article IV of the "neutrality treaty," according to the Carter administration. However, a close examination of this article reveals that the language is extremely vague and subject to numerous interpretations. While President Carter asserts that we have the right to intervene militarily to protect the canal and our interests, Dr. Romulo Escobar Bethancourt, head of the Panamanian negotiating team, and General Torrijos himself, have publicly stated that article IV does not give the United States such a right to intervene. Even Dr. Henry Kissinger, a strong supporter of the treaties, stated that he would favor a more clearly defined article IV. I believe that article IV does not offer the United States a satisfactory legal or moral base from which to maintain a neutral and accessible canal.

I have other points of opposition as well I am very disturbed about the large annual payment—some $70 million plus loans and military assistance—being offered to Panama at the same time we turn over valuable property and equipment to them, worth some $7 billion. The closing of all American bases in Panama particularly worries me. The United States has numerous security bases throughout the world. These bases benefit not only American interests, but those of the host countries. I strongly believe that the idea of a neutral canal, open to all nations, can best be achieved by a continued U.S. military presence, even after the year 2000. Why not have a base provision in the treaties or, at least a separate bilateral bases agreement, as we do with many other countries?

I object to the entire process by which these treaties were negotiated. The Congress, especially during the final weeks of negotiations, was not consulted and little informed. However, the Carter administration, apparently in return for the endorsement of the AFL–CIO, permitted a labor adviser to participate in the negotiations. Enclosed are copies of the testimony and statements on the subject of labor and the Panama Canal.

The testimony of the labor leaders also revealed that American workers, especially those critical of the Torrijos regime, are being subjected to harassment, abuse, and acts of violence. Both of the labor leaders claimed that their jobs and lives were in danger. One has had his car blown up. Article V of the treaty imposes restrictions on the political and civil rights of Americans in Panama.

During my visit to six South American nations August 9–22, I discussed with the Presidents of Colombia, Ecuador, Peru, Chile, and Argentina, and with government officials and private businessmen the impact the new treaties would have on their countries. There was nothing in their comments which influenced me to change my opposition to these proposed treaties. A number of the officials said that, although they publicly support the treaties, they privately have serious reservations about a number of the provisions, especially those which call for an increase in tolls.

At the last Organization of American States (OAS) meeting in July, a resolution was passed indicating that canal tolls should only reflect the cost of operating the canal and not be a source of monopoly revenue for whoever runs it. The proposed payments to Panama out of canal tolls would clearly violate this resolution and raise transportation costs for all countries that use the canal.

On the other hand, practically nobody has even quarreled with the way in which the United States has managed the canal. American administration has been the epitome of fairness and efficiency. Since it was opened in 1914, accidents have been extremely rare, and no ships have ever been sunk in the canal proper. On an average day 34 ships move through uneventfully. U.S. administration has also been amazingly beneficial in terms of cost to world shippers: tolls have been raised only twice, in 1974 (19.7%) and in 1976 (19%). These have been due to increased deficits which the Panama Canal Company has had, the latest being a $7.4 million deficit for fiscal year 1976 on tolls totalling $134.3 million.

Some supporters to the treaties claim that the canal is no longer important to American commerce and shipping. The fact is, however, that 42 percent of all cargo presently going through the canal originated in the United States. Twenty percent of our exports pass through the canal. The move toward smaller tankers and the need to transport Alaskan oil to the east through the canal—already in progress—further increases the importance of this waterway. It is often stated that the canal is not necessary to national defense and naval usage. The fact again is that the canal can be and is used by every U.S. naval vessel, except for the 13 largest carriers. The canal makes it possible for the United States to have a one ocean navy. Also, the United States has agreed, under the terms of these treaties, to build a future sea level canal only in Panama. The United States cannot negotiate a new canal site in any other country without Panama's permission, even if it would be in our best interests. An amazing abrogation of U.S. jurisdiction and responsibility, this provision, incidentally, also bothers Dr. Kissinger.

Finally, I address the question of human rights. A country-by-country survey conducted by the Freedom House organization reveals that civil rights, political rights, and freedom in Panama are on the same level as in Cuba and the Soviet Union and worse than any other country in the Western Hemisphere. The Torrijos government has suspended the legislature, suppressed the media, and has subordinated the judiciary to the National Guard—which serves as his personal vehicle for power. Given President Carter's strong attacks on human rights violations, the ratification of a treaty which will serve to bolster the domestic support of a dictatorship as ruthless as Panama's is nothing more than an act of hypocrisy. Private citizens in Panama with whom I discussed this issue told me that while most Panamanians favor a treaty, they do not wish the United States to negotiate with "Dictator Torrijos."

The question of Panama and the canal is indeed a complicated one. It cannot be solved overnight or by a set of inartfully drafted treaties. Although I favor some reasonable settlement of the Panama issue, I feel that ratification of these particular treaties would not be in the best interest of either the United States, Panama, or the rest of the world.

PRO-LIFE 1978 LEGISLATIVE PRIORITIES

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. MAZZOLI. Mr. Speaker, the thousands of citizens who marched for life in Washington on January 23 carried a list of 1978 legislative priorities for the Congress.

One of these priorities is defeat of a measure extending the time period for ratification of the equal rights amendment (ERA).

Another is defeat of an effort to prohibit legislative "riders" to money bills. It was just such a "rider"—called the Hyde amendment—which tightened the rules on the use of Federal funds for abortions.

I would like to briefly discuss these priorities.

First, my position on the equal rights amendment is clear. I support ERA when it was before Congress. It should be ratified.

However, though I support ERA, I do not believe the time period for ratifying this amendment should be extended.

Congress, in adopting the equal rights amendment, approved a 7-year period for ratification. Extensions of the time period were not contemplated.

Furthermore, the debate over ERA has become especially bitter and emotional in recent months. It has reached alarming levels of rancor and intensity. Little is to be gained by prolonging this volatile debate.

I believe that the Nation's decision on ERA should be made within the 7-year period established under current law.

As to the second legislative priority, I am strongly inclined to oppose any rules change relative to "riders" on money bills.

This parliamentary tactic provides about the only means Members of Congress, who are strongly opposed to a governmental spending priority such as medicaid abortions or the war in Vietnam, for example, can force a change in public policy.

No one wants a "repeat performance" of the 1977 House-Senate struggle over the Hyde amendment language. That struggle brought Government spending on many worthy labor, health, and education programs to a halt while the House and Senate remained in profound disagreement over medicaid-sponsored abortions—an issue which involves a relatively small portion of the total Labor/HEW budget.

No repeat performance of the 1977 deadlock would occur in all likelihood if leadership were to permit the House to take a direct vote on the medicaid-abortion issue (by voting to amend the medicaid section of the Social Security Act). I hope the House gets this kind of a vote this year.

EMPLOYMENT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. BONKER. Mr. Speaker, today I am introducing legislation which is a promising approach to the illegal alien problem for it goes to the heart of the issue: Employment. The incentive behind the massive surge in illegal immigration is basically economic. Aliens come to the United States for jobs. Certain employers, free from the worry of Government sanctions, make a practice of tapping this reservoir of cheap labor and so encourage the border traffic as a matter of doing business. In short, as long as jobs are readily available to aliens, massive illegal immigration will continue unless draconian measures are taken to curb it.

Illegal immigration in recent years has increased to the point that it adds roughly 1 million people to our population annually. No one really knows how many are in the country today, but some estimates range up to 10 million. While there are some who view this sizable infusion as necessary for the economic viability of certain areas, the fact is that immigration of this scope is detrimental to the Nation's labor force, social services, and physical resources.

In any case, the immigration is illegal and well above the limits proscribed by our immigration policy. As such, it creates special problems not only for domestic planners, but also for the illegal aliens, who, because of their extraordinary presence in the United States, find themselves the victims of harassment, abuse, and the constant fear of deportations. Clearly, the present situation is intolerable and needs urgent reform.

There is no shortage of legislative proposals to stem the flow of aliens, but invariably the focus is on penalties on employers who hire illegals. Employer sanctions may be necessary to break the incentive structure producing this immigration, but, taken alone, they create additional problems. It is unreasonable to expect an employer to, with any degree of certainty, distinguish between an illegal alien and an American citizen eligible for employment. Even if the employer takes it upon himself to require identification, the range of possible documents (many of which are easily counterfeited) used for identification would make it very difficult for the employer to determine a person's legal employment status.

Therefore, any attempt to institute employer penalties by themselves would result in an unfair burden on the employer and would undoubtedly work to the detriment of Hispanic citizens and others of foreign origin who might be suspected of being illegal aliens. What must be added to employer penalties is a simple and reliable method of documenting employment eligibility. This is the proper responsibility of the Government, not the employer.

The Social Security Act now requires that all gainfully employed people have a social security number, and it recommends that they show their social security card to their employer. Thus, the basic system for controlling employment eligibility through a single document is already established. Still, there are some problems which must be addressed before the social security card could become an indicator of employment status. In spite of the 1972 social security amendments, which require proof of citizenship or legal entry before a person can be issued a social security number, the procedure for obtaining a number and card is still too lax. An alien can secure a valid card from the Social Security Administration by presenting an easily counterfeited and readily available work permit (the so-called green card) or Immigration and Naturalization Service Document I–151 or entry-departure certificate (I–94). Any person 17 years of age or under (or anyone who passes for that age) is not required to show any identification whatsoever to obtain a social security card. In addition, the present blue and white card is too easy to reproduce.

My bill would require HEW to issue counterfeit-proof social security cards. Proof of citizenship, or of legal entry confirmed by the Immigration and Naturalization Service, would be needed before a card could be issued. An employer would be required to check a new employee's social security card and would be permitted to ask for additional identification to assure that the bearer of the card is the valid holder. However, the major responsibility for assuring the legal employability of a person would be on the Government, not the employer.

The legislation provides penalties for employers who both fail to check a new employee's social security card and "knowingly" employ illegal aliens. Penalties are also provided for counterfeiting or fraudulently altering cards and for "knowingly" using such cards (surprisingly, there is presently no such legal ban). Expert witnesses have testified that enforcement of these provisions would be relatively easy and inexpensive since most chronic employers of illegal aliens are generally well known.

With the careful issuing of social security cards, we could have a simple and efficient means for controlling the employment of illegal aliens. Without the attraction of employment in the United States, the incentive for illegal immigration would be greatly reduced.

I believe this legislation is a sensible approach to the illegal alien problem. Apparently many others would agree, for a recent Roper poll indicated that fully 80 percent of those surveyed favor the use of a "forge-proof" social security card, which would be shown only to an employer, as a means of controlling illegal immigration.

FIRE BRIGADE SOCIETY

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. HOWARD. Mr. Speaker, today I would like to bring to the attention of my colleagues an event which brought distinction to a group of people in Howell, N.J., and is deserving of nationwide recognition.

On September 4, 1977, the Freewood Acres Fire Company No. 1, based in Howell, N.J., was installed as a corporate member in the Fire Brigade Society.

Since the society's creation in 1963 in England, the prized honor of corporate membership was extended solely to fire brigades in Great Britain.

Thus, the Freewood Acres Fire Company No. 1 has become the only fire department in the world outside of Great Britain to receive a corporate membership in the Fire Brigade Society.

This completely volunteer fire company typifies the spirit of community concern in America.

Since its incorporation in 1951, the Freewood Acres Fire Company No. 1 has been providing Howell with dedicated public service while protecting both life and property from destruction.

I greatly admire the efforts and the achievements of the Freewood Acres Fire Company No. 1, as, I am sure, do citizens of the United States of America.

MR. CALIFANO'S ILL-ADVISED CAMPAIGN AGAINST SMOKING

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. BRECKINRIDGE. Mr. Speaker, I arise at this time to express my deep concern and displeasure over the so-called public education campaign recently initiated by the Secretary of Health, Education, and Welfare Califano against the practice of cigarette smoking in this country. This campaign, which attacks the personal freedom of the millions of cigarette smokers and threatens the very livelihood of over 625,000 tobacco farm families carries more the connotation of a personal vendetta than the mild, benevolent-sounding tone the Secretary's words suggest. I think we need to take a careful look at what the Secretary is trying to force upon us.

As the representative of a great tobacco-producing State, I am, of course, concerned about the economic future, and perhaps the survival, of tens of thousands of my constituents, but I am even more concerned about the threat to the great American constitutional tradition of personal freedom that the Secretary's campaign endangers.

Early in this century in this country, we experienced a situation not unlike the one we are experiencing today. Then we had a group of people who were convinced, quite sincerely, that a personal habit quite popular among a large segment of the population was dangerous to the Nation and must be curtailed.

That personal habit was, of course, the consumption of alcoholic beverages and, as we well know, the prohibitionists worked their will on the country and forced the passage of a constitutional amendment which put the Federal Government in the untenable position of having to police the personal habits of its citizens.

Prohibition was, of course, a dismal failure and ushered in an era of lawlessness unprecedented in our history and a subculture of organized crime that is still present in our society. Otherwise law-abiding persons partook of illicit alcohol just for the glamorous thrill of defying the law. Prohibition was, in many ways, a sad joke, honored more in its breach than in its enforcement.

I am not, of course, approving alcoholism or drunkenness in any way. All I am saying is that our Government has no more right to tell us what we can or cannot drink than it has the right to tell us what we can or cannot smoke. I respect the right of any citizen to choose not to drink or not to smoke but, at the same time, I deplore his desire to tell others that they cannot do these things, and to enlist the power of the Federal Government in such a campaign.

The Washington Star, in a recent editorial, characterized the Secretary's antismoking program as "* * * illustrating further the tilted concept of the feds as parents and the citizenry as recalcitrant and contrary children, to be coerced if they will not heed. This corrosive thesis," as the Star describes it, "has become as ubiquitous within federaldom as it is dubious."

Someone else with no suggestion of self-interest in this matter has expressed similar misgivings about Mr. Califano's crusade. Carll Tucker, the president of Saturday Review magazine, a professed lifelong nonsmoker, wonders in a recent issue:

> . . . whether it is government's role to help citizens do something that they are not psychologically capable of doing themselves.

That is, quit smoking. By this logic, he suggests:

> . . . government should limit the calories allowed to each American per day.

His complete comments appear at the conclusion of my remarks.

Even the President's own special assistant for health issues has said that the Government should stop trying to get people to quit smoking cigarettes. It was stressed that Dr. Peter Bourne was speaking for himself and not for the administration; even so, his criticism last November of Secretary Califano's preliminary announcement of a "hard-hitting public education campaign" is significant.

The question we need to ask is why no other industry has been treated so harshly. As the North Carolina congressional delegation noted in a letter to the President last October, the tobacco industry already operates "* * * under the constraints which its critics have demanded in terms of warning labels on packages and in advertising, of being banned from broadcast advertising, and being taxed at the Federal, State, and local levels. Moreover, the letter goes on to say, this industry "* * * has in the past two decades cut the tar content of cigarettes by more than half."

The tobacco industry seems, by its actions, willing to meet its critics more than half way while, at the same time, trying to meet the real and legitimate needs and demands of its customers. The Government's role in this area is to restrain itself from becoming involved any more than it already is. The public has a right to smoke and I am certain the Congress will protect that right. There are plenty of things the Department of Health, Education, and Welfare can do. legitimately, to protect the Nation's health and I would support that Mr. Califano get his priorities and legal rights and responsibilities in order.

I should like, Mr. Speaker, to insert Carll Tucker's complete remarks from the January 7, 1978, Saturday Review, entitled, "Smoke Signals":

SMOKE SIGNALS

In recent weeks, the campaign against smoking has assumed new urgency and scored some impressive victories. A national No-Smoking Day evoked articles and editorials against the evil weed. The Civil Aeronautics Board has banned all cigar and pipe smoking on commercial airlines and has taken steps that could lead to the prohibition of cigarette smoking as well. Regulations against smoking in the Pentagon's dining halls and classrooms have been sent to the Army, Air Force, and Navy "for responses on how to implement them."

Now I am not, nor have I ever been, a smoker. At the age of eight, I stole one of my father's cigars to share experimentally with a friend; fearful that our crime was about to be discovered by an approaching adult, I swallowed the lit butt. In college, unwilling to be considered uncool by classmates, I inhaled marijuana, but never with enjoyment. (Even in that era of "do your own thing," there were pressures to conform.) Shortly after graduation, I adopted a pipe in the belief that the first step toward being a writer was looking like one; but I soon abandoned it after finding that most of my reading time was spent trying to keep my tobacco on fire.

I am neither allergic to cigarette smoke nor fond of it. If at a lunch counter a woman asks in the middle of my meal would I mind if she smokes, I consider saying yes. I sit gratefully in the nonsmoking section of airplanes and movie houses.

Nonetheless, I am troubled by the attitude and success of the campaigners against smoking. It is one thing to warn consumers that cigarette smoking may be hazardous to their health; living in a world of often invisible dangers, we should be grateful for the caution. It is even arguable that given the demonstrated ability of television and radio to reach below the intelligence and to sow subliminal "needs," cigarette advertising should be banished from the airwaves. But having alerted the consumer to the danger and having protected him from subliminal seduction, what arguments can be used to justify what the antismoking militants see as their eventual goal: the outlawing of cigarettes?

A recent editorial in The New York Times cited some reasons why the Carter administration ought not to be "resigned to a national addiction that will kill 300,000 Americans this year." Cost was one reason: According to Surgeon General Julius Richmond, ailments caused by smoking will cost the nation $20 billion this year. The will of the American smoker was another: Eight out of tens smokers would like to quit, said Richmond, adding, "We must help them, and they want us to."

Never having smoked, I do not comprehend the force or the invincibility of an addiction to tobacco, but I do know a number of less-than-Herculean Americans who have, albeit with some discomfort, managed to shake their addiction. I wonder what it is about the purported 80 percent of smokers who want to quit that prevents them from doing so. I also wonder whether the cost of treating a sickness should be used as an argument for removing the freedom to incur the sickness and whether it is government's role to help citizens do something that they are not psychologically capable of doing themselves. (By this logic, government should limit the calories allowed to each American per day.)

The advantage of a democracy over various more or less organized methods of government is that it allows a citizen the maximum freedom to do as he pleases up to the point at which his freedom infringes on someone else's. As the world becomes more complex and people become more interdependent, our freedoms necessarily become more restricted. Speed limits were not needed before automobile and highway manufacturers created the opportunities for serious accidents. It was not necessary to prohibit homeowners from burning leaves until everyone's air became smoky.

What we must guard against, though, is using the excuse of interdependence to enact restrictions that, however desirable, are unnecessary. I suspect that the creation of nonsmoking sections in public places answers the complaints of most nonsmokers. To ban cigarettes altogether would be to do something that, however healthful, is not strictly necessary and that would limit the freedom of those who like to smoke. Government should resist the temptation to treat its citizens like children—making us wear seat belts that buzz if we don't fasten them, forbidding us marijuana or Laetrile or tobacco simply because they haven't been proved as safe as mother's milk (which nowadays isn't safe, either). Advise us, yes; restrict us when we threaten the essential freedoms of others. But do not attempt to protect us from all the dangers of existence.

There are two sorts of freedom: freedom *from* and freedom *to*. Given the choice, democracy should favor the latter. Whether or not one likes smoking, the freedom to smoke is a more important right than freedom from smoking or its consequences. When usually thoughtful opinion shapers like *The New York Times* start advocating laws not because they are necessary for the preservation of our freedom but because they would be good for us, it is time to worry.—Carll Tucker.

OSHA POWER MUST BE CHECKED

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. ASHBROOK. Mr. Speaker, a very important case is now before the U.S. Supreme Court. Known as the Barlow case, it will be determined whether OSHA inspectors have the right to conduct warrantless searches.

OSHA currently exercises broad and far-reaching powers. One of the most disturbing of these powers is the claimed right of OSHA inspectors to make unannounced inspections of private commercial property without a warrant. This is a disturbing precedent.

I strongly believe that OSHA should be required to work through the normal warrant procedure. Inspectors should not be granted the extraordinary right to intrude into someone's premises without first obtaining a warrant.

The Government, of course, is arguing that such a requirement would impair its powers. This is true—and necesary. As nationally syndicated columnist, James J. Kilpatrick, has stated:

The government's powers, to be sure, would be impaired—but the powers are entirely too sweeping, and they ought to be impaired.

In any given year, 90-odd percent of OSHA's cited violations are deemed to be "nonserious" violations. These trivial, nitpicking, generally asinine incidents result in fines of perhaps $25—just large enough to be annoying, not large enough to take to court. If the government were prevented from making these bureaucratic fishing expeditions, nothing of real importance would be lost.

It is a time to put a check on OSHA's power. Inspections without a warrant should be prohibited.

Following is the full text of Mr. Kilpatrick's remarks:

A NECESSARY IMPAIRMENT

(By James J. Kilpatrick)

The Supreme Court last week heard argument in one of the most important cases of this term. It is known as the Barlow's case, and while the results will be of primary interest to businessmen, the principles ought to concern us all. The case touches the very heart of a free society.

On the surface, the matter involves only the power of the Occupational Safety and Health Administration to make unannounced inspections, without first obtaining a warrant. More broadly, the Court's decision will affect dozens of governmental agencies—state and local, as well as federal agencies—that are involved in regulatory activities.

The case arose in Idaho on Sept. 11, 1975, when an OSHA inspector, Daniel T. Sanger, presented himself at the shop of Barlow's Inc., a heating and plumbing contractor. Sanger demanded admittance in the name of the law. Ferrol G. "Bill" Barlow, the proprietor, refused to let him in. Barlow told the inspector to go get a warrant. The inspector and his superiors refused the invitation. Barlow beat them to the gun by plunging into court himself, with a petition for an injunction.

On Dec. 30, 1976, a three-judge federal court unanimously found in Barlow's favor. Judges M. Oliver Koelsch, J. Blaine Anderson and Ray McNichols ruled that the Fourth Amendment to the Constitution effectively prohibits the government from intruding upon private commercial property without observing the warrant rule. From their judgment the Labor Department appealed to the Supreme Court. There the matter rests.

In its argument last week, the government contended that its ability to enforce health and safety regulations will be seriously impaired if its inspectors are compelled to get warrants before they gain access to industrial premises. The government's powers, to be sure, would be impaired—but the powers are entirely too sweeping, and they ought to be impaired.

In any given year, 90-odd percent of OSHA's cited violations are deemed to be "nonserious" violations. These trivial, nitpicking, generally asinine incidents result in fines of perhaps $25—just large enough to be annoying, not large enough to take to court. If the government were prevented from making these bureaucratic fishing expeditions, nothing of real importance would be lost.

What about the truly serious health and safety hazards? In these areas, OSHA's inspectors should have no difficulty whatever in doing what other law enforcement officers do all the time: They have only to go before a federal judge, producing evidence under oath that probable cause exists to believe a violation is occurring, and the search warrant issues. If the inspectors do not have probable cause, they have no business gumshoeing around.

The Supreme Court cannot decide the Barlow's case in OSHA's favor without overturning two solid precedents of recent vintage. These are the Camara and See cases, decided in June 1967 by identical 6–3 judgments. Camara involved a housing inspection in San Francisco; the See case involved a warrantless inspection of a warehouse in Seattle.

Speaking through Mr. Justice White, the majority held flatly "that warrants are a necessary and tolerable limitation upon the right to enter upon and inspect commercial premises." A decision to enter and inspect cannot be "the product of the unreviewed discretion of the enforcement officer in the field." As a general proposition, government inspectors must work "within the framework of a warrant procedure."

The rule does not apply in a few special areas of particular public concern—the manufacture of arms, for example, or the warehousing of liquor—but the teaching of Camara and See clearly covers a plumbing and heating contractor in Pocatello, Idaho. It has cost Bill Barlow more than $100,000 to fight this case all the way to the high court, but if his determination results in a victory for the little fellow against the intrusions of Big Brother, Americans everywhere will be in his debt.

THE MYTH OF HUMAN RIGHTS IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. BIAGGI. Mr. Speaker, this Nation has become the professed champion of human rights throughout the world. The administration has modeled our foreign policy on the principles of morality and respect for human dignity. Yet, our Government has consistently and painstakingly overlooked one area of the world where human rights' violations of the most sinister nature imaginable occur on an all too regular basis. The area is Northern Ireland.

The charges that Britain continues to violate the basic civil and human rights of citizens in Ireland are by no means unfounded. Early last year, The European Commission on Human Rights announced its verdict, finding Britain guilty of violating the rights of political prisoners under her control—charges to which Britain admitted her guilt. Most recently, The European Court of Human Rights condemned Britain for inhuman practices related to the interrogation and incarceration of political prisoners.

Yet, the breadth of her violations goes far deeper into Ireland. Enactment of such intolerable measures as the Special Powers Act, has sanctioned, among other acts, the widespread roundup of innocent men, women, and children, arrests without charges, trials without due process, and internment for lengthy periods of time under abhorrent conditions.

I have long asserted that full congressional hearings on Ireland must be convened. The human rights questions must be addressed. Support for hearings is firm in this Congress. One of the major objectives of the Ad Hoc Congressional Committee for Irish Affairs which is 87 members strong, is to work to bring about hearings on Ireland.

It is widely held that there can be no hope for peace in Ireland unless this practice of depriving citizens of their basic, human rights is halted. The administration has an obligation to speak out against all nations which engage in human rights' violations, whether they be friend or foe.

The Ad Hoc Congressional Committee for Irish Affairs will continue to monitor the activities of Britain concerning human rights. One of our Members, Hon. JOSHUA EILBERG, was instrumental in gaining the release of Pearse Kerr from an Irish prison. This 17-year-old Philadelphian was arrested without charge and tortured throughout his captivity. This shocking and brazen disregard for human rights by Britain did not go unnoticed by our Members and we will certainly continue to be attentive to any similar incidents which may occur in the future.

In addition, the committee was successful in gaining assurances that an American Army captain, James Montano, would not be accompanying a British regiment when it rotated for duty in Northern Ireland, as had been indicated by published reports. Following my demand for an explanation from the Department of the Army for the reasons why a U.S. military officer would be involved in such an action, I was assured that the story was untrue, and that the captain in question would be "reassigned."

During the weeks ahead, I will be submitting various articles documenting the extent of human rights' violations in Ireland. I do this to arouse the conscience of all my colleagues and the administration, with the fervent hope that actions of a constructive nature will be undertaken. Below, is a most important article written by Pete Hamill, entitled "A Yank in Belfast—Where Human Rights Don't Apply."

The article follows:

A YANK IN BELFAST—WHERE HUMAN RIGHTS DON'T APPLY

They assembled peacefully that day, five years ago now, in the city of Derry in the North of Ireland. The weather was cold and rainy; it always seems to be cold and rainy in the hard cities of the Irish North. But they showed up in their wrinkled woolen suits and cheap shoes, smoking Woodbines, their faces red from the coal stoves, to stand in protest against the actions of the British Army. None of them had guns.

And then the First Battalion of the Parachute Regiment of the British Army moved in on the meeting. They moved in shooting. They shot men and women and kids. When I got there from London, a day later, the blood had been washed away by the Irish rain, but there were 13 dead, and hundreds

wounded, and Bloody Sunday had become a part of Ireland's bitter history.

In the wake of the massacre, the hated Paras were removed from Ireland. Now comes the news, from William Tuohy of the Los Angeles Times, that the Paras are on their way back to Ireland. And A Company of the First Battalion might be under the command of an American. That's right. An American. According to Tuohy, he is Capt. James Montano, 31, of Montebello, Calif., "a U.S. officer serving in an exchange capacity with the British.' '

NO HUMAN RIGHTS FOR JACK DUDDY

If you have been to Northern Ireland, if you have spent time in the Bogside or Andersonstown or the Ardoyne, if you have seen the British Army in action, if you have spoken with the Irishmen who have been tortured by the Special Branch, the Army, or the Royal Ulster Constabulary, this is like reading that an American officer will be serving in an exchange capacity with the SS in Poland.

The greatest human rights campaign so loudly proclaimed by Jimmy Carter would become a total, instead of partial, travesty if this happens. But then human rights never seem to matter much when the subject is Ireland. They certainly didn't matter to Jack Duddy, on Jan. 30, 1972. Jack Duddy, who was 17, was shot to death that day. So was Kevin McElhinney, and Hugh Gilmour, and Michael Kelly, and Gerald Donaghey, and John Young; each one of them was 17, when the Paras shot them dead on Bloody Sunday. William Nash was 19. Michael McDaid was 21. William McKinney was 27. James Wray was 23. Patrick Doherty was 30. Gerald McKinney was 51. Bernard McGuigan was 41. Human Rights is mere rhetoric if a bullet blows your life away.

The human rights campaign didn't apply to Pearse Kerr, either. Kerr is an American citizen, born in Philadelphia, who had been living in Belfast for the last few years with his father. He was 17 when the Special Branch arrived at his home at 4:30 in the morning, last Aug. 18. He was arrested under Section 10 of the emergency powers act, and despite possession of an American passport, he was taken to Castlereagh Interrogation Center. Let Kerr tell what happened:

"After about two hours in a cell. I was taken across a kind of courtyard to a group of prefabricated huts. They politely call these 'interview rooms,' but there's nothing polite about what goes on in them . . .

'YOU MUST BE JOKING'

"Well, the first thing one of the three detectives said was, 'You're gonna sign a statement.' I said, 'I'm not gonna sign any statement. I want a solicitor. Can't I see a lawyer?' This hard-looking one said, 'You must be joking. You'll be asking to see a doctor if you don't sign.'

"They stalled for about 10 minutes, thinking, I guess, that it would work on me psychologically. Then the one asked me again if I was gonna sign. When I said no, he clouted me across the face and I flew across the room and hit one of the walls and slid down."

Kerr, a thin young man with a choirboy face, said that he wasn't allowed to read the statement the cops wanted him to sign. When he got up off the floor, "two of them grabbed me around the chest from the back and the other one grabbed me by the elbow and held my arm upright and started bending and twisting my wrist. He'd work on one wrist and then the other. I heard something crack in my left wrist and I knew it was broken."

'MY BREATH WOULD STOP'

Kerr was eventually taken into a separate room to see the U.S. vice consul, Wayne Allen Roy. A Special Branch man was with him during the interview, so Kerr was afraid to protest to Roy. His broken wrist was handcuffed behind his back. When Roy left, the interrogation resumed.

"One Special Branch man propped himself up against the wall behind me, with his arms clamped around my chest, Kerr told Jack McKinney of the Philadelphia Daily News, who was later instrumental in obtaining Kerr's release. "Another one stood directly in front of me and placed his fingers and thumbs up under each side of my jaws. He would push his fingers up until my breath would stop completely.

"I could feel myself losing consciousness and my vision got so burred I thought it was because the pressure was making my eyes pop out. Then I'd come around a bit after they'd stopped. So they would go at it again. During one of these strangling attacks, a Special Branch man, a different one, came in and said. 'You may as well give up on this one. We're going to have to hang him.' "

Eventually, the gentlemen from the Special Branch broke him.

"I was losing contact with what was going on," he remembered later. "I thought I was going to die. I fell down on the table again and was hanging with my elbows in the corner of the wall with one hand on the table. While I was in that state, they shoved the statement in front of me again. So I just signed it, because I thought if I didn't, I would have been a dead man."

Kerr was presumably innocent until proved guilty, but these brave gunsels didn't care for even the basic premises of English common law. One thing is certain: If he hadn't been an American citizen, and if McKinney and other Philadelphia reporters had not started writing about him, he'd still be rotting in Crumlin Road Jail or the Long Kesh concentration camp.

But Kerr was comparatively lucky. He could have suffered the fate of an 18-year-old named Colm McNutt. This boy lived in that section of Derry called the Creggan, and he was a republican. That is to say, he supported the objectives of the IRA. There was no evidence that he was an active member, but he made no secret of his sympathies; he wanted the British to leave Ireland, and he wanted a single 32-county republic. To some of the RUC, this is the equivalent of a crime.

All through the fall, McNutt was harassed by Special Branch agents, and British soldiers. According to his closest friends, the worst incident took place one night in early December when he was picked up by British soldiers, taken out to a lonely road, and beaten. A gun was placed in his mouth. and the trigger pulled. The gun was not loaded. One plainclothesman said to him, in mid-December: "You will not see Christmas."

SHOT 3 TIMES IN STOMACH

On Dec. 19, at 2:45 p.m., McNutt was walking across a parking lot at the bottom of William Street in Derry, when a man got out of a red Hillman Hunter, license plate CJ16826 and shot McNutt three times in the stomach. He went back to the car, witnesses said, drove up William Street, and kept going until he entered the RUC barracks at Rosemont.

McNutt died at Altnagevlin hospital, and despite the accounts of eyewitnesses, nobody has been arrested for his murder. But then nobody was arrested after Bloody Sunday either, and there were 13 corpses on the ground when the shooting stopped. Ireland is an eternal sadness, in many ways. But the American government should not be supporting the actions of the occupiers. We have already partially excused the British from their Nato duties, which is actually a way of subsidizing the occupation. If our government now allows an American officer to walk the streets of Belfast or Derry at the head of an infamous column, then Carter should tow the human rights campaign out to sea, and sink it without further notice.

TRIBUTE TO HYMAN H. HAVES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. WAXMAN. Mr. Speaker, Hyman H. Haves is to be honored by the Anti-Defamation League of B'nai B'rith at a banquet called "An Evening of Happiness on February 19, 1978. It would be difficult for this national organization to find a more fitting recipient for recognition. Hyman Haves is now the west coast director of the ADL Appeal for the Anti-Defamation League of B'nai B'rith. Prior to his returning to ADL in 1969, he served as executive director of the Sixth Region of the Jewish War Veterans of the U.S.A. He joined the Anti-Defamation League in 1948 as its program and community consultant, and between 1951 and 1956 served as its Connecticut director. Hyman Haves began his career in social work in 1938 as the first New York City director of AZA, the B'nai B'rith Youth Organization. He also served the Los Angeles Jewish Federation Council as a field director for the United Jewish Welfare Fund and executive director for the San Gabriel Valley Jewish Community Center and the Bay Cities Jewish Community Council in Santa Monica.

In 1942 he enlisted in the Army Air Force and served with distinction as a navigator in the 380th Bomb Group, 5th Air Force in the South Pacific. In addition, Hy was special service information and education officer for his unit, and acting Jewish chaplain for the base. Serving on the American Speakers Bureau, Hy has lectured on human relations at Yale University, Connecticut State College, U.C.L.A., San Diego, and Los Angeles State Colleges, Arizona State University, and in 1959 served as assistant director of the human relations workshop at the University of New Mexico.

An audiovisual expert, while in New Haven, Hy produced and moderated the weekly TV show "This Is Judaism," which is still on the air at this time. His presentation of the "Rumor Clinic" as an educational tool for better human understanding won him the National Conference of Christians and Jews Mass Media TV Award. His manual on the "Rumor Clinic" has been widely used.

Born in New York on February 15, 1916, Hy Haves is now married to the former Ethel Linn. They have four children, Jerri and Laurie Linn and Kaeera Mowgin and Randy Haves. Hy Haves' life of service to so many communities throughout the country, his dedication and significant contributions to better understanding in human relationships entitle him to our admiration and congratulations on the occasion of his being honored by B'nai B'rith's Anti-Defamation League.

SUNSET FOR THE IMF AND THE WORLD BANK

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. MATHIS. Mr. Speaker, at the same time the United States is reeling from a $30 billion trade deficit in 1977, Congress is preparing to vote on legislation to increase the U.S. contribution to the International Monetary Fund by $1.7 billion to assist other bankrupt countries finance their own massive trade and budget deficits. The United States now contributes to about 100 different international organizations, many of which, like the IMF and the World Bank, serve as sieves for billions of tax dollars. It was only 4 months ago that Congress authorized $5 billion for the World Bank and other international lending institutions. It is widely known that these funds are being abused. World Bank and IMF officials enjoy salaries and expense accounts far in excess of those of any U.S. official except the President. While the United States is experiencing disastrously low farm income, the World Bank is busy subsidizing the American farmer's competition overseas. Contrary to popular belief, such assistance does not go to the malnourished so that they can adequately feed themselves, but in the case of palm oil production, to large plantations producing vegetable oil for export to the United States and Europe where there is no edible oil shortage. American farmers can produce more edible oils than this country can consume, but the United States continues to import large amounts of palm oil that was produced with assistance of U.S. tax dollars.

The Bank argues that by putting more countries in the farm export business, foreign exchange is earned to buy more U.S. agricultural products, thereby benefiting the farmer and the entire U.S. economy. No evidence has been presented to show this theory works in practice. The Bank's argument is based on an economic fallacy that the United States can become wealthier by giving money away.

It is doubtful whether the IMF will ever be repaid many of the loans it has made to certain Third World countries. One of the wealthier countries that has received massive assistance has not even repaid the United States a $9 billion debt now 60 years old, and without denying it is owed, has disavowed any intention of repaying it.

The Treasury Department has concluded:

> Continued economic pressures on the developing countries, especially the strains stemming from elevated oil prices combined with a worldwide contraction of demand for many goods produced by the LDC's has intensified international concern as to the ability of some of these countries to service rapidly increasing amounts of external debt.

It should go without saying that the U.S. taxpayer, as the Third World's largest creditor, will pick up the tab for the defaults which are bound to come. This raises a serious question as to whether the Congress should vote additional contribution to the IMF in a vain attempt to bail out these countries.

The IMF and its companion organization, the International Bank for Reconstruction and Development, the so-called World Bank, originated with the Bretton Woods, N.H., Conference in 1944, which was dominated by John Maynard Keynes and Assistant Treasury Secretary Harry D. White. Despite a lack of public comprehension of the implications of the agreements reached at Breton Woods, the Congress voted U.S. membership in these organizations in 1945 in the Bretton Woods Agreements Act. These institutions have little respect for their chief benefactor, the U.S. taxpayer, and are seldom heard from except when more money is needed. As a matter of policy, the World Bank never consults Congress on what directions or policies the Bank should take. This, it is believed, would "politicize" the Bank. Such a policy does not, however, preclude political armtwisting to win billions in additional U.S. contributions.

Many believe the IMF has played a useful role over the years in stabilizing world economic conditions and that the United States has benefited. However, I am skeptical as to whether a group of insolvent nations can solve their monetary problems by lending money to each other. Switzerland, which has never participated in the IMF, enjoys a higher standard of living than the United States and an almost zero rate of unemployment and inflation. Perhaps the United States should follow the Swiss example. In any event, the United States should engage in a thorough reexamination of its role on the IMF, the World Bank, and the myriad of other international organizations. To assist in bringing about such a periodic review, I think U.S. membershp in such bodies should be subject to sunset provisions similar to the sunset provisions Congress has attached to other pieces of legislation. Thus would not mean an end to U.S. participation in world organizations, which I do not advocate, but would simply assure the American taxpayer that Congress was carefully monitoring the use of U.S. tax dollars by independent world bodies.

TRENDS IN LABOR

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. RANGEL. Mr. Speaker, the article which follows appeared in the December 19, 1977, edition of the U.S. News & World Report about my colleague from Tennessee, HAROLD FORD. I want to share it with you:

TRENDS IN LABOR

ATTACK ON NITPICKING

The Occupational Safety and Health Administration is eliminating more than 1,100 job-safety rules that have "no direct or immediate effect" on worker safety or health. Among the first to go will be 10 of the 12 pages of rules relating to portable wooden ladders, standards relating to the shape of toilet seats, and rules on the exact number of inches that fire extinguishers must be mounted above floor level. Labor Secretary Marshall said the drive against nitpicking regulations will eliminate more than 10 percent of OSHA's rule book, ending "some unnecessary harassment of business."

UNION LABEL

Playing host to a convention of editors of labor-union newspapers, officials of the Los Angeles Hilton were startled to discover that most of their tablecloths were made by J. P. Stevens & Company, a nonunion firm that the AFL-CIO is boycotting. A luncheon held in early December was delayed about 45 minutes while hotel employees scurried to borrow tablecloths from other sources.

RETALIATION

The AFL-CIO's building-trades department will seek the defeat next year of "15 to 20" Democrats in the House of Representatives who voted against a bill that extends the picketing powers of construction unions after agreeing to vote for the bill. The measure was defeated in the House last year by a 13-vote margin. The "hit list" includes Joseph S. Ammerman, Robert W. Edgar and Allen E. Ertel, all of Pennsylvania and Marilyn Lloyd and Harold E. Ford, both of Tennessee.

MOVIE MADNESS

Actors in Hollywood are up in arms over a recent proposal by California Governor Jerry Brown that would prevent many of them from receiving unemployment compensation. Because many actors work only sporadically, they may exist much of the year on jobless benefits. Under the Governor's proposal, they would have to work at least 10 weeks each year in order to qualify for unemployment payments.

NEW JOB RULES

People seeking U.S. Government jobs will once more be required to answer questions about sex, race and ethnic background in their applications. The Federal Government had dropped these reqiurements at the height of the civil rights movement of the '60s.

FACING EUROCOMMUNISM

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial by Messrs. Evans and Novak concerning the Carter administration's new attitude toward the Communist Party in Italy:

FACING EUROCOMMUNISM

(By Rowland Evans and Robert Novak)

President Carter's new warning against dangers of "Eurocommunism" in Italy reflects a confrontation with reality after one year in office—by the President in general and by Ambassador Richard Gardner in particular.

When plucked from his chair as professor of international law at Columbia University to be ambassador in Rome, Gardner joined other new Carter officials in viewing Henry Kissinger's hard line against Western European Communist parties as a cold-war throwback. Just before the first anniversary of the Carter inauguration, Gardner helped guide policy back to the Kissinger line: Communist power-sharing in NATO member nations must be resisted with maximum political pressure.

This shift is only the latest signal that Carter is reverting to more conventional

anti-Soviet policies, following the confusing rhetoric early in his administration. No longer is the Soviet-Cuban intervention in Angola rationalized as "stabilizing." A strong U.S. reaction to the Soviet role in Ethiopia is now given top priority.

The rhetorical shift on Eurocommunism, proclaimed in a Jan. 12 State Department statement, typifies the administration's new realism about military and political vacuums. Carter is now aware they will quickly be filled by Soviet penetrations if the United States fails to make the case for the Western democracies publicly and forcefully.

So the Jan. 12 statement was both public and forceful: "We do not believe that the Communists share" the "profound democratic values and interests" of Western political systems. The United States "would like to see Communist influence in any Western European country reduced."

Those assertions and the warning that recent Italian political developments "have increased the level of our concern" are far more pointed than last April's policy statement, which avoided direct attack on the Communists. The still-neophyte Ambassador Gardner helped draft the April 1977 statement; the more seasoned Ambassador Gardner was directly responsible for the January 1978 statement.

The administration's claim that the new policy is a restatement of the old is belied both in the words themselves and in Gardner's profound conviction—the product of one year's experience in Rome—that Soviet influence is pervasive at top levels of the Italian Communist Party. He is also convinced that the Soviet Union, helped by the Czechoslovak and East German Communist parties, is the major source of the terrorism that has brought Italy close to anarchy.

Gardner's quick flight to Washington two weeks ago to argue for the new hard-line policy was intended as a warning to the old guard of the Christian Democratic Party not to yield to Communist Party pressure without an all-out fight. Strong factions in the old guard, which has ruled Italy for 30 years, would accept alliance with the Communists to cling to power in a coalition government.

Younger, more progressive Christian Democrats seek another course: a top-to-bottom shakeup of their stratified party and its stale, rigid policies. That is also what Gardner wants, on the basis of his political education in Rome.

To cite one example, a luncheon was arranged for a Nov. 22 visit to Rome by Rep. Peter Rodino (D-N.J.) and Health, Education and Welfare Secretary Joseph Califano, with Gardner invited. The hosts were Christian Democratic members of Parliament. Shortly before the luncheon the U.S. Embassy discovered that two Communists would also attend the luncheon.

That smacked of political sabotage, alarming the embassy and increasing Gardner's concern that some Christian Democrats were intentionally promoting a coalition with the Communists. Without any publicity, the luncheon was canceled.

Such events stage-managed by Christian Democratic politicians are extremely useful to the Communists. Played up in the left-wing press, they are supposed to "signal" subtle changes in U.S. policy by showing Gardner consorting with Communists.

The result has been Gardner's insistence and Carter's agreement on eliminating the ambiguities of the April statement. Such realism is both overdue and welcome. Even if it fails to arrest Italy's political decay and the shattering effect on the Western alliance of Communists power-sharing in Rome, it reveals an awareness of reality by the administration sadly lacking when Jimmy Carter took office a year ago.

HUMAN RIGHTS IN CHINA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. DERWINSKI. Mr. Speaker, I want to take this occasion to bring to the attention of the Members a very fine article written recently by the columnist, Victor Zorza. Mr. Zorza's is the most recent in a series of articles which have appeared in recent months on the subject of human rights in the People's Republic of China. This is a subject which has been long neglected, and which I am pleased to see is at last receiving some attention. Our Government has been extraordinarily free in the last year or so in its criticism of a number of essentially friendly governments on human rights grounds. But does it not seem strange that we seldom hear a word about the human rights situation in mainland China? We are often told almost one-fourth of mankind resides there. This fact is used as a justification by many for the sacrifice of Taiwan and the full recognition of Peking. But do those persons ever stop to ask what is the human condition in China today? What kinds of rights and freedoms do those nearly 1 billion people enjoy? On this point, the friends of the PRC are strangely silent.

This is the kind of double standard which we, as aspirants to the moral leadership of the world, can ill-afford. The administration today seems more than willing to attack any government on human rights grounds, so long as it is politically expedient to do so. Morality, it appears, is the pawn of politics. For this reason it is gratifying to at last see, if only in the press, some discussion of human rights conditions in the PRC.

The totalitarian nature of the PRC is scarcely disguised, if only we are willing to see it. Mr. Zorza's column admirably condenses the facts and issues involved. Though brief, it is to the point. I, therefore, recommend it to the attention of the Members:

QUASHING (WITH IMPUNITY) HUMAN RIGHTS IN CHINA

(By Victor Zorza)

There is something like a conspiracy of silence in the West about the absence of human rights in China. One reason we don't seem to care about human rights in China is that few of us know it is an issue. Peking is far better than Moscow at hiding the facts.

Most of the Western journalists who go to China have nothing to say on the problem because they report only what they see—and they are shown nothing detrimental to the regime. Most Western governments say nothing about human rights in China because they don't want to upset the Peking regime. China scholars from the West who are invited by Peking do know about the suppression of human rights, but most of them say nothing about it. They want to be invited again.

There are those who say that the Chinese people are naturally submissive, restrained, disciplined. The peasant rebellions that are such a marked feature of Chinese history are enough to refute the argument that the Chinese are naturally submissive. The Communist revolution is only the most widespread and the most recent of these rebellions. As for their "discipline," when Mao took the lid off during the Cultural Revolution in the '60s, the complaints and resentment at the party's iron rule often boiled over into sheer anarchy.

One of the most notable cases of Chinese "restraint" was reported after the death of Premier Chou En-lai, when the West accepted so readily the story that the people of China were showing no emotion because it was "not in their nature" to do so. In fact, every show of emotion was suppressed because the "Gang of Four," which was then in charge in Peking, regarded Chou as an enemy. Attempts by Peking's citizens to honor Chou's memory were cut short by the police. Only after the "Gang" was overthrown were the people allowed to show their grief—and they took full advantage of the change by mounting spontaneous public demonstrations in the center of Peking.

Given half a chance, the people of China are as keen to enjoy the human freedoms, which President Carter has made into an international issue, as any other people. In 1957, when Mao Tse-tung launched the Hundred Flowers campaign, which briefly allowed some freedom of expression, there was an upsurge of protests against those features of the regime that mark it as a police state. Many intellectuals demanded the freedom to criticize the Communist Party and to form opposition parties and called for free elections.

Just over three years ago a Canton poster that extended over 100 yards of wall space denounced the new ruling class for using its political power to grab a privileged position and to suppress the bulk of the nation. The people, it said, "demand democracy. They demand a socialist legal system. And they demand the revolutionary rights and the human rights that protect the masses of the people."

We will never know how prevalent such demands are, just as we do not know how many people have been executed for political crimes in recent months. All we know is that Western travelers in China have occasionally seen public notices announcing the execution of "criminals" whose transgressions were clearly political—and that Chinese officials have denied that any such executions have taken place. With so much of China closed to Western visitors, there is every reason to assume that the few dozen executions that have become known during the past year were only a small proportion of the total that were carried out.

But it is the less dramatic actions that cause the greatest suffering. Chinese officials still stick to Mao's formula that 5 percent of the people are "reactionaries" and that, as such, they are not entitled even to those rights that are supposed to be enjoyed by the rest. In a nation of 900 million, 5 percent would account for 45 million people. One of the few Western journalists who dared confront a Chinese official with a question about the 5 percent, William Safire of The New York Times, at least managed to extract an embarrassed acknowledgement that perhaps the figures might be somewhat less than the percentages suggest.

But Ross Munro of the Toronto Globe and Mail, the only Peking-based reporter to write a series of articles on human rights in China—and to be expelled for it—estimates that about 30 million Chinese are still classed as "rich peasants" because they owned a few acres of land and had a few hired laborers before the Communists came to power. The "rich peasants" are second-class citizens, receiving between 10 and 20 percent less pay than others doing the same work. The sins of the fathers are visited on the children, whose entry to schools is restricted. Their families are not entitled to the free medical care, such as it is, available to other Chinese. Several million "reactionaries" are still confined in "reform" prisons.

Yet Peking propaganda waxes indignant over the denial of human rights in Russia

and on Taiwan, whose regimes would appear to be much milder, by any standard, than that of China. Official Western criticism of those two regimes is not parallel by any such Western criticism of Communist China. The Carter administration, which would like to be seen as the standard bearer of the movement for human rights, claims that its officials have taken every opportunity to press the leaders of other nations on this issue. But they have put no pressure on the Chinese leaders, beyond asking that Chinese relatives should be allowed to join members of their families in the United States. Nor do other Western governments go further than Washington in this matter.

But the Carter administration has made human rights a worldwide issue. While Western governments may find it politically inconvenient to debate the subject with Peking, the moral issue cannot be shirked. The Chinese are as human as the rest of us. To shut our eyes to the suppression of human rights in China is to display the same timidity as many people in the West displayed when Hitler and Stalin suppressed human rights in their own countries. When moral issues are shirked, they have a way of turning into political issues.

"THE FUTURE OF SPACE"

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. MILFORD. Mr. Speaker, I would like to share with my colleagues a speech made by Mr. Robert Kirk, president of Vought Corp., at a joint luncheon of the Aviation/Space Writers Association and the National Aviation Club here in Washington.

I admire his foresight and agree with him that as we enter the age of space industrialization, it becomes increasingly important to have international protection in space, similar to the "freedom of the seas" philosophy which has worked so well throughout the world for centuries.

I further share Bob's concern for tests of antisatellite weapons, and the possible need for an international treaty to control their use.

Mr. Speaker, I think Bob raises some vital questions concerning the future of space. I place his remarks in the RECORD:

THE FREEDOM OF SPACE—A NEED FOR BROADER INITIATIVES

Long before I joined Vought last year, I was well aware of its reputation as a high technology outfit that enjoyed taking on tough challenges in the aircraft, missiles and space fields.

In its 60 years, the company has turned out a lot of history-making systems: F-4U Corsairs, supersonic F-8 Crusaders, the tri-service XC-142, largest V/STOL transport ever flown, and the Regulus submarine-launched guided missiles, 20 years before cruise missiles came along.

Today, we are producing the A-7 attack airplane and the Lance battlefield missile; a Vought-developed material will protect the Space Shuttle Orbiter during its multiple re-entries at temperatures up to 3,000 degrees, and the Scout launch vehicle is nearing its 100th mission mark.

For the future, our leadership in low volume ramjets paves the way to a new generation of air-launched missiles; we have a very competive V/STOL design incorporating a unique tandem fan propulsion concept, and, under contract to the U.S. Army, are developing one of two competing approaches leading to the production of a major barrage rocket system.

I hope you will accept my invitation to visit us regarding any one or all of these activities.

Now, on to my subject for today . . .

During a press conference last October 27, Secretary of Defense Harold Brown referred to a troubling situation. To use his words—"Russia has an operational capability that could be used against some U.S. satellites."

From accounts I have read, the secretary's statement came in the wake of a Soviet test in which an anti-satellite vehicle was launched on October 26 and maneuvered within lethal range of Russia's Cosmos 959, launched five days earlier and traveling in an orbit of 91 by 526 miles.

A subsequent account told of another killer satellite exploding into about 30 pieces shortly after flying an intercept trajectory against the Cosmos 967 target vehicle on December 21. This time the interceptor was said to have performed a maneuver to a higher 588 by 712 mile orbit and to make its attack pass from this considerably increased altitude.

The fact Russia was testing such devices was not unknown to the media. The news lay in the secretary's acknowledgement that the Soviet intercept system could now be characterized as operational.

In all, the press has reported seven incidents in a new series of tests that began in 1976 after a lull of more than five years.

What prompted the lull? A need to improve the system?

What prompted test resumption? Prestige among nations? Political advantage? A new bargaining chip? The Russians have certainly been quick to exploit their considerable space achievements in the past.

Or are they adding a new dimension to their already awesome military structuring—a tactical capability in space?

Whatever the motive, as an American citizen and one with some knowledge and awe of aerospace potential, I too find this development troubling.

There is too much at stake—for too many nations.

From what started out as a region for cautious exploration, space has grown into a new frontier of vast opportunity and potential power. We are a mere two decades into the space age and already have eclipsed accomplishments that our most imaginative scientists could hardly have anticipated before the next century.

Transmissions via satellites already have revolutionized global communications, extending voice, code, television and data transmissions to all parts of the world.

There are now 99 nations linked by the International Telecommunications Satellite Organization's system alone. Capacity is being increased almost as dramatically as rates are being reduced.

Many nations, including Russia, the Peoples Republic of China, European and Arab countries and others are broadening or establishing their own communications or other satellite systems.

We can view nightly on TV space-derived weather information collected globally and applied routinely to the saving of lives and the reducing of property damage through timely disaster warnings.

Earth resource satellites such as Transat even at this early stage are benefiting agriculture, monitoring water supplies, helping reap harvests from the seas and providing new methods of locating all-important mineral and energy resources.

The Navy's Transit satellites make it possible for our military vessels and some 3,000 research and commercial ships to pinpoint their locations on any ocean in the world. The planned NavStar Global Positioning System could extend, even more precisely, this service to tactical and strategic aircraft, helicopters, ships, other satellites, surface vehicles and ground troops, allowing even an individual with a small receiver to pinpoint his position within a few feet anywhere on the globe.

Opened to commercial airliners, general aviation, pleasure boats and other vehicles, the system could be used for air and other traffic control, greatly enhancing safety for all manner of transport. A test system already has tricked an aircraft with a three-dimensional accuracy of tens-of-feet.

In the military arena, our forces are becoming critically reliant on space for surveillance, reconnaissance, early warning, navigation, meteorology, mapping, communications and command and control functions.

The Russians, of course, have many of the same capabilities as the United States. Plus their space interceptor.

During the Yom Kippur war, Russian satellites got a workout. About half a dozen were launched during and immediately following the conflict. What types of information they provided to Russia or whether these data were shared with any other country, I can only guess, but the Russians' usual satellite pattern was certainly altered.

With our growing dependence on satellites for these various operations it is easy to see what effect their loss, by whatever means, could have.

Another point: While the Russians tend to retain their equipment, remodel and update, it is the nature of the United States and its open society to throw the old away—from cars to weapons systems—as new things come along. Sometimes we do this even before a new system has been proven effective. Thus, unlike Russia, our increasing reliance on satellites leaves us vulnerable, without a backup system should certain satellites be lost.

This point was emphasized by General George S. Brown, chairman of the joint chiefs of staff, in his Fiscal Year '78 Posture Statement, when he said the loss of key space systems could materially influence the outcome of future conflicts, that the resurgence of Soviet anti-satellite test activity indicates the Soviets have undertaken a broad-based program to develop the capability to interfere with the operation of our satellites at all altitudes.

The point is, an anti-satellite system can be used to military advantage at a level far short of an all-out nuclear exchange. As a tactical device in a conventional conflict, it could severely limit our reconnaissance, communications, navigation, weather and command and control functions and provide a decided edge for the side with such a capability.

From what I've read in the open literature, there are three general methods the United States can use to protect satellites against attack: surveillance, making satellites survivable by a number of means, and space defense.

As many of you know, it is in this third area, space defense, that Vought has been most active. Foreseeing a potential need for such a system at the time of Sputnik, the company began investing its own funds in studies and over the years has come up with a variety of concepts. Last September we were awarded a $58.7 million contract for development and test of hardware in support of space defense technology.

Proud as I am of technology we've developed—and I must emphasize that our scope is confined to technology—I cannot amplify on our work for security reasons.

Now let me look to the future for a moment . . .

We are now entering the age of space industrialization, and new impetus will come with the advent of the Shuttle. As we begin to realize the incalculable benefits derived from this frontier, more and more nations are investing in space programs or are reaping benefits from the programs of other nations. Space is becoming big business.

Far fetched? Perhaps. But not in view of the strides made in only a score of years. The question is no longer "if"—only "when?"

Unfortunately, over such rosy scenes there fall some shadows. The Russian antisatellite is one, but in a short time there could be others. I have concentrated on the U.S. and Russia because they are preeminent in the space arena. However, many other nations are rapidly developing space capabilities and have the resources for a major thrust. And it soon may not require huge outlays to perform some missions.

A recent news article tells of a West German company reportedly paying Zaire for the use of a rocket range to test a cut-rate satellite-launching rocket. The firm's president says the objective is a cheap rocket so the Third World and industry can improve communications and exploit resources without depending on the U.S., Russia or European governments. No attack capability, he says. But he adds satellites could be used for spying.

Could some nation or dissident group intentionally create an incident or worse among the major powers? Or could a spacecraft be held hostage? Such prospects seem ridiculous to contemplate, but a very few years ago who would have thought anyone would hijack an airliner? Or threaten one with a ground-to-air missile?

How should our nation respond to an antisatellite threat?

Do nothing? This leads to asymmetry with the aggressor retaining his operational capability while we have none. An imbalance with all the problems inherent in any imbalance—especially when the score is something to nothing.

Respond in kind? This could lead to an arms race in space. We don't want that.

Arrive at a treaty? An agreement protects both sides . . . or does it?

Another question: With so many other nations developing space capabilities and virtually all nations sharing the bounty of space, why not have more signatories to space treaties? Why not a United Nations conference to work out international protection—not unlike the "Freedom of the Seas" philosophy which has worked so well throughout the world for centuries?

Let's look at the treaty possibilities. . . .

Progress has been made by treaty between the U.S. and USSR in the past. The Limited Nuclear Test Ban Treaty of 1963 barred all nuclear tests except those conducted underground. The United Nations Arms in Space Ban Treaty of 1967 banned nuclear weapons from space and using the moon and other celestial bodies as military bases. The SALT I ABM Treaty and Interim Agreement limited the use of anti-ballistic missiles. The Threshold Test Ban Treaty of 1974 limits the yield of underground nuclear weapons tests to 150 kilotons, and the Peaceful Nuclear Explosion Treaty of 1978 limits the size of blasts to 150 kilotons and provides for on-site observers.

I applaud the Defense Department's desire to avoid an anti-satellite race and the administration's intention to seek an agreement banning such weapons in space.

I am strongly in favor of a good, solid space treaty if we can get one. To achieve high quality and assure equity, necessary ingredients to any treaty, I feel we should approach the problem as one does a good contract.

In my experience the elements that separate a good contract from a bad one include: It should contain clear-cut requirements arrived at by both sides, be free of unknowns and ambiguities, encompass an established set of standards, contain valid checkpoints and provide for disclosures as to progress and intentions. Most important—and also most challenging—it should provide for adequate verification.

The treaty issue should be approached in its totality. Space defense is only one element of a freedom-of-space policy.

Since it is a certainty that in the years ahead other nations will be entering the space arena, treaty negotiators should consider all space systems on a broad international basis. As you know, Communist China and European Space Agency countries are already entering the picture, so issues are no longer confined to U.S. and Soviet interests. Therefore, in seeking an enduring treaty, a broad international forum is required

The United Nations is such a forum, one which already has demonstrated important results. The U.N. Non-Proliferation Treaty of 1968 represented a major step forward in curbing nuclear weapons development. Working within the U.N. framework, the U.S. and Soviet Union forged a treaty which banned nuclear weapons from space. Significantly, this treaty was signed by 62 countries at ceremonies held in Washington, Moscow and London. Also, in 1968, the U.N. Space Rescue Treaty was signed. It calls for the safe and expeditious return of astronauts forced down on the high seas or in alien territory. In view of these important prior successes, I recommend that we take the initiative and renew our efforts to achieve further space treaties via the U.N. forum.

In addition, there resides yet another international forum which should be considered: the International Court of Justice at The Hague. The attainment of resolution and widespread agreement on space-related legal issues can directly contribute to easing of international tensions. For example, when two satellites are in danger of collision, who has the right of way? From the legal standpoint, does the second satellite launched incur the responsibility for avoidance? What are the liability ramifications of one country's satellite accidentally showering debris in another's? I suspect we will get at least some clue as a result of the satellite reactor reentry over Canada last week. Suppose it had reentered over downtown Montreal?

If I could, I would place a short checklist in the front of each of our space treaty negotiators' working folios. It would read as follows:

One—Are the objectives and requirements unambiguous, spelled out clearly, fully understood and agreed to in the same context by all parties?

Two—Whatever limitations are imposed, is the technology base available to evaluate the impact of the limitations and are the limitations truly verifiable?

Three—If the treaty is violated later, would our fallback posture be sufficient to insure protection of our national interests?

Four—Are there remaining unknown or unexplored technical factors or effects which are likely to come into play downstream? Would those factors prevent the maintenance of an assured equitable position for the U.S.?

Five—Have the interrelationships of all space and ground-based systems been considered? What will be the impacts of the proposed agreement on those interrelationships—commercial, military or economic?

Six—How will the proposed agreement affect other nations in the long run? Will their bona fide aspirations or rights be respected? How do they judge the merits of the proposed treaty? Is it a treaty everyone will sign? And, finally—

Seven—Do you really think it's a good contract—that is with equity, with something to be gained for all signatories?

To summarize, I think we must continue to pay attention to the total picture of space where treaties are concerned. Furthermore, I feel we must work these issues on a broad international scale. Recognizing past successes, the existing U.N. disarmament channels can be successful.

Most important, any agreement must guarantee that we are free to operate—that any nation is free to operate—in space and to share its benefits. A good treaty, arrived at on a broad international basis, is an important step in this direction.

ON THE 60TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. GILMAN. Mr. Speaker, as residents of the free world, and as recipients of the most precious gift that can be bestowed upon any people—I am speaking of freedom—we, as Americans, must sensitize ourselves to the millions of individuals in the world, and the thousands of groups who have had their freedom denied to them. We are so very fortunate to be able to celebrate one day each year, July 4, commemorating our independence. Families gather, fireworks are ignited, and there is an air of general festivity. We are not concerned that our freedom may be taken away tomorrow, or that we will have to live under the domination of some feared and brutal dictatorship.

Our brothers and sisters who are residents of the Ukraine have recently celebrated the 60th anniversary of their freedom. Celebration is perhaps the wrong word—for there is no celebration in a place where human rights are denied, and where people live with the threat of suppression each and every day. In the Ukraine presently, there are collective farms, forced labor, and a conspicuous lack of individual expression. This is no reason to celebrate.

What we should celebrate, however, is the unrelenting spirit of independence and freedom which characterizes the Ukrainian people. Their history has been one of struggle: Against subordination, domination, and extinction, and for the chance to develop a separate and magnificent culture of their own.

Presently, citizens of the Ukraine are citizens of the vast fatherland called the U.S.S.R. They are citizens against their wills, and their allegiance is to a higher, more transcendant ideal: freedom and individuality.

As a Representative in the Congress, I can only pledge my wholehearted support for the aspirations of the Ukrainians. I cannot loose their bonds, or promise that Soviet domination will cease in 5 years, or 10. But all of us can pray that someday the residents of the Ukraine will enjoy the same freedoms that we are privileged to enjoy, and that someday they will be able to express

their culture, to practice their religions, and to live free.

The 60th anniversary of Ukrainian independence has come and gone. People are still suffering. Let us keep them in mind when we celebrate our independence, and strive in all of the actions we undertake, and all the ideals we espouse, to uphold the principles of human rights, and to educate ourselves to the special needs and aspirations of the world's oppressed.

IMPEACHMENT OF U.S. DISTRICT COURT JUDGE FRANK J. BATTISTI

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. ASHBROOK. Mr. Speaker, yesterday I introduced House Resolution 966, a resolution providing for the impeachment of U.S. District Judge Frank J. Battisti. You referred this to the Committee on the Judiciary, on which I serve as a minority member.

Let me say at the outset that I believe there are several basic pitfalls that lie ahead and threaten our system of self-government. One is our mushrooming national debt. The other is arbitrary power. Our constitutional system was devised in such a way as to provide checks and balances. There are few checks on Federal judges, however. One of them is impeachment. The other is amending the Constitution to limit their terms or bring them up for periodic vote of approval or disapproval. I favor using both routes and will discuss my constitutional amendment proposals at a later time. Now I will seek the constitutional remedy of impeachment against a Federal district judge who has so clearly transgressed the limits of power as to make him deserving of this extreme constitutional measure.

Having researched the history and procedure by which a Federal judge may be impeached, I should now like to submit for my colleagues certain information which may be informative as to the nature of such an impeachment proceeding.

THE U.S. IMPEACHMENT EXPERIENCE

The House of Representatives has adopted articles of impeachment against 12 Federal officers. The trials of 11 were conducted by the Senate. The first American ever impeached was William Blount, a Tennessee Senator. Following his impeachment by the House in 1797, the Senate voted to expel him, but concluded that it lacked jurisdiction to convict him. From this evolved the general principle that judges and certain executive officers, but not legislators, are subject to impeachment. Nine Federal judges have been impeached, four were convicted, four acquitted, and one allowed to resign to escape trial. Two executive officers have been impeached.[1] President Nixon resigned before the House voted on his impeachment.

WHAT IS AN IMPEACHABLE OFFENSE?

Congressman Gerald Ford, had, in 1970, said of his proposed impeachment of Supreme Court Justice Douglas:

The only honest answer is that an impeachment offense is whatever a majority of the House of Representatives considers to be at a given moment in history: conviction results from whatever offense or offenses two-thirds of the other body considers to be sufficiently serious to require removal of the accused from office. Again, the historical context and political climate are important; there are few fixed principles among the handful of precedents.[2]

The House Judiciary Committee, in its print on Presidential impeachment, said, in part:

. . . In *Federalist* No. 65, Alexander Hamilton described the subject of impeachment as those offences which proceed from the misconduct of public men, or in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself.[3]

WHAT IS "GOOD BEHAVIOR"?

Each of the thirteen American impeachments involved charges of misconduct incompatible with the official position of the officeholder. This conduct falls into three broad categories: (1) exceeding the constitutional bounds of the powers of the office in derogation of the powers of another branch of government; (2) behaving in a manner grossly incompatible with the proper function and purpose of the office; and (3) employing the power of the office for an improper purpose or for personal gain.[4]

NEED IMPEACHMENT BE OF A CRIMINAL NATURE?

. . . Of the thirteen impeachments voted by the House since 1789, at least ten involved one or more allegations that did not charge a violation of criminal law.[5]

Impeachment and the criminal law serve fundamentally different purposes. Impeachment is the first step in a remedial process—removal from office and possible disqualification from holding future office. The purpose of impeachment is not personal punishment;[6] its function is primarily to maintain constitutional government. Furthermore, the Constitution itself provides that impeachment is no substitute for the ordinary process of criminal law since it specifies that impeachment does not immunize the officer from criminal liability for his wrongdoing.[7]

A requirement of criminality would be incompatible with the intent of the framers to provide a mechanism broad enough to maintain the integrity of constitutional government. Impeachment is a constitutional safety valve; to fulfill this function, it must be flexible enough to cope with exigencies not now foreseeable. Congress has never undertaken to define impeachable offenses in the criminal code. Even respecting bribery, which is specifically identified in the Constitution as grounds for impeachment, the federal statute establishing the criminal offense for civil officers generally was enacted over seventy-five years after the Constitutional Convention.[8]

In sum, to limit impeachable conduct to criminal offenses would be incompatible with the evidence concerning the constitutional meaning of the phrase "high Crimes and Misdemeanors" and would frustrate the purpose that the framers intended for impeachment.[9]

WHAT IS THE PROCEDURE FOR IMPEACHMENT?

The chairman of the Judiciary Committee must first schedule hearings on the impeachment resolution. Much as the committee did in 1974, for the Presidential impeachment hearings, any evidence will be introduced before the full committee. If the Judiciary Committee votes by a majority of those present that impeachable offenses have been committed, it will send a committee resolution accompanied by articles of impeachment which set forth specific charges to the floor of the House. If a majority of those present in the House believe that these grounds exist, it will vote for impeachment.

The Senate is required to conduct a trial of the official who has been impeached by a vote of the House. If two-thirds of the Members present in the Senate vote to convict, Judge Battisti will be removed from office and may be disqualified from holding any other office in the Government. Conviction by the Senate does not stop further trial if a criminal offense has been charged in a court of law. Impeachment itself, however, is not of a criminal nature, and may not involve actual criminal acts. It does not in the case of Judge Battisti.

UPON WHAT GROUNDS IS THE IMPEACHMENT OF JUDGE BATTISTI SOUGHT?

"Exceeding the constitutional bounds of the powers of the office in derogation of the powers of another branch of government." This is one of the three bases upon which U.S. impeachments have been founded. Justice Brandeis, in reciting the proper exercise of State's rights and responsibilities, said in a case that serves as the benchmark of the constitutional separation of powers doctrine:

The Constitution of the United States . . . recognizes and preserves the autonomy and independence of the States—independence in their legislative and independence in their judicial departments. Supervision over either the legislative or the judicial action of the States is in no case permissible except as to matters by the Constitution specifically authorized or delegated to the United States. Any interference with either, except as thus permitted, is an invasion of the authority of the States, and, to that extent, a denial of its independence.[10]

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[1] *Nebraska Law Review*, v. 55, no. 1, p. 96.

[2] 116 CONG. REC. 11913, 1970 remarks of Rep. Gerald Ford.

[3] *Constitutional Grounds for Presidential Impeachment*, Report by the Staff of the Impeachment Inquiry, February 1974, 93rd Congress, 2d Session, p. 13, footnote 59, citing, *The Federalist* No. 65 at 423–24 (Modern Library ed.) (A. Hamilton) (emphasis in original).

[4] *Constitutional Grounds for Presidential Impeachment*, Report by the Staff of the Impeachment Inquiry, February 1974, 93rd Congress, 2d Session, p. 17.

[5] *Constitutional Grounds for Presidential Impeachment*, Report by the Staff of the Impeachment Inquiry, February 1974, 93rd Congress, 2d Session, pp. 23–24, footnote 14, citing, See Part II. C. *supra*, pp. 13–17.

[6] *Id.*, at p. 24, footnote 15.

[7] *Id.*, at p. 24, footnote 16.

[8] *Id.*, at p. 25, footnote 17.

[9] *Id.*, at p. 25.

[10] *Erie Railroad* v. *Tompkins*, 304 U.S. 64, 78–79 (1938).

TEXT OF H. RES. 966, PROVIDING FOR THE IMPEACHMENT OF U.S. DISTRICT JUDGE FRANK J. BATTISTI

Whereas article II, section 4, of the Constitution of the United States provides: "The President, the Vice President, and all civil Officers of the United States shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors"; and

Whereas article I, section 2, paragraph 5, of the Constitution of the United States provides: "The House of Representatives shall have the sole Power of Impeachment"; and

Whereas United States District Judge Frank J. Battisti has committed the acts hereinafter set forth, which constitute high crimes and misdemeanors within the meaning of article II, section 4, of the Constitution of the United States in that:

His order requiring that the Cleveland School System must remain operational and repay certain financial obligations is a usurpation of the administrative prerogatives of the constitution of the State of Ohio which confers on the general assembly the power to organize the public school system, and the Cleveland School Board, a duly elected governing body which is locally vested with administrative responsibilities.

Further, said order was made after the auditor of the State of Ohio had issued a certified report stating that the Cleveland School System was without sufficient moneys to continue operation, pursuant to Ohio Revised Code 3313.483. Additionally, Judge Battisti ordered the use of otherwise dedicated funds for the purpose of implementing a busing plan which was ordered by Judge Battisti.

In an order issued by Judge Battisti on November 4, 1977, the payment by the Cleveland School Board of certain debts was ordered so as to cause the Cleveland School System to remain open and, therefore comply with the student busing order also issued by Judge Battisti. This order was in direct violation of the laws of the State of Ohio and was a willful and wanton disregard for the independence of the administrative and legislative powers of the State of Ohio.

In pursuit of this order of November 4, Judge Battisti specifically directed ". . . that realtors be temporarily restrained and enjoined from further prosecuting or seeking to enforce any orders or claims arising from the mandamus proceedings in this court," which served as a bar to the parties to the action to their proper constitutional redress to the Court of Ohio, and was an illegal usurpation of the jurisdictional prerogatives of the Ohio Supreme Court.

The order for the Ohio School System to remain open was in contravention with Ohio Constitution, and cited in The State, ex. rel. National City Bank against Board of Education (1977), 52 Ohio St. 2d (No. 77-1248) and the order by Judge Battisti was held to be beyond the scope of a Federal judge by the sixth United States Circuit Court of Appeals, when that court held that Judge Battisti's school order was an effort to implement "a receivership action giving the Federal court complete jurisdiction and power to seize, dispose of, and liquidate property belonging to public schools.": Now, therefore, be it

Resolved, That United States District Judge Frank J. Battisti of Ohio be impeached.

SECRETARY BROWN'S PLAN FOR MILITARY UNIONIZATION

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. YOUNG of Florida. Mr. Speaker, on October 6, 1977, a Department of Defense directive was signed by Defense Secretary Harold Brown relative to the relationships with organizations which seek to represent members of the Armed Forces in negotiations or collective bargaining. In reviewing this directive, I find most disturbing the Secretary's decision that military and civilian personnel of the Armed Forces may participate in such organizations as long as the Secretary determines there is no "clear danger" that such participation might adversely affect "discipline, loyalty, or obedience to lawful orders." In view of Secretary Brown's conditional endorsement of military unionization, I believe it is time to prohibit by law such unionization of America's armed services.

Mr. Speaker, ever since 1974 when the American Federation of Government Employees decided to explore the prospect of organizing the military, concern has been growing in both the public and private sectors over the possible ramifications of military unionization. To their credit, the members of the AFGE subsequently voiced opposition to such unionization.

Our national security rests upon the capability of our Armed Forces. When our military is called upon to defend us, there can be no room for bargaining or negotiating in the critical moments of battle. Just as those who assume the burden of command must know that their orders will be responded to directly and not after a process of negotiation, the individual soldier in combat must likewise be assured that his fellow comrades can be relied upon to perform their assigned functions without going off to caucus in the midst of battle. An effective military force is built upon discipline, patriotism, and quick response capability; as a consequence, the operation of unions within the military cannot be tolerated if we are to have an effective Defense Establishment.

Because I am seriously concerned over the harmful effect upon our military capability if unionization is allowed within the armed services, I introduced legislation during the 94th Congress and this Congress to prohibit such unionization. It is interesting to note that the vast majority of the residents of the Sixth Congressional District of Florida share my opinion that organized labor has no place in the military. Of more than 38,000 persons responding to my 1977 congressional questionnaire, 89.4 percent expressed support for my bill to prohibit the unionization of America's Armed Forces. Perhaps even more significant, despite the AFGE's March 7, 1977, executive council decision to actively undertake to organize the military, on September 7, 1977, it was announced that the AFGE membership had voted 4 to 1 against trying to organize members of the armed services.

Congressional activity against military unionization has likewise been stepped up in recent months. On September 16 of last year, the Senate overwhelmingly voted 72 to 3 for legislation (S. 372) to ban all labor union activity in the U.S. military. The House Armed Services Committee is nearing completion of its consideration of my bill and similar legislation to prohibit military unionization, and it is anticipated a bill will be brought before the full House for its consideration in the very near future.

Mr. Speaker, the bill I have sponsored is not a bill against unions. Rather, it is a bill designed to protect the strength and responsiveness of the defense capability of our Armed Forces. In my opinion, this legislation is the most effective and direct way to prevent unionization of the military and the resultant ill effects such union activity would have upon our defense capability. Hopefully, through enactment of legislation of this nature, we can lay to rest the potential threat of military unionization.

MRS. HENRIETTA ANTHONY FREEMAN ON HER 100TH BIRTHDAY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. CONYERS. Mr. Speaker, last Wednesday, January 25, Mrs. Henrietta Anthony Freeman of Highland Park, Mich., celebrated her 100th birthday. Her life spans an extraordinary epoch in American history. That she survived so many difficult years of hardship, turmoil, sweeping change, and conflict is testimony enough to her courage and strength. But that she lived her life with such benevolence toward her fellow man and grace is truly remarkable.

Both in personal and public life Henrietta Anthony Freeman has had an immense impact on the individuals who have known her. One hundred years ago she was born in Madison County, Tenn., the first of two daughters to Philip and Cora Anthony. Her life was fully occupied with raising 16 children, farming alongside her husband, an intense religious life, and caring for the sick in her community. Her husband, the late Rev. P. L. Freeman, was for 40 years the pastor of Walnut Grove Baptist Church near Jackson, Tenn. Thirty grandchildern and a host of great grandchildren honor both of them today.

Her family obligations did not prevent Henrietta Freeman from serving her community. For many years she was the only person able to care for the sick. Her assistance was sought day and night. She was an active member of the Cerrogordo Baptist Church in Jackson and played an important role in raising support for

missionary activity in Africa. Later in her life she served as funeral director in Madison County.

Twelve years ago Henrietta Freeman took up residence in the city of Highland Park, in the First Congressional District of Michigan which I serve. The citizens of Highland Park are proud of her and, on behalf of them, I offer this tribute to a wonderful human being and the hope that she will continue to live among us a great many more years.

REVENUE SHARING REVISITED

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. ABDNOR. Mr. Speaker, shortly before the adjournment of Congress I had the opportunity to contact the Office of Revenue Sharing concerning the plight of some of the small communities in my district. One of them was so frustrated by the new regulations they were considering dropping revenue sharing altogether.

In response to my letter, I received the following:

THE DEPUTY SECRETARY
OF THE TREASURY,
Washington, D.C.

HON. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: Thank you for your letter of September 23 and for sharing your correspondence from Mrs. Florence Sanftner, the Town Clerk in Belvidere, South Dakota.

The decision by the Town of Belvidere to withdraw from the General Revenue Sharing Program was disappointing to us and we are heartened to know that Belvidere has reconsidered. I understand that recent contacts with the Office of Revenue Sharing have allayed Mrs. Santfner's concerns and have renewed her confidence that administrative burdens will not preclude the Town of Belvidere from participating in the program.

As you know, the Revenue Sharing Act was amended in 1976 and, as a result, we have had to revise our rules and regulations substantially to conform to the legislative amendments. Unfortunately, the changes in the prior regulations with which Mrs. Sanftner and others had become familiar will require having to relearn revenue sharing regulations. The net effect of the legislative amendments and our revised regulations, however, has been to simplify the program.

Sincerely

ROBERT CARSWELL.

In view of the problems encountered by our towns, I wondered if the statement "The net effect of the legislative amendments and our revised regulations, however, has been to simplify the program" was true. Thus, I contacted the South Dakota Municipal League for their reaction and that of their membership.

I received this reply from Tony Merry of the league whose responsibilities include helping our small cities with their revenue-sharing problems:

SOUTH DAKOTA MUNICIPAL LEAGUE,
Pierre, S. Dak.

HON. JAMES ABDNOR,
U.S. Congress, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN ABDNOR: In response to your letter of October 26 to South Dakota Municipal Officials regarding the Revenue Sharing program, please be advised that the letter will be printed in full in the December issue of our monthly magazine, South Dakota Municipalities. In the meantime, may I offer some comments of my own?

Our office has dealt extensively with the Revenue Sharing program since it's inception, providing a great deal of technical assistance to our member municipalities (and to counties and townships, for that matter) regarding provisions of the program. Over the past couple of years it has been primarily my responsibility to deal with the Revenue Sharing program. Thus, I feel competent to comment on Mr. Carswell's statement as contained in your letter.

While it is fair to state that some provisions of the Revenue Sharing program have indeed been simplified, the statement that the net effect of legislative and administrative changes has been to simplify the program is certainly a gross misrepresentation of the situation that exists in the cities and towns in South Dakota. I would also hasten to add that a number of the changes working to the detriment of the program are administrative in nature, and not necessarily mandated by the legislative amendments of 1976. A comparison of the interim regulations in force for Entitlement Period Eight (January–September 1977) with the final regulations now in effect demonstrates that the rulemaking authorities within the Office of Revenue Sharing felt obligated to "tighten up" specifically the citizen participation provisions, perhaps at the urging, in my opinion, of varying "public interest" organizations.

As I have already pointed out, there have been improvements in the program. These include removal of the prohibition of matching other federal funds with Revenue Sharing funds, and the elimination of the priority expenditure categories. These benefits, however, are somewhat deceptive. The federal matching fund provision does, indeed, offer greater flexibility in the obligation and use of funds. Under the old program however, it was not what I would categorize as a "significant" problem. The opportunity to match federal funds occurred rarely, and when it did, other local funds could generally be diverted, although not without meeting some technical budgeting requirements under the state law. With respect to the expenditure priority categories, these were quite broad and served primarily as an indication of Congressional intent. Local governments remained free to obligate the funds in the manner they deemed appropriate (subject to applicable provisions of local law). Thus while Congress has certainly moved in the proper theoretical direction, the practical result has not been as beneficial as one might otherwise expect.

In contrast, public participation and public hearing requirements have increased significantly under the new program, while reporting requirements have been altered, but not simplified. The changes can be demonstrated most clearly as follows:

(a) Under the original program, each recipient government was required to follow its normal hearing procedures to assure public participation; that is, a municipality was to budget, appropriate and spend its Revenue Sharing funds under the same procedural safeguards as were applicable to regular local funds available to it. In addition, local governments were required to complete one planned-use report and one actual-use report for each entitlement period, file these with the Secretary of the Treasury, and publish each report.

(b) Under the Revenue Sharing amendments (P.L. 94–488), local governments are now required to hold two public hearings: a "planned-use" hearing and a "budget" hearing (where no hearings were mandated previously). Each of these hearing provisions is accompanied by technically specific publication requirements. Additionally, three reports are now required annually: a planned-use report (now including a summary of the entire proposed budget); a narrative summary of the adopted budget, and an actual-use report. The actual-use report alone must be filed with the Secretary of the Treasury and need not be published. The other two need not be filed, but must be published and otherwise made available for public inspection. The Act itself (sec. 121(b)(3)) provided for waivers of these requirements as provided for in general, by the Secretary of the Treasury. It is primarily in the area of waivers that the Office of Revenue Sharing has itself moved away from simplification of the program.

(c) Under the interim regulations, waiver of the proposed use hearing and notice requirements, for instance, were available where:

"(A) The entitlement of the recipient government for such fiscal year is less than $10,000; or (B) The unavoidable expenses associated with the costs of compliance with the provisions of paragraphs (a) and (b) of this section would exceed five percent of the recipient government's entitlement for such year. . . " (31 CFR Part 51, § 51–13(d)).

In addition, the interim regulations also provided for an exception to the proposed use hearing requirements for "any recipient government for which a budget is not presented or required to be presented by one governmental authority to another governmental body or official for enactment." (31 CFR Part 51, § 51.13(c)).

Under the present regulations (effective October 1, 1977), the waiver for those receiving $10,000 or less has been eliminated, the exception where a budget is not presented by one authority to another has been eliminated, and the waiver where the cost exceeds five percent has been increased to fifteen percent. Thus, where South Dakota's cities and towns were eligible for each of the three waivers or exempting provisions, two have been eliminated and the third raised to a prohibitive level. The Office of Revenue Sharing has moved in the same direction in conjunction with budget hearing requirements and others.

I enclose for your reference a copy of a Revenue Sharing Timetable provided by the National League of Cities which outlines the public participation and reporting requirements dictated by P.L. 94–488. Also enclosed are copies of interim public participation requirements and proposed final public participation requirements.

In conclusion, I believe it is quite clear that the "net effect" of the legislative amendments and revised regulations has not yet been to simplify the program, but rather to complicate it, and frustrate our local officials in the process. It is true that a significant number of changes are the responsibility of the Congress. I think it is clear, however, that the Office of Revenue Sharing is not without blame, as witnessed by the contrast between the interim and final regulations.

I apologize for the length of this letter, but I thank you for the opportunity to express my views on this matter of such importance to local governments. We have sincerely appreciated your past efforts to maintain a sim-

ple, flexible Revenue Sharing program, and we wish you well with your future efforts in this regard. Thanks again, and best wishes.

Sincerely,

TONY C. MERRY,
Director of Research.

WHAT CAN I DO?

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. KETCHUM. Mr. Speaker, at this time I would like to share an editorial column from the Progress-Citizen and the Inyo Independent with my colleagues in the House. Mr. Todd Watkins, my friend and constituent, has set forth what I consider to be an excellent piece of advice to the voters: Give your encouragement and support as a citizen and as a voter to those who will bring more sense to government. Todd Watkins quotes newly elected Louisiana State legislator Dan Richey. I particularly like one of Mr. Richey's comments in describing the irresponsibility of some legislators: "They praise Thomas Jefferson, but vote like King George V." My tenure in both State and Federal Government has taught me that this is all too true, and I commend Mr. Watkins for printing this fine editorial. Hopefully, our citizens will take heed:

TABOOS

Frustrations concerned with government at all levels are overwhelming. The citizen complains . . . but asks "But what can one do?" The city and county office holder is swamped with an avalanche of mandated programs, cascading down from federal and state levels . . . many of which are engineered by bureaucrats trying to justify their jobs. There is no simple answer to the programs, except in the words of my good late friend, U.S. Senator Clair Engle who told Senator Everett Dirksen and other senators (as I listened one day in the U.S. Senate) " . . . just vote 'no' on the funding . . . and the problem and the folks involved will have to go elsewhere." Engle, a former Republican, was a conservative Democrat, much like the newly-elected Louisiana state legislator, Dan Richey, a Democrat, whose recent comments are so promising and accurate, we feel you should read them. They appeared as an editorial in the Natchez Democrat:

Richey wrote: "Prior to my election to the Louisiana Legislature two years ago, I thought elected officials in state and federal government carefully analyzed all sides of an issue before asserting their opinion or casting their vote. I have found, however, this applies to only a small percentage of these public officials. The majority, much to my chagrin, react in whatever manner is politically feasible.

The majority, in other words, think more of the next election than the next generation. To camouflage their political hypocrisy, this group works diligently to make the average layman think that every major issue is very, very complicated. They have popularized simplistic verbiage such as, 'politics is the art of compromise,' or 'I had to trade off with others to get what my people wanted'. That's a lot of hogwash!

"Elected officials can compromise on tactics and strategy without doing anyone harm. But when they compromise principle, people's rights are destroyed. This confiscatory power of government has reached alarming levels because so many elected officials have compromised people's rights to life, liberty and property. These profligate politicians try to counter by saying, 'look at all the things I got for my district.'

"You then look around and see what they have 'given' you. Outrageous taxes, and bureaucracy, double-digit inflation, giveaway programs which discourage recipients from seeking gainful employment, skyrocketing government payrolls, taxpayer-funded boondoggles of the worst dimensions (Superdome, IWY Conference, legislative retirement systems, etc.) ad nauseum.

"These political panderers parade around like they're the greatest thing since sliced bread. Their vocabulary centers around the personal pronouns 'I' and 'my'. Their press releases sound like a tape recording—'I have the pull to get things for my people,' or 'I know so and so who will do something for my district.'

"Another favorite ploy by many politicians is to inundate the public with a barrage of scatterbrain ideas at one time. Hence so much of the ridiculous legislation each year in our statehouse and Congress.

"The biggest drawback to these elected officials is the absence of any political philosophy. They act, instead, on the basis of political expediency. They have made ambivalence into a science. They praise Thomas Jefferson, but vote like King George V; they deplore big government but support every tax and regulatory bill that comes down the pike; they say we must get out of the dark ages, but oppose the development of nuclear energy; and they assert the need for relevant, responsible leadership, but propose ludicrous gimmicks such as annexing parts of neighboring states.

"Honest, hard-working citizens want their money's worth for the taxes paid to government—nothing more, nothing less.

"It is fortunate for America that the 'Silent Majority' is finally beginning to take notice of the abuse heaped upon them by political derelicts. When today's philosophical jellyfish are booted out of office and replaced by those of conviction and courage, we will see an end to this miscarriage of justice. Then, all of us will have an understanding and appreciation of what our elected officials are doing."

Well done, Richey. As a citizen and voter, give your encouragement and support to office holders to bring more sense into government . . . the costs of which contribute more to inflation than anything you can name. You as consumer, pay every damn dime of the cost of government . . . . at ALL LEVELS. Folks keep passing on the costs of government until those costs end up on retired and other folks who cannot pass them on to anyone else. The block of 30 million or so retired citizens better make "government at any cost" their No. 1 target at the polls, and not be concerned whether people are of a particular political party or faith.

DWIGHT D. EISENHOWER

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. BADHAM. Mr. Speaker, I consider it a privilege to take part in this commemoration of the 25th anniversary of President Dwight D. Eisenhower's inauguration as the 34th President of the United States of America.

President Eisenhower's grandson, David, resides in the 40th Congressional District of California, which I have the honor of representing. I am sure David Eisenhower is pleased to see Members of this House remember his grandfather with pride and affection on this occasion.

I recently had the opportunity to witness the commissioning ceremonies for the latest addition to our naval forces, the U.S.S. *Dwight D. Eisenhower*. The ship has already been nicknamed "Ike," of course. This extraordinary ship is a fitting tribute to Mr. Eisenhower, who once stated, "Until war is eliminated from international relations, unpreparedness for it is well nigh as criminal as war itself."

Whether on the battlefield or in the Oval Office, Dwight D. Eisenhower will be remembered by the American people as one of this country's great leaders.

THE RETIREMENT OF ARTHUR M. WOOD

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. ROSTENKOWSKI. Mr. Speaker, following 32 years of service with Sears, Roebuck & Co., the chairman of the board and chief executive officer, Arthur M. Wood, is resigning his post today, January 31, 1978.

The ninth chairman in Sears' 87-year history, Mr. Wood is stepping aside in accord with the company's retirement policy. He is capping a career that began in 1946, when he joined them to reorganize the company's law division. He assumed a number of staff and operating posts until 1968 when he became president.

Chicago is proud of her native son, Art Wood, not only because he is chairman of the world's largest retail organization, but also because he is a civic-minded and service-oriented individual. The successes he has achieved in the business community are equaled by the recognition he has gained by serving on the boards of numerous nonprofit and community organizations. Mr. Wood chaired the U.S. Savings Bond Drive for the Chicago area in 1974, and in 1970 served as chairman of the National Alliance of Businessmen—Chicago metropolitan division.

His civic board memberships include the Council for Financial Aid to Education, United Way of America, and the Community Fund of Chicago. He also serves as a trustee of the Tax Foundation, the Committee for Economic Development, the Art Institute of Chicago, and the Rush Presbyterian-St. Luke Medical Center.

Art Wood serves as an adviser to Presidents. He is a member of many business organizations, including the elite Business Roundtable. In addition to the demands placed on his time from business and civic associations, Art Wood makes his talents available to the boards of several major corporations.

Obviously, Art Wood has a successful professional and civic career. However, there is much more to this man than

merely listing his awards and honors. For in the area of minority hiring and training, Art Wood's leadership is obvious.

During his years as president and later as chief executive officer, Arthur Wood sought to give greater impetus to the company's minority development and employment programs. There has been a significant increase in the number of minority owned-and-operated businesses that supply the world's No. 1 retailer with goods and services. This has the additional benefit of promoting the hiring, training, and developing of minority employees within the company.

When Sears was in the process of selecting a new site for their national headquarters, it would have been very fashionable for the company to decide on relocating to a suburban location. However, an important consideration was to preserve jobs for inner-city personnel. Thus, the present location in downtown Chicago was selected.

In fact, during general contracting and subcontracting for the Sears Tower, the company asked for clear and stringent requirements regarding the use of minority labor. As a result, the number of minority workers on the Sears Tower job site averaged 25 percent.

Even though it appears that Art Wood is stepping aside, those of us who consider him to be our friend know that his presence will be felt in the Chicago business and civic community for sometime to come. His friends and associates decribe Art as a family man, business-oriented and civic-minded, patriotic and people-conscious. A man of decisiveness, programs that he implemented will impact not only Sears, but also the business, government, and civic communities well into the future.

His personal convictions can be best summarized in his own words. The following are excerpts from an address that Art delivered on November 19, 1976, when he received the Advertising Council Public Service Award. He then stated:

If every company will perform according to high ethical standards, the public's confidence will be re-won. Selling quality products, living up to warranties, making fair representations of what a product will do for the buyer, and competing fairly for the customer's favor, are a few precepts which will stand us all in good stead. And above and beyond these direct dealings with the public, the treatment of employees, respect for the environment and support of community causes must all have attention . . . I do not mean to imply that we are doing enough or that all is well in the land. The challenges are great. Inflation has exacerbated the plight of the poor and elderly. It has laid a heavy burden of cost on our cities, states, and the national government, all of which add to the load of the taxpayer. It has pushed upward the cost of our great educational and cultural institutions. Indeed, it has placed a difficult burden on business where progress in earnings is the key to new jobs, new products, and the combined welfare of the nation.

I believe that an enlightened and joint effort by labor, government and business, with the best advice from the academic world, is essential. It will not come from carping criticism directed against business or labor or government. It will only evolve from a heightened cooperative effort.

OATS COVERAGE NEEDED NOW

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. ABDNOR. Mr. Speaker, during his state of the Union message the President included these paragraphs which were not part of the advance text:

As I came to the Capitol tonight, I saw the farmers, my fellow farmers, standing out in the snow. I am familiar with their problem and I know from Congress action that you are, too. When I was running Carter's warehouse we had spread on our own farms 5–10–15 fertilizer for about $40 a ton. The last time I was home the price was about a hundred dollars a ton. The cost of nitrogen has gone up 150 percent and the price of products the farmers sell has either stayed the same or gone down a little.

Now this past year, 1977, you, the Congress, and I together passed a new Agricultural Act that went into effect October 1st. It will have its first impact on the 1978 crops. It will help a great deal. It will add 6½ billion dollars or more to help the farmers with their price supports and target prices. Last year we had the highest level of exports of foreign products in the history of our country—24 billion dollars. We expect to have more this year. We will be working on this together. But, I think it's incumbent on us to monitor very carefully the farm situation and continue to work harmoniously with the farmers of our country. What's best for the farmers—the farm families, in the long run—is also best for the consumers of our country.

While we may debate how much credit the President should claim for the farm bill, we cannot dispute two points he made: First, the farmers do have a very serious problem; and second, what is best for the farmers is also best for the consumers of our country.

As a Congressman from the most agricultural State in the Nation, and as a farmer with personal experience in coping with the 1976 drought and low market prices, helping agriculture with its dilemma has been a top priority of my office.

During our consideration of the 1977 farm bill I introduced the Abdnor oats amendment to give this feed grain the same status of our other principal crops and include it under farm program coverage. Both the 1977 and subsequent oats crops were included in the bill. Since this measure was signed into law, we have been waging an uphill battle to convince the administration they should exercise their authority with respect to oats.

Mr. Speaker, in South Dakota coverage of oats under the farm program will mean a major boost to our economy. We rank first in the number of acres planted to oats and consistently are in the top five in overall production in the United States. Program coverage could mean as much to our farmers as the entire wheat program.

Last summer when we debated the farm bill the administration agreed that oats coverage was long overdue. However, it is little comfort to farmers when authority provided in the law is ignored.

It is particularly distressing when the administration acknowledges that farmers have a problem, but at the same time refuses to take a small step to partially alleviate that problem.

On December 7, I renewed my plea to Secretary of Agriculture Bob Bergland for oats coverage. The farmers of America were again turned down with some of the flimsiest rationale I have seen.

Accordingly, I have again asked Secretary Bergland to reconsider the decision. If the administration is serious about helping farmers, here is a good place to start.

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 26, 1978.

Hon. BOB BERGLAND,
Secretary of Agriculture, Department of Agriculture, Washington, D.C.

DEAR BOB: The rationale accompanying the rejection of my latest request that you reconsider your decision and include the 1977 and 1978 oats crops in feed grain coverage is inadequate and unconvincing.

Mr. Freeman made a brief allusion to costs in the statement: "This would result in heavier loan activity and increased acquisition by the Commodity Credit Corporation." If costs are the major, though unmentioned, criteria for rejection, there must exist documents containing these estimates. I would appreciate receiving information on the actual costs anticipated by the Department in the event the oats crops were included in the program.

Secondly, the fact that the 1977 crop had already been harvested did not preclude the Department from recently announcing it was releasing target payments on 1977 barley and grain sorghum. What type of information was available for these crops which could not be obtained for oats?

Further is the statement: "In the past CCC inventory of oats has been very difficult to dispose of . . ." If my memory serves me correctly, as recently as late 1976 the entire CCC oats inventory was depleted due to drought conditions in the Midwest and particularly in my home state of South Dakota. I would appreciate data on how much oats is currently under loan and how much oats has been acquired since the stocks were depleted in the fall of 1976.

At the time we discussed this last summer, Bob, you agreed that the oats amendment was long overdue. Just this past week we have heard the President recognize the plight of the farmers in his State of the Union address. Surely, implementing the oats amendment is one small step which could be taken to demonstrate that the Administration is serious about helping the farmer.

My thanks for my earliest possible receipt of the cost estimates requested above, as well as the other data.

Sincerely,

JAMES ABDNOR,
Member of Congress.

TRIBUTE ON 25TH ANNIVERSARY OF EISENHOWER'S INAUGURATION

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. WHALEN. Mr. Speaker, it is a pleasure to commemorate the 25th anniversary of Dwight Eisenhower's inauguration as President.

President Eisenhower was a great public servant who held the respect and ad-

miration of the American people throughout his public life. As the product of small-town America, Ike truly was a storybook hero. All that he achieved he did on his own. He was a model of the traditional American virtues of hard work and self-reliance.

Ike was an honest and uncomplicated man, and it was these qualities which enabled him to achieve his many successes both in war and peace. His tenure in office was an expression of these attributes, a period of tranquility and general consolidation. His administration provided the stability which we desired after World War II and the Korean war. As President, Eisenhower gave confidence to our people, and thereby made our institutions stronger, and our national outlook brighter.

Throughout his life, Eisenhower was known for his belief that every person should acquire something during his lifetime and leave that something in just a little better condition than he found it. Certainly, by striving for this goal, we would be doing that which he would want us to do in his memory.

THE 20TH ANNIVERSARY OF EXPLORER I

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. FUQUA. Mr. Speaker, today is the 20th anniversary of the launching of Explorer I, the satellite that ushered the United States into the space age on January 31, 1958.

Mr. Speaker, Explorer I is significant in that it was our Nation's first successful scientific response to the new frontier of space exploration that was brought into being by a rival nation on October 4, 1957. On that date, the U.S.S.R. astonished the world with its successful orbiting of the first artificial satellite, Sputnik I.

That single launching set the United States and the Soviet Union on a fiercely competitive race of science and technology. And, since the inception of the space age, this Nation has successfully met challenge after challenge and became, for all practical purposes, the undisputed world leader in space the day our astronauts landed on the Moon.

Sputnik I confirmed Russia's claim that it had an important intercontinental ballistic missile capability. Therefore, this important technical achievement proved the Soviet rocket technology was a much more immediate threat to the national security of the United States than had previously been thought.

Mr. Speaker, the period immediately following the orbiting of Sputnik I was one of widespread concern about this country's military preparedness and a possible missile gap. The public response was swift and widespread. The certainty that this Nation was No. 1 in technology had been rudely shattered. As a consequence, the status of this Nation's space related activities was closely examined and great pressure was exerted to get a U.S. satellite into orbit.

The Nation's only official satellite program in October 1957, was known as the Vanguard program and was the United States scientific contribution to the International Geophysical Year. Officially authorized on September 9, 1955, that program was called upon to launch its first test vehicle on December 5, 1957. Unfortunately, that launch was not successful as its first stage engine lost thrust only 2 seconds after ignition and the vehicle burned on the launching pad. It was not until March 17, 1958, that Vanguard I was successfully launched into orbit.

In the meantime, however, another satellite program was authorized to proceed in an attempt to place a satellite into orbit. In November, 1957, the Army Ballistic Missile Agency headquartered in Huntsville, Ala., was authorized to attempt a satellite launch with its proven Redstone missile.

It was that agency, in cooperation with the Jet Propulsion Laboratory, which was to be successful in the launching of the first U.S. satellite, Explorer I, on January 31, 1958. With it, America had proved within a very short time that it was scientifically able to respond to the threat of Sputnik I.

Mr. Speaker, the history of our Nation's space program since that time is well known everywhere. In the short span of 20 years since our first success in space exploration, we have seen many remarkable science and technology achievements. Today, therefore is an important anniversary for Americans to remember in the ongoing effort of our Nation's scientific community to achieve greater and greater benefits for mankind. It is a symbol of success for a "can-do" nation.

UKRAINIAN INDEPENDENCE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. EILBERG. Mr. Speaker, this year marks the 60th anniversary of the independence of Ukraine—an independence that lasted only 2 short years before the brutal U.S.S.R. takeover of this gallant new nation.

The Ukrainian National Resolution, which brought about this independence, was very much like the American Revolution of 1776, because its overall objective was a free and independent state of Ukrainian people, just as the American Revolution sought freedom for the Thirteen Colonies which refused to live under colonial subjugation.

Today the Ukrainian people, under Soviet Russian domination, are not free and cannot enjoy the blessings of freedom and independence. The Soviets have imposed their tyrannical power over Ukraine and other non-Russian nations which had adopted the principles of national self-determination and declared their independence.

Ukraine is the largest and, economically, most important of the non-Russian nations now held captive in the U.S.S.R. The fact that Ukraine is a captive and submerged nation was recognized by the U.S. Congress in its Captive Nations Week resolution, enacted on July 17, 1959, and which condemned the "imperialistic policies of Communist Russia" which have been involved in the ruthless subjugation of Ukraine's national independence.

In a recent speech, Vice President MONDALE declared that "human rights know no boundaries. We cannot protect our freedom as Americans if we ignore those parts of the world which are not free." It is in that spirit, Mr. Speaker, that I join my colleagues in speaking out on behalf of the 50 million Ukrainians held in captivity by the U.S.S.R. I join my voice with those Ukrainian Americans in calling for a foreign policy in our country that will, one day, restore freedom to these captive people.

FAMILY ENTERPRISE ACT

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. BALDUS. Mr. Speaker, today I am introducing the Family Enterprise Act, H.R. 10651, a measure proposing a useful and working definition of very small businesses. The purpose of this act is to define very small businesses, so that at a later date we can consider exempting them from certain Federal Government regulations and paperwork.

There are over 600 definitions of small business in use today, mostly created by bureaucratic sophists at the Small Business Administration (SBA). There is a small business definition for every purpose: for Government procurement, sale of Government property, loan assistance, investment assistance, Government subcontracting, lease guarantees, uranium prospecting, mining rights, surety bond guarantee assistance.

But that is not the whole story. The definition for Government procurement changes like a chameleon, from product to product. There are different procurement definitions for construction, dredging, pneumatic tires, passenger cars, woolen goods, worsted goods, knitwear, petroleum products, research and development, janitorial services, cargo handling, naval architecture, diaper services, rug cleaning, computer programing services, tire recapping, helicopter services, crating and freighting, to name only a few.

For loan assistance, the definition depends on whether one is talking about construction, manufacturing or retail; there are different definitions for hotels and motels, power laundries, trailer courts, hospitals, dentists, motion pictures, cable television stations, shopping

centers, air transportation companies, grain elevators. Cattle, hog, sheep, and goat businesses are all treated the same, but differently than fish hatcheries, turkey raisers, and oyster operations.

As if these variations on the theme were not enough, the definitions above refer the reader to schedules A, B, C, D, E, F, G, H, and I, which contain about 375 more.

But there is a further problem with these SBA definitions of small business, one that renders them virtually useless as a means of exempting small business from Federal regulations. The SBA definitions are much too large.

For instance, the definition of "small" for purposes of Government procurement by stockpile purchasers is any business with $42 million or less in annual receipts. Petroleum, ammunition and aircraft manufacturers are considered small if they have 1,500 employees or less. The smallest definition mentioned is 250 employees or less among the manufacturers, and there are literally hundreds of business types defined as small if they employ 750 employees or less. Definitions such as these exclude all but the top few firms in a given industry from benefits intended for small business.

These large definitions discriminate against very small businesses in two different ways. First, the largest firms qualifying under the definition as small tend to run away with the lion's share of loan capital available from SBA. Second, no Federal agency contemplating a small business exemption in its regulations will consent to the use of these bloated definitions in existence now. In addition, the confusion resulting from so many different definitions discourages Federal agencies from contemplating small business exemptions from their regulations in the first place.

While the bill I am proposing today would not take care of the first problem—the suspected syphoning of SBA moneys by larger businesses within these oversized definitions—the bill would create a handy reference definition of very small businesses which could be used to exempt these struggling family enterprises from some Federal regulations.

I propose in the bill to define a "family enterprise" as any business of 50 employees or less and $1,000,000 in annual receipts per year, or less.

Census figures show that this definition includes upward of 90 percent the businesses in the country. Yet, the definition cuts by a factor of 10 the average size standard normally used at SBA.

Several Federal agencies have showed a positive interest in exempting very small businesses from regulations that are explicitly intended to govern the conduct of large, Wall Street sized companies. These agencies are fast realizing that not all companies contribute in equal amounts to a given problem. The Environmental Protection Agency (EPA) is a prime example. Recently, the EPA issued regulations pursuant to the administration of the Toxic Substances Control Act. It desired to exempt very small chemical companies its proposed regulations. When it learned, however, that the SBA defined small in this industry as 500 employees or less, EPA rejected the definition and wrote its own.

The family enterprise, as defined in this act, would tend to be family-owned, and in the retail, wholesale, craft, or service business. These are exactly the types of businesses that the drafters of most Federal regulations are least likely to contemplate as the objects of their regulations and paperwork requirements.

The bill attempts only to create an understandable, and simple, definition of very small business; if accepted, the definition could be used to ease the Federal burden on these family enterprises as the opportunity arises. This definition would supplement, not replace, current SBA small business definitions.

A copy of the bill follows:

H.R. 10651

A bill to amend the Small Business Act to define certain small business concerns as family enterprises

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress hereby finds that—

(1) certain very small businesses have special problems in dealing with regulatory and paperwork burdens imposed by the Federal Government and in effectively competing in the United States economy;

(2) such small businesses need from time to time special consideration from the Federal Government regarding these regulatory and paperwork burdens, and in solving other special problems;

(3) the first step in providing such special consideration is to define by size very small businesses which are in need of such consideration;

(b) The purpose of this Act is to define by size very small businesses which need special consideration from the Federal Government regarding regulatory, paperwork and other special problems.

(c) This Act shall be referred to as the "Family Enterprise Act."

SEC. 2. Section 3 of the Small Business Act (15 U.S.C. 632) is amended by inserting "(a)" after "Sec. 3." and by adding at the end thereof the following:

"(b)(1) For purposes of this Act, the term 'family enterprise' means any small business concern:

"(A)(i) of which the average of the annual gross receipts for the 3 year period ending with the current calendar year does not exceed $1,000,000, and

(ii) the number of full time employees of which does not exceed 50, or which does not exceed 75 due to seasonal fluctuation, for the current calendar year;

"(B) which does not have more than 10 shareholders;

(C) all shareholders of which are individuals, estates, trusts, or small business investment companies (as defined by section 103 (2) of the Small Business Investment Act of 1958);

(D) which does not have more than one class of stock;

(E) which meets such other requirements as the Administrator may by regulations prescribe.

"(2) For purposes of paragraph (A)(ii), seasonal fluctuations shall be defined as temporary increases in the number of employees of a business, due to cyclical business patterns and having a duration no greater than 3 months.

"(3) For purposes of paragraph (A)(ii), the term 'employee' shall have such meaning as the Administrator may prescribe.

SEC. 3. For purposes of paragraph (b)(1) above, the terms 'estates', 'trusts', and 'stock' shall have such meaning as the Administrator may prescribe.

Mr. Speaker, I urge my colleagues to give their consideration and support to this vital measure for small business.

DUTY-FREE IMPORTATION OF ALL HORSES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. KEMP. Mr. Speaker. I am introducing today a bill to provide for the permanent duty-free importation of all horses. As you know, the duty on horses was suspended until June 30, 1980, by legislation passed in the 1st session of the 95th Congress.

Under the provisions of this bill, there would be no duty on horses imported for purposes other than immediate slaughter. As my colleagues are aware, the present tariff structure, now suspended, operates discriminatorily among different breeds. For example, certain horses may be imported duty-free for breeding purposes if they qualify as breeds recognized by the U.S. Department of Agriculture. Unfortunately the American quarter horse, which is a native of this country, is not recognized by the Department as a breed and importers of quarter horses must ordinarily pay a duty.

Moreover the difficulty faced by customs officers at the border in valuing horses is overwhelming. How can an untrained officer be expected to accurately value an animal when many in the industry disagree as to its value. The continuation of this requirement unnecessarily and unfairly burdens our officers and results in disparate treatment of importers. The difficulty of administering the duty outweighs its usefulness.

Another problem created by the tariff arises in connection with race horses imported. Since many such horses race in claiming races and are claimed the importers must pay not only the import bond but also a penalty if the horse is not returned to its country of origin within the requisite one year period.

I would like to point out that the revenue produced by this duty prior to its suspension was negligible and probably did not cover the cost of administering and collecting it. In addition, many of the countries from which most horses are imported into the United States do not impose a tariff on horses exported from this country.

Finally, doing away with this unnecessary tariff at this time prior to the termination of the present suspension will avoid the problems that occurred when the last suspension expired in June 1976. At that time the House had passed a bill that I introduced to continue the suspension, but the bill was amended by the Senate just prior to adjournment, and the bill died. While

the Customs Service refused to collect the tariffs after June 1976 knowing that Congress would pass another suspension bill, the administrative and practical problems American horsemen faced during that period were enormous. By acting now we can avoid these problems. While tariffs serve a useful purpose in many instances, the duty on horses imported into the United States has created untold problems for American horsemen and should be put to rest permanently.

WHY ARMS CONTROL HAS FAILED

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. CUNNINGHAM. Mr. Speaker, in recent months there have been charges raised that those opposing or questioning the forthcoming SALT II agreement were against strategic arms control—despite the fact that often the skeptics were merely raising very legitimate doubts about both Soviet compliance to signed arms treaties in the past, or simply wondering whether or not this Nation was acting correctly in making SALT carry the entire burden of arms control. One could argue that perhaps we have lost track of what arms control is all about and—in desperate pursuit of what may turn out to be a most unfortunate agreement—have gotten locked into a SALT negotiating process that may devastate those strategic arms control measures that have been created.

Is there any way out of this mess? More importantly, how in the world did we ever get here in the first place?

I realize that any debate on arms control in the U.S. Congress today is being conducted in a highly politicized environment. Indeed, this environment has become so polarized that those opposing SALT as drafted are being recklessly—I would even say viciously—accused of being far right political primitives or aging cold-warriors or super militant hawks. There are some who go so far as to say the "SALT skeptics" essentially want an uncontrolled arms race. These assertions are wrong—and they can only poison an extremely serious debate about this Nation's future strategic prospects.

With these considerations in mind, I would like to refer my colleagues to a very timely, well argued argument by Prof. Edward Luttwak of Johns Hopkins University that the United States has been conducting strategic arms control in the wrong manner. Dr. Luttwak's article in the January 1978 issue of Commentary is entitled "Why Arms Control Has Failed"—and several of his observations are devastating of recent U.S. conduct of SALT:

While arms control can only be effective in limiting specific deployments under specific arrangements, serving thereby as an alternative to force-building, the United States has consistently misused arms control in pursuit of the abstract goal of "strategic parity." When the concept was challenged, it was redefined by the White House as "essential equivalence," which is equally vague. Neither set of words has any meaning in the reality of weapons or forces. Neither set of words can define negotiating objectives.

While arms control can only be effectively pursued if negotiated limitations are defined with extreme precision, the United States has consistently tolerated ambiguities in its urgent pursuit of agreement for its own sake. As a result, a new and entirely artificial source of U.S.-Soviet tensions has been created. Changes in the Soviet strategic forces that would otherwise have passed almost unnoticed have excited suspicion and resentment when seen in high contrast against the poorly drafted texts of the 1972 Moscow accords. One side-benefit of each arms-control agreement should be to build confidence for the next, but the tension-creating ambiguities of SALT–I have utterly defeated this purpose.

While effective arms control requires that high standards of compliance be enforced, the United States has consistently allowed Soviet probing to develop without effective challenge. This permissive stance was a natural consequence of the attempt to use SALT as a general sedative in US-Soviet relations. The attempt has undoubtedly failed, SALT having become, on balance, a further source of friction. But in the process, arms control itself has been discredited, since negotiated agreements have been enforced far too loosely in deference to the atmospherics of detente.

Above all, the United States has misused arms control in the attempt to dampen the strategic competition in itself, as if the growth of strategic arsenals were the cause of Soviet-American rivalry rather than merely one of its symptoms, and incidentally a much less dangerous symptom than the growth of non-nuclear forces, whose warlike use is much more likely.

These are extremely serious—and very painful—accusations. They directly implicate the leadership of this country and—in great part—the "mainstream" of the American arms control community. Luttwak is arguing that we may—in our very miguided enthusiasm for certain ideological preferences in arms control—have compromised the very possibility of such arms control in the future, and that we may have already laid the groundwork for a grim strategic crisis in the near future:

. . . In American policy, arms control has usurped the function of strategy and has become an end in itself. The consequences are now manifest: the unilateral arms control pursued by the US since at least 1964, and the bilateral efforts that culminated in the 1972 Moscow agreements, have diminished rather than enhanced American security; they have not contained the growth of the arsenals of both superpowers; they have increased rather than diminished outlays on US strategic forces; and they have now begun to compromise strategic stability, since the increasing obsolescence of an old bomber force and the approaching vulnerability of American land-based missiles will soon leave the submarine-missile force exposed to undivided Soviet counterforce efforts. As a result of these unhappy trends, we may be approaching a new period of acute instability in which we will be forced to undertake very expensive build-up programs on a crash basis. . . .

In short, we have been guilty of sloppy thinking and inexcusable negligence in our arms control policymaking. I think it is safe to say that this administration shows no sign of reversing the process—in fact, its recent actions have accelerated these trends and it no longer shows any intellectual flexibility in this area. What is even worse is that there are no "devil's advocates" in the Carter inner circle—people with the courage to say, "Maybe we're wrong," or "Maybe SALT won't work."

I would like to insert this article into the RECORD; but before I do so I would like to draw attention to Dr. Luttwak's concluding paragraph:

American strategic policy has been dominated for more than a decade by the overwhelming desire to bring the Soviet-American competition to an end. Arms control could never serve such an unstrategic purpose, and its use to mask a renunciatory passivity in the face of the Soviet build-up has merely served to compromise a perfectly respectable tool of strategic policy.

Mr. Speaker, in the next few months this body may indeed be asking itself whether its actions in approving SALT II will serve "to mask a renunciatory passivity in the face of the Soviet buildup." If this body does precisely that in approving a disastrously written SALT agreement that rewards the Soviet Union for all-out arms racing during the period of SALT I, then we will have morally and spiritually compromised ourselves beyond redemption. I use these words in full awareness that they are freighted with Christian symbolisms—but this agreement will pose moral and spiritual choices to this body that have awesome dimensions, and I am justified in my use of such terms. Our very standards of government and our honesty in the administration of the public well-being will be at stake—and I urge the Senate to think very seriously about Professor Luttwak's critique of our arms control policymaking.

SUPPLEMENTARY FINANCING FACILITY

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. HARKIN. Mr. Speaker, in the next few days, Congress will be deciding whether to authorize $1.7 billion for a new supplementary financing facility to the International Monetary Fund. Experience has clearly shown that the decisions of the IMF have had profound effects on the political and social fabric of borrowing countries. For this reason, it is imperative that the operations of the IMF are thoroughly understood.

An article in the January 9 edition of Business Week is particularly instructive. Not only does it outline some of the problems encountered by a particular country in dealing with the IMF, but the article also asks some penetrating questions about the IMF's purpose and its role.

I urge all my colleagues to read "Portugal: A Hard Test for the IMF," which I have included below. As the bill to authorize this new IMF facility and the amendments to it are debated, it is virtually important that we remember the human rights and human needs consequences of IMF actions.

PORTUGAL: A HARD TEST FOR THE IMF

Portugal's current political crisis is echoed in a growing crisis of identity at the International Monetary Fund in Washington. Although neither the fund nor the U.S. gov-

ernment acknowledges it, the role of the IMF has become a principal issue in Portugese politics. It has also been an issue in Peru and will increasingly become one in Turkey for much the same reasons. The problem is that when IMF technocrats recommend strong medicine for local economic problems, the result can be political problems that are too tough for a government to handle. In Portugal's case, the IMF's medicine has polarized politics, pitting conservatives against radicals, businessmen against socialist economists, and north against south.

Bankers, academics, and IMF technocrats are starting to debate what the fund's role should be. Should it continue to be a pristine pure economic policeman, ready to take up short-term, balance-of-payments problems for member governments but relatively removed from politics and long-term economic development? Or, in the post-1974 world of huge oil-import debts, sloshing international liquidity, and world recession, should the IMF show more concern for employment and growth, and should its functions be tied in more closely with those of other international development agencies?

Larger carrot. The argument is just under the surface in the U.S. Congress, where testimony is being heard on the new Witteveen facility—the $10 billion fund that is designed to help the IMF offer a larger carrot to countries it is called on to discipline. The less developed countries—as well as some academic economists in the U.S. and some members of Congress—are pressing for the IMF to make loans for medium- and long-term development schemes.

Portugal's problems are typical of those that traditional IMF programs fail to ease. Since the fall of the Caetano dictatorship, the country has lived far beyond its means. Its annual payments deficit runs to $1 billion. It has passed out large wage increases. And the government has set up whole new state-owned industrial enterprises and agricultural co-ops that are piling up huge deficits.

Conservative economists and politicians in Portugal argue that the IMF's call for restricting the country's international borrowing simply means that credit will be cut back for the domestic private sector. Furthermore, they say that the IMF's technocrats ignore the realities of the international economy: Portugal is essentially an underdeveloped country. It could have an expansive economic program in, for example, construction, without the need for large foreign borrowing. But when the IMF made its recommendations earlier this year, it followed its tradition of calling for reduced foreign borrowing, deflation, and devaluation. The devaluation did nothing to boost Portugal's exports, limited to a few items—cork, wine, and textiles—for which demand is relatively inelastic.

Few takers. The only way for the IMF to help Portugal, the argument runs, is to take on a medium-term program for development. Short-term anti-inflation programs, even with standby foreign exchange credits, say the IMF's critics, produce recession without attacking the budget deficits or reforming the overloaded government owned sector.

The IMF's recommendations for Portugal—on which depend a $50 million loan from the fund and a $750 million credit from Western Europe, Japan, and the U.S.—have given the Portuguese a convenient scapegoat. Prime Minister Mario Soares made acceptance of his deal with the IMF a question of confidence in his government, and he lost to an alliance of the right wing and the Communists.

Having made their gesture, those forces may yet permit Soares to return to power, but his government will be weaker for its defeat. And for the U.S., which set a high priority on getting a strong non-Communist government in Portugal three years ago, the result is another thorny international political and economic problem.

THE NEED FOR MORE COMPLETE FOOD LABELING

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. WHALEN. Mr. Speaker, the December 15 issue of the Chicago Tribune carried an article entitled, "Ice Cream Tragedy Shows Labeling Need." It described my interest in more complete disclosure and labeling of the ingredients used in food products. The piece also conveyed my request for information from people who have had personal problems caused by inadequate food labeling.

As a result of that article, I have received dozens of letters which indicate the need for more complete disclosure of food ingredients. In order to demonstrate that need to my colleagues, I wish to insert excerpts from some of the letters that I have received.

For Mrs. David W. Fox of Hinsdale, Ill., incomplete ingredient labeling is a "very real and terrifying problem." As she is severely allergic to peanuts and to pinto and soya beans, she must carry an emergency kit in order to give herself an injection, and must then report to the nearest hospital emergency room, should she unknowingly ingest one of these ingredients or their byproducts.

Mrs. Warren E. Snyder of Chicago, Ill., wishes labels would indicate when mustard is added instead of saying "spice." Giant hives broke out in her throat, causing her to pass out, as a result of eating a product which she did not know contained mustard. Fortunately, the fire department and her doctor revived her.

Frances M. Sapone, a registered dietician in Chicago, knows all too well how difficult it is for patients to follow special diets, especially when all the ingredients in a food product cannot be readily identified.

Unfortunately, one cannot always rely on the food manufacturer to voluntarily supply ingredient information. Such was the case with Rose Marie Vita from Chicago, Ill. After her son had an allergic reaction to a commercial spaghetti sauce mix, she wrote to the manufacturer requesting a list of ingredients used in that product; they refused to honor her request.

Some people found themselves becoming allergic to a product that they had used for years, as a result of a change in ingredients. Dr. Irma Aleshire, 1924 graduate of Rush Medical College, could not understand why she was getting severe food-allergy symptoms from nearly all types of canned fruit, products which gave her no previous trouble. After several months of illness, she found the clue in a newspaper article—canners were now using corn syrup instead of sugar in the juice used to pack their fruit. Dr. Aleshare had been allergic to corn for most of her life. Yet the labels on the cans remained unchanged and continued to say "packed in heavy syrup," she reports.

Mrs. Patricia Caren of Wheaten, Ill., says although her family's allergies are not life threatening, they present medical problems and are uncomfortable. For her allergic family, it is "absolutely essential" that they know all the ingredients that a food product contains.

We all remember the tragic story of Michael Grybsank, who was so severely allergic to peanuts that he died after eating ice cream containing peanuts. Michael carefully checked the label before he ate, but it did not indicate the presence of peanuts among the other ingredients. There are many people with severe food allergies such as Michael Grybsank had. Must more of them die before complete ingredient labeling is required?

As my staff continues its investigation of the need for better food product labeling, I will keep my colleagues informed of our findings.

ETHICAL BACKSLIDING

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. MAZZOLI. Mr. Speaker, I am gravely concerned over reports that Congress is backsliding in its ethical reform efforts.

The House started out like a ball of fire last year, but our efforts fizzled out along the way. Yet, it is absolutely imperative that the House does everything possible to restore the confidence of the American people in the quality, the honesty, and the probity of its elected legislators.

I am a member of both the Select Committee on Ethics and the Judiciary Committee. These committees have completed their work and have reported Government-wide financial disclosure bills to the House Rules Committee. Now these important bills appear to be bogged down in the legislative process.

The House leadership on both sides of the aisle must give fullest support to Government-wide financial disclosure and must see to it that bills requiring such disclosure are soon reported from the Rules Committee to the full House for action.

In a related vein, rumors are rampant that a move will be made to weaken the House rules adopted in 1977 limiting outside income Members can earn, placing limits on gifts Members can receive, and abolishing Members' unofficial office accounts, among other similar moves. I hope these are only rumors and that House leadership will see to it that no changes are made in the 1977 rules.

If changes, however, are made and these rules are weakened, then the people could not be faulted if they hold to their present belief that Congress proposes reforms only in reaction to a scandal. And, when the scandal has abated,

the reforms are quietly shelved and it is business as usual.

I salute the Louisville Courier-Journal which, on December 30, 1977, carried a strong editorial on the need to guard against backsliding in the effort to enact the strongest possible ethical code for the House.

PRESIDENT CARTER'S BLUNT "NO" TO FARM STRIKERS' DEMANDS

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. WAMPLER. Mr. Speaker, farmers from various parts of the United States, including the State of Georgia, have stopped by my office in recent weeks to discuss the proposals of the American agricultural movement. One cannot help but be sympathetic to the plight of these farmers who impressed me as sincere, hardworking individuals, who claim that they do not want a "Government handout" but want the marketplace to provide them a fair price for their products.

I have advised these farmers to find out whether President Carter would support any of their demands. After all, President Carter and Vice President MONDALE had promised farmers higher prices in the 1976 election.

The members of the American agricultural movement got a "blunt no" from President Carter yesterday in his news conference as reported in an article reprinted below from the Wall Street Journal for January 31, 1978:

FARMERS' DEMANDS REJECTED BY CARTER, TERMED TOO COSTLY

WASHINGTON.—President Carter bluntly rejected the demands of striking farmers for big increases in farm prices, saying it would be too harmful for the economy.

The strikers, a loosely organized group of farmers who charge that federal farm policy is inadequate, are demanding a return to 100 percent of "parity" because of poor economic conditions on U.S. farms due to low crop prices. "Parity" means the price level farmers would have to receive for their crops to give them the same purchasing power they had in the years just before World War I.

For weeks, the Carter administration has been saying that the strikers' demands weren't likely to be met. But the President stated the case more firmly than ever at his news conference yesterday when he said that "the request or demand for 100 percent parity isn't well founded," explaining, that it "would be too costly.'

The President said achieving price parity would cost the federal treasury $20 billion to $25 billion and "would also mean that the price of American farm products would be extraordinarily high and that they would be noncompetitive in international markets." Government analysts figure full parity would boost food prices 25 percent.

Mr. Carter also repeated earlier administration predictions that the recently enacted farm bill will improve farmers' incomes and eventually enhance their view of his administration. The bill is expected to yield farmers about $7 billion in direct payments in 1978.

GEORGE BAMBA DEAD—NOTED GUAM POLITICIAN

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. WON PAT. Mr. Speaker, it is with great sadness that I note the passing of a close friend and former colleague of mine, the Honorable George M. Bamba, of Guam, at the age of 49.

Mr. Bamba, better known to his legion of friends simply as "George" passed away on January 16, 1978 at the Medical Center of the Marianas. He had been hospitalized since January 12.

It is hard to put into proper perspective the countless contributions that George Bamba made to his fellow citizens of Guam during his relatively short, but extremely active public career. Perhaps it was best described by a fellow member of the Guam Legislature who recently said of George Bamba that he "was always protecting the small guy's rights."

Like another memorable legislator, Hubert Humphrey, George Bamba dedicated his public life to protecting the rights of his constituents, rich or poor, Democrat or Republican. His primary interest was their welfare and it was the unswerving dedication to being their spokesperson that made George Bamba one of Guam's top votegetters during the 16 years he served in the Guam Legislature.

I had frequent opportunity to work quite closely with George during those formative years on Guam. He was a friend I could count on for support when the going got rough and I knew that his counsel was both valuable and contained a unique insight into the often complex issues of the day. But perhaps most important was the knowledge that George Bamba would give his utmost to a cause he felt was in the best interests of the people of Guam. Later, when I became our island's Washington Representative, I was privileged to again maintain a close and effective working relationship with my former colleague as we and others worked hard to win increased political and economic benefits from Congress.

In 1974, George Bamba retired from public life to turn his attention to his own affairs and to spend more time with his wife, Cecilia, and his 10 children. While I missed his support as an island legislator, it is to his credit that his interest in helping the "small guy" did not end with his political career. Together with his most able wife, they worked ever hard on behalf of legislation then pending before Congress to provide Federal compensation for lands taken on Guam after World War II. It is partly to their staunch efforts that I was able to persuade Congress to pass their measure last year.

It is not often we are rewarded in this life with a true friend such as all of Guam possessed in George M. Bamba. His record of concern for the people is a living memorial for a great man. I mourn his passing as do his many friends, both in Guam and here in the States. To his family and associates, I offer my deepest sympathy. He is gone but certainly shall not be forgotten.

I insert the attached article by the Guam Pacific Daily News after my remarks. Thank you.

The article follows:

[From the Pacific Daily News, Jan. 16, 1978]

EX-SENATOR BAMBA DEAD AT 49

George M. Bamba, a former senator who served in the Legislature from 1962 to 1974, died yesterday at the Medical Center of the Marianas. He was 49.

The cause of death was not disclosed.

The former lawmaker from Agana Heights was one of 56 patients moved yesterday morning from Guam Memorial Hospital to the Medical Center of the Marianas but his attending physician, Dr. Frederick Atendido, said there was "no connection" between the transfer and Bamba's death.

Bamba was pronounced dead at 3 p.m.

Atendido said Bamba was hospitalized Jan. 12 and placed in intensive care. Bamba's condition, Atendido said, was "serious" and "death was not a surprise."

Funeral arrangements are pending.

Bamba, a Democrat, broke party ranks in 1974 to support Republican gubernatorial candidate Paul Calvo. When Calvo lost in the primary to Carlos Camacho, Bamba and his wife Cecilia formed the Write-In '74 Party to support Calvo.

The third-party effort forced a runoff between Camacho and Democratic challenger Ricky Bordallo which Bordallo won by a slim margin.

Bamba retired from politics in 1974 saying at the time, "It was time for new, younger talent" to serve in the Legislature. During his retirement, Bamba frequently criticized the policies of Gov. Ricky Bordallo.

A senator in the 4th through the 12th Guam Legislatures, Bamba chaired the Rules Committee in the 9th and 10th Legislatures, and was legislative secretary in the 11th and 12th.

Dem. Senator Carl T. C. Gutierrez, an Agana Heights colleague of Bamba's in the Legislature, said last night, "He went all the way through, he didn't stop at anything."

"Bamba was always protecting the small guy's rights," Gutierrez said.

An insurance underwriter by profession, Bamba attended George Washington High School and Father Duenas Memorial High School. He also attended St. Joseph's College in Mt. View, California, College of Guam, and La Salle Business College.

Bamba is survived by his wife, Cecilia, and 10 children.

TRIBUTE TO DWIGHT DAVID EISENHOWER

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. MITCHELL of New York. Mr. Speaker, there have been few men of peace who have been great leaders in wartime, and few successful soldiers who could fulfill the demands and aspirations of a nation at peace. Dwight D. Eisenhower was a man whose greatness was not restricted to one time or place or position, because, in the true sense of the word, he possessed a quality which

transcended all of these. I am honored to join in the commemoration of the 25th anniversary of his inauguration as our 34th President.

His impressive achievements need not be recounted in great detail here; they are already recorded alongside those of other men of his stature in the chronicles of history. What is important to remember on this occasion is the spirit and leadership he contributed to our country, and the love and admiration he received in return. In our preoccupation with "instant history" today, and with the debunking of Presidential legacies even before they are created, he stands out as one of the foremost occupants of the Oval Office to possess the gift of inspirational leadership.

The combination of that leadership and the crucial ability to administer programs and nurture his ideas to completion helped forge a stable base for postwar America. Our country resumed its interrupted momentum under his guiding philosophy of "Modern Republicanism," which stressed Government economy and decentralization of the Federal bureaucracy through more interaction with State and local government, as well as the private business sector.

While furthering increased local participation in the governanace of the people, he also fulfilled the purpose of the Federal level by pursuing programs which could be implemented well only on a national level. He was aware of the importance of balancing the Nation's budget, and continually upheld it as a responsibility of good government. Then, working within this self-imposed limit, President Eisenhower managed to increase minimum wage, construct schools and highways needed by the expanding population, establish a "soil bank" for farmers, distribute farm surpluses through the school lunch program, and take steps to relieve the pangs of postwar depression.

As President, Dwight Eisenhower realized that, without a measure of tranquillity abroad, the country would not be free to pursue the hard-won fruits of peace. He complemented the "dynamic conservatism" that refired domestic progress with continual efforts to cool international frictions. President Eisenhower was successful in reducing United States-U.S.S.R. tensions during his administration, furthered international disarmament and negotiated the Korean armistice while encouraging peaceful competition through the inauguration of the U.S. space program.

Today, the period of the 1950's is looked upon with nostalgia. I must admit to sharing some of that feeling, since it was a time when I had returned from the war to resume a normal life and a college education, like so many other of my fellow countrymen. Dwight Eisenhower was among us, having left the Army to assume the presidency of Columbia University, where I was studying. He had already tried to discourage supporters of a Presidential draft in 1948, but 4 years later the college president and former soldier acknowledged the call to become a statesman and the leader of the Republican Party. At that point really began the era that is being popularly resurrected today. If such a time of change and readjustment is remembered as oddly benign now, it is because the man who helped lead the Nation out of the confusion of war also led it into the harmony and order of peace.

DEBORAH HOSPITAL BUILDS INTERNATIONAL GOOD WILL

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. EILBERG. Mr. Speaker, I have a most heartwarming story to report to my colleagues, one which demonstrates how a group of dedicated American volunteers can make an invaluable contribution to international good will.

In the spring of 1977, a 10-year-old girl named Shakila Razak was slowly dying in Karachi, Pakistan. Three years earlier, she had suffered a severe case of rheumatic fever, and her heart and other body facilities were damaged beyond the repair capability of any local medical institution.

Shakila's plight was brought to the attention of the Deborah Heart and Lung Center, whose hospital is located in Browns Mills, N.J. Deborah's international headquarters is located in the city of Philadelphia, which I am privileged to represent in Congress, and through the years I have followed the institution's growth and good work with a great deal of admiration.

Shakila's aunt, a resident of Rego Park, N.Y., contacted Deborah's Rego Forest Chapter, and through the chapter the center agreed to perform the necessary operation for Shakila at no cost. Arrangements were made for the young girl to come to this country.

On December 8, Deborah's surgeons—who perform hundreds of delicate heart operations every year—replaced a damaged mitral valve in Shakila's heart. Because of the child's emaciated condition, the operation involved a great deal of risk, but through the skill of Deborah's surgeons and the care she received at the center, Shakila is now on her way to recovery and normal health.

The operation on Shakila attracted worldwide attention, and Shakila's story was widely reported in Pakistani newspapers. After the operation, Shakila and her father, Abdul Razak, and Deborah physicians were featured in a broadcast over the Voice of America.

According to Reuben E. Cohen, president of the Deborah Hospital Foundation, doctors report that Shakila is rapidly regaining her strength. She will return to Deborah periodically so that the doctors can monitor her recovery, this being standard procedure for all patients who have undergone open heart surgery.

As remarkable as Shakila's story is, hers is just one of the many at the 130-bed hospital. Deborah specializes in the care and treatment of patients of all ages with cardiovascular and pulmonary diseases, regardless of race, color, creed, or national origin. Funded in 1922 as a tuberculosis sanitorium, Deborah has never in its history billed a patient. Instead, it is funded by its 300 chapters and 40,000 volunteers centered mostly in Pennsylvania, New York, and New Jersey.

I am honored to offer for the RECORD this account of how Deborah Heart and Lung Center reached half way around the world to rescue a small girl named Shakila Razak, and I commend to my colleagues these news accounts on Shakila's story from the New York Times of November 30, 1977, and the Philadelphia Evening Bulletin of December 9, 1977:

10-YEAR-OLD PAKISTANI GIRL WAITS OPEN-HEART OPERATION IN JERSEY

(By Robert Hanley)

BROWNS MILLS, N.J., November 29.—Children's World is a long way from Karachi for Shakila Razak, an emaciated 10-year-old Pakistani girl awaiting open-heart surgery for a debilitating heart disorder.

Children's World, the name given the 30-bed pediatrics ward at the Deborah Heart and Lung Center here, is Shakila's final stop on a journey that has brought her halfway around the world for the operation her family hopes will correct a heart-valve deficiency.

A team of 22 cardiologists at Deborah, after six days of tests, announced today that the child would undergo surgery Dec. 8 to replace a damaged mitral valve that is allowing blood to leak from one chamber of the heart back into the previous chamber instead of being pumped out into the body. The mitral valve controls blood flow from the heart's atrium to its left ventricle. The disease was said to stem from rheumatic fever the child suffered three years ago.

As the team, headed by Dr. W. Jay Eldredge, Deborah's chief of pediatric cardiology, made the announcement, little Shakila was in the game room at Children's World, painting a plastic form in reds and greens. The toy-laden room, an airy blend of yellow and brown hues, has been Shakila's favorite refuge.

LANGUAGE IS NO BARRIER

"She likes to paint with brushes and watercolors," said Hugh Harper, the center's spokesman. "She and all the other kids have been playing together. She can't speak a word of their language, but they don't care. Kids adjust."

Shakila's presurgical treatment and operation, which might cost as much as $20,000 in other hospitals, will be free, in keeping with Deborah's 54-year-old policy of "never billing a patient," according to Mr. Harper.

The five-story, 135-bed brick center is a private, nonprofit, and nondenominational outgrowth of a two-cabin tuberculosis sanitarium that opened here in 1923 in a grove of pines and cedars about 200 yards from an entrance to Fort Dix. According to Mr. Harper, the center's annual operating costs, which range between $13 million and $15 million, are financed solely by Blue Cross medical insurance reimbursements, by occasional large contributions from relatives or friends of heart or lung patients, and by the proceeds from hundreds of fund-raising card and bingo games and candy and bake sales staged by Deborah's thousands of volunteer charity workers in 300 chapters scattered around New York, New Jersey and Pennsylvania.

Most of its annual patient load of 8,000 afflicted with heart or lung disease is drawn from that tristate region.

Mr. Harper said the treatment and surgery for Shakila is "what's being done here for hundreds every year."

But despite that common denominator of heart and lung disorders, Mr. Harper said that Shakila's trip of thousands of miles for treatment was a rare occurrence for this facility.

She is the only child of Abdul Razak, a wholesale distributor of soap who lives in Karachi. Her mother died seven years ago, four years before Shakila was striken with the rheumatic fever. Her physical condition has deteriorated steadily since. Her piercing, coal-black eyes seem sunken and frightened now. She weighs 44 pounds.

"We usually don't see this severe a case in a child," Mr. Harper said. "The condition of her heart is more that of an old person."

Shakila was brought here largely through the efforts of an aunt, Joan Aziz, of Rego Park, Queens, who was familiar with the Deborah Center chapter that serves Rego Park and Forest Hills. The chapter took Mrs. Aziz's appeal to Deborah's administrators, and they agreed to admit her. That approval came last spring.

EVERY DAY COUNTS

But, according to Mrs. Aziz, who is a nurse, the American Consulate in Karachi refused her repeated requests over a five-month period to grant the child a three-month visa permitting her into the United States. Mrs. Aziz called the refusals "very undemocratic" adding: "She needed every day of her life to get medical care."

Finally, on Nov. 1, the Immigration and Naturalization Service in New York granted a permanent resident visa to the child. And, on Nov. 15, she flew to New York free on a Pakistani airline with her father and an uncle. Shakila stayed at Mrs. Aziz's home until her admittance here on Nov. 21. She has been here since for tests, except for a four-day return to the Aziz home for the Thanksgiving holiday. Today she was released after the announcement on the surgery, and she is to return next Monday for pre-surgical preparations.

"We thought it was better for her to leave so she could get some of her own food and speak her own language for a few days," Mr. Harper said.

Mrs. Aziz said the language barriar and Shakila's dislike for American food made her "nervous" in the hospital. But she called her a "beautiful, benevolent child, with a ready smile" who is always eager to tidy up the Aziz household or buy gifts for her relatives in Karachi. With her feeble condition, it's amazing."

SHAKILA RECOVERING: HEART SURGERY SUCCESSFUL

(By Bill Jerome)

BROWNS MILLS.—Ten-year-old Shakila Razak is resting comfortably at Deborah Heart and Lung Center here following the replacement of her damaged heart valve by surgeons yesterday.

The Pakistani girl will remain in the hospital's intensive care unit until Saturday. A statement on the long-range success of the surgery is not expected before then, according to hospital spokesman Hugh Harper.

"She has jumped the first great hurdle," Harper said. "She is progressing as you would hope any patient would progress."

The story of the 44-pound youngster's trip halfway around the world to have her damaged mitral valve repaired is being told not only by the American press but by voice of America broadcasts overseas, Harper said.

Shakila's father, Abdul, kept a vigil at Deborah during the three-hour operation yesterday.

Hospital employes who understand the Urdu language spoken by the father translated his comment after the surgery as, "everything is quite right right."

The youngster is the only child of Razak, a wholesale distributor of soap products in Karachi. He and an uncle, Ghulam Nabi, accompanied her to the United States on Nov. 15. The child's mother died seven years ago.

Shakila's heart trouble, which began three years ago when she contracted rheumatic fever, developed into a defective mitral valve, Harper said.

The valve allowed blood to flow back into her heart instead of pumping it out into her body, Harper said. The mitral valve connects the upper and lower chambers of the left side of the heart.

During surgery by a six-member team of physicians, a valve made of animal tissue was installed in Shakila's heart. For a one-hour period, a heart-pump machine took over the function of her heart, Harper said.

"The first 48 hours after any heart operation are critical," Harper said. "The risk factor was higher than we would have liked it to be," he added, citing the girl's undernourished condition due to her heart ailment.

Pictures of the 4-foot-2 child, whose coal-black eyes suggest a Keane painting, stare out at millions of newspapers readers daily.

Harper stressed that despite the widespread public attention in Shakila's case, "what has been done for her is exactly what is done for anyone at Deborah."

The 54-year-old hospital, supported largely by volunteers in New York, New Jersey and Pennsylvania, is providing free care for Shakila. The center never bills its patients, Harper said.

LIFTING THE BURDEN OF CARRYOVER BASIS

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mrs. KEYS. Mr. Speaker, today I am introducing a bill to deal with a number of problems which have been brought to my attention as a result of the enactment of the carryover basis provisions of the Tax Reform Act of 1976. The 1976 act changed prior law under which property passing from a decedent generally received a basis equal to its fair market value on the date of the decedent's death for purposes of determining the gain or loss from the subsequent sale or exchange of the property by the decedent's estate, heir, or beneficiary.

The provisions, as adopted, rates serious administrative and compliance problems for executors, heirs, and beneficiaries, and the Internal Revenue Service. These problems cause especially difficult burdens for the modest-sized estates—including family farms. I believe that we can adopt a number of changes to resolve the legitimate complaints involving the administrative problems and complexities.

My bill eliminates small and moderate-sized estates from coverage under the carryover basis rules and the associated reporting requirements. My bill provides an outright exception for an estate consisting of $175,000 or less of carryover basis property. The $175,000 roughly approximates the exemption equivalent of the estate and gift tax unified credit when it is fully phased in by 1981. In these cases, the basis of assets would be stepped up as under prior law and no special reporting by the executor would be required. As a result of this change, it is estimated 98 percent of all estates would be exempt from carryover basis. In those remaining cases where the carryover basis rules do apply, the minimum basis adjustment would be increased from the $60,000 under present law to $175,000. Further, in order to simplify computations, this adjustment would be made before the adjustment provided for death taxes attributable to appreciation.

The bill would also simplify the basis adjustment for death taxes attributable to appreciation and make it more equitable First, the death tax adjustment would be made on the basis of the marginal estate tax rate rather than the average rate. This approach would provide substantially the same treatment for estates and heirs where assets had been retained until death as is the case for estates where assets are sold before death and the income tax liability incurred reduces the estate tax liability at the highest estate tax marginal rates. Second, the bill would consolidate the three separate death tax adjustments provided under present law into one single adjustment. Third, the death tax adjustment would be made with respect to all appreciated carryover basis property rather than excluding marital and charitable deduction property. This will alleviate some of the problems faced by an executor in trying to decide to whom property should be distributed because it will eliminate the death tax adjustment as a factor to be considered.

The death tax credit would be based solely on the Federal estate tax rates before the credit for State death taxes is taken into account. This would eliminate the need to make any additional calculations for State death taxes in excess of the credit allowable. In this instance, I believe the need for simplification outweighs the need for absolute precision in taking relatively insignificant amounts for State death taxes into account. The bill would also prescribe a pro rata rule for allocating appreciation to beneficiaries in determining the estate tax attributable to appreciation. This rule would provide certainty in making the calculation and thereby eliminate the suspended basis problems an executor would face in ascertaining to whom property actually passes and the resulting effect upon deductions, such as the marital deduction for purposes of determining the estate tax attributable to appreciation.

In addition, the death tax adjustment would be based on 110 percent of the estate tax attributable to appreciation determined on the basis of the estate tax return as filed. The extra amount allowed would be to cover any subsequent audit adjustments which do not significantly change the tax liability. In this way, recomputations would not be required every time there was a minor audit change. If audit adjustments increased the estate tax liability by more than 10 percent, recomputation of the basis adjustment for death taxes would be permitted.

The bill contains a number of changes to simplify the operation of the carryover basis fresh-start adjustment for appreciation accruing before 1977. The fresh-start adjustment would be permitted for purposes of determining loss as well as gain. However, the liberalized adjustment for values on December 31, 1976, could not be used to increase the heir's basis above the value used for estate tax purposes. Thus, the "split basis" for gain or loss under present law would be eliminated. In addition, a formula would be provided to determine a minimum basis for fresh-start purposes. It would apply to nonbusiness tangible personal property and to a personal residence. It is in these cases where it is most likely that a decedent would not have kept adequate basis records before 1977. In general, the formula assumes that the post-1976 appreciation accrues at approximately 6 percent a year. Further, the bill would provide that the formula would not reduce the fresh-start basis to less than 25 percent of the value of the property at the time of the decedent's death.

Finally, the bill changes the material participation requirements for purposes of the special estate tax valuation rules for farm or closely held business real property. Under present law, the decedent or a member of his family must have materially participated in the operation of the farm or business for 5 out of the 8 years preceding the decedent's death. In addition, there is a recapture of the estate tax savings if the qualified heir or member of his family does not materially participate in the farm or business operations. In either case, the activities of an agent are not taken into account. These qualification requirements were intended to distinguish a family-owned and operated business from an ordinary investment.

However, there are situations where the material participation requirements impose an unreasonable hardship. For example, no farmer or businessman could retire without risking loss of eligibility for the special use valuation provision if no member of the family could step in and run the farm or business. In addition, there are situations where the qualified heir may be incapable of running the farm or business and must use the services of an agent. My bill would deal with the retirement problems by providing that eligibility for special use valuation will not be lost because of the material participation requirement if the decedent or the surviving spouse had operated the farm or business for 20 years. The bill would also provide that the activities of an agent will be treated as material participation for an heir if the heir is a minor, a student, a disabled person, or a surviving spouse who has attained age 62.

STATISTICAL VEIL AND POVERTY

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. HAGEDORN. Mr. Speaker, I would like to call to the attention of my colleagues an excellent study on official poverty definitions delivered by Dr. Morton Paglin of Portland State University at the Hoover Institution Conference on Income Redistribution at Stanford University in the fall of 1977.

Dr. Paglin's thesis—that official poverty statistics are deceptive because of their failure to cost out in-kind welfare benefits—is one that he develops at some length. He concludes that—

An acknowledgment of the major impact which the in-kind transfers have in reducing poverty need not imply a preference for this approach over a cash transfer strategy. The in-kind programs are beset with inconsistent eligibility criteria, and have failed to coordinate program benefits; they have produced inequities, disincentives, and wasteful administration. But this should not obscure the essential fact that the transfers have been on a sufficiently massive scale to effect a major reduction in the poverty population. It would have been amazing if they had not done so. What is surprising is the lack of recognition of this accomplishment. Social scientists have generally accepted and have given wide currency to the official poverty estimates. It is time for the statistical veil to be lifted so that the poverty problem can be seen in its true dimensions.

From 1959 to 1975, Dr. Paglin notes that in-kind housing transfers to the poor increased by 750 percent in real dollar terms, food and nutrition transfers by 1,620 percent, and medical services by 1,350 percent. In constant (1974) dollars, the market value of transfers to the preprogram poor increased from a total of $985 million to nearly $13 billion.

While the official poverty rate has been reduced from 22.4 percent of the population in 1959 to 12.3 percent in 1975, Dr. Paglin observes that consideration of these in-kind transfer programs would have produced figures of 17.3 and 3 percent, respectively, representing an 83-percent drop in poverty during this period. He is careful to note that, while this downward trend has been proceeding at a relatively consistent rate throughout the entire 16-year period, the reductions in number of poor persons are attributable largely to increased earnings during the first half of the period, and to increased transfers in-kind during the second half. The implications of these varying modes of poverty reduction for the nonpoor population is outside the scope of Dr. Paglin's study.

Dr. Paglin also reminds that the official poverty statistics published by the Bureau of the Census, on the basis of which so many billions of dollars have been expended, do not consider other nonincome resources which may insure that many "poor" households in fact have adequate levels of consumption. These may include retired persons living on savings, households supported by tax-deductible family contributions, households with accounting income losses but positive cash flow, and new families whose members had zero independent income during the previous reference year while living with their respective families.

He is not unmindful of the fact that in-kind transfers necessarily represent limitations on consumption making them of less value than equivalent amounts of cash income, but concludes that the magnitude of these limitations are "much less than supposed." Not only does the largest share of these transfers normally go to households which are also receiving the largest amount of cash welfare transfers, but there are also considerable expenses associated with cash income that are nonexistent for those living on in-kind transfers including work-connected expenses, diminished leisure time, differing tax treatment, and freedom from inflation risk and irregularity of income.

I would highly commend Dr. Paglin's study to the attention of my colleagues, not as an attempt to minimize the existence of poverty in our country—no one including myself or Dr. Paglin would deny this—but simply to enable us to develop more realistic public policies through a more exact appreciation of the prevalence and severity of the problems. Apart from the "professional antipoverty establishment" in whose interest it always is to perpetuate the crisis, I cannot imagine that such an understanding is a bad thing.

"UP OR OUT" ADVANCEMENT SYSTEM AS IT AFFECTS CHAPLAINS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. SCHULZE. Mr. Speaker, I have been contacted by Rev. Joseph Turner, a constituent of mine who is a victim of the "up or out" advancement system and who has raised several questions in regard to the system's application for Army chaplains. I am submitting for the record today a copy of Reverend Turner's letter to President Carter on this issue, which reads as follows:

CHAPLAINS PROMOTION
RESEARCH COMMITTEE,
Havertown, Pa., January 3, 1978.

President JIMMY CARTER,
Commander in Chief of all Military Chaplains, The White House, Washington, D.C.

DEAR MR. PRESIDENT: May I respectfully bring to your attention the following information as a bring-down on the problems of Army chaplains and former chaplains:

The Army has told Senator Schweiker of Pennsylvania and some other members of Congress that they fired (involuntarily released) 115 clergymen in recent years. (See copy of letter enclosed)

The churches of America in no way approved the firings, nor have they withdrawn their endorsement of the chaplains. The Army, however, continues to push the churches for younger clergymen, while firing the veteran clergymen who have ten to seventeen and one-half years as chaplains. Our committee has researched discrepancies and we, together with many congressmen and senators, have received information and confirmed documented data that the Army does:

1. Exempt military doctors after two pass-overs (mandatory discharge), but does not exempt clergymen with the same courtesy, notwithstanding a critical shortage of Catholic, Jewish and some minority Protestant faith chaplains;

2. Continue to perpetuate serious detrimental imbalances within the denomina-

tions in the up or out promotion system for chaplains. The fiscal year 1978 goal for Catholic priests is 420. There are now 255 Catholic chaplains on active duty. This is an absurd situation where the chaplains are being fired and young clergymen are no longer intrigued by military service. The Department of the Army completely overlooks the religious needs of our young servicemen by ignoring denominational quotas and being in abject violation of the Socratic doctrine of fairness.

3. Extend some older chaplains beyond their mandatory retirement age, thus discriminating against the middle years chaplains, who are passed over. This fact was conveyed by the Department of the Army to Congressman Schultze of Pennsylvania. (See enclosed letter.)

Over a period of time we and a number of congressmen and senators have requested information from the Department of the Army in accordance with the Freedom of Information Act. We have received confused and most times inaccurate information in governmentese language which we consider indecipherable and non-persuasive.

We would, therefore, appreciate the following information:

1. The selection criteria for chaplains promotion (besides a mere LOI to the Boards).

2. Justification for non-chaplains sitting in judgment on chaplains promotion boards. (The Navy does not do this.)

3. Reasons for involuntary separation, age, denomination and length of service of these 115 chaplains (plus more of recent date) fired as told Senator Schweiker.

4. The justification of extending passed-over military doctors; the legal document that exempts and retains them, when not exempting critically needed chaplains.

5. The justification for extending some chaplains beyond their mandatory retirement thus depriving chaplains with over 15 years of service their right for promotions. The authority and statute for this.

6. The procurement goals for each of the 114 denominations represented among the 1,465 authorized chaplain positions and the means to reach these goals. The Department of the Army has notified both the Catholic and Jewish endorsing agencies that their chaplains are critically short. At the same time, the Army fired Rabbi Oppenheimer and many others who were members of the understaffed denominations. This deprivation has seriously undermined the religion of some of our servicemen and their families by denying them their right to be ministered to by their priests, ministers and rabbis.

7. The names of all the denominations supplying chaplains to the Army which are critically understaffed and the names, ages and length of service of all their clergymen riffed and passed-over twice since 1972. Congressman Schultze was told by the Department of the Army that these records are "not maintained". Congressman Reuss was advised by the Department of the Army that these records fall under the Privacy Act. However, as President and as Commander-in-Chief, you are not subject to the Privacy Act.

This particular situation relating to chaplains is becoming a national disgrace as it appears in papers across the United States. Even the Jewish Welfare Board states, "It appears the Army is saying it can get along without ministers and rabbis, but it cannot get along without doctors." The Catholic Church has called this, "An apparent contradiction; i.e., to fire Catholic priests when the Army is critically short 166 of them." Another endorsing agency, the NEA, calls this a "stigma that will last."

For God's sake, and for the sake of the youth of this country, help us to serve so that when you next enter the portals of your own church, you may be confident that the members of our armed services are enjoying the same ability to obtain spiritual comfort and guidance.

Very truly yours,

JOSEPH J. TURNER,
Co-Chairman, Chaplains
Promotion Research Committee.

MEMORANDUM FOR CORRESPONDENTS,
AUGUST 2, 1977

Department of the Army has announced a policy change as a first step to alleviate the critical officer shortage in the medical corps. This change permits all fully qualified medical corps officers to continue to practice essential military medicine in their current grade while permitting the best qualified officers to be selected for promotion to the next higher grade within the grade authorizations limited by DOD and the budget.

Because of these grade limitations those fully qualified but not promoted medical officers who remain critical to the Army health care needs, would previously have been designated "not selected for promotion" and may have been separated because of the designation.

Under the new policy effective July 25, 1977, medical corps officers may be selected for retention in grade while in the primary zone for consideration for promotion. As a result, no fully qualified medical corps officer in a critical medical skill will be separated for "nonselection for promotion." Additionally, promotion boards will be told which professional medical skills are critical to the Army medical department in order to facilitate retention in grade recommendations. The three categories approved by the Secretary of the Army for the current medical corps LTC, AUS board are as follows:

a. Recommended for promotion. Those officers recommended as "best qualified" for promotion.

b. Recommended for retention. Those officers whose relative standing among their contemporaries does not warrant promotion at this time but whose present performance and indicated potential warrant possible future advancement.

c. Not recommended for promotion. Those officers whose current performance does not justify immediate advancement and whose indicated potential does not clearly sustain possibility of future advancement.

TRIBUTE TO MR. BENNETT D. TAYLOR, JR., OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. CARNEY. Mr. Speaker, this evening, January 31, 1978, Mr. Bennett D. Taylor, Jr., will be honored by friends, associates, and young people at a testimonial dinner in Youngstown, Ohio. Mr. Taylor recently retired as a district executive of the Mahoning Valley Council of the Boy Scouts of America. He has contributed 37 years of his life to guiding youth. On January 1, 1978, he retired in order to become director of the Red Cross' blood program in the Mahoning County.

Mr. Taylor began his association with the Boy Scouts of America as a boy. As a Lone Scout in Bourbon County, Ky., he had no scoutmaster because he lived too far from any organized Boy Scout troop meetings. After serving as a lieutenant colonel in the Army during World War II, where he was awarded the Silver Star, Bronze Star, and Purple Heart, Mr. Taylor became a field executive for the Fort Hamilton, Cincinnati, Council of the Boy Scouts of America. In 1952, he was named assistant Scout executive in Springfield, Ohio, after having worked with Scouts at the old Mammouth Cave Council in Bowling Green, Ky. In 1959, Mr. Taylor became a Scout executive of the Columbiana, Ohio, Council.

Mr. Taylor joined the Mahoning Valley Council of the Boy Scouts of America in 1969. During his 8 years in the Mahoning Valley, Bennett Taylor has made an important and noteworthy contribution to the well-being of our community. He has counseled and worked with Scouts on a daily basis, affording many young people the opportunity to develop character, build self-confidence, and go on to become community leaders. His various activities have included development of camping programs, planning of national jamborees and Bicentennial events, and initiation of new Scouting units within the Mahoning Valley Council.

The activities and interests of Mr. Taylor reflect his commitment to high ideals and community involvement, and are deserving of recognition. He is a member of the Downtown Kiwanis, the Lisbon American Legion Post, the Reserve Officers Association, Amvets, and the Torch Club. In addition, he is an active member of the Canfield Presbyterian Church, where he is an ordained elder, Sunday school teacher, and usher.

Bennett Taylor's retirement from the Boy Scouts of America will not be the end of his civic involvement in the Mahoning Valley. As director of the American Red Cross' Mahoning County blood program, Mr. Taylor devotes his strong organizational talents, a proven ability to work with others, and his genuine sense of civic pride to the successful development of a blood program for our community. We are all confident that he will develop the full potential of this Red Cross program into a model health agency of which we can all be proud.

Mr. Speaker, on behalf of my constituents, I wish to express my sincere congratulations to Bennett D. Taylor, Jr., for his dedicated service to the Boy Scouts of America. I also wish to express my heartfelt appreciation to Mr. Taylor for the many contributions he has made to our community. We all wish him many more years of good health, happiness, and success in his future endeavors.

"SEEKING SOLUTIONS TO SCHOOL VIOLENCE AND VANDALISM," AN ARTICLE BY SENATOR BIRCH BAYH

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. BRADEMAS. Mr. Speaker, Senator BIRCH BAYH, the distinguished senior Senator from my home State of Indiana, has written a startling account of

the extent of violence and vandalism in our Nation's schools. Senator BAYH, who chaired hearings on this disturbing problem, proposes several solutions, including efforts that communities can themselves undertake. His informative, constructive article appears in the January 1978 issue of the Phi Delta Kappan magazine. I ask unanimous consent to insert it into the RECORD, and I commend it to all Members.

SEEKING SOLUTIONS TO SCHOOL VIOLENCE AND VANDALISM

(By Senator BIRCH BAYH)

During the six years I served as chairman of the Senate Subcommittee To Investigate Juvenile Delinquency we conducted numerous hearings and received testimony from more than 500 witnesses on a variety of topics, including the extent and cause of drug abuse, runaway youths, school dropouts, the confinement of juveniles in detention facilities, and the most promising programs for reducing the alarming rate of juvenile delinquency. The legislation enacted to deal with these problems is the Juvenile Justice and Delinquency Prevention Act. This act is designed to prevent young people from entering our failing juvenile justice system and to assist communities in creating more sensible and economic approaches for youngsters already in the system. It makes possible for the first time a coordinated effort by federal, state, and local governments along with private groups to address the problems and causes of crime and delinquency among our youth.

In the course of our work on this legislation I became increasingly concerned with reports from educators and others over the rising level of violence and vandalism in the nation's public school system. Because many of the underlying problems of delinquency, as well as their prevention and control, are intimately connected with the nature and quality of the school experience, it became apparent that, to the extent that our schools were being subjected to an increasing trend of violence and vandalism, they would necessarily become a factor in the escalating rate of juvenile crime and delinquency. No effort to prevent delinquency could ignore the tremendous impact of such a development. Therefore the subcommittee began an in-depth investigation to determine both the extent of these problems and possible programs to improve the situation. We conducted a nationwide survey of 757 school systems enrolling approximately half of the public elementary and secondary students in the country. In addition, the subcommittee corresponded with numerous school security directors, requesting their assistance. While the primary purpose of this initial survey was to gauge the extent and trend of violence, vandalism, and related problems, it also produced a considerable number of recommendations concerning the prevention and deterrence of school crime. In April, 1975, the subcommittee released a preliminary report on the stage of our study that focused on the trends and extent of these problems. "Our Nation's Schools—A Report Card: 'A' In School Violence and Vandalism."

"Many authorities on education have written books on the importance of producing an effective learning environment in the schools by introducing more effective methods of teaching. None of them, however, seems to understand the shocking fact that the learning environment in thousands upon thousands of schools is filled with violence and danger. Violent crime has entered the schoolhouse, and the teachers and students are learning some bitter lessons."

James A. Harris, president of the National Education Association at the time of the subcommittee's first hearing on this topic, expressed the concern of his organization:

"Incidents of physical assault have increased dramatically; vandalism and destruction of property are even more awesome; and many schools are required to tax already strained resources to meet exorbitant costs of school insurance."

In addition to the membership of these two nationwide teacher organizations, many principals who bear the responsibility for the daily operation of our schools have viewed this trend with growing concern. Owen Kiernan, executive secretary of the National Association of Secondary School Principals, told the subcommittee:

"Ten years ago, in the secondary schools of this nation, violence and vandalism were remote problems. Occasionally we would have a so-called 'blackboard jungle school,' but this was quite unique. This is no longer the case."

The collective concerns of such prominent education organizations are, of course, a persuasive measure of the growing dimensions of the problem of crime in schools. But perhaps the words of students and teachers who occupy our classrooms every day constitute the most compelling testimony. A teacher from a large metropolitan high school related her experience to the subcommittee:

"The past few years have seen violence and vandalism become an almost daily occurrence on school grounds. Students and school personnel have become numbed to these acts; a subdued anger, frustration, and acquiescence seems to pervade the system."

Two students, one from a large city and one from a suburb, summed up their views of the situation in this way:

"Robert—If you saw these people you would be shocked.

"Kevin—You would be surprised. You would not believe that some of the things could happen. You see somebody walking down the hall with a cane. If you unscrew the top and pull it out, it is a type of dagger. You would not believe something like that could go on in school, but it does."

SCHOOL VIOLENCE HEARINGS

Following the release of the report, I introduced the Juvenile Delinquency in the Schools Act as an amendment to the Juvenile Justice and Delinquency Prevention Act. We also urged the Office of Juvenile Justice and Delinquency Prevention, under the authority provided by the school- and education-related sections of the Juvenile Justice Act, to explore ways in which the federal government might help reduce the growing problems of violence and vandalism. The subcommittee initiated a series of meetings and correspondence with more than 70 prominent educational, governmental, and private organizations that have a particular interest and expertise in the solution to these problems. We also held a series of public hearings with more than 30 witnesses, including teachers, administrators, students, parents, counselors, school security directors, superintendents, and several education research groups. In July, 1976, the chairman released two volumes developed by the subcommittee over the course of the investigation.

These two documents, "Nature, Extent, and Cost of School Violence and Vandalism" and "School Violence and Vandalism: Models and Strategies for Change," contain more than 1,600 pages of testimony and articles concerning the nature of violence and vandalism in our schools and the various programs that can be useful in reducing these problems.*

* This material is summarized in the subcommittee's final report: Challenge for the Third Century: Education in a Safe Environment—Final Report on the Nature and Prevention of School Violence and Vandalism, 1977, 102 pp. Order from the U.S. Government Printing Office, Washington, D.C. 20402. Price $1.25.

Only a decade ago violence and vandalism in schools were considered troublesome but hardly critical problems. Virtually every school in America had experienced an occasional fight or a broken window. Such occurrences had long been viewed as more or less a fixture of school life. Recently, however, the situation has changed What was once regarded as an unfortunate but tolerable fact of life for teachers and students has become a source of growing concern and even alarm for many members of the education community. Our investigation has found these concerns to be well founded; acts of violence and vandalism are indeed occurring with more frequency and intensity than in the past. In some schools, in fact, the problems have escalated to a degree that makes the already difficult tasks of education nearly impossible.

FRIGHTENING FACTOR IN EDUCATION

In a growing number of schools across the country, administrators, parents, teachers, and students are being confronted with a new and frightening factor in education. As the president of the American Federation of Teachers, Albert Shanker, told the subcommittee at its initial hearing:

It should be made clear, of course, that not every elementary and secondary school in the country is staggering under a crime wave of violence and vandalism. However, while many school systems are able to operate on a relatively satisfactory basis, there is abundant evidence that a significant and growing number of schools in urban, suburban, and rural areas are confronting serious levels of violence and vandalism.

NO SCHOOL IMMUNE

I should emphasize that this is not a problem found exclusively in large cities or in less affluent school districts. Schools voicing concern over the escalating rates of violence and vandalism along with the often attendant problems of weapons, drugs, and rampant absenteeism can be found in any city, suburb, or town, irrespective of geographic location or per-capita income. Simply put, while not every school suffers from serious violence and vandalism, no school can afford to adopt the smug attitude that "it can't happen here." Unfortunately, it can and has been happening in far too many schools.

The costs of vandalism prevention and repair can result in significant and sometimes staggering strains on education budgets. Los Angeles spent more than $7 million on these efforts in 1974–75, at a time when the school system was already facing a $40 million deficit. The Chicago school system suffered $3.5 million in property loss in 1974, to which can be added $3.2 million for school security programs and $3 million for guards necessitated by violence and vandalism. On a national level, the National Association of School Security Directors estimates that school vandalism diverts more than $590 million from annual education budgets. This sum exceeds the total amount spent on school textbooks in 1972.

Obviously, these are serious problems. But I believe that we can solve them through careful analysis of their nature and through construction of various solutions that are compatible with an educational atmosphere. We must, however, keep several points in mind.

Initially, we must recognize that the solution to crime in the schools does not lie solely within the schools. Numerous factors totally beyond the school's control have a significant impact. As was extensively explored throughout our hearings, problems involving home environment, severe unemployment among young people, and a lack of adequate recreational activities all have tremendous influence on youth, yet the school's ability to deal directly with them is obviously minimal.

We should also be aware that promises to resolve violence and vandalism in schools

defined only in terms of legislative enactments, whether on the federal, state, or local level, create false hopes, because of the nature of these problems, the diversity of their origins, and the intricacies of human behavior. I believe that the principal ingredient in successful efforts to reduce violence and vandalism is not more money or more laws but the active involvement of the education community in a range of thoughtful and balanced programs.

LOCAL PREVENTION PROGRAMS

In order to stimulate this process of involvement, the subcommittee prepared and issued a report, *Challenge for America's Third Century: Education in a Safe Environment*, which outlined the kinds of locally based programs we found that could help prevent and reduce school violence and vandalism. These approaches are *not* based on the premise that we should confront these problems by turning our schools into armed fortresses. Instead, they are educationally oriented strategies that can succeed in enriching the classroom environment and creating the kind of atmosphere in which education can best take place.

Among the integral steps in a positive approach to these problems are:

Community education and optional alternative education programs;

Codes of rights and responsibilities;

Curriculum reform;

Police/school/community liaison arrangements;

Inservice and preservice teacher preparation courses;

School security programs;

Counseling and guidance strategies;

Architectural and design techniques;

Student and parental involvement programs; and

Various alternatives to suspension.

While it is of course impossible within the limitations of this article to provide an in-depth explanation of each of these strategies, I would like to describe two of them briefly.

Our studies show that a significant number of incidents of violence and vandalism can be traced to young school-aged intruders who were not currently attending school because they are truant, suspended, or have dropped out completely. One way to reduce the intruder problem, in addition to programs to reduce truancy and dropouts, would be to insure that suspension policies are helping to provide proper discipline in school and are not detracting from it by needlessly creating potential school intruders.

In some schools violation of ordinary student rules against such behavior as smoking or tardiness is punished by suspension. Suspension should be reserved for more serious violations. While students who pose a serious danger to persons or property obviously should be quickly removed from schools, our studies show that many teachers and principals feel they should have other alternatives in disciplining youngsters for ordinary day-to-day offenses than putting them out on the streets. Among useful alternatives are "cool-off" rooms, behavior contracts, and additional counseling strategies. These can be used to keep order at the same time we keep kids in schools.

Our study of vandalism also indicates that much of this destructive activity occurs in the late afternoon, in the evening, or on weekends when the school buildings are empty. Community education programs that expand the active use of the school plant can help prevent vandalism and turn a "target of opportunity" into a more valued community resource.

ALL EDUCATORS MUST HELP

As mentioned above, I am convinced that the most important element in the prevention of school violence and vandalism is the active involvement of the entire education community in local efforts to accomplish this goal. Our report can be an important stimulus to this involvement along the lines of the positive programs discussed throughout our hearings and studies.

In closing, let me emphasize that I do not agree with apostles of gloom and despair who tell us that we are poised on the brink of a declining era in American education, marked only by the burnt-out hopes of an institution that tried to do too much. The spirit and sense of purpose and the willingness to strive and the desire to accomplish that were the hallmarks of the American educational effort over our first 200 years are alive and flourishing in schools across our country today. As we enter the third century we are obviously facing grave problems in American education, but we have in the past confronted such challenges and have succeeded in producing a public education system with a breadth and depth unmatched in the history of the world. Indeed, it seems that the very strengths of the system are forged through the experience of overcoming numerous obstacles. Today we face yet another challenge, but, while there may be reason for concern, there is no need for discouragement. Anyone who has worked closely with the education community cannot fail to be impressed with the vitality and confidence of the students, teachers, administrators, and parents confronting and successfuly overcoming the problems of violence and vandalism. With the cooperation and commitment of all elements of the education community, I am confident that we can succeed in exchanging the adversity and strife so harmful to education in our schools for the diversity and debate so necessary for learning.

CONGRESSIONAL SALUTE TO THE HONORABLE ROBERT R. WINDELER OF NEW JERSEY PASSAIC COUNTY AGRICULTURAL AGENT, LEADING CITIZEN, COMMUNITY LEADER, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. ROE. Mr. Speaker, on Friday, February 3 the residents of my congressional district and State of New Jersey will join with the Passaic County Board of Agriculture in testimony to the lifetime of outstanding public service that our people have received from a leading citizen, community leader, and good friend, the Honorable Robert R. Windeler, who has announced his retirement as Passaic County agricultural agent.

As Agent Windeler retires from this distinguished office of public trust, I am pleased to participate with his many, many friends and associates in expressing our deep appreciation for all of his good works and share great pride in the success of his achievements with his wife, Dorothy; their son, Robert, and daughter, Diane.

Mr. Speaker, Bob Windeler has indeed earned the highest respect and esteem of all of us for his leadership and highest standards of excellence in seeking to improve the quality of life for all of our people. His personal commitment and endeavors in the agricultural field have endeared him to all of us.

Throughout his lifetime Agent Windeler has forged ahead with devotion and sincerity of purpose in his dedication to enhancing and preserving the integrity of our environment. He was born on a farm in Monmouth County, N.J., and has dedicated his lifetime to conserving and nurturing our land and natural resources for the benefit of mankind. He has been a resident of the great sovereign State of New Jersey since birth. He is a graduate of Rutgers, the State University, where he attained a bachelor of science degree in agriculture and a master of science degree in economics.

Mr. Speaker, Bob's career with the New Jersey Agricultural Extension Service commenced over four decades ago upon his graduation from college when he associated himself with the administrators and faculty of Rutgers University. For approximately 10 years he was a member of the Somerset County Agricultural Extension Service where he administered the youth education program. He has been senior agricultural agent in Passaic County since July 1, 1947.

In 1962 Bob Windeler achieved the singular honor of being the only county agricultural agent to have received a Ford Foundation fellowship for 1 year's study at the Rutgers Urban Studies Center in New Brunswick, N.J.

Mr. Speaker, Bob Windeler resides in the Great Notch section of Little Falls with his wife, Dorothy. His daughter, Diane, is a graduate of Bradley and Columbia Universities and is a researcher/consultant for S.M.W. Associates, Atlanta, Ga., since February 1977. From September 1972 to January 1977 Diane was a U.S. Army liaison officer assigned to the American Embassy in Bonn, Germany. His son, Robert, is a graduate of Duke University and Columbia University. He is presently employed as a staff writer with People magazine and is in charge of the Los Angeles office. As a free lance writer, he is the author of three biographies on Julie Andrews, Mary Pickford, and Shirley Temple.

Mr. Speaker, in civic affairs, Bob has extended the richness of his wisdom and expertise—always giving willingly and unselfishly of his time—in helping others. He has been a member of the Paterson and Wayne Rotary Clubs for over a quarter of a century. He has served on the Somerville and Little Falls Boards of Education. Bob also holds membership in the Little Falls No. 263 F. & A.M., the Salaam Temple, and the Lakeland Shrine Club. He also helped organize and served as chairman of the Little Falls Shade Tree Commission and is currently a member of the Little Falls Municipal Utilities Authority. He is a member of the Rutgers Chapter of the American Association of University Professors, the New Jersey Agricultural Society and the State and National Agricultural Agents Associations. He is also a member of the Montclair and Little Falls Historical Societies.

Mr. Speaker, Bob has served our people and our country with honor and distinction. He is an outstanding administrator, educator and good friend whose richness of wisdom and expertise in his daily pursuits have touched the lives of many, many people in my congressional district. I appreciate the opportunity to publicly

acclaim all of his good works and share the pride of his family in his accomplishments and lifetime of dedicated public service which have truly enriched our community, State, and Nation. We do indeed salute a great American—the Honorable Robert R. Windeler.

JUDICIAL ACCOUNTABILITY AND THE ROSENBERG CASE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. CONYERS. Mr. Speaker, in 1951 Julius and Ethel Rosenberg were convicted of consipracy to commit espionage and were electrocuted 2 years later. As a result of a Freedom of Information Act lawsuit, the Rosenberg sons have obtained some 30,000 pages of FBI documents on the cases, which they released in June 1976. These documents raise serious questions about the conduct of the trial judge, the Honorable Irving R. Kaufman. They also cast doubt on the claims that the Rosenbergs received a fair trial.

The documents, if they prove to be accurate, reveal a pattern of ex parte contacts between Judge Kaufman, the FBI, and the prosecutors before the Rosenberg trial had ended; continuous interference with the case even after it left the judge's jurisdiction; and in subsequent years Judge Kaufman's efforts at stifling public criticism of his handling of the case.

Some may question the reopening of the case more than a quarter century later. Others may allege a spirit of vindictiveness toward Judge Kaufman. The documents on the Rosenberg case raise questions about judicial accountability, which in our sytsem of government are of utmost importance. The current interest in investigating the judge's conduct in the case is not to exhume relics of the past. Rather, it is to use the lessons of the past to safeguard the standards of the future. The history of the past several years shows quite clearly how important it is to hold official institutions and officers accountable for their conduct, whether it be the FBI, CIA, the judiciary, or the Presidency itself.

It is in this spirit that over 100 lawyers and law professors have recently urged the House and Senate Judiciary Committees to launch inquiries into the allegations of misconduct in Judge Kaufman's handling of the Rosenberg case. Similarly, the American Civil Liberties Union has supported the call for investigation.

Prof. Vern Countryman of Harvard Law School has written a cogent and moving account of the issues involved in the Rosenberg case, which appeared in the October 8, 1977 issue of the New Republic. Mr. Countryman is a former clerk to Justice William O. Douglas and a leading authority on the Justice's tenure ("The Douglas Opinions," 1977; "The Judicial Record of Justice William O. Douglas," 1971). He has taught law at Harvard since 1964. I commend his article to the attention of my colleagues and ask them to consider whether an inquiry may be the best means to both set the record straight on the Rosenberg case as well as to strengthen the principles of judicial accountability.

[From the New Republic, Oct. 8, 1977]

JUDGE KAUFMAN AND THE ROSENBERG CASE—OUT, DAMNED SPOT

(By Vern Countryman)

In 1951 Julius and Ethel Rosenberg and Morton Sobell were convicted of conspiracy to commit espionage. Judge Irving R. Kaufman presided over their trial in the federal district court in Manhattan. The Rosenbergs were electrocuted in 1953. In 1975 their sons sued the FBI and other federal agencies under the Freedom of Information Act, seeking all documents relating to the Rosenberg prosecution. So far, the FBI has turned over 30,000 pages of documents.

The FBI documents—internal memos and letters to the agency from outsiders—leave the fundamental issue of the Rosenbergs' guilt or innocence as murky as ever. But these files do contain some fascinating and shocking information about the conduct of Judge Kaufman, both during the trial and in the decades since. Ten years after the Rosenberg trial Irving Kaufman was promoted to the U.S. Circuit Court of Appeals. Kaufman has spent 26 years on the federal bench since the Rosenberg case, 16 of them on the Circuit Court of Appeals. He has a considerable reputation. You would have supposed he would be eager to put the sordid Rosenberg affair behind him. These documents suggest that, on the contrary, Kaufman is obsessed by the Rosenberg case. He appears to be constantly on the lookout for efforts to reopen the case—in the public media or in the courts—and seems eager to enlist the FBI in efforts to suppress any such challenges to his trial back in 1951.

During the trial itself (if these FBI documents can be relied upon), Kaufman seems to have been in regular contact with the Justice Department prosecution staff, who were in turn passing information to the FBI. In the middle of the trial, before the defense had put on any witnesses, a Justice Department official told an FBI agent he knew the judge would impose the death penalty if the Rosenbergs were convicted, "if he doesn't change his mind." After the jury returned its guilty verdict and two days before sentencing, assistant prosecutor Roy Cohn told an FBI agent that Judge Kaufman "personally favored" the death penalty for the Rosenbergs and would give a prison term to Sobell. Needless to say, this kind of *ex parte* (out-of-court) communication with the prosecution—discussing the sentence before the trial is over—is highly improper.

Kaufman appears to have been even more determined than the Eisenhower administration to achieve a death penalty. On the day before sentencing, Kaufman asked the prosecutor, Irving Saypol, to obtain the views of the Department of Justice on what the sentences should be. This is standard operating procedure. But when Saypol reported back that the views within the department were divided, Judge Kaufman asked him not to make any recommendation. Saypol obliged, and Kaufman thereupon sentenced the Rosenbergs to death and Sobell to a 30-year prison term. During sentencing Kaufman declared, "Because of the seriousness of this case, and the lack of precedence [sic], I have refrained from asking the government for a recommendation." This was untrue. He apparently did ask for a recommendation, then changed his mind when it appeared the recommendation would not be severe enough. He thus concealed the fact that the Justice Department was not prepared to recommend the death penalty.

In 1956, after the Rosenbergs had been executed, Sobell filed a motion for a new trial. Judge Kaufman told an assistant prosecutor that if the motion came before him he would deny it without a hearing. The motion was assigned to Judge Kaufman and he did deny it without a hearing. In doing so he complained that improper ex parte approaches had been made to him, but asserted that "safeguards and procedures" developed by the American judicial system had been "the sole guide posts for this Court." Presumably Kaufman was referring to the Canons of Judicial Ethics adopted by the American Bar Association. At the time of the Rosenberg trial, these canons provided that, "Ordinarily all communications of counsel to the judge intended or calculated to influence action should be made known to opposing counsel." Needless to say, Kaufman had not told the Rosenbergs' lawyers about these approaches.

Kaufman continued to interfere in the Rosenberg case after it had left his jurisdiction. In February 1953, while the Rosenbergs had a petition for certiorari pending in the Supreme Court, Judge Kaufman called the FBI and expressed concern that the Supreme Court would not dispose of the case before its spring adjournment. He urged that the Justice Department be encouraged to push the matter vigorously." Kaufman delivered the same message to an assistant prosecutor, who then strongly recommended to the Justice Department that it ask the Supreme Court to expedite consideration of the case. In May 1953, the Court denied the petition for certiorari.

On June 15, 1953, the Supreme Court denied the Rosenberg's application for stay of execution, then adjourned for the summer. On June 16, a new application for stay was filed with Justice Douglas. On June 17, Kaufman called the FBI to pass on some information he had learned from an assistant prosecutor: as of 7:30 pm on June 16, Justice Douglas had been disposed to grant the stay, but after dinner he was undecided. He also reported that the Attorney General and Chief Justice Vinson had met and decided that if Douglas granted a stay Vinson would reconvene the Court. Justice Douglas granted a stay of execution on June 17, a special term of Court was called on June 18, it vacated the stay on June 19, and the Rosenbergs were executed.

In September 1957, Kaufman told an FBI public relations man that he was "very much upset" by a question raised for the first time in Sobell's 1956 motion for a new trial. The question arose from a 1952 Supreme Court decision in the Grunewald case that it is unconstitutional for the prosecution in a criminal trial to cross-examine the defendant about having asserted the Fifth Amendment privilege against self-incrimination before the grand jury that indicted him or her. Since the government had been allowed to cross-examine Ethel Rosenberg on this point, Kaufman was afraid that the court might upset the case unless the Department vigorously defended it, which he urged it to do. In the event, the Supreme Court denied certiorari.

The Grunewald precedent continued to worry Judge Kaufman. In 1962 the district court denied another Sobell motion for a new trial, he appealed, and the appeal was argued before the Court of Appeals. Judge Kaufman had been elevated to that court, but did not sit on this appeal. Nevertheless, he took an interest in the appellate arguments, during which Judge (now Mr. Justice) Thurgood Marshall asked whether the Grunewald decision would not have required a reversal of Sobell's conviction if it had occurred after that decision, and the assistant prosecutor replied, "probably." This incited another phone call to the FBI. According to their memo of the call, Kaufman declared that, "The Grunewald decision is not good law and in his opinion certainly does not apply to this case"; that the assistant prosecutor's answer was "stupid"; that the Bureau might want to report this man to the Department of Justice and that he had "raised hell" with Marshall, whom he char-

acterized as "naive and inexperienced." The Court of Appeals affirmed the denial of Sobell's motion for a new trial.

If these FBI papers are accurate, they reveal a judge so obsessed with protecting the verdict, judgment, and sentence entered in the trial over which he presided that he was driven to conduct completely unacceptable from a judicial officer. Much of it would be unacceptable even from a prosecuting attorney.

Kaufman also has attempted to stifle criticism of the Rosenberg case outside the courts. In November 1957. Kaufman called FBI Director J. Edgar Hoover to say he had learned that Sobell's wife was going to talk to Jim Bishop, who was writing a book on the Rosenberg case. He suggested that an FBI official warn Bishop against talking with her. In 1969 Kaufman called Hoover to discuss a play about the Rosenberg case then being performed in Cleveland. Kaufman was "alarmed" that the New York Times had reviewed the play twice. Five days later Kaufman wrote to Hoover thanking him for "furnishing me the background information" on the play's author and sending Hoover a copy of a letter written to the New York Times by Simon Rifkind. Rifkind, a recurring minor player in Kaufman's own passion play, served on the federal district court with Judge Kaufman. He left the bench in 1950 to return to a lucrative law practice. He not infrequently appears before Judge Kaufman, as do others in his law firm of Paul, Weiss, Rifkind, Wharton & Garrison. In his letter to the Times Rifkind complained of the "generous allocation of space" to the play because "both reporters, as well as the play" presented the Rosenbergs as innocent. He said that in view of the number of courts and judges involved in the case, this was a slur on American justice.

On a 1974 visit to FBI headquarters, Kaufman expressed displeasure about two television programs dealing with the Rosenberg case, and advised the FBI that Simon Rifkind was writing an article for TV Guide giving the true facts about the case. The article duly appeared and reiterated the theme that no one whose case had been reviewed by so many courts and judges could have been wrongly convicted.

In May 1975, Judge Kaufman called the FBI to express his concern about an article in Esquire on the Rosenberg case, and about recent activities of the National Committee to Reopen the Rosenberg Case. He urged that "some counteraction should be taken."

Thus, if the FBI papers are accurate, a judge who had sworn to uphold the Constitution, including the first amendment, has been attempting to suppress the exercise of freedom of speech and the press.

But the FBI papers only raise questions; they do not provide answers. No FBI reports can be given that much credence, even when they were compiled with no particular incentive to falsify. The letters apparently written by Judge Kaufman and others to the FBI must be verified. So must the statements in the FBI memos which, as supporters of Judge Kaufamn point out, contain hearsay three and four times removed. By March 1976, the American Bar Association was sufficiently concerned about mounting criticism of the case and the judge to establish a special Subcommittee to Review and Evaluate the Rosenberg Case. Its functions were defined thusly: first, "to make certain that public respect for law and the judicial process is not subverted by unfounded charges"; and second, "whenever necessary, to counteract unwarranted criticism directed to . . . Judge Irving Kaufman." Simon Rifkind was named chairman of the subcommittee.

After the Rosenbergs' sons released the FBI papers in June 1976, more than 100 law professors joined me in a letter to the House and Senate Judiciary Committees, asking for an investigation of the issues raised by those documents.

A copy of this letter came into the hands of Simon Rifkind. In September 1976, he dispatched a five-page letter of remonstrance to me. He asserted that Roy Cohn had recently denied having discussed sentencing with Judge Kaufman. But otherwise Rifkind did not challenge the contents of the FBI documents. Rather, he reiterated his theme that the trial must have been fair since so many judges had reviewed it (although no judge has reviewed it since the FBI papers were released); he pointed with pride to Judge Kaufman's "shining reputation" since the Rosenberg case; and he asserted that it was "common practice" for judges to receive ex parte communications after verdict and before sentencing from "all sorts of people," citing a wildly inapposite 1949 case. In fact, every federal Court of Appeals that had ruled on the question at the time Judge Rifkind wrote to me had held improper an ex parte communication from the prosecutor to the judge after verdict or guilty plea and before sentencing. Judge Kaufman's own court ruled this way in 1973. Only last March the Supreme Court held that it was a violation of the due process clause to sentence a defendant on the basis of a probation officer's report without disclosing the contents of the report to the defendant.

As his final point, Rifkind said I was too willing "to leap to inferences from meager premises," because I was still "acting in the role of advocate" for Morton Sobell. (In 1966 I participated in an effort to get Sobell a new trial. Today Sobell has been released from prison and has no action pending). Rifkind on the other hand wrote to me in his "private capacity and not as Chairman of the ABA Committee concerned with the Rosenberg case."

At least I heard from Rifkind. I have never heard from the chairman of either of the Judiciary Committees. I have received individual responses from a few committee members manifesting varying degrees of interest. Unfortunately the most affirmative response came from one who shortly thereafter became ex-Senator John Tunney. In March of this year, Senator James Abourezk advised me that neither had any plans to act on the matter.

A colleague of mine who is a member of the prestigious Association of the Bar of the City of New York requested the Association to investigate Judge Kaufman. He was officially advised that the Association found no basis for investigation. Most of the federal appellate practice of the Association's members is in Judge Kaufman's court.

In March of this year the American Civil Liberties Union adopted a resolution urging the Judiciary Committees of the House and Senate to investigate the relationship of Judge Kaufman with the prosecution in the Rosenberg case. The *New York Times* weighed in with an editorial condemning the ACLU's action. The editorial followed familiar themes: The Rosenbergs' trial must have been fair since it was reviewed by so many judges and Judge Kaufman's conduct since that time has been "exemplary." The *Times* declared that the ACLU request "would never have been made were it not for the efforts of a group in the union that wishes to reopen the case"—neither a penetrating observation nor a devastating critique. One month later the *New York Post* published a heated editorial advocating swift penalties for state court judges guilty of the *ex parte* fixing of traffic tickets.

So there matters stand. The unreviewed conduct attributed to Judge Kaufman by the FBI papers probably will remain unreviewed. If all of the statements in these papers are true, few will be found to say that the judge's conduct was proper or that a fair trial was had. If they are false in whole or in part, Kaufman might be vindicated. Obviously the resolution of those issues is less important to those in power than allowing the judge to remain undisturbed in his declining years. Meanwhile other judges should feel free to emulate the behavior that Judge Kaufman's friend Simon Rifkind describes as "common practice."

WORLD POPULATION PROBLEMS

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1978

Mr. McCLOSKEY. Mr. Speaker, TONY BEILENSON and I were privileged to represent the U.S. Congress recently in a week of discussions on world population problems with parliamentarians from five nations.

In the course of those discussions, we were privileged to hear a member of the German Bundesrat, the Honorable Peter Petersen, deliver a memorable address we feel worthy of consideration by the House. Mr. Petersen's remarks were all the more impressive in that they were given almost in the shadow of the Berlin Wall.

It is sometimes easy for those of us in the United States to forget the rare privilege of freedom that devides us from those who live in Eastern Europe. One comes away from a few moments' contemplation of the barbed wire barriers and machine gun towers at the Brandenburg Gate, however, with a renewed respect for those who live in its shadow and yet speak with the clarity, purpose, and humanity which run through Mr. Petersen's comments:

REMARKS OF THE HONORABLE PETER PETERSEN

Let me say first, how grateful we Germans are, that you decided to hold this conference in Berlin. This is for my people in East and West not just the biggest city of our country—Berlin is as much alive as is our hope to live one day together again as one people as we have for 1,000 years. In Berlin you learn a truth that goes for Foreign Aid as well: It is not money alone—money is not even the most important part—if you want to keep a city alive—it is the identification with the problems and answers of a city and much more important still—it is the spirit of the people themselves. And in good times and bad the people of Berlin have been inspiration and encouragement to all Germans—indeed as Kennedy said not far from here—to the people all over the world.

We are spending more on Berlin than on our total Foreign Aid Program—and even though we have talked about and agreed to the aim of 0.7 percent we never came near it. We are in my country spending exactly ten times more for defense—DM 32 billion this year—than for Foreign Aid—and if you realize that this year 300 billion US Dollars were spent for arms and soldiers in the world and yet millions of fellow human beings were starving, you realize, how crazy this world has become. And yet in Berlin, more drastic than in any other place in the world—where Germans are shot and killed who try to go from one part of their own country to another—you recognize, that in order to stay free and keep peace and be able to

spend 3.4 billion for Foreign Aid we need 32 billion for arms and soldiers.

Yes—crazy—and we believe that the battle for Foreign Aid in our parliaments and in public also is a battle for sanity of mankind.

And there will be no real peace in the world as long as the per capita income in some parts is 60 US Dollars and in other countries 8,000 Dollars.

So for us—and not just us Germans—Foreign Aid is an attempt to work for peace—peace might not be everything, but without peace everything else is in vain.

We Germans came relatively late into our own in the field of Foreign Aid. After the destruction of the 2. World War we were recipients of aid—never in history has a victorious power—the US—been so generous to the defeated enemy, and that in spite of the worst moral breakdown that destroyed the soul of my country before the bombs and guns destroyed the cities. So in a sense, we do to others what the Americans have done to us.

And they did that, if I read this correctly, for two reasons—Americans cannot bear the thought of starving children and secondly the men in power know that a mass-starvation in the heart of Europe would certainly destroy any hope of ever having a free and peaceful Europe—and thirdly they helped us to help ourselves and enable us to help others who are starving now and whose cities might be destroyed not by bombs perhaps but by mass-emigration from the country into the big population centres.

And that is the second principle of our Foreign Aid—first was to strengthen peace—to help people to help themselves: 90% of the investments are done by the developing countries themselves. We don't feel that we are wise enough to tell others how they should live and how they should organize their life together. From that follows that we don't try to buy "good" political behavior by our Foreign Aid. We don't attach political strings to our aid. One of our ministers said that Communists are hungry too—which no doubt is true but there is a lively discussion in our parliament between government and opposition as to what to do with hungry Communists—a controversy I don't want to go into here.

Thirdly we feel that people are more important than things. You are here in the center of a German Foundation that has the very wide field of personal aid in the forefront of their thinking.

Fourth: We feel that other peoples can only help themselves if they and their products (industrial and agricultural) are given a fair chance on our markets. That politically is a very tall order as you all know—but to us—even if that entails difficult adjustments in our own industry—that is the only viable alternative to the bureaucratic concepts of the "Group of 77" which would make the poor nations poorer without solving the problems of anybody. This of course is a very complicated subject—I wish that the industrial countries would earlier have gotten together and gotten united in a strategy not against the 77 (they are 140 now, representing ⅔ of mankind) but with them for the good of us all. "We are rich because you are poor"—as the famous German poet Bert Brecht said here in Berlin—is just as wrong as "You are poor because we are rich".

My last point: For millions and millions of people their wealth are their children. For me that is so. It is often their only wealth and their only old age insurance. 150 years ago 10 children to a family was not uncommon. After Bismarck—again here in Berlin—almost to the day 100 years ago introduced the old age pension bill—the first such legislation in the world—the number of children in the families drastically dropped. I am sure there is something to be learned from that for our deliberations these days. We Germans hope to learn. We have just given 30 million DM to the UN-fund dealing with the problem of overpopulation but here, more than on almost any other subject we are painfully aware of the fact that he who has only money to give is a poor man indeed.

The occasion of Mr. Petersen's comments was the final day of a week long series of discussions amongst parliamentarians from five nations under the auspices of the United Nations Fund for Population activities and organized and led by our former colleague and Senator from Maryland, Joseph Tydings.

Following Mr. Petersen's remarks, the parliamentarians listed below joined in the unanimous declaration of common purpose which is appended hereto:

CANADA

Dr. Frank Philbrook, Liberal Party.

Dr. Bruce Halliday, Progressive Conservative Party.

Dr. Frank Maine, Liberal Party.

JAPAN

Mr. Takashi Sato, Liberal Democratic Party.

Mr. Kosaku Wada, Democratic Socialist Party.

Miss Takako Doi, Socialist Party.

FEDERAL REPUBLIC OF GERMANY

Mrs. Leni Fischer, Christian Democratic Union.

Mr. Johann Peter Josten, Christian Democratic Union.

Mr. Peter Petersen, Christian Democratic Union.

Mr. Willi Peiter, Social Democratic Party.

UNITED KINGDOM

Lord Oram, Labour Party.

Lord Vernon, Conservative Party.

Mr. George Cunningham, Labour Party.

Mr. Cyril Townsend, Conservative Party.

UNITED STATES

Mr. Paul McCloskey, Republican, California, House of Representatives.

Mr. Anthony Beilenson, Democrat, California, House of Representatives.

DECLARATION OF PURPOSE, WEST BERLIN, DECEMBER 10, 1977

As individuals who are members of national legislative bodies, we share a common interest in problems of economic and social development and a concern for the role of population factors in both types of development. We recognize that world population is still growing at 1.8 percent per year. The present United Nations figure of 4 billion is predicted to increase to 6.25 billion by the year 2000, which is only 23 years from now. The vast majority of this increase will occur in the less developed countries of Africa, Asia and Latin America. In the more developed countries it is significant that, as a result of improved living standards and female emancipation, populations have been largely stablized and, in some cases, are beginning to decline. Aside from mere numbers, this increase in the less developed countries jeopardizes a solution to many national and international population-related problems which our governments are attempting to remedy—as examples: food, both agricultural and fisheries, energy, employment, housing, planned urban growth and clean water supplies, and other environmental questions.

We believe there is increasing recognition of the need to address population and development problems at the local, national and international levels, through a variety of interrelated voluntary health, welfare, education, family planning, scoial and economic development programs, and with the active assistance of private organizations, governments and international agencies.

In order to promote humane solutions to the problems of population and development and to encourage the spirit of international interdependence, we propose the following measures.

(1) To initiate organized communications among legislators of all countries in order to foster greater understanding and support of population-related programs and development needs throughout the world.

(2) To establish informal working groups of parliamentarians, including leaders from developing and developed nations, who will meet and confer from time to time at the international level on population-related and development issues and needs. Each national group would work with other appropriate groupings of parliamentarians within its own country, in the field of development policy.

(3) To propose and adopt policies to assist each couple and individual in the world to have a free choice as to the number and spacing of their children, and to have the information, education and means to do so as agreed upon at the 1974 Bucharest World Population Conference, and, consistent with this principle, to assist each Government which requests assistance, to implement such population policy as that Government desires.

(4) To stimulate interest of national governmental bodies in increased support for bilateral and multilateral population assistance programs designed to assist developing countries in socio-economic development.

(5) To work for increased research by private, government and multilateral agencies in reproductive biology to develop and test improved methods of voluntary fertility regulation.

(6) To encourage cooperative programs between governments in population-related training, in medical and motivational research, and in technical and financial assistance in setting up basic rural health infrastructures.

(7) To organize, under the auspices of the UNFPA a working group of Parliamentarians from interested nations to plan and carry out the initiative begun in Berlin and specifically to include representatives from developing nations.

(8) To appeal to the UNFPA to disseminate information to Parliamentarians interested and concerned in population and development.

(9) To begin planning for an International Seminar or Conference of Parliamentarians Concerned with Problems of Population and Development, to be held in the Autumn of 1979, and to seek support for, and assistance for, such a Seminar or Conference from the Inter-Parliamentary Union, and other appropriate international and national agencies.

Through these measures we hope to contribute to the common goal of social and economic development to improve the well-being of all peoples throughout the world."

SENATE—*Wednesday, February 1, 1978*

(Legislative day of Monday, January 30, 1978)

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

The PRESIDENT pro tempore. Our prayer today will be offered by Chaplain Colin P. Kelly III, Assistant Chaplain to the Cadet Corps, U.S. Military Academy, West Point, N.Y.

PRAYER

The Reverend Kelly offered the following prayer:

O God, our Heavenly Father, look with favor, we pray Thee, upon those here assembled and on all who call upon Thee. Endow us with wisdom, courage, and strength to know and to do Thy will. Inspire us through the indwelling presence of Thy spirit to rise above our petty differences and see our common tasks from Thy perspective.

We pray for the President of the United States and all in authority, that they might be ever mindful to put their trust in Thee as they fulfill their daily responsibilities of governing our great Nation.

We pray for all the people of our country, especially the men and women serving in the Armed Forces at home and abroad. We seek freedom and peace. Help us to accept that freedom comes with responsibility and peace comes at a price. Give us that due sense of Thy peace that all of our works might be done to Thy glory.

Purify our hearts, O God, and renew a right spirit within us. All of this we ask in the name of the great friend and master of men, Jesus Christ our Lord. Amen.

RECOGNITION OF LEADERSHIP

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, January 31, 1978, be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

The PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I only advise the distinguished majority leader that notations on our Executive Calendar indicate that all of the nominations on pages 1 and 2, beginning with the Consumer Product Safety Commission and concluding with nominations placed on the Secretary's desk, have been cleared for confirmation.

We have no objection to their consideration and confirmation at this time.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations will be stated.

CONSUMER PRODUCT SAFETY COMMISSION

The legislative clerk read the nomination of R. David Pittle, of Maryland, to be a Commissioner of the Consumer Product Safety Commission.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF COMMERCE

The legislative clerk read the nomination of Ernest Ambler, of Maryland, to be Director of the National Bureau of Standards.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Arthur T. Tienken, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of William E. Schaufele, Jr., of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Poland.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Richard J. Bloomfield, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Robert W. Buchheim, of the District of Columbia, during the tenure of his service as the U.S. Commissioner on the United States-Soviet Standing Consultative Commission, to be Ambassador.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

The legislative clerk read the nomination of Thomas John Watson, Jr., of Connecticut, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—COAST GUARD

The legislative clerk proceeded to read sundry nominations in the Coast Guard placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

(All nominations confirmed today are printed at the end of the Senate proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the votes by which the nominees are confirmed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the votes by which the nominees were confirmed en bloc.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

The PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order and I yield it back.

The PRESIDENT pro tempore. Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATIES

Mr. LEAHY. Mr. President, the role of an elected representative in a democracy is not only that of a constituent servant. We are elected also to use our own best judgment, and it is my opinion that the elected official who abandons his judgment in favor of popular sentiment abdicates his responsibility to bring his own faculties to bear on the issues of the day.

If I believed I was sent to Washington by the people of Vermont simply to poll them and reflect the results in my own votes, I would be compelled to oppose the ratification of the Panama

Canal treaties. But I do not believe that. On the contrary, I believe each of us is bound to come to our own determination of what is in the best interest of the Nation and the people of our respective States.

With that in mind, I am here this morning to announce that after months of studying the canal treaties and discussing them with many of my constituents, after listening to the public debate on the issue and in light of what I observed during my recent trip to Panama, it is my judgment that the treaties, as modified by the Carter-Torrijos clarification of October 14, should be ratified and I will work toward that end.

As a Nation which categorically rejects colonialism, our only valid interest in the canal is that it continue to operate in the manner it has since it was completed in 1914. We must insure that the canal will remain open to the world shipping and secure from military threat. The question then becomes how best to accomplish that. The answer is ratification of the treaties.

Prior to my trip to Panama, I had been told by a number of different people how difficult it would be to defend the canal from either internal or external attack. The Joint Chiefs of Staff estimate that at least 100,000 U.S. troops would be required.

But as I flew over the canal, it became clear to me how grossly I had underestimated the vulnerability of the canal. I am not a military expert, but with all due respect to our Armed Forces, I doubt the canal could be adequately protected by 100,000 American soldiers.

Given that situation, one can more clearly understand the opinion of Defense Secretary Harold Brown when he told the Foreign Relations Committee:

> Ability to defend and control access to the canal is essential. But the issue is how that ability can best be assured—by a cooperative effort with a friendly Panama or by a garrison amid hostile surroundings.

If we learned nothing else from Vietnam, certainly we discovered the difficulty of fighting indigenous forces in their own jungle terrain.

By ratifying the treaties and truly making the Panama Canal Panamanian, we increase the stake the Panamanians have in keeping the canal open. Increased toll revenues will be a keystone of their national economy and colonial resentment can give way to nationalistic pride.

Those are a few of the pragmatic reasons for ratifying these treaties. But there are other reasons, reasons that I feel are ultimately far more important in terms of our country's relationship with the rest of the world, and surely in terms of its relationship with Latin America.

As has been pointed out before, there are elements in the history of the canal that we cannot and should not look upon with pride. We cannot be proud that we fostered the Panamanian revolution from Colombia in 1903 and then concluded the original canal treaty with a Frenchman who never returned to Panama. We cannot be proud that that original treaty was never signed by a Panamanian.

But we have every reason to be proud of the way in which we have operated the canal. That operation has always been marked by scrupulous neutrality, and we have never operated the canal as a money-making venture. Rather, we have maintained it as a nonprofit service to world shipping. And obviously, the canal stands as an incredible technological feat today, to say nothing of the era in which it was built. Indeed, in this regard it ranks with the building of the pyramids and the landing of a man on the moon.

Despite this record of operation, the canal remains a constant reminder of an earlier, less enlightened era in our foreign policy. The memory is not a happy one for our American neighbors to the south and has proven to be a barrier to better relations with those neighbors. The Organization of American States unanimously supports the new treaties. To reject them would invite worsened relations with Central and South America.

But there is even more at stake than our relations with the nations of the Western Hemisphere. The entire Third World would regard rejection of the treaties as a further indication of our lack of commitment to political and economic justice for the developing countries.

Much has been written and said about how ratification of the treaties would play into the hands of the Communists. I believe the effect would be quite the opposite, for I suspect the Communists would rejoice at the loss in world opinion we would suffer if the treaties are rejected.

I will have more to say on these matters during the Senate debate on ratification as I plan to take an active role in that debate. Also, I will be sending my constituents a letter in which I will outline the arguments both for and against the treaties and detail my reasons for supporting them. I am sure most of them will be convinced of the merit of this decision.

This is not the most momentous issue of foreign policy that we face as a nation. Certainly the upcoming SALT treaty is of substantially greater world importance. But the Panama Canal treaties represent one of the most controversial questions in the country today. It is our responsibility to study and act on this issue rationally in the same way we would a more obscure bit of business. If that is our approach, it seems to me an inescapable conclusion that the option of ratifying these treaties will better insure the future operation of the canal than any military option available to us, and it will enhance the standing of the United States in our own hemisphere and in the world at large.

The greater and more powerful a country is, the greater the responsibility that country has to be just. The United States is the greatest and most powerful nation in the world—it can afford this act of overdue justice.

Mr. President, I yield back the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. LEAHY. I certainly will yield.

Mr. ROBERT C. BYRD. Mr. President, I commend the Senator on his statement, on the logic of his statement, and on his courage in taking a position that is an unpopular one in any State, I would judge at this time. But the Senator has demonstrated this type of courage before, and he has demonstrated this kind of vision and understanding, and I am not surprised that he has taken the unpopular position in this instance, believing that in the long run his position is in the best interests of the country.

I applaud him and I salute him.

Mr. LEAHY. Mr. President, I might say that the decision is certainly made easier by the enlightened leadership on this position shown by the distinguished majority leader and the distinguished minority leader.

I discussed this matter with the President of the United States yesterday, and I made it a point to commend to the President the leadership of the Senate. There are many who, because of their office, because of their national office, such as the one that our distinguished majority leader holds, have far more at stake politically in taking the positions they have taken. Certainly that is a leadership position that commends itself to all of us.

I thank the distinguished Senator from West Virginia for his very, very kind remarks.

Mr. ROBERT C. BYRD. I thank the Senator.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10 o'clock, with statements therein limited to 2 minutes each.

(Routine morning business transacted and additional statements submitted will be printed later in today's RECORD.)

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Is there morning business? If not, morning business is closed.

RECESS UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 10 a.m. today.

The motion was agreed to, and at 9:45 a.m., the Senate recessed until 10 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DECONCINI).

SUPPLEMENTAL APPROPRIATIONS, 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate amendment No. 43 to H.R. 9375, the last amendment in disagreement, which the clerk will state.

The legislative clerk read as follows:

The House insists upon its disagreement to Senate amendment No. 43 to H.R. 9375, an act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

The PRESIDING OFFICER. Debate on this amendment and any debatable motion thereto shall be limited to 5 hours, to be equally controlled by the Senator from Mississippi (Mr. STENNIS) and the Senator from North Dakota (Mr. YOUNG), with a vote on the amendment to occur not later than 3 p.m., today.

Mr. CULVER. Mr. President, I ask unanimous consent that Charles Stevenson, of my staff, be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a quorum call may be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I ask unanimous consent that, during the consideration of this matter, Miss Louise Hoppe, of the staff of the Committee on Armed Services, be accorded the privilege of the floor. She is needed in connection with the matters under consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. The Senate amendment No. 43 in disagreement to H.R. 975 is pending.

Mr. STENNIS. Mr. President, I move that the Senate further insist on its amendment No. 43, request a further conference with the House thereon, and that the Chair be authorized to appoint conferees.

Mr. President, I think that puts the proper issue for the time being before the Senate. I shall not argue it now except to remind the Senate that this conference report itself, except for this one item, has already been disposed of by the Senate. That item concerns the B–1. I have not had a chance this morning to confer with the Senator from California, but previously, when we had this matter before us, I remember his interest in this matter.

Mr. HAYAKAWA. Yes, Mr. President.

Mr. STENNIS. I feel that he has a contrary position, still.

I just thought, Mr. President, that we could start out on this motion, and we could use the time that has been agreed to. I shall yield to him now, if he wishes to make a statement. I am glad to yield to him.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. If it is an appropriate time now for me to make that statement, I would like to do so.

Mr. STENNIS. Yes. But if the Senator would let me respond, I think it is customary for the manager of the bill to have a chance to present the position of the conferees with reference to a matter and then that would throw the whole matter open to debate.

The Senator from North Dakota, of course, is the ranking minority member of our conferees and I hope he would have some remarks even though we are divided on this particular issue—one of the rare times in history that we have been.

Is that understood?

Mr. HAYAKAWA. Yes.

Mr. President, first, I ask unanimous consent that my staff member, Peggy Haverstara, be granted privilige of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, does the Senator from California understand that the Senator from Mississippi wanted to proceed briefly now?

Mr. HAYAKAWA. To make his statement first.

Mr. STENNIS. Yes. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, this is an appropriations conference report. The late Senator from Arkansas, as we all recall, was chairman of the Appropriations Committee last year and chairman also of the subcommittee for the Department of Defense. He had requested me to handle that bill on the floor of the Senate in its consideration and passage and at the conference, which I did.

So technically, I am here today not as chairman of that subcommittee, but standing in the shoes of the late beloved Senator and trying to finish up this bill.

I mention that because I am not here as chairman of the Armed Services Committee. I am here as a member of the Appropriations Committee and acting for the one who was chairman of the Defense Subcommittee.

Mr. President, there has been time allotted on this measure, plenty of time for presentation of each side.

To me, it is a very serious matter. I have always supported the B–1 bomber program. In fact, I signed an early report of the Preparedness Subcommittee years ago regarding the B–1 that I think was the first Preparedness Subcommittee report favorable to the concept, and have supported it on down the line.

But under the facts now, with reference to this measure, I very firmly conclude that the interest of the B–1 having a future, as well as the rest of our program, it would be unwise to go on now and spend the money. I point out that it would be very unwise to spend the old money in the 1977 budget for aircraft, Nos. 5 and 6, now when it would mean so little in the completion time of the B–1 program should it be moved forward to production.

It would mean not over 6 or 8 months difference in the time, and that would be at the early end of a time span extending over into the mid-1980's or beyond; certainly about 8 years or possibly 10 years from now.

There are a lot of facts and money figures in it, but I have tried to prepare a brief, terse, statement of the main points involved here, and I took it from a "Dear Colleague" letter of yesterday, January 31. I want to read that letter and speak from it for my opening remarks on this matter. The letter states that the Senate will take up the supplemental appropriations conference report today. The questions to be voted on relate to the B–1. All others have been decided.

This question originated in the Senate Appropriations Committee last October wherein I made the motion that this money for fiscal 1977 be deappropriated or rescinded.

The committee at that time voted 17 to 0 in favor of deappropriating this money.

Later, six additional members of that committee filed their vote with the record keeper, all for a deappropriation of the money. That was as recently, as I said, as last October.

The sum that we are talking about here is $462 million of what I shall call old money which has been appropriated, but is unspent, and under the law will have to be spent unless there is a deappropriation.

I emphasize that this money is for fiscal 1977. It is standing alone, standing there alone without antecedents nor an immediate future.

The Senate has already taken out of the bill by rollcall vote the money for production of the B–1 for fiscal year 1978. That is an important point now.

This matter was presented to the Senate on the facts after the President rendered a decision, and on a rollcall vote on July 18, 1977, 59 Senators voted to take out of the bill the money which had already been written up. Thirty-six Senators voted to the contrary.

There has been very little change, Mr. President, on the facts since that vote was taken. That is the 1978 money.

The 1979 budget recommendations are out now and there is no money recommended for B–1 production in fiscal year 1979.

So I judge that there will not be any voted for that purpose this year. It leaves us, in with the B–1 production program, that the money is not in under the vote of the Congress for 1978. There is not a request for it, at least for 1979.

So this old money for production should not be spent. The question is just as narrow as that.

I have been for the B–1 all the time. I was against the bill that Congress passed, calling on the President of the United States—whoever he might be in 1977—to make a judgment as to whether or not production would proceed. I was against that bill, but it became the will of Congress. Mr. Ford was President then. Mr. Carter was President when the time came, under the bill that Congress passed, that a decision was required.

Congress cannot just stop this thing by criticizing the Executive for his decision. We brought it out and made the Executive make a decision. There is divided thought on it, but there was good thought both ways. I was against the idea, but it happened, and the President had to make a judgment. The judgment was contrary to what mine would have been, I think, but I am not the President. Now we have to go from there.

I looked into it immediately, as chairman of the Armed Services Committee, when that judgment came out, and I decided that the thing to do was to proceed, not to lose the time, but to take steps to consider the alternatives proposed. I was impressed with the fact that the President then said that he was not killing the program; that the B-1 program was still open; that as an alternative in his mind—I have the quotations here, and I will read them later—he would continue to consider it.

We here, at the legislative level, considered the alternatives he proposed. It went before our Armed Services Committee. We had hearings and brought to this floor a bill that our valued subcommittee recommended. Their recommendation was to move forward in the direction of the alternatives, and we passed that bill.

I was also on the Appropriations Committee, and I supported it in the Appropriations Committee after we got it through conference. When I say "we," I am not referring just to myself. Others helped a great deal in the authorizing conference.

Then we came back and got it past this body. The new money for the other programs was supported here by almost everyone, but not all of the programs got through the Appropriations Committee. We did get it authorized to the extent that it could be considered under a reprograming process.

Back now to the main issue: When the Appropriations Committee met, I offered this amendment out of a sense of duty. I was not acting for anyone except myself. The President had not mentioned the matter of offering an amendment of that kind at that time. I thought the money should be deappropriated, and I have already given the unanimous vote in the Appropriations Committee—17 for that deletion, plus 6 who filed their votes later—and it went through this body without being challenged. There was no rollcall vote on it, because it was not challenged.

Now it has been voted on two or three times in the House of Representatives, and I speak of those votes with deference.

My point is that now we are back to the same proposition on almost identical facts. I want to emphasize that this is not the killing of the B–1 program.

I quote from a letter from the President of the United States, dated October 7, 1977—from President Jimmy Carter to Representative BOB CARR—in which the President said:

I welcome the opportunity to respond to you and to the other Members of Congress who wrote me on October 5.

That letter, of course, is available here for anyone to see. I will read the more pertinent sentences, and I will let it go at that for the time being. The President said:

The penetrating bomber continues to be a part of our strategic triad. While I hope it will not be necessary to produce new aircraft, it is conceivable, though not likely, that future development would necessitate such an option.

He goes on to say:

I believe we must insure against the possibility, however remote, that we might have to produce a new penetrating bomber. That is why I have decided to finish the B–1's development, including the fourth aircraft, which is the last one needed in the flight test program.

That is a key phrase.

Going back for a moment to the action of this body, we voted in the bill that had already become law and voted after the President's decision in June to put in all the research and development money that was requested for the B–1. That sum was challenged on the floor of the Senate, and by a vote of 71 to 27 the Senate voted to keep that money in the bill. It stayed in the bill, and the bill went to the President and was signed into law. That sum was $442 million.

Furthermore, for fiscal 1979, additional research and development money has been requested for the same purpose—$105 million, as I recall; and I judge that that amount will be agreed to.

So far as the research and development program is concerned, those first four bombers that were completed provide the vehicle for all the necessary continued research and development and testing, all that is neded, and a willing Congress is providing that money. Therefore, this money I am talking about is not needed to go on and build bombers Nos. 5 and 6 to the extent of this $462 million, plus an additional amount.

I think this is important. Not many Senators are present to hear these facts, but this is a new element. I got these figures from the Air Force. They want the B–1 bomber. They did not want it stopped. They say that in addition to this $462 million, $280 million more would be necessary if these two aircraft in question are to be tested rather than just put in storage. So if we build them and go through all the testing that is necessary, then at some time this extra money would have to be spent—$280 million.

So the logical thing to do, if they are going to build them, would be to continue with the testing, as I understand these things, and that would total $742 million. So, logically, that is the amount at issue here today—$742 million that for the time being is not needed, even if we are going to continue the production later of the B–1 and here is a key point. Building Nos. 5 and 6 would make 6 to 8 months difference in the completion date of this whole bevy of bombers, the whole program of B–1 production, and that difference in time would come at the end of the time spectrum, the mid-1980's or beyond.

These facts are taken from a letter from the Chief of Staff of the Air Force, General Jones. He is not a personal friend of mine, but he is an outstanding man. He is an awfully big man, big between the eyes as we say down in my country. He has rendered a significant service in the B–1 program and other ways as Chief of Staff. In his letter, a copy of which I enclosed to Senators along with my brief letter, he says the following, and I am going to conclude. This is Gen. David Jones now.

As a practical matter, since there are no B–1 procurement funds in the FY 78 appropriations or in the FY 79 budget, even an early reversal of the production decision would delay IOC until the mid to late 1980s.

That abbreviation means "Initial Operational Capability."

I believe that circumstances likely to trigger a sudden decision on production of the B–1 would spring from a world situation in which the increased capability would be required before the B–1 could become operational.

Therefore, in a nutshell, my reservations about building 5 and 6 at such a high cost are that the advantages for the long term are marginal and for the near term, irrelevant.

In sum, I do not believe that investing nearly three-quarters of a billion dollars to produce and test two more aircraft is the best use of the country's defense resources, particularly in the absence of a realistic expectation of production. I do not question that, like a terminal patient, the program could temporarily be kept artificially alive. But the slippage and uncertainty in the B–1 program which have resulted from program and funding decisions convince me that the time has come to call a halt to further investment beyond the 4-aircraft test program.

That is not the Senator from Mississippi speaking. That is Gen. David Jones, Chief of Staff of the Air Force, as I say a very outstanding officer. I asked him to come to my office, come by the office at least where we could talk this entire matter over and go into it and he would tell me exactly how he felt, and that is what happened. I said, "Would you put that in a letter that is all right to use in debate?" He said "yes." And that is it.

And I base this case largely upon that man's letter, and I cannot conceive of anyone who could be more devoted to a cause than he is, nor better informed and more qualified to speak on such a grave matter.

Mr. President, I ask unanimous consent that my "Dear Colleague" letter of January 31, 1978, and the letter to me from General Jones of January 27, 1978, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
January 31, 1978.

DEAR COLLEAGUE: The Senate will take up the Supplemental Appropriations Conference Report on Wednesday. The question to be voted on relates to the B–1. This question originated in the Senate Appropriations Committee last October, which voted 17–0 in favor of de-appropriating (rescinding) the sum of $462 million heretofore appropriated, but still unspent, for the B–1 program in the fiscal year 1977.

This money relates to completing the building of the B–1 Bombers No. 5 and No. 6. This money does not relate to research and development for the B–1. The money for continued R & D on the B–1 program has already been appropriated for the 1978 budget, and the added sum of $105 million has been requested for the 1979 budget, which I shall certainly support.

This funding for research, development and testing will retain an option toward the possibility if future production of the B–1 is needed. To quote President Carter on this issue: "Because of the stakes involved, I believe we must insure against the possibility however remote, that we might have to produce a new penetrating bomber. That is why I decided to finish the B–1's development, including the 4th aircraft, which is the last one needed in the flight test program."

The situation is that there is no production money for the B–1 in the 1978 budget because it was not approved for production by the Congress in the 1978 budget. There is no production money requested in the 1979 budget for the B–1 production.

An important point to remember on this funding matter is that an additional $280 million would be needed to complete testing of these 5th and 6th aircraft if they are manufactured. These funds are not now included in any approved budget or the budget request.

I have always supported the B–1 from the beginning, but I will not support spending this $462 million because under the facts now existing I think to spend that sum now would be wasted. However, that point and the reasons therefor are far better covered by a letter that I recently received from General David C. Jones, Chief of Staff of the Air Force, who has been and still is a strong advocate of the B–1 in which he states as follows: "Therefore, in a nutshell, my reservations about building 5 and 6 at such a high cost are that the advantages for the long term are marginal and for the near term, irrelevant. In sum, I do not believe that investing nearly three-quarters of a billion dollars to produce and test two more aircraft is the best use of the country's defense resources, particularly in the absence of a realistic expectation of production. I do not question that, like a terminal patient, the program could temporarily be kept artificially alive. But the slippage and uncertainty in the B–1 program which have resulted from program and funding decisions convince me that the time has come to call a halt to further investment beyond the 4-aircraft test program. I am more concerned with our overall strategic posture than with any single weapon system. So long as the B–1 program remains shrouded in uncertainty, consuming funds without adding to capability and diverting attention from our broader strategic needs, I am convinced that it will be more difficult to focus our collective energies on the many critical issues pertaining to our strategic forces in the days ahead."

I am attaching General Jones' letter for your information and I hope that each Senator will take time to personally read it, as well as this letter. Thank you for your time.

Warmly and sincerely,

JOHN C. STENNIS,
Chairman.

WASHINGTON, D.C.,
January 27, 1978.

Hon. JOHN C. STENNIS,
Chairman, Armed Services Committee,
U.S. Senate.

DEAR MR. CHAIRMAN: With reference to your request for my views on the current status of the B–1 program and specifically my recommendation on the rescission of FY 77 B–1 funding, I have devoted a great deal of thought to these questions since the President's decision not to produce the B–1. A major factor in my deliberations has been the trends in the respective U.S. and U.S.S.R. strategic capabilities, so my response must be framed in the context of my concerns in that regard.

As you know, for the past several years, the Soviets have been embarked upon an extensive modernization of their strategic forces. All discussion on intentions and shares of the budget aside, the undeniable fact remains that the U.S.S.R. is rapidly increasing, in both absolute and relative terms, the destructive power of all components of its nuclear arsenal, MIRV'd and non-MIRV'd. In my judgment, the responsible approach is neither to ignore nor to overreact to this growth.

In the interests of preserving a stable superpower relationship, the U.S. policy, which the Air Force has strongly supported, has been to attempt to restrain the pace and direction of Soviet expansion. This policy must be pursued through an interconnected process of negotiations and programs: on the one hand, the on-going SALT negotiations, and on the other, an adequate modernization of our own forces to maintain equivalence. The jury is still out on the question of how successful the current approach will be, but in all candor, I am concerned by the continuing momentum of Soviet strategic programs.

Thus, while I continue to believe in the efficacy of negotiations, I also believe our security interests will be best served by continuing to modernize our strategic forces, including the manned bomber leg of the Triad. Moreover, because of the unique contribution which the manned penetrator makes to our overall strategic posture, I believe this country will need such a capability for as far into the future as I can see.

As you are well aware, the Air Force recommended procurement of the B–1 to fill this need and we were obviously disappointed by the President's decision to terminate production. However, the decision to continue with the research and development did keep open an option for future production.

In my view, this issue of open options is central to the question of whether to proceed with aircraft 5 and 6. I have given serious thought to the matter and have discussed it at some length with the senior commanders concerned. It is our collective judgment, as well as my personal view, that going ahead with 5 and 6 is not the best way to meet the growing threat. Since I know that many thoughtful members of Congress have reasoned to an opposite conclusion from a similar view of the strategic balance and that some who agree with my conclusion do so for different reasons, some elaboration of my rationale might be appropriate.

First, I grant that keeping the production team and work force intact for a period of time is not without certain advantages. In the next breath, however, I must question whether the possible gains are worth the certain cost.

For example, just to manufacture 5 and 6 would cost at least the full amount of the proposed rescission, $462M. But unless we were to simply build and store the aircraft (certainly not intended), the estimate would go up by another $280M for OT&E funds to fly and test them.

The R&D gains from this additional investment in 5 and 6 would be nominal compared to what would be available from continued effort with 1 through 4. Likewise, regarding the option for future production, building 5 and 6 would make only marginal difference for the date for Initial Operational Capability (IOC). Assuming a 4-aircraft baseline, it would take approximately seven years to reach IOC after funds were provided; with 5 and 6 we could advance this date only a few months.

As a practical matter, since there are no B–1 procurement funds in the FY 78 appropriations or in the FY 79 budget, even an early reversal of the production decision would delay IOC until the mid to late 1980's. I believe that circumstances likely to trigger a sudden decision on production of the B–1 would spring from a world situation in which the increased capability would be required before the B–1 could become operational.

Therefore, in a nutshell, my reservations about building 5 and 6 at such a high cost are that the advantages for the long term are marginal and for the near term, irrelevant.

In sum, I do not believe that investing nearly three-quarters of a billion dollars to produce and test two more aircraft is the best use of the country's defense resources, particularly in the absence of a realistic expectation of production. I do not question that, like a terminal patient, the program could temporarily be kept artificially alive. But the slippage and uncertainty in the B–1 program which have resulted from program and funding decisions convince me that the time has come to call a halt to further investment beyond the 4-aircraft test program.

I am more concerned with our overall strategic posture than with any single weapon system. So long as the B–1 program remains shrouded in uncertainty, consuming funds without adding to capability and diverting attention from our broader strategic needs, I am convinced that it will be more difficult to focus our collective energies on the many critical issues pertaining to our strategic forces in the days ahead.

Sincerely,

DAVID C. JONES,
General, USAF, Chief of Staff.

Mr. STENNIS. Mr. President, I yield the floor for the time being.

Mr. YOUNG addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. YOUNG. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Suzan Pitts and Allyn Kreps, of my staff, be accorded the privilege of the floor throughout the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I thank the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. YOUNG. Mr. President, I yield myself such time as I may take.

Mr. President, I am real pleased that the Senator from Mississippi has succeeded our late beloved Senator from Arkansas, Mr. McClellan, as chairman of the Defense Appropriations Subcommittee.

The Senator from Mississippi is one of the best, if not the best, informed Members of the Senate on defense matters. He has a long experience in this area. This, coupled with his knowledge and good judgment makes him an ideal chairman and one I will enjoy working with.

Mr. President, there have been few times in the past when my position on weapons systems has been different from that of my friend from Mississippi. Even our differences now on the B–1 are rather minor. The vote today on whether we

continue the development of the B–1 bomber or discontinue it, I believe, is largely a money matter.

If we could purchase the B–1 bomber for $5 or $10 million a copy, probably as many as 75 Members of the Senate would be willing to buy 200 or more.

Mr. President, the price of this weapon is symbolic of our present and future defense costs and it raises a question of whether in the future our people will be willing to sacrifice on other programs and expenditures to the extent necessary to keep us from becoming a second-rate power to Russia.

It is a case where the Soviet Government under their system may have some advantages. Under their system they can spend all the money they want for any weapons system and apparently are continuing to do so. What I fear most concerning the future security of this Nation is —will we be able to maintain the necessary expenditures to remain as powerful as we are today?

I do not pretend to be any expert on military matters. There may be other alternatives to the B–1 which would provide adequate defense for the United States. From my own studies and knowledge, I cannot help but feel, however, that we should proceed with these two additional B–1 bombers, especially when we have already spent more than $4 billion on the B–1 program.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA addressed the Chair.

Mr. YOUNG. Mr. President, how much time does the Senator desire?

Mr. HAYAKAWA. About, I should say, 15 minutes.

Mr. YOUNG. I yield 15 minutes to the Senator.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, will the Senator from California yield for one moment?

Mr. HAYAKAWA. I yield.

Mr. CRANSTON. Mr. President, could I suggest the absence of a quorum just to have a chance to talk with my colleague for about 1 minute?

Mr. HAYAKAWA. Yes.

Mr. CRANSTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. CRANSTON. Split evenly?

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. No, Mr. President. But I think we better not have a quorum call unless there is some special reascn.

Mr. CRANSTON. I just wish to talk with my colleague for 1 minute. That is all. I do not care how the time is charged. Charge it to the time of those who are in favor of the B–1.

Mr. STENNIS. I do not object to 1 minute. But I will not agree to a whole lot of time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, as you know, the House agreed last month to the conference report on H.R. 9375, making supplemental appropriations for fiscal year 1978. The House insisted, however, on its disagreement to the Senate amendment No. 43, which would deappropriate fiscal year 1977 B–1 bomber funds for airplane Nos. 5 and 6. I wholeheartedly support the House in its position on this matter and I, therefore, move that the Senate recede from its amendment No. 43 to H.R. 9375.

When the President canceled the B–1 program, he also stated that the B–1 would remain as an option for the next few years. The issue of aircrafts 5 and 6 is not a decision on production of the B–1, but instead a decision whether or not to maintain an economically feasible production option well into 1980, for a relatively small increment of dollars (previously appropriated). We cannot have the option of the B–1 without building airplanes 5 and 6. The building of planes 5 and 6 will retain the production capability of the B–1 manufacturing team, sustain a balanced work force at hundreds of facilities throughout the United States, and provide us with a production option into the 1980's when we will know the outcome of the SALT II negotiations.

We must realize that termination of the B–1 program, through the elimination of these two planes, will preclude full-scale production, should it be required, for 5 years or more.

Besides keeping our options open, planes 5 and 6 would be of invaluable service for experimentation and testing on structural tests, weapons integration, performance under a wide range of flight conditions, development of cruise missile launch technology, and continuation of other B–1 high technology which could be used for other purposes. The President has stated his desire to complete the research and development program on the B–1. The information to be obtained from this program is very important to the development of many future U.S. military aircraft. Failure to construct 5 and 6 will mean the B–1 research and development cannot be completed.

Aircraft 1 through 4 are structurally inferior to aircraft 5 and 6. Aircraft 5 and 6 will be the first B–1's to use modern composite structural materials for their horizontal stabilizers, bomb bays, and other essential parts of the aircraft. The use of new, lightweight materials needs to be proven by flight testing on the B–1 before they can be incorporated into future military aircraft. One of the most important research and developmental tests remaining to be conducted on the B–1 will evaluate the aircraft's ability to withstand high intensity bursts of radio wave-like electromagnetic energy that are produced over vast areas by high altitude nuclear explosions. B–1 4 has never been protected against this effect. It is quite different electrically from aircraft 5 and 6.

In view of proposed SALT II limitations on cruise missile range and current test failures of the cruise missile, I think it would be foolhardy of us not to build planes 5 and 6, which would give us the option to go ahead with the production of an advanced penetrating bomber if we feel the need. At this point, let me say that I thoroughly support production of the cruise missile and feel that it is capable of being a very effective weapons system. It is, however, still in the development stage, and, as with all early stages of weapon development, it has problems that need to be ironed out.

In the meantime, I think we still have a need for a manned, penetrating bomber. And even in the future, I think it will be important to maintain a mixed force of manned bombers and cruise missiles.

Testimony before the House Appropriations Committee revealed that a 1,500-mile cruise missile limitation would prohibit the air-launched version from reaching the deep inland targets in the Soviet Union. Cruise missiles launched from aircraft 300 miles off the Soviet coast will not even reach the deep targets and we will never get as close as 300 miles. Future improvements in Soviet air defenses will further drastically reduce the target coverage. Therefore, it is clear that we are going to need a penetrating bomber to deliver the cruise missile to within its target range. The B–1 bomber, with its small radar signature, good electronic countermeasures, and high-speed dash capability, could penetrate such a barrier with a 10-percent or less attrition.

B–1 aircraft Nos. 5 and 6 can be completed for approximately $965 million vis-a-vis an estimated cost of $745 million if they are terminated. Completion of these two aircraft will sustain a balanced work force at hundreds of facilities throughout the United States and provide a meaningful option for production into the year 1980. I find it hard to believe that some Members of this distinguished body favor terminating planes five and six at the ungodly cost of $745 million when, for only $220 million more, the United States could have two complete B–1 bombers which are vital to the completion of research and development.

As my colleagues may recall, an article appeared in the New York Times last month which quoted John W. R. Taylor, editor of Jane's All The World's Aircraft, as saying that Soviet leaders "must be surprised beyond belief that the U.S. President has disposed of the B–1 without asking any Soviet concession in return. If our planet is subjected one day to the unimaginable horrors of a Third World War, 1977 might be recorded as the year in which the seeds of defeat for the Western powers were sown."

In addition to this, Mr. Taylor recently wrote a letter to House Armed Services Committee Chairman, MELVIN PRICE, re-

garding the House hearings on U.S. strategic posture. Mr. Taylor enclosed with his letter a statement for the committee giving his authoritative opinion on the B–1 and the alternatives being discussed. A copy of his letter and statement are on your desk, and I kindly ask that you take the time to read them.

In summary, $3.6 billion has been put into the B–1 bomber program. Can we not see fit for a relatively small amount more dollars to build planes five and six so that we have an option available to us if we should discover that a manned penetrating bomber is vital to the security of the United States? If this Congress errs, let it err on the side of safety.

Mr. President, I ask unanimous consent that Mr. Taylor's letter together with his statement be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Chairman MELVIN PRICE,
House Armed Services Committee, U.S. Congress, Washington, D.C.

DEAR SIR: I understand that the House is about to begin hearings on the strategic position of the United States—a subject which is of the very greatest importance to everyone desirous of maintaining world peace.

Clearly, no non-American has the right to interfere in such procedings. However, I thought it might be helpful for the members of your Committee to know how many people in Europe feel about the current debate concerning the future of the B–1 bomber programme.

I am, therefore, taking the liberty of enclosing a short statement of my views on the B–1, and alternatives. If you consider such a course admissible, I should be grateful if you would enter this statement as evidence for your discussions. Be assured that its sole purpose is the maintenance of peace throughout the world, and in no way is it intended as a criticism of decisions already taken by your Administration. As a Christian, with friends in almost every country in the world through my association with JANES' ALL THE WORLD'S AIRCRAFT, for more than 20 years, I wish only to see a true balance of power maintained between East and West. This must eventually lead to that stability, peace and friendship which we all desire so strongly, and which is worth any price to attain, to ensure the safe and happy future of our children and grandchildren.

Our thoughts and prayers will be with you as you debate these vital issues.

Yours sincerely,

JOHN W. R. TAYLOR.

JANE'S YEARBOOKS—B–1: THE ALTERNATIVES

President Carter's decision to cancel production of the B–1 bomber, and to put increased emphasis on cruise missiles, was hailed by some people as a decision in favour of the less costly of two equally effective weapon systems. This is a fallacy. In its long-range strategic form, the cruise missile must be launched from a carrier aircraft; the B–1 was intended to be that aircraft.

The SALT protocol negotiated subsequently by the U.S. and USSR restricts the range of the air-launched cruise missile to 2,500 km (1,350 nautical miles). This limitation enables the Soviet Union to predict the few areas from which it would be viable to launch the missile against specific targets inside its borders, and to concentrate its defences accordingly.

At the present time, the Soviet domestic air defence force is reckoned (by DoD) to have 2,540 piloted interceptor fighters, 12,000 surface-to-air missiles on 10,000 launchers, and 6,500 surveillance radars. The inteceptors include MiG–25s (Foxbat-As), the fastest combat airiraft deployed by any air force in the world. This defence system—battle tested in miniature in Vietnam and the Middle East—would not only have to be approached by the cruise missile launch aircraft, but would have to be penetrated by the missiles themselves. Yet published comments by U.S. officials suggest that, in their present forms, cruise missiles fly at subsonic speed, lack effective ECM, are incapable of taking evasive action, and are intended primarily for use against undefended targets. Where are such targets in the USSR? Are not the alternative attack methods inherent in the B–1 (e.g., with SRAMs and free-fall weapons) a valuable insurance against future shortcomings of the cruise missile in an operational environment?

Four possible vehicles for the air-launched cruise missile have been discussed:

1. An uprated B–52. The B–52 has been a superb aircraft but, as a design, is now more than 20 years old. Who drives a 20-year-old automobile as his work vehicle? The B–52 was designed to drop free-fall nuclear weapons from a great height. In no way can its well-used airframe be expected to go on flying through turbulence at very low altitude (the optimum launch height for a missile attack) for another 20 years.

2. The FB–111H. This projected 15-foot stretch of an existing FB–111A airframe would be refitted with two of the engines developed for the B–1. The suggested force of 65 FB–111Hs would cost at least $3.3 billion, for which SAC would gain not one additional airplane in its inventory. Nor could the FB–111H ever be a B–1. There is not even proof that it would work.

3. The B.747/DC–10 carrier. The simple answer to whether conversions of a commercial wide-body transport would prove viable is to ask any SAC crew if they would relish flying such an aircraft—with its huge radar signature—towards skies patrolled by Foxbats, in order to launch their missiles. This is the still-costly solution proffered by a computer, incapable of thinking like a man.

4. The B–1. Designed for the task, and capable of penetrating any known defence system. Much of the development cost has already been committed, with outstanding flight test results. There is little doubt of how much the Soviet Air Force would welcome such an airplane in place of its own formidable Tu–26 (Backfire) supersonic swing-wing bomber, of which there are already more than 100 in its growing force. Nor should the potential maritime role of the B–1 be overlooked in view of the great size and efficiency of Soviet sea power. The B–1 is large enough to carry every type of air-launched weapon now existing or likely to be developed into the 21st Century.

In conclusion, it should be borne in mind that when the Royal Air Force lost the TSR.2 bomber, of which a prototype was flown successfully in the mid-sixties, it lost all future claim to the strategic capability that had been the heart of its tradition since World War I. Soviet ICBM development threatens to eliminate 90% of the US Minuteman force in any first strike. It may not be long before the locations of every missile-launching submarine are permanently pinpointed. Unless the USAF has an airplane in the class of the B–1 (and it is unique in its class) America may lose the third and last component of its strategic Triad. Only the balance of power represented in the West by Triad has kept the world free from the unimaginable horrors of a nuclear war for more than thirty years. Before condemning the B–1 as too costly, it is essential to answer the question. "How much is it worth to stay alive?" Only then do we appreciate what might be the ultimate alternative to the B–1.

Mr. STENNIS. Mr. President, I yield such time to the Senator from West Virginia as he may desire, please, and may we have quiet in the Senate?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. YOUNG. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. Of course.

Mr. YOUNG. Mr. President, I ask unanimous consent that Michael Shorr of Senator JAVITS' staff be granted the privileges of the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Senate's previous position on the B–1 bomber is a sound position and it should be maintained. There is no reason, no reason whatsoever, why the Senate should modify its position, and I support the chairman of the Appropriations Subcommittee, Mr. STENNIS, in disagreeing with the action taken by the House.

The funds in question are unexpended appropriations from fiscal year 1977. President Carter requested the rescission of these funds following his decision announced on June 30, 1977, that we should not proceed with production and deployment of the B–1.

I strongly supported the President's action on the B–1 and do not believe there is any justification for allowing further money to be spent for B–1 production. That is $3.70 for every minute since Jesus Christ was born. That ain't chicken feed; $3.70 for every minute since Jesus Christ was born has already been spent on the B–1, and now it is proposed with House approval, to spend another 46 cents for every minute since Jesus Christ was born—another 46 cents on the production of two aircraft which are not needed.

The $462 million involved in this recission would have been for production of the fifth and sixth B–1 aircraft. Three B–1 test aircraft are already flying and a fourth is close to completion. Four planes would certainly appear to be adequate for research and development purposes and to keep the technology alive and progressive.

We should not overlook the fact that the fiscal year 1978 appropriations bill, already approved, contains $442.5 million for B–1 research and development. We are maintaining the R. & D. But the funds involved in the rescission—the funds we are talking about here today—would be for production, and further expenditure for that purpose is simply not warranted. In no way can it be justified.

Mr. President, there are much wiser and more effective uses of the taxpayers' money. We have already spent more than $3.7 billion on the B–1.

We are talking about planes that would have cost more than $100 million apiece. And, in this case, we would be getting two planes for $462 million.

If we continue to allocate funds for the B–1, vast amounts will be diverted from other vital military needs as well

as from much-needed domestic programs.

In recent months Congress has taken action to expedite work on Cruise missiles. We have provided funds for Cruise missile carriers and for modernizing our B–52 fleet. The accelerated emphasis on the Cruise missile is reflected in President Carter's budget proposal for fiscal year 1979. The administration is requesting $416.1 million for the air-launched Cruise missile in fiscal year 1979. We would be continuing development and procurement of Cruise missiles for deployment on B–52's, plus exploring the possibility of using other aircraft as Cruise missile carriers. In addition, we would not be ending our research and testing on the B–1 under the administration's budget proposal, which requests $105.5 million for that purpose—which is 10.5 cents by the way, for every minute since Jesus Christ was born.

Considerable attention has been given to comments on the Cruise missile in the preface to a recent edition of Jane's All the World's Aircraft. Jane's, which is published in Britain, is recognized as an authoritative source of information, but not necessarily of analysis. In this case, I do not believe the editor's comments on the Cruise missile are justified.

It should be remembered that the Cruise missile was conceived as a global weapon long before the B–1 cancellation decision. Studies do not support claims that Cruise missiles would be incapable of penetrating the Soviet Union air defense system. Moreover, considerable latitude exists in Cruise missile design in order to improve survivability of the missile.

There is strong evidence that the cruise missile can be a highly effective element of our overall strategic capability. I strongly support the cruise missile. We have moved wisely in turning away from the B–1. Not only is it extremely costly, but there are serious questions about its potential effectiveness and possible vulnerability. We are proceeding with more credible and cost-effective systems, although continuing, as we should, the research and development on the B–1.

Mr. President, there is no need for further expenditure on B–1 production. I support the Senator from Mississippi, and I urge that the Senate support its manager and stand by its previous position.

I thank the Senator for yielding.

Mr. STENNIS. Mr. President, I thank the Senator from West Virginia very much for his wise counsel and his speech.

Mr. President, I would like to yield now to the Senator from Iowa (Mr. CULVER). I yield him 15 minutes, and more time if he needs it later.

The PRESIDING OFFICER (Mr. ABOUREZK). The Senator from Iowa is recognized.

Mr. CULVER. Mr. President, I must say at the outset that standing here today under these circumstances gives me a very unreal feeling. I feel a little bit like Alice in Wonderland, or that this is the Twilight Zone, or "please pinch me and bring me back to the real world."

Mr. President, it has been almost 2 years now since the Senate said to the President of the United States, "You decide what we should do about the B–1 bomber." That was in May 1976; and, in President Ford's fiscal year 1977 budget, funds were provided to begin production of aircraft Nos. 5, 6, and 7 for $1.16 billion.

Mr. President, there has been a great deal of controversy about the B–1 bomber as a weapons system. Why? Because in 1970, when I served in the House of Representatives, I looked at this program and I remember that that bomber was then, in 1970, estimated to cost about $40 million per plane.

What happened? From 1970 until the time the Senate made its decision in May of 1976, the estimated cost of that aircraft, per copy, continually increased.

Increased? It would curl your hair. It went from $40 million to an estimated $117 million per plane, and going up.

The proposal was to buy 244 of those "bargain basement" planes for about $30 billion. And, if you add the out-year operation, maintenance, and support, there is not enough room on the paper to estimate the billions and billions of dollars. Eighty billion dollars, $90 billion—you name it, and your guess is as good as anybody's.

Now, when the Senate looked at this plane, Senators said, "You know, it is a beautiful plane. It ought to be able to carry out its mission. It should be able to fly." Could you expect anything less at $117 million a copy, that it flies? That it can carry out its mission?

But the Senate, in May of 1976, said, "We don't think it is wise to buy it before we finish test flying it." Congress was being asked to make a production decision before research, development, and testing evaluation was completed.

Congress said, "Look, we have been down that road. We have gone that route." Did anybody ever hear of the C–5A?

And we said, "We are really not sure of much on this. We are scared to death of the cost. If it is essential to our national security interest"—and this is the key—"if it is essential to our national security interest, we should buy it. And money should not be a consideration."

If it is crucial to the survival and the national security interest of this Nation, I would be the first one here on the floor fighting for it.

I am for a strong defense. But I am not for wasting money. I am for a powerful nation, but I do not like to vote stupidly. I want those resources to be applied in a way that we get a bang for our buck, so that we are really combat ready.

Now, the Senate said, and the full Congress ultimately said, "Mr. President, whoever you will be"—we did not know who was going to win the election in November. All we knew was that it made no sense to buy a pig in a poke at that price without knowing what we were doing.

We said, "With those budgetary implications for the next President and for the next President and the next President and the next President"—we owed it to him as well as ourselves to say—"you take a look, and you can take a look in January of 1977. After you are sworn in to uphold the Constitution, and defend America, you look at all the facts. And by then, Mr. President, whoever you are, we will have completed testing, research, and development in the fall of 1976, about the time you are getting elected. We will have all that information available to us, and you can look at all those data. You can talk to your Secretary of Defense. You can review the international environment that exists at that time. You can look at SALT. You can make a review of our strategic posture, of our defense needs and your own budget. And we want you, Mr. President, to make this decision in appropriate consultation with all your top military advisers, including the Secretary of Defense,"—who, incidentally, turned out to be a former Secretary of the U.S. Air Force, from California, Harold Brown.

Now, the President, you remember, started to waffle a little about this B–1. There was talk about campaign promises and whether he was going to do this or do that. But the President, much to his credit, as a former naval officer, Annapolis graduate, engineer—engineer—cost-effective man—said to Harold Brown, "Harold, what do you think? We had better study this thing really hard. You were 22 years old when you got your Ph. D. as a nuclear physicist and you taught at Columbia University and you were a SALT adviser and you were head of CalTech, and you were former Air Force Secretary, and you are smart as the devil. You know the politics, you know the merits, you know the Russians, you know the Americans. What do you think?"

Well, Harold Brown thought, thought, thought. He started out being for the B–1.

I remember a few years ago, when I wrote some letters to people, Maxwell Taylor wrote back and said, "Don't build it. Waste of money."

Harold Brown wrote me and said, "I am not so sure. I am still inclined to go that way."

That was back in 1976.

But he studied it. He studied it very hard. He came in, he had all the test data, and he said, "You know, Mr. President, it is a tough call for me, but I am convinced. We have made so much progress on the research and development of cruise missile technology since I was the Air Force Secretary, I really think we have a cost-effective winner with the cruise missile. It only costs less than a million dollars apiece. It is very small, so you can barely see it on a radar crosshair; it flies like the devil; very accurate. You can just flood Soviet air defenses."

The real concern we have, of course, and the justification for even building the B–1, is the pace of Soviet air defense capability. Will they get a lookdown, shootdown radar in 10 years, which will permit them to stop the B–52 penetration? That is the question. That is the issue. Right now, they do not have that capability and we do not have any rea-

son to believe that they will get that capability for another 10 years at the earliest, the most conservative estimates.

What does that mean? That means that the B–52—modernized G's and H's, can carry out this mission competently. That is official Air Force testimony.

We hear all this bunk about how old and decrepit and aged they are. Well, then, one should ask that same Senator why he voted for $5 billion in the last few years to modernize them, why he did that, why he wasted money on it to put electronic countermeasures on them, to harden them up, to improve their firepower, accuracy, radar, computers and so forth. Why did he do it?

Listen, if you have at least a little confidence in official Air Force testimony: They say that the B–52's are structurally sound, structurally sound into the 1990's, and mission capable without question into the late 1980's. The only thing we question is, after the late 1980's, is whether the Soviet air defense is going to be such that they have a look-down, shootdown capability and can keep the B–52 out.

Harold Brown said, "You know, if they do develop that capability by the late 1980's, is it not possible that the B–1—which has a smaller silhouette than the B–52, which can fly a little lower—not much—a little faster—is it not very likely that when they develop that, they can also keep the B–1 out?"

He said, "Does it make sense to bet $30 billion on the B–1 bomber, on the hope that when the Soviets get this technology breakthrough on air defense, suddenly, they will have a system that will catch the B–52 and yet leave open a magic window that lets the B–1 in?"

No. Harold Brown is too smart to buy that one. That is a bad bet.

He suggested, let us go another way. Let us go with cruise missiles, put them on the B–52. Let us take a good look at the 747 as a stand-off bomber. Let us make some cost estimates as to which system is cheaper and best—both. Cheaper than the B–1 and far better, because it complicates Soviet air defense and gives us greater and higher degree of confidence that no matter what the Soviets do in their labs, we can more than cope, we can confidently defeat it, and we did it.

The President made a very courageous decision.

Do you know something? It was the first time in the history of this Nation, and it was on the occasion of the most costly and controversial weapons system in the country's history that a President of the United States stopped a major program on his initiative. The first time. And what did that mean?

It meant that we, once again, had these decisions on our national security being made—by whom? Being made by the democratically constituted authorities of our national political life.

These decisions were not going to be made by the arms manufacturers.

Do you remember Eisenhower? Do you remember his great speech of January 17?

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. STENNIS. I yield 5 more minutes to the Senator.

Mr. CULVER. Do you remember that speech, January 17, 1961, by Dwight Eisenhower, the day he left office?

He said, "Beware. Beware."

One of our greatest generals in the history of this Republic.

"Beware of the military-industrial complex. It is a threat to our democratic system."

He was not a babe in the woods about matters military.

What did he mean? Because for the first time in our national life we were going to be manufacturing weapons in peacetime because of the cold war, he argued, be careful that these interests do not get hold on and control your Government and take it away from your people and take it away from your elected representatives.

Now, why are we here? We are here today for one of two reasons. The first one has to do with those people that were in the minority when we voted numerous times on this before—one time the vote was 79 to 0 to take out money from the 1978 fiscal year budget.

Now we are dealing with fiscal year 1977, if we can believe it.

We are here for one of two reasons. Those in the minority want to refight the issue on the merits, having lost, and I do not think that is a useful way to spend our time on every issue.

Or secondly, they are here because of the tremendous economic pressure in their districts and in their States, because of jobs, money profits for the arms industry, and for all those subcontractors that are carefully put in every congressional district where there is a key vote.

Now, I know something about this pressure. Collins Radio Co. in my hometown is owned by Rockwell International. They employ 13,000 or 14,000 people and they had a significant contract on the B–1. I have been hearing for years from labor and management, and many of them do not like my position on the B–1.

But I believe that as long as I am elected to sit here, and I serve on the Senate Armed Services Committee and I consider this issue, I have to consider it as not just what may be good for them, but what is good for this country, and what makes a strong defense.

The arms industry will build anything. They should be told on a competitive bid basis what we need, and then they should build it, and we should buy only what we need and we should get what we pay for.

The national defense budget should not be a public works bill—jobs. I am concerned about jobs. I am concerned about people's human dignity and their self-respect and I want Government to help them in appropriate ways to have gainful employment opportunities—proper ways.

Right now, we are talking here about giving back, deappropriating as the chairman mentioned, $462 million.

We have to add $280 million to that for research and development testing, according to the Air Force, or those two planes are not any good to us.

So if we add that up we are talking about $742 million.

We are talking now about buying two more planes. The official Air Force testimony is that they cannot get anything of real importance out of the two additional ones, and we are talking about spending now not $117 million for one of these planes, but $720 million for a plane we do not need and we have not even decided to go to production.

If you do not think that is madness, show me a new definition.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. CULVER. Just one last minute.

Mr. STENNIS. I have some additional time for the Senator.

Mr. CULVER. Three minutes?

Mr. STENNIS. All right.

Mr. CULVER. I thank the Senator.

The Air Force says that if we go to these Nos. 5 and 6, we will employ about 11,000 more people. They have about 800 people now working on the B–1. Divide 11,000 into $1.16 billion, and you get about $100,000 a job.

That is not a sensible public works project. There are better alternatives to create jobs.

The $462 million now under consideration would provide over 100,000 CETA jobs, or 500,000 summer jobs for disadvantaged youth.

It is troubling to me that there should be so much interest in wasting these funds for the B–1 bomber when there are so many worthwhile domestic programs which do not even come close to the amount we hope to save by this deappropriation.

For example: Our meals on wheels program costs only $250 million per year. Our home winterization program for low-income elderly people gets $120 million per year.

Or consider the comparatively small sums which go for juvenile delinquency programs—about $100 million per year. The budget for runaway youth is $12 million per year. Child abuse programs get $19 million.

Our current bridge repair budget is only $180 million per year. More is needed.

Federal soil conservation efforts should take $432 million in fiscal year 1979.

Compare those figures with the enormous cost per B–1 job. The fact of the matter is that the defense budget is no place to go around stimulating jobs. Most of it is white collar. It is not in areas of chronic unemployment. It is not targeted and it is not cost efficient.

If there are ways we want to stimulate the economy, and create jobs, we can get into the environment and things that are labor intensive, education, health, and transportation.

The Air Force said just yesterday, that each of those B–1 jobs will come out about $4,150 a month, $50,000 a year for each job. Some of them are 3-year jobs.

Can you believe it? On that basis.

So finally, Mr. President, let me just say that I am continually amazed by

those people who come to this floor and talk about budget constraint, talk about cost effectiveness, and scrutiny in our domestic budget, talk about wasting money on social programs—not recognizing that our national security is best assured with a strong economy, and with the improving welfare of our people, and a strong national defense—and turn around and prepare now to spend $720 million for two each, for two additional planes. I cannot see how they with a straight face can say that they are for cost effective defense or are responsible about the budget—under all this enormous avalanche of official figures and judgments.

Mr. President, I think the evidence is overwhelming that our national security is going to be strengthened, not weakened, by not going ahead with the B–1. We have less costly, better alternatives to carry out the same mission; and certainly this Nation, given our current social and economic problems, can more wisely apply these precious resources in a way that more genuinely contributes to the national strength and security of us all.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. YOUNG. I yield to the Senator.

Mr. GARN. I will take about 15 minutes.

Mr. President, I finally agree on an issue with my distinguished colleague, Senator CULVER, that this question is getting a little old. That is the first thing we have agreed upon in this issue in 2 years, because he and I have been debating it not only here but on "Meet the Press" and other places. So we pretty much know what the other is going to say. Although we may be a little loud and a little strong in our opinions, it might be a surprise to some people that JOHN and I are very good friends personally, despite our differences of opinion. Nevertheless, we do have a very strong difference of opinion in this particular issue.

We have heard the usual rhetoric. Frankly, I cannot stand to go back and rebut each point over and over again. It has been done many times. All we have heard here today, basically, is the same old thing, that it is the issue of two airplanes. If it were that narrow an issue, I would not be for it. I do not happen to be from a State that has anything to do with the B–1—that I am aware of. It does not mean any jobs in my State. The Minuteman III did, and I confessed that on the floor when I talked about it. But I am not aware that the B–1 means 1 cent to my State. If it does, I would be surprised.

I am here talking about national defense. Airplanes Nos. 5 and 6 are rather unimportant so far as two more aircraft are concerned. Six B–1's are not an effective bomber force. I recognize that. So the issue is much larger and much broader—much broader than just those two airplanes. It is the whole strategic deterrence and defense of this country that is at stake. The B–1 decision by itself may not have been that serious, had we not had an administration that is gutting the strategic deterrent of this country, by dismantling the triad.

Last spring, the President came out with some very strong strategic arms limitation talks proposals, and I thought, "Hey, this is great. I didn't vote for this man, but he's going to be tough on defense. He had some military background. Maybe he learned something at the military academy." He told the Soviets at SALT talks, "This is what we are going to propose, and if you don't like it"—paraphrasing him—"we're going to have to increase the defense budget. We may have to make some other considerations."

I applauded that statement. Then, less than 2 months later, he unilaterally canceled the B–1. If for no other reason, would it not have made some logical sense before we gave up the B–1 to say to the Soviets in the SALT talks, "You give up your Backfire bomber"? I am not going to take the time to go into the capabilities of the Backfire bomber, but it is being produced at a rapid rate and it does have the capability of the B–1. It does have the capability of hitting 80 percent of the population of the United States, without refueling in the air. I know a little about air refueling, too. I was an air refueling pilot for 4 years. Let us not kid ourselves. The Backfire can land in Cuba. Castro would be glad to have them land there.

But no, we did not ask them. The President came out sounding tough, but backed off his proposals immediately. He did not consult the Arms Control Subcommittee on Armed Services for 5 months. Senator JACKSON and I and others were concerned about that.

He said that instead of having the B–1, we were going to give it up unilaterally and were going to replace it with the cruise missile. Again, we are comparing oranges and apples. You need the B–1 to carry the cruise missile. You need to get it there, far enough in, to penetrate, to do some damage.

But that was not bad enough. Then he backs off the SALT proposals to the extent where we have offered cruise missile range limitations that make the sea-launched missile and the ground-launched cruise missile militarily ineffective. We have given them away.

They are effective 350 nautical miles from a Soviet submarine, which can hit 50 percent of our country—the east coast, the west coast, the gulf coast—and we cannot hit anything in the Soviet Union. They do not have water around them, as we do.

We cannot share technology on ground-launched missiles with our NATO allies, so where are we going to launch the cruise missile from? We agreed to give it away in SALT.

So the issue here is not just two aircraft. It is keeping credibility. It is keeping that production line open, with some threat to the Soviets, until some of those other decisions are made. That is what I am fighting about. To me, from the State of Utah, two more aircraft do not mean a darn thing. From that narrow context, I agree with Senator CULVER that it is a waste of money for just two aircraft. But it is not a waste of money to keep that option open. It is not a waste of money to keep that production line open.

This President also canceled Minuteman III, so we have no ongoing missile program. We have delayed research and development, slipped another year on MX; so there are two legs of the Triad he is cutting off.

Let us talk about the third one, the Trident submarine missile. Let us talk about the difficulties and the delays there. Let us talk about the 1979 military budget, which is another sham and a hoax. It sounds pretty good, but the American people should start realizing that in terms of percentage of the gross national product, in terms of the total budget, we have a lower military budget the last couple of years than any year since 1950, the year before the Korean war started. Let us put a little inflation factor, caused by this irresponsible, spending Congress, into the cost of military programs.

What is happening primarily in this budget? Yes, it is up a little—a little less than 2 percent, in real terms, for 1979. Thank goodness he did not cut it more. But where is it primarily to be cut in budgetary systems?

I agree with the President on building up NATO. Even that is a little gimmicky. Where are we getting the troops to send over there? We are taking out of the training command in this country 10,000 in the Army, and we are shortening the training cycle, so they have to be trained in combat techniques in the forward areas. Nevertheless, I am glad we are increasing the readiness in Europe.

But what happened in the Air Force? There was a cut of about $1 billion in R. & D. We are eating our own seed corn.

That budget is not bad for this year or next year, but I am scared to death of the relative difference between the Soviet Union and the United States of America in the period of about 1981 to 1988. We had better start looking at military budgets down the road, instead of this year, and we had better start looking at the B–1 in terms of the total context of the Triad and strategic defense and not at the narrow issue of just two aircraft. That is what I am up here fighting about.

I cannot really disagree with my distinguished colleagues about a couple of airplanes. We do not really need a couple more to test, but it is critical that that production line should remain open. We need a President who will look beyond 1980, when he faces reelection.

There is another issue here that needs to be brought up, too, and that is this President's credibility—the difference between what he says and what he thinks.

Specifically, I am talking about the Impoundment Control Act, which Congress passed a long time before I came to the Senate, because Mr. Nixon would not spend money appropriated by Congress. Congress did not like that, and rightfully so, so they passed an Impoundment Control Act, so that Presidents would be compelled to spend money appropri-

ated by Congress, as a separate branch of Government, and to recover some of the power of Congress from the so-called imperial Presidency.

We had Richard Nixon on with David Frost saying a President could be above the law, and we had President Carter who the next day in the paper said that is ridiculous, absolutely ridiculous, no President is above the law. And I agree with him. No President should be above the law.

But we have an Impoundment Control Act. I do not even know what this debate is all about. I do not know even why we are still here today, I say to Senator CULVER, because a—

"Rescission bill" means a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 1012, and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress;

And at that point the funds must be obligated. On October 4, 1977, 45 days had transpired since President Carter said, "Rescind the money for planes five and six." Neither House of Congress had acted to rescind, but he has still not obligated those funds.

I have continually written to Elmer Staats of the General Accounting Office, and I have continually gotten wishy-washy answers. I ask unanimous consent to submit for the RECORD at this point the whole correspondence, mine to Staats and to Secretary of Defense Brown, to be printed as part of the RECORD with the wishy-washy answers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Telegram]

Hon. ELMER STAATS,
Comptroller General of the United States, Government Accounting Office, Washington, D.C.

DEAR MR. STAATS: On July 19 the President submitted a special message to the Congress under the provisions of the Impoundment Control Act of 1974 requesting rescission of $463.4 million dollars for the B-1 bomber aircraft program and the Short Range Attack Missile (SRAMS). On Tuesday October 6 the forty-five day waiting period provided for in such Act expired.

As you know, under the terms of the Impoundment Control Act of 1974, the President is obligated by law to resume the expenditure of any funds withheld from obligation during such forty-five day period, unless the Congress, within such period, enacted legislation approving the rescission of the funds.

I request that you promptly monitor the Department of Defense to ensure that they are properly proceeding as required by the Impoundment Control Act. I further ask that you give me a full report on this matter by telephone on Tuesday, October 11, 1977.

Sincerely,

JAKE GARN,
U.S. Senator.

OCTOBER 6, 1977.

Hon. HAROLD BROWN,
Secretary of Defense, The Pentagon, Washington, D.C.

DEAR SECRETARY BROWN: Please be advised that today I requested the Comptroller General of the United States to immediately monitor the obligation of funds for the B-1 bomber and Short Range Attack Missiles (SRAMS).

As you know, under the terms of the Impoundment Control Act of 1974 the forty-five day waiting period authorized by such Act expired on October 6, 1977. Consequently, the President is now obligated by law to resume the expenditure of funds for this vital defense program.

Sincerely,

JAKE GARN,
U.S. Senator.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C. October 12, 1977.

In reply refer to: B-115398.

Hon. JAKE GARN,
U.S. Senate.

DEAR SENATOR GARN: This is in reply to your telegram of October 7, 1977, in which you asked that we monitor the executive branch's actions and inform you of major developments in the B-1 bomber program. We have been in contact with officials of the Department of Defense (DOD) and representatives of Rockwell International (Rockwell) one of the prime contractors for the B-1 program.

As you know, the Congress did not approve the President's proposal to rescind $462 million in budget authority that was determined to be excess to DOD's needs as a result of the decision to terminate the program. Consequently, this budget authority was required to be made available for obligation on October 5, 1977, by the Impoundment Control Act of 1974, title X of Public Law 93-344, July 12, 1974—the expiration of the 45-day period prescribed for the consideration of rescission proposals under the Act. We have confirmed that the $462 million rejected for rescission was made available by the Office of Management and Budget for obligation on October 5, 1977. We have also determined that the Secretary of Defense has taken steps to utilize this budget authority in the B-1 program. On October 4, 1977, the Secretary, DOD, requested the Department of the Air Force to submit a restructured B-1 program description that includes proceeding with the production of the fiscal year 1977 B-1 bombers. Pursuant to the Secretary's memorandum, the Department of the Air Force transmitted telegrams on October 4, 1977, to concerned departmental activities in order to obtain the material requested by the Secretary.

DISCUSSIONS WITH DOD

On October 6 and 11, 1977, members of this Office met with representatives of the U.S. Air Force in the Office of the Deputy Chief of Staff, Research and Development, Aircraft Division, who informed us that all of the budget authority that was appropriated for the B-1 program has been made available to the Air Force. This amount, $462 million that was proposed, but rejected for rescission and approximately an additional $698 million that was to be used for prior program expenditures and anticipated termination costs.

The DOD officials told us that, because of the earlier termination of the program, about $100 million would be lost as a result of terminating and then having to restart the B-1 program due to Congress' rejection of the rescission proposal. This sum is comprised of approximately $25 million in costs associated with personnel reductions and the later rehiring of such personnel and about $75 million for terminating future B-1 bomber production contracts.

We were told that the cost per aircraft will now probably increase due to having stopped the program. The exact amount of any increase, of course, will have to be the subject of negotiations between the Government and the prime contractors. In this regard, DOD told us that the Department cannot, at this time, afford to build the seventh B-1 aircraft and that termination costs for cancelling this aspect of the program will be roughly $25 million.

The departmental officials told us that if the decision was made to build all of the next three aircraft originally contracted for (numbers, five, six, and seven) that the total cost for the program would increase from about $1.16 billion to approximately $1.4 billion—an increase of $240 million.

Insofar as restarting the program is concerned, we were told that a delay can be expected in the delivery of aircrafts five and six. Aircraft five was originally scheduled for delivery in August of 1979. Even assuming contract activities can resume promptly, DOD does not expect the fifth B-1 bomber can be delivered before February 1980. And, aircraft six, originally scheduled for delivery in November 1979, is not expected to be delivered before July or August 1980.

Rockwell sent an unsolicited proposal to the Department of Defense on October 6, 1977, for the construction of bombers five and six. While the specifics of any future contract with the prime contractor are a matter of negotiation, DOD representatives told us that it is possible that some work may have to be done elsewhere if DOD and the prime contractor cannot reassemble the same team that was gathered for work under the original contracts.

We were also told that the U.S. Air Force Aeronautical Systems Division was planning on submitting to its higher command at Andrews Air Force Base, the Air Force Systems Command, its tentative plan for the B-1 bomber program on October 7, 1977, and that the final plan was contemplated for submission on October 17, 1977. At present, the Air Force estimates that it could, with the proper authorizations from higher headquarters, get Rockwell back into active program activities within 24 hours. In turn, DOD estimates that it would take Rockwell approximately 60 days to begin actual production work. This delay is due to the fact that over 8,000 people were laid off as a result of the termination of the B-1 program, and numerous subcontracts terminated.

DISCUSSIONS WITH ROCKWELL

Representatives of Rockwell agreed with DOD that delivery on aircrafts five and six would be delayed and costs increased as a result of having terminated the original contracts. Rockwell told us on October 7 and 11, 1977, that aircraft five could be delivered in March 1980 and aircraft six in September of that year. If constructed, B-1 bomber seven could be delivered in March 1981.

In discussing contract costs, in what the company described as "comparable environments," Rockwell said aircrafts five, six, and seven were originally estimated at a cost of $650-700 million. In light of recent events, Rockwell says it could cost the Government up to $680 million to build only aircrafts five and six. If the Government chose to build aircraft seven additional costs would be about $150 million. In summary, Rockwell says the additional costs to the Government to build all three bombers, in light of having stopped and then restarting production, is expected to range between $130-180 million.

Rockwell said its unsolicited proposal of October 6, 1977, to build aircrafts five and six at a not-to-exceed cost of $680 million is good only until November 1, 1977. Company representatives estimate that costs are expected to increase between $5-10 million for every month of delay. Rockwell projects that it would take about 6 months to finalize any contract with DOD for B-1 bomber production and that it would take about 90 days to get the subcontractors back on the job. (There are said to be 53 major subcontractors

involved.) During the 6-month period estimated for contract finalization, Rockwell said it would undertake its B–1 operations pursuant to the bilateral agreement proposed on October 6, 1977.

Finally, Rockwell told us that it believed it would cost the Government about $50 million in termination costs to discontinue production work on aircraft seven. When compared with a company-estimated cost of about $150 million to build the seventh B–1 bomber, this means that Rockwell projects an additional outlay of $100 million beyond already expected Rockwell costs would be needed for the Government to acquire the seventh aircraft.

We hope the foregoing will be of assistance to you. We will continue to monitor further actions by the executive branch and will notify you of further developments, as appropriate.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

U.S. SENATE,
Washington, D.C., December 22, 1978.

Hon. ELMER STAATS,
Comptroller General of the United States, Government Accounting Office, Washington, D.C.

DEAR MR. STAATS: As you know, the Congress has not completed action on the Supplemental Appropriations bill for 1978, and it is unknown when final action on this bill will be completed. As I have previously stated, this delay in Congressional action on the FY 78 Supplemental is being used by the Department of Defense as justification for failure to fully obligate the previously appropriated funds for the B–1 bomber. Under the provisions of the Impoundment Control Act of 1974, title X of Public Law 93–344, the $462 million in budget authority for B–1 bomber aircraft was required to be made available for obligation on October 5, 1977, the expiration of the forty-five day waiting period provided for in such Act.

Although the press has reported various expenditures of the monies impounded, including $1.8 million as noted by the Washington Post on December 18, 1977, it is understanding that this obligation is not a part of the $462 million.

In an obvious attempt to circumvent the express mandate of the Impoundment Control Act, the Department of Defense has not acted in a way to preserve the integrity of the budget process. Despite the recommendation of the House Appropriations Committee that no Congressional action be taken to rescind the funds previously appropriated for B–1, the action by the full House in rejecting a motion to recede to and concur with the Senate amendment which added language to rescind these funds, and a subsequent motion for the House to insist on its position that was passed by a voice vote, the Department of Defense has violated the spirit and intent of the Budget Act by failing to fully expend all funds previously withheld during such forty-five day period. Accordingly, I have some specific questions that warrant your immediate attention:

1. Pursuant to the express authority of Section 1016 of the Budget Act, do you intend to bring civil action in the U.S. District Court for the District of Columbia against the Department of Defense in order to require the Department to fully obligate the $462 million in budget authority at a monthly rate commensurate with the full and annual obligation that had sought to be rescinded and was subsequently rejected by the Congress?

2. In accordance with Section 1016, do you intend to file on or before January 19, 1978 an explanatory statement with the Congress as to circumstances regarding this contemplated civil action.

3. If you do not plan to notify the Congress on or before January 19, 1978 that you plan to file a legal action, please provide full detail and specific reasons as to why you feel that you should not pursue such action as provided for by Section 1016.

As I believe these questions to be crucially important to the Congress, I would urge your full report by January 3, 1978.

Sincerely,

JAKE GARN.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., December 27, 1977.

In reply refer to: B–115398.

Hon. HAROLD BROWN,
Secretary of Defense.

DEAR MR. SECRETARY: Pursuant to my responsibilities to monitor executive branch compliance with the Impoundment Control Act of 1974, members of this Office have discussed informally with representatives of the Department of Defense (DOD) the status and progress of DOD's efforts to restart production activities in connection with the B–1 bomber program. Briefly, our understanding of what DOD has done to date is as follows.

When the Congress failed to act favorably on the President's request to rescind $462 million in budget authority determined to be excess to DOD's needs as a result of his decision to terminate production of the B–1 bomber, the funds were made available for obligation and the Department began taking steps to utilize the budget authority. Initially, DOD embarked on determining those actions needed to restart B–1 bomber production. To fund these "restart planning" activities, DOD released for expenditure $88,000 in the month of October and $100,000 in the month of November. The $188,000 was obtained from the $462 million proposed, but rejected, for rescission.

DOD planned to increase the rate of obligation on the B–1 program after November 1977. The Department of the Air Force considered spending about $2 million a month for the period December 1977 through February 1978. Pursuant to this plan it released $2 million for proposal formulation activities during the month of December. The total of $6 million over the 3 month period would be used to complete formulation of a formal proposal to begin B–1 production activities. Representatives of DOD told us that they estimated it would take about 3 more months to complete a definitized contract for B–1 bomber production after the proposal was completed.

We discussed these plans with representatives of Rockwell International (Rockwell), one of the prime contractors for the B–1 program. Rockwell told us that it could begin production activities soon after receipt of authority from DOD to do so. The corporation's representatives informally advised us that it could have actual production activities restarted within 30 days of receipt of such authority and have full-scale production underway within 60 days.

Since the amount of funds presently being made available for the B–1 bomber is substantially less than the amount made available prior to the proposed termination of the program, it would appear to us that there is an impoundment in an amount as great as $459.8 million ($462 million minus about $5.2 million obligated since October 1977). Accordingly, we wish your response to the following question:

If our understanding is correct, do you intend to use the funds without further delay, or do you plan to submit a deferral to the Congress pursuant to the Impoundment Control Act of 1974?

If you should conclude the present circumstances warrant a deferral of budget authority, we believe you should consider our letter of October 14, 1977, to Representative John J. LaFalce, copy encolsed. We stressed in that letter our need to consider on a case-by-case basis the permissibility of proposing the deferrals of expanding funds previously proposed, but rejected, for rescission. Accordingly, if you conclude the present circumstances warrant a "deferral of budget authority" as that phrase is used in the Impoundment Control Act, please provide us with a full statement of the facts and circumstances you believe justifies application in this case of section 1013 of the Impoundment Control Act to a second impoundment of funds previously rejected for rescission.

A response to this letter at your earliest convenience will be appreciated.

Sincerely yours,

R. F. KELLER,
Acting Comptroller General of the United States.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., January 5, 1978.

In reply refer to: B–115398.

Hon. E. J. GARN,
U.S. Senate.

DEAR SENATOR GARN: This is in response to your letter of December 22, 1977, concerning the B–1 bomber program and the responsibilities of the Comptroller General under the Impoundment Control Act of 1974.

We have been monitoring the status and progress of Department of Defense efforts to restart production activities. In order to obtain sufficient information to enable us to decide what action would be appropriate, we sent a letter to Secretary of Defense Brown on December 27, 1977, requesting a clear statement of DOD's intention with respect to this matter. In addition to the request for factual clarification and confirmation, we inquired as to whether DOD planned to submit a deferral message in the event that DOD does not intend to use the funds without delay. We also referred Secretary Brown to our letter of October 4, 1977, to Representative John J. LaFalce, in which we stressed our need to consider on a case-by-case basis the permissibility of proposing a deferral of funds previously proposed for rescission, but rejected. Accordingly, we asked Secretary Brown, in the event that DOD concludes that present circumstances warrant a deferral, to address the question of the applicability of section 1013 of the Impoundment Control Act of 1974 to funds previously rejected for rescission. A copy of the letters to Secretary Brown and Representative LaFalce are enclosed for your information.

It should be noted that deferrals proposed in a special message transmitted by the President or deferrals reported to the Congress by the Comptroller General may be disapproved by an impoundment resolution passed by either House of Congress.

The Act expressly empowers the Comptroller General to bring civil action to enforce the Act's requirements. However, no civil action may be brought until the expiration of 25 calendar days of continuous session following the date on which the Comptroller General files with the Congress an explanatory statement of the circumstances giving rise to the contemplated action. Accordingly, even if such an explanatory statement were filed immediately, the 25-day period would not commence until the Congress reconvenes on January 19, 1978.

In light of the time constraints, we intend to thoroughly consider the circumstances of this case prior to determination of the most appropriate course of action consistent with my responsibilities under the Act. We appreciate your interest in this matter and will advise you promptly of DOD's response and whatever determination is made based

upon that response and the most current information available to us.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., October 14, 1977.

In reply refer to: B–115398.

Hon. JOHN J. LAFALCE,
House of Representatives.

DEAR MR. LAFALCE: This is in further response to your letter of September 30, 1977, in which you asked several questions concerning the Impoundment Control Act of 1974 and the proposed rescissions of budget authority that were transmitted to the Congress in connection with the executive branch's termination of the B–1 Bomber and Minuteman III Intercontinental Ballistic Missile programs. You stated that these questions have arisen in light of the recent action by the House Committee on Appropriations rejecting the rescission requests. Your questions and our answers thereto follow.

"In your opinion, does the Budget Act [Impoundment Control Act of 1974] permit the Executive to submit a second rescission proposal concerning the same funds? If such a second rescission proposal may be submitted, may the Executive use the pendency of the second rescission proposal to justify continued refusal to resume expenditure of the funds after the 45 day period for the first proposal has expired?"

The answer to the first part of this question is yes. There is nothing either expressly or by implication in the Impoundment Control Act of 1974 (Act), title X of Pub. L. No. 93–344, July 12, 1974, that precludes the President from submitting multiple requests to rescind budget authority. There would, however, be a distinction between the first recission proposal and any later requests to rescind the same budget authority.

A rescission proposal under section 1012 of the Act is a special kind of legislative request. Not only does such a proposal ask the Congress to take action to rescind a part or all of a prior appropriaiton act or other statute providing budget authority, but we have held that the proposal also carries with it the authority to withhold the budget authority in question during the pendency of the rescission request—by law, 45 days of continuous congressional session.

While the Act does not preclude multiple rescission requests, it would be totally inconsistent with the purposes of the statute to construe the Act as allowing the President to submit a second (or more) rescission proposal under the Act and to withhold the budget authority for yet another 45-day period. Taken to the extreme, such an approach would permit the executive branch to withhold indefinitely release of impounded funds that were the subject of previously unsuccessful rescission proposals. Similarly, there would never come into play the requirement of section 1012(b) of the Act for the budget authority to be made available for obligation or the Comptroller General's authority under section 1016 of the Act to initiate civil litigation to compel such releases. Clearly, the Act cannot be interpreted to operate in a way that effectively negates the procedures and safeguards that were established by its enactment.

Thus, in our view, once the 45-day period expires without favorable congressional action having been taken on a rescission proposal submitted under the Act, the impounded budget authority must be made available for obligation. This is not to say, however, that the executive branch is forever barred from renewing a rescission request. It obviously is free to do so, but the second request would only be a normal legislative proposal to rescind funds and is not one governed by the Act. In such a case, the 45-day withholding authority would not apply. In sum, we think the President can submit multiple requests for rescission but that, after a rescission proposal governed by the Impoundment Control Act is not acted upon favorably, the funds must be made available for obligation during the pendency of the later rescission proposals. The answer to the second part of the question, therefore, is no.

"After the expiration of the 45-day period on a rescission proposal, could the Executive submit a second rescission proposal and, at the same time, submit a deferral proposal under Section 1013 of the Budget Act [Impoundment Control Act of 1974], seeking to defer continued expenditure of the funds pending a Congressional decision on the second rescission proposal?"

In our answer to the first question we said the executive branch was free to propose rescissions outside the authority of the Impoundment Control Act after a rescission proposal for the same budget authority was rejected by the Congress pursuant to the Act. In our answer to your second question we shall assume the second rescission proposal is one submitted outside the Act, but the deferral is one submitted pursuant to the Act.

In our recent report to the Congress, "Review of the Impoundment Control Act of 1974 After 2 Years," OGC–77–20, June 3, 1977, we recommended that the Act be amended to expressly—

"[allow pursuant to the Act] for deferrals of funds after prior deferrals or rescissions of the money are turned down, *if* the new deferral furthers good administrative practice or is based on circumstances or conditions unknown—and which reasonably could not have been known—when the prior rescission or deferral was considered."

In the absence of a specific factual setting in which to address the issue raised by this question, and in the absence of the amendatory language we proposed, we can only provide you with our general reaction.

It is possible that, after the pendency of a rejected proposal to rescind budget authority, there could occur unusual events after the time the rescission was first proposed to the Congress; the new situation warranting approval of the rescission. Thus, it might develop that the Congress would favorably and expeditiously take action on a resubmitted rescission proposal for the same funds. In such unusual circumstances, we think it would be prudent for the President to delay implementation of the program while the latter rescission request is under consideration. Accordingly, we think that under unusual circumstances a deferral could be proposed under the Act while the Congress considered a second proposal to rescind budget authority previously rejected for rescission. However, we stress that determinations concerning the appropriateness of proposing deferrals while later rescission requests are pending can only be made on a case-by-case basis and we would hope that the executive branch would work closely with the Congress and this Office to resolve and deal with such situations.

"Could the Executive submit a deferral proposal seeking to defer continued expenditure of funds for which a rescission proposal had previously been submitted and rejected, with such deferral to apply during the pendency of other Congressional action that would have the effect of deleting the funds in question?"

Again, we can hypothesize circumstances in which the Congress could or would take action to approve a rescission request outside the procedures of the Act—for example, including language in a supplemental appropriation Act rescinding the funds that were rejected for rescission under the Act's procedures. However, whether such circumstances exist or the extent to which they justify proposing a deferral during the pendency of such congressional action is a determination that can only be made on a case-by-case basis.

"In the event your opinion is that the Executive may not take the actions contemplated in the preceding questions, are you prepared to institute civil proceedings under Section 1016 of the Budget Act immediately upon the expiration of the 45 day period relating to the first proposed rescission if the Executive has not taken steps to resume spending?"

Should the executive branch not comply with what we consider to be its responsibility to make budget authority available for obligation, we would take such actions as are necessary to compel the release of the illegally impounded funds, including the initiation of civil litigation under the Act.

For the present, we intend to monitor closely future actions by the executive branch in connection with the B–1 Bomber and Minuteman III programs as you have requested. We will report to you, as appropriate, major developments and findings.

We hope the foregoing will be of assistance to you.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

DEPARTMENT OF THE AIR FORCE,
Washington, January 27, 1978.

Mr. DAVE FITZGERALD,
Office of the Honorable Jake Garn, United States Senate.

DEAR MR. FITZGERALD: The following are responses to questions you asked regarding the FY 77 B–1 appropriation.

Question—What funds have been authorized for FY 1977 restart activities since October 9, 1977?

Answer—In October and November, a total of $188,000 was authorized for expenditure by our B–1 contractors for FY 1977 production program restart planning. In December 1977, the Air Force authorized $2.0 million to continue the restart planning as well as to begin the preparation of definitive contractor proposals to restart aircraft 5 and 6. These proposals will include detailed pricing information from contractors, subcontractors and vendors.

For the month of January 1978, the Air Force released $3.5 million for the contractors to continue preparation of proposals for production of aircraft 5 and 6 and for restart planning. An additional $4 to $5 million would be required in February for these same tasks.

Question—Has any of this activity reduced the $462 million available for de-appropriation?

Answer—The $462 million proposed for rescission last July was our best estimate of the amount that would be available after all termination actions were completed. The exact amount will not be known for several years after Congress de-appropriates the funds—it will take that long to complete all termination actions. Theoretically, the amount available for de-appropriation should be reduced since funds are now being used for restart activities on aircraft 5 and 6; however, the $5.688 million is considered to be within the estimating error in determining the funds required ($698M) to complete termination actions on the B–1 program. Therefore, the $5.688 million can be accommodated within the $698M and we do not consider it necessary to reduce the amount available for de-appropriation at this time.

We are pleased to be of assistance in providing this information. If we may be of further service, please do not hesitate to contact us.

Sincerely,

CHARLES C. BLANTON,
Major General, USAF,
Director, Legislative Liaison.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., January 23, 1978.

Hon. ELMER STAATS,
Comptroller General of the United States, Government Accounting Office, Washington, D.C.

DEAR MR. STAATS: This is in reference to your letter of January 5, 1978 concerning the B–1 bomber and your responsibilities under Title X of the Impoundment Control Act of 1974, (Public Law 93–344).

I appreciate your contacting Secretary of Defense Brown regarding DOD's intentions in restarting production activities, and I am encouraged to know that you have been monitoring the status and progress of these efforts. However, my letter of December 22, 1977 was addressed to the express authority conferred on you under Section 1016 of the Budget Act and your intentions to bring civil action in the U.S. District Court against the Department of Defense in order to require the Department to obligate fully the $462 million in budget authority which the President unsuccessfully sought to rescind.

It appears to me that you have had more than an adequate period of time to fully examine and evaluate the legality of the Defense Department's actions under said Act and, accordingly, should have been able to make a clear determination by this date as to the most appropriate course of action consistent with your responsibilities under Section 1016 of the Budget Act and with the intent of Congress in enacting such section.

Now that Congress has reconvened, I request that you immediately supply me with a substantive and detailed response regarding what action, if any, you propose to take in this matter and how soon.

In the event that there is a further delay by the Department of Defense prior to the full obligation of these funds or the submission of a deferral request to the Congress, how many days will you allow prior to notifying the Congress of your intent to initiate legal action under Section 1016 of the Budget Act? If your response is evasive or uncertain, you will leave me no alternative but to explore other options, including legal action and legislation.

I would appreciate your full report by January 31, 1978.

Sincerely,

JAKE GARN.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., January 31, 1978.

In reply to: B–115398.

Hon. JAKE GARN,
U.S. Senate.

DEAR SENATOR GARN: Pursuant to our responsibilities under the Impoundment Control Act of 1974, we have been closely monitoring Department of Defense (DOD) efforts to restart production activities in the B–1 bomber program. The purpose of this letter is to inform you of our latest findings and conclusions with respect to the program.

On December 27, 1977, we sent a letter to the Secretary of Defense requesting a statement of DOD's progress and plans concerning B–1 bomber production activities. By letter dated January 18, 1978, copy enclosed, we received the DOD reply. Based upon the information we have obtained from DOD and our independent review of the situation, the pertinent facts may be summarized as follows.

When the Congress failed to act favorably on the President's request to rescind $462 million in budget authority determined to be excess to DOD needs as a result of the decision to terminate production of the B–1 bomber, the funds were made available for obligation and DOD began taking steps to utilize the budget authority. Initially, DOD embarked on determining those actions needed to restart B–1 bomber production. To fund these "restart planning" activities, DOD released for expenditure $88,000 in the month of October and $100,000 in the month of November. The $188,000 was obtained from the $462 million proposed, but rejected, for rescission.

The Department of the Air Force released $2 million during December for formulation of a formal proposal to begin B–1 production activities. And, for January 1978, the Department of the Air Force obligated $3.5 million for the program. DOD plans to further increase the amount of funding for proposal formulation for the month of February. The Department of Defense estimates that it will take about 3 months after the formulation of the proposal in order to definitize a contract for B–1 production.

Incident to the Department's proposal formulation efforts, we understand that the contractor has provided firm commitments to the Air Force confirming its estimate of the cost to complete aircraft five and six. As of January 18, 1978, the Secretary stated that there was about a $200 million difference between the contractor's estimate and the Government's estimate of the cost to complete two aircraft and uncertainty regarding the specifics of the aircraft program. We discussed these points with representatives of Rockwell. Rockwell agrees that there do remain for resolution several matters affecting the price and specifications of future B–1 bombers. Rockwell states that its firm commitments are lower than comparable estimates of DOD and that a significant portion of the difference in the cost estimates is attributable to a disagreement over whether certain costs should be considered production costs (and, therefore, included in the contract to build additional B–1 bombers) or research and development costs to be included in the existing research and development contracts. The contractor's officials also stated that one item to be clarified concerns the technical requirements for future B–1 bombers with regard to Cruise Missile carriage. Rockwell anticipates that such requirements would be defined by means of routine engineering change proposal activity under the existing development contract. In view of the above, the Department intends to determine the accuracy of the contractor's estimate prior to reaching an agreement regarding a ceiling on the contract price and resolve the matters relating to the specifications of the B–1. Until the parties agree upon a ceiling price and finalize the contract, actual production activities will not resume.

In view of these developments and the absence of a definitized contract containing the costs and exact specifications of future B–1 bombers, DOD states that it would be imprudent to obligate funds at a faster rate than the Department has done thus far.

Section 1012(b) of the Impoundment Control Act provides that budget authority proposed to be rescinded shall be made available for obligation in the event the proposed rescission is not approved by the Congress. In our view section 1012(b) requires the executive branch to exert reasonable efforts to utilize the budget authority, taking into consideration sound financial practices.

Our review of the DOD activities does not reveal any actions that are inconsistent with the Act's requirements. In view of the facts presently available to us, we believe that DOD has acted reasonably in its efforts to resume production activities and to utilize the budget authority. Thus we conclude that there does not exist an impoundment of budget authority in violation of the Act's requirements.

We intend to continue to monitor DOD's efforts with respect to the B–1 bomber program. We appreciate your interest in this matter and will inform you of further developments and findings, as appropriate.

Copies of this letter are being provided to those Members of Congress who have expressed interest in this matter.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

THE SECRETARY OF DEFENSE,
Washington, D.C., January 18, 1978.

Hon. ELMER B. STAATS,
Comptroller General of the United States, Washington, D.C.

DEAR MR. STAATS: This letter is in reply to Mr. Keller's letter of December 27, 1977, concerning the status of this Department's effort to restart production of the B–1 bomber program. Taking all relevant circumstances into account, we do not believe that our present plans and current rate of obligations constitute an impoundment or require the submission of a deferral to the Congress pursuant to the Impoundment Control Act of 1974.

Your understanding of the amounts actually obligated through the end of December 1977 is essentially correct. However, for January the Air Force obligated $3.5 million for the program, and we anticipate that a greater amount will be obligated for the month of February, although the amount planned for February has not yet been finally determined.

We do not believe it is appropriate to compare the current rate of obligations with the rate of obligations prior to contract termination to determine whether there is an impoundment. Prior to contract termination funds were obligated against definitive contracts with contract requirements and price clearly delineated. Such is not now the case. If the contractors were directed to proceed at this time, there would be no clear indication of what the Government was buying, whether or not the Government could afford what it was buying, or of what the prices would be. Proceeding without a definitive contract at this time would be particularly undesirable because there is about a $2 million difference between the contractor's estimate and the Government's estimate of the cost to complete two aircraft, and considerable uncertainty as to the exact configuration of the aircraft to be manufactured.

Early in March we expect to receive from all three prime contractors full price proposals including cost and pricing data from subcontractors and vendors. Such information is not currently available. Until that time we believe it would be imprudent to obligate funds at a faster rate than indicated above.

We are of course mindful of the pending Supplemental Appropriation Act, and the provision under congressional consideration which would deappropriate the $462 million FY 1977 B–1 funds. Therefore, if it were otherwise prudent and appropriate to obligate funds at this time at substantially higher rates—which is not the case—then we believe a deferral under the Impoundment Control Act of 1974 would be warranted.

Sincerely,

HAROLD BROWN.

Mr. GARN. Yes, they peddle out $188,000 in October and the other figures are there, technically complying with the law. But as far as complying with the spirit and the intent of that law this administration has totally ignored it.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. GARN. Not at this point. I did not interrupt the Senator from Iowa once but would have loved to have several times.

Mr. CULVER. The Senator just made a personal reference to me. We usually yield under those circumstances.

Mr. GARN. I would be happy to yield if the Senator plans not to talk for more than 20 minutes.

Mr. CULVER. I will settle for even 19.

I thank the Senator for yielding. I just had a letter on this impoundment issue that was delivered today, dated January 31, and it is from the Comptroller General of the United States, on this very point the Senator raises about the Presidential responsibilities under the Impoundment Act.

Mr. GARN. I assume it is a copy of the letter he wrote to me and said it would go to other Senators and was just included in the RECORD.

Mr. CULVER. I thought in fairness we should perhaps just read the one paragraph in that letter.

"Our review"—meaning the General Accounting Office.

Our review of the DOD activities does not reveal any actions that are inconsistent with the Act's requirements. In view of the facts presently available to us, we believe that DOD has acted reasonably in its efforts to resume production activities and to utilize the budget authority. Thus we conclude that there does not exist an impoundment of budget authority in violation of the Act's requirements.

Elmer Staats, Comptroller General.

I thank the Senator for yielding.

Mr. GARN. I just put that in the RECORD and the whole series of correspondence with similar answers, but I submit to anyone who wants to examine what would have been spent if the production had continued and these dribbling little amounts that are also in there, $188,000 here and there, are deliberate subversions.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. GARN. No. I wish to finish, I say to the Senator, if I may.

They are deliberate subversions of that law for one purpose. Let us spend as little money as possible so we really cannot be nailed with a civil suit from the Comptroller General of the United States, which is also provided for in the law, and in the meantime we hope Congress will agree with us. That is the game that is going on.

Now, let us be realistic about it. I am sure that technically this administration has complied with the law.

But from all we have heard from this administration, I would expect more than just a technical compliance, and I will go one step further with regard to talking about wasting taxpayers' money. I think there should be an amendment to this law that would say that when a recission order on any program—I do not care what it is—is sent up, a President does not have authority to issue stop work orders until he has gotten concurrence from Congress. We are only talking about 45 days. The example of Minuteman III was the same thing. They fiddled around a little bit at a time and finally the President did comply with this provision I am talking about and restarted the production line on Minuteman III.

Do Senators know what that delay cost? $58 million. There was only $120 million left and so we wasted $58 million in startup costs in that particular program. If the law had been amended or originally written that a President could not do that, we would have saved $58 million in that program. If Congress had agreed, the cost of continuing production for 45 days would be far less than restarting the whole process. We have exactly the same situation on the B–1. I see no difference whatsoever except the administration finally came around and complied with the law not only legalistically, but also in spirit, and reopened that production line. On the B–1 question, they have not.

To me that is very clear. So I do not argue with Elmer Staats, and I would not have put it in the RECORD if I had argued with the technical compliance with the law. But there is certainly a deliberate delay in restarting that production line hoping that the House of Representatives and the Senate would deappropriate. I do not know how Senators can come to any other conclusion than that.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. GARN. May I have 5 additional minutes?

Mr. YOUNG. I yield 5 additional minutes.

Mr. GARN. Nevertheless, I think the major argument here, if I can leave my very strong conviction, is that the B–1 is important as part of an overall strategic decision. If these other decisions had not been made such as delaying the MX, the problems with Trident, the unknowns in SALT—what we are going to give away to the Soviets—and the whole strategic picture, I would not be so riled up about a couple B–1's. I would not even be so concerned about the total ongoing production of B–1's. But we as a Congress and this administration had better start looking down the road at the mid-1980's. I am not going to take the Senate's time at this point to go into the differences between Soviet and U.S. strength, but they are staggering and the message needs to be gotten to the American people as to how rapidly we are falling behind.

My distinguished colleague several times has quoted the Air Force on the structural integrity of a B–52. He made the same statement and I give the same answer. Yes, it is structurally sound beyond 1990. So are DC–3s. I saw all kinds of them in Panama. They are still flying. And so is the T–6 and other old airplanes I have flown. They still fly, but mission accomplishment? And there is a further statement—I am sorry, I do not have it before me—after the Air Force says that, the next sentence goes on and questions the mission capability of a B–52. But certainly as to the structural soundness, I am willing to bet you can still fly them in the year 2020.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. GARN. I yield on the Senator's time.

Mr. CULVER. The best witness on this subject, I would think, would be the Commander in Chief of the Strategic Air Command, Gen. Richard Ellis, who testified before our Research and Development Subcommittee of the Armed Services Committee last August. And I quote, "So our opinion, based on the best evidence available, is that properly cared for and properly deployed, our FB–111 and our latest B–52s can continue to be effective penetrators until 1987"—that means carry out the mission—and probably to 1990 or even beyond.

End of quote from the head of the U.S. Strategic Air Command.

I thank the Senator for yielding.

Mr. GARN. I wonder if sometime the distinguished Senator from Iowa would like to go for a ride with me in a B–52 at 200 feet just below supersonic speed.

Mr. CULVER. Will the Senator assure me he will not be the pilot?

Mr. GARN. I am talking about me flying it.

Mr. CULVER. The Senator is talking about him flying it?

Mr. GARN. Yes.

Mr. CULVER. The Senator does not mind if I give more consideration to that invitation?

Mr. GARN. I will give him time to consider. I would like him to see what it feels like at 200 feet in a B–52 and see whether he wants to try to penetrate the Soviet Union in that kind of airplane.

As long as we are talking about that, just one comparison. The B–52 fleet, whether it is good, bad, or indifferent, would have cost about $19 billion to modernize it, put all the gear on it, the new engines, restructuring the wings, that kind of thing. I do not think that is a very cost effective bargain. We would still have a very old B–52, 244 B–1s would have cost $26 to $27 billion. Yes, a lot of money, but you have a new bomber.

On a cost-effective basis I think you will find that most people will decide that you need a penetrating manned bomber, and the B–1, regardless of individual cost, is the most cost-effective. I continue to extend my offer to some future day, awaiting the Senator's answer of whether he would like to go for a ride with me.

Mr. President, I am deeply concerned because today this country is crossing the threshold of the last quarter of the 20th century in a mood of apprehension and confusion relative to the effectiveness and survivability of our strategic Triad, our overall strategic posture, and the undiminished Soviet threat.

Winston Churchill was among the first to see the escalating danger of the U.S.S.R. even before the fall of Adolf Hitler, although his allies, including President Roosevelt, did not agree.

At the conclusion of the Second World War and through the late 1960's, the United States had a clear superiority in force posture. It was a result of that clear superiority that we were able to force the Soviets to back down in Cuba. Since that showdown, the Soviets have doubled and even tripled their efforts in order to preclude a recurrence of the Cuban fiasco.

Probably no area reflects the breadth and width of their efforts more persuasively than those elements that constitute their strategic forces. To quote a

recent study, the advantage the United States held over the Soviets in 1962 will soon be reversed:

By 1978, the Soviet Union may have gained a war-winning capability comparable to that which the United States held in 1962 during the Cuban missile crisis.

The cold war has heated up, Mr. President, and many of us have not even recognized it. Since 1969 we have gradually lost our strategic superiority and may have slipped in a dangerous position of strategic inferiority. Unless we rectify this serious imbalance, we can expect to see the Soviets become more adventuresome in the future.

Today the Soviet Union continues to accelerate the cold war behind the veil of détente.

As we continue to restrain ourselves concerning the future of our new strategic programs, including the B–1, Minuteman, MX, and the recent proposals the President has outlined in SALT II, I am deeply troubled. The Soviets today outnumber us in every major weapon system and their current force levels far exceed reasonable expectation of deterrence requirements.

Whether we like it or not, the SALT talks in Geneva today between the United States and the Soviet Union are historic in that they may reflect the overall strategic posture of the world's two superpowers in the next decade and beyond. These talks will continue to be at the focus of worldwide attention. I am concerned about the evolution of our overall security in the face of manifest growth as a direct threat to our physical security posed by Soviet military power.

I believe that the present administration is headed on a course of action that will drastically change our national military strategy, military force posture, and arms development and procurement policy. I am concerned that at a time when we have all been hopeful that we might achieve a responsible and equitable treaty with the Soviets, the President has allowed us to bargain away vitally critical U.S. strategic programs with absolutely no corresponding concessions in return. I am further concerned that the SALT II agreement that may be submitted to Congress for ratification in the near future is lopsided in favor of Moscow and does not provide us with an adequate deterrence that we need now or in the time to come. Moreover, the purpose of these SALT talks is to promote strategic stability, and I am not convinced that our present proposals have a correlation with that objective—they might well contribute to instability.

Equally as alarming was the President's recent action in attempting to rescind the fiscal year 1977 funds for building B–1 test aircraft 5 and 6.

In his continued effort to subvert the law, our Commander in Chief has not acted properly to preserve the integrity of the Budget Act. Although the Congress has expressed its will in this matter by: First, the House Appropriations Committee recommendation that no congressional action be taken to rescind the funds for B–1; second, the action by the full House in rejecting a motion to recede to and concur with the Senate amendment which added language to rescind these funds; and third, a subsequent motion by the House to insist on its position that was passed by a voice vote. President Carter has failed to obligate the B–1 funds previously withheld.

The media has offered the impression that the President has obligated funds for the B–1, but it is my understanding that the moneys have not been expended at a monthly rate commensurate with the full and annual obligation, and that the $462 million in impounded funds remains intact.

Correspondence placed in the RECORD earlier clearly shows, Mr. President, that the Department of Defense has used the delay in congressional action of the fiscal year 1978 supplemental as justification for failure to fully obligate the previously appropriated funds for the B–1 bomber.

Under the provisions of the Impoundment Control Act of 1974, title X of Public Law 93–344, the $462 million in budget authority for B–1 bomber aircraft was required to be obligated on October 5, 1977, the expiration of the 45-day waiting period provided for in the Budget Act.

I have strongly urged the Comptroller General to exercise his authority and responsibilities under the law, but his dilatory methodology and evasive and uncertain language with the membership of this Congress have been totally unsatisfactory and have allowed the spirit and intent of the Budget Act to be openly violated.

I am further concerned over recent administration decisions which, in my judgment, have seriously impaired the strategic deterrent posture of our country. Mr. John W. R. Taylor, editor of "Jane's All the World's Aircraft," also shared this grave concern over the lack of correlation between the administration's stated desire for a strong national defense and a decision that has seriously jeopardized the credibility of the strategic Triad.

Mr. Taylor writes in his preface to the 1977–78 edition:

If our planet is subjected one day to the unimaginable horrors of a third World War, 1977 might be recorded as a year in which the seeds of defeat for the Western powers were sown.

Taylor describes the B–1 bomber as the "mightiest bomber of all time, but so costly that it was rejected deliberately in favor of cruise missiles. "It may seem irrelevant to point out," he says, "that only one military leader has previously put massive faith in such missiles—Adolph Hitler."

An aviation expert, the editor states that "a mutual deterrent policy that works is still the key to coexistence." However, the Soviet Union has "fought uncompromisingly to restrict U.S. deployment of both the B–1 and the cruise missile. Its leaders must be surprised beyond belief that the U.S. President has disposed of the B–1 without asking any Soviet concessions in return." He further cites serious limitations in cruise missile capabilities.

According to Mr. Taylor:

The Air Force never needed to think solely in terms of an optimum force of 244 B–1 bombers (but) . . . even 100 B–1's would have compelled the Soviet Union to expend huge sums of money and immense effort on developing, producing and maintaining defenses against air attack.

Mr. Taylor, in his continued concern over the maintenance of peace throughout the world, has submitted another statement on the future necessity of the B–1 bomber program. He says in his statement of January 30, 1978, addressed to Chairman MELVIN PRICE, chairman of the House Armed Services Committee, that—

President Carter's decision to cancel production of the B–1 bomber, and to put increased emphasis on cruise missiles was hailed by some people as a decision in favor of the less costly of two equally effective weapons systems. This is a fallacy.

He stressed that the cruise missile must be launched from a capable aircraft, and that aircraft was intended to be the B–1.

Mr. Taylor writes that our current SALT protocol restricts the range of the ALCM to 2,500 km (1,350 nm), thereby limiting the target envelope and enabling the Soviets to predict where to concentrate their defenses.

Mr. Taylor states that—

The Soviet domestic air defense force is reckoned (by DOD) to have 2,540 piloted interceptor fighters, 12,000 surface-to-air missiles on 10,000 launchers, and 6,500 surveillance radars. The interceptors include MIG–25's (Foxbats), the fastest combat aircraft deployed by any air force in the world. This defense system—battle tested in miniature in Vietnam and the Middle East—would not only have to be approached by the cruise missile launch aircraft, but would have to be penetrated by the missiles themselves.

He further cites U.S. officials as suggesting that ALCM's in their present form fly slowly, lack defensive avionics, cannot take evasive action, and are primarily intended for undefended targets. "Where are such targets in the Soviet Union," asks Taylor?

According to Taylor:

First, the B–52 was designed for high elevation flying and to drop free fall nuclear weapons, but now is more than 20 years old:

In no way can its well-used airframe be expected to go on flying through turbulence at very low altitude (the optimum launch height for a missile attack) for another 20 years.

Second, the FB–111H, 15-foot stretch of the FB–111A, is less aircraft and almost as expensive as the B–1 would have been. It could never be as capable as the B–1 bomber.

Third, the 747/DC–10 conversion carrier with its huge radar cross section "in skies patrolled by Foxbats" would be a pilot's nightmare.

Fourth, the B–1 was designed to penetrate sophisticated enemy defenses, most of the development costs have been obligated, the Soviets would no doubt welcome a bomber like the B–1 into their force in place of their own "formidable TU–26 (Backfire) swingwing bomber, of which there are already more than 100 in its growing force."

Taylor adds that the potential maritime role for B-1 should not be overlooked when considering the size of the Soviet Navy.

Mr. President, perceptions are crucially important, and I am concerned about the clear signal we are sending to Moscow concerning the strength of our Triad—both now and beyond. With the Soviets developing and deploying new weapons at an undiminished rate, the time has come to reconsider the practice of unilateral arms restraint.

Mr. Taylor warns that—

Soviet ICBM development threatens to eliminate 90 percent of the U.S. Minuteman force in any first strike. It may not be long before the locations of every missile-launching submarine are permanently pinpointed. Unless the USAF has an airplane in the class of the B-1 (and it is unique in its class) America may lose the third and last component of its strategic TRIAD. Only the balance of power represented in the West by the TRIAD has kept the world free from the unimaginable horrors of a nuclear war for more than thirty years. Before condemning the B-1 as too costly, it is essential to answer the question "How much is it worth to stay alive?" Only then do we appreciate what might be the utlimate alternative to the B-1.

B-1 AND SOVIET BACKFIRE COMPARED

Mr. President, I would like to compare the Soviet Tupelov-designed Backfire and the U.S. Rockwell B-1. Both aircraft have variable-geometry wings, and DOD officials believe there is only about a 15-percent difference in aircraft size, with the Backfire's length 130 feet and B-1's 150 feet. The Backfire is powered by two modified Kuznetsov NK 144 turbofan engines and the B-1 is powered by four General Electric F101's.

What is the significance of these two bombers? The DOD believes that the Backfire force is now at 90 aircraft with a production rate of 2 bombers per month, but some intelligence officials place the production rate at 4 per month. By the mid 1980's a total of 350 Backfires are expected to be in the long-range aircraft division of the Soviet Air Force and an additional 100 are slated for use by the Soviet Navy. Estimates of the range payload capability of the Backfire provided it with an unrefueled radius of 2,750 miles and the capability to conduct single refuel sorties against the continental United States with recovery in Cuba. The Soviets, nevertheless, maintain the Backfire is a medium bomber and apparently the U.S. position in SALT II is to exclude the Backfire supersonic bomber from the total number ceiling if the Soviets provide some assurance that it would not be used as a strategic weapon.

What we have here are two aircraft programs, Soviet style and U.S. style. The Soviet approach is to first make a decision, that is, to build an aircraft with specified performance requirements, and then to produce it in significant quantity to bolster their defense. But we in the United States need not worry about continued production and deployment of Backfire since the Soviets are going to promise not to use it against us.

I submit, Mr. President, that it is time we stopped trifling with our country's future security and demonstrate to the Soviets that we have the national will to provide the necessary defense. Production of the supersonic B-1 strategic bomber with its capability to deliver ALCM, SRAM, and/or nuclear and conventional munitions would be a significant step in the required direction.

Mr. President, today this body still has the option of keeping a modernized manned penetrating bomber leg of the Triad.

When the President of the United States went on national television last June 30 and annouced that he had unilaterally canceled the B-1 bomber production many of us were shocked. We thought at least he would fulfill his pledge that day to continue the development of the B-1 to provide an option should the alternative systems run into difficulty.

I say to you that we will not have a viable option unless aircraft No. 5 and No. 6 are built. Aircraft No. 4 is in final assembly and will be completed early this summer. Without No. 5 and No. 6 the trained work force and subcontractors will be disbanded and no production option will be maintained.

For many decades we in the Congress have supported the strategic Triad concept. The Congress of the United States has under the Constitution not only the authority but the responsibility to provide for our common defense. Let us remember article 1, section 8, which I partially quote:

The Congress shall have the power to raise and support armies . . . provide and maintain a navy . . . make rules for the government and regulaton of militiary and naval forces . . .

The Committee on Armed Services, in reporting to the Senate in September, 1977, on the FY78 Supplemental defense bill reaffirmed its full support of a future mixed bomber force composed of aircraft used as standoff cruise missile carriers, manned penetrating bombers and in a dual role, both launching cruise missiles and penetrating. (S. Rept. 95-455, p. 2)

Defense Secretary Brown also had reaffirmed the Administration's commitment to the option of a future manned penetrating bomber. In a letter to the Committee the support funds for a prototype development program for the FB-111H, he emphasized such a "proposal deserves careful consideration as a way of keeping open an option for such a system as a penetrating bomber at some later time." (S. Sept. 95-455, p. 8) In a colloquy among Senators Stennis, McIntyre, Cranston and others concerning the Committee Report, all concerned agreed on the importance of maintaining the mixed bomber force concept and the development of a future manned penetrating bomber. (Cong. Rec., Oct. 7, 1977, pp. S16695 ff.)

Over the decades our strategic Triad has successfully provided an umbrella of protection for us and our allies. I think all of us were shocked into a sense of reality and felt a sense of ominous foreboding when we read in the newspapers last December the opinion of John Taylor, editor of "Jane's All The World's Aircraft," which I have quoted earlier.

Mr. President, the issue here today is simply whether the United States will continue the strategic Triad and build a new penetrating manned bomber.

For 14 years we have planned, developed and tested the best strategic penetrating manned bomber in the world. The AMSA study which began in 1964 and led to the B-1 had the full support of the Defense Department and the Air Force until the President on June 30 announced that he had canceled the program. What has caused the situation to change suddenly so that we now no longer need a modern manned penetrating bomber? The President would substitute a commercial jet loaded with cruise missiles and extend the life of the 26-year-old B-52. I personally do not believe that this is a viable option for a strategic bomber.

Further, I understand that the Department of Defense is conducting still another study of strategic bombers which might provide a production option for the strategic penetrating bombers beyond 1985. This study will include the B-1, B-52, and FB111-H. Is the real purpose of this study to delay an overdue decision, and what can the study tell us we do not already know? Is it not a fact that as far as the President is concerned there will never be a new penetrating manned bomber and the decision to cancel the B-1 is the end of the line?

My fellow colleagues, I ask your support today in keeping the B-1 option open and sending a message to the President that we insist on keeping the B-1 as a viable production option for the next 2 years.

I will withhold any other comment at this time.

The PRESIDING OFFICER. Who yields time? Does the Senator from Mississippi yield to the Senator from California?

Mr. STENNIS. Yes, Mr. President, I yield myself 1 minute.

As a matter of procedure here, I know the Senator from California—may I ask did he want to use time on the bill?

Mr. CRANSTON. Yes. I was authorized by Senator YOUNG to yield myself time.

Mr. STENNIS. All right. I had requested the Senator from Maine (Mr. MUSKIE) to come and I told him we would give him some time. He had a hearing going on.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. STENNIS. Mr. President, I yield to the Senator from Maine. How much time does he desire?

Mr. MUSKIE. I think 10 minutes.

Mr. STENNIS. I yield the Senator 10 minutes. I especially thank the Senator from California (Mr. CRANSTON).

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine is recognized for 10 minutes.

Mr. MUSKIE. Mr. President, it is evident from the debate I have listened to for the last 20 to 30 minutes that there are strong feelings on both sides of this issue, even emotional feelings on both sides of this issue, and as one who has demonstrated a capacity for righteous indignation myself in debate on the Senate floor, I can sympathize with those who are righteously indignant, whether they are for the B-1 or against it.

But some statements have been made, as I have listened in the last few minutes,

to which I would like to make some brief comments before I get into my prepared remarks.

Incidentally, I rise to speak as chairman of the Senate Budget Committee. We have concerns, budgetary concerns, about the B–1 which ought to be taken into account, as well as the merits of the weapon system itself.

But the distinguished Senator from Utah, Senator GARN, has spoken of the President's unilateral cancellation of the B–1. Well, what can be unilateral about a decision which is occupying the time of the Senate today, and has many times over the last 2 years, and which has occupied the time of the House? Are we debating a decision on which we have no influence? Is that what the Senator means by a unilateral decision? We are participating in the decision. The President has taken the reponsibility, which is his, of submitting a recommendation. The Senator chooses to refer to that as a unilateral cancellation.

I regard that as an exercise of responsibility on his part as to which we have the final word. Otherwise, I do not know what this debate is all about. I do not understand why the distinguished Senator is venting his indignation on the President. If he truly believes that the Senate has no power to influence the decision which he has described as unilateral, then I can understand why the Senator is venting his indignation, but this is not the case.

It is a unilateral decision; it is a decision on which the President has taken the leadership. Whether it is right or wrong, it is wholly appropriate for us to debate, but it is not a unilateral decision.

Mr. GARN. Will the Senator yield at that point?

Mr. MUSKIE. The Senator would not yield to me earlier, and this was the very point I wanted to talk about.

Mr. GARN. The Senator is misinterpreting my point about unilateral decision, and that is the only reason I wanted to ask the Senator——

Mr. MUSKIE. The Senator can expand on his understanding of that later. I would like my remarks to have some continuity in the same way he wishes his remarks to.

The second point I would make is the Senator vents his indignation against the President as a violator of the Budget and Impoundment Control Act. Well, Mr. President, as to the Budget and Impoundment Control Act, it vests in the Comptroller General of the United States the responsibility for defending the act in behalf of the Congress. It is Mr. Staats, who has this role in the Budget Act, who, in the letter dated January 18, has said there had been no violation of the Budget and Impoundment Control Act with respect to this decision by the President.

Why then does the Senator not vent his indignation against Mr. Staats? The President's insistence that he has not violated the act could be self-serving, I concede that. But it is not his opinion to which Senator GARN referred. It is to the position of Mr. Staats, who is our guardian of the Budget and Impoundment Control Act, who has said there has been no violation.

If, after the Congress should decide to go forward with the B–1 bomber, and the President should choose then not to spend the money, then the Budget and Impoundment Control Act would be triggered. If the President violated the act, I would join the Senator in righteous indignation against such a step because he could implement such a decision on his part only by using the procedures of the Budget and Impoundment Control Act.

So, if Mr. Staats believes there has not yet been a violation of the Budget Act, we either agree with him or we do not. If we do not agree with him, then it is to him that we should address our indignation.

I have heard over and over again on another point, Mr. President, I refer to the argument that Defense somehow has a vested right in a certain percentage of the gross national product; that from now on Defense should have a certain percentage of the gross national product, whatever that may be, 24 percent, 25 percent, 26 percent, and that as GNP goes up, Defense ought to automatically get additional dollars to maintain that percentage, whatever the merits of its proposals to spend the money.

If that is the budget principle we are going to use in setting in place the budget for the Department of Defense, how do we deny it to the other functions of the budget? Why should not any function of the budget come before us and say, "We are entitled to some historic percentage of the GNP," regardless of wherever GNP goes, however high, and whatever new needs and priorities we may have to consider as a rational legislative body?

I simply do not buy that argument. But if the argument prevails, then there is absolutely no need for the Budget Committee, for the CBO, or even for a Senate. We simply pass the final appropriation act in this session, which will hold forever, guaranteeing to every function of the budget its current percentage of GNP, or whatever percentage we, as a group, may decide is right for 1978.

Then, we say, whatever is right for 1978 obviously ought to be the same percentage in 1980, ought to be the same percentage in 1985, ought to be the same percentage in 1990.

I doubt very much that any Senator in this body would agree to any such budgeting principle.

Now, with respect to what has happened to defense spending in the year since the budget process has been in force, I hope to put in figures before I finish showing that there has been real growth in defense spending under the congressional budget process. I found myself defending that growth last year in the conference with the House on the first concurrent resolution, under circumstances in which the House had voted for some $4 billion less for defense than had the Senate. So I do not buy the argument that we have not permitted growth.

That we have not permitted growth as some would like is true, but we have done that same thing with every function of the budget. If we were to permit budget growth for every function of the budget in accordance with the most extreme assessment of what that ought to be, I assure the Senator that last year's budget would have been at least $40 billion more than it was.

So if we permit the growth in defense in response to the strongest views of what our minimal defense requirements are, then I suspect we would be bombarded by similar requests from those who are interested in education and from those who are interested in health—and, you know, when we talk about national health insurance, we are talking about an annual budget cost of $150 billion.

I wish to say again to the Senator what I have tried to say, not always very persuasively, for the last year: That making budget choices is not a matter of weeding out the obviously unworthy requests. Those are pretty much weeded out by the Appropriations Committee, and hopefully the Budget Committee makes some contribution to it.

The really tough budget decisions have to do with choosing between proposals and programs all of which have merit. That is tougher. It is a lot easier when you are talking about health, or veterans, or farmers. I suggest that Senators look at the votes on farm legislation last year.

When you talk about any of them, it would be a lot easier to yield to the demands of the most articulate, most emotional, and most insistent groups without argument; and believe me, almost every function of the budget has such constituencies to make more difficult the task of those who must decide, well, this worthy project can be supported and that one cannot. And that kind of argument can apply to the defense budget just as much as any other function of the budget.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. STENNIS. I yield the Senator 5 additional minutes.

Mr. MUSKIE. I have not even gotten to my speech yet. I apologize.

Mr. STENNIS. That is all right.

Mr. MUSKIE. The distinguished Presiding Officer at the moment (Mr. ABOUREZK) understands what I mean when I say that.

Mr. President, to get down to the basic issue before us, supporters of the defunct B–1 bomber are asking the Senate today—and I am talking about the budget—for almost a billion dollars to continue a program for which there is no strategic, budgetary, or commonsense justification.

Mr. President, as chairman of the Budget Committee, I support the position previously taken by the Senate—a position supported by the distinguished Senator from Mississippi (Mr. STENNIS) and the distinguished Senator from Iowa (Mr. CULVER)—in agreeing to the rescission of the B–1 production program.

Let us be clear about what the issue before us really is. Backers of the B–1 program state that denial of the rescission merely means keeping the B–1 production lines going and options open for the manned penetrating bomber.

I do not see this as the issue at all. This is a first step in pressuring subsequent Congresses to reverse this tough decision made by President Carter to make room in the defense budget for

spending which has higher priority and greater defense capabilities. We are not voting on two aircraft, but the possibility of 240. We are not voting on a $460 million item, but one that costs a billion dollars, and could go as high as $60 to $75 billion if the full B–1 program investment and operational costs are considered.

Mr. President, we do not need a new manned penetrating bomber under this Nation's defense strategy. The supplemental appropriation which was passed in December provides a less costly alternative which performs the mission intended for the B–1. The supplemental includes $400 million for acceleration of the cruise missile program, B–52 modifications, and a wide-bodied cruise missile carrier. The President, the Secretary of Defense, and the Joint Chiefs of Staff have said the cruise missile can do the job. We do not need the expensive B–1 option to perform this strategic mission.

Mr. President, the Senate position on this issue has been affirmed not once, but twice: First, when the second budget resolution for fiscal year 1978 assumed enactment of the rescission, and second, when the Senate version of H.R. 9375, the supplemental appropriation for fiscal year 1978, specifically included the rescission.

President Carter's decision to stop production of the B–1 bomber was prudent and courageous from both a defense strategy and a budgeting standpoint. It should be supported by the Congress. Wasting a billion additional dollars to produce two aircraft does not make sense.

The President's position effectively continues the Triad defense concept of the United States. We are moving ahead with cruise missiles which are significantly less costly, but equally effective, options to the B–1. They are evidence of the President's commitment that the United States maintain a defense capability second to none in the world.

Mr. President, I urge that in the emotional atmosphere—may I have another 5 minutes?

Mr. STENNIS. Yes, I am glad to yield the Senator 5 more minutes.

Mr. MUSKIE. That in the emotional climate that exists today, we not begin to question each other's commitment to a strong defense. We have differing opinions, obviously, as to what that constitutes, but I have no doubt in my mind that all Senators in this body are committed to a strong defense.

Let us be clear about what is happening. Four B–1 aircraft, including the defensive avionics package on the fourth plane, will be completed. By going forward with the completion of these R. & D. activities on the B–1, the President has kept open options for a manned penetrating bomber in the future, if the option is ever needed.

A vote with the House against the Senate position is to spend $1 billion for two airplanes for which no legitimate strategic need exists.

Moreover, there are very serious budgetary reasons for supporting the President. A primary input into the President's decision to cancel the B–1 centered on the significant costs associated with the program. At a cost of over $105 million per plane and a 25-year total systems cost of at least $60 to $75 billion, including armament for the system and maintenance and support activities, the program would have taken a disproportionate share of funds that are urgently needed for other defense improvements. From a simple economic standpoint, it is impossible to envision spending enormous sums for the B–1 and, at the same time, upgrading our conventional and other strategic forces. The costs for improving conventional forces, particularly those for maintaining European stability, are estimated at over $70 billion for major procurements alone during the next several years and the costs for procuring the Trident program, including the possible startup of the Trident II and 20-year operating costs, are estimated at $50 billion.

I would like to remind my colleagues of another budgetary problem associated with the decision on the B–1 rescission. If the Congress does not support the President regarding the B–1 program, the deficit for fiscal year 1978 will grow by $190 million. The current estimate of the deficit, as reflected in the Senate budget scorekeeping report dated January 16, 1978, is $59.1 billion. So, if the decision is to buy the fifth and sixth B–1 aircraft, the Congress adds another $190 million to the fiscal year 1978 deficit.

Furthermore, there will be an impact on the deficit projected for fiscal year 1979. The President's budget report estimates a 1979 deficit of $60.6 billion. Well, supporters of the B–1 program would add another $140 million to this projected deficit. The $140 million would not provide adequate funding to complete fabrication, buy spares and ground support equipment, test the aircraft, and train personnel for the B–1 activity. It would probably be necessary for the President to submit a B–1 supplemental to cover the full costs of completing and testing the fifth and sixth aircraft. This supplemental could add another $30 million in outlays to the budget in fiscal year 1979 and consequently to the deficit. In sum, the projected deficit for fiscal year 1979 could rise another $170 million.

These are just a few of the difficult budgetary problems ahead for Congress.

Mr. President, my good friend from Oklahoma, Senator BELLMON, and I were queried by a number of our Senate colleagues about whether the Budget Act was being circumvented by the Senate's action in handling the B–1 rescission. We assured our colleagues that there was no inconsistency between the Senate's action on the B–1 and provisions contained in the Budget Act. We replied that we did not believe the use of this supplemental appropriation bill to repeal the previously enacted fiscal year 1977 budget authority for the B–1 presents such a case of circumventing the Budget Act. On the contrary, repeal of those funds and the use of a supplemental appropriation for that purpose are completely consistent with the Budget Act. It is also impelled by the second concurrent resolution on the budget, which assumes this fiscal year 1977 budget authority (which would outlay in 1978), if committed, will be repealed.

Mr. President, I ask unanimous consent that a letter from Senator BELLMON and me, responding to our colleagues on this matter, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 18, 1977.

Hon. S. I. HAYAKAWA,
U.S. Senate,
Washington, D.C.

DEAR SAM: Thank you for your letter of October 7 raising the question of whether use of a supplemental appropriation to rescind previously enacted budget authority is consistent with the budget process. We appreciate the concerns you raised in that letter. You know we have insisted that the Congressional Budget and Impoundment Control Act and the Congressional budget process formulated pursuant to it should be observed, both in letter and in spirit, and have consistently opposed Congressional actions which would circumvent or subvert the budget process.

We do not believe the use of this supplemental appropriation bill to repeal the previously enacted FY 1977 budget authority for the B–1 presents such a case. On the contrary, repeal of those funds and the use of a supplemental appropriation for that purpose are completely consistent with the Budget Act. It is also impelled by the Second Concurrent Resolution on the Budget, which assumes this FY 1977 budget authority (which would outlay in 1978), if committed, will be repealed.

We have no doubt of the jurisdiction of the Appropriations Committee to recommend repeal previously enacted budget authority. Section 404(b) of the Budget Act spells out the jurisdiction of the Senate Appropriations Committee and reiterates Rule XXV of the Standing Rules of the Senate. Under Section 404(b), the Appropriations Committee has jurisdiction over "rescission of appropriations contained in appropriations acts (referred to in Section 105 of Title I, U.S. Code)." Section 105 simply defines the necessary title for general appropriation bills indicating that September 30 is the end of the fiscal year. The jurisdiction of the Appropriations Committee to "rescind" appropriations is simply analogous to that of any committee to repeal authorizations which exist in law by virtue of prior enactments. This jurisdictional statement has been recently confirmed in the Senate's adoption of S. Res. 4, which revised Rule XXV and reaffirmed this statement of the Appropriations Committee's jurisdiction therein. The legislative history of Section 404(b) leaves no doubt that Congress intended to confirm the inherent jurisdiction of the legislative branch to repeal prior appropriations action.

The Budget Act confirmed this jurisdiction of the Appropriations Committee wholly apart from any consideration of impoundment, and before the impoundment control title to the Budget Act was formulated. You will recall that the report of the Joint Study Committee on Budget Control, published on April 18, 1973, recommended that Appropriations Committee jurisdiction to recommend rescissions of budget authority be confirmed (p. 29) in order to enhance Congressional control of the budget. The original Budget Act legislation, introduced in both Houses, contained provision for confirming this jurisdiction in the Appropriations Committee. Neither version contained an impoundment title at that time. Although the legislation reported by the Committee on Government Operations, which first reported the Budget Act in the Senate, and the Committee on Rules, which perfected it in largely the form in which it was adopted, also confirmed this jurisdiction in the Appropriations Committee to recommend re-

peal of previously enacted appropriations, neither contained an impoundment title.

The impoundment title was first added in the House proceedings on the Budget Act bill. In the Senate it was added to the already-passed Budget Act in the course of going to conference. Although the conference adopted a Title X to the Budget Act, it is explicitly denominated as a separate enactment, the Impoundment Control Act of 1974. The conference did not, in the course of adopting Title X, further amend the already stated jurisdiction of the Appropriations Committee regarding rescissions. There was no intention on the part of the conferees in recommending the enactment of Title X to reduce the jurisdiction of the Appropriations Committee from that confirmed by original Senate passage of the Budget Act at the time impoundment control was not contemplated as a part of it.

In other words, even if the Budget Act had never been enacted, the Appropriations Committee would have had jurisdiction to repeal budget authority previously enacted. The Budget Act, before it became linked with impoundment, confirmed that jurisdiction. The subsequent addition of the impoundment control title did not change the ability of the Appropriations Committee to recommend such repeals.

Title X, the impoundment control title, was added to the Budget Act to constrict Presidential ability to impound funds. It was never intended to constrict the Constitutional power of Congress to repeal appropriations which it had already enacted. The 45-day period prescribed by Section 1012 of the Budget Act is a limitation on the President's ability to withhold the expenditure of funds Congress has appropriated. It is not a limitation on Congressional power to repeal appropriations it has enacted. Title X was intended to limit the power of the Executive to impound appopriated funds. It was never intended to hamstring the Congress in working its will with regard to appropriations. Nothing in Title X precludes the Appropriations Committee from acting in a general or supplemental appropriation to repeal appropriations enacted in earlier legislation.

It would be as ironic and as unacceptable as it is inconsistent with the facts if Congress had left itself in the position, in adopting the Budget Act, of being able to repeal appropriations only if the President requested it. An interpretation of Title X which would preclude Congress from rescinding earlier appropriations, unless the President requests such rescissions pursuant to Title X, would be inconsitent both with the basic power of the purse vested in the Congress pursuant to Article I to the Constitution and the Congressional control of the budget process, which is a basic purpose of the Budget Act.

A colloquy which occurred duing Senate consideration of the conference report on the Budget Act between Senator McClellan, Chairman of the Appropriations Committee, and Senator Ervin, Chairman of the Senate conferees on the Budget Act and of the Government Operations Committee which originally formulated and reported it, underscores this point:

Mr. MCCLELLAN. What would be the effect if, by the end of the 45 days, Congress had not completed action on the bill, but within a few days thereafter it did complete action? It would be legislation, the President could sign the bill, and the rescission would then become law.

Mr. ERVIN. Oh, yes, I think so, because under the legislative authority given to the Congress by article I of the Constitution and also by the necessary-and-proper clause, even though Congress does not act in the 45 days it could act thereafter.

Mr. MCCLELLAN. It could. There is nothing to keep Congress from acting upon it.

Mr. ERVIN. No.

Mr. MCCLELLAN. That does not prevent or preclude Congress from rescinding thereafter.

Mr. ERVIN. I might say that the 45-day provision is placed in the bill for the purpose of spurring speedy congressional action, but with recognition of the fact that Congress cannot deprive itself of any other power it has under the Constitution.

So we are unable to agree with you that use of a supplemental appropriation bill to repeal the unexpended balance of FY 1977 B–1 funds for this program, which Congress has determined should be terminated, subverts the budget process. Moreover, we believe that repeal of these funds is required by the Second Concurrent Resolution on the Budget which we adopted last month.

As you will recall, the President's decision to cancel the B–1 program was affirmed by the Congress in passing the fiscal year 1978 Defense Appropriations Act. This Appropriations Act eliminated any funds for further production of the B–1 in fiscal year 1978 or later years.

Subsequently, the Second Concurrent Resolution on the Budget which Congress adopted three weeks ago contains limitations for the national defense function of $116.4 billion in budget authority and $110.1 billion in outlays. This outlay figure explicitly assumed the rescission of the 1977 funds which would have had an outlay effect in fiscal 1978. You will also recall that in formulating those totals, in a rare line-item vote, our Committee voted to delete the B–1 funds from the defense ceiling. Should this rescission not take effect, the outlay ceiling for FY 1978 would be exceeded by $190 million.

Under these circumstances and regardless of our personal feeling on the merits of the B–1, we believe the Budget Committee should support rescission of these funds by the Appropriations Committee. It is clear that the Appropriations Committee has authority to add a provision to the 1978 Supplemental Appropriations bill which would rescind authority for the B–1 and related weapons systems previously enacted by Congress.

We hope that you will give this matter further consideration and continue to support the agreed-upon levels for the national defense function in the Second Budget Resolution.

Sincerely,

EDMUND S. MUSKIE,
Chairman.
HENRY BELLMON,
Ranking Minority Member.

Mr. MUSKIE. Mr. President, as I stated earlier, the issue is not two planes, but 240. It is not a half billion or a billion dollars, but $60 to $75 billion. There are five basic reasons for supporting the Senate's position on this matter. These are:

First. The U.S. defense posture does not need a new manned penetrating bomber under present defense strategy. The supplemental appropriation which has been passed provides an initial $400 million for acceleration of the cruise missile program, B–52 modifications, and a wide-bodied cruise missile carrier, as an alternative to the B–1 bomber. It is also less costly than the B–1 option. We do not need the expensive B–1 to perform this particular strategic mission. How long will the pressure be exerted on the Congress to buy a weapon system we do not need?

Second. The $462 million involved in the rescission is only the beginning of further substantial funding requirements for the B–1. It is my understanding that up to $500 million above the $462 million would be needed to complete fabrication of the fifth and sixth aircraft, buy spares and support equipment, and pay training and test costs. Thus, the next two planes would cost close to a billion dollars—not just the $462 million in the rescission.

Third. The estimated cost for the fully armed 240-plane B–1 program is roughly $60 to $75 billion. It is entirely inevitable that if the President's decision on this rescission is not agreed to by the Congress, the next step of the B–1 advocates will be on the full program and a spending level of this amount.

Fourth. The second budget resolution assumed the B–1 rescission, and it means close to $200 million in outlay savings in fiscal year 1978.

Fifth. Failure to support the President adds $190 million to the deficit in fiscal year 1978 and could add $170 million or more to the projected fiscal year 1979 deficit.

Mr. President, the vote on the B–1 bomber squarely confronts the Senate with the issue of whether we can afford all the defense weapons systems we find attractive and all at the same time. We face the same problem frequently in regard to the domestic budget.

The simple fact is that we cannot afford to commit the Federal budget in every direction at once. In defense and in domestic affairs, we must make choices among attractive alternatives. Otherwise, we will become bankrupt as a nation and imperil our defense altogether.

So we must make choices. And for me, as it was for the President, his Secretary of Defense, and his Joint Chiefs of Staff, that decision is clear in the case of the B–1. We should terminate the B–1 program with the four R. & D. planes and a $5 billion investment, and concentrate on less costly and equally effective weapons systems like the cruise missile.

We should not follow the opponents of the President on this issue down a path whose only end is the expenditure of at least another $60 billion to build 240 aircraft which are not required under our national defense strategy.

I yield so I shall not further delay my good friend from California.

Mr. STENNIS. Mr. President, I yield myself 1 minute.

I want especially to thank the Senator from Maine. He went to extra trouble this morning to appear here on this matter. I commend him very highly for the points he made, including the point that I never have bought the idea that any department is entitled to a certain percentage of the national budget. I think that would be the beginning of a calamitous end in the course of time. I am certainly not impelled by that. I push the other way.

Another thing, Mr. President. On this weaponry matter, all these weapons sound mighty good taken alone. They are very attractive. They have the strongest kind of point. But the Senator is so correct: We have to make some kind of final decision on a priority basis. It is choosing between weapons, any one of which or all of which are good.

Again, I commend the Senator for his very fine knowledge of the fiscal affairs of our Government. I am proud of him.

Mr. GARN and Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER (Mr. NUNN). The Senator from Utah.

Mr. GARN. May I have 4 minutes, I ask the Senator from North Dakota.

Mr. YOUNG. I yield 4 minutes to the Senator from Utah.

Mr. HAYAKAWA. May I make a unanimous-consent request?

Mr. GARN. I yield, Mr. President.

Mr. HAYAKAWA. I ask unanimous consent that Mr. Ernest Garcia, of Senator DOLE's staff, may have the privilege of the floor during consideration and vote on this measure.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. GARN. Mr. President, I would appreciate it if the Senator from Maine is able to listen to some of my replies to some of the things he said.

First of all, I compliment the chairman of the Budget Committee, because what he said is true. In my limited experience in the Senate—3 years—he has tried very hard, not just in the military but in the social area, to hold things down. I congratulate him for that and compliment him and the whole Budget Committee for doing this. However, I do not compliment everybody in the Senate for that. I think he knows that on many matters, I have supported him. On the farm bill last year—and I have farmers at home, too—and on the supplemental, I pretty well supported the Budget Committee's recommendations on funds in those controversial areas. But I am a little puzzled by a few of the things he said.

As to the unilateral matter, I may have misstated myself, but what I was referring to was not just the President, but we collectively made a unilateral decision to give up the B–1 without regard to the Soviets' Backfire bomber. That is what I meant, that we should have insisted that they give up the Backfire if we gave up the B–1. I did not want the Senator to misunderstand that point.

Mr. CULVER. Will the Senator yield on that?

Mr. GARN. In a couple of minutes, I shall yield. I want to finish up a couple of points.

Mr. MUSKIE. If the Senator will yield on that point, I appreciate that clarification, that he meant we unilaterally——

Mr. GARN. No; I did not mean that the President had done it unilaterally. Obviously, he had the consent of Congress on the 1978 budget.

If the Senator from Iowa is on that point, I shall yield on that.

Mr. CULVER. I do not have the control. Will the chairman yield on that one point briefly?

Mr. GARN. I am happy to yield on his time.

Mr. STENNIS. Mr. President, I have begun to run out of time. I have a lot of promises out already.

How much time does the Senator want?

Mr. CULVER. I shall only take 2 minutes.

Mr. STENNIS. All right, I yield 2 minutes.

Mr. CULVER. It is just a question whether we want the debate to be balanced.

Mr. STENNIS. I yield 2 minutes.

Mr. CULVER. I have 2 minutes in the greatest deliberative body in the world.

On this point of whether we unilaterally give up the B–1 and do not pay attention to the Soviets in the SALT context, if this B–1 is crucial to our national interest, we should never bargain it away and we should build it. If it is not, the Soviet Union knows that and they do not worry a bit about our being so dumb as to spend $30 billion on it. The Soviet Union has far more concern, understandably and properly so, in terms of their own air defense capabilities, to be confronted with a mixed manned bomber force with cruise missiles than the B–1 ever presented to them.

I thank the Senator for yielding.

Mr. GARN. Now, if I may get back to the distinguished Senator from Maine, I thought I was very clear in my righteous indignation in saying, at least three times and summarizing, that I agreed with the Comptroller General that the President was in technical compliance with the impoundments law by dribbling out a little bit of money. I thought I made it very clear that my righteous indignation was in respect to an obvious delay in the dribbling of funds without a restart order in compliance with the Impoundment Control Act, in the hopes that Congress would reverse the decision.

So I agree with him: Technical compliance, yes; but certainly not with the spirit of the law. I think the facts show that. That is why I put the whole record of correspondence with Elmer Staats there.

I do not claim a technical violation of the law. I do claim deliberate delay. I think that package of letters over 4 months, back and forth, shows that the administration is barely staying within the law.

I agree with him, the chairman of the Budget Committee, about a certain percentage of the budget not being allotted to any department. All I made was one brief statement—in response to the constant harangue by some in this body that we are spending too much for defense, and talking about reordering priorities—that we were spending a lower percentage of the total of the gross national product for defense than in any year since 1950, period.

I did not say nor do I believe that we should allocate a certain fixed percentage to the defense budget or any other budget. That is why I was so anxious to jump up. My remarks will show in the RECORD that I simply did not say that. I do not believe it. I agree it would be ridiculous to budget on that basis. But I did want to illustrate the point that the defense budget had gone down.

I also said that, in real terms, it had gone up 2 percent this year, which I was grateful for. I think it should have gone up more.

Mr. MUSKIE. Will the Senator yield 30 seconds?

Mr. GARN. Yes.

Mr. MUSKIE. In response to the Senator's remarks, I was also reacting to what seemed to be a strengthening conviction on the part of those who speak for national defense that they sort of support the idea of a fixed percentage. I appreciate the Senator's clarification as to his own position, but there is that big argument.

The growth in the defense budget this year was 2 percent, real growth. Last year, it was 3.6 percent. The year before that, I think it was about 1.9 percent. That is not a monstrous growth, but it is growth.

Mr. GARN. I did want to make that clarification.

Mr. MUSKIE. I appreciate that clarification

Mr. GARN. The response did not sound to me like what I said. Again, I repeat, it is ridiculous to budget on that basis. I think we ought to have a higher percentage, but a fixed percentage, no. That is no way to carry on a budget.

Mr. MUSKIE. I wanted to be sure that I would prod the Senator away from that position, so I may have stated it more strongly than the Senator's real position justified.

Mr. GARN. The distinguished Senator did not have to prod me away from that particular stand.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I would like to be yielded 15 minutes.

Mr. YOUNG. I yield such time as the Senator may require.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, in the course of this debate we have heard from opponents of the B–1 about jobs, about pigs in a poke, about more bang for a buck, about the vast costs of the B–1. I would like to deal with those matters and then with a few others.

On the matter of jobs, I want to stress, as I have stressed before, that I do not support the B–1 because of jobs. There are many jobs in California related to the B–1. But I have in the past and I will in the future vote against programs that provide jobs if I do not think those programs are needed for valid reasons unrelated to jobs in my State.

I would never support a military program just because of the jobs factor, because there are better and more productive ways, for people being at work if they are not truly needed for national defense programs.

I support the B–1 because of my strong belief that it is essential to our national security and, most of all, to preserving the triad concept of being able to survive any first strike in three ways, and thus prevent us from suffering a first strike.

On the matter of a pig in a poke, it seems to me the cruise missile is the pig in the poke. Its capabilities have not yet been proven and there are some valid questions about the cruise missile I will get into a bit later.

As for the bang for a buck and the vast cost associated with the B–1, I think the B–1 is costly, and yes, the cruise missile sounds very cheap. But if we scrap the B–1 and go to cruise missiles and cruise missile carriers, the ultimate cost may be more, not less, in terms of dollars.

It is true that individual cruise missiles are relatively inexpensive, but their deployment by the United States can destabilize the present delicate balance between our Nation and the Soviet Union and make it more difficult, if not impossible, to reach a meaningful nuclear arms control agreement that can be verified by reliable methods.

A consequent new and unchecked contest with the Soviet Union could produce costs far exceeding those of the B–1.

I know the deep commitment of my friend from Iowa (Mr. CULVER) to SALT. He knows my deep commitment to a viable and reliable and verifiable and sound SALT agreement. I know he subscribes to all those same terms in his concept of SALT.

I have concerns about the switch to cruise missiles as it relates ultimately to our achieving our mutual goals, and they are very important goals in achieving a SALT agreement.

The B–1 is not a destabilizing weapons system. It is well known. It is not an issue in SALT. It can be counted. It can be verified and its range is known.

The cruise missile is a destabilizing weapon system. It is not yet certain if we can exactly count and exactly verify all the important aspects that relate to cruise missiles and to strategic arms limitations.

Going to cruise missiles and dropping the B–1 can make strategic arms limitation agreements more difficult to achieve.

Certainly, if we go to cruise missiles, it is very likely the Soviet Union will go to cruise. That has been the record of past new developments in weapons systems.

As we MIRV'ed, the Soviet Union MIRV'ed, perhaps the single most destabilizing step that has yet been taken in the arms race.

Henry Kissinger originally offered MIRV just as a bargaining chip, and I thing we should never use a weapon as a bargaining chip, but nevertheless it was done. And Henry Kissinger later said, "I wish I never heard of MIRV."

We may be saying a few years from now, "I wish I had never heard of cruise missiles."

I believe we should proceed with the B–1 while at the same time seeking a comprehensive arms control agreement with the Soviet Union which, hopefully, will one day allow both nations to cut back on all strategic weapons systems, including those like the B–1, and specifically including the B–1.

Another point about the B–1 as it relates to arms control issues is the point that it gives us an alternative to pressing the button. Once we launch missiles from submarines or silos, they cannot be turned aside. We cannot abort their mission, as I understand it. We certainly cannot make any show of concern by anything we do with the submarines or the silos.

We can with the B–1. We can put them on alert and in the air, we can start them off toward the targets in the land with which we are having troble, but because they are manned by human beings, we can abort them, turn them aside and instruct them not to drop their bombs down to the very last minute.

We lose that option when we drop the B–1 program. I think it is an option we should keep.

The threat of nuclear war and the effort to avoid nuclear war is the fundamental issue at stake in this issue, and in all issues that relate to the arms race.

Mr. CULVER. Will the Senator yield?

Mr. CRANSTON. Certainly.

Mr. CULVER. Would the B–52 give that same kind of option?

Mr. CRANSTON. Yes, that gives the same.

Mr. CULVER. And we will have that.

Mr. CRANSTON. We will, but we will not have it as an effective way and not after the 1980's. That is the basic question.

Mr. CULVER. Well, we have official Air Force testimony, again, that it will carry out its mission, confidently to 1987 and perhaps well into the 1990's. That was the head of the Strategic Air Command. Then we can watch over the defense in terms of what additional steps might be necessary.

We have that capacity in our current inventory.

Second, on the B–1, as I understand the proponents of the B–1, they are saying, "Give us the B–1 because it's a more reliable cruise missile carrier."

That is not what we heard earlier.

So we not only want the B–1, but as soon as we get it through, put all the cruise missiles on it that we can.

If it were an either/or proposition, we ought to look at it. But no one is even advancing that argument.

Mr. CRANSTON. I am not sure we want to load the B–1 with cruise missiles. That is an option that is being considered. I am not sure it is a wise option.

The Jane's yearbook has raised some serious questions about an upgraded B–52. Mr. John W. R. Taylor, the editor, states:

> The B–52 has been a superb aircraft but, as a design, is now more than 20 years old. Who drives a 20-year-old automobile as his work vehicle? The B–52 was designed to drop free-fall nuclear weapons from a great height. In no way can its well-used airframe be expected to go on flying through turbulence at very low altitude (the optimum launch height for a missile attack) for another 20 years.

Mr. President, many of us disagreed with the President's decision to cancel production of the B–1 bomber and accellerate development of cruise missiles. I am one who favored modernization of the bomber leg of the Triad with the B–1 rather than cruise missiles launched from aircraft because I consider the B–1 the more stable weapon, as I indicated.

Our debate today, however, is not whether to approve or disapprove the President's decision, or to attempt to reverse that decision.

The issue is whether we should maintain the B–1 as one option for a future manned penetrating bomber—a successor to our current B–52.

Mr. President, the President and the Department of Defense favor maintaining the option of a manned bomber. They have made that very plain. At the time President Carter made his decision, he justified his continuing support for B–1 research and development as necessary to retain an alternative should development of cruise missiles meet technical difficulties or if there were a drastic change in United States-Soviet relations.

In announcing his decision, the President said that continued research and development of the B–1 would "continue to provide us with the needed technical base in the unlikely event that more cost-effective alternative systems should run into difficulty." He admits there is a possibility that these alternatives could run into difficulty.

In further recognition of the uncertainties of the future, the President continued:

> But this is a matter of so very very great importance, and, if, at the end of a few years, the relations should deteriorate drastically, which I don't anticipate, then it may be necessary for me to change my mind.

I certainly share the President's hope that U.S.-Soviet relations, and our joint efforts at limiting strategic weapons do not deteriorate or slow down. But we also both realize that such matters are unpredictable and that future improvements in Soviet military capabilities are incalculable.

Likewise, Secretary Brown last year supported the Air Force proposal to develop an FB–111H prototype bomber, stating in a letter to the Senate Armed Services Committee:

> I believe this proposal deserves careful consideration as a way of keeping open an option for such a system as a penetrating bomber at some later time.

Further, he admitted in his October 4 press conference:

> That after a couple of years the option to produce the B–1 is going to get more difficult to exercise. Under those circumstances the Air Force has proposed that we might want to develop and test the FB–111H not because it is more cost-effective than the B–1 but because it may be a better way to preserve an option over an extended period should we later decide that we want a new penetrating bomber.

As my colleagues know, the President has not requested funds for the FB–111H in the fiscal year 1979 budget—despite his support last fall for the Armed Services Committee's addition of $20 million to the supplemental authorization bill for the FB–111H. So here is a change in the President's stance.

It is widely assumed—correctly, I think—that the FB–111H has been scrapped for now—just for now—because it gave hope to those who oppose and wish to reverse the President's decision to cancel B–1 production. But, though the administration has wavered in its support of the FB–111H, it has never repudiated its expressed desire to maintain an option for a future manned penetrating bomber.

Now that the FB–111H has been eliminated as an option for a manned penetrator in the near future, it is even more imperative that the B–1 remain as an option.

Deappropriation of the $462 million in fiscal year 1977 funds would not support

the administration's desire to maintain a full range of options over the next few years. The fourth B–1 aircraft is currently being completed and will not provide the option to return to production past mid-1978 of either the B–1 or a B–1 modified for a mixed bomber force mission.

After aircraft No. 4 is completed in mid-1978, the core skilled technical and production personnel and the production facilities, will be lost. As Secretary Brown noted in his October 4 press conference:

> Given that it is desirable to maintain an option, at what point does the B–1 option disperse? And it is pretty clear that after a couple of years the B–1 is not going to be—the option to produce the B–1 is going to get more difficult to exercise.

Funding aircraft 5 and 6 would extend the B–1 production option for a few more years—until at least 1980—and I believe this is consistent with the President's expressed desire to protect against future uncertainties with a full range of alternatives.

I believe the administration's consistent support for retaining an alternative follow-on to the B–52, as a hedge against uncertainties in cruise missile development, uncertainties in what limitations will be placed on cruise missile in SALT, and uncertainties in United States-Soviet relations in general, can be best fulfilled by joining the House in refusing to rescind funds for B–1 aircraft 5 and 6.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. YOUNG. Mr. President, I suggest the absence of a quorum, with the time to be charged against both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield me 5 minutes?

Mr. YOUNG. I yield 5 minutes to the Senator from Tennessee.

Mr. BAKER. Mr. President, when the Senate votes this afternoon on the motion to insist further on Senate amendment No. 43, the Senate will once again have an opportunity to make an important decision affecting the security of the United States. The amendment, of course, pertains to the rescission of funds allocated for the production of the fifth and sixth B–1 bomber.

Although I support fully the B–1 bomber program, and would support and encourage a Presidential decision to reconsider termination of B–1 development, I can understand why some may feel that it is not now the time to be fully committed to a program of the size and cost of 244 B–1 bombers. But I cannot understand the reluctance to build the fifth and sixth of the series when production costs only 30 percent more than termination and when it is entirely possible that we may at some point in the future decide that full-scale production of the B–1 is, in fact, necessary.

At relatively little cost, we can make a sound investment toward our future defense. We are certain to need a new manned penetrating bomber system; and these two aircraft will perpetuate the technological base that will contribute to that system. Moreover, should we decide to continue the B–1 program itself, production of these two aircraft will assist in the preservation of the manufacturing capability necessary to implement that decision.

In a larger context, I do not believe this the time to be projecting a lack of determination to preserve a very valuable option. We do not yet know the terms of the treaty limiting strategic arms now under negotiation; we do not know whether those terms will be acceptable to the American people and the Senate; and, for that matter, we do not know with any real certainty whether there will be a SALT II agreement at all. Thus uncertain, it seems premature to forgo now what may still be an essential element of our national defense.

We do know that the President's decision to terminate the B–1 program was founded almost entirely on what may be an unwarranted reliance on the development of the cruise missile program. The cruise missile promises to be an important and cost-effective element of both strategic and tactical weapon systems. But its effectiveness and vulnerability are still far too uncertain to place our strategic security in the balance on the strength of a promise. Recent reports by respected analysts indicate that the cruise missile system may be far too vulnerable to place it on such important reliance. Finally, it appears that the administration is negotiating severe limits on the range allowed all three cruise missile systems under proposed SALT II. I would be reluctant to accept this limitation even with the B–1 under full production; I will be far more reluctant to accept it should we determine that we should not preserve even the option to build the B–1.

So. Mr. President, I ask that my colleagues oppose the motion to insist on the Senate amendment in the belief that the expense required for production of B–1's number five and six is a relatively inexpensive insurance policy, considering the very important option that it will preserve and the stakes involved. The potential importance of our decision today was underscored by the editor of "Jane's All the World's Aircraft" in the preface to the 1978 edition, who, in voicing concern with the President's B–1 decision, noted, "1977 might be recorded as the year in which the seeds of defeat for the Western Powers were sown." With so much at stake, I implore my colleagues not to gamble with our strategic destiny further at this time.

Mr. WALLOP. Mr. President, will my colleague yield for a question?

Mr. BAKER. Mr. President, I am happy to yield.

Mr. WALLOP. Mr. President, I can only say that I agree with the statements that the Senator has made.

I had the privilege of attending the SALT talks in Geneva. Indeed, I attended one of the plenary sessions. I had a 4-hour conversation with Ambassador Seminoff and the American negotiators.

The thing that concerns me is that the Backfire bomber is not part of the SALT negotiations because the B–1 bomber is not part of the SALT negotiations.

Is that the Senator's understanding of the way the things have come back here?

Mr. BAKER. Mr. President, that is my understanding.

At the time the President decided to cancel the B–1 bomber program I wondered what he was going to get in return from the Russians, and the answer is we got nothing in return.

Mr. WALLOP. I only concur in the answer that we got nothing.

On that, I quote from Ambassador Earle who told me exactly the same thing, that we got nothing, and it leaves us, I think, in a situation where we are discussing warmaking capacity without discussing the things that we make war with.

It is the most remarkable set of circumstances that I have ever got involved in, and I would only say that I support the Senator. I hope that we have brains enough to carry on with the building program until we get something in return from it from the SALT negotiations.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. BAKER. Mr. President, I have the floor, and I am happy to yield.

Mr. CULVER. I thank the distinguished leader for yielding.

On this SALT point, I think it is very important to keep in mind that if the B–1 is determined to be essential to our national security interests, I think we clearly should build it, we should buy it, we should have it in our inventory, and it does not matter what the Soviet Union wants or is doing or not doing.

However, if it is not essential and it is only marginal, and we have other ways that can carry out the same mission with greater effectiveness and at less cost, which is what the considered judgment of the President, the Secretary of Defense, and the Secretary of the Air Force is at the present time, then it seems to me the Soviet Union is very smart in recognizing that fact. It would be a waste of money for us to spend $30 billion on a B–1 that does not give them as much of a problem in terms of their own air defense situation over and above B–52's, rather than confront the cruise missile option. The Soviets never got very upset about B–1. They have gotten enormously upset, and understandably so, about the cruise missile.

Finally, on the Backfire versus the B–1——

Mr. WALLOP. Mr. President, could I just say——

Mr. CULVER. I wish to finish first and then I will be glad to yield.

On the Backfire versus the B–1, the interesting thing is that tit for tat with the Backfire we never had Backfire previ-

ously in the SALT context, just as we never had any of our forward base systems in the SALT context.

They were not viewed as central strategic weapons. They were in the so-called gray areas. Interestingly enough, we now have been talking about getting Backfire into the agreement.

Our reluctance heretofore has been that we do not want to open up the whole Pandora's box of the whole forward-based system that the United States currently has and which will undoubtedly be on the agenda for SALT III.

So we ourselves have been the ones who have not been too interested in having Backfire, and no one has ever equated the strategic capabilities in the most extreme assessment of a Backfire, which can make it on a one-way mission and land in Cuba, with the strategic capabilities of a B–52 which has been designed for that mission.

So I think it is important to just clarify some of those aspects of the relationship on those particular weapons systems as they relate to the SALT context.

I thank the Senator very much for his generosity in yielding.

Mr. BAKER. I thank the distinguished Senator from Iowa who not only is a valued member of the Armed Services Committe, but who supplies his point and the underlying logic of it with great thoroughness and often convincingly. I must say in all candor he does not convince me in this case, but I respect his point of view.

I will not add unduly to this aspect of the debate except to say that the argument is often made that the Backfire bomber should not be thought of as a strategic weapon, because it cannot fly to the United States or most parts of the United States and return without refueling. I point out, however, that the B–1 bomber cannot fly to Russia and back without refueling either; and I rather suspect that the weapons system was never designed with that in mind but both of them were probably designed for essentially the same mission—that is, to fly to a particular target area, to accomplish a mission, and then to hopefully land in some safe haven, possibly even Cuba, on the one hand, or Greece or Turkey on the other.

So, Mr. President, I think the question of the B–1 bomber, its essentiality to the American defense mix, and its value in the SALT negotiations, is intertwined with the entire question of mutual restraint on strategic arms and that it was a mistake not to include it in the SALT negoiations in the beginning.

Mr. President, I thank the Senator for yielding.

Mr. YOUNG. Mr. President, I yield myself 3 minutes.

Looking back through history, we have entered every war with obsolete weapons, weapons not nearly as good as our opponent's.

We are using much the same argument today. There is no way in which you can modernize B–52 bombers so they will be as effective as a B–1 or a new bomber. Opponents of the B–1 propose to utilize the B–52 another 10 to 15 years. These aircraft are already 20 years old. They would extend the B–52 life to 30 or 35 years.

That is true of almost every weapon, almost every piece of equipment you can think of in our inventory. In the war in the Middle East recently we found our antitank guns were completely obsolete. Those supplied by the Russians were far superior to ours.

We are building new tanks because our old ones are obsolete. Our missiles are being improved. You can go all the way down the line, and you cannot in any way I can see it take an old piece of machinery, even farm machinery, or truck or automobile 20 years old, and no matter how much you spend on it you cannot make it as efficient as a new one.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield myself a half minute just to make this announcement.

As I understood, those in opposition to my motion have several speakers, in that several have asked for time and have been notified to come on over. They have not gotten here yet.

I have allotted considerably more time than the other side. I do not have any other speakers just now.

I propose that we have about a 3-minute quorum call. Mr. President, I suggest on equally divided time that we have a quorum call, but at the end of 3 minutes I will ask that it be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YOUNG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YOUNG. I yield the Senator from Ohio such time as he may require. Twelve minutes?

Mr. GLENN. Twelve minutes will be fine. I thank the Senator.

Mr. President, I think it is helpful, on this B–1 question, to look back just a little bit and see where we have been.

When the President canceled the B–1 program, he also stated that the B–1 would remain as an option for the next few years to meet the requirement of a future manned penetrating bomber.

The funds for aircrafts 5 and 6 are needed in order to preserve the production facilities, the work force, the technical expertise, and importantly, too, the management team necessary to preserve the B–1 as a genuine option. Without all those components, we will not have the option the President indicated he wished to retain.

The role and type of manned penetrating bomber within our strategic forces has not yet been fully determined. A manned bomber should carry a large number of weapons, be highly accurate against "hardened" targets, have flexibility in avoiding air defenses, and thus be a highly visible deterrent.

The administration had sought supplemental appropriations of some $20 million to study the FB–111H, an airplane that is admittedly less capable although almost as expensive as the B–1, as a possible penetrating bomber. With the elimination of the funds for the FB–111H from the fiscal year 1979 budget, the need to continue the B–1 option, to me, is even more pressing.

The B–1 is more mission effective and cost effective over the life of the program than the other penetrating bomber options, either the FB–111H or the refurbished B–52.

The cruise missile is not an exact substitute for the B–1 as far as mission goes. The cruise missile is not capable of outmaneuvering air defenses, cannot be called back, and is designed for use on basically "soft" targets, although that can vary.

The cruise missile has not yet been proved effective, and I think that is the main point. Cruise missiles look very promising, but there is a lot of work yet to be done before the cruise missile can replace the need for a manned bomber. If a mix of penetrating bombers and cruise missiles were desired, the B–1 could serve as a launcher for the aircraft-launched cruise missile, the ALCM, as well as serve the penetrating bomber role. In a modified form, the B–1 could also perform as a more cost-effective ALCM launcher than present wide-body standoff cruise missile carrier alternatives.

I believe a replacement bomber for the aging B–52's is necessary for conventional warfare, especially in view of increasing sophistication of air defense systems. I have supported the B–1 as a modernized, conventional bomber possessing a much smaller radar profile, greater speed, and double the payload capacity when compared to the B–52.

The B–1 bomber is not an arms control problem. It will replace an existing bomber and thus need not increase the number of strategic offensive delivery vehicles. We have been trying in SALT to reduce the level of allowable delivery vehicles. The B–1 would not complicate these negotiations or future negotiations, as we see it.

Mr. President, I must admit I never put much stock in the triad concept that was put forth by the Pentagon. We have an ICBM system. To back that up, we have a submarine system, which cruises for extended periods of time over great ranges and is largely undetectable under water when these two systems are capable of launching retaliatory strikes, then to think we need an additional, third way of delivering nuclear weapons, with all of the thousands and thousands of deliverable nuclear warheads that we already have from the first two methods, to me, does not really make much sense. I feel that perhaps the Defense Department was deficient in the way they presented the B–1 argument.

I have supported the B–1 argument on this basis: Any future combat scenario is more likely to start out with conventional warfare and we hope, we pray to God, that it never escalates beyond that.

But should we enter into conventional warfare, we will need all the arms of

conventional warfare. That certainly, in any modern combat scenario, must include a heavy bomber if we are to do the job that has to be done.

(Mr. HATHAWAY assumed the chair.)

Mr. GLENN. I have supported the B–1 on the basis that it is the logical follow-on for the old B–52, which proved in the last days of the Vietnam war to be highly vulnerable to surface-to-air missile attacks. We lost a large number of these aircraft in the last, waning days of the Vietnam conflict. Therefore, I do not believe that the B–52, even refurbished, would be able to do the job in any future conventional-warfare combat situation.

Considering the conventional weaponry to be carried, the B–1 could replace the B–52 on a one for two basis—in other words, one B–1 could replace two B–52's because the B–1 will carry approximately twice the payload of the old B–52. The B–1 can deliver its weapons load with a high altitude run-in or a low altitude run-in, is much more flexible, has a smaller radar profile, and has a much better chance of mission success than the B–52's, that we might be refurbishing and reequipping.

However, the B–52 cannot be made into a supersonic aircraft and cannot even approach the increased crew potential that the B–1 would have in its role.

For those reasons, Mr. President, I have supported the B–1 and still support the B–1 as a follow-on conventional bomber primarily, but with the obvious added benefit of a nuclear delivery capability. Unfortunately, I think, its nuclear delivery capability has become the prime reason for Pentagon support of this weapons system. I plan to vote this afternoon for the production of B–1 aircrafts 5 and 6, because if we are to keep this option open, we need these two additional test airplanes. I do not feel that the funding that is being asked is excessive when it gives us the possibility of keeping this option open. That is all that is asked by this motion.

This is not a buy of 40 or 60 or 150 airplanes involving billions and billions of dollars. It is to provide the funding for aircrafts No. 5 and 6 in order to preserve the production facilities, the work force, the technical expertise, and the management team necessary to preserve the B–1 as the true option the President indicated he wanted to retain. While he cut back on his funding for the whole program, he did indicate that he wanted to keep the B–1 option open and see what developed. I say this vote today is very crucial to maintaining that option as the President desired. I urge my colleagues, Mr. President, to vote in favor of production of the B–1 models 5 and 6 this afternoon.

I thank the distinguished Senator for yielding me time on this most important matter.

Mr. GOLDWATER. Will the Senator yield me not more than 10 minutes?

Mr. YOUNG. I yield 10 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am opposed to the language in the fiscal year 1978 supplemental authorization bill that would deappropriate fiscal year 1977 moneys for B–1 bombers 5 and 6. I have made the point before, but it is still a fact that the Senate, through this action, is circumventing the Budget Impoundment and Control Act and I do not believe the Senate position should be reinforced in its conference with the House.

The procedures on rescission in the Budget Impoundment and Control Act are quite clear. Consequently, when the House Appropriations Committee, some time ago, rejected the President's rescission notification on these particular funds, that should have been the end of the matter. As we all know, the House conferees have refused to accept this language, and their position was reinforced by the full House with a vote of 191 to 166 to reject the Senate position. In other words, the House is sustaining its rescission action and is telling the President to build B–1's 5 and 6.

Mr. President, I have examined the new defense budget and, in my opinion, the administration's proposals for strategic programs indicate it still does not have a good understanding of the United States/Soviet strategic equation. For example, there are no funds in this defense budget for even the most basic prototype work for a follow-on to the B–52. Further, research and development funds on strategic programs is down by about $400 million over 1978, and in the total defense budget, there is no real growth in funds for strategic forces.

In the supplemental authorization bill, the Armed Services Committee recognized the need for a follow-on bomber to the B–52 and included $20 million for the FB–111H prototype.

I might add that this aircraft would have all the characteristics of the B–1 within 4 or 5 knots and within a few feet of climb capability, but will only carry 70,000 pounds of payload, compared to 350,000 of the B–1. That authorization was accepted by the House, and Secretary Brown had advised us that was a prudent alternative to examine. However, it was dropped in the appropriations conference. Yet the administration is still pressing to cancel B–1 production, even though it has no alternative in mind and has not included a proposal in the 1979 budget. So one must raise the question of whether the administration understands the concept of a mixed force as emphasized by our Armed Services Committee. Such a force would guarantee that, beyond the life less effective as a penetrator, a follow-on of the B–52, which is becoming less and manned penetrator aircraft was still required.

Mr. President, there is a lot of confusion about this term "penetrator." The old concept of strategic bombing was from high altitudes. The new concept of strategic bombing is from extremely low altitudes, altitudes of from 200 to 300 feet above the ground at speeds of Mach .85, which is about 650 miles an hour.

The B–52 will fly only about 350 miles an hour, and at the extreme turbulence encountered at 200 to 300 feet over most any terrain, the B–52 just cannot take it.

It is not only becoming an ancient aircraft, although a good aircraft, but it is not designed for the modern call for strategic weapons.

The FB–111H would be a comparable airplane and a good one if we feel we can get away with the light payloads that it would be required to carry.

When the President canceled B–1 production, he said it was a decision against the B–1 only and not against the manned bomber concept per se. However, the actions of the administration seem to say otherwise. It is becoming clear that the administration intends to place the primary responsibility on the future strategic air breathing force, as it calls it, on the cruise missile and is not going to pursue a follow-on penetration system, B–1 or otherwise. Consequently, I believe we must take whatever steps are necessary to insure that our future strategic force structure is adequate to meet the projected Soviet defensive threat and we must continue with the B–1 program. There is a definite and supportable need for a manned penetrator beyond the life of the B–52 and the B–1 was designed to fill that need. The testimony before our Research and Development Subcommittee clearly supports this requirement and I do not understand why the administration offers no alternative to the B–1.

I interject here, Mr. President, that the Russians are continuing to build the Backfire bomber. Their production rate is about three a month now.

This aircraft will reach the United States. It cannot return, but that does not seem to be of much concern to the Soviets.

It can land in Cuba or other Communist-sympathizing countries that are now in existence in this hemisphere, or which will be in existence shortly.

We have not gotten anything out of the SALT talks relative to giving up our best strategic weapon.

In my humble opinion, if the President does not allow this No. 5 and No. 6 to continue, if this Senate does not allow 5 and 6 to continue, thereby maintaining a production line, the time will come again, in my opinion, when this Senate is going to reject the SALT treaty, if the negotiators at the SALT talks do not do it themselves.

It is a bad treaty so far. It does nothing for us. It does everything for the Soviets.

But if he is to have something to fall back on, he will have to have the B–1. If we allow the line to stop by not building 5 and 6, he is going to have to start all over again and instead of looking at an aircraft that can cost, maybe, now $110 million, we are going to be looking at one that costs $150 million, and maybe more.

We could prevent that. I will still agree it is an expensive airplane. I might point out that this is a very expensive Congress, too, and everything else that we are doing in this country is expensive.

My concept of the first duty of this country is that the first duty of this country is to protect the people and their property and their freedom, and if we are going to fall so far behind the Rus-

sians that they can call our hands and we do not have an ace in the hole, then we are going to be in bad shape.

If the fiscal year 1979 budget had contained development funds for a follow-on penetrator beyond the B–52, then that might well be considered a basis for not proceeding further with the B–1 program. But, since there are no funds included and the intention of this administration regarding future strategic force structure has become quite clear, the case for building B–1's 5 and 6 is now even stronger than it was last December when we debated this issue. In my opinion the administration has weakened its case considerably by not including an alternative program in the 1979 budget submission.

Mr. President, there are other reasons to proceed with the B–1 program. We are still encountering difficulty at the SALT II negotiations which, in their present state, are unlikely to result in a treaty that the Senate will ratify. I touched on this, but I want to go further with it. Our negotiators are reportedly still trying to resolve the Backfire bomber issue, but it is not likely the Soviets are going to agree to include the Backfire in any treaty. Frankly, I do not think we have the leverage now to make the Soviets move on this point.

Now the administration is proposing an exchange of letters defining the Backfire's limits and use which, to me, would be totally inadequate. The idea that we gave up the B–1 unilaterally dumbfounds me when it seems obvious we could have resolved the Backfire issue using the B–1 as a trade. I would not have given up the B–1 in any case, but if I were the President and was determined to cancel the B–1, I certainly would have tried to get as much from the Soviets as possible for doing that. That might have made the decision more palatable to some in the Congress.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. GOLDWATER. Could I have about 3 minutes more?

Mr. YOUNG. Three minutes more.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. GOLDWATER. I thank the Chair.

We still have not resolved the cruise missile range issue at the SALT II negotiations. The administration has said the cruise missile will be the "senior partner" in the future strategic force, and yet we are still haggling over what the operational range should be. The possibility exists that the cruise missile range we end up with will preclude our being able to reach some targets.

When this occurs, how does the administration propose to cover those lost targets with other than an SLBM or ICBM? Can the administration guarantee that there are no targets in this category that will not require a weapon from a manned penetrator? With the B–1 in the force, this eventuality will not come to pass because the B–1 could penetrate to Soviet targets well into the next century.

Mr. President, it is ironic that, on the one hand, the administration has elected to rely on cruise missiles in the future while, on the other hand, the negotiations it has done at SALT on the range of the cruise missile makes one wonder. This hardly inspires confidence and it does not reflect a coordinated strategic policy within the administration.

The administration's performance at SALT II, thus far, reflects a serious lack of understanding of how to deal with the Soviet Union. The administration has been far too eager to make concessions too early or of a magnitude not required. However, I do not put all of the blame on our negotiators because they are seriously lacking in real leverage, which the President has failed to provide. It is becoming more obvious that the B–1 is required and that we must retain the option and the leverage these two aircraft will provide. I urge our Senate conferees be instructed to recede to the House on this matter.

Mr. TOWER. Will the Senator yield?

Mr. GOLDWATER. Yes, I yield.

Mr. TOWER. I want to associate myself with what the distingu'shed Senator from Arizona has said.

Less than a week ago, I attended the SALT negotiations in Geneva and had an opportunity to sit in a plenary session of the association. I met with both Russian negotiators and with our own.

I must say that the fault lies not with our negotiating team there. They are victims of the instructions and the guidelines they have received from Washington and, as the Senator suggests, they are placed in the unfortunate position of having to play with a stacked deck.

Unilateral cancellation of the B–1, although the B–1 did not appear to be a matter of major Soviet concern at the time, certainly it was after, as part of our arsenal and something from which we proceed, the unilateral cancellation of it, I think, has, as the Senator suggested, placed our negotiators in a very difficult position.

It was at Soviet urging that the Backfire was dropped out of the Geneva discussions. It is not even in the discussions now in Geneva.

Our SALT II negotiating team has nothing to do with the Backfire at this point. It is being dealt with as a separate issue, which in my view is foolish, in the first place. It has to be considered in the context of the whole range of strategic capability.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. I yield the Senator 5 minutes.

Mr. TOWER. I think we would vastly strengthen the hand of our negotiating team there should we serve notice that, whether the President likes it or not, we are going to continue with production of the B–1 and that it is something to be reckoned with.

Anybody who knows anything about strategic capability knows that the cruise missile is not a substitute for the B–1. It was intended to be a supplementary system to the B–1, however good the cruise missile might turn out to be.

As the Senator points out, the 2,500 kilometer limitation is going to make it eminently less desirable as a part of our strategic triad.

Mr. GOLDWATER. I think the observations of the Senator from Texas should be clear to everyone in this country who is following the SALT talks.

While I do not believe that our negotiators are what I would call the strongest people we could find, I do not care how strong the negotiator is, if the President of the United States does not back him up, does not give him some weapons with which to fight.

So far, these negotiations have been marked, to me, by a willingness on the part of our negotiators to give the Soviets anything they want. We have been giving and giving and giving ever since the end of World War II. Where we were once the world's greatest military power, we are no longer in that position. Where once we were respected and our name meant something in the power of the world, today it has diminished to the point that even small countries are now willing to stand up and challenge us and take us on.

So I hope that the President would pay some attention to the opinion of some of the Senators in this body, that he should put some muscle on the rather lean arms of the negotiators in Geneva so that they can get along with the job. If we put the B–1 bomber back in and make them recognize that we are going to have a fleet of B–1's, then we will have to talk about the Backfire versus the B–1.

We have gotten nothing from the cancellation of the B–1. We have not even gotten a modified FB–111H. We have not even completed our modification of the B–52 fleet, which is about 7 years away now. Mind you, that airplane is so old that we have crews whose fathers flew some of the airplanes.

I have made this statement before: We stand in strategic nakedness in this country for about 7 more years because of the inattention of our President to the needs of the strategic aspects of our military.

Mr. TOWER. Mr. President, will the Senator yield me 5 minutes?

Mr. STENNIS. I yield.

Mr. TOWER. Mr. President, I want to associate myself with the remarks of the distinguished Senator from Arizona.

I do not have too much to add, except that after meeting in Geneva, I met with a number of NATO parliamentarians and cabinet ministers and military people in Munich over the weekend. They repeatedly asked the question why we unilaterally canceled the B–1. I could not, for the life of me, explain to them.

They also expressed some concern about our softness on the MX. Viewing everything in the aggregate, they wondered what we are going to do in these negotiations, which are going to impact even more adversely on them than on us.

I think that right now, in addition to our own safety, we have to consider what is likely to happen to the cohesion and competence of the North Atlantic Treaty Organization, of our alliance, if we proceed along the lines we are now because we are excluding such things as the

SS–20 and the Backfire and other matters that are of vital concern to them.

We have to remember that what is an intermediate range weapon to us is a strategic weapon to them because it can be launched from the Soviet Union to the United Kingdom or West Germany. Right now, our allies are showing very little confidence in our ability to negotiate this matter properly.

Even if we should achieve a nuclear standoff—which we are not going to do, considering the current trend—what we will have to consider is their growing superiority in intermediate range weapons or the so-called theater or regional weapons, added to that their enormous battlefield superiority in Western Europe, and what kind of real defense in the Western World we have, and how can we expect other nations to follow the leadership of the United States under these circumstances?

They are already talking in West Germany about going back to Ostpolitik, to reach out to Russia because of the fear that they are going to have to make their own individual accommodations, because the United States is going to cop out.

If we think we can accept a degree of strategic inferiority, a lot of intermediate or theater or regional inferiority and battleground inferiority, and withdraw to fortress America and expect everything to be hunky-dory for the United States, regardless of what happens to the rest of the world, then we have no vision in this country.

Mr. GOLDWATER. Our President has made a lot of noise about doing away with the threat of nuclear war. What we are talking about is a strategic concept of nonnuclear war. Yet, if he takes away our B–1, if we do not get the FB–111 modified, if he limits the range of cruise missiles, we are going to wind up with only one alternative, and that is the red button down in the President's office, and he will press it. We are going to be in nuclear war, because we have no other way to fight a strategic war, if he continues to follow the idea of nonconventional weapons but also continues to talk so heatedly against any kind of nuclear weapon. None of us wants nuclear weapons. I wish we could scrap them all. But we are not going to do so because the Soviets are not going to scrap theirs.

So I hope the President would pay some attention to these things. He is going to leave us no alternative but to answer the Russian threat with nuclear weapons, and we do not want to do that.

Mr. TOWER. Or yet perhaps another alternative—being confronted with overpowering Soviet military superiority, and the free world will have to knuckle under to the political and economic domination of the Soviet Union.

Yes, in those circumstances where they had that superiority, we could avoid nuclear war. But how do we avoid it? By becoming a second-rate nation, by weakening ourselves politically in the world, and hence weakening ourselves economically, because we are not an economically self-sufficient country.

What can we expect in this country if we are held hostage to the political and economic global politices of the Soviet Union? We will not have the standard of life we have in this country today, and all our concerns for the poor and the disadvantaged in this country will be magnified many times over because we will not have the resources to make a decent quality of life for the citizens of this country.

Mr. GOLDWATER. The Senator is right.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. GOLDWATER. I think I have about expired, too.

[Laughter.]

Mr. STENNIS. I yield the Senator 2 additional minutes.

Mr. GOLDWATER. I remind the Senator that we no longer have a two-ocean Navy; we are no longer the No. 1 Navy in the world. We are superior in our air forces only because we have fought two wars in the air since the Soviets had to fight one in the air. Our armies can never match the might of the Russian armies because of the simple statistic of numbers.

So we are not too many years away—I am not talking about 10 years; I am talking about perhaps 2 to 5 years—from when this country will be a decidedly second-rate country. If we are going to be second-rate, we might as well be 20th.

Mr. TOWER. The Senator is absolutely right.

We pride ourselves on a lot of qualitative superiority, and we have it both in terms of men and machines. But the fact is that ultimately the numbers are going to catch up with us, and we are going to lose that qualitative edge. We are going to lose it not only because numbers will overwhelm us but also because the Soviets are not prepared to accept from now on the qualitative edge that the United States has in many areas.

And they are beginning to close the gap on the qualitative edge. Does the Senator agree?

Mr. GOLDWATER. I agree completely, although I have never subscribed to the Soviet's supposed great scientific ability. I think they are probably lagging behind us 15 to 20 years.

Mr. TOWER. We hope it is 15 to 20 years.

Mr. GOLDWATER. They are now building stronger jet engines, for example. We lag behind in jet engines. They build their aircraft in a clumsy sort of a way, but they go faster than ours and they are just as maneuverable. They still have better tanks. They still have better field rifles than we have. They have better ways of getting their soldiers across the battlefield. They are just as good at electronic surveillance as we are.

So I agree completely with my friend from Texas.

Mr. WALLOP. Mr. President, will the Senator yield on this point?

Mr. GOLDWATER. I ran out of time.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. YOUNG. Mr. President, I yield 2 minutes to the Senator.

Mr. WALLOP. Mr. President, on that point I point out that the protocol that is being negotiated at this moment on the SALT II treaty would do the one thing that Senator GOLDWATER and Senator TOWER have just been expressing a little trepidation about, and that is our technological capability. One of the things being negotiated right now is the fact that our technological achievements are considered to be circumvential in the basis of the treaty and that any technological improvements which the Soviets may make is a matter of weapons upgrading. So we are negotiating away our own technological ability in addition to the B–1.

Mr. TOWER. The Senator is absolutely right.

I might say that the Senator from Wyoming put in an appearance in Geneva, and we were strongly supported by him there, and he made a positive contribution to what was going on there.

He is absolutely right. We will be accused of circumvention and transfer if we do any improvements, but theirs will be simple maintenance, or something like that.

Unresolved is this business of the modernization of their systems and the vulnerability of ours.

We are treading on very dangerous ground here, and I rather hope they do not resolve the issue because then maybe we will not get a treaty.

Mr. GOLDWATER. Mr. President, I relinquish the floor.

Mr. DOLE and Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. YOUNG. Mr. President, I yield 4 minutes to the Senator from Wyoming.

Mr. WALLOP. I thank my colleague from North Dakota.

The PRESIDING OFFICER. The Senator from Wyoming has 4 minutes.

Mr. WALLOP. Mr. President, I have a statement which I wish to deliver on behalf of the Senate's consideration of extended funding of the two B–1 bombers and perhaps the whole program.

I stand with many of my distinguished colleagues from the Senate and Congress of the United States in support of a stronger national defense and particularly in support of producing the B–1 bomber.

Since the mid-1960's, this country has been engaged in a dangerous experiment. We have not increased the numbers of our strategic launchers, have made only modest improvements in some, and have allowed others—our bombers—to decay. We have largely dismantled our own national defenses against manned bombers. We have done this in order to give the Soviet Union an example of good will, an invitation if you will, to share strategic parity with us, and an inducement to moderate their strategic programs.

The experiment was based on the premise that the Soviet Union accepted the desirability of strategic parity with us, rather than dominance of us.

That premise has been shown to be faulty. We stopped it at 20-odd submarines; they went on to 40. We stopped

our whole commitment to air defenses; they continued. We stopped building a number of things; they continued on on almost every level. In the SALT negotiations that are in front of us, at almost every level where the Soviet Union is being asked to dismantle we are negotiating numbers which we would have to build to achieve. In other words, we do not even have the levels the Soviets do. The premise of strategic parity is faulty, and the experiment with it is failing. Our own inaction, it seems, has given the Soviets the confidence to build up their weapons.

My good friend from Iowa spoke a little earlier, and he said that the B–1 never worried the Soviets. If I were a Soviet negotiator and figured there was a struggle going on and we did not have a B–1, and particularly when I saw the United States make a unilateral commitment not to build it, I would not worry about it either. You cannot negotiate something you do not have in your pocket. We need a few people who have bought a horse once or twice to find out that the closer the time comes when you get to go home, the cheaper the horse becomes.

The Soviets now lead us in every category of strategic weapons except total number of warheads. But our lead is evaporating. By 1982, the administration has conceded, the Soviets could destroy about 90 percent of our land-based missiles with a small fraction of their own.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. WALLOP. I yield.

Mr. GOLDWATER. We do lead in warheads, but let me remind the Senator it takes almost the whole day to put a warhead on and get it accurately aimed at the target. So I do not buy this nonsense that we have more warheads.

Mr. WALLOP. I do not buy it either when other factors are considered, especially when we start counting warheads among those in the Poseidon submarine which rely on satellites to be delivered accurately and when we now know that the Soviets have an antisatellite capability.

So I agree with my colleague from Arizona that while we lead in numbers it is small comfort.

By itself, the B–1 cannot redress the balance. But it can help. Congress was dissuaded from building it earlier this year by the administration's claim that because one B–1 bomber costs as much as 200 cruise missiles, $24 billion spent on cruise missiles, rather than on B–1 bombers, would buy us more defense. But it has since bcome clear that the administration does not intend to buy 200 cruise missiles for each B–1 not built, but only about 10.

And we are negotiating away the capability of it in the first place.

One thing is crystal clear: This Nation must not negotiate itself into a position of inferiority. We cannot give up the B–1 and limit the range of cruise missiles.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. WALLOP. Mr. President, will the Senator yield me an additional 1 minute?

Mr. YOUNG. I yield 1 additional minute to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. WALLOP. If there is going to be a negotiated limit to the range of cruise missiles, the United States must be able to attack the Soviet air defenses which can now keep existing launch platforms from penetrating to significant Soviet targets. Our bombers have to be able either to get to their targets or to get within range of the cruise missiles they carry. Since the Soviets, unlike ourselves, have not dismantled their air defenses but have improved them, only a strategic bomber such as the B–1 can deal with them by both avoiding detection and fighting its way in.

There may be nothing sacred about our strategic triad. But the administration has been deprecating the usefulness of bombers in the name of cruise missiles and then negotiating away both the numbers and the flexibility which make the cruise missile useful in the first place.

I suggest, Mr. President, that our strategic inferiority will take on catastrophic proportions unless we change our course. We need the B–1 and the cruise missile.

I thank the Chair and yield back the remainder of my time.

Mr. STENNIS. Mr. President, I am authorized on behalf of the Senator from North Dakota to yield 2 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 2 minutes.

Mr. DOLE. Mr. President, I have listened to some of the debate in my office with the new sound system, and I have heard many fine statements.

Mr. President, today the Senate faces the responsibility of determining whether or not we should keep the B–1 manned bomber as a practical option in our strategic Triad defense.

A NECESSARY DETERRENT

Mr. President, the Senator from Kansas, as have many others, has supported the development of preliminary procurement of the B–1 in the past. In May of 1976, during consideration of authorization for procurement, I expressed judgment that the B–1 is a necessary element of our strategic deterrent that would help insure this Nation's second-strike capability. Mr. President, I do not see any reason to modify that position today.

MAINTAINING THE TRIAD

As most of us realize, the Triad concept clearly states that the United States will maintain three independent, but interdependent strategic nuclear forces consisting of land-based missiles, sea-launched missiles, and manned strategic bombers. Each of these components supports and complements the others in an attempt to complicate an enemy's defense planning and reduce his ability to launch a successful strike against this country. If we diminish or eliminate one "leg" of this three-prong defense system, we place a greater burden on the other two and increase our vulnerability.

Mr. President, our strategic policy is designed to deter nuclear war, to discourage conventional acts upon Western Europe or elsewhere, and to defend against coercive diplomacy. It is also designed to conclude any future wars on terms acceptable to the United States. Mr. President, the Triad is an essential basis for this policy, therefore, I am convinced that the B–1 bomber is an essential component of the Triad that must be developed to its fullest potential.

IMPORTANCE OF THE MANNED BOMBER

The manned bomber, as we have learned from experts, is the most accurate proven military system. It is a fact that it is the only U.S. weapon system that has actually been used under combat conditions, where it demonstrated its effectiveness and capabilities.

The Senator from Kansas wishes to emphasize three points related to the need for funding of the B–1 aircraft Nos. 5 and 6.

The need for fast escape for the manned bomber leg of the Triad will grow significantly in the coming decade of Soviet first-strike capability growth. As that grows ours must proceed. The B–52, with or without ALCM's, is not survivable against this threat over the long term.

Although the President feels he does not need leverage at the SALT negotiations, it is important for the Soviets to know that Congress is prepared to take steps to prevent the achievement by the Soviets of strategic superiority, regardless of the outcome of SALT.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. DOLE. Mr. President, may I have yielded to me 1 additional minute?

Mr. STENNIS. Yes. I yield the Senator an additional minute on behalf of the Senator from North Dakota.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. DOLE. Finally, quite apart from the alternate decision to deploy the force of B–1 bombers, it is essential to maintain an active development program in manned bomber technologies, especially in the areas of nuclear survivability and penetration for which these two aircraft will be used.

Mr. President, based on these three specific areas, in addition to the many others that have been stated and considered by the committee and by those who are directing this legislation on the floor, I certainly support the efforts now being made.

OUR NATIONAL DEFENSE

Mr. President, the Senator from Kansas believes a nation's strategic weapons force is something you plan for, hoping never having to utilize it. The only real test of your planning success would be ultimate ability to stabilize peace or to win a final victory in time of war.

This is an issue that goes beyond simple consideration of costs or special interests—it is an issue that bears directly on national survival. My own reasoning

and that of many of my colleagues leads to the conclusion that our defense interests are best served by maintaining a strong manned-bomber system.

Mr. President, the Senator from Kansas strongly supports the action of our colleagues in the House to keep the B–1 as a practical option in maintaining our strategic triad defense.

Mr. STENNIS. Mr. President, I am glad to yield 10 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. PROXMIRE. Mr. President, I thank the distinguished chairman of the subcommittee and manager of the bill.

A TETRAD IS ENOUGH: B–1 IS UNNECESSARY

Mr. President, I have been listening for the last 45 minutes to the arguments on the side of those who would reject the President's recommendation and force the construction of two additional B–1 bombers. The issue they presented over and over again is that the President somehow is, and the Defense Department and the Chiefs of Staff are, trying to unilaterally disarm our country and weaken our country by following a policy that would make a weaker military.

Mr. President, this could not be farther from the fact. The fact is—and let us take a look at one particular issue—they argue we need a penetrating bomber, and that only the B–1 is the bomber that we have that can do the job, and that by rejecting an additional two B–1's we are turning away from the prospect of having a penetrating bomber.

Mr. President, before discussing what this debate is about, I will list those items that have been discussed but like the flowers that bloom in the spring have nothing to do with the case. We should get down to the true substance of the issue.

First, we are not arguing about production of the B–1 bomber. The issue is whether or not to spend $462 million in fiscal year 1977 funds that remain from an original appropriation of $1.16 billion. That appropriation was made before the President was elected and therefore obviously before he had an opportunity to review the B–1 decision and cancel it.

Of the $1.16 billion, $401 million already has been spent. Contract termination costs will account for another $297 million. This leaves the $462 million before us today.

The $1.16 billion total for fiscal year 1977 was to have produced three B–1 bombers. The plan now, however, is to drop one B–1 and only build two should the Senate and House refuse to go along with the President.

Instead of production line models, as originally planned, these two aircraft will be research and development planes. They will be hand-made in the same sense as the other four R. & D. aircraft.

But spending $462 million for these two B–1s will not be the end of the costs. It will require an additional $280 million to flight-test both aircraft over a number of years. Thus the real cost to the taxpayer, just at this moment, is $462 million plus the $280 million or $742 million. And, of course, this overlooks what the total cost of the two B–1s would be if the Senate and House refuse to back the President. If the full $1.16 billion previously appropriated is allowed to be spent and the $280 million of testing is added, these two B–1s will cost $1.4 billion or $720 million each. This would be the total program cost for these two aircraft.

The second issue we are not discussing or at least should not be discussing today is the question of need of a penetrating bomber in lieu of the B–1. Often overlooked in the B–1 cruise missile controversy is the other half of the President's strategic equation. Not only will we dramatically increase spending for the cruise missile program—by funds contained in this very bill—but we will upgrade and improve the B–52 fleet. The salient point about this upgrading is that at least one-half of the 300 or so top-quality B–52s, including the most modern H models and the older but improved D's, will be used as penetrating aircraft into the 1990's.

I understand that earlier the distinguished Senator from Iowa (Mr. CULVER) read a statement from the head of the Strategic Air Command, Gen. Richard H. Ellis, who testified as follows:

> So our opinion—based on the best evidence available—is that properly cared for and properly employed, our FB–111's and our latest B–52's can continue to be effective penetrators until 1987—and probably to 1990 or even beyond.

In other words, Mr. President, America will remain strong without the B–1. We will have the many advantages of a mixed force of penetrating bombers and cruise missile carriers.

In the face of our Nation's critical needs, we simply cannot afford to waste more money on B–1 production.

That point is well worth repeating, since it seems few people seem aware of this fact. The 150 G models will be used as cruise missile carriers with up to 20 cruise missiles each. But the 150 D's and H's will be used as penetrating bombers for missions deep into the hostile airspace.

Thus the question is not that of canceling the B–1 and therefore dropping plans for any kind of penetrating bomber. The question really becomes what do we replace the penetrating B–52's with when they wear out in the early 1990's?

As to this point there is a difference of opinion. Some argue that we should then produce a new penetrating bomber, the FB–111H or some other version. Others argue that we can replace the penetrating B–52's with the new wide-bodied jet cruise missile carriers.

The point to remember about this debate is that this decision need not be made for several years. We are not now faced with the penetrating bomber decision—no matter what the pro-B–1 lobbyists state.

Along with this penetrating bomber controversy is the question of the Triad. This is a third debating point that should not enter into this discussion. It should not enter into this discussion simply because the decision to proceed with two more B–1's has nothing to do with the Triad. The Triad is composed of sea-based missiles, land-based missiles, and the bomber force. Doing without the B–1 is not doing without a bomber force. We will continue to have at least 300 upgraded B–52's flying into the 1990's. And supplementing that fleet, which by itself is twice as many long-range bombers as the Soviets have, is our fleet of 65 FB–111's.

These existing FB–111's can penetrate Soviet defenses and strike at thousands of important targets in European U.S.S.R. but they cannot attack into the heart of the Soviet Union. That job is reserved for our longer range B–52's and our sea- and land-based missiles. Each element of the Triad complements each other element but as Secretary Schlesinger has stated they need not and should not be duplicative.

In a very real sense the President's decision to emphasize the cruise missile has provided increased punch to the Triad. You could argue that there now is a fourth leg of the "Triad." Maybe it should be renamed the Tetrad to follow the Greek roots we used in Diad and Triad.

In any event the Tetrad is very real. Not only do we have the penetrating manned bomber but now we have an entirely new offensive force based on characteristics distinct from any other element.

The cruise missile uses saturation since it can field great numbers for a cheap price compared to the manned bomber. It is more difficult to detect than the manned bomber. According to the Department of Defense:

> If there were no other factors, a radar could detect the B–1 at 5 to 10 times the range that it would detect the cruise missile. However, at low altitudes a radar's line of sight is very limited. At short ranges a large difference in radar cross section is not a factor. Instead the primary consideration is that the cruise missile is small enough that radar return from ground objects obscures the cruise missile. While there are radar solutions to the problem, present radars (enemy as well as domestic) have been designed for aircraft detection and the very low cruise missile radar cross section will probably require a new generation of radars to provide a satisfactory detection capability.

One final point needs to be made on this subject of the penetrating capability of the B–1 versus that of the cruise missile. The B–1 depends to a great extent on the electronic countermeasures that it carries. Electronic countermeasures come in two basic varieties—passive and active. Since nearly everyone agrees that passive effects do not provide sufficient protection, it is the active countermeasure capability which provides the protection for the B–1. This capability carries with it a measured danger, for the emission of radiation by the electronic countermeasures to mask the position of the aircraft also invites detection. Electronic countermeasures can work both ways. Since they emit radiation, that radiation can be detected and traced back to the aircraft thus giving away its position.

Another often heard argument is the statement that we need to complete air-

craft 5 and 6 in order to finish critical research and development testing and to keep the production line warm in case the SALT negotiations break down.

The simple and most straightforward answer to this argument is that it is completely denied by the Air Force and Defense Department—military and civilians alike.

But perhaps the point deserves more attention. First, do we need aircraft 5 and 6 for further R. & D. testing? The answer is no. The concern over electromagnetic pulse-testing can be satisfied by using R. & D. aircraft number 4. We do not need two more aircraft for that purpose. Furthermore none of the critical testing described by B–1 proponents needs to be done at all until a final production decision is made.

Do we need to protect the production line in case the SALT negotiations break down? Well, while it is always prudent to keep options open in tough negotiations, the building of two more B–1's does not contribute substantially to this goal. At most, it would give us a 6-month head start on a 4-year program. However, if there is any reorientation of the B–1 itself; that is, changes in its mission to a cruise-missile carrier or to a cheaper version—that this 6-month advantage disappears and is replaced by a longer development period. Therefore when pro-B–1 supporters argue that the B–1 can be turned into a cruise-missile carrier, they are really putting forth an argument that would delay the B–1 program and force designers to go back to the drawing boards for a significant period of time.

Now this brings up the issue of the B–1 as a cruise-missile carrier. I presume it should be expected that as soon as the Air Force expected its interest in a cruise-missile carrier, the B–1's developers would come up with a cruise-missile variation. Therefore, I asked the Secretary of Defense about this new plan by Rockwell for turning the penetrating B–1 into a cruise-missile carrier.

The Pentagon replied that for equal effectiveness over 20 years in constant dollars, the B–1 cruise-missile carrier is 60 percent more expensive than a wide-bodied jet cruise-missile carrier and 20 percent more expensive than a B–52 cruise-missile carrier. For equal effectiveness the B–1 would cost $17.7 billion over 20 years while the B–52 would cost $14.8 billion and the wide-bodied jet would cost $10.9 billion.

But would not the B–1 be more effective in this role than the older B–52? Not according to the statistics made public by the Defense Department which are calculated, as I said, for equal effectiveness forces.

If that is not enough to convince a skeptic there is an equally powerful case to be made in terms of destructive capacity. By converting some B–52s to cruise-missile carriers, the equivalent megatonnage of the bomber force will increase by 15 percent while the number of warheads will increase by 85 percent. This means that overall bomber force effectiveness will increase by about 40 percent by using the B–52s as cruise-missile carriers.

Mr. President, I would like to make one last point before I close. Concerning the issue of the 300 mile air defense barrier and the ability of the cruise-missile carrier to launch its missiles before detection and destruction, the 300-mile barrier is an intellectual construction. True, it has a solid basis in statistical assumption but it also has its weaknesses. This barrier, to be constructed of very advanced Soviet airborne radars, picket aircraft, interceptors, ground radars and missile systems, both airborne and land based, is far beyond Soviet capabilities at the present time and for the mid-term. But even assuming the Soviets do produce such a barrier, there are ways to penetrating it. We could penetrate it at points of weakness just as the $50 billion current Soviet air defense structure has significant points of weakness. We could penetrate it with force, by using long-range aircraft to accompany the cruise-missile carriers. We could penetrate by stealth, by confusing the enemy radars and ground coordination techniques.

To assert that this imaginary barrier is a real barrier is akin to believing in the electronic battlefield in Vietnam. Some parts are true but in practice there are ways to get around it.

What this means, therefore, is that the arguments that the 1,500-nautical mile limitation on the cruise-missile range and the point that this does not take into account actual flight paths, are not as important a consideration as presently believed. As Soviet air defense forces our cruise-missile carriers further and further from the Soviet borders, the limitation will have to be raised and, in fact, since the limitation is contained in the proposed Protocol with only a limited time period, that eventuality already has been planned for.

Now, Mr. President, I believe I have covered many of the arguments heard here today and shown why they are extraneous to the debate. The real reason for this debate is the lobbying work of the defense contractors and Rockwell International, in particular. I understand their reasoning. Business activity is at stake. It is a fact of business life that they must fight for their own programs.

In face of the strong recommendation of the chief of staff of the Air Force—contained in his letter to the chairman of the Armed Services Committee—and the statements by the President, Secretary of Defense, Secretary of the Air Force—in fact all the major civilian and military leaders of the Defense Department—in the face of this overwhelming opinion, I do not believe the course of this country's national defense should be forged by one defense contractor.

Mr. President, I want to thank the distinguished Senator from Mississippi. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. YOUNG. How much time does the Senator want?

Mr. HATCH. I would like 15 minutes.

Mr. YOUNG. I yield 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. HATCH. Mr. President, we have before us today an issue that is crucial to the security of this Nation for future generations. In June of last year, President Carter canceled the B–1 bomber production program. In doing so he eliminated the finest plane in the history of avionics. This cancellation was done to make good a campaign promise that Carter, the candidate, had made earlier. I think that it would be safe to say that even the opponents of the plane were shocked at his decision. As late as the day before the cut, Secretary of Defense Harold Brown indicated that he felt that the President would approve at the very minimum a limited production order. However, pressures from within the White House from aides that have opposed the B–1, seemed to prevail at the last minute, and he decided to abandon the B–1 and go with the cruise missile instead. This is not to say that he had abandoned the concept of a need for a manned bomber with the ability to penetrate Soviet air space. Shortly after his decision to cancel the B–1, there arose some amount of support for a stretched version of the FB–111 as a replacement for the B–1. At this time the administration has apparently dropped the idea of adapting the FB–111 to fill the role of a penetrating bomber.

We are now faced with a decision of whether or not to continue the development of the B–1 so that we might keep our options open on this plane. In the supplemental appropriations bill for fiscal year 1978 there is contained the funds to build planes 5 and 6 for continued research on the B–1. The House has already voted to continue this development and the Senate should follow suit. With the elimination of the funding for the FB–111 in the fiscal year 1979 defense budget, it now becomes imperative that we continue with the B–1 as the probable successor to the B–52 in the manned bomber concept of our Triad defense system. A vote for the B–1 prototypes 5 and 6 would not be a vote against the administration, for it is clear that last summer the President intended to keep this option open, especially now that we are in the final stages of the current round of SALT negotiations with the Soviet Union.

At the present time the United States is lagging behind the Soviet Union in many areas of strategic importance. The cancellation of the B–1 has produced a gaping hole in our defense posture. The administration has decided, for the time being, that we will go with the cruise missile as our main line of defense. I am concerned that this will not be sufficient in the future. The cruise missiles will be launched from a mixture of B–52's and a variety of commercial wide-body aircraft. With the range restrictions that have been mentioned in the news about SALT, I am concerned that the cruise missiles have been rendered substantially harmless. I should not have to remind Senators that the Joint Chiefs of Staff had recommended that the range for the cruise missile be extended to 3,000 kilometers and then increased to 3,500 kilometers at the time the B–1 was cancelled. I compare these missiles to the V–1 rockets, more commonly known as buzz bombs,

used by Germany against England during World War II. These were largely ineffective, and although it is true that these were nowhere near the advanced cruise missiles that we are capable of producing today, neither was the defense technology that England used near the technology in air defense systems in use today.

These arguments are all avoiding the real problem that we are faced with. For some time the United States has been committed to a three-pronged system of defense known as the Triad. This includes our land-based intercontinental ballistic missile (ICBM) force, our submarine-launched ballistic missile (SLBM) force, and our manned bomber force. The manned bomber force is the only one of the three that has the ability to be flexible once the system has been initiated. You cannot call back an ICBM once it has been launched. For this reason I think that everyone will agree that the United States must continue to have a manned bomber in its defense plans, and I also think that all will agree that the B–52 is now at a point that we must consider some sort of alternative.

It is my contention that the B–52 no longer provides us with the type of manned bomber that this Nation needs to insure its national security. It is not designed to be a penetrating bomber, and the future plans to use it as a standoff launching platform make it basically a one-use plane. With the continuing improvement in the methods of air defense, the possibility that the B–52 will be forced further and further away in its standoff position becomes very real. At the present time the Soviet Union is in the process of adapting certain classes of Migs to shoot down cruise missiles, and it would not seem illogical to assume that they would be assigning fighter interceptors to engage the B–52's at the earliest moment. As the B–52's are forced further away from the Soviet borders, the range of the cruise missiles is shortened with respect to targets they will be able to strike within the Soviet Union, which correspondingly will provide the Soviet Union greater response time to combat these cruise missiles.

I might add that for these purposes the cruise missile cannot be flown in a straight line. It has to go in a weaving pattern, with ducks and decoys and everything else, in order to be able to get in there; and, especially within the 2,500-kilometer range they are going to enforce on us as a result of these SALT II agreements, this means we will have essentially a toy rocket.

Reports in the media this past month have indicated that the Russians are currently adapting certain classes of Migs to shoot down cruise missiles. This increased response time will greatly increase the percentage of cruise missiles they will be able to destroy before they reach their target. The B–1, on the other hand, would not be subject to the same restrictions. The B–1 is able to fly in a low-level attack pattern, below Soviet radar detection, projecting a much smaller radar blip than the B–52 should it be detected with the ability to make supersonic speed dashes, and therefore penetrate Soviet airspace and launch its payload possibly before detection. This airspace, I might add, is the most heavily defended in the world with 2,700 fighter interceptors on alert and over 12,000 surface-to-air missiles, called SAM's, deployed. Intelligence reports further indicate that the Soviets are developing a hypersonic missile as a specific defense against cruise missiles. This only increases my concern that these cruise missiles be launched in a manner allowing the shortest possible reaction time.

Today we will be considering whether or not to appropriate the $462 million for the production of planes 5 and 6 in the B–1 development. In the original proposal, it called for the production of eight test planes. I am convinced that we need to continue the production line of the B–1. To terminate this phase of the program would be to slam the door on the future reconsideration of this plane. Startup costs, once the production line is shut down, would be prohibitive. Economically it will be more beneficial for the Government to continue to employ the people who produce the B–1. I am talking about the aerospace industry, an industry already crippled with massive cutbacks, an industry that is on the verge of seeing many companies collapse. We here in the Congress make a point of showing great concern over the rising unemployment rate, yet we are now forcing a great number of people out of work by cutting back a contract that by all rights should be honored. I find the kind of logic that would have us introduce the Humphrey-Hawkins full employment bill, a bill designed to have the Government put people to work on make-work public projects, at the same time we are deliberately forcing the private sector to place people on the unemployment roles, is baffling to me. So we do not spend the $462,000,000 on the B–1 prototypes, but we will be forced to spend that money in unemployment benefits, loss of tax dollars, and in the overall depression of the economy in areas supported by the aerospace industry.

Should all of this occur, I think everyone in this country will suffer, and we might have repercussion effects throughout our economy that would be terrible. I could better understand it if the B–1 were not the greatest aircraft in the history of avionics, if it did not create the greatest concern as a deterrent force of any weapon on Earth; but since it does, to me it is almost ridiculous for us to sit here in Washington and provide another Washingtonian program, despite the fact that we know the alternatives do not work as this one does.

The economic factors are a mere side effect of this issue, but ones that should be considered. Yesterday I received a dear colleague letter from the chairman of the Armed Services Committee, the Honorable Senator from Mississippi (Mr. STENNIS), asking that I vote to rescind the funds for planes five and six. Senator STENNIS indicates that he has been a long time supporter of the B–1 and for that reason he voted to retain the $443.4 million for research and development included in the fiscal year 1978 defense budget and that he will also support the $105,000,000 being asked for in the fiscal year 1979 defense budget. In his esteemed opinion this will suffice in keeping our options open on the B–1. I hate to do so, but I have to disagree on this matter. Once we close the production line on the B–1, then we have said the final words on this plane. Oh, I will admit that we will eventually have to replace the B–52, but let us face the problem down the road. We all know that we would then be forced to begin development again on another bomber—one that will force the deployment date even further back. While we debate this issue, at this very moment, somewhere in the Soviet Union, workers are producing another Backfire bomber for the Soviet Air Force. They have not wasted years of research and money by saying it costs too much. They have not set a price tag on their national security. But we continue to do so.

I might add that our SALT talk negotiators are arguing that we are going to allow the Russians to do that on the basis that that plane is not strategic and because the Russians have given us a promise that they will not deploy the Backfire bomber in a strategic fashion. That ought to give everybody a lot of comfort in America, as they continue to produce at least two and a half of those a month.

Mr. President, I support the funding of planes five and six because I feel that it is now up to the Congress to show some backbone in the area of national security. We are quick to fund billions of dollars for one social give-away program or another, but unless we start paying a little more attention to our national security, we run the risk of not needing to worry about any social programs at all. We in Congress must stop the present trend that has developed in the past year. We need only examine our defense program of a mere 15 months ago to see how far down the road we have gone. At that time, the U.S. appeared to be moving in the right direction, moving to overcome the areas where we had fallen behind the Soviet Union.

First. The MX program was on schedule with a projected deployment date of 1986;

Second. Both the air-launched and sea-launched cruise missile programs were proceeding in a satisfactory manner;

Third. The Trident submarine was moving ahead in a smooth manner, and

Fourth. The B–1 bomber was getting close to a production date, along with the plans to improve the SRAM missile for the B–1.

Where have we gone in these 15 months? I think that the answers will cause you to ask some questions.

First. The MX program has effectively been slid back 2 years. There is continuing debate about whether or not to develop the missile at all.

Second. The competition on both the ALCM and SLCM is still incomplete and through the SALT negotiation, we have apparently accepted range restrictions upon them when they are finished.

Third. The Trident submarine has run into massive cost overruns, which threaten the funding for them, and,

Fourth. The President has canceled the B–1 and along with that went the improvement in the SRAM for the B–1.

In 15 short months, just a little over 1 year, this Nation has succeeded in gutting our strategic defense programs. We have placed ourselves in a position where we need SALT more than the Soviets. With all these cuts, we have received no assurance of a single cut from the Soviet Union. Now is the time, it seems to me, for Congress to stop this madness. The B–1 is a system that the Congress funded in the first place, and one that the Congress should maintain in the future.

Mr. President, it is time that we in this Nation quit projecting every new weapons system we develop for 10 years away. The crisis that we may face could well come in the short term. At the end of 1982, the Soviet Union will be at the end of a deployment cycle, putting them at their strongest strength in their history. At the very time that I am standing here speaking, the Soviet Union has, waiting in the wings, a new generation of ICBM's. Four new ICBM's—the SS–21, SS–22, SS–23, and SS–24 are now in the development stage. They are also continuing the development of a new heavy, long-range bomber, one with a longer range even than the Backfire. They are about to deploy a new, modern, heavy submarine in the Typhoon class and a new submarine-launched ballistic missile to go with it. All this plus a multitude of new tactical and conventional weapons. They will accomplish this while the United States continues to muddle around trying to decide which program we will continue with and which we cannot afford.

Mr. President, I have before me a letter that was addressed to the chairman of the House Armed Services Committee, the Honorable MELVIN PRICE. This letter comes from Mr. John W. Taylor, editor of "Jane's All the World's Aircraft," dated January 23, 1978, it is an extremely up-to-date letter, and an important one. In it, he discusses the B–1 airplane. Attached to this letter is a statement on the B–1 that Mr. Taylor asked to have entered into the hearing record in the House. I should like to read this letter to my colleagues:

DEAR SIR: I understand that the House is about to begin hearings on the strategic position of the United States—a subject which is of the very greatest importance to everyone desirous of maintaining world peace.

Clearly, no non-American has the right to interfere in such proceedings. However, I thought it might be helpful for the members of your Committee to know how many people in Europe feel about the current debate concerning the future of the B–1 bomber programme.

I am, therefore, taking the liberty of enclosing a short statement of my views on the B–1, and alternatives. If you consider such a course admissible, I should be grateful if you would enter this statement as evidence for your discussions. Be assured that its sole purpose is the maintenance of peace throughout the world, and in no way is it intended as a criticism of decisions already taken by your Administration. As a Christian, with friends in almost every country in the world through my association with JANE'S ALL THE WORLD'S AIRCRAFT, for more than 20 years, I wish only to see a true balance of power maintained between East and West. This must eventually lead to that stability, peace and friendship which we all desire so strongly, and which is worth any price to attain, to ensure the safe and happy future of our children and grandchildren.

Our thoughts and prayers will be with you as you debate these vital issues.

Yours sincerely,

JOHN W. R. TAYLOR.

B–1: THE ALTERNATIVES

President Carter's decision to cancel production of the B–1 bomber, and to put increased emphasis on cruise missiles, was hailed by some people as a decision in favour of the less costly of two equally effective weapon systems. This is a fallacy. In its long-range strategic form, the cruise missile must be launched from a carrier aircraft; the B–1 was intended to be that aircraft.

The SALT protocol negotiated subsequently by the US and USSR restricts the range of the air-launched cruise missile to 2,500 km (1,350 nautical miles). This limitation enables the Soviet Union to predict the few areas from which it would be viable to launch the missile against specific targets inside its borders, and to concentrate its defences accordingly.

At the present time, the Soviet domestic air defence force is reckoned (by DoD) to have 2,540 piloted interceptor fighters, 12,000 surface-to-air missiles on 10,000 launchers, and 6,500 surveillance radars. The interceptors include MiG–25s (Foxbat-As), the fastest combat aircraft deployed by any air force in the world. This defence system—battle tested in miniature in Vietnam and the Middle East—would not only have to be approached by the cruise missile launch aircraft, but would have to be penetrated by the missiles themselves. Yet published comments by US officials suggest that, in their present forms, cruise missiles fly at subsonic speed, lack effective ECM, are incapable of taking evasive action, and are intended primarily for use against undefended targets. Where are such targets in the USSR? Are not the alternative attack methods inherent in the B–1 (e.g. with SRAMs and free-fall weapons) a valuable insurance against future shortcomings of the cruise missile in an operational environment?

Four possible vehicles for the air-launched cruise missile have been discussed:

1. An uprated B–52. The B–52 has been a superb aircraft but, as a design, is now more than 20 years old. Who drives a 20-year-old automobile as his work vehicle? The B–52 was designed to drop free-fall nuclear weapons from a great height. In no way can its well-used airframe be expected to go on flying through turbulence at very low altitude (the optimum launch height for a missile attack) for another 20 years.

2. The FB–111H. This projected 15-foot stretch of an existing FB–111A airframe would be refitted with two of the engines developed for the B–1. The suggested force of 65 FB–111Hs would cost at least $3.3 billion, for which SAC would gain not one additional airplane in its inventory. Nor could the FB–111H ever be a B–1. There is not even proof that it would work.

3. The B.747/DC–10 carrier. The simple answer to whether conversions of a commercial wide-body transport would prove viable is to ask any SAC crew if they would relish flying such an aircraft—with its huge radar signature—towards skies patrolled by Foxbats, in order to launch their missiles. This is the still-costly solution proffered by a computer, incapable of thinking like a man.

4. The B–1. Designed for the task, and capable of penetrating any known defense system. Much of the development cost has already been committed, with outstanding flight test results. There is little doubt of how much the Soviet Air Force would welcome such an airplane in place of its own formidable Tu–26 (Backfire) supersonic swing-wing bomber, of which there are already more than 100 in its growing force. Nor should the potential maritime role of the B–1 be overlooked in view of the great size and efficiency of Soviet sea power. The B–1 is large enough to carry every type of air-launched weapon now existing or likely to be developed into the 21st century.

In conclusion, it should be borne in mind that when the Royal Air Force lost the TSR.2 bomber, of which a prototype was flown successfully in the mid-sixties, it lost all future claim to the strategic capability that had been the heart of its tradition since World War I. Soviet ICBM development threatens to eliminate 90 percent of the U.S. Minuteman force in any first strike. It may not be long before the locations of every missile-launching submarine are permanently pinpointed. Unless the USAF has an airplane in the class of the B–1 (and it is unique in its class) America may lose the third and last component of its strategic Triad. Only the balance of power represented in the West by the Triad has kept the world free from the unimaginable horrors of a nuclear war for more than thirty years. Before condemning the B–1 as too costly, it is essential to answer the question "How much is it worth to stay alive?" Only then do we appreciate what might be the ultimate alternative to the B–1.

The PRESIDING OFFICER (Mr. ANDERSON). The Senator's time has expired.

Mr. YOUNG. Could the Senator finish in 1 minute?

Mr. HATCH. I believe I can. If not, I shall ask unanimous consent to have the remainder printed.

Mr. Taylor presents a very strong and forceful argument that the B–1 bomber should be maintained. I could read this letter from MELVIN PRICE, of course. I should read the other part, but my time has expired.

I think that this letter and attached statement, and I call attention again to the currentness of the letter, should demonstrate the overwhelming need for continued production of the B–1. The President was wrong when he canceled the B–1 and it is up to Congress to try and right that wrong. It is up to Congress to try and prevent every American from suffering from one man's mistake.

In conclusion, I want to make one point clear at this time. We have fallen behind the Soviet Union in terms of strategic strength. The same people that have been arguing that we were ahead in the past are now beginning to admit that we are, in fact, behind. These same people are going to begin telling us that we must sign the SALT treaty or we will fall even further behind. Well, who was it that took this momentum away from us? Who was it that caused us to fall behind? If you vote against the B–1 today, then you have no right to stand up in the coming year and tell us to ratify the proposed SALT treaty because it is the only way to prevent the Soviets

from increasing their strategic advantage.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Mr. President, may I have 5 minutes?

Mr. YOUNG. Make it 4, if the Senator can.

Mr. SCHMITT. I may even do it in 3.

Mr. President, this issue has already been before us and I have consistently supported the continued production of the B–1 aircraft numbers 5 and 6. I felt that it was important to complete aircraft 5 and 6 when we considered this issue earlier. Today, however, it is imperative that the production be continued. It was argued earlier that the B–1 bomber was not critical for our national defense because of the advances in the cruise missile. Now we are slowly learning that many aspects of the cruise missile are not substitutes for manned bombers, no matter how important that system is—and I agree that it is important.

In addition, many advantages of our cruise missiles are being bargained away in the SALT II talks, as has already unilaterally been bargained away the B–1 bomber itself.

At the very least, the early aircraft of the B–1 series will provide critical test data as we develop improved bomber concepts for the near future.

The tests involving electronic counter measures will include tests in the new Trestle facility at Kirkland AFB in Albuquerque, N. Mex. Such tests are critical to future weapons development.

The consequences of the President's decision to cancel production of the B–1 bomber will have many extremely serious military, technological, and economic consequences which I tried to point out in July. We cannot expect our allies to have confidence in our ability and willingness to come to their defense when we are compromising our own security.

The survival of freedom on this planet requires that one free nation, the United States of America, must remain obviously and visibly stronger than all other nations, but must never use that strength or freedom has lost.

The maintenance of strength without the use of strength will never be easy or cheap. However, strength must be maintained until new long-term relations between free and still developing nations can be created. It is ironic that, at a time when these new relations are being forged, we are compromising the strength that many countries are looking toward as a protective umbrella.

The United States must remain flexible in our diplomatic and military relations throughout the world. To make our foreign policy successful, it will take an efficient blend of tactical and strategic military systems and of policy for the use of those systems. It will also take an ability and willingness to establish relations based on trust and confidence. It will be difficult to convince the developing nations and our allies in the free world to have the confidence in our military ability if we proceed to unilaterally disarm ourselves.

The critical elements provided by the B–1 type aircraft are advanced weapons and defensive capabilities and the presence of man "in the loop." Obviously, it is important to advance the technology of our weapons so that they are known to be more effective than a potential enemy's abilities to defend against them. I emphasize the word, "known." The B–1 is more effective; the B–52, its purported substitute, is not.

In any conventional warfare situation, the B–1 offers twice the bomb load of the ancient B–52, plus much greater survival capability when faced with enemy defenses. In nuclear war, in combination with the cruise missile, the B–1 represents our most useful deterrent to enemy attack or intimidations.

The most difficult weapon system to defend against is the low-flying, manned aircraft. This is true for the Soviets and Chinese as well as for ourselves. For the next two or three decades, the manned bomber with the cruise missile on board will give the free world the edge in our race to survive and to survive as free nations.

The PRESIDING OFFICER. The time has expired.

Who yields time?

Mr. YOUNG. I will yield time to the Senator.

Mr. SCHMITT. Mr. President, the most crucial element in modern manned bombers is the combination of an advanced technology for attack and defense with the presence of man "in the loop." In our space program, the presence of man in the control loop of our spacecraft gave reliability and flexibility that unmanned spacecraft cannot duplicate. The success of our space program as compared to that of the Soviet Union is a direct outgrowth of our greater emphasis on man's inherent capabilities.

Our nuclear deterrent forces also require men in the loop as long as there is any chance of a peaceful resolution of a global confrontation between nuclear powers. A modern, airborne manned bomber is both a viable threat and a recallable threat. The cruise missile alone does not have these qualities.

Once again, it is imperative, especially in light of the future of the cruise missile as a deterrent, that we continue with the production of the fifth and sixth B–1 aircraft. The future of the free world may depend on the type of national defense that would be provided by both the manned bomber and cruise missile.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. YOUNG. I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. STENNIS. Mr. President, I also yield 4 minutes to the Senator from Oklahoma from my time.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I thank the distinguished Senators for their generosity.

Mr. President, I am very pleased to talk on the B–1 bomber.

Mr. President, at this point, I do not believe that it is necessary to repeat a list of the merits of the B–1 bomber. Others here today have described them already. Even its critics recognize that the B–1 is the finest strategic bomber in the world. Nor does it make much sense to quibble over exactly what it will cost to maintain the option to restart production of the B–1 bomber. The figures are changing constantly. Costs have risen greatly since I introduced an amendment in the Senate Armed Services Committee designed to protect the fiscal year 1977 B–1 production funds from just the sort of "deappropriation" which is being attempted today. Even as we speak, even as the costs rise, even as the option to restart is endangered, the initial operating capability of a B–1 bomber force is being delayed. All of this has been made inevitable by the President's decision to terminate B–1 production.

Let us get to the heart of the matter. What is the Senate doing here today debating the merits of a decision made in 1976 when we should be discussing the merits of a budget for fiscal year 1979? The answer is simple.

President Carter made a personal decision to kill the B–1 bomber. It is reported that the announcement gave him great personal pleasure. Why such a difficult and important decision should be so pleasurable is unclear, and its wisdom is equally unclear. And that is why we are here today.

The wisdom of the President's decision has escaped a large percentage of the Congress and, each day, more evidence emerges which calls into question that decision.

The opponents of the B–1 bomber no longer focus on the merits of that aircraft, but rather they argue that time is running out for the B–1. And, that seems to be the President's strategy—to stall until the economic costs of restarting the B–1 are so high that the requisite number of votes can be obtained to deappropriate the funds for the B–1 following his failure to obtain support for a rescission. Apparently, the needed votes against the B–1 were not present in December. So here we are, at the beginning of a new session of Congress, deciding whether or not to take back funds authorized and appropriated two sessions back.

Driving up the costs of retaining the option to produce the B–1 bomber directly threatens the B–1 program. However, the administration has also taken several indirect approaches to kill the B–1 bomber. Recognizing that the air launched cruise missile, which would have been deployed with the B–1, will, in time, be a significant and valuable weapons system, the Carter administration put forth a request for $90 million to purchase a wide-bodied jet transport to use as a test launcher for cruise missiles. The image of a jumbo jet on a strategic mission captured the imagination of many people and temporarily diverted attention away from the impact of the decision to stop production of the B–1.

However, the Research and Development Subcommittee of the Senate Armed Services Committee was not fooled by the smoke and very nearly did not fund the wide-bodied jet program at all.

In its fiscal year 1978 supplemental defense authorization bill, the administration requested $90 million for its wide-bodied cruise missile carrier, but the Defense Department could not tell the committee what type of cruise missile carrier they intended to buy. It could have been a McDonnell Douglas DC–10 or a Boeing 747, or a Lockheed L–1011 or a C–5A or some other airplane. The administration not only did not know what they would buy this year with $90 million, but they could not tell us what they would spend in fiscal year 1979 or how much the entire program would cost. Under cross examination, they could not testify how the money could be spent before the end of the fiscal year or even why the program should begin now and not later.

The administration was embarrassed to discover, again under pressure from the Research and Development Subcommittee, that a wide-bodied jet could be leased rather than purchased, a step which saved $40 million. However, the committee could not justify giving the administration the $50 million it still wanted. The fact that the administration got the $15 million it ultimately received, as opposed to the $5 million reluctantly recommended by the full committee, is a tribute to the ability of the leaders of the President's party in Congress.

President Carter's difficulty in persuading the Congress that he had alternatives to the B–1 was made even more difficult by a series of cruise missile test failures which underscored the fact that the President's alternative to the B–1 was to throw money at a series of R. & D. programs in an effort to create some alternatives. Actually, the cruise missile test difficulties were typical of programs in R. & D. and reflect, not on the promise inherent in the cruise missile, but on its experimental nature. These test problems, however, reminded the Congress that the B–1 had already overcome these hurdles involved in tests and experiments.

The viability of President Carter's R. & D. alternative to the B–1 has been further questioned by reports of major concessions to the Soviets at SALT which placed severe limits on air-, ground-, and sea-launched cruise missiles. For example, range constraints on the air-launched cruise missile will permit the Soviet Union to develop a "barrier defense" against standoff cruise missile launchers, especially the very vulnerable wide-bodied jets.

At the same time that it is placing these restraints on our cruise missiles at SALT, the Carter administration has also slowed down the MX missile, terminated production of the B–1, ended production of the Minuteman ICBM, and stalled the sea-launched cruise missile program. The land-based leg of the Triad appears in some danger in the early 1980's, and the sea-based leg lacks the responsiveness and flexibility required for a balanced strategic force. Given the importance that will be placed on air-launched cruise missiles in the late 1980's, it is amazing that the administration has appeared so willing to make cruise missile concessions at SALT and let the option to produce the B–1 escape.

I wish my colleagues could receive today the briefings I have received from the administration showing how the United States will become heavily dependent upon the air launched cruise missile to maintain the strategic balance in the late 1980's. Yet the ability of the standoff cruise missile launcher to overcome barrier defenses requires penetrating bombers to attack and divert those enemy defenses and to replace cruise missile carriers on strategic missions when those carriers become even more vulnerable and when the targets to be attacked are beyond the range of the cruise missiles.

The need for a new penetrating bomber force to replace the aging B–52's is no later than the late 1980's. Production of such a new penetrating bomber must start right away. There is only one plane ready for production as a penetrating bomber—that is the B–1.

The immediate need for a new penetrating bomber is further justified by the current force of Soviet Backfire bombers which is already half the size of the B–1 force originally proposed. Additionally, the current production rate of Backfires has been increased, and, by 1985 could reach twice the number of B–1 bombers originally planned.

Confidence in the President's decision to terminate production of the B–1 bomber was further undermined when testimony before the Armed Services Committee indicated that a "mixed force" of cruise missiles and manned penetrating bombers was more effective than a pure force of either system in penetrating enemy defenses. A "mixed force" prevents the enemy from optimizing his defenses against either cruise missiles or penetrating bombers.

In other words, for the cruise missile to reach its potential as a weapons system, it requires penetrating bombers.

The importance of a "mixed force" was underscored when the Air Force requested the administration to press for a new manned bomber, the stretched FB–111H. Clearly, a new manned penetrating bomber will be needed by the early to mid-eighties. The difficulty that the manned bomber creates for enemy defenses, along with the great flexibility that it adds to conventional and nuclear forces, and the stabilizing role its slow speed with great payload bring to the nuclear balance, make the case for a manned penetrating bomber clearly persuasive.

A careful examination of all of the evidence presented by the President in support of his decision to stop production of the B–1 bomber in midstream reveals no clear cut case for termination of the B–1, no evidence to justify creating such a gap in the middle of our strategic force structure of the 1980's and beyond. President Carter made a decision against the manned penetrating bomber, not simply against the B–1.

Against the advice of his military commanders, and, I believe, against the advice of his Secretary of Defense, the President issued his personal judgment against the penetrating bomber. Now he is attempting to vanquish from the new budget every vestige of manned penetrating bomber programs. For example, nowhere in the new budget is the alternative FB–111H to be found. Even the B–77 nuclear weapon, vital to all our bomber aircraft—tactical or strategic, will not be entering production as scheduled. This is probably because of the association of the B–77 nuclear weapon with the B–1 bomber. And again, this was a decision by the President made against the recommendations of his technical and military advisers.

So here we are, on the floor of the Senate, attempting to deappropriate funds authorized and appropriated 2 years ago, funds provided in a straightforward manner in accordance with the laws at that time. And why this belated action? Because the wisdom of a Presidential decision made 6 months ago is increasingly less clear to the Members of Congress.

Mr. HAYAKAWA. Mr. President, will the Senator yield?

Mr. STENNIS. I yield 2 minutes to the Senator from California.

Mr. HAYAKAWA. I thank the Senator from Mississippi.

Mr. President, I wish to say a word or two in summary.

The Senate vote was scheduled for last December 15. However, it was postponed by those favoring rescission due to the uncertainty about whether the Senate would have voted to agree with the House not to rescind these funds. We urge you again to join us in support of the action of our colleagues in the House to keep the B–1 as a practical option for our strategic Triad defense.

When the President canceled the B–1 program last June, many of us disagreed with him. Subsequent events raise further doubts as to the wisdom of his action. When the President canceled the B–1 program, he also stated that the B–1 would remain as an option for the next few years to meet the requirement of a future manned penetrating bomber. The Committee on Armed Services and Defense Secretary Brown have reaffirmed that commitment.

Today, the Senate has the opportunity to end this impasse. We believe that supporting the action the House has taken to assure production of B–1 aircraft 5 and 6 is consistent with the President's decision to maintain the manned bomber as a practical option for the next few years. This action is also necessary to insure the effectiveness and survivability of the Triad and our overall defense posture. We hope you will join us in supporting the action of the House.

The PRESIDING OFFICER. Who yields time?

Mr. YOUNG. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. STENNIS. I yield 2 minutes to the Senator from South Carolina.

Mr. YOUNG. I yield 2 minutes.

Mr. THURMOND. I thank the distinguished Senator from North Dakota and the distinguished Senator from Mississippi.

Mr. President, I rise to speak in favor of construction of numbers 5 and 6 of the B–1 bomber aircraft. The House approved the building of these planes by a vote of 191 to 166 on December 6, 1977.

Mr. President, in my judgment, one of the most dangerous decisions made in this century in the national defense area was the cancellation by the administration of the B–1 bomber program.

CRUISE MISSILE NO B–1 SUBSTITUTE

Under no conceivable scenario can the cruise missile take the place of the B–1 bomber. By allowing this decision to stand, we will have knowingly chopped off one leg of our defense Triad, and in so doing, greatly weakened our strength vis-a-vis the Soviets in the 1980's and beyond.

If this country and its system of government is worth saving, then risking its survival for the sake of an annual saving of less than one-half of 1 percent of the budget is the height of irresponsibility.

We have already spent billions developing the B–1. It performs according to our needs, and the strategic capability it would give us is unrefutable. We need a manned bomber. We have developed the best in the world. Why not build it, even if in limited numbers?

KEEPS OPTION OPEN

Mr. President, approval of B–1 plane numbers 5 and 6 will preserve this high performance manned bomber as a viable option at least until 1980. It is true that building these two planes only provides a limited production base and a limited gain in research and development. However, it will extend our learning curve and keep key personnel on board for several more years. Most important, it enhances our option to produce these planes later if its need becomes more apparent, as I am sure it will.

Even if one accepts the argument, which I do not, that the cruise missile is a substitute for the B–1, we must realize that the cruise missile has not been fully developed and tested.

In doubt, in particular, is the ability of the cruise missile to go in and get the hard targets for which the B–1 was specifically designed. Further, it is the most effective bomber we could build and is a proven weapon system, unlike the cruise missile.

DEFENSE STRENGTH WEAKENED

Mr. President, actions such as canceling the B–1, slowing development of the MX mobile missile, ending Minuteman III production, the Panama Canal treaties, and withdrawal of troops from Korea amount to a retreat from reality and embracement of hopes rather than hardware.

The perceptions of U.S. strength and purpose are bad throughout the world. Now we in the Senate have a chance to send a real signal to the Soviets. Also, we need to tell the President we intend to be an equal partner in defense matters, and to let our SALT negotiators know we will not stand by and see our strength bargained away for a piece of paper.

We have as much, and even more, responsibility to the American people as the President in defense matters. Past experience has shown us that various administrations have not always been right in their defense decisions. I do not believe this one is right on the B–1.

Congress needs to assert itself and keep the manned, penetrating B–1 bomber as a viable option. We are just now modernizing our sea-based missiles with Trident. Our land-based missiles are old and increasingly vulnerable. Our mobile missile development is being slowed, and cruise missiles remain unproven. Every military man in authority will tell you that this country faces a dangerous period in the 1980's. Why, then, should we not maintain the B–1 as an option?

I urge the Senate to support plane Nos. 5 and 6 of the B–1, as the House has done. This Nation can afford whatever it needs in defense if we eliminate nonessential programs.

The Senate should not take one step, cast one vote, or miss one opportunity to let the administration, the Soviets, and the SALT negotiators know we intend to insist on a meaningful strategic force to protect this country.

Mr. STENNIS. Mr. President, I yield myself 5 minutes, and I ask to be informed when that time has expired.

Mr. President, this has been a very good debate, but I call attention to the fact that these matters were before the Senate just a few weeks ago. This whole matter of rescission, which was unanimously approved by the Appropriations Committee by 17 votes, with 6 later recorded in favor, came before the Senate and was unchallenged. That is the only reason there was no rollcall. The position was so strong that it was not challenged.

Nothing of a decisive nature or lasting substance has happened since that time. It has been back and forth somewhat, but all the votes taken by the Senate have been either the type I have just described or the 1978 money, the production money, was voted down on a rollcall vote of 59 to 36. I gave those figures this morning.

There still is an option—unmistakably, there still is an option—and will be an option as to the B–1, even if this money, this appropriation, is rescinded.

The President of the United States said so, according to a letter he wrote Congressmen last October, and I quoted that this morning. The Chief of Staff of the Air Force, who is the most knowledgeable single person on this entire matter and has the responsibility, the enormous responsibility in his official position, very definitely says that there is still an option and that he is interested in that option and that he is for it. He says that he wants to revive and continue the production of the B–1, but that he does not want this money spent in this way, and we are talking about $742 million—we might say three-quarters of a billion dollars.

This same Chief of Staff of the Air Force, the most knowledgeable man—and certainly he is as responsible as any man I know in Government—says that he wants what money he can get for the Air Force spent for the time being in other ways because he says that so far as these two B–1's are concerned the timetable of production would be changed only from 6 to 8 months to go and finish building them now and that change would be at the other end of the time spectrum, the mid-1980's or beyond.

But I would rather not undertake to give my testimony on it, nor to quote what he said. I would rather just read what Chief of Staff David C. Jones says himself in a letter dated yesterday.

I asked him to talk this entire problem over with me and he willingly did. I asked him to get the figures and then I asked him to put in writing in response to a written request by me just what his position was and how he analyzed it and what he wanted done.

I am going to read now just the concluding paragraphs. I sent every Senator a copy of this yesterday, so there would be no mistake about what the facts are and what the planning is of the man that we hold chiefly responsible.

He concludes:

Therefore, in a nutshell, my reservations about building 5 and 6 at such a high cost are that the advantages for the long term are marginal and for the near term, irrelevant—

Irrelevant advantages now and for the long term marginal, and we already mentioned those dates.

In sum, I do not believe that investing nearly three-quarters of a billion dollars to produce and test two more aircraft is the best use of the country's defense resources, particularly in the absence of a realistic expectation of production—

Meaning further production—

I do not question that, like a terminal patient, the program could temporarily be kept artificially alive. But the slippage and uncertainty in the B–1 program which have resulted from program and funding decisions convince me that the time has come—

And I call attention to this.

to call a halt to further investment beyond the 4-aircraft test program.

That is his test program.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I yield myself an additional minute.

And he is saying that now that is enough money to spend on the testing for research and development that is in the bill that we passed last year of $442 million for the further R. & D. work on the B–1 bomber in fiscal year 1978. There is a $109 million request in the 1979 budget for the same purpose.

Now back to General Jones' letter.

I am more concerned with our overall strategic posture than with any single weapon system. So long as the B–1 program remains shrouded in uncertainty, consuming funds without adding to capability and diverting attention from our broader strategic needs, I am convinced that it will be more difficult to focus our collective energies on the many critical issues pertaining to our strategic forces in the days ahead.

Sincerely,

DAVID C. JONES,
General, USAF, Chief of Staff.

I yield myself an additional minute, Mr. President.

This is what I call the best evidence rule.

I think he is the most competent man to pass on the situation we are now in overall about this weapon. He said certainly he is concerned with the strategic situation to which all of us are concerned, which has been alluded to this morning. But he says do not put your money there now on these two B–1's; put the money on these other urgent matters, leave this option open, and we will move from there. I do not know in which direction, but I warn now that this year we are going to have major debates, further debates about the strategic situation in air strength and also the sea forces.

Mr. President, I yield the floor for the time being.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. HELMS. Mr. President, as the United States proceeds into the final stages of delicate arms control negotiations, it is imperative that the Senate, in its advice and consent role under the Constitution, let the executive branch and the Soviets know that we want to keep open as many of our strategic options as possible.

The B–1 bomber is one such option.

In the past several months, the Carter administration has been closing off one option after another. Why? I really cannot find any logical reasons for these actions. Delay of the MX mobile missile. Delay of the sea-launched cruise missile program. Agreeing with the Soviet demand not to include the Backfire bomber as a strategic, intercontinental weapon—in the face of several studies and reports to the contrary.

And, of course, the decision to cancel the B–1 bomber program.

Does the administration think that the Soviets will respond in kind by taking similar initiatives? Does Mr. Warnke think that the Soviets will ape our actions, and unilaterally cancel their Backfire bomber program?

The undisputed facts show otherwise.

The Soviets continue unabated with their development and deployment programs for the Backfire, for a new generation of intercontinental missiles, and for air defense against our missiles and bombers. And, of course, their civil defense program proceeds apace.

Even if President Carter and the arms control advocates who direct current SALT negotiations feel that the United States can do without the programs which have been delayed or canceled, why take unilateral action? Are not these weapons systems—at least—proper bargaining chips in SALT?

For the protection of the American people and for our Nation's security, I do not feel that we can afford delay or cancellation of any of these systems. But, if Mr. Carter is going to take unilateral Executive action to delay or cancel these programs, why not something in return from the Soviets?

But the Soviets have not responded with concessions which protect our security interests. Instead, their response is to stand pat, talk hard and continue to amass what has become the largest and most powerful military machine in the world today.

Mr. President, it is time for the Senate to exercise its constitutional duty of advice and consent in the SALT treaty negotiations process. It is time for the Senate to tell the President and his arms control negotiators that the SALT treaties as now structured simply do not protect adequately the people of the United States. It is time to send the administration a signal that the Senate will not go along with a SALT agreement which is premised on unilaterally giving away some of our most advanced defensive systems while allowing the Soviets to continue with their development and deployment programs almost without restriction.

Therefore, Mr. President, I strongly support the position of the House of Representatives on maintaining the production capability of the B–1 bomber program for at least another year.

Perhaps, by that time, events will have changed and we will find that we do not need a B–1 bomber program. Or, perhaps, we may find that the Soviet development of its SA–10 air defense missile, with its advanced phased-array radar guidance system and superb propulsion characteristics, may have proceeded faster than originally thought—that, indeed, the SA–10 may even at this moment be deployed and operational.

What this could mean for the future of the cruise missile program of our country is sobering. Our first generation cruise missile, as yet undeployed, could be rendered ineffective by latest Soviet air defense developments. And, because cruise missiles will be limited in design and capacity by the current SALT treaty under negotiation, we well may find ourselves in the unenviable position of having to live with a treaty for 3 years which restricts our capability to overcome the effectiveness of the Soviet air defense system.

In such a situation, the United States would need a penetrating bomber and need it badly. In order to evade sophisticated Soviet air defense weapons systems, the United States would need a B–1 bomber. In order to penetrate and deliver our weapons on target, we would need an aircraft with the B–1's delivery characteristics.

Perhaps the Soviets do not have the SA–10 developed and deployed, as yet. The point is, the Congress does not know for sure. Nor do we know for sure what the SALT treaty now under negotiation contains.

Is it not a wiser course of action for the Senate to take to keep open the B–1 bomber assembly lines Nos. 5 and 6 and come back next year and review the decision taken today? If we vote today to keep open the assembly lines, we leave the American people with one more defense option. And we tell the administration that the Senate does not wish to have all of our options closed off, at least just yet.

Closing the assembly lines at this time will cost the taxpayers money and the American people precious time. Time that it will take to start up the assembly lines again if we later find that the Soviets have, indeed, proceeded with programs which force the United States to build the B–1.

Mr. President, a lot has happened since last June, when the President made his decision to cancel the B–1 program. The Soviets, we find, have continued their development and deployment program. The United States has unilaterally delayed or canceled major defense-related programs. Our SALT negotiations have made concession after concession to the Soviets.

The American people are waking up to the dangers of further weakening our strategic defense. In many ways, the House vote to build Nos. 5 and 6 may well reflect that growing sentiment.

We must keep faith with the American people. We must take those steps which are necessary to provide for the security of all Americans. We must not allow America to be put into an inferior position in its defense. We must preserve for the American people vital defense options.

We should, therefore, Mr. President, vote to keep open the B–1 assembly lines and build Nos. 5 and 6.

Mr. STENNIS. Mr. President, I yield 5 minutes at this point to the Senator from Maine, again thanking him for his splendid statement he made this morning.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I thank my good friend from Mississippi.

I have listened to his very persuasive argument just concluded. I shall only take a couple of minutes to underscore it. I have listened all day to the arguments of those who are on the other side of the issue. One of the reasons for building aircraft 5 and 6 is to keep the B–1 option open by keeping the production line open. But, Mr. President, my understanding is that there is no production line. The first four aircraft that have been built are R. & D. aircraft. They were not built by a production line committed to the B–1 program. They are R. & D. aircraft and they represent an opportunity to further refine and develop the B–1 concept, and indeed only plane No. 4 contained the defensive avionics package, which is perhaps the most critical single element in the B–1 program.

So aircraft 5 and 6 would not keep a production line open. There is no production line. There is an R. & D. line open, and the R. & D. line is open and would be continued.

In fiscal year 1978, the budget provided over $400 million in R. & D. funds; in fiscal year 1979, the budget contains over $100 million to continue R. & D.; and there is a program in the budget for the fiscal years 1980 to 1982 for which $300 million would be provided to keep R. & D. going.

So the B–1 option is going to be kept alive and healthy by the R. & D. program which is already underway and which will be continued. There is no production line for the B–1.

With respect to aircraft 5 and 6, which are the subject of this debate, two aircraft will not open a production line. No company in America is going to open up a B–1 production line for two aircraft. Those two aircraft would simply be added to the R. & D. program, and would be essentially handmade aircraft, and you do not need to spend $1 billion more to keep the R. & D. program going. It is already very much alive.

No one from the President on down, through every Member of the Senate wants to cut the R. & D. program, so the production line argument, as far as I can see, is a complete phony.

From a point of view of the Budget Committee, we have to be concerned with wasting dollars, not just wasting of all dollars available for Federal programs, but defense dollars.

If there is any Senator in this Chamber who thinks there is an unlimited reservoir of dollars for defense, I invite him to attend meetings of the Budget Committee as we consider the limitations on the resources available. There are limitations. We cannot afford to waste budget dollars for any purpose, and we surely cannot afford to waste defense budget dollars.

So I have listened to this production argument. It has been made by some very well intentioned Senators, and very able Senators, on the other side of this issue. But I have explored it, within the limit of the lines of communication available to me, and there is absolutely nothing to it.

If you want a production line for this B–1 program, you have got to make a decision to build not 2 aircraft but enough aircraft—and there are 240 aircraft in all that the proponents of this program advocate—you have got to make a commitment to a sizable number of aircraft to tempt any company to open up a true production line. There is none at this time.

I urge my colleagues to bear that argument in mind as we proceed to the vote on this issue.

Mr. President, there are some other arguments—I do not know whether I can have the time from my good friend, the Senator from Mississippi—that need repeating at this stage in the debate.

Aside from the points I have just made, Mr. President——

Mr. STENNIS. Mr. President, if I may interrupt, since the Senator used his time in complementing my argument, I want to yield him more time in his speech, and I yield 3 more minutes.

Mr. MUSKIE. Three minutes will be fine.

There are five basic reasons why we ought to support the President's decision on the B–1 argument:

First, the U.S. defense posture does not need any new manned penetrating bomber under present defense strategy. The supplemental appropriation which has been passed provides an initial $400 million for acceleration of the cruise missile program, B–52 modifications to adapt to that program, and a wide-bodied cruise-missile carrier as an alternative to the B–1 bomber. Surely we do not need both at this time. It is also less costly than the B–1 option.

We do not need the expensive B–1 to perform this particular strategic mission.

How long, may I ask, Mr. President, will the pressure be exerted on Congress to buy a weapons system we do not need?

Second, the $462 million involved in the rescission before us is only the beginning of further substantial funding requirements for the B–1. It is my understanding that up to $500 million more would be needed to complete fabrication of the fifth and sixth aircraft. The $462 million in the rescission will not do it, it will not cover fabrication of the aircraft, buy spares, and support equipment, and pay training and tests costs. Thus these two planes would cost close to $1 billion, not the $462 million in the rescission before us.

Third, the estimated cost for the fully armed 240-plane B–1 program is roughly $60 billion to $75 billion. It is entirely inevitable that if the President's decision on this rescission is not agreed to by Congress, the next step of the B–1 advocates will be on the full program, and a spending level of this significant amount built on the precedent of such a favorable vote. Everybody in this Chamber knows that what we are talking about is the first step toward a commitment to 240 planes at a cost of $60 to $75 billion.

If that is a decision that is ever made, it should not be made today, given the fact that the option is still alive without making such a commitment today.

Fourth, the second budget resolution assumed the B–1 rescission, and it means close to $200 million in outlay savings in the current fiscal year.

Fifth, failure to support the President adds $190 million to the deficit in fiscal year 1978, and $170 million more to the 1979 deficit or a total of $360 million.

Mr. President, we are going to be asked to consider additional defense expenditures, such as the Trident program, and building up our forces in Europe, and those two items together could add $100 billion to future defense expenditures above current policy.

There are not dollars to waste. If we spend those dollars unnecessarily here, we are going to reduce our capability to spend them for those programs and other high-priority programs coming down the pike.

Mr. President, recently the editor of Jane's All the World's Aircraft has stated that the West is doomed by the B–1 decision. His position is that cruise missile cannot replace the B–1. The apparent concern, as stated by the edtor, is the supposed inability of the cruise missile to penetrate Soviet air defenses as successfully as a B–1 can, that cruise missile technology is not up-to-date and consequently a gap would exist in the U.S. triad until the technology was modernized, and that the weapons delivery accuracy of the cruise missile is not as great as the B–1.

Mr. President, the Department of Defense has an entirely different viewpoint concerning these arguments for continuing the B–1. To begin with, the DOD has stated that the cruise missile program is considered one of the more successful test programs undertaken by the DOD. The Air Force air launched cruise missile (ALCM) program evolves from the SCAD program dating back to 1972 and earlier cruise missile research. The technology applied to the ALCM and the Tomahawk, the Navy version of the ALCM, is well tested. The engine has over 2,800 hours of various test time. The navigation guidance system has compiled over 2,200 fixes from various platforms.

The DOD response to the penetration and weapons delivery argument is that the cruise missile is projected to be equal to the B–1 in this regard and the cruise missile speed is virtually the same as the B–1 when actually delivering its payload. Further, the DOD expresses more confidence in the ability of the cruise missile to penetrate Soviet air defenses because of the small radar cross section of the missile as opposed to the ECM ability to defend the B–1 while it penetrates Soviet air defenses.

Mr. President, I believe the concerns of the Jane's editor, while very sincere, cannot stand up to the facts surrounding the potential capabilities of cruise missile technology.

I thank my good friend from Mississippi at this time.

Mr. STENNIS. Mr. President, I yield myself 1 minute here. I think the Senator from Maine is so correct in his predictions. We are going to have a merry time here discussing priorities in the military program during this session we are now in, and if these planes are ordered, the money turned loose and spent on them in the face of General Jones' testimony here, you had better look out, fasten your seatbelts, there will be a request for $1 billion for more B–1's at this sitting session.

Mr. MUSKIE. We may not be able to offord the seatbelts.

Mr. STENNIS. Well, that will be a new program that is added to our worries.

Mr. HATCH. Mr. President, will the distinguished Senator yield for a question?

Mr. STENNIS. I had promised the Senator from Georgia I would yield to him next.

Mr. HATCH. Just for a question.

Mr. STENNIS. Yes, I yield for a question.

Mr. HATCH. Mr. President, would my dear friend from Mississippi, my dear colleague, answer this question: Is the Senator aware that in testimony on the fiscal year 1978 defense budget, in those hearings before the Senate Committee on Armed Services, Gen. David Jones—this is something I want to clear up—who was at that time Chief of Staff, U.S. Air Force, made this statement and, as I understand it, General Jones' comments have been relied upon rather extensively here in these debates today:

Against the projected defenses in the very near future, the B–52 will not be able to penetrate adequately. So in order to penetrate you will need the advanced penetrating capability of the B–1.

It is my understanding that he made that statement.

I personally believe he is contradicting himself at this time.

Mr. STENNIS. I beg the Senator's pardon. I assume he made this statement if the Senator says he made it.

Mr. HATCH. He did.

Mr. STENNIS. Here is his entire letter. I sent the Senator a copy yesterday. He said he is still for the B–1, but he does not want this money spent at this time for the purpose in this bill. That is his position.

If the Senator will excuse me now, I want to yield 5 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. I thank the chairman for yielding to me.

Mr. President, I stand as one who was for the production decision on the B–1. I also felt, and I continue to feel, if we were going to cancel the B–1, it should have been done in the context of SALT II.

I believe in quid pro quos with the Soviet Union when it comes to canceling major weapons systems; but I believe, with the Senator from Mississippi, that with the President of the United States having already canceled the B–1 program, and with the SALT decisions as far as the B–1 is concerned already by the board, to build planes 5 and 6, at a cost of $462 million plus, is unilatarily pointless and fiscally irresponsible. If we are going to keep these planes and be able to fly and test them, it will cost another $280 million. We are talking about spending a total of three-quarters of a billion dollars to build two airplanes that do not preserve any additional options in the future than we now enjoy.

We may reach the point, depending on the outcome of SALT II, the Russian strategic moves, and what we find out about the cruise missile and the cruise missile carrier, where we may have to go into a manned bomber program, and we could reach that point in the next 12 to 24 months. I do not know. But to build these two planes now, at a cost of three-quarters of a billion dollars, and not getting anything we will not have with the first four in the way of continued B–1 research and development and the technology for the B–1, we are really just taking three-quarters of a billion dollars and spending it for a very slight marginal increase in our B–1 capabilities—perhaps some increase, but very slight.

Even David Jones, in his letter to Senator STENNIS dated January 27, which our colleague Senator HATCH has referred to, makes it very plain that he continues to favor the B–1, but he makes it abundantly clear that producing planes No. 5 and No. 6, which we are voting on today, really does very little for our future options, and that, as many priority needs as we have in the defense budget this year, and perhaps others like naval shipbuilding programs, I think it is budgetarily unsound to take three-quarters of a billion dollars and spend it when it does not buy us much of anything.

General Jones, I think, says it best when he says:

> For example, just to manufacture 5 and 6 would cost at least the full amount of the proposed rescission, $462M. But unless we were to simply build and store the aircraft (certainly not intended), the estimate would go up by another $280M for OT&E funds to fly and test them.
>
> The R&D gains from this additional investment in 5 and 6 would be nominal compared to what would be available from continued effort with 1 through 4. Likewise, regarding the option for future production, building 5 and 6 would make only marginal difference for the date for Initial Operational Capability (IOC). Assuming a 4-aircraft baseline, it would take approximately seven years to reach IOC after funds were provided; with 5 and 6 we could advance this date only a few months.
>
> As a practical matter, since there are no B–1 procurement funds in the FY 78 appropriations or in the FY 79 budget, even an early reversal of the production decision would delay IOC until the mid to late 1980s. I believe that circumstances likely to trigger a sudden decision on production of the B–1 would spring from a world situation in which the increased capability would be required before the B–1 could become operational.
>
> Therefore, in a nutshell, my reservations about building 5 and 6 at such a high cost are that the advantages for the long term are marginal and for the near term, irrelevant.
>
> In sum, I do not believe that investing nearly three-quarters of a billion dollars to produce and test two more aircraft is the best use of the country's defense resources, particularly in the absence of a realistic expectation of production. I do not question that, like a terminal patient, the program could temporarily be kept artificially alive. But the slippage and uncertainty in the B–1 program which have resulted from program and funding decisions convince me that the time has come to call a halt to further investment beyond the 4-aircraft test program.
>
> I am more concerned with our overall strategic posture than with any single weapon system. So long as the B–1 program remains shrouded in uncertainty, consuming funds without adding to capability and diverting attention from our broader strategic needs, I am convinced that it will be more difficult to focus our collective energies on the many critical issues pertaining to our strategic forces in the days ahead.

So what we are talking about, Mr. President, is 2, 3, 4, or 6 more months of being able to accelerate production later if the decision were made to go forward with the B–1 program.

For that 6 months, we are going to spend three-quarters of a billion dollars, and I do not believe any fiscal conservative, when looking at the figures in this light, when looking at the marginal improved capability building planes 5 and 6 would give us, can rationally come to the conclusion that we ought to spend this money.

When so many other priority items have to be decided on this year in the defense budget, and to my mind some items will have to be added to the President's defense budget, this is just not a wise expenditure of funds.

I thank the chairman very much for yielding me time.

Mr. STENNIS. I thank the Senator from Georgia for the attention he has given to the problems we have in dealing with armament, personnel, and everything else.

I have a few moments remaining. I am glad to yield to the Senator from North Dakota such time as he may want.

Mr. YOUNG. I thank the Senator.

Mr. President, we are talking about $462 milion to produce these other two planes, Nos. 5 and 6; but what we are actually talking about is the end of the B–1 program. If it is defeated today, that is the end of it, in my opinion.

Mr. STENNIS. I thank the Senator very much.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. STENNIS. I have to yield a minute or 2 to myself. The time is virtually out. I have yielded 25 or 30 minutes to you people over there. Are you going to be voting with me?

Mr. SCOTT. I am going to vote against it. Just 1 minute.

Mr. STENNIS. I am glad to yield to the Senator from Virginia 1 minute.

Mr. SCOTT. Mr. President, the talk is of not building these additional B–1 bombers and utilizing the old B–52's. I saw in the newspaper the other day that we were going to mothball our first nuclear carrier.

It does not make sense to me to put a nuclear carrier in mothballs and yet say we are going to use the old B–52 bombers rather than build new B–1 bombers, and so I have to disagree with the distinguished chairman of our Armed Services Committee.

Mr. STENNIS. I thank the Senator very much. Mr. President, I wish to refer with commendation to the fine fight that the Senator from Utah (Mr. GARN) made this morning, and to quote him here with approval when he said that he would never contend that six bombers made a fleet that could be effective.

Some might think, well, six is better than four, and four is better than none, but he is our expert or one of them on this subject and knows what he is talking about. He is against my position here, but he said this morning in the debate that six of these bombers could not constitute a serviceable fleet.

I believe the time is about up, Mr. President. The Senator from Maine never hit a thing more accurately than when he said there is really no production line. The 1978 money was taken out of the bill on this floor by an overwhelming vote. There is no money requested for 1979. It is like a bridge with both abutments cut out. This old 1977 money is just suspended in midair.

Everyone was pretty well satisfied when we left here last October, but the winds blew in from somewhere and stirred this up again. I believe the Senate will stick by its former sound judgment on this matter, even though we are not all happy to be in this situation, and make these military dollars go as far as they will.

Mr. MUSKIE. Mr. President, the Supplemental Appropriations Act that we are considering today contains $200 million for assistance to low-income families faced with energy emergencies this winter. These funds would be appropriated to the Community Services Administration for use only during specific crisis situations.

Last year in response to the severe winter, Congress provided funds for a similar program through the CSA. That program provided assistance to more than a million families across the Nation. While the assistance came late, after the worst of the winter, it helped many needy people through a very difficult period.

This year, we had a chance to put this program in place before the cold weather hit. But because of controversy about other provisions of this appropriation bill and the resulting delays, we are again faced with the prospect of doing too little, too late.

Already the Midwest and Northeast have been devastated by vicious winter storms—scores of people have died and thousands have been forced from their homes.

The impact of this violent weather will, of course, be felt by all segments of the population. But we can be sure that those hardest hit will be those least able to bear the burden—the poor and the near poor.

The Federal Government has taken action to provide some relief. The Community Services Administration has authorized States to use up to 40 percent of their weatherization funds to provide special crisis assistance to low-income families. But even this is not enough.

Three States—Ohio, New York, and Kentucky—have already asked permission to use even more of their available funds for crisis assistance. And many States—all but one out of the New England States—have no available funds that can be diverted for this use.

The Community Services Administration estimated in the fall that 1.8 million low-income families would be cut off from natural gas supplies this winter. This estimate, which does not even include data for those families that heat their home with other fuels, serves only as a benchmark for the need that is likely to exist for this assistance program. One has only to read the newspapers to determine the real scope of need.

Mr. President, I urge my colleagues to take into consideration this program as they cast their votes today on the supplemental appropriation.

Mr. GARN. Mr. President, during the past weeks, many Members of Congress have expressed grave concern relative to the effectiveness and survivability of the strategic TRIAD and our overall strategic posture. This growing concern stems from concessions offered by the United States in the current SALT negotiations as well as the failure to proceed with our own strategic systems.

You are aware that I strongly encouraged the President for production of the B–1 bomber. Unfortunately, President Carter announced on June 30 that he was canceling B–1 production and in its place we would rely on cruise missiles. Of particular concern is the administration's lack of comment in relation to the current SALT negotiations. Even more alarming was the subsequent action in desiring to rescind the fiscal year 1977 funds for building the B–1 test aircraft 5 and 6. This is because events since the June 30 announcement have made it clear, even to our Commander in Chief that an effective manned penetrator option must be retained as a part of our strategic force.

Despite the unilateral decision by President Carter to terminate the B–1 production program there continues to exist today the requirement for a manned penetrating bomber in our strategic TRIAD of defense. This fact has been emphasized repeatedly by President Carter, Secretary of Defense Brown and the Department of the Air Force following the cancellation decision. This if further emphasized by the DOD efforts in adding a sizable quantity of money in fiscal year 1978 and 1979 to improve the B–52's penetration capability. The Department of Defense has even proposed buying reworked versions of the FB–111, to add to its penetration capabilities in the late 1980's and 1990's.

The requirement for a manned bomber has not gone away with the Carter decision, and it is still a fundamental factor in strategic planning for the following reasons:

It forces large expenditures of adversary resources to counter the penetration bomber capability. These are resources that might otherwise be concentrated on negating other elements of the TRIAD.

It provides full assurance of coverage of hard targets, deep inside enemy territory.

It provides real time on-site damage assessment of primary and secondary targets.

President Carter on June 30, 1977 made two points in his decision to discontinue plans for production of the B–1. First—

> The existing testing and development program now under way on the B–1 should continue to provide us with the needed technical base in the unlikely event that more cost-effective alternative system should run into difficulty.
>
> Continued efforts at the research and development stage will give us better answers about the cost and effectiveness of the bomber support system, including electronic countermeasures techniques.

The President's second point was:

> But this is a matter that is of so very great importance, and if, at the end of a few years, the relations with the Soviets should deteriorate drastically, which I don't anticipate, then it may be necessary for me to change my mind. But I don't expect that to occur.

The B–1 base production should remain a realistic option. If the President does change his mind, we will have the continuity of manufacturing skills, the subcontractors team, and the ability to meet in a timely and cost-effective fashion the option to restart. Procurement of planes 5 and 6, as the House has voted to do, will allow us flexibility while we evaluate the yet unproven cruise missile development and the outcome of SALT II.

In order to see why the manufacturing base for B–1 must be kept viable for the next 2 years until SALT II is reviewed and approved by Congress, several factors must be considered:

Fifty four percent of the total U.S. nuclear throw weight is carried by bombers. SLBM's do not have a hard target kill capability.

Minuteman force is estimated to be highly vulnerable to a new series of Soviet ICBM's by early mid-1980's.

B–52's average 16 years in age, some as old as 25 years; estimated to be highly vulnerable by mid-1980's because of size, speed, age.

Soviets have 10,000 to 12,000 radar guided air defense systems; the United States has virtually none.

Soviets have eight times more medium range bombers than the United States.

Soviets have twice the throw weight as the United States.

Soviets have 94 percent more nuclear tonnage than the United States.

Soviets have 78 percent more SLBM submarines than the United States.

Soviets have 51 percent more ICBM's than the United States.

Soviets have four new strategic missile systems in production and four more in R. & D.

Soviets are developing a new super Delta submarine for deployment.

Soviets are producing the Backfire bomber at a rapid pace—approximately 200 or more already produced/deployed.

Backfire bomber has more range than B–1 and 8 percent more range than B–52, with one refueling.

Soviet cruise missiles: Three or four versions are deployed; U.S. cruise missiles: ALCM–A is canceled, ALCM–B is in R. & D.; Tomahawk is in R. & D. and won't be operational until approximately 1982.

The B–1 is the most thoroughly tested aircraft ever flown—over 811 flight test hours and over 25 hours at supersonic speeds.

Costs, studies, recommendation and other factors:

Although individual cost of each B–1 seems high, its mission effectiveness/cost effectiveness are higher than all alternatives.

GAO told Chairman STENNIS—and apparently no one else—that for threat envisioned for the 1980's, the B–1 was more cost effective than B–52's, FB–111's and wide body cruise missile carriers. If anything, the threat envisioned has worsened.

Secretary of Defense and Chief of Staff Air Force have recently acknowledged higher cost effectiveness of B–1.

Secretary of Defense's recommendation to President was for a mix of B–1's and cruise missiles—not for cruise missiles without the B–1.

The Joint Chiefs of Staff recommended that the cruise missile be used in conjunction with a manned penetrating bomber.

FB–111H and B–1 costs, 20-year life cycle costs are estimated at $17 billion for the FB–111H versus $13 billion for the B–1 by House Appropriations Committee study.

Wide body cruise missile carriers would have to be complemented by some kind of penetrating bomber—the combined cost of which would easily exceed the B–1 program.

747 today costs about $40 to $42 million a copy.

Additional costs for racks, computers, EMP, guidance and control, communications, and defensive measures will result in a 747/CMC which was estimated by DOD to cost $92 to $98 million unit cost.

Continuing B–1 production would result in an average cost of $85.9 million per aircraft—noting that comparisons are for money to be spent in future.

Where the Triad stands:

ICBM's: From now until the early to mid-1980's the U.S. force appears viable. It becomes vulnerable as the new, high accuracy generation Soviet ICBM's are deployed as announced by Secretary of Defense. By 1982–85, as high as 80 to 90 percent of U.S. ICBM's will be vulnerable. The U.S. answer is the mobile MX just now being put into R. & D. OMB has recently recommended only $160 million and slipping full scale development (FSD).

SLBM's: First U.S. Trident submarine is proceeding very slowly and most likely will not be completed until 1981—program continues to slip. Has already suffered overrun of about $400 million. Current SLBM's do not have a hard target kill capability. The Soviet Union has more SLBM's and SLBM submarines than United States. If the Triad is not maintained, Soviet Union resources required for air defense against B–1/cruise missile/SRAM combination would probably be diverted to work on submarine vulnerability problem. If successful within next 8 to 10 years, United States could be in serious jeopardy.

Manned bombers: As B–52 fleet continues to age, they must be replaced. For near time frame until about 1982, they are estimated to remain capable of beating the Soviet Union air defenses. New Soviet efforts with SS–10 could drastically change the balance, requiring introduction of a high speed, near-supersonic, on-the-deck penetrator, to force Soviet expenditures on a broad range of defensive problems involving MX, Trident, cruise missiles, and the B–1 itself. Any manned aircraft having strategic missions must have the following characteristics—whether a B–1, B–52, wide body transport, et cetera.

Pre-launch survivability;

Hardening against nuclear effects, (blast, EMP, et cetera);

Penetrate close enough to launch or drop weapons;

Large enough to carry effective load;

Self-capable to penetrate defenses and protect itself, and

Weapons accuracy sufficient to kill target.

The FB–111H has been proposed as a candidate for the penetrating bomber role, although it is a less capable aircraft and almost as expensive as the B–1 would have been. However, President Carter has stated that he did not cancel B–1 production just to build a less capable bomber for the penetrating role.

These are important considerations when evaluating the need for B–1 bomber planes 5 and 6:

First. President Carter stopped the B–1 in favor of cruise missiles which must also penetrate pronounced enemy defenses—without the benefit of defensive avionics—and which have not undergone the extensive testing that the B–1 has accomplished.

Second. Continuing aircraft 5 and 6 provides the time necessary to be absolutely sure that the cruise missile concept can adequately fulfill the role intended for the B–1 bomber.

Third. From all accounts of the SALT II agreement and the U.S. concessions in the agreement, the United States is accepting range limitations on the cruise missile. The full impact and final SALT agreement is not known and until these considerations are quantified, a B–1 production option is necessary.

Fourth. The United States gave up the B–1 strategic capability with no like concessions from the Soviets.

Fifth. Retaining the production option while finalizing SALT II is the most reasonable course of action.

Perceptions are crucially important, and I am concerned about the clear signal we are sending to Moscow concerning the strength of our Triad—both now and beyond. With the Soviets developing and deploying new weapons at an undiminished rate, the time has come to reconsider the practice of unilateral arms restraint.

Mr. BELLMON. Mr. President, there are many difficult decisions that a Member of Congress must make during ones tenure in Washington, and today's vote to deappropriate funds to build two additional B–1's is one of those decisions, where in my judgment, there is no definitive answer. First, let me say that I support the production of the B–1. In my judgment, the United States clearly needs a penetrating manned bomber that will remain effective as our B–52's become outdated. However, President Carter who is the Commander in Chief of our Armed Forces, as set out in the Constitution, has stated that the United States does not need the B–1 and he does not intend to build the B–1's. Accordingly, I see little logic in expending $462 million on B–1's No. 5 and No. 6 when it appears clear that the B–1 will not be built while President Carter remains in office.

Currently, our present Air Force, largely composed of B–52 penetrators, is a very effective force with a very high probability of penetrating the present Soviet Union air defense. The questions are how much the effectiveness of the B–52 will be degraded 5, 10, or 15 years in the future, and how we should modernize the force to minimize the effect of that degradation. President Carter has chosen to "scrap" the development of the B–1 and rely on the development of the cruise missiles to be our penetrating weapon system.

Mr. President, as I indicated earlier, I favor the production of the B–1 because I believe that we need a manned penetrator replacement for the B–52. A manned penetrator would serve two purposes by being able to carry a gravity bomb or a short-range attack missile to a target or by being able to penetrate deep enough into the Soviet Union to insure that the carrier's cruise missiles have the range to reach their intended targets.

The fallacy in relying entirely on the cruise missile is that it will only be as effective as its carrier, which will likely be an improved B–52. Accordingly, as the B–52's ability to penetrate the Soviet's air defenses decreases, then so will the cruise missile's.

However, the issue before us is not whether the United States needs the B–1, but whether the Congress can or should force the President to build B–1's No. 5 and No. 6 at a cost of close to one-half billion dollars, when it now appears that the B–1 will never be put in production. In my judgment, the Congress should disappropriate the funds for the two additional B–1's, rather than pour $462 million of the taxpayers' money down the proverbial "rat hole."

Granted, there would be some benefit from building two production models of the B–1. The argument is made that by building planes No. 5 and No. 6, companies will be able to keep their production team together, in the event that President Carter should change his mind. This argument is not convincing because No. 5 and No. 6 will be hand built and not produced on an assembly line. In addition, it appears unlikely that the President will change his mind. Also, the total cost of building bombers No. 5 and No. 6 over the next 3 or 4 years is estimated to total close to three quarters of a billion dollars when the total cost of complete fabrication, initial spares and support equipment, and training and testing are taken into consideration.

Although I support production of the B–1, I cannot, in good conscience vote to build B–1's No. 5 and No. 6 when it appears that a fleet of the bombers will never be produced so long as President Carter is in the White House.

Mr. PELL. Mr. President, I strongly support the rescission of $462 million in fiscal year 1977 funds originally appropriated for continued production of the B–1 bomber.

I would not be saying this unless I believed that our present strategic nuclear forces were a sufficient deterrent. In particular, we currently have a capability to deliver over twice as many warheads as the Soviets can, and our lead over them in this regard will be maintained under the SALT II agreement now being negotiated.

Looking at the manned bomber component of our nuclear triad, the B–52's are adequate and will remain so for many years to come. To the extent that this leg of the triad must be modernized, we are doing so through the air-launched cruise missile which can be carried on the B–52 or other aircraft. We can now, and will continue to be able to under SALT II, deploy these cruise missile carriers so that as Soviet air defenses improve, the B–52's or other cruise missile carriers can strike from a safe distance.

In judging the need for the B–1 as against the alternative of cruise missile carrying aircraft, it should be borne in mind that the B–1 is justified princi-

pally on its penetration capability. Yet the whole idea of a penetration bomber may be an obsolescent concept according to many experts. Soviet air defenses may improve to the extent that it would be foolish to have invested so much in the B–1 whose penetration capabilities are in doubt in the 1980's and which is not needed to deliver cruise missiles.

Other aircraft can deliver cruise missiles cheaper now, and better ways can be found to deliver air launched cruise missiles in the future than the B–1. While individual cruise missiles will be vulnerable when the Soviets deploy a lookdown-shootdown capability, the advantage of the cruise missile is that so many of them can be launched from a variety of aircraft. Compared with a B–1 bomber, a cruise missile carrying aircraft has a better chance of delivering its weapons in a cost-effective manner than would an affordable number of B–1's. My concern with cost reduction gathers added significance in a year the President is seeking an approximately $10 billion increase in defense spending.

President Carter has studied the whole question of the nuclear triad and our various weapons options, and came to the same conclusion that I have in the course of my duties as the chairman of the Foreign Relations Committee's Arms Control Subcommittee. Basically, the question is whether there should be another generation of the manned penetration bomber or whether we will move into the 21st century and recognize that the manned penetration bomber is being leap-frogged by another weapons system. Just as the battleship was superseded by the aircraft carrier, and it in turn by the nuclear submarine, so now the manned penetration bomber is being replaced by the cruise missile carrier.

Mr. CULVER. Mr. President, once again we are debating the B–1 bomber program. Almost 2 years ago, the Senate voted to give the incoming administration the final decision on B–1 production. Last summer, we supported the President's decision by removing B–1 production funds from the fiscal year 1978 appropriations. In the fall, we supported the deappropriation of unnecessary money left over from fiscal year 1977.

Although the Senate has been consistent on this issue, our colleagues in the House have not. I believe therefore that we must insist on our position as the best course for our Nation, both militarily and economically.

The immediate question is whether—in face of the conclusive decisions against production of the B–1 at this time—we will force the Government to continue spending money, up to a total of $1,440,000,000 in order to build only two token aircraft.

The fact situation is this: Of the $1.160 billion appropriated for B–1 production before President Carter's decision, $401 million have been spent. Contract termination costs will require another $297 million, leaving the $462 million to be saved by deappropriation. In fact, the savings will actually be greater—$742 million—because the Air Force would need an additional $280 million for operational test and evaluation of these two planes.

Canceling a big program is always painful; powerful economic interests always argue for continuing dollar transfusions. But I believe the time has come to cut our losses, to terminate B–1 production, before we scale a Himalayan peak of waste and extravagance in order to have two planes costing $720 million each.

Mr. President, costs have always been an important factor in the B–1 debate. Many people opposed the program with solid reasons when the predicted unit cost was only $40 million. By the time of President Carter's decision, reliable estimates had soared to $117 million per plane.

If the B–1 were truly essential to our national security, of course, and if there were no cost-effective alternative, then we should build the planes. Cost would be no object in the face of necessity.

But the B–1 is not essential. And we do have a better and far less costly alternative.

Mr. President, since the B–1 program as a whole is wasteful and unnecessary, spending $1.44 billion for only two custom-made aircraft is the height of folly.

We do not need these planes for test purposes, as our distinguished colleague from Arizona, Senator GOLDWATER, told the Senate in December. The four research and development aircraft—three already flying and the fourth being built—are sufficient for necessary testing.

We do not need these planes in order to preserve a production option in case a future decision is made to produce the B–1. The blueprints would still be available, and the key production and management people would likely be retained for other programs. Since the two planes would be essentially hand-made, there will be no full-scale production line.

We are not going to have the B–1 significantly sooner if we build planes No. 5 and No. 6 and then decide on full production. All this huge expediture would buy us, according to Defense Department analysis released yesterday, is "a 6- to 10-month advantage"—in 1986.

I think we can all agree that these planes should not be built as a jobs program. Defense dollars should never be used for make-work. Other Federal programs are more labor-intensive and can create more jobs, if necessary, at much lower cost.

We are not even talking about current jobs, but future jobs, since there are now only about 800 individuals employed on the B–1 production program, according to the Defense Department.

But if we were to go ahead and build these two additional planes, we would have to spend an average cost of $4,150 per month per employee, according to newly released information from the Defense Department. That comes to just under $50,000 per job per year—a staggering and unacceptable sum.

The truth is that the aerospace industry does not even need this platinum-plated subsidy at this time. According to Aviation Week, the aerospace industry is expecting a 2-percent increase in sales in 1978.

And Rockwell International, the prime B–1 contractor, has told its stockholders that it sees "excellent prospects for continued growth" in 1978, and that its B–1 division is "pursuing new business opportunities."

Mr. President, the B–1 is a luxury we can do without because of the more promising technology and lower cost of cruise missiles.

When the Pentagon last year compared the B–1 with the rapidly advancing technology of cruise missiles, it concluded that our existing B–52's, supplemented by a force of some cruise missiles, would be highly effective against even conservative estimates of the future Soviet threat. But a B–1 force with equal capability would cost 40 percent more.

It just did not make sense to spend nearly $30 billion on planes which might become so vulnerable that they could be used only as cruise missile carriers.

The safest way to go is with cruise missiles because they promise a greater certainty of effectiveness. As the Defense Department declared yesterday:

> Because of Soviet advances in electronic warfare technology, it is becoming increasingly more difficult to develop effective bomber ECM (electronic countermeasures), and thus there is considerable uncertainty regarding the B–1's penetration capabilities. We have more confidence in the ability of the small radar cross section cruise missile to penetrate defenses than in the ability of ECM to defend the B–1.

Moreover, defenses against cruise missiles would be very difficult and expensive for the Soviet Union. They would have to field large amounts of new equipment even to begin to counter our capabilities.

Cruise missiles have lived up to their promise so far, with a very successful development program. Operational deployment is expected in 1980.

Even if ranges are ultimately limited by a SALT agreement, Defense Department analysis has determined that—

> 2,500 km is sufficient through at least the mid-to-late 1980's when examined against very conservative estimates of future Soviet defenses.

Finally, let me put to rest the oft-repeated claims about the obsolescence of the allegedly "aging" B–52 fleet. The fact is, that the Air Force has always testified to the structural integrity of those planes through the 1990's. The only question was whether they would be effective penetrators. On the basis of the latest intelligence estimates, our military planners have concluded that we will be able to rely on a sizable force of effective penetrating bombers for many years to come.

The best witness on this subject is the commander in chief of the Strategic Air Command, Gen. Richard H. Ellis, who testified to our Research and Development Subcommittee last August:

> So our opinion—based on the best evidence available—is that properly cared for and properly employed, our FB–111's and our latest B–52's can continue to be effective penetrators until 1987—and probably to 1990 or even beyond.

In other words, Mr. President, America will remain strong without the B–1. We will have the many advantages of a mixed force of penerating bombers and cruise missile carriers.

In the face of our Nation's critical needs, we simply cannot afford to waste more money on B–1 production.

Mr. STENNIS. Mr. President, I do not like to make a motion to table, but it is about the only thing to do under the logic of the situation here.

What is the pending matter before the Senate, Mr. President?

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California that the Senate recede from its amendment No. 43 to H.R. 9375.

Mr. STENNIS. As I understand, that means that the Senator from Mississippi moved that on amendment 43 the Senate stand firm on its amendment, request a further conference with the House, and that the Chair appoint conferees. The Senator from California offered a substitute motion that would come first for a vote. It is that which I refer to.

Does the management of the floor want a couple of minutes for a quorum call, which will be withdrawn, and then I make my motion to table?

The PRESIDING OFFICER. It is not a substitute motion.

Mr. STENNIS. It is subject to a motion to table, anyway; that is correct, is it not?

The PRESIDING OFFICER. That is correct.

Mr. STENNIS. Does the management want to have a quorum call? It is not necessary.

Mr. President, if I have any time remaining, I yield it back.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. YOUNG. I yield back the remainder of my time.

Mr. STENNIS. Mr. President, I move to lay on the table the motion made by the Senator from California.

Mr. HAYAKAWA. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. There is a vote in progress.

Mr. STENNIS. Will the Chair state the question so Senators will know what they are voting on?

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion of the Senator from California that the Senate recede from Senate amendment 43 in disagreement.

The clerk will call the roll.

The assistant legislative clerk called the roll.

(The Vice President assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HASKELL), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea".

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) is necessarily absent.

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—57

Abourezk	Ford	Metzenbaum
Anderson	Gravel	Moynihan
Bayh	Hart	Muskie
Bellmon	Hatfield,	Nelson
Biden	Mark O.	Nunn
Brooke	Hatfield,	Packwood
Bumpers	Paul G.	Pearson
Burdick	Hathaway	Pell
Byrd, Robert C.	Heinz	Percy
Case	Hodges	Proxmire
Chafee	Huddleston	Ribicoff
Chiles	Jackson	Riegle
Church	Javits	Roth
Clark	Kennedy	Sarbanes
Culver	Leahy	Sparkman
Danforth	Magnuson	Stennis
DeConcini	Mathias	Stevenson
Durkin	Matsunaga	Talmadge
Eagleton	McGovern	Williams
Eastland	Melcher	

NAYS—38

Allen	Goldwater	Sasser
Baker	Griffin	Schmitt
Bartlett	Hansen	Schweiker
Bentsen	Hatch	Scott
Byrd,	Hayakawa	Stafford
Harry F., Jr.	Helms	Stevens
Cannon	Hollings	Stone
Cranston	Johnston	Thurmond
Curtis	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Garn	McIntyre	Young
Glenn	Randolph	Zorinsky

NOT VOTING—4

Haskell	McClure	Morgan
Inouye		

So the motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. STENNIS. All time for debate on my motion has expired, has it not?

The VICE PRESIDENT. The Senator is correct.

Mr. STENNIS. I ask for the yeas and nays, Mr. President.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second?

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Mississippi that the Senate further insist on its amendment and ask for further conference with the House thereon and that the Chair be authorized to appoint conferees.

Mr. STENNIS. I thank the Chair.

The VICE PRESIDENT. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HASKELL) and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

The result was announced—yeas 58, nays 37, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—58

Abourezk	Ford	Metzenbaum
Anderson	Gravel	Morgan
Bayh	Hart	Moynihan
Bellmon	Hatfield,	Muskie
Biden	Mark O.	Nelson
Brooke	Hatfield,	Nunn
Bumpers	Paul G.	Packwood
Burdick	Hathaway	Pearson
Byrd, Robert C.	Heinz	Pell
Case	Hodges	Percy
Chafee	Huddleston	Proxmire
Chiles	Jackson	Ribicoff
Church	Javits	Riegle
Clark	Kennedy	Roth
Culver	Leahy	Sarbanes
Danforth	Magnuson	Sparkman
DeConcini	Mathias	Stennis
Durkin	Matsunaga	Stevenson
Eagleton	McGovern	Talmadge
Eastland	Melcher	Williams

NAYS—37

Allen	Griffin	Schmitt
Baker	Hansen	Schweiker
Bartlett	Hatch	Scott
Bentsen	Hayakawa	Stafford
Byrd,	Helms	Stevens
Harry F., Jr.	Hollings	Stone
Cannon	Johnston	Thurmond
Cranston	Laxalt	Tower
Curtis	Lugar	Wallop
Dole	McClure	Weicker
Garn	McIntyre	Young
Glenn	Randolph	Zorinsky
Goldwater	Sasser	

NOT VOTING—4

Domenici	Inouye	Long
Haskell		

So the motion was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MOYNIHAN) appointed Mr. MAGNUSON, Mr. STENNIS, Mr. PROXMIRE, Mr. INOUYE, Mr. YOUNG, Mr. CASE, and Mr. STEVENS conferees on the part of the Senate.

COMMENDATION OF THE FLORIDA AGRICULTURAL AND MECHANICAL UNIVERSITY FOOTBALL TEAM ON FINISHING ITS SEASON UNBEATEN AND UNTIED

Mr. CHILES. Mr. President, I send to the desk a resolution and ask that it be read.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) for himself and Mr. STONE proposes Senate Resolution 386, to commend the Florida Agricultural and Mechanical University football team on becoming the only NCAA football team to finish its season unbeaten and untied.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, Florida A&M University, located in Tallahassee, is a small school in enrollment but is a giant in football achievement. During the past college football season, the FAMU Rattlers were the only National Collegiate Athletic Association team to finish its complete campaign undefeated and untied. This unblemished record was unmatched by all the so-called powerhouse teams in the country.

Even more startling, Mr. President, I am told that this fine football team has 15 members who received recognition by the Southern Intercollegiate Athletic Conference for excellence in academic achievement. Seven of these young men were selected to the first team All-American (SIAC) and eight were selected to the second team at the conference level.

Because my colleagues might not be aware of the professional players who have emerged from this great university, Mr. President, I think it is noteworthy that FAMU players have at some point graced the roster of almost every team in the National Football League. Perhaps the most famous of these NFL regulars were Hewritt Dixon of the Oakland Raiders, Al Denison of the Denver Broncos, Hubert Ginn of the Miami Dolphins, Clarence Childs of the New York Giants, the late Willie Galimore of the Chicago Bears and, of course, Bob Hayes of the Dallas Cowboys.

Current pro standouts from FAMU include Henry Lawrence of the Oakland Raiders, Ken Riley of the Cincinnati Bengals, Glen Edwards of the Pittsburgh Steelers, Charles Goodrum of the Minnesota Vikings, and Roger Finnie of the St. Louis Cardinals. Then of course, there is Bob Harris, the Lakeland Flash.

I could go on, Mr. President. However, I think the point has been made. It is very clear to the citizens of this country as well as to Floridians that quality is, indeed, FAMU's measure. All of us in Florida are justly proud of FAMU's record not only this past year but throughout its long and illustrious 90-year history.

The introduction of this resolution for consideration by the Senate is my way of commending the football team, Coach Rudy Hubbard and his staff, and newly appointed president, Dr. Walter Smith, for a job well done.

Mr. President, Senator STONE joins me in the introduction of this resolution, and he will have some remarks to make.

Mr. President, I would like to ask that the rules be waived and that the resolution be considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, this matter has been cleared with the leadership on this side of the aisle, and I have no objection to the immediate consideration of the resolution.

Mr. BAKER. Mr. President, we have no objection.

Mr. STONE. Mr. President, I am very pleased to join my colleague from Florida, Senator CHILES, in introducing this resolution to honor the Florida A&M University football team.

Each fall national attention is focused on the many outstanding college football teams who compete for top national honors. This past year was no exception. However, because Florida A&M University did not play class A competitors all season, their efforts were not given the recognition showered on other teams. All of Florida is proud that this team was the only major college football team in the United States to have an undefeated, untied season.

Each member of the Florida A&M football team and their coach, Rudy Hubbard, can be very proud of the results of their dedication, hard work, and skill on the field. I urge my colleagues to adopt this resolution, to commend this outstanding group of young men for their efforts and for a job well done.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 386), together with its preamble, is as follows:

S. RES. 386

Whereas the Florida A&M University football team vanquished every opponent in its regular 1977 season and

Whereas the Florida A&M University football team was victorious in the Orange Blossom Classic contest on December 1977 and

Whereas the citizens of the United States are generally unaware of the superlative record of the FAMU Rattlers; and

Whereas the 1977 FAMU football team has continued a tradition of excellence that is unparalled in gridiron lore: Now therefore be it

Resolved, that the Florida A&M University football team is commended for attaining a perfect, unbeaten and untied record for the 1977 season.

SEC. 2. The Secretary of the Senate is authorized to transmit a copy of this resolution to the president of the Florida A&M University at Tallahassee, Florida.

ROUTINE MORNING BUSINESS

MESSAGES FROM THE HOUSE

At 3:41 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 2719) to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.

The message also announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 9851. An act to amend the Federal Aviation Act of 1958 to improve cargo air service.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2719. An act to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.

H.R. 5798. An act to amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978.

H.R. 10532. An act to amend Public Law 95–18, providing for emergency drought relief measures.

H.J. Res. 386. A joint resolution to provide for the striking of a national medal to commemorate the bicentennial of an outstanding historic event or personality during 1777.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 9851. An act to amend the Federal Aviation Act of 1958 to improve cargo air service; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 384. An original resolution authorizing additional expenditures by the Committee on Agriculture, Nutrition, and Forestry, for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. STENNIS, from the Committee on Armed Services, without amendment:

S. Res. 385. An original resolution authorizing additional expenditures by the Committee on Armed Services for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. MUSKIE, from the Committee on the Budget, wtihout amendment:

S. Res. 387. An original resolution authorizing additional expenditures by the Committee on the Budget for inquiries and investigations. Referred to the Committee on Rules and Administration.

SELECT COMMITTEE ON SMALL BUSINESS ANNUAL REPORT (REPT. NO. 95–629)

(By Mr. NELSON, from the Select Committee on Small Business, which was ordered to be printed.)

Mr. NELSON. Mr. President, the annual report of the Small Business Committee, which I am submitting today, contains both alarming findings about the status of American small business and evidence of progress in congressional efforts to improve the conditions under which small businesses operate.

The 21 chapters and appendixes of the 28th Annual Report address a substantial number of the critical issues currently facing the Nation's 13 million small businesses.

The committee was active in a number of areas, and some of these deserve a word or two of special attention.

For example, the employment tax credit, a tax incentive first put forward in Small Business Committee hearings, became a part of the tax reform measure enacted into law. This tax credit, which provides Government encouragement for businesses which hire new employees, is a welcome acknowledgment of small business' job-producing potential. It is

a sign that Congress and the President have recognized the fact that private-sector, labor-intensive businesses, including most small businesses, should be the employers of first resort in any comprehensive solution to unemployment.

Eight days of committee hearings focused on product liability insurance, which is becoming prohibitively expensive for many small businesses. The report describes findings from these hearings and from the Federal interagency task force on product liability, as well as the approaches to the problem offered by two bills, sponsored by various members of the committee.

Elsewhere in the report is an analysis of Federal regulatory activities affecting small business. Summaries explain the committee's continuing hearings on Federal regulatory harassment of supplemental air carriers, and a new committee investigation of the cost of regulations to small homebuilders and home buyers. The latter investigation has found considerable evidence that duplicative, unnecessary, and overly burdensome governmental regulations are pricing small homebuilders out of the market and pricing homes beyond the reach of most Americans. Regulatory delays for as long as 3½ years have been documented in homebuilding, during which homebuilders face continuing costs without offsetting sales—resulting in spiraling prices to consumers. The report also details a number of legislative measures in the regulatory area, which have been introduced by committee members, including S. 1974, the Regulatory Flexibility Act, which would provide broad regulatory relief for small businesses, small organizations, and individuals.

Federal paperwork demands on small business also received considerable scrutiny from the committee. The report notes, among other committee successes in this area, an amendment to the minimum wage bill which has reduced reporting requirements on businesses—which hire students—condensing a five-page form and seven pages of instructions to a simple index style card with four questions.

A major new issue, turned up by committee investigations during the past year, is that the United States is in danger of losing the cream of its new technology because a lack of capital for small business in this country is permitting foreign investors to buy up our most promising companies. Traditionally, advanced technology firms have been the foundations on which new industries were built, and they have also provided the fastest growing source of new jobs.

In at least one of the above cases, the company's owners had sought American capital from more than 80 sources.

What does this mean for the U.S. economy in terms of lost jobs, sales, and taxes?

The report notes that the MIT foundation recently compared five young, high-technology companies (Data General, National Semiconductor, Compugraphic Digital Equipment, Marion Laboratories) with six mature companies (Bethlehem Steel, DuPont, General Foods, General Electric, International Paper, and Proctor & Gamble), all among the Nation's 100 largest corporations. The findings for the 5-year period of fiscal year 1969 were as follows.

Compound annual rate of increase in percent

	New companies	Mature companies
Jobs	40.7	0.6
Sales	42.5	11.4
Taxes	34.1	7.8

The inability of small firms to raise capital has become a crisis not only for the firms involved, but has serious implications for the U.S. economy, balance of payments, defense, and disarmament positions.

Independent entrepreneurs and small businesses have invented such products as Xerox machines, Polaroid cameras, jet engines, automatic transmissions, vacuum tubes, cyclotrons, FM radios, walkie-talkies, helicopters, air conditioners, mercury dry cell batteries, cellophane, penicillin, and insulin.

The report points out that U.S. capital has left a serious gap in the funding of these technologically innovative companies, and it is that gap which is being zeroed in on by foreign capital.

Business Week magazine summed it up:

> Access to the capital market has been pretty much open only to the nation's big companies for years now. And some contend that the top 1,000 or so corporations—the ones that can borrow—have been less innovative and less willing to commit funds to risky projects than they have been in the past. The smaller companies, the argument goes, are willing to take the risks but cannot get the money. (Oct. 17, 1977, p. 63.)

Between 1972 and 1976 first-time stock offerings by all companies fell, as a proportion of all stock offerings, from 62 to 16 percent. Registered stock offerings by firms with less than $5 million dropped from 698 in 1969 to 3 in 1975—with only 41 for the last 3 years (1974–76).

This problem is explored in some detail in the report, and a number of legislative strategies for correcting it are suggested.

The report opens with a summary of studies the committee has collected on small business and the quality of American life. The next section of the report presents economic data on small business' strengths and weaknesses. The committee's efforts to improve the operation of the Small Business Administration, through exercise of the legislative jurisdiction over SBA which the Senate recently conferred upon the committee, are dealt with in the next chapter. Included here are analyses of measures recently signed into law, such as the Omnibus Small Business Act, Public Law 95–89, and those which are pending, such as the Small Business Development Center Act, S. 972.

Many of the chapters provide helpful material on questions most frequently asked about Federal taxation and regulation of small business, about capital formation and the economic climate for small business, about the Small Business Administration and Federal policies regarding women and minorities in business, and about specific problems like energy availability and product liability insurance.

In many ways, 1977 was a milestone year for the Small Business Committee. For the first time in the committee's 28-year history, it was authorized to consider and report out legislation. Equipped with this strong Senate mandate to tackle the problems of American small business, the committee had its most active session ever.

During calendar year 1977, a committee record of 65 days of hearings were held, with 73 days projected for the fiscal year ending February 28, 1978, another committee record. Thirty-eight legislative measures, including 30 bills, were referred to the committee. Eighteen of these received markup in committee, eight were passed by the Senate, and two have become public law. In addition, 1 nomination and 24 Executive Communications have been referred to the committee.

A wider understanding of the problems and the potential of small business will have a direct bearing upon our country's ability to increase employment, fight inflation, increase productivity and efficiency, improve work environments, and to keep alive the American dream of business ownership. The committee believes these initiatives described in this report can strengthen the overall economy of our Nation and the fabric of our democratic society.

It is, therefore, our hope that the 28th Annual Report will prove to be a valuable source of up-to-date information on the status and future of small businesses and that it will be a resource for research and action on the part of the Senate, the small business community, and the general public.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. STENNIS. Mr. President, from the Committee on Armed Services, as in executive session, I report favorably the nominations of Lt. Gen. Bryce Poe II, U.S. Air Force, to be general; and Gen. Daniel James, Jr., U.S. Air Force (age 57), for appointment to the grade of general on the retired list; and Maj. Gen. Edgar S. Harris, Jr., U.S. Air Force, to be lieutenant general. Also, there are 52 in the U.S. Air Force, for temporary appointment to the grade of brigadier general (list beginning with James P. Albritton); and Maj. Gen. Ernest Graves, Jr., U.S. Army, to be lieutenant general; and there are 35 in the Army Reserve and Army National Guard for appointment to the grade of major general and brigadier general (list beginning with Freeman H. Forrest). Also, Vice Adm. Edward W. Cooke, U.S. Navy (age 56), for appointment to the grade of vice admiral on the retired list; and Rear Adm.

William N. Small, U.S. Navy, for appointment to the grade of vice admiral; and Lt. Gen. John H. Cushman, U.S. Army (age 56), to be placed on the retired list in the grade of lieutenant general. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. In addition, there are 40 in the U.S. Air Force Reserve for promotion to the grade of colonel and below (list beginning with Jack D. Abercrombie); and 1,029 for promotion in the Reserve of the Army to the grade of colonel and below (list beginning with James Bennett); and 35 in the U.S. Navy for temporary and permanent appointment to the grade of lieutenant commander and below (list beginning with Rodney A. Marcom). Also, there are 1,506 Naval Reserve Officer Training Corps, to be permanent ensigns in the line or staff corps of the Navy (list beginning with Jimmy L. Aaron). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the CONGRESSIONAL RECORD of January 20, 1978, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CULVER (for himself, Mr. CLARK, and Mr. MAGNUSON):

S. 2468. A bill for the relief of Carmichael C. Peters; to the Committee on the Judiciary.

By Mr. INOUYE (by request):

S. 2469. A bill to amend the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) to include Hawaii in the provisions for certification of all-cargo air service; to the Committee on Commerce, Science, and Transportation.

By Mr. TOWER (for himself and Mr. SCHMITT):

S. 2470. A bill to prescribe policies and procedures for electronic fund transfer systems; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROTH:

S. 2471. A bill to prohibit employment agency charges for public service jobs provided pursuant to the Comprehensive Employment and Training Act of 1973; to the Committee on Human Resources.

By Mr. CASE (for himself and Mr. PERCY):

S. 2472. A bill to authorize the Secretary of State to implement solar energy and other renewable energy projects in certain buildings owned by the United States in foreign countries; to the Committee on Foreign Relations.

By Mr. PELL (for himself, Mr. WILLIAMS, Mr. JAVITS, and Mr. STAFFORD):

S. 2473. A bill to amend the Higher Education Act of 1965 to improve the basic educational opportunity grants program; to the Committee on Human Resources.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, Mr. WILLIAMS, Mr. JAVITS, Mr. PELL, and Mr. HATHAWAY):

S. 2474. A bill to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1983, the assistance program for community health centers; migrant health services; to extend through the fiscal year ending September 30, 1981; hemophilia; home health services; to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; venereal disease programs; genetic diseases programs; and lead-based paint programs, and for other purposes; referred to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TOWER (for himself and Mr. SCHMITT):

S. 2470. A bill to prescribe policies and procedures for electronic fund transfer systems; to the Committee on Banking, Housing, and Urban Affairs.

FAIR FUND TRANSFER ACT OF 1978

Mr. TOWER. Mr. President, I am today introducing on behalf of Senator SCHMITT and myself the Fair Fund Transfer Act of 1978 to provide a framework for consumer rights and obligations in connection with the issuance and use of debit instruments designed to make payments and effect transfers through electronic terminals.

The Fair Fund Transfer Act is designed to meet recognized consumer apprehensions over the development of the new electronic fund transfer technology without regulatory overkill which could stifle development of a more efficient payment system. It closely follows the recommendations of the National Commission on Electronic Fund Transfers and parallels the credit card provisions of the Fair Credit Billing Act. Its principal features would:

Require disclosure of customer's rights and obligations when an account is opened and when there is a change in terms.

Require that there be made available to the customer in conjunction with every transaction at an electronic funds transfer terminal a written receipt of the transaction.

Require that a customer be furnished monthly a statement identifying all transactions.

Provide a procedure for the correction of account errors in a manner similar to that required under the Fair Credit Billing Act.

Excuse a customer of liability for unauthorized use unless the debit card issuer can establish customer fraud or negligence. Except in the case of fraud or failure to promptly report the loss of an instrument, the customer has no liability beyond $100. After giving notification of the loss of the debit instrument there is no liability.

Define liability for system malfunction.

Provide civil liability for a willful violation of the Act.

Place administrative enforcement in the bank regulatory agencies and the Federal Trade Commission for those not regulated by the bank supervisory agencies.

Provide criminal liability for the fraudulent use of a debit instrument.

Become effective 1 year after enactment.

THE EVOLUTION OF THE DEBIT CARD AS A MEANS OF PAYMENT

One of the greatest dangers inherent in legislation regulating electronic fund transfers is the temptation to treat this new technology as an event so unique that it will require a regulatory structure which will not permit the consumer to choose in a free market environment the sort of payment system which best fits the consumer's needs.

History teaches that our modern payments system has evolved in a halting, irregular, and unplanned way. At an early date in the development of commerce, gold and silver were substituted for barter as a more efficient means of payment. However, there were numerous problems attendant to the use of precious metals as a means of storing value and of exchange. Originally there were some problems in producing standardized units. Of greater concern, an inventory of coins or gold was vulnerable to theft and transportation for use or trade was inconvenient.

It was discovered that it was safer and cheaper to store gold in centralized depositories. The depository would customarily issue a transferable deposit receipt which was used in trade more conveniently than precious metals or coin.

Again, innovators found a better way to transfer funds and make payments. The gold deposit receipt was unnecessarily clumsy since one did not usually wish to transfer all of one's deposited wealth to any one person. Thus, there grew a practice of depositories issuing bank notes reflecting the recognition that the bank was obligated to pay the holder of the note the face amount in gold on deposit.

The next big step in the growth of the payment system involved the introduction of checks. According to Baxter, Cootner, and Scott in Retail Banking in the Electronic Age, there were traders and companies whose needs for funds were so large as to make the use of bank notes themselves clumsy and vulnerable to theft. Hence, these receipts were deposited in banks and could be drawn upon by negotiable instruments called checks or drafts. Baxter, Cootner, and Scott observe that checks have a very long history but were not a significant factor in the payments system in Britain until around 1830 and somewhat later in the United States. Before that time the active media of exchange were coin and bank notes. Checks were first used largely by bank customers who transferred large sums and not by retail customers.

The development of checking in the United States entered on a period of rapid growth after 1863 somewhat due to Government policy which discouraged the issuance of banknotes by restrictions and taxes. Although today most people regard the check as an indispensable part of modern economic life as pointed

out by Baxter, Cootner, and Scott, its development represents a phenomenon that evolved slowly and steadily being used first by those with greater economic means. Throughout the last 100 years there has been a continual development; the maturation of the automated clearinghouse, the check processing by machine, the magnetic ink, the computer batch processing, and online computer processing.

Even today between 20 and 35 percent of U.S. households do not choose to establish demand deposits with checking privileges.

From the consumer's standpoint, the next big development in the payments system was the rise of the credit card. It was not until the late 1940's and early 1950's that the Flatbush National Bank of Brooklyn and the Paterson Savings and Trust Co. of Paterson, N.J., adopted bank charge card plans. These early bank plans involved a paper credit card and a book of script equal to the customer's credit limit for 1 month. When the customer charged merchandise he presented the credit plate and the book of script and was required to sign a sales slip. The store sent the customer's signed sales slips and script to its bank which credited the merchant's deposit account with the full amount. Although these plans were considered to have merit, the use of script involved burdensome paperwork. This early plan was refined by Franklin National Bank of New York in 1951 with the development of a sales slip worded in the form of a bank draft. This more workable plan was rapidly adopted by other banks and became the basis for the modernday credit card. The consumer readily accepted the credit card as a payment medium because it had a number of advantages including a tool for money management and ease of purchasing goods.

The appearance of the debit card represents the next big step in the development of payments mechanisms. It is still in the embryonic stage and its role has not been firmly identified. For example, at least one national credit card interchange is offering to banks a debit card which functions similarily to the credit card except that at the point of sale the merchant produces a bank draft drawn on the customer's bank which after going through the interchange system will cause the customer's account to be debited in the amount of the purchase. In this transaction there may or may not be an electronic transfer. Under this debit card service, there are presently no point of sale computers interfacing with the customer's bank. Thus, the transaction is largely handled manually in the same manner that a credit card transaction is handled.

There are currently in an experimental stage point of sales "transaction terminals" in such locations as supermarkets and department stores that interface through computers with financial institutions holding deposits of the customers. In the typical situation, the customer will take his debit card to the "transaction terminal" at the supermarket or department store and receive cash from the machine which is then used to make a cash purchase from the merchant.

A more rapid development may be seen in the automated teller machine. These are unmanned units that provide a full range of consumer deposit services, including deposit and withdrawal from savings, deposit and withdrawal from checking, transfer of funds between accounts, and some payments on obligations to the financial institutions. These terminals may either be installed within the financial institution's lobby, through the wall, or off-premise in such locations as shopping centers. Strictly speaking, they are not an alternative payment system, for they merely provide a means for a customer at a convenient time and place to access his account to obtain currency with which to make a payment.

Most observers feel that because of consumer resistance and the tremendous expense of establishing a system, on-line point-of-sale debit-card systems will be slow in developing. On the other hand, these same observers predict that the automated teller machines or customer terminals at either the financial institution's office or at remote areas will have a more rapid development.

The history of the development of modern payment systems teaches a number of lessons.

First, the development of new payment instruments is a slow process. For example, the modern check took about 100 years to evolve.

Second, it is difficult, if not impossible, to predict the final form of a new payment system. Those who first went into the credit card business felt that script would be the medium of exchange, but this proved to be unacceptable to both the customer and the merchant. Consequently, there developed the credit card sales slip draft, which was less costly and more efficient.

Third, one means of payment does not surplant another. During the early stages of commercial development both the coin and bank note were used interchangeably. Today's consumer uses currency, checks, money orders, and credit cards as a means of payment.

And finally, both the consumer and commerce have benefited from the development of new technology. If the notion of the paper bank note had not developed into reality, the inflexibility of gold would not have permitted the expansion of commerce. By the same token, the modern check has made possible large commercial transactions as well as facilitated retail purchases by consumers. Equally convenient has been the modern credit card, which makes possible purchases by Americans in any part of the world.

CONSUMER ACCEPTANCE

An essential element in the development of any payment system is customer acceptance. In the last analysis, under our free market system consumers determine the goods and services which will be purchased and used in the marketplace. Therefore, any consideration of the development and regulation marketplace. Therefore any consider-consumer acceptance.

Surveys indicate that most consumers are satisfied with such familiar means of payment as cash, checks and credit cards. Approximately 62 million U.S. households have one or more personal checking accounts and write over 15 million checks a year. (See Arthur D. Little, Inc., The Consequences of Electronic Fund Transfer, prepared for the National Science Foundation, June, 1975) Similarly, most consumers enjoy the use of credit cards as an alternative means of payment. Today, almost two thirds of the consumers in this country have one or more credit cards accounting for about 11 percent of consumer payments other than cash. (Rose Mary Butkovic, Consumer Acceptance and Usage of New Funds Transfer Services, October, 1977) Nonetheless, there appears to be some dissatisfaction with services now being provided. This dissatisfaction probably stems from inconvenience of banking locations, time taken to perform financial transaction, problems or getting errors resolved, and difficulty in getting checks accepted. Thus, consumers generally would probably like to see a more efficient payments system.

It is generally felt that consumer acceptance of electronic fund transfers will be slow in coming. Although much of this is probably due to the low public awareness of electronic funds transfer services, the National Commission on Electronic Fund Transfers in its final report issued on October 28, 1977, concluded that many consumers are reluctant to accept many electronic fund transfer concepts. Some consumer concerns, according to the commission, may result from a lack of experience with new ideas, but others are well founded. The report dealt with many of these areas including privacy, choice of payment methods, disclosure of terms and EFT information, distribution of debit cards, stop payment, unauthorized use of an EFT account, and error correction. The difficulty is to provide adequate consumer protection, yet not unduly interfere with the competitive market place, which the commission recognized as the best means for protecting consumers by providing them with the greatest choice among payment alternatives at the lowest cost.

The objective of the Fair Funds Transfer Act is to achieve these twin goals of consumer protection through a free market and reasonable national standards.

DANGERS FROM REGULATORY OVERKILL

Too hasty consideration and enactment of legislation attempting to regulate the development of this new technology would be a great disservice to the consumer by inhibiting the development of a more efficient and less costly payments system. This is a highly complex area and, as our review of the history of the development of the payments system indicates, it is next to impossible to predict its final course. Consequently, to avoid another regulatory horror story, it is absolutely essential that much thought and study go into this matter before Congress embarks on the difficult task of framing legislation.

The consumer and the commercial interests of this great country will best be served if the appropriate committees of Congress will thoroughly study this matter before attempting to mark up the legislation. Although the Senate Consumer Affairs Subcommittee did hold truncated hearings last year on one bill that had been introduced by the chairman of the subcommittee, those hearings were premature in that they were conducted before the National Commission on Electronic Fund Transfers issued its final report.

I was disturbed to learn that the chairman of the Banking Committee has scheduled a markup on that same legislation on March 15 without additional hearings which will take into consideration the Commission's findings. It is also noteworthy that in early April the National Commission on Uniform State Laws and its subcommittee known as the three, four, eight committee will be meeting in Williamsburg, Va., to consider a comprehensive study made by its reporter on appropriate changes in the Uniform Commercial Code to reflect developments in electronic fund transfers. Any Federal legislation should take into account these State developments. Accordingly, I am urging the chairman of both the Banking Committee and the Consumer Affairs Subcommittee to hold additional hearings on this matter before attempting a markup session.

Mr. President, I ask unanimous consent that the bill and the section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Fair Fund Transfer Act of 1978".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) The use of electronic and computer systems to transfer funds offers many opportunities to provide credit, debit, and payment services more conveniently and efficiently benefiting all participants in the Nation's payments system.

(2) Many aspects of electronic fund transfers are undergoing evolutionary changes and, thus, projections about future events necessarily involve a degree of speculation. Consequently, the appropriate approach to these new financial service concepts is, in general, to permit their further development in a free market environment and, to the extent possible, in a manner consistent with the nature and purpose of existing law and regulation governing financial services.

(3) Although there is no evidence that electronic fund transfers have yet caused harm to financial markets, financial institutions, or customers, existing law and regulations in the consumer protection area are incomplete or are not applicable to some aspects of the new financial service concepts.

(b) The purposes of this Act are to provide a basic framework establishing the rights, liabilities, and responsibilities of all participants in electronic fund transfers activated by a debit instrument and to guarantee consumers and other customers of the system a number of basic rights in an electronic fund transfer environment.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "debit, instrument issuer" means the issuer of a card or other device by the use of which the customer can electronically transfer funds, from, or to the customer's account with the issuer or on deposit with a financial institution;

(2) the term "debit instrument" means a card or other device, other than a check or bank draft, by the use of which the customer can electronically deposit, withdraw, or transfer funds in the customer's account with the issuer or on deposit with a financial institution;

(3) the term "electronic funds transfer" means a deposit, withdrawal, or transfer to or from an account through a network comprised of one or more terminals or automated teller machines, together with any related customer access instruments or devices, communication lines, switches for routing messages, and computer processing facilities, and the messages transmitted through such network; but shall not include a telephone account transfer or payment, a credit or debit authorization, or a check authorization or guarantee.

(4) the term "automated-teller-machine" means any device, whether or not linked to a financial institution by a communication line, which is activated solely by the customer of the debit instrument issuer and enables the customer to make an electronic funds transfer;

(5) the term "customer terminal" means an electronic device (which may or may not require the participation of an operator other than the customer) which enables the customer to make an electronic funds transfer;

(6) the term "account" means a cash balance of a customer's funds paid by a customer to any debit instrument issuer for the purpose of an electronic fund transfer or of a customer's funds on deposit with a financial institution;

(7) the term "person" means an individual who is a citizen of the United States or an alien lawfully admitted for permanent residence, or a partnership, corporation, association, trust, or any other legal entity organized under the laws of a State of the United States;

(8) the term "customer" means any natural person who is a debit instrument patron of a debit instrument issuer who utilizes electronic fund transfer services primarily for personal, family, or household purposes; and

(9) the term "financial institution" means—

(A) a bank or trust company organized under the laws of any State, territory, possession, or Commonwealth of the United States or of the United States;

(B) a savings and loan association or building and loan association organized under the laws of any State, territory, possession, or Commonwealth of the United States or of the United States;

(C) a credit union organized under the laws of any State, territory, possession, or Commonwealth of the United States or of the United States; and

(D) any other depository organization chartered under the banking laws of any State, territory, possession, or Commonwealth of the United States and subject to the supervision of the bank supervisory authorities of a State, territory, possession, or Commonwealth of the United States.

DISCLOSURE OF CUSTOMERS' RIGHTS AND OBLIGATIONS

SEC. 4. (a) Before opening a debit account intended to be accessed electronically with a debit instrument, the debit instrument issuer shall disclose in writing to the customer to whom the service is extended—

(1) the protection provided the customer by section 6 and the customer's liability for any unauthorized transfer under sections 7 and 8;

(2) a full description of any charges and service fees the customer may incur for use of the service;

(3) the procedures to be followed and the name and address or telephone number of the place of business to be contacted to provide notice in the event of any account error, unauthorized use of the account, or lost or stolen debit instrument security device or identification number or code; and

(4) where a debit instrument offers credit or other transaction features, a description of the method used to activate a particular transaction and the service fee and charge for each type of transaction.

(b) (1) In the case of any existing account which may be accessed electronically with a debit instrument and which has an outstanding balance of more than $1 at or after the close of the debit instrument issuer's first full monthly cycle after the effective date of subsection (a) or any amendments thereto, the items described in subsection (a) except changes in security systems, to the extent applicable and not previously disclosed shall be disclosed by the debit instrument issuer in a notice mailed or delivered to the customer not later than the time of mailing the next statement required by subsection (b) of section 5.

(2) In the case of any account in existence on the effective date of subsection (a) which may not be accessed electronically with a debit instrument, before adding debit instrument service to the account, the items described in subsection (a), to the extent applicable and not previously disclosed, shall be disclosed by the debit instrument issuer in a notice mailed or delivered to the customer not later than the time of mailing the next statement required by subsection (b) of section 5.

(c) At least 15 days prior to the beginning date of the monthly cycle in which any change in terms which may be adverse to the customer, such as an increase in service fees or restriction in usage, becomes effective, the issuer shall disclose in writing to the customer any such change.

DOCUMENTATION OF TRANSFERS

SEC. 5 (a) A printed or written receipt shall be made available to the customer or user of the debit instrument in conjunction with every electronic fund transfer transaction which occcurs through the use of a debit instrument at an automated-teller-machine or customer terminal reflecting at least the names of the payee and payor and the amount, the date, and the purpose for which the transfer was made. In the case of a deposit, the receipt shall reflect at least the names of the depository and depositor, and the date, and the amount of the deposit.

(b) The debit instrument issuer shall mail or deliver to the customer a statement of his account for any month or monthly cycle in which an electronic fund transfer activated by a debit instrument occurs reflecting at least—

(1) the outstanding balance in the account at the beginning and close of the monthly cycle;

(2) the amounts and dates of credits and debits to the account identifying the purpose for which the transfer was made;

(3) the amount of any transaction fees or service charges using appropriate descriptive terminology; and

(4) an address to be used by the debit instrument issuer for the purpose of receiving statement inquiries from the customer. Such address shall be preceded by the caption "Send Inquiries To:" or other similar lan-

guage indicating that the address is the proper location to send such inquiries.

In addition to the information required in subsections (b) (1), (2), (3), and (4), in each point-of-sale transaction activated by a debit instrument, an identification of each transaction in a manner which enables the customer readily to determine the seller's name and the address (city and State or foreign country, using understandable and generally accepted abbreviations if the debit instrument issuer desires) where the transaction took place shall be provided.

(c) Descriptive statements need not be mailed or delivered to customers whose only transaction is a preauthorized credit to the customer's account if the debit instrument issuer notifies the customer by use of a prearranged positive or negative notification system that the deposit to the customer's account has or has not been received.

(d) In any action involving a customer and a third person, any documentation or statement required by this section to be given the customer which indicates that a payment was made to the third person shall be accepted in evidence as prima facie proof of payment.

CORRECTION OF ERRORS

SEC. 6. (a) If a debit instrument issuer, within sixty days after having transmitted to a customer a statement of the customer's account, receives at the address disclosed under section 5 a written notice (other than notice on an account statement or payment medium supplied by the debit instrument issuer if the issuer so stipulates with the disclosure required under section 5 from the customer in which the customer—

(1) sets forth or otherwise enables the issuer to identify the name and account number (if any) of the customer,

(2) indicates the customer's belief that the statement contains an error and the amount of such error, and

(3) sets forth the reasons for the customer's belief (to the extent applicable) that the statement contains an error,

the issuer shall, unless the customer has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct—

(A) not later than 15 days after the receipt of the notice, send a written acknowledgment thereof to the customer, unless the action required in subparagraph (B) is taken within such 15 day period, and

(B) not later than 45 days after the receipt of the notice either—

(i) make appropriate corrections in the account of the customer, including the crediting or debiting of amounts erroneously stated on the account, and transmit to the customer a notification of such corrections and the debit instrument issuer's explanation of any change in the amount indicated by the customer under paragraph (2) and, if any such change is made and the customer so requests, copies of documentary evidence of the questioned transaction; or

(ii) send a written explanation or clarification to the customer, after having conducted an investigation, setting forth to the extent applicable the reasons why the debit instrument issuer believes the account of the customer was correctly shown in the statement and, upon request of the customer, provide copies of documentary evidence of the questioned transaction.

(b) For the purpose of this section, an error consists of—

(1) a reflection on a statement of a transaction which was not made or, if made, was not in the amount reflected on such statement,

(2) a reflection on a statement of a transaction for which the customer requests additional clarification including documentary evidence thereof,

(3) a reflection on a statement of goods or services not received by the customer or his designee or not delivered to the customer or his designee in accordance with the agreement made at the time of a transaction,

(4) the issuer's failure to reflect properly on a statement a deposit or payment made by or for the customer or a credit issued to the customer, or

(5) a computation error or similar error of an accounting nature of the issuer on a statement.

(c) A debit instrument issuer who fails to comply with the requirements of this section shall forfeit to the customer a sum equal to the amount in dispute, not to exceed $50.

LIABILITY FOR UNAUTHORIZED USE

SEC. 7. (a) A customer has no liability for an unauthorized use of his debit instrument where such use involves a transfer of funds from a positive balance in such account which was unauthorized unless the debit instrument issuer which permitted the transfer can prove that the customer's fraud or negligence substantially contributed to the use and that the debt instrument issuer exercised reasonable care to prevent the loss. As used in this subsection, the term "negligence" means only—

(1) writing on the debit instrument any identification code or number of the debit instrument used to effect the electronic fund transfer,

(2) keeping the identification number or code in close proximity to the debit instrument used to access the system,

(3) permitting both the number or code and the debit instrument to come into the possession of a person who makes or causes to be made any unauthorized transfer,

(4) failing to notify the debit instrument issuer of an unauthorized use within 30 days after the receipt of a statement reflecting such use shall be liable for any unauthorized use after the date of receipt of such statement if such use could have been prevented by notification on or after such date of receipt, or

(5) failing to promptly notify the debit instrument issuer immediately after the loss or theft of a debit instrument which may activate a transfer without an identification number or code.

(b) A customer's liability shall not exceed $100 except where the issuer can establish fraud on the part of the customer or that the customer failed to promptly report the loss, theft, or unauthorized use of a debit instrument. A customer shall have no liability for any unauthorized use or transfer from an electronic fund transfer account after he notifies the debit instrument issuer of such loss except in cases of customer fraud.

(c) The liability of a customer for any unauthorized transfer from his account where an extension of credit is or may be involved shall be determined in accordance with section 133 of the Truth in Lending Act.

LIABILITY FOR SYSTEM MALFUNCTION

SEC. 8. (a) In any case where a customer initiates an electronic fund transfer with a debit instrument in payment of an obligation at a customer terminal, and such transfer is delayed through no fault of the customer, the customer has no obligation to make the payment pending completion of the electronic transfer, unless the person entitled to receive payment has subsequently requested the customer to make payment by nonelectric means by written request.

(b) A debit instrument issuer offering an electronic fund transfer at an automated-teller-machine or a customer terminal which malfunctions shall be liable to a customer (1) for incidental damages directly caused by delay or failure to make a payment resulting from such malfunction, or (2) for incidental damages directly caused by a refusal of a third party to honor a debit instrument of that system resulting from a failure promptly to credit a deposit or payment because of such a malfunction, except that such issuer shall not be liable—

(A) if it can demonstrate that it has employed reasonable care to prevent such a malfunction or the cause of such malfunction is due to circumstances beyond its control; or

(B) for damages caused by a customer's failure to meet an obligation on account of a malfunction of an automated teller machine if that debit instrument issuer can demonstrate that it has exercised reasonable care to prevent such malfunction.

(c) A debit instrument issuer has no liability to a customer for damages in any case where it can demonstrate that the customer knew or should have known at the time he attempted to initiate the transaction that the system was not functioning properly.

WAIVER OF RIGHTS

SEC. 9. A debit instrument issuer may not require, as part of any contract or agreement to provide debit instrument services or as a condition of such services, that a customer waive any right conferred by or cause of action which may accrue under this Act.

CIVIL LIABILITY

SEC. 10. (a) Any debit instrument issuer who willfully fails to comply with any requirement imposed under this Act with respect to any customer is liable to that customer in an amount equal to the sum of—

(1) any actual damages sustained by such person as a result of the failure; and

(2) (A) in an individual action, such amount of punitive damages as the court may allow, or

(B) in the case of a class action, such amount as the court may allow, except that the total recovery in such action shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the debit instrument issuer.

(b) Any debit instrument issuer who is negligent in failing to comply with any requirement imposed by this Act with respect to any customer is liable to that person in an amount equal to the sum of any actual damages sustained by such person as a result of the failure.

(c) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee in relation to the work expended and costs shall be awarded to the plaintiff. On a finding by the court that an action under this section was brought in bad faith or for purposes of harassment, the court shall award to the defendant attorney's fees reasonable in relation to the work expended and costs.

(d) In determining the amount of award in any class action under subsection (a)(2)(B), the court shall consider, among other relevant factors, the frequency and persistence of failures of compliance by the defendant, the resources of the defendant, the number of persons adversely affected, and the extent to which the defendant's failure of compliance was intentional.

(e) A debit instrument issuer may not be held liable in any action brought under this Act if the issuer shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to assure compliance.

(f) An action to enforce any liability created by this Act may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdic-

tion, within one year from the date on which the liability arises.

ADMINISTRATIVE ENFORCEMENT

SEC. 11. (a) Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency,

(B) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System.

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal chartered or insured credit union.

(b) For the purposes of the exercise by an agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(c) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this Act shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act (except section 18 and 19) are available to the Commission to enforce compliance by any person with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

FRAUDULENT USE OF A DEBIT INSTRUMENT

SEC. 12. (a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more; or

(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

(c) Whoever with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

(d) Whoever knowingly receives, conceals, uses, or transport money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (1) within any one-year period has a value aggregating $1,000 or more, (2) has moved in or is part of, or which constitutes interstate or foreign commerce, and (3) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained debit instrument; or

(e) Whoever knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation which (1) within any one-year period have a value aggregating $500 or more, and (2) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained debit instrument; or

(f) Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

EFFECTIVE DATE

SEC. 13. The provisions of the Act shall become effective one year after the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1. The Act is cited as the "Fair Fund Transfer Act of 1978".

SEC. 2. FINDINGS AND PURPOSES.—States that the use of electronic fund transfers may bring conveniencies and efficiencies benefitting all participants in the payments system. Since future developments involve a degree of speculation, the appropriate approach is to permit development in a free market environment. However, since existing law in the consumer protection area is incomplete or not applicable to some aspects of the new financial service concepts, it is the purpose of the Act to provide a basic framework establishing the rights, liabilities, and responsibilities of all participants in electronic fund transfers activated by a debit instrument and to guarantee consumers a number of basic rights.

SEC. 3. DEFINITIONS.—Defines a debit instrument issuer, a debit instrument, an electronic fund transfer, an automated teller machine, a customer terminal, an account, a person, a customer, and a financial institution.

SEC. 4. DISCLOSURE OF CUSTOMERS' RIGHTS AND OBLIGATIONS.—Requires that before opening a debit account, the debit instrument issuer shall disclose in writing the procedure for the correction of errors and the customer's liability for unauthorized transfers; the place to report errors and loss of a debit instrument; a full description of service charges and, where there are credit features, the method used to activate a particular transaction, and the charge for each type of transaction.

In case of an existing account, the issuer shall disclose to the customer after the close of the first full monthly cycle after the effective date of section 4, the information required in section 4. In the case of any account that does not have debit features, before the debit features are added the required information must be disclosed to the customer.

At least one month or one monthly cycle before the change in any term adverse to the customer, the issuer shall disclose to the customer any such change.

SEC. 5. DOCUMENTATION OF TRANSFERS.—(a) A written receipt shall be made available to the customer in conjunction with every electronic fund transfer transaction at an automated teller machine or customer terminal reflecting at least the payee and payor and the amount, date and nature of the transfer. In the case of a deposit, the receipt shall reflect at least the depositor, depository, and the date and amount of the deposit.

(b) The issuer shall mail to the customer a monthly statement reflecting at least the outstanding balance; the amounts and dates of credits and debits identifying the type of transaction; an identification of each point of sale transaction and the address for receiving statement inquiries.

(c) Descriptive statements need not be mailed to customers whose only transaction is a preauthorized credit to the customer's account.

(d) The receipts and statement shall be accepted in evidence as proof of payments.

SEC. 6. CORRECTION OF ERRORS.—(a) If a debit instrument issuer, within 60 days after transmitting the statement, receives from the customer a written notice identifying the customer and an error in the customer's account, the issuer must not later than 15 days acknowledge the notice and within 45 days make corrections or after investigating the matter explain why the issuer feels the account is correct providing, upon request, copies of documentary evidence of the transaction.

(b) Error consists of—

(1) a statement of a transaction which was not made or was an incorrect amount,

(2) a statement of a transaction for which the customer requests additional clarification including documentary evidence.

(3) a statement of goods or services not delivered in accordance with the agreement,

(4) the failure to properly reflect a deposit, payment or credit, or

(5) a computational error.

(c) An issuer who fails to comply with the section shall forfeit to the customer the amount in dispute, not to exceed $50.

SEC. 7. Liability for Unauthorized Use—A customer has no liability for unauthorized use of his debit instrument unless the debit instrument issuer can establish the transfer resulted from the customer's fraud or negligence. Negligence means—

(1) writing the identification number on the debit instrument,

(2) keeping the identification number in close proximity to the debit instrument,

(3) permitting the number and debit instrument to come into the possession of unauthorized use,

(4) failure to notify the debit instrument issuer of an unauthorized use within 30 days after receipt of a statement reflecting such unauthorized use,

(5) failing to promptly report the loss or theft of a debit instrument which can activate a transfer without a number.

(b) A customer's liability shall not exceed $100 except for fraud on the part of the customer or failure of the customer to promptly report the loss or unauthorized use of an instrument. A customer shall have no liability for unauthorized use after giving notification of loss of the debit instrument, except in the case of customer fraud.

(c) Liability for unauthorized transfer involving an extension of credit shall be determined by section 133 of the Truth in Lending Act.

Sec. 8. Liability for System Malfunction.—(a) A customer has no liability for a delay at a customer terminal, which is not the fault of the customer, unless the payee has

subsequently requested payment by non-electronic means.

(b) A debit instrument issuer shall be liable for damages to a customer caused by delay or failure of a machine or terminal because of a malfunction to make a payment or because of the refusal to honor a debit instrument because of a failure of the system to promptly credit a deposit or payment because of a malfunction, except that such issuer shall not be liable (A) if it used reasonable care to prevent the malfunction or the cause of the malfunction was due to circumstances beyond its control; or (B) for damages caused by a customer's failure to meet an obligation on account of a malfunction of an automated teller machine if the issuer exercised reasonable care to prevent such malfunction.

(c) A debit instrument issuer has no liability where it can demonstrate that the customer knew or should have known at the time he attempted to initiate the transaction the system was malfunctioning.

SEC. 9. WAIVER OF RIGHTS.—A debit instrument issuer may not require a customer to waive any right conferred under the Act.

SEC. 10. CIVIL LIABILITY.—A debit instrument issuer who willfully violates the Act shall be liable to the customer for (1) actual damages; (2) in an individual action, such punitive damages as the court may allow, or in a class action, such amount as the court may allow with total recovery not to exceed the lesser of $500,000 or 1 per centum of the net worth of the debit instrument issuer.

(b) Any debit instrument issuer who is negligent in failing to comply with the Act is liable to the customer for actual damages.

(c) In case of a successful action, costs together with reasonable attorney's fees shall be allowed the plaintiff. Where the action has been brought in bad faith, the court shall award attorney's fees to the defendant.

(d) In determining a class action award, the court shall consider the frequency of violations, the resources of the defendant, the number of persons adversely affected, and the extent the violation was intentional.

(e) A debit instrument issuer may not be held liable if he establishes that the violation was not intentional and resulted from a bona fide error.

(f) An action may be brought in any appropriate United States district court without regard to the amount in controversy within one year from the date the liability arises.

SEC.. 11. ADMINISTRATIVE ENFORCEMENT.—(a) Compliance with the Act in the case of financial institutions shall be enforced by the appropriate bank regulatory agencies.

(b) For the purposes of compliance, a violation of the Act shall be deemed a violation of the bank regulatory agencies' supervisory laws.

(c) Where enforcement is not specifically committed to an agency, the Federal Trade Commission shall enforce the Act. The Federal Trade Commission may exercise all enforcement functions under the Federal Trade Commission Act except those contained in sections 18 and 19.

SEC. 12. FRAUDULENT USE OF INSTRUMENTS CARD.—It is made a Federal crime to fraudulently use a debit instrument.

SEC. 13. EFFECTIVE DATE.—The effective date of the Act is one year after enactment.

By Mr. ROTH:

S. 2471. A bill to prohibit employment agency charges for public service jobs provided pursuant to the Comprehensive Employment and Training Act of 1973; to the Committee on Human Resources.

Mr. ROTH. Mr. President, the bill I am introducing is very simple. It will prohibit employment agencies from charging a fee for placing clients in CETA public service jobs.

Frankly I was very surprised to learn that this was possible. Certainly it was never the intent of Congress to permit the diversion of CETA money to employment agencies. But apparently it is perfectly legal for an employment agency to refer a client to a CETA job, then charge a fee if the client is hired, even though these jobs are posted publicly and advertised.

This problem was brought to my attention by an article in this morning's Wilmington newspaper which, if there is no objection, I would like to have inserted in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROTH. I hope that my amendment will be adopted by the Committee on Human Resources this year when it revises the Comprehensive Employment and Training Act, which I understand is planned. But if the committee does not adopt this change, I intend to offer this bill as a floor amendment. A loophole like this makes a mockery of a program intended to aid the jobless and the poor.

EXHIBIT 1

GETTING U.S. FUNDED JOB COST HER $472

(By Hugh Cutler)

A private job-placement firm run by a former New Castle County councilman received a $472 fee to place a woman in a federally funded county job last April.

The firm, Casey Employment Services Inc., later was the target of a complaint by the woman before a state regulatory agency but her charge is being dismissed because she failed to file it within the 12-week legal limit.

U.S. Department of Labor officials said they frown on the practice by government agencies of accepting referrals from placement firms for federally funded jobs but there is nothing illegal about it.

Jane C. Wright, 23, now a planning aide in the county Department of Community Development and Housing, was hired April 18 as a clerk-typist fluent in Spanish. She said she answered a newspaper advertisement for the job listed by Casey Employment Services and paid the firm a $472 fee for referring her to the county personnel office.

The placement firm is headed by Andrew J. "Jack" Casey, former Republican state senator of Maplechase and one-term county councilman whose second-term bid was cut off in a September 1976 primary. Casey left office in January 1977.

In her Oct. 4 complaint letter to the state Division of Business and Occupational Regulation, Ms. Wright explained how she landed a federally funded Comprehensive Employment and Training Act (CETA) job, then said:

". . . I am convinced that government positions should not be employment agency-related. Additionally, CETA employment is basically an opportunity for the unemployed. Agency-related positions tend to defeat CETA's purpose by placing the newly hired into debt."

In an interview, Ms. Wright said that "right now the money isn't the problem," even though she had to get a bank loan to pay the Casey agency fee. She said she had since learned that the county has a policy of not listing jobs through private agencies.

Casey yesterday said his firm "acted in very good faith" in Ms. Wright's behalf. "She contracted with us to get a job and she got a job," he said. "We spent a lot of time with her. She never complained to us."

Casey said he did not realize the county job he found her was a CETA post, but he did know it was federally funded. He said he knew of no regulation his firm had violated by placing her there.

"I know they (the county) accept referrals all the time from other agencies," Casey said. He said his firm had been making such referrals for 26 years.

Casey said he "stopped doing business" with the county when he took office as a councilman. During his term, however, he made some job referrals to county posts but took no fees, he said.

Kenneth A. Walls, business and occupational regulation division director, yesterday said Ms. Wright and the Casey firm will be notified today that her complaint has been dismissed.

He cited a division regulation that any complaint about placement agencies must be directed to the division "no later than 12 weeks after the date on which the alleged violation occurred or is discovered."

Walls said he plans to write federal CETA administrators that, "if this type of activity is unethical in their opinion, they should notify their personnel."

Lawrence E. Crowder, equal employment and compliance office director for the U.S. Department of Labor employment and training administration in Philadelphia, said his legal staff found no prohibition against private agency referrals for CETA jobs.

"Of course we frown on it," Crowder said. "We certainly will discuss [the practice] with the people in that area . . . to try to keep that from happening in the future . . . Hopefully, all I'll have to do is request it."

A similar case occurred in Ohio about 18 months ago when a placement firm collected 10-percent fees for placing people in government jobs, according to Jack Hashian, spokesman for the labor department's employment and training administration in Washington. Hashian said the FBI as well as his own office investigated that case, but nothing illegal was found.

New Castle County's personnel department "does not work through employment agencies and does not pay fees," said Bernard E. Grady, chief personnel administrator, in an Oct. 19 letter to the state regulatory agency about Ms. Wright's case.

Grady said, however, that "because the job opportunities are in the public domain and are announced publicly . . . we cannot refuse referrals from employment agencies."

Grady explained that Casey came to his office last winter without appointment and, as Grady recalled, asked if any jobs were open.

Gradey said the Spanish-speaking clerk-typist post was mentioned. He said Casey may have asked if he could refer someone for the job. Casey may have assumed from the conversation that a referral agreement existed, Grady said, but he personally believed "no such agreement existed in any formal business sense."

Casey's firm advertised the job Feb. 28 in the News-Journal papers, however, even though the county already had posted the opening on a public bulletin board.

Ms. Wright answered the Casey ad and eventually got the $6,742-a-year job, paying Casey's firm a 7-percent referral fee, or $472.

Ms. Wright, a recent University of Delaware graduate with degrees in Spanish and psychology, said that at the time, she didn't consider a referral to a county job as unusual. But family and friends typically expressed surprise whenever she explained how she got her job.

By Mr. CASE (for himself and Mr. PERCY):

S. 2472. A bill to authorize the Secretary of State to implement solar energy and other renewable energy projects in certain buildings owned by the United States in foreign countries; to the Committee on Foreign Relations.

FOREIGN MISSION SOLAR ENERGY DEMONSTRATION ACT

Mr. CASE. Mr. President, I am today introducing a bill that will require the Secretary of State to implement projects for the application of solar energy or other forms of renewable energy in U.S. Embassies, Chanceries, and other foreign service buildings overseas.

In part this bill is an outgrowth of a recent study conducted by the Office of Technology Assessment. The OTA draft study, made public last July, was the most exhaustive analysis of small-unit solar technology ever undertaken. While most of its findings applied to domestic use of solar energy, it also concluded that solar energy technology "would be particularly attractive in developing nations, where inexpensive labor and high electricity costs would make solar energy relatively attractive, and that use of solar units might relieve some of the international tensions created by competition over conventional energy supplies."

The experience of the American Embassy at Tel Aviv lends support to that finding.

Solar heated hot water installations were made at two U.S.-owned residential properties in Tel Aviv in April 1975. Based on the experience of the first 4 months of operation of these installations; the State Department estimated annual savings of $300 to $400 a year on electricity consumption by these two residences.

"If similar systems were installed at 26 other residences—in Tel Aviv—substantial additional savings of approximately $7,800 to $10,400 per year in utility costs could be achieved," the State Department reported.

Upon request, the State Department provided a list of 130 other diplomatic posts throughout the world where solar hot water installations could be made profitably. In addition, the State Department identified 11 major projects that might be utilized at posts in Brazil, Mauritania, Niger, Pakistan, India, Iran, Senegal, Egypt, New Zealand, and Bangladesh.

The major projects, which would cost an estimated $4,400,000, range from solar absorption air-conditioning, to solar photovoltaic generation of electricity, to solar wind generation of electricity.

The State Department estimates that the 11 major projects and the 130 solar hot water installations could be implemented for a total, including administrative costs, of $5 million.

My bill authorizes $5 million to be appropriated for this program for the fiscal year beginning October 1, 1978.

Based on the experience of the American Embassy at Tel Aviv, the initial costs of these projects can be expected to be recovered in a relatively short period of time.

But promoting energy efficiency at U.S. diplomatic posts is not the only purpose of the bill.

The use of American technology at our diplomatic posts also is intended to serve as a showcase for the technology. It is intended to demonstrate to the host countries how American technology can be used in their countries to help solve their energy problems.

In the process, it is intended to broaden the demand for this technology and thereby reduce production costs for the benefit of both domestic and foreign customers.

At the same time, it is intended to make U.S. diplomatic posts more energy self-sufficient and less reliant on interruptible local energy supplies, thus providing an added degree of security vital to the operation of sensitive systems within U.S. missions abroad.

A bill identical to the bill I am introducing is being introduced simultaneously in the House by Representative JEFFORDS of Vermont.

The distinguished Senator from Illinois, Mr. PERCY, has asked to join me in introducing this bill and I am happy to have him do so. I ask unanimous consent that his name be added as a cosponsor of the bill. I also ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

I believe this is a good bill and I hope that it will receive widespread support from my colleagues in the Senate.

By Mr. PELL (for himself, Mr. WILLIAMS, Mr. JAVITS, and Mr. STAFFORD):

S. 2473. A bill to amend the Higher Education Act of 1965 to improve the basic educational opportunity grants program; to the Committee on Human Resources.

COLLEGE OPPORTUNITY ACT OF 1978

Mr. PELL. Mr. President, as chairman of the Senate Subcommittee on Education, Arts, and Humanities, I have been deeply concerned over the escalating costs of college education. The fact is that many American families are finding it increasingly difficult to pay for a college education for their children.

The problem is most acute for middle-income families who find themselves pinched to the bone by college costs, but ineligible for existing Government assistance programs.

This development—the pricing of higher education out of the reach of middle-income families—is the greatest challenge facing higher education today, and it is of importance not just to the families and young people involved, but to all of our society. As a nation, we cannot afford to permit the doors of higher education to be squeezed shut to any segment of our society.

For this reason, I am introducing, today, the College Opportunity Act of 1978. This legislation is aimed at helping middle-income families meet the costs of higher education.

Under this legislation, an average family of four with an income of $25,000 and with one child in college and with no unusual expenses will be eligible for an educational assistance grant of $250. Families with more children in college, lower incomes, or with unusual expenses, would be eligible for larger grants. These grants would be provided through a major revision of the existing basic educational opportunity grant program.

Before I outline the provisions of this proposal in greater detail, I think it appropriate to review our past efforts to provide student assistance in higher education, and the current plight of middle-income families. When Congress enacted the 1976 higher education amendments, we reaffirmed the philosophy that underlies Federal policy. That philosophy is that the Federal role in higher education is to guarantee access to as many of our citizens as possible. The Federal goal is to try to help every student receive some higher education. My goal, which I hope we eventually attain, is to see that every citizen with the desire and the ability shall be able to have 16 years of education as a matter of right. We are moving in that direction.

As chairman of the Subcommittee on Education, Arts, and Humanities, of the Committee on Human Resources, I have dedicated my efforts to broadening educational opportunities for all Americans. Thomas Carlyle said that "should one man die ignorant who had the capacity for knowledge, this I call a tragedy." I think our efforts in the past have been in the direction of preventing that tragedy.

I had the satisfaction of initiating legislation that is today providing assistance to many needy students through the basic educational opportunities grant program. This year, almost 2 million students are receiving basic grants. Since the initial enactment of that program, it has been expanded so that more and more families can qualify for these grants. We have also expanded other programs, such as the direct student loan program, and the guaranteed student loan program, to make these programs available to more students.

These programs work well. They provide the opportunity of a college education to a significant segment of society that might not attend college without these programs.

I think many young people, who in the past may have thought that a college education was beyond their financial reach, now find that they are able to attend college.

We all know that these programs have been limited. It is fair to say that they have benefited, for the most part, students from low-income families. This was purposeful, since when these programs were initiated, it was students from low-income families who were being denied the benefits of higher education simply because they could not afford it. Thus, we focused our original efforts on

those students who needed our assistance the most. The programs which sprang from those efforts—basic grants, direct student loan, work-study, guaranteed student loans—were primarily need-based programs. But, the developing burden many middle-income families are facing in their attempts to travel the road of higher education requires that we reexamine the adequacy of these programs. As Sir William James said:

> The world . . . is only beginning to see that the wealth of a nation consists more than anything else in the number of superior men that it harbors.

Our goal is to realize the full potential of superior men and women within this country, yet parents who once nourished the dream of sending their children to college are today finding it increasingly difficult to do so. Let me give you some illustrations from my home State of Rhode Island to demonstrate the full dimensions of this problem.

Today, in Rhode Island, the average annual cost for a student attending Rhode Island College is approximately $2,100. This includes tuition, room and board. Ten years ago that same cost was less than $1,100. Thus, in 10 years the cost to attend Rhode Island College has increased almost 100 percent. That figure alone is sobering, yet it is estimated that 10 years from now, those costs will increase by about 100 percent again. Thus, for the academic year 1987–88, it is projected that the average cost for a student attending Rhode Island College will be almost $4,200.

The same picture exists for the University of Rhode Island. Ten years ago the cost was about $1,200. Today it is $2,600, an increase of 113 percent. Ten years from now it is estimated the cost will be $5,600, more than a 100-percent increase. If we look at Providence College, or Brown University, or the Rhode Island School of Design, the picture is proportionately exactly the same.

This is the reality of the present, and the prospect for the future. What does this mean to a family? How can it plan for its child's college education?

If a family has a child, today, who is 1 year old, it is estimated that that family will have to save an average of $1,570 a year so that they will have the funds to pay for 4 years of education at a public university when their child becomes old enough to enter college. If a family has a child who is 8 years old, and that family has not started saving for his or her college education, they will have to begin saving about $2,000 a year if they are to afford the cost of 4 years of public university education.

If these same two families decide they want to send their child to a private college, they will have to save even more money each year. For the family with the 1-year-old child, they will have to save about $2,700 a year. The family with the 8-year-old child will have to save about $3,500.

These figures are startling. I admit that they might not represent what a family will actually spend for their child's education, since there are grant and loan programs that will influence how much out-of-pocket money will have to be expended. But, I think these figures are accurate in presenting to us the harsh reality that many American families are experiencing in their attempts to secure the American dream of a college education for their children.

Action is necessary to help these families. The time has come to expand our view concerning who needs assistance, and recognize that middle-income Americans need our help. These citizens are in a difficult situation. They are considered to have too much money to be eligible for student assistance programs, yet they themselves know that they do not have enough money to send their children to college. These are the families that have to make particularly painful financial sacrifices if they are to give their child the chance to attend college. I think we have a responsibility to help these families.

Under the legislation I am introducing, an average family of four, with an income of $25,000, one child in college and no unusual expenses, will be eligible for a basic education opportunity grant of $250. Currently, about 60 percent of basic grant funds go to families with incomes of less than $10,000. Because of this, it is probably true that we are meeting a substantial part of the financial needs of most of the students from families in that income level. My proposal would continue to meet those needs, and at the same time greatly increase the number of students eligible for basic grants. The result of such an increase would be that 60 percent of basic grants under my proposal would go to students from middle-income families. The legislation would provide a new direction to the program, aimed at helping the middle-income families while at the same time continuing the assistance we have provided students from low-income families.

I would provide this new direction by legislatively reducing the amount of money a family is expected to contribute to their child's college education under the basic grant program.

As we all know, many middle-income families find themselves ineligible for such grants because the Federal Government, under existing law, expects them to contribute too much of their income to their children's educational expenses. But, these families know that they simply do not have the money to spend on education that Uncle Sam thinks they have.

Most of the letters I receive from parents concerning basic grants raise this point. Parents complain that they are unable to qualify for a basic grant because the Federal Government thinks their income is too high.

My legislation would change that. It would reduce the amount the Government requires a family to contribute for their child's education, thus bringing that family contribution more in touch with reality. This would be done by assessing what is called discretionary net income—the amount which the basic grant program arrives at after Federal taxes, unusual expenses, and a family size offset are subtracted from adjusted gross income—at a straight, across-the-board rate of 10.5 percent.

Today, that assessment rate is 20 percent of the first $5,000 of discretionary net income and 30 percent of any remainder. My proposal would cut in half the existing assessment rates. It would add approximately 1½ million students to the basic grant program, making a total of more than 3,600,000 students eligible for basic grants. It would cost about $1.2 billion more than the existing basic grants program.

We all know that there have been other proposals offered recently to provide assistance in meeting college costs. Probably the most talked about are proposals for a tuition tax credit.

I think my proposal has several advantages over a tuition tax credit. First, my proposal would be less costly. Second, my proposal would not add to Federal administrative problems nor would it create another Federal bureaucracy. And, it would focus assistance on those families, both lower and middle income, who need assistance the most.

Although tuition tax credit proposals are gathering support not only in the Senate, but throughout the country, I think there are several features of these proposals that have not been fully discussed.

First, the proposed goal of a tuition tax credit is that it would provide assistance to middle-income families. Yet, under the proposal submitted by Senator ROTH, which is the proposal that has been most discussed, less than half of the tax credit would go to middle-income families. Almost 40 percent of the benefits of the tax credit would go to families with incomes in excess of $25,000. Middle-income families would benefit from a tax credit, but not as much as they would under a need-based program.

Also, a tuition tax credit would apply to everyone equally. This is often advanced as one of the attractive aspects of such a program. Yet, I think it continues the kind of inequities that have caused our tax system to be criticized. Tax credits do not focus tax breaks on those who need them, but give tax breaks to everyone, across the board, regardless of need. The high-income family as well as the lower and middle income families receive the same break. The wealthy lawyer who sends his child to a low-cost community college gets a $250 credit. The factory worker who struggles to send his child to Harvard or Yale also gets $250. I think this is inequitable. Our tax system should be used to correct income inequities in our society, not exacerbate them.

In addition, I think tuition tax credits might offer a false hope to families. All families would receive a $250 tax credit for each child in college. Such a credit would not lessen the out-of-pocket expenses that a family would have to make to pay their child's college bills each fall. They would still have to find the money to pay these costs. Only when they made out their income tax return would they be able to take the credit. Chances are they would never see any actual money. Also, there is a good chance

that an across the board tax credit to everyone with a child in college would result in an across the board tuition increase at every college. What was thought of as a benefit could quickly disappear.

In addition to all of these features, a tuition tax credit would further complicate an already complicated tax system. Audits to insure that an individual was eligible for a credit would have to be conducted. Bureaucratic intrusion into the lives of families and into the operations of educational institutions, would increase. Additional information would have to be provided on an income tax return that is already too complex. I think we can all imagine the increased bureaucracy that would develop because of these requirements.

And, finally, the Roth tuition tax credit would cost at least $1.5 billion in the first year, which is more than the cost of my proposal.

For all of these reasons, I do not think a tuition tax credit is the best solution to what we all recognize to be a serious problem.

I believe my legislation offers an easier, more effective, and more efficient way to approach the problem of easing the burden of financing a college education.

My proposal would cost less than the Roth tuition tax credit, and it would have the additional benefit of focusing aid on those who really need it.

At the same time, several benefits that do not accompany a tax credit would probably accrue with my proposal. It would require no new program or no new bureaucracy. The existing basic grants program can readily and easily accommodate the expansion I propose. By targeting assistance on those who really need it, we would not involve the Federal Government in giving the taxpayers' money to individuals who can very well afford to pay for their children's college costs. And, colleges would be less likely to raise tuition charges because the additional aid would not be granted across the board to all students, but would be directed to students who most need help.

I think my proposal makes sense. I think it is consistent with a longstanding Federal policy of focusing educational aid on those who need it most.

I think it represents a much-needed change in Federal educational policy, and I am convinced it will go a long way toward making college affordable once again for middle income families.

Over 100 years ago Benjamin Disraeli said that "upon the education of the people of this country the fate of this country depends." What was true of England then is equally true of our country today. Through our combined efforts, education can once again be made available and affordable to all those who want it, and in so doing the fate of America will be secure.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2473

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The College Opportunity Act of 1978".

SEC. (2) Section 411(a)(3)(B) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new division:

"(iv) Beginning with the academic year 1979–1980 and thereafter, in determining the expected family contribution under this subparagraph no rate in excess of 10.5 per centum shall be applied to parental discretionary income.".

PAYING COLLEGE COSTS—A SOUND ALTERNATIVE

Mr. JAVITS. Mr. President, today I join with my colleague, the distinguished chairman of the Subcommittee on Education, Arts and Humanities, in cosponsoring legislation to amend the basic educational opportunity grants program. I believe this legislation is a preferred alternative to an untargeted tax credit available tc all persons regardless of their financial circumstances.

At the conclusion of the first session of this Congress, I commented on my interest in such an alternative. The proposal for a college tuition tax credit was not included in the final conference report of the social security amendments. I opposed the college tuition tax credit provision in the Senate version of this legislation for two primary reasons. First, the amendment had no consideration of the financial needs of a family. In some cases, it would have given benefits to persons who clearly did not need the Federal Government to provide assistance to them in meeting tuition costs of a family member. Second, the amendment would have provided great incentive for all colleges simply to lift tuition by the $250 figure. Third, the cost would preempt other help in higher education based cr need and merit. This would have left the taxpayer in no better position than he started, while the Federal Government would lose an estimated $1.2 billion in revenue. For these reasons, the proposals seemed unwise and I pledged myself to seeking an appropriate alternative.

The bill I am cosponsoring today provides such an alternative. An individual family at the $25,000 annual income level will receive the same level of benefit in the form of a basic grant, $250 per year. Families with lesser financial resources will receive proportionately greater benefits.

If enacted, this proposal can be implemented quickly, because it requires only an adjustment in the existing and highly successful basic educational opportunity grants program. Because the benefits are not available to everyone, colleges will be constrained from tuition increases. The benefits will accrue to individuals based on their economic need and the cost of the education which they choose. Students who have higher costs because they have chosen a nonpublic college will receive proportionately greater assistance. In the present price structure of higher education, this seems a reasonable approach.

The Senate has on several occasions passed college tuition tax credit measures, although none have been enacted into law. I have not supported these proposals for the reasons I have stated. I very much hope that my colleagues who previously voted in favor of these proposals will examine this bill's alternative—it is a much better approach.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, Mr. WILLIAMS, Mr. JAVITS, Mr. PELL, and Mr. HATHAWAY):

S. 2474. A bill to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1983, the assistance program for community health centers; migrant health services; to extend through the fiscal year ending September 30, 1981; hemophilia; home health services; to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; venereal disease programs; genetic diseases programs; and lead-based paint programs, and for other purposes; referred to the Committee on Human Resources.

HEALTH SERVICES EXTENSION ACT OF 1978

Mr. KENNEDY. Mr. President, today my colleagues, Messrs. SCHWEIKER, PELL, JAVITS, HATHAWAY, WILLIAMS and I introduce the Health Services Extension Act of 1978. This act will extend the various programs administered in the Public Health Services which provide grants for the provision of services.

The legislation extends existing authority for grants to the States for comprehensive public health services (under section 314(d) for 1 year. These formula grants to the States are used for a variety of purposes depending upon State needs. The funds under this program account for less than 5 percent of the total funds expended through State health departments. But the grants are an essential part of the Federal-State partnership for health, providing a stable and flexible source of dollars for the States in their general public health activities.

The extension for only 1 year is proposed at this time so that we may consider this entire program in relation to a comprehensive review of public health and disease control programs, and the Federal-State relationships in public health generally. I anticipate, Mr. President, that after our hearings and further analysis, we will have a clearer picture of these relationships and will be able to either extend this legislation for 3 more years, or amend it consistent with other programs.

DISEASE CONTROL

Also included in this legislative proposal, Mr. President are extensions of expiring authorities supporting a series of preventive health and disease control programs. These include initiatives in the areas of immunization and rodent control authorized under section 317 of the PHS Act, the venereal disease control program authorized under section 318, the Lead-Based Paint Poisoning Prevention Act, and the formula grant program under section 314(d) for hypertension. Most of these programs are administered by the Center for Disease Control. In addition,

the program of grants related to genetic disease under title XI is included in these extensions.

We are proposing that all these programs be extended for 1 year. This limited reauthorization does not express any unhappiness with the thrust of these initiatives or their administration. Rather, we recognize that as a group they comprise a significant portion of the Federal Government's investment in direct services aimed at preventing disease. Disease prevention is one of my paramount concerns in the health field, and later in the year I intend to introduce comprehensive proposals aimed at expanding the Federal Government's commitment to preventing illness. In order to have the flexibility to integrate Federal authorities in the important area of prevention, we are reserving the option of reviewing these expiring authorities later this year in the context of a broad prevention effort. We are not at this time prejudging which of these programs would, in fact, be integrated or which remain separate.

The only expiring program which will require significant increase in authorization is the immunization authority under section 317. This will be increased from $23 million in 1978 to $35 million in 1979. The administration has requested this increase so that it may initiate a nationwide program aimed at raising immunization levels among children from 60 to 90 percent. This should be done and I hope my colleagues will join me in supporting this important initiative. This would require immunizing 16.7 million children and would be accomplished through project grants to State and local health agencies.

The program of grants related to hemophilia (under title XI), including the grants for treatment centers (at a fiscal 1979 level of $5 million) and the grants for blood separation centers (at a fiscal 1979 level of $3.9 million) would be extended for 3 years. The hemophilia program serves as a resource for a special population and is not viewed as potentially part of a broader prevention program. Authorizations in future years would be increased by 10 percent per year.

COMMUNITY HEALTH AND MIGRANT HEALTH CENTERS

The legislation also reauthorized for 5 years both the community health centers programs (section 330), and the migrant health centers program (section 319). It maintains separate legislative authority for each of these programs, so that they can continue to provide health care designed to meet the distinct needs of the populations they serve. The bill provides $330 million for community health centers for fiscal year 1979, and a 10-percent increase in funding for each succeeding year up to and including 1983. The bill provides $40 million for migrant health centers, and $6 million for migrant hospitalization. This authorization also increases 10 percent in each succeeding fiscal year up to and including 1983.

The health center programs have demonstrated that they deliver comprehensive health services at a cost less than or comparable to services provided through other health care delivery systems. Moreover, these centers have been effective in reducing use of hard-pressed emergency room facilities, they have provided preventive services to an extent which often exceeds the traditional health care delivery systems, and they have made health services available to communities previously without health professionals or health care facilities.

The health center programs have now reached a point where the Congress should provide an expression of its confidence and reflect this in a 5-year authorization.

Since 1974, for example:

Physician productivity in health centers has increased by 30 percent.

The cost per patient visit has declined by 5 percent—at a time when similar costs in other health care delivery systems have increased at a rate of 30 percent.

Administrative costs incurred by health centers have declined by 15 percent.

Moreover, within the Health Services Administration of HEW, the administration and policy guidelines for community health centers and migrant health centers, are closely coordinated. The distinction which does exist between the two programs must be maintained in order to assure that they will continue to provide appropriate services over the next 5 years.

The funding received in the bill I am introducing today will also permit much-needed expansion in both the community and migrant health center programs.

For example, community health centers are now reaching just 9.5 percent of the 45 million people in this country living in medically underserved areas. Funding has been so limited that many centers are unable to provide the comprehensive services authorized under existing law. The authorization included in this bill will extend services to an additional 1.5 million people living in medically underserved areas; 12.5 percent of those living in medically underserved areas would potentially be reached by these centers.

With regard to migrant health centers, these programs now reach 20 percent of the 2.7 million eligible migrant and seasonal workers. Hospitalization funds are so scarce that these services can be provided only for high risk infants and mothers. Funding has been so limited that many upstream areas have no migrant health care capacity, a situation which is especially damaging to those workers whose unique concerns and needs cannot be met effectively through the existing health care system. The authorization included in this bill will increase by 156,000 the number of migrant and seasonal workers receiving services, and will extend hospitalization services to an additional 10 to 12 migrant centers.

These provisions are an expression of my conviction that the continuation of community and migrant health centers is essential, even after the enactment of national health insurance. They are cost effective; they are providing medical services in areas which would otherwise be without health care professionals or facilities; and they provide essential preventive services.

We are indebted to Senator JAVITS for developing a new proposal as part of these amendments, which would focus on the special health problems of urban areas, recognizing that community hospitals, both public and private, serve as major health resources for inner-city residents. Senator JAVITS' new initiative would provide earmarked funds under the community health centers program specifically directed at these areas. I am pleased to support this initiative as part of this health services extension bill.

NATIONAL HEALTH SERVICE CORPS

I have been a strong proponent of the National Health Service Corps since it was created in 1970 as part of the Emergency Health Personnel Act, Public Law 91–623. The corps has expanded greatly since it was created—from 20 field assignees in 1971 to a projected 1,725 in 1979. The moneys that were authorized for this program have not, unfortunately, taken into account the expansion of the scholarship program under Public Law 94–484. The current authorization level for 1979 is $57 million and the best projection for 1979 for corps expenses is $63,947,000. The bill that I am introducing today therefore raises the authorization to $64 million for fiscal year 1979.

The Subcommittee on Health and Scientific Research has some concerns about the direction of the corps because of its rapid expansion. The bill therefore directs the National Advisory Council of the National Health Service Corps and the Department of HEW to submit a report to us by February 1, 1979. This report should address the scope of the facilities and populations the corps can potentially serve. The subcommittee wants to examine the current plans of the Department to use a vast majority of the corps in the comprehensive health centers and neglecting other facilities specifically mentioned in the law. The report should address urban versus rural needs and should in particular, address why the corps has failed to address the needs of the inner city.

The NHSC is administered both under the Bureau of Community Health Services and the Bureau of Health Manpower. The study should also address the question of whether the corps is a health services program or a manpower program, and what the relationship should be between these two objectives.

HOME HEALTH SERVICES

The legislation will also continue the small program of grants to develop and expand home health services that will qualify for participation in the medicare and medicaid programs. This program, first authorized in the 94th Congress, has been in operation since 1976, providing needed funds for the initial capital development of these vital programs that deliver services to the elderly, the ill, and the handicapped at home rather than in an institutional setting.

Prior to the inauguration of this grant program there were 788 counties without a medicare certified home health

agency. In 1976, 56 grants were awarded and in 1977 56 grants were again awarded. As a result of the grant program, home health services are now being provided to 92 counties that were not previously served by a home health agency. In addition, 82 projects were funded which expanded existing agencies so that more services and patients could be covered. All the agencies supported are certified under medicare and are becoming financially viable.

However, there are still almost 700 counties without a certified home health agency and thus a continuation of the grant program is indicated and should be encouraged. In the legislation being introduced today, the health programs would be incorporated into a new section (320) of the Public Health Service Act, and the authorized level of $12 million per year, will be extended for 3 years to 1981. In addition, an authorization of $2 million for each year for purposes of training personnel for work in these agencies, particularly home health aides, is included.

Mr. President, I ask unanimous consent that the text of the Health Services Extension Act of 1978 be printed in the RECORD at this point, together with a section-by-section summary.

There being no objection, the bill and summary was ordered to be printed in the RECORD, as follows:

S. 2474

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 101. (a) This Act may be cited as the "Health Services Extension Act of 1978".

(b) Except as otherwise specially provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

COMPREHENSIVE PUBLIC HEALTH SERVICES

SEC. 102. (a) Section 314 (d)(7)(A) (relating to authorizations for formula grants to States for comprehensive public health services is amended by striking out "and" after "1977,", and inserting before the period at the end of the sentence thereof the following: ", $107,000,000 for the fiscal year ending September 30, 1979".

(b) Title III is amended by adding at the end thereof the following new section (relating to authorizations for formula grants to States for hypertension programs):

"GRANTS FOR HYPERTENSION PROGRAMS

"SEC. 315. (a)(1) The Secretary may make grants to States (which have submitted and had approved State plans in accordance with regulations and guidelines issued by the Secretary) for the purpose of establishing and maintaining programs for the screening, detection, diagnosis, prevention, and referral for treatment of hypertension.

"(2) The Secretary shall, in accordance with such regulations as he may prescribe, allot the sums appropriated under subsection (4), among the States on the basis of the population and financial need of the respective States.

"(3) Nothing in this section shall be construed to prohibit the use of funds for hypertension programs which may be authorized and made available under any other provision of law.

"(4) To carry out the purposes of this section, there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1979.".

DISEASE CONTROL PROGRAMS

SEC. 103. (a) Section 317(g)(1)(A) (relating to authorizations for grants to States for disease control programs to immunize children against immunizable diseases) is amended (1) by striking out "and" after "1977,", and (2) by striking out "for fiscal year 1978" and inserting in lieu thereof the following: "for the fiscal year ending September 30, 1978, and $35,000,000 for the fiscal year ending September 30, 1979".

(b) Section 317(g)(1)(B) (relating to authorizations for grants to States for disease control programs for diseases borne by rodents) is amended (1) by striking out "and" after "1977,", and (2) by striking out "for fiscal year 1978" and inserting in lieu thereof the following: "for the fiscal year ending September 30, 1978, and $14,500,000 for the fiscal year ending September 30, 1979".

(c) Section 317(g)(1)(C) (relating to authorizations for grants to States for disease control programs, and other programs with authorizations under subparagraphs (A) and (B)) is amended (1) by striking out "and" after "1977,", and (2) by striking out "for fiscal year 1978" and inserting in lieu thereof the following: "for the fiscal year ending September 30, 1978, and $5,500,000 for the fiscal year ending September 30, 1979".

PREVENTION AND CONTROL OF VENEREAL DISEASE

SEC. 104. (a) Section 318(b)(2) (relating to authorizations for grants for projects for the conduct of research, demonstration, education, and training programs for the prevention and control of veneral disease) is amended (1) by striking out "and" after "1977", and (2) by striking out "for fiscal year 1978" and inserting in lieu thereof the following: "for the fiscal year ending September 30, 1978, and $8,000,000 for the fiscal year ending September 30, 1979".

(b) Section 318(c)(2) (relating to authorizations for project grants to State programs for prevention and control of venereal disease project grants) is amended (1) by striking out "and" after "1977", and (2) by striking out "for fiscal year 1978" and inserting in lieu thereof the following: "for the fiscal year ending September 30, 1978, and $43,500,000 for the fiscal year ending September 30, 1979".

MIGRANT HEALTH

SEC. 105. (a) Section (h)(1) (relating to authorization for project grants for planning and development or migrant health centers) is amended by striking out "and" after "1977," and inserting before the period at the end of the first sentence the following: ", $4,000,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, $4,000,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, and $4,000,000 for the fiscal year ending September 30, 1983.

(b)(1) Section 319(h)(2) (relating to authorizations for operation of migrant health centers) is amended by striking out "and" after "1977,", and inserting before the period at the end of the first sentence thereof the following: ", $40,000,000 for the fiscal year ending September 30, 1979, $44,000,000 for the fiscal year ending September 30, 1980, $48,400,000 for the fiscal year ending September 30, 1981, $53,240,000 for the fiscal year ending September 30, 1982, and $58,564,000 for the fiscal year ending September 30, 1983".

(2) The third sentence of section 319(h)(2) is amended by striking out "and" after "1977,", and inserting before the period at the end thereof the following: ", the fiscal year ending September 30, 1979, the fiscal year ending September 30, 1980, the fiscal year ending September 30, 1981, the fiscal year ending September 30, 1982, and the fiscal year ending September 30, 1983".

(c) Section 319(h)(3) (relating to authorizations for inpatient and outpatient hospital services) is amended by striking out "and" after "1977,", and inserting before the period at the end of the sentence thereof the following: ", $6,000,000 for he fiscal year ending September 30, 1979, $6,600,000 for the fiscal year ending September 30, 1980, $7,260,000 for the fiscal year ending September 30, 1981, $7,986,000 for the fiscal year ending September 30, 1982, and $8,784,600 for the fiscal year ending September 30, 1983".

COMMUNITY HEALTH CENTERS

SEC. 106. (a) Section 330(b) is amended by adding at the end thereof the following new paragraphs:

"(4) The term 'community hospital' means either a public general hospital owned and operated by a State, county, or local unit of government located in an urban area and primarily serving a population designated by the Secretary as having a shortage of personal health services, or a private, nonprofit community hospital located in an urban area and primarily serving a population designated by the Secretary as having a shortage of personnal health services.

"(5) The term 'primary care center' means a unit of a community hospital which—

"(A) delivers primary health services to a catchment area (as determined by the hospital and approved by the Secretary) through a group of health professionals composed of primary care physicians and allied health personnel; and

"(B) provides both (1) referral to emergency medical services and (ii) access to patient medical records on a twenty-four hours a day, seven days a week basis; and

"(C) provides referral to supplemental health services.".

(b) Section 330 is amended by adding at the end thereof the following:

"(h)(1) The Secretary may make grants, to community hospitals to assist such hospitals in planning, developing, and operating primary care centers in urban areas.

"(2) To be eligible for a grant under this subsection, the community hospital must submit an application which contains or is supported by the following assurances, satisfactory to the Secretary:

"(A) that, to the extent practicable, facilities and equipment located in existing emergency rooms, outpatient departments, and other sections of the hospital shall be converted for use in the primary care center; and

"(B) that appropriate emergency room and outpatient services will be maintained or have been maintained after the conversion; and

"(C) that the primary care center will be maintained as a separate and distinct cost unit, from such community hospital.

"(3) Funds for grants under this subsection may be used for covering costs associated with (A) planning, (B) developing (including modernization, renovation of space, and construction), and (C) operating primary care centers.

"(4) The Secretary may not approve an application for a grant under this subsection unless the application contains assurances that the primary care center will be operated in accordance with all the requirements for community health centers in subsection (e), except for subsection (e)(2)(G).

"(5) The Secretary may not approve an application for a grant under this subsection unless the application contains, in addition to the assurances pursuant to paragraph (4), the following assurances: the primary care center must have an advisory board which is composed of individuals a majority of whom receive their medical care at the center. The board shall meet regularly, but no less than

six times per year, to review the operations of the center and to develop recommendations to the hospital's governing board concerning the types of services to be provided and the operation of the center.

"(6) There are authorized to be appropriated for the purpose of making payments for grants under this subsection $34,000,000 for the fiscal year ending September 30, 1979, $72,000,000 for the fiscal year ending September 30, 1980, and $114,000,000 for the fiscal year ending September 30, 1981. No more than 30 per centum of the funds appropriated in any fiscal year may be used for planning and development (including construction, modernization and renovation).".

(c) Section 330(g)(1) (relating to authorizations for the planning and development of community health centers) is amended by striking out "and" after "1977,", and inserting before the period at the end of the sentence thereof the following: ", $10,000,000 for the fiscal year ending September 30, 1979, $10,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, $10,000,000 for the fiscal year ending September 30, 1982, and $10,000,000 for the fiscal year ending September 30, 1983".

(d) Section 330(g)(2) (relating to authorizations for the operation of community health centers) is amended by striking out "and" after "1977,", and inserting before the period at the end of the sentence thereof the following: ", $320,000,000 for the fiscal year ending September 30, 1979, $352,000,000 for the fiscal year ending September 30, 1980, $387,200,000 for the fiscal year ending September 30, 1981, $425,900,000 for the fiscal year ending September 30, 1982, and $468,500,000 for the fiscal year ending September 30, 1983".

NATIONAL HEALTH SERVICE CORPS

SEC. 107. (a) Section 338(a) (relating to authorization for the National Health Service Corps) is amended by striking out "$57,000,000" and substituting in lieu thereof $64,000,000".

(b) Section 336 (relating to annual reports to Congress) is amended by (1) inserting after "SEC. 336." "(a)", and (2) by inserting at the end of subsection (a) thereof the following:

"(b) In addition to the report required by subsection (a), the Secretary shall submit a special report, developed through consultation with the National Advisory Council on the National Health Service Corps (as defined in section 337), to the Committee on Human Resources of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives on February 1, 1979. Such special report shall delineate the present and future directions of the National Health Service Corps particularly its relationship as a health manpower program and as a health services delivery program, analyze the use of corpsmen in the various settings defined in section 332, address the use of the Corps in meeting urban and rural health needs, and project the estimates of the Corps' manpower and their use through 1985.".

GENETIC DISEASES

SEC. 108. Section 1101(b) (relating to authorizations for grants and contracts for testing and counseling, information and education programs to genetic diseases) is amended (1) by striking out "and" after "1977,", and (2) striking out "for fiscal year 1978" and inserting in lieu thereof the following: "for the fiscal year ending September 30, 1978, and $30,000,000 for the fiscal year ending September 30, 1979".

HEMOPHILIA

SEC. 109. (a) Section 1131(f) (relating to authorization for hemophilia programs) is amended by striking "and" after "1977,", and inserting before the period at the end of the sentence thereof the following: ", $5,000,000 for the fiscal year ending September 30, 1979, $5,500,000 for the fiscal year ending September 30, 1980, and $6,050,000 for the fiscal year ending September 30, 1981".

(b) Section 1131(e) (relating to authorizations for blood separation centers) is amended by striking "and" after "1977", and inserting before the period at the end of the sentence thereof the following: ", $3,900,000 for the fiscal year ending September 30, 1979, $4,290,000 for the fiscal year ending September 30, 1980, and $4,712,000 for the fiscal year ending September 30, 1981".

HOME HEALTH SERVICES

SEC. 110. (a) Title III is amended by inserting after section 319 the following new section:

"HOME HEALTH SERVICES

"SEC. 320. (a)(1) For the purposes of demonstrating the establishment and initial operation of public and nonprofit private agencies (as defined in section 1861(o) of the Social Security Act) which will provide home health services (as defined in section 1861(m) of the Social Security Act) in areas in which such services are not otherwise available, the Secretary of Health, Education, and Welfare may, in accordance with the provisions of this section, make grants to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing agencies.

"(2) In making grants under this subsection, the Secretary shall consider the relative needs of the several States for home health services and preference shall be given to areas within a State in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or both.

"(3) Applications for grants under this subsection shall be made in such form and contain such information as the Secretary shall prescribe by regulation.

"(4) Payment of grants under this subsection may be made in advance or by way of reimbursement or in installments as the Secretary may determine.

"(5) There are authorized to be appropriated $8,000,000 for the fiscal year ending September 30, 1978, $12,000,000 for the fiscal year ending September 30, 1979, $12,000,000 for the fiscal year ending September 30, 1980, and $12,000,000 for the fiscal year ending September 30, 1981, for payments under this subsection.

"(b)(1) The Secretary of Health, Education, and Welfare may make grants to public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act).

"(2) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulations prescribe.

"(3) Payment of grants under this section may be made in advance or by way of reimbursement, or in installments, as the Secretary shall determine.

"(4) There are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1978, $2,000,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, and $2,000,000 for the fiscal year ending September 30, 1981, for payments under grants under this subsection.".

(b) Section 602 of Public Law 94-63 is repealed.

LEAD-BASED POISONING PREVENTION

SEC. 111. Section 503 of Public Law 91-695 (relating to authorizations for lead-based paint poisoning prevention programs) is amended (1) by striking out "and" after "1977.", and (2) striking out "for fiscal year 1978" and inserting in lieu thereof the following: "for the fiscal year ending September 30, 1978, and $14,000,000 for the fiscal year ending September 30, 1979".

HEALTH SERVICES EXTENSION ACT OF 1978—SECTION-BY-SECTION SUMMARY

Sec. 102. Comprehensive Public Health Services—

Section 314(d), which provides formula grants to the states for comprehensive public health services, is extended for one year and authorized for fiscal year 1979 at $107 million.

The section also repeals the present authorization for hypertension programs under section 314(d), and places it in a new section 315, providing formula grants (based on population and financial need) to the states for establishing and maintaining programs for the screening, detection, diagnosis, prevention, and referral for treatment of hypertension. $15 million is authorized for fiscal 1979.

Sec. 103. Disease Control Programs—

Under section 317 immunization programs are extended for one year at an authorized level of $35 million; rat control programs are extended for one year at an authorized level of $14.5 million. The program of special disease control are extended for one year at an authorization of $5.5 million.

Sec. 104. Venereal Disease—

Section 318 is extended for one year, at an authorized level of $43.5 million, plus $8 million for research, demonstration, and training.

Sec. 105. Migrant Health—

Section 319, migrant health programs, is extended for five years with authorizations as follows:

[In millions]

	Planning	Operations	Hospitalization
1979	4	40	6
1980	4	44	6.6
1981	4	48.4	7.26
1982	4	53.24	7.986
1983	4	58.564	8.7846

Sec. 106. Community Health Centers:

Community health center authorizations under section 330 are extended for five years at the following levels:

[In millions]

Planning and development:	*Operations*
1979—10	320
1980—10	352
1981—10	387.200
1982—10	425.900
1983—10	468.500

Sec. 107. National Health Service Corps—

The authorization for the NHSC under section 338 is increased by $7 million to $64 million for fiscal 1979. The Secretary is required to submit a report to the Committee on Human Resources and the Committee on Interstate and Foreign Commerce of the House by February 1, 1979 on the policy, relating the use of the Corps as a health manpower program and as a health service delivery program, including projections through 1982.

Sec. 108. Genetic Diseases—

The program of prevention of genetic disease under section 1101 is extended for one year at an authorized level of $30 million.

Sec. 109. Hemophilia—

The hemophilia prevention program is extended for three years at an authorized level of $5 million for treatment centers and $3.9 million for blood separation centers, FY 1979, with 10% increases in future years.

Sec. 110. Home Health Services—

The program established under section 602 of P.L. 94–63 is made section 320 of the PHS Act, and extended for three years, with authorizations in each year of $12 million for development and expansion of such services and $2 million for training.

Sec. 111. Lead-Based Poisoning Prevention—

Lead-based paint programs are extended for one year at an authorization level of $14 million for fiscal 1979.

Mr. SCHWEIKER. Mr. President, I am today joining with my colleagues on the Subcommittee on Health and Scientific Research in sponsoring a bill which will extend programs of the Public Health Service Act which provide grants to States and other entities to enable them to provide needed services to our citizens.

The Subcommittee on Health and Scientific Research, of which I am the ranking Republican member, will consider how several of the programs can be integrated into a comprehensive measure to place an increased emphasis on prevention of disease. I am concerned that much of the emphasis in health care today is on the treatment of acute and chronic diseases rather than in attempts to prevent them. Accordingly, I am supporting a 1-year extension for disease control programs, comprehensive public health services, venereal diseases, hypertension, genetic diseases, and lead-based paint programs. While all of these programs have made important contributions to the public's health in the past, I will want, during the course of our hearings, to examine whether the increased authorizations will significantly aid them in fulfilling their missions.

The National Health Service Corps was originally intended as a vehicle for deploying physicians to medically underserved areas. During our hearings I hope to learn whether or not the corps has been effective in this regard, particularly in rural parts of our country. In the near future the corps will have almost 2,000 new physicians per year available for placement. I am concerned about their plans for placing these physicians around the country and the attendant costs involved in deploying those physicians.

The provision of medical services to those who have, in the past, had difficulty obtaining them has been greatly improved by the migrant health program and community health centers. It is clear, however, that problems exist in both rural and urban parts of our country. This bill proposes to further expand services to underserved areas through a new initiative to convert poorly utilized health facilities into ambulatory primary care centers. This is an idea I support. However, I believe that the committee should address the important issue of the potential for financial self-sufficiency of these centers and should seek to provide incentives for the centers to improve their record of collecting payments from patients or third-party payors. I am concerned that only 30 percent of the appropriated funds would be available for planning and development. I trust that the committee will address this important issue in our hearings. Furthermore, I am concerned that our rural citizens may not be receiving a fair share of the funds available for this program, and I believe the committee ought to develop an equitable program for all our citizens.

As the subcommittee conducts its hearings on this bill, I would hope that public officials and other concerned citizens will work with us to assure that these services continue to be delivered in an efficient, cost-effective fashion.

Mr. JAVITS. Mr. President, I am pleased to join with my colleague Senator KENNEDY in cosponsoring the Health Services Extension Act of 1978. Basically, the bill provides for the extension of numerous programs authorized under the Public Health Service Act which would otherwise expire this year. In particular, the bill extends for 1 year existing programs dealing with hypertension, immunizations, rat control, disease control programs, venereal disease control, and lead-based paint poisoning prevention. These programs are being given 1-year extensions so that the Human Resoures Health Subcommittee has more time to review them thoroughly in the context of a major prevention initiative which is currently being developed.

It is my long-held conviction that more of our health resources should be directed to preventive, as opposed to curative, health services. Accordingly, it is my intent and understanding that the prevention bill now being drafted will replace the 1-year extension of prevention-related programs in this bill. However, since the prevention bill is not yet ready, we are introducing the present bill in its current form so as to assure the continuation of these various programs, so vital to the public health.

In addition, section 314(d) of the Public Health Service Act—relating to grants for comprehensive public health services—is being extended for 1 year in order to give the subcommittee the opportunity to review the program and to receive testimony from State health officers, Governors, and other interested parties regarding the most appropriate method for distributing funds under this program.

This bill also contains a 1-year extension of the National Genetic Diseases Act, of which I am the author, continuing the authorization at the same level of $30 million. This authorization carries out the recommendation of the Commission for the Control of Huntington's Disease, mandated by the Congress in Public Law 94–63. The National Genetic Diseases Act, incorporated in Public Law 94–278, establishes a national program of regional screening, testing, counseling, and information and education programs, primarily in conjunction with other existing health programs. I am currently in the process of reviewing the legislation and plan to introduce amendments to the program next week. These amendments will respond to bureaucratic problems in interpreting the law and will broaden and improve existing authorities.

Also included in the bill before you now are continuing authorities for community health centers. In conjunction with this section of the bill, I am proposing an urban initiative which is designed to meet some of the critical service delivery problems currently plaguing many urban, inner-city areas. I have long been concerned about the adequacy of health care services in the major urban centers of our country. It is now estimated that there are 49.1 million people residing in areas of the United States which, for purposes of health services, have been classified as "underserved." This means that the area has a shortage of personal health services as determined by factors such as the following: the ratio of primary care physicians to population, relevant health indices and economic factors affecting access to services. Of these 49 million people, almost half live in urban areas.

In medically underserved areas, the poor are being forced to use hospital emergency rooms and outpatient departments for first-contact or primary care services. This phenomenon is attributable, in large part, to two factors: the unavailability of private physicians or the unwillingness of private physicians to care for these individuals. Consequently, persons residing in these areas are being deprived of badly needed comprehensive and preventive medical care services.

Not only are the residents of such areas adversely affected, but hospital resources are severely strained in two ways by the improper use of emergency room and outpatient department facilities: First, additional demands for staff and services are placed on the emergency rooms and outpatient departments; second, greater hospital deficits are incurred because many individuals are unable to pay for the services they receive. For example, it has been estimated that in 18 private, nonprofit hospitals in New York City between 1971 and 1973, the deficit resulting from the delivery of outpatient and emergency services reached $115 million.

In an effort to begin addressing some of the peculiar health service delivery problems facing urban areas, I am including today as part of the Health Services Extension Act of 1978 a proposal which is designed to serve as a first step toward alleviating these problems. I am proposing a demonstration project which would provide grant funds to public general hospitals or private nonprofit hospitals located in medically underserved urban areas for the purpose of establishing hospital-affiliated primary care centers through the reform of emergency rooms and outpatient departments.

Public general hospitals and some private nonprofit hospitals located in inner-city communities often serve as the routine source of medical care for much of the community. Frequently these facili-

ties are the only source of care for medicaid recipients and the working or near poor. My proposal, which amends section 330 of the Public Health Service Act (relating to community health centers), would fund at least 30 demonstration projects over 3 years. This would provide increased access to improved health care services for approximately 1 million people.

In order to receive funds under the program, eligible institutions would submit applications to the Secretary of HEW containing assurances that: First, for purposes of construction, modernization and renovation, existing facilities and equipment—particularly in emergency rooms and outpatient departments—would be utilized; Second, the hospital will maintain appropriate emergency room and outpatient department services; Third, the primary care center will be operated as a separate and distinct cost unit; Fourth, the primary care center will deliver primary health care services through a group of health professionals composed of primary care physicians and allied health personnel; and Fifth, the primary care center will provide for referral for emergency medical services and supplemental health services.

In addition, I am currently exploring the possibility of requiring additional assurances which would provide for incentive reimbursement mechanisms and reorganization of primary care services within the hospital setting. The purpose of these additions would be to make this initiative more consistent with the cost containment and quality of care objectives already established by the Health Subcommittee.

Facilities intended for the receipt of these demonstration grants are primarily urban, inner-city public general or private nonprofit hospitals. I believe that this demonstration project can make two significant contributions to health care services in urban areas: First, because grant funds will cover the costs associated with the planning and operating of the primary care centers, these funds will provide much-needed fiscal relief to the hospitals and will allow them better to perform the various distinct functions associated with emergency rooms, outpatient departments and primary care; second, for millions of people who currently have no alternative, the establishment of these primary care centers will allow for the provision of comprehensive and preventive health services, continuity of care, and the development of a strong and lasting physician/patient relationship.

In addition to the establishment of these demonstration primary care centers, I am also proposing an increased emphasis on the number of free-standing community health centers to be started in urban areas. To date, 302 of the 463 community health centers funded under the community health center program have been established in rural areas. While I recognize the need for targeting such centers toward rural areas, I believe that the needs of urban areas should not be overlooked. In inner-city areas, 111 standard metropolitan statistical areas (SMSA's) have been identified as areas of high priority need for such centers. Consequently, I intend to encourage the committee to adopt policies which will assure that urban areas receive an adequate share of the funds for new community health centers.

ADDITIONAL COSPONSORS

S. 1423

At the request of Mr. NUNN, the Senator from South Carolina (Mr. THURMOND) and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 1423, the Judicial Tenure Act.

S. 1974

AMENDMENT NO. 849

At the request of Mr. NELSON, the Senator from Missouri (Mr. DANFORTH), the Senator from Maryland (Mr. MATHIAS), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 1974, the Regulatory Flexibility Act, and Amendment No. 849 intended to be offered to S. 1974.

S. 2384

At the request of Mr. CRANSTON, the Senator from Texas (Mr. TOWER) and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 2384, the Veterans' and Survivors' Income Security Act.

S. RES 242

At the request of Mr. HATCH, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of Senate Resolution 242, relating to changes in IRS policy toward the taxation of fringe benefits.

S. RES. 356

At the request of Mr. WEICKER, the Senator from New Jersey (Mr. CASE) and the Senator from Iowa (Mr. CLARK) were added as cosponsors of Senate Resolution 356, a resolution insisting that the Republic of Korea cooperate fully with the Select Committee on Ethics and declaring that a failure to cooperate will have a negative impact on relations between the United States and the Republic of Korea.

SENATE RESOLUTION 384—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 384

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned with the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $766,000, of which amount not to exceed $35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 385—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. STENNIS, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 385

Resolved, That, in holding hearings, reporting such hearings and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Armed Services, or any subcommittee thereof, is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures fom the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $817,000, of which amount not to exceed $55,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 387—ORIGINAL RESOLUTON REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

Mr. MUSKIE, from the Committee on the Budget, reported the following origi-

nal resolution, which was referred to the Committee on Rules and Administration:

S. RES. 387

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,430,800, of which amount not to exceed $100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1978.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

AMENDMENTS SUBMITTED FOR PRINTING

NAVIGATION DEVELOPMENT ACT—H.R. 8309

AMENDMENT NO. 1683

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

PANAMA CANAL TREATY—EXECUTIVE N, 95–1

AMENDMENT NO. 18

(Ordered to be printed and to lie on the table.)

Mr. HATCH, as in executive session, submitted an amendment intended to be proposed by him to Executive N, 95–1, the Panama Canal Treaty.

Mr. HATCH. Mr. President, there is an important consideration regarding the Panama Canal Treaties that has been overlooked thus far in our discussion of these agreements. In our efforts to unravel all of the mysteries associated with the precise meanings of various provisions of the treaties as they appear in the English text, we have neglected to examine the language in the Spanish text to determine whether it accurately reflects the language in our own documents. I am persuaded that there are a number of discrepancies which warrant our concern.

Recently, the Senate steering committee, of which I am a member, prepared a comparative analysis of the English and Spanish versions of the treaties. This study is entitled "The English and Spanish Texts of the 1977 Panama Canal Treaties: A Comparison." It was written by Silvia Castellanos, a bilingual staff member of the committee, with the assistance of linguists and legal experts drawn from the universities and the Library of Congress. The study contains a line-by-line analysis of the language in the two versions of the treaties, and concludes that "inconsistencies abound in the documents."

On January 25, 1978, my distinguished colleague from Alabama (Mr. ALLEN) inserted in the RECORD the overview section of this study, which summarizes the basic problems of translation in the documents. I commend Senator ALLEN for calling our attention to this study, and urge Senators to examine it closely. Copies of the full study are available at my office, 6317 Dirksen Senate Office Building.

Mr. President, these inconsistencies create a second layer of problems for the United States. Their presence means that we must contend not only with conflicting interpretations of the English text, but also the Spanish meaning of every word in the documents.

Why the State Department did not carry out its responsibility of insuring that the two versions of the treaties are substantively the same is a question that I cannot answer. I do know, however, that these discrepancies indicate carelessness on the part of the State Department, and arouse skepticism in my mind regarding State Department assurances in the past about the proper interpretations of the agreement and the intentions of the negotiators.

In anticipation of serious disagreements between the United States and Panama about these matters, I am today submitting an amendment to the treaties which would establish needed guidelines for the resolution of controversies pertaining to the proper interpretation of these agreements. The amendment provides that the English text shall prevail whenever there are differences of interpretation between the United States and the Republic of Panama.

Mr. President, I ask unanimous consent that this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 18

In the signature clause thereof, strike out "both texts being equally authentic" and insert in lieu thereof "but, in case of divergence, the English language text shall be binding on the two Parties".

NOTICES OF HEARINGS

ARBITRATION OF CIVIL CASES IN UNITED STATES COURTS

Mr. DECONCINI. Mr. President, I wish to announce that an open public hearing will be held by the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary on S. 2253, a bill to amend title 28 of the United States Code to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in U.S. district courts, and for other purposes.

The hearing will be held on April 11, 1978, commencing at 9:00 a.m. in room 2228, Dirksen Senate Office Building.

Persons who wish to testify or submit a statement for inclusion in the record should communicate, as soon as possible, with the subcommittee, 6306 Dirksen Senate Office Building, Washington, D.C. 20510.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, I wish to announce that the Committee on Banking, Housing, and Urban Affairs will hold 2 days of oversight hearings on the budgets of the three Federal banking agencies: the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Reserve System. The hearings will be held on February 7 and 8, 1978, with George LeMaistre, Chairman of the Federal Deposit Insurance Corporation, and John Heimann, Comptroller of the Currency testifying on February 7 and Philip E. Coldwell, member of the Board of Governors of the Federal Reserve System testifying on February 8. Both hearings will begin at 10 a.m. and will be held in room 5302 of the Dirksen Senate Office Building.

Each of the three Federal banking agencies finance their expenditures from revenues they receive from different sources, mostly fees and interest earned on security holdings. None of the agencies are included within the congressional appropriations process, nor are expenditure ceilings imposed by the Congress. Thus, the Banking Committee believes that as part of its oversight responsibilities it should ascertain and study how the FDIC, the Comptroller and the Federal Reserve spend the funds they receive and how any additional funds are used.

Last spring the Banking Committee held the first ever oversight hearing on the budget of the Federal Reserve System for the calendar year 1977. No such hearings were held on the budgets of the FDIC and the Comptroller. The upcoming hearings will take a close look at the 1978 budgets of all three agencies. The committee is also interested in seeing how currently budgeted expenditures and staffing compare with prior years.

Anyone having questions about the hearings or interested in obtaining additional information about them may contact Steven M. Roberts of the committee staff by calling 224–0893.

EXPORT POLICY HEARINGS

Mr. STEVENSON. Mr. President, the Subcommittee on International Finance will conduct hearings on U.S. export performance and export policy. The purpose of the hearings is to examine the competitiveness of U.S. exports and to explore ways to close the trade gap through better U.S. export performance. Our trade imbalance may stubbornly persist. Key industries are losing their competitive edge in world markets, while U.S. policies and programs designed to further exports are inadequate. Neglect of exports in favor of measures to protect the domestic market from imports lead to serious global consequences for production, employment and prices. One out of seven jobs nationally, and one out of six in Illinois, the Nation's leading export State, result directly or indirectly from the production of goods and services for export. While U.S. dependence upon exports is apparent and growing, the answers to U.S. export problems are neither obvious nor easy. These hearings can provide the groundwork for improvements in U.S. export policy.

The hearings will begin on Monday, February 6, with an examination of the changes in world trade wrought by floating exchange rates and dollar depreciation, and the potential impact on U.S. exports of more active intervention by Treasury and the Federal Reserve to protect the dollar. What effect will the shift to a policy of active intervention to support the exchange rate have on U.S. exports? Is the United States abandoning its support for floating exchange rates? Should the United States bear the risk and cost of resisting further appreciation of the German mark, Japanese yen and other surplus country currencies? What effect are other countries' exchange rate policies having on U.S. exports? Are orthodox economic predictions of how exchange markets are supposed to work being overturned in practice? Are higher domestic interest rates an effective way to defend the dollar, and what will be the consequences for the economy?

The second hearing, to be held on Thursday, February 23, will focus on shifts in the composition of, and markets for, U.S. exports. In what product and geographic markets has the United States been a successful exporter and why? Are other countries threatening our position in these markets? Are there industries where declining export competitiveness is likely to result in job losses? Which markets has the United States failed to penetrate and why? Are there new markets that offer substantial potential export growth and what is being done to gain a foothold in these markets? What impact is the expanding export role of developing countries having on U.S. exports? Which U.S. export sectors are being hardest hit by this new competition?

A third hearing, to be held on Monday, February 27, will analyze and compare major foreign government policies and programs aimed at supporting exports. Particular attention will be given to export financing and marketing assistance, policies employed by our major trading competitors—Japan and Germany. To what extent is Japanese export success due to Japanese trading companies and their linkages with banking and manufacturing companies through so-called Zaibatsu or Keiretsu? Do these structures provide competitive advantages in key industries such as steel and electronics? What forms of government export subsidization are occurring in the developing countries? Is there a worldwide shift toward more direct government aid for export industries, in order to offset higher energy import costs?

Hearings on renewed authorization for the Export-Import Bank are scheduled for March 13, 14, 20, and 21. Among the questions expected to arise in the course of those hearings are: What effect does the Bank have on U.S. exports? How much does the Bank cost U.S. taxpayers? How much additional authority should the Bank have to make loans and guarantees in support of U.S. exports? Should the Bank be required to maintain a margin between its charges to customers and the cost of its funds? How do the Bank's export financing programs compare with those of our countries? Could the Bank do more to assist small businesses to become successful exporters? Are additional restrictions needed on the kinds of exports and projects which the Bank may support? Should the Bank be permitted to finance aircraft sales, nuclear powerplant exports, agricultural commodities, factory construction abroad? Should U.S. environmental standards be applied to Eximbank-supported projects in foreign countries? On what grounds should Eximbank credits be denied to certain foreign countries?

A hearing on agricultural export policy and prospects for U.S. agriculture exports will be held in Chicago, Ill., on Thursday, March 30. Are programs to facilitate U.S. agricultural programs adequate? Does U.S. agriculture face increased foreign competition over the next decade? Are the markets for U.S. agricultural exports likely to be stable?

On April 5 a hearing will be held on other U.S. programs and facilities designed to increase U.S. exports, including tax incentives for exports, Commerce and State Department programs, and the efficacy of the Edge Act and Webb-Pomerene Act in facilitating U.S. exports. Particular attention will be given to whether these provisions and programs have enabled smaller businesses to realize the benefits to be gained from exports.

A hearing on April 18 will deal with the competitiveness of high technology U.S. exports in world markets and the potential adverse impact on exports from declining research and development expenditures by U.S. Government and industry. The hearings will explore ways in which U.S. policy can contribute to the maintenance of U.S. technological superiority, and can open up new trade possibilities involving high technology exports.

A final hearing on May 17 will concentrate on explicit and implicit restrictions employed by foreign countries to hold down imports of U.S. goods. Formal tariff and nontariff barriers will be explored, as well as informal barriers such as preferential distribution and marketing systems. The focus will be on determining the relative importance of such formal and informal barriers to the success of U.S. exports in world markets.

It is intended that the hearings will serve as a basis for recommending legislative action to insure the competitiveness of U.S. agriculture and industry in world export markets. Hearings will be held in room 5302, Dirksen Senate Office Building, beginning at 10 a.m., unless otherwise indicated. Persons interested in testifying or desiring additional information should contact Robert W. Russell, counsel to the Subcommittee on International Finance at 202–224–0819.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Senate Select Committee on Small Business and the House of Representatives Small Business Committee will hold a joint hearing on minority contracting. The hearing will be held on Monday, February 6, 1978, and will begin at 10 a.m. in room 424 of the Russell Senate Office Building. The Senator from Oklahoma (Mr. BARTLETT) and the Representative from New York (Mr. ADDABBO) will cochair the hearing.

Further information can be obtained from the committee office, room 424 Russell Senate Office Building, telephone 224–5175.

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

Mr. SASSER. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will hold a business meeting on Thursday, February 9 at 9 a.m. in room S. 210 of the Capitol to consider matters before the subcommittee including markup of H.R. 3447, H.R. 3755, and S. 1559 regarding civil service annuities, H.R. 6975 regarding the name and number of hearing examiners, and S. 1265 and S. 1267 relating to Federal records.

NOTICE OF HEARING CHANGE

Mr. CRANSTON. Mr. President, the Committee on Veterans' Affairs has changed the starting time for the hearing on Friday, February 3, from 9:30 a.m. to 9 a.m. This hearing will be held in room 6202 and will be dealing with the proposed Veterans and Survivors Income Security Act, S. 2384. H.R. 5029, a bill to extend the Veterans' Administration's authority to contract for hospital and medical care for certain Filipino veterans, and to maintain a regional office in the Philippines until September 30, 1979, will not be included in this hearing as was originally planned.

ADDITIONAL STATEMENTS

SUPPORT FOR GENOCIDE CONVENTION GROWING

Mr. PROXMIRE. Mr. President, in 1949, President Truman submitted to the Senate a treaty which would have made the destruction, in whole or in part, of a national, ethnic, racial, or religious group a crime under international law. This Genocide Convention has been before the Senate ever since, and it is with deep regret that I note that this treaty has yet to be ratified.

Mr. President, extensive hearings have been held on the convention, and in the years since 1949, several very respectable organizations have voiced concern over some of the provisions of this treaty. Foremost among these organizations was the American Bar Association, and many Senators placed great emphasis on the opposition of this group.

But as I speak before the Senate today, I must point out that the reservations concerning the convention have long since been resolved. It is now fitting to place great emphasis on the support which the American Bar Association gives to the treaty. We have listened long and hard to the objections to the convention, and I believe that we have proved those objections to be groundless. We have taken a long, hard look at the treaties, and failure to act will force us to take a long, hard look at our own consciences. I call upon the Senate to pass the Genocide Convention as soon as possible.

SENATOR GRIFFIN'S POSITION ON THE PANAMA CANAL TREATIES

Mr. STEVENS. Mr. President, on January 26, 1978, Senator GRIFFIN announced his position on the Panama Canal Treaties to the Senate Foreign Relations Committee. I believe that his remarks focus clearly on the issue that will soon be before us. As our distinguished colleague points out, this is one of the most difficult issues we will face in this session, perhaps in our entire careers. I know that Senator GRIFFIN has carefully considered all sides of the issue and has made his decision after a thorough scrutiny of the alternatives presented.

I call specific attention to Senator GRIFFIN's closing remarks.

But, when the call on the merits is as close as I think this is, or as I perceive it to be, I think the judgment of the people ought not to be taken lightly. Very honestly and frankly, I have come to the conclusion that in this situation, as is often the case, the people are right.

I commend these remarks to my colleagues, and ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR GRIFFIN

Senator GRIFFIN. Thank you, Mr. Chairman. This has been such a harmonious meeting up to now that I hate to put in a note of discord.

I do want to join, however, my colleagues in saluting and commending you, Senator Byrd, and you, Senator Baker, for the outstanding leadership which you are providing on this very, very difficult issue and in the best traditions of the Senate.

But I am sure that you also realize, as you have been around here for a long time, that not only are there a lot of people in the country who do not agree with you on this, but there are going to be a lot in the Senate, too. What the numbers will come down to I don't know.

I must say that this has been one of the most difficult issues I have confronted in my 21 years in the Congress. I have long recognized that a major revision in our treaty relationship with the Republic of Panama is desirable and could be in the interests of both countries.

I recognize the importance of maintaining close and friendly relations with the people of Panama and with the people of other nations throughout the hemisphere. I am deeply conscious of and concerned about the impact that outright rejection of the treaties could have on our relations in the hemisphere.

Sometimes political responsibility imposes upon public officials the necessity of chooing among several undesirable courses of action. That may seem to be the dilemma that we face with these treaties.

After months of agonizing consideration, I have concluded that I cannot consent to ratification of the treaties before us. I think they are fatally flawed in a number of substantive respects. In my view they do not adequately protect the interests of the United States or of other nations which depend upon the canal.

I will, of course, be more specific in a statement of my individual views which will be filed with the committee report. I might just point, however, to Article XII, which deeply concerns me. It takes away an option of the United States which I think would be very important between now and the year 2000 to consider the possibility of building another canal, possibly a sea-level canal, in another country. We tie our hands under these treaties and deny ourselves that option, which I think would be a very valuable one and could be a very important one.

I am concerned that too much of the treaty language and in very important areas is full of ambiguities, ambiguities that are so apparent that people representing both countries are telling their respective constituents that the language means different things.

If we are concerned about defending the canal now with the troops that we have stationed there, and that seems to be the motivation of many people in considering these treaties, I must be even more concerned about what would happen after the year 2000 with the provisions that are embodied in these treaties. I don't find the understanding that was reached adequate to cover that concern.

I am very disturbed that between now and the year 2000 we would have a dwindling number of United States citizens and a growing number of Panamanian citizens supposedly operating the canal as employees of the United States, but under the laws of Panama, except to the extent that there is other provision made in these treaties. Not in the year 2000, but in 30 months after the treaties are ratified, if they should be, the Canal Zone would be subject to the laws of Panama, to the police of Panama, to the courts of Panama. I think that is a situation that would be fraught with great difficulty. There is no mechanism, no machinery in these treaties to resolve the disputes that would arise.

Furthermore, I believe that the defects—and I have only focused on a few of them which concern me—are so basic and so serious that they cannot be remedied by trying to rewrite the treaties on the Senate Floor.

Although these treaties should not be ratified, I believe that there is a course open to the Senate other than outright rejection. Despite all of his knowledge about the history of the canal, or perhaps because of it, David McCullough, the distinguished author of "The Path Between the Seas" acknowledged before the committee that he had experienced great difficulty in reaching a personal decision about the merit of these treaties. Although he finally decided on balance to support the treaties, he made a very profound and perceptive point in his testimony before this committee. I would like to quote him: "If we say yes to these treaties in a grudging way because we think we have painted ourselves into a corner and we have to get out, that would be unfortunate and just as wrong, and in some respects a greater mistake than to say no in the spirit of saying no because it should be done right, because we don't want to have to come back in 15 or 20 years and have to do it all over again."

Under the Constitution, of course, the Senate's role is one of advice and consent. Instead of consenting to these treaties, I believe it would be a wiser course for the Senate, preferably acting through the committee, although I am very conscious that the consensus of the committee is otherwise, to exercise only its advice authority. In other words, without rejecting these treaties outright, I believe we would be wise to advise in this instance the President to send the negotiators back to the drawing boards with instructions to persist until a more acceptable treaty can be fashioned.

I want to say in all sincerity that I salute my colleagues and the two Leaders who have come to a contrary conclusion and who in their own minds are convinced that these treaties represent what is in the best interests of the nation. To the extent that you have the courage of your convictions, I think that is in the best interest of the Senate, because I believe with Edmund Burke that a Senator owes his constituents his judgment and should not sacrifice it to public opinion alone.

Senator BYRD. Of course, Edmund Burke was defeated in the next election.

(General laughter.)

Senator GRIFFIN. Yes. But nevertheless I think it was the kind of principle that Senators ought to be expected to abide by.

But, when the call on the merits is as close as I think this is, or as I perceive it to be, I think the judgment of the people ought not to be taken lightly. Very honestly and frankly, I have come to the conclusion that in this situation, as is often the case, the people are right.

PREVENTING FRAUDULENT SOLICITATIONS THROUGH THE MAILS

Mr. SASSER. Mr. President, in my capacity as chairman of the Subcommittee on Civil Service and General Services of the Senate Governmental Affairs Committee, I have been receiving an increasing number of complaints from small businessmen who are receiving fraudulent solicitations through the mails.

In what is apparently becoming a widespread practice, operators buy up

mailing lists of small businessmen. They then print up a simulated bill purportedly for the purchase of advertising in a particular publication or directory and mail such "invoices" far and wide. The unsuspecting businessmen often mistake these solicitations for the bills they resemble and, all too often, pay them.

Postal inspectors are having an increasingly difficult time coping with this problem. The American Business Press of New York has reported to me that they have documented several instances in which four or five different "invoices" were being sent from the same address and using the same postage meter number. By the time the postal inspectors have gathered enough informaiton to indict the operators, the culprits have moved to another address.

Many businessmen have written to me outraged with this procedure asking if the swindlers are not violating some provisions of the law. As a matter of fact, there is a statute which requires that all solicitations which could reasonably be mistaken for a bill must have a disclaimer saying, "This is not a bill. You are under no obligation to make payment."

In spite of this provision, operators continue to violate the law with impunity. Sometime ago, Mr. Walt Stamper, of the Chattanooga Manufacturers Association brought this matter to my attention. He mailed to me several copies of these solicitations which look for all the world like bills. I was distressed to see that they contained the disclaimer required by law in tiny print at the bottom of the "invoice."

In order that these kinds of abuses might be prevented in the future, I called this matter to the attention of Senator JOHN GLENN, chairman of the Subcommittee on Energy, Nuclear Proliferation and Federal Services and I wrote to the Postmaster General for his recommendations. This bill, which I am proud to cosponsor today with my good friend Senator GLENN, is the result of this effort.

Briefly, the effect of the legislation would place the kind of abuses, which I have referred within those schemes considered in false representation proceedings. A violation of this section would then become prima facie evidence of a violation warranting the issuance of an administrative order.

The Post Office suggests that this amendment would give them an effective new weapon in their efforts to stamp out the kind of reprehensible practices that I have described here today. I urge the prompt enactment of this important piece of legislation. Mr. President, I ask unanimous consent to have printed in the RECORD the detailed response to me from Jim Finch, Assistant Postmaster General, who discusses this problem and the need for legislative remedies and a copy of the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE
POSTMASTER GENERAL,
Washington, D.C., December 19, 1977.

Hon. JIM SASSER,
Chairman, Subcommittee on Civil Service and General Services, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your November 3 letter inquiring as to whether legislation might be in order to provide the business community with a greater measure of protection against the current rash of false billing operations. I believe that legislation to streamline the administrative enforcement processes which can be applied to these schemes would be useful.

By way of background, false billing schemes, the majority of which operate in the vicinity of Los Angeles, California, have typically involved the mailing of solicitations in the guise of bills for advertising in publications with titles which connote an ethnic or minority group orientation, for listings in purported business directories, or for the purchase of office supplies. These Los Angeles-based operations have used more than three hundred trade styles, in combination with a number of addresses, in an attempt to deceive corporations throughout the United States. Despite an increased awareness within the business community (fostered in part by the Postal Service and in part by consumer affairs groups and trade associations) of the tactics employed by the promoters of these schemes, a portion of these false invoices continue to defeat the accounting safeguards of victim firms.

At present, promotions which see fit to solicit business in mailings which resemble invoices are given the option of reproducing in "conspicuous and legible type" the disclaimer set forth at Title 39, United States Code, Section 3001(d)(2)(A) or, in accordance with 39 USC 3001(d)(2)(B), a notice prescribed by the Postal Service. Current postal regulations, found at Part 123.41 of the Postal Service Manual and incorporated by reference into the Code of Federal Regulations at 39 CFR Part 111.5, require a two-part notice, portions of which must appear in either 30-point or 18-point type, displayed in such fashion as will render them prominent. The vast majority of these promotions which utilize the invoice method of solicitation have opted for the more permissive Section 3001(d)(2)(A) disclaimer. The bulk of the complaints directed to the Postal Service concerning the receipt of solicitations in the guise of bills indicate that the disclaimers printed on the questionable items now plauguing businesses are inadequate and afforded little protection against inadvertent payment.

Acting in accordance with the authority granted in 39 USC 3001(d)(2) to promulgate regulations specifying the typography, layout, and color of the statutory disclaimer, the Postal Service has adopted a rule, effective December 8, 1977, which requires that the hitherto-permissive Section 3001(d)(2)(A) notice appear in bold-face, 30-point type. I have enclosed a copy of the rule. However, in the interests of clarity, economy, and specificity, it may be worthwhile to amend Section 3001(d) to provide for a single appropriate disclaimer with such size and display characteristics as would render unattractive any use of the invoice method of solicitation or, in the alternative, to accede to the wishes of a portion of the business community and declare nonmailable any solicitation which could reasonably be mistaken for an invoice, bill, or statement of account due. While the rule or the suggested amendments will make clear what is or is not mailable, they alone will not accomplish the desired result, inasmuch as the administrative remedies available in the event of noncompliance are either ineffectual or involve a disadvantageous burden of proof. Consequently, legislation is required to strengthen these enforcement mechanisms.

The specific enforcement procedures now available for application to alleged violations of 39 USC 3001(d) are found at 39 USC 3001(f), as implemented by 39 CFR Part 953. The Postal Service is empowered to conduct adjudicatory proceedings which may result in the issuance of an crder ruling an item nonmailable and thus subject to disposition as the Postal Service may direct. Since it can be assumed that the operators of false billing promotions woud not give the Postal Service the opportunity to rule in advance on the mailability of their solicitations, these administrative proceedings would not be initiated until after the questionable items had been entered into the mails, delivered as addressed, and resulted in complaints to the Postal Service. In practice, the order declaring a solicitation nonmailable would not be issued until after it had been mailed. In addition, a promotion can easily circumvent an existing order by placing nonmailable solicitations in envelopes which bear no return address or which display a return address different from that employed for previous mailing(s). Even if the promotion made use of the same mailing envelope, the Postal Service would not be in a position to determine whether the enclosed material was identical to that previously ruled nonmailable, unless facts constituting probable cause for the issuance of a search warrant were available. As a final point, it should be noted that these administrative orders with respect to mailability do not in any way prevent the responses of victim firms from reaching the suspect promotion.

The most effective administrative sanction which could be levied against false billing promotions is that provided by 39 USC 3005, as implemented by CFR Part 952. Following notice, a hearing, and the presentation of satisfactory evidence that a promotion is seeking remittances by mail in advertisements which contain false representations, the Judicial Officer of the Postal Service may issue an administrative order requiring Postmasters to return to the senders all mail addressed to the offending promotion. A companion statute 39 USC 3007, provides for injunctive relief authorizing the detention of mail in preparation for or during the administrative false representation proceedings. The value of a False Representation Order is that it deprives the cited promotion of the fruits of its deceptive practices by denying it remittances mailed to the address displayed in the questionable solicitations.

The current problem with respect to the application of 39 USC 3005 to false billing schemes is the lack of a cross reference from Section 3001(d) to Section 3005, stating that failure to comply with the former will subject a promotion to the administrative order authorized by the latter. Thus, even with the adoption of the rule, or the enactment of the suggested amendments to Section 3001(d), the problem would remain. Theoretically, a false billing operation could mail solicitations which did not meet the size and typography requirements of proposed Part 123.41a. of the Postal Service Manual, but which did display a disclaimer, perhaps similar to the marginally-noticeable item now in use. In this situation, the Postal Service would still find itself in the position of having to contend that a solicitation which stated on its face, albeit inconspicuously,

that it was, in fact, a solicitation and not a bill constituted a false representation within the meaning of Section 3005. Substantiating such a contention is difficult at best, dependent upon the availability of a number of witnesses who can testify that they were actually deceived by the solicitation. Identifying such witnesses is a time-consuming, impractical, and expensive proposition, when swift action is necessary to protect the business community from a continuing deception.

The enforcement of 39 USC 3001(d) would be measurably assisted if 39 USC 3005(a) were amended to include within those schemes subject to false representation proceedings, schemes which involve the mailing of solicitations in the guise of bills which do not comply with 39 USC 3001(d) and its accompanying regulations. A violation of Section 3001(d) would, hopefully, then become *prima facie* evidence of a violation of Section 3005, warranting the issuance of the administrative order authorized by Section 3005 (a)(1) and (2).

I hope the foregoing will be helpful. If I can be of further assistance, please contact me.

JIM FINCH,
Assistant Postmaster General, Government Relations.

S. —

A bill to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3005(a) of title 39, United States Code, is amended—

(1) by inserting "including the mailing of matter which is nonmailable under section 3001(d) of this title," after "false representations,"; and

(2) by adding at the end thereof the following: "For purposes of the preceding sentence, the mailing of matter which is nonmailable under such section 3001(d) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.".

THE CRUDE OIL EQUALIZATION TAX IS DEAD

Mr. DOLE. Mr. President, the energy tax conferees have been struggling with the crude oil equalization tax for almost 3 months. The tax is not only bad energy policy but has, in recent months, become bad politics. Today, I doubt that the crude oil equalization tax, the centerpiece of the administration's energy program, could muster even a handful of votes.

COET IN TROUBLE

The tax ran into trouble from the beginning. A motion to recommit the tax failed in the House by only a few votes. It was opposed during the Senate Finance Committee hearing by such diverse groups as the AFL–CIO, the Chamber of Commerce, and the Consumer Federation of America. Only the administration, which covets the enormous revenues generated by the tax, had any kind words to say about the equalization tax. Recently, the tax experienced another setback when the NAACP attacked the administration's energy program as being seriously deficient.

Mr. President, as passed by the House, the equalization tax would artificially raise the price consumers pay for oil produced in this country by taxing oil up to world level price. With domestic production presently at 8 million barrels per day, revenues from this tax would quickly accumulate. It is estimated that the Government would accrue $15–$18 billion per year on a program that totally ignores our energy problem. At this rate, it costs three times more to save a barrel of oil than it costs to buy one.

During the markup session, an administration official stated that the administration would like to see the tax extended from the 1981 House version to 1985. For many Senators, this remark sealed the fate of the tax.

Another blow was dealt the tax, when the Senator from Kansas introduced the House-passed energy tax bill as a substitute for the Senate bill. The House bill, containing the equalization tax was rejected by the overwhelming vote of 14 to 74.

TAX INCREASE

There was a time that the Senator from Kansas referred to the crude oil equalization tax as the single largest tax increase in America's history. However, with the enactment of the $227 billion social security tax increase, the energy tax bill is only the second largest tax increase in our history. At this pace, the 95th Congress will be known for one thing and one thing only—the Congress that wanted to tax the American public into oblivion.

Mr. President, the events of the past few months indicate that the crude oil equalization tax is dead. It will not solve our energy problems.

MISGUIDED APPROACH

The Congress would only be fooling itself if it takes this misguided approach. The tax will disrupt the economy. It will cause prices to rise, dislocate jobs, and squeeze our budding economic growth.

The administration during the last several weeks has proclaimed that an agreement on the energy bill will soon be reached. Frankly, I do not know what events have occurred which leads them to reach this conclusion. The fact is, support for the energy bill is diminishing and diminishing quickly.

If the United States is to meet the challenge of the OPEC cartel and insure energy supplies at an affordable cost, we must develop new recovery techniques and accelerate the development of our traditional energy resources. Until we adequately address the energy issue, we will continue to be dependent on imported petroleum.

ANNIVERSARY OF EXPLORER I—NEED FOR FUTURE SPACE GOALS

Mr. STEVENSON. Mr. President, January 31, 1978, is the 20th anniversary of the launch of our Nation's first Earth satellite, Explorer I. Not only did this successful launch signal our entry into the space age, but Explorer I was also responsible for the first scientific achievement in space—discovery of the Van Allen radiation belt around the Earth.

The past 20 years have witnessed the establishment of a well-balanced manned and unmanned space flight capability that has resulted in scientific and technological achievements of which the United States can be justifiably proud. The foundation for this activity was created through the enactment of the National Aeronautics and Space Act in July 1958 which established a policy commitment to and purposes for a national space program. The act also established the National Aeronautics and Space Administration as the implementing agency.

Our space program, dedicated to the peaceful use of space and the betterment of humanity, has enhanced our national prestige and our technological base through such scientific and engineering achievements as the Apollo lunar program and the Viking/Mars program. We are also proud of our operational weather and communications satellite systems and the beneficial impact on the daily lives of people at home and abroad. We have demonstrated the ability of man to live and perform useful work in space for extended periods of time during the Skylab program. We have expanded mankind's view of this planet and, in a real sense, dramatized the basic interdependence of all peoples.

With a view toward the future, the most significant factor in the space program today is the development of the Space Shuttle system scheduled for orbital flight test beginning next year. This system offers not only a more flexible and economical launch system when compared to the current families of expendable launch vehicles, but also a new capability to continue space exploration and to exploit the knowledge gained for the benefit of humanity.

However, the advent of the Shuttle dictates that we must define, or in some cases redefine, realistic goals for our national space program. Space projects by their very nature require extensive preparation and long-term planning. It is not sufficient to make these decisions on a year-by-year basis, for this inevitably means ignoring what may be the most useful and far-seeing developments.

There are many possibilities presented by our growing technical competence in space. We must weigh carefully how best to develop our new capability for manned space flight, including the potential of space industrialization, space manufacturing, energy development, and longer-term space habitats. We have identified the potential of earth resource survey satellites for crop forecasting, land use, mineral resource, water resource and other applications and the great potential of space-based communications systems. We have a successful program in

planetary science probing the unknowns of the solar system and trying to interpret how this knowledge relates to the planet Earth.

As we begin the third U.S. decade in space, it is essential that we examine carefully each of these potentials. We must assure ourselves of the space program's direction and purpose, much as we did 20 years ago at the dawn of the space age.

This year the Subcommittee on Science, Technology and Space will aggressively pursue the definition of future program goals. On February 7, beginning at 9:30 a.m., the subcommittee will conduct an all-day symposium on the future of space science and space applications in room 235, Russell Senate Office Building. We have arranged for the participation of some of the Nation's most prominent scholars and experts in space activities in a roundtable discussion on future space goals. I invite my colleagues to participate in this symposium. I look forward to a most stimulating and worthwhile session.

In addition, the definition of future space goals will be stressed during 7 days of hearings now scheduled on the NASA fiscal year 1979 authorization request.

Mr. President, I ask unanimous consent that a statement describing the February 7 symposium on future space goals and the schedule of the NASA authorization hearings be printed in the RECORD. I also ask unanimous consent to have printed in the RECORD a NASA statement dated January 26, 1978, that provides interesting and informative background on our early space efforts that led to the Explorer I success.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLORER 1 LAUNCHED 20 YEARS AGO

America's first artificial Earth satellite, Explorer 1, was launched 20 years ago Jan. 31.

The 13.9 kilogram (30.8 pound) object, shaped like a stovepipe, 15.2 centimeters (6 inches) in diameter and 203.2 cm (80 in.) long, ushered the U.S. and the western world into the age of space. Explorer 1's principal scientific achievement was a major one—the discovery of the Van Allen Radiation Belts surrounding Earth.

Explorer 1 was prepared and launched by two Army organizations which are now elements of NASA: the development group of the Army Ballistic Missile Agency (ABMA), Huntsville, Ala., and the Jet Propulsion Laboratory (JPL), Pasadena, Calif. The development group of ABMA was transferred to NASA and became the nucleus of the new Marshall Space Flight Center in 1960. Some 1,400 employees who helped launch Explorer 1 still work at the Marshall Center. JPL was assigned to the space agency in December 1958.

ABMA provided the modified Redstone booster and the basic satellite design, while JPL furnished the solid propellant upper stages of the carrier vehicle and packaged and tested the payload.

Explorer 1's launch from Cape Canaveral, Fla., by a Jupiter C vehicle came at 10:48 p.m. EST, Jan. 31, 1958, which was 84 days after the Department of Defense gave the Army group the go-ahead to prepare the orbiter as a backup to the existing Vanguard satellite project.

The small satellite dispatched information on the space environment to Earth stations until May 23, 1958, when its batteries were exhausted. The vehicle, however, continued to orbit for several years. It reentered March 31, 1970.

The project that culminated in the launch of the Explorer 1 satellite actually had its beginning several years earlier. As early as 1954, the rocket group at Huntsville, led by the late Dr. Wernher von Braun, had proposed orbiting a satellite with available missile hardware.

The proposed multi-stage vehicle would have a Redstone missile as the first stage and would carry solid-propelled upper stages. JPL and the Office of Naval Research joined the fledgling program, to be called "Project Orbiter." But "Project Vanguard," a Naval Research Laboratory/National Academy of Sciences program, was selected as the nation's satellite program and the Orbiter was shelved.

While the Orbiter proposal was turned down, work did not stop entirely on the multi-stage launch vehicle.

The same combination of a multi-stage vehicle was needed at the time for testing reentry nosecones to be used on ballistic missiles. The von Braun group used the proposed vehicle, called the Jupiter C (Composite Reentry Test Vehicle), to develop ablative type materials for war heads that could withstand the extremely high reentry heat.

The third Jupiter C launched in the reentry heat test series sent a one-third scale model nosecone into space Aug. 8, 1957. The object was recovered from the Atlantic Ocean by the Navy after a flight of 1,930 kilometers (1,200 miles) with a peak altitude of more than 966 km (600 mi.). This was the first U.S. manmade object recovered from outer space and the flight proved the feasibility of the ablative-type nosecone.

During the mid-1950s Marshall Center engineers and scientists did some design work and very modest development work on a satellite. The late Josef Boehm, who worked then in the guidance section and later in the center's Astrionics Laboratory, designed a complete satellite in 1954.

The unofficial satellite program had reached a point by early 1957 where there even was a plan for a satellite tracking computer and data gathering system.

Development problems slowed the Vanguard project and in the wake of the first two Russian Sputnik launchings, the Army was told to be ready to put an American satellite into space. When the Defense Department's Nov. 8, 1957 order came, all that was needed to start things rolling was to fabricate the satellite and assemble the Redstone solid-fuel rocket assembly for the launch vehicle.

JPL fabricated the satellite designed by Boehm. The primary difference in Boehm's proposed satellite and the JPL version was that the cylindrical devise was made from metal instead of fiberglass as proposed by Boehm. JPL also provided the solid upper stages.

Dr. James Van Allen, of the State University of Iowa, designed the scientific package carried into space. The radiation detection experiment discovered the Van Allen radiation belt around the Earth, a major scientific finding of the decade. The Explorer 1 launch was a part of this country's participation in the International Geophysical Year.

FROM THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Senator Warren G. Magnuson (D-Wash.), Chairman of the Senate Committee on Commerce, Science and Transportation, today announced the list of participants for the all-day symposium on the future of space science and space applications to be held in Room 235 of the Russell Senate Office Building on Tuesday, February 7, 1978, 9:30 a.m. (reference: Press Release No. 95–176, dated January 9, 1978). This symposium, which will mark the twentieth anniversary of the National Aeronautics and Space Act of 1958, will explore both the opportunities and obstacles associated with space utilization during the balance of this century. Senator Adlai E. Stevenson (D-Ill.), Chairman of the Subcommittee on Science, Technology and Space, will preside at the roundtable discussions.

Space Applications (Morning Session):

1. Mr. Ivan Bekey, Director of Advanced Mission Studies, Aerospace Corporation, Los Angeles, California.
2. Mr. Norman Cousins, Editor, *Saturday Review*, New York, New York.
3. Dr. Kraft Ehricke, President, Space Global, La Jolla, California.
4. Mr. Klaus Heiss, President, ECON, Inc., Princeton, New Jersey.
5. Mr. Herman Kahn, Director, Hudson Institute, Croton-on-Hudson, New York.
6. Dr. Hans Mark, Under Secretary of the Air Force, Washington, D.C.
7. Dr. George Van Reeth, Director of Administration, European Space Agency, Paris, France.

Space Science (Afternoon Session):

1. Professor James Arnold, Department of Chemistry, University of California (San Diego), La Jolla, California.
2. Professor Herbert Friedman, Superintendent, Space Science Division, Naval Research Laboratory, Washington, D.C.
3. Dr. Noel Hinners, Associate Administrator for Space Sciences, NASA, Washington, D.C.
4. Professor Michael McElroy, Center for Earth and Planetary Physics, Harvard University, Cambridge, Massachusetts.
5. Professor Philip Morrison, Department of Physics, Massachusetts Institute of Technology, Cambridge, Massachusetts.
6. Professor Carl Sagan, Director, Laboratory for Planetary Studies, Cornell University, Ithaca, New York.

For additional information please call Allan Hoffman or John Stewart at (202) 224–9351

NOTICE.—Interested persons are advised that the Committee may reschedule or continue these hearings and that unless ample time is available for mailing, notices of changes in dates, times and rooms will only be distributed to the Senate Press Gallery.

FISCAL YEAR 1979 NASA AUTHORIZATION HEARING SCHEDULE

Date, witness, and subject:

FEBRUARY 21

Frosch: Review of stewardship and directions for the future as represented by this budget, budget philosophy and discussion of broad agency policies, problems.

Kline: Organization staffing and manpower policies.

Lilly: Processing of shuttle operations revenues.

FEBRUARY 22

Yardley: Shuttle, transportation system operations, expendable launch vehicles, Spacelab, technology base.

Grier: Aerospace Safety Advisory Panel.

FEBRUARY 28

Hinners: Space Science.

Pozinsky: Tracking and data acquisition.

MARCH 1

Calio: Space applications and technology transfer.

MARCH 7

Kramer: Aeronautics and Space Research and Technology (including energy).

Curtin: Facilities program.

MARCH 8

Frutkin: International programs.

Perry: Department of Defense space and aeronautics programs. 10:00 a.m. (Closed)

MARCH 16

Department of Energy: Nuclear space programs, NASA energy, satellite solar power system.

National Research Council ad hoc committee: Report on Space Shuttle Main Engine.

DEVELOPMENT OF NATURAL RESOURCES IN ALASKA

Mr. STEVENS. Mr. President, late last year, the American Federation of Labor and Congress of Industrial Organization met for their annual convention in Los Angeles. At that convention, the AFL–CIO adopted a number of resolutions. One which I believe the Senate should be made aware of is the resolution which opposes vigorously certain legislation regarding the establishment of new national parks, wildlife refuges, and wilderness areas in Alaska without adequate survey, exploration, and feasible and necessary development of Alaska's natural resources.

The AFL–CIO recognizes that Alaska's mineral wealth is largely unknown and unexplored. They are in full support of continued and extensive exploration, plus the need to locate and inventory potential mineral and other resources in Alaska prior to a permanent decision being made as to specific land use for Federal lands in which these resources are contained. Moreover, the AFL–CIO recognizes that this search must be continuing because improvements in exploration technology provide new information and similar data.

The AFL–CIO resolution maintains that environmentally restrained orderly development of Alaska's energy, mineral, and other natural resources, including recreation and wilderness resources, is essential to the welfare of the American people and also provides reasonable employment opportunities. The resolution maintains that H.R. 39, which is a companion bill to S. 1500 on our side, as presently drafted does not adequately provide for a balanced and reasonable approach to Alaska's d–2 issue.

Mr. President, I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

DEVELOPMENT OF NATURAL RESOURCES IN THE STATE OF ALASKA

RESOLUTION NO. 211

Whereas, Alaska's mineral wealth is an established potential for the future, there is incomplete knowledge of its full dimensions. Minerals are scarce in nature and randomly distributed, so extensive exploration is needed to locate and define the deposits. Moreover, the search must be continuing because improvements in exploration technology allow going over previously explored areas and finding new resources. Also, advances in metallurgical processing and other factors can make mining economical in the future where it was not in the past, and

Whereas, The principle of multiple-use, environmentally-restrained orderly development of Alaska's energy and mineral resources and other natural resources—including recreation and wilderness resources—is essential to the welfare of the American people and also provides reasonable employment opportunities. Surveys are essential so the nation can know the full extent of Alaska's resources that are available to meet the nation's needs, and

Whereas, H.R. 39, as presently drafted raises the possibility of unnecessary restraints on surveys and exploration and full knowledge of Alaska's resources; therefore, be it

Resolved, That the AFL–CIO opposes H.R. 39 as presently drafted and supports survey and exploration and multiple-use orderly environmentally-protected development of Alaska's natural resources.

IOWA LOESS HILLS

Mr. CULVER. Mr. President, travelers in western Iowa have always enjoyed the scenic loess hills, which rise sharply from the bottom lands of the Missouri River. Extending from Sioux City for nearly 175 miles to the south, these unusual formations consist of loess soil deposited by prevailing westerly winds more than 14,000 years ago. The only other known deposits of this kind are along the Yellow River in China.

Protection of this unique natural asset is a matter that deserves consideration by the Federal Government. Accordingly I have recently written Mr. William J. Whalen, Director of the National Park Service, requesting his assistance in developing appropriate measures for protecting the particularly significant segments of these hills.

With many of our national parks and monuments already strained beyond their capacities by visitors, we should consider the development of additional sites where Americans can enjoy the recreational, geological, and scenic benefits of unusual natural areas; where they can again be close to the land.

Although the Midwestern and Eastern sections of the United States are not generally recognized for the same variety of spectacular natural areas as is the West, they contain many beautiful places, such as the loess hills, worthy of incorporation into our national system of parklands and monuments.

Recently, two editorials in Iowa newspapers have discussed efforts to protect land with unique natural features. The first, from the Des Moines Register of January 1, 1978, supports Federal efforts to protect the loess hills. The second, from the Des Moines Tribune of December 1, 1977, urges establishment of more Federal parklands in the East and Midwest.

I ask unanimous consent to have copies of my letter to the Director of the National Park Service and these two articles printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
January 26, 1978.

WILLIAM J. WHALEN,
Director, National Park Service, Department of the Interior, Washington, D.C.

DEAR MR. WHALEN: I am writing to ask your assistance in developing measures to protect the loess hills in western Iowa.

These hills comprise a significant natural area extending for nearly 175 miles along the Missouri River bottomlands. The loess soil that forms these hills was deposited by westerly winds more than 14,000 years ago. I am told that the only similar formations are found along the Yellow River on mainland China.

Considerable interest in preserving the loess hills has recently been expressed in Iowa. The Iowa Conservation Commission staff has suggested the Preparation Canyon State Park or the area around Little Sioux, Iowa, for possible designation as a national monument. I understand that the National Park Service in past years has considered a detailed study of the recreation and natural history potential of these formations, but that such a study has never been conducted.

I would like to know what information on the loess hills the National Park Service has compiled. If additional studies are necessary, I would appreciate receiving any suggestions regarding possible avenues for funding them. Finally, I would welcome any thoughts you might have on action that might be taken now to protect these hills.

I would greatly appreciate your earliest possible consideration of this matter, and I hope we can work together to accord the loess hills the national recognition they deserve.

Best wishes.

Sincerely,

JOHN C. CULVER.

[From the Des Moines Register, Jan. 1, 1978]

PRESERVE THE LOESS HILLS

The growing interest in preserving the loess hills of western Iowa is welcome. The only other known large deposits of this soil are along the Yellow River in China. The area has vegetation found nowhere else in Iowa and has considerable scenic beauty.

The loess hills will be one of the areas studied in 1978 under the federal government's National Landmark program. The study will cover the central lowlands area of the U.S., running from Ohio to the Missouri River, to identify natural features that deserve possible national recognition.

If the loess hills are singled out for attention in this study, they would later be the subject of a field study by an expert. The expert could recommend that the area be recognized as a National Landmark by the secretary of the interior. This designation usually is sufficient to protect areas from undesirable development.

The loess hills were studied by graduate students at Iowa State University a few years ago. The ISU study concluded that the best loess hills in Iowa run from around Onawa southeast to Preparation Canyon State Park. This stretch is about 15 miles long, three to five miles wide, and encompasses at least 40,000 acres.

The state owns less than 3,000 of the more than 40,000 acres. Gerry Schnepf, director of planning for the state Conservation Commission, said that budgetary limits prevent the state from acquiring much more of the land in the near future. Schnepf would like to see the area incorporated into the national park system as a national monument.

It would be tragic if the loess hills were destroyed. If the federal government does

not take steps to preserve the area, Iowa should do so.

[From the Des Moines Tribune, Dec. 1, 1977]

BOOSTING PARKS

The Carter administration is on the right track in urging expansion of the network of national parks and recreation areas. A record 268 million visits were recorded last year at the some 300 sites managed by the National Park Service. That mark probably will be topped when this year's figures are tabulated.

Congress voted last year to increase the Land and Water Conservation Fund to $900 million annually, a threefold increase. The fund is used to purchase lands for national parks and recreation areas. The fund also helps state and local governments purchase land for recreation.

The Carter administration has proposed giving special federal protection to nearly 92 million acres in Alaska, with about 40 million acres designated for the national park network. The administration also has backed efforts to expand Redwood National Park in California, which is threatened by logging near its borders. Final approval from Congress is needed.

Though these actions are welcome, federal recreation areas should be increased in the Midwest and East, where most Americans live. Demands are growing for more parks in crowded urban areas.

Congress should give high priority to setting aside more land for national parks and recreation areas—and do it now while there still is time to obtain it for the pleasure of this and future generations.

THE DANGERS IN THE NUCLEAR TEST BAN

Mr. HATCH. Mr. President, to the extent that our rapidly deteriorating strategic position relative to that of the Soviet Union receives any attention, it is in terms of SALT issues. An article in the National Review by two distinguished experts, S. T. Cohen and W. R. Van Cleave, makes it clear that we face great dangers as well in the Comprehensive Test Ban Treaty (CTBT). Mr. Cohen, a nuclear physicist who worked on the Manhattan project, has been a consultant to the Pentagon, the Air Force, and the Los Alamos and Livermore Laboratories. Mr. Van Cleave, a professor of international relations and director of defense and strategic studies at the University of Southern California, has held positions in the Pentagon and the U.S. SALT delegations, and was most recently a member of the "Team B" selected to produce a competitive national intelligence estimate. They are obviously experienced and knowledgeable, and if we are to learn the truth of the situation, we must listen to others in addition to the Chamberlains in our midst.

Our Government, our universities, and our communication media contain many people who believe that the only threat, or the main threat, to ourselves and the rest of the world is a hysterical fear of communism that allows an American "military-industrial complex" to perpetuate a self-serving arms race. Usually cultures have found the devils to be abroad among foreigners who were their enemies, but our culture finds all the devils to be here at home. This makes it extraordinarily difficult to focus any public attention on threatening words and deeds of the Soviet Union. Anyone who makes such an attempt is usually assailed as a madman who wants to blow up the world, and so fewer and fewer try. The Soviets have no trouble reading our situation. When Leonid Brezhnev returned from the Helsinki Conference, he told his Warsaw Pact partners:

Trust us, comrades, for by 1985 . . . we will be able to exert our will whenever we need to.

This statement did not stop George F. Kennan from declaring recently to the Council on Foreign Relations that Brezhnev is "a man of peace," because Brezhnev's own statements are discounted by our own leaders who believe that all devils are American ones.

If we look at the record, it is completely obvious that those who warned of our deteriorating relative strategic position were right, whereas reassuring politicians were wrong. Listen, for example, to Secretary of Defense McNamara in 1965:

The Soviets have decided that they have lost the quantitative race and they are not seeking to engage us in that contest. . . . there is no indication that the Soviets are seeking to develop a strategic nuclear force as large as our own.

Such an incredible error stated with such reassuring certainty is beyond belief, but we all continue to hear similar ones on the floor of the Senate and in the House.

Mr. Cohen and Mr. Van Cleave are courageous men, and I recommend their concerns to the attention of my colleagues. I ask unanimous consent that their article from the National Review be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NUCLEAR TEST BAN: A DANGEROUS ANACHRONISM

(By S. T. Cohen and W. R. Van Cleave)

President Kennedy made this staunch avowal on March 2, 1962.

Six months before, the Soviet Union had abruptly and without warning terminated a three-year moratorium on nuclear testing by conducting the most carefully prepared, intense, and violent series of thermonuclear explosions in history. After this experience, President Kennedy sought to make it clear that the United States would never again shut off nuclear testing without explicit agreements on inspection and verifiable assurances of Soviet compliance.

At the same time, Kennedy made it clear that meaningful advances in nuclear weapons technology could come about only through actual testing:

"If our weapons are to be more secure, more flexible in their use, and more selective in their impact—if we are to be alert to new breakthroughs, to experiment with new designs—if we are to maintain our scientific momentum and leadership—then our weapons progress must not be limited to theory or to the confines of laboratories and caves."

These technical contentions, of course, were supported by the leading U.S. nuclear weapons scientists of that period, and those still engaged in nuclear weapons work have not changed that judgment over time. If anything, knowing more about the technology and what might yet be accomplished appears to have reinforced the judgment; the director of Los Alamos Scientific Laboratory, Harold Agnew, has stated: "If testing were to stop, then we would not have a capability to design nuclear weapons."

Kennedy knew enough about Soviet secret preparations leading to the massive tests of 1961 to conclude that the answer to a moratorium must be, "Never again." But did he know everything about those preparations? Clearly, the Soviets used the period of the moratorium to prepare clandestinely and methodically the extensive series of tests with which they broke the moratorium. But what President Kennedy may not have realized was that the Russians may have been doing more than just planning; there is a distinct possibility that the Soviets were actually conducting secret underground tests during this period of a presumed moratorium on testing. In view of the phenomenal progress they were able to make in the spasm of atmospheric testing they conducted during the autumn of 1961, it can be argued that they almost had to have performed experiments at lower nuclear explosive levels to check out the basic design of their hydrogen warheads prior to full-scale testing. To have accomplished what they did as rapidly as they did—apparently moving from distinct inferiority to a clear lead over the U.S. in multimegaton weapons technology—without benefit of prior design testing seems technically unlikely.

In President Kennedy's words, "if we are to be alert to new breakthroughs, to experiment with new designs . . . then our weapons progress must be not limited to theory." These words were not merely dramatics to persuade the American public. They are fundamentally correct. On more than one occasion, U.S. efforts to go too quickly from the nuclear drawing board to the testing ground have met with results significantly different from theoretically calculated expectations. On this basis alone, one should be at least highly suspicious—if not utterly confident—that the Russians were testing their lower yield "triggers" so as to check out the design principles of full-scale megaton-range warheads. Was there any indication of such clandestine testing? Maybe.

During the latter half of the 1958–61 test moratorium, the Soviets, with great fanfare and evident pride, announced publicly a series of massive experiments in the use of high explosives (HE) to perform Herculean blasting tasks. The amount of explosives involved in these shots was truly colossal—tens of thousands of tons. Put in the vernacular of nuclear weapons, this would be tens of kilotons, i.e., several times the release of the bomb that destroyed Hiroshima.

With the ending of the moratorium, these experiments apparently also ended. Today, the Soviets make no mention of these HE blasting techniques and are so high on nuclear explosive methods that they refuse to consider any test ban treaty that would threaten to stifle their progress in this area. So one could guess that the HE shots were a bust. Or were they HE shots?

On June 11, 1961, the following dispatch was issued by TASS:

"UZBEK BLASTING.—Preparations are under way in the foothills of Tienshan, Uzbekistan for blasting a high mass of rock, *Pravda Vostoka* reports June 11. For the first time in world practice, 30,000 tons of explosives will blast 14.5 million cubic meters of rock rich in ores. This powerful blast will save four million rubles because it obviates the necessity of building roads, high-tension transmission lines, and other structures. The strength of the peaceful explosion in Tienshan will be such that all seismic stations of the world will be able to register it."

Note three things about this revolutionary technique: the power of the high explosive charge—30 kilotons; the enormous weight of ore blasted out—50 million tons;

and the astounding means of removing this ore—so astounding as not to be revealed to *Pravda Vostoka's* readers, except to note that such ordinary aids as surface transportation and electrical power facilities were not required. (Also not mentioned was how the truly remarkable feat of moving in 30,000 tons of high explosives was accomplished without the aid of surface transportation.)

Perhaps then, the Soviet, announcing "HE experiments" but not permitting inspection of them, were really conducting nuclear tests, in direct violation of the understanding with the U.S. (Admittedly, the moratorium agreement was more in the nature of a "gentlemen's agreement" since nothing of a legal nature was ever signed. Whatever agreement did exist was embodied in unilateral statements and bilateral understandings.)

Today, we see an Administration freshly in office attempting so anxiously to move toward a treaty banning all nuclear testing that it has seriously considered both an uninspected moratorium and unilateral suspension of testing, only hoping that the Soviets could be trusted to follow suit. In other words, the Administration is considering doing what President Kennedy vowed we would never do again—even though the reasons for his declaration hold as true now as then.

Unilateral suspension of nuclear testing is, of course, an option the President can pursue without obtaining congressional permission. A treaty, however, requires Senate consent; and before the Senate could pass judgment on a treaty, the signatories would have to be in accord on specific terms, including means of inspection and verification. The Soviet position on a Comprehensive Test Ban Treaty (CTBT), to date, is very strongly that a CTBT would be unacceptable unless all nuclear-weapons states were parties to it.* Since the Chinese and French (and Indians?) are most unlikely to agree to a CTBT, it would seem that any U.S. initiative would be a unilateral action.

There are two other aspects of a comprehensive test ban that must be considered as well, both having to do with its feasibility.

A comprehensive test ban can never be monitored and verified. Any "comprehensive" test ban would in reality be a threshold test ban—i.e., one applicable only to testing above the threshold of verification capabilities. Technically, nuclear testing relevant to weapons development and advancement may take place on a continuum of energy release from a very few grams' "yield," or less, to millions of tons (megatons) of TNT equivalent. At the lowest end, nuclear weapons testing may be conducted in the laboratory, impervious to any system of detection. Teleseismic verification levels are a matter of debate; but there will always be a substantial area of nuclear explosive testing for which there is no possibility of identification.** When he was the Pentagon's Director of Defense Research and Engineering, Dr. John Foster testified to Congress that a one-kiloton test (well below even the lowest threshold claimed for seismic verification) is indeed a potentially significant weapon test. While laboratory-scale testing by itself may be inadequate to sustain a weapons program for long, the Soviets would have a significant advantage over the U.S. if they were to test at unverifiable, but still appreciable levels in preparation for an end to the ban, while the U.S. refrained from doing the same.

In addition, there is the troublesome matter of "peaceful nuclear explosives" (PNEs). The Soviet position is that PNEs must not be subject to the constraints of a comprehensive test ban. Article III of the Threshold Test Ban Treaty signed by the U.S. and USSR on July 3, 1974 specifically excepts underground nuclear explosions for peaceful purposes. But it must be realized that PNEs can be used for productive military tests. And while the Soviets may allow us to monitor closely the yields of their PNEs, they most certainly aren't about to let us check their nuclear explosive designs. The warhead designed to divert a Russian river may also prove effective in the front end of a Russian missile.

It is curious that at no time has the present Administration spelled out its arguments for the clear and specific advantages of such a treaty—even though those opposed to a CTBT have put forth a number of quite specific and detailed objections. In fact, one impassioned advocate of a CTBT, Stanford physicist and former presidential advisor Wolfgang Panofsky, nonetheless acknowledged in congressional hearings that:

"It is difficult to make a case that a complete nuclear test ban treaty would be a major factor in slowing the arms race. . . . Strong economic reasons for a comprehensive nuclear test ban are difficult to sustain. . . . The danger of ecological risk in itself cannot be considered to be a persuasive reason for proceeding with a comprehensive nuclear test ban."

This leads one to ask: If we don't know why we need a treaty, then why do we want one? In addressing this question, it is just possible that we may find out that there are good reasons why we should not want one.

In this respect, one might note a curious inconsistency on the part of many advocates of a CTBT: they argue both that all that can be accomplished through testing has been accomplished, so there are no further gains to be had, and that testing furthers the qualitative "arms race," so to stop testing will "curb the arms race." The sponsors of Senate Resolution 67, calling for a suspension of U.S. underground testing, assert that "there is no prospect" of new breakthroughs in nuclear technology, yet at the same time argue that "the CTBT has acquired new relevance as a check on qualitative nuclear improvements."

Either nuclear testing is significant for nuclear weapons development, or it isn't. If it is not significant, then it is not very reasonable to maintain that a CTBT will "curb the arms race." If it is significant, then the losses incurred by stopping testing must be weighed against the alleged benefits of stopping. The latter, however, are seldom seriously examined. Usually, a CTBT is offered as a giant step in arms control, without showing how (and furthermore, ignoring what has occurred since the atmospheric test ban was to have accomplished the same objective; as Dr. Edward Teller testified at the time of the hearings on that treaty: "This treaty is not directed against the arms race. This treaty is directed against knowledge, our knowledge"). Even more regularly, many supporters of a CTBT divert examination from its purposes and center the argument on the issue of verification, or feasibility.

There is, admittedly, some official justification for this, since—if one takes declaratory arms control objectives at face value—the U.S., following preambular pledges from the Limited Test Ban Treaty, has maintained that it favors a "comprehensive test ban adequately verified." Given that, the only catch might seem to be "adequately verified," and so the debate has raged around that point.

This whole argument is, however, something of a red herring. One need not be a confirmed cynic to recognize the distinction between arms control rhetoric and real policy, or to recognize the expediency of deferring difficult problems and decisions to the future through affirmation of general support for arms control aspirations. In fact, until very recently the U.S. has been less than enthusiastic in its pursuit of a CTBT not only because of Russian lack of interest but also because of real doubts about both its feasibility (in view of the impossibility of verifying Soviet compliance) and its desirability (in view of the continuing need to improve technology). This was strongly suggested by James Schlesinger, who emphasized, when he was Chairman of the Atomic Energy Commission, that "the question of the desirability of the test ban goes far beyond the question of monitoring what the Soviets are doing."

What this means might be approached through a review of the premises of the 1963 atmospheric test ban treaty and the comparative U.S. and Soviet development since then.

At the beginning of the test ban negotiations (in the late 1950s), the United States, by its own admission, held very substantial leads over the USSR in nuclear weapons and nuclear weapons technology. This was at a time when both countries were doing virtually all of their testing in the atmosphere, making it far easier for the U.S.—by analyzing the atmospheric test debris—to determine how the Soviets were conducting tests. Our judgment, unquestionably correct, was that in nearly all areas we were far ahead.

That the Soviets, in a substantially inferior position, should have been interested in negotiations whose successful outcome would relegate them permanently to that inferior position should have seemed curious, to say the least. Considering that U.S. officials were openly boasting of U.S. nuclear superiority, why would the Soviets wish to concede forever such a key military advantage to the imperialist enemy to whose downfall they were sworn? Yet, no such curiosity was then expressed, nor has there been any searching inquiry since, as to why the Soviets would have been interested in freezing their nuclear weapons inferiority by truly stopping testing.

That the Soviets were interested not in stopping testing, but rather in stealing an advantage, by agreeing to a moratorium in 1958, was revealed when they shattered that moratorium, having achieved gains that reversed the previous U.S. lead in very-high-yield thermonuclear weapons and knowledge of weapons effects (e.g., for ballistic missile defense purposes). Even this flagrant transgression caused little change in U.S. efforts to conclude a comprehensive test ban agreement (as opposed to a moratorium). The U.S. viewpoint in 1963 was set forth by the Director of the U.S. Arms Control & Disarmament Agency, William Foster:

"Without [this] treaty . . . our advantage in small-weight, highyield weapons would most probably diminish . . . In the field of tactical weapons, the Soviets would eventually be able to match our more diversified and numerous arsenal. . . . With a treaty . . . the U.S. advantage in smaller weapons would persist over a longer time. . . . In general, our present nuclear advantages would last for a considerably longer period."

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*It is, of course, possible that should the Soviets see a competitive advantage to a "comprehensive test ban" involving the U.S. but no others, they would change this position. Over the years prior to agreement on a Threshold Test Ban Treaty (TTBT) at 150 kilotons, the USSR firmly and consistently opposed and rejected anything resembling a TTBT.

**The U.S. Ambassador to the Conference of the Committee on Disarmament (CCD) at Geneva recently warned: "We have to face the fact that, if only national systems are used, even with advanced seismological techniques, there will still be a substantial number of unidentified or ambiguous natural seismic events. These could provide a background against which some number of clandestine nuclear tests could be hidden. On the basis of seismic means alone there could be no objective way to resolve the true character of such events."

In the same vein, with reference to the partial test ban treaty which had been negotiated, Secretary of Defense Harold Brown, who was then the Pentagon's Director of Research and Engineering, declared that he had come to support the treaty only after determining that U.S. strategic superiority would not be seriously threatened and that, in fact, the treaty would "actually improve somewhat the position of the United States vis-a-vis the Soviet Union." His boss, Secretary of Defense McNamara, went even further: "The prolongation of our superiority will be a principal military effect of this treaty."

In the early 1960s it was obviously fashionable to proclaim U.S. superiority and to use its preservation as an argument for arms control agreements. Furthermore, by U.S. decree the USSR found it acceptable to stay well behind and out of competition; in 1965, Secretary McNamara told the public:

"The Soviets have decided that they have lost the quantitative race and they are not seeking to engage us in that contest. . . . there is no indication that the Soviets are seeking to develop a strategic nuclear force as large as our own."

On the basis of such expert assessment, the U.S. decided unilaterally to halt its deployment of strategic offensive delivery systems—ICBMs, SLBMs, and strategic bombers—at levels lower than originally contemplated. Unfortunately, it soon became clear that the experts had erred. Prompted by decisions perhaps made well before 1963, the Soviets began what became the most massive and determined strategic weapons buildup in history.

As the U.S. gaped in astonishment and disbelief, the Soviets moved from distinct inferiority in strategic nuclear weapons, to parity, and then to quantitative—and very likely overall—superiority. The one-sided progress of the test moratorium years was repeated even more profoundly, and with infinitely farther-reaching consequences, during the years of the partial test ban—the years during which we were assured that our strategic superiority would be preserved. U.S. chagrin was expressed by Harold Brown as early as 1968, as the Soviet buildup came into full swing:

"You see, we leveled out our missile force. We announced how big our missile force was going to be. Our plans are that five years from now we will have just about as many missiles as we have right now. They have known that. They have known it for a couple of years, and they keep on building."

Meanwhile, in the area of tactical nuclear weapons (TNW), at the onset of test ban negotiations the Soviets had barely begun to develop their program. The U.S. which had pioneered these weapons, enjoyed clear superiority—virtually a monopoly. By the time of the atmospheric test ban agreement, as if to give the lie to American expectations across the board, the Soviets had dedicated themselves to a tactical as well as a strategic nuclear buildup. However, not until Secretary of Defense James Schlesinger reported in the Annual Defense Department Report for fiscal year 1976 that "it is now the Soviets who set the pace here" was there any official public note of Soviet TNW efforts.

Practically unnoticed, then, the Soviets had amassed a force of theater and tactical nuclear weapons exceeding that of the U.S. and NATO. In August of 1976, the Director of the U.S. Arms Control & Disarmament Agency, Dr. Fred Ikle, reported that, already, these Soviet forces "confer a significant numerical advantage over the much smaller nuclear forces of our NATO allies and U.S. nuclear strike aircraft overseas, and against all nuclear forces in Asia as well," and that furthermore this edge is growing: "Russia's strength in regional nuclear bombers and missiles grows like a towering, dark cloud over Europe and Asia."

Turning then to the question of a CTBT today, is there any vestige of American nuclear superiority to be promoted or protected by a comprehensive ban on testing? Or, if it can be argued that the USSR's nuclear capabilities and technology are in "essential equivalence" with the United States', can it be maintained, considering our experience with past test cessations, that a test ban would freeze this situation and prevent the Soviet Union from further relative gains? Or is it possible that were a CTBT to be signed now, it would place the U.S. where it hoped to place the Soviets 15 years ago—permanently behind?

There are areas of uncertainty. We know far more about the numbers and characteristics of Soviet missile launchers than we do about the design and characteristics of Soviet nuclear warheads. The reason being, as Dr. Teller had warned at the time, that by foreclosing atmospheric testing 14 years ago we also foreclosed our ability to analyze what the Soviets achieved in their nuclear tests.

Clearly, however, the argument today must be that a CTBT, assuming faithful compliance, would freeze the present situation between the U.S. and the USSR and that doing so would not be detrimental to the United States. But here is no way to sustain that position on either score. Moreover, considering how the U.S. has stressed its technological superiority over the USSR as compensating for an unfavorable numerical balance, it would be duplicitous to ignore that factor now in arguing for a CTBT. In fact, it is entirely possible that the Soviets have not only drawn even, erasing U.S. technological advantages, but have gone ahead in important aspects—in which case, it could be argued that a CTBT would be incompatible with the U.S. rationalization for the SALT accords.

Politically and militarily, however, the danger of Soviet advances arises not from the numbers or megatonnage of nuclear weapons per se, but from the fundamentally different Soviet view of nuclear weapons and war. The contrast between U.S. and Soviet viewpoints on nuclear policy, doctrine, strategy, and force posturing is vividly revealed in the representative statements in the accompanying table.

These different views on nuclear weapons and nuclear policies spell out a basic cleavage between the two sides. The cleavage is amply confirmed by the asymmetrical preparations of the two sides for nuclear war. The USSR engages in intensive efforts to train its armed forces and prepare its civilian populace for nuclear war, and also invests heavily in offensive and defensive systems clearly designed for nuclear war. Together the views consistently expressed and the actual preparations made raise serious questions about Soviet perspectives on nuclear war-fighting advantages. They also raise the question whether, in contrast, the United States, having been the first superpower to enter the Nuclear Age, has not been the first to try to back out of it: whether the U.S. is at all prepared, physically or psychologically, to face nuclear challenges at any level from the Soviet Union, and whether Soviet leaders understand this and plan accordingly.

As it now stands, a very ominous asymmetry is developing between the two sides, in respective abilities to initiate, fight, survive, and win a central strategic nuclear war. This asymmetry has been growing continuously and, unless there are U.S. actions to offset it—actions that could be severely inhibited by a test ban or a test moratorium—could be so clear by the early 1980s that U.S., Soviet, and third-country behavior in confrontations would be predestined. If the U.S. is to develop the weapons to correct this asymmetry and to maintain strategic stability, nuclear testing will be a crucial component of its effort. A test ban cannot prevent this dangerous asymmetry; it can only make it much more difficult for the U.S. to do anything about it.

An equally compelling situation exists in the tactical nuclear area. Beginning in 1961, new U.S. policies were introduced that sought to reduce reliance on nuclear weapons for local deterrence and defense, and to increase reliance on non-nuclear means of defense (presumptively, the threat was nonnuclear). At the heart of these new policies was a conviction of the futility of using nuclear weapons in armed conflicts because of the supposedly horrendous destruction they would cause and the great risk of escalation to general nuclear war. To emphasize these risks, modernization of tactical nuclear weapons was ironically impeded. The more destructive the weapons, the more real these risks seemed, and the greater the support given to our policy inclinations.

Even though at that time the U.S. held far more capable tactical nuclear forces than did the Soviet Union, as well as undisputed strategic nuclear superiority, it was believed that the Russians still would move compulsively up the escalatory ladder if the U.S. ever used its tactical nuclear weapons. As a consequence, the policy objective became avoidance of nuclear use (as a higher priority even than deterrence, perhaps), on the assumption that the other side would not resort to nuclear weapons if we did not. On this basis, the U.S. sought to build up adequate conventional force capabilities to contain a conventional attack by the forces of the Warsaw Pact; thereby avoiding the humiliation of conventional defeat and at the same time sparing the world a nuclear holocaust.

No sooner were these policies introduced than the Soviets revealed a profound interest in pushing nuclear weapons development by terminating the test moratorium and by giving evidence of a decision to fashion their military plans around the employment off these "revolutionary" new weapons (e.g., in the 1962 publication of Sokolovsky's Military Strategy). Somehow, for reasons never made clear, the U.S. assessment remained that, underneath, the Politburo shared the Western nuclear apprehensions and would seek at all costs to avoid the "agonizing" decision to initiate the use of nuclear weapons.

Today, having developed their armed forces in accordance with the implications of the nuclear revolution, the Soviets have achieved capabilities which, if a major war broke out, would virtually assure their use of nuclear weapons to gain military victory. As the U.S. Defense Department currently puts it:

"The Warsaw Pact does not think of conventional and nuclear war as separate entities . . . Warsaw Pact forces are in fact postured and trained for theater-wide nuclear strikes against NATO nuclear and conventional military forces and for follow-on attacks by their armored conventional forces to exploit the nuclear attack and rapidly seize NATO territory."

Shying away from the thought of nuclear hostilities, the U.S. has let its tactical nuclear capabilities largely stagnate over the past 15 years while the Soviets have steadily improved and increased their forces, to the point that today, according to a Library of Congress study, they "evince extreme quantitative superiority in Central Europe, where their surface-to-surface missiles outnumber ours by about ten to one and their 700 nuclear-capable aircraft by something like two to one."

If the U.S. has elected to opt out of tactical nuclear conflict, is there any evidence that the Soviets see reason to depart from their established doctrine in order to oblige us? Professor Bernard Brodie, who has written and lectured on nuclear policy and strategy

for some thirty years, thinks not. "Can anyone believe, with confidence," he asks, "that the Soviet Union would challenge us to so deadly a duel and yet leave the choice of weapons entirely to us?"

As matters now stand, NATO is at the mercy of Soviet forces should the USSR elect a military takeover using its nuclear and conventional forces in accordance with its established doctrine. This defeat has become a serious possibility for far more fundamental reasons than the United States refusal to improve its tactical nuclear warhead stockpile. However, since this refusal, in turn, has been essentially a manifestation of these more fundamental reasons, for the U.S. now to seal this tactical nuclear stagnation by concluding a CTBT would, in essence, symbolize a final decision to concede defeat in ground warfare to the Russians.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. Mr. President, I ask unanimous consent that the official notification be printed in the RECORD.

I wish to inform Members of the Senate that such a notification was received on January 25, 1978.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

There being no objection, the official notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 25, 1978.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: Our letter dated February 18, 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH VON MARBOD,
Acting Director,
Defense Security Assistance Agency.

WESTERN GOVERNORS URGE ENERGY R. & D. FOR RENEWABLE RESOURCES

Mr. STEVENS. Mr. President, the United States must become increasingly dependent on renewable energy sources—solar, wind, geothermal, bioconversion, and so on—for its future energy supplies to maintain a healthy economy and a high standard of living and to minimize unemployment. Research and development of these renewable resources must be pursued vigorously at this time to assure a smooth transition with minimum economic disruption from our current heavy reliance on oil and gas.

The Western Governors' Conference approved a resolution at their September meeting in Anchorage urging that R. & D. of renewable energy be increased and that special attention be given to economic and social factors, as well as to technical problems.

Renewable energy is as important to Alaska as our nonrenewable resources—oil and gas—which rave received so much attention lately. Many regions in Alaska have great wind and geothermal potential. Hydropower potential is abundant throughout the State. And a number of demonstrations of solar energy are underway. In remote areas, the high costs of conventional fuels make renewable energy, which often requires a large capital investment, even more attractive.

Mr. President, I support R. & D. for renewable energy resources and I ask unanimous consent that the resolution of the Western Governors' Conference be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

ENERGY R. & D. FOR RENEWABLE RESOURCES

Whereas it is the position of the National Governors' Conference that a long-range policy encouraging domestic self-sufficiency in energy production is required to guide foreign and economic policy decisions as well as those in basic research and development;

Whereas research and development efforts should contribute to the integrity and adequacy of the nation's energy resources;

Whereas the long-term nature of such efforts necessitates marshalling our existing dwindling sources of finite fossil fuels through cultivation of an energy conservation ethic nationwide;

Whereas, the Western Governors recognize that far more than technology is involved in decisions relating to the development and use of specific energy sources, costs and benefits must be weighed together with environmental and socio-economic impacts;

Whereas President Carter has declared that "renewable and essentially inexhaustible sources of energy for sustained economic growth" are necessary for the nation in the next century,

Now therefore, be it resolved that the Western Governors' Conference urges the Federal government, through the Energy Research and Development Administration and its successor Department of Energy, to provide continued and increased support for research and development efforts aimed at exploring such "renewable and essentially inexhaustible sources" as called for by the President, including such sources as solar energy, wind power, ocean thermal energy conversion, geothermal power and other alternatives to finite fossil fuels;

And be it further resolved, that such support be integrated with effective measures of energy conservation and the cultivation of an energy conservation ethic;

And be it resolved that certified copies of this resolution be transmitted to the President of the United States, the Secretary of Energy, the Administrator of ERDA, the President of the United States Senate, the Speaker of the House, the chairman of the Senate Committee on Energy and Natural Resources, the chairman of the House Ad Hoc Committee on Energy, the chairman of the National Governors' Conference, and the chairman of the National Governors' Conference Committee on Energy and Natural Resources.

Approved by the Western Governors' Conference, September 2, 1977, Anchorage, Alaska.

S. 1437—FEDERAL CRIMINAL CODE REFORM ACT OF 1978

Mr. KENNEDY. Mr. President, pursuant to the request made on Monday by Senator ALLEN during the debate on S. 1437, I am submitting for the RECORD a list of offenses under current title 18 that have been omitted from the proposed Criminal Code as obsolete. The list of offenses follows:

LIST OF OFFENSES

18 U.S.C. 592, barring troops at election polls.

18 U.S.C. 596, barring polling of the armed forces as to their choice of candidates in an election.

18 U.S.C. 604, relating to soliciting political support from persons receiving unemployment compensation or similar benefits.

18 U.S.C. 605, barring disclosure of names of persons on relief.

18 U.S.C. 754, relating to "rescue" of body of person subjected to death penalty.

18 U.S.C. 969, barring export of arms, liquors, or narcotics to "aboriginal native" of Pacific Islands.

18 U.S.C. 1155, relating to dispensing liquor on land containing an Indian school.

18 U.S.C. 1156, relating to possession of liquor in Indian country.

18 U.S.C. 1384, relating to prostitution near military and naval establishments.

18 U.S.C. 1463, relating to mailing "indecent" matter on mail wrappers or envelopes.

18 U.S.C. 1582, relating to vessels used for slave trade.

18 U.S.C. 1586, relating to working on slave vessels.

18 U.S.C. 1714, barring the mailing of foreign divorce information.

18 U.S.C. 1908, barring disclosure of information by a National Agricultural Credit Corporation examiner—the Corporation no longer exists.

18 U.S.C. 2424, relating to harboring an alien woman or girl for immoral purposes.

18 U.S.C. 2198, seducing a female passenger aboard a vessel.

18 U.S.C. 45, relating to capturing or killing carrier pigeons.

18 U.S.C. 2384, relating to conspiracy to overthrow the government.

18 U.S.C. 2385, relating to advocacy of overthrow of the government, publication of incitement to overthrow the government, and

organizing groups that advocate overthrow of the government.

18 U.S.C. 2388 (relating to false reports intended to interfere with the operations of the armed forces of the United States or to promote the success of enemies of the United States.)

CHAPLAIN (MAJ.) COLIN PURDIE KELLY III

Mr. BAKER. Mr. President, we were highly honored this morning to have been led in prayer by Chaplain (Maj.) Colin Purdie Kelly III, Assistant Chaplain to the Corps of Cadets at the U.S. Military Academy at West Point. Chaplain Kelly also gave the prayer today at the Senate youth program luncheon, and I am certain that the young people there were inspired both by his words and by his and his family's example of dedicated service to this country.

Chaplain Kelly, as you know, is the son of the late Colin P. Kelly, Jr., the first American hero of World War II. Captain Kelly, as an Army Air Corps pilot, saved countless lives during the first few dreadful hours after the attack on Pearl Harbor. After a successful mission, he was killed when his crippled aircraft exploded after he had ordered his crew to bail out to safety.

Chaplain Kelly could have had a Presidential appointment to West Point for the asking, the gift of a grateful nation in honor of his father's bravery. President Roosevelt had left the suggestion for his successor in office when the young man would graduate from high school. But he chose to earn a place in the class through his own efforts. After graduating 1963, Chaplain Kelly served 4 years as a line officer before entering the seminary to become an Episcopal priest. He has since served 2 years as civilian pastor, served in Korea, and completed advanced courses before being named last July to his present post.

I consider it a signal honor to have heard this fine young man today, and I want to commend and congratulate him for his dedication to his country and his God. His father would have been very proud of him today, as are we all.

SECRETARY VANCE CLARIFIES U.S. ECONOMIC COMMITMENT UNDER THE PANAMA CANAL TREATIES

Mr. STONE. Mr. President of great concern to many Americans has been the question: What economic commitments to Panama is the United States entering into under the Panama Canal treaties? Many people have been concerned that our financial commitments will be quite extensive and I have shared their concern.

For this reason I questioned the Department of State extensively during Senate Foreign Relations Committee markup of the treaties and proposed: First an amendment eliminating language from article XIII paragraph 1 of the main treaty requiring the United States to turn over the canal to Panama in the year 2000 "free from liens or debts" and second an understanding that no financial obligation from the United States to Panama is established by ratification of the treaties other than the specifically stated toll revenue provisions of article XIII.

In response to my concerns, Secretary of State Vance today sent me a detailed letter stating clearly that:

First, there are no "hidden or secret" financial agreements or obligations between the United States and Panama arising from these treaties.

Second, the only financial obligations of these treaties are specifically stated in the treaty. Economic and military assistance to Panama would continue only by the regular annual appropriations process involving the Congress.

Third, there will be, at the end of fiscal year 1978, no Panama Canal Company outstanding long-term obligations. Any future liens and debts which may arise would be subject to United States control and approval.

This letter is a useful and informative declaration summarizing the nature of the economic relationship between the United States and Panama arising out of the Panama Canal treaties. It has clarified my concerns and will be a useful addition to the record for the Senate debate and a historical document for interpretation of this economic relationship between our countries in future generations. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF STATE,
Washington, D.C.

HON. RICHARD STONE,
U.S. Senate.

DEAR DICK: This is with reference to the concerns which you raised during the Senate Foreign Relations Committee Hearings of January 27, and the proposals you made to clarify the nature of the U.S. financial obligation under the proposed Panama Canal Treaty. It is understood that the intended purpose of these two proposals is to ensure that ratification of the Panama Canal Treaty would impose no "hidden" financial obligations of the United States to Panama.

We wish to assure you that all proposed financial commitments to Panama under the new Treaty have been fully disclosed. There are no "secret" agreements. Moreover, we wish to set forth the following specific assurances with regard to the particular concerns you raised.

First, the only financial obligations to the Republic of Panama resulting from the Treaty are those specifically set forth in the Treaty and the two Agreements in Implementation. The contemplated economic and military cooperation programs described in my note to the Panamanian Ambassador of September 7, 1977, would not come into being unless and until (a) a further exchange of notes is entered into between the two Governments and (b) all applicable legislative and program criteria have been met with respect to each proposed project, including the availability of appropriated funds where necessary. These contemplated programs were intentionally made the subject of a separate instrument not legally related to the Treaty to assure that the rights and obligations of the Parties under the Treaty would not be contingent in any way upon the contemplated programs. In short, ratification of the Treaty would establish no obligation on the part of the U.S. with respect to these programs or any similar financial transactions that may be proposed in the future. Rather, these programs are to be addressed on their own merits in accordance with applicable U.S. law and program criteria.

Second, you expressed concern that the U.S. obligation under Article XIII(1) to turn the Canal over to Panama upon the termination of the Treaty in operating condition "and free of liens and debts, except as the two Parties may otherwise agree" be clarified. This provision was included in the Treaty in recognition of the fact that until the termination of the Treaty on December 31, 1999, the Canal will be operated and managed by a United States Government agency in accordance with U.S. law. Accordingly, the U.S. will retain the authority to structure the financial management of the Canal operation as it sees fit.

Our management authority under the Treaty is so broad that the U.S. could, for example, authorize the new Commission to borrow funds from private sources. Accordingly, it was considered appropriate to provide Panama the assurance contained in the quoted phrase that the U.S. would turn over the Canal free and clear, and not subject to a mortgage to which Panama did not consent.

In this connection, I would note that the U.S. has always operated the Canal on a self-sustaining basis, and that the Panama Canal Company has never had to exercise the authority granted it by law to borrow from the U.S. Treasury. In FY 1976 it did use its legal authority to defer $93 million of certain statutorily required payments to the Treasury. It has already paid part of this deferred amount and will pay the remaining $39 million in FY 1978. Once this payment has been made, the Company will have no outstanding long-term obligations and will have continued its record of meeting all its expenses from operating revenues.

The Treaty does, however, provide that if the two Parties agree, liens and debts may be carried over. For example, during the last years of U.S. operation, a major capital improvement might seem desirable, but the U.S. might not wish to finance all of the expenditures required given the remaining length of its tenure as Canal operator. In these circumstances, the Parties could agree to an arrangement whereby Panama would assume responsibility for amortizing the debt involved in the investment when it took over management of the operation. Thus, the Treaty embodies a balanced and responsible approach to the problems involved in a transition from one manager to another.

I trust that the foregoing clarifications and assurances will fully meet the important and legitimate concerns you so clearly defined during the Committee hearings.

With warm regards,

Sincerely,

CYRUS R. VANCE.

THE FOREIGN MISSION SOLAR ENERGY DEMONSTRATION ACT

Mr. PERCY. Mr. President, I am very pleased to join my colleague, Senator CASE, in supporting this bill authorizing the Secretary of State to install solar energy and other renewable energy sources in appropriate U.S. buildings abroad. I am also delighted that Congressman JEFFORDS from Vermont is introducing this bill at the same time on the House side. This bill deserves support for a number of important reasons.

A particularly significant aspect of the bill is that it gives priority to the selection of projects in less developed rather than middle-income countries. The current international energy crisis has had especially severe repercussions for the energy-deficient, less developed coun-

tries. Their economic and social development programs depend heavily on the availability of moderately priced and secure energy supplies. Since the precipitous rise in oil prices in 1973, many of these programs have been derailed. Many Third World nations either simply cannot afford to purchase fossil fuels as they once did, or they do so and incur crippling international debts.

They are therefore confronted with a cruel dilemma: continued underdevelopment or virtual bankruptcy. Many of them are seeking to escape this energy dilemma by turning to rapid expansion of nuclear power.

For obvious reasons this alternative causes great concern to all of us interested in a safe and peaceful world. Indeed, the administration and Members of this body are endeavoring to limit the spread of sensitive nuclear technology and thereby reduce the chances for nuclear weapons proliferation.

It is my belief that recent Third World interest in nuclear power could be diminished if the superiority of nonnuclear options were to be demonstrated in an objective way. The installation of solar and other renewable energy sources in U.S. buildings in these countries could provide such a demonstration. Many of the less-developed countries in the Southern Hemisphere are in the enviable position of having an abundance of sunshine. Yet this potential remains largely untapped.

It is also my belief that the United States has a particular responsibility to make it clear to the Third World that we are sincere in our commitment to use renewable, rather than depletable energy sources. Our failure to curb our oil imports does not attest to a strong commitment. Our huge energy demand has helped OPEC sustain increasingly higher world oil prices which, in turn, have exacerbated the economic problems of the Third World. Senator CASE's bill would be a small signal that the United States is not totally devoid of sensitivity on these issues.

Our installation of safe, environmentally sound energy systems in U.S. buildings abroad would also demonstrate to less-developed countries that the United States considers these technologies to be worthy of demonstration, and are not second-class technologies.

Finally, an administration commitment to install solar and other renewable energy technologies in U.S. buildings abroad might provide an additional market for those American industries producing these technologies. These firms could anticipate further demand from host countries impressed by the feasibility and cost effectiveness of alternative energy systems.

There is also great potential demand for these alternative energy technologies right here in the United States. Visible proof of the viability of such technologies would stimulate their domestic use.

In sum, because this bill would have a beneficial effect upon our own development of renewable energy systems, upon the economies of the Third World, and because it would demonstrate our commitment to safe, environmentally sound energy systems, I urge my colleagues to join with me in helping to assure its passage.

THE PANAMA CANAL

Mr. THURMOND. Mr. President, I have before me an excellent article which appeared in the Tuesday, November 29, 1977, New York Times on the Panama Canal controversy.

It was written by one of our most respected diplomats and statesmen, our friend John Davis Lodge.

Mr. President, this is a scholarly article which should be brought to the attention of each Member of the Senate before the debate begins on the canal treaties, and I, therefore, ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CANAL: A RAMPART

(By John Davis Lodge)

WESTPORT, CONN.—The principal arguments vehemently raised in support of the Panama Canal treaties are not altogether convincing.

It is alleged in screeching tones that we stole it. That is contrary to the record. It was an act of constructive statesmanship by one of our great Presidents, Theodore Roosevelt. It constitutes a notable public service by the United States to the entire world. We should not be apologetic but proud of this unprecedented engineering achievement. We succeeded where the French failed. But for us, the Panama Canal would not exist. In one way or another it has been paid for by us many times over.

Should we now say that the Louisiana Purchase, by which President Thomas Jefferson bought one-third of the United States from Napoleon for $15 million, was a steal and that therefore we should return this vast area to France? And how about Alaska? And Hawaii?

It is asserted that the Panama Canal constitutes an anachronistic vestige of colonialism in a decolonializing world. Certainly the British, French, Spaniards and Portuguese have been shedding their colonies. But how about the Russians and their satellites? Are these satellites not in effect colonies?

Moreover, the Panama Canal Zone is not a colony. It is inhabited by many thousands of Americans. True, it is not contiguous to the United States, as it is to Panama. Is contiguity then the criterion? Well then, how about Alaska, contiguous to Canada and close to Siberia. Should we hand Alaska over to Canada or perhaps to Russia? Alaska is a state as is Hawaii. Yes—and we could conceivably make a state out of the Panama Canal Zone.

It is declared that the Latin Americans resent the North American presence in the Canal Zone. Yet there are many others who fear Russian control of the canal by means of their control of Fidel Castro's Cuba and Castro's power and influence over Gen. Omar Torrijos Herrera, the current, temporary, unelected, left-wing, military dictator of Panama. And there are many others around the world who fear that the Panamanians, in spite of their threats and promises, will not run the canal as efficiently as we do. We run it very well indeed.

Argentina, Brazil, Chile, Bolivia, Uruguay, Paraguay and Ecuador have anti-Communist Governments and fear Communist infiltration of the Canal Zone. Many in these countries would dread our relinquishing control of it.

The principal argument advanced in favor of the treaties is that, as General Torrijos has warned us, if they are not ratified by the Senate there will be trouble in Panama—demonstrations, riots, bombs, guerrilla activity—and that therefore we must agree to the treaties as an act of appeasement—a mini-Munich, if you will—but, in effect, a shotgun arrangement.

We got tired of the Vietnam War, we refused to help in Angola, and so now it is proposed that 217 million Americans should cave in and run away before the ominous threat of 1.5 million people in Panama. This is the worst possible reason for ratification of the treaties, for it portrays us Americans as a supine pack of cowards, a paper tiger who will give in at the slightest threat of combat. It is succumbing to blackmail.

This is the argument that would cause us to lose face and friends and confidence in many parts of the world, particularly in South America, where our sanctimonious sermonizing about human rights has made us unpopular.

Certainly the treaties can properly be revised. However, let us recognize that in the mortal struggle in which we are inextricably involved, for the United States to surrender control of the canal will, in this jungle world, present the enemy with an advantage. While in some ways the canal may be obsolete, in unfriendly hands it could present a difficult and dangerous problem for the United States, especially in the event of a showdown.

The overriding question is this: Is it in the interests of our national security, is it in the best interest of the United States as leader of the non-Communist world to lessen our control of this vital waterway and rampart at a time when Russian imperialism, heavily and increasingly armed, is very much on the march? The national interest must be the determining factor. We should be governed by geopolitical considerations. If we move out, will the enemy eventually move in?

THE STRATEGIC ARMS LIMITATIONS TALKS

Mr. BIDEN. Mr. President, the Senate will be giving much attention this year to efforts to achieve a new treaty limiting strategic offensive arms.

Prospects appear reasonably good that we can have a new treaty on SALT and that it can be a good one. Clearly, agreement could be achieved very quickly if the leaders of the two sides so decide.

On my way to the office the other day, I was giving particular thought to what kind of SALT agreement I would negotiate if that were my responsibility. Modestly, I must tell you that I was able to negotiate a new SALT treaty which verged upon brilliance. It had a few loose ends, of course, but, after all, it is almost impossible to negotiate an absolutely perfect agreement in a matter of a few minutes. Our negotiating team in Geneva has been trying for more than 5 years.

Of course, I had one tremendous advantage not enjoyed by Ambassador Paul Warnke and his fellow delegates: I was able to play the part of both sides in the negotiation. Accordingly, since I wanted an agreement, I was able to achieve one.

It seems to me that some of those engaged in the public discourse about SALT have lost sight of the simple fact that agreement between two cautious and wary sides—backed up by enormous and suspicious bureaucracies—is far more difficult to achieve than an agreement

close friends might make with each other or that I or any other Senator might make were we able to play both sides.

Under the existing circcumstances, we cannot expect an "ideal" agreement that perfectly meets all of our concerns, or, as some would have it, an agreement which allows us freedom to do everything we might conceivably want to do in strategic armaments, while cutting off every program on the Soviet side which might cause the slightest concern.

What we can hope for is a compromise agreement which meets to a great extent the gravest concerns of the two sides, lessens the perceived threat the two sides pose to each other, and reinforces deterrence—so that we can proceed in a less worrisome fashion to achieve a SALT III which will carry this essentially stabilizing process farther.

In "Little Giddting," T. S. Eliot wrote,

We cannot revive old factions
We cannot restore old policies
Or follow an antique drum.

The thought is most relevant to SALT. The time is long gone during which the Soviet Union lacked nuclear sophistication and that circumstance is not restorable. The simpler equations possible before the two sides had multiple warheads is lost to us. The threat to our land-based forces and our threat to their land-based forces will grow, and SALT cannot erase those threats. The comprehensive SALT proposal made in March was a great opening position, but it could not have been the basis for a final agreement; but we knew that at the time.

The history of the strategic arms buildup on both sides indicates that we would do well to seize this moment to work out a solid, mutually acceptable pact. If we do not make such an agreement soon, the drive for technological advances by the two sides will lead to further changes in the forces. We know how hard it is to achieve quantitative controls. I hope we realize that qualitative improvements are harder by far to stop or control, and to verify. In essence, we face an opportunity now which, once lost, may never be regained.

The concerns the Soviet force poses now would be increased should we abandon SALT. Without SALT and with nothing to constrain them, the Soviets undoubtedly could—and probably would—continue force modernization across the board. We, of course, would be doing the same thing. In the case of military programs in which we lead, we would take further steps to maintain our lead—technological or otherwise. And other programs would be pushed with the argument we had to catch up.

Nobody could possibly want such a situation. We need SALT, and the Soviet Union needs SALT. Considering the alternatives, there is little choice.

The President should be commended and supported for his approach to SALT. He is seeking an agreement in a calm, considered way. With the realization that both sides need a good SALT, he is trying to achieve an agreement which does not jeopardize our national security one iota—but rather enhances our national security. An arms race—the only alternative to a SALT agreement would immeasurably decrease the sense of real security for all Americans.

As we enter the new session, I believe it is critically important that the SALT discussion not be characterized by selective leaks, quarreling, and special pleadings in regard to this or that aspect. We must satisfy our concerns, but we must not get hung up so much on this or that point that we lose our perspective and our ability to judge the whole fabric of SALT.

As a member of the Committee on Foreign Relations, I am going to do everything I can to reinforce the committee's current effort to stay fully informed on SALT, to delve thoroughly and deeply into the numerous questions surrounding SALT, and share with the executive branch reactions to various aspects of the SALT effort, and to prepare to make an informed judgment when a new SALT treaty is before the Foreign Relations Committee and the Senate. The issue of SALT is one of paramount national importance and it deserves our best effort.

The country needs for there to be a great debate in the Senate, so that when our decision is made, the American public will understand not only what the decision is, but the reasoning and judgment upon which the decision is based.

FRANK CARLUCCI

Mr. HEINZ. Mr. President, by a vote of 10 to 0, the Senate Select Committee on Intelligence has now favorably reported the nomination of Mr. Frank Carlucci to be Deputy Director of Central Intelligence. In this position, it is expected that Mr. Carlucci will assume much of the day-to-day administration of the CIA. It is hard to imagine a better choice for such an important and demanding position. I admire him greatly for his professionalism and the fact that he is one of the finest human beings I have had a chance to get to know.

Last Friday, when Frank Carlucci appeared before the Intelligence Committee, I was en route to Panama and, to my great regret, was unable to accompany him personally. He has my emphatic endorsement, however, and I have submitted a statement to this effect for the committee record. For the benefit of my colleagues during further confirmation proceedings on the floor of this Chamber, I ask permission that the statement be reprinted in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SUPPORT FOR NOMINATION OF MR. FRANK CARLUCCI

I am honored to support the nomination of Frank Carlucci as Deputy Director of Central Intelligence. I have known Frank for many years and have followed his remarkable career and accomplishments with the greatest admiration. I have often remarked to him that it seems to be his luck to get only the most taxing assignments; but somehow Frank always proves equal to the challenge, and in the end makes these assignments seem less difficult than they did at first.

In the foreign service, he has been posted always to the troublespots, from South Africa to the Congo to Zanzibar to Brazil and, during the last three years, to Portugal. Most of these countries were at the time in serious turmoil; and it can be assumed that the State Department valued having officers on the spot who performed well under stress, who could report with precision and advise with insight. Knowing Frank, it is not surprising that he was honored in particular for his service in the Congo with the State Department's highest award for "outstanding courage in the face of real danger".

On the domestic front, Frank's assignments were no less challenging. He came to OEO, OMB, and HEW at difficult times, and in positions of increasing responsibility, managed ably to balance his humanitarian instincts with the need to discipline the budget. Unavoidably, this proved controversial; but given such a difficult situation, I think Frank performed remarkably well.

Frank's most illustrious service, however, has been during his tenure, since early 1975, as our Ambassador to Portugal. It must be said that he started out on the right foot, in view of the fact that we had seen fit to appoint one of those rare ambassadors who actually speaks the tongue of the host country. Moreover, though a well-known Administration official, his appointment was not taken as a typical political one, in light of his obvious career dedication to the foreign service.

Although Portugal today is far from being out of the woods, politically or economically, it is easy to forget that a little over two years ago, it was widely thought to be in the firm grip of chaos and communism. The Administration had all but written Portugal off, assuming that a country which had not been tutored in the ways of democracy since 1926 would, in the disruption that followed the 1974 revolution, yearn again for the tranquility that it was thought only a dictatorship could provide.

Frank Carlucci was too much of a detailman and observer-on-the-scene to accept this assessment. Instead, he approached Portugal on its own terms. Rather than confining himself squeamishly to the embassy compound, and wiring back second-hand reports, Frank has persistently exposed himself to the widest variety of people and opinions. Early on he became acquainted with numerous political and military leaders and realized that while their views were not always in accord with our Administration's, these were still many of them sensible and popular men.

When others had given up on Portugal because their particular horses were not winning the race, Frank Carlucci took a more relaxed and ultimately more effective view. Rather than trying to impose our game plan, and insist on all or nothing, he dealt with realities. And he prevailed. When President Ford, in one of his televised campaign debates, pointed to Portugal as one of the Administration's outstanding foreign policy successes, he was pointing—whether he knew it or not—to Frank Carlucci.

To me, this experience in Portugal exemplifies some of Frank's strongest qualities, ones that would serve him well in his new role: political tolerance, a quick grasp of both essentials and details, easy interpersonal relations, a sharp intellect and an extremely organized and analytic mind that is accustomed to functioning in the most complex situations, an unswerving regard for principles and yet an eye for realities, persistence and optimism, dedication, dynamism, and thoroughly-honed administrative skill. He has had an unusually diversified

background in government and national security affairs and has run the obstacle course of bureaucracy with great ease—not least due to the fact, no doubt, that he is an accomplished jogger—something which, in my own experience, I can testify is a talent not to be scoffed at.

The intelligence business has been badly buffeted in recent years, and Frank will do much to put it on even keel. He is a veteran professional, and yet he represents fresh blood and ideas. He is a co-operative and perceptive individual who will work well with Congress, and who will do this committee great credit if it chooses to confirm him. I commend him most highly.

PRODUCTIVITY—AN INTERNATIONAL CONTEST

Mr. NUNN. Mr. President, I am convinced that the improvement of productivity in this country is of vital importance to our economy.

The most recent issue of the publication Industrial Engineering contains an article by Joseph H. Kehlbeck entitled "Productivity, an International Contest." Mr. Kehlbeck, current president of the American Institute of Industrial Engineers, has raised several important points regarding productivity which I believe would be of interest to our colleagues.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[A number of the charts referred to in the following article are not reproducible in the RECORD.]

PRODUCTIVITY—AN INTERNATIONAL CONTEST

IE's around the world are faced with similar demands. How can they measure the scope of their country's problem? Output per employee, trade balances, R & D spending, and capital expenditures are basic yardsticks. Using national productivity centers and other resources of the profession, IE's bear key responsibilities for improvements.

It is important for all of us to recognize the need for productivity and what we can do as industrial engineers to make this a better world in which to live. Every major country is engaged in a productivity battle with all of the other major countries of the world. This battle is going on every day. It is not being fought with cannons, airplanes, and warships; it is being fought in every factory every day as that factory competes in the world market.

MANUFACTURING OUTPUT PER EMPLOYEE

Country	Average annual percent change				Rank
	1966–75	1970–74	1974–75	1970–75	
United States	2.0	2.7	−0.2	1.8	8
Canada	3.9	3.6	1.5	3.0	6
Japan	9.0	7.1	−3.1	5.4	2
France	4.9	5.0	−4.3	3.4	5
Germany	5.3	5.8	3.3	5.4	3
Italy	5.8	7.6	−3.0	6.0	1
Sweden	5.8	5.8	−3.4	4.4	4
United Kingdom	3.3	4.4	−3.1	3.0	7

Source: U.S. Department of Labor.

Figure 1. Percentage change in manufacturing output per employee is one indicator of productivity trends. The United States ranked 8th in this field of 8 for 1970–75.

The winners in this battle are going to generate jobs, improve their standard of living, and reduce taxes. At the same time, the losers in this all-important battle are going to see high unemployment, become a welfare state similar to what exists in England, and the standard of living will be lower than in other nations throughout the free world.

Since it is my home base, let me discuss fundamental problems with the United States as an illustration. A basic problem today in the U.S. is that the rate of growth of productivity is less than most other major countries of the world. Some may not agree with this statement, but the indicators that support this position are Productivity, International Trade, R & D spending, and Capital Expenditures.

Let's first look at Productivity. Figure 1 shows manufacturing output per employee. As you can see, the United States is number 8 in rank, or the lowest rate of growth in productivity of the eight nations shown. The number one country is Italy, believe it or not, with a 6 percent increase, followed by Japan and Germany with 5.4 percent, and then the other major industrial nations, with the United States having the lowest in the average annual percentage of change in the most recent period of time—1970–75.

BALANCE OF TRADE

	1973	1974	1975	1976	1977
Food	$5.8	$7.9	$9.4	$8.1	$5.2
Fuel	−8.3	−25.5	−26.6	−34.6	−43.9
Other	3.9	12.6	28.3	20.8	11.5
Balance	1.4	(5.0)	11.1	(5.7)	(26.2)

Fig. 3. Balance of trade figures for the United States indicate a precipitous turn to the negative from 1973 to 1977, obviously an unfavorable development.

Another way of looking at the rate of change is to assume the United States is at 100 percent, and the leader in productivity compared to other nations, Figure 2. As you can see tremendous growth has taken place in countries such as Japan, Italy, and Germany, and at the same time England has plateaued at about 50 percent of the productivity rate of the United States. Projecting this beyond 1975 you can see that by the year 1990, many of the countries throughout the world, if they keep pace with their present rate of growth, will actually be equal to or exceed the U.S. level of productivity.

Let's look at another indicator: International Trade—Something that we read about every day in the papers and the battle that the U.S. continues to lose.

You can see from Figure 3 that in 1973 the U.S. had a favorable $1.4 billion balance of payments. This changed to $5 billion unfavorable in 1974 with the advent of the higher energy costs—which skyrocketed to $25 billion. In 1975, this reversed itself to $11 billion favorable; in 1976 the U.S. was at $5.7 billion unfavorable, and the latest projection for 1977 is a whopping $26 billion unfavorable balance of trade.

The latest forecast for the balance of trade over the next few years indicates that this $26.2 billion in 1977 will increase to $28 billion in 1978, and level off at $24 billion in 1979 . . . A very unfavorable condition.

The third symptom is Research. Let's look at the dollars being spent for research and development in the United States. The growth in R & D spending has not kept pace with the increase in GNP since 1964. Federal spending has decreased appreciably in R & D as you can see by Figure 4. Due to this lack of funding by the United States, the total amount spent on R & D has substantially decreased over this period. This is a deplorable condition when you recognize that many of the real advances in consumer products have come about as spin-offs of federal spending in the aerospace industry.

To further support my contention that the U.S. is in trouble when it comes to basic research, the trend chart in Figure 5 shows research funds in constant dollars. It shows U.S. total dollars in R & D have declined since 1967 with most of it in the area of development. The U.S. is still spending dollars in applied research and basic research, but has drastically cut back in the area of development where research is put to work to help mankind.

The fourth symptom is Capital Expenditures. Figure 6 shows that the dollars that the U.S. is spending on fixed capital formation as a percent of Gross National Product is the least of any of its major competitors in this economic battle. The U.S. is running at 17.4 percent. Japan is more than double the amount of U.S. investment as percent of Gross National Product.

I recently had the opportunity to talk with a number of Japanese industrialists. In our conversation it became apparent to me that they are spending large sums of money on very sophisticated equipment designed to drastically reduce labor and improve productivity.

Figure 7 is a busy chart which shows that the United States is not doing as well as its competitors in this economic battle when it comes to investment trends. The U.S. peaked late in 1973, dropped drastically in 1974 and 1975, and has never really recovered. West Germany is the only nation not doing as well as the U.S. Canada has continued to invest and is now 25.7 percent over the base of 1972; Japan is at 5.9 percent over 1972, and the United Kingdom, which everyone considers one of the least productive nations in the world, is a 1.4 percent. This chart supports my view that the U.S. has major problems in the lack of capital investments in new plants and equipment.

The indicators we have rapidly reviewed—productivity measurements, international trade, R & D spending, capital investment—identify the key problem areas which contribute to the declining rate of productivity in the United States. The industrial engineers in the U.S. have the responsibility to turn this around. They need to improve productivity in the United States, and through the efforts of every engineer in the U.S., they have the capability if they will all apply their energy to this national problem.

In the business world you need to know all you can about your competitor. This same process needs to apply to one nation as compared to other nations. A nation needs to know its competitors' strategy. What are their natural resources? Do they have the necessary raw materials, manpower, plant and equipment? Do they have technical strength to develop new materials and processes or are they followers? And last but not least, what are their national policies toward improving productivity?—supportive—restrictive?

To answer these questions we industrial engineers need to see for ourselves what our competitors are doing. We can't learn unless we travel. Too often U. S. businessmen sit at home believing the U.S. has all the know-how and travel is a waste of money. While they sit at home their competitors in this economic battle travel throughout the world to pick up the latest know-how and technological advances to incorporate in their business.

An example of what you would see if you visited Japan is the sketch of a highly automated unmanned plant shown in Figure 8. It's on the drawing boards and will be completed in the early 1980's. Seeing something like this would have a major impact on your thinking. Especially when you recognize that this plant with its minimum amount of labor, is going to compete with you on the home front. Wouldn't it be a shocker?

One way for U. S. industrial engineers to know what's going on in the world is to work with and support the National Center for Productivity located in Washington, D. C. If they are not familiar with this organization, I would suggest that they become very familiar with it in the immediate future. They can contact the Center by writing to the National Center for Productivity and Quality of Working Life in Washington, D. C. It's a small federal agency dedicated to improving productivity in the United States. Every industrial engineer in the U. S. should be on the Center's mailing list.

Industrial engineers should also be knowledgeable of the European Association of National Productivity Centers, which is located in Brussels. It has a very active program to make the European Common Market competitive throughout the world. I might add that I recently attended a meeting in which the Executive Director of the European Common Market participated and he had difficulty understanding the union-management adversary relationship in the United States.

The Asian Productivity Organization consists of sixteen Asian nations working together to improve productivity so they can compete in the world market. This group hires U. S. consultants to bring U. S. know-how to the Asian world.

My purpose in mentioning these centers to U. S. engineers and in particular the U. S. National Center is twofold—one, that they should utilize the services of the National Center for Productivity and Quality of Working Life, and two, that the U. S. Center needs their support or it may not survive. The present U. S. administration has shown absolutely no interest in being involved with improving productivity.

The importance of productivity has to be recognized by the federal government and elected U. S. representatives. The U. S. has many laws which substantially add to the cost of doing business with little increase in productivity—to name a few—EPA, OSHA, EEOC, etc. All of these contribute to the cost of producing goods in the U. S. Many competitors of the U. S. in this economic battle do not have to bear this kind of an expense to do business. U. S. engineers have the responsibility to make their government aware of the cost impact associated with these programs to improve the standard of living in the U. S. It does not help to improve the standard of living by driving work offshore and increasing unemployment.

To be successful in this economic battle, citizens need to work as a team to improve productivity. Every citizen of a country—that is labor, government, management, the academic world, engineers, and economists—all need to focus on the common goal of improving productivity.

Industrial engineers are achievers. We all are willing to work to achieve certain goals. Most of us are goal oriented.

If we are going to improve productivity in our countries, the first thing we need to do is establish goals—national goals, industry goals, and government goals. For if we do not, we will just continue to wander in the ocean of opportunity and never reach our destination. All of us must develop productivity goals in our own operation and work to achieve these goals.

What is each industrial engineer's responsibility? Certainly it is to implement productivity improvements. Most of us are being paid to improve productivity. We also recognize the impact technology has on productivity. This needs to be communicated to those less informed.

U.S. engineers also need to support government and private research and development. The key to long-range success in this economic battle is basic and applied research. U.S. engineers need to convince their elected officials that government funds for research need to be increased to levels comparable to other industrialized nations.

The Wall Street Journal had an article "Backing Off Basics" in a recent issue. I would like to quote a statement from this article:

"The National Science Foundation says U.S. expenditures for R&D have slipped to about 2 percent of gross national product from more than 3 percent in 1965 and currently trail the 2.3 percent level in West Germany and estimates of more than 3 percent in the Soviet Union. The federal government adds that the number of patents it granted to foreign inventors in 1975 reached 35 percent of the total, against only 17 percent in 1961."

The U.S. needs to disseminate technological information. When new ideas come up, they need to be made available to U.S. industry so it can compete in the world market. Certainly U.S. engineers need to support the Productivity Center concept. A clearing house for disseminating information is essential to U.S. success. They also need to foster management, labor, and government understanding on the need for productivity goals. Unless U.S. citizens all work together to achieve this common goal, the U.S. will not be successful.

Last, but not least, U.S. engineers need to support capital investment through tax incentive. They must make it worthwhile to become capital intensive. Today the U.S. is not spending adequate amounts of money on new plants and equipment. Japanese friends and economic enemies are walking by the U.S. . . . or should I say running by the U.S. . . . every day of the year. I recently heard a steel executive in the U.S. state that he was running facilities forty to fifty years old and trying to compete with the Japanese who recently obsoleted a 19-year old facility. The United States has a serious problem. Its productivity rate is not going in the right direction. It's coming to a screeching halt. I am confident the industrial engineers of the U.S. can turn this around.

SOCIAL SECURITY AMENDMENTS OF 1977

Mr. NELSON. Mr. President, the Senate Finance Committeee recently published a summary of the Social Security Amendments of 1977 (H.R. 9346). This document explains the various provisions contained in the legislation enacted last December. I ask unanimous consent that this document be printed in full in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 9346, THE SOCIAL SECURITY AMENDMENTS OF 1977, AS PASSED BY THE CONGRESS [1]

Tax rates.—The bill includes a new social security tax rate schedule which increases the rates in 1979, 1981, 1982, and 1990 to provide additional financing. Tax rates for the self-employed are increased so as to restore the original level of 1½ times the employee rate for the old-age, survivors, and disability portion of the tax, effective in 1981. In addition, H.R. 9346 provides for a reallocation of income to the disability trust fund which would have been exhausted in about a year under present law. The tax rate schedule is as follows:

[1] This bill was signed into law on December 20, 1977, as Public Law 95-216.

TAX RATES FOR THE SOCIAL SECURITY TRUST FUNDS

[In percent]

Calendar year	Present law					H.R. 9346				
	OASI [1]	DI [2]	OASDI	HI [3]	Total	OASI [1]	DI [2]	OASDI	HI [3]	Total
Employers and employees, each:										
1977	4.375	0.575	4.95	0.90	5.85	4.375	0.575	4.95	0.90	5.85
1978	4.350	.600	4.95	1.10	6.05	4.275	.775	5.05	1.00	6.05
1979–80	4.350	.600	4.95	1.10	6.05	4.330	.750	5.08	1.05	6.13
1981	4.300	.650	4.95	1.35	6.30	4.525	.825	5.35	1.30	6.65
1982–84	4.300	.650	4.95	1.35	6.30	4.575	.825	5.40	1.30	6.70
1985	4.300	.650	4.95	1.35	6.30	4.750	.950	5.70	1.35	7.05
1986–89	4.250	.700	4.95	1.50	6.45	4.750	.950	5.70	1.45	7.15
1990–2010	4.250	.700	4.95	1.50	6.45	5.100	1.100	6.20	1.45	7.65
2011 and later	5.100	.850	5.95	1.50	7.45	5.100	1.100	6.20	1.45	7.65
Self-employed persons:										
1977	6.185	.815	7.0	.90	7.9	6.1850	0.8150	7.0	.90	7.9
1978	6.150	.850	7.0	1.10	8.1	6.0100	1.0900	7.1	1.00	8.1
1979–80	6.150	.850	7.0	1.10	8.1	6.0100	1.0400	7.05	1.05	8.1
1981	6.080	.920	7.0	1.35	8.35	6.7625	1.2375	8.00	1.30	9.3
1982–84	6.080	.920	7.0	1.35	8.35	6.8125	1.2375	8.05	1.30	9.35
1985	6.080	.920	7.0	1.35	8.35	7.1250	1.4250	8.55	1.35	9.90
1986–89	6.010	.990	7.0	1.5	8.5	7.1250	1.4250	8.55	1.45	10.00
1990–2010	6.010	.990	7.0	1.5	8.5	7.6500	1.6500	9.30	1.45	10.75
2011 and later	6.000	1.000	7.0	1.5	8.5	7.6500	1.6500	9.30	1.45	10.75

[1] Old-age and survivors insurance.
[2] Disability insurance.
[3] Hospital insurance (part A of medicare).

SOCIAL SECURITY (OASDHI) TAX RATE, WAGE BASE LEVELS AND CONTRIBUTIONS UNDER PRESENT LAW AND UNDER H.R. 9346

Year	OASDHI tax rate (percent)		Wage base		$10,000 wage earner			$20,000 wage earner			Maximum wage earner		
	Present law	H.R. 9346	Present law	H.R. 9346	Present law	H.R. 9346	Increase	Present law	H.R. 9346	Increase	Present law	H.R. 9346	Increase
1977	5.85	5.85	$16,500	$16,500	$585	$585		$965.25	$965.25		$965.25	$965.25	
1978	6.05	6.05	17,700	17,700	605	605		1,070.85	1,070.85		1,070.85	1,070.85	
1979	6.05	6.13	18,900	22,900	605	613	$8	1,143.45	1,226.00	$82.55	1,143.45	1,403.77	$260.32
1980	6.05	6.13	20,400	25,900	605	613	8	1,210.00	1,226.00	16.00	1,234.20	1,587.67	353.47
1981	6.30	6.65	21,900	29,700	630	665	35	1,260.00	1,330.00	70.00	1,379.70	1,975.05	595.35
1982	6.30	6.70	23,400	31,800	630	670	40	1,260.00	1,340.00	80.00	1,474.20	2,130.60	656.40
1983	6.30	6.70	24,900	33,900	630	670	40	1,260.00	1,340.00	80.00	1,568.70	2,271.30	702.60
1984	6.30	6.70	26,400	36,000	630	670	40	1,260.00	1,340.00	80.00	1,663.20	2,412.00	478.80
1985	6.30	7.05	27,900	38,100	630	705	75	1,260.00	1,410.00	150.00	1,757.70	2,686.05	928.35
1986	6.45	7.15	29,400	40,200	645	715	70	1,290.00	1,430.00	140.00	1,896.30	2,874.30	978.00
1987	6.45	7.15	31,200	42,600	645	715	70	1,290.00	1,430.00	140.00	2,012.40	3,045.90	1,033.50

Tax base.—The bill also would increase the taxable wage base above present law levels in 1979, 1980, and 1981. After 1981, the base would be increased annually in line with wage levels, as under present law. Under the bill, as under present law, the tax base would be the same for employers, employees, and self-employed The tax base schedule for employers, employees and the self-employed under present law and under the bill is shown below:

CONTRIBUTION AND BENEFIT BASE

Calendar year	Under present law	Under H.R. 9346
1977	$16,500	$16,500
1978	17,700	17,700
1979	[1] 18,900	22,900
1980	[1] 20,400	25,900
1981	[1] 21,900	29,700
1982	[1] 23,400	[1] 31,800
1983	[1] 24,900	[1] 33,900
1984	[1] 26,400	[1] 36,000
1985	[1] 27,900	[1] 38,100
1986	[1] 29,400	[1] 40,200
1987	[1] 31,200	[1] 42,000

[1] Estimated amount under automatic provisions.

Railroad retirement system and Pension Benefit Guaranty Corporation.—The bill contains a provision to guarantee that the new social security financing provisions which increase the taxable earnings base would not increase the employer tax liability to finance tier II benefits (nor would it increase the amount of those benefits) under the railroad retirement system. Tier II benefits are those paid to supplement the tier I payments which correspond to basic social security benefits. Similarly, the bill provides that the increases in the earnings base specified in the bill would not increase the maximum amount of pension insured by the Pension Benefit Guaranty Corporation established under the Employee Retirement Income Security Act of 1974.

Decoupling and new wage-indexed formula.—The bill provides that the automatic cost-of-living increase provisions will in the future apply only to those already on the benefit rolls at the time of each increase. (Under present law, the increases raise the benefit formula for future retirees as well as for those on the rolls.) For future retirees, the bill adopts a new benefit formula under which benefit amounts would be related to the earnings an individual had under social security with an adjustment to reflect changing wage levels during his working years. The new system would index a worker's earnings to reflect annual increases in average earnings levels up to the second year before eligibility (age 62, death, or disability).

The new benefit computation will provide a benefit level for 1979 averaging about 5 percent lower than the average anticipated under present law. In the future benefits will be kept at approximately the 1976 relationship to preretirement earnings. In order to provide an orderly transition from the present computation procedures to the new computation, the bill guarantees that, for the first 5 years, 1979–1983, retirement benefits paid will not be less than would be paid under the benefit table in effect for December 1978.

The transition provision will not be applicable to disability and survivor cases. As under present law, benefits would continue to be increased according to the increases in the cost-of-living after a person reaches age 62 or becomes disabled, or in the case of survivor's benefits, after the time of the worker's death.

Minimum benefit.—The minimum benefit for future beneficiaries would be frozen at the 1979 dollar amount (about $121 for an individual). In the future minimum benefit would be adjusted for annual cost-of-living increases only after the individual starts receiving benefits.

Special minimum.—The bill increases the special minimum benefit which is paid to some long-term, low-paid workers. Under present law this benefit is equal to $9 times the number of years coverage a worker has in excess of 10 and up to 30, but it is not subject to annual cost-of-living increases. The bill would increase the $9 figure to $11.50, which would make the highest amount payable under the provision $230 a month. Also, H.R. 9346 would make the special minimum benefit subject to annual cost-of-living increases in the future.

Delayed retirement credit.—Present law provides that retirement benefits are increased 1 percent a year for each year that a worker continues to work beyond age 65 without taking his benefits. The bill would increase this to 3 percent; it would apply beginning in 1982. Effective June 1978, the bill would also make the delayed retirement credit applicable to widows and widowers benefits.

Retirement test changes.—The bill would raise to $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981, and $6,000 in 1982 the annual amount of earnings a beneficiary, age 65 to 72, may have without having any benefits withheld. After 1982, the limitation would be adjusted automatically on the basis of earnings levels as under present law. The retirement test of present law, which is to rise from $3,000 this year to $3,240 in 1978 with continuing automatic increases thereafter, would continue to apply to beneficiaries under age 65.

The age at which individuals may receive full benefits without regard to their earnings would be reduced from 72 to 70 beginning in 1982.

The bill would eliminate the monthly exception to the retirement test—the provision in present law under which full social security benefits are paid for any month in which a person does not engage in substantial self-employment and earns one-twelfth of the annual retirement test amount, or less, regardless of total earnings for the year. However, the monthly exception would be retained for the first year in which a worker begins to receive retirement benefits.

Coverage study.—The bill provides for a comprehensive study of the question of expanding coverage under social security by bringing under the system all Federal employees, and the remainder of State and local government employees and employees of nonprofit organizations not now covered. The study is to include methods of coordinating social security coverage with those retirement systems which now apply to the public employees involved. The study would be under the direction of the Secretary of Health, Education, and Welfare who is to consult with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Civil Service Commission. The HEW Secretary is directed to complete the study and submit a report with recommendations to the President and to Congress within 2 years after enactment of the bill.

Employees of nonprofit organizations.—The bill contains provisions designed to correct some unintended effects of Public Law 94–563 enacted in 1976 to deal with problems of nonprofit organizations that had been paying social security taxes incorrectly because they had not filed the necessary waivers with the Internal Revenue Service to make the payments legal.

One provision in the bill would forgive back taxes due, up to June 30, 1977, on behalf of nonprofit organizations which ceased paying social security taxes after they had found they were not required to do so, but did not receive a refund of these taxes.

Another provision would extend to March 31, 1978, the period during which nonprofit organizations that had received a refund of social security taxes could file a waiver certificate and list only those employees who had wanted to be covered under social security. Under this waiver, they would owe back taxes only on the listed employees. The right to file such a waiver under Public Law 94–563 expired April 18, 1977.

Investment income under limited partnership.—In recent years, a growing number of businesses have offered limited partnerships as a means of acquiring social security coverage solely through the income on investments in such partnerships. The bill excludes from social security coverage the distributive share of income or loss which a limited partner receives from a trade or business.

Taxation of related corporations.—The bill provides that a group of related corporations concurrently employing a worker would be considered as a single employer if one of the group serves as a common paymaster for the entire group. This would mean that the group of corporations would have to pay no more in social security and unemployment taxes for a single worker than a single employer pays.

Coverage of tips.—Under social security, tip income (if over $20 a month) is taxed to the employee alone. Under the bill, the employer will also be taxed on tip income up to the amount that, combined with the employee's salary, equals the minimum wage under the Fair Labor Standards Act.

Clergymen.—The bill would permit clergymen who previously refused social security coverage a new opportunity to come under the system as self-employed persons.

International Social Security Agreements (totalization).—Included in the bill is a provision which would authorize the President to enter into bilateral agreements with interested countries providing for limited coordination of the U.S. social security system with systems of other countries. The agreements, known as totalization agreements, would eliminate dual social security coverage for the same work in each country covered by an agreement, and would enable individuals who work for periods in each of the countries covered by an agreement to qualify for coordinated benefits in situations where they now are not eligible for benefits in one or both of the countries involved. The United States already has negotiated agreements with Italy and West Germany which could be put into effect under this provision. Each agreement will have to be submitted to Congress for 90 days while it is in session before it can take effect; during that period either the House or Senate can veto the agreement by majority vote.

Illinois policemen and firemen.—The bill would allow approximately 400 Illinois policemen and firemen to get credits for past payments into the social security system (and future coverage) even though the applicable law did not permit such payments when they were made.

Mississippi policemen and firemen.—The bill would authorize social security coverage for Mississippi policemen and firemen who previously were excluded from the system.

New Jersey public employees.—The bill would add New Jersey to the list of States which are permitted to hold referendums among public employees for divided coverage under social security. Those voting for coverage would be brought under social security; those voting against would remain out of the system.

Wisconsin public employees.—The bill would authorize a consolidated public employee group in Wisconsin to continue under social security on the same terms which applied to three groups before they were merged into the consolidated organization.

Cost-of-living increases for early retirees.—Under present law, a retiree who begins receiving benefits between ages 62 and 65 has his monthly payment permanently reduced on an actuarial basis to take account of the longer period that he will receive benefits. However, when a subsequent cost-of-living increase is effective, the benefit increase is not based on his reduced benefit amount. For example, at age 65 and later, each increase is based on his full (unreduced) benefit. The bill would apply to cost-of-living increases the same actuarial reduction that was applied to their original monthly benefit.

Limitation on retroactive benefits.—Under present law a person who files an application after he is first eligible can get benefits for a retroactive period up to 12 months before the month in which the application is filed. However, this can result in some cases in a permanent reduction in his monthly benefit. The bill would eliminate retroactive payments where the result would be a permanently reduced benefit.

Benefit payment dates.—The bill provides that social security and supplemental security income benefit checks would be mailed in time to be delivered early when the regular payment date falls on a Saturday, Sunday, or legal holiday.

Reduction in spouses' benefits for public pensions.—The bill contains a provision under which social security dependency benefits payable to spouses or surviving spouses would be reduced by the amount of any public (Federal, State, or local) pension available to the spouse. The reduction would apply only to pension payments based on the spouse's own work in public employment which is not covered under social security. The provision would apply to applications for such dependency benefits in and after the month of enactment of the bill. To assure that persons who have been counting on these benefits for many years and who are now at or near retirement age will not be adversely affected, H.R. 9346 includes a transitional exception under which certain individuals will not have their social security benefits as spouses reduced by the amount of their public pension. The exemption applies to those who are already retired under a public pension program (or who will be eligible for such retirement within the next 5 years) and who also would qualify for spouses benefits under social security under the law as in effect and as administered in January 1977. In the event that the courts find it impermissible to afford this protection to those who anticipated receiving their spouses' benefits prior to March 1977 without providing it also to those would qualify only as a result of a March 1977 court decision, the bill provides that the entire exception would become inoperative so that the reduction in benefits would be applied in all cases.

Disability benefits for the blind.—Blind persons would be eligible for social security disability benefits up to a higher level of earnings than now permitted. Under present regulations, substantial gainful activity (SGA) is measured at $200 a month ($2,400 a year) and earnings over this amount would lead to termination of benefits. Under the bill, the SGA amount for the blind would be the same as the retirement test for persons age 65 and over—that is, $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981, $6,000 in 1982, and adjusted automatically by increases in earnings levels thereafter. The SGA level for other disabled persons is not changed.

Remarried widows.—Under existing law, a widow may receive a social security benefit on her deceased husband's account equal to 100 percent of the benefit he would have received if he were still alive. If the widow remarries and she is age 60 or over when she remarries, she can retain the widow's benefit but at a 50 percent rate instead of 100 percent. The bill would eliminate that reduction to a 50 percent rate when a widow over age 60 remarries.

Divorced wife's benefits.—Under present law a woman can qualify for a wife's benefit on the account of her former husband (or a surviving divorced wife's benefit on the account of a deceased former husband) but only if the marriage lasted at least 20 years. The bill lowers the required duration of marriage to 10 years.

Treatment of men and women.—The bill directs the Secretary of Health, Education, and Welfare, in consultation with the Justice Department Task Force on Sex Discrimination, to carry out a detailed study of proposals: (1) to eliminate dependency as a requirement for entitlement to social security spouse's benefits, and (2) to bring about the equal treatment of men and women in any and all respects. In conducting this study the Secretary is to take into account the effects of the changing role of women in today's society including such things as: (1) changes in the nature and extent of women's participation in the labor force, (2) the increasing divorce rate, and (3) the economic value of women's work in the home. A full and complete report is to be submitted by the Secretary to the Congress within 6 months after enactment of the bill.

Annual wage reporting.—Public Law 94–202 enacted in 1976 modified the law to permit employers to report their employees' wages for social security and income tax purposes annually on forms W–2 (beginning with wages paid in 1978) in place of filing quarterly reports as previously required. However, employers were still required to report quarterly wage data on the annual forms W–2 to enable the Social Security Administration to determine whether a worker has enough "quarters of coverage" to be eligible for social security benefits. The bill changes the way in which quarters of coverage are measured so that annual data will be used instead of quarterly data. Thus, employers no longer will have to report quarterly data on forms W–2. Under present law a worker generally receives credit for a quarter of coverage for a calendar quarter in which he receives at least $50 in wages. Under the bill, a worker is to receive one quarter of coverage (up to a total of four) for each $250 of earnings in a year, and the $250 amount will be automatically increased every year to take account of increases in average wages.

National Commission on Social Security.—The bill provides for establishment of a bipartisan National Commission on Social Security, composed of nine members—five appointed by the President and two each by the Speaker of the House and the President of the Senate—to make a broad study of the social security program, including medicare. The study would include the fiscal status of the trust funds, coverage, adequacy of benefits, possible inequities, alternatives to the current programs and to the method of financing the system, integration of the social security system with private retirement programs, and development of a special price index for the elderly. The Commission is to present its full report to the President and to the Congress within 2 years after a majority of the members have been appointed.

Administrative law judges.—Public Law 94–202 established temporary administrative law judge positions to hear social security, medicare, and supplemental security income cases. The bill converts these appointments to permanent status.

Advisory Council on Social Security.—The bill changes the reporting date for the Advisory Council to be appointed in 1977 from January 1, 1979, to October 1, 1979.

Fiscal relief for welfare costs.—The bill provides for a one-time payment to the States of $187 million as fiscal relief for State and local welfare costs for fiscal year 1978. Half of such funds will be distributed to each State in proportion to its share of total expenditures under the AFDC program for December 1976, and half will be distributed under the general revenue sharing formula. In those States in which local units of government are responsible for meeting part of the costs of the AFDC program the fiscal relief payments would have to be passed through to local governments. States would not be required to pass through an amount in excess of 100 percent of the amount of AFDC costs for which the local government was otherwise responsible.

Distribution of fiscal relief for welfare costs under H.R. 9346

State:	Amount (thousands)
Alabama	$2,180
Alaska	370
Arizona	1,307
Arkansas	1,361
California	25,245
Colorado	1,770
Connecticut	2,469
Delaware	523
District of Columbia	1,205
Florida	3,951
Georgia	2,938
Hawaii	1,138
Idaho	512
Illinois	11,619
Indiana	3,037
Iowa	1,948
Kansas	1,498

Kentucky	2,845
Louisiana	2,996
Maine	980
Maryland	3,269
Massachusetts	1,172
Michigan	10,521
Minnesota	3,221
Mississippi	1,636
Missouri	3,130
Montana	446
Nebraska	822
Nevada	311
New Hampshire	489
New Jersey	6,951
New Mexico	922
New York	26,460
North Carolina	3,503
North Dakota	329
Ohio	7,802
Oklahoma	1,727
Oregon	2,219
Pennsylvania	11,241
Rhode Island	905
South Carolina	1,666
South Dakota	456
Tennessee	2,475
Texas	5,815
Utah	864
Vermont	483
Virginia	3,174
Washington	2,727
West Virginia	1,335
Wisconsin	4,286
Wyoming	218
Guam	47
Puerto Rico	450
Virgin Islands	33
Total	187,000

Fiscal incentives for lowering AFDC error rates.—The bill would establish a system of fiscal incentives for States which have low dollar error rates (below 4 percent) as measured by the AFDC quality control findings of incorrect payments.

Under the provision States which have dollar error rates of, or reduce their dollar error rates to, less than 4 percent but not less than 3.5 pecent of the total expenditures would receive 10 percent of the Federal share of the money saved, as compared with the Federal costs of 4-percent payment error rate. This percentage would increase proportionately as shown in the following table:

If the error rate is:	*Incentive percentage* [1]
At least 3.5 percent but less than 4 percent	10
At least 3 percent but less than 3.5 percent	20
At least 2.5 percent but less than 3 percent	30
At least 2 percent but less than 2.5 percent	40
Less than 2 percent	50

[1] The State will retain this percent of the imputed Federal savings.

The dollar error rate of aid will include the payments to ineligibles plus overpayments plus underpayments plus the amount which would have been paid as benefits if the case had not been erroneously terminated or the application erroneously denied. The incentive would be based on Federal savings as compared with a 4-percent rate of excessive payments—that is, erroneous payments for ineligibles and overpayments.

Access by AFDC agencies to wage records.—The bill specifically authorizes State AFDC agencies to obtain wage information from the wage records maintained by the Social Security Administration and the wage records maintained by State unemployment compensation agencies for purposes of determining eligibility for (or amount of) AFDC. The Secretary of HEW would establish the necessary safeguards to prevent the improper use of such information. Effective October 1, 1979, States would be required to request and make use of this wage information either from the State unemployment compensation agency (if available there) or from the Social Security Administration.

State welfare demonstration projects.—The bill would authorize certain types of State demonstration projects related to the AFDC program to be implemented if the Secretary did not specifically disapprove the implementation of such projects within sixty days after the State applies to have the projects approved. In other words, a State could proceed with such projects either when the Secretary approved them, or sixty days after submitting them to the Secretary if no decision had been reached by HEW within that period.

Under this authority, States would be permitted to conduct not more than three demonstration projects but not more than one on a statewide basis. Projects involving public service employment would have to pay prevailing wages and meet reasonable standards related to health, safety and other conditions, could not displace employed workers, would have to be reasonable for the individuals participating, and would have to provide appropriate workmen's compensation protection. Participation in any project by any AFDC recipient would have to be on a voluntary basis.

States would be permitted to waive ordinary statutory rules requiring statewide uniformity, administration by a single agency, and regarding participation in the work incentive program and the disregard of certain amounts of earned income. (Not more than half of all earnings could be disregarded under the waiver authority, however.)

AFDC matching for these demonstration projects would be limited to the amount the State would have received through AFDC if it had not implemented the demonstration project. In addition, the State's general revenue sharing funds could be used to cover the costs of salaries for participants in public service employment which are not covered by AFDC matching.

Once implemented, demonstration projects could continue for up to 2 years unless the Secretary took action to disapprove a State waiver of statutory rules before the end of the 2-year period. The provision would not apply after September 30, 1980.

The bill provides that when a State submits an application it would be required to make a public announcement that such application has been made, make copies of the application available and receive public comments for at least 30 days. The Secretary would also be required to publish a summary of the proposed demonstration project and make copies of the application available.

The Secretary of HEW could deny applications by a State under this provision any time after receipt of the application, but could not approve an application until 30 days after it has been submitted.

Erroneous State supplementary payments.—H.R. 9346 provides authorization and direction for the Secretary of Health, Education, and Welfare to reimburse a State for erroneous State supplementary payments administered by them and paid during 1974 to the extent that an HEW audit (reviewed and concurred in by the Inspector General of the Department) determines is appropriate on the basis that the incorrect payments for the aged, blind, and disabled resulted from a State's good faith reliance upon erroneous or incomplete information furnished to the States by the Department or from a State's good faith reliance on incorrect supplemental security income payments made by the Department.

Wheelchairs.—The bill would permit payment for power-operated wheelchairs under medicare where the vehicle is determined to be medically necessary and safe.

Federal Election Campaign Act amendment.—The bill provides that a contribution to a tax-exempt organization selected by the payor from a list of five or more organizations named by the Government officer or employee would not be treated as an honorarium. It also provides that amounts returned to a payor before the end of the calendar year would not be treated as honoraria. The bill further provides that honoraria would be treated as accepted in the year of receipt.

Social Security Financing Tables

NOTE.—The following tables are based on information furnished by the Social Security Administration.

CHANGE IN ACTUARIAL BALANCE OF THE OASDI PROGRAM OVER THE LONG-RANGE PERIOD (1977-2051) AS A RESULT OF CHANGES INCLUDED IN H.R. 9346

[Percentage of payroll costs; preliminary estimates]

Description of item	OASI	DI	Total
Cost of social security system under present law	15.51	3.68	19.19
Balance under present law	−6.06	−2.14	−8.20
Changes of the bill:			
Decoupling	9.63	2.32	11.95
New (wage-indexed) benefit formula	−5.91	−1.24	−7.16
Freeze minimum at 1978 level (including change in special minimum)	.07	.02	.08
Reduction in spouses' benefits for public pension	.04		.04
Retirement test	−.11		−.11
Delayed retirement credit (including DRC for widows)	−.06		−.06
Marriage/remarriage effect after age 60	−.01		−.01
No retroactive benefit for actuarially reduced benefits	.01		.01
Actuarial reduction applied to general benefit increase	.24		.24
Miscellaneous [1]			
Annual reporting of earnings	−.01		−.01
Total net effect of benefit changes	3.88	1.09	4.97
Change in wage base	.45	.08	.54
Self-employed tax rate to 1½ times employee tax rate	.08	.02	.10
Tax rate schedule	.57	.57	.114
Total net effect of financing changes (including wage base)	.111	.67	.178
Total net cost effect	4.99	1.75	6.74
Balance under bill	−1.07	−.38	−1.45

[1] Includes change in SGA definition for blind, employer tax on tips deemed to be wages, provision on limited partnership coverage, tax relief for affiliated corporations, reduction of 20-yr marriage requirement to 10 yr for certain beneficiaries.

Note: Based on alternative II of the 1977 trustees report.

ESTIMATED AMOUNT OF CHANGES IN OASDI BENEFIT PAYMENTS UNDER H.R. 9346, CALENDAR YEARS 1978–83

[In millions]

	Calendar years—					
	1978	1979	1980	1981	1982	1983
Total amount of change in benefit payments	−$440	−$492	−$844	−$1,446	−$1,696	−$2,577
Benefit structure—net total		−70	−351	−803	−1,473	−2,377
Decoupling and wage-indexing formula (net)		−94	−423	−895	−1,563	−2,466
5-yr transition guarantee		24	79	118	150	180
Frozen minimum benefit			−7	−26	−60	−106
3-percent delayed retirement credit						15
Changes in retirement test—net total	54	266	359	404	895	981
Increases in exempt amount [1]	267	491	585	640	709	762
Reduction in exempt age from 72 to 70 in 1982					403	441
Elimination of monthly measure	−213	−225	−226	−236	−217	−222
Establish the retirement test exempt amount for beneficiaries aged 65 and over as a measure of substantial gainful activity for blind, disabled workers		1	1	1	2	2
Elimination of retroactive payments of actuarially reduced benefits	−339	−536	−550	−559	−565	−569
Limitation on increases in actuarially reduced benefits	−90	−280	−500	−751	−948	1,157
Increase in benefits of surviving spouses, resulting from deceased workers' delayed retirement credits	3	4	5	7	10	−13
Delayed retirement credits for workers with actuarially reduced benefits		14	22	24	26	30
Reduction in benefits of spouses receiving public retirement pensions	−68	−106	−108	−110	−112	−116
Eliminate reduction in widowed spouses benefits due to remarriage after age 60		130	155	166	178	189
Reduction in duration of marriage required for divorced spouses benefits from 20 yr to 10 yr		67	80	86	92	98
Increase in special minimum benefits		12	14	14	15	16
Changes in annual wage reporting provisions	(2)	1	4	9	18	26
Authorization to enter into totalization agreements [3]	(2)	5	4	4	5	6
Increases in contribution and benefit base		(2)	21	62	161	281

[1] Exempt amount increased for beneficiaries aged 65 and over to $4,000 in 1978; $4,500 in 1979; $5,000 in 1980; $5,500 in 1981; and $6,000 in 1982.

[2] Less than $500,000.

[3] The estimates represent additional OASDI benefit payments that would result from implementation of totalization agreements already signed with Italy and West Germany. No agreement can become effective if either House of Congress disapproves the agreement within 90 days after it is submitted to Congress.

Note: A positive figure represents additional benefit payments, and a negative figure represents a reduction in benefit payments.

ADDITIONAL CONTRIBUTION INCOME RESULTING FROM H.R. 9346, CALENDAR YEARS 1978–83

[In billions]

Calendar year	Increase in contribution and benefit base	Reallocation of tax rates between OASDI and HI	Increase in OASDI self-employment tax rates to 1½ times employee rate	Increase in tax rates	Total [1]
OASDI:					
1978		1.6			1.7
1979	4.0	1.1		1.5	6.6
1980	6.3	1.1		1.8	9.2
1981	8.0	1.2	0.2	3.1	17.6
1982	8.8	1.3	.8	10.3	21.3
1983	9.4	1.4	.9	11.1	22.9
HI:					
1978		−1.6			−1.6
1979	.9	−1.1			−.2
1980	1.4	−1.1			.2
1981	2.1	−1.2			.9
1982	2.4	−1.3			1.0
1983	2.5	−1.4			1.1
OASDHI:					
1978					(2)
1979	4.9			1.5	6.4
1980	7.6			1.8	9.4
1981	10.1		.2	8.1	18.4
1982	11.2		.8	10.3	22.4
1983	11.9		.9	11.1	23.9

[1] Includes relatively small amounts of additional taxes payable by employers on employees' income from tips and reduction in taxes due to the provision on totalization agreements.

[2] Amount is less than $50,000,000.

ESTIMATED OPERATIONS OF THE OASI AND DI TRUST FUNDS COMBINED, UNDER THE PROGRAM AS MODIFIED BY H.R. 9346, CALENDAR YEARS 1977–87

[Dollar amounts in billions]

Calendar year	Income	Outgo	Net increase in funds
1977	$82.1	$87.6	−$5.5
1978	92.4	97.2	−4.8
1979	106.5	106.9	−.4
1980	119.1	117.1	2.0
1981	137.1	127.4	9.6
1982	150.2	138.3	11.9
1983	161.3	149.2	12.1
1984	172.9	161.2	11.7
1985	194.2	174.0	20.1
1986	209.0	187.6	21.4
1987	223.7	202.0	21.7

	Funds at end of year	Funds at beginning of year as a percentage of outgo during year	Funds at end of year as a percentage of outgo during year
1977	$35.6	47	41
1978	30.8	37	32
1979	30.4	29	28
1980	32.4	26	28
1981	42.0	25	33
1982	53.9	30	39
1983	66.0	36	44
1984	77.7	41	48
1985	97.9	45	56
1986	119.3	52	64
1987	141.0	59	70

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

ESTIMATED OPERATIONS OF THE OASI TRUST FUND, UNDER THE PROGRAM AS MODIFIED BY H.R. 9346, CALENDAR YEARS 1977–87

[Dollar amounts in billions]

Calendar year	Income	Outgo	Net increase in fund
1977	$72.5	$75.6	−$3.1
1978	78.6	83.6	−5.0
1979	90.8	91.6	−.8
1980	101.5	100.0	1.5
1981	116.0	108.4	7.5
1982	127.2	117.4	9.7
1983	136.6	126.3	10.3
1984	146.4	136.0	10.5
1985	162.0	146.4	15.7
1986	174.1	157.3	16.8
1987	186.3	168.9	17.4

	Funds at end of year	Funds at beginning of year as a percentage of outgo during year	Funds at end of year as a percentage of outgo during year
1977	$32.3	47	43
1978	27.3	39	33
1979	26.5	30	29
1980	28.0	26	28
1981	35.6	26	33
1982	45.3	30	39
1983	55.6	36	44
1984	66.1	41	49
1985	81.7	45	56
1986	98.5	52	63
1987	115.9	58	69

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

ESTIMATED OPERATIONS OF THE DI TRUST FUND UNDER THE PROGRAM AS MODIFIED BY H.R. 9346, CALENDAR YEARS 1977–87

[Dollar amount in billions]

Calendar year	Income	Outgo	Net increase in fund
1977	$9.6	$12.0	—$2.4
1978	13.8	13.7	.2
1979	15.7	15.3	.4
1980	17.6	17.1	.5
1981	21.1	19.0	2.1
1982	23.0	20.9	2.1
1983	24.7	22.9	1.8
1984	26.5	25.2	1.3
1985	32.1	27.7	4.5
1986	34.9	30.3	4.6
1987	37.4	33.1	4.3

	Fund at end of year	Fund at beginning of year as a percentage of outgo during year	Fund at end of year as a percentage of outgo during year
1977	$3.3	48	27
1978	3.5	24	25
1979	3.9	23	26
1980	4.4	23	25
1981	6.5	23	34
1982	8.6	31	41
1983	10.4	38	45
1984	11.6	41	46
1985	16.1	42	58
1986	20.8	53	69
1987	25.1	63	76

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

ESTIMATED OPERATIONS OF THE HI TRUST FUND UNDER THE PROGRAM AS MODIFIED BY H.R. 9346, CALENDAR YEARS 1977–87

[Dollar amounts in billions]

Calendar year	Income	Outgo	Net increase in fund
1977	$16.1	$16.2	—$0.1
1978	19.2	19.0	.2
1979	23.1	22.2	.9
1980	25.7	25.7	(1)
1981	34.0	29.7	4.3
1982	37.1	33.9	3.3
1983	39.7	38.5	1.2
1984	42.3	43.7	—1.4
1985	46.3	49.1	—2.8
1986	52.4	54.9	—2.5
1987	55.8	61.2	—5.4

	Fund at end of year	Fund at beginning of year as a percentage of outgo during year	Fund at end of year as a percentage of outgo during year
1977	$10.5	66	65
1978	10.7	55	56
1979	11.6	48	52
1980	11.5	45	45
1981	15.9	39	53
1982	19.1	47	56
1983	20.3	50	53
1984	19.0	47	43
1985	16.1	39	33
1986	13.6	29	25
1987	8.2	22	13

[1] Outgo exceeds income by less than $50,000,000.

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

ORDER FOR RECESS TO 10:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:45 a.m. tomorrow.

The VICE PRESIDENT. Without objection, it is so ordered.

THE PENDING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the pending business now before the Senate?

The PRESIDING OFFICER. The pending business before the Senate, the unfinished business, is S. 897, the Nuclear Non-Proliferation Act of 1977.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER TO RESUME CONSIDERATION OF S. 897 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the Senate resume consideration of the unfinished business, S. 897.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10:45 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, the Senate will resume consideration of the unfinished business, S. 897, a bill to strengthen U.S. policies on nonproliferation and to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

Rollcall votes may occur on amendments and motions in relation to the same during the day.

RECESS UNTIL 10:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:45 a.m. tomorrow morning.

The motion was agreed to; and at 3:47 p.m., the Senate recessed until tomorrow, February 2, 1978, at 10:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 1, 1978:

CONSUMER PRODUCT SAFETY COMMISSISON

R. David Pittle, of Maryland, to be a Commissioner of the Consumer Product Safety Commission for the remainder of the term expiring October 26, 1982.

DEPARTMENT OF COMMERCE

Ernest Ambler, of Maryland, to be Director of the National Bureau of Standards.

DEPARTMENT OF STATE

Arthur T. Tienken, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic.

William E. Schaufele, Jr., of Ohio, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Poland.

Richard J. Bloomfield, of Connecticut, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

Robert W. Buchheim, of the District of Columbia, for the rank of Ambassador during the tenure of his service as the U.S. Commissioner on the United States-Soviet Standing Consultative Commission.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Thomas John Watson, Jr., of Connecticut, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE COAST GUARD

Coast Guard nominations beginning George L. VanBelkum, to be lieutenant commander, and ending Richie M. Keig, to be lieutenant commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 20, 1978.

HOUSE OF REPRESENTATIVES—*Wednesday, February 1, 1978*

The House met at 3 o'clock p.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is my Shepherd. He leads me in the paths of righteousness for His name's sake.—Psalms 23: 1, 3.

Our Father God, who art the source of light and life and the companion of our way through all our days, we thank Thee for Thy presence which makes us strong, keeps us true, and sends us out into each new day with vim, vigor, and vitality. Send us out into this day with Thy Spirit alive in our hearts making us ready to do what is right and good for our Nation and for our world.

Grant that we may not wait to see what action will take place but may we have the courage to make what is right and good come to new life here and now. Give us the faith to stand up for our high ideals lest we sit down with our low ideas and wonder why great and good things do not come to pass. Lead us this day and all days in the paths of righteousness for Thy name's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A mesage from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 5798. An act to amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978; and

H.R. 10532. An act to amend Public Law 95–18, providing for emergency drought relief measures.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 7442. An act to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1976. An act to add certain lands to the Redwood National Park in the State of California, to strengthen the economic base of the affected region, and for other purposes.

AMENDING THE COMMUNICATIONS ACT OF 1934

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7442) to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments, with a Senate amendment thereto and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Communications Act Amendments of 1978".

SEC. 2. Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended to read as follows:

"(b) Any person who is determined by the Commission, in accordance with paragraph (3) or (4) of this subsection, to have—

"(A) willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument or authorization issued by the Commission;

"(B) willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act or under any treaty, convention, or other agreement to which the United States is a party and which is binding upon the United States;

"(C) violated any provision of section 317 (c) or 509(a) of this Act; or

"(D) violated any provision of section 1304, 1343, of 1464 of title 18, United States Code;

shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this subsection shall be in addition to any other penalty provided for by this Act; except that this subsection shall not apply to any conduct which is subject to forfeiture under title II, part II or III of title III, or section 507 of this Act.

"(2) The amount of any forfeiture penalty determined under this subsection shall not exceed $2,000 for each violation. Each day of a continuing violation shall constitute a separate offense, but the total forfeiture penalty which may be imposed under this subsection, for acts or omissions described in paragraph (1) of this subsection and set forth in the notice or the notice of apparent liability issued under this subsection, shall not exceed—

"(A) $20,000, if the violator is (i) a common carrier subject to the provisions of this Act, (ii) a broadcast station licensee or permittee, or (iii) a cable television operator; or

"(B) $5,000, in any case not covered by subparagraph (A).

The amount of such forfeiture penalty shall be assessed by the Commission, or its designee, by written notice. In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(3)(A) At the discretion of the Commission, a forfeiture penalty may be determined against a person under this subsection after notice and an opportunity for a hearing before the Commission or an administrative law judge thereof in accordance with section 554 of title 5, United States Code. Any person against whom a forfeiture penalty is determined under this paragraph may obtain review thereof pursuant to section 402(a).

"(B) If any person fails to pay an assessment of a forfeiture penalty determined under subparagraph (A) of this paragraph, after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the Commission, the Commission shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the forfeiture penalty shall not be subject to review.

"(4) Except as provided in paragraph (3) of this subsection, no forfeiture penalty shall be imposed under this subsection against any person unless and until—

"(A) the Commission issues a notice of apparent liability, in writing, with respect to such person;

"(B) such notice has been received by such person, or until the Commission has sent such notice to the last known address of such person, by registered or certified mail; and

"(C) such person is granted an opportunity to show, in writing, within such reasonable period of time as the Commission prescribes by rule or regulation, why no such forfeiture penalty should be imposed.

Such a notice shall (i) identify each specific provision, term, and condition of any Act, rule, regulation, order, treaty, convention, or other agreement, license, permit, certificate, instrument, or authorization which such person apparently violated or with which such person apparently failed to comply; (ii) set forth the nature of the act or omission charged against such person and the facts upon which such charge is based; and (iii) state the date on which such conduct occurred. Any forfeiture penalty determined under this paragraph shall be recoverable pursuant to section 504(a) of this Act.

"(5) No forfeiture liability shall be determined under this subsection against any person, if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, unless, prior to the notice required by paragraph (3) of this subsection or the notice of apparent liability required by paragraph (4) of this subsection, such person (A) is sent a citation of the violation charged; (B) is given a reasonable opportunity for a personal interview with an official of the Commission, at the field office of the Commission which is nearest to such person's place of residence; and (C) subsequently engages in conduct of the type described in such citation. The provisions of this paragraph shall not apply, however, if the person involved is engaging in activities for which a license, permit, certificate, or other authorization is required. Whenever the requirements of this paragraph are satisfied with respect to a particular person, such person shall not be entitled to receive any additional citation of the violation charged, with respect to any conduct of the type described in the citation sent under this paragraph.

"(6) No forfeiture penalty shall be determined or imposed against any person under this subsection if—

"(A) such person holds a broadcast station license issued under title III of this Act and if the violation charged occurred—

"(i) more than 1 year prior to the date of issuance of the required notice or notice of apparent liability; or

"(ii) prior to the date of commencement of the current term of such license,

whichever is earlier so long as such violation occurred within 3 years prior to the date of issuance of such required notice; or

"(B) such person does not hold a broadcast station license issued under title III of this Act and if the violation charged occurred more than 1 year prior to the date of issuance of the required notice or notice of apparent liability.".

SEC. 3. (a) The first sentence of section 504(a) of the Communications Act of 1934 (47 U.S.C. 504(a)) is amended by inserting immediately after "recoverable" the following: ", except as otherwise provided with respect to a forfeiture penalty determined under section 503(b)(3) of this Act,".

(b) Section 504(b) of such Act is amended (1) by striking out "parts II and III of title III and section 503(b), section 507, and section 510" and inserting in lieu thereof "title II, parts II and III of title III, and sections 503(b) and 507"; and (2) by striking out ", upon application therefor,".

SEC. 4. Section 510 of the Communications Act of 1934 (47 U.S.C. 510) is repealed in its entirety.

SEC. 5. Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking the word "Subject" and inserting in lieu thereof the following "Except as provided in section 224 and subject".

SEC. 6. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"REGULATIONS OF POLE ATTACHMENTS

"SEC. 224. (a) As used in this section:

"(1) The term 'utility' means any person whose rates or charges are regulated by the Federal Government or a State and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communication. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State.

"(2) The term 'Federal Government' means the Government of the United States or any agency or instrumentality thereof.

"(3) The term 'State' means any State, territory, or possession of the United States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof.

"(4) The term 'pole attachment' means any attachment by a cable television system to a pole, duct, conduit, or right-of-way owned or controlled by a utility.

"(b)(1) Subject to the provisions of subsection (c) of this section, the Commission shall regulate the rates, terms, and conditions for pole attachments to provide that such rates, terms, and conditions are just and reasonable, and shall adopt procedures necessary and appropriate to hear and resolve complaints concerning such rates, terms, and conditions. For purposes of enforcing any determinations resulting from complaint procedures established pursuant to this subsection, the Commission shall take such ac-

tion as it deems appropriate and necessary, including issuing cease and desist orders, as authorized by section 312(b) of title III of the Communications Act of 1934, as amended.

"(2) Within 180 days from the date of enactment of this section the Commission shall prescribe by rule regulations to carry out the provisions of this section.

"(c)(1) Nothing in this section shall be construed to apply to, or to give the Commission jurisdiction with respect to rates, terms, and conditions for pole attachments in any case where such matters are regulated by a State.

"(2) Each State which regulates the rates, terms, and conditions for pole attachments shall certify to the Commission that—

"(A) it regulates such rates, terms, and conditions; and

"(B) in so regulating such rates, terms, and conditions, the State has the authority to consider and does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services.

"(d)(1) For purposes of subsection (b) of this section, a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

"(2) As used in this subsection, the term 'usable space' means the space above the minimum grade level which can be used for the attachment of wires, cables, and associated equipment.

"(e) Upon the expiration of the 5-year period that begins on the date of enactment of this Act the provisions of subsection (d) of this section shall cease to have any effect.".

SEC. 6. Section 222(a)(10) of the Communications Act of 1934 (47 U.S.C. 222(a)(10)) is amended by striking out ", except Hawaii".

SEC. 7. Section 222 of the Communications Act of 1934 (47 U.S.C. 222), as amended, is further amended by adding at the end thereof the following new subsection:

"(g)(1) The authority of any carrier to provide any service or operate any facilities which it is authorized to provide or operate on the date of enactment of this subsection shall not be altered solely by the inclusion of Hawaii within the definition of 'Continental United States', nor shall such inclusion restrict or impair any carrier's eligibility after the date of enactment of this subsection for new or additional authority.

"(2) Whenever, upon a complaint or upon its own initiative, and after opportunity for a hearing, the Commission finds that any charge, classification, regulation, or practice relating to intercarrier arrangements of any carrier serving Hawaii is or will be unjust, unreasonable, discriminatory, or not in the public interest, the Commission shall determine and prescribe what charge, classification, regulation, or practice, or such other remedy as is or will be just, reasonable, nondiscriminatory and in the public interest to be thereafter followed.".

SEC. 8. The amendments made by this Act shall take effect on the thirtieth day after the date of enactment of this Act; except that the provisions of sections 503(b) and 510 of the Communications Act of 1934, as in effect on such date of enactment, shall continue to constitute the applicable law with the respect to any act or omission which occurs prior to such thirtieth day.

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendment and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the House amendments to the Senate amendment, as follows:

In the matter proposed to be inserted by the Senate amendment to H.R. 7442—

(1) strike out sections 2, 3, and 4, the second section 6 (on page 10 of the Senate engrossed amendment), and sections 7 and 8; and

(2) redesignate section 5 and the first section 6 (beginning on page 7 of the Senate engrossed amendment) as sections 2 and 3, respectively.

The SPEAKER. Is there objection to the first request of the gentleman from West Virginia?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I do so in order that my colleague, the gentleman from West Virginia (Mr. STAGGERS) can explain what is happening here. As I understand it, the Senate attached several amendments which we have not agreed to; is that correct?

Mr. STAGGERS. If the gentleman will yield, this is correct. And I would call upon the subcommittee chairman, the gentleman from California (Mr. VAN DEERLIN) to explain. They did attach two amendments, which were not germane, to the bill, and we want to send it back to them after doing what we think is proper.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. I thank the gentleman for yielding.

Mr. Speaker, what has happened on the Senate side, as the gentleman from West Virginia (Mr. STAGGERS) indicated, was the addition of two amendments, nongermane under House rules, and both of them dealing with subject matters on which this Congress, on the House side, has not conducted hearings.

We saw no choice but to reject both amendments because of this.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, as I understand the parliamentary situation, we are having the bill read, and it is going back to conference and the conferees will just return to conference for that purpose?

Mr. VAN DEERLIN. Mr. Speaker, if the gentleman from Ohio (Mr. ASHBROOK) will yield further, the idea is to accept minor technical amendments that the Senate made in the provisions relating to pole attachments regulation contained in the bill and to reject the two remaining amendments attached by the other body, because we felt that under our rules we could not go to conference on those matters.

Mr. ASHBROOK. Mr. Speaker, I appreciate the gentleman's explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the first request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

INTRODUCTION OF BILL RESTRUCTURING SOCIAL SECURITY FINANCING

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to inform my colleagues in the House that I am today filing a bill to restructure the financing of social security.

The social security tax in this country is the most regressive tax that we have. It is one of the biggest causes of unemployment. This tax is driving out more business firms in this country than any other cause.

We recently heard figures announced on the trade deficit in this Nation. Some people are saying that this is caused by the increase in oil imports. I do not think the Nation of Japan ships oil to the United States, I do not think we get a single quart of oil from that country, still they have a $10 billion trade surplus with the United States.

We have a condition in this country in which the taxes of the steelworkers of America amount to $1,500 per year more from the employer and per employee. The taxes in the automobile industry are $1,150 a year more employee, employer tax. With the garment workers and the shoe workers, and employer tax the figure is $700 to $800 more a year. This is the biggest deterrent that we have to employment in this country.

If we can put through this restructuring of social security with the same formula that 60 other nations in the world have, it will bring about the employment of 2 million people. That would mean 2 million people taken off the welfare rolls, off the unemployment compensation rolls, off food stamps, and off public service jobs. That would save over $60 billion a year.

We must return the people to the work ethic of this country and make it possible for people to get jobs. Six hundred and fifty thousand jobs were wiped out in New York City in the manufacturing area, and these are jobs that only certain people can hold. They are the only jobs these people qualify to hold. We have to get people back to the manufacturing plants.

Mr. Speaker, I want to close by reciting a little piece I heard many years ago, and I hope every Member of the House will keep this in mind:

> On the beaches of hesitation lie
> The bleached bones of thousands.
> Having sat down to rest awhile,
> Life passed them by.

Mr. Speaker, this is the year to do something on the restructuring of social security.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9214, BRETTON WOODS AGREEMENT ACT AMENDMENTS

Mr. DODD from the Committee on Rules, submitted a privileged report (Rept. No. 95–862) on the resolution (H. Res. 990) providing for consideration of the bill (H.R. 9214) to amend the Bretton Woods Agreement Act to authorize the United States to participate in the

Supplementary Financing Facility of the International Monetary Fund, which was referred to the House Calendar and ordered to be printed.

BANKRUPTCY LAW REVISION

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device. and there were—yeas 405, nays 4, not voting 23, as follows:

[Roll No. 25]

YEAS—405

Abdnor	Caputo	Evans, Ga.
Addabbo	Carney	Evans, Ind.
Akaka	Carr	Fary
Alexander	Carter	Fascell
Allen	Cavanaugh	Fenwick
Ambro	Cederberg	Findley
Ammerman	Chappell	Fish
Anderson, Calif.	Chisholm	Fisher
Anderson, Ill.	Clausen, Don H.	Fithian
Andrews, N.C.	Clawson, Del	Flippo
Andrews, N. Dak.	Clay	Flood
Annunzio	Cleveland	Florio
Applegate	Cochran	Flowers
Archer	Cohen	Flynt
Ashbrook	Coleman	Foley
Ashley	Collins, Ill.	Ford, Mich.
AuCoin	Collins, Tex.	Ford, Tenn.
Badham	Conable	Forsythe
Bafalis	Conte	Fountain
Baldus	Conyers	Fowler
Barnard	Corcoran	Fraser
Baucus	Corman	Frenzel
Bauman	Cornell	Frey
Beard, R.I.	Cornwell	Fuqua
Beard, Tenn.	Cotter	Gammage
Bedell	Coughlin	Gaydos
Bellenson	Crane	Gephardt
Benjamin	Cunningham	Giaimo
Bennett	Daniel, Dan	Gibbons
Bevill	Daniel, R. W.	Gilman
Biaggi	Danielson	Ginn
Blanchard	Davis	Glickman
Blouin	de la Garza	Goldwater
Boggs	Delaney	Gonzalez
Boland	Dellums	Goodling
Bolling	Derrick	Gore
Bonior	Derwinski	Gradison
Bonker	Devine	Grassley
Bowen	Dickinson	Gudger
Brademas	Dicks	Guyer
Breaux	Dingell	Hagedorn
Breckinridge	Dodd	Hall
Brinkley	Dornan	Hamilton
Brodhead	Drinan	Hammer-schmidt
Brooks	Duncan, Oreg.	Hanley
Broomfield	Duncan, Tenn.	Hannaford
Brown, Mich.	Early	Hansen
Broyhill	Eckhardt	Harkin
Buchanan	Edgar	Harrington
Burgener	Edwards, Ala.	Harris
Burke, Calif.	Edwards, Calif.	Harsha
Burke, Fla.	Edwards, Okla.	Hawkins
Burke, Mass.	Eilberg	Hefner
Burleson, Tex.	Emery	Heftel
Burlison, Mo.	English	Hillis
Burton, Phillip	Erlenborn	Holland
Butler	Ertel	Holt
Byron	Evans, Colo.	Holtzman
	Evans, Del.	Horton
Howard	Moakley	Schulze
Hubbard	Moffett	Sebelius
Huckaby	Mollohan	Seiberling
Hughes	Montgomery	Sharp
Hyde	Moore	Shipley
Ichord	Moorhead, Calif.	Shuster
Ireland	Moorhead, Pa.	Sikes
Jacobs	Mottl	Simon
Jeffords	Murphy, Ill.	Sisk
Jenkins	Murphy, N.Y.	Skelton
Jenrette	Murphy, Pa.	Skubitz
Johnson, Calif.	Murtha	Slack
Johnson, Colo.	Myers, Gary	Smith, Iowa
Jones, N.C.	Myers, John	Smith, Nebr.
Jones, Okla.	Myers, Michael	Snyder
Jordan	Natcher	Solarz
Kasten	Neal	Spellman
Kastenmeier	Nedzi	Spence
Kazen	Nichols	St Germain
Kelly	Nix	Staggers
Kemp	Nolan	Stangeland
Ketchum	Nowak	Stanton
Keys	O'Brien	Stark
Kildee	Oakar	Steed
Kindness	Oberstar	Steers
Kostmayer	Obey	Steiger
Krebs	Ottinger	Stockman
Krueger	Panetta	Stokes
LaFalce	Patten	Stratton
Lagomarsino	Patterson	Studds
Latta	Pattison	Stump
Le Fante	Pease	Symms
Leach	Pepper	Taylor
Lederer	Perkins	Teague
Lent	Pettis	Thornton
Levitas	Pickle	Traxler
Livingston	Pike	Treen
Lloyd, Calif.	Poage	Trible
Lloyd, Tenn.	Pressler	Tsongas
Long, La.	Preyer	Tucker
Long, Md.	Price	Udall
Lott	Pritchard	Ullman
Lujan	Pursell	Van Deerlin
Luken	Quayle	Vander Jagt
Lundine	Quie	Vanik
McClory	Quillen	Vento
McCloskey	Rahall	Volkmer
McCormack	Railsback	Waggonner
McDade	Rangel	Walgren
McEwen	Regula	Walker
McFall	Reuss	Walsh
McHugh	Rhodes	Wampler
McKay	Richmond	Watkins
McKinney	Rinaldo	Waxman
Madigan	Roberts	Weaver
Maguire	Robinson	Weiss
Mahon	Rodino	Whalen
Mann	Roe	White
Markey	Rogers	Whitehurst
Marks	Rooney	Whitley
Marlenee	Rose	Whitten
Marriott	Rosenthal	Wilson, C. H.
Mathis	Rostenkowski	Wilson, Tex.
Mattox	Rousselot	Winn
Mazzoli	Roybal	Wirth
Meeds	Rudd	Wright
Metcalfe	Runnels	Wydler
Meyner	Ruppe	Wylie
Michel	Russo	Yates
Mikulski	Ryan	Yatron
Mikva	Santini	Young, Alaska
Milford	Sarasin	Young, Fla.
Miller, Calif.	Satterfield	Young, Mo.
Miller, Ohio	Sawyer	Young, Tex.
Mineta	Scheuer	Zablocki
Minish	Schroeder	Zeferetti
Mitchell, N.Y.		

NAYS—4

Aspin	Hollenbeck	Wilson, Bob
D'Amours		

NOT VOTING—23

Armstrong	Heckler	Moss
Bingham	Hightower	Risenhoover
Brown, Calif.	Jones, Tenn.	Roncalio
Brown, Ohio	Leggett	Thompson
Burton, John	Lehman	Thone
Dent	McDonald	Wiggins
Diggs	Martin	Wolff
Downey	Mitchell, Md.	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8200, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, October 28, 1977, title I had been considered as having been read and open to amendment at any point.

Are there any further amendments to title I? If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE AND TO THE FEDERAL RULES OF EVIDENCE

SEC. 201. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 5 the following:

"Chapter 6—BANKRUPTCY COURTS

"Sec.
"151. Creation and composition of bankruptcy courts.
"152. Appointment of bankruptcy judges.
"153. Tenure and residence of bankruptcy judges.
"154. Salaries of bankruptcy judges.
"155. Chief judge; precedence of bankruptcy judges.
"156. Division of business among bankruptcy judges.
"157. Times for holding regular sessions.
"158. Adjournment.
"159. Special sessions; places; notice.
"160. Accommodations at places for holding court.
"161. Vacant judgeship as affecting proceedings.
"162. Bias or prejudice of judge.

"§ 151. Creation and composition of bankruptcy courts

"(a) There shall be in each judicial district a bankruptcy court which shall be a court of record known as the United States Bankruptcy Court for the district.

"(b) Each bankruptcy court shall consist of the bankruptcy judge or judges for the district in regular active service. Justices or judges designated or assigned shall be competent to sit as judges of the bankruptcy court.

"(c) Except as otherwise provided by law, or rule or order of court, the judicial power of a bankruptcy court with respect to any action, suit or proceeding may be exercised by a single bankruptcy judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other bankruptcy judges.

"§ 152. Appointment of bankruptcy judges

"The President shall appoint, by and with the advice and consent of the Senate, bankruptcy judges for the several judicial districts.

"§ 153. Tenure and residence of bankruptcy judges

"(a) The bankruptcy judges shall hold office during good behavior.

"(b) Each bankruptcy judge shall reside in the district or one of the districts for which he is appointed.

"(c) If the public interest and the nature of the business of a bankruptcy court require that a bankruptcy judge should maintain his abode at or near a particular place for holding court in the district or within a particular part of the district the judicial council of the circuit may so declare and may make an appropriate order. If the bankruptcy judges of such a district are unable to agree as to which of them shall maintain his abode at or near the place or within the area specified in such an order the judicial council of the circuit may decide which of them shall do so.

"§ 154. Salaries of bankruptcy judges

"Each bankruptcy judge shall receive the same salary as may from time to time be

in effect for a judge of a district court of the United States other than the chief judge of the United States District Court for the District of Columbia.

"§ 155. Chief judge; precedence of bankruptcy judges

"(a) In each district having more than one judge the bankruptcy judge in regular active service who is senior in commission and under seventy years of age shall be the chief judge of the bankruptcy court. If all the bankruptcy judges in regular active service are seventy years of age or older the youngest shall act as chief judge until a judge has been appointed and qualified who is under seventy years of age, but a judge may not act as chief judge until he has served as a bankruptcy judge for one year.

"(b) The chief judge shall have precedence and preside at any session which he attends.

"Other bankruptcy judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

"(c) A judge whose commission extends over more than one district shall be junior to all bankruptcy judges except in the district in which he resided at the time he entered upon the duties of his office.

"(d) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as a bankruptcy judge, he may so certify to the Chief Justice of the United States, and thereafter the bankruptcy judge in active service next in precedence and willing to serve shall be designated by the Chief Justice as the chief judge of the bankruptcy court.

"(e) If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the bankruptcy judge in active service, present in the district and able and qualified to act, who is next in precedence.

"§ 156. Division of business among bankruptcy judges

"The business of a bankruptcy court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.

"The chief judge of the bankruptcy court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.

"If the bankruptcy judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders.

"§ 157. Times for holding regular sessions

"The times for commencing regular sessions of the bankruptcy court for transacting judicial business at the places fixed by this chapter and chapter 5 of this title shall be determined by the rules or orders of the bankruptcy court. Such rules or orders may provide that at one or more of such places the court shall be in continuous session for such purposes on all business days throughout the year. At other places a session of the court shall continue for such purposes until terminated by order of final adjournment or by commencement of the next regular session at the same place.

"§ 158. Adjournment

"(a) Any bankruptcy court may, by order made anywhere within its district, adjourn or, with the consent of the judicial council of the circuit, pretermit any regular session of court for insufficient business or other good cause.

"(b) If the judge of a bankruptcy court is unable to attend and unable to make an order of adjournment, the clerk may adjourn the court to the next regular session or to any earlier date which he may determine.

"§ 159. Special sessions; places; notice

"Special sessions of the bankruptcy court may be held at such places in the district as the nature of the business may require, and upon such notice as the court orders.

"Any business may be transacted at a special session which might be transacted at a regular session.

"§ 160. Accommodations at places for holding court

"Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States. The foregoing restrictions shall not, however, preclude the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts from providing such court quarters and accommodations as the Administrator determines can appropriately be made available at places where court is authorized by law to be held, but only if such court quarters and accommodations have been approved as necessary by the judicial council of the appropriate circuit.

"§ 161. Vacant judgeship as affecting proceedings

"When the office of a bankruptcy judge becomes vacant, all pending process, pleadings and proceedings shall, when necessary, be continued by the clerk until a judge is appointed or designated to hold such court.

"§ 162. Bias or prejudice of judge

"Whenever a party to any proceeding in a bankruptcy court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

"The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the proceeding is to be heard, or good cause shall be shown for failure to file within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.".

(b) The table of chapters of part I of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 5 of such title the following:

"6. Bankruptcy courts----------151".

SEC. 202. Section 291(c) of title 28 of the United States Code is amended by inserting "or bankruptcy" immediately after "to hold a district".

SEC. 203. Section 292(b) of title 28 of the United States Code is amended by inserting "or a bankruptcy court" immediately after "to hold a district court".

SEC. 204. Section 292(d) of title 28 of the United States Code is amended—

(1) by striking out "either";

(2) by inserting "bankruptcy court," immediately after "in a"; and

(3) by inserting a comma immediately after "district court".

SEC. 205. Section 293 of title 28 of the United States Code is amended by adding at the end thereof the following:

"(e)(1) The Chief Justice of the United States may designate and assign temporarily a bankruptcy judge of one circuit for service in another circuit, either in a bankruptcy court or a district court upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

"(2) The chief judge of a circuit may designate and assign one or more bankruptcy judges within the circuit to sit upon the court of appeals or a division thereof whenever the business of that court so requires. Such designations or assignments shall be in conformity with the rules or orders of the court of appeals of the circuit.

"(3) The chief judge of a circuit may, in the public interest, designate and assign temporarily a bankruptcy judge of the circuit to hold a district court in any district within the circuit.

"(4) The chief judge of a circuit may, in the public interest, designate and assign temporarily a bankruptcy judge of the circuit to hold a bankruptcy court in any district within the circuit.".

SEC. 206. Section 294 of title 28 of the United States Code is amended—

(1) in subsection (c), by striking out "or district" and inserting in lieu thereof ", district, or bankruptcy";

(2) in the second sentence of subsection (d), by inserting "in a circuit, district, or bankruptcy court outside his own district, in the case of a retired bankruptcy judge," immediately after "retired circuit or district judge,"; and

(3) in subsection (d), by striking out "or district court" and inserting in lieu thereof ", district court, or bankruptcy court".

SEC. 207. Section 295 of title 28 of the United States Code is amended by striking out "or district" and inserting in lieu thereof "district, or bankruptcy".

SEC. 208. Section 331 of title 28 of the United States Code is amended—

(1) by inserting "and a bankruptcy judge" immediately after "and a district judge" in the first sentence in the first paragraph;

(2) by inserting "circuit and district" in the second paragraph—

(A) immediately after "amended section the";

(B) immediately after "for one year, the"; and

(C) immediately after "two years and the";

(3) by inserting at the end of the second paragraph the following: "The bankruptcy judge to be summoned from each judicial circuit shall be chosen by the circuit and bankruptcy judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the effective date of this sentence the circuit and bankruptcy judges in the first, fourth, seventh, and tenth circuits shall choose a bankruptcy judge to serve for one year, the circuit and bankruptcy judges in the second, fifth, and eighth circuits shall choose a bankruptcy judge to serve for two years and the circuit and bankruptcy judges in the third, sixth, ninth, and District of Columbia circuits shall choose a bankruptcy judge to serve for three years.";

(4) by inserting "or the bankruptcy judge" immediately after "or the district judge" in the first sentence in the third paragraph; and

(5) by striking out "or district" and inserting in lieu thereof ", district, or bankruptcy" in the first sentence in the third paragraph.

SEC. 209. Section 332(d) of title 28 of the United States Code is amended by inserting "and bankruptcy judges" immediately after "The district judges".

SEC. 210. Section 333 of title 28 of the United States Code is amended by striking out "and district" and inserting in lieu thereof ", district, and bankruptcy".

SEC. 211. Section 372(a) of title 28 of the United States Code is amended by striking out "or district" in the fourth paragraph and inserting in lieu thereof ", district, or bankruptcy".

SEC. 212. Section 372(b) of title 28 of the United States Code is amended by striking out "or district" and inserting in lieu thereof ", district, or bankruptcy".

SEC. 213. Section 451 of title 28 of the United States Code is amended—

(1) by inserting ", bankruptcy courts" immediately after "the Customs Court" in the paragraph beginning with "The term 'court of the United States' "; and

(2) by inserting "bankruptcy courts," immediately after "district courts," in the paragraph beginning with "The term 'judge of the United States' ".

SEC. 214. (a) Sections 455(a) and 455(e) of title 28 of the United States Code are each amended by striking out "magistrate, or referee in bankruptcy" each place it appears and inserting in lieu thereof "or magistrate".

(b) The heading for section 455 of title 28 of the United States Code is amended by striking out "magistrate, or referee in bankruptcy" and inserting in lieu thereof "or magistrate".

(c) The item relating to section 455 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "magistrate, or referee in bankruptcy" and inserting in lieu thereof "or magistrate".

SEC. 215. Section 456 of title 28 of the United States Code is amended—

(1) by striking out "and the United States District Court for the District of Columbia," and inserting in lieu thereof "the United States District Court for the District of Columbia, and the United States Bankruptcy Court for the District of Columbia,";

(2) by striking out "and district and inserting in lieu thereof ", district, and bankruptcy; and

(3) by striking out "and each district judge and inserting in lieu thereof ", each district judge, and each bankruptcy judge".

SEC. 216. Section 457 of title 28 of the United States Code is amended by inserting "of bankruptcy courts," immediately after "The records".

SEC. 217. (a) The heading for section 460 of title 28 of the United States Code is amended by striking out "Alaska,".

(b) The item relating to section 460 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "Alaska,".

SEC. 218. Section 506 of title 28 of the United States Code is amended by striking out "nine" and inserting in lieu thereof "ten".

SEC. 219. (a) Section 526(a)(1) of title 28 of the United States Code is amended by striking out "and marshals" and inserting in lieu thereof ", marshals, and trustees".

(b) The heading for section 526 of title 28 of the United States Code is amended by striking out "and marshals" and inserting in lieu thereof ", marshals, and trustees".

(c) The item relating to section 526 in the table of sections of chapter 31 of title 28 of the United States Code is amended by striking out "and marshals" and inserting in lieu thereof ", marshals, and trustees".

SEC. 220. Section 526(a)(2) of title 28 of the United States Code is amended—

(1) by striking out "referees,"; and

(2) by striking out "and receivers in bankruptcy" and inserting in lieu thereof "in cases under title 11".

SEC. 221. Section 569(a) of title 28 of the United Code is amended by striking out "of the district court" and inserting in lieu thereof "of the bankruptcy court, of the district court,".

SEC. 222. Section 571(a) of title 28 of the United States Code is amended—

(1) by striking out "and of the marshals" and inserting in lieu thereof "of the marshals"; and

(2) by inserting ", and of the United States trustees, their assistants, staff and other employees" immediately after "clerical assistants".

SEC. 223. Section 571(b) of title 28 of the United States Code is amended by striking out "and district" and inserting in lieu thereof ", district, and bankruptcy".

SEC. 224. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following:

"Chapter 39—UNITED STATES TRUSTEES

"Sec.
"581. United States trustees.
"582. Assistant United States trustees.
"583. Oath of office.
"584. Official stations.
"585. Vacancies.
"586. Duties; supervision by Attorney General.
"587. Salaries.
"588. Expenses.
"589. Staff and other employees.

"§ 581. United States trustees

"(a) The Attorney General shall appoint a United States trustee for each judicial district. The Attorney General may appoint the same individual to serve as United States trustee for more than one judicial district.

"(b) Each United States trustee shall be appointed for a term of seven years. On the expiration of his term, a United States trustee shall continue to perform the duties of his office until his successor is appointed and qualifies.

"(c) Each United States trustee is subject to removal for cause by the Attorney General.

"§ 582. Assistant United States trustees

"(a) The Attorney General may appoint one or more assistant United States trustees in any district when the public interest so requires.

"(b) Each assistant United States trustees is subject to removal for cause by the Attorney General.

"§ 583. Oath of office

"Each United States trustee and assistant United States trustee, before taking office, shall take an oath to execute faithfully his duties.

"§ 584. Official stations

"The Attorney General may determine the official stations of the United States trustees and assistant United States trustees within the districts for which they were appointed.

"§ 585. Vacancies

"The Attorney General may appoint an acting United States trustee for a district in which the office of United States trustee is vacant, or may designate a United States trustee for another judicial district to serve as trustee for the district in which such vacancy exists. The individual so appointed or designated may serve until the earlier of 90 days after such appointment or designation, as the case may be, or the date on which the vacancy is filled by appointment under section 581 of this title.

"§ 586. Duties; supervision by Attorney General

"(a) Each United States trustee, within his district, shall—

"(1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11;

"(2) serve as and perform the duties of a trustee in a case under title 11 when required under title 11 to serve as trustee in such a case;

"(3) deposit or invest under section 345 of title 11 money received as trustee in cases under title 11;

"(4) perform the duties prescribed for the United States trustee under title 11; and

"(5) make such reports as the Attorney General directs.

"(b) If the number of cases under chapter 13 of title 11 commenced in a particular judicial district so warrant, the United States trustee for such district may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustees for such district to perform the duties of the United States trustee, in cases under such chapter. The United States trustee for such district shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

"(c) Each United States trustee shall be under general supervision of the Attorney General, who shall provide general coordination and assistance to the United States trustees.

"(d) The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under subsection (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11.

"(e)(1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11, shall fix—

"(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5; and

"(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

"(2) Such individual shall collect such percentage fee from all payments under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay annually to the United States trustee, and the United States trustee shall pay to the Treasury—

"(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under chapter 13 of title 11 for which such individual serves as standing trustee; and

"(B) any amount by which the percentage fee fixed under paragraph (1)(B) of this subsection for all such cases exceeds—

"(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.

"§ 587. Salaries

"The Attorney General shall fix the annual salaries of United States trustees and assistant United States trustees at rates of compensation not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5.

"§ 588. Expenses

"Necessary office expenses of the United States trustee shall be allowed when authorized by the Attorney General.

"§ 589. Staff and other employees

"The United States trustee may employ staff and other employees on approval of the Attorney General.".

(b) The table of chapters of part II of title 28 of the United States Code is amended by inserting at the end thereof the following:

"39. United States Trustees---------- 581".

SEC. 225. Section 604(a) of title 28 of the United States Code is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting immediately after paragraph (12) the following:

"(13) Lay before Congress, annually, statistical tables that will accurately reflect the business transacted by the several bankruptcy courts, and all other pertinent data relating to such courts;".

SEC. 226. Section 610 of title 28 of the United States Code is amended by striking out "and district courts" and inserting in lieu thereof ", district courts, and bankruptcy courts".

SEC. 227. Section 620(b)(3) of title 28 of the United States Code is amended by striking out "referees,".

SEC. 228. Section 621(a)(2) of title 28 of the United States Code is amended by striking out "and three active judges of the district courts of the United States" and inserting in lieu thereof ", three active judges of the district courts of the United States, and two active judges of the bankruptcy courts of the United States".

SEC. 229. Section 621(b) of title 28 of the United States Code is amended—

(1) by inserting "(1)" immediately after "(b)";

(2) by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (2) of this subsection the";

(3) by striking out everything after "years" down through "That a" and inserting in lieu thereof ". A"; and

(4) by adding at the end thereof the following:

"(2) Members first elected to the Board from among bankruptcy judges shall continue in office for terms of two and four years, respectively, the term of each to be designated by the Judicial Conference of the United States at the time of his election.".

SEC. 230. Section 621(c) of title 28 of the United States Code is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end thereof the following:

"(2) The member first elected to the Board from among bankruptcy judges who is designated by the Judicial Conference of the United States to serve a term of office of two years shall be eligible for reelection to one full term of office.".

SEC. 231. Chapter 42 of title 28 of the United States Code is amended—

(1) by striking out section 629; and

(2) by striking out the item relating to section 629 in the table of sections.

SEC. 232. Section 631(c) of title 28 of the United States Code is amended—

(1) by striking out "of the conference, a part-time referee in bankruptcy or" and inserting in lieu thereof "of the conference,"; and

(2) by striking out "magistrate and part-time referee in bankruptcy," and inserting in lieu thereof "magistrate and".

SEC. 233. Section 634(a) of title 28 of the United States Code is amended by striking out "for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended,", and inserting in lieu thereof "not to exceed $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title,".

SEC. 234. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 49 the following:

"Chapter 50—BANKRUPTCY COURTS

"Sec.
"771. Clerks.
"772. Other employees.
"773. Records of proceedings; reporters.
"774. Power to appoint.

"(a) Each bankruptcy court may appoint a clerk who shall be subject to removal by the court.

"(b) The clerk may appoint, with the approval of the court, necessary deputies, clerical assistants and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants and employees shall be subject to removal by the clerk with the approval of the court.

"(c) The clerk of each bankruptcy court shall reside in the district for which he is appointed. The bankruptcy court may designate places within the district for the offices of the clerk and his deputies, and their official stations.

'(d) A clerk of a bankruptcy court or his deputy or assistant shall not receive any compensation or emoluments through any office or position to which he is appointed by the court, other than that received as such clerk, deputy or assistant, whether from the United States or from private litigants.

"(e) The clerk of each bankruptcy court shall pay into the Treasury all fees, costs and other moneys collected by him, except uncollected fees not required by Act of Congress to be prepaid.

"He shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

"§ 772. Other employees

"Bankruptcy judges may appoint necessary other employees, including law clerks and secretaries, subject to any limitation on the aggregate salaries of such employees which may be imposed by law.

"§ 773. Records of proceedings; reporters

"(a) The bankruptcy court shall require a record to be made, whenever practicable, of all proceedings in cases had in open court. The court may provide that the record be taken by such electronic sound recording means as the Judicial Conference shall prescribe, by a court reporter appointed or employed by such bankruptcy court to take a verbatim record by shorthand or mechanical means, or by an employee of the court designated by the court to take such a verbatim record.

"(b) On the request of a party to a proceeding that has been recorded who has agreed to pay the fee for a transcript, or a judge of the bankruptcy court, a transcript of the original record of the requested parts of such proceeding shall be made and delivered promptly to such party or judge. Any such transcript that is certified shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcript of the proceedings of the bankruptcy court shall be considered as official except those made from certified records.

"(c) Fees for transcripts furnished in proceedings to persons permitted to appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question).

"§ 774. Power to appoint

"Whenever a majority of the bankruptcy judges of any bankruptcy court cannot agree upon the appointment of any officer of such court, the chief judge shall make such appointment.".

(b) The table of chapters of part III of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 49 the following:

"50 Bankruptcy Courts----------771".

SEC. 235. Section 957(a) of title 28 of the United States Code is amended by inserting "or bankruptcy court" immediately after "district court".

SEC. 236. Section 959(b) of title 28 of the United States Code is amended by striking out "A" and inserting in lieu thereof "Except as provided in section 1165 of title 11, a".

SEC. 237. (a) Section 1291 of title 28 of the United States Code is amended by inserting "the bankruptcy courts of the United States," immediately after "the district courts of the United States.".

(b) The heading for section 1291 of title 28 of the United States Code is amended by inserting "and bankruptcy courts" immediately after "district courts".

(c) The item relating to section 1291 in the table of sections of chapter 83 of title 28 of the United States Code is amended by inserting "and bankruptcy courts" immediately after "district courts".

SEC. 238. Section 1292 (a) of title 28 of the United States Code is amended—

(1) by inserting "the bankruptcy courts of the United States," immediately after "the district courts of the United States," in paragraph (1);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(5) Final judgments, orders and decrees of the bankruptcy courts of the United States in proceedings arising under title 11 or arising under or related to cases under title 11.".

SEC. 239. Section 1292(b) of title 28 of the United States Code is amended by inserting immediately after "district" each place it appears the following: "or bankruptcy".

SEC. 240. Section 1294 of title 28 of the United States Code is amended—

(1) by striking out "district and territorial" and inserting in lieu thereof "district, bankruptcy, and territorial"; and

(2) by inserting "or a bankruptcy court of the United States" immediately after "a district court of the United States" in paragraph (1).

SEC. 241. Chapter 85 of title 28 of the United States Code is amended—

(1) by striking out section 1334; and

(2) by striking out the item relating to section 1334 in the table of sections.

SEC 242. Section 1360(a) of title 28 of the United States Code is amended by striking out "within the Territory" and inserting in lieu thereof "within the State".

SEC. 243. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 89 the following:

"Chapter 90—BANKRUPTCY COURTS

"Sec.
"1471. Jurisdiction.
"1472. Venue of cases under title 11.
"1473. Venue of proceedings arising under or related to cases under title 11.
"1474. Venue of cases ancillary to foreign proceedings.
"1475. Change of venue.
"1476. Creation or alteration of district or division.
"1477. Cure or waiver of defects.
"1478. Removal to the bankruptcy courts.
"1479. Provisional remedies; security.
"1480. Jury trials.
"1481. Powers of bankruptcy court.

"§ 1471. Jurisdiction

"(a) Except as provided in subsection (b) of this section, the bankruptcy courts shall have original and exclusive jurisdiction of all cases under title 11.

"(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the bankruptcy courts, the bankruptcy courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11 or arising under or related to cases under title 11.

"(c) Subsection (b) of this section does not prevent a bankruptcy court, in the interest of justice, from abstaining from hearing a particular proceeding arising under title 11 or arising under or related to a case under title 11. Such abstention, or a decision not to abstain, is not reviewable by appeal or otherwise.

"§ 1472. Venue of cases under title 11

"Except as provided in section 1474 of this title, a case under title 11 may be commenced in the bankruptcy court for a district—

"(1) in which the domicile, residence, principal place of business, or principal assets of the person or entity that is the subject of such case have been located for the 180 days immediately preceding such commencement, or for a longer portion of such 180-day period than such domicile, residence, principal place of business, or principal assets were located in any other district; or

"(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

"§ 1473. Venue of proceedings arising under or related to cases under title 11

"(a) Except as provided in subsections (b) and (d) of this section, a proceeding arising under or related to a case under title 11 may be commenced in the bankruptcy court in which such case is pending.

"(b) A trustee in a case under title 11 may commence a proceeding arising under or related to such case to recover a money judgment of less than $1,000 or a consumer debt of less than $5.000 only in the bankruptcy court for the district in which a defendant resides.

"(c) A trustee in a case under title 11 may commence a proceeding arising under or related to such case as statutory successor to the debtor or creditors under section 541, 544(b), or 544(c) of title 11 in the bankruptcy court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title 11 had not been commenced.

"(d) A trustee may commence a proceeding arising under title 11 or arising under or related to a case under title 11 based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the bankruptcy court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

"(e) A proceeding arising under or related to a case under title 11, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the bankruptcy court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the bankruptcy court in which such case is pending.

"§ 1474. Venue of cases ancillary to foreign proceedings

"(a) A case under section 304 of title 11 to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the bankruptcy court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

"(b) A case under section 304 of title 11 to enjoin the enforcement of a lien against property, or to require turnover of property of an estate, may be commenced only in the bankruptcy court for the district in which such property is found.

"(c) A case under section 304 of title 11, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the bankruptcy court for the district in which is located the principal place of business in the United States, or the principal assets in the United States, of the estate that is the subject of such case.

"§ 1475. Change of venue

"A bankruptcy court may transfer a case under title 11 or a proceeding arising under or related to such a case to a bankruptcy court for another district, in the interest of justice and for the convenience of the parties.

"§ 1476. Creation or alteration of district or division

"Cases or proceedings pending at the time of the creation of a new district or division or transfer of a county or territory from one division or district to another may be tried in the district or division as it existed at the institution of the case or proceedings, or in the district or division so created or to which the county or territory is so transferred as the parties shall agree or the court direct.

"§ 1477. Cure or waiver of defects

"(a) The bankruptcy court of a district in which is filed a case or proceeding laying venue in the wrong division or district may, in the interest of justice and for the convenience of the parties, retain such case or proceeding, or may transfer, under section 1475 of this title, such case or proceeding to any other district or division.

"(b) Nothing in this chapter shall impair the jurisdiction of a bankruptcy court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

"§ 1478. Removal to the bankruptcy courts

"(a) A party may remove any claim or cause of action in a civil action, other than a proceeding before the United States Tax Court or civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the bankruptcy court for the district where such civil action is pending, if the bankruptcy courts have jurisdiction over such claim or cause of action.

"(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order under this subsection remanding a claim or cause of action is not reviewable by appeal or otherwise.

"§ 1479. Provisional remedies; security

"(a) Whenever any action is removed to a bankruptcy court under section 1478 of this title, any attachment or sequestration of the goods or estate of the defendant in such action shall hold the goods or estate to answer the final judgment or decree in the same manner as they would have been held to answer final judgment or decree had it been rendered by the court from which the action was removed, unless the attachment or sequestration is invalidated under applicable law.

"(b) Any bond, undertaking, or security given by either party in an action prior to removal under section 1478 of this title shall remain valid and effectual notwithstanding such removal, unless such bond, undertaking, or other security is invalidated under applicable law.

"(c) All injunctions, orders, or other proceedings in an action prior to removal of such action under section 1478 of this title shall remain in full force and effect until dissolved or modified by the bankruptcy court.

"§ 1480. Jury trials

"(a) Except as provided in subsection (b) of this section, this chapter and title 11 do not affect any right to trial by jury, in a case under title 11 or in a proceeding arising under title 11 or arising under or related to a case under title 11, that is provided by any statute in effect on September 30, 1978.

"(b) The bankruptcy court may order the issues arising under section 303 of title 11 to be tried without a jury.

"§ 1481. Powers of bankruptcy court

"A bankruptcy court shall have the powers of a court of equity, law, and admiralty.".

(b) The table of chapters of part IV of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 89 the following:

"90. Bankruptcy Courts..... 1471".

SEC. 244. Section 1656 of title 28 of the United States Code is amended by inserting "or in a bankruptcy court" immediately after "a district court".

SEC. 245. Section 1869(f) of title 28 of the United States Code is amended by inserting "chapter 6 of title 28, United States Code," immediately after "chapter 5 of title 28, United States Code,".

SEC. 246. Section 1923(b) of title 28 of the United States Code is amended by inserting "and United States trustees" immediately after "United States attorneys".

SEC. 247. (a) Chapter 123 of title 28 of the United States Code is amended by inserting immediately after section 1929 the following:

"§ 1930. Bankruptcy courts

"(a) The parties instituting a case under title 11 shall pay to the clerk of the bankruptcy court a filing fee of $50. An individual instituting a voluntary case or a joint case under title 11 may pay such fee in installments.

"(b) The Judicial Conference of the United States may prescribe additional fees in cases under title 11 of the same kind as the Judicial Conference prescribes under section 1914 (b) of this title.

"(c) Upon the filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or a writ of certiorari $5 shall be paid to the clerk of the bankruptcy court, by the appellant or petitioner.

"(d) Whenever any case or proceeding is dismissed in any bankruptcy court for want of jurisdiction, such court may order the payment of just costs.

"(e) The clerk of the bankruptcy court may collect only the fees prescribed under this section.".

(b) The table of sections of chapter 123 of title 28 of the United States Code is amended by adding at the end thereof the following:

"1930. Bankruptcy courts.".

SEC. 248. Section 2075 of title 28 of the United States Code is amended by—

(1) striking out "under the Bankruptcy Act" and inserting in lieu thereof "in cases under title 11"; and

(2) by striking out the last sentence thereof.

SEC. 249. Section 2107 of title 28 of the United States Code is amended—

(1) by inserting "or the bankruptcy court" immediately after "district court"; and

(2) by striking out the final paragraph.

SEC. 250. Section 2109 of title 28 of the United States Code is amended by inserting "or from a bankruptcy court" immediately after "from a district court".

SEC. 251. Section 2201 of title 28 of the United States Code is amended by inserting "or a proceeding under section 505(c) or

1146(d) of title 11" immediately after "the Internal Revenue Code of 1954".

SEC. 252. (a) Chapter 153 of title 28 of the United States Code is amended by adding at the end thereof the following:

"§ 2256. Habeas corpus from bankruptcy courts

"A bankruptcy court may issue a writ of habeas corpus—

"(1) when appropriate to bring a person before the court—

"(A) for examination;

"(B) to testify; or

"(C) to perform a duty imposed on such person under this title; or

"(2) ordering the release of a debtor in a case under title 11 in custody under the judgment of a Federal or State court if—

"(A) such debtor was arrested or imprisoned on process in any civil action;

"(B) such process was issued for the collection of a debt—

"(i) dischargeable under title 11; or

"(ii) that is or will be provided for in a plan under chapter 11 or 13 of title 11; and

"(C) before the issuance of such writ, notice and a hearing have been afforded the adverse party of such debtor in custody to contest the issuance of such writ.".

(b) The table of sections for chapter 153 of title 28 of the United States Code is amended by adding at the end thereof the following:

"2256. Habeas corpus from bankruptcy courts.".

SEC. 253. (a) Rule 1101(a) of the Federal Rules of evidence is amended by striking out ", referees in bankruptcy,".

(b) Rule 1101(b) of the Federal Rules of Evidence is amended by striking out "the Bankruptcy Act" and inserting in lieu thereof "title 11, United States Code".

SEC. 254. Rule 1101(a) of the Federal Rules of Evidence is amended by inserting "the United States bankruptcy courts," immediately after "the United States district courts,".

TITLE III—AMENDMENTS TO OTHER ACTS

SEC. 301. Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(C)) is amended—

(1) by striking out "section 402(d) and" and inserting "section" in lieu thereof; and

(2) by inserting "and magistrates" immediately before the semicolon.

SEC. 302. The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding at the end thereof the following:

"SEC. 19. (a) Notwithstanding title 11 of the United States Code, the Commission may provide, with respect to a commodity broker that is a debtor under chapter 7 of title 11 of the United States Code, by rule or regulation—

"(1) that certain cash, securities, other property, or open contractual commitments are to be included in or excluded from customer property or member property;

"(2) that certain cash, securities, other property, or open contractual commitments are to be specifically identifiable to a particular customer in a specific capacity;

"(3) the method by which the business of such commodity broker is to be conducted or liquidated after the date of the filing of the petition under such chapter; and

"(4) how the net equity of a customer is to be determined.

"(b) As used in this section, the terms 'commodity broker', 'contractual commitment', 'customer', 'customer property', 'member property', 'net equity', and 'security' have the meanings assigned such terms for the purposes of subchapter IV of chapter 7 of title 11 of the United States Code.".

SEC. 303. (a) Subsection (a) of section 4 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499d(a)), is amended by striking out ": And provided further, That the license" and all that follows through the end of such subsection, and inserting a period in lieu thereof.

(b) Subsection (e) of section 4 of such Act (7 U.S.C. 499d(e)) is amended by inserting "and if he finds that the circumstances of such bankruptcy warrant such a refusal," immediately after "corporation adjudicated or discharged as a bankrupt,".

SEC. 304. Section 21(a) of the Agricultural Adjustment Act (7 U.S.C. 623(a)) is amended

(1) by striking out "receivership, and bankruptcy" and inserting "and receivership" in lieu thereof; and

(2) by striking out "bankruptcy," in the second sentence.

SEC. 305. The first section of the Act entitled "An Act to authorize the Secretary of Agriculture to compromise, adjust, or cancel certain indebtedness, and for other purposes." approved December 20, 1944 (58 Stat. 836; 12 U.S.C. 1150), is amended by striking out "Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States'" and inserting "Bankruptcy Act or under title 11 of the United States Code" in lieu thereof.

SEC. 306. (a) Section 3(a)(7) of the Securities Act of 1933 15 U.S.C. 77c(a)(7)) is amended by striking out "or by a trustee in bankruptcy,".

(b) Paragraphs (9) and (10) of section 3 (a) of such Act (15 U.S.C. 77c(a) (9) and (10)) are each amended by striking out "Any" and inserting in lieu thereof the following: "Except with respect to a security exchanged in a case under title 11 of the United States Code, any".

SEC. 307. Section 303(18) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(18)) is amended by striking out "Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, as amended, whether amended prior to or after the enactment of this title" and inserting "Bankruptcy Act or title 11 of the United States Code" in lieu thereof.

SEC. 308. (a) Section 5(b)(1)(A) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(1)(A)) is amended—

(1) by striking out "1(19) of the Bankruptcy Act" and inserting "101 of title 11 of the United States Code" in lieu thereof;

(2) by striking out subclause (ii); and

(3) by redesignating subclauses (iii), (iv), and (v) as subclauses (ii), (iii), and (iv), respectively, (b) Section 5(b)(2) of such Act (15 U.S.C. 78eee(b)(2) is amended by striking out "bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act" and inserting "the United States having jurisdiction over cases under title 11 of the United States Code" in lieu thereof.

(c) Section 5(b)(3) of such Act (15 U.S.C. 78eee(b)(3)) is amended by striking out "section 158 of the Bankruptcy Act" and inserting "section 101 of title 11 of the United States Code" in lieu thereof.

(d) Section 5(b)(4)(B)(i) of such Act (15 U.S.C. 78eee(b)(4)(B)(i)) is amended by inserting "or under title 11 of the United States Code" immediately after "Bankruptcy Act".

(e) Section 6(b)(1) of such Act (15 U.S.C. 78fff(b)(1) is amended by striking out "bankruptcy and a trustee under chapter X of the Bankruptcy Act have with respect to a bankrupt and a chapter X debtor and inserting "a case under title 11 of the United States Code" in lieu thereof.

(f) Section 6(b)(2) of such Act (15 U.S.C. 78fff(b)(2) is amended by striking out "appointed under section 44 of the Bankruptcy Act" and inserting "in a case under chapter 7 of title 11 of the United States Code" in lieu thereof.

(g) Section 6(c)(1) of such Act (15 U.S.C. 78fff(c)(1)) is amended by striking out ", the provisions of chapter X and such of the provisions" and all that follows down through the end of such paragraph (1) and inserting in lieu thereof the following: "subchapters I and II of chapter 7 of title 11 of the United States Code. For the purposes of applying such title 11 in carrying out this section, a reference in such title 11 to the date of the filing of the petition shall be deemed to be a reference to the filing date (as defined in section 5(b)(4)(B)).".

(h) Section 6(c)(2) of such Act (15 U.S.C. 78fff(c)(2)) is amended by striking out "section 60e of the Bankruptcy Act" and inserting "subchapter III of chapter 7 of title 11 of the United States Code" in lieu thereof.

(i) Section 6(c)(2)(A) of such Act (15 U.S.C. 78fff(c)(2)(A)) is amended by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof.

(j) Section 6(c)(2)(A)(v) of such Act (15 U.S.C. 78fff(c)(2)(A)(v)) is amended by striking out "60e of the Bankruptcy Act" and inserting "101 of title 11 of the United States Code" in lieu thereof.

(k) Section 6(c)(2)(B) of such Act (15 U.S.C. 78fff(c)(2)(B)) is amended by striking out "all costs and expenses specified in clauses (1) and (2) of section 64a of the Bankruptcy Act" and inserting "claims of the kind specified in section 507 (1), (2), (3), or (4) of title 11 of the United States Code" in lieu thereof.

(l) Section 6(c)(2)(D) of such Act (15 U.S.C. 78fff(c)(2)(D)) is amended by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof.

(m) Section 6(e) of such Act (15 U.S.C. 78fff(e)) is amended—

(1) by striking out "section 28 of the Bankruptcy Act" and inserting "sections 342 (a) and 743 of title 11 of the United States Code" in lieu thereof; and

(2) by striking out "in section 57 of the Bankruptcy Act" and inserting "under title 11 of the United States Code for the allowance of claims" in lieu thereof.

(n) Section 6(i) of such Act (15 U.S.C. 78fff(i)) is amended by striking out "167(3) of the Bankruptcy Act" and inserting "1106 (a)(4)(A) of title 11 of the United States Code" in lieu thereof.

SEC. 309. Section 11(f) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k (f)) is amended by striking out "bankruptcy" and inserting "case under title 11 of the United States Code" in lieu thereof.

SEC. 310. (a) Section 2(a)(8) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(8)) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

(b) Section 6(a)(2) of such Act (15 U.S.C. 80a-6(a)(2)) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

(c) Section 25(d) of such Act (15 U.S.C. 80a-25(d)) is amended by striking out "the Bankruptcy Act of 1898, as amended" and inserting "title 11 of the United States Code" in lieu thereof.

SEC. 311. Section 202(a)(5) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2 (a)(5)) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

SEC. 312. (a) Section 303(b)(2) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)(2)) is amended by striking out "court of bankruptcy under chapter XIII of the Bankruptcy Act" and inserting "court

of the United States having jurisdiction over cases under chapter 13 of title 11 of the United States Code" in lieu thereof.

(b) Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended by striking out "Bankruptcies which, from date of adjudication of the most recent bankruptcy" and inserting "Cases under title 11 of the United States Code or under the Bankruptcy Act that, from the date of entry of the order for relief or adjudication" in lieu thereof.

SEC. 313. (a) Chapter 9 of title 18 of the United States Code is amended—

(1) by striking out "bankrupt" each place it appears and inserting "debtor" in lieu thereof;

(2) by striking out "bankruptcy proceeding" each place it appears and inserting "case under title 11" in lieu thereof;

(3) by striking out "bankruptcy law" each place it appears and inserting "provisions of title 11" in lieu thereof.

(b)(1) Title 18 of the United States Code is amended by striking out section 151 and inserting in lieu thereof the following:

"§ 151. Definition

"As used in this chapter, the term 'debtor' means a debtor concerning whom a petition has been filed under title 11.".

(2) The item relating to section 151 in the table of sections for chapter 9 of title 18 of the United States Code is amended by striking out "Definitions" and inserting "Definition" in lieu thereof.

(c) Section 152 of title 18 of the United States Code is amended by—

(1) striking out "the receiver," each place it appears and inserting "a" in lieu thereof; and

(2) striking out "document affecting or relating to the property or affairs of a" and inserting in lieu thereof "recorded information, including books, documents, records, and papers, relating to the property or financial affairs of a".

(d)(1) Section 153 of title 18 of the United States Code is amended by striking out "receiver,".

(2) The heading for section 153 of title 18 of the United States Code is amended by striking out ", receiver".

(3) The item relating to section 153 in the table of sections for chapter 9 of title 18 of United States Code is amended by striking out ", receiver".

(e)(1) Section 154 of title 18 of the United States Code is amended—

(A) by striking out "Whoever knowingly acts as a referee in a case in which he is directly or indirectly interested; or"; and

(B) by striking out "referee, receiver,".

(2) The heading for section 154 of title 18 of the United States Code is amended by striking out "referees and other".

(3) The item relating to section 154 in the table of contents for chapter 9 of title 18 of the United States Code is amended by striking out "referees and other".

(f)(1) Section 155 of title 18 of the United States Code is amended—

(A) by striking out "receiver,"; and

(B) by striking out ", bankruptcy or reorganization proceeding" and inserting "or case under title 11" in lieu thereof.

(2) The heading for section 155 of title 18 of the United States Code is amended by striking out "bankruptcy proceedings" and inserting in lieu thereof "cases under title 11".

(3) The item relating to section 155 in the table of sections for chapter 9 of title 18 of the United States Code is amended by striking out 'bankruptcy proceedings" and inserting "cases under title 11" in lieu thereof.

(g) Section 1961(1)(D) of title 18 of the United States Code is amended by striking out "bankruptcy fraud" and inserting "fraud connected with a case under title 11" in lieu thereof.

(h) Section 2516(1)(e) of title 18 of the United States Code is amended by striking out "bankruptcy fraud" and inserting "fraud connected with a case under title 11" in lieu thereof.

(i) Section 3057 of title 18 of the United States Code is amended—

(1) by striking out "referee" each place it appears and inserting "judge" in lieu thereof; and

(2) by striking out "violations of the bankruptcy laws" and inserting "violation under chapter 9 of this title" in lieu thereof.

(j) Section 3284 of title 18 of the United States Code is amended by striking out "bankrupt or other debtor" and inserting "debtor in a case under title 11" in lieu thereof.

(k) Section 6001(4) of title 18 of the United States Code is amended by inserting "a United States bankruptcy court established under chapter 6, title 28, United States Code," immediately after "title 28, United States Code,".

SEC. 314. Section 485(f) of the Tariff Act of 1930 (19 U.S.C. 1485(f)) is amended by striking out "receiver or trustee in bankruptcy" and inserting "trustee in a case under title 11 of the United States Code" in lieu thereof.

SEC. 315. Section 302(1)(3) of the Automotive Products Trade Act of 1965 (19 U.S.C. 2022(1)(3)) is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 316. Section 439A of part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087–3) is repealed.

SEC. 317. Section 239(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(d)) is amended by striking out "the priority" and inserting "any priority" in lieu thereof.

SEC. 318. Section 2(1) of the National Labor Relations Act (29 U.S.C. 152(1)) is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 319. Section 3(d) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 402(d)) is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 320. (a) Section 4042 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342) is amended—

(1) in subsection (e), by striking out "bankruptcy, mortgage foreclosure," and inserting "mortgage foreclosure" in lieu thereof; and

(2) in subsection (f)—

(A) by striking out "bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act" and inserting "the United States having jurisdiction over cases under chapter 11 of title 11 of the United States Code" in lieu thereof; and

(B) by striking out "bankruptcy,".

(b) Section 4062(c)(2) of such Act (29 U.S.C. 1362(c)(2)) is amended—

(1) by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof; and

(2) by striking out "the subject of a proceeding under that Act" and inserting "a debtor in a case under chapter 7 of such title" in lieu thereof.

(c) Section 4068(c)(2) of such Act (29 U.S.C. 1368(c)(2)) is amended—

(1) by striking out "the case of bankruptcy or" and inserting "a case under title 11 of the United States Code or in" in lieu thereof; and

(2) by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof.

SEC. 321. (a) Section 3466 of the Revised Statutes of the United States (31 U.S.C. 191) is amended by adding at the end the following new sentence: "The priority established under this section does not apply, however, in a case under title 11 of the United States Code.".

(b) Section 3467 of the Revised Statutes of the United States (31 U.S.C. 192) is amended by striking out "Every" and inserting in lieu thereof the following: "Except with respect to a trustee acting in accordance with the provisions of title 11 of the United States Code, every".

(c) Section 3469 of the Revised Statutes of the United States (31 U.S.C. 194) is repealed.

(d) Section 3473 of the Revised Statutes of the United States (31 U.S.C. 198) is repealed.

(e) Section 3474 of the Revised Statutes of the United States (31 U.S.C. 199) is repealed.

(f) The table of sections for title XXXVI of the Revised Statutes of the United States is amended by striking out the items relating to sections 3469, 3473, and 3474.

(g) Section 5256 of the Revised Statutes of the United States (45 U.S.C. 81) is amended by striking out "The laws of the United States providing for proceedings in bankruptcy shall not be held to apply to said corporation.".

SEC. 322. Section 1 of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes", approved June 21, 1940 (54 Stat. 497; 33 U.S.C. 511), is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

SEC. 323. Subsection (a) of section 17 of the Act of March 4, 1927 (44 Stat. 1434; 33 U.S.C. 917(a)), is repealed.

SEC. 324. Section 213 of the Transportation Act, 1920 (40 U.S.C. 316), is amended by striking out "bankruptcy" and inserting "case under title 11 of the United States Code" in lieu thereof.

SEC. 325. Section 7 of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (49 Stat. 2039; 41 U.S.C. 41), is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 326. Subsection (g) of section 733 of the Public Health Service Act (42 U.S.C. 294f) is repealed.

SEC. 327. Subsection (b) of section 456 of the Social Security Act (42 U.S.C. 656(b)) is repealed.

SEC. 328. Section 503 (42 U.S.C. 1473) of the Housing Act of 1949 is amended by striking out "This" and inserting "Except as provided in title 11 of the United States Code, this" in lieu thereof.

SEC. 329. Section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)) is amended by striking out "bankruptcy" and inserting "cases under title 11, United States Code" in lieu thereof.

SEC. 330. Section 802(d) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes", approved April 11, 1968 (82 Stat. 81; 42 U.S.C. 3602(d)), is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

Sec. 331. Section 17 of the Boulder Canyon Project Act (43 U.S.C. 617p) is amended by striking out "Claims" and inserting "Except as provided in title 11 of the United States Code, claims" in lieu thereof.

SEC. 332. Subsection (c) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662) is repealed.

SEC. 333. Title IX of the Merchant Marine Act, 1936 (46 U.S.C. 1241 et seq.), is amended by adding at the end thereof the following:

"SEC. 908. (a) Notwithstanding any other provision of law, in any proceeding in a bankruptcy, equity, or admiralty court of the United States in which a receiver or trustee may be appointed for any corporation engaged in the operation of one or more vessels of United States registry between the United States and any foreign country, upon which the United States hold mortgages, the court, upon finding that it will inure to the advantage of the estate and the parties in interest and that it will tend to further the purposes of this Act, may constitute and appoint the Secretary of Commerce as sole trustee or receiver, subject to the directions and orders of the court, and in any such proceeding the appointment of any person other than the Secretary as trustee or receiver shall become effective upon the ratification thereof by the Secretary without a hearing, unless the Secretary shall deem a hearing necessary. In no such proceeding shall the Secretary be constituted as trustee or receiver without the Secretary's express consent.

"(b) If the court, in any such proceeding, is unwilling to permit the trustee or receiver to operate such vessels in such service pending the termination of such proceeding, without financial aid from the Government, and the Secretary certifies to the court that the continued operation of such vessel is, in the opinion of the Secretary, essential to the foreign commerce of the United States and is reasonably calculated to carry out the purposes and policy of this Act, the court may permit the Secretary to operate the vessels subject to the orders of the court and upon terms decreed by the court sufficient to protect all the parties in interest, for the account of the trustee or receiver, directly or through a managing agent or operator employed by the Secretary, if the Secretary undertakes to pay all operating losses resulting from such operation, and comply with the terms imposed by the court, and such vessel shall be considered to be a vessel of the United States within the meaning of the Suits in Admiralty Act. The Secretary shall have no claim against the corporation, its estate, or its assets for the amount of such payments, but the Secretary may pay such sums for depreciation as it deems reasonable and such other sums as the court may deem just. The payment of such sums, and compliance with other terms duly imposed by the court, together with the payment of the operating losses, shall be in satisfaction of all claims against the Secretary on account of the operation of such vessels.".

SEC. 334. (a) Section 22(a) of the Organic Act of Guam (48 U.S.C. 1424(a)) is amended by inserting "and a bankruptcy court" immediately after "jurisdiction of a district court".

(b) Section 22(b) of such Act (48 U.S.C. 1424(b)) is amended by striking out "30 of the Bankruptcy Act of July 1, 1898, as amended (title 11, U.S.C., sec. 53), in bankruptcy cases;" and inserting "2075 of title 28, United States Code, in cases under title 11, United States Code," in lieu thereof.

SEC. 335. (a) Section 22 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1612) is amended by inserting "and a bankruptcy court" immediately after "jurisdiction of a district court".

(b) Section 25 of such Act (48 U.S.C. 1615) is amended by striking out "30 of the Bankruptcy Act in bankruptcy cases" and inserting "2075 of title 28, United States Code, in cases under title 11, United States Code" in lieu thereof.

SEC. 336. (a) Section 20c of the Interstate Commerce Act (49 U.S.C. 20c) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

(b) Section 213(a)(3) of such Act (49 U.S.C. 313(a)(3)) is amended—

(1) by striking out "bankruptcy from" and inserting "a case under title 11 of the United States Code from" in lieu thereof; and

(2) by striking out "bankruptcy" and inserting "such case" in lieu thereof.

(c) Section 323 of such Act (49 U.S.C. 922a) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

TITLE IV—TRANSITION

REPEALER

SEC. 401. (a) The Bankruptcy Act is repealed.

(b) Section 3 of the Act is entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States,' approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved March 3, 1933 (47 Stat. 1482; 11 U.S.C. 101a), is repealed.

(c) Sections 3, 6, and 7 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved June 7, 1934 (48 Stat. 923, 924; 11 U.S.C. 76a, 203a, 205a), are repealed.

(d) The sentence beginning "Said section 74" in section 2 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States,' approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved June 7, 1934 (48 Stat. 922; 11 U.S.C. 202a), is repealed.

(e) Subsection (b) of section 4 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of banruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereo", approved June 7, 1934 (48 Stat. 924; 11 U.S.C. 103a), is repealed.

(f) Section 2 of the Act entitled "An Act to amend the Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, as amended and supplemented", approved June 5, 1936 (49 Stat. 1476; 11 U.S.C. 93a), is repealed.

(g) Section 3 of the Act entitled "An Act to amend the Interstate Commerce Act, as amended, and for other purposes", approved April 9, 1948 (62 Stat. 167; 11 U.S.C. 208), is repealed.

EFFECTIVE DATES

SEC. 402. (a) Except as otherwise provided in this title, this Act shall take effect on October 1, 1978.

(b) Except as provided in subsections (c) and (d) of this section, the amendments made by title II of this Act shall take effect on October 1, 1983.

(c) The amendments made by sections 214, 219, 220, 222, 224, 225, 227, 232, 233, 236, 246, 251, and 253 of this Act shall take effect on October 1, 1978.

(d) The amendments made by sections 217, 218, 231, 242, 248, 302, 316, 326, and 327 of the Act shall take effect on the date of enactment of this Act.

(e) The amendments made by sections 313 (j), 334(a), and 335(a) of this Act shall take effect on October 1, 1983.

SAVINGS PROVISIONS

SEC. 403. (a) A case commenced under the Bankruptcy Act, and all matters and proceedings in or relating to any such case, shall be conducted and determined under such Act as if the Act had not been enacted, and the substantive rights of parties in contion with any bankruptcy case, matter, or proceeding shall continue to be governed by the law applicable to such case, matter, or proceeding as if this Act had not been enacted.

(b) The repeal made by section 401(a) of this Act does not affect any right of a referee in bankruptcy, United States bankruptcy judge, or survivor of a referee in bankruptcy or United States bankruptcy judge to receive any annuity or other payment under the civil service retirement laws.

(c) The amendments made by section 313 of this Act do not affect the application of chapter 9, chapter 96, section 2516, section 3057, or section 3284 of title 18 of the United States Code to any act of any person—

(1) committed before October 1, 1978; or

(2) committed after October 1, 1978, in connection with a case commenced before such date.

(d) Notwithstanding subsection (a) of this section, a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, to the extent that such fee exceeds $100,000.

COURTS DURING TRANSITION

SEC. 404. (a) The courts of bankruptcy, as defined under section 1(10) of the Bankruptcy Act, created under section 2a of the Bankruptcy Act, and existing on September 30, 1978, shall continue through September 30, 1983, to be the courts of bankruptcy for the purposes of this Act and the amendments made by this Act. Each of the courts of bankruptcy so continued shall constitute a separate department of the district court that is such court of bankruptcy under the Bankruptcy Act.

(b) The term of a referee in bankruptcy that expires after the date of enactment of this Act is extended to and expires on September 30, 1983. During the period commencing on October 1, 1978, and ending on September 30, 1983 (hereinafter in this title referred to as "the transition period"), such a referee in bankruptcy shall have the title of United States bankruptcy judge, and shall serve in the court of bankruptcy continued under subsection (a) of this section that appointed such United States bankruptcy judge, in the manner prescribed by this title. Section 8335(a) of title 5 of the United States Code shall not apply in respect of United States bankruptcy judges during the transition period.

(c) Except as otherwise provided in this section or in section 407 of this Act, matters relating to the office of United States bankruptcy judges and to United States bankruptcy judges shall continue to be governed during the transition period by the rules set forth in sections 34, 35, 36, 40a, 40b, 40d, 41, and 43 of the Bankruptcy Act as such Act existed on September 30, 1978.

(d) During the transition period, the United States bankruptcy judges of each district may appoint a clerk, necessary other employees, including law clerks and secretaries, and court reporters the same as the judges of a United States bankruptcy court established under section 201 of this Act may appoint such officers and employees under the amendment made by section 234 of this Act. Such clerk, other employees, and reporters shall have the same rights and powers, shall perform the same functions and duties, and shall be subject to the same provisions of title 28 of the United States Code, as a clerk, other employee, or reporter, as the case may be, appointed under the amendment made by section 234 of this Act by a United States bankruptcy court established under section 201 of this Act. The United States bankruptcy judges of each district

shall have the same rights and powers as a United States bankruptcy court established under section 201 of this Act with respect to such clerk, other employees, and reporters.

(e) During the transition period, the provisions of sections 455, 456, 569(a), 571(b), 620(b)(3), and 957(a) of title 28 of the United States Code shall apply to United States bankruptcy judges and to any court officers or employees appointed or employed under subsection (d) of this section the same as such sections apply to the bankruptcy judges, and to any court officers or employees, of a United States bankruptcy court established under section 201 of this Act. During the transition period, the position of United States bankruptcy judge shall be deemed to be a position within the purview of subparagraph (C) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356 (C)).

(f) During the transition period, the Judicial Conference of the United States may from time to time in the light of the recommendations of the judicial councils of each circuit, made after advising with the district judges and the United States bankruptcy judges of the respective circuit, and of the Director of the Administrative Office of the United States Courts, increase the number of full-time United States bankruptcy judges, or provide that a part-time United States bankruptcy judge for a particular district may serve in the capacity and receive the salary of a full-time United States bankruptcy judge, as the expeditious transaction of the business of the several courts of bankruptcy may require.

JURISDICTION AND PROCEDURE DURING TRANSITION

SEC. 405. (a)(1) All cases commenced under title 11 of the United States Code during the transition period shall be referred to the United States bankruptcy judges. The United States bankruptcy judges may exercise in such cases the jurisdiction and powers conferred by subsection (b) of this section on the courts of bankruptcy continued by section 404(a) of this Act, and all proceedings in such cases shall be before the United States bankruptcy judges, except—

(A) a proceeding to enjoin a court;

(B) a proceeding to punish a criminal contempt—

(i) not committed in the bankruptcy judge's actual presence; or

(ii) warranting a punishment of imprisonment or of a fine of more than $250; or

(C) an appeal from a judgment, order, decree, or decision of a United States bankruptcy judge.

(2) Any proceeding in a court of bankruptcy in a case under title 11 of the United States Code that is not before the United States bankruptcy judge shall be before the judge of the court of bankruptcy for the district in which such case is pending.

(b) During the transition period, the amendments made by sections 243, 245, 252, and 254 of this Act shall apply to the courts of bankruptcy continued by section 404(a) of this Act the same as such amendments apply to the United States bankruptcy courts established under section 201 of this Act.

(c) During the transition period, an appeal from a judgment, order, decree, or decision of a United States bankruptcy judge shall be to the United States district court for the district where such United States bankruptcy judge sits, and from such district court to a court of appeals as provided under section 1294 of title 28 of the United States Code. The jurisdiction of a district court of an appeal under this section from a United States bankruptcy judge, and of a court of appeals of an appeal under this section from a district court shall be the same as the jurisdiction of appeals from the United States bankruptcy courts established under section 201 of this Act granted to the courts of appeals under sections 237, 238, and 239 of this Act.

(d) The rules prescribed under section 2075 of title 28 of the United States Code and in effect on September 30, 1978, shall apply to cases under title 11 of the United States Code to the extent not inconsistent with such title 11, with the amendments made by this Act, or with this Act, until such rules are repealed or superseded by rules prescribed and effective under such section, as amended by section 248 of this Act.

(e)(1) The parties instituting a case under title 11 of the United States Code shall pay a filing fee of $50. An individual instituting a voluntary case or a joint case under such title may pay such fee in installments.

(2) The Judicial Conference of the United States may prescribe additional fees in cases under such title of the same kind as the Judicial Conference prescribes under section 1914 of title 28 of the United States Code.

TRANSITION STUDY

SEC. 407. (a) The Director of the Administrative Office of the United States Courts shall conduct a study during the transition period to determine the number of judges of the United States bankruptcy courts established under section 201 of this Act that will be needed after October 1, 1983. The Director shall report the results of such study to the Congress before April 1, 1982.

JUDICIAL ADMINISTRATION

SEC. 407. (a) The Director of the Administrative Office of the United States Courts shall appoint a committee of not fewer than seven United States bankruptcy judges to advise the Director with respect to matters that arise during the transition period or that are relevant to the purposes of the transition period.

(b) During the transition period, at least one-third of the members of any committee of the Judicial Conference of the United States that is concerned with the administration of the bankruptcy system shall be chosen from among the United States bankruptcy judges, and at least one member of any committee of the Judicial Conference that is concerned with court administration or supporting personnel shall be chosen from among the United States bankruptcy judges.

(c) During the transition period, the chief judge of each circuit shall summon the United States bankruptcy judges of such circuit to the judicial conference of such circuit called and held under section 333 of title 28 of the United States Code.

(d) During the transition period, there shall be added to the Board of the Federal Judicial Center established under chapter 42 of title 28 of the United States Code two United States bankruptcy judges, elected by vote of the members of the Judicial Conference of the United States, for terms beginning on October 1, 1978, and ending on September 30, 1983.

TRANSFER TO NEW COURT SYSTEM

SEC. 408. (a) On October 1, 1983, there shall be transferred to the appropriate United States bankruptcy court established under section 201 of this Act—

(1) cases, and matters and proceedings in cases, under the Bankruptcy Act that are pending, at the end of September 30, 1983, in the courts of bankruptcy continued under section 404(a) of this Act, other than cases, and matters and proceedings in cases, under—

(A) section 77 or chapter IX of the Bankruptcy Act; or

(B) chapter X of the Bankruptcy Act in which a general reference under section 117 of the Bankruptcy Act is not in effect; and

(2) cases, and proceedings, arising under or related to cases, under title 11 of the United States Code that are pending, at the end of September 30, 1983, in the courts of bankruptcy continued under section 404(a) of this Act.

(b) Civil actions pending on September 30, 1983, over which a United States bankruptcy court established under section 201 of this Act has jurisdiction on October 1, 1983, shall not abate, but continuation of any such action that has not been finally determined before October 1, 1984, may be enjoined, and any claims or causes of actions not resolved may be removed to a bankruptcy court under chapter 90 of title 28 of the United States Code.

(c) All Government publications, law books, recording equipment, and other property furnished to bankruptcy judges' offices as of September 30, 1983, and of particular use to the offices of the judges of the United States bankruptcy courts, shall be transferred to the United States bankruptcy courts under the supervision of the Director of the Administrative Office of the United States Courts.

ADDITIONAL RULEMAKING POWER

SEC. 409. The Supreme Court may issue such additional rules of procedure, consistent with Acts of Congress, as may be necessary for the orderly transfer of functions and records and the orderly transition to the new bankruptcy court system created by this Act.

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 405, line 19, strike out "or". Page 405, after line 19, insert the following:

(8) for a loan insured or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) if—

(A) such loan first becomes due—

(i) within five years before the date of the filing of the petition; or

(ii) after the date of the filing of the petition; and

(B) excepting such debt from discharge under this paragraph will not impose an undue hardship on the debtor or a dependent of the debtor; or

Page 405, line 20, strike out "8" and insert "9" in lieu thereof.

Page 406, line 11, strike out "or (6)" and insert "(6), or (8)" in lieu thereof.

Page 406, line 15, strike out "or (6)" and insert "(6), or (8)" in lieu thereof.

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, this amendment is an amendment to the Bankruptcy Act which would prohibit discharge of ex-student loans for a period of 5 years after they become due, except when a severe hardship results to the student or his dependents.

The purpose of this particular amendment is to keep our student loan programs intact. As many Members know,

the default rate in the student loan program has been escalating to tremendous proportions in the past year. In accordance with that, the number of students going into bankruptcy—or ex-students—has increased over the years 1965 through 1972, by 1,200 percent for the years 1972 through 1975. The Washington, D.C., student loan program has collapsed and suspended its program, because there is no more money.

What happens with these programs is that as people borrow the money, go to school and then repay it to the educational institution, when it becomes due approximately 1 year after completion of school. After repaying this loan, this money goes into a revolving fund which is then available for other students on down the line. When they default and do not pay, and eventually reach the bankruptcy stage, we are penalizing students who are coming along through the system.

Some people have said, "Why should student loans be treated any differently than any other loans?"

Well, I would suggest that when one gets a business loan, one has collateral or something to justify that loan. But, on student loans the only thing one can put up for collateral is the ability he will have to make a better living after he has gotten that education. And so, what we have is an unsecured loan granted to students to get a better education.

Some have said that we are discriminating against students. We are not discriminating against students with this amendment to the Bankruptcy Act. In fact, it works the exact opposite. Without this amendment, we are discriminating against future students, because there will be no funds available for them to get an education. The people who are leaving the institutions already have the benefit of their educations, so that this is not an antistudent provision, as some would contend, and is not class discrimination against those students. It is to keep the student loan program going, and to keep it viable.

I have to note that one of my colleagues sent out a "Dear Colleague" letter in opposition to this particular amendment. He says the present bankruptcy law contains exemptions only for loans incurred by fraud, felony, and alimony dodging. That is not quite accurate. We prevented the discharge of debts in the Bankruptcy Act for taxes, including property taxes. We included discharge for wages owed, so that you cannot discharge a debt if you owe wages for a particular period of time. So this is just one more exception to the Bankruptcy Code, and it is not putting ex-students in the class of felons, as was alleged in that particular letter.

Mr. Chairman, I might also point out that if the ex-student has severe financial problems, for instance, if he has a medical problem and cannot repay his student loan, there is a clause that will allow him to get discharged. Upon a determination by the court that it is a hardship for him, he may then be discharged from the student loan. The hardship may also involve a dependent. If he were a married student and his wife had a severe illness, then he could be discharged, under my amendment.

What it does prevent is that when a student gets through school, having taken a student loan, comes out, and says, "Well, it is nice to get a fresh start. I will not pay back my loan. I will declare bankruptcy and I will not have to worry about it." And discharge the only loan they have which is a student loan.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. ERTEL) has expired.

(By unanimous consent, Mr. ERTEL was allowed to proceed for 1 additional minute.)

Mr. ERTEL. Mr. Chairman, I would suggest that this is a policy which should be recognized: We want to keep viable the student loan program in the United States.

I also want to point out that the Secretary of Health, Education, and Welfare supports this amendment and the commissioners of most higher education through out the United States, including those in the States of Pennsylvania, New York, and New Jersey, support this amendment.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Ohio.

Mr. MOTTL. I thank the gentleman for yielding.

Mr. Chairman, I would like to compliment the gentleman for his fine amendment and ask that my colleagues in the committee support his amendment.

Mr. Chairman, I rise in support of the Ertel amendment to H.R. 8200 which would prohibit the discharged in bankruptcy of a student loan until 5 years after the commencement of the repayment period. There has been in the last few years a dramatic upswing in the number of student loan bankruptcies. During the 1965–72 period, the amount of student loan bankruptcies totaled $2.4 million nationally, or $300,000 per year. From 1972 to February 1975, the national value of the bankruptcies totaled $11.3 or 3.7 million per year. This is a 1,200-percent increase.

In Ohio, there were 3,360 defaults and of those 392 were bankruptcies in 1977. GAO indicates that the general default rate on educational loans is approximately 18 percent. Of this 4 percent involve bankruptcies.

If the student loan program is to remain viable it is imperative we pass this amendment so we insure our youngsters in the future that loan money will be available to them as it was to past generations.

Mr. DODD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. DODD. Mr. Chairman, before I begin addressing this particular amend-

Mr. Chairman, before I begin this particular amendment, I would be remiss if I did not at this point compliment the chairman of the committee, the gentleman from California (Mr. EDWARDS), and his fine committee, for undertaking this herculean task. I served with the gentleman on this committee for a year, and I know that it was a tremendous job to deal with this particular area of the law. I want to extend my compliments to him and the committee.

Mr. Chairman, in addressing this particular amendment which has been offered by the gentleman from Pennsylvania (Mr. ERTEL), let me make a couple of basic points before I address the actual merits of the amendment.

First of all, there are horror stories that we have all heard about in regard to students who have abused the tremendous privilege of getting a student loan. There are horror stories, and I am not going to deny that. We are not here today to deal with the horror stories; we are here to deal with a very sensitive area of bankruptcy law, because it will have the potential of affecting the lives of 10 million people in this country, 10 million people who happen to be students and who happen to need assistance when they are going to college.

First of all, I would like to address what I perceive to be some misconceptions in dealing with the bankruptcy law. First of all, a year ago, when we dealt with the amendments of the Higher Education Act of 1965, the issue was raised as to whether or not we ought to prohibit students from discharging student loans. At that time it was recognized that there were no national statistics with regard to the amount of losses which were being incurred as a result of former students discharging their debts through bankruptcy. So I asked the author of this amendment if we could delay it for 1 year while we conducted a GAO study to find out how severe this problem was.

We were told in September of this year that because we had not dealt with this issue, that provision became law automatically. So as a result we are faced with that provision in the Higher Education Act.

But the GAO did complete its study, and this is what it revealed: the GAO study showed the problem is not with bankruptcies or with student loans, the problem is with defaults, and there is a distinction between defaults and bankruptcies.

First, over the past 6 years we have not seen any dramatic change at all in the number of bankruptcies among students taking student loans. A chart put out by the Office of Education shows a fairly constant figure of about 5 percent of the losses actually being incurred because of bankruptcies being filed, whereas we find a constant figure of 90 to 92 percent of the losses incurred because of defaults.

What do we do about defaults? The default problem is an administration problem. That is something the Office of Education must deal with. We are not going to be able to address the default problem today just because we prohibit

students from discharging loans under bankruptcy. We are not going to address that problem at all.

So to suggest that we are going to somehow alleviate a problem that may exist in defaults by accepting an amendment to the Bankruptcy Act is just a misconception.

Mr. Chairman, let me point out some of the basic fundamental principles that are involved in this decision. Bankruptcy is something that is protected by the Constitution of the United States. This is not something that was concocted in a statute 10, 15, or 20 years ago. The right to go to bankruptcy court is something that is extended to every single citizen of this country, and there are two fundamental principles that apply when we talk about bankruptcy. One is to provide people with a fresh start, and the other is to treat creditors and debtors equally.

If we apply a different standard here to students, we are going to set up a privilege in a sense for the Government, giving it the status of being a privileged creditor.

Under our bankruptcy law we only really define groups of people or different statuses for three types of people who are exempted from discharging their claims under bankruptcy. We are talking about felons; that is a group of people. We are talking about people who have been convicted of fraud; that is another group of people. We are talking about people who have been found guilty and who are in arrears in alimony payments; that is another group of people.

Whether we are to suggest that we are not going to allow them to discharge their debts, this is the point. We are not talking about a single group of people there; we are talking about every group covered under that particular category. So we are adding to this group now. We are not going to say that just people who are guilty of fraud, those who are felons, and those who are in arrears in their alimony payments are not going to be able to discharge. We are also going to say that students are not going to be able to do it.

I think that sets up a class distinction, and I think it is discriminatory to say that students should not be able to discharge.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. DODD) has expired.

(By unanimous consent, Mr. DODD was allowed to proceed for 2 additional minutes.)

Mr. DODD. So in effect, Mr. Chairman, we are setting aside a group of people and making a distinction. As I pointed out earlier, the problem is not in bankruptcy; it is in defaults.

We should address that problem, of course, but let us not discriminate against this class of people, 10 million people in this country, merely because they happen to be students and merely because there are some few who have abused that particular privilege of getting a student loan.

So I ask my colleagues here today to think carefully about this amendment and to reject it as not a sound way of dealing with this particular problem.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I thank the gentleman for yielding and commend him for his remarks.

I wish to be associated with the gentleman's very wise approach to this issue. As a member of the subcommittee, let me say that we thought this matter out very carefully. I think the amendment offered by my good friend, the gentleman from Pennsylvania (Mr. ERTEL) would in fact discriminate against students. I commend the gentleman from Connecticut (Mr. DODD) and associate myself with his remarks.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, will the gentleman agree that in New York State during the year 1975–76 bankruptcies accounted for 10.46 percent of all defaults? Would the gentleman agree with that figure?

Mr. DODD. I would not disagree with the figure. But what the gentleman fails to do in his dear colleague letter that he sent out is this: He failed to mention how many student loans were granted. The gentleman just cites a raw figure, but he does not take into consideration the percentage as to how many students loans were granted, to prove his contention.

Mr. ERTEL. Mr. Chairman, would the gentleman agree that 10 percent of all defaults wind up in bankruptcy court in New York, and that that is a substantial figure?

Mr. DODD. Mr. Chairman, the gentleman is talking about 1 State among 50 States. The gentleman tries to deal with the problem by citing the figures from just one State as a single entity, and that is not a proper way to address the problem.

Mr. ERTEL. Mr. Chairman, would the gentleman agree that, in fact, if we continue to press on with these developments, more and more people will take the option for bankruptcy, which is an "out," and that, therefore, the student loan program will come more and more into financial trouble?

Mr. DODD. I would disagree with the gentleman. I think he would find that most people are going to be very hesitant about walking into bankruptcy court, particularly if they have just come out of an educational institution. They are going to be looking for jobs.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. DODD) has expired.

(By unanimous consent, Mr. DODD was allowed to proceed for 1 additional minute.)

Mr. DODD. Mr. Chairman, I think the gentleman raises a good point and one which should be addressed.

People do not go and rush into a bankruptcy court. It is not something that one loves to do, particularly if he is coming out of an educational institution and wants to get a job. That person does not want to list on his résumé that last year he took advantage of the Bankruptcy Act.

Mr. ERTEL. Mr. Chairman, if the gentleman will yield further, the gentleman made the statement that we are giving a preference to the U.S. Government here in this particular instance, and it is a privileged creditor.

Does the gentleman agree that the U.S. Government is a privileged creditor under the Bankruptcy Act for taxes and that certain people are privileged creditors for wages, and that that is written into the law at the present time?

Mr. DODD. Mr. Chairman, the gentleman is missing the point.

The tax exemption applies to everyone. We are not saying that it only applies to businessmen, students, housewives, or blue-collar workers. The tax exemption applies to everyone.

The gentleman is making a distinction on the basis of the fact that someone is a student. That is a class distinction.

Mr. ERTEL. Mr. Chairman, I think the gentleman will agree that property taxes only apply to property holders.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. DODD) has again expired.

Mr. ERLENBORN. Mr. Chairman, I rise in support of the Ertel amendment.

Mr. Chairman, during the consideration in 1976 of the education amendments, I offered an amendment which was adopted and which was sustained in the conference, which, in section 312(a) of the education amendments, provided this prohibition against bankruptcies within 5 years after graduation for the purpose of discharging guaranteed student loans except in a case where there was real financial hardship.

Mr. Chairman, I have heard the arguments pro and con in the course of the years; and I would like to explain why I think these guaranteed student loans are different from ordinary loans and should be treated in this manner.

We hear the argument constantly that these students are being treated differently than the average person. The student is not like the average debtor. The average debtor has credit extended to him because he has assets. He pledges those assets plus his earning power to the payment of the debt.

The student does not have assets and would not, in the ordinary course of events, be able to obtain credit. Because of this and because of our interest in seeing that young people have an opportunity to obtain an education, we have made loans available to them by extending the credit of the United States to guarantee that this loan will be repaid.

The student on his part, not having assets to pledge, is pledging his future earning power. Having pledged that future earning power, if, shortly after graduation and before having an opportunity to get assets to repay the debt, he seeks to discharge that obligation, I say that is tantamount to fraud. It may not technically be fraud, but the student has pledged his future earning power for the

payment of a debt that has been guaranteed by the United States, and then, rather than using that earning power to discharge the debt, as he has promised, he seeks, through bankruptcy, to be discharged of the debt, thereby making the taxpayers pay it for him.

Mr. Chairman, fraud, if it were truly fraud under the Bankruptcy Act, would prohibit the discharge of that debt. I say that this is tantamount to fraud.

As to the number of these bankruptcies, here are the figures: In 1970, the total number was 326. In 1975, it was 3,801. That is better than a tenfold increase in that 6-year period.

Mr. Chairman, I say that it is a growing problem. It will continue to grow. The matter comes up in such vehicles as student newspapers. They carry advertisements. They say, "Don't be a sucker and repay your debt. Here is a number to call, and we will tell you how you can get out of it legally."

Mr. Chairman, the street-wise student who is avoiding his obligation and making the taxpayers pick up the tab for him is going to discredit this program. When the program is discredited, the students who are really in need are not going to be able to get the loans that they need.

I will be happy to yield to my colleague, the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, pursuing the matter now under consideration, I would ask the gentleman from Illinois (Mr. ERLENBORN) my colleague, if the gentleman can give us the actual figures that represent the tremendous increase from the period 5 years ago and what has been happening now? In other words, I am led to believe, as the gentleman said, that there has actually been a 10-fold increase in the number of students seeking to discharge their debts.

Mr. ERLENBORN. In reply to the inquiry of my colleague, the gentleman from Illinois (Mr. RAILSBACK) let me state that in 1970 the number was 326. In 1971 it rose to 740. In 1972 the figure was 1,183. In 1973 the figure rose to 2,426. In 1974 the figure was 2,834. In 1975, the last year for which I have the data available in this chart, the figure was 3,801.

That is better than a tenfold increase.

Mr. DODD. Mr. Chairman, if the gentleman will yield, I can recall very clearly the gentleman's amendment and that we put a provision in the legislation, as I am sure the gentleman will recall to delay it for a year in order to have a study made so as to determine how comprehensive this particular problem was. The figures have gone up, there is no question about it, in terms of the bankruptcies in this country, but they have not gone up spectacularly in the student loan area. As the gentleman from Illinois (Mr. ERLENBORN) well knows, we have seen a dramatic increase in bankruptcies all over the country.

Mr. ERLENBORN. If I might interrupt the gentleman from Connecticut (Mr. DODD), I might say that I do not have the figures here, but the figures that I have seen indicate that the student loan bankruptcies have gone up at a faster rate than they have in industry and private business.

Mr. DODD. The GAO report—and I do not suggest that this is something coming from "on high" but the GAO report also recites the number of bankruptcies or the increase in the student loan bankruptcies in comparison to the overall increase in bankruptcies across the country and shows that they have been relatively stable, and I am quoting, relatively stable. Therefore, there has been no extraordinary increase in bankruptcies involving student loans.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. ERLENBORN. Mr. Chairman, I do not intend to extend this debate and I will not ask for any additional time. Let me just conclude by saying that in 1976, for the purpose of avoiding a good deal of time and trouble in the debate, this issue was on the floor and there was an agreement that 312(a) would be in the law as I offered it and that I agreed to a 1 year delay to allow a study to be made. It was apparent at the time that I did not expect then and I do not expect now that we will reverse the decision we made. It was valid in 1976 and it remains valid now.

I hope that the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) will be agreed to.

AMENDMENT OFFERED BY MR. CORNELL TO THE AMENDMENT OFFERED BY MR. ERTEL

Mr. CORNELL. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. CORNELL to the amendment offered by Mr. ERTEL: In the matter proposed to be inserted after line 19 on page 405 by the amendment offered by Mr. ERTEL—

(1) strike out "and" at the end of subparagraph (A); and

(2) redesignate subparagraph (B) as subparagraph (C) and insert the following new subparagraph immediately after subparagraph (A):

(B) the amount of allowed claims for loans of the type described in the preceding provisions of this paragraph constitutes at least 65 percent of the total amount of all claims which are allowed with respect to such debtor under section 502 of this title; and

Mr. CORNELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. CORNELL. Mr. Chairman, I believe that we can all agree that the intent of the Ertel amendment is to prevent abuse of our student loan program by those who would use bankruptcy simply to avoid repayment of their student loans. My amendment attempts to identify such persons by prohibiting within the 5-year period discharge of debts if the student loan constitutes 65 percent or more of the person's indebtedness. Certainly we do not want to imply by action taken here that all those who resort to bankruptcy and happen to have a student loan are somehow trying to cheat the Government. In all fairness we must remove such a cloud.

Actually the number of cases that would be covered by my amendment would appear from the GAO report to be relatively small. Analysis of 541 cases showed the petitioners to have average total debts of $14,115, of which $4,138 were educational debts. Yet we do not want our action to be perceived as congressional sanction of the use of bankruptcy to discharge student loans.

Restricting those whose student loans constitute 65 percent or more of their total debts puts a sight on the Ertel shotgun and will achieve what I believe this House really wants to do—to eliminate abuse of our student loan program.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. CORNELL. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, by the gentleman's amendment, would it not be true that if an individual had about 66 percent of his debt in educational loans, the way to be able to be discharged would be to get more loans so that he would have 64 percent educational loans, by just getting more loans from a loan company and then be eligible for discharge?

Mr. CORNELL. There is always that possibility. I doubt if he would get a loan, however, if he had that amount of indebtedness.

Mr. ERTEL. To change that percentage for that amount, he could get somebody to lend him that amount of money, so we create an incentive for somebody to do something which would be worse.

Mr. CORNELL. Actually I do not think it is worse, because in the approach of the gentleman from Pennsylvania, all those are put under the cloud that they are attempting to avoid paying their student loans.

Mr. ERTEL. On the contrary, if he has a hardship he can go to the court and say: "I have a difficulty" and ask for discharge. Incidentally the prevention of the discharge is only for a 5-year period after the debt becomes due. It is only during that 5-year period when he is prevented. After the 5-year period, if he has not been able to accumulate assets, he can go into bankruptcy.

Mr. CORNELL. I think that gives an additional basis for supporting my amendment, because during that period of time is possibly when they would have the largest amount of student debt.

Mr. ERTEL. That is right. So he discharges his debts and then accumulate assets, and builds up a portfolio. By letting a person out of his debts immediately we do not even give a person a chance to earn enough to pay his debts. During the 5-year period he has an opportunity to accumulate assets, so he will not want to discharge himself in bankruptcy after the 5 years. It seems to me we are encouraging people to go

into bankruptcy more with this provision.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. CORNELL. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I would like to comment. First of all Members should be aware that nothing in the provision of law today or the Ertel amendment prohibits the discharge of the non-student loan debt.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(On request of Mr. ERLENBORN, and by unanimous consent, Mr. CORNELL was allowed to proceed for 1 additional minute.)

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield further, I would further say this appears to be an attempt to define, by using percentage terms, what hardship is. I think it is much preferable with the present law and the Ertel amendment which will still allow a discharge of the student loan portion of the debt if there is real hardship, and allow the judge in bankruptcy, exercising his power in equity, to determine in each case what is truly hardship, rather than define it in these percentage terms.

Mr. CORNELL. My concern is that we put all of these who want to use bankruptcy under a cloud that they are trying to rip off the Government. We should have a provision like this, that a fair portion of the indebtedness appears to be for noneducational loans.

Mr. ERLENBORN. If the gentleman will yield further, it could actually work to the detriment of the student, because if his student portion exceeded 65 percent and he did truly have a hardship, the court may say, "The Congress has said it is hardship only if it is below 65 percent," so I think it is better to let the judge decide it.

Mr. CORNELL. We are not eliminating that provision, however, from the law.

Mr. MICHEL. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from Pennsylvania.

I have been disturbed, as many of you have, by reports in the media of an increasing number of defaults on student loans under the guaranteed student loan program. Now I understand that declarations of bankruptcy constitute only a small percentage of these defaults. But the number of bankruptcies is not so important as the principle involved. If we continue to allow the practice of student bankruptcies to continue we are, in effect, saying something to the students and the American people about our attitude toward an old-fashioned word—"responsibility." We are allowing the element of irresponsibility to gain an accepted place in our national life.

I understand that a prominent banker has testified that—

> It has yet to be demonstrated that the (student) bankruptcy losses are out of the ordinary.

If all that were at stake here was whether the losses are more or less than "ordinary," we could forget about the problem and simply hire a computer to get the answer but the problem we have to deal with here is one beyond the power of even the most sophisticated computer. It is a problem of the heart and the spirit. It is a problem of moral, not financial, dimensions. We are dealing with the age-old problem of individual responsibility. The number of bankruptcy cases is not at the heart of the matter. It is the attitude that such cases symbolize.

Suppose it is argued that antisocial acts are occurring at a rate "not out of the ordinary." Does that mean we suddenly declare that such acts are of no concern to society? No, we must deal with both the statistical facts and the moral question involved here.

We have here a question of individual responsibility. Try to gage the effect even a few declarations of bankruptcy must have on the vast majority of students who are trying their best to live up to high standards of responsibility. No wonder there is cynicism about Government among the young.

Restrictions on student bankruptcies is logical. Section 316 is one of those pieces of legislation which, on the surface, appears to be reasonable. After all, why not allow a student to declare bankruptcy? That makes it easier to everyone, does it not?

Well, in fact, it does not. It is time that Congress spoke up for the millions of students who have the decency to do what is right. Yes, I know that there are hardship cases in which bankruptcy is unavoidable. But these are exceptions and as I understand it the amendment offered by Mr. ERTEL allows these to occur.

Yes, this question concerns tax dollars. Yes, it concerns a Government program. But most of all it concerns a view of every individual as a responsible moral being. It is so easy to either ignore what is taking place or to allow it to continue for fear of not seeming compassionate. Well, this Nation has had enough of the fake compassion that says we must treat some members of our population as if they were not even expected to act responsibly That is wrong.

I say it is time we do what is right for all students and that means, in this case putting ourselves on the side of the majority of young men and women who want to do the right thing, even against great odds. The Ertel amendment does just that.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have to say that I am shocked to hear my friend, and I use that word advisedly, and long-time colleague on the committee, the gentleman from Illinois (Mr. ERLENBORN) say that when we considered this matter in the Higher Education Act in 1976 he agreed to the 1-year delay in the amendment to the Bankruptcy Act only as a matter of expediency. Since that was then the gentleman's motivation, he now feels he is not bound by any agreement beyond the matter of expediency. The fact is we were sidetracked by a point of order problem on the floor consideration of this amendment because of the relationship to the Bankruptcy Act of an amendment of this kind in an education bill. There was a gentleman's agreement that we would delay the effective date of the amendment to give the committee with proper jurisdiction over the matter of bankruptcy a year to study it.

The record will show we were told by the chairman of that committee it was their intention to have a bill such as this out sometime within the next year when the matter could be handled by people with more expertise in the field than we have.

The problem that we face with this, and I think the gentleman from Illinois may have characterized it well when he said the amount of money involved here is not as important as the attitudes that are involved. I have suspected that for a long time, because any dispassionate check you make of the phenomenon of bankruptcy with respect to student loans and defaults on student loans would indicate that on a dollar basis or percentage basis it represents an infinitesimally small part of the loss, if loss there be in these programs. If we assume we can operate programs to put large numbers of people through college without cost to the taxpayers and anyone can come up with that plan, our committee would be most interested in producing it immediately, because we will have found something better than a perpetual motion machine.

It is going to cost something to run any program. Let me take a look at what we are talking about. First of all, the rate of increase of these bankruptcies did not go up during the last year that bankruptcies were permitted to discharge student loans. As a matter of fact, a careful check of the records I have seen show that student loan bankruptcies have actually declined. They have not declined because of anything this or the previous administration did; they have declined because of the change in circumstances that is related to who had the student loans.

The figures we were debating in 1976, when this issue came to the floor, were based on the people who had used federally insured student loans. Prior to that time, they had gone some 4 or 5 or 6 years beyond college and ended up in default and bankruptcy. Who are we talking about? If Members bear with me and think about it, we did not have the grant programs that are now targeted toward low-income students in colleges and universities until 1973. The student population that made up the statistical base for Mr. ERLENBORN's attack in 1976 was the population made up overwhelmingly of the poorest of the poor kids going to colleges.

We shifted into gear in 1973 with other programs to take care of those people with direct grants, and they depend on loans much less than before. The loan programs have moved more and more toward being a middle-class student's way of staying in or getting into college.

As that group of people with greater expectation for success in getting a job after college replaced the people with the least expectation of success, the percentage of defaults has gone down. The real scandal in the whole student loan program is this: That until last year, there was never a really definitive policy in the U.S. Office of Education or Department of HEW to collect defaulted student loans. Let me ask all of you who are on the floor a question to think about for a minute. What would you tell a former student who walked into your office here or into your office back in your district, and said, "I have been in default for several years on my student loan because I did not have a job. Now I have a job, I want to get right with the world. Where do I go and who do I sit down with to catch up and straighten out my obligations?"

There is not one person in this room—I challenge him or her to stand up and tell me if you know—where to send that person to get right with the Federal Government. We can tell them where to go if they are in default on any other kind of loan, but the reason we cannot tell them is that there never was a mechanism.

When the Federal Government took over the paper, we did not even send a computer letter to the students telling them that now the paper belonged to the Government and the Government would expect payment. No effort was ever made to collect these loans, and as the gentleman from Connecticut indicated earlier, the problem has not been bankruptcy; it has been default, and the major problem with default is the absolutely criminal—criminal—negligence of the previous two administrations in letting year after year after year of these loans accumulate without one bit of effort on their part to make any attempt to recover the money that had been loaned out and then guaranteed by the Federal Government.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

Mr. FORD of Michigan. If any other federally guaranteed loan program had been handled in the miserable way HEW handled this program over its life, we would be screaming for the abolition of the department. Thank goodness, this administration is straightening that mess out.

Finally, Mr. Chairman, I would like to point out that the language in this bill repealing the moratorium on discharged student loans through bankruptcy is supported by the American Bankers Association, Consumer Bankers Association, National Bankruptcy Conference, National Conference of Bankruptcy Judges, National Student Lobby, and National Student Association.

I would like to insert in the RECORD at this point a letter from the Coalition of Independent College and University Students, National Student Association, and National Student Lobby which persuasively argues for retention of the committee's provision.

JANUARY 27, 1978.

To members of the U.S. House of Representatives.

From: Coalition of Independent College and University Students, National Student Association, National Student Lobby.

Subject: H.R. 8200, Student Bankruptcy provisions.

DEAR CONGRESSPERSON: The coalition of College Students and University Students, the National Student Association and the National Student Lobby asks for your support of the student Bankruptcy provisions of H.R. 8200. Specifically, we ask you not to support any amendment of the Judiciary Committee bill which would limit the rights of an individual to discharge student loans in a bankruptcy proceeding. We certainly do not endorse fraud or abuse of the loan programs. However, we would like to present the following points in regard to our common position.

First, the Subcommittee on Civil and Constitutional Rights conducted extensive hearings and concluded that student bankruptcies, while a concern, are not out of line with other classes of individual bankruptcy claims. In fact, both bankers and judges have testified in favor of the Subcommittee bill. Mr. Walter W. Vaughan of the American Banker's Association and Consumer Banker's Association Task Forces on Bankruptcy testified, "While there is substantial concern with the abnormally high delinquency and loss rate on student loans, it has yet to be demonstrated that the bankruptcy losses are out of the ordinary."

Mr. Clive Bare, a bankruptcy judge for the Eastern district of Tennessee representing the National Bankruptcy Conference stated, "There is no doubt but that the educational loan program is in difficulty, but from the information available to the Conference, it appears to be primarily the program itself and the manner in which it has been administered that is causing the difficulty and not that of bankruptcy abuses. Further, there is no conclusive data that the number of students petitioning for bankruptcy poses any threat to the continuance of the educational loan program." It appears that those in a position to know, both commercial bankers and judges, agree that the problem of student bankruptcy lies not in bankruptcy law, but in program administration.

Second, opponents of the bill presented statistics which suggest that bankruptcies are rising at an alarming rate. Yet the statistics are only half the story. For example, it is stated that the percentage of increase in student bankruptcies in the state of California rose by 38% from 1971 to 1972—a large percentage to be sure. However if one consults the specific data, one will observe that the percentage figures represent only a rise from 210 to 290 bankruptcies in that year. In another case, we are told that in Pennsylvania there was a 225% increase over one year in students declaring bankruptcy. Again, if one goes to the real data, the increase that year was from 4 to 13 bankruptcies. Clearly, percentages can be misleading. When one considers the real numbers, the bankruptcy problem is placed in perspective.

Third, bankruptcy is portrayed as an easy and painless procedure. This is not true. Bankruptcy is a serious business step. While an individual bankruptcy is less stigmatized now than in the past, it is still a serious admission of financial failure. Subsequent difficulties in obtaining future credit or loans is severe and puts the petitioner at a disadvantage in our consumer society.

Fourth, the GAO in its study of the bankruptcy problem found the following facts: 1. In this study the average earnings for the year prior to filing for bankruptcy was $6,378. That amount of income cannot be considered excessive. 2. Average total debts were $14,115, of which an average of only $4,138 were educational loans. 3. Only 8% of the study group listed educational loans as their indebtedness. These figures from the GAO indicate cause for concern, but demonstrate minimal abuse.

Fifth, the magnitude of the bankruptcy problem, while worrisome, is not as great as critics assert. In reality, fewer than two tenths of one percent (0.19) of the nearly 8 million loans made under this program have been discharged in bankruptcy. The costs of these discharges has been less than three tenths of one percent (2.26) of the nearly $8 billion which have been channeled through the program. While we do not wish to minimize either the personal tragedy or the loss to the guarantors represented by these figures, we believe the program has worked with minimal abuses concerning the bankruptcy allowances.

Sixth, both former Chairman James O'Hara and current Chairman William D. Ford of the House Postsecondary Education Subcommittee are in support of the Judiciary Committee bill. Mr. Ford in a letter to Chairman Edwards of the Civil and Constitutional Rights Subcommittee stated, "I have seen no evidence which convinces me of the need for a remedy as discriminatory and inappropriate as section 439A of the Higher Education Act. I do not believe that bankruptcies involving student loans are increasing at such a rate as to require a provision this drastic, nor am I convinced that young debtors are declaring bankruptcy for the main purpose of 'ripping off' the government by not paying back their student loans."

Seventh, bankruptcy and default are often confused and taken to mean the same action. Defaults on student loans can be reduced and the Department of Health, Education and Welfare is now more aggressively pursuing individuals who default. In fact, on October 27th, the House Postsecondary Subcommittee held an oversight hearing on student loan defaults with Office of Education Officials testifying on their efforts to reduce the default rate. So, while students should have the option to legitimately declare bankruptcy, defaults should be vigorously pursued.

The national student organizations urge you to vote in favor of the Committee bill, H.R. 8200. We ask that you oppose on the floor any amendments concerning student bankruptcy to strike the committee provisions. The Committee has worked hard and studied the problem extensively and we agree with their position. For more information contact: COPUS—659-1747; NSA—332-8428; NSL—234-5574.

Mr. BUTLER. Mr. Chairman, I move to strike the last word, and I rise to speak in opposition to the amendment.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield.

Mr. ERLENBORN. I thank the gentleman for yielding to me. He is so kind, because the prior speaker, after referring to me in debate, did refuse to yield.

Just to set the record straight, the gentleman from Michigan has informed the committee that the amendment in the 1976 act was an amendment to the Bankruptcy Act, was subject to a point of order, and he did not offer that point of order because of an agreement he had with me. I want the committee to know that section 312(a) was in order, and was an amendment to the Higher Education Act, not to the Bankruptcy Act.

There was no agreement between us, other than if he did not move to strike that germane amendment, I would agree to a 1-year-delay. I wanted the record to be straight.

Mr. BUTLER. I thank the gentleman for setting the record straight.

Mr. Chairman, I will not take my full 5 minutes, but I would like to share with the Members the thoughts of those of us who are on the subcommittee and on the committee which dealt with this problem. I remind the Members that they are being asked to reverse a matter which was decided by the full committee by a vote of 23 to 4 and by the subcommittee unanimously.

What we have before us is a policy decision on which reasonable minds may differ basically about how to deal with students who default in federally guaranteed loans. It is a basic policy decision. But keep in mind that if this amendment passes, if the Ertel amendment passes, this will be the only provision in the bankruptcy law excepting from the bankruptcy act a particular kind of voluntarily incurred debt for discharge. It is a bad policy to single out the student borrower for this sort of treatment. It is basically bad policy. It is foreign to the theory and the substance of the bankruptcy law. Bear in mind that, after this, trash off of the street can walk into your office and tell you about a life in which he has wasted his substance on riotous living and all he has to show for it are debts, debts, debts. He borrowed from a little old lady, he borrowed from this one, he borrowed from that one. But he can get his debt discharged, provided it is not a student loan, provided it is not an educational loan. It is just wrong. It is just wrong to single out the student for this kind of treatment. Bear in mind the time of life we are talking about. Here is a man whom we have told to get an education. That is the key to life in this world, that is the key to a meaningful life. So he has worked his hardest to get an education, he borrowed the money, he did the best he could to get through and get an education, and then he graduates and faces the world and he finds out that he has been misled, that that is not really the answer, that jobs are hard to get, he cannot get a job. If his health fails him, his substance is wiped out, and here he is, faced with this tremendous debt. He cannot get a job, he cannot get started in life so that he can at least restore his credit and try again. What we do in the bankruptcy law is to give him a fresh start. But we are going to single out the student, and deny him the benefits of the Bankruptcy Act—the guy who has really tried to get a good start in life in the traditional American way under adverse circumstances.

It is wrong to pass the Ertel amendment and I urge the Members to reject it.

Mr. EDWARDS of California. Mr. Chairman, I ask unanimous consent that all debate on the Ertel amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 50 seconds each.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, the subcommittee and the full committee voted on this amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) and soundly defeated it. I urge the defeat of both amendments.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from Virginia (Mr. BUTLER), and I urge a "no" vote on both amendments.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Chairman, I rise to urge defeat of the Cornell amendment and the adoption of my amendment.

I would point out that the amendment as proposed only delays the ability to be discharged for a period of 5 years and allows that person to be discharged if he shows severe hardship.

This is not directed at a class of people. It is similar to support for a child or former spouse, and that concept has been accepted under a bill proposed by this House. We are trying to protect future students, to make their loans viable, and to give them an opportunity to get an education.

Mr. Chairman, that is the purpose of my amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. DODD).

Mr. DODD. Mr. Chairman, I would just repeat again for those Members who did not hear the initial arguments concerning both of these amendments that we are talking about a problem involving defaults.

All the statistical information we have—and there is not enough of it, unfortunately—points to a problem involving defaults, not bankruptcies. No matter how we vote on these two amendments today, we are not going to affect the situation one iota.

I cannot stress enough for my colleagues in the Chamber today the fact that no person I have ever met is overly anxious to run to bankruptcy court. That is not an attractive alternative for people.

So, Mr. Chairman, we are not going to be dealing with the default situation by amending the Bankruptcy Act today. Therefore, I urge the defeat of both amendments.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, my colleague, the gentleman from Virginia, (Mr. BUTLER) made a very persuasive argument, except that I think we should recall that, if there is true hardship, the loan can be discharged. So the hardship case he has described is already provided for in the law.

I think we should remember that these are people who have graduated from school and who have pledged their initial earnings and who are now reneging on their pledge. If they have a true hardship condition, their loan can be discharged.

Those who are interested in this bill, Students for United Aid, the State Financial Aid Offices, and the Secretary of HEW who administers the program, all recommend that the Ertel amendment be adopted.

Mr. Chairman, I urge the Members' support for the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. RAILSBACK).

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I rise in opposition to the Ertel amendment which would, as I understand it, exempt student loans from discharge in bankruptcy.

Our hearings were extensive on this subject and among our witnesses were representatives from major loan companies, specifically Beneficial Finance and Household Finance. They indicated to us, during testimony given on December 8, 1975, and December 15, 1975, respectively, that the percentage of their losses discharged in bankruptcy and attributable to students loans is miniscule to be precise, Beneficial Finance testified that it lost, in the preceding fiscal year, 1974, $10.9 million due to bankruptcy claims. This contrasts with their outstanding loans of $1.3 billion loans discharged in bankruptcy, therefore were 0.8 percent of total loans. Student loans are a fraction of that percentage—infinitesimal.

Similarly, Household Finance reported total loans of $2 billion compared with losses in bankruptcy of $13 million, or 0.65 percent. Student loans again were a fraction of the $13 million.

Such statistics do not support the need to single out students from participation in the bankruptcy process. I believe the Ertel amendment is bad policy and I urge you to vote "no."

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, I have listened to this debate, and I am impressed with the very persuasive arguments on both sides. However, I am going to come down on the side of my colleague, the gentleman from Virginia (Mr. BUTLER).

I will simply take these few seconds to indicate that perhaps we are all missing the point. The reason we are in the position we find ourselves in is because the nature of the student loan program since its inception has not in my view been dealt with well at all. What we have

to look at and what I hope my colleague, the gentleman from Michigan (Mr. FORD), will look at and do is this: that he will have us examine more carefully something that I have introduced, income contingent repayment, or some other option of that character, something that does not force people to start paying back the loans at the rate at which they have to pay them back without regard to what their income is.

Mr. Chairman, that is the point I hope we will make at some time in the near future.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. CORNELL) to the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The question was taken; and on a division (demanded by Mr. DODD) there were—ayes 21, noes 34.

So the amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 54, noes 26.

Mr. ERTEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

STATUS OF DEBTOR'S ATTORNEY

Mr. Chairman, a question has been raised concerning the capacity of a debtor-in-possession in a case under chapter 11 to retain an attorney who worked for the debtor before the case was filed.

On its face, section 1107 appears to subject a debtor-in-possession to the provisions of section 327(a) which require an attorney to be a "disinterested person" as defined in section 101(13). This would appear to preclude an attorney for the debtor from serving as an attorney for the debtor-in-possession. This is not the intent.

Section 330, treating with compensation of officers, clearly distinguishes the debtor's attorney from other professional persons employed under section 327. The disqualifying language of section 328(c) should not apply to deny compensation to an attorney for the debtor-in-possession solely because of his prior service as attorney for the debtor. That is simply not the kind of direct or indirect relationship intended to abrogate the standard of disinterestedness under section 101(13)(E).

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Page 583, strike out lines 3 through 5 and insert in lieu thereof the following: "(a)), is amended by inserting ", unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination" immediately after "bankrupt".".

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I would like to say on behalf of our side that we are familiar with the amendment, have considered it carefully, and have no objection to it.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, would the gentleman from California (Mr. PANETTA) briefly tell us what the amendment is about?

Mr. PANETTA. I shall be pleased to, Mr. Chairman.

Mr. Chairman, I offer this amendment on behalf of myself and my distinguished colleague, from California, the Honorable Mr. SISK.

My amendment is a clarifying amendment in line with the amendment previously introduced by the gentleman from Washington and distinguished chairman of the Committee on Agriculture, Mr. FOLEY and adopted by the committee. It seeks to preserve the effectiveness of the Perishable Agricultural Commodities Act (PACA) by retaining the protective sanctions the Secretary of Agriculture has over licensees and applicants who file or were discharged in bankruptcy. As I understand it, the Department of Agriculture, via a letter from Deputy Secretary of Agriculture John White, supports this amendment.

The Perishable Agricultural Commodities Act has been the mainstay of the agricultural industry, particularly as it relates to fresh fruits and vegetables. By the very nature of these products, rapid harvesting, packing and distribution are essential. Contracts are made and products are picked and delivered on the basis of a person's word, before a written confirmation is delivered to the parties. Trust and high ethical standards are essential to this kind of marketing. It is imperative that the law protect against the possibility of unethical persons taking advantage of these conditions to engage in unfair and fraudulent practices.

The Perishable Agricultural Commodities Act prohibits these unfair trade practices. Under this act, the Secretary of Agriculture has the power to revoke, suspend, or deny a license to a bankrupt buyer of fresh fruits and vegetables unless certain conditions are met. To do any less would place the shipper of perishable fruits and vegetables under jeopardy and at the mercy of less than honorable buyers.

Section 303 of the present bill, however, would significantly reduce the effectiveness of the Perishable Agricultural Commodities Act by removing the protective sanctions the Secretary of Agriculture has over licensees and applicants who file or were discharged in bankruptcy. Section 303 specifically would preclude questioning the fitness of an applicant for a new license after his license was terminated as a result of a discharge in bankruptcy. It would also eliminate the present requirement that a license applicant who has been adjudicated or discharged in bankruptcy, post a bond in a satisfactory amount to insure financial responsibility.

While I can sympathize with the motives behind these sections as they apply to other bankrupts, in this particular area, chaos could result. It would create the situation where a sloppy, marginal, or dishonest operator could "make the rounds" of suppliers and in effect abuse the process and perhaps severely penalize successful producers and farmers.

My amendment would restore the discretion of the Secretary to examine the circumstances of the bankruptcy and make a finding, where appropriate, that the license should not terminate on discharge. The amendment would give the bankrupt the opportunity for the same consideration under his individual circumstances as is presently contemplated in section 303(b) of H.R. 8200.

Putting these provisions into effect will help the farmer overcome some of the unwarranted risk and at the same time give bankrupts who have been victims of catastrophies a chance to get back on their feet.

I urge adoption of the amendment.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I wish to thank the gentleman from California for offering this amendment. In attempting to strike a balance between the bankruptcy laws and laws designed to provide protection for farmers and cattlemen, we may have leaned too far in the bankruptcy direction. I believe that this amendment strikes a proper balance, and I am happy to support it. It will insure that those who sell produce and cattle will receive payment for their goods, while permitting those who buy those goods but have run into financial difficulty and bankruptcy through forces beyond their control to get a fresh start and return to business. The Secretary of Agriculture will be able to prevent the unscrupulous trader from returning to business, however.

This amendment has the support of the Department of Agriculture, the Agriculture Committee of the House, and of the Judiciary Committee, and I recommend its adoption.

I yield to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. I agree with the gentleman from California, the chairman of the subcommittee, and I wish to echo his remarks. I think that this amendment strikes a good balance. It is fair to the farmers and it is fair to agricultural

traders. I support the amendment and also recommend its approval.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, do I understand the gentleman to say that the gentleman from Washington (Mr. FOLEY), the chairman of the Committee on Agriculture, supports this amendment?

Mr. PANETTA. That is correct. Also, the Department of Agriculture supports this amendment.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman very much.

Mr. PANETTA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'KINNEY

Mr. McKINNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McKINNEY: Page 588, line 23, strike out "by striking out" and all that follows through line 3 on page 589, and insert in lieu thereof the following: to read as follows:

"(1) Cases under title 11 of the United States Code or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report by more than seven years.".

Mr. McKINNEY. Mr. Chairman, the declaration of bankruptcy was intended by Congress, acting pursuant to a direct constitutional mandate to "establish * * * uniform laws on the subject of bankruptcies", to provide relief and a fresh start to insolvent debtors. Endorsing the accepted view that such relief was meant to be available to individuals as well as insolvent businesses, former Chief Justice Earl Warren described bankruptcy as "a compassionate law intended to give a man an opportunity to rehabilitate himself, get back into business, into the mainstream of economic life, and contribute his part to the future."

Section 605(a)(1) of the Fair Credit Reporting Act, in my view, is not in keeping with this rehabilitative philosophy, and therefore, I propose to amend it so as to conform that law's practice to its spirit. At present the credit reporting statute permits credit agencies to maintain records of reported bankruptcies for up to 14 years. Yet an exhaustive search of the legislative history of this provision has disclosed no compelling reason for the statute's unforgivingly lengthy memory.

The amendment I offer today would shorten this period to 7 years in order to better aid those people who must now file bankruptcy. Since the bankruptcy statute forbids a second declaration of insolvency within 6 years of the first, this provision would still afford the protection lenders need to make credit decisions while removing the unnecessary black mark from the debtor's record.

Mr. Berkeley Wright, Chief of the Division of Bankruptcy of the Administrative Office of the U.S. Courts, has informed me that 90 percent of all bankruptcies today are consumer default cases. He offered this profile of the average bankrupt: 30 to 40 years of age, an average salary of $80 to $150 per week, a median education through the 10th grade, employed in manufacturing and generally owes between $1,000 and $4,000. This is the person bankruptcy was designed to aid, not harm. The extended reporting of a bankruptcy denies this person the opportunity to obtain needed credit for such items as housing, transportation, and clothing. Bankruptcy can even deny a parent access to loans for his/her children's education long after the financial difficulty which lead to the declaration has become nothing more than a bad memory.

I think a historical perspective helps to demonstrate the unnecessarily cruel burden imposed by this 14-year reporting provision. Since World War II the use of consumer credit has grown enormously. So much so that our entire society seems based upon the availability and use of credit cards. Just as the use of consumer credit has increased, so too has the number of consumer bankruptcies. According to the Congressional Research Service, for the 12-month period ending in June 1977, over 182,000 such cases have been filed. Obviously, it serves no good purpose to keep so many outside of the economic system for so long on the basis of one financial problem.

More recent history prompted this amendment. Often consumers are able to keep up with their obligations under normal circumstances but may have saved very little for unexpected financial demands, such as those which are produced by inflation and recession. When a family member is taken seriously ill, medical expenses can drain all available resources. With the family breadwinner laid off, a similar financial crisis ensues. To meet this emergency, the family will be forced more deeply into debt to the point where bankruptcy is their only option. Once insolvency is declared and the emergency passes, financial health may be restored but the record remains for 14 years.

In 1934, Mr. Justice Sutherland stated that bankruptcy gives to "the unfortunate debtor, * * * a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of pre-existing debt." It is in the spirit of Justice Sutherland's statement that I urge my colleagues to consider and support this amendment. To retain this excessive penalty would continue to undermine the beneficial effects of the bankruptcy laws, and would pervert rather than facilitate a fresh start for once unfortunate, but now solvent debtors. Thank you.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I am happy to yield to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, I rise in support of the amendment.

This was an area that the subcommittee considered during our long work on the revision of the bankruptcy laws, but we felt that a change such as proposed by the amendment was properly proposed by the Banking Committee. That is why I am pleased that the distinguished gentleman from Connecticut, who is a member of the Banking Committee is offering this amendment.

The amendment will contribute to the fresh start which bankruptcy promises for the poor, overburdened debtor. Once an individual has gone through bankruptcy, it should not hound him for the rest of his life. He is entitled to get back on his feet again, and become a productive member of society. This amendment will contribute to that goal by reducing the time that the fact of a bankruptcy can be carried on a credit report. It is a good amendment, and should be added to the bill.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to my colleague, the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, I support the amendment offered by the gentleman from Connecticut. The Fair Credit Reporting Act permits credit reporting services or agencies to carry the fact of an individual's bankruptcy on their records and to report it to creditors that request credit-worthiness information for up to 14 years after the bankruptcy. The purpose of the provision was to keep the record open long enough so that creditors could determine whether the individual involved had filed more than one bankruptcy. A shorter period would not have permitted this determination, because an individual can receive a bankruptcy discharge only once every 6 years.

However, the provision has not worked as intended: Creditors are using the fact of a single bankruptcy as the sole grounds for denying credit. Individuals who have filed bankruptcy are not more likely to repeat than others. In fact, repeaters are rare. Thus, the fact of a bankruptcy is not a rational basis on which to deny credit, and permitting it to be carried on the record for so long has severely hampered the fresh start of many debtors.

Shortening the period to 7 years will bring this provision in line with the time period for other matters that credit agencies may report. It will unquestionably further the purposes of H.R. 8200, and I urge the adoption of the amendment.

Mr. McKINNEY. Mr. Chairman, I thank both the gentleman from California (Mr. EDWARDS) and the gentleman from Virginia (Mr. BUTLER) for their kind remarks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKINNEY).

The amendment was agreed to.

Mr. UDALL. Mr. Chairman, last October when H.R. 8200 was being considered, I voted with the majority in sup-

port of the Danielson-Railsback amendment. Since then I have had occasion to question the wisdom of that vote and am therefore pleased to have another opportunity to vote on the amendment.

It is obvious that Representatives DANIELSON and RAILSBACK made extremely persuasive arguments in favor of their proposal, mostly dealing with the supposed cost-saving nature of retaining the current system of bankruptcy judges operating under the jurisdiction of U.S. district courts.

Fortunately, the Subcommittee on Civil and Constitutional Rights held additional hearings which shed considerable light on numerous questions raised about the impact of the legislation. The hearings pointed up some of the deficiencies of the amendment which were not made clear during earlier debate. The major point, I believe, is that the bill as reported by the Judiciary Committee would in the long run be less expensive and more efficient than the system provided by the amendment. Maintaining the current system and eliminating new provisions for staff to assist bankruptcy judges would actually increase the workload for those judges and necessitate the appointment of many more judges to handle the extremely heavy caseload. It would largely destroy the effect of reforms established by H.R. 8200 to the detriment of the entire system.

In light of all this, I now believe that the committee bill provides the best approach, as it was crafted after many years of hearings, studies, and recommendations from all segments of the legal and banking professions. Since last October I have received communications from constituents who have extensive experience in bankruptcy law and whose judgment I trust. These individuals included others beside bankruptcy judges. Unanimously they favored enactment of H.R. 8200 without amendment.

Therefore, today I intend to vote against the Danielson-Railsback amendment and for the committee bill.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumer the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies, pursuant to House Resolution 826, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute?

Mr. EDWARDS of California. Mr. Speaker, I demand a separate vote on the so-called Danielson-Railsback amendment adopted in the Committee of the Whole on October 28.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Clerk will report the amendment on which a separate vote is demanded.

The Clerk read as follows:

Page 309, immediately after line 18, insert the following new paragraph and redesignate the subsequent paragraphs accordingly:

(4) "bankruptcy court" means United States district court for each judicial district;

Page 339, line 2, strike out "536(b)" and insert in lieu thereof "906(b)".

Page 434, line 9, strike out "586(a)(1)" and insert in lieu thereof "906(a)(1)".

Page 437, line 2, strike out "586(a)(1)" and insert in lieu thereof "906(a)(1)".

Page 581, line 25, strike out "586(b)" and insert in lieu thereof "906(b)".

Page 532, line 15, strike out "586(b)" and insert in lieu thereof "906(b)".

Page 545, strike out line 3 and all that follows through line 16 on page 581, and insert in lieu thereof the following:

"TITLE II—AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE AND TO THE FEDERAL RULES OF EVIDENCE

SEC. 201. (a) Sections 455(a) and 455(c) of title 28 of the United States Code are each amended by striking out "referee in bankruptcy" each place it appears and inserting in lieu thereof "bankruptcy judge".

(b) The heading for section 455 of title 28 of the United States Code is amended by striking out "referee in bankruptcy" and inserting in lieu thereof "bankruptcy judge".

(c) The item relating to section 455 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "referee in bankruptcy" and inserting in lieu thereof "bankruptcy judge".

SEC. 202. (a) The heading for section 460 of title 28 of the United States Code is amended by striking out "Alaska.".

(b) The item relating to section 460 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "Alaska,".

SEC. 203. Section 526(a)(2) of title 28 of the United States Code is amended—

(1) by striking out "referees" and inserting in lieu thereof "bankruptcy judges";

(2) by striking out "and receives in bankruptcy" and inserting in lieu thereof "in cases under title 11"; and

(3) by striking out "United Sttaes commissioners" and inserting in lieu thereof "magistrates".

SEC. 204. Section 571(b) of title 28 of the United States Code is amended by inserting immediately after "judges" the following: "bankruptcy judges, United States trustees and their assistants, staff, and other employees.".

SEC. 205. Section 604(a) of title 28 of the United States Code is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting immediately after paragraph (12) the following:

"(13) Lay before Congress annually statistical tables that will accurately reflect the bankruptcy business transacted by the several district courts, and all pertinent data with respect to bankruptcy matters relating to such courts;".

SEC. 206. Section 620(b)(3) of title 28 of the United States Code is amended by striking out "referees.".

SEC. 207. Section 621(b)(1) of title 28 of the United States Code is amended by striking out ": *Provided, however*" and all that follows through "a member" and inserting in lieu thereof: "A member".

SEC. 208. Chapter 42 of title 28 of the United States Code is amended—

(1) by striking out section 629; and

(2) by striking out the item relating to section 629 in the table of sections.

SEC. 209. Section 631(c) of title 28 of the United States Code is amended—

(1) by striking out "of the conference, a part-time referee in bankruptcy or" and inserting in lieu thereof "of the conference,"; and

(2) by striking out "magistrate and part-time referee in bankruptcy," and inserting in lieu thereof "magistrate and".

SEC. 210. Section 634(a) of title 28 of the United States Code is amended by striking out "for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended" and inserting in lieu thereof "not to exceed $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title".

SEC. 211. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 49 thereof the following:

"Chapter 50—BANKRUPTCY JUDGES

"Sec.
"771. Creation; appointment; tenure.
"772. Qualification; removal.
"773. Oath of office; compensation; benefits; expenses.
"774. Number and locations.
"775. Vacancies; temporary assignments.
"776. Powers.
"777. Duties.
"778. Training.
"779. Dockets.

"§ 771. Creation; appointment; tenure

"(a) There is created in each judicial district the office of bankruptcy judge.

"(b) The judicial council of each circuit shall appoint bankruptcy judges to serve in each district court of the circuit, including territorial district courts, in such numbers and at such locations within each district as the Judicial Conference of the United States may determine pursuant to this chapter. The appointment, whether an original appointment or a reappointment, shall be by the concurrence of a majority of all the judges of the judicial council of the circuit. Whenever there is no such concurrence, appointment shall be by the chief judge of the circuit. In making appointments under this subsection, the judicial council of the circuit may consider any recommendations of the district courts within the circuit, the organized bar within the circuit, and any association or committee for merit selection of judicial officers then in existence in the circuit.

"(c) Each bankruptcy judge shall be appointed for a term of 15 years. An individual appointed as a bankruptcy judge may not serve under this chapter after having attained the age of 70 years, except that, upon the unanimous vote of all the judges of the judicial council of the circuit, a bankruptcy judge who has attained the age of 70 years may continue to serve for the remainder of his term, or for such portion thereof as such judicial council considers appropriate, and may be reappointed under this chapter. Upon the expiration of his term of office, a bankruptcy judge shall continue to perform the duties of the office until a successor is appointed and qualified.

"§ 772. Qualifications; removal

"(a) No individual may be appointed or reappointed to serve as a bankruptcy judge unless such individual—

"(1) has been a member of the bar for at least five years and is currently a member in good standing of the bar of the highest court of the State in which he is to serve, or, in the case of an individual appointed to serve—

"(A) in the District of Columbia, a member in good standing of the bar of the United States District Court for the District of Columbia;

"(B) in the Commonwealth of Puerto Rico, a member in good standing of the bar of the Supreme Court of Puerto Rico, and in territorial district courts, a member in good standing of the bar of the district court of the territory; or

"(C) in two or more districts extending into two or more States, a member in good standing of the bar of the highest court of one of such States:

"(2) is determined by the judicial council of the circuit to be competent to perform the duties of the office;

"(3) is not related by blood or marriage to a judge of the court or appeals of the circuit, or to a judge of the district court in which he is appointed to serve;

"(4) is not holding any office of profit or emolument under the laws of the United States or any State or political subdivision thereof, except that nothing in this paragraph shall be construed to prohibit the appointment of an individual acting as referee in bankruptcy under the Bankruptcy Act nor to prohibit the appointment of any retired officer or retired enlisted personnel of the Regular and Reserve components of the Army, Navy, Marine Corps, and Coast Guard, or member of the National Guard of the United States or of the National Guard of a State, territory, or the District of Columbia, except National Guard disbursing officers who are on a full-time salary basis, and

"(5) is a resident of, and has an office within, the judicial district of the district court or one of the district courts under which such individual is to hold appointment, except that—

"(A) whenever a bankruptcy judge is temporarily transferred or permanently appointed to another judicial district, residence or office in such other district shall not be required for eligibility; and

"(B) bankruptcy judges serving the District of Columbia shall reside in the District of Columbia or within 20 miles thereof.

"(b) Removal of a bankruptcy judge during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability. Removal shall be by the judicial council of the circuit in which the bankruptcy judge serves, but shall not occur unless a majority of all the judges of such judicial council concur in the order of removal. Any cause for removal of any bankruptcy judge coming to the knowledge of the Director of the Administrative Office of the United States Courts shall be reported by him to the chief judge of the circuit in which such bankruptcy judge serves, and a copy of the report shall at the same time be transmitted to the judicial council of the circuit, to the judges of the district court concerned, and to such bankruptcy judge. Before any order of removal may be entered with respect to a bankruptcy judge, a full specification of the charges shall be furnished to such bankruptcy judge, and he shall be accorded an opportunity to be heard on such charges.

"§ 773. Oath of office; compensation; benefits

"(a) Each individual appointed as a bankruptcy judge under this chapter shall, before performing the duties of his office, take the same oath as that prescribed for judges of the district courts of the United States. The appointment of a bankruptcy judge shall be entered of record in the appropriate district court, and notice of such appointment shall be given to the Director of the Administrative Office of the United States Courts by the clerk of such court.

"(b) Each bankruptcy judge shall receive as full compensation for his services a salary of $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title.

"(c) All bankruptcy judges, and all clerical and secretarial assistants employed in the office of a bankruptcy judge, shall be deemed to be officers and employees in the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 of title 5 (relating to civil service retirement), chapter 87 of such title (relating to Federal employee's group life insurance, and chapter 89 of such title (relating to Federal employee's health benefits program).

"(d) A bankruptcy judge serving under this chapter shall be allowed actual and necessary expenses incurred in the performance of his duties, including compensation for necessary secretarial and other necessary supporting personnel. Such expenses and compensation shall be determined and paid by the Director of the Administrative Office, under such regulations as he shall prescribe with the approval of the judicial Conference. The Administrator of General Services shall provide bankruptcy judges with necessary courtrooms, office space, furniture, and facilities in buildings owned or occupied by departments and agencies of the United States. If suitable courtroom and office space is not available in such buildings, the Administrator of General Services, at the request of the Director of the Administrative Office, shall procure and pay for suitable courtrooms, office space, furniture, and facilities in other buildings, but only if such request has been approved as necessary by the judicial council of the appropriate circuit.

"§ 774. Number and locations

"(a) The Director of the Administrative Office of the United States Courts shall make continuing studies and surveys of conditions in the judicial districts to determine the number of bankruptcy judges needed for the expeditious and effective administration of justice and the locations at which such bankruptcy judges should serve.

"(b) In conducting any survey under subsection (a) of this section, the Director of the Administrative Office shall take into account local conditions in each judicial district, including the areas and the population to be served, the transportation and communications facilities available, the numbers and types of bankruptcy cases filed, and any other material factor. The Director of the Administrative Office shall give consideration to suggestions from any interested party.

"(c) Upon completion of the surveys conducted under subsection (a) of this section, the Director of the Administrative Office shall report his recommendations concerning the number of bankruptcy judges needed and their suggested locations to the district courts, the judicial councils of the circuits, and the Judicial Conference of the United States. The district courts shall advise the judicial councils of their respective circuits, stating their recommendations and the reasons therefor. The judicial council of each circuit shall advise the Judicial Conference, stating its recommendations and the reasons therefor, and shall also report to the Judicial Conference the recommendations of the district courts within its circuit. The Judicial Conference shall, in light of the recommendations required by this subsection, determine the number of bankruptcy judges to be appointed and the locations at which they shall serve.

"(d) Except as otherwise provided in this chapter, the Judicial Conference may, from time to time, in light of the recommendations of the Director of the Administrative Office, the district courts, and the judicial councils of the circuits, change the number of bankruptcy judges and the locations at which they shall serve.

"§ 775. Vacancies; temporary assignments

"(a) Whenever the office of bankruptcy judge is vacant, the clerk of the district court in which the territory or any part of the territory served by such bankruptcy judge is located shall immediately give notice of such vacancy to the Director of the Administrative Office of the United States Courts. Upon the recommendation of the Director of the Administrative Office, the district court, and the judicial council of the circuit that the office be continued without change, the vacancy may be filled. If a change in the office is recommended by the Director of the Administrative Office, the district court, or the judicial council of the circuit, the vacancy shall not be filled until the Judicial Conference has acted thereon.

"(b)(1) Whenever the office of a bankruptcy judge is vacant or whenever the expeditious transaction of the bankruptcy business of the district court or courts requires—

"(A) the judge or any one of the judges of the district court may act;

"(B) the judge or the chief judge of the district court may designate and assign temporarily any bankruptcy judge of the district to act;

"(C) the chief judge of the circuit may designate and temporarily assign one or more bankruptcy judges within the circuit to act in any district within the circuit;

"(D) the chief judge of the circuit may, with the consent of the chief judge of any other circuit, designate and temporarily assign a bankruptcy judge from such other circuit to act in any district within the circuit;

"(E) the chief judge of the circuit may order that pending cases be referred and future cases referred to one or more bankruptcy judges within the circuit; or

"(F) the chief judge of the circuit may, with the approval of the Director of the Administrative Office, designate and temporarily assign a retired bankruptcy judge to act in any district within the circuit, and such retired bankruptcy judge shall be deemed to be a reemployed annuitant within the meaning of the civil service laws.

"(2) All designations and assignments made pursuant to paragraph (1) of this subsection shall be entered of record in the office of the clerk of the district court to which the bankruptcy judge is assigned. A bankruptcy judge designated and assigned pursuant to such paragraph shall discharge all judicial duties for which he is designated and assigned, and shall have all the powers of a bankruptcy judge for the district to which he is assigned for the period of such assignment.

"(3) The chief judge of a circuit or a judge or chief judge of a district court may make new designations and assignments in accordance with the provisions of this subsection, and may revoke designations and assignments previously made by him.

"§ 776. Powers

"(a) Each bankruptcy judge serving under this chapter shall have—

"(1) the power to conduct all proceedings under title 11;

"(2) to the extent authorized by rule or order of the district court, the power to conduct trials and other proceedings in actions under section 1334(b) of this title; and

"(3) the power to administer oaths and affirmations.

"(b) A person aggrieved by an order of a bankruptcy judge in a case or proceeding under title 11 or aggrieved by a judgment entered in a case heard by a bankruptcy judge under subsection (a)(2) of this section, may, within ten days after the entry thereof or within such extended time as the court may allow for good cause shown upon petition filed within such ten-day period, file with the bankruptcy judge a petition for review or appeal of such order or judgment by a judge of the district court and serve a copy of such petition upon the adverse parties who were represented at the hearing or trial. Such petition shall set forth the order or judgment complained of and the alleged errors with respect to such order or judgment. Unless the person aggrieved petitions for review of such order or judgment within such ten-day period, or any extension thereof, the order of the bankruptcy judge shall become final. Upon application of any party in interest, the execution or enforcement of the order or judgment complained of may be suspended by the court upon such terms as will protect the rights of all parties in interest.

"(c) Notwithstanding any other provision of law (other than section 362 of title 11), a bankruptcy judge may not enjoin a proceeding in any State or Federal court.

"(d) In a proceeding before a bankruptcy judge, any of the following acts or conduct shall constitute a contempt of a district court for the district in which such bankruptcy judge is serving:

"(1) disobedience or resistence to any lawful order, process, or writ;

"(2) misbehavior at a hearing or other proceeding, or so near the place thereof as to obstruct such hearing or proceeding;

"(3) failure to produce, after having been ordered to do so, any pertinent document;

"(4) refusal to appear after having been subpoenaed or, upon appearing, refusal to take the oath or affirmation as a witness, or, having taken the oath or affirmation, refusal to be examined according to law; or

"(5) any other act or conduct which, if committed before a judge of the district court, would constitute contempt of the court.

A bankruptcy judge may impose a fine not in excess of $1,000 for contempt of court. Upon the commission by any person of any act warranting imprisonment or a fine in excess of $1,000, the bankruptcy judge shall forthwith certify the facts to a judge of the district court. The judge of the district court shall serve or cause to be served upon such person an order to appear before such judge to show cause why such person should not be adjudged in contempt by reason of the facts so certified. The judge of the district court shall thereupon hear the evidence of the act or conduct complained of and, if warranted, punish such person in the same manner and to the same extent as for a contempt committed before a judge of such court, or commit such person upon the condition applicable in the case of defiance of the process of such court or misconduct in the presence of a judge of such court.

"§ 777. Duties.

"(a) A bankruptcy judge shall—

"(1) furnish or cause to be furnished such information with respect to cases or proceedings before such bankruptcy judge as may be requested by a party in interest;

"(2) transmit to the clerk of the district court such papers as may be on file before such bankruptcy judge whenever such papers are needed in any proceeding in court, and secure the return of such papers after they have been used, or, if it is impractical to transmit the original papers, transmit certified copies thereof by mail;

"(3) on request of a party in interest, preserve the evidence taken, or the substance thereof as agreed upon by the parties when a reporter is not in attendance;

"(4) prepare promptly and transmit to the clerk of the district court certificates on petitions for review of orders made by such bankruptcy judge, together with a statement of the questions presented, the findings and orders thereon, the petition for review, a transcript of the evidence or a summary thereof, and all exhibits; and

"(5) safety keep, perfect, and transmit to the clerk of the district court, at the conclusion of a case, the records required to be kept by this title.

"(b) A bankruptcy judge shall not engage in the practice of law or any other business, occupation, employment, or activity inconsistent with the expeditious, proper, and impartial performance of the duties of his office.

"§ 778. Training.

"The Federal Judicial Center shall conduct periodic training programs and seminars for bankruptcy judges, including an introductory training program for new bankruptcy judges.

"§ 779. Dockets.

"The Director of the Administrative Office of the United States Courts shall furnish bankruptcy judges adequate docket books and forms prescribed by the Director.".

(b) The table of chapters of part III of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 49 the following:

"50. Bankruptcy judges..... 771".

SEC. 212. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 55 thereof the following:

"Chapter 66—UNITED STATES TRUSTEES

"Sec.
"901. United States trustees.
"902. Assistant United States trustees.
"903. Oath of office.
"904. Official stations.
"905. Vacancies.
"906. Duties; standing trustees; supervision.
"907. Salaries.
"908. Expenses.

"§ 901. United States trustees.

"(a) here is created in each judicial district the office of United States trustee.

"(b) The district court for each judicial district shall appoint a United States trustee by the concurrence of a majority of all the judges of the district. Whenever there is no such concurrence, such appointment shall be by the chief judge of the district. The same individual may be appointed to serve as United States trustee for more than one judicial district.

"(c) Each United States trustee shall be appointed for a term of seven years. On the expiration of his term of office, a United States trustee shall continue to perform the duties of the office until a successor is appointed and qualifies.

"(d) Each United States trustee is subject to removal for cause by the concurrence of a majority of all the judges of the judicial district in which such trustee is serving.

"§ 902. Assistant United States trustees.

"(a) The district court for each judicial district shall, subject to the approval of the Judicial Conference, appoint one or more assistant United States trustees by the concurrence of a majority of all the judges of the district. Whenever there is no such concurrence, such appointment shall be by the chief judge of the district.

"(b) Each assistant United States trustee is subject to removal for cause by the concurrence of a majority of all the judges of the judicial district in which such trustee is serving.

"§ 903. Oath of office

"Each United States trustee and assistant United States trustee, before taking office, shall take an oath to execute faithfully the duties of the office.

"§ 904. Official stations

"The Judicial Conference may determine the official stations of the United States trustee and any assistant United States trustees within the judicial districts for which such trustees are appointed.

"§ 905. Vacancies

"The chief judge for a judicial district may appoint an acting United States trustee whenever the office of United States trustee in such district is vacant. The individual so appointed may serve until the earlier of 90 days after such appointment or the date on which the vacancy is filed by appointment under section 901 of this title.

"§ 906. Duties, standing trustees; supervision

"(a) Each United States trustee, within his district, shall—

"(1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11;

"(2) serve as and perform the duties of a trustee in a case under this title when required under title 11 to serve as trustee in such a case;

"(3) deposit or invest, under section 345 of title 11, money received as trustee in cases under title 11;

"(4) perform the duties prescribed for the United States trustee under title 11; and

"(5) make such reports as the Judicial Conference directs.

"(b) If the number of cases under chapter 13 of title 11 commenced in a particular judicial district so warrant, the United States trustee for such district may, subject to the approval of the Judicial Conference, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustees for such district to perform the duties of the United States trustee, in cases under such chapter. The United States trustee for such district shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

"(c) Each United States trustee shall be under the general supervision of the Judicial Conference. he Director of the Administrative Office of the United States Courts shall provide general coordination and assistance to the United States trustees.

"(d) The Judicial Conference shall prescribe by rule qualifications for membership on the panels established by the United States trustee under subsection (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11. The Judicial Conference may not require that an individual be an attorney in order to qualify for appoint-

ment under subsection (b) of this section to serve as standing trustee in cases under such chapter 13.

"(e)(1) A United States trustee who has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11 shall, pursuant to guidelines promulgated by the Judicial Conference, fix—

"(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5; and

"(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

"(2) An individual appointed to serve as standing trustee shall collect the percentage fee fixed under paragraph (1)(B) of this subsection from all payments under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay annually to the United States trustee, and the United States trustee shall pay to the Treasury—

"(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under chapter 13 of title 11 for which such individual serves as standing trustee; and

"(B) any amount by which the percentage fee fixed under paragraph (1)(B) of this subsection for all such cases exceeds—

"(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.

"§ 907. Salaries

"The Judicial Conference shall fix the annual salaries of the United States trustee and any assistant United States trustees at rates of compensation not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5.

"§ 908. Expenses

"Each United States trustee serving under this chapter shall be allowed actual and necessary expenses incurred in the performance of his duties, including compensation for necessary secretarial and other necessary supporting personel. Such expenses and compensation shall be determined and paid by the Director of the Administrative Office of the United States Courts, under such regulations as he shall prescribe with the approval of the Judicial Conference. The Administrator of General Services shall provide United States trustees with necessary office space, furniture, and facilities in buildings owned or occupied by departments and agencies of the United States. If suitable office space is not available in such buildings, the Administrator of General Services, at the request of the Director of the Administrative Office, shall procure and pay for suitable office space, furniture, and facilities in other buildings.".

(b) The table of chapters of part III of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 55 the following:

"56 United States trustees.....901".

SEC. 213. Section 959(b) of title 28 of the United States Code is amended by striking out "A" and inserting in lieu thereof "Except as provided in section 1165 of title 11, a".

SEC. 214. (a) Section 1334 of title 28 of the United States Code is amended to read as follows:

"§ 1334. Proceedings under title 11; related cases

"(a) The district courts shall have original jurisdiction, exclusive of the courts of the States, of all cases or proceedings under title 11.

"(b) Subject to subsection (c) of this section, the district courts shall have original, but not exclusive, jurisdiction of all civil proceedings by or against a debtor in possession, a trustee, or other representative of the estate of a debtor appointed under title 11 to administer the debtor's estate.

"(c) An original action under subsection (b) of this section may be filed only with the consent of the district court, upon a showing of need to have the case heard in a district court to prevent a potential loss of assets or to avoid other adverse effects on the administration of the estate of the debtor. The decision of a district court denying consent to the filing of such an original action shall not be reviewable by appeal or otherwise.".

(b) The items relating to section 1334 in the table of sections of chapter 85 of title 28 of the United States Code is amended by striking out "Bankruptcy matters and proceedings" and inserting in lieu thereof "Proceedings under title 11; related cases".

SEC. 215. Section 1360(a) of title 28 of the United States Code is amended by striking out "within the Territory" and inserting in lieu thereof "within the State".

SEC. 216. Section 1391 of title 28 of the United States Code is amended by adding at the end thereof the following:

"(g) Except as provided in subsection (i) of this section, a case or proceeding under section 1334 (a) of this title may be brought only in the judicial district—

"(1) in which the debtor has resided or has had his domicile or principal place of business, or in which his principal assets have been located, for the longest portion of the 180-day period immediately proceeding the commencement of the case or proceeding; or

"(2) in which there is pending a case under title 11 concerning such debtor's affiliate, general partner, or partnership.

"(h) A case of proceeding under section 1334(b) of this title may be brought only in accordance with the provisions of subsections (b) through (f) of this section.

"(i) A case under section 304 of title 11 may be brought only in the judicial district in which the principal place of business of the debtor in the United States is located, or the principal assets of the estate in the United States are found, except that—

"(1) a case to enjoin the commencement or continuation of an action or proceeding in a State court, or the enforcement of a judgment, may be brought only in the judicial district embracing the court in which is pending the action against which the injunction is sought; and

"(2) a case to enjoin the enforcement of a lien against property or to require the turnover of property of the estate, may be brought only in the judicial district in which such property is found."

SEC. 217. Section 1441 of title 28 of the United States Code is amended by adding at the end thereof the following:

"(e) Any party may, in accordance with subsection (b) of this section, remove a civil action of which the district courts have original jurisdiction under subsection 1334 (b) of this title brought in a State court to the district court embracing the place where such action is pending upon a showing that such removal would prevent a potential loss of assets or avoid other adverse effects on the administration of the estate of the debtor, except that no civil action by a governmental unit to enforce such governmental unit's police or regulatory power may be removed under this subsection. A petition for removal under this subsection shall be filed in accordance with the requirements of section 146(b) of this title.".

SEC. 218. Section 2075 of title 28 of the United States Code is amended by—

(1) striking out "under the Bankruptcy Act" and inserting in lieu thereof "in cases under title 11"; and

(2) by striking out the last sentence thereof.

SEC. 219. Section 2201 of title 28 of the United States Code is amended by inserting "or a proceeding under section 505(c) or 1146(d) of title 11" immediately after "the Internal Revenue Code of 1954".

SEC. 220. (a) Rule 1101(a) of the Federal Rules of Evidence is amended by striking out "referees in bankruptcy" and inserting "bankruptcy judges" in lieu thereof.

(b) Rule 1101(b) of the Federal Rules of Evidence is amended by striking out "the Bankruptcy Act" and inserting in lieu thereof "title 11, United States Code".

Page 581, strike out lines 22 and 23 and insert in lieu thereof the following:

(2) by inserting ", bankruptcy judges, and magistrates" immediately before the semicolon.

Page 590, strike out lines 18 through 22 and insert in lieu thereof the following:

(A) by striking out "referee" each place it appears and inserting "bankruptcy judge" in lieu thereof; and

(B) by striking out "receiver,".

Page 592, strike out lines 11 through 14.

Page 599, strike out lines 9 through 12.

Page 599, line 13, strike out "(b)" and insert in lieu thereof "SEC. 334.".

Page 599, line 13, strike out "such Act" and insert in lieu thereof "the Organic Act of Guam".

Page 599, strike out lines 19 through 22.

Page 599, line 23, strike out "(b)" and insert in lieu thereof "SEC. 335.".

Page 599, line 23, strike out "such Act" and insert in lieu thereof "the Revised Organic Act of the Virgin Islands".

Page 600, line 17, strike out "TITLE IV—TRANSITION" and insert in lieu thereof "TITLE I—GENERAL PROVISIONS".

Page 602, strike out lines 3 through 16 and insert in lieu thereof the following:

EFFECTIVE DATE

SEC. 402. This Act shall take effect 180 days after the date of enactment of this Act.

Page 603, line 2 and line 4, strike out "United States".

Page 603, immediately after line 17, insert the following new subsections:

(e) Any individual serving as a referee in bankruptcy on the date of enactment of this Act shall continue to serve until the expiration of his term of office and until his successor is appointed and qualified.

(f) The rules of bankruptcy procedure in effect on the date of enactment of this Act shall remain in effect until amended or repealed by the Supreme Court pursuant to section 2075 of title 28 of the United States Code.

Page 603, strike out line 18 and all that follows through line 23 on page 611.

Mr. EDWARDS of California (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. DANIELSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 146, nays 262, not voting 24, as follows:

[Roll No. 26]

YEAS—146

Abdnor	Frey	Moorhead, Calif.
Alexander	Gammage	Mottl
Allen	Gaydos	Murphy, Pa.
Anderson, Ill.	Glickman	Myers, John
Andrews, N.C.	Gonzalez	Neal
Annunzio	Goodling	Nedzi
Archer	Grassley	Nichols
Ashbrook	Gudger	Obey
Aspin	Guyer	Pattison
Badham	Hall	Pike
Bauman	Hamilton	Poage
Beard, Tenn.	Hammer-schmidt	Preyer
Bedell	Hansen	Quayle
Bennett	Harkin	Quillen
Bevill	Hefner	Railsback
Bowen	Holland	Runnels
Breaux	Holt	Satterfield
Broyhill	Huckaby	Schulze
Burgener	Hyde	Sebelius
Burke, Fla.	Ichord	Shuster
Burleson, Tex.	Jacobs	Simon
Byron	Jenrette	Skubitz
Clausen, Don H.	Jones, N.C.	Slack
Cleveland	Kasten	Smith, Iowa
Coleman	Kastenmeier	Smith, Nebr.
Collins, Tex.	Kazen	Snyder
Conable	Kemp	Spence
Coughlin	Keys	St Germain
Crane	Krebs	Staggers
Cunningham	LaFalce	Steiger
D'Amours	Lagomarsino	Stockman
Daniel, Dan	Latta	Stratton
Danielson	Lent	Symms
Davis	Levitas	Taylor
de la Garza	Lloyd, Calif.	Thornton
Derrick	Lujan	Treen
Devine	Luken	Tucker
Dickinson	McEwen	Udall
Dingell	Madigan	Van Deerlin
Dornan	Mahon	Waggonner
Duncan, Oreg.	Mann	Walsh
Edwards, Ala.	Marlenee	White
Erlenborn	Martin	Whitley
Evans, Del.	Mattox	Wilson, Tex.
Findley	Michel	Winn
Flippo	Milford	Wylie
Flowers	Miller, Ohio	Yates
Flynt	Montgomery	Young, Fla.
Fountain	Moore	

NAYS—262

Addabbo	Buchanan	Drinan
Akaka	Burke, Calif.	Duncan, Tenn.
Ambro	Burke, Mass.	Early
Ammerman	Burlison, Mo.	Eckhardt
Anderson, Calif.	Burton, John	Edgar
Andrews, N. Dak.	Burton, Phillip	Edwards, Calif.
Applegate	Butler	Edwards, Okla.
Ashley	Caputo	Eilberg
AuCoin	Carney	Emery
Bafalis	Carter	English
Baldus	Cavanaugh	Ertel
Barnard	Cederberg	Evans, Colo.
Baucus	Chappell	Evans, Ga.
Beard, R.I.	Chisholm	Evans, Ind.
Bellenson	Clawson, Del	Fary
Benjamin	Clay	Fascell
Biaggi	Cochran	Fenwick
Blanchard	Cohen	Fish
Blouin	Collins, Ill.	Fisher
Boggs	Conte	Fithian
Boland	Conyers	Flood
Bolling	Corcoran	Florio
Bonior	Corman	Foley
Bonker	Cornell	Ford, Mich.
Brademas	Cornwell	Ford, Tenn.
Breckinridge	Cotter	Forsythe
Brinkley	Daniel, R. W.	Fowler
Brodhead	Delaney	Fraser
Brooks	Dellums	Frenzel
Broomfield	Derwinski	Fuqua
Brown, Mich.	Dicks	Gephardt
	Diggs	Giaimo
	Dodd	Gibbons
	Gilman	Mathis
	Ginn	Mazzoli
	Goldwater	Metcalfe
	Gore	Meyner
	Gradison	Mikulski
	Hagedorn	Mikva
	Hanley	Miller, Calif.
	Hannaford	Mineta
	Harrington	Minish
	Harris	Mitchell, Md.
	Harsha	Moakley
	Hawkins	Moffett
	Heftel	Mollohan
	Hillis	Moorhead, Pa.
	Hollenbeck	Murphy, Ill.
	Holtzman	Murphy, N.Y.
	Horton	Murtha
	Howard	Myers, Gary
	Hubbard	Myers, Michael
	Hughes	Natcher
	Ireland	Nix
	Jeffords	Nolan
	Jenkins	Nowak
	Johnson, Calif.	O'Brien
	Johnson, Colo.	Oakar
	Jones, Okla.	Oberstar
	Jordan	Ottinger
	Kelly	Panetta
	Ketchum	Patten
	Kildee	Patterson
	Kindness	Pease
	Kostmayer	Pepper
	Krueger	Perkins
	Le Fante	Pettis
	Leach	Pickle
	Lederer	Pressler
	Leggett	Price
	Livingston	Pritchard
	Lloyd, Tenn.	Pursell
	Long, La.	Quie
	Long, Md.	Rahall
	Lott	Rangel
	Lundine	Regula
	McClory	Reuss
	McCloskey	Rhodes
	McCormack	Rinaldo
	McDade	Roberts
	McFall	Robinson
	McHugh	Rodino
	McKay	Roe
	McKinney	Rogers
	Maguire	Rooney
	Markey	Rose
	Marks	Rosenthal
	Marriott	Rousselot
		Roybal
		Rudd
		Ruppe
		Russo
		Ryan
		Santini
		Sarasin
		Sawyer
		Scheuer
		Schroeder
		Seiberling
		Sharp
		Shipley
		Sikes
		Sisk
		Skelton
		Solarz
		Spellman
		Stangeland
		Stanton
		Stark
		Steed
		Steers
		Stokes
		Studds
		Stump
		Traxler
		Trible
		Tsongas
		Ullman
		Vander Jagt
		Vanik
		Vento
		Volkmer
		Walgren
		Walker
		Wampler
		Watkins
		Waxman
		Weaver
		Weiss
		Whalen
		Whitehurst
		Wiggins
		Wilson, C. H.
		Wirth
		Wolff
		Wright
		Wydler
		Yatron
		Young, Alaska
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NOT VOTING—24

Armstrong	Hightower	Risenhoover
Bingham	Jones, Tenn.	Roncalio
Brown, Calif.	Lehman	Rostenkowski
Brown, Ohio	McDonald	Teague
Carr	Meeds	Thompson
Dent	Mitchell, N.Y.	Thone
Downey	Moss	Whitten
Heckler	Richmond	Wilson, Bob

The Clerk announced the following pairs:

On this vote:

Mr. McDonald for, with Mr. Thompson against.

Mr. Hightower for, with Mr. Jones of Tennessee against.

Mr. Teague for, with Mr. Brown of California against.

Mr. Dent for, with Mr. Bingham against.

Mr. Whitten for, with Mr. Richmond against.

Mr. Roncalio for, with Mr. Rostenkowski against.

Until further notice:

Mr. Lehman with Mr. Carr.

Mr. Meeds with Mr. Downey.

Mr. Moss with Mr. Bob Wilson.

Mr. Armstrong with Mr. Thone.

Mr. Mitchell of New York with Mr. Brown of Ohio.

Mr. Risenhoover with Mrs. Heckler.

Messrs. DORNAN, COLLINS of Texas, ANNUNZIO, WHITE, BADHAM, NEAL, and GAYDOS changed their vote from "nay" to "yea."

Messrs. SARASIN, CONYERS, WALGREN, and SKELTON changed their vote from "yea" to "nay."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the amendment, in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McCLORY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1977

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count.

Two hundred and thirty-five Members are present, a quorum.

So the motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 1614, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, January 31, 1978, title II was under consideration.

Are there any further amendments to title II?

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: Page 227, strike out line 16 and all that follows down through and including line 15 on page 233 and insert in lieu thereof the following:

"SEC. 30. (FISHERMEN'S GEAR COMPENSATION FUND.—(a) As used in this section, the term—

"(1) 'commercial fisherman' means any citizen of the United States who owns, operates, or derives income from being employed on, a commercial fishing vessel;

"(2) 'commercial fishing vessel' means any vessel which is used primarily for the handling or harvesting of living marine resources for commercial purposes; and

"(3) 'fishing gear' means (A) any commercial fishing vessel, and (B) any equipment, whether or not attached to such a vessel, which is used in the handling or harvesting of living marine resources for commercial purposes.

"(b)(1) There is hereby established in the Treasury of the United States a Fishermen's Gear Compensation Fund (hereafter in this section referred to as the 'Fund'). The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of making payments pursuant to this section. The total amount in the Fund shall at no time exceed $600,000. Amounts paid pursuant to the provisions of paragraphs (3) and (4) of this subsection shall be deposited in the Fund. The Fund may sue or be sued in its own name.

"(2) The Secretary is authorized to establish and maintain an area account within the Fund for any area of the outer Continental Shelf for purposes of providing reasonable compensation for damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area.

"(3) Upon assessment by the Secretary, any holder of a lease issued under section 8 of this Act for any tract in any area of the outer Continental Shelf shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of an area account for such area. In any calendar year, no lessee shall be required by the Secretary to pay an amount in excess of $5,000 per lease.

"(4) Subject to paragraph (1) of this subsection, each area account established pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder in such area.

"(5) Amounts in each such area account shall be available for disbursement and shall be disbursed, subject to such amounts as are provided in appropriations Acts, for only the following purposes:

"(A) Administrative and personnel expenses of such area account and administrative and personnel expenses of the Fund which relate to such area account.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered as a result of activities in the area for which such area account was established.

"(C) Reasonable attorney's fees awarded pursuant to subsection (e)(1) of this section.

"(6) After the date of enactment of this section, any lease issued by the Secretary to a lessee for a tract in any area of the outer Continental Shelf shall contain a condition that such lessee, upon assessment by the Secretary, shall pay the amount specified by the Secretary for purposes of the establishment and maintenance of an area account for such area under paragraph (2) of this subsection. In any calendar year, no lessee shall be required by the Secretary to pay an amount in excess of $5,000 per lease.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing, processing, and fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface; and

"(C) establish regulations requiring all materials, equipment, tools, containers, and all other items used on the outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from the appropriate area account to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment may be made by the Secretary from any area account established under this section—

"(i) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items the ownership and responsibility for which is known;

"(ii) in an amount in excess of $75,000 per incident;

"(iii) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim; or

"(iv) when the damage set forth in the claim was sustained prior to the date of enactment of this section.

"(d) With respect to any claim for damages filed pursuant to this section, there shall be a presumption that such claim is valid if the claimant establishes that—

"(1) the commercial fishing vessel was being used for fishing and was located in an area prescribed by the Secretary of Commerce as an area affected by outer Continental Shelf activities;

"(2) a report on the location of the material, equipment, tool, container, or other item which caused such damages and the nature of such damages was made within five days after the date on which such damages were discovered;

"(3) there was no record on nautical charts or the Notice to Mariners on the date such damages were sustained that such material, equipment, tool, container, or other item existed in such area; and

"(4) there was no proper surface market or lighted buoy which was attached or closely anchored to such material, equipment, tool, container, or other item.

"(e)(1) Upon receipt of any notification of a claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Upon receipt of any notification of a claim under this section, the Secretary shall notify all lessees in the area, and any such lessee may submit evidence at any hearing conducted with respect to such claim. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. If such decision is in favor of the person filing the claim, the hearing examiner shall include as part of the amount certified to the Secretary under paragraph (4) of this subsection reasonable attorneys' fees incurred by such person in pursuing such claim.

"(2) For purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(3) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

"(4) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award from the appropriate area account. Such decision shall not be reviewable by the Secretary.

"(f) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

"(g) Not later than one year after the date of the establishment of any area account under subsection (b) of this section, the Secretary shall submit a report to the Congress setting forth his recommendations as to whether or not claims should be paid from such account which are based on damages caused by materials, equipment, tools, containers, or other items, the ownership and responsibility for which is known on the date of the submission of such claims.

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, this amendment is designed to simplify and clarify the administration of the Fishermen's Gear Compensation Fund which would be created by this section. The amendment was drafted in consultation with the administration, and I understand that it has their support.

The amendment clarifies the structure of the Fishermen's Fund. by authorizing the Secretary to establish separate regional accounts for various areas of the Outer Continental Shelf. In addition, it makes clear that this section will apply to all leases issued or maintained under this act; it sets $75,000 as the maximum amount which could be disbursed from the fund for any single incident; it establishes criteria to aid in assessing the validity of any claim; and it asks the

Secretary of Interior to make recommendations concerning the desirability of expanding coverage of the fund in future years.

The amendment also makes clear that this section will be subject to the appropriation process, and that it will be fully in compliance with the budget procedures of the Congress.

I am not aware of any opposition to this amendment, and I hope that it can be adopted without controversy.

The amendment authorizes the creation of one central fund, with separate regional accounts for various areas of the Outer Continental Shelf. Although no specific number of area accounts is mandated, it is our expectation that these would cover the six or seven major OCS leasing areas, one for Alaska, one or two on the west coast, one for the Gulf of Mexico and two or three on the east coast.

As I stated in the beginning, Mr. Chairman, I am aware of no objection to this amendment. As I say, this is the product of a joint, intensive effort of the staff on both sides. I will also say that it is my understanding that the gentleman from Louisiana (Mr. TREEN) has amendments to this amendment which, in turn, have agreement from both sides and which, when they are offered, will be accepted by both sides.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, as I understand it, the bill before us already contains a provision which provides for a "fishermen's gear compensation fund." How does this amendment differ from what is already in the existing committee language.

Mr. STUDDS. Mr. Chairman, in response to the inquiry of the gentleman from Louisiana (Mr. BREAUX) let me state that most of the changes are technical. We are trying to meet some of the objections which caused the administration some concern in the way we originally wrote the language with respect to this fund. We now establish one fund with a series of regional accounts and with a set limit of $75,000 for any single incident.

Mr. BREAUX. Mr. Chairman, I commend the gentleman from Massachusetts (Mr. STUDDS) for his remarks.

Mr. STUDDS. Mr. Chairman, I thank the gentleman from Louisiana (Mr. BREAUX).

AMENDMENT OFFERED BY MR. TREEN TO THE AMENDMENT OFFERED BY MR. STUDDS

Mr. TREEN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN to the amendment offered by Mr. STUDDS: Page 2, immediately after "Shelf" on line 13, insert the following: "and any holder of a permit issued for the construction of a pipeline in such area".

Page 2, line 16, insert "or permittee" immediately after "lessee".

Page 3, line 6, strike out the period and insert in lieu thereof ", except that amounts disbursed for such expenses in any fiscal year shall not exceed 15 per centum of the amounts deposited in such revolving account in such fiscal year.".

Page 3, line 12, strike out "(1)" and insert in lieu thereof "(2)(B)".

Page 3, strike out lines 13 through 22, and insert in lieu thereof the following:

"(6) After the date of enactment of this section, any exploration plan and any development and production plan approved by the Secretary for an area of the outer Continental Shelf and any permit issued for the construction of a pipeline in such area shall contain a condition that the lessee or permittee, upon request by the Secretary shall pay the amount specified by the Secretary for purposes of the establishment and maintenance of a fishermen's gear compensation fund for such area. No lessee or permittee shall be required by the Secretary to pay in any calendar year an amount in excess of $5,000 per lease or permit.

Page 5, beginning on line 8, strike out "the ownership and responsibility for which is known" and insert in lieu thereof "attributable to a financially responsible party".

Page 5, line 14, strike out "or".

Page 5, line 17, strike out the period and insert in lieu thereof a semicolon.

Page 5, immediately after line 17, insert the following new clauses:

"(v) in an amount in excess of the depreciated value of the fishing gear with respect to which the claim is filed;

"(vi) in the case of a claim for loss of profits (I) for any period in excess of 6 months, and (II) unless such claim is supported by records with respect to the claimant's profits during the previous 12-month period; and

"(vii) for any portion of the damages claimed with respect to which the claimant has or will receive compensation from insurance.

Page 6, strike out line 13 and all that follows down through line 14 on page 9, and insert in lieu thereof the following:

"(e)(1) Any commercial fisherman suffering damages compensable under this section may file a claim for compensation with the Secretary, except that no such claim may be filed more than 60 days after the date of discovery of the damages with respect to which such claim is made.

"(2)(A) Upon receipt of any claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code, and shall make reasonable efforts to notify all persons known to have engaged in activities associated with outer Continental Shelf energy activity in the vicinity. Each such person shall promptly notify the Secretary as to whether he admits or denies responsibility for the damages claimed. Any such person, including lessees or permittees or their contractors or subcontractors, may submit evidence at any hearing conducted with respect to such claim. The hearing examiner shall, within 120 days after such matter is referred to him by the Secretary, adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

"(B) If the decision of the hearing examiner is in favor of the commercial fisherman filing the claim, such hearing examiner shall include, as part of the amount certified to the Secretary under paragraph (5)(A) of this subsection, reasonable attorneys' fees incurred by such commercial fisherman in pursuing such claim.

"(3)(A) For purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance of testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(B) In any hearing conducted pursuant to this section with respect to a claim for damages resulting from activities on any area of the outer Continental Shelf, the hearing examiner shall consider evidence of obstructions in such area which have been identified pursuant to the survey conducted under subsection (1) of this section.

"(4) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

"(5)(A) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

"(B) Upon payment of a claim by the Secretary pursuant to this paragraph, the Secretary shall acquire by subrogation all rights of the claimant against any person found to be responsible for the damages with respect to which such claim was made.

"(C) Any person who denies responsibility for damages with respect to which a claim is made and who is subsequently found to be responsible for such damages, and any commercial fisherman who files a claim for damages and who is subsequently found to be responsible for such damages, shall pay the costs of the proceedings under this subsection with respect to such claim.

"(6) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than 60 days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit.

"(k) The Secretary shall submit an annual report to the Congress which shall set forth—

"(1) an evaluation of the feasibility and comparative cost of preventing or reducing obstructions on the outer Continental Shelf which pose potential hazards to commercial fishing or fishing gear by (A) imposing fines or penalties on lessees or permittees, or contractors or subcontractors of lessees or permittees, who are responsible for such obstructions, or (B) requiring the bonding of such lessees or permittees or such contractors or subcontractors;

"(2) a description of the types of damages set forth in claims filed with the Secretary during the previous year for compensation from a fishermen's gear compensation fund;

"(3) the amount of compensation awarded to claimants during the previous year; and

"(4) the number of cases during the previous year in which damages were determined to be the responsibility of a lessee or permittee conducting operations on the outer Continental Shelf, or the contractor or subcontractor of such a lessee or permittee.

"(l)(1) The Administrator of the National Oceanic and Atmospheric Administration shall conduct a two-year survey of obstructions on the Outer Continental Shelf. Such survey shall be conducted for purposes of identifying (A) natural obstructions on the outer Continental Shelf which pose potential hazards to commercial fishing or fishing gear, and (B) in addition, in the case of areas in which oil and gas exploration, development, or production is taking place, manmade obstructions relating to such activities which pose potential hazards to commercial fishing or fishing gear.

"(2) The Administrator shall report the

results of the survey conducted under this subsection to the Secretary and to the Secretary of Commerce, and shall, on the basis of such survey, develop charts for fishermen identifying obstructions on the outer Continental Shelf.

"(3) During the first six months of the survey conducted under this subsection, the Administrator shall concentrate on areas of the outer Continental Shelf where oil and gas production has commenced or is expected to commence prior to the expiration of the two-year period of such survey.".

Mr. TREEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TREEN. Mr. Chairman, this amendment has been worked out with the author of the program on the Fishermen's Compensation Fund, the gentleman from Massachusetts (Mr. STUDDS), and all of these amendments to this section have been agreed to by him. I know he will respond in a moment.

I think this improves the program, and the gentleman has told me that he thinks so as well. It will speed up the time for recovery. It will require adjudication within 120 days. It will limit administrative costs to 15 percent of the fund. It will deny recovery in case a fisherman recovers from an insurance company. It will encourage fishermen to make claims against the responsible oil company or pipeline company rather than the fund. And it also brings the pipelines into the purview of the program in addition to the oil and gas companies that explore and produce in the OCS. There are a few other things that it does to improve the regime, but I will not take the time of the committee for further explanation.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I thank the gentleman for yielding.

I would like the RECORD to reflect at this time that while the gentleman from Louisiana and I, as the gentleman knows, have had frequent disagreements during the course of the consideration of this legislation, the gentleman from Louisiana has always been fair and has addressed himself to this problem straightforwardly and with a great deal of clarity and a great deal of honesty.

The gentleman has proposed changes which I think are uniformly helpful to the amendments which I suggested. I am certainly happy to accept them.

Mr. TREEN. I thank the gentleman for his remarks. This is a fine example of cooperation between New England and the gulf coast. I appreciate very much the opportunity of working with the gentleman from Massachusetts on this program.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman from Louisiana for yielding. I hope this spirit of cooperation continues throughout the rest of the afternoon.

Mr. TREEN. I can assure the gentleman it will.

Mr. MURPHY of New York. If there was one startling revelation from the hearings in the gulf and the Massachusetts areas it was the fact that there is a great vulnerability of fishermen in terms of damage to the fishermen's nets and gear, which is very expensive and which makes it particularly economically devastating to the small business people. The language proposed by the gentleman from Massachusetts and the gentleman from Louisiana is acceptable to the committee. We are happy to accept the gentleman's amendment.,

Mr. TREEN. I ask for an "aye" vote on my amendment and the amendment by the gentleman from Massachusetts (Mr. STUDDS).

Mr. FORSYTHE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to join in this love fest we have on this particular amendment and to congratulate both the gentleman from Massachusetts and the gentleman from Louisiana for improving a very important section of this bill. It is one of the sections of the bill which has been creating some of the problems off the east coast and particularly for New England. I certainly join them in asking for an "aye" vote on this amendment and congratulate them and thank them.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Maine.

Mr. EMERY. I thank the gentleman for yielding.

Mr. Chairman, I also congratulate the gentleman from Massachusetts and the gentleman from Louisiana for producing this amendment. It helps the fishing industry in New England, which has been very concerned about the destruction of fishing gear due to foreign vessels and other obstructions in the New England fishing grounds. The fishermen in the New England area will be more readily receptive of offshore oil development with some guarantee that they can reclaim value from damaged or lost fishing gear. I think this amendment will go a long way toward helping them with those problems.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN) to the amendment offered by the gentleman from Massachusetts (Mr. STUDDS).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. STUDDS), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DODD: Page 169, line 16, strike out "(h) through (n)" and insert in lieu thereof "(i) through (o)".

Page 169, immediately after line 18 insert the following new subsection:

"(c)(1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids the Secretary shall allow the Attorney General and the Federal Trade Commission thirty days to review the results of such lease sale, except that the Attorney General and the Federal Trade Commission may agree to a shorter review period.

"(2) The Attorney General and the Federal Trade Commission may each conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General and the Federal Trade Commission deem appropriate and each shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General and the Federal Trade Commission may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.

"(3) The Attorney General and the Federal Trade Commission may make such recommendations to the Secretary, including the nonacceptance of any bid, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General or the Federal Trade Commission advises the Secretary, prior to the issuance of any lease, that such lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

"(A) refuse (i) to accept an otherwise qualified bid for such lease or (ii) to issue such lease, notwithstanding subsection (a) of this section; or

"(B) issue such lease, and notify the lessee, the Attorney General, and the Federal Trade Commission of the reason for such decision.

"(4) An antitrust review authorized by this subsection shall be deemed to be an 'antitrust investigation' within the meaning of the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.).

"(5) Neither the issuance of a lease nor anything in this subsection shall be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws or modify or abridge any private right of action under such laws.

Renumber succeeding subsections of section 205 accordingly.

Page 172, line 21, strike out "8(j)" and insert in lieu thereof "3(k))".

Page 172, line 22, strike out "(43 U.S.C. 1337(j))" and insert in lieu thereof "(43 U.S.C. 1337(k))".

Page 158, line 17, strike out "8(k)" and insert in lieu thereof "8(l)."

Mr. DODD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. DODD. Mr. Chairman, I am offering this amendment on behalf of myself

and the gentleman from Ohio (Mr. SEIBERLING). I will try to be brief in my explanation of this amendment. It is not a very complicated one. The ramifications of the amendment, I think, are far-reaching, but it is not that difficult to understand.

I might point out as well that it is endorsed by the administration. It has received the support of the Attorney General and the Federal Trade Commission. It is designed to set up a discretionary mechanism whereby each lease can be reviewed prior to issuance by the Justice Department and the Federal Trade Commission to determine whether or not the proposed lease or proposed sale will give rise to any inconsistencies in our antitrust laws.

Specifically, this amendment will allow the Attorney General and the Federal Trade Commission Chairman an opportunity to conduct an antitrust review of any proposed lease sale following its notice and prior to its issuance and to make any appropriate recommendations concerning the sale by the Secretary of the Interior, who may then in his discretion go forward or halt the review of the lease sale.

This is not a mandatory review. It is a discretionary review. I want to emphasize that point. Similar language, I might point out, was first incorporated in the committee bill in 1976 and was subsequently approved by both this House and the other body as well. In addition, virtually identical antitrust language exists in two other pieces of legislation this House has dealt with in the past, and I am speaking specifically to the Federal Coal Leasing Amendments and the Naval Petroleum Reserve Production Act, where identical language as I have just seen in this amendment is included.

The intent of the Congress has thus consistently been to set in place a system through which appropriate Federal agencies specifically check on the state of competition and the exploration for production of the public's resources.

This illustrates why the antitrust review method is especially needed.

In the case of OCS lease sales, let me give you just a few examples from our recent experience. The first one is the Gulf of Alaska sale which took place in April of 1976. In that sale the top nine companies involved cornered 72.6 percent of the market, with the top four accounting for a full 61.6 percent of the available tracts.

In the Baltimore Canyon lease sale which took place in August of 1976, the nine top companies emerged with 64 percent of all the market shares, with the top four ending up with over 50 percent of the market shares. The top 9 companies, I may point out, in both cases are ranked among the top 15 oil companies in the world, both in terms of production as well as sales. This would seem to indicate that market concentration on the Outer Continental Shelf is something that must be carefully considered, since such high concentration ratios as I have just cited may have a very strong impact on competition.

(By unanimous consent Mr. DODD was allowed to proceed for 5 additional minutes.)

Mr. DODD. The amendment is thus, in our opinion, an important component of the overall objectives of the bill, one which is clearly to promote competition in development of Federal OCS tracts. Along with alternative bidding systems, the antitrust review process for instance, would insure that proper attention is given to the competitive implications of the sale of OCS oil and gas leases.

Let me just try and conclude here. I think I have covered the main points. I think, the main question that comes to most people's minds, has to do with delay. Are we going to delay the process by adopting this amendment? Is this discretionary review process going to delay any further the development of OCS reserves?

The answer is no. The review process has to occur between the time that notice is given of the proposed lease sales and the actual issuance of the lease sales. It must occur within that period of time so that there can be no additional delays in the actual process of developing these resources. That is the thrust of the amendment.

Again, it should be remembered that this review is discretionary; it is not mandatory. It will allow the Justice Department and the FTC to have the opportunity periodically, if they so desire, to determine whether too much concentration is developing in the leasing of OCS tracts. I would strongly urge my colleagues to support this amendment.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Ladies and gentlemen of the Committee, the bill which formed the basis of the ad hoc committee's markup contained a very similar provision. After full and fair debate, that committee voted to strike the similar provision from the bill. Mr. DODD has offered to reinstate the language with some changes. The essential change is that the antitrust review will be discretionary rather than mandatory.

It is true that the administration objected—strongly objected—to the mandatory review of each lease by the Attorney General and by the Federal Trade Commission. I accept the gentleman's statement that the administration now supports this present modified version. Notwithstanding that powerful endorsement, I do not, and I urge my colleagues to listen to some reasons why not.

Ladies and gentlemen, I am mindful that antitrust review sounds like a good idea.

But bear in mind the nature and scope of the activities which we require in the event that such a review is undertaken, even on a discretionary basis. For the Attorney General to make a decision within 30 days with respect to the anticompetitive impact of any proposed lease is either going to be an empty pro forma gesture on his part or it is going to be a meaningful review. A meaningful review cannot be conducted within that time frame because anticompetitive impact involves a highly sophisticated analysis of the marketplace. That, in turn, cannot be done until the successful bidders are known. One cannot determine whether or not a bidder is going to produce an anticompetitive impact on the market unless you know who that bidder is.

The last section to the amendment is intended to address an obvious problem. Let me state what that problem is. Let us suppose that company A proposes to bid on a lease and makes the bid accordingly. Let us further suppose that the bid is submitted to the Attorney General for a review with respect to its anticompetitive impact, and either no comment is made or the Attorney General finds there is no anticompetitive impact and the lessee proceeds to acquire the leasehold. The last section of the amendment says that neither the issuance of the lease nor anything else in this section is admissible in any way as a defense in a civil or criminal action for the violation of the antitrust laws.

What does that mean? It means that this case which I have just described might be challenged later on by the Attorney General who might sue the company involved, either civilly or criminally, for a violation of antitrust laws. Quite naturally the defendant would say, "But, Your Honor, the Attorney General previously approved the lease." Such evidence seems to me highly relevant in that trial, but this amendment cleverly prohibits the defendants offering it. Whatever else one might think of the amendment, one could not favor that kind of a prohibition of the introduction of relevant evidence in the course of a criminal trial.

The better part of wisdom here is to reject a proposal which has been rejected already, in essence, by this Committee, and to stick with the committee language, subject to some further amendment which I may propose.

Mr. HUGHES. Mr. Chairman, will the gentleman yield on that point?

Mr. WIGGINS. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, will the gentleman agree that probably the two major points he makes is that there just is not time to do the impact review called for?

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has expired.

(On request of Mr. HUGHES and by unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. Mr. Chairman, I yield further to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Second of all, even if one is done, there is no preclearance and any review would not be admissible; and that, therefore, that is unfair to the lessee.

Would the gentleman agree that we had basically the same issue in the premerger notification bill that was before our committee, the Committee on the Judiciary, and the very same arguments were utilized in that instance? And correct me if I am wrong, but did not the

gentleman join with us in the support of that particular legislation?

Mr. WIGGINS. Yes, I did. And I recognize that there is a certain similarity between an antitrust review and the premerger review which we recently authorized.

But let me express my recollection. It may be imperfect. If the Department of Justice undertakes a review of a merger as a result of the premerger notification statute and puts its imprimatur on the merger, it cannot turn around and file an action under the antitrust laws for violating those laws by reason of the very merger which it approved.

Here, as I understand it quite clearly from the language of the amendment, the Department of Justice is in no way estopped from approving a sale and then suing the successful bidder.

Mr. HUGHES. Mr. Chairman, I think the gentleman's reading of the language is correct. But let me say that my view of the premerger notification legislation is this: That it incorporates the very same rationale as incorporated in this amendment. It is the theory that we just cannot have a perfect in-depth review in 30 days or even 60 days. But it is better that we try to catch the most flagrant violations before they occur, preserving the right of the Attorney General and the Federal Trade Commission to pursue the matters as time permits and more information is available.

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, if my colleague will yield further, the theory is that it is better really to try to prevent the most flagrant violations, still reserving to the Attorney General and the Federal Trade Commission the right to seek additional remedies if in fact it is subsequently found that based on additional data, a lease sale may in fact violate the antitrust laws.

Mr. WIGGINS. Mr. Chairman, I realize, in response to the gentleman's observation, that there is a certain apparent beauty in involving the Department of Justice early on in a proposed transaction and receiving its opinion as to whether that transaction violates the antitrust laws.

But the difficulty is that it makes the Department of Justice a business partner in effect with respect to a private business transaction. It makes the Department of Justice a partner in the decision to go forward in a business process which that very same Department may later wish to challenge.

Far better than involving the Justice Department as a planner to help fashion the proposal to meet the standards of the antitrust laws is the present practice. The Department of Jusice has ample authority to investigate any and all transactions, and the Federal Trade Commission has broad authority to make a complete investigation. But it is investigating conduct on which it has not given its prior approval. Its discretion and its flexibility to institute civil or criminal actions are therefore not incumbent.

Mr. HUGHES. Mr. Chairman, I appreciate the gentleman's explanation.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

Is there any time limit on the process that the Federal Trade Commission or the Attorney General can take, or may they take forever?

The CHAIRMAN. The time on the gentleman from California (Mr. WIGGINS) has again expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. Mr. Chairman, in response to the gentleman's question, the amendment provides that following the notice of a proposed lease sale and before the issuance of any lease, the Secretary shall allow the Attorney General and the Federal Trade Commission 30 days in which to conduct a review. So there is a time limit.

Mr. ROUSSELOT. For the Attorney General?

Mr. WIGGINS. But the problem is, of course, that they cannot conduct a sophisticated antitrust review within 30 days.

Mr. ROUSSELOT. So the time limit does present a problem as to the thoroughness of the review?

Mr. WIGGINS. It is so short that inevitably the Department of Justice will either throw up its hands or give a pro forma approval. In either event the Department of Justice has been involved in the matter of whether a given bidder is going to acquire a leasehold interest, and it certainly prejudices the Department of Justice later on to sue for doing the very thing it had an opportunity to review.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

Mr. SEIBERLING. Mr. Chairman, I rise in support of the Dodd amendment.

Mr. Chairman, I strongly commend the gentleman for offering this amendment.

Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Chairman, I thank the gentleman for yielding.

I would just like to make a couple of points. The first point is this: This is not the same amendment in effect that was voted on by the committee at the time there was a one-vote margin that separated us. I think there were a couple of Members who may even have been absent on that particular vote. In any event, it was a very narrow vote.

The difference is that on that vote concerning the amendment in committee, the Members registered their vote on the amendment to mandate a review on every lease sale.

The gentleman is substantially correct, and I must point out at this particular juncture that I have a tremendous amount of respect for the gentleman from California (Mr. WIGGINS) and for his ability to create a good argument. But here we would be allowing a discretionary review; and the administration felt that even if a review were mandated in every case, it would cause no delays. Therefore, the administration opposed its being put under a discretionary system and felt it might increase some fears.

The second point is in regard to the time frame. We actually are not talking about 30 days; we could be talking about as many as 100 or 110 days, and let me explain why that is so.

At the time that the notice of the lease sale occurs, the legislation requires that the Governors of the various States be notified of what is going to happen. They have 60 days in which to take a look at that, not veto power, but an opportunity to participate in the decision anyway as to what is going to happen in their own area. It then comes back to the Secretary, and then we have the 30-day period. The clock begins to run, so right there we have 90 days. Presuming that there is a week's time in between, actually, when that 30-day clock begins to run, we are talking about 100 days or more. Therefore, we are talking about 3 months, anyway, at which time the Federal Trade Commission and the Attorney General would have an opportunity to look at that lease sale.

Mr. Chairman, what are they looking at? What are the criteria that they would look at?

I would quote from a memorandum from the Attorney General with regard to the criteria for predicting competitive effects, and I quote paragraph 2 on page 10 of that report, which says as follows:

> In effectuating the Congressional intent underlying Section 7 to check trends toward less competitive market structures, courts have evolved a set of objective criteria to gauge the likelihood of anticompetitive effects arising from a given acquisition. These are concentration ratios, market share statistics, industry concentration trends and entry conditions.

A lot of those particular items are items which, if the Attorney General and the FTC wants to insist, will be provided. They are going to have a lot of that information. It is not going to be de novo in each particular case they may be looking at. Therefore, much of that information will be there already.

For those two particular reasons, Mr. Chairman, I would again urge that my colleagues support this amendment.

Mr. Chairman, I thank the gentleman from Ohio (Mr. SEIBERLING) for yielding and for his support of this amendment.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman from Connecticut (Mr. DODD).

I was the author of the amendment that lost by a margin of one in the committee. Let me say that that was a much tougher amendment than this one because it mandated a review and, as I recall it also required a hearing if the Justice Department made an adverse recommendation. However, it was similar to provisions which we put in the Elk Hills bill and in a whole lot of other bills. The Dodd amendment merely contains

the mild requirement that the Secretary give the FTC and the Attorney General an opportunity to review. They do not have to take any position. They do not even have to review if they do not think it is important, but they should have that opportunity.

Mr. Chairman, let me just cite a couple of recent instances as to how important this provision could be. The Attorney General intervened last year in the ICC proceeding as to the rates to be charged by the Alyeska pipeline, the oil pipeline in Alaska, as a result of which the ICC lowered the rate to a point which saved the consumers about $900 million a year.

Secondly, the Attorney General in connection with the Alaska natural gas pipeline proceeding issued a report which indicated that if the producers of gas held an interest in the pipeline, it could have an adverse effect, as there would be a monopoly giving them the opportunity to manipulate not only the price but the quantity of gas made available to particular sectors of the consuming public.

Those are just two examples, Mr. Chairman.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words.

I would like to congratulate the gentleman from Connecticut (Mr. DODD) for tightening up a provision that probably should have been in the bill as it was reported to the committee.

As recent lease sales in the Baltimore Canyon, and southern California, have demonstrated, and as the studies prepared by the General Accounting Office, and others have proven, present OCS leasing arrangements suffer from lack of competition. There are many provisions in the present OCS bill—including use of new bidding systems; comments and recommendations by the Attorney General and the FTC on leasing programs and the preparation availability of more prelease information—that should help to provide and promote more competition offshore. However, one important provision which has been included in most recent energy bills, has been excluded—that is antitrust review of lease sales prior to the issuance of a lease. The gentleman's amendment would provide that the Attorney General and the FTC would be able to conduct an antitrust review of each lease sale in order to determine whether such lease sale has been competitive or anticompetitive. The amendment is analogous to those included in legislation already passed by Congress—in the Naval Petroleum Reserve Production Act and the Federal Coal Leasing Act amendments. The amendment has been carefully drafted so as to preclude any delays because of such a review. The Justice Department and the FTC are given the discretion to determine which leases should be commented upon and thus which lease sale should have minimal or extensive review. In addition, it has provided that there should be minimal overlap in the collection of information gathered as all relevant data from other agencies is to be collected in a manner that will protect any confidential or proprietary information.

I should note that I have been told that the Department of Justice, which did not support the amendment as originally introduced, in the committee, does support this provision. They recognize, as should this House, that this amendment would further our intent that our offshore drilling program not lead to further concentration in the petroleum industry, but that on the contrary, it serve to promote free enterprise competition.

Mr. Chairman, I support the amendment, and hope that the committee will agree to it.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this amendment is an excellent one, except for the last clause.

I believe that the time has come when we must discontinue the use of that fancy little ending. I have seen small businesses ruined by that escape clause. It seems to be contrary to commonsense and to decent justice and equity that when a duly constituted agency of the U.S. Government is asked to pass on a contract, or anything else, faithful compliance with that judgment is not a defense in court.

A small business in Louisiana was ruined by this. The Government is not being fair to perfectly honorable people who are trying to get a ruling from their Government. It will be very difficult to support this amendment, which I heartily endorse, if it continues to contain that noxious final clause.

Mr. DODD. Mr. Chairman, if the gentlewoman would yield, I appreciate the gentlewoman's support for every other part of the amendment. Let me try to distinguish the rationale for that particular language and what we are dealing with here. Let me say first that we are not talking about inconsistencies in antitrust laws nor about necessarily a decision on whether or not in fact a monopoly exists. Again I would like to address the attention of the gentlewoman from New Jersey (Mrs. FENWICK) to the standards that will be used in reaching the decision by the Attorney General as to whether or not such inconsistencies exist in reaching a later decision that such a monopoly situation might exist. To permit a company to use as a defense against antitrust action the fact that we did not have an antitrust inconsistency at some earlier point simply would not be fair to the public.

Mrs. FENWICK. Then could we not rephrase that language saying that if at a later date there are violations of the antitrust law, they will be prosecuted. What is not fair is when there is nothing wrong with the lease itself, and they have asked a duly constituted body for a decision and are still liable. Remember, this is not mandatory—there are many companies that may not be looked at which will be fully liable from beginning to end. It is really awful that these duly constituted agencies or bodies may approve a contract and later, when businesses have been told that it is legal, they are open to suit. Should not this be taken into consideration?

Mr. DODD. Certainly that will be the case.

Mrs. FENWICK. But can we put that language in the amendment? Could the gentleman do that?

Mr. DODD. No, I cannot do that. No court is going to necessarily apply or allow as a defense in a later case what has been held in an earlier situation, it has no relationship to this.

Mrs. FENWICK. But will the gentleman from Connecticut (Mr. DODD), agree to an amendment to his amendment to see that that is covered?

Mr. DODD. No. Because it would not be proper to do so. In effect what we would be saying then is that a company may be engaging in practices inconsistent with the antitrust laws and yet allow that company to use as a defense that an Attorney General 20 years ago or 10 years ago made a different decision.

Mrs. FENWICK. I do understand what the gentleman is referring to but what I am trying to say is that I do not think that they ought to be caught on the lease if they have done what they ought to do. If they are doing something illegal then they are fair game.

But there ought to be something made clear in that clause, it seems to me, that any antitrust factor rising out of that lease, and nothing else, if approved by the Justice Department will not be liable to the antitrust laws.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. Will the gentleman accept such an amendment?

Mr. DODD. I really do not think I could, I think it invokes a possible exposure of the public interest in this particular case.

Mrs. FENWICK. Why? How can we go on like this, seriously speaking? We have contracts submitted to the Federal Trade Commission which is charged as a duly constituted enforcement agency and the people are told that their contract is in complete compliance. So they sign contracts with members of the public, and then later on somebody finds it is not in compliance. The Government agency made a mistake and so they have no defense.

Mr. SEIBERLING. If the gentlewoman will yield, I am a coauthor of this amendment.

Mrs. FENWICK. I am aware of that.

Mr. SEIBERLING. Also I practiced antitrust law before I got into this institution. I believe that any court, despite this disclaimer in the law, is going to take into account, and certainly any jury is going to take into account, whether in fact the Justice Department did have the facts at the time it reviewed and approved a contract. In such case, the Government would surely have to show something more in order to stick a defendant with a violation of the antitrust laws.

Mrs. FENWICK. Then why is it called this?

AMENDMENT OFFERED BY MR. BREAUX TO THE AMENDMENT OFFERED BY MR. DODD

Mr. BREAUX. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BREAUX to the amendment offered by Mr. DODD: Strike out the words "inconsistent with" wherever they appear in the DODD amendment and insert in lieu thereof, the words "in violation of".

Mr. BREAUX. Mr. Chairman, I apologize for not having a copy of my amendment but it is because I just wrote it.

First of all I would like to make a comment. I think the language the gentleman from Connecticut is offering in his amendment is really not necessary. The Attorney General and the Federal Trade Commission should under their existing authority already be checking to see that companies that are bidding and participating as oil and gas companies are not doing so in violation of any antitrust provisions. That is the existing law of the United States. They should be doing that already.

For us to come in and say in this particular legislation that they should follow the law they already should have to follow, to me does not make a great deal of sense. It is one of the many areas where I think we are adding additional regulations to the law and saying now we have a 30-day period when the Attorney General and the Federal Trade Commission should come in and do what they should be doing under normal circumstances.

If we are to have this type of amendment, I do not think it follows any logic to say the Attorney General or the Federal Trade Commission should look at companies that are bidding on leases and doing anything that is inconsistent with antitrust laws, and if they find that it is consistent with antitrust laws, the Secretary could really void the entire sale and bring it back to day 1, because if we can fail to issue the lease when the sale has been completely finalized merely when they find that what is going on in the bidding process is in violation of the antitrust laws—it seems to me it is either in violation or not. If it is in violation, it should have been stopped. They should have stopped it a long time ago. Instead of saying they can stop all these things and throw out a bid merely because within 30 days they must make a finding within that time that something is inconsistent—that it is not consistent with existing law. If it is inconsistent with the antitrust laws, it does not mean it is in violation. If it is in violation, it should be stopped. My amendment provides they can proceed if it is in violation of the antitrust laws.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, this is a classic example of the ease with which we can make a mistake if we rush into drafting an amendment on the spur of the moment that would apply to a situation which is much more subtle and much more complicated than it may appear to be upon a superficial examination.

Mr. BREAUX. Which amendment, the amendment of the gentleman from Connecticut or the amendment of the genleman from Louisiana?

Mr. SEIBERLING. I am referring to the amendment of the gentleman from Louisiana. The amendment of the gentleman from Connecticut is a very carefully worked out amendment which has been drafted over a period of very many months with the participation of the Justice Department.

Mr. BREAUX. Mr. Chairman, I will not yield any further for argument on the merits of the amendment.

Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield for a question but not to argue the amendment.

Mr. DODD. Mr. Chairman, there are two points I would make. One is the reason for this amendment is that the Secretary without this language does not have the opportunity to deny a lease sale unless and if in fact there are antitrust affects of the lease sale. It could be challenged immediately in court. To say it could go presently forward would be a drastic mistake.

Second, as the gentleman from Ohio has pointed out, to use the words "in violation of" instead of "inconsistent with" really runs contrary to all the laws we have in this area. If the gentleman will yield further, I would like to read again what was reported to us by the Justice Department:

> In our view, the appropriate standard against which to measure the competitive effects of OCS leasing is whether an OCS lease sale would create or maintain a situation inconsistent with the antitrust laws—the standard which governs the Department's antitrust review responsibilities under various federal statutes.

So this is not some language which has been dreamed up.

Mr. BREAUX. Mr. Chairman, I will not yield any more. I merely make it a point to say if it is in violation, we should stop the sale.

To say it is merely inconsistent, we should stop the whole sale, in my opinion, goes far beyond the intent of any existing law; so I think my amendment is a fair interpretation of how it should be run.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment offered by the gentleman from Louisiana is addressed to a problem which exists in the Dodd amendment; but it does not correct it. It creates new problems. The answer to this dilemma is not to support the substitute and create new problems, but rather to beat them both. The cause of all this difficulty is the Dodd amendment. The Dodd amendment sets a novel standard for the Attorney General to make his determinations. He is not required to determine whether conduct is illegal, but rather only that it is inconsistent with the antitrust laws.

Well, who says they are inconsistent? The Attorney General, of course. In other words, he would make decisions based upon his own notions of antitrust policy, rather than on what the law commands. However, if we adopt the Breaux amendment and say that the standard must be violation of law, well, then, I do not expect an advisory opinion out of the Attorney General. I expect an indictment. He certainly cannot condone action which he declares to be in violation of the law. He must proceed immediately against the offender.

There is no point in doctoring up a bad idea with the Breaux substitute amendment.

The answer to this is, as I indicated, kill the Breaux amendment and then kill the Dodd amendment. In that event, we have the best of both worlds.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I take it the gentleman from California is referring to killing the Breaux amendment and not to killing the gentleman from Louisiana.

Mr. WIGGINS. I apologize for the oversight.

Mr. DODD. Mr. Chairman, the amendment of the gentleman from Louisiana is not the same as the amendment of the gentleman from Connecticut.

Mr. WIGGINS. I do not wish either amendment a happy fate. I think the House would be using good sense to defeat them both.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the gentleman's comment on the Breaux amendment, I completely agree with. As to the language in the Dodd amendment, even stronger equivalents are in the Atomic Energy Act, the Coal Leasing Act, and the Elk Hills Act. It uses the expression "consistent with the antitrust laws," because the Attorney General would be talking about prospective actions, and it is not until after the fact that a determination can be made as to whether there has been a violation of the law, and that requires a trial and a conviction. So the Breaux amendment presupposes a fact situation that is totally at odds with the actual situation that the Attorney General would be reviewing.

Mr. WIGGINS. Mr. Chairman, I see the gentleman's point with respect to the Breaux amendment and happily accept the gentleman's support in killing that amendment; however, I do not expect the gentleman's support in killing the Dodd amendment. However, the rest of us should join in the assassination.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. BREAUX) to the amendment offered by the gentleman from Connecticut (Mr. DODD).

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. DODD).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 15, noes 24.

Mr. DODD. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Sixty-one Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Connecticut (Mr. DODD) for a recorded vote.

Does the gentleman insist upon his request?

Mr. DODD. I do, Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 162, not voting 29, as follows:

[Roll No. 27]

AYES—241

Addabbo	Drinan	LeFante
Akaka	Early	Leach
Allen	Eckhardt	Lederer
Ambro	Edgar	Leggett
Ammerman	Edwards, Calif.	Lent
Anderson, Calif.	Eilberg	Long, Md.
Anderson, Ill.	Emery	McCormack
Andrews, N.C.	Ertel	McDade
Annunzio	Evans, Colo.	McFall
Applegate	Evans, Del.	McHugh
Ashley	Evans, Ind.	McKinney
Aspin	Fary	Maguire
AuCoin	Fascell	Markey
Baldus	Fenwick	Marks
Baucus	Fisher	Marlenee
Beard, R.I.	Fithian	Martin
Bedell	Flippo	Mattox
Beilenson	Flood	Mazzoli
Benjamin	Florio	Meeds
Bennett	Flowers	Metcalfe
Bevill	Foley	Meyner
Biaggi	Ford, Mich.	Mikulski
Blanchard	Ford, Tenn.	Mikva
Blouin	Fountain	Miller, Calif.
Boland	Fraser	Mineta
Bolling	Fuqua	Minish
Bonior	Gaydos	Mitchell, Md.
Bonker	Gephardt	Moakley
Brademas	Giaimo	Moffett
Breckinridge	Gibbons	Moorhead, Pa.
Brinkley	Glickman	Mottl
Brodhead	Gonzalez	Murphy, Ill.
Broyhill	Gore	Murphy, N.Y.
Burke, Calif.	Gudger	Murphy, Pa.
Burke, Mass.	Hamilton	Murtha
Burlison, Mo.	Hanley	Myers, Gary
Burton, Phillip	Harkin	Myers, Michael
Carney	Harrington	Natcher
Carr	Harris	Neal
Carter	Hawkins	Nedzi
Cavanaugh	Hefner	Nix
Chappell	Heftel	Nolan
Chisholm	Holland	Nowak
Clay	Hollenbeck	O'Brien
Cleveland	Holtzman	Oakar
Cohen	Howard	Oberstar
Coleman	Hughes	Obey
Collins, Ill.	Ichord	Ottinger
Conte	Jacobs	Panetta
Corman	Jeffords	Patten
Cornell	Jenkins	Patterson
Cornwell	Jenrette	Pattison
Cotter	Johnson, Calif.	Pease
D'Amours	Johnson, Colo.	Pepper
Danielson	Jones, N.C.	Perkins
Davis	Jordan	Pike
Delaney	Kasten	Pressler
Dellums	Kastenmeier	Preyer
Derrick	Keys	Price
Dicks	Kildee	Rahall
Dingell	Kostmayer	Rangel
Dodd	Krebs	Reuss
	LaFalce	Richmond
Rinaldo	Skelton	Vento
Rodino	Smith, Iowa	Walgren
Roe	Solarz	Waxman
Rogers	Spellman	Weaver
Rooney	St Germain	Weiss
Rose	Staggers	Whalen
Rosenthal	Stark	Whitley
Roybal	Steers	Wilson, C. H.
Russo	Steiger	Wirth
Ryan	Stokes	Wolff
Sarasin	Stratton	Wright
Scheuer	Studds	Yates
Schroeder	Thornton	Yatron
Seiberling	Traxler	Young, Alaska
Sharp	Tsongas	Young, Mo.
Shipley	Udall	Zablocki
Simon	Van Deerlin	Zeferetti
Sisk	Vanik	

NOES—162

Abdnor	Gilman	Nichols
Alexander	Ginn	Pettis
Andrews, N. Dak.	Goldwater	Pickle
	Goodling	Pritchard
Archer	Gradison	Pursell
Ashbrook	Grassley	Quayle
Badham	Guyer	Quie
Bafalis	Hagedorn	Quillen
Barnard	Hall	Railsback
Bauman	Hammer-schmidt	Regula
Boggs		Rhodes
Bowen	Hannaford	Roberts
Breaux	Harsha	Robinson
Brooks	Hillis	Rousselot
Broomfield	Holt	Rudd
Brown, Mich.	Horton	Runnels
Buchanan	Hubbard	Santini
Burgener	Huckaby	Satterfield
Burke, Fla.	Hyde	Sawyer
Burleson, Tex.	Ireland	Schulze
Butler	Jones, Okla.	Sebelius
Byron	Kazen	Shuster
Caputo	Kelly	Sikes
Cederberg	Kemp	Skubitz
Clausen, Don H.	Ketchum	Slack
	Kindness	Smith, Nebr.
Clawson, Del	Krueger	Snyder
Cochran	Lagomarsino	Spence
Collins, Tex.	Latta	Stangeland
Conable	Levitas	Stanton
Corcoran	Livingston	Steed
Coughlin	Lloyd, Calif.	Stump
Crane	Lloyd, Tenn.	Symms
Cunningham	Long, La.	Taylor
Daniel, Dan	Lott	Treen
Daniel, R. W.	Lujan	Trible
de la Garza	Luken	Ullman
Derwinski	Lundine	Vander Jagt
Devine	McClory	Volkmer
Dickinson	McCloskey	Waggonner
Dornan	McEwen	Walker
Duncan, Oreg.	McKay	Walsh
Duncan, Tenn.	Madigan	Wampler
Edwards, Ala.	Mahon	Watkins
Edwards, Okla.	Mann	White
English	Marriott	Whitehurst
Erlenborn	Mathis	Whitten
Evans, Ga.	Michel	Wiggins
Findley	Milford	Wilson, Tex.
Fish	Miller, Ohio	Winn
Flynt	Mollohan	Wydler
Forsythe	Montgomery	Wylie
Fowler	Moore	Young, Fla.
Frenzel	Moorhead, Calif.	Young, Tex.
Frey		
Gammage	Myers, John	

NOT VOTING—29

Armstrong	Hansen	Roncalio
Beard, Tenn.	Heckler	Rostenkowski
Bingham	Hightower	Ruppe
Brown, Calif.	Jones, Tenn.	Stockman
Brown, Ohio	Lehman	Teague
Burton, John	McDonald	Thompson
Conyers	Mitchell, N.Y.	Thone
Dent	Moss	Tucker
Diggs	Poage	Wilson, Bob
Downey	Risenhoover	

Mr. AuCOIN changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Page 177, immediately after line 13, insert the following new section:

RESERVATIONS BY THE CONGRESS

SEC. 207. Section 12(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341) is amended by inserting "(1)" immediately after "(a)" and by adding at the end thereof the following new paragraph:

"(2) The Congress of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf by the passage of a concurrent resolution so declaring and identifying the lands to be withdrawn.".

Redesignate sections 207 and 208 as sections 208 and 209, respectively.

Page 128, in the table of contents, redesignate the items relating to section 207 and 208 as 208 and 209, respectively, and insert immediately below the item relating to section 206 the following new item:

SEC. 207. RESERVATIONS BY THE CONGRESS

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, this amendment is basically in tune with the basic thrust of the legislation and the arguments that have been presented on this bill over the last few days dealing with congressional oversight. The provisions of this bill in themselves provide for congressional oversight. The Fish substitute provided for an element of congressional oversight. I think it is accepted that this issue is too important not to have Congress have the ability to participate in this process.

My amendment would essentially give Congress the same authority as the President has over the disposition of OCS lands. The President now, under the 1953 act, has the power to exclude lands for leasing through executive order. What my proposal would do would be to allow Congress, through concurrent resolution, to have the same power. Obviously, now this could be done by a bill, but it would be subject to presidential veto. Through the concurrent resolution, it would avoid the veto and therefore perfect the power. There are two basic points. One is that this amendment in no way stops the ongoing process of the Secretary in proceeding to lease lands. This proposal only deals with unleased lands. Second, it provides the kind of shared responsibility by the executive and legislative branches which I think is important to the process of decisionmaking on OCS lands.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield.

Mr. MURPHY of New York. Mr. Chairman, after reviewing the gentleman's amendment, it is acceptable to the committee.

Mr. PANETTA. I thank the gentleman.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield.

Mr. FISH. I would like to have a clarification, if I could, of the amendment.

It seems to me that the gentleman is attempting to have Congress to make it possible for Congress by a concurrent resolution mandate that an area not be leased. Is that correct?

Mr. PANETTA. By concurrent resolution of both bodies; that is correct. That is something we could now do, of course, through a bill, but it would be subject to Presidential veto. I think this clarifies that power. It should be provided through concurrent resolution.

Mr. FISH. The gentleman says the committee bill before us has the power of Congress to review these leased programs?

Mr. PANETTA. That is correct.

Mr. FISH. And actually I presume, under its own jurisdiction, there would be oversight of OCS activities?

Mr. PANETTA. That is correct.

Mr. FISH. Now, does the gentleman see any possibility of delay of lease sales if we indeed are going to consider each and every tract, review every tract, and vote upon that?

Mr. PANETTA. No, the essential point is to deal only, as I stated, with unleased lands. There is no inhibition here on the Secretary proceeding with his process and going ahead with the leasing of it should Congress not act on a concurrent resolution, so that he is certainly free to proceed. There would be no delay except and unless Congress decided to proceed with action on a concurrent resolution.

Mr. FISH. What would trigger this congressional review of a particular lease?

Mr. PANETTA. Well, clearly the presentation of a proposed concurrent resolution to the Congress would do that, and would then proceed to go to the appropriate committee for hearings.

Mr. FISH. Well, my point is that the gentleman is going to have a concurrent resolution introduced every time there is a lease sale, and we have got to decide on the basis of whether or not we want to pass it or report it out of the House.

Is the trigger mechanism going to be the interest of one Member in that particular lease area?

Mr. PANETTA. My point is simply this: We have stressed here the congressional oversight and congressional power in dealing in that area. We could do that now through bills. We could introduce legislation to remove a particular area from consideration.

I think it is far better, so far as dealing with the bill area, which would be subject to veto by the President, to simply go with a concurrent resolution if it is the Congress will that we do that, then the Congress should certainly be the final judge on that matter. Then we could make that decision without fear of Presidential veto. That is really all this does.

Mr. FISH. My point is that I would not like to have us consider the merits of every single lease sale that is made on the Outer Continental Shelf, without any need for it. You would have to have a Member introduce a concurrent resolution who personally objected and that he would have to sell the respective committee on his argument. Is that the way the gentleman thinks it would work?

Mr. PANETTA. That is exactly right. Obviously, if Members were introducing specious proposals, they would not get anywhere.

Mr. FISH. So it is not going to work like the current Budget Impoundment Act, where, if the President takes an action on deferrals, then the committee would then have to consider it and report out a bill for the House to vote on?

Mr. PANETTA. That is absolutely right.

Mr. FISH. That would not be the case?

Mr. PANETTA. That is not the case.

Mr. FISH. I thank the gentleman.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the author of the amendment a couple of questions. As I read the gentleman's amendment, the Congress could pass this concurrent resolution at any time before the leases were actually signed; is that correct?

Mr. PANETTA. If the gentleman will yield, that is correct. We are only dealing with unleased lands.

Mr. TREEN. There is a lot that goes on in a prospective lease area, a great deal that takes place prior to a lease being signed.

Mr. PANETTA. I understand.

Mr. TREEN. For example, the Secretary of the Interior, by permit, allows companies to go in and do geological and geophysical surveys. Under this bill that might even be stratigraphic onstructure drilling. The land is put up for bid. The companies that are interested go to all of the effort of putting together their bids. Then you have review by the Justice Department. All of this. So it seems to me that the gentleman's amendment is dangerous, in that you could withdraw this land at the last minute, after a lot has been done and much money expended.

Mr. PANETTA. If the gentleman will yield on that point, obviously, if a Member were to introduce a bill and the bill procedure were to proceed, we would have the same problem. What the gentleman should be aware of—and I am sure he is—is the fact that the Congress would nevertheless have to act. Not only would the Congress have to report, but the House pass it and the Senate pass it. That action would be required, before any kind of area would be withdrawn, in the concurrent resolution. If an individual were to introduce a bill to withdraw an area, obviously it would be subject to hearings and to criticisms which might be made. My point is that, once the Congress makes a decision, the House and the Senate were to act on it, it would seem to me at that point the Congress will ought to stand, not subject to a Presidential veto at that point.

Mr. TREEN. I appreciate the gentleman's intent, but I am concerned about the amendment, in that it would make it much easier to take land out of possible production. It does ease it, in the sense that a concurrent resolution would not be subject to a Presidential veto.

But I am very much concerned about the fact that there are no time limitations here, and that a great deal of effort could go into getting ready for a lease sale and then at the last minute Congress might come in with a concurrent resolution and take this land out of the area of exploration and production.

I just do not think this is the time in the history of this country, with the crisis we face on energy and with our balance-of-payments problems, for us to make it easier to take these lands out of production.

Mr. PANETTA. Mr. Chairman, if the gentleman will yield just on that point, it seems to me that if the will of the Congress indeed is reflected in the passage of a concurrent resolution, certainly there would be some substance warranting that kind of action, and at that point I think the membership would certainly reflect its will that something ought to be excluded at that point.

The Congress is not going to act on the basis of very slight evidence or it is not going to act speciously, it seems to me. If we are going to act and if we have the power to act, it seems to me we ought to act as we see fit and not worry about a Presidential veto.

Mr. TREEN. Mr. Chairman, I understand the gentleman's intent here.

However, I oppose the amendment. I think we can accomplish his purpose when that action is necessary by a bill introduced in the regular legislative fashion. This is not needed. It could be done by a separate bill. It could be done in the proper legislative fashion. It could be handled in the same fashion as the gentleman from California (Mr. JOHN L. BURTON) handled the matter with respect to the wilderness area in his district off the coast of California.

Mr. Chairman, I oppose the amendment, and I ask the Members to reject it.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time just to ask a couple of questions of the author of the amendment.

No. 1, I take it that after a lease sale has been completed, the Congress at that time, after the completion of the lease sale and after the bids have been received and the contracts awarded, could not come in and invalidate any of the tracts that had been let?

Mr. PANETTA. The gentleman is correct.

Mr. BREAUX. Mr. Chairman, the second question I have, one that gives me some concern, is this:

If the Secretary designates a certain number of tracts to be put up for bid and the bidding process begins, we may find that it is a long, drawn out affair because we would carefully evaluate the value of the tracts so they can get the highest bid. If the Congress at that point starts considering a resolution taking out one or more of those tracts, I think we are going to probably discourage a lot of companies from even submitting a bid on that particular tract, or, in fact, if they do submit one, it might be one that is going to be surprisingly low, for fear that Congress might continue to consider the matter and pass the resolution.

I am wondering if, assuming Congress has not in fact passed the resolution but is just considering it and the Secretary receives bids that are inordinately low,

we are perhaps creating a real problem here by proposing this type of mechanism.

Mr. PANETTA. Mr. Chairman, the point is that in effect if the Members are that concerned about it, we could in fact introduce legislation or introduce a bill to eliminate that problem. That procedure is available to Members, and the same points could then be raised.

In essence, what I am saying is that once a justified proposal has been presented and the Congress and the committees have acted on it, at that point it could be done by a bill, but it is subject to Presidential veto. All I would do is work through the concurrent resolution, because I think that in fact establishes our authority in this area. That is all I am interested in.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Texas.

Mr. HALL. Mr. Chairman, I notice that in the amendment it states that this property could be withdrawn. Now, for how long a period of time under the amendment would that concurrent resolution keep that tract of land out of the marketplace? That is No. 1.

No. 2, what would be necessary to get the property back into the main stream of leasing?

Mr. PANETTA. Mr. Chairman, if the gentleman from Louisiana will yield, I think that would be subject to the terms of the concurrent resolution itself. It would seem to me that the time frame is an issue that could be proposed by the membership. It certainly could be dealt with by the committee, and it certainly could be dealt with by the House when it considers that issue.

So I do not have any particular time frame in mind. I am not arguing that the resolution would provide that it be withdrawn in perpetuity.

Mr. HALL. So it is not the gentleman's intent that it be in perpetuity?

Mr. PANETTA. That is correct.

Mr. HALL. There could be something done at the proper time to get the property back in the main stream of leasing?

Mr. PANETTA. The gentleman is correct.

Mr. HALL. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The question was taken; and on a division (demanded by Mr. PANETTA) there were—ayes 40, noes 39.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California, Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: on pages 165–167 of the committee print (dated August 29, 1977), delete everything from page 165, line 24, through page 167, line 5 inclusive.

Renumber subsequent sections accordingly.

Mr. MILLER of California. Mr. Chairman, the purpose of this amendment is to make rational the amendments and the work of the subcommittee and of the full committee here yesterday dealing with the bonus bidding system.

As the Members know, those who sat on the floor during consideration of this bill have gone to graduate school with respect to the bidding system on the Outer Continental Shelf.

Through the Emery amendment, it was determined that the Secretary shall mandate at least 20 percent in alternative bidding systems, and by his own approval, as high as 50 percent in alternative bidding systems.

The rationale for alternative bidding systems is that different tracts present different evidence and that one knows more about the likelihood of oil and the size of the find under some tracts than he knows about the likelihood of a find under other tracts. Moreover, where there is a certainty of oil, there would probably be little reason to require a front-end bonus bid; but, rather, one would be interested in having the oil companies bid on the basis of royalty as the city of Long Beach did in California, because it was very clear that they were going to find a tremendous amount of oil in that State and the city decided that it should share in those revenues.

Mr. Chairman, what the bill says is that after the Secretary has determined that he wants to engage in an alternative bidding system on a sale, he shall then select the tracts for the purposes of the alternative system at random. Therefore, now that he is gathering all of his information, now that he has made determinations as to the Department's view of value, as to the Department's view of the size of the find, and as to the Department's view as to the return expected to the Treasury, we tell him to go out and select those tracts at random.

Mr. Chairman, I dare say that we are greatly endangering the value of revenues that the Treasury will receive; and much of the argument was that, in fact, we will have these losses to the Treasury if we do not go with the bonus bid system.

Mr. Chairman, what this system does as it is now written into law is that it insures that we are going to have a loss to the Treasury. It insures that one does not know what he is doing, so if we were worried about the competency of the Department of the Interior in the past, the bill as it is now written, without this amendment, insures that that incompetency will continue because what, in effect, it says is that. given all of the information that they now have and possess under this law as it is rewritten, they will not be able to use that to determine where they can get the greatest value and determine where the best tracts are for alternative systems.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. Mr. Chairman, I am delighted to yield to our distinguished colleague, the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman for yielding.

I support the gentleman's amendment. The present provision in H.R. 1614 provides for random selection of tracts, unless the Secretary wishes to withdraw specific areas or tracts from use of the random selection method. Some concern has been raised that use of this random selection process could either delay or not permit use of alternative bidding systems for OCS lease sales, and might also create serious management problems. For example, if lease tracts offered under the cash bonus system are on the same geological structure as tracts offered under another system, there may be an inducement to produce directly from a tract which would be subject to a low royalty, and drain higher royalty tracts.

We are happy to accept the gentleman's amendment.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from California which would remove a key provision from H.R. 1614. Under H.R. 1614, when the Secretary of Energy decides to offer tracts utilizing experimental bidding methods, he must randomly select the tracts to which these new systems would be applied. This is a simple procedure. It only requires one action on the part of the Secretary and would give rise to no serious management problems as alleged by the amendment's sponsor. This one time division of tracts between old and experimental systems would be done by computer and should not take more than a minute or so. It is impossible for me to understand how this short and simple process could in any way delay lease sales or prevent the use of alternative bidding systems in OCS lease sales which have already been scheduled. There is no truth to any such allegation.

Random selection is a valid scientific tool which is used to insure that the results of an experiment are unbiased. If selection of OCS leasing tracts is not done on the basis of an initial random selection as required in H.R. 1614, how could the Secretary know which system was really the best? Those in charge of designating which bidding systems are to be applied to which tracts could easily prejudice the results of their tests by assigning their favorite bidding system or systems to tracts which seem to hold the greatest amounts of oil or natural gas. If we are to have valid experimentation, we must take steps to prevent any possibility of either intentional or unintentional influencing of tests. Under this amendment an employee of the Department of Interior who devised a new bidding system could make it look good by leasing only likely oil or gas prospects under the new system.

It has been alleged that the present provisions of H.R. 1614 could cause problems where one tract on a geological structure is leased under the cash bonus system and the tract is leased under another system. The claim is that "there may be an inducement to produce directly from a tract which would be subject to a low royalty (bonus bid tract),

and drain higher royality tracts." In the first place, geological structures vary greatly in size and are usually found totally within a single leased tract. Where such a structure extends under more than one lease tract, one company would have to own both tracts before drainage from the higher royalty tract could take place. If more than one company was involved, the one on the higher royalty tract lease could not afford to sit idly by while the other company drained away its profits. In this, the more normal situation, the effect of random selection would be to speed up recovery from nonbonus tracts, because of the fear that if such recovery was not pursued with all possible speed, the lessee's profits would be drained away by the bonus bid lessee.

Assuming that one company would win the bids on two adjoining leases which contain parts of the same geological structure, there is still one factor which prevents any cheating on the part of the lessee regarding the amount of royalty he should be required to pay. The power exists for each lessee to be required to produce from each of his leases at the maximum efficient rate of production. Therefore, there can be no unilateral restraint on production on the part of a lessee in an attempt to avoid the payment of royalties or profit shares under any of the new alternative bidding systems.

H.R. 1614 imposes limitation on the flexibility of the Secretary in determining which bidding system shall be used on any particular tract. Random selection only takes place one time and simply results in a selection of which tracts will be offered under the old lease and which will be offered under the new systems. Random selection is not employed to determine which of the new systems is to be applied to any particular tract.

I urge defeat of the gentleman's amendment to preserve the integrity and scientific impartiality of the bidding system experiments mandated in H.R. 1614.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is very important we understand the situation, if we can, at this point. No. 1, we had a system in the bill which said the Secretary can use a whole number of different experimental bid systems in trying to see which one works the best. Yesterday we adopted an amendment which says he can use these 50 percent of the time and the other the rest of the time.

Then in the committee bill we said if he wanted to use these experimental bid systems we should try it across the board and not make any pinpoint decisions to test it here and not there. We adopted the provision in the Murphy bill, which all of a sudden the gentleman does not support, which says we will select the tracts we are going to experiment with by doing it randomly, by putting them in the hat, so to speak, and seeing which ones we are going to use it on, and not by just picking the ones we think it will work really well on or fail on, but we will randomly select the tracts we are going to experiment with.

The second point is we have a provision in the committee bill that clearly says the Secretary may exclude a tract from the use of this random selection method if he determines that using random selection would unduly delay the development or production of oil or gas or not permit a fair return from the lease.

We are saying if he makes a finding or determination it will cause some problems, he does not have to use random selection.

If we are going to experiment, it should be an across-the-board experiment. That is why the committee adopted that amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the author of the amendment, the gentleman from California.

Mr. MILLER of California. Mr. Chairman, my concern would be you are basing this on using this based on scientific evidence, and then we take the scientific evidence and throw it out the door and throw this into the hat, so we end up trying to have a fair test and yet we allow the Secretary to exclude some tracts. It seems to me if the gentleman knew when he was talking about conducting a fair test, we have already said these are untried systems and new systems. It seems to me then we should take all the scientific evidence in our power and apply it to where they have the best likelihood of both returning oil to the companies and returning money to the national treasury.

Mr. BREAUX. The point I am making is if we are going to get a fair test across the board, we cannot pick and choose where to have the tests. We should have them across the board. That is why we have the random selection, so he cannot just pick and choose and say: "Look how well the tests work." Because if we only pick the tracts we know it will work well on, of course we will get positive results. The random selection is the only way to determine whether the process we are going to use is going to work to the satisfaction of everyone.

In the bill we say he can withdraw the experimental tests if he determines it will make a difficulty to use them.

I think in this instance we should join with the gentleman in supporting the committee bill. He has done that consistently in the debate in the last 3 days, so I ask him to join now as I join now in supporting my chairman and leaving this in the bill.

Mr. EMERY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think at this point we ought to underscore some of the points made by the gentleman from Louisiana. What we are talking about is the soundness of scientific methods. If the random selection were to continue on into the future for an unlimited length of time, then the random selection process would certainly be detrimental to the development of oil and the cost of oil that is developed. Certainly if the random selection showed one method were much better than others, then at some point in time we have to move in the direction of promoting that method and using it, because it will be best for the consumer, it will be best for the oil industry, and it will be best for the people who are depending on the rapid development of that petroleum.

But until we know which one of the methods that we may wish to develop as alternatives to the present system, it is necessary that we create a solid scientific base from all the computer samples and data that we can develop.

One of the things that we must be very careful about is not to unknowingly skew the data. It would be a natural tendency for a bureaucrat or someone with an environmental bias, a consumer bias, or an oil industry bias to pick and choose particular sites and leasing systems that he might favor for some personal reason, regardless of the basis for his selections. Without a random sample of all possible combinations, we cannot know for certain which combination is really best, but, instead, we will only know whether that bureaucrat was a good guesser or a poor guesser.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I think that is a marvelous idea. Why do we not do it after the leases are let? Then we can measure performance under one kind of lease and we can see if we would have or we could have gotten this; but the purpose of the bill is to bring oil into production. We know in certain cases royalty makes sense. In certain cases net profit makes sense. In certain cases some people would insist bonus bidding makes sense; but why fool around with the scientific evidence that certain tracts give you certain amounts of oil that will be available and then ignore that evidence because the random method did not pick that tract. Do that afterward.

Mr. EMERY. Mr. Chairman, I do not think the gentleman appreciates the scientific method involved.

Mr. MILLER of California. I do appreciate it.

Mr. EMERY. It is not fair to try to stack the deck in favor of a particular method. We are trying to avoid doing that. If we wait until after the lease, we will have picked and chosen the areas in advance, regardless of scientific analysis of scientifically collected data.

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield further, that is exactly the point, to pick and choose a method which is most compatible with the type of structure you have, based upon long history in other countries, long history in the oil industry how that is done, not to shoot the shotgun and say we pick certain tracts; not at all.

Mr. EMERY. Mr. Chairman, if I may reclaim my time, there is a provision in the bill that shows if one method has proven itself, obviously you can shift to that method.

Another thing you have to realize is

that when tracts are picked after the random selections method has pointed to an optimum leasing system, they should not be picked totally at random without consideration of geological formations. We should then match geological formations to those leasing mechanisms that have been shown, by scientific examination to lead to the most efficient oil development within them.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been listening to the debate and, frankly, I am puzzled by just exactly what it is that the proponents of the random approach to this are expecting that they are going to get by way of scientific data. I wonder if anybody could enlighten me on that subject?

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I think the committee in its wisdom debated this point and adopted the random selection process because we were trying to set up a system that would give us an honest experiment. We will try by random systems across the board to see if it gives us a greater return on revenues. If we allow the Secretary to pick only the areas we want to try to experiment on, what about the other areas he is trying to exclude?

Mr. MAGUIRE. Mr. Chairman, presumably the variables are how much is paid under what sort of arrangement on the one hand and how much oil comes out of the ground on the other; right?

Mr. BREAUX. That is right.

Mr. MAGUIRE. The gentleman from California has already pointed out that once you have that data, you can make whatever calculations you will wish with respect to what might have been the case under any other way of altering the relationship between the variables; so to say that we are looking for some kind of unique and new scientific data, I think really misstates the case. In fact, what we have is several alternative ways of proceeding, some of which are better for some of these things and others are better for other kinds of things.

I think everyone here would agree as to which classes, which kinds of approaches were better.

I fail to understand the argument of the gentleman from Louisiana and the gentleman from Maine. I would urge support for the amendment of the gentleman from California (Mr. MILLER). It seems eminently rational to this Member of Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The question was taken; and on a division (demanded by Mr. FISH) there were—ayes 27; noes 23.

RECORDED VOTE

Mr. FISH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 174, not voting 33, as follows:

[Roll No. 28]

AYES—225

Addabbo	Ford, Tenn.	Nedzi
Akaka	Fountain	Nix
Alexander	Fowler	Nolan
Allen	Fraser	Nowak
Ambro	Fuqua	Oakar
Ammerman	Gaydos	Oberstar
Anderson, Calif.	Gephardt	Obey
	Giaimo	Ottinger
Andrews, N.C.	Gibbons	Panetta
Annunzio	Gilman	Patten
Applegate	Ginn	Patterson
Ashley	Glickman	Pattison
Aspin	Gore	Pease
AuCoin	Gudger	Pepper
Baldus	Hamilton	Perkins
Baucus	Hanley	Pike
Beard, R.I.	Harkin	Pressler
Bedell	Harrington	Preyer
Bellenson	Harris	Price
Benjamin	Hawkins	Pursell
Bennett	Hefner	Rahall
Bevill	Heftel	Railsback
Biaggi	Holland	Rangel
Blanchard	Hollenbeck	Reuss
Blouin	Holtzman	Richmond
Boland	Howard	Rinaldo
Bolling	Hughes	Rodino
Bonior	Ichord	Roe
Brademas	Jenkins	Rogers
Brodhead	Jenrette	Rooney
Burke, Calif.	Johnson, Calif.	Rose
Burke, Mass.	Jones, N.C.	Roybal
Burlison, Mo.	Kastenmeier	Russo
Burton, John	Keys	Ryan
Burton, Phillip	Kildee	Sawyer
Carney	Kostmayer	Scheuer
Carr	Krebs	Schroeder
Carter	LaFalce	Seiberling
Cavanaugh	LeFante	Sharp
Cederberg	Lederer	Sikes
Chisholm	Leggett	Simon
Clay	Lent	Skelton
Cleveland	Levitas	Slack
Conte	Lloyd, Calif.	Smith, Iowa
Conyers	Long, Md.	Solarz
Corman	Luken	Spellman
Cornell	Lundine	St Germain
Cornwell	McCormack	Staggers
Cotter	McFall	Stark
D'Amours	McHugh	Steers
Danielson	Maguire	Stokes
Delaney	Markey	Stratton
Dellums	Marks	Studds
Derrick	Mattox	Traxler
Dicks	Meeds	Tsongas
Diggs	Metcalfe	Udall
Dingell	Meyner	Van Deerlin
Dodd	Mikulski	Vanik
Drinan	Mikva	Vento
Early	Miller, Calif.	Volkmer
Eckhardt	Mineta	Walgren
Edgar	Minish	Waxman
Edwards, Calif.	Mitchell, Md.	Weaver
Eilberg	Moakley	Weiss
Ertel	Moffett	Whalen
Evans, Colo.	Mollohan	Whitley
Evans, Ind.	Moorhead, Pa.	Wilson, C. H.
Fary	Motti	Wirth
Fascell	Murphy, Ill.	Wolff
Fenwick	Murphy, N.Y.	Yates
Fisher	Murphy, Pa.	Yatron
Fithian	Murtha	Young, Mo.
Flood	Myers, Gary	Zablocki
Florio	Myers, Michael	Zeferetti
Foley	Natcher	
Ford, Mich.	Neal	

NOES—174

Abdnor	Burke, Fla.	Derwinski
Anderson, Ill.	Burleson, Tex.	Devine
Andrews, N. Dak.	Butler	Dickinson
	Byron	Dornan
Archer	Caputo	Duncan, Oreg.
Ashbrook	Clausen, Don H.	Duncan, Tenn.
Badham		Edwards, Ala.
Bafalis	Clawson, Del	Edwards, Okla.
Barnard	Cochran	Emery
Bauman	Cohen	English
Boggs	Coleman	Erlenborn
Bowen	Collins, Tex.	Evans, Del.
Breaux	Conable	Evans, Ga.
Breckinridge	Corcoran	Fish
Brinkley	Coughlin	Flippo
Brooks	Crane	Flowers
Broomfield	Cunningham	Flynt
Brown, Mich.	Daniel, Dan	Forsythe
Broyhill	Daniel, R. W.	Frenzel
Buchanan	Davis	Frey
Burgener	de la Garza	Gammage
Goldwater	McClory	Satterfield
Gonzalez	McCloskey	Schulze
Goodling	McDade	Sebelius
Gradison	McEwen	Shipley
Grassley	McKay	Shuster
Guyer	McKinney	Skubitz
Hagedorn	Madigan	Smith, Nebr.
Hall	Mann	Snyder
Hammer-schmidt	Marlenee	Spence
	Marriott	Stangeland
Hannaford	Martin	Stanton
Harsha	Mathis	Steiger
Hillis	Mazzoli	Stump
Holt	Michel	Symms
Horton	Milford	Taylor
Hubbard	Miller, Ohio	Thornton
Huckaby	Montgomery	Treen
Hyde	Moore	Trible
Ireland	Moorhead, Calif.	Ullman
Jacobs		Vander Jagt
Jeffords	Myers, John	Waggonner
Johnson, Colo.	Nichols	Walker
Jones, Okla.	O'Brien	Walsh
Jordan	Pettis	Wampler
Kasten	Pickle	Watkins
Kazen	Poage	White
Kelly	Pritchard	Whitehurst
Kemp	Quayle	Whitten
Ketchum	Quie	Wiggins
Kindness	Quillen	Wilson, Tex.
Krueger	Regula	Winn
Lagomarsino	Rhodes	Wright
Latta	Roberts	Wydler
Leach	Robinson	Wylie
Livingston	Rousselot	Young, Alaska
Lloyd, Tenn.	Rudd	Young, Fla.
Long, La.	Runnels	Young, Tex.
Lott	Santini	
Lujan	Sarasin	

NOT VOTING—33

Armstrong	Hansen	Rosenthal
Beard, Tenn.	Heckler	Rostenkowski
Bingham	Hightower	Ruppe
Bonker	Jones, Tenn.	Sisk
Brown, Calif.	Lehman	Steed
Brown, Ohio	McDonald	Stockman
Chappell	Mahon	Teague
Collins, Ill.	Mitchell, N.Y.	Thompson
Dent	Moss	Thone
Downey	Risenhoover	Tucker
Findley	Roncalio	Wilson, Bob

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Jones of Tennessee against.

Mr. Bingham for, with Mr. McDonald against.

Mr. Brown of California for, with Mr. Teague against.

Mr. Dent for, with Mr. Steed against.

Mr. Rostenkowski for, with Mr. Risenhoover against.

Mr. Moss for, with Mr. Mahon against.

Mr. Rosenthal for, with Mr. Hightower against.

Mr. Lehman for, with Mr. Chappell against.

Mr. WHITTEN and Mr. JEFFORDS changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH: Page 192, lines 15 and 16, strike out ", the Secretary of Labor,".

Page 193, line 10, strike out "achievable" and insert in lieu thereof "feasible".

Page 193, line 15, strike out "(1)".

Page 193, strike out lines 16 through 22, and insert in lieu thereof "of this section, the Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he determines such".

Page 194, strike out lines 3 through 10.

Page 197, line —, strike out "Secretary of Labor: and insert in lieu thereof "Secretary of the Department in which the Coast Guard is operating.

Page 197, line 12, strike out ", the Secretary of Labor,".

Page 197, line 18, strike out "of Labor" and insert in lieu thereof "of the Department in which the Coast Guard is operating".

Page 197, line 25, strike out ", the Secretary of Labor,".

Page 198, beginning on line 10, strike out "the Secretary of Labor and".

Mr. FISH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FISH. Mr. Chairman, because of the hour, I thought it would be appropriate, while we have so many Members in the room, to get to an exciting eye-opener subject, which is, of course, that of OSHA.

Mr. Chairman the amendment that I am offering will strike references to OSHA wherever they appear in this bill.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman. I ask unanimous consent to make the following technical corrections to my amendment previously adopted as an amendment to the amendment offered by Mr. STUDDS:

On the first page of my amendment, after line 5, insert the following: On page 2, line 23, insert "and each pipeline permit holder" immediately after "lease holder".

On page 7 of my amendment, in subsection (L) (2) insert "commercial" immediately before "fisherman".

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. FISH. Mr. Chairman, this amendment seeks to restore the present jurisdictions of both the Coast Guard and OSHA. The Coast Guard, in my amendment, would be kept in its present status of lead agency. The Coast Guard's mission since its inception has been the protection of life at sea. Their exploits are legion and they have done their job well. In the matter of expertise in promulgating and enforcing safety requirements in the marine environment, it is clear that there is no group of men and women more capable and dedicated doing an excellent job than the U.S. Coast Guard. They understand the difference between operations in the marine environment and in a factory on land.

In the matter of safety in commercial diving, the Coast Guard has cooperated closely with those involved in this profession. The divers and the companies they work for have worked with the Coast Guard in setting unbelievably detailed and comprehensive regulations that the industry itself has enforced. The expansion of Outer Continental Shelf oil and gas operations in recent years has given rise to a similar expansion of the number of divers and diving companies operating in the seas off our coasts. The Coast Guard working with OSHA assistance has promulgated diver safety regulations. This is precisely the cooperation, I seek to preserve by offering my amendment. There must be a single lead agency. Two heads are not better than one when they are attached to the same body!

The Outer Continental Shelf Lands Act (OCSLA) presently gives the Coast Guard the duty to regulate "safety equipment and other matters relating to the promotion of safety of life and property." The Occupational Safety and Health Act in section 4(b)(1) requires that the Occupational Safety and Health Administration of the Department of Lazor act to insure worker safety only in areas where agencies with specific grants of jurisdiction have not acted to carry out their responsibility. That act clearly states that the exercise of power by the Department of Labor is only done on a stopgap (interim) basis and that no permanent concurrent jurisdiction was granted to the Department of Labor. The legislative history of the Occupational Safety and Health Act makes it very clear that the Congress rejected the idea of granting the Department of Labor any permanent concurrent jurisdiction where other agencies have statutory jurisdiction for health and safety matters. The action of the ad hoc select committee would, if enacted into law, result in a significant enlargement of OSHA's role in OCS regulations.

H.R. 1614 would greatly expand OSHA's jurisdiction and make it into the lead agency in the area of commercial diving on the OCS.

The legislation states:

Notwithstanding section 4(b)(1) of the Occupational Safety and Health Act of 1970, regulations for occupational safety and health shall be promulgated and enforced by the Department of Labor and the Department in which the Coast Guard is operating, in accordance with their respective statutory authority.

Mr. Chairman, I must protest the inclusion of these sections in the Outer Continental Shelf legislation. First, the appropriate committee for matters relating to OSHA is the House Education and Labor Committee which was not represented in the ad hoc committee. What has been written in H.R. 1614 is not simply a reiteration of existing OSHA law. It is instead a complete change from the original intent of Congress. The Education and Labor Committee never got to review this important change in the law.

Although, I am sure, the people at OSHA are hard working and devoted to their task, they are not experts in the area of marine safety.

The horror stories about OSHA are well known to all of us. Every time they have attempted to move into a new area, chaos erupts. In 1976, the American farmer was subjected to the bionic flagman, the privy on the prairie, and other proposed OSHA regulations that were stopped only through congressional action.

OSHA has already attempted to issue regulations covering divers. But due to a suit the divers instituted against OSHA, a Federal District Court issued an injunction against OSHA preventing regulations. I might add that OSHA was aware that the Coast Guard was drafting their own regulations in this area, and that the issuance of these regulations by OSHA was contrary to recommendations made by members of the House Education and Labor Committee. The Coast Guard has since published these regulations, and expects promulgation shortly.

The provisions of H.R. 1614, giving specific instructions on updating of regulations, and specific authority for enforcement are commendable; however, the inclusion of OSHA in these areas would be unfortunate even disastrous. The administration has proposed an amendment to H.R. 1614 which would also prevent OSHA from undertaking new responsibilities in the enforcement of OCS safety regulations.

My amendment eliminates expansion of OSHA from the provisions of H.R. 1614, while retaining the language of sections 21 and 22 and retaining the present jurisdictions of OSHA and the Coast Guard.

The purposes for which these sections were included in H.R. 1614, are retained, will provide for improvement in the health and safety of the human environment on the OCS.

I hope this amendment will be adopted.

The CHAIRMAN. The time of the gentleman from New York (Mr. FISH) has expired.

(By unanimous consent, Mr. FISH was allowed to proceed for 4 additional minutes.)

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FISH

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The clerk read as follows:

Amendment offered by Mr. MURPHY of New York as a substitute for the amendment offered by Mr. FISH: On page 193, strike lines 15 to 24 and on page 194 strike lines 1 to 3 and insert: "(c) Notwithstanding section 4 (b)(1) of the Occupa-".

Mr. FISH. Mr. Chairman, I reserve a point of order against the amendment.

I do so because I was not exactly sure which amendment the gentleman was going to offer, and I still have not got it in front of me, but if indeed his amendment strikes or is an amendment to a provision which I strike, I do not think it is in order.

The CHAIRMAN. The gentleman from New York (Mr. FISH) reserves a point of order against the amendment.

The Chair recognizes the gentleman from New York (Mr. MURPHY) for 5 minutes in support of his amendment.

Mr. MURPHY of New York. Mr. Chairman, the amendment as offered by my colleague, the gentleman from New York, would replace vital provisions of H.R. 1614 that were clearly debated and compromised and worked on very carefully by the committee and they provide for modernized and improved safety regulations and enforcement.

Specifically, the amendment effectively eliminates the strong worker safety protection provisions—which require preparation of regulations for hazardous working activities, and the involvement of Department of Labor, using the Occupational Safety and Health Administration, in promulgating and enforcing the worker safety regulations. Finally, it eliminates an important provision of this bill encouraging coordination of regulatory activities.

As detailed at the hearings, many areas of OCS activities have been unregulated. Until recently, for example, activities as to divers offshore had been totally unregulated, despite the clear proof of their hazardous nature. It was not until the Occupational Safety and Health Administration prepared interim regulations, later withdrawn, and then final regulations, for hazardous working activities as to divers that these divers were protected. It is also clear from the testimony of witnesses from both of the Department of Labor and the Coast Guard, that Labor and Coast Guard continued to work together to prepare and implement safety regulations. This bill does not in any way affect that cooperation. Rather, it provides a procedure and a machinery to insure such cooperation does occur. This section simply provides that OSHA, with primary jurisdiction over Occupational Safety and Health industrywide, and with its special expertise, is not to be displaced in the development, enforcement, and promulgation of regulations concerning occupational safety and health on the Outer Continental Shelf by the action of any other agency, including the Federal and State governments, so as to avoid inconsistent or duplicative requirements. In addition, to allow all citizens and lessees to know the entire regulatory scheme surrounding OCS activities, the bill provides that a compilation of all safety and other regulations are to be prepared and made available. The gentleman's amendment by deleting these two important provisions, could lead to confusion, and a bureaucratic nightmare.

My substitute is intended to clarify problems and concerns that have been raised in the provisions of H.R. 1614 providing for input by OSHA into the OCS safety regulations and enforcement. At the time of consideration by the ad hoc committee no regulations had been promulgated for divers' safety. Such regulations have now been promulgated. Therefore this amendment removes the language providing for any such regulations to be issued.

The deletion of this language in no way affects OSHA's current power in section 6 of the Occupational Safety and Health Act to propose and promulgate interim regulations for hazardous working conditions.

The substitute also makes it clear that section 21 does not grant leading agency responsibility to Labor and OSHA as to workers' safety on the OCS. Labor and Coast Guard as specifically stated on line 7, page 199, are to act "in accordance with and respect to their statutory authority."

All section 21(c) now requires is that the Coast Guard must work with OSHA in promulgating and enforcing appropriate regulations. OSHA is not to be ousted. The Coast Guard is not limited in its present authority as the lead agency on the Continental Shelf; both must work together and that, simply stated, is what the substitute does.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from New York (Mr. FISH) insist on his point of order?

Mr. FISH. Mr. Chairman, I just want a clarification here. If I understand the gentleman here, the gentleman is striking out lines 15 through 24 on page 193 and lines 1 and 2 on page 194. That is the amendment that I have been handed; is that correct?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, that is substantially what the substitute does.

Mr. FISH. Well, now, Mr. Chairman, this language in my amendment calls for some revision of that language, but does not strike out several of the lines, the lines that are the subject of the gentleman's offered substitute. I just was not aware that that would be in order in the light of the part of my amendment that deals with pages 193 and 194.

The CHAIRMAN. Does the gentleman from New York (Mr. FISH) insist on his point of order?

Mr. FISH. Yes, Mr. Chairman.

The CHAIRMAN. Does the gentleman from New York (Mr. MURPHY) desire to be heard upon the point of order?

Mr. MURPHY of New York. Yes, Mr. Chairman.

Mr. Chairman, I would say that the substitute strikes a portion of the language; that the amendment of the gentleman clearly strikes a much larger area and, accordingly, would be in order.

Mr. FISH. Mr. Chairman, may I be heard?

The CHAIRMAN. The Chair will hear the gentleman from New York.

Mr. FISH. Mr. Chairman, I do not think that is quite accurate. It is just the reverse, that the part struck by the gentleman from New York (Mr. MURPHY) covers more language on page 193 than does that part of the amendment I offered.

Mr. Chairman, this has been characterized as a substitute to my amendment. I understood if that be the case, it would have to be substantially the same.

I direct the Chairman's attention to the fact that my amendment addresses itself to the lines on pages 192 and 193 in three places and pages 194 and 197; so I do not see how the gentleman from New York can be offering a substitute that is narrow in focus and dealing with only one of the several issues that is covered by my amendment.

The CHAIRMAN. The Chair is ready to rule. In the opinion of the Chair, the substitute amendment offered by the gentleman from New York (Mr. MURPHY) deals with a lesser portion of the bill that the gentleman from New York (Mr. FISH) desires to perfect, and as conceded by the gentleman from New York (Mr. FISH) in a more restricted fashion. The Murphy substitute deals only with interim regulations, while the Fish amendment deals with OSHA's role in promulgating both interim and final regulations.

Therefore, the Chair overrules the point of order and holds the substitute to be in order.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, I know there might be a great deal of confusion here. Many Members have heard and read dear colleague letters concerning whether we are going to have OSHA in the business of regulating offshore diving industry authority. The chairman of the committee has offered an amendment which knocks out a portion of what they initially tried to do in making OSHA the lead agency as far as writing regulations for the offshore diving industry. In that sense, it is an improvement.

However, I think the amendment offered by the gentleman from New York (Mr. FISH) is really saying, "No OSHA in OCS activities," which is a far more preferable approach.

We are talking about activites that are going on offshore; that is, activities over water. Diving activities are normally conducted from vessels, from ships, from boats, which are already regulated and watched over by the Coast Guard. So, what we are trying to do, I think, with the adoption of the amendment offered by the gentleman from New York is split up the jurisdiction and say, "All right, let OSHA regulate diving activities. Let them try and fight it out with the Coast Guard as to who is going to have jurisdiction, and somehow let them come up with another set of rules when the Coast Guard is going to regulate ships, vessels, that carry the divers, but let OSHA become involved in regulating divers' activities."

We have enough problems without bringing OSHA into the picture. I question very seriously, how are we going to carry out the section which would be left in there saying that OSHA should participate in writing regulations and enforcing them? How is the Department of Labor going to participate in regulating diving operations? Are we going to buy vessels and ships so that the Department of Labor can go offshore and follow diving vessels to find out that they are in fact operating according to what the Department of Labor thinks they should be doing?

The Coast Guard has the manpower, the equipment; they have published a set of rules and regulations which affect and regulate the diving industry. I just think that it is a sad, sad mistake if we go in and put OSHA in the business of regulating basically what are maritime activities.

I cannot understand why anybody who looks at what has happened to them would think the record of OSHA is so good in enforcing safety that we should now give them additional duties which

they do not have the experience for, to buy vessels and ships, when the Coast Guard is already equipped to do that.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. If OSHA does have these responsibilities under this bill, will there be additional inspectors who will be trained and be on the line in the offshore industries?

Mr. BREAUX. That is a very good point. Right now in Louisiana, just in the Gulf of Mexico, we have approximately 100,000 men and women working in offshore industry. If OSHA is going to become involved in regulating this very hazardous occupation, I do not think anywhere in this bill do we authorize any additional manpower.

Mrs. BOGGS. I have been very upset because OSHA has had some very severe difficulties in my district recently. They have not, apparently, had sufficient manpower and training to be able to protect the persons who are in the hazardous business of working in the grain elevators.

The hazardous business of diving and being out on the Outer Continental Shelf operations is an additional difficulty with which they are unfamiliar.

Mr. BREAUX. The gentlewoman makes a very important point. If we look at the record of OSHA in the recent grain elevator problems, I think they have enough to do just trying to clean up that mess and getting additional manpower to properly regulate grain elevators. To give them additional authority, which I do not think they have the manpower to carry out in this area, I think is totally unacceptable.

Mrs. BOGGS. I was going to make the point, if the gentleman will yield, that at the time that OSHA really went into being, the grain sales of the United States were greatly increased, and it was apparently a Government decision and program to have increased grain sales. And yet when OSHA set up its inspection agency, it did not take this new Federal program into account. And here we are, setting up another Federal program. I was, naturally, interested in whether OSHA would be given the manpower and the training to accommodate it.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

(On request of Mr. MURPHY of New York and by unanimous consent, Mr. BREAUX was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I would like to point out to my colleagues that in December, 1976, and January, 1977, in New Orleans, the Coast Guard and OSHA had worked out complete working agreements and arrangements between themselves. This legislation, as this substitute is clearly drafted, involves the Coast Guard as the enforcement agency on the Outer Continental Shelf where safety regulations are in effect. But it permits and specifically brings OSHA into that regulation-making process because of their responsibility to the safety of the workingmen. It does not give OSHA the lead responsibility but does bring them in in a clearly articulated role.

Mr. BREAUX. It clearly says, beginning on line 4, page 194, that:

> * * * regulations for occupational safety and health shall be promulgated and enforced by the Department of Labor and the department in which the Coast Guard is operating * * *

I do not think OSHA should have any business there. How would they get offshore. They do not even have a boat.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Louisiana (Mr. BREAUX), as well as with the remarks of the gentlewoman from Louisiana (Mrs. BOGGS). OSHA has been under fire for several years now for some of their absurd regulations. To date, the President is considering cutting back a number of those regulations. As a matter of fact, I understand there are some 47 regulations on the books of OSHA to teach people how to climb ladders. I think this body ought to be very deliberate and ought to weigh the position of the gentleman from Louisiana (Mr. BREAUX) very carefully. Therefore, I would ask my colleagues to endorse and support his position to reject the amendment by the gentleman from New York (Mr. MURPHY), and to support the amendment by the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had previously talked about my amendment, which strikes reference to OSHA's responsibility on the Outer Continental Shelf, making reference to safety regulations, on page 192, to enforcements on page 194 and 195, and through 198. The substitute amendment offered by the gentleman from New York goes to one paragraph, one-half page, on 193, dealing with divers safety in the promulgation of the interim regulations and standards.

May I ask my chairman, is it not true that what the gentleman is asking this body to do, is to delete a provision in the law that is not needed. By that I mean the gentleman is striking the provision from the bill that calls for OSHA and the Coast Guard to issue temporary regulations, which they have already done?

Mr. MURPHY of New York. The Gentleman is correct.

Mr. FISH. So, in other words, the gentleman's amendment does absolutely nothing in changing the OSHA parts of this bill. It does not touch on safety, it does not touch on enforcement, but it strikes out some matters of diversion in my amendment, referring to a provision which is of little or no consequence except historically.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield at that point?

Mr. FISH. I certainly will yield to the gentleman.

Mr. MURPHY of New York. By striking that language, we make it very clear and explicit that OSHA is not to be denied its statutory role in the promulgation of regulations and enforcement. The amendment clearly improves this language.

Mr. FISH. Absent this bill, there is no authorization for OSHA to be in the Outer Continental Shelf in any capacity, and I think the chairman of the committee knows that.

The gentleman's amendment would change nothing. OSHA would remain a coleader on the Shelf in all safety and enforcement activities—everything except divers. This is the narrow focus of the gentleman's amendment to my amendment, and is a matter which has already been covered by the issuance of regulations by OSHA and by the Coast Guard.

So, Mr. Chairman, I strongly urge a "no" vote on the Murphy substitute and an "aye" vote on my amendment.

Mr. LONG of Louisiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York, Mr. FISH, and in opposition to the substitute amendment offered by the gentleman from New York (Mr. MURPHY).

The regulatory processes that we now have in effect governing the health and safety of the workers on the Outer Continental Shelf have been handled by the Coast Guard as the lead agency for a long period of time. This has really worked very, very well. The duties have been carried out by the Coast Guard efficiently. They have been carried out effectively by the Coast Guard, with the aid and assistance of OSHA where its assistance was required, with OSHA not sticking its nose in where it was not needed, not sticking its nose in where it was not required.

My main concern with this regulation that would result in pushing OSHA into this area is that we as legislators are perhaps stepping into one of the natural pitfalls in our business of running the government or trying to run the government, and that is in the mistaken belief that legislation is the cure-all for our problems. I think we should have learned by now that legislation is often apt to generate problems rather than cure them.

Many of the Members know, from having listened to the discussions here during the last few days, that we have a great deal of offshore oil development in Louisiana. We have had that for many, many years. We have an absolute minimum of difficulty in the enforcement of safety standards, and we have developed methods that were never tried before. We have tried these methods off the shores of Louisiana, we have had many

years of experience, and many millions of dollars have been expended.

I fear that if we put an overzealous bureaucracy such as OSHA into the offshore oil development to the extent that would occur under the Murphy substitute, we may be creating a situation which demands immediate changes. I feel that our goals would be better accomplished by the way this whole system has developed offshore from Louisiana, and that is with a high degree of safety and with an absolute minimum degree of difficulty.

If we do agree to the Murphy amendment and do not agree to the Fish amendment and OSHA does become even more involved in offshore oil development than it is today, I see a real delay and a real danger resulting from the possible delays that may follow in our offshore oil development as another new agency gets deeper and deeper into the process.

I do not believe that these delays may be much of a problem, for instance, off the coast of New England, but where we have an ongoing operation that is proceeding efficiently as it is in the Gulf of Mexico, where we are dependent on production for a great percentage of our natural oil and gas, I believe the effect would be devastating. The delays that are occasioned by the codification of new rules and regulations and by the expanding of the authority of OSHA—which is what the substitute amendment offered by the gentleman from New York (Mr. MURPHY) would do—would impact on innumerable small business concerns scattered all over the Gulf of Mexico area.

These people basically provide services for this offshore industry. They transport people to and from rigs.

They live in the districts of the gentlewoman from Louisiana (Mrs. BOGGS), of the gentleman from Louisiana (Mr. BREAUX), of the gentleman from Louisiana (Mr. LIVINGSTON), of the gentleman from Louisiana (Mr. TREEN), and in my district, too, practically all along that area and over into Texas. If the operations there were not safe, if the system was not operating well, we would have been hearing about it; and we have not been hearing about it.

Mr. Chairman, I tell the Members this: My theory is, if something ain't broke, we ought not to try to fix it; and I recommend that we do not try to do that here.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Fish amendment and disagree with the amendment of my colleague, the gentleman from New York (Mr. MURPHY).

Mr. Chairman, let me tell the Members why I rise in support of the Fish amendment.

Section 21 of H.R. 1614 directs OSHA to be the lead agency for regulations of divers on the OCS as well as being directly involved and sharing the lead in other areas with the Secretary of the Interior and the Coast Guard. Why do we now need OSHA in the OCS? The answer is—we do not. Since 1953, the Coast Guard has been charged with regulating health and safety in the marine environment and is far better qualified to continue doing so than OSHA. Granting such authority to the Occupational Safety and Health Administration is clearly a contradiction in OSHA's enabling legislation which states that the agency cannot issue regulations when another agency is already enforcing safety and health requirements. Court cases have already been litigated and won which bear this fact out.

For example, OSHA attempted to issue regulations covering divers last year. Divers in Louisiana took OSHA into Federal court and an injunction was issued halting the implementation of the regulations and OSHA later withdrew them altogether. It should be noted that the regulations OSHA so quickly tried to promulgate before going to court had been estimated by industry to cost anywhere from $34 to $40 million to implement—$34 to $40 million in an industry whose total domestic revenues were estimated to be less than $100 million. On a cost-benefit ratio, this would have made the diving industry one of the heaviest regulated in this country today.

Let me give two other examples by quoting from a column in the Los Angeles Times by Paul Houston on January 31 of this year:

CONFLICTING ORDERS ISSUED—AVAST! U.S. TRIPS UP ON SILLS FOR SAILORS

(By Paul Houston)

WASHINGTON.—Which is worse for sailors to stumble or to drown?

Befuddled owners of merchant ships have been hearing two answers from the government for more than three years.

First the Coast Guard required that all seagoing vessels be equipped with doorsills—high thresholds—to help seal watertight doors and to prevent water from sloshing around the ship.

But then the Occupational Safety and Health Administration said that the high thresholds were a hazard to low-stepping sailors. The agency ordered them removed.

The dispute dragged on until Harrison Wellford, President Carter's man in charge of government reorganization, heard about it. He said Monday he had told OSHA and the Coast Guard. "This is ridiculous. Let's do something about it."

Wellford added with a quip, "We may have to create that rare entity, the movable doorsill."

Wellford also cited a case in which OSHA required slaughterhouses to install steel guardrails around slaughter pits, but the Department of Agriculture ordered the railings removed, saying that blood crusted on them, creating unsanitary conditions.

"This was settled by providing safety belts so that if workers slipped near the blood pit, they wouldn't become part of your next hamburger," Wellford said.

At a luncheon with reporters, Wellford cited these as examples of cases where the government was working at cross purposes. He said the Administration was on schedule in preparing reorganization plans to try to resolve such problems involving too little government coordination and too much regulation.

Mr. Chairman, not only does OSHA not have the authority to regulate the diving industry, it does not have the ability. For example, during oversight hearings on the grain elevator explosions before the House Education and Labor Committee, a witness from the agency testified that the grain elevator accidents were not due to negligence on OSHA's part because they (OSHA) are ill equipped to do the job they are supposed to do. Given that kind of statement, how can Congress in good conscience put OSHA into the marine environment business. Historically, the Coast Guard has been responsible for protecting life at sea and I say they should continue to be.

The proponents of having OSHA on the OCS claim that 26 divers died on the Outer Continental Shelf. These are worldwide figures—there has only been one death in the last 16 months on the U.S. OCS. The deaths in the United States due to OCS development were unpreventable and due to human error. Furthermore, while even one death is tragic, the U.S. safety figures indicate that even when there were no Coast Guard safety regulations promulgated in the United States, the diving industry was safer than the regulated construction, fertilizer, publishing, food, leather and aerospace industries just to name a few.

The point is, the Coast Guard has taken the lead and has promulgated a diving standard. We can protect lives in the Outer Continental Shelf. There is no need to broaden OSHA's authority and I urge my colleagues to support the Fish amendment to keep the agency out of the OCS and reaffirm the Coast Guard's lead agency responsibility in regulating the health and safety of the marine environment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY) as a substitute for the amendment offered by the gentleman from New York (Mr. FISH).

The amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. FISH).

The question was taken; and on a division (demanded by Mr. MURPHY of New York) there were—ayes 58, noes 23.

Mr. MURPHY of New York. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 147, strike out line 7 and all that follows down through the period on line 6 of page 148 and insert the following:

"SEC. 5. Administration of Leasing of the Outer Continental Shelf.—The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of

the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act.".

Mr. DINGELL. Mr. Chairman, I offer this amendment on behalf of the ranking minority member of our subcommittee, Mr. BROWN of Ohio, and myself.

Mr. Chairman, current law applicable to Outer Continental Shelf leasing provides any regulations issued by Interior or the DOE for the preservation of waste and conservation of the natural resources of the shelf and the protection of correlative rights "shall apply to all operations conducted under a lease issued or maintained" under the 1953 act. In short, such regulations apply to existing leases from the date of regulations.

This important authority has been used in several very important instances which are familiar to us. For example, following the disastrous oil spills in the Gulf of Mexico from Chevron platforms and in the Santa Barbara area of California from Union Oil operations, new safety and antipollution regulations were promulgated by Interior to correct deficiencies in lease operations, prevent future spills, and provide liability for damage caused by the spills. This authority was also used in 1974, at the urging of Congressmen REUSS and Moss and myself, to halt the practice by oil companies of flaring or venting huge amounts of natural gas without any payment of royalties for such gas. A May 23, 1974, Interior Department news release estimated that some 60 million Mcf of natural gas was vented or flared during 1973 alone which would otherwise have returned about $2 million in revenues to the United States.

H.R. 1614 seriously restricts this provision of existing law by prohibiting application of safety, antipollution, conservation, and other regulations to existing leases, except "where there is a finding of serious or irreparable harm or damage" to health, life, property, or mineral deposits. Under these limited criteria, it is unlikely that Interior could have stopped the wasteful flaring of natural gas. This weakening of existing law benefits the oil company lessees. Who are they? Why who else—Exxon, Gulf, Texaco, Mobil, Chevron, Union Oil, and oil and gas corporations. It is detrimental to the public interest and could endanger this public resource.

Our amendment restores existing law that has worked well since 1953. It is supported by the administration and we urge its adoption.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL) for yielding.

Mr. Chairman, the amendment is acceptable to the committee. We will be happy to accept it.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am pleased to yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, I would ask the gentleman from Michigan (Mr. DINGELL) if I am correct that what the gentleman is referring to would mean applying the regulations to all existing leases no matter when the regulations are promulgated? Is that what the gentleman is referring to?

Mr. DINGELL. The answer is that the amendment merely continues existing law.

It does not make retroactive that which is not retroactive. As a matter of fact, it does not authorize retroactive issuance of regulations. Regulations under the amendment are only authorized to be prospective in character.

Mr. TREEN. Under the bill, under the section the gentleman is amending, we provide for retrospective application.

Mr. DINGELL. I am not aware that the bill does provide for that. Indeed, I think that would be wrong. What the amendment does is strike a section of the bill which imposes lengthy findings upon the Secretary which I do not regard as being necessary.

Mr. TREEN. Will the gentleman refer me to that section?

Mr. DINGELL. Yes, it is page 148, at the top of the page.

But, more importantly, the section in the committee bill to which I allude and which would be stricken by the amendment and replaced by existing law as drawn could prevent the Secretary from issuing regulations relating to the Santa Barbara oil spill. It could prevent the issuance of regulations relating to liability for damages therefrom or as was done at the urging of the gentleman from California (Mr. Moss) and the gentleman from Wisconsin (Mr. REUSS) and myself when we found that there was very extensive flaring. In that case, Interior used this authority to apply it to existing leases to halt this wasteful practice.

I point out that on May 23, 1974, it was estimated by the Department of the Interior that some 60 million cubic feet of natural gas was lost through flaring in 1973 alone. This wasted gas would have returned some $2 million in revenues to the United States.

The tests imposed under the bill do not require protection of the interests of the United States. I would simply strike the tests and findings that are required and utilize existing law, which has worked splendidly and for which I am unaware of any need for change.

Mr. TREEN. Mr. Chairman, will the gentleman yield further?

Mr. DINGELL. I yield to the gentleman from Louisiana (Mr. TREEN).

Mr. TREEN. Mr. Chairman, I have got to confess I do not have a good grasp of what the gentleman has been offering because it has been difficult to follow and I have not had before me a copy of the amendment.

Mr. DINGELL. I delivered one to the minority desk.

Mr. TREEN. On page 147 of the bill, does the amendment offered by the gentleman affect that material?

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, to try to be of help to my good friend and colleague, I seek only to continue the power of the Secretary to issue regulations under existing law, as he does at this time, and not to change that power and apply them to existing leases. The bill as drawn adds a succession of findings, none of which really deal with the full sweep of existing law. They curtail existing law and might in my view deny the Secretary the authority to prevent flaring or to impose additional restraints on the fashion of drilling so as to prevent casing blowouts and things of that kind which have been mischievous and polluted the waters off California and in the Gulf of Mexico.

The simple fact of the matter is existing law works splendidly and I see no reason for the changes which the committee has set out at the top of page 148 in the findings. That is why I urge my colleagues to continue existing law, not to change it in this fashion. It has worked and has prevented flaring and has permitted the Secretary to issue necessary regulations to protect the interests of the United States, to protect the interests of our leaseholders, and to protect the mineral resources to which we address ourselves.

Mr. TREEN. Will the gentleman address himself to page 147 of the bill?

Mr. DINGELL. Yes, I am.

Mr. TREEN. That is beginning on line 17.

Mr. DINGELL. Yes, I have.

Mr. TREEN. The gentleman is striking in effect the material on line 17 down through the end of that page; is he not?

Mr. DINGELL. Yes, and replacing it with the language of the law as it now exists.

Mr. TREEN. All right. I understand that.

Mr. DINGELL. Which is an excellent law and works splendidly.

Mr. TREEN. The committee apparently in its wisdom when it was writing this bill did not feel that way.

Will the gentleman yield further?

Mr. DINGELL. I am glad to yield but I am not prepared to express to the gentleman why the committee chose this course, but I disagree with them.

Mr. TREEN. But you are making a substantive change which is important.

Mr. DINGELL. No, I am continuing the existing law.

Mr. TREEN. But the gentleman is making a substantive change in the bill.

Mr. DINGELL. Yes, but I am continuing existing law.

Mr. TREEN. We ought to understand what the gentleman is doing to the bill, and what he is doing is taking out the provision which provides that if new regulations are promulgated that would impose additional requirements which, in turn, would result in undue delays in exploration or development of the resources, those regulations would not be applicable to existing leases unless the Secretary makes certain findings.

Mr. DINGELL. Maybe the gentleman would like to explain to me what that means and why that language is necessary. I am not aware of any need for that.

I am unaware of any need for that. For that kind of action to take place I am almost certain that the action would be arbitrary.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for an additional 2 minutes.)

Mr. DINGELL. Mr. Chairman, if that kind of action by the Secretary were to be retroactive so as to impose additional requirements which would result in undue delays in exploration would result in a situation where probably the Secretary would have to either respond in damages and be subject to lawsuit, or where the Secretary would probably have his rule or regulation upset as being arbitrary or capricious.

Mr. TREEN. Mr. Chairman, if the gentleman will yield further, what the committee was attempting to do is explained in the report on page 130. It was to meet a concern about the retroactive application of new regulations. Let me read from the report:

> Specific concern was raised in the committee that unnecessary regulations that might delay expeditious exploitation of OCS resources might be promulgated. To insure against such a result, the committee provided that any regulation: (1) That imposed additional requirements on lessees; (2) who held a lease prior to the date that a new regulation is proposed; and that (3) resulted in undue delays—must be justified.

Justified, that is, by the Secretary making specific findings. It imposed a burden on him, if he were to impose additional requirements on specific lessees, to make specific findings that such regulations were necessary to prevent serious or unreparable harm a damage to health, life, property, et cetera.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, that is specifically what I object to, because the way I read this language, it would prevent the Secretary of the Interior from going after the lessee in the Santa Barbara Channel and requiring him to double case and do other things to prevent a blowout and to do other things to the lessee, so we would not have that kind of contamination.

It is also my fear that these findings which are very curiously drafted, that do not deal really with the protection of the United States, would permit flaring of natural gas. In other words, this preventing of flaring might conceivably prevent the lessee from beginning to deliver petroleum products at the earliest minute. The Secretary might not be able to sustain the test as set forth in the bill and, thereby, be denied the right to prevent the flaring which has been going offshore for a number of years; so I seek to use existing law.

I might say to the gentleman, there is no showing anywhere that I am aware of that existing law has been used to unduly delay or hinder the development of mineral resources on the offshore, particularly the section that we are now addressing ourselves to. I stress too, Mr. Chairman, that while my amendment would make new regulations applicable to existing leases, such regulations would not apply to such leases retroactively.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is an issue that we debated a long time in the committee and I think the committee position is very sound. Therefore, I oppose the Dingell amendment. Specifically, as I read the amendment of the gentleman from Michigan (Mr. DINGELL), it says that the Secretary in administering this act may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources, and so forth.

The committee agrees that the Secretary in promulgating regulations for future lease ought to be able to say in advance what the terms and conditions are going to be; but, if he is going to make his provisions retroactive, a different standard should prescribe.

Many leases have been out there for 20 and 25 years and still are producing leases. The Secretary comes in at this point and says we have some new regulations that are needed and not only are they going to be effective in all future leases, but we are going to go back and pick up everything we have done over the past period of time. I think that is almost unconstitutional.

No. 1, we have allowed a provision in our bill that says the Secretary can make these regulations and he can also provide these additional requirements. He cannot make them retroactive unless the Secretary makes a finding that such regulation is necessary to prevent serious or irreparable harm or damage to health and it will result in an undue delay.

In other words, we tried in committee to say, "Well, he has to make a finding that is not going to produce an undue delay before he can come up with regulations and make those regulations retroactive."

I offered an amendment that said that he could not do it unless it meant no delay whatsoever. The chairman of the committee offered a compromise position and said, "Well, only if it would cause undue delay would he not be able to offer these retroactive regulations." I think that is a very fair and stable position.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield.

Mr. DINGELL. The point I made was that there was extensive flaring of natural gas going on. There was flaring of gas worth about $2 million in royalties to the United States. Under the terms on page 148, they would not be able to engage in the immediate correction of the situation.

That is what I am really seeking. I do not seek an existing law as set out in the language. It does not permit retroactive regulations. I am not out to have retroactive regulations. The gentleman ought to know that.

Mr. BREAUX. I would clearly say to members of the committee at this time that what is in the bill right now says the Secretary can promulgate regulations; he can make them retroactive, unless it causes some undue delay. He even has an out there to say if he makes a finding that is necessary, and so forth, to prevent irreparable harm or damage to health, he can still make those regulations. I think the committee position is very sound, and I support it and oppose the Dingell amendment.

Mr. DINGELL. If the gentleman will yield further, I do not seek to make retroactive regulations. Regulations would apply only prospectively, and only from the date that they were made up. I strongly oppose retroactive regulations. It is not in the amendment.

Mr. BREAUX. The thing that gives me concern is the section that says the Secretary may at any time prescribe and he may offer rules and regulations as he determines, and so forth and so on. That means he can do it at any time, after the lease is already granted and producing.

Mr. DINGELL. The gentleman is correct that he can do it at any time, but that language does not say he can do it retroactively. I wrote this language rather carefully. It does not say he can retroactively do it.

Mr. BREAUX. If the gentleman would amend his amendment to say that this is clearly intended to be only prospectively, I think he could probably clarify his amendment a great deal.

Mr. DINGELL. The comments I have made on the matter make very clear what the language is and what the language means. If the gentleman wants to offer an amendment——

Mr. BREAUX. I think very clearly the language saying that he may at any time prescribe such rules and regulations means he can do it to leases already in existence.

Mr. DINGELL. If my good friend from Louisiana would yield again, I would point out that there is nothing here in the legislative history, nothing in the language of the amendment, that says these may be retroactive.

Mr. BREAUX. I differ on the interpretation of the language.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the gentleman from Michigan knows very well that the minority has welcomed his participation in this legislation as a leading expert on energy matters in the House, and his insights have been very helpful, and we have accepted every amendment he has proposed. In this case, however, I am not so sure that what he is suggesting falls within the policy and the intent of this legislation.

After all, we did spend some 2½ years on this bill, and we may not all agree with what is in it, but I think at least we knew what we were writing. In this particular case, I think that we have to ask ourselves what the national interest

is, and the answer to this is spelled out in the policy preambles to the legislation, and that is to accelerate the job of producing the vitally needed energy resources on the OCS.

It is for this reason that we changed the existing law and said that no regulation promulgated under this act affecting operations commenced on an existing lease before the effective date of such regulation shall impose any additional requirements which would result in undue delays in the exploration, development, or production of resources. However, we granted the Secretary the authority to institute these new regulations only if serious and irreparable harm would occur. I think the Members would not expect anything more from us than that. It seems to me that if we scrap this new provision and go back to existing law, we are allowing the new regulations to have a potentially devastating effect, without providing any opportunity for the application of commonsense. I do not think this is what the members of the committee had in mind when they were considering this legislation. Therefore, I oppose this amendment.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Louisiana.

Mr. TREEN. I thank the gentleman for yielding.

Mr. Chairman, I know it is late and the Members are anxious to get on with this. But this amendment is not as innocuous as people might think it is. What we have done in the bill is to say that the Secretary can promulgate these regulations to prevent waste and to preserve natural resources, and so forth, that if he is going to apply new regulations to existing leases and those new regulations would result in undue delays in the exploration, development, or production of resources, then the Secretary has to make a specific finding that that regulation is necessary to prevent serious or irreparable harm or damage to health, life, property, et cetera. In other words, he has the power to issue the regulations. If he is going to issue regulations to existing leases and that would cause undue delay in production, then he has to make a specific finding that irreparable harm would occur.

What is wrong with that kind of language, if we are interested in the production of energy from the OCS?

Mr. FISH. I thank the gentleman for his remarks.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak very briefly in favor of the amendment.

I must say that I am somewhat confused to hear from people who have been telling us in the 3-year course of the development of this legislation to leave well enough alone. Again and again and again in the past 3 years the gentleman who has spoken against this amendment has told us, "Why are we tampering with the old Outer Continental Shelf Lands Act? It has worked well for 25 years. Why tamper with it?" We have heard at least five times on the floor this week that "if it ain't broke, don't fix it." This is one case when the committee took a look and said, "It isn't as good as existing law." In this case we agreed that the existing laws are working very well, and I challenge any opponent of this amendment to cite any instance in the past 25 years of the history of this statute where the Secretary of the Interior has used the language of the law which the gentleman from Michigan (Mr. DINGELL) would restore, to delay capriciously or unreasonably the development of any offshore area. Let there be no doubt that the amendment offered by the gentleman from Michigan is not particularly mysterious. It simply restores the language which has been the law of the land for 25 years and which we are told by those who oppose the bill is perfectly fine and ought to be left alone.

May I say, with genuine humility, that the section in our bill which the gentleman from Michigan (Mr. DINGELL) seeks to strike is a very infelicitously written one. In fact, it does not make sense. It essentially reads as follows: "No regulation shall impose any additional requirements which would result in undue delays unless * * *"

What it effectively does is set up two situations in which we authorize undue delays. I submit that does not make any sense of any kind. When you come up with language which is essentially gobbledygook like this, the only wise thing to do is to return to the statute which some say has served us so well for 25 years.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, I would have to say that this is a case where you should fix it because it is broke. I am a little surprised with my dear friend from Massachusetts, with whom I have collaborated in "fixing something that was broken"—the lack of compensation for fishermen who get hung up on these pipelines and rigs also, in saying that this language is inartfully drawn, that is a curious statement in light of the chairman's repeated assertion that this bill has been very carefully drawn over 3 years of committee consideration.

For the majority not to defend what we have done in committee is a real surprise to me.

Mr. STUDDS. Mr. Chairman, I think we should recognize that errors may be made by the majority, and I am surprised by the willingness of the gentleman from Louisiana (Mr. TREEN) to authorize in any circumstances, much less under this explicit language of the bill, "undue delays." We do not favor undue delays.

Mr. Chairman, we ask for the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 174, strike out "The" on line 13 and all that follows through the period on line 21 and insert in lieu thereof the following: "The Secretary shall approve such plan, as submitted or modified, within 30 days of its submission or resubmission, except that the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would result in any condition described in section 5(a)(2)(A)(i) of this Act, and (B) such proposed activity cannot be modified to avoid such condition. If the Secretary disapproves a plan under the preceding sentence, he may, subject to section 5(a)(2)(B)(i) of this Act, cancel such lease and the lessee shall be entitled to compensation in accordance with the regulations prescribed under section 5(a)(2)(B)(ii) or (iii) of this Act.".

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WIGGINS. Mr. Chairman, this is an amendment which has previously been submitted to the majority, and I understand that it has the support of the majority. It has also been cleared by our ranking minority member.

The section which I seek to amend deals with the period in which an exploration permit may be suspended for certain stated reasons expressed in the bill. The present bill permits the Secretary to extend without limit the period of suspension. My amendment does provide a limit beyond which the Secretary could not continue to suspend without treating the permit as canceled.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I appreciate the gentleman's yielding.

Our study of the amendment indicates that it is acceptable. It makes a proper correction, and the majority is happy to accept it.

Mr. WIGGINS. Mr. Chairman, I believe the minority is also in support of my amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, the majority is happy to accept the amendment.

Mr. WIGGINS. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EMERY

Mr. EMERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY: Page 166, line 17, strike out "and shall" and all that follows through line 23 and insert in lieu thereof a period.

Page 167, immediately after line 13, insert the following new paragraph:

(8) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice—

(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

Mr. EMERY. Mr. Chairman, currently, the bill before us, as amended, requires that the Secretary of the Interior file a report to Congress 6 months after the beginning of each fiscal year, detailing the leasing systems he is going to use, the tracts that were offered for lease and those to be offered, the benefits and costs associated with conducting lease sales, reasons why a particular bidding system has been or will not be utilized, and an analysis of the capabilities of each bidding system.

The Secretary is not, and really cannot be bound by the report as pertains to areas for lease or the systems at the time of lease, since any tract can be nominated for lease sale at any time. In addition, neither the legislation nor the act are specific as to the ability of the Secretary to lease an area unless it is nominated, and it should also be pointed out that the area for lease does not have to be confined to a specific tract.

For these reasons, I am offering an amendment that will encourage the administrative branch to provide us with all necessary and pertinent information as pertains to activities on the OCS, by requiring that 30 days prior to each lease sale, the Secretary must report to Congress, as well as publish in the Federal Register, what areas he is offering for lease, and why, under what bidding systems, and why, and what bidding systems are being used with what areas and why.

This amendment will not only provide full disclosure to the public concerning the leasing of energy resources, but also keep Congress informed. It will allow the Congress to fully monitor the success or failure of experimental leasing methods, and the existence or lack of competition, as well as give us a clearer understanding of environmental problems or of unnecessary delays in orderly offshore development.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. EMERY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: Page 166, immediately after line 13, insert the following:

"(C) If, not later than the thirtieth day before the initial announcement of the tracts selected for inclusion in a proposed lease sale based upon public nominations of lease tracts submitted to the Secretary, the Governor of any State which may be an affected State as a result of such lease sale, or the chief executive officer of any local government of such State which may be an affected local government as a result of such lease sale, requests that the Secretary hold a public hearing to consider suggestions and comments from any residents of the State, the Secretary, prior to such initial announcement, shall hold such a public hearing within the area of such State which is adjacent to the area of the outer Continental Shelf where such lease tracts are located.".

Page 166, line 14, strike out "(C)" and insert in lieu thereof "(D)".

Page 166, line 24, strike out "(D)" and insert in lieu thereof "(E)".

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to help promote local public participation in the selection of OCS tracts to be offered for future sale. Development of the Outer Continental Shelf potentially affects the lives, the environment, and the physical makeup of coastal local communities perhaps more than any other Government action. I, therefore, feel it is most important for the local citizens to have an opportunity to participate in a meaningful way in the formulation and selection of areas for future offshore oil and gas development. If we are to rebuild the trust between the Government and the people, we must encourage public input in areas which have a significant impact on their lives and communities. My amendment seeks to do that.

This amendment simply requires the Secretary of Interior to hold a public hearing in the area adjacent to a proposed OCS lease sale, if either the Governor of the affected State or the executive of any affected local government requests such a hearing. It is my hope to provide for meaningful input without requiring additional delays. As such, I felt it best to require the affected local officials to request a local public hearing before making it mandatory. The amendment also provides that the request for a hearing must be made no later than 30 days prior to the Secretary's final selection of the tracts for sale. This will eliminate any delays that might have resulted from a Governor or local executive making a request for local public hearings one of 2 days prior to the Secretary's announcement of final selection.

The amendment requires the hearing to be held prior to the Secretary's final selection of the tracts to be offered for future sale. This will provide for a much greater input and a more meaningful format. The Secretary would have the benefit of the local residents' views prior to making his final determinations on which tracts to be offered.

Following the blowout in the Santa Barbara Channel in 1969, the people of my congressional district are, understandably, suspicious of further offshore development in the Santa Barbara Channel. Indeed, many feel that the Federal Government is bent on making decisions—for or against drilling without taking into consideration the views of the most directly affected residents. Effective public participation will provide an opportunity for these concerned individuals to express their concerns and directly participate in future decisions which stand to substantially affect their lives and their communities, whether they happen to be pro or anti offshore oil development.

Mr. Chairman, this amendment is important to my constituents and I would think to other Members who represent areas which play, or will play, a role in producing the oil and gas which lies off our shores.

I urge adoption of the amendment.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, a study of the amendment shows that it does enhance the language pertaining to the issue of the input by the States, and we certainly will accept this amendment.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I take this time just to make a record, because I think the question might come up later, as it has so frequently, as to whether a provision of this sort might delay any offshore development.

I wonder whether the gentleman would care to comment on that.

Mr. LAGOMARSINO. Yes, I would.

I very carefully constructed, I believe, this amendment to the bill so as to require that the request for a hearing must be made only within 30 days prior to the Secretary's final selection of the tract which he wishes to lease. Therefore, there should be no delay in the leasing program resulting from this amendment.

Mr. FISH. Mr. Chairman, I thank the gentleman, and I am happy to accept his amendment.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FORSYTHE

Mr. FORSYTHE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FORSYTHE: Page 190, strike out lines 11 through 19.

Mr. FORSYTHE. Mr. Chairman, this very simple amendment has, I think, a very significant purpose. In the committee bill the language now requires that baseline studies continue to predict impacts that may occur on the Outer Continental Shelf. It just is a completely irrelevant operation, because baseline studies, by definition, are designed to provide benchmarks or starting points against which you can measure the impact of anything that may happen. To say that that benchmark study can predict impacts that are going to occur later down the field just is not so. Therefore this would strike that part of the bill that requires that these baseline studies continue.

In any case, NEOA legislation which would provide for EIS under NEOA law is the place where these impacts would be measured, the place where one would undertake the baseline study as the basis for those impacts as they are established on that baseline study.

So I think we should really change this bill and not find ourselves in a position where we will affect NEPA in a way which I believe is unreasonable, and are presently within NEPA so as to protect this whole situation. Therefore I urge an aye vote on my amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, if I understand the gentleman correctly, the thrust of his amendment is to eliminate the delay which would occur in what in effect is an additional EIS?

Mr. FORSYTHE. That is essentially what it would do.

Mr. FISH. I am happy to accept the amendment.

Mr. STUDDS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment was offered in committee by the gentleman from New Jersey and I am sorry to state that I could not understand it in the committee then and I do not understand it now.

The amendment would strike from the bill one sentence. I will read to the committee from that sentence and I believe the Members will see why we have had difficulty understanding the reason why we should strike it. It refers to striking section (3) of section 20 of the bill, which requires baseline studies, environmental base line studies in each region in which there is a lease sale to be conducted. I think it is simple commonsense that we would want to develop all the studies and information possible so that we can measure the possible deterioration of the marine life in the area affected. All of the following language would be stricken out in the amendment proposed by the gentleman from New Jersey (Mr. FORSYTHE):

"(3) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

As I say, Mr. Chairman, the amendment offered by the gentleman from New Jersey (Mr. FORSYTHE) would in fact strike that language. I cannot understand why, and most particularly why someone from a coastal region such as the gentleman from New Jersey, would want to remove from all of the baseline studies data designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with Outer Continental Shelf production. One of the things that our fishermen are most fearful of is the impact of chronic, low-level pollution marine life, especially that in the larval stage floating on the surface of the water. This is data that needs to be known, whether and how this will affect such life. I wonder if the gentleman can tell us why he opposes this kind of information derived from the baseline studies. I would appreciate the gentleman telling us why.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, I would like to point out the base line study is the benchmark from which we measure these things. This is the EIS, which is in this section, and just purports to get us the necessary information. It is not that we are opposed to getting this kind of information, but this is the kind of information we have to get and it will be gotten in the definition of the EIS.

Mr. STUDDS. Is the gentleman arguing that this is redundant or that these things are not a proper part of the base line study?

Mr. FORSYTHE. It is not a part of the base line study and it is a part of the EIS.

Mr. STUDDS. I am not about to return to my area and explain to the fishermen why these effects on the Marine biota are not a part of the base line study.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FORSYTHE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: Section 23(a)(2)(B) page 199, strike lines 12–19 and insert in lieu thereof:

"(B) If the Attorney General has commenced and is diligently prosecuting a civil action in court of the United States of a State with respect to such matter, but in any such action any person having a legal interest which is or may be adversely affected may intervene as a matter of right."

SEC. 23(a)(4) page 199, strike line 25, page 200 strike lines 1–3 and insert in lieu thereof: "In any action commenced pursuant to this section, the Attorney General, upon the request of the Secretary, or any other appropriate Federal official, may intervene as a matter of right."

SEC. 24(a) page 203, line 8, strike "At the re . . ." and strike lines 9–18 and insert in lieu thereof: "Upon a request by the Secretary, the Attorney General may institute a civil action in the District Court of the United States for the District in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, of any term of a lease, license, or permit issued pursuant to this Act.".

SEC. 316, page 260 strike lines 20–26 and insert in lieu thereof the following: "Upon a request by the Secretary, the Attorney General may institute court actions and represent the Fund for all claims under this title.".

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Chairman, I am offering this amendment in response to a request of the Carter administration. Presently, the sections in H.R. 1614 dealing with litigation might create ambiguities regarding control of law suits within the Federal Government. This amendment proposes that all litigation be coordinated under the Attorney General rather than being given to others, including the Secretary of the Interior.

One of the main purposes of the 1977 amendments is to provide for coordinated OCS action and in this way speed the OCS exploration, development, and production process. I, therefore, urge you to adopt this important amendment, which does precisely that.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I listened very diligently to the reading of the amendment. It is to a section that I have an interest in and I am not certain I caught every word. It would be helpful to me if one of the staff would bring me a copy. In the meantime I will try to say something useful.

This is an amendment to section 23 dealing with citizen suits. I have had some trouble with this section, Mr. Chairman, because it affects or apparently affects the law of standing to sue. I would like the chairman to affirm, if he is able to do so, that it is not the intent of the committee in recommending citizens' suits to alter the law of standing, and that we merely are adopting the law in the Alyeska case.

Mr. MURPHY of New York. The committee report states, that gentleman is correct, that we are not changing the standing.

Mr. WIGGINS. With respect to the amendment, it appears to give more con-

trol over litigation to the Attorney General. Is that true?

Mr. MURPHY of New York. That is correct.

Mr. WIGGINS. That is an objective which I support, and upon that understanding I would support the amendment, especially in view of the gentleman's statement just made that this section does not alter the law of standing. Since no change in the law of standing is made, it appears that the entire section is surplusage. It does not have much effect, but since it can do no harm I have no problem endorsing the amendment and the section.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH: Page 225, strike out 13 through 19 and insert in lieu thereof the following:

"(2) the term 'small refiner' has the meaning given such term by Small Business Administration Standards 128.3–8(d) and (g)."

Mr. FISH. Mr. Chairman, the purpose of this amendment is to provide an accurate and precise small business standard for the purposes of this section.

Mr. Chairman, under this section, the Small Business Administration is referenced as the standard for "small" as pertains to oil refiners and gas processors. Since the Small Business Administration has several sets of standards that are used for service contracts, supply contracts, and other purposes, I have selected the standard for supply contracts since that is one of the larger standards, and most closely meets the standards as contained in the Emergency Petroleum Allocation Act.

The reason the standard under the EPAA is not used, as it was earlier in the bill under the 20-percent small business set-aside, is that gas processors are not dealt with under EPAA.

This is a simple amendment, technical in nature, and I hope it will be accepted.

In striking this provision from the bill, my amendment also eliminates in the definition of "small refiner" the inclusion of refineries that are not in operation.

If, as has been stated, this language is meant to include those refineries, or processors that have been temporarily out of business due to market problems, then again there is no need for this language as this is handled by SBA standards. It seems to me that by including this language in the bill, we are providing the opportunity for some people to use this as a tax dodge.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the gentleman's amendment is worthy and the majority will accept it. The amendment would adopt the definition used in the regulations of the Small Business Administration for the small refiners provision which provides that those regulations may be changed by the SBA in the future if necessary.

We support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. FISH):

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: On page 227, strike out lines 3 through 15, and insert in lieu thereof the following:

"SEC. 29. RESTRICTIONS ON EMPLOYMENT.—No full-time officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule shall—

"(a) within two years after his employment with the Department has ceased, knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States), in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to, or knowingly aid or assist in representing any other person (except the United States) in any formal or informal appearance before—

"(1) any department, agency, or court of the United States, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order, lease, permit, rulemaking, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest, and

"(3) which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

"(b) within one year after his employment with the Department has ceased, knowingly act as agent or attorney for or otherwise represent any other person (except the United States) in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to—

"(1) the Department of Interior, or any officer or employee thereof, and

"(2) in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, or other particular matter, and

"(3) which is pending before the Department of Interior or in which the Department has a direct and substantial interest.".

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, the purpose of my substitute for section 29 is to bring this section in line with the recommendations recently made by the House Judiciary Committee.

I offered the original language of section 29—the language that is in H.R. 1614 at the present time—in response to the serious problem of the "revolving door" that has existed between the highest levels of government and industry.

The current language prohibits high-level Interior Department employees from accepting any employment with a regulated industry for a period of 2 years after leaving Government. While this would have accomplished our purpose, many have felt that the restriction was too onerous, and that it might produce an unfair result.

The Judiciary Committee has given great attention to this problem, and has made its own recommendations. My amendment would incorporate those recommendations into H.R. 1614.

Basically, my substitute amendment provides that former high-ranking Interior Department employees may not represent a party other than the United States for a period of 2 years after leaving the Interior Department, if that representation relates to a matter that was within his official responsibility.

It also prohibits any effort by a former high-ranking employee to influence the Interior Department on any matter for a period of 1 year after leaving the Department.

The basic problem which this section seeks to deal with is the ease with which high level industry officials, with a strong interest in their own firm's success, have been drawn into and out of the ranks of government, which is supposed to regulate and make decisions based on the public interest.

This problem, of course, is not unique to the Department of the Interior. But it is revealing that a former Secretary of Interior, Stewart L. Udall, called the potential abuses of the revolving door system "incestuous and corrupting."

To illustrate the extent of this problem, I will refer to an October 1976 study by Common Cause. As examples, they found that 17 of the 36 regulatory commissioners who left Government between 1971 and 1975 went with companies that their agencies had been regulating, or for their law firms.

In the same time period, all but 1 of the 12 attorneys who left the Food and Drug Administration went to work for FDA-regulated companies or their law firms.

Of 29 former officials who left Government for industry, 20 contacted high-ranking associates in their former agencies about policy matters or specific proceedings.

In the Department of the Interior, Russell Cameron left his position as Bureau of Mines oil shale supervisor to become president of Cameron Engineers, Inc., which specializes in mining and is heavily involved in the oil shale area. He wrote to former Secretary of the Interior Stanley Hathaway urging increased Government promotion of the oil shale industry.

Another example is that of Stephen Wakefield who left his post as Deputy Assistant Secretary for Energy Affairs to join Baker & Botts, which represents oil and gas companies. He wrote to

Secretary Thomas Kleppe on behalf of a gas company requesting a waiver of a requirement to file a statement of production before bidding on oil and gas leases.

The amendment I am offering seeks to restrict that kind of communication, or attempt to influence, and remove any incentive a firm might have to hire a former officer of Government for the influence he might carry with his old agency.

This is not a new concept for the House. We have agreed to a much stricter form of the amendment I am offering on three prior occasions—in July of 1976 when the OCS amendments were last before us, again in July of 1976 when we considered the Nuclear Fuel Assurance Act, and also in September 1976, when we considered the Defense Officer Personnel Management Act.

It is certainly not inappropriate for an industry to hire a person who is an expert in Government regulations so that they can draw on his or her experience to keep their operations consistent with what the law requires of them. What is inappropriate is for such individuals to exercise undue influence with their former agencies in the resolution of matters they might have participated in while employed by the Government.

The language I am offering would prohibit that type of activity without working any undue hardship. I urge my colleagues to support this much needed reform.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the committee is happy to accept the gentleman's amendment.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, nobody could quickly and happily accept an amendment which had as its consequence the denial of the opportunity for employment to a former Federal official; but that, of course, is the effect of this amendment.

Now, this matter of the so-called revolving door, that is, people moving out of the Federal Establishment and into the private sector and capitalizing on their expertise, is a complicated problem that extends far beyond the Department of the Interior.

The Congress is going to deal comprehensively with this subject in legislation pending before another committee, to establish a uniform law with respect to employees generally, and to regulating their right to enter into certain transactions affecting their former employer. I think the gentleman from New Jersey is aware of legislation which was before the House Judiciary Committee affecting this subject. In light of the pendency of that bill, which deals comprehensively with all Federal employees, it would be unwise to anticipate that legislation now and deal with the employees of the Department of the Interior only.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield.

Mr. HUGHES. As the gentleman well knows, we have not had a rule granted for that particular legislation, and we are not at all certain just exactly what is going to occur. We do know that the language I am submitting is in conformity with the broad criteria which is established in the House Judiciary Committee legislation. After going through those hearings and examining the problems in depth, I am satisfied that the language I am offering is much preferable to the language presently in the legislation.

I also believe that since we are legislating on a very important subject, the Outer Continental Shelf, and since many of the major problems have occurred in areas dealing with the energy industry, it is important that we have the kind of conflict-of-interest provision that is inherent in this amendment. I do not think we can wait until perhaps the Senate and the House adopt legislation and send it to the President. I think we have an opportunity to do it now, and we ought to do it now.

Mr. WIGGINS. I appreciate the gentleman's point of view. This proposal applies only to employees of the Department of the Interior. It does not apply to employees of other affected agencies such as the Department of Energy. It does not apply to Members of Congress, fortunately.

The point is, I think that the way to deal with this problem is comprehensively rather than on a rifle shot basis, affecting only one agency. I would urge my colleagues to vote against the amendment, not because they disagree conceptually with what my colleague is attempting to achieve, but rather because they disagree that it should be handled in this way.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The question was taken; and on a division (demanded by Mr. HUGHES) there were—ayes, 20; noes 15.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: On page 207, strike lines 15–20 and insert in lieu thereof: "The Secretary shall, at least once in each frontier area, declare the approval of a development and production plan or plans to be a major Federal action. In preparing an environmental impact statement on such action, the Secretary shall evaluate the cumulative effect on the area and the affected states as a result of activities proposed in the plan or plans submitted for approval, plans previously approved and available preliminary plans for production in the area."

On page 207, strike lines 21–22, and insert in lieu thereof:

"(2) The Secretary may require lessees of tracts for which development and production plans have not been approved, to submit preliminary or final plans for their . . ."

Mr. MURPHY of New York. Mr. Chairman, before we start the debate on this amendment, I would like to ask my colleague from New York if we could perhaps get some agreement on time? I would ask my colleague, the gentleman from Louisiana (Mr. BREAUX), to participate in this colloquy. We have just about concluded most of the amendments, with the exception of what we feel are maybe two or three major issues, particularly revenue sharing, and then the question of "buy and sell America." I think if we conclude this amendment, perhaps we could ask unanimous consent that debate on all amendments and substitutes to H.R. 1614 be concluded and a final vote taken at 2 o'clock tomorrow.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I will yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, if I understand the gentleman correctly, we will be rising in about 40 minutes or 35 minutes; is that correct?

Mr. MURPHY of New York. At about that time, yes.

Mr. FISH. And that we start tomorrow at 11 a.m.?

Mr. MURPHY of New York. Eleven a.m. the House will come in.

Mr. FISH. And there is no business that the chairman knows about that might intervene prior to the consideration of the amendments of this bill?

Mr. MURPHY of New York. There would be no delays before we go into the Committee of the Whole.

Mr. FISH. I think perhaps 3 hours is a reasonable time.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield, has the gentleman asked unanimous consent for anything?

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent that debate on all amendments and substitutes to H.R. 1614 be concluded and a final vote taken at 2 o'clock tomorrow.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. WIGGINS. Reserving the right to object, Mr. Chairman, I want to counsel my leader here that this is not the time to make that deal. The time to make that deal is after we start tomorrow, so we know how much time we have to bargain with. There is no certainty at all that we would convene at 11 o'clock and proceed until 3 o'clock. We may not start until 2:30. I would caution the gentleman not to be too hasty.

Mr. FISH. Mr. Chairman, if the gentleman will yield, I will add to what has been said. There is other legislation. If I understand the wishes of the majority leader, there are two other bills to be brought before the House Thursday, the last legislative day.

I would qualify what I say to the Chairman in accepting the understanding, and that is that not only do we proceed for one-half hour this evening, but we will have the full 3 hours prior to 2 p.m. tomorrow.

Mr. MURPHY of New York. Mr. Chairman, I will revise the unanimous-consent request.

Mr. Chairman, I ask unanimous consent that when we convene tomorrow, all debate on H.R. 1614 and all amendments and substitutes thereto end after 3 hours of debate.

The CHAIRMAN. Is there objection to

the request of the gentleman from New York?

Mr. STEIGER. Mr. Chairman, reserving the right to object, may I inquire of the Chairman of the committee: Does that include quorum calls and rollcall votes?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman from Wisconsin will yield, yes, it would. In the process of the Committee of the Whole it would include those.

Mr. STEIGER. So the 3 hours of debate could be shortened by virtue of short quorums or long quorums, as well as any votes on amendments; is that correct?

Mr. MURPHY of New York. That is correct. But I would assure my colleague that I have no intention and the members of the committee have no intention to limit debate by that type of device.

Mr. STEIGER. Mr. Chairman, further reserving the right to object, I recognize that that is not what the gentleman would like to do.

May I ask another question? If we were to agree to this procedure tonight, what Members are going to be recognized tomorrow? Will it be those Members who are standing, the majority leader, the gentleman from Texas (Mr. WRIGHT) the gentleman from Illinois, and a few others? There are four or five Members standing, and I am one of those standing. That gives me 58 minutes by my calculations.

Is that what the gentleman intends to do, or is the gentleman going to make this request again tomorrow morning so all Members will have warning as to what we are going to do?

The CHAIRMAN. The Chair would like to advise the gentleman from Wisconsin (Mr. STEIGER) that regardless of the time fixed, we would proceed under the 5-minute rule at the outset.

Mr. STEIGER. Regardless of the time fixed, we proceed under the 5-minute rule?

The CHAIRMAN. We will proceed under the 5-minute rule. The Chair would like to advise the gentleman that it would be premature for the Chair to allocate time at this point.

Mr. STEIGER. Mr. Chairman, further reserving the right to object, let me say that the gentleman from Kentucky (Mr. NATCHER) is an exceedingly fair Chairman of the Committee of the Whole. It would surely be premature for the Chair to allocate the time now. For those Members who are included, it might be exceedingly good, but for those Members who would be cut out, it would not be good at all.

The CHAIRMAN. The Chair will advise the gentleman once again that such an allocation of time would be premature at this time.

Is there objection to the request of the gentleman from New York?

Mr. TREEN. Mr. Chairman, reserving the right to object, may I make an inquiry as to whether or not the gentleman from Louisiana (Mr. BREAUX) will be offering his substitute? I think that is pertinent to the question of how much time we are going to need to get through this bill.

Pending that, I would ask the committee chairman the purpose of his asking unanimous consent to end consideration of this bill at 3 o'clock tomorrow.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, we did not set 3 o'clock tomorrow as the time to terminate the debate. We said we would have 3 hours of debate.

The problem is that there are two bills that are on the calendar for tomorrow that will have to be accommodated, hopefully after the conclusion of our announced schedule for the House to terminate at 5:30 p.m. tomorrow.

Mr. TREEN. Mr. Chairman, may I make this suggestion to the Chair.

I am inclined to object to this request now, because we have a number of important amendments to be considered. I wonder if the chairman of the committee would withdraw this request now and make the request tomorrow? Then we would have some time between now and then to see how much time we will need.

I certainly do not want to prolong this matter. I wish it could be completed tonight. I assure the gentleman that is not my purpose in asking the gentleman to renew the request tomorrow. That would give us an opportunity to see how much time we will need.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield further, the purpose of my asking for those 3 hours tomorrow is to try to accommodate the Committee as far as the time is concerned tonight. We will continue to debate, then, and work tonight and dispose of the business of this bill tonight, if necessary. I was merely trying to accommodate the House and agree to a fixed 3 hours tomorrow.

Mr. FISH. Mr. Chairman, reserving the right to object, I do appreciate this colloquy, and I do share the view of the Chairman of the Committee that we want to accommodate the House and define a reasonable time.

I think, however, the sentiment of the minority has been expressed, and that is that we think it is quite premature, even though I myself think that we may finish the amendments before us in a 3-hour stand. We have worked with the Committee Chairman very diligently to achieve that.

I think it is obvious that overwhelmingly the minority members of the committee do not want to be bound at this point to an arrangement within the framework of the unanimous-consent request.

The CHAIRMAN. The Chair would like to make an inquiry of the gentleman from New York (Mr. MURPHY).

Assuming that the unanimous-consent request for 3 hours is approved, ordinarily the time for quorum calls and rollcall votes would not be deducted from the 3 hours of debate unless that is the intention of the gentleman from New York (Mr. MURPHY). The unanimous-consent request for 3 hours would cover debate time only, and it would not take into consideration the time consumed for quorum calls and rollcall votes.

That would be the ordinary procedure, unless the gentleman from New York (Mr. MURPHY) would like to stipulate that those be included in the 3 hours.

Mr. MURPHY of New York. Mr. Chairman, I would like to stipulate in the unanimous-consent request that any time allocated to quorum calls or to rollcalls not be included in the 3 hours.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

PARLIAMENTARY INQUIRY

Mr. TREEN. Reserving the right to object, Mr. Chairman, I do so in order to propound a parliamentary inquiry

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. TREEN. Mr. Chairman, if the unanimous-consent request is granted, will all amendments that are in the RECORD as of tonight have the protection of the 5-minute rule, including any amendments that are put in the RECORD tonight?

The CHAIRMAN. The Chair would like to advise the gentleman that his inquiry is correct. They would be protected; all amendments placed in the RECORD tonight would be protected.

Mr. TREEN. And each would have 5 minutes for presentation; is that correct?

The CHAIRMAN. The Chair will state that the gentleman is correct; 5 minutes would be allotted to each side.

Mr. TREEN. I thank the Chairman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. FISH. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. MURPHY of New York. Mr. Chairman, I presume that we are back on debate on the amendment just read; is that correct?

The CHAIRMAN. The Chair will state that the gentleman is correct.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have lost my train of thought with respect to the gentleman's amendment. I would be pleased to yield to the gentleman from New York if he would once again explain what this amendment is.

Mr. MURPHY of New York. Mr. Chairman, in response to the gentleman, the amendment as read is pretty self-explanatory.

In the OCS committee report it was made clear that an environmental impact study was to be prepared for development and production in an area or region and might include a number of development and production plans and address their cumulative effects.

This amendment would make this intent explicit and thus eliminate any delays in the initial development of an area that could be caused by waiting for a permanent environmental impact statement.

Mr. Chairman, I would certainly strongly, on the basis of time, hope this amendment would be adopted.

Mr. WIGGINS. Mr. Chairman. I thank the gentleman.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words.

Let me just inquire of the chairman if this is the amendment that is recommended by the Secretary of the Interior?

Mr. MURPHY of New York. If the gentleman will yield, yes, it is.

Mr. TREEN. And the net result is that he would still have, at least once, to declare approval of the D. & P. plan to be a major Federal action and thereby would activate the provisions of NEPA at this time; is that correct?

Mr. MURPHY of New York. The gentleman is correct.

Mr. TREEN. But under this amendment would the chairman interpret it to mean that the Secretary would not have to declare approval of the first D. & P. plan to be a major Federal action?

Mr. MURPHY of New York. The gentleman is correct.

Mr. TREEN. He might wait until after several of them had been approved, on the theory that sooner or later in this area we will declare one of these to be a major Federal action; is that correct?

Mr. MURPHY of New York. The gentleman is correct.

Mr. TREEN. I thank the gentleman, Mr. Chairman, and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York:

Delete section 31, add new section 31.

"SEC. 31. DOCUMENTATION, REGISTRY, AND MANNING REQUIREMENTS.—(a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall by regulation require that any vessel, rig, platform, or other vehicle or structure which is used for activities pursuant to this Act, shall comply with such minimum standards of design, construction, alteration, and repair as the Secretary of the Department in which the Coast Guard is operating establishes; and except as provided in subsection (b) of this Section,

"(1) which is used at any time after the one-year period beginning on the effective date of such regulation for activities pursuant to this Act shall be manned or crewed by citizens of the United States or aliens lawfully admitted to the United States for permanent residence, unless (A) specific contractual provisions or national registry manning requirements in effect on such date of enactment provide to the contrary, or (B) there are not a sufficient number of citizens or aliens who are qualified and available for such work;

"(2) which is contracted to be built or rebuilt one year after enactment for use in the exploration, development or production of the mineral resources located on or under the seabed and subsoil of the Outer Continental Shelf be built or rebuilt in the United States and when required to be documented, be documented under the laws of the United States;

(b) The Secretary may waive the requirements of this section if he determines that:

(1) compliance will unreasonably delay completion of any vessel or structure beyond its contracted delivery date;

(2) the requirements will result in costs that are unreasonable; or

(3) the articles, materials, or supplies of the class or kind to be used in the building or rebuilding are not produced or manufactured in the United States in sufficient and usually available commercial quantities and of a satisfactory quality.

(c) As used in this section, the terms "vessel," "documented under the law of the United States," and "citizen of the United States" shall have the meanings assigned to them under the first section and section 2 of the Shipping Act of 1916 (46 U.S.C. 801 and 802), and "built or rebuilt in the United States" means that only articles, materials and supplies of the growth, production or manufacture of the United States as defined in paragraph K of Section 1401 of manufacture of the Tariff Act of 1930 may be used in such building or rebuilding:

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Chairman, this amendment, often improperly referred to as a "Buy America" amendment, but which really is only a "preference America" provision, is necessary, reasonable, and will bring several, significant benefits to our national economy.

On Thursday of last week, this House twice considered and once accepted an amendment to two substitute bills—offered by the gentleman from Louisiana (Mr. LIVINGSTON)—almost identical to the changes I propose to section 31.

Last December, this House approved an amendment to the Federal Water Pollution Control Act requiring only American-made materials for all treatment works. This is now law.

This House is, therefore, on record in supporting our workers, our companies, and our balance of payments by insuring a preference for our products and our citizens and residents.

My amendment is limited—insuring more jobs but also providing for exceptions to a rigid rule in appropriate cases.

It is structured in three parts.

First, with certain exceptions, manning of OCS vehicles, vessels, and structures by U.S. citizens is made a requirement.

Second, any vessel, rig, platform, or other vehicle or structure used in OCS activities, when required to be documented, is to be documented under the laws of the United States. Whether documented or undocumented. They must comply with all environmental, safety, and other regulations and requirements of the United States.

Third, again with certain exceptions, any vessel, rig, platform, or other vehicle or structure contracted to be built or rebuilt 1 year after date of enactment for use in OCS activities, is to be built or rebuilt in the United States.

I will discuss the exceptions in a few moments. They provide some flexibility to existing continental results and the national interest. But first, I must discuss the need for this amendment.

Two-thirds of the substance of this amendment, has already been rebated and adopted by the ad hoc select committee. The amendment we are discussing adds a third element—that of domestic construction, and use of domestic materials.

All three elements are necessary to guarantee maximum safety in offshore drilling operations, and to assure that maximum U.S. employment and other economic benefits will accrue to the American economy from offshore oil and gas development.

Development of the Outer Continental Shelf can mean thousands of jobs from all spectrums of the work force. My amendment will help guarantee those jobs will be for our citizens and residents.

Foreign workers on rigs and platforms on the U.S. OCS have been increasing in recent years. Reports from industry officials indicate that in recent months, rigs employing large numbers of foreign crewmembers have arrived on the U.S. Outer Continental Shelf. It is difficult to determine exactly how many aliens are at work on rigs off the United States. The only publicized report was on the *Sedco J.* which drilled in the Baltimore Canyon. Foreign crewmembers made up about one-half the crew in that case alone.

In the last 5 years, the number of foreign rigs in U.S. waters has grown from three to 25. Foreign rigs now comprise 22 percent of the registered rigs off the U.S. coast. The Coast Guard predicts that the number of foreigners employed on all rigs off the United States will continue to grow.

American offshore workers are the world's best and most experienced. These jobs belong to them. My amendment will make sure they get them.

This amendment will have no impact on American workers operating overseas. In the first place, there are not that many of them. In most cases, Americans on U.S. rigs in the North Sea are the minority of the crew: Generally they represent only supervisory personnel. Americans at work on foreign rigs in foreign waters are only there, because the foreign nations lack the skilled work force to replace them.

My amendment is limited. First, it would not require U.S. manning where existing contracts on requirements otherwise provide. Second, it would not require U.S. manning where an insufficient number of qualified and available Americans are present. Third, it would include "permanent resident aliens" as Americans for application of the requirement.

Recent studies, including one prepared

pursuant to my request, by the Library of Congress, "North Sea petroleum policies in the United Kingdom and Norway," clearly note preferential policies and practices in these nations. Both the United Kingdom and Norway grant licenses on a discretionary basis, and not on the competitive bidding basis practiced here. In the United Kingdom, for example, licenses are granted to those companies who cooperate with other government policies—such as hiring British citizens, and purchasing supplies and equipment from British companies. In Norway, the ability of energy companies to obtain property rights is based on their prior use of local crews and firms. Both countries provide extensive subsidies. American companies and workers are not asking for money—just an equal opportunity to develop our on and offshore resources in a way that would accrue maximum benefits to the American economy.

This amendment would also mandate that the Coast Guard strictly enforce U.S. safety and operating standards on all equipment used in the OCS. At the present time, U.S. regulation on foreign rigs is practically nonexistent. The potential disastrous consequences to our coastlines if failure to regulate continues are very clear.

The registry requirement contained in my amendment serves primarily to enhance U.S. control over such basics as big design and construction. U.S. documentation and registry requirements are the most comprehensive and stringent in the world. It is imperative that we mandate that all OCS equipment used here comply with tough U.S. standards. Our marine and coastal environment is far too precious to gamble with by using any other standards of safety but our own.

This requirement will not disrupt any drilling operations currently taking place on our OCS. These regulations will be implemented in a manner which provides for the needed transitional time for full compliance with U.S. standards.

The final element of this amendment requires that any vessel, rig, or structure used in American OCS activities must ordinarily be built or rebuilt (if necessary) in the United States.

This provision will insure that Americans will obtain the maximum economic benefits from the exploitation of our own OCS resources by creating many jobs for American labor and many contracts for the depressed American shipbuilding industry.

Statistics presented in testimony by the shipbuilding industry, clearly demonstrate the need for this portion of my amendment. Rigs, structures, and vessels for use on the American OCS are being built overseas at an increasing and alarming rate.

In 1972, the United States was the world leader in drill manufacturing, and built a full 59 percent of the world's rigs. Today, American shipyards have only 29 percent of world rig orders. Without a domestic construction policy firmly in place, further erosion of this vital American industry is inevitable. During the next 10 years, the United States will grow to be one of the largest offshore markets in the world. In just two States, California and Alaska, the offshore work will involve close to 3 million tons of steel and 180 million manhours of work. If we add the development which will happen off our Atlantic coast States, with all the inland work which accompanies it, the beneficial economic impacts we can expect to accrue are absolutely staggering. We must not let these benefits slip through our fingers.

As I previously mentioned, the U.S. shipbuilding industry is experiencing a period of economic decline. Workers in this industry face dismissal prospects of even more unemployment in the future. Putting these people to work manning the rigs and structures; and building the structures as well as manufacturing the materials they comprise will help to lessen prospects of further economic decline.

The steel industry experiencing massive layoffs and closing of U.S. steel mills, is but one example of both the need and the advantages of this amendment. Although much OCS equipment used in the world is manufactured in the United States, the steel in the platforms and vessels is foreign. This is a substantial amount of steel. Approximately, 4,500 tons of various types of steel are required to build just one semisubmersible platform. Another 5,000 tons of steel are required for the mobile platform of a jackup, depending on size. To allow this business to drift abroad and cause the American steel industry to lose this much needed business would be preposterous. In July 1977, steel imports accounted for 19 percent of U.S. consumption. These imports have resulted in over 66,700 steelworkers being certified to receive adjustment assistance as provided by the Trade Act of 1974. In fact, since the assistance program was implemented in 1975, 36,600 steelworkers have received $53.8 million through June 1977.

My amendment will insure that domestic construction supplies, when available and at reasonable cost, will be used in the building or rebuilding of drilling structures. Simply, this will insure that the maximum amount of revenues generated by this construction will stay within the realm of our economy and our balance of payments.

This amendment is compatible with the long-adhered to philosophies dealing with our coastal trade and economy in other areas. Specifically, this amendment embodies the spirit of the Jones Act which requires that only U.S.-built, documented, and manned vessels may operate in the coastwise, intercoastal, inland waterway, and noncontiguous trades of the United States. The thrust of the Jones Act principle has been to protect domestic transportation from incursion by foreign interests, through the exclusion of foreign-built, and foreign-operated vessels. My amendment is consistent with this principle.

This amendment is consistent with important national defense and national security interests. It helps to guarantee that an adequate industrial and manpower base will exist to support the exploration, development, and production of oil and gas resources on our OCS.

Without my amendment, the existence of this base, even for national security reasons, looks very dim. In spring of 1977, only 14 of the 117 offshore drilling rigs in use on our OCS had been built in foreign yards. But, and this is a big but, at that time, 34 of the 40 rigs under construction for U.S. offshore use were being built in foreign yards.

As I have noted earlier, most foreign countries have implemented such preference provisions in their laws, contracts, negotiations, and leasing procedures. There can be no retaliation. They already do it now.

Again, my amendment is limited. It is only a preference. The Secretary may waive the requirements to avoid delays, to avoid unreasonable costs, and to insure high quality.

In summary, the benefit of this amendment are many and significant:

U.S. shipyards and equipment manufacturers would reap the maximum benefits to be had from rig manufacturing on the OCS.

U.S. building trade workers would be guaranteed billions of dollars in work constructing oil production facilities.

Thousands of man-years of employment would accrue from construction of these facilities and in allied and support industries in every State of the Nation.

U.S. Safety standards would be applied uniformly to the American Outer Continental Shelf.

Americans will receive employment on the American OCS, and the influx of cheap, foreign labor will be halted.

I urge my colleagues to adopt this amendment which would firmly establish that it is in our national interest to develop American oil and gas reserves by Americans.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

(By unanimous consent, Mr. MURPHY of New York was allowed to proceed for 5 additional minutes.)

Mr. MURPHY of New York. I might say at this point, we have had the arguments on Smoot-Hawley, and if we go back and look at that law that has been brought up so many times in connection with this issue when we try to protect American industry and American jobs, let us realize that Smoot-Hawley is a tariff bill. This is not a tariff bill. Because it has been brought up before on this amendment let me explain the nonrelevance of that argument. The depression of the late 1920's led to legislation being proposed in the Congress, in 1929, to protect American agricultural products from the effects of the recession. The introduction of this legislation encouraged other manufacturers of goods and services to ask for similar or additional protection under this bill. The result in 1930 was the passage of the Smoot-Hawley Tariff Act—which was the most comprehensive and the most protectionist act in the history of the United States.

Title I of the act includes almost every manufactured good in the United States.

There have been many interpretations of the impact of the Smoot-Hawley Act. One is that it helped to intensify the depression and formed one of the bases for Hitler's rise to power. The premise

behind this interpretation is that many countries owed us money from World War II and that the Smoot-Hawley Act hurt their economy and thus, their ability to repay the loans. This decline in world trade which resulted from the Smoot-Hawley Tariff Act produced a negative effect on the economy of Europe and permitted Hitler to wage his campaign for power.

However, another interpretation is that the depression, in fact, led to a concern about American goods and services and, consequently, the Smoot-Hawley Act. It should be noted that the Smoot-Hawley Act has been amended dozens of times since the 1930's and that some of the earliest amendments were attempts to reduce the stringency of that act. Specifically, immediately after the act was passed in 1930 our import trade dropped off by 50 percent. In the years which followed immediately, there were a number of amendments in which the President was given power to engage in reciprocal trade agreements to reduce tariffs on certain products. By 1936, our import trade level had reached almost back to the level it was before 1930. By 1939 our trade was back to the pre-Smoot-Hawley level. Consequently, it is absurd to claim that in 1939, when the war broke out, that it was the result of that Tariff Act of 1930.

Those who try to draw an analogy between a "buy America" amendment and the Smoot-Hawley Act are making gross exaggerations. In the 1930's, the Congress passed a number of "buy American" acts. Basically, that involved the question of giving preference to domestic suppliers of goods and services over foreign suppliers. One typical example involves procurement by the Defense Department. U.S. firms are to be given preference by the Defense Department if the costs of goods and services of that firm are not more than 50 percent higher than foreign firms. These selective statutes, which can be called buy America laws, are hardly in the same magnitude as the Smoot-Hawley Act. Nobody has claimed, for example, that buy America acts have led to armed conflict.

In fact, the U.S. Congress has its own buy America provision whereby it must give preference to U.S. firms for the purchase of supplies and services.

It is unfortunate, but true, that every time one tries to protect an American industry in a reasonable and balanced fashion, the sector of the Smoot-Hawley Act is raised.

What we are proposing in this amendment is merely and simply a guarantee that U.S. workmen and U.S. companies have the advantage of work opportunity to the maximum extent on our Outer Continental Shelf. I think that is reasonable. We have seen other countries adopt far more stringent protectionism, and I would hope that the committee would adopt this amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would like to ask the gentleman to what extent this differs from the amendment along the same lines that was offered in the committee and was defeated?

Mr. MURPHY of New York. It does not differ significantly. We do add one minor element. However, I would summarize, again, the benefits which will accrue from the adoption of this amendment.

In summary the benefits would be that the U.S. shipyards and equipment manufacturers would reap the maximum benefits to be had from rig manufacturing on the OCS. The U.S. building trade workers would be guaranteed billions of dollars in constructing oil production facilities. Thousands of manyears of employment would accrue from construction of these facilities in the allied and support industries in every State in the Nation.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. MURPHY of New York was allowed to proceed for an additional 2 minutes.)

Mr. MURPHY of New York. Mr. Chairman, U.S. safety standards would be applied uniformly to the American Outer Continental Shelf and Americans will receive employment on the American OCS and the influx of cheap foreign labor will be halted.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I am happy to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I am still not clear how this differs from the amendment that was defeated in the committee.

Mr. MURPHY of New York. It provides a little more flexibility and a few more exceptions than the amendment offered as an amendment to the Breaux substitute.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, as I recall, the administration opposed the amendment in the committee. Do they now support this amendment?

Mr. MURPHY of New York. We have the same opposition that we had in the committee to this amendment.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, Has there been any further exploration of the various ramifications that led to their objection, such as the impact on the trade negotiations, on the efforts to get the Japanese and other countries to lower their restrictions and that sort of thing?

Mr. MURPHY of New York. No; I think this opposition is opposition we have seen generally, particularly from some elements in the State Department where traditionally the question of Americans trying to protect their own industry is phrased in the catchall of "free trade," a definition and a concept that disappeared in the 19th century. We can talk about free trade and American trade that other people can exploit and use, whereas we are not permitted to move into the trade of other areas.

I would just like to give you the example of Norway—a country, by the way, that has exploited and taken advantage of virtually every American trade route in its movements by steamship—but the licensees in Norway must carry out their exploration from a petroleum base in Norway. His organization must be in Norway and he must make all decisions as to that activity in Norway.

The licensee shall use Norwegian goods and services in the activity as far as they are competitive with regard to quality, service, schedule of delivery and price.

Norwegian contractors shall be included in invitations for tenders as far as they produce goods or render services of the kind required.

On evaluating the offers given by Norwegian or foreign bidders, the licensee shall take into account the extent to which the bidders will use Norwegian goods and services.

The licensee is responsible for the observation of these provisions by his contractors and their subcontractors.

That is about as tight as you can get on the Norweigian portion of the North Sea Shelf.

The United States has traditionally been able to respond to restrictive trade practices of foreign nations only by adopting laws designed to also protect U.S. industries. Unlike European nations that can use a combination of laws and heavy government pressure to force companies to build domestic as in Norway and the United Kingdom the U.S. Government is restricted to acting as the laws allow.

The weaknesses of the U.S. system in responding to foreign trade practices are typified in the operation of the world offshore equipment market. Norway and Britain have both adopted laws to restrict the freedom of North Sea oil companies in the purchase of equipment and employment of workers. These laws are reinforced by government pressure on these companies to build in British or Norwegian yards. As a result, much of the North Sea oil drilling equipment was built in the surrounding countries.

The latest example of this trend, cited in Seatrade magazine in December, was the expected British Government pressure to build a North Sea firefighting rig in Great Britain. The British yards are competing with Japan for the order.

There are other nontariff barriers to U.S. trade used effectively in Europe to close off their markets to U.S. goods. At the international trade talks, the United States has listed some 600 significant nontariff trade barriers that restrict U.S. trade in the developed countries. The United States has very few such barriers.

Unless the United States is to preserve its declining share of the world offshore equipment market, which has slipped from 71 percent to 34 percent in only 7 years, we must adopt equally effective laws to protect our offshore market.

We are merely seeking to preserve a share of a market we once dominated and which we are in danger of losing. Examples of the threat we face are the growth in foreign built rigs off the United States. Five years ago there were three. Today foreign built rigs off the United States total 22 percent of all

rigs. Many of these rigs were built in state-supported yards or with state assistance.

U.S. oil companies are reported to be seeking bids from Japanese yards for oil platforms to be placed off California. If these platforms are built in Japan with cheap Japanese steel, they will surmount the present U.S. reference price system for steel imports, which is based on raw steel imports. By building and fabricating the steel rigs abroad, the Japanese steel industry and shipyards both benefit and a multimillion dollar order is lost to U.S. companies.

These are the imaginative ways in which our trading partners are beating us at the trade game and circumventing our efforts to protect domestic industries.

Those who raise the outdated and misleading scare tactics of Smoot-Hawley and the depression forget the modern lessons of huge trade deficits, nontariff barriers and closed U.S. industries. Tariffs are no longer the threat and the laws being adopted abroad are far more effective than tariffs in protecting their markets.

If we do not act to protect U.S. industry in the same way the foreigners protect theirs, we will continue to lose vital industries such as offshore construction. At stake is a huge industry that is a major customer of the steel, iron, and chemical industries.

Unless we act Japan, Canada, and other nations will be in a position to dominate an industry that would operate on the shores of States with some of the worst unemployment in the United States. We cannot allow foreign built equipment, manned by foreigners to work for months or years on U.S. Federal lands within sight of U.S. shores. In effect, these floating factories will be runaway industries that could be totally United States if we pass the domestic preference legislation.

Another argument heard in regard to domestic preference is that it will cause retaliation abroad. This is nonsense, because where they can the Europeans have already shutout our equipment, and where they cannot the Europeans use U.S. citizens because they are the best and most competent offshore workers available.

American citizens such as Red Adair are hired because they are the best at their job and thus are indispensable to the foreign operations.

Also much of the equipment the U.S. manufactures cannot be duplicated abroad. Drill bits, chemical systems, pumps, and piping are all made best by U.S. companies. Thus, passage of the domestic preference would not affect these companies, as they already have a technological advantage. However, the amendment would help the U.S. rig and platform producers who face competition from Japan, Norway, Britain, Singapore, Hong Kong, and so forth and who do not have a technological advantage.

Clearly, world oil drilling operations are already heavily penetrated with government involvement. If the United States does not realize this and respond to it by also protecting these segments of the offshore construction industry being hurt by foreign competition, then this industry, except for certain specialized parts, will steadily be more and more foreign dominated.

This is the threat that "domestic preference" deals with.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, is there anything in this amendment which would allow the Secretary or the administration to waive these restrictions as to countries who provide reciprocal reductions of their restrictions on a similar scale?

Mr. MURPHY of New York. There is no reciprocal agreement in this amendment, but there are other flexibilities allowing the Secretary to waive these restrictions. For example, if compliance would unreasonably delay completion of any vessel or structure beyond its contracted delivery date; or the requirement would result in costs that are unreasonable; or the articles, materials or supplies of the class or kind to be used in the building or rebuilding, to be used are not provided in the United States in usual and sufficient commercial quantities and at the same terms, the Secretary can waive the requirements of this provision and go foreign.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. SEIBERLING, and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for an additional 2 minutes.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, well, I must say that nobody is more interested in preserving American jobs than I am; but it seems to me we are starting on a road here which may have the opposite effect and we have the opposition of the administration because they are engaged in trying to break down barriers abroad so as to have an expanding world trade .

I think we make a serious mistake. If it is safety regulations we are concerned about, we can apply uniform standards regardless of the point where the construction takes place and we can require other standards, and we do in this bill; but it seems to me the whole thrust of this is counter to the efforts that are now ongoing under Mr. Straus to try to break down such barriers in foreign countries and open them up to our products. I am very worried that we are undermining the very thing we are trying to achieve by other means.

Mr. MURPHY of New York. I would say to the gentleman that of the foreign commerce of the United States, only 4.8 percent is carried in American vessels. We are down to the point where we are violating our own maritime acts by not carrying a substantial portion of America's foreign commerce. We have watched the policy of administration after administration in the last 40 years virtually bargain away American jobs and American industry.

The American economy and the value of the American dollar today is testimony to the type of activity that is necessary to protect us. We had a $67 billion trade deficit last year because other nations are using devices to undercut American industry. It is about time that we draw the line. We are not moving into the tariff areas here. What we are doing is simply saying that if we are going to develop an American resource, that we make it applicable for Americans to work on that shelf; for American industry to take advantage of the construction of the materials there, and we are not entering into a protectionism per se, but what we are doing is moving in the best interests of working men and women and our companies.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong opposition to the chairman's amendment. Basically, what the chairman is trying to do is put in a buy-American, man-American provision. The administration, although I do not support it on many issues on energy policy, very strongly opposes this section. Why? Because basically, right now, all of the equipment, all of the oil and gas production and equipment, is American already.

The statistics from some of the testimony we have heard indicates that about 90 percent of all the world's oil and gas production equipment right now is already American-built. Who do the Members think is building the rigs operating in the North Sea and off the coast of Indonesia? Oh, sure, about 10 percent is foreign made, but about 90 percent of all those rigs, the equipment, is American-produced right now.

Here is the letter I have from the State Department saying why they are opposed. They say that it is unnecessary at best, and could be quite harmful to the United States. The United States dominates the oil-drilling equipment industry here and abroad. Nearly all oil rigs on the United States OCS today are American-made, and American-owned and manned by Americans already.

I represent a part of the country where many hundreds, literally thousands, of men and women work all over the world in offshore oil and gas industry. Not only do they work off United States shores, but they work in the North Sea, off the coast of Indonesia. The very first thing that is going to happen is, if we take the position of only Americans working in our waters, the British, the Norwegians, are going to say, "Only British can work in the North Sea, or only Norwegians, and you can only use Norwegian-built rigs."

We are going to come out way, way on the short end. I think the unions who support this are very much mistaken. We already have the best of both worlds. We are allowing our workers to work in our waters, where they are doing it almost entirely. There are almost no foreigners working in U.S. offshore waters.

In addition to that, we are working all over the world. I think—and I agree with the administration—that we should oppose this. If the gentleman's amendment requiring "buy American" is defeated, I

also plan to offer an amendment to the bill to take out "man-American." We already have the best of both businesses.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield.

Mr. MURPHY of New York. The gentleman from Louisiana traveled very extensively with our committee, and in our traveling through Scotland we saw the construction of various types of rigs in that country. We went to Norway and saw the construction of rigs in Stavanger, and saw the technology that had developed in those countries.

I would like to state to the gentleman that what he has said refers only to the past. I want to bring everybody up to the present. Without this amendment, the existence of the industrial base for building the rigs, and even for national security, we can see is starting to erode. In the spring of 1977, only 14 of the 117 offshore drilling rigs in use in our OCS had been built in foreign yards.

But—and this is a big but—at that time 34 of the 40 rigs under construction for U.S. offshore use were being built in foreign yards.

They are building them for our shelf and without this amendment they will be used on our shelf. They use their steel. That is another reason, to protect our own steel industry, we should adopt this amendment.

Mr. BREAUX. What would happen if the amendment is adopted is that we would see all of the rigs and all of the equipment in foreign waters being built in foreign countries. Right now we have about 90 percent of all of the action.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the gentleman from New York (Mr. MURPHY) said this is not a protectionist measure, and in the next breath he says the purpose is to protect American industry. He also said it is not a tariff measure. Of course, it is not. But the big problem we have in selling American goods abroad is not the result of tariffs; it is the result of nontariff protectionist devices. If we now start down that road in this country, we will be building a 1970's equivalent of Smoot-Hawley. This amendment is going in the wrong direction if we want to open up markets in Japan—and we have made some progress in that in recent months. We must take very careful steps and know what we are doing. For that reason, I would be constrained to oppose the amendment.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

(On the request of Mr. MURPHY of New York and by unanimous consent, Mr. BREAUX was allowed to proceed for 4 additional minutes.)

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, I would like the Members to see how we have eroded in this once dominant area of rig construction. In 1972, the United States was the world leader in drill manufacturing and built a full 59 percent of the world's rigs. Today American shipyards have only 29 percent of the world's rig orders and it is still dropping. Without a domestic construction policy firmly in place, further erosion is going to exist. We know the capability in Japan. We know the capability in Singapore, Stavanger, and in Fife. We know the capability today in the Persian Gulf. The technology came from here. The expertise came from here. But now it is offshore and in foreign areas.

Mr. BREAUX. Mr. Chairman, I would merely say to the members of the committee that this is probably the first time that the administration, the gentleman from Louisiana and the gentleman from Ohio all agree that we should not have this amendment. I think that is a pretty good reason to vote against it.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, Secretary of the Interior Cecil Andrus, in his letter to the distinguished chairman of the ad hoc committee presenting the views of the administration, vigorously opposed any "buy American" amendments to this bill as being contrary to the best interests of the United States and as being likely to reduce rather than to increase American jobs.

Here are Secretary Andrus' actual words, facts, and figures:

Buy and Hire American.—We recommend deleting new section 31, on pages 233–234, and oppose any buy American amendments. Section 31, would require (subject to certain exceptions) U.S. documentation, registry, and employment of U.S. nationals for OCS facility and vessels. It would serve to protect a market that needs no protection at the cost of inviting retaliation by other countries in a major export market for American products. We strongly believe, that such requirements, even if modified by possible exceptions or waivers, would not be in the best interests of the United States.

According to information from the Petroleum Equipment Suppliers Association in Houston, American manufacturers produce approximately 90 percent of the world's oil and gas production equipment (Standard Industrial Code 3533). Last year American firms exported $1.69 billion worth of these products. These exports represent 63 percent of the total American sales of these products and contribute significantly to employment in this industry.

The Embassies of Norway and Great Britain have protested the OCS manning requirements in section 31 and have expressed concern that a "buy-American" amendment may be added to the proposed legislation. These governments are under considerable pressure from labor and industry groups to institute "buy national" restrictions in the North Sea oilfields under Norwegian and British jurisdiction. So far the Norwegian and British Governments have successfully resisted pressure for "buy and hire national" restrictions in the North Sea. Current British practice only requires that Britons and British firms be given a fair chance to participate in projects run by offshore operators. We note that American sales of equipment to Great Britain for North Sea projects during the first eight months of 1977 have already exceeded 77.5 million dollars; an additional amount has been earned by Americans providing services. Sales of equipment to Norway were approximately 14.6 million dollars during the first eight months of 1977. Given the importance of these markets, American firms and their employees would stand to lose more by a proliferation of "buy and hire national" restrictions than they could hope to gain.

Accordingly, we recommend deletion of section 31 and oppose any buy American amendments.

AMENDMENT OFFERED BY MR. WHALEN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. WHALEN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WHALEN as a substitute for the amendment offered by Mr. MURPHY of New York: Page 233, strike out line 16 and all that follows through line 17 on page 234.

Page 233, insert a closing quotation mark and a period at the end of line 15.

Page 129, in the table of contents for title II, strike out the item relating to section 31 and insert a closing quotation mark and a period at the end of the item relating to section 30.

Mr. McDONALD. Mr. Chairman, I intended to offer an amendment to H.R. 1614, the OCS amendments, to delete references to the Secretary of Labor in section 21 which would give the Occupational Safety and Health Administration (OSHA) concurrent authority with the Coast Guard to issue regulations or standards applying to diving activities in the waters above the Outer Continental Shelf. Due to a change in plans, I am now unable to be present to offer this amendment. Therefore, when this amendment is offered by one of my colleagues, I would like my statement in support of this amendment to appear in the recorded debate. The statement follows:

STATEMENT

Traditionally the OCS divers have been within the jurisdiction of the Coast Guard which has done an efficient job in guaranteeing the safety of the OCS divers. Their record is excellent. The fatality ratio is less than that of the construction, fertilizer, electric utilities, cement and tobacco industries, among others.[1] As for non-fatal injuries, a three-year survey (1974–76) conducted by a major diving industry association has shown that the frequency rate for such injuries in the Commercial Diving Industries was 8.55, while the Aerospace Industry's frequency rate was 56.05, Construction—72.55, Food—86.80, Federal Government Civilian Employees—31.95, Leather—87.50 and Printing and Publishing—50.3. As the figures show, non-fatal injuries in the commercial diving industries is substantially lower than in other industries.[2]

It is a legitimate concern that OSHA's lack of expertise in this area will only lead to regulations even worse than those which have plagued the industries which it currently oversees. In fact, OSHA has issued emergency diving standards that are both costly and ridiculous. First the cost—according to the Council on Wage and Price Stability, the emergency standard set forth by OSHA would cost the diving industry from $33 million to $100 million a year. (The latter figure is more than the entire diving

[1] The University of Rhode Island, through federal funds, conducted a survey. Their report stated that between 1971 and 1976, six divers lost their lives in the context of commercial diving operations—for offshore construction and salvage, including oil and gas-related operations.

[2] This survey was conducted by Sub Sea International, Inc. It was included in committee testimony on OCS bill.

industry grosses annually.) The Wage and Price Council's $33 million number is its estimate of what it would cost the diving industry to prevent two diver deaths a year, or about $16 million a life. In the most recent study on the subject, the Coast Guard, however, suggested for the purpose of setting standards that the value of a human life be set at $370,000. A substantial difference. Now the ridiculous—the Navy has estimated that a diver would weigh nearly 1,000 pounds if he carried all the equipment recommended by OSHA. Fortunately, these regulations were prevented from becoming effective due to an injunction by the Federal Courts in Louisiana.

The Coast Guard has both the specific duty and the necessary expertise to continue to provide safety to the divers on the OCS, while OSHA, and its land-locked mentality is only directed to regulate worker safety in areas where no other agency is exercising its authority. Why should we extend OSHA to determine the safety and health standards on the OCS when such an extension is not needed and will not benefit the safety of the OCS divers?

The Outer Continental Shelf contains vital energy resources which we desperately need. We should not hinder the development of these resources by allowing OSHA to over-regulate and mis-regulate in this area, too.

References to the Secretary of Labor in Section 21 is not only opposed by me, but by evidence of a letter received by Chairman Murphy on January 24 from Secretary of Interior Andrus, the Administration is also opposed to it.[3] Therefore, I encourage my colleagues to approve this amendment to delete any reference to the Secretary of Labor in Section 21, thus allowing the Coast Guard to retain its responsibility to issue regulations or standards applying to diving activities in the waters above the Outer Continental Shelf.

Thank you.

Mr. DODD. Mr. Chairman, I ask my colleagues to join me today in support of the Outer Continental Shelf Lands Act Amendments of 1977. I seek their support of this legislation without any additional weakening amendments because of my firm conviction that its passage will improve the complexion of the oil and gas industries as we know them today and, consequently, play an important role in shaping our emerging energy policy. This will not only insure an orderly development of our offshore resources, but it will also introduce more competition into an industry which has been notably short on competition.

Regrettably, during the last few days of consideration of H.R. 1614, the House has adopted several provisions to the committee's bill which will weaken some very important efforts to open up the leasing process and introduce a greater level of competition into the industry. Even so, we still have before us an important piece of legislation which will make important strides in meeting the challenge of OCS development and at the same time open the process to a greater number of participants.

Recently, much public attention has been given, and properly so, to the energy bill currently in the conference committee. This bill, important as it is to the formation of our energy policy, concerns itself primarily with conservation and pricing issues. The bill before us now, however, substantially increases the flow of domestic supplies of oil and natural gas which every American knows are badly and urgently needed.

Regardless of how the energy bill emerges from conference, the OCS bill is an indispensable part of our plan of ensuring a sufficient and continuous flow of domestic oil and gas.

As a native of New England where energy prices are soaring and where such basic commodities as home heating oil in cold winter months are sometimes scarce, I am acutely aware of the need to insure continuous supplies of energy to the American public at a reasonable cost.

Yet increased production of fuels is only half our task. What will development of the Outer Continental Shelf really mean in the next few years—to the consumer, to the oil and natural gas companies, to the people who will take the jobs it will bring, to the communities on the shoreline, to local governments struggling to meet the needs of those suddenly burgeoning communities, to the air we breathe, to the condition of our beach areas, and last but not least to the delicate ecological systems in the oceans?

To resolve these complex issues, the Ad Hoc Select Committee on the OCS, which was formed almost 3 years ago, has conducted extensive hearings both in the field and in Washington prior to the markup of this legislation. Hearings were held in more than 15 cities; a total of 375 witnesses were heard; and more than 10,000 pages of hearing records were compiled. All who will be affected, including the public, have been heard; and, therefore, the proper foundation has been laid for this comprehensive revision of the OCS Lands Act of 1954 as is accomplished by this bill.

What we have before us in a comprehensive piece of legislation which provides for an orderly, equitable, safe, and expeditious way for our offshore resources to be tapped. It is comprehensive yet specific. Its provisions are tough, yet it provides enough flexibility to permit modifications by the Secretary of the Interior during the first years of its application. It further allows State and local governments, which will be directly affected, to be brought into the process.

Let me remind my colleagues that this is an issue which can wait no longer. Development of the Outer Continental Shelf will happen. The question before us is who will control how it happens—the Congress or the oil and gas industry? Without passage of a strong bill, I believe that Congress would be abdicating its responsibility for maximizing domestic production and at the same time protecting the interests of the American consumer.

Significantly, the extensive and largely unexplored reserves of domestic oil and gas which exist off our shores are solely owned by the U.S. Government and, therefore, by the American people. The Government will be leasing tracts for exploration and production of publicly-owned resources, acting in effect as a trustee for the public, and, therefore, has a clear responsibility to guarantee the American people the maximum return on their investment in the form of fairly priced fuels.

No one disagrees that development of the reserves in the Outer Continental Shelf will substantially increase our domestic production of oil and natural gas. The U.S. Geological Service estimates the undiscovered recoverable oil and gas resources on the Continental Shelf to be 26 billion barrels of oil and 109 trillion cubic feet of natural gas. In the Atlantic alone where production has yet to begin, the USGS estimates that there are between 400 million and 1.4 billion barrels of oil and between 2.6 and 9.4 trillion cubic feet of natural gas. At its peak, the USGS estimates that Atlantic production will reach 90,000 barrels of oil a day.

Of all domestic oil and gas produced, some 17 percent now comes from the Continental Shelf—about 18 percent of our oil and 15 percent of our natural gas. However, some experts believe that it can become the largest domestic source of oil and gas between now and the 1990's. One estimate suggests that it could comprise as much as one-fourth to one-third of the total U.S. oil production by 1985.

If this potential is realized, it will have a tremendously beneficial impact. The Congressional Budget Office report indicates that substantial increases in our domestic supplies could potentially cause a decrease in the world price of oil, and in that event would be reflected in the prices and costs of virtually all products and services in the national economy, thus resulting in a net negative inflationary impact.

Furthermore, it will bring us that much closer to energy self-sufficiency, borrow a little time to develop alternative energy sources for the future, reduce our current dependence on foreign sources, assure our national security, and help bring back a favorable balance of payments in world trade, which without oil imports last year would have shown a surplus of $15 billion rather than the $27 billion deficit we experienced.

I confess that I cannot remember a time since I have been in the Congress when I have heard such a rosy picture portrayed although I would not try to convince any of my colleagues that this is a cure-all piece of legislation. However, I am firmly convinced that it is a far-reaching bill with vast implications for our energy policy and the well-being of our future economy.

Given this tremendous potential, you might well wonder who could be opposed to this bill.

Not the Senate which has passed this legislation twice—once in the 94th Congress and again last year. Not the administration which has voiced strong support for these much-needed reforms, and not many of the consumer advocacy groups, including the Environmental Policy Center and Energy Action.

It is opposed by Big Oil.

The industry claims that this legislation will cause delays in the ultimate production of oil and natural gas, ignor-

[3] Second page of "Additional Talking Points, Minority Amendment No. 22" contains Administration's language opposing OSHA involvement.

ing those provisions in the committee's bill to prevent this occurrence. It seems to me, however, that the greater threat of delay would come from lack of comprehensive legislation in this area.

There is considerable concern by the Governors of Connecticut and Massachusetts that the powers to implement environmental safety and health protections that currently rest in the hands of the Secretary of the Interior will be legally challenged by the oil companies unless they are written into law.

For example, Western Oil & Gas Association has already brought a suit challenging the Secretary's authority for canceling lease sales in the Pacific.

And on Friday of last week, a Massachusetts district court judge granted a preliminary injunction to hold off the George's Bank Lease Sale, resulting in Secretary Andrus' announcement that he was postponing the sale which had been scheduled for January 31. No matter what the ultimate resolution of this particular issue will be, it illustrates the problems presented by the present law which lacks clarity and provisions for the evaluation of the impact of all affected interests in the leasing decision.

Opponents of H.R. 1614 have made much of the argument that its passage will result in delays in expediting production of urgently needed gas and oil products. What is clear to me, however, as I review these isolated but not unrelated events, is that without codification and the resulting clarification, the real danger of delay lies in the prospect of continuous initiation of protracted and costly litigation.

The industry has been concentrating its opposition on several key sections in this bill, and unfortunately they have been successful to some extent. Let's take a look at the most hotly contested provisions.

First, is the introduction of new and multifaceted bidding procedures. The bill provides for seven new bidding systems in addition to the two now being used and the authority to introduce still others in the future. It further requires that one of the new bidding systems be used in a minimum of 20 percent and a maximum of 50 percent of the frontier areas offered by lease each year. The Secretary of the Interior does have the discretionary authority to waive certain requirements if it is determined that compliance would unduly delay OCS development.

Even though the minimum use was reduced from 50 to 20 percent, this provision is still significant for one principal reason: It provides alternative ways for companies to obtain leases without putting forth enormous cash sums, as is currently required, which effectively eliminates all but the largest oil companies from most of the bidding. For example, in the offshore leases which were granted by the Department of the Interior during the years of 1969 and 1976, seven of the largest oil and gas producers in this country accounted for an average of 45.5 percent of all OCS leases acquired in lease sales.

The large oil companies have done well for themselves and naturally want to keep things the way they are; but I think it is time to open up the game to some new players, and eliminating the "cash-up-front" requirement will accomplish that purpose. Competition is the keystone of our economic system, and I believe this reform is long overdue.

A second key provision, which was included in the committee bill, was the introduction of "dual leasing," which would have applied to the awarding of two separate leases for a particular tract—an exploration lease initially, and then a development and production lease. This procedure would have allowed the Government to contract for adequate surveys which could have more accurately estimated the extent of the reserves.

It is most unfortunate that this provision was removed from the bill since, without having the proper information on how much gas and oil are present, it will be impossible for the Government to accurately estimate reserves and know what will be a fair price for the lease.

A third major provision is the requirement of development plans, including a time schedule for development, from all lessees, which would be reviewed by the Department of the Interior. Current legislation permits leases to be renewed automatically at the end of 5 years regardless of production levels. To meet existing requirements, a company can do as little as dig one hole and be guaranteed lease renewal. While the cost and subsequent price of this exhaustible resource was rocketing during our recent oil embargo, charges were made that the oil companies held back on production in order to benefit from the higher prices. While I cannot personally testify to the veracity or falsity of this charge, I do believe that the Government has a responsibility to require some demonstration of production during a 5-year period. Surely there is no greater example of not serving the public interest than to allow existing domestic resources not to be utilized expeditiously and to the fullest extent possible.

I was pleased that the House adopted an amendment which I offered today in conjunction with my colleague, Representative SEIBERLING, which sets up a discretionary mechanism whereby each OCS lease can be reviewed prior to its issuance by the Justice Department and the Federal Trade Commission to determine whether or not the proposed sale gives rise to any inconsistencies with existing antitrust laws. Specifically, they would have a maximum of 30 days to conduct an antitrust review of any proposed lease sale, following its notice and prior to its issuance, and to make any appropriate recommendations concerning the sale to the Secretary of Interior who may then, at his discretion, either go forward or halt the reviewed lease sale.

The amendment is an important component of the overall objectives of this legislation, one of which is clearly to promote competition in the development of Federal OCS tracts.

These key provisions, an alternative bidding system to promote competition, the requirement of development plans insuring maximum and continuous production, and the mechanism to allow an antitrust review prior to lease sales, are essential to this bill.

They are essential because they are tough enough to significantly alter the way American energy is produced in this country. Up until now, the oil and gas companies, particularly the largest ones, have had most of the action with little Government oversight in one of the most important industries in this country.

It is clear they have had a good thing going, and they are intent on keeping it that way. When this bill passes, they will lose control of the rules of the game and will be forced to bring more players into the arena. No longer will they be able to "play the energy market" to their own advantage.

Because of its far-reaching impact on our country's future energy supplies, H.R. 1614 may be as significant a bill as any currently in the Congress. By passing it we could provide a tremendous boon to an energy-scarce economy. By failing to act we will be guaranteeing a continued boondoggle by the oil and gas companies, which to me is unconscionable.

I fully recognize the complexities and innovations which exist in this legislation. The issues are not simple, and there are legitimate differences of opinion on how best to serve the public interest. However, let me simply remind my colleagues that this is a crucial bill which will determine how some of our most important resources will be developed in the next decade. Let us be sure it is done to the benefit of the American people—not Big Oil.

Mr. LUKEN. Mr. Chairman, I rise in support today for the "Preference America" amendment that is being offered today to the Outer Continental Shelf Lands Act.

It is imperative that such an amendment be included in this bill if we are going to act responsible in protecting our offshore oil vessel construction industry. The current trend of competitors who are willing to build offshore oil drilling equipment at no profit or even at a loss must be dealt with before we let, yet again, another industry suffer at the hands of foreign governments. Especially when these governments have, at times, even gone so far as to subsidize their industry in order to get their foot in the door and squeeze our workers out.

Japan, for example, with the help of its government assisted steel industry, is able to produce offshore equipment that is often priced at depressed levels. This not only reduces U.S. construction industry employment, but hurts allied U.S. industries such as steel and electronics.

This amendment, by requiring that all offshore equipment be built in the United States of U.S. materials, will help to protect thousands of U.S. construction and offshore workers jobs that are in serious jeopardy. Further, it will have the effect of halting the steady erosion of the U.S. offshore construction industry to low wage foreign nations. The importance of such an amendment is emphasized by the fact that 4 years ago the U.S. construc-

tion industry built 59 percent of the drilling rigs. Now approximately 75 percent of this construction work is performed by other nations.

This amendment will create new employment on the east and west coasts as offshore development proceeds. This is of particular importance because unemployment in these areas is significantly below the national average and projections indicate an even further drop on the east coast for the next few years. In addition, minority workers who already compose a large percentage of the unemployed population stand to be even harder hit without the help of this amendment as they constitute one-fifth of the current industry.

Additional benefits to adoption of this amendment is the effect it will have on our presently troubled steel industry which is suffering from a serious downturn in production. The offshore platform potential between 1977–87 on both coasts is between 120 and 170 platforms which will require from 2 to 3 million tons of steel. The producing and fabricating of this steel will provide work for approximately 8,000 workers per year for the next 10 years.

In conclusion, Mr. Chairman, I wish to point out that the well-recognized arguments relating to free trade, do not, in my judgment seem applicable to this matter. What we are talking about is that American-owned and American-manned facilities to be erected in American territories should most definitely be built by American workers.

Mr. ANDERSON of California. Mr. Chairman, the Pacific coast or southern California is no stranger to the development of resources on the Outer Continental Shelf. We are well aware of the need for development of these resources. But, we are also aware of the dangers inherent in this exploration, and of the need to take strong, careful steps to prevent disastrous accidents.

That is why I am pleased to rise in support of H.R. 1614 to amend the Outer Continental Shelf Lands Act as presented by the select committee. The members of that body, as well as its chairman, should be congratulated for the outstanding work they have accomplished in bringing this landmark legislation before us today.

The demands of this Nation for energy and new resources of raw materials mandate that we proceed with OCS development.

There have been four offshore oil and gas lease sales on Federal areas of the submerged lands off California. Two were in the Santa Barbara Channel, one in offshore northern California, and the last off southern California in 1975.

In the 1975 lease sale off southern California alone, the U.S. Geological Survey estimated that recoverable resources in the lease area totaled approximately 1.6 to 2.7 billion barrels of oil, and 2.4 to 4.8 trillion cubic feet of natural gas. The Western Oil & Gas Association's most probable estimate of resources from this area was 14 billion barrels of oil and 28 trillion cubic feet of natural gas.

Mr. Chairman, in these times of diminishing domestic energy supplies, the Outer Continental Shelf represents a vitally needed area of new fuel production.

However, we in California have learned that more knowledge is needed for the Federal Government to accurately assess offshore reserves. And we learned—at our cost—what a single bad accident can accomplish.

In 1969, platform "a" in the Santa Barbara Channel blew out. Miles of oceanfront were covered with crude oil; birds, seals, fish and other wildlife were badly damaged. In many ways, the platform "a" blowout awakened this Nation to the need for greater environmental protection in offshore drilling operations. Certainly, it was a major factor in the subsequent efforts of the State of California to protect and preserve its coastline.

If the 1969 Santa Barbara spill showed us the need for stricter regulations, the 1975 December lease sale in southern California showed us the need for better advance knowledge of the tracts to be offered.

First of all, the disparity in the estimated resources available were great—1.6 billion barrels of oil by the U.S. Geological Survey, to a maximum of 19 billion by the Western Oil & Gas Association. Natural gas estimates were also widely different—4.8 to 28 trillion cubic feet, respectively.

Prior to the sale, the Department of the Interior expected the offers to total between $1.5 to $2 billion for exploratory leases. The total offers were only $438.2 million—far less than expected.

Prior to the lease sale in December, geological hazards were discovered that resulted in the removal, 2 days before the sale, of four of the tracts from the offer. When we consider that the sale was originally scheduled for October, we realize that only the good fortune of other delays spared us from some possible catastrophies. Such fortune cannot be depended upon to avoid hazards. Clearly, more thorough and deliberate investigation must precede any future sales.

The need for more detailed knowledge of the Outer Continental Shelf lands and their resources has therefore been amply illustrated. The committee bill authorizes advance core sampling by the U.S. Government before a tract is offered. I strongly believe that this provision is in the best interests of the public. Not only will it help to pinpoint geologically-sensitive areas, it will also afford us a better idea of the available resources.

Dual leasing will better serve the public interest by insuring that the Government receive a fair return from what is, after all, a public resource. Increasing Federal involvement in exploration may seem to some to be an infringement on free enterprise. However, in the long run, this is the soundest course to take. The oil companies will remain heavily involved in exporation and production. And the Federal Government will be able to safeguard its own—and the people's—best interests.

Therefore, I strongly urge my colleagues to join me in voting for the committee version of H.R. 1614. It will allow us to proceed with OCS development; it will help in safeguarding the environment; and it will help insure a fair return on the development of publicly-owned resources.

Mr. MURPHY of New York. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, had come to no resolution thereon.

LABOR DEPARTMENT SUES TEAMSTER FUND

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, I would like to draw the attention of my colleagues to an action this morning by the Department of Labor. In a press conference this morning Secretary Ray Marshall gave details of a suit by the Department against 17 former trustees of the Teamster Central States pension fund.

This suit is very important in that it stems from the landmark 1974 Pension Reform Act (ERISA) and in that it seeks to restore to the fund money lost through alleged imprudent practices by the trustees.

I take this opportunity to commend Secretary Marshall for his diligent pursuit of the Government's Central States investigation. I think his action is reassuring and deserves the full support of the Congress.

Last year the Government moved to protect the pension fund assets by putting them under the control of independent investment managers. This action is part of a continuing effort to set the Central States pension fund on a sound basis.

Following is a statement I have made regarding this action and a copy of the press release issued this morning by the Department of Labor.

STATEMENT BY U.S. REPRESENTATIVE J. J. PICKLE

I am glad to see Secretary Marshall and the Department of Labor moving forcefully not only to secure Central States Pension Fund assets for the future but to seek restitution to the Fund for assets lost in the past. I think this action will be reassuring to the Congress and the people.

The Labor action arises out of enforcement of the landmark 1974 pension reform act (ERISA). This action does not, however, totally settle the outcome of the government investigation of the Central States Fund.

For instance, we have yet to have any estimate of the actuarial soundness of the

Fund. The Fund has a book value of $1.6 billion, but when we get down to actual market value I suspect this figure will be a mythical one.

I do not agree with the Secretary that the Labor Department has no concern with Daniel Shannon and the current trustees because they still have a vital role to play. For instance, they still set the general investment policies of the fund, they still set the ultimate retention of the independent investment managers at the end of five years, and they run the general and day-to-day administration of benefits to individual Fund participants.

As a member of the Ways and Means Committee, I would also hope that the IRS is being equally diligent in pursuing its duties to assure that fund assets are recouped for the benefit of Fund participants. In particular, this would involve steady and substantial progress in the ongoing "legal audit" review of all loans and transactions in the ten years prior to the enactment of ERISA. The legal audit was required under the terms of the tax requalification granted to the Fund by the IRS on April 26, 1977.

It is important to keep in mind that the Labor Department suit, substantial as it is, can only affect actions since January 1, 1975, when the Department was given jurisdiction under ERISA to take corrective steps regarding pension funds. Furthermore, the role of the Justice Department in any criminal referrals is somewhat blunted by the statute of limitation. The IRS has a substantial role in the ultimate restitution of any lost money for the half million people who depend on this Fund for their retirement.

STATEMENT BY SECRETARY OF LABOR RAY MARSHALL ON TEAMSTERS CENTRAL STATES PENSION FUND SUIT

This morning, the Labor Department filed in Federal District Court in Chicago a civil law suit against 17 former trustees of the Teamsters Central States Pension Fund. In addition, one current and one former official of the fund have also been named as defendants.

The suit has been filed under the provisions of the Employee Retirement Income Security Act (ERISA). The suit contends that these trustees and officials of the Fund failed to adequately discharge their fiduciary responsibilities to prudently manage the assets of the Fund. The complaint details a series of questionable loan transactions that illustrates the pattern of imprudent behavior by these trustees and officials.

Our suit seeks reimbursement for all losses stemming from the failure of these trustees and officials to carry out their fiduciary obligations in managing the Fund.

This suit is another major step in the Labor Department's intensive investigation of the Central States Fund.

When I became Secretary of Labor, I had two major goals in respect to the Department's handling of the Central States Fund investigation. One was to safeguard the remaining assets of the Fund. The other was to take whatever civil action was necessary under ERISA to restore the losses that had been incurred by the Fund.

In March 1977, the four "holdover" trustees of the Fund agreed to resign and to place the Fund's assets in the hands of competent, independent investment managers. In June 1977, the Equitable Life Assurance Society agreed to supervise the independent investment managers.

As anyone who has been following our investigation knows, documenting the questionable loans made by the Fund has been a tremendously complex process. As a result it has taken many months and much investigative work to prepare this suit.

As you will note from reading the complaint, we do not seek a specific dollar amount in damages. Instead, we have asked the court to hold all the defendants liable for the losses that the Fund has suffered as a result of their actions. Since many of the questionable loans will not come due for a number of years, we have also asked that the defendants be ordered to indemnify the Fund for future losses as they become ascertainable.

At this time, we are unable to set a fixed dollar amount on the past or future losses of the Fund. Part of the problem is due to the nature of the real estate market and part is due to the lack of specific information about the current status of some of the investments. In addition, as I mentioned earlier, many of these investments will not mature until some time in the future.

Obviously, much of the information about the extent of the losses will come out in the course of this litigation. We have also made some estimates of the minimum amount of the losses we expect to be able to prove during the trial. This amount is very substantial. However, our estimates are not a matter of public record and it would be inappropriate for me to discuss them at this time.

I have with me today Solicitor of Labor Carin Clauss and Assistant Secretary Frank Burkhardt. We will be glad to answer your questions on this law suit. However, I must add that there will be some questions we will not be able to answer because this is a matter of pending litigation.

(Attached are a fact sheet and a brief chronology of events.)

FACT SHEET

Background information on the fund

The Central States, Southeast and Southwest Areas Pension Fund was started in 1955.

It is a Taft-Hartley, multi-employer employee pension benefit plan.

It is one of the largest pension plans associated with the International Brotherhood of Teamsters.

It has approximately 480,000 participants, approximately 63,000 of whom are currently receiving pension benefits.

By the number of participants it is the 3rd largest private pension plan in the nation.

Its participants work for approximately 19,000 employers in 33 states, and are members of about 300 local unions.

In its most recent annual report the Fund reported assets of approximately $1.4 billion which would rank it as the 16th largest plan in the nation by the size of its assets.

According to the annual report, approximately 70 percent of the Fund's assets are invested in real estate related loans or ventures.

The Fund receives approximately $25 million per month in contributions and pays out approximately $17.8 million per month in benefits.

Brief chronology of events

January 1975—ERISA takes effect.

January 1976—The Special Investigation Staff was formed within the Department of Labor to investigate possible violations of ERISA involving the Central States Pension Fund.

June 1976—IRS disqualified the Fund.

October 1976—As a result of the Department's investigation twelve of the Fund's sixteen trustees resigned from their positions with the Fund.

March 14, 1977—The Department announced that the trustees had agreed to delegate control of all investment assets of the Fund to one or more independent investment managers and that the hold-over trustees had agreed to resign from their positions with the Fund.

April 1977—The hold-over trustees resigned. IRS requalified the Fund.

June 17, 1977—The new trustees of the Fund announced the selection of a group of independent investment managers which would be supervised by the Equitable Life Assurance Society of the United States.

NUCLEAR ENERGY: FRIEND OR FOE?

(Mr. BOB WILSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BOB WILSON. Mr. Speaker, it has been rumored that the United States will be bereft of its best fossil fuels—oil and gas—in a few decades or less. If this rumor is true, it would appear prudent to reduce consumption of U.S. stocks. Reduced consumption, particularly as boiler fuels, would rapidly cause energy shortages with immediate serious consequences on the economy and employment. The past winter and this one have given ample proof of such consequences. Lowered gas supplies put hundreds of thousands out of work. Frozen coal piles at powerplants forced a dangerous reduction in voltage, further hampering industry. Anticipated coal shortages, from the strike, will cause greater hardships.

Nuclear powerplants do not suffer from fuel shortages or winter weather. As a matter of fact, nuclear powerplants are increasingly carrying a larger part of U.S. electricity production with little fanfare but with high reliability. Why, then, is there a constant outcry against nuclear power? I am certain that these attacks come from a masochistic desire on the part of a few to generate a "national guilt" because World War II was ended by nuclear weapons. "Nuclear is nuclear!" The attack takes many forms.

The U.S. public has been badgered by the antinuclear forces for years. These groups—small in number, loud of voice—have insisted that nuclear power proponents prove "negative statements." For example: "Prove that a nuclear power plant anywhere in the United States (or the world) will never have a serious accident." If a reasonable explanation of why a serious accident—that is, loss of coolant flow and fuel meltdown—is not likely, the anti will come out with:

"YES, BUT WHAT IF . . .?"

An opponent can "Yes, but what if * * *" until Hades freezes over. Let us consider the real world. In the 33 years the United States has had nuclear weapons on alert, in storage, under test, under fabrication, or dismantled for retirement, there has never been an accidental or unauthorized nuclear detonation. I mention this outstanding accomplishment for one very significant reason. The high technology trained engineers and scientists who design and construct nuclear powerplants, which now provide a significant portion of the total electricity in some areas, are of the same caliber as the engineers and scientists who designed and fabricated the highest integrity and safety into our national security nuclear defenses.

The chances of a serious nuclear powerplant accident affecting the American public is about as likely as any given American being struck by a meteorite. It is not very likely.

I would like to examine several aspects of the nuclear power industry and to try to separate fact from rhetoric.

NUCLEAR POWER AND THE PUBLIC

The referendum in California and in other States on whether the public favored nuclear powerplants came out in each case with votes about 2 to 1 in favor of nuclear power. This fact seems to have been forgotten in Sacramento. A Harris poll after the April 20, 1977, energy message by President Carter indicated Americans favored a speedup in nuclear plant construction by 68 percent to 21 percent—a 3-to-1 margin for nuclear. This is evidently unknown in Sacramento. A Harris survey in May 1977 indicated a major disagreement between the public and consumer activists on the importance of targeting nuclear energy for attack. The public response showed 19 percent seeing nuclear as an important target; 61 percent of the activists took this view. The demagogs in Sacramento who are "targeting" nuclear power are either ignorant of this fact or have just decided to ignore the public. I wonder how they define "democracy" or even "democratic"?

NOBEL LAUREATES, SCIENTISTS, ENGINEERS, AND THE COMMON MAN

The 69,000-member National Society of Professional Engineers agreed to the following statement:

Nuclear power is an essential power source for the immediate future.

The Energy Committee of the 170,000-member Institute of Electrical and Electronics Engineers is on record as having stated:

Any energy policy should include the increased use of nuclear energy for electric power generation.

Does the Nobel laureate recipient of the peace prize have more knowledge about the safety of nuclear power systems than trained engineers, scientists, and electric power generating equipment operators? Would the average American allow a Nobel laureate in medicine to pass judgment on the "ills" of his automobile? Personally, I would sooner trust a trained automobile mechanic.

Yet, the common man is "snowed" by the mixed metaphors of untrained, highly educated pontificators who are prone to discuss the immorality of plutonium as a nuclear fuel because it is used in nuclear weapons. I have not heard recently about the immorality of dynamite. The few educated defectors from the ranks of nuclear energy technologists are treated by the media like profligate prodigals that have recovered their sanity. The hundreds of thousands of their peers who point out the bias or the errors in the defectors' statements are ignored by the same media.

Many years ago in a comedy show, one of the characters said: "Don't bother me with facts; my mind is made up."

The not-so-funny situation engendered by the Governor and his henchmen (and henchwomen—maybe henchpersons) in Sacramento is ludicrous and dangerous. A seminarian-lawyer, a few lobbyists, and a few environmentalists have decided that the sovereign State of California can—might—survive on existing energy sources for the next 20 years, or whatever it takes to develop new erotic supplies like biomass.

Does Jerry Brown know enough about nuclear technology to make a rational decision about safety, waste disposal, or plutonium proliferation? I do not believe the Governor or the incompetents who surround him have any idea of how nuclear plants are built. It is another example of self-appointed royalty telling the common man, "Now that you have put us in office, we will run your life."

The people of California stated 2 to 1 they wanted nuclear power. The ignorant arrogance displayed in Sacramento is unconscionable.

CAN CALIFORNIA SURVIVE WITHOUT NUCLEAR ENERGY

The White House energy staff put out the energy program fact sheet. It states, in part:

Even with vigorous conservation, America's demand for energy will continue to grow for the next decade. Although the United States will eventually make extensive use of solar and other nonconventional sources, it will have to rely, for at least the next two decades, on the conventional sources now at hand: oil, natural gas, coal, nuclear power and hydroelectric power.

Let us examine what this statement is trying to tell us:

First. No matter how hard conservation is practiced, energy demand will grow for the next decade; and I would add, forever after.

Second. Eventually—no date given—the United States will make extensive use (no percentage of total energy given) of non-conventional sources (generally nonconventional is interpreted as sources not too efficient for use very soon).

Third. Reliance for at least two decades on conventional (now in use) sources:

Gas and Oil—We are told we must conserve. Do not use as a boiler fuel.

Coal—"Strip mine it from somebody else's back yard." "Do not burn it in California."

Hydroelectric—No more dams. The really endangered species—man—must move over for the snail darter.

Nuclear—the White House Energy Staff calls for the building of 300 additional nuclear plants by the year 2000. How many will California need?

On the scale of quadrillions (Q) of British thermal units (Btu), one Q is equal to 180 million barrels of oil. The United States used about 75Q in 1976 with a civilian work force of 85 million. The Bureau of Labor Statistics estimates a work force of 113 million by 2000 and the use of 170Q, reduced, perhaps to 150Q by stiff conservation practices. The United States has over 215 million people; California has about 10 percent of the total. The work force is estimated to increase about 25 percent and energy use almost 100 percent by the year 2000.

If it is not obvious that nuclear power will be the only way to provide the necessary increase in electricity by 2000, it becomes obvious that the disbeliever needs no facts, his mind is made up.

IS NUCLEAR POWER SAFE?

How safe is power generation? We have had dam failures, mine fires, gas explosions, and oil spills and fires, all of which have seriously affected the public. There is risk in every human activity, and power generation is no exception. However, nuclear power generating plants have never had a material failure or human miscalculation which resulted in an accident that affected even a single member of the public. The absence of interaction with the public when accidents or failures occur is due entirely to the careful planning and redundancy of safety systems incorporated in nuclear powerplants. It is no accident that the public has never been involved in a nuclear powerplant mishap. "Fail Safe" is more than a motto; it is a fact of life in nuclear power generation.

I would like to point to our nuclear weapons program as the birthplace for the excruciatingly rigorous training given nuclear powerplant designers, constructors, and utility operators. In the weapons case, we can be proud of the fact that no aircraft crash or other accident has ever resulted in a nuclear event. In power generation, we can be equally proud that, on a world-wide basis, there have been over 1,300 reactor years of operating experience without the occurrance of any accident that released a significant amount of radiation. Again I state, no member of the public has hardly been inconvienced, let alone hurt. The industry's concept of defense in depth has been a winner.

Whenever we point to this remarkable safety record, some antinuke nut will come up with a "Yes, but what if * * *?" At that point I am tempted to counter with, "Yes, but what if your mother had had a miscarriage?"

The people of California indicated they wanted nuclear energy in spite of the phony horror stories they were told. Safety is the name of the nuclear game. California's officials had better listen to the people, or the State may have to depend on Las Vegas-type industries to survive—using candlelight, of course.

ARE NUCLEAR POWERPLANTS RELIABLE AND COMPETITIVE?

It would not make good sense to opt for nuclear powerplants if you could not depend upon them being online when scheduled. The following table compares nuclear and fossil plants in the two major categories, operating availability and capacity factor.

Availability is defined as the proportion of time during a given period that a plant was capable of producing electricity; and

Capacity factor is the electricity actually produced during a period of time compared to the amount that could have been generated had the unit run constantly at full capacity.

PERFORMANCE OF LARGE FOSSIL AND NUCLEAR PLANTS—600 MEGAWATTS ELECTRIC AND LARGER

(In percent)

Nuclear	Availability	Capacity
1966–1975	74.4	59.5
1976	69.4	58.8
1977 (9 months)	74.5	65.1
Fossil		
1966–1975	74.3	57.5
1976	73.2	56.4
1977 (3 months)	74.1	58.2

These data are more eloquent than words.

On December 2, 1942, the first nuclear reactor operated in the squash courts under Stagg Field on the University of Chicago campus. Two years after construction was started, nuclear reactors were producing plutonium for the Trinity weapons test of July 17, 1945 and for the weapons used over Japan. Today, it can take 4 to 6 years to get clearance to build a nuclear powerplant, in most parts of the United States. Actual construction is now estimated to 8 to 10 years. In Japan—the site of the first and only use of nuclear weapons—it takes only 5 or so years to put a plant online. In California, it may take forever.

As one utility executive said, the cost of borrowed money over these long construction periods is more than is spent on the actual generating machinery. That is a ridiculous situation.

For nuclear plants now online, the cost of producing elecricity is favorable. A June, 1977 Authur D. Little Co. study showed nuclear power had an advantage of 0.1 cent (1 mill) per kilowatt-hour when compared to use of low-sulfur western coal, to 5.5 to 6.5 mills (0.55 to 0.65 cents) per kilowatt-hour when compared to the use of high-sulfur eastern coal. In 1976, nuclear energy produced, on the average in the United States, a kilowatt-hour of electricity for 1.5 cents, according to an industry survey. This was 18 percent less than the cost of coal generation (1.8 cents) and 58 percent less than oil generation (3.5 cents).

FUEL REPROCESSING, NUCLEAR WASTE AND PROLIFERATION

This could also be called economics, health, and war. Each year about one-fourth to one-third of the fuel elements in a commercial nuclear reactor need to be replaced. The replaced fuel elements still contain much valuable uranium in addition to the plutonium generated during the fission process. The Carter administration has declared a moratorium on the reprocessing of the fuel elements from commercial reactors. It seems incredible that in a country which is pricing its manufactured products out of the world markets because of energy costs, the national leaders would deny the people the benefits of valuable energy materials. Reprocessing is now available in six nations abroad. The Carter administration says it is concerned over current world safeguard procedures. It has deferred U.S. reprocessing in the belief that this will help prevent the possible division of reclaimed plutonium for weapons purposes.

Let me state unequivocally that nations which depend on nuclear energy to prevent bankruptcy from the cost of imported oil will find ways to get back for future use the uranium and plutonium in their used fuel elements. The Carter approach is unreasoned and unreasonable.

The long-term storage of the residue from fuel reprocessing activities is another point of attack by anti-nuclear-power groups. The attack is unjustified. The fission products that remain after the plutonium and uranium are removed during reprocessing are highly radioactive and require isolation from the biosphere. The national security nuclear program has done this since 1943 on a "temporary" basis in huge steel tanks at Hanford, Wash.; Aiken, S.C.; and Idaho Falls, Idaho. Although some tanks have developed minor leaks, they were repaired or removed from service. To date there has been no interaction with the public and none is anticipated.

A permanent solution of waste encapsulation in glass and burial in salt mines is under development. The Russians, French, and Germans have used such systems on actual and trial bases with good results. There is no reason why this system will not work as a permanent way to isolate waste products.

The hyperbole surrounding nuclear powerplant waste stems primarily from wild charges that plutonium is one of the most toxic substances known to man and that the release of a quantity of plutonium into the environment would result in thousands of additional cancers.

The claims made about the toxicity of plutonium are misleading. Plutonium is not penetrating; a piece of writing paper is not a rapidly acting poison like potassium cyanide. Its principal radiation is not penetrating; a piece of writing paper can serve as an effective shield. But it is a radioactive substance and toxic if it is lodged in the body, so proper precautions must be taken to prevent exposure to it.

Tons of plutonium have been handled in the U.S. weapons programs over a period of many years without any known instance of plutonium-induced cancer among employees or the public.

How many Americans who are frightened by tales about the thought of plutonium encapsulated in glass and placed in steel casks which are buried in salt mines 3,000 feet underground, are ever told that over 5 metric tons—more than 12,000 pounds—of plutonium have been released to the Earth's atmosphere by nuclear weapons testing. Yet, there is not one recorded case of cancer which can be attributed to this free-flying plutonium. If, as the nuclear power opponents claim, a single dose of 0.000000035 ounce of plutonium can cause cancer, the 12,000 pounds released to the atmosphere equals 5.5×10^{12} cancer doses. This is better than 1,000 doses for every human on Earth. Let me repeat: Not one case of cancer attributable to plutonium has been reported in the 33 years of weapons testing in the atmosphere.

I conclude that this argument that buried wastes can cause cancer is phony and deliberately misleading.

The argument against nuclear power involving weapons proliferation is also a phony. There are many ways to control plutonium which is to be used as nuclear power fuel. The problem again is the "Yes, but what if . . ." groups that will try to generate the most insane scenarios possible to discredit honest attempts to provide real life protection.

If the U.S. Government leadership cannot protect fuel element plutonium as well as it does weapons plutonium, we had better get new leadership.

FOREIGN MISSION SOLAR ENERGY DEMONSTRATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 20 minutes.

Mr. JEFFORDS. Mr. Speaker, I am today introducing a bill which would require the placement on our diplomatic and consular buildings abroad projects which utilize alternative energy systems. Such systems would be of a variety of alternative energy technologies, all of which are being developed by the Department of Energy, including heating and cooling, wind, photovoltaics, solar thermal, and biomass.

This bill has a number of purposes. First and foremost, it is designed to help move us to a position of leadership in implanting these technologies, at a much faster rate than is currently the case, across the globe. I need not belabor the reason: Fossil fuels are not only finite but increasingly expensive; nuclear power is outside the financial reach of most developing nations and presents proliferation problems. It is altogether proper and, I think, necessary for us to demonstrate our technological capacities to accelerate the solar transition across the world.

Mr. Chairman, last summer the Office of Technology Assessment released a major study entitled "Application of Solar Technology to Today's Energy Needs." The study, in discussing the international scene, concluded:

> Development of a foreign market for solar energy devices could provide an excellent opportunity for U.S. exports, and the expanded sales resulting from this would probably lead to lowered costs and improved quality of domestic solar equipment. The international utilization and impact of solar energy may depend critically on U.S. initiatives over the next few years. In most areas, U.S. research is the most advanced in the world, so many nations will look to the United States for guidance in this field. A U.S. commitment to solar power would encourage foreign commercialization of the technology, if only by giving it prestige.

It is an unfortunate fact that much of the developing world has considered the acquisition of conventional and nuclear energy systems as status symbols; and

that so-called alternative systems have been looked upon by many as poor man's energy. We must break this psychology as quickly as possible. The bill calls for projects which will give "visible incentives" to these nations "to develop and use local solar energy." Thus the projects selected should be "adaptable to the local resources, climatic conditions, and economic circumstances of the host country in order that such countries will more likely implement similar projects."

Information, technical, and engineering assistance to the Department of State under this measure would be provided by the Department of Energy.

I would point out that this is not a new concept to the Department of State. Several years ago, the State Department placed solar heated hot water installations on two U.S. mission residences in Tel Aviv, Israel. The savings in electrical consumption was dramatic and, according to the Department, "it is estimated that the average savings per annum on electricity for hot water per house will be approximately $300 to $400." Furthermore, "if similar systems were installed at 26 other residences, substantial additional savings of approximately $7,800 to $10,400 per year in utility costs could be achieved."

This saving in electricity costs, as already demonstrated in Israel, can be achieved in many parts of the world with a variety of systems. At my request, the Office of Foreign Buildings in the Department of State has compiled a list of "possible solar installations" to serve as an illustration of what could be done. The list includes 11 major installations in various countries, including Niger, Pakistan, Iran, Senegal, Egypt, New Zealand, Bangladesh, Malawi, Philippines, and Kenya; the technologies range from photovoltaics, to solar windpower to solar thermal absorption. The Department has also compiled a list of 130 installations on all continents in our many posts where solar domestic hot water might be implaced.

The total estimated cost of these projects, after engineering studies to determine feasibility, is roughly $5 million. It is this figure which the bill I introduce today authorizes the Department to spend in fiscal year 1979 on these projects.

The potential for American leadership in this field is large and still unrealized. Take, for example, photovoltaic technologies. The present cost of these systems is uneconomically high, because the industry has been in the handicraft stage. But, with congressionally mandated funding, as already agreed upon by the Energy Act conferees, over the next 3 years, the industry will be able to automate and costs will drop dramatically. Based on these new cost projections very recent studies by the NASA-Lewis Research Center and Lincoln Laboratory at MIT are optimistic over the future of photovoltaic technologies in the less developed world. A March 1977 study for DOE by Lincoln Laboratories concluded that "photovoltaic power possess certain attractive features that suggest an important role in meeting the energy needs of less-developed countries.' And in a June 1977 NASA-Lewis study entitled "The Market for Solar Photovoltaic Power in Developing Countries: 1977–2000", it was concluded:

It is clear . . . that the adoption of renewable resource (e.g., solar) decentralized energy technology (e.g., photovoltaic, wind) should provide significant benefits for economic development and the quality of life in LDCs. Major benefits to the U.S. would be (1) enhancement of national security by lessening pressure created by declining economic positions of large masses of the world population, (2) creation of new foreign markets, and (3) to provide markets to support the major portion of the growth of fledgling U.S. solar energy industry.

I would point out, Mr. Speaker, that the United States is not in the lead in the international marketing of these technologies. Far from it, there are a number of countries—including Japan, France, Germany, and Israel which are currently pursuing more aggressive strategies in marketing their alternative technologies. We are behind, and I am suggesting this measure as one small step to help move us in the right direction.

An identical measure is being introduced today in the Senate by Senator CLIFFORD CASE of New Jersey. It is my hope that this measure will receive the widespread support of our colleagues in both Chambers of the Congress.

The following is the text of the Foreign Mission Solar Energy Demonstration Act:

H.R. 10699

A bill to authorize the Secretary of State to implement solar energy and other renewable energy projects in certain buildings owned by the United States in foreign countries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Mission Solar Energy Demonstration Act".

SEC. 2. (a) It is the purpose of this Act to demonstrate solar energy and other renewable energy technologies in foreign countries by using such energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act (22 U.S.C. 292(a)), in order that—

(1) host nations may be given visible incentives to develop and use local solar energy or other renewable energy resources to reduce dependence upon petroleum and petroleum products;

(2) markets may be developed for American solar energy systems and components in order to stimulate investment in such systems and components and to reduce the costs of such systems and components to reasonable levels;

(3) in order to further the purpose of section 119 of the Foreign Assistance Act of 1961, cooperation may be developed between the United States and other countries in an effort to develop solar energy or other renewable energy systems within a short period of time; and

(4) equipment which is vital to the operation of sensitive systems within United States missions abroad may be made more self-sufficient and reliable and will not be dependent upon interruptible local energy supplies.

(b) (1) The Secretary of State shall implement projects for the application of solar energy or other forms of renewable energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act.

(2) The Secretary of State shall select projects under paragraph (1) in consultation with the Secretary of Energy. Such projects shall apply available solar energy and other renewable energy technologies, including those for—

(A) the heating and cooling of buildings;

(B) solar thermal electric systems;

(C) solar photovoltaic conversion systems;

(D) wind energy systems; and

(F) systems for developing fuels from biomass.

The Secretary of Energy shall inform the Secretary of State of all such technologies which are feasible for such projects, taking into account the resources and environmental conditions of the host countries concerned. Upon the request of the Secretary of State, the Secretary of Energy shall provide to the Secretary of State such technical information or other technical assistance, with respect to any project, as the Secretary of State considers necessary. Any project selected under this section should be similar to projects which have been demonstrated by the Department of Energy or its predecessors to be reliable, maintainable, and technically feasible.

(3) Any project selected under this section shall be adaptable to the local resources, climactic conditions, and economic circumstances of the host country in order that such country will more likely implement similar projects.

(4) The Secretary of State shall take the steps necessary to insure that any project selected under this section is demonstrated to, and available for inspection by, officials and other citizens of the host country.

(5) In selecting projects under this section, the Secretary of State shall give priority to projects to be implemented in less developed countries.

(c) Whenever any building is constructed under the authority contained in the first section of the Foreign Service Buildings Act, the Secretary of State shall take the steps necessary to insure that the planning for such construction takes into account those renewable energy systems which are available in the country in which the building is to be constructed.

(d) There are authorized to be appropriated to carry out this section for the fiscal year beginning on October 1, 1978, $5,000,000.

PROFESSIONAL STUDY, MONITORING AND REPORTING OF NATIONALLY SIGNIFICANT NATURAL AND HISTORIC RESOURCES NOW INSTITUTIONALIZED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas, (Mr. SEBELIUS) is recognized for 10 minutes.

Mr. SEBELIUS. Mr. Speaker, Public Law 94–458, approved October 7, 1976, contains a provision directing the Secretary of the Interior "to investigate, study and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System." These studies are to result in a list, to be submitted by the Secretary to the Congress each October 1, comprising not less than 12 such areas which appear to be worthy of addition to the National Park System.

This directive represents the most recent and the most methodically comprehensive and continuous effort to identify nationally significant new areas to be considered for addition to our national park system. It is intended to provide a

professionally derived listing of meritorious areas which the Congress may wish to consider drawing upon in its efforts to legislate new additions to the National Park System.

The first list, along with supportive study material, was submitted on November 30, 1977, and consists of 13 such areas. The list and brief background on each area is available as House document No. 95–264, part 1. The 13 listed areas are:

Friendship Hill, Pa.
Guam Parks, Guam.
Prairie, Kansas/Oklahoma.
Antietam, Md.
City of Rocks, Idaho.
Great Basin, Nev.
New River Gorge, W. Va.
San Antonio Missions, Tex.
Mineral King, Calif.
Hagerman Fauna Sites, Idaho.
Channel Islands, Calif.
Potomac River, West Virginia/Virginia/Maryland.
Valle Grande, N. Mex.

Specific study background on each of the above is contained in individual printed documents, parts 2 through 14 of the above House document.

'A second feature of the law provides that annually on the same October 1 date, the Secretary is also to transmit a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic Places, which exhibit known or anticipated damage or threats to the integrity of their resources.

The list recently submitted includes 41 natural landmarks and 102 historic landmarks. While these are identified as being damaged or threatened, this listing effort accomplishes no more than providing increased visibility of their plight. No mechanism is now in place or on the drawing boards to do anything about this dilemma, other than what might be accomplished in ad hoc, case-by-case individual actions of some type. Herein lies a need and a challenge to action to find some acceptable methodology for protecting these nationally significant historic and natural features.

Mr. Speaker, I would like to commend the Secretary of the Interior and the National Park Service for the excellent effort and product which resulted from this first annual effort under this new law.

Only 1 year was available to inaugurate a whole new procedure, detail manpower, perform and update studies, and monitor many sites in the field in order to bring these first lists and studies through for submission to the Congress. Of course, some of the mechanisms were already in place, as important documents like the National Park Service's theme studies, the National Park System plan, and various site-specific studies for potential new park system consideration were already at hand. While some of the study material is not as complete and up to date as was intended, I am sure that as time goes on and we move further from the initial startup time problems, past imperfections in process and results will disappear. I believe that with this good start already made, we can look forward to an even more perfected professional product this next October.

I want to point out, Mr. Speaker, that the work we see from this submission represents only the tip of the iceberg in terms of natural and historic resource values which may be in serious need of protection, however. Much professional work already done to identify nationally significant sites sits unprocessed within the Department of the Interior. Hundreds, if not possibly a thousand or more sites, have been nominated by professional study to be considered for natural landmark designation by the Secretary.

While many of these sites are known to be threatened by adverse impacts or outright obliteration, they cannot be identified on the threatened landmarks list submitted annually to Congress because the Secretary has not yet reviewed these areas to consider whether they are first worthy of landmark status itself. The latest list I have shows 142 of these areas, for example, in California alone, which are awaiting review as to their merits for achieving designation as natural landmarks. This is a type of bottleneck which must be promptly alleviated.

Mr. Speaker, now that we have this type of material at our disposal, it is incumbent upon those of us in positions of being able to take or devise further action, to act accordingly to further protect those important threatened resources. I hope that the Congress and concerned groups and individuals will work aggressively together to help bring more rapid and thorough protection to these threatened elements of our great natural and historic heritage.

TIME TO ACT IN COAL STRIKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. QUAYLE) is recognized for 5 minutes.

Mr. QUAYLE. Mr. Speaker, it is imperative that President Carter and Secretary of Labor Marshall immediately reevaluate their positions in regard to invoking the Taft-Hartley Act to require striking coal miners to return to work.

In his press conference on Monday, the President said he saw no immediate prospect of having to exercise the Taft-Hartley provisions because the situation is not critical enough.

Mr. Speaker, in the wake of one of the worst blizzards in history, the citizens of Indiana, Ohio, and Michigan are on notice that special conservation measures now are necessary because of dwindling supplies of coal used in making electricity. Governor Bowen of Indiana has called for a reduction in electric power usage by 10 to 15 percent to conserve supplies.

Many electric utilities have less than 60-day supplies of coal on hand, and even if the miners were to return to work immediately, it is possible that mandatory curtailments may have to be imposed.

As the days pass, without progress in this 2-month-old strike, further stringent conservation actions will be necessary and there could be serious impact on the economy.

Time is running out. The President and his Secretary of Labor should take a new look at the situation and take whatever steps necessary to get the miners back to work and the negotiations resumed.

We may not be able to control the weather, but surely we can find a way to insure sufficient coal supplies to generate the power for our towns, homes, and factories.

UNANSWERED QUESTIONS ABOUT THE RETURN OF ST. STEPHEN'S CROWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 10 minutes.

Mr. DORNAN. Mr. Speaker, when President Carter announced his intention to contravene 25 years of national policy and return the symbol of Free Hungary, the Crown of St. Stephen, to the Soviet-dominated Kadar regime, the public outcry was deafening.

But as we know, the President and his State Department chose to ignore the wishes of the American people and the concerns of the Congress. The crown was duly surrendered to the Communists in Budapest on January 5.

But questions about the methods which the executive branch and the media used in dealing with the public and with the Congress during the time preceding the surrender still remain. These questions, if left unanswered, raise grave doubts about the veracity of the statements made by the executive branch and the trustworthiness of the press.

So that my colleagues have the opportunity of being aware of the larger unanswered questions attending the surrender of the crown, I ask that three items be reprinted as part of my remarks. They are: First, an editorial which appeared in the January 28, 1978, Kanadi Magyarsag, the largest Hungarian weekly in the free world. It is entitled "Carter's Handling of the Hungarian Crown—New Watergate Scandal. State Department's Perjured Testimony Decided Court's Decision"; second, a letter written by Mr. George Sibrik, complaining to the New York Times of misstatements which appeared in the newspaper in connection with Mr. Sibrik's sworn testimony before the Supreme Court; and third, Mr. Sibrik's testimony before the Supreme Court:

CARTER'S HANDLING OF THE HUNGARIAN CROWN—NEW WATERGATE SCANDAL

STATE DEPARTMENT'S PERJURED TESTIMONY DECIDED COURT'S DECISION

The revelations about Watergate led to the resignation of President Nixon. High government officials were sentenced to prison for perjury.

Following the shocking events of Watergate, the American people elected a "Born Again Christian" who promised to govern with high moral standards. The United States and its friends hoped for a regeneration of traditional American constitutional, legal and moral values.

The events of the last two months regarding the U.S. handling of the Holy Crown of Hungary reveal a scandal wider than Watergate in its institutional dimensions. In Watergate only the conduct of the Executive Branch, of the Office of the President was involved. The present scandal touches the President, the Departments of State and Justice, the Congress and, most unfortunately, even the Federal courts. For this reason the scandals is worse than Watergate.

As Congresswoman Mary Rose Oakar (Dem., Ohio) wrote, "deceit and deception have characterized the entire handling of this issue" by the White House, the National Security Council and the Department of State.

Senior members of the House of Representatives, Congressman Clement J. Zablocki (Dem., Wisconsin) and Lee H. Hamilton (Dem., Indiana) also carry a heavy burden of conscience for which they should answer to Congress and the American people. They manipulated the Congressional machinery in the support of President Carter to prevent the House from considering Congresswoman Oakar's Bill to keep the Crown in the United States.

Far more distressing, however, are the events which took place before the American courts. The record shows that, on Christmas Eve, under heavy pressure from the Justice and State Departments, Judge Earl E. O'Connor of the Federal District Court in Kansas City moved the hearing date, originally set by him on the proposal of the State Department for January 3, 1978, forward to December 29, 1977. He took this action without the prior knowledge or consent of the plaintiff Senator Dole or his lawyers. Under these circumstances, Dole's lawyers had only two days, December 27 and December 28, to assemble the affidavits and prepare their case. Obviously, with the mails delayed by the Christmas rush, with potential witnesses away on vacation, this was an impossible task.

This was the first serious injudicious blunder of Judge O'Connor.

His next blunder was far worse. In a manner probably without precedent in American court practices he gave credence to the categorical assertion of the State Department's Deputy Legal Adviser that he, Mark B. Feldman, after having searched all relevant files has not discovered any indication of any understanding between United States and Hungarian authorities concerning the application or non-application of the 1947 Treaty of Peace to the Crown of St. Stephen, tacit or otherwise.

Senator Dole's affidavit included a letter from Deputy Assistant Secretary of State Walworth Barbour to Assistant Attorney General D. S. Townsend indicating a "special trust." Affidavits by other witnesses indicated that some evidence of some kind of secret discussions and tacit understanding had taken place between American and Hungarian officials.

Despite this, Judge O'Connor did not submit Mr. Feldman to any judicial cross-examination. Instead, giving full weight and credence to Mr. Feldman, Judge O'Connor dismissed Senator Dole's assertions as having no basis whatscever.

The documents we have published show without challenge that the highest levels of the American and Hungarian governments had had in fact many discussions and had reached an agreement on the Crown, tacit and secret in nature because of the Soviet occupation of Hungary.

Moreover, the Hungarian witnesses to the crucial incidents which led to that tacit agreement are alive and resident in the United States. One is former prime Minister Ferenc Nagy. They should have been heard by Judge O'Connor.

The evidence points to one conclusion. The Court has been deceived. The State Department, in the person of Mark Feldman, has committed perjury.

Judge O'Connor cannot plead innocence for his too-ready accommodation of the Carter administration in moving the hearing date forward from January 3, 1978 to December 20, 1977. He can plead even less innocence for his injudicious opinions and conclusions based on the misleading and categoric affidavit given under oath of Mark Feldman.

Neither can the appellate judges in Denver, Colorado avoid the judgment of history on the errors in reviewing the record. Nor can Supreme Court Justice Byron R. White hope that his own oversights will be passed over in silence.

Whatever extenuations they will plead, they can not now claim on the basis of the public evidence that they do not know that the affidavit of Mark Feldman, on which Judge O'Connor placed such total reliance, is subject to serious challenge on the grounds of perjury. On this ground alone, it is their duty, as defenders of the integrity of the judicial system of the United States, to order a full disclosure of those documents which Mark Feldman in fact examined and of all other documents in the possession of the United States regarding the Crown, including those which Mark Feldman did not examine, although he swore that he read all pertinent material.

The entire world awaits what Judge O'Connor, the appellate court in Denver, Colorado, and Supreme Court Justice White will do to correct the official judicial record.

The reputation of the United States and especially of its judiciary are at stake.

WASHINGTON, D.C.,
January 9, 1978.

THE EDITOR,
The New York Times,
New York, N.Y.

DEAR EDITOR: Your January 6th editorial carried an unsigned "Special Report" on the Holy Crown from your Washington Bureau which contains many serious errors of fact and, unfortunately, even more serious omissions of relevant information which your correspondents, David Binder and Linda Charlton received. As I shall reveal to you, large portions of that special report were written to discredit publicly my sworn affidavit submitted to Justice White. Under these circumstances, I am sure you will publish my letter in full to set the record straight.

I have now ascertained that on January 3, Linda Charlton of your Washington Bureau received a copy of my sworn affidavit regarding the conditions which Colonel Pajtas negotiated during the 81-day period from May 6 to July 25, 1945 prior to delivering the Crown to the American authorities. I am also informed that she showed this affidavit to David Binder, who subsequently supervised the preparation of the unsigned "Special Report" which you published.

Neither Linda Charlton nor David Binder telephoned me for any supporting information. Instead, your Washington Bureau telephoned Dr. Andor Klay, who is misquoted in your article, and asked him to comment on my reputation and to solicit his views as to the likely truthfulness of my sworn affidavit.

Dr. Klay, with whom I have spoken since learning of this affair, reported that he had the highest regard for me. As to the facts in my affidavit, which were read over the telephone to him, his comments were that he himself had spoken to Colonel Pajtas and Admiral Horthy in 1945, while on assignment with the Office of Strategic Services (OSS) and that neither of them had mentioned any conditions having been set by Colonel Pajtas. Dr. Klay did not say, and does not now say, that he positively knows that no condition was negotiated.

Consequently, the following sentence in your "Special Report", which I note is significantly not in quotation marks, is seriously misleading: "Dr. Klay, then serving in the United States Office of Strategic Services, interviewed Colonel Pajtas after the crown was handed over to Major Kubala, and recalls that Hungarian officer set no conditions on his desire to place the crown in American custody".

I am informed that Dr. Klay made no such statement but said instead that Colonel Pajtas did not mention the subject of conditions during their interview and for this reason Dr. Klay inferred that no condition was set. Dr. Klay reinforced his inference by certain other speculations and hypotheses but at no time did he say that to his positive knowledge no condition was set. Thus your report is seriously misleading.

There is a second, even more serious misstatement in the report, this one regarding Prime Minister Ferenc Nagy. Your Special Report states the following:

"The country's only freely elected postwar Prime Minister Forenc Nagy who was ousted by the Communists in 1948, requested the United States not to return the crown".

First, Prime Minister Nagy was ousted in 1947 and not in 1948. Even more importantly, his request not to return the Crown took place prior to the Paris Peace Treaty of February 10, 1947.

The circumstances in which the Prime Minister Nagy made this request has been confirmed by him on several occasions and a record exists in the classified archives of the Department of State, as well as the White House.

The facts are the following. The Hungarian Restitution Mission, accredited to the U.S. occupation authorities in Frankfurt/Hoechst submitted two formal requests to the American Authorities for the return of the Crown under the signature of Sandor (Alexander) Hahn, as Head of that Mission. Mr. Hahn was an official of the Hungarian Ministry of Finance. His first request was in July 1946; the second was made in January 1947.

During this period the Paris Peace Treaty, signed February 10, 1947, was being negotiated in Paris by representatives of the Hungarian Foreign Ministry.

Noting that the Hungarian delegation in Paris had not requested the return of the Crown, while the Mission in Frankfurt had requested its return, President Truman and the Department of State wanted a resolution of these contradictory positions, particularly to assure themselves that the request of Mr. Hahn represented the view of the Hungarian government. Under the most secret codes from the President and the State Department, the American Legation was instructed to ascertain the wishes of the Hungarian government directly from Prime Minister Ferenc Nagy. The reply of the Prime Minister was, that the United States should not send the Crown back as long as conditions in Hungary remained as they were under the Soviet occupation.

This was the highest level of expressions of the tacit agreement between the American and Hungarian authorities about which so much has been written and spoken.

Both Dr. Hahn and Mr. Nagy are in the United States and will confirm these facts.

Because these dates are so significant, in light of the allegations which Senator Dole raised in his suit, I believe that it is a public disservice for you to leave the inference that Mr. Nagy's request was sometime in 1948. For my own part, I confess I was appalled to learn that the State Department Deputy Legal Advisor, Mr. Mark B. Feldman, gave in a statement delivered under oath that, after having searched all relevant files he "has not discovered any indication of any understanding between the United States and Hungarian authorities concerning the application or nonapplication of the 1947 Treaty of Peace to the Crown of St. Stephen, tacit or otherwise."

I have since also seen a copy of Judge Earl E. O'Connor's decision and find that he placed great weight on Mr. Feldman's affidavit and that he wrote as follows in rejecting Senator Dole's contention:

"The record is void of anything indicating that Hungarian officials who approved the 1947 Paris Peace Treaty, President Truman and the United States Senators who voted in favor of ratification, were aware of and understood the 'silent agreement by tacit omission' ".

I believe that both the public interest and the respect which you owe my reputation and honor indicate that you should publish this letter in full.

I am sending copies of this letter to President Carter, Secretary of State Vance, Judge O'Connor, Justice White (before whom my sworn affidavit was placed), Mr. Feldman, Dr. Hahn, Mr. Nagy, Dr. Klay, Senator Dole and your Washington Bureau attention David Binder and Linda Charlton.

Sincerely yours,

GEORGE DE SIBRIK.

PRESENTED AS TESTIMONY BEFORE THE U.S. SUPREME COURT, JANUARY 3, 1978

AFFIDAVIT

I, George De Sibrik, being first duly sworn, depose and say:

1. I am the last member of a family which traces its descent from King Andrew II, King of Hungary and of Jerusalem. Among my antecedents is also St. Elizabeth of Hungary, wife of Louis of Thuringia. For these reasons I had access to the Regent, Admiral Nicholas of Horthy and to other persons who were associated with the safekeeping of the Holy Crown of Hungary, the Crown of St. Stephen.

2. In 1944 I had been assigned primarily diplomatic functions although I had a military commission as Colonel in the high command of the Hungarian forces. My role however was, at that time, primarily diplomatic liaison. I was in Austria and Germany from March 1945 to July 1952, when I emigrated to the United States. Thus I have personal knowledge of the events I describe below.

3. I am now retired from my office as Vice President's Assistant at Georgetown University, where I served for ten years. (1955–1965)

4. I reside at 2419 Chain Bridge Road, Washington, D.C. and have been a citizen of the United States since 1957.

THE CONSTITUTIONAL CHARACTER OF THE HOLY CROWN AND ITS STATUS AS A LEGAL PERSON IN INTERNATIONAL AS WELL AS HUNGARIAN LAW AS EVIDENCED BY AGREEMENTS

5. At the outset, it must be recognized that the Holy Crown of Hungary is not an object of law but the subject and source of Hungarian law. The Holy Crown is the sovereign person, to which the King is subordinate. But under Hungarian and international law, the Holy Crown is the legal and constitutional person and incorporates the totality of Hungarian constitutional power and national existence. This personality has been recognized in international law. As obvious evidence of fact, I refer to the established legal records, including those relating to the legal accession of Francis-Joseph as King of Hungary in 1867. Following the European revolutions of 1848, Francis-Joseph was proclaimed by his government as King in 1849. However, he was never considered legally and constitutionally King because he had not issued the diploma and oath to the Holy Crown and not been crowned by the Holy Crown until 1867 (the so-called Ausgleich). On that occasion, all his acts between 1849 and 1867 were declared null and void as illegal. I know these events intimately because I have had access to the records of the Ausgleich, which was drafted and negotiated by my grand uncle, Ferenc Deak.

6. The constitutional and legal personality of the Holy Crown under the Doctrine which governs it both in Hungarian and international law can be best understood on the analogy of the sacramental doctrine of the Christian Eucharist, particularly as formulated by the Catholic tradition. Just as the Communion host is, through the sacramental act of the Priest, the real body and the real blood of Christ under the appearance of bread and wine (the doctrine of Transsubstantiation), so the Holy Crown is the living person of the Hungarian nation and its executive, legislative, judicial and other national functions and international existence are incorporated in this personality. Under this constitutional doctrine, the individual kings, members of Parliament, citizens are like the cells of a body which continues to live on when one set of cells dies and is replaced by another set of cells. The Holy Crown is constitutionally and legally the nation of Hungary. Consequently, kings can be nominated and elected, members of parliament can be chosen, but until they take the oath to the Person of the Holy Crown, they cannot have office. The King is only a candidate, even if elected by the parliament, until the King issues the diploma recognizing the sovereignty of the Crown and of the nation incorporated in the crown and until, having deposited this diploma he is confirmed as King under the Holy Crown by a public act of coronation. This public act is like the sacramental act, when the priest pronounces the words over the bread and wine.

7. Colonel Erno Pajtas fully understood this Doctrine and, as I shall narrate hereunder, negotiated the surrender of the Holy Crown under the terms of asylum for a legal person. Thus the receipt which he received, which I shall describe below, is a receipt for a legal person and the U.S. commitment given him was the commitment of asylum and not of custody. The relationship established was the legal relationship of guardian and ward and not the relationship of bailor/bailee. Colonel Pajtas used the 81 days between May 6 and July 24, 1945 to obtain this legal commitment from the United States authorities, according to the information I possess.

MY RELATIONSHIP TO COLONEL PAJTAS, ADMIRAL HORTHY AND THE RECEIPT RECEIVED BY COLONEL PAJTAS

8. I knew the late Colonel Erno (Ernest) Pajtas, Commander of the Hungarian Holy Crown's Body Guard since 1912 when we were both admitted to the Royal Hungarian Military Academy, LUDOVIKA in Budapest, Hungary. We both graduated on October 15, 1914 as second lieutenants, Pajtas with the artillery and I with the cavalry.

9. I know positively that Colonel Pajtas was a man of the highest moral integrity and honesty, and that he was chosen to protect the Holy Crown because of his exceptional dedication and loyalty to his mission. He was never a member of Szalasi's Arrowcross Party (the equivalent of the German Nazi Party) and all his actions in regard to the transportation of the Holy Crown out of Hungary were discharged under his oath to protect the Holy Crown as the sovereign personality of Hungary.

10. I knew the Regent, Admiral Horthy since 1919 and had access to him regularly while in Hungary. Consequently, his relationship to me was both personal and official, and he was prepared to confide state secrets to me both in my capacity as an officer of the Hungarian High Command and as a diplomat.

11. On April 6, 1948 I was the guest of the Regent and his family at their transitional residence, Polingergasse 25, Wellheim, Bavaria. Present with him were his brother, Eugene de Horthy, his wife, Mrs. de Horthy and the widow of the Regent's eldest son, Ilona de Horthy, and her son Istvan who then was sick with measles.

12. The Regent narrated to me the events of his capture and deportation from Hungary by the German Nazis, the operation he had undergone in Munich when he was in U.S. custody. Finally, the Regent began to discuss the subject of the Holy Crown and of its fate as the sovereign personality in Hungary.

13. In this connection he showed me a handwritten letter sent by Colonel Ernest Pajtas, written in Hungarian, regarding the conditions under which the Holy Crown was delivered to the American authorities. This letter was delivered by courier to Admiral Horthy to assure that he received it.

14. To my most accurate recollection, the letter began with Colonel Pajtas excusing his poor handwriting because of his serious illness. He then reported that he had honorably and completely carried out the orders given to him by the Guardian of the Holy Crown, Baron Sigismund de Pereny, when he ordered Colonel Pajtas to leave Hungary with the Holy Crown and to seek to bring the Holy Crown to Switzerland; if this were impossible to achieve, to deliver it to American forces on condition that the Holy Crown be treated as a person requesting the right of asylum, until foreign Soviet troops had departed Hungary.

15. When the Holy Crown had been in Kammer at the Attersee, Szalasi wanted to break up the Holy Crown into many pieces, as many as there were Cabinet ministers with him, and to give each minister a part. To protect the Holy Crown, Colonel Pajtas took the Holy Crown to Mattsee and buried the Holy Crown near a small lake.

16. After delivering the chest, without the Holy Crown, to the Americans on May 6, 1945, he was placed under extreme pressure to reveal its hiding place. He informed the Americans that he would disclose its location only on condition that the Americans granted the Holy Crown its continuing recognition as the Sovereign Person in Hungary and would treat the Holy Crown as a personality enjoying the right of asylum until Soviet troops left Hungary. Finally, the Americans granted this recognition, he received a receipt, which he enclosed and which I saw, according the Holy Crown the right of asylum as a legal person. On that condition, he agreed to disinter the Holy Crown and deliver it to the American authorities. The receipt was in the Hungarian language and the word for asylum was "menedekjog"—Right of Asylum. Pajtas had insisted on the language of the receipt being in Hungarian to assure that the Hungarian language would be the official language as to the legal guardianship given to the Holy Crown as a legal ward of the American people.

17. Having known Colonel Pajtas well, I recognized the letter as being in his handwriting. The receipt was also handwritten, in a different handwriting from that of Colonel Pajtas. To the best of my recollection the receipt was signed with a signature which I read to be "Grandpierre".

18. After the Regent allowed me to read the letter and the receipt, he discussed his own future and indicated that he wanted to commission me to continue to be the protector of the Holy Crown, particularly since Colonel Pajtas was seriously ill and since the Regent would be leaving Germany. He asked whether I would accept this Commission and I agreed.

19. Following this act of commission, I began to organize the Defenders of the Holy Crown, a society whose purpose was to gather all materials regarding its legal status.

20. I have noted that Senator Dole said there were, in addition to the presence of Soviet troops, "other" reasons for omitting the reference to the Holy Crown of Hungary

in the Paris Peace Treaty of 1947. I submit that the "other" reasons included the legal status of the Holy Crown in light of the conditions of its delivery by Colonel Pajtas to the American authorities as the "sovereign legal person" of Hungary.

21. In light of this legal status of guardian and ward, President Carter cannot order the delivery to Hungary of the Holy Crown as an object. Its delivery must be either an order of deportation, or extradition, or solemn treaty return the constitutional legal person of the Holy Crown to authorities who are disposed to recognize its personality as the sovereign of Hungary and to take oath to that effect. Any other form of delivery is a violation of the Constitutional rights which the Holy Crown enjoys under the American constitution and laws and would be both unconstitutional and illegal.

22. To carry out a deportation or an extradiction requires a court order, in light of the legal personality of the Holy Crown. No such court order for deportation or extradition exists.

23. To carry out its delivery to the Hungarian authorities as the legal sovereign requires a solemn treaty between Hungary and the United States, in which the Hungarian authorities undertake to accord the Holy Crown its constitutional and legal prerogatives. Such a treaty needs to be ratified by the Senate of the United States. No such treaty exists.

24. Absent either a court order of deportation or extradition, and absent a treaty, the United States as guardian of the Holy Crown would act illegally insofar as the President cannot on his own authority divest the United States of its obligation to treat the Holy Crown as an internationally recognized legal person. This action would violate the original terms of the guardianship assumed by the United States.

25. Under these circumstances, I find it incumbent to bring these facts to the tribunals of the United States and to request that the courts order a stay of delivery until the terms under which the Holy Crown was delivered to the American authorities by Colonel Pajtas are deposited in the Federal courts of the United States as a basis to establish the Constitutional and legal status under which the President of the United States must act when dealing with a legal person in the United States under the protection of the American constitution and laws.

GEORGE DE SIBICK.

ADDRESS BY HON. DAN ROSTENKOWSKI TO AMERICAN HOSPITAL ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WRIGHT) is recognized for 5 minutes.

Mr. WRIGHT. Mr. Speaker, this morning, before the annual meeting of the house of delegates of the American Hospital Association, our colleague and my good friend, DAN ROSTENKOWSKI, made a very important address concerning the issue of hospital cost containment.

While some may not agree with everything the distinguished deputy whip had to say, I personally much appreciated his cogent and illuminating comments on this most complex and controversial subject. For that reason, I commend his remarks to the attention of every Member of the House:

REMARKS OF THE HONORABLE DAN ROSTENKOWSKI

It is both an honor and a distinct pleasure to address this meeting of the House of Delegates. My remarks today will be focused on an issue that is important both to me as a legislator and to you as the major force in the delivery of hospital services in this country—the continuing effort to responsibly restrain the unparalleled growth in the cost of hospital care.

Ladies and gentlemen, I shall not stand before this group and recite the statistics that say that we in America have a health cost problem. All of us in this room have known for some time that the problem exists. Rather, this morning let me concentrate on the various strategies for containing escalating costs that have emerged and on the direction I believe can and should be taken.

As you all know, last April, the President sent a Health Message to the Congress focusing on the need for statutory restraints on the rapid increase in hospital costs. The legislation, the Hospital Cost Containment Act of 1977, was introduced for the Administration in the House by Congressman Paul Rogers and me.

Since its introduction, action on the bill has been sporadic at best. Of the four committees that must consider the bill—two in the House and two in the Senate—only one, the Senate Committee on Human Resources, has completed work on the bill. Elsewhere in the Senate, the Finance Committee has yet to act on the Administration's proposal. And I know my good friend, Senator Talmadge, has his own ideas about what a cost containment bill should look like.

In the House, my Subcommittee on Ways and Means and Paul Rogers' Subcommittee in Interstate and Foreign Commerce have held markup on the Administration's proposal. Mr. Rogers' Subcommittee has completed action on the bill. However, members of my Subcommittee raised many fundamental questions which were left unresolved at the conclusion of the first session.

On November 2 of last year, after it became quite apparent that further action on hospital cost containment would not be possible before the end of the session, I made a statement on the floor of the House of Representatives expressing my thoughts on the hospital cost containment debate and the role of the hospital industry in that debate.

At that time, I stated that "In all my years in Congress, I have never been persuaded that the federal government could solve all of the problems of the American people. Government should intervene selectively where it can be of assistance; otherwise, the private sector should be relied upon to act on its own initiative."

I meant that then; I mean that now.

Based on that premise, I expressed the sincere hope that hospitals would use the time between the first and second sessions wisely and demonstrate that you can take the initiative and effectively move to restain cost increases on your own.

Those remarks have been categorized as a challenge to the industry . . . and that they were.

And today, ladies and gentlemen, I am heartened to see that the challenge has been accepted. I am pleased by the seriousness of purpose and the delineation of goals of the so-called "Voluntary Effort."

You have acted with all deliberate speed to establish principles and propose a national mechanism which has the potential of translating these principles into tangible results. Even your harshest critics must be impressed with these early efforts.

In embracing the challenge with such vigor, you have recognized the plain fact that something must now be done to address the cost issue. I am heartened to finally see the provider community focus on real alternatives to the cost problem.

In a sense, the impact of President Carter's nine percent cap solution could be paralleled to the impact of the old Selective Service System. Nothing stimulates volunteers more quickly than the genuine fear of a draft.

But whether it was that fear of a draft or not, the industry's expressed willingness to hold down total cost has added an entirely new element to the hospital cost equation that we have struggled to balance on Capitol Hill.

Members of my Committee, both Democrats and Republicans, would like nothing better than to set aside H.R. 6575—the Hospital Cost Containment Act of 1977—as an unneeded remedy to an illness that will surely be cured.

And that, ladies and gentlemen, is in effect what I intend to recommend to my Subcommittee. In the same spirit as the industry was willing to accept the sincerity of my challenge, I will accept the sincerity of your goals.

The voluntary cost containment program has announced a goal of reducing through voluntary restraints the national rate of increase in hospital costs by two percent this year and an additional two percent next year. In my view, if the industry is able to achieve this goal—when the reductions are measured against an appropriate figure for the increase that has already occurred in 1977—no federal regulatory program should be put into effect.

However, if it is established that well-intentioned voluntary actions are not in themselves sufficient to achieve either the proposed 1978 or the 1979 reduction, I believe that it would be appropriate to have fallback federal controls available to assist you at that time.

The important point here, of course, is that we have to be sure that progress in cost containment is real progress, not the illusory progress that is achieved through the questionable use or manipulation of statistics. That means, I believe, measuring progress against an appropriate 1977 benchmark. Spokesmen for The Voluntary Effort have, during the past several months, used various figures and measures in speaking about the rate of increase in 1977 in hospital costs. I am not persuaded that there is agreement on what the right benchmark should be. However, I believe that benchmark should be one that will permit us to compare results of the voluntary program against the kind of results that might have been expected to occur under the Administration's bill. I do not say we need necessarily be looking for the identical results, but we need to be able to make meaningful comparisons.

To accommodate the possibility, however remote, that The Voluntary Effort falls short of its goals, I shall ask my subcommittee to develop a legislative proposal which would include only standby hospital costs controls. These would be modeled on the President's original proposal, but they would be implemented only if the rate of increase in hospital costs did not decline by 2 percent in 1978 or an additional 2 percent in 1979.

I believe that such a proposal is very much in keeping with the President's recent state of the Union message in which he expressed his conviction that "a sincere commitment to voluntary constraint provides a way—perhaps the only way—to fight inflation without Government interference."

This morning, then, I ask you all to renew the sincere commitment that your association has made.

In furtherance of my commitment to you and your efforts, I have asked the Ways and Means staff to redraft the administration's bill to the specifications that I have outlined. It is my hope that a revised bill with

such a contingent effective date will be ready for subcommittee consideration by the 16th of February.

In developing a new draft bill, the staff also has been instructed to delete title II of the administration's bill which relates to capital controls. In my opinion, such a resource allocation issue is best considered in tandem with other planning issues currently under review in the Interstate and Foreign Commerce Committee. And, on that matter, I intend to consult with my good friend, Congressman Paul Rogers, and urge him, in his development of appropriate limitations on capital growth, to take into consideration your proposals in that area.

In addition, I intend at the earliest opportunity to outline to the President this proposal, which I believe is a constructive type of compromise. As I told his staff in recent discussions, I believe this approach will further two stated goals of his first administration—to address the hospital cost inflation question in an effective and responsible manner, and to promote the development of a strong partnership between the Government and the people designed to better address our problems.

I am hopeful that your efforts to bring costs more into line will be successful in the short run. All of us realize, however, that over time changes must be made in the way we finance health care in the United States. Many of the cost problems of today are products of outdated and inefficient reimbursement policies—policies that providers alone cannot change. I hope that your short-term work on the Voluntary Effort will be the catalyst which encourages all parties—providers, insurers, consumers, and Government—to now begin to more seriously discuss our future.

Although some might choose to differ, I am convinced that we in this country have a health care system that we can be proud of. The quality of our health care professionals, the state of our technology, and the condition of our facilities are the envy of the world. And that is nothing to be ashamed of.

We live in a country where most Americans have ready access to quality care and an insurance arrangement to assist in payment for that care.

All too often politicians and others choose to focus on the shortcomings of our system. In the process, the skill and effort involved in all of what you do is too often overlooked.

Yes, we have our problems in American health care. We always have—and, unfortunately, probably always will. But they are problems that can be confronted—and most effectively confronted—through a partnership of Government and the private sector. Your work in the next few months to achieve your cost containment goals can immeasurably strengthen this partnership so that together we might face the other challenges that await your industry and all our people.

SANTA ROSA MEDICAL CENTER: THE LARGEST CATHOLIC HOSPITAL IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, Friday, January 27, I had the pleasure of being present for the dedication of the Century II project at the Santa Rosa Medical Center in San Antonio.

Santa Rosa, which is located in the heart of the 20th Congressional District of Texas which I represent in Congress, is the largest Catholic hospital in the United States. The hospital is conducted by the Sisters of Charity of the Incarnate Word under the very able and dedicated efforts of the executive director, Sister Angela Clare Moran.

The $16.5 million Century II modernization and expansion project took 10 years of planning and 2 years of construction. The new facilities do not add to total bed capacity of the center, but provide ample space for new medical and surgical intensive care units.

The new building also houses two new operating rooms for major surgery such as open heart operations as well as new admitting and business offices.

Medical and surgical intensive care units are described by Santa Rosa officials as the "largest and most extensively equipped units in the Southwest."

To a center dedicated to the treatment of the total person—physical, mental, and spiritual—the addition of Century II gives Santa Rosa the capability to deliver a full range of the most advanced medical services available anywhere today. From highly sophisticated and diagnostic and testing, to superadvanced operating rooms and lifesaving support, Santa Rosa now has it all.

Added to a medical center that already boasts among other things—an excellent Children's Hospital, a complete neo-natal care unit, a highly developed data-processing capability and advanced data-processing capability and advanced management procedures such as "discharge planning" that follows a patient out the door and anticipates his or her future needs—Century II clearly qualifies Santa Rosa as second to none in health care excellence.

Century II points out something else that is important for San Antonians, and that is a profound commitment on the part of Santa Rosa Medical Center to the future of downtown San Antonio as a vital center of a great city.

With the neighboring Rosa Verde Tower Professional Building, Santa Rosa delivers a network of medical services from the city's hub that reach out to all of Bexar County and south Texas.

At the same time Santa Rosa's central location enables it to provide badly needed services to San Antonio's poorer, innercity residents, a fact borne out by Santa Rosa's record as one of the largest providers of service to medicaid recipients in the State of Texas.

A part of the center—the Villa Rosa Hospital—is the only private psychiatric facility in the San Antonio and south Texas portion of the Southwest and neighboring States.

Santa Rosa has given 108 years of loving care to the sick since three Sisters of Charity of the Incarnate Word traveled by buckboard from Galveston in 1869 to answer a call from San Antonio's city fathers to provide relief from a cholera epidemic and to build the first hospital in San Antonio, then a frontier village of 12,000.

We in San Antonio are very proud of their record of service.

THE CONSUMER REPRESENTATION AND REORGANIZATION ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, next week the House is expected to consider H.R. 9718, the Consumer Representation and Reorganization Act of 1977. This is a very important piece of legislation which the administration has given a high priority.

H.R. 9718 represents a fair and reasonable compromise among the various interests that will give the consumers a long-needed voice in the regulatory process in Washington without creating any undue burden on our business community.

Earlier this year, the American Bar Association testified before my subcommittee in support of the then proposed Consumer Protection Act of 1977. The Bar Association has now had an opportunity to review H.R. 9718 which I will offer on the floor as an amendment and have notified me that the association supports passage of H.R. 9718. I insert in the RECORD at this point the letter I received from the Honorable William B. Spann, Jr., president of the American Bar Association:

JANUARY 24, 1978.

Hon. JACK BROOKS,
Chairman, Government Operations Committee, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The American Bar Association supports passage of H.R. 9718, the "Consumer Representation and Reorganization Act of 1977."

Earlier this year the American Bar Association testified before your Committee's Subcommittee on Legislation and National Security in support of the then-proposed "Consumer Protection Act of 1977" (H.R. 6118).

That legislation has since been refined twice—once as H.R. 6805, reported by the Committee on May 16, and now as H.R. 9718 which I understand will be offered as a substitute for H.R. 6805 when that measure is considered by the House in February.

Recognizing that H.R. 9718 constitutes a compromise among divergent interests and therefore may not fully satisfy any of them, but recognizing, too, that it constitutes a major step forward in promoting and providing for the representation of consumer interests, the American Bar Association recommends its approval by the House of Representatives.

Sincerely yours,

WM. B. SPANN, JR.

LEGISLATIVE PRIORITIES FOR THE YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 30 minutes.

Mr. ADDABBO. Mr. Speaker, I would like to speak for a few minutes as we begin this 2d session of the 95th Congress about my personal legislative goals

for this coming year, as well as what I hope the Congress will enact this year.

We have heard the President deliver the state of the Union message and it is generally agreed that the priorities he has set will get first attention from the Congress.

But one issue that the President did not mention in his delivery of the speech is, at least in my view, the matter of extending Federal assistance to New York City within the next 5 months. What we in the House must not forget is that the New York City problem is not just a matter of whether a local government remains viable or not it is a question of whether the Nation's largest and most important city can be saved.

Believe me when I say to you that if New York City goes bankrupt, millions of small investors around the Nation will be seriously hurt, and the Nation's economy, already struggling, will be damaged, perhaps beyond repair. Let me add that the city is trying mightily to undue the fiscal excesses of past years, and progress is being made. The new city administration, led by our former colleague Ed Koch, will prove, I think, to be capable of leading the city back to fiscal responsibility. But we cannot abandon the city now, after all that has been done to save it, in midstream. I would appeal to all Members of the House to remember that when we extend a helping hand to this city once again, we help ourselves avert financial disaster for the Nation at large.

If New York City is the paramount area of concern this year, there remain other issues of equal importance. Time does not permit me to cover all of them, but let me touch on some of them.

We must still conclude work on the supplemental appropriations bill which has remained from last year. In that bill is contained a provision to kill off two last research and development planes for the B–1 program. The B–1 program has been repudiated by the Congress, and it would be a gross waste of money to build these two additional planes.

In that same bill is a provision allowing the expenditure of $200 million for assistance to the families who cannot afford to pay high heating bills this winter. I introduced that proposal on this floor and it was accepted by the House and the Senate and I would urge prompt action on the supplemental bill that this needy program can be implemented as quickly as possible.

We must face the unpleasant reality that the United States is being strangled by the oil-producing nations, and this powerful Nation is being reduced to that of a supplicant in begging those nations not to raise these prices even more. But for our part, we need to conserve petroleum as much as possible to minimize our balance-of-payments deficits and we need to begin to utilize our superior technological assets to our own advantage by seeking alternatives to petroleum.

We have seen solar energy costs drop tremendously just within the last year and there are indications that we are on the edge of a major breakthrough in that field if we will just spend enough on research. We can make automobiles that will operate well on electrical energy, and we ought to do far more in research in that field than is being done. I also believe that the Federal Government ought to provide exciting incentives to private enterprise in fields that show promise of helping us once more become independent of other nations for energy resources.

In less esoteric fields I believe it would be wise and prudent for the Congress to reexamine the decisions it made last December on social security. The facts of life are simple and unchallengable in that persons whose sole income is social security benefits exist at best at the brink of poverty. We all know that there is no alternative to providing cost-of-living increases to social security recipients. To expect that American workers can truly absorb the scope of the increased costs of maintaining the social security system as contained in the December legislation is unrealistic as well as self-defeating.

The only viable alternative to these high payroll taxes is to absorb part of the cost out of the general operating fund of the Federal Treasury. That is, I know, a controversial proposal but I contend that it is a straight-forward way of doing what must be done.

The percentage of taxes that the American worker will pay by 1980 will be considerably higher than what that same worker paid in 1965. I see no benefit to adding to that load through additional payroll taxes. I prefer that the government take the more honest approach by saying that it is a decent and important goal to make retirement a better way of life than mere existence and that to do so, part of the annual budget will go to support the social security system so that it can function without additional charges to people whose taxes support it.

I also think that the Federal Government must soon devise a system to help young families purchase housing, both new and rehabilitated. Within my congressional district of Queens we have abandoned housing that could be utilized if it were restored. The citizens groups who have thus far sought to devote their time and energies to this service, both as a means of creating jobs and creating housing, have been frustrated by the intricacies of Federal regulations. Very likely, that same situation exists in every major city in America where there are decaying neighborhoods. I know that the administration has restated its determination to get on with the job of creating housing, especially inner-city areas, and I would hope that Congress will provide the administration with the tools and the money to get moving as quickly as possible on these vital programs.

Happily, the Nation's unemployment problems seem to be easing slightly, and that is good news after a long drought. I support the President's proposals to provide incentive money to business to employ and train the unskilled workers. I think the President has gone to the root of the problem in determining that if we are ever to end the welfare cycle we have to seek ways to provide legitimate and meaningful employment for those able and willing to work but whom, up to now, simply have not had the skills to compete in the labor market.

As chairman of the Subcommittee on Minority Enterprise and General Oversight of the House Small Business Committee, I have been able to help small business enterprises, especially minority firms improve their situation over the last year or so. The subcommittee's record of supporting strong and progressive legislation will certainly continue in the coming year. And there is much to be gained by everyone as we improve the small business climate throughout the Nation. That is one of the functions of the Small Business Committee and it is a challenge that has been and is being met.

We must move forward in establishing some sort of national health insurance while at the same time determining means of holding skyrocketing medical costs down. I send a questionnaire to my district each spring, and of all the questions that my constituents were asked last year, they felt most strongly about national health insurance. Of the people responding, 80 percent of all men and 92 percent of all women said they favor national health insurance for all illnesses, and 91 percent of the men and 96 percent of the women felt that at the very least there should be a national health insurance program to protect against catastrophic illness.

We all know of instances where an extended illness has exhausted a family's insurance benefits and then exhausted all of a family's resources. There is no need for any family to be left financially ruined simply because they care enough to provide the care that a member of their family needs. I believe the time is now for the Kennedy-Corman bill.

There are many other important issues I will support and work for in the year to come. I have not even mentioned other matters coming before the subcommittees on which I sit, nor the many issues that the President has put on his list of priorities for this year.

There are questions ranging from tax credits for education, aid to education, full employment, tax reform, abortion, and many, so many, major issues. As I indicated earlier, last year I sent a questionnaire to my constituents asking their opinions about some of these vital issues, and I would like to share with my colleagues their answers.

To the question, "Do you favor National Health Insurance for (a) catastrophic illness (b) all illness," 91 percent of the males favored catastrophic coverage and 80 percent favored coverage for all illness. Females voted 90 percent for "a" and 92 percent for "b."

To the question, "Should it be funded (a) by the Federal Government or (b) private means, 78 percent of the males

answered yes to "a" and 19 percent to "b." Females voted 85 percent "a" and 10 percent "b."

To the question, "Should the U.S. exploit off-shore deposits," 80 percent (male) said yes, and 11 percent said no. For women, 85 percent said yes, 12 percent voted no.

To the question, "Should Congress create an ongoing watchdog committee to monitor the gas and oil companies on behalf of the consumer," 68 percent (male) said yes, 21 percent said no. Females voted 74 to 15 percent in favor of yes.

Sixty-one percent of the men and 67 percent of females said they supported the Supreme Court ruling on abortions. Twenty-one percent of the men and 29 percent of the women said they disagreed.

Sixty-eight percent (male) and 59 percent (female) said Congress should do nothing more about the abortion issue. Twenty-seven percent of the men and 25 percent of the women said a proposed constitutional amendment should be passed to reverse the Court ruling.

Thirty-nine percent of the males and 42 percent of the females said national security as it now stands is adequate. Only 19 percent of the men and 29 percent of the women felt the defense budget ought to be cut back further.

On public financing of congressional elections, 31 percent of the men and 46 percent of the women favored spending tax dollars to finance Federal elections. Thirty-nine percent of the men and 30 percent of the women were opposed.

Forty-nine percent of men and 38 percent of women said they utilize the checkoff box on their tax forms to support Federal financing of Presidential elections. Twenty-five percent of the men and 21 percent of the women said they do not.

Asked if they would support paying higher social security operating costs, including recipient increases by (a) higher deductions or (b) supplementing the fund from the general revenue fund, 23 percent of the men voted for "a" and 58 percent voted for "b." Women voted 40 percent for "a" and 49 percent for "b."

Twenty-nine percent of the men and 40 percent of the women said they would support a simplified tax reporting system even if some of the deductions and credits to individual taxpayers might be lost or diminished. Fifty-eight percent of the men and 62 percent of the women said no.

And, finally, 82 percent of the men and 91 percent of the women said they favor reinstitution of the draft as a means of improving the standing Army and reducing costs of supporting active services. Fifteen percent of the men and 5 percent of the women were opposed to that.

HUMPHREY FOREIGN ASSISTANCE LEGISLATION (INTERNATIONAL DEVELOPMENT CORPORATION ACT OF 1978)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 5 minutes.

Mr. ZABLOCKI. Mr. Speaker, it is my pleasure to introduce today, along with colleagues from the Committee on International Relations, the last major piece of legislation on which Hubert Humphrey was working at the time of his death. Joining as cosponsors are Congressman DANTE B. FASCELL, DONALD M. FRASER, LEE H. HAMILTON, MICHAEL HARRINGTON, PAUL FINDLEY, and LARRY WINN, JR.

As we all are aware, among the many causes and concerns advocated by the late Senator Humphrey was that of the poor people around the world. He was the principal Senate advocate of doing more to help the least developed nations, and his voice was heard both in the Senate and in the House.

In 1973, when members of the House International Relations Committee drafted a new policy for the U.S. bilateral assistance program, known as the New Directions, it was Hubert Humphrey who led the cause in the Senate and convinced his colleagues that this new focus, specifically on the needs of the poor overseas, was the correct focus for U.S. foreign assistance.

It is, therefore, appropriate that we now introduce in the House a bill containing major features of the measure Humphrey had planned to introduce, and which has been introduced by his colleagues in the Senate. While maintaining the New Directions focus, the Humphrey bill would bring into one organizational structure all of the instruments of U.S. foreign assistance.

In introducing the bill in the House, the sponsors do not intend to signify their commitment to any of its specific provisions, but we do intend that it serve as a useful vehicle for discussion. I plan to appoint an ad hoc group within the International Relations Committee, which I will chair, to study the bill and report to the committee.

Because it is a truly comprehensive measure, it is unlikely that we will be able to complete a review of all aspects prior to the May 15 deadline for authorizing bills. However, we will be giving careful attention to relevant portions of the bill as we move ahead with legislation for the fiscal 1979 foreign assistance authorization. We will at the same time be continuing with other reviews and studies the committee has underway concerning various aspects of the bilateral assistance program.

INTERNATIONAL DEVELOPMENT COOPERATION ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. LONG) is recognized for 5 minutes.

Mr. LONG of Maryland. Mr. Speaker, I wish to endorse the concept of the International Development Cooperation Act of 1978 (S. 2420) because it takes a major step toward consolidating our fragmented foreign aid programs under one agency and one policy—helping the poorest people in the poorest countries to a better life. One of the major flaws in the U.S. foreign aid efforts has been fragmentation among agencies with conflicting objectives. Our foreign aid should be focused on the only goal that makes sense—helping poor people in poor countries to help themselves to a better life.

The International Development Cooperation Act does many things in addition to creating the International Development Cooperation Administration (IDCA), and my statement does not mean that I necessarily endorse every detail of the bill. Nor do I endorse increased levels of aid that the administration has requested or reportedly will request. Indeed, how can we consider increasing foreign aid when our current programs do not reach the poor as they had claimed to intend?

Restructuring foreign aid programs under one agency could make a significant contribution toward consolidating these programs' effectiveness and developing a coherent rationale for foreign aid.

LEGISLATION TO PROHIBIT SALE OF SMOKE DETECTORS CONTAINING RADIOACTIVE ISOTOPES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 5 minutes.

Mr. WEISS. Mr. Speaker, I am introducing legislation today to prohibit the sale of a widely used variety of smoke detector containing radioactive istopes and urge my colleagues to join me by cosponsoring this important bill.

The article that follows these remarks, reprinted from the August edition of Progressive magazine explains in detail the hazards posed by ionization smoke detectors. These devices, which account for about 75 percent of all currently marketed smoke detectors, contain a highly radioactive substance, usually americium-241.

A number of high respected scientists and radiologists have pointed out that this material, a waste product from the nuclear cycle, represents a serious threat to human health and to the environment. Americium-241 is, for example, 53 times more radioactive by weight than plutonium-239. It has a half-life of 458 years, meaning that it will retain its potentially lethal properties for several centuries. Ingestion of even a minute amount of americium-241 can cause cancer.

Many manufacturers of ionization smoke detectors do not adequately inform consumers of the presence within the product of this radioactive substance, nor do they properly stress the need to dispose of the detectors in a safe, carefully regulated manner.

Some 20 million ionization smoke detectors will soon be in operation in homes and workplaces. The Federal Government, through regulations issued by the Department of Housing and Urban Development, is encouraging proliferation of these devices by mandating installa-

tion of unspecified types of smoke detectors in homes built with Federal Housing Administration or Veterans' Administration assistance.

Since purchasers of ionization smoke detectors are not being properly notified of potential radiation dangers or disposal procedures, it seems inevitable that some of the americium-241 from these devices will eventually enter the environment and, ultimately, the human food chain.

A safe and reliable alternative to the ionization type detector is currently available. This is the photoelectric variety which does not contain any radioactive material and has been shown to be effective in providing early alerts.

There is no justification, therefore, for continuing to sanction the sale and distribution of a device which significantly increases radiological health hazards.

I hope that my colleagues will recognize the danger posed by this product.

CAUTION: SMOKE DETECTORS MAY BE DANGEROUS TO YOUR HEALTH

(By McKinley C. Olson)

Mary Anne and her husband Charlie were horrified to learn that they, like millions of other American families, had a radioactive element in their home that is as dangerous and even more radioactive than plutonium-239.

Plutonium, which is produced in nuclear fission power reactors, is one of the most toxic materials handled in quantity by man. A thousandth of a gram inside the lungs can kill within a matter of hours or days; a millionth to a trillionth of a gram or even less can cause cancer. I was visiting Mary Anne and Charlie in Pennsylvania after attending an energy conference in the East, where most of the discussion had centered on the growing controversy over nuclear power.

I happened to mention my concern about the widespread and growing use of radioactive smoke detectors in homes and places of work around the country. My friends, who are staunch opponents of nuclear power, suddenly sat up straight.

"Mary Anne brought a smoke detector home the other day from the place where she works," Charlie said. "I wonder if it's the kind you're talking about." He took the device off a pantry shelf. When we turned it over and removed a metal plate, we found a label which read:

"Ionization Principle. Caution: Radioactive Material: Contains 1 microcurie Americium-241."

There are two kinds of smoke detectors on the market—a photoelectric unit and the radioactive kind. They had the radioactive device. Although such detectors are supposed to carry instructions for their transportation and disposal, this one did not.

There are "thousands of lethal doses" in one microcurie of amercium-241, according to Dr. Edward A. Martell, an environmental radiochemist with the National Center for Atmospheric Research in Boulder, Colorado.

This transuranic element, which is formed by plutonium, has been defined as a radioactive "alpha-emitter that accumulates in tissues and constitutes a hazard comparable to plutonium" by Dr. William J. Bair, a radiobiologist widely known in his field, a staunch supporter of nuclear power, and the manager of Battelle Pacific Northwest Laboratories' biomedical and environmental research program in Richland, Washington. He has also written:

"Americium and curium (another by-product of plutonium) are largely translocated from lung to liver to skeleton, even when inhaled as oxides, and are expected to occur in increasing amounts in future nuclear power technologies. . . ."

Other prominent scientists concur with these assessments—among them Dr. Karl Z. Morgan, who was for many years the director of the Health Physics Division at the Oak Ridge National Laboratory and is now with the School of Nuclear Engineering at Georgia Tech in Atlanta, and Dr. Dean E. Abrahamson, physician, physicist, long-time critic of nuclear power, and a professor in the School of Public Affairs at the University of Minnesota.

"The risks are identical for plutonium-239 and americium-241," Morgan told me. "And once in the environment, americium is more of a risk than plutonium, because it is more readily taken up by animals and plants" that are part of the human food chain.

Dr. Abrahamson agrees. "There is no question about the toxicity of americium, especially if it gets into the food chain," he says.

There are more than four million radioactive smoke detectors in homes and places of work around the United States, and more are now entering the marketplace at a rate of about nine million a year—compared to about one million annually for the photoelectric type, according to a spokesperson for the National Bureau of Standards.

The average home detector contains about two-and-a-half microcuries of americium-241; those in factories and office buildings contain up to fifteen microcuries of this carcinogenic material.

Americium-241, which is fifty-three times more radioactive by weight than plutonium-239, transforms the air that flows through the detector into the conductor of a small electric current, when this current is interrupted by particles of smoke, an alarm is triggered. The photoelectric detector alarm goes off when a beam of light inside the unit is interrupted by particles of smoke. Both types "can suffice" says Richard Bright, a fire research engineer with the National Bureau of Standards.

The americium oxide salt in the ionization smoke detectors lies between thin laminated layers of gold and silver about an eighth of an inch square. The detectors themselves have a useful life of about fifteen years at most, according to Bright. But americium-241 has a radioactive half-life of 460 years, which means it will be a potential threat to human health and safety for thousands of years.

Scientists and engineers have been trying for thirty years to come up with a safe method of storing, containing, and disposing of the radioactive poisons produced by nuclear fission (such as strontium-90, cesium-137, plutonium and americium) for periods of time ranging from hundreds to thousands to hundreds of thousands of years. It is a formidable challenge whose cost has recently been estimated at $70 to $80 billion just to bring the current radioactive waste problem under control.

The large water-cooled casks in which boiling-hot, high-level radioactive wastes are now temporarily stored and cooled, pending a permanent solution of the waste disposal problem, have a disquieting life expectancy of about fifty years at best, after that, or well before, they begin to leak.

On a nuclear reservation, americium is regarded and handled with the utmost caution because of its cancer-causing capabilities. In the marketplace, however, where americium smoke detectors are regarded as a hot commercial property, and where the element is also used in oil exploration, there seems to be little concern about the increasing use and distribution of americium-241, though Ralph Nader's Health Research Group has been trying to have the ionization smoke detectors withdrawn and banned from the market.

Theoretically, the americium in smoke detectors is supposed to remain leak-proof inside its metallic foil covering during normal use and even when enveloped by flames. Theoretically, too, these radioactive units are to be returned eventually to the company that manufactured them (even, one supposes, if it has gone out of business in the meantime), which, in turn, will hand them over to the U.S. Nuclear Regulatory Commission for the thousand-year disposal job.

And theoretically, the companies that use americium to explore for oil will keep this radioactive poison from entering the biosphere—but we know of one instance, according to a Nuclear News report of October 17, 1974, when four curies of plutonium were "lost" in a natural gas wellhead fire near Six Lakes, Michigan, between August 16 and 21, 1974. A similar fate may befall other—perhaps many—sources of plutonium and americium in the environment.

Americium, which is soluble, accumulates in the biosphere—in soil and water—from which it enters the human food chain in drinking water, plant foods, fish, and animals. Once ingested into the human organism, it moves readily from the gastrointestinal tract into the bloodstream, where it remains to cause cancer of the liver and bone.

As Edward Martell puts it, "If americium doesn't hurt us, it's going to hurt our children and grandchildren." Martell is "horrified" by the widespread distribution of radioactive smoke detectors, which he regards as "grossly irresponsible . . . and insensitive to the risks."

Mary Anne and Charlie, who kept their americium smoke detector near the refrigerator and shelves of food in their Pennsylvania home, wondered if their ionization detector could pose an immediate danger. Sure, I replied, if recoil fragment particles from the americium source escaped into their pantry and kitchen. The "alpha recoil action" on the americium surfaces inside the smoke detector forces small clusters of atoms to break away from their source, releasing particles of respirable size inside the metal foil covering, from which they could escape if the covering were damaged or melted.

These particles are likely to be only a small fraction of a micron in diameter (a micron is one-millionth of a meter)—but such minute amounts represents a significant cancer risk, according to knowledgeable scientists.

Smoke detectors can be and have been destroyed in fires, according to Dick Bright of the National Bureau of Standards. When that happens, the americium source can vaporize and oxidize. The gold foils that contain the americium are quite thin and will melt at only 1,063 degrees centigrade; they are not eternally indestructible.

Furthermore, Ralph Nader's Health Research Group has warned of "the possibility that americium exposure presents a hazard to workers in facilities where ionization smoke detectors are assembled" and that "firemen risk exposure to radiation while fighting fires in facilities where the detectors are installed or stored."

The Nuclear Regulatory Commission (NRC) defends radioactive smoke detectors on the grounds that they will save lives that might otherwise be lost to fire. The NRC also contends that the amount of americium they contain is so minute that it can be dismissed as a potential threat to human health and safety. Kenneth R. Chapman, director of the NRC's Office of Nuclear Material Safety and Safeguards, claimed in a letter to the Nader health group that any accidental radiation leak from the americium smoke detectors would be "negligible" and, therefore, would not constitute a health problem.

The NRC and other defenders of ionization smoke detectors have lulled consumers into a false sense of security by gauging the amount of radiation emitted by the detectors against natural background radiation, which is many times higher. Federal standards governing our exposure to radiation tend to lump all forms of radiation together and then average out this amount of radiation, which might actually be confined to less than one gram of tissue, as if it were irradiating the whole body, or a whole organ, with a uniform dose.

Such averaging is reasonable when applied to high-energy gamma radiation, medical and dental x-rays, and beta radiation (from television sets and luminous-dial wrist watches). Gamma radiation and x-rays can be deeply penetrating, beta radiation is less so, but even beta rays can penetrate considerable distances in the human body. Both types of radiation would pose an immediate danger in the event of a major nuclear power plant accident. But this standard practice of averaging the dose is wholly misleading when applied to alpha radiation, especially when it is in the form of particles lodged in tissue, irradiating the cells at small focal points.

In light of these facts and risks, what will become of the americium in radioactive smoke detectors? It is not unreasonable to suspect that within a relatively short time, some of these units will wind up in trash cans, incinerators, and junkyards.

"Some americium will certainly seep into the soil and water," agrees health physicist Karl Morgan. "The only question is where and how much. . . . Even though the risk may be small—and I'm not saying it is—when you have millions of these smoke detectors, and you multiply a 'small risk' by a large number, the risk can be much larger."

Morgan calls the use of ionization smoke detectors "an inappropriate use of radioactivity . . . of radioactive contamination in homes and into man's environment. I don't approve of this application," he said, "especially when there are other, safer, better ways of doing the job."

Dr. Donald P. Geesaman, a noted biophysicist, claims it is "insidious" to manufacture and distribute radioactive smoke detectors, and concurs that "it's inevitable that some of this americum will enter the human food chain."

"What's happening," according to Dr. Dean Abrahamson, is that they [the nuclear establishment are commercializing the use of as much radioactive waste products as they can. . . . The commercial use of these extremely toxic materials is an immediate danger."

Still, it appears likely that americum smoke detectors will continue to be hawked across the country. The U.S. Department of Housing and Urban Development requires that buildings financed by the Federal Housing Administration and the Veterans Administration must have smoke detectors, cities such as Chicago have enacted ordinances requiring the use of smoke detectors in apartments, the National Safety Council has applauded their use.

Dr. Edward P. Radford, a physician with the Department of Environmental Medicine at Johns Hopkins University in Baltimore, which does research on radiation, fire, and air pollution, told me that he and his colleagues have been looking at smoke detectors as part of their study on the toxicity of fire gases. They have concluded that "the benefits of smoke detectors are not that substantial."

"Our studies do not bear out the notion that the great percentage of people who die in fires will, or would have been saved by smoke detectors," Dr. Radford said. He suggested that manufacturers of the detectors sometimes use "scare tactics" to sell their products, and, that in any case, "they are being oversold as a panacea."

In any case, there is a safe alternative to the radioactive smoke detector. Photoelectric smoke detectors, which pose no hazard, are almost as effective as the radioactive units, according to the National Bureau of Standards, which has approved both types. The photoelectric type responds most quickly to a smoldering fire, from a mattress or chair, where the smoke particles are large, whereas the radioactive unit responds more readily to clean flames and smaller smoke particles.

Either device will normally do for the home because of the wide range of smoke particles usually found in a dwelling fire. The Nader health group claims that "smoldering, smoky fires . . . account for most fire deaths 75 per cent of fires within the home start as smoldering fires."

Industry has preferred the ionization detectors because they respond faster in the presence of clean flames that might be more common than smoldering smoke in a factory setting. However, there have been marked recent improvements in the photoelectric smoke detectors produced by at least two manufacturers who have brought their product up to the capability of radioactive units.

Under these circumstances, it would seem highly desirable, and even urgent, to remove the americium smoke detectors from the market; to have them returned to the manufacturers in an attempt to channel the americium in their foils to the Nuclear Regulatory Commission for proper disposal, or to hand them directly over the NRC.

But the scientific and medical communities do not seem to be much interested in the issue. Dr. Sidney Wolfe, the physician who heads the Nader Health Research Group, has been trying to sound the alarm. Dr. John W. Gofman, a physician and medical physicist, and former associate director at the Lawrence Livermore Radiation Laboratory in California, has expressed profound concern, as have such other scientists as Martell, Karl Morgan, Dean Abrahamson, and Donald Geesaman. But Dr. Albert W. Hillberger, a physician and staff member of the Advisory Committee on the Biological Effects of Ionizing Radiation, Division of Medical Sciences, National Academy of Sciences in Washington, D.C., says the committee "has not studied the problem," and that he, in fact, has six radioactive smoke detectors in his home.

Those who believe in nuclear power and its offshoots find it difficult to conceive that plutonium and americium will ever present an immediate or long-term threat to human health and safety, though the amount of man-made radiation to which authorities contend we can be exposed without undue harm continues to drop as scientists learn more about the relationship between radiation, cancer, and other diseases.

As chemist and Nobel Laureate Linus Pauling once wrote, "The nature of high-energy radiation and the nature of the gene are such that genetic mutations could occur even at the lowest dose rates. . . . That is, there is no Isafel threshold."

Every large light-water nuclear fission power reactor used to produce electricity also produces 400 to 600 pounds of plutonium in an operating year, 11 percent of which will form americium-241. This is why such scientists as Martell worry, in his words, that "if plutonium doesn't give us cancer, americium and curium will. We get it both ways from nuclear power—plutonium by inhalation, americium (and curium) by drinking and eating."

If we have any regard for humanity, we will not want to leave an irreversibly poisoned planet to those who must follow in our footsteps. People who have been fatally exposed to low-level radiation may not immediately fall down and die, but that does not mitigate the horror and suffering from cancer and other diseases that will rise up to claim them many years later.

INTERNATIONAL DEVELOPMENT ASSISTANCE ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota, (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, it is a great pleasure for me to join today in sponsoring in the House the 1978 International Development Assistance Act, the last major legislative initiative of our dear friend from Minnesota, Hubert Humphrey. Senator Humphrey felt very strongly that the time had come to modernize the 17-year-old Foreign Assistance Act so the United States could respond more effectively to the poorest of the poor of the world. He intended to introduce this bill in the Senate before he died. His Senate colleagues have followed his wishes and I am pleased we are introducing it here today.

I expect to participate actively as a member of the ad hoc group that CLEM ZABLOCKI, is establishing to study this bill and to report it to the Committee on International Relations this spring.

The bill itself is complex and comprehensive. While it would keep the "New Directions" policy focus of U.S. bilateral assistance, it also calls for a major reorganization of the administration of U.S. development assistance. Specific features of this bill are:

First. It would establish a new development agency, the International Development Cooperative Administration (IDCA) which will have responsibility for administering all the major U.S. development assistance programs, including the bilateral assistance program now run by the Agency for International Development (AID); the contributions to the World Bank Group and the regional development banks now coordinated by the Department of the Treasury; the voluntary contributions to the United Nations technical and humanitarian agencies now coordinated by the Department of State, and the development and relief aspects of the Public Law 480 food for peace program, now coordinated by AD.

Second. It designates an Administrator of the IDCA, who will report to the President and be responsible for the effective and efficient administration of U.S. foreign assistance programs, and coordinate the making of overall U.S. development policies.

Third. It provides a clear statement of the importance the United States places on development, both because of the increasing importance to the United States of the developing world, and because of the people of the United States in helping others. By establishing a new institution with an Administrator who has direct access to the President, the act assures that these development interests will be reflected in the formulation of overall U.S. international economic policy.

Fourth. It presents clear, modern guidelines for U.S. development assistance policy, and repeals the outdated

Foreign Assistance Act of 1961. The act further clarified the 1973 new directions goals of using direct U.S. grant and loan assistance in ways which promote economic growth with equity and assure that the basic human needs of the poor majority are met.

Fifth. It establishes an International Development Institute as the main focus of U.S. Government support for public and private voluntary programs involving development. The Peace Corps would be transferred to the Institute from ACTION, while maintaining its administrative autonomy.

Sixth. It introduces new measures for assisting the poorest developing countries, including the encouragment of assistance in the form of grants rather than loans, and a provision to allow these countries to satisfy official development debt obligations to the United States through local currency expenditures on development-related projects.

Seventh. It consolidates programs which improve the access of middle-income developing countries to private capital markets, investment resources, and technical services. These programs, such as the housing investment guaranties, entail almost no expenditure of U.S. Government funds, but involve guaranty programs for investments and loans, and reimbursable services.

Eighth. It establishes an economic support fund to replace the current security supporting assistance program, assuring that such funds will be spent on development-related activities to the greatest possible degree.

Besides these aspects of the bill which our ad hoc committee will want to discuss in detail, there are other provisions, including those for population planning that we will want to consider very carefully.

The task before us is formidable. As Senator Humphrey would remind us, "it's not impossible." It is my hope that this bill will provide a durable framework for our foreign aid program and a living testament to a man who cared so much about the well-being of all peoples of this world.

LABOR DEPARTMENT FILES SUIT TO RECOVER LOSSES TO TEAMSTERS' PENSION FUND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, as chairman of the Ways and Means Oversight Subcommittee whose inquiry into the conduct of the Teamsters' Central States Pension Fund lead to investigations by the Internal Revenue Service, Labor Department, and Justice Department, I am pleased to acknowledge the filing today of a major civil lawsuit by the Labor Department to recover losses to the pension fund for breaches of fiduciary duties occurring after January 1, 1975. I commend Secretary Marshall for his continuing fine efforts toward assuring that the promise of retirement security will be kept for some 450,000 Teamsters Union members and their families.

However, the scope of this lawsuit underscores the fact that much territory remains to be covered. As I have mentioned, the lawsuit covers only civil responsibility for actions taken after January 1, 1975. Transactions entered into within a 10-year period before this date fall within the responsibility of the Internal Revenue Service which required, as a condition for its April 26, 1977, requalification of the fund, that an investigation of all fund transactions between February 1, 1965, and April 30, 1977 be undertaken by parties independent of the fund to determine the potential for legal recourse against delinquent borrowers—the so-called legal audit.

In addition, the Justice Department has responsibility for the investigation and prosecution of any violations of the criminal law during the periods before and after that covered in the Labor Department's complaint. My concern is that we have heard relatively little from either of these agencies. With regard to the "legal audit," my concern is that the IRS has neglected to control the process and permitted the fund to investigate itself and drag its feet in the process. Out of perhaps 600 loans and transactions that are subject to this review, the latest reports indicate that less than a handful have actually been referred for independent outside review in the past 10 months. Moreover, the entire process is required to be completed by May 1, 1978—3 months from now.

Without covering the field, I will mention one other fundamental concern. It is that no concrete action has yet been taken to restore the actuarial soundness of the Central States Pension Fund. In fact, neither the new independent investment managers nor the Government have yet come up with an assessment of the total value of this fund's assets. Thus nobody yet knows just how much will be needed to enable this fund to meet its entire obligation to its hundreds of thousands of working Teamsters throughout the central and southeastern portions of the United States.

BIDDING PROCEDURES ON NATIONAL FOREST LANDS (H.R. 6362)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

Mr. ULLMAN. Mr. Speaker, the House is expected to consider on Thursday H.R. 6362, legislation concerning bidding procedures for the sale of timber from national forest lands. As a strong supporter of this proposal, which will be slightly altered by Chairman FOLEY's amendment in the nature of a substitute (the language of S. 1360), I rise to clarify a misunderstanding perpetuated by opponents of the bill.

It has been argued that this legislation would lead to collusive bidding practices; that a vote for this legislation is a vote for collusion. This argument is a gross distortion, not only of the provisions of H.R. 6362, but of the effects of oral bidding.

The substitute to be offered by Chairman FOLEY would not promote collusive bidding practices. The legislation, rather, requires the Secretary of Agriculture to monitor bidding patterns in the sale of all national forest timber. Should the Secretary find that collusive bidding practices are occurring, he is required to report instances of such collusion to the Attorney General. He may also alter bidding methods or take any other action necessary to eliminate the illegal practices.

A vote for the Foley substitute is not a vote for mandated oral bidding procedures. The substitute merely eliminates the apparent mandate in section 14(e) of the National Forest Management Act to use sealed bidding in most situations. The Secretary is provided the authority to select the bidding method which insures fair competition and a fair return to the Federal Government, as well as the protection of the economic stability of communities dependent on national forest timber. In the South, the East, and other areas where sealed bids are the customary practice, there is no reason to believe that such bidding procedures would be changed. I want to reemphasize this point: The substitute does not mandate the use of oral bidding procedures. It simply authorizes the Secretary to consider the economic needs of each area before determining which bidding method to use.

There is no evidence that oral bidding is more conducive to collusion than sealed bidding procedures. Forest Service Chief John McGuire has testified that there is no evidence to support the conclusion that sealed bidding does any more to reduce collusion than oral auction. No such evidence has ever been presented to Congress. Individuals prone to collude will do so under any bidding system.

There is no reason to believe the collusion is widespread in the industry. There have been convictions for collusion in the industry in only one area in 70 years. Certainly this record is not one which would support the need for drastic changes in policies which have served our Nation so well over the years.

If collusion is occurring, the guilty should be prosecuted. Legitimate timber purchasers, however, should not be punished, or should dependent communities be threatened by ill-considered Government actions designed to discourage a few alleged wrong-doers.

Mr. Speaker, I thank you for this opportunity to address this important matter. I strongly urge my colleagues to give their support to Chairman FOLEY's substitute, as well as to final passage of H.R. 6362.

NATIONAL LATIN WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SHARP) is recognized for 5 minutes.

Mr. SHARP. Mr. Speaker, earlier this year, I met with a young man from my district, Mr. Tom Moran, who is president of the National Junior Classical League. Each year the league holds a national convention and gathers students from across the Nation for the purpose of studying Latin and the classics. Mr. Moran reminded me that this

year will mark the 25th anniversary of the league as they hold their annual convention in July.

Because I feel that this organization demonstrates that many young people in this country maintain a serious interest in academics and the classics, and because I also feel that many facets of our modern life are rooted in the Greek and Roman civilizations, I am introducing a resolution to designate the week of July 30, 1978, as "National Latin Week." I would welcome cosponsorship by other Members of Congress who would like to join me in honoring the occasion of the 25th annual convention and I will be soliciting support in the coming weeks.

VOTING RECORD

(Mr. FOLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FOLEY. Mr. Speaker, I would like to insert in the CONGRESSIONAL RECORD a compilation of my complete voting record for the 1st session of the 95th Congress:

1. Election of Speaker. For election of the Speaker of the House of Representatives for the 95th Congress the nominees were Rep. Thomas P. O'Neill, Jr. (D. Mass.) and Rep. John J. Rhodes (R Ariz.), minority leader since 1973. O'Neill was elected 290–142. Foley for O'Neill.

2. H Res 5. House Rules. Wright (D Texas) motion to order the previous question on the House rules proposed by the Democratic Caucus at its meetings in early December 1976. Motion agreed to 261–140; Yes. Jan. 4, 1977.

3. H Res 5. House Rules. Adoption of the resolution detailing the Rules of the House of Representatives for the 95th Congress. Adopted 256–142; Yes. Jan. 4, 1977.

4. S 474. Natural Gas Emergency. Staggers (D W. Va.) motion to suspend the rules and pass the bill to authorize the President to allocate interstate natural gas through April 30, 1977, and to allow emergency sales of such gas through July 31, 1977, at higher prices than usual, but still controlled. Motion agreed to 367–52: Yes.

5. Procedural Motion. Wright (D Texas) motion to approve the House *Journal* of Tuesday, Feb. 1, 1977. Motion agreed to 413–2: Yes. Feb. 2, 1977.

6. S 474. Natural Gas Emergency. Adoption of the conference report on the Emergency Natural Gas Act of 1977 granting the President temporary emergency powers to allocate and allow unregulated sales of natural gas. Adopted 336–82: Yes. Feb. 2, 1977.

7. H Res 222. Select Committee on Assassinations. Adoption of the rule (H. Res 230) providing for House floor consideration of the resolution to reconstitute the select committee charged with a new inquiry into the deaths of President John F. Kennedy and Dr. Martin Luther King Jr. Adopted 265–145: Yes. Feb. 2, 1977.

8. H Res 222. Select Committee on Assassinations. Clawson (R Calif.) amendment to delay a full-scale investigation until such time as the committee made recommendations as to whether a further investigation was needed. Rejected 165–237; No, Feb. 2, 1977.

9. H Res 222. Select Committee on Assassinations. Adoption of the resolution to reconstitute for 90 days, effective Jan. 3, 1977, the Select Committee on Assassinations to inquire into the deaths of President John F. Kennedy and Dr. Martin Luther King Jr.; the committee to be funded under the continuing resolution allowing it approximately $84,000 per month. Adopted 237–164: Yes, Feb. 2, 1977.

10. Procedural Motion. Wright (D Texas) motion to approve the House *Journal* of Friday, Feb. 4, 1977. Motion agreed to 329–3: Yes, Feb. 7, 1977.

11. H J Res 227. Supplemental Power Appropriation, Fiscal 1977. Adoption of the resolution to make available $6.4-million in emergency appropriations for the Department of the Interior's Southwestern Power Administration. The resolution also permitted the Energy Research and Development Administration to spend previously appropriated fiscal 1977 funds without requiring passage of an authorization measure. Adopted 341–5: Yes, Feb. 7, 1977.

12. H J Res 240. 200-Mile Fishing Limit. Brademas (D N.Y.) motion to suspend the rules and pass the resolution giving congressional approval to international fishery agreements negotiated with foreign countries in accordance with the Fishery Conservation and Management Act of 1976 (PL 94–265). Passed 353–35: Yes.

13. Procedural Motion. Wright (D Texas) motion to approve the House *Journal* of Tuesday, Feb. 8, 1977. Motion agreed to 364–3: Yes, Feb. 9, 1977.

14. H Res 252. Ethics Committee South Korean Investigation. Adoption of the resolution authorizing and directing the Committee on Standards of Official Conduct (ethics) to determine whether any members of the House or their immediate families or associates accepted anything of value from the South Korean government or representatives thereof. Adopted 388–0: Yes, Feb. 9, 1977.

15. HR 692. Small Business Amendments. Passage of the bill to raise the ceiling on Small Business Administration loans and investments in fiscal 1977 to $8-billion, from $6-billion, and, within that amount, to increase the ceilings on economic opportunity loans to $525-million, from $450-million, and on aid to small business investment companies to $1.1-billion, from $725-million; and to bring more small businesses under the programs. Passed 381–0: Yes, Feb. 9, 1977.

16. Procedural Motion. Wright (D Texas) motion to adjourn from Thursday, Feb. 17, until Monday, Feb. 21, 1977. Motion rejected 109–226; yes, Feb. 17, 1977. (Opponents of a scheduled pay raise for members of Congress tried to force a direct vote on the issue by keeping the House in session over the Feb. 19–20 weekend. The raise automatically was to take effect Feb. 20 unless either house by that date voted against it. After the vote, Speaker Thomas P. O'Neill Jr. (D Mass.) said that under no circumstances could the leadership have brought the pay raise to a vote. The House subsequently adjourned without objection.)

17. HR 27. Air Fare for the Elderly and Handicapped. Anderson (D Calif.) motion to suspend the rules and pass the bill to authorized reduced air fares on a space-available basis for elderly and handicapped persons. Passed 403–0; yes, Feb. 22, 1977.

18. H J Res 132. Marian Anderson Gold Medal. Passage of the resolution to authorize an official gold medal to be awarded to singer Marian Anderson in recognition of her distinguished career. Passed 398–4; yes, Feb. 23, 1977.

19. H Con Res 110. Fiscal 1977 Budget Revisions. Rousselot (R Calif.) substitute amendment, to the committee amendment to revise binding levels for fiscal 1977 revenues and outlays, providing for a $19-billion permanent tax rate reduction. Rejected 148–258; no, Feb. 23, 1977.

20. H Con Res 110. Fiscal 1977 Budget Revisions. Adoption of the resolution revising binding levels for fiscal 1977 to provide for revenues of $348.8-billion, budget authority of $477.9-billion, outlays of $419.1-billion and a deficit of $70.3-billion. Adopted 239–169; yes, Feb. 23, 1977.

21. HR 11. Public Works Jobs Program. Adoption of the rule (H Res 304) providing for House floor consideration of the bill to authorize an additional $4-billion for the emergency public works jobs program. Adopted 384–5; yes, Feb. 24, 1977.

22. HR 11. Public Works Jobs Program. Edgar (D Pa.) substitute amendment, for the Shuster (R Pa.) amendment to change the method of allocating program funds among the states to reflect both absolute numbers of unemployed persons and the severity of state unemployment rates. Rejected 187–201; yes, Feb. 24, 1977.

23. HR 11. Public Works Jobs Program. Shuster (R Pa.) amendment to change the method of allocating program funds among states to base state shares in most cases solely on the number of unemployed persons. Adopted 229–158; no, Feb. 24, 1977.

24. HR 11. Public Works Jobs Program. Passage of the bill to raise the authorization level to $6-billion from $2-billion for the emergency public works employment program as part of President Carter's economic stimulus package. Passed 295–85: No. Feb. 24, 1977.

25. HR 2329. Fish and Wildlife Administration. Murphy (D N.Y.) motion to suspend the rules and pass the bill, as amended, to improve the administration of federal fish and wildlife programs. Motion rejected 206–136: No. Feb. 28, 1977.

26. HR 3753. U.S. 200-Mile Fishing Zone. Leggett (D Calif.) motion to suspend the rules and pass the bill to give congressional approval to international fishery agreements negotiated with foreign countries in accordance with the Fishery Conservation and Management Act of 1976 (PL 94–265). Passed 377–18: Yes. March 1, 1977.

27. HR 3365. Interest Rate Ceilings. Passage of the bill to extend for one year, through March 1, 1978, federal agency authority to set ceilings on interest rates paid by depository institutions ("Regulation Q") and to broaden the lending powers of federally chartered credit unions. Passed 401–4: Yes. March 1, 1977.

28. H Res 287. House Ethics Code. Bolling (D Mo.) motion to order the previous question and thus end debate on the rule (H Res 338) under which the resolution to impose a new financial ethics code on House members was considered. Motion adopted 267–153: Yes. March 2, 1977.

29. H Res 287. House Ethics Code. Frenzel (R Minn.) amendment to delete from the resolution the section banning members from maintaining private unofficial office accounts and to increase by $5,000 the amount available to each member for official expenses. Rejected 187–235: No. March 2, 1977.

30. H Res 287. House Ethics Code. Murphy (D Ill.) amendment to delete the section of the resolution prohibiting members from earning more than 15 per cent of their official salaries through outside jobs. Rejected 79–344: No. March 2, 1977.

31. H Res 287. House Ethics Code. Adoption of the resolution to require comprehensive financial disclosure by House members, ban private office accounts, increase official allowances, ban gifts from lobbyists, limit outside earned income and impose other financial restrictions on members. Adopted 402–22; Yes. March 2, 1977.

32. H J Res 269. Urgent Disaster Relief Appropriations, Fiscal 1977. Passage of the resolution appropriating $200-million in additional disaster relief funds in fiscal 1977 to help alleviate the hardships caused by severe cold weather in the eastern United States. Passed 411–4; Yes. March 3, 1977.

33. HR 3839. Second Budget Rescission, Fiscal 1977. Chappell (D Fla.) amendment, to the committee amendment, to restore $81.6-million in previously appropriated long-lead-time funds for a Nimitz-class nu-

clear aircraft carrier. Rejected 161–252; No. March 3, 1977.

34. HR 3839. Second Budget Rescission. Fiscal 1977. Bennett (D Fla.) amendment, to the committee amendment, to restore $371-million in previously appropriated funds to outfit the *USS Long Beach* with the Aegis antiaircraft system. Rejected 137–269; Yes. March 3, 1977.

35. S Con Res 10. Fiscal 1977 Budget Revisions. Adoption of the conference report on the resolution setting new binding levels for the fiscal 1977 budget of revenues of $347.7-billion, budget authority of $472.9-billion, outlays of $417.45-billion and a deficit of $69.75-billion. Adopted 226–175; Yes. March 3, 1977.

36. HR 2846. John F. Kennedy Center Act Amendments. Adoption of the rule (H Res 359) providing for House consideration of the bill to amend the John F. Kennedy Center Act to authorize funds for certain repairs to the John F. Kennedy Center for the Performing Arts. Adopted 292–22; Yes. March 4, 1977.

37. HR 2846. John F. Kennedy Center Act Amendments. Grassley (R Iowa) motion to recommit the bill to the Public Works and Transportation Committee with instructions to report it back to the House with an amendment reducing the authorization by $1.4-million, to $3.3-million. Rejected 101–213; No. March 4, 1977.

38. HR 2846. John F. Kennedy Center Act Amendments. Passage of the bill to amend the John F. Kennedy Center Act to authorize $4.7-million for certain repairs to the building. Passed 239–78; Yes. March 4, 1977.

39. H Res 111. Select Committee on Professional Sports. Adoption of the resolution to create a House Select Committee on Professional Sports for the 95th Congress. Rejected 75–271: No. March 7, 1977.

40. House Committee on Assassinations. Acceptance of the resignation of Henry B. Gonzalez (D Texas) as chairman and member of the House Select Committee on Assassinations. Accepted 296–100: Yes. March 8, 1977.

41. HR 3477. Stimulus Tax Cuts. Pepper (D Fla.) motion to order the previous question and thus end debate on the rule (H Res 360) providing for House floor consideration of the bill to cut individual and business taxes, simplify tax preparation and increase the standard deduction. Motion agreed to 208–181: March 8, 1977.

42. HR 3477. Stimulus Tax Cuts. Adoption of the Ways and Means Committee amendment to phase out the 1976 tax rebate for those earning more than $25,000 annually and to grant $50 payments to recipients of Aid for Families with Dependent Children (AFDC), black lung benefits, and veterans' compensation and pensions. Adopted 312–103: Yes. March 8, 1977.

43. HR 3477. Stimulus Tax Cuts. Adoption of the Ways and Means Committee amendment to increase the standard deduction for single persons to $2,400 from $2,200. Adopted 386–29: Yes. March 8, 1977.

44. HR 3477. Stimulus Tax Cuts. Adoption of the Ways and Means Committee amendment to provide for a new two-year jobs tax credit (with a $40,000 limit) equal to 40 per cent of the first $4,200 in wages paid to additional employees over 1976 and 1977 levels and to give an additional 10 per cent credit for employment of the handicapped. Adopted 341–74: No. March 8, 1977.

45. HR 3477. Stimulus Tax Cuts. Conable (R N.Y.) motion to recommit the bill to the Ways and Means Committee with instructions to report it back with a substitute amendment reducing the tax rates in the lowest seven tax brackets rather than providing a $50 tax rebate and $50 payments to federal assistance recipients. Rejected 194–219: announced for March 8, 1977.

46. HR 3477. Stimulus Tax Cuts. Passage of the bill to provide for a refund of 1976 individual income taxes and other payments, to reduce individual and business income taxes, to increase the individual standard deduction and to simplify tax preparation. Passed 282–131: Announced for, March 8, 1977.

47. H Res 383. House Select Committee on Ethics. Bolling (D Mo.) motion to order the previous question and thus end debate on the resolution establishing a House Select Committee on Ethics. Motion agreed to 242–175: Yes, March 9, 1977.

48. H Res 383. House Select Committee on Ethics. Adoption of the resolution establishing a House Select Committee on Ethics to implement the House code of ethics. Adopted 410–1: Yes, March 9, 1977.

49. H Res 357. Judiciary Committee. Ashbrook (R Ohio) motion to recommit to the House Administration Committee the Judiciary Committee funding resolution for the 1977 session with instructions to limit funds for internal security investigations of the Judiciary Committee to $300,000. Motion rejected 159–249: No, March 9, 1977.

50. HR 3843. Fiscal 1977 Supplemental Housing Authorization. Adoption of the rule (H Res 388) providing for House floor consideration of the bill to authorize additional funds for housing assistance programs for low- and moderate-income families, to extend the contract term for Section 8 assisted housing programs from 20 to 30 years and to extend the crime and riot insurance programs. Adopted 411–0: Yes, March 10, 1977.

51. HR 3843. Fiscal 1977 Supplemental Housing Authorization. Adoption of the Banking, Finance and Urban Affairs Committee amendment to increase the term of Section 8 assistance contracts from 20 to 30 years for new or rehabilitated units financed conventionally or under the Department of Housing and Urban Development co-insurance program. Adopted 323–87: Yes, March 10, 1977.

52. HR 3843. Fiscal 1977 Supplemental Housing Authorization. Oakar (D Ohio) amendment to require that public members of the National Commission on Neighborhoods include an equal number of men and women. Adopted 249–157: No, March 10, 1977.

53. HR 3843. Fiscal 1977 Supplemental Housing Authorization. Goldwater (R Calif.) amendment to delete Title II of the bill establishing a National Commission on Neighborhoods. Adopted 243–166: Yes, March 10, 1977.

54. HR 3843. Fiscal 1977 Supplemental Housing Authorization. Passage of the bill to authorize an additional $407.6-million for housing assistance programs for low- and moderate-income families, to extend the contract term for Section 8 assisted housing programs from 20 to 30 years and to extend the crime and riot insurance programs. Adopted 380–30: Yes. March 10, 1977.

55. HR 2647. Small Business Loans. Adoption of the conference report on the bill to raise the ceiling on Small Business Administration loans and assistance to $7.4-billion, from $6-billion, and, within that amount, to incease the ceilings on economic opportunity loans to $525-million, from $450-million, and on assistance to small business investment companies to $887.5-million, from $725-million; and to increase the authorization for the surety bond guarantees program to $110-million, from $56.5-million. Adopted 355–1: Yes. March 14, 1977.

56. HR 1746. Rhodesian Chrome Imports. Bauman (R Md.) amendment to prohibit the importation of chrome from any nation that violated the human rights provisions of the United Nations Charter. Rejected 153–246: No. March 14, 1977.

57. HR 1746. Rhodesian Chrome Imports. Stratton (D N.Y.) amendment to delay the effective date of the bill for 30 days so that the President, as required by the amendment, could report to Congress on the status of negotiations to establish majority rule in Rhodesia. Rejected 160–236: No. March 14, 1977.

58. HR 1746. Rhodesian Chrome Imports. Passage of the bill to halt the importation of Rhodesian chrome in order to bring the United States into compliance with United Nations economic sanctions imposed on Rhodesia in 1966. Passed 250–146: Yes, March 14, 1977.

59. H Res 404. Television Coverage of House Proceedings. Adoption of the resolution authorizing the House Rules Committee to evaluate the impact of television coverage of House proceedings, including the possibility of public dissemination, after completion of the 90-day test of audio-visual recording of floor proceedings that began March 15. Adopted 398–10: announced for March 15, 1977.

60. HR 4876. Economic Stimulus Supplemental Appropriations, Fiscal 1977. Adoption of the rule (H Res 402) providing for House floor consideration of the bill to appropriate $22.6-billion of supplemental fiscal 1977 funds for a variety of federal programs, including the components of President Carter's economic stimulus package. Adopted 333–71: Yes. March 15, 1977.

61. HR 4876. Economic Stimulus Supplemental Appropriations, Fiscal 1977. Couglin (R Pa.) amendment to reduce, to $250-million from $632.5-million, the appropriation for the "countercyclical" aid program to help state and local governments continue recession-threatened services. Rejected 183–225: Yes. March 15, 1977.

62. HR 4876. Economic Stimulus Supplemental Appropriations, Fiscal 1977. Cederberg (R Mich.) amendment to require that projects funded under the emergency public works program reserve 10 per cent of their jobs for local residents who had been unemployed at least 30 days. Rejected 165–245: No. March 15, 1977.

63. HR 4876. Economic Stimulus Supplemental Appropriations, Fiscal 1977. Passage of the bill to appropriate $23.3-billion of supplemental fiscal 1977 funds for a variety of federal programs, including the components of President Carter's economic stimulus package. Passed 281–126: Yes. March 15, 1977.

64. HR 4877. First Regular Supplemental Appropriations, Fiscal 1977. Adoption of the rule (H Res 403) waiving points of order against certain provisions of the bill for failure to comply with House rules prohibiting legislation in an appropriations bill and unauthorized appropriations. Adopted 331–58: Yes. March 16, 1977.

65. HR 4877. First Regular Supplemental Appropriations, Fiscal 1977. Obey (D Wis.) amendment to add $200-million for the emergency energy-fuel assistance program. Adopted 233–170: No. March 16, 1977.

66. HR 4877. First Regular Supplemental Appropriations, Fiscal 1977. Myers (R Ind.) amendment to prohibit use of funds in the bill to carry out President Carter's Vietnam amnesty program. Adopted 220–187: No. March 16, 1977.

67. HR 4877. First Regular Supplemental Appropriations, Fiscal 1977. Young (R Fla.) amendment to delete from the bill the $55-million U.S. contribution to the International Development Association. Rejected 171–234: No. March 16, 1977.

68. HR 4877. First Regular Supplemental Appropriations, Fiscal 1977. Passage of the bill to provide supplemental appropriations of $27.9 billion in fiscal year 1977, including $13.1 billion for housing assistance, $3.2 billion for higher education and $2.1 billion for recent pay increases for military and civilian personnel. Passed 306–98. Yes. March 16, 1977.

69. HR 4088. NASA Authorization. Adoption of the rule (H Res 405) providing for House floor consideration of the bill to authorize $4.05 billion for the National Aero-

nautics and Space Administration in fiscal 1978. Adopted 389–0. Yes. March 17, 1977.

70. HR 4088. NASA Authorization. Passage of the bill to authorize $4.05 billion for the National Aeronautics and Space Administration for fiscal 1978. Passed 338–44: Yes, March 17, 1977.

71. HR 3712. Library Services and Construction. Brademas (D Ind.) motion to suspend the rules and pass the bill to extend the Library Services and Construction Act (PL 84–597) for four years and to authorize additional funding. Passed 368-1: Yes. March 21, 1977.

72. HR 4800. Supplemental Jobless Benefits. Moakley (D Mass.) motion to order the previous question (thus ending further debate and possibility for amendment) on the rule (H Res. 411) providing for House floor consideration of the bill to extend for one year, through March 1978, a 13-week program of supplemental unemployment insurance. Motion agreed to 213–164: Announced for March 21, 1977.

73. HR 4800. Supplemental Jobless Benefits. Adoption of the rule (H Res 411) providing for House floor consideration of the bill to extend for one year, through March 1978, a 13-week program of supplemental unemployment insurance. Adopted 236-141: Announced for March 21, 1977.

74. HR 4800. Supplemental Jobless Benefits. Passage of the bill to extend for one year, through March 1978, a 13-week program of supplemental unemployment insurance to provide a maximum of 52 weeks of benefits in states and local areas with high unemployment rates. Passed 327-63: Yes. March 21, 1977.

75. HR 3437. Vocational Education Amendments. Perkins (D Ky.) motion to suspend the rules and pass the bill to make technical amendments to the 1976 education amendments to the Vocational Education Act of 1963 and to increase the flexibility states had in using federal funds for vocational education administration. Passed 396–1: Yes. March 22, 1977.

76. S Con Res 7. Freedom of Emigration. Zablocki (D Wis.) motion to suspend the rules and adopt the concurrent resolution protesting human rights violations to the Soviet Union, including harassment of Soviet Jews and other minorities trying to obtain emigration visas, in disregard of the 1975 Helsinki Declaration. Adopted 400–2: Yes. March 22, 1977.

77. HR 4250. Common-Site Picketing. Adoption of the rule (H Res. 423) providing for House floor consideration of the bill to permit labor unions to picket all contractors at a construction site in disputes with a single contractor working at that site. Adopted 297–112: Yes. March 23, 1977.

78. HR 4250. Common-Site Picketing. Ashbrook (R Ohio) amendment, to the Sarasin (R Conn.) substitute amendment, to restrict common-site picketing to employers "primarily engaged in construction," thus limiting the ability of construction unions to appeal to employees of non-construction employers to observe their strikes. Adopted 212–209: No. March 23, 1977.

79. HR 4250. Common-Site Picketing. Quie (R Minn.) amendment to the Sarasin (R Conn.) substitute amendment to exempt from common-site picketing employers using certain "fast-track" or phased methods of construction. Rejected 181–241: No. March 23, 1977.

80. HR 4250. Common-Site Picketing. Edwards (R Okla.) amendment, to the Sarasin (R Conn.) substitute amendment, to exempt from common-site picketing residential builders of units of three stories or less. Adopted 252–167: Yes. March 23, 1977.

81. HR 4250. Common-Site Picketing. Erlenborn (R Ill.) amendment, to the Sarasin (R Conn.) substitute amendment, to require a secret ballot approval of any authorized common-site picketing action by union, nonunion and industrial workers at the affected site. Rejected 115–304: No. March 23, 1977.

82. HR 4250. Common-Site Picketing. Sarasin (R Conn.) substitute amendment, to the Quie (R Minn.) substitute amendment, to permit common-site picketing practices in somewhat more limited circumstances than the original bill, along the lines of the final version of picketing legislation (HR 5900) vetoed in the 94th Congress. Adopted 246–177: Yes. March 23, 1977.

83. HR 4250. Common-Site Picketing. Passage of the bill to permit a labor union with a grievance with one contractor to picket all contractors on the same construction site and to establish a construction industry collective bargaining committee. Rejected 205–217: Yes. March 23, 1977.

84. Procedural Motion. Wright (D Texas) motion to approve the House *Journal* of Wednesday, March 1977. Motion agreed to 386–3: Yes. March 24, 1977.

85. HR 3965. Federal Aviation Administration Authorization. Passage of the bill to authorize $85-million for research and development programs of the Federal Aviation Administration (FAA) for fiscal 1978 and to require FAA policymakers to disclose any financial interest they might have in any person applying for or receiving financial assistance under the bill. Passed 402–6: Yes. March 24, 1977.

86. HR 4991. National Science Foundation Authorization. Passage of the bill to authorize $868-million in fiscal year 1978 for operations of the National Science Foundation. Passed 378–29: Yes. March 24, 1977.

87. HR 5040. Supplemental State Department Authorization. Passage of the bill to authorize additional funds for activities of the State Department in fiscal 1977. Passed 292–114: Yes. March 24, 1977.

88. H Res 420. Congressional Operations Committee. Adoption of the resolution creating a new Select Committee on Congressional Operations to replace the Joint Committee on Congressional Operations, which was made inoperative when the Senate Feb. 4 voted to discontinue its participation on the panel. Adopted 211–147: Yes. March 28, 1977.

89. HR 5045. Executive Branch Reorganization Authority. Walker (R Pa.) amendment, as a substitute for the bill, to require Congress to vote to approve reorganization plans submitted by the President rather than to allow them to take effect unless disapproved by either the House or Senate within 60 days of their submission. Rejected 87–329: No. March 29, 1977.

90. HR 5045. Executive Branch Reorganization Authority. Passage of the bill to extend for three years the President's authority, which expired in 1973, to transmit to Congress plans for the reorganization of agencies in the executive branch (such authority did not include plans to establish, abolish or merge Cabinet level departments or independent regulatory agencies). Passed 395–22. Yes. March 29, 1977.

91. H. Res. 433. Select Committee on Assassinations. Adoption of the rule (H. Res. 445) providing for House floor consideration of the resolution to continue the select committee charged with a new inquiry into the deaths of President John F. Kennedy and Dr. Martin Luther King Jr. for the duration of the 95th Congress. Adopted 285–124. Yes. March 30, 1977.

92. H. Res. 433. Select Committee on Assassinations. Bauman (R., Md.) amendment to delete language allowing the committee to intervene and bring lawsuits and to make applications to courts. Adopted 223–195. No. March 30, 1977.

93. H. Res. 433. Select Committee on Assassinations. Bauman (R., Md.) motion to resolve into executive (closed) session for further consideration of H. Res. 433. Rejected 185–226. No. March 30, 1977.

94. H. Res. 433. Select Committee on Assassinations. Adoption of the resolution to continue the Select Committee on Assassinations to inquire into the deaths of President John F. Kennedy and Dr. Martin Luther King Jr. for the duration of the 95th Congress. Adopted 230–181. Yes. March 30, 1977.

95. H. Res. 393. House Administration Funds. Adoption of the second part of the resolution to authorize funds for additional office personnel and the lease of equipment for the House leadership offices—up to $30,000 each for the majority and minority leaders and up to $15,000 each for the majority whip and minority whip. Adopted 276–128. Yes. 367–4: Yes. April 19, 1977.

96. H. Res. 393. House Administration Funds. Adoption of the resolution (H. Res. 393), as amended, to authorize funds for two additional employees in the minority leader's office, one additional employee each in the majority whip and chief deputy majority whip's offices and a salary increase for the House postmaster, such funds to be paid out of the contingent funds of the House. Adopted 276–122. Yes. March 31, 1977.

97. HR 4895. Strategic Materials Stockpile Fund. Passage of the bill to establish a separate fund from the proceeds of the sale of excess government stockpiled materials to be used only to purchase other strategic materials for the stockpile. Passed 373–24. Yes. March 31, 1977.

98. HR 4975. Biomedical Research Extension. Passage of the bill to extend for one year, through fiscal 1978, the National Library of Medicine, the national cancer program, the national research service award program and the national heart, blood vessel, lung and blood program at an overall authorization level of $1.5 billion. Passed 385–4: Yes, March 31, 1977.

99. HR 4976. Health Services Extension. Pepper (D Fla.) amendment to increase the authorization for home health services under the bill to the fiscal 1977 level of $8 million for demonstrations and $4 million for training, instead of the $3.45 million and $1 million, respectively, contained in the bill. Adopted 322–69: No. March 31, 1977.

100. HR 4976. Health Services Extension. Passage of the bill to extend for one year, through fiscal 1978, the health services programs of maternal and child health and crippled children services, community health centers, family planning, comprehensive health services, community mental health centers, migrant health centers, hypertension programs, home health services, hemophilia treatment centers, blood separation centers and sudden infant death syndrome programs at an authorization level of $1.1 billion. Passed 376–4: Yes. March 31, 1977.

101. HR 5027. Veterans Administration Medical Services. Roberts (D Texas) motion to suspend the rules and pass the bill to liberalize eligibility for Veterans Administration medical benefits to certain veterans. Motion agreed to 402–0: Yes. April 4, 1977.

102. HR 3695. Veterans' Medical Facilities Funding. Roberts (D Texas) motion to suspend the rules and pass the bill to increase to $15 million the annual program of grants to states for construction and remodeling of veterans' medical care facilities for fiscal years 1978–79. Motion agreed to 399–0: Yes. April 4, 1977.

103. HR 1828. Sick Pay Taxation. Ullman (D Ore.) motion to suspend the rules and pass the bill to delay for one year, until Jan. 1, 1977, the effective date of certain changes in existing tax law that would end the exclusion for sick pay for all but totally disabled retired taxpayers. Motion agreed to 404–0: Yes. April 4, 1977.

104. HR 4800. Supplemental Jobless Benefits. Adoption of the conference report on the bill to extend for seven months, through Oct. 31, 1977, a 13-week program of supplemental unemployment insurance, thus providing a maximum of 52 weeks of benefits

in states with high unemployment rates. Adopted 406–2: Yes. April 4, 1977.

105. HR 5294. Consumer Credit Protection. Adoption of the resolution (H. Res. 469) providing for House floor consideration of the bill to prohibit debt collection agencies from engaging in certain practices alleged to be unfair to consumers. Adopted 347–44: Yes. April 4, 1977.

106. HR 5294. Consumer Credit Protection. Passage of the bill to prohibit debt collection agencies from engaging in certain practices alleged to be unfair to consumers. Passed 199–198: Yes. April 4, 1977.

107. HR 5717. Romanian Earthquake Relief. Zablocki (D Wis.) motion to suspend the rules and pass the bill to authorize $20-million for the relief and rehabilitation of refugees and other victims of the March 4, 1977, earthquake in Romania. Motion agreed to 322–90: Yes. April 5, 1977.

108. HR 7. Career Education Program. Perkins (D Ky.) motion to suspend the rules and pass the bill to authorize $275-million for fiscal years 1978–85 for grants to states to help local and state agencies provide career education programs for elementary and secondary schools. Passed 398–14: Yes. April 5, 1977.

109. HR 130. Petroleum Marketing Practices. Dingell (D Mich.) motion to suspend the rules and pass the bill to protect franchised marketers of motor fuel from arbitrary cancellation of their franchises and to require public display of certified octane ratings at retail outlets. Motion agreed to 404–3: Yes. April 5, 1977.

110. HR 3199. Water Pollution Control Act. Adoption of the rule (H Res 468) providing for House floor consideration of the bill to amend and extend the Federal Water Pollution Control Act of 1972. Adopted 348–60: Yes. April 5, 1977.

111. HR 3199. Water Pollution Control Act. Passage of the bill to amend and extend the Federal Water Pollution Control Act of 1972 (PL 92–500), including authorizations of $17-billion through fiscal 1979 in construction grants for municipal sewage treatment plants, increased powers for the states to certify construction grants and restrictions on the Corps of Engineers' authority to issue dredge and fill permits for waters and wetlands. Passed 361–43: Yes. April 5, 1977.

112. Procedural Motion. Wright (D Texas) motion to approve the House *Journal* of Tuesday, April 5, 1977. Motion agreed to 373–8: Yes. April 6, 1977.

113. HR 5262. International Financial Institutions. Adoption of the rule (H Res 473) providing for the House floor consideration of the bill to authorize $5.2-billion in U.S. contributions to international financial institutions. Adopted 366–15: Yes. April 6, 1977.

114. HR 5262. International Financial Institutions. Mathis (D Ga.) amendment to direct U.S. officials of international lending institutions to oppose financial aid for agricultural projects promoting palm oil, sugar or citrus crops in competition with U.S. agricultural products. Adopted 218–145: No. April 6, 1977.

115. HR 5262. International Financial Institutions. Miller (R Ohio) amendment to prohibit international financial institutions from using U.S. funds for aiding Cambodia, Cuba, Laos or Vietnam. Rejected 165–189: No. April 6, 1977.

116. HR 5262. International Financial Institutions. Passage of the bill to authorize the United States to contribute $5.2-billion to certain international financial institutions, including the World Bank, International Finance Corporation, International Development Association, and the Asian and African Development Banks, for fiscal years 1978–81, and to require U.S. officials of such institutions to vote against extending aid to nations that engage in a consistent pattern of gross violations of human rights. Passed 194–156: Yes. April 6, 1977.

117. HR 3340. Day Care Deductions. Ullman (D Ore.) Motion to suspend the rules and pass the bill to allow a business tax credit on the use of a residence in providing day care services. Motion agreed to 320–1: Announced yes. April 18, 1977.

118. Procedural Motion. Brademas (D Ind.) motion to approve the House *Journal* of Monday, April 18, 1977. Motion agreed to 367–4: Yes. April 19, 1977.

119. HR 5864. Federal Rules of Criminal Procedure. Mann (D S.C.) motion to suspend the rules and pass the bill to aprove certain amendments to the Federal Rules of Criminal Procedure and to disapprove other such amendments. Motion agreed to 376–3: Yes. April 19, 1977.

120. HR 5101. Environmental Research and Development. Passage of the bill to authorize $313-million for fiscal 1978 research and development activities of the Environmental Protection Agency and to promote coordination of environmental research and development. Passed 358–31: Yes. April 19, 1977.

121. HR 5840. Export Administration Act. Adoption of the resolution (H Res 493) providing for House floor consideration of the bill to amend the Export Administration Act of 1969. Adopted 399–2: Yes. April 20, 1977.

122. HR 5840. Export Administration Act. Passage of the bill to revise U.S. export controls on sensitive materials and to prohibit U.S. firms from complying with certain aspects of the Arab boycott against Israel. Passed 364–43: Yes. April 20, 1977.

123. HR 4877. First Regular Supplemental Appropriations, Fiscal 1977. Adoption of the conference report on the bill to provide supplemental appropriations of $29-billion in fiscal 1977, including $13.1-billion for housing assistance, $3.2-billion for higher education and $2.05-billion for military and civilian personnel pay raises. Adopted 264–142: Yes. April 21, 1977.

124. HR 4877. First Regular Supplemental Appropriations, Fiscal 1977. Mahon (D Texas) motion that the House recede and concur with the Senate amendment to provide $1.17-million for the Uniformed Services University of the Health Sciences, to remain available for obligation until Sept. 30, 1978. Motion agreed to 250–162: No. April 21, 1977.

125. HR 4877. First Regular Supplemental Appropriations, Fiscal 1977. Brademas (D Ind.) motion that the House recede and concur with a Senate amendment to provide an additional $20-million to reimburse state and local governments for costs of snow removal incurred during the 1976–77 winter emergency. Motion rejected 124–279: No. April 21, 1977.

126. Procedural Motion. Rostenkowski (D Ill.) motion to approve the House *Journal* of Thursday, April 21, 1977. Motion agreed to 326–8: Yes. April 22, 1977.

127. HR 5970. Fiscal 1978 Defense Procurement Authorization. Schroeder (D Colo.) amendment to prohibit purchase of three AWACS radar-warning and command planes unless NATO agreed to purchase the aircraft Rejected 135–222: No. April 22, 1977.

128. HR 5675. Tax and Loan Accounts. Mitchell (D Md.) motion to suspend the rules and pass the bill to permit the Treasury Department to invest surplus cash currently kept in interest-free "tax and loan accounts" in depository institutions and to include savings and loan associations in the tax and loan system. Motion agreed to 384–0: Yes. April 25, 1977.

129. HR 5970. Fiscal 1978 Defense Procurement Authorization. Dellums (D Calif.) amendment to reduce overseas troop strength by 17,000 and total U.S. active duty troop strength by 50,000. Rejected 88–301: No. April 25, 1977.

130. HR 5970. Fiscal 1978 Defense Procurement Authorization. Aspin (D Wis.) amendment to place all future military members under the congressional pension system. Rejected 148–247: Yes. April 25, 1977.

131. HR 5970. Fiscal 1978 Defense Procurement Authorization. Separate vote, requested by Rousselot (R Calif.), on the Treen (R La.) amendment, previously adopted by voice vote in Committee of the Whole, to prohibit expenditure of funds to advertise the Carter administration's special less-than-honorable discharge review program. Adopted 291–96: No. April 25, 1977.

132. HR 5970. Fiscal 1978 Defense Procurement Authorization. Passage of the bill to authorize appropriations of $35.9 billion for weapons procurement and military research programs of the Defense Department in fiscal 1978. Passed 347–43: Yes. April 25, 1977.

133. H Con Res 195. Fiscal 1978 Budget Targets. Adoption of the rule (H Res 515) providing for House floor consideration of the resolution setting fiscal 1978 budget targets. Adopted 400–1: Yes. April 26, 1977.

134. H Con Res 195. Fiscal 1978 Budget Targets. Holtzman (D N.Y.) amendment to the Giaimo (D Conn.) amendment to increase the fiscal 1977 revenue floor by $900 million in order to delete a proposed business tax cut. Rejected 109–302: Announced no. April 26, 1977.

135. H Con Res 195. Fiscal 1978 Budget Targets. Pike (D N.Y.) amendment to the Giaimo (D Conn.) amendment to reduce budget authority and outlays in the general government function by $7 million in fiscal 1978 in order to delete funds for a pay raise for members of Congress. Adopted 236–179: No. April 26, 1977.

136. H Con Res 195. Fiscal 1978 Budget Targets. Giaimo (D Conn.) motion that the House resolve itself into the Committee of the Whole for consideration of the fiscal 1978 budget targets. Agreed to 409–0: Announced yes. April 27, 1977.

137. H Con Res 195. Fiscal 1978 Budget Targets. John L. Burton (D Calif.) amendment to the Pike (D N.Y.) amendment to transfer $7.95-billion from the defense function to reduce the national debt. Rejected 64–344; Announced no. April 27, 1977.

138. H Con Res 195. Fiscal 1978 Budget Targets. Burleson (D Texas) substitute amendment to the Pike (D N.Y.) amendment to increase fiscal 1978 budget authority by $4.1-billion and outlays by $2.3-billion to bring spending for national defense to the levels requested by the President. Adopted 225–184; No. April 27, 1977.

139. H Con Res 195. Fiscal 1978 Budget Target. Pike (D N.Y.) amendment as amended by the Burleson substitute amendment. Adopted 218–185; No. April 27, 1977.

140. H Con Res 195. Fiscal 1978 Budget Targets. Mitchell (D Md.) substitute amendment to the Budget Committee amendment to transfer $6.5-billion in budget authority and $3.6-billion in outlays from the national defense function to functions containing domestic programs. Rejected 102–306: No. April 27, 1977.

141. H Con Res 195. Fiscal 1978 Budget Targets. Holtzman (D N.Y.) amendment to add $249-million in budget authority and $75-million in outlays to the law enforcement and justice function for increases for the Law Enforcement Assistance Administration. Adopted 224–179: No. April 27, 1977.

142. H Con Res 195. Fiscal 1978 Budget Targets. Anderson (D Calif.) amendment to increase budget authority and outlays by $500-million each to provide for pensions for World War I veterans. Adopted 329–73: No. April 27, 1977.

143. H Con Res 195. Fiscal 1978 Budget Targets. Emery (R Maine) amendment to reduce budget authority and outlays by $100-million in the natural resources function in order to cut funding for water projects. Rejected 143–252: No. April 27, 1977.

144. H Con Res 195. Fiscal 1978 Budget

Targets. Latta (R Ohio) substitute amendment, to the Budget Committee amendment, to provide for fiscal 1978 revenues of $392.9 billion, budget authority of $481.5-billion, outlays of $440.6-billion and a deficit of $47.7-billion. Rejected 150–250: No. April 27, 1977.

145. H Con Res 195. Fiscal 1978 Budget Targets. Rousselot (R Calif.) substitute amendment, to the Budget Committee amendment, to provide for fiscal 1978 revenues of $409-billion, budget authority of $453.5-billion, outlays of $409-billion, and no deficit. Rejected 131–271: No. April 27, 1977.

146. H Con Res 195. Fiscal 1978 Budget Targets Passage of the resolution, as amended, providing for fiscal 1978 budget targets of revenues of $398.1-billion, budget authority of $505.7-billion, outlays of $466.7-billion and a deficit of $68.6-billion. Rejected 84–320: Yes. April 27, 1977.

147. Procedural Motion. Roncalio (D Wyo) motion to approve the House *Journal* of Wednesday, April 27, 1977. Motion agreed to 329-13: Yes. April 28, 1977.

148. HR 3843. Fiscal 1977 Supplemental Housing Authorization. Adoption of the conference report on the bill to authorize an additional $378-million for housing assistance for low- and moderate-income families, to extend to 30 years from 20 years the contract term of Section 8 assisted-housing programs, to extend the crime and riot insurance programs and to establish a National Commission on Neighborhoods. Adopted, thus completing congressional action, 355-47: Yes. April 28, 1977.

149. H Res 465. House Select Committee on Assassinations. Adoption of the resolution, as amended, to provide $2.5 million for the expenses of the investigations and studies to be conducted by the House Select Committee on Assassinations. Adopted 213-192: Yes. April 28, 1977.

150. HR 2. Strip Mining. Adoption of the rule (H Res 523) providing for House floor consideration of the bill to regulate surface coal mining operations and to acquire and reclaim abandoned mines. Adopted 340-58: Yes. April 28, 1977.

151. HR 2. Stripe Mining. Udall (D Ariz.) motion to resolve itself into the Committee of the Whole to consider the bill. Motion agreed to 309-1: Announced yes. April 29, 1977.

152. HR 2. Strip Mining. Baucus (D Mont.) amendment to prohibit surface mining in alluvial valleys west of the 100th meridian, but exempting 1) operations in commercial production for one year prior to enactment of the bill and 2) any operations for which permits were issued before Jan. 4, 1977. Adopted 170–149: No. April 29, 1977.

153. HR 2. Strip Mining. Conte (R Mass.) amendments to earmark $300-million in outer continental shelf leasing receipts to fund the abandoned mine reclamation program before levying or collecting reclamation fees from mined coal. Rejected 86–226: No. April 29, 1977.

154. HR 2. Strip Mining. Bauman (R Md.) motion to recommit the bill to the Ad Hoc Select Energy Committee with instructions to hold hearings on the President's energy message of April 20, 1977. Motion to recommit rejected 83–228: No. April 29, 1977.

155. HR 2. Strip Mining. Passage of the bill to regulate surface coal mining operations and to acquire and reclaim abandoned mines. Passed 241–64: Yes. April 29, 1977.

156. HR 6550. U.S. Territories Authorizations. Phillip Burton (D Calif.) motion to suspend the rules and pass the bill to authorize funds for the territories of the United States including $93.5-million in fiscal 1978 for the Trust Territory of the Pacific Islands and the Northern Mariana Islands, $12-million for rehabilitation of Enewetak atoll and $15-million for assistance to Guam. Motion agreed to 379–3: Yes. May 2, 1977.

157. HR 4390. San Luis Irrigation. Meeds (D Wash.) motion to suspend the rules and pass the bill to authorize $31,050,000 in fiscal 1978 for the Interior Secretary to construct a dam and canal system, the San Luis Unit, Central Valley Project, Calif. Motion agreed to 377–14: Yes. May 2, 1977.

158. S 36. ERDA Authorization. Fuqua (D Fla.) motion to suspend the rules and pass the bill to authorize $4.9-billion in fiscal 1977 funding for the Energy Research and Development Administration for non-nuclear research programs and to establish an Energy Extension Service. Motion agreed to 360–30: Yes. May 2, 1977.

159. HR 5025. Veterans Administration Hospital Construction. Satterfield (D Va.) motion to suspend the rules and pass the bill to require approval by the House and Senate Veterans' Affairs Committees for the construction of any Veterans Administration medical facility costing more than $1 million. Motion agreed to 373–19: Yes. May 2, 1977.

160. HR 4007. Tax Home of State Legislators. Ullman (D Ore.) motion to suspend the rules and pass the bill to amend the Internal Revenue Code to allow state legislators to designate the district they represent as their home for travel expense deduction purposes for calendar years 1976 and 1977 and to limit the travel expense deduction to $9,000. Motion agreed to 372–6: Yes. May 2, 1977.

161. HR 4962. Defense Production Act Extension. Moorhead (D Pa.) motion to suspend the rules and pass the bill to extend until Sept. 30, 1978, the Defense Production Act of 1950. Motion agreed to 385–8: Yes. May 2, 1977.

162. H Res 489. Select Committee on Congressional Operations. Adoption of the resolution to provide $440,000 for expenses of investigations and studies to be conducted by the Select Committee on Congressional Operations for the remainder of 1977. Adopted 261–131: Yes. May 2, 1977.

163. HR 6415. Export-Import Bank. Neal (D N.C.) motion to suspend the rules and pass the bill to extend the Export-Import Bank's charter from June 30, 1978, to Sept. 30, 1978, in order to align its programs with the new fiscal year. Motion agreed to 281–126: Yes. May 3, 1977.

164. HR 11. Public Works Jobs Program. Young (D Mo.) motion to delete from the conference report Title II of the bill, which directed the President to spend funds previously appropriated for certain water resource projects, except the funds appropriated for the Meramec Dam in the state of Missouri. Motion rejected 108–302: No. May 3, 1977.

165. H.R. 11. Public Works Jobs Program. Adoption of the conference report on the bill to authorize an additional $4 billion for the emergency public works employment program as requested in President Carter's economic stimulus package. Adopted 355–77: Yes. May 3, 1977.

166. HR 4049. United States Railway Association Authorization. Adoption of the resolution (H. Res. 529) providing for House floor consideration of the bill to amend the Regional Rail Reorganization Act of 1973 to authorize funds for the activities of the U.S. Railway Association for 1978. Adopted 409–0: Yes. May 3, 1977.

167. HR 6179. Arms Control and Disarmament Agency Authorization. Derwinski (R Ill.) amendment to require reports to Congress on the prospects for verification of any proposed arms control agreement. Adopted 359–148: No. May 3, 1977.

168. HR 6179. Arms Control and Disarmament Agency Authorization. Passage of the bill to authorize $14.6-million for the operations of the U.S. Arms Control and Disarmament Agency for fiscal 1978. Passed 395–15: Yes. May 3, 1977.

169. HR 4049. United States Railway Association Authorization. Passage of the bill to authorize $13-million for fiscal 1978 administrative expenses of the U.S. Railway Association. Passed 358–50: Yes. May 3, 1977.

170. HR 6689. State Department Authorization. Adoption of the rule (H Res 537) providing for House floor consideration of the bill to authorize $1.7-billion for State Department activities and related international programs for fiscal 1978. Adopted 391–23: Yes. May 4, 1977.

171. HR 4876. Economic Stimulus Supplemental Appropriations, Fiscal 1977. Adoption of the conference report on the bill to provide $20,101,484,000 in fiscal 1977 supplemental appropriations for a variety of federal programs, including components of President Carter's economic stimulus package. Adopted 326–87: Yes. May 4, 1977.

172. HR 6689. State Department Authorization. Bauman (R Md.) amendment to cut $90,000 from the $220,000 budgeted for five additional staff positions in the Washington office of United Nations Ambassador Andrew Young. Rejected 91–318: No. May 4, 1977.

173. HR 6689. State Department Authorization. Crane (R Ill). amendment to reduce the U.S. contribution to the United Nations from $218-million to $57.6-million for fiscal 1978 and to require that the United States percentage contribution to the United Nations be no greater than the ratio of the U.S. population to the population of all United Nations members. Rejected 149–257: No. May 4, 1977.

174. HR 6689. State Department Authorization. Buchanan (R Ala.) substitute amendment, to the Dornan (R Calif.) amendment, providing that any new Panama Canal treaty must protect the vital interests of the United States. Adopted 220–182: Yes. May 4, 1977.

175. HR 6689. State Department Authorization. Ashbrook (R Ohio) amendment to prohibit the use of any funds in the bill for reparations or aid to Vietnam. Adopted 266–131: No. May 4, 1977.

176. HR 6689. State Department Authorization. Passage of the bill authorizing $1.7-billion for State Department expenses, U.S. contributions to international organizations and related programs in fiscal 1978. Passed 285–111: Yes. May 4, 1977.

177. H Con Res 214. Fiscal 1978 Budget Targets. Burleson (D Texas) amendment to the Mitchell (D Md.) amendment to add $3-billion in budget authority and $2-billion in outlays to the defense function. Rejected 176–233: No. May 5, 1977.

178. H Con Res 214. Fiscal 1978 Budget Targets. Holt (R Md.) amendment to the Mitchell (D Md.) amendment to add $2-billion in budget authority and $1-billion in outlays to the defense function. Rejected 184–223: No. May 5, 1977.

179. H Con Res 214. Fiscal 1978 Budget Targets. Stratton (D N.Y.) amendment to the Mitchell (D Md.) amendment to add $1-billion each in budget authority and outlays to the defense function. Rejected 190–214: No. May 5, 1977.

180. H Con Res 214. Fiscal 1978 Budget Targets. Mitchell (D Md.) amendment to reduce budget authority by $1.15-billion and outlays by $300-million for national defense. Rejected 88–315: No. May 5, 1977.

181. H Con Res 214. Fiscal 1978 Budget Targets. Anderson (D Calif.) amendment to increase both budget authority and outlays for veterans' affairs by $175-million. Adopted 282–100: No. May 5, 1977.

182. H Con Res 214. Fiscal 1978 Budget Targets. Ichord (D Mo.) amendment to add $3-billion in budget authority and $2-billion in outlays for national defense and to reduce budget authority and outlays for interest on the national debt by $2.1-billion. Rejected 85–306: No. May 5, 1977.

183. H Con Res 214. Fiscal 1978 Budget Targets. Conable (R N.Y.) substitute to H Con Res 214 to set fiscal 1978 budget targets

of revenues of $395.3-billion, budget authority of $479-billion, outlays of $440.6-billion and a deficit of $45.3-billion. Rejected 150–240: No. May 5, 1977.

184. H Con Res 214. Fiscal 1978 Budget Targets. Adoption of the budget resolution setting fiscal 1978 targets of revenues of $398.1-billion, budget authority of $502.3-billion, outlays of $464.5-billion and a deficit of $66.4-billion, and binding limits for fiscal 1977 of revenues of $355-billion, budget authority of $469.7-billion, outlays of $414.3-billion and a deficit of $59.3-billion. Adopted 213–179: Yes. May 5, 1977.

185. HR 6655. Housing and Community Development Programs. Adoption of the rule (H Res 541) providing for House floor consideration of the bill to authorize $12.45-billion for community development block grants for fiscal 1978–80 and $1.2-billion for federal and federally assisted housing programs for fiscal 1978 and to continue FHA mortgage and flood insurance programs. Adopted 280–4: Yes. May 6, 1977.

186. HR 5562. Eleanor Roosevelt Historic Site. Philip Burton (D Calif.) motion to suspend the rules and pass the bill to authorize at the Val-Kill estate in Hyde Park, N.Y., the establishment of a national historic site to commemorate the life of Eleanor Roosevelt. Motion agreed to 337–43. Announced for. May 9, 1977.

187. HR 6692. Education of the Handicapped. Brademas (D Ind.) motion to suspend the rules and pass the bill to authorize $1.1-billion for fiscal 1978–82 to extend certain programs under the Education for All Handicapped Children Act (PL 94–142). Motion agreed to 376–2: Announced for. May 9, 1977.

188. HR 6668. Age Discrimination Act Amendments. Brademas (D Ind.) motion to suspend the rules and pass the bill to extend for one year the commodities provision of the Older Americans Act of 1965 (PL 89–73), affecting nutrition programs for the elderly, and to extend for six months the deadline for the U.S. Civil Rights Commission to file a report on its study of age discrimination. Motion agreed to 379–0: Announced for. May 9, 1977.

189. HR 6774. Higher Education Technical Amendments. Ford (D Mich.) motion to suspend the rules and pass the bill to make technical and miscellaneous amendments, involving effective dates and state agency eligibility requirements for participation in the guaranteed student loan program, in the Education Amendments of 1976 relating to higher education. Motion agreed to 382–1: Announced for. May 9, 1977.

190. H Res 334. AT&T Wiretap Case. Adoption of the resolution authorizing the chairman of the Subcommittee on Oversight and Investigations of the House Committee on Interstate and Foreign Commerce to continue to intervene in a pending court case regarding telephone wiretap information held by the American Telephone and Telegraph Co. and to authorize $55,000 from House contingency funds to employ special counsel in the case. Adopted 246–143: Yes. May 9, 1977.

191. H Res 526. Gammage Election Challenge. Wiggins (R Calif.) motion to recommit to the House Administration Committee the resolution to dismiss the election challenge brought against Rep. Bob Gammage (D Texas) by his Republican opponent, former Rep. Ron Paul. Rejected 126–260: No. May 9, 1977.

192. H Res 527. Mikva Election Challenge. Adoption of the resolution to dismiss the election challenge brought against Rep. Abner J. Mikva (D Ill.) by his Republican opponent, former Rep. Samuel H. Young. Adopted 272–107: Yes. May 9, 1977.

193. H Res 528. Pursell Election Challenge. Adoption of the resolution to dismiss the election challenge brought against Rep. Carl D. Pursell (R Mich.) by his Democratic opponent, Edward C. Pierce. Adopted 371–8: Yes. May 9, 1977.

194. Procedural Motion. Sikes (D Fla.) motion to approve the House *Journal* of Monday, May 9, 1977. Motion agreed to 381–12: Yes. May 10, 1977.

195. HR 5840. Export Administration Act. McKinney (R Conn.) motion to instruct the House conferees on the bill to insist upon a House-approved amendment prohibiting exports of Alaskan oil overseas for two years. Motion agreed to 240–160: No. May 10, 1977.

196. HR 2817. Tinicum Environmental Center. Murphy (D N.Y.) motion to suspend the rules and pass the bill to authorize $8,850,000 for marshland acquisitions to the Tinicum National Environmental Center in Pennsylvania to provide a wildlife haven. Motion agreed to 374–32: Yes. May 10, 1977.

197. HR 6205. Atlantic Tunas Conservation. Murphy (D N.Y.) motion to suspend the rules and pass the bill to authorize $700,000 each for fiscal 1978, 1979 and 1980 to fulfill U.S. obligations under the Atlantic Tunas Convention Act of 1975 and to participate in research on Atlantic Ocean tunas. Motion agreed to 407–2: Yes. May 10, 1977.

198. HR 6206. Commercial Fisheries Research Authorization. Murphy (D N.Y.) motion to suspend the rules and pass the bill to extend for two years the Commercial Fisheries Research and Development Act (PL 88–309), which was scheduled to expire Sept. 30, 1978, and to authorize $14.5 million in each of fiscal years 1978–80 for grants-in-aid to states to develop and expand commercial fisheries. Motion agreed to 402–9: Yes. May 10, 1977.

199. HR 6655. Housing and Community Development Programs. Hannaford (D Calif.) amendment to delete from the bill a new alternative formula for allocation of community development block grant funds. Rejected 149–261: No. May 10, 1977.

200. Procedural Motion. O'Neill (D Mass.) motion to approve House *Journal* of Tuesday, May 10, 1977. Motion agreed to 386–12: Yes. May 11, 1977.

201. HR 6655. Housing and Community Development Programs. Grassley (R Iowa) amendment to require that 25 per cent of funds available for urban development action grants be used for cities under 50,000 population that were not central cities of a standard metropolitan statistical area. Adopted 279–129: No. May 11, 1977.

202. HR 6655. Housing and Community Development Programs. Taylor (R Mo.) amendment, as amended by Ichord (D Mo.) amendment, to require lending institutions to notify property owners in flood-prone areas to whom they made loans whether they were entitled to federal disaster relief and to bar government "bailout" of individuals who undertook development in flood-prone areas without taking adequate measures to protect against future floods. Adopted 220–169: No. May 11, 1977.

203. HR 6655. Housing and Community Development Programs. Passage of the bill to authorize $12.45-billion for the community development block grant program for fiscal years 1978–80 and to authorize more than $2-billion for federally assisted, public and rural housing and to continue FHA mortgage and flood insurance programs. Passed 369–20: Yes. May 11, 1977.

204. HR 6714. Foreign Economic Aid. Adoption of the rule (H Res 556) providing for House floor consideration of the bill to authorize $1.7-billion for foreign economic aid programs in fiscal 1978. Adopted 380–14: Yes. May 12, 1977.

205. H.R. 6714. Foreign Economic Aid. Lott (R Miss.) amendment to reduce by $25-million the $271-million authorization recommended by the International Relations Committee for U.S. voluntary contributions to international organizations and programs. Adopted 233–171 No. May 12, 1977.

206. HR 6714. Foreign Economic Aid. Separate vote, requested by Jenrette (D S.C.), on the Johnson (R Colo.) amendment to make tobacco products ineligible for PL 480 Food for Peace export sales to foreign nations. Adopted 229–178: No. May 12, 1977.

207. HR 6714. Foreign Economic Aid. Ashbrook (R Ohio) motion to recommit the bill to the International Relations Committee with instruction that it be reported back to the House with an amendment prohibiting the use of any authorizations in the bill for any form of aid or trade with Vietnam or Cuba. Motion agreed to 288–119: Yes. May 12, 1977.

208. HR 6714. Foreign Economic Aid. Passage of the bill to authorize $1.7-billion for fiscal 1978 for foreign economic aid programs and modifying the PL 480 Food for Peace program. Passed 252–158: Yes. May 12, 1977.

209. HR 6810. Countercyclical Assistance Authorization. Adoption of the rule (H Res 560) providing for House floor consideration of the bill to extend the countercyclical assistance program through Sept. 30, 1978. Adopted 390–3: Yes. May 12, 1977.

210. HR 6810. Countercyclical Assistance Authorization. Brooks (D Texas) motion that the House resolve itself into the Committee of the Whole to consider the countercyclical aid bill. Motion agreed to 322–0: Yes. May 13, 1977.

211. HR 6810. Countercyclical Assistance Authorization. Aspin (D Wis.) amendment to change the formula for allocating program funds to emphasize state and local tax effort rather than unemployment rates. Rejected 127–216: No. May 13, 1977.

212. HR 6810. Countercyclical Assistance Authorization. Passage of the bill to extend for an additional year, through fiscal 1978, a program of "countercyclical" grants to help state and local governments avoid cutbacks in employment and public services and to authorize a maximum of $2.25-billion for the program for the five quarters beginning July 1, 1977. Passed 243–94: Yes, May 13, 1977.

213. HR 3849. Oceans and Atmosphere Advisory Committee. Murphy (D N.Y.) motion to suspend the rules and pass the bill to authorize $750,000 in fiscal 1978 for operation of the National Advisory Committee on the Oceans and Atmosphere (NACOA). Motion agreed to 387–6: Yes. May 16, 1977.

214. HR 5493. National Wildlife Refuge Authorization. Murphy (D N.Y.) motion to suspend the rules and pass the bill to provide the following authorizations through Sept. 30, 1980, for three national wildlife refuges: $1.6-million for the Seal Beach, Calif., refuge; $20.3-million for the San Francisco Bay refuge; and $21.1-million for the Great Dismal Swamp refuge in Virginia and North Carolina. Motion agreed to 384–4: Yes. May 16, 1977.

215. HR 3348. Canal Zone Biological Research Authorization. Murphy (D N.Y.) motion to suspend the rules and pass the bill to authorize $750,000 annually, instead of $350,000, for Smithsonian Institution biological research on Barro Colorado and other small islands in Gatun Lake in the Panama Canal Zone. Motion rejected 245–141: Yes. May 16, 1977.

216. HR 4140. Fishermen's Protective Act Extension. Murphy (D N.Y.) motion to suspend the rules and pass the bill to extend through Sept. 30, 1980, provisions of the Fishermen's Protection Act of 1967 (PL 90–482) that provide for reimbursement to U.S. fishermen by the federal government for fines and losses incurred when they were unlawfully seized by foreign countries. Motion rejected 239–151: Yes, May 16, 1977.

217. HR 3477. Economic Stimulus Tax Cuts. Adoption of the conference report to the bill increasing the standard deduction, extending individual and business tax cuts, providing a jobs tax credit for new employees and

making other changes in the federal tax laws. Adopted 383–2: Yes, May 16, 1977.

218. HR 3477. Economic Stimulus Tax Cuts. Ullman (D Ore.) motion that the House recede from its disagreement with a Senate amendment and concur with an amendment to extend the countercyclical aid program for an additional year, through fiscal 1978, and to authorize a maximum of $2.25-billion for the program for the 15 month period beginning July 1, 1977. Motion agreed to 252–134: Yes, May 16, 1977.

219. HR 6138. Youth Jobs. Hawkins (D Calif.) motion to suspend the rules and pass the bill to expand job and training opportunities for unemployed youth by establishing a new program to employ young adults in conservation projects, guaranteeing part-time jobs and summer jobs to disadvantaged high school students in selected locations, and arranging for a variety of other experimental programs. Motion agreed to 334–61: Yes, May 17, 1977.

220. HR 5742. Drug Abuse Law Enforcement Authorization. Rogers (D Fla.) motion to suspend the rules and pass the bill to authorize $645-million through Sept. 30, 1980, for an extension of drug abuse law enforcement under the Controlled Substances Act. Motion agreed to 393–1: Yes, May 17, 1977.

221. HR. 3722. Securities and Exchange Commission Authorization. Eckhardt (D Texas) motion to suspend the rules and pass the bill to authorize $67-million for SEC operations in fiscal 1978. Passed 375–22: Yes. May 17, 1977.

222. HR 4746. Water Research Authorization. Meeds (D Wash.) motion to suspend the rules and pass the bill to authorize $14.5-million through fiscal 1978 for research on national water supply needs and on saline water conversion. Motion agreed to 397–2: Yes. May 17, 1977.

223. HR 6752. Water Resources Planning Authorizations. Meeds (D Wash.) motion to suspend the rules and pass the bill to authorize $3.9-million in fiscal 1978 for state water resources planning grants and to finance the U.S. Water Resources Council and regional river basin commissions. Motion agreed to 390–6: Yes. May 17, 1977.

224. HR 5885. River Basin Flood and Navigation Projects Authorization. Roberts (D Texas) motion to suspend the rules and pass the bill to authorize $1.239-billion through fiscal 1979 to continue construction of Army Corps of Engineers flood control and navigation projects in 18 river basins. Motion agreed to 310–89: Yes. May 17, 1977.

225. HR 2501. Medicine Bow National Forest Survey. Roncalio (D Wyo.) motion to suspend the rules and pass the bill to authorize an amendment to the public survey records to settle a conflict of private Agriculture Department property title to 160 acres of land located in the Medicine Bow National Forest, Wyo. Motion agreed to 371–26: Yes. May 17, 1977.

226. HR 6010. Aviation Insurance and Reinsurance. Anderson (D Calif.) motion to suspend the rules and pass the bill to expand the aviation war risk insurance program to include loses from hijacking, riots and civil disturbances not considered when the program began in 1951. Passed 388–8: Yes. May 17, 1977.

227. HR 6197. Disaster Relief Authorization. Roberts (D Texas) motion to suspend the rules and pass the bill to authorize necessary funds through fiscal 1978 for federal assistance to individuals and state and local governments in natural disaster emergencies. Motion agreed to 393–5: Yes. May 17, 1977.

228. HR 6401. Deepwater Ports Authorization. Roberts (D Texas) motion to suspend the rules and pass the bill to authorize annual appropriations of $2.5-million in fiscal 1978 through 1980 for licensing and regulation of offshore ports to receive oil from tankers too large for conventional ports. Motion agreed to 387–6: Yes. May 17, 1977.

229. H Res 322. House Solar Energy Study. Mineta (D Calif.) motion to suspend the rules and adopt the resolution to authorize $50,000 for the House Public Works and Transportation Committee to conduct a feasibility study on the use of solar energy in the House office buildings complex. Motion agreed to 368–29: Yes. May 17, 1977.

230. S 1279. Community Drought Relief. Johnson (D Calif.) motion to suspend the rules and pass the bill to authorize $225-million through April 30, 1978, for federal assistance to communities of 10,000 population or more to mitigate the impact of the 1976–77 drought. Motion agreed to 395–2: Yes. May 17, 1977.

231. S Con Res 19. Fiscal 1978 Budget Targets. Giaimo (D Conn.) motion to concur in the Senate amendment to the House amendment to the conference report, the effect of which was to agree to the conference levels that set fiscal 1978 budget targets of revenues of $396.3-billion, budget authority of $503.45-billion, outlays of $460.95-billion and a deficit of $64.65-billion, and set binding fiscal 1977 limits of revenues of $356.6-billion, budget authority of $470.2-billion, outlays of $409.2-billion and a deficit of $52.6-billion. Motion agreed to 221–177: Yes. May 17, 1977.

232. HR 1139. Child Nutrition Programs. Adoption of the rule (H Res 569) providing for House floor consideration of the bill to extend through fiscal 1979 the summer food program and to make other changes in the school lunch and child nutrition programs. Adopted 388–10: Yes. May 18, 1977.

233. H.R. 1139. Child Nutrition Programs. Quie (R Minn.) amendment to limit the bill's authorization for any state for the summer food program to the amount needed to support the average daily participation in the program by twice the number of children between ages 5 and 17 from families currently living below the official poverty level. Rejected 180–218: No. May 18, 1977.

234. HR 1139. Child Nutrition Programs. Quie (R Minn.) amendment to limit the authorizations in the bill for local areas for the summer food program to the amounts needed to support the average daily participation in the program of those children under 18 that were eligible to receive free or reduced-price meals under the school lunch and breakfast programs. Rejected: 192–216: Yes. May 18, 1977.

235. HR 1139. Child Nutrition Programs. Goodling (R Pa.) amendment to give local school districts during fiscal 1978 and 1979 the option to receive cash instead of commodities under Section 6 of the School Lunch Act. Rejected 138–272: No. May 18, 1977.

236. HR 1139. Child Nutrition Programs. Passage of the bill to extend through fiscal 1979 the summer food program and make other changes in the school lunch and child nutrition programs. Passed 393–19: Yes. May 18, 1977.

237. HR 6884. Foreign Military Aid. Adoption of the rule (H Res 576) providing for House floor consideration of the bill to authorize $3.2-billion in foreign military aid, security assistance, military sales credits and related programs for fiscal 1978. Adopted 359–48: Yes. May 18, 1977.

238. HR 10. Hatch Act Amendments. Adoption of the rule (H Res 575) providing for House floor consideration of the bill to revise the 1939 Hatch Act. Adopted 348–60: Yes. May 18, 1977.

239. HR 10. Hatch Act Amendments. Lott (R Miss.) amendment to guarantee the right of federal employees to refrain from political activity. Adopted 259–144: Yes. May 18, 1977.

240. HR 10. Hatch Act Amendments. Harris (D Va.) amendment to prohibit elected or appointed officials of the federal government from submitting political job referrals to the Civil Service Commission. Rejected 153–248: Yes. May 18, 1977.

241. HR 10. Hatch Act Amendments. Clay (D Mo.) motion to end House debate on the bill to revise the Hatch Act at 9 p.m. Rejected 169–237: No. May 18, 1977.

242. HR 10. Hatch Act Amendments. Fisher (D Va.) amendment to permit federal employees to engage in political activities at the state and local level and to run for part time state and local office, but to prohibit them from engaging in political activities at the federal level. Rejected 143–266: Yes. May 18, 1977.

243. HR 10. Hatch Act Amendments. Ashbrook (R Ohio) amendment to prohibit a federal employee organization from coercing, threatening or intimidating its workers into participating in any form of political activity and to prohibit the organization from using dues or fees for political purposes. Adopted 229–168: No. May 18, 1977.

244. HR 10. Hatch Act Amendments. Gudger (D N.C.) amendment to delete language providing for criminal penalties for extortion of political contributions from federal personnel. Rejected 73–319: No. May 18, 1977.

245. HR 10. Hatch Act Amendments. Clay (D Mo.) motion that the Committee of the Whole rise, thus suspending further consideration of the bill. Motion agreed to 326–84: Yes. May 18, 1977.

246. HR 6111. Juvenile Justice and Delinquency Act. Passage of the bill to extend the Juvenile Justice Act and the Runaway Youth Act for three years, to authorize $125-million for fiscal year 1978 and open-ended authorizations for succeeding years through fiscal year 1980 and to amend certain provisions of the Juvenile Justice Act. Passed 389–5: Yes. May 19, 1977.

247. HR 6258. Privacy Commission. Preyer (D N.C.) motion to suspend the rules and pass the bill to extend the life of the Privacy Protection Study Commission for two and one-half months until Sept. 30, 1977, to plan for an orderly termination of the commission. Motion agreed to 387–3: Yes. May 23, 1977.

248. HR 1862. Veterans' Disability Benefits. Montgomery (D Miss.) motion to suspend the rules and pass the bill to increase by approximately 6 per cent the rates of disability compensation for disabled veterans and their survivors. Motion agreed to 393–0: Yes. May 23, 1977.

249. HR 6501. Special Disabled Veterans' Benefits. Montgomery (D Miss.) motion to suspend the rules and pass the bill to increase disability compensation for certain veterans who had suffered the loss of paired extremities. Motion agreed to 385–7: Yes. May 23, 1977.

250. HR 6502. Disabled Veterans' Automobile Benefits. Montgomery (D Miss.) motion to suspend the rules and pass the bill to provide allowances for modification of automobiles to disabled veterans of World War I. Motion agreed to 386–11: Yes. May 23, 1977.

251. HR 5645. Civil Rights Commission. Edwards (D Calif.) motion to suspend the rules and pass the bill to raise the authorization for the U.S. Commission on Civil Rights for fiscal 1978 to $10,540,000, from $9,450,000 in fiscal 1977. Motion agreed to 365–34: Yes. May 23, 1977.

252. HR 5970. Fiscal 1978 Defense Procurement Authorization Conference. Bennett (D Fla.) motion that the House conferees on the bill be instructed to vote to close meetings of the conference committee when classified information was discussed, but that any House member would be eligible to attend meetings of the conference. Motion agreed to 273–114: Yes. May 23, 1977.

253. HR 6884. Foreign Military Aid. Studds (D Mass.) amendment to delete from the bill $700,000 authorized for military education and training aid for Argentina and to prohibit military equipment sales to that coun-

try. Rejected 187–200: Announced no. May 23, 1977.

254. HR 6884. Foreign Military Aid. Zablocki (D Wis.) motion that the House resolve itself into the Committee of the Whole to proceed with floor consideration of the fiscal 1978 foreign military aid bill. Motion agreed to 400–0: Yes. May 24, 1977.

255. HR 6884. Foreign Military Aid. Ichord (D Mo.) amendment to delete a committee provision establishing a $100-million African Special Requirements Fund to aid those countries affected by the civil strife in Rhodesia. Rejected 204–208: No. May 24, 1977.

256. HR 6884. Foreign Military Aid. Bonker (D Wash.) substitute amendment, for the Bauman (R Md.) amendment, to delete language in the bill requiring countries to be ruled by a majority before they could receive aid from the proposed $100-million African fund. Adopted 238–173: Yes. May 24, 1977.

257. HR 6884. Foreign Military Aid. Harkin (D Iowa) amendment to reduce by $102.7 million the fiscal 1978 foreign military sales authorization of $675,850,000. Rejected 139–260: No. May 24, 1977.

258. HR 6884. Foreign Military Aid. Findley (R Ill.) motion to recommit the bill to the International Relations Committee with instructions to report it back to the House with an amendment permitting the President to suspend the 1975 embargo on U.S. military assistance to Turkey if the Ankara government met certain conditions. Rejected 150–256: No. May 24, 1977.

259. HR 6884. Foreign Military Aid. Passage of the bill to authorize $3.2-billion in foreign military security aid and weapons sales credits for fiscal 1978. Passed 242–163: Yes. May 24, 1977.

260. HR 6161. Clean Air Act Amendments. Adoption of the rule (H Res 589) providing for House floor consideration of the bill to revise the 1970 Clean Air Act. Adopted 383–1: Yes. May 24, 1977.

261. HR 6161. Clean Air Act Amendments. Rogers (D Fla.) motion that the House resolve itself into the Committee of the Whole to proceed with floor consideration of amendments to the bill amending the 1970 Clean Air Act. Motion agreed to 369–1: Yes. May 25, 1977.

262. HR 6161. Clean Air Act Amendments. McKay (D Utah) substitute amendment, for the Breaux (D La.) amendment as amended by the Emery (R Maine) amendment to allow sulfur dioxide pollution to exceed permissible levels for 18 days of the year in high terrain Class II areas. Rejected 170–237: No. May 25, 1977.

263. HR 6161. Clean Air Act Amendments. Breaux (D La.) amendment, as amended by Emery (R Maine) substitute amendment, to allow state governors to permit Class I and Class II areas to exceed pollution levels for 18 days in a year. Adopted 237–172: Yes. May 25, 1977.

264. HR 6161. Clean Air Act Amendments. Grammage (D Texas) amendment to postpone compliance measures in areas that have not attained public health standards for clean air until 60 days after completion of a one-year Environmental Protection Agency study. Rejected 162–242: No. May 25, 1977.

265. HR 6161. Clean Air Act Amendments. Rogers (D Fla.) motion that the House resolve itself into the Committee of the Whole to proceed with floor consideration of amendments to the bill amending the 1970 Clean Air Act. Motion agreed to 380–1: Yes. May 26, 1977.

266. HR 6161. Clean Air Act Amendments. Preyer (D N.C.) substitute amendment, for the Dingell (D Mich.) substitute, to delay automobile emissions schedules by one additional year and to waive certain restrictions on small diesel engines. Rejected 190–202: Yes. May 26, 1977.

267. HR 6161. Clean Air Act Amendments. Dingell (D Mich.) substitute for Title II to delay and relax automobile emissions standards, to reduce the warranties for emissions control devices, and made other changes in existing law regarding mobile sources of air pollution. Adopted 255–139: Yes. May 26, 1977.

268. HR 6161. Clean Air Act Amendments. Passage of the bill to revise the 1970 Clean Air Act (PL 91–604) to set new standards for automobile exhaust emissions, regulate new sources of pollution in clean air areas including national parks and allow limited industrial expansion in areas that have not yet achieved national health standards for clean air. Adopted 326–49: Yes. May 26, 1977.

269. HR 6967. Peace Corps Authorization. Adoption of the rule (H Res 600) providing for House floor consideration of the bill to authorize $81-million in fiscal 1978 for activities of the Peace Corps. Adopted 333–2: Yes. June 1, 1977.

270. HR 6970. Tuna-Dolphin Protection. McCloskey (R Calif.) amendment, as amended by the Bonker (D Wash.) amendment, to reduce to a total of 68,910 the number of dolphins that could be accidentally taken during commercial tuna fish operations in 1977 and to reduce further the quota after 1977, and to ban the importation of fish products whose production caused dolphin kills exceeding U.S. standards. Adopted 244–109: Yes. June 1, 1977.

271. HR 6970. Tuna-Dolphin Protection. Pritchard (R Wash.) amendment to levy a $32 fee for each dolphin killed incidental to commercial tuna fishing operation. Rejected 158–194: No. June 1, 1977.

272. HR 6970. Tuna-Dolphin Protection. Passage of the bill to limit to 68,910 the total number of dolphins that could be accidentally taken during 1977 commercial tuna fishing operations, to authorize significant further reductions in that quota after 1977, to establish a 100 per cent federal observer program on tuna boats, to establish certain incentives and penalties to encourage conservation of dolphins, to ban transfers of tuna vessels to foreign registry unless U.S. tuna fishing standards were observed, and to require initiation of multilateral negotiations aimed at placing U.S. observers on foreign flag tuna vessels. Passed 334–20: Yes. June 1, 1977.

273. HR 6967. Peace Corps Authorization. Passage of the bill to authorize $81-million in fiscal 1978 for activities of the Peace Corps, plus necessary increases for salary, retirement and employee benefits. Passed 305–43: Yes. June 1, 1977.

274. HR 6804. Federal Energy Department. Adoption of the rule (H Res 603) providing for House floor consideration of the bill to create a Cabinet-level Department of Energy by consolidating the functions of the Federal Power Commission (FPC), the Federal Energy Administration (FEA), the Energy Research and Development Administration (ERDA) and other energy functions scattered throughout the federal government. Adopted 345–2: Yes. June 2, 1977.

275. HR 6804. Federal Energy Department. Conyers (D Mich.) amendments, considered en bloc, to establish an independent regulatory board, called the National Energy Board, to assume the regulatory functions and powers of the FPC, FEA and ERDA, as a substitute for the committee-recommended Federal Energy Regulatory Commission to be included within the proposed department. Rejected 83–277: No. June 2, 1977.

276. HR 6804. Federal Energy Department. Moss (D Calif.) amendment to limit the authority of the proposed Energy Department Secretary to issue general applicability rules; to give the proposed Federal Energy Regulatory Commission rather than the Secretary the authority to set natural gas wellhead prices; and to give the commission 30 days to comment on rules proposed by the commission functions, except in emergencies. Adopted 236–119: No. June 2, 1977.

277. HR 6804. Federal Energy Department. Udall (D Ariz.) amendment to delete language giving the Energy Department Secretary veto power over the economic terms of leasing of energy resources on federal lands. Rejected 170–180: No. June 2, 1977.

278. HR 6804. Federal Energy Department. Levitas (D Ga.) amendment to provide that any rule or regulation promulgated by the Energy Department Secretary or independent regulatory commission would be reviewed by Congress and could be disapproved by either house of Congress within 90 days. Adopted 200–125: No. June 2, 1977.

279. HR 6804. Federal Energy Department. Brooks (D Texas) motion that the House resolve itself into the Committee of the Whole to proceed with floor consideration of amendments to the bill to create a Cabinet-level Energy Department. Motion agreed to 313–0: Yes. June 3, 1977.

280. HR 6804. Federal Energy Department. Hughes (D N.J.) amendment to prohibit high-level regulatory officials in the new department from accepting jobs or compensation for two years after leaving the agency from any person or company regulated by the department. Rejected 146–184: No. June 3, 1977.

281. HR 6804. Federal Energy Department. Broyhill (R N.C.) amendment to make authorities under the bill subject to a "sunset" provision whereby they would expire Dec. 31, 1982, unless extended by Congress. Adopted 202–126: Yes. June 3, 1977.

282. HR 6804. Federal Energy Department. Passage of the bill creating a Cabinet-level Department of Energy by combining all powers currently held by the Federal Power Commission, the Federal Energy Administration, the Energy Research and Development Administration, and various other energy authorities and programs currently scattered throughout the federal bureaucracy. Passed 310–20: Yes. June 3, 1977.

283. S 955. Federal Crop Insurance. Jones (D Tenn.) motion to suspend the rules and pass the bill to raise the capital stock of the Federal Crop Insurance Corporation to $150-million from $100-million. Motion agreed to 377–5: Yes. June 6, 1977.

284. HR 75. Soil and Water Conservation. Jones (D Tenn.) motion to suspend the rules and pass the bill to require the Secretary of Agriculture to appraise the nation's soil, water and related resources by Dec. 31, 1979, and at five-year intervals thereafter, and to develop a national soil and water conservation program by the same date. Motion agreed to 365–16: Yes. June 6, 1977.

285. HR 6794. Federal Energy Administration Extension. Dingell (D Mich.) motion to suspend the rules and pass the bill to extend the Federal Energy Administration (FEA) through fiscal 1978 and the FEA's powers to order certain utilities and industries to convert to coal through Dec. 31, 1978, and to authorize $1.44-billion for the agency in fiscal 1978. Motion agreed to 272–111: Yes. June 6, 1977.

286. HR 6893. Congressional Members' State Income Taxes. Danielson (D Calif.) motion to suspend the rules and pass the bill to amend the U.S. Code to stipulate that members of Congress do not have to pay income taxes to any state except those they represent (currently members living in the Maryland suburbs of Washington, D.C., are re-

quired to pay Maryland state income taxes). Motion agreed to 294–83: Yes. June 6, 1977.

287. HR 6990. Military Construction Authorization. Hagedorn (R Minn.) amendment to exempt certain Defense Department construction contracts authorized in the bill from the provisions of the Davis-Bacon Act. Rejected 76–298: June 6, 1977. No.

288. HR 6990. Military Construction Authorization. Passage of the bill to authorize $3,508,560,000 for military construction projects of the Defense Department for fiscal 1978. Passed 351–24: June 6, 1977. Yes.

289. HR 10. Hatch Act Amendments. Clay (D Mo.) motion that the House resolve itself into the Committee of the Whole to proceed with further consideration of the bill to revise the 1939 Hatch Act. Motion agreed to 371–26: June 7, 1977. Yes.

290. HR 10. Hatch Act Amendments. Rousselot (R Calif.) amendment, to the Clay (D Mo.) amendment to delete language that no labor union activities could be made unlawful that were not unlawful under the Federal Election Campaign Act. Rejected 131–277: June 7, 1977. No.

291. HR 10. Hatch Act Amendments. Clay (D Mo.) amendment to specify that the intent of the Ashbrook (R Ohio) amendment was that activities of labor unions must be consistent with provisions of the Federal Election Campaign Act of 1971. Adopted 266–139: June 7, 1977. Yes.

292. HR 10. Hatch Act Amendments. Allen (D Tenn.) amendment to eliminate the exceptions under which persons in certain restricted positions—such as agents of the Federal Bureau of Investigation, Internal Revenue Service, Central Intelligence Agency and purchasing agents—could participate in local nonpartisan elections. Rejected 56–344: June 7, 1977. No.

293. HR 10. Hatch Act Amendments. Kindness (R Ohio) to add language defining the term "extortion" as an attempt to obtain property from another person by the use of threatened force or fear. Rejected 190–219: June 7, 1977. No.

294. HR 10. Hatch Act Amendments. Bauman (R Md.) amendment to prohibit federal employees from soliciting political contributions from another federal employee, whether he was a supervisor or not. Rejected 156–251: June 7, 1977. No.

295. HR 10. Hatch Act Amendments. Passage of the bill to revise the 1939 Hatch Act to allow federal civilian and postal employees to participate in political activities and to protect such employees from improper political solicitations. Passed 244–164: No. June 7, 1977.

296. S 521. Kennedy Center Repairs. Adoption of the conference report on the bill to authorize $4.7-million to repair and renovate the John F. Kennedy Center for the Performing Arts in Washington, D.C., to correct leaks in the building. Adopted (thus completing congressional action) 291–90: Yes. June 8, 1977.

297. HR 7552. Treasury, Postal Service Appropriations, Fiscal 1978. Passage of the bill to appropriate $7,522,028,000 for fiscal 1978 operations and programs of the Treasury Department, Postal Service, Executive Office of the President and various independent agencies. Passed 359–45: Yes. June 8, 1977.

298. HR 7557. Transportation Appropriations, fiscal 1978. Koch (D N.Y.) amendment to prohibit use of funds appropriated under the act for air traffic control of supersonic aircraft at John F. Kennedy International Airport, New York, unless the aircraft was in compliance with the Federal Aviation Administration noise standard for subsonic aircraft. Rejected 128–274: No. June 8, 1977.

299. HR 7557. Transportation Appropriations, Fiscal 1978. Passage of the bill appropriating $14,047,570,000 for the operations and programs of the Transportation Department and related agencies for fiscal year 1978. Passed 391–11: Yes. June 8, 1977.

300. HR 7010. Compensation to Victims of Crime. Adoption of the rule (H Res 601) providing for House floor consideration of the bill to authorize $150 million in fiscal 1978–80 to provide grants to state crime victim compensation programs at a 50 per cent matching level for state crimes and at 100 per cent for federal crimes, and to establish a nine-member Advisory Committee on Victims of Crime headed by the Attorney General. Adopted 312–79: Yes. June 8, 1977.

301. HR 7636. Interior Department Appropriations, Fiscal 1978. Adoption of the rule (H Res 616) providing for House floor consideration of the bill to appropriate funds for the operations of the Interior Department and related agencies for fiscal 1978. Adopted 332–65: Yes. June 9, 1977.

302. HR 7636. Interior Department Appropriations, Fiscal 1978. McCormack (D Wash.) amendment to add $38.78-million for research and development relating to energy conservation programs of the Energy Research and Development Administration (ERDA). Rejected 145–251: Yes. June 9, 1977.

303. HR 7636. Interior Department Appropriations, Fiscal 1978. Passage of the bill to appropriate $9,545,741,000 for fiscal 1978 for activities and programs of the Interior Department and related agencies. Passed 395–7: Yes. June 9, 1977.

304. HR 6666. Legal Services Corporation. Adoption of the rule (H Res 617) providing for House floor consideration of the bill to extend the Legal Services Corporation for two years and to authorize $238.7-million in fiscal 1978 and $300-million in fiscal 1979. Adopted 352–52: Yes. June 9, 1977.

305. HR 6666. Legal Services Corporation. Butler (R Va.) amendment to prohibit legal services attorneys from taking active part in either partisan or nonpartisan political activities. Rejected 178–198: Yes. June 9, 1977.

306. HR 5840. Export Administration Act/Arab Boycott. Adoption of the conference report to the bill to extend the Export Administration Act of 1969 through Sept. 30, 1979, and to prohibit American firms from complying with the Arab trade boycott against Israel. Adopted 306–41: Yes. June 10, 1977.

307. HR 7556. State, Justice, Commerce and Judiciary Appropriations, Fiscal 1978. Burgener (R Calif.) amendment to prohibit the use of any appropriated funds for salaries or expenses of any diplomatic personnel assigned to Cuba. Rejected 139–206: No. June 10, 1977.

308. HR 7556. State, Justice, Commerce and Judiciary Appropriations, Fiscal 1978. Slack (D W.Va.) motion that the House resolve itself into the Committee of the Whole to proceed with further consideration of the fiscal 1978 appropriations bill for the Departments of State, Justice and Commerce, the Judiciary and related agencies. Motion agreed to 354–2: Yes. June 13, 1977.

309. HR 7556. State, Justice, Commerce and Judiciary Appropriations, Fiscal 1978. Holtzman (D N.Y.) amendment to increase the appropriation for the Law Enforcement Assistance Administration (LEAA) by $104.5-million over the committee-recommended amount of $600-million. Rejected 172–210: No. June 13, 1977.

310. HR 7556. State, Justice, Commerce and Judiciary Appropriations, Fiscal 1978. Passage of the bill to appropriate $7,606,-119,500 for fiscal 1978 operations and programs of the Departments of State, Justice and Commerce, the Judiciary and related agencies. Passed 353–42: Yes. June 13, 1977.

311. H Con Res 248. Joint Economic Committee Study. Bolling (D Mo.) motion to suspend the rules and adopt the resolution to authorize $900,000, through Dec. 31, 1978, for a study by the congressional Joint Economic Committee of economic changes in the United States and the world since the enactment of the Employment Act of 1946 and to make recommendations to Congress to assist it in formulating a comprehensive economic policy. Motion agreed to 324–79: Yes. June 14, 1977.

312. HR 7200. Public Assistance Amendments. Corman (D Calif.) motion to suspend the rules and pass the bill to amend the Social Security Act to make changes in the programs of Supplemental Security Income benefits, Aid to Families with Dependent Children, child welfare services and day care services. Motion agreed to 335–64: Yes. June 14, 1977.

313. HR 7553. Public Works-ERDA Appropriations, Fiscal 1978. Conte (R Mass.)-Derrick (D S.C.) amendment to delete funding for 16 water projects and reduce funding for one more project, but to retain the total appropriations amount in the bill. Rejected 194–218: No. June 14, 1977.

314. HR 7553. Public Works-ERDA Appropriations, Fiscal 1978. Passage of the bill to appropriate $10,186,746,000 for fiscal 1978 water and power public works of the Army Corps of Engineers, Department of the Interior and several independent officers, and for most programs of the Energy Research and Development Administration (ERDA) Passed 356–54: Yes. June 14, 1977.

315. HR 7554. HUD, Independent Agencies Appropriations, Fiscal 1978. Adoption of the rule (H Res. 624) providing for House floor consideration of the bill to appropriate $70,241,683,000 for fiscal 1978 operations and programs of the Department of Housing and Urban Development and independent agencies. Adopted 370–20: Yes. June 15, 1977.

316. HR 7554. HUD, Independent Agencies Appropriations, Fiscal 1978. Coughlin (R Pa.) amendment to earmark 75 per cent of the public housing funded in the bill for the elderly and handicapped. Rejected 183–214: No. June 15, 1977.

317. HR 7554. HUD, Independent Agencies Appropriations, Fiscal 1978. Burke (D Calif.) amendment to restore comprehensive planning grant (Section 701) funds for cities over 50,000 and for urban counties. Rejected 156–248: No. June 15, 1977.

318. HR 7554. HUD, Independent Agencies Appropriations, Fiscal 1978. Beard (R Tenn.) amendment to withhold veterans' benefits from Vietnam-era servicemen who received upgraded discharges under President Carter's review program. Adopted 273–136: Yes. June 15, 1977.

319. HR 7554. HUD, Independent Agencies Appropriations, Fiscal 1978. Miller (R Ohio) amendment to withhold 1 per cent of the nonmandatory spending in the bill from obligation and expenditure. Rejected 169–237: No. June 15, 1977.

320. HR 7554. HUD, Independent Agencies Appropriations, Fiscal 1978. Passage of the bill to appropriate $70,241,683,000 for fiscal 1978 operations and programs of the Department of Housing and Urban Development and various independent agencies, including the Veterans' Administration. Passed 374–32: Yes. June 15, 1977.

321. HR 7555. Labor/HEW Appropriations, Fiscal 1978. Flood (D Pa.) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to appropriate fiscal 1978 funds for the Departments of Labor and Health, Education, and Welfare and related agencies. Motion agreed to 342–4: Yes. June 16, 1977.

322. HR 7555. Labor/HEW Appropriations, Fiscal 1978. Symms (R Idaho) amendment

to reduce the appropriation for the Occupational Safety and Health Administration (OSHA) in the Department of Labor by $6.3-million, to $130.3-million from $136.6-million. Rejected 162–231: No. June 16, 1977.

323. HR 7555. Labor/HEW Appropriations, Fiscal 1978. Michel (R Ill.) amendment to reduce the bill's total appropriations by $563.5-million, affecting 11 health, education and elderly programs. Rejected 72–334: No. June 16, 1977.

324. HR 7555. Labor/HEW Appropriations, Fiscal 1978. Mottl (D Ohio) amendment to prohibit the use of federal funds for busing students beyond the schools nearest to their homes and to prevent HEW from requiring local school districts to merge, pair or cluster schools to foster integration. Adopted 225–157: No. June 16, 1977.

325. HR 5262. International Lending Institutions. Rousselot (R Calif.) motion to instruct conferees on the bill to insist on language requiring United States officials to vote against loans by international financial institutions to nations that violated human rights. Rejected 161–200: No. June 17, 1977.

326. HR 7555. Labor-HEW Appropriations. Fiscal 1978. Hyde (R Ill.) Amendment to prohibit the use of federal funds to finance or encourage abortions. Adopted 201–155: No. June 17, 1977.

327. HR 7558. Agriculture Department Appropriations, Fiscal 1978. Adoption of the rule (H Res 634) providing for House floor consideration of the bill to appropriate $12,658,830,000 for fiscal 1978 operations and programs of the Department of Agriculture and related agencies. Adopted 352–5: Yes. June 20, 1977.

328. HR 7558. Agriculture Department Appropriations, Fiscal 1978. Michel (R Ill.) amendment to prohibit the use of any funds appropriated in the bill to pay the salary of any employee who formulated or carried out a program to make payments to sugar processors. Rejected 119–272: No. June 20, 1977.

329. S 826. Federal Energy Department. Broyhill (R N.C.) preferential motion that the House conferees on the bill to create a new federal Department of Energy insist on title IX, which provided that the new department would expire on Dec. 31, 1982. Motion agreed to 228–179: No. June 21, 1977.

330. HR 7558. Agriculture Department Appropriations, Fiscal 1978. Rousselot (R Calif.) amendment to reduce the appropriation in the bill for the food stamp program to $5-billion from $5.7-billion. Rejected 154–262: No. June 21, 1977.

331. HR 7558. Agriculture Department Appropriations, Fiscal 1978. Passage of the bill to appropriate $12,658,830,000 for fiscal 1978 operations and programs of the Department of Agriculture and related agencies. Passed 380–35: Yes. June 21, 1977.

332. HR 7589. Military Construction Appropriations, Fiscal 1978. Adoption of the rule (H Res 618) providing for House consideration of the bill to appropriate fiscal 1978 funds for the Department of Defense military construction programs. Adopted 404–0: Yes. June 21, 1977.

333. HR 7589. Military Construction Appropriations, Fiscal 1978. Passage of the bill to appropriate $2,819,501,000 for fiscal 1978 military construction programs of the Department of Defense. Passed 391–16: Yes. June 21, 1977.

334. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Adoption of the rule (H Res 649) providing for House floor consideration of the bill to appropriate $7-billion for fiscal 1978 foreign aid programs of the State Department. Adopted 349–41: Yes. June 22, 1977.

335. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Young (R Fla.) amendment, as modified by the Lott (R Miss.) substitute amendment, to cut $31-million from the $120-million contained in the bill for the United Nations Development Program. Rejected 182–232: No. June 22, 1977.

336. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Young (R Fla.) amendment to delete the entire $50-million contained in the bill for development aid in the Sahel region of Africa. Rejected 160–255. No. June 22, 1977.

337. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Ichord (D Mo.) amendment to delete the $100-million contained in the bill for the Southern African Special Requirements Fund to aid those nations that border Rhodesia. Rejected 199–209: No. June 22, 1977.

338. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Roybal (R Calif.) amendment to prohibit the use of $700,000 earmarked in the bill for training military forces in Argentina. Adopted 223–180: No. June 22, 1977.

339. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Young (R Fla.) amendment to prohibit funds contained in the bill from being used directly or indirectly (through multilateral lending institutions) in Uganda, Cambodia, Laos or Vietnam. Adopted 295–115: No. June 22, 1977.

340. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Wolff (D N.Y.) amendment to prohibit the payment of reparations to Vietnam. Adopted 359–33: Yes. June 22, 1977.

341. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Long (D Md.) motion that the House resolve itself into the committee of the Whole for further consideration of the bill to appropriate funds for foreign aid programs and for operations of the State Department in fiscal 1978. Motion agreed to 382–5: Yes. June 23, 1977.

342. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Young (R Fla.) amendment to reduce the appropriation in the bill for the U.S. contribution to the International Development Association by $477-million, thus reducing the contribution to $473-million. Rejected 175–233. No. June 23, 1977.

343. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Long (D Md.) motion to limit additional debate on the Wilson (D Texas) amendment to 15 minutes. Motion rejected 171–220: No. June 23, 1977.

344. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Wilson (D Texas) amendment to reinstate funds deleted by the committee for military assistance, military training and education or for military credit sales to Nicaragua. Adopted 225–180: No. June 23, 1977.

345. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Moore (R La.) amendment to prohibit any funds in the bill from being used by international financial institutions for loans establishing or expanding production of sugar, palm oil or citrus crops if the United States was a producer of the same or similar commodities. Adopted 209–179. No. June 23, 1977.

346. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Ashbrook (R Ohio) amendment to prohibit the use of any appropriations in the bill from being used for any form of trade or assistance to Cuba, either directly or indirectly through international financial institutions. Adopted 274–112: No. June 23, 1977.

347. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Miller (R Ohio) amendment to cut 5 per cent overall from the $7,046,454,000 recommended by the Appropriations Committee for foreign aid programs (payments required by law, however, would not be affected, and no program could be reduced by more than 10 per cent). Adopted 214–168: No. June 23, 1977.

348. HR 7797. Foreign Aid Appropriations. Fiscal 1978. Passage of the bill to appropriate $7,046,454,000, less 5 per cent of the amount for fiscal 1978 foreign aid programs, international financial institutions and the operations of the State Department. Passed 208–174: Yes. June 23, 1977.

349. HR 7933. Defense Department Appropriations, Fiscal 1978. Adoptions of the rule (H Res 655) providing for House floor consideration of the bill to appropriate $110.6-billion for fiscal 1978 operations and programs of the Department of Defense. Adopted 337-1: Yes. June 24, 1977.

350. HR 7933. Defense Department Appropriations, Fiscal 1978. Addabbo (D N.Y.) amendment to delete funds from the bill for the purchase of the nonnuclear-armed Lance missile. Rejected 123–226: No. June 24, 1977.

351. HR 6666. Legal Services Corporation. Kastenmeier (D Wis.) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to extend the Legal Services Corporation for two years and to authorize $538.7-million for fiscal 1978–79. Motion agreed to 359–1: June 27, 1977.

352. HR 6666. Legal Services Corporation. Kindness (R Ohio) amendment to maintain the appropriation for the corporation at the existing $175-million level for each of fiscal 1978 and 1979, pending a July 1977 report to Congress assessing the corporation. Rejected 158–221: No. June 27, 1977.

353. HR 6666. Legal Services Corporation. Kindness (R Ohio) amendment to require all corporation funding requests to be submitted for approval by the Office of Management and Budget prior to submission to Congress. Rejected 160–223: No. June 27, 1977.

354. HR 6666. Legal Services Corporation. Wylie (R Ohio) amendment to prohibit the use of funds in the bill to pay for legal assistance in cases involving school desegregation. Adopted 208–174: No. June 27, 1977.

355. HR 6666. Legal Services Corporation. Ashbrook (R Ohio) amendment to terminate the corporation on Sept. 30, 1979. Rejected 166–214: No. June 27, 1977.

356. HR 6666. Legal Services Corporation. McDonald (D Ga.) amendment to prohibit legal assistance in cases arising out of disputes over the issue of homosexuality or gay rights. Adopted 230–133: No. June 27, 1977.

357. HR 6666. Legal Services Corporation. Kindness (R Ohio) motion to recommit the bill to the Judiciary Committee with instructions to report it back to the House with an amendment restoring a prohibition on grants or contracts to outside "backup" support centers for research and training. Rejected 154-213: No. June 27, 1977.

358. HR 6666. Legal Services Corporation. Passage of the bill to extend the Legal Services Corporation for two years, with authorizations of $217-million for fiscal year 1978 and $275-million for fiscal 1979 and amend the Legal Services Corporation Act of 1974. Passed 267-103: Yes. June 27, 1977.

359. Procedural Motion. O'Neill (D Mass.) motion to approve the House *Journal* of Monday, June 27, 1977. Motion agreed to 377-15: Yes. June 28, 1977.

360. S 964. Congressional Pay Raises. Solarz (D N.Y.) motion to suspend the rules and pass the bill to deny an October 1977 cost-of-living pay increase for high-level federal officials, members of Congress and federal judges who had received a pay increase in February 1977. Motion agreed to 397-20: Yes. June 28, 1977.

361. HR 7933. Defense Department Appropriations, Fiscal 1978. Addabbo (D N.Y.) amendment to delete $1.5-billion from the bill for production of five B-1 bombers. Rejected 178-243: No. June 28, 1977.

362. HR 7933. Defense Department Appropriations, Fiscal 1978. Lloyd (D Calif.) amendment to procure 96 rather than the 144 A-10 attack planes recommended by the

administration and approved by the Appropriations Committee. Rejected 122-299: Yes. June 28, 1977.

363. HR 7932. Legislative Branch Appropriations, Fiscal 1978. Adoption of the rule (H Res 664) providing for House floor consideration of the bill to appropriate funds for the operation of the legislative branch for fiscal 1978. Adopted 279-139: Yes. June 29, 1977.

364. HR 7932. Legislative Branch Appropriations, Fiscal 1978. Grassley (R Iowa) amendment to prohibit use of funds appropriated in the bill to pay for the 29 per cent pay increase for high-level federal officials that took effect March 1, 1977. Rejected 181-241: No. June 29, 1977.

365. HR 7932. Legislative Branch Appropriations, Fiscal 1978. Mitchell (D Md.) amendment to provide $225,000 to operate the Joint Committee on Defense Production. Rejected 172-244: Yes. June 29, 1977.

366. HR 7932. Legislative Branch Appropriations, Fiscal 1978. Stratton (D N.Y.) amendment to delete $55-million for a proposed 22-foot extension of the West Front of the Capitol. Rejected 204-212: No. June 29, 1977.

367. HR 7932. Legislative Branch Appropriations, Fiscal 1978. Passage of the bill to appropriate $928,335,800 for fiscal 1978 operations of the legislative branch and related agencies and a fiscal 1977 supplemental appropriation of $10,919,400. Passed 250-161: Yes. June 29, 1977.

368. HR 7933. Defense Department Appropriations, Fiscal 1978. Mahon (D Texas) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to appropriate funds for operations and programs of the Department of Defense for fiscal 1978. Motion agreed to 399-1: Yes. June 30, 1977.

369. HR 7933. Defense Department Appropriations, Fiscal 1978. Edwards (R Ala.) amendment to delete $26-million for the development of a new engine for the Navy's F-14 fighter plane. Rejected 122-282: Yes. June 30, 1977.

370. HR 7933. Defense Department Appropriations, Fiscal 1978. Jenrette (D S.C.) amendment to delete language phasing out the use of Civil Service technicians in military reserve units. Adopted 288-119: No. June 30, 1977.

371. HR 7933. Defense Department Appropriations, Fiscal 1978. Gilman (R N.Y.) amendment to prohibit use of funds appropriated in the bill to conduct a review of the status of those U.S. military personnel still missing-in-action in Southeast Asia. Rejected 160-246: No. June 30, 1977.

372. HR 7933. Defense Department Appropriations, Fiscal 1978. Wilson (R Calif.) amendment to delete language requiring military retirees to forfeit their military pensions if they were hired during fiscal 1978 to work for the federal government. Adopted 219-174: No. June 30, 1977.

373. H.R. 7933. Defense Department Appropriations, Fiscal 1978. Passage of the bill to appropriate $110,097,296,000 for programs and operations of the Defense Department for fiscal 1978. Passed 333-54: Yes. June 30, 1977.

374. H.J. Res. 24. National Lupus Week. Lehman (D., Fla.) motion to suspend the rules and pass the joint resolution to designate Sept. 18-24, 1977, as National Lupus Week to draw attention to Lupus erythematosus, a chronic disease of the connective tissue between vital organs that affects 500,000 Americans. Motion agreed to, 297-3: Yes. July 11, 1977.

375. H.R. 2960. Constitution Gardens Memorial. Nedzi (D., Mich.) motion to suspend the rules and pass the bill to authorize the Interior Secretary to establish a memorial in Constitution Gardens on the Mall in Washington, D.C., to honor the 56 signers of the Declaration of Independence. Motion agreed to, 302-3: Yes. July 11, 1977.

376. H.R. 5023. Indian Claims Statute of Limitations. Adoption of the rule (H. Res. 642) to amend the U.S. Code to extend for four and a half years, to Dec. 31, 1981, the period in which the United States could litigate on behalf of Indians for damages accrued prior to July 18, 1966. Adopted, 299-0: Yes. July 11, 1977.

377. H.R. 7658. Disabled Veterans' Housing Assistance. Roberts (D., Texas) motion to suspend the rules and pass the bill to provide assistance to veterans with service-connected disabilities to acquire specially adapted housing. Motion agreed to, 403-0: Yes. July 12, 1977.

378. H.R. 7345. Veterans' and Survivors' Pensions. Roberts (D., Texas) motion to suspend the rules and pass the bill to provide a 7-percent cost-of-living increase in benefits for all veterans and eligible survivors and to provide an additional 25-percent increase to eligible widows, age 78 and over, of non-service-connected disabled veterans, effective Jan. 1, 1978. Motion agreed to, 403-0: Yes. July 12, 1977.

379. H.R. 5023. Indian Claims Statute of Limitations. Passage of the bill to extend for two years, until July 18, 1979, the statute of limitations under which the federal government could litigate on behalf of Indian tribes and individuals' claims for money damages that accrued before July 18, 1966. Passed, 331-69: No. July 12, 1977.

380. HR 5970. Defense Procurement Authorization. Adoption of the conference report on the bill to authorize $36,097,300,000 for the Defense Department for weapons procurement, military research and development and civil defense in fiscal 1978. Adopted 350-40: Yes. July 13, 1977.

381. HR 4963. Maritime Programs Authorization. McCloskey (R Calif.) amendment to prohibit use of federal maritime operating subsidies for shipment of U.S. grain to Russia. Rejected 143-251: No. July 13, 1977.

382. HR 4963. Maritime Programs Authorization. Passage of the bill to authorize $553,597,000 for fiscal year 1978 maritime programs. Passed 355-40: Yes. July 13, 1977.

383. HR 2777. National Consumer Cooperative Bank. Adoption of the rule (H Res 638) providing for House floor consideration of the bill to establish a national consumer cooperative bank with $500-million in federal seed money. Adopted 339-55: Yes. July 13, 1977.

384. HR 2777. National Consumer Cooperative Bank. St Germain (D R.I.) motion that the House resolve itself into the Committee of the Whole for consideration of the bill (HR 2777) to establish a national consumer cooperative bank. Motion agreed to 349-1: Yes. July 14, 1977.

385. HR 2777. National Consumer Cooperative Bank. La Falce (D N.Y.) substitute to establish an interagency task force to study consumer cooperatives and to provide $20-million for an experimental loan program for cooperatives. Rejected 170-228: No. July 14, 1977.

386. HR 2777. National Consumer Cooperative Bank. Rousselot (D Calif.) amendment to terminate the consumer cooperative bank on Dec. 31, 1982, and transfer authority for collecting payment of outstanding loans to a government agency. Adopted 203-196: No. July 14, 1977.

387. HR 2777. National Consumer Cooperative Bank. Passage of the bill to authorize $500-million in federal seed money for a bank to make loans to consumer cooperatives and $250-million for a Self-Help Development Fund to help inner-city residents start cooperatives. Passed 199-198: Yes. July 14, 1977.

388. H Res 658. House Select Intelligence Committee. Passage of the resolution to establish a permanent House Select Committee on Intelligence. Adopted 227-171: Yes. July 14, 1977.

389. HR 4287. Mine Safety. Adoption of the rule (H Res 682) providing for House floor consideration of the bill to toughen federal regulation of mine health and safety. Adopted 359-11; Announced yes. July 14, 1977.

390. HR 4287. Mine Safety. Gaydos (D Pa.) motion that the House resolve itself into the Committee of the Whole to consider the bill to toughen federal regulation of mine health and safety. Motion agreed to 298-3: Yes. July 15, 1977.

391. HR 4287. Mine Safety. Gudger (D N.C.) amendment, to the Sarasin (R Conn.) substitute amendment to delete provisions transferring authority over mine health and safety standards from the Interior Department to the Labor Department. Rejected 112-227: No. July 15, 1977.

392. HR 4287. Mine Safety. Sarasin (R Conn.) substitute amendment, for the committee bill, to strengthen health and safety standards for metal and nonmetal mines while retaining separate regulatory authority and procedures for coal and noncoal mines. Rejected 151-188: No. July 15, 1977.

393. HR 4287. Mine Safety. Andrews (D N.C.) amendment to continue federal/state arrangements that let states develop and enforce their own mine health and safety standards. Rejected 165-169: No. July 15, 1977.

394. HR 4287. Mine Safety. Passage of the bill to toughen mine health and safety standards and enforcement procedures by applying the same set of regulatory processes to both coal and noncoal mines and transferring administrative authority from the Interior Department to the Labor Department. Passed 244-88: Yes. July 15, 1977.

395. HR 6936. Federal Election Commission. Thompson (D N.J.) motion to suspend the rules and pass the bill to authorize $8,123,000 for the operations of the Federal Election Commission for fiscal year 1978. Motion agreed to 383-22: Announced yes. July 18, 1977.

396. H J Res 372. National Family Week. Lehman (D Fla.) motion to suspend the rules and adopt the joint resolution to authorize the President to proclaim Thanksgiving week in November as National Family Week each year. Motion agreed to 400-3: Announced yes. July 18, 1977.

397. HR 7012. Agricultural Census Amendments. Lehman (D Fla.) motion to suspend the rules and pass the bill to amend procedures proposed for the Agriculture Census of 1979 by reducing the number of questions by 40 per cent, redefining the term "farm" for census purposes and setting a firm date of publication of census findings. Motion agreed to 401-9: Yes. July 18, 1977.

398. HR 2387. Office of Management and Budget Salaries. Schroeder (D Colo.) motion to suspend the rules and pass the bill to upgrade the positions and salaries of the director and deputy director of the Office of Management and Budget to Cabinet-level and deputy secretary level, respectively. Motion rejected 253-158: Yes. July 18, 1977.

399. HR 6974. Federal Court Administration. Schroeder (D Colo.) motion to suspend the rules and pass the bill to increase by 15 the number of GS-16, GS-17 and GS-18 positions in the Administrative Office of the U.S. Courts. Motion rejected 189-224: Yes. July 18, 1977.

400. HR 6975. Administrative Law Judges. Schroeder (D Colo.) motion to suspend the

rules and pass the bill to increase the number of Civil Service hearing examiners at GS–16 level to 340, from 240, and to redesignate them as administrative law judges. Motion agreed to 284–131: Yes. July 18, 1977.

401. HR 4319. Federal Retirement Benefits. Spellman (D Md.) motion to suspend the rules and pass the bill to reduce from 12 years to 5 years the length of service required of a federal employee to be eligible to retain health and life insurance benefits during retirement. Motion agreed to 373–37: Yes. July 18, 1977.

402. HR 7557. Transportation Appropriations, Fiscal 1978. Adoption of the conference report on the bill to appropriate $14,340,105,000—including $6,196,609,023 in new budget authority—for the operations and programs of the Transportation Department and related agencies for fiscal year 1978. Adopted 397–14: Yes. July 18, 1977.

403. HR 7556. State, Justice, Commerce, Judiciary Appropriations, Fiscal 1978. Adoption of the conference report on the bill to appropriation $7,709,432,000 for fiscal 1978, plus $211,515,000 in supplemental funds for fiscal 1977 for operations and programs of the Departments of State, Justice and Commerce, the Judiciary and related agencies. Adopted 326–85: Yes. July 18, 1977.

404. HR 7554. HUD. Independent Agencies Appropriations, Fiscal 1978. Adoption of the conference report on the bill to appropriate $69,352,854,000 for fiscal 1978 operations and programs of the Department of Housing and Urban Development and various independent agencies, including the Veterans' Administration. Adopted 379–30. Yes. July 19, 1977.

405. HR 7554. HUD, Independent Agencies Appropriations, Fiscal 1978. Boland (D Mass) motion to retain the original House position excluding from the bill funds for a Jupiter Orbiter Probe. Rejected 131–280: No. July 19, 1977.

406. HR 7554. HUD, Independent Agencies Appropriations, Fiscal 1978, Boland (D Mass.) motion to retain the original House position withholding veterans' benefits to Vietnam-era servicemen who received upgraded discharges under President Carter's review program. Motion agreed to 251–160: No. July 19, 1977.

407. HR 4088. NASA Authorization. Adoption of the conference report to the bill to authorize $4 billion in fiscal 1978 for the operations and programs of the National Aeronautics and Space Administration. Adopted 379–29. Yes. July 19, 1977.

408. S. 1474. Military Construction Authorization. Adoption of the conference report on the bill to authorize $3,724,718,000 for new military construction projects of the Defense Department for fiscal 1978. Adopted 370–34: Yes. July 19, 1977.

409. HR 6138. Youth Jobs. Adoption of the conference report on the bill to authorize a series of new youth employment and training projects, including a year-round program to employ young adults in conservation-related jobs on public lands. Adopted 356–58: Yes. July 19, 1977.

410. HR 7171. 1977 Farm-Food Bill. Adoption of the rule (H. Res. 666) providing for House floor consideration of the bill to extend the major commodity programs for four years, the food stamp program for four years, the Food for Peace program for two years and to make other changes in conservation and agricultural research programs. Adopted 367–38: Yes. July 19, 1977.

411. Procedural Motion. Bauman (R Md.) motion to approve the House *Journal* of Tuesday, July 19, 1977. Motion agreed to 386–12: Yes. July 20, 1977.

412. HR 4746. Water Research Authorization. Adoption of the conference report on the bill to authorize $21,950,000 for fiscal 1978 for research on national water supply needs and on saline water conversion, and $40,000,000 for four demonstration plants. Adopted 401–1: Yes. July 20, 1977.

413. HR 4975. Health Assistance Programs Extension. Adoption of the conference report on the bill to extend for one year, through fiscal 1978, the federal health services, biomedical research and health planning and resources development programs at an authorization level of $3.4-billion. Adopted 401–6: Yes. July 20, 1977.

414. HR 7171. 1977 Farm-Food Bill. Findley (R Ill.), amendment to limit producers of wheat, feed grains, rice and upland cotton to $20,000 a year in federal farm subsidy payments through fiscal year 1981. Rejected 183–230: No. July 20, 1977.

415. HR 7171. 1977 Farm-Food Bill, Nolan (D Minn.) amendment to prohibit payment of federal farm subsidy payments to corporations or partnerships in which those holding majority interest were not engaged in farming operations as a sole proprietorship. Rejected 199–207: No. July 20, 1977.

416. HR 7933. Defense Department Appropriations, Fiscal 1978. Mahon (D Texas) motion to close to the public the House-Senate conference committee on the differing versions of the fiscal 1978 Defense Department appropriations bill at such times as classified national security information was under consideration, pursuant to House Rule 28, but to allow any member of Congress to attend any of the closed sessions. Motion agreed to 376–0: Announced Yes. July 21, 1977.

417. HR 6714. Foreign Economic Aid. Adoption of the conference report on the bill to authorize a total of $1,646,800,000 in fiscal 1978 for U.S. bilateral development assistance and to make changes in the Food for Peace (PL 480) program; the bill specifically prohibited any aid for Vietnam, Cambodia, Laos or Cuba. Adopted 254–158: Yes. July 21, 1977.

418. HR 6884. Foreign Military Aid. Adoption of the conference report on the bill to authorize a total of $3,195,900,000 for fiscal 1978 for U.S. foreign security and military assistance programs, including $677-million to finance sales of military equipment to foreign governments. Adopted 262–147: Yes. July 21, 1977.

419. HR 7171. 1977 Farm-Food Bill. Findley (R Ill.) substitute amendment, to the Fithian (D Ind.) amendment, to set a new limit on annual subsidy payments to sugar producers of $50,000. Rejected 167–241. No. July 21, 1977. (The Fithian amendment, setting the limit at $50,000 per person, subsequently was rejected by voice vote.)

420. HR 2. Strip Mining. Adoption of the conference report on the bill to set environmental protection performance standards for surface mining of coal, provide for regulation and enforcement, establish an abandoned mine reclamation fund and establish mining and mineral research institutes. Adopted 325–68: Yes. July 21, 1977.

421. HR 7171. 1977 Farm-Food Bill. Foley (D Wash.) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to extend the major commodity and food stamp programs for four years and the Food for Peace (PL 480) program for two years and to amend conservation and research programs. Motion agreed to 352–4: Yes. July 22, 1977.

422. HR 7171. 1977 Farm-Food Bill. Rose (D N.C.) amendment to require a standard of quality for ice cream covering the weight and amount of milk solids and milk fat that must be included before the ice cream could be designated with the Department of Agriculture's seal of approval. Adopted 363–11: Yes. July 22, 1977.

423. HR 7171. 1977 Farm-Food Bill. Harkin (D Iowa) amendment. to the Foley (D Wash.) substitute amendment to the Weaver (D Ore.) amendment, to require the Agriculture Secretary to establish a grain reserve of up to 35 million tons, dependent upon voluntary farmer participation. Rejected 141–223: No. July 22, 1977. (The Foley substitute amendment, which made the reserve program discretionary with the Secretary, instead of mandatory as required by the Weaver amendment, subsequently was adopted by voice vote.)

424. HR 7553. Public Works-ERDA Appropriations, Fiscal 1978. Adoption of the conference report on the bill to appropriate a total of $10,294,414,000, including $6,781,004,000 in new budget authority for fiscal 1978 water and power public works programs of the Army Corps of Engineers the Interior Department and several independent agencies, and for most programs of the Energy Research and Development Administration (ERDA). Adopted 318–61: Yes. July 25, 1977.

425. HR 4544. Black Lung Benefits. Adoption of the rule (H Res 702) providing for House floor consideration of the bill to amend the Federal Coal Mine Health and Safety Act to provide black lung benefits to anthracite miners employed for 25 years, and their survivors, and bituminous miners employed for 30 years, and their survivors. Adopted 306–83: Yes. July 25, 1977.

426. HR 7932. Legislative Branch Appropriations, Fiscal 1978. Adoption of the conference report on the bill to appropriate a total of $990,067,800 in new budget authority for fiscal 1978 operations and programs for the legislative branch and related agencies. Adopted 252–152: Yes. July 26, 1977.

427. HR 7932. Legislative Branch Appropriations, Fiscal 1978. Mitchell (D Md.) motion that the House recede and concur with the Senate amendment to appropriate $225,000 for the activities of the Joint Committee on Defense Production. Rejected 160–250: Yes. July 26, 1977.

428. HR 7171. 1977 Farm-Food Bill. Heckler (R Mass.) amendment to reduce the price support for peanuts grown within a national quota based on weight to $390 per ton for the 1978 crop. $375 per ton for 1979, $360 per ton for 1980 and $345 per ton for 1981 and subsequent years, from the $420 a ton each year recommended in the committee bill. Rejected 207–210: No. July 26, 1977.

429. HR 7171. 1977 Farm-Food Bill. Whitely (D N.C.) substitute amendment, to the Johnson (R Colo.) amendment, to give priority to financing the sale of food and fiber commodities under Title I of the Food for Peace (PL 480) program. Adopted 260–151: Yes. July 26, 1977.

430. HR 7558. Agriculture Department Appropriations, Fiscal 1978. Adoption of the conference report on the bill to appropriate a total of $13,763,935,000 for fiscal 1978 for the operations and programs for the Agriculture Department and related agencies, including $12,749,378,000 in new budget authority. Adopted 377–33: Yes. July 27, 1977.

431. HR 7171. 1977 Farm-Food Bill. Foley (D Wash.) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to extend the major commodity, food stamp and Food for Peace programs and to amend conservation and research programs. Motion agreed to 410–4: Yes. July 27, 1977.

432. HR 7171. 1977 Farm-Food Bill. Symms (R Idaho) amendment to prohibit use of food stamps to purchase non-nutritional foods as determined by the Food and Nutrition Board of the National Academy of Sciences-National Research Council. Rejected 185–227: No. July 27, 1977.

433. HR 7171. 1977 Farm-Food Bill. Latta (R Ohio) amendment, to the Mathis (D Ga.) amendments (see vote 434, below), to reduce to $5.6-billion the limit on food stamp program expenditures in fiscal 1978. Rejected 168–248: No. July 27, 1977.

434. HR 7171. 1977 Farm-Food Bill. Mathis (D Ga.) amendments, considered en bloc, to limit food stamp program expenditures to $5,847,600,000 in fiscal 1978, $6,158,900,000 in fiscal 1979, $6,188,600,000 in fiscal 1980 and $6,235,900,000 in fiscal 1981. Adopted 242–173: No. July 27, 1977.

435. HR 7171. 1977 Farm-Food Bill. Fenwick (R N.J.) amendment, to the Kelly (R Fla.) amendment to allow families of strikers with children under 16 to be eligible for food stamps. Rejected 152–266: No. July 27, 1977.

436. HR 7171. 1977 Farm-Food Bill. Fenwick (R N.J.) amendment, to the Kelly (R Fla.) amendment to allow families of strikers with children under 16, elderly or disabled dependents to be eligible for food stamps. Rejected 190–227: No. July 27, 1977.

437. HR 7171. 1977 Farm-Food Bill. Kelly (R Fla.) amendment, to the committee amendment, to eliminate from the food stamp program any household in which a member is on strike unless the household was eligible before the strike. The amendment would not apply to persons who refused to accept employment at a plant or site because of a strike or lockout. Rejected 170–249: No. July 27, 1977.

438. HR 7171. 1977 Farm-Food Bill. Symms (R Idaho) amendment, to the committee amendment, to require that recipients pay for a portion of their food stamp allotment. Rejected 102–317: No. July 27, 1977.

439. HR 7171. 1977 Farm-Food Bill. Jeffords (R Vt.) amendment, to the committee amendment, to require that food stamp households with adjusted gross incomes in excess of twice the poverty level return the excess, up to the amount of their food stamp allotment, to the government. Rejected 149–262: No. July 27, 1977.

440. HR 7171. 1977 Farm-Food Bill. Foley (D Wash.) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to extend the major commodity, food stamp and Food for Peace programs and to amend conservation and research programs. Motion agreed to 386–4: Yes. July 28, 1977.

441. HR 7171. 1977 Farm Food Bill, Findley (R Ill.) amendment, to the committee amendment, to permit the Agriculture Secretary to implement an unlimited number of pilot projects in which work would have to be performed in return for food stamps. Rejected 159–255: No. July 28, 1977.

442. HR 7171. 1977 Farm-Food Bill. Foley (D Wash.) committee amendment, as amended, substituting the text of HR 7940 for Title XII of the bill and revising the food stamp program to provide free food stamps, simplifying eligibility determinations, tightening work requirements and cutting down on fraud and abuse. Adopted 320–91: Yes. July 28, 1977.

443. HR 7171. 1977 Farm-Food Bill. Wolff (D N.Y.) amendment to delete the provision in the bill to establish a wheat research and education program to be supported by an assessment on wheat processors (bakeries). Adopted 300–109: No. July 28, 1977.

444. HR 7171. 1977 Farm-Food Bill. De la Garza (D Texas) amendment to establish a price support program for sugar beet and cane producers at a price support level between 55 and 65 percent of parity. Adopted 246–165: Yes. July 28, 1977.

445. HR 7171. 1977 Farm-Food Bill. Nolan (D Minn.) amendment to provide support payments of up to 13.5 cents a pound for sugar crops not covered by the sugar subsidy plan approved in the Rep. de la Garza amendment. Rejected 173–238: Yes, July 28, 1977.

446. HR 7171. 1977 Farm-Food Bill. Findley (R Ill.) motion to recommit the bill to the Agriculture Committee with instructions to limit support payments for wheat, feed grains, cotton and rice to $30,000 a year through fiscal 1981. Rejected 201–210: No. July 28, 1977.

447. HR 7171. 1977 Farm-Food Bill. Passage of the bill to extend and increase support payments for wheat, feed grains, cotton and rice for four years, through fiscal 1981, to extend the federal food stamp program for four years with numerous changes, including elimination of the program's purchase requirement, to extend the Food for Peace (PL 480) program for two years, to amend the peanut support program, to expand agricultural research programs, to authorize the establishment of a grain reserve, and to make other changes in U.S. agricultural programs. Passed 294–114: Yes. July 28, 1977.

448. Procedural Motion. Bauman (R Md.) motion to approve the House *Journal* of Thursday, July 28, 1977. Motion agreed to 342–18: Yes. July 29, 1977.

449. H Con Res 317. Congressional Adjournment. Adoption of the concurrent resolution providing that upon adjournment of the House on Aug. 5, 1977, and the Senate on Aug. 6, 1977, they will reconvene at 12 noon, Sept. 7, 1977. Adopted 320–54: Yes. July 29, 1977.

450. H Res 661. House Administration. Adoption of the resolution to create two positions on the Capitol Police force: a general counsel to the chief of the Capitol Police and a deputy chief of the Capitol Police, and to increase the salary of the House chaplain. Adopted 383–2: Yes. July 29, 1977.

451. S J Res 77. HUD Insurance Programs. Adoption of the resolution to extend until Sept. 30, 1977, the authority of the Secretary of Housing and Urban Development to insure mortgages and set interest rates under certain Federal Housing Administration programs, to enter into new flood insurance contracts and to extend certain authorities under the Farmers Home Administration's rural housing program. Adopted 383–2: Yes. July 29, 1977.

452. HR 8444. National Energy Policy. Bolling (D Mo.) motion to order the previous question, thus ending debate on the rule (H Res 727) under which HR 8444, a bill to establish a comprehensive national energy policy, was considered. Motion agreed to 231–156: Yes. July 29, 1977.

453. HR 8444. National Energy Policy. Adoption of the rule (H Res 727) providing for House floor consideration of the bill to establish a comprehensive national energy policy. Adopted 238–148: Yes. July 29, 1977.

454. HR 8444. National Energy Policy. Pepper (D Fla.) motion to table, and thus kill, the Bolling (D Mo.) motion to reconsider the vote on the adoption of the rule (H Res 727) under which HR 8444, a bill to establish a comprehensive national energy policy, was considered. Motion agreed to 254–120: Yes. July 29, 1977.

455. HR 3744. Minimum Wage. Adoption of the rule (H Res 715) providing for House floor consideration of the bill to raise the minimum wage to $2.65 an hour from $2.30, with provision for automatic future adjustments, and to make other changes in the Fair Labor Standards Act. Adopted 331–44: Yes. July 29, 1977.

456. HR 8444. National Energy Policy. Ashley (D Ohio) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to establish a comprehensive national energy policy. Motion agreed to 365–12: Yes. Aug. 1, 1977.

457. S 826. Federal Energy Department. Adoption of the rule (H Res 731) providing for House floor consideration of the conference report on the bill to create a Cabinet-level Department of Energy by consolidating the functions of various federal agencies dealing with energy. Adopted 294–115: Yes. Aug. 2, 1977.

458. S 826. Federal Energy Department. Kindness (R Ohio) motion to recommit the conference report, and thus kill, the bill to create a federal Department of Energy. Motion rejected 157–257: No. Aug. 2, 1977.

459. S 826. Federal Energy Department. Adoption of the conference report on the bill to create a Cabinet-level Department of Federal Power Commission, the Federal Energy Administration, Energy Research and Development Administration and other energy functions scattered throughout the federal government. Adopted 353–57; Yes. Aug. 2, 1977.

460. HR 8444. National Energy Policy. Ad hoc energy committee amendment to part 1 of Title I of the bill to establish an energy conservation program by requiring states or the Federal Energy Administration to supply residential customers information on qualified home insulation installers and financing arrangements and to allow public utility companies to provide home insulation services. Adopted 217–205: Yes. Aug. 2, 1977.

461. HR 8444. National Energy Policy. Ad hoc energy committee amendment to require a one-year study by the Department of Transportation of the energy conservation potential of off-highway recreational vehicles, including airplanes and motorboats used for pleasure riding. Adopted 212–210: Yes. Aug. 2, 1977.

462. HR 8444. National Energy Policy. Ad hoc energy committee amendment to require a one-year study by the Department of Transportation of the energy conservation potential of bicycle use. Adopted 252–166: Yes. Aug. 2, 1977.

463. HR 8444. National Energy Policy. Ford (D Mich.) amendment to apply the Davis-Bacon Act to certain provisions so that workers employed in programs authorized by the bill to insulate schools, hospitals and public buildings be paid no less than wage rates prevailing in their area. Adopted 265–161: Yes. Aug. 2, 1977.

464. HR 8444. National Energy Policy. Ad hoc energy committee amendment to authorize $65-million through fiscal 1979 in federal grants to state and local governments to cover up to half the costs of identifying and installing energy conservation controls in local government buildings. Adopted 317–105: Yes. Aug. 2, 1977.

465. HR 7555. Labor-HEW Appropriations, Fiscal 1978. Adoption of the conference report on the bill to appropriate a total of $60,168,561,000 for fiscal 1978 for the operations and programs of the Labor Department and the Department of Health, Education and Welfare and related agencies. Adopted 337–82: Yes. Aug. 2, 1977.

466. HR 7555. Labor-HEW Appropriations, Fiscal 1978. Flood (D Pa.) motion to concur in a Senate-passed amendment relating to abortion with an amendment to bar the use of any funds appropriated in the bill for abortions, except where the life of the mother would be endangered by continuing the pregnancy. Motion agreed to 238–182: No. Aug. 2, 1977.

467. HR 8444. National Energy Policy. Bolling (D Mo.) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to establish a comprehensive national energy policy. Motion agreed to 404–5: Yes. Aug. 3, 1977.

468. HR 8444. National Energy Policy. Brown (R Ohio) amendment to end federal controls on the price of new onshore natural gas retroactive to April 20, 1977, and on new offshore natural gas beginning April 20, 1982, and to extend the Emergency Natural

Gas Act of 1977 for three years. Rejected 199–227: No. Aug. 3, 1977.

469. HR 8444. National Energy Policy. Flowers (D Ala.) amendment to delete provisions in the bill that would have extended antitrust review to utilities building new facilities. Adopted 257–160: Yes. Aug. 3, 1977.

470. HR 8444. National Energy Policy. Horton (R N.Y.) amendment to delete provisions in the bill authorizing $75-million for purchase of 6,000 vans for a van-pooling program for federal workers. Adopted 232–184: No. Aug. 3, 1977.

471. HR 8444. National Energy Policy. Bolling (D Mo.) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to establish a comprehensive national energy policy. Motion agreed to 378–3: Yes. Aug. 4, 1977.

472. HR 8444. National Energy Policy. Howard (D N.J.) substitute amendment, to the ad hoc energy committee amendment to increase the federal gasoline tax by 5 cents, effective Jan. 1, 1979, with half the revenue going to support mass transit programs and half toward repair of the nation's bridges and highways. Rejected 82–339: No. Aug. 4, 1977.

473. HR 8444. National Energy Policy. Ad hoc energy committee amendment to increase the federal gasoline tax by 4 cents with revenues to support programs for research, mass transit and state highways. Rejected 52–370: No. Aug. 4, 1977.

474. HR 8444. National Energy Policy. Jones (D Okla.) amendment to return to oil and gas producers money derived from the proposed crude oil equalization tax in order to provide an incentive for increased energy production. Rejected 198–223· No. Aug. 4, 1977.

475. HR 8444. National Energy Policy. Waggonner (D La.) amendment to use 1978 revenues from the proposed crude oil equalization tax to supplement the Social Security trust fund system rather than for rebates to individual taxpayers. Rejected 190–226: Yes. Aug. 4, 1977.

476. H Res 729. House Intelligence Committee. Adoption of the resolution providing $302,499 for the operations and investigations of the House Permanent Select Intelligence Committee—established by the House July 14—for the remainder of calendar year 1977. Adopted 342–10: Yes. Aug. 5, 1977.

477. HR 8444. National Energy Policy Conable (R N.Y.) amendment to cut general income taxes in proportion to 1978 revenue received from the proposed crude oil equalization tax (the bill would have rebated the revenue from the tax to individual taxpayers). Rejected 175–232: No. Aug. 5, 1977.

478. HR 8444. National Energy Policy. Ad hoc committee on energy amendment to delete from the bill a provision that automatically exempted new plants from having to pay the proposed oil and gas users taxes if such plants were exempted from regulatory orders prohibiting use of those fuels. Adopted 221–198: Yes. Aug. 5, 1977.

479. HR 8444. National Energy Policy. Anderson (R Ill.) amendment to substitute for the bill a series of energy proposals agreed upon by Republican members of the ad hoc committee on energy. Rejected 147–273: No. Aug. 5, 1977.

480. HR 8444. National Energy Policy. Horton (R N.Y.) amendment to reaffirm an earlier vote deleting provisions in the bill authorizing $75 million for the purchase of 6,000 vans for a van-pooling program for federal workers. Adopted 239–180: No. Aug. 5, 1977.

481. HR 8444. National Energy Policy. Steiger (R Wis.) motion to recommit the bill to the ad hoc committee on energy with instructions to report it with an amendment deleting the proposed crude oil equalization tax. Motion to recommit rejected 203–219: No. Aug. 5, 1977.

482. HR 8444. National Energy Policy. Passage of the bill to establish a comprehensive national energy policy. Passed 244–177: Yes. Aug. 5, 1977.

483. HR 7933. Defense Department Appropriations, Fiscal 1978. Adoption of the conference report to appropriate $111,184,166,000 for programs and operations of the Department of Defense in fiscal 1978, including $1.4 billion for production of five B–1 bombers. Adopted 361–36: Yes. Sept. 8, 1977.

484. HR 7933. Defense Department Appropriations, Fiscal 1978. Addabbo (D N.Y.) amendment, to the Mahon (D Texas) motion, to recede and concur with the Senate amendment to delete $1.4-billion for the production of five B–1 bombers. Adopted 202–199: Yes. Sept. 8, 1977.

485. H Con Res 341. Fiscal 1978 Budget Levels. Rousselot (R Calif.) substitute to H Con Res 341 to set fiscal 1978 budget authority of $446.8-billion, outlays of $406.6-billion, revenues of $406.6-billion and a zero deficit. Rejected 169–230: No. Sept. 8, 1977.

486. H Con Res 341. Fiscal 1978 Budget Levels. Coughlin (R Pa.) amendment to reduce revenues by $175-million to provide for tax credits of up to $250 per year taken against tuition of full-time college and vocational school students. Adopted 311–76; Announced yes. Sept. 8, 1977.

487. H Con Res 341. Fiscal 1978 Budget Levels. Caputo (R N.Y.) amendment to reduce budget authority by $109-million and outlays by $108-million for the purpose of reducing U.S. food commodity support programs for South Korea. Rejected 181–205: No. Sept. 8, 1977.

488. H Con Res 341. Fiscal 1978 Budget Levels. Jacobs (D Ind.) amendment to reduce budget authority by $144-million and outlays by $110-million for the purpose of reducing U.S. military and economic assistance programs for South Korea. Rejected 120–268: No. Sept. 8, 1977.

489. H Con Res 341. Fiscal 1978 Budget Targets. Adoption of the budget resolution setting binding levels of budget authority of $508-billion, outlays of $459.5-billion, revenues of $397.9-billion and a deficit of $61.6-billion. Adopted 199–188: Yes. Sept. 8, 1977.

490. HR 6566. ERDA Authorization: Military Programs. Adoption of the rule (H Res 640) providing for House floor consideration of the bill to authorize $2.6-billion for the Energy Research and Development Administration's military programs for fiscal 1978. Adopted 348–0: Yes. Sept. 9, 1977.

491. HR 6796. ERDA Authorization: Non-Nuclear Programs. Adoption of the rule (H Res 657) providing for House floor consideration of the bill to authorize $6.7-billion for nonnuclear programs of the Energy Research and Development Administration for fiscal 1978. Adopted 338–14: Yes. Sept. 9, 1977.

492. HR 2176. Audit of Federal Banking Agencies. Adoption of the rule (H. Res. 728) providing for House floor consideration of the bill to authorize audits of the Federal Reserve Board, the Federal Reserve banks, the Federal Deposit Insurance Corp. and the Office of the Comptroller of the Currency. Adopted 312–47. Yes. Sept. 9, 1977.

493. HR 5383. Mandatory Retirement Age. Adoption of the rule (H. Res. 738) providing for House floor consideration of the bill to amend the Age Discrimination in Employment Act of 1967 to raise the mandatory retirement age to 70, from 65. Adopted 362–0. Announced yes. Sept. 9, 1977.

494. HR 6683. Earthquake Hazards. Adoption of the rule (H. Res. 639) providing for House floor consideration of the bill to establish a national earthquake hazards reduction program. Adopted 350–3. Yes. Sept. 9, 1977.

495. HR 6669. National Climate Program. Adoption of the rule (H. Res. 641) providing for House floor consideration of the bill to authorize $50 million to establish a national climate program to respond more effectively to climate-induced problems. Adopted 348–2. Yes. Sept. 9, 1977.

496. HR 6683. Earthquake Hazards. Passage of the bill to authorize the President to designate a federal agency responsible for a multi-agency, national earthquake hazards reduction program, and to provide $210-million for fiscal 1978–80 for scientific and engineering research on earthquake prediction ($102.5-million for the National Science Foundation, $102.5-million for the U.S. Geological Survey, and $5-million for general purposes). Passed 229–125. Yes. Sept. 9, 1977.

497. H.R. 6669. National Climate Program. Passage of the bill to authorize $50-million in fiscal 1978 to establish a federal National Climate Program Office to develop a climate prediction program to enable federal agencies to make long-range plans to cope with climate-induced problems. Passed 282–60. Announced yes. Sept. 9, 1977.

498. HR 3455. Nuclear Regulatory Commission. Udall (D., Ariz.) motion to suspend the rules and pass the bill to authorize $301,950,000 in fiscal 1978 funds for activities of the Nuclear Regulatory Commission. Motion agreed to 396–2. Yes. Sept. 12, 1977.

499. HR 3454. Wilderness Preservation. Roncalio (D., Wyo.) motion to suspend the rules and pass the bill to add 1,170,372 acres from 16 national forest areas in eight western states to the national wilderness preservation system. Motion agreed to 380–18. Yes. Sept. 12, 1977.

500. HR 8698. Veterans' Benefits for Upgraded Discharges. Roberts (D Texas) motion to suspend the rules and pass the bill to establish conditions under which Vietnam-era veterans whose discharges were upgraded under President Carter's special review program could receive benefits. Motion agreed to 321–75: Yes. Sept. 12, 1977.

501. HR 8701. Veterans' Education Benefits. Roberts (D Texas) motion to suspend the rules and pass the bill to provide a 6.6 per cent increase in veterans' education benefits. Motion agreed to 397–0: Yes. Sept. 12, 1977.

502. HR 8175. Veterans Administration Physician and Dentist Comparability Act Extension. Teague (D Texas) motion to suspend the rules and pass the bill to extend for one year, until Sept. 30, 1978, authority to grant incentive pay to certain Veterans Administration physicians and dentists. Motion agreed to 397–1: Yes. Sept. 12, 1977.

503. HR 4341. Elimination of Veterans' Mobile Homes Inspections. Teague (D Texas) motion to suspend the rules and pass the bill to eliminate inspections by the Veterans Administration (VA) of mobile homes purchased with VA-guaranteed loans and of the plants in which they were manufactured. Motion agreed to 394–1: Yes. Sept. 12, 1977.

504. HR 6803. Oil Pollution Liability and Compensation. Murphy (D N.Y.) motion to suspend the rules and pass the bill to increase the liability of those who cause oil spills, and to set up a $200-million fund to pay for oil spill cleanup and damages. Motion agreed to 332–59: Yes. Sept. 12, 1977.

505. HR 3702. Military Retirees Survivor Benefits. Stratton (D N.Y.) motion to suspend the rules and pass the bill to make various changes in the benefit programs for survivors of military retirees. Motion agreed to 391–0: Yes. Sept. 12, 1977.

506. H Con Res 341. Fiscal 1978 Budget Levels. Giaimo (D Conn.) motion to recede and concur with a Senate amendment to set binding fiscal 1978 budget levels of budget authority of $500.1-billion, outlays of $458.25-billion, revenues of $397-billion, a deficit of $61.25-billion and a public debt of $775.45-billion. Motion agreed to 215–187: Yes. Sept. 15, 1977.

507. HR 3744. Minimum Wage. Erlenborn (R Ill.) amendment to delete procedures in the bill for automatic adjustment, or "indexing," of the minimum wage and to substitute a three-step increase from the current level of $2.30 an hour to $2.65 on Jan. 1, 1978, to

$2.85 on Jan. 1, 1979, and to $3.05 on Jan. 1, 1980. Adopted 223–193: Yes. Sept. 15, 1977.

508. HR 3744. Minimum Wage. Perkins (D Ky.) and Tucker (D Ark.) amendment to establish a nine-member commission to study indexing the minimum wage and other issues. Adopted 301–118: Yes. Sept. 15, 1977.

509. HR 3744. Minimum Wage. Phillip Burton (D Calif.) amendment to increase the minimum wage from the current level of $2.30 an hour to $2.65 on Jan. 1, 1978, and to establish a temporary indexing mechanism to automatically adjust the minimum each year through 1983. Rejected 189–227: No. Sept. 15, 1977.

510. HR 3744. Minimum Wage. Quie (R Minn.) amendment to delete provisions reducing the "tip credit," which would have required employers to pay a higher base wage to workers who earned tips. (The effect was to retain current procedures for offseting tip earnings against 50 per cent of the minimum wage.) Adopted 264–161: No. Sept. 15, 1977.

511. HR 3744. Minimum Wage. Milford (D Texas) amendment to retain existing minimum wage and overtime exemptions for employees at seasonal amusement parks. Adopted 241–183: No. Sept. 15. 1977.

512. HR 3744. Minimum Wage. Cornell (D Wis.) amendment to permit employers to pay only 85 per cent of the minimum wage to young workers under age 18 during their first six months on a job. Rejected 210–211: No. Sept. 15. 1977.

513. HR 3744. Minimum Wage. Meeds (D Wash.) amendment to waive minimum wage requirements for children under age 12 who manually harvested crops during the summer. Adopted 282–132: R 122–17: Yes. Sept. 15, 1977.

514. HR 3744. Minimum Wage. Ashbrook (R Ohio) amendment, to the Blouin (D Iowa) amendment to broaden the minimum wage and overtime exemption for small retail and service firms to include other types of businesses and to raise, to $500,000 from $250,000, the dollar volume cutoff applied to the exemption. Rejected 118–289: No. Sept. 15, 1977.

515. HR 3744. Minimum Wage. Pickle (D Texas) substitute amendment, to the Blouin (D Iowa) amendment, to raise the dollar sales cutoff, to $500,000 from $250,000, that exempted small retail and service enterprises from minimum wage and overtime requirements. Adopted 221–183: No. Sept. 15, 1977.

516. HR 3744. Minimum Wage. Passage of the bill to raise the minimum wage from $2.30 an hour to $2.65 on Jan. 1, 1978, to $2.85 on Jan. 1, 1979, to $3.05 on Jan. 1, 1980, and make other changes in minimum wage and overtime coverage. Passed 309–96: Yes. Sept. 15, 1977.

517. S. 275. 1977 Farm-Food Bill. Adoption of the conference report on the bill to extend and increase support payments for wheat, feed grains, cotton and rice for four years, through fiscal 1981; to extend the food stamp program for four years and to eliminate the program's payment requirement; to extend the Food for Peace (PL 480) program for four years; to establish a new sugar subsidy program; to amend the peanut support program; to expand agricultural research programs; and to authorize the establishment of a grain reserve. Adopted (and thus completing congressional action) 283–107: Yes. Sept. 16, 1977.

518. HR 5262. International Financial Institutions. Adoption of the conference report on the bill to authorize $5.1-billion for the International Bank for Reconstruction and Development (World Bank) and five other international institutions, and instruct U.S. officials to vote against loan applications when other efforts failed to guarantee that recipient nations were observing basic human rights standards. Rejected 153–230: Yes. Sept. 16, 1977.

519. HR 9005. District of Columbia Appropriations, Fiscal 1978. Passage of the bill to appropriate $436,466,000 in federal funds and $1,401,622,700 in local funds for the District of Columbia in fiscal 1978. Passed 298–64: Yes. Sept. 16, 1977.

520. HR 4544. Black Lung Benefits. Erlenborn (R Ill.) substitute amendment, for the Thompson (D N.J.) substitute amendment for the committee bill, to shift responsibility for new black lung claims to state worker compensation programs one year after enactment. Rejected 108–268: No. Sept. 19, 1977.

521. HR 4544. Black Lung Benefits. Erlenborn (R Ill.) amendment, to the Thompson (D N.J.) substitute amendment for the committee bill, to delete provisions in the substitute bill reducing the payments for workers' compensation that could be offset against black lung benefits. Rejected 106–268: No. Sept. 19, 1977.

522. HR 4544. Black Lung Benefits. Erlenborn (R Ill.) amendment, to the Thompson (D N.J.) substitute amendment for the committee bill, to delete provisions prohibiting the federal government from re-reading X-rays submitted by black lung claimants. Rejected 136–242: No. Sept. 19, 1977.

523. HR 4544. Black Lung Benefits. Passage of the bill to liberalize the black lung benefits program and shift more of the costs from the federal government to the coal industry. Passed 283–100: Yes. Sept. 19, 1977.

524. HR 8655. Temporary Debt Limit Increase. Adoption of the resolution (H Res 764) providing for House floor consideration of the bill to raise the temporary debt limit to $775-billion through Sept. 30, 1978. Passed 284–96: Yes. Sept. 19, 1977.

525. HR 8655. Temporary Debt Limit Increase. Passage of the bill to raise the temporary debt limit to $775-billion through Sept. 30, 1978. Rejected 180–201: announced Yes. Sept. 19, 1977.

526. Procedural Motion. Rousselot (R Calif.) motion to approve the House *Journal* of Monday, Sept. 19, 1977. Motion agreed to 383–17. Yes. Sept. 20, 1977.

527. H Res 687. District Office Space. Adoption of the resolution to increase the rental allowance for district office space for House members from 1,500 square feet to 2,500 square feet, effective Jan. 3, 1978. Adopted 215–193: Yes. Sept. 20, 1977.

528. HR 6796. ERDA Authorization, Civilian Research and Development. Brown (D Calif.) substitute amendment, to the Dodd (D Conn.) amendment to authorize $33-million, instead of the $150-million in the bill, for construction of the Clinch River Breeder Reactor Project. Rejected 162–246: No. Sept. 20, 1977.

529. HR 6796. ERDA Authorization, Civilian Research and Development. Dodd (D Conn.) amendment to authorize $75-million, instead of the $150-million in the bill, for construction of the Clinch River Breeder Reactor Project. Rejected 129–277: No. Sept. 20, 1977.

530. HR 3. Medicare-Medicaid Fraud. Adoption of the rule (H Res 743) providing for House floor consideration of the bill to control fraud and abuse in the Medicare-Medicaid programs by strengthening penalties and requiring suspension of practitioners convicted of criminal offenses related to the programs. Adopted 374–6: Yes. Sept. 21, 1977.

531. HR 8368. Nuclear Non-Proliferation. Adoption of the rule (H Res 767) providing for House floor consideration of the bill to strengthen controls on the export of nuclear fuels and technology. Adopted 388–0: Yes. Sept. 21, 1977.

532. HR 7073. Pesticide Regulation. Adoption of the rule (H Res 620) providing for House floor consideration of the bill to extend the 1972 Federal Insecticide, Fungicide and Rodenticide Act through fiscal 1978 and to authorize $95,936,000 for fiscal 1977–78. Adopted 383–10: Yes. Sept. 21, 1977.

533. HR 6796. ERDA Authorization, Civilian Research and Development. Teague (D Texas) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to authorize appropriations for the Energy Research and Development Administration. Motion agreed to 390–1: Yes. Sept. 21, 1977.

534. HR 6796. ERDA Authorization, Civilian Research and Development. Coughlin (R Pa.) amendment to place limitations on the percentage of the federal contribution for paying cost overruns that increased the total cost of the Clinch River liquid metal fast breeder reactor project by more than $2-billion and to require private utilities participating in the breeder demonstration plant construction project to bear a portion of further overruns beyond existing cost projections, with the utilities' share reaching 50 per cent for costs of more than $2.5-billion. Rejected 196–206: No. Sept. 21, 1977.

535. HR 6796. ERDA Authorization, Civilian Research and Development. Tsongas (D Mass.) amendment to authorize $28-million for federal purchase of solar photovoltaic systems and to initiate studies on increasing their use to help meet the nation's energy needs. Adopted 227–179: No. Sept. 21, 1977.

536. Procedural Motion. Michel (R Ill.) motion to approve the House *Journal* of Wednesday, Sept. 21, 1977. Motion agreed to 283–6: Announced yes. Sept. 22, 1977.

537. Procedural Motion. Ashbrook (R Ohio) motion to approve the House *Journal* of Thursday, Sept. 22, 1977. Motion agreed to 332–14: Yes. Sept. 23, 1977.

538. HR 6796. ERDA Authorization, Civilian Research and Development. Passage of the bill to authorize $6.6-billion in federal civilian energy research and development programs for fiscal 1978. Passed 317–47: Yes. Sept. 23, 1977.

539. HR 3. Medicare-Medicaid Fraud. Passage of the bill to control fraud and abuse in the Medicare and Medicaid programs by establishing stricter penalties, strengthening oversight by local medical review organizations, requiring greater disclosure of information from medical institutions and making other administrative changes. Passed 362–5: Yes. Sept. 23, 1977.

540. HR 5383. Mandatory Retirement Age. Passage of the bill to raise to 70, from 65, the upper age limit for protection of non-Federal workers from age-based discriminatory practices, including mandatory retirement, and to eliminate the upper limit for most civilian federal employees. Passed 359–4: Yes. Sept. 23, 1977.

541. HR 6536. D.C. Retirement Reform Act. Passage of the bill to overhaul the retirement fund programs for District of Columbia public employees, to establish separate retirement programs for police, firemen, teachers and judges, to establish a retirement board to manage the funds and to provide for federal payments into the funds to help finance retirement benefits enacted and administered by Congress before home rule took effect on Jan. 2, 1975. Passed 348–21: Yes. Sept. 26, 1977.

542. S 1060. George Washington University Charter. Passage of the bill to consolidate the amended charter for George Washington University into a new document. Passed 363–4: Yes. Sept. 26, 1977.

543. S 1322. D.C. Public Works. Passage of the bill to revise the basis for estimating the annual federal payment to the District of Columbia for water and sanitary sewer services in an effort to speed the federal payment. Passed 375–1: Yes. Sept. 26, 1977.

544. HR 6530. D.C. Self-Government and Reorganization. Bauman (R Md.) amendment to prohibit use of loan authority for the District of Columbia to be used for site acquisition or construction of a city civic

center without prior legislative authorization by Congress. Rejected 187–196: No. Sept. 26, 1977.

545. HR 6530. D.C. Borrowing Authority. Passage of the bill to provide the District of Columbia temporary authority to borrow from the U.S. Treasury to help finance capital works and related projects. Passed 266–119: Yes. Sept. 26, 1977.

546. HR 7747. D.C. Code-Pretrial Detention. Coleman (R Mo.) amendment to amend the District of Columbia code to provide for the pretrial detention of individuals arrested for armed robbery as well as murder and forcible rape. Adopted 346–43: Yes. Sept. 26, 1977.

547. HR 6693. Child Abuse Prevention. Brademas (D Ind.) motion to suspend the rules and pass the bill to extend the Child Abuse Prevention and Treatment Act for five years, strengthen the protective and treatment services available to abused children and to their families and authorize $142.5-million to carry out the programs. Motion agreed to 375–12: Yes. Sept. 26, 1977.

548. H Con Res 277. Saturday Mail. Wilson, C. H. (D Calif.) motion to suspend the rules and adopt the resolution providing that the U.S. Postal Service was not to reduce the frequency of mail delivery below that in effect June 1, 1977. Motion agreed to 377–9: Yes. Sept. 26, 1977.

549. HR 6224. Indian Claims. Cohen (R Maine) demand for a seconding motion on the Roncalio (D Wyo.) motion to suspend the rules and pass the bill to direct the U.S. Court of Claims to review an 1877 congressional action that took land from the Great Sioux Reservation. Cohen request agreed to 376–19: Yes. Sept. 27, 1977.

550. HR 7555. Labor-HEW Appropriations, Fiscal 1978. Stokes (D Ohio) motion to suspend the rules and pass the resolution (H Res 780) to instruct House conferees to agree to a Senate-passed amendment barring the use of federal funds for abortion except where the mother's life was endangered or where medically necessary, or in cases of rape or incest. Rejected 164–252: Yes. Sept. 27, 1977.

551. HR 7769. Indochina Refugees. Eilberg (D Pa.) motion to suspend the rules and pass the bill to admit for permanent residence certain refugees from Vietnam, Laos and Cambodia. Motion agreed to 390–22: Yes. Sept. 27, 1977.

552. HR 9278. Staff Allowances for Former Presidents. Udall (D Ariz.) motion to suspend the rules and pass the bill to increase the authorization for funds for staff of former Presidents. Motion rejected 211–203: Yes. Sept. 27, 1977.

553. HR 2664. Indian Claims. Roncalio (D Wyo.) motion to suspend the rules and pass the bill to direct the U.S. Court of Claims to review the 1974 decision of the Indian Claims Commission that the United States illegally confiscated in 1877 from the Sioux Indian 7.4 million acres of land in the Black Hills. Motion rejected 173–239: No. Sept. 27, 1977.

554. S 393. Montana Wilderness Study. Roncalio (D Wyo.) motion to suspend the rules and pass the bill to direct the Secretary of Agriculture to study nine areas totaling 973,000 acres within national forests in Montana to determine their suitability for potential addition to the National Wilderness Preservation System. Motion rejected 256–155: No. Sept. 27, 1977.

555. S 213. GAO Audits. Rosenthal (D N.Y.) motion to suspend the rules and pass the bill to authorize the General Accounting Office (GAO) to conduct independent audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department. Motion agreed to 402–5: Yes. Sept. 27, 1977.

556. H Res 70. House Select Committee on Population. Adoption of the resolution to establish a select committee of the House to make a study during the 95th Congress of the causes and effects of changes in world population and of U.S. options on global population policies. Adopted 258–147: No. Sept. 28, 1977.

557. H Res 760. House Select Committee on Assassinations. Adoption of the resolution (H Res 760) authorizing the committee to subpoena testimony and to grant immunity from prosecution to witnesses testifying in the committee's investigations into the assassinations of President John F. Kennedy and Martin Luther King Jr. Adopted 290–112: Yes. Sept. 28, 1977.

558. HR 9290. Temporary Debt Limit Increase. Adoption of the rule (H Res 781) providing for House floor consideration of the bill to raise the temporary debt limit to $773-billion through Sept. 30, 1978. Passed 312–96: Yes. Sept. 28, 1977.

559. HR 9290. Temporary Debt Limit Increase. Passage of the bill to raise the temporary debt limit to $733-billion through Sept. 30, 1978. Passed 213–202: Yes. Sept. 28, 1977.

560. HR 8638. Nuclear Non-Proliferation. Passage of the bill to strengthen controls on the export of nuclear fuels and technology. Passed 411–0: Yes. Sept. 28, 1977.

561. HR 6566. ERDA Authorization—Military Programs. Charles Wilson (D Calif.) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill. Motion agreed to 361–7: Announced yes. Sept. 23, 1977.

562. HR 6566. ERDA Authorization—Military Programs. Weiss (D N.Y.) amendment to prohibit the use of appropriated funds for development or production of enhanced radiation weapons—"neutron bombs." Rejected 109–297: No. Sept. 29, 1977.

563. HR 6566. ERDA Authorization—Military Programs. Passage of the bill to authorize $2,674,650,000 for military-related activities of the Energy Research and Development Administration for fiscal 1978. Passed 330–78: Yes. Sept. 29, 1977.

564. HR 9019. Fiscal 1977 Rescission. Passage of the bill to rescind $96.1-million in budget authority, contained in a message of President Carter of July 19, 1977, as follows: $21.1-million in foreign military credit sales and $75-million in the General Services Administration (GSA) federal building fund. Passed 403–1: Yes. Sept. 29, 1977.

565. HR 7010. Victims of Crime. Mann (D S.C.) motion that the House resolve itself into the Committee of the Whole for consideration of the bill to authorize federal grants to states to help support programs of aid to victims of crime. Adopted 377–17: Yes. Sept. 29, 1977.

566. HR 7010. Victims of Crime. Railsback (R Ill.) substitute, for the committee bill, to 1) make the legislation applicable only to persons 62 years of age or older; 2) require states to have offender restitution programs in order to get federal funds; and 3) make compensation available for stolen or damaged "items of necessity" rather than only for personal injuries as provided in the committee bill. Rejected 133–253: Yes. Sept. 29, 1977.

567. Procedural Motion. Ashbrook (R Ohio) motion to approve the House *Journal* of Thursday, Sept. 29, 1977. Motion agreed to 317–11: Yes. Sept. 30, 1977.

568. HR 7010. Victims of Crime. Wiggins (R Calif.) amendment to lower the federal contribution to state compensation programs for victims of crime to 25 per cent, from 50 per cent, of the awards paid by the state. Adopted 216–144: Yes. Sept. 30, 1977.

569. HR 7010. Victims of Crime. Butler (R Va.) amendment to require that states participating in the program established under the bill require anyone paying a person charged with a crime for an interview, article or account relating to his crime to pay the proceeds of such interview or article into escrow to be held for the benefit of the criminal's victim upon the individual's conviction. Adopted 245–113: Yes. Sept. 30, 1977.

570. HR 7010. Victims of Crime. Passage of the bill to establish a federal program to reimburse up to 25 per cent of the awards paid by states to victims of violent crime for their medical expenses and losses of pay due to absence from work arising from the crime. Passed 192–173: Yes. Sept. 30, 1977.

571. HR 9354. Staff Allowances for Former Presidents. Passage of the bill to increase the authorization for funds for staff of former Presidents in the 30-month period immediately following expiration of Transition Act funds to $150,000 per year from the existing level of $96,000 per year. Passed 262–95: Yes. Oct. 3, 1977.

572. HR 6951. Wage-Price Council. Levitas (D Ga.) amendment to direct the President to present a plan to Congress that would transfer the functions of the Council on Wage and Price Stability to other federal agencies, in effect abolishing the council. Rejected 178–215: Announced no. Oct. 3, 1977.

573. HR 6951. Wage-Price Council. Passage of the bill to extend the authority of the Council on Wage and Price Stability through Sept. 30, 1979. Adopted 251–145: Yes. Oct. 3, 1977.

574. HR 9290. Temporary Debt Limit Increase. Adoption of the rule (H Res 804) concurring in the Senate amendments to the bill to raise the temporary debt limit to $752-billion through March 1, 1978. Adopted 223–194: Yes. Oct. 4, 1977.

575. HR 8410. Labor Law Revision. Bolling (D Mo.) motion to order the previous question on the rule (H Res 799) providing for House floor consideration of the bill to amend the National Labor Relations Act. Adopted 267–152: Yes. Oct. 4, 1977.

576. HR 8410. Labor Law Revision. Adoption of the rule (H Res 799) providing for House floor consideration of the bill to amend the National Labor Relations Act. Adopted 291–128: Yes. Oct. 4, 1977.

577. HR 6655. Housing and Community Development. Adoption of the conference report on the bill to authorize $12.45-billion for the community development block grant program for fiscal years 1978–80 and more than $2-billion for federally assisted public and rural housing; to continue Federal Housing Administration mortgage programs and the federal flood insurance program; and to encourage financial institutions to invest in their communities. Passed 384–26: announced yes. Oct. 4, 1977.

578. HR 8410. Labor Law Revision. Thompson (D N.J.) motion that the House resolve itself into the Committee of the Whole for the consideration of the bill to amend the National Labor Relations Act. Motion agreed to 384–5: announced yes. Oct. 5, 1977.

579. HR 8410. Labor Law Revision. Erlenborn (R Ill.) amendment to delete from the bill language providing that if management addresses employees on company premises or during working time on issues relating to union representation, unions must be granted equal access to employees at the workplace. Rejected 168–247: announced no. Oct. 5, 1977.

580. HR 8410. Labor Law Revision. Ashbrook (R Ohio) amendment, as amended by the Ford (D Mich.) substitute to make the equal access provisions of the bill applicable to all elections under the act and to provide employers an equivalent opportunity to address employees at the union hall or at related gatherings. Adopted 408–8: Yes. Oct. 5, 1977.

581. HR 8410. Labor Law Revision. Ashbrook (R Ohio) amendment to permit judicial review of National Labor Relations Board rules even in the U.S. Court of Appeals of the judicial circuit in which the petitioner resides or in the District of Co-

lumbia circuit. Adopted 246–174: No. Oct. 5, 1977.

582. HR 8410. Labor Law Revision. Erlenborn (R Ill.) amendment, to the Cornell (D Wis.) substitute to the Quie (R Minn.) amendment to extend election deadlines and give the National Labor Relations Board greater flexibility in determining the timetable. Rejected 185–229: No. Oct. 5, 1977.

583 HR 8410. Labor Law Revision. Quie (R Minn.) amendment, as amended by the Cornell (D Wis.) amendment, to require the National Labor Relations Board to follow a fixed timetable for conducting union elections, with deadlines ranging from 25 days for routine cases to 75 days for complex ones. Adopted 418–0: Yes. Oct. 5, 1977.

584. HR 8410. Labor Law Revision. Erlenborn (R Ill.) amendment to delete provisions requiring automatic denial of government contracts to willful or repeated labor law violators. Rejected 111-301: No. Oct. 5, 1977.

585. HR 8410. Labor Law Revision. Quie (R Ill.) amendment to give the Secretary of Labor discretion over any denial of federal contracts, and to apply such punishment to union violations of labor law as well as to violations by employers. Adopted 394–8: Yes. Oct. 5, 1977.

586. Procedural Motion. Brademas (D Ind.) motion to approve the House *Journal* of Wednesday, Oct. 5, 1977. Motion agreed to 364–16: Yes. Oct. 6, 1977.

587. HR 4297. Marine Protection and Sanctuaries. Adoption of the rule (H Res 798) providing for House floor consideration of the bill to authorize $11.3-million in fiscal 1978 for protection of ocean and coastal resources from contamination and for the marine sanctuaries program. Adopted 388-2: Yes. Oct. 6, 1977.

588. HR 8309. Waterway User Fees. Delaney (D N.Y.) motion to order the previous question on the rule (H Res 776) providing for House floor consideration of the bill to authorize $432-million for a new Locks and Dam 26 on the Mississippi River and to phase in a 6 cents per gallon tax on gasoline bought by inland waterway users. Motion agreed to 241–169: Yes. Oct. 6, 1977.

589. HR 8410. Labor Law Revision. Erlenborn (R Ill.) amendment to delete provisions to permit the National Labor Relations Board to compensate employees for wages lost during periods employers illegally refused to bargain with a union. Rejected 162–250: No. Oct. 6, 1977.

590. HR 8410. Labor Law Revision. Ashbrook (R Ohio) motion to recommit the bill to the House Education and Labor Committee with instructions to amend the National Labor Relations Act to aid union organizing and streamline federal regulatory procedures. Motion rejected 139–279. No. Oct. 6, 1977.

591. HR 8410. Labor Law Revision. Passage of the bill to aid union organizing and bargaining by streamlining regulatory procedures and stiffening penalties against employers who violated labor laws. Passed 257–163. Yes. Oct. 6, 1977.

592. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Cederberg (R Mich.) motion to recommit to House-Senate conferees the conference report on the bill appropriating $6.8 billion for foreign aid programs for fiscal 1978. Motion agreed to 273–126: Yes. Oct. 12, 1977.

593. HR 3744. Minimum Wage. Erlenborn (R Ill.) motion to table and thus kill, the Perkins (D Ky.) motion to send the bill to raise the minimum wage to $2.65 on Jan. 1, 1978, to $2.85 in 1979 and to $3.05 in 1980 to a conference with the Senate. Motion to table rejected 138–266: No. Oct. 12, 1977.

594. H Res 766. Obey Commission House Reforms. Adoption of the rule (H Res 819) providing for House floor consideration of H Res 766, proposing numerous changes in House rules and procedures dealing with employee discrimination in Congress, committee reform, congressional travel and perquisites and House administration. Rejected 160–252. Yes. Oct. 12, 1977.

595. HR 7555. Labor-HEW Appropriations, Fiscal 1978. Flood (D Pa.) motion to recede from the House amendment to a Senate amendment in the conference report on the bill to appropriate $60 billion for the Labor and Health, Education and Welfare Departments for fiscal 1978. Motion agreed to 209–206: Yes. Oct. 12, 1977.

596. HR 7555. Labor-HEW Appropriations, Fiscal 1978. Flood (D Pa.) motion to concur in a Senate-passed amendment relating to abortion with an amendment to bar the use of funds appropriated in the bill for abortion, except where the life of the mother would be endangered, and for certain "medical procedures" used to treat victims of rape or incest. Motion agreed to 263–142: No. Oct. 12, 1977.

597. HR 8390. Fiscal 1978 Supplemental Defense Authorization. Passage of the bill to authorize $560,986,000 in supplemental appropriations for the Defense Department for fiscal 1978. Passed 347–37: Yes. Oct. 12, 1977.

598. HR 3. Medicare-Medicaid Fraud. Adoption of the conference report on the bill to control fraud and abuse in the Medicare and Medicaid programs by establishing stricter penalties, strengthening oversight by local medical review organizations, requiring greater disclosure of information from medical institutions and making other administrative changes. Adopted 402–5: Yes. Oct. 13, 1977.

599. HR 3816. FTC Amendments. Krueger (D Texas) amendment to delete the authorization in the bill for individual or class action consumer suits based on Federal Trade Commission (FTC) rulings and regulations. Adopted 281–125: Yes. Oct. 13, 1977.

600. HR 3816. FTC Amendments. Broyhill (R N.C.) motion to recommit to the House Interstate and Foreign Commerce Committee the bill to streamline certain Federal Trade Commission regulatory procedures, with instructions to amend the bill to authorize congressional review and veto power of FTC rules and regulations. Adopted 272–139: No. Oct. 13, 1977.

601. HR 3816. FTC Amendments. Passage of the bill to streamline certain FTC procedures and to authorize congressional veto of FTC rules and regulations. Adopted 279–131: Yes. Oct. 13, 1977.

602. HR 8309. Waterway User Fees. Passage of the bill to authorize $432-million for a new Locks and Dam 26 on the Mississippi River and to phase in a 6 cents per gallon tax on gasoline bought by inland waterway users. Passed 331–70: Yes. Oct. 13, 1977.

603. HR 7555. Labor-HEW Appropriations, Fiscal 1978. Steers (R Md.) motion to concur in a Senate-passed amendment that prohibited the expenditure of federal funds for abortion except where the life of the mother would be endangered and in cases of rape or incest or when there might be "serious health damage" to either the mother or the fetus. Rejected 163–234: Yes. Oct. 13, 1977.

604. HR 6415. Export-Import Bank. Adoption of the conference report on the bill to extend the bank's programs from June 30, 1978, to Sept. 30, 1978. Adopted 281–62: Yes. Oct. 14, 1977.

605. H Res 688. Executive Office Reorganization. Adoption of the resolution to disapprove the President's Reorganization Plan No. 1 to restructure and streamline the Executive Office of the President. Rejected 20–350: No. Oct. 14, 1977.

606. HR 2176. Audit of Federal Banking Agencies. Passage of the bill to authorize the General Accounting Office to audit certain records of the Federal Reserve Board. Federal Reserve banks, the Federal Deposit Insurance Corp. and the Office of the Comptroller of the Currency. Passed 336–24: Yes. Oct. 14, 1977.

607. HR 4297. Marine Protection and Sanctuaries. Passage of the bill to authorize $11.8-million in fiscal 1978 for marine protection, research and sanctuaries programs, including $4.8-million for the Environmental Protection Agency's regulatory program, $6.5-million for National Oceanic and Atmospheric Administration ocean dumping research and $500,000 for Coastal Zone Management Office marine sanctuaries. Passed 359–1: Yes. Oct. 14, 1977.

608. HR 8515. Saccharin Ban Delay. Rogers (D Fla.) motion to suspend the rules and pass the bill to delay the Food and Drug Administration's proposed ban on the artificial sweetner saccharin for 18 months unless new evidence appeared to prove that it was a substantial risk to public health, to require further studies on use of the product and to authorize signs in retail stores selling saccharin products warning of the health risks associated with the sweetner. Motion agreed to 375–23: Yes. Oct. 17, 1977.

609. HR 8149. Customs Procedures Reform. Vanik (D. Ohio) motion to suspend the rules and pass the bill to modernize the processing and inspection of commercial imports, to simplify customs procedures for noncommercial imports and raise the duty-free limit to $250, from $100, and to require congressional authorization for Customs Service appropriations beginning in fiscal 1980. Motion agreed to 386–11: Yes. Oct. 17, 1977.

610. HR 6715. Tax Act Corrections. Ullman (D Ore.) motion to suspend the rules and pass the bill to make technical and clerical corrections in the 1976 Tax Reform Act. Passed 268–128: Yes. Oct. 17, 1977.

611. HR 9090. Disaster Payments Exemption. Passage of the bill to exempt disaster payments for the 1977 wheat, feed grains and upland cotton crops from the overall $20,000 payment limitation on those crops, and to exempt disaster payments for the 1977 rice crop from the $55,000 payment limitation for that crop. Passed 265–127: Yes. Oct. 17, 1977.

612. S 393. Montana Wilderness Study. Roncalio (D Wyo.) motion to suspend the rules and pass the bill to direct the Secretary of Agriculture to study nine areas totaling 973,000 acres within the national forests in Montana to determine their suitability for potential addition to the National Wilderness Preservation System. Motion agreed to 315-103: Yes. Oct. 18, 1977.

613. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Adoption of the conference report on the bill appropriating $6,772,654,000 for foreign aid programs in fiscal 1978. Adopted 229-195: Yes. Oct. 18, 1977.

614. HR 7797. Foreign Aid Appropriations, Fiscal 1978. Long (D Md.) motion to recede and concur in the Senate amendment to allow the President to waive a ban on direct assistance to Mozambique or Angola if he determined that the aid would further U.S. foreign policy interests and both the Senate and House agreed. Rejected 188-219: Announced yes. Oct. 18, 1977.

615. HR 7797. Foreign Aid Appropriations. Fiscal 1978. Young (R Fla.) motion to recede and concur in the Senate amendment to delete a House provisions that cut $3.5 million in military aid for the Philippines to $18.9-million in fiscal 1978. Rejected 160-254: No. Oct. 18, 1977.

616. HR 1037. Cargo Preference. Adoption of the rule (H Res 774) providing for House floor consideration of the bill to guarantee U.S. flag ships a 9.5 per cent share of the country's oil imports. Adopted 249-167: Yes. Oct. 19, 1977.

617. HR 1037. Cargo Preference. McCloskey (R Calif.) amendment to ensure that transportation rates charged by tankers in the cargo preference program were no more than 50 per cent higher than those charged by other tankers. Adopted 253-167: No. Oct. 19, 1977.

618. HR 1037. Cargo Preference. Passage of the bill to guarantee U.S. flag ships a 9.5

per cent share of the country's oil imports. Rejected 165-257: No. Oct. 19, 1977.

619. HR 9375. Fiscal 1978 Supplemental Appropriations. Flood (D Pa.) amendment to appropriate $9.1-million in fiscal 1978 to support construction of two centers to train students in international affairs at Georgetown University and Tufts University, provided that the Commissioner of Education made available $7.2-million more in new construction loans for the same purpose from the Higher Education Facilities Loan and Insurance Fund. Adopted 215-202: Yes. Oct. 19, 1977.

620. HR 9375. Fiscal 1978 Supplemental Appropriations. Bevill (D Ala.) amendment, part 2, to delete language in the bill that would prohibit fiscal 1978 funds appropriated for the Energy Research and Development Administration's Clinch River nuclear breeder reactor program from being spent unless authorizing legislation was enacted. Adopted 252–165: Yes. Oct. 19, 1977.

621. HR 666. Legal Services Corporation. Wylie (R Ohio) motion to instruct the House conferees to insist upon the House language restricting the use of Legal Services Corporation funds for legal assistance in litigation relating to the desegregation of elementary and secondary schools. Motion agreed to 230–186: No. Oct. 20, 1977.

622. HR 3744. Minimum Wage. Adoption of the conference report on the bill to raise the minimum wage from $2.30 an hour to $2.65 an hour on Jan. 1, 1978, to $2.90 an hour on Jan. 1, 1979, to $3.10 an hour on Jan. 1, 1980, and to $3.35 an hour on Jan. 1, 1981, and make other changes in wage and overtime coverage. Adopted 236–187: Yes. Oct. 20, 1977.

623. S 1811. ERDA Authorization-Civilian Nuclear Energy Applications. Adoption of the second conference report on the bill to authorize $6,161,445,000 for the federal government's civilian programs for the Energy Research and Development Administration for fiscal 1978. Adopted 366–52: Yes. Oct. 20, 1977.

624. HR 9375. Fiscal 1978 Supplemental Appropriations. Smith (D Neb.) amendment to appropriate an additional $625-million for the Small Business Administration disaster loan program. Adopted 318–102: Yes. Oct. 20, 1977.

625. HR 9375. Fiscal 1978 Supplemental Appropriations. Chappell (D Fla.) motion to limit debate on the Chappell amendment. Motion agreed to 212–187: Announced Yes. Oct. 20, 1977.

626. HR 9375. Fiscal 1978 Supplemental Appropriations. Mahon (D Texas) motion that the Committee of the Whole rise. Rejected 190–215: Yes. Oct. 20, 1977.

627. HR 9375. Fiscal 1978 Supplemental Appropriations. Chappell (D Fla.) amendment to add $1.4-billion for five B–1 bombers. Rejected 194–204: No. Oct. 20, 1977.

628. HR 9375. Fiscal 1978 Supplemental Appropriations. Edwards (R Ala.) motion that the Committee of the Whole rise. Motion rejected 169–205: No. Oct. 20, 1977.

629. HR 7442. Utility Pole Attachments. Frey (R Fla.) demand for a second on the Wirth (D Colo.) motion to suspend the rules and pass the bill to amend the Communications Act of 1934 to require the Federal Communications Commission to regulate attachments to telephone and electric utility poles if they were not already being regulated by a state or local authority. Second ordered 389–7: Yes. Oct. 25, 1977.

630. HR 8803. Appalachian Trail. P. Burton (D Calif.) motion to suspend the rules and pass the bill to expand the Interior Department's condemnation authority and authorize $30-million for fiscal years 1978–80 to acquire up to 125 acres per mile along the Appalachian Trail: re-establish local advisory councils; require a comprehensive development plan; and repeal the payment in lieu of taxes provisions for National Park System acquisitions after Jan. 1, 1977, except for the Appalachian Trail. Motion agreed to 409–12: Yes. Oct. 25, 1977.

631. HR 8059. Child Pornography. Conyers (D Mich.) motion to suspend the rules and pass the bill to prohibit the use of minors in producing or promoting pornography for interstate or foreign commerce and to prohibit transportation of minors for prostitution. Motion agreed to 420–0: Yes. Oct. 25, 1977.

632. HR 8358. Law School Depository Libraries. Nedzi (D Mich.) motion to suspend the rules and pass the bill to amend the U.S Code to provide that libraries of all accredited law schools may become depository libraries of government publications. Motion agreed to 397–20: Yes. Oct. 25, 1977.

633. HR 9251. Tax Treatment Extensions. Ullman (D Ore.) motion to suspend the rules and pass the bill to extend certain provisions of the 1976 Tax Reform Act and to prohibit Internal Revenue Service rulings or regulations regarding certain job commuting expenses and fringe benefits. Passed 411–5: Yes. Oct. 25, 1977.

634. H.R. 7278. Transport Fleet Modernization. Biaggi (D N.Y.) motion to suspend the rules and pass the bill to authorize the Commerce Department to replace obsolete transport ships currently in the national reserve fleet with newer ships. Motion agreed to 412–3: Yes. Oct. 25, 1977.

635. HR 8346. Urban Mass Transit. Howard (D N.J.)) motion to suspend the rules and pass the bill to raise the share of federal operating assistance for commuter rail services in the Northeast to 80 per cent, from 50 per cent, for the last six months of the program, ending in September 1978. Motion agreed to 308–106: No. Oct. 25, 1977.

636. S 1682. Prisoner Exchange. Eilberg (D Pa.) motion to suspend the rules and pass the bill to implement treaties providing for the exchange of prisoners between foreign countries. Motion agreed to 400–15: Yes. Oct. 25, 1977.

637. HR 8059. Child Pornography. Conyers (D Mich.) motion to instruct House conferees on the bill to agree to provisions in the Senate child pornography bill (S 1585) concerning penalties for sale and distribution of materials depicting sexual conduct of minors. Motion agreed to 358–54: Yes. Oct. 25, 1977.

638. HR 9375. Fiscal 1978 Supplemental Appropriations. Passage of the bill to appropriate $7,182,602,000 for programs of various federal departments for fiscal 1978. Passed 313–98: Yes. Oct. 25, 1977.

639. HR 5101. EPA Authorization. Adoption of the conference report on the bill to authorize $253,603,000 for the Environmental Protection Agency's (EPA) research and development programs for fiscal 1978. Adopted 343–19: Yes. Oct. 25, 1977.

640. HR 9346. Social Security Financing. Adoption of the rule (H Res 389) providing for House floor consideration of the bill to raise Social Security payroll taxes, beginning in January 1978, and make various adjustments in benefits. Adopted 265–153: Yes. Oct. 26, 1977.

641. HR 9346. Social Security Financing. Fisher (D Va.) substitute amendment to the Post Office and Civil Service Committee amendment to delete provisions extending Social Security coverage to federal, state and local government workers and employees of non-profit organizations, to increase Social Security tax rate and wage base beginning in 1981, and to require a federal study of universal coverage issues, due Jan. 1, 1980. Adopted 386–38: Yes. Oct. 26, 1977.

642. HR 9346. Social Security Financing. Post Office and Civil Service Committee amendment, as amended by the Fisher (D Va.) amendment. Adopted 380–39: Yes. Oct. 26, 1977.

643. HR 9346. Social Security Financing. Jenkins (D Ga.) amendment to raise Social Security payroll tax rates more quickly, beginning in 1978, to permit more gradual increases in the taxable wage base over the next seven years. Rejected 136–281: No. Oct. 26, 1977.

644. HR 9346. Social Security Financing. Pickle (D Texas) amendment to delete provisions for standby loans to the Social Security system from the Treasury when trust fund reserves dip below certain specified levels. Rejected 196–221: No. Oct. 26, 1977.

645. HR 9346. Social Security Financing. Corman (D Calif.) amendment to eliminate the minimum benefit coverage guaranteed to persons who made small contributions to the Social Security system. Rejected 131–271: No. Oct. 26, 1977.

646. HR 9346. Social Security Financing. Ullman (D Ore.) motion that the House resolve itself into the Committee of the Whole for further consideration of the bill to amend the Social Security Act to raise Social Security payroll taxes and adjust benefit levels. Motion agreed to 405–3: Yes. Oct. 27, 1977.

647. HR 9346. Social Security Financing. Ketchum (R Calif.) amendment to raise the ceiling on the earnings limitation by Social Security recipients over age 65 from $3,000 a year to $4,000 in 1978, $4,500 in 1979, $5,000 in $1980, $5,500 in 1981, and to lift the limit entirely in 1982. Adopted 268–149: No. Oct. 27, 1977.

648. HR 9346. Social Security Financing. Conable (R N.Y.) motion to recommit the bill to the House Ways and Means Committee with instructions to add provisions mandating Social Security coverage for federal employees; diverting funds from the hospital insurance trust fund to Social Security; replacing hospital trust fund revenues with income tax receipts; and eliminating proposals that raised payroll taxes above levels already scheduled under existing law and allowed the Social Security trust funds to borrow from the Treasury. Motion rejected 57–363: No. Oct. 27, 1977.

649. HR 9346. Social Security Financing. Passage of the bill to raise Social Security payroll taxes, above scheduled levels, by increasing the taxable wage base for employers and employees starting in 1978 and increasing employer and employee tax rates starting in 1981, and to make various adjustments in benefit schedules. Passed 275–146: Yes. Oct. 27, 1977.

650. S 717. Mine Safety. Adoption of the conference report on the bill to strengthen mine health and safety standards and enforcement procedures by applying the same set of regulatory processes to both coal and noncoal mines and transferring administrative authority from the Interior Department to the Labor Department. Adopted 376–35: Yes. Oct. 27, 1977.

651. HR 1139. Child Nutrition Programs. Adoption of the conference report on the bill to eliminate abuses in the summer food program for children, extend the program through fiscal 1980 and make other changes in the school lunch and child nutrition programs, establish a nutrition education and information program, and require the Agriculture Secretary to approve "junk" foods from vending machines during the period the school lunch and school breakfast programs were operating. Adopted 386–17: Yes. Oct. 27, 1977.

652. H Res. 866. Broadcast of House Proceedings. Adoption of the resolution to authorize the Speaker to provide live broadcast coverage of House proceedings to members, to record proceedings and, following completion of a study on media access alternatives, to make broadcasts available to the news media. Adopted 342–44: Yes. Oct. 27, 1977.

653. HR 8200. Bankruptcy Law Revision. Adoption of the rule (H Res 826) providing

for House floor consideration of the bill to establish a uniform law of bankruptcy, to establish a new bankruptcy court system and to create a U.S. trustee system to handle administrative functions in bankruptcy cases. Adopted 358–11: Yes. Oct. 27, 1977.

654. HR 8200. Bankruptcy Law Revision. Edwards (D Calif.) motion that the House resolve itself into the Committee of the Whole to consider the bill to establish a uniform modern bankruptcy law; to provide consumers with more adequate relief under the bankruptcy laws; and to create a separate federal bankruptcy court system. Motion agreed to 329–2: Yes. Oct. 28, 1977.

655. HR 8200. Bankruptcy Law Revision. Danielson (D Calif.) amendment to retain the existing federal court structure for bankruptcies, to provide for appointment of bankruptcy judges by U.S. appeals courts, and to place the U.S. trustees under the supervision of the Judicial Conference rather than the Justice Department. Adopted 183–158: No. Oct. 28, 1977.

656. HR 8200. Bankruptcy Law Revision. Edwards (D Calif.) motion that the Committee of the Whole rise. Motion agreed to 268–62: Yes. Oct. 28, 1977.

657. HR 6782. Raisin Marketing. Richmond (D N.Y.) motion to suspend the rules and pass the bill to establish a new federal marketing order for promotion of raisins. Motion agreed to 396–7: Yes. Oct. 31, 1977.

658. HR 9710. Interest Rate Ceilings. St Germain (D R.I.) motion to suspend the rules and pass the bill to extend through Dec. 15, 1978, the authority of federal regulatory agencies to set differential ceilings on interest rates paid by financial institutions on savings accounts and to change certain operations of the Federal Reserve Board. Motion agreed to 395–3: Yes. Oct. 31, 1977.

659. S J Res 611. Federal Reserve Bank. Mitchell (D Md.) motion to suspend the rules and adopt the resolution to extend through April 30, 1978, the authority of the Federal Reserve Board to buy and sell certain obligations. Motion agreed to 388–14: Yes. Oct. 31, 1977.

660. H Res 871. Select Committee on Ethics. Delaney (D N.Y.) motion to suspend the rules and pass the resolution to extend the life of the Select Committee on Ethics until the completion of its official business during the second session of the 95th Congress. Motion agreed to 385–22: Yes. Oct. 31, 1977.

661. H Res 868. Urging Korean Government Cooperation. Zablocki (D Wis.) motion to suspend the rules and adopt the resolution expressing the sense of the House that the government of the Republic of Korea should extend full and unlimited cooperation with the investigation being conducted by the House Committee on Standards of Official Conduct into illicit South Korean lobbying activities and House members' involvement. Motion agreed to 407–0: Yes. Oct. 31, 1977.

662. H Con Res 388. South Africa Repression. Diggs (D Mich.) motion to suspend the rules and adopt the resolution denouncing the government of South Africa for repressive acts against its people. Motion agreed to 347–54: Yes. Oct. 31, 1977.

663. S 1019. Maritime Authorization. McCloskey (R Calif.) motion to recommit the conference report with instructions to restore an anti-rebating amendment adopted by the House and to make the amendment effective immediately upon enactment. Motion rejected 166–231: No. Oct. 31, 1977.

664. HR 7073. Pesticide Regulation. Passage of the bill to amend the Federal Insecticide, Fungicide and Rodenticide Act to allow conditional registration of new pesticides, establish a new formula for control of registration test data, separate classification from re-registration, permit "generic registration," and strengthen state agencies to make their own registrations. Passed 368–21: Yes. Oct. 31, 1977.

665. HR 9282. Congressional Pay Raise. Ordering of a second on the Solarz (D N.Y.) motion to suspend the rules and pass the bill to postpone future congressional pay raises until the beginning of the Congress following the Congress in which they were approved, and to prohibit appropriation bill riders that would deny funds for pay increases. Second not ordered 167–233: No. Nov. 1, 1977.

666. HR 3384. Objection to Union Membership. Thompson (D N.J.) motion to suspend the rules and pass the bill to exempt from having to join or contribute to labor unions members of a religious sect that had conscientious objections to supporting labor unions and instead require that they pay an equal amount of union dues to a nonreligious charitable fund. Motion agreed to 400–7: Yes. Nov. 1, 1977.

667. S 1306. SBA Disaster Loans. Smith (D Iowa) motion to suspend the rules and pass the bill to increase the interest rate to 5 per cent, from 3 per cent, on Small Business Administration natural disaster loans to small business that suffered damages during the period from Jan. 1, 1978, to Oct. 1, 1978. Motion rejected 234–170: Yes. Nov. 1, 1977.

668. H Res 315. House Beauty Shop Employees. Davis (D S.C.) motion to suspend the rules and adopt the resolution to transfer jurisdiction over the House Beauty Shop to the House Administration Committee, and to classify beauty shop employees as House employees, thereby conferring on them salaries and fringe benefits. Motion agreed to 273–131: Yes. Nov. 1, 1977.

669. H Res 784. Commission on Hunger and Malnutrition. Zablocki (D Wis.) motion to suspend the rules and adopt the resolution urging the President to establish a Commission on Domestic and International Hunger and Malnutrition to report in one year on the causes of hunger and malnutrition, identify the federal programs established to deal with the problems and develop recommendations for new policies and legislation on the problem. Motion agreed to 364–38: Yes. Nov. 1, 1977.

670. HR 9544. D.C. Revenue Bonds. Passage of the bill to amend the District of Columbia Self-Government Act to allow the proceeds of revenue bonds to be disbursed from the D.C. treasury, without prior congressional approval, to private colleges and universities in the District of Columbia (the issuance of the bonds had been approved by Congress and the D.C. Council). Passed 403–0: Yes. Nov. 2, 1977.

671. S 1339. ERDA Authorization-Military Applications. Adoption of the conference report on the bill to authorize $2,607,100,000 for Energy Research and Development Administration (ERDA) military programs for fiscal 1977 and 1978. Adopted 336–69: Yes. Nov. 2, 1977.

672. HR 9179. Overseas Private Investment Corporation. Crane (R Ill.) amendment to prohibit the Overseas Private Investment Corporation from making any loans to or guaranteeing or insuring any borrowing of the National Finance Corporation of Panama unless such loans or guarantees were first approved by Congress. Rejected 188–215: No. Nov. 2, 1977.

673. HR 9179. Overseas Private Investment Corporation. Long (D Md.) amendment to require the Overseas Private Investment Corporation to provide at least 50 per cent of all insurance, reinsurance, guarantees or other financing to small businesses, as defined by the Small Business Administration. Adopted 285–111: Yes. Nov. 3, 1977.

674. HR 7555. Labor-HEW Appropriations. Fiscal 1978. Adoption of the rule (H Res 893) providing for House floor consideration of the conference report and the amendment reported in disagreement on a bill to appropriate fiscal 1978 funds for the Labor and Health Education and Welfare Departments. Adopted 361–9: Yes. Nov. 3, 1977.

675. HR 7555. Labor-HEW Appropriations, Fiscal 1978. Mahon (D Texas) motion to concur in a Senate amendment relating to abortion that prohibited the use of federal funds to pay for abortions except in cases of danger to the life of the mother, rape, incest, or when childbirth would cause a woman "severe and long-lasting physical health damage." Motion rejected 172–193: Yes. Nov. 3, 1977.

676. HJ Res 643. Fiscal 1978 Continuing Resolution. Adoption of the rule (H Res 892) providing for House floor consideration of the joint resolution to provide financing authority for the Departments of Labor, Health, Education and Welfare, the District of Columbia and various related agencies until the regular fiscal 1978 appropriations for these departments were enacted, or until Nov. 30, whichever came first. Adopted 344–5: Yes. Nov. 3, 1977.

677. Procedural Motion. Brademas (D Ind.) motion to approve the House Journal for Thursday, Nov. 3, 1977. Motion agreed to 284–14: Yes. Nov. 4, 1977.

678. HR 7. Career Education. Adoption of the conference report on the bill to authorize $325-million in fiscal years 1979–83 in grants to the states for career education programs in elementary and secondary schools. Adopted 372–20: Yes. Nov. 29, 1977.

679. H Res 827. Reorganization Plan No. 2. Brooks (D Texas) motion that the House resolve itself into the Committee of the Whole for floor consideration of the resolution to disapprove the President's Reorganization Plan No. 2 to combine the United States Information Agency and the Bureau of Education and Cultural Affairs of the State Department into a single agency. Motion agreed to 387–2: Yes. Nov. 29, 1977.

680. H Res 827. Reorganization Plan No. 2. Adoption of the resolution to disapprove the President's Reorganization Plan No. 2 combining the United States Information Agency (USIA) and the State Department's Bureau of Educational and Cultural Affairs into a new organization, the International Communication Agency. Rejected 34–357: No. Nov. 29, 1977.

681. HR 7555. Labor-HEW Appropriations, Fiscal 1978. Mahon (D Texas) motion to concur in a Senate-passed amendment to bar the use of federal funds for abortion except where pregnancy would cause danger to the life of the mother or "severe and long-lasting physical health damage" and to permit funds for "medical procedures" in cases of reported rape or incest. Rejected 183–205: Yes. Nov. 29, 1977.

682. HR 9375. Supplemental Appropriations. Fiscal 1978. Gore (D Tenn.) motion to order the previous question on the Conte (R Mass.) motion to recommit the conference report on the bill with instructions to increase National Railroad Passenger Corporation (Amtrak) funds to $11.5-million from $8-million. Motion rejected 125–270: No. Nov. 30, 1977.

683. HR 9375. Supplemental Appropriations. Fiscal 1978. Gore (D Tenn.) amendment, to the Conte (R Mass.) motion to recommit to increase Amtrak funds to $18-million from $11.5-million as proposed in the recommittal motion. Adopted 256–141: Yes. Nov. 30, 1977.

684 HR 9375. Supplemental Appropriations, Fiscal 1978. Conte (R Mass.) motion, as amended by Gore (D Tenn.) amendment, to recommit the conference report with instructions to increase Amtrak funds to $18-million. Motion agreed to 258–138: Yes. Nov. 30, 1977.

685. HR 9346. Social Security Financing. Waggonner (D La.) motion to order the previous question on the Archer (R Texas) motion to instruct the House conferees on the bill Motion agreed to 214–181: Yes. Nov. 30, 1977.

686. HR 9346. Social Security Financing. Archer (R Texas) motion to instruct the House conferees on the bill to insist on a House provision that would phase out by 1982 the limitation on outside earnings by Social Security recipients aged 65–72. Motion rejected 183–209: No. Nov. 30, 1977.

687. H Res 915 Korean-American Relations Investigation. Adoption of the resolution to appropriate from House contingent funds $100,000 for foreign travel expenses for members and staff of the International Relations Subcommittee on International Organizations for the period Jan. 1–March 31, 1978, in carrying out the investigation of charges of alleged bribery of U.S. government officials and members of Congress by South Korean agents. Adopted 366–2: Yes. Dec. 1, 1977.

688. H Con Res. 432. Health Planning. Adoption of the concurrent resolution expressing the sense of Congress that Health, Education and Welfare Department national health planning guidelines should be flexible enough to allow less stringent guidelines and performance standards for small rural hospitals to deliver quality health care for rural residents. Adopted 357–0: Yes. Dec. 6 , 1977.

689. H J Res 622. Fiscal 1978 Continuing Resolution. Adoption of the rule (H Res 917) providing for House floor consideration of the joint resolution to provide financing authority for the departments of Labor and Health, Education and Welfare, the District of Columbia and various related agencies until the regular fiscal 1978 appropriations bills for these departments were enacted, or until Sept. 30, 1978, whichever came first. Adopted 331–21: Yes. Dec. 6, 1977.

690. H J Res 662. Fiscal 1978 Continuing Resolution. Michel (R Ill.) amendment to the Mahon (D Texas) amendment, to prohibit the use of federal funds for abortions except where pregnancy endangered the life of the mother or caused "severe and long lasting physical health damage to the mother" and to permit funds for medical procedures in cases of forced rape or incest that had been promptly reported to police or a public health agency. Rejected 170–200: Yes. Dec. 6, 1977.

691. HR 9375. Fiscal 1978 Supplemental Appropriations. Addabbo (D N.Y.) motion that the House recede and concur with the Senate amendment to add $200 million for the Community Services Administration program providing emergency payments for the heating bills of low-income families in case of severe winter weather. Motion agreed to 182–181: No. Dec. 6, 1977.

692. HR 9375. Fiscal 1978 Supplemental Appropriations. Mahon (D Texas) motion to recede and concur with the Senate amendment to rescind $462 million appropriated in fiscal 1977 for the Defense Department for production of three B–1 bombers. Rejected 166–191: Yes. Dec. 6, 1977.

693. HR 9418. Foreign Medical Students. Adoption of the conference report on the bill to amend the Health Manpower Act of 1976 (PL 94–484) to require that U.S. medical schools increase their third-year class enrollment by 5 per cent in 1978–79 to make places for U.S. citizens attending foreign medical schools; expand public health traineeships; change loan requirements for health professions students; and require a study of whether medical schools deny admission or otherwise discriminate against individuals because of their views on abortion or sterilization. Adopted 344–0: Yes. Dec. 7, 1977.

694. HR 6666. Legal Services Corporation. Adoption of the conference report on the bill to authorize $205 million in fiscal 1978 and such sums as may be necessary for fiscal 1979–80 to the Legal Services Corporation to provide legal services for the poor. Adopted 236–110: Yes. Dec. 7, 1977.

695. H J Res 662. Fiscal 1978 Continuing Resolution. Adoption of the rule (H Res 928) providing for House floor consideration of the joint resolution to provide financing authority for the Departments of Labor and Health, Education and Welfare, the District of Columbia and various related agencies until the regular fiscal 1978 appropriations for these departments were enacted, or until Sept. 30, 1978, whichever came first. Adopted 251–86: Yes. Dec. 7, 1977.

696. H J Res 662. Fiscal 1978 Continuing Resolution. Mahon (D Texas) motion to concur in a Senate amendment that would prohibit the use of federal funds for abortions except where pregnancy endangered the life of the mother or caused "severe and long lasting physical health damage" to the mother and to permit funds for "medical procedures" in cases of rape or incest that were promptly reported to police or to a public health agency. Rejected 171–178: Yes. Dec. 7, 1977.

697. S 1340. Energy Research Authorization. Adoption of the rule (H Res 916) providing for House floor consideration of the bill to authorize $6,081,400,000 for energy research programs in fiscal 1978 (the bill omitted provisions of an earlier bill (S 1811) vetoed by President Carter authorizing $80 million for the Clinch River breeder reactor). Adopted 329–18: Yes. Dec. 7, 1977.

698. HR 3722. Securities and Exchange Commission Authorization. Adoption of the conference report on the bill to authorize $63,750,000 for the Securities and Exchange Commission for fiscal year 1978. Adopted (thus completing congressional action) 348–2: Yes. Dec. 7, 1977.

699. S 305. Unlawful Corporate Payments. Adoption of the conference report on the bill to prohibit U.S. companies from bribing foreign officials for the purpose of winning business contracts, to require companies under the jurisdiction of the Securities and Exchange Commission (SEC) to maintain accurate financial records, and to authorize the SEC to require disclosure of the identities of any persons who held more than 5 per cent of a corporation's stock. Adopted (thus completing congressional action) 349–0: Yes. Dec. 7, 1977.

700. H J Res 662. Fiscal 1978 Continuing Resolution. Adoption of the rule (H Res 928) providing for House floor consideration of the joint resolution to provide financing authority for the Departments of Labor and Health, Education and Welfare, the District of Columbia and various related agencies until the regular fiscal 1978 appropriations for these departments were enacted, or until Sept. 30, 1978, whichever came first. Adopted 240–109: Yes. Dec. 7, 1977.

701. H J Res 662. Fiscal 1978 Continuing Resolution. Michel (R Ill.) motion to concur in a Senate amendment relating to abortion with an amendment to prohibit the use of federal funds for abortion except where pregnancy would endanger the life of the mother or two doctors certified that the woman would suffer "severe and long lasting physical health damage" and to permit funds for "medical procedures" in cases of rape or incest that had been promptly reported to police or to a public health agency. Adopted 181–167: Yes. Dec. 7, 1977.

702. Procedural Motion. Russo (D Ill.) motion to approve the House *Journal* of Wednesday, Dec. 14, 1977. Motion agreed to 284–14: Yes. Dec. 15, 1977.

703. HR 3199. Water Pollution Control Act. Adoption of the rule (H Res 935) providing for House floor consideration of and waiving points of order against consideration of the conference report on the Clean Water Act of 1977. Adopted 326–6: Yes. Dec. 15, 1977.

704. HR 3199. Water Pollution Control Act. Adoption of conference report on the bill to amend the 1972 Federal Water Pollution Control Act by revising cleanup deadlines, retaining federal jurisdiction over wetlands and to authorize $24.5-billion through fiscal 1982 for municipal construction grants. Adopted 346–2: Yes. Dec. 15, 1977.

705. H.R. 9346. Social Security Financing. Adoption of the rule (H Res 937) providing for House floor consideration of the conference report on the bill to raise Social Security payroll taxes and adjust certain benefit levels and waiving all points of order against the conference report. Adopted 178–175: Yes. Dec. 15, 1977.

706. HR 9346. Social Security Financing. Adoption of the conference report on the bill to raise Social Security payroll taxes, above existing scheduled levels, by increasing tax rates and the taxable wage base for both employees and employers beginning in 1979, to correct inflation adjustment procedures and make other changes in benefit schedules, and to authorize additional funding and new options for state welfare programs. Adopted 189–163: Yes. Dec. 15, 1977.

IMPORTANCE OF ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT TO WILDLIFE CONSERVATION IN THE OTHER STATES

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Subcommittee on General Oversight and Alaska Lands has completed consideration of title III of our revised version of H.R. 39, the Alaska National Interest Lands Conservation Act, sponsored by Mr. UDALL and many other Members. That title establishes a number of new units of the National Wildlife Refuge System and also expands a number of the existing Alaskan units of the refuge system.

While these proposed wildlife refuges have not drawn the same degree of attention as the proposals for new national parks and other conservation system units, they are very important to the maintenance of wildlife values not only in Alaska but in much of the rest of the country. This was highlighted recently by Secretary of the Interior Cecil Andrus, when he told the International Waterfowl Symposium in New Orleans recently that "the greatest act of cooperation and good will the United States could take this year would be for Congress to enact the Alaskan land provisions" of the legislation which will soon be before the House.

Secretary Andrus also pointed out that the areas set aside in the proposed Alaskan refuges are the main breeding grounds for the 13 million waterfowl that migrate every year to the lower 48 States and other parts of the world.

So that all our colleagues may have the benefit of a fuller account of Secretary Andrus' remarks, a recent news release summarizing his remarks follows:

ANDRUS STRESSES IMPORTANCE OF ALASKAN WILDLIFE TO LOWER 48 STATES AND OTHER NATIONS

America's sportsmen have a vital stake in decisions being made this year classifying the Federal lands in Alaska, Secretary of the Interior Cecil D. Andrus said today.

"If we have the vision and courage to pro-

tect the vital ecosystems of Alaska, we will be maintaining a life-giving reservoir to support a rich array of wildlife for decades and centuries to come," Andrus told the Third International Waterfowl Symposium in New Orleans. "We will enhance the likelihood that our children and their children will have the opportunity to experience the joy associated with ducks and other waterfowl which migrate southward each fall."

The Secretary was referring to the estimated 13 million waterfowl which migrate from Alaska annually.

Andrus said the Administration's proposal to place almost 92 million acres in national parks, wildlife refuges, wild and scenic rivers, and national forests is the minimum essential to conserve the scenic and wildlife resources of Alaska.

"Our proposal is not an inflated estimate," Andrus emphasized. "Our proposal for Alaska is a bottom-line request."

Congress must make a decision on the classification of the Federal lands by the end of this year if it is to meet the deadline set in the Alaska Native Claims Settlement Act.

Andrus termed the Department's proposal for 92 million acres "probably the best researched recommendations for protected areas" ever sent to Congress by an Interior Secretary. He said proposals allow ample opportunity for needed mineral and energy development in Alaska.

Addressing the international aspects of the symposium, Andrus said:

"The greatest act of international cooperation and goodwill the United States could take this year would be for the Congress to enact the Alaskan land provisions as proposed by the Administration. Waterfowl and other wildlife in Alaska migrate to every continent and virtually every corner of the world."

The Secretary also emphasized the need for preservation of wetlands and other wildlife habitat in the lower 48 states.

Andrus said that provisions to compensate for loss of wildlife habitat must become a part of the plannnig process for all Federal projects.

"It is my strong feeling that provisions for mitigation should be included in authorizing legislation, and that the mitigation should be accomplished simultaneously with construction of a project," Andrus said.

CARTER CAPITULATION TO THE UNITED NATIONS POINTS TO NEED FOR BRICKER AMENDMENT

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, we have witnessed 1 year of an administration which seems bent on turning a major part of U.S. sovereignty over to the United Nations. Increased emphasis on funneling taxpayers' money to the U.N. for questionable loans and aid, including aid to Communist countries like Vietnam were accomplished last December.

The President has signed two U.N. covenants which are at best mischievous, at worst disastrous and urged the Senate to ratify them.

We need the Bricker amendment, defeated in 1954 by a one-vote margin in the U.S. Senate. I have introduced it in each session since the 87th Congress. House Joint Resolution 32 is simple in language, easy to understand. Here is the complete text of House Joint Resolution 32:

H.J. RES. 32

Joint Resolution proposing an amendment to the Constitution of the United States relative to force and effect of treaties

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. A provision of a treaty which denies or abridges any right enumerated in this Constitution shall not be of any force or effect.

"SEC. 2. No treaty shall authorize or permit any foreign power or any international organization to supervise, control, or adjudicate rights of citizens of the United States within the United States enumerated in this Constitution or any other matter essentially within the domestic jurisdiction of the United States.

"SEC. 3. A treaty shall become effective as internal law in the United States only through the enactment of appropriate legislation by the Congress.

"SEC. 4. All executive or other agreements, between the President or any international organization, foreign power, or official thereof shall be made only in the manner and to the extent to be prescribed by law. Such agreements shall be subject to the limitations imposed on treaties, or the making of treaties, by this article.

"SEC. 5. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.".

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RISENHOOVER (at the request of Mr. WRIGHT), for February 1 and 2, on account of attendance at a funeral.

Mr. HIGHTOWER (at the request of Mr. WRIGHT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAPUTO) and to revise and extend their remarks and include extraneous matter:)

Mr. JEFFORDS, for 20 minutes, today.
Mr. SEBELIUS, for 10 minutes, today.
Mr. QUAYLE, for 5 minutes, today.
Mr. DORNAN, for 10 minutes, today.

(The following Members (at the request of Mr. SHARP) to revise and extend their remarks and include extraneous material:)

Mr. WRIGHT, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. BROOKS, for 5 minutes, today.
Mr. ADDABBO, for 30 minutes, today.
Mr. ZABLOCKI, for 5 minutes, today.
Mr. LONG of Maryland, for 5 minutes, today.
Mr. WEISS, for 5 minutes, today.
Mr. FRASER, for 5 minutes, today.
Mr. GIBBONS, for 5 minutes, today.
Mr. DODD, for 10 minutes, today.
Mr. ULLMAN, for 5 minutes, today.
Mr. SHARP, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LIVINGSTON, to revise and extend his previous remarks during consideration of H.R. 1614 in the Committee of the Whole today.

Mr. ASHBROOK.

(The following Members (at the request of Mr. CAPUTO) and to include extraneous matter:)

Mr. ARCHER.
Mr. O'BRIEN.
Mr. WHALEN.
Mr. BOB WILSON.

Mr. ANDERSON of Illinois in three instances.

Mr. MCCLORY.
Mr. CUNNINGHAM.
Mr. LAGOMARSINO in two instances.
Mr. GILMAN in two instances.
Mr. SEBELIUS.
Mr. FRENZEL in three instances.
Mr. WHITEHURST.
Mr. DORNAN in two instances.
Mr. KASTEN.
Mr. SYMMS.
Mr. ASHBROOK in four instances.
Mr. CARTER.
Mr. RUDD.

(The following Members (at the request of Mr. SHARP) and to include extraneous matter:)

Mr. MURPHY of Illinois.
Mr. JONES of Oklahoma in two instances.
Mr. TEAGUE.
Mr. DINGELL in two instances.
Mr. MINETA.
Mr. KILDEE.
Mr. GAMMAGE.
Mr. RICHMOND in two instances.
Mr. BROOKS in two instances.
Mr. MOAKLEY.
Mr. HAMILTON in 10 instances.
Mr. NATCHER.
Mr. CARNEY.
Mr. EILBERG in 10 instances.
Mr. FOLEY.
Mr. MCHUGH.
Mr. THOMPSON.
Mr. OBEY in six instances.
Mr. BAUCUS.
Mr. MONTGOMERY.
Mr. ASPIN in 10 instances.
Mr. HOLLAND in three instances.
Mr. BYRON in 10 instances.
Mr. ROSENTHAL in 10 instances.
Mr. SISK.

Mrs. LLOYD of Tennessee in five instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.
Mr. BENNETT.

Mr. LEDERER.
Mr. WAXMAN.
Mr. MOORHEAD of Pennsylvania.
Mr. HARRIS in two instances.
Mr. ICHORD.
Ms. OAKAR.
Mr. ROGERS in five instances.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2719. An act to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands;

H.R. 5798. An act to amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978;

H.R. 10532. An act to amend Public Law 95–18, providing for emergency drought relief measures; and

H.J. Res. 386. Joint resolution to provide for the striking of a national medal to commemorate the bicentennial of an outstanding historic event or personality during 1777.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on January 31, 1978, present to the President, for his approval, bills of the House of the following title:

H.R. 5054. To repeal section 3306 of title 5, United States Code, to eliminate the requirements in the departmental service in the District of Columbia; and

H.R. 5322. To impose an excise tax on the sale of coal by the producer, to establish a black lung disability trust fund, and for other purposes.

ADJOURNMENT

Mr. SHARP. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 36 minutes p.m.), the House adjourned until tomorrow, Thursday, February 2, 1978, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3129. A letter from the Secretary of the Air Force, transmitting a report on Air Force military construction contracts awarded without formal advertisement during the transition quarter and fiscal year 1977, pursuant to section 604 of Public Law 94–431; to the Committee on Armed Services.

3130. A letter from the Assistant Secretary of the Army (Research, Development and Acquisition), transmitting a plan for the incorporation of protection against chemical and radiological agents for armored vehicles and crews, pursuant to section 205 of Public Law 95–79; to the Committee on Armed Services.

3131. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting the annual report for fiscal year 1977 on design and construction supervision, inspection, and overhead fees charged by the construction agents for military construction projects of the military Departments and Defense Agencies, pursuant to section 604 of Public Law 95–82; to the Committee on Armed Services.

3132. A letter from the Chairman of the Board of Governors, Federal Reserve System, transmitting the Board's second annual report on the Equal Credit Opportunity Act, pursuant to section 707 of the act; to the Committee on Banking, Finance and Urban Affairs.

3133. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction involving nuclear facilities with Taiwan Power Co., Republic of China, pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended (88 Stat. 2335; 91 Stat. 1210); to the Committee on Banking, Finance and Urban Affairs.

3134. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–134, "To protect certain property rights and interests created as a result of the closing of streets, minor streets, roads, highways, and alleys in the District of Columbia pursuant to resolutions previously adopted by the Council of the District of Columbia," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3135. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–135, "To amend the Solid Waste Regulations of the District of Columbia, and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3136. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–136, "To require the District of Columbia Council approval of all revisions of the District's Water Quality. Standards, and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3137. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–137, "To establish certain requirements for the licensure of Occupational Therapists or Occupational Therapy Assistants, and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3138. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–138, "To license ambulatory surgical treatment centers," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3139. A letter from the Secretary of the Treasury, transmitting the seventh quarterly report on antirecession fiscal assistance to State and local governments, pursuant to section 213 of the Public Works Employment Act of 1976, as amended; to the Committee on Government Operations.

3140. A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting the nineteenth annual report of the Commission, pursuant to section 5 of Public Law 86–380; to the Committee on Government Operations.

3141. A letter from the Assistant Secretary of the Interior, transmitting a report on activities carried out by the Geological Survey during calendar year 1977 in areas outside the national domain, pursuant to section 2 of Public Law 87–626, as amended (88 Stat. 1971); to the Committee on Interior and Insular Affairs.

3142. A letter from the Acting Administrator, Agency for International Development, Department of State, transmitting proposed criteria for development assistance policy, pursuant to section 102(d)(1) of the Foreign Assistance Act of 1961, as amended (91 Stat. 533); to the Committee on International Relations.

3143. A letter from the Secretary of the Treasury, transmitting the fourth annual report on the external debt of developing countries and on debt relief provided by the United States, pursuant to section 634(g) of the Foreign Assistance Act of 1961, as amended (87 Stat. 724); to the Committee on International Relations.

3144. A letter from the president, U.S. Railway Association, transmitting the Association's first quarterly report, pursuant to section 202(e)(2) of the Regional Rail Reorganization Act of 1973, as amended (91 Stat. 1423); to the Committee on Interstate and Foreign Commerce.

3145. A letter from the vice president for Government affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of October 1977, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

3146. A letter from the Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting reports covering calendar year 1977 on civilian positions in the Department of Defense allocated or placed in grades GS–16, 17, and 18, and on positions in research and development requiring the services of specially qualified scientific or professional personnel, pursuant to 5 U.S.C. 5114 and 5 U.S.C. 3104(c), respectively; to the Committee on Post Office and Civil Service.

3147. A letter from the Director, Federal Bureau of Investigation, Department of Justice, transmitting the Bureau's annual report for calendar year 1977 on positions in grades GS–16, 17, and 18, pursuant to 5 U.S.C. 5114; to the Committee on Post Office and Civil Service.

3148. A letter from the Chairman, U.S. Civil Service Commission, transmitting a report on actions taken on positions approved under 5 U.S.C. 5108(a) during calendar year 1977, pursuant to 5 U.S.C. 5114; to the Committee on Post Office and Civil Service.

3149. A letter from the Secretary of Transportation; transmitting a draft of proposed legislation to amend the Highway Safety Act of 1966 to authorize appropriations, and for other purposes; to the Committee on Public Works and Transportation.

3150. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the James Forrestal Building, Washington, D.C., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3151. A letter from the Administrator of Veterans' Affairs, transmitting a report on his study of the dependency and indemnity compensation program, pursuant to section 204 of Public Law 94–433; to the Committee on Veterans' Affairs.

3152. A letter from the Mayor of the District of Columbia, transmitting his response to the Comptroller General's report (GGD–76–73) entitled "Excess Classroom Space—A Case for Better Planning," pursuant to section 736(b)(3) of Public Law 93–198; jointly, to the Committees on the District of Columbia, and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DODD: Committee on Rules. House Resolution 990. Resolution providing for the consideration of H.R. 9214. A bill to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund (Rept. No. 95–862). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Massachusetts:

H.R. 10668. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare program, with appropriate reductions in social security taxes to reflect such participation, and with a substantial increase in the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Ways and Means.

By Mr. COCHRAN of Mississippi (for himself and Mr. KETCHUM):

H.R. 10669. A bill to amend title 28 of the United States Code to provide for the appointment of a special prosecutor in appropriate cases, and for other purposes; to the Committee on the Judiciary.

By Mr. DIGGS (by request):

H.R. 10670. A bill to provide explicit authority for the arrest of material witnesses; to the Committee on the District of Columbia.

By Mr. DIGGS (for himself, Mr. FAUNTROY, and Mr. MCKINNEY):

H.R. 10671. A bill to amend the District of Columbia Self-Governmental Reorganization Act to clarify the circumstances under which the Chairman of the Council of the District of Columbia may engage in outside employment, to provide a procedure for removal from office of a member of the Council of the District of Columbia who fails to maintain the qualifications for that office, to modify the requirements with respect to candidacy for certain public offices, and for other purposes; to the Committee on the District of Columbia.

By Mr. DODD:

H.R. 10672. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to place certain limitations on the exemption of a member of the Armed Forces from the personal property taxes of the jurisdiction in which the member is stationed; to the Committee on Veterans' Affairs.

By Mr. FINDLEY:

H.R. 10673. A bill to add mileage to the Interstate System for a route from Chicago, Ill., to Kansas City, Mo.; to the Committee on Public Works and Transportation.

By Mr. HILLIS (for himself, Mr. GUYER, Mr. MANN, Mr. DUNCAN of Tennessee, Mr. HYDE, Mr. REGULA, Mr. WALKER, Mr. MCDONALD, Mr. DEVINE, Mr. ICHORD, Mr. KINDNESS, Mr. MILFORD, Mr. JOHN T. MYERS, Mr. FREY, Mr. DERWINSKI, Mr. EVANS of Georgia, Mr. ERTEL, Mr. DAVIS, Mr. DAN DANIEL, Mr. LEDERER, Mr. MURPHY of Pennsylvania, Mr. BADHAM, Mr. EILBERG, Mr. GOODLING, and Mr. KETCHUM):

H.R. 10674. A bill to amend the Internal Revenue Code of 1954 to allow taxpayers to treat certain federally required nonproductive expenditures as not chargeable to capital account and as currently deductible; to the Committee on Ways and Means.

By Mr. LAFALCE (for himself, Mr. AKAKA, Mr. ASHLEY, Mr. CARR, Mr. ERTEL, Mr. GUYER, Mr. HUGHES, Mr. ICHORD, Mr. KINDNESS, Mr. LE FANTE, Mrs. LLOYD of Tennessee, Mr. LLOYD of California, Mr. LOTT, Mr. LUNDINE, Mr. NOWAK, Mr. PATTERSON of California, Mr. SARASIN, Mrs. SPELLMAN, Mr. TRAXLER, Mr. TSONGAS, and Mr. VENTO):

H.R. 10675. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product liability claims and related expenses shall be exempt from income tax, that a deduction shall be allowed for contributions to such trusts, and for other purposes; to the Committee on Ways and Means.

By Mr. LAFALCE (for himself, Mr. BALDUS, Mr. BEDELL, Mr. LE FANTE, and Mr. NOWAK):

H.R. 10676. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of small business investment companies electing to be taxed as regulated investment companies; to the Committee on Ways and Means.

By Mr. LAFALCE (for himself, Mr. LE FANTE, Mr. MAGUIRE, Mr. MURPHY of Pennsylvania, Mr. NOWAK, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. RICHMOND, Mr. ST GERMAIN, Mrs. SPELLMAN, Mr. TRAXLER, and Mr. WHITEHURST):

H.R. 10677. A bill to encourage investment in small business concerns, and for other purposes; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, Small Business, and Ways and Means.

By Mr. LATTA:

H.R. 10678. A bill to prevent the reduction of pension benefits for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, as the result of adjustment on social security annuities; to the Committee on Veterans' Affairs.

By Mr. LUJAN:

H.R. 10679. A bill to modify the boundary of the Cibola National Forest, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MICHAEL O. MYERS (for himself, Mr. HAWKINS, Mr. LEDERER, Mr. NIX, and Mr. PERKINS):

H.R. 10680. A bill to provide a special program of financial assistance to Opportunities Industrialization Centers in order to provide new motivational and skills training opportunities for welfare recipients, and new incentives for business and industry to coordinate their employment plans and job creation efforts with Opportunities Industrialization Centers and national community-based organizations which have demonstrated effectiveness in developing cooperative relationships with the private sector; to the Committee on Education and Labor.

By Mr. ROSENTHAL (for himself and Mr. MOFFETT):

H.R. 10681. A bill to permit the advertising of drug prices and to require retailers of prescription drugs to post the prices of certain commonly prescribed drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself and Mr. MOFFETT):

H.R. 10682. A bill to amend the Federal Food, Drug, and Cosmetic Act so as to require that in the labeling and advertising of drugs sold by prescription the "established name" of such drug must appear each time their proprietary name is used, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mrs. SCHROEDER:

H.R. 10683. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes; to the Committee on Armed Services.

By Mr. SHIPLEY:

H.R. 10684. A bill to establish and translate into practical reality the right of all adult Americans able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to combine full employment, production, and purchasing power goals with proper attention to balanced growth and national priorities; to mandate such national economic policies and programs as are necessary to achieve full employment, production, and purchasing power; to restrain inflation; and to provide explicit machinery for the development and implementation of such economic policies and programs; to the Committee on Education and Labor.

By Mrs. SPELLMAN (for herself and Mr. HANNAFORD):

H.R. 10685. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by State and local governments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TEAGUE (by request):

H.R. 10686. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes; to the Committee on Science and technology.

By Mr. VENTO:

H.R. 10687. A bill to provide Federal assistance for the control of Dutch elm disease; to the Committee on Agriculture.

By Mr. WEISS:

H.R. 10688. A bill to provide that ionization smoke detectors containing any radioactive isotope shall be considered banned hazardous substances subject to the prohibitions of the Federal Hazardous Substances Act; to the Committee on Interstate and Foreign Commerce.

By Mr. YATRON:

H.R. 10689. A bill to amend title 28 of the United States Code to provide for the merit selection of U.S. attorneys;

By Mr. SMITH of Iowa:

H.R. 10690. A bill to repeal the 1976 Official Standards for Grades of Carcass Beef; to the Committee on Agriculture.

By Mr. ZABLOCKI (for himself, Mr. FASCELL, Mr. FRASER, Mr. HAMILTON, Mr. HARRINGTON, Mr. FINDLEY, and Mr. WINN):

H.R. 10691. A bill to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development by establishing the International Development Cooperation Administration, and for other purposes; to the Committee on International Relations.

By Mr. ANDERSON of Illinois:

H.R. 10692. A bill to amend the Internal Revenue Code of 1954 to provide for a 2-year amortization of property which is used in connection with a plan or other property in operation before January 1, 1978, and which is required with respect to such plant or other property pursuant to the Occupational Safety and Health Act of 1970; to the Committee on Ways and Means.

By Mr. BONIOR:

H.R. 10693. A bill to provide financial aid to local fire departments in the purchase of advanced firefighting equipment; to the Committee on Science and Technology.

H.R. 10694. A bill to provide financial aid for local fire departments in the purchase of firefighting suits and self-containing breath-

ing apparatus; to the Committee on Science and Technology.

By Mr. DON H. CLAUSEN (for himself, Mr. PHILLIP BURTON, Mr. HOWARD, and Mr. SHUSTER):

H.R. 10695. A bill to amend title 23 of the United States Code to provide assistance to the Northern Mariana Islands for the construction and improvement of certain highways, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FASCELL (for himself and Mr. BUCHANAN):

H.R. 10696. A bill to authorize additional appropriations for the Department of State for fiscal year 1978; to the Committee on International Relations.

H.R. 10697. A bill to authorize appropriations for the Department of State for fiscal years 1979, 1980 and for other purposes; to the Committee on International Relations.

By Mr. GILMAN:

H.R. 10698. A bill to facilitate the enforcement by the Coast Guard of laws relating to the importation of heroin, cocaine, marihuana, and other controlled substances, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. JEFFORDS (for himself and Mr. RYAN):

H.R. 10699. A bill to authorize the Secretary of State to implement solar energy and other renewable energy projects in certain buildings owned by the United States in foreign countries; to the Committee on International Relations.

By Mr. LEVITAS (for himself, Mr. MATHIS, Mr. MOTTL, Mr. WHITEHURST, Mr. DERWINSKI, Mr. ANDREWS of North Dakota, Mr. COCHRAN of Mississippi, Mr. GUYER, Mr. SANTINI, Mr. KETCHUM, Mr. FLYNT, Mr. BURGENER, Mrs. MEYNER, Mr. BEDELL, Mrs. FENWICK, Mr. HUGHES, Mrs. LLOYD of Tennessee, Mr. TRAXLER, Mr. FRENZEL, Mr. ASHLEY, Mr. CARR, Mr. CORCORAN of Illinois, Mr. RUSSO, Mrs. SPELLMAN, and Mr. KEMP):

H.R. 10700. A bill to amend the Administrative Procedure Act to require the performance and publication of economic impact analyses in the Federal Register for all proposed and final rules which are subject to the provisions of that act; to the Committee on the Judiciary.

By Mr. MAZZOLI (for himself, Mr. BROWN of Michigan, Mr. YOUNG of Missouri, Mr. ADDABBO, Mr. EILBERG, Mr. DOWNEY, Mr. MCDADE, Mr. WOLFF, Mr. KRUEGER, Mr. WALKER, Mr. BRODHEAD, Mr. ERTEL, Mr. NEDZI, Mr. WHITEHURST, Mr. NOLAN, Mr. GEPHARDT, Mr. BLANCHARD, and Mr. LUKEN):

H.R. 10701. A bill to provide for financial assistance to improve the capabilities of units of local government to deal with career criminals, and for other purposes; to the Committee on the Judiciary.

By Mr. MONTGOMERY (for himself, Mr. MOTTL, Mr. BEARD of Rhode Island, Mr. CORNELL, Mr. WOLFF, Mr. HARSHA, Mr. WALKER, Mr. DRINAN, Mr. TRAXLER, Mr. MATHIS, Mr. BLOUIN, Mr. AKAKA, Mr. REGULA, Mr. KINDNESS, Mr. JONES of North Carolina, Mr. WHALEN, Mr. WATKINS, Mr. HANLEY, Mr. HYDE, Mrs. LLOYD of Tennessee, Mr. ST GERMAIN, Mr. CORRADA, Mr. NICHOLS, Mr. WHITEHURST, and Mr. NATCHER):

H.R. 10702. A bill to amend title 38, United States Code, to improve the pension program for veterans and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY (for himself, Mr. FORD of Tennessee, Mr. DAVIS, Mr. RUNNELS, Mr. KAZEN, Mr. WEAVER, Mr. FREY, Mrs. SPELLMAN, Mr. CARR, Mr. PATTEN, Mr. KILDEE, Mr. NEDZI, Mr. BRODHEAD, Mr. JOHN L. BURTON, Mr. GUDGER, Mr. MURPHY of Pennsylvania, Mr. BOWEN, Mr. SANTINI, Mr. MOAKLEY, Mr. WINN, Mr. LEGGETT, Mr. WON PAT, Mr. TAYLOR, Mr. YOUNG of Florida, and Mr. VANDER JAGT):

H.R. 10703. A bill to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROGERS (for himself and Mr. CARTER) (by request):

H.R. 10704. A bill to extend and improve title V of the Social Security Act; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITEHURST:

H.R. 10705. A bill to assist former spouses of Federal employees in obtaining court-ordered payments; to the Committee on Ways and Means.

By Mr. CHARLES WILSON of Texas:

H.R. 10706. A bill to amend title 28 of the United States Code to establish a Lufkin Division in the eastern district of Texas, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mr. AKAKA, Mr. ANDERSON of California, Mr. ANDREWS of North Dakota, Mr. BEVILL, Mr. EVANS of Colorado, Mr. FRENZEL, Mr. GLICKMAN, Mr. LAFALCE, Mr. MCCORMACK, Mr. MARLENEE, Mr. MARRIOTT, Mr. PATTISON of New York, Mr. QUIE, Mr. RONCALIO, and Mr. SISK):

H.J. Res. 709. Joint resolution to express the sense of the Senate and House jointly with regard to establishment of a national water resources management policy; to the Committee on Interior and Insular Affairs.

By Mr. HARRIS:

H.J. Res. 710. Joint resolution to provide for the designation of the week of February 12 to 18, 1978, as National Vocational Education Week; to the Committee on Post Office and Civil Service.

By Mr. SHARP:

H.J. Res. 711. Joint resolution designating the week beginning July 30, 1978, as National Latin Week; to the Committee on Post Office and Civil Service.

By Mr. FAUNTROY (for himself, Mr. JONES of Oklahoma, Mr. DELLUMS, Mr. MCKINNEY, and Mr. WHALEN):

H. Con. Res. 464. Concurrent resolution approving an amendment to the District of Columbia charter relating to initiative and referendum; to the Committee on the District of Columbia.

By Mr. HANSEN (for himself, Mr. MURPHY of New York, Mr. HOLLENBECK, Mr. MURPHY of Pennsylvania, Mr. ERTEL, Mr. SHIPLEY, Mr. AKAKA, Mr. STAGGERS, Mr. PRICE, and Mr. LE FANTE):

H. Con. Res. 465. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. MILFORD:

H. Con. Res. 466. Concurrent resolution directing the Congress and executive agencies to determine how they may aid in achieving national goals in outer space; to the Committee on Science and Technology.

By Mr. ERTEL (for himself, Mr. SKELTON, Mr. DICKS, Mr. GLICKMAN, Ms. OAKAR, Mr. GEPHARDT, Mr. VOLKMER, Mr. WATKINS, Mr. IRELAND, Mr. WEISS, Mr. CORRADA, Mr. KOSTMAYER, Mr. RAHALL, Mr. BENJAMIN, Mr. CORNWELL, Mr. KILDEE, Mr. FLIPPO, Mr. WALKER, Mr. GUDGER, Mr. MATTOX, Mr. MARKEY, Mr. WALGREN, Mr. LUKEN, Mr. TUCKER, and Mr. VENTO):

H. Res. 991. Resolution insisting that the Republic of Korea cooperate in the investigation being conducted by the Committee on Standards of Official Conduct; to the Committee on International Relations.

By Mr. ERTEL (for himself, Mr. KREBS, Mr. WYLIE, Mr. LEACH, Mr. HALL, Mr. BLOUIN, Mr. BURGENER, Mrs. LLOYD of Tennessee, Mr. BALDUS, Mr. PEASE, Mr. LE FANTE, Mr. EILBERG, Mr. MCHUGH, Mr. STEERS, Mr. STOCKMAN, Mr. ROE, Mr. PANETTA, Mr. MITCHELL of Maryland, Mr. CORNELL, Mr. BONIOR, Mr. D'AMOURS, Mr. AMMERMAN, Mr. YOUNG of Missouri, Mr. MOLLOHAN, and Mr. SIMON):

H. Res. 992. Resolution insisting that the Republic of Korea cooperate in the investigation being conducted by the Committee on Standards of Official Conduct; to the Committee on International Relations.

By Mr. ERTEL (for himself, Mr. ROSE, Mr. STARK, Mr. LLOYD of California, Mr. SEIBERLING, Ms. CHISHOLM, Mr. NOWAK, Mr. OTTINGER, Mr. SHARP, Mr. FITHIAN, Mr. WHITLEY, Mr. OBERSTAR, Mr. LUNDINE, Mr. MOFFETT, Mr. CHARLES WILSON of Texas, Mr. CAVANAUGH, Mr. EDWARDS of California, Mr. DELLUMS, Mr. HUGHES, Mr. HAMILTON, Mr. APPLEGATE, Mr. FLOOD, Mr. HANNAFORD, Mr. COHEN, and Mr. PRESSLER):

H. Res. 993. Resolution insisting that the Republic of Korea cooperate in the investigation being conducted by the Committee on Standards of Official Conduct; to the Committee on International Relations.

Mr. ERTEL (for himself, Mr. BEDELL, Mr. UDALL, Mr. DAVIS, Mr. MAZZOLI, Mr. YOUNG of Florida, Mr. FUQUA, Ms. HOLTZMAN, Mr. LEHMAN, Mr. JACOBS, Mr. GIBBONS, Mr. PATTERSON, of Califorina, Mr. MILFORD, Mr. MCKINNEY, Mr. LAGOMARSINO, Mr. NEAL, Mr. STANGELAND, Mr. CARR, Mr. CONYERS, Mr. MURPHY of Pennsylvania, Mr. SANTINI, Mr. EDGAR, Mr. MCFALL, and Mr. LEVITAS):

H. Res. 994. Resolution insisting that the Republic of Korea cooperate in the investigation being conducted by the Committee on Standards of Official Conduct; to the Committee on International Relations.

By Mr. ERTEL (for himself, Mr. BUTLER, Mr. SAWYER, Mr. MAGUIRE, Mr. BAUCUS, and Mr. WIRTH):

H. Res. 995. Resolution insisting that the Republic of Korea cooperate in the investigation being conducted by the Committee on Standards of Official Conduct; to the Committee on International Relations.

By Mr. FRASER (for himself and Mr. DERWINSKI):

H. Res. 996. Resolution to provide funds for the expenses of the investigation and study authorized by a resolution adopted on February 3, 1977, by the Committee on International Relations; to the Committee on House Administration.

By Mr. SMITH of Iowa:

H. Res. 997. Resolution to provide funds for the further expenses of the investigations and studies of the Committee on Small Business; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

290. The SPEAKER presented a memorial of the Legislature of the State of Minnesota, relative to family farms; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CHAPPELL:

H.R. 10707. A bill for the relief of Barbara Laws Smith; to the Committee on the Judiciary.

By Mr. DAVIS:

H.R. 10708. A bill for the relief of Donald N. Yates, Jr., Carolyn B. Yates, Guy K. Yates, Sean H. Yates, and Michelle L. Yates; to the Committee on the Judiciary.

By Mr. LAGOMARSINO:

H.R. 10709. A bill for the relief of LeRoy Woodrow Potter; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 10710. A bill for the relief of Mrs. Adeline O. Smith; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

389. By the SPEAKER: Petition of John W. Campbell, Sharon Hill, Pa., relative to redress of grievances; to the Committee on the Judiciary.

390. Also, petition of Arnold S. Roberts, Shawnee Mission, Kans., relative to redress of grievances; to the Committee on the Judiciary.

391. Also, petition of Arpad Hegedus, Budapest, Hungary, presenting the first complete copy of his musical score entitled "American Trilogy"; to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

Offered by Mr. DINGELL:

Strike out "Paragraph (c)" in subsection (a) of section 201 and insert "Paragraphs (b) and (c)".

After the word "follows" in the end of section 201(a) insert the following:

"(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be.".

In section 8(a)(4)(B) of the Outer Continental Shelf Lands Act as amended by section 205(a) of the Breaux amendment, strike all after the word "paragraph" through the period and insert the following: "shall be by rule, after an opportunity for a hearing, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). Any modification of any such bidding system shall be by rule in accordance with such section 501.".

In section 5 of the Outer Continental Shelf Lands Act as amended by section 204 of the Breaux amendment, strike all after "SEC. 5" through the period at the end of the fourth sentence and insert the following: "ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act.".

At the end of section 508 of the Breaux Amendment, add the following: "Nothing in this Act or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) or any other Act shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy.".

Page 270, strike out line 18 and all that follows down through the period on line 4 on page 271 and insert in lieu thereof the following:

Sec. 503. (a) The purpose of this section is to encourage expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company.

(b) The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promptly promulgate and publish in the Federal Register a statement of Commission policy which carries out the purpose of this section and sets forth the standards under which the Commission will consider applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements the Commission will apply in determining:

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation. Such statement of policy shall also set forth the terms or limitations on which the Commission may condition, pursuant to section 7 of the Natural Gas Act, the issuance of a certificate of transportation under such statement of policy.

(c) For purposes of this section:

(1) the term "local distribution company" means any person:

(A) engaged in the distribution of natural gas at retail; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof.

(2) The term "interstate commerce" shall have the same meaning as such term has under section 2(7) of the Natural Gas Act.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

Strike out all of section 503 and insert in lieu thereof the following:

SEC. 503. (a) The purpose of this section is to encourage expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company.

(b) The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promptly promulgate and publish in the Federal Register a statement of Commission policy which carries out the purpose of this section and sets forth the standards under which the Commission will consider applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements the Commission will apply in determining:

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation. Such statement of policy shall also set forth the terms or limitations on which the Commission may condition, pursuant to section 7 of the Natural Gas Act, the issuance of a certificate of transportation under such statement of policy.

(c) For purposes of this section:

(1) the term "local distribution company" means any person:

(A) engaged in the distribution of natural gas at retail; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof.

(2) The term "interstate commerce" shall have the same meaning as such term has under section 2(7) of the Natural Gas Act.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

Strike out "Paragraph (c)" in subsection (a) of section 201 and insert "Paragraphs (b) and (c)".

In section 5 of the Outer Continental Shelf Lands Act as amended by section 204 of the Breaux Amendment, strike all after "SEC. 5" through the period at the end of the fourth sentence and insert the following: "ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservaton of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act.".

At the end of section 508 of the Breaux Amendment, add the following: "Nothing in this Act or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) or any other Act

shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy.".

Strike out all of section 503 and insert in lieu thereof the following:

SEC. 503. (a) The purpose of this section is to encourage expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company.

(b) The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promptly promulgate and publish in the Federal Register a statement of Commission policy which carries out the purpose of this section and sets forth the standards under which the Commission will consider applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements the Commission will apply in determining:

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation.

Such statement of policy shall also set forth the terms or limitations on which the Commission may condition, pursuant to section 7 of the Natural Gas Act, the issuance of a certificate of transportation under such statement of policy.

(c) For purposes of this section:

(1) the term "local distribution company" means any person:

(A) engaged in the distribution of natural gas at retail; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof.

(2) the term "interstate commerce" shall have the same meaning as such term has under section 2(7) of the Natural Gas Act.

(3) the term "Commission" means the Federal Energy Regulatory Commission.

By Mr. FISH:

Strike all of Section 506, beginning on page 273, line 9, through page 277, line 10.

By Mr. HUGHES:

On page 173, after line 2, insert the following new section:

DISPOSITION OF REVENUES

SEC. 206. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"SEC. 9. DISPOSITION OF REVENUES.—(a) For the period beginning June 5, 1950, and ending September 30, 1978, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b) Beginning on October 1, 1978, and for each fiscal year thereafter, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts (other than any amount credited to the Land and Water Conservation Fund pursuant to section 2(c)(2) of the Land and Water Conservation Fund Act of 1965); and of the amounts so deposited, in each fiscal year, 20 per centum, up to a maximum of $200,000,000, shall be credited to the Coastal Energy Impact Fund established by section 308(h) of the Coastal Zone Management Act of 1972, as amended."

Redesignate sections 206 through 208 as 207 through 209 respectively.

On page 268, immediately after line 23, insert the following new subsection:

(e) Subsection (h) of section 308 of the Coastal Zone Management Act of 1972 is amended to read as follows:

"(h)(1) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The Fund shall consist of—

"(A) amounts credited to the Fund under section 9 of the Outer Continental Shelf Lands Act;

"(B) any sums appropriated to the Fund;

"(C) payments of principal and interest received under any loan made under subsection (d)(1);

"(D) any fees received in connection with any guarantee made under subsection (d)(2); and

"(E) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

"(2) Amounts in the Fund received under clause (A) of paragraph (1) of this subsection shall be available to the Secretary for the purpose of carrying out subsection (b) of this section. All payments made by the Secretary to carry out the provisions of subsection (b) shall be paid from the Fund, only to the extent provided for in appropriations Acts. Sums in the Fund which are not appropriated for purposes of subsection (b) shall be returned to the Treasury.

"(4) Amounts in the Fund received under clauses (B) through (D) of paragraph (1) of this subsection shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of carrying out subsections (c) and (d). All payments made by the Secretary to carry out the provisions of subsections (c), (d), and (f) (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided for in appropriations Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d), and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States."

On page 269, strike lines 1 through 9 and insert in lieu thereof the following: "Zone Management Act of 1972 is amended by striking "eight fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984" and inserting in lieu thereof "fiscal years ending September 30, 1977 and September 30, 1978, respectively"."

On page 265, strike lines 4 through 13 and insert in lieu thereof the following:

(2) by striking on "(A), (B), (C), and (D)" and inserting lieu theroef "(A), (B), and (C)";

(3) in subparagraph (A), by striking out "one-third" and inserting in lieu thereof "one-half";

(4) in subparagraph (B), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(5) in subparagraph (C), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(6) by striking out subparagraph (D).

On page 265, strike line 24 through line 7 on page 266, and insert in lieu thereof the following:

"(B)(i) If, in any fiscal year, any coastal state will not receive a grant under subparagraph (A), (B), or (C) of paragraph (2), the Secretary shall make a grant to each coastal state in an amount equal to 2 per centum of the total amount available for making grants to all states under such paragraph (2) in such fiscal year if any other coastal state in the same region is receiving a grant under such subparagraphs in such fiscal year: *Provided*, That no coastal state shall receive such grant unless the Secretary determines that it is an affected state.

"(ii) For purposes of this subparagraph, the term "affected state" means any State—

"(I) the laws of which are declared, pursuant to section 4(a)(2) of the Outer Continental Shelf Lands Act, to be the law of the United States for the portion of the outer Continental Shelf on which any program, plan, lease sale, or other activity is proposed, conducted, or approved pursuant to the provisions of such Act;

"(II) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of the Outer Continental Shelf Lands Act;

"(III) which is receiving, or in accordance with a proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(IV) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(V) in which the Secretary finds that because of outer Continental Shelf activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities. "(iii) For purposes of this subparagraph—".

On page 274, strike line 21 through line 25 on page 276, and insert in lieu thereof the following:

(d) The investigation conducted pursuant to this section shall include, among other items—

(1) (A) a determination of the maximum attainable rate of production (MAR) of crude oil and natural gas from significant fields on the Outer Continental Shelf; and

(B) an analysis of whether the actual production has been less than the MAR and, if so, the reasons for the differences.

(C) For purposes of this subsection, the term "maximum attainable rate of production" or "MAR" means the maximum rate of production of crude oil and natural gas which may be produced under actual operating conditions without loss of ultimate recovery of crude oil and natural gas.

(2) an estimate of the total discovered crude oil and natural gas reserves by fields (including proved and indicated reserves) and undiscovered crude oil and natural gas resources (including hypothetical and speculative resources) of the Outer Continental Shelf;

(3) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense;

(4) an independent evaluation of trade association procedures for estimating Outer Continental Shelf reserves, ultimate recovery, and productive capacity for years in which trade associations made such estimates. In order to provide maximum opportunity for

evaluation and continuity, the Secretary shall obtain all the available data and other records, including a description of the methodology and estimating procedures, which the trade associations used in compiling their data with respect to the reserves.

(e) The Secretary shall, not later than one year after the date of enactment of this section, submit an initial report to Congress. The initial report shall include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the information required in subsections (d)(1)(A), (d)(2), and (d)(3) of this section on the day following the first complete calendar year after enactment, and every two years thereafter. The Secretary shall make separate reports on the data acquired pursuant to subsection (d)(4) of this section as follows:

(1) a report within six months after the date of enactment of this section, on the acquisition and details of trade association data and information;

(2) within twelve months after submission of the report required by subsection (e)(1) above, an evaluation of the trade association materials; and

(3) within twelve months after submission of the report required by clause 2 of this subsection, the relationship between trade association data and the new data collected under this section.

By Mr. TREEN:

On page 205, line 14, after the word "enactment" and before the word "with" insert the following: "in a frontier area".

Page 211, line 9, strike all after "1972", down through and including line 10, and insert in lieu thereof a period.

On page 215, strike the period on line 23 and insert in lieu thereof the following: ", except that this subsection shall not apply to any lease with respect to which a development plan has been submitted, in accordance with regulations issued by the Secretary under section 5 of this Act, before the effective date of the regulations issued by the Secretary under this section."

On page 265, line 22, strike "available" and insert in lieu thereof "authorized".

On page 269, on line 11, strike "1977" and insert "1978".

H.R. 2664

By Mr. COHEN:

Strike all of the language beginning on page 1, line 7 through to "accordingly." on page 2, line 5, and insert the following in lieu thereof: "Notwithstanding any other provision of law, and without regard to the defense of res judicata or collateral estoppel, the Court of Claims shall review on the merits the determination of the Indian Claims Commission (Docket No. 74-B) entered February 15, 1974. In conducting such review, the Court shall receive and consider any additional evidence, including oral testimony, that either party may wish to provide on the issue of a fifth amendment taking, and shall determine that issue de novo."

H.R. 8336

By Mr. McDONALD:

Page 3, line 3, insert after the word "exchange." the following new sentence: "No such lands, waters or interests therein may be acquired without the consent of the owner thereof."

Page 9, after line 21, insert the following new subsection:

(d) No amount authorized to be appropriated under this Act may be expended until such time as the Secretary determines that the State in which the recreation area is located has established adequate procedures to permit persons owning, or lawfully using, property adjacent to the recreation area to obtain compensation from the State or local government for any injury or damage to such person or property in any case in which such injury or damage is caused directly or indirectly by individuals while using the recreation area or entering or departing from the recreation area. Such procedures shall not be deemed adequate unless they include an opportunity for such persons to bring an action and obtain relief in State or local courts against the State or local governments respecting such injury or damage in any case in which administrative relief is inadequate to provide compensation for such injury or damage.

H.R. 9214

By Mr. CAVANAUGH:

The Bretton Woods Agreements Act (22 U.S.C. 286-286k-2), as amended, is further amended by adding at the end thereof the following new section:

SEC. 29. The Secretary of the Treasury shall instruct the United States Executive Director to the International Monetary Fund to oppose and vote against the use of Fund resources by:

(1) a member country which has renegotiated for terms more favorable to itself, a majority of the value of its outstanding loans with the Fund, official export credit institutions, and any multilateral or regional development banks and has not agreed to comparable treatment of a majority of the value of its outstanding loans with private creditors; and

(2) a member country which does not agree to refrain from seeking or accepting the renegotiation, for terms more favorable to itself, of a majority of the value of its outstanding loans with the Fund, official export credit institutions, and any multilateral or regional development banks unless it seeks or accepts comparable treatment of a majority of the value of its outstanding loans from private creditors.

The Secretary of the Treasury shall determine in writing, taking all relevant factors into consideration, whether comparable treatment has been agreed to. These written determinations shall be provided to the appropriate committees of Congress.

By Mr. STEERS:

Page 3, add new section (d) after line 14: The Bretton Woods Agreement Act (22 U.S.C. 286-286k-2), as amended, is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of the Treasury shall instruct the United States Executive Director on the Executive Board of the International Monetary Fund to initiate a wide consultation with the Managing Director of the Fund and other member country Executive Directors with regard to encouraging the IMF staff to formulate stabilization programs which, to the maximum feasible extent, foster a broader base of productive activities which are designed to meet basic human needs, and upon which participating countries regularly depend for imports.

"(2) In accordance with the unique character of the International Monetary Fund, the U.S. Executive Director shall take all possible steps to the end that all Fund transactions, including economic programs developed in connection with the utilization of Fund resources, do not contribute to the violation of basic human rights, such as torture, cruel or inhumane treatment of degrading punishment, prolonged detention without charge, or other flagrant denials of life, liberty and the security of person; or contribute to the deprivation of basic human needs.

"(3) In order to gain a better understanding of the social, political and economic impact of the Fund's stabilization programs on borrowing countries, especially as it relates to the poor majority within those countries, the Executive Director representing the United States to the Fund shall prepare and submit, not later than 180 days after the close of each calendar year, a report to the Congress. Such report shall evaluate, with respect to countries to which loans are made by the facility during such year, the effects of the policies of those countries which result from the standby agreement on the ability of the poor in such country to obtain:

(a) an adequate supply of food with sufficient nutritional value to avoid the debilitating effects of malnutrition;

(b) shelter and clothing;

(c) public services, including health care, education, clean water, energy resources, and transportation;

(d) productive employment that provides a reasonable and adequate wage."

EXTENSIONS OF REMARKS

BEHIND THE SALT DELAY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. LAGOMARSINO. Mr. Speaker, the issue of arms control and disarmament has become a critical element in America's foreign and military policy. However, I am very concerned that the current SALT negotiations may not be in this country's best interests.

I would like to bring to the attention of my colleagues an editorial by Messrs. Evans and Novak which outlines some of the problems SALT II faces.

The editorial follows:

BEHIND THE SALT DELAY

(By Rowland Evans and Robert Novak)

The historic Senate debate on arms control is being inexorably delayed, perhaps into next year beyond the 1978 elections, thanks to developments in Washington and Geneva tied to a single word: verification.

In Washington, prospects for Senate ratification of a new SALT (strategic arms limitation talks) agreement are going down instead of up because of serious doubts about Soviet compliance. In Geneva, U.S. efforts at verification are partly responsible for unexpected delay in negotiating an agreement.

Central to this problem is the Soviet Backfire bomber. The Senate insists on verification that the bomber will not be an intercontinental weapon, the difficulty of which has stymied the U.S.-Soviet talks. The U.S. effort to bar modernization of strategic weapons, another unresolved point, also reveals the limits of verification.

But questions larger than verification are raised. Does the willingness of U.S. negotiators to accept the Backfire as a non-strategic weapon betray over-eagerness for agreement? Is the U.S. attempt to bar modernization an effort to compensate for the vulnerability of U.S. minuteman strategic missiles?

Indeed, expert critics of the nearly completed SALT II agreement feel it gives the Kremlin a dangerous strategic advantage even if all limits on the Soviets could be verified. But it is verification, more understandable to the layman, that causes unease among uncommitted senators—particularly John Glenn (D-Ohio).

Having supported chief SALT negotiator Paul Warnke in his closely contested confirmation fight, Glenn was counted on by

the White House as a vote for ratification. But after attending the Geneva negotiations as a Senate observed, the former astronaut came away worried about verification. Unless restrictions on the Soviet Union are made more verifiable than they are today, Glenn will vote no on SALT II.

Consequently, senior administration officials are in no hurry for a SALT ratification debate and would prefer waiting until after the 1978 elections. This lack of haste is one reason why the old Carter administration forecast that a SALT treaty would be initiated this month is now inoperable.

Moreover, the Backfire bomber issue remains a serious stumbling block. The Backfire clearly has the range to reach North America on a one-way flight. The Russians insist it is not a strategic weapon, will not count it in SALT's numerical limitation on strategic weapons, and will not even mention it in the Salt II agreement. Instead, they offer a letter from President Leonid Brezhnev promising not to use the Backfire as an intercontinental weapon.

In a recent interview over RKO general television, Warnke told us any Backfire agreement "will have to be something which is legally binding and which is verifiable." What the U.S. has in mind is co-signing Brezhnev's letter to make it "legally binding." But even putting it into the agreement itself would not guarantee against the Russians turning the Backfire overnight into a strategic weapon. In short, it is not verifiable.

Simultaneously, Soviet negotiators use the non-verifiable argument in resisting U.S. demands to prohibit modernization of intercontinental missiles. This demand is intended, by preventing Soviet modernization, to bolster the largely discredited argument by the arms-control community that SALT II would contain the Soviet threat to minuteman silos.

But Soviet negotiators are adamant. One recent official cable back from Geneva describes this position by Soviet negotiator Shchukin: "Freezing any improvements to existing ballistic missiles (for example, guidance) was impossible and unverifiable. Any military man who wanted to introduce improvements to his system could do so, could not be stopped, and it was absolutely unverifiable." The Russians are saying: We couldn't stop our military if we wanted to.

If missile improvements are unverifiable, why should the Russians complain? The suspicion is that Moscow plans such extensive modernization of missiles that some of it would surely be observed. Thus, the real concern raised by SALT II is not just lack of verification but the Soviet Union's implacable improvement of strategic systems while the U.S. scraps the B–1 bomber, slows development of the MX mobile missile, and agrees to limit cruise missile development.

In reply Paul Warnke is known to feel there must be some measure of confidence in Russian good faith. But if such confidence is all that is necessary, the entire tedious procedure of SALT negotiations would seem superfluous. The fact is that Glenn and many other fence-sitting senators lack Warnke's measure of confidence in the Russians, and that is the basic reason why the administration is by no means ready for a SALT debate in the Senate.

WILLIAM T. MURPHY

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. MURPHY of Illinois. Mr. Speaker, I would like to pay tribute at this time to former Congressman William T. Murphy, who died January 29 in Chicago at the age of 78. Bill Murphy was my distinguished predecessor who represented Chicago's South Side from 1959 to 1971.

A self-taught expert on China, Bill Murphy made his mark in 1969 when he presided over congressional hearings that opened the door to diplomatic relations with the People's Republic of China. Bill served as chairman of the House Subcommittee on Asian and Pacific Affairs, and was also a member of the Subcommitee on Africa.

Prior to his election to Congress in 1958, Bill Murphy was alderman of Chicago's 17th Ward for 24 years. He was a member of the Chicago Planning Commission from 1947 to 1959, and was a delegate to the Democratic National Conventions in 1944, 1948, 1952, and 1956. In addition to being a lawyer, Bill was a licensed professional engineer and a registered land surveyor.

Mr. Speaker, I know that my colleagues join me in offering their condolences to Bill Murphy's family—his sister, daughter, two sons, and five grandchildren. The passing of Bill Murphy means that Chicago has lost one of its most distinguished and loyal public servants.

ETHICS IN SPACE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. BOB WILSON. Mr. Speaker, Prof. Kenneth Nuss of San Diego's National University recently presented a most timely paper, "Ethics in Space." to the Conference of Science and Ethics in Denver, Colo. Professor Nuss postulates that future travel in outer space is a foregone conclusion and that we should begin planning now for that future use.

We are using outer space to some extent right now—satellites, space laboratories, and the like—and the potentialities of space are limited only by our imaginations.

Professor Nuss raises some thoughtful points, and, most especially in view of the recent crash landing of a Russian satellite in Canada, I commend it to the attention of my colleagues:

ETHICS IN SPACE

(By Prof. Kenneth Nuss, National University, San Diego, Calif.)

INTRODUCTION

(Philosophy is not my common domain. I am a man of science, of engineering, and of business. Men of these professions are known for practical thinking. They do not ponder so much as to where they are going, but rather how to get there. They do not worry so much about the morality of what is done, as they do about how to serve the desires of society. But this in itself is a search for philosophy from my point of view. It is, in effect, philosophy by majority or public ethics. And it is from this point of view that I discuss "Ethics in Space".)

Any discussion of ethics in space is premised on the belief that it is alright for man to venture into space in the first place. With the understanding that there still are many people who question the extension of our environment into the spaces beyond our atmosphere, I feel a need to address that question first.

Men of philosophy and religion may provide insights to the morality of what we do and what is done. But in the end, their wisdom often has limited impact on what is done. In other words, there is a difference between what should be done, and what really happens. No matter what the decisions of a philosopher are, the broad goals and needs of society and mankind as a whole are served, and it is these needs and goals that dictate the course of events that frame our future.

For instance, the mere dislike for war has not prevented it in the past and will not in the future. So long as masses of people have different ideas as to what the future should be like and are willing to sacrifice some resources for what they consider higher needs, there will be wars.

The point is this: When faced with the alternatives of the future, and upon weighing these alternatives according to what is economically, socially, and technically feasible, the inevitable is bound to occur. Some religions as the AMISH, still view the automobile as a vehicle that God never intended for us to use. But because it was generally socially and economically desirable, and technically feasible, it is here today. And most of us use it. Some, for their religious reasons, do not, but the majority of us do.

Similarly, electricity and the use of it was not universally applauded upon its discovery. But because it fills a social need, and is economically and technically feasible, we have it today. The people want it—they get it.

The airplane, as another example, overcame ridicule and disclaimers because in the end, it satisfied another need and desire, of society.

It is like being constantly presented with a new technical, if not geographic, frontier. And as each frontier is absorbed, a new frontier emerges. The frontiers occur because society has an interest in them. If we did not have an interest in them, the challenge would be ignored, and in reality not exist.

Outer space is our new frontier. To many, the military included, it is socially and economically desirable, and it is technically feasible. It represents the challenge to continue expanding. Therefore it is bound to occur. Outer space is not our last frontier—neither is it our first. It is just another big step for mankind. Another frontier.

Outer space is also a very visible frontier and it indirectly affects everyone. Thus, unlike the automobile and electricity which one could ignore if he or she wanted to, outer space evokes an interest because, like the airplane, we are subject to overflight (either as a country or an individual), an event over which we have no control, and with a resultant loss of privacy. Therefore, for the above reasons, we can fully expect to see continuing ventures into space.

This, then, brings us to the first of several ethical questions that must be asked: Who has the right to space? Like airspace, are the geographic boundaries of nations projected upward to protect that nation's interests? Current aviation regulations recognize the rights of nations to "own and control" the airspace above their territory, similar to one's right to own the water and minerals beneath the private property that one owns. Theoretically, these private airspace projections could project into outer space, to infinity.

Thus, the U.S. or U.S.S.R. could claim the right to destroy any satellites that entered its projected airspace as a violation of national privacy. Such action would, by the laws of astrodynamics, severely restrict the types of orbits that may be flown. If several nations claimed this right to airspace, the effect would be to make it virtually im-

possible to orbit a satellite in any direction because the orbit's ground trace changes as the earth rotates. The unchangeable orbits would eventually invade the "airspace". The rotation of the earth around the sun and the orbital motion of heavenly bodies provide another argument against the projected airspace idea. As an example, suppose one's country were within 21° of the equator. We should then have the sun directly above us, i.e., in our projected airspace, during certain seasons of the year, and could theoretically according to the previous argument, "claim" it. But our claim would be valid only during those periods of the day when the sun was directly overhead. Later in the day, someone else could claim the sun. So in astronautics the property within one's projected airspace changes with time, is near impossible to define, and is an unrealistic argument.

The alternative to projected airspace is that orbital space belongs to everyone. Thus, no nation may claim the sun to be its own during certain times of the day, during certain seasons of the year. No nation may claim its airspace is violated when a satellite from another country overflies it. Each nation would be able to orbit the earth in a manner however it chooses to do so to fulfill its needs. This alternative also presents several problems, however. In agreeing that outer space belongs to everyone, we inherently agree that nations may be overflown for reconnaissance purposes, or to interfere with electronic communications, etc. In addition, if it belongs to everybody, then Mexico, Ethiopia, Vietnam and others have some authority in controlling what occurs in space, just as much as the U.S. and U.S.S.R. do, and should properly be consulted for all space activity. What happens when half-a-century from now, each of thirty or forty capable nations exercises its right to outer space and begins doing its own thing by orbiting vehicles? What happens when large chunks of orbiting material re-enter the atmosphere and crash into another country, destroying life and property? The likelihood of this happening is not probable, but it is possible. The complexities of this space ownership issue rapidly overwhelm any simple solution. Once again, whatever is socially and economically desirable, and technically feasible for the world's varied societies, is bound to occur.

As a practical solution, I propose that projected airspace ends with the atmosphere, the limit being defined as that altitude above which aero-dynamic vehicles cannot sustain flight. Beyond that, it belongs mutually to all participants, but not necessarily to all nations. Perhaps that is not the way it should be, but the way we can realistically expect it to be.

The reasons are related to the second ethical question: Whose laws and rules govern space, if any? We say that outer space belongs to everybody, but why should the two major participants (the U.S. and U.S.S.R.) be restricted in their activity by the desires of third-party nations? And besides, do the third-party nations have any means to enforce their rules in space? It quickly evolves to the fact that as long as they have the power, the U.S. and U.S.S.R. can do as they please. Any territorial or other conflicts in space will have to be resolved between the interested parties. Other parties might have a great interest in the solution, but unless they have some means of enforcing their will, their interest is of little consequence. Thus it appears that the rules of space must be resolved by the interested participants, and that non-participants would realistically have little control.

Eventually, consortium agreements may be necessary to prevent common conflicts and to resolve differences. The U.S. and U.S.S.R. already have existing, limited agreements. Some of us foresee a future requirement for a governing-body, similar to the United Nations, for all nations that participate in outer-space activities. Unfortunately, it can also be foreseen that conflicts in space are inevitable and that we may only attempt to prevent such conflicts, similar to the use of the United Nations in trying to resolve differences among nations before heated issues turn to war. Such a body in reality is probably several decades away. But preliminary efforts should be considered now. Like most issues, this one will probably be resolved in a way that is most expedient for the participants involved, and once again, morality of the solutions may be considered only to the extent of how it effects the decision-makers.

Another important question: Should we colonize space? Should we allow humans to inhabit space-colonies? Once we start it, there is probably no going back. And to some, including my own father, God put us here on earth and that's where we belong. But are we, for eternity, going to live by self-imposed immobility? A short five-hundred years ago, the ethics and sanity of the Spaniards were questioned when Christopher Columbus set to sail "around" the world. Had he not made his attempt, Europe might have for years rested with the thought that nothing was "out there". But surely someone else at a later date would have concluded that earth included more than a flat surface of Europe, Asia, and Africa, and would have made the same discovery. It is inconceivable that we should forever ignore the colonization of space. There shall come a time when it may be socially and economically desirable to do so, and technically feasible. At that time, colonization of space will occur! And just as we Americans feel just as ethical as our European counterparts, the space colonists will feel just as ethical, I am certain, in their belief that they belong there, in space.

Related questions include: What economic priorities should colonization plans receive? Is it ethical to "freeze" bodies to be able to transport them great distances through space? Should colonization of space, like colonization of the Americas, be limited to those who can afford to do so, for distant penal colonies, or who are forced to go because of their beliefs? Should we try to set up new and perfect societies—Utopias—or should we let them evolve, however they happen to?

Most of these type questions may be answered by time. But just as these questions may be answered with time, other unknown queries may arise from answers. What is important is this: as philosophers, and as men of science and commerce and culture, we should proceed with understanding and ethical intentions so that a world precedent may be established. We must provide an ethical launch pad from which to proceed. It could be a great failure of our generation if we proceed without reflection on the significance of these first steps into the great unknown, and allowed outer space to become an arena for the unscrupulous. Therefore we must reflect upon our moral values to determine for the benefit of mankind, what should happen. Common moral values and common decency demand the following:

(a) That one nation, or one agency, should not be allowed to conquer outer space in order to control events on earth. Just as modern military men theorize that he who controls the air (meaning with airpower), controls what happens on the battlefield below, it could be theorized that if any one nation or military organization were allowed to control earth's orbital space, that organization could effectively dominate what happens beneath them on the ground. We must prepare for, and prevent if possible, this eventuality. The use of space for military reasons must be discouraged.

(b) That exploration into space should not be at the expense of deprived peoples. Any ventures into space should be justifiable in that all mankind will eventually benefit. I believe that NASA has been very responsible in this regard, by (1) searching for scientific truths that will help us understand our own planet, (2) providing communication benefits to the citizens of free nations in the form of TV and telephone communications relay satellites, (3) providing infrared and other maps of earth to the benefit of farmers, fishermen, environmentalists, cartographers, geologists and others. The side effects of aerospace employment and new technology should not be overlooked. Ventures to the moon and other planets also help us in the understanding of ourselves and our planet.

(c) That we must be very careful not to contaminate other planets with diseases and other oganisms, thereby providing the possibility of rendering them undesirable or useless for ages to come. A parallel example that we are familiar with is the rabbit in Australia. With no natural enemies there, it has been a nuisance ever since. Any visit to another heavenly body must be carefully controlled in this regard, to prevent the demise of another heavenly body.

(d) That decent ethical standards must prevail in space as well as anywhere else. Piracy, destruction of property, maiming and other unscrupulous acts should not be tolerated. As we inhabit space, it would be appropriate to form laws that all participants can respect and adhere to. A governing body similar to the United Nations, as described previously, could suffice for this purpose.

(e) That if we should find other civilizations in space, we must take care not to disrupt their ways of life by injecting our own, and we should not exploit them if they are weaker, to satiate our need for energy, food, minerals, etc. Interestingly, if they are stronger and/or more advanced than we, we may be subject to their prevailing wisdom and needs. Hopefuly they would not exploit us given this circumstance. The subject of other civilizations in space brings up a whole new realm of possibilities that is beyond the scope of this paper.

Failure to adhere to these moral goals could bring catastrophic results. It is in the best interests of humanity that we proceed with responsibility and reflection.

Hopefully man's exploits into outer space will have an effect of bringing the various nations and peoples of earth closer together, and will produce an overall beneficial effect. We need to re-evaluate our goals and our actions on a continuing basis, and if the effect of our actions is detrimental rather than beneficial, we must stop. We must continually and forever ask ourselves, "Is it right?". For the present, I believe that it is.

MAN OF THE YEAR

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. WAXMAN. Mr. Speaker, the most generous gift that can be bestowed upon one's fellows is that of one's self; time and energy and thought tirelessly devoted to community needs. Nat Jolton exemplifies this gift of self, and he is to be honored as "Man of the Year" for his devotion by the Guardians of the Jewish Home for the Aged, Ida Mayer Cummings Auxiliary at its 49th annual Charity Ball on February 26, 1978.

A popular well-loved man, Nat Jolton has been an articulate and successful spokesman for the Home. As a past president he headed 2,500 business and professional men in the Home's Guardians, and has held, in addition, many other key offices including the vice presidency Currently he serves as chairman of the public relations and auxiliary liaison committee.

Nat's lively wife, Ruth, has been on the advisory board of the Cummings Auxiliary, of which she is a life member, and a second generation of Jcltons is now serving the aged through their sons, Buddy and Jerry.

Nat Jolton was raised on the East Side of New York right after the turn of the century, began pursuit of a legal career at Fordham University and finished his law studies at Tifton College in Georgia, where he passed the bar in 1922. But before he could become a practicing attorney, family circumstances took him to Colorado where, with his late brother, Jerry, he operated a chain of general merchandise stores in a number of small towns. When Nat arrived in Los Angeles during World War II, he was not quite 40 and decided to go back into business. He also committed himself to community service. His years of devotion to the Guardians still left room for other activities; he helped organize the Brentwood Country Club, became active with Temple Israel of Hollywood and served as a key man of the United Jewish Welfare Fund as well as supporting many other causes of concern to his community. Nat is a strong believer in the dignity of man, and truly can be termed a "Tzaddik," the Hebrew appellation given to a person who is upright and honorable. His erudition and wit, his humanitarian instincts, his love for his fellow man, his never-ceasing efforts to help others, all combine to prove his fitness to be honored. I ask the Members to join me in extending congratulations and good wishes on this occasion of Nat Jolton's receipt of the Man of the Year Award.

HOUSTONIAN'S VIEWS ON CRS TAX RATE STUDY

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. ARCHER. Mr. Speaker, a constituent, James E. Bobo, has shared his letter with me concerning his views on a Congressional Research Service study on "Tax Provisions and Effective Tax Rates in the Oil and Gas Industry." I am sure this letter will be of interest to my colleagues:

Since I am knowledgeable in Federal income tax, I have read with great interest the Congressional Research Service (CRS) study entitled "Tax Provisions and Effective Tax Rates in the Oil and Gas Industry," which was released for Sunday papers October 9, 1977. Undoubtedly, Jane Gravelle is a theorist rather than a tax practitioner. I wish to point out some glaring misstatements and unfounded assumptions noted in a cursory review of the release.

The CRS study is directed toward independent producers, yet the comments encompass the oil and gas industry. One of the deductions entering into the effective tax rate is percentage depletion. Percentage depletion has been substantially repealed for major oil and gas producers, and substantially curtailed for large independent producers. It is interesting to note that percentage depletion has not been repealed for mining and/or hard mineral companies. One of the unfounded assumptions is noted in footnote on page CRS–10; wherein it is stated, "It is unlikely that major oil and gas firms pay any minimum tax." I know that at least one of the very largest major petroleum companies paid substantial minimum tax until the repeal of percentage depletion.

One of the misstatements occurs in the example on page CRS–13 regarding Investor B. If Investor B invests $100,000 and then sells his asset (producing well) for $100,000, he has merely recouped his investment. How could he have a taxable gain or loss? The footnote on page CRS–14 indicates special capital gain tax rates apply if a gain is incurred. This is not correct because Sections 1245 and 1254 recapture provisions of the Internal Revenue Code obviate capital gain treatment.

Of major concern is the position taken with respect to the expensing of dry hole costs. An amount paid for an oil or gas drilling operation which results in a dry hole is usually an investment which qualifies as a transaction entered into for profit and can be deducted as an abandonment loss under Section 165 of the Internal Revenue Code in the year of abandonment. It is intimated in the CRS study that dry hole costs should be capitalized as necessary acquisition costs of producing properties. The first question I would ask is, what relationship does a dry hole in one location have to a producing well several hundred miles away? Or stating it in a closer relationship, if you have a producing well on a 1,000 acre tract and subsequently drill a dry hole, the dry hole would have no bearing on the acquisition of the producing well. For an analogy outside of the oil and gas industry, if a fast food or grocery chain constructed a restaurant or store on one location that proved unsuccessful, should such costs be capitalized to other restaurants or stores that were successful? Neither the dry hole nor the restaurant or store will generate any income and are losses in the current year. The same analogy can be applied to abandonment of research projects in companies in highly technical industries such as Eastman Kodak or General Electric. Another example I think of is the abandonment of ship contracts by Todd Shipyards due to cancellation of contracts. Do these types of abandonment losses contribute to successful ventures?

It should be mentioned that the Energy Policy and Conservation Act of 1975 contained a mandate to the Securities and Exchange Commission concerning accounting changes. One of the changes requires the use of successful-efforts accounting, i.e., the expensing of geological and geophysical and dry hole costs as incurred. Also the Financial Accounting Standards Board issued an exposure draft favoring successful-efforts accounting.

The CRS study would lead one to believe the investment tax credit is applicable only to oil and gas producers, when in fact it is applicable to all business with qualified investment.

The effective tax rate computation of the CRS study is clearly erroneous. It does not take into consideration the capital recovery of investment, actual taxes paid, actual income, etc. In other words, the effective tax rates developed in the CRS study are based on theory rather than actuality. Therefore, it is submitted the theoretical conclusions reached in the CRS study should not be used in future Tax Reform Acts.

Respectfully,

JAMES E. BOBO.

SOLAR ENERGY FUNDING MUST BE INCREASED

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. MOAKLEY. Mr. Speaker, when President Carter was preparing his budget for energy, there was much optimism, because for the first time we had one single agency, the Department of Energy, coordinating our energy priorities.

In his energy message to Congress last April, the President expressed his determination to embark this country on a rigorous program toward developing alternative energy sources, decreasing our dependence on foreign imports. But after reviewing the first energy budget proposals, I am forced to question the extent of the President's commitment.

I must ask why breeder reactor research and technology development, even with the President canceling the Clinch River project, received more in budget authority in fiscal year 1979 ($367 million) than all the solar projects research combined ($309 million)? In budget outlays for fiscal year 1979, the administration proposes granting the breeder reactor $164 million more than solar research.

Another significant question arises when one reviews the solar energy demonstration budget proposals. If it is the administration's aim to stimulate the demonstration and early introduction of economically competitive solar energy systems, why has the budget been cut 23 percent (from $87 to $64 million)?

Under this proposal, budet outlays for solar heating and cooling demonstration programs will decrease $9 million, the Federal buildings program will decrease $4.3 million, and the solar commercialization program will lose $1 million.

I find the administration's funding inadequate and I am hopeful that the Congress, through its budgetary authority, will increase the solar budget.

If we are to develop reliable alternative energy sources to meet our long-term needs, the Federal Government must lead the way in developing the vast potential the Sun offers to us.

GRAIN RESERVES

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. McHUGH. Mr. Speaker, the editorial page of the New York Times this

morning carries an important statement on an issue that we have heard a good deal about in the last several weeks, and which we are likely to hear more about during the next several months. This editorial deals with the issue of grain reserves, and I am including it in the RECORD at this point for the benefit of my colleagues:

A FARM PROGRAM FOR ALL SEASONS

Federal agricultural policy has traditionally served only farmers, raising their incomes at the expense of other taxpayers and consumers. The Secretary of Agriculture, Bob Bergland, argues, correctly, that a policy designed to even out year-to-year fluctuations in commodity prices would serve the long-term interests of both farmers and consumers, and help to protect the world against famine. If this new approach is to work, however, the Carter Administration should soon breathe life into the centerpiece of its program, the domestic grain reserve.

Raw commodity prices are extremely unstable. A poor grain harvest in any major producing country can push world prices through the roof; a big crop just a year or two later (planted in response to these high prices) can bring them crashing back down. No one really gains from such fluctuations. Consumers suffer more in the lean years than they benefit in the fat. In underdeveloped countries, poor people can be priced out of the market and left to depend on international charity. In wealthy countries, high food prices leave a legacy of stubborn inflation. Farmers, too, lose out in the cycle; they mortgage their land and equipment when prices are up and then find their debts unmanageable when prices fall.

That is why the grain reserve program, authorized by Congress last year, makes such good sense. Under the program the Government lends farmers the cash they need to pay current bills, so that they can withhold a part of their crop from sale in surplus years. In return, the farmers must agree to keep the grain in storage for at least three years, or until market prices reach at least 125 to 140 percent (depending on the grain) of the Government's regular price-support level. With less grain on the market in bountiful years, prices would not collapse as they did in 1976–77. Then, when world consumption catches up with output, as it invariably does, sales from the reserve would be used to avoid starvation abroad and inflation at home.

The concept is good, but farmers do not seem to be buying it. Congress called for a reserve of 300 to 700 million bushels of wheat by next October (in a world that consumes about 14 billion bushels annually). Yet only 75 million bushels are now in the reserve. The Agriculture Department predicts that the target minimum will not be met this year unless the reserve rules are changed.

The farmers' reluctance to commit their grain to the program is due mostly to the fact that immediate sales are still more attractive than long-term storage. Washington provides only 20 cents a year per bushel to offset storage costs of between 25 and 30 cents. Moreover, farmers are charged 6 percent interest on the money they borrow. Just to cover interest payments, therefore, their grain will have to sell in three years for at least 18 percent more.

Secretary Bergland proposes to eliminate all interest charges and to raise the storage subsidy to reflect average farm costs. That might mean a small increase in the multi-billion-dollar budget of farm subsidy—an increase that the President seeks to avoid. But in this case, surely, the additional outlay is warranted. An adequate storage program would help farmers who are hurting now and consumers who are sure to be hurt later.

AMERICA'S PROPER ROLE IN RHODESIA SETTLEMENT

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. JONES of Oklahoma. Mr. Speaker, throughout my career in public service, I have strongly supported the civil rights movement in its efforts to end discrimination both at home and abroad. In particular, I have opposed the racially discriminatory policies of the white minority government in Rhodesia.

Nevertheless, I recently read an editorial that appeared in the Washington Star of January 31, 1978, that greatly disturbed me. The gist of the article lends support to those who would accuse the United States and Great Britain of meddling in the internal affairs of Rhodesia. If our country is undertaking a policy of siding with outside pressure groups rather that allowing the Rhodesians to peacefully work out their differences, I sincerely believe we are on the wrong track.

While I am not privy to inside information on this matter, I do think the Star's editorial is noteworthy. It should cause all readers to pause and question the role that America should play in settlement of the Rhodesian question. At this time, I would like to insert the full text of the editorial:

SPOILER'S ROLE IN RHODESIA

If the American people understood the spoiler's role which their government is playing in the current Rhodesian negotiations, how long would they tolerate it? Not long, we suspect. They would insist that Ambassador Andrew Young be summoned from the spoilers' conclave at Malta this week, where another attempt is being made to revive the faltering Anglo-American peace plan. And they would probably insist that the U.S. at long last wish godspeed to those who now seem on the verge of negotiating an internal peace in Rhodesia.

This, we say, is what would probably happen if the complexities of the issue were understood. Unfortunately, they are not. It is not widely understood that after years of international clamor, Prime Minister Ian Smith has conceded the principles of universal suffrage and majority rule. It is not widely understood that, in response to this, three moderate black leaders—who are thought by informed observers to represent a considerable majority of Rhodesian blacks—have negotiated with Mr. Smith a new constitution providing for assured "minority" representation (i.e., largely white) in parliament; a bill of rights; an independent judiciary; and other institutional arrangements that seem fair and workable. It is not widely understood that this "internal" breakthrough, proceeding from Mr. Smith's concession of universal suffrage, is on the verge of consummation if it is not derailed by the foot-dragging of U.S., British and UN officials, who seem to think the black negotiators should hold out for tougher terms.

Finally, it is not widely understood that the U.S. is closely identified with the unyielding terrorist-guerrilla "front" led by Joshua Nkomo and Robert Mugabe, which is armed by the communists and supported by the five neighboring "front-line" African states.

The peace terms of these "external" forces are extreme. Although Mr. Nkomo has made occasional noises of moderation, Mr. Mugabe recently threatened to "bash" all the "reactionary" participants in the internal negotiations: a threat that may happily prove idle if peace comes to Rhodesia and his guerrilla troops began to melt away.

Meanwhile, the Nkomo-Mugabe faction insists that Rhodesia's future must be settled between Great Britain (whose crown colony Rhodesia was before declaring its independence unilaterally in 1965) and their "Patriotic Front," whose "patriotic" activities consist largely of the ruthless murder of women, children and the elderly, mostly black. They insist that Ian Smith be deposed, and that they, the intruders and disturbers of the peace, be handed immediate control of the army and the police. In short, they demand capitulation by the Rhodesian moderates; and they indicate no willingness to compromise.

What is perverse about the U.S. position is that the closer Ian Smith and the black moderates come to an agreement, the more cozily we seem to collaborate with the U.S.-British-UN cabal to undermine it. The Economist's Salisbury correspondent reported, on January 21: "There are signs that the (Patriotic Front) is speeding up the war and deliberately picking on black civilian targets in an effort to prevent a peaceful changeover to majority rule. From Salisbury, it appears as if the British foreign secretary, Dr. Owen, and the British commissioner-designate, Lord Carver, are actively discouraging an internal settlement."

In harsher language, the U.S. risks playing accomplice to further bloodshed by pursuing a Rhodesian settlement agreeable to radical outsiders and guerrillas. This is the actual, but we cannot imagine the calculated risk of U.S. policy. Why, then, do we take so sour a view of the heartening chances of internal peacemaking?

The reasons must necessarily be a matter of speculation. In Washington, we suppose, it may be thought more important to appease the demands of Rhodesia's "front-line" neighbors than to bring internal peace to the country. The effect of that policy, intended or not, is to sacrifice the moderate majority in Rhodesia, black and white, to considerations of African real-politik.

This is discreditable enough. It becomes unconscionable if one considers how close Mr. Smith and the black moderates are to a peace settlement and a new constitution. As noted by Morley Safer on the CBS program "60 Minutes" Sunday evening, Rhodesia is one of the few functioning biracial societies in Africa. It is not a police state. Its segregationist policies are disappearing. The army and police are predominantly black, and, so organized, can hardly be accounted dependable instruments of white tyranny.

In bitter truth, the Anglo-American policy on Rhodesia seems to be influenced not only by dubious strategic calculations, but also by an uncharacteristically petty-minded British resentment that Rhodesia has made a success of unauthorized independence. Against all odds and predictions, Rhodesia has become a country in being. It needs only the support of the outside world to make reasonable democratic terms with the black majority.

That the U.S. might not only neglect but actually undercut this success is an offense to sense and conscience. Let us call a halt to this foolish policy—now.

WAGE AND PRICE COUNCIL OPPOSES DOT LIGHT-DUTY TRUCK AND VAN FUEL ECONOMY MILEAGE STANDARDS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. DINGELL. Mr. Speaker, the Council on Wage and Price Stability announced Tuesday its opposition to the proposed 1980 and 1981 fuel economy mileage standards for light duty trucks and vans with a gross vehicle weight of from zero to 8,500 pounds. The standards were proposed last December by the Department of Transportation and the National Highway Traffic Safety Administration. The Council's concern and its urge for a change in the DOT standards, which other Members of Congress and I share, center on numerous harmful effects that the standards as proposed would have on the economy and consumers and point out the distinct probability of truck manufacturing plant closings and subsequent lost jobs across the Nation.

The DOT held hearings on the proposed standards in mid-January and is reviewing the testimony and its data prior to issuing final standards March 1, 1978, as required by law. The testimony from industry and labor, private and public parties, as presented to DOT, was overwhelmingly in opposition to the rulemaking proposal, including the statement I issued which appeared in the RECORD January 19 and page E26.

Mr. Speaker, I also alert our colleagues that Representative DALE KILDEE and I are circulating a letter for cosignature which we shortly will be sending to Secretary Brock Adams at DOT urging modification of the proposed truck standards to a reasonable and attainable level. Members who need further information and who may be interested in signing the correspondence are urged to contact either of our offices.

The statement of opposition issued from the Executive Office of the President by the Council on Wage and Price Stability on January 31, a brief portion of which I am inserting in the RECORD at this point, calls for either a 1- or 2-year delay in the implementation of the proposed rulemaking by DOT or urges that "NHTSA adopt less stringent fuel economy standards for 1980 and 1981 * * *."

COUNCIL QUESTIONS NHTSA'S STANDARDS FOR SMALL TRUCKS

The Council on Wage and Price Stability today urged the National Highway Traffic Safety Administration to delay implementation of a proposed 1980 fuel economy standard for light duty trucks and vans. NHTSA has proposed that manufacturers of two wheel drive light trucks be required to increase fuel economy from 1979 to 1980 vehicles by about 21 percent with another 7 percent in 1981. Four wheel drive vehicles must improve fuel economy by 15 percent in 1980 and another 9 percent in 1981.

NHTSA estimates that the necessary changes are technologically feasible for 1980 and 1981 model year vehicles and will cost about $155 per truck. The Council stressed, however, that NHTSA's estimate of technological feasibility and costs of compliance are strongly contested by the industry. Moreover, NHTSA itself acknowledges that a significant portion of the industry cannot meet the standard. The automakers who are unable to comply are expected by NHTSA to produce a full line of trucks and pay a fine.

The industry, however, claims that it would be illegal for them to do so and anticipates that production of heavier trucks will be severely limited so as to bring the fleet average into compliance with the standard. Therefore the Council doubts whether the standard can be implemented without threatening significant price increases and potential shortages of suitable trucks for many users. The possibility of plant closures and layoffs also accompanies the NHTSA proposal.

The Council's recommendation that NHTSA either delay implementation of the standard for a year or two or that NHTSA adopt less stringent fuel economy standards for 1980 and 1981 was based on its conviction that a resolution of the engineering dispute over feasibility and practicability is essential to a successful program of truck fuel savings. The Council cautioned that without such a resolution the standard was very likely to be delayed in the courts anyway because of the Congressional mandate to develop fuel economy standards that are both technologically feasible and economically practicable.

The Council noted that, in view of the load carrying demands that determine the purchase of most trucks, care should be exercised so that fuel economy standards do not require too much reduction in performance capability. If in fact the class of trucks covered by the regulation are rendered less suitable to the tasks they now perform because of performance reduction to meet the standards, the goal of fuel saving will be contravened. Users may continue to use older less fuel efficient trucks; they may purchase larger trucks which are exempt from the standards, or they may make an increased number of trips with smaller load.

I additionally point out that the Council's Chairman is W. Michael Blumenthal, Secretary of the Treasury, and that the Council's members include from the administration:

Secretary of State, Cyrus R. Vance.

Secretary of Commerce, Juanita M. Kreps.

Secretary of Labor, F. Ray Marshall.

Secretary of Housing and Urban Development, Patricia Roberts Harris.

Acting Director, Office of Management and Budget, James T. McIntyre.

Assistant to the President for Domestic Affairs and Policy, Stuart E. Eizenstat.

Chairman, Council of Economic Adviser, Charle L. Schultze.

The Council's adviser members are:

Attorney General, Griffin B. Bell.

Secretary of Health, Education, and Welfare, Joseph A. Califano, Jr.

Secretary of the Interior, Cecil D. Andrus.

Special Representative for Trade Negotiations, Robert S. Strauss.

Besides statements of opposition to the proposed truck standards from myself, the Council, and other Members of Congress who testified, the Department of Commerce earlier issued its criticisms of the DOT proposal. Representative KILDEE is inserting the Commerce comments in today's RECORD along with his testimony to DOT to which I direct the attention of our colleagues.

Additionally, the five truck manufacturers testified against the standards and called for changes. They said unless the standards are changed, several existing lines of trucks and engine families will be dropped from production resulting in the layoff of workers which will be unavoidable. They warned that there was insufficient leadtime available before the 1980 model year to meet such severe increases in the fuel mileage standards. Strong opposition came from both the UAW and NAACP who were largely concerned with the unemployment consequences of DOT's proposal. Truck dealers and truck component part suppliers testified in opposition along with aluminum, tire, and engine lubricant manufacturers, in addition to other suppliers. Truck and van user groups, ranging from on- and off-road commercial enterprises to four-wheel drive associations and the recreational vehicle users, oppose the standards.

Mr. Speaker, it appears that there is almost unanimous agreement within labor and industry, the administration, the user/consumer groups, and among many Members of Congress and other concerned organizations that the DOT proposed rule should be changed.

MR. GARY J. HOUSER OF BOARDMAN, OHIO, RECEIVES RED CROSS CERTIFICATE OF MERIT

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. CARNEY. Mr. Speaker, I would like to bring to the attention of my colleagues in the U.S. House of Representatives a noteworthy act of mercy undertaken by one of my constituents, Mr. Gary J. Houser, 168 Rockdale Avenue, Boardman, Ohio.

Mr. Houser has been named to receive the Red Cross Certificate of Merit and accompanying pin. This is the highest award given by the American National Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a volunteer training program offered by the Red Cross in first aid, small craft, or water safety.

The certificate bears the original signatures of the President of the United States, honorary chairman, and Frank Stanton, chairman of the American National Red Cross. Presentation of the award will be arranged by the Mahoning Chapter of the American National Red Cross, Youngstown, Ohio.

On September 23, 1977, Mr. Houser, trained in Red Cross first aid, was driving his car on a city street when he witnessed a traffic accident that occurred when a young girl ran into the street and was struck by an oncoming vehicle. Stopping to render assistance, he observed that the victim, who suffered extensive injuries, had stopped breathing and had no pulse. Quickly he began mouth-to-

mouth resuscitation and other life-supportive first-aid measures. Soon the victim began to breathe on her own, and her pulse returned. Without a doubt, the use of first aid by Mr. Houser saved the victim's life.

I commend Mr. Gary J. Houser on this meritorious action which exemplifies the highest ideals of the American Red Cross and the concern of one human being for another who is in distress.

BILLS TO AID DEAF INDIVIDUALS

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. RICHMOND. Mr. Speaker, possibly the most overlooked handicapped people are the deaf. Because they are not visually any different than a normal hearing person we tend to ignore the obvious problems that deaf Americans face each day.

What could be more frustrating than being involved in a court case and not understanding the procedings? Deaf people have been subjected to court trials where not only was there no interpreter, but also there was no one able to communicate with them effectively. In this age of enlightened attitudes toward basic human liberties, this is not only an inequity but a blatant miscarriage of justice.

The Bilingual Hearing and Speech Impaired Interpreters Act, which I introduced on December 6, 1977, will, if passed and signed into law, correct this most unfortunate oversight in the judicial system. The bill, H.R. 10228, states that a qualified interpreter must be present whenever a person involved in a Federal trial does not speak or understand the English language. The court will set standard fees for interpreting and reimburse the interpreter for his/her services. The Administrative Office of the Courts estimates that utilizing this system would cost only $2 million annually; a very small price to pay to insure equal justice for all under our laws.

Most people who own dogs have them as household pets, blind people have come to depend on dogs for extending their mobility. Deaf people too have a need for highly trained "hearing dogs" to alert them to common noises. A baby's cry, a knock at the door, a teakettle's whistle, the sound of an alarm clock and thousands of other sounds go unnoticed to the deaf. But a trained hearing dog can identify these sounds and inform his master that he is needed elsewhere.

The training of these dogs is highly specialized and much needed. The cost of training the dogs is no more than training a "seeing eye" dog but the demand is much greater as the deaf population in America outnumbers the blind population by more than 30 to 1. Those few deaf people who now have a "hearing dog" testify to the fact that the dog quickly has become indispensable in functioning in the hearing world. The owner of one of these dogs wrote the following after the dog was killed by a car.

He was a friend and companion as well as a service dog. . . . Randy (the dog) was a tremendous emotional value to me. Being responsible for Randy made me more responsible for myself. In so short a time he became like another "sense" to replace the amount of hearing I lack. I know this is hard for some people to understand. By constantly observing Randy's behavior he became part of me. Now that he's gone I feel mentally crippled in my awareness of the environment.

The "hearing dog" program is particularly significant to those concerned with the destruction of animal life resulting from pet overpopulation and the abandonment of unwanted dogs. Because the standard for hearing dog service does not require particular breeds or sizes, as with seeing-eye dogs, dogs used in the program could come from local animal shelters.

Because there are 13.3 million hard of hearing people and 1.8 million deaf people living in the United States today, the need for "hearing dogs" is evident throughout the country. For this reason I introduced H.R. 10442 which will establish funding for 10 regional training centers to train "hearing dogs." At present there is only one program capable of professional training, and due to the limited staff can only train about 50 dogs a year.

Congress has been all but totally inaccessible to deaf constituencies because the use of a telephone is limited to using an interpreter or a teletypewriter-communicator (TTY).

Thanks to the efforts of my colleagues PAUL FINDLEY and FRANK THOMPSON every Member of the House of Representatives should be able to purchase or rent a TTY for his/her office in the very near future.

Because most deaf people are not high wage earners it is uncommon for them to make long-distance phone calls. For this reason I have introduced H.R. 10444, a bill to establish a toll-free telephone communications system expressly for the use of TTYs.

The passage of this bill will help make Congress available to millions of Americans who have previously been unable to communicate instantaneously with their elected officials in Washington.

The three bills mentioned here are a strong beginning to solving some of the injustices our society has overlooked. I hope my colleagues in Congress will join me in recognizing the pressing needs of our deaf population and seek equitable legislative resolutions in the very near future.

MONTHLY LIST OF GAO REPORTS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The November 1977 list includes:

MONTHLY LIST OF GAO REPORTS

NATIONAL DEFENSE

The Air Force Audit Agency Can Be Made More Effective. FGMSD–78–4, November 11.

The Naval Audit Service Should Be Strengthened. FGMSD–78–5, November 11.

Loss Of Accounting Integrity In Air Force Procurement Appropriations. FGMSD–77–81, November 1.

Trestle Electromagnetic Pulse Simulator Program Should Be Reevaluated. PSAD–77–159, November 4.

Department Of Defense Consideration Of West Germany's Leopard As The Army's New Main Battle Tank. PSAD–78–1, November 28.

The Five Service Academies: A Followup Report. FPCD–77–78, November 25.

Centralized Department Of Defense Management Of Cargo Shipped In Containers Would Save Millions And Improve Service. LCD–77–227, November 8.

Air Force Maintenance Depots—The Need For More Responsiveness To Mobilization As Well As Peacetime Efficiency. LCD–78–403, November 23.

Planned Realinement Of Two Army Commands In St. Louis, Missouri. LCD–77–358, October 27.

The Navy's Multimission Carrier Airwing—Can The Mission Be Accomplished With Fewer Resources? LCD–77–451, November 16.

Withdrawal Of U.S. Forces From Thailand: Ways To Improve Future Withdrawal Operations. LCD–77–446, November 1.

Temporary Duty Travel In The Management And Operation Of Department Of Defense Programs. FPCD–77–84, October 28.

Department Of Defense Value Engineering Program Needs Top Management Support. PSAD–78–5, November 16.

U.S. Chemical Warfare Defense: Readiness And Costs. PSAD–77–105, November 18.

Letter reports

Army is taking effective action to increase the proficiency of its tank crews in Europe. FPCD–78–3, November 1.

More effort needed to prevent duplication in Department of Defense training technology programs. FPCD–78–7, November 8.

Cost of contract with E-Systems, Inc. for maintenance and modification of three C–135 aircraft was overstated by as much as $1.4 million because contracting personnel did not adequately evaluate E-Systems' proposal. PSAD–78–9, November 10.

Lack of independent operational testing and evaluation of the Army's amphibian vehicle, the LACV–30. LCD–78–205, November 11.

The Navy should reconsider its decision to contract out for research and development on training devices and military services should realize the full benefits of self-paced training. FPCD–78–4, November 21.

Target cost overstated on contract with Boeing Company for the Airborne Warning and Control System (AWACS). PSAD–78–42, November 25.

Why the Air Force did not permit a woman with multiple sclerosis to accompany her husband to his new duty station. HRD–78–5, October 7.

Assessment of the Defense Department's system for evaluating the performance of household goods carriers. LCD–78–203, October 31.

INTERNATIONAL AFFAIRS

The Challenge Of Meeting Shelter Needs In Less Developed Countries. ID–77–39, November 4.

GENERAL SCIENCE, SPACE, AND TECHNOLOGY

National Aeronautics And Space Administration Should Provide The Congress With

More Information On The Pioneer Venus Project. PSAD–77–65, November 7.

NATURAL RESOURCES, ENVIRONMENT, AND ENERGY

U.S. Oil Companies' Involvement In The International Energy Program. HRD–77–154, October 21.

Uranium Enrichment Policies And Operations: Status And Future Needs. EMD–77–64, November 18.

Transportation Charges For Imported Crude Oil—An Assessment Of Company Practices And Government Regulation. EMD–76–105, October 27.

Private Profitmaking Firms' Reports On Research And Development Contracts With The Environmental Protection Agency Can Be Evaluated Better. PSAD–77–161, October 31.

Letter reports

How the Department of Transportation and the Environmental Protection Agency are carrying out the Noise Control Act of 1972. CED–78–5, November 4.

Reasons for long delays in settling cases involving alleged noncompliance with Federal Energy Agency petroleum pricing regulations. EMD–77–71, November 7.

Additional GAO views on the Solar Energy Research Institute. EMD–78–20, November 25.

Circumstances surrounding the grant awarded by the San Francisco office of the Energy Research and Development Administration to increase the awareness of the National and local energy situation in California. EMD–78–14, October 28.

Role of the Environmental Protection Agency in the problem of exposures to nonionizing radiation from high-voltage electrical power lines; radio, TV, and satellite communications; microwave equipment; and from visible, infrared, and ultraviolet light. CED–77–95, July 6.

COMMERCE AND TRANSPORTATION

The Office Of Minority Business Enterprise Could Do More To Start And Maintain Minority Businesses. CED–77–136, November 10.

Changes Needed In Procedures For Setting Freight-Car Rental Rates. CED–77–138, November 11.

HEALTH

Food Additive, Acrylonitrile, Banned In Beverage Containers. HRD–78–9, November 2.

Sharing Cardiac Catheterization Services: A Way To Improve Patient Care And Reduce Costs. HRD–78–14, November 17.

Letter report

Current information on kidney disease treatment programs covered by Medicare. HRD–78–17, November 3.

INCOME SECURITY

Social Security Administration's Procedures For Allocating Administrative Costs To The Supplemental Security Income Program. HRD–78–12, November 17.

An Evaluation Of The Use Of The Transfer Income Model—Trim—To Analyze Welfare Programs. PAD–78–14, November 25.

VETERANS BENEFITS AND SERVICES

Examining Of Financial Statements Of Disabled American Veterans National Headquarters, And Life Membership Fund For Year Ended December 31, 1976, And The Service Foundation For The 16-Month Period Ending December 31, 1976. FOD–77–16, November 16.

Letter report

Veterans Administration hospitals could have obtained elevator maintenance services at lower costs through competitive bidding. PSAD–78–41, November 22.

LAW ENFORCEMENT AND JUSTICE

FBI Domestic Intelligence Operations: An Uncertain Future. GGD–78–10, November 9.

Methadone Deaths In New York City. GGD–77–25, March 14.

Letter report

The President should have proposed a deferral—not a rescission—of $2.668 million of Law Enforcement Assistance Administration funds, pending congressional action on a legislative request to transfer the funds to other Justice Department programs. OGC–78–3, October 28.

GENERAL GOVERNMENT

Cost-Of-Living Adjustments For New Federal Retirees: More Rational And Less Costly Processes Are Needed. FPCD–78–2, November 17.

Government Consultants: Standard Definition and Uniform Data Needed. FPCD–78–5, November 29.

The Government Employees Training Act Of 1958: A Progress Report. FPCD–77–66, November 17.

Finding Out How Programs Are Working: Suggestions For Congressional Oversight. PAD–78–3, November 22.

Government Specifications For Commercial Products—Necessary Or a Wasted Effort? PSAD–77–171, November 3.

Tax Treatment Of Employees And Self-Employed Persons By The Internal Revenue Service: Problems And Solutions. GGD–77–88, November 21.

New Methods Needed For Checking Payments Made By Computers. FGMSD–76–82, November 7.

Review Of The Government Printing Office's Internal Audit Program. LCD–77–444, November 23.

Examination Of Financial Statements, Government Printing Office, Fiscal Year 1976. FOD–77–5, November 25.

Letter reports

Better internal controls needed over management of funds by the Food and Drug Administration. FGMSD–77–76, November 8.

Difficulties of a minority-owned small business in obtaining Government contracts in the fields of construction management, construction consulting, and value engineering. PSAD–78–13, November 21.

Review of allegations about employment, travel, and procurement activities at the Denver Regional Litigation Center of the Equal Employment Opportunity Commission. FGMSD–77–64, October 14.

Information on Wisconsin's Aid to Families with Dependent Children Program. HRD–77–125, August 3.

REVENUE SHARING AND GENERAL PURPOSE FISCAL ASSISTANCE

Analysis Of Operating Expenses In New York City's Fiscal Year 1978 Capital Budget. GGD–78–13, November 15.

Antirecession Assistance—An Evaluation. PAD–78–30, November 29.

Letter report

Funding planning targets established for Lackawanna County and Scranton, Pennsylvania, by the Economic Development Administration under the local public works program. CED–77–139, October 25.

The Monthly List of GAO Reports and/or copies of the full texts are available from the U.S. General Accounting Office, Distribution Section, Room 4522, 441 G Street NW., Washington, D.C. 20548. Phone (202) 275–6241.

A PRESIDENT OUT OF HIS ELEMENT—WITH FARMERS

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. SEBELIUS. Mr. Speaker, I have met with literally thousands of farmers since the Congress recessed in November. One of the questions raised by farmers and others with whom I have met is whether President Carter is out of touch with farmers? Other questions raised include: Is he aware of their plight? Is he equal to the job of governing this Nation as farmers would like to see it governed—with primary emphasis on production and marketing of agricultural products, rather than an agricultural policy and policymakers dominated by consumerism, conservationists, and environmentalists?

I commend to your attention a statement made by Mr. WAMPLER of Virginia in a hearing before the House Committee on Agriculture today relating to "the current agricultural situation." This statement highlights several of the problems facing farmers and ranchers which President Carter appears to be ignoring. The statement also recognizes the shift in agricultural policies (and budgets) under the Carter administration from a farmer to consumer orientation:

MR. WAMPLER'S OPENING STATEMENT

Mr. Chairman, thank you for giving me a few moments to address the Secretary on a general basis before the Secretary makes his statement and the questioning and answering period begins.

Mr. Secretary, we are always delighted to welcome you back home. I think I can speak for the committee when I say you are with old friends and colleagues in the true sense of those words.

As old friends and colleagues, I'd like for you to know that this committee is concerned about a number of events and circumstances that have occurred during the first year of the Carter administration. Knowing you as a former colleague, we know these problems are not to your liking either.

Generally speaking, these problems are: The drop in realized net farm income, the sharp increase in production expenses, the tightening of U.S. agricultural exports, the accelerated growth of farm and ranch indebtedness, and the growing concern over the long-range capacity of U.S. agriculture to provide the American public with abundant supplies at fair prices.

Day before yesterday, I joined with our distinguished chairman in a letter to the director of the Congressional Research Service, Library of Congress to request that CRS provide us with a technical analysis of the American agricultural movements tentative proposals for correcting these very serious problems. We would like to know how AAM's program would be administered, what impact it would have on the general economy and on various income groups, what impact their proposals would have on import and export policy, and how it might affect management decisions by individual farmers and ranchers.

Our chairman has also announced we will be seeking the advice of various other farm organizations and groups. Today and in future meetings we would like to have your views and the views of your department on these most critical problems.

Now, for more specific and practical reasons, the minority members of this committee are concerned about the following: An obvious shift in your department's traditional mission, a evidenced by President Carter's budget, from that oriented towards the production and marketing of agricultural products and assistance for the farmer and those industries concerned with agriculture to a department more concerned with consumerism, conversationists, and environmentalists; an over-balance and an increase in the income transfer programs as

opposed to support for agricultural programs; a continuation of the dominance by the State Department over farm export policies; the Carter Administration's sugar policy; the grain sales policy; the failure of the department to support worthwhile energy programs, such as gasahol and solar; an overzealousness towards banning protective food additives without properly considering the impacts on farm income and the availability of meat and poultry products; executive branch curbs on agricultural science and education against congressional mandate to expand these fields of endeavor; cuts in the forestry programs; a failure to express the agricultural communities need for adequate pest management in the councils of government; a reduction in proper support for soil and water conservation programs; and finally, our concerns for strongly rumored plans to reorganize the Department of Agriculture and the impacts such undertakings would have on agricultural production and distribution, the farm family and rural communities.

Mr. Secretary, my colleagues will have specific questions on these subjects during the question and answer period.

OSHA COMPLIANCE

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. ANDERSON of Illinois. Mr. Speaker, there is a growing awareness that Government regulation imposes a cost on individuals and businesses that far exceeds the simple administrative cost of regulation. A study by the Center for the Study of American Business, for example, estimated that the total cost of compliance with Federal regulation in 1976 was in excess of $65 billion. An obvious specific example of the high cost of compliance is pollution control. Congress recognized this in 1969 and responded by providing in the tax code a 5-year amortization election for pollution control equipment.

A less obvious, but equally important, subject for relief is the cost of complying with the rules and regulations of the Occupational Safety and Health Administration. I am introducing today, therefore, a bill allowing a 24-month amortization of any property which is used in connection with a plant (in operation prior to January 1, 1978) and which is required pursuant to the Occupational Safety and Health Act of 1970—provided such property does not significantly increase the output or capacity of the plant.

In the more than 7 years since the passage of the OSHA Act, many questions have been raised about the aggregate cost of complying with OSHA regulations, but at present there are no hard estimates available on such costs from either OSHA or private sources.

The fifth annual McGraw-Hill Economic Survey, however, reported in May of last year that businesses planned to invest $2.88 billion—in general—for employee safety and health in 1977, 21 percent above the estimated expenditures for 1976 of $2.38 billion. The survey also projected an increase to $3.7 billion for safety and health expenditures by 1980.

OSHA is considering the application of a number of new standards that would necessitate a multifold increase in these projected health and safety expenditures. A 1976 OSHA-authorized study by Bolt, Beranek & Newman, Inc., estimated that ambient noise control regulations alone could impose if adopted, capital costs of $18.5 billion and several billion more in annual operating costs. Industry estimates are even higher. The forging industry reports that even partial compliance with OSHA noise standards could cost that industry alone $2,97 billion—$67,000 per worker. The steel industry estimates that engineering the maximum workplace noise to an 85-decibel level would cost $1.2 million for each steelworker affected. But, both the forging and steel industries estimate that personal hearing protectors and monitoring could provide superior protection for less than $42 per employee.

OSHA has not yet reached a final decision on noise abatement standards. In view of the immense cost (not to mention possible production curtailments), it is unlikely that OSHA will require strict ambient noise standards on those industries where personal hearing protectors can provide satisfactory protection for the employees.

OSHA's regulatory authority, however, extends into other areas where compliance costs, although not as prohibitive as those I have cited, are nevertheless a substantial burden on the industry. Regulations on lead, benzene, acrylonitrile and other substances, for instance, threaten to impose on certain industries required capital outlays that far exceed the estimated 2 percent of capital investment normally spent on employee safety and health.

Affected industries frequently face the prospect of closing down marginal plants and laying off valuable employees. As a matter of public policy, the Government should provide appropriate tax relief to financially ease, and even speed, the transition to compliance with new Government standards that mandate in a short span of time major expenditures for capital alterations of a nonproductive nature.

In part, Congress recognized this need in 1969 and again in 1976 by providing a 5-year amortization of pollution facilities that permits companies to "writeoff" the cost of the equipment over 5 years instead of its useful life.

The logic of an accelerated writeoff for pollution equipment applies with equal, if not greater, force to safety and health measures. OSHA regulations have a potentially sharper debilitating effect on the profitability of small businesses than pollution controls—such industries as forging, cast metals, and certain chemical manufacturers are good examples. A shorter amortization period is thus required if these industries are to avoid shutdowns that would displace thousands of skilled workers. Providing a 24-month amortization election should hasten compliance with existing OSHA standards, as well as giving much needed tax relief to OSHA-impacted industries.

The Congressional Research Service estimates that the present value of a 24-month amortization for OSHA equipment would be less than $265 million—a figure derived by using the latest McGraw-Hill estimates on employee safety and health expenditures, the average useful life of industrial equipment (11.1 years), and a discount rate of 10 percent. The probable tax loss would tend to be somewhat less than $265 million, as the McGraw-Hill estimate is for total employee health and safety expenditures rather then merely OSHA-mandated equipment.

This legislation is, of course, no substitute for a more commonsense approach to health and safety standards on the part of OSHA. Assuring a safe working environment for employees is a concern that all Americans share, but that concern must be tempered with the knowledge that some "safety improvements" do not enhance worker safety in any measurable manner. A 2-year amortization provision, however, is a constructive way of relieving businesses that are severely and adversely affected by Government regulation. I hope that my colleagues will agree and that the 95th Congress will approve this much-called for relief to businesses that seek to provide safe jobs for our workers.

MR. CHARLES ERABU MIKAMI RECEIVES "ORDER OF SACRED TREASURE, FIFTH CLASS"

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. MINETA. Mr. Speaker, I would like to bring to the attention of our colleagues, a man I have known for many years and for whom I have a tremendous amount of respect and admiration—Mr. Charles Erabu Mikami.

On Sunday, February 5, 1978, Mr. Mikami will be honored at a testimonial dinner sponsored jointly by the Morgan Hill Nisei Service Group, Santa Clara County Hiroshima Nikkei Jinkai, San Jose Wesley United Methodist Church, Sowan Senryu Ginsha, and Nichi Bei Times.

Mr. Mikami, who has lived in the Santa Clara Valley for the last 32 years, recently was awarded the "Order of Sacred Treasure, Fifth Class," from the Japanese Government. He received the award for his contribution in promoting United States-Japan relations through art and poetry.

Mr. Mikami has willingly given his time to demonstrate Japanese painting for clubs and church groups as well as to high school and college students. Over the past 30 years, he has displayed his talent for 115 various organizations. In addition to his paintings, Mr. Mikami has enjoyed writing senryum, the world's shortest poem. He is the current head of the San Franicsco Bay area organization of Senryu Writers.

Mr. Speaker, I ask that the Members of the House join with me in congratulating Mr. Mikami on his work and for receiving this honor.

THE WONDERFUL WORLD OF FEDERAL REGULATION

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. O'BRIEN. Mr. Speaker, I have addressed my colleagues in this body on many past occasions with regard to the growth and complexity of the Federal regulatory process.

Today I would like to call to my colleagues' attention a report which I have received from the editors of a new publication, appropriately called "The Regulators," which will be reporting on the activities of 22 major Federal regulatory agencies.

Among the statistics these editors have brought to my attention is the fact that the Federal regulatory bureaucracy has grown 438 percent since 1951. Whereas in 1951, there were 23,507 permanent Government positions assigned to regulatory bodies, there are now 126,465 such positions in the current fiscal year.

Many of these regulatory agencies have been created since the early 1970's. The Environmental Protection Agency has grown the most among the newer agencies, having increased in personnel strength each year since 1970, when it began with 3,860 personnel positions. In 1977 EPA had 10,150 positions. Of the other newer agencies, the Occupational Safety and Health Administration has increased from 1,558 positions in 1972 to 2,717 in 1977. The Consumer Product Safety Commission has nearly doubled from 586 jobs in 1973 to 914 in 1977. The older agencies have grown, too. The Interstate Commerce Commission, oldest of the agencies, has 1,060 permanent positions in 1951 and 2,205 in 1977. The Securities and Exchange Commission has grown in the same period from 1,060 jobs to 2,123.

These statistics alone point to the exponential growth of the Federal regulatory process. In some ways this growth, while serving a valid public purpose, is analagous to what has happened in the 65 years we have had a Federal income tax. In other words, the rise of the Federal regulator has brought forth a mountain of regulations and a concomitant need to have some third party explain them all to the taxpaying public.

Interestingly enough, the editors of "The Regulators" who plan to decipher and interpret the actions of 22 Federal agencies have undertaken to create what they call a redtape index, which will track in graph form Federal regulatory rules in terms of personnel, budget, regulations, and caseload.

I note that recently, the Council on Wage and Price Stability issued a report saying that a single industry—steel—is subject to 5,000 separate Federal regulations from 29 agencies, administering 57 programs. Again, this is reflective of the amount of regulation which now plays such a tremendous role in the day-to-day operations of business.

Mr. Speaker, the growth of such a body of regulations inevitably means that someone has to interpret these rules to the affected public in a clear and understandable way. While I applaud the efforts of several agencies to reduce the amount of "gobblygook" contained in their pronouncements, I am confident that it will take competent outside observers to put many of these rules into the kind of English most of us can understand.

The editor of "The Regulators," Louis Kohlmeier, won a Pulitzer prize in 1965 for a series of articles he wrote for the Wall Street Journal. Kohlmeier has also written, in book form, a study of the Federal regulatory process, also called "The Regulators."

I wish him well in this newest undertaking to explain the intricacies of the Federal bureaucracy in clear language.

DOCUMENTING A DUPE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. DORNAN. Mr. Speaker, a wealthy group of 120 VIPs gathered not long ago to heap still more hyperbolic tributes at the feet of a self-appointed martyr and reborn celebrity. The occasion was presentation of the 1977 Dorothy Shaver Rose Award by Lord & Taylor chairman Joe Brooks to erstwhile Stalin apologist Lillian Hellman—for "unwavering crusade for personal dignity." Miss Hellman's celebrity stems primarily from her past efforts to blacklist anti-Stalinist entertainers and authors, and the accounting she gave of that activity. The questionable sense of personal dignity reflected in Miss Hellman's past and present activities was considered with care and skill by Patrick J. Buchanan in his November 22 column "Honoring An Enemy." I hope that you and our colleagues will study this brief history of an anti-anti-Communist heroine, and "the insatiable appetite of some American businessmen for acceptance in trendy circles:"

HONORING AN ENEMY

(By Patrick J. Buchanan)

WASHINGTON.—The bash at Lord & Taylor's New York store Wednesday two weeks ago was chic enough to merit a full page of copy and pictures in Women's Wear Daily.

Felicia and Lenny Bernstein were there—the latter immortalized in the prose of Tom Wolfe for his little Black Panther party of the decade past.

Norman Mailer arrived too, fresh from his TKO over Gore Vidal. Patricia Neal and Bill Blass, Marietta Tree and Claudette Colbert were on hand, among the "120 high-powered invitees" whom Lord & Taylor chairman Joe Brooks asked to come pay homage—to Miss Lillian Hellman.

Maureen Stapleton raved about the vegetable terrine; John Hersey gave a champagne toast. But the centerpiece of the evening was Brooks' tribute to Lillian Hellman for her "unwavering crusade for personal dignity," as he bestowed upon her the 1977 Dorothy Shaver Rose Award from L&T.

That party, that tribute, that audience, tells us something about Brooks, about the insatiable appetite of some American businessmen for acceptance in trendy circles, about the absence of historical memory and the general empty headedness of our cultural elite.

Some months back, it will be recalled, Miss Hellman wrote the most self-serving memoir of our time. In it, she portrayed herself as the heroine of the 50s, and her hourlong and insignificant appearance before a House committee as the finest hour of the decade.

Ever since, she has been proclaimed as the martyred heroine of the McCarthy era, radiant alongside the "scoundrels" who went public to renounce their faith in Stalin's rule.

Ms. Hellman's book, however, "Scoundrel Time," had the misfortune to fall into the hands of Dr. Sidney Hook, the philosopher whose memory remains as sharp as his files are large. In 10 pages of the Febuary issue of Encounter, Hook describes the career and character of the woman upon whom our cultural aristocracy cannot cease to fawn.

The Lillian Hellman of Hook's prose has the heart and mind of a censor and blacklister. During the 30s nd 40s, writes Hook, "Miss Hellman and her Communist associates were running rampant in Hollywood and elsewhere and trying to bar 'Trotskyite-Fascists'—as all anti-Stalinists were then called—from getting work or getting published."

During the same era, Miss Hellman was rooming with Dashiell Hammett, "a committed apologist for Stalin's terror," who was milking for all it was worth the free society and system he was working diligently to undermine.

Miss Hellman herself "played an important role in both the official and unofficial front activities of the Communist Party," and while she "may or may not have been a member of the Communist Party . . . until Stalin died she was not only a convinced Communist but a Stalinist, and for all her posturing about not really knowing what 'dictatorship' means she may still be a Communist." So charges Dr. Hook.

Not until 20 years after Khrushchev had denounced the crimes of the arch-terrorist did Miss Hellman concede that she may have been slow in recognizing the "sins" of J. V. Stalin.

On and on and on Hook proceeds, documenting facts and dates and doings of Lillian Hellman which show her to be something worse than a dupe of the most murderous tyrant in history. To such as this, Lord & Taylor pays tribute for her "unwavering crusade for personal dignity."

RICHARD G. "DICK" McDANIEL—NEWSPAPERMAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. LAGOMARSINO. Mr. Speaker, I would like to take note of an event, small in the scheme of things, but for the newspaper world, of some magnitude.

On Tuesday, January 17, 1978, Richard G. "Dick" McDaniel died. Mr. McDaniel was the owner, publisher, editor, printer, and if need be the delivery boy of the Avila Beach Courier in the tiny seaport town of Avila Beach, Calif. Listed in "Who's Who in Commerce and Industry," he was civic minded, politically aware,

and proud of his independence. Dick McDaniel typified the American free enterprise system. Printers ink ran in his veins; he came from a newspaper family; it was his life; he died a newspaperman.

I am saddened at his untimely passing. He was a friend of mine.

Because of Dick McDaniel's contributions to the field of journalism, I ask the Members of the House to join with me and his many friends, in extending condolences to his wife, Rita, and his son, James.

MONTHLY LIST OF GAO REPORTS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The December 1977 list includes:

MONTHLY LIST OF GAO REPORTS

NATIONAL DEFENSE

The Army's Proposed Close Combat Armored Vehicle Team. PSAD-78-11, December 12.

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GOVERNMENT BUREAUCRACY

HON. BOB GAMMAGE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. GAMMAGE. Mr. Speaker, much has been written in recent months about big Government and the ballooning Federal bureaucracy, and I am sure we all agree that the Federal budget can and must be pared. However, I would like to share with my colleagues an excellent editorial which appeared in the January 23 edition of the Houston Post, which puts the present size of the Government bureaucracy in its proper perspective:

ON THE OTHER HAND

Every candidate running for president in the last election campaigned against the federal government he hoped to head. Any luncheon club speaker can draw applause by coming out against big government and the ballooning federal bureaucracy. But we need to keep an eye on the facts as they are. In 1977 the federal government had 2.8 million civilian employees—200,000 fewer than it had in 1967.

The Departments of Agriculture, Interior, State and Defense are smaller than they were from five to 15 years ago. Defense employs 60 percent of the federal force; next comes the Postal Service with 750,000 employees. Some 80 percent of our federal bureaucracy is either at work in defense of the nation or delivering mail. That leaves only about 20 percent to do all the other tasks—from air control to minting money, serving parks or patrolling borders.

While 3.1 percent of all American workers are federal employees, 12.6 percent work for city, county or state governments. Almost half of these are teachers or working in support of education. Nearly 20 percent are policemen or firemen. This means that a majority—almost 70 percent—of all our non-federal government employees are either teaching children, protecting us from fires or trying to protect us from crime. All told—not a very big balloon for a nation that has grown from 179 million to 226 million since 1960.

CONGRESSMEN BEVILL SPEAKS OUT ON NUCLEAR POWER

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. TEAGUE. Mr. Speaker, the Tuesday, January 31 edition of Energy Daily ran an article entitled "Representative Bevill Chides Carter" and quotes portions of a letter which our colleague directed to the President concerning nuclear power based on his visits with those people involved on an international basis. It is interesting to me to note the reactions of those people visited by Mr. BEVILL only a few short months following the visit of my Committee on Science and Technology with the same people with respect to the policy which the President had adopted.

Under leave to extend my remarks, I wish to include the article:

REPRESENTATIVE BEVILL CHIDES CARTER

Rep. Tom Bevill (D-Ala.) chairman of the subcommittee on public works of the House Appropriations Committee, has joined the ranks of those who believe that the U.S. has taken the wrong turn with nuclear power. In a low-key but emphatic letter to President Carter, Bevill says: "I have been looking more deeply into nuclear energy issues nationally and internationally.

"Recently, I had an opportunity to visit with the Director General of the International Atomic Energy Agency, the Executive Director of the International Energy Agency, and energy officials in the Republic of Spain. I also visited the French fast breeder reactor demonstration project (Phenix) and the nuclear waste vitrification facilities at Marcoule. Members of my subcommittee staff visited similar nuclear facilities in the United Kingdom."

Bevill says that he found great concern on his tour that the U.S. has abandoned its position as the world leader in peaceful nuclear technology by its decision to defer reprocessing indefinitely and to delay development of the fast breeder reactor.

In his letter to Carter, dated January 25, he states: "It seems that most nations of the world have had great confidence in the breadth and depth of the U.S. nuclear programs. They believed that our intense concern for nuclear safety and critical licensing processes could be depended upon to provide safe nuclear energy options for those nations that do not have our energy reserves, nor capital resources to invest in nuclear development.

"Now, there is uncertainty as to our policy and intentions, and suspicion that our International Fuel Cycle Evaluation initiative masks an arbitrary decision by the Administration to limit development and use of nuclear power for energy purposes."

Bevill is one of the more quietly influential members of Congress, controlling through his subcommittee large portions of the Department of Energy budget, the Bureau of Reclamation budget, the Corps of Engineers budget and the Nuclear Regulatory Commission budget. He has been a member of Congress since 1966.

The Energy Daily has learned that in addition to his letter to the President, Bevill was sufficiently impressed with the clamor he encountered over U.S. nuclear policy abroad that is seeking a meeting with the President.

Bevill's letter continues: "All of our contacts supported U.S. objectives of preventing further nuclear weapons proliferation and assuring adequate nuclear safeguards. But we found no responsible official at the technical level who believes we should defer reprocessing of light water reactor fuels or delay development of the uranium-plutonium cycle liquid metal fast breeder reactor because of proliferation or safeguards concerns. All seemed to think that with appropriate national and international agreements, present programs can be adequately safeguarded, and that the world needs for energy dictate aggressive development of nuclear energy capabilities, particularly a viable breeder reactor."

He said that he found "almost universal surprise and amazement at U.S. proposals to reexamine technologies previously rejected in favor of the LMFBR option since this seems unwarranted on any technological grounds."

Spain for example, Bevill tells the President, has decided to order four nuclear plants "from a non-U.S. supplier and to buy nuclear fuel from Russia. They have contracted with Britain and France for reprocessing." Such decisions, Bevill says, aggravate our unfavorable trade balances and further weaken U.S. leadership in nuclear matters.

The Bevill letter hammers at the different situation which exists in energy-hungry countries abroad. It says: "IEA world energy projections indicate that other nations need to turn to a more permanent source of energy, such as fast breeder reactors, well before the turn of the century. Russia, France and Britain each have already developed and operated 250 MWe fast reactor prototypes comparable to our Clinch River project and have shown great progress in liquid metal technology. They are moving aggressively to reprocess present fuels and have demonstrated technology to reprocess fast reactor fuels. Their waste management programs seem comprehensive and adequately designed to deal with problems of nuclear wastes. These countries are already at work on commercial size breeder reactors."

Bevill goes on to examine the Administration's current budget request and deplores the cutting of nuclear programs there. And he tells the President: "I know of the pressures being exerted by those who oppose the peaceful use of nuclear power in this country and who would like to stop our development programs. But it is obvious that others are proceeding without us and, in fact, may now be several years ahead of us.

"It appears that the choice is whether we decide to maintain a posture of leadership to assure safe use of nuclear energy in the world, and to secure our future energy options, or whether we abandon our leadership role to others and take added risk with respect to energy supplies through a hiatus in our nuclear development and demonstration programs. I think this latter course is dangerous to the Nation and strongly urge your personal reconsideration and redirection of the Administration's present planning."—Llewellyn King.

PROTECTING SMALL BUSINESS FROM EXCESSIVE GOVERNMENT REGULATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. GILMAN. Mr. Speaker, our Nation's small businesses face an array of serious problems portending hard times ahead for some and a threat to the very existence of others.

Recent surveys by the National Federation of Independent Business revealed that "Government regulation and redtape is the single most important problem of more than 1 in 10 small firms." Of impediments to small business, all firms cited only inflation and taxes more frequently than Government regulation.

On February 1, 1978, the Subcommittee on Special Small Business Problems held hearings on H.R. 7739, the Small Business Impact Statement Act; a measure introduced by my distinguished colleague from Virginia (M. CALDWELL BUTLER). This bill would require Federal regulators to thoroughly assess the impact proposed regulations would have upon small businesses.

As one of the bill's cosponsors, I testified in support of H.R. 7739, urging the subcommittee to favorably report the measure.

So that my colleagues might share my views concerning the need for protecting this Nation's small businesses from onerous Government regulation, I am including the text of my testimony at this point in the RECORD.

STATEMENT OF REPRESENTATIVE BENJAMIN A. GILMAN

Mr. Chairman, and distinguished members of the Subcommittee on Special Small Business Problems, I am pleased to have this opportunity to testify in support of H.R. 7739, the "Small Business Impact Statement of 1977," which was introduced by the gentleman from Virginia, M. Caldwell Butler, and of which I am a cosponsor.

H.R. 7739 is an extremely well-reasoned remedy to the torrent of often incongruous and shortsighted federal regulations threatening the very existence of American small business. Characteristically out of step with the paper-thin profit margins and the economic hostilities to which small businessmen are subjected, federal regulators annually conceive of a disjointed array of rules and regulations whose intent and purpose are alarmingly divorced from conceptions of actual consequences which will be suffered by small businesses as a result of their compliance with these regulations. The Small Business Impact Statement Act of 1977 goes far in correcting this starkly unreasonable and inequitable situation in which American small business now finds itself.

Noting that the "disproportionate impact" of Federal agency rules is not "fully recognized or considered," thus "unduly and unnecessarily injuring small businesses," H.R. 7739 would require federal agencies, during the course of formulating federal regulations:

(1) to make a thorough assessment of the costs that proposed regulations impose on small businesses;

(2) to consult with and obtain the comments of the Office of Advocacy of the Small Business Administration regarding the proposed regulation's effect upon small business; and

(3) to submit the impact statement and these comments to the Chairman of the House and Senate Small Business Committees in advance of the promulgation of each regulation.

Mr. Chairman, the Small Business Administration recently reported that those firms most adversely affected by the increasing array of government regulations are those small firms employing between 50 and 250 employees. A recent Joint Economic Committee report illuminated the specter of American small business becoming "an endangered species," ascribing this fact partially to the ever-escalating number of burdensome government regulations.

The January 1977 Report of the SBA Task Force on Venture and Equity Capital for Small Business concluded that regulation has severely cut small business incentives to take growth risks and further asserts that "the small business today is in grave danger of smothering under the weight—and cost—of repetitive paperwork," spawned by compliance with government regulation.

Also in January 1977, the Domestic Council Review Group on Regulatory Reform grimly reported that "Seldom do we know the real effects of existing or proposed regulations." Yet, in September of 1977 figures released by the Commission on Federal Paperwork pointed out that the paperwork costs of small businesses incurred in complying with the reporting requirements of the Internal Revenue Service, the Department of Labor, the Small Business Administration, the Census Bureau and other government agencies was but a shade under $15 billion per year. This particular statistic, coupled with the fact that small business firms constitute approximately 97 percent of this nation's business concerns, clearly attests to the high price that government regulations exact from our nation's business community.

Citing the consistent findings of the National Federation of Independent Business's (NFIB) Quarterly Economic Report for Small Business, Federation counsel James D. McKevitt, stated that "government regulation and red tape is the single most important problem of more than one in ten small firms." Of impediments to small business, all firms cite only inflation and taxes more frequently than government regulation.

The Small Business Impact Statement Act does not eschew government regulation for which experience and potential genuine business problems clearly point the need. It does, however, reflect the exigent need to stop the flow of regulations which have not been thoroughly assessed as to the degree and nature of their adverse impact upon the small business community. It is hardly unreasonable for the small businessman to request—in light of past shock waves felt by federal rule promulagation—a responsible estimate of a regulations impact. Such an estimate, as outlined by H.R. 7739, would include information on the average cost incurred by a small business, the types of small businesses affected, and the regulation's effect upon a small business' competitiveness in both the small business sector and other sectors of the economy.

The impact statement would in essence be an analysis of these elements and how they relate to each other. The legislation's provisions for studied review of impact statements by the Office of Advocacy of the Small Business Administration and the Small Business Committees of both the House and Senate would greatly enhance the prospect for the promulgation of regulations more attuned to the particular needs of small businesses.

A recent issue of Time magazine vividly stated that Federal rules and regulations "seem to float out from Washington as casually as children blow soap bubbles, and all too often contain about as much substance." Indeed, I have long been concerned with the Rube Goldberg like nature of the regulation making process and the unquestionable necessity to strike out for reform.

Recently, I introduced legislation underscoring the need to assure that Federal regulations are: (1) written clearly so as to be readily understandable by those persons subject to or affected by these regulations; and (2) are otherwise designed to meet efficiently the goals of the legislative programs to which they relate. My measure calls upon the President to submit annually a report to Congress on progress made towards achieving these goals so that legislative remedies could be directed towards persistent impediments to efficient regulation making.

I believe H.R. 7739, as introduced by my distinguished colleague, the Gentleman from Virginia, Mr. Butler, to be an important step towards rescuing a large and important element of this nation's business sector from the specter of an oppressive and economically deadly proliferation of unsound federal regulations.

Our nation's small businesses have a long and distinguished heritage of significant contribution to our free enterprise system. Passage of H.R. 7739 will greatly assist small businesses in continuing this heritage by reducing the onerous burden of excessive and ill-conceived Federal regulations they now shoulder.

Market place perils and economic vicissitudes are adversities that the hard working, enterprising small businessman is prepared to accept. His lot, however, should not be compounded by excessive and ultimately destructive government regulation.

Accordingly, I urge my colleagues on this subcommittee to act favorably on H.R. 7739, the Small Business Impact Statement Act.

I thank the subcommittee for this opportunity to appear before you on this measure.

INTRODUCES AMENDMENT TO SOCIAL SECURITY ACT

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. WHITEHURST. Mr. Speaker, Public Law 93–647, which went into effect on January 1. 1975, contained a provision which made it possible for the pay of a civilan employee or military member to be diverted for child support or alimony payments. This was a major step forward, and will benefit a large number of divorced or separated spouses and their children. However, in States which have community property laws, an inequity has continued to exist, since only alimony and child support are specifically mentioned in the law.

For this reason, I am today introducing a brief amendment to section 459 of the Social Security Act (42 U.S.C. 659) which changes the wording to include all "legal obligations to provide child support or make alimony or any other court-ordered payments or settlements." This should make it possible for Federal agencies to make payments based on divorce or separation decrees in all States.

TUITION AND TAX CREDITS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. FRENZEL. Mr. Speaker, I invite my colleagues' attention to a very thoughtful analysis of the Packwood-Moynihan tuition tax credit bill—a subject that has quickly become one of the major issues of the 95th Congress.

The Packwood-Moynihan bill was the primary subject of hearings that were recently completed by the Senate Finance Subcommittee on Taxation. House hearings will be held on February 14, 15, and 16 before the full Ways and Means Committee.

As the House sponsor of the Packwood-Moynihan bill, I believe that tax credits are the most effective way to provide taxpayers with financial relief from the skyrocketing costs of eduction, because they do not add to the heavy burden of bureaucratic redtape. More importantly, tax credits will help to provide the educational consumer with freedom of choice. Educational choice has been a popular and successful tradition in America, but inflation has robbed the middle-income American of any real choice.

The lead editorial from the Washington Star on January 24, 1978, offers a commonsense review of many of the issues surrounding tuition tax credits:

TUITION AND TAX CREDITS

Sen. Daniel Patrick Moynihan believes that tuition tax credits are "an idea whose time has finally come," and so do his influential co-sponsors in the Senate.

If so—if, as the senator also submits, "the people of this nation want it"—the message isn't getting through to those who think they know what the people need.

There were hearings last week on the Moynihan-Packwood tuition credit bill in the Finance subcommittee on taxation. The hostile reactions to the bill reflect the same administration attitude that greeted Sen. William Roth's similar proposal of a few weeks ago. It seems to us a case of fatigued imagination.

The tax-credit offset of tuition, said several administration spokesmen, would wickedly benefit "the rich" (for which read, middle-income taxpayers). One Treasury official also charged that the bill "would make it easier and cheaper for a student to attend a private school if his family wished to avoid an integrated public school."

These objections merit a passing glance. Indeed, tax credits would be available to all families, regardless of income, who send children (or a spouse) to a college or university (public or private), a vocational school, a secondary or elementary private school. The credit would equal half the tuition, up to a ceiling of $500 per student.

Yet it isn't a "rich man's bill"; it is a taxpayer's bill. "Most of the benefit," according to Senator Moynihan, "will go to families earning well under $20,000 a year, and by making the credit refundable the proposed legislation will also provide a real financial boost to low income families with limited tax liability."

This evidently false designation of a tax expenditure in aid of education as a bonanza for the wealthy is typical. It is supposed to be an argument stopper, because it has somehow become official dogma in this administration that the only value worth seeking through tax policy is the redistribution of income from middle-class taxpayers to those designated "poor" under the escalating federal definition of that term. Redistribution is a proper concern of tax policy, but not the only one. Others worth consideration are (a) the preservation of a working system of private education, both as a check on the quality of public education and as a self-justifying value in a pluralistic society; and (b) a meaningful choice, for all parents, between public and private education.

The suggestion that parents might "avoid an integrated public school" hardly rises to the dignity of argument. Most parents, if we are not mistaken, are looking for orderly, disciplined, effective education. To what degree it is integrated is a secondary concern—not, of course, a trivial concern. But the Supreme Court recently declared, in the Northern Virginia case of last term, that no tax benefits shall be available to racially segregated private education. That issue is closed.

The principal concern—at least where secondary and primary education are concerned—is whether a tuition credit program of the sort Senators Moynihan and Packwood propose can meet the stern tests of religious pluralism now insisted upon by the Supreme Court. As matters stand, that is at least doubtful.

It is, however, Senator Moynihan's view—a view we share—that in the recent era the Court has imposed needlessly restrictive constitutional limits on state aid (and by implication, federal aid) to private "religious" education. In a commencement address last May at Lemoyne College, New York, the senator said of this line of jurisprudence that "the kindest thing to say is that (the decisions) are unpersuasive (and) the unkindest thing to say is that the Court has been given the thankless task of providing constitutional legitimacy for the religious bigotry of the 19th Century."

And what are the grounds for that suggestion? As recently as 1876, after more than half a century's experience with public support of private religious education in New York (and other states), its foes recommended a constitutional amendment to forbid it. The implication is that nothing in the establishment clause of the First Amendment renders such aid clearly unconstitutional.

As is well known, moreover, the Court's rigid line against "excessive government entanglement with religion" has been repeatedly strained, if not breached, by state programs of tuition assistance to private higher education, some of it to institutions far from secular in sponsorship and educational philosophy.

In any event, we share Senator Moynihan's basic feeling—that the "constitutional" case against tax benefits for parents of parochial school students is an unattractive vestige of archaic prejudice. Practically speaking, it is difficult to show that any federal aid "advances" religion per se; recent studies cited by the senator suggest that the "religious" effects of parochial education (measured by church communicants or candidates for the priesthood) are practically nil. But even if they were substantial, may we not distinguish between such desirable effects and "an establishment of religion"?

Putting aside the First Amendment problems, the main fact with which public policy must reckon today is this: A swollen system of public education threatens to swallow up the financially-starved private educational sector, to the eventual benefit of neither. For various reasons, private education is pricing itself out of middle-class reach. The Moynihan-Packwood plan would not necessarily work to the benefit of either sector, private or public, it would offer taxpayers an enhanced choice and would probably help restore a healthy balance.

FORWARD TOGETHER, SCOUTING, U.S. BOY SCOUTS OF AMERICA, 1978

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. NATCHER. Mr. Speaker, during the entire month of February, the Boy Scouts of America will be reflecting on past accomplishments and anticipating and planning future goals and projects. The month of February is celebrated by the Boy Scouts as National Scouting Month. February is the anniversary month of the Boy Scouts, an organization incorporated in 1910, with the President of the United States as honorary president, and dedicated to the development of good citizenship; an organization which we proudly salute.

The purpose of the Boy Scouts of America is to provide through community organizations an effective program for boys designed to build desirable qualities of character, citizenship, and personal fitness.

Young people of our great country are today, as in the past, faced with the task of preparing themselves to meet an uncertain future, one which holds many grave responsibilities and duties; many opportunities, rights and privileges, both those granted by law and those gained through individual initiative. Perhaps, Mr. Speaker, never before in history of our democratic process have the meeting of these responsibilities, and the utilization and exercise of these opportunities and rights been so necessary to the perpetuation of the doctrines and beliefs upon which this country is founded. The Boy Scouts of America is an organization in the finest American tradition.

Scouting teaches the values of both responsibility and opportunity. The Boy Scouts of America are knowledgeable about and take pride in their American heritage and understand America's role in the world; they have a keen respect for basic rights of all people and are prepared to fulfill the varied responsibilities of participating in and giving leadership to American society and to the forums of the world.

Mr. Speaker, the principles underlying the Boy Scouts' activities and practices are framed to develop character, intelligence, skill, handicraft, physical, mental and moral health, self-care and reliance, and the practice of service for others. The efficient individual becomes an asset to his community, yours and mine, and to our Nation. The teamwork, the self-discipline is just as important as the sense of adventure that grows out of the Scouting experience and are the very things we need today to build a better America.

The 1977 Boy Scout Jamboree was held in Moraine State Park, Pa., during the

first 2 weeks of August. More than 24,000 Scouts attended their jamboree guided by the theme of "Forward together, Scouting, U.S.A." This was indeed a learning experience. All of our Nation's Scouts who attended this jamboree were bound together by certain ideals—ideals that were strengthened and given new meaning.

Today when some people are casting about for new values, new answers, and new outlooks on life, the key to many of our problems lies in the basic values of the Scout law—in trust, in loyalty, courtesy, thrift, bravery, and reverence.

I am proud and grateful that the Scout groups, from Cubs to Explorers, are dynamic resources in the Second Congressional District of Kentucky, which I have the honor to represent. It is indicative of the fine caliber of men who lead the Boy Scout troops voluntarily devoting ceaseless hours of preparation and activity with their boys. They strengthen our communities by developing young men who know the value of good citizenship and practice it. The strength of our Nation lies in the character of its people and the work being done by the Boy Scouts of America makes it a participant of inestimable value to our future.

LIVE MORE FOR LESS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. BENNETT. Mr. Speaker, the following editorial from the Florida Times-Union points out that it is much cheaper to live in Jacksonville, Fla., than elsewhere when comparison is made with 14 other U.S. cities studied by a recent survey. This is probably one reason why Jacksonville has had very substantial growth in recent years:

LIVE MORE FOR LESS

There's good news for Jacksonville from an outfit known as Runzheimer Affiliated Services, of Rochester, Wis., corporate cost-of-living consultants.

This firm recently made a survey of 15 U.S. cities (including the suburban areas) studying the costs of housing, taxation and transportation (which account for 60 to 75 percent of most family budgets) as applicable to the family budget of a $39,000 a year executive.

The study, Runzheimer told the Wall Street Journal, is "the most detailed scrutiny ever given comparative regional family living standards" in this upper middle income bracket. The results show a wide spread in the basic cost of living in the 15 cities studied.

The most expensive was Westport, Conn.

And the lowest—Jacksonville

The difference was considerable: $28,799 in Westport for the same items which would cost $18,242 in Jacksonville.

San Francisco at $27,014 was next highest and Atlanta ($19,373) was closest to Jacksonville. In general, the more expensive were in the northern portion of the nation and the less expensive were in the South (Charlotte, New Orleans and Dallas join, in descending order. Atlanta and Jacksonville).

An analysis of the figures shows, further, that the greatest variation was in the cost of housing, the least in transportation (operating two family cars). The tax comparison was modified somewhat by the fact that federal income and Social Security taxes (the same anywhere) were included.

In housing the difference was dramatic. In every case the figures are for a seven room home (three bedrooms and two baths) with central heat and air, a fireplace and two car garage. A mortgage loan (for 80 percent of the value) was assumed at prevailing local interest rate, with local property taxes, utilities and maintenance included.

In Jacksonville this shelter total came to $6,446 a year, in sharp contrast to $13,698 in Westport, Conn.—more than twice as much. In fact, this one item alone made up some 70 percent of the difference in the cost of living in the two cities.

Incidentally, while the Runzheimer study is based purely on current (actually late 1977) costs, with no historic comparison, the findings can be contrasted to a federal study made five years ago on families in the upper income bracket (average income $38,500—virtually the same as the current study).

While the federal study gave only a national annual housing cost average—$4,682—this figure is so far below the current range (Jacksonville's figure is roughly half again as much and Westport's is twice Jacksonville's) that the recent increase in housing costs is dramatized.

Such figures, obviously, show the economic lure of the South in general—and Jacksonville in particular—for executives and managers.

Not to mention Florida's obvious other lure—climate.

Of course, the number of families in this income bracket in the United States, let alone Jacksonville, is relatively small.

The next question is whether this cost differential filters down to the economic plateau on which most people live. If so, Jacksonville has another selling point in its struggle to bring in employers for its large number of underemployed, as well as its unemployed.

IT IS CHEAPER HERE—THAN IN CONNECTICUT, ANYWAY

A $39,000 executive in Jacksonville can live $10,000 cheaper than his counterpart in Westport, Conn., according to a recent study by Runzheimer Affiliated Services of Rochester, Wis.

The study, reported in the Wall Street Journal last week, listed Jacksonville as the least expensive of 15 suburbs and small cities. It was based on the cost of housing taxation and transportation, which the Journal said make up 60 to 75 percent of family budgets.

The five least expensive places on the list were all in the South: Charlotte, New Orleans, Dallas, Atlanta and Jacksonville.

The five most expensive were Westport, San Francisco, Rye, N.Y., Minneapolis and Portland, Oreg.

The study showed the cost for an executive living in Jacksonville at $6,446 for housing, $8,980 for taxes and $2,858 for transportation, a total of $18,284.

These compared with Westport's figures of $13,698 for housing, $11,748 for taxes and $3,353 for transportation, a total of $28,799.

The comparisons were based on the ownership of a seven-room house with central heat and air conditioning and a two-car garage, and two cars.

Gerald Bartels, executive vice president for the chamber, said he will probably use The Wall Street Journal article in future advertising and promotion.

"That's the best kind of advertising you can get," Bartels said of the news story. "This complements our national advertising program which has promoted the fact that taxes are lower here."

ACTION NEEDED TO PROMOTE HUMANE TREATMENT OF ANIMALS

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. RICHMOND. Mr. Speaker, millions of animals continue to be subjected to terrible and needless suffering and abuse in the United States each year. To promote more humane treatment of animals, we must keep pace with modern developments in this area, such as laboratory experimental and testing techniques, factory-type production of hundreds of millions of head of livestock and poultry, and the explosion of the pet population involving millions of abandoned and starving animals.

Last year, Congressman Koch introduced H.R. 446 and its companion bills, H.R. 3169, and H.R. 3170, designed to establish a Commission on the Humane Treatment of Animals. Since Mr. Koch left Congress, and because the bills have considerable support and have already been considered by a House subcommittee, I am concerned that this vital legislation not be forgotten during this session. Consequently, last week I reintroduced Mr. Koch's bill, complete with the original list of 56 cosponsors, as H.R. 10522, H.R. 10523, and H.R. 10524.

Testimony conducted during 94th Congress hearings on an identical bill before the Subcommittee on Livestock and Grains of the House Agriculture Committee, clearly demonstrated that laws to date concerning animal welfare are grossly inadequate. In light of the millions of dollars spent on the senseless destruction of strays and abandoned pets, and the glaring but invisible conditions in which poultry and livestock are raised in this country, it is time to recognize the strong need for protection for helpless animals.

Briefly, the bill will establish a Commission on the Humane Treatment of Animals to study farming practices and laboratory research experimentation, potential substitutes for animals in laboratory experiments, domestic pet growth rates, especially in urban areas, and the impact on public health and the effectiveness of existing laws. From this study, the Commission will be able to recommend alternatives and potential areas which need corrective measures.

Following, is a section-by-section analysis of the bill, detailing how the Commission will be appointed and how it will operate. I hope my colleagues will take a few moments to study the bill, as it could be a meaningful step in the consideration and adoption of other bills, which pertain to the treatment of animals and animal welfare:

SECTION-BY-SECTION ANALYSIS OF THE BILL TO CREATE A COMMISSION ON THE HUMANE TREATMENT OF ANIMALS

Section 1. Preamble.

Section 2. Establishes a Commission on the Humane Treatment of Animals.

Section 3. Directs the Commission to study:

1. farming practices and laboratory research experimentation (including biomedical and military research).

2. potential substitutes for animals in laboratory experiments.

3. domestic pet growth rates especially in urban areas and the impact of this growth on public health.

4. effectiveness of existing laws, evaluating and recommending alternatives to current inhumane practices. The Commission will study treatment of animals in connection with the exercise of any religion.

Section 4. The Commission shall be comprised of 11 members, with terms lasting the life of the Commission and vacancies filled by those making the original appointments.

The President Pro Tem of the Senate and Speaker shall each select one representative from (a) animal welfare or humane societies, and one representative from (b) medical schools, zoologists, or wildlife biologists.

The President shall appoint an individual with demonstrated administrative or judicial abilities in addition to three representatives from each (a) and (b).

Members shall each receive level V of the Executive pay schedule in addition to travel expenses for each day they are engaged in Commission duties.

Members who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

Six members constitute a quorum though a lesser number may hold hearings, and members shall elect a Chairman and Vice Chairman from among themselves. The Commission shall meet at the call of the chairman or six of the members.

Section 5. The Commission shall appoint a compensated director, and additional personnel may be appointed and paid by the Commission as it deems necessary.

Upon request of the Commission, the head of any Federal agency is authorized to detail any of his/her personnel to assist the Commission.

Section 6. The head of any department or agency shall furnish such information as the Commission deems necessary to carry out its duties.

The Commission may use the mails, and issue subpoenas.

Section 7. Within two years after the last member is appointed, the Commission will transmit a final report to the President and to Congress. The report will contain a detailed statement of findings and conclusions, together with its recommendations.

Section 8. Sixty days after submitting the report, the Commission will cease to exist.

SRI LANKA'S INDEPENDENCE

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. FOLEY. Mr. Speaker, February 4 marks the anniversary of Sri Lanka's independence and is an appropriate time for us to give recognition to the role and achievements of this Nation.

I have had the pleasurable experience of visiting Sri Lanka and have been deeply impressed with the people of Sri Lanka as they build and maintain a society committed to advancing the quality of life at all levels. In this regard, Sri Lanka contends with many of the economic problems facing nations that have been working so diligently for the past several decades to truly secure the independence that was won with such great difficulty. As we all know, it is a leading spokesman in this area and has earned widespread respect and recognition for this leadership by international organizations.

I commend the people of Sri Lanka for their dedication, and I know that I speak for many Americans in expressing both my congratulations on this important occasion and my every good wish for future success in making real the ideals that have motivated their history as a nation.

PROPOSED MILEAGE STANDARDS FOR LIGHT TRUCKS ARE UNREASONABLE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues the proposed rule dealing with mileage standards for light trucks which was issued recently by the National Highway Traffic Safety Administration.

Since the Congress gave a clear direction of the factors to be considered in setting the standards when it passed the Energy Policy and Conservation Act of 1975, we should all be interested in how well our directions have been followed. I am personally convinced that NHTSA gave insufficient attention to these instructions.

The abbreviated version of the Department of Commerce's comments on the proposed rule and my own testimony before NHTSA follow:

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C. Nov. 21, 1977.

Dr. RICHARD L. STROMBOTNE,
Program Director, Office of Automotive Fuel Economy, U.S. Department of Transportation, Washington, D.C.

DEAR DR. STROMBOTNE: We have reviewed the notice of proposed rulemaking for 1980-81 nonpassenger automobile fuel economy standards, and we do not consider the proposed standards to be feasible within the time frame allowed. The proposed 1980 standard for two wheel drive trucks requires a fuel economy improvement of at least 25 percent over the level for 1979 models. Such an improvement does not appear feasible within the nominal 18 months lead time provided. Actually the effective lead time is far less because emissions certification testing starts twelve months or more prior to the beginning of the model year. It is our opinion the only method by which manufacturers can comply with the proposed standards is by withdrawing a large portion of their product lines from the market. The magnitude of reduction in product offerings that would be required to meet the proposed standards would risk major employment and production losses. A more detailed statement of our position is contained in the enclosure.

The enclosure deals only with the feasibility and economic issues of the proposed fuel economy standards. However, safety implications should not be overlooked. The compromises in load-carrying capacity associated with the proposal entail the risk that independent manufacturers of camper bodies or other special body types—or the end user himself—may install equipment that substantially exceeds the load-carrying capacity of the vehicle.

If you desire further information regarding any of the issues raised in the attachment, please don't hestitate to call upon us.

Sincerely,

R. V. COLEMAN,
Bureau of Domestic Commerce.
A. M. MAHER,
Office of Energy Programs.

STATEMENT OF CONGRESSMAN DALE E. KILDEE

NONPASSENGER AUTOMOBILE FUEL ECONOMY STANDARDS FOR MODEL YEARS 1980–1981—DOCKET NO. FE–77–05; NOTICE 1

Because I represent the district which would be most affected by the proposed mileage standards for light trucks, I initiated an examination of those standards and their possible impact.

In the way of background, the 7th District assembled 443,000 light trucks in model year 1977. In addition, engines and other components for these vehicles are produced within the district. Obivously, any miscalculation in setting the standards could have significant economic implications.

In setting the standards, the Department of Transportation was to consider the technological feasibility, economic practicability, the effect of other federal standards, and the need of the nation to conserve energy. In examining the proposed standards, I also attempted to take each of these factors into account.

Despite this similarity of approach, I am convinced that the standards are unrealistic. For the sake of convenience, I will deal primarily with the standards proposed for domestically produced two wheel drive light trucks, although similar problems are posed by the standards for four wheel drive vehicles. They mandate an improvement in fleet mileage from 17.2 m.p.g in model year 1979 to 19.2 m.p.g. in model year 1980. This 2 m.p.g. increase matches the largest mandated increase for any one year for passenger automobiles. In addition, the 19.2 m.p.g. figure is actually higher than the 1979 standard for passenger automobiles. The means by which the passenger car standards were met is readily visible to us all. We can all see the downsizing which has been a major factor in the weight reductions which account for 50% of the improvement. Obviously trucks would not have the same cargo capacity if they were downsized in the same fashion.

The measure necessary to attain the 2 m.p.g. increase for 1980 are complicated by the fact that 1979 standards apply only to vehicles up to 6,000 pounds gross vehicle weight while the fleet average for 1980 incorporates a new class of vehicles, those trucks from 6,000 to 8,500 pounds gross vehicle weight. The standards, therefore, would not only mandate a substantial improvement in efficiency but require that a class of vehicles which consume more fuel be included in the determination of fleet standards. The Department of Commerce estimates that the proposed standards would require a mileage increase of more than 25 percent within the one model year from 1979 to 1980. The automakers place the figure closer to 30 or 35 percent. It represents an actual increase of between 4 and 5 miles per gallon.

In examining the first of the criteria which was to be considered in setting the standards, that of technological feasibility, I questioned each of the major manufacturers about each of the technical changes which was suggested by DOT. I am convinced that none of the manufacturers is physically capable of meeting the proposed standards by the 1980 model year.

A number of the suggestions would require major engineering changes. Those who have written the rule are apparently not

aware of the lead time required in making engineering changes. I might point out that the design and production plans for 1980 are already completed. The effective lead time for the 1980 model year is in actuality only a maximum of six to eight months because production models for the 1980 model year must be ready for emissions testing in September of this year. That would preclude the major engineering changes proposed by DOT. The third of the criteria which DOT was supposed to have considered was the effect of other federal motor vehicle standards on fuel economy. It appears that the impact of these standards on engineering lead time was overlooked.

The problem in terms of the resources of the manufacturers is further complicated by the fact that the technology is heavily front loaded. Even to reach the standards by the 1982 model year, which is the first year that totally new engines or trucks could be on line, manufacturer resources would be severely strained. DOT has, however, assumed that all of the available technology, and even some technology which is still in the experimental stage, can be on line by the 1980 and 1981 model years.

If the technical changes cannot be made by the 1980 model year, the automakers have little choice but to severely curtail production of certain models and to produce only limited numbers of trucks powered with small engines if they hope to meet the proposed standards.

One of the things which was to be considered in setting the standards was the economic practicability. It is in this area that I feel that DOT's analysis is weakest. There was a clear congressional direction in the report accompanying the Energy Policy and Conservation Act of 1975 which stated that the Department should consider "the possible implications for the national economy". Despite this admonition, DOT concentrated almost exclusively on the question of whether sufficient internal capital exists within the automobile industry to finance the changes in technology required.

I might point out that even this calculation of $266 million for the entire industry seems to be grossly underestimated. The Department of Commerce commented: "NHTSA's estimate of capital requirements is substantialy understated. . . ." In conversations with representatives of the companies, each pointed out that the estimate for the total industry will be exceeded by a factor of three or four by his/her company alone.

That miscalculation is relatively minor, however, when a very serious omission is considered. The Department almost totally ignored the market impact of the proposed standards. There are no actuarial projections in terms of sales. The rulemaking support paper contained exactly eight sentences dealing with this subject.

These sentences contain no data and can be summarized in the statement: "We do not know for sure, but we *think* that it will have no major impact." With literally hundreds of thousands of jobs affected by the sale of domestically produced light trucks, I certainly consider the cursory examination of this factor to be inadequate.

In point of fact, the assumption made by DOT without supporting evidence would seem to be inaccurate. In its comments on the proposed regulations, the Department of Commerce stated: "It is our opinion the only method by which manufacturers can comply with the proposed standards is by withdrawing a large portion of their product lines from the market. The magnitude of reduction in product offerings that would be required to meet the proposed standards would risk major employment and production losses."

The figures presented by the automobile industry are chilling to say the least. In order to meet the proposed standards, major product lines would have to be discontinued. You have already heard testimony that up to 95 percent of Chrysler's domestic production would have to be eliminated. You have heard that Ford would have to reduce production by 360,000 vehicles. Such reductions could not help but have a major impact on employment and the national economy.

Even if the light trucks could be produced two additional factors will affect sales, the reduction in performance capacity and the additional cost.

The standards leave no option but to produce trucks with reduced acceleration and restricted load capacities. It is my feeling that the reduced performance capacity will have an impact on sales.

Let me illustrate with an individual example. If I am a farmer with a less fuel efficient 1976 or 1977 truck which still operates fairly well but am considering buying a 1980 truck, what will happen? I go into my truck dealer and discover what the performance capabilities of the new trucks will not meet my needs. What will my decision be? I will most likely decide to keep the older model which is less efficient in fuel consumption for a few more years. Now multiply that individual decision a few thousand times. What will be the ultimate impact on fuel consumption and employment?

The reduced performance capacity will be paired with a market increase in cost. This increase may be far higher than DOT's estimate of $141. First, the auto manufacturer may be passing on the civil penalties which have been incurred. If the automakers fall the full 2–3 miles per gallon below the standards which they currently estimate, the civil penalties will be between $100 and $150. The actual figures for some of the technical changes could be closer to $400–500. If a price increase of that magnitude were to occur, it would undoubtedly have an impact on sales.

DOT has argued that because of the fuel savings which would accrue over the life of the vehicle, there would be no inhibition on sales. I would like to point out that the Administration has made a directly opposite assumption in its proposal for a crude oil equalization tax. They point out that despite the fact that the tax would eventually be rebated to the consumer, the increased cost would have a deterrent effect on the original purchase. I feel that the same analogy would be true in the case of sales of light trucks.

After the oil embargo, my district encountered severe economic problems. I still remember the headline in *The Flint Journal* which said: "Area Jobless Rate *Drops* to 15 Percent". (It had been 19.6 percent in the previous reporting period). Due to the downturn in truck production there were 2925 people directly laid off in my district. Many others were affected too, though. Retail sales plummeted. General Motors estimates that for every reduction in truck sales of 100,000 units 13,700 jobs are lost in direct truck manufacturing and another 20,500 jobs are lost in supplier industries. I have seen no accurate estimate of the indirect loss of jobs in small businesses because of the increase in unemployment.

The one criterion that DOT did deal with in a reasonable manner was the need of the nation to conserve energy. They pointed out that if the proposed standards were enacted, 60,000 barrels of oil a day would be saved or considerably less than 1 percent of our domestic consumption. They based that figure on the assumption that the fleet economy standards would remain where they will be for model year 1979. I would like to point out that even if the standards remained the same and the trucks in the 6,000–8,500 pound GVWR class were added that the 60,000 barrel figure could be reduced substantially.

I feel, however, that even if the figure should be greater than 60,000 barrels that we should take cognizance of other economic and social impacts. I recognize the need to conserve energy and to increase mileage, but I do not think we achieve our purpose if we precipitate an economic crisis.

One thing that I have noted since being here in Washington is that we deal with very large numbers. Because of their very magnitude, those numbers insulate us from the realities that they represent. The size of the numbers enables us to overlook the impact that our decisions have on individual lives.

We are often able to relate to the personal tragedy of one individual or one family if they should be so fortunate as to receive media coverage, but we do not have the capacity of multiplying that tragedy by thousands.

If nothing else, I would hope that I shall be able to convince you to consider the very real human consequences of your action. I would be willing to accompany you to Flint, Michigan, so that you can actually talk to some people in an unemployment line, to people who were laid off only a couple of years ago, and to people whose businesses were hurt because so many people were unemployed.

The Congress mandated that economic implications be considered when the standards are issued. The Department of Commerce has estimated that the proposed standards could have a severe deleterious effect. The Department of Transportation has estimated that the economic impact will be minimal. Given the serious disagreement between the two executive departments, I would hope that you would seriously reassess the proposed standards.

If your proposed standards should go into effect, I would hope for the sakes of thousands of people that your assessment of the impact of the proposed standards is correct, and mine is wrong.

TRIBUTE TO PRESIDENT EISENHOWER

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. WALSH. Mr. Speaker, "Leader," that single word, better than any other, describes Dwight David Eisenhower, Commander of Allied Forces in World War II, President of Columbia University, and for two terms President of the United States of America.

I am proud to join with my colleagues as we mark the 25th anniversary of his inauguration as our President, and prouder still that the memory of this great American has been perpetuated in the college that bears his name in Seneca Falls, part of the 33d Congressional District of New York.

Dwight David Eisenhower became an outstanding military figure, a distinguished educator, and a popular President because of his belief in himself, in the people of his country and in the principles on which this Nation was formed and on which it thrives.

Few Americans have given us so much. And generations to follow will join those of us praising Dwight David Eisenhower today in recognition of his greatness.

SEABORNE DRUG INTERDICTING JURISDICTION FOR THE U.S. COAST GUARD

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. GILMAN. Mr. Speaker, under the leadership of the distinguished gentleman from New York (Mr. WOLFF), the Select Committee on Narcotics Abuse and Control, of which I am a member, recently held hearings at the U.S. Mission to the United Nations in New York in international narcotics control, the compliance and regulatory aspects of drug abuse, and the status of the Nation's efforts to interdict narcotics at the border with Mexico.

With regard to the U.S. Coast Guard's efforts to interdict illicit drugs on the high seas, its authority is broadly governed by title 14, section 2, of the United States Code, authorizing the Coast Guard to "enforce or assist in the enforcement of all applicable Federal laws on and under the high seas and waters subject to the jurisdiction of the United States." Section 89 of that same title permits the Coast Guard to make "inquiries, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction for the prevention, detection, and suppression of violations" of Federal laws. However, this broad authority (and certain drug-related statutes) does not prohibit a U.S. citizen from possessing heroin, cocaine, marihuana, and other federally controlled drugs while on board a U.S. or foreign vessel on the high seas.

During the select committee's hearings in New York on international narcotics control, Rear Adm. Norman C. Venzke, Chief of the Office of Operations and director of the enforcement of laws and treaties program of the U.S. Coast Guard, stated:

> The general revision of drug laws which produced the Comprehensive Drug Abuse and Control Act of 1970 omitted the provision making the possession of quantities of drugs by United States vessels on the high seas a Federal crime. Consequently, Coast Guard drug law enforcement action against U.S. vessels at sea beyond the 12-mile customs zone now requires the proof of conspiracy to import before law enforcement action can properly be undertaken.

Mr. Speaker, in an effort to help remove this law enforcement loophole from the Coast Guard's seaborne drug interdicting operations, I am today introducing legislation that would prohibit any person on board a U.S. vessel on the high seas and any U.S. citizen on board a foreign vessel on the high seas from possessing with the intent to distribute or dispense heroin, cocaine, marihuana, or any other federally controlled substance unless such substance is officially part of the cargo or part of the supplies of the vessel. This measure would also prohibit an individual from intentionally possessing a federally controlled drug unless such drug was legally obtained from a physician or pursuant to a valid prescription.

Violation of this measure would subject the convicted violator to an imprisonment of not more than 15 years and a fine of not more than $25,000, or both. A subsequent conviction would subject the violator to imprisonment of not more than 30 years, a fine of not more than $50,000, or both—penalties that are stipulated by the Comprehensive Drug Abuse Prevention and Control Act of 1970.

One major drug smuggling technique used by organized crime and independent narcotics traffickers is the "mother ship" technique popularized during the 1920's and the early 1930's by prohibition rum runners, whereby the "mother ship" remains outside the U.S. customs inspection waters and unloads the contraband cargo to a small, inconspicuous vessel that then mingles among the tens of thousands recreational boats in U.S. waters. The smaller "narcotics running" craft eventually unloads its illicit cargo onto the countless isolated coves scattered throughout this Nation's coastline. From there, these deadly drugs are scattered by organized crime's intricate operational networks to virtually every city, town, and school district in this country, injecting our citizens with its horrendous misery and destruction.

In the interest of assisting the Coast Guard in plugging its drug law enforcement loophole, I am inserting the complete text of my measure at this point in the RECORD and welcome the support of all my colleagues on this legislation that would help disrupt organized crime's efforts to pollute this Nation's shores with illicit drugs.

A bill to facilitate the enforcement by the Coast Guard of laws relating to the importation of heroin, cocaine, marihuana, and other controlled substances, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—

(1) the Coast Guard has the authority to enforce the laws of the United States on the high seas and waters over which the United States has jurisdiction; and

(2) the ability of the Coast Guard to enforce the laws of the United States with respect to the importation of controlled substances into the United States would be greatly enhanced by a prohibition against the possession of these substances on the high seas by United States citizens and on vessels of the United States.

SEC. 2. (a) It shall be unlawful for any person on board a vessel of the United States on the high seas, and for any citizen of the United States on board a foreign vessel on the high seas, knowingly or intentionally to possess with intent to distribute or dispense, heroin, cocaine, marihuana, or any other controlled substance, unless such substance is part of the cargo entered in the manifest or part of the official supplies of the vessel.

(b) Any person who violates subsection (a) of this section with respect to any controlled substance shall be sentenced in the same manner as a person would be sentenced for possession with intent to distribute or dispense such substance under subsections (b) and (c) of section 401 of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

SEC. 3. (a) It shall be unlawful for any person on board a vessel of the United States on the high seas, and for any citizen of the United States on board a foreign vessel on the high seas, knowingly or intentionally to possess heroin, cocaine, marihuana, or any other controlled substance, unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by title II or title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

(b) Any person who violates subsection (a) of this section with respect to any controlled substance shall be sentenced in the same manner as a person would be sentenced for possession of such substance under section 404 of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

SEC. 4. As used in this Act—

(1) The term "high seas" means all waters beyond the territorial seas of the United States and beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States.

(2) The term "vessel of the United States" means any vessel documented under the laws of the United States or registered under the laws of any State.

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(4) The term "vessel" includes every description of watercraft used or capable of being used as a means of transportation on the water.

(5) The term "foreign vessel" includes (A) vessels flying the flag of a nation other than the United States, (B) vessels without nationality, and (C) vessels which may be assimilated to vessels without nationality by sailing under two or more flags, using them according to convenience.

(6) The term "controlled substance" has the same meaning as such term has in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

NATIONAL SECURITY BY UNILATERAL RESTRAINT

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. CUNNINGHAM. Mr. Speaker, the January 16, 1978, issue of Soviet Aerospace presents a very incisive analysis of this administration's National Security Policy, one which should be given careful consideration by every Member.

The material follows:

NATIONAL SECURITY BY UNILATERAL RESTRAINT

STRATEGIC THREAT BEING DEEMPHASIZED

An analysis

Several months ago, during the confirmation hearings for Paul Warnke, President Carter's choice as chief U.S. SALT negotiator and director of the U.S. Arms Control and Disarmament Agency, those opposed to that appointment warned that Warnke was an advocate of unilateral restraint, if not disarmament, and his policies, if followed out, could seriously threaten the future security of the United States.

In the months since the Warnke opposition was overriden in the Senate by a less than healthy margin, the Carter Administra-

tion has steadfastly demonstrated its adherence to the philosophy of unilateral restraint, practicing it to the unmistakable level of selective disarmament and fulfilling the prophecy of those who have opposed it and warned of its threat to the nation's security.

The Administration, during its first year in office, has demonstrated to the Soviet Union that it is willing to concede, not once, but several times on major crucial issues. The Soviets have watched the Carter leadership completely reverse itself in its determination to limit the continued momentum and very ominous threat of the Soviet military machine to this nation's leadership and the rest of the world.

Moscow has stood resolute and let the United States give away, bargain away or seriously delay vital segments of its presently only durable bargaining chip—the technological advantage.

The American executive leadership has also determined that retaining that technological leadership may at times be too expensive or a threat to the strategic "stability" between it and the Soveit Union.

The Soviet Union worried about the B–1 bomber. To counter it and its predecessors, the Soviets have poured untold billions of rubles into an air defense system of unprecedented proportions. At the very least, Moscow might have been willing to have bargained some of its awesome strategic power for a limitation on the B–1.

Instead, the Carter Administration gave it away. Warnke, naively, commented later that now, maybe, the Soviets would reciprocate and stop one of its new weapons, just as President Brezhnev had been promising for several years.

The Soviets have reciprocated by intensifying their opposition to any restrictions on their strategic missile edge, and specifically demanding and getting their demand that the Backfire bomber be left out of the strategic arsenal with no limitations on its rate of production.

In defense of its posture in the SALT negotiations, the Administration argues that its efforts will put a limit on the Soviet Union's arsenal—the Soviet first-strike weapons, the MIRV warheads and the continued growth of that threat.

SALT II WILL NOT LIMIT SOVIET EDGE

The SALT II agreement that the Administration would approve would do none of that. Built into that agreement is a Soviet capability to broaden its threat to the United States and the world.

Once the United States was content to limit the total number of Soviet ICBMs, and, in SALT I, it was first believed that the Soviets would be restrained in expanding the first-strike capability of their ICBMs by limiting the number of the SS–9 Scarp ICBMs.

Since the signing of that treaty, the Soviets have replaced the SS–9 with the SS–18. The Administration, in SALT II, believes it is at least continuing the first-strike limitation imposed by SALT I by finally conceding to the Soviet demands that 308 of those missiles be allowed.

Beyond the fact that the SS–18 is many times beyond the threat that had been posed by the SS–9 (with 30% more throw weight and eight times more warheads), the Soviet Union violated the SALT I agreement with the development and deployment of the SS–19 ICBM as a replacement of the lightweight SS–11. The SS–19 is even more threatening than the SS–9 to the survivability of the U.S. land-based missile force.

The SALT II agreement would effectively increase the threat to the U.S. Minuteman ICBMs, from the 308 weapons under SALT I, to the 800 or more MIRVed SS–18 and SS–19s allowed under the new agreement.

BALANCING SURVIVAL WITH COSTS

Defense Secretary Harold Brown recently said there is nothing that can be done to prevent the U.S. Minuteman force from being vulnerable to a Soviet first-strike capability in the early-to-mid-1980's. He added that the survivability of the Minuteman force "is not exactly the same as the survival of the United States."

The Administration is conceding that the Soviet Union cannot now be stopped in its drive to develop and deploy a first-strike counterforce capability with its ICBM forces, and that the best thing to do is to accept the inevitability in the SALT II agreement and go on for a SALT III, eight years from now, that perhaps can correct the situation.

Shortly after Secretary Brown took office, one of his first actions was to remove from a full-scale development status the one system that so far shows the only promise of shortening the amount of time that the U.S. land-based missile forces will be exposed to vulnerability, the MX mobile ICBM.

Brown, the researcher, the scientist, and the methodical and meticulous engineer, wanted the basing mode to progress more in parallel with the missile technology before he approved its development as a weapon. The decision exposed the Minuteman forces to the SS–18's and SS–19's for an additional year.

Last month, Brown felt he was ready to ask President Carter, also a meticulous engineer, for the full-scale development of the MX, although Brown confessed he still was not fully satisfied with the basing mode. His position was challenged by a 37-year-old meticulous budget cutter with an argument that swayed Carter to hold off still longer on the attainment of the weapon. It has since been argued that later in the year, if the uncertainties have been answered, the Administration can ask Congress for a supplemental and move out with the MX.

All of this has cost the MX program still another year—another year of exposure for the Minuteman ICBM force, another year with the U.S. Triad reduced to a Duad. We remember that Brown said that the survivability of the Minuteman force "is not exactly the same as the survival of the United States."

We cannot fully agree. One of the major arguments against the MX within the Administration, from the National Security Council to the Office of Management and Budget, is that the go-ahead for the MX, with its counter-counterforce capabilities, would be destabilizing to the strategic balance—i.e., it is all right for the Soviet Union to have that capability, or threat to the United States, but not for the United States to possess it against the Soviet Union.

Therefore, a policy that would argue that the survivability of the Minuteman force is not as important as not doing something to make the Soviet Union more edgy because its actions are being counteracted, is, indeed, exactly the same as a threat to the survival of the United States.

It is a policy that would stingily let the preoccupation with debates over how much we should pay to insure the security of the United States depress the national defense budget down to a level where economists say it will have a difficult time overcoming inflation. Further, Congress can be expected to make additional reductions. This, at a time when the Soviet defense budget far outstrips that of the United States and continues to show a high, marked increase each year.

BROWN VERSUS POLITICAL REALITIES

Brown, the mathematician, sees and understands these diverging lines in defense spending and privately expresses concern for the eventual outcome of the trend of those curves.

But, also the shy but forceful administrator of the nation's defense establishment respects the role the President plays in the final decision, willing to concede his position to the President's wishes. Brown says one must know how to deal with political realities.

Never has the United States needed the strongest defense executive. They refer to Brown as the "nimble juggler," a "shy," "stingy big spender," that "avoids doomsday rhetoric." No one says he is not strong. And, no one is suggesting that he fall on his sword, as James Schlesinger did when trying to convince President Ford to undertake a greater effort to close the gap between the Soviet and U.S. defense efforts.

Undoubtedly the strongest defense advocate in the Carter Administration, Brown has also demonstrated in the past that he is a strong arms control advocate as well. This, perhaps, provides a more calming and relatively objective approach to his arguments for more aggressive national security actions, but it apparently is not effective enough to overcome the saturation of unilateral restraint philosophy that permeates the Administration's national security hierarchy.

It is this view which is the foundation of the studies, such as the Presidential Review Memorandum 10, which forms the basis of a new defense strategy that will be a part of the first Carter Administration defense budget. It is a budget that demonstrates dramatically the principle of unilateral restraint and the deemphasis of the strategic threat and the concern for United States strategic inferiority in the 1980's. The policy makes withdrawals from the strategic arsenal in order to finance the long neglected inferiority of U.S.-NATO conventional forces.

It takes a position which may surely and inevitably allow the Soviet Union to achieve the strategic superiority it is seeking.

It raises the issue of whether the United States will continue to be willing to pay the price that the Soviet military machine, both strategic and conventional, is demanding.

PHILADELPHIA CELEBRATES CATHOLIC SCHOOLS WEEK

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. EILBERG. Mr. Speaker, this week the Archdiocese of Philadelphia marks Catholic Schools Week, a proud celebration of the many outstanding achievements of the Catholic school system in our city.

Throughout the week, Archdiocesan high schools and parish elementary schools will hold open houses, providing visitors with an opportunity to see this fine school system at work.

For many years, Mr. Speaker, Philadelphia has been known as the home of the Catholic school system. Archdiocesan officials consistently have exhibited leadership among their colleagues on the national level in demonstrating the strength and vitality of Catholic schools.

As the observance of Catholic Schools Week unfolds, officials can point with pride to the fact that more than 174,000 students attend 30 high schools and 266 parish elementary schools—making this system second to only Philadelphia's public school district as the largest school system in the Commonwealth of Pennsylvania.

This system operates, it should be pointed out, at a savings to the State's taxpayers of more than $300 million a year.

I offer for the RECORD the following January 25, 1978 Northeast Times account of Catholic Schools Week. I commend this report to the attention of my colleagues, because it describes the impressive accomplishments of the Archdiocese school system, and the many services it makes available to meet the wide needs of its students:

CATHOLIC SCHOOLS WEEK OBSERVANCE BEGINS SUNDAY

Did you know that with the exception of the Public School District of Philadelphia, the Archdiocese of Philadelphia educates more children than any other school district in the state? More than 174,000 students attend 30 Archdiocesan high schools and 266 parish elementary schools, at a savings of over $300 million annually for Pennsylvania taxpayers.

Or how about the fact that for the past six years these students, who are educated at approximately one-third the cost of public education, scored significantly above the national average on standardized tests in English, mathematics and reading?

And that more than half of the Archdiocesan high school students who graduated last June enrolled in college, receiving over $7.5 million in scholarships and grants?

The list of achievements by students in the Archdiocese of Philadelphia keeps on growing and that's just the point—in Catholic schools, "Everyone Grows."

"Catholic Schools Week" begins Sunday, Jan. 29. During the following seven days, Archdiocesan high schools and parish elementary schools in your area will hold open house and will provide visitors with information on what the children are learning throughout the year.

And the children are learning, not just the basics for which parochial schools are noted, but a variety of supplementary subjects such as how to use calculators, or plan for marriage or take part in a career awareness program.

For students with special needs, the Archdiocese of Philadelphia has one of the most forward looking educational programs in the country. In 1967, the Archdiocese opened an elementary school specifically designed for very intelligent inner-city youngsters, children who often drop out of school despite their mental abilities. Now in its tenth year, Our Lady of Mercy Interparochial School reports that while all of its graduates completed high school and over 80% went on to college, a study has shown that more than 30% of children with similar backgrounds and abilities who enrolled in other schools failed even to finish high school.

To help Hispanic children with linguistic handicaps, the Archdiocese started a bilingual Carino Center in 1972. Students attend school there for at least a year to learn correct English usage while studying their other subjects in Spanish, thereby making it much easier for them to keep up with all their school work while learning English.

For blind, deaf and mentally handicapped children, the Archdiocese of Philadelphia also operates schools using the most sophisticated equipment and highly qualified special education teachers. St. Lucy's School for the Blind, the Archbishop Ryan Institute for the Deaf, and St. Katherine's and Our Lady of Confidence Day Schools are open to Catholic and non-Catholic students alike, tuition free. Financial assistance is supplied through the Catholic Charities Appeal.

"Catholic Schools: Everyone Grows" is the motto for "Catholic Schools Week," 1978. Visit a nearby parish elementary or Archdiocesan high school this coming week and witness this growth in action.

CHAPPIE JAMES: THE EPITOME OF THE AMERICAN DREAM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. KEMP. Mr. Speaker, it is appropriate that we in the Congress pay honor to an outstanding hero, military leader and, in every sense of the term, a rare and truly great American.

I refer to Gen. Daniel "Chappie" James, Jr., who retired from active military duty last week after 34 years of service to his beloved country.

To the American public, Chappie is widely known as the first black man to earn four stars in the Air Force and to achieve that full general status in the U.S. Military and Establishment. Beyond this signal and much deserved achievement, he is an inspiration in our time and to future generations. And I am extremely proud to call him a friend.

In terms of material riches, he grew up poor on an unpaved, unlit street in Pensacola, Fla., where, as a boy, he glimpsed the blue and white Navy aircraft wheeling in the sky and he dreamed of the future when he might be at the controls of a plane soaring through the clouds.

In terms of family environment and love and guidance from his mother and father, he was immensely rich.

When his mother perceived that Chappie and her other children were not receiving quality education at the segregated "colored" school, she started her own school for them, then other neighborhood children. Like Chappie, his mother, Lillie, was an outstanding and courageous leader.

Chappie's father, who worked in the local gas plant, was a task master, instilling a discipline that Chappie, himself, would find invaluable in dealing with his troops in both war and peace.

To this day, Gen. Chappie James echoes to young black people his mother's admonition, to "be prepared with your bags of knowledge, your patriotism and your honor."

"When somebody opens the door of opportunity," he challenges, "you charge in."

And the most important lesson, Chappie learned from his mother, was to live life by the 11th commandment: "thou shalt not quit."

Chappie never did quit. Not in the face of racism when he was a young Army Air Corps shavetail. Not in the face of flak or Migs in Korea where he flew 101 combat missions in a fighter-bomber squadron. Not as he worked to keep pilots and crews at operational readiness between conflicts. Nor during his combat tour in Vietnam when he flew 78 combat missions.

During that conflict, it was Chappie James who led a flight in which seven Communist Mig 21's were destroyed, the highest total kill of any mission during the Vietnam war.

His military decorations and awards include the Department of Defense Distinguished Service Medal (the highest noncombat award which can be presented to a member of the Armed Forces), the Air Force Distinguished Service Medal with 1 oak leaf cluster, Legion of Merit with 1 oak leaf cluster, Distinguished Flying Cross with 2 oak leaf clusters, Meritorious Service Medal, Air Medal with 13 oak leaf clusters, Distinguished Unit Citation Emblem with 1 oak leaf cluster, Presidential Unit Citation Emblem with 3 oak leaf clusters, Air Force Outstanding Unit Award Ribbon with 3 oak leaf clusters, and the Republic of Korea Presidential Unit Citation Ribbon.

Some of General James' many civilian honors include the Phoenix Urban League Man of the Year Award, 1970; Builders of a Greater Arizona Award, 1969; distinguished service achievement award from Kappa Alpha Psi Fraternity, 1970; American Legion National Commander's Public Relations Award, 1971, and the Veterans of Foreign Wars Commander in Chief's Gold Medal Award and Citation, 1971. He has been awarded honorary doctor of laws degrees from the University of West Florida, 1971; the University of Akron, 1973; Virginia State College, 1974; and Delaware State College, 1975; and was named Honorary National Commander, Arnold Air Society, 1971.

In successive years, 1967 and 1968, he was awarded the prestigious George Washington Freedom Foundation Medal. And it was in 1970 that Chappie was honored with the Arnold Air Society Eugene M. Zuckert Award for outstanding contributions to Air Force professionalism. In part, that citation read "the fighter pilot with a magnificent record, public speaker and eloquent spokesman for the American dream we so rarely achieve."

Mr. Speaker, Gen. Chappie James is not just an eloquent spokesman of the American dream. He epitomizes it. He is a beacon for emulation now and for generations yet to come.

Upon the occasion of his retirement, we thank him for his devotion and numerous contributions to our country, for his steadfast courage and his heroic deeds.

Chappie, we wish you and your dear family Godspeed.

TRIBUTE TO FATHER FELIX

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. LEDERER. Mr. Speaker, I would like to pause in the business of the House to share with my colleagues the outstanding work of an ex-magician turned reverend, Father Felix. This man has brought to his new calling a little bit of that magic from his old profession. Father Felix is believed to be able to

move mountains by many of his neighbors in the city of Philadelphia.

Father Felix returned to his native Philadelphia after years of work among the poor in California and Mexico. Prior to this work, Father Felix served as president of the Bucks County Association for Retarded Citizens, unselfishly serving the persons who depended on this organization for care and encouragement.

His church at 2055 E. Dauphin Street in Philadelphia is more of a community center for neighbors in the Kensington area than it is a church. Inside Father Felix has ping-pong tables, arts and craft materials and other things to keep the children of the neighborhood busy. Father Felix has also made available to the needy of the neighborhood a clothing and furniture exchange in his church.

However, these activities represent only a small portion of the father's commitment to the people of the city of Philadelphia and the people of Pennsylvania.

Susan Clardy, 12 years of age, is a neighbor of Father Felix. She is a victim of retinitis pigmentosa, a hereditary disease which is destined to eat away the retina of her eyes until she is completely blind. Father Felix learned from Susan that she would like to meet the President and see Washington before she went completely blind. The good father energetically went about making this dream a reality. He arranged for George Pins to donate his Presidential train to Susie's family and friends for the trip. A special tour of the White House was also arranged through Father Felix's hard work, although Susan did not see the President. Through the father's tireless efforts, Susan Clardy was given a day she can cherish in what will be a sightless life.

Father Felix's compassion does not stop at the county line. When he learned of the tragic flooding that took place in Johnstown he organized a drive in the Lower Kensington area of Philadelphia for clothing, food, cleaning, and paper supplies for the victims of the flood. He made three trips to the flood ravaged area to help the victims clean up, regroup, and start a new beginning.

Father Felix cares about people. He has always found the time to help his neighbors or indeed anyone in need. Because of this, many citizens of the world are better for it.

A WORD PORTRAIT OF THE FRATERNAL ORDER OF EAGLES

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I would hope that every Member in the House would join with me in saluting the Fraternal Order of Eagles on its 80th birthday, celebrated on Monday, February 6, 1978.

This milestone represents eight decades of Eagle fellowship, fraternal spirit, and good works dedicated to the communities in which the more than 825,000 Eagles live.

The civic activities of the Eagles are built around their credo, "To make human life more desirable by lessening its ills and promoting peace, prosperity, gladness, and hope," annunciated by their first President, John Cort, in 1898.

The Eagles number among their more celebrated brothers President Jimmy Carter and Vice President WALTER MONDALE and former Presidents John F. Kennedy, Harry Truman and Franklin Delano Roosevelt, J. Edgar Hoover, Earl Warren, Father Flanagan of Boys Town, and my late, beloved friend and mentor, David L. Lawrence, former mayor of Pittsburgh and Governor of Pennsylvania, were Eagles.

One of the hardest working Eagles is a close and good friend of mine, Maurice Splain, Jr., of Pittsburgh, Eagle membership director.

In commemoration of the Eagle's 80th anniversary, I would like to include in the RECORD at this time a word portrait of the Eagles, prepared by Maury's son, Dan Splain.

In doing so, let me reiterate my best wishes to all Eagles and affirm my continued support for their good works.

A WORD PORTRAIT OF THE FRATERNAL ORDER OF EAGLES

(By Dan Splain)

Nine days before the explosion of the battleship Maine in Havana Harbor touched off the Spanish-American War, six lonely vaudeville troupers strolled to Moran's Shipyard on the tideflats of Seattle to form the Order of Good Things on February 6, 1898. The purpose of the organization, as its first President, John Cort later related was "to make human life more desirable by lessening its ills and promote peace, prosperity, gladness, and hope."

In February, 1978, in a new wonder age of atoms, missiles and moon walks, the far flung Organization that sprouted from the Seattle seedling—the Fraternal Order of Eagles—celebrates today the 80th anniversary of its founding, changelessly devoted to the same ideals proclaimed by its founders. Today, the Order embraces over 1700 Aeries in the Continental United States, Alaska, Hawaii, the Philippines, the Dominion of Canada, the Republic of Mexico, and England.

Possibly not in their fondest predictions did the pioneers of the Fraternity envision such tremendous growth. But the universal hunger for friendship and brotherhood struck a responsive chord as the theatrical men played in other cities throughout the nation. New Aeries were formed rapidly in the Pacific Northwest. Cort was elected the first Grand Worthy President of the Order.

The Order was, and remains to this day, the Fraternity of the Common Man. From mill, mine, and factory mainly, from the professions, and from public life, from America's melting pot, the Eagles derived their strength, a typical cross-section of the Nation. Several years ago, Collier's Magazine, in preparing an article about the Eagles sent their writer to the local Aerie in Cedar Rapids, Iowa. He asked a spokesman to define the Eagles. He struck this response: "You want to know who the Eagles are—I'll tell you. We're the crowd everybody gets lost in."

However, not all Eagles are "lost in the crowd." Six Presidents of the United States have been Eagles: Theodore Roosevelt, Warren G. Harding, Franklin Delano Roosevelt, Harry Truman, John F. Kennedy, and the incumbent President Jimmy Carter and Vice President Walter Mondale. Former Chief Justice of the Supreme Court, Earl Warren is a brother Eagle. Monsignor Flanagan of Boys Town was a Past President of the Omaha Aerie of the Eagles. So was Father Elwood Cassedy, founder of Home on the Range for Boys; as is his successor, Father William Fahnlander. Former Governor Lawrence of Pennsylvania helped found the Pennsylvania State Aerie in 1912, along with Congressman John Morin, who himself served the Order as Grand Worthy President. World War II and Korean air ace, Francis Gabreski (Col. Ret. USAF) is a life member of Oil City Aerie No. 283. J. Edgar Hoover, the late FBI Chief, was a brother, too. The list is infinite. Eagles are people, famous and obscure, mighty and humble, great and small.

Among those who have stood out from the crowd are the career Eagles themselves. There was Con Mann, the hearty Dutchman from Milwaukee, who piloted the Fraternity to a position of national prominence in the early part of this century. Then there was Frank Hering, silver haired orator from Notre Dame University, who made the first known plea for the observance of Mother's Day, and later served the Eagle Magazine as its editor for many years. Among contemporary leaders are Wisconsin Supreme Court Justice Robert W. Hansen, who served the Order twice as its International President; Anthony Angelo, present International President, who travels the crossroads of the Nation garnering support for Eagle Programs, and Maurice Splain, Jr., Grand Aerie Membership Department leader who cares for the membership growth of the Fighting Fraternity.

In the three decades from 1910 to 1940, the burgeoning Order acquired a new title, "the Fighting Fraternity." In those years, the Eagles were in the vanguard of social legislative progress, moving courageously, fighting for changes to insure a more secure life for the people of America. In 1911, in Missouri, led by an Eagle Jurist, Edward Everett Porterfield, the Order sponsored the first Mothers' Pension Act. A year later, in Wisconsin, Eagles rallied 'round a young Eagle and labor lawyer, Daniel Webster Hoan, later Mayor of Milwaukee, to enact the first Women's Compensation Act. A few years later, the Eagles began to demand elimination of a national scourge—the poorhouse. The Rubicon was crossed in 1923 when the Montana legislature passed the first Old Age Pension Law of the nation, sponsored by prominent Eagle legislator, Lester Loble, who later became the Order's Grand Worthy President. The Order successfully campaigned for similar laws in the majority of the states. On the national front, the Eagles launched an historic campaign for a national Social Security Act, and spent more than a million dollars for printed materials to publicize and popularize the measure. In signing the Act, President Roosevelt invited an Eagle delegation to the White House and presented them with one of three pens used to sign the Act into law. In so doing, Roosevelt stated, "The pen I am presenting to the Order, one used to sign the Social Security Act, is a symbol of my approval of the Fraternity's vision and courage."

High in the achievements of the Order is the national Mother's Day observance. Back in 1904, in February, Frank Hering, a Notre Dame professor and football coach, gave the first public plea for a Mother's Day observance at an Indianapolis Aerie meeting. Inspired by Hering's address, Eagle Aeries began sponsoring Mother's Day programs annually long before Congress set aside the second Sunday in May as a day reserved for the yearly tribute.

The Eagle story reserves a prominent chapter for the youth of America. With youth programs, junior sports, teen-age dances, youth centers sponsored by hundreds of Aeries, the building of the citizens of tomor-

row is an ever paramount project of the Order. The crowning effort in this field came in April, 1941, when the Fraternity dedicated the Eagle Dormitory at Father Flanagan's Boys Town in Nebraska.

Then World War II arrived, the Eagles conceived their famed Memorial Foundation, a trust fund created by donations of Aeries and their Auxiliaries, to provide physical welfare services and college education for the children of the Eagle war dead. This foundation was later expanded to include survivors of Korean and Vietnam War dead, and Eagle police and firemen killed in the line of duty.

While significant national campaigns have always characterized Eagle activity, the "grass roots" strength lies in the local Aeries and Auxiliaries. Their civic and benevolent contributions have been generous and frequent. Blood banks to save lives, an iron lung purchased for a young polio victim, Aerie quarters provide for a teen-age center, a Christmas Party for the under-privileged kids in the community, funds for a city youth playground, donations to the Red Cross, the Community Chest, and other community services and programs is but a part of the magnificent benevolence of the Fraternal Order of Eagles. No accurate accounting of the total spent by local Aeries and Auxiliaries for charitable purposes has ever been kept, but no doubt, over the years, it would run into staggering millions, and in terms of human happiness and betterment, the amount is above the monetary realm and measured only in terms of the human heart.

In the 1950's, the Eagles set their sights on new goals to "make human life more desirable." During that decade, the Eagles raised over one million dollars for the Damon Runyon Cancer Fund, prompting the fund's founder, Walter Winchell, to write in his nationally syndicated column that the Eagles are "the Santa Claus of the Damon Runyon Cancer Fund." The Eagles donation of $25,000 for the entrance to the Chapel of the Four Chaplains at Philadelphia, memorializing the four chaplains of three faiths who gave their lives in World War II aboard the U.S.S. Dorchester, bespeaks the Order's zeal for brotherhood and interfaith unity. Distribution of thousands of scrolls of Ten Commandents to schools and courts, and presentation of the Ten Commandment granite monoliths to many American cities, stresses the Eagles' concern for moral and spiritual values.

Late in 1959, the Organization began construction of a retirement home for senior citizens who are Eagle members. The home, in Bradenton, Florida, today boasts 75 units, a library, a lake well stocked for fishing and a large recreational hall. The Eagle Village, as the retirement facility is called, is self-governed by a Mayor and Council elected by the residents.

In cooperation with CARE, the international relief organization, the Eagles have constructed over 25 Eagles-Care Houses throughout the world.

In the decade just past, the Eagles founded the Max Baer Heart Fund, named after the late Eagle Heavyweight Champ, which has donated over $4,000,000 for heart research in the ten years of its existence. The Eagles have now founded the Eagles Cancer Fund which has raised over $4,000,000 supplementing the amount contributed to the Damon Runyon Cancer Fund. Just ten years ago, the Eagles founded the Jimmy Durante Children's Fund to contribute funds for research into the catastrophic diseases of childhood. Durante, for whom the fund is named, has long been an active supporter of Eagle programs.

Five years ago, the Organization initiated the "Golden Eagle Program", a three pronged attack on the problems of our aging citizens. The goal of the program is to add years to life and life to the years of the world's senior citizens in three ways: 1) by sponsoring and supporting legislation that will permit our aged to live in dignity and self-respect; 2) by establishing within 3200 local Eagle units, Retired Eagles Activities clubs (REAC) to permit older Eagles and their families to participate in programs of their choosing and to offer their aid and counsel to younger Eagles leaders in the management of their club facilities; and 3) the establishment of the Golden Eagle Fund, to raise and distribute funds for gerontological research.

The Eagles are also responsible for legislation protecting the over 40 worker from job discrimination because of his age.

The latest Eagle programs are "Hometown, U.S.A."—a campaign to make our hometown of America just a little better for you and me, and the "Home and Family Program" designed to strengthen the home and family as the basic unit in our society.

The Fraternal Order of Eagles, with virility and vision, is just beginning to flex its muscles with over 3200 Aeries and Auxiliaries continuing the work started by six men on a Seattle waterfront 80 years ago.

PANAMA CANAL TREATIES: "DEAD-END," "NO-WIN" DIPLOMACY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. DORNAN. Mr. Speaker, in my remarks in the CONGRESSIONAL RECORD of January 19, 1978, page 186, I quoted a statement on the Panama Canal from the November–December 1977 issue of the American Legion's National Security-Foreign Relations Bulletin and the American Legion's National Convention 1977 resolution on that subject.

One of the best summaries of the various aspects involved in the Panama Canal treaty question is a recent paper by Hanson W. Baldwin, noted military analyst and authority on geopolitics, recently distributed by the Institute of American Relations in Washington, D.C.

For reasons I consider valid, Mr. Baldwin criticizes the pending Panama Canal treaties as the product of a "dead-end, no-win diplomacy" and calls for their "outright" rejection.

Mr. Speaker, as the indicated article by Mr. Baldwin should be read by every Member of the Congress and should be available to the Nation as a whole, I quote it as part of my remarks:

THE PANAMA CANAL TREATIES: ARE THEY SALVAGEABLE?

(By Hanson W. Baldwin)

The treaty, as presented to the Senate, is unsalvageable. The later declaration of intent, or the joint interpretation of what this ambiguous document means—as issued by President Carter and General Torrijos—has no legal validity and, in any case, does not eliminate the basic defects that make this treaty a threat to the vital interests of the United States.

These basic defects—the transfer of sovereignty that has always been ours to Panama; the requirement for an interim management period when the United States would be saddled with the costs and the responsibility of operating a world's key strategic and commercial waterway, but without comparable authority; the transfer of billions of dollars of U.S. taxpayers' moneys and property to an unstable, left-wing dictatorship, and a hobbling promise that binds the U.S. to build no other Isthmian Canal—cannot possibly be remedied by amendments.

OUGHT TO BE REJECTED OUTRIGHT

This treaty ought to be rejected outright—most of all because it presents a potential threat to the vital interests and future security of the United States. If ratified it will dangerously impair the capability of the United States to control the vital "back door" to the Southern tier and the Gulf Coast—the Caribbean-Gulf of Mexico area.

The Canal Zone, as a link between two oceans for our one-ocean Navy; as a sea passageway of tremendous importance to the U.S. economic future, and above all, as a dominating strategic position in an area of vital importance to the security of the United States should never be transferred to any foreign, or international, flag. Redundantly, the character of the present Panamanian government—a government riddled by communism and extremist influences and tainted with corruption and absolutism—indeed, the character of any government that may assume power in the volatile country of Panama—precludes any possibility that the interests of the United States would be protected by this treaty.

The treaty, moreover, is couched in the vaguest possible terms—which can mean all things to all men insofar as U.S. interests are concerned, but is specific, and exorbitantly expensive to the U.S. citizen, when the benefits to Panama are mentioned. It is perhaps the most one-sided treaty ever negotiated and, indeed, merits the description of "give-away", or "taxpayer rip-off". Its terms are certain, moreover, to engender friction and difficulties. In place of straight-line executive control is substitued until the year 2000 a system of mixed U.S.-Panamanian committees, with the U.S. required to manage and operate, but with the Panamanians in ultimate authority. Until 2000 the U.S. promises to foreswear playing what should have been our trump card in dealing with Panama—the possibility of constructing another Isthmian Canal. After 2000 when the U.S. leaves, lock, stock and barrel, neither the treaties, nor the later joint interpretation of what they mean can possibly provide either security for the Canal, or in time of crisis, priority for the transit of U.S. warships. Panama has specifically stated that the Carter-Torrijos declaration prohibits "intervention" in Panama, yet without U.S. sovereignty, U.S. bases and a U.S. military presence how can the security of the Canal, or priority for U.S. ships possibly be insured against future hostile elements in Panama or outside it without U.S. intervention?

TORRIJOS DECLARATION

Indeed, the Torrijos declarations and the Torrijos promises should be viewed for what they are—empty words upon the wind. They have no legal force. Torrijos, a dictator, would of course, promise anything to retain his job, and his position is in danger, indeed, if the treaty is rejected. His smooth talk to visiting U.S. Senators represents more of the Panamanian propaganda—which, spread by treaty proponents in this country—has helped to bring us to our present dilemma. Torrijos is by no means the only obstacle to this treaty; he is merely the present front-man, the figurehead, the facade, for a government that is riddled, at the top level with avowed or concealed communists, open enemies of the United States and other left-wing radicals. Lasting relationships cannot, in my opinion, be based upon promises by such as these.

The treaties as presented are a diplomatic mish-mash—perhaps the worst product of diplomacy's alleged art of compromise that has ever been produced. I agree entirely with the proponents of the treaty that the American people need far more understanding of the document's terms. With all due respect I doubt very much that most of the members of this Congress have read the entire text,

together with all the scores of pages of annexes and supporting executive orders, I urge those who have not done so to leave no comma unturned, to review every word before voting.

There are many interpretations or provisions in the treaty, or its supporting documents, which are cause for serious concern. Under the terms of these agreements we will be bound, for instance, to turn over to Panama any U.S. national in the Isthmus who traffics in drugs, whether he be soldier or civilian. We bind ourselves to abstain from emplacing any nuclear weapons in "Panamanian soil" (which means the Canal Zone, since the treaty transfers sovereignty to Panama). In view of the recent action by Egyptian authorities in barring the passage through the Suez Canal of a British nuclear-powered submarine, could this provision be interpreted in the Spanish text by Torrijos or some future dictator, to bar the Panama Canal to the transit of U.S. nuclear submarines—which are now perhaps the most important vessels in our fleet? And finally, the provisions for transferring billions of dollars of U.S. property to Panama probably ought to have, in view of many constitutional authorities, the approval of the House as well as the Senate.

By all means publicize this Treaty. It represents an incredible accomplishment of double-talk.

NO-WIN TREATY

I say this—not so much in criticism of the U.S. negotiators—as in criticism of the policy constraints that have bound them, blindly and mistakenly, over the past 15 years. Both parties, and now four Presidential administrations, have followed a course of no-return—a continuation of the "No-Win" policies of Vietnam.

This treaty is a "No-Win" treaty; regardless of whether it is approved or rejected, it spells trouble. This is the real tragedy.

It is, I think, of high importance to recognize this before we examine what consequences may flow from either the ratification or the rejection of this treaty.

We are in a damned-if-we-do and damned-if-we-don't position, and the fact that this is so—after Vietnam and Angola and all the lessons of the recent past—should be, it seems to me, of great and troubling significance to the Congress of the United States. I am not one who believes that the nation's foreign affairs can be run by committees of Congress and I do believe the executive in power must enjoy very considerable freedom of action. The negotiation of treaties is an executive function. But a Congress—and particularly the Senate—must be a partner in the establishment of basic policies, or guidelines. And the people must support those polices, or we are in trouble.

LITTLE CONGRESSIONAL CONSULTATION

In the case of this treaty there has been, until recently, too little consultation with Congressional leaders, and a course of action has been persistently and stubbornly followed—i.e. surrender of U.S. sovereignty over the Canal—which has been vigorously opposed since its inception by a large bloc of Congressional opinion, and—if the polls are to be believed—by a majority of the American people. Even more important and more dangerous the policies followed by four administrations have led us into a diplomatic cul-de-sac. In short, we now face trouble, no matter what we do. This is the bankruptcy of both policy and diplomacy; firmness and a long view of the future could have avoided—years ago—the unpleasant choice of the rock or the hard place. In looking at the past and the fatuous "No-Win" course we have followed since 1964 there is one vital lesson to be learned; basic policies must be formed by team effort; the Congress of the United States, acting in behalf of the people of the United States, is ultimately the arbiter; the President can propose; the Congress must dispose.

WHAT WILL HAPPEN?

Let us look at the future and what is likely to happen next.

If this treaty is rejected, there will be trouble—sooner rather than later; if this treaty is ratified, there will be trouble—later rather than immediately.

Ever since 1964 four administrations have encouraged and indeed incited the rising expectations of the Panamanian people. We have supported the demagogues of the Isthmus, in their blackmail "diplomacy" of violence. We have created the nightmare from which we now shrink.

Panama has always been unstable politically. One of the oldest ploys in its volatile history has been the manipulation of street mobs by the ruling group to demonstrate against Uncle Sam. Since Torrijos came to power the spectre of rioting and of armed attacks against the Zone—indeed of wholesale bloodshed—has been repeatedly invoked (often by Torrijos himself) as a scare tactic in the belief—perhaps valid, hopefully invalid—that the United States is in no mood today to fight for anything. But this incitement to violence can be a two-edged sword, if the anticipations of the Panamanian people—aroused by demagogic machismo rhetoric and by weak-kneed U.S. policies—are not realized. In other words, if you reject this treaty, there will undoubtedly be violence in Panama quickly.

To anticipate the form such violence might take, one must glance at past history, rather than take at face value the threats of "death to the gringo" so freely expressed by the present Panamanian regime. Riots, stone-throwing, window-breaking, flag-burning, and some damage and looting, there have been plenty in Panama, but the only serious and sanguinary disturbances—insofar as the United States has been concerned—were in 1964, when rioting mobs attacked the Canal Zone and twenty-three Panamanians and four U.S. soldiers were killed.

It is significant that these riots were tacitly encouraged by Panamanian leadership, and were led—according to both Ambassador Ellsworth Bunker and Joseph A. Califano, Jr., by Panamanian, Castro Cuban and other breeds of communists. Most important, the Panamanian National Guard, the only paramilitary force in Panama, and—as long as it is unified, the ultimate and dominant political force—initially took no steps to stop the rioters. Indeed, some individual Guardsmen—allegedly acting on their own responsibility—took part in the riots, used their weapons against American troops and engaged in sniping against Zonian targets. As soon as the Guard intervened—which was quite soon after the Panamanian government realized the United States meant business—the riots stopped.

But their consequences go on. The ghosts of the dead of 1964 are invoked today to help force us out of the Canal

DEAD-END DIPLOMACY

It is not only possible, but extremely probable, that if the Senate rejects this treaty, the street mobs will form again—in sizeable numbers, an will be encouraged, indeed, led by the Panamanian Government and National Guard. We can be sure that such a mob will once again be incited by communists, both Panamanian-home-grown and Cuban and Russian provocateurs. Such riots could have serious results in terms of property loss and bloodshed on both sides, and would inevitably result in a very tense atmosphere in Panama and in extremely strained relations. Of course, no accurate preview of what might happen is possible, but it seems clear to me that, at a minimum, the bloody toll of 1964 might again be repeated—the penalty of our dead-end "diplomacy." The resultant deaths indeed might exceed the 27 killed fourteen years ago. In Panama itself the position of Torrijos would certainly be badly shaken, and a kind of street civil war might result, with leftists and moderates vying for power.

Following an initial explosion of violence less predictable consequences might ensue. whether or not a policy of long-term violence would follow would depend, to a great extent, upon the character of the government that might come to power in Panama; that the present government would ultimately be overthrown seems certain. In any case, the possibilities are several. A program of terrorism and sabotage, supported by Castro Cuba and other leftist regimes would require considerable strengthening of U.S. security procedures around the Canal and might turn the Zone, for a time, into an armed camp. Nothing is invulnerable, of course, and modern explosives and weapons make sabotage a more feasible option against the Canal than it was in World War II. Nevertheless, large-scale sabotage of the Canal—of a sufficient seriousness to close, or block it—would be, on the part of Panama, which depends upon it for its principal livelihood—an illogical act, and it would not be an easy one. The vital and vulnerable targets are limited in number and they could be well guarded. More likely and harder to prevent would be sporadic acts of terrorism against U.S. property in and outside the Zone, and against U.S. citizens. This sort of threat could continue indefinitely.

GUERRILLA WARFARE UNLIKELY

However, the least likely contingency, to my mind, would be the development of long-term guerrilla warfare by Panamanians, supported by a mixed bag of Castro Cubans, international terrorists, Libyan extremists and Russian funds and weapons. I do not believe the bulk of the Panamanian or Latin-American peoples would support such an extreme option—particularly since the burden of sustaining a guerrilla war would fall primarily upon a population which, up till now, has enjoyed far higher living standards (chiefly because of direct and indirect benefits from the Canal and U.S. generosity) than its neighbors. Moreover, a guerrilla war, to be sustained, would have to be nurtured and supplied from outside Panama, which would involve a degree of risk by Cuba or Russia, or both, which probably would be unacceptable to Havana and Moscow.

Despite these caveats, the picture of what might occur—what almost certainly would occur, in one form or another, if this treaty is rejected—is a bleak one.

WHAT WOULD RATIFICATION DO?

But let us look at the other side of the coin; what might the results be if the Treaty is ratified as it stands?

If the treaty is ratified, trouble may be delayed, but it will come no less certainly and eventually with even graver results.

Indeed, the treaty terms provide for "built-in trouble".

Until 2000 the United States will have the responsibility for operating and maintaining the Canal, but without the complete authority which such a responsibility necessitates. The present Canal administration will be replaced by a system of committees with Panamanian representatives as the ultimate arbiters. The payments to Panama which this treaty requires will, according to treaty supporters, be paid out of Canal tolls. But Canal tolls, even if increased substantially, cannot possibly provide the revenues specified; the American taxpayers clearly is the ultimate victim.

In the Canal Zone itself, U.S. nationals employed by the Canal administration or the military will be the chief sufferers. Not only will they be displaced by Panamanians and other nationalities, but during the process they will be deprived—according to treaty terms—of the due processes of U.S. law

(which have hitherto governed them) and will be subject to the capricious and often arbitrary actions of the Panamanian police. Many of these U.S. citizens who comprise the technical, maintenance, piloting and administrative hard-core skills of the Canal administration will not wait for displacement. A preliminary poll—possibly exaggerated—indicates that more than half intend to leave their jobs and the Canal Zone as soon as the uncertain rule of the Panamanian police replaces U.S. law and Canal Zone police forces.

ADMINISTRATIVE PROBLEMS

These facts—the monetary arrangements, the provisions for the turn-over of U.S. property in the Zone and the committee system—clearly mean that a well-functioning executive and administrative system will be replaced for the next quarter century by a badly-oiled, political oversight system, with endless possibilities of disagreement and friction. And one can be sure that each disagreement will be magnified in Panama and, once again, the age-old ploy of the street mobs will be invoked. This is all the more likely since a significant percentage—far more than expected (approximately one-third) of the Panamanian people voted *against* the Treaty during the recent plebescite. The radicals and left-wingers always want more and will never be satisfied until every "gringo" has been expelled. And many of the moderates and right-wingers—restive under the Torrijos dictatorship and the Torrijos economic depression—will seek every political opportunity to oust the general.

In other words, I do not expect the historic political instability in Panama to end; on the contrary, the terms of the treaty, with its endless possibilities for friction, may well exacerbate it.

But even more important will be the major—though gradual—shift in the political complexion of the Isthmus that will accompany the Treaty's ratification. I do not, repeat not, anticipate the glowing gains in our relationships with Panama and the rest of Central and Latin America that the treaty proponents promise. Least of all do I believe that the volatile situation in the Caribbean will be stabilized by ratification. The Canal is not only a great—and to the United States vital—waterway, but it is also, and perhaps even more important, a global focal point, and a political and strategic key to control of the Caribbean, which is, in turn, an area of acute importance to the U.S. Ratification of the treaty will not only greatly weaken—perhaps fatally—our capability of controlling the Caribbean, but it will also encourage the growth of ultra-nationalist and/or left-wing governments in the area.

SOVIET OPPORTUNITIES

Until 2000, the American employees will be replaced by other nationals. Many of them will be Panamanian, but not all. The Soviet-Communist proclivity to take advantage of any political opportunity, to move into a vacuum, and above all to expand its influence in important choke points and strategic areas will be a dominant influence in the new Isthmian politics. Already the Castro connection and the Soviet interest are strong: they are certain to become stronger if the U.S. pulls out.

I would anticipate, therefore, until the next century a period of increasing friction and tensions, marked perhaps by sporadic street riots, some terrorism and intermittent acts of violence, a sharp reduction of the U.S. presence (both civilian and military), and a greatly increased Communist, and particularly Russian, "presence".

During this period the U.S. military forces in the Isthmus will be—according to the treaty—much more circumscribed than they are today; a number of military installations will be turned over almost immediately to Panama, and the jungle training and tactical maneuvers possible on soil under the U.S. flag will be circumscribed or eliminated. But the major effect of the military restrictions, it seems to me, will be upon security; it will be harder and harder for the U.S.—the responsible operating authority of the Canal until 2000—to provide security against sabotage and/or terrorism.

After 2000, when the responsibility of the U.S. for operating and maintaining the Canal ends, it seems to me quite clear that these trends will accelerate. Panama itself cannot provide the technological, engineering and financial requirements; least of all can Panama alone modernize or modify in any major way, the present Canal. They must turn elsewhere for aid. The U.S. may well provide some of this aid, but—given the complexion of politics in Central America and the inducements Cuba and Russia may offer—not, by any means all of it.

THE YEAR 2000

In 2000, the entire U.S. presence—military and civilian—must, if the treaty is approved, be removed from the Isthmus, lock, stock and barrel. This means that the responsibility and authority, not only for operating the Canal, but also for providing free access to all nations and for its security will rest with Panama alone. It is idle to issue tortured "interpretations" of the treaty, in attempts to make it appear that the United States will retain the same rights "as if we were sovereign in the Zone" and that the basic strategic interests of the U.S. will be fully protected. This is simply not so, and the issuances—after the fact—of the Carter-Torrijos "interpretative" statement of meaning changes nothing. Plain English, international law and just common sense demonstrate that the treaty language conveys no rights, whatsoever, of either priority for U.S. warship transits in time of crisis, or intervention to protect the Canal against threatened attack of any kind. Indeed, there was an inherent paradox, a contradiction, in the Carter-Torrijos "interpretation"; whereas the statement indicated the U.S. would have the right to provide such security, Torrijos explicitly added that this did not mean intervention in Panama would be permissible.

This is a nice distinction, indeed; it represents more of the jugging, tight-wire act with words which have distinguished our undistinguished Isthmian diplomacy. With no U.S. troops in the Isthmus, with no U.S. power, with no U.S. presence, how does one provide security? And how does one insure U.S. priority of transit, in time of need; and how can these objectives be accomplished without intervention?

One must immediately recognize that—regardless of treaties, regardless of words—any nation in time of crucial need would do what it must to survive. In other words we could and would—treaty or no treaty—intervene in Panama or elsewhere on the Isthmus, if our vital security was threatened. Without legal sanction we would incur the opprobrium of world opinion. And how much more difficult, how much more costly in U.S. blood and treasure such action—at the eleventh hour—would be, with no bases, no troops, no American presence in the Canal Zone. Such intervention would, in a military sense, pose all the problems of establishing a beachhead on hostile, or potentially hostile, soil. And if we should ever be faced with such an operation—and that is not the remote possibility it may appear—the opposition would include much stronger and better trained forces than the Panama National Guard. By the next century, it seems likely, indeed, that the Soviet-Cuban influences and the Soviet-Cuban presence in Panama will have become strong, and that influence will include troops and arms. One need only recall the ubiquitous Soviet-supported Cuban presence in Africa today, and the past intervention of Castro in Latin American nations.

LOGISTICAL TIME FACTOR

Even more important than the cost of reestablishing U.S. protective power on the Isthmus is the time factor. Swift transit for men-of-war, troop ships and supply vessels in a burgeoning emergency is imperative. But priority of transit cannot possibly be insured without U.S. military power sited in the Isthmus. Our ships cannot simply muscle up to the head of the line and expect to be rushed through the Canal. We are, by this treaty, clearly at the mercy of Panama in the 21st century, and with no U.S. security forces to prevent it Panama can easily block the Canal to prevent passage. Egypt has set the example by blocking the Suez Canal and by exercising the right of selective passage. Panama might well follow suit, if the U.S. threatened intervention or the use of force.

Security and neutrality of the Canal and priority of passage in time of crisis for U.S. ships cannot possibly be even reasonably assured under the terms of this treaty.

In short, this is a mischief-making treaty; it will cause—both short and long-term—more friction than it resolves; it will invite the establishment of communist and third-power forces in the Isthmus and will endanger a focal point of world shipping, and, above all, may fatally weaken the possibility of U.S. control over the Caribbean.

TWO DISASTROUS ALTERNATIVES

The Congress of the United States, therefore, is faced, in consideration of this treaty, with two disastrous alternatives: reject it, and there will be trouble; accept it, and there will be trouble. You face a dead-end dilemma, not of your making. Your only choice, as I see it, is to choose the lesser of two evils.

To me, the choice is clear. I do not want to mortgage the American future; I do not want to leave another political and military powder keg—this one in our own "backyard"—to my grandchildren; I do not want to be an architect of potential disaster.

I urge you to reject this treaty, to shoulder the immediate unpleasant consequences of our own generation's past mistakes, and to retain the responsibility and the burden of a world power.

This does not mean a static position and no treaty whatsoever. Out of the rubble of this diplomatic disaster there can ultimately be fashioned a new treaty, which will provide adequate protection for the vital interests—now and tomorrow—of the United States. To my mind any such treaty must provide for two minimal requirements—retention of sovereignty by the United States over the present Canal Zone, including the Canal, and a veto power by the United States in any Trust, international body, or grouping that might be established to operate, maintain, administer and modernize the Canal. All else is negotiable.

But—and this is perhaps the most important caveat of all—the Senate, through its leaders, must participate in the formulation of basic policy guidelines for any negotiations. The Senate must advise as well as consent. Only by such input—too often lacking in the past—can we avoid in the future, the dead-end, no-win diplomacy which the present treaty exemplifies.

THE 25TH ANNIVERSARY OF PRESIDENT EISENHOWER'S INAUGURATION

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. CEDERBERG. Mr. Speaker, it is indeed with the greatest pleasure that I

join my colleagues in commemorating the 25th anniversary of President Eisenhower's inauguration. It marked an important time in our Nation's history and the beginning of a distinguished political career for one of America's greatest war heroes.

Although we were at the time involved in the Korean war, it was quickly brought to an end. Under Eisenhower's leadership, we then moved quickly ahead in our transition to a peacetime economy. Although President Eisenhower had been our greatest general in the war, he was also a man who strived for peace. In spite of the "cold war" confrontation during the fifties, he never gave up hope that a permanent peace could be achieved.

However, he never let this overriding desire for peace comprise the integrity of America's defense. The United States had come out of World War II the strongest nation in the world and President Eisenhower did not allow this position of power to be diminished or eroded.

He had a prophetic understanding of America's role at the time and he realized the importance of his actions to the subsequent history of the world. The fifties were years of rebuilding for much of the rest of the world and we were there to lend a hand. Former enemies became strong allies in the effort to thwart the Communist threat. Under the Eisenhower administration we entered into numerous alliances that were to form the cornerstone of defense for the free world. Moreover, these pacts would lay the foundation for friendships and mutuality of interests that would continue into the present.

President Eisenhower's inauguration, however, was a special time for me also. As a first term Congressman, I was embarking on my political career at the same time. Frankly, I was somewhat awed by the prospect not only of serving in the Congress, but also of working under the administration of President Eisenhower. It was a time of great promise and hope.

Of course, the times were especially happy for the Republicans. President Eisenhower. It was a time of great promsonal appeal had swept Republican majorities into both Houses of Congress. Although the political tides would change in the future, there was a special comradarie that will never be exactly duplicated again. Many of my colleagues who came into the Congress at the same time still remain some of my closest friends.

Even President Eisenhower's campaign had generated strong national interest. The words "I like Ike" had been on everyone's lips. He was a respected man and a revered leader. He had brought America through some of the worst times in the world's history and he was to lead her into some of the most prosperous times that she has ever experienced.

The Eisenhower years were to be years of general contentment. The memories of war and depression were put aside as Americans looked optimistically to the future. President Eisenhower, as a benevolent and trusted leader, provided inspiration and hope to everyone.

Indeed, we have much for which to thank President Eisenhower. And it is only fitting that we once again remind Americans of his achievements and give a special tribute to this great man.

SHCHARANSKY IS 30 AND STILL IN JAIL

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. EILBERG. Mr. Speaker, for the past 9 months one of the leading Jewish activists in the Soviet Union, Anatoly Shcharansky, has been imprisoned on charges of unspecified crimes against the state.

Just recently, he marked his 30th birthday. For me, the fact that he reached this age while in jail has a special meaning. It was less than 3 years ago that I met Anatoly in Moscow when I traveled to the U.S.S.R. as chairman of the House Judiciary Subcommittee on Immigration, Citizenship, and International Law. Anatoly served as a translator for me when I met other activists during that trip, and I remember being tremendously impressed by his courage then in defying Soviet authorities to meet with me.

Since then, I have met his wife, Natalia, who for more than 4 years has campaigned on her husband's behalf since being forced to leave him behind in the Soviet Union.

Mr. Speaker, I offer for the RECORD the following editorial comment from the Philadelphia Inquirer of January 26, 1978 on Mr. Shcharansky's struggle. It echoes the deep concern that I have that President Carter continue to press the Soviet Union to live up to the pledges it has made on human rights. I hope that we can make the Soviet Union understand that we seek all possible cooperation between our two countries, and that the granting of justice to Mr. Shchranansky and other Soviet Jewish activists will go a long way toward facilitating that cooperation:

THE SOVIET DISSIDENTS

Anatoly Shcharansky turned 30 years old recently. It was not, however, a time for celebration. He is in a Soviet prison and has been there for the past nine months.

It is not known why he is being detained since he is charged with unspecified crimes against the state by a secret decree of the Supreme Soviet. What is known, however, is that he is a leader of the Jewish emigration movement and a human rights activist. In the Soviet Union that in itself can be a crime.

How many Soviet dissidents are in Shcharansky's position is unclear. What is clear, however, is that a dissident need not be physically imprisoned to be confined in the Soviet Union.

Vladimir Slepak, a Russian Jew, is a case in point. For the past eight years, he has attempted to emigrate from the Soviet Union, but to no avail. Instead, he is under harassment by the KGB and as recently as two weeks ago reportedly was placed under house arrest.

In one of his last public acts, the late Sen. Hubert Humphrey wrote to Anatoly Dobrynin, the Soviet Ambassador to the United States, to urge the Russians to permit Mr. Slepak and his family to emigrate.

In a subsequent letter to a friend, Sen. Humphrey acknowledged that this can be "a frustrating exercise, as so often these overtures fall on deaf ears. But we do keep trying and once every so often, to my near amazement, a family such as the Slepaks gets out. I hope such is the case this time."

The Carter Administration deserves immense credit for its elevating the concern over human rights to the public stage. It must be wary, however, of becoming reticent as its efforts fall on "deaf ears." As Sen. Humphrey aptly recognized, a measure of a country's greatness is how persistent it is in trying to enhance human rights.

And, as Sen. Humphrey recognized to his "near amazement," those efforts can be successful.

THE PRESIDENTIAL MESSAGES: THE STATE OF THE UNION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for February 1, 1978, into the CONGRESSIONAL RECORD:

THE PRESIDENTIAL MESSAGES: THE STATE OF THE UNION

The most important presidential communications of the year—the State of the Union address, the budget message and the economic message—have arrived on Capitol Hill within the last few days in a blizzard of policy papers. These messages set the national goals for 1978, define the agenda of Congress and set the tone for discussion of the issues.

The State of the Union address had an overtone of conservatism, moderation and conciliation. In a display of modesty unusual for a chief executive, President Carter admitted he had no simple answers and acknowledged that he and Congress had failed the American people by not developing an energy program. He reached out for a partnership with Congress and the people in an effort to solve the problems.

Despite the President's image as a man who would shake up Washington, the State of the Union message was surprising for its lack of dramatics. In it the President launched no thrilling new federal venture or call to action. He backed off or delayed his requests for universal voter registration, comprehensive health insurance and complete reform of the tax code, and he provided only the beginnings of reform of the welfare program. In his fleeting review of the world and its troubles, President Carter described some progress but was more modest than exuberant, more keenly aware of the problems than satisfied with his successes. He claimed that his commitment to human rights had helped to increase freedom across the world. He also applauded the role of the United States in maintaining the momentum of the peace talks in the Middle East, pushed for approval of the Panama Canal treaties spoke carefully of the SALT II negotiations and restated his intention to reduce arms transfers.

The State of the Union address was restrained, but it showed a sensitivity to the burdens that government places on people. The President noted that people are sick and tired of federal paperwork, government red tape, bureaucratic inefficiency and the gobbledygook of federal regulations. He pointed

out that government regulations add to costs and raise prices and he conceded that the scope of regulation has been excessive. A number of remedies were suggested, including civil service reform and abolition of unnecessary federal boards and commissions.

Throughout the speech a central theme was that government cannot solve all of our problems. It cannot, the President said, "eliminate poverty, provide a bountiful economy, reduce inflation, save our cities, cure illiteracy, provide energy, or mandate goodness." While admitting that government programs can sometimes help, he argued that we must turn to the private sector for the bulk of permanent job opportunities. Private business, not the government, must lead the way toward further economic expansion.

It is remarkable to hear an American President talk about limited government. In doing so, President Carter defined his duties and powers in a manner which most of his predecessors would have rejected. Although he recognized the constructive role of federal action in many instances, he may have contributed, perhaps inadvertently, to the rising skepticism about the usefulness of federal programs.

President Carter offered no succinct or memorable summary of his vision for America. He did not reach for rhetorical heights, but instead presented the nation with a balance sheet of its problems and a catalogue of of his prescriptions for them. He said the overall State of the Union was sound and that we live in times when profound national interests are at stake as we deal with a number of persistent problems which have grown steadily worse over the years. Predictably, the President expressed confidence in the future of the country and a feeling that America's best years are still ahead. Although many persons are puzzled by his ideological compass, the speech he gave showed the President to be pragmatic and moderate.

I sensed that the President was trying to redefine his leadership and sharpen the focus of his presidency in the State of the Union address. In my view he stressed the right issues: energy, jobs, inflation, economic growth and the proper role of government. Understandably, these are the issues that spurred criticism of his first year as President, with critics claiming that he demanded passage of too many programs. My feeling is that the speech established a sharp set of priorities. The President did not present to Congress a long "shopping list" of bills to be enacted. Rather, he talked about the really important problems of the day and suggested realistic, achievable solutions.

PROTECTING AMERICANS FROM OVERPAYING THEIR FEDERAL INCOME TAXES

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. KASTEN. Mr. Speaker, every year thousands of senior citizens needlessly overpay their Federal income taxes.

Many older Americans pay more taxes than are legally due because they are not aware of the special deductions and tax relief measures that can save them precious dollars.

Another reason is that, like millions of Americans, they are overwhelmed by the complexity of the tax law and tax forms.

With the costs of health care, food, utilities, and other necessities constantly on the rise, it is particularly important that senior citizens, many of whom live on fixed incomes, pay no more than is legally due.

The Senate Committee on Aging once again this year has prepared a convenient checklist to help older Americans prepare their tax returns and avoid overpaying their taxes.

The checklist reflects changes in the tax law for 1977. Several provisions—such as the "zero bracket amount" (standard deduction), new tax tables and the general tax credit—will ease the tax burden for many older Americans.

In fact, the checklist can be useful for the vast majority of taxpayers, young and old, in assuring that they claim deductions, credits and exemptions to which they are legitimately entitled. It can help in determining whether it would be more advantageous to itemize deductible expenses or claim the standard deduction.

It can also be useful for taxpayers who discover that they forgot to claim an allowable deduction in a previous year. These individuals can still obtain a refund for their expenditures by filing an amended return—form 1040X—for the year in question. However, this form must be filed within 3 years after the original return was due or filed, or within 2 years from the time the tax was paid, whichever is later.

Mr. Speaker, at this point I include the committee's checklist in the RECORD so that I can make it available to my constituents in Wisconsin.

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES

(A Revised Checklist of Itemized Deductions for Use in Taxable Year 1977)

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3 percent of a taxpayer's adjusted gross income (line 31, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3 percent limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3 percent rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3 percent rule) but only to extent exceeding 1 percent of adjusted gross income (line 31, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expenses (subject to 3 percent limitation):

Abdominal supports (prescribed by a doctor);
Acupuncture services;
Ambulance hire;
Anesthetist;
Arch supports (prescribed by a doctor);
Artificial limbs and teeth;
Back supports (prescribed by a doctor);
Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs;
Chiropodist;
Chiropractor;
Christian Science practitioner, authorized;
Convalescent home (for medical treatment only);
Crutches;
Dental services (e.g., cleaning, X-ray, filling teeth);
Dentures;
Dermatologist;
Eyeglasses;
Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed);
Gynecologist;
Hearing aids and batteries;
Home health services;
Hospital expenses;
Insulin treatment;
Invalid chair;
Lab tests;
Lipreading lessons (designed to overcome a handicap);
Neurologist;
Nursing services (for medical care, including nurse's board paid by you);
Occupational therapist;
Ophthalmologist;
Optician;
Optometrist;
Oral surgery;
Osteopath, licensed;
Pediatrician;
Physical examinations;
Physical therapist;
Physician;
Podiatrist;
Psychiatrist;
Psychoanalyst;
Psychologist;
Psychotherapy;
Radium therapy;
Sacroiliac belt (prescribed by a doctor);
Seeing-eye dog and maintenance;
Speech therapist;
Splints;
Supplementary medical insurance (Part B) under Medicare;
Surgeon;
Telephone/teletype special communications equipment for the deaf;
Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.)
Vaccines;
Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health);
Wheelchairs;
Whirlpool baths for medical purposes;
X-rays.

TAXES

Real estate;
State and local gasoline;
General sales;
State and local income;
Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, recovery of pension costs, dividends untaxed under the dividend exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 31, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal

societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7 cents per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities e.g., scoutmaster).

Purchase of goods or tickets from charitable organiztaions (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible is paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

Other charge accounts for installment purchases—may deduct the lesser of (1) 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) or (2) the portion of the total fee or service charge allocable to the year.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, floor, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

MISCELLANEOUS

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may not claim either a deduction (line 31, Schedule A, Form 1040) or a credit (line 38, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

PRESIDENTIAL ELECTION CAMPAIGN FUND

Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

ADDITIONAL INFORMATION

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES

Filing status:	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,950
Single (age 65 or older)	3,700
Qualifying widow(er) under 65 with dependent child	3,950
Qualifying widow(er) 65 or under with dependent child	4,700
Married couple (both spouses under 65) filing jointly	4,700
Married couple (1 spouse 65 or older) filing jointly	5,450
Married couple (both spouses 65 or older) filing jointly	6,200
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1978, you will be entitled to the additional $750 personal exemption because of age for your 1977 Federal income tax return.

"Zero Bracket Amount" (Standard Deduction).—The former standard deduction has been replaced by a flat amount the law calls "zero bracket amount." This amount depends on your filing status. It is no longer a separate deduction as such; instead, the equivalent amount is built into the new simplified tax tables and tax rate schedules. Since this amount is built into the tax tables and tax rate schedules, taxpayers who itemize deductions will need to make an adjustment. However, itemizers will not experience any change in their tax liability and the tax computation will be simplified for many itemizers.

New Tax Tables.—New simplified tax tables have been developed to make it easier for you to find your tax if your income is under certain levels. Now, even if you itemize deductions, you may be able to use the tax tables to find your tax easier. In addition, you no longer need to deduct $750 for each exemption or figure your general tax credit, because these amounts are also built into the tax table for you.

General Tax Credit.—The general tax credit has been revised to take into consideration the exemptions for age and blindness. Married taxpayers filing separate returns will now be limited to a credit based on $35 per exemption.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $35,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $35,000, an election may be made to exclude part of the gain based on a ratio of $35,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchage of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and oc-

cupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Alimony Paid.—Payments for alimony are now adjustments to income. You no longer have to itemize deductions to claim a deduction for alimony you paid.

Credit for the Elderly.—An expanded and simplified credit for the elderly has replaced the former more complex retirement income credit.

A taxpayer may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if the taxpayer is:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

To be eligible for this credit, taxpayers no longer must meet the income requirement of having received over $600 of earned income during each of any 10 years before this year.

For more information, see instructions for Schedules R and RP.

Credit for Child and Dependent Care Expenses.—Certain payments made for child and dependent care may be claimed as a credit against tax.

If a taxpayer maintained a household that included a child under age 15 or a dependent or spouse incapable of self-care, a taxpayer may be allowed a 20 percent credit for employment related expenses. These expenses must have been paid during the taxable year in order to enable the taxpayer to work either full or part time.

For detailed information, see the instructions on Form 2441.

Earned Income Credit.—A taxpayer who maintains a household for a child who is under 19, or is a student, or is a disabled dependent, may be entitled to a special payment or credit up to $400. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if a taxpayer reported earned income and had adjusted gross income (line 31, Form 1040) of less than $8,000, the taxpayer may be able to claim the credit.

Earned income means wages, salaries, tips, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040) line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1640 or 1040A.

TRIBUTE TO LILLIAN CRAIG

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Ms. OAKAR. Mr. Speaker, I rise today to pay personal tribute to a very well known dedicated member of our greater Cleveland community, and in particular our near west side neighborhood, who will be honored by the community at the West Side Multi-Service Center on Saturday, February 4, 1978.

Lillian Craig is the mother of three children—Joe, Michelle, and Billy. She has a fine son-in-law, Mitch, and a grandchild, Regina. Her roots are permanently imbedded in the near west side of Cleveland, as she was born in this historical, heterogenous neighborhood on Jay Avenue.

Mrs. Craig is a woman who has devoted her life toward improving the quality of life for others. In the 1960's, she was an outspoken, constructive critic of our welfare system, and raised the level of consciousness of welfare mothers, and instrumentally obtained a hot lunch program for their children. As a member of the West Side Citizens for Better Health, Lillian helped lead a coalition of people who convinced the City Administration to build and staff a much needed health clinic, the McCafferty Health Center, so that people of all economic levels could receive proper health care. In addition, through her persistent efforts other services to the community such as our local hospital and our local neighborhood center became more receptive in serving the people.

Lillian's many kindnesses to others range from housing the poor, feeding the needy, and clothing the elderly.

Presently, Mrs. Craig is director of the West Side Multi-Service Center, which is a program funded by the Federal Government and governed by a resident board.

On a personal note, those of us who hail from the near west side community are proud of our roots. We are proud of the fact that we were raised with people of all economic levels, and of every race and ethnic background. It is truly a cosmopolitan area in our country. We are an older community, and we are a proud community. And we are proud of our people. Yes, dedicated, unselfish people like Lillian Craig.

Lillian Craig is not internationally nor nationally known, but like the late Senator Hubert Humphrey, she has always taught us how to live and how to serve people. Those of us who are fortunate enough to know her have been enriched by her example of the past. We are today blessed by her current example of personal courage, love of people and faith in God. This Saturday we will be with Lillian to pay tribute to her, and to say simply and sincerely, "thank you." Thank you, Lillian, for all you have done for all of us!

MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICE ACT

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. CARTER. Mr. Speaker, because of my deep concern over the continuing deficiencies in the health of the children of our Nation it is a pleasure to introduce this bill, to be titled Maternal and Child Health and Crippled Children's Act 1978 Amendments. I am especially honored to introduce the bill with my distinguished colleague PAUL ROGERS, chairman of the Health and Environment Subcommittee.

This act is based on the premise that too many mothers, infants, children, and adolescents still suffer from preventable or crippling illness because of the limited availability of health care services. Since title V of the Social Security Act is the basis of health programs serving mothers and children, extensions and improvements of title V are needed. This act revises and extends title V programs to assure all pregnant women, infants, children, and adolescents a healthy future.

This act increases levels of funding, stresses improved organization of the existing health care delivery system and makes allowances for special grants in that area. At the same time, maximum use of the existing system and the participation of private practitioners in the delivery of benefits under the act are stipulated. Such measures would make health services available to those special groups—pregnant women, mothers and their infants, crippled children, underserved children and youth, and those with disabling diseases—having great health risk and social dependence and for whom the cost of preventive care may be a particular burden.

AUTHORIZATIONS

The act authorizes States to extend and improve services:

First. Reducing infant mortality;

Second. Preventing disease and disability;

Third. Locating, diagnosing, treating and providing follow-up services for children having crippling conditions; and

Fourth. Locating and aiding those in special need.

In addition, the act provides for special grants to States and localities to aid in the solution of existing health problems, training of personnel and for research projects related to the delivery of health care to mothers, infants, children and adolescents.

The act authorizes funding for the fiscal year ending September 30, 1978, in the following amounts and areas:

First, $350 million for maternal and child health services;

Second, $150 million for crippled children's services;

Third, $125 million for special grants for projects of regional or national significance;

Fourth, $100 million for special grants for county and local projects;

Fifth, $50 million for training of personnel; and

Sixth, $25 million for research projects.

The act also sets minimum levels of expenditures for family planning services.

REQUIREMENTS LEVIED ON STATES

To be eligible for funding under the act, States must formulate plans which provide for their financial participation and for administration of the act by a State health agency or similar body. State advisory councils of nine members, at least four being practicing doctors of medicine, would be appointed by State Governors to oversee the act, which requires cooperation with medical, health, nursing, educational and welfare groups

and organizations. State plans must provide for payment of the reasonable cost of inpatient hospital services, for early identification of children in need of health care and services and for services in needy areas and among groups in special need. When such services are available in the community, the State health agency would reimburse individual practitioners or other private health entities to render medical services. Provisions for PSRO review of standards of care and services under the act are included.

States would also be required to develop "unified State plans" encompassing maternal and child health and crippled children's programs. State plans would address health care needs and resources, unmet needs, and objectives and priorities. They would address basic health services for mothers, infants, children and adolescents; family planning and school and health programs plus special programs and projects to respond to particular State needs.

Those special programs and projects could include sudden infant death syndrome, dental programs, expanded perinatal projects, genetic screening and counseling and programs for unwed adolescent mothers.

State plans would also encompass basic services and programs for crippled children, special services for handicapped children and special programs and projects which could include centers to provide multidisciplinary evaluation of children with severe developmental disabilities, special programs for hemophilia, and other programs.

State participation would be funded under two formulas—for maternal and child health services, $200,000 plus an appropriation based on the number of live births and, for crippled children's services, $100.000 plus a similar formula appropriation. State funding would also be determined on the basis of a national ranking by average per capita income and would be dependent on strict compliance with the act's provisions.

GRANTS

The act stresses new approaches to solving problems of health care delivery by providing for a variety of grants. "Special incentives in developing new initiatives to address problems of regional or national significance" would result from provisions for grants to State agencies and to public or nonprofit organizations. Such grants could be used to develop new techniques to provide health services in underserved areas or to develop new programs and problem-solving activities, for example. Priority would be given to programs aimed at the special problems of low-income families.

Other grants are provided for underserved counties and local areas, for training health-care personnel and for research, the latter with special emphasis on projects to develop comprehensive health care programs.

ADMINISTRATION

The act establishes a National Office of Maternal and Child Health Services within the Department of Health, Education, and Welfare (DHEW). This office would monitor, coordinate, and evaluate the act's programs, develop guidelines and organize data collection and retrieval. A Director of Maternal and Child Health Services would be appointed by the Secretary, DHEW.

The Secretary also would appoint a National Advisory Council on Maternal and Child Health Programs consisting of 15 persons, at least 8 of whom would be practicing doctors of medicine. The Council would assist the Secretary in preparing regulations and considering State plans called for in the act.

The Secretary would also be required to conduct a study of all Federal health programs for mothers, infants, children, and adolescents with an eye toward coordination and consolidation of those programs.

Mr. Speaker I am pleased to offer this proposal. I hope my colleagues will give it careful consideration.

CARTER IMMIGRATION POLICY MAKES A MOCKERY OF "TRUST ME"

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. ASHBROOK. Mr. Speaker, while our social security system is in imminent danger of collapse, we are providing substantial incomes to elderly aliens who enter this country within 30 days of the time they reach our shores. Americans who have been paying social security for 40 years may not be able to depend on social security when they must retire, but there is money available for newly arrived public charges.

It was San Francisco columnist Guy Wright who found out about the rip-off of SSI funds by elderly aliens who were sponsored by aliens already resident in this country. By bringing over his father, an alien could—and often did—increase his household income by thousands of dollars annually. When Wright found examples of aliens actually doing this, he wrote to the Social Security Administration, which administers SSI funds. First, the Administration denied that such abuses existed. But after Wright's columns began to get public attention, national columnists and Republican legislators, myself included, began putting pressure on, and the truth was finally admitted: Such rip-offs are being paid for to the tune of tens of millions annually. That is just the cash payment side of it. While receiving less attention, medicaid benefits which are offered with SSI are costing us tens of millions more.

Over 6 months ago, on July 29, 1977, I told this House that:

> In a time when the average workingman's family can be ruined by a major illness, we have no right to offer free medical care to anyone who has just reached our shores.

Medical costs in this country are reaching a crisis point.

Our social security system is in a state of crisis, but we have plenty of money to support elderly aliens after 30 days in this country. Our medical costs are reaching levels where working people and especially elderly retired people who need the most simply cannot pay them. Yet it has been an uphill fight against the bureaucracy to get these abuses recognized, much less corrected.

Many of the elderly aliens being brought in to take advantage of the American giveaway on SSI and medicaid are not poor people. If you are an American who has spent his working life in this country, and have some property or a small extra income in this country, it is quick and easy for the Government to find out about it and deny you medicaid or SSI benefits. But if you are an alien, who has just gotten here and have never paid a dime in taxes in this country, you are pretty safe.

I asked the Social Security Administration to inform me as to whether they ever checked on the foreign assets of these newly arrived SSI recipients' assets in their home countries. The reply was:

> I am sorry, but the information you requested is not available. Field offices have not been instructed to maintain records of this nature because there is no program reason to compile such data. To say that verification of foreign assets never takes place would not be accurate. Certainly there are instances where contact with foreign sources are necessary in order to determine the value of a person's resources for SSI purposes. However, there are no means to measure how often this is done.

In other words, what I have so far is the assurance, with no examples given, that there is some little checking of foreign assets done. This assurance has been given me by the Social Security Administration, which told Guy Wright last year that the SSI rip-off was not really of any importance.

The Social Security Administration gave a similar answer last year, when I tried to find out how much of total SSI money is going to recently-arrived aliens. No instructions had been given to field offices to collect such data.

The SSI and medicaid rip-offs are especially painful because they strike at our elderly citizens, who are most in need, at the worst possible time. But the sort of response we have gotten in trying to get action on these issues are typical of the Carter administration's dodging and delays on far bigger issue, that of illegal immigration.

Here again, Congress has to get its own information. The administration is not interested in having the public know the real facts about illegal immigration. The General Accounting Office is part of the legislative, not the executive, branch. In response to Congressmen's demands for information which they simply cannot get out of the bureaucracy, GAO has issued two reports. The title of the latest one tells a story of its own. It is titled: "Impact of Illegal Aliens On Public Assistance Programs: Too Little is Known."

Congress is making some progress this year on these issues. Reform of SSI so as to close the loophole which allows payments and medicaid to 30-day residents without means has passed the House and should come up for a vote next week in the Senate. We have collected some information on the cost of

illegal aliens to American workers and taxpayers through GAO, and a final report on the cost to taxpayers of SSI and medicaid benefits to new aliens is due this month, again, of course, from GAO. None of these initiatives owes anything, of course, to the Carter administration.

President Carter went into office on a platform saying "Trust me." Carter was going to get the bureaucracy under control. He was going to make the Federal bureaucracy accountable to the people. Just how bad a joke these promises have become is made brutally clear to those of us who are trying, in the teeth of Federal bureaucratic obstinance, to end giveaway programs for new aliens and to stop illegal immigration.

THE PRESIDENT IS VASTLY OUT OF HIS ELEMENT

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. SYMMS. Mr. Speaker, I have found syndicated columnist Michael Novak to be a thoughtful, intelligent writer, who is very perceptive in judging the performances of politicians on the national scene. Mr. Novak is a person who has the courage to observe (as he notes that children have been known to do with kings) that a man may not be equal to the job.

Mr. Novak's column (which is reprinted below and appeared in the January 31, 1978, issue of The Washington Star), whether you agree with it or not, is the product of a syndicated writer who has observed a number of Presidents in the performance of their administrative and executive tasks.

I agree totally with certain of Mr. Novak's observations, such as that "the Carter men plainly misapprehend American reality. Their 'populism' is out of touch with the majority of the American people;" and, I commend the article to your current reading list:

THE PRESIDENT IS VASTLY OUT OF HIS ELEMENT

(By Michael Novak)

Unless I am mistaken, many commentators are still protecting President Carter. They are "giving him a chance," and not daring to face the real fear they are beginning to feel.

It is certainly difficult to admit, in a system like ours, so heavliy committed on the Democratic side to the image of an activist, visionary, admirable executive, that we have saddled ourselves with a leader who is vastly out of his element. Sometimes it seems that even the little children see. Our president has no clothes. He is not the man for the job. But no one dares to say so.

The conventional wisdom of these commentators who supported President Carter in his bid for election—from Time and Newsweek and the major national papers—is that the president is inexperienced, innocent, idealistic, extremely bright, a quick learner. Everyone hopes that the disturbing flaws in his first full year in office will be remedied in 1978.

What if this view is mistaken? What if, from here on, matters get worse? There are several reasons for believing they will. First, Jimmy Carter is an excellent campaigner, but he is not a day-by-day political man. He doesn't like the real stuff of politics: deals, compromises, smoky rooms. He is private, studious, and willful. He excels at conveying an image of boyish goodness and innocence. This is conveyed in the name he prefers, "Jimmy."

He has almost no feel for the complexities of history, egotism, and the intractability of human affairs. He is a rationalist who sees facts and relations abstractly, mathematically.

The dark political side of his being is underdeveloped. It is asking for miracles to hope that he will suddenly change. Even his closest aides shrug, when pressed, and say: "That's Jimmy."

The moral and political side of human life is nourished by delight in the perplexities, orneriness, and quirkiness of human behavior. It is precisely here that (a) political genius resides and (b) human growth can occur. A person who goes at life as if it were composed of machines with problems to be solved misses all this.

He has the wrong habit of mind. Jimmy the problem-solver prevents the mature Mr. Carter, the political leader, from being born.

Secondly, Jimmy Carter is saddled by a deep sense of cultural inferiority. I sympathize entirely with his distrust for the Washington establishment which he, Jody Powell, and Hamilton Jordan regularly express. They seem even more driven into a narrow circle of trust than Richard Nixon was.

Georgia against the world is not much more attractive than Nixon's Southern California against the world. The self-aggrandizement of the Carter family and the long list of important appointments from Georgia are signs of a death-wish. Under the press relations of "openness," psychic closure is evident. It is as though Carter is programming himself to fail. (His speech is constantly haunted by images of failure. "I don't intend to fail." "You'll be proud of me.")

Thirdly, the Carter men plainly misapprehend American reality. Their "populism" is out of touch with the majority of the American people. Their explanations of why the past year went so badly are painfully limp. They think that they are too far "ahead" of the American people, and that they "proposed too much too fast." This is condescending.

What they proposed was, far more often than not, so breathtakingly out of touch with reality that only a deep, innate respect for the presidency, especially on the part of Democrats for a Democratic president, has prevented them from being laughed out of town. Their errors far exceed in number and substance the gaffes the press so criticized in President Ford.

Vice President Walter Mondale is himself not a tough enough realist to have protected the Carter people from themselves. He, too, exhibits high sentiments, of dubious political and economic reality. A nice man, a good man, his role has been reduced to that of making things go a little less badly. He cannot raise a fundamental challenge to the airy thinking of the inexperienced Carter hands.

The Carter people appointed McGovernites to virtually every post, especially in the State Department. The great unreality of 1972 has been installed in the bureaucracy. This is a huge misunderstanding of the will of the people in the past two presidential elections.

As gadflies on the outside, some of the Carterites once added salt to life. As managers of our national life, their illusions can only be corrected by hard experience. The nation may be in for an exceedingly difficult three years. Can a president be forced to resign? What will the growing numbers of his enemies do?

NATIONAL VOCATIONAL EDUCATION WEEK, FEBRUARY 12 TO 18

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. HARRIS. Mr. Speaker, in recent years, vocational education has emerged as a major component of the American educational system. I think it is time we alert our citizens to the significant contributions vocational education is making to the social and economic development of our citizens and to the still greater challenges for the future.

For this reason, I am introducing a resolution to proclaim February 12–18, 1978, as National Vocational Education Week. The number of people who want and need training for employment is growing dramatically. From a little over 4 million students in 1963, enrollment in vocational programs has climbed to more than 16 million currently. Studies put forth by a number of vocational schools, community colleges, and technical institutes have shown that graduates of vocational programs have an easier time finding and keeping jobs. This has probably been a key reason for the accelerating national interest in vocational education.

Vocational education has expanded not only in numbers of students, but in the scope of the program. From its beginning as a rather narrowly defined secondary program, vocational education has grown to encompass postsecondary and adult programs conducted in all settings. Since 1963, vocational education has also had a strong mandate from the Congress to serve special target groups such as the handicapped, disadvantaged, potential dropouts, unemployed youth, women, and minorities. This charge was reinforced in 1976 by passage of the Education Amendments of 1976 and there is reason to believe that new life is being brought into the movement to serve hard to reach groups through vocational education.

Another reason for increased attention to vocational education is the impact these programs are having on the economic development of cities, communities, and States. Congress is concerned about reducing unemployment, reforming the welfare system, relieving the problems of our urban centers and rural areas, and achieving a stable, prosperous economy. The Nation's programs of vocational education can and should be partners in achieving these economic and social goals.

I would like to take this opportunity to recognize the American Vocational Association (AVA) for its work in support of quality vocational education. The AVA is a professional organization of teachers, adminisrators, guidance counselors, and others in the field of vocational education. They have worked through the years to strengthen their capacity to provide vocational education for those who need and want education for employment.

To show our endorsement and con-

tinued support of vocational education, I am pleased to introduce this resolution calling on the President to designate February 12 to 18 as National Vocational Education Week.

STACKING THE DECK

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. ASHBROOK. Mr. Speaker, last October, the liberal majority in the House of Representatives rammed through the so-called Labor Reform Act. This legislation is now awaiting action in the Senate.

Although endowed with a wonderful-sounding title, the bill is reform in name only. In actuality it is a totally one-sided approach to labor law which takes only a union leadership point of view. It promotes the interests of unions and union organizing while ignoring the legitimate concerns of employers and employees.

Among other things, the bill would pack the National Labor Relations Board with two additional—and undoubtedly prolabor—members. It would also speed up the election process in order to aid union organizing. In addition, it would give union organizers harsh legal tools they could use against employers and employees who resist unionization efforts.

No; the Labor Reform Act would not provide for a true reform of our labor laws. Instead it is an attempt to stack the deck so that unions cannot lose.

Following is an excellent article on this legislation by nationally syndicated columnist, James J. Kilpatrick:

A MONSTROUS LABOR PROPOSAL

(By James J. Kilpatrick)

The sponsors are calling it the "Labor Reform Act of 1978." They ought to be jailed for fraud. At the very least the authors ought to be called to task under the honest labeling laws, for the bill now pending in the Senate constitutes no reform at all.

Oh, in a sense it might be termed reform. If one believes that existing labor law should be rewritten so that (1) the unions have all the advantages and the employers have none, (2) nonunion workers should be deprived of the few safeguards they now possess, (3) small employers especially should be placed in jeopardy, and (4) the government in certain cases should have the power to fix wages in private industry—then, yes, the bill would accomplish precisely such "reforms."

Curiously, this monstrous piece of legislation has aroused much less attention than the common site picketing bill or the minimum wage bill, though its impact would be immeasurably greater. The entire business community rallied to defeat common site picketing; another effective coalition from the private sector significantly improved the original minimum wage measure.

Where are those voices now? The National Right to Work Committee, as always, is yelling like Paul Revere. The U.S. Chamber of Commerce has circulated some excellent background material. A few other organizations have sounded alarms, but a sense of urgency is missing.

Consider, if you will, a few provisions.

The bill would literally reform the National Labor Relations Board, which would be reconstituted with two additional members named for seven-year terms. The board has five members now. Organized labor, rebuffed in its choice of a Secretary of Labor a year ago, would exert irresistible pressure to make certain that two labor flunkeys were named to the posts. We already have seen Mr. Carter's weakness in this regard in his nominations to the Federal Elections Commission. This is Franklin D. Roosevelt's court-packing scheme, born again with Jimmy Carter.

The bill would rewrite the procedures for certification elections. These now are held in most cases about 60 days after a union's petition. The reform bill would speed things up to 14 days—too brief a time for workers who may oppose a union to rally their forces for a fair contest. The whole idea of this provision is to tilt the scales in favor of union victories.

Suppose the union wins one of these instant elections, and management begins to bargain on an initial contract. This is what could happen under this incredible bill: If the newly-packed National Labor Relations Board is not happy with the employer's bargaining, the board on its own motion could compel the employer to raise wages and benefits by whatever percentage the board perceives under "major collective bargaining settlements" in the nation. This is reform?

There is more. Under this bill, an incompetent, insolent, no-account worker need only identify himself with "union activity" to lead a charmed life. The employer who fires such a worker risks an NLRB order directing that the bum be rehired with double back pay. Under one provision, the board would be required to seek court injunctions against employers charged with unfair dismissals, even if the charges were patently frivolous.

The bill is aimed primarily at small companies with 50 to 100 workers. In the eyes of organized labor, these are plump pigeons waiting to be plucked. Under this bill, if the president of such a company dares to talk to his own workers about the union, the union must be given the same time, at the employer's expense, to conduct its counter campaign.

The bill (S. 1833) speaks for itself. If freedom-loving workers fail to lean on their senators, they will have only themselves to blame.

A PRESIDENT OUT OF HIS ELEMENT (WITH FARMERS)

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. SEBELIUS. Mr. Speaker, I have met with literally thousands of farmers since the Congress recessed in November. One of the questions raised by farmers and others with whom I have met is whether President Carter is out of touch with farmers? Other questions raised include: Is he aware of their plight? Is he equal to the job of governing this Nation as farmers would like to see it governed—with primary emphasis on production and marketing of agricultural products, rather than an agricultural policy and policymakers dominated by consumerism, conservationists, and environmentalists?

I commend to your attention a statement made by Mr. WAMPLER of Virginia in a hearing before the House Committee on Agriculture today relating to "the current agricultural situation." This statement highlights several of the problems facing farmers and ranchers which President Carter appears to be ignoring. The statement also recognizes the shift in agricultural policies—and budgets—under the Carter administration from a farmer to consumer orientation.

MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICE ACT

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. ROGERS. Mr. Speaker, today, at the request of the American Academy of Pediatrics and the American Medical Association, I have introduced, along with my distinguished colleague, the ranking minority member of the Subcommittee on the Health and the Environment, Dr. Carter, a proposal entitled, "The 1978 Amendments to the Maternal and Child Health and Crippled Children's Service Act." This measure represents an initiative proposed by these medical organizations to improve and expand service programs under title V of the Social Security Act. I appreciate the work done by these groups in developing this proposal, and am certain that their suggestions will be most useful to the subcommittee during our deliberations on the entire spectrum of maternal and child health service issues.

According to these organizations, this proposal is designed to expand the scope of and increase the funding for health services for pregnant women, infants, children and adolescents under title V.

Delivery of benefits under this proposal would be accomplished through the existing health care system and private practitioners, although improvements in the current system's organization would be affected by this measure. The legislation especially seeks to make health services available to special groups with abnormal health risk, social dependence and limited resources.

Increased funding under the $800 million proposal would allow States to extend and improve services in the area of reducing infant mortality; preventing disease and disability; locating, diagnosing, treating and providing followup services for children having crippling conditions; and locating and aiding groups in special need. In addition, special grants to States and localities would be directed to the solution of other health problems, training of personnel and for research.

Funding would be available to States which provide for administration of the legislation by a State health agency or similar body and which are prepared to share financial responsibility for the program. State advisory councils would oversee implementation of the program. States would be required to develop "uni-

fied State plans" encompassing maternal and child health and crippled children's programs and responding to particular State needs in the areas of basic health services and children's programs.

Grants under the legislation would be targeted to solve special problems of low-income families, underserved counties, and local areas; training of health-care personnel; and research, with particular emphasis on developing comprehensive health care programs.

This legislation would establish a new National Office of Maternal and Child Health Services within the Department of Health, Education, and Welfare. The Secretary of the Department of HEW would appoint a National Advisory Council on Maternal and Child Health Programs to assist in preparing regulations and considering State plans provided under the bill.

Again, I appreciate the efforts of these medical organizations in developing legislation which they feel will improve the delivery of health care services to mothers and children and will enhance the role which can be played by the provision of preventive services. I am introducing this proposal today, as I am certain that it will be of use to the Congress in exploring a broad range of alternatives during our consideration of the issues surrounding the provision of maternal and child health services.

BIG LABOR BACKS LIBERAL ANTI-JOB POLICIES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. ASHBROOK. Mr. Speaker, the very existence of many heavy industries is threatened in the United States. The production of steel, an industry in which hundreds of thousands of blue-collar, union workers earn their livelihood, is a good example. Environmentalist fanatics want to make steel production more expensive than it is, and it is already hard for domestic steel producers to compete with foreign imports. Internationalists want to continue our trade policy, which favors foreign producers over domestic ones. Capital which is essential to the creation of jobs in heavy industry is being drained off to cover huge annual national deficit. And every one of these movements, from environmentalist fanaticism to huge annual deficits, has the full backing of the leadership of the United Steelworkers' national and of the AFL–CIO. It seems as though big labor has some sort of perverse deathwish for the heavy industry a huge proportion of its membership depends upon for their jobs.

Right now, when liberal internationalist trade policy threatens to destroy our steel industry, the United Steelworkers' national is making a great show of attacking this policy. But that union has backed the liberals in every election who set up that policy in the first place, and who maintain it today. However loudly big labor attacks our giveaway trade policy right now, it will back the liberals who keep that policy going in 1978, and it will back those same internationalist liberals again in 1980.

The fact is that national union leadership is more interested in being good party line liberals than in the welfare of their membership.

Let us take the example of Government deficits. When the Government runs a deficit, it has to sell bonds to investors to cover that debt. To do that, it must go into the capital market and sell Government bonds in competition with industrial bonds, bank deposits, and other uses to which savers could put their money. Banks or industries selling bonds use savers' money to buy machinery or for other job-creating purposes. The Government takes the money and pays for its latest program or welfare boon-doggle. Most of the money which goes to cover each year's deficit is taken out of productive investment.

Heavy industry is more dependent on large-scale investment than any other sector of our economy. Tens of thousands of dollars are required to create an industrial job, and those tens of thousands have to be obtained out of the same capital market the Government dips into every year for tens of billions of dollars to pay for deficit spending for liberal programs. It would seem that if there were ever any fanatics about keeping the budget balanced, it would be the leadership of the industrial unions. But look at what those unions advocate. They want more welfare, which would push up the deficit, they want a national health program, which would push up the deficit borrowing which competes with industrial bonds, bank deposits, and other job-producing uses to which savers could put their money. This waste of investment money hurts all Americans, but it hurts industrial workers most of all.

The fact that Federal deficits use up investment money is crippling America's job-producing ability, as some figures will demonstrate.

Recently, President Carter asked the Congress to raise the ceiling on the national debt by $82 billion. This means that the U.S. Government is going into the capital market for another $83 billion to finance its programs. In 1976, investors put $106 billion into all producers' durable equipment, including the replacement of old equipment. That $106 billion represented all investment in all machinery and equipment in every form of production in this country, not just to make new jobs, but also to keep the jobs we have. Heavy industry is only a portion of this investment. The new debt ceiling will represent 80 percent as much money taken in by the Government to cover its deficit as we used in 1976 to buy all the new and replacement machinery in our whole economy. With the Government eating up capital at this rate, it is amazing we have any heavy industry left, and certainly no surprise that we do not attain any increase in jobs in heavy industry. If you want to know why our economy cannot provide any new jobs, look at the Federal debt that is eating up all the capital that should be producing those jobs.

Besides backing the killing off of industrial capital through deficits, liberal union leadership also backs the outright enemies of industry in the environmentalist movement. Most of the environmentalist fanatics would be happy to see heavy industry disappear in the United States. Big production complexes inevitably produce a lot of chemical and other wastes. If you read what they have in their publications, you see a clear and consistent anti-industrial bias in most of the environmentalist publications. They really got this anti-industrial program going in earnest with the Clean Air Act. By this act, the Federal Government began to divert hundreds of millions more steel investment dollars from production capital into cleaning and filtering equipment. All this came at the worst possible time, when the industry was already in a crisis condition due to imports of low-price foreign steel.

Needless to say, the United Steelworkers national backed the Clean Air Act solidly. Every year, big labor supports liberal extensions of this act, and others like it.

If there ever was a time for a union to stand up to the environmentalist lobby in defense of its members' jobs, this is the time and the United Steelworkers is the union. Instead, the union leaders support liberal candidates pushing these measures with union members' cash and with all the influence they can bring to bear.

When it comes to the vital issue of energy, unions once again are backing the liberal line against their members' livelihoods. A job in heavy industry requires the use of more power than one in any major part of our economy. Steel production, for instance, involves the use of huge amounts of coal, electricity, and water. If the environmentalist, no-growth lobby wins out in this country, the first thing we will have to do will be to close down our heavy industry. You would think, therefore, that the leadership of unions in heavy industry would be in the forefront of the fight for as much energy now as possible, and pushing hard for research into new energy sources. But by now I am sure you know what they are actually backing. You see, liberal ideology favors the no-growthers.

Liberal ideology opposes nuclear power, so of course those candidates fighting nuclear reactors get solid political support from the national industrial unions. Liberal ideology favors putting as many restrictions on the mining of coal as possible, so the candidates backing these measures get the full support of national unions. The leftist anti-energy lobby got full union support in 1976, and will get it again in 1978 and again in 1980, all with the money of the union members whose jobs they are busily destroying.

This battle against union members' economic well-being is a whole new field of callousness for the big labor bosses. We have seen these bosses defy their

members' wishes on one social issue after another. The Massachusetts State Labor Council, AFL–CIO, took an anti-busing stand in 1975. George Meany threatened to remove the council members and put the council under receivership unless they rescinded the resolution, in the teeth of nine-to-one member support for it. Labor bosses are everywhere in the forefront of the battle to register and confiscate the guns of honest citizens, including those of union members. In my experience, 90 percent or more of the union rank and file are opposed to registration or confiscation.

But the new drive against union members' economic well-being is a whole new departure for the labor bosses. It may not be long before their long-suffering membership realizes what is going on. When this happens, the members will force the nationals to back members' interests both economic and social, over the dictates of liberal ideology.

COUNTY GOVERNMENT DISPLAYING PROGRESS

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. ICHORD. Mr. Speaker, I am very pleased to invite the attention of my colleagues to the fine work of the Boone County government in Columbia, Mo., in developing innovative approaches to the problems of county government.

These appointed and elected officers are demonstrating the potential for the improvement of services and efficiency at the county level by drawing on their own unique talents as well as the help of State and Federal Government.

The Columbia Missourian in an editorial of January 15, 1978, took public note of this activity, and I am pleased to share this commentary with my colleagues:

COUNTY GOVERNMENT DISPLAYING PROGRESS

Despite past accusations—sometimes earned—of dawdling on the job, Boone County government shows heartening signs of progress and efficiency. The men and women in county government are the measure of that progress.

Judges of the County Court, along with Auditor Ken Geel, have been quietly but persistently working to improve, and possibly to computerize, the county's bookkeeping system. County Clerk Chris Kelly entered the picture Friday with what could develop into a breakthrough. A grant that might be available through the Missouri Department of Education would pay for a consutlant to analyze the county's fiscal system.

Before he was appointed to office by Gov. Teasdale, Mr. Kelly became known throughout county government as a whiz at securing government grants. He proved to have an uncanny knack for tiptoeing through the red tape without tripping—and he usually came home with the money. His knowledge of the labyrinths of bureaucracy now has produced the possibility of a significant step forward in county bookkeeping snafus—mostly unpaid bills—that came before the County Court. Since that time, Auditor Ken Geel has cleaned up procedures and eliminated much confusion in the current system.

Mr. Geel, together with County Court Presiding Judge Bill Frech, spawned some innovative approaches to budget procedure, particularly with respect to estimating tax revenues. Budget preparation traditionally has been a matter of organized confusion. Thanks to Messrs. Frech and Geel, future budgets should show more organization and less confusion.

In the county collector's office, Roger Wilson has forged ahead with little fanfare. Collecting back taxes is a perennial problem; the county must sue delinquent taxpayers in order to collect. Encouraged by Mr. Wilson, Rep. John Rollins, D-Columbia, has introduced a bill in the legislature that would require back taxes to be paid before auto license plates would be issued to taxpayers. Certainly the basic idea of the bill would improve county tax collection throughout Missouri.

We don't pretend to have given an overview of Boone County government in a single editorial. But these few recent items are encouraging evidence that county officeholders are earning their stripes.

IS TORRIJOS A DICTATOR?

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. RUDD. Mr. Speaker, the lead editorial in this morning's Washington Post, which was entitled "Remember Panama?" inferred that Panama's military dictator Omar Torrijos is not really a dictator.

How could the editors of the leading newspaper in the Nation's Capital have been so misinformed?

The editorial made this startling inference in order to discredit the argument of those who oppose the proposed new Panama Canal treaties on grounds that the United States cannot trust Panama's totalitarian military dictatorship, and should take no action to legitimize such a regime.

The editorial stated about Torrijos—

If he were in fact a dictator, of course, he would have engineered a larger margin in the first plebiscite, and the treaties would not be facing rejection in the second, and he would not be considering stepping down.

Let us look realistically at the true nature of Panama's military regime under Omar Torrijos.

First, Torrijos took power by force in 1968 with the backing of Panama's National Guard. He overthrew Panama's duly elected government and forced the National Assembly to accept his rewritten constitution making Torrijos chief of state for life. Torrijos has never been elected. He is thus a dictator.

As for allegations that Torrijos might step down if the proposed treaties are approved, Torrijos himself has never made such a public pledge. He has been quoted as saying that he might consider such an action. But then Torrijos would have himself quoted in any manner in order to obtain U.S. ratification of the proposed treaties, turning the $10 billion asset, the Panama Canal and the Canal Zone, over to him.

Torrijos needs U.S. ratification of the proposed treaties in order to maintain his dictatorship in Panama. No dictator would leave office voluntarily, and none ever has. The only time a dictator leaves is when he is shot to death, when he flees, or when he installs another puppet dictator regime in the place of his own.

Torrijos knows that the first two options are entirely possible for himself unless he can win U.S. ratification of the proposed treaties giving him sovereignty, ownership, and control of the Panama Canal—and he will do anything, even if it seems legitimate, in order to deceive our elected officials, and apparently our news media as well, into becoming full partners—guarantors—of his military regime.

Mr. Speaker, I am surprised that the editors of the Washington Post have overlooked some strong evidence about the real totalitarian and repressive nature of the military dictatorship of Omar Torrijos in Panama.

Such evidence exists in a complete survey of all nations of the world recently conducted by Freedom House, the highly respected national organization dedicated to strengthening democratic institutions, showing that Panama under dictator Torrijos is one of only six totalitarian nations among the 47 nations of our hemisphere.

The Freedom House survey, published last month, ranks nations as "free," "partially free," and "not free." Panama is rated as "not free," along with Cuba and all other nations of the Communist world, as well as other military dictatorships, because of its systematic repression of civil, political, and human rights of the Panamanian people.

Freedom House has rated all nations on a scale of 1 ("most free") to 7 ("least free"), and rates Panama at "6"—only one ranking short of being among the most repressive totalitarian nations in the world.

According to the Freedom House definition of this "6" rating, Panama does "not allow competitive electoral processes that would give the people a chance to voice their desire for a new ruling party or a desire for change in policy. The rulers of states at this level assume that one person or a small group has the right to decide what is best for the Nation, and that no one should be allowed to challenge that right."

The Freedom House publication flatly terms Panama's Government as a "military dictatorship," and in this latest survey refers to "Freedom House's frequent analysis and reporting of the deplorable record on human rights of the present regime in Panama?"

Mr. Speaker, it is disappointing that these facts have not become known to the editors of the Washington Post. I have noticed from this newspaper's past editorials concerning policies of other nations that it has often championed human rights and civil liberties of people whose governments have been even slightly undemocratic or repressive.

It has been documented that the military regime of dictator Torrijos systematically jails his political opponents,

denies free elections and a free press to the Panamanian people, and has allied itself with Fidel Castro, the Soviet Union, and other Marxist dictators of the so-called Third World.

Given these unquestioned facts about the Torrijos regime, and the Post's previous editorial policy, it would appear consistent for the Post's editors to vigorously oppose the proposed new treaties with Panama—or any U.S. agreements or aid that would strengthen Torrijos' suppression of the Panamanian people—if they were fully aware of the truly repressive nature of Panama's one-man dictatorship.

I hope that the Post will acknowledge these facts, and correct the public record with regard to the newspaper's characterization of the Torrijos regime. This would be the honest and fair thing to do, in light of the aspersions made by the Post in today's editorial against those who have sincerely opposed a U.S. partnership with the Torrijos dictatorship.

I have every reason to believe that the publisher and editors of the Washington Post take seriously their responsibility as trustees of the Nation's Capital's leading newspaper. I am sure that that trust and the newspaper's credibility are as important to them as they are to those who daily read the Post and support responsible journalism.

That is why I am pleased to bring this matter to their attention, and to the attention of my colleagues in the Congress. General Torrijos is a dictator—and he should be represented properly in that manner by the news media and those of us in the Congress as public debate continues over the proposed new Panama Canal treaties that are currently under consideration.

WILL PRESIDENT CARTER REPEAL OUR IMMIGRATION LAWS?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1978

Mr. ASHBROOK. Mr. Speaker, President Carter has proposed an "amnesty" for millions of illegal aliens in this country, an amnesty of which one of the preconditions would be that the alien state his intention to become a U.S. citizen. If these millions of aliens obtain citizenship, the flood of immigration will not decrease, it will increase so much that our immigration laws will become meaningless. Do not forget these illegals violate our criminal laws. It is against the laws of the United States to illegally enter our country. A second violation is a felony. Repeat, a felony. Why our President so lightly treats criminal conduct of this type is without reason.

There is no quota on the immigration of relatives of U.S. citizens into this country. Parents or children of citizens may come into this country on the strength of their parents' or children's citizenship without restriction. Once the parents of an alien have been in this country for 5 years, they, too, can take citizenship. Their children who are under 21—the younger brothers and sisters of the original citizen—may then enter free of quota restrictions. These illegals flaunt our laws, becoming welfare burdens in all too many cases and taking good American jobs in others. How much of our unemployment is due to their criminal conduct?

If the millions of illegal aliens in this country—only one portion of whom represent a tenth of the population of the Republic of Mexico—were willing to defy immigration laws and undergo other disadvantages to enter this country, how many parents, sisters, brothers, and spouses are likely to enter when entry is perfectly legal?

According to one estimate "within the lifetime of most of us, the population of Mexico will be larger than that of the United States." Mexico, with an unemployment rate of 9 percent and an underemployment rate of 40 percent, cannot take care of its present population. This does not even take into consideration the different standards of living of the two countries. What will the vastly increased population of the next two decades do? Will they remain in increasing poverty, or will they come to the United States by way of Mr. Carter's open door policy? Accurate unemployment figures for the Philippines are not available, but even the official underestimate admits to 4 percent completely unemployed, and there is substantial underemployment as well. Clearly that country cannot provide for its burgeoning population. Will they remain in their increasing poverty over the next two decades if they can come to the United States through Mr. Carter's open door?

If Mr. Carter carries out his amnesty proposal, the flood of poor and unskilled immigrants into this country will increase. Far from being a solution to the problem of this vast influx, it will legitimize an even greater flow of people, many of whom will take jobs from our workers, and many of whom will become public charges.

At the very outset, amnesty will mean an increase in immigration as newly legitimate immigrants sponsor yet newer ones. Five years later, when these millions become citizens, there will be a massive influx of their parents and children, not to mention a huge number of real and contrived marriages, which will bring their spouses into this country. In 10 years, these immigrants' brothers and sisters will pour into this country as children of their now-naturalized parents and with them their families, and so on. Within two decades of Mr. Carter's "amnesty", there will, practically speaking, be no barriers to mass immigration into the United States. Taxpayers beware.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 2, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 3

9:00 a.m.

Environment and Public Works

*Water Resources Subcommittee

To hold hearings to receive testimony on Federal dam safety requirements.

4200 Dirksen Building

Human Resources

Employment, Poverty, and Migratory Labor Subcommittee

To hold joint hearings with Banking, Housing, and Urban Affairs on S. 50, the Full Employment and Balanced Growth Act.

4232 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To continue hearings on S. 2410, amending certain sections of the Public Health Service Act relative to health planning and health resources development.

1318 Dirksen Building

Veterans' Affairs

To hold hearings on S. 2384, the proposed Veterans and Survivors Income Security Act.

6202 Dirksen Building

9:30 a.m.

Human Resources

Aging Subcommittee

To resume oversight hearings on proposed extension of amendments to the Older Americans Act.

Until noon 457 Russell Building

10:00 a.m.

Budget

To receive testimony from OMB Director McIntyre in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.

318 Russell Building

Energy and Natural Resources

Parks and Recreation Subcommittee

To hold hearings to receive testimony from the Department of the Interior on S. 1829, to establish the Jean Lafitte National Historic Park, Louisiana.

3110 Dirksen Building

Finance

To hold a business meeting.

2221 Dirksen Building

Governmental Affairs

To hold hearings on the handling of discrimination complaints in the Senate (pursuant to Rule 50 and Section 310 of S. Res. 110).

3302 Dirksen Building

Joint Economic
To resume hearings to receive testimony on the President's economic report.
345 Cannon Building

11:00 a.m.
Foreign Relations
African Affairs Subcommittee
To hold hearings to receive testimony on conditions in South Africa.
4221 Dirksen Building

3:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Department of Labor.
1223 Dirksen Building

FEBRUARY 6

9:00 a.m.
Judiciary
Citizen and Shareholders Rights and Remedies Subcommittee
To hold hearings on S. 476, 477, 478, and the substance of S. 1256, 1257, and H.R. 7819, to amend the laws concerning diplomatic immunity.
2228 Dirksen Building

9:30 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To resume hearings on H.R. 7747, to amend the D.C. Code with regard to pretrial release and detention.
6202 Dirksen Building

10:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold hearings to receive testimony from Comptroller General Staats on the costs of an all volunteer army.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on exchange rate policy.
5302 Dirksen Building

Energy and Natural Resources
To consider the nominations of Lynn R. Coleman, of the District of Columbia, to be General Counsel of the Department of Energy; Stephen J. Gage, of Maryland, to be an Assistant Administrator of the EPA; and George S. McIsaac, of the District of Columbia, to be an Assistant Secretary of Energy; to be followed by consideration of pending calendar business.
3110 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To resume hearings on the public debt and the implications of President Carter's budget upon the debt.
2221 Dirksen Building

Governmental Affairs
To resume hearings on S. 1785 and S. 2026, to require public disclosure of certain lobbying activities.
3302 Dirksen Building

Select Small Business
To hold hearings jointly with the House Small Business Subcommittee on Minority Enterprise and General Oversight on the SBA minority business contracting program.
424 Russell Building

Joint Economic
To resume hearings on the President's economic report.
345 Cannon Building

11:00 a.m.
Foreign Relations
To hold hearings on U.S. policy with respect to the exploitation of Antarctic resources.
4221 Dirksen Building

5:45 p.m.
Veterans' Affairs
To hold hearings on a National Academy of Science study of health care for American veterans
6226 Dirksen Building

FEBRUARY 7

9:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's uranium enrichment policy.
3110 Dirksen Building

*Human Resources
Aging Subcommittee
To resume oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 6202 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the future of space science and space applications.
235 Russell Building

Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Federal Highway Administration, and to receive testimony from Secretary of Transportation Brock Adams on the Administration's highway legislative proposals.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for the Departments of Labor-HEW, and related agencies.
S-128, Capitol

Banking, Housing, and Urban Affairs
To hold oversight hearings on the budgets of bank regulatory agencies.
5302 Dirksen Building

Finance
Public Assistance Subcommittee
To hold hearings to receive testimony from HEW Secretary Califano, on S. 2084, the proposed "Better Jobs and Income Act."
2221 Dirksen Building

Foreign Relations
To meet in closed session with the Chairman and staff members of the Select Committee on Intelligence for a briefing on certain issues relative to the Panama Canal Treaty and Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Exec. N, 95th Cong., 1st sess.).
S-116, Capitol

Governmental Affairs
To continue hearings on S. 1785 and S. 2026, to require public disclosure of certain lobbying activities.
3302 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume hearings on alleged irregularities in certain spending practices of the Small Business Administration.
457 Russell Building

Select Small Business
To hold oversight hearings on the SBA procurement programs.
1318 Dirksen Building

Joint Economic
To continue hearings to receive testimony on the President's economic report from OMB Director McIntyre.
2154 Rayburn Building

10:30 a.m.
Judiciary
To hold hearings on the nominations of Jack E. Tanner, to be U.S. district judge for the eastern and western districts of Washington; Robert F. Collins, to be U.S. district judge for the eastern district of Louisiana; A. David Mazzone, to be U.S. district judge for the district of Massachusetts; and Almeric L. Christian, to be U.S. district judge for the district of the Virgin Islands.
2228 Dirksen Building

10:45 a.m.
Select Small Business
To hold hearings on S. 2259, the Small Business Procurement Expansion and Simplification Act.
1318 Dirksen Building

2:30 p.m.
Select Intelligence
To hold a closed business meeting.
S-407, Capitol

FEBRUARY 8

9:00 a.m.
Human Resources
Aging Subcommittee
To continue oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 457 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Nuclear Regulatory Commission.
4200 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate System, and the costs of maintenance on the Federal highway system.
1318 Dirksen Building

Human Resources
Child and Human Development Subcommittee
To hold hearings to review the current programs on child care and child development and the need for additional legislation.
Until 12:30 p.m. 4232 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on the extension of NIH research authorities and community mental health centers.
Until 12:30 p.m. S-207, Capitol

Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act.
2228 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Fine Arts Commission, Woodrow Wilson Center, National Capitol Planning Commission, and the National Gallery of Art, Department of the Interior and related agencies.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To continue oversight hearings on the budgets of bank regulatory agencies.
5302 Dirksen Building

Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Buildng

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed authorizations for fiscal year 1979 for the U.S. Railroad Association.
235 Russell Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the Federal coal leasing policy and its impact on western coal development.
3110 Dirksen Building

Finance
International Trade Subcommittee
To hold hearings on H.R. 5643, to implement the U.N. Convention on the means of prohibiting and preventing illicit import, export, and transfer of ownership of cultural property.
2221 Dirksen Building

Select Small Business
To hold hearings on S. 1566, to establish procedures for electronic surveillance in the area of foreign intelligence information.
6226 Dirksen Building

Select Small Business
To hold hearings to delineate the problems of attracting capital to small and medium sized independent enterprises.
424 Russell Building

Joint Economic
To continue hearings on the President's economic report.
2337 Rayburn Building

FEBRUARY 9

7:00 a.m.
Human Resources
Child and Human Development Subcommittee
To hold hearings on the reauthorization of the ACTION agency (P.L. 93–113).
Until 11:00 a.m. 4232 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Edith B. Sloan and Susan B. King, both of the District of Columbia, each to be a Commissioner of the Consumer Product Safety Commission.
235 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for Title V's Regional Commissions of the Public Works and Economic Development Act of 1965, and the Appalachian Regional Commission.
4200 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act.
2228 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Advisory Council on Historic Preservation, Museum Services, and Pennsylvania Avenue Development Corporation.
1318 Dirksen Building

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings to receive testimony from Secretary of Labor Marshall on S. 2084, the proposed "Better Jobs and Income Act".
2221 Dirksen Building

Joint Economic
To continue hearings to receive testimony on the President's economic report from Treasury Secretary Blumenthal.
5110 Dirksen Building

FEBRUARY 10

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the implementation of the National Science and Technology Policy Act (P.L. 94–282).
235 Russell Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To resume oversight hearings on the Federal coal leasing policy and its impact on western coal development.
3110 Dirksen Building

Select Small Business
To resume hearings to delineate the problems of attracting capital to small and medium-sized independent enterprises.
424 Russell Building

Joint Economic
To continue hearings to receive testimony on the President's economic report from Secretary of Commerce Kreps and Secretary of Labor Marshall.
345 Cannon Building

FEBRUARY 15

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the National Bureau of Standards.
235 Russell Building

FEBRUARY 20

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for programs within the Department of the Interior, including General Services Building proposals.
4200 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Navajo-Hopi Relocation Commission, and Alaska Land Use.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for HUD.
5302 Dirksen Building

6:00 p.m.
Human Resources
Child and Human Development Subcommittee
To resume hearings to review the current programs on child care and child development and the need for additional legislation.
Until 9:00 p.m. 4232 Dirksen Building

FEBRUARY 21

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for the Economic Development Administration.
4200 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of the Secretary.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Health Services Administration, Department of HEW.
S–128, Capitol

Banking, Housing, and Urban Affairs
Housing, and Urban Affairs Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for HUD.
5302 Dirksen Building

Budget
To receive testimony from Director Bosworth, Council on Wage and Price Stability, in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

Foreign Relations
To hold hearings on H.R. 7819, S. 1256, and S. 1257, to guarantee fair and equitable compensation for Americans injured in auto accidents with diplomatic personnel, and to require compulsory auto liability insurance for all diplomats.
4221 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To mark up S. 1753, to extend and amend the Elementary and Secondary Education Act.
Until noon 4232 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Center for Disease Control, Department of HEW.
S–128, Capitol

FEBRUARY 22

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To hold hearings on proposed legislation to extend the Comprehensive Employment Training Act (CETA).
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Water Research and Technology.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S–128, Capitol

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for military construction programs.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on HUD crime and riot reinsurance programs.
5302 Dirksen Building

Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for the Army Corps of Engineers.
4200 Dirksen Building

Joint Economic
To resume hearings on the President's economic report.
1202 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S–128, Capitol

FEBRUARY 23

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue hearings on proposed legislation to extend the Comprehensive Employment Training Act (CETA).
Until 12:30 p.m. 4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold hearings on S. 1820, to preserve examples of America's diverse natural ecological resources for classification, identification, and protection.
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Veterans' Administration.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To hold hearings to receive testimony from Secretary of the Interior Cecil Andrus, on proposed budget estimates for fiscal year 1979 for the Department of the Interior.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S–128, Capitol

Appropriations
Military Construction Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for military construction programs.
S–146, Capitol

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on U.S. export policy.
5302 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S–128, Capitol

FEBRUARY 24

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To continue hearings on S. 1820, to preserve examples of all of America's diverse natural ecological resources for classification, identification, and protection.
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal years 1979 for the Veterans Administration.
1318 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Alcohol, Drug Abuse, and Mental Health Administration, Department of HEW.
S–128, Capitol

FEBRUARY 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the impact of building codes on housing rehabilitation.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume oversight hearings on U.S. export policy.
Room to be announced

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold oversight hearings on the SBA minority business program.
3302 Dirksen Building

Joint Economic
To resume hearings on the President's economic report.
1202 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Health Resources Administration, Department of HEW.
S–128, Capitol

FEBRUARY 28

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

9:30 a.m.
Human Resources
To hold a business meeting to consider recommendations it will make to the Budget Committee for the fiscal year 1979 budget in accordance with the Congressional Budget Act.
Until noon 4232 Dirksen Building

Veterans' Affairs
To consider committee budget resolution.
412 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings to consider additional funding for items of the Department of the Interior, and related agencies, proposed to be included in a second supplemental appropriations.
1114 Dirksen Building

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for military construction programs.
S–146, Capitol

Budget
To receive testimony from Energy Secretary Schlesinger in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To mark up H.R. 7744, to permit the contract dredging for improvement of rivers and harbors by private industry.
4200 Dirksen Building

Select Small Business
To hold hearings on small business aspects of the Administration's 1978 tax program.
424 Russell Building

10:30 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Department of HEW.
S–128, Capitol

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S–128, Capitol

MARCH 1

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Outdoor Recreation, and Land and Water Conservation Fund.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for elementary and secondary education programs, Department of HEW.
S–128, Capitol

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

Joint Economic
To resume hearings on the President's economic report.
1202 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for school assistance in Federally-affected areas, and emergency school aid programs, Department of HEW.
S–128, Capitol

MARCH 2

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Consumer Product Safety Commission.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Park Service.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

Budget
To receive testimony from Defense Secretary Brown in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

MARCH 3

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To mark up S. 1820, to preserve examples of America's diverse natural ecological resources for classification, identification, and protection, and S. 1140, to encourage and assist States in development of improved programs for the conservation of "non-game" species of fish and wildlife.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on spending practices of individual departments (Mission Budgeting) at HEW, and on proposed budget estimates for fiscal year 1979 for the Health Care Financing Administration, Department of HEW
S-128, Capitol

11:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Consumer Product Safety Commission, Office of Consumer Affairs, and Consumer Information Center.
1318 Dirksen Building

MARCH 6

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate System, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

6:00 p.m.
Veterans' Affairs
To resume hearings on a National Academy of Science study of health care for American veterans.
Until 10:30 p.m. 6226 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

MARCH 7

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To resume hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Fish and Wildlife Service.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Human Development and special institutions, Department of HEW.
S-128, Capitol

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for military construction programs, and funds for NATO.
S-146, Capitol

Banking, Housing, and Urban Affairs
To hold hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by bank holding companies and other banks.
5302 Dirksen Building

11:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from officials of the VFW.
318 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Office of Human Development and special institutions, Department of HEW.
S-128, Capitol

MARCH 8

9:00 a.m.
Commerce, Science and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

Human Resources
To continue hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Endowment for the Arts.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To continue hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by bank holding companies and other banks.
5302 Dirksen Building

Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 9

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Environmental Protection Agency.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Surface Mining.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Department of HEW.
S-128, Capitol

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for military construction programs.
S-146, Capitol

Budget
To receive testimony from HEW Secretary Califano and Labor Secretary Marshall in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 10

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Environmental Protection Agency and Council on Environmental Quality.
1318 Dirksen Building

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 13

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To resume hearings on S. 2090, 2081, and 1919, to extend certain program authorized by the Economic Opportunity Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

Foreign Relations
To hold hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

7:00 p.m.
Human Resources
Child and Human Development Subcommittee
To hold hearings on S. 258, the Children and Youth Camp Safety Act.
Until 10:30 p.m. 4232 Dirksen Building

MARCH 14

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue hearings on S. 2090, 2081, and 1919, to extend certain programs

authorized by the Economic Opportunity Act.
Until 12:30 p.m. 6226 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Forest Service, Department of Agriculture.
1114 Dirksen Building

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for military construction programs.
S-146, Capitol

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

Foreign Relations
To continue hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

MARCH 15

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Budget
To receive testimony from Federal Reserve Board Chairman-designate Miller in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

Foreign Relations
To continue hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

MARCH 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Smithsonian Institution.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on FDIC report on preferential bank lending policies.
5302 Dirksen Building

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 17

10:00 a.m.
Budget
To receive testimony from Secretary of HUD Harris in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 20

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 2040, the Comprehensive Drug Amendments Act.
Until 12:30 p.m. 4332 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Mines.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

Budget
To receive testimony from Representative Bolling in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 21

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings on issues relating to Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

Veterans' Affairs
To mark up S. 364, to provide for judicial review of administrative decisions promulgated by the VA, and to allow veterans full access to legal counsel in proceedings before the VA, and S. 2384, the Veterans and Survivors Income Security Act.
412 Russell Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Science Foundation.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Land Management.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 22

9:00 a.m.
Human Resources
To hold hearings on S. 2084, the Administration's proposed welfare reform legislation.
Until 12:30 p.m. 4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance of the Federal highway system.
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Science Foundation and Office of Science and Technology Policy.
1318 Dirksen Building

MARCH 23

9:00 a.m.
Human Resources
To continue hearings on S. 2084, the Administration's proposed welfare reform legislation.
Until 12:30 p.m. 4232 Dirksen Building

APRIL 3

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Endowment for the Humanities.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 4

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal eyar 1979 for the Bureau of Indian Affairs.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To continue oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 5

10:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from AM-VETS, Paralyzed Veterans of America, and Veterans of World War I.
Until 1:00 p.m. 6226 Dirksen Building

APRIL 6

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume oversight hearings on the National Bureau of Standards.
235 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Geological Survey.
1114 Dirksen Building

APRIL 7

11:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Revenue Sharing, and New York City Seasonal Financing Fund, Department of the Treasury.
1318 Dirksen Building

APRIL 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 12

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the re-establishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 13

10:00 a.m.
Appropriations
HUD–Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for HUD.
1318 Dirksen Building

APRIL 14

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for HUD.
1318 Dirksen Building

APRIL 20

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for NASA.
1318 Dirksen Building

APRIL 21

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for NASA and the Selective Service System.
1318 Dirksen Building

APRIL 24

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

APRIL 25

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building

APRIL 26

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Federal Home Loan Bank Board and the National Institute of Building Sciences.
1318 Dirksen Building

CANCELLATIONS

FEBRUARY 28

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold oversight hearings on the Resource Conservation and Recovery Act (P.L. 94–580).
4200 Dirksen Building

SENATE—*Thursday, February 2, 1978*

(Legislative day of Monday, January 30, 1978)

The Senate met at 10:45 a.m., on the expiration of the recess, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, who rulest the worlds from everlasting to everlasting: Speak to our hearts when courage fails, and men faint for fear, and the love of many grows cold, and there is distress of the nations upon the Earth. Keep us hopeful, resolute, and steadfast. Strengthen and confirm our trust in the triumph of justice, and grant us to know that, amid the uncertainties of our time, Thine alone is the Kingdom, the Power, and the Glory forever and ever. Amen.

—Adapted from "Prayers for a New World."

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 2, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR. thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, February 1, 1978, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PAUL G. HATFIELD assumed the chair.

THE PRESIDENT'S ADDRESS TO THE NATION

Mr. ROBERT C. BYRD. Mr. President, last night President Carter made a most important address to the Nation on the subject of the Panama Canal treaties.

The President is to be commended on the forthright manner in which he discussed the critical issues involved in the treaties. I think he is to be commended on bringing the public into the discussions, so that the American people may constitute a more informed public as we attempt to reach our decisions, individually and collectively, on these treaties I believe that anyone who seriously considered the President's remarks will come to the same conclusion that I have reached—that the treaties represent what is right for us and fair to others.

As President Carter said, approval of the treaties is the surest way to protect and save the canal; it would also be the strong, positive act of a people who are still confident, still creative, still great.

President Carter's remarks deserve the thoughtful consideration of every Senator and every American.

I ask unanimous consent, Mr. President, that the text of President Carter's televised speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 2, 1978]

TEXT OF PRESIDENT CARTER'S TELEVISED SPEECH ON THE PANAMA CANAL TREATIES

Seventy-five years ago, our nation signed a treaty which gave us rights to build a canal across Panama to take the historic step of joining the Atlantic and Pacific Oceans. The results of the agreement have been a great benefit to ourselves and to other nations throughout the world who navigate the high seas.

The building of the canal was one of the greatest engineering feats of history. Although massive in concept and construction it is relatively simple in design and has been reliable and efficient in operation. We Americans are justly and deeply proud of this great achievement.

The canal also has been a source of pride and benefit to the people of Panama but a cause of some continuing discontent. Because we have controlled a 10-mile-wide strip of land across the heart of their country and because they considered the original terms of the agreement to be unfair, the people of Panama have never been satisfied with the treaty. It was drafted here in our country and was not signed by any Panamanian. Our own Secretary of State who did sign the original treaty said it was "vastly advantageous to the United States and . . . not so advantageous to Panama."

In 1964, after consulting with former Presidents Truman and Eisenhower, President Johnson committed our nation to work toward a new treaty with the Republic of Panama. Last summer, after 14 years of negotiations under two Democratic Presidents and two Republican Presidents, we reached and signed an agreement that is fair and beneficial to both countries. The United States Senate will soon be debating whether these treaties should be ratified.

CONCERN FOR NATIONAL SECURITY

Throughout the negotiations, we were determined that our national security interests would be protected; that the canal would always be open, neutral and available to ships of all nations; that in time of need or emergency our ships would have the right to go to the head of the line for priority passage through the canal; and that our military forces would have the permanent right to defend the canal if it should ever be in danger.

The new treaties met all of these requirements. Let me outline the terms of the agreement. There are two treaties—one covering the rest of this century and the other guaranteeing the safety, openness and neutrality of the canal after the year 1999 when Panama will be in charge of its operation.

For the rest of the century we will operate the canal through a nine-person board of directors. Five members will be from the United States, and four from Panama. Within the area of the present Canal Zone, we have the right to select whatever lands and waters our military and civilian forces need to maintain, operate and defend the canal.

About 75 percent of those who now maintain and operate the canal are Panamanians; over the next 22 years as we manage the canal together, this percentage will increase. The Americans who work on the canal will continue to have their rights of employ-

ment, promotion and retirement carefully protected.

SOME FEES TO BE SHARED

We will share with Panama some of the fees paid by shippers who use the canal. As in the past, the canal should continue to be self-supporting.

This is not a partisan issue. The treaties are strongly backed by President Gerald Ford and by former Secretaries of State Dean Rusk and Henry Kissinger. They are endorsed by our business and professional leaders, and especially by those who recognize the benefits of good will and trade with other nations in this hemisphere. They are endorsed by the Senate Democratic Leader, Robert Byrd, and by Republican Leader Howard Baker, and overwhelmingly by the Senate Foreign Relations Committee, which this week moved us closer to ratification by approving the treaties, although with some recommended changes which we do not feel are needed.

And the treaties are supported enthusiastically by every member of the Joint Chiefs of Staff, Gen. George Brown, the Chairman; Gen. Bernard Rogers, Chief of Staff of the Army; Adm. James Holloway, Chief of Naval Operations; Gen. David Jones, Chief of Staff of the Air Force, and Gen. Lewis Wilson, Commandant of the Marine Corps—responsible men whose profession is the defense of this nation and the preservation of our security.

WIDE SUPPORT IN LATIN AMERICA

The treaties also have overwhelming support throughout Latin America, but predictably they are opposed abroad by some who are unfriendly to the United States and who would like to see disorder in Panama and a disruption of ties with our friends in Central and South America and in the Caribbean.

I know that the treaties also have been opposed by many Americans. Much of that opposition is based on misunderstanding and misinformation. I have found that when the full terms of the agreement are known, most people are convinced that the national interests of our country will be served best by ratifying the treaties.

Tonight I want you to hear the facts. I want to answer the most serious questions, and tell you why I feel the Panama Canal Treaties should be approved. The most important reason—the only reason—to ratify the treaties is that they are in the highest national interests of the United States, and will strengthen our position in the world. Our security interests will be stronger. Our trade opportunities will be improved. We will demonstrate that as a large and powerful country, we are able to deal fairly and honorably with a proud but smaller sovereign nation. We will honor our commitment to those engaged in world commerce that the Panama Canal will be open and available for use by their ships—at a reasonable and competitive cost—both now and in the future.

ANSWERS TO SOME QUESTIONS

Let me answer specificially the most common questions about the treaties:

Will our nation have the right to protect and defend the canal against any armed attack or threat to the security of the canal or ships going through it?

The answer is yes, and is contained in both treaties and also in the statement of understanding between the leaders of our two nations.

The first treaty says: "The United States of America and the Republic of Panama commit themselves to protect and defend the Panama Canal. Each party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transitting it."

The neutrality treaty says: "The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this treaty, which shall be maintained in order that the canal shall remain permanently neutral."

The statement of understanding says: "Under [the neutrality treaty] Panama and the United States have a responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this prniciple is that each of the two countries shall, in accordance with their respective Constitutional processes, defend the canal against any threat to the regime of neutrality, and consequently will have a right to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal."

It is obvious that we can take whatever military action is necessary to make sure that the canal always remains open and safe.

PLEDGE ON PANAMANIAN INTEGRITY

Of course, this does not give the United States any right to intervene in the internal affairs of Panama, nor would our military actions ever be directed against the territorial integrity or political independence of Panama.

Military experts agree that even with the Panamanian Armed Forces joined with us as brothers against a common enemy, it would take a large number of American troops to ward off a heavy attack. I would not hesitate to deploy whatever armed forces are necessary to defend the canal, and I have no doubt that even in sustained combat we would be successful. But there is a much better option than sending our sons and grandsons to fight in the jungles of Panama.

We would serve our interests better by implementing the new treaties, an action that would help to avoid any attack on the Panama Canal.

What we want is the permanent right to use the canal and we can defend this right through these treaties—through real cooperation with Panama. The citizens of Panama and their Government have already shown their support of this new partnership, and a protocol to the neutrality treaty will be signed by many other nations, thereby showing their strong approval.

The new treaties will naturally change Panama from a passive and sometimes deeply resentful bystander into an active and interested partner whose vital interests will be served by a well-operated canal. This agreement leads to cooperation, not confrontation between our country and Panama.

Another question is: "Why should we give away the Panama Canal Zone?" As many people say, "We bought it, we paid for it, it's ours."

I must repeat a very important point: We do not own the Panama Canal Zone—we have never had sovereignty over it. We have only had the right to use it.

The Canal Zone cannot be compared with United States territory. We bought Alaska from the Russians, and no one has ever doubted that we own it. We bought the Louisiana Territories from France, and it is an integral part of the United States.

PAYMENT SYSTEM CITED

From the beginning we have made an annual payment to Panama to use their land. You do not pay rent on your own land. The Canal Zone has always been Panamanian territory. The U.S. Supreme Court and previous American Presidents have repeatedly acknowledged the sovereignty of Panama over the Canal Zone.

We have never needed to own the Panama Canal Zone, any more than we need to own a 10-mile wide strip of land through Canada when we build an international gas pipeline.

The new treaties give us what we do need—not ownership of the canal, but the right to use it and to protect it. As the chairman of the Joint Chiefs of Staff has said: "The strategic value of the canal lies in its use."

There is another question: Can our Naval ships, in time of need or emergency, get through the canal immediately instead of waiting in line?

The treaties answer that clearly by guaranteeing that our ships will always have expeditious transit through the canal. To make sure that there could be no possible disagreement about what these words mean, the joint statement says that expeditious transit, and I quote, "is intended to assure the transit of such vessels through the canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the canal rapidly."

POWER VACUUM CHARGE REJECTED

Will the treaties affect our standing in Latin America—will they create a so-called power vacuum which our enemies might fill?

They will do just the opposite. The treaties will increase our nation's influence in this hemisphere, will help to reduce any mistrust and disagreement, and will remove a major source of antiAmerican feeling.

The new agreement has already provided vivid proof to the people of this hemisphere that a new era of friendship and cooperation is beginning, and that what they regard as the last remnant of alleged American colonialism is being removed.

Last fall I met individually with the leaders of 18 countries in this hemisphere. Between the United States and Latin America there is already a new sense of equality, a new sense of trust and mutual respect that exists because of the Panama Canal treaties. This opens up a fine opportunity for us, in good will, trade, jobs, exports, and political cooperation.

If the treaties should be rejected, this would all be lost, and disappointment and despair among our good neighbors and traditional friends would be severe.

In the peaceful struggle against alien ideologies like Communism, these treaties are a step in the right direction. Nothing could strengthen our competitors and adversaries in this hemisphere more than for us to reject this agreement.

What if a new sea-level canal should be needed in the future?

This question has been studied over and over throughout this century, from before the canal was built up through the last few years. Every study has reached the same conclusion: that the best place to build a sea-level canal is in Panama.

The treaties say that if we want to build such a canal, we will build it in Panama—and if any canal is to be built in Panama, we will have the right to participate in the project.

This is a clear benefit to us, for it insures that 10 or 20 years from now, no unfriendly but wealthy power will be able to purchase the right to build a sea-level canal, bypass the existing canal, perhaps leaving that other nation in control of the only usable waterway through the isthmus.

PAYMENTS TO COME OUT OF TOLLS

Are we paying Panama to take the Canal? We are not. Under the new treaties payments to Panama will come from tolls paid by ships which use the canal.

What about the present and future stability of the Panamanian Government? Do the people themselves support the new agreement?

Panama and her people have been our historical allies and friends. The present leader of Panama has been in office for more than nine years, and he heads a stable government which has encouraged the development of free enterprise in Panama. Democratic elections will be held this August to choose the members of the Pana-

manian Assembly, who will in turn elect a President and a Vice President by majority vote.

In the past, regimes have changed in Panama—but for 75 years no Panamanian Government has ever wanted to close the canal. Panama wants the canal open and neutral—perhaps even more than we do. The canal's continued operation is very important to us, but it is much more than that to Panama.

To Panama, it is crucial. Much of her economy flows directly or indirectly from the canal. Panama would be no more likely to neglect or close the canal than we would be to close the interstate highways.

In an open and free referendum last October which was monitored by the United Nations, the people of Panama gave the new treaty their support.

The major threat to the canal comes not from any government of Panama, but from misguided persons who may try to fan the flames of dissatisfaction with the terms of the old treaty.

There is a final question, about the deeper meaning of the treaties themselves—to us and to Panama.

Recently I discussed the treaties with David McCullough, author of "The Path Between the Seas," the great history of the Panama Canal. He believes that the canal is something that we built and have looked after these many years; it is "ours" in that sense, which is very different from just ownership.

DEEP AND ELEMENTAL FEELINGS

So when we talk of the canal, whether we are old, young, for or against the treaties we are talking about the very deep and elemental feelings about our own strength.

Still, we Americans want a more humane and stable world. We believe in good will and fairness, as well as strength. This agreement with Panama is something we want because we know it is right. This is not merely the surest way to protect and save the canal; it is the strong, positive act of a people who are still confident, still creative, still great.

This new partnership can become a source of national pride and self-respect in much the same way as building the canal 75 years ago. It is the spirit in which we act that is so very important.

Theodore Roosevelt, who was President when America built the canal, saw history itself as a force, and the history of our own time and the changes it has brought would not be lost on him. He knew that change was inevitable and necessary. Change is growth. A true conservative, he once remarked, puts his faith in the future.

But if Theodore Roosevelt were to endorse the treaties, as I am quite sure he would, it would be mainly because he could see the decision as one by which we are demonstrating the kind of great power he wished to be.

"We cannot avoid meeting great issues," Roosevelt said. "All that we can determine for ourselves is whether we shall meet them well or ill."

The Panama Canal is a vast, heroic expression of that age-old desire to bridge the divide and bring people closer together. This is what the treaties are all about.

We can sense what Roosevelt called "the lift toward nobler things which marks a great and generous people."

In this historic decision he would join us in our pride for being a great and generous people, with the national strength and wisdom to do what is right for us and fair to others.

Mr. ROBERT C. BYRD. Mr. President, I understand that the distinguished Senator from Virginia wishes to have a portion of my time. How much time does the Senator require?

Mr. HARRY F. BYRD, JR. About 6 or 7 minutes.

Mr. ROBERT C. BYRD. All right, Mr. President, I reserve the remainder of my time. I wish to give the minority leader a chance to say anything he may wish to say at this point, and then I will yield my remaining time to the Senator from Virginia.

RECOGNITION OF LEADERSHIP

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the majority leader. I have no request for time and no requirements for time, so I yield back my time under the standing order.

Mr. ROBERT C. BYRD. Then, Mr. President, I yield whatever time I have remaining to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), my namesake.

THE PANAMA CANAL TREATIES: A MISSING COMPONENT

Mr. HARRY F. BYRD, JR. I thank the distinguished majority leader.

Mr. President, on Tuesday, January 31, Mr. Herbert J. Hansell, legal advisor to the Department of State, testified before the Senate Armed Services Committee.

Mr. Hansell testified that if the proposed new treaties are ratified by the Senate, implementing legislation will need to be enacted.

The implementing legislation will contain crucial interpretations of the treaty language with regard to the appropriations process, pension costs, labor contracts, toll structure, employment practices, accounting procedures, commercial organization, jurisdiction of U.S. courts and law enforcement, and other important details—including direct costs to the taxpayers.

Just how important is the implementing legislation?

Yesterday that question was put to the Governor of the Canal Zone, Maj. Gen. H. R. Parfitt, when he testified before the Senate Armed Services Committee.

Governor Parfitt replied that it would be most helpful to the Senate in its consideration of the proposed new treaties.

Elmer Staats, Comptroller General of the United States, told the Armed Services Committee that if he were a Senator, he would want to have available the implementing legislation before voting on the treaties.

But the most definitive statement was made by Mr. Hansell in his testimony before the Foreign Relations Committee on September 29, 1977.

I quote from Mr. Hansell's testimony, he being the legal advisor to the State Department:

> Finally, Mr. Chairman, I am pleased to have this opportunity to report to this committee on the proposed legislation to implement these treaties that is being prepared for submission to Congress in the near future. That legislation, of course, will be an essential component of the overall program of implementation of the treaties.

For emphasis I repeat again Mr. Hansell's statement to the Senate Foreign Relations Committee:

> That legislation, of course, will be an essential component of the overall program of implementation of the treaties.

Yet, that "essential component" has not been submitted to the Congress.

Mr. Hansell told the Foreign Relations Committee on September 29, that:

> We hope to have a complete draft available for submission to both Houses of Congress within several weeks. We have been at work on it for some period of time. Certainly well before the end of October we expect to have it to you.

But October has come and gone, November has come and gone, December has come and gone, January has come and gone—and still the implementing legislation is not available to the Congress.

Under questioning Tuesday, Mr. Hansell could not tell the committee when such legislation might be available.

The point that I raise with the Senate and the point which I hope the leadership would consider before calling up the Panama Canal treaties is that legislation considered by the State Department "an essential component" in implementing the treaties—and promised to the Congress last October—is not available.

The fact that the legislation was promised to the Congress in October but is not yet available in February suggests to me that it is, indeed, "an essential component" and must, indeed, have wide ramifications and much complexity. Perhaps as a matter of strategy the administration wishes to withhold this "essential" component for fear of weakening support for the treaties.

But would it be fair, wise or appropriate to require the Senate to debate the proposed new treaties without the Senate having available the "essential component" of legislation that would be required if the treaties are ratified?

To determine whether the treaties are sound and should be enacted requires that all of the facts be available. Yet, the implementing legislation, essential to carrying out the purposes of the treaties, is not available for consideration by the Senate.

I urge delay in calling up the proposed Panama Canal Treaties until the implementing legislation is available for consideration—which legislation the Governor of the Canal Zone said would be helpful to the Senate and would shed light on the matter; and which legislation the State Department terms "an essential component" in implementing the treaties.

In conclusion, I emphasize, too, that the State Department on September 29, 1977 promised the Senate Foreign Relations Committee "a complete draft (would be) available for submission to both Houses of Congress in several weeks."

I have no desire merely to delay consideration of the treaties; I do feel it important to have "essential" components available when the debate begins.

I should think, Mr. President, that the

proponents—even more, perhaps, than the opponents—would want this information available to avoid potential serious misunderstanding with Panama and possible difficulties with the House of Representatives in obtaining enactment of implementing legislation.

In ending, I ask this question: How can the treaties be properly debated when essential components are missing?

I thank the distinguished majority leader for yielding to me.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that statements in that period be limited to 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations to the Executive Calendar.

Mr. BAKER. Mr. President, reserving the right to object, I rise only to advise the majority leader that the Executive Calendar on this side is cleared from page 1, beginning with "U.S. Air Force," through page 8, including nominations placed on the Secretary's desk. We have no objection to their consideration and confirmation.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NOMINATIONS

U.S. AIR FORCE

Lt. Gen. Bryce Poe II, to be general.

Gen. Daniel James, Jr., to be general.

Maj. Gen. Edgar Starr Harris, Jr., to be lieutenant general.

Col. James P. Albritton, to be brigadier general.

Col. Spence M. Armstrong, to be brigadier general.

Col. Ernest A. Bedke, to be brigadier general.

Col. Donald W. Bennett, to be brigadier general.

Col. Schuyler Bissell, to be brigadier general.

Col. William R. Brooksher, to be brigadier general.

Col. James R. Brown, to be brigadier general.

Col. Thomas B. Bruton, to be brigadier general.

Col. Robert E. Buhrow, to be brigadier general.

Col. John T. Chain, Jr., to be brigadier general.

Col. Robert E. Chapman, to be brigadier general.

Col. Joseph H. Connolly, to be brigadier general.

Col. Thomas G. Darling, to be brigadier general.

Col. Donald L. Evans, to be brigadier general.

Col. Kenneth R. Fleenor, to be brigadier general.

Col. James L. Gardner, Jr., to be brigadier general.

Col. Lawrence D. Garrison, to be brigadier general.

Col. Harry A. Goodall, to be brigadier general.

Col. William H. Greendyke, to be brigadier general.

Col. Titus C. Hall, to be brigadier general.

Col. Richard D. Hansen, to be brigadier general.

Col. Guy L. Hecker, Jr., to be brigadier general.

Col. Robert C. Karns, to be brigadier general.

Col. Melbourne Kimsey, to be brigadier general.

Col. Donald L. Lamberson, to be brigadier general.

Col. Gerald D. Larson, to be brigadier general.

Col. John R. Lasater, to be brigadier general.

Col. William E. Lindeman, to be brigadier general.

Col. Leo Marquez, to be brigadier general.

Col. Keith D. McCartney, to be brigadier general.

Col. Gerald E. McIlmoyle, to be brigadier general.

Col. Robert E. Messerli to be brigadier general.

Col. John F. O'Donnell to be brigadier general.

Col. Marvin C. Patton to be brigadier general.

Col. Milton R. Peterson to be brigadier general.

Col. Richard W. Phillips to be brigadier general.

Col. George B. Powers, Jr. to be brigadier general.

Col. Winston D. Powers to be brigadier general.

Col. Marc C. Reynolds to be brigadier general.

Col. Thomas C. Richards to be brigadier general.

Col. Graham W. Rider to be brigadier general.

Col. Davis C. Rohr to be brigadier general.

Col. John P. Rollston to be brigadier general.

Col Robert A. Rosenberg to be brigadier general.

Col. Click D. Smith, Jr. to be brigadier general.

Col. William L. Strand to be brigadier general.

Col. William E. Thurman to be brigadier general.

Col. Edward L. Tixier to be brigadier general.

Col. Harold W. Todd to be brigadier general.

Col. Brien D. Ward to be brigadier general.

Col. Clinton H. Winne, Jr. to be brigadier general.

Col. Thomas E. Wolters to be brigadier general.

U.S. ARMY

Maj. Gen. Ernest Graves, Jr. to be lieutenant general.

Brig. Gen. Freeman Henry Forrest to be major general.

Brig. Gen. Robert Lewis Frantz to be major general.

Brig. Gen. George Emmett McGovern, Jr. to be major general.

Brig. Gen. Frederick John Scheer to be major general.

Col. Jason Alfred Aisner to be brigadier general.

Col. George Leighton Allen to be brigadier general.

Col. Jack Nelson Bohm to be brigadier general.

Col. James Thomas Bonsall to be brigadier general.

Col. James Eliot Chapman, to be brigadier general.

Col. Anthony Harry Conrad, Jr., to be brigadier general.

Col. James Carroll Crawford, to be brigadier general.

Col. Ernest Stephen Ellis, to be brigadier general.

Col. Joseph Melvin Lojeck, to be brigadier general.

Col. Carl Daniel McIntosh, to be brigadier general.

Col. Charles Dunford, to be brigadier general.

Col. Emory Conrad Parrish, to be brigadier general.

Col. Herbert Joseph Riley, to be brigadier general.

Col. Will Hill Tankersley, to be brigadier general.

Col. James Robert Trapp, to be brigadier general.

Col. William Francis Ward, to be brigadier general.

Brig. Gen. Francis Joseph Higgins, to be major general.

Col. Owen Daniel Griffith, to be brigadier general.

Col. David Workman Hancock, to be brigadier general.

Col. William McGee Ingram, to be brigadier general.

Col. Harold Joseph Lavell, to be brigadier general.

Col. Paul Andrew McGowan, to be brigadier general.

Col. Paul Warren Reed, to be brigadier general.

Col. William Grey Waters, to be brigadier general.

Col. John Elina Aiona, Jr., to be brigadier general.

Col. Cornelius Ottway Baker, to be brigadier general.

Col. Douglas Milton Byington, to be brigadier general.

Col. Guy Homer Harding, to be brigadier general.

Col. Hubert Monroe Leonard, to be brigadier general.

Col. Anthony Lewis Palumbo, to be brigadier general.

Col. Arthur Nims Phillips, to be brigadier general.

Lt. Gen. John Holloway Cushman, to be lieutenant general.

U.S. NAVY

Vice Adm. Edward W. Cooke, to be vice admiral.

Rear Adm. William N. Small, to be vice admiral.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, AND NAVY

Air Force nominations beginning Jack D. Abercrombie, to be colonel, and ending James W. McBride, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on January 20, 1978.

Army nominations beginning James Bennett, to be colonel, and ending Luther J. McGaughy, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on January 20, 1978.

Navy nominations beginning Rodney A. Marcom, to be commander, and ending Paul F. Krueger, to be ensign, which nominations

were received by the Senate and appeared in the Congressional Record on January 20, 1978.

Navy nominations beginning Jimmy L. Aaron, to be ensign, and ending Harry R. Erichson, to be lieutenant which nominations were received by the Senate and appeared in the Congressional Record on January 20, 1978.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order to move to reconsider en bloc the vote by which the nominations were considered and confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the sessions of the Senate on February 22, 23, 24, and 28, 1978, to consider money resolutions and other matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFERENCE ON ECONOMIC DEVELOPMENT AND BALANCED GROWTH

The PRESIDING OFFICER. Is there further morning business?

Mr. PERCY. Mr. President, I take note of the fact that it is now 10:57. At this very moment, at the Sheraton Park Hotel, the President of the United States is addressing a conference that I just left because of the pending business, the White House Conference on Balanced National Growth and Economic Development. The chairman of that conference is the distinguished Governor of West Virginia, Jay Rockefeller. The concept of the conference came from JENNINGS RANDOLPH, the distinguished senior Senator from West Virginia. Once again, West Virginia has provided leadership to the Nation—a State relatively small in size, but very powerful, indeed, in the voice of the Republic and in providing guidance for the future development of this country.

I commend both Governor Rockefeller and Senator RANDOLPH for this remarkable conference, under way since Sunday, which has brought leaders appointed by Governors from our 50 States and has provided a pattern of development for future economic growth in this country that will be very much in the best interests of our Nation and its citizens present and future.

May I also parenthetically comment that it is the hope of the Senator from Illinois that, through the combined leadership of Government, labor, and management, the present prolonged coal strike will quickly come to an end. It is now reaching a point where it is defeating the economic interest of the very workers it is supposed to benefit. It is reaching the point where it is causing deep concern among coal purchasers about the stable source of supply of coal as a reliable fuel. I do happen to know of the extraordinary efforts being made by Governor Rockefeller to help bring about a settlement on a fair and equitable basis at the earliest possible time. This would be one way to help assure balanced growth and economic development in the country, looking to the future. Our future national energy policy must be based upon dramatically increasing the production and use of coal today and in the years ahead.

I regretted that I had to leave the White House conference in order to be on the Senate floor this morning, but Senator GLENN and I have worked for years together on the nuclear proliferation bill that is now the pending business of the Senate, upon which we will now begin debate.

Mr. GLENN. Mr. President, I would like to associate myself with the remarks of the Senator from Illinois with regard to the White House conference that has been going on.

I could not make my scheduled speech to them yesterday afternoon because of voting here in the Senate. But I, too, am very much concerned we get more into this area of looking forward, laying out the options we have for the future, and then guiding in whatever subjects, education, transportation, economy, or whatever, and consciously approach some objectives for the future.

Some 2½ years ago, shortly after I arrived here in the Senate, we held very extensive hearings in this regard about the lack of forward-looking option setting in this country and it has not been done under the current domestic councils, or the past, to the length I think it should have been done.

I am glad the White House is approaching this.

I appreciate the opportunity to associate myself with the remarks of the Senator from Illinois.

I thank the Chair.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

NUCLEAR NONPROLIFERATION ACT OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 897, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 897) to strengthen United States policies on non-proliferation and to recognize certain export functions of the Federal Government to promote more efficient administration of such functions.

The Senate resumed the consideration of the bill.

Mr. GLENN. Mr. President, there are a number of staff members on both the Governmental Affairs Committee, the Foreign Relations Committee, and my personal staff, that I ask unanimous consent be granted privilege of the floor during consideration of this bill and voting thereon, including amendments. They are: Len Weiss, Len Bickwit, Sandy Spector, Steve Avakian, Ellen Miller, Bill Ashworth, Norvill Jones, and Richard Wegman.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that Connie Evans and Alan Bennett of the Governmental Affairs Committee, and Kathryn Brewer and Tom Carter of Senator HAYAKAWA's staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, if the Senator will yield, I make the same request for Chuck Triant, Mike Hathaway, and Todd Neuenschwander.

The PRESIDING OFFICER. Without objection, is it so ordered.

Mr. GLENN. Mr. President, the distinguished chairman of the Foreign Relations Committee has a statement to make. He asked to be recognized and I am glad to yield to the distinguished chairman for his statement.

Mr. SPARKMAN. Mr. President, I was going to wait for any statement the Senator might want to make, but I shall be very glad to make this brief statement because I do have other business.

Mr. President, I rise in support of S. 897, the Nuclear Non-Proliferation Act of 1977, as reported by the Committee on Foreign Relations on October 3, 1977.

Mr. President, this bill is the result of many months of cooperation and close consultation between the executive branch and the Congress. The version as approved by the Committee on Foreign Relations meets the legitimate concerns of the executive branch and also incorporates provisions suggested by a number of Members. The Senator from Ohio (Mr. GLENN) and the Senator from Illinois (Mr. PERCY), who are members of both the Committee on Foreign Relations and the Committee on Governmental Affairs, have played a leading and guiding role in developing this legislation. The Senator from Rhode Island (Mr. PELL) who is chairman of the Subcommittee on Arms Control, Oceans and International

Environment of the Committee on Foreign Relations, chaired three useful and comprehensive hearings on this bill. Senator CHURCH and other colleagues have also made contributions.

Because of the dangers posed by nuclear proliferation, I attach considerable importance to Senate approval of a strong and effective S. 897. It is strongly supported by the executive branch. In a letter to me on October 14, Secretary of State Vance said,

I cannot emphasize too strongly the importance of this bill to the success of our non-proliferation policy.

This bill has undergone substantial changes since its introduction on March 3. Since the bill was reported October 3, many of us have had an opportunity to review the bill still further. A number of amendments will be offered. Some are technical and should be approved. I will support certain other amendments to be offered. I fully expect that in the course of Senate consideration we can agree upon a good bill which will establish a rational and workable nuclear export policy, while doing much to constrain the proliferation of nuclear explosive devices.

Nuclear proliferation constitutes a critically dangerous threat to all nations. Unless stopped, the spread of nuclear weapons capability will play havoc with present relationships among the world's nations, increase the threat of a kind of war which would be unavoidably catastrophic, and raise the spectre of an international terrorism armed with the most devastating weapons man has yet conceived.

Nuclear proliferation poses a real national security threat to the United States—a threat at least equal to that posed by the strategic offensive weapons we are trying to control in SALT. If proliferation continues, the number of nations able to pose a credible and major threat to the United States and its allies will multiply. To date, we have found no way to defend ourselves against this kind of threat.

Mr. President, we owe it to ourselves and our Nation to do the best we can to deal with nuclear proliferation. At the same time—and of equal importance—we must see that we preserve and enhance the strength and reliability of the United States as a nuclear supplier. It is of critical importance to our Nation that we continue to fulfill our longstanding obligation made to the other parties to the Non-Proliferation Treaty to play a central role in bringing the benefits of the peaceful atom to the rest of the world.

It is not easy to spread the benefits of the atom while enacting measures to reduce the tremendous threat to world security which misuse of nuclear facilities and materials can bring. I believe that with our careful efforts here, S. 897 will be a strong and sound effort to accomplish those purposes.

Mr. President, I have referred to a letter from Secretary Cyrus Vance addressed to me relating to this matter and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, October 14, 1977.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: The First Session of the 95th Congress is drawing to a close and I am concerned that time will run out before the Congress enacts S. 897, the "Nuclear Non-Proliferation Act of 1977." The Administration strongly supports this legislation since it will establish the framework within which we will renegotiate old nuclear agreements and negotiate new ones. If S. 897 is not enacted before Congress adjourns, three months of the negotiation process will be lost and past uncertainties in this area will remain. Several nations are awaiting urgently the completion of this legislation.

As you know, the House of Representatives on September 28 passed its "Nuclear Anti-proliferation Act of 1977" (H.R. 8638, which is very similar to S. 897) by a vote of 411 to 0. In addition, the Senate Committees on Foreign Relations and Governmental Affairs reported S. 897 and it is now ready for scheduling.

I am very much aware of the difficulty of Senate scheduling at this time, but I cannot emphasize too strongly the importance of this bill to the success of our non-proliferation policy. Thank you very much for your consideration of this matter.

Sincerely,

CYRUS VANCE.

Mr. SPARKMAN. I thank the Senator from Ohio.

Mr. GLENN. I thank the distinguished Senator, chairman of the Foreign Relations Committee, for his remarks.

Mr. President, I ask unanimous consent that the committee amendment by the Foreign Relations Committee in the nature of a substitute be adopted and that the bill as amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER (Mr. MCGOVERN). Without objection, it is so ordered.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. May we have the bill of the Foreign Relations Committee that is pending be treated as original text for the purpose of amendment?

Mr. GLENN. That was just done.

Mr. McCLURE. And the Senator has asked for the adoption of the committee amendments? Will they be treated as original text for the purpose of amendment?

Mr. GLENN. The request was for unanimous consent that the committee amendment by the Foreign Relations Committee in the nature of a substitute be adopted and that the bill as amended be considered as original text for the purpose of further amendment.

The amendment of the Committee on Foreign Relations is as follows: Strike all after the enacting clause and insert the following:

That this Act may be cited as the "Nuclear Non-Proliferation Act of 1977".

STATEMENT OF POLICY

SEC. 2. The Congress finds and declares that the proliferation of nuclear explosive devices or of the direct capability to manufacture or otherwise acquire such devices poses a grave threat to the security interests of the United States and to continued international progress toward world peace and development. Recent events emphasize the urgency of this threat and the imperative need to increase the effectiveness of international safeguards and controls on peaceful nuclear activities to prevent proliferation. Accordingly, it is the policy of the United States to—

(a) actively pursue through international initiatives mechanisms for fuel supply assurances and the establishment of more effective international controls over the transfer and use of nuclear materials and equipment and nuclear technology for peaceful purposes in order to prevent proliferation, including the establishment of common international sanctions;

(b) take such actions as are required to confirm the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies by establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses.

(c) strongly encourage nations which have not ratified the Treaty on the Non-Proliferation of Nuclear Weapons to do so at the earliest possible date;

(d) cooperate with foreign nations in identifying and adapting suitable technologies for energy production, and in particular, to identify alternative options to nuclear power in aiding such nations to meet their energy needs, consistent with the economic and material resources of those nations and environmental protection; and

(e) cooperate with other nations in protecting the international environment from radioactive, chemical, or thermal contamination arising from nuclear activities.

STATEMENT OF PURPOSE

SEC. 3. It is the purpose of this Act to promote the policies set forth above by—

(a) establishing a more effective framework for international cooperation to meet the energy needs of all nations and to ensure that the worldwide development of peaceful nuclear activities and the export by any nation of nuclear materials and equipment and nuclear technology intended for use in peaceful nuclear activities do not contribute to proliferation;

(b) authorizing the United States to take such actions as are required to ensure that it will act reliably in meeting its commitment to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies;

(c) providing incentives to the other nations of the world to join in such international cooperative efforts and to ratify the Treaty; and

(d) ensuring effective controls by the United States over its exports of nuclear materials and equipment, and of nuclear technology.

DEFINITIONS

SEC. 4. (a) As used in this Act, the term—

(1) "Commission" means the Nuclear Regulatory Commission;

(2) "Director" means the Director of the Arms Control and Disarmament Agency;

(3) "IAEA" means International Atomic Energy Agency;

(4) "nuclear materials and equipment" means source material, special nuclear ma-

terial, production facilities, utilization facilities, and components, items or substances determined to have significance for nuclear explosive purposes pursuant to subsection 109 b. of the 1954 Act;

(5) "physical security measures" means measures to prevent the theft or sabotage or unauthorized use of source or special nuclear material;

(6) "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof), which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility, or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to chapter 12 of the 1954 Act;

(7) "1954 Act" means the Atomic Energy Act of 1954, as amended; and

(8) "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) All other terms used in this Act not defined in this section shall have the meanings ascribed to them by the 1954 Act, the Energy Reorganization Act of 1974, and the Treaty.

TITLE I—UNITED STATES INITIATIVES TO PROVIDE ADEQUATE NUCLEAR FUEL SUPPLY

POLICY

SEC. 101. The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations that may seek to utilize the benefits of atomic energy for peaceful purposes that it will provide a reliable supply of nuclear fuel to those nations and groups of nations which adhere to policies designed to prevent proliferation. Such nuclear fuel shall be provided under agreements entered into pursuant to section 161 of the 1954 Act or as otherwise authorized by law. The United States shall ensure that it will have available the capacity on a long-term basis to enter into new fuel supply commitments consistent with its non-proliferation policies and domestic energy needs. The NRC shall, on a timely basis, authorize the export of nuclear materials and equipment when all the applicable statutory requirements are met.

URANIUM ENRICHMENT CAPACITY

SEC. 102. The Secretary of Energy is directed to initiate construction planning and design, construction, and operation activities for expansion of uranium enrichment capacity, as elsewhere provided by law.

REPORT

SEC. 103. The President shall promptly undertake a study to determine the need for additional United States enrichment capacity to meet domestic and foreign needs and to promote United States non-proliferation objectives abroad. The President shall report to the Congress on the results of this study within twelve months after the date of enactment of this Act.

INTERNATIONAL UNDERTAKINGS

SEC. 104. (a) The President shall institute prompt discussions with other nations and groups of nations, including both supplier and recipient countries, to develop international approaches for meeting future worldwide nuclear fuel needs. In particular, the President is authorized and urged to seek to negotiate as soon as practicable with nations possessing nuclear fuel production facilities or source material and such other nations as may be deemed appropriate, with a view toward the timely establishment of binding international undertakings providing for—

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility for providing agreed upon fuel services and allocating agreed upon quantities of fuel resources to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations;

(2) a set of conditions as called for in subsection (d) of this section under which international fuel assurances under INFA auspices will be provided to recipient nations, including conditions which will ensure that the transferred materials will not be used for nuclear explosive devices;

(3) the establishment of repositories for the storage of spent nuclear reactor fuel under effective international auspices and inspection;

(4) the establishment of arrangements under which nations placing such spent fuel in such repositories would receive appropriate compensation for the energy content of such spent fuel if recovery of such energy content is deemed necessary or desirable;

(5) appropriate financial arrangements regarding transactions carried out under INFA; and

(6) sanctions for violations of the provisions of or for abrogation of such binding international undertakings.

(b) Pending the establishment of INFA the President shall implement such measures as are necessary to make available, for transfer to an international stockpile established pursuant to an international sales arrangement, uranium enriched to less than 20 percent in the isotope 235 up to an amount sufficient to produce 100,000 MWe years of power from light water nuclear reactors. The President shall submit to the Congress not later than six months after the date of enactment of this Act proposals for an initial international undertaking to guarantee the supply of such fuel to nations that adhere to strict policies designed to prevent proliferation.

(c) The President shall, in the report required by section 103, also address the desirability of and options for foreign participation, including investment, in new United States uranium enrichment facilities. This report shall also address the arrangements that would be required to implement such participation and the commitments that would be required as a condition of such participation. This report shall be accompanied by any proposed legislation to implement these arrangements.

(d) The fuel assurances provided by this section shall be exclusively for the benefit of nations that adhere to policies designed to prevent proliferation. In negotiating the binding international undertakings called for in this section, the President shall, in particular, seek to ensure that the benefits of such undertakings are available to non-nuclear-weapon states only if such states accept IAEA safeguards on all their peaceful nuclear activities, do not manufacture or otherwise acquire any nuclear explosive device, do not establish any new enrichment or reprocessing facilities on a national basis, and place any such existing facilities under effective international auspices and inspection.

(e) The report required by section 601 shall include information on the progress made in any negotiations pursuant to this section.

REEVALUATION OF NUCLEAR FUEL CYCLE

SEC. 105. The President shall take immediate initiatives to invite all nuclear supplier and recipient nations to reevaluate all aspects of the nuclear fuel cycle, with emphasis on alternatives to an economy based on the separation of pure plutonium or the presence of high enriched uranium, methods to deal with spent fuel storage, and methods to improve the safeguards for existing nuclear technology. The President shall, in the first report required by section 601, detail the progress of such international reevaluation.

TITLE II—UNITED STATES INITIATIVES TO STRENGTHEN THE INTERNATIONAL SAFEGUARD SYSTEM

POLICY

SEC. 201. The United States is committed to a strengthened and more effective International Atomic Energy Agency and to a comprehensive safeguards system administered by the Agency to deter proliferation. Accordingly, the United States shall seek to act with other nations to—

(a) continue to strength, the safeguards program of the IAEA and, in order to implement this section, contribute funds, technical resources, and other support to assist the IAEA in effectively implementing safeguards;

(b) ensure that the IAEA has the resources to carry out the provisions of Article XII of the Statute of the IAEA;

(c) improve the IAEA safeguards system (including accountability) to ensure—

(1) the timely detection of a possible diversion of source or special nuclear materials which could be used for nuclear explosive devices;

(2) the timely dissemination of information regarding such diversion; and

(3) the timely implementation of internationally agreed procedures in the event of such diversion;

(d) ensure that the IAEA receives on a timely basis the data needed for it to administer an effective and comprehensive international safeguards program and that the IAEA provides timely notice to the world community of any evidence of a violation of any safeguards agreement to which it is a party; and

(e) encourage the IAEA, to the maximum degree consistent with the Statute, to provide nations which supply nuclear materials and equipment with the data needed to assure such nations that bilateral commitments applicable to such supply are being adhered to.

TRAINING PROGRAM

SEC. 202. The Department of Energy, in consultation with the Commission, shall establish and operate a safeguards and physical security training program to be made available to persons from nations and groups of nations which have developed or acquired, or may be expected to develop or acquire, nuclear materials and equipment for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with the national security interests of the United States.

STANDARDS AND MEASUREMENTS

SEC. 203. The Department of Commerce (acting through the National Bureau of Standards), the Department of Energy, and the Commission shall, in consultation with the Department of State and the Arms Control and Disarmament Agency, work cooperatively to establish a program to develop reference methods and standards for measurement of nuclear materials and other substances needed to ensure that consistent and compatible measurements can be made at all points of the nuclear materials safeguards system of sufficient accuracy to meet the requirements of the system. These standards and services may be made available to the IAEA for such safeguards purposes and to nations and groups of nations selected for such assistance by the agencies named in this section in accordance with the 1954 Act.

NEGOTIATIONS

SEC. 204. The United States shall seek to negotiate with other nations and groups of nations to—

(1) adopt general principles and procedures, including common international sanctions, to be followed in the event that a nation violates any material obligation with

respect to the peaceful use of nuclear materials and equipment or nuclear technology, or in the event that any nation violates the principles of the Treaty, including the detonation by a non-nuclear-weapon state of a nuclear explosive device; and

(2) establish international procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials or sabotage of nuclear facilities and for recovering nuclear materials that have been lost or stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the Treaty.

TITLE III—EXPORT ORGANIZATION AND CRITERIA

GOVERNMENT-TO-GOVERNMENT TRANSFERS

SEC. 301. (a) Section 54 of the 1954 Act is amended by adding a new subsection d. thereof as follows:

"d. The authority to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission shall extend only to the following small quantities of special nuclear material (in no event more than five hundred grams per year of the uranium isotope 233, the uranium isotope 235, or plutonium contained in special nuclear material to any recipient):

"(1) which are contained in laboratory samples, medical devices, or monitoring or other instruments;

"(2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.".

(b) Section 64 of the 1954 Act is amended by inserting the following immediately after the second sentence thereof: "The authority to distribute source material under this section (other than under an export license granted by the Nuclear Regulatory Commission), shall in no case extend to quantities of source material in excess of three metric tons per year per recipient.".

(c) Chapter 10 of the 1954 Act is amended by adding a new section 111 as follows:

"SEC. 111. The Nuclear Regulatory Commission is authorized to license the distribution of special nuclear material, source material, and byproduct material by the Department of Energy pursuant to sections 54, 64, and 82 of this Act, respectively, in accordance with the same procedures established by law for the export licensing of such material by any person.".

TECHNOLOGY TRANSFERS

SEC. 302. Subsection 57 b. of the 1954 Act is amended to read as follows:

"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Department of Defense under mutually agreed procedures which shall be established within not more than ninety days after the date of enactment of this provision. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law.".

SUBSEQUENT ARRANGEMENTS

SEC. 303. (a) (1) Prior to entering into any proposed subsequent arrangement under an agreement for cooperation (other than an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the 1954 Act), the Secretary of Energy shall obtain the concurrence of the Secretary of State and shall consult with the Director and the Secretary of Defense: *Provided*, That the Secretary of State shall have the leading role in any negotiations of a policy nature pertaining to any proposed subsequent arrangement regarding arrangements for the storage or disposition of irradiated fuel elements or approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. After consultation with the Commission, notice of any such proposed subsequent arrangement shall be published in the Federal Register, together with the written determination of the Secretary of Energy that such arrangement will not be inimical to the common defense and security, and such proposed subsequent arrangement shall not take effect before 15 days after publication.

(2) If in the Director's view a proposed subsequent arrangement might significantly contribute to proliferation, he may prepare an unclassified Nuclear Proliferation Assessment Statement with regard to such proposed subsequent arrangement regarding the adequacy of the safeguards and other control mechanisms and the application of the peaceful use assurances of the relevant agreement to ensure that assistance to be furnished pursuant to the subsequent arrangement will not be used to further any military or nuclear explosive purpose. For the purposes of this section, the term "subsequent arrangements" shall include—

(A) United States Government contracts for the furnishing of nuclear materials and equipment;

(B) approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of any source of special nuclear material, production or utilization facility, or nuclear technology;

(C) authorization for the distribution of nuclear materials and equipment pursuant to the 1954 Act;

(D) arrangements for physical security;

(E) arrangements for the storage or disposition of irradiated fuel elements;

(F) arrangements for the application of safeguards with respect to nuclear materials and equipment; or

(G) any other arrangement which the President finds to be important from the standpoint of preventing proliferation.

(3) The United States will give timely consideration to requests for prior approval, when required by this Act, to the reprocessing of material proposed to be exported, previously exported and subject to the applicable agreement for cooperation, or special nuclear material produced through the use of such material or a production or utilization facility transferred pursuant to such agreement for cooperation, or to the altering of irradiated fuel elements containing such material when the terms and conditions for such actions are set forth in such agreement for cooperation or in some other international agreement executed by the United States and subject to congressional review procedures comparable to those set forth in section 123 of the 1954 Act.

(b) With regard to any special nuclear material exported by the United States or produced through the use of any nuclear materials and equipment or sensitive nuclear technology exported by the United States—

(1) the Secretary of Energy may not enter into any subsequent arrangement for the transfer of any such material to a third country for reprocessing, for the reprocessing of any such material, or for the subsequent retransfer of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, until he has provided the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate with a report containing his reasons for entering into such arrangements and a period of 15 days has elapsed;

(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of this Act or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, unless in his view, and that of the Secretary of State, such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among other factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will insure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear state could transform the diverted material into a nuclear explosive device; and

(3) the Secretary of Energy shall attempt to insure, in entering into any subsequent arrangement for the reprocessing of any such material in any facility that has processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of this Act, or for the subsequent retransfer to any non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, that such reprocessing or retransfer shall take place under conditions comparable to those which in his view, and that of the Secretary of State, satisfy the standards set forth in paragraph (2).

EXPORT LICENSING PROCEDURES

SEC. 304. (a) Chapter 11 of the 1954 Act is amended by adding a new section 126 as follows:

"SEC. 126. EXPORT LICENSING PROCEDURES.—

"a. No license may be issued by the Commission for the export of any production or utilization facility, or any source material or special nuclear material, no exemption from any requirement for such an export license may be granted by the Commission, and the Department of Energy shall not distribute any special nuclear material, source material, or byproduct material under section 54, 64, or 82 of the 1954 Act until the Commission or the Department of Energy, as the case may be—

"(1) has been notified by the Secretary of State that it is the judgment of the executive branch that the proposed export, exemption, or distribution will not be inimical to the common defense and security, or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes. In submitting any such judgment, the Secretary of State shall specifically address the extent to which the export criteria then in effect are met. In the event he considers it warranted, the Secretary may also address the following additional factors, among others:

"(A) that issuing the license, granting the exemption, or authorizing the distribution will materially advance the non-proliferation policy of the United States by encouraging the recipient nation to adhere to the Treaty, or to participate in the undertakings

contemplated by section 403 or 404(a) of the Nuclear Non-Proliferation Act of 1977;

"(B) that failure to issue the license, grant the exemption, or authorize the distribution would otherwise be seriously prejudicial to the non-proliferation objectives of the United States; and

"(C) that the recipient nation or group of nations has agreed that conditions substantially identical to the export criteria set forth in subsection 127 a. will be applied by another nuclear supplier nation or group of nations to the proposed United States export or distribution and that in his judgment those conditions will be implemented in a manner acceptable to the United States.

The Secretary of State shall provide appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Commission or the Secretary of Energy, as the case may be; and

"(2) finds, based on a reasonable judgment of the assurances provided and the evidence, that the criteria in subsection 127 a. or their equivalent, and any other applicable statutory requirements, are met: *Provided*, That for a period of twenty-four months after the date of enactment of this section, continued cooperation under an agreement for cooperation as authorized in accordance with section 124 of this Act shall not be prevented by failure to meet the provisions of paragraph (4) or (5) of section 127 if the Secretary of State notifies the Commission that the nation or group of nations bound by the relevant agreement has agreed to negotiations as called for in section 404(a) of the Nuclear Non-Proliferation Act of 1977; however, nothing in this subsection shall be deemed to relinquish any rights which the United States may have under agreements for cooperation in force on the date of enactment of this section: *Provided further*, That if, upon the expiration of such twenty-four month period, the President determines that failure to continue cooperation with any group of nations which has been exempted pursuant to the above proviso from the provisions of paragraph 4 or 5 of subsection 127 a. but which has yet agreed to comply with those provisions would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes such determination. In the event that the Committee on International Relations of the House of Representatives or the Committee on Foreign Relations of the Senate reports a joint resolution to take any action with respect to any such extension, such joint resolution will be considered in the House or Senate, as the case may be, under procedures identical to those provided for the consideration of resolutions pursuant to section 130 of this Act.

"b. (1) Timely consideration shall be given by the Commission to requests for export licenses and exemptions and by the Department of Energy to requests for distributions, and such requests shall be granted upon a determination that the application or request therefor is acceptable, and that all applicable statutory requirements have been met.

"(2) If, after receiving the executive branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under this Act, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. The Commission's decision shall include an explanation of the basis for the decision and any dissenting or separate views. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that with holding the proposed export would be seriously prejudicial to the achievement of the United States non-proliferation objectives, or would otherwise jeopardize the common defense and security, the proposed export may be authorized by Executive order: *Provided*, That prior to any such export, the President shall submit the Executive order, together with his explanation of why, in light of the Commission's decision, the export should nonetheless be made, to the Congress for a period of sixty days of continuous session (as defined in subsection 130g.) and shall be referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such proposed export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposed export. Any such Executive order shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

"c. In the event that the House of Representatives or the Senate passes a joint resolution which would adopt one or more additional export criteria, any such joint resolution shall be referred in the other House to the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, as the case may be, and shall be considered by the other House under applicable procedures provided for the consideration of resolutions pursuant to section 130 of this Act.".

(b) Within one hundred and twenty days of the date of enactment of this Act, the Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any nuclear export license or exemption pursuant to its statutory authority; (2) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by the 1954 Act, including such public hearings and access to information as the Commission deems appropriate: *Provided*, That judicial review as to such finding shall be limited to the determination of whether such finding was arbitrary and capricious; (3) for a public written Commission opinion accompanied by the dissenting or separate views of any Commissioner, in those proceedings where one or more Commissioners have dissenting separate views on the issuance of an export license; and (4) for public notice of Commission proceedings and decisions, and for recording of minutes and votes of the Commission.

(c) The procedures to be established pursuant to subsection (b) shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 189 a. of the 1954 Act, shall not require the Commission to grant any person an on-the-record hearing in such a proceeding.

CRITERIA GOVERNING UNITED STATES NUCLEAR EXPORTS

SEC. 305. Chapter 11 of the 1954 Act, as amended by section 304, is further amended by adding at the end thereof the following:

"SEC. 127. CRITERIA GOVERNING UNITED STATES NUCLEAR EXPORTS.—

"The United States adopts the following criteria which, in addition to other requirements of law, will govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

"(1) IAEA safeguards as required by Article III (2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

"(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and on special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

"(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof.

"(4) No such materials, facilities, or sensitive nuclear technology proposed to be exported, no such materials or facilities previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this subsection.

"(5) No such material proposed to be exported or previously exported and subject to the applicable agreement for cooperation and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

"(6) No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology".

ADDITIONAL EXPORT CRITERION AND PROCEDURES

SEC. 306. Chapter 11 of the 1954 Act, as amended by sections 304 and 305, is further amended by adding at the end thereof the following:

"SEC. 128. ADDITIONAL EXPORT CRITERION AND PROCEDURES.—

"a. (1) As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology to non-nuclear-weapon states, no such export shall be made unless IAEA safeguards are maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the time of the export.

"(2) The President shall seek to achieve adherence to the foreign criterion by recipient non-nuclear-weapon states.

"b. The criterion set forth in subsection a. shall be applied as an export criterion with respect to any application for the export of materials, facilities, or technology specified in subsection a. which is filed after eighteen months from the date of enactment of this

section, or for any such application under which the first export would occur at least twenty-four months after the date of enactment of this section, except as provided in the following paragraphs:

"(1) If the Commission or the Department of Energy, as the case may be, is notified that the President has determined that failure to approve an export to which this subsection applies because such criterion has not yet been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the license or authorization may be issued subject to other applicable requirements of law: *Provided,* That no such export of any production or utilization facility or of any source or special nuclear material (intended for use as fuel in any production or utilization facility) which has been licensed or authorized pursuant to this subsection shall be made until the first such license or authorization with respect to each non-nuclear-weapon state which has failed to meet such criterion is submitted to the Congress (together with a detailed assessment of the reasons underlying the President's determination, the judgment of the executive branch required under section 126 of this Act, and any Commission opinion and views) for a period of sixty days of continuous session (as defined in subsection 130(g) of this Act) and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

"(2) If the Congress adopts a resolution of disapproval pursuant to paragraph (1), no further export of materials, facilities, or technology specified in subsection a. shall be permitted for the remainder of that Congress, unless such state meets the criterion or the President notifies the Congress that he has determined that significant progress has been made in achieving adherence to such criterion by such state or that United States foreign policy interests dictate reconsideration and the Congress, pursuant to the procedure of paragraph (1), does not adopt a concurrent resolution stating in substance that it disagrees with the President's determination.

"(3) If the Congress does not adopt a resolution of disapproval with respect to a license or authorization submitted pursuant to paragraph (1), the criterion set forth in subsection a. shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection a. to that state: *Provided,* That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1); *Provided further,* That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state.".

CONDUCT RESULTING IN TERMINATION OF NUCLEAR EXPORTS

SEC. 307. Chapter 11 of the 1954 Act, as amended by sections 304, 305, and 306, is further amended by adding at the end thereof:

"SEC. 129. CONDUCT RESULTING IN TERMINATION OF NUCLEAR EXPORTS.—

"(a) No nuclear materials and equipment or sensitive nuclear technology shall be exported to—

"(1) any non-nuclear-weapon state that is found by the President to have, at any time after the effective date of this section—

"(A) detonated a nuclear explosive device; or

"(B) terminated or abrogated IAEA safeguards; or

"(C) materially violated an IAEA safeguards agreement; or

"(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such activities; or

"(2) any nation or group of nations that is found by the President to have, at any time after the effective date of this section,

"(A) materially violated any guarantee it has given under an agreement for cooperation with the United States; or

"(B) assisted, encouraged, or induced any non-nuclear-weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the Presidents' judgment, represents sufficient progress toward terminating such assistance, encouragement, or inducement; or

"(C) entered into an agreement after the date of enactment of this section for the transfer of reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapon state except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to a subsequent international agreement or understanding to which the United States subscribes;

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security: *Provided,* That prior to the effective date of any such determination, the President's determination, together with a report containing the reasons for his determination, shall be submitted to the Congress and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in subsection 130g. of the 1954 Act), but any such determination shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideraton of Presidential submissions.".

CONGRESSIONAL REVIEW PROCEDURES

SEC. 308. Chapter 11 of the 1954 Act, as amended by sections 304, 305, 306, and 307, is further amended by adding at the end thereof the following:

"SEC. 130. CONGRESSIONAL REVIEW PROCEDURES.—

"a. Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by this Act, the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives shall each submit a report to its respective House on its views and recommendations respecting such Presidential submission together with a resolution, as defined in subsection f., stating in substance that such House approves or disapproves such submission, as the case may be: *Provided,* That if either such committee has not reported such a resolution at the end of such forty-five day period, such committee shall be deemed to be discharged from further consideration of such submission and any resolution, as defined in subsection f., which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

"b. When the committee has reported such a resolution or a resolution has been introduced and placed on the appropriate calendar pursuant to the proviso in subsection a., as the case may be, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"c. Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to a motion to postpone, or a motion to recommit the resolution, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order. No amendment to any concurrent resolution pursuant to the procedures of this section is in order except as provided in subsection d.

"d. Immediately following (1) the conclusion of the debate on such concurrent resolution, (2) a single quorum call at the conclusion of debate if requested in accordance with the rules of the appropriate House, and (3) the consideration of an amendment introduced by the Majority Leader or his designee to insert the phrase, 'does not,' in lieu of the word 'does' if the resolution under consideration is a concurrent resolution of approval, the vote on final approval of the resolution shall occur.

"e. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a resolution shall be decided without debate.

"f. For the purpose of subsections a. through e. of this section, the term 'resolution' means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress (does or does not) favor the transmitted to the Congress by the President on ,', the blank spaces therein to be appropriately filled, and the affirmative or negative phrase within the parenthetical to be appropriately selected.

"g. For the purposes of this section—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"h. This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Rep-

resentatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of resolutions described by subsection f. of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.".

COMPONENT AND OTHER PARTS OF FACILITIES

SEC. 309. (a) Section 109 of the 1954 Act is amended to read as follows:

"SEC. 109. COMPONENT AND OTHER PARTS OF FACILITIES.—

"a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11 v. (2) or 11 cc. (2) the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk inimical to the common defense and security.

"b. The Commission is authorized and directed to determine which component parts as defined in subsection 11 v. (2) or 11 cc. (2) and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in section 126 b. (2), no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export after finding, based on a reasonable judgment of the assurances provided and the evidence, that the following criteria or their equivalent are met: (1) IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to such component, substance, or item; (2) no such component, substance, or item will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) no such component, substance, or item will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license or category of licenses will not be inimical to the common defense and security.

"c. The Commission shall not issue an export license under the authority of subsection b. if it is advised by the executive branch, in accordance with the procedures established under section 126 a., that the export would be inimical to the common defense and security of the United States.".

(b) The Commission, not later than one hundred and twenty days after the date of the enactment of this Act, shall publish regulations to implement the provisions of subsection (a). Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Department of Energy, the Department of Defense, the Department of Commerce, and the Arms Control and Disarmament Agency.

(c) The President, within not more than one hundred and twenty days after the date of the enactment of this Act, shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultations, as required, by the Department of Commerce with the Department of State, the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Energy, and the Department of Defense.

TITLE IV—NEGOTIATION OF FURTHER EXPORT CONTROLS

COOPERATION WITH OTHER NATIONS

SEC. 401. Section 123 of the 1954 Act is amended to read as follows:

"SEC. 123. COOPERATION WITH OTHER NATIONS.—No cooperation with any nation, group of nations or regional defense organization pursuant to section 53, 54a, 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until—

"a. the proposed agreement for cooperation has been submitted to the President, which proposed agreement shall include the terms, conditions, duration, nature, and scope of the cooperation; and shall include the following requirements:

"(1) a guaranty by the cooperating party that safeguards as set forth in the agreement for cooperation will be maintained with respect to all nuclear materials and equipment transferred pursuant thereto, and with respect to all special nuclear material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason;

"(2) in the case of non-nuclear-weapon states, a requirement, as a condition of continued United States nuclear supply under the agreement for cooperation, that IAEA safeguards be maintained with respect to all nuclear materials in all peaceful nuclear activities within the territory of such state, under its jurisdiction, or carried out under its control anywhere;

"(3) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., a guaranty by the cooperating party that no nuclear materials and equipment or sensitive nuclear technology to be transferred pursuant to such agreement, and no special nuclear material produced through the use of any nuclear materials and equipment or sensitive nuclear technology transferred pursuant to such agreement, will be used for any nuclear explosive device, or for research on or development of any nuclear explosive device, or for any other military purpose;

"(4) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c. and agreements for cooperation with nuclear-weapon states, a stipulation that the United States shall have the right to require the return of any nuclear materials and equipment transferred pursuant thereto and any special nuclear material produced through the use thereof if the cooperating party detonates a nuclear explosive device or terminates or abrogates an agreement providing for IAEA safeguards;

"(5) a guaranty by the cooperating party that any material or any Restricted Data transferred pursuant to the agreement for cooperation and, except in the case of agreements arranged pursuant to subsection 91 c., 144 b. or 144 c., any production or utilization facility transferred pursuant to the agreement for cooperation or any special nuclear material produced through the use of any such facility or through the use of any material transferred pursuant to the agreement, will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without the consent of the United States;

"(6) a guaranty by the cooperating party that adequate physical security will be maintained with respect to any nuclear material transferred pursuant to such agreement and with respect to any special nuclear material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to such agreement;

"(7) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 114 c., a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be reprocessed, or (in the case of plutonium or uranium enriched to greater than twenty percent in the isotope 233 or 235, or other nuclear materials which have been irradiated) otherwise altered in form or content without the prior approval of the United States;

"(8) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no plutonium, and no uranium enriched to greater than twenty percent in the isotope 233 or 235, transferred pursuant to the agreement for cooperation, or recovered from any source or special nuclear material so transferred or from any source or special nuclear material used in any production facility or utilization facility transferred pursuant to the agreement for cooperation, will be stored in any facility that has not been approved in advance by the United States; and

"(9) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b. or 144 c., a guaranty by the cooperating party that any special nuclear material, production facility, or utilization facility produced or constructed under the jurisdiction of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the requirements specified in this subsection. The President may exempt a proposed agreement for cooperation (except an agreement arranged pursuant to subsection 91 c., 144 b., or 144 c.) from any of the requirements of the foregoing sentence if he determines that inclusion of any such requirement would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Secretary of Energy and in consultation with the Director; and after consultation with the Commission shall be submitted to the President jointly by the Secretary of State and the Secretary of Energy accompanied by the views and recommendations of the Secretary of State, the Secretary of Energy, and the Director, who shall also provide to the President an unclassified Nuclear Proliferation Assessment Statement regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any pro-

posed agreement for cooperation shall be submitted to the President by the Secretary of Energy or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, by the Secretary of Defense;

"b. the President has approved and authorized the execution of the proposed agreement for cooperation and has made a determination in writing that the performance of the proposed agreement will promote, and will not constitute an unreasonable risk to, the common defense and security;

"c. the proposed agreement for cooperation (if not an agreement subject to subsection d.), together with the approval and determination of the President, has been submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of thirty days of continuous session (as defined in subsection 130 g.): *Provided, however,* That these committees, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period;

"d. the proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of section 53, 54a, 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed agreement for cooperation: *Provided,* That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, when required by subsection 123 a., has been submitted to the Congress. Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of presidential submissions; and

"e. following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c.) to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy, the Arms Control and Disarmament Agency, and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.".

ADDITIONAL REQUIREMENTS

SEC. 402. (a) In addition to other requirements of law, no source or special nuclear material shall be exported under any agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the 1954 Act) for the purpose of enrichment (as described in paragraph aa. (2) of section 11 of the 1954 Act) unless such enrichment is specifically permitted by the applicable agreement for cooperation.

(b) In addition to other requirements of law, no major critical component of any uranium enrichment, nuclear fuel reprocessing, or heavy water production facility shall be exported under any agreement for cooperation (except an agreement for cooperation pursuant to subsection 91 c., 144 b., or 144 c. of the 1954 Act) unless such agreement for cooperation specifically designates such components as items to be exported pursuant to the agreement for cooperation. For purposes of this subsection, the term "major critical component" means any component part or group of component parts which the President determines to be essential to the operation of a complete uranium enrichment, nuclear fuel reprocessing, or heavy water production facility.

PEACEFUL NUCLEAR ACTIVITIES

SEC. 403. The President shall take immediate and vigorous steps to seek agreement from all nations and groups of nations to commit themselves to adhere to the following export policies with respect to their peaceful nuclear activities and their participation in international nuclear trade:

(a) No nuclear materials and equipment and no sensitive nuclear technology within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be transferred to the jurisdiction of any other nation or group of nations unless the nation or group of nations receiving such transfer commits itself to strict undertakings including, but not limited to, provisions sufficient to ensure that—

(1) no nuclear materials and equipment and no nuclear technology in, under the jurisdiction of, or under the control of any non-nuclear-weapon state, shall be used for nuclear explosive devices for any purpose or for research on or development of nuclear explosive devices for any purpose, except as permitted by Article V, the Treaty;

(2) IAEA safeguards will be applied to all peaceful nuclear activities in, under the jurisdiction of, or under the control of any non-nuclear-weapon state;

(3) adequate physical security measures will be established and maintained by any nation or group of nations on all of its nuclear activities;

(4) no nuclear materials and equipment and no nuclear technology intended for peaceful purposes in, under the jurisdiction of, or under the control of any nation or group of nations shall be transferred to the jurisdiction of any other nation or group of nations which does not agree to stringent undertakings meeting the objectives of this section; and

(5) no nation or group of nations will assist, encourage, or induce any non-nuclear-weapon state to manufacture or otherwise acquire any nuclear explosive device.

(b)(1) No source or special nuclear material within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be enriched (as described in paragraph aa. (2) of section 11 of the 1954 Act) or reprocessed, no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content, and no fabrication or stockpiling involving plutonium enriched to greater than 20 percent in the isotope 233 or 235 shall be performed except in a facility under effective international auspices and inspection, and any such irradiated fuel elements shall be transferred to such a facility as soon as practicable after removal from a reactor consistent with safety requirements. Such facilities shall be limited in number to the greatest extent feasible and shall be carefully sited and managed so as to minimize the proliferation and environmental risks associated with such facilities. In addition, there shall be conditions to limit the access of non-nuclear-weapon states other than the host country to sensitive nuclear technology associated with such facilities.

(2) Any facilities within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere for the necessary short-term storage of fuel elements containing plutonium or uranium enriched to greater than 20 percent in the isotope 233 or 235 prior to placement in a reactor or of irradiated fuel elements prior to transfer as required in subparagraph (1) shall be placed under effective international auspices and inspection.

(c) Adequate physical security measures will be established and maintained with respect to all nuclear activities within the territory of each nation and group of nations, under its jurisdiction, or under its control anywhere, and with respect to any international shipment of significant quantities of source or special nuclear material or irradiated source or special nuclear material, which shall also be conducted under international safeguards.

RENEGOTIATION OF AGREEMENTS FOR COOPERATION

SEC. 404. (a) The President shall initiate a program immediately to renegotiate agreements for cooperation in effect on the date of enactment of this Act, or otherwise to obtain the agreement of parties to such agreements for cooperation to the undertakings that would be required for new agreements under the 1954 Act.

(b) The President shall annually review each of requirements (1) through (9) set forth for inclusion in agreements for cooperation under section 123a. of the 1954 Act and the export policy goals set forth in section 403 to determine whether it is in the interest of United States non-proliferation objectives for any such requirements or export policies which are not already being applied as export criteria to be enacted as additional export criteria and be subject to the procedures of section 128 of the 1954 Act.

(c) If the President proposes enactment of any such requirements or export policies as additional export criteria or to take any other action with respect to such requirements or export policy goals for the purpose of encouraging adherence by nations and groups of nations to such requirements and policies, he shall submit such a proposal together with an explanation thereof to the Congress.

(d) If the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, after reviewing the President's annual report or any proposed legislation, determines that it is in the interest of United States nonproliferation objectives to take any action with respect to such requirements or export policy goals, it shall report a joint resolution to implement such determination. Any joint resolution so reported and shall be considered in the Senate and the House of Representatives, respectively, under applicable procedures provided for the consideration of resolutions pursuant to subsection 130 (b) through (g) of the 1954 Act.

AUTHORITY TO CONTINUE AGREEMENTS

SEC. 405. The amendments to section 123 of the 1954 Act made by this Act shall not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to the date of enactment of this Act.

REVIEW

SEC. 406. No court or regulatory body shall have any jurisdiction under any law to com-

pel the performance of or to review the adequacy of the performance of any Nuclear Proliferation Assessment Statement called for in this Act or in the 1954 Act.

TITLE V—UNITED STATES ASSISTANCE TO DEVELOPING COUNTRIES

POLICY; REPORT

SEC. 501. The United States shall endeavor to cooperate with other nations, international institutions, and private organizations in establishing programs to assist in the development of non-nuclear energy resources, and shall seek to cooperate with and aid developing countries in meeting their energy needs through the development of such resources and the application of non-nuclear technologies consistent with the economic factors, the material resources of those countries, and environmental protection. The United States shall additionally seek to encourage other industrialized nations and groups of nations to make commitments for similar cooperation and aid to developing countries. The President shall report annually to Congress on the level of other nations' and group of nations' commitments under such program and the relation of any such commitments to United States efforts under this title. In cooperating with and providing such assistance to developing countries, the United States shall give priority to parties to the Treaty.

PROGRAMS

SEC. 502. (a) The United States shall initiate a program, consistent with the aims of section 501, to cooperate with developing countries for the purpose of—

(1) meeting the energy needs required for the development of such countries;

(2) reducing the dependence of such countries on petroleum fuels, with emphasis given to utilizing solar and other renewable energy resources; and

(3) expanding the energy alternatives available to such countries.

(b) Such program shall include cooperation in evaluating the energy alternatives of developing countries, facilitating international trade in energy commodities, developing energy resources, and applying suitable energy technologies. The program shall include both general and country-specific energy assessments and cooperative projects resource exploration and production, training, research and development.

(c) As an integral part of such program, Department of Energy, under the general policy guidance of the Department of State and in cooperation with the Agency for International Development and other Federal agencies as appropriate, shall initiate, as soon as practicable, a program for the exchange of United States scientists, technicians, and energy experts with those of developing countries to implement the purposes of this section.

(d) For the purposes of carrying out this section, there is authorized to be appropriated a total of $10,000,000 for fiscal year 1978 to the Department of Energy, including such sums which have been authorized for such purposes under previous legislation.

(e) Under the direction of the President, the Secretary of State shall ensure the coordination of the activities authorized by this title with other related activities of the United States conducted abroad, including the programs authorized by sections 103(c), 106(a)(2), and 119 of the Foreign Assistance Act of 1961.

REPORT

SEC. 503. Not later than twelve months after the date of enactment of this Act, the President shall report to the Congress on the feasibility of expanding the cooperative activities established pursuant to section 502 (c) into an international cooperative effort to include a scientific peace corps designed to encourage large numbers of technically trained volunteers to live and work in developing countries for varying periods of time for the purpose of engaging in projects to aid in meeting the energy needs of such countries through the search for and utilization of indigenous energy resources and the application of suitable technology, including the widespread utilization of renewable and unconventional energy technologies. Such report shall also include a discussion of other mechanisms to conduct a coordinated international effort to develop, demonstrate, and encourage the utilization of such technologies in developing countries.

TITLE VI—EXECUTIVE REPORTING

REPORTS OF THE PRESIDENT

SEC. 601. (a) The President shall review all activities of Governmental departments and agencies relating to preventing proliferation and shall make a report to Congress in January of 1979 and annually in January of each year thereafter on the Government's efforts to prevent proliferation. This report shall include but not be limited to—

(1) a description of the progress made toward—

(A) negotiating the initiatives contemplated in sections 104 and 105 of this Act;

(B) negotiating the international arrangements or other mutual undertakings contemplated in section 403 of this Act;

(C) encouraging non-nuclear-weapon states that are not party to the Treaty to adhere to the Treaty or, pending such adherence, to enter into comparable agreements with respect to safeguards and to foreswear the development of any nuclear explosive devices, and discouraging nuclear exports to non-nuclear-weapon states which have not taken such steps;

(D) strengthening the safeguards of the IAEA as contemplated in section 201 of this Act; and

(E) renegotiating agreements for cooperation as contemplated in section 404(a) of this Act;

(2) an assessment of the impact of the progress described in paragraph (1) on the non-proliferation policy of the United States; an explanation of the precise reasons why progress has not been made on any particular point and recommendations with respect to appropriate measures to encourage progress; and a statement of what legislative modifications, if any, are necessary in his judgment to achieve the non-proliferation policy of the United States; and

(3) a determination as to which non-nuclear-weapon states with which the United States has an agreement for cooperation in effect or under negotiation, if any, have—

(A) detonated a nuclear device; or

(B) refused to accept the safeguards of the IAEA on all of their peaceful nuclear activities; or

(C) refused to give specific assurances that they will not manufacture or otherwise acquire any nuclear explosive device; or

(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices.

(4) as assessment of whether any of the policies set forth in this Act have, on balance, been counter-productive from the standpoint of preventing proliferation; and

(5) a description of the progress made toward establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses in order to enhance the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies.

(b) In the first report required by this section, the President shall analyze each civil agreement for cooperation negotiated pursuant to section 123 of the 1954 Act, and shall discuss the scope and adequacy of the requirements and obligations relating to safeguards and other controls therein.

ADDITIONAL REPORTS

SEC. 602. (a) The annual reports to the Congress by the Commission and the Department of Energy which are otherwise required by law shall also include views and recommendations regarding the policies and actions of the United States to prevent proliferation which are the statutory responsibility of those agencies. The Department's report shall include a detail analysis of the proliferation implications of advanced enrichment and reprocessing techniques, advanced reactors, and alternative nuclear fuel cycles. This part of the report shall include a comprehensive version which includes any relevant classified information and a summary unclassified version.

(b) The reporting requirements of this chapter are in addition to and not in lieu of any other reporting requirements under applicable law.

(c) The Department of State, the Arms Control and Disarmament Agency, the Department of Commerce, the Department of Energy, and the Commission shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to their activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, and with respect to the current activities of foreign nations which are of significance from the proliferation standpoint.

(d) Any classified portions of the reports required by this Act shall be submitted to the Senate Foreign Relations Committee and the House International Relations Committee.

SAVING CLAUSE

SEC. 603. (a) All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or officer, or part thereof, in exercising the functions which are affected by this Act, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

(b) Nothing in this Act shall affect the procedures or requirements applicable to agreements for cooperation entered into pursuant to sections 91 c., 144 b., or 144 c. of the 1954 Act as it was in effect immediately prior to the date of enactment of this Act.

Mr. McCLURE. I concur in the request. I thank the Senator.

Mr. GLENN. Mr. President, the most succinct as well as the most pithy statement of the problem of nuclear proliferation was once given by the great nuclear physicist, Hannes Alfven. He said:

Atoms for peace and atoms for war are Siamese twins.

The objective of this bill is to perform the delicate surgery that is needed to separate these Siamese twins so that as far as nuclear energy is concerned, we can have "benefits without bombs." We wish to make available the "benefits"

and enormous advantages of safe nuclear generated electrical power to an increasingly energy-short world, and do it "without bombs," without the spread of nuclear weaponry that could too easily follow, indeed, without the haunting specter of a future mushroom-shaped-cloud holocaust. Working out the complexities of a bill that would strike that balance has required a tremendous amount of work spanning nearly 2½ years.

I want to pay particular tribute to Senator PERCY for his pioneering effort on this legislation, as well as the prime sponsors of the bill, our chairman, Senator RIBICOFF, whose strong support for this goal has been long known, as well as Senators JAVITS, CRANSTON, KENNEDY, and MATSUNAGA. I also want to acknowledge the full cooperation of representatives of the NRC, ERDA, ACDA, and the State Department.

Senate passage of this bill will mark the most comprehensive piece of nuclear legislation since the Atomic Energy Act of 1954.

This bill, S. 897, is designed to:

Reduce the uncertainty surrounding U.S. nuclear export policy;

Reestablish our reputation as a reliable supplier of nuclear fuel to those countries sharing our nonproliferation objectives;

Establish strict export criteria or guidelines to assure that nuclear exports are used only for peaceful purposes;

Provide sanctions against nations engaging in actions of particularly grave significance for the proliferation of nuclear explosive devices; and

Establish guidelines and goals for the negotiation with other nations of new agreements for nuclear cooperation in which our nonproliferation interests will be protected.

But while doing the above, I believe this legislation substantially enhances the international prospects for U.S. industry, particularly by reducing uncertainty, by long-needed clarification of previously uncertain licensing procedures and criteria, by shortening the present too-long licensing process, and by instituting a new program for nuclear fuel assurance.

S. 897 also does:

Initiate a program for nuclear fuel assurances to nations which adhere to effective nonproliferation policies;

Call for more comprehensive and effective international safeguards;

Provide Presidential override of NRC in extraordinary cases of overriding national interest;

Establish minimum criteria as follows: Phase I clarifies and codifies controls and approval rights under existing agreements; would not cause a moratorium, and phase II, effective in 18 months requires international safeguards on all of the recipient's nuclear activities; already accepted by all but a handful of countries, including some non-NPT states;

Require NRC to grant licenses when all statutory requirements are met;

Require clarification of ground rules for public participation; limit dilatory intervention;

Establish sanctions against those who proceed with bomb detonation or development, who violate safeguards or other agreements, or who engage in dangerous forms of nuclear trade;

Allow U.S. fuel to be reprocessed in new or unapproved existing facilities only if it would not significantly increase proliferation risks;

Set important new goals for upgrading existing bilateral agreements and for new international measures; require active negotiations to achieve these goals; and

Provide for U.S. assistance to developing nations to develop alternative energy options.

But there are also some things that S. 897 specifically does not do. It does not:

Affect military cooperation;

Require breach of existing agreements;

Impose numerous new unilateral conditions;

Call for a ban on reprocessing;

Ignore the need for cooperative and lasting international solutions to the nonproliferation problem;

Bring Congress in on routine licensing decisions; and

Impose extensive new procedures which will be complex and time-consuming.

Controversy surrounding approaches to the nonproliferation problem stem mainly from differing perceptions regarding the character of the proliferation process, the need for controls over this process, the path of energy development most conducive to enhancing national security, and the ultimate view of this legislation by potential foreign buyers of U.S. services and equipment.

It is important to understand this controversy if the arcane subject of nuclear proliferation is to be penetrated.

Until recent years, nonproliferation efforts were based on an approach that was deemed successful as long as it forestalled the specific manufacture or acquisition of nuclear weapons. It has become clear, however, that this approach is too narrow. Our concerns about proliferation must be broadened to include the capability to quickly procure a nuclear explosive device. The basic reason for this lies in the continuing spread of those types of nuclear technology adaptable to the production of weapons-grade fissionable material.

I am referring to both the technology of uranium enrichment in which the percentage of the isotope U-235 is increased beyond its natural level, and the technology of separation of reprocessing of plutonium from spent nuclear reactor fuel. If a nonnuclear weapon state has no direct access to these technologies nor to materials suitable for fission explosives, our nonproliferation concerns are minimal. That is indeed the case with the ordinary once-through, light water reactor (LWR) technology that is the backbone of our commercial nuclear industry. The fuel used in an ordinary light water power reactor is uranium enriched to about 3 percent in the isotope U-235. Weapons-usable material of this kind requires at least 20 percent U-235. Further, the fission process in the reactor core, while producing plutonium, also produces intensely radioactive materials which must be chemically separated from the plutonium in order to obtain weapons-usuable material. Thus, unless an enrichment or reprocessing facility is immediately available, there are intrinsic safeguards in the once-through nuclear fuel cycle. Basically these safeguards provide for a sufficient amount of warning time in case of a diversion or seizure of spent fuel to allow a diplomatic effort to be mounted whose purpose would be to dissuade the country involved from carrying out its apparent course of action in moving down the weapons path.

Once the fuel cycle is closed, however, and stockpiles of plutonium are produced or if a nonweapon state has access to enrichment technology producing stockpiles of highly enriched uranium (HEU), then the leadtime to produce a weapon following diversion of the material may be reduced, just a few days or perhaps even hours, depending on the auxiliary preparations previously carried out. According to Prof. Albert Wohlstetter, a nation can indeed come within hours of exploding a nuclear device without violating any rules of the Nuclear Nonproliferation Treaty.

It is this situation that has produced the present challenge to the international safeguards system and has prompted a closer look at our system of nuclear export controls.

In trying to prevent or slow down the proliferation process, while at the same time assuring the benefits of nuclear power to nations that can well use that power to upgrade their standard of living, one must understand the motivations that cause nations to seek to possess sensitive nuclear technologies and by those I mean enrichment and reprocessing or the fissionable materials produced by them. Generally these motivations may be a combination of a desire for two things, for assurance of nuclear fuel supply coupled with the feelings of security engendered by having a latent weapons capability.

In other words, there is not only a nation's legitimate desire of fuel for legitimate electrical generating purposes but always in the background is the risk that perhaps a weapons capability could be developed if it were ever necessary to do so.

Any nonproliferation policy worthy of the name must deal with these realities of national and international life. A nation's national security concerns over the possibility an external nuclear military threat can be alleviated by widespread commitments by neighboring nations to the provisions of the nonproliferation which prohibits nuclear weapons, as well as through the adoption of other security treaties while efforts to arrive at a fair and equitable system of nuclear and general disarmament are

made. Treaties such as the NAT raise the political threshold which a nation must cross in order to become a weapon state.

Of perhaps equal importance as an inducement against proliferation is the granting of nuclear fuel assurances to those nations which have no abundant indigenous energy resources. No nation, the United States or any other nation, wants to be dependent on others, if possible, for its nuclear fuel supply. But there is some evidence from discussions with other nations that fuel assurances if decoupled from the political winds of the moment or attitudes of the moment of a given supplier nation would be looked upon as an attractive alternative to the construction or importation of reprocessing facilities for the purpose of separating plutonium as an independent source of fuel.

In other words, Mr. President, I believe it highly advisable to consider an International Nuclear Fuel Authority to which supplier nations could sell fuel and from which using nations could buy fuel—and most importantly, on a reliable apolitical basis; in other words, a more guaranteed supply than these user nations now feel they have.

The obvious benefit is that those nations buying from such an assured fuel supply would no longer need the assurance previously sought by owning their own reprocessing plant, which, of course, would carry with it the potential side effect of plutonium production and with that the possibility of nuclear weapon production.

Accordingly, this bill, S. 897, contains a set of provisions for starting the United States along the path of international cooperation toward the establishment of fuel assurances through such an organization. An international nuclear fuel authority, INFA as we refer to it, which would deal with all aspects of the fuel cycle, including provision for the storage of spent fuel in facilities under international auspices. As an initial step, provision is made, subject to congressional review, for the President to indeed go ahead and set aside an amount of low-enriched nuclear fuel, capable of producing up to 100,000 megawatt-years of nuclear power.

A translation of that is that with the usual nuclear powerplant being of approximately a 1,000 megawatt capacity. this would give a guarantee of 33 years of fuel for three average nuclear plants as most of them are built today, not a huge amount of fuel. But this could start the ball rolling and the fuel would be available for sale to an international stockpile under an international sales agreement with the hope that the other supplier nations will join in our efforts.

The fuel assurances arising from these arrangements are to be for the benefit of nations adhering to strict nonproliferation policies. And that, Mr. President, brings me to the other important aspects of this bill, namely, the criteria to which other nations are expected to adhere in order to continue to receive nuclear exports from the United States.

The criteria which go into effect immediately upon passage of this bill represent nothing more than a commonsense codification of existing policy regarding nuclear exports to nonweapon states.

These criteria include:

First, the requirement for IAEA safeguards on exporting U.S. materials or facilities;

Second, a prohibition on use of such exports for nuclear explosive devices;

Third, a requirement of adequate physical security on such materials or facilities;

Fourth, the establishment of prior approval rights by the United States with respect to reprocessing or retransfer of exported materials which could be waived for a limited period of time in those cases where such prior approval rights are not now provided in agreements for cooperation, as long as such agreements are being renegotiated—and

Finally, safeguards on replicated facilities.

Those certainly are common sense arrangements.

Eighteen months after enactment, a requirement of full-scope safeguards on all peaceful nuclear facilities is added. I believe, Mr. President, that these criteria are fair, reasonable, and represent an appropriate leadership position for the United States to take in safeguarding nuclear exports.

Indeed, Mr. President, it is our sincere hope and, I believe, that of the administration that our leadership in the United States in establishing these reasonable and workable criteria will be followed by other supplier nations.

The major "stick," by that I mean the major enforcement measure in this bill, is the section on action's triggering a cutoff of U.S. nuclear exports. Basically, nuclear exports to a nonweapon state will cease if that state explodes a nuclear device or abrogates or terminates a safeguards agreement. Any nation aiding a nonweapon state to achieve the direct capability to manufacture or otherwise acquire nuclear weapons would also risk cutoff as would any nation exporting a reprocessing facility to the sovereign control of a nonweapon state.

I would add in that a reprocessing facility, to those who have not followed the whole nuclear problem in as much detail as some others, is the type of facility that enables a country to take spent fuel, reprocess the plutonium out of it, and then use the plutonium as a substitute fuel in a reactor—or for nuclear weapons.

That is why we are so concerned about the export of these reprocessing plants, why it is so important. Surely these things I have just outlined must also be looked at as minimal commonsense requirements.

It should be added that in each part of the bill discussed above, namely, the initial criteria, the full-scope safeguards requirement, and the "sanctions" section, there is provision for a Presidential override, authority the President does not now have, to grant a license or to continue exporting, with congressional review of the President's decisions in such cases.

In other words, in the case of export licensing, where the Nuclear Regulatory Commission now could deny a license for export of material, if the President in his wisdom thinks it is vitally important to grant the export, then he can do so and open the way for the export by exercising this override provision, a power to reiterate, which he does not now possess.

Thus, any overriding foreign policy considerations can be dealt with in this fashion. The same thing applies to the section on "New Agreements for Cooperation," which provides for a list of requirements to be contained in such new agreements but allows flexibility in the negotiation of specific provisions of such agreements through the mechanism of Presidential submission of the agreement for congressional review.

A major additional aspect of this bill, and one which should be of major help to the nuclear industry, is the regularization of the nuclear export licensing process. Lead agent responsibilities for dealing with specific aspects of the process are clarified and timely processing of applications for licenses or for subsequent arrangements such as retransfers are encouraged.

The bill also delineates future export policy goals to be reached through international negotiations and agreement.

Finally, no nonproliferation strategy would be complete unless it dealt with the process of proliferation at its beginning, when energy options are being considered by recipient countries. The bill provides for U.S. cooperation and assistance to developing countries to develop indigenous nonnuclear energy resources and suitable technologies in order to aid such countries in meeting their energy needs. This places a properly considered balance to the U.S. obligation under article IV of the Nonproliferation Treaty to aid developing nations in the peaceful uses of nuclear technology.

In reviewing the content of the bill, Mr. President, I would be remiss if I did not highlight one of the key provisions, namely, the test to be used by the Secretaries of Energy and State in determining whether to approve a subsequent arrangement for reprocessing of U.S. fuel by a nonweapon state. This test provides that a finding of "no significant increase of the risk of proliferation" must precede a decision to approve reprocessing and further that "foremost consideration" must be given to the principle of "timely warning" in making such a finding.

In my earlier remarks, I alluded to this principle, which in its simplified form, states that the effectiveness of safeguards is a function of the amount of time available between a decision by a non-weapon state to divert fissionable material and the fabrication of a nuclear explosive device. If insufficient time exists between those events for an appropriate and effective political, diplomatic, or military response to be made, then "timely warning" is deemed not to be present, and thus effective safeguards are lacking.

The elevation of the "timely warning" principle to statutory status in dealing with the nuclear proliferation problem is, in my view, a very significant step forward in safeguards.

Mr. President, the proliferation problem is multifaceted, and calls for a multifaceted response. We have considered this problem from every angle and have worked long and hard with administration representatives and Senate colleagues over many months to produce a bill with wide-ranging support.

I might interject here in my remarks also, Mr. President, the course that was followed to get this legislation to the stage it is in now. The original administration bill, which I introduced as a courtesy to the administration, took one approach.

The hard line approach that was originally taken in the legislation which the distinguished Senator from Illinois (Mr. PERCY) and I worked on for a long time, along with other Members of the Senate, took perhaps what might have been a counterproductive approach, in retrospect.

What we did in the middle of this past year was to take the best of both of those bills, added the International Nuclear Fuel Authority proposal to it, and came out with a wholly new approach. But—and this is important—we worked very closely at each step of the way, at every meeting that was held, with representatives of the Nuclear Regulatory Commission, with the Department of State, with the Arms Control and Disarmament Agency people, with everyone from the administration sitting in and trying to hack away at the differences of opinion we had on approaches to this legislation.

Mr. President, I would submit that this bill we have now is the product of not just the floor managers of the bill here today but of all of those people, of the administration, of all these people who worked together on this bill.

I have been asked repeatedly, over and over and over again, by Secretary Vance and by messages from the President as to how soon we could get this bill to the floor, how soon we could get it passed, because they feel we are sort of in limbo until we can get this thing spelled out and pinned down; so we look forward to getting this passed at the earliest possible opportunity.

Mr. President, I believe this bill strikes a very proper balance. I believe it will be a help to American industry in worldwide markets while, at the same time, take a leadership position in the establishment of clear rules that other supplier nations will be encouraged to follow.

Three Senate committees have favorably reported this legislation. The House passed a similar version without a single dissenting vote, 411 to 0. The President of the United States has made the issue of nuclear proliferation a central concern of his foreign policy. Mr. President, we owe it to future generations to take the step of passing this legislation as a step toward the creation of a saner and safer world.

Mr. PERCY. Mr. President, I have stated many times over the past several years that nuclear proliferation is one of the most pressing issues which we will face in the Senate. I have not changed this belief; in fact, the passage of time has only strengthened my concern.

I would like to thank the distinguished majority and minority leaders for bringing this bill to the Senate floor today. We are nearing the end of a very long road which began in the spring of 1975; one which has involved negotiations with two administrations, numerous committees of the House and the Senate, and a range of private interests. The Senate schedule is heavily burdened with important legislation, especially with the extensive debate expected on the Panama Canal Treaties, and the leadership should be commended for allowing the Senate to work its will on this matter on a timely basis.

I have been gratified to see that since we began our hearings in the Governmental Affairs Committee, there has been a continuing high level of interest in the proliferation issue within the United States and overseas. The ramifications of this entire issue are highly controversial, and a spirited debate has ensued. But the important thing is that officials at the highest levels of governments all over the world are considering crucial questions which desperately need resolution.

We all recognize the need to balance specific nonproliferation policy concerns against energy needs and other foreign policy issues. But while it is true that nonproliferation issues cannot be considered in a vacuum, we must also recognize the unique nature of this threat. Unlike many other concerns, each setback in our nonproliferation efforts is irreversible. A nuclear explosive capability is not likely to be undone. Thus, unless we act now to halt the spread of this deadly threat, peace and stability will be undermined at a geometric rate. We have no choice but to place nonproliferation among our very highest national and international priorities.

At one point in the many weeks of hearings that have been held, with numerous witnesses who have contributed to the knowledge of the Senate and the House in this regard and the 3,000 pages of testimony that have accumulated, one witness said,

> It is about time we realized that the nuclear nonproliferators must start to have dominance over the nuclear salesmen.

We are talking about the future of humanity with this issue, and the prospect of gaining a couple of additional millions of dollars of sales is not urgent enough for any nation to put commercial gain ahead of safeguards and caution. We are talking about the terrifying threat of a nuclear explosive capability, as has been well described by my distinguished colleague, the majority floor manager of the bill, Senator GLENN.

I cannot help but recall one of the earliest witnesses we had, one of the most knowledgeable men in the world on nuclear power, the first Chairman of the Atomic Energy Commission of the United States of America, Dr. David Lilienthal, when Dr. Lilienthal said:

> I am glad I am as old as I am. I would not want to be the age of my children or grandchildren. The world is too dangerous for that.

I think we have to stop, look, and listen when authorities of that caliber discuss this subject and the potential holocaust that could occur if we do not start to tighten down the safeguards.

Some have argued that S. 897 is too little, too late. Others have contended that the bill would undermine the U.S. competitive position overseas. Those who have followed the development of this bill know that it is a compromise among widely differing prescriptions for action. I am convinced that the bill before us is a workable compromise which will provide a solid foundation for a strong and effective U.S. nuclear export policy.

S. 897 does not go overboard in imposing massive new unilateral controls on the use of nuclear technology. It recognizes the need for flexibility, international cooperation, and as much predictability as is possible consistent with our primary objectives. Yet the bill also recognizes that without major progress in curbing proliferation we will face an ever growing threat to world peace and human survival. International safeguards need to be strengthened, and we must take care to resolve proliferation risks as we adopt new technologies instead of waiting until little can be done. Perhaps the most important characteristic of S. 897 is that it draws a realistic bottom line from which to build toward new international political and technological solutions.

It appears that the debate on this bill will focus on the contentions of the nuclear industry that S. 897 will undermine the image of the United States as a reliable supplier of nuclear products overseas. That concern has played an important role in the development of this legislation over the past 3 years, and has resulted in numerous revisions in committee. After thoroughly studying the arguments which are now being raised, I am confident that the present version of the bill—with the amendments which will be accepted—will not cause any significant new problems with respect to reliable supply. Indeed, certain provisions will actually strengthen the industry's position—provisions which once were fought for and now are being taken for granted. Under S. 897, nuclear export licensing should be faster in virtually all cases than it is under the present system. It seems to me that the real controversy is not whether this bill will have a negative impact, but whether we should adopt more new mechanisms to expedite processing and increase predictability.

After a long career in business I certainly am sympathetic and intimately familiar with the concerns which have been raised by the nuclear industry, and I will be the first to recognize the important contribtuion which an active U.S. presence in the international nuclear marketplace can make to our nonproliferation policies. In fact, I so testified in 1976 before the Joint Committee on Atomic Energy. However, our first and foremost concern must be to insure that U.S. nuclear exports will not contribute to proliferation. We have tried to accommodate industry's concerns to the maxi-

mum extent possible consistent with that fundamental objective. The adoption of weakening amendments would seriously undermine our nonproliferation policy and would only hurt the nuclear industry in the long run.

Before concluding, I think it would be useful to set forth the three principles which have had the greatest impact on my thinking during the development of this legislation.

First, I am committed to the concept of retaining a strong, independent check on executive branch nuclear export decisions. NRC Commissioner Victor Gilinsky stated this concept eloquently in a recent Washington Post column when he remarked that:

> In giving export licensing authority to an independent regulatory commission in 1974, Congress was saying in effect that it wanted this country's nuclear trade to be handled consistently and to be subject to explicit protective standards rather than to the political exigencies of the moment. This still makes good sense.

The executive branch still plays the leading role in the implementation of U.S. nuclear export policy. But we must recognize that in their zeal to achieve their own institutional interests, these agencies may well overlook important nonproliferation concerns.

Second, we must use every opportunity to strengthen international nonproliferation controls. For many years the United States was reluctant to take decisive action on proliferation even at major watershed points. We were barely heard in our opposition to the Indian explosion—even though U.S. heavy water was probably used. We voiced little if any opposition to the German-Brazilian deal and did not object to the French deal with Pakistan until years after it was initially discussed. Unless we make it clear that there are serious diplomatic costs associated with such action, the message will be clear—that other nations can develop nuclear weapons with impunity.

During the past few years there has been a significant maturation of the U.S. attitude on this issue. In response to congressional concern the executive branch elevated this issue to a high priority, and President Carter has kept his campaign pledge to focus serious attention on the issue. We have made mistakes, and undoubtedly they will not be our last. But the United States can and must assert strong and creative leadership through an appropriate mixture of unilateral controls on our own exports and concerted efforts to negotiate, more effective international controls with other nations. I believe that S. 897 reflects just such a mixture, and that we can make major progress within the framework of this legislation.

Third, in debating the best structure for the U.S. nuclear export licensing process, we had to make several decisions regarding institutional emphasis. I feel that the only responsible choice is to ensure continuing vigilance by the U.S. to guard against the use of U.S. nuclear exports for nonpeaceful purposes. Therefore, I have supported provisions which will encourage the executive branch and the NRC to thoroughly review the impact of U.S. export licensing decisions.

I cannot stress strongly enough that this is not a question of whether we will have a favorable or unfavorable presumption with respect to the approval of an export license. The presumption of S. 897 is clearly in favor of exporting to those nations which adhere in good faith to effective nonproliferation policies. And it is equally clear that the U.S. will no longer grant favorable commercial treatment to those nations which flagrantly reject basic nonproliferation controls.

Mr. President, I look forward to enactment of this vital legislation in the very near future, and pledge to insure active congressional oversight of its implementation, because I do believe that in this case oversight is absolutely necessary.

We have a number of Senators, Members of the House of Representatives, and staff who are not only deeply motivated and concerned, but who are also developing a degree of sophistication and knowledge in this field that can be of immeasurable help in providing guidance through the oversight process and bringing Congress and the executive branch of the Government closer together.

In this regard the majority floor manager of the bill, Mr. GLENN, has mentioned the extraordinary cooperation we have had every step of the way from the executive branch. In the State Department, Joe Nye, Lou Nosenzo, and Ron Bettauer have provided immeasurable help to us, and we have been in intimate contact with them all the way through this process.

In the Department of Energy, Pete Brush has offered valuable assistance and help to our staff as did Bob Lin work with both the Ford and Carter administrations. The members of the Nuclear Regulatory Commission have personally taken an interest in this matter and helped us in testimony and in personal consultation, together with staff members such as Carl Stoiber who has taken a great interest in this legislation.

In the Arms Control and Disarmament Agency, in addition to the head of the agency, Paul Wanke, Charles Van Doren and Harry Marshall have offered considerable help.

One of the greatest sources of satisfaction that I have had in the Senate has been to see the expertise of my distinguished colleagues; and certainly none is more illustrious in this regard than Senator GLENN.

His expertise, his patient help, and the leadership he has provided all the way through will help mark this point in a remarkable career few of us could match. I think this will be, at least here on Earth, the most important single thing he has done for his fellow man, and I cannot express in adequate terms my admiration for what he has accomplished and done, and my respect for the way in which he has done it.

Senator RIBICOFF, the chairman of the Governmental Affairs Committee, and Senator JAVITS have offered immeasurable assistance and help, as have the other cosponsors of this legislation, Senators CRANSTON, MATSUNAGA, and KENNEDY.

Though not a cosponsor, Senator JAMES MCCLURE has worked very closely with us. He has developed an intimate knowledge of this process and has represented interests fairly. His efforts have advanced and expedited the licensing process, which is at the heart of what we are trying to do generally in all regulatory agencies—to move the process forward and enable decisions to be made more expeditiously. At the same time, those amendments which will be accepted by the floor managers of the bill will not undermine at all the nonproliferation concerns that we all share and which I know Senator MCCLURE places ahead of any other interests we may have. We are all interested in economic development and growth. None of us in any way—including, I feel confident, the distinguished labor leaders and managers in the nuclear energy field—would put a commercial interest ahead of the national interest and the interests of all of our fellow men.

I also commend Representative BINGHAM and other cosponsors in the House who developed companion legislation and who certainly have acted expeditiously on this matter in the House. Their start was later than ours in the Senate, but they have completed their work before us. They have contributed immeasurably to moving this legislation forward.

Finally, I should like to mention the staff of the various Senators and committees involved in this bill. Again, never on any piece of legislation have I seen the importance of staff work as I have here. It is they who have worked such long hours, night after night and early in the morning, often with staff from the executive branch, working out the necessary details. This legislation does vitally affect many concerns and interests in the country and certainly, involves the national interest. I think we all owe Paul Leventhal, formerly of Senator RIBICOFF'S staff and who has since left the Senate, an expression of gratitude for his immeasurable contribution to this legislation. My own debt of gratitude to my staff member on the Governmental Affairs Committee, Connie Evans, knows no bounds. Whether in this country or at conferences in Vienna, wherever it may be, she has demonstrated the capacity of a dedicated member of the U.S. Senate staff to carry forward an idea, to work out what often looked to be insurmountable hurdles, and has overcome those hurdles.

Senator GLENN has been ably assisted throughout this process by Len Weiss, Len Bickwit, and Sandy Spector. I have admired and respected the expertise that they have brought to this process. Senator RIBICOFF has been ably assisted by Ellen Miller, and Senator JAVITS by Alan Bennett and Gary Klein.

We have had an opportunity to work with some of Senator MCCLURE'S staff members, especially Chuck Trabandt who has been of great help to us. And on the Foreign Relations Committee, Bill Ashworth and Ira Nordlicht, working under the direction of the chief of staff,

Norville Jones, have provided immeasurable help.

This has been a cooperative effort of the executive branch, the House and Senate, members of the staff, and those who have commercial interests in this field. The industry must have an understanding attitude that our interest is not just to protect producers; our interest here must be to protect the public interest, the national interest. They have presented an able case. But in many cases, they will have to recede and subordinate commercial interests to what we consider to be the public and national interests.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD a statement by Senator JAVITS, who, regrettably, is not here because of attending the funeral of a lifetime friend in California. I also commend Senator JAVITS for his considerable contribution.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR JAVITS

I rise in support of S. 897, the Nuclear Non-Proliferation Act, a bill which is of paramount importance to this country and to the world. With the increased capability of a number of countries to build nuclear devices, it becomes increasingly important to take steps to limit the spread of these incredibly dangerous weapons. As the world's leading supplier of nuclear fuels and technology, I believe the U.S. has a special responsibility to do everything in its power to limit the potential use of nuclear materials and nuclear technology for other than peaceful purposes. This bill represents a positive first step in fulfilling that responsibility.

The bill sets forth standards that will govern all future nuclear exports. All nuclear activities of countries which receive our exports will be subject to safeguards, and no program that produces weapons grade nuclear material will be permitted. Importantly, these safeguards will provide that the United States must receive "timely warning" of any diversion of nuclear material to weapons programs, so that appropriate diplomatic steps may be taken to attempt to halt further development.

The terms of this bill are meant to prevent any U.S. assistance whatsoever in the development of nuclear weapons by any other nation. It is that simple. If a particular country wishes to go ahead with a nuclear weapons program, it will have to do so without any U.S. nuclear material or technology. And, by such a choice, that country will be foregoing the benefits of a peaceful nuclear program in cooperation with the United States.

I would like to point out that the safeguards contained in this legislation are not incompatible with continued exports of U.S. nuclear technology. Much of the recent decline in the sale of this technology abroad has been due to the uncertainty surrounding U.S. policy toward these sales. Passage of this bill will clear up that uncertainty, spelling out in detail the conditions under which exports will be made available.

Further, the bill would also provide nations that agree to strict non-proliferation controls with an assured source of nuclear fuel supply by establishing an International Nuclear Fuel Authority. A guaranteed fuel supply is of course crucial to any country's nuclear energy program. Thus, this measure enhances, rather than detracts from, the reliability of the United States as a supplier.

It is our hope that no nation will be cut off from our nuclear trade because of the safeguards in this Act. Indeed, the bill is clearly structured to provide incentives rather than penalties. The United States will commit itself to provide peaceful nuclear technology to countries which agree with the fundamental non-proliferation principles in this bill. Although we cannot demand that other nations sign the Nuclear Non-proliferation Treaty, we can at least make sure that every country that receives our aid adheres to its principles.

This bill is the best mechanism available to us now to prevent the spread of atomic weapons. This bill does all that is possible to encourage other nuclear nations to take similar action. But that international negotiation must reside primarily if the U.S. Chief Executive. It is the President who must persuade the other nuclear nations of the world to forego possible temporary economic advantages in order to stop the spread of weapons technology and weapons grade materials. The goals of the bill will be only partially achieved unless the other nuclear powers follow suit. But one nation must take the lead, and all signs say that nation should be the United States.

Mr. PERCY. I take note on the floor that Senator JAVITS is particularly interested in any amendments dealing with judicial review. As a courtesy to Senator JAVITS, I ask that we withhold discussion of such an amendment, if there will be any amendment, or floor discussion on that particular point until Senator JAVITS returns.

Mr. RIBICOFF. Mr. President, my highest praise goes to Senators GLENN and PERCY for their leadership. The Nuclear Nonproliferation Act, S. 897, which we begin to consider is a measure which has a long history. The discussion and debate over this country's nuclear policy and its role in worldwide nuclear trade is one which has demanded our attention for many years. The importance and necessity of this legislation is almost self-evident.

Over the past 2 years nonproliferation has moved to the top of this Nation's foreign policy agenda. The specter of a world controlled by the fear of nuclear weapons is a prospect which makes all mankind shudder.

I have long believed that the United States has a special responsibility for controlling the spread of nuclear arms. We have been active and leading promoters of nuclear energy for a generation. We are presently the leading supplier of nuclear powerplants and fuels. The monopoly supplier position which we have maintained on fuels and plants in the past is rapidly slipping. We no longer have the kind of leverage which we have had in the past. We can, however, through commercial choices and foreign policy initiatives affect the costs—both economic and political—for many states which may wish to acquire a nuclear capability. No assessment of the nuclear future and of American nonproliferation policy can disregard this country's position for positive political leadership.

What has happened in the past 2 or 3 years which necessitates the development of a comprehensive and tough nuclear export policy? First, the Indian explosion of May 1974 had dramatic political and psychological effects throughout the world. Political debate on expansion of nuclear power was stimulated in all countries. India became the sixth nuclear power—the first to join the "nuclear club" since China (1964), and the establishment of the Nonproliferation Treaty of 1970. The Indian explosion made it easier for other countries to follow suit. The 10- to 15-kiloton underground test in the Indian desert underscored the fact that even a developing country, beset with tremendous economic and social problems, is capable of constructing nuclear explosives.

New Delhi described the test as a "peaceful nuclear explosion" but the fact is that this capability cannot be distinguished from a military one. Past atomic testing by the United States, Soviet Union, Britain, France, and China had acknowledged military purposes. India was the first to create a "peaceful" route to nuclear proliferation. India was also the first country to explode a nuclear device with plutonium obtained from a civilian nuclear program. Spokesmen in New Delhi said that India had no intention of developing nuclear weapons, but they took care not to foreclose future possibilities. India's action underscored the fragility of the NPT as an effective mechanism to prevent nuclear proliferation.

Second, the energy crisis and the quadrupling of the price of oil following the Middle East War of 1973 greatly increased the world demand for nuclear energy as a source of power. According to some estimates, the number of nuclear reactors expected to be in operation will sharply rise, with a fourfold increase in nuclear power capacity by 1980 and another tenfold increase by the year 2000. This increasing reliance on nuclear power is significant in that a by-product of nuclear power reactors—plutonium—is also the critical element for nuclear weapons. This will be produced in ever increasing amounts and will be more widely available.

The Stockholm International Peace Research Institute has estimated that in the year 1980, nuclear reactors will probably produce 100,000 kilograms of plutonium, and by that time the world will probably have accumulated about 350,000 kilograms. Only 5 kilograms is enough for the kind of device exploded by India, which was about the same size as the bombs that destroyed Hiroshima and Nagasaki. International safeguards will be placed over most of this plutonium, but even if safeguards are 99.9 percent effective, in 1980, enough plutonium could be diverted without detection to produce, after processing into weapons-grade material, a nuclear weapon a week.

Third, the increasingly widespread familiarity with the technology of producing fissile material gives new urgency to solving the problems of nuclear proliferation. Until recently, the construction of reactors, enrichment or reprocessing plants has been a complex and costly undertaking, generally beyond the technical capabilities and economic resources of most developing countries. This is no longer true. Simpler and cheaper methods of producing fissile materials are already on the horizon. The technological innovations have the effect of weakening the barriers of eco-

nomic cost and technical complexity which in the past limited proliferation.

A fourth reason for the growing concern is the increase of international terrorism. This fear has created a new magnitude of concern about the possible diversion or theft of weapons-grade materials, or even bombs, by terrorists or other subnational groups. A terrorist group, operating either at home or in a foreign country, might calculate that it could gain enormous opportunities for worldwide publicity or even blackmail, should it succeed in acquiring nuclear materials. The recent increase in terrorist activity must, therefore, give pause to anyone who contemplates a proliferated world.

Fifth, the worldwide diffusion of political, economic and military power, accompanying the breakup of the post-war international system, has made nuclear weapons more attractive. Many recent developments in foreign policy have contributed to a gr at emphasis on regional rather than glo al balances. In the economic sphere, he growing demand by "third" and "fou th"' world countries for a new international economic order has heightened their awareness of their strength and need for an independent stance. In the political and military spheres, the diffusion of power has encouraged the development of regional powers. This has led to an increasing desire for military power; hence the growing interest in acquiring armaments, both conventional and nuclear. Increased military power may be sought because nations feel they must be better prepared to defend themselves in the new age of multipolarity, or it may be sought for reasons of prestige and status, or a combination of the two.

What does all this really mean? I like to compare the road which all nations are traveling in nuclear matters with an automobile accident. In an automobile accident, there is a long moment before impact, when you see another car approaching and realize that a collision is imminent, and yet you cannot believe what is happening. When you hear the sound of colliding metal, you know that it is too late. So too with the impending nuclear collision. The question is whether it is too late to change our direction. I believe it is not.

The legislation which we have before us grows out of longstanding Congressional concerns. The Governmental Affairs Committee has considered nonproliferation legislation since the Indian blast in 1974. During the 94th Congress, the committee identified major issues of nuclear proliferation and shaped legislation meant to alleviate the problems. That legislation died at the end of the last session of Congress. Convinced of the correctness of the basic policies embodied in that bill, Senators PERCY, GLENN, JAVITS, and myself, introduced S. 897 early in the 95th Congress. Under the guidance of Senator GLENN and Senator PERCY, this bill moved quickly through extensive and thorough hearings early this session. S. 897, as introduced, was a strong bill, requiring among other things the cutoff of exports within 18 months if recipient countries did not meet up to U.S.-imposed criteria. The bill we consider today accomplishes much of what our original bill set out to do. S. 897 is an excellent starting point for U.S. nonproliferation policy. It establishes basic policy—and points in the direction of our future roads to be taken. However, the nuclear proliferation problem will not be solved by this bill.

There are many items which are still to be considered in our nonproliferation policy. We must head further in the directions in which the bill points us. We must continue to work for an improved nuclear nonproliferation treaty and further strengthening of the International Atomic Energy Agency. Today, the safeguards mainly cover reactors; they should be expanded to the entire fuel cycle, the life of facilities and research institutes, and they should be aimed not merely at "timely detection" but also at prevention of illicit activities. We must provide additional incentives for nations to give up a nuclear weapons capability. Other countries must be confident that they can rely completely on the United States to deliver a steady supply of enriched uranium—so long as they observe stringent safeguards. We must examine the possibilities of cooperative international ventures for the enrichment of uranium and the disposal of nuclear waste. We must continue to discourage the belief that plutonium should be used in reactors. Evidence increasingly indicates that plutonium recycling is uneconomic and impractical. We must continue to work through the London Suppliers Meetings to prevent situations which allow a country to play suppliers off against each other to obtain enrichment or reprocessing facilities. We should pursue a "market-sharing" arrangement which would reduce dangerous competition. We should further tighten American export rules so that, in effect, the United States discriminates against countries that do not cooperate with the NPT system. We should no longer make available cheap credits to help the spread of nuclear power.

We have a long way to go and little time to be successful in stopping that sometimes seemingly inevitable collision. The bill before us now is a good first step in that direction.

Again, I commend my colleagues for their leadership, time and attention to this measure.

Mr. McCLURE. Mr. President, I ask unanimous consent that Fred Craft, Chuck Trabandt, Dave Swanson, Mary McKenna, Faye Widenmann, and Carol Sacchi of the Senate Energy Committee staff be accorded privileges of the floor at all stages of the proceedings on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, today, we begin consideration of S. 897, the Nuclear Nonproliferation Act, which primarily deals with the regulation of nuclear exports and related international agreements in the context of our nuclear nonproliferation policy. I anticipate that the debate will continue for a number of days, because of the large number of amendments that I and many other Senators ultimately will offer to this bill.

I believe it is critical at the outset of our consideration of S. 897 that all Senators recognize that all of us on both sides of the forthcoming amendments are committed absolutely to supporting this Nation's and the world's nuclear nonproliferation objectives. In that regard, I want to commend Senators GLENN, PERCY, RIBICOFF, and JAVITS, the sponsors of this bill who have worked so hard over many long months to bring this legislation to the floor. Our differences on the floor, which I hope will be few, will be over the specific approaches to achieve best those objectives. I sincerely hope that the debate will proceed in that spirit.

I might note parenthetically that I heard the opening statement of Senator GLENN as he was outlining his feeling on objectives of this legislation. I find no disagreement at all, in my mind or in those of others that I have talked to about this legislation, with the objectives that were expressed. I think there is great unanimity on the objectives of the various Members of the Senate with respect to this legislation. That may not be uniformly true of people across the country. There are those who have different objectives in mind, but I do believe that there is that spirit within the Senate that is uniformly dedicated to the same goals.

I also believe it is imperative that all Senators recognize that I am committed, as I think others are, to enacting a responsible nonproliferation bill in this session. Recent events internationally and domestically, particularly within the independent Nuclear Regulatory Commission (NRC) and its regulation of nuclear exports, have demonstrated that existing statutory provisions under the Atomic Energy Act probably are inadequate to deal with our international nuclear commerce and related nonproliferation activities in the decades ahead.

At the same time, however, enactment of nonproliferation and nuclear export legislation which is not responsible or not workable would be wholly counterproductive and most likely to increase, not decrease, the risks of nuclear proliferation. Our task on this floor in the days ahead will be to insure that we finally pass a bill which is responsiblie and workable.

I know from my conversations with both Senator PERCY and Senator GLENN that they share that objective, that it is their desire, as well as my desire and that of others, that this legislation be truly workable for the great number of people who have raised issues about this legislation or asked questions. I can only say that they have made a very large contribution to our understanding of the pitfalls that lie ahead to allow us to try to make changes at this stage that will make this truly both responsible and workable legislation.

My concerns with the reported legislation, which I believe are shared now by many others, are documented in detail.

I invite the attention of my colleagues to my additional view at page 92 of the joint report on S. 897 (report No. 95-

467) and to a subsequent analysis of the reported bill in the RECORD of October 26, 1977, page 35219. As you will note, the issues include the need for predictable, streamlined, and workable regulation of nuclear exports to preserve U.S. participation in world nuclear commerce, the independent role of the NRC in this international policy field, the application of diplomacy and internationalism versus unilateralism and restrictive domestic regulation, and the potentially premature commitment of U.S. resources to international activities, among others. These issues will be the subject of numerous amendments during the course of the debate.

Initially, I will be offering 30 printed amendments, Nos. 1582 to 1602, which are discussed in the RECORD of November 2, 1977, page 36524. The administration supports these amendments generally, with some minor modifications, as discussed in the State Department letter of January 26, 1978.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD immediately after my remarks.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLURE. Mr. President, since the floor managers participated in the development of these compromise amendments and previously agreed to accept them, as discussed in the November 2 RECORD, and I also understand the leadership of the Foreign Relations Committee will support them. I hope these amendments will be accepted.

Later in the debate, I and others will be offering an additional series of amendments of a potentially more controversial nature. One of those, the amendment requiring prior congressional authorization, or a review with one-House veto, of any plan to store foreign nuclear waste for the United States, was the subject of my November 2, 1977, letter. The other amendments will deal directly with the several remaining problems, not remedied by the 30 compromise amendments. Information on these additional amendments will be included in the RECORD and subsequent letters for your review. I believe most, if not all, of the later amendments will have the support of the administration and many members of the committees of jurisdiction.

I urge the thorough consideration of each of these forthcoming amendments by my colleagues and I sincerely request that each of you do so in the context of fashioning responsible and workable legislation. We all are agreed on the need for an effective nuclear nonproliferation policy and for implementing legislation. Our challenge will be to perfect S. 897 to achieve that result, and ultimately decrease, not increase, the risk of nuclear proliferation in the decades ahead. I would greatly appreciate your support in that effort.

Let me turn now to a more detailed discussion of the bill because I think we have wide agreement on the broad statement of objectives and our disagreement and the time that will be consumed is not in the discussion of philosophical agreements which we all share, but in the detailed technical language of the bill upon which there may be some difference of opinion from time to time.

I am convinced that, based on testimony and substantial independent analysis, titles III and IV of S. 897, as reported by the Foreign Relations Committee, are procedurally cumbersome, excessively time consuming, highly unpredictable, and will likely yield far greater litigation in attempts to delay or stop the United States efforts to participate through export in the world's nuclear commerce and to reach new agreements with recipient countries. Because of these factors, the titles may lead to an effective moratorium on new nuclear exports. Consequently the titles do not support the crucial concept, embodied in the other title under the legislative jurisdiction of this committee, of the United States as an assured and reliable supplier of nuclear fuel, nuclear technology and nuclear facilities and equipment.

Such a result would be completely counterproductive for the U.S. nonproliferation policy, as elsewhere enunciated in this bill. Potential foreign purchasers of U.S. nuclear fuel, technology, facilities, and equipment may simply choose to take their nuclear business to one of several other, available nuclear supplier nations. Even where the U.S. and one or more other potential suppliers have the same, or basically similar, policies on nuclear export and nonproliferation, the procedural time predictability, and litigation problems contained in titles III and IV may be sufficient to deter agreement and commerce with the United States.

The resulting loss of exports could have serious and far-reaching impacts on U.S. policy initiatives in the nonproliferation area. If other nations, in fact, choose to go elsewhere for their nuclear supplies, it will be difficult, if not impossible, for the U.S. to play a leadership role in nuclear commerce and nonproliferation because its participation will become increasingly limited. Since the U.S. participation in that commerce is absolutely essential for achievement of our nonproliferation objectives, these two titles ultimately may frustrate the underlying motivation for this legislation. Also, by statute the United States will be placed in a polarized position of unilateralism in the ongoing world negotiations among nuclear suppliers regarding nonproliferation export criteria. The Senate and the Congress will not have fully discharged its responsibility in this extremely important policy area if titles III and IV are allowed to create that result.

It is important to note, in addition to the compelling policies reasons discussed above for amendment of title III and IV, the importance of nuclear exports for the U.S. economy. Historically, on a cumulative basis through 1972, U.S. vendors captured 91 percent of the free world market for commercial nuclear power reactors. Since that time, non-U.S. vendors have controlled 52 percent of the free world market, thus reducing the United States to less than half. There have been no new foreign reactor sales by U.S. vendors in the past 2 years, partly because of foreign competition and partly because of a reduction in sales during the worldwide recession. A significant element in the foreign competition has been a marked decline in the creditability of the United States as a reliable supplier, because of inordinate delays obtaining licenses for nuclear exports, a lack of new enrichment service capacity, delays in the formulation of U.S. nonproliferation policy, and increasingly competitive positions by foreign vendors, whose business capacity was predicated on the basis of continuing export sales.

The procedural, time, unpredictability, and litigation difficulties embodied in title III and title IV of the bill undoubtedly will add materially to the burden placed on U.S. nuclear exporters. Since the decline in creditability of the United States as a reliable supplier has already been a material factor in a loss of nuclear export sales, it is difficult to imagine how title III and title IV could result in anything other than furthering that decline. Consequently, the U.S. nuclear industry stands to lose a potentially significant opportunity for a major share of the world market in the future.

The rest of the world is becoming increasingly committed to the use of the light water reactor for generation of nuclear power, and therefore the world market is expected to increase in the next decade. Since a typical nuclear powerplant export is worth about $353 million in 1977 dollars and can result in about 15,000 man-years of direct employment and another 15,000 man-years of indirect employment in the local communities where manufacture and design work take place, these exports can constitute an important factor in the U.S. economy. For instance, it has been forecast that over the next 5 years the nuclear export market could annually support over 350,000 domestic jobs. And, with the trend toward increasingly larger nuclear plants, with related dollar values approaching at least one-half billion dollars apiece, the balance of payments impact of reactor sales is increasingly significant, particularly to offset increasingly negative balance of payments of deficits resulting from the importation of foreign oil.

The dramtic impacts, then, in terms of domestic employment and balance of payments cannot lightly be dismissed in the policy considerations associated with title III and title IV. Certainly these economic factors should not be completely determinative of our nonproliferation policy, and I agree with the Senator from Illinois (Mr. PERCY) in the statement that he made. At the same time, however, they should not be totally dismissed as irrelevant and immaterial by comparison to the nonproliferation policy aspects. It is noteworthy that some administration and congressional supporters of these titles have supported such dismissal for that reason. Accordingly, these economic factors constitute an additional, compelling reason for amending title III and title IV to reverse

the decline in the creditability of the United States as a reliable supplier, and to reestablish our position as an assured supplier of nuclear exports, once a nation has committed itself to the nuclear proliferation standards embodied in this bill.

While we were unable to offer amendments to titles III and IV, myself and others on the Energy Committee strongly support the administration proposed amendments to those titles of S. 897, as reported by the Governmental Affairs Committee. In fact, in many respects we believe that the original administration bill, S. 1432, still would provide a far more acceptable statutory scheme for agreements for cooperation and export licensing procedures and criteria. While respecting the judgments and motivation of the members of the Committee on Governmental Affairs who have worked so long and diligently on this legislation, we reluctantly must recommend to the Senate that title III and title IV in the Governmental Affairs reported bill be significantly amended to encompass at least all the administration proposed amendments, or effectively return the titles to the provision of S. 1432.

In the committee's analysis of the various pending nonproliferation legislation, the nonproliferation bill reported by the House Committee on International Relations also was reviewed. The House reported bill contains virtually the same provisions as title III and title IV and could lead to the same unacceptable results. It is imperative, therefore, that the Senate adopt the significant amendments to title III and title IV which are necessary to preclude those results, in order to provide sufficient differences in conference to achieve that end. For all of these reasons, I urge the full Senate to consider and adopt the necessary amendments to those titles, which I and others from the Energy Committee will offer and support on the floor.

Mr. President, I now will proceed to briefly outline the spectrum of specific issues which accompany S. 897 to the floor.

For purposes of convenience, I will discuss the issues as they occur in the sections of the bill proceeding sequentially through the bill.

The statement of policy contained in section II of the bill generally reflects the policies with which I am sure most of my colleagues will agree. There, however, is one subsection, section II(B), which raises significant concerns with regard to the possible misinterpretation of its statement. The subsection indicates that the United States will "cooperate with other nations in protecting the international environment from radioactive, chemical, or other thermal contamination arising from nuclear activities." This statement is originally contained in the administration's proposed legislation, S. 1432, but in another title of that bill dealing with international cooperation. Placement of the subsection in the policy statement could lead to either administrative or judicial interpretations leading into a misapplication of the National Environmental Policy Act. The specific concern is that such a misinterpretation could lead to an administrative or judicial requirement for the preparation of environmental impact statements for individual nuclear export applications, specifically taking into account the environmental considerations associated with the ultimate destination for the export in a foreign country. For instance, under such a situation the export of fuel for the reactor at Terrapur, India, conceivably could include an EIS for that location. Obviously, such a requirement would raise significant legal, foreign policy, cost, and time delay considerations. It is particularly noteworthy that these same issues have been raised by proposed guidelines now under consideration within the administration which have been prepared by the Council on Environmental Quality. The CEQ guidelines have been the subject of a recent column in the Washington Post and an editorial in the Washington Post earlier this week. I ask unanimous consent that the column and the editorial be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 18, 1978]

COUNTERING AN AGENCY'S ENVIRONMENTAL OVERREACH

(By Rowland Evans and Robert Novak)

An angry counterattack against federal environmentalists is now being quietly planned by Cabinet-level departments, led by the State Department, with indications of support in the White House itself.

The counterattack seems certain to modify drastically and could kill altogether new regulations proposed by the Council on Environmental Quality (CEQ) that would make Uncle Sam the environmental policeman of the world—particularly policing nuclear reactors. "Outrageous," one State Department official told us. "These regulations would impose American environmental standards on all our foreign friends and they would end up hating us."

This places President Carter in a peculiar dilemma. While crusading against nuclear proliferation and environmental pollution, he is bound as President by the practicalities of international life. As such, he seems forced to disappoint his environmental constituency.

The proposed regulations were drawn secretly by CEQ planners with apparent help from the Natural Resources Defense Council (NRDC), an environmentalist private action group. They would, in effect, require standard environmental-impact statements (to be called "assessments" in the foreign field) for all exported material or technology sold abroad with some help—export licenses or loan guarantees—from the U.S. government.

The real target may be nuclear reactors, a prospect that has infuriated the Nuclear Regulatory Commission (NRC). At a closed-door meeting called by CEQ Jan. 6, NRC Assistant General Counsel Carlton Stoiber said there is "no legal justification" for imposing U.S. environmental standards abroad. That brought objections from CEQ Chairman Charles Warren and member Gus Speth, who showed reluctance even to discuss legal justification. But Stoiber insisted that neither the 1969 National Environmental Protection Act nor its legislative history in congressional debate could justify the new regulations.

At least as upset as NRC and the State Department was Export-Import Bank President John Moore, who warned the Jan. 6 meeting that the proposed regulations would benefit Japanese and West German exporters at the expense of this country. The reason: endless delays and lawsuits against U.S. exports on often specious environmental grounds would turn impatient foreign buyers away from the United States.

Moore, a former Atlanta lawyer close to Carter, strongly urged White House domestic policy chief Stuart Eizenstat to attend the Jan. 6 session at CEQ. Eizenstat stayed long enough to ask three questions: What is the cost to the federal government of the proposed regulations? What is their legal justification? To what extent would they impose American standards on foreign governments?

Speth, who took the leading role for CEQ in the acrimonious debate, gave uninformative and "fudged" answers, according to one participant. Eizenstat left the meeting before it ended, but those in position to know say he was unimpressed with CEQ's rationale and has strong reservations about CEQ's ambition to be top cop for global environment.

Speth was legal counsel for the environmentalist NRDC before Carter appointed him to the CEQ. Last year the NRDC brought suit against the Export-Import Bank to require it to meet CEQ's domestic standards in all its foreign lending operations.

That suit, while not directly related to CEQ's proposed new regulations, helps to explain why Moore and the Export-Import Bank are so disturbed. The bank has provided more than $20 billion in loans and guarantees for U.S. exports since mid-1974, much of it for nuclear and conventional power facilities and offshore oil drilling. NRDC claims these have direct impact on the environment.

If the Export-Import Bank either loses the NRDC suit (now in U.S. District Court here) or is forced to comply with the proposed CEQ regulations, billions of dollars' worth of exports of U.S. products in the future could go down the drain. Foreign buyers would be forced to wait out endless environmental investigations, filing of impact statements and predictable harassment of court actions brought by well-meaning environmentalist groups.

Add to that danger the equally predictable fury of foreign buyers and governments subjected to U.S. environmental investigations on their own soil and the awesome dimension of CEQ's ambitions comes into focus.

But the CEQ has almost certainly overreached itself. Representing an activist constitutency that takes a highly negative view of extending U.S. military and political power around the globe, it now wants to blanket the world with U.S. environmental power. And that is an unwanted extension of Potomac power that Jimmy Carter, ardent environmentalist though he is, is having trouble accepting.

[From the Washington Post, Jan. 30, 1978]

OTHER COUNTRIES' ENVIRONMENTS

A fierce quarrel has broken out within the Carter administration, as you may have noticed, over environmental regulation of certain U.S. exports. Suppose the Export-Import Bank, a federal agency, finances the sale of nuclear equipment to another country. Should the Ex-Im Bank have to write an environmental impact statement—one that would be subject to attack in U.S. courts? A lot of countries would regard that as infringements of their sovereignty.

But suppose, again, that American foreign aid buys pesticides for an agricultural development projects in an undeveloped country. Does the United States have an obligation to tell the recipient what it knows about the environmental effects of those pesticides? Most Americans would say that it does and, in fact, the Agency for International Devel-

opment already requires environmental statements for its projects.

The President's Council on Environmental Quality is leading the campaign to apply American environmental law to some exports—those that the federal government subsidizes or licenses. The opposition comes mainly from the State Department and the Ex-Im Bank. One thing that they fear is repeated collisions with other governments over regulatory authority. When the United States started to run preliminary environmental studies on the proposed gas line from Alaska down through the Yukon to the Midwest, Canada tartly told the American experts to stay on their own side of the border. Canada thinks, with some reason, that its own standards are at least as high as this country's.

Another fear is litigation tying us decisions on exports, and embroiling foreign buyers in the American courts. The Council on Environmental Quality reflects a tradition of public-interest lawyering that considers the threat of litigation essential to strict enforcement of standards, But law suits are a poor way to make foreign policy.

The rules on environmental protection abroad will have to vary with circumstances. There's not much dispute that American operations in the deep oceans and Antarctica—what lawyers call the global commons—need to be held to the same standards as in the United States. No other country's jurisdiction is involved. Foreign aid does not involve other jurisdictions, but the United States bears a broad responsibility for the consequences of its advice to undeveloped countries.

It's the commercial sales—and above, all, the sales of nuclear reactors and fuel—that raise the hard issues. Some buyers will welcome an American environmental impact statement, since it requires the seller to disclose what he knows about the effects of the product or the project. But what if the buyer's government considers the American requirements to be an intrusion? One solution is to require an environmental statement only if the foreign government agrees. Otherwise the collision of sovereignties becomes unmanageable.

As for nuclear exports, safety standards are far too important to be left to the ambiguous and unsettled provisions of American environmental law. When American reactors go to countries with no great depth of technical experience, they need to be accompanied by the most explicit safeguards. That is the Nuclear Regulatory Commission's job. The present attempt to take the environmental law abroad is grounded in the environmental organizations' suspicions that the NRC tends to tilt in favor of the nuclear industry. The remedy to those suspicions does not lie in the slow and uncertain processes of the federal courts. It lies in the White House. That's what the country has a President for.

Mr. McCLURE. Mr. President, I invite the attention of all my colleagues to the discussion of the guidelines contained in these reports. It is my view that such guidelines requiring international environmental impact statements would have a devastating effect on nuclear exports, not unlike the impact that such statements have had on our domestic nuclear power and other activities. I think it is particularly noteworthy that Robert Strauss, special trade representative, in testimony before the Senate Finance Committee yesterday, indicated his serious concerns and reservations regarding these proposed guidelines in the context of our international trade efforts.

The problem with subsection II(e) and the related concern with the CEQ guidelines will be the subject of amendments which will be offered later in this debate.

Section IV of the bill includes several definitions which are keyed to the subsequent nuclear export regulations established by this bill. Several of these definitions change the existing, accepted definition in related international treaties and law associated with the international nonproliferation safeguards programs. For example, the definition of "physical securities measures" is at variance with the accepted definition contained in various international atomic energy agency documents and also the recent one in suppliers conference export guidelines. Such changes and definitions can cause fundamental disruptions in the continuing understanding by foreign importers of our domestic statutory requirements. These definitions are also noteworthy, because of their later use in the specific requirements for nuclear exports contained in title III and in title IV. In several cases, modifications to the definitions will be required in order that the later requirements based upon these definitions will be reasonably workable in their implementation.

Title I includes a series of U.S. initiatives for providing assured and adequate nuclear fuel supplies to foreign nations in the context of the new emphasis on nonproliferation which has developed among the nuclear supplier nations. Both the Energy Committee and I generally support the notion of such initiatives to provide assurances of adequate nuclear fuel supplies in the future. The Energy Committee and I strongly oppose the premature "international undertakings" contained in section 104 of the reported bill. Our concerns are discussed in detail in the Energy Committee section of the joint report, which begins at page 34. These concerns are also reflected in the Energy Committee amendments which would make major changes in the provisions of section 104. Basically, the objections flow from a committee view that it is far too premature in the changing nonproliferation situation to make a commitment as section 104 would to an international nuclear fuel authority (INFA) and to an immediate commitment of U.S. fuels and enrichment capacity to any international undertaking. This section is particularly important since the President on October 19, 1977, pledged his support to the concept of an international nuclear fuel bank and, therefore, the section would provide an immediate congressional endorsement and authority to carry out such a concept. Thus far, the administration has not formulated the specific details on any such INFA or international fuel bank and Congress has not yet had the opportunity to view such plans. Also, quite importantly from a foreign policy point of view, the administration initiated an international nuclear fuel cycle evaluation last year which will run for the next 2 years. One important element of this evaluation will be the consideration of national, regional, and international arrangements for fuel supplies and assurances. It would seem to be particularly offensive to many of the participating nations in the evaluation for the United States to unilaterally and outside the context of the evaluation by this statute and resulting administrative actions to initiate a fuel bank concept at this time.

Additionally, as the members of the Energy Committee well know, the U.S. domestic activities associated with uranium fuels and enrichment services involve many significant issues at this time. For instance, Congress has just authorized additional enrichment capacity which ultimately will cost between $4 and $5 billion based on the best estimates available at this time. This additional enrichment capacity is required now to meet commitments which we already are aware of in future years. Any significant commitment to an international structure may require some additional capacity that will undoubtedly require large expenditures. This section also involves the highly controversial issue of international arrangements for nuclear wastes from foreign nuclear power reactors. That specific issue will be the subject of at least one major amendment during this debate as well as the amendments which have been reported by the Energy Committee. Finally, the section directs the President to seek agreements dealing with any of these international arrangements for fuel supplies or waste disposition that would require participating states to make agreements on their international safeguards which may be contrary to their own national policies. Again, it would appear premature for the United States to unilaterally by statute attempt to seek such commitments from foreign nations particularly while the international nuclear fuel cycle evaluation program is in its early stages. In fact, the requirements of the section would exceed those which have recently been agreed to in January by the United States and other nuclear suppliers through the nuclear suppliers conference. Consequently, it seems particularly ill-advised at this time for us to move in this unilateral direction.

Title III of S. 897, the export organization and criteria, is the heart of the nonproliferation-motivated regulation of international nuclear commerce. It is this title more than any other that requires significant perfection in our consideration of this bill, to avoid a de facto moratorium on nuclear exports with all of the potential for increased proliferation in the world which such a result would create.

Let me briefly deal with some of the specifics involved in these concerns with title III of the bill. Section 301 establishes an entirely new regulatory regime for government-to-government transfers of nuclear fuels. I am greatly concerned that this newly mandated regulation of the Department of Energy by the Nuclear Regulatory Commission established by this section and later sections sets a particularly onerous precedent of Government self-regulation. Several of the amendments to be offered will deal with this new approach and attempt to re-

duce what otherwise could be a source of great public embarrassment and confusion to the United States, by simply imposing more conventional interagency approval procedures for the required considerations.

Section 302 is an example of another serious problem which permeates throughout title III, and that is the failure of the bill to make various regulatory requirements mutually exclusive. Consequently, some individual activities under this bill would be the subject of multiple regulation and would require as many as three or four separate licensing or regulatory actions. This confusion results from an imprecision in definition and a failure to clearly denote in these sections the exact activities which are intended to be regulated by a given set of requirements and conversely those which would be excluded under such regulation. Several of the amendments to be offered will deal with this particular problem. There are other specific difficulties in terms of the export regulation imposed by section 302 which will be considered in discussions of other sections.

Section 303 establishes the new regulatory regime to cover so-called subsequent arrangements. These arrangements are the various governmental agreements which are made subsequent to an overall agreement for cooperation with a foreign nation in nuclear power activities. In effect, the term "subsequent arrangements" is a new term as defined by the bill, but it is noteworthy that none of these arrangements are not subjected to the type of regulation which this section would impose. Since these arrangements do involve agreements between U.S. Government agencies and other governments or foreign commercial entities, this new regulation is particularly important in terms of our posture and perception in the rest of the trading world. Unfortunately, section 301 raises a whole host of very controversial issues, which have been the subject of much debate in Congress and with the administration and some amendment already in the legislative process. It is my view that much further amendment will ultimately be required to insure that this section is a responsible imposition of this new regulation on these Government agreements. Briefly, this section creates new statutory determination requirements for the United States to enter into these agreements. These requirements include a convoluted and, I believe, highly vulnerable to frustration regulatory regime. For instance, the Arms Control and Disarmament Agency in the reported version of the bill could virtually control any such agreements through its statutory capability under the section to prepare so-called nuclear proliferation assessment statements. Also, the definitional imprecision with which this section was drawn places into serious confusion the exact nature of the subsequent arrangements to be regulated, and their relation to any other requirements which already exist under the Atomic Energy Act or other acts. For instance, because of this new regulatory requirement, it is probable that many of these agreements which previously have not been subjected to the procedures of the Administrative Procedures Act will now be vulnerable to requirements for such procedures.

One such subsection in particular has been the source of a great deal of confusion and, I believe, future difficulty in our international relations. This is subsection 303(b) which establishes new procedures for the U.S. approvals required in many of our bilateral and multilateral agreements for foreign nations to reprocess or transfer their nuclear wastes. The subsection establishes a new statutory standard for such approvals based primarily on the notion of so-called "timely warning" of any diversion activities within a foreign nation involving U.S. fuels. While this section represents the highest of moral values and motivations on the part of the sponsors, it is clear to me that the specific timely warning test will lead to a great deal of diplomatic difficulty for the United States in the future. For instance, the September 1977, agreement which the United States made with the Japanese Government dealing with the Japanese reprocessing facility at Tokai Mura most probably will be the source of a major confrontation when that agreement is renegotiated in 1979. Similarly, the President and the Shah of Iran reached agreement in late December regarding the United States granting of a "most-favored-nation" type clause regarding reprocessing associated with a pending agreement for cooperation. It is my belief that the most-favored-nation clause would not effectively withstand the new considerations that would be required under the statutory application of the timely warning standard contained in this subsection.

Also, this subsection again prejudges the results of the international nuclear fuel cycle evaluation and is likely to be most offensive to foreign nations who now have agreed to give us the prior approval rates on retransfers and reprocessing.

Certainly, the timely warning standard contained in this subsection will be most offensive to those nations which under other sections of the bill are required to renegotiate their existing agreements for cooperation in order to fulfill requirements necessary for export licensing as will be later discussed. I strongy believe that these are problems of very great moment at this juncture in the world energy picture and the increasing importance of nuclear power to the resource deficient nations of the world, which happen to include our free world allies in Europe, this hemisphere and the Far East. Again, in a most noteworthy commentary, Ambassador Strauss, the special trade representative, indicated yesterday that the Japanese, as part of the trade agreement negotiated last month, are contemplating the purchase of $2 billion worth of U.S. nuclear equipments. The inability of the United States to predictably export those equipments and the application of the timely warning standard in 1979 to the renegotiation of the Tokai Mura facility agreement could have an immediate and totally adverse affect on the Japanese willingness to continue in that trade agreement. It is obvious from Ambassador Strauss' testimony that he considered the continued export on a reasonable basis of U.S. nuclear equipment to Japan to be of the highest importance in our overall international economic posture at this time.

The remaining sections in title IV establish the specific procedures for export licensing of nuclear fuels, nuclear reactors, and components.

The detailed discussion of these sections and the legal analysis contained in the October 26 RECORD provides an expanded review of the difficulties created by the specific sections and subsections involved in export regulation. Let me briefly note some of the more recent events which have occurred since the preparation of that analysis which indicate even more compelling need for significant amendment of these export regulations. The legal analysis discusses in length the concern about the independence of the Nuclear Regulatory Commission in the regulatory scheme contained in sections 304 and 309. Recently, as of January 11, 1978, the NRC has been embroiled in an interexecutive agency dispute as to its responsibilities for independent assessment of safeguards in foreign nations. This is a very sensitive area for almost all of our trading partners because it involves an area of extreme national security interest to them. In effect, the NRC staff has now taken the position which will be documented in letters I will include with my statement in the RECORD, that the staff is no longer capable of concurring on nuclear exports, because it does not have any independent basis upon which to make judgments regarding safeguards. It is important to note that that is not to say that the U.S. Government is not in a position to make assessments of foreign safeguards and in fact does make them. Rather, the NRC which is charged by the Atomic Energy Act and the Energy Reorganization Act of 1974 with responsibility for export licensing is now very close to the position of having to require its own independent review under the statutory determination of "not inimical to the common defense and security" contained in the Atomic Energy Act as the criteria for nuclear exports. Section 304 and following sections would immediately codify this problem for the United States, by expressly requiring that the NRC make independent judgments based on evidence and other information available to it regarding the implementation of the safeguards in foreign nations for exported facilities and fuels.

So, it is obviously clear that if there is difficulty now under the current statutory formulation of noninimicality, that the NRC would be in a particularly difficult situation, probably leading to an immediate embargo on nuclear exports pending resolution of the difficulty. This

also would place the United States in a very unfortunate situation of requiring by statute that the NRC in effect police national safeguards, when in fact the United States to date has greatly encouraged the development of the International Atomic Energy Agency (IAEA) as the international organization to handle the implementation of safeguards. It is the expressed view of the Department of State that any such result would completely undermine the international safeguard system and certainly throw existing international commercial procedures into great turmoil until later solved. Once again, this is an example where the good intentions of the sponsors of this bill have been misdirected into an area whereby domestic regulatory approaches have been applied to what in essence is an international diplomatic issue. The United States, in fact, has taken a leading role in the international community in upgrading the safeguards through the IAEA. There is now pending within the executive branch a well conceived and well supported so-called action plan for the United States to initiate the next round of upgraded safeguard initiatives.

Let me read for you a letter from Commissioner Kennedy of the NRC on this subject:

DEAR SENATOR CHURCH: Since my testimony at your hearings in September, I have reexamined S. 897 in the light of the concerns you expressed at that time and am writing you to advise you of my further reflections.

There is growing concern within the Nuclear Regulatory Commission regarding the assessment of IAEA safeguards. Before it can issue an export license for nuclear fuel or a facility the Commission must find that issuance of the license would not be inimical to the common defense and security of the United States and this has been deemed to include assurances as to the implementation of adequate safeguards. Practically speaking, however, the Commission is not equipped to independently examine the adequacy of foreign safeguards, and must in practice accept the word of the Executive Branch as to their implementation and as to the foreign affairs implications of any export. The NRC's Office of Nuclear Material Safety and Safeguards has informed the Commission that it cannot reach independent conclusions on the effectiveness of international material control and accounting safeguards since it is unable to independently verify country-specific safeguards information.

Section 504 of H.R. 8638 as passed by the House of Representatives on September 28, 1977, merely says that IAEA safeguards "shall be applied," but does not say whether the Commission must independently determine whether those safeguards *as applied* are adequate. The Senate Committee report (95-467, October 3, 1977) accompanying S. 897, however, speaks of exports being "subject to *adequate* safeguards." (At page 15, emphasis supplied.) Where does this leave the Commission? The situation will be at the very least ambiguous and there likely will be calls for more directly obtained information as a basis of assessment. I fear that an impasse might develop. Should such an impasse arise I doubt that the Presidential override of NRC negative decisions provided for in S. 897 will be significant help. It would be difficult in all but cases of the most overwhelming importance to foreign policy for the President to rely on that authority.

If the NRC is to responsibly perform its function in nuclear export licensing, I believe that it should accept safeguards regimes negotiated with our nuclear trading partners including the IAEA regimes which we have agreed by treaty should be applied. Moreover, I believe that the assessment of the adequacy of safeguards implementation should be that provided by the Executive Branch. A clear statement to this effect by the Congress is in my view essential if the concerns I express are to be avoided.

I believe that we will maximize our influence in the nonproliferation area only if other nations perceive us as a reliable and predictable supplier of nuclear fuels and equipment. Unfortunately, many representatives of recipient countries with whom I have spoken find us all too predictable, but in the wrong sense. What seems to be predictable is that we will often approve licenses at the last possible moment only after expressions of urgency by foreign nations.

I would like to reiterate here what I said before the Senate Committee on Governmental Affairs last May:

"Energy independence is not the exclusive quest of the United States. Many nations, like our own, seek an uninterrupted source of supply to meet their energy needs. And many of them must rely to a much greater extent than we on fuel imports to meet those needs. Certainly our recent experience in dealing with foreign governments on nonproliferation matters confirms this hypothesis. The widespread international concern which has recently been expressed reflects a deeply-rooted sentiment reflecting the desire of those nations to eliminate or at least significantly decrease their dependence on foreign fuel sources. If these nations perceive the United States as potentially a capricious supplier, they can be expected to turn to other suppliers or, if they have the capacity, to develop their own resources. The consequence can only be a level of United States influence over the nonproliferation policy of these nations correspondingly diminished at the very least and possibly forfeited entirely."

It is not only our nonproliferation goals which can suffer. If export licensing continues in fits of stopping, starting, and stalling, the United States will alienate countries with which it has had its closest and most supportive relationships.

The bill contains provisions for interagency consultations, nonproliferation assessment statements, a Presidential override of NRC negative decisions, and Congressional review of the Presidential override. This multitiered review process for nuclear exports will provide numerous opportunities for mischievous delay in reaching export licensing decisions. Whether any of these provisions provides opportunity for delaying litigation is unclear. What is clear is that the opportunities for delay and thus interference with an orderly pursuit of the President's sound nonproliferation policy will be multiplied.

The nuclear export process is going to be faced with ever-increasing questions concerning the nature of our nonproliferation policy and the controls which we will be exerting on our exports. I believe that Congress must provide a clear legislative mandate and specific direction to this agency, unambiguously describing the requirements which it must satisfy independently and those for which it should rely upon the Executive Branch. Otherwise, there will be increasing delays and escalating interferences with an essential element of nonproliferation policy and United States commerce.

Amendments offered by Senator McClure help resolve some of the difficulties to which I have alluded. But serious problems will remain if the NRC continues to be called upon to make "independent" decisions on safeguards abroad and foreign affairs matters when it is not equipped to do either. Without a clear statement from the Congress, ambiguity of roles will persist, and the NRC thus will not be in a position to contribute effectively to achieving U.S. nonproliferation policy.

Sincerely,

RICHARD T. KENNEDY,
Commissioner.

This section also raised a host of issues which on their face are legal technicalities, but in fact have a tremendous impact on the predictability and time required for U.S. nuclear exports. For instance, the opportunity for intervenor intervention using the Administrative Procedure Acts and tying in any export licenses in litigation through judicial review after administrative action appears to be very great throughout these procedures. This is particularly true where these deficiencies would apply to the proceedings under the Nuclear Regulatory Commission. As we all know and the administration has publicly acknowledged, our domestic nuclear regulatory process is now in chaos as a result of similar actions through intervention and litigation. We will shortly be spending a great deal of time in this body considering new legislation proposed by the administration to try to remedy those difficulties on a domestic scene.

It, therefore, appears most ironic that we are now considering on this floor legislation which would create similar difficulties and problems in the decades ahead for our nuclear export industry. It should be clear to all thoughtful observers that a nuclear export regulatory process which is fraught with intervention, fraught with litigation and involves greatly excessive time delay, because of the labyrinths of procedures will only frustrate any potential trading partners. As Ambassador Strauss so strongly pointed out in yesterday's testimony before the Finance Committee, the United States does not need any more impediments to its international trade activities. This is particularly important in the context of a nuclear suppliers agreement. Although the administration and supporters of the bill have variously claimed that the London suppliers' guidelines closely approximate the provisions of this act, in fact, the guidelines for all of the other nations involved are essentially diplomatic measures and provide a great deal of latitude for negotiations between the other suppliers and their trading partners. Conversely, however, the United States under this legislation will be placed at a severe commercial disadvantage, because our guidelines have been implemented through an independent domestic regulatory process which leaves little room for any negotiating latitude, in the many areas which are of marginal value, if at all, in the context of our nonproliferation objectives. The proposed CEQ guidelines for the requirement of an international environmental impact statement for each nuclear export application obviously would further frustrate any possible future international nuclear commerce by the United States as well. As I noted earlier, one underlying and overriding principle is clear at this point, and that is that the United States must partici-

pate in international nuclear commerce if we are to be in any position to provide continued leadership in the pursuit of a less proliferation prone future for the world. I strongly contend that these procedures with the many problems which I have noted here and identified in detail in the October 26 legal analysis will frustrate to a large degree our future participation in international nuclear commerce and thereby will be totally counterproductive in our pursuit of our nonproliferation objectives.

Another very serious element of this overriding difficulty with future participation in international nuclear commerce is based on the almost no carrot and all stick approach which is used in an attempt to force our trading partners to adopt new export criteria, through either the export licensing process and criteria or through nearly forced renegotiation of their existing agreements for cooperation. The State Department, in its January 26, 1978, letter, strongly recommended that one element of this "stick" approach contained in the export criteria for the European Economic Community, Canada, Mexico, and several other countries be amended to provide much more negotiating room. There are several specific provisions of the title III procedures which effectively could lead to an immediate threat of a U.S. embargo on nuclear exports unless immediate action is taken by our trading partners to change the criteria for such exports. I have been reliably informed that many of the European countries, as well as Japan and others, are becoming increasingly offended by the fact that this legislation includes such unilateral and immediate requirements for renegotiation and reconsideration of past agreements. It is abundantly clear to me that this legislation, in the absence of significant amendment to reduce or eliminate such stresses with our trading partners, will undoubtedly lead to a near-term confrontation of immense significance to the international trade and economic relations among the free world trading partners.

I could continue to expound at length about the specific difficulties incorporated in this legislation that must be remedied to return the United States to a reliable exporter position, while, at the same time, furthering our nonproliferation objectives in international nuclear commerce. I think many of those details are best left to our consideration of individual provisions and amendments to be offered that deal with those very technical and specific problems. Perhaps one of the best ways to get an overview, general perception of the difficulties posed by this highly technical and yet extremely important piece of international related legislation is to quickly review some of the so-called flow diagrams which have been prepared by various reviewing organizations in the executive branch and in industry and among legal practitioners who must ultimately live with the result of this legislation. My own staff on the Energy Committee, early in our consideration of this legislation, prepared such a diagram and it was clear, based on review of it, that we were dealing with a highly complicated and convoluted export regulatory process. I have often concluded that that document alone in the hands of any potential foreign trading partner would be sufficient to eliminate any future U.S. participation in the nuclear export markets of the world.

I hope that we shall be able over the next few weeks, and the next few days, if that is what it takes, while considering this legislation, rationalize our nonproliferation objectives with a far more acceptable and predictable regulatory process in order to avoid that eventuality. At the same time, I must repeat my strong admonitions at the outset that this legislation can and must meet our nonproliferation objectives while providing such predictability in its regulatory processes.

Again, I am sure that myself and others who will be here on this floor in the days ahead to offer amendments in pursuit of that result have the same high commitment to nonproliferation that those who have proposed this legislation. And finally, I again commend them for the strong resolve and commitment with which they have spent the past many long months in steering this legislation through the various committee considerations and bringing it to the floor. While we may not agree on the specifics included in the legislation, I think that in the end, we all will take a great deal of pride and satisfaction that the Senate will have been able to perfect a truly responsible nonproliferation bill in this Congress.

I would be remiss if I did not thank my colleagues (Mr. GLENN and Mr. PERCY) for their tolerance and understanding of the junior Senator from Idaho as we worked endless hours back in November and December on some of these issues.

I particularly also thank their staff, who, oftentimes, had to educate the Senator from Idaho about the things that they had been considering for months and, indeed, for years.

It is my hope that, before this debate is done, we will have, jointly and in substantial agreement, forged the kind of legislation which we all desire and which will meet these objectives clearly and forthrightly.

I thank the Chair.

EXHIBIT 1

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, D.C., January 26, 1978.

HON. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: Since my testimony at your hearings in September, I have reexamined S. 897 in the light of the concerns you expressed at that time and am writing you to advise you of my further reflections.

There is growing concern within the Nuclear Regulatory Commission regarding the assessment of IAEA safeguards. Before it can issue an export license for nuclear fuel or a facility the Commission must find that issuance of the license would not be inimical to the common defense and security of the United States and this has been deemed to include assurances as to the implementation of adequate safeguards. Practically speaking, however, the Commission is not equipped to independently examine the adequacy of foreign safeguards, and must in practice accept the word of the Executive Branch as to their implementation and as to the foreign affairs implications of any export. The NRC's Office of Nuclear Material Safety and Safeguards has informed the Commission that it cannot reach independent conclusions on the effectiveness of international material control and accounting safeguards since it is unable to independently verify country-specific safeguards information.

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I would like to reiterate here what I said before the Senate Committee on Governmental Affairs last May:

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It is not only our nonproliferation goals which can suffer. If export licensing continues in fits of stopping, starting, and stalling, the United States will alienate countries with which it has had its closest and most supportive relationships.

The bill contains provisions for interagency

consultations, nonproliferation assessment statements, a Presidential override of NRC negative decisions, and Congressional review of the Presidential override. This multitiered review process for nuclear exports will provide numerous opportunities for mischievous delay in reaching export licensing decisions. Whether any of these provisions provides opportunity for delaying litigation is unclear. What is clear is that the opportunities for delay and thus interference with an orderly pursuit of the President's sound nonproliferation policy will be multiplied.

The nuclear export process is going to be faced with ever increasing questions concerning the nature of our nonproliferation policy and the controls which we will be exerting on our exports. I believe that Congress must provide a clear legislative mandate and specific direction to this agency, unambiguously describing the requirements which it must satisfy independently and those for which it should rely upon the Executive Branch. Otherwise, there will be increasing delays and escalating interference with an essential element of nonproliferation policy and United States commerce.

Amendments offered by Senator McClure help resolve some of the difficulties to which I have alluded. But serious problems will remain if the NRC continues to be called upon to make "independent" decisions on safeguards abroad and foreign affairs matters when it is not equipped to do either. Without a clear statement from the Congress, ambiguity of roles will persist, and the NRC thus will not be in a position to contribute effectively to achieving U.S. nonproliferation policy.

Sincerely,

RICHARD T. KENNEDY,
Commissioner.

Mr. GLENN. Mr. President, the Senator from Idaho has made a very eloquent statement regarding the legislation as he sees it. We obviously did not agree completely on all of these things, even though we have worked out quite a number of the areas where we do not agree.

Before I make further comment, I ask unanimous consent that Haven Whiteside of the staff of the Committee on Environment and Public Works may have the privilege of the floor during consideration and votes on S. 897.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, the distinguished Senator from Idaho referred to the letter from Commissioner Kennedy to Senator CHURCH. Although I shall not reply by reading a whole letter I do indicate that there is a reply to the statements made by Commissioner Kennedy in that letter, that reply having been sent to me by Commissioner Gilinsky. He very carefully refutes the remarks made by Commissioner Kennedy.

I ask unanimous consent that the letter from Commissioner Gilinsky, as well as an article on the same subject that he published in the Washington Post, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.
January 30, 1978.

Hon. JOHN GLENN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GLENN: In your letter of January 27th, you asked for my comments on the issues raised in Commissioner Kennedy's January 26th letter to Senator Church in which Mr. Kennedy provided his "reflections" on S. 897, the nuclear export bill now before the Senate. These reflections led him to the conclusion that Congress should instruct the Nuclear Regulatory Commission, in determining whether nuclear export licenses should be issued, to accept without question Executive Branch assessments of the adequacy of international safeguards.

The difficulty with this conclusion—leaving aside for the moment the loss of an independent NRC check in the export review process—is that his rationale for not examining country-specific safeguards applies also to every agency of the United States government, not just to the NRC. As Mr. Kennedy sees it, we should not look behind "safeguards regimes which we have agreed by treaty should be applied." In other words, once we transferred U.S. safeguards arrangements to the International Atomic Energy Agency, we relinquished any right to question whether or not they satisfied U.S. safeguards requirements for nuclear exports.

Practically speaking, blind acceptance of international safeguards of unknown effectiveness discounts safeguards altogether, leaving United States exports protected by little more than a simple reliance on promises by recipients that American exports will not be used for nuclear explosives. Even allowing for whatever can be gathered through our own intelligence activities, such a situation would represent a substantial deterioration of the protection Congress thought it was obtaining when it originally insisted on international inspection for U.S. exports.

It is my view that these safeguards are too important, and the IAEA system at too early a stage of development, to be placed beyond the scrutiny of participating governments. In some cases the need for country-specific information in the consideration of export licenses arises because the implementation of international safeguards is not uniform. The IAEA's own recent assessment, the Special Safeguards Implementation Report, reveals deficiencies in the application of international safeguards in recalcitrant countries, where, for example, national systems for keeping track of nuclear materials cannot be audited because records, if they exist at all, are not kept systematically. But the IAEA report does not identify the countries in which these problems occur. Common sense dictates that such information is importantly relevant to a recommendation that an export license be issued. The NRC should not have to trust to luck that the recipient is not in the questionable category. Yet the State Department has told NRC that it cannot provide a list of safeguards-deficient countries, even on a classified basis, because the confidentiality of the IAEA system precludes the Department (and presumably any agency of the U.S. government) from receiving it in the first place.

This is the source of the dilemma of the NRC safeguards office, to which Commissioner Kennedy alludes. That office is, in fact, "equipped" to examine assessments of international safeguards—it is well staffed and expert in accordance with Congress' specific mandate. The difficulty is that no agency in the government is in a position to provide safeguards assessments in connection with export licenses. What information is available in the Executive Branch is gathered on an informal, *ad hoc*, and intuitive basis, and is blended into an overall judgment in which "foreign policy" considerations may be balanced off against any suspicion that safeguards are inadequate. NRC has been informed by the Executive Branch that its recommendation for issuance of a license should not be taken as an approval of how safeguards are operating in any particular country. We are now seeking a resolution of the dilemma in discussions with the State Department.

However, the U.S. government ultimately decides to handle the problem, it advances nothing to follow Mr. Kennedy's advice to eliminate any NRC safeguards review and relegate the Commission to rubber stamping license recommendations.

On the positive side, it is a healthy sign that the IAEA inspectorate has produced a straightforward and critical account of its activities and will continue to do so on an annual basis. It is clear that the international inspectorate is dedicated to its mission, is aware of the flaws in the system, and is looking to its principal members for assistance in gaining universal acceptance of stricter safeguards. There is much lip service paid to "strengthening the IAEA." But the Agency's self-styled protectors would do it a disservice to close off discussion of the effectiveness of its safeguards system. The only beneficiaries of such an approach will those countries interested in limiting IAEA's efforts to develop a more effective system.

As for the Nuclear Regulatory Commission, I believe (as I stated at somewhat greater length in the enclosed Washington Post column) that its greatest contribution to the nuclear export process lies in providing the vital element of consistency which derives, more than anything, from an objective and independent evaluation of the recommendations presented to it by the Executive Branch. Whatever other considerations enter into a decision to allow nuclear exports, the one fixed point must be their protection against diversion to military uses.

Sincerely,

VICTOR GILINSKY,
Commissioner.

THE NRC'S VALID ROLE IN NUCLEAR EXPORTS
(By Victor Gilinsky)

In his Jan. 13 column, Stephen Rosenfeld raised the question of whether the five-man, independent Nuclear Regulatory Commission ought to be licensing exports of nuclear materials and equipment. The question came up in an interview with NRC's chairman, Joseph M. Hendrie, who apparently offered as his personal opinion that NRC, as a domestic technical agency, had no business in diplomacy or intelligence, as it lacked expertise in those areas. Rosenfeld tended to agree, on the grounds of Hendrie's "seemingly indifferent attitude toward the proliferation threat."

In fact, the NRC was never intended to supply diplomatic or intelligence expertise. But it has, I believe, an export role. Let me explain.

The question of NRC's export-licensing responsibilities has come up frequently since Congress, in the legislation creating NRC (the Energy Reorganization Act of 1974), transferred to it the export-regulatory functions of the old Atomic Energy Commission. The law requires that the NRC, in approving nuclear exports, independently determine that they are "not inimical to the common defense and security" of the United States.

It is my view, which I believe is shared by other commissioers, that this assignment of responsibilities makes sense. While it is true that the executive branch can, and should, influence whether a nuclear export goes forward, it must provide NRC, as well as the public and Congress, with convincing justification. This extra element of protection is, of course, an inconvenience to the laissez-faire exporters, to say nothing of those officials who regard U.S. nuclear fuels and equipment as the modern-day equivalent of glass beads and Indian blankets—prime items of international political barter.

The establishment of NRC coincided with a rethinking of our international nuclear policies in the wake of India's nuclear explosion. Until that time nuclear exports were

handled out of public view on a more or less *pro forma* basis by low-level AEC staff, guided by a policy of U.S. encouragement of worldwide commercial nuclear power. There was no systematic examination of the assurances contained in the legal instruments of our nuclear trade nor of the effectiveness of applicable safeguards.

The NRC's increasingly active role in the necessary work of tightening the rules of U.S. nuclear commerce triggered opposition from expected quarters. Opponents of a tough nonproliferation program called for NRC's removal from export regulation on the grounds that this function was an extension of the President's conduct of foreign affairs, that its exercise by an independent commission tagged the United States as an "unreliable" supplier, that the commission in any case lacked the necessary foreign-relations expertise, and so on. But at bottom the real complaint was that things were not as free and easy as before.

And indeed they are not. One of the primary benefits of NRC's role lies in the development of a formal interagency review process for providing coordinated advice to the NRC on individual exports. This has given agencies such as the Department of Defense and the Arms Control and Disarmament Agency a voice in these matters they otherwise would not have. This, added to the knowledge that executive-branch advice will get careful scrutiny at NRC, has led to a much improved review.

In its own review, NRC does not concentrate on the foreign-relations aspects of proposed nuclear sales but rather on assurances that exports will not be used for nuclear explosives and on associated safeguards. This, it seems to me, is our proper statutory province, and one in which we are expert. While NRC has never rejected outright an export recommended by the executive branch (although it did once unanimously reject a State Department petition to speed a fuel shipment to India), it has on a number of occasions urged tighter conditions on exports and the closing of hitherto unnoticed loopholes in the agreements covering our nuclear trade. In several important cases these views have prevailed with the Department of State and with our trading partners and have resulted in significantly higher levels of antiproliferation protection. It is not necessary to reliability of supply that the United States be a "nuclear patsy."

The proposed nuclear-export legislation now pending before the Senate (having passed in the House by a vote of 411 to 0) would confirm and extend the commission's role in nuclear-export regulation. The bill, incidentally, allows for a presidential override of an NRC license denial; this balances the proposed limitation on the President's current authority to bypass NRC with government-to-government exports through the Department of Energy. Significantly, one of the amendments to be offered in the Senate by those opposed to the bill's passage calls for NRC's removal from nuclear-export licensing.

In giving export licensing authority to an independent regulatory commission in 1974, Congress was saying in effect that it wanted this country's nuclear trade to be handled consistently and to be subject to explicit protective standards rather than to the political exigencies of the moment. This still makes good sense.

(Mr. ZORINSKY assumed the chair.)

Mr. GLENN. Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the testimony given before the Energy Committee on September 14, 1977, by two other witnesses that day, Mr. Gilinsky and Mr. Bradford, whose testimony was not included in that which the Senator from Idaho introduced as a part of his minority statement. We should like to have those in the RECORD so that there is a balanced presentation.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 13, 1977.

Hon. FRANK CHURCH,
Chairman, Subcommittee on Energy Research and Development Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: While I have no specific points of disagreement with Chairman Hendrie's statement on behalf of the Commission on S. 897, I have been a Nuclear Regulatory Commissioner only for a month, and I still have much to learn about the export licensing process. Therefore, I want to note for your record that I may well develop other thoughts on this general subject in the future, and I would not want to be limited to the Commission comments presented today.

Because the "timely warning" section—Section 303(b)(2)—of the bill has been a point of contention within the Commission, I have paid special attention to it in the last two weeks. While I respect the need for flexibility in negotiations, I do not understand how this term can be criticized simultaneously for vagueness and for inflexibility. As a general principle, I feel that safeguard concepts for which no adequate substitute exists should be written into the law, at least until an adequate substitute becomes available. I am not satisfied that an adequate substitute for the relatively mild timely warning requirement in this legislation exists. Until the same end can be reached by other means, I think that the law should include Section 303(b)(2) as written.

Sincerely,

PETER A. BRADFORD,
Commissioner.

STATEMENT OF VICTOR GILINSKY

I should like to thank the Committee for giving me this opportunity to add a comment of my own to the Commission's statement on S. 897. I ask the Committee's indulgence—particularly any who have had to listen to me on this subject more than once over the past two years—in talking once again about safeguards on U.S. nuclear exports. Today I feel obliged to address two provisions of the bill before you: the "timely warning" standard to be applied to safeguards over plutonium in Section 303(b)(2), and the exemption of Euratom from certain retransfer controls.

TIMELY WARNING

The "timely warning" standard is under strong attack as being unnecessary, unworkable, overly rigid and unrealistic. Yet this same idea lies at the heart of the safeguards system on which we have relied for protection since American materials, equipment and technology first went abroad under the Atoms for Peace program. Safeguards are supposed to deter countries from breaking promises not to use nuclear material and facilities for explosive purposes. They are an alarm that warns of illicit activity. To be effective the warning has to come in time for us to do something about it. The idea of deterrence through timely warning is the explicitly stated objective of the so-called "blue book" safeguards of the IAEA which police the Nonproliferation Treaty.

Under this system, as under the U.S. bilateral safeguards which preceded it, records are kept of all nuclear materials going into and coming out of civilian power reactors throughout most of the world, and verified by an international inspectorate. The idea is simply that the disappearance of any of this material will be reported to the international community in plenty of time to allow for appropriate counteraction. Thus timely warning is essential to effective safeguarding.

Problems arise as we move to the use of plutonium or other nuclear explosive materials. The inspection safeguards on which we have relied for so long to back up assurances of peaceful intent are in this area falling hopelessly behind the technology to which they are being applied. This is because once the relatively difficult process of plutonium separation is complete, the bomb-ready material is vulnerable to swift appropriation for use in a previously prepared weapon. The warning time we can count on collapses practically to zero.

It is as if security checks were performed on a commercial airliner after it is airborne, rather than in the airport lobby before takeoff; discovery of an armed hijacker in the air would obviously come too late. Yet in the application of the present international inspection system to plutonium stockpiles, we are relying on an analogue of this situation.

The bill before the Committee attempts to correct this safeguards deficiency. Section 303(b)(2) would allow U.S. approval of certain foreign activities involving nuclear explosive material derived from our exports—primarily plutonium—only if we can count on getting warning of attempts to misappropriate it well enough in advance to do something about it. It is entirely reasonable to apply this classic alarm standard to plutonium. Should the Congress decide not to do so, or to apply it in some cases and not in others, it should be clear that in so doing it is dropping the requirement for effective safeguards, relying instead solely on promises that U.S. materials will not find their way into nuclear weapons. Retention of international inspectors in this case can provide little more than cosmetic comfort; there is no deterrent function they can perform should promises be abandoned in the face of real or concocted security threats.

The House Committee on International Relations noted in its report on the bill that warning times for safeguards over plutonium should not be allowed to deteriorate below those now in effect for light water reactors. I find myself in agreement on this point: timely warning is central to safeguards, and we would retreat from our existing warning margins at our peril.

Unfortunately, in the past, ambiguities and inconsistencies have crept into the application of safeguards to nuclear explosive material. If our exports are to be protected from misuse we are going to have to state the rules clearly and apply them consistently. Needless to say this may not go down well with some of our close friends and allies, with whose cooperation we are launching the International Fuel Cycle Evaluation, and this is for us the most painful aspect of the situation. I do not, however, share the view that this legislation would prejudge the results of that evaluation; I think it will have the opposite effect. A hold on further commitment to current reprocessing technologies which cannot meet the timely warning standard will act as a powerful incentive to come up with some workable combination of technologies and safeguards that will meet it. In any case, we surely do not have to wait to reaffirm our insistence on effective safeguards over U.S. exports.

The bill permits a number of exceptions to accommodate our close allies. Currently operating commercial reprocessing facilities are to be exempted from the timely warning standard—this would include plants in Britain and France and possibly one or two

others. And U.S. approval for reprocessing can be obtained where there is an agreement to apply timely warning safeguards "within a reasonable period of time." And, of course, Euratom is exempted altogether from immediate application of U.S. reprocessing controls.

I must say I am troubled by these exemptions because they sacrifice uniformity and consistency in our nonproliferation policies. They suggest that when the choice appears to lie between allowing our friends to reprocess and effective safeguards, we choose reprocessing. We are then left with the problem of what to do about those countries outside the circle of our special friends who are also thinking about getting into the reprocessing business.

EURATOM RETAINER EXEMPTION

I would like also to draw the Committee's attention to a specific problem that is a consequence of the bill's exemption of Euratom from U.S. retransfer controls. Under current agreements with a number of countries, and also Euratom, plutonium produced in U.S.-supplied fuel can be exported, essentially free of U.S. control. It need only go to countries with "appropriate" Agreements for Cooperation with the United States, and these include a good many on our proliferation worry list. This means that plutonium produced and separated in any of these countries, including the Common Market countries, can end up almost anywhere in the world without our having any real say in the matter. While the bill apparently corrects the retransfer situation with regard to those agreements where firm controls are now lacking, it specifically exempts Euratom. Presumably the exemption is intended to allow only for transfers within the Common Market; if so, the bill should make this clear. The way it now appears, Euratom could be a conduit through which plutonium produced in U.S.-supplied fuel could flow unhampered to much of the rest of the world.

Mr. GLENN. I might add, Mr. President, that the remarks made at the hearings that day by Mr. Gilinsky and Mr. Bradford very strongly supported the idea of timely warning, which I went into at some length in my opening remarks here today, I believe a review of their remarks will indicate that they felt that that was the very foundation upon which we base all of our trust in IAEA, the international organization working in this regard, that they were very concerned about this time compression that has occurred.

While at one time we had a lengthy period in which to take political or diplomatic actions in the event we learned of a diversion from the light water reactor, now, in the context of separated plutonium and reprocessing, the time between diversion of material and nuclear weapons has become so compressed that it could be a matter of very few days or hours of warning would be all we would have. Therefore, timely warning has become critical, not just in consideration of this bill and not just in our own considerations here, but in all of our whole arrangement with IAEA. Whether we can rely upon IAEA safeguards to give us adequate time to take appropriate action in the event that we see diversion occurring that should not be occurring around a nuclear plant, any diversion of any kind.

The third area I wish to comment on in reply to the Senator from Idaho was with regard to his comments about the amendments of last fall that we had agreed to at that time. It has been my understanding that those have since been replaced by our new package of agreements that have been worked out recently. I think that also is the case because the administration has suggested several changes since last fall that are incorporated in that. I think most of the concerns that we did work out last fall are incorporated in this package of 19 that we have agreed to fully and are prepared to accept.

Mr. McCLURE. If the Senator will yield, yes, I think that is correct.

I think we reached agreement on 19 out of the 30. I think there were some minor language modifications in some others, and I think we are either in agreement or will very likely reach agreement on those small changes.

I thank the Senator for his clarification.

Mr. GLENN. Mr. President, I will not try to reply to all of the statements by the Senator from Idaho. I think it is important, since he referred several times to the international nuclear fuel cycle evaluation and suggested we wait for that group to make their final report, that it should be noted that some 18 countries supposedly either have shown an interest in or are in the process of having the nuclear technology developed to a state where we feel they could have reprocessing capability.

Since that is on the verge of burgeoning into such a much larger proliferation problem than we have now, it seems to me that to wait another 2 years—the mid-1980's is the earliest we expect that report—while they move ahead with reprocessing, which is the key to nuclear weapons, would mean that we probably would have lost the ball game by that time.

So I submit we move ahead with this legislation.

We were aware of the report, of course, since all this was being put together, or the proposals. I think if we lose this opportunity to get some control and encourage the nations to go along with us, the odds are that we will have lost the ball game in making any effort to control nuclear proliferation problems.

Another point is the fact I mentioned a moment ago. We have worked very long and hard and diligently with all of the staffs and with the individual Senators involved in all of this, too, and have accepted a package of 19 separate amendments suggested by the Senator from Idaho that address quite a number of the issues he raised.

I think this is better legislation, because of the efforts of the Senator from Idaho, and we have agreed to those amendments.

I hope in the interest of moving this bill along and making the best use of our time, as soon as we can, we are up against some time constraints with the Panama Canal Treaty coming on the floor next week, and I hope we will be able, since we do have considerable agreement on those, to move them en bloc and consider them, all 19, as a package.

UP AMENDMENT NO. 1171

(Purpose: To authorize appropriations under title V for the development of non-nuclear resources for fiscal year 1979 instead of fiscal year 1978)

Mr. GLENN. Mr. President, if there are no further remarks by any other Senators on the floor as opening statements, I send to the desk an amendment to S. 897 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1171:

On page 158, line 14, strike out "1978" and insert in lieu thereof "1979".

Mr. GLENN. S. 897, as reported by the Committee on Foreign Relations and Governmental Affairs last October 3, includes a $10 million authorization for fiscal year 1978 to the Department of Energy to support cooperation with other nations in establishing programs to assist in the development of nonnuclear energy resources. Since this bill was developed in its present form toward the end of the last session, a waiver would have been necessary for the bill to include fiscal year 1978 funds.

However, in view of the fact that no appropriations would be available until later this year, I am offering this amendment on behalf of the Committee on Foreign Relations to change the effective date of the authorization to fiscal year 1979, negating the need for a waiver.

The specific provisions covered by this funding may be under further consideration. This amendment in no way will affect any judgment the Senate may make as to those provisions.

In other words, this is introduced completely without prejudice as far as any further amendments or change is concerned. I understand the Senator from Idaho is willing to accept that amendment.

Mr. PERCY. Mr. President, as far as the Senator from Illinois knows, there is no objection on this side.

Mr. McCLURE. Mr. President, I might say that, certainly, we have no objection to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, there has been some concern expressed in public and private conversations concerning the application of NEPA, National Environmental Protection Act, to this bill, and I wish to discuss to a certain degree my own concerns on that very issue.

It would seem almost unnecessary to bring up any international consideration of NEPA dealing with U.S. exports constructed in the environment and in the atmosphere of other nations, and yet recent days have disclosed a significant struggle going on within this administration between CEQ and those involved in foreign trade and other things as to whether or not NEPA should apply.

My own opinion is that it should not, but my fear is that it may, and there is reason to have such fear because of a certain amount of case law that has already taken place.

There are two leading cases involving the extraterritorial application of NEPA. One is the Sierra Club against Coleman, and the other is Environmental Defense Fund against the U.S. Agency for International Development. It should be pointed out that in both cases the court simply asumed that NEPA applied, and there was no further discussion on that point.

The first case, Sierra Club against Coleman, which is currently pending on appeal, considered the Federal Highway Administration's construction of the Darien Gap highway through Panama and Colombia. Further action on the highway was enjoined until the substantive and procedural requirements of NEPA were complied with. The court held that the FHA failed to comply with NEPA by not circulating either a draft or final environmental assessment to EPA for comments, by failing to adequately discuss the problem of transmission of aftosa—or more commonly known in this country as foot-and-mouth disease—and by failing to adequately discuss possible alternatives to the route chosen for the highway. The defendants made no claim that an EIS was not required, but rather contended that the document they had prepared was the functional equivalent of an EIS as defined by NEPA. The court stated that the duties in section 102 of NEPA are not inherently flexible. They must be complied with to the fullest extent, unless there is a clear conflict of statutory authority.

Mr. President, it is possible to distinguish this case from the situation of deep bed mining, in reference to the potential for a significant environmental impact on the continental United States. There are those who contend that there is no obligation to comply with NEPA unless there exists such a potential for impact. At this point, there is no evidence that deep seabed mining will have an adverse environmental impact on the continental United States.

(Mr. DeCONCINI assumed the chair.)

Mr. WALLOP. Mr. President, however, there is a possibility, in the Sierra Club case, that aftosa could be transmitted to the United States and could result in the destruction of up to 25 percent of North American livestock, an economic loss of $10 billion, as well as the extinction of such endangered species as the American bison, unless the most stringent of control programs are set up. Thus, the probability of a significant adverse environmental impact on the Continental United States is a distinguishing factor.

The second case was the Environmental Defense Fund, Inc. against U.S. Agency for International Development.

In this consent decree, Judge Sirica approved a stipulation by which the parties agreed that AID would file a programmatic NEPA impact statement on its international pesticide activities and pest management program, within 10 months. AID also agreed to promulgate within 3 months environmental regulations which would subject to NEPA all aspects of its activities. Since AID consented to file an EIS in accordance with NEPA, the court was not forced to litigate the issue of whether NEPA applies outside the continental borders of the United States.

Both these cases, I would remind the Senate, bear heavily on the decision we are making here, particularly in view of the infighting that has taken place within the administration at this moment.

Let me talk a little about the policy of the State Department and the Council on Environmental Quality.

It is the policy of the State Department that an environmental impact statement should be required where a Federal action affects the "global commons," but not in an area where another country has exclusive jurisdiction. Areas in which NEPA studies have typically been required include the high seas and where projects have involved stratospheric pollution. In some instances, environmental impact statements will be done on projects in Antarctica. These studies were completed on the Law of the Sea Treaty and Panama Canal Treaty. An EIS was not completed at the site of a satellite tracking station in Australia, and many questions and complaints subsequently have been raised as to why this was not done. The Department's policy is that an EIS will not be done on weather tracking stations in another country or in other circumstances where another country have sovereign authority.

The Council on Environmental Quality is the other side of this tug-of-war. The policy of CEQ is clearly more stringent than that of the State Department. Since NEPA requires an EIS wherever a major Federal action is involved, it is their policy that the study should be done not only when such action has an impact on the global commons, but even when the project is within an exclusively foreign jurisdiction. CEQ disagrees with both the Departments of State and of Transportation in that the study should not be confined to areas in which there is a potential for an environmental impact on the United States.

There are several arguments in opposition to the extraterritorial application of NEPA. It is a well established canon of statutory construction that in the absence of clear statutory authority or legislative history, congressional enactments should not be presumed to have extraterritorial application. Thus, Congress should be presumed to have intended NEPA to be limited to the continental United States, since neither statutory language nor legislative history clearly requires extraterritorial application of section 102 procedures.

I would say, Mr. President, this is the area in which we have become mired down in recent legal history because the plain fact is the courts have interpreted this differently and, in plain fact, it does threaten the export capability of the United States in the nuclear field.

A second argument against it is that an environmental assessment effort is currently being carried out by NOAA in its deep ocean mining environmental study (the DOMES project). This project was initiated during fiscal year 1975, however its implementation has proved to be a slow, expensive process.

This again has great significance on America's ability to compete overseas in foreign trade, and why I think we may want to consider the possibility of prescribing the application of NEPA to nuclear nonproliferation. The application of NEPA in a strict sense would involve unnecessary and duplicative environmental assessment efforts. Therefore, a separate system of environmental measures which are designed to protect the quality of the environment specifically in the area of the deep seabed must be established.

Third, base line environmental studies have proven to be prohibitively time-consuming in their implementation. It would not be in the public interest to delay deep seabed mining in order to implement such stringent environmental requirements which can be proven unnecessary.

Fourth, the protection of the deep seabed against adverse environmental procedures is a worldwide problem. International cooperation and international designed assessment efforts are required. It should be up to the United States to contribute its share, but not to bear the burden of the world as far as environmental protection of the deep seabed is concerned.

Fifth, if the United States imposes more stringent environmental standard than the rest of the international community, its own citizens will be placed at a severe and unfair disadvantage as far as deep seabed mining development is concerned, and surely as far as our ability to export nuclear technology and nuclear machinery, peaceful nuclear machinery, to the rest of the world.

Last, the strict extraterritorial application of NEPA would militate against the strength of negotiations in Committee 3 of the Law of the Sea Conference. These measures would unreasonably "tie the hands" of our negotiators at the con-

ference and would place an obvious additional burden upon them.

Mr. President, the situation has gotten to the point now where there have been recently two very significant expressions of concern in the public media about the application of U.S. environmental requirements within the jurisdiction of other nations of the world. The first is a rather good editorial from the Washington Post which I would like to share with the Senate at this time. It is called "Other Countries' Environments." It says:

A fierce quarrel has broken out within the Carter administration, as you may have noticed, over environmental regulation of certain U.S. exports. Suppose the Export-Import Bank, a federal agency, finances the sale of nuclear equipment to another country. Should the Ex-Im Bank have to write an environmental impact statement—one that would be subject to attack in U.S. courts? A lot of countries would regard that as infringement of their sovereignty.

But suppose, again, that American foreign aid buys pesticides for an agricultural development project in an undeveloped country. Does the United States have an obligation to tell the recipient what it knows about the environmental effects of those pesticides? Most Americans would say that it does and, in fact, the Agency for International Development already requires environmental statements for its projects.

The President's Council on Environmental Quality is leading the campaign to apply American environmental law to some exports—those that the federal government subsidizes or licenses. The opposition comes mainly from the State Department and the Ex-Im Bank. One thing that they fear is repeated collisions with other governments over regulatory authority. When the United States started to run preliminary environmental studies on the proposed gas line from Alaska down through the Yukon to the Midwest, Canada tartly told the American experts to stay on their own side of the border. Canada thinks, with some reason, that its own standards are at least as high as this country's.

Another fear is litigation tying up decisions on exports, and embroiling foreign buyers in the American courts. The Council on Environmental Quality reflects a tradition of public-interest lawyering that considers the threat of litigation essential to strict enforcement of standards. But law suits are a poor way to make foreign policy.

The rules on environmental protection abroad will have to vary with circumstances. There's not much dispute that American operations in the deep oceans and Antarctica—what lawyers call the global commons—need to be held to the same standards as in the United States. No other country's jurisdiction is involved. Foreign aid does involve other jurisdictions, but the United States bears a broad responsibility for the consequences of its advice to undeveloped countries.

It's the commercial sales—and above all, the sales of nuclear reactors and fuel—that raise the hard issues. Some buyers will welcome an American environmental impact statement, since it requires the seller to disclose what he knows about the effects of the product or the project. But what if the buyer's government considers the American requirements to be an intrusion? One solution is to require an environmental statement only if the foreign government agrees. Otherwise the collision of sovereignties becomes unmanageable.

As for nuclear exports, safety standards are far too important to be left to the ambiguous and unsettled provisions of American environmental law.

Mr. President, I would like to read that again for emphasis:

As for nuclear exports, safety standards are far too important to be left to the unambiguous and unsettled provisions of American environmental law. When American reactors go to countries with no great depth of technical experience, they need to be accompanied by the most explicit safeguards. That is the Nuclear Regulatory Commission's job. The present attempt to take the environmental law abroad is grounded in the environmental organizations' suspicions that the NRC tends to tilt in favor of the nuclear industry. The remedy to those suspicions does not lie in the slow and uncertain processes of the federal courts. It lies in the White House. That's what the country has a President for.

Mr. President, 2 weeks earlier the columnists Evans and Novak also reacted to the struggle that is going on within the administration, expressing the concerns which I am expressing here today about the possible implications of NEPA. Their column is entitled "Countering an Agency's Environmental Overreach," and reads as follows:

An angry counterattack against federal environmentalists is now being quietly planned by Cabinet-level departments, led by the State Department, with indications of support in the White House itself.

The counterattack seems certain to modify drastically and could kill altogether new regulations proposed by the Council on Environmental Quality (CEQ) that would make Uncle Sam the environmental policeman of the world—particularly policing nuclear reactors. "Outrageous," one State Department official told us. "These regulations would impose American environmental standards on all our foreign friends and they would end up hating us."

This places President Carter in a peculiar dilemma. While crusading against nuclear proliferation and environmental pollution, he is bound as President by the practicalities of international life. As such, he seems forced to disappoint his environmental constituency.

The proposed regulations were drawn secretly by CEQ planners with apparent help from the Natural Resources Defense Council (NRDC), an environmentalist private action group. They would, in effect, require standard environmental-impact statements (to be called "assessments" in the foreign field) for all exported material or technology sold abroad with some help—export licenses or loan guarantees—from the U.S. government.

The real target may be nuclear reactors, a prospect that has infuriated the Nuclear Regulatory Commission (NRC). At a closed-door meeting called by CEQ Jan. 6, NRC Assistant General Counsel Carlton Stoiber said there is "no legal justification" for imposing U.S. environmental standards abroad. That brought objections from CEQ Chairman Charles Warren and member Gus Speth, who showed reluctance even to discuss legal justification. But Stoiber insisted that neither the 1969 National Environmental Protection Act nor its legislative history in congressional debate could justify the new regulations.

At least as upset as NRC and the State Department was Export-Import Bank President John Moore, who warned the Jan. 6 meeting that the proposed regulations would benefit Japanese and West German exporters at the expense of this country. The reason: endless delays and lawsuits against U.S. exports on often specious environmental grounds would turn impatient foreign buyers away from the United States.

Moore, a former Atlanta lawyer close to Carter, strongly urged White House domestic policy chief Stuart Eizenstat to attend the Jan. 6 session at CEQ. Eizenstat stayed long enough to ask three questions: What is the cost of the federal government of the proposed regulations? What is their legal justification? To what extent would they impose American standards on foreign governments?

Speth, who took the leading role for CEQ in the acrimonious debate, gave uninformative and "fudged" answers, according to one participant. Eizenstat left the meeting before it ended, but those in position to know say he was unimpressed with CEQ's rationale and has strong reservations about CEQ's ambition to be top cop for global environment.

Speth was legal counsel for the environmentalist NRDC before Carter appointed him to the CEQ. Last year the NRDC brought suit against the Export-Import Bank to require it to meet CEQ's domestic standards in all its foreign lending operations.

That suit, while not directly related to CEQ's proposed new regulations, helps to explain why Moore and the Export-Import Bank are so disturbed. The bank has provided more than $20 billion in loans and guarantees for U.S. exports since mid-1974, much of it for nuclear and conventional power facilities and offshore oil drilling. NRDC claims these have direct impact on the environment.

If the Export-Import Bank either loses the NRDC suit (now in U.S. District Court here) or is forced to comply with the proposed CEQ regulations, billions of dollars' worth of exports of U.S. products in the future could go down the drain. Foreign buyers would be forced to wait out endless environmental investigations, filing of impact statements and predictable harassment of court actions brought by well-meaning environmentalist groups.

Add to that danger the equally predictable fury of foreign buyers and governments subjected to U.S. environmental investigations on their own soil and the awesome dimension of CEQ's ambitions comes into focus.

But the CEQ has almost certainly overreached itself. Representing an activist constituency that takes a highly negative view of extending U.S. military and political power around the globe, it now wants to blanket the world with U.S. environmental power. And that is an unwanted extension of Potomac power that Jimmy Carter, ardent environmentalist though he is, is having trouble accepting.

Mr. President, this week Ambassador Strauss has been testifying before the Senate Finance Committee, and he had a little exchange with my colleague from Wyoming (Mr. HANSEN) which I think is worthy of contemplating here because it bears on my concerns as to the effects of the legislation before us if we do not, in one manner or other, proscribe the application of NEPA.

Senator HANSEN's question was as follows:

The Council on Environmental Quality has distributed a guide—draft guidelines to executive agencies which would require Environmental Impact Statements for U.S. international activities in other countries. I understand the guidelines would require Federal agencies to document and consider foreign impacts, both for direct U.S. government activities abroad and the licensing of commercial exports and activities abroad. This would place an immediate de facto moratorium on nuclear exports and related Ex-

Im Bank financing—as well as many other activities. What is your view, as Special Trade Representative, regarding the advisability of such a new requirement?

Ambassador Strauss:

Senator Hansen, I have some very serious concerns in this whole area. Now these proposals are exceedingly preliminary in nature as I understand it now and I don't want to be negative or critical but I would say to you that is something I intend to monitor very carefully, something I expect to be heard on very forcefully and I have strong reservations about anything being done that would in anyway impede our ability to do business outside the United States with products that are manufactured in this country. We will be, as I said, monitoring any proposals that come out of there closely and presenting our position on it. That's about all I have to say on it for now. We don't need any unnecessary barriers to trade. We're having a tough enough time right now with what we've got overseas.

Mr. President, our precipitous action at this time on S. 897 is, it seems to me, particularly inappropriate in light of the many international initiatives to eliminate the nuclear proliferation threat that are already underway and to which the United States has lent its support.

One such initiative is the London Suppliers' Club agreement—signed January 12 by the United States and 14 other nations—setting out specific criteria for nuclear exports. Now we are legislating, through S. 897, export criteria which goes far beyond those embodied in that internationally agreed upon document.

Another initiative is the establishment last year, on the recommendation of the President of the United States, of the international nuclear fuel cycle evaluation. Part of the efforts to achieve adequate international participation in the evaluation was an agreement that the United States would not change the rules in the middle of the game or in any way encumber foreign national R. & D. programs.

I have concern that we are about to change those rules, even though we have made it a part of the United States international commitment not to. S. 897, it appears to me, does both and prejudges the outcome of the evaluation.

Also sure to be prejudiced by the passage of this bill is the upcoming United Nations' special session on nuclear disarmament during which a discussion of the peaceful uses of nuclear energy throughout the world will take place. At that time the United States will sit down with the other nations of the world, assess proliferation problems, and come up with a program of action to solve them.

Such international dialog and cooperation is essential if we hope to halt the spread of nuclear weapons. Premature and precipitate action on S. 897, at a time when international agreement is so critical to our nonproliferation objectives could prove counterproductive to those objectives.

Given the concerns that I have that the provisions of NEPA might be applied should we fail to proscribe them, it might be, Mr. President, that at some time, I shall propose language, or would support the proposal of language to S. 897 which would be approximately as follows: We would insert a new section, section 310 which would read as follows:

Sec. 310. For the purposes of any Federal action required by this Title for the approval of any export, the Congress hereby endorses the position of the Commission in its opinion. In the matter of Edlow International Co., CLI–76–6, 3NRC 563, 582–84 (May 7, 1976) that the health and safety impact in foreign nations of exported nuclear materials is outside the jurisdiction of the Commission. For the same purposes, the Congress also hereby endorses the position of the Commission in its opinion in the matter of Babcock and Wilcox, CLI–77–18, 5NRC 1332, (June 27, 1977) that the National Environmental Policy Act does not require the preparation of individual environmental impact statements to assess the site specific environmental impacts of a proposed nuclear export on territory within the sovereign jurisdiction of a foreign government, and that therefore the Commission will only consider environmental impacts of nuclear exports within the United States and on the global common environment. And, therefore, Congress hereby declares that the Final Environmental Statement, U.S. Nuclear Power Export Activities, April 1976 (ERDA–1542) shall be deemed, in the absence of such aforementioned impacts within the United States or to the global common environment, to satisfy the requirement of the National Environmental Policy Act for an environmental impact statement for any export under this Title.

Mr. President, it remains to be seen how the dialog proceeds in the consideration of this bill. But I think if we do not make it abundantly clear that NEPA's and CEQ's reach for power do not apply, then this kind of language will probably become necessary before the bill can responsibly leave the Senate. We are, as I suggested, engaged in a piece of legislation which is premature, though necessary should the international talks and agreements in which the United States is involved come to no fruition or come to an unsatisfactory fruition. But for us to prejudge the results of international dialogs or the good will of other nations, or our own capacity to export highly technical expertise bound by the safety provisions that we are capable of binding it with, seems to me to be a drastic mistake. As we go along, I hope that some kind of assurance can be delivered by these distinguished floor managers that these concerns of mine are not as genuine as I suspect they are.

Perhaps the administration, before we are finished, could enlighten us as to their final policy on this whole matter. If they do not, I suspect that we might have to bring up the whole question of the application of NEPA prior to the passage of the bill.

Mr. President, that concludes my remarks.

Mr. GLENN. If the Senator will yield, I have just a very short comment, because we would like to get moving on some of these amendments and move the bill.

I appreciate the concerns of the Senator from Wyoming regarding the Council on Environmental Quality and the problems abroad. I think the language of the act that established the Council required that "all agencies of the Federal Government shall recognize the worldwide and long-range character of the environmental problem."

That is a very broad mandate, and, of course, depends on what course individuals on that council wish to take to put that into effect.

As the Senator also properly pointed out, he cited several cases where it has been held that this goes into the international area. However, I submit that this applies across the board to American industry, business, and governmental actions abroad. We have many environmental concerns abroad quite apart from the nuclear program. I think what the Senator has very properly pointed out is the fact that there has not been the proper guidance given to what the intent of Congress was as to the Council on Environmental Quality. I think we do need to clarify that. I do not think this particular bill is the proper forum to do it, because it is part of a much bigger problem that goes through Government agencies, and goes through business conduct abroad.

There is great disagreement within the administration itself, going back over some period of time, as we have witness of in several different papers that we have available here, as to how this should be applied. Different agencies have interpreted this in different ways. It is obvious that there was not adequate guidance in the legislative history here and that subsequent rules and regulations have not clarified the problem. I shall be glad to support any efforts the Senator thinks might be worthwhile, in whatever congressional forum, including Senate committees or subcommittees, to address this problem, trying to address it on a full, government-wide basis and not just take it up on this bill. I am afraid we shall not solve it on this bill and we would not solve the larger problem that it is part of.

I shall support whatever efforts the Senator wants in that regard and hope that it will not become an issue on this particular piece of legislation.

Mr. WALLOP. I can understand the Senator's concern about having it become a part of this legislation. I hope he can understand this Senator's concern that it might be necessary to become a part of this legislation.

I agree with the Senator from Ohio that the total topic needs to be addressed in the congressional forum. I only suggest that, given the court interpretations that already exist, given the litigation that is now in front of the courts, given the fact that this struggle does exist within the administration, and given the concern of Ambassador Straus and others, it may be that we would not want just to entirely shrug this off before we get done with this bill.

I have great concern that it is partly in the national defense interests of this country, not only the national trade interests of this country, that, if we are not involved in the international technology market to the fullest extent, our ability to monitor what is going on in the world will be dramatically reduced. That does

not seem to me to be in the best interest of the security of the United States, let alone the trade interest. That is basically where I am coming from on this issue.

I am willing to wait to see how the other dialog goes and what other amendments are attached. I only suggest that I have not given up entirely on the idea that we might want to do this.

I thank the Senator.

(Mr. CULVER assumed the chair.)

Mr. GLENN. Fine. I thank the Senator very much.

Mr. President, as far as I am concerned, we are ready to move on to the amendments to this bill. I hope we can. We had one group of 19 amendments that we had agreed to separately. I hope those can be approved en bloc, and move on to the others that are in context, consider them this afternoon, and move the bill along.

Mr. McCLURE. Mr. President, I might just respond. I think it might be well, of course, attempting to do that, I think the Senator from Illinois had a couple of amendments.

I would like to discuss it with the Senator from Ohio as to how we handle those amendments.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER (Mr. MATHIAS). The Senator from Illinois.

Mr. PERCY. Mr. President, I first wish to join with my distinguished colleague in commenting on the remarks made by our distinguished colleague from Wyoming. I do believe they are pertinent comments.

Certainly, we are concerned about worldwide environmental issues, and that is one of the purposes of this bill, to avoid one of the most pervasive and difficult environmental problems the world will ever face if we do not stop the proliferation of nuclear explosive capabilities around the world.

But I believe that our decision as to what should be done about specific concerns that my distinguished colleaue from Wyoming raised should take place only after we have had adequate hearings and know exactly what we are going for so we do not encumber this particular bill.

Mr. WALLOP. Will the Senator yield?

Mr. PERCY. Yes, I am happy to.

(Mr. CULVER assumed the chair.)

Mr. WALLOP. I appreciate those remarks.

Again, I say that I appreciate the concern that amending this bill might raise. Again, I appreciate the concern that failure to amend it might raise.

I want to make it clear that I am not against the environmental attachments and concerns that might go wtih this. This is not a call to avoid environmental considerations. I just think we have to distinguish between, as the Post editorial pointed out, the U.S. responsibility to inform and advise and our intrusions of other nations' sovereignty. I believe we have to put the most stringent environmental constraints on any technology we export. It seems to me that could be easily arrived at. But to add to the confusion that might arise by court challenges to any export sale the failure to deal with this other problem seems to put us in a national security as well as an environmentally insecure position.

I thank my colleague.

Mr. PERCY. I thank my colleague.

I would like to join with the majority floor manager's urging that on the 19 amendments which have been agreed upon, if it is possible to move us along expeditiously, to consider them en bloc, I would certainly recommend that.

We have worked for a long period of time now on a series of amendments offered by our distinguished colleague, Senator McCLURE.

Also, if it is at all possible to determine, because we all know we are working on a deadline of Wednesday to begin proceedings and deliberation on the Panama Canal Treaty, which may take quite some time, that if it is possible to set a time certain, adequate time, sometime on Tuesday, we could work backward to see whether or not the Senate would be in session both on Friday and on Monday.

But while our distinguished colleague is giving consideration to that——

Mr. McCLURE. If the Senator will withhold for a moment, I might make a comment on the discussion the Senator from Wyoming has just had.

I think it is important for us as we look at this measure to recognize that, first of all, it is not just a usual environmental impact that we are concerned with when we are talking about nuclear installations, whether it be a powerplant, a reprocessing facility, a fuel enrichment plant, or a radioactive waste storage site.

Those issues are separate from and go far beyond the generalized environmental impacts that have to do with an industrial installation, the social effects of an industrial plant location, its normal impact of air and water quality in the society in which that plant is located.

I think there is no doubt that when we are talking about the impact of nuclear installations, whether it is in this country or in any other country, we will be looking at things somewhat differently on nuclear installations than we do upon other industrial sites.

The danger I see in the assumption that this is simply another NEPA question is that NEPA is not confined to those peculiarly nuclear or radioactive hazards questions that we ought to be dealing with here under the Nuclear Fuel Assurance Act.

While we perhaps will be concerned and ought to be establishing the guidelines in regard to the nuclear proliferation threat or the nuclear radioactive threat in a regional sense, we should not, at the same time, involve ourselves in trying to determine site location, the social impact, the other aspects of the usual environmental impact statement that would apply to, say, the establishment of a steel mill, an auto assembly plant, a textile factory, the irrigation of a tract of land.

I think we have to carefully separate in our consciousness of this problem the two kinds of concerns that we have, so that while we address the one through a nuclear fuels policy, that we will not confuse that with the general environmental concern over human activity of a general nature which may involve us in quite a different debate, but merges and overlaps over into nuclear installations.

I think it is possible under this act to express a sensitive concern for the nonproliferation hazard separate from the usual EIS statement.

I know the debate is going on within the administration right now as to what position the administration will have.

It is quite possible that before this bill is completed in its action in the Congress or in the conference that the administration will have resolved for themselves within their own mechanisms what position they wish to take on the larger question of environmental impact in foreign countries of actions taken by this country.

I am not sure I want to say at this moment whether we should set that aside completely or whether it is something we may wish to address before we close the door on this bill by way of final action.

So I would say to my friend from Wyoming that he has lifted the edge of the tent to take a look at a whole host of problems inside and that they are very serious problems. They have a peculiar application to this legislation in some senses and yet they are, in other senses, as the Senator from Ohio has pointed out, more broadly applicable than just to the nuclear business. Whether we can resolve that, or should even attempt to resolve that, in this legislation, the Senator from Idaho has not yet determined in his own mind. Perhaps over the weekend the administration, in its processes, will have decided in which direction they are going; and they may or may not have resolved this by early next week.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. GLENN. What I am afraid of on this bill is that if we tried to resolve this whole big picture on this bill and it would happen to come out adverse to the position I know the Senator from Idaho takes on this matter, we could wind up stifling every bit of business and industry that this country does abroad, if it came out that way. That is the reason why I would be much more in favor of a broad hearing program, a discussion of this matter in Congress.

Let us set this on a broad basis and not try to do something on this bill, where feelings may be considerably different than if we were considering the broad business and industrial impact and the governmental activities abroad that this Nation has. It seems to me that that would be the commonsense and much better way to approach this matter.

If there are amendments to be brought up on this matter, I understand that I am in no position to prevent their being brought up, but I hope that whatever we do is done in the much broader context of the whole business picture.

The Senator from Wyoming stressed repeatedly Ambassador Strauss's concerns in this regard. I know those are very real concerns that Ambassador Strauss has, and I share those concerns. I think these concerns are on a broad

enough basis that I agree with him that we should address them on that broad basis and not try to push on this bill something that is going to have a much broader impact than on the nuclear industry, alone.

Mr. McCLURE. I agree with the Senator from Ohio that there are the broader concerns. I do not know how this body or the other body would vote if they were confronted with trying to solve it narrowly with respect to this particular business enterprise or commercial enterprise, or how they would approach it if they were confronted with a vote immediately upon the entire broad question.

At the same time, it is also the unique character of what we are dealing with here that makes it more difficult to predict a vote here and more difficult to predict the outcome of the administration discussions.

While we express the concern about environmental impact in foreign lands of activities that may have been initiated in this country, or commercial ventures that originate here but have impact there, and we express the concern about the business relationships with other countries, we should not abandon our attempt to increase environmental awareness and concerns in all countries and the sometimes delicate and very difficult business of getting other countries to agree with us, to apply the same concerns that we have applied here, for a number of reasons.

First and foremost is the welfare of all mankind. We have just as much concern about what may happen upon future generations in other countries as we have about what happens here. We just do not as directly control them. That should be our first concern. Also, we should be exploring ways in which we can stimulate foreign countries to exert their concern in the same directions and in the same manner that we do.

There is also a second reason for doing so, and that is to remove the competitive disadvantage which many of our businesses feel today because they have to meet direct environmental costs at the front end, as we have decided they should, but in competition with other businesses in other countries who do not have to bear that front-end cost of doing business. They can continue to defer the cost to future generations to pay.

I mention that only because I do not want this colloquy to be misunderstood as reflecting the view of the Senator from Ohio or the Senator from Illinois or the Senator from Idaho that we are unconcerned about the environmental activities of other countries.

Mr. PERCY. The Senator from Illinois is very sympathetic toward the view of the Senator from Ohio that this is worthy of a full set of hearings. The Senator from Illinois would want to be certain that manufacturers in the steel industry in Illinois and manufacturers in many different fields who are competing in world markets would have an opportunity to address themselves to the extraordinarily high costs we are required to absorb here.

It is estimated that in the steel industry in Illinois, 30 percent of all capital investment today is nonproductive. I just visited United States Steel in Illinois, and they showed me equipment they just installed a few years ago at a cost of $6 million, and they are spending millions of dollars to increase the efficiency of that equipment, which most foreign competitors of theirs do not have to expend at all. Then we wonder why the cost of the American product is unusually high.

I think it deserves considerable consideration and requires a large body of testimony to learn what is happening worldwide and why we are having a balance of payments problem, not just in oil but also in goods and other services that we are trying to sell abroad. It deserves a forum of its own.

I ask this of the distinguished Senator from Idaho: When he referred earlier in his comments to the Nuclear Fuel Assurance Act, was he really referring to the bill presently before us, which is the Nuclear Non-proliferation Act? The Nuclear Fuel Assurance Act is the title of a previous bill that had been considered a year or so ago.

Mr. McCLURE. The Senator is correct, and I thank him for that clarification.

UP AMENDMENT NO. 1172

Mr. PERCY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1172:

On page 115, line 9, insert the following: "Department of Commerce" after "Nuclear Regulatory Commission".

Mr. PERCY. Mr. President, this amendment would simply call for consultation with the Department of Commerce on subsequent arrangements. It is already provided that such determinations by the Secretary of Energy shall be made only with the concurrence of the Department of State, and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Department of Defense, under mutually agreed procedures. This amendment, which is supported by the administration, would insert consultation with the Department of Commerce as well.

Mr. GLENN. Mr. President, I accept the amendment.

Mr. McCLURE. Mr. President, this is an amendment which I understand the administration supports. I think it does further the objectives which I share, and I support the amendment as well.

Mr. PERCY. We thank our distinguished colleague. I believe that bringing in the Department of Commerce will strengthen the act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1173

Mr. PERCY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1173:

On page 156, line 2, insert the following: "(a)" after "Sec. 405.".

On page 156, after line 6, insert the following new subsection:

(b) Nothing in this Act shall affect the authority to include dispute settlement provisions, including arbitration, in any agreement made pursuant to an Agreement for Cooperation.

Mr. PERCY. Mr. President, this is really a technical amendment.

The executive branch considers it desirable, in order to avoid any possible negative inferences or misunderstandings, to include a provision confirming the continued authority of the United States to incorporate arbitration provisions in agreements or other arrangements which may be concluded pursuant to an agreement for cooperation. To accomplish this, we have simply submitted language, which the clerk has read, that will insure that there is no misunderstanding.

Mr. GLENN. Mr. President, I agree with the amendment of the Senator from Illinois.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HODGES. Mr. President, will the Senator yield to me a moment?

Mr. GLENN. I yield.

Mr. HODGES. Mr. President, I ask unanimous consent of the Senate that Diane Steigler, of my staff, be permitted the privilege of the floor during consideration of and votes on Senate bill 897 under consideration now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that Pat Wyndham and Burt Rosen, of Senator HOLLINGS' staff, be accorded the privilege of the floor during consideration of and votes on S. 897.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF SENATORIAL DELEGATION TO PANAMA—ORDER FOR PRINTING AS A SENATE DOCUMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a report entitled "Report of the Senatorial Delegation to the Republic of Panama" dated November 9 through November 12, 1977, be printed as a Senate document. This request has been cleared by the chairman and the ranking minority member of the Rules Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged——

The PRESIDING OFFICER. There is no time limit.

Mr. ROBERT C. BYRD. With no time charged.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO HAVE UNTIL MIDNIGHT TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may have until midnight tonight to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. MATHIAS). The Chair, on behalf of the Vice President, pursuant to Public Law 95–45, appoints the Senator from Oklahoma (Mr. BELLMON) and the Senator from Virginia (Mr. SCOTT) to the Interparliamentary Union Spring Meeting, to be held in Lisbon, Portugal, March 27–31, 1978.

WAIVER OF REQUIREMENT THAT COMMITTEE RULES BE PUBLISHED EACH YEAR IN THE CONGRESSIONAL RECORD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the requirement to publish the rules of each Senate committee in the CONGRESSIONAL RECORD not later that March 1, of each year as set forth in section 133B of the legislative reorganization of 1946, be waived for this year.

May I say that my request is based on this premise:

The request does not waive the requirement of printing in the CONGRESSIONAL RECORD any amendments a committee might make in its rules, to be printed within 30 days thereafter. The public is entitled to know of any changes each committee makes in its rules.

The reason for this request is as follows:

First, all of the rules of each committee have already been printed in the CONGRESSIONAL RECORD during the first session of this Congress;

Second, the rules of each committee are printed in each issue of their respective committee calendars; and

Third, the Committee on Rules and Administration has printed, as a committee print, a volume compiling the rules adopted by committees of the Senate. Here it is in my hand.

Finally, to print all of these rules again this session in the CONGRESSIONAL RECORD would really be a duplication, at an unnecessary cost to the taxpayers in the approximate amount of $8,536.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I have discussed this matter just now with the distinguished majority leader. I think it is a wise request under the circumstances, and I join in the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader. I guess there is no way of knowing if there are many, and if so how many, unanimous-consent requests made, any one of which saves more than $8,000 to the taxpayers; so the minority leader and I are happy to join in this request.

Mr. President, I suggest the absence of a quorum.

Mr. BAKER. Mr. President, will the majority leader withhold that?

Mr. ROBERT C. BYRD. I withdraw it.

NUCLEAR NONPROLIFERATION ACT OF 1977

The Senate continued with the consideration of S. 897.

Mr. BAKER. Mr. President, I have remarks on the pending business, and unless the distinguished majority leader has another reason for a quorum call at this time, I will proceed with those remarks.

Mr. ROBERT C. BYRD. Yes; I withdrew my suggestion.

Mr. BAKER. All right. Mr. President, I appreciate the opportunity to speak to the Senate today on what is undoubtedly one of the most vexing problems facing us as a nation and as a people.

First of all, let me congratulate my good friends the distinguished Senator from Ohio (Mr. GLENN), the distinguished Senator from Connecticut (Mr. RIBICOFF), and my colleague and classmate the distinguished senior Senator from Illinois (Mr. PERCY) for their leadership in the field of nuclear nonproliferation.

There is a great deal in the legislation that is now pending before the Senate which I can and will support, and which will contribute to the lessening of international tension and reduce the threat of nuclear proliferation.

Beginning with President Nixon and continuing through President Ford's administration, and certainly under the current administration, efforts have been put forward and are continuing to reduce the likelihood of enriched material falling into the wrong hands.

Even as we stand here today, the Nation's attention is drawn to a potential radiation hazard in Canada's northwest territories resulting from the untimely fall of a Soviet satellite whose electrical system was fueled by highly enriched uranium.

In our haste to deal with the international problems of nuclear nonproliferation, however, in my view there are three main concepts that must be kept in mind.

First, this is an international problem. Unilateral action on the part of the United States without corresponding efforts on the part of other countries could actually be counterproductive. The detonation of a nuclear device by India in May of 1974, which has been referred to on this floor earlier today, underscores the international nature of the difficulty we are seeking to address.

America's relationship to other countries such as Brazil, France, India, Iran, Japan, South Africa, and Spain, among others, will be impacted by our proceedings here today. The encouraging word on this front is the recent agreement signed by the 15 nuclear supplier nations that have participated in the London Supplier Club meetings. The agreement which has been formally signed with the IAEA, the International Atomic Energy Agency, earlier this year is a good-faith effort on the part of supplier nations to reduce the likelihood of further proliferation.

The disturbing thing to me about S. 897 as it now stands, is that the export criteria apparently go far beyond those agreed upon by the suppliers' conference. The natural result of what we do here today could be, in my opinion, to place such stringent requirements on American suppliers that we lose any leverage left to America in the international nuclear market.

A second principle that must be kept in mind is that the United States cannot continually sit in judgment on the nuclear agreements negotiated between other countries unless we do have some leverage in that respect. This line of reasoning has been most capably expressed by our colleague, the distinguished Senator from Idaho (Mr. CHURCH), and particularly brings to mind recent transactions between the Federal Republic of Germany and the Government of Brazil.

After repeated attempts to work out arrangements with American firms, the Brazilians evidently consummated a transaction with the West German Government, which, in my opinion, is clearly significant in terms of world peace and stability. It clearly reduces the leverage of the Government of the United States and nuclear firms within our country to deal with this problem in this region of the world. Furthermore, the United States is a participant in the International Nuclear Fuel Cycle Evaluation, in

which the United States has agreed to accept international participation on the basis that we not seek to change the rules of the game during this evaluation and that foreign nations are allowed to proceed unencumbered in their programs.

Therefore, it appears to me that S. 897 is inconsistent with both the suppliers' conference and the International Nuclear Fuel Cycle Evaluation. It is my understanding that both Senator CHURCH and the distinguished chairman of the Foreign Relations Committee, the Senator from Alabama (Mr. SPARKMAN), have requested a comparative analysis of the continuing impact of S. 897 in relation to the suppliers' conference.

Mr. President, during my own recent visit to the nuclear facility in Brazil, ANGRA-1, I was able to see firsthand and on the ground the large commercial nuclear powerplant being constructed under contract with Westinghouse Electric of the United States and to see at close hand the nearby beginnings and foundations of an even larger nuclear powerplant to be built for Brazil Electrical Authority by a consortium of companies in the Federal Republic of Germany. This comparison underscored the fact that we are losing our clout in this field. It also helped me understand that if we do not come to terms with this issue in a reasonable and realistic way, the enormous leverage of the United States to assist in establishing a safe and sane nuclear policy abroad will be dissipated.

During that visit to those facilities in Brazil and my discussions with the leaders of that country—including President Geisel and the head of their nuclear resource facilities and administration—I have been helped to place our export policy in focus because it appears to me that, with or without the United States, Brazil will develop an extensive nuclear program. I believe—indeed, I was told by reponsible Government officials directly involved in the undertaking—that Brazil would still prefer U.S. technology, particularly in the fields of uranium enrichment, in terms of fuel recycling, rather than to deal with other countries. I assume that preference does not even exclude the transaction that has now been completed between Brazil and the Federal Republic of Germany.

It was pointed out to me, and I believe it, that the enrichment facilities which are being purchased from Germany are probably inferior—in terms of economic operations, in terms of efficiency, in terms of safety, in terms of modern technology—to what the Brazilians might reasonably expect to buy in the United States. Particular reference was made to me about this Brazilian preference to purchase uranium enrichment facilities of the ultracentrifuge type instead of the gas nozzle type, which is the purchase which they have undertaken and is now being fulfilled. But I believe, Mr. President, that Brazil would prefer U.S. technology only within the framework which eliminates unnecessarily burdensome requirements imposed by the American Government which make exports of our technology and our expertise so disadvantageous to that country that it is no longer attractive, notwithstanding the superior technology.

It is my belief that we need to legislate a nuclear export bill that will maintain American leadership in the export of nuclear technology and assure that peaceful development does not lead to the production of weapons.

I believe it is important to remember that efforts relating to an international fuel cycle certainly would be counterproductive—indeed, futile and useless—if there is not adequate and appropriate American participation.

The General Accounting Office is currently working on a request submitted by our late colleague, Senator Humphrey, for an extensive analysis of alternative fuel cycles in terms of proliferation resistance. It is my hope that the General Accounting Office recommendations, along with licensing regulations about to be promulgated by the NRC, will be given full assessment before a bill such as that now pending before us, S. 897, is enacted in final form by this body. Not only is foreign policy concerned, but also balance-of-payments and domestic job considerations are at stake.

Our colleague in the other body, Representative MCCORMACK, writing recently in the Washington Post, offered a candid analysis under title of "How Not To End Nuclear Proliferation," that I shall share in part with my colleagues. I am reading from the Sunday, April 24, 1977, edition of the Washington Post, page C-5:

[From the Washington Post, Apr. 24, 1977]

HOW NOT TO END NUCLEAR PROLIFERATION

(By Mike McCormack)

President Carter's recent proposals to modify America's long-range nuclear energy policies, although intended to reduce the threat of nuclear weapons proliferation, could well have precisely the opposite effect; and would probably deny our country its only chance to produce the energy we will need for economic stability.

The President has proposed that we:

Defer indefinitely nuclear fuel reprocessing;

Restructure our nuclear breeder program and defer the date of breeder commercialization;

Fund research and development programs in alternate fuel cycles—"which do not involve direct access to materials usable in nuclear weapons."

The President also proposed a substantial increase in the number of conventional nuclear power plants, and proposed increasing our uranium enrichment capacity for domestic and foreign fuel requirements.

I commend the President for his initiative in making the energy crisis a major national issue, and I support his emphasis on conservation and shifting from oil and gas to the use of coal. I commend him for his attempts to reduce the threat of nuclear war and nuclear weapons proliferation.

However, his specific recommendations dealing with nuclear fuel reprocessing and breeder programs are clearly based on several fundamental assumptions that are unsubstantiated, and which I believe constitute a serious threat to the success of any program to overcome the energy crisis. They have been challenged by experts in this country and by our friends overseas, with whom we have obligations under the Nuclear Non-Proliferation Treaty. The assumptions are based on a recent report, funded by the Ford Foundation, which the President has apparently embraced in its totality.

BREEDERS AND WEAPONS

The first of these assumptions is that a program of research, development and demonstration involving the liquid metal fast breeder (LMFBR) will, in itself, uniquely contribute to the potential for nuclear weapons proliferation and constitute a "potential security risk." There is no theoretical or other justification for this assumption, and all experience demonstrates that it has no foundation in fact.

As far as is known, no weapon has been made from any fuel produced in any commercial nuclear power plant in the world. (India's nuclear explosive did not come from a power plant, but was made from a research reactor sold to India by Canada. This demonstrates the ease with which many nations can, if they wish, make weapons totally outside the energy program.)

There is every reason to believe that diversion to weapons would be less likely for breeders, because breeder fuel will be more difficult to handle than fuel from conventional nuclear plants. The next U.S. demonstration breeder reactor to be built, known as the Clinch River plant, will produce only about one-third as much plutonium, one of the materials than can be used to make weapons, as is produced in conventional nuclear power plants now going on the line in this country.

The reason that weapons have not been made from commercial nuclear power plant fuel is that it is much cheaper and simpler to make nuclear weapons from natural uranium using facilities designed and built exclusively for that purpose. Trying to divert nuclear power plant fuel into weapons production is the most expensive, clumsiest, dangerous and inefficient way for any nation to make a weapon.

The virtue of a breeder is that future models, which should be in operation late in this century, will produce more fuel than they consume. Thus, with a breeder program, the otherwise useless uranium-238 (which comprises 99.3 per cent of natural uranium) provides a potential fuel resource of extraordinary value to almost every nation. The United States has many tons of purified uranium-238 in storage which, when used in a breeder program, will produce the electrical equivalent of more than five times all the oil possessed by all the oil-exporting nations combined.

It will be easily seen why the breeder offers many nations of the world their only discernable hope of relative energy independence from OPEC and from the nightmare of worldwide inflation and economic chaos.

However, bringing a breeder technology to the point where commercialization can occur (possibly starting about 1990 in the United States) constitutes a difficult engineering challenge requiring many years. This country has had a small breeder in operation in Idaho since 1963. The next larger one, the Fast Flux Test Facility, is about 80 per cent complete at Hanford, Wash. The Clinch River plant will be the third in the series, followed by a full-size prototype plant to be built before 1990. Other nations, including France, England, Germany, Japan and the Soviet Union, have breeder programs under way. Each nation has chosen the same specific type, the liquid metal fast breeder, because it holds the most economic and technological promise. France and the Soviet Union are far ahead of us, and all these nations probably will be soon. France may soon start selling breeders on the international market.

Knowledgeable scientists throughout the world, dedicated to minimizing the threat of nuclear weapons proliferation, scoff at the suggestion that these breeder development programs, by themselves, constitute any special threat of weapons proliferation. What is required, they insist, to provide protection against weapons proliferation originating

from the civilian nuclear energy program is strict controls over the reprocessing of nuclear fuels, including the manufacture of new fuel elements from reprocessed fuel.

OTHERS WON'T FOLLOW

The next assumption is that, if the United States defers or abandons breeder development and nuclear reprocessing programs, other nations will follow our lead. This suggestion has left our friends overseas openmouthed with amazement. Japan and most Western European nations do not have our supply of fossil fuels, and we cannot supply them with their requirements for either nuclear or fossil fuels. In their view, it is absolutely vital to their survival to proceed promptly with their breeder programs.

Only Canada and Australia, which have large supplies of uranium and a comparatively small electrical demand, can afford the "throw-away nuclear fuel cycle." (This involves burying the fuel rods, with the unused uranium and newly created plutonium still inside, after they are removed from a power plant.) No more profligate waste of energy resources could be imagined. If we were to do this, it would deprive us of the only source of fuel available to give us a chance at energy self-sufficiency, even if the President's proposals for conservation, coal and solar energy are successful. Other nations will not follow us if we choose this course.

The next assumption is that there are some "safe" breeder technologies which this country, and the other countries of the world, have bypassed in favor of the "unsafe" liquid metal fast breeder program. This represents a flight of fancy apparently born of wishful thinking. The basic fact is that any nuclear material which will produce energy in a power plant can be extracted from the fuel and used in a weapon, if one is willing and able to build the complex and expensive equipment to do it. (There are three nuclear fuels: uranium 233 and 235 and plutonium 239. All three will produce energy in a power plant, and all three can be used in weapons.)

An alternative to the LMFBR, breeding uranium 233 from thorium, is no safer than any other fuel cycle, especially since it, too, produces plutonium. The ease or complexity of extracting weapons material varies, but the difference between a simple technology and a more complex one is insignificant compared to the difficulty of diversion from one of them—if simple technological and institutional procedures are, as they should be adopted for all.

Any reprocessing and fuel fabricating system can easily be designed to make clandestine diversion of nuclear fuel immeasurably difficult, even for large terrorist groups. Furthermore, all fuel cycles and all breeder technologies, whether they use uranium, thorium or plutonium, require, within a factor of two, the same amount of weapons material. In short, there is no magic or simple proliferation-proof technology to which the United States can switch if we abandon the LMFBR.

GAMBLING ON URANIUM

The most dangerous unverified assumption of the Ford Foundation report is that far more recoverable uranium will be found in this country than intense exploration has indicated will be available.

During recent years a series of studies by federal and private agencies, and more recently by the National Academy of Sciences, have agreed that the known and probable reserves of uranium in this country total about 1.8 million tons and that this should be considered as the "prudent planning base." It will provide fuel for about one-half of the nuclear energy production required by this nation during this century, using a throw-away cycle and the President's figures for conservation and other energy sources. The Ford Foundation report simply assumes that much more uranium will be found and that recycling will therefore be unnecessary.

No one can know for certain how much uranium will or will not be discovered, but we would be taking a completely unacceptable risk if we were to proceed under the assumption that we will not need a breeder technology until sometime in the 21st Century because fuel will be found as we need it. This may happen, but if it does not, we will almost certainly suffer a serious energy shortage, with all the attendant social and economic disruptions—and be without the technology to do anything about it. The result would be catastrophic. Therefore, our energy policy must include the development of one or more breeder technologies and the reprocessing of our nuclear fuel, one of the most important energy conservation undertakings available to us.

We don't need to decide now whether or not we must commercialize one breeder technology or another, or to what degree. Such decisions can be made as late as 1990. However, we must be able to make such a choice at that time, and the cost of the research and development, between now and then, is insignificant compared to the losses we will suffer if we don't have the breeder when we need it, or the benefits if we do.

REGIONAL REPROCESSING

There is a rational solution to the dilemma that nations face in attempting to provide adequate supplies of energy while minimizing the potential for nuclear weapons proliferation. I suggest that our national energy policy should include a positive approach to making it work, rather than a negative approach that nothing can be done. If we adopt a positive approach, the other nations of the world may follow our leadership.

The rational solution involves the establishment of regional nuclear reprocessing centers, closely supervised by the International Atomic Energy Agency, with the involvement of all the participating nations. Two regional fuel centers could be established in the United States, and one each in Europe, Japan and the Soviet Union. (There is no secret national defense information involved.) Additional nuclear fuel centers could be established as needed, possibly in the Middle East and in South America.

In the United States all nuclear fuel would be owned by the federal government, which would be responsible for all facilities, security and accountability. Fuel elements would be leased to foreign and domestic utilities on the condition that they be returned and on condition that the leasing nations be subject to IAEA inspection.

No plutonium or other weapons material would ever be produced in pure form or in any form in which it could be used for weapons fabrication. Weapons material would always be blended with other materials to make it unworkable for weapons. For instance, a chemical reprocessing step would produce only blended uranium and plutonium, which could be used for fuel elements, but which would simply not work in a weapon.

Fuel fabricating facilities would be built immediately adjacent to the chemical separation plant, as would a facility for glassification of all waste for deep burial. New fuel elements could be slightly irradiated as a last step before being shipped from the facility. Thus, they would require the same heavy shielding that is necessary to return irradiated fuel elements from a nuclear power plant. There would be no shipment anywhere of any material which could be used for weapons, unless it would first be reprocessed through large, expensive, remote separation facilities.

With these procedures, it would be necessary to steal at least one, and perhaps several, 50-ton shipping casks in order to steal enough material to make a single weapon. Then it would be necessary to extract the weapons material, even from new fuels. This would reduce the potential for illicit diversion of weapons material virtually to zero.

U.S. LEADERSHIP REQUIRED

Of course, no system is perfect or foolproof. It should be obvious, however, that this nation and the world can have the energy required for economic stability and a high degree of nuclear security as well.

If some nation decides that, in spite of all the attendant problems, it is determined to obtain nuclear weapons, then it will obviously be much easier to make the weapons outside the fuel cycle, as was done by India. This could be done secretly today, regardless of any restraints the United States places on its own energy programs. It is more likely to happen if the United States does not provide leadership for a workable program to assure adequate controls and supplies of energy.

Above all else, this nation must lead, and from a credible position. The other nations of the world do not believe that we can provide them with nuclear fuel unless we have a breeder program and unless we recycle and reprocess our fuel. They are already turning away from us. Nations which are our friends are looking even behind the Iron Curtain for nuclear facilities and fuel.

One of the obstacles facing this nation as it attempts to deal with the energy crisis is the lack of understanding of the complex programs involved and the difficulty in obtaining accurate information concerning them. Nevertheless, we must demand that our nation's energy policies be based on scientific, engineering and economic facts.

Mr. SCHMITT. Will the Senator yield for a question?

Mr. BAKER. I am happy to yield.

Mr. SCHMITT. It seems that the gist of the Senator's initial remarks, in effect, describes the present situation as one in which a certain form of technical imperialism may be underway, where developing nations, in particular, are being deprived of superior American technology by the present policies and potential policies of this country. Is that a correct analysis?

Mr. BAKER. I must say that it is not only a correct analysis, but also an attractive and unique description of the situation. I had not thought of it in those terms, but I think it is clear—I know it is clear to me and believe it is to most people—that technology is not that sort of coin that can be put away in bank vaults or stored, say, from theft. Technology is in an evolving and developing state. Developing countries, by their very nature, are likely to overtake us in these fields; and if we do not use our advantage and our leadership to try to formulate a sane, sensible nuclear policy abroad, then I think we have relinquished a very valuable asset and tool.

Mr. SCHMITT. The Senator also would agree, would he not, with the analogy from sports that if you are merely a spectator, you do not write the rules.

Mr. BAKER. I think that is an appropriate analogy, too. I think the United States dares not be just a spectator and we are running that risk.

The United States does not export many things now, really, in terms of the full range of our potential. In the past, we exported numerous items; but now, we almost always export either agri-

cultural products, which have suffered recently because we have not fully realized our export potential there or high technology in terms of air frames, nuclear development, computer science, and the like. So the real risk we run, if we overlegislate in this field, is that we will, indeed, become a spectator nation in one of the few fields where we have an opportunity to expand and extend our export policies and use it as leverage for formulation of sensible international policy.

Mr. SCHMITT. I think the Senator believes, as I do, that this country has a great reservoir of moral leadership, moral tradition to apply to the problems of international nuclear proliferation and use of nuclear energy in its various forms. If we are determined to take the role of spectator, that we, in fact, have done a greater disservice to the world than we would otherwise because we would have denied the world what we believe, at least, is a higher moral set of values with respect to the use of nuclear energy. something we brought on the scene in terms of the inventing of it by the Americans, the use of science to derive technology that can, in fact, be used for the betterment of mankind.

I think the Senator's remarks are extremely important to the point I hope our colleagues will pay attention to them.

(Mr. HODGES assumed the chair.)

Mr. BAKER. Mr. President, I thank my friend and our colleague from New Mexico who has contributed so much to the Senate in so many ways, but particularly in his perception of the value and the danger of science and technology. His background in that field and his training for it are superb and his insights are very superior.

I am grateful for these remarks and for his general contributions in this field.

Mr. President, on that general subject—that is the continuing and unfolding development of sensible nuclear policy for the United States—I remember that barely 18 months ago, I was the ranking member on the Senate side of the Joint Committee on Atomic Energy and the distinguished former Senator from Rhode Island, Mr. Pastore, was chairman.

I also recall that he and I made a trip together—together with one staff person—to inspect our nuclear facilities in Europe, those facilities which were constructed to store and hold in readiness our stockpile of strategic weapons, so-called, meaning nuclear weapons.

I remember the enormous emotional impact that went with my first visit to one of these facilities.

We saw row after row of nuclear devices in the megatonnage range that seemed so enormous in terms of their size and proportion, and. the deep acrylic white that seems to be the standard paint job for an atom bomb. We also observed, in some cases, the rather cavalier and sometimes callous way these devices were stored, which was the reason for our trip; and I think this aspect has now been significantly improved.

But I remember, as well, another emotional trauma I suffered on that trip with our former colleague, Mr. Pastore. It suddenly dawned on me that the nuclear genie is so far out of the bottle that we will never put him back.

I could wish for a different situation and, indeed, I would fervently hope that mankind would not have to deal with such terrible problems as the proliferation of nuclear weapons or nuclear material; but in the face of the numbers, the thousands of nuclear weapons in our arsenal and the arsenal of the Soviet Union and others, it was clear that the nuclear genie was completely out of that bottle.

Something else happened during that trip as I was being briefed by the experts regarding the security of the weapons and the protection we have against the stealing of those devices.

By the way, I was convinced we could succeed in that kind of protection and, in fact, we have. There is no real significant danger that someone will seize and carry away a nuclear weapon. We cannot totally rule it out, but I think we have adequate safeguards.

Anyway, I was told in the course of those briefings that if a developing country wanted to build a nuclear device of its own, the very last thing it would probably do would be to build a large enrichment facility.

The next least likely thing they would do is try to go to nuclear fuel reprocessing. That is not to say we cannot build nuclear weapons that way. Plutonium is always a threat. It is a deadly weapon that may, in fact, obliterate civilization some day if we will not rise where we can deal with it intelligently.

But if we were a developing country, a Third World country, a small emerging nation, or even in some cases nonnational entities—I can think of maybe 50 corporate groups around the world that might qualify in this discussion—there are other and different ways that we could obtain nuclear material.

It now is a question for chemists and engineers, not for scientists and physicists.

And then it would follow, Mr. President, that the only way we had any possibility of protecting against the annihilation of civilization from nuclear weapons was to use whatever advantage we had by our superiority in science and technology and our lead in the development of this industry, as leverage, to try and produce the safest circumstance we could contrive.

We are not likely to be able to completely contain the threat, and there is enormous risk and danger. The real question, however, seems to be whether or not mankind matures at a rate adequate to the challenge, or whether we are so foolish, as historically we have been in the past, that we do not seize our opportunities or realize our prospects to utilize our advantage.

That, Mr. President, is why I am concerned for a sensible legislative approach to nuclear fuel exports, because I think our technological advantage is perishable; because I think our advantage and leverage will disappear in a few years, because if we do not do this now we may not have an opportunity to do it later.

If we have many repeating instances of a country as large and as promising as Brazil deciding to, in fact, go elsewhere to buy a full fuel cycle when they would prefer to deal with us, and the United States thus forfeiting whatever leverage we have, then I worry that we may, with export legislation, worsen that situation instead of improve it.

No one here wants to do that, but it is a risk.

Mr. McCLURE. If the Senator will yield on that point, I wish to thank my colleague for the statement he is making and the point he has just made, that we do have some advantage in our negotiations at the present time, because of a diminishing technological advantage.

There was a time when we were the total nuclear technology in the free world. We had almost total control over what would be done. Year by year that has changed and it is changing rapidly now.

I think the warning was just voiced, that whatever technological advantage we have, whatever leverage we have because of our lead, can easily be dissipated if we make the wrong moves now and force people to take the risks of not going with the United States, instead of the risks of staying with the United States in our nuclear technologies.

Mr. BAKER. If the Senator will permit me, I dare say that in a huge majority of cases, those countries would rather go with the United States, if for no other reason but for the superior technology in this country.

Mr. McCLURE. I think it is obvious. For instance, our friends in Japan have already arrived at an agreement with us on Tokai Mura, and are relying upon us to develop rational policies to make it possible for us to continue as reliable suppliers and reliable partners with them.

One of the concerns I have is that a provision of this bill, or several of those provisions, may make it necessary for us to renegotiate that in 1979, which is an immediate signal to the Japanese that instead of being the reliable supplier that they have assumed that we are, and the reliable partner that they have taken us to be, that we may, indeed, be moving away from that position and that they, in turn, must begin to look to other alternatives rather than being able to be secure in their relationship with us in the nuclear field. That would be a tragedy for the world, to have that happen. It would be a tragedy for us, and it would be a tragedy for our hopes of nonproliferation.

Mr. BAKER. Mr. President, I thank the Senator.

I apologize for referring to my recent experience in Brazil one more time, but I will shortly file with the Senate a report of that trip; and at that time I intend to ask that it be printed as a Senate document, and it will be available.

A significant part of that report will deal with the question of Angra I and Angra II. Angra I is the powerplant that

was purchased from Westinghouse by the Brazilian Government and is now nearing completion. I think it is a shame that Angra II is not. It is within a hundred yards of the other side, and is being built by the Germans as a part of the sale of a total nuclear fuel site. I think we could have prevented that. We could have realized that billion dollars or so in nuclear exports, which we will not have, had we had a realistic and sensible fuel export policy.

I will state in that report that I think it is not too late, that the Brazilian Government indicated to me that they would like to reconsider the possibility of dealing with the United States on future nuclear facilities and would especially like to reestablish a close relationship between research and development facilities in this country and research and development facilities in Brazil. I believe that is extraordinarily important. My plea to my friends and colleagues who support or oppose this bill is that we structure and configure this legislation so that we do not extinguish that and other similar possibilities to leverage our technological superiority into a sensible nuclear policy.

Mr. PERCY. Mr. President, will the Senator yield on that point?

Mr. BAKER. I am glad to yield.

Mr. PERCY. I think this colloquy is extraordinarily important and very helpful, because it really focuses on what we are concerned about and focuses on what we certainly do not want to precipitate inadvertently.

The Senator from Illinois asserted this morning in his opening statement—and the Senator from Tennessee was there when the Senator from Illinois testified before the Joint Committee on Atomic Energy—the necessity of this country being looked upon as a reliable source of supply.

Mr. BAKER. I recall the testimony that the Senator gave before the Joint Committee on Atomic Energy. It was extraordinarily helpful and very good and set the tone of the deliberations of that committee in trying to construct legislation. The Senator from Illinois has consistently been a leader in that field, and I salute him for it.

Mr. PERCY. I thank my colleague.

What the Senator from Illinois is very concerned about is exactly the point the Senator from Tennessee made—the lack of precision as to what our policy is going to be. We have had a fuzziness about it, an ambiguity, which leads people to believe that we do not have a policy; and that is really what we have tried to carve out.

I wish Senator Pastore were here, because between Senator Pastore and Senator BAKER, we really had quite a combination of expertise.

Mr. BAKER. We were both little, but we were both loud. [Laughter.]

Mr. PERCY. I can see eyeball-to-eyeball with both Senators, and I like that very much, indeed.

What we really carved out was a policy of aiming toward the peaceful use of nuclear power. In obtaining commitments from many nations who said they would not use this material for weaponry of any kind, they were helping to insure the safety of the world.

Our problem was that if someone refused to sign the Non-Proliferation Treaty, what was our policy? We had a fuzziness about that policy, no real guidelines, no definite assurance that if you did not go a sensible, rational route, we would do something about it.

So we have the case of India. I happened to be in India—I know that the distinguished Senator from Tennessee has followed this matter with tremendous interest—shortly after the so-called peaceful nuclear explosion occurred.

At that time, I said to Madam Ghandi, who was Prime Minister:

> You or your subsequent government will rue the day that you have opened this Pandora's box.

Today, India has unquestioned conventional superiority over any of its presumed adversaries. But you are equal if you have atomic weaponry. It does not matter how many tanks or ships or troops or aircraft you have. If you both have nuclear explosives capability, you have shrunk it down. The world is much smaller all of a sudden. Now that India has developed this capacity, other countries feel that they have to follow a similar route and develop nuclear explosives capability.

There was no policy from our standpoint as to what we would do. We presumed it was not the result of our heavy water, and then we learned, to our dismay, that it was; that it was our technology and know-how and that of the Canadians that gave them the ability to explode this bomb. Obviously, that resulted in incentive on the part of others to develop along the nuclear route.

Mr. BAKER. I think the example of India is pertinent for another reason. I read in the newspaper—and I have no reason to think it is not true—that the fuel reprocessing facility in India from which the Indians harvested their weapons grade material was not purchased from us but that they purchased valves and machinery and tubing on the open market around the world.

The point is that those purchases are no longer difficult to make. It has become so simple to enrich material or to recover material from reactors that it does not matter any more. If you really want to build a weapon, you are going to build a weapon; and any country of any size or consequence, I suppose, can do it.

What we must do is use our remaining meager leverage deriving from our technological superiority to make it undesirable for countries to proceed as India did.

For example, I have an idea that if we had given an assured supply of nuclear fuel to Brazil and agreed to build the pressurized water reactors they are going to depend on, they probably never would have decided to employ the full fuel cycle.

I have an idea that we would have used that leverage to suggest to India that there should be something other than an enrichment facility. We knew they were building an enrichment facility. I will not elaborate on why we knew that, but we knew we were not giving it to them. They can buy the material to do that.

I think the goal of the distinguished Senator from Illinois is the same as my goal—that is, to use America's technological advantage to develop an American policy that will produce a safer world. The question is, how?

The distinguished Senator from Idaho has spent a great deal of time examining in detail the various provisions of the measure now pending. He has cited the efforts of the supplier nations' conference and of other agencies within our Government to examine this in terms of recent and new developments. My only suggestion, my only request, is that we proceed carefully, so that we do not throw the baby out with the bath water.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. McCLURE. I thank the Senator for yielding.

I point out that there is one other factor that is associated with this and that this legislation, in and of itself, certainly is not the total answer to the problem in being a reliable partner in the world's nuclear commerce, remembering that commerce in and of itself is not perhaps our major preoccupation. Our major preoccupation is the safety of the world in the presence of this commerce, that is, that for any country that is an energy deficient country that depends upon imported energy they must seek their own sources of energy to reduce their dependence upon foreign sources. Brazil, for instance, just late last week, early this week, took a step which our country ought to take and that is to mandate the inclusion of alcohol in motor fuels. They have gone to a 20-percent alcohol program, and we are just toying with the possibility of getting a 10-percent alcohol program.

But that is only another sign of the urgency that that Government has in dealing with their problem of energy self-sufficiency and energy dependence.

When we get into the nuclear field, it is not enough just to offer them the pressurized reactor vessels and equipment, nor even to guarantee a supply of fuel to them unless there is also in that guarantee of supply a pricing question. Integral to that pricing question must also be the ownership of the spent fuel and the possibility of reprocessing to recapture the vast quantities of energy locked in the spent fuel.

So if we forgo in our country the opportunity, with appropriate safeguards, to reprocess spent fuels, we will have increased the cost of the raw materials, the raw fuels or the enriched uranium fed into the pressurized reactor and will have by pricing alone removed ourselves from the opportunity to influence their movement and their development of commercial reactors and commercial uranium electric power.

So this bill by itself is not the total answer, but an important answer, if we will contrive it carefully, if we will construct the right scenario, to be able to make the right assurances in connection

with this and other policies of government.

I agree fully with the comments my friend from Tennessee has made concerning the tragedy of the lost opportunities if, as a matter of fact, we do not put in place certain policies, policies that are certain, that are predictable, that are dependable, not just in our eyes, but in the eyes of those who must deal with us so that they will deal with us and that we can have that influence on their policy that we desire.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. PERCY. I think the Senator from Tennessee still has the floor.

To comment briefly, we do not disagree at all about the desirability of our becoming reliable enough suppliers so other nations will want to depend upon us. That is one of the main thrusts of this legislation, to take away all of the ambiguity and to provide assurances that if reasonable standards are met, we direct that there shall be enlarged facilities to enable us to fulfill that pledge on our part.

I did not expect to have a plug this afternoon for gasohol, the so-called Percy amendment in the energy bill, but if it is a miniscule 10 percent and we have been outbid by 20 percent in, say, Brazil, it is still a very significant step and I hope the conference will accept this and have it in the final energy bill if we get one in this century.

I do not think that we want to also use that leverage that the Senator from Tennessee mentioned. I think it is not a miniscule leverage. I think we have an immense leverage available today, and the fact is that time will run out within a few years. The world would think us pretty foolish if we did not now clarify, while we are in this dominant position where we stand. The world will applaud our moving ahead and this, after all, is the direction that all the supplier nations have taken recently in London. I have not heard a criticism from a foreign government in recent months of what we are doing right here today. I think they really expect us to move forward.

But under existing circumstances, it is possible for a nation like India to do what it did and shake the world. First of all, it has been clearly demonstrated that a developing country can have this capacity. As the Senator from Tennessee said, it does not take all that much know-how. But they were able to do it without any concern that they would have any sanctions imposed against them. In fact, we were in the position where we had not clarified what we would do and we had to thrash around for a couple of years to determine what we would actually do. We have had negotiations as recently as the President's trip to New Delhi in which we did assure that another 7.5 tons of enriched uranium would be made available to Tarapur to keep it going so they would not have to turn out the lights on 25 million people or shut down the factories and cause widespread unemployment.

But if we had just had a clear-cut policy from the outset that that would be an action so contrary to our policy that we would sever our supply if technology and materials were used for explosives, then I do not think they would have taken the action. What we must do now is move very rapidly to prevent another miscalculation—in fact not a miscalculation if the precedent says the United States will do nothing about it if country A, B, C, D, or E, explodes another peaceful nuclear explosion—which in a sense is not very peaceful to anyone who is underneath it or in the vicinity of it. So we are just trying to say let us clarify these policies. Finally, the example the Senator from Tennessee has given about the ability to buy components and parts on the open market is all the more reason why we should clarify the degree of controls we should have in the United States over the export of significant component parts so you cannot buy on the open market as you can buy an M–16, or something like that on the market in Belgium. You cannot buy and put together this kit that would enable you to then have nuclear explosive potential.

Those are simply too sensitive for us to allow an open, free market because then a Qaddafi or an Amin—almost anyone can get their hands on this capability who has a few million dollars and a will to do it. And there are plenty of people who are radicals who have a few million dollars and a will to do it. In fact, Qaddafi said he wants it and he has more than a few million dollars. And then what is the world going to do? That is the time pressure we are racing under.

I think a moral issue is in all of our hands as we try to work out the combination between being a reliable supplier and a setter of guidelines. We think that this legislation will give assurances that we will be a reliable supplier to those meeting certain guidelines and standards, and we are setting standards which we hope everyone will agree to.

I thank my distinguished colleague for yielding.

Mr. BAKER. I thank the distinguished Senator from Illinois and I reiterate no one in this body has shown more leadership than he in trying to propound a genuine, sane, sensible nuclear policy. He has been concerned with it as long as I have known him in the Senate as a colleague, and he continues to be. With his good offices and that of the Senator from Ohio and the Senator from Idaho, and others, I am sure we will synthesize a piece of legislation that will contribute to the regularizing of American policy on nuclear fuel export.

I really have said more than I planned to at this time. I want to speak another time on this matter later, but I have four newspaper clippings on the Brazilian question that I would like to include appropriately in my remarks, and I ask unanimous consent they may be included in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 23, 1977]

VANCE ASKS BRAZILIANS TO CURB NUCLEAR PROGRAM

(By Juan de Onis)

BRASILIA, Nov. 22—Secretary of State Cyrus R. Vance urged Brazil's leaders today to reconsider their commitment to a nuclear-energy program using plutonium fuel, calling it uneconomic and politically hazardous.

Mr. Vance, who arrived here from Argentina on the second stop of a trip to three South American countries, emphasized President Carter's determination to prevent the proliferation of nuclear weapons while cooperating with the countries of Latin America in developing nuclear energy for peaceful purposes.

The United States last week moved to authorize the export of 2,900 pounds of mildly enriched uranium fuel for a nuclear power plant, Brazil's first, now under construction at Angra dos Reis.

But Mr. Vance told Brazil's highest officials that the construction here of facilities for reprocessing spent fuel to recover plutonium under an agreement with West Germany could endanger the transfer of further United States nuclear fuel or technology to Brazil.

SAFEGUARDS ARE LACKING

The Carter Administration's position is that there are at present no adequate safeguards against diversion of the plutonium for the building of weapons.

The United States attempted early this year to persuade West Germany to revoke that part of its agreement with Brazil calling for the building of the reprocessing facilities.

The move met strong Brazilian resistance and the present talks are largely an attempt to approach the problem through an understanding with Brazil. Mr. Vance indicated that the views of the countries were still far apart.

"They have their position and we have ours; it is an ongoing process," he said after a private session with Foreign Minister Antônio Azeredo da Silveira. Mr. Vance later met with President Ernesto Geisel.

Mr. Vance said that he had also discussed human rights and a broad range of international questions, ranging from peace prospects in the Middle East and southern Africa to economic relations between the industrialized and developing countries. Brazil is a major voice among the developing countries.

Mr. Vance will fly to Caracas, Venezuela, tomorrow where he will meet with President Carlos Andrés Pérez. The main subject is expected to be oil prices.

[From the Washington Post, Dec. 7, 1977]

BRAZIL ADAMANT ON NUCLEAR POLICY

(By Karen DeYoung)

BRASILIA.—Should Brazil persist in its plans to build a nuclear reprocessing plant, Secretary of State Cyrus Vance warned during a visit here two weeks ago, it runs the grave risk of triggering a nuclear arms race with neighboring Argentina, which already has stockpiled enough uranium waste to produce several hundred pounds of bomb-building plutonium once it develops the reprocessing technology.

The message he brought from Buenos Aires, Vance said, was that if Brazil would renounce reprocessing, Argentina would likely do the same.

"How childish," a senior official in the Brazilian Foreign Ministry said after Vance had gone. "He probably said the same thing to Argentina." Brazil, the official said, can handle its relations with Argentina without U.S. help, thank you.

In any case, Vance added during the discussions, if Brazil defers developing its own

reprocessing technology the United States could then offer all manner of substitutes—perhaps including the secrets of thorium, a uranium like fuel found in natural abundance in Brazil.

Nothing but vague promises, the Brazilian, who was present during the discussions, said later. "How do you say it?" his aide asked. "A bird in the hand is worth two in the sky?"

Besides, the official said, West Germany, a country that has been much more generous with its nuclear technology, has its own thorium research program. "The Americans think we don't know anything," he added.

The end of round three in Brazil's nuclear "disagreement" with the United States has left Brazil, by its own account, feeling quite self-satisfied. While the United States has not given up its struggle to keep reprocessing technology from Brazil, it has, a Foreign Ministry spokesman said, "learned the error" of what Brazil considers U.S. heavy-handedness.

Brazil now seems almost taken aback at what it regards as the overwhelming success of its audacity. The Brazilians feel they have proven, for the first time, that a developing country, highly dependent on U.S. trade and support, can strongly disagree and live to tell about it.

Round one was a visit to West Germany early this year by Vice President Mondale to persuade the Germans to cancel the reprocessing part of $10 billion, eight-reactor sale to Brazil on the ground that the Carter administration considers reprocessing technology too dangerous to spread around the world. Brazil, which was not consulted during the talks was furious. West Germany refused to cancel.

Round two, a visit here last March by Deputy Secretary of State Warren Christopher, was by all accounts "disastrous." After seven hours of rancorous talks, the Brazilians said, Christopher presented a prewritten joint communique outlining a curtailed Brazilian nuclear energy program. Brazil refused to sign. Christopher abruptly got on a plane back to Washington, and bilateral relations went into a deep freeze.

Then came Vance, calm and businesslike. The idea, U.S. negotiators said, was to convince Brazil, on a purely technical level, that reprocessing—the procedure whereby plutonium is separated from the uranium wastes of nuclear reactors—is inefficient and unnecessary. More importantly, the U.S. argument continues, highly volatile plutonium is so dangerous to have around that even the United States has banned construction of reprocessing facilities.

In response, Brazil tried a new tactic. The Brazilians smiled, nodded sagely, said they would take it all into consideration and cordially sent Vance on his way with a brass band, an airport red carpet and a promise to talk again.

"Their objective was to get him back on the plane as soon as possible without opening their mouths," a Latin American diplomat here said. "They were very satisfied that Vance didn't get anything out of them."

Discussions will doubtless continue this spring, when President Carter picks up the southern hemisphere leg of the 11-country tour he postponed last month. "We hope we can convince him," the Foreign Ministry official said.

Carter does not want Brazil, or any other country, to have reprocessing technology. While reprocessed plutonium can be used as a reactor fuel, thus theoretically providing a virtually limitless fuel supply, it can also be converted into nuclear weapons fuel much faster than ordinary enriched uranium. Carter believes it is virtually impossible to safeguard large plutonium stockpiles.

Current international nuclear safeguards amount to regular international inventory checks of nuclear fuels and wastes. Plutonium could quickly be diverted or stolen, Carter and others believe, and made into a bomb before anyone would discover it was missing.

U.S. officials say privately that they are less worried about countries like West Germany and Japan developing their own reprocessing technology than they are about a Third World country, with no substantive nuclear research program of its own, getting reprocessing "cheap and easy" through technology transfer.

Brazil finds that attitude unfathomable. "We have always been a friend. They had a war with Japan in this world. . . . The U.S. believes very much in the information it has. Because they are very developed, they are sometimes inclined to think they have discovered the truth."

He pointed to the fact that while the United States originally objected to both reprocessing and enrichment technology being transferred to Brazil, it has since decided that enrichment is safe after all.

While reprocessing is only a minor part of Brazil's energy scheme for the next 10 years, the resulting conflicts have made it the symbol of what Brazil considers a life-and-death struggle to continue a monumental development program begun more than a decade ago.

That program, which brought phenomenal yearly growth rates of 10 per cent, took a sudden dive with the 1974 quadrupling of oil prices.

Brazil now imports more than 80 per cent of the oil it uses, at a cost of more than $300 million a month. To lessen oil dependency, Brazilian experts have developed an energy plan they predict will reduce oil's share of energy consumption from nearly 44 per cent in 1974 to little more than a third by 1986.

The slack will be taken up by hydroelectric capability, through a monumental series of dams now operating, under construction, or planned.

A large-scale switchover to nuclear power is to come much later. Brazil's first power reactor, called Angra I, a 600 megawatt facility now under construction outside a small village on the South Atlantic, will not go into operation until 1978. Three more are scheduled to be on line by 1985 when nuclear energy will still only provide 4 per cent of Brazil's power requirements.

While Brazil is to start enriching its own uranium fuel for those reactors in 1979, thanks to German blueprints for an enrichment facility, explorations for domestic uranium resources have proved nearly as disappointing as the search for oil. To reach the goal of 85 per cent nuclear fuel self-sufficiency within 10 years, the Brazilians say they need reprocessing.

[From the Washington Post, Jan. 27, 1978]

BRAZILIANS STUNG BY U.S. ATTEMPT TO BLOCK W. GERMAN NUCLEAR DEAL

(By Bruce Handler)

RIO DE JANERIO, January 26.—President Carter's attempt to undermine a controversial Brazilian-West German agreement under which Brazil theoretically could learn how to make its own atomic bombs has become an issue of sharp national concern here.

Brazil, which insists it will use the nuclear technology it is to get from West Germany exclusively for making electricity, believes that the United States is selfishly trying to prevent it from becoming a major world nation.

Brazilians also feel betrayed because Vice President Mondale, on his first official foreign mission for Carter, took up the nuclear pact directly with West German Chancellor Helmut Schmidt without telling Brazil anything about it first.

Less than a year ago, when Henry A. Kissinger was Secretary of State, the United States signed a "memorandum of understanding" with Brazil, giving it special "consultant status" and pledging to confer regularly with the Brazilian government on matters of mutual importance.

The Mondale trip to Germany is front-page news here. The possibility that the United States could actually get West Germany to back out of the deal has rallied internal support for President Ernesto Geisel, head of Brazil's authoritarian military regime and a strong backer of the nuclear pact.

When Brazil and West Germany signed the nuclear agreement, in mid-1975, Geisel's office issued a statement saying: "All activities resulting from this pact will be destined exclusively for peaceful uses. We give assurances that fissionable material will not be used for weapons or other nuclear explosive devices."

Brazil's sole legal opposition party has joined ranks behind Geisel and the official government party in defending the agreement, Rep. Joa Cunha, an opposition congressman from Sao Paulo state, said: "President Geisel, speaking in the name of all Brazil's 110 million citizens, should repudiate this U.S. maneuver."

Cunha claims that the United States is trying to keep Brazil as "an eternal supplier of raw materials" and wants to prevent this fast-developing South American nation from "sharing in the economic, cultural and scientific progress of the 20th century."

Diplomatic sources here say that in reality, if the United States succeeds in getting West Germany to renege on the nuclear agreement, there will be little Brazil can do about it. This may help explain why Brazil has suddenly begun a diplomatic strategy of talking about German honor and West Germany's reputation for keeping promises.

Brazil has repeated its justification for signing the nuclear pact so many times that most foreign correspondents here can recite the arguments by heart:

As a rapidly developing country, Brazil needs atomic energy to produce electricity for its burgeoning metropolitan areas and industrial complexes.

Brazil asked the United States in the past to supply it with equipment for enriching its own uranium, to guarantee a permanent supply of fuel for its nuclear reactors, but the United States refused. So Brazil turned to West Germany, which agreed to make available such know-how and equipment.

Brazil cannot run the risk of having its access to energy supplies controlled by outsiders, such as the United States—look what happened to the United States during the Arab oil boycott, Brazilians point out smugly.

Although the capability to enrich uranium, under the so-called full fuel cycle, will theoretically make it possible for Brazil to build atom bombs, Brazil is a peaceful country concerned with its own internal development than with foreign conquests.

The Brazilian-German nuclear agreement has been approved by the International Atomic Energy Agency, which sets rigorous standards against unauthorized uses of atomic power.

Eight atomic reactors are to be built in Brazil by 1990 under the agreement with West Germany. An official said that work under the agreement "is coming along on schedule, and in some areas you could say that we're moving ahead faster than we expected."

Construction has not begun on any of the German-designed reactors or the controversial uranium enrichment plant. Most of the work carried out under the agreement so far

has been setting up and staffing the joint companies that are to build and install the nuclear equipment, along with some site-clearing and preliminary construction.

Brazil already has one nuclear power plant, which is expected to begin producing 630,000 kilowatts of electricity later this year. This plant, however, was built by an American company, and under U.S. law, the U.S. government will strictly control the amount of enriched uranium to be made available to it. The sale of nuclear technology could retroactively affect Bonn's projected $4.8 billion deal with Brazil, but there were hints that the United States is starting to negotiate with Brazil to provide an alternative source of nuclear fuel for its economy.

When Schmidt was asked if West Germany still intends to honor its contract with Brazil, he said the question involves "sensitive problems," but noted that his country has "so far fulfilled all the obligations it has undertaken in every treaty," including the 1970 non-proliferation pact, "and that will be the case also in the future."

Then he added: "That does not exclude the possibility that in the future new, additional duties in the form of treaty obligations will have to be included."

Schmidt said he expects wider exchanges on the nuclear pact to begin "very quickly" and officials in the Mondale party said the talks could begin as early as next week.

Carter has made reduction of nuclear arms and equipment a major emphasis of his foreign policy, and the West German-Brazilian deal, along with a similar planned transfer of nuclear technology from France to Pakistan, is regarded as a key test of his policy.

American officials called today's discussion "quite encouraging." "We made progress today," said one of Mondale's aides. But West German sources, while indicating that Bonn would avoid such deals in the future, cast doubt on the possibility of its taking the initiative in abrogating any part of the lucrative contract with Brazil.

Considerable emphasis was given here to reports in the Brazilian press that Carter's State Department appointees are discussing an American guarantee of nuclear fuel for Brazil if it gives up just the purchase of the West German equipment for enriching uranium and recycling nuclear fuel. Bonn officials suggested privately that they would have no objection to such a request from Brazil, which would allow them to complete the rest of the sale.

But the Brazilian deal is a potential bombshell for Schmidt at home. The $4.8 billion contract is the largest single export sale ever made by West Germany, the reward for some $7 billion invested in nuclear research in recent years. The deal to supply eight power stations plus a complete atomic fuel-processing system will produce some 10,000 new jobs here.

Only the technique for reprocessing used fuel is controversial: It yields plutonium, which can be used in making atomic bombs. The Americans and the West Germans disagree on the effectiveness of the controls imposed on the use of the reprocessed fuel.

Another disagreement exists in the governments' economic policies. Mondale said he had "urged the chancellor, as I will the prime minister of Japan, to pursue similarly stimulative packages" to the one Carter is about to send Congress.

The economists traveling with Mondale argue that only a coordinated effort by the three strongest countries in the non-Communist world can lift the international economy from the doldrums and help cure the rising unemployment and trade deficits in such countries as Britain and Italy—the next stops on Mondale's tour.

American officials calculate that the public-works program Schmidt outlined last week is only a quarter the relative size of the American and Japanese "stimulative packages." They also note that Schmidt is projecting only a $5 percent economic growth—a figure some economists consider too modest—and is planning to reduce his budget deficit by $3 billion even though West Germany's unemployment of more than 1 million is near a postwar high.

Bonn officials reply that their successful anti-inflation policies have contributed to the economic stability of Western Europe and note that West Germany is already making major loans and price-support contributions to other European Common Market countries. A Carter-sized stimulus program, they assert, could touch off an inflationary wage-price spiral destructive to all these countries.

The Vice President said Schmidt indicated that he is still "working on the size and timing" of his stimulus package, but Schmidt, speaking in English at their joint press conference, gave a different impression.

He said he was already "fully aware" of the viewpoint Mondale had expressed and had formulated his own program "in knowledge of what" Carter was recommending to Congress. Aides said later they doubt that there would be any change in the chancellor's thinking.

Despite such apparent differences, both Mondale and Schmidt went to great lengths to establish a cordial basis for future dealings.

Schmidt, who had made no secret of his preference for President Ford before the election, went beyond the normal diplomatic courtesies in welcoming the early visit from Carter's running mate.

The two men and their aides met for four hours this afternoon, an hour longer than scheduled. Tonight Mondale was the guest of honor at a banquet that Schmidt expanded from the original "working dinner" to a festive occasion at which the Vice President was introduced to a wide variety of West German leaders.

Last week Schmidt told The New York Times that Carter's inaugural speech was eloquent but "lacking in clear direction." Today he was beaming with pleasure when Mondale presented him a copy of the same speech, autographed by Carter.

Mr. BAKER. Mr. President, having discussed the facts that the nuclear genie is out of the bottle, that atom bombs are painted white, and that anybody can build one, I am reminded of a story that was told to me. A young fellow was flying me in a small plane in Tennessee through a thunderstorm, and I was sitting in the right-front seat watching the radar intently. He said, "Senator, why don't you turn off that radar, we are liable to scare ourselves." [Laughter.]

I rather think that is what we may do if we continue this conversation. But, unfortunately, it is true, Mr. President. This situation is a reality instead of a fiction.

We live in a nuclear world that has already proliferated, and we must try to keep it from proliferating any more than it has, and try to learn to live with that genie now that he is out of the bottle.

I commend all of those who participated in this debate, and I hope the Senate will not treat it casually but will try to produce the very best result it can deliberately, cautiously, and carefully.

I thank my colleagues. I yield the floor.

Mr. DOMENICI. Mr. President, I, too, commend those who have worked so diligently on S. 897.

I want to talk for just a few moments about the great concerns I have for what might happen, even with the bill in its present form, in the hope that we will generate some interest in making the bill better.

It is only in that context that I would like to make a little analysis that is my own in terms of what it does and what it does not do.

I said to my good friend from Illinois that I have heard him for many, many months talk about this issue as being one of the most serious the world faces, and I hope as I go through my own critique—where there are many questions in my mind—he will understand it is in that context that I, too, want to prevent some of the things he wants to prevent, but I am very worried about some of the effects of this bill in terms of that kind of goal.

I think it is fair to say that our present method of controlling nuclear exports badly needs revision. Our present nuclear export policy is in serious disarray and can be called a disaster area.

Major delays in granting export licenses have alienated long-time trading partners that have traditionally been our allies.

There have been attempts to renegotiate bilateral agreements while our Government was in some cases holding up the shipment of nuclear equipment which had been contracted for, needed and paid for.

Expensive delays have resulted in foreign customers that felt themselves almost in a position of being blackmailed into agreeing to conditions that were not there when they started their relationships with the United States, and they begin to feel they have no other choice than that which we dictate kind of unilaternally and ex post facto.

We are now seen or at least beginning to appear as a very unreliable supplier, and other nations are looking elsewhere for nuclear materials. I think that is a very important point because there is no exclusivity left in this area, and we certainly have lost ours.

This is costing us, if we were only concerned about export sales and jobs—that is not the whole issue—but if we were only talking about that, the condition that I have just described is costing us—as much as, in the last 4 years, $12 billion in sales.

Now, that is many thousands of jobs, and in an American economy and an international economy of the type we have today, that is not anything to be ignored.

On the other hand, I make it quite clear that I do not think when we are dealing in this area we are talking exclusively about economics, because we are talking about something very serious. If there were ways, to be sure, that what we wanted to do in these quick decisions we have made, and this disarray, that that was going to be effective, I might opt for taking the economic loss. But, as I say, we no longer have any kind of exclusivity.

Another point I want to stress is that the Nuclear Regulatory Commission—I think we all know that that Nuclear Regulatory Commission as an independent agency with the charges and respon-

sibilities given to it by Congress was long overdue when it was formed—but it, too, is now besieged with problems, and it is being asked to make decisions of profound significance not only with reference to things that happen in America but profound significance to our foreign policy in granting export licenses.

Several commissioners have indicated serious concern about the Nuclear Regulatory Commission's capability to fulfill this responsibility. On that score I have a letter—I will not read it at this point—which is to the distinguished subcommittee chairman, Senator CHURCH, from Commissioner Kennedy, with copies to Senators MCCLURE, PERCY, HART, and GLENN—in which that commissioner expresses far better than I could the statement I just made a while ago about the grave concern for their capability to fulfill this responsibility.

I regret to say that the bill before us, in its present form, will not make matters any better. It will in some areas, but in others it will make them worse.

I truly have great concern that if this bill is passed it will not accomplish the goals intended. I do not think the fact that a similar bill passed the House of Representatives means anything more than the two-House system in Congress works.

We have now had an opportunity to carefully examine this bill and the importance of it and, thus, the fact that it passed the other body should be nothing more than a starting point, in this Senator's opinion.

This bill mandates export procedures that are enormously complex, time-consuming, uncertain, and subject to what I believe are undue delays and litigation almost ad infinitum.

In my opinion, it opens the door to the importation of foreign nuclear wastes into the United States. I say that in my opinion it opens the door to the importation of nuclear wastes into the United States. I regret to say that we have a serious enough domestic problem without adding this serious complication.

My good friend and colleague, Senator SCHMITT, who was here a moment ago, could attest to the fact that just this morning a delegation from New Mexico met for well over an hour with the Secretary of Energy and others high in research in the Department of Energy to discuss just the problem of a temporary disposal over in New Mexico; and the terrible concerns, the uncertainty, the lack of a policy leads me to repeat that I do not favor a bill that opens the door to the importation of foreign nuclear wastes unless we have explored every avenue to make sure it is part of a plan that would work.

It thrusts the Nuclear Regulatory Commission even more into the making of foreign policy. The Nuclear Regulatory Commission is not equipped to do this nor should it since it is an independent regulatory agency only.

I have spoken to that a moment ago and, at this time, I ask unanimous consent that the letter of January 26, 1978, from Commissioner Kennedy to the Senators whom I described be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, D.C., January 26, 1978.

HON. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: Since my testimony at your hearings in September, I have reexamined S. 897 in the light of the concerns you expressed at that time and am writing you to advise you of my further reflections.

There is growing concern within the Nuclear Regulatory Commission regarding the assessment of IAEA safeguards. Before it can issue an export license for nuclear fuel or a facility the Commission must find that issuance of the license would not be inimical to the common defense and security of the United States and this has been deemed to include assurances as to the implementation of adequate safeguards. Practically speaking, however, the Commission is not equipped to independently examine the adequacy of foreign safeguards, and must in practice accept the word of the Executive Branch as to their implementation and as to the foreign affairs implications of any export. The NRC's Office of Nuclear Material Safety and Safeguards has informed the Commission that it cannot reach independent conclusions on the effectiveness of international material control and accounting safeguards since it is unable to independently verify country-specific safeguards information.

Section 504 of H.R. 8638 as passed by the House of Representatives on September 28, 1977, merely says that IAEA safeguards "shall be applied," but does not say whether the Commission must independently determine whether those safeguards as applied are adequate. The Senate Committee report (95–467, October 3, 1977) accompanying S. 897, however, speaks of exports being "subject to adequate safeguards." (At page 15, emphasis supplied.) Where does this leave the Commission? The situation will be at the very least ambiguous and there likely will be calls for more directly obtained information as a basis for assessment. I fear that an impasse might develop. Should such an impasse arise I doubt that the Presidential override of NRC negative decisions provided for in S. 897 will be significant help. It would be difficult in all but cases of the most overwhelming importance to foreign policy for the President to rely on that authority.

If the NRC is to responsibly perform its function in nuclear export licensing, I believe that it should accept safeguards regimes negotiated with our nuclear trading partners including the IAEA regimes which we have agreed by treaty should be applied. Moreover, I believe that the assessment of the adequacy of safeguards implementation should be that provided by the Executive Branch. A clear statement to this effect by the Congress is in my view essential if the concerns I express are to be avoided.

I believe that we will maximize our influence in the nonproliferation area only if other nations perceive us as a reliable and predictable supplier of nuclear fuels and equipment. Unfortunately, many representatives of recipient countries with whom I have spoken find us all too predictable, but in the wrong sense. What seems to be predictable is that we will often approve licenses at the last possible moment only after expressions of urgency by foreign nations.

I would like to reiterate here what I said before the Senate Committee on Governmental Affairs last May:

"Energy independence is not the exclusive quest of the United States. Many nations, like our own, seek an uninterrupted source of supply to meet their energy needs. And many of them must rely to a much greater extent than we on fuel imports to meet those needs. Certainly our recent experience in dealing with foreign governments on nonproliferation matters confirms this hypothesis. The widespread international concern which has recently been expressed reflects a deeply-rooted sentiment reflecting the desire of those nations to eliminate or at least significantly decrease their dependence on foreign fuel sources. If these nations perceive the United States as potentially a capricious supplier, they can be expected to turn to other suppliers or, if they have the capacity, to develop their own resources. The consequence can only be a level of United States influence over the nonproliferation policy of these nations correspondingly diminished at the very least and possibly forfeited entirely."

It is not only our nonproliferation goals which can suffer. If export licensing continues in fits of stopping, starting, and stalling, the United States will alienate countries with which it has had its closest and most supportive relationships.

The bill contains provisions for interagency consultations, nonproliferation assessment statements, a Presidential override of NRC negative decisions, and Congressional review of the Presidential override. This multitiered review process for nuclear exports will provide numerous opportunities for mischievous delay in reaching export licensing decisions. Whether any of these provisions provides opportunity for delaying litigation is unclear. What is clear is that the opportunities for delay and thus interference with an orderly pursuit of the President's sound nonproliferation policy will be multiplied.

The nuclear export process is going to be faced with ever increasing questions concerning the nature of our nonproliferation policy and the controls which we will be exerting on our exports. I believe that Congress must provide a clear legislative mandate and specific direction to this agency, unambiguously describing the requirements which it must satisfy independently and those for which it should rely upon the Executive Branch. Otherwise, there will be increasing delays and escalating interference with an essential element of nonproliferation policy and United States commerce.

Amendments offered by Senator McClure help resolve some of the difficulties to which I have alluded. But serious problems will remain if the NRC continues to be called upon to make "independent" decisions on safeguards abroad and foreign affairs matters when it is not equipped to do either. Without a clear statement from the Congress, ambiquity of roles will persist, and the NRC thus will not be in a position to contribute effectively to achieving U.S. nonproliferation policy.

Sincerely,

RICHARD T. KENNEDY,
Commissioner.

Mr. DOMENICI. Continuing on with some of the things I think this bill does, it virtually bans reprocessing by other nations that trade with us, without offering any alternatives or incentives. I understand the serious debate, the very bona fide differences of opinion that exists in this country with reference to reprocessing. I, for one, believe it is inevitable. On the other hand, the point I make is that my understanding of this bill is it would virtually ban reprocessing by other nations that trade with us, and then I stress, without offering any alternatives or incentives.

As I understand it, it would impose some very onerous criteria and conditions

upon even our most trusted friends which no other supplier nation requires; and I might add with no assurance that those other nations which are entering the arena might make similar requirements in the foreseeable future.

It gives no preference to signatories to the NPT. I think that should be analyzed.

It creates additional uncertainty by a requirement that Presidential exemptions be reviewed by Congress. I understand Congress' continual and almost institutional desire to be involved, but I merely state that, as I understand it, an additional uncertainty is created for Presidential exemptions which might otherwise have answered many of the questions I have raised, because of the review by Congress.

By requiring an annual review for more new criteria, I think it threatens almost all potential customers with the possibility of a year-by-year additional scenario of changes, some of which might be arbitrary, or at least so perceived, in export licensing requirements. Certainty is certainly missing from the process as we look at that part.

I believe it ignores our responsibility, to some extent, to fulfill existing commitments by insisting on renegotiation within a fixed period of time.

Nuclear exports are important to the United States. I do not think anyone denies that. I have already stated my views on that subject. I am sure Senator BAKER, in referring to the genie being out of the bottle, has done it better than I could. The fact is that for every reactor we do not produce, more than 30,000 man-years of employment are lost, and our balance of payments is impacted by at least $350 million. I have seen estimates, I believe by ERDA, of a potential export market of $100 billion by the end of this century. Each reactor contains 100 tons of steel, costing some $66 million.

Let me repeat here, to make sure once again I am understood, that I have said it is my belief that we are no longer in a position where we can say that if we do not do these things, no one else will, that if we do not sell, and if we impose unilateral conditions that we think are right, everyone else in the world will follow, because I think experience in that respect is the proof of the pudding, and that is not happening.

Therefore, I think it is relevant that if we expect to have an influence in this area, we take into consideration the impact on the economics of our Nation. The industrial base of our Nation remains heavily dependent on exports. Three billion dollars in export business is currently pending, representing approximately 19,600 jobs spread over 5 years. This business will be lost in the next 12 to 18 months unless U.S. credibility can rapidly be restored.

Mr. President, I repeat, if this business was not going to be picked up by some other country, it would be another story. But it will be. I believe the evidence is rampant and conclusive that it will be picked up by other countries.

Also at stake is the projected $7 billion in foreign payments for uranium enrichment for 1980 to 1985. The loss of this business will add 50 percent to the cost of domestic enrichment, due to the direct relationship between enriching costs and capacity utilization.

There are other reasons for the United States continuing to be an exporter of nuclear materials. I have stated some of them. It is obvious that the world is going nuclear, regardless of what we do. It is obvious that the world is moving in that direction. I believe there is more potential for safety, as the world goes nuclear, with us as a full partner than with us sitting on the sidelines. A U.S. moratorium on exports would merely isolate us from this market. Many countries that are deficient in fossil fuel of their own recognize that nuclear power is vitally important for their future.

We are no longer in a position to unilaterally impose conditions on the world nuclear trade. I make that statement with certainty, though with regret. The United States is no longer in a position to unilaterally impose conditions on the world nuclear trade. I wish it were not so, but we no longer have a technical monopoly on any part of the nuclear fuel cycle. Many countries sell reactors. At least 14 are involved with reprocessing the back end of the fuel cycle. Some of these are already marketing their capability on a commercial scale. At least eight nations can create enriched uranium. Others are developing this capability.

Nonproliferation concerns, Mr. President, are very real. I shall have more to say, as the debate and amendments move along, on this matter later. For now, I would just like to make this important point:

Nonproliferation is a top priority concern for all of us. All reasonable Americans want to avoid the nightmare possibility of nuclear weapons in the hands of countries or terrorists who will not hesitate to use them to achieve their objectives. Our only disagreement here is over the most effective means to minimize the proliferation risk.

It is my contention, which is shared by many of my colleagues here, that the way to minimize proliferation is through international negotiation and agreement based on mutual trust and respect, not by unilateral and precipitous action by the United States. The Nuclear Non-Proliferation Treaty is one outstanding example of what can be achieved by international negotiation. In this, more than 100 countries voluntarily renounced any intention to develop nuclear weapons. This is really a remarkable achievement—and may be the first such voluntary renunciation in history.

It should be kept in mind that no country has ever developed a weapons system based on the use of reactor-grade plutonium. This is not to minimize the seriousness of the problem, but to put it somewhat more in perspective.

The decision by other countries to build nuclear weapons is a political rather than a technical one. The technology and scientific and technical base are available to many advanced nations. Only a deliberate political choice separates them from moving ahead. A strategy of nonproliferation based solely on denial of equipment and technology will at most only delay, not prohibit this possibility that political action will be taken to move some country in the direction I have just described.

The U.S. unilateral actions driving customers elsewhere will actually work to encourage proliferation. Not only will other nations buy elsewhere, and the United States lose its ability to influence international standards, but other nations will move to develop their own enrichment and reprocessing capabilities in order to assure a supply of nuclear fuel for their reactors. Such nationally owned facilities will greatly increase the proliferation risk. In addition, by failing to fulfill our responsibilities under the NPT to provide assistance to those countries endeavoring to develop a peaceful nuclear program, we will be providing those nonweapon signatories with every justification for ignoring their commitments under this treaty.

Mr. President, I am certain that in the next few days amendments will be offered to correct some of the deficiencies that I see. Certainly many Senators have amendments. I have attempted to analyze these deficiencies, and hope that in the next few days we will correct as many of them as possible.

Mr. President, I yield the floor.

Mr. PERCY. Mr. President, just a brief comment in reply to the statement of our distinguished colleague.

The Senator's statement reflects the concerns of many other Senators that have been expressed here today. Certainly one of the concerns that the Senator from Idaho (Mr. MCCLURE) has mentioned to us frequently is the possibility of undue delay, and this would be totally contrary to everything we are trying to accomplish.

As our distinguished colleague knows, the Governmental Affairs Committee is trying to address itself to regulatory reform, where we shall try to deal directly with the problem of excessive delay. We do not want to add more delay. An amendment that the distinguished Senator from Idaho (Mr. MCCLURE) has discussed with managers of the bill would expedite the decisionmaking process and insure that there would be no undue delays.

I assure my distinguished colleague that the floor managers of the bill are aware of this concern. We feel that the present bill, plus the amendments that we agreed to accept, will accommodate that particular provision that concerns my colleague.

Mr. THURMOND. Mr. President, I rise to speak on S. 897.

An important factor behind S. 897, the Nuclear Non-Proliferation Act, is its effect on the competitive position of the U.S. suppliers in the world market. This competitive position is important, first and foremost, because our ability to influence global nonproliferation policies will depend upon our overall participation in the nuclear marketplace throughout the world. Second, nuclear exports can offer substantial benefits to the U.S. economy in terms of the creation of millions of jobs and the reduction in our balance-of-payments deficit.

On the first point, I am deeply concerned about the rapidly declining influence of the United States in the international nuclear community. This has been primarily due to U.S. positions in direct opposition to those of a majority of other nations, and to the rapidly declining U.S. market share of nuclear reactor sales resulting from uncertainty of U.S. policy.

On the second point, Mr. President, numerous foreign officials have responded negatively to the President's proposal for halting the breeder and reprocessing technologies. These countries are also concerned with nonproliferation, but they are optimistic that international solutions can best provide the mechanism for protection against proliferation.

Last year our country had a record balance of payment deficit of nearly $27 billion, primarily due to payments for energy imports which were not offset by similar exports. Efforts to stem this outflow of payments and the resulting decline of the dollar are leading to higher interest rates, which tend to act as a brake on the economy. The slower economic growth that results from all this necessarily leads to higher unemployment. I am greatly concerned, Mr. President, that S. 897 would further exacerbate the decline in the U.S. market share for nuclear exports, a vital element in our overall export program.

Until recently, U.S. suppliers dominated the free world market in nuclear power plant equipment—capturing over 90 percent of the market prior to 1973. However, since 1973 the U.S. market share has greatly eroded—plummeting to some 40 percent, largely as the result of the inability of our Government to develop a coherent and internationally workable nuclear export policy.

The economic loss to American workers and industries is staggering. To use only one substantial example: The typical exported nuclear power plant requires the purchase in the United States of at least 100,000 tons of steel. This in turn represents an estimated 1,000 jobs for 5 years in the steel and related industries alone.

Each exported nuclear power plant represents a favorable contribution of approximately $500,000,000 to our Nation's balance of trade.

Indeed, Mr. President, it is conservatively estimated that during the next 18 months there are 8 to 10 orders in five nations that the United States could reasonably expect to obtain.

The export value of these potential orders is between $2.5 and $3 billion.

They would represent between 17,200 and 19,600 jobs in the United States for each year of the 5-year period.

Without workable legislation establishing clear ground rules for the export of nuclear powerplants by our Nation, the United States will lose these sales to our competitors in West Germany and France.

Because of concern lest U.S. exports possibly be misused by a nation that might seek to develop a nuclear weapon, U.S. nuclear export policy since 1973 has been in constant flux. Mr. President, this inability to fashion an export policy has resulted in substantial delays in obtaining export licenses for equipment ordered from American companies—in some cases delays measuring in years—and has led potential customers to be extremely hesitant to place any new orders with American firms.

No foreign orders have been placed with U.S. companies in the last 2 years. With confidence lost in the United States as a dependable supplier, the export business, which is still quite healthy, has been shifted to companies in France and West Germany. Both of these nations now have the full industrial capability to provide any of the equipment and material that can be purchased from America and offer such equipment under terms and procedures far more favorable and certain than those offered by our Government. Beyond the economic and job loss to America that this shift has produced, there has also passed to these other suppliers the ability to influence, to monitor, and to alter the nuclear programs in the importing countries.

Mr. President, as presently written, S. 897 would continue to keep the United States out of competition for foreign nuclear orders, which has been the economic backbone of the industry in a period when domestic orders have not been available because our domestic energy policy is being redefined. Because of the importance of the above factors, it is necessary, Mr. President, that any legislation that the Senate might pass dealing with nonproliferation and nuclear exports will create a condition of certainty with respect to U.S. policies and procedures among our foreign customers, and will not take a unilateral approach that the rest of the world rejects. I am deeply concerned that S. 897, the Nuclear Non-Proliferation Act of 1978, runs directly contrary to these objectives, and thus will only prove deleterious to our ability to control nonproliferation.

TIME-LIMITATION AGREEMENT—S. 897

Mr. ROBERT C. BYRD. Mr. President, I am about to propound a unanimous-consent request. This request has been worked out by Senator GLENN after consultations with Senator PERCY, Senator HOLLINGS, Senator MCCLURE, and with the minority leader and other Senators. It would become effective on Monday next at 11 a.m. and would continue beginning at 10 a.m. on Tuesday next.

The unanimous request is as follows:

Provided that there be 4 hours for debate on the bill to be equally divided between Mr. GLENN and Mr. PERCY; that there be a time limitation on any amendment of 1 hour, a time limitation on any amendment to an amendment of ½ hour, a time limitation on debatable motions, appeals, and points of order if such are submitted to the Senate for discussion of 20 minutes; provided further, that there be a time limitation on what is referred to as a "spent fuel" amendment which will be offered by Mr. MCCLURE, the time to begin running on that amendment to be at 1:30 p.m. on Tuesday next, with a vote up or down to occur on that amendment no later than 4:30 p.m. on Tuesday next.

Ordered further, that upon the disposition of the "spent fuel" amendment there be 1 hour of debate on the bill to be equally divided between Mr. GLENN and Mr. PERCY, and that a vote then occur on the bill upon the expiration of that hour or upon the times having been yielded back; provided, further, that the agreement be in the usual form; and with the further proviso that if the agreement is entered into, there will be no session of the Senate tomorrow.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER (continuing). And I will not object, I am happy the majority leader has propounded this request, which has been in process of negotiation for most of the day today, and I want to take this opportunity to express my appreciation to the Senator from Ohio (Mr. GLENN), the Senator from Illinois (Mr. PERCY), and the Senator from Idaho (Mr. MCCLURE) for giving enough in each case to accommodate the schedule of the Senate. I think it is a good arrangement, and I understand it is acceptable to our side and, particularly, to Senator MCCLURE, and I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this would mean, the agreement having been entered into in the usual form, that there would be no nongermane amendments eligible to be called up; and it would also mean that the provision about control of time would be in accordance with the usual form, which would mean on amendments the author of the amendment would have control of half the time, Mr. GLENN, being the manager of the bill, would control the other half, except in the event Mr. GLENN supported the amendment in which case the time in opposition to the amendment would be under the control of the minority leader or his designee.

Mr. President, I add the further proviso that on Monday no rollcall votes occur, even though ordered, prior to the hour of 2 p.m.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, anent the unanimous consent agreement in respect to the unfinished business, I ask unanimous consent that paragraph 3 of rule 12 be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I again tender my thanks to the distinguished Senator from Ohio (Mr. GLENN) who has worked long and hard in an effort to reach this agreement, and I also thank Mr. PERCY, the ranking member, for his efforts in this regard. I thank the minority leader, and I thank Mr. MCCLURE and all others who have contributed to this agreement.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. MCCLURE. Mr. President, there are 19 amendments on which there is agreement, and I would like to call up

those 19 amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENTS NOS. 1582, 1584, 1585, 1586, 1588, 1590, 1591, 1592, 1593, 1596, 1598, 1599, 1600, 1601, 1605, 1606, 1608, 1610, and 1611

Mr. McCLURE. Mr. President, the amendments are printed amendments numbered 1582, 1584, 1585, 1586, 1588, 1590, 1591, 1592, 1593, 1596, 1598, 1599, 1600, 1602, 1605, 1606, 1608, 1610, and 1611.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLURE. Mr. President, as I indicated, these printed amendments have been agreed upon, and I think both of the managers of the bill have agreed to accept them. I ask unanimous consent that the reading of the amendments be dispensed with. And I move that they be adopted en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 104, line 15, amend subsection 4(a)(5) to read " 'physical security measures' means measures to reasonably insure that source or special nuclear material will only be used for authorized purposes and to prevent theft and sabotage;".

On page 110, line 5, after "committed" insert "to continued strong support for the principles of the Treaty on the Non-Proliferation of Nuclear Weapons,".

On page 112, line 1, through line 16, strike section 203.

On page 114, line 20, strike "TECHNOLOGY TRANSFERS".

On page 115, line 2, after the comma, insert "including a specific authorization in a subsequent arrangement under section 303,".

On page 115, line 15, strike the first period and insert in lieu thereof ": *Provided further*, That the export of component parts as defined in subsection 11 v.(2) or 11 cc.(2) shall be governed by sections 109 and 126 of this Act.".

On page 115, line 17, insert the following immediately after "SEC. 303." and make confirming changes wherever necessary in section 303: "Chapter 11 of the 1954 Act, as amended by sections 304, 305, 306, 307, and 308, is further amended by adding at the end thereof the following: "SEC. 131. SUBSEQUENT ARRANGEMENTS.—".

On page 116, beginning on line 24, delete "shall include—" and insert in lieu thereof "means arrangement entered into by any agency or department of the United States Government with respect to cooperation with any nation or group of nations (but not purely private or domestic arrangements) involving—".

On page 117, line 1, delete "United States Government".

On page 117, line 9, insert the following immediately after "Act" "which is not subject to the procedures set forth in section 111(b), section 126, or section 109(b)".

On page 164, line 13, insert the following immediately after "Act": "or arrangements pursuant thereto".

On page 115, line 23, after "Director" insert ", Commission".

On page 116, lines 6 and 7, strike "After consultation with the Commission, notice" and insert in lieu thereof "Notice".

On page 118, line 7, after the period, insert the following new subsection,

(4) All other statutory requirements under other sections of this Act for the approval or conduct of any arrangement subject to this subsection shall continue to apply and any other such requirements for prior approval or conditions for entering such arrangements shall also be satisfied before the arrangement takes effect pursuant to subsection (a)(1).

On page 120, line 13, insert the following immediately after "special nuclear material," "including distributions of any material by the Department of Energy under section 54, 64, or 82, for which a license is required or requested, and".

On page 120, beginning on line 15, delete "and" and all that follows through "Energy," on line 19.

On page 120, line 22, delete "export, exemption, or distribution" and insert in lieu thereof "export or exemption".

On page 121, line 8, delete "license," and insert in lieu thereof "license or".

On page 121, delete line 9 insert in lieu thereof "exemption will".

On page 121, line 16, delete "license," and insert in lieu thereof "license or".

On page 121, delete line 17 and insert in lieu thereof "the exemption would".

On page 121, line 25, delete "or distribution".

On page 124, delete line 1 and delete "and" in line 2.

On page 122, line 9, and on page 140, line 8, strike "the evidence" and insert in lieu thereof "other information available to the Federal Government, including the Commission".

On page 123, line 23, strike the period and insert in lieu thereof ": *And additionally provided*, That the Commission is authorized to (1) make a single finding under this subsection for more than a single application or request, where the applications or requests involve exports to the same country, in the same general time frame, of similar significance for nuclear explosive purposes and under reasonably similar circumstance and (2) make a finding under this subsection that there is no material changed circumstances associated with a new application or request from those existing at the time of the last application or request for an export to the same country, where the prior application or request was approved by the Commission using all applicable procedures of this section, and such finding of no material changed circumstance shall be deemed to satisfy the requirement of this paragraph for finding of the Commission. The decision not to make any such finding in lieu of the findings which would otherwise be required to be made under this paragraph shall not be subject to judicial review.".

On page 124, line 3, strike "that the application or request therefor is acceptable, and".

On page 126, insert the following immediately after "Commission" on line 15: ": *Provided further*, That until the regulations required by this subsection have been promulgated, the Commission shall implement the provisions of this Act under temporary procedures established by the Commission".

On page 140, line 20, before the period, insert: ": *Provided*, That a specific license shall not be required for an export pursuant to this section if the component, item or substance is covered by a facility license issued pursuant to section 126 of this Act".

On page 141, line 23, insert the following:

(d) The amendments to section 109 of the 1954 Act made by this section shall not affect the approval of exports contracted for prior to November 1, 1977, which are made within one year of the date of enactment of such amendments.

On page 154, insert the following between lines 13 and 14:

(d) Nothing in this section shall be interpreted to require international control or supervision of any United States military activities.

On page 164, line 14, after the period, insert

(c) Except where otherwise provided, the provisions of this Act shall take effect immediately upon enactment regardless of any requirement for the promulgation of regulations to implement such provisions.

On page 117, line 20, after "to" insert "all".

On page 118, line 2, after "material" insert ", and additionally, to the maximum extent feasible, will attempt to expedite such consideration".

Mr. GLENN. I have no objection to that. The amendments that were read are correct, and the numbers that were read are correct, and we do accept those amendments. They are worked out by staff and by the principals involved, and we are happy to accept them en bloc.

Mr. PERCY. Mr. President, I would just like to say we not only accept them but both Senator GLENN and I—I know I speak for him also—say in some respects these amendments have clarified certain ambiguities, have insured the expediting, and have strengthened the process of having us an assured fuel source, and we very much appreciate the work done by our distinguished colleague from Idaho.

The PRESIDING OFFICER. The question is on agreeing to these amendments en bloc.

The amendments were agreed to en bloc.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendments, en bloc, were agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

UP AMENDMENT NO. 1174

Mr. HART. Mr. President, I send an amendment to the desk and ask unanimous consent that it be considered in order.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 1174:

On page 147, line 12, after "the Secretary of Energy," insert "the Nuclear Regulatory Commission,".

The PRESIDING OFFICER. Is there objection to the calling up of this amendment at this time?

The Chair hears none. The Senator may proceed.

Mr. HART. Mr. President, very briefly, this amendment would insure that the views of the independent Nuclear Regulatory Commission would also be

presented to the President—along with those of the Secretary of State, Secretary of Energy, and the Director of the Arms Control and Disarmament—in conjunction with his consideration of new and revised agreements for civil nuclear cooperation with foreign nations.

Under S. 897, although the NRC is to be consulted, its views need not be formally transmitted to the President. In my opinion the NRC has an important function in assessing the safeguards aspects of proposed agreements. Therefore, if the views of all other agencies involved are to be transmitted to the President, the NRC should not be excluded. I believe the amendment is acceptable to the floor manager of the bill, and I urge my colleagues to support the amendment.

Mr. GLENN. Mr. President, I am happy to accept this amendment. I believe that it is a technical amendment that insures that NRC's views will be transmitted to the President along with those of the other responsible agencies.

When the Nuclear Regulatory Commission was established, it was established as an agency responsible to both the executive and the legislative branches of the Government. I think the amendment proposed by the Senator from Colorado will help them carry out the mandate they were given by Congress, and I am glad to accept the amendment.

Mr. PERCY. Mr. President, the amendment is fully acceptable to us.

Mr. HART. I thank the Senator from Ohio and the Senator from Indiana.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. HART. I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent to have printed in the RECORD at this point an exchange of correspondence between myself and Senator PERCY and the Department of State, involving areas of agreement concerning amendments that the Senate has agreed to in this bill. I think putting this correspondence in the RECORD at this point will mean it will be published tomorrow and will give Senators and other interested parties and friends an opportunity to review the matter over the weekend. I think it is appropriate that both of these letters be printed in the RECORD at this point, and I ask unanimous consent to that effect.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
February 2, 1978.

Hon. CYRUS VANCE,
Secretary, Department of State,
Washington, D.C.

DEAR SECRETARY VANCE: It is our understanding that an agreement has been reached on a number of issues relating to S. 897, the Nuclear Non-Proliferation Act.

As the floor managers of the bill, we are prepared to support an amendment to section 305 to delete the references to prior U.S. approval of the retransfer or reprocessing of previous exports from paragraphs 4 and 5 of section 127 of the 1954 Act (see attachment 1) in recognition of the concerns raised in Assistant Secretary Bennet's letter of January 26, 1978 to Senator Sparkman. In addition, we shall refrain from offering a compensating amendment to require such controls in all new and amended agreements for cooperation under section 401 or an amendment to retain such criteria in section 305 for those nations for which we do have controls on previous exports, if certain other provisions are added to the bill.

Specifically, we understand that the Administration will support an amendment to section 404(a) to clarify the U.S. position with respect to existing rights under agreements for cooperation and to direct the President to vigorously seek to obtain controls over previous exports where we do not now have such rights (see attachment 2). In addition, we anticipate Administration support for an amendment to section 304 to ensure that the NRC will receive all needed information from the Executive Branch regarding the extent to which each export recipient has adhered to the terms of its agreement for cooperation with the U.S. (see attachment 3). Mutual agreement was also reached on an amendment to clarify a technical ambiguity in the language of section 30 concerning sanctions in the event of a material violation of an agreement for cooperation (see attachment 4).

Finally, we have been advised that the Administration has reconsidered its position on two points discussed in the January 26th letter. First, we understand that the Administration has withdrawn its proposed revision of McClure amendment #1607, and is satisfied that the above agreement resolves its concerns on retroactivity in section 305. We also understand that the Administration no longer proposes a revision of McClure amendment #1595, but instead opposes that amendment and any other amendment to restrict judicial review of findings under the Act.

We have also been advised that, consistent with Enclosure 4 of the January 26th letter, the Executive Branch is still reviewing its position on National Environmental Policy Act requirements for foreign jurisdictions and opposes all amendments on that subject. Furthermore, we look forward to a reiteration of the Administration's support for an independent NRC role in the nuclear export licensing process.

Sincerely,

CHARLES H. PERCY,
JOHN GLENN,
U.S. Senators.

DEPARTMENT OF STATE,
Washington, D.C.

Hon. JOHN GLENN,
Committee on Governmental Affairs,
U.S. Senate.

DEAR SENATOR GLENN: The Secretary has asked that I respond to your letter of February 2, 1978, concerning the Nuclear Non-Proliferation Act. The Administration concurs in your understanding of the agreement which has been reached on several issues relating to S. 897, the Nuclear Non-Proliferation Act.

The Administration's concerns on retroactivity in Section 305 of the bill would be satisfied by the series of amendments which you describe in your letter. Specifically, we understand that amendments will be offered to (1) delete the references in paragraphs 4 and 5 of Section 127 of the 1954 Act to prior U.S. approval of the retransfer or reprocessing of previous exports; (2) amend Section 404 (a) to clarify the U.S. position with respect to existing rights under agreements for cooperation and to direct the President to vigorously seek to obtain controls over previous exports where we do not now have such rights; and, (3) ensure that the NRC will receive all needed information from the Executive Branch regarding the extent to which each export recipient has adhered to the terms of its agreement for cooperation with the U.S. The Administration supports these amendments (see Attachments 1 through 3), and withdraws its proposed revision of McClure Amendment 1607.

The Administration also understands that, as part of this agreement, the floor managers will not offer or support an amendment to require prior approval rights on previous exports in new and amended agreements under Section 401 or an amendment to retain an export licensing criterion to that effect in Section 305 for those nations with which we do have controls on previous exports.

The Administration supports the amendment to which you refer to clarify a technical ambiguity in the language of Section 307 concerning sanctions in the event of a material violation of an agreement for cooperation (see Attachment 4).

In addition to withdrawing its proposed revision of McClure Amendment 1607 in the context of the above agreement, the Administration has also reconsidered its position with respect to McClure Amendment 1595. The Administration sees no need for any amendment to limit judicial review of findings under this legislation and opposes any amendment for that purpose, including Amendment 1595.

The Executive Branch is still reviewing its position on National Environmental Policy Act requirements for foreign jurisdictions. We do not believe that S. 897 is the appropriate vehicle to decide this issue, and would, therefore, oppose any amendments on this subject.

Finally, we would like to take this opportunity to reiterate the Administration's support for the independent role of the NRC in the nuclear export licensing process which is embodied in S. 897, as reported.

If the amendments set forth in this letter and the remaining amendments suggested in my letter of January 26 to Senator Sparkman are adopted, the Administration strongly supports passage of S. 897, as reported. We look forward to prompt enactment of this vital legislation.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

ATTACHMENT No. 1

AMENDMENT

On page 128, beginning on line 2, delete ", no such materials or facilities previously exported and subject to the applicable agreement for cooperation,".

On page 128, beginning on line 14, delete "or previously exported and subject to the applicable agreement for cooperation".

EXPLANATION

This amendment deletes the references in Section 305 of S. 897 (Phase I licensing criteria) to prior U.S. approval of the reprocessing or retransfer of previous exports. As explained in Enclosure 5 of Assistant Secretary Bennet's January 26, 1978 letter to Senator Sparkman, it has come to the attention of the Administration and the Congress since S. 897 was reported from committee that these provisions would bar exports to Canada, EURATOM, and the IAEA since those agreements for cooperation do not contain such controls with respect to certain previous exports, and it will be difficult to obtain retroactive application of these controls in all three of these cases.

ATTACHMENT NO. 2

AMENDMENT

On page 154, line 20, insert the following immediately after the period:

"To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party contains provisions equivalent to any or all of the criteria set forth in Section 127 of the 1954 Act with respect to materials and equipment transferred pursuant thereto or with respect to any special nuclear material used in or produced through the use of any such material or equipment, any renegotiated agreement with that cooperating party shall continue to contain an equivalent provision with respect to such transferred materials and equipment and such special nuclear material. To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party does not contain provisions with respect to any nuclear materials and equipment which have previously been transferred under an agreement for cooperation with the United States and which are under the jurisdiction or control of the cooperating party and with respect to any special nuclear material which is used in or produced through the use thereof and which is under the jurisdiction or control of the cooperating party, which are equivalent to any or all of those required for new and amended agreements for cooperation under Section 123 a. of the 1954 Act, the President shall vigorously seek to obtain the application of such provisions with respect to such nuclear materials and equipment and such special nuclear material. Nothing in this Act or in the 1954 Act shall be deemed to relinquish any rights which the U.S. may have under any agreement for cooperation in force on the date of enactment of this Act.".

EXPLANATION

The first sentence of this amendment will ensure that no controls comparable to those of the Phase I licensing criteria which we already have under an existing agreement for cooperation will be relinquished during renegotiation of that agreement. The second sentence expresses the strong desire of the Congress for the President to seek vigorously to obtain retrospective application of the requirements for new and amended agreements to strengthen the barriers against the nonpeaceful use of any nuclear material or equipment which has been exported by the United States. The third sentence ensures that this bill will not be misconstrued as relinquishing any existing non-proliferation controls.

ATTACHMENT NO. 3

AMENDMENT

On page 121, line 5, delete the period after "met" and insert in lieu thereof the following: "and the extent to which the cooperating party has adhered to the provisions of the applicable agreement for cooperation."

EXPLANATION

This amendment, together with the general requirement for the State Department to provide information to the NRC on page 122 of the bill, will ensure that the NRC will receive all needed information from the Executive Branch regarding the extent to which each export recipient has adhered to the terms of its agreement for cooperation with the U.S. This information will be especially relevant in the NRC's consideration of whether the statutory licensing criteria will be met with respect to proposed exports.

ATTACHMENT NO. 4

AMENDMENT

On page 133, lines 23 and 24, delete "any guarantee it has given under".

EXPLANATION

This is a technical amendment to clarify the original intent of new section 129a. (2) (A) of the Atomic Energy Act of 1954 that sanctions should be applied in the event of a material violation of any of the provisions of an agreement for cooperation with the U.S., not just those provisions which are referred to as "guarantees."

Mr. CHURCH. Mr. President, the Committee on Energy and Natural Resources, upon review of S. 1432, the President's nonproliferation bill which was sent to the Congress last spring, was concerned about the possible effects of the bill on the domestic nuclear energy program and on the foreign nuclear energy programs. Hence, the committee sought rereferral of the President's bill and the committee was granted jurisdiction over a limited number of provisions of the bill which was jointly referred to the Governmental Affairs and Foreign Relations Committees.

The Subcommittee on Energy Research and Development held a public hearing on June 10, 1977, to review the provisions of the entire bill to be able to assess the impact of the provisions beyond its jurisdiction upon the provisions within the Energy Committee's jurisdiction. When the Governmental Affairs Committee chose to report an amendment in the nature of a substitute for S. 897, the Energy Committee again sought referral of those portions of that bill which fell within the committee's jurisdiction.

Under this referral agreement, the Committee on Energy and Natural Resources had jurisdiction over only sections 102, 103, 104, 105, 202, 501, 502, and 503 of the bill, S. 897, as reported from the Committee on Governmental Affairs. The Subcommittee on Energy Research and Development held 2 days of hearings on this bill on September 13 and 14, 1977, in addition to the day of hearings on S. 1432. In order to understand the interrelationship of the sections of this bill before the committee with the rest of the bill, as well as with S. 1432, the committee witnesses were asked to provide comment on the entire text of S. 897 as well as to compare it to S. 1432.

The committee witnesses on September 13, included:

Mr. Robert W. Fri, Acting Administrator, Energy Research and Development Administration;

Mr. Joseph S. Nye, Deputy to the Undersecretary, Department of State; and,

Mr. Spurgeon Keeny, Deputy Director, Arms Control and Disarmament Agency.

The committee witnesses on September 14, were:

Dr. Joseph Hendrie, Chairman, Dr. Victor Gilinsky, Commissioner, Mr. Richard T. Kennedy, Commissioner, and Mr. Peter Bradford, Commissioner, Nuclear Regulatory Commission;

Dr. Gerald Tape, former Commissioner, Atomic Energy Commission and past U.S. representative to the International Atomic Energy Agency; and,

Mr. George J. Stathakis, Chairman, Committee on Nuclear Export Policy, Atomic Industrial Forum.

As part of the administration's testimony, the committee received a detailed critique of S. 897, as reported by the Committee on Governmental Affairs, pointing out numerous problems with the bill. The nongovernmental witnesses expressed grave concerns about the potential negative impact of the bill on nonproliferation objectives, foreign policy beyond the area of nonproliferation, and international trade in nuclear fuels and technology. The testimony demonstrated that the bill did not provide sufficient emphasis on insuring that the United States would license nuclear exports in a prompt and expeditious manner to countries which agreed to make revisions in existing agreements for cooperation, and to accept our nonproliferation criteria and conditions on the use of nuclear exports. The witnesses' testimony sharply criticized title III, which establishes new, more stringent export procedures and criteria, and title IV, which calls for renegotiation of all existing agreements for cooperation and for negotiation of all new agreements for cooperation in a manner to obtain stronger nonproliferation commitments. Concern was expressed with regard to the wording of numerous provisions in these titles with regard to the large number of subjective judgments, determinations, and findings to be rendered by the Federal agencies. This testimony also suggested that these administrative actions offer significant opportunity for litigation by third parties with resulting delay and uncertainty for foreign countries.

Even though the Committee on Energy and Natural Resources did not have jurisdiction over titles III and IV, several committee members were concerned that the effect of these titles, as reported by the Committee on Governmental Affairs, would be to seriously undermine the intent of those sections in title I which were intended to make the United States an insured supplier of uranium enrichment services and nuclear technology for those nations which adhere to our nonproliferation policy.

Based on suggestions made in testimony before it, the committee voted to amend section 102 by adding the following:

Further the Administrator as well as the Nuclear Regulatory Commission, the Secretary of State, and the Director of the Arms Control and Disarmament Agency are directed to establish and implement procedures which will ensure to the maximum extent feasible, consistent with this Act, predictable processing of subsequent arrangements and export licenses with minimum time delay.

The committee believes that this amendment will help to eliminate bureaucratic delay and interagency en-

tanglements which would delay administrative actions and reduce the Nation's credibility as a responsible trading partner.

In subsection 104(A) of the Governmental Affairs Committee bill, the President is directed to begin immediate negotiations to establish an international nuclear fuel authority (INFA) which would be essentially a nuclear fuel stockpile under international control so that a nuclear fuel embargo would not be a threat to those nations which adhere to an international nonproliferation policy. The subsection also emphasized spent fuel disposition as a part of INFA which may be construed by foreign nations to require the throw-away fuel cycle. To the committee, this seemed to be premature and at variance with the existing international nuclear fuel cycle evaluation (INFCE) program which is specifically authorized by section 105 of the bill, and which was entered into by other nations with an intent not to prejudice the existing technologies.

The committee proposes to amend the preamble of subsection 104(A) to, first, limit the Presidential activity to discussions about INFA; second, make these discussions consistent with the INFCE program; and, third, insure that the discussions will include IAEA participation and involvement. The President is authorized to broaden the INFA discussions to include fuel fabrication, enrichment services, reprocessing, and other nuclear fuel cycle services. The committee specifically added as item (3) in subsection 104 (A), a provision from the administration's bill, S. 1432, to insure that the regional fuel cycle center concept under international study currently in the IAEA is fully considered. The committee's specific amended language for subsection 104(A) is as follows:

Sec. 104(a). Consistent with sec. 105 of this Act, the President shall institute prompt discussions with other nations and groups of nations to develop international approaches for meeting future worldwide nuclear fuel needs. The President, in cooperation with the IAEA, is authorized to consider in these discussions with nations possessing nuclear fuel production facilities or source material and such other nations as may be deemed appropriate, the following:

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility for allocating agreed-upon quantities of fuel resources and providing other agreed-upon services to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations;

(2) a set of conditions under which international fuel assurance under INFA auspices will be provided to recipient nations, including conditions which will insure that the transferred materials cannot or will not be used for nuclear explosive devices;

(3) devising feasible and environmentally-sound approaches for the siting, development, and management under effective international auspices of facilities for the provision of nuclear fuel services and the storage of special nuclear material which is sensitive from the standpoint of preventing the proliferation of nuclear explosive devices."

Also, subsections (3) and (4) were renumbered as (4) and (5). Subsection (5) which explicitly called for inclusion of financial arrangements as part of the INFA discussions was stricken as being redundant since any discussions would by necessity include consideration of financial arrangements. The INFA discussions, in the committee's view, should be balanced and not prejudicial to existing technology unless clearly superior alternative technologies are forthcoming from the INFCE program. Committee members understand that the agreements of foreign governments to participate in the INFCE program was based on their understanding that their existing breeder reactor and reprocessing activities would not be excluded or prejudiced during the INFCE program for studying alternatives and methods technology.

The committee wanted to avoid a premature commitment of nuclear fuel in the form of enriched uranium to an international stockpile without taking cognizance of the limitations of existing enrichment capacity and commitments of the existing stockpile of enriched uranium to meet existing contractual arrangements for future delivery. Therefore, the committee agreed to a substitute amendment which strikes the language of subsection 104(b) and inserts the following:

(b) The President shall submit to the Congress no later than twelve months after the date of enactment of this Act proposals for the establishment of an initial international undertaking to guarantee the supply of nuclear fuel to nations that adhere to strict policies designed to prevent proliferation. In preparing these proposals, the President may consider making available, pursuant to an international agreement, uranium enriched to less than 20 percent in the isotope 235 up to an amount sufficient to produce 100,000 MWe years of power from light water nuclear reactors.

Under this provision, the President has 12 months to submit a proposal for guaranteeing a nuclear fuel supply through an international arrangement. He may give consideration to selling a portion of our current stockpile as part of an international fuel arrangement, but the Committee on Energy and Natural Resources will review any such proposal for its consistency with other contractual arrangements and the need for a contingency stockpile in case of emergency for our domestic needs.

The committee amended the language of subsection 104(d) with a substitute which, first, makes it consistent with the fact that subsections (A) and (B) have been limited to discussions and proposals; second, gives the President flexibility in negotiating fuel assurances by striking the word "exclusively"; and, third, provides latitude for enrichment and reprocessing facilities if they are established and operated on an internationally acceptable and agreed-upon basis, such as regional fuel cycle centers.

The committee adopted a motion to amend subsection 104(d) to read as follows:

(d) The fuel assurances contemplated by this section shall be for the benefit of nations that adhere to policies designed to prevent proliferation. In the discussions called for in this section, the President shall, in particular, seek to insure that the benefits of such arrangements are available to non-nuclear-weapons states only if such states accept IAEA safeguards on all their peaceful nuclear activities, do not manufacture or otherwise acquire any nuclear explosive device, do not establish any new enrichment or reprocessing facilities except on an internationally acceptable and agreed upon basis, and place any such existing facilities under effective international auspices and inspection.

The committee wanted to make the language of section 105 consistent with the terms of reference agreed to by the participants in the INFCE program. Hence the committee amended this provision to state explicitly the balance struck in the terms of reference of the INFCE program for looking at alternative reactors and fuel cycles and at methods of safeguarding the existing reactors and fuel cycle reprocessing including the liquid metal fast breeder reactor and its fuel cycle. The committee amended section 105 by striking the period"." after "storage" and inserting the phrase "and on methods to improve the safeguards for existing nuclear technologies." The committee expects that the INFCE program will be pursued with such a balanced approach to insure that if no alternatives prove attractive with respect to technical, economic, and environmental feasibility, that the time period of the INFCE program will not be lost without seeking methods to reduce the proliferation concerns regarding light water and breeder reactors and their fuel cycle.

Title V of the Governmental Affairs Committee version authorized $10 million for the Energy Research and Development Administration to institute a program of assistance for developing nonnuclear energy resources in lesser developed countries. This type of assistance was fully considered in the committee's review of the fiscal year 1978 DOE authorization request for $10 million for an international cooperation program of a similar nature. The bill S. 1340, which is pending on the Senate calendar as a replacement for S. 1811 which was vetoed, contains $5 million for this international cooperative program. This matter is within the jurisdiction of the Committee on Energy and Natural Resources and has already been considered and funded in other legislation. Before a broader program of technical assistance and cooperation to developing nations is instituted, it should be the subject of extensive hearings and detailed review by the committees of jurisdiction with full analysis by the administration.

The executive branch stated that they prefer deletion of this title in its entirety. Moreover, the committee believed that this title was inappropriate to a bill which is intended to offer the quid pro quo that the United States will be an insured supplier of enrichment services and nuclear technology to those countries which subscribe to our nonproliferation controls on their use of the nuclear materials and technology. If this title is included it may appear as an implicit bias that even if the United States obtains the full nonproliferation cooperation of other nations, the United States will try to steer their national decision away from the use of nuclear energy. The

committee felt compelled to offer an amendment to delete this title in its entirety.

The committee voted by a 10 to 2 margin to report favorably those sections of the bill within its jurisdiction with amendments. However, the motion to report was stated so that the Members explicitly stated that they were not approving the provisions of the bill outside the committee's jurisdiction. In fact, many Members expressed serious reservations and objections to the provisions in titles III and IV as reported by the Committee on Governmental Affairs.

Mr. PELL. Mr. President, I rise in support of S. 897, the Nuclear Nonproliferation Act of 1977, as reported by the Committee on Foreign Relations on October 3, 1977.

The Subcommittee on Arms Control, Oceans and International Environment of the Committee on Foreign Relations held three hearings on S. 897. At the first hearing, the subcommittee heard Executive branch witnesses, who included Dr. Joseph Nye, Deputy Undersecretary of State for Security Assistance, Science and Technology; the Honorable Robert Fri, then Acting Director of the Energy Research and Development Administration; and the Honorable Marcus Rowden, then Chairman of the Nuclear Regulatory Commission. At the second hearing, testimony was received from Carl Walske, president of the Atomic Industrial Forum, Inc.; Dwight J. Porter, director of the International Affairs Division of the Westinghouse Corp.; Llewellyn King, editor and publisher of the Energy Daily; and John E. Gray, president of the International Energy Association. Witnesses at the final hearing included Sterling Cole, a former Member of Congress and first Director-General of the International Atomic Energy Agency; John G. Palfrey, a Commissioner of the Atomic Energy Commission from 1962–66, and now a fellow at the Woodrow Wilson International Center for Scholars; George W. Rathjens, professor of political science at MIT; and Thomas B. Stoel, Jr., a staff attorney with the Natural Resources Defense Council.

In the course of its consideration by the Governmental Affairs Committee, a number of changes were made in the bill as introduced on March 3, 1977. The result was an amendment in the nature of a substitute to the original bill. That substitute was further considered by the Foreign Relations Committee in subcommittee and full committee markups, and a number of changes were made to meet objections by the executive branch and to incorporate suggestions of Members.

As reported by the three committees on October 3, the bill has several main purposes:

To try to prevent proliferation through international initiatives and more effective controls over commerce;

To confirm the U.S. ability to be a reliable supplier to all nations sharing our nonproliferation objectives;

To encourage all nations to ratify the Nonproliferation Treaty (there are now 103 members);

To aid other nations with energy technology, including alternatives to nuclear energy; and

To cooperate with others in protecting against contamination from nuclear activities.

Mr. President, I believe that S. 897, as reported last October 3, is a basically sound and good bill. However, many of us have had an opportunity to discuss it with various experts and to receive their judgments since reporting the bill. There will be a number of amendments offered. Some of them will improve the bill, and I intend to support those amendments which I think do strengthen the bill during the course of Senate consideration.

With these improvements, the bill should reinforce earlier efforts to control proliferation commencing with the Nonproliferation Treaty, and such initiatives as the Symington amendment to the Arms Export Control Act of 1976-77, and the Glenn amendment to the Arms Export Control Act of 1978.

Clearly, the United States will need the cooperation of other suppliers and recipients for the policies this bill promulgates to work. I believe that the bill encourages that cooperation, since it recognizes the problems and concerns of other suppliers and recipients.

Of course, the problem of nuclear proliferation will not go away with the passage of this bill. It will require the best efforts of the Congress and the executive branch over the coming years to make sure that energy needs do not fall victim to efforts to control nuclear weapons and that weapons do not spread because we do a poor job with nuclear energy.

I hope that the world has come to realize the dangers of nuclear weapons. Fortunately, we have been spared nuclear weapons as instruments of war since 1945. Yet, in the more than 30 years since World War II, the world's nuclear arsenal has grown from those initial few weapons to arsenals in the tens of thousands. Undoubtedly, we should have done better sooner in our efforts to control nuclear weapons, but I do believe that S. 897 does serve to demonstrate that we have now become serious about this problem.

Mr. HART. Mr. President, I am pleased to support S. 897, the nuclear nonproliferation bill. Let me congratulate the three Senate committees which have worked long and hard to forge a reasonable compromise on this difficult issue.

The Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works had a hearing last spring, where the authors of the Ford Foundation/MITRE study on nuclear power vividly describe the dilemma of nuclear power today:

> By far the most serious danger associated with nuclear power is that it provides additional countries a path for access to equipment, materials, and technology necessary for the manufacture of nuclear weapons. We believe the consequences of the proliferation of nuclear weapons are so serious compared to the limited economic benefits of nuclear energy that we would be prepared to recommend stopping nuclear power in the United States if we thought this would prevent further proliferation.

The Nuclear Nonproliferation Act before us today is designed to minimize this danger and to avoid the consequences of proliferation of nuclear weapons, while allowing for the orderly international development of nuclear power for peaceful purposes. Because of our historical leadership in nuclear energy development, the United States bears a large share of the responsibility for finding a solution to the proliferation problem. Therefore the legislation before us deserves the strong support of this body.

As chairman of the Senate Subcommittee with primary jurisdiction over activities of the Nuclear Regulatory Commission, I am particularly pleased that this bill fully recognizes the important role that this Agency should play in licensing of nuclear exports. It is clear that there can be no realistic separation between the criteria for nuclear exports and the criteria for licensing domestic uses of similar materials and facilities. The Energy Reorganization Act of 1974 gave the responsibility for regulation of these matters to the new created Nuclear Regulatory Commission. I am pleased that the bill before us today clarifies and strengthens the role of the Commission in this process.

It is clear to this Senator that the Nuclear Regulatory Commission can play a very important technical role in nuclear export licensing, while relying upon other departments for matters of foreign policy. As NRC Commissioner Victor Gilinsky has recently said:

> White it is true that the executive branch can and should influence whether a nuclear export goes forward, it must provide NRC, as well as the public and Congress with convincing justification. This extra element of protection is, of course, an inconvenience to the laissez-faire exporters, to say nothing of those officials who regard U.S. nuclear fuels and equipment as the modern day equivalent of glass beads and Indian blankets—prime items of international political barter.

Mr. President, I ask unanimous consent that an article by Commissioner Gilinsky which appeared in the Washington Post on January 26, 1978, be inserted into the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NRC'S VALID ROLE IN NUCLEAR EXPORTS

(By Victor Gilinsky)

In his Jan. 13 column, Stephen Rosenfeld raised the question of whether the five-man, independent Nuclear Regulatory Commission ought to be licensing exports of nuclear materials and equipment. The question came up in an interview with NRC's chairman, Joseph M. Hendrie, who apparently offered as his personal opinion that NRC, as a domestic technical agency, had no business in diplomacy or intelligence, as it lacked expertise in those areas. Rosenfeld tended to agree, on the grounds of Hendrie's "seemingly indifferent attitude toward the proliferation threat."

In fact, the NRC was never intended to supply diplomatic or intelligence expertise. But it has, I believe, an export role. Let me explain.

The question of NRC's export-licensing responsibilities has come up frequently since Congress, in the legislation creating NRC (the Energy Reorganization Act of 1974), transferred to it the export-regulatory functions of the old Atomic Energy Commission. The law requires that the NRC, in approving nuclear exports, independently determine that they are "not inimical to the common defense and security" of the United States.

It is my view, which I believe is shared by other commissioners, that this assignment of responsibilities makes sense. While it is true that the executive branch can, and should, influence whether a nuclear export goes forward, it must provide NRC, as well as the public and Congress, with convincing justification. This extra element of protection is, of course, an inconvenience to the laissez-faire exporters, to say nothing of those officials who regard U.S. nuclear fuels and equipment as the modern-day equivalent of glass beads and Indian blankets—prime items of international political barter.

The establishment of NRC coincided with a rethinking of our international nuclear policies in the wake of India's nuclear explosion. Until that time nuclear exports were handled out of public view on a more or less *pro forma* basis by low-level AEC staff, guided by a policy of U.S. encouragement of worldwide commercial nuclear power. There was no systematic examination of the assurances contained in the legal instruments of our nuclear trade nor of the effectiveness of applicable safeguards.

The NRC's increasingly active role in the necessary work of tightening the rules of U.S. nuclear commerce triggered opposition from expected quarters. Opponents of a tough nonproliferation program called for NRC's removal from export regulation on the grounds that this function was an extension of the President's conduct of foreign affairs, that its exercise by an independent commission tagged the United States as an "unreliable" supplier, that the commission in any case lacked the necessary foreign-relations expertise, and so on. But at bottom the real complaint was that things were not as free and easy as before.

And indeed they are not. One of the primary benefits of NRC's role lies in the development of a formal interagency review process for providing coordinated advice to the NRC on individual exports. This has given agencies such as the Department of Defense and the Arms Control and Disarmament Agency a voice in these matters they otherwise would not have. This, added to the knowledge that executive-branch advice will get careful scrutiny at NRC, has led to a much improved review.

In its own review, NRC does not concentrate on the foreign-relations aspects or proposed nuclear sales but rather on assurances that exports will not be used for nuclear explosives and on associated safeguards. This it seems to me, is our proper statutory province, and one in which we *are* expert. While NRC has never rejected outright an export recommended by the executive branch (although it did once unanimously reject a State Department petition to speed a fuel shipment to India), it has on a number of occasions urged tighter conditions on exports and the closing of hitherto unnoticed loopholes in the agreements covering our nuclear trade. In several important cases these views have prevailed with the Department of State and with our trading partners and have resulted in significantly higher levels of antiproliferation protection. It is not necessary to reliability of supply that the United States be a "nuclear patsy."

The proposed nuclear-export legislation now pending before the Senate (having passed in the House by a vote of 411 to 0) would confirm and extend the commission's role in nuclear-export regulation. The bill, incidentally, allows for a presidential override on an NRC license denial; this balances the proposed limitation on the President's current authority to bypass NRC with government-to-government exports through the Department of Energy. Significantly, one of the amendments to be offered in the Senate by those opposed to the bill's passage calls for NRC's removal from nuclear-export licensing.

In giving export licensing authority to an independent regulatory commission in 1974, Congress was saying in effect that it wanted this country's nuclear trade to be handled consistently and to be subject to explicit protective standards rather than to the political exigencies of the moment. This still makes good sense.

Mr. MATHIAS. Mr. President, we are entrusted today with a large responsibility. The legislation before us—S. 897 the Nuclear Non-Proliferation Act of 1977—grapples with issues of vast importance not only to ourselves but to the world.

We live in a world plagued by serious energy shortages. We contribute to these worldwide shortages by our wasteful ways. We are currently importing almost 50 percent of our petroleum needs. Many other countries have far greater fuel import requirements than we do. Nuclear power is seen as one very practical answer to the problems of energy shortages.

The United States must be a reliable contributor to the world's nuclear power needs. We must be consistent in our policies. We must recognize the requirements of an interdependent world.

At the same time we must face the responsibilities that leadership in the nuclear field imposes upon us. The dangers of unrestrained nuclear proliferation are immense. The nuclear waste problem is an issue which is of particular concern to me. We must do our very best to deal with these important issues.

The legislation before us today is an earnest effort to confront many of these issues. It is not perfect. I am hopeful that the amendment process will strengthen this bill. But it is a good attempt to meet the issues head on.

In this connection I commend to my colleagues the excellent speech Gerard Smith, our Ambassador at Large for nonproliferation matters, gave recently at a meeting of the Trilateral Commission in Bonn. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS ON NONPROLIFERATION

(By Gerard C. Smith)

I

It was apparent in 1945 that atomic energy faced the world with an unprecedented dilemma: how to harness it for worldwide peaceful purposes without spreading the deadliest instrument of war conceivable.

Since then the world has made slow progress in dealing with this question. The Baruch plan, representing the first and very comprehensive approach, failed. But more modest and practical steps have followed in the field of non-proliferation and arms control which after some squirming we have come to realize are tightly linked. The IAEA was established in 1956, the NPT signed in 1968, and a variety of arms control agreements were negotiated in the 1960's and early 1970's, including limits on nuclear tests and on strategic delivery systems.

Two recent events highlighted the dangerous dilemma presented over thirty years ago.

The oil crisis of 1973 reminded us that nuclear power must play an increasing role in meeting energy needs. The crisis may be past, but the prospect of diminished oil supplies remains.

In 1974, India exploded a nuclear device, demonstrating that nuclear explosive proliferation is a real, not a theoretical, peril. The recent South African episode suggests that proliferation remains a clear and present danger.

No two issues are of more common concern to the trilateral countries or more naturally suited to trilateral cooperation than energy and proliferation.

The further spread of nuclear explosives poses the same threat to all of us. Each additional weapon state diminishes the security of our three areas and jeopardizes regional stability. The trilateral community has worked on vital security issues not merely by establishing various formal alliance ties, but also by cultivating a shared sense of common interests. We should thus be able to work together to prevent further nuclear spread. We must if this effort is to succeed.

II

But I am bound to say that suspicions and policy differences among us persist. Some Americans think that other countries may be more interested in economic advantage from exports than in containing the security dangers associated with nuclear energy. Some of our friends abroad think that resource-rich Americans are callous about foreign energy needs and seek to dictate solutions to the quite different problems facing some other countries.

Non-proliferation and other nuclear issues cannot be settled by any one nation or even by any one regional group. Failure to contain the spread of nuclear weapons capabilities will at the very least damage the ability of all our countries to reap the larger and longer-term benefits of nuclear power. It is not extravagant to suggest that, unless present trends are changed, countries may conclude that nuclear energy material and facilities are becoming just too dangerous for international commerce. Fortunately, we believe that effective measures can still be taken to curb proliferation and need not slow down the efficient use of nuclear material and equipment to generate energy.

The IAEA and the NPT in combination represent a good start on an international regime made up of political commitments against nuclear weapons and international controls to deter their spread. But the U.S. believes that this regime must be strengthened and expanded as new types of nuclear technology come into use.

The London Suppliers Group working on export controls has demonstrated that countries *can* respond effectively to the challenge of applying nuclear power in safe ways. Strengthened and standardized guidelines have been established to help remove controls as a factor in nuclear commercial competition.

Proliferation has recently been raised to the highest political level. It is now dealt with by Presidents, Prime Ministers, and Foreign Ministers as a priority part of our basic relationships and our common security concerns. Several countries beside the U.S.

now have special diplomatic representatives for non-proliferation matters.

III

One issue especially continues to create obstacles to trilateral nuclear cooperation: There are sharply differing views on the prospective use of plutonium as a commercial fuel. Should it be recycled in present generation reactors? When will it be economic and safe to use in the breeder reactors of the future?

The U.S. has somewhat belatedly realized that, even if international safeguards work perfectly, in a "plutonium economy" where bomb-grade material in large quantities will be produced it will be vulnerable to national diversion or terrorist seizure, with virtually no advance notice to permit effective diplomatic or other countermeasures.

We have come to believe that, at least in the U.S., nuclear energy can safely and efficiently meet needs for some time to come by the use of material, not of bomb-grade, in facilities using natural or only slightly enriched uranium (LWR's). This gives us time to work for solutions to the plutonium problems that will face us in the future. Nations not so well endowed with uranium feel they cannot pause as we have in the march toward a plutonium economy.

We have decided on a temporary deferral of commercial reprocessing in the U.S. I would emphasize the words temporary and deferral. This is a policy of stop, look, and listen. It is not based on any dogmatic faith, but rather on a cautious agnostic uncertainty about the future.

We are not alone in taking a deadly serious view of proliferation. Other countries are equally concerned and have developed comprehensive policies reflecting that concern. And segments of the public in a number of our countries are increasingly apprehensive about the problems and dangers presented by nuclear power. While we may feel that concern to be emotionally based, it is not entirely irrational.

It is as important to know what U.S. policy is not as to know what it is. It is not anti-nuclear power. That form of energy remains an important element in our planning. Nor is it anti-breeder. This year the U.S. plans to spend nearly one-half billion dollars on research into various forms of breeder technology. Nor are we opposed to reprocessing for all time. We believe that at present, commercial scale reprocessing is not economically warranted. We also worry about how such plants will be adequately safeguarded. Before we, and we hope other nations, decide irreversibly to enter a "plutonium economy," we want to carefully examine what other options are available and what the costs and risks will be.

IV

As a result of decisions taken at the London, May 1977 Summit of seven of the trilateral countries, these countries together with a number of developing nations and international institutions (44 in all) have just launched an International Nuclear Fuel Cycle Evaluation (INFCE).

This study will not only investigate new types of "proliferation-resistant technologies," but will also consider new institutional arrangements that can help the world to rely increasingly but safely on nuclear energy in the future.

We approach INFCE with an open mind, but with the hope that our pause will "give pause" to other nations before they commit themselves to a plutonium economy.

The Federal Republic of Germany, France, Britain and Japan are among the major countries participating in INFCE (in spite of obvious differences in policy from ours). The first two of these states have agreed to suspend, at least for a while, further exports of facilities for reprocessing and enrichment.

V

In the course of our recent negotiations with Japan, developing a satisfactory solution to the thorny reprocessing Tokai issue, consistent with seemingly divergent Japanese and U.S. interests, demonstrated that we can move forward cooperatively. The agreement to employ a limited amount of U.S. origin fuel in the Tokai facility for conventional reprocessing coincident with the two-year period of INFCE will permit testing of advanced safeguards and of a co-processing technique designed to avoid the production of plutonium. In the Tokai communique, Japan and the U.S. expressed the shared view that plutonium poses a serious proliferation danger and their common intent to defer decisions to recycle plutonium in light water reactors during INFCE. Japan also agreed to defer other plans looking toward plutonium production. I like to believe that my experience on this Commission gave me a better understanding of Japanese concerns and perhaps helped in the working out of this very difficult issue.

VI

The United States in good measure is to blame for uncertainties which now surround the fuel supply aspect of the nuclear cycle. But we are trying to regain our former place as a reliable supplier.

We are going to enter into new bilateral undertakings and try to develop new international machinery to give greater assurance of fuel supplies. The President has authorized consultations with other countries and organizations as to the desirability and feasibility of an international fuel bank to be available for countries which accept mutually agreed nonproliferation constraints. If such a bank can be established on acceptable terms, the President will be prepared to allocate a significant amount of enriched fuel to it.

We also will be prepared to accept for storage limited amounts of foreign spent fuel to relieve pressure in other countries to reprocess.

Pending U.S. legislation supports such uranium fuel policies. The Congress recognizes the link between assured "front-end" fuel supplies and the need to deal with the difficult "back-end" (reprocessing and storage) problems we all face.

VII

There is no question that the third world, in addition to some of our friends in the developed countries, is troubled by some aspects of our non-proliferation policy. These nations are concerned by "double discrimination." Under the NPT they have accepted a different status from the weapons states. Now they see recent non-proliferation efforts as aimed at depriving them of the full range of fuel cycle technology which they had believed was guaranteed to them under this very same NPT Treaty. This perception is sharpened by other North-South tensions and widespread concern in the third world about having to remain in a dependent status in regard to nuclear technology.

We want to continue to help these states in the energy field. We also plan to increase cooperation in non-nuclear energy technology. As nuclear power becomes economical on a scale suitable for the lesser demands of many LDC's, we are prepared to provide low-enriched uranium and reactors under appropriate safeguards. But we do not believe that proliferation of national enrichment and reprocessing plants, for example, make economic or security sense at this time.

In the future, we hope to see a reduction in North-South tensions on the proliferation issue and to work out acceptable solutions. INFCE should contribute to that process through its broad membership and its effort to develop international consensus about fuel cycle problems. Institutional arrangements such as international and regional fuel services and fuel cycle centers also may prove to be a fruitful approach.

Trilateral cooperation is essential to make non-proliferation policy workable and we should continue to work with the Soviet Union and interested East European countries as well as the developing countries.

VIII

In conclusion, I think it is time for us to raise our sights from the immediate pressing proliferation problems that preoccupy our energies. We must begin to spell out specifics of a new international framework for nuclear energy and non-proliferation suited to the circumstances of the future, and serving our national and collective interests.

We are, perhaps, inching towards a new comprehensive program for the international control of atomic energy. We most likely will never get back to the radical scope of the Baruch proposal, but the insights and ideals underlying that early and original concept could profitably guide our more limited approaches today.

Mr. HANSEN. Mr. President, in commencing consideration of the Nuclear Nonproliferation Act, S. 897, I would like to stress the importance of enacting a workable bill.

Significant concerns have been raised as to a possible misinterpretation of subsection II(B) which requires the United States to cooperate with other nations in protecting the international environment from radioactive, chemical, or other thermal contamination arising from nuclear activities.

This statement could lead to an administrative or judicial requirement for the preparation of environmental impact statements for individual nuclear export applications. It seems to me that putting environmental impact statements as a prerequisite to the export of materials and manufactured machinery in this country raises issues that I feel are of serious foreign policy concern that question the sovereignty of foreign countries.

These same issues have been raised by proposed guidelines now under consideration within the administration which have been prepared by the Council on Environmental Quality. Special trade representative, Robert Strauss, testified before the Finance Committee yesterday that he has "some very serious concerns" regarding these draft guidelines. He further stated that he has "very strong reservations about anything being done that would in any way impede our ability to do business outside the United States with products that are manufactured in this country."

I understand that these guidelines would require Federal agencies to document and consider foreign impacts, both for direct U.S. Government activities abroad and licensing of commercial exports and activities abroad. This would place an immediate de facto moratorium on nuclear exports and related Ex-Im Bank financing, as well as many other activities.

I will not expound on the many other difficulties incorporated in this legislation that should be remedied, the details

of which will be considered at the time individual provisions and amendments are offered to deal with the specific problems.

I urge my colleagues to give long and careful thought to perfecting a workable nonproliferation policy, a policy that recognizes the realities of the nuclear capabilities as well as the ideological aspirations of some in this country.

The zeal to halt nuclear proliferation, if carried too far, could also halt a vigorous domestic manufacturing and export business of peaceful nuclear electric generating plant components and the fuel to operate them.

That certainly is not an objective of this legislation and any possibility of adverse effects on U.S. exports should be deleted from this bill.

SENATE RESOLUTION 268—PROVIDING FOR RADIO COVERAGE OF SENATE PROCEEDINGS DURING CONSIDERATION OF THE PANAMA CANAL TREATIES

Mr. ROBERT C. BYRD. Mr. President, for the Senator from Rhode Island (Mr. PELL), on behalf of the Committee on Rules and Administration, I send to the desk a resolution, together with the committee report thereon, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. HART). The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 268) providing for radio and television coverage of proceedings of the Senate during consideration of the Panama Canal Treaties.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Rules and Administration with amendments.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk read the amendments. They are very brief.

The legislative clerk read as follows:

On page 1, line 3, strike "and television coverage (including and making of videotapes)" and insert "coverage (including radio broadcast recordings)";

On page 2, beginning with line 1, strike through and including line 6, and insert in lieu thereof the following:

SEC. 2. Under such terms and conditions as the Committee on Rules and Administration may prescribe—

(1) radio coverage of proceedings in the Senate chamber provided for in the first section shall be made available to public and commercial radio broadcasting stations and networks; and

(2) recordings shall be made available to such stations and networks, to Members of the Senate, and to such other organizations and persons as the Committee may authorize.

On page 2, line 7, strike "and television coverage" and insert "coverage and recordings";

The amendments were agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That the Committee on Rules and Administration be and is hereby authorized and directed to provide for radio coverage (including radio broadcast recordings) of proceedings in the Senate Chamber during consideration of the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, both signed at Washington, District of Columbia, on September 7, 1977. Such coverage shall be provided for continuously at all times while the Senate is considering the treaties, except for any time when a meeting with closed doors is ordered.

SEC. 2. Under such terms and conditions as the Committee on Rules and Administration may prescribe—

(1) radio coverage of proceedings in the Senate Chamber provided for in the first section shall be made available to public and commercial radio broadcasting stations and networks; and

(2) recordings shall be made available to such stations and networks, to Members of the Senate, and to such other organizations and persons as the Committee may authorize.

SEC. 3. The radio coverage and recordings of proceedings in the Senate Chamber under this resolution shall be carried out in such manner as the Committee on Rules and Administration shall prescribe.

Amend the title so as to read: "Resolution providing for radio coverage of proceedings of the Senate during consideration of the Panama Canal Treaties.".

The title was amended so as to read:

Resolution providing for radio coverage of proceedings of the Senate during consideration of the Panama Canal Treaties.

Mr. ROBERT C. BYRD. Mr. President, does the amendment to the title strike out the words with reference to television?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

I move to reconsider the vote by which the resolution was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PANAMA DRUG TRAFFIC: NEW EVIDENCE, OLD EXCUSES

Mr. DOLE. Mr. President, nearly 4 months ago I advised the Senate of certain allegations I had received of direct involvement by Gen. Omar Torrijos and other members of his regime in drug trafficking in the United States and elsewhere. On October 13, I suggested that these charges, if true, could prove relevant to the Panama Canal Treaty issue. I feel now, as I did then, that the credibility and the personal integrity of General Torrijos and his colleagues will bear upon their reliability as Panama's guarantors of the new treaties.

Furthermore, since ratification of these proposed Panama Canal Treaties will definitely strengthen the political and financial status of the Torrijos regime, I maintain that it is important for us to know in advance if we will be bolstering a corrupt government which facilitates transport of illegal drugs to our own shores.

EFFORTS TO SECURE INFORMATION

Mr. President, I think that any Member of Congress who became aware of such allegations would feel a responsibility to call for full disclosure of relevant materials. This is what I have attempted to do during the last 15 weeks, only to find those efforts frustrated by bureaucratic roadblocks. Two full months after filing a "freedom of information request" on October 14, I received 75 pages of highly censored material from the U.S. Drug Enforcement Administration. I was advised that additional DEA files, as well as the deleted portions of the files I received, could not be provided because it could "jeopardize" national security or U.S. foreign policy interests. In late December, I filed an appeal with the Department of Justice, which is currently reviewing the case.

NEW MATERIALS SURFACE

Despite the cloak of secrecy that the executive branch has wrapped around its files on the alleged Torrijos drug connection, the matter will not simply go away. To the contrary, materials relating to the allegations have continued to surface in recent months through unofficial channels.

The latest development that I am aware of occurred on Tuesday of this week, when two copies of Drug Enforcement Administration files were delivered to my office in a plain white envelope by an unknown source. The documents appear to be authentic photostatic copies of DEA and Bureau of Narcotics and Dangerous Drugs files. Both contain agent reports which refer by name to Gen. Omar Torrijos or members of his immediate family, and implicate them in narcotics traffic going through Panama.

Mr. President, these documents raise more questions than they answer. Perhaps the reports contained within the documents are unfounded. Perhaps the documents themselves are forgeries. But when I sent similar documents to the DEA administrator on October 21 asking for confirmation of authenticity, no response was received. This is typical of the lack of cooperation that the executive branch has demonstrated so far in my efforts simply to determine whether there is any substance to these allegations.

Mr. President, I will not release the two documents which I received yesterday. I believe it is a responsibility of the U.S. Drug Enforcement Administration to make a full disclosure of its files in this regard, and I intend to pursue the matter until they do so. At the moment, I am of the opinion that "someone is trying to tell us something" about drug-trafficking information that is in the possession of the executive branch of our government. As a Member of Congress who is concerned both about the drug traffic coming into this country and about the pending Panama Canal treaties, I feel a responsibility to pursue the matter to its end.

I can say with certainty that the particular items which were delivered to my office on Tuesday by an unknown source

were not contained within the 75 pages of sanitized documents which I received from DEA in December, in response to my "freedom of information request." If these documents are authentic, then they were willingly and knowingly withheld from me by the DEA. It is for that reason that I raise the question: Just what else does the executive branch know about the Torrijos drug-trafficking operations, and why is it being withheld from Members of Congress who seek to learn the truth of the matter?

Mr. President, when the Senator from Kansas visited Panama in December of last year he had an opportunity to visit with Gen. Omar Torrijos. General Torrijos seemed very disturbed that anything concerning drug traffic might become involved in the canal treaty debates, and I agreed with General Torrijos. I said the matter should be disposed of. It should not be an issue in the Panama Canal Treaty debate. General Torrijos indicated to this Senator that someone was playing games. He said, "Some agency, your own agency is playing games with you. I will send you the information."

Well, so far General Torrijos has not forwarded the material, but I have written General Torrijos. I have asked for the information. The Senator from Kansas believes we should debate the treaties on the merits. We should not have side issues.

But the Senator from Kansas also believes this may not be a side issue. And how do we know if our own agencies, our own Government will not give us the information? Why does the DEA withhold information? Why does the DEA withhold information from this Senator and others who have made the requests?

What is this national security interest that must be protected? What about the rights of Americans? What about the future of the canal itself?

So far the Senator from Kansas said today as I said on this floor many weeks ago all the Senator from Kansas asks is cooperation, some spirit, some effort, some indication, just some indication that Mr. Bensinger and the Drug Enforcement Administration are willing to give us some assurance that there is not any involvement. The Senator from Kansas can only speak for himself, but if that is forthcoming this Senator will not raise that in the canal treaty debate, and I would hope that they are listening.

Mr. President, I yield the floor.

THE PRESIDENT MISLEADS THE PEOPLE ON THE PANAMA CANAL

Mr. HELMS. Mr. President, the President of the United States last night talked to the people of the United States by television and radio about the Panama Canal. He said that much of the opposition to the proposed treaties was based upon misunderstanding and misinformation. His statement is quite understandable when one contemplates the misunderstanding and misinformation disseminated by the President himself last night.

I admire the President personally, but, candidly, his statements of alleged fact were far from the truth. This Senator naturally expected that the President would strive to present his treaties in the best possible light, and that he would present favorable interpretations and conclusions. But I expected that Mr. Carter would base his statements on fact and not fiction. One is forced to the conclusion either that he was misleading the American people unintentionally, or he was misleading them intentionally. There is no alternative to those two possibilities.

Let us take just one minor statement—a minor issue really, but important in building up the myth of U.S. "guilt." Mr. Carter said that the 1903 treaty "was not signed by any Panamanian." The President was obviously referring to Philippe Bunau-Varilla, who negotiated the treaty with Secretary Hay of the United States. It is true that Bunau-Varilla was a Frenchman; but one of the first acts of the new Panamanian Government in 1903 was to issue full credentials to Bunau-Varilla as Panamanian Ambassador Extraordinary and Plenipotentiary. He had full powers to sign the draft, which he did. But the formal signing did not take place until December 4, 1903.

On that date, the following Panamanians placed their signatures on the treaty:

Junta members: J. A. Arango, Tomas Arias, Manuel Espinosa B.

Minister of Interior: Eusebio A. Morales.

Minister of Foreign Relations: F. V. de la Espriella.

Minister of Justice: Carlos A. Mendoza.

Minister of Treasury: Manuel E. Amador.

Minister of War and Marine: Nicanor A. de Obarrio.

Subsecretary of Public Instruction: Francisco Antonio Facio.

Needless to say, the 1903 treaty was reaffirmed in each of the treaties of 1936 and 1955, which were also signed by Panamanians, and ratified freely by the Panamanian constitutional process.

Nor must it be thought that the treaty was unfair to Panamanians or that the Senate would consent to it without persuasion. If the future was indeed in doubt, which is why Secretary Hay was attempting to pursuade Senators that it was "vastly advantageous to the United States and—not so advantageous to Panama." Secretary Hay, like President Carter after him, was merely, tailoring his words to a reluctant Senate.

But even on more substantive issues, the President shaded the truth. On the issue of national security, for example, Mr. Carter was less than forthright when he said:

> Throughout the negotiations, we were determined that our national security interests would be protected . . . and that our military forces would have the permanent right to defend the canal if it should ever be in danger.

It is to be assumed that he would try to interpret the ambiguous defense provisions favorably; but the fact is that the negotiations backed down from the unilateral right of military intervention, the only right that would give the canal adequate protection.

In hearings before the Senate Armed Services Committee on Tuesday of this week, former Deputy Defense Secretary William Clements testified that he had negotiated a clear-cut clause granting unilateral intervention to the United States, one that was approved by the Defense Department, the State Department, and the National Security Council.

Mr. President, in response to a question which I put to him, he stated unequivocally that General Torrijos himself had approved that clause.

The language of the clause is as follows, and I think it is important that it be in the RECORD:

> In the event of any threat to the neutrality or security of the Canal, the parties shall consult concerning joint and individual efforts to secure respect for the Canal's neutrality and security through diplomacy, conciliation, mediation, arbitration, and the International Court of Justice or other peaceful means. If such efforts would be inadequate or have proved to be inadequate, each party shall take such other diplomatic, economic or military measures as it deems necessary in accordance with its constitutional processes.

That is why Mr. Clements testified that he is now unalterably opposed to the Carter treaties. The most crucial issue in the whole treaty had been agreed upon by all parties concerned; yet the Carter administration backed down and accepted vague and ambiguous language.

Although the President stated last night that "the treaties are supported enthusiastically by every member of the Joint Chiefs of Staff," he neglected to mention that they are enthusiastically opposed by former members of the Joint Chiefs, and by the overwhelming majority of retired military officers. It was not long ago that I placed in the RECORD the names of 320 high-ranking retired officers who were willing to go public in opposition to these treaties.

Moreover, the "enthusiasm" which the President detected in the JCS support was noticeably absent among the JCS representatives who testified before the Senate Armed Services hearings last week. Adm. James Holloway, Chief of Naval Operations, for example, testified that it was his military judgment that it would be better for the United States to stay in Panama indefinitely with a military presence, rather than to try to go back in if there were trouble. He testified that he supported the treaties only on balance, for the sake of diplomatic considerations.

It is interesting to note, Mr. President, that not one scintilla of this information was conveyed, insofar as this Senator knows, to the American people by the major media of this country. Why the blackout on what the Joint Chiefs actually said?

Similarly, the President's statement that "the treaties also have overwhelming support throughout Latin America" simply is not and can not be supported either by the experience of members of the Armed Services Committee who have traveled rather widely in Latin America, or by the objective situation.

I have visited the heads of state and

high ranking military officials of countries which represent at least 75 percent of the population, gross national product, and geography of Latin America, and I have yet to meet one urging us to give up the canal to Panama. The distinguished Senator from Virginia (Mr. SCOTT) reported a similar response. And high-ranking defense experts, such as Lt. Gen. Gordon Sumner, Chairman of the Inter-American Defense Board, testified just the other day that he has yet to find a single member of the Board, other than Panama and the United States, who favors the treaties. The economic arguments alone are enough to sway their decisions, for the canal, proportionately, is far more important to the health of their economies than to ours.

Perhaps that is why the two biggest Latin American nations, Brazil and Mexico, did not send their Presidents to the signing ceremony, Guatamala has broken diplomatic relations with Panama, because Torrijos has promised aid to the terrorists in Belize. And in 1975, Panama had to call off a scheduled meeting in Panama City of all Latin Presidents because so many of the leaders refused to come and dignify Torrijos' association with Fidel Castro.

So where is all the love and affection for Torrijos? Where is all the pressure for the United States to surrender our sovereign rights in the Canal Zone?

But perhaps the most interesting falsehood—and I regret to use that word—that Mr. Carter perpetrated last night was his denial that we own the Canal Zone. He said:

> We do not own the Panama Canal Zone—we have never had sovereignty over it. We have only had the right to use it.
>
> The Canal Zone cannot be compared with United States territory. We bought Alaska from the Russians and no one has ever doubted that we own it . . . The Canal Zone has always been Panamanian territory. The U.S. Supreme Court and previous American Presidents have repeatedly acknowledged the sovereignty of Panama over the Canal Zone.

The fact is that no previous President of the United States has ever acknowledged Panamanian sovereignty. It is my intention to develop these facts at greater length on this floor at a more appropriate time; but suffice it to say the U.S. Supreme Court has declared many times that the Canal Zone is a U.S. possession and U.S. territory. In fact, it was the U.S. Supreme Court that actually compared our title to the zone to our title to Alaska, in Wilson against Shaw, 1907:

> It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation, because of the omission of some of the technical terms used in the ordinary conveyances of real estate . . . The fact that there may possibly be in the future some dispute as to the exact boundary on either side is immaterial. Such disputes not infrequently attend conveyances of real estate or cessions of territory. Alaska was ceded to us 40 years ago, but the boundary between it and the English possessions was not settled until within the last 2 or 3 years. Yet no one ever doubted the title of this Republic to Alaska.

It is incredible that President Carter should choose Alaska as the basis of a comparison coming to the opposite conclusion.

In fact, we do own the Canal Zone. I have referred on this floor on other occasions to the statements of Mr. J. V. Luitweiller, of my State, who was the Secretary of the Claims Commission which settled all the property transfers when we took over the zone.

Moreover, Miss Doris McClellan, clerk of the U.S. District Court in Balboa, and daughter of the late distinguished Senator from Arkansas, whom we all revered, has assured me personally that microfilms of the deeds, both warranty and quit-claim are on file at the district court, and that the deeds themselves are in storage in Suitland, Md.

We are giving away U.S. property—property that belongs to the U.S. taxpayers. It is an act of enormous constitutional significance, because of article IV, section 3 of the Constitution. Is it possible that the President is attempting to evade the consequences of article IV by denying that the Canal Zone is, indeed, U.S. property? I hope that he is not.

Yet at the same time, he is denying that we are paying Panama to take the canal. He says that under the new treaties payments to Panama will come from tolls paid by ships which use the canal. The fact is that under the Constitution, those tolls are paid into the U.S. Treasury and belong to the taxpayers. In addition, as the Armed Services Committee hearings have brought out so dramatically in the past few days, there will be enormous deficits which will have to be made up by the taxpayers of the United States, either directly or in the form of interest foregone.

Mr. President, I am prepared to debate the treaties on the basis of fact. Men of good will can agree or disagree on implications of the treaties, or on the probable outcome of a given situation. But give us facts, Mr. President, facts that we can all agree on. If the debate on these treaties is to be meaningful, it must remain on a high level, and it must be solidly grounded in fact. I hope that the President of the United States hereafter will be more discerning in presenting the facts of the case.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

MESSAGE FROM THE HOUSE

At 4:15 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 7442) to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments, with amendments, in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–2671. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to repeal the statutes relating to the publishing of cotton price predictions in Government reports and the issuance of cotton crop reports (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2672. A communication from the Secretary of Defense, transmitting, pursuant to law, a secret report on "Rationalization/Standardization Within NATO" (with an accompanying secret report); to the Committee on Armed Services.

EC–2673. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the second Annual Report of the Board of Governors of the Federal Reserve System (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–2674. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Highway Safety Act of 1966 to authorize appropriations, and for other purposes (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC–2675. A communication from the Chairman, Consumer Product Safety Commission, reporting, pursuant to law, authorization levels for the Consumer Product Safety Commission for the fiscal years 1979, 1980, and 1981; to the Committee on Commerce, Science, and Transportation.

EC–2676. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relating to the Emergency Rail Services Act of 1970 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2677. A communication from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC–2678. A communication from the Acting Assistant Secretary, Department of the Interior, transmitting a draft of proposed legislation to amend the Surface Mining Control and Reclamation Act of 1977 (P.L. 95–87) to raise certain authorized funding levels contained therein, and for other purposes (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2679. A communication from the Assistant Secretary, Department of the Interior, reporting, pursuant to law, on activities carried on by the Geological Survey during the reporting period January 1 through December 31, 1977; to the Committee on Energy and Natural Resources.

EC–2680. A communication from the Chair-

man, Water Resources Council, transmitting a draft of proposed legislation to amend the Water Resources Planning Act of 1965 (P.L. 89–80), as amended, to provide authorization of appropriations necessary to continue the Water Resources Council (WRC) and its programs through fiscal year 1979 (with accompanying papers); to the Committee on Environment and Public Works.

EC–2681. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Washington, D.C., James Forrestal Building, in the amount of $8,243,000 (with accompanying papers); to the Committee on Environment and Public Works.

EC–2682. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the exercise of one five-year renewal option for space presently occupied at 1405 Eye Street, N.W., Washington, D.C. (with accompanying papers); to the Committee on Environment and Public Works.

EC–2683. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes a succeeding lease for space presently occupied at 211 Main Street, San Francisco, California (with accompanying papers); to the Committee on Environment and Public Works.

EC–2684. A communication from the Secretary of Commerce, transmitting, for the information of the Senate, a Status Report on the Local Public Works (LPW) Program as administered by the Economic Development Administration, January 1978 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2685. A communication from the President of the United States, transmitting, pursuant to law, a report setting forth a determination that relief for the U.S. High Carbon Ferrochromium Industry is not in the national economic interest, and explaining the reasons for the decision (with an accompanying report); to the Committee on Finance.

EC–2686. A communication from the Special Representative for Trade Negotiations, relating to actions to be taken by the President in response to certain trade practices of foreign governments (with accompanying papers); to the Committee on Finance.

EC–2687. A communication from the Staff Secretary, National Security Council, relating to a delay in the development of its Arms Control Impact Statements (AIS) for fiscal year 1979; to the Committee on Foreign Relations.

EC–2688. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled "Foreign Credits by the United States Government: Status of Active Foreign Credits of the United States Government, September 30, 1977," September 30, 1977 (with an accompanying report); to the Committee on Foreign Relations.

EC–2689. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a proposed amendment to existing legislation that authorizes additional appropriations during fiscal year 1978 for the Department of State to carry out authorities, functions, duties and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations and other purposes authorized by law (with accompanying papers); to the Committee on Foreign Relations.

EC–2690. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to authorize appropriations for the Department of State for fiscal years 1979, 1980, and for other purposes (with accompanying papers); to the Committee on Foreign Relations.

EC–2691. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States sixty days after the execution thereof (with accompanying papers); to the Committee on Foreign Relations.

EC–2692. A communication from the Chairman, Commission on Federal Paperwork, transmitting, pursuant to law, a report with recommendations concerning administrative reform in welfare, June 10, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2693. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Computed Tomography Scanners: Opportunity for Coordinated Federal Planning Before Substantial Acquisitions," January 30, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2694. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "U.S. Participation in International Agricultural Research," January 27, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2695. A communication from the Chairman, Commission on Federal Paperwork, transmitting, pursuant to law, a report with recommendations concerning information resource management, September 9, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2696. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on December 6, 1977, which would establish a hazardous waste management program for the District of Columbia (Act 2–133) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2697. A communication from the Director, Office of Administrative Services and Procurement, Office of the Assistant Secretary for Administration, Department of Commerce, transmitting, pursuant to law a report on disposal of foreign excess property for the fiscal year 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2698. A communication from the Chairman, Commission on Federal Paperwork, transmitting, pursuant to law, a report with recommendations concerning the records management program in the executive agencies, July 29, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2699. A communication from the Vice President and General Manager, C. & P. Telephone Company, transmitting, pursuant to law, a statement of receipts and expenditures of the Chesapeake and Potomac Telephone Company for the year 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2700. A communication from the comptroller General of the United States, transmitting pursuant to law, a report entitled "Need for Improvements in the Federal Supply Service's Priority Requisitioning System," January 25, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2701. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "A Critique of the Performance of the Defense System Acquisition Review Council; Billions in Public Funds Involved," January 30, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2702. A communication from the Director, Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, a report with respect to positions in the FBI in grades GS–16, 17, and 18, as of December 31, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2703. A communication from the Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), pursuant to law, a report on civilian positions in the Department of Defense allocated or placed in grades GS–16, 17, and 18 during calendar year 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2704. A communication from the Chairman, Civil Service Commission, transmitting, pursuant to law, a report with respect to positions in grades GS–16, 17, and 18 during calendar year 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2705. A communication from the Director, National Science Foundation, transmitting a draft of proposed legislation for authorizations for the National Science Foundation for fiscal years 1979 and 1980 (with accompanying papers); to the Committee on Human Resources.

EC–2706. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulation amending the Family Contribution Schedules for use during the 1978–79 academic year, under the Basic Educational Opportunity Grant Program (20 U.S.C. 1070a, Subpart I of Part A of Title IV of the Higher Education Act of 1965, as amended, P.L. 92–318, amended by P.L. 94–482, Education Amendments of 1976 (with accompanying papers); to the Committee on Human Resources.

EC–2707. A communication from the Staff Secretary, National Security Council, reporting, pursuant to law, relating to the Freedom of Information Act; to the Committee on the Judiciary.

EC–2708. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports covering the period January 3 through January 13, 1978, concerning visa petitions which have been approved according the beneficiaries of such petitions third- and sixth-preference classification (with accompanying reports); to the Committee on the Judiciary.

EC–2709. A communication from the Vice Chairman, Federal Election Commission, transmitting, pursuant to law, a copy of correspondence which it has sent to the Office of Management and Budget (with accompanying papers); to the Committee on Rules and Administration.

EC–2710. A communication from the Administrator, Veterans' Administration, transmitting, pursuant to law, a study of the dependency and indemnity compensation program, October 1977 (with an accompanying document); to the Committee on Veterans' Affairs.

EC–2711. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report on findings and recommendations of a comprehensive investigation, analysis and evaluation of existing and alternative nonservice-connected pension programs, October 1977 (with an accompanying report); to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. PELL), from the Committee on Rules and Administration, with amendments and an amendment to the title:

S. Res. 268. A resolution providing for radio and television coverage of proceedings of the Senate during consideration of the Panama Canal Treaties (Rept. No. 95-630). Considered and agreed to.

BILL REFERRED

The bill (S. 2420) to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development by establishing the International Development Cooperation Administration, and for other purposes, introduced by Mr. SPARKMAN (for himself, Mr. CASE, Mr. BAKER, Mr. ANDERSON, Mr. BAYH, Mr. BROOKE, Mr. BUMPERS, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. EAGLETON, Mr. GLENN, Mr. JAVITS, Mr. MATSUNAGA, Mr. MCGOVERN, Mr. MOYNIHAN, Mr. SARBANES, Mr. WILLIAMS, Mr. STONE, Mr. KENNEDY, and Mr. RIBICOFF), on January 25, 1978, and ordered held at the desk until February 2, 1978, was referred to the Committee on Foreign Relations and the Committee on Governmental Affairs, jointly, by unanimous consent, and that when one of the committees orders the bill reported, the other committee be granted 30 days within which to report the bill or be discharged from further consideration thereof.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHURCH (for himself and Mr. LAXALT):

S. 2475. A bill to improve the range conditions of the public grazing lands; to the Committee on Energy and Natural Resources.

By Mr. HUDDLESTON:

S. 2476. A bill to provide emergency assistance to farmers by increasing the target prices for the 1978 crops of wheat and feed grains and requiring a 20-percent set-aside of such commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRANSTON:

S. 2477. A bill for the relief of John L. Shane and Beatrice Rosenus Oakland; to the Committee on the Judiciary.

By Mr. LONG:

S. 2478. A bill to amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE:

S. 2479. A bill to amend section 422(c) of the Higher Education Act of 1965, relating to the eligibility of new State guarantee agencies for advances to reserve funds under such section; to the Committee on Human Resources.

By Mr. BARTLETT:

S. 2480. A bill for the relief of Ock Soon Kim; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. TOWER, Mr. THURMOND, Mr. ZORINSKY, Mr. ALLEN, Mr. CURTIS, Mr. HAYAKAWA, Mr. DOMENICI, Mr. BENTSEN, Mr. WEICKER, and Mr. SCHMITT):

S. 2481. A bill to provide wheat, feed grain, and cotton producers the opportunity to receive parity prices for the 1978 crops; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE (for himself, Mr. TOWER, Mr. THURMOND, Mr. ZORINSKY, Mr. ALLEN, Mr. CURTIS, Mr. HAYAKAWA, Mr. DOMENICI, Mr. BENTSEN, and Mr. SCHMITT):

S. 2482. A bill to amend the terms and conditions of the producer storage program for wheat and feed grains to provide incentives for participation by farmers; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2483. A bill to direct the Secretary of Agriculture to increase financing for exports in fiscal year 1978 under title I of the Agricultural Trade Development and Assistance Act of 1954; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BELLMON:

S. 2484. A bill to impose quotas on the importation of beef, including processed beef and beef quantities in the form of live cattle, when the domestic market price of cattle is less than 110 percent of parity and to impose custom duties on such articles when the domestic market price of cattle is less than 80 percent of party; to the Committee on Finance.

By Mr. RIEGLE:

S. 2485. A bill to provide reemployment rights for workers who temporarily relinquish employment to pursue education or childcare, and for other purposes; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH (for himself and Mr. LAXALT):

S. 2475. A bill to improve the range conditions of the public grazing lands; to the Committee on Energy and Natural Resources.

PUBLIC GRAZING LANDS IMPROVEMENT ACT OF 1978

Mr. CHURCH. Mr. President, I am introducing legislation today which addresses the management and improvement of the 160 million acres of Federal land administered by the Bureau of Land Management for livestock grazing.

Severe problems stand in the way of improving the conditions of the range—funding for rangeland improvement has been inadequate; certain areas have been overpopulated by free-roaming wild horses and burros; uncertainty about current law and the affect of court decisions have slowed or halted many range improvement projects; and a substantial hike in grazing fees has been proposed by the administration.

Each of these issues represents a serious problem which could be dealt with individually. However, it is my belief that a balanced program on our public range demands that they be considered in one bill. I note that Congressman RONCALIO has taken a similar approach in the other body.

FINDING FOR RANGE IMPROVEMENT

A great need exists for improving the condition of the public grazing lands. Our rangelands are not delivering their full potential in livestock grazing, fish and wildlife habitat, recreation, and water and soil conservation. The BLM and numerous reports have indicated that over three-fourths of the lands administered by the Bureau are in an "unsatisfactory" condition.

While it is not disputed that this sorry state is, in part, the result of the lack of effective regulation of grazing in the West up until 40 years ago, current levels of funding for range management and improvements have not been able to improve overall range conditions.

We have a great deal to do before our rangelands reach their full potential. The public, the livestock industry, and wildlife are being deprived of the benefits that should stem from our public grazing lands.

In order to revitalize our public range, my bill would authorize a total of $350 million in appropriations over 20 years. These funds would supplement the ordinary budget for ongoing BLM range, wildlife, soil and water programs, and constitute addition to moneys allocated to on-the-ground range improvements under the BLM Organic Act. No less than 80 percent of the $350 million would be restricted to such activities as financing water development, increased vegetation, wildlife, and soil and water conservation projects. The funds will not be used for conducting inventories and studies, nor will they be used for preparing land use plan or environmental impact statements. Thus the bill assures that the bulk of the funds will go toward "on-the-ground" range improvements and not be eaten up in paperwork and administration.

Up to 15 percent of the funds would be available to the BLM to bring on additional personnel to supervise and enforce land use and allotment plans at the local level. Hopefully, this will enable BLM to put more qualified people in the field to work closely with range users, grazing advisory boards, and others in order to be responsive to specific needs and conditions of a particular allotment or unit. We must get BLM personnel out in the field if we are to be successful in improving and properly managing the range.

RANGE IMPROVEMENT

Users of the public range in Idaho are acutely aware of the confused state of affairs bogging down any attempt at range improvements. On the one hand, the courts have forbidden BLM from implementing any new "allotment management plan or its equivalent" until an environmental impact statement on the allotment management plan has been completed. On the other hand, the BLM Organic Act provides that the distribution and use of certain range betterment funds should not require an impact statement. Additional ambiguity was added by language in the conference committee's report on the Organic Act and by language in the act itself.

This confusion has brought efforts at range improvements virtually to a halt. Congressman RONCALIO. calls this the "chilling effect." Clearly we must thaw out the freeze which has paralyzed the BLM on range improvements.

This legislation seeks to address this problem by detailing those improvements which can proceed prior to the completion of the court-ordered impact statements, and those which cannot. Many of the environmental impact statements will not be finished until the late 1980's, or later if court challenges occur—as took place with the first grazing EIS for the Challis unit in Idaho. The importance of a legislative solution to the problem becomes clear.

My bill would permit improvements such as fencing, small water developments, fish and wildlife projects, restoration of native vegetation, and vegetative manipulation through grazing management, to proceed without completion of an EIS. These activities do not artificially alter the environment or pose a threat of environmental disruption or pollution. They merely permit the use of existing forage and other range values more efficiently, and make it possible to augment existing values without a commitment to irreversable decisions that could lead to poorly considered environmental modifications.

Indeed, there are certain activities which are major Federal actions that may significantly affect the environment. The bill prohibits the use of any earmarked range improvement funds for projects such as chaining, chemical and herbicide treatment, major water developments, stream modification, and seeding to introduce nonnative species such as crested wheatgrass, until the court-ordered EIS and other planning documents for the area have been satisfactorily completed. Thus, activities which could significantly alter the existing ecology of the range through artificial means will not occur until their desirability has been fully evaluated.

WILD HORSES AND BURROS

In 1971, Congress passed legislation to protect wild and free-roaming horses and burros from capture, branding, harassment, and death. While the act has been successful in its goal, it has become evident that, in certain areas, populations of wild horses and burros have been so well protected that their numbers now exceed the carrying capacity of the range. This poses a threat to wildlife, livestock, overall range conditions, and even to the horses and burros themselves.

BLM has initiated a program whereby certain of these excess animals are captured and may be "adopted" by individuals who will accord the animals humane treatment. However, this program has been frustrated by the fact that the 1971 law prohibits the Government from transferring title to the animals to the adopting party.

To alleviate this problem, my bill would do three things. First, it requires the Secretaries of Interior and Agriculture to conduct up-to-date inventories to determine whether overpopulations of wild horses or burros exist in an area. If either Secretary finds an area is overpopulated, he is then directed to round up the excess animals for which an adoption demand exists, and put the animals out for adoption. Second, to encourage adoption, the 1971 law is changed to allow transfer of title to the adopter after a period of 1 year, if the animal has been well treated. I believe that the 1-year "holding period" under humane conditions will involve expenses to the adopter that will preclude resale of the animals to slaughterhouses. Third, excess animals for which an adoption demand does not exist, are required to be disposed of in the most humane manner possible so as to restore a thriving natural ecologic balance to the range.

GRAZING FEES

Unless Congress acts prior to March 1, the Secretaries of the Interior and Agriculture plan to increase public land grazing fees by 25 percent per year until the Secretaries' definition of "fair market value" is reached sometime in 1980 or 1981. This would mean an increase in grazing fees of from 80 to 100 percent by 1981. While I have cosponsored legislation to place a 1-year moratorium on any increase in grazing fees, it only allows time for Congress to consider the issue. The bill I introduce today is the proper way to deal with the grazing fee issue. Livestock owners in Idaho using the public range do not want another moratorium—they want a fee formula which not only reflects long-term changes in forage value, but also the short-term influences on forage value inherent in production costs and beef prices.

My bill adopts the formula recommended by the Secretaries' own experts, the Technical Committee to Review Public Land Grazing Fees. This proposal is, I believe, far more equitable than the administration's proposal because it includes both long- and short-term indicators of forage value in arriving at grazing fees. Moreover, to prevent undue fluctuations in any one given year, my bill would also limit increases and decreases to 25 percent of the previous year's fee.

10-YEAR GRAZING PERMITS

The BLM Organic Act directed that public lands grazing leases or permits be issued for a period of 10 years, unless "it be in the interest of sound land management to specify a shorter term." Unfortunately, the Department of the Interior soon determined that only 1-year leases would be issued in all cases where land use planning is not complete. My bill reiterates the intent of Congress' mandate to require the issuance of 10-year leases or permits except when it has been determined, on a case-by-case basis, that a shorter period is required. Land management decisions must be as responsive to the range needs of a particular area as possible and should not be imposed in a manner which does not give sufficient consideration of the local condition.

I am hopeful that this legislation will serve as a means to focus on the very real and immediate problems affecting the public range. They urgently require attention and it is my intention to urge the Energy and Natural Resources Committee to move as expeditiously as possible to deal with the problems this bill is intended to correct.

Mr. LAXALT. Mr. President, I am pleased to join my distinguished colleague from Idaho, Senator CHURCH, in introducing this legislation as an effort to move toward resolution of many of the problems involving the management and improvement of range conditions on the public lands administered by the Bureau of Land Management and the Forest Service.

Specifically, Mr. President, this proposal addresses the following matters: problems with levels of range improvement funding; an overpopulation of free-roaming wild horses and burros, which is of particular concern in Nevada; uncertainty as to what scale and type of range improvement projects may proceed under current law and court decisions; the potential hardship to the ranching community throughout the West, and particularly in my State of Nevada, from proposed increases in grazing fees; and several other matters of serious concern.

Mr. President, each of these issues could be dealt with in separate legislation. In fact, on January 30, 1978, I introduced legislation which would fix into statute a method for deriving grazing fees. However, I agree with my distinguished colleague, Senator CHURCH, that these are interrelated issues that merit consolidated consideration by the Congress in an "omnibus" bill rather than proceeding in a piecemeal fashion.

Due to various factors, current range conditions are cheating the public, the livestock industry, and wildlife out of benefits that should be inherent on the public grazing lands. Although concerted efforts on the part of many conscientious ranchers, government agencies, and environmental groups have resulted in some needed improvements, there is still a long way to go before the rangelands attain the condition which enables them to best serve the multiple use values associated with a fully healthy and productive range. It is obvious to me, Mr. President, that the current levels of range improvement funding and range management have not been able to achieve the necessary improvements in overall range conditions.

To correct this situation, the measure that Senator CHURCH and I are introducing would authorize approximately $350 million to improve range conditions. These moneys would be in addition to funds to be requested for ongoing BLM range, wildlife, soil and water problems, and in addition to the money allocated to on-the-ground range improvements in 1976 under the provisions of the Federal Land Policy and Management Act of 1976. Mr. President, no less than 80 percent of the $350 million would be limited for the sole purpose of financing on-the-ground range maintenance and improvements such as fencing, water development, increased vegetation, wildlife and soil and water conservation projects.

These improvements are needed if existing forage is to be more efficiently used by livestock and wildlife, and ranges are to become more productive for livestock and wildlife values. Further, Mr. President, to insure that the moneys will physically go toward range improvements and not be eaten up in paperwork and administration, Senator CHURCH and

I have specified that the moneys cannot be used for the conducting of inventories and studies, nor for the preparation of land use plans, allotment management plans, or environmental impact statements.

This measure also provides that up to 15 percent of the funds can be used by BLM to train and hire additional qualified and experienced personnel. I hope that these moneys will enable the BLM to put more qualified people in the field to work closely with range users, grazing advisory boards, and other interested parties in refining range management plans, improvements, and techniques that are responsive to the specific needs and range conditions of the area to which it applies. At present, it appears that in far too many cases, paperwork and other administrative requirements have monopolized the time of BLM employees, so much so that they have insufficient time to work with range users to achieve the range improvements that we all desire.

Mr. President, there has been much confusion by the BLM and others in ascertaining exactly what types of range improvements can proceed in the absence of an environmental impact statement for a given area. The measure Senator CHURCH and I introduce seeks to solve this dilemma by specifically spelling out those range improvements which can proceed prior to the completion of the court-ordered environmental impact statements. Since many of the environmental impact statements cannot be completed until 1988, or later if court challenges to their adequacy occur—as has occurred with the first grazing EIS for the Challis unit in Idaho, the importance of this legislation solution becomes clear.

Simply, this measure allows certain range improvements such as fencing, water developments, fish and wildlife projects, the restoration of vegetation, and vegetative manipulation through grazing management to proceed without completion of an environmental impact statement. In my view, these improvements are clearly desirable. It is important to note that these improvements do not artificially alter the environment or pose a threat of environmental disruption or pollution. As such, they merely enable the existing forage and other range values to be used more efficiently and make it possible to augment these values without a commitment to irreversible decisions that could lead to poorly thought out impacts.

Mr. President, acknowledging that perhaps some provisions of allotment management plans and range improvements may indeed be major Federal actions which may significantly affect the environment, the measure that Senator CHURCH and I are introducing will prohibit the use of the designated range improvement funds for projects such as chaining, chemical and herbicide treatment, major water developments, stream modification, and the introduction of non-native vegetative species until such time as the court ordered environmental impact statements and other planning documents are completed. This will insure that range improvements and techniques that would significantly alter existing ecologic and vegetative patterns through artificial means will not be implemented until the necessary background data to support or refute the desirability has been thoroughly gathered and evaluated.

In 1971, Congress passed the Wild Free-Roaming Horse and Burro Act to protect wild horses and burros. Mr. President, that act has been more than successful in its goal, and it has become evident that, in certain areas such as Nevada, populations of wild horses and burros have been so well protected that their numbers now exceed the carrying capacity of the range. This matter now poses a serious threat to wildlife, livestock, overall range conditions, and even to the horses and burros themselves.

BLM initiated a program whereby those excess animals that were captured could be "adopted" by individuals who would accord the animals humane treatment. However, both the Bureau of Land Management and the Forest Service acknowledge that the 1971 act has been inadequate because the law prohibits the Government from transferring title of the animals to the adopting party.

To alleviate this problem, the Church-Laxalt bill would do three things. First, it requires that the Secretaries of Interior and Agriculture conduct up-to-date inventories to determine whether overpopulations of wild horses or burros exist in an area. If either Secretary finds an area is overpopulated, he is then directed to round up the excess animals for which an adoption demand exists, and put the animals out for adoption. Second, to encourage adoption, the 1971 law is changed to allow a transfer of title to the adopter after a period of 1 year, if the animal has been well treated. The 1-year holding period under humane conditions will involve expenses to the adopter that will preclude resale of the animals to slaughterhouses. Third, excess animals for which an adoption demand does not exist, are required to be disposed of in the most humane manner possible so as to maintain the ranges ecological balance.

On October 21, 1977, the Secretaries of Interior and Agriculture submitted a report to Congress which recommended an upward adjustment in grazing fees charged for domestic livestock grazing on public lands. The proposal submitted by the Secretaries would increase public land grazing fees by 25 percent per year until the Secretaries' definition of "fair market value" is reached sometime in 1980 or 1981. Depending on the lease rate charged on private grazing lands in future years, this would mean an increase in grazing fees from 80 to 100 percent by 1981.

Mr. President, each increase in grazing fees raises operating costs and reduces operators' returns because a rancher has little control over the price he can demand for his product. So, in essence, each increase in grazing fees must be deducted from his profit. And, to further emphasize the significance of grazing fee increases, it should be noted that cash flow problems often plague ranch owners—much more so than other businesses that have control over production and delivery schedules. Even a small increase in grazing fees can have serious impacts on some ranchers even to the extent of forcing some ranches out of business.

On January 30, 1977, the Public Lands and Resources Subcommittee of the Energy and Natural Resources Committee had hearings on S. 2297 and Senate Resolution 311, which would prevent the implementation of the Secretaries recommended grazing fee for the 1978 grazing year. I was pleased to cosponsor S. 2297 and Senate Resolution 311, but in my view, to prevent the grazing fee increases to go into effect is only appropriate if Congress intends to enact legislation designed to provide an alternative method for determining grazing fees.

While I have already introduced legislation (S. 2458), as a followup I am pleased to again introduce the formula recommended by the Secretaries' own experts, the Technical Committee to Review Public Land Grazing Fees, with Senator CHURCH as part of this omnibus measure. In my view, the Technical Committee's recommended formula is far more equitable because it takes into consideration the short-term costs of production and beef prices, while at the same time being sensitive to the long-range forage values. During hearings on this measure, it may become evident that the formula may need some further refinement. However, I believe its paramount virtue is that it recognizes the critical items of cost of production.

When Congress passed the Federal Land Policy and Management Act of 1976, it directed that public lands grazing leases or permits be issued for a period of 10 years, unless 'it will be in the interest of sound land management to specify a shorter term." Mr. President, in my view, the directive of the Congress has been subverted. The Secretary of the Interior has determined to issue only 1-year leases in all cases or on a blanket basis. The Church-Laxalt bill would require the Secretaries of Interior and Agriculture to issue 10-year leases or permits except when it is determined on a "case by case" basis—as opposed to a "blanket" basis—that a short term is necessary. This is to insure that land management decisions are not indiscriminate and inflexible, but gives sufficient attention to localized needs and conditions.

Mr. President, other features of the Church-Laxalt bill would: Require an inventory of range land conditions and trends; insure, to the extent feasible, that the authorized appropriations of $350 million are actually spent; to the extent practicable, require that environmental impact statements, land use plans, and other planning documents for a land management unit be rolled together into one consolidated unit plan and set a goal to make public grazing lands as productive as feasible for all range values.

Mr. President, I wish to commend my colleague, Senator CHURCH, for his efforts in regard to this legislation. I am honored to be able to join with him in its introduction and urge its favorable consideration.

By Mr. HUDDLESTON:

S. 2476. A bill to provide emergency assistance to farmers by increasing the target prices for the 1978 crops of wheat and feed grains and requiring a 20 percent set-aside of such commodities; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HUDDLESTON. Mr. President, during committee consideration of the 1977 farm bill by the Committee on Agriculture, Nutrition, and Forestry, of which I am a member, I was plagued by the question of how high should the loan levels and target prices of the basic commodities be set. Some persons whom I spoke with, and I spoke with many, many people from all sectors of our agricultural economy, suggested that the loan levels and target prices should be set low. Others suggested high target prices and low loan levels while still others called for high loan levels and abandoning the target price concept.

During the past 18 months I have met with hundreds of farmers. And they were all concerned about two things—profitability and stability. The recent concerns that farmers have been communicating to Congress are still profitability and stability.

The economic rationale for both target prices and loan levels is to lend stability to the markets of the respective commodities. To do this, target prices must approximate total cost of production, and loan levels should approximate variable costs. Without the stabilizing influence of realistic target prices and loan levels, wide swings in production and prices can be expected. The resulting instability in crop prices means not only wide swings in the availability of crops, but throws additional uncertainty into livestock production. And this sector has already been in deep trouble for several years.

Mr. President, there is no question that the whipsaw changes in prices and persistent upward trend of costs endanger not only agriculture, but the entire economy. Low profitability in farming causes particular hardships for rural America where agriculture is the dominant economic activity. Even though relatively few people are directly employed in agricultural production, thousands of other people are engaged in providing goods and services to farmers.

When farming suffers economic setbacks the problem is quickly transmitted to all other sectors of the economy. Not only will the supply of food and fiber decline or be irregular, but demand for machinery, clothes, housing, and automobiles will drop. In fact, demand for all goods and services will decline. This means fewer jobs in every production center of the country.

Agriculture is the central sector of our economy. It cannot be permitted to lag if economic stability or growth are to be achieved.

The goods that American agriculture supplies provide jobs for thousands in transportation, processing, wholesaling, and retailing. This economic activity accounts for over $100 billion a year. All of these wage earners in turn purchase food and consumer goods, further stimulating economic activity.

American agriculture has been the lone prop of the dollar in the world market. It is a prop that must not be knocked out. I have repeatedly suggested that with the proper trade policy, U.S. agricultural exports could, in essence, offset the trade deficit that will be created by the rise in fuel imports.

Mr. President, it simply boils down to the fact that agriculture is the base of our economy and food is a basic need. We cannot afford low or no profitability, losses in production, or economic instability in this sector.

During the past month I have been meeting with farmers who feel they have solutions to the dilemma facing them. And I have received all sorts of different proposals ranging from no agriculture program to 100 percent of parity.

Mr. President, I know farmers have a problem, a serious problem. I do not think that either the Congress or the USDA have an adequate solution to the problem. But I am willing to work with and for the agriculture sector to find a long-range permanent solution to low profitability and price instability.

At the outset it seems so easy to just enact a law to raise prices. But every action taken produces another action or reaction somewhere else in both the agriculture sector and the economy.

In my judgment, it is going to take time and lots of diligent work to examine the American agricultural policy alternatives. We are going to have to look at prices, production controls, marketing methods, exports, imports, and a whole host of other areas. These areas and policy alternatives must be examined in depth.

We need to employ the resources of the Government, the private sector, and the Congress in finding the best solution. We need to hear from farmers, from farm organizations, and from the consumer interests.

Today I am introducing 1-year emergency legislation to increase the target prices of wheat and corn by 50 cents per bushel. This increase in target prices is coupled with a mandatory 20-percent set-aside. Simply stated, for a farmer to receive the deficiency payment or be eligible for the nonrecourse Government loan he must set aside 20 percent of the acreage planted for harvest. I hope the set-aside will have the effect of significantly reducing production and producing a boost in commodity prices.

This bill is not the long-run solution. It is an emergency provision designed to temporarily alleviate the unfavorable situation faced by farmers during the 1978 crop year. What this legislation will do is to pump approximately an additional minimum of $5 billion into the farm economy. And the mechanism to administer the program is already in place. This is not legislation that is a radical departure from our current agricultural policy. Therefore, in my judgment, it is a measure which would be easy to implement and there would be no risk of disequilibrium of dislocation.

Mr. President, the agricultural capacity of this Nation is its greatest asset and our farmers must do well if we are to remain an economically strong nation. Their interests and ability to produce food and fiber must be protected—at all costs—if this Nation is to continue to enjoy the standard of living we have come to expect.

I urge my colleagues to favorably consider the emergency legislation I am introducing. I also urge them to join me in working for a long-term answer to the low profitability and price instability faced by the farmers of this Nation.

Mr. President, I ask unanimous consent that S. 2476 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the Agricultural Act of 1949 is amended by adding at the end thereof a new section 112 as follows:

"SEC. 112. Notwithstanding any other provision of this Act—

"(a) (1) The established price for the 1978 crop of wheat shall be $3.50 per bushel.

"(2) The Secretary shall require, in the case of the 1978 crop of wheat, a set-aside of cropland equal to 20 percent of the acreage of wheat planted for harvest.

"(b) (1) The established price for the 1978 crop of corn shall be $2.60 per bushel.

"(2) The Secretary shall require, in the case of the 1978 crops of corn, grain sorghums, and barley, a set-aside of cropland equal to 20 percent of the acreage of such commodities planted for harvest.".

By Mr. LONG:

S. 2478. A bill to amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL RAIL PASSENGER CORPORATION AUTHORIZATION ACT OF 1978

Mr. LONG. Mr. President, I am introducing today the National Railroad Passenger Authorization Act of 1978 for appropriate reference. This bill would accomplish three things: First, it provides a method to comprehensively look at Amtrak's route system. As many of my colleagues are already aware, the size of Amtrak's annual operating deficit has grown over the last several years and is now approximateely $500 million a year. There is a significant body of thought that we are simply not getting as much as we should for this amount of money. It appears that one of the important reasons for this is that Amtrak's route system is not properly tailored to the areas where maximum demand for rail passenger service exists. In some areas, we are today running trains that simply are not sufficiently used to justify the funding. In other areas, we are not operating enough trains to make the service attractive and hence ridership is low. In some corridor areas, the addition of train frequency would lead to quantum leaps in

ridership. This phenomenon has already been demonstrated, for example, in the Los Angeles to San Diego corridor. In other areas, trains currently are operating with very light ridership and hence high per passenger mile deficits. The entire route system needs to be redesigned to maximize the public benefits—which for the most part flow from ridership—for the public resources expended on the system.

The Appropriations Committee, in report language, has asked the Department of Transportation to come up with a new route system for Amtrak. This report, which will be preliminary in nature, could serve as the basis for the kind of change in the route system that is necessary. This bill would take that report and incorporate it into a process to bring about change after public hearings and after the Congress has had time to review the proposed changes and turn them down if necessary.

The bill also provides for authorization of appropriations for both operating and capital expenses and several technical amendments to the Rail Passenger Service Act and title VII of the Railroad Revitalization and Regulatory Reform Act.

Section 2 of the bill provides for authorization of appropriations for the coming fiscal year, as required by the Budget Act. Only 1 year of authorization has been provided for because of the fact that we do not know yet what the financial requirements of the new route system will be. Obviously, since it will take almost a year to put the new route structure in place, we will need sufficient authorizations to operate the existing system until such time as we can make the change to a new system. The funding level contained in this bill, therefore, is based on an assumption that that level of service would continue during the implementation period for the new route structure. Funding levels submitted by the Department of Transportation are considerably less than called for in this bill. During the course of the authorization hearings the committee will want to satisfy itself that, based upon the Department's view, or Amtrak's view, or other views submitted during the course of the hearing, that the final fiscal year 1979 authorization levels are consistent with the kinds and quality of service that the public has a right to expect from the provision of Government subsidies.

Paragraph (1) contains the authorization for national operations, paragraph (2) contains the authorization for capital improvements, including improvements to the "spur" lines of the Northeast Corridor that are owned by Amtrak, paragraph (3) contains the authorization for corridor operations, paragraph (4) continues the program begun under the last administration of repaying outstanding loans which were originally guaranteed under section 602 of the Rail Passenger Service Act.

Section 3 of the bill provides for a procedure for Amtrak to optimize its route structure to more efficiently use Federal funds for rail passenger service. The bill is relatively self-explanatory, and I would only like to point out that the procedure is designed to be as fair as possible and to incorporate public comment and congressional review of the new proposed route structure.

Section 4 of the bill contains two technical amendments to title VII of the Railroad Revitalization and Regulatory Reform Act which make clear that the mandatory goals for traveltimes in the Northeast Corridor are not to be read as precluding faster times if that is possible and also to assure that adequate planning for equipment acquisition is carried out from a marketing point of view in the corridor. It is very important to assure that marketing decisions which maximize ridership in the various types of potential travel markets in the corridor are reflected in equipment which is also designed to be compatible on a systems basis with the new track structure in order to minimize maintenance costs.

Section 5 is a rewrite of section 402(a) of the Rail Passenger Service Act which is intended to clarify for the Interstate Commerce Commission that the proper level of compensation for railroads operating Amtrak trains is to be based upon avoidable costs. This amendment is intended to reverse the Commission's decision in a case involving the Texas and Pacific Railway (F.D. 27819, 348 ICC 645) which improperly made a distinction between services rendered by contracting railroads and the use of the facilities of those carriers.

Section 6 is intended to allow the transportation of pets on Amtrak trains, particularly in private roomettes or bedrooms with passengers who are willing to pay whatever additional cleaning costs Amtrak imposes because of this kind of transportation.

Section 7 is intended to reduce Federal spending by combining mail routes with Rail Passenger Service routes. At present, many Amtrak routes are duplicated by mail hauled by truck, which results in the Federal Government paying for two kinds of transportation where in many cases the mail could be more efficiently carried by train at a lower overall cost to the Government.

Section 8 would rewrite a portion of the Rail Passenger Service Act in order to eliminate a confusion that has arisen over Amtrak's role. The original act creating Amtrak defined it as a "for profit" company when in fact it has no chance of ever becoming profitable. The Transportation Research Board, among others, has identified this as a lack of clarity regarding Amtrak's mission, and the redefinition is intended to better harmonize this part of the statute with the realities of Amtrak's role.

Section 9 would accomplish two things: First, it provides a mechanism for Amtrak to assume operations of any other private carriers if those carriers can reach an agreement with Amtrak to join the system. For example. Southern Railway has been in negotiation with Amtrak over the possibility that the Southern Crescent will become part of the Amtrak system. This section would also, in subsection (b), clarify that those limited places where Amtrak owns its own right-of-way as it does in the Northeast corridor, it has no responsibility to maintain public roads that may cross its right-of-way. This of course is the legal state of affairs in any case because the Regional Rail Reorganization Act transferred these properties free of these responsibilities, but it has been suggested that this further clarification would be useful in order to make clear that Amtrak has it hands full enough trying to operate trains without fixing public highways as well, which is something that will be addressed in the new highway bill.

Mr. President, I am hopeful that the Commerce Committee will be able to hold hearings in the near future on Amtrak and will be able to report a bill that will address the need to create a route system which can better maximize the public benefits flowing from the Nation's investment in rail passenger service. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Rail Passenger Corporation Authorization Act of 1978".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 601(a)(1) of the Rail Passenger Service Act (45 U.S.C. 601(a)(1)) is amended as follows:

(1) Clause (1) of such section is amended by (A) striking out "and" immediately after "1977,"; and (B) inserting ", and not to exceed $550,000,000 for the fiscal year ending September 30, 1979", immediately after "1978".

(2) Clause (2) of such section is amended by (A) striking out "and" immediately after "1977,"; and (B) striking out "1978;" and inserting in lieu thereof "1978, and not to exceed $200,000,000 for the fiscal year ending September 30, 1979, which shall include amounts authorized for expenditure for compatible equipment under section 703(5) of the Railroad Revitalization and Regulatory Reform Act of 1976;".

(3) Clause (3) of such section is amended by (A) striking out "and" immediately after "1977,"; and (B) inserting ", and not to exceed $83,000,000 for the fiscal year ending September 30, 1979" immediately after "1978".

(4) Clause (4) of such section is amended by inserting ", and not to exceed $25,000,000 for the fiscal year ending September 30, 1979" immediately after "1978".

ROUTE REEXAMINATION

SEC. 3. Title IV of the Rail Passenger Service Act is amended by adding at the end thereof the following:

"SEC. 406. ROUTE REEXAMINATION

"(a) The Secretary, in cooperation with the Corporation, shall immediately develop a preliminary recommendation for a route system for the Corporation which will provide an optimal intercity railroad passenger system, based upon current and future market and population requirements, including, where appropriate, portions of the Corporation's basic system. In developing his recommendations the Secretary shall consider—

"(1) the adequacy of other transportation modes serving the same points to be served by the recommended route system;

"(2) any unique characteristics and advantages of rail service as compared to other modes of transportation;

"(3) the role that passenger rail service can play in helping meet the Nation's transporta-

tion needs while furthering the national energy conservation efforts;

"(4) the relationship of benefits of given intercity rail passenger services to the costs of providing such services, computing the costs in loss or profit per passenger mile rather than total loss or profit per route;

"(5) the transportation needs of areas lacking adequate alternative forms of transportation; and

"(6) frequency and fare structure alternatives and the impact of such alternatives on ridership, revenues, and expenses of rail passenger service.

"(b) The Secretary shall develop and publish the preliminary recommendations specified in subsection (a) on or before May 1, 1978, and, at the same time, submit them to the Rail Service Planning Office (hereinafter in this section referred to as the 'Office'). The Secretary shall at that time also provide copies of the preliminary recommendations to the Corporation; the Office of Rail Public Counsel; the Commission; Secretary of Energy; the Governors, Departments of Transportation and Public Utilities Commissions of each State in which passenger rail service is proposed to be modified; railroads affected by the recommendations; labor organizations duly authorized under the Railway Labor Act to represent railroad employees; and the United States Postal Service. In addition, copies of the preliminary report shall be made available by the Secretary to interested persons at a reasonable cost. Such recommendations shall include—

"(1) a recommended route structure for the Corporation by end points and principal intermediate points to be served;

"(2) quality and type of intercity rail passenger service recommended for each route including frequency, speed, and classes of services offered;

"(3) ranges of projected operating expenses, ridership, and revenues, by route, including a measure calculated by loss or profit per passenger mile, and separated for non-State-supported routes and State-supported routes;

"(4) an estimate of the equipment and facilities necessary to support the recommended route structure;

"(5) a recommended plan for coordinating intercity rail passenger service at points on the system with other modes of transportation serving those points; and

"(6) based upon the route level projections, an estimate of operating and capital appropriations required to operate the system for fiscal years 1980 through 1984.

"(c) During the period beginning on May 1, 1978, and ending on August 31, 1978, the Office shall conduct public hearings on the recommendations of the Secretary developed pursuant to subsection (a). Such public hearings shall be held in such places and at such times as the Office determines will afford the affected States and communities an adequate opportunity to participate in such hearings. The Office of Rail Public Counsel, to the extent practicable, shall provide the services of attorneys and such other personnel as may be required in order to protect the interests of those communities and users of rail passenger service which the Director of the Office of Rail Public Counsel determines, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the hearings and evaluations which the Office is required to conduct. During such period, in addition to holding public hearings, the Office shall invite comment on such recommendations from the Corporation, the Commission, the Office of Rail Public Counsel, the Governors, Departments of Transportation and Public Utilities of each State in which intercity rail passenger service is proposed to be modified, the railroads affected by the recommendations, labor organizations authorized under the Railway Labor Act to represent railroad employees, the Secretary of Energy, interested citizen groups, and the United States Postal Service.

"(d) By September 30, 1978, the Office shall submit a summary and analysis of the evidence received in the course of its proceedings conducted under subsection (c), together with its critique and evaluation of the recommendations, to the Secretary. The Secretary shall thoroughly consider the material submitted to him by the Office with respect to the recommendations and, based on that consideration (and further evaluations of the Secretary), develop a final recommended route system for the Corporation as he deems appropriate. Such final recommendation shall include a summary of the significant recommendations received, together with the reasons for adopting or not adopting any such recommendation.

"(e)(1) By December 31, 1978 the Secretary shall submit the final recommendations, along with its supporting and explanatory material, designating a new basic route system of intercity rail passenger service, to both Houses of Congress, and to the Committees on Appropriations and Interstate and Foreign Commerce of the House of Representatives, and the Committees on Appropriations and Commerce, Science, and Transportation of the Senate. The final recommendations shall be deemed approved, and shall take effect, at the end of the first period of 60 calendar days of continuous session of the Congress after such date of submission, unless either the House of Representatives or the Senate adopts a resolution during such period stating that it does not favor such final recommendations.

"(2) If either House or the Senate adopts a resolution of disapproval under paragraph (1), the Secretary shall, within 45 days after such date of adoption, determine and resubmit a revised final recommendation to those committees of the Congress specified in paragraph (1).

"(3) For the purposes of this subsection—

"(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment for more than 3 days to a day certain are excluded in computing the 60-day period.

"(f) Immediately upon approval of the final recommendations, the Corporation shall implement the basic route system designated therein and shall complete such implementation as soon thereafter as possible, but in no event later than 12 months thereafter.

"(g)(1) During the period beginning on the date of enactment of this section, and ending on the effective date of the new basic route system designated by the Secretary under this section, the provisions of sections 403 and 404 of this Act shall not apply to the development or implementation of the new basic route system. After such effective date, any additions, deletions, or modifications to such new basic route system may be made by the Corporation in accordance with the applicable provisions of such sections 403(c) and 404 (including the route and service criteria and procedures developed under section 404(c)(1)).

"(2) During the period beginning on the date of enactment of this section, and ending 12 months after the effective date of the new basic route system designated by the Secretary under this section, the provisions of section 801(a) of this Act (including the regulations of the Commission promulgated thereunder) shall not apply to the development or implementation of the new basic route system.

"(3) The basic route system designated by the Secretary in the recommendations developed under this section, when effective, shall supersede the basic system including any route previously in effect.".

NORTHEAST CORRIDOR

SEC. 4. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is amended by (a) inserting "at most" immediately before "a 3-hour-and-40-minute" and "a 2-hour-and-40-minute", respectively, in subsection (1)(A)(i) of such section; (b) inserting "or other responsible parties" immediately after "(or local or regional transportation authorities)" in subsection (1)(B) of such section; and (c) adding at the end thereof the following:

"(5) COMPATIBLE EQUIPMENT.—The Corporation shall develop economical and reliable rolling stock and related equipment designed to be compatible with the track, operating and marketing characteristics of the Northeast Corridor at and after the completion of the Northeast Corridor improvement project, including the capability to reliably meet the trip times set forth in subparagraph (1)(E) of this section in regularly scheduled revenue service in the Northeast Corridor. The Secretary shall advise and assist the Corporation in the development of such equipment, and the Corporation shall obtain the Secretary's concurrence before purchasing such equipment with Federal financial assistance that the equipment meets the goals specified in this paragraph. The Corporation shall submit requests for authorization of appropriations for the production of such equipment and shall, together with the Secretary, include equipment planning in the reports required by subparagraph 1(E) of this section.".

FACILITY AND SERVICE AGREEMENTS

SEC. 5. Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended to read as follows:

"SEC. 402. FACILITY AND SERVICE AGREEMENTS.

"(a)(1)(A) The Corporation may contract with railroads or public transportation agencies for use of tracks and other facilities and the provision of services on such terms and conditions as the parties may agree. In the event of a failure to agree, the Interstate Commerce Commission shall, within 90 days after application by the Corporation, if it finds that doing so is necessary to carry out the purposes of this Act, order the provision of services or the use of tracks or facilities of the railroad or agency by the Corporation, on such terms and for such compensation as the Commission may fix as just and reasonable and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order or under an order issued under subsection (b) of this section shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission. In fixing just and reasonable compensation for the use of tracks and facilities ordered by the Commission under the preceding sentence, the Commission shall limit such compensation to the avoidable costs of permitting the Corporation to use the railroad's or agency's tracks and facilities. In fixing just and reasonable compensation for the provision of services ordered by the Commission under the second sentence of this subsection, the Commission shall order compensation (if any) in excess of avoidable costs only in proportion to increases in the quality of service and only where the railroad or agency provides ontime performance in excess of 80 percent of the time under the fastest practicable operating schedule (consistent with Federal safety standards established pursuant to the Federal Railroad Safety Act of 1970). If the amount of compensation fixed is not duly and promptly paid, the railroad or agency entitled thereto may bring an action against the Corporation to recover the amount properly owed.

"(B) For purposes of this section, 'avoidable costs' shall mean all reasonable and necessary expenses (including use of tracks

and other facilities) which would be incurred by a carrier in providing a service which the carrier can establish that it would not incur if such service were not operated, and all other services were continued. Such costs shall be restricted to costs solely related to the service and the variable portion of common costs which would not be incurred but for the existence of the service. Such costs shall exclude fixed common costs, allocation of any common costs which do not vary as a consequence of providing the service, return on investment, rent, and any other costs which the carrier cannot establish that it would not have reasonably and necessarily incurred but for the existence of the service.

"(2) Notwithstanding any other provision of this Act, the Corporation may enter into agreements with any other railroads and with any State (or local or regional transportation agency) responsible for providing commuter rail or rail freight services over tracks, rights-of-way, and other facilities acquired by the Corporation pursuant to authority granted by the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976. In the event of a failure to agree, the Commission shall order that rail services continue to be provided, and it shall, consistent with equitable and fair compensation principles, decide, within 180 days after the date of submission of a dispute to the Commission, the proper amount of compensation for the provision of such services and use of tracks, rights-of-way, and other facilities. The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross-subsidization among intercity, commuter, and rail freight services.".

TRANSPORTING CERTAIN ANIMALS

SEC. 6. Section 21 of the Animal Welfare Act (7 U.S.C. 2151) is amended by adding at the end thereof the following: "The Secretary shall exempt from the requirements of this Act the transporting of cats and dogs in passenger rail service when the Secretary determines that such exemption shall result in an increase in reliable humane transport service for cats and dogs.".

TRANSPORTATION OF MAIL

SEC. 7. Section 5203(a) of title 39 of the United States Code (relating to transportation of mail by surface carrier) is amended by adding at the end thereof the following: "In establishing mail routes and selecting carriers to provide mail transportation services thereon, the Postal Service shall use the railroad services operated by the National Railroad Passenger Corporation, so long as using such railroad services results in no significant deterioration of mail services or increase in costs to the Federal Government.".

POLICY

SEC. 8. The second sentence of section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended to read as follows: "The Corporation shall provide intercity rail passenger service, employing innovating operating and marketing concepts so as to fully develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements, while maximizing the public benefit for the public expenditure made.".

MISCELLANEOUS

SEC. 9. (a) Section 404(a) of the Rail Passenger Service Act (45 U.S.C. 564(a)) is amended by adding at the end thereof the following. "In order to continue such train operations, the Corporation may, notwithstanding the pendency of the route reexamination being conducted under section 3 of the National Rail Passenger Corporation Authorization Act of 1978, contract for the provision thereof with any railroad filing a notice of discontinuance.".

(b) Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following:

"(1) The Corporation shall not be subject to any State or local law with respect to the construction, maintenance, repair, or rehabilitation of structures carrying public roads.".

By Mr. DOLE:

S. 2479. A bill to amend section 422(c) of the Higher Education Act of 1965, relating to the eligibility of new State guarantee agencies for advances to reserve funds under such section; to the Committee on Human Resources.

Mr. DOLE. Mr. President, I send to the desk a technical amendment to the Higher Education Act of 1965 and ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America assembled, That section 422(c)(5) of the Higher Education Act of 1965 is amended by striking out "the effective date of this subsection" each place it appears in subparagraphs (A) and (B) and inserting in lieu thereof "the date of enactment of this subsection".

SEC. 2. The amendments made by the first section of this Act shall take effect on October 1, 1977.

By Mr. DOLE (for himself, Mr. TOWER, Mr. THURMOND, Mr. ZORINSKY, Mr. ALLEN, Mr. CURTIS, Mr. HAYAKAWA, Mr. DOMENICI, Mr. BENTSEN, Mr. WEICKER, and Mr. SCHMITT):

S. 2481. A bill to provide wheat, feed grain, and cotton producers the opportunity to receive parity prices for the 1978 crops; to the Committee on Agriculture, Nutrition, and Forestry.

FLEXIBLE PARITY ACT OF 1978

Mr. DOLE. Mr. President, the Senator from Kansas will take just a few moments to talk about what I consider to be one of the real crises in America today. That is agriculture.

Farmers are caught in a vicious cost-price squeeze. Today, the American farmer is unable to recover his cost of production. His situation is the worst since the Great Depression.

Farm debt has increased 63 percent in the last 5 years (in 1974 was $74 billion, by 1977 it had increased to $119 billion). Young farmers are hard hit.

In terms of current dollars, farm income declined from $33 billion in 1973 to only about $20 billion in 1977—just 4 years later. The economic problems of farmers are spreading to other agribusiness enterprises such as farm machinery and farm supply dealers and manufacturers—and it will spread further.

I am introducing a bill today to adjust target prices for grain and cotton. Under my bill, which I call the Flexible Parity Act of 1978:

An individual farmer can choose the target price he needs up to parity, but must scale down his production accordingly;

My bill will not interfere with exports;

It will not contribute to foreign production increases;

It will not encourage substitutes; and

Under my bill, costs would be reasonable since scaled down production should result in higher market prices, resulting in reasonable level of deficiency payments.

Now for the first time, farmers will have a mechanism under which they can collectively control their production and each individual may select the target level and set-aside that is best for his farm operation. With this legislation there will be no necessity for set-aside payments since farmers will be receiving target price incentives up to the parity level.

I have considered a similar approach on soybeans, rice, sugar, and peanuts and I may wish to apply this principle to these crops after producers have had an opportunity to testify at Agriculture Committee hearings scheduled to commence February 23, 1978.

Cost estimates are not easy to assess for this flexible parity approach because of the difficulty in anticipating farmers' response to the various target prices and set-aside options available to them. However, since substantial improvement in farm prices would likely occur as the effects of the set-aside are felt, I believe that budget exposure would be relatively modest. I will illustrate with an example for wheat, corn, and cotton:

WHEAT EXAMPLE

Assume farmers choose on the average a 35 percent set-aside in order to be assured of $4 per bushel target price, assume further that the 35 percent set-aside will actually cut production by 25 percent resulting in a 1.5-billion bushel crop instead of a 2-billion bushel crop.

If this production adjustment, coupled with a vigorous export market promotion program, raised market prices to $3.50 per bushel, the additional amount of exposure for deficiency payments would be $750 million (.50 per bushel × 1.5 million bushels).

CORN EXAMPLE

Assume farmers choose on the average a 35 percent set-aside in order to be assured of a $2.85 per bushel target price. Assume further that the 35 percent set-aside will actually cut production by 25 percent, resulting in a 4.5-billion-bushel corn crop instead of a 6-billion-bushel crop.

If this production adjustment coupled with a vigorous export market program raised market prices to $2.85 per bushel, the additional amount of budget exposure for deficiency payments would be zero.

COTTON EXAMPLE

Assume farmers choose on the average a 35 percent set-aside in order to be assured of a 69-cent-per-pound target price, assume further that the 35 percent setaside will actually cut production by 25 percent resulting in a 10,500,000-bale crop instead of a 14-million-bale crop.

If this production adjustment, coupled with a vigorous export market promotion program, raised market prices to 65 cents per pound, the additional amount of exposure for deficiency payments would be $210 million ($20 per bale × 10,500,000 bales).

Yesterday, Mr. TALMADGE, chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, scheduled hearings to explore ways of addressing the current farm situation.

My purpose in introducing my bill today is to give time for all interested individuals and groups to analyze it along with others prior to the hearing date of February 23, 1978.

Mr. President, farmers have been all over the Capitol in the past few weeks. They are frustrated; in some cases, they are desperate. They are in deep economic trouble at home. This comes not just from farmers, but from bankers and others who deal with farmers in my State, and I guess every rural State in America.

I have been discussing, as a member of the Agriculture Committee, possible legislative proposals that are responsible and still responsive to the farmer. After the comments today, I shall be introducing a bill that I call the Flexible Parity Act of 1978.

Let me say very quickly what this bill will do. It applies to wheat, feed grains, corn, and cotton. It says to that American farmer, whether he be in Kansas or Arkansas or New Mexico or South Carolina or Tennessee or Illinois, that he can choose the target price that he might need for parity, but if he does that, he has to scale down his production. Let me give a quick example of how that would apply to a wheat farmer in the State of Kansas or any other State.

Under the present program, if he sets aside 20 percent of his production, then the so-called target price is $3 a bushel. I want to state very quickly that that is not a Government payment. The target price is the target price. If the market price is $2.90, there is a payment of 10 cents. If the market price is $3, there is no payment at all.

The problem in America today is that there is too much supply. We have too much wheat, for example. It depresses market prices. In order to restore the marketplace competition, we have to reduce that supply. Farmers are willing to reduce that supply, but they would like to stay in business in the process so they can continue to produce for themselves, for American consumers, and for the hungry in the world and others who look to us for leadership in agriculture.

What I have done is try to devise a flexible parity concept which says that, if you reduce your production of wheat 25 percent, the target price is $3.25 a bushel; if you reduce your production 30 percent, the target price is $3.50 a bushel; on a 35 percent reduction, the target price goes to $4; on 40 percent, it goes to $4.25; 45 percent, it goes to $4.50; 50 percent, it goes to parity—$5.04 a bushel. The same is true for corn, for feed grains, or for cotton.

Let me make it very clear that before the farmer can receive that increased target price, that incentive, he has to cut production. He cannot have it both ways. He cannot have full production and high target prices.

It seems to me, after weeks of research and searching for some alternative, that we have come up with an idea and a program that is geared toward the marketplace.

Some have suggested that we ought to raise the loan rates up to parity. I do not believe that. All we do by raising loan rates up to parity or some higher figure than they are now, on wheat or corn or whatever, is to interfere with exports. If the farmer has any future in America, it is in exports.

In addition, this will not contribute to foreign production increases. We are not setting up some artificial price that will encourage every other wheat producer to plant fence-to-fence and destroy the market.

Also, I think it is going to cost a very small amount, because if you cut your production, you are going to have fewer bushels on which to pay a target price in the first place. In the second place, the market price is going to be strengthened and the target price concept will not go into effect.

Mr. President, I have worked on this bill with others of my colleagues, including the distinguished Senator from South Carolina (Mr. THURMOND), who was one of the principal cosponsors of this bill. We are looking at a similar approach as far as soybeans are concerned, and rice, sugar, and peanuts. It may be that we will apply this same principle to those crops but this applies to corn, wheat, cotton, and feed grains. I think it is a step in the right direction.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Flexible Parity Act of 1978".

TITLE I—WHEAT

SEC. 101. Section 107A of the Agricultural Act of 1949, as amended, is amended by adding at the end of subsection (b)(1)(B) the following new sentence:

"Notwithstanding any other provision of this Act, the established price for an individual producer for the 1978 crop of wheat shall be at a level related to the set-aside such producer voluntarily makes pursuant to this Act as follows:

If the set-aside is:

20 per centum, the established price shall be $3.00 per bushel;

25 per centum, the established price shall be $3.25 per bushel;

30 per centum, the established price shall be $3.50 per bushel;

35 per centum, the established price shall be $4.00 per bushel;

40 per centum, the established price shall be $4.25 per bushel;

45 per centum, the established price shall be $4.50 per bushel;

50 per centum, the established price shall be $5.04 per bushel."

TITLE II—FEED GRAINS

SEC. 201. Section 105A of the Agricultural Act of 1949, as amended, is amended by adding at the end of subsection (b)(1)(B) the following new sentence:

Notwithstanding any other provision of this Act, the established price for an individual producer for the 1978 crop of corn shall be at a level related to the set-aside such producer voluntarily makes pursuant to this Act as follows:

If the set-aside is:

10 per centum, the established price shall be $2.10 per bushel;

20 per centum, the established price shall be $2.25 per bushel;

25 per centum, the established price shall be $2.45 per bushel;

30 per centum, the established price shall be $2.65 per bushel;

35 per centum, the established price shall be $2.85 per bushel;

40 per centum, the established price shall be $3.05 per bushel;

45 per centum, the established price shall be $3.25 per bushel;

50 per centum, the established price shall be $3.45 per bushel;

and the established prices for grain sorghum and if designated by the Secretary, oats, and barley shall be at such levels as provided under subsection (b)(1)(D) of this Act."

TITLE III—UPLAND COTTON

SEC. 301. Section 103 of the Agricultural Act of 1949, as amended, is amended by adding at the end of subsection (f)(4) the following new sentence:

"Notwithstanding any other provision of this Act, the established price for an individual producer for the 1978 crop of upland cotton shall be at a level related to the set-aside such producer voluntarily makes pursuant to this Act as follows:

If the set-aside is:

20 per centum, the established price shall be 54 cents per pound;

25 per centum, the established price shall be 59 cents per pound;

30 per centum, the established price shall be 64 cents per pound;

35 per centum, the established price shall be 69 cents per pound;

40 per centum, the established price shall be 74 cents per pound;

45 per centum, the established price shall be 79 cents per pound;

50 per centum, the established price shall be 84 cents per pound."

TITLE IV—GRAIN RELEASE PRICES

SEC. 401. Effective for the period beginning with the enactment of this section and ending one year thereafter—

(a) Section 110(b)(5) of the Agricultural Act of 1949, as amended, is amended by striking out the phrase

"which is not less than 140 per centum nor more than 160 per centum of the then current level of price support for wheat or such appropriate level for feed grains, as determined by the Secretary"

and inserting in lieu thereof the phrase

"which is not less than the current parity price for wheat or feed grains"

(b) Section 110(b)(6) of the Agricultural Act of 1949, as amended, is amended by striking out the phrase

"is not less than 175 per centum of the then current level of price support for wheat or such appropriate level for feed grains as determined by the Secretary under this Act."

and inserting in lieu thereof the phrase

"is not less than 105 per centum of the current parity price for wheat or feed grains."

SEC. 402. Effective for the period beginning with the enactment of this section and ending one year thereafter, Section 110(d) of the Agricultural Act of 1949, as amended, is amended by striking out the phrase "150 per centum of the then current level of price support for such commodity" and inserting in lieu thereof the phrase "the parity price for such commodity".

SEC. 403. Effective for the period beginning with the enactment of this section and end-

ing one year thereafter, the third proviso following the third sentence of Section 407 of the Agricultural Act of 1949, as amended, is amended by striking out the words "115 per centum of the current national average loan rate" and inserting in lieu thereof the words "the current parity price".

Mr. DOLE. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I am pleased to join with Senator DOLE in authoring the Flexible Parity Act of 1978. This bill provides a mechanism under which farmers can collectively control production and under which each individual farmer can select a target level and set-aside that best applies to his farm situation.

It will give the producers of wheat, feed grains, and cotton the opportunity to receive parity prices for their 1978 crops, and simultaneously contains a mechanism to correct the immediate imbalance in supply and demand for farm commodities. Under the proposed bill, the farmer may achieve parity without any corresponding price increase to the consumer and only a slight outlay of Federal money charged to the taxpayer.

Increasing surpluses of farm commodities have driven commodity prices to near record lows. At the same time, rampant inflation has driven farm production costs to alltime highs. The American farmer is experiencing a cost-price squeeze which threatens his survival. Not only is every farmer affected, but every citizen is threatened because farmers are the backbone of society in this great Nation. If this cost-price squeeze is allowed to remain unchecked, many farmers will be driven out of business. The inevitable result is that consumers will be forced to pay higher food prices and increasingly rely on food grown in other nations.

Mr. President, the bill we are cosponsoring today is merely one effort to seek a solution to the farm dilemma. It does not preclude other possibilities.

I might say if anyone else introduces a better bill, we shall be glad to join in such legislation. We feel, however, that this is one solution.

In fact, the Senate Agriculture Committee will be holding a hearing in Columbia, S.C., on this Saturday, February 4, in a further effort to search for the proper solution. The long-term income problem facing our American farmers, however, is a complex one for which there is no easy solution.

The total net income of U.S. farmers dropped below $20 billion in 1977, the lowest since 1972. This was 10 percent below the 1976 level. Declining farm product prices have led to renewed appeals for a return to 100 percent parity prices. At the present time farm prices are 66 percent of parity. The all-time low in the parity ratio was 57 percent in March 1933.

Mr. President, in order to illustrate the difference in market price and parity price, I ask unanimous consent that a table detailing each commodity be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Commodity	Parity price	1977 Dec. 15 price received	1977 Dec. 15 price as a percent of parity
Wheat (bushel)	$5.05	$2.47	49
Rice (hundredweight)	14.00	10.80	77
Corn (bushel)	3.46	1.98	57
Oats (bushel)	1.74	1.13	65
Barley (bushel)	3.00	1.77	59
Grain sorghum (hundredweight)	5.80	3.16	54
Cotton (pound)	.8410	.4880	58
Peanuts (pound)	.287	.204	71
Soybeans (bushel)	7.65	5.68	74
Flaxseed (bushel)	8.61	4.32	50
Beef cattle (hundredweight)	58.60	35.70	61
Hogs (hundredweight)	55.70	41.50	75
All milk (hundredweight)	13.00	10.20	75
Manufactured milk (hundredweight)	11.01	9.17	*83
Eggs (dozen)	.813	.536	57
Wool (pound)	1.37	.721	53

Mr. THURMOND. Mr. President, I commend the able and distinguished Senator from Kansas (Mr. DOLE), and feel that this bill is a step in the right direction.

Senator DOLE has been a leader here in this Senate in many matters, but especially on the Committee on Agriculture, upon which he is the ranking member. He has rendered tremendous service to our farmers and to our Nation.

I applaud him for those efforts and am pleased to join with him on this legislation.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. HART). The Senator from Kansas.

Mr. DOLE. Mr. President, I thank the distinguished Senator from South Carolina and say to those in the Chamber that on Saturday both the distinguished Senator from South Carolina and the Senator from Kansas will be in South Carolina to hold hearings on February 4.

Late last year, Senator THURMOND requested the committee to schedule these hearings when the severity of the American farm crisis became clear. Senator THURMOND feels, as I do, that good legislation made in Washington must spring from information obtained at the grass roots level. The purpose of the hearing this weekend is to find out how bad the farm situation is in the Southeast and what they need in the way of help. The hearing will begin at 4 p.m. in the State Senate Chamber in Columbia.

Anyone who may wish to participate, of course, is welcome to be there, and Senator THURMOND will be there.

Mr. President, it has been clear from the start that the worst thing we could do for the American farmer is proceed on some partisan basis on some farm legislation.

I am pleased to state that so far, and we will introduce the bill later this afternoon, the Senator from Kansas sponsored it along with the distinguished Senator from Texas (Mr. TOWER), the distinguished Senator from South Carolina (Mr. THURMOND), the distinguished Senator from Nebraska (Mr. ZORINSKY), the distinguished Senator from Alabama (Mr. ALLEN), the distinguished Senator from Nebraska (Mr. CURTIS), the distinguished Senator from California (Mr. HAYAKAWA), the distinguished Senator from New Mexico (Mr. DOMENICI), the distinguished Senator from Texas (Mr. BENTSEN), and the distinguished Senator from Connecticut (Mr. WEICKER).

It is bipartisan, some with urban orientation, some with rural, and if we are going to help the American farmer, it seems to me this is the right approach.

I said to some critics that it is not time to raise a voice against Secretary Bergland. He is doing a good job. He is doing the best he can under the circumstances. It is not all his problem. Some of it was there when he came.

But it is our problem, an American problem, not a Republican problem or a Democratic problem. It is our problem. It is a consumer problem. It is a producer problem.

My distinguished chairman (Mr. TALMADGE) scheduled hearings to begin February 23. I hope after 10 days of extensive and exhaustive hearings, we will come up with some proposal.

The Senator from Kansas has no pride of authorship, but that we will come up with some proposal to assist the American farmer soon, quickly, and in the end I think help the American consumers.

Mr. President, I only add that I will be offering initiatives throughout this week and next week. They will be cosponsored by Republicans and Democrats. They were designed to help the American farmer, whether it is carried under the Meat Import Act of 1964, whether it is increasing payments to farmers for storage rates, whether it is working out some Commodity Credit Corporation credit for the People's Republic of China and the Soviet Union, and whether it is a bill to create an economic disaster loan program for farmers, but they will be introduced for the sole purpose of exploring the possibilities of their passage.

They are not perfect. They are probably flawed in some cases, maybe in many cases. But I feel very strongly it is probably one of the gravest responsibilities we have as a Congress.

So I am pleased that the distinguished Senator from South Carolina has expressed himself in support of American agriculture, not so much in support of a proposal I introduced, but in support of American agriculture.

I just left 100 farmers from many States meeting now in the Senate. They are hopeful. They understand how the process works. They may not understand why it takes so long, but they are beginning to understand that they are making some progress because they have been patient and because they have been heard and Members of Congress and members of our staff and the appropriate committees have taken time to explain to them and they have taken time to explain to us just what their problems are.

Let me say finally to the American consumer, those who are worried about our commitment to the less fortunate overseas, the last thing we want to do as Americans is reduce our production to a point where we cannot help the less fortunate overseas.

But let us face a very fundamental fact, we cannot ask the American producer, whether he lives in Alabama, Georgia, Washington, Kansas, or wher-

ever, to produce and sell his product at less than cost of production.

So I hope there is an American awareness of the real problem. Farmers are not trying to get rich. Farmers are trying to survive. But if the farmer does not survive, the consumer will not survive at present prices.

Mr. President, I think it is significant that we are moving ahead. We are now in a third stage. The first stage was the American farmer, the tractor, the trailer, getting the attention of the American people. The second stage was coming to Washington, talking with Secretary Bergland, meeting with the press. The third stage is legislative action. That is the stage the Senator from Kansas believes we are in now.

So I am pleased to introduce the bill for this group of Senators and hope by the time we adjourn today there will be at least 10 additional Senators, Republicans and Democrats, willing to express their support and concern for the concept, not everything in the bill, but the concept, and express their support for American agriculture.

By Mr. DOLE (for himself, Mr. TOWER, Mr. THURMOND, Mr. ZORINSKY, Mr. ALLEN, Mr. CURTIS, Mr. HAYAKAWA, Mr. DOMENICI, Mr. BENTSEN, and Mr. SCHMITT):

S. 2482. A bill to amend the terms and conditions of the producer storage program for wheat and feed grains to provide incentives for participation by farmers; to the Committee on Agriculture, Nutrition, and Forestry.

INTEREST CHARGES ON COMMODITY LOANS

Mr. DOLE. Mr. President, as a continuing effort to strengthen farm prices I am introducing a bill that will provide an incentive to farmers to participate in the extended loan program for wheat and feed grains by increasing the storage payment to not less than 25 cents per bushel. I am told by farmers that present costs of storage is greater than the 20 cents per bushel presently offered by the USDA and thus constitutes a disincentive to farmers to participate.

This bill also requires the Secretary of Agriculture to lower interest charges to farmers on commodity loans to not more than the cost of money to the Commodity Credit Corporation from the U.S. Treasury.

Mr. President, this does not seem to me to be the time to profit from American farmers, when American farmers cannot even make enough money to pay their bills and are operating at a loss.

After consultation with many farmers and questioning the Secretary of Agriculture, who is looking at this problem, it seemed to me that one way to get farmers to participate in the so-called grain reserve program was at least to make certain they were not going to participate at a loss. If we at least pay what it costs them for storage, then I think the program that Secretary Bergland is very interested in would be more successful.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 110(b) of the Agricultural Act of 1949 is amended by—

(1) in the second sentence striking out "(2) payment to producers of such amounts as the Secretary determines appropriate to cover the cost of storing wheat and feed grains held under the program;" and inserting in lieu thereof "payment to producers of such amounts, not less than 25 cents per bushel annually, as the Secretary determines appropriate to cover the cost of storing wheat and feed grains under the program and to encourage producers to participate in the program;"; and

(2) in the second sentence striking out "(3) a rate of interest determined by the Secretary based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interests;" and inserting in lieu thereof "(3) a rate of interest, not to exceed the rate of interest charged the Commodity Credit Corporation by the United States Treasury, determined by the Secretary, to be appropriate to encourage producers to participate in the program, to be adjusted at the beginning of each quarter of the fiscal year as necessary to reflect any change in the interest rate charged the Commodity Credit Corporation by the United States Treasury during the immediately preceding quarter, except that the Secretary may waive or adjust such interest;".

By Mr. DOLE (for himself, Mr. TOWER, Mr. THURMOND, Mr. ZORINSKY, Mr. ALLEN, Mr. CURTIS, Mr. HAYAKAWA, Mr. DOMENICI, Mr. BENTSEN, and Mr. SCHMITT):

S. 2483. A bill to direct the Secretary of Agriculture to increase financing for exports in fiscal year 1978 under title I of the Agricultural Trade Development and Assistance Act of 1954; to the Committee on Agriculture, Nutrition, and Forestry.

INCREASING OF TITLE I, PUBLIC LAW 480 FINANCING

Mr. DOLE. Mr. President, Public Law 480 or food for peace legislation was signed by President Eisenhower in 1954 with his strong endorsement. During the last 23 years, with bipartisan support, over $30 billion worth of farm commodities have been exported under its provisions. The great value of this program, in terms of lives saved and new markets developed, is impossible to comprehend. It is one of the great practical humanitarian steps of this or any other generation.

For fiscal year 1978, the Carter administration has made available $800 million for the financing of agricultural commodities to developing nations. These funds will provide only about 5 million tons of food for shipment to needy countries under title I this fiscal year.

This quantity will not adequately meet the food assistance needs of about 30 developing nations that have requested far more food than the present funding of $800 million will provide. Therefore, in order to achieve the twin objectives of helping the hungry and malnourished in developing nations while helping American farmers expand their exports, I am introducing a bill entitled "The More Adequate Title I, Public Law 480 Program Act of 1978."

This act will direct the Secretary of Agriculture to provide Commodity Credit Corporation financing for a minimum of $1 billion for the purchase of U.S. farm commodities under agreements to be entered into with developing nations under title I, Public Law 480 in fiscal year 1978.

I believe that Public Law 480, title I program countries could use considerably more food assistance in fiscal year 1978 than $1 billion will provide. Certainly our farmers need the markets and export supplies are more than adequate. I would be inclined to increase Public Law 480 programing beyond the amount in my bill if it were not for the fact that 4 months of fiscal year 1978 have passed. Consequently, $1 billion worth of farm commodities may be all that can be judiciously programed taking into account shipping, port facilities, and storage during the remainder of this fiscal year.

I solicit the support of my colleagues in increasing Public Law 480 financing as proposed in my bill. Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

Mr. President, there will be additional cosponsors of the legislation, whose names I will provide for the RECORD later today.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "More Adequate Title I, P.L. 480 Program Act of 1978."

INCREASE OF TITLE I FINANCING

SEC. 2. Section 409 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof a new sentence as follows:

"Notwithstanding any other provision of this Act, the Secretary of Agriculture shall provide Commodity Credit Corporation financing for a minimum of $1 billion for the purchase of United States farm commodities under agreeents to be entered into with developing nations under Title I of this Act in fiscal year 1978.".

By Mr. BELLMON:

S. 2484. A bill to impose quotas on the importation of beef, including processed beef and beef quantities in the form of live cattle, when the domestic market price of cattle is less than 110 percent of parity and to impose custom duties on such articles when the domestic market price of cattle is less than 80 percent of parity; to the Committee on Finance.

BEEF IMPORT ACT OF 1978

Mr. BELLMON. Mr. President, America's cattle industry has been faced with an extended period of market depression for producers. Prices paid by producers compared to prices they receive has severely curtailed their buying power. This condition has forced many family farmers and ranchers into excessive debt to

maintain operations. Grain markets are experiencing low prices from surplus supplies. This condition has become compounded as cattlemen plow up pasture land and raise crops to meet expenses. A major cause of this adverse economic condition is the U.S. method of allowing meat imports into our domestic market.

Meat import levels are negotiated under voluntary restraints determined from the 1964 Meat Import Act (Public Law 88-482). Under this law, imports are increased as domestic production is increased. In addition, there exists a built-in growth factor guaranteeing importers at least a 7-percent share of our domestic market. Imported meat competes directly with cow/calf production in the ground beef market. Not all meat is covered by the law and consequently the law and its quotas are circumvented through live cattle shipments and various forms of processed meats.

Due to recent droughts and adverse economic conditions in the agricultural sector, cattle producers have excessively liquidated their herds to dangerously low levels. Even though we are at the end of a cattle cycle, herd rebuilding can not proceed without positive changes in market price conditions.

Reforming the 1964 Meat Import Act is in the best interests of producers, consumers, and international trade. Producers, especially cow/calf operators require relief from excessive foreign competition. Consumers need protection against escalated prices. International trade balances need assurance of stability and optimum resource allocation.

The concepts of this bill require study as it does bring an economic model into play to bring stability to our beef markets. Therefore, Mr. President, I ask unanimous consent that a narrative which has been prepared providing valuable background for this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MODEL NARRATIVE

The model's fundamental implications are to:

(1) prevent extended periods of low market prices for producers;

(2) protect consumers from inflated meat prices; and

(3) assure foreign exporters access to our domestic meat market.

The model provides a formula which determines import quotas as a percentage of domestic production. The index used is a price received, price paid ratio. This index herein referred to as the production cost price index, triggers import levels. The equilibrium level is set at 80% on the index allowing 2% of domestic production in imports. As market prices rise increasing the index above 80%, imports are allowed to increase. At 100% on the index, imports are allowed 10% of domestic production. Whenever the index falls below 80%, imports are held at 2% of domestic production and a duty is attached to those imports.

DEFINITION OF TERMS

Imports.—All classification of beef and veal including beef covered under the 1964 Meat Import Law, all meat not covered under the 1964 law and all non-registered live cattle converted to product weight.

Domestic Production.—All U.S. production of meat as determined by USDA.

Prices Received.—As determined by USDA on national averages between cattle under and over 500 lbs.

Prices Paid.—As determined by USDA their prices paid index to include feed grains.

Duty.—An assessment against imported meat which is a percentage of the current average market prices.

The equilibrium level is set at 80% of the production cost price index because the cattle industry over the past two cow cycles has averaged 83% of parity. The 2% of domestic production allowed as imports would provide returns to producers within the 80–90% range on the index. Although that 2% is presently below the 1964 original quota level, it would function as a floor to stabilize equitable returns in the marketplace.

QUOTAS

Import quotas would be determined quarterly. Domestic production would be based on a 12-month sliding scale, while the price index would be determined from a six-month average. Quotas for April through June would be determined on January 1, thereby giving exporters a six-month time frame to operate in; i.e. January through March to fill quotas and April through June for what they would be allowed in future shipments.

Under this proposal's operations, consumers have protection from high meat prices. Imports would serve to adjust supply and stabilize prices. The fundamental concept of pure competition would come into play. As profits are realized more producers enter the market bringing the market prices back to an equilibrium level, around 80 percent of the price index.

Quotas would be allocated based on each country's present market share as a percentage of the total quarterly quota.

PROGRAM ADMINISTRATION

USDA would be responsible for maintaining the necessary data (all of which is presently compiled and published). They would then compute import quotas every three months. The state department would then have the responsibility of informing exporting countries of those quota levels. It is very possible that after a short period of market adjustments, annual import levels could be the same as at present and in some years of the cattle cycle even greater than allowed in by the 1964 Meat Import Law.

WHY PRICE?

Why advocate a price index rather than a supply ratio to determine imports? The answer lies in the models responsiveness to the industry through the market place. Immediate short run relief to the livestock industry would be realized which would bring up the grain sectors economic health. The long run implications are a stable and adequate meat supply, restraints on meat prices and access to our domestic market. Utilizing a price/parity type of index would allow foreign exporters liberal market access during periods of high prices whereby they could realize higher revenue returns from less meat. This condition, averaged over a 12-month period, would maintain sufficient trade balances on a dollar basis.

THE MODEL

Definition of the variables:

P_r equals prices received by producers as determined and reported on a national average by USDA.

P_c equals the price at which a quantity of beef can purchase the same quality of non-farm goods as in a specified earlier period. (USDA all cattle parity price.)

P_r/P_c equals the production cost price index which determines imports.

I equals that percentage of domestic production which will be allowed as meat imports. (This represents the volume of imports as a percentage of domestic production.)

D represents the rate of duty, expressed as a percentage, to be applied against all meat imports when prices are below a specified level and imports are held to 2 percent of domestic production.

The model:

Y axis—Production Cost Price Index.

X axis—Percent of Domestic Production (allowable volume of imports).

Constraints: When P_r/P_c is less than 80 percent then D takes effect on imports, held at 2 percent of domestic production. The supply schedule faced by foreign meat exporters to the U.S. is represented by the equation:

(1) Y equals .75 plus 2.5X

where

X equals allowable imports (I)

Y equals P_r/P_c

Equation (1) can be rewritten as:

(2) I equals P_r minus .75 $P_c/2.5P_c$

The demand curve faced by the foreign meat exported to the U.S. is represented as an infinitely elastic demand, the same as that faced by the individual producer in the meat industry.

The demand curve is represented by the equation:

(3) Y equals 80 percent

Equation (3) can be rewritten in the form:

(4) P_r/P_c equals 80 percent. This relationship is based on the constraint P_r/P_c less than 80 percent which triggers the duty.

Whenever the price ratio, P_r/P_c, falls below market equilibrium, the rate of duty formula becomes active. This is represented as:

(5) D equals .15 plus 2 (.02 minus I)

This can be expressed as:

(6) D equals .19 minus 2 I

The duty is triggered at P_r/P_c less than 80 percent and the initial rate at that point is a 15 percent duty. For each 1 percent downward change in the price index ($P_r/_c$) the duty increases by a multiple of 2, relative to the base of 2 percent of domestic production for allowable imports. The duty on the 2 percent of domestic production is increased as prices decrease, and that increase in the duty is determined by the two equations. This is represented in Table A.

The model incorporates a countercyclical tendency. Since high market prices would occur during periods of limited domestic supply, import would be allowed greater market access which in turn would create a downward pressure on price. Conversely when domestic supply is excessive, lower prices would prevail and imports would have limited market access. The duty would in effect lessen any competitive advantage imported meat might have. Domestic buyers would seek domestic meat at lower prices rather than imported meat at higher prices, as a result of the duty. As oversupply conditions lessen an upward pressure on price would move the market back to an equilibrium level.

USING THE MODEL

The five step procedure for applying the proposal is:

Step 1.—Accumulate necessary data;

Step 2.—Determine imports as a percent of domestic production;

Step 3.—Convert imports into product weight;

Step 4.—Determine quarterly quota of imports;

Step 5.—Determine each exporting countries share of allowable imports.

An additional step would include the application of a duty. This is demonstrated in example 2.

EXAMPLES OF THE MODEL'S APPLICATION

Example 1

Step 1:

Data (Jan. 1) 6-month average of all cattle (over and under 500 lbs.)—

P_r—$50.00 cwt.

P_c—$60.00 cwt.

Domestic Production (12-month sliding scale) equals 25 billion lbs.

Step 2:

Imports equals P_r minus .75 P_c/2.5 P_c equals 50.00 minus .75 (60.00)/2.5 (60.00) equals .033.

Imports equals .033 of domestic production of twelve months.

Step 3:

Imports (lbs.) equals .033 (25 billion lbs.) equals 825 million lbs.

Step 4:

Imports/quarter (3 months) equals 825 mil lbs./4 equals 206.25 mil lbs.

Step 5:

Quotas assessed—

Australia has 40 percent of the U.S. meat import market; therefore, the quota for the period April, May, and June would be: 0.4 (206.25 mil lbs) equals 82.5 mil lbs.

Example 2

Step 1:

Data (Jan. 1)—6-month Average Price of All Cattle—

P_r—$37.00 cwt.

P_c—$60.00 cwt.

Domestic production (12-month sliding scale) equals 25 billion lbs.

Step 2:

Imports equals P_r minus .75 P_c/2.5 P_c equals 37.00 minus .75 (60.00)/2.5 (60.00) equals minus .053 or minus 5.3 percent of domestic production.

Imports are held at 2 percent of domestic production since the production cost price index (P_r/P_c) is below 80 percent. The duty is then assigned to all imports for that quarter April through June.

Step 3:

Imports in product weight equals .02 (25 bil lbs) equals 500 million lbs/year.

Step 4:

Imports for quarter being considered equals 500 million lbs/4 equals 125 million lbs.

Step 5:

Quotas accessed—

Australia equals .4 (125 mil lbs) equals 50 mil lbs.

New Zealand equals .2 (125 mil lbs) equals 25 mil lbs.

Step 6:

Duty equals .19 minus 2(I) equals .19 minus 2 (minus .053) equals .296.

The duty then becomes 29.6 percent of the average market price or $10.95/cwt. ($37.00 times .296) The duty may be computed weekly or monthly pending market price fluctuations.

TABLE A.—*Duty schedule*

Percent D	Percent P_r/P_c	Percent I
----	1.10	Unlimited
----	1.00	.1
----	.95	.08
----	.90	.06
----	.85	.04
----	.80	.02
.158	.79	.016
.19	.75	.0
.23	.70	—.02
.27	.65	—.04
.31	.60	—.06
.35	.55	—.08
.39	.50	—.10
.43	.45	—.12
.47	.40	—.14

Mr. BELLMON. Mr. President, the current Meat Import Act allows more imports into this country when domestic supplies are high and fewer imports when domestic supplies are low. This provision has acted as a detriment to our domestic producers and to consumers. When prices are low, imports force them lower, and when prices rise, imports are decreased and, therefore, force prices even higher. Therefore, merely changing the law to a countercyclical approach would protect consumers to some extent, but would not be acceptable to many producers. The problem is not as simple as it seems as by the time supplies are determined, the problem already exists. The import quotas should be keyed to price to allow the quotas to be adjusted more quickly to abate low prices for producers and further to prevent exorbitantly high prices to consumers.

The Beef Import Act of 1978 does change the import quota provisions to a countercyclical approach keyed by price. In addition, the bill acts to remove the disasterously low troughs from the market cycle. Further, the exorbitantly high peaks will also be removed. This is achieved by an effort to maintain price between lows of 75 to 80 percent of parity (for all beef) and highs of 110 to 120 percent of parity. The price received will still be dependent on supply and demand signals from the market.

The bill operates through an economic model which determines the amount of imports necessary to achieve this stability. Imports will never be shut off and will be maintained at least as high as 2 percent of our domestic production. At other times the allowable imports will be considerably higher than present levels.

When the price of beef goes below 80 percent of parity, duties will be imposed on imports. These duties will act as discouragement to foreign exporters to flood our markets when prices are low. At no time, however, will their imports be "shut off." When the price rises above 80 percent of parity, the allowable imports will be increased accordingly, duty free. This increase in imports will continue to the point that if price reaches 110 percent of parity, all quotas will be suspended. The amounts of imports will be known to exporters in advance to allow for their future planning.

In this manner, the consumer will be protected from exorbitantly high prices (probably 120 percent of parity at most) and the producer will simultaneously be protected from low prices (probably not less than 75 percent of parity).

This bill is very important not only for producers but also consumers. As I stated previously, producers have overliquidated their herds. This condition can only result in higher prices which means herd numbers will be replenished. However, Congress cannot idly sit and watch the livestock producers of this country fall prey to the huge oversupplies which resulted in the bankruptcy of many producers over the last 3 years. This bill provides a fair alternative to producers and consumers.

By Mr. RIEGLE:

S. 2485. A bill to provide reemployment rights for workers who temporarily relinquish employment to pursue education or childcare, and for other purposes; to the Committee on Human Resources.

EDUCATION AND CHILDCARE REEMPLOYMENT RIGHTS ACT OF 1978

Mr. RIEGLE. Mr. President, I rise to introduce the Education and Childcare Reemployment Rights Act of 1978. This bill is designed to guarantee reemployment rights to long-term employees who temporarily leave their jobs to further their education or raise their children on a full-time basis.

During periods of labor market tightness, too many women and men are afraid that if they ever leave their jobs—even jobs for which they are overqualified—they will never be able to find any others. My proposal is designed to iron out these kinks in the labor market.

We are just beginning to focus attention on the waste of human potential inherent in forcing parents of young children to choose between abdicating the care of these children during most of their working hours or surrendering all the progress they have made in their careers. We are contributing to a new generation of displaced homemakers whose skills are lost to the economy. Guaranteeing employees that they will not lose ground by taking time out for childcare or education will avert this danger and, moreover, will encourage underutilized workers to improve their skills without fear of becoming chronically unemployed.

Many progressive employers already follow such policies, of course. Federal law also provides a precedent in the form of veterans' reemployment rights. Unlike inductees into the Armed Forces, however, employees under my proposal would not continue to gain seniority while they are away from work. Rather, they would reenter the job market where they left it.

The rights provided by this bill apply only for a limited time. Workers who have at least 5 years' seniority with a given employer would have reemployment rights with that employer provided they notify him before leaving that they intend to return after a limited period of education or childcare. Their reemployment rights, moreover, would terminate after 5 years. And even though they gain reemployment rights equivalent to their seniority at the time they leave work, they could be required to undergo a period of retraining if the employer believes it necessary.

Reemployment rights are an idea whose time has come. As a member of the Human Resources Committee's Subcommittee on Child and Human Development, I am participating with the House Select Subcommittee on Education in a joint hearing to consider the findings of the Carnegie Council on Children. Among the Carnegie Council's recommendations is a call for more flexible working schedules and reemployment rights for parents. My bill is designed to meet this need for families and for employees who need the opportunity to pursue activities outside of the workworld for a limited period without fear that they will never be able to get back in.

ADDITIONAL COSPONSORS

S. 2354

At the request of Mr. DOMENICI, the Senator from Arizona (Mr. DECONCINI), the Senator from Alaska (Mr. STEVENS),

the Senator from North Carolina (Mr. HELMS), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 2354, the equal access to the courts bill.

S. 2387

At the request of Mr. PELL, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 2387, a bill to extend for 1 year the authority of the Commissioner of Education to waive provisions of title I of the Elementary and Secondary Education Act for certain local educational agencies.

S. 2395

At the request of Mr. THURMOND, the Senator from Mississippi (Mr. EASTLAND), the Senator from Texas (Mr. TOWER), the Senator from Delaware (Mr. ROTH), and the Senator from Arkansas (Mr. HODGES) were added as cosponsors of S. 2395, a bill to place the foreign sovereign governments and the United States of America on the same level—a level of actual damages when either is injured in its business or property, and for other purposes.

S. 2461

At the request of Mr. HATHAWAY. the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 2461, the Estate and Gift Tax Amendments of 1978.

SENATE JOINT RESOLUTION 101

At the request of Mr. DOMENICI, the Senator from Nebraska (Mr. ZORINSKY), the Senator from Florida (Mr. CHILES), the Senator from Delaware (Mr. ROTH), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of Senate Joint Resolution 101, a joint resolution to authorize the President to issue a proclamation designating a memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year.

SENATE RESOLUTION 388—SUBMISSION OF A RESOLUTION TO REFER S. 2477 TO THE U.S. COURT OF CLAIMS

Mr. CRANSTON submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 388

Resolved, That the bill (S. 2477) entitled "A bill for the relief of John L. Shane and Beatrice Rosenus Oakland" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims, and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, notwithstanding the bar of any statute of limitation, laches, or bar of sovereign immunity, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusion thereon as shall be sufficient to inform the Congress of the nature and character of the demand of the claim, legal or equitable, against the United States, or a gratuity in the amount, if any, legally or equitably due from the United States to the claimants.

AMENDMENTS SUBMITTED FOR PRINTING

COMMUNITY ACTION AGENCY USE OF EXCESS PROPERTY—S. 2134

AMENDMENT NO. 1684

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (S. 2134) to amend the Federal Property and Administrative Services Act of 1949 with respect to excess personal property for use of community action agencies, and for other purposes.

NUCLEAR NONPROLIFERATION ACT—S. 897

AMENDMENT NO. 1685

(Ordered to be printed and to lie on the table.)

Mr. CHURCH (for himself and Mr. MCCLURE) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 897) to strengthen the U.S. policies on export functions of the Federal Government to promote more efficient administration of such functions.

Mr. CHURCH. Mr. President, today I am introducing an amendment to S. 897, the Nuclear Non-Proliferation Act, which I believe will improve the effectiveness and enhance the workability of this bill. Further, I intend to support certain amendments to the bill introduced by my colleague from Idaho, Senator MCCLURE.

The Arab oil embargo of 1973, and the subsequent sixfold increase in the price of oil not only caused recession and financial instability, but also prompted oil importing countries throughout the world to seek alternate energy sources. The uncertainty of such alternate sources as geothermal or solar, wind or wave, spurred those countries lacking enough coal to a larger reliance on the other known and proven technology that could provide a reliable source of electrical power for a country's industrial base: nuclear energy. Countries throughout the world not only continued their light water reactor programs, they also increased work on the "back end" of the nuclear fuel cycle—reprocessing and the breeder reactor. They chose nuclear energy to reduce their dependence on foreign oil, and moved to reprocessing and the breeder to avoid exchanging their existing dependence upon imported oil for a new dependence upon imported uranium.

Given these circumstances, I am convinced that it is neither possible nor advisable to try to eliminate the backend of the nuclear fuel cycle. Rather, we must recognize the reality of its existence, and use our influence to construct a system of international safeguards which extend to all aspects of the nuclear fuel cycle, including the "backend."

As a result, I introduced amendments to S. 897 in both the Foreign Relations and Energy Committees, which were accepted. In the Foreign Relations Committee, in particular, I worked closely with Senators PELL, GLENN and PERCY, and I appreciated their cooperation.

However, since the time the bill was reported from the Foreign Relations Committee, a number of important events affecting S. 897 have occurred. The Nuclear Suppliers Conference in London issued a series of guidelines to provide a framework for nuclear exporters. The United States and Japan entered a trade agreement, which also covered exports of nuclear materials. Furthermore, numerous amendments to S. 897 were introduced late last fall, relating to the procedures proposed for licensing nuclear exports.

As a result, I undertook a review of S. 897 and asked the administration for its comments on a variety of matters relating to S. 897, including the relationship of the nuclear nonproliferation bill to the standards adopted at the Nuclear Suppliers Conference in London. I received a response last Friday, January 27, 1978, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., January 26, 1978.

Hon. FRANK CHURCH,
Committee on Foreign Relations,
U.S. Senate.

DEAR SENATOR CHURCH: I am pleased to provide you with the information you requested in your letter to Dr. Nye of January 17, concerning S. 897, the Nuclear Non-Proliferation Act of 1977. The enclosures, which contain this material, were prepared in the Department of State and coordinated within the Executive Branch. These enclosures are also being provided to Senator Sparkman in response to a request from him.

Enclosure 1 presents the Administration's views on the amendments to S. 897 proposed by Senator McClure just prior to the end of the last session. Enclosure 2 compares the guidelines adopted by the London Suppliers Group to those of S. 897. Enclosure 3 discusses the procedures of S. 897 and their probable impact on US nuclear exports. Enclosure 4 deals with the question of the Administration's position on the advisability of requiring environmental impact statements for nuclear exports from the United States to foreign countries. Finally, Enclosure 5 proposes additional revisions to S. 897 (in addition to the changes of Enclosure 1 which the Administration believes would materially improve the bill).

In this regard, I call your attention to the Administration's proposed revision to the immediate criteria of S. 897 (Enclosure 5) to delete the retroactive feature of the criteria concerning the requirements for US consent rights for reprocessing and retransfer. A requirement for retroactive application would cause serious difficulties with regard to implementation of such controls in the only three agreements which currently do not provide for all of these controls: namely, our agreements with the European Communities, with the International Atomic Energy Agency and with Canada. The proposed deletion would make S. 897 consistent with similar provisions in H.R. 8638 as passed by the House of Representatives in September 1977, which do not provide for such retroactive application. We believe the above modification is essential to the implication of our non-proliferation objectives.

I am pleased that you anticipate early floor action on S. 897. I would like to reemphasize to you the importance that the President and the Secretary attach to early passage of S. 897. Passage of the non-proliferation legislation is central to the President's foreign policy objectives and the success of our non-proliferation efforts. Moreover, the legislation is important to restoring the United States position as a reliable supplier of nuclear material and equipment, and thus to fostering export activities consistent with our non-proliferation objectives. We believe action is truly urgent, and that the bill should be taken to the Senate floor promptly.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Enclosures.

COMMENTS ON AMENDMENTS PROPOSED TO S. 897

A number of proposed amendments to S. 897 appeared in the Congressional Record for November 2, 1977, at pages S 18484 through S 18487. Following are comments on those amendments, in the order in which they affect S. 897.

Amendment 1612.—This amendment would delete from the Statement of Policy in S. 897 a paragraph indicating that it is U.S. policy to cooperate with other nations in protecting the international environment from radioactive, chemical or thermal contamination arising from nuclear activity. A similar statement, however, would be inserted in Title 5 by amendment 1609. We understand that this amendment was proposed out of a concern that the language in S. 897 might be used to support the argument that environmental impact statements must be prepared for localized foreign impacts of U.S. nuclear export activities. We do not believe this particular language in the Statement of Policy was inserted to indicate such a congressional intention. On this basis, the Executive branch believes that the existing language should be retained, in the more general policy section of the bill, rather than relegated to Title 5.

Amendment 1582.—The Executive branch supports this amendment.

Amendment 1583.—This amendment would revise Section 104, dealing with the international nuclear fuel authority. The Executive branch can accept this revision, except for its continued concern regarding the use of the concurrent resolution procedure. The Executive branch opposes the use of the concurrent resolution legislative mechanism on constitutional and policy grounds, and favors instead joint resolution procedures. Subparagraph (f) is particularly troublesome in view of the fact that it requires concurrent resolution "approval" for particular United States agreements. We recommend a revision of subparagraph (f) along the following lines:

"(f) The President may not enter into any binding international understanding negotiated pursuant to subsection (a) which is not a treaty and may not enter into any sales arrangement pursuant to subsection (b) which is not a treaty, until such undertaking or arrangement has been submitted to the Congress for a period of sixty days of continuous session (as defined in subsection 130 (h) of the 1954 Act): *Provided*, that no such undertaking or arrangement shall become effective if during such sixty day period the Congress adopts a joint resolution stating in substance that the Congress does not favor the proposed undertaking or arrangement."

Amendment 1584.—The Administration supports this amendment.

Amendment 1585.—In view of the action taken by the House of Representatives on the identical issue, the Executive branch can accept this amendment.

Amendment 1587.—This amendment would modify the procedures in S. 897 by requiring that by-product material be exported in accordance with the procedures of Section 127 and 128 of the bill. We believe that this modification is unwarranted, and that the reference to by-product material which would accomplish this should be deleted. Thus, the proposed new subparagraph (b) should be revised by replacing "any special nuclear material, source material, or by-product material under Section 54, 64 or 82" with "any special nuclear material or source material under Section 54 or 64". Aside from this point, amendment 1587 restructures other provisions of the bill, without substantive change, and is acceptable.

Amendment 1586.—This amendment is acceptable.

Amendment 1588.—This amendment is acceptable.

Amendment 1589.—This amendment requires that the Department of Energy establish procedures for Part 810 approvals requiring at least the procedural detail and time limitations comparable to those in Executive Order 11902. The amendment further provides that the processing of subsequent arrangements proposed and filed as of October 3, 1977, shall not be delayed pending development of these procedures. The Executive branch has difficulties with referring to an Executive Order in a statute in the manner suggested. We understand the concern behind the amendment is to insure that other agencies respond to the Department of Energy within 30 days (as is the case for comments to the Department of State under Executive Order 11902). It would be preferable to so provide explicitly. Moreover, since Executive Orders may be changed without legislation, it is not advisable to pinpoint reference in this bill to the Executive Order as it existed on February 2, 1976. In addition, Executive Order 11902 has procedural provisions relating to the NSC Under Secretaries Committee, which is no longer in existence. The Executive branch recommends that the first sentence of the amendment be revised to read: "Such procedures shall include a requirement that Departments and Agencies consulted respond to the Department of Energy within thirty days of receipt of a copy of the proposed authorization".

As an additional matter, we note that the Department of Commerce should be consulted on such authorizations. To accomplish this, insert "Department of Commerce," after "Nuclear Regulatory Commission," on line 9 of page 115 of S. 897.

Amendment 1590.—This amendment is acceptable.

Amendment 1591.—This amendment is acceptable.

Amendment 1592.—This amendment is acceptable.

Amendment 1595.—This amendment provides that the Department of Energy determinations concerning subsequent arrangements are not subject to normal administrative procedures. These determinations are final unless found by a Court to be arbitrary, capricious, an abuse of discretion, not in accordance with law, contrary to the Constitution, in excess of statutory authority, or without observance of procedure required by law. The policy motivating this amendment is laudable. However, the amendment should cover findings under all sections by the various concerned Executive branch agencies. To accomplish these objectives, the proposal for page 116, beginning at line 13, could be instead inserted as a new paragraph (b) of section 406, as follows: "(b) To the extent any finding, determination or other action under this Act or under the amendments made by this Act to the 1954 Act are subject to judicial review, such review shall not be subject to subchapter II of Chapter 5 of Title 5 of the United States Code, but rather shall be subject to Chapter 7 of Title 5 of the United States Code: *Provided* that all such findings, determinations or other actions shall be final unless determined upon judicial review to be unlawful by the reviewing court pursuant to 5 USC (A) or (B). Alternatively, if this is not agreeable to the Congress, the Executive branch would prefer deletion of the amendment in order to avoid the implication that such other findings are subject to broader review, as might be argued based on the negative inference inherent in the amendment.

Amendment 1593.—This amendment is acceptable to the Executive branch.

Amendment 1594.—This amendment requires the Department of Energy to establish procedures, mutually agreeable to State, Department of Defense, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, for the consideration of subsequent arrangements. As indicated before with respect to Amendment 1589, the Executive branch has difficulty with the reference to Executive Order 11902. We suggest such procedural details as are necessary, if any, be set forth in the statute. The Executive branch, further, has difficulty with the time limits proposed for ACDA with respect to nonproliferation assessment statements and believes it would be desirable to set a more realistic time limit. Thus, it would be preferable to provide that ACDA, when responding to a Department of Energy proposed subsequent arrangement pursuant to paragraph (a)(1), shall indicate whether it intends to prepare a nuclear proliferation assessment statement. This would give ACDA thirty days to make the decision. It could further be provided that ACDA would have an additional period of thirty days to complete the statement, during which the Department of Energy would be precluded from completing the subsequent arrangement. This would give ACDA a total of sixty days from receipt of the proposal for completing a proliferation assessment statement; there still could be provision for Presidential waivers beyond that period.

To accomplish these changes, proposed subsection (c) should be revised to provide: "(c) The Secretary of Energy within not more than ninety days after the enactment of this section shall establish orderly and expeditious procedures which are mutually agreeable to the Secretary of State, the Secretary of Defense, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for making the determinations and notifications required by this section. Such procedures shall include a requirement that these Departments and Agencies respond to the Department of Energy within thirty days of receipt of a copy of the proposed subsequent arrangement. Further such procedures shall specify that if he intends to prepare a Nuclear Proliferation Assessment Statement, the Director shall so declare in his response to the Department of Energy. If the Director declares that he intends to prepare such a Statement, he shall do so within sixty days of his receipt of a copy of the proposed subsequent arrangement (during which time the subsequent arrangement shall not enter into effect), unless pursuant to the Director's request, the President waives the sixty day requirement and notifies the Committee on International Relations of the House of Representatives and the Committee on For-

eign Relations of the Senate of such waiver and the justification therefor.

Amendment 1596. This amendment is acceptable.

Amendment 1597.—This amendment requires State, within ninety days after enactment, to establish procedures for the preparation of the Executive branch judgment on export licenses. These procedures must be mutually agreeable to the Departments and Agencies concerned. The Executive branch again, as with amendments 1589 and 1594, has difficulty with the statutory reference to Executive Order 11902. Rather, we suggest that the relevant features of Executive Order 11902 be incorporated in the statute, and the requirement for the promulgation by the Department of State for additional procedures be dropped. Thus, we recommend that the language proposed in amendment 1597 be revised to read: "In formulating the Executive branch judgment, the Secretary of State shall consult with the Secretary of Energy, the Secretary of Defense, the Secretary of Commerce, and the Director of the Arms Control and Disarmament Agency, and the Head of any other Department or Agency which may have an interest therein in order to afford them the opportunity to express their views, if any, on whether the license should be issued or the exemption granted. These Departments and Agencies shall respond to the Secretary of State within thirty days of receipt of a copy of the license application, and any disagreements shall be resolved in accordance with the procedures of the National Security Council."

Amendment 1598.—This amendment is acceptable.

Amendment 1599.—This amendment is acceptable.

Amendment 1600.—This amendment is acceptable.

Amendment 1601.—This amendment relates to the procedures to be promulgated by the Nuclear Regulatory Commission for export licensing. It requires that to the extent feasible, the Commission process license applications while awaiting Executive branch comments. It permits the Commission to identify concerns and requests for information during this process, which the Executive branch shall address in its written communication with the Commission. Further, it requires that if the Commission has not completed action on an export license application within sixty days after receipt of the Executive branch judgment that the proposed export is not inimical to the common defense and security, the Commission must inform the applicant with an explanation of the need for further time, including a description of any remaining issues to be considered. The amendment further provides that if the Commission has not completed action within an additional sixty day period (120 days total) from the receipt of the Executive branch judgment), the President, upon a finding that further delay would be excessive, and upon the findings that would have otherwise been required of the Commission or would have been required to override the Commission, may by Executive Order declare that the application is approved, subject to the Congressional review procedures set forth in proposed Section 130.

While we do not think this amendment necessary in order to deal with the problem of delays and the licensing process, we have no difficulty with the first sixty days time limitation. However, with respect to the additional sixty day time limitation, there should be provision made to take into account the possibility of public participation, as separately provided for under Section 304 (b)(2) and the possible need of the Commission for additional information from the Executive branch. The following revision of the amendment would accomplish these objectives:

"(d) The procedures established pursuant to subsection (b) of this Section shall provide that the Commission shall immediately initiate review of any application for a license under this Section and to the maximum extent feasible shall expeditiously process the application concurrently with the Executive branch review, while awaiting the final Executive branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such license and shall transmit such concerns and requests to the Executive branch which shall address such concerns and requests in its written communications with the Commission. Such procedures also shall provide that if the Commission has not completed action on the application within sixty days after receipt of an Executive branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes and, if action has not been completed by the end of the sixty days, the Commission shall inform the applicant in writing of the reason for delay and provide follow-up reports as appropriate. If the Commission has not completed action by the end of an additional sixty days (a total of 120 days from receipt of the Executive branch judgment), the President may authorize the proposed export by Executive Order, upon a finding that further delay would be excessive and upon making the findings required for such Presidential authorizations under subsection (b)(2) of the Section. However, if the Commission has commenced procedures for public participation regarding the proposed export under regulations promulgated pursuant to subsection (b) of this Section, or has—within sixty days after receipt of the Executive branch judgment on the proposed export—identified and transmitted to the Executive branch a set of additional concerns or requests for information, the President may not authorize the proposed export until sixty days after public proceedings are completed or a full Executive branch response to the Commission's additional concerns or requests has been made consistent with subsection (a)(1) of this Section. For purposes of this subsection, public proceedings shall be deemed completed on the final day of any hearings scheduled by the Commission or on the date provided in any Commission order for receipt of written views by the public."

Amendment 1602.—This amendment is acceptable.

Amendment 1603.—This amendment adds a new provision requiring the Department of State, in consultation with the Department of Energy, the Arms Control and Disarmament Agency, and the Commission, to promulgate guidelines for adequate physical security. These guidelines must be no less stringent than any guidelines contained in or promulgated pursuant to any international agreement, including an Agreement for Cooperation to which the United States is a party. While the Executive branch is sympathetic with the desire of the amendment to clarify the levels of physical security that will be considered adequate for purpose of application of the export licensing criteria, we are concerned that the language in the amendment does not reflect the terminology that has evolved internationally in the consideration of this issue. International "guidelines" establish "levels" of physical security; the concrete steps taken to implement these levels are called "measures." Moreover, it may be appropriate for more stringent measures to be applied in certain particular cases. A revision of amendment 1603 which the Executive branch would support is as follows:

"On page 126, after line 21, insert a new subsection to read as follows:

'(d) Within sixty days of the date of enactment of this Act, the Secretary of State shall, in consultation with the Secretary of Energy, Secretary of Defense, the Director and the Commission, notify the Commission of the levels of physical security which in his judgment are no less strict than those established by any international guidelines to which the United States subscribes and which will provide adequate protection for facilities and material referred to in paragraph (a)(3) of Section 127 of the 1954 Act. Such notification may be amended from time to time by the Secretary of State, in consultation with the Secretary of Energy, the Director and the Commission.'

"On page 127, after line 26, add a new sentence to read as follows:

'Following the effective date of any notification to the Commission pursuant to Section 304(d) of the Nuclear Non-Proliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection comparable to that required by the applicable notification.' "

Amendment 1604.—This amendment relates to Commission designations of component parts that are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes as production or utilization facilities, and thus being subject to the export licensing criteria. Under current law, the Nuclear Regulatory Commission could make such designations without any coordination with the Executive branch. The proposed amendment establishes a highly complicated procedure involving Executive branch concurrences, consultation, referral to the President, and referral to the Congress. In our view, a simpler consultative procedure would be wholly adequate. We therefore recommend that amendment 1604 be revised as follows:

"On page 139, line 23, strike 'The' and substitute in lieu thereof 'After consulting with the Secretaries of State, Energy and Commerce and the Director, the'."

Amendment 1605.—This amendment is acceptable. However, with respect to the paragraph that this amendment affects we should like to point out that a conforming change regarding the word "evidence" should be made to reflect the change proposed in amendment 1598.

Amendment 1606.—This amendment is acceptable.

Amendment 1607.—In substance, this amendment provides that if the President exempts a new or amended Agreement for Cooperation from the full-scope safeguards requirement, and if Congress does not override this Agreement, then the Nuclear Regulatory Commission need not apply the full-scope safeguards criterion to export license applications under that Agreement for an initial twelve month period. This amendment has caused the Executive branch to focus on a more serious problem. If the President waives a requirement for a new Agreement for Cooperation that is also an export licensing requirement under proposed Section 127, as the bill is currently written, it would be impossible for the Nuclear Regulatory Commission to license exports under the agreement even if the Congress does not object to the entry into force of that Agreement.

The Executive branch considers this could be a difficulty.

We suggest that amendment 1607 be replaced with the following:

"Insert after the word 'security.' on line one of page 147 of S. 897, the following new sentence: 'If any such exemption pertains to a requirement which is also an export licensing criterion under Section 127 or 128 of this Act, that criterion shall not, to the extent modified by the exemption, apply to exports under the proposed agreement upon its entry into force.' "

Amendments 1608, 1610 and 1611.—These amendments are acceptable.

THE NUCLEAR SUPPLIERS GUIDELINES AND S. 897

In January 1978, the export guidelines adopted by the London Nuclear Suppliers Group were for the first time officially made public. These guidelines establish minimum standards for safeguards and export controls to be applied by nuclear suppliers in transfers to any non-nuclear weapon state for peaceful purposes. The text of these guidelines was provided the Senate Foreign Relations Committee under cover of letters from Dr. Joseph S. Nye, of January 12, 1978.

As the Committee is aware, the major elements of these guidelines were developed in a series of confidential meetings in 1975 among seven major supplier nations. The original participating states in January 1976 informed each other of their intention to observe the guidelines in their national export policies. Several additional steps were necessary prior to official publication of the guidelines. First, several related documents had to be worked out: the trigger list, the annex to the trigger list containing additional clarifications, and the agreed levels of physical protection. Second, the group was enlarged from its original seven members to fifteen members. Third, several of the provisions in the guidelines were revised for technical reasons (e.g., to take into account the completion of work on the various annexes). Fourth, provisions in the guidelines were strengthened; thus, the provisions relating to "sanctions" in paragraph 14(c) were elaborated. Finally, procedures for publication were worked out. During this whole period, from the commencement of work on the guidelines, through the initial stages of adoption of the guidelines in confidence, the Executive Branch has periodically provided the Congressional Committees with confidential briefings on the progress of this work.

Since the main elements of the guidelines were established by the end of 1975, the work of the Executive Branch on non-proliferation legislation since then has taken into account the existence of this document. The positions taken by the Executive Branch in commenting on previous versions of the non-proliferation legislation, in proposing its own bill during this Administration (S. 1432), and in working out compromise provisions in S. 897 have been fully consistent with and supportive of the London Nuclear Supplier Group Guidelines.

It is the Executive Branch's judgment that the publication of the guidelines does not necessitate any revision in S. 897, as most recently reported to the Senate. In fact, consistent with our view that the guidelines provide a floor and not a ceiling on the non-proliferation controls and commitments appropriate to be sought by nuclear suppliers in their export dealings, S. 897 is considerably stronger in many ways than the guidelines.

U.S. law as it would be set forth in S. 897 is stronger in some respects than the guidelines. Countries purchasing from the U.S. will be asked to agree to somewhat stricter terms than those which may be sought by some other suppliers, but we do not believe that the U.S. should adopt a "lowest common denominator" approach. In developing our policy and our position on S. 897, we have had clearly in mind the need to avoid policies so restrictive as to damage our competitive commercial position, or our leverage in moving others toward adequate safeguards and controls. We believe that our present policy and S. 1432 strike the proper balance between these factors.

For the sake of comparison, the following discussion relates provisions in the guidelines to provisions in S. 897.

Paragraph 2 of the guidelines requires that suppliers, in their civil nuclear dealings explicitly exclude uses which would result in any nuclear explosive device. This is reflected in S. 897 in proposed section 127(2) and 123(a)(3) of the Atomic Energy Act.

Paragraph 3 of the guidelines requires adequate physical protection in the recipient country of nuclear materials and facilities. This is reflected in S. 897 in proposed sections 127(3) and 123(a)(6) of the Atomic Energy Act.

Paragraph 4 of the guidelines requires IAEA safeguards on exported items. This is reflected in S. 897 in proposed sections 127 (1) and 123(a)(1) of the Atomic Energy Act. In addition, S. 897 contains a more stringent provision, on which we have not yet succeeded in achieving consensus in the Nuclear Suppliers Group, which provides for full-scope safeguards (see proposed sections 128 and 123(a)(2) of the Atomic Energy Act). Paragraph 5 provides that suppliers will jointly reconsider their common safeguards requirements whenever appropriate. This provides the United States the opportunity to continue to press for full-scope safeguards, as well as to take initiatives in the Nuclear Suppliers Group in accordance with provisions contained in sections 104, 201, and 403.

Paragraph 6 of the suppliers guidelines requires that safeguards be triggered by the transfer of certain sensitive technology. This is reflected in S. 897 in proposed sections 127(6) and 123(a)(9) of the Atomic Energy Act. In addition, section 402(b) would require specific provision in any Agreement for Cooperation to permit any export of any major critical component of a sensitive nuclear facility.

Paragraph 7 of the guidelines calls for supplier restraint in the transfer of sensitive facilities, technology and weapons usable materials While this requirement in the suppliers guidelines lacks specificity, the United States, France and the Federal Republic of Germany have each publicly announced their intention not to export certain sensitive technology. President Carter in his April 7, 1977, nuclear policy announcement, indicated that "We will continue to embargo the export of equipment or technology that would permit uranium enrichment and chemical reprocessing." Further, with respect to weapons usable material, the White House announced a policy of restraint in Point 1 of its fact sheet of April 27, 1977 (see page 123 of "Nuclear Proliferation Fact Book." Joint Committee Print, 95th Congress, First Session, September 23, 1977). This policy of restraint is reflected in many places in S. 897, such as section 402(b).

Paragraph 8 of the guidelines requires that the recipient nation agree that any enrichment facility or any facility based on the technology to be exported will not be designed or operated for the production of greater than 20 percent enriched uranium without the consent of the supplier. This policy is reflected in section 402(b) of S. 897.

Paragraph 9 of the suppliers guidelines is non-mandatory. It indicates that suppliers recognize the importance of including controls on reprocessing, storage, alteration, use, transfer and retransfer in agreements for the supply of nuclear materials and facilities for production of weapon-usable material. Paragraph 10 of the guidelines requires retransfer controls on all export items and material derived through their use, as well as on major critical components. S. 897 is more stringent in some respects, and comparable in others. With respect to retransfers, S. 897 reflects the provisions in the suppliers guidelines in proposed sections 127(4) and 123(a)(5). With respect to reprocessing and alteration, S 897 goes further than the guidelines in the provisions of proposed sections 127(5) and 123(a) (7). With respect to storage, S. 897 reflects the provisions of the suppliers guidelines in section 123(a)(8). As indicated above, all the controls listed, including those on reprocessing, storage, alteration, transfer and retransfer, apply to sensitive nuclear facilities, major critical components, and material produced through their use.

Paragraphs 11–16 of the guidelines concern "supporting activities."

Paragraph 11 calls on suppliers to promote international cooperation in the field of physical security. A U.S. initiative on this matter is proposed in section 403(b)(2) of S. 897. It is consistent with this that the U.S. proposed internationally a Convention on the Physical Protection of Nuclear Materials, Equipment and Transports. A first meeting to negotiate this Convention was held in November 1977, with the next meeting scheduled for April 10–21, 1978.

Paragraph 12 calls for suppliers to make special efforts in support of effective implementation of IAEA safeguards. Section 201 of S. 897 deals with this subject matter and reflects the provisions of the suppliers guidelines, in somewhat greater detail.

Paragraph 13 of the guidelines calls on suppliers to encourage designers and makers of sensitive equipment to construct it in such a way as to facilitate the application of safeguards. The U.S. Government is undertaking studies related to this initiative.

Paragraph 14 of the guidelines deals with consultations among suppliers. Paragraph 14(c) deals particularly with the issue of sanctions. Even more stringent provisions are contained in S.897 in proposed section 129 of the Atomic Energy Act. Proposed section 123(a)(4) would also require that provisions on sanctions be in all new or amended agreements for Cooperation.

Paragraph 15 of the guidelines calls on suppliers to exercise prudence taking into account the circumstances of each case, including the risk that transfers of non-sensitive technology may lead to unsafeguarded nuclear material. Through the variety of licensing and opproval processes provided for in S. 897, all the agencies of the Executive Branch and the Nuclear Regulatory Commission will, as appropriate, have the opportunity to assess the risk of each particular nuclear export, so that exports which would, in the circumstances of a particular case create an undue risk, would be denied.

COMMENTS CONCERNING EXPORT PROCEDURES

The Executive Branch considers that the export procedures in S. 897 would not cause significant delays in licensing exports. Indeed, section 101 of S. 897 provides for timely authorization of exports when the applicable requirements are met. We know that objections have been raised by some to the procedures on the grounds that they are complicated, subject to challenge by interveners, and for the potential for delays. We consider, however, that in the normal case, the export procedures provided for in S. 897 will function smoothly. In the normal case, there is merely a requirement for prior coordination among concerned agencies, and then an approval process. Only in rare cases would the additional procedural steps contained in the bill—such as a Presidential review of negative NRC licensing decisions

and a possible Congressional review of the President's override—come into play. We expect that the current high level of cooperation between the Executive Branch and the Nuclear Regulatory Commission will, permit the procedures to function effectively.

However, we note that certain of the amendments introduced by Senator McClure are aimed at easing the export process, particularly by inserting time limitations and by limiting the possibility for challenges by interveners. The Executive Branch supports the thrust of these amendments in accordance with our discussion as set forth in Enclosure 1. We note that these amendments, with the modifications suggested by the Executive Branch, would further ease the export process.

In any event, we do not believe that the procedures in S. 897 would encourage purchasers to turn to nuclear suppliers other than the United States.

COMMENTS CONCERNING ENVIRONMENTAL IMPACT STATEMENTS

The Executive Branch currently has under review the policy and legal issues surrounding the question of applicability of the environmental impact statement process to the activities of U.S. agencies having environmental impacts abroad. Because this review has not been completed, the Executive Branch is not prepared at this time to state its position on the advisability of requiring environmental impact statements for nuclear exports from the United States to foreign countries.

RECOMMENDED REVISION TO S. 897, SECTION 305 CRITERIA GOVERNING UNITED STATES NUCLEAR EXPORTS

One issue has come to the attention of the Executive Branch that could cause serious difficulties. Under the proposed Section 127 of the Atomic Energy Act, several of the criteria are retroactive. In particular, under paragraphs (4) and (5), the Nuclear Regulatory Commission could not license the next export to any country if the U.S. did not obtain a reprocessing and retransfer consent rights retoractively applied to all previous U.S. transfers under the applicable agreement for Cooperation. It should be noted that all United States agreements except those with Canada, EURATOM and the IAEA already fully provide for approval rights concerning reprocessing and retransfer of materials that have been transferred under them. It is highly unlikely, if not impossible, that we would be able to apply all of these controls retroactively for each of these three exceptions. For example, in the case of new supply for an IAEA project under the U.S.–IAEA Cooperation Agreement to a country that accepts all the U.S. export conditions, S. 897, as currently written, would require that the U.S. obtain retransfer and reprocessing consent for all previous transfers made to any country under the IAEA agreement.

This problem does not arise under H.R. 8638 as passed by the House of Representatives on September 28, 1977. The immediate export criteria contained in proposed Section 127(a) (4) and (5) of that bill are not retroactive. The Executive Branch, therefore, considers it essential that the language in the immediate criteria of S. 897 to be modified to conform to the language in H.R. 8638. The proposed modification is given below.

In S. 897:

1. Page 128, lines 2 through 4, delete the words "no such materials or facilities previously exported and subject to the applicable agreement for cooperation"; and,

2. Page 128, lines 14 through 16, delete the words "or previously exported and subject to the applicable agreement for cooperation".

PROPOSED ADDITIONAL REVISION TO S. 897

As a technical matter, the Executive Branch would consider it desirable, in order to avoid any possible negative inferences or misunderstandings, to include a provision confirming the continued authority of the U.S. to incorporate arbitration provisions in agreements or other arrangements that may be concluded pursuant to an Agreement for Cooperation. To accomplish this, we recommend the addition of the following new subsection to section 405 of S. 897:

"Nothing in this Act shall affect the authority to include dispute settlement provisions, including arbitration, in any agreement made pursuant to an Agreement for Cooperation."

Mr. CHURCH. Now, Mr. President, I understand that the administration has changed, or at least modified, some of the positions set forth in the letter. All is flux.

At any rate, I wish to introduce at this time a further amendment. It would eliminate the retroactive application of some of the export licensing criteria contained in S. 897. As the bill now reads, section 305 makes certain crtieria—particularly, no retransfer of materials or reprocessing without prior approval—retroactive. Under that section, if the United States does not obtain reprocessing and retransfer consent rights retroactively applied to all previous U.S. transfers under an applicable agreement for cooperation, the NRC could not license a new export even if the country buying from us agreed to all our new conditions. Presently, U.S. agreements with Canada, Euratom and the International Atomic Energy Agency (IAEA) do not contain these requirements and, according to the administration, it is "highly unlikely, if not impossible" to obtain their revision. This means that, the United States would not be able to export to a country accepting all S. 897 conditions pursuant to the United States-IAA cooperation agreement, unless we first were able to obtain reprocessing and retransfer veto rights for all prior transfers made to that country and other countries under the IAEA agreement.

This retroactive provision is unworkable and would gravely damage the United States in the eyes of the world as a reliable supplier. Most importantly, it would help to frustrate our own nonproliferation goals.

The House bill, H.R. 8638, as passed last fall, does not contain these provisions.

My amendment would strike the offending language from S. 897, bringing it into conformity, in this respect, with the House bill. It has the administration's strong support.

NAVIGATION DEVELOPMENT ACT—H.R. 8309

AMENDMENT NO. 1686

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to amendment No. 1680 intended to be proposed to the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

AMENDMENT NO. 1687

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to amendment No. 1681 intended to be proposed to the bill (H.R. 8309), supra.

AMENDMENTS NOS. 1688 AND 1689

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted two amendments intended to be proposed by him to the bill (H.R. 8309), supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. SPARKMAN. Mr. President, I should like to announce that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs, will hold a 2-day hearing, on February 20 and 21, 1978, on fiscal year 1978 housing authorization legislation.

The hearing will begin at 10 each morning and will be held in room 5302, Dirksen Senate Office Building.

The subcommittee welcomes statements for inclusion in the record of hearings.

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Thursday, February 9, 1978, at 10:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Paul A. Simmons, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Ralph R. Scalera, resigned.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. RIBICOFF. Mr. President, I wish to announce that the hearings on the handling of discrimination complaints in the Senate (pursuant to rule 50 and section 310 of S. Res. 110), which were scheduled to be held tomorrow, February 3, 1978, have been postponed until next Thursday, February 9, at 10 a.m. in room 3302, Dirksen Senate Office Building.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DOLE. Mr. President, I wish to announce that I will travel to Columbia, S.C., this Saturday, February 4, to hold hearings with Senator STROM THURMOND on behalf of the Senate Committee on Agriculture, Nutrition, and Forestry. Late last year, Senator THURMOND requested the committee to schedule these hearings when the severity of the American farm crisis became clear. Senator THURMOND feels, as I do, that good legislation made in Washington must spring from information obtained at the grassroots level. The purpose of the hearing

this weekend is to find out how bad the farm situation is in the Southeast and what they need in the way of help. The hearing will begin at 4 in the State senate chamber in Columbia. Anyone wishing further information should contact Denise Love, hearing clerk, room 322, Russell, Washington, D.C.

ADDITIONAL STATEMENTS

THE CIA AND THE PRESS

Mr. GOLDWATER. Mr. President, on December 27 Mr. John M. Maury appeared before the Permanent Select Committee on Intelligence of the House of Representatives. His statement is so important to the whole future of the collection of intelligence and the agencies which perform that task that I think it should be made available to all readers of the CONGRESSIONAL RECORD before it is printed in the permanent RECORD of the House. The point that Mr. Maury makes that I feel is the clearest is that American citizens, including newsmen, should be willing to help their country in the collection of intelligence. He points out in his statement that this has not been abused and points further that the only so-called abuses that the CIA has been guilty have been abuses put on them by various Presidents who ordered them to do things. Now I think the President has the right to do this in the interests of the country, and I do not believe that any of our Presidents have abused the intelligence agencies to such an extent that people should become overly exercised about it. We hear about the rights of American citizens being hurt or tampered with and, yet, just in the past 3 days we have seen the report of an American citizen caught spying for another country. I think the great, great majority of American citizens are perfectly safe, loyal, and honest Americans, but we have some that need watching, and I would dislike to see the bad ones get by with what they do under the guise of the protection of their rights. Mr. President, I ask unanimous consent that the statement of Mr. Maury be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN M. MAURY

My name is John M. Maury. My background includes law practice in Charlottesville, Virginia; service in World War II as a Marine officer assigned to Naval Intelligence and commanding the U.S. Military Mission to North Russia in Murmansk; 27 years in CIA, including assignments in Berlin, on the NSC staff, on a Presidential Task Force to review U.S. foreign policy, on a disarmament delegation in Geneva, eight years as chief of Soviet operations, six years as Chief of Station in Athens and five years in charge of CIA liaison with the Congress. After retirement from CIA I served two years, 1974–1976, as Assistant Secretary of Defense. In appearing here today I speak for myself alone.

Mr. Chairman, I welcome the opportunity to appear before your Subcommittee on a matter which I believe concerns us all. Never before has this country been in greater need of reliable information about what is going on in the tense and fragile world beyond our borders. Without such information we are, for all our military might, a blind giant stumbling through an unchartered minefield. For this information we must rely on both our intelligence services and our press. But to serve our purposes this information must not be only reliable. It must be credible.

I fear the credibility of both our chief intelligence service—the CIA—and our press has been badly damaged in recent years. I believe the credibility, and the effectiveness, of CIA has suffered because of a series of false allegations and irresponsible revelations by the press. I believe the credibility of the press, at least among those familiar with the facts, has equally suffered. Not all of the press has been a party to this irresponsible campaign to discredit the CIA. The wire services and the news weeklies have, in general, been more responsible. And I find nothing sinister in the basic hostility of the press toward any government agency which operates in secret. In our free society this is inevitable. But the record of some of the nation's leading dailies, and that of some of the fashionable periodicals, has been a shabby one. Their performance brings to mind the words of Mr. Jefferson when, in 1807, he wrote to his friend John Norvell that "nothing can now be believed which is seen in a newspaper. Truth itself becomes suspicious by being put into that polluted vessel".

A favorite theme of those who seek to discredit the CIA is that the Agency attempts to manipulate the news, and thus is a threat to the integrity of the American press. On the basis of the record, which I shall cite in a moment, one may ask, "What integrity?" One may also ask just how a press so jealous of its integrity could think its interest would be served by proclaiming to the world that it has been seduced and subverted by a sinister CIA. But in fact, Mr. Chairman, to the best of my knowledge there is no case where signficant news destined for American consumption has been falsified or corrupted due to CIA involvement.

Last year Mr. Carl Bernstein, a diligent investigative reporter who was working on this question, told me he had reached the same conclusion. Mr. Stuart Loory attacked this issue in the Columbia Journalism Review of September/October 1974, but the best he could come up with were two cases: One, where an unidentified informant told him of a hypothetical case in which the "United States Government, for example, might decide to float a story discrediting the Soviet Union as an irresponsible nuclear power"; and another where a scientist "while consulting for CIA, developed a scheme for misleading Soviet scientists by publishing articles containing false research results in American scientific journals"—a scheme which was ultimately vetoed by CIA Director Allen Dulles.

The Church Committee of the Senate, which investigated CIA media and other activities last year, registered considerable concern about the possibility of CIA supported "black" propaganda abroad producing "fallout" which might be picked up and unwittingly played back to American audiences by U.S. media. The Committee report mentioned books and articles, the publication of which was reported by CIA, usually without the knowledge of the author (who thus was hardly a CIA mouthpiece), but which sometimes were available in English and obtainable in the U.S. The Committee cited no cases where these had had a mischievous or misleading effect on American readers. The examples mentioned included a book about a student in a communist country. Interestingly enough this book happened to have been reviewed by Eric Severeid who, with no knowledge of the CIA role, commented that "our propaganda services would do worse than flood (foreign) university towns with this volume". Other examples cited by the committee were CIA-supported translations of Machiavelli's "Prince" into Swahili and T. S. Eliot into Russian. The Committee apparently found no evidence that these projects had produced any sinister results in the U.S.

I can appreciate the concern to protect the American reader from false information disseminated abroad. But the great bulk of CIA media operations has been aimed at disseminating the truth to areas where it is not otherwise available, as in the case of Radio Free Europe broadcasts to the truth-starved populations of Eastern Europe. If I may say so, it seems to me that by agitating this issue the press has taken aim at a non-existent target and succeeded only in shooting itself in the foot. News manipulation no doubt is a problem for a free press. Indeed news is manipulated every day by the reporters who file it and the editors who present it. News manipulation is both a common practice and a lucrative profession. Calculated news leaks, both true and otherwise, are a favored device of statesmen, bureaucrats, politicians, defense contractors, public relations experts and innumerable pressure groups. If our concern is really about manipulating the media, the CIA aspect of the problem seems to me hardly significant.

As to the related issue of the role of journalists in the collection of intelligence, I know of some who have served their country in this capacity willingly and well. I know of none where this service was at the expense of their obligation either to their employers or to their readers.

So much for what CIA has done to the integrity of the press. Now, since I believe we are all concerned about the integrity of CIA, let me explain why I believe the press has caused serious mischief in this regard. I recall hearing a former Soviet intelligence officer quoted as saying, "We were taught that our first task was to put out the eyes of our enemy by disrupting and discrediting his intelligence service." If so, Moscow must be pleased with some of the material appearing in the American press in recent years. For example:

Numerous stories have implied CIA involvement in Watergate. In fact there was no such involvement. When Helms learned that the White House was seeking CIA assistance for some unknown but suspicious purpose he ordered it stopped, and he later refused CIA assistance in the post-Watergate coverup.

Press stories have described CIA as an uncontrolled "rogue elephant," defying even Presidential direction. The fact as confirmed by both Church and Pike committees of the Congress, is that CIA in all significant respects has acted at White House direction.

Various stories have linked CIA to illegal drug traffic. The fact is that, as BNDD Director Ingersoll has certified, "CIA has for some time been this Bureau's strongest partner" in running down foreign illegal drug sources.

A few years ago there were stories about CIA's "illegal" and "unauthorized" war in Laos, conducted without Congressional knowledge. In fact, various Congressional committees and subcommittees were briefed on this operation in 359 occasions between 1959 and 1972.

One familiar trick has been misleading headlines, as where a leading daily headlined a Jack Anderson column "CIA Teaches Terrorism to Friends." In fact, the story said only that the teaching in question was how to counter terrorism. Another leading paper headlined a story "CIA Goal: Drug, Not Kill, Anderson." In fact the story said only that the White House had consulted a doctor who had formerly worked for CIA about such a possibility. Another headline proclaims

"Benefits From CIA Rated Low." The story merely quoted a speaker as saying, "very little good" had come out of congressional investigations of CIA.

One major daily has used falsely labelled photographs of CIA buildings to support the false charge that CIA is much larger now than it was in 1960.

Other outright falsehoods printed in the most influential dailies in the country include allegations that the CIA Station Chief in Athens tried to "kindle a war" in Lebanon; that the so-called Penkowskiy Papers, (material from a senior Soviet intelligence officer working for CIA) were "precisely the coarse fraud—Soviet authorities—claimed" (in fact, virtually every word in the papers attributed to Penkovskiy was his own); that the CIA was recruiting U.S. mercinaries for Zaire; and that CIA had introduced swine virus into Cuba.

One of the disservices of the media has been to reward and encourage that small handful of disgruntled former intelligence employees—Victor Marchetti, John Marks, John Stockwell, Frank Snepp and CIA's first defector to the Communists, Philip Agee—who, in violation of their secrecy agreements (which the courts have ruled are binding contracts) have betrayed their public trust by "telling all". Some of these media-created instant celebrities may have irreparably damaged the careers, and even endangered the lives, of former colleagues whom they have publicly identified. Just two years ago I was visiting my old friend Dick Welch, the CIA Station Chief in Athens—a position which I had once occupied. Welch's name had just prominently appeared in the Greek press, replaying revelations appearing in American publications. Welch commented to me that he was now a marked man. A few days later, back in the States, I learned that Welch had been assassinated in front of his Athens home as he returned from an Embassy Christmas party.

Agee, by the way, was reported in a column by Evans and Novak some months ago to be suspected of collaboration with the DGI, the Cuban intelligence service which is intimately associated with the KGB. (Indeed, Agee has admitted as much.) This column appeared in a number of papers, but not in a leading national daily that regularly carries the Evans and Novak column. Just three weeks before killing the Evans and Novak column this paper defended its disclosure of the highly sensitive covert support CIA was providing King Hussein of Jordan in an editorial which concluded with the following words: ". . . The real point is that newspapers cannot be true to their trust if they allow themselves to get in the position of managing the news, of picking and choosing—publishing or withholding—on the basis of anybody's hopes or fears of real (or fancied) consequences . . ."

Mr. Chairman, I do not claim that the squalid record I have cited is typical of most of the American press. It is based mainly on material I have noted appearing in the two or three dailies I see regularly. I have had an exchange of correspondence with top officials of one of them in which I have pointed out several serious distortions and falsehoods and proposed an article setting the record straight. I also asked that if any of my allegations were inaccurate or unfair I be so advised. The response did not address that point, but merely stated that my case was not "impressive". The reason I have not named names in this connection is that I do not feel this is the proper forum to pursue personal differences. If the committee so desires I will of course document the above points in detail. But I have felt it necessary to cite at least enough specific facts to demonstrate that some of the media have, through a series of distortions, created an image of a dangerous and irresponsible CIA which has little relation to reality. Unless these distortions are challenged, I fear widespread misconceptions will generate pressure for cures far worse than the disease—for legislative restrictions and public exposures which will damage the effectiveness of the Agency even more than it has been damaged by false allegations, public disclosures and clumsy personnel management to date. I see no harm in confidential collaboration in the interest of national security between consenting adults—even a journalist and an intelligence officer—so long as neither violates his professional obligations.

However, Mr. Chairman, I do not wish to leave the impression that intelligence penetration of our media is not a problem. A manual entitled, "The Practice of Recruiting Americans in the USA and Third Countries," published by The First Chief Directorate of the KGB, lists some dozen priority recruitment targets. First on the list are government employees with secret clearance. Second are members of the press. And what could be more logical? The Soviet intelligence agent operating under press cover in the United States has unique advantage. He can openly pry into the most sensitive secrets of the White House, the Pentagon and CIA without attracting suspicion. After all, that's what the other Washington correspondents apparently spend their time doing. Even if he does attract suspicion, he can rely on the currently fashionable interpretations of the First Amendment to block investigation. Moreover, an agent under press cover is, in fact, two agents. He is a well placed espionage agent, but he is also an ideally situated "agent of influence", available to disseminate through journalistic, political and academic channels information, and misinformation, in the service of his Soviet masters. In fact, one of the major departments of the KGB is Department A, whose sole mission is the dissemination of subversive and deception information abroad.

It has been some years since I have been privy to details regarding the involvement of members of the American media with foreign intelligence services, so I am in no position to cite currently active cases. I can say that such involvements in the past were of significance, and, based on both logic and experience, I must assume that this is true today. Let me explain the vulnerability of our national security to espionage conducted through media channels. Our basic espionage law (18 USC 793) makes it a crime to reveal classified information only if it is done "with intent, or reason to believe, that the information is to be used to the injury of the United States or to the advantage of any foreign nation." As any lawyer knows, intent is often quite impossible to prove. Thus if an American official passes secrets to a known foreign intelligence agent, he may be in trouble. But if he passes them to a member of the media, who then publishes them or passes them on to whomever he pleases, he is safe; he merely has to claim that his intent was only to let the American people know what their government is doing behind their backs.

The irony is that our Federal statutes provide clear-cut criminal penalties for the revelation of a wide variety of government information. For example: the unauthorized revelation of insecticide formulas, $1,000 and 1 year; Department of Agriculture information, $1,000 and 1 year; agriculture marketing agreement information, $1,000 and 1 year; Department of Commerce information, $5,000 and 5 years; names of persons on relief, for political purposes, $1,000 and 1 year; crop information, $10,000 and 10 years; confidential business information, $1,000 and 1 year; bank loan information by a bank examiner, $5,000 and 1 year; names of borrowers from land bank by examiners, $5,000 and 1 year; names of borrowers from National Agricultural Credit Corporation by examiner, $5,000 and 1 year; income tax information, $5,000 and 5 years; patent information, $10,000 and 2 years; tax return information by an employee of HEW; shipping information by an employee of a common carrier, $1,000; selective service records, $10,000 and 5 years; confidential information on export controls, $10,000 and 1 year; information for commodity speculation, $10,000 and 1 year. But the employees and former employees of our intelligence services, whether acting from spite or greed or secretly in the interest of a foreign power, apparently can reveal sensitive secrets with impunity unless we can prove their intent.

Mr. Chairman, if we are to have the reliable and timely intelligence which our executive and legislative leaders need to face the issues before them our intelligence services must be provided with the security protection without which no intelligence service can hope to operate effectively. It is a demonstrated fact that foreign agents and foreign intelligence services will not cooperate with an intelligence service that can't keep a secret, and today's fabulous and costly technical collection systems can survive and function only under tight security protection.

This is not to suggest anything as drastic as the British Official Secrets Act, or the security laws of most of the European democracies, under which any disclosure of classified material could bring severe criminal penalties. But under our present laws only communications intelligence appears to enjoy protection. In passing the National Security Act of 1947 the Congress recognized the unique sensitivity of information on intelligence sources and methods by specifically charging the Director of Central Intelligence with responsibility for protecting such information. However, the law did not provide him with the means to carry out this responsibility.

May I respectfully suggest, Mr. Chairman, that this Committee might render the nation a great service by examining the possibility of a law similar to that applying to "Restricted Data" under the Atomic Energy Act. It would cover only information specifically designated by the Director of Central Intelligence and the heads of the other intelligence agencies as relating to intelligence "sources and methods"—the identities of agents or the details of technical collection systems. It would have no application to other categories of classified material. And it would be binding only on those individuals who, by virtue of employment or a contractual relationship with an intelligence agency, voluntarily assumed, by sworn commitment, the obligation to protect source and method information.

In considering such legislation, it may be appropriate to recall the comment of Gen. Washington who, precisely 200 years ago, wrote in a letter to Col. Elias Dayton: "The necessity for procuring good intelligence is apparent and need not be further urged—all that remains for me to add is that you keep the whole matter as secret as possible. For upon secrecy, success depends in most enterprises of the kind and for want of it, they are generally defeated however well planned."

THE GREAT SHIPBUILDING BAILOUT—I

Mr. PROXMIRE. Mr. President, the three largest shipbuilding firms who build ships for the Navy—Newport News, Electric Boat and Litton—are all experiencing financial difficulties. Their difficulties stem, in part, from the large cost overruns they have incurred on Navy

ships. They are also faced with declining orders for new commercial ships.

$2.7 BILLION IN CLAIMS FILED AGAINST THE NAVY

In order to recoup their potential losses each of the big three shipbuilders have filed claims against the Navy alleging that the Government is responsible for the cost overruns. A total of about $2.7 billion in claims is now pending.

This is not only the largest amount of claims ever to be on file at one time, the total will probably grow.

PRESSURE TO SETTLE THE CLAIMS WITHOUT REGARD TO THEIR MERITS

For years the shipbuilders have exerted pressure on the Navy for favorable settlements. From time to time Pentagon and Navy officials have helped the shipbuilders to favorable settlements which could not be substantiated by the facts.

The game has been to force a settlement without regard to the merits of the claims. The most outrageous effort to do this was led by Deputy Secretary William Clements in 1976. At that time the claims totaled $1.4 billion. Mr. Clements asked Congress for approval of a plan to settle them all without a prior Government audit or assessment as to their true worth.

Congress wisely rejected the Clements plan for a massive bailout.

Now the Navy, at long last, is showing some signs that it is beginning to stand up to the shipbuilders.

But the Navy will backslide into a bailout approach to the problem unless it gets its act together and faces up to the charges of fraud.

NAVY ADMIRALS WARN OF POSSIBLE FRAUD

On December 29, 1977, I chaired hearings on shipbuilding claims and heard testimony from two Navy admirals both of whom warned that some of the claims may be based on fraud.

Assistant Secretary Edward Hidalgo also testified but I was not satisfied with many of his answers to my questions.

ELECTRIC BOAT CLAIMS TAKEN AWAY FROM NAVY CLAIMS SETTLEMENT BOARD

Among other things, Mr. Hidalgo said that he ordered the Electric Boat Co. claims taken away from the Navy Claims Settlement Board shortly before the Board was about to complete its year-long review of the claims.

SECRETARY CLAYTOR SAYS THERE WILL BE NO BAILOUT

On January 12, 1978, Navy Secretary W. Graham Claytor, Jr., and I met to discuss the Navy's shipbuilding claims problems.

In the meeting Secretary Claytor gave me his personal assurance that there will be no giveaway or bailout by the Navy in the resolution of claims disputes.

ELECTRIC BOAT CLAIMS RETURNED TO NAVY CLAIMS SETTLEMENT BOARD

The Secretary also told me that the Electric Boat Co. claims had been returned to the Navy Claims Settlement Board so that the Board can complete its review of the claims.

In a followup letter to me, Secretary Claytor states,

If reasonable settlements cannot be reached with the shipbuilders, we are quite prepared for litigation, and, indeed, three major claims are in various stages of trial at present.

Secretary Claytor assured me in his letter that Congress will be promptly notified of any Navy decision to request extra-contractual relief for a contractor.

Secretary Claytor also states in his letter that with regard to allegations of fraud, the Navy will do nothing "which would jeopardize the Government's position should any of the claims be found to merit formal referral to the Department of Justice."

Secretary Claytor's assurances and preliminary actions are a most welcome change from the days when former Deputy Secretary of Defense William Clements seemed to be doing everything in his power to weaken the Government's position in the claims disputes.

CLAIMS SETTLEMENT SHOULD BE BASED STRICTLY ON THE MERITS

The first principle in the handling of a claim against the Government should be that it will be fully evaluated and that an official determination will be made as to its worth.

It ought to follow that any claim settlement will be based strictly on the merits of the claim and that responsible allegations of fraud will be promptly referred to the Justice Department for investigation.

Justice will have to investigate if they are referred.

It is only delaying the Navy's decision to get Justice into the act at this point.

Why cannot the Navy do its own work with regard to the fraud charges?

I ask unanimous consent that copies of my recent correspondence with Secretary Claytor be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 30, 1977.

Hon. W. GRAHAM CLAYTOR,
Secretary of the Navy, Department of the Navy, Pentagon, Washington, D.C.

DEAR MR. SECRETARY: The hearings I conducted on Shipbuilding Claims, December 29, 1977, contain testimony that raises the most serious questions about the integrity of the Navy's claims review process.

I am writing to you directly because after questioning Assistant Secretary Edward Hidalgo I am convinced that he is not properly aware of the background of the claims issue nor does he understand the importance of assuring the taxpayers that their interests are being protected by the Government.

Mr. Hidalgo has already undermined the effectiveness of the Navy Claims Settlement Board. This Board was established in 1976 after it became apparent that such an entity, headed and staffed by career officers and civilian employees, was essential to achieve objectivity and impartiality in the review and negotiation of claims. Mr. Hidalgo's explanation for taking the Electric Boat Company claims out of the Board just before the Board was about to complete its review was unsatisfactory, and his statement during the hearing that he intended to involve himself personally in negotiations with Newport News was most unfortunate. One of the main reasons the Board was found to be necessary was so that the claims review process could be insulated from the kind of outside pressures and influences that seem to be emanating from Mr. Hidalgo's office.

I found Mr. Hidalgo to be evasive or non-responsive in many of his replies, and to be poorly informed and unprepared to discuss some of the more important issues. He seemed insensitive to the possibility that one or more of the pending claims may be based on fraud, as alleged by several career Navy officials. Mr. Hidalgo would not even assure me that the Navy would not take any action that constitutes a give-away or a bail-out to the shipbuilders.

I remain hopeful that an even-handed, objective approach to the claims problem is still possible and that the orderly claims review procedures put into effect a year and a half ago can be reestablished.

Before this matter gets out of hand I suggest that you and I discuss it together. If you think such a meeting can be useful I suggest having one in my office during the afternoon of January 11, 1978.

Sincerely,

WILLIAM PROXMIRE,
U.S.S.

JOINT ECONOMIC COMMITTEE,
Washington, D.C., January 13, 1978.

Hon. W. GRAHAM CLAYTOR, Jr.,
Secretary of the Navy, The Pentagon, Washington, D.C.

DEAR SECRETARY CLAYTOR: I was pleased that we had the opportunity to discuss the shipbuilding claims problem in an informal and candid way on January 12. As I mentioned at the close of our meeting I think it will be useful for me to summarize in this letter the areas of agreement and disagreement between us.

You stated there would be no giveaway or bailout by the Navy of the shipbuilders in the resolution of the claims disputes. I fully approve of this decision.

You stated that the Electric Boat claims have been returned to the Navy claims Settlement Board so that it can complete its review of the claims. I fully approve of this decision and I also understand that the Board will be permitted to carry out its responsibilities and exercise the authority granted to it when it was established in 1976. Please confirm my understanding.

I am hopeful that under your leadership claims against the Navy will be reviewed in accordance with the orderly procedures followed by the claims Settlement Board, and that new claims will be referred to the Board as was done when the Electric Boat claim was filed. Please let me know whether you plan to follow this approach.

I was also pleased to learn of your determination to act promptly to dispose of the allegations of fraud that have been made with respect to the Newport News and Electric Boat claims, and of any additional allegations that may be made, by referring them to the Justice Department unless they are found to be obviously frivolous. I understand that the fraud charges will be referred to Justice in the near future where they can be appropriately reviewed, regardless of the disposition of the claims themselves, and that neither you nor your subordinates will make any statements or take any actions that could jeopardize any possible justice investigation or prosecution. Please confirm my understanding concerning this matter.

I was disappointed with your statement that the Litton claim will not be reviewed in detail and that an "overall settlement" will be attempted. I suggested that the Litton claim, which now totals $1.1 billion, be referred to the Board. As the claim was revised upwards by over $300 million only last September, and as the Navy has only recently been provided with the full documentation for this claim, it would be appropriate for the claims Settlement Board to be given responsibility for the review.

If you decide not to refer the Litton claim to the Board, I request that you provide a detailed explanation for your decision including, but not limited to, the procedures

being followed to review the claim, how you plan to carry out the law directing the Navy not to pay any claim over $5 million unless it "has been thoroughly examined and evaluated by officials" responsible for doing so, the official presently responsible for the review and the names of each person involved in the review and his or her qualifications and experience in handling shipbuilding claims matters, the estimated time required to complete the review, and why the Litton claim seems to be receiving preferential treatment by not being referred to the claims Settlement Board.

I remain concerned about whether the Navy will vigorously protect the taxpayers' interests in the resolution of the claims disputes. As a lawyer and former businessman, you are aware of how important it is for the party against whom a claim is made to require the claimant to fully substantiate any claim. The burden should be on the shipbuilders to prove every element of their claims and to demonstrate the government's legal liability. The Navy should be prepared to take the matter to court, if necessary, should it become apparent that any shipbuilder is demanding more than it is entitled to. Frankly, I fail to detect that resolve so far.

If it appears necessary to provide extra-contractual relief, in the interests of national defense, that conclusion should be immediately transmitted to Congress so that it can approve or disapprove. I am pleased to learn that you intend to so notify Congress of any such conclusion on the Navy's part. Please confirm my understanding.

I believe you will agree that it is important to carefully distinguish between a settlement on the merits of a claim and a grant of extra-contractual relief. Government procurement will be irreparably damaged if extra-contractual relief is granted under the guise of a claims settlement. Please let me know whether you agree or disagree with this point.

The use of "litigative risk" as a factor in determining the value of a claim or making a settlement offer tends to confuse extra-contractual relief with a settlement on the merits. It is a highly subjective factor which could become a subterfuge for a bailout. Please explain the rules and criteria used for determining litigative risks, and how the determination can be quantified in view of the fact that the Navy has never litigated a major claim in a court of law.

You mentioned the fact that the Justice Department advised the Navy it could, under certain circumstances, appeal an adverse ruling from the Armed Services Board of Contract Appeals. I assume you refer to the Lockheed claim and that you are aware that the Board's ruling was not based on the merits of the claim but on a theory of equitable estoppel related to a public utterance made by a former Defense official. Please provide me with a copy of the Justice Department opinion and state whether the Navy plans to pursue its right to appeal the Board's decision.

I share your apprehensions about the prospects for any takeover of private shipyard facilities although I understand that such an action has not been ruled out in the event it becomes necessary for reasons of national security. Please confirm this understanding.

You are, of course, correct that studies showed Navy shipyard costs were higher than private shipyards during the period when the Navy was building its own major ships. However, it is also true that there were no significant claims problems during that period and it is obvious that cost overruns, when claims are taken into account, have skyrocketed in recent years. I recall that Secretary William Clements ordered a study in 1976 of how the Navy would satisfy its shipbuilding requirements in the event yards such as Newport News or Litton carried out their threats to stop building Navy ships. Please tell me the status of that study and provide me wth a copy if it has been completed.

I will appreciate your early response.

Sincerely,

WILLIAM PROXMIRE, *U.S.S.*

SECRETARY OF THE NAVY,
Washington, D.C., January 25, 1978.

Hon. WILLIAM PROXMIRE,
Joint Economic Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR PROXMIRE: I enjoyed the opportunity we had on January 12 to discuss the subject of Navy shipbuilding claims and believe your letter of the following day summarizes some of the points we covered. I wish to elaborate on a few of them.

The Electric Boat claims were returned to the Navy Claims Settlement Board on January 9 for the purpose of completing their evaluation and providing recommendations to the Steering Group of Assistant Secretaries of the Navy Edward Hidalgo and George Peapples, as well as General Counsel Togo D. West, Jr., Vice Admiral Donald Davis, and Vice Admiral Vincent Lascara. The disposition of future shipbuilding claims will have to be determined as each case arises since, as you are aware, the Navy Claims Settlement Board was established with the hope that it would not have to be made a permanent organization and that the administration of shipbuilding contracts could eventually be returned to normal procedures.

From its origin over four years ago, the Litton LHA claim has been entrusted to a highly experienced team within the Naval Sea Systems Command, presently headed by Captain R. A. Jones, USN, an acknowledged expert on shipbuilding contracts, claims analysis and negotiation. His team presently numbers about 168 and its analysis of the claim is expected to be completed in April of this year. Assistant Secretary Hidalgo is personally overseeing this massive effort, and I share his opinion that it is being professionally conducted in the most efficient manner possible while still ensuring that the Government's interests are fully protected.

As I hope I made clear in our meeting in your office, I am totally committed to finding resolutions to these claims problems which sacrifice neither the interests of the American public nor the Navy in the name of expediency.

If reasonable settlements cannot be reached with the shipbuilders, we are quite prepared for litigation, and, indeed, three major claims are in various stages of trial at present. If extracontractual relief should prove to be necessary, Congress will promptly be notified as required by law, as it has been in the case of the interim LHA payment arrangement which I submitted to the House and Senate Armed Services Committees on January 19. Other alternatives, such as the "takeover of private shipyard facilities" which you mentioned, would likewise have to be considered on a case-by-case basis.

The allegations of fraud which have been raised in connection with current claims are being examined by the Office of the General Counsel, in coordination with Department of Justice attorneys, precisely to ensure that they are analyzed thoroughly and without influence of the claims settlement process. In the course of our efforts to resolve the claims problems, nothing is going to be done which would jeopardize the Government's position should any of the claims be found to merit formal referral to the Department of Justice. The Armed Services Board of Contract Appeals decision in the Lockheed case is another subject presently being discussed with the Justice Department, and may be one upon which we can give you a more definitive status report in the near future.

I note that a special concern mentioned in your letter is "litigative risk", one of a number of factors used by the Navy Claims Settlement Board in arriving at a figure for a proposed settlement. "Litigative risk" is always a factor in negotiating the settlement of any claim or other controversy which will go to litigation if not disposed of by agreement. It is based on an evaluation of a party's exposure to an outcome from litigation different from that which would result from a proposed settlement. I, as well as the other experienced Navy lawyers involved, am quite familiar with the concept and its application to contractual disputes. I will not allow it or any other factor to be utilized as a "subterfuge" for unjustified action.

I have been unable to identify the specific Clements 1976 Study on shipbuilding alternatives to which you refer in your letter.

I appreciate your continuing interest in the Navy's shipbuilding programs and hope we can count upon your support as we search for solutions to these problems of grave concern to all of us.

Sincerely,

W. GRAHAM CLAYTOR, JR.

MARCH OF DIMES

Mr. MATHIAS. Mr. President, the character of our country is never more evident than when we as individual citizens join our efforts to aid and protect children unable to defend themselves.

Because of its work, the National Foundation-March of Dimes is the embodiment of that character. The goal of the March of Dimes research and medical service programs is the prevention of birth defects and of any life-threatening condition in the newborn.

As we all know, President Franklin Delano Roosevelt founded the organization 40 years ago as the National Foundation for Infantile Paralysis.

The 1978 March of Dimes poster child for Frederick County, Md., is David William Shelton, a courageous boy who was born with paralysis and multiple birth defects that posed a threat to his very survival. But today, although he cannot move his eyes side to side, and although he cannot smile, David is, as a story in the Frederick Post relates—

. . . a sturdy, talkative youngster who compensates for the shortcomings of nature without giving his actions a thought.

His parents, Gary and Terry Shelton, consider themselves lucky to live within driving distance of the birth defects clinic and specialists at the Johns Hopkins Hospital. Medical research, genetic services, and other medical specialty service and equipment for combating, correcting, and relieving birth defects—such as that provided for David at Johns Hopkins—often are funded by the March of Dimes grants.

As President, FDR made an eloquent radio appeal in support of the work of the National Foundation 34 years ago. Today, that appeal remains a timely statement of why the March of Dimes continues to deserve our support.

In President Roosevelt's words:

The generous participation of the American people in this fight is a sign of the healthy condition of our nation. It is democracy in action. The unity of our people in helping those who are disabled, in protecting the welfare of our young, in preserving the eternal principle of kindliness—all of this is evidence of our fundamental strength.

Early in our history, we realized that the basic wealth of our land is in its healthy, enlightened children, trained to assume the responsibilities and enjoy the privileges of democracy. The well-being of our youth is indeed our foremost concern—their health and happiness our enduring responsibility. If any become handicapped from any cause, we are determined that they shall be properly cared for and guided to full and useful lives.

Mr. President, I request that the January 3, Frederick Post article about David Shelton and the March of Dimes campaign be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Frederick (Md.) Post, Jan. 3, 1978]

DAVID SHELTON, BRUNSWICK, IS LOCAL M–D POSTER CHILD

In all his four and a half years, David William Shelton has never smiled in pleasure, blinked his eyelids in wonder, nor rolled his eyes in delight. He probably never will.

David, who is Frederick County's 1978 March of Dimes Poster Child, was born with a rare birth defect called Moebius's Syndrome that has paralyzed his sixth, seventh and twelfth cranial nerves. He was born with a looped intestine, blocked bowel, club-feet, web-fingers, eyelids that do not blink, an unchanging expression, cross-eyedness, and the inability to move his eyes from side to side.

When delighted, as he often is with his life, the blond, blue-eyed youngster laughs heartily, but with no accompanying smile. When he is occasionally saddened, he may cover his eyes as tears creep down his cheeks. However, his emotions are masked by a facial expression that never changes.

This child who will, in 1978, represent locally the 250,000 children across the nation who will enter the world less-than-whole, was born at Frederick Memorial Hospital with multiple defects, and removed almost immediately to Johns Hopkins Hospital in Baltimore. When he was 36 hours old, David received what would be the first of seven operations to correct the many defects with which he was born.

Now, 4½ years later, David is a sturdy, talkative youngster who compensates for the shortcomings of nature without giving his actions a thought. Because he can move his eyes up and down, but not side to side, he must turn his head more than most of us to see the right and left. Because he cannot smile, he laughs loudly.

Surgically, his doctors have created fingers by using the bones that existed and skin grafted from other parts of his small body. Some of his cross-eyedness has been corrected, and orthopedists have corrected the club-feet, although he will forever have to wear his special shoes 24 hours a day.

His doctors say that the operation that removed substantial portions of his bowel and intestine is probably what will prevent him from becoming obese as do most Moebius's Syndrome patients, for David can neither eat nor retain much food at one time.

His parents, Teresa and Gary Shelton of Brunswick, said that David has also been examined by genetists at the Birth Defects Clinic of the John F. Kennedy Institute in Baltimore. His defect has been classified as "spontaneous mutation after conception," which means that the syndrome was not inherited and that his parents can produce other offspring, if they wish, without fearing another Moebius's Syndrome child.

Gary Shelton is a chemical technician at Eastalco in Buckeystown. A graduate of Frederick High School and a native of Frederick, he is now working toward a business degree at Frederick Community College on a part-time basis.

Theresa Shelton—Terry to her friends—is the former Teresa Fellers. Born in Germany where her father was stationed with the Air Force, she later moved to Frederick with her family. She is also a Frederick High School graduate, having served as president of the school's Student Council during her senior year.

Before David was born, Terry attended Frederick Community College, interrupted her studies at her son's birth, and recently returned to receive a degree in special education. She is now a substitute teacher for the Frederick County Board of Education while David attends the Rock Creek Center.

Neither Gary nor Terry can count the trips they have made to Baltimore since David's birth, but they are both aware how fortunate they have been to be located within driving distance of a birth defects clinic and the specalists at Johns Hopkins Hospital where David could be evaluated, his defects researched and treated by experts in the many medical and genetic areas that his case demanded.

Researchers working on grants funded by the March of Dimes, genetic services underwritten by the March of Dimes; physicians and surgeons whose expertise and equipment are often the result of March of Dimes grants, have all combined, in cases such as David's, to correct and relieve the birth defects, to learn why they occurred and whether they will reoccur in a specific family.

The March of Dimes is at work through the year to give newborns and the unborn the healthy start in life that each deserves—a start uncomplicated by birth defects.

Through its annual Mothers' March, mail programs, Walk-a-thon and other special events, the March of Dimes seeks contributions to continue its programs to prevent birth defects through education, research and medical services.

Chairman of the 1978 March of Dimes in Frederick County is John Francis of Thurmont. Mrs. William Rife of Woodsboro will serve as chairman of the Mothers' March. Eric Arnold of Jefferson is chairman of the Frederick County Chapter of The National Foundation-March of Dimes.

CONSUMER PROTECTION LEGISLATION

Mr. GLENN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Connecticut (Mr. RIBICOFF).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR RIBICOFF

COMMITTEE STUDY SHOWS NEED FOR CONSUMER PROTECTION LEGISLATION

President Carter repeated in his recent State of the Union Message that he was strongly committed to legislation creating a consumer protection office. The need for Congressional action on this long discussed measure is greater than ever.

Last year the Governmental Affairs Committee published a study of the extent of public participation in regulatory agency proceedings as Volume 3 of its Comprehensive Study of Federal Regulation. The facts discovered by the Committee in this study fully explain why there should be a consumer protection agency.

The Committee found that at agency after agency, participation by the regulated industry predominated—often overwhelmingly.

In more than half of the formal proceedings held by 8 agencies surveyed there was no public participation at all. At the Interstate Commerce Commission, for example, there was no evidence of any organized public participation in more than 60% of the rulemaking proceedings we examined.

Even in proceedings where public interest groups did participate, it typically amounted to no more than 10% of the amount of participation by members of the regulated industry.

The Committee found participation by non-regulated interests to be especially limited in formal, trial-type proceedings held by the agencies. There was no intervention by public interest groups in more than 50% of the Federal Power Commission dockets examined. And where there was participation, the ratio of industry to public participation was 66 to 1 in one case. In another case it was 38 to 1.

At the Federal Communications Commission, public interest parties participated in only 10% of the most recent broadcast application proceedings.

At the Nuclear Regulatory Commission, public interest group participation took place in only 40% of the proceedings examined.

One fundamental cause of this great imbalance is the great cost of hiring counsel to participate in the proceedings. Particularly in formal, trial-type proceedings, it is virtually impossible to participate effectively without counsel.

The Committee study found that the 11 trunk airlines spent nearly $3 million on outside counsel alone to represent them before proceedings of the Civil Aeronautics Board. The Aviation Consumer Action Group is the only public interest group involved in Civil Aeronautics Board proceedings. Yet it had a total annual budget of only $40,000. Only half of that, $20,000, was spent on Civil Aeronautics Board matters.

The second greatest cost of participation in a regulatory agency proceeding is the cost of technical assistance. For example, AT&T spent more than $1 million in one year on studies to support its position in a Federal Communications Commission inquiry. A public interest group which intervened in a Federal Communications Commission rulemaking proceeding on the fairness doctrine could spend a total of only $16,000.

Industry has estimated that the cost of participation in a typical licensing proceedings at the Nuclear Regulatory Commission runs betwen $500,000 and $1 million.

The Committee found that time after time, industry is able to spend 10 or 50 or 100 times as much money as public interest groups.

These findings were adopted by a unanimous vote of the Governmental Affairs Committee.

A consumer protection agency is essential. It is essential just to begin to remedy the tremendous imbalance which the Committee study shows exists between the ability of the consumer and industry to influence agency actions.

I submit for the RECORD the summary of findings from the committee's study, "Public Participation in Regulatory Agency Proceedings", which relate to the extent and cost of participation and also chapter 2 of the com-

mittee study, entitled "Extent and Cost of Participation."

(The attachment is as follows:)

SUMMARY OF FINDINGS

The following is a restatement of the major findings and conclusions of this report, listed by chapter.

EXTENT AND COST OF PARTICIPATION (CHAPTER 2)

(3) At agency after agency, participation by the regulated industry predominates—often overwhelmingly. Organized public interest representation accounts for a very small percentage of participation before Federal regulatory agencies. In more than half of the formal proceedings, there appears to be no such participation whatsoever, and virtually none at informal agency proceedings. In those proceedings where participation by public groups does take place, typically it is a small fraction of the participation by the regulated industry. One-tenth is not uncommon; sometimes it is even less than that. This pattern prevails in both rulemaking proceedings and adjudicatory proceedings, with an even greater imbalance occurring in adjudications than in rulemaking.

(4) The single greatest obstacle to active public participation in regulatory proceedings is the lack of financial resources by potential participants to meet the great costs of formal participation. Lack of funds has prevented public participation in many important proceedings.

(5) The regulated industry consistently outspends public participants by a wide margin in regulatory agency proceedings. In every case or agency reviewed, industry spent many times more on regulatory participation than their public interest counterparts. In some instances, industry committed as much as 50 to 100 times the resources budgeted by the public interest participants. For example, in 1976 the nation's 11 trunk airlines spent more than $2.8 million on outside counsel to represent them in regulatory proceedings before the CAB. By contrast, the Aviation Consumer Action Group, the principal representative for public interest organizations at CAB proceedings, had a total 1976 budget of $40,000, of which approximately half was spent on participation in CAB proceedings.

(6) Lack of resources has limited the amount of technical expertise that participant groups have been able to bring to bear in agency proceedings.

(7) Opportunities for citizen participation are hampered by significant administrative costs such as transcript fees and reproduction of required materials.

CHAPTER 2: EXTENT AND COST OF PARTICIPATION

At the outset of this study on public participation, we sought to determine the extent to which the public is curently participating in the regulatory process.

It is not possible, of course, to precisely calculate the extent of such participation. Even to estimate such a figure involves a large number of imponderables. What, for example, constitutes effective or meaningful participation? Can a simple letter from a nonregulated participant constitute effective public participation? Does the number of ages of formal submission make a difference? Does it matter if the presentation is written or oral? Is there a significant difference between participation by an organized public interest group, and participation by individuals that are not organized? Is there a significant difference if the participant is guided by professional counsel?

The answer to these questions is yes, to a degree. Generally, participation by an organized group tends to be more effective. It tends to be more effective when guided by professional counsel. It tends to be more effective when submissions are knowledgeable, relevant, and directed to the issue pending before the agency. And it is certainly more effective when there are adequate funds available.

We surveyed eight of the Federal regulatory agencies in an effort to estimate the extent of public participation in agency proceedings. We also sought to approximate the comparative resources that public participants and regulated industries commit to their participation efforts. Unfortunately, little data of a comprehensive nature is available. Each agency compiles its data differently, and in the case of several agencies, few figures were available at all. With respect to cost data, there are no across-the-board figures at all, and we were compelled to proceed on case-by-case basis.

Nevertheless, while any single set of data which we discuss in the following sections is less comprehensive than we would wish, we believe the sum total of this data provides a clear picture of the current extent of public participation in the regulatory process, and of the comparative resources which participants are able to commit to participation. On the whole, the data clearly shows that participation by public or nonregulated interests before Federal regulatory agencies is consistently exceeded by the participation of regulated industries, and often constitutes only a tiny fraction of such industry participation. This pattern holds for both rulemaking and adjudication, although the margin is not as great for rulemaking as it is for adjudication. The data also suggests that in all types of proceedings, regulated interests commit far greater resources to participate before regulatory agencies than their public interest counterparts.

EXTENT OF PARTICIPATION

We asked eight regulatory agencies—FCC, FPC, FTC, ICC, CAB, FDA, NRC, and SEC—to identify for us which 10 of the last 30 rulemakings and which 10 of the last 30 adjudicatory proceedings they considered the most significant. We examined the dockets in these cases to determine the extent of participation by regulated and non-regulated interests.

Participation in rulemaking proceedings

At the FPC, the agency cited eight dockets as their most significant rulemaking proceedings. These proceedings involved the enforcement of deliverability of natural gas under certificated arrangements; establishment of criteria for site selection and facility operation criteria for LNG importation and storage terminals; accounting changes for research and development of activities of regulated firms; corporate and financial reports for natural gas companies and electric utilities; establishment of just and reasonable rate of return for natural gas; and new rates for small producers.

We examined the dockets in these eight cases, and found that despite the clear consumer and public impact which these cases involved, there was no organized public participation of any kind in six of the eight proceedings. There was substantial participation, however, by the regulated industry: in one proceeding there were 47 industry participants; in another, there were 35; there were 30 in a third case, and 23 in the fourth.

In the two dockets where public interest group participation did take place, the ratio of regulated industry to public participation was large; 12 to 1 in one of the cases, 4 to 1 in the other.*

At the FDA, the rulemaking proceedings cited as most significant by the agency involved: public access to agency information (freedom of information); approval of food for certain dietary uses; establishment of effectiveness standards for certain classes of drugs (bioequivalence); establishment of conduct and conflict of interest standards; and modifications of certain administrative procedures. Again, although these proceedings involved considerable public impact, there was no public interest group participation in more than half of these proceedings. In those instances where we did find such participation, the ratio of industry to public interest representation was overwhelming: 122 participants to 4 in one matter, 29 to 1 in a second, 12 to 5 in a third, and 60 to 12 in a fourth.

At the ICC, we found no evidence of any organized public participation in more than 60 percent of the proceedings. In one rulemaking dealing with charges on lost or destroyed shipments of household goods there was no public interest group participation at all. Nor was there any in a rulemaking that proposed to require motor carriers to furnish performance reports to consumers on transportation of household goods. In those cases where public interest group participation did occur, the ratio of industry to public participants was 23 to 4 in one proceeding, 13 to 5 in another, and 3 to 1 in a third.

At the CAB, we found a somewhat better percentage of public interest group participation. CAB rulemaking proceedings addressed one-stop inclusive tour charter rules; environmental policy act regulations; protection of charter passengers from cancellations; requirements for carriers to publish summaries of various fares for consumers; establishment of new advance booking charters; regulations to implement the Sunshine Act; and restrictions on overbooking and oversales practices. We found public interest groups represented in 70 percent of these dockets. Still, even in these proceedings, participation by the regulated industry heavily predominated. In one proceeding, there were 130 industry participants and 26 public interest group participants; the ratio was 24 and 1 in a second proceeding; 11 and 2 in a third; 8 and 3 in a fourth; 33 and 5 in a fifth; 56 and

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*It should be noted that in many of the proceedings at the FPC and elsewhere, a number of comments by individuals were received. (At the FPC, for example, individual comments were noted on six of the eight dockets we examined.) For our purposes, however, we did not treat these comments as falling into either the category of regulated or nonregulated interest submissions, since there was simply no way to determine what point of view they represented. Moreover, we were advised by many of the agencies that such individual comments are not usually accorded much weight because they frequently lack specific or technical knowledge. Accordingly, these comments were excluded from the ratios.

We should also note that at the FPC and other agencies, occasional comments or submissions were received from accounting firms, from banks, from other nonregulated businesses, and from State and local governments. These comments are equally difficult to categorize or pigeonhole, and in light of their occasional nature they have also been excluded from our ratios.

3 in a sixth. (In several of these CAB proceedings, however, there was a split within the airline industry, with the scheduled carriers on one side and the supplemental carriers on the other. The views of the supplemental carriers in these cases often correspond to the views of the public interest groups.)

At the FCC, only three rulemakings were cited by the agency as significant. They concerned the need for adequate television service in New Jersey; approval of certain entertainment formats; and approval of emergency hand language messages for the deaf on television. Public interest group participation occurred in all three proceedings, with ratios of industry to public interest groups of 64 to 14, 33 to 4 and 3 to 4 .

At the FTC, the recently enacted Magnuson-Moss Warranty–FTC Improvement Act appears to have helped in eliciting consumer comments in rulemaking proceedings, particularly from individuals. We found participation by consumers and consumer groups in all the FTC dockets that we studied. For example, in a trade regulation rule proceeding on the hearing aid industry, there were 843 submissions from industry and 130 submissions from consumer groups.[1] In a proceeding on warranty terms, there were 346 industry submissions, 77 trade association submissions, and 21 consumer group submissions. In a proceeding involving care labeling of textile products, the FTC received 172 industry submissions and 60 public interest group submissions. The Commission also received 545 individual submissions in the hearing aid proceeding, 242 individual submissions in the warranty proceeding, and 1,500 individual submissions in the care labeling proceeding. However, as we noted earlier, FTC staff familiar with these proceedings indicated that the impact of comments by individuals is often diminished because of their imprecise nature.

There is one category of agency activity in which the pattern outlined in this section does not consistently hold true—petitions for rulemaking. We found that at several of the agencies—the FTC, NRC, and CPSC—petitions for rulemaking submitted by the public approached or actually even exceeded those submitted by the regulated industry (see table 2.1). At the NRC, for example, 55 percent of petitions for rulemaking originated with consumer groups; only 25 percent came from regulated industry. At the FTC, it was a dead heat; 48.5 percent from consumer groups, 48.5 percent from industry. At the CPSC, 62 percent came from regulated industry, but a very sizable 34 percent were submitted by consumer groups.

The explanation may be in the mission of these agencies: The FTC, NRC and CPSC all have basic health and safety missions and a proposed rule by an agency with such a mission is more likely to tighten health and safety requirements rather than loosen them. In contrast, at the classic public utility regulatory agencies, rules are usually proposed in order to confer or expand a benefit for the regulated industry.

This is borne out by a quick check of several of the public utility regulated agencies—ICC, CAB, and FEA. Industry-sponsored rulemaking petitions accounted for 74 percent of all rulemaking petitions at the CAB, 75 percent at the ICC, and 90 percent at the FEA. By contrast, consumer-sponsored rulemaking petitions accounted for only 13 percent of all rulemaking petitions at the CAB, 8 percent at the ICC, and a mere 3 percent at the FEA. Thus, at these public utility regulatory agencies, the usual pattern prevails.

TABLE 2.2.—PETITIONS FOR RULEMAKING RECEIVED

	Total number	Petitioners: Regulated industry[1] (percent)	Governments (percent)	Consumer groups (percent)	Other (percent)
CAB	62	74.0	11	13.0	0.2
CPSC	242	62.0	3	34.0	.1
FCC[2]	117	59.0	5	[7] 35.0	1.0
FMC[3]	(4)	(4)	(4)	(4)	(4)
FPC[5]	(4)	(4)	(4)	(4)	(4)
FTC	33	48.5	3	48.5	0
ICC	24	75.0	13	8.0	4.0
NRC	20	25.0	15	55.0	5.0
SEC[6]	(4)	(4)	(4)	(4)	(4)
EPA[4]	(4)	(4)	(4)	(4)	(4)
FDA	68	77.0	3	21.0	0
FEA	29	90.0	3	3.0	3.0
OSHA	92	[8] 79.0	5	15.0	0

[1] Includes trade associations.
[2] Includes amateur radio operators.
[3] No action because of pending case (the only case).
[4] Agency reports it is unable to supply this information.
[5] Gives examples of a few petitions. Explains it is difficult to identify among the volumes of hearing records because there is a substantial number of petitions to amend the rules of the Commission which are filed during the course of adjudicatory proceedings.
[6] Volume of rulemaking petitions received by this Commission has not been large. Just gives examples.
[7] Cannot identify precisely the number of petitions received in the past two years. Estimates less than 15 total.
[8] Includes labor unions.

Participation in adjudicatory proceedings

In general, we found that participation in adjudicatory proceedings by nonregulated interests is even more limited than in rulemaking. This may reflect the fact that nonregulated interests commit their scarce resources more often to across-the-board proceedings where problems can be dealt with on a generic basis. It may also reflect the fact that public participation in adjudicatory proceedings has often been limited by questions of standing (see chapter 3), and by other procedural requirements imposed by the agencies themselves (see chapter 4).

At the FPC, the dockets we examined included several area rate and pipeline rate proceedings and one rate proceeding on the wholesale sale of electricity. Despite the economic impact involved in these cases, there was no intervention by interest groups in more than half of them. In those cases where such intervention did occur, the ratio of industry to public interest representation was 66 to 1 in one case, 38 to 1 in a second case, and 4 to 1 in a third. It should be noted, however, that there was intervention by State or local governments in these proceedings, and often the positions taken by such intervenors corresponded with those taken by public interest groups. Still, even with these intervenors included, industry participants accounted for more than 80 percent of the total.

Similar patterns prevailed elsewhere. For example—

At the FCC, the Commission indicated to us that public interest parties participate in only 3 of the 30 most recent adjudicatory proceedings (broadcast application proceedings).

At the CAB, public group participation occurred in two-thirds of the cases—cases that dealt with domestic common fares, an airline certification, interstate and intrastate fares for California and Texas, domestic air freight rates, transportation of live animals, and awarding a transatlantic route. However, in the cases where public participation occurred, the ratios of industry to public interest submissions were again very substantial: 122 to 1 in one case, 82 to 6 in a second case, 43 to 13 in a third, and 57 to 9 in a fourth.

At the NRC, public interest group participation took place in approximately 40 percent of the proceedings examined. State and local governments, often through Assistant or Deputy Attorneys General, participated in over 60 percent of the proceedings. The overall number of participants was generally small, and ratios between industry and public interest groups were generally low.

At the FDA, we found public interest group participation in less than 45 percent of the adjudicatory proceedings. The dockets included setting tolerance levels for certain chemicals, approval of a new drug application, permitting the use of certain growth promotants in animal feed, and sanctioning the use of methadone for particular drug treatment programs. The ratios of industry participation to public interest participation, where it did occur, were relatively low: for example, 6 to 5, 8 to 2, and 1 to 1.

In sum, we found that in agency after agency, participation by the regulated industry predominates—often overwhelmingly. Organized public interest representation accounts for a very small percentage of participation before Federal regulatory agencies. In more than half of the proceedings, there is no such participation whatsoever. In those proceedings where participation by public groups does take place, typically, it is a small fraction of the participation by the regulated industry. One-tenth is not uncommon; sometimes it is even less than that. This pattern prevails in both rulemaking proceedings and adjudicatory proceedings, with an even greater imbalance occurring in adjudications than in rulemaking.

EXPENDITURES ON PARTICIPATION

Generally, the same imbalance which we found with respect to the extent of participation holds true for expenditures. If anything, the imbalance is even greater on the expenditure side.

Clearly, several factors are responsible for this imbalance. Problems of standing, covered in chapter 3, account for part of it. Agency procedures are occasionally responsible, particularly if they discriminate against public interest groups; these procedures are discussed in chapter 4. But, the factor which is cited time and again as the chief obstacle to participation is the lack of funds, and the tremendous cost of participation. Repeatedly we heard stories of interventions begun and abandoned. We were told of funds running out. We were told of public interest lawyers billing half of what a private attorney would bill and then being unable to collect their fees. It should be noted here and throughout this volume that small businesses often have the same financial constraints as public interest groups.

An effort was made to determine how much the regulated industry spends to participate in regulatory proceedings, and to compare this with what public interest groups are spending. The problem of collecting cost data was similar to the problem of collecting the data on the extent of public participation. While precise data was not available for all the agencies, it was possible to compile a number of representative samples of the costs of participation. These clearly show that industry spends considerably more than public interest groups. In some cases, the comparisons were dramatic, with ratios of 50 to 1 or more. In all cases, industry spending on participation was many

[1] In these cases, the data provided by the FTC to the committee was somewhat different from that provided by the other agencies. We were supplied with the number of submissions rather than the number of participants.

times more than what public interest groups spent on participation.

A number of major public interest groups were contacted and asked to provide specific cost figures for their participation in both rulemaking and adjudicatory proceedings. These provided a number of examples from a diverse group of proceedings. In all, cost data was obtained from 15 public interest groups.

Industry representatives were asked for the same information. Cost data from 14 trade associations and corporations was obtained, and this provided a good cross-section of their expenses for regulatory proceedings.

In addition, a number of agencies maintain records of the costs of industry's participation in agency preceedings. The FCC, ICC and FPC require regulated companies to submit annual reports which contain schedules itemizing regulatory expenses over the subject year. The CAB annual report is compiled somewhat differently, since it lists expenses paid to outside sources but does not require regulatory expenses to be broken out. Therefore, in the case of the CAB, we also contacted the top legal officer at each airline to determine what portion of the airline's outside legal expenses were attributable to CAB proceedings.

We believe the cost figures obtained from these three sources—agencies, industry, and public interest groups—provide a sound basis for estimating comparative costs of participation.

The lion's share of these costs is the cost of legal counsel. Particularly in an adjudicatory preceeding, it is virtually impossible to participate effectively without counsel. For industry, legal expenses result from either in-house counsel or outside law firm billings. For public interest groups, representation is generally by public interest law firms. One Chicago lawyer we spoke to spends 40 percent of his time on public interest law and 60 percent on corporation law. After having spent many years devoting his practice exclusively to public interest law, he had lost so much money through unreimbursed legal fees and out-of-pocket expenses that he was forced to devise the current system, with the corporate law practice effectively paying for his public interest law practice.

The second largest expense of participating in a regulatory proceeding is the cost of technical assistance. This can be substantial. In one FCC proceeding, for example, A.T. & T. spent over $1,000,000 in 1 year to submit studies to the agency to support its position in an inquiry. Although that figure is certainly at the high end of the spectrum, it is not totally unrepresentative of the resources which industry is willing and able to commit to participate effectively in regulatory proceedings.

Finally, clerical costs imposed by the agencies can occasionally represent a substantial obstacle to effective participation. Costs such as transcript fees and reproduction of required materials, that are easily absorbed by private parties, often pose a real burden on public intervenors.

It is useful to compare these various types of expenditures on an agency-by-agency basis.

At the CAB, we found a tremendous disparity between industry and public interest group spending. CAB Form 41 requires all regulated airlines to file an annual report listing all outside expenses above $20,000, and to identify the name of the person or corporation paid, the amount paid, and the nature of the service rendered ("legal," "accounting," "advertising," or "investment management"). The top legal officer at each of the 11 trunk airlines advised us what portion of the airline's outside legal expenses were attributable to CAB proceedings. The figures that follow are the expenditures by the trunk airlines on outside legal expenses for the calendar year 1976 for proceedings before the Civil Aeronautics Board.

Airline	Amount billed for CAB work	Law firm
American	$200,000	Prather, Seeger & Doolittle.
Braniff	440,000	Arnold & Porter.
Continental	232,000	Hydeman, Mason & Goodell.
Delta	250,000	Hale, Russell & Stentzel.
Eastern	375,000	Wade & Associates.
National	50,000	Kirkland, Ellis & Rowe.
Northwest	240,000	Verner, Lipfert, Bernhard, McPherson & Alexander.
Pan American	650,000	Jones, Day, Reavis & Pogue.
TWA	400,000	Chadbourne, Park, Whiteside & Wolf.
United	14,000	Mayer, Brown & Platt.
Western	0	

The total for the 11 trunk airlines for 1976: $2,851,000. And this figure does not describe the complete story. Many of these airlines also maintain in-house counsel who do CAB work, and such costs are not included in the figure. When these are added in, the figure for legal costs for the major airlines for CAB proceedings last year clearly exceeds $3 million. And this does not include an additional $100,000 which the Air Transport Association incurred in CAB legal expenses in 1976.

Only one of the public interest groups surveyed engages in a substantial amount of CAB work. That organization is the Aviation Consumer Action Group, a firm which is loosely affiliated with Ralph Nader. The group's total budget for calendar year 1976 was $40,000, and only half of that, or $20,000, was spent on CAB matters. Even if this group receives pro bono litigation assistance from allied groups, its budget outlays represent less than 1 percent of the outlay for participation in CAB proceedings by the major trunk airlines.

ACAP was also able to provide an example of the burdens imposed by clerical costs. The example given was how much it costs to file an answer to a petition for reconsideration in what they term a "simple" rulemaking at the CAB. The costs broke down as follows:

Copying charges to reproduce 140 copies for the Board	$300
Postage	300
Envelopes	82
Clerical help to stuff envelopes, type labels and take to post office	20
Professional time—26 hours at $15 an hour	390
Senior professional time to review and edit, 2 hours at $75 an hour	150
Total	1,242

Thus, the clerical costs alone, on this one "simple" CAB rulemaking, consumed more than 6 percent of ACAP's total annual budget for all its CAB work.

At the NRC, a comparison of the costs of industry versus public interest groups also revealed a wide disparity. NRC costs of effective participation are particularly high, since Commission proceedings require not only adequate legal counsel, but also substantial reliance upon expert witnesses.

For example, the New England Coalition on Nuclear Pollution, a group based in Vermont, has intervened in the Vermont Yankee and Seabrook licensing proceedings. The Coalition depends entirely on contributions. The Vermont Yankee application for a license to build a nuclear powerplant, begun in 1971, has not yet been completed. To date, the coalition has spent $60,000 in legal fees on the Vermont Yankee proceeding.

Intervention by the coalition in the Seabrook proceeding dates back to 1973, although hearings were not begun until June 1975. To date on the Seabrook proceeding they have spent $58,000 in legal fees and out of pocket expenses. In addition, they have been able to spend only $2,500 on expert witnesses in the Vermont Yankee proceeding and $2,100 in the Seabrook proceedings. In the Seabrook case, the chairman of the economics department at Amherst College offered his services at no cost. But a Chicago economist whom they felt was essential to present a cost benefit analysis could not assist them for less than $4,000 and they could not afford to pay that.

A public interest lawyer described his role in the 1970 Palisades case before the AEC, a case he termed "landmark" since for the first time thermal pollution was recognized as an environmental element in nuclear powerplants. The attorney represented the Sierra Club, a group of fishermen and certain business and professional people. Legal expenses for 1 year of intervention ran $90,000—at an hourly billing rate of $60. None of the $90,000 was recovered.

The Union of Concerned Scientists, a public interest group in Cambridge, Mass., provided cost figures for participation in NRC rulemakings. They estimated for us that their legal fees in the emergency core cooling systems (ECCS) rulemaking ran $50,000 over 2 years. Out-of-pocket expenses for the same period were also $50,000. The Union was part of a coalition of 60 public interest groups organized under the name of the Consolidated National Intervenors. It was, however, the Union that led the effort. The coalition was primarily funded by small contributions, although it did receive some foundation support.

Although concise data for industry spending before the NRC was not available. Testimony presented to the Committee during its consideration of the Energy Reorganization Act provides a gauge of industry expenditures in nuclear licensing proceedings. George Freeman, an attorney who represents utilities in nuclear licensing cases, was not available, testimony presented to the Committee during its proceedings.

His answer:

"I would imagine the overall cost to the utility in terms of legal fees, in terms of technical staff review, staff backup, fees to consultants, plus the built-in price in the nuclear steam supply system of experts and fees to the architect engineer would run between $500,000 on the low side or $1 million on the high side."

Mr. Freeman's $500,000 to $1 million estimate represents a tenfold to twentyfold increase over the resources an average public interest group can commit if it wishes to contest a nuclear license.

It was also the Union of Concerned Scientists that provided the committee with the only example of studies commissioned by a public interest group. One, on energy alternatives, cost them $50,000, and a second came in at $80,000. It is not difficult to understand why public interest groups must put such activities on the back burner. With funds so limited and with legal counsel so crucial for effective participation, there is simply no way to afford the luxury of commissioning a study to support a position.

At the FCC, the two functions of the FCC with which the public is most familiar are the regulation of television broadcasting and the regulation of telephone systems (common carriers). Although we were not able to secure industry cost figures for the broad-

cast division, we were told by a leading public interest group, Media Access Project, of their expenses in FCC rulemaking proceedings. Media Access Project estimated that their participation in the FCC rulemaking on the fairness doctrine cost $15,000 in attorney's fees and $1,000 for out-of-pocket expenses. On the Commission's Sunshine Act rulemaking, they spent $500 in legal fees and $50 in out-of-pocket expenses. Furthermore, they have never been able to hire technical experts because of lack of funds.

Industry spending data was available for the common carrier division. Most illustrative are the expenditures of A.T. & T., the industry giant. A.T. & T.'s regulatory expenses are reported by the company on an annual basis in the FCC's schedule 39 of its form M.

For the year ending December 31, 1975, A.T. & T. reported over $2,225,000 in FCC expenses. Of this total, $1,800,000 was incurred in just three dockets.

One of these was FCC docket 20003, an inquiry into the "economic implications and interrelationships arising from policies and practices relating to customer interconnection, jurisdictional separations and rate structures." Thus, in docket 20003, the FCC was investigating the effects of competition in the telecommunications industry. A.T. & T. opposed the proposed increase in competition, arguing that if the FCC increased competition in the specialized common carrier and interconnect companies, A.T. & T. would be forced to raise the interstate telephone rates. A.T. & T. spent more than $1,000,000 trying to convince the FCC not to take further action.

The remaining $800,000 was spent on two related dockets, one started in 1970 and the other in 1975 that dealt with A.T. & T.'s request for an increase in its rate of return. As a result of the requests, the FCC began an investigation of the relationship of A.T. & T. with its associated companies: Bell Labs and Western Electric. Rate of return increases were granted—8½ to 9 percent for the first request (9½ percent was requested) and 9½ to 10 percent for the second request (10½ percent was requested). There was a total absence of any public interest representation in these proceedings. Henry Geller, a former General Council of the FCC and presently Chairman of the Board of the Citizens Communication Center, told the Committee that public interest intervention was "stymied totally". He mentioned "gigantic legal costs" and notably prolonged proceedings.

At the FPC, a similar pattern prevailed. The Committee was told by a public interest law firm whose clients include municipalities and public interest groups, that for an FPC proceeding expenditures typically run between $50,000 and $60,000, with half of that sum directed toward legal fees and the other half to expert testimony. The American Public Gas Association, in a proceeding that challenged the FPC's manner of setting rates, spent slightly more than $48,000. Their effort ended in the courts in June 1977 with a ruling against them.

Compare this with information reported by the pipeline companies on FPC Schedules 353 and 353A. Schedules 353 and 353A require a listing of "particulars of regulatory commission expenses, relating to formal cases before a regulatory body or cases in which such a body was a party." The statistics contained in these schedules reflect not only the total cost of a proceeding, which typically spans 2 or 3 years, but also the amounts spent on a proceeding for the subject year. The committee obtained copies of the reports for the year ending December 31, 1975, for the 34 major pipeline companies. These reports show that for a single rate proceeding begun in 1971, Northern Natural Gas has spent nearly $600,000 to date. On another proceeding, started in 1974, they have spent $350,000.

The Cities Service Gas Co. has spent almost $220,000 on a single rate proceeding begun in 1974 and over $220,000 on a certificate proceeding begun in 1967.

The United Gas Pipe Line Co., another of the major gas companies spent over $1,300,000 in 1975 alone, although this figure encompasses 16 rate proceedings and 19 certificate proceedings.

Schedules 353 and 353A are also required of companies selling wholesale electricity. The FPC was asked to identify the 10 largest electric companies filing Schedules 353 and 353A. We found that a very substantial portion of regulatory expenses for these companies was incurred because of State public service commissions and the charges attributable to FPC proceedings were somewhat less than they were for the pipeline companies. For example, the Pacific Gas & Electric Co. spent $75,000, almost entirely on filing fees.

The Duke Power Co. spent over $120,000 and all of it was on two rate proceedings. The Public Service Electric & Gas Co. also spent over $120,000, Detroit Edison over $190,000, and Southern California Edison over $130,000.

In all of the preceding examples, comparing public interest group costs to industry costs is like comparing David to Goliath. Effective participation in a regulatory proceeding does indeed depend on the quality and extent of one's legal counsel. It also depends upon the quality and extent of expert testimony and technical submissions. It requires ample administrative and clerical resources, costs which are frequently taken for granted. Yet time after time, industry is able to spend 10, or 50, or 100 times as much money on participation as public interest groups. The persistence and ingenuity of the public interest groups in their efforts to participate effectively is laudable, but their lack of resources to insure adequate representation is lamentable.

When these figures are considered alongside the data on extent of participation presented earlier in this chapter, we believe they make a convincing case that corrective steps—both legislative and administrative—are necessary to remedy this imbalance. These remedial steps are considered in the remaining chapter of this volume.

CONCERN FOR THE STEEL FASTENER INDUSTRY

Mr. PERCY. Mr. President, as we document the difficulties associated with unfair trade practices, particularly in the steel industry, we see the same conditions afflicting the steel fastener industry.

For some time now, this industry has been plagued by cheap imports, which continue to erode our own market despite vigorous efforts by the industry to modernize and seek the most efficient technology. There is strong evidence that imports continue to be "dumped," or sold in the United States below production costs in the home industry.

At this time, the import share of the U.S. market constitutes a whopping 46 percent, up from 23 percent—or double—in only 4 years, not permitting any chance for orderly adjustment by our own steel fastener industry. These imports, Mr. President, are underselling U.S. products by as much as 70 percent in the case of some steel fastener items.

Mr. President, this is a serious problem. To underscore just how serious it is, the International Trade Commission recently recommended import duties of 30 percent for the first and second year; 25 percent duties for the third year, and 20 percent for the fourth and fifth year. Because the call for these duties emphasizes the dilemma facing this country, I am confident that the upcoming decision to be made by the President on the recommendations of the ITC and his Special Trade Representative will have the best interest of the industry in mind.

The decision would be coming none too soon, since in my own State of Illinois, some 110 fastener businesses employing approximately 12,000 people would be affected by continued dumping on the U.S. market.

I have supported the principles of free trade for three decades as in the national interest, but have opposed at the same time unfair competition and support vigorous enforcement of our antidumping laws.

We know of the response that has already come from the concern that Congress has expressed with respect to the underselling of domestic steel products. No less concern should be shown where the steel fastener industry is concerned, particularly when it comes to national security.

The Defense Department is a major buyer of steel fasteners and it is imperative that the domestic market continue to be healthy and responsive to future requirements.

For these reasons, I have written to Special Trade Representative Robert S. Strauss to express my concern. Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Ambassador ROBERT S. STRAUSS,
Special Representative for Trade Negotiations, Office of Trade Negotiations, Washington, D.C.

DEAR AMBASSADOR STRAUSS: As you are aware, the steel fastener industry, producers of bolts, nuts and large screws, has been plagued in recent years by an ever growing volume of cheaper imports which have adversely affected the domestic industry.

In my own State of Illinois, for example, some 110 establishments involving over 12,000 employees have been under growing pressure from imports since 1972. Nationwide, some 495 steel fastener businesses employing over 45,000 employees stand to be affected.

It is my understanding that despite the construction of modern plants, improved technology and better efficiency, the U.S. steel fastener industry continues to find it difficult to compete. Already, many jobs in Illinois have been lost due to production cutbacks. More Illinois jobs are now in danger of being lost. In a recent statement, the Department of Labor concluded that "increased imports contributed importantly to the unemployment of significant numbers of workers" at the Lamson & Sessions (Chicago) and the ITT (Morton Grove) facilities at which some 160 employees of these companies were eligible to apply for trade adjustment assistance.

Indeed, the reason for the success of imported fasteners in the domestic market is that they are cheaper by a considerable mar-

gin. The prices at which imported fasteners are offered for sale in the United States are often at or below the cost of U.S. steel. As one steel fastener producer recently told me: "Whatever the exact price differential, it is sufficiently great that we cannot overcome it by technological improvements or increased production efficiency." The added implication by this executive was that there are increasing instances of "dumping" of steel fasteners onto the U.S. market.

I understand that you and the President will be considering the ITC's recommendations on steel fastener imports during the next few weeks. In addition, I would like to urge that you take whatever negotiating steps are possible to mitigate this problem and that you use your own offices to be certain that our anti-dumping laws are being strictly and promptly enforced.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, from time to time matters of such great importance come before this body that they deserve the very closest attention of each Senator. The Genocide Convention, a treaty which would condemn the destruction of a national, ethnic, religious, or racial group as an international crime, is such a matter.

President Truman first submitted the treaty in 1949, and in the many years since then, there has been extensive debate on this issue. In the course of the many hearings which have been held, each side has been able to present its position concerning the treaty. I believe that the final verdict which should now be reached with regard to this treaty is that ratification has long been overdue.

Mr. President, for various reasons, there are several new Senators currently serving in this Chamber who have not voted on this issue in the past. I would like to take this opportunity to urge them to look closely at the provisions of the Genocide Convention, and to look closely at the hearings which have been held on it. With their help, we can make 1978 a year of which all Americans can be proud, for we can make 1978 the year in which the Genocide Convention is ratified. I call upon the Senate to pass the Genocide Convention as soon as possible.

THE PRESIDENT'S COMMISSION ON MENTAL HEALTH

Mr. DOMENICI. Mr. President, the President's Commission on Mental Health has been meeting monthly since last March with 22 task and subtask panels studying the mental health of various segments of our population. Mrs. Rosalynn Carter is the honorary Chairperson of the Commission and Dr. Thomas Bryant is Chairman. One of the task panels was concerned with the mental health of the elderly. Members of this task panel included Dr. Richard W. Besdine of the Hebrew Rehabilitation Center for the Aged in Roslindale, Mass.; Dr. Robert N. Butler, Director of the National Institute on Aging; Dr. Charles M. Gaitz of the Texas Research Institute of Mental Science; Maggie Kuhn, convenor of the Gray Panthers; and Carl Takamura, State representative from the State of Hawaii.

I would like to share with my colleagues comments made by Dr. Butler and Ms. Kuhn, and the conclusions of the task panel which were presented to the Commission at its meeting on January 16. Dr. Butler said:

> While the explosion in absolute numbers of the elderly population is a triumph for our society, this brings with it a crisis in everyday problems. Statistics show that the elderly receive less care than younger adults. Only four percent of the patients seen at public out-patient mental health clinics, and two percent of those seen in private psychiatric care are elderly. Emotional problems of the elderly have been underestimated due to the underutilization of our mental health resources.

According to Ms. Kuhn, the loss of jobs, spouses, and places of respect bring despair to many older people. Ms. Kuhn said:

> It is assumed that we will get ourselves to clinics for help but we don't, for this reason, there is need for outreach to the elderly in their homes and in nursing homes as well.
>
> In this age of liberation and self-determination, the older adult ought to have the right to remain at home and not be placed in an institution where we are deemed to be wrinkled babies and not treated as responsible adults. We are so casually treated by physicians who tell us we cannot expect to be well at our ages, and 80 percent of us are quite well indeed, that there is a great need for geriatric training in the medical schools in order that physicians more fully understand the changes which occur with age and that some diseases present themselves differently in the old.

The conclusions of the task panel on the elderly are as follows:

Outreach: The problem of accessibility can be ameliorated using an Outreach approach, with a coordinator integrating the various services available within the community. Continuing training at the community level of such Outreach and information workers is vital and is the foundation upon which services to the elderly within their communities must be based. Such training would enable those working with the elderly to recognize needs, respond appropriately, and, most important, to regularly follow up on the treatment plan.

Home care: Older people should not have to "serve time" in an institution just because they become ill unless such care is medically necessary or it is their own personal preference.

Home care must become an essential component of the continuum of mental and physical health care of the elderly. This is in agreement with the concept expressed in S. 2009. Such services will do much to enhance the quality of their lives and contain the rising costs of health care.

A major concern of the Panel is that in any home care program, there must be a built-in circuit breaker so that at the point where home care costs near institutional costs—indicating potentially greater need than can be coped with in the home setting—a physician will be required to reevaluate the treatment plan. This step would insure appropriate level of treatment in the home and would guard against excess usage and abuse.

Medicare: The discriminatory treatment of mental health services under the provisions of Medicare must be eliminated in order to reduce the financial barrier to mental health services. Without losing sight of the ultimate goal of removing all discriminatory language toward mental health reimbursement in the medicare law, the Panel recognizes that an acceptable short-range alternative is reduction of the beneficiary coinsurance from 50 to 20 percent—in line with standard medicare coverage—and increase of the maximum allowable reimbursement for mental conditions to $750 in any calendar year.

Geriatric training: First, each medical school which demonstrates sincere interest in incorporating training in geriatric training into its curriculum should receive up to $100,000 a year in support of this activity. Demonstration of this interest shall be constituted by the presence on the staff or immediate availability of an appropriately trained and committed person who shall hold full academic rank and have access to the school's decisionmaking body.

Second, there shall be made available to 25 graduate programs in clinical psychology, 25 graduate programs in social work, and 25 graduate programs in nursing $75,000 each in support of specialized clinical training for educators and practitioners in social gerontology, meeting similar criteria as outlined for medical school eligibility.

Research—Organic brain diseases: There must be a major national effort to promote and support accelerated research on the single most terrifying mental health problem of the elderly—organic brain diseases. Additional funds must be earmarked to intensify research in medical schools, hospitals, and research institutes on these dread diseases which are so costly in terms of human anguish and health care expenses. Further, the National Institute on Aging, the National Institute of Neurological and Communicative Disorders and Stroke, and the National Institute of Mental Health should be directed to conduct and support such research. This effort should be coordinated by the National Institute on Aging.

Allocation of research resources: The Secretary of Health, Education, and Welfare and the Office of Management and Budget should independently reexamine how existing Federal resources are being spent—with special attention to NIMH and NIA—and to increase or reallocate such resources available in research, training, and mental health services for the elderly proportionate with their current needs and the needs of the larger future populations of elderly.

Administration on aging—Revitalization: The position of the Administration on Aging must be reaffirmed to fulfill legislative intent and mandate. This will

enable the Administration on Aging to be a strong and highly visible advocate for older Americans as intended by Congress.

These conclusions will be considered by the Mental Health Commission as it prepares its final report for the President this April.

I am particularly pleased with the conclusions which emphasize the need for outreach and for home care, as I firmly believe these are necessary to the well-being of all older Americans. I concur wholeheartedly with the belief of this task panel that "practical attention given to the special problems and needs of today's older Americans ultimately will reduce the unnecessary and costly dependence of the elderly of the future."

EXPORT-IMPORT BANK FINANCING NOTIFICATION

Mr. PROXMIRE. Mr. President. I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3(iii) of the Export-Import Bank Act notifying the Congress of a proposed additional Eximbank loan to assist the construction of a nuclear powerplant in Brazil. Section 2(b)(3)(iii) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees for nuclear-related exports at least 25 days of continuous session of the Congress prior to the date of final approval to the transaction unless the Congress dictates otherwise.

In this case, the Bank proposes to extend an additional loan in the amount of $23,400,000 to Brazil to assist in the purchase of U.S. goods and services to be used in the modification and completion of that country's first nuclear powerplant. Eximbank has previously made loans and guarantees totaling $163,920,000 in conjunction with this project. The new credit proposed by Eximbank will cover 60 percent of the total cost of additional U.S. goods and services for the project. The loan will bear interest at the rate of 8¾ percent per annum and will be repayable over a 12-year period commencing June 30, 1979.

Mr. President, I ask unanimous consent that the letter from Exim pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., January 19, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Capitol, Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction:

A. DESCRIPTION OF TRANSACTION

1. Background and purpose

In late 1971, Eximbank authorized financial assistance of $138 million in the form of a credit of $69 million and a guarantee of commercial loans in an equal amount to Furnas Centrals Eletricas S.A. (FURNAS) to facilitate financing the U.S. costs for the Angra dos Reis Nuclear Power Plant, Brazil's first nuclear power plant, located on the coast between Rio de Janeiro and Sao Paulo. In May 1975, Eximbank increased the amount of its direct loan by $17.28 million and provided an additional guarantee of private bank loans of $8.64 million, for total Eximbank support of $163.92 million for this project. FURNAS has requested and Eximbank is prepared to provide an additional direct credit of $23.4 million.

FURNAS requires the additional financing for two primary reasons. First, in furtherance of the Government of Brazil's policy generally to conform to nuclear power plant guidelines recommended by the U.S. Nuclear Regulatory Commission (NRC), FURNAS has agreed to have its principal supplier, Westinghouse, revise its equipment supply and engineering services contract to allow for implementation of the latest NRC-recommended technical design criteria and safety standards. This policy is requiring ongoing reexamination and modification of the original designs of major plant components, together with the acquisition of additional plant-related equipment at a U.S. cost of approximately $16 million. These additional cost factors are common in current nuclear power plant projects as design technology of these plants continues to evolve. The equipment needed pursuant to plant modification includes components for upgraded piping systems, additional reactor components, a reactivity computer, additional controls, radiation protection equipment, laboratory equipment, security equipment and upgraded components included in many of the plant systems.

Second, FURNAS has requested Westinghouse to assume additional responsibilities in managing the project and coordinating the construction of the plant. FURNAS itself had performed this role but has now assigned it to Westinghouse, its major equipment and service contractor. These additional services will be performed by Westinghouse at a cost of approximately $14.2 million.

In addition, FURNAS needs $5.0 million for the purchase of additional spare parts, $1.1 million for additional construction inspection services and $2.7 million to cover price escalation of equipment.

Eximbank considers the reasons for and the amount of the increased U.S. costs to be reasonable and necessary to complete this plant which is now scheduled for 1979.

2. Executive branch approval

In accordance with established procedures, Eximbank requested through the Department of State the view of the Executive Branch on the proposed transaction. State's Bureau of Oceans and International Environmental and Scientific Affairs advised that the Executive Branch has no objection to Eximbank's proceeding with this transaction. According to State, on the basis of its review of the proposed loan, it was decided that "U.S. nonproliferation objectives would best be served by our continued cooperation with Brazil on the Angra I project" and therefore the Executive Branch "recommended to the Nuclear Regulatory Commission that the export license for the initial fuel core of Angra I be issued." State noted further that "these decisions are consistent with and reinforce our stated policy of seeking more stringent safeguards for nuclear energy without impairing the significant contribution nuclear projects such as Angra I will make toward meeting the urgent and legitimate energy needs of Brazil as well as other countries."

3. Identity of the parties

FURNAS is the largest subsidiary of Eletrobras, which is the Federal Government of Brazil's electric power holding company. Since 1973 FURNAS has held the status of a regional power company responsible for the supply of power to Brazil's southeastern region and for the construction of all power developments and high voltage transmission systems of regional interest. FURNAS sells its power under long-term contracts to private and government-owned utilities.

The Federative Republic of Brazil will issue to Eximbank an unconditional guarantee for repayment of the Eximbank direct credit.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank direct credit of $23.4 million will facilitate the export of $39 million of U.S. goods and services. Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services. This transaction will have a favorable impact on employment for substantial numbers of United States workers, as well as on the United States balance of trade. Westinghouse has advised Eximbank that this sale will result in 2,984,000 man-hours, which is equivalent to 1,435 man-years directly created. The majority of equipment and services will be supplied from Philadelphia, Pittsburgh and New York where the unemployment rates in September, 1977 were 6.9 percent, 6.1 percent and 8.5 percent, respectively. None of the goods to be exported are in short supply in the United States.

2. The Financing plan

The total cost of United States goods and services to be purchased by FURNAS is $39 million which will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$ 5,850,000	15
Eximbank credit	23,400,000	60
Private loans not guaranteed by Eximbank	9,750,000	25
Total	39,000,000	100

(a) *Eximbank Charges.* The Eximbank Credit will bear interest at 8¾ percent per annum, payable semiannually. A commitment fee of 0.5 percent per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) The Eximbank credit and private loans, which total $33,150,000, will be repaid by the borrower in 24 semiannual installments beginning on June 30, 1979. Under this schedule, the first 7 installments and a portion of the 8th installment will be applied to repayment of the private loans and a portion of the 8th and all of the last 16 installments will be applied to repayment of the Eximbank direct credit.

Sincerely,

JOHN L. MOORE,
President and Chairman.

TRIBUTE TO SENATOR LEE METCALF

Mr. PACKWOOD. Mr. President, with the passing of Lee Metcalf, the U.S. Senate will be without one of its most distinguished Members and a very good friend. The long record of this outstanding Montanan speaks for itself. At a glance anyone can see Lee's life was spent in doing the public's work.

After completing his education and training in law, Lee served in the U.S. Army and took part in some of the Second World War's major campaigns. In civilian life, before and after his military service, he held a number of elective and judicial offices in his home State. The people of Montana became acquainted with this gifted man, took him to their hearts, and brought him to national attention. Since 1952, the voters sent and returned Lee Metcalf to Congress, both

as a U.S. Representative and beginning in 1960, as U.S. Senator. Other Members of Congres have served longer terms, but distinction is not earned by the sheer number of years one holds office. Lee accomplished it through hard work and a long-held belief in people.

As our careers came together in the Senate, I found what many already knew: That Lee Metcalf was a man committed to the people of his State and our Nation. He believed that Government could be a tool not to interfere with our lives, but to better them. His many contributions in the field of education, consumer protection, and governmental reforms demonstrate this belief over and over again.

As a westerner, he understood the urgency of conservation—the need to preserve for later generations our vast expanse of national wilderness and wildlife. He shared with many of us the enjoyment of vast mountain ranges, wild rivers, and forests long before the rest of the country jumped on the ecology bandwagon. We still owe him a debt in reminding us constantly how the family of man fits into the crucible of nature.

It would be tough to list here all of Lee Metcalf's accomplishments without giving due credit to each one. In all fairness, I am not going to try. I will remember Lee Metcalf as a strong and talented man, an able legislator, and an important ally on any issue. From both sides of the Senate aisle, I know he will be sorely missed. To Mrs. Metcalf and Jerry, I would like to express my deep sorrow at your loss and the Nation's. I would just like to add my gratitude, too, in having known, Lee as my colleague and friend.

JACKSONVILLE, ILL., POLICE CADET PROGRAM IS A SUCCESS

Mr. PERCY. Mr. President, local police departments throughout the country today face the serious challenges of recruiting effective new personnel and maintaining a favorable image with young people in their communities. The police department in Jacksonville, Ill., has responded imaginatively to these challenges with its police cadet program for local college students.

Wilbur E. Stafford, chief of police in Jacksonville, describes the program in the current issue of FBI Law Enforcement Bulletin. College students who apply for the program take tests and undergo interviews to determine their aptitude for police work. Those accepted are trained in all aspects of police work, including patrol duty. When they have gained sufficient expertise, the cadets perform all the normal duties of police work.

Typically, the Jacksonville police employ four college students in the program. The cadets work part time, while continuing their education. They are strongly encouraged to complete their 4 years of study; a cadet who leaves school before graduation is dropped from the program.

The program benefits the qualiy of law enforcement in several important ways. It adds needed personnel to the department, allowing more officers to be placed on street duty. It improves relations with local teenagers and college students. It gives able young people a unique opportunity to see firsthand the many important services offered by police to the community and to participate in the performance of responsible police work. Already, the Jacksonville police have obtained one highly qualified full-time police officer as a result of the program.

Mr. President, the cadet program is also extremely cost-effective. The program's cost for four cadets is less than the salary for one patrolman with 5 years seniority.

The police cadet program in Jacksonville is indeed a praiseworthy approach to a number of problems faced by law enforcement officials at the local level. I ask unanimous consent that Wilbur Stafford's article, "Advantages of a Viable Police Cadet Program," appearing in the January 1978 issue of FBI Law Enforcement Bulletin be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ADVANTAGES OF A VIABLE POLICE CADET PROGRAM

(By Wilbur E. Stafford)

During the late 1960's and early 1970's, the Jacksonville Police Department was experiencing problems with recruiting sworn personnel and maintaining a favorable image with local college students and young people in the community. Correcting these two problem areas was given a high priority by command personnel of the department.

At that time the Jacksonville Police Department consisted of 29 persons; i.e., 23 sworn police officers, three dispatchers, one secretary, and two meter maids. Assignment of personnel was as follows: The day shift consisted of the chief of police, two detectives, six sworn officers, one dispatcher, one secretary, and two meter maids; the afternoon and evening shifts each consisted of seven sworn officers and one dispatcher. Dispatchers worked a 5-day week and were relieved when sick, for holidays, vacations, and/or regular days off by sworn officers. This further reduced the number of officers available for street duty. Sworn members of the department also worked a 5-day week and received compensatory time for any overtime worked. Thus, it was not uncommon to find only two sworn officers on duty to answer calls on the evening and night shifts.

Among the several programs considered at that time a police cadet program with college students seemed to most nearly meet our needs. The city could draw from students at two local colleges.

Several factors favored a cadet program with college students. Financial considerations were important. Parttime employees are available when needed and are paid primarily for the special purpose or time needed. Thus, costs would be easier to adjust within budget constraints. Also, students are available during periods of greatest need; e.g., to work as dispatchers on weekends and/or evenings. They are also available during the summer, the time regular employees prefer to take their vacations and compensatory tme.

In the late 1960's and early 1970's, a major consideration was also establishing some favorable rapport and visibility on the college campuses. Further, the age for becoming a police officer was 21, the approximate age a college student would enter the job market. In addition, the Jacksonville Police Department wanted a positive recruitment program of young people. It seemed reasonable then, to aim the program at ultimately obtaining college graduates as sworn members of the department. If we later recruited a cadet as a member of the department, his department-wide training as a cadet would contribute to making him/her a better police officer.

Ten college students responded to the initial advertisement for cadets. Two of these applicants were female. Upon receiving applications from the two females, it was decided that this would be an excellent opportunity to see if a female officer would be beneficial to the department. The female applicants and department officials agreed that female cadets would not be assigned to patrol; however, they would be assigned to work with female juveniles.

The applicants were interviewed and the following rules were established:

Remaining in school and obtaining a B.A. or B.S. degree would be the cadet's goal, although the Illinois Law Enforcement Commission required only an associate degree.

If for any reason they left school prior to obtaining a B.A. or B.S., they would be dropped from the program.

A background investigation would be conducted similar to that conducted on police officer applicants.

Schooling would come first; should they have a test or other need to be off they would be given the necessary time off.

Local students would be given preference as they would be more likely to later join the department.

At that time minimum height requirements, etc., for police officers also applied to cadet applicants.

Four cadets were employed from this initial list of 10 applicants—3 males, and 1 female. Of these, the female dropped from the program after a couple of years and married, two of the male cadets joined the department after graduation, and the fourth male cadet entered law enforcement in another State. Of the two cadets who joined the department, one continued his education and obtained a master's degree. He left the department after 3 years to work for a regional office doing criminal justice planning. One of the original four cadets remains as a member of this department.

OPERATION

The program has remained relatively the same since its inception and implementation. Cadets are presently paid $3.25 per hour, are furnished uniforms, and receive a meal allowance when they work the night shift. Jacksonville's personnel policy gives nonsworn members of the department holidays off. As part-time employees, cadets are paid double time when they work on holidays.

The regular assignment for cadets during the school year is relief of the telephone/radio dispatchers. The three regular shifts of the patrol unit rotate every 28 days. Full-time dispatchers are assigned to a shift and rotate with the shift. Scheduling for the cadets gives them one of every four weekends off. With this schedule cadets work an average of at least 16 hours per week during the school year. Within limits they are permitted to work as many additional hours as they feel they can handle. These extra hours normally are worked during school holidays, such as at Christmas and during spring vacation. During the summer months, each of the four cadets works a 40-hour week and is assigned according to the needs of the department. However, there is ample time for the cadets to obtain departmentwide experience in areas of their preference.

Among the areas to which the cadets are routinely assigned is the investigative section, having the responsibility for followup

on unsolved crimes and consisting of four detectives and a secretary. The photoprocessing darkroom and evidence laboratory are within this unit. Cadets now do most of the darkroom work since this is usually something that can be done at any time. In addition, cadets assist in processing evidence, filing investigative records, and accompanying detectives on investigations.

With the rapidly growing volume of records and files confronting the police department today, cadets necessarily find themselves spending a large share of their time in records doing filing. They work, in all areas of records, particularly to reduce or eliminate any backlog which occurs.

The favorite assignment of all cadets is patrol. Cadets are now assigned throughout the department without regard to sex. No reluctance has been voiced by the officers on having a female cadet assigned them on patrol. This may be due in part to the alternative the officer has of riding by himself, but from comments it appears to be due to the female cadets having proven themselves to be 100 percent able and willing to help when needed.

Since implementation of the program the Jacksonville Police Department has employed four cadets with B.A. or B.S. degrees as officers, but still does not have a female police officer. The first female dropped from the program to get married and a second female cadet completed the program, but because of the lack of vacancies in the department was not offered employment until several months after graduation. By the time she had obtained other employment. The Jacksonville Board of Fire and Police Commissioners contracts with a nonprofit corporation for entrance and promotional examinations to insure the tests are validated and nondiscriminatory. Only the one female cadet to date has passed the tests. Thus, there are no female officers now in the Jacksonville Police Department, and as part of a self-imposed affirmative action program to obtain female officers, the department now employs two male and two female cadets.

As the need arises the department seeks to employ new cadets after they have completed their first year of college. This allows a consideration of their ability to do college work and provides the probability they will be in the training program as a cadet for about 3 years. Cadets must pass the merit board exam and place in the top three according to overall score. The merit board does allow cadets with 2 years' experience an extra five points in computing the cadets overall score.

EVALUATION

Costs of the program to the city for four cadets, each working approximately 1,100 hours per year, is slightly less than the salary for one patrolman with 5 years' seniority. Considering that cadets free a minimum of six sworn officer man-days per week just in communications, Jacksonville more than realizes the cost of the program by being able to return these officers to the street.

Areas the cadets are used in as relief are not confined to the telephone/dispatch center. Cadets fill in during the absence of the secretaries during periods they are on vacation or illness and fill in for the civic hostesses who handle parking enforcement as necessary.

Today the Jacksonville Police Department consists of 36 sworn police officers, 3 dispatchers, 4 secretaries, 2 civic hostesses (who enforce 2-hour parking restrictions), 1 animal control warden, 4 cadets (part time), and 7 school crossing guards (part time). Although the department has grown since 1970 when the program was implemented, cadets are still considered valuable members of the department and other programs would be reduced or eliminated if necessary to retain the cadet program. An outside evaluation of the cadet program after it had been in operation 16 months reported a consensus of the sworn officers that the department had received tremendous benefits from the cadet program. The benefits cited included: Putting more officers on the street, especially relieving younger officers from dispatching; bettering relations with teeenagers of the town and college students in the area; recruiting one highly qualified officer; relieving backlogs in the records department; creating added interest in police work; and improved attitudes concerning college education and increasing awareness of student problems. One officer stated: "I think we would only have to lose them to realize how much we benefitted from having them."

The improved morale of the department is one of the most beneficial assets of this program. Formerly, patrolmen were assigned to relieve the dispatchers and to aid those in the records division. Patrolmen tend to consider communications and records as nonpolice work; consequently, they prefer to be "on the street." A happy policeman is a more effective officer because his attitude and actions will tend to be less offensive to members of the public. Furthermore, young officers obtain more experience by being "on the street" than being at the dispatcher's desk. Thus, many of the young officers are more satisfied with their job as a result of the cadet program.

The feelings of the cadets and the noncadets indicated that the cadet program is valuable and should be maintained. Both groups cited the benefits of more officers on the street and relief for dispatchers, but the majority overlooked the advantage of recruitment. The funds needed for this program could purchase the services of two dispatchers or 1¼ beginning patrolmen; however, the recruitment advantages cannot be evaluated on a monetary basis. The quality of the department will be increased if recruits continue to come from the ranks of cadets. From this law enforcement exposure cadets should have a better understanding of situations and ultimately make better decisions. Since the beginning of the cadet program, one of the cadets was promoted to patrolman and it is generally felt that he has the potential of making an excellent officer. According to his own statement, he probably would not have applied to become a police officer if he had not had the cadet experience.

An evaluation of the program by an outside expert noted that cadets should have received a longer, more formal indoctrination. The recommendation was that the cadet experience should begin with a formal classroom experience of at least 20 hours to include the following: Organization of the police department; philosophy of the department; purposes and duties of each division in the department; role of the cadet; training in communications; techniques of counseling or working with juveniles; operation of the criminal justice system (courts, probation, police, etc.); functions of law enforcement in a community; rights and duties of a law enforcement officer and of a citizen; and crime prevention projects and methods.

The experience of the Jacksonville Police Department with the cadet program has been good. Those small departments now considering the addition of sworn or nonsworn personnel may wish to consider the alternative of establishing a cadet program.

JOHN SPARKMAN

Mr. HUDDLESTON. Mr. President, all of us were saddened to learn last Friday that our colleague the senior Senator from Alabama, Mr. SPARKMAN has decided to retire after his current term expires in January.

When he retires from the Senate, Senator SPARKMAN will have compiled an enviable record of 42 years in the Congress—10 in the House and 32 in the Senate—and a list of accomplishments few will be able to match.

I have only been privileged to serve with him for 5 years now, but I know that the name JOHN SPARKMAN is synonymous with small business, rural electrification, housing, banking, and a sound and reasoned foreign policy.

He was, of course, Adlai Stevenson's choice for a running mate in the 1952 presidential election, and while he never achieved the Vice Presidency, JOHN SPARKMAN will have more legislative monuments and accomplishments to his record than most Vice Presidents.

He will probably go down in history one day as the father of housing in this country. Long before it became popular, JOHN SPARKMAN was a leading force behind efforts to adopt a national housing policy that would provide a decent home in a decent environment for every American family. Because of his leadership many American families today have decent housing which they otherwise would not have.

I recently received a copy of an editorial about Senator SPARKMAN'S retirement that appeared in the Montgomery, Ala., Advertiser. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Montgomery Advertiser, Jan. 24, 1978]

JOHN SPARKMAN

Sen. John Sparkman's announcement that he is ending his political career comes as no surprise, but yet with a certain amount of sadness. After all, he has represented this state in Washington for more than four decades—one-fifth of our entire national existence—with such distinction that he has become as familiar as the Washington monument on the landscape of the nation's Capital.

Sparkman began his career in a time when the state was deeply divided into progressive and conservative factions. In contrast to many other Southern states, the progressives won out more often in Alabama, which led V. O. Key Jr., in his great mid-century study of Southern politics, to speak of "the robustness of Alabama political life" and to observe: "Clearly a state that produces a Senator (and Justice) Hugo Black, a Senator Lister Hill, a Senator John Sparkman scarcely merits application of the conventional stereotype of the South as a region of hidebound reaction."

No doubt regional considerations weighed heavily in Adlai Stevenson's choice of a Southerner for his running mate in the 1952 presidential election; it was no accident that the particular Southerner he chose was John Sparkman.

The progressive-conservative cleavage which existed at the time Sparkman first went to Washington in 1936 has largely been obliterated by the enfranchisement of the blacks, by the shift of the population from the rural areas to the cities, and by prosperity.

Amidst this change Sparkman has been a flexible man, and there is no greater evidence of the reliability of his political antennae than his stunning victories each time he offered for reelection.

Yet this flexibility does not bespeak an abandonment of basic principle, and even in

the twilight of his political career he is capable of the early populist fervor which swept him into office.

We well recall his reaction when he was asked, at a meeting of businessmen last year, whether he felt that cooperatives had "outlived their usefulness."

He might have given a waffling answer, because clearly the questioner and most of his colleagues at the gathering felt that coops ought to go. But instead of giving a popular answer, Sparkman's voice quivered with indignation as he related that he remembered a time people living in little shacks out on the mountainsides of North Alabama and the farms of South Alabama didn't even have electric lights or running water until the TVA and the REA brought these things to them. Little wonder that he would remember such houses; he grew up in one of them.

On the occasion of his retirement, about the highest tribute we can pay to John Sparkman is to offer the sincere conviction that even as he approaches the age of 80, had he chosen to run for relection, he could have taken on all comers—and won.

WATERWAY USER CHARGES: THE EDITORIALS SAY "DOMENICI'S AMENDMENT DESERVES SUPPORT

Mr. DOMENICI. Mr. President, two of our Nation's most influential and important newspapers this morning carried editorials endorsing my proposal to phase-in a fair and reasonable system of waterway user charges. These endorsements by the New York Times and the Washington Post follows on the heels of other recent editorials, such as those that appeared in highly respected and influential papers like the Chicago Sun-Times and the Miami Herald.

As one example, the Post argued that my proposal "has the weight of logic behind it." The Times said:

> Such charges make sense . . . Righting the balance (in transportation subsidies) would lower the total cost of hauling freight around the country.

In relation to the Post editorial, I would note that barge tonnages are expected to increase by at least 40 percent over the next decade, even with the most severe assumptions of my proposal.

In their conclusions, The Times urged a Senate vote for "substance instead of tokens," while The Post asked for "a change instead of a gesture."

It was the view of The Herald that "the free ride of the waterway users leads to unfair competition and unfair distribution of the Federal tax load," while the Sun-Times declared that "Domenici's amendment deserves support." I appreciate these words of strong support.

In addition, a smaller paper, the Gainesville (Fla.) Sun carried a similar endorsement of user charges. This editorial does not step lightly; it hammers hard. In fact, it hammers so hard that it makes a couple of errors. It implies, incorrectly, that railroad freight outside the Northeast has received a significant subsidy. It has not; the national total outside the ConRail area has been a total of just over $135 million during the past decade. And it erred, I hope, by referring to me as an "ultra-conservative," though I dare say that the bargers prefer to think me an ultra-revolutionary.

Mr. President, because I believe these editors represent sound evaluations of the issues, evaluations my colleagues will want to review, I ask unanimous consent that these editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 2, 1978]

THE BARGE BILL

Under heavy pressure from the Carter administration, both houses of Congress agreed last year to abondon the old federal policy of paying the bills for the nation's inland waterways out of general tax revenue. The Senate did it in a way that would make a difference: The costs of the barge operators who use the waterways would go up sharply. The House acted in a way to keep the cost increases so low that its version appears more symbolic than real. When the Senate considers the matter again today, it should insist upon its version. A symbolic move won't end the waterway's constant drain on the Treasury.

The Senate bill rests on two premises. One is that the charges paid by each barge company should be related to the cost of the facilities it uses. The other is that the ever-present pressure to expand and improve the waterways will be reduced if those who want the improvements know that parts of the costs will be passed on directly to them. Thus, the bill sponsored by Sen. Pete Domenici (R-N.M.) would impose fees or tolls for the use of such things as locks.

The House bill rejects both premises and simply imposes a tax on the fuel used by barges. This has the advantage of spreading the cost across the barge industry. But it would have no effect at all in discouraging pressure for new facilities. In addition, Sen. Domenici's bill would generate enough revenue in the long run to cover most of the government's expenses, while the House bill would bring in less than 10 percent of what the government spends.

Sen. Domenici's version has the weight of logic behind it. It relates the charges each company would pay to the benefits it gains. And it removes part of the incentive for logrolling in Congress, which has kept the Corps of Engineers busy for decades building locks, dredging river bottoms and straightening channels.

It is probably true, as the barge companies contend, that his proposal would increase substantially the freight costs of some shippers and drive some freight from the waterways to the railroads. But that is fair enough. The federal subsidy down through the years has allowed the barge operators to skim off traffic that would otherwise have gone to the railroads, and this, in turn, has helped produce the present situation in which many railroads need federal help to survive. That arrangement must change if there is to be a rational federal transportation policy. Sen. Domenici's approach provides a change, instead of a gesture.

[From the New York Times, Feb. 2, 1978]

TIME TO STOP TOWING THE BARGES

The Federal Government spends about $400 million each year to maintain 15,000 miles of inland waterways and to build more of them. Yet barge operators who use the waterways ride for free. Now, barges may at last begin to pull their own weight. The Senate is about to vote on a bill, supported by the White House, that would levy charges on waterway users.

Such charges make sense. Free access to water routes gives an unfair advantage to the barge industry over competing rail lines: Washington pays about 29 percent of the cost of operating barges, but only 6 percent of railroad costs. As a result, much heavy freight travels by water even where railroads could do the same job for less. Righting the balance would lower the total cost of hauling freight around the country—and give a boost to financially distressed railroads in the Mississippi River Valley.

Equally important, requiring barges to pay their own way would dampen the operators' enthusiasm for costly new waterway improvements. Economically unjustifiable projects, like the $1.6-billion Tenn-Tom waterway linking the Tennessee River to Mobile, Ala., would probably never again be approved by Congress.

The President hopes to exact a user charge from the barge industry by withholding White House approval from new waterway construction until the system is reformed. Barge operators want a $432 million reconstruction of the locks and dams on the Mississippi River near Alton, Ill. The current facility is in fact so inadequate that grain traffic sometimes waits three or four days to use the locks. But the President has warned Congressional leaders that he will veto the Alton project unless the legislation also contains a new system for paying the waterways bill.

The barge operators have responded to the President's threat by supporting passage of a token six-cent-per-gallon tax on fuel sold on the waterways. This tax would offset only 10 to 15 percent of the annual cost of construction and operations. The Senate must now decide between the six-cent token and Senator Pete Domenici's proposal, backed by the White House to require fees along individual segments of the system equal to 50 percent of construction costs and 100 percent of operations costs. The Domenici plan would go a long way toward denying unjustifiable public subsidies to a very profitable private industry. It would also give the railroads a fair shot at the hundreds of millions of tons of coal, grain and chemicals that currently move by water. We hope the Senate votes for substance instead of tokens.

[From the Chicago Sun-Times, Feb. 1, 1978]

SUPPORT WATERWAY FEE PLAN

The controversy over Alton Lock and Dam 26 is expected to wash onto the Senate floor again this week. Solid arguments about how to finance waterway shipping shouldn't get lost in the flood of lobbying.

The fracas started when the Army Corps of Engineers proposed revamping the Alton locks despite several studies showing that major construction isn't warranted.

Foes of costly pork-barrel projects battled the plan—and lost. Then Sen. Pete V. Domenici (R-N.M.) proposed an amendment that would make funding of the project fairer, imposing user fees on commercial waterway traffic for the first time ever.

The idea caught on: President Carter said he wouldn't sign the bill unless an amendment like Domenici's is included. Even opponents of user fees began to turn around, though they proposed token fees that would not cover construction or maintenance costs.

Sen. Adlai E. Stevenson III (D-Ill.), Sen. Russell B. Long (D-La.) and barge-industry lobbyists have pushed for the token fees.

Sen. Charles H. Percy (R-Ill.) should be wiser, supporting meaningful user fees so barge lines—owned principally by large corporations—can pay a fair share of public projects that result in private gain. Imposition of meaningful fees could, indirectly, help Chicago rail workers save their jobs.

Domenici's amendment deserves support.

[From the Miami (Fla.) Herald, Jan. 26, 1978]

TIME TO UNPLUG WATERWAY REFORM

Despite objections from conservationists and some taxpayers, the Federal Government

continues to dig canals that are of questionable value and to straighten rivers that should be left crooked.

It does so at the urging of barge companies and other commercial marine interests that do not have to be concerned over the financial feasibility of the projects, because they will not have to pay for them. The cost is borne not by the waterway users but by all the taxpayers.

This makes waterway financing unique in transportation. All other modes are financed at least in part by user charges, through rates or special taxes. The free ride on the waterway explains why proposals to complete the Cross Florida Barge Canal and to deepen and channelize the Apalachicola River have managed to survive despite uncertain feasibility and projected high cost.

The urge to dig at somebody else's expense is a national affliction that reformers in Congress hope to cure. Encouraging progress was made last year. The Senate passed a bill that would require commercial waterway users to pay fees sufficient to cover operation and maintenance costs and one-half the construction costs of new facilities. But the movement ran aground in the House, where waterway interests were able to exert their considerable influence. The House substituted a weak bill providing only 10 percent cost recovery through a tax on barge fuel.

When the Senate takes up the House bill, it will have an opportunity to change it to conform to its original version. Sen. Pete V. Domenici says he will offer such an amendment. It has a chance because supporters of waterway user fees also have some power. They include the League of Women Voters, most conservation organizations, the railroad industry (for obvious reasons), taxpayer groups, and the Chamber of Commerce.

For some puzzling reason, however, the supporters do not include Florida's Sen. Richard Stone. He voted against the Senate bill even though it would have been a handy weapon for killing the Barge Canal. That the canal is not popular in Florida was further demonstrated last week when Gov. Askew replaced all members of the Canal Authority with members less sympathetic to the project.

User-fee proponents are waiting to see what the Senate leadership will do to bring the Domenici amendment to a vote. In our opinion, the proposed reform has been too long delayed. The free ride of the waterway users leads to unfair competition and unfair distribution of the Federal tax load.

[From the Gainesville (Fla.) Sun, Jan. 20, 1978]

FLOATING FREELOADERS

The nearest thing to immortality on this earth is the government freebie.

Witness the barge industry. Ever since George Washington left home for good, government has been digging ditches for the benefit of something called "inland navigation." The billions thus spent are so huge, so rooted in the crannies of history, that nobody can figure a total.

U.S. subsidies to transport industries are rather common. But the contrasts are startling. Computing 1976 subsidies as a percentage of revenues, the Congressional Budget Office figured air carriers and highway transport get 1 percent each, railway freight gets 3 percent, and the barge industry gets a whopping 41 percent. The barge industry does not even pay for operation and maintenance of its watery track.

It's as if Uncle Sam laid and maintained every railway roadbed since James Watts got steam out of a teapot.

Offer an industrial freebie like that, and eyes light up like King Kong's on his first glimpse of Fay Wray. The barge industry is eager. The U.S. Corps of Engineers has the shovels and appreciates the work. And virtually every congressman likes to cut a ribbon over a ditch.

So the digging goes on and on.

There is not one iota of evidence that the American consumer benefits from this freebie. Eighty percent of the barge traffic is unregulated and has not bothered to prove the freebie has lowered costs. But it is known that outfits like Exxon and U.S. Steel do a lot of barging. Although the barge industry claims annual profits of "only" $80 million a year, it is tossing cow chips. The Inland Waterway Services Division of a single outfit, the Texas Gas Transmission Co., claims an aftertax profit of $35 million. And it handles only 10 percent of the nation's barge business.

The barge freebie has a spinoff which further erodes the taxpayer dollar. Barges drove the nails into the coffins of the railroads—and now the rails must be propped up with federal money. Railroads get something like $2 billion a year from the U.S. treasury.

But it is the ditching of America which upsets the likes of Marjorie Carr, spokeswoman for the Gainesville-based Florida Defenders of the Environment. On her side are the Sierra Club, the Izaak Walton League and other environmental groups. They are upset as the clamshells inch their way across the continent, destroying natural waterways and otherwise upsetting the balance of nature.

Mrs. Carr makes the point that if the barge industry were made to pay its way, then a waterway would be viewed as any other business proposition. If it wouldn't pay off in profits, the industry would not want it. But since all waterways today are freebies, the industry wants it all. That's why it took so much sweat to fend off the diggers of the Cross Florida Barge Canal, a bankrupt deal from the first shovel load.

The U.S. Congress is critically close to doing something about the barge freebie. The Senate in June passed a bill which phased in users' fees. By 1990, the barge industry would be paying enough fees to cover 50 percent of construction costs and 100 percent of operation and maintenance costs.

Sen. Lawton Chiles of Florida, to his credit, voted for users' fees down the line. But Sen. Dick Stone of Florida treated the barge industry like a welfare mother. He voted against users' fees on two critical occasions.

Then in October, the barge freebie issue reached the U.S. House and a horrible thing happened. The House shivered and threw in a sop by enacting a petty phased-in fuel tax designed to cover 10 percent of the costs. Rep. Don Fuqua of the Second District supported this feeble effort—but it was the only thing before him and he may be willing to go the whole route if given the chance.

He should get that chance. You have to understand that every president starting with Franklin D. Roosevelt has sought to separate the barge industry from the public teat. President Jimmy Carter supports the Senate's user fee. So does the U.S. Chamber of Commerce, the League of Women Voters, multitudinous taxpayer groups and, of course, the barge-bitten railroads.

The U.S. Senate will be reconsidering this issue later this month, maybe as early as next Tuesday. U.S. Sen. Pete V. Domenici, an ultra-conservative from New Mexico, has been fighting the pork-laden barge industry for two years. And he will endeavor to reinstate the user fee—enough to finance 50 percent of construction, 100 percent of operation and maintenance.

In preparation for this endeavor, Sen. Chiles needs an encouraging pat on the back and Sen. Stone needs a wrist-slapping. Stone is a millionaire. How come he needs a lesson in capitalism?

SENATOR BENTSEN THE NEW VICE CHAIRMAN OF THE JOINT ECONOMIC COMMITTEE

Mr. PROXMIRE. Mr. President, it is my privilege to inform the Senate that our colleague, Senator LLOYD BENTSEN of Texas, has just been designated as the vice chairman of the Joint Economic Committee. Senator BENTSEN has been a member of the committee for a number of years, has chaired its subcommittees and has brought a great wealth of experience to the committee both because of his amazing achievements in private business and his service in the Congress.

In the regular course of events Senator BENSTEN will no doubt succeed to the chairmanship of the committee in the 96th Congress when the chairmanship once again reverts to the Senate.

The present chairman of the committee, Congressman RICHARD BOLLING has issued a statement about Senator BENTSEN and will no doubt make the announcement in the other body. However, it is my privilege to do so here and I ask unanimous consent that Chairman BOLLING's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

BENTSEN NAMED VICE-CHAIRMAN OF THE JEC

Representative Richard Bolling (D-Mo.), Chairman of the Joint Economic Committee, announced today that Senator Lloyd Bentsen (D-Texas) has been designated Vice Chairman of the JEC.

"Senator Bentsen brings to the Vice-Chairmanship a wealth of experience in the public and private sector," said Bolling. "In addition to serving on two of the Senate's major standing Committees—The Finance Committee and The Environment and Public Works Committee—Senator Bentsen is particularly knowledgeable about the complex economic issues facing the private sector. The new Vice Chairman has had 16 years of experience as a very successful businessman in Houston, Texas."

Chairman Bolling complimented Senator Bentsen on his outstanding contribution to the Joint Economic Committee as Chairman of the Subcommittee on Economic Growth and Stabilization. He also noted Senator Bentsen's knowledge and concern about the economic problems facing rural America as well as those of small business.

One of the youngest men ever elected to the House of Representatives, at age 27 in 1948, Senator Bentsen was elected to the Senate in 1970. He became a Member of the Joint Economic Committee in 1971. He succeeds the late Senator Hubert H. Humphrey of Minnesota as Vice Chairman of the Committee.

TRIBUTE TO SENATOR HUBERT HUMPHREY

Mr. PACKWOOD. Mr. President, Will Rogers was fond of saying he never met a man he did not like. I have got a saying, too. I never met a man who did not like Hubert Humphrey. As we all quickly found out, you just could not help it. His death marks the passing of a true American success story. For each one of us, he was our close and dearly loved friend.

I was sworn into the Senate on January 3, 1969. The date is not hard to re-

member, because it was probably the most important day of my life thus far. But I remember that time for a very different reason, too. It marked the first administration or Congress in two decades without Hubert Humphrey. For 20 years, Hubert Humphrey had either served in the Senate or presided over this House as Vice President. In one of history's peculiar twists, the Presidential election in 1968 cost Hubert the place he fought for in national office and caused his brief exit from the Congress.

It is not easy to recall how we spent the next 2 years while Hubert Humphrey taught college students in Minnesota. Things somehow came to right themselves again in 1971 when Senator Humphrey was returned to his long-time seat by the people of Minnesota.

It would be pointless to talk here about the public Hubert Humphrey. That would obviously take volumes. The main thing is in knowing that he was the same man, whether in public or private. It would be impossible to overlook his zeal for living, his compassion, his belief in the human potential or the vast reservoirs of energy he possessed. At the age of 66, Hubert Humphrey had the knack of making the rest of us feel like genuine slowpokes.

We all know that Hubert loved to talk. He was not in love with the sound of his own voice by any means. Most of the answer is contained in the sheer enthusiasm with which he lived his life and enjoyed his work. He had too much of it to let matters rest. When the boat needed rocking, Hubert stood proudly abeam and hammered his message home. Whether it was civil rights, better housing, a decent wage, improved health care for the poor and the elderly, or a host of other issues, it made no difference. We could count on the fact that Hubert Humphrey stood for a fair shake for every man, woman, and child. If it took a hundred words to make a point that could be expressed in 10, Hubert took the hundred. It gave him more time to spend with his audience. They knew that and loved him for it.

The world does not need to have another essay on Hubert Humphrey to remind us of his goodness and decency. The facts are written in the law of the land and in the lasting memory we will keep of this man. My life is enriched by having known him, it is strengthened by his courage and nurtured by his optimism. He faced his death as he always lived, with the unrelenting belief that we are in control of our own destinies.

Among the proudest statements I can make is that I served in the U.S. Senate with Hubert Horatio Humphrey. I share with MURIEL and our Nation the deep sense of loss at his death.

TRIBUTE TO SENATOR LEE METCALF

Mr. MAGNUSON. Mr. President, over the short space of the last several months, the Senate has lost three very valuable members. Each has left their distinctive mark, yet all were not equally known to the public.

Senator Metcalf distinguished himself in the Senate, although he was seldom in the limelight. He worked quietly and diligently for the advancement of legislation to protect the consumer and the environment. A true Western Senator, he was keenly sensitive to the needs of that area of the country and became an outspoken and effective conservationist. He was the author of the first wilderness bill and a major force in the enactment of strip mining legislation. His interests and efforts were, nevertheless, very broad. Whether public interest conflicted with private interest, his influence was felt.

In the 17 years he served in the Senate, Lee Metcalf was known as a dedicated public servant and a man of utmost integrity. His smiling face revealed a warmth that endeared him to all his colleagues. He was most simply and, yet so accurately, described by President Carter in the state of the Union Address as a "good and honest" man. The Senate has been honored by his presence. I believe we would all be honored to be remembered for the same qualities of character he exhibited throughout his long career in public life.

AGRICULTURE AND BALANCED GROWTH

Mr. HANSEN. Mr. President, one of the participants at the recent White House Conference on Balanced National Growth and Economic Development was Mr. Herbert F. Manig, executive vice president of the Wyoming Farm Bureau Federation and chairman of the Old West Regional Commission's Natural Resources Advisory Committee.

The message Mr. Manig delivered to the conference was this:

There can be no balanced growth or economic development in the West until steps are taken to help the agricultural industry, which is an integral part of the Western economy. Farmers and ranchers in the West, and throughout our country, are experiencing the worst economic conditions since the depression of the 30's.

In his presentation to the White House conference, Mr. Manig outlined a series of steps that could be taken by the Federal Government to strengthen the agricultural industry. His recommendations make a great deal of sense and represent the kind of actions that would be beneficial without increasing Federal control over and involvement in the private sector. In fact, Mr. Manig suggests that in several instances, the most helpful thing Government could do would be to back off and refrain from meddling in the affairs of agriculture. A prominent example of the latter is the administration's proposed new water policy, which would intrude in areas of State authority.

Mr. President, I hope other Senators might find the time to read Mr. Manig's statement to the White House conference. Accordingly I ask unanimous consent that his testimony be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF HERBERT F. MANIG

My name is Herbert F. Manig. I am the Executive Vice President of the Wyoming Farm Bureau Federation, a general agricultural organization. I also serve as Chairman of the 15-member Agriculture and Natural Resources Advisory Committee of the Old West Regional Commission. The Old West Regional Commission, authorized by the Public Works and Economic Development Act of 1965 as amended, is a partnership between the Federal Government and the States of Montana, North Dakota, South Dakota, Nebraska and Wyoming. It is designed to solve regional economic problems and stimulate orderly economic growth.

Major private sector economic activities in this five-state area are mining, agriculture and tourism. The comparative health of these three industries is in direct contradiction to the theme of this White House Conference, i.e., it is in a state of imbalance.

The Federal Government might assist in strengthening local economies by helping to strengthen the weakest of these—agriculture—which is a renewable resource industry having a multiplier effect of probably 2.0 to 2.5 in the Old West Region. Here are some suggestions:

1. The Federal Government should recognize state water rights as inviolate. We felt threatened when the Interior Department's Water Resources Council published some comments in the July 15, 1977, Federal Register stating in part, "The Government could purchase rights to water and re-allocate them to the most socially desirable or economically productive use. Purchases could be through voluntary sales or through eminent domain procedures." I believe that control of water is equated to the control of economic growth in our region. The Federal Government should not have this control.

2. The Federal Government should encourage and assist development of water storage and distribution projects in the arid states, especially any which may already be under construction, or any which have already been planned and authorized.

3. The Federal Government should refrain from actions which accelerate the rate of inflation, a major factor in the agricultural cost-price squeeze.

4. The Federal Government should vigorously attempt to expand foreign markets for U.S. products and reverse recent decreases in foreign sales. This would not only strengthen commodity prices, it would assist in rectifying a negative U.S. balance of payments. Only in the case of a true emergency should our government block access to foreign markets.

5. The Congress should be urged to pass legislation which would require food processors and any other large purchasers or agricultural commodities to bargain in good faith with producer groups for price. The Federal Government should encourage formation and effective use of marketing and bargaining cooperatives so that higher prices to producers can be negotiated.

6. The Federal Government should support an increased level of both research and the utilization of resultant technology—including proper use of fertilizers, herbicides and pesticides—so that maximum agricultural yields may be obtained. With maximum yields, a minimum of land would be required for agricultural production allowing the remainder to be used for other purposes.

7. Much of the land in the Old West Region is ill-adapted for crop production. The grasses produced by these lands, however, are converted by grazing animals into a highly desirable form of animal protein. The Federal Government might continue to encourage intensive rangeland management, and make the consumer aware of the fact that grazing animals do not live their life consuming grain only.

8. The Federal Government should encourage, not discourage, intensive management of the lands it owns in the Old West Region. There is considerable indication that forage production of benefit to domestic animals and big game could be significantly increased on the Federal lands if proper management was undertaken. Pressure to remove livestock grazing from these lands, if successful, would cause many ranch operators to go out of business, lower the value of their deeded land, and subsequently depress the local economy.

9. Grazing fees on Federal lands should reflect the cost of production and the market value of livestock.

10. The Federal Government might reduce the importation of meat when domestic supplies are high. Contrary to its present position, the Federal Government should ensure that imported meat is of the same quality as domestic meat, and it should inform the consumer as to the country of origin.

11. Federal policies should recognize the economy of scale in agricultural operations. Tendencies to contain the size of these operations should be discouraged.

12. The Federal Government should develop additional emergency agricultural credit programs which will assist deserving farmers in meeting their current financial crisis.

With respect to the implementation of Federal assistance programs, there is increasing interest in the balance being achieved in the distribution of these funds. There are those who claim there is an imbalance, and that multi-state organizations should be created to aggressively seek additional Federal funding at the expense of other areas.

In reflecting this approach, I would recommend emphasis on multi-state organizations established for the purpose of assessing common need, establishing common objectives, and cooperating with the member states, other regional organizations and the Federal Government in attaining these objectives.

These organizations should be cast in the mold of the Regional Commissions which have been operational for over a decade. Rather than recite the personal experiences that lead me to say this, allow me to conclude with the findings of the National Governor's Association Task Force on National and Regional Development Policy in 1973. In his report, the Chairman, Georgia Governor Jimmy Carter, stated:

"The Title V Commissions provide a structure by which the democratic process ensures immediate and often innovative action on the problems facing our people, i.e., the system of Title V Commissions:

(a) Provides a unique Federal/state/local partnership that complements the traditional Federal/state/local methods of operation;

(b) provides a formal structure for the three levels of government to explore innovative approaches to problem solving;

(c) insures an upward flow of ideas (local to state to regional to nation) in the ultimate establishment of regional and national priorities;

(d) insures decision-sharing partnerships between state, local and Federal governments so that public resources are better matched to the needs of our people;

(e) encourages interstate planning, cooperation and information sharing on common problems;

(f) consolidates a myriad of disparate local problems, first at the state level and ultimately regionally, into clearly understood and recognizable priorities of need, thus serving as a barometer for channeling national priorities;

(g) is a proven workable management mechanism for returning power to the state and local governments;

(h) guarantees, through regional strength, that rural and urban problems are treated equitably; and

(i) allows the targeting of resources to specific regional needs which stimulate the economic development of that region.

Thank you for the opportunity to express my views.

PREVENTION OF SIGNIFICANT DETERIORATION

Mr. GRAVEL. Mr. President, last year this body approved comprehensive amendments to the Clean Air Act. One of the most difficult issues addressed in the amendments was prevention of significant deterioration (PSD) of pristine air. PSD has an interesting history. A recent case study of this issue has been written and I believe it is an important contribution to the literature in the air pollution control field. The study was conducted by Jerry Reinwand, Deputy Commissioner of the Alaska Department of Environmental Conservation. Mr. Reinwand has a long-standing interest in air pollution control matters and years of experience in implementing pollution control programs. He served as a policy advisor to me during Clean Air Act mark-ups which were conducted by the Committee on Environment and Public Works in 1976 and 1977. In addition, he served as the chief policy advisor to Alaska Gov. Jay S. Hammond on Clean Air Act matters. Mr. Reinwand also served as chairman of the staff advisory task force of the National Governors' Association, which provided policy analyses and recommendations to 15 Governors who served on NGA's Subcommittee on Clean Air Management.

I ask unanimous consent that this important case study be printed in the RECORD so that my colleagues—and other interested parties—may review it. I think the conclusions of the study are particularly significant and I direct your attention to them.

There being no objection, the case study was ordered to be printed in the RECORD, as follows:

THE SHAPING OF NATIONAL POLICY ON PREVENTION OF SIGNIFICANT DETERIORATION

(By Jerry Reinwand)

INTRODUCTION

The Clean Air Act Amendments of 1970 [1] (CAA) were passed when the environmental movement was at its crest. Environmental protection was at the forefront of the Congressional legislative agenda and on center stage in the public limelight. A relatively strong economy, the looming "wind-down" of the Vietnam war and deep public concern with environmental problems created a favorable legislative climate for the passage of tough environment-related legislation.[2] The CAA was undoubtedly one of the strongest environmental laws ever passed by Congress. At the time of its passage, Senator John Sherman Cooper, a ranking member of the Committee which had written the bill, stated that the legislation "may have a larger impact upon the social and economic life and health of this nation than any bill I have observed during my service in the Senate." [3]

In the CAA, Congress dramatically changed its past policy stance in regard to Federal-State relations. Senator Edmund S. Muskie, a driving force behind this nation's air quality laws, noted that previously-passed air pollution control legislation established a State-Federal partnership in which "protection of the public health and welfare" was the responsibility of state and local government, "with the Federal responsibility being exercised where there is transportation in interstate commerce." [4]

The CAA changed that long-standing concept by vesting far-reaching power with the U.S. Environmental Protection Agency (EPA), which was responsible for administering the law.[5] In fact, the State-Federal relationship was so substantially altered by the CAA, that one commentator noted the carry-over language from previous clean air laws, which stated that air pollution control "is the primary responsibility of state and local governments" had been rendered obsolete, making it simply a "vestigial remainder . . . and is now an anomaly vis-a-vis the nearly total Federal supervisory and approval authority contained in the Act as amended through 1970." [6]

However, this dramatic policy shift by Congress did not alleviate programmatic and policy problems. Bitter and lengthy disputes erupted between the states and EPA as implementation of the new law moved forward.

One of the most important and protracted policy battles arose over the issue of molding programs to protect the nation's pristine air. The focal point of the controversy was whether EPA had the authority under the CAA to require states to implement a program which had as its goal "prevention of significant deterioration" (PSD) of unpolluted air. The controversy was marked by years of administrative and legal struggles. The battle began with EPA's sudden abandonment of previously held administration policy on PSD. This policy shift triggered a round of successful lawsuits by the Sierra Club. Even after the Supreme Court had decided that the CAA mandated a national PSD policy, litigation continued over the substantive requirements of the regulations which EPA promulgated to carry out the courts' mandate. Eventually 23 states [7] joined in the litigation, as well as industry, which had at the forefront of its legal efforts petroleum and electric utility interests.[8] The continuing litigation turned EPA's prevention of significant deterioration regulations into a legal minefield, and caused most states to shun administration of the program.[9] The reluctance of the states to assume administration of the PSD program, and the uncertainty that accompanied the perpetual Sierra Club-EPA litigation, ultimately led to a rising clamor for Congress to be the final forum for establishing national plicy on the issue. After several years of study, debate and intense lobbying by industry groups and environmentalists alike, Congress—with the passage of the Clean Air Act Amendments of 1977 [10]—established national policy on PSD.

This note traces the origins of the concept of prevention of significant deterioration and the divergent policy decisions which were made by two executive branch agencies which ultimately led to the lengthy court battle. It also discusses the role the courts played in shaping PSD policy. Finally, this note discusses how the protracted litigation, and the virtual standstill in program implementation that accompanied the lawsuits, caused pressure to be placed on Congress to be the final policy arbiter of this important issue.

HISTORY OF THE CLEAN AIR ACTS

The nation's first national air polution control legislation was passed in 1955.[11] The prime thrust of the law was authorization of Federal research and technical assistance to

Footnotes at end of article.

the cities and states. Federal authority was broadened under the 1963 Clean Air Act [12] by a provision which created a Federal enforcement program for abatement of air pollution. In addition, funding was provided for additional research and technical assistance to state and municipal governments. In the 1955 Clean Air Act,[13] controls on vehicle-related pollutants were enacted. The Air quality Act of 1967 [14] consolidated existing air pollution control legislation and "provided a system for the establishment of air quality standards within air quality regions.[15] Although some progress in combating air pollution was made, most commentators agree that the 1955, 1963, 1965 and 1967 statutes were largely ineffective in solving the nation's growing air quality problems.[16] As a result of the shortcoming of the laws, and increasing Congressional frustration with the lack of progress by the states in controlling air pollution, the nation's lawmakers passed the Clean Air Act Amendments of 1970.

THE 1970 CLEAN AIR ACT: CONGRESS GETS TOUGH

In the CAA, Congress kept intact the basic purposes provision [17] which was contained in preceding legislation. This decision would play a key role in the PSD litigation. However, the remainder of the new law differed markedly from prior air pollution control laws. The CAA required EPA to establish national primary and secondary standards for the pollutants sulfur dioxide, total suspended particulate matter, carbon monoxide, photochemical oxidants, nitrogen dioxide and hydrocarbons. This requirement has been hailed as one of the key policy innovations of the CAA,[18] but this view is not universally held.[19]

The primary ambient standards establish a nationwide ceiling for pollutants and are health-related standards, designed to provide "an adequate margin of safety" [20] to protect the most susceptible groups in the nation's population—those suffering from respiratory ailments, those with cardio-vascular disease, as well as the very old and the very young. These groups total one-fifth of the nation's population.[21] Secondary standards are designed to protect the "public welfare," [22] and are generally more stringent than the primary standards. Secondary standards protect against adverse effects "on soils, water, vegetation, man-made materials, animals, wildlife, visibility, climate, and economic values." [23] The CAA mandated each state to submit an implementation plan which to submit an implementation plan primary and secondary standards would be attained and maintained.[24] Generally, the states which had areas with polluted air had until mid-1975 to attain the primary standard. The implementation plan also had to demonstrate how the state planned to attain the secondary standards, although the states were given a "reasonable time" to meet the the attainment date.[25] The implementation plan is the driving force behind the states' pollution control efforts, and it was recognized by Congress as perhaps the most important factor in meeting the goals of the CAA. In its report, the Senate Public Works Committee stated that it:

". . . recognizes that the implementation plan is the principal component of control efforts for pollution agents for which the national standards are established. It is this program which must be effective if the nation is to achieve the quality of air which the bill mandates in a relatively short period of time." [26]

To obtain the administrator's approval of the plan, states had to meet eight requirements.[27] Specifically, an approvable plan must:

1. provide for a deadline of not more than three years if meeting a national primary ambient air quality standard; specify a "reasonable" time if complying with a secondary standard;

2. include emission limitations, schedules, and time tables for compliance;

3. include provisions for the monitoring, compilation, and analysis of ambient air quality data and for dissemination of such data;

4. include a procedure for review of new sources;

5. contain adequate provision for intergovernmental cooperation;

6. provide adequately for personnel, funding, installation of monitoring equipment and periodic reports;

7. provide for periodic inspection and testing of motor vehicles to enforce emission standards;

8. provide procedures for review of the plan itself.[28]

There was no requirement for inclusion of a prevention of signficant deterioration provision. This legislative vacuum in the law would figure prominently in the argument of the anti-PSD forces that Congress had not mandated such a policy.

There were other key provisions in the law, but for purposes of this note the most important provisions center on ambient standards and the states' implementation plans. It is clear that the CAA required the states to substantially "upgrade" polluted air by mid-1975, or at the latest, by mid-1977. However, it soon became evident that a public policy no-man's-land existed in regard to so-called "clean air areas." The unanswered question was: does EPA have the authority to prevent a state which has air cleaner than secondary standards from polluting that pristine air "downward" to the level of the standards? Since "the majority of the land mass of the United States has air quality cleaner than these ambient standards," [29] and since "a large portion, if not the majority, of new development is occurring in such areas." [30] PSD quickly became one of the most controversial aspects of the law.

THE HEW-EPA-OMB POLICY SHUFFLE

The PSD controversy began with EPA's publication of proposed implementation plan guidelines [31] on April 7, 1971. The purpose of the guidelines was to provide a blueprint for the states to follow in preparing their implementation plans. After reviewing the more than 400 written comments received during the five-week comment period, Dr. John T. Middleton, Deputy Assistant Administrator for air programs, forwarded revised guidelines to Administrator William D. Ruckelshaus on June 28, 1971, for his review.[32] Comments received from environmental groups strongly urged EPA to include a PSD provision in the guidelines which would require states to address this issue in their implementation plans. Responding to the environmentalists' suggestions, the revised guidelines contained the following provision:

"Approval of a plan shall not be considered in any manner to allow significant deterioration of existing air quality in any portion of any state." [33]

At this juncture, the Executive Office of Management and Budget (OMB) entered the picture, causing EPA to delay final publication of the guidelines until other Federal agencies had an opportunity to review them.[34] OMB intrusion into the rulemaking process,[35] and its apparent impact on the final form of the guidelines, resulted in allegations that OMB had forced EPA to significantly weaken the final guidelines, which were published on August 14, 1971.[36] EPA's top officials strongly denied these changes. Administrator Ruckelhaus, testifying before the Senate Subcommittee on Air and Water Pollution, stated:

"OMB did not get an final crack at the regulations. OMB is nothing more than a conduit to insure that other Federal agencies who want to comment on any regulation that we might issue are given that right to comment. The final determination as to what ought to be in the guidelines is mine." [37]

For whatever reason, the final EPA guidelines dropped the requirement that states must include a PSD provision in their implementation plans. This decision would prove to be of crucial importance as it constituted a total retreat by EPA from prior policy stances taken by the U.S. Department of Health, Education and Welfare (HEW). HEW was originally given the authority by Congress to implement the CAA; but under President Nixon's 1970 reorganization plan [38] this authority was transferred to EPA. Statements by top-ranking HEW officials before Congressional committees committed the agency to a strong PSD policy. One of the strongest statements was made by Secretary Robert Finch, testifying before the Senate Subcommittee on Air and Water Pollution on pending clean air legislation, when he stated that:

"One of the express purposes of the Clean Air Act is 'to protect and enhance the quality of the Nation's air resources.' It will continue to be our view that implementation plans that would permit significant deterioration of air quality in any area would be in conflict with provisions of the act. We do not intend to condone 'backsliding.' If an area has air quality which is better than the national standard, they would be required to stay there and not pollute the air even further, even though they may be below national standards." [39]

This statement, and others by top HEW officials, would play a key role during the ensuing litigation in assisting the courts to decide that prevention of significant deterioration was mandated by the CAA.

PSD—CONGRESSIONAL MANDATE OR MIRAGE: THE COURTS SPEAK

EPA's decision to jettison the PSD requirement in state implementation plans, in effect, shifted the locus of the policy debate from the executive to the judicial branch of government. The Sierra Club and three other environmental groups, after determining that EPA's August, 1977, guidelines would allow states to deteriorate air quality to secondary standards, moved to block the agency's approval of any portion of a state's implementation plan which would allow such deterioration to occur. The lawsuit was filed on May 24, 1972—six days before EPA was required to approve or disapprove the states' implementation plans—against Administrator Ruckelhaus in the United States District Court for the District of Columbia.[40]

Administrator Ruckelshaus and EPA argued that the agency's hands were tied by Section 110 of the CAA: if the state submitted a plan which provided for "implementation, maintenance, and enforcement" of the primary and secondary standards and if the plan provided for attainment of the standards, EPA simply had no choice—it must approve the plan, even if it meant that significant deterioration of air quality could occur.

The Sierra Club, however, argued that EPA had the authority—indeed the duty—to prevent significant deterioration of air quality.[41] The Sierra Club claimed that the provision of EPA's guidelines which allowed deterioration of air quality to the level of the ambient standards violated the purposes provision of the CAA, making them invalid.[42] The Sierra Club vested its prime legal challenge on Section 101(b) of the law which stated that one of its purposes was to "protect and enhance the quality of the nation's air resources." The basis of the Sierra Club's argument was simple and straightforward:

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regardless of any other provision in the law, Section 101(b) prevented the administrator from approving any plan which would permit significant deterioration of air quality.

On May 30, the District Court ruled in favor of the Sierra Club, stating:

"Having considered the stated purpose of the Clean Air Act of 1970, the legislative history of the Act and its predecessors—it is our judgment that the Clean Air Act is based in important part on a policy of non-degradation of existing clean air and that . . . permitting the states to submit plans which allow pollution levels of clean air to rise to the secondary standard level of pollution, is contrary to the legislative policy of the Act and is, therefore, invalid." [43]

The court also granted the Sierra Club's request for a preliminary injunction. In addition, the court ordered the administrator to review all state implementation plans within four months, and to "approve any portion of a state plan which effectively prevents the significant deterioration of air quality in any portion of any state, and disapprove any portion of a state plan which fails to effectively prevent the significant deterioration of existing air quality in any portion of any state." [44] The court did not define what constituted "significant deterioration," thus setting EPA adrift on choppy policy seas without any direction regarding what amount of pollution might be considered "significant" in clean air regions.

EPA appealed to the Court of Appeals for the District of Columbia, but that court declined to reverse the lower court's decision.[45] EPA then appealed to the Supreme Court. In a nine word statement released on June 11, 1973, the Supreme Court affirmed the judgment of the Court of Appeals by tersely stating that: "The judgment is affirmed by an equally divided court." [46]

Although the courts had decided the CAA mandated EPA to define by regulation a national PSD policy, the agency faced substantial problems in sketching that policy. On one hand, the environmentalists—buoyed by the court's decisions—wanted a tough PSD program, while development interests did not. Nowhere is that fact better illustrated than in testimony of the opposing parties on this issue, which was presented to Senate Subcommittee on Air and Water Pollution on July 24, 1973. Stating the environmentalists' case was Laurence I. Moss, President of the Sierra Club:

"The large majority of the country—virtually all of the areas outside large cities and inner suburbs—has air quality which is better than the national secondary standards for one or more of the six pollutants. If EPA's policy of allowing and indeed encouraging significant deterioration had been permitted to stand, the air quality of this entire area could have deteriorated to secondary standards. This would mean, for example, that the level of sulfur oxides and particulates in the Rocky Mountains and the Blue Ridge could be allowed to increase to the level of Boston, Akron, Detroit and Pittsburgh. What we are discussing and what is at stake here is the 'graying' of America." [47]

The concerns of industry were presented by Carl E. Bagge, President of the National Coal Association, when he stated:

"The nondegradation decision has thrown the nation into an unforeseen, and we believe untended, Instant no-growth policy. The lack of a legal definition of what constitutes significant deterioration of air quality means that no industry can build any plant which emits any air pollutants whatever unless it is willing to gamble on the ultimate definition of significant—and there are no facts upon which to calculate the odds." [48]

EPA was caught in the middle of this philosophic crossfire. Following the Supreme Court's decision, EPA began drafting regulations to comply with the District Court's order. On July 16, 1973, the agency proposed four basic plans to implement a national PSD program and asked for public comments on them.[49] After receiving more than 300 written comments on the initial proposals, EPA issued revised regulations on August 24, 1974, in order to "properly explore all aspects of this issue and to focus more clearly on procedural and technical issues." [50] On December 5, 1974, after several months of legal badgering by the Sierra Club, EPA promulgated final PSD regulations.[51]

A new round of litigation followed promulgation of the final regulations; environmentalists and industry filed fifteen separate petitions for review in six Circuit Courts of Appeal.[52] The challenges were eventually consolidated before the District of Columbia Circuit Court. If EPA held hopes that the final PSD regulations would remove the legal cloud which had hovered over the agency for four years, they were dashed by the renewed legal challenges.

EPA'S REGULATIONS: FIRST CUT AT A NATIONAL POLICY

After the initial court order, it took EPA nearly two and one-half years to promulgate its final PSD regulations. The most important aspect of the regulations focused on a classification scheme for air which was cleaner than secondary standards. Three classes were established: in Class I areas, virtually any pollution would be "significant" and therefore prohibited; in Class II areas "moderate well-controlled growth" could be accommodated without causing "significant deterioration"; in Class III areas, deterioration to the secondary standards would be allowed.[53]

Two pollutants—sulfur dioxide and total suspended particulate matter—were to be used in the classification scheme as yardsticks by which deterioration would be measured. In effect, EPA's Class I and Class II increments were nothing more than new tertiary and quaternary standards. The increments were not to be exceeded, but areas could be redesignated to a different classification to accommodate more pollution. All "clean air areas" were initially designated Class II.[54]

An important feature of the regulations was a new source review process for eighteen point source categories.[55] Two criteria had to be met before the administrator, or the state if it had been delegated new source performance standard review by EPA, could approve construction or modification of a new source covered by the regulations. First, the source had to limit sulfur dioxide and particulate matter emissions by applying pollution control equipment which was equivalent to "best available control technology." Second, emissions from the new source could not cause the increments to be exceeded.

The regulations were generally attacked by environmentalists as violating the court's order for the following reasons: no Class I areas were mandated, the four vehicle-related pollutants were excluded from PSD review, the Class III designation would in effect permit "significant deterioration" by allowing pollution levels to rise to secondary standards, hazardous air pollutants were excluded from PSD review, and point sources other than the eighteen source categories in the regulations were not subject to preconstruction review. Industry generally attacked the regulations as being too stringent, and the power utilities were concerned that the Class I and Class II increments would pose a substantial hurdle to construction of coal-fired powerplants in clean air areas.

The problem of "intrusion" or "buffer zones" also surfaced in the regulations. In the preamble to the final PSD regulations, EPA described this potential problem by stating:

"Calculations have shown that because of the small air quality increments specified for Class I areas, these levels can be violated by a source located many miles inside an adjacent Class II or III area. For example, a power plant which must meet the Class II increment for SO_2 would, under some conditions, violate the Class I increment for SO_2 60 or more miles away. Under the regulations promulgated below, a source could not be allowed to construct if it would violate an air quality increment either in the area where the source is to be located, or in any neighboring area in the State. Therefore, wherever a Class I area adjoins a Class II or III area, the potential growth restriction, especially for power plant development, extends well beyond the Class I boundaries into the adjacent areas."

Although later studies demonstrated that large sources could be located closer than 60 miles to a Class I area without violating the sulfur dioxide and particulate matter increments, industry seized upon this statement, claiming development would be restricted by buffer zones surrounding Class I areas. Put simply, the buffer zone controversy became the policy "tar baby" of the regulations, and EPA's statement would haunt it throughout the ensuing debate.

On August 2, 1976, more than a year and one-half after EPA had promulgated the PSD regulations, the District of Columbia Circuit Court of Appeals ruled in favor of the agency by concluding:

"We find no ground on which to disturb the regulations under review, and we therefore affirm the EPA 'Prevention of Significant Air Quality Deterioration' Regulations. Our review of *Sierra Club v. Ruckelshaus* and subsequent events revealed no substantial reason for rejection of that decision, and we hold that the non-deterioration regulations promulgated pursuant to that decision are both rational and in accordance with law." [56]

However, by the time the Court had reached its decision, pressure had been building on Congress for nearly three years to take legislative actions to resolve this policy issue. In fact the Court's decision came at a time when a bill containing comprehensive amendments to the Clean Air Act was being debated on the Senate floor. Congress had received the message: after five years of acrimonious debate and litigation, the time had come for the nation's lawmakers to establish national PSD policy through legislative action. Throughout 1975 and 1976 pressure mounted on Congress to amend the CAA and address the issue by passing legislation which would carefully delineate a national PSD policy. The reason for the pressure was clear: by 1975 PSD had become a stepchild of the courts. Due to the quagmire of litigation, most states had adopted a "wait and see" attitude, shunning the option of implementing a program under EPA's regulations, waiting instead for Congress to pass legislation which would establish PSD policy.[57] By January 1976, a year after EPA's prevention of significant deterioration regulations had been promulgated, only four states—Washington, Nebraska, New York and Virginia—had requested EPA to delegate them authority to conduct a PSD program. By July 1, 1976, neither EPA nor the states had taken action to reclassify any Class II areas, which led the agency to conclude that "most states are waiting for explicit Congressional direction before they expend resources to take action." [58]

Senator Howard Baker, ranking Republican member of the Senate Public Works Committee, perhaps best summarized the situation facing Congress when he said:

". . . the Supreme Court affirmed the Judicial interpretation of an ambiguous policy statement in the Clean Air Act and created

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the concept of significant deterioration. The Court's decision set in motion regulatory machinery at EPA and the situation has been in litigation and confusion ever since. In frustration environmentalists, industry and public officials turned to Congress demanding clarification of the situation." [59]

Although there was general agreement among Senate and House members that action was needed, there was sharp disagreement as to what that action should be. In addition, there were differences of opinion over the need for a national PSD policy. Also, members of Congress continued to hold varying interpretations of what the lawmakers had indeed mandated in the CAA. To Senator Muskie, chief legislative architect of the nation's air pollution control legislation, there was no question of Congress's intent regarding PSD:

"This policy was first articulated in the Federal Water Pollution Law in 1965 and was incorporated into the 1967 Air Quality Act. It was not altered in the 1970 clean air act amendments . . . the courts have upheld the intent of the act. Non-degradation is national policy." [60]

In the 1976 Senate report on the Clean Air Act amendments, Senators James L. Buckley and Robert T. Stafford echoed this viewpoint by stating:

"When the Congress established national ambient air quality standards in 1970, the Congress imposed the need to determine the impact of a new plant on the air quality in the area of the plant. The prevention of significant deterioration (provision) in this bill defines that direction. Significant deterioration is a definition, stated in concentrations of ambient pollutants. It is not a new approach or a new philosophy." [61]

However, two other fellow Republicans on the Senate Public Works Committee did not fully share their views. Senator Pete V. Domenici questioned whether the "protect and enhance" language of the law clearly established a national PSD policy, calling the phrase a "slender statutory reed" [62] upon which to base such a far-reaching program. However, in subcommittee and committee deliberations, Senator Domenici played a key role in writing the Public Works Committee's strong PSD provisions in the 1976 and 1977 clean air legislation.

To Senator James A. McClure, those who subscribed to the interpretation that PSD was mandated by the CAA were mistaken:

"The concept of 'significant deterioration' is not contained in the present (1970) Clean Air Act." [63]

Members of the House who participated in drafting the 1976 and 1977 bills had equally divergent views of the origins of and necessity for a national PSD policy.[64] It was against this backdrop of controversy, litigation and frustration that Congress began to mold new legislation to address the issue.

Congressional action on amendments to the CAA began in earnest when President Ford submitted his omnibus energy bill—the Energy Independence Act of 1975— to Congress on January 30, 1975. As part of that comprehensive energy proposal, the President recommended changes in the CAA, including deletion of the concept of prevention of significant deterioration from the law.[65] In addition to garnering support from industry for this amendment, the President's proposals were initially supported in spirit by the National Governors' Conference [66] and in substance by the State and Territorial Air Pollution Program Administrators.[67] Environmentalists opposed the President's PSD amendment—as did EPA—and they lobbied for a stringent provision to be included in the Senate and House bills.

During 1975, the Senate Subcommittee on Environmental Pollution held fourteen days of hearings on the CAA and began "marking-up" a bill in mid-June. After more than 20 mark-up sessions, the Subcommittee reported a bill to the Public Works Committee on November 3, 1975. The Committee completed its work on the bill, after 24 mark-up sessions, and reported it to the Senate on February 5, 1976. Six months later the Senate passed the 1976 Clean Air Act Amendments [68] by a 78–13 vote.

During March, 1975, the House Subcommittee on Health and the Environment held two weeks of hearings on the Clean Air Act Amendments. On October 23, 1975, the Subcommittee reported a "legislative proposal" and three days later the Subcommittee bill was referred to the Committee on Interstate and Foreign Commerce. On March 18, 1976, a bill was reported from the Committee to the House. However, it was not until September 15—two weeks before Congress was scheduled to recess—that the House version of the 1976 Clean Air Act Amendments [69] was passed by a 324 to 68 vote.

The Senate-House Conference Committee was faced with the monumental task of writing a compromise bill by October 1, the scheduled Congressional adjournment date. By putting some long hours, the Conference Committee was able to report a bill. However, before the Senate could vote on the conference report, a filibuster by Senators opposed to the PSD provision killed it.

Hoping to avoid another lengthy battle over the Clean Air Act Amendments in 1977, both the House and Senate move rapidly to pass legislation. With much of the legislative groundwork laid in 1975 and 1976, the bills moved rapidly through the House and Senate.

On June 10, 1977, the Senate passed a slightly modified version [70] of its 1976 bill by a 73 to 7 vote. The House passed its version of the 1977 Clean Air Act Amendments [71] on May 26, 1977, by a 326–49 vote. Under pressure from the auto industry (which needed statutory relief from the 1970 Clean Air Act auto emission standards before it could ship its 1978 model vehicles) and President Carter, a Senate-House Conference Committee reported a compromise bill which was approved by Congress on August 4, 1977. Three days later, President Carter signed the bill into law. Embodied in the bill is a PSD provision which was patterned after EPA regulations, except the Class III increment does not allow for deterioration of air quality to the secondary standards. Instead half that amount of pollution is allowed. Also, the six criteria pollutants are required to be included in the national PSD program, instead of just two as required by EPA's regulations. The national interest in "clean air areas" is protected by the mandatory Class I designation of large national parks, wilderness areas, memorial and international parks, and by prohibiting Class III designations for many Federal land categories. The states are given a much greater role in the PSD program than was permitted under EPA's regulations. The classification process, with certain limited exceptions, is controlled by the governor of each state. The governor's classification decision is not subject to a substantive review by EPA; the agency's role is limited only to a procedural review. In general, the new law's PSD provision represents a reasoned approach to balance the need for economic growth and the need for clean air and places responsibility for determining that balance with the governors.

CONCLUSION

This note has attempted to record the problems that are created by implementing a statute which is ambiguous and vague on key policy issues. It may be, as one commentator has suggested, that "perhaps the politics of making major change are such that more battles can be won by the significant use of silence and vagueness than by the explicit statement of intentions." [72] And it may be, as another writer has hinted, that in the CAA the Senate proponents of a strong PSD policy purposefully passed a vaguely-worded bill, but buttressed it with legislative history that could be interpreted by the courts as a Congressional mandate for a national PSD policy.[73] However, inherent in such an approach is the fact that vagueness in a statute gives the implementing agency wide-ranging authority to make administrative decisions which, in effect, set national policy. Such unfettered discretion, as one commentator has noted, allows the agency to make "essentially lawless" decisions on public policy questions.[74] In addition, statutory vagueness encourages litigation which ultimately results in the grinding halt of program implementation.

We have attempted to demonstrate in this note that in the CAA Congress either abdicated or simply overlooked its policymaking responsibilities on prevention of significant deterioration. Instead of addressing this issue in 1970, when public support for strong environmental laws was at its apex, Congress—for whatever reason—did not clearly speak to the issue and years later had to pick up the pieces of a national policy which had been patched together by the courts and EPA. No rational person would argue with the contention of Senators Buckley and Stafford that "under the Constitution, the Congress has the responsibility to define national policy." [75] Therefore, before it became a hostage of the courts, our nation's lawmakers should have spoken on the prevention of significant deterioration issue through timely legislative amendments. Such action would have allowed the states to implement the PSD program without fear of stagnation which accompanied the seemingly endless litigation.

Finally, now that Congress has established a national PSD policy, it will be incumbent upon local and State agencies and EPA to insure that it is implemented vigorously, but wisely.

FOOTNOTES

[1] Clean Air Amendments of 1970, Pub. L. No. 91–604, 84 Stat. 1676, *amending* 42 U.S.C. Sec. 1857 *et seq.* (1970). For purposes of this note, it will be referred to by its full name or by "CAA."

[2] For a view of the legislative climate in which the CAA was passed, *see* Domenici, *The Clean Air Act Amendments of 1976: Balancing the Imponderables,* 122 Cong. Rec. S. 3902, March 22, 1976.

[3] Statement of Senator John Sherman Cooper, 116 Cong. Rec. S. 16107, September 21, 1970.

[4] Muskie, *The Role of the Federal Government in Air Pollution Control,* 10 Ariz. L. Rev. (1968). For a general discussion of the history of air pollution control legislation prior to 1970, and for a discussion of the changes made by the CAA, *see* Trumbull, *Federal Control of Stationary Source Air Pollution,* 2 Ecology L. Q. 283 (1972). For a general discussion of the history of the "technology-forcing" aspects of the various air pollution control laws, *see* Bonine, *The Evolution of Technology-Forcing in the Clean Air Act,* BNA Environ. Rep.—Monograph No. 21 (1975).

[5] Under Preisdent Nixon's Reorganization Plan No. 3 of 1970, air pollution control functions vested with the Secretary of Health, Education and Welfare, and administered through the National Air Pollution Control Administration, were transferred to the Environmental Protection Agency. Reorg. Plan of 1970, 35 Fed. Reg. 15623 (1970).

[6] Jorling, *Federal Law of Air Pollution Control,* in *Federal Environmental Law.* Environmental Law Institute, St. Paul, Minnesota, West, 1974, edited by Erica L. Dolgin and Thomas G. P. Guilbert.

[7] Muskie, Nondegradation Fact Sheet, 122 Cong. Rec., May 26, 1976.

[8] Among the petitioners were Utah International, Inc., Utah Power and Light Company, Alabama Power Company, Montana Power Company, Dayton Power and Light Company and the American Petroleum Institute.

[9] BNA Environ. Rep. 1728–29 (1976).

[10] Clean Air Act Amendments of 1977, Pub. L. 95–95, 91 Stat. 685.

[11] The Act of 14 July 1955, Ch. 360, 69 Stat. 322.

[12] The Clean Air Act of 1963, Pub. L. No. 88–206, 77 Stat. 392.

[13] The Clean Air Act of 1965, Pub. L. No. 89–272, 79 Stat. 992.

[14] The Air Quality Act of 1967. Pub. L. 90–148, 81 Stat. 485.

[15] *The Role of the Federal Government in Air Pollution Control, supra* note 4, at 18.

[16] *See Clean Air Act Amendments of 1970: A Congressional Cosmetic*, 61 Geo. L. J. 153 (1972) (hereinafter cited as *Congressional Cosmetic*); Jorling, *The Federal Law of Air Pollution Control, supra* note 6, at 1060.

[17] The prior major air pollution control legislation contained the same basic language as the Clean Air Act Amendments of 1970. Those purposes are:

(1) to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population;

(2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution;

(3) to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and

(4) to encourage and assist the development and operation of regional air pollution control programs.

[18] Blackburn, Roj and Taylor, *Review of EPA's Significant Deterioration Regulations: An Example of the Agency-Court Partnership in Environmental Law*, 16 Virginia L. R. 1115 (1975) (hereinafter cited as *Agency-Court Partnership in Environmental Law*).

[19] Krier, *The Irrational National Air Quality Standards: Macro-and Micro- Mistakes*, 22 UCLA L. R. 323 (1974).

[20] 42 U.S.C. Sec. 1857c-4(b)(1) (1970). The primary ambient standard for carbon monoxide of 9 ppm is far more stringent than the 50 ppm carbon monoxide standard established under the Occupational Safety and Health Administration regulations. For a discussion of the enforcement and health implications that these different standards may have, *see* Gilmore and Hanna, *The Need for Representative Ambient Air Carbon Monoxide Sampling*, 26 APCA J. 965 (1976).

[21] *Air Quality and Automobile Emission Control, Report by the Coordinating Committee on Air Quality Studies, National Academy of Sciences, National Academy of Engineering, Prepared for the Committee on Public Works*, Serial No. 93-24 (1974).

[22] 42 U.S.C. Sec. 1857c-4(b)(2) (1970).

[23] Senate Committee on Public Works, National Air Quality Standards Act of 1970, S. Rep. No. 1196, 91st Cong., 2d Sess. (1970).

[25] 42 U.S.C. Sec. 1857c-5(a)(2)(A)(ii) (1970).

[26] S. Rep. No. 91–1196, 91st Cong., 2d Sess., 12 (1970).

[27] 42 U.S.C. Sec. 1857c-5(a)(2) (1970).

[28] Hamby, *The Clean Air Act and Significant Deterioration of Air Quality: The Continuing Controversy*, 5 Env. Affairs 145 (1976) (hereinafter cited as *Significant Deterioration . . . The Continuing Controversy*).

[29] S. Rep. No. 94–717, 94th Cong., 2d Sess. (1976).

[30] Comment, *Sierra Club* v. *Ruckelshaus: On a Clear Day . . .*," 4 Ecology L. Q. 739 (1975) (hereinafter referred to as "On a Clear Day . . .").

[31] EPA, Requirements for Preparation, Adoption and Submittal of Implementation Plans, 40 CFR Sec. 51 (1972).

[32] Middleton, Briefing Memorandum to Administrator Ruckelshaus, June 28, 1971, in *Hearings on Implementation of the Clean Air Act Amendments of 1970 Before the Subcommittee on Air and Water Pollution of the Senate Committee on Public Works*, 92d Cong., 2d Sess. (1972) (hereinafter cited as *1972 Senate Oversight Hearings*).

[33] EPA, Regulations for Preparation, Adoption and Submittal of Implementation Plans, June 28, 1971.

[34] For a discussion of OMB's alleged interference *see Congressional Cosmetic, supra* note 16 at 173. *See also 1972 Senate Oversight Hearings*, pt. 1, at 5–8 (statement of Richard Ayres, Natural Resources Defense Council).

[35] On October 5, 1971, OMB established a "quality of life" review requirement, which subjected environmental regulations to detailed review by federal agencies. This requirement was unilaterally terminated by EPA on January 25, 1977. For a discussion of the impact of OMB's "quality of life" review on environmental policymaking, *see*, Office of Management and Budget Plays Critical Part in Environmetal Policymaking, Faces Little External Review, BNA Environ. Rep. 693–697 (1976).

[36] EPA, Final Guidelines, 36 Fed. Reg. 15486 (1971).

[37] *1972 Senate Overnight Hearings, supra* note pt. 1, at 243.

[38] Reorg. Plan No. 3, 1970, 35 Fed. Reg. 15623 (1970).

[39] *Hearings on S. 3229, S. 3466, S. 3546 Before the Subcommitee on Air and Water Pollution of the Senate Committee on Public Works*, 91st Cong., 2d Sess., pt. 1, at 143.

[40] *Sierra Club v. Ruckelshaus*, 344 F. Supp. 253 (D.D.C. 1972).

[41] 344 F. Supp. at 254 (D.D.C. 1972).

[42] Brief for plaintiff, *Sierra Club* v. *Ruckelshaus*, 344 F. Supp. 253 (D.D.C. 1972).

[43] U.S. District Judge John H. Pratt wrote the opinion. It is reprinted in its entirety in *Hearings on the Nondegradation Policy of the Clean Air Act Before the Subcommittee on Air and Water Pollution of the Senate Committee on Public Works*, 93d Cong., 1st Sess. at 1–4 (1973) (hereinafter cited as *Nondegradation Hearings*). *See also Agency—Court Partnership in Environmental Law* for a thorough discussion of Judge Pratt's decision, and his reliance on the National Air Pollution Control Administration's guidelines and statements of top-ranking HEW officials to support his decision.

[44] *Id.*, at 4–5. The Court's order contained the terms "nondegradation," "significant deterioration" and "no significant deterioration." For a discussion of this definitional confusion *see Significant Deterioration . . . The Continuing Controversy supra* note 28 at 151–2.

[45] *Ruckelshaus v. Sierra Club*, 4 ERC 1815 (D.C. Cir. 1972).

[46] *Fri v. Sierra Club*, 412 U.S. 541, 5 ERC 1417 (1973).

[47] *Nondegradation Hearings, supra* note 43 at 7.

[48] *Id.* at 73.

[49] 38 Fed. Reg. 18986 *et. seq.* (1973). For a discussion of the four plans, *see* Comment, *The Nondegradation Controversy: How Clean Will Our "Clean Air" Be?*, 1974 U. Ill. L. F. 314.

[50] 39 Fed. Reg. 31000 (1974).

[51] 39 Fed. Reg. 42510 (1974).

[52] *Agency—Court Partnership in Environmental Law, supra* note 18 at 319.

[53] 39 Fed. Reg. 42510 (1974).

[54] *Id.*, the classification increments are:

(Pollutant "ceilings" are expressed in micrograms per cubic meter.)

	Class I [1]	Class II [1]	Class III [2]
Particulate matter:			
Annual geom. mean	5	10	60
24-hour maximum	10	30	150
Sulfur dioxide:			
Annual arith. mean	2	15	60
24-hour maximum	5	100	260
3-hour maximum	25	700	1,300

[1] 40 CFR Sec. 52.21(c)(2)(i)(1974).

[2] Same as secondary standards as established by 40 CFR Secs. 50.5, 50.7 (1973).

[55] The eighteen point source categories are: (i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input, (ii) Coal Cleaning Plants, (iii) Kraft Pulp Mills, (iv) Portland Cement Plants, (v) Primary Zinc Smelters, (vi) Iron and Steel Mills, (vii) Primary Aluminum Ore Reduction Plants, (viii) Primary Copper Smelters, (ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day, (x) Sulfuric Acid Plants, (xi) Petroleum Refineries, (xii) Lime Plants, (xiii) Phosphate Rock Processing Plants, (xiv) By-Product Coke Oven Batteries, (xv) Sulfur Recovery Plants, (xvi) Carbon Black Plants (furnace process). (xvii) Primary Lead Smelters, and (xviii) Fuel Conversion Plants. 40 CFR Sec. 52.21(d), 39 Fed. Reg. 42516 (1974).

[56] *Sierra Club v. EPA*, 9 ERC 1129 (D.C. Cir. 1976).

[57] BNA Environ. Rep. 1728–29 (1976).

[58] Brown, Lipaj, Implications of a Prevention of Significant Deterioration Policy on State Growth Management, EPA paper presented at the 69th annual meeting of the Air Pollution Control Association, 1976.

[59] Baker, *Clean Air Act Amendments of 1976*, 122 Cong. Rec., May 25, 1976.

[60] *Nondegradation Hearings, supra* note 43 at 1.

[61] S. Rep. No. 94–717, 94th Cong. 2d Sess. (1976).

[62] Domenici, *The Clean Air Act Amendments of 1978: Balancing the Imponderables*, 122 Cong. Rec., March 22, 1976..

[63] S. Rep. No. 94–717, 94th Cong. 2d Sess. (1976).

[64] H. Rep. No. 94–1175, 94th Cong, 2d Sess. (1976).

[65] Transmittal letter from President Ford to Vice President Rockefeller (in his capacity as President of the Senate) and Clean Air Act Amendments, Jan 30, 1975.

[66] National Governors' Conference, *Policy Positions*, (1975).

"The significant deterioration issue should be resolved by Congress in a manner which gives each State the flexibility to determine for itself what is meant by 'significant,' consistent with local values"

This statement was approved at the summer meeting of NGC at New Orleans on June 11, 1975, and was not amended until March 1, 1977. The 1977 amendment substantially changed NGC policy and put the nation's governors on record as supporting PSD, provided the governors would have redesignation authority on Federal and State lands.

[67] State and Territorial Air Pollution Program Administrators, Resolution, (1975). In the resolution, STAPPA called for H.R. 10498, the Clean Air Act Amendments of 1975, to be amended to add the following clause to Section 101(b)(1)—the "protect and enhance" provision which had formed the basis of the Sierra Club suit:

"(b)ut nothing in this act is intended to require or authorize the establishment by the Administrator of standards more stringent than primary and secondary ambient air quality standards;".

This same language was included in President Ford's proposed amendments to the CAA.

[68] S. 3219.

[69] H.R. 10498.

[70] S. 252.

[71] H.R. 6161.

[72] Kramer, *Economics, Technology, and the Clean Air Act Amendments of 1970: The First Six Years*, 6 Ecology L. Q. 161 (1976).

[73] Mihaly, *The Clean Air Act and the Concept of Non-Degradation: Sierra Club* v. *Ruckelhaus*, 2 Ecology L. Q. 801 (1972).

[74] *Agency-Court Partnership in Environmental Law*, *supra* note 18 at 375.

[75] S. Rep. No. 94-717, 94th Cong., 2d Sess. (1976).

TRIBUTE TO SENATOR HUBERT HUMPHREY

Mr. MAGNUSON. Mr. President, I was deeply impressed with the tremendous outpouring of tribute around our Nation from those who have been affected by the death of Senator Hubert Humphrey. It is truly a fitting tribute to Hubert—who was never at a loss for words—that his fellow citizens—from President to newsman—have been moved to express their esteem for this most remarkable man in a profusion of eloquent statements and editorials. His many eulogizers have been able to express for all who are not so articulate what Hubert has meant to us.

I have in mind, in particular, an editorial by Robert E. Thompson, publisher of the Seattle Post-Intelligencer, which appeared in that newspaper on January 17, 1978. The editorial conveys a real insight into the man, his qualities and contributions to the Nation. Thompson writes:

If any single individual can become the symbol of a nation's heart, Humphrey was the symbol of America's heart.

Over the past 30 years of association, I have known Hubert as my friend, as well as my colleague. I will sorely miss him.

I recommend Mr. Thompson's touching commentary to my colleagues and I ask unanimous consent to have the editorial, "A Farewell to the Happy Warrior," printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A FAREWELL TO THE HAPPY WARRIOR

(By Robert E. Thompson)

Of all the memorable moments in America's farewell to Hubert Humphrey, none would have pleased Humphrey more than the fact that Richard Nixon emerged from three-and-a-half years of isolation to attend the final tribute to the Happy Warrior in the nation's Capitol.

For, as in life Humhprey's great humanitarian spirit reached out to millions upon millions of individuals around the world, in death it reached out to the lonely, brooding figure in San Clemente.

It was typical of Humphrey that as his own suffering intensified he would talk by telephone to Nixon and wish the former president happy birthday. It was fitting also that Nixon would journey for the first time since August, 1974, back across the Potomac to pay homage to the man he defeated in the 1968 presidential election.

That was the kind of human gesture that meant so much to Humphrey, who may have had more friends around the globe than any American of his generation.

Hubert Humphrey simply did not know how to hate. He did not know how to indulge himself in bitterness.

Humphrey could be hurt and he could be defeated. But he was so filled with optimism, enthusiasm and resiliency that any hurt and any defeat was only transitory.

Having covered Humphrey's career in the Senate, the vice presidency and on the presidential campaign trail, I knew him as a very warm and special person.

In fact when news of his death reached us Friday evening, my wife said, "Somehow I expected a miracle. I just thought something would happen and that he would live—that he would overcome this defeat as he had all others."

I concurred. For Humphrey's spirit, determination and love of life were such that no one who ever was associated with him could imagine him not being among us.

If any single individual can become the symbol of a nation's heart, Humphrey was the symbol of America's heart.

He could be critical of Nixon's conduct in office and share a nation's heartbreak over the shame Nixon brought upon the presidency. But his compassion was such that he also could feel sadness rather than hatred for Nixon; that he could weigh Nixon's triumphs against his tragedy, that he could understand that Nixon had done much good as well as much harm.

Anyone who ever knew Humphrey can just hear him saying to Muriel, "Well, doggone, I just think I'll wish Dick Nixon a happy birthday. He probably needs a little cheering up."

That was Hubert Humphrey. Talkative? Yes. Undisciplined? Yes. A dreamer? Yes. A big spender? Yes. But what a heart and what a soul and what a force for good in this nation and this world.

He may be gone. But his spirit lives on.

Where older people are living in dignity, where blacks are enjoying equality, where youngsters are getting the education they once were denied, where justice is extended to all citizens, where peace corps volunteers serve, where statesmen negotiate arms control, where decent housing is rising above urban rubble, where health care is provided the elderly and the needy, where the poor have hope, where the belief in America's future is boundless, that is where Hubert Humphrey's spirit is.

The blows to Humphrey's ebullience and his ego were tremendous during his more than 30 years in public life.

Adlai Stevenson promised him the Democratic vice presidential nomination in 1956 and then failed to deliver it. John Kennedy overwhelmed him with family money in the 1960 presidential primaries. Lyndon Johnson made him vice president and then sometimes humiliated him.

Liberal Democrats turned from him to Robert Kennedy, Eugene McCarthy and George McGovern in 1968 and 1972, although none of those men had championed the great humanitarian causes of the 20th Century with Humphrey's zeal and courage. When the popular vote of 78 million was tabulated in 1968, he lost to Nixon by a mere half million votes. As he toyed with a final run for the presidency in 1976, Jimmy Carter said he was over the hill, a man of the past.

But none of those defeats or rejections stopped Humphrey. He willingly worked with or for the men who had beaten him in the political arena because he knew that America was built by team spirit.

What those of us who knew him will best remember, however, is that he, more than any other major public figure of the last three decades, was a fun person. He practiced the politics of joy because he believed in the politics of joy.

Humphrey's interest in the affairs of man was catholic. His mind was one of the best this nation has known. His humor was infectious—for he knew how to laugh at himself as well as the world around him.

No tribute to him was more fitting than Carter's request that all who had gathered in the Capitol rotunda join in singing "America, the Beautiful." For that song contains words that might have been written especially for Hubert Humphrey . . . "God shed his grace on thee, and crown thy good with brotherhood from sea to shining sea."

NATIONAL BLACK CAUCUS RESOLUTIONS ON THE PANAMA CANAL TREATY

Mr. KENNEDY. Mr. President, I would like to introduce into the CONGRESSIONAL RECORD resolutions on the Panama Canal treaty adopted by the National Black Caucus of Local Elected Officials (NBC/LEO) and the National Black Caucus of State Legislators (NBC/SL).

The NBC/LEO, founded in December 1970, represents more than 2,000 black local elected officials in the United States. NBC/LEO has worked diligently to make positive change possible for black and disadvantaged people in this country.

The NBC/SL was formed in August 1977 to work toward the solution of many problems plaguing black and disadvantaged Americans. It is concerned about problems on a local, State, and national level, but recognizes the importance of responsible U.S. international leadership as well.

Both NBC/LEO and NBC/SL adopted their resolutions as an affirmation of the importance of the Panama Canal treaties to all Americans. I congratulate them on their leadership in moving these treaties forward.

At this point, I request unanimous consent that the resolutions, passed by the National Black Caucus of Local Elected Officials on December 6, 1977, and the National Black Caucus of State Legislators on November 20, 1977, be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

NATIONAL BLACK CAUCUS OF LOCAL ELECTED OFFICIALS

PANAMA CANAL TREATY

Whereas, our capability to defend the canal will be enhanced under the new treaty through cooperation with the government of Panama; and

Whereas, no country large or small should agree to another nation holding parts of its territory in perpetuity as we do under the 1903 Treaty; and

Whereas, these new treaties protect the vital commerce and security interest of the U.S.A.; and

Whereas, the 1903 Treaty represents a U.S.A. foreign policy philosophy of the early 1900's, not the 1970's; and

Whereas, the new treaties are in the national interest of the U.S.A. and consistent with the traditional U.S.A. support for self determination and respect for the dignity of all nations great and small; and

Whereas, the new treaties assure a peaceful, prosperous and secure international waterway for the commerce of all nations; and

Whereas, the new treaties are firmly sup-

ported by all the nations of the hemisphere; and

Whereas, approval of these treaties will say to the world that the U.S.A. is true to its word about dealing on a fair and equitable basis with all nations.

Now, therefore, be it resolved that the National Black Caucus of Local Elected Officials supports the President's proposed Panama Canal Treaties.

NATIONAL BLACK CAUCUS OF STATE LEGISLATORS

PANAMA CANAL TREATY

Whereas, our capability to defend the Panama canal will be enhanced under the new treaty through cooperation with the government of Panama; and

Whereas, no country large or small should agree to another nation holding parts of its territory in perpetuity as we do under the 1903 Treaty; and

Whereas, these new treaties protect the vital commerce and security interest of the U.S.A.; and

Whereas, the 1903 Treaty represents a U.S.A. foreign policy philosophy of the early 1900's, not the 1970's; and

Whereas, the new treaties are in the national interest of the U.S.A. and consistent with the traditional U.S.A. support for self determination and respect for the dignity of all nations great and small; and

Whereas, the new treaties assure a peaceful, prosperous and secure international waterway for the commerce of all nations; and

Whereas, the new treaties are firmly supported by all the nations of the hemisphere; and

Whereas, approval of these treaties will say to the world that the U.S.A. is true to its word about dealing on a fair and equitable basis with all nations.

Now, therefore, be it resolved that the National Black Caucus of State Legislators supports the President's proposed Panama Canal Treaties.

TRIBUTES TO SENATOR HUBERT H. HUMPHREY

Mr. ANDERSON. Mr. President, the death of Hubert H. Humphrey has been a time of reflection for all of us about the wonderful life and tremendous contributions of our departed friend and colleague. The tributes that were paid Hubert Humphrey both before and after his death on January 13 are testimony to the admiration and love that this Nation and society felt for Senator Humphrey.

I believe this Senate tribute to Hubert H. Humphrey would not be complete without including the words of reporters, editors, and columnists from across the country at the death of Senator Humphrey. The expressions of sympathy at his passing and admiration of his record of public service were widespread, as would be expected, in our home State of Minnesota.

Mr. President, I ask unanimous consent to have printed in the RECORD as part of this tribute the following articles from the Minnesota press following the death of Senator Humphrey:

Geri Joseph Column, Minneapolis Tribune, January 15.

Editorial, "Hubert Humphrey," Minneapolis Tribune, January 14.

Editorial, "The Sorrow and the Joy," Minneapolis Tribune, January 16.

Editorial, "Senator Hubert Humphrey," St. Paul Pioneer Press-Dispatch, January 14.

Editorial, "Hubert Horatio Humphrey," Minneapolis Star, January 16.

Editorial, "Hubert H. Humphrey: 1911–1978," Minneapolis Tribune, January 17.

Charles W Bailey Column, Minneapolis Tribune, January 15.

Editorial, "A Man of Spirit," Duluth News-Tribune, January 15.

Editorial, "Hail and Farewell," Mankato Free Press, January 14.

Editorial, "Hubert H. Humphrey," Albert Lea Tribune, January 16.

Editorial, "An Era, A Legend Dies," Fairmont Sentinel, January 16.

Editorial, "HHH Gone; but Forgotten, Never," Rochester Post-Bulletin, January 16.

Editorial. "HHH was there first," Austin Daily Herald, January 16.

Editorial, "HHH: 1911–1978," Marshall Independent, January 16.

Editorial, "HHH Is Gone," West Central Daily Tribune Willmar, January 16.

Editorial, "Minnesota at half mast," Princeton Union Eagle, January 19.

Editorial, "Humphrey Legacy With Us Forever," The Daily Journal, International Falls, January 16.

Editorial, "HHH: A Man for all Seasons," Stillwater Evening Gazette, January 16.

Editorial, "He walked with presidents and the common man," Mesabi Daily News, January 16.

Editorial, "Time to Mourn," The Journal, New Ulm, January 15.

Editorial, "Hubert H. Humphrey," Faribault Daily News, January 16.

Editorial, "Hubert," Brainerd Daily Dispatch, January 15.

Editorial, "Farewell Hubert!", Owatonna People's Press, January 15.

Ray Crippen, "Region Loses Familiar Friend, Revered Leader," Worthington Daily Globe, January 14.

Editorial, "Memories of a Friend," The Union Advocate, Minneapolis, January 23.

William F. White, "Some Humphrey Memories," Winona Daily News, January 16.

The Red Lake Tribal Council, "Hubert H. Humphrey: Chief Leading Feather," Bemidji Pioneer, January 17.

Walter T. Ridder, "Hubert greeted triumph, disaster equally," St. Paul Dispatch, January 15.

Robert J. O'Keeke, "They made HHH at Home on the Iron Range," St. Paul Dispatch, January 15.

John Carman, "The public man . . .", Minneapolis Star, January 16.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Minneapolis Tribune, Jan. 15, 1978]

HUBERT HUMPHREY

(By Geri Joseph)

We knew he was dying. In the last several months, the cameras which had been so much a part of his life now recorded unmercifully the last days of this "public man." But the heart has been known to resist the mind's message. And so to the last, we hoped and prayed for that miracle of inner vitality, of spirit and will, if not of medicine.

When the call came at 10 p.m., Friday the 13th, Skip Humphrey's voice was strained. "Dad is gone," he said. Quiet words and personal. Not the Senator or the former vice president or mayor of Minneapolis. Just Dad. So it is with those of us who worked with him and loved him: In these moments we are not thinking of his place in history but of the indelible place he has in personal memories.

The first time I saw Hubert Horatio Humphrey in action was in 1945. He was running for mayor of Minneapolis for the second time, and he had come striding into the office of the Minnesota Daily, the University of Minnesota's student newspaper. He wanted to give us a pat on the back for an editorial campaign we had been waging on the terrible state of student housing. He sat on a corner table and the words tumbled out. It took maybe two minutes for us to realize that he knew more facts and figures and horrible examples than we in months of digging, had been able to accumulate.

Students and professors crowded into the office and filled the corridor outside. When he had finished, we asked questions, so many questions, and not just on campus housing. He answered them all, as he was to do so many times on other campuses, and his knowledge and memory astounded us.

Years later, I asked him about the wisdom of answering every question. "People won't believe you know so much," I said. "They will think you're superficial. Wouldn't it be better to say occasionally that you don't know?" He looked at me intently and then shook his head. "You should be ashamed of me if I didn't try to learn as much as I can and then share it. A politician should be the best teacher there is."

During his 1964 vice presidential campaign, Humphrey had been on the road for several days in southern states. As usual, his schedule would have been mind-and-bone wearying for any ordinary mortal. But not Hubert Humphrey. Now he had finished speaking at a hot, dusty field in Little Rock, Ark. He was running late, as usual, and his staff nervously urged him to cut the words and hand-shaking. A middle-aged woman approached to ask if the senator would give her daughter an interview. The daughter, in her early 20's, worked for a small radio station. She was seated in a nearby station wagon, and as we approached, we saw her wheelchair and shriveled legs. Humphrey took one look and climbed in beside her. She was so excited her hands shook, and it took precious minutes to get the tape recorder working. Thirty minutes later, the interview was over. "Better check it," Humphrey suggested. To the young woman's tearful dismay, the tape was garbled. "Never mind," he said gently. "We'll do it again." And while advance men fretted and paced and bit their nails, the interview was retaped.

There are so many other memories:

Time magazine gave a big and elegant party for men and women who had appeared on its covers. Humphrey, who loved a good party, was among them, greeting old friends, bouncing from table to table and dancing. He liked to dance almost as much as he liked to talk, and he had been dancing up a storm with a slim, graceful woman. When he returned to his table, his face was puzzled. "By golly, she was a good dancer," he told his wife, Muriel. "One of the best. Do you know who she is?" asked this man whose political memory was a source of awe to those who knew him. "That," replied his wife, "was Ginger Rogers."

During the 1960 convention, he had supported Adlai Stevenson's last and too-late presidential bid and had led a floor demonstration for him. When some of us saw him later in his hotel suite, he was grim and preoccupied. What had happened? Bobby Kennedy, furious with Humphrey's action, had just left him. "He said they'd get me," Humphrey said. He was more shocked than angry since this kind of threat was sharply at odds with his own response to political disappointment and defeats. His advisers sometimes wished otherwise: "if only he would go for the jugular once in a while . . ." But it was not in him to be mean or vindictive. "I don't have time to waste energy on hating," he told us more than once.

When he was vice president, he and his wife asked a few of us to attend with them

the opening performance of the American Ballet Theater in New York City. Afterwards, in the lovely surroundings of the two-level presidential suite at the Carlyle Hotel, we talked for hours. I asked him abruptly what he admired in President Lyndon Johnson. His answer came back without hesitation. "His toughness," he said. "Oh, his toughness," and mixed with the admiration in his voice was longing.

In the end, Humphrey, too, was tough—and magnificent—in the most uneven battle he ever fought. None of us who had helped him in other battles could help him in this one. That makes these moments more painful. But there is comfort in knowing how fully he lived and in being able to say with so many others, "Well done, dear friend. Well done."

[From the Minneapolis Tribune, Jan. 14, 1978]

HUBERT HUMPHREY

(NOTE.—"I have enjoyed my life, its disappointments outweighed by its pleasures. I have loved my country in a way that some people consider sentimental and out of style. I still do, and I remain an optimist, with joy, without apology, about this country and the American experiment in democracy.")

Life. Love. Joy. Politics. They were Hubert Humphrey. Even in his fight against cancer those traits continued to characterize him.

All Americans, but particularly Minnesotans, were fortunate to have had him among our leaders. His record in Minnesota and his record in Washington are known to most: Minnesota politics. Civil rights. The Senate. Major legislation. The vice presidency. Candidate for president. Senior statesman.

We in Minnesota knew him best of all: From us he came, and to us he returned to die. We knew his strengths, and we knew his weaknesses. And adding them all up, we loved him—even if we didn't always agree with him, even if he sometimes talked too long. The tributes to him from across the nation in recent months showed how many others felt that way about him, too.

Each of us will have his or her own special memories. Hearing on radio that 1948 speech on human rights, perhaps. Or his tearful concession statement in 1968. Or a lecture in a college classroom. Or perhaps just bumping into him at the State Fair, where a Humphrey stroll would leave a trail of animation behind.

His whole life left a trail of accomplishment. Last year Humphrey wrote: "In life it isn't what you've lost, it's what you've got left that counts." So we have lost Hubert Humphrey. But what he left us is what counts.

[From the Minneapolis Tribune, Jan. 16, 1978]

THE SORROW AND THE JOY

Sorrow and joy. Those were emotions Americans shared Sunday. We mourned the death of Hubert Humphrey. We found joy in the memories of his life, his meaning for our own lives, his contributions to our country. We took strength from Muriel Humphrey.

"You can cut back on the funeral,' Humphrey had said, "because all the eulogies already have been delivered." But we couldn't. This giant of the Senate had meant too much to us.

"At critical times in our history," said President Carter, "the United States has been blessed by great people who just by being themselves give us a vision of what we are at our best and of what we might become. Hubert Humphrey was such a man." And he was.

"He taught us all," said Vice President Mondale, "how to hope and how to love, how to win and how to lose. He taught us how to live and, finally, how to die." And he did.

Humphrey told last year how he drew strength from the prayer of St. Francis of Assisi, particularly the part that says: "Where there is doubt, let me sow faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy." The prayer, part of yesterday's memorial service, reflected the essence of Humphrey himself.

The service was an affirmation of faith, hope, light and joy. The president said: "Even as we mourn his death, we celebrate because such a man as Hubert Humphrey was among us. The joy of his memory will last far longer than the pain and sorrow of his leaving." Mrs. Humphrey signaled that affirmation when she asked that Robert Merrill sing "America the Beautiful" again and that everyone join in.

Then Hubert Humphrey came home to Minnesota and to a people that loved him, his life an affirmation of the ideals of his country and his country better for it.

[From the Pioneer Press-Dispatch, Jan. 14, 1978]

SENATOR HUBERT HUMPHREY

He cared. Concern was the engine that drove his ambition, that informed his limitless energies, that directed his ego. He strove for high office that he might serve.

Our grief is for the passing of a man, our sadness for the end of a career that was long and distinguished but all too brief nonetheless, our regret that with him is gone an era and an aura we shall not experience again.

He was heir to the works and aspirations of generations of Midwestern Democrats—populists, if you prefer that word—and he took that inheritance and shaped it and infused it with his own fire and idealism and returned it to the people of his country in a vast body of legislation for which they shall never be out of his debt. He was a politician who gave his calling luster and respect.

Oh, he had his share of critics. More than his share. There were those who confused his volubility and enthusiasm with humbug, but long before his passing the substance of his achievements validated his sincerity. Admiration and affection replaced the sometimes snickering criticisms, and it is to the credit of his onetime detractors, and certainly testimony to his own nature, which was without rancor or malice, that when the tributes came—happily and so fortunately while he lived—they came from all sides and all shades of opinion.

His biographers will not overlook—indeed, can hardly minimize—his accomplishments, and if they are honest biographers they will not ignore his faults or his mistakes. But we do not have to wait for the biographies to appreciate the impact he had on his state and on his country.

In Minnesota, he created a whole new political movement, fusing a Farmer-Labor Party to which he had given fresh life (and from which he had scrubbed the taint of Communist infiltration) with a Democratic Party which had had a singularly ineffectual history in this state. He led this new party to secure power in the state and to heights of influence nationally. Minnesota the model political climate, Minnesota the font of presidential candidates, of Cabinet members and Supreme Court justices, the focus of admiring attention all out of proportion to its size—for all this he was mover and catalyst and proud sponsor.

For his country he did even more—much more. Where would civil rights be today without the impetus of his electrifying speech before the Democratic National Convention in 1948, before his election as senator, and without his sponsorship of and tireless push for the Civil Rights Act of 1964? Who can calculate the influence for good in the world, and the benefit to this nation's image, of his Peace Corps, of the Food for Peace program, of his championship of the Nuclear Test Ban treaty? How can we express the gratitude owed him for all the legislation, principally of his creation and all flowing from his boundless concern for people, that brought urban renewal, aid to education, help to the handicapped and to the underprivileged?

These are his legacy and his monuments and they need no marble shafts or words graven in granite on government buildings. The people know Hubert Humphrey cared, and that is enough.

[From the Minneapolis Star, January 16, 1978]

HUBERT HORATIO HUMPHREY

(NOTE.—Gladness of the heart is the life of a man, and the joyfulness of a man prolongeth his days.—The Apocrypha.)

Hubert Horatio Humphrey could have been composing his own epitaph when he wrote, in his autobiography, of his father:

"What he felt, he felt wholeheartedly, without trying to protect himself with reserve, suspicion, or emotional caution . . . He was a missionary with a sense of humor."

And Sen. Humphrey relished the same candor in those he counted as friends and followers. So, while one usually hesitates to dwell in an obituary on the final illness of the mighty dead, any tribute to this public man's courageous life must begin with a tribute to the extraordinary way he died. As his physical strength—but never his spirit—ebbed he lived each hour as he had always lived, with combative cheerfulness. The venerable affection he had won before was thereby multiplied many times. It's some consolation now that before the end he came to know firsthand just how much he was loved and how many the whole world over.

But if, in the full tide of life, Sen. Humphrey, who in 66 years never seemed to grow old, found sustenance in cheerful intellectual candor, he found even more in the rich rhetoric and persiflage of politics. In the torrent of tender messages, he must have appreciated most those from his political arena peers, past and present. Even, one might guess knowing Sen. Humphrey's forgiving heart, the one from Richard M. Nixon. Because for our mayor, senator, vice-president and presidential candidate, politics was more than a way to making a living. It was a passion. His life's blood to the last.

Unlike so many who reach the top in public life, Sen. Humphrey was free of stuffy self-deception. An idealistic realist, he was also, and by free choice, a master of political maneuver and necessary compromise. Social goals, he taught students and colleagues alike, are not often reached quickly or easily.

But reach them he did. His legacy of attainments in social and economic legislation and foreign affairs is unmatched in the Senate. Among his many accomplishments history may well mark highest his bold pioneering blow for national civil rights legislation at the 1948 National Democratic Convention and his subsequent superb Senate leadership that secured passage of the landmark 1964 civil rights bill.

From a national perspective, history will doubtless mark Sen. Humphrey's career as a living link to the Roosevelt New Deal. That Depression Era shaped the unshakable core of his basic philosophy, which in essence was that government could improve the condition of our people. From our perspective in Minnesota he personified, of course, not only the Democratic Farmer-Labor Party but also the best of Minnesota's special tradition of decent government by and for the people. A simple measure of his place in our history is that it is impossible to imagine what Minnesota would be today had there been no Hubert Humphrey. Above all, he was the warmest and friendliest of human beings.

But, if, in the words of the Litany, he was largely innocent of envy, hatred, malice and all uncharitableness, he was not without pride. Often in the form of folksy egoism that could be just plain gauche. Too, like all of us, he was guilty of occasional hypocrisy. But he was quick to admit his faults. Let's not forget how much we enjoyed it when he laughed at himself for his long-winded speeches and his propensity to ham it up. Let's not take that engaging combination of fierce pride and humility away from him. Indeed, we sorely miss Hubert not because he was even near perfect but because we, all of us, could identify with his flaws. And because we could do that we could forgive them.

In the words of Oliver Goldsmith:

"All his faults are such that one loves him still the better for them."

[From the Minneapolis Tribune, Jan. 17, 1978]

HUBERT H. HUMPHREY, 1911–1978

"My sword I give to him that shall succeed me in my pilgrimage, and my courage and skill to him that can get it. My marks and my scars I carry with me, to be a witness for me, that I have fought His battle who now will be my redeemer."

When the day that he must go hence was come, many accompanied him to the riverside, into which as he went he said: "Death, where is thy sting?" and as he went down deeper he said: "Grave, where is thy victory?" So he passed over, and all the trumpets sounded for him on the other side.

PILGRIM'S PROGRESS.

HUBERT H. HUMPHREY

(By Charles W. Bailey)

When all is said and done, there remains the central fact that Hubert Humphrey reflected—in his life and his career—the age in which he lived and worked.

He personified the triumphs as well as the troubles of his era: The fight for civil rights. The struggle over the Vietnam War. The belief that this was the American century, when this country would lead the rest of the world to peace and plenty. The frustration of the efforts to make that happen. The Cold War—and detente. Standing up to communism—and sitting down with Khrushchev. Building a huge nuclear arsenal—and negotiating treaties to control nuclear weapons.

But if he was the mirror of his time, he was also almost always just a little bit ahead of others in perceiving what that time needed. He thought up the Peace Corps a couple of years before John Kennedy decided it was a catchy idea. He was trying to enact a food-for-peace program when others were still worrying about getting rid of surplus grain.

Humphrey yielded to no man in his support for Israel, but he practised his own brand of Mideast shuttle diplomacy when Henry Kissinger was still lecturing at Harvard; he went to Cario before it was fashionable. He talked about human rights several decades before Jimmy Carter, and he kept nagging his party about them until it finally did what had to be done.

Ed Muskie, Humphrey's companion on the ill-fated campaign of 1968, mused Saturday about his friend's death: "Being Hubert, he made it seem so easy that he succeeded in covering up what must have been excruciating pain. Earlier in the week, I asked him how he was doing. He said: 'Oh, I'm feeling much better.' He gave you the feeling he would survive somehow . . . It was more than courage; it was faith as well—an unquenchable faith in the future, even the future that lies beyond the curtain."

For Minnesota newspaper people of a certain vintage, the last quarter-century is definable in terms of Humphrey.

To a newcomer, people at Minneapolis City Hall in the early '50s seemed a little out of breath. Humphrey had swept through the place, and even a couple of years after he went on to Washington the survivors still seemed a bit dazed.

Later, caught up in the whirlwind as a reporter, you began to understand the fatigue at city hall. The scenes tend to blur and run together: Humphrey making a speech at a union hall in Oregon, Humphrey making a speech at a village in India. Humphrey in his Washington office. Humphrey in Vietnam. Humphrey talking, explaining, urging, cajoling, forever trying to move people along with him—and cheer them up in the process

Once, in Italy, a protester threw a balloon filled with paint at him. It missed Humphrey but burst all over the ceremonial uniform of his official host. Humphrey looked at him for a long, silent moment—and then asked: "Does this happen to you often, Mr. Mayor?"

Humphrey took a lot of kidding, and a fair amount of abuse, for talking about "the politics of joy." It was the fate of this joyful man to run his most important race in a year when there was no joy in the country and no room for his kind of politics. He never changed his politics, and he never complained about his luck.

One thing is beyond argument: Whatever Humphrey was, whatever he stood for, had its roots in South Dakota's small towns and in the great depression. If he was ever angry about anything it was about poverty. He forgave almost anything—far more than was good for him politically—but he never forgave those who were callous about the poor.

He moved easily among the people and the politics of big cities, but you could look at him from a block away and tell that he came from somewhere beyond the city limits. Maybe that was one reason why there was so little sham in him; it's hard to fool people when everyone knows you.

He left on a gray January day, just a week before the ninth anniversary of what should have been his inauguration as president of the United States.

[From the Duluth News-Tribune, Jan. 15, 1978]

A MAN OF SPIRIT

Hubert H. Humphrey was a political phenomenon.

For his commitment to the underprivileged, his name will be remembered beside Franklin Roosevelt's, if not ahead of it.

For his powers as an orator, he will be remembered with Daniel Webster.

For his fight for civil rights, and especially to bring equal opportunities to the nation's blacks and other minorities, he will be remembered with Abraham Lincoln.

But for all of his similarities with several of this nation's great leaders, Humphrey in his final months of his life revealed a quality unique to himself: that man had spirit.

Gradually, as Humphrey's more obvious strengths began to slip away, we were able to see the underlying, brilliant core of spiritual commitment that gave him so much energy for work and exuberance for living.

As his body lost weight, his hair turned color and fell away, there remained on his face a smile, and in his eyes a sparkle. In Humphrey's eyes and mouth you could see a spirit not limited by its body or physical ailments.

In an ironical way, Humphrey seemed to come even more alive as he came closer to death. For all that he has done for the people of this nation, that example of spiritual resilience may be his greatest and most lasting gift.

For Humphrey was more than a politician. He was first a man, one filled with compassion for other people, and one blessed with both the mind and the diplomatic talents to write and pass laws which brought his compassion out of his heart into the real world where food and clothes, education and medical care, and civil rights were given to those who couldn't win them for themselves.

But his gifts as a politician, and his inclination to speak at length on any issue, have had a way of concealing his spiritual dimension, that intangible something that made him such a productive, almost inexhaustible member of Congress.

Last February, after his first body-destroying cancer treatments, Humphrey told James P. Gannon of the Wall Street Journal, "When someone comes along and says: 'Hey, you look like you're gonna die,' I just want to give him a big kick in the butt."

That's the Humphrey spirit. In his lifetime, and mostly during the end, he offered us exhilarating proof that we do not live by bread alone. Hubert Humphrey gave us reason to believe in a human spirit, and all that means.

[From the Mankato Free Press, Jan. 14, 1978]

HAIL AND FAREWELL

Hubert Humphrey never forgot a name; if he met you once, you were not only well met: You were remembered.

We'll remember Hubert Humphrey, too, as an entire nation. And that's because we think it's fair to say that Hubert Humphrey, to date and well into the foreseeable future, has had more impact on the nation than has any postwar president.

He wanted the presidency badly; but as close as he got to it was as Lyndon Johnson's Vice President, a position in which he was treated cavalierly, and in which he had to compromise some of his principles, particularly with regard to his views about the war in Vietnam.

Though he never got closer to residing in the White House than as Johnson's vice president, Hubert Humphrey had already made his mark. What, after all, was Johnson's Great Society but the anatomization of civil rights attitudes articulated by Humphrey, then mayor of Minneapolis, at the Democratic National Convention of 1948? Hubert had said it all—much earlier and much better.

Civil rights, obviously, would have had to have their day in the sun eventually; but it is telling about the man, Humphrey, that he stuck his neck out in a time when it was not fashionable—or safe—to be egalitarian. He ripped the '48 convention apart with his historic speech; the Dixiecrats walked out of the convention.

But isn't it also telling, about the man, that the most prominent of those Dixiecrats, Sen. Strom Thurmond of South Carolina, was one of the first people to come pay his respects to Humphrey when the condition of his illness worsened last year.

Enemies were convinced to be friends because Hubert endured, and kept on fighting, but most important, because he was right from the beginning.

A man of great compassion, his capacity for seeing things in human terms—things like unemployment, for instance, which to him meant real people's real problems, not just a list of statistics—was both his supreme asset and his sometime nemesis. More often than not it was the former.

Hubert Humphrey gave salutary dignity to the word 'politician' and hope to those who still believe in the virtues and human rewards of public service. His like will likely not be seen again, and we will all be the poorer for that.

[From the Albert Lea Tribune, Jan. 16, 1978]

HUBERT H. HUMPHREY

The last time Sen. Hubert H. Humphrey visited the Evening Tribune was on a Saturday morning in September 1976.

He was campaigning for re-election to another term in the senate even though he had only token opposition from the Republican Party.

It was a typical Humphrey visit. That is, he took over the place. He shook hands with every employee who was working that day and handed each one of his campaign cards with the Minnesota Vikings schedule printed on the back. After he left, everyone felt a glow from having talked to a man who was so obviously in love with people.

His ability to make the staff of a small city newspaper feel important was an example of one of the many talents of this same man who was vice president of the United States, who came within an eyelash of becoming President of the United States and who was recognized around the world as a great statesman.

And this newspaper had not endorsed his candidacy for the U.S. Senate in 1970. It corrected that oversight in 1976.

This attribute was one of the keys to Sen. Humphrey's greatness. Despite all his accomplishments and his honors, he never forgot the people. He recognized that he was serving at the pleasure of the people and he listened to them.

On many occasions he was taken to task by his critics for trying too hard to please everybody. But, he probably succeeded in pleasing more people than most.

While we are saddened by his passing Friday night, we feel good about being able to remember him as he was on that Saturday morning in September. He was happy. He was enthusiastic. He was Hubert Humphrey.

He was a great man.

[From the Sentinel-Fairmont, Jan. 16, 1978]

AN ERA, A LEGEND DIES

(By Terry Borchers)

Blinking back tears last Friday night, Vice President Walter Mondale said Hubert H. Humphrey would have us remember him in joy, not in mourning.

"He often said life is not to be endured but to be enjoyed," the Vice President said.

The Vice President and long-time personal friend of Mr. Humphrey could have said it no better. Mr. Humphrey left a legacy of hope, courage and dedication. The man who became a legend in his own time was dead at 63, after the most colorful and meaningful political career of modern times.

The presidency escaped him more than once. He once recalled the day after his loss to Richard Nixon in 1968 as "The longest day of my life." ". . . To lose to Nixon. Ye Gods. No warmth, no strength, no emotion, no spirit, no heart . . . We could have won it. We should have won it," he said in his autobiography.

It would have been the end of the road for a lesser man, but not for Mr. Humphrey. He did not wallow in self-pity. Rather he picked himself up, as he had after other lesser jousts in the political arena and came back to fight for the causes he believed in so deeply.

Humphrey was thought of as a liberal through most of his political career. That changed somewhat after the 1968 campaign, because he had stood steadfastly beside the sinking political status of Lyndon Johnson.

But political classifications never really bothered the Senator. He just continued his struggle, most often for those who had few supporters for their needs and causes other than Sen. Humphrey.

Humphrey was a man to be politically reckoned with. He did more to shape Minnesota politics and later national politics during his lifetime than any other man. He claimed credit for the merger of the Farmer-Labor and Democratic parties in Minnesota nearly 30 years ago.

His impact on state politics could be felt up until the day of his death and it will likely be felt for some time to come.

It is with some irony that the state and the people he represented for so many years, will now be represented in the Senate by two unelected representatives.

Mr. Humphrey was an emotional politician. He was a man often before his time, yet he probably saw more of his ideas and programs adopted than any other American politician in history.

He never made it to the top job in the land, but it goes without saying his historical niche will reveal he had a greater impact on America and its people over a period of time than any other politician in American history.

[From the Rochester Post-Bulletin, Jan. 16, 1978]

HHH GONE; BUT FORGOTTEN, NEVER

Pages and pages of newspaper coverage and numerous radio and television specials have gone into great detail about the life and accomplishments of Hubert H. Humphrey since his death last Friday. There is no need to try to repeat that kind of coverage in this space.

Of all the tributes made to the late, great senator, we thought the best came, not from one of Humphrey's longtime close colleagues, but from a rather recent friend, who now happens to be President of the United States.

Said President Carter: "From time to time, our nation is blessed by the presence of men and women who bear the mark of greatness, who help us see a better vision of what we can become. Hubert Humphrey was such a man."

Not flowery. Not a eulogy. Just the simple truth. The truth about an honest, decent man; a dynamo of a man whose intellect and foresight are deeply engraved on both the domesic and foreign policies of his beloved America.

There is an old saying about it being okay to disagree, but don't be disagreeable. Surely that was the story of Humphrey's life. His political causes and his political opponents were many, but he was never disagreeable. In turn, no one who knew him personally, even if a strong political foe, could dislike him.

And one of the most prevalent statements made by ordinary people in conversations or in interviews over the weekend was to the effect that "Even though I didn't know him, I feel a personal loss."

So "the Happy Warrior" is gone—but forgotten, never. All Americans, and especially we Minnesotans, have benefitted from his extraordinary career of public service.

[From the Austin Daily Herald, Jan. 16, 1978]

HHH WAS THERE FIRST

The least important thing that could be said about Hubert Horatio Humphrey is that he very nearly became a president of the United States.

In death, Humphrey joins a select company of American political figures who, like him, aspired to the nation's highest elective office yet are remembered not for that but rather for their valued services to their country in other capacities—as senators, cabinet members, ambassadors, elder statesmen. Daniel Webster, for example. Henry Clay, William Jennings Bryan, Adlai Stevenson.

Like them, we honor Hubert Humphrey not who what he might have been but for what he was.

What distinguishes a democracy from all other political systems is not merely the fact of individual liberty. It is also the opportunity it gives the talented and ambitious individual to play a role in shaping and directing the destiny of his fellows, an opportunity enjoyed by only the very few within the ruling power circle in the one-party, totalitarian state. Soviet history lists no Websters or Clays or Humphreys.

It is gratifying to be able to say that well before he succumbed to his final illness, Hubert Humphrey was given a preview by his colleagues and admirers of the eulogies that now attend his passing. At ceremonies in Washington last spring saluting his selection by the American Political Science Assn. as an Honorary Congressional Fellow, speaker after speaker recounted his accomplishments.

Elected reformist mayor of Minneapolis in 1945 and 1947, Humphrey secured enactment of the first municipal fair employment practices law in the country.

In 1948, as freshman senator and ebullient liberal from Minnesota, Humphrey's eloquence—some would call it his ability to wear down the opposition—put over the then controversial civil rights plank in that year's democratic platform. From that time on, he was a force to be reckoned with, both in his party and in the U.S. Senate, where he was elected majority whip in 1961.

Humphrey's first try for the presidency was in 1960, when he lost the Democratic nomination to John F. Kennedy. He won the nomination in 1968, having served as vice president under Lyndon B. Johnson, but narrowly lost the election to Richard M. Nixon—mainly, it is said, because of his refusal to condemn John's Vietnam policy.

Characteristically, even though visibly aged and weakened following a cancer operation in 1976. Humphrey did not rule out another try in 1980. He was the eternal optimist, not only about his personal career but about his country. He was a believer in the future, and in the ability of free men to shape that future to their own desires.

He never attained the grand prize of American politics, that pinnacle of power called the presidency. But few major pieces of social legislation of the past three decades do not bear the stamp of HHH—from federal aid to education to Medicare to child nutrition programs to conservation acts.

"Whatever the subject," says a former associate, "Hubert thought of it first. He was there decades before anybody else."

No man could ask for a better epitaph.

[From the Marshall Independent, Jan. 16, 1978]

HUBERT H. HUMPHREY—1911–1978

"I think it is useful, probably even important, to remind people of the obvious fact that no matter how high a man may rise in this democracy, he functions with the human emotions and limitations that we all share.

"I have enjoyed my life, its disappointments outweighed by its pleasures. I have loved my country in a way that some people consider sentimental and out of style. I still do, and I remain an optimist, with joy, without apology, about this country and about the American experiment in democracy."—From "The Education of a Public Man" by Hubert H. Humphrey.

[From the West Central (Minn.) Daily Tribune, Jan. 16, 1978]

HHH IS GONE

(By O. B. Augustson)

HHH is gone. Hubert Horatio Humphrey is gone. Some day special books will be published about this great Minnesotan who passed away last Friday evening and whose burial and last rites have been held during the ensuing days.

Yes so much will be written and published about this unusual individual and such are

needed to tell the full and complete story of this most extraordinary personality.

Editorially one is limited to some brief comments and some sentences to remind us about the unusual person who has left the scenes of this life.

Without question Humphrey had for years now been our greatest Minnesotan. Not only as a long tenure U.S. senator but a former vice president of these United States.

Humphrey has often been referred to as one of the country's greatest Americans. In fact President Carter referred to Humphrey as such just the other day—termed HHH as "a great American."

This great Minnesotan so often referred to that regardless what battles he has fought, bled and succumbed for, he has coming out smiling and became known as the "Happy Warrior."

Next one recalls how so many times most folks have expressed regrets that Humphrey did not finally attain the White House as president and the opinion was generally felt that he would have become one of our greatest presidents.

And just think of his national leadership in the Congress and particularly in the U.S. Senate. It has been stated many times that the vast majority of social legislation now become the law of the land can all be traced to the leadership given it by Hubert Humphrey.

And one third also list and mention in closing if a roll call were made as to the most beloved and cherished leaders in the public life of our land today—that the name of Hubert Horatio Humphrey would be found at the top of such a Roll Of Honor.

Thus HHH—Peace to your Blessed Memory.

You were an inspiration to all of us. Whenever your helping hand was needed at Washington you were ready to help and ready to assist and more than any other representative. They used to say—"The helping hand of Hubert Humphrey" and how true that was!

[From the Princeton Union-Eagle, Jan. 19, 1978]

MINNESOTA AT HALF MAST

Princeton residents, like thousands of people throughout the state, thought of Hubert Humphrey in personal terms. They identified with him and felt a sense of personal loss when he died even though there had been ample forewarning.

Larry and Sheryl Winter will treasure the picture with Hubert in their home. Marv and Claudette George remember with special poignancy the 1974 visit with their parents to the Waverly Humphrey home when Hubert not only showed them through the home, but took time to tell about his cars and the souvenirs of his political career.

From his first election to the Senate his office was characterized by prompt handling of mail and his personal encounters impressed people with his ability to remember names and the personal concern for everyone.

Terry Montgomery will surely remember the campaign effort by Humphrey, in Princeton, when Terry was a candidate for Congress.

When a new publisher came to Princeton to take over the Union-Eagle he received a letter from the Senator wishing him well in the new venture. And so it went. Although deeply involved in the most important national and international issues and negotiations he never lost touch with the people back home. They always had a sense that he was concerned with each one of them and their problems—and they never knew it better than when they realized he was gone. As one visitor to the capitol rotunda said, "I never knew how much I appreciated him until he was gone." He walked with the mighty, but he never lost the common touch.

[From the Daily Journal, Jan. 16, 1978]

HUMPHREY LEGACY WITH US FOREVER

We've listened and read for three days as the learned and powerful people in the world have tried to bring to words the greatness of Hubert Humphrey.

As his remains enter the grave today, it's as if an important part of the world has ceased to exist. None of us living today—and many yet unborn—will escape being battered in some way by his love for his nation.

Few of us can expect to meet anyone else in life who was loved by so many for so long.

People drew strength and hope from him—and he from them. It was possible to quarrel with his ideas, but never with his intense desire to help those who needed help.

It's a measure of his achievement that most adult Minnesotans have a personal memory of his greatness. Even when he wasn't running for office, he made himself available throughout the state.

We recall being sought out in a motel room. He came to talk about some points on which we differed on editorials. He was at that time a former vice-president and was soon to return to the U.S. Senate. As always, he was one of the best informed men of his time. And there he was, taking the time to try to mend fences with a small town editor.

Some will recall having a beer with him in the Woodworkers Union Hall here in 1974. It was an old-fashioned political love feast in the finest of DFL traditions, and Humphrey reveled in it.

We recall greatest tests. It came at the Stock Yards in Chicago when he delivered his acceptance speech for the 1968 campaign.

His party was tetering. Dissenters from the left created an atmosphere of chaos. His trip to the convention center was made through check points and barb wire.

He later wrote: "It tested every nerve in my body, and it tested my will, my courage, and my capacity to overcome crisis and difficulty . . .".

His answer was the prayer of St. Francis of Assisi:

"Where there is hatred, Let me so love;
"Where there is injury, pardon;
"Where there is doubt, faith;
"Where there is despair, hope;
"Where there is darkness, light."

Hubert Humphrey was a product of love, joy, freedom and democracy. His legacy is a path of accomplishment so clearly defined that mankind will never lose it completely from sight.

[From the Stillwater Evening Gazette, Jan. 16, 1978]

HUBERT H. HUMPHREY, 1911–1978, A MAN FOR ALL SEASONS

President Carter called him "The most beloved of all Americans." Vice President Mondale called him "a second father". The press for years has referred to him as the "Happy Warrior." His fellow Americans who lined up by thousands to view his casket called him "this good man."

Humphrey entered politics in 1945 at age 34. He was known for cleaning up the city of Minneapolis, championing civil rights, introducing bills to aid the senior citizens and the disadvantaged, and opening doors to improve international relations.

He will be remembered for his gift of speech, his tireless optimism, his unfailing loyalty.

He will be loved for his inspiring battle against cancer. Even though he had been given the verdict of "terminal," he continued to live fully, attending to his duties in Congress, enjoying friends and family, and constantly giving a message of hope for the future.

The services today which honor him are not a memorial to the death, but rather a celebration of the life of Hubert H. Humphrey.

We salute this great leader for giving himself to others. He has taught us to be our brothers' keeper. He has taught us to understand how much we need eath other. He has put dignity and value in all work recognizing that each person's job well done is the best way to serve others.

We will miss Hubert; however he has left so much of himself with each of us that he will always be here.

We are grateful that he took time from his very busy schedule to be our Grand Marshall of Lumberjack Days in the late 60's. Just two years ago he came to Drum Beauty and spoke to us in the rain.

God will bless this great humanitarian.

NORWIN "RED" SWAGER.

[From the Mesabi Daily News, Jan. 15, 1978]

HE WALKED WITH PRESIDENTS AND THE COMMON MAN

"Without a doubt he was the greatest Minnesotan . . . he will long be remembered for being a champion of the underdogs, minority groups, senior citizens and so forth . . . One thing that surprised me was his ability to remember names . . . it was phenomenal. He'd meet someone once and the next time he remembers. I don't know how he did it. And his speeches . . . he didn't use any card system or anything like that."

Elmer Kivimaki of Virginia was talking Saturday about his friend, Hubert H. Humphrey. They shared a common bond. Both had cancer.

"I wrote to him. I told him I admired his fight," said Kivimaki, who had cancer surgery four years ago. "I received a letter from him about three months ago. 'You've got to have faith,' he said."

Hubert Humphrey was that kind of man. He never forgot his friends. He always seemed to have time for everyone. He walked with Presidents and with the common man and treated them equally. Even after he became one of the most famous men in the world he made people feel at ease in his company.

Four years ago, a young wire service reporter in Minneapolis was told to call Humphrey to get his reaction to a new development on Richard Nixon. The reporter was hesitant, nervous, but he made his call to Waverly and got what was probably the best story of his career to that date. Afterwards he said, "What a guy! It was just like talking to my nextdoor neighbor."

During his campaign, Jimmy Carter was critical of Humphrey but later called on him for advice on many an occasion. Carter sent Humphrey a photograph of the two men standing by the President's desk in the Oval Office.

Written on the picture were the words: "To Hubert . . . This desk should have been yours."

It almost was. If the 1968 presidential campaign had lasted a few more days, Hubert Humphrey very likely would have defeated Nixon and think what THAT would have meant in light of the black chapter in American history that followed a few years later.

The least important thing that could be said of Humphrey is that he very nearly became President.

In death, he joins a select company of American political figures who, like him, aspired to the nation's highest office yet are remembered not for that but rather for their valued services to their country in other capacities—as senators, cabinet members, ambassadors, Daniel Webster, for example. Henry Clay, William Jennings Bryan, Adlai Stevenson.

Like them, we remember Hubert Hum-

phrey not for what he might have been but for what he was.

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Elected reformist mayor of Minneapolis in 1945 and 1947, Humphrey secured enactment of the first municipal fair employment practices law in the country.

In 1948, as freshman senator and ebullient liberal from Minnesota, Humphrey's eloquence—some would call it his ability to wear down the opposition—put over the then controversial civil rights plank in that year's Democratic platform. From that time on, he was a force to be reckoned with, both in his party and in the U.S. Senate.

Humphrey never quit, right up to the end. Characteristically, even though visibly aged and weakened following his first cancer operation in 1976, he did not rule out another try for the presidency in 1980. He was an eternal optimist, not only about his personal career but about his country. He was a believer in the future, and in the ability of free men to shape that future to their own desires.

He never attained the grand prize of American politics, that pinnacle of power called the presidency. But few major pieces of social legislation of the past three decades do not bear the stamp of HHH—from federal aid to education to Medicare to child nutrition programs to conservation acts.

Humphrey had a wonderful sense of humor. Reporters and others kidded him about his machine-gun delivery and called him "Motor Mouth." His speaking speed once was described as "About 250 words a minute, up to 500 in gusts." No one laughed more than Humphrey at that one.

Accepting an honor from his Senate colleagues last year, Humphrey began his response with: "Incredible as it may seem, I am at a loss for words."

Humphrey's political foes admired and respected him as much as his fellow Democrats. One of the greatest tributes came from Republican Sen. Bob Dole who said, "It is uncommon in life to find a man of such courage and compassion, fortitude and decency, a man whose fighting spirit is surpassed only by his spirit of charity and justice."

Uncommon indeed. Thirty years ago he called on Americans to "walk out into the sunlight of human rights" and then proceeded to help make Minnesota a model of progressive politics and become one of the most brilliant statesmen the United States has ever seen.

He loved life. He loved people. And he loved his country.

Norman Sherman, editor of Humphrey's autobiography, said:

"Ultimately . . . the measure of Hubert Humphrey may not be in his own legislative accomplishments, his counsel to fellow Senators, or his counsel to Presidents of both parties.

"It may be in terms of the young men and women who have followed him into government and public service from the day he first announced for Mayor of Minneapolis . . .

"Humphrey proteges are as prominent as Walter Mondale . . . They are as anonymous as the thousands of precinct workers who were turned on to politics by his speeches, his spirit, his enthusiasms."

No man could ask for a better epitaph.

[From the Journal, Jan. 15, 1978]

TIME TO MOURN

(By Roger Matz)

The battle is over for our "Happy Warrior," Sen. Hubert Humphrey.

His death at 66, caused by inoperable cancer, snuffed out a political career that might have gone on for another two decades.

Although Humphrey was a life-long winner, his death Friday night represents the last of two major and painful losses. The first was his failure to defeat Richard Nixon for the presidency in 1968.

"If" is a big word in politics and history. "If" Humphrey had not loyally backed Lyndon Johnson on the Vietnam war for so long, he might have defeated Nixon. "If" Humphrey had become president in 1968, a painful era in our nation's history might have been less painful.

However, this is not a time to dwell on "if" or "might." This is a time to mourn for a man who rose from the Dakota plains to the second-highest office in our nation.

Humphrey literally built a political party in Minnesota. He served our state and nation for a lifetime, alienating some but warming the hearts of many.

He will be remembered and missed.

[From the Faribault Daily News, Jan. 16, 1978]

HUBERT H. HUMPHREY

Hubert, we'll miss you.

You made us laugh, made us cry. You forced us to see things we would have rather ignored; you criticized us then gave us hope; you taught us to look ahead, not back. When we listened to you, we felt good, even if we didn't agree with what you said.

We were amazed by your boundless energy, amused by your endless reservoir of humor, in awe of your seemingly limitless powers of speech.

We didn't mind when you went in public; it was refreshing to see a politician who shared the same emotions, the same human frailties, as the rest of us. You were a true "public servant," because you always had time for people.

You taught us to appreciate compromise, to understand that, no matter how dedicated to a cause one might be, halfway is better than no way.

But we Americans weren't the only ones who knew you. You were one of the United States' foremost world statesmen. You were respected, applauded, cheered in other nations, because you, often more than any other American, understood the problems of the Orient, of Europe, of the Third World.

From you we learned the gentle art of "bouncing back," of retaining one's self-respect despite defeat. And, recently, you gave us the best example we've seen of how to die with honor. You knew your cancer was terminal, yet you set about your daily tasks, you immersed yourself in your work, you never forgot your family and friends.

Many things will be said and done in your name. We may not agree with all of them, but that's not so terribly important. What's important is that you were—and are—an inspiration. An inspiration of what dedication, compassion, intelligence, hard work and humility can do.

We'll miss you, Hubert.

[From the Brainerd (Minn.) Daily Dispatch Jan. 15, 1978]

HUBERT

It is a sad day in our state and our nation today. Hubert H. Humphrey is dead. That strident voice that could go on and on with authority on innumerable subjects has been stilled by cancer.

The man who lead the fight for civil rights in our nation, and won against untold odds way back in the days of Harry Truman—the man who wanted to be president and sought it with a passion few of us can understand—the man who suffered the most crushing of defeats and never lost the faith—the man who learned he would die and used that knowledge to teach a nation how to live—the man who couldn't win the battle to be his nation's leader but captured its love in his final days—is dead.

From Brainerd to Miami, from Boston to Los Angeles and most of all in Washington, D.C., where he really made his mark in history as a United States Senator, there is sadness and reflection today. Everyone knew his death was imminent and yet his optimism, his courage and the infectious Humphrey personality pushed this aside and somehow we succumbed to the fantasy that the Happy Warrior would somehow win this battle.

But despite his exuberance and his optimism, Mr. Humphrey never lost sight of the real world. He knew he was dying just as surely as he knew a short time ago that his last hope for the presidency had gone winging away on the toothy smile of a man from Georgia. The important lesson he left us is that defeat is no excuse for despair. After he lost the battle for the presidency he bided his time until he could seek election once again to the Senate and campaigned with the same energy and fervor in his own state that had characterized his battle to become the nation's leader, and this time he won. And when he discovered that he was engaged in an uncompromising fight with cancer, he launched a battle to live and permitted unpublicized and unprecedented treatment for cure of the dread disease so that others might live. He may have helped to win that battle for others, but not for himself.

Perhaps, as he often intimated, he drew his strength, his courage and even his optimism from his humble roots in South Dakota. He knew the debilitating effects of poverty as a child who grew up in the dust bowl era and felt called as one of the nation's leaders to help alleviate proverty and suffering. His liberal programs in that direction brought him criticism from a number of us who felt that they were too liberal and too costly.

And yet, when we criticized these programs, we never criticized the man or his motives.

Perhaps all this makes him sound less political than he was. Perhaps, but then we firmly believe that in the person of Hubert Humphrey there had been a rare and perfect union of politician and humanitarian.

There can be only one way to sum it up and we are sure it is the way he would want to be remembered—Hubert H. Humphrey was a great American.

[From the Owatonna People's Press, Jan. 15, 1978]

FAREWELL HUBERT!

Hubert Horatio Humphrey. It is a name with curious alliteration, and even a certain pomposity about it that seemed appropriately suited to the long-winded Senator who bore it so proudly.

"Be careful what you say to the press," Humphrey once cautioned good naturedly. "You may be quoted accurately!"

Even though he was a towering figure on the Minnesota and national political scene for more than three decades, in many ways Hubert Horatio Humphrey was always the new kid on the block—poking around here and there, pugnacious and alert, ready to defend and protect, preserve and promote.

He was an idea man, frequently ahead of

his times, yet persistent to battle doggedly in the face of defeat; confident that tomorrow would be a better day. He was, well . . . Hubert.

He excelled at oratory. He could warm up a crowd and elicit responses to a degree very rare in our modern society. As so often happens with men of vision and persistence, he could attract hate and derision, too. He took the lumps in stride, however, including a traumatic razor-thin loss to Richard Nixon in 1968 in their battle for the presidency.

Minnesota has generated men of exceptional stature on the recent political scene. But Hubert Horatio Humphrey will surely be remembered as the outstanding Minnesota newsmaker of the 20th Century.

Now he, too, belongs to the ages.

REGION LOSES FAMILIAR FRIEND, REVERED LEADER—30 YEARS OF MEMORIES

(By Ray Crippen)

These are snapshots of Hubert Humphrey at Worthington and in the local area you might be interested to see. They have been accumulating through 30 years and the collection has become unmanageable. Nothing is in order.

This is a favorite. Humphrey at the Nobles county fair, 1970, running again for the Senate after four years as vice president and two years out of politics. That was a sunny day of triumph.

His opponent that year was on the fairgrounds long before HHH arrived, moving from person to person, shaking a hand wherever he could find one. Not too many were interested in another politician.

About 3 p.m. there was the noise of a chopper, a helicopter, circling the fairgrounds. Hubert H. Humphrey. In plain view and waving. Everyone was looking up, even the carnival people. Many began waving back.

The 'copter came down on the track in front of the grandstand and people flocked to get near it, squeezed through the gates, ran to get near Humphrey. Many wanted autographs.

"You can't beat that," a Republican of many years recognized and conceded.

HHH, in a soft blue dress shirt and tie, no coat, ran a comb through his hair twice and stepped from the aircraft, smiling, waving, greeting. He led the crowd to the midway. Everyone wanted to shake his hand; he would have needed six arms. He made a tour of the exhibits, talking first with one and then another about everything from farm economics to pollution controls to Russian attitudes.

There was a girl 12 or 13 years old with her hair in braids. She was wearing a white T-shirt with 4-H on the front and she had a bandage on her arm.

"Hi honey," said Humphrey and he placed a hand on either side of her head nad turned her face toward his. "You get that arm healed up now, you hear?" He took another hand which was pressed toward him. "4-H. That's a good group. I never belonged to it but I admire it. 3H was as far as I got."

That was a quarter-century after Humphrey's visit to Worthington in October, 1948. The first campaign for the Senate. Turkey day, of course, and a miserable day. Wet and cold. Bebe Schapp, Minnesota's Miss America was there.

The incumbent senator was Joseph Ball. He really wanted to be at Worthington, he said, but he just couldn't make it. Everyone understood that; it was miserable weather. In fact, Turkey Day had been scheduled the day before but the weather was so bad the event was postponed. Air travel was impossible. All travel was difficult.

But there was HHH. Beaming. Grinning. Standing in the rain and waving.

"We must always remember this is good for crops," he said. "And what is good for crops is good for us all," said the candidate who had lived through the drought in South Dakota in the 1930s.

Humphrey, slender, dark-eyed, black-haired mayor of Minneapolis, won his Senate seat the next month. Turkey day at Worthington was key to explaining how he defeated a popular incumbent in a Republican state. He was the first Democrat ever elected to the U.S. Senate from Minnesota.

Turkey Day 1959. Cold and gray as any Turkey Day has ever been. Humphrey was there; everyone said, "Of course." But that was not a usual HHH appearance.

Nikita Khrushchev was touring the United States. That very day—Turkey Day—the Russian premier was to meet with the U.S. Senate Foreign Relations committee at a Washington reception which had the attention of the world. Humphrey was the committee's second ranking Democrat.

At Worthington, the Turkey Day committee speakers' committee had struck out. One invitation after another was declined. Local Democrats appealed to Humphrey on the telephone. There was no one to give a speech.

HHH consented to make the trip, got to an airplane, flew to Worthington. There was nothing but a portable platform that year, set up on 10th Street in front of Hotel Thompson.

When Humphrey got up to speak there were snowflakes in the air. The crowd before him was thin. People were reluctant to give up curbside parade seats. Hubert did a performance as fine as any the region had ever seen.

"I would rather be here with the people of Minnesota than with the premier of the Soviet Union, any time," he called out shrilly. That raised cheers in the chill air.

Still, by determination and some extraordinary scheduling, HHH was back at Washington that evening in time to share in the spotlight with Khrushchev and the Senate committee.

It was campaign oratory at Worthington. Political gimmickry by a master but gimmickry nonetheless. HHH kept in mind always, if no one else did, that he could not be a leader, a statesman, a good senator—he could not be even a poor senator—if he did not win elections. The experience of Joe Ball at Worthington was convincing evidence that no one could win elections by pleading important work and bad weather, even when the work was important and the weather was foul.

Humphrey said he had a special feeling for Worthington and Turkey day. This was certain. There was no event in Minnesota he attended more faithfully through three decades. Some local residents believed it was a kind of superstition. Some said he had come to look upon Worthington as his hometown.

He often brought friends. Adlai Stevenson one year. Lyndon Johnson. Vice presidential candidate John Sparkman.

HHH introduced Congressman Eugene McCarthy from St. Paul to the Worthington Kiwanis club and told them he believed McCarthy would make an outstanding U.S. Senator. He came to Worthington with Walter Mondale and said there was no one more worthy of voter support. (It was an irony; the southwest counties gave more votes to McCarthy and Mondale than they did to Humphrey.)

One year Muriel brought Lady Bird Johnson, Abigail McCarthy, Jane Freeman.

Humphrey did not limit visits to Turkey Days:

Worthington Community College commencement, 1975. HHH was characteristically late. Not unseemly late. Just late enough to make a lone, dramatic appearance. None was ever more startling than on the evening. He came on the stage, smiling at the audience, smiling at himself in a gown of cardinal red with an outsized black cloth cap, academic apparel which had been bestowed on him when he was given an honorary doctorate by Georgetown University.

Turkey Day 1966. Bright orange autumn warm and vibrant. That was the Turkey Day of triumph for Humphrey and there were thousands who came to be with him. The committee always said 50,000 or 70,000 but if they were exaggerating in some years they weren't that time. Hubert Horatio Humphrey, Vice President of the United States of America, on the steps of the Nobles county courthouse. The first vice president ever from the state of Minnesota. Everyone present shared in a sense of an ultimate achievement.

On May 27, 1911, South Dakota was only 21 years away from territorial status; the state was not 25 years old. The last U.S. battle with Indians, at Wounded Knee, had occurred only 20 years before.

The population of Wallace, where Hubert Horatio Humphrey Jr. was born, was not 200. The population of nearby Doland, to which the Humphey family moved, was not 500.

There were no places in the Nation which was any more accurately characterized as "remote."

It seems unlikely that Mother Humphrey would ever have said—on that wind-blown, parched latter-day frontier—that this was America, the land where any boy might one day grow up to be president of the United States. That prospect for the second son in an impoverished family of a self-trained veterinarian-pharmacist was so unlikely it would have been mocking to suggest it.

At Wallace today the Humphrey birthplace is gone. The people have set up a fence around the vacant corner lot on the main street and made a park. They set up some playground equipment and they planted two trees but one died. There is a hand-lettered sign which announces, "Birthplace of Hubert H. Humphrey." There are not many people through the course of any year who see that site.

Doland remembers Humphrey well.

[From the Union Advocate, Jan. 23, 1978]

MEMORIES OF A FRIEND

(By Gordon Spielman)

Like so many other Minnesotans who were privileged to know Hubert Horatio Humphrey over a great many years, I confess to being emotionally drained, and at a loss for words on what to write or how to write it.

Since this is a very personal experience, I'm dropping the pretentious editorial writers' "we." Hubert would have liked that, since if he hated anything it was pretense.

I don't intend to write about Hubert Humphrey's great deeds, or even his great heart, others have written so much, and so much better, these past days.

Yes, the world, the nation, and Minnesota will remember him as the champion of the underdog, of the workers, and the farmers, the minorities, the young, and the old, the hungry, the sick and poor, no matter what part of this globe they lived in.

But, I remember the warm, gentle person, whom I met some 30 years ago, soon after moving to Minnesota.

I remember the young people he attracted. A young college student, Fritz Mondale who came into the office of the southern Minnesota newspaper I then edited, to ask how he could raise $100 (a massive sum in those days) to open a Humphrey campaign headquarters in the district.

There were the county fairs which Hubert loved, mingling with the people playing a darts game (run by a veterans organization) with blankets as prizes. He was usually among the last to leave after visiting with as many people as he could.

I was among the fortunate to accompany the Senator on a number of campaign tours. Driving at breakneck speed between speaking engagements, H.H.H. gently suggested, "Slow down, we'll both live longer."

Yes, there were the disappointments as in Wisconsin and West Virginia in 1960, when Kennedy money sealed the primary campaigns.

But, when John F. Kennedy received the presidential nomination Hubert Humphrey went out to campaign for Kennedy helping him win that small margin that put him in the White House.

If Hubert Humphrey had a fault, it was his loyalty to his party and his friends.

Again, in 1972, when George McGovern won the nomination and much of the labor movement was ready to sit out the election, and some few unions even supported Richard Nixon, Humphrey, the loyalist, again hit the campaign trail to try to convince the country that there was a choice that had to be made.

There were the moments of triumph.

Among them was at the 1964 Democratic National Convention at Atlantic City.

I was privileged not only to be there, but along with Bob Gomsrud, then Minneapolis Central Labor Union president; John Curtis, then of the Hotel and Restaurant Employees; and a Rochester man whose name escapes me; we were chosen as Hubert's bodyguards. (We were the tallest in the Minnesota delegation.)

Hubert kidded about needing "security" even as the running mate to President Lyndon Johnson, after we were sworn in as temporary Atlantic City police officers.

Hubert Humphrey's loyalty as vice president to a president committed to an unpopular war cost him the presidency in 1968.

It was the only time Hubert lost, that I saw him disturbed by the loss. Yet, even then, he seemed more concerned about the future of America under a Richard Nixon than he did about a personal defeat.

He made no bitter statements (as did Nixon a few years earlier about not "have a Richard Nixon to kick around any more"), but gave of himself as a teacher until the people of Minnesota called upon him once again in 1970.

I remember an appearance of the Senator at the Minnesota AFL-CIO Convention in 1971. (Hubert never missed a convention if he could help it and would speak to the delegates by telephone if no other way.)

In those days the Union Advocate was printed and mailed on Wednesdays for Thursday delivery, and I asked the Senator's office for an advance copy of his speech that was to be given Wednesday morning near the close of the convention.

We even had copies of the paper with the Humphrey "speech" rushed to the convention hall for the delegates to take home with them.

Well, Hubert Humphrey seldom stuck to the text of a prepared speech in his life. This time, Hubert not only spoke off the cuff, but didn't even cover any of the topics of the advance text.

He must have seen the anguish on my face. Just before closing his rousing address, he picked up the prepared copy and rattled off a few choice paragraphs, and the Advocate editor was saved!

He never left a friend in a lurch.

In closing these rather disjointed, rambling memories, I'd like to note that there was another dividend in knowing Hubert, and that was in getting to know Muriel, who often accompanied him and gave him great strength at times of trial.

The world has learned these past days, what we in Minnesota have known for years about this unique couple. I'm grateful to have known them both.

[From the Winona Daily News, Jan. 16, 1978]

SOME HUMPHREY MEMORIES

(By William F. White)

SATURDAY.—I just put on my high boots and waded through the snow out to our flag pole to put the flag at half staff for Senator Humphrey. The snow was a lot deeper than I thought it was and several layers of old crust made the walking tricky. There were new deer tracks since last night's dusting of snow.

Last night I was just putting the finishing touches on a column when I learned on television that Hubert H. Humphrey had died. The column I was writing was about Camp David, where President Carter had taken him for his first visit just before Christmas, and the article recalled how my wife, Dare, had been snowed in there as a guest thirty years ago.

Senator Humphrey's death made the timing of the column inappropriate, and I'll save that one for later.

Senator Humphrey had the marvelous faculty of making everyone he came into contact with feel that he was interested in them and was personally their friend. His memory for people, faces and past situations was phenomenal.

Early in our marriage, our politics were like explosives—it's a wonder we made it through the thick and thin. My family had a long history of Republicanism. Dare's father, Jack Lamberton, for a long time was the Winona County Democratic Party chairman, early in the New Deal her mother was Minnesota's Democratic National Committeewoman, and Dare's mother's family was split down the middle between the two parties. It made for a lot of fireworks.

The first time Dare and I met Senator Humphrey was at Dare's mother's newly constructed house in Glen Mary. There was a gathering of about 30 avid Democrats and miserable me, who at about the same time was involved in my only dabbing into politis—I had worked like fury to get elected to the state Republican Party Convention to support the candidacy of General Eisenhower over Taft.

I had the feeling everybody there knew I was in the enemy camp—except Senator Humphrey, and there was born in me on the spot the respect I always have had for him since.

Dare's Aunt Henet Leicht Kaufmann knew Senator Humphrey before anybody in the family did. She was head of the WPA in 1940 in Minneapolis when Humphrey, while a graduate student at the University of Minnesota, took a WPA job directing a worker's education program in the Twin Cities which provided the beginnings of his support by labor. She was his boss.

Many, many years later, I guess while he was Vice President, he spotted Henet and Mel Kaufmann's daughter, Holly, a student at USC, in a street crowd in California and went up and greeted her. The last time he had seen her she had been in pigtails and he had no way of knowing she was in California. His memory was at least as good as Jim Farley's.

Our children, too, were lucky to have had personal contacts with this great man. When our son, Angus, was 12, and his sister, Dana, was 10, their Grandmother Lamberton took them on a trip to Washington where they joined up with 12-year-old cousin Peter Lamberton from New York. Senator Humphrey took the group to the Senate restaurant for lunch. Angus wanted an autograph but didn't have a piece of paper, so the good senator autographed his tennis shoe.

Some years before that Dare, her mother and I had been his luncheon guests, and we remember having Senate Bean Soup at his suggestion. That was during the McCarthy hearings, which we watched part of.

One of the most electric moments I ever experienced was on that occasion. We were getting on the Senate elevator. The last person to enter was Senator McCarthy, himself—all smiles. The coldness of the silence prickled. It was clear where all on the elevator stood with respect to him, and feelings were running high.

Our youngest daughter, Andrea, who went to a school near Washington, worked in Senator Humphrey's office one day a week for a time. All the girls were assigned tasks on the Hill as part of their political science program.

Shortly after Mr. Humphrey was elected Vice President, Dare and I saw him in the lobby of the Sheraton-Ri z Hotel in Minneapolis. I was about to speak to him when the Secret Service whooshed him into the elevator so fast I lost my chance. I mentioned this in a letter to him about something else, and he wrote back urging us to do anything necessary to get his attention if the situation should occur again.

When he learned that the Casual Observer had suffered a stroke and was incapacitated, he sent her a ticket to President Johnson's Inaugural Ball, knowing that it would brighten her spirits, and his condolences at the time of her death were immediate and sincere.

The last time we saw him was in the Rochester airport last April. We were on our way to San Francisco, and he had been in Rochester to see his wife who had had surgery there. He was all alone, carrying a valet pack and seemed glad to see us. He had recovered from the effects of his earlier chemo-therapy treatments and looked chipper and full of energy. It's a nice way to remember him.

[From the Pioneer, Jan. 17, 1978]

HUBERT H. HUMPHREY—"O-GE-MA NAH-GUAN-E-GWON-ABE"

(By Chief Leading Father)

The Red Lake Band of Chippewa Indians pays tribute to our friend and brother, Hubert H. Humphrey. The sorrow of his death shall be locked away in our hearts but the memory and image of his active support and genuine friendship will be carried with us always.

The Happy Warrior always took the time from his busy schedule to stop in to say hello whenever he was in northern Minnesota, or to call to inquire about how we felt about certain legislation, or to personally acknowledge our correspondence, or to call just to find out how we were getting along.

In our determined struggle for the better life, the Happy Warrior gave us reassurance by his aggressive support; a renewal of courage by his own example; a revival of trust in our government; and, most of all, an edible inspiration to carry on in our battle for our hopes and aspirations.

Our lives will be better because of our chief, "Nah-Guan-E-Gwan-Abe".

May he find everlasting peace in the Happy Hunting Grounds.

HUBERT GREETED TRIUMPH, DISASTER EQUALLY

(By Walter T. Ridder)

Washington—For me, American politics will never be quite the same without Hubert Horatio Humphrey. He and I met in St. Paul in 1943 and our paths were entwined for the rest of his life.

Hubert and I ranged the whole world together—from the boardwalk at Atlantic City, to the demilitarized zone between North and South Korea. We criss-crossed the United States as he campaigned successfully for the vice-presidency and four years later saw the elusive holy grail of the presidency dangle tantalizingly out of his reach.

We were together at moments of his greatest triumphs and moments of his bitterest defeats. Kipling wrote: "If you can meet with triumph and disaster and treat those two imposters just the same . . ."

Hubert had an enormous ability to remain just as he was—himself. The glory of victory would soon wear off and the bitter dregs of defeat would soon be swallowed. Hubert would revert to his normal ebullient self and maintain the even tenor of his ways, that is

if one could use the phrase "even tenor" in regard to him.

If a man's worth is to be judged, as someone once said, by how he lived the life and passion of his time, Hubert's worth was very, very high. There was no facet of contemporary life in which he did not show an interest. He became an expert on such diverse affairs, economics and oceanography.

His great fault was that he dove with equal fervor and enthusiasm into every subject and embraced the smallest item with as much energy as the largest. He had in a way no sense of priorities nor an ability to cull the essential from the non-esential. For that reason, he was a lousy administrator.

Hubert had the fastest and the most retentive mind of any mind with whom I've ever dealt. He seemed to know everything and to forget nothing. I've seen him leave my home at three in the morning, excusing his early departure by stating that he had to bone up on something before going to bed. Later the same day, I'd hear him give a speech on the Senate floor, and you'd think he had been studying the subject all his life.

Hubert's oratorical gifts became legendary early in his political career. No one who heard it will ever forget his civil rights speech at the Democratic convention in 1948. Some years later, I was with him at the University of Washington during a presidential campaign. He gave a prepared address for the television cameras. When the little red light went off, Hubert turned to the students and said. "Let me add a few more things." He then proceeded to ad lib what all who listened considered the finest political speech they'd ever heard.

His oratorical eloquence was based upon superb choice of words, a remarkable ability to fashion a striking metaphor and a sense of humor which kept the speech bounding along.

Unfortunately, he often became so fascinated by his own oratory that he forgot to end the speech. Hubert and John F. Kennedy once debated at a Midwest campus. Later, Kennedy told me: "Hubert opened and for the first 10 minutes I thought 'God, I can never beat this.' After the second 10 minutes, I said, 'This is going to be tough.' After the third 10 minutes, I thought 'Maybe there's hope,' and after the fourth 10 minutes, I knew I had him."

Intellectually, Hubert knew of his propensity to talk overly long. He repeatedly promised his wife and anyone else in sight that he was going to reform, but the reform never came. His emotions simply swept aside his intelligence.

The old saying goes that "They don't make 'em like that anymore." If they don't make 'em like Hubert anymore, it is for the simple reason that they never made 'em like him in the first place.

He was, in the truest sense of the word, "unique." He was a man of enormous talents, enormous zest for life and enormous compassion. He started as a brash, street-fighting mayor of Minneapolis and ended up as the most respected elder statesman in the United States Senate.

He achieved every goal for which he strove, save the presidency. He danced through life, laughing mostly, crying sometimes, but always seeming to make people feel a little happier for having him around.

I was always proud that he called me friend.

THEY MADE HHH AT HOME ON IRON RANGE

(By Robert J. O'Keefe)

He was a young Hubert Humphrey, less than two years a U.S. senator, with the entire world of politics waiting for him.

The future vice president was already well known nationally, but on this fall afternoon he wasn't in Washington. He was in Hibbing, practicing the art which was his trademark—speaking.

It was my first contact with Humphrey, the first exposure to his speaking ability and friendliness.

Humphrey's charm and ability to communicate were two of his most notable characteristics. He had additional features, including the ability to endure when others might have fallen from exhaustion.

In Hibbing, in the closing months of 1950, the 39-year-old senator addressed the chamber of commerce, which met once a week at noon and made a practice of adjourning by 1:30 p.m.

But for one day at least, the businessmen in the Iron Range community had their schedule changed. Humphrey, who had taken office as Minnesota's first Democratic-Farmer-Labor senator the preceding year, spoke until 2:30 and nobody left.

Not only was it my first contact with Humphrey, but the first with anybody more important than the mayor of Hibbing, and it seemed that the safest approach was honesty.

So after the meeting, I approached Humphrey, explained that I had never written an article about a U.S. senator before—had never seen one in fact—and asked if he could explain which parts of his lengthy talk were new—that he hadn't said before.

Patiently, the future presidential nominee said that the most "newsy" part of his speech was probably the support he expressed for President Truman's foreign policy.

Later in the day, we met again along Howard Street, the main street of Hibbing. It is easy to still picture Humphrey, wearing a dark overcoat as he window-shopped in the dusk.

That afternoon and early evening in Hibbing displayed much of Humphrey, his speaking ability, friendliness, the joy he got just from walking along the sidewalk mingling with Minnesotans.

He could talk. Oh, how he could talk, just as he did to the Chamber of Commerce.

Almost without exception, his speeches were long. He used to joke that his wife told him speeches didn't have to be eternal to be immortal, but it didn't stop him.

He was friendly. It could be said that of course he was friendly with a reporter, because he liked to have his name in the newspaper. But there was more to it. One of the last times I talked to him was last August, in a call to his home in Waverly. Unknown to me, he was in pain at the time, but he still took time to talk about a judicial appointments bill under consideration in Congress. He didn't have to be courteous and patient over the phone, under the circumstances, but he was.

Since the speech he gave in Hibbing more than 25 years ago, there have been countless other opportunities to watch Humphrey in action.

The 1958 state DFL convention in Rochester where Eugene McCarthy was endorsed for the U.S. Senate . . . the 1960 campaign when he, John Kennedy, Orville Freeman and many other Democratic figures drew a record crowd to the Hibbing Memorial Building . . . the 1964 Democratic national convention, when he was nominated for the vice presidency . . . a news conference Humphrey held with Lt. Gov. A. M. Keith after the tumultuous state DFL convention in 1966 . . . the 1968 national convention which nominated him for the presidency.

His news conference in Waverly in 1970 when he announced he would run for the Senate again . . . the call he made to reporters in the state Capitol from his hospital bed in New York City where he was undergoing cancer treatment in 1976.

A prime example of Humphrey's endurance came in late 1959 and early 1960 when he was running against Kennedy in the Wisconsin presidential primary and at the same time had to keep his fences mended in Minnesota because his Senate term was ending here. If he didn't wind up as the Democratic presidential nominee, he wanted to run for another Senate term here.

Here is a two-day stretch of activity in Duluth and across the bridge in Superior, Wis.

At noon he was at a DFL event in Duluth, which included a news conference. In the afternoon, he was in Superior addressing college students. At night, he was back in Duluth, singing Christmas carols with Steelworkers in their Union hall until almost midnight.

The next morning he was in Ely. During the day, he was campaigning along the Iron Range with Lt. Gov. Karl Rolvaag. And in the evening he left by plane for Wisconsin.

There is also an example of his persuasiveness and speaking ability which stands out.

It occurred in the 1970 campaign when Humphrey was opposed in the DFL primary by Earl Craig of Minneapolis. The Republican for the Senate was Rep. Clark MacGregor.

Craig was the candidate of many liberals in the DFL who apparently still remembered Humphrey's involvement with President Lyndon Johnson and the Vietnam War.

At an appearance in Roseville, it was noticeable that most of the applause as the candidates were introduced went to Craig, with MacGregor second and Humphrey last.

Even though many of the people in the audience favored Craig, the applause at the end of the meeting favored Humphrey, with Craig second and MacGregor last. Humphrey had spoken strongly, responded to questions quickly and with authority, and persuaded the audience that he had the ability to again be a U.S. Senator.

There is also a memory indicating loneliness for Humphrey.

It occurred between 1968 and 1970, the two-year period when Humphrey was a private citizen between his four years as vice president and his return to the Senate.

President Nixon had made a major statement about the Vietnam War. Humphrey was living in St. Paul while teaching at Macalester College, and it seemed worthwhile to get his reaction to Nixon's position.

* * * souvenirs he had picked up in his travels throughout the world as a Senator and vice president. It was clear that Humphrey yearned to be back in political office. In private life, he was lonely.

One of Humphrey's last major appearances in Minnesota came in September of this year at the state AFL–CIO convention.

He spoke of the cancer striking at him, and said that when things were hard to take, whether it was the illness he was battling or the political opponents he had battled in the past, he sought out his friends.

"When I'd get down and out . . . I'd go over to a labor hall or I'd go up on the Iron Range," he said. "I'd see my friends and I'd get all pumped up again."

There were no friends who could get him "pumped up" enough to defeat his latest and most devastating opponent.

THE PUBLIC MAN . . .

(By John Carman)

Hubert Horatio Humphrey was born with the gift of gab and a sense that an imperfect world could be made better.

His torrent of words dazzled his classmates in high school, intrigued his professors in college, enthralled luncheon groups in Minneapolis and infuriated his adversaries in the Senate.

His reputation preceded him to Congress. Soon after he arrived in Washington in 1949, Senate veterans reminded him of a unwritten rule requiring six months of silence from newcomers.

But Humphrey was too mercurial for restraint. He paused only to tell an aide to

brief him on protocol, because "I'm liable to start sliding down the bannisters."

His high-velocity speech, brimming energy and heartfelt liberal convictions stung the Senate establishment. Some questioned his intellect while acknowledging his facile mind and quick tongue.

At one point, Lyndon Johnson depicted Humphrey as "a man who prepares for a solid, thought-provoking speech by taking a deep breath."

The restlessness of Humphrey's early Senate days yielded to a system of values that enabled him to be comfortable with compromise and even painstaking deliberation. His career would have been less prodigious otherwise.

He became a gregarious, ambitious workhorse. Yet, whatever mellowing process he experienced as his responsibilities grew, he remained a man who shared his emotions with the public.

His joy in campaigning, however corny the circumstances, was undisguised. He relished public life and loved people. The human qualities, and human faults, seemed always at the surface.

He was notorious for falling behind campaign schedules, surrendering to a compulsion to linger too long and talk too much. The public saw the tears well in his eyes when he would withdraw, painfully, from losing efforts.

He made enemies, but rarely for life. Many Americans who were repelled by Humphrey's politics were captivated by his personality; even when they tried, they could not bring themselves to hate the man.

Humphrey's success with his Minnesota constituency was easily understood. A phenomenal number of ordinary voters felt a personal bond with Humphrey, believed he would recognize them, know their names and neighborhoods, share a thought.

Humphrey kept faith with the system. He was among the last of the political greats spawned by the New Deal era. His brand of liberalism was classic in U.S. politics. People were good. The system was fundamentally sound. When problems and inequities arose, the federal government existed to deal with them.

With his death, Humphrey leaves behind a gallery of political figures, past and present, who at one time or another looked to him for instruction or inspiration: Orville Freeman, Arthur Naftalin, Eugene McCarthy, Walter Mondale, Wendell Anderson and others.

Humphrey was quintessentially a public man. Curiously, though, even some who were close to him wondered about the inner personality.

"The trouble with Humphrey is he never takes time out," a former aide once wrote. "He's never alone with himself. If the guy would only sit down with himself and say, 'What am I all about?' But he's afraid to ask himself that question."

The answer to what Hubert Humphrey Jr. was all about, Humphrey himself suspected, lay largely with Hubert Humphrey Sr.

It was his father who drilled the work ethic into Humphrey, provided his son with a small-town upbringing and the easy conviviality of the family pharmacy and soda fountain, and schooled him ardently in traditional Democratic politics.

It was his father's experiences that introduced Humphrey to hard times. As the Depression swept into South Dakota, the elder Humphrey had to sell the family home and take to the road peddling a hog serum.

Depression years on the prairie left a mark. South Dakota dust storms and financial distress left Humphrey so discouraged that he felt compelled to return in 1937 to the more refreshing academic life in Minneapolis with his bride, Muriel.

He carried into his political career the lesson, learned firsthand from his family and neighbors, that calamity doesn't discriminate. It could strike even the innocent, those who have labored honestly for lifetimes to avert it.

A biographer later wrote of Humphrey, "Beneath his buoyant optimism is a small but hard seed of fatalism. Under his ebullient confidence runs a streak of insecurity, a fear that forces outside his control might, at any moment, darken his world, destroy his achievements and depress his spirit."

Humphrey's compassion for the dispossessed became a mainstay of his liberalism, but it was tempered by his small-town, middle-class boyhood of the pre-Depression years.

Humphrey always distrusted radical politics and exotic lifestyles. In some respects, he suffered for clinging so tenaciously to the mainstream.

Early in his political career, and again when he was a presidential candidate, Humphrey was attacked from the left. Twenty years before Humphrey faced the opposition of the antiwar movement, he'd been denounced as a "threat to the common people" by the left wing of the fledgling Democratic-Farmer-Labor Party in Minnesota.

Humphrey's background, too, accounted for the curiously tough rhetoric he used in times of pique or in the heat of campaigns. One can hear his father's admonitions in Humphrey's words:

"I hear people say, 'I don't like that kind of work.' Well, who the hell does? I used to swab out the toilets when I went to college and we were caretakers for a fourplex.

"I repaired the roof, fixed the plumbing, cleaned the sewers, shoveled the snow, and, besides that, worked six hours a day in a drugstore for 20 cents an hour.

"So, when I hear people say, 'I don't like that kind of work,' I say, 'Well, isn't that too bad.' "

If Humphrey could grouse freely about "purists" on the left, he never could bring himself to renounce one form of purity—political loyalty.

He treasured loyalty among his aides and supporters and remained loyal to his own political benefactor, Lyndon Johnson. His unwavering service to Johnson became Humphrey's greatest political liability.

Humphrey revealed the brusque Johnson's hold over him most tellingly in his autobiography, "The Education of a Public Man." He described an incident at the LBJ ranch in Texas, when Johnson was president and Humphrey was in the Senate.

"Early one morning . . . we climbed into his Lincoln," Humhprey wrote, "and Johnson, guns at the ready, drove slam bang and lickety-split across the countryside until we spotted one of the many deer that grazed on his ranch. He slammed on the brakes, and in his commanding voice said, 'Hubert, there's one for you. Get it!'

"I am a fairly good shot and have hunted duck and pheasant and quail fairly frequently throughout my life. It was an easy and natural thing on the South Dakota prairies and wetlands. But I never liked to shoot four-legged creatures, deer particularly.

"Nevertheless, I got slowly from the car, lifted my rifle, set myself for its kick, and brought down the deer. I turned to Johnson with a mixture of satisfaction at having done so well what he wanted and revulsion at having killed the deer.

" 'Well,' he said, 'Bobby Kennedy got two of them. You're not going to let Bobby get the best of you, are you?' Before there was time for an answer, the car sped on its way again, until we spotted another deer. As he slammed on the brakes once again, Johnson said, 'Now's your chance. Hit that one.' I hit it, and the deer fell."

The spectacle of the obedient senator killing animals at Johnson's behest surely is not how most Americans will want to remember Hubert Humphrey.

Most are likely to remember instead a South Dakota pharmacist who worked hard and made good, a politician who talked forcefully about civil rights before it was fashionable to do so, an intensely human figure who believed in his nation and came within a hair of leading it, a man who welcomed life with cheer and optimism.

This was the Humphrey who sought the presidency while the nation was at war abroad and enduring assassination and upheaval at home. As his staff members fretted about the acceptance speech Humphrey would need at the 1968 Democratic National Convention, he wrote a memo for them.

He told them to remember above all that "there is a basic reservoir of good will and decency in America; if we can harness this reservoir and make it work, we can yet control our own destiny."

Mr. ANDERSON. Mr. President, the outpouring of admiration and respect for Senator Humphrey after his death extended across the country. Many of my colleagues have added to this tribute the editorials from newspapers from their own States. The situation was no different here in Washington, D.C. I ask unanimous consent to have printed in the RECORD as part of this tribute the following articles from the national press following the death of Hubert Humphrey:

Lyle Denniston, "He Helped a Nation Find Its Conscience," Washington Star, January 14.

Jack Germond, "His Candor Was Secret of Popularity," Washington Star, January 15.

Senator George McGovern, "I Heard Hubert Singing Happily at 2 in the Morning," Washington Star, January 15.

"The Courage of Hubert Humphrey," Washington Star, January 15.

Editorial, "HHH, Farewell and Hail," Washington Star, January 15.

Adam Clymer, "Senate and the White House Lose a Leader They Had Rediscovered," New York Times, January 15.

Roy Reed, "Unflagging Despite Disappointments, Hubert Humphrey Championed Liberalism," New York Times, January 15.

Editorial, "The Happy Legacy of Hubert Humphrey," New York Times, January 15.

Haynes Johnson, "The Legacy He Leaves Us Is, Simply, How to Live," Washington Post, January 15.

Richard Cohen, "Hubert H. Humphrey: A Hero Is Honored," Washington Post, January 15.

Editorial, "Hubert Horatio Humphrey," Washington Post, January 15.

Franklin Wallick, "I remember Hubert," UAW Washington Report, January 16.

Hedrick Smith, "A Brief Kinship of Purpose," New York Times, January 16.

Meg Greenfield, "Humphrey: Some Personal Recollections," Washington Post, January 16.

Mary McGrory, "A Kind of Man Whose Memorial Even Nixon Could Attend," Washington Star, January 16.

Jack W. Germond and Jules Witcover, "What's Left to Say—A Loss Felt by Everyone," Washington Star, January 16.

Editorial, "An Uncommon Representative," Los Angeles Times, January 16.

James R. Dickenson, "An Unforgettable Day with Humphrey on Campaign," Washington Star, January 16.

Editorial, "A Political Legacy," Washington Star, January 17.

Saul Pett, "Humphrey always was an optimist," Associated Press, January 16.

David S. Broder, "The Man Who Wrought

Victory from Defeat," Washington Post, January 18.

Nick Thimmesch, "Hubert reunited nation," St. Paul Pioneer Press, January 19.

Max M. Kampelman, "Why They Tried to Get Humphrey to Wear Glasses," New York Times, January 18.

Isabelle Shelton, "Memories of Hubert Humphrey: A Spirit of Hope and the Anguish of Defeat," Washington Star, January 22.

George F. Will, "Humphrey Without Tears," Newsweek, January 23.

Mel Elfin, "That Was Hubert," Newsweek, January 23.

Ellen Goodman, "Humphrey's Happiness: A Good Antidote to Our Own," Washington Post, January 23.

Hugh Sidey, "Humphrey: What a Lucky Guy, What A Life," Time, January 23.

Senator George McGovern, "Final Tribute," New Times, February 6.

Peter R. Range, "The Public Dying of Hubert Humphrey," New Times, February 6.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Jan. 14, 1978]

HE HELPED A NATION FIND ITS CONSCIENCE

(By Lyle Denniston)

Hubert Horatio Humphrey helped a nation find its conscience, coaxed liberalism out of its gloom and taught politicians the blessings of joy.

Ultimately, there was only one ill that he would admit he could not conquer. It was cancer, and it claimed the "Happy Warrior" of American politics last night.

Told five months ago he was doomed by his illness, the Minnesota senator and former vice president had had to struggle to make his last days seem less than a surrender. For a man of innocent optimism, though it was not all a pose. "Deep down," he had said, "I believe in miracles."

He died a man of large triumphs, yet also a man of profound defeats. He always was convinced that he had profited from it all. His surest fame, though, came because he was as close to being a common man's hero as nearly two generations of politics could produce.

Bursting spectacularly—and noisily—upon the nation's stage nearly 30 years ago, Humphrey remained a central figure in that time but never got beyond the reach of the nation's working-class people.

When other politicians, including his old adversary Richard Nixon, pretended to have attracted away the "middle Americans," Humphrey held their most devoted allegiance.

Never a parlor liberal, he came out of the austerity of the Great Plains and the Great Depression a true believer in populism, the "little people," the work ethic, New Deal liberalism and the American Way. And, though he held all of those beliefs passionately, his true passion was the joy he spread evangelizing his beliefs.

Voluble to the point of exhaustion, and sometimes beyond, he nevertheless warmed, charmed and stirred literally legions of people who were, to him, the salt of the earth. His oratorical home was the union hall, but he would preach his gospel the same from any podium.

His style was clearly his own: He talked often in bromides, frequently in the plainest of homilies, usually in a cadence of parallel and repeated phrasing, regularly in a wide wash of ideas, always in a hurry, at length, and in a gush. He could listen generously—but not long. He never had a clue how to contain his enthusiasm or to limit his optimism.

So far as his listeners could tell, there was no cynicism in him and no pretense. He convinced them that he believed what he was saying as much or more than anyone there might have.

Humphrey never assumed that anyone in any of his audiences was capable of achieving less than he had. He could, and often did, bring himself to rapture and even to tears enthusing about the possibilities of Everyman.

For himself, the one consuming possibility was that he might be president of the United States. He was interested in that, acutely so, for nearly a quarter of a century. He almost made it. The repeated failures to do so seemed not to dilute his hope. His enthusiasm would never permit him to think it was beyond his grasp and, every four years, he would be back in the pursuit.

With the office always remaining elusive, Humphrey ultimately came to resent suggestions that he had been chasing after it. That, very likely, was his way of living with the disappointment of only having come close.

The final disappointment of his pursuit, though, was that over the years he had become the Establishment candidate—the supposed captive of the Democratic Right, of labor bosses, of the old Washington crowd. For a man who had started out as anything but an "insider," his conversion was widely assumed to be complete by the time he made his final run in 1976. A seemingly permanent fixture of Washington then, his last campaign role was to be drawn into a "stop Jimmy Carter" movement.

The liberals, who had adored him for 20 years after 1948, had almost totally abandoned his political cause. Even the blacks, who had always loved him and still did, found a need to take their loyalties elsewhere.

It was not, however, so much because Humphrey had changed. The political character of the nation had altered, and the fast-talking, hard-charging, glad-handing Hubert had become a caricature of the Democratic past.

His one chance as the Democrats' nominee—in 1968—was remembered mostly as a pathetic sideshow to the tragedy of Vietnam, and his faltering bid in 1972 had been mildly infected by the virus of Watergate. By 1976 he would be taken seriously only by the hardest core of his old blue-collar constituency.

He took his losses and his steady political decline in the best of humors. That was what the nation had come to expect of the effervescent senator for whom it still had the deepest affection; more importantly, perhaps, it was what Humphrey had always demanded of himself.

There was, of course, no way to smile away the feeling then that much of America seemed to think of him, not benignly, as the permanent candidate—always running, always available, nothing on his mind or agenda but another campaign.

But the muted last hurrahs would not be Hubert Humphrey's legacy.

He had long before created the more lasting impression that he had been a truly fresh and renewing spirit in American politics, had shown a more genuine compassion over the ills of the nation than just about anyone who had ever bested him in a campaign, and had given a good political name—and many solid gains—to the cause of advancing rights.

The articles of his public faith were simple: Politics did not have to be dull, and government need not be uncaring. He grew up in the political tradition of Will Rogers and the governmental tradition of Franklin D. Roosevelt. Never a clever humorist, he nonetheless was full of mirth and good cheer, and he could be funny in an unpracticed way. Always a New Dealer, he assumed that practically every social wrong could be righted—and the chances were that a government solution would be the best.

The objective of both his political and policy ambitions were people who needed at least a little help before they could help themselves—as Humphrey was sure they would, given the chance: minorities, the poor, the old, the sick, the jobless, the menially employed.

Before the Supreme Court taught most politicians how to act vigorously to protect civil rights, Humphrey was working that cause with boundless energy and getting results.

Before John Kennedy introduced Washington to the patrician liberalism of the New Frontier and before Lyndon Johnson rode into the Oval Office with the muscular liberalism of the Great Society, Humphrey had already educated the town to Midwestern progressivism.

He was a founder of organized liberalism in American politics, but never shared the dark moodiness and the grave sense of heavy adversity that kept so many other public liberals going on reform.

Liberalism finally outran Humphrey's ideas in only one field: foreign affairs and national defense. He never quite caught up to the notion that America was a meddler abroad and that it had sacrificed too many of its domestic values in the name of global security. He was, perhaps unwittingly, an apologist for Vietnam, and that probably made the entire difference in his strongest ambition. It surely cost him more than enough support in 1968 to put Richard Nixon in the White House.

In a way, that narrow defeat was part of an almost metaphysical phenomenon in Humphrey's life: Much of his career had been crossed by the life of Richard Nixon.

They began emerging together, their presidential ambitions reinforced each other, their policy preferences were seemingly always at total odds. The contrasts made them both seem more vividly themselves: Nixon, the complex, dour, defensive, cold, tough fighter for conservatism; Humphrey, the simple, open, naively hopeful, warm and eager pleader for liberalism.

Their dominant roles in the nation's public life began to recede at just about the same time. In the end, though, Hubert Humphrey was the one who would emerge the folk hero.

[From the Washington Star, Jan. 15, 1978]

HIS CANDOR WAS SECRET OF POPULARITY—THE PEOPLE'S POLITICIAN WASN'T COY ABOUT HOPES

(By Jack W. Germond)

CHICAGO.—It was snowing at O'Hare yesterday, and there was a long line of passengers waiting for the ministrations of George Washington Lane, a white-haired black man who makes what he calls "just a barely living" as a substitute shoeshine man. But George Washington Lane was too preoccupied with Hubert Humphrey to pay much attention to the growing queue.

"It's the only thing he wanted," he kept saying, snapping his cloth, slapping on the polish. "It's just too bad he never got it. It's just too bad."

That was the essence of Hubert Humphrey's remarkable hold on the American people—he was a politician who never made any secret about his questing for the presidency and for the voters' affection. There was never anything coy about Hubert Humphrey; he wore his heart on his sleeve.

It was, of course, a weakness as well as a strength. As Lyndon Johnson's vice president, Humphrey allowed his loyalty and ambition to draw him into enthusiastic support of a wrong-headed policy in Vietnam. And when he won his own nomination in

1968, he was too inclined to husband his support, too cautious about breaking free of Johnson because he feared it might cost him the one prize he really wanted.

Four years later that same ambition led him into a vain competition for the Democratic nomination, in which he first undermined Edmund Muskie, the other leading moderate in the field of candidates, and then did grievous harm to George McGovern in the final days of the California primary.

And four years after that, a still virulent ambition almost tempted him into a race in which he would have been certain to face harsh treatment from the press and from Jimmy Carter on the few blots on his records, illegal contributions and a campaign manager who had gone to jail.

But all of these things could be forgiven because Humphrey was never furtive about his lust for the presidency and this enthusiasm for the game—and, above all, the good opinion of his colleagues in politics and of the American people.

When he came back to the capital terminally ill a few months ago, he was that rare politician who could enjoy the lavish praise of his peers because he had always been unashamed about wanting their regard. If the cynics wondered about some of the speakers, Hubert Humphrey was not one to worry about the fine print.

As he had his shoes shined, Sol Stein of Long Island described this view of Humphrey: "I was talking to my children about him just the other night—they're married and gone, but they came to the house for supper—and I said he was too liberal for me, and my son, he's the smart one, said, 'He's not liberal enough for me.' But we could agree on one thing, we always knew where old Hubert stood on things. He didn't leave any doubt."

Equally as important, perhaps, was the high good humor with which Humphrey pursued his ambitions. Everyone who spent any time with him—friends, politicians, reporters—has a fund of memories of the quintessential Hubert Humphrey.

There are mind pictures of him as a vice presidential candidate in 1964, standing on the back of flatbed trucks at airport rallies and preaching the politics of optimism at stop after stop with no sign his enthusiasm could flag. There is a recollection of him baffled and hurt by the ugly anger of the anti-war protests against him in 1968. Couldn't they understand, he seemed to say, that Hubert Humphrey was a man of decency and good will and not deserving of that?

There is an image of him eating cheese and drinking beer and talking for three or four hours at a stretch about how Johnson had mistreated him as vice president—no longer so much in anger as in puzzlement.

There is the memory of the Humphrey of 1968 rushing into a kindergarten classroom to admire a project and then turning to the reporters to shout: "Isn't it keen?" And there is a picture of Humphrey, already ravaged by disease, at a party just a year ago whirling around the dance floor with Muriel and calling for more music.

Hubert Humphrey was always the natural man, words and all, and he was secure enough in his own person to let it all show, confident that when they balanced the books everything would come out all right. What other politician could ever have had the temerity to bound across a hotel room crowded with politicians and staff members to kiss his wife's image on the television screen?

Beyond that, however, Humphrey was a politician who enjoyed—even delighted in—what he was able to accomplish along the way. For one reporter, the single most vivid memory is a ride in a small helicopter one August Sunday afternoon over the lovely green country outside Minneapolis. The chopper would swoop down on one gathering after another—here a Knights of Columbus picnic on a church ground, there a covered-dish supper in a schoolyard—and at each stop, Humphrey would leap out to remind the folks of what he had done for them and to warm himself in their affection.

Flying along, he would point out every sight and his connection to it. "See that river?" he would say. "I got that river dredged a few years back, a great river." Then he would point again: "See that next little town up there? They had me as the speaker when they had the big celebration last year. I talked too long, but they know me there, you'll see."

That is what Hubert Humphrey gave the whole country, the feeling that Sol Stein and George Washington Lane and everyone else knew him well. There were never any secrets about what Hubert Humphrey wanted. He was the ultimate practitioner of open politics.

[From the Washington Star, Jan. 15, 1978]

"I HEARD HUBERT SINGING HAPPILY AT 2 IN THE MORNING"

(By George McGovern)

Once on a warm summer night I heard Hubert Humphrey, at the time my next-door neighbor, singing happily at 2 in the morning while he scrubbed the walls in his kitchen. On other occasions he burned up surplus energy by sweeping out his garage well after midnight.

The truth is he never seemed to be tired or depressed. He believed that work and politics and crowd reactions could cure any malady of mind or body.

I remember one time when he left his Washington home sick with the flu and running a fever of 102 degrees simply to be introduced for a wave to a waiting crowd he had been scheduled to address at a nearby hotel. Instead, he orated for 45 minutes to a wildly applauding crowd and proudly announced when it was all over that his fever was gone and he felt great.

I know of no one else who was quite like him. He was still exhorting us to be of good cheer when he died.

Hubert Humphrey's death has silenced the most vital and eloquent voice in American public life. He was the most creative lawmaker of his generation.

He was my friend and neighbor for 25 years. We loved him for his own inimitable love of life. He taught us not only how to live, but how to die.

We are comforted now in the knowledge that he crowded half a dozen careers into one all too brief a life.

Thirty years ago he called his fellow citizens to walk out in to the sunlight of human rights. He made Minnesota a model of progressive politics. His leadership energized the force of liberalism across the Midwest. He pioneered in the development of the Peace Corps, Food for Peace and the nuclear test ban. His name even now adorns a far-reaching proposal to put our nation's idle back to work.

Sometimes I have thought that Hubert Humphrey's life has been a testing ground for mine. Our lives have frequently moved along similar lines. We were both born and reared in Depression- and drought-scarred South Dakota. We both educated ourselves to become college professors. We both felt the lure of prairie politics and eventually emerged as the presidential nominee of our party—Hubert in 1968 and I in 1972.

Although we were divided over the war in Vietnam and became presidential rivals for a brief time, the bonds of personal friendship survived that division. It was not possible to hold a grudge against Hubert. He healed the wounds of political rivalry with humor and love.

During the decade 1956–1965 we were next-door neighbors in Chevy Chase, Md. Our children grew up together, our wives visited daily, and Hubert and I rode together to Capitol Hill.

As a freshman congressman in the 1950s, I was enriched by the warmth of this remarkable older neighbor and friend.

He helped us furnish our first Washington house with things he said his family no longer needed.

He knew the nickname of every child in the neighborhood. When he entered their sandlot baseball or touch football games, he did them the honor of trying to beat them, or at least making everybody laugh.

Always there was the joy of being alive, the love of his fellows and his passion for pubic service.

[From the Washington Star, Jan. 15, 1978]

THE COURAGE OF HUBERT HUMPHREY

"To those who say we are rushing this civil rights issue, I say we are 172 years late. The time has arrived in America for the Democratic Party to get out of the shadows of states' rights and to walk forthrightly into the bright sunshine of human rights."—Hubert H. Humphrey, Democratic National Convention, 1948.

"Roy Wilkins said there are two people who I would make saints, Father Hesburgh (president of Notre Dame University) and Hubert Humphrey. For a man in politics, Senator Humphrey was incredible. His vitality and inspiration carried over to a lot of people. (Vice President Walter Mondale is in many ways his ideological heir. He is a Humphrey protege. His example has been propagated by other people. His mark is there."—Clarence Mitchell, Washington representative, NAACP.

"I didn't make much of a speech, about ten minutes long. But I said a lot of things I wanted to say for a long time, things I've said again and again since then . . . While I was saying all that, my father was sitting right there in the hall. When so many people were trying to talk me out of making that speech, he was the one who urged me on. When I was a boy, he was the one who first taught me to judge people by what they are, not by what they looked like. He was the one who taught me never to pin labels on people. He was the one who read me the words of Lincoln and Jefferson and Wilson. And when it came to the final vote, how proud I was to hear my father's voice announce the eight votes of South Dakota in favor of my amendment. Our plank carried by 69 votes and it was a big, big day for us."—Sen. Humphrey, talking of 1948 in "A Man for All People," by Ralph G. Martin.

"I first met him when I was director of field services for the American Council on Race Relations in Chicago. I went up to Minneapolis for the council to get a feel for what was a virulent emergence of anti-semitism. There were few blacks there. I met Humphrey at a rally one evening. He asked what I was doing and said he wanted to talk to me about the status of the Negro. We started talking at 11 a.m. and talked until dinner. He was already concerned about the problem. When he became mayor (of Minneapolis) he asked me to be a consultant and we established the Mayor's Council on Human Relations and Fair Employment Practices. That was in 1945. He was way ahead of the rest of the country."—Howard Bennett, former Minneapolis Municipal Court Judge.

"I fought for the Civil Rights Bill for a long time and, very often, it was a lonely fight. Many times I'd be on the Senate floor talking about it, and there might be only one or two people supporting me. But I knew we were going to win that one, too . . . It wasn't a very popular cause in the beginning. A lot of people sneered at us . . . But a

few of us stayed with it, adjusted it, developed it, never let go and finally we felt we had built up enough strength so that we had a real chance to pass it."—Sen. Humphrey, in "A Man for All People."

"During the 1964 effort to get the Civil Rights Bill passed, some of us went to Lyndon B. Johnson to use his influence to get (Sen. Mike) Mansfield to let Humphrey be the floor leader. Humphrey was accessible. Mansfield was more aloof. One of the finest tributes that was paid to Humphrey came from (Sen.) Richard Russell of Georgia who was opposition leader. Russell said Humphrey was fair, 'We had a good fight.' Another evidence of the Southern position was that when we had technicalities that could have put us out of business, the Southerners cooperated with Humphrey on working them out. Their reaction showed the tremendous appeal he had to people. He had a basic sense of fairness and decency that got through to people. In the middle of that fight, his son, Mike, developed cancer. Joe Rauh and I rushed up to his office to congratulate each other. Humphrey was in tears and soon we were, too. Mike survived."—Clarence Mitchell.

"The day it passed was one of the landmarks of my life. But that was also the day—just before the final vote—when my wife called to tell me my son had cancer. I was torn between the pride of victory and the pain of tragedy."—Sen. Humphrey.

"The revolution of the realization on the part of whites of the rights of blacks to equality in this country is to a significant degree attributable to Humphrey's vigorous advocacy. There is absolutely no doubt in my mind about it. As a lieutenant for LBJ, he mobilized strategies for votes for the 1964 Civil Rights Act. When I was Department of Defense deputy assistant secretary for equal opportunity, Hubert Humphrey was a right arm to Jack Kennedy. Hubert Humphrey gave a tremendous lift to the movement by saying you couldn't give equality in pieces. He went right down the line: voting, jobs, housing, education, public accommodations. He had few white allies willing to be so publicly outspoken, particularly from the level of the politician who had to acquire voter support. He gave strength and courage to other politicians. They said, 'If this man from Minnesota can do this, then why aren't the senators and congressmen from key population centers of blacks willing to do the same?"—Judge Bennett.

[From the Washington Star, Jan. 15, 1978]

HHH, FAREWELL AND HAIL

A public figure is always more than battles won, or even causes gallantly championed and lost. To be, as well as to do, is part of the job.

Everybody knows what a doer Sen. Hubert Humphrey was. The mayor who translated liberal pieties about civil rights into civic realities for the blacks and whites of Minneapolis. The senator who fought with so much impact not only for civil rights but for Medicaid, welfare, the minimum wage, federal action to provide jobs and any number of other government answers to individual distress.

But Hubert Humphrey may well have given more to his country and the world by what he was than by what he did in the lifetime just ended. It was as an exemplar of American possibility and human possibility that he was unparalleled.

He was the poor boy from the Midwestern heartland making it by self-help and zest. He was the give-and-take of democracy, winning and losing and trying again.

Sen. Humphrey was a man whose record makes the word "politician" sound like more than an epithet. He was the system proving it could work; a viewpoint pressing its claims, hard, but within the rules, yielding when the national mood changed, coming back.

His skills in parliamentary maneuver as a senator were no less notable than his constant interaction with the citizens whose needs and wishes he set himself to fulfill. For all the laughing at his volubility, the Humphrey speechmaking was part of an intense dialogue with a constituency as persistently local as it was ultimately national. Besides talking, he was listening.

And then there was the private character of Hubert Humphrey. The resilient spirit conquering disappointments big enough to pull down many people into bitterness. The courage before pain and death.

He illuminated the vitality of our institutions. He showed us something about any individual's potentialities for transforming and enjoying the human condition. There is much to pay tribute to in the Capitol Rotunda where his body lies in state, and where echoes of his ebullience continue to reverberate.

[From the New York Times, Jan. 15, 1978]

SENATE AND THE WHITE HOUSE LOSE A LEADER THEY HAD REDISCOVERED

(By Adam Clymer)

WASHINGTON, Jan. 4.—The death of Hubert H. Humphrey, the strongest bridge between the politics of the late 1970's and the New Deal era and a tireless believer that Government could make life better, deprived both the Senate and the Carter Administration of a leader that neither had really expected to need.

This city and his associates of more than 30 years around the country were engaged today in remembering the essential Democrat who rebounded from one setback after another to exert leadership—on civil rights, on disarmament, on the issue of the day and the issue of the days and years ahead.

"No one could articulate the principles of the Democratic Party better than Hubert Humphrey," said the House Speaker, Thomas P. O'Neill Jr., of Massachusetts, who had found Mr. Humphrey an exceptional Senate ally in enthusiastic support for the Carter Administration.

In his 1976 campaign, President Carter scorned Mr. Humphrey as past his time. But the President later found the Minnesota Senator a valued adviser. A top White House aide, Hamilton Jordan, sketched the growing mutual respect of Mr. Carter and Mr. Humphrey and said simply, "We'll be the worse for not having him here."

KEY VOICE ON TREATIES

The Senate, which welcomed Mr. Humphrey back personally in 1971 but was reluctant to accord him formal leadership, now will lack the de facto leadership he had assumed on the Foreign Relations Committee, a force that would have been a key voice in upcoming debates on the Panama Canal and strategic arms treaties.

Indeed, two days before he died, he was conferring with aides about a new foreign aid bill—a concept he stuck with when other liberals gave up on it, saving economic aid in 1973. The bill is at the printers, with his name on the draft, but he will not be there to introduce it.

In Minnesota, Charles W. Bailey 2d, editor of The Minneapolis Tribune, reflected on Mr. Humphrey's political roots. In that state, because of the Scandinavian influence, he said, Government was always thought of "as a force for helping people, as a benign force," and not thought of in the Jeffersonian, or even the Yankee sense, as the better the less it did.

James Loeb, first executive director of Americans for Democratic Action, who now lives in Hanover, N.H., recalled how Mr. Humphrey's optimism about Government and a sense that liberals had to clear their ranks of Communists had commended him to Eastern liberals in 1947, when Mr. Humphrey, then the young Mayor of Minneapolis, was asked to share the podium with Eleanor Roosevelt at the founding dinner of A.D.A.

He always believed that Democratic Presidents were better than Republican Presidents, and he worked with John F. Kennedy after his election as he did with Mr. Carter after the final disappointment of 1976, the last time he saw another Democrat win the nomination he wanted.

But his view was not totally partisan. President Ford got him to help on foreign policy issues even when they quarreled over domestic policy.

To get in a position to do that, though, he had to regain influence in the Senate, which he left for six years. In 1971, he had to start again near the bottom, perhaps because he was distrusted as a result of the Vietnam war and perhaps because Mike Mansfield, as majority leader, sought energetically to bring younger members along and not make them wait as he and Mr. Humphrey had had to do. But before long, he mattered again.

But for all his ties to the liberal community, ties that strained and broke when he backed the American involvement in the Vietnam war, Mr. Humphrey was always a party man, careful of working with the organization.

LIBERAL BACKED BY MACHINES

He was a liberal hero for the civil rights plank at the 1948 Democratic convention, but he told Ed Flynn, the Democratic boss from the Bronx, what he planned to do and got his support and that of other Democratic machines.

He overcame the distrust of the Senate's Southerners after he arrived in 1949, helped by the friendship of Russell B. Long, another freshman who won readier acceptance.

The declining Senate Foreign Relations Committee will miss his leadership on its particular issues, but the Senate as a whole will be without an elder with his range of concerns. As Senator Robert C. Byrd, who inflicted Mr. Humphrey's last political defeat when he won the majority leadership a year ago, said today, "The minorities, the elderly, the poor and the sick have lost their strongest voice."

[From the New York Times, Jan. 15, 1978]

UNFLAGGING DESPITE DISAPPOINTMENTS, HUBERT HUMPHREY CHAMPIONED LIBERALISM

(By Roy Reed)

"I'm a public man," Hubert Humphrey said once. That was a rare example of understatement in the record of this voluble, exuberant man.

He was a relentless pursuer of the Presidency for nearly two decades. He was one of the most active and visible Vice Presidents in the nation's history. He was a master legislator in the United States Senate during the turbulent aftermath of World War II and of Franklin D. Roosevelt's New Deal.

Above all, perhaps, he was a teacher and an advocate who regarded the entire nation as his classroom. He was involved in almost every postwar achievement of American liberalism, from Medicare to arms control, as a political campaigner, as a legislative tactician and as an incessant talker and persuader wherever he could get an audience of one or more.

He was a Democrat blended from the agrarian populists and small-town bourgeoisie of the Middle West. He became known around the world as a leader among what other nations call the democratic socialists. He was politically in sympathy with such leaders as Willy Brandt of West Germany, Harold Wilson of Britain and the various socialists who came to power after World

War II in most of the Western European nations.

Mr. Humphrey occasionally found himself supporting authoritarian regimes, most notably that of President Nguyen Van Thieu of South Vietnam during the 1960's.

He was an early and ardent advocate of the policy of American intervention in Vietnam. Along with his chief, President Lyndon B. Johnson, he argued that Communism had to be stopped in Vietnam to keep the menace from spreading.

Then, as the Democratic nominee for President in 1968, when Vietnam had become an albatross around the party's neck, Mr. Humphrey noticeably modified his position and began to call for more efforts to settle the war politically rather than militarily.

Some saw the shift as a compromise between loyalty to Mr. Johnson and the political requirements of the campaign. His campaign was marked by savage heckling, and in the end he narrowly lost the election to Richard M. Nixon, a man who was less easily identified with the conduct of the war.

In spite of deviations, the clear theme of Mr. Humphrey's advocacy during the middle years of the 20th century was liberalism. He sided with the poor against the rich, the small against the large, the family drugstore against the pharmaceutical corporation.

"I know from personal experience what it means to be the victim of depression, distress and natural disaster," he said years later as he recalled the great drought and economic depression that struck South Dakota while he was growing up. "I also know that it is precisely these Americans who lack the means, the power or the influence to fully control their own destiny who most need and yet lack a voice in the conduct of their government."

Mr. Humphrey was often called a man of the Senate. He was one of the giants of that institution during this century, and yet he was restless there. From the mid-1950s until 1976, he had his eye almost continuously on the Presidency.

Having made it as high as Vice President, he once, in 1968, came so close to being President that his friends feared the very narrowness of his defeat would break his heart.

His spirit held, though, and after nurturing it for a year in the cities and plains of Minnesota he went back to the Senate. He made another try for the Presidency in 1972, but it was an abortive effort that died before the partys nominating convention was held.

After that he re-entered the Senate's life in earnest. Some said he was almost as vigorous in those later years as he was when he first crossed the nation's vision in the aftermath of World War II.

He teetered on the brink of a Presidential declaration in the spring of 1976 but stuck by his resolve to stay out of the primaries. There was consolation in Jimmy Carter's selection of his protege, Walter F. Mondale, a fellow Minnesota Democrat, as the Vice Presidential nominee. Mr. Humphrey, basking in acclaim, nominated his younger colleague at the Democratic National Convention in July.

Two months later, after he learned that he had cancer and might have to undergo radical surgery, he said he had no regrets about his decision not to challenge Mr. Carter in the primaries, "especially now—imagine what the situation would have been now.

"It would have been nothing short of a disaster for the party. You'd literally have to step aside. It would have been a very difficult decision."

That October, doctors at the Sloan-Kettering Cancer Institute in New York City removed his bladder. It was his hope that, after a month or so to convalesce, he would have had two months left to campaign for Senate majority leader in the 95th Congress.

In January, only hours before a "showdown" vote for that post, Senator Humphrey withdrew, allowing Senator Robert C. Byrd of West Virginia to take the job uncontested. A top Democratic colleague said later that Mr. Humphrey would have been lucky to have received as many as a dozen votes.

But Senate Democrats, eager to show their special affection for the man from Minnesota, gave him a new title and a pay raise. Mr. Humphrey became Deputy President Pro Tem of the Senate, with a $7,500 salary boost and a chauffeur for his black Fleetwood Cadillac.

He was cleansed of political ambitions, he said, and he rededicated himself to an exhausting regimen of Senate work. To a reporter he said, "What I want more in life than anything else now is respect, which I think I'm beginning to earn."

"I don't want to be President. I don't want to be Vice President. I don't want to be Secretary of State or Majority Leader," said the Senator. "But what I do want is to be known in the history books as an effective man in government."

ADVISING THE PRESIDENT

Despite increasingly visible signs of physical weariness, Mr. Humphrey was Mr. Carter's breakfast guest each Tuesday morning with other Congressional leaders, for the express purpose of giving the President advice on matters ranging from foreign and domestic issues to more personal strategies for winning friends and gaining influence in the Senate.

He wrote 42 bills and coauthored 135 more, according to an aide. He introduced 11 resolutions and made 18 amendments on matters ranging from the Small Business Administration to solar energy and including such things as child nutrition, rural housing and a proposed national domestic development bank for the cities.

And, according to those who watched the ailing Senator, ravaged by pain and disease, there was always the irrepressible enthusiasm for life, a certain fluorescent style and personality that made him sparkle with younger upcoming party leaders.

He walked with a limp and his cheeks were drained of color, but, they said, his eyes twinkled with excitement when the subject of politics arose.

In August 1977, Mr. Humphrey was hospitalized in Minneapolis for removal of a bowel obstruction. In the course of the three-and-a-half-hour procedure, a more serious discovery was made.

Dr. John Najarian, leading a team of surgeons, determined that a tumor on Mr. Humphrey's pelvic bone was malignant. Dr. Najarian said surgery was not feasible for the cancer, which he described as "terminal," and he prescribed a treatment of chemotherapy.

Hubert Horatio Humphrey Jr. was born on May 27, 1911, in a room above the drugstore that his father, Hubert Horatio Humphrey Sr., ran in Wallace, S.D. His father's family had been farmers. His mother, Christine Sannes Humphrey, was the daughter of a Norwegian seafarer who had migrated with his family to a farm in the American Middle West.

Young Humphrey grew up in Doland, S.D., where his father established another drugstore when the boy was 4 years old. He graduated from Doland High School in 1929 as class valedictorian. For two years he attended the University of Minnesota, until a shortage of money forced him to return to work in the family business. He received a degree from the Denver College of Pharmacy in 1933.

The Humphreys by then had moved to another drugstore in another South Dakota town, Huron. There Hubert Humphrey met and married Muriel Buck in 1936. With his wife working to help support them, he returned to the University of Minnesota and took a degree in political science in 1939. Then they went to Baton Rouge and he earned a master's degree in political science from Louisiana State University in 1940.

As the family grew—the couple eventually had three sons and a daughter—Mr. Humphrey held a succession of jobs in Minnesota. He taught political science at the University of Minnesota. He was head of the Minnesota branch of the Federal War Production Administration. He was assistant regional director of the War Manpower Progress Commission in 1943, then taught in the Army Air Force training program at Macalester College in 1943 and 1944. He was Franklin D. Roosevelt's Minnesota campaign manager in the Presidential election of 1944.

Mr. Humphrey had entered elective politics in 1943 with an unsuccessful race for Mayor of Minneapolis. After that defeat, he helped put together the Democratic-Farmer-Labor Party that was to become a major influence in that state's politics for many years. Running on its ticket in 1945, he was elected Mayor and soon became nationally known for his crackdown on crime and for initiating the nation's first municipal fair employment practices commission for racial equality in jobs.

He entered the United States Senate in 1949 after defeating a Republican incumbent, Joseph Ball. During that campaign, in 1948, he went with the Minnesota delegation to the Democratic National Convention in Philadelphia and achieved his first real prominence by leading a successful fight for a strong civil rights plank in the party platform.

The platform committee had produced a minority report backing President Harry S. Truman's civil rights program. The 37-year-old Mayor of Minneapolis and his liberal friends had led the fight for that report, and they had angered the Southern Democrats.

In successfully urging the adoption of the minority report by the convention, Mr. Humphrey made one of the memorable speeches of his career and won instant fame as an orator and as a new star in the Democratic Party.

"There are those who say to you, 'We are rushing this issue of civil rights,'" he told the convention. "I say we are 172 years late. There are those who say, 'This issue of civil rights is an infringement on states' rights.' The time has arrived for the Democratic Party to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights. People—human beings—this is the issue of the 20th century."

AFFRONT TO INNER CIRCLE

In the Senate, Mr. Humphrey gained the respect of his colleagues after an initial period of discomfort on both sides. One of his first actions was an affront to the inner circle that controlled the Senate. He made a speech demanding that the Senate save money by abolishing the Senate-House Committee on Reduction of Nonessential Federal Expenditures.

That committee happened to be a pet project of Senator Harry F. Byrd, the Virginia patriarch who was one of the oldest members of the Senate's inner circle. The newcomer was immediately cut off from effective contact with the men who ran the institution.

He surmounted that obstacle in time and by the end of the 1950's he had become part of the Establishment himself. He achieved the zenith of his power in the Senate during the early 60's, becoming assistant majority leader, or whip, in a shift of leadership after the 1960 Presidential election. His old friend, Lyndon B. Johnson of Texas, became Vice President under another old friend and rival, President John F. Kennedy. Mr. Johnson's former job as majority leader of the Senate went to Senator Mike Mans-

field of Montana, and Mr. Humphrey filled Mr. Mansfield's former post of assistant.

Many of the programs that Mr. Humphrey had espoused since the 1940's became law during the years when he wielded power in the Senate.

Mr. Humphrey first began to be mentioned as a possible candidate for President or Vice President in 1952 after he had emerged as a Senate champion of civil rights and social welfare. He made a serious attempt to get his party's Vice Presidential nomination in 1956, but lost to a fellow liberal in the Senate, Estes Kefauver of Tennessee.

CONTENDER IN 1960

He first became a serious contender for the Presidential nomination in 1960. That year, however, was fated to be John F. Kennedy's.

Mr. Humphrey turned his ample energies to the Senate once again in the early 1960's. As assistant majority leader, he emerged as a shaker and mover in the style of his mentor, Lyndon Johnson. He curbed his ideology where he thought necessary. He wrought compromises.

Probably his greatest work as a legislator came in 1964. Working behind the scenes as floor manager, he shepherded to passage the most far-reaching civil rights bill of the decade. It banned racial discrimination in public accommodations and in state and local government facilities, established an equal employment opportunities commission, withheld Federal funds from discriminatory programs and authorized the Attorney General to intervene to enforce equal protection of the laws.

Debate on the bill went on for months. For the first time, the liberals of both parties were carefully organized. It was Mr. Humphrey, remembering the defeats of past liberal efforts and determined not to see them repeated, who was most responsible for that organization.

Mr. Johnson was President by then, having succeeded the assassinated Mr. Kennedy the previous fall. Many in Washington believed that Mr. Johnson was testing Mr. Humphrey for the Vice Presidency by entrusting the vital civil rights bill to his floor leadership.

In an interview in 1974, Mr. Humphrey recalled a conversation with Mr. Johnson in the White House at the beginning of the civil rights bill debate.

"He said, 'I just want you to know that this is going to be your test, your chance. But I predict now that you are going to lose.' And I said, 'well, we'll see.'"

TAPPED FOR THE TICKET

The bill passed in June. Mr. Humphrey's tenacity and his long friendship with Mr. Johnson were rewarded in August, when the President selected him to be his running mate. In November, the Johnson-Humphrey ticket captured 61 per cent of the vote to defeat the Republican ticket of Barry Goldwater and William E. Miller.

Mr. Humphrey was a busy Vice President. In addition to presiding over the Senate (indifferently, some said; he preferred talking to people in his office), he served as a member of the Cabinet and the National Security Council and as chairman of the National Aeronautics and Space Council, the Peace Corps Advisory Council, the President's Council on Youth Opportunity, the National Council on Marine Resources and Engineering Development, the President's Council on Physical Fitness and Sports, the National Council on Indian Opportunities and the President's Council on Recreation and Natural Beauty.

Vice President Humphrey was on a diplomatic trip to Mexico City for President Johnson in March 1968 when Mr. Johnson announced that he would not seek re-election. That gave Mr. Humphrey another and unexpected chance for the Presidency. He confessed later that year that he had never expected to seek the nomination again because he has assumed that Mr. Johnson and he would serve a normal two terms and retire from public life together in 1972.

Mr. Humphrey had to scramble to get the nomination in 1968. Two other strong candidates, Senators Robert F. Kennedy of New York and Eugene J. McCarthy of Minnesota, were already running hard on an anti-Johnson, anti-Vietnam-war platform. While Mr. Humphrey concentrated on gathering delegate votes from the party establishment, his two opponents dominated the headlines with a series of primary election contests.

The race was suddenly and dramatically altered in June with the assassination of Senator Kennedy. Mr. Humphrey picked up some of the delegates who would have voted for Mr. Kennedy.

He won the nomination at the convention in Chicago, but the violence between police and antiwar demonstrators—much of it on the part of the police—damaged Mr. Humphrey's candidacy before it really got under way. He already carried the burden of being closely identified with Mr. Johnson's unpopular war policy.

Mr. Humphrey edged away from the Johnson policy bit by bit, and finally on Sept. 30 at Salt Lake City he put distance between them by pledging a cease-fire, a conditional halt to the bombing of North Vietnam and a negotiated troop withdrawal.

"The policies of tomorrow need not be limited by the policies of yesterday," he said, in a prepared speech that was broadcast on nationwide television.

The polls showed Mr. Humphrey gaining steadily throughout the fall. But he did not gain enough to win. In spite of strong support from most of organized labor, from middle-aged liberals and even from the new moderate forces in the South who no longer disagreed with his civil rights views, Mr. Humphrey lost the election to Richard M. Nixon by 499,704 votes.

Some observers thought that if any one factor cost Mr. Humphrey the election it probably was the loyalty to President Johnson that prevented him from reasserting his own liberal identity early in the campaign. On the other hand, Mr. Humphrey was just as much a product as Mr. Johnson of the cold-war mentality that led to American involvement in Vietnam. Mr. Humphrey made perhaps hundreds of speeches attempting to justify the expansion of United States involvement. There was no reason to think that he did not actually believe in the cause.

When he was interviewed in the spring of 1974, Mr. Humphrey said that the delicate search for peace that restricted his freedom of action in 1968 was to blame for a major part of his election problem.

He told of a conversation with President Johnson when he was getting ready to make his Salt Lake City speech at the end of September. The speech had been scheduled three weeks earlier, he said, but Mr. Johnson persuaded him to delay it until he could get the North Vietnamese to the peace conference in Paris.

"IT'S BROKEN MY HEART"

He said that Mr. Johnson told him, "I've given up the Presidency, given up politics, to search for peace. No one worries more about this war than I do. It's broken my heart—in a way, broken my back. But I think I can get these people at the conference table if you will help."

Mr. Humphrey said that some of his advisers continued to urge him to break openly with the President in spite of that plea, but he refused.

"I tell you," he said, "I did what was right And I don't give a damn if I lost the election. I know that I would have been a scoundrel. I never would have felt good in my own heart had I broken with him."

The change in his attitude that began during the 1968 election year continued after he and the Johnson Administration left office. Looking back on the war in 1974, he said, "Like many things in our national life, we miscalculated. We overestimated our ability to control events, which is one of the great dangers of a great power. Power tends to be a substitute for judgment and wisdom."

The United States began to see itself "in almost godlike proportions" after World War II, he said.

"And the President of the United States obviously found himself affected by that," he said.

But he was still not certain that United States participation in the war was a mistake.

"What would it have been like had we not gone there?" he said. "As I look at it, our relations with China today are in part due to the fact that we were there. I think the Chinese undoubtedly would have overwhelmed that whole area with their ideological advances."

When the interviewer pointed out that Mr. Humphrey had consistently used the pronoun "we" in referring to Vietnam policy, he said, "I was a part of it. I told my most severe A.D.A. [Americans for Democratic Action] critics that I may have been stupid but I'm not a hypocrite."

Perhaps the main quality that separated Mr. Humphrey from some younger liberals of the 1960's and 70's was his lifelong distrust of Communism.

He was a founder of the Americans for Democratic Action in 1947. Its constitution barred membership by Fascists and Communists.

MOVE FOR AGREEMENTS

One of his hardest struggles in Minnesota politics was against Communists, who infiltrated the Democratic-Farmer-Labor party. He led a fight to throw them out in 1948.

The bitterness from that fight stayed with him. Through the early 1950's, during the time when Senator Joseph R. McCarthy of Wisconsin came to symbolize for some the excesses of anti-Communism, Mr. Humphrey was uncharacteristically quiet. He spoke against Mr. McCarthy occasionally on radio and television, but not in the Senate.

He sponsored a bill to outlaw the Communist Party in 1954. Many of his liberal friends accused him of being panicked by the McCarthy hysteria. In spite of his anti-Communist record, conservatives in Minnesota had tried to paint him as pro-Communist.

Winthrop Griffith, the author of "Humphrey: A Candid Biography," quotes an unnamed friend of Mr. Humphrey as saying after passage of the anti-Communist bill, "That was the only time I was ever ashamed of Hubert." Mr. Humphrey later referred to the legislation as "not one of the things I'm proudest of."

In spite of his distrust of Communists, Mr. Humphrey eventually became a leader in the move for agreements with the Communist nations on disarmament and the limiting of nuclear testing. As chairman of the Senate Disarmament subcommittee, he led the fight to suspend nuclear testing in 1958.

The same year, he made a famous trip to Moscow and spent eight consecutive hours talking with Nikita S. Krushchev. Many people were fascinated by this marathon by two of the world's most famous nonstop talkers.

Mr. Humphrey was urging contacts with Communist China years before Richard M. Nixon, as President, finally accomplished them. In 1959, he advocated a relaxation of the State Department's passport and visa policies to permit exchanges of medical formation.

But he never let his listeners forget that most of the world's Communist governments were totalitarian and that the United States Government was engaged in a grave competition with them.

"Make no mistake about it," he said after his long talk with Mr. Khrushchev, "they have declared war on us. Khrushchev may call it competition, but it is plain war." He was referring to economic war in that statement.

Of all his foibles, perhaps his best known was his weakness for talk. His speeches were notorious for their length. So were his conversations.

REPUTATION FOR GABBINESS

The penchant for unlimited talk earned him a reputation early for gabbiness. That, in turn, became translated eventually into a suspicion in some quarters that he was all talk and no substance. The suspicion was not well founded, but some thought that it might have cost him votes in his campaigns for the Presidency.

Mr. Humphrey was not especially introspective. When he said he was a public man, he meant it quite literally. Virtually all his thoughts seemed to be open to anyone who would listen.

He apparently never became comfortable with the idea of turning those thoughts inward—not, at least, until after he had made his 1972 try for the Presidency and had been stricken with a serious illness for the first time.

In 1966, he had had to have several benign, pinhead-sized tumors removed from his bladder. The tumors recurred and in 1973 his physician noted that one had penetrated the bladder's lining. It had "signs of malignancy," Mr. Humphrey told reporters, and the physicians treated it with heat X-ray.

The treatment caused great pain and threw his system out of balance. He told one old friend during the winter of 1974 that he had wished for death at one point during the aftermath of the treatment.

He soon recovered his familiar jocularity, however, and by the spring of 1974 he told a reporter, "I know that some people have said that, 'He is terminal,' and I know that some people have said, 'Well, he's had it,' and all of that sort of business. But I want you to know that if I have had it. I sure have had a nice little period to recover before they take me into the promised land."

He said he had become "quite philosophical" about the possibility that he might not be cured.

"What can be done by medicine, surgery or radiation, I'll have it," he said. "And if it can't be, then, I'll have had it, you know. And that's it. And I really don't worry about it, I say in my mind, 'To hell with it. I have something else to do.' "

Later tests that spring showed that the treatment had been successful, although the signs of malignancy later reappeared.

MILK-LOBBY CONTRIBUTIONS

Mr. Humphrey had other problems in 1974. One of the disclosures of the Watergate scandal was that President Nixon had received large, illegal campaign contributions in 1972 from dairy co-operatives, particularly from the Associated Milk Producers Inc. of San Antonio, Tex.

As part of the fallout from that investigation, it was revealed that Mr. Humphrey had received contributions from the same milk lobby over the years and that some of the contributions, especially some made during his 1968 Presidential race, were made from corporate funds and therefore were illegal. He freely acknowledged that he had received milk contributions for years, but said he had known of no illegal donations.

Mr. Humphrey's campaign manager in 1970 and 1972, Jack L. Chestnut, was sentenced in June 1975 to four months in prison and was fined $5,000 for accepting a $12,000 illegal campaign contribution from Associated Milk Producers and arranging to pay a campaign bill from a New York advertising firm with the money. The previous August, Norman Sherman, Mr. Humphrey's one-time press secretary, was fined $500 after pleading guilty to having improperly used funds from the cooperatives to buy campaign mailing lists.

SUIT BROUGHT BY MAHEU

Another troublesome allegation was made during a $17.3-million libel suit against the corporate interests of Howard R. Hughes. The suit was brought by a former employee, Robert A. Maheu, who said that he delivered a secret $50,000 cash contribution to Mr. Humphrey from Mr. Hughes during the 1968 campaign.

Mr. Humphrey said he might have received a contribution from the Hughes interests, but he denied that he had received it personally and in an attaché case, as Mr. Maheu said.

"I've been in public life since 1945 and a lot of people think I am foolish and screwed up and dumb," he told his interviewer in 1974. "But no one has ever accused me of being this kind of fellow—namely, running off with the funds. As a matter of fact, we were so damned broke in 1968 that if we would have gotten that kind of money from him, we would have said three Hail Marys and gone to mass."

Mr. Humphrey's interests in the Senate after his last Presidential bid in 1972 continued to be varied and weighted toward helping the poor.

One of his major legislative efforts in 1977 was the sponsoring of a bill, with Representative August F. Hawkins of California, that would have promised a job, at Government expense if necessary, to all Americans who wanted to work and that would have set a national goal of reducing the national adult unemployment rate to 3 percent within four years.

RETURN TO MINNESOTA

Mr. Humphrey and his wife, Muriel—a shy, soft-spoken woman who seemed to command intense devotion from him—returned to Minnesota after the 1968 election. He taught political science at the University of Minnesota and at Macalester College for a year, then won re-election to the Senate in 1970.

His return to university life seemed partly to restore his tattered relations with young people. One of the worst of the personal agonies for him during the Vietnam War was enduring the taunts and insults of thousands of young demonstrators as he toured the nation defending the war policy of the Johnson Administration. It tormented him to know that the young he so loved had turned against him. By 1970, there was evidence that he had regained much of the confidence of the young.

Back in the Senate, he resumed his old custom of leaving the Senate floor several times a week to speak to visiting youngsters and students.

He would always stress the need for education. Then he would tell them, "You're needed. Take personal pride in something you own—yourselves. You've had the experience of a new world. Share it."

Mr. Humphrey cried often in public, which some said was a sign of weakness and others said was a measure of his humanity. He cried, the day he bowed out of the contest for the Presidential nomination in 1972, as he read his statement in Miami Beach before the television camera:

"This has been a good fight," he said. "We've waged a good battle. We've done it within the rules of the game, and we bow out now with the spirit of friendship and of understanding, as a good Democrat, but above all, hopefully, as a good citizen and a good family."

[From the New York Times, Jan. 15, 1978]

THE HAPPY LEGACY OF HUBERT HUMPHREY

Hubert Humphrey and death seemed intrinsically incompatible. Few human beings have ever been in love with life or enjoyed life's challenge and variety more than he did. He gave unstintingly of his heart, mind, imagination and physical energy, and he left America a better country for his efforts.

Hubert Humphrey was pre-eminently a man of the United States Senate. He was an orator, a legislator, a conciliator. He was not an administrator or even an effective politician when his own larger ambitions were at stake; he too often put loyalty to others above single-minded self-interest and kindliness to subordinates ahead of the dictates of efficiency. Thus, he was not always successful, but he was always much loved.

Like other giants in the history of the Senate—Robert Taft, Robert LaFollette, Henry Clay, Daniel Webster, John Calhoun—Hubert Humphrey hungered for the Presidency and sought it repeatedly and in vain. He came close in 1968 when, after having served as Vice President under Lyndon Johnson, he became the Presidential nominee of his party. But the antagonisms stirred by the Vietnam War were too great for him to overcome. That he came so close to doing so—despite vilification from both ends of the political spectrum—was a tribute to Mr. Humphrey's courage and powers of persuasion.

It was deeply ironic that his association with President Johnson and the Vietnam debacle denied him the White House because so much of Mr. Humphrey's political life was devoted to the cause of peace. He played a large part in the legislation that led to the Peace Corps, the Arms Control and Disarmament Agency, the partial Nuclear Test Ban Treaty of 1963, and the Food for Peace program. When he returned to the Senate in 1971, he became the strong man of the Foreign Relations Committee where his abiding interests were strengthening economic assistance programs for the poorer countries and trying to avert famine and malnutrition. The fate of Israel was another cause that engaged his deep interest; he was first elected to the Senate in the same year that Israel achieved independence, was a frequent visitor to the young country and came to feel a profound affinity for its people.

Hubert Humphrey burst upon the national political scene at the 1948 Democratic National Convention when he delivered the principal speech for a strong civil rights plank. "There are those who say to you, 'We are rushing this issue of civil rights. I say we are 172 years late.' There are those who say, 'This issue of civil rights is an infringement of states' rights.' The time has arrived for the Democratic Party to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights. People—human beings—this is the issue of the 20th century." Probably his proudest accomplishment as a legislator was the comprehensive Civil Rights Act of 1964, which he led to final enactment through months of filibuster, parliamentary maneuver and public pressure.

His commitment to racial equality was central to the decent, humane liberalism that touched numerous other concerns, from conservation to health care and welfare reform. He sponsored the Wilderness Act, fought for Medicare and national health insurance, urged a program to assure a job for every American who seeks one, and showed as much concern for the nation's cities as for its marginal dairy farmers. Reared in a small town on the prairies, he was always an enemy of

provincialism and bigotry and an exemplar of American idealism.

The ordeal of his last months may have been eased by a cascade of public tributes, in the Senate and elsewhere; the headquarters building of the Department of Health, Education and Welfare was named for him. It is given to few to be so honored while yet alive, something he recognized with a characteristic twinkle a few days ago. "You can cut back on the funeral," he told an aide, "because all the eulogies already have been delivered."

In his ill-fated Presidential campaign in 1968, Humphrey was derided for his slogan, "The politics of happiness." But to those who knew him, the term was an accurate and sincere reflection of his personality. He was truly a cheerful, bouncy, warm-hearted man who wished good things for all God's children.

[From the Washington Post, Jan. 15, 1978]

THE LEGACY HE LEAVES US IS, SIMPLY, HOW TO LIVE

(By Haynes Johnson)

Of Hubert Humphrey it can be said that nothing became him more than the way in which he chose to play out his life. There was no hiding, no pretending, no note of falsity. He lived his life to the fullest until his last breath. And he lived it, as he wished, in public.

He was quite purposeful about this: he frankly wanted to be remembered and to set a public example. Of course, he did. The legacy he leaves is probably unlike that of any other public figure in our history. It is simply, how to live.

"I want to kind of set an example, if I can, of public service," he said during, a long conversation last spring. "Not that I'm any paragon of virtue, because I'm not. But I'd like people to think of me as a man that really gave himself to his country and did something in public service. To make public service an honorable profession. That's really what I'd like more than anything else. It's maybe the one thing that sustains me more than anything else."

He instructed his staff not to schedule him so tightly. When he walked the halls of Congress, he wanted to be able to spend as much time as possible with ordinary people. That was a conscious decision, too.

"I said to my staff, 'Let me tell you something: When I come back from the Senate over there I'm a walking historical object. I'm a piece of the history of this caiptal.' And it's a fact. Now I can rush by people or I can go by and be good and gentle, maybe say a little word to somebody and take a little time.

"And somebody always reaches out. They'll say, 'Well, I was with you in '68.' And they'll say: 'Don't you remember when you shook my hand at Battle Creek?' Or: 'I waited for you in Flint, Mich., until 11 o'clock at night.' And they'll tell me all these things. you know. And they've got their kids with them and the kids' eyes are kind of rolling around, wondering what's this all about. But I'm a part of the history of some of most turbulent years in this country. So as I tell the person who schedules me, 'Look, don't be worried if I'm a little late or something like that. I'm going to take some time to say hello, to some kids. So if I've got someone waiting for me, let 'em wait.' "

The way he viewed his illness was characteristic, and remarkable.

"I've got to be honest about it," he said. "I try not to think about my illness much, but I do have to recognize that cancer is, like my friend, a cancer specialist out at Rochester, said: 'Hubert, cancer it like a thief in the middle of the night. It can stab you in the back any time. You never know it.'

"So what is my theory, my philosophy? Not live it up, but live each day, do what you want to do with whatever you have. Get the most out of it. Look ahead as far as you can. Don't worry. There's not much I can do about it,

"As I told those doctors the other day, I said, 'Listen, if you let me die, it's going to cost you millions of dollars 'cause I can get you more money for your cancer research than you'd ever believe possible. Keep me alive.' So I joke with them about it.

"But in my own heart I know that you've got a time clock in you and sometime somebody speeds it up. I don't like self-pity. Let's put it frankly. I think people are bored with people who go around with that stuff. So I just do the best I can. And have a good time most of the time."

Few of our public figures suffered more personal humiliations than Hubert Humphrey. His vice presidency under Lyndon Johnson, was tormenting—what he described, kindly, as "difficult years, but learning years for me." It was a measure of his decency that he was able to look back on that time without bitterness. He was even able to laugh at it.

"If I made any little deviation from anything that he [LBJ] thought was the way it should be, he'd shoot it down. There wasn't this business of saying. Well, now he's entitled to his point of view or giving the kind of confidence you ought to have. He knew that I was extraordinarily loyal. But I knew the kind of man that he was, and I considered it a great honor to be Vice President.

"My vice presidency was a very active one during a very difficult period. As I have said to my wife and the close family, 'Many things that Dad did during that time will not be known simply because there was too much static.' But we opened up these Job Corps camps. We helped get through Congress a war on poverty. I was the co-sponsor. I coordinated a lot of that stuff. I was busier than a cat on a tin roof with a dose of castor oil in a windstorm trying to cover up.

"And, believe it or not I was in consultation many times with Johnson. He just didn't want a lot of people to know it. He didn't want anybody to upstage him, and he knew I had a national following. In fact, I had a bigger one than he had when he was Vice President, and also with the press. Believe me, he kept careful eye on me with the press. 'Who did you see?' he'd say. Every time there was a column by either you or Broder or Reston that was critical of him, or said something critical, he'd say: 'Did you see those fellows? You out with that Georgetown crowd?' "

But his real heartbreak came during his presidential race in 1968. As he said, "the big disappointment, of course, was the heartache of '68, because I never should have let Nixon be President. Never. And, of course, he lied to get to be President just like he did after he got in office. He pretended he was a new man, and a lot of people bought that nonsense because they were so angry with everything we'd gone through—three assassinations, the civil rights revolution in this country, the incredible bitterness over the war in Vietnam, and the kind of heavy-handedness of our administration.

"But we should have won. We never should have let Nixon become President, and let what happened to this country happen. That's the big disappointment I had in my life. And sometimes I just get tears in my eyes and say, "Why in the hell did we do that?' "

Without realizing it, in the course of that memorable conversation, Hubert Humphrey dictated his own epitaph. Here's how he put it:

"What I want more in life than anything else now is respect, which I think I'm beginning to earn and get. I don't want to be President, I don't want to be Vice President. Or Secretary of State. Or majority leader. I know that those things are not mine to be, and I have put them very neatly aside, without remorse.

"But what I do want to be known for in the history books—and I am interested in that—is that I was an effective man in government. That I was a decent man, and that I knew my job. That I knew how to get things done, and that I did important things in government."

Of that judgment, there is no doubt.

A personal note: On the day Hubert died, I was having lunch with a friend. He mentioned Humphrey, and said he had done an impulsive thing. "I get tired of writing letters to widows," he said. "It's so frustrating and inadequate; so I sat down and wrote Hubert a very personal letter. I told him I loved him."

I wish I had done that.

[From the Washington Post, Jan. 15, 1978]

HUBERT H. HUMPHREY: A HERO IS HONORED

(By Richard Cohen)

In a large, unmarked room off the Capitol Rotunda, the military honor guards were going about their business of death. They had practiced for this and they were going to practice again Saturday, but it had turned out to be the real thing. So now they were preening before the mirror and talking about their work as if it was just another job, part of the routine and all, until one of them said this one was different. "Hubert Humphrey was my hero," he said.

He was 20 years of age, Air Force for the last three years, and his name was David Welhouse—Airman David Welhouse of Appleton, Wis. He was in the room with the others, waiting for their turn to stand guard by the coffin for a half-hour. He had been one of those who had drifted out into the hallway for some water—not to drink, but to wet down their white dress gloves so the rifles would not slip from their hands.

"I've been here three years and this is the biggest," one of them said. "This might be the biggest since Johnson or Truman died." Welhouse, standing nearby, said nothing. One of them, a Navy man, talked about the Army and how it always got the best of the ceremonial occasions because it was the senior service. The Army even got umbrella duty at the White House, he said. This was the chance for the Navy and other services to show its stuff. Heads nodded all around.

Inside the room, a man was wrapping himself in tape, taking in his waist like a woman in a corset. He took the stuff around his waist a couple of times, the wide, while tape making loud ripping sounds as it parted from the roll. Cots had been set up in the room and the men who were lying on them rose on an elbow to watch the man tape himself up. Soon he would look like a toy soldier. Some of his colleagues laughed.

Out in the hallway a little group had gathered. "We all knew he was going to die," one of them said. "We practiced for this. We practice a lot. All of the honor guards get together periodically and we practice this. We knew Humphrey was going to die."

This was the talk of men who have to do a job. They went on in this vein until I asked about Humphrey himself, and then Welhouse spoke up. Humphrey was not just another job to him, he said. Humphrey was special. The others nodded and suddenly the cynicism was gone and they all said that they were honored to serve in Hubert Humphrey's honor guard.

It is always this way with Humphrey, always a reluctance to admit that the man has gotten to you. It is this way with me, standing out in the Rotunda asking others what they think of Hubert Humphrey, when a moment before I was near tears. He can do that to you and I can tell you only of a night with him, a campaign evening at a synagogue

in Baltimore. There he was up there on the dais, wearing a white yarmulke and out in the audience was a sea of white yarmulkes and we, the press, were against the back wall, laughing at it all.

Humphrey was talking about Israel and as usual he went on too long and as usual he was verbose and bombastic and unashamedly emotional. He was funny and I was laughing because you cannot touch me with Israel. I have scar tissue called Israel—years spent listening to appeals and going door-to-door as a kid with a canister, collecting money for Israel, and me, myself, saving money to plant trees in Israel. There is nothing—nothing—Hubert Humphrey could tell me about Israel. But all of a sudden I was not laughing and he was touching me, grabbing me where I thought I was dead. You can resent Hubert Humphrey for turning you into an emotional slob.

It happened all the time. It happened in black churches and it happened on stump speeches and it happened at formal affairs. He could turn you around and make you cry and he could do all that even though you knew that he was doing it—that he was not perfect and that he had crumbled to Lyndon Johnson on Vietnam. But he was a man who was not afraid to dream and he dreamed dreams that gave other men headaches.

So now on a cold, snowy afternoon, Hubert Humphrey is lying dead and a 20-year-old Air Force man, his hair so short it's almost nonexistent, is telling me about Humphrey. "Some guys like football," he said, "and some guys like basketball. But with me, it's politics. Hubert Humphrey was my idol. I've idolized Humphrey since I was a kid."

By now the unit of six men was nearly formed and by now the officer was at its head and Welhouse fell in. They moved off at a slow pace, their rifles at their sides, their heels hitting the the stone of the Capitol floor with a measured cadence. They moved past a statue of John Hanson and a bust of George Washington and a statute of Dennis Chavez and then they paused before the entrance of the Rotunda itself. You could see the lights and you could see the coffin and you could see the flag over it.

At 2:29 p.m. the officer in the lead clicked his heels and the unit moved into the Rotunda. It moved slowly, each man dropping off at an assigned position. Welhouse stood to the right of the casket as you faced the front and he stood stiff as could be, looking straight ahead but seeing nothing with his eyes.

You look at heroes with your heart.

[From the Washington Post, Jan. 15, 1978]

HUBERT HORATIO HUMPHREY

It is almost unimaginable—the political life of the nation without Hubert Humphrey. For more than 30 years, one full generation, Hubert Humphrey was there: in the presidential politics of his party; in its terrible turmoil over Vietnam and social and racial justice; in the combat between the parties and between the claims of the executive branch and those of Capitol Hill.

And we all have our mental snapshots . . . a young Mayor Humphrey brashly and unceremoniously refusing to let the 1948 Democratic convention ignore its civil-rights obligations . . . an outspent and out-maneuvered candidate Humphrey making his generous peace with the Kennedys after the West Virginia drubbing . . . an overwhelmed and humiliated Vice President Humphrey unable to find his true voice or strength in the Johnson years until it was politically too late . . . a bounced-back 1970s model Hubert Humphrey, in the Senate, in the middle of it again (naturally), being personally as decent and helpful as ever to those who had beaten him in his periodic quests for higher office.

Those quests became the object of some merriment after a time, and Mr. Humphrey himself joined in the fun, although there was no mistaking the hurt and disappointment he had endured. But, after-dinner jokes aside, we don't think Mr. Humphrey's unflagging political ambition deserved to be a source of either derision or embarrassment. That is because it is impossible to think of another national political figure who so successfully and benignly merged the personal drive necessary to acquire power with a concern for the impersonal public goals that such power is meant to achieve. Hubert Humphrey was ambitious to use national office well—and for the sake of other people. To our great national misfortune, some politicians transform the hardship they have experienced or witnessed early in life into a quest for personal vindication, clout and comfort via public office. Mr. Humphrey spent 30 years trying to translate that witness and experience into a better life for others. It was his obsession.

So we hail, first, the invincible political ambition of Hubert Humphrey, and move smartly along to another aspect of his career that provokes our admiration and wonder, even though it too has been a frequent source of complaints: Mr. Humphrey's political longevity. Thirty years near the center of power has a demonstrable way of bringing out the worst in people. A loss of principle, a growing insensitivity to new or different circumstances, an inability to remember why one is in office at all except to stay there and, eventually, a sclerotic incapacity to grow or learn—surely these are the occupational hazards of decades-long public service. And just as surely none of them ever got Hubert Humphrey. His public career was remarkable precisely because the process of political aging worked so well in his case. He remainded faithful to basic principles even as he responded to new social currents and needs; and his adaptation to the "system"—his eventual initiation into the Club itself—was put in the service of his public goals. It did not, as is so often the case, become a substitute way of life or an alternative to the pursuit of those goals.

It is, of course, true that many people, ourselves included, have newly come to doubt the wisdom and merit of much that is being put forth in the name of those liberal Democratic values Mr. Humphrey espoused. So the question needs to be addressed whether the legacy of Hubert Humphrey will decline in value as this perception of the limits of certain kinds of mainline liberal legislation with which he was identified become apparent. We think not. And that is because Mr. Humphrey, at the distance of historical remove, will be recognized not as a man who fiddled around with some of the tired-blood and preposterous interventions in the society and the economy of recent years, but rather as a driving force behind a public commitment to involve government in the creation of a more racially and socially just society—here and abroad.

In a way, he was a victim of his own success, a casualty of the what-have-you-done-for-me-lately? syndrome. So much is now taken for granted that Hubert Humphrey pioneered that we can afford the luxury of quibbling about the details. In questions of civil rights and economic security and decent standards of care for the poor, the aged, the ill, Hubert Humphrey was there when the territory was uncharted and the terrain indescribably bleak and lonely. And the same may be said of his early and enduring commitment to improving the life and lot of people abroad. He was a steadfast patron of aid and development and arms-control efforts long before these had gained ho-hum general acceptance and also a man tirelessly in search of ways to extend human freedoms and human rights overseas.

Even so, we will not describe him as a great man. That is because the idea of "greatness" at the top of American politics has become too much burdened with connotations of overreaching power, eccentricity and egocentricity and one-way rides to national disaster. It doesn't go with this man of joy and bounce and decency and kindness. For Hubert Humphrey we prefer a phrase that is somehow both more honorable and more fitting. He was a good man—a good man who did great things.

I REMEMBER HUBERT

We all have our memories of Hubert Humphrey. He was everybody's alltime favorite. These are but a few.

I worked in 1959 and 1960 as Humphrey's Wisconsin campaign coordinator, and I saw Hubert at very close range in those days. One thing I'll never forget. We had a meeting called for a Sunday morning at the Jewish Community Center in Milwaukee—just two days before the election. The national press was streaming into Wisconsin to catch the last few days of the campaign. The crowd was very thin. It was early in the morning on a Sunday. And there was a lot of ice and snow on the streets.

But Humphrey rose to the occasion in ways that completely turned that meeting around. "They say the Humphrey campaign is disorganized—but I want you to know that the most organized thing that ever happened almost destroyed civilization." Those cutting remarks were not lost on a meeting in the Jewish Community Center.

Humphrey lost Wisconsin and lost West Virginia a few weeks later. Jack Kennedy got the Democratic nomination, and went on to win. The Wisconsin campaign became a bitter battle, but when it was over I learned another lesson about Humphrey the Man. After the convention, Humphrey got word that a few of his supporters in Wisconsin were dragging their feet. He got on the phone and read the riot act. He wanted everybody to pitch in and win—and they all got the message.

Humphrey was a night person. He came alive at midnight and loved to hold strategy meetings in the wee hours. Plant gate appearances at dawn were not his cup of tea. And as he caromed around Wisconsin in the big campaign bus, he blamed all that bustle on Estes Kefauver.

Getting a good campaign picture was a special headache. "I've got a million pictures of myself—get one of those." But none of them suited.

The best picture had been taken by Time's Wally Bennett for use in a cover painting for Time magazine. With a little scouting, we got Time to give us the picture and it was used for years afterwards as an official Humphrey picture. It's the same portrait we have on page one this week.

I'll never forgive the networks for the way they lampooned the Humphrey bean feed during the 1960 campaign. Humphrey gave a serious talk on arms control, and the media rolled out tons of equipment to film the event in Wausau, Wisconsin. Not a word came forth about the content of that huge rally in the center of the state—just a lot of fluff about beans. So I know what Humphrey means when he said: "Where were you guys when I needed you?"

Back in 1976 at the AFL–CIO convention the word came back that Humphrey had given an absolutely sensational speech that took the convention by storm. It was the greatest speech of his life. And a few weeks later Humphrey got the transcript and put it in the Record. On paper the speech was all words, just another collection of Humphrey rhetoric. But when put to music—that was something else.

In Rochester, New York, I heard Humphrey debate Ken Keating, then a congressman from that part of the country. Harry Truman

was still President and Secretary of State Dean Acheson was everybody's whipping boy. Midway in Humphrey's speech he had that crowd cheering the name of Dean Acheson, mostly describing the perils of the world and America's role in dealing with the perils, and then dropping in Acheson's name. It was a fantastic performance. But the trendy media of those days used to laugh at Humphrey.

The moralistic Swedes used to give the U.S. a hard time during the Vietnam War, but they always loved Hubert Humphrey, even if he was mostly Norwegian. Humphrey had a feel for the problems of western Europe, and many Social Democrats in Europe felt that Humphrey was their spiirtual cousin back in the States. Indeed he was. Humphrey had a passionate feeling about the U.S., but he was truly a citizen of the world.

I think Humphrey was happiest when he was Senate Majority Whip during the Kennedy years. He had a small Senate hideaway. Norm Sherman called a group of labor writers together to chew the fat with Humphrey. We felt very inside of things, sitting there with our hero, getting the lowdown on the government. Humphrey always felt that a strong labor movement was vital to American democracy. How many political leaders still think that?

Another time I went to Moorehead, Minnesota, to take some pictures and do a story way back in the 1950's when Humphrey was up for re-election the first time. It was a long, tiring day and it was fun to see Humphrey in action among farmers. We caught a plane at midnight and I flopped down to take a nap. Humphrey gave a lecture to the hostess on the plane about the politics of the U.S. Senate. She could have written a prize-winning term paper by the time we got back to the Twin Cities.

The civil rights votes were his triumph, and he knew the importance of Sen. Dirksen to winning that battle. He used to laugh and say "We are going to build the biggest monument to Everett Dirksen" when this is over. I guess that really was why so many people loved him. He made politics fun. He cared deeply about the issues—and he always wanted to win—but he wanted to win in such a way that nobody went away mad.

The supreme irony is that in his death he brought Richard Nixon back into the public eye. Those of us who had a chance to work with him—if only for a few days or months—will never forget him.—F. W.

[From the New York Times, Jan. 16, 1978]

A BRIEF "KINSHIP OF PURPOSE"—CARTER LOSES HIS MOST VALUABLE SENATE ALLY WITH DEATH OF OUTSPOKEN MINNESOTA LIBERAL

(By Hedrick Smith)

WASHINGTON, January 15.—Behind Jimmy Carter's warm allusions this morning to his "kinship of purpose" with Hubert H. Humphrey lies the cold recognition in the White House that the President has just lost his most valuable ally in the Senate, where he has precious few friends and natural supporters.

The irony is that their unusual closeness and collaboration in recent months, symbolized not only by today's eulogy but also by Mr. Carter's generous gesture of inviting Mr. Humphrey to Camp David, developed from the prickly beginning—bordering at times on animosity—of the 1976 Presidential campaign.

What made them such unlikely allies is that Senator Humphrey the passionate practitioner of old-style politics, epitomized so much of what Jimmy Carter, the cool practitioner of the new, set out to defeat and demolish.

As an exuberantly outspoken ideological liberal, the senator from Minnesota personified both the Washington and the Democratic Party establishment against which Mr. Carter, the pragmatic and purposefully non-ideological outsider from the South ran his campaign.

SAW "DISGUISED" RACISM

"Candidates who make an attack on Washington are making an attack on Government programs, on the poor, on blacks, on minorities, on the cities," Senator Humphrey gibed to reporters one morning in March 1976. "It's a disguised new form of racism, a disguised new form of conservatism."

Mr. Carter, sensing correctly that the barb was directed at him and always fearful that Mr. Humphrey would become the rallying point for a stop-Carter movement, retorted that the Minnesota Democrat was a has-been and a loser whose brokered nomination at the 1968 convention had left the Democratic party in disarray.

When Mr. Humphrey ventured toward entering the Presidential race in the New Jersey primary and pulled back, the Carter partisans were disappointed. They had sought a head-on confrontation, confident that this would complete their rout of the veteran Washington political crowd.

But once Jimmy Carter was in the White House, the relations between the two men changed dramatically. "You know we hated this fellow," Hamilton Jordan, the President's highly partisan political lieutenant, told a close Humphrey confidant last spring. "Now we love him. This is the greatest man alive. We didn't know him."

Both the President and the former Vice President had risen from small town beginnings, one in Plains, Ga., and the other in Wallace, S.D. Both were idealists. Yet in large measure, it was Mr. Humphrey's warmth, his age and his willingness to forgive and forget that changed the political chemistry between them.

PRESIDENT SOUGHT ADVICE

With Senator Humphrey removed as a political rival and threat, Mr. Carter felt increasingly comfortable turning to him for advice and support on a variety of issues, and Mr. Humphrey, with his Presidential ambitions now firmly set aside for his lifetime, relished the confidence that the new President had in him.

The President's decision to choose former Senator Walter F. Mondale, one of Mr. Humphrey's Minnesota proteges, as his Vice President also mellowed the Humphrey-Carter relationship.

But their new warmth did not silence Mr. Humphrey's criticism of Mr. Carter. Along with House Speaker Thomas P. O'Neill Jr., he became one of a couple of Congressional leaders with a close enough relationship with the President to oppose him directly and forcefully.

WARNED CARTER OF DEFEAT

Last April, for example, he was influential in persuading President Carter to retract the $50 tax rebate that he had proposed, arguing that there were not enough votes for it to carry. In his rasping and ebullient voice, he telephoned Mr. Carter from Florida to say: "I have to tell you, Mr. President, I can't support you. You had better prepare your people for defeat."

At Congressional leadership breakfasts, Senator Humphrey objected in the early months to White House nervousness about Congressional spending and the dangers of inflation, arguing that private industry and rising international commodity prices were to blame. Largely as the result of Mr. Humphrey's pressures, Mr. Carter eventually acquiesced in farm price supports costing $3 billion more than originally proposed.

Repeatedly, the Happy Warrior, as Mr. Humphrey was known, did battle against Arthur Burns the conservation-minded chairman of the Federal Reserve Board.

"Every time you get the economy moving," Mr. Humphrey would tell the President, "Arthur Burns raises interest rates and slams on the brakes." His protests were ultimately an important factor in persuading Mr. Carter not to retain Dr. Burns as chairman.

PUSHED FOR FOREIGN AID

As Deputy President Pro Tem of the Senate, Mr. Humphrey also helped President Carter out of trouble with a great deal of legislation. In fact though not in title, he acted as chairman of the Foreign Relations Committee, pushing through foreign aid legislation when it was unpopular and embattled.

Now, both White House and Capitol Hill strategists comment on the loss to President Carter. "I don't know what Carter is going to do without Hubert Humphrey," said Representative Fred B. Rooney, a Pennsylvania Democrat. "Hubert got a lot of chores through Congress for the President."

The ultimate political irony is that even in death, Mr. Humphrey's liberal influence persists. He had a large hand in imposing upon the reluctant President the Humphrey-Hawkins bill setting a national goal of reducing unemployment to 4 percent, a legacy of the very New Deal economics and political philosophy that Mr. Carter has sought so carefully to sidestep.

With the current outpouring of affection for Mr. Humphrey, that legislation is likely to move more easily through Congress and Mr. Carter is likely to face even greater pressures than before to gravitate toward the politics of the man he so ardently opposed in the campaign and whose political "kinship" he espoused today.

[From the Washington Post, Jan. 16, 1978]

HUMPHREY: SOME PERSONAL RECOLLECTIONS

(By Meg Greenfield)

Was there ever a politican whose televised, public, full-text-of-the-speech persona conveyed so little of the real man? I don't think so. Hubert Humphrey was Senate Democratic Whip when I first met him. I thought of him as a walking rightminded position paper. He was no one I was especially eager to meet, even though I dutifully admired what he stood for and said. In fact, when a friend told me he would be joining us for dinner the night I met him, I was a little disappointed: There went an easy, agreeable, relaxing evening. I figured—it would be do-good and uplift all the way.

Enter Hubert Humphrey—hilarious Hubert, reenacting the day's Senate debacles. Chief among these, as I recall, was the three-way encounter between himself, Senate Majority Leader Mansfield and Sen. Wayne Morse. Morse, as it happened, was very sore at Mansfield about something and wasn't speaking to him. Hubert played all three parts: Mike Mansfield sitting in the Senate chamber, pinch-faced angry, glaring straight ahead . . . Hubert sitting next to him awash in discomfort as Morse, standing, peered down at Hubert and boomed: "Will you tell the Majority Leader for me . . ."

HUBERT: "Why don't you tell him yourself he's right here."

MANSFIELD—motionless, face forward, nothing.

MORSE: "Please give him the following message . . ."

HUBERT: "Oh, God . . ."

And then the approach of Strom Thurmond, still a Democrat, intending to go golfing but wishing to be informed if anything happened—"Remember, Hubert, you're my leader, too."

Hubert Humphrey as Strom Thurmond's leader. Shades of 1948 . . . It was splendid, and he loved it. He made a pledge to Thurmond. "Nothing has happened around here for 25 years, but if it does, I promise you, Strom, I'll let you know."

"Thank you, Hubert. You're my leader, too."

Humphrey made himself look as ridiculous as the others when he did his impersonations, maybe even a little more so. He had that rarest of gifts: Humor that was sharp but never vicious or self-bolstering at the expense of others. It was the human condition with all its oddities and strengths and weaknesses and surprises that entertained him. We went to a rather no-account nearby restaurant that night where Humphrey had never been; but the headwaiter, overcome by a rare encounter with celebrity, boomed out in a voice no diner (for two blocks around) could miss: "Your usual table, senator?"

Humphrey loved it, and did everything he could to help. "Oh my, yes," he said, not knowing which way we were going to be led. When he had pondered the menu and placed his order, he remembered to add after whatever it was: "You know, my usual . . ."

We had become friends. It was the first spring of Lyndon Johnson's presidency, when no one seemed to have any criticisms more serious than that the President shouldn't be lifting his dog up by its ears. Hubert was honchoing the civil-rights bill through the Senate, and one day he committed some kind of indiscretion about what Johnson might or mightn't take in the way of compromise, and this went out over the wires. Hubert almost immediately called a press conference to say he had been utterly mistaken and was sorry if he had given any impression that Lyndon Johnson was even considering any compromise. To our insistent and repeated questioning he steadfastly replied: No, Lyndon Johnson hadn't called him or got angry or demanded this backdown . . . he, Hubert, was acting on his own to correct an error.

A few minutes later, when he had gone on to the Senate floor and I had repaired to the gallery, our eyes met, and I expect I gave him a disbelieving, skeptical stare. Humphrey, reached up with both hands, gave his own ears a terrible upward tug, very nearly lifting himself off the floor, grinned at me and turned back to his Senate business.

And now he was about to be Vice President. Somehow, it seemed to me of the candidates who had got a political reprieve by virtue of the tragedy that had struck the Kennedys, Hubert was the only one who could stay free of that aura of having profited from someone else's disaster. At the Atlantic City convention where he had been nominated—after a Johnsonian maneuver that the author Theodore White has likened to Caligula on "I've Got a Secret"—there was a big party for him. I stood on a table with some other press in the jam-packed room while the guitarist who had been the sad troubador of his 1960 presidential campaign played the old Hubert Humphrey songs and everyone cheered and some people wept a little. Things were so morbid and sinister at Atlantic City in 1964, there was so much worse about to come, and people seemed to sense as much. Hubert's stemwinding speech ("But *not* Barry Goldwater") was their last collectively happy moment for years.

You talk about forgiveness and toleration. It was the day of the Wisconsin primary in 1968, a few days after Johnson had announced he wouldn't run again, and Humphrey was in New York making himself scarce to the press, deciding how he was going to play it. I was in New York too and made an insupportable pest of myself, calling his press aide Norman Sherman every 10 minutes on the minute, importuning for a ride back on the vice-presidential plane during which I would be granted an interview. I wore them down: Be at the Waldorf Towers at 8 p.m.

I was there, coming straight from cocktails with the editor of the magazine I then worked for. I was shown up to a suite where Humphrey's aides, including then-Sen. Mondale but not Humphrey, were making phone calls and otherwise pursuing a variety of political chores. They offered me a drink. I accepted—several times. You know what is coming. Pretty soon Humphrey called down and invited me up to a suite where he and Dwayne Andreas had been watching the Wisconsin returns. He was in his usual good spirits. I, by then, was in much better spirits than usual. Another drink was proffered and received.

I can still remember the airborne "exclusive interview," but only in these respects. We sat facing each other on the small jet plane, and I would ask if he were going to run and each of his two, side-by-side faces, four eyes and all, would look very earnestly back at me, and he would say something—who knew what? I had to report to my office the following day that I had a good news/bad news story. The good news was that I had gotten the much-sought-after interview. The bad news was that I was bombed out of my head by the time it occurred and hadn't the vaguest idea what Humphrey had said. The only thing I remembered well was his amiable concern—he never let me forget it afterward—as he instructed the future Vice President of the United States upon our landing: "Fritz, make sure she gets home."

Well, he was going to run and everyone knew it. It was during that campaign that the old Reporter magazine, which I worked for, announced it would soon go out of business. Washington being Washington and all of us being the irredeemable smart alecks that we are, the exchanges I had with people over the prospective demise of the magazine were invariably either gossipy or "clever." Everyone, it seemed, had a witty remark or an unflattering psychological theory to offer for the occasion—but not Hubert Humphrey.

For the last issue of the magazine I was doing a piece on his campaign and was in a huge crowd of journalists and campaign supporters and just plain spectators one day when he came out of some hotel ballroom on his way to a motorcade. He spotted me. I nodded hello. But he stopped and then came over. He had just heard the magazine was going out of business, he said. I got ready with clever replies one, two and three and none-of-your-business four, though I should have known I wouldn't have need for any of them. Hubert Humphrey had only one reaction and concern: "Are you okay? Do you need a job? Can I help?" I said, No, it was okay, I had a new job. "Are you sure?" he worried. "Let me know if you're not okay."

And that, quintessentially, was Hubert. For the public figure and especially for the campaigner the crowd out there tends to be one glutinous mass of statistics and blurred presences, a heave and surge of faceless, nameless voters to be placated and wooed, above all else an undifferentiated, shapeless mob. Humphrey, looking into it, always and only saw people.

[From the Washington Star, Jan. 16, 1978]

A Kind of Man Whose Memorial Even Nixon Could Attend

(By Mary McGrory)

Hubert Humphrey, dreamer and optimist that he was, could not have imagined how "comely and reviving" his memorial service would be.

The official honors that eluded him in life were rendered in full measure under the Capitol Dome: a guard of honor, the assembling as for a State of the Union address—the speech he ached so long to give—of the Congress, the Cabinet and the diplomatic corps.

The occasion brought out the best in everyone. Jimmy Carter, speaking from the heart, gave the best and best-delivered speech of his presidency, one in which he admitted error. Vice President Walter Mondale read a letter Humphrey wrote to his wife Muriel 40 years ago on first seeing Washington, and its innocent, rallying phrases brought him back. The Isaac Stern trio wreathed the words and the tears in exquisite music.

And Richard Nixon came out of exile to provide the edge of controversy that a great event requires and to give to the mourners needed distraction. Sen. Edmund Muskie, who had been weeping, stared wide-eyed as the specter strode by.

Even those who were most likely to think that Nixon was again imposing on Humphrey—"using the occasion to come out of the closet," one House member snorted—could not, remembering Humphrey, give rein to their spite. They knew that he would have welcomed Nixon.

Bruce Solomonson, Humphrey's son-in-law, his bag-carrier during the heartbreaking struggles for the presidency, spoke the unexpected verdict on Nixon's presence: "nice."

"You know what respect he had for that office. He forgave him a long time ago."

One inadvertent touch was almost too much. Senate Chaplain Edward Elson chose for his text the prayer of St. Francis, which was certainly appropriate for Hubert Humphrey, the most forgiving man in American politics. When he read, "It is in pardoning that we are pardoned," all heads which decently could swiveled around to Richard Nixon, who sat separated from his pardoner, Gerald Ford, only by Mrs. Ford. Both pardonee and pardoner stared straight ahead.

From the moment he entered the Rotunda, Nixon seemed not to know where to look. He did not turn his head. His eyes darted about. At one point, Mrs. Ford, who appeared exhausted, engaged him in chat. The ex-president looked inquiringly at Ford. But Ford was gazing resolutely at Humphrey's flag-draped coffin. He was the only person present determined not to know that Nixon was there.

Muriel Humphrey did her best, as always, for Hubert. Mondale said it was to be a celebration, and she tried not to cry. She broke down when Robert Merrill sang "Ave Maria." The president took her hand. She provided the final felicity. At her prompting, the president asked Merrill to sing "America the Beautiful" again, with everyone joining in.

The president said that Humphrey was a big man. He was big in his turn. He confessed to "harsh words of my own spoken under pressure and in haste."

Humphrey had the comfort in the end of being persuaded that he was, as Carter said, "the most beloved of all Americans." He discovered it when he was stricken with inoperable cancer and began to say goodbye. Ravaged by futile treatments, he dragged himself from event to event, to the eulogies in the Senate and the House, to the dedication of the Hubert Humphrey Building at HEW, to the long, noisy banquet for the launching of the Hubert Humphrey Institute at the University of Minnesota.

He died the way he wanted to, speaking, until his breath gave out, of what he had done and still wanted to do.

Ironically, it was his fate to divide the Democratic Party: the first time, in 1948, out of conviction on civil rights; the second, 20 years later, on Vietnam—his foes said out of fear of Lyndon Johnson, his friends said out of gratitude to Johnson, for having conferred on him the misery of the vice presidency.

His loss would have brought a special kind of bitterness to any other man. Added to the excruciatingly narrow margin was the knowledge that if he had signaled just three weeks earlier his intention to be his own man, he would have saved the country from Richard Nixon.

But he did not complain. He picked himself up. He went home and met the young protesters who had broken up his meetings, in the classroom. He ran for the Senate.

He came back and threw himself, with his usual zest, into making government do more for people. He lost, to another, lesser man, his last bid for higher office, the majority leadership. He and Robert Byrd became the best of friends. He gave up his dream of the White House, even though the office, for once, seemed to be seeking him. He feared derision.

The farewell of his peers, a class affair from start to finish, made it plain that they knew what he was all about. He was the kind of man to whose memorial service Richard Nixon could go. Even Nixon could not be suspected of hating Hubert Humphrey.

A grieving staff member said, "The senator has no enemies."

The memorial service confirmed that epitaph. Hubert Humphrey leaned on causes, not people.

[From the Washington Star, Jan. 16, 1978]

WHAT'S LEFT TO SAY—A LOSS FELT BY EVERYONE

(By Jack W. Germond and Jules Witcover)

What is there to say about Hubert Humphrey that has not already been said? The answer, of course, is nothing. And that in itself says a great deal about the man who, though failing in his greatest political ambition, came to be loved perhaps as no other presidential also-ran in the nation's history.

Nothing new can be said because in Hubert Humphrey what you saw was what you got. In his long public life, no one ever seriously wrote about the "new Humphrey" as opposed to the "old Humphrey" because there was always only the one—open and consistent in his unvarnished passion for politics and public service.

Memory goes back to 1960, when Humphrey ran against John F. Kennedy in the West Virginia presidential primary. He campaigned ferociously by bus through the hills of that rural state, literally from dawn to past midnight. He would jump out onto street corners and dash up "hollers" to shake all hands, shouting all the while his nonstop litany of the politics of joy. That was what made the nickname "the Happy Warrior" so fitting and so unavoidable.

Humphrey was forever telling folks that he was "pleased as punch" to be with them, and there was no doubt about it. To end a day's campaigning before midnight was to guarantee at least an hour or more of zestful political talk in his hotel room over a drink or two with whatever friends—political or press—happened to be at hand.

Above all else, Hubert Humphrey was a talker. What Charles Francis Adams wrote of William Jennings Bryan could surely have been written of Humphrey: "He is in one sense scripturally formidable, for he is unquestionably armed with the jawbone of an ass. He can talk longer, and say less, than any man in Christendom . . . A talking machine, he can set his mouth in action, and go away and leave it, sure that it will not stop until he returns."

Humphrey was forever being ribbed by his colleagues for his propensity for speaking interminably, and it was indeed the bane of his campaign aides. "Every time Hubert goes out there, I tell him to keep it short," one of them observed during his 1968 presidential bid, "and he promises me he will. But once he gets up there, something automatic in him takes over, and he just goes on and on." When he returned to Washington last fall after his doctors had told him his cancer was inoperable and terminal, and his colleagues paid him a touching tribute on the Senate floor, he said his weakened condition would not permit him to talk long. But he proceeded to prove that even terminal illness was no match for the mechanism in him that switched on whenever he had an audience.

There was nothing, though, mysterious about that mechanism. It was something called conviction and the determination to communicate it. Hubert Humphrey was accused of many things as a senator, a vice president and a presidential candidate, but never of not believing. When he believed in something, he believed in it up to his ear lobes, and he appointed himself as a one-man missionary to convey The Truth to everyone within earshot. In his earliest public years, as mayor of Minneapolis, he believed in civil rights and his fight for a bold statement on the subject at the 1948 Democratic National Convention remains one of the brightest lights in his long public record.

Sometimes he believed in the wrong things. Like his personal loyalty to Lyndon Johnson, the man who selected him to be his vice president and thus resurrected for a time his presidential chances. Though, like most rational men in the 1960s, Humphrey had his reservations about the war in Vietnam, he put his loyalty to Johnson first and not only abided by Johnson's war policy but, as was his style, spoke vigorously for it. Only later, late in his 1968 presidential campaign—too late to make a difference—did he succumb to the implorings of many of his aides and call for conciliatory steps toward the North Vietnamese that put him at variance with the Johnson policy.

Some said of Old Hubert—he was always that to everybody on Capitol Hill—that his "trouble" was that he had no low gear, that everthing he did, he did at top speed and top enthusiasm, in a world in which not everything called for either. In terms of his personal political success, that may have been true, for it is undeniable that his foes—conservative Republicans especially—always made hay by painting him as the Democrat's biggest "liberal," in the pejorative way they are able to make that word sound. Even when the liberalism of his party overtook him, and made Humphrey seem, at best, a middle-roader by comparison to the George McGoverns, the Republicans always were able to get a laugh or a jeer from their faithful by invoking his name as the last of the big-time spenders. His enthusiasm generated big notions to solve big problems, and he thought government could do anything if there was enough money and will.

But Humphrey could no more stem his enthusiasm than the sun can be kept from rising. Long before he demonstrated such courageous and open defiance of the cancer that killed him, his career was marked more than anything else by his remarkable resilience of spirit. Every time he got knocked down, there he was bouncing up again like one of those dolls with the round bottoms that never stays down. If there is any such thing as the American spirit, and we of course like to think there is, then Hubert Humphrey embodied it as no other American ever has.

All this, of course, has been said. Because there really *is* nothing left that hasn't been said at this time of his passing. And it is all so familiar because Hubert Humphrey lived his life so fully and so openly. He always let everybody in, and that's probably why everybody feels a personal loss now that he's gone.

[From the Los Angeles Times, Jan. 16, 1978]

AN UNCOMMON REPRESENTATIVE

Hubert H. Humphrey could speak with the rhetoric of drums and trumpets as he summoned his countrymen to share his visions of a better society. He had seen enough not to believe in human perfectibility, he had seen too much not to believe that compassion could find expression in national law. He never stopped examining the American promise to assess what remained unfulfilled. He never, to the last, held back from throwing his incredible energy into the effort to get things done.

His last months were heroic. His face white and drawn, his body weak, Humphrey employed all his energies to remain in touch with the American people. They, in turn, paid him tribute after tribute in what amounted to a national expression of gratitude.

Humphrey was very much a product of his time and place. In his father's house he learned the principles of Wilsonian democracy, in the small towns of South Dakota where he grew up he drew nourishment from the Populist tradition. The depression pushed him into political maturity, and sharpened a sense of moral indignation that he never was to lose. The New Deal confirmed his belief that social ills could be lessened by legislative remedies.

National prominence first came when he led the fight at the 1948 Democratic convention for a strong civil-rights platform plank. ("Who does that pip-squeak think he is?" asked one of the party elders.) Humphrey called for a statement guaranteeing equal political rights, equal-employment opportunity, security of person, equal treatment in the armed forces. You are rushing things, he was told by those fearful of splitting the then-solid South from the party. We are 172 years late, Humphrey answered.

Humphrey was elected to the Senate in 1948. Brash, feisty, contentious, he promptly offended the power structure with his disregard of the unwritten rules of the club, his readiness to do battle even with the patriarchs of the chamber. In time he learned to play the game, his effectiveness as a legislator steadily increasing as he became less doctrinaire and more tactful, as he brought his quick intelligence to bear on complicated issues, as he became adept at the necessary trade-offs and compromises that are essence of successful congressional politics.

He became, in short, a highly skilled politician, with all the virtues and faults that implies. He took care of his constituents by championing price supports for domestic agriculture and high tariffs on imported food. But broader human concerns were his preoccupation. The first bill he introduced in the Senate in 1949 was for a system of medical insurance for the aged through Social Security. As with his advocacy for strong civil-rights legislation, it would be another 15 years before the dream became reality. But Humphrey never stopped pushing.

He was the legislative initiator or key leader in such areas as expanded federal aid to education, the Peace Corps, conservation, the Arms Control and Disarmament Agency, food for peace programs, the limited nuclear test ban treaty. With legislative accomplishments came political advancement, to assistant Senate Democratic leader in 1961, finally to election as Vice President under Lyndon Johnson in 1964.

The vice presidential years were ones of increasing frustration and even humiliation as Humphrey, publicly loyal to his leader on the Vietnam issue, privately voiced his growing doubts until finally he was virtually barred by Johnson from his inner council. In 1968 came the chance that Humphrey had long coveted—nomination as his party's presidential candidate. In divisively painful circumstances, he ran a hard and brave campaign, his narrow loss giving him one of the few defeats in a long career.

Humphrey returned to the Senate in 1970 and was reelected overwhelmingly in 1976, even though he was too ill to campaign. The people of Minnesota knew that they had an uncommon representative in Washington. It was the good fortune of other Americans to be able to share in that representation.

Now the last courageous battle has been fought, the irrepressible flow of words has

stopped, and something special has slipped out of our political life. We shall miss Hubert Humphrey very much—his decency and wit, his ebullience and amiability, the honorable intensity he brought to political combat. We shall miss him for the joy that he took in his manifold accomplishments, and for the dreams that he was able to make real with pragmatic dedication.

[From the Washington Star, Jan. 1, 1978]

AN UNFORGETTABLE DAY WITH HUMPHREY ON CAMPAIGN

(By James R. Dickenson)

In his eulogy to Hubert Humphrey, Vice President Walter Mondale said that the late senator from Minnesota loved to campaign because it involved meeting people and Hubert H. Humphrey loved people.

This is one of the understatements of the 20th century. Hubert Humphrey loved people and people loved Hubert Humphrey. He was one of the few people political reporters actively looked forward to campaigning with and interviewing.

When he returned to Washington suffering from terminal cancer to begin his final session in the U.S. Senate, where he had served for nearly 30 years, Humphrey admitted that he was only at about 70 percent of physical capacity—but he allowed as how that was probably the equivalent of most normal people.

This was undoubtedly true, for no one in memory matched Hubert Humphrey's enthusiasm and incredible energy on the campaign trail, which is attributable to the long and deep love affair between him and the common people.

Hubert Humphrey's recognition factor around the country had to be about 135 percent. In airports in Dallas, Phoenix and Appleton everyone not only recognized him but gave him messages to relay to relatives in South Dakota and Minnesota.

President Carter, in his remarks at Humphrey's memorial services at the Capitol yesterday, apologized for his "harsh words spoken under pressure and in haste." This was an extraordinary step for any politician, particularly a president, but it was simply an affirmation of Carter's basic humanism.

Hubert Humphrey made us all feel good about ourselves. He epitomized the best in America, its optimism, compassion and confidence that problems could be solved and equality achieved. He let us believe that the American experiment in Democrary will work.

He made everyone he met feel like a million dollars. When he was running for the Senate again in 1970, two years after his shattering defeat in the 1968 presidential election, I introduced him to my niece and nephew in the Minneapolis airport as we were getting ready to embark on what for Humphrey was an average day's campaigning in Minnesota.

Humphrey had the marvelous gift of not talking down to anyone, including pre-teen children. He talked to them as adults, asked them how their concerns were going, talked to them as though they were the most important people in the world—which they like everyone else think they are—and made friends and admirers for life.

That campaign day should be bronzed and entered into the Smithsonian. Humphrey, his gracious and infinitely patient wife, Muriel, an aide and an unsuspecting reporter flew off on a small chartered airplane for Detroit Lakes, where he was to be marshal of the Labor Day parade that marks the end of the summer season. It was a campaign day that started at 8 a.m. and was scheduled to end back in the Twin Cities at 7 p.m.

A tornado had touched down and destroyed a number of homes in North Central Minnesota, that day, however, and there was nothing for it except that Hubert Humphrey would fly over to commiserate with the victims and promise them government support.

In the process of flying over his beloved state he talked incessantly about the wonder of the vision and energy of its settlers, of the claiming of the forests and the clearing of its fields, the miracle of towns, libraries, schools, churches, hospitals and the whole range of human aspirations and achievement.

After the tornado victims, the candidate visited a county fair at which he was recognized by everyone and treated like an old and beloved uncle. The barker at the American Legion bingo game announced that "here's good old Hubert, come on over and have a game Hubert!" and good old Hubert realized that there was nothing more that he wanted in the world than a bingo game.

He sat next to a young mother and her young son, who had his hand shaken, his head patted and a lecture to obey his mother. He took it as though it was what anyone would expect from a long-time United States senator.

Returning to Minneapolis, the candidate decided that he should go to a new shopping center and shake a few hands. Muriel looked up from her needlepoint as the airplane taxied to its parking place and gently suggested that he was already a couple of hours over schedule and that maybe he should give everyone, including himself, a rest.

Hubert Humphrey debated this reasonable point briefly and rejected it. As the clock moved on to midnight in the Humphreys' St. Paul home he was still going 120 miles an hour, backing the exhausted reporter up against the kitchen wall as his plans for more schools, more well-run old age homes, more hospitals, more jobs, more compassion for the nation's unfortunate spilled out one by one.

This was standard for a Humphrey campaign and whatever mistakes Hubert Humphrey made, his concern for the welfare of people and his willingness—his eagerness—to put his body on the line was the source of his extraordinary rapport with the common man.

He made his mistakes and they were crucial and not always admirable. He probably lost the presidency in 1968 because of his unwillingness or inability to separate himself from Lyndon Johnson on the issue of the Vietnam War. He did George McGovern's presidential campaign in 1972 considerable harm by trying to change the rules after the game had been played through his challenge to McGovern's winner-take-all primary victory in California.

Humphrey's mistakes hurt him most of all, although considering the fate of the Nixon administration it can be argued that they may have hurt the country as well.

There can be no question of the bitter anguish his 1968 defeat caused him. Years later he would talk about it and tears would come to his eyes as he recanted the terrible disappointment of that narrow, less than 1 percent, defeat, which was compounded by his realization that it was his liberal friends who had most turned against him.

But few were less able to forgive and look on the best side of people than Hubert Humphrey. Last weekend there were parties in Washington of his legion of workers and supporters.

Mondale quoted Shakespeare's words about how a good heart keeps its true course and how this applied to Hubert Humphrey.

On Saturday night a group of supporters recalled a campaign debate in 1968 as to whether Humphrey should appear at the Lincoln Memorial where there were demonstrators against the Vietnam War. He was finally advised to "do what your heart tells you to do."

Forty-five minutes later Humphrey departed for the monument. He seldom went wrong when he followed the dictates of his heart.

[From the Washington Star, Jan. 17, 1978]

A POLITICAL LEGACY

By the time Hubert H. Humphrey lost his gallant battle with incurable cancer, there had been ample time for homage. All his good causes had been duly noted—civil rights, full employment, arms control, health care for all. So had his foibles—the enthusiasm for government ("you don't have to be a sourpuss to run for President," he often insisted during the all too sour campaign of 1968), the talkativeness ("Hubert," teased his old adversary, Barry Goldwater, "has been clocked at 350 words per minute, with gusts up to 500.")

It was all very amiable but faintly patronizing. One might have thought that Hubert Humphrey was a Milquetoast figure who rarely said or did anything controversial, when in fact he had been at or near the center of every great controversy of the last 30 years. Among other things, he was one of those who redefined American liberalism in a way that was, and remains, controversial.

"The liberals," wrote Walter Lippmann in 1934, "believe that no rulers are wise enough to plan the destiny of mankind . . . They rely upon the initiative, the inventiveness, the endurance of individuals (and) hold that a wide distribution of responsibility is the surest foundation of a society, that self-reliant individuals will sustain the nation when its governors fail."

Liberalism thus defined sounds closer to the Liberty League than to the creed of Hubert Humphrey. Not that he doubted "the freedom of mankind," not that the South Dakota druggist's son was unschooled in self-reliance. Vice President Mondale read a poignant letter at Mr. Humphrey's services at the Capitol that might have been written by a Horatio Alger hero. It had been written by Mr. Humphrey as a young man who saw America as a land of limitless personal opportunity and Washington as the best place to realize that opportunity.

Yet Hubert Humphrey seems to have viewed the political values of which Walter Lippmann wrote as private, not political, ones. The Hubert Humphrey who had himself risen by self-reliance cherished, it seemed, a less arduous pathway to self-fulfillment for the rest of us: a pathway eased by government.

This was the paradox of Mr. Humphrey. No politician of his time seemed more quintessentially "American"; yet he departed in quite fundamental ways from the political values of the founding fathers. They had been 18th Century skeptics who feared majorities, and some of them—Madison and Hamilton come to mind—were deeply pessimistic about human nature and believed for that reason that any powers given to government should be jealously rationed. The "politics of joy" was not their style. Mr. Humphrey, for his part, was not bedeviled by doubts of popular wisdom, not reluctant to give broad powers to government, and far from pessimistic about the possibility of improving the human condition by legislation.

To the last, in fact, Hubert Humphrey swam against all tides of doubt. His last great legislative enthusiasm was a full-employment bill whose aims were as generous as, in the view of many, its economic and political foundations were shaky. These cavils he took in stride.

One could say, then, that in the death of Hubert Humphrey we not only mourn a large-spirited "public man," but acknowledge the limits of his political faith. Faith in the unfailing competence of government to solve human problems, and not compound them, was his trademark.

Of course, as a politician of large perspectives he no doubt understood that good causes pass and legislative monuments develop cracks at the foundation. He would probably have conceded that liberalism, to survive, must beware of the accretions of authoritarianism, rigidity, and faith in dubious remedies it has assumed since Walter Lippmann sought to define it 43 years ago. He himself was flexible as to means, experimental in approach to public problems, generous in his appreciation of differing perspectives and views. In that way he was exceptional among all political figures—especially so among political figures who shared his optimism about the power of government, the good purposes of people in the mass, and the benevolence of legislation.

What stood out, in the end, was not his program, important as it was. His program was rooted in a vision of splendid possibilities that comes to few of us, and fewer now than a few years ago. What stood out, rather, was his belief that politics itself is an important and honorable profession. It was not to be downgraded by slick anti-political posturing, nor cheapened by cynicism. Perhaps this is his most valuable legacy for us. Like the founding fathers, from whom he differed in so many ways, he believed that politics itself was a noble and necessary calling. It does not seem to be a universal view today, to our national peril.

HUMPHREY ALWAYS WAS AN OPTIMIST

(By Saul Pett)

He thought and he talked and he ran like the wind. In victory, he was ecstatic. In defeat, he bled but not for long. He had something inside, an inner gyro, a self-sealing mechanism which enabled him to look at the same set of facts and replace gloom with cheer.

He was almost never without momentum. He was always his own best cheerleader. History and the election returns might easily have made him a Hamlet. Instinct insisted on Ariel, an aging but blythe spirit.

He was the heir apparent of a liberal legacy that began with Franklin Roosevelt and stretched through Harry Truman, John Kennedy and Lyndon Johnson until, with Vietnam, there was almost nothing to inherit. He remained undaunted.

Other men ran for office. Hubert Horatio Humphrey flew, soared with what he called the joy of politics, the crowds, the cheers, the talent of a cold audience, the reaching hands of faithless strangers, the push and the pull, the whole mind-scrambling, bone-wearing, lunatic cacophony of a campaign.

"The bells are ringing and the battle is on," he said of the inner and outer man, eyes popping, fists pumping, adrenalin galloping, altogether corny and contagious.

And yet the same man was equally visceral and believable when he finally discovered early in 1976 the joys of not running for president after three tries. While all else around him on the Democratic side of the aisle seemed to be salivating for the job, Hubert Humphrey looked at the political realities and decided he had had it. He was turning nothing down, but he finally was not running, and in that he felt a new liberation.

"I am not a candidate," he exalted. "I don't want anything. I don't need anything. I feel better than ever, here in my heart, my mind, my body. I can speak very frankly. It's not difficult now to stand up to someone and say, 'I can't agree with you,' or 'I can't do that.'"

Free at last? Not quite.

In April 1976, just before the New Jersey primary, the polls looked promising, friends brought pressure, the experts agreed that this was the last chance to stop Jimmy Carter, and Hubert Humphrey wavered with the hunger of a lifetime.

"But then I got myself under control. I still had the desire, but I knew I shouldn't be in it, politically, emotionally and physically. If you've tried to climb the mountain before and didn't make it and now you're considerably older, maybe it's better if you just sit back and look at the mountain, yearn a little but not try to climb it."

Two weeks after the 1976 election, six weeks after a cancer operation, the unsinkable student of disappointment tried to console his old friend, Jerry Ford, on his defeat. He pointed out to the rejected president that he had restored public trust in the White House. Ford was only partially consoled. Humphrey tried again.

"Mr. President, you've had 2½ year in this house. I'd have given 10 years of my life to have had two days or two weeks here."

That did it. Ford was now smiling, and two of the most amiable losers in history laughed together.

Two months later, now terribly gaunt but still smiling. Hubert Humphrey was up there on the inaugural stand before the Capitol watching yet another man take the oath for the job he had coveted so long. How did he feel?

"I would have loved to have been president. It was the great heartache of my life that I didn't make it, because I think I would have done good for this country. I really believe that. But I was not destined to be."

Time and perspective had finally closed the old wound. He recalled a dinner with Averell Harriman, another giant of his time who never made it to the top.

"I came away from that evening thinking what he had meant to this country and what his life had been, and I realized you didn't have to be president to be a great man and be respected by your fellow citizens."

Twice the Senate of the United States came to its feet in standing ovations for Hubert Humphrey no one could forget. There was sustenance, too, in the corridors.

"I've had some marvelous consolation prizes," he said. "I just can't tell you how much it means to me. I notice when I walk around now in the Senate halls how considerate people are of me. They ask about me. They are concerned, and I know that. I'm part of the history of this place."

He recalled complaining to his father once about not getting enough sleep.

"Listen, son," his father said. "You don't need more sleep. You ought to learn to stay out of bed. People die there. Life is awareness, and if you're not aware you're not alive."

Hubert Humphrey smiled with the memory.

"So I was figuring it up the other day," he said. "I figure I've lived at least 100 years."

[From the Washington Post, Jan. 18, 1978]

THE MAN WHO WROUGHT VICTORY FROM DEFEAT

(By David S. Broder)

Few of the millions watching the memorial service for Hubert Humphrey in the Capitol Rotunda on Sunday probably understood President Carter's apology for the "harsh words" he spoke in the 1976 campaign about the Senator from Minnesota, but it was a gracious and honorable thing for him to do.

He had called Humphrey "a chronic loser," back then, when he expected the former Vice President to try once more for the party nomination. He regretted—and apologized for—the statement almost at once, but it was clear that it had been weighing on his conscience. For through the kindness of fate, as he said, Jimmy Carter had a year as President to learn—as many others had done before—what a forgiving and inspiring ally and teacher and friend Hubert Humphrey could be.

In reflecting on Humphrey's career, as all of us have been doing. I found myself recalling him, not in his moments of triumph, but in the hours of defeat. To tell the truth, there were many of them.

At the first convention I ever covered, in 1956, Humphrey lost the vice-presidential nomination—one he thought he had been promised by Adlai Stevenson—to Estes Kefauver. In West Virginia in 1960, he lost the presidential nomination to John Kennedy. And no one who ever read it will forget Mary McGroy's portrait of Humphrey that West Virginia primary night—first consoling the weeping folk singer who was strumming one last chorus of "I'm Gonna Vote for Hubert Humphrey," then, in turn, being embraced and comforted by Robert Kennedy, the doomed brother of that night's doomed winner.

In 1968 he lost the presidency to Richard Nixon—whose plaintive presence as the returned exile at Sunday's service added yet another note of irony to the saga of Humphrey's "defeats."

In 1972, he lost the nomination to George McGovern. Everyone who was with him will remember Humphrey on that long journey back to Washington the day after his California primary defeat ended what he knew was his last chance for the White House. Sleepless, exhausted, he roamed up and down the aisle, raising the spirits of everyone with his recollections of the foibles and fumbles of the previous six months of grueling effort.

He coaxed Michele Clark of CBS—who was soon to die tragically in an airplane crash—to play for the 50th time the treasured tape recording of the fast-tongued Humphrey getting hopelessly tangled in the words "Bedford-Stuyvesant" during the Florida primary. As he spluttered along like Donald Duck on the tape, Humphrey laughed until the tears rolled down his cheeks.

Long before he mastered the art of facing defeat in his pursuit of the presidency, Humphrey taught the Senate the importance of fighting a losing cause. As Nelson Polsby, one of the legion of political scientists who loved their colleague from Minnesota, has pointed out, Humphrey virtually invented the modern senator. It was he who linked the previously private world of the Senate club to the great forces of mass politics by using the Senate rituals—bill introductions, committee hearings and endless floor debate—as weapons for mobilizing national constituencies for civil rights, Medicare, nuclear disarmament and dozens of other causes. Those Humphrey bills were defeated session after session, but ultimately passed, monuments to the tenacity and skill of this "loser."

But his heritage is not just in laws. It is also in people and—it is important to say—in a political party. The Minnesota Democratic-Farmer-Labor Party, the DFL, has been for the last 30 years, largely through the inspiration of Hubert Humphrey, the nation's greatest resource of honest, effective and visionary political leadership. McCarthys and Mondales, Freemans and Frasers, Hellers and Hofstedes, Naftalins and Perpiches, Sabos and Spannauses, Blatniks and Rolvaags and Karths and, oh, so many Andersons—men and women, both—they are all, in their highly individual ways, extensions of their great teacher.

He built that party in the 1940s on the foundation of his own campaigns for mayor of Minneapolis, characteristically losing before he won. And then, late in his life, after he had been as close as a man can get to the top of American politics, he went back to Minnesota, in defeat, and rebuilt it again from the grass roots, healing the wounds of a bitter 1966 gubernatorial primary and his own divisive battle with Gene McCarthy in the 1968 precinct caucuses, and leading it to its greatest victory ever in 1970.

I remember Humphrey one night in that

1970 campaign, at a rally in Alexandria, Minn., for congressional candidates Bob Bergland (now Secretary of Agriculture) and Rick Nolan. It was the end of a long day, and after Humphrey and the others had spoken, Muriel Humphrey tried to get him out of the hall and onto the plane back to Minneapolis for a night's sleep.

But Humphrey was having none of it. Instead, he grabbed Wendell Anderson, then the candidate for governor and now the senior senator, and all the other candidates, and for more than an hour he kept them beside him in line, shaking hands and talking personally to every one of the 500 or 600 people who had come to the rally.

He was thinking, as usual, about others and about the future, especially the future of 26-year-old Rick Nolan. "Don't worry about me. My race is fine," Humphrey told each of the voters, affirming what they all knew to be true about his easy victory in that year's Senate campaign. "Help Wendell and Bob and Rick and the rest of these fellows."

Later, on the plane, he told me, "Rick Nolan may not make it this time, but he can win in 1972 if those people stick with him." As prophesied, Nolan lost in 1970 but won his House seat two years later. He is there now—in his third term, at 34, just half Humphrey's age and beginning to fulfill the hopes the DFL has for him—another part of the human heritage that ensures Hubert Humphrey, "the chronic loser," will have a larger place in history than many of those who defeated him along the way.

HUBERT REUNITED NATION

(By Nick Thimmesch)

WASHINGTON.—Much of what was good about Hubert Humphrey was expressed at the memorial services in the Capitol Rotunda last Sunday. Hubert in death, brought everybody together again, even Richard Nixon, whom Hubert never stigmatized for being in exile.

Several members of the so-called national press in low voice uttered malicious remarks about Nixon during the services calling him Tricky Dick and demeaning his motives for coming to the services. A little of this crept into the reporting the next day.

But people close to Humphrey, people who went through the heartbreaking 1968 campaign on hearing these reports just shook their heads and said that Hubert would have wanted Nixon here, that he and Nixon kept in touch, and Hubert always tried to reconcile everybody. "Anyone who makes remarks about Nixon being here," said a man close to Humphrey, "doesn't know what Hubert Humphrey is all about."

And so for the first time President Carter, Ford and Nixon got together, if only briefly and under such circumstances—meeting in Senate Minority Leader Howard Baker's offices in the Capitol. Moments before, the three men were also with Lady Bird Johnson, Betty Ford, Nelson and Happy Rockefeller, Henry and Nancy Kissinger and everybody asked about Pat Nixon's health.

Wow! That was my Uncle Elmer Swenson he was thanking. Elmer had been around Hubert when the Farmer-Labor Party merged with the Minnesota Democrats in 1944, which gave old HHH the vehicle he needed to build a political career.

In late summer, 1970, I went to Minnesota to cover Hubert's comeback campaign for the Senate. No sooner had I sat down to interview him than he put his hand on top of mine and said, "Well, I'm sorry that Elmer was laid away. He was such a good man." Uncle Elmer, born of immigrant parents, farmer, postmaster of Grove City, had died several weeks before.

Hubert remembered all the Uncle Elmers of his life, and while that served him politically it also endeared him to people. Hubert's love of people was authentic in a trade which can't always be authentic. That's why Howard Baker, who doesn't easily show show emotions, wept openly at the services.

During the last week of 1977, I visited Hubert at his Waverly house to do a magazine piece. The flesh was weak from that massive surgery, but the spirit was strong. He and Muriel reminisced for several hours. Humphrey, this fevered spirit, was one, long, human interest story.

He grew up on the innocence of rural South Dakota, filled with the sweet-sorrow of aspiration. He had to make it by golly. So he rasped his ebullience and identified with others who also felt they might make it someday. Hubert could be mean, but his meanness quickly flashed away. He didn't avoid sin or sinners, and this helped him develop a Christian tolerance for people.

He was deeply hurt by the power of Kennedy money in 1960 but dismissed his bitterness. "Jack Kennedy?" he said. "He was delightful. I got along with Jack Kennedy, after he became president, as well as any man in public life." As for the man who many thought sat on HHH too long. Hubert said, "I have warm feelings about LBJ. He could be exceedingly kind and rough, all in one conversation. But he was good to me. My liberal friends wanted me to tell him off every week, but you don't do that."

Shortly before President Ford left the White House, he had Hubert and Muriel to dinner. Hubert told Ford that nobody could take his time as president away from him. "I said gee, I would have given anything to be president two days, and you had two and a half years."

Oh, Hubert was not humble. His ego got him into some compromising situations. He was no saint. Hubert always had many campaign finance problems. One of his best men went to federal prison for it, and another aide narrowly escaped. Hubert understood the perils of politics, especially if you were a poor man—as he was—in the game.

He and Nixon related as two scarred gladiators. They could beat on each other and then embrace at the end. They were oddly close though remote in terms of distance, politics and personality.

Presidents, their senior assistants and their wives are usually at an age when health is a matter of large concern, and there is much asking about it. Muriel Humphrey recently had surgery. Betty Ford is not strong. Happy Rockefeller survived two breast operations. Pat Nixon recovers slowly from a stroke. Nancy Kissinger had half her stomach removed a few years back. The very special gathering in Howard Baker's office felt Hubert's ordeal.

Hubert brought them together, and the nation, too, not because he was some holy man, some Gandhi. Rather, Hubert's urges to do good were so obvious, as were his flaws and earnest optimism, that even nonbelievers were touched. Nobody could dislike Hubert Humphrey.

He remembered people. An old-timer would come, reminding him of an occasion of a generation ago, and Hubert would brighten the person's eyes by rasping out the details and maybe a "golly gee" or a "wasn't that great."

I remember Hubert in Atlantic City in 1964, when he was about to be dubbed vice president, pursued by well-wishers and eager newsmen. My meetings with him had been few, but he knew about my family, and surrounded by a thickness of people, he spotted me and called out, "You tell your Uncle Elmer that I sure enjoyed that smoked turkey he sent me!"

"Nixon was always respectful with me," Hubert said that December afternoon in 1976. "He went out of his way to be so. When we left Washington after his inauguration, he sent us home in the presidential plane and with our household goods aboard. And he phoned me with wishes to get well when I was recovering from my surgery."

Hubert phoned Nixon on Jan. 9 to wish him a happy birthday. Four days later Hubert died.

That afternoon in Waverly one year ago, after reciting all the tragedy and triumph, gaunt and gallant Hubert still bubbled with life. He and Muriel had no regrets. "Look at the fun we've had," he said, "and the people we've met. To come from Doland and Huron, S.D. How lucky I've been. I'm not mad at anybody."

WHY THEY TRIED TO GET HUMPHREY TO WEAR GLASSES

(By Max M. Kampelman)

WASHINGTON.—A few anecdotes from 30 years of close personal and political friendship with Hubert H. Humphrey.

Those days when Hubert was Mayor of Minnesota were full of excitement. I watched from a distance, but would occasionally be drawn into the picture. Hubert had met some of the civil rights experts from Fisk University. He was troubled by an article that Carey McWilliams had written that appeared at about the same time he became Mayor, calling Minneapolis the capital of anti-Semitism in America. There were very few blacks and not many Jews in our city, and there was a problem.

Fisk urged a community self-survey, with every part of our city looking at itself in the mirror.

Hubert explained: "If they like what they see in the mirror when they compare it to their American ideals, fine. If not, they will want to bring about the change." He was right.

Minneapolis became the first city to create a Fair Employment Practices Commission. It seemed as if everybody—trade unionists, academicians, bankers, industrialists, merchants—was involved in one or another committee.

One day when I went to City Hall there was a meeting of all the tavern owners in the city and many of their wives. Hubert wanted them to go to the city council and ask for pay increases for the police, the funds to come out of increased license fees that they would pay.

"I know you are paying off policemen now," he charged. "This must stop. Don't you wives want your husbands to be involved in a legitimate business that doesn't bribe policemen?"

He promised to clean up the city and the police force. He promised that he would end a police practice designed to entrap tavern owners into law violations. Miracle of miracles, they voted to cooperate!

I recall a train ride from Philadelphia to Washington after a speech. Hubert's father had just died. He was sad and troubled. "I could really never go seriously wrong," he explained, "because if I did and it appeared in the newspapers, Dad would be on the phone giving me hell. He was always watching what I was doing."

What concerned him was whether he would still be as true to his ideals now that his father was not there. About a year or so later, I reminded him of that conversation and asked him what he had found. "Dad is still looking over my shoulder," he responded.

One of Hubert's greatest irritations was constantly being reminded that he talked too much. He knew that. The way he handled the irritation was by poking fun at himself, but he never did fully understand the criticism or appreciate it.

Hubert grew up in the tradition where political speechmaking might possibly take up an entire afternoon in the town square. This was before television. It was not only

good entertainment, but it was also patriotic. How else, he felt, could there be understanding of issues by the electorate? The formula was simple: "You tell them what you're going to tell them; you then tell them; and then you tell them what you told them."

To understand Hubert Humphrey, you have to understand two pervasive characteristics. The first is faith. And that includes God and human brotherhood. What kind of God, what He looks like, where He is—that is unimportant. What is important is that there is a God and a set of values, and that we must all be brothers and sisters to one another in our personal relationships and in our societal relationships. This explains why Hubert was so forgiving of people who deserved less from him.

The second point to remember is that Hubert was a teacher. He had to explain so that everybody understood. Political democracy rests on informed awareness by the electorate, and that requires teaching. He knew that when he taught under the W.P.A. in Minnesota. He never stopped teaching, and that, of course, also means talking.

Is this old-fashioned? Of course it is, and he always knew it. There was a constant rebellion against turning himself into someone he was not, or into something he was not comfortable with, simply because it would be better television or better politics.

How often I heard the refrain of advisers, "Forget about the audience in front of you; think only about the TV cameras." But he could never forget the audience in front of him. They were there in the flesh, his friends, to be persuaded. These people he could see and the television audience he could not.

One day The New York Times caught a candid photograph of Hubert at a session of the Foreign Relations Committee. It was a great picture. He looked thoughtful and it was always so difficult to get a good picture of Hubert published that didn't have him talking. I looked carefully. He wore glasses in this photo. With the glasses, he looked studious. It's people who read and think who wear glasses. Here was a way to undercut the criticism that he talked too much. As a studious man, he had a great deal to say. Furthermore, audience attention could be drawn to the glasses and not to the protruding chin or to the small moving mouth.

I had it! Hubert was among the wisest and most truly profound of men, and yet the public did not know it. This was our solution. I quickly went to Humphrey. The idea made sense to him, but he remained skeptical. "It isn't as if you don't need glasses," I argued. "This is not artificial. You do need them. Why don't you wear them all the time instead of just when you are doing close work?" No promises from him, and no performance.

I didn't give up. In 1968, preparing for the Democratic Party convention, we got the assistance of Dr. Ernest Dichter, who volunteered and said he would like to help. This was the gifted man who made a good living telling toothpaste companies what color they should use on their packages to help their sales.

I presented the problem to him. He was skeptical, too, but agreed to make a survey. He used a photo of Hubert with glasses and one without. There was no name identification. "What kind of a man do you thing this is?" was the question. After some weeks, a surprised Dichter came in and said, "You were right." The man with the glasses elicited a much more positive response than the man without. Here was the proof!

We presented it to the Vice President. By now, he was using his glasses somewhat more frequently, but still not on television and not for photographs, why, I don't know why. But I think part of it was that it might appear to be manipulative and he would not be a party to such a manipulation for political gain. People would have to accept him for what he was or not at all.

MEMORIES OF HUBERT HUMPHREY: A SPIRIT OF HOPE AND THE ANGUISH OF DEFEAT

(By Isabelle Shelton)

The night Hubert Humphrey died, television reran some recent film of him standing at the podium of the House of Representatives, accepting plaudits at one of the many "We love Hubert" ceremonies that were held in the last few months before his death.

He was painfully gaunt and wasted, but his spirit was soaring, as always, as he joked about standing on the spot "where presidents delivered their State of the Union address," and said how much he had wanted to do just that.

It reminded me of the day that Humphrey, then a young, populist midwestern mayor, first burst upon the consciousness of Washington's hard-bitten cadre of national political reporters.

It was the first convention of the newly-formed Liberal Americans for Democratic Action. In Philadelphia, as I recall, I chanced to be there because, as a new bride, I had tagged along with my husband, who was one of the reporters.

Mayors, especially very junior mayors, usually do not make much of an impact with the media heavyweights, then or now.

But this time it was different. Hubert Humphrey caught their bemused attention with a speech in which he discussed the vice presidency of the United States as "only a heartbeat" from the presidency.

It was scarcely an original observation, but there was something about the fervor with which he uttered it that riveted the attention of everyone present, and made it perfectly apparent that this little-known "upstart" actually presumed to think of himself as vice president, even president. It was the talk of the convention.

A few months later, of course, the whole nation became aware of Hubert Humphrey when he led the dramatic civil rights fight at the Democratic National Convention, a watershed event after which the old Southern-dominated Democratic Party was never the same again.

And, in time, the whole world came to know that Hubert Humphrey did, indeed, yearn to be president. Lord knows he never made a secret of it.

But it was pretty startling that first time out, at the ADA convention, especially since the prevailing protocol of the time dictated that even someone with a more obvious claim on the presidency should back off like a shy schoolgirl when asked his intentions, figuratively pawing the earth and asking, "Who, me?" as he declaimed on the "awesome burden" of the office.

But not Hubert Humphrey. Then, and forever, he wore his heart on his sleeve. It was one of the things that endeared him even to his political enemies.

I remember the bitter tears Humphrey shed after he lost the West Virginia primary to John F. Kennedy in 1960. He was anything but a bitter, grudge-holding man. What other Democratic politician do you know who telephoned across the country last year to wish Richard Nixon a happy birthday?

But he really believed that primary was stolen from him, and even his larger-than-normal spirit of forgiveness found that impossible to bear graciously.

I asked him, not long ago, if he still was resentful about that election, and he said he didn't want to talk about it. "They're all gone now," he said sadly, meaning Jack and Bobby Kennedy. Then he stood silent for a long minute, lost in thought, perhaps reliving missed opportunities. Finally he said quietly, a little tight-lipped: "I haven't changed my mind."

Then the broad smile of the outgoing politician returned, as he swung around to shake hands with a group of waiting admirers, greeting each of them as warmly as if he needed that particular vote the next morning.

I remember the August night in 1964 when he and Muriel returned to their house on Coquelin Terrace in Chevy Chase after Lyndon Johnson had tapped him as a running mate.

The whole neighborhood had organized a welcome-home block party, with refreshments spread out in the look-alike house next door that belonged to South Dakota Senator and Mrs. George McGovern.

The scene on the Humphreys' front lawn, where everyone from the oldest grandmother to the newest babe in arms was gathered, looked like an old Saturday Evening Post cover of a Fourth of July picnic on the town square.

The Humphreys were late, as always, but everybody expected that. There was no hint of a busy schedule, or a demanding LBJ at the other end of the phone, as they slowly worked their way through the crowd. Humphrey knew them all, even the youngest, and he even knew their nicknames, and which ones liked to play baseball or race their bikes.

The grownups explained he knew their kids because he had spent so many weekend afternoons with them, scooping up everybody in sight to play ball or ordering ice cream cones all around.

Then I remember Chicago 1968, that awful Democratic convention, where barbed wire ringed the convention hall, tear gas permeated the big downtown hotels, and the streets were a bloody battleground between anti-Vietnam war demonstrators and Mayor Richard Daley's blue-helmeted police.

Lyndon Johnson had decided not to seek re-election and Humphrey was his heir-apparent for the nomination—for which Sen. Eugene McCarthy, hero of the anti-war forces, was also contending. Old neighbor McGovern was a last-minute entrant in the race, having been thrust forward by top strategists for the recently-assassinated Robert Kennedy, determined to somehow stop Humphrey.

The night of the presidential nomination and balloting, I was one of a pool of reporters who took turns in the Conrad Hilton Hotel suite where Humphrey sat watching the proceedings on television. Mrs. Humphrey had gone to the convention hall early in the evening, and the script called for Humphrey to join her after the balloting, the triumphal nominee.

He won the nomination all right, but by that time the scene outside the hotel was so out of control that the Secret Service insisted Humphrey not leave the premises. That was the occasion when he rushed across the reporter-crammed room to the television set, to kiss the image of Muriel, who was taking the plaudits in his place at the convention hall. The incident was jeered the next day, but at the time it seemed perfectly natural. Humphrey had been waiting all his life for this moment, and he wanted to share it with Muriel.

Still, it had not been a happy evening for the vice president. Much of the raging melee outside was visible from his suite, although it was about 20 stories below. I remember he insisted on leaning out the open window to get a better view of the battling cops and students, and the tear gas that floated in through the window engulfed us all. Humphrey stood shaking his head sadly, a look of incredulity on his face, saying over and over, "No, no, no."

One wonders if he didn't know, right then,

that the ferocity and poison of the conflict would sink his presidential hopes—which is just about what happened.

The decision of Sen. McCarthy to spend the campaign covering the World Series and sunning on the French Riviera was, of course, also a factor, because many of his followers took the cue from him. And that recalls another Humphrey vignette.

It had been a bad campaign, with the young and anti-war groups sitting on their hands, and Lyndon Johnson not helping much either.

One night about a week before the election Humphrey was making what his staff billed as a "triumphal" return to Washington from his latest campaign foray. One could only assume such a big event was being made out of this routine occurrence in order to bolster the candidate's morale, which certainly wasn't getting much support from unfolding events.

Nixon was riding high in the polls, and LBJ had all but written him off after HHH made a tentative move toward anti-war forces by declaring that, if elected, he would stop the bombing of North Vietnam.

I can't recall why we thought the airport rally was worth covering at all. It had all the earmarks of a disaster.

But it didn't turn out that way. Something of a miracle happened. The airport field was jammed with roaring, enthusiastic partisans. And even more important than their numbers was who they were. The troops were coming back: party workers who had elected Democratic presidents from Franklin Roosevelt through LBJ, and also some of the anti-war youths, whose faces I had come to know from countless White House marches.

I talked to a lot of them, and it must be said that Humphrey's half-turn on Vietnam was only part of the reason for their return. Perhaps equally important was their growing realization that by their non-participation they were about to hand the White House to Richard Nixon, and no peace dove he.

For whatever reason, the Humphrey campaign seemed to turn a corner that night, and the bone-weary candidate sensed it too, as he moved through the cheering throng spotting familiar faces he hadn't seen for months, if not years.

He very nearly carried it off, a week later but not quite. The respected columnist George Will said on a recent television show that sentiment was changing so fast at the end that Humphrey probably "came within hours" of turning it around.

But there weren't enough hours left, and I remember the night that Humphrey learned that, too.

Following tradition, the candidate awaited the outcome of the balloting on his home turf, in Minneapolis.

I was in a pool of reporters who accompanied him and Muriel from the headquarters hotel to their home in nearby Waverly, and then to a party of some of his supporters in a large suburban home. It was a biting cold, moonless night and the ground was covered with snow and ice.

It still was fairly early in the evening when the Humphreys emerged from the party to return to the hotel. Although the outcome of the election was not to be known officially for many more hours, Humphrey had learned something inside that house that he apparently felt sealed his doom. I think he had just heard it as he was leaving, because he had not had time to put his usual happy face back on.

I have never seen such a stricken face as his when he emerged into the cold night, to exploding flashbulbs. Happening to spot my familiar face, and never one who could easily conceal emotion, he called out, "Isabelle—where are the votes? I haven't got the votes!"

Although the official tally was not to come for hours, it seemed obvious that some politically savvy Humphrey aide had been able to project the outcome from examining the early votes in carefully chosen key precincts—a small skill that knowledgeable politicos possessed long before monster computers took over the world.

When Humphrey made his official concession speech the next day, he was pulled together and gracious. But I'll always believe he knew that he had lost it all on that bleak, winter night, long before most of the votes were counted.

HUMPHREY WITHOUT TEARS

(By George F. Will)

The enduring memory of a great politician's life should be of his voice, an echo of exhortations in the nation's ear. For most Americans, and especially for the postwar generation that has not known politics without him, the chorus of public life henceforth will seem incomplete without Hubert Humphrey's voice. It was a voice as flat as the prairie, flat as the political landscape seems with him cut down. But it was a carrying voice, vibrant with the energy of a man happy in his work.

Today it is difficult to summon a sense of Adlai Stevenson or Dwight Eisenhower addressing a crowd. But twenty years from now, those who heard Humphrey in full flight will remember his delight. It was of his overflowing affection for his audience, not just the pleasure most political men derive from seeing themselves reflected in an audience's eyes. Perhaps Humphrey exhausted more people than he persuaded, but in politics the effect can be the same. More notable than the amount of talking he did was the Gatling-gun pace at which he did it. He talked so fast he did not seem to be a calculating man, which warmed audiences. But he also did not seem to weigh his words, and friends urged him to affect a halting graveness. He refused. He could be quick without being rash because his purposes were fixed and clear and he saw no conflicts between them. He was, as someone said of Voltaire, a chaos of clear ideas.

BREAD-AND-BUTTER LIBERALISM

Postwar politics has been a long lesson in the incomptability of many of the worthy goals of Minnesota liberalism. Minnesota is a green and pleasant paradox, a liberal state full of conservative people. It believes in bread-and-butter liberalism. Its Scandinavian and rural elements, and perhaps its severe winters, incline it to a political ethic of collective provision, and in Humphrey it produced this century's only Presidential nominee who had been mayor of a large American city.

Bread-and-Butter liberalism was social security, TVA, rural electrifiication and scores of similar, if not similarly successful, programs of material amelioration. The decline of liberalism in Humphrey's lifetime is less the result of the excesses of such politics than of the transformation of liberalism into a doctrine of "administered enlightenment." The old liberalism delivered material advantages that were intended to enable people to live the lives they had chosen. The new liberalism, typified by forced busing and affirmative action and the explosive growth of regulation, administers "remedies" to what society's supervisors consider defects in the way people live.

POLITICS WAS PHARMACY

Humphrey was very much the son of a small-town druggist in the Midwest. Years ago the pharmacist, second only to the doctor, represented the practical use of knowledge against the distress of life. For Humphrey, politics was pharmacy practiced on society. The liberal temperament is exasperating because of its expansive belief in social pharmacy: there are no disagreeable conditions that must be endured, only problems that must be solved. In today's climate of disappointment with government, it is easy to caricature Humphrey's penchant for prescribing elixirs, and his inability to give anything his undivided neglect. But at the end of his life, he had the compensating certainty that he had fought on the winning side. When he entered politics it was an open question whether the U.S. would embrace welfare-state practices. Today that question is closed. Few persons see most of their youthful opinions become public policy; fewer still see that without a trace of embarrassment or regret. Humphrey did. In his party he was more than a political leader; he was a climate of opinion.

An extraordinary politician usually embodies a characteristic value of his culture. And Humphrey embodied the belief that to persist is to triumph. Yet he drank a full draft of defeat. In 1956, he was one of the first and most forceful supporters of Adlai Stevenson's renomination, and he wanted to be Stevenson's running mate. But Stevenson let the convention choose and it chose Estes Kefauver. And John Kennedy, not Humphrey, was second. In the 1960 West Virginia primary, Humphrey, the least synthetic of men, was beaten by Kennedy, the first thoroughly packaged candidate. At the 1968 convention, when he should have been able to savor a fulfillment long delayed, the smell of tear gas drifted into his room overlooking Chicago's Grant Park. That autumn, his personality energized a dramatic home-stretch drive, and at the end, votes were shifting his way so fast that if the election had been twelve hours later, he probably would have won.

In 1972, when he was considered worn goods, he came close to stopping George McGovern's drive for the nomination. In 1976, when he was beginning to be regarded as a classic deserving a comeback, like "South Pacific," he was too spent to face another disappointment.

Like Moses, Humphrey was discovered young, at the 1948 convention, and like Moses, he always was a bundle of opinions. He rose fast enough and lived long enough to see five men succeed to the Presidency after he first sought it in 1960, and he believed that he could have done the job better than each of them. Because he was cherubic, not lean, it was easy to underestimate how hungry he was, first for acceptance in the Senate, then for the great prize of American politics. Because he lost so many of life's close calls, and because liberalism often is a form of sentimentality, there is a tendency to patronize Humphrey while praising him. He did lack the *necessary* coldness of a national leader. A friendship tended to be a lifetime contract, so as he rolled through life he acquired a soiled snowball of political associates. Rarely does a man have such extraordinary dynamism and lack an instinct for the jugular.

A 30-YEAR PROFESSIONAL

But Humphrey also had a guileful side, as you would expect of one who learned about national political realities from the likes of Oklahoma's Sen. Robert Kerr, a sort of *rough* Lyndon Johnson whose ability to bend nature can be seen in the fact that Tulsa is a seaport. For 30 years, Humphrey was a professional. More than any man of his generation, he lived the political life as Plutarch described it:

"They are wrong who think that politics is like an ocean voyage or a military campaign, something to be done with some particular end in view, something which leaves off as soon as that end is reached. It is not a public chore, to be got over with. It is a way of life. It is the life of a domesticated

political and social creature who is born with a love for public life, with a desire for honor, with a feeling for his fellows . . . "

During the 1964 campaign, the paths of Barry Goldwater and Hubert Humphrey crossed in an airport, and they paused to chat. As they parted, one professional said to the other, "Well, keep punching, Hubert." He did.

"THAT WAS HUBERT"

(By Mel Elfin)

It was almost 4 a.m. on that tumultuous night in August 1968, and as I stood in the middle of a frenetic hotel ballroom in Chicago—tear gas wafting in the windows, police sirens wailing endlessly on Michigan Avenue below, chants of "Dump the Hump" cascading from Grant Park across the street—it seemed clear to all but his most devout acolytes that this was the end, not the beginning, of Hubert Humphrey's elusive quest for the Presidency.

But there on a small platform directly in front of me stood Hubert Humphrey, his ruddy face crisscrossed in smiles from the oversize forehead to the Bob Hope chin, preaching to the often disappointed faithful the politics of joy and the gospel of victory in November. Even for Humphrey, who could make Pollyanna look like a worrywart, the exuberance appeared ill-timed and out of place. Nudging one of Hubert's aides standing nearby, I asked: "Al, Hubert doesn't really mean all that stuff, does he?" The aide leaned over and whispered: "If you think that, then you don't know the man. Hubert always means it."

PASSION

In a sense, perhaps, this was why Humphrey became, and for so long remained, one of the compass points of our politics. In the age of the plastic statesman and in a city like Washington where phoniness has been raised to a high art and so many phonies to high office, Humphrey made his way without artifice or subterfuge. He could no more disguise his inner feelings than he could restrain his passion for life and his zest for the public life.

If he bubbled too much, if he wept too much, if he sprinkled so many "By gollys" and "Bless your hearts" through his conversation that he sometimes sounded like a short course in the American vernacular, well, then, "that was Hubert," as his friends explained. It was this openness of spirit that could move Humphrey from heights of quiet dignity, such as his extraordinarily graceful statement of concession to Nixon in 1968, to depths of embarrassing sentimentality, such as the moment he planted a wet smack on the televised image of Muriel shortly after winning the nomination in Chicago, exulting, "Mom, I wish you were here."

Unlike so many of his colleagues, Hubert had little talent for dissembling and none whatsoever for lying. And although he lived a life filled with humiliation, neither did Humphrey hold grudges, not against reporters who savaged him, friends who betrayed him, or even the President who teased him unmercifully and then, out of stubbornness, vanity or both, destroyed his best chance of becoming President in his own right.

Maybe he survived discouragement and dejection because he had such an enormous capacity to laugh and to make others laugh. I recall one hot summer day in 1967 when I flew to New York with Humphrey and a few of his aides in a small private plane. Ten minutes out of Washington, the air conditioning broke down. Hubert took off his tie. A little while later, he unbuttoned his shirt. Over Philadelphia, he took the shirt off entirely. By the time we were circling over La Guardia, the Vice President was still mopping his brow feverishly. An aide said: "Mr. Vice President, I trust that you don't plan to take anything else off before we land." "Why not?" shot back Humphrey. "I have nothing to hide from the press or the public."

Hubert's verbosity was the stuff of legend, and speechifying was the verbal expression of all the energy churning inside. It was always fascinating to watch him during the toasts at formal Washington parties. While the others spoke, he would shift nervously in his seat, but then, when it finally became his turn, Hubert would bound up like a coiled spring and would often begin talking even before he was halfway out of his chair.

He was indisputably the best orator of his generation, but he spoke in a voice that was a trifle too reedy and perhaps an ocative too high. It was a voice that seemed forever poised between the lachrymose and the eloquent, yet it was a voice that could electrify the most dispirited of audiences, never more so than at the 1948 Democratic convention when he threw down the gauntlet on the issue that was to become the true moral equivalent of war in our day—civil rights.

Still, it was in small gatherings that Hubert was often at his best. At meetings with reporters, he could bat out answers to the trickiest and most loaded of questions the way Reggie Jackson bats out home runs. He would move with ease from long but coherent discussions on issues of passion like civil rights and poverty to such arcane subjects as nuclear nonproliferation and international monetary policy. In between, he would stop along the way at farm policy, NATO and Minneapolis ward politics without losing a step.

Once, after a particularly virtuoso performance at a breakfast with reporters a few years ago, his audience was so awed they violated a prime percept of Washington journalism—they applauded vigorously.

Wounded: For the "cool" generation of the '60s, Humphrey's frenzied pace, his sentimentality and, above all, his support of Lyndon Johnson's war in Vietnam turned him into an object of derision. He became "The Hump," the war-monger who put loyalty to LBJ above loyalty to principle. Forgotten were his service to civil rights, his creation of the Peace Corps and his espousal of an agenda full of liberal causes. Humphrey was wounded terribly by the caricatures and the desertion of old friends, and he couldn't hide his deep disappointment.

Fortunately for Humphrey, he was able to live long enough to be judged by standards other than Vietnam, and many of those who turned against him in 1968 tried to assuage their guilt through an outpouring of affection and tribute. He was also able to live long enough so that Jimmy Carter, who had derided him as a "has-been" during the 1976 primaries, could understand that even as he waged a stubborn struggle for life, Hubert Humphrey could be a powerful ally, a wise counselor and a warm and forgiving friend.

Now in the chill of a Washington winter, Hubert Humphrey is gone. We have lost a voice that warmed, cheered, amused, consoled, inspired and spoke so often with so much compassion for the conscience of a whole nation. We have lost a giant who strode gently across our political landscape, a man whose greatness was rooted perhaps in his obvious human flaws and frailties.

But golly, Hubert, we're going to miss you, terribly. Bless your heart.

HUMPHREY'S HAPPINESS: A GOOD ANTIDOTE TO OUR OWN

(By Ellen Goodman)

BOSTON.—The eulogies are over, the obituaries written and the attention has turned—not hastily, but inevitably—from Hubert Humphrey's death to his wife's appointment.

But before we close the file on the man, one more thought about the word we heard the most in his memorials: happiness. Never before has a public man been so praised for his "happiness." Never before has the funeral of a man of political prominence focused on his pleasure and exuberance.

Walter Mondale described his friend and mentor, who was always labeled a Happy Warrior, as a man who believed that "life was not meant to be endured, but, rather, to be enjoyed." He remembered Humphrey saying again and again that this was the only country in the world that had "the pursuit of happiness" as a national goal.

In many ways, I thought it was remarkable to hear such a spirited description and defense of happiness. But perhaps it's true. The word seems to have become so controversial. I see happiness written more often as an epithet than an epitaph. It reads more often as a piece of psychobabble than as a part of political philosophy.

In the last several years, we have associated "the pursuit of happiness" with a kind of hedonism, the wildly indulgent behavior displayed by the succession of Roman emperors in "I, Claudius," and the false euphoria of the leisure-time activists. Happiness seems to be the goal of a disillusioned people who have retreated from social concerns to private ones, and are driven by a desire to feel good.

Pleasure is now a buzz words. "Pleasure seeksrs" are visualized as those people who quest exclusively after Big Sur and bigger orgasms.

A phrase like "enjoyment, not endurance," could be the motto of people justifying the most outrageous sort of irresponsible, hurtful behavior. It could also be the slogan for those who only go round once in life, and try to grab all the gusto for themselves.

There are, after all, many who believe that the pursuit of happiness is the pursuit of "their" happiness. And theirs alone.

But even those of us who are hardly hedonists increasingly conduct our "Search for Happiness"—like the characters in some soap opera—in our private lives. Our expectations are lowered in public and raised in private, but we still try to fill the quota.

Fewer and fewer look for pleasure in work or happiness in school. "Happy Hour," after all, takes place after work and in a social environment. Self-fulfillment is a weekend activity. Happiness, they say, is a warm puppy.

We seek great pleasure in a smaller and smaller area of our lives. We think of happiness as an individual pursuit.

At this moment then, Humphrey's "happiness" is a good antidote to our own. It is far closer to the original in the Declaration of Independence written by the same man, Thomas Jefferson, who said: "Our greatest happiness . . . is always the result of good conscience, good health, occupation and freedom in all just pursuits."

Humphrey found sheer, almost physical, pleasure in his work because he defined it as working for others. He believed that politics is ideally the business of pursuing the greatest amount of happiness for the greatest number of people. The pursuit of happiness was not a justification for self-centeredness. It was the source of pressure for social change.

The pursuit can't be just an individual one. It's ultimately as difficult to be a totally content person in an unjust society as it is to enjoy a banquet surrounded by starving people. In the end, selfishness demands a strong dose of selflessness.

Similarly, by pursuing pleasure only in private lives, we may miss it. Hawthorne once wrote: "Make it the object of pursuit and it leads to a wild-goose chase and is never attained. Follow some other object and very possibly we may find that we have caught happiness without dreaming of it."

Through his own sense of joy and mission,

Humphrey showed a genuine, selfish pleasure that comes not only from warm puppies but from a sense of generosity and public purpose.

[From Time magazine, Jan. 23, 1978]

HUMPHREY: WHAT A LUCKY GUY, WHAT A LIFE

It has been a crackerjack of a funeral, to borrow a term and an attitude from Hubert Humphrey's own exuberant life. How he would have loved it. Airplanes and military honors, the President and the pages, good old hymns badly but enthusiastically sung, organs booming and preachers praying mightily all across the country.

What a grand spectacle. Newspaper headlines and network specials, editors hammering their typewriters to new heights of deadline eloquence: everything being gloriously overdone—at least a little. Friends from far and near in their dark suits standing around telling stories—solemnly at first—about their days and journeys with Hubert, beginning to chuckle and then to laugh out loud, and then reaching for another bourbon to ease the long, low ache that comes from knowing a great man is gone. Had Hubert, like Tom Sawyer, been able to sneak under the back pews at his own services and witness proceedings (and, who knows, he might have—he sort of believed in those things), he would have swelled in the wonderment of tribute. But then he would have tiptoed around and bussed Muriel, winked at his friends and told everybody to wait a minute. A few tears, O.K., he appreciated that. But what a lucky guy he had been, what a life he had led. Every day a joy, every week an adventure. "Come on, let's celebrate," he would have said.

The problem was always how to organize a heart like Hubert's. It beats harder than anybody's, compelling its owner to laugh, shout and run off into every corner of America, bubbling with mirth and his special prairie exaltation. Too often he loitered along the political byroads of America, gabbing and shaking hands and studying individual faces as if each were from the easel of Michelangelo. Of course, he lost the big elections. And he danced with all the fat old ladies in the union halls after the speeches and the first beers. When asked why he squandered the time and the energy, he explained that fat old ladies needed the attention and appreciated it the most. Besides, he said, it was his policy to spend as little time as possible sleeping. More people died in bed than anywhere else.

Hubert's heart was big and it worked overtime, but it was more tender than any heart found among the men of power. It was easily pierced by the tragedy and misfortune of others, but it possessed marvelous powers of recuperation. When the world thunked him hard, as it did that night in West Virginia when he lost the critical presidential primary to John Kennedy, he was an open wound for a few minutes. But then he gathered himself up in that moth-eaten room of the old Ruffner Hotel, went over and fixed himself a salami sandwich from the table of things he had personally bought for the victory celebration. He began right then to climb out of defeat back to his sunny pinnacle, a journey that he would repeat and repeat.

Hubert had an immunity to humiliation. When Lyndon Johnson imperially summoned him to the White House to tell him that he was to be the Democratic vice-presidential candidate of 1964, L.B.J. let Humphrey just sit in the White House limousine on the drive for half an hour. Hubert did not get angry. He took a nap. When Johnson, carrying his lesson of authority further, left him waiting outside the door of the Oval Office, Hubert plucked a book from a shelf and read about Thomas Jefferson.

How a man who wore suits with Italian cuffs, openly enjoyed his snowmobile and once was in love with a big, garish Cadillac with fins could ever espouse such an encyclopedia of urban and rural compassion is yet one more marvel in the Humphrey legend. "I'm not against those things," he once explained. "I just want everybody to get a little." And he relished a celebration. "If you think Andy Jackson had an Inaugural party, just wait until I get there," he promised when presidential hope burned bright. He missed that one by a few votes. So it is right and fitting he should have a good funeral now. He would have loved it.

[From the New Times, Feb. 6, 1978]

FINAL TRIBUTE

(By GEORGE MCGOVERN)

Sitting in the family room of his comfortable home in Waverly, Minnesota, Hubert Humphrey would tell visiting friends: "This is the house that wind built." A visitor would laugh and at the same time experience a surge of affection. That statement told so much about Hubert. It recalled the countless hour-long speeches which he sometimes ended by saying, "Muriel has told me that I don't have to be eternal to be immortal." It recalled, too, his capacity to laugh at himself and to take note of the well-meant criticism of his friends, while he went right on being himself. It was also an earthy, unapologetic reference to the fact that Hubert Humphrey may have earned more honorariums making speeches than any other senator in American history.

Always he spoke with that crackling, extemporaneous style that is familiar to Americans in every hamlet across the land. He had a capacity to begin a speech after an exhausting day and somehow recharge his mental and emotional batteries with the electrical currents that flowed from his rhetoric and the delighted reaction of the crowd. Often when he hit on a choice phrase, it would remind him of another one, which in turn would call up a rapid fire, escalating series of references from biblical, constitutional or political lore.

I once heard Hubert speak on the nuclear test ban treaty for nearly two hours without a note. It was a brilliantly informed discourse, and he delivered it without a single awkward or trite phrase. After determining that neither he nor his staff had changed a word in the Congressional Record text of that speech, I read it the next day trying to detect a grammatical error, a clumsy phrase, or a weakness in sentence structure. There were none. Countless times my colleagues and I in the Senate witnessed similar spontaneous flights of eloquence. "He has the best coordination of mind and tongue of any member of the Senate," a Time magazine writer noted. I would revise that only to say he had the best coordination of mind and tongue and heart. He seldom separated the emotional currents that surged through his heart from the intellectual sharpness that characterized his mind. That constant mingling of emotion and intellect sometimes led him to questionable conclusions, but it also enabled him to manifest a blend of compassion and indignation, laughter and tears, that made him a rare human being.

During a heated debate with Senator John Stennis of Mississippi on the Civil Rights Act of 1964, Hubert turned to Senator Stennis, his eyes glistening with tears, and said: "I know the senator from Mississippi is a good and decent man. I know he is kind and loving in his personal relations with his black brothers. But I believe all of us, black and white, northerners and southerners, must not only love each other, we must provide every citizen the full protection of the law."

Hubert Humphrey and his family were our next-door neighbors in Washington for a decade. We were not only warm friends, but we shared the legacy of American liberalism. Then came Vietnam, and we drifted apart for a time. In 1972 I defeated my old friend and neighbor for the Democratic presidential nomination.

I well know the sadness of losing a presidential race. Yet, within a few months, Hubert and I went to South Dakota together, and he helped me launch a winning campaign for reelection to the Senate. He was even then undergoing radiation treatment for the illness that was to take his life four years later. During that campaign trip, we shared the platform in Huron, South Dakota—the town where the Humphrey Drug Store of Hubert's boyhood is still operating. That night all the scars of 1972 vanished. I rediscovered what I had already known deep in my being—that it was impossible either to hold a grudge or be on the receiving end of a grudge where Hubert was involved.

Years earlier during the bitter divisions over Vietnam, Hubert told me quietly one afternoon that he did not want me to think that he was supporting the war to please President Johnson. "I am an advocate of our Vietnam policy because I believe that policy is right," he said. I admired him for making it clear to me that he did not want his friends to blame his Vietnam views on the President who had selected him as his running mate. "I would rather be honestly wrong than to be a deliberate hypocrite," he said.

Hubert reminded us repeatedly that he was "not running for sainthood." He had limitations, as we all do. He seldom read a thoughtful book, and he was too much in awe of official briefers. But when it came to the great issues of social justice, Hubert's instincts were not only sure, they were enunciated with a passion, earthiness, wit and force that we are not likely to see exceeded in all the days of our lives.

[From the New Times, Feb. 6, 1978]

THE PUBLIC DYING OF HUBERT HUMPHREY

(By Peter Ross Range)

As the service proceeded, the clergyman drew such pictures of the graces, the winning ways, and the rare promise of the lost lads that every soul there, thinking he recognized these pictures, felt a pang in remembering that he had persistently blinded himself to them always before and had as persistently seen only faults and flaws in the poor boys. The minister related many a touching incident in the lives of the departed, too, which illustrated their sweet, generous natures, and the people could easily see, now, how noble and beautiful those episodes were . . . .

. . . There was a rustle in the gallery, which nobody noticed; a moment later the church door creaked; the minister raised his streaming eyes above his handkerchief, and stood transfixed: First one and then another pair of eyes followed the minister's, and then almost with one impulse the congregation rose and stared while the three dead boys came marching up the aisle, Tom in the lead, Joe next, and Huck, a ruin of drooping rags, sneaking sheepishly in the rear! They had been hid in the unused gallery listening to their own funeral sermon!

—The Adventures of Tom Sawyer.

Shortly before his death ten days ago, Hubert Humphrey told aides that he wanted his funeral kept simple. "I've had enough eulogies for two lifetimes," he said.

Indeed he had. When Humphrey finally was felled by pelvic cancer at his secluded ranch home in Waverly, Minnesota, the ceremonies that followed weren't merely anticlimactic; they were superfluous. Like Huck and Tom, he'd already attended his own funeral.

In 200 years, nothing quite like Hubert Horatio Humphrey had ever come bounding

across the American political landscape. And certainly there never has been anything to equal his dying—a star-studded, media-saturated, year-long happening, complete not only with pre-modern eulogies, but honors and memorials that would have done a President proud.

Humphrey's lingering on-stage exit was so complete and convincing, in fact, that some people tended to forget he was still alive. During a special session of the House of Representatives called in the senator's honor, Speaker Tip O'Neill slipped, then quickly recovered: "Now in your last term—as *you* say—in the Senate, my dear friend, Hubert. . . ." And although Humphrey pointedly had told one reporter, "Just don't be in a hurry on the obituary—don't print it too soon," *Newsweek* magazine nonetheless inadvertently sent his six-page obit to the printer several weeks before his death, managing to rescind it only at the last moment.

Normally, when the winds of a fatal disease begin sweeping the color and flesh from a man's body, he retreats into the privacy of his family, there to lick his wounds and confront his mortality. But Humphrey's gutsy struggle against the demon that killed him was fought, and celebrated, on page one. "It wouldn't be right for everybody," said his friend and colleague, Senator Gaylord Nelson. True. When Senate powerhouse John McClellan died last December after a long illness (and 30 years on the Hill), most people hadn't even known he was sick. Similarly, three-term Senator Lee Metcalf, who died just one day before Humphrey, had been hospitalized for several weeks; his decline was so private that it had gone unreported even in his hometown of Helena, Montana.

Of the many taboos connected with the American way of death, public acknowledgment of malignant cancer has long been high on the list; the mere word is so offputting that most obituary pages rarely mention it, even after the fact. But from the time last August that Humphrey permitted his doctors at the University of Minnesota Hospital to announce that his cancer was "inoperable . . . . terminal," the irrepressible former vice president—with the enthusiastic cooperation of the press and the Washington establishment—let it all hang out. If he couldn't lick the Big C a la John Wayne, he could—and did—give it a hell of a fight in the center ring.

Doctors first discovered small non-malignant growths on Humphrey's bladder almost a dozen years ago; in 1973, when one of these so-called "papillomas" showed evidence of malignancy, the senator underwent heat X-ray therapy. By 1976, however, the disease had spread, and that October doctors at New York's Sloan-Kettering Cancer Center were forced to remove the bladder. Upon his release from the hospital, Humphrey characteristically announced that he was "in unbelievably good shape," but photographs taken of him at the time belied that optimistic self-diagnosis; they revealed a ravaged, hollow-cheeked man who had aged a dozen years in as many weeks. They showed a man who had begun to die.

In 1977—as wire-service photos so persistently continued to remind us—Humphrey's condition steadily deteriorated; month by month, his body seemed to collapse in upon itself, and his dyed reddish-brown hair turned white and started falling out. Throughout the year, he received well-publicized radiation treatments as well as chemotherapy, a medical strategy Humphrey called "bottled death." When one doctor declared that, as a result of the chemotherapy, all the cancer had been removed "as far as we can tell," the handwriting was on the wall.

Last August 16, Humphrey entered the University of Minnesota Hospital with an intestinal blockage; it was after they had operated two days later that surgeons there pronounced their death sentence, revealing that the spreading pelvic tumor they had found could be neither removed nor stemmed by the ministrations of their art. "Inoperable." It was the beginning of the end.

But what an end! For it also was the beginning of a gaudy, heartfelt, only-in-America goodbye to the latter-day Happy Warrior. Hubert Humhprey, 66 going on 100, was not about to expire on the sidelines; rather, he stood dying in the bright strobelight of his golden months (no golden years now—no time for that), the cheers and tears swelling around him. In Washington, it was a listless season: the next election a year away, the Hill legislatively constipated, the White House neither inspiring nor insidious enough to provide the nation a Capital rush. There was, instead, the dying of HHH.

By October, the countdown was on. It started when Congress rammed through legislation renaming HEW's new headquarters for their not-yet-fallen colleague, the first time a federal building had ever been named for a living person. A week later, 3,000 politicians, academicians, athletes, show-biz folk and admirers from labor and business gathered for an "Evening in Honor of Hubert H. Humphrey," the first in a series of dinners to help raise $20 million to establish an HHH Institute of Public Affairs at his alma matter, the University of Minnesota.

The official dying gathered momentum on October 23 when Jimmy Carter, returning from Los Angeles, detoured Air Force One to give Humphrey a ceremonial lift from Minneapolis to Washington—an eleventh-hour realization of Humphrey's longtime dream to have the presidential wings loft him about the country. "I spent twenty years trying to get command of that plane," he said after the flight.

One of Humphrey's Minnesota doctors had told him, "Hubert, we've done about as much for you as we can for a while. Why don't you go back to Washington where you want to be?" And Humphrey had replied: "Doctor, that is good advice." So he returned "home" to the Senate to let his life pass before him in airbrushed glory.

The Senate sensed this was Humphrey's final return to the fold, so two days after Carter delivered him to Andrews Air Force Base, a special session was convened to welcome him back and to eulogize him. All but a few seats in the Senate chamber were filled on that graying autumn day when Humphrey walked in to a full five minutes of steady applause. ("I've been here through five Presidents," said one senator, "and I've never seen anything like that.")

They praised Humphrey's courage and vision and energetic good cheer; they told him he talked too much and swore that they loved him.

Even his old enemies were there: one-time segregationist Herman Talmadge, the original Georgia farmer-politician, wished him "Godspeed"; Howard Baker, the Republican minority leader, who would like to be our next southern President, welcomed him "back in harness"; Robert Dole, as partisan a Republican as Humphrey was a Democrat, said "the Senate just isn't the Senate without Hubert." In the face of the imminent demise of the last remnant of the New Deal liberalism that Humphrey personified, they all could kiss and make up.

From the rostrum, the Minnesotan admitted, "I am old enough and sufficiently wise to know that all you have said is not exactly according to facts, but I am sufficiently fragile and weak as to want to believe every single word."

The media crush after the Senate ceremony turned into a bittersweet circus; reporters were grinning and fighting tears and shaking the senator's hand. Caught up emotionally, CBS's Roger Mudd had to start his news clip over three times before his voice calmed down. As he was leaving the Capitol, and the lights, cameras and correspondents crowded in, Humphrey grinned, and the feisty old political tenor cracked out: "Where were you guys in 1968 when I could have used you?"

A week later, the House of Representatives broke 189 years of tradition by inviting a member of the Senate to a special session in his honor—a huge, official love feast. Dapper in a gray jacket and blood-red vest, Humphrey sat with his wife, Muriel, in the front row of the House chamber and listened to declarations of love and admiration from both sides of the aisle. Tip O'Neill, the rumpled Speaker from Massachusetts, was wiping back tears when he introduced the senator.

Speaking not from the well of the House but from the raised dais just below the audience with a vintage 21-minute ramble laced with self-deprecating jokes. Near the end, he asked: "Now where am I standing? I am standing where the President of the United States gives the State of the Union Address." He paused slightly, adjusted his coat proudly, broke into a wide grin, and gushed, "Myyyy goodness!"

When it was over, reporters who had heard Humphrey's voice grow stronger as he hit his stump stride and had seen him give the podium a light, ritualistic bang with his practiced fist, were shocked by the slow-motion agony he went through to raise a glass of water to his lips—an excruciating, trembling effort which finally afforded him only one small sip.

The following morning, the *Washington Post* paid its tribute on the front page: a historic, half-page photograph of Hubert Humphrey, his mouth agape in a great, hearty laugh, with Tip O'Neill gaveling for order behind him.

The House tribute rounded out the official leave-taking from the Big Three: the President, the Senate and the House. But the biggest, if not the best, was yet to come.

They were all there. Jimmy Carter missed the Cornish game hen and green beans, but arrived in time to say, "I'm proud to be President of a country that loves a man like Hubert Humphrey." Walter Mondale took the stage to declare that "each of you is telling Hubert in the inaudible language of the heart that you love him." Tip O'Neill lumbered through the jungle of round dinner tables loaded with carnations and mums to hug Humphrey on both sides, French-style. Alan King growled into the microphone that the senator's initials stod for "human, humble and honorable." Frank Sinatra sang one of Hubert's favorites, "The Lady Is a Tramp." Elizabeth Taylor, the new jewel of the Washington glitter set, kissed him on each of his sunken cheeks. The treasurer of the United States, a black woman named Azie Taylor Morton, got up and said, "Were it not for Hubert Humphrey, I might not be here tonight without an apron on."

For the 2,000 notables in black tie and decolletage who crowded into the Washington Hilton on a frigid night last December 2 (a date that governors of 40 states had set aside in his honor), it was Humphrey's last last hurrah. The $1,000-a-plate fund raiser for the HHH Institute of Public Affairs had the feel of Old Home Week: Kissinger was there; so was ex-CIA director William Colby, ex-senator John Tunney and ex-JFK friend Angie Dickinson.

But in the end it was Hubert Humphrey's night. Everyone there had seen pictures of his whitened hair and waxen face, of his shirt collars grown enormous. But few were prepared for the cautious shuffle with which he crossed the stage of the grand ballroom at 10:45 that night. Only a thin echo remained of his vibrant Midwestern voice as he

confessed that his most recent round of chemotherapy "just about threw me for a loop. . . . Even as I talk to you, my knees are shaking." Ever the optimist, however, he added that "the doctor's reports are encouraging," which provoked a shout from somewhere in the darkened hall: "You'll Live Forever, Hubert," at which the throng erupted into a great roar of applause.

"There was a lot of guilt at that dinner," said the *Washington Star's* Pulitzer Prize-winning Mary McCrory later. "Humphrey's guys were bitter, saying if there had been an outpouring like that in '68, he would have been President." Others believe that the applause that accompanied Humphrey's dying all year long was grounded in great part on guilt. "He had always been rather shabbily treated by Washington," says *New York Post* columnist Murray Kempton. "Like Nixon, he was continually snubbed. For years the Senate establishment ostracized him, Johnson continually abused him, and the young and the liberals turned on him in '68. As he was dying, he was on everybody's conscience. He hadn't gotten his due."

To some, there was a Christmas-in-July quality about the way Washington belatedly tried to give Humphrey that due. In his final weeks, there was a sense that the Capital—which had helped deny him the office for two decades—was now letting him play President, much the way high-school civics students are given a chance to be mayor-for-a-day.

One day at the White House, Carter positioned Humphrey at the presidential desk in the Oval Office and ordered their picture taken together. Later, he sent it to his former political foe with the inscription: "To H.H.H.—This is a desk that should have been yours." Publicly, Carter called Humphrey "the greatest American I know." Some saw these as gracious gestures from the President towards his most valued ally in the Senate, but others could not forget that 18 months earlier, when the two were fighting for the right to sit at that same desk, Carter had called Humphrey "a loser," "a hack," and "a has-been." ("Harsh words," recalled the President himself at a memorial service, "spoken under pressure and in haste.")

In mid-December, Carter capped his own hail-and-fairwell to the fast-failing senator by helicoptering him for a weekend visit to Camp David in the Maryland mountains, there to talk about "politics . . . pain . . . and the world" before a blazing fire. "That was," said Carter at Humphrey's funeral, "the greatest favor I ever did myself." (Lyndon Johnson, inordinately jealous of all the perks of his high office, had never once invited his meticulously loyal vice president to the presidential retreat.)

As year's end approached, several Washington pundits delivered themselves of farewell columns trumpeting Humphrey's grace and courage. And a week before Christmas, born-again pornographer Larry Flynt took out full-page ads in the *Washington Post* and the *New York Times* calling in 60-point type for a prayer vigil for the senator. ("YOU TAUGHT US NOT TO HIDE OUR FEELINGS.") But it was growing late for prayers. When Humphrey—frailer than ever now—left Washington for Minnesota on December 22 aboard Fritz Mondale's Air Force Two, it was apparent that never again would he return alive to the city where 30 years earlier he had begun his memorable career of national public service. He was going home to die, privately at last.

Well, almost privately. A week before his death, he granted a final bedside interview to columnist Irv Kupcinet of the *Chicago Sun-Times*. ("This is a column a reporter wishes he didn't have to write," wrote Kup, who certainly didn't have to. "It concerns a visit to a friend of 30 years whose days are numbered, down to a precious few.") Kupcinet was accompanied by the Reverend Jesse Jackson, who, before it was too late, wanted personally to thank Humphrey for his help in obtaining HEW funds for a Jackson program. The two visitors quickly discovered that if Humphrey's body was failing—"He was all but gone," said Kup later—his spirit was not. "Now you've got to get the labor people behind you," he urged Jackson in a feeble voice, his face wincing with pain. A few days later, he was on the phone assuring his '68 running mate, Ed Muskie, that he was feeling better and talked of returning soon to Washington. With his family and aides, he spoke of things he still had to do—strengthening his full-employment bill, revising the foreign aid program, helping the Arab-Israeli peace talks.

On Friday, the 13th of January—48 hours after his staff had advised the local Minnesota press to "get ready"—the 66-year-old senator died at home in a sleeplike coma, his wife and children at his side. As official Washington prepared to say goodbye yet again (Air Force One was dispatched to bear his body back to the Capital, and even that seemed redundant), many of those who had observed him over the years found themselves reflecting not only upon his overflowing life but upon its remarkable ending.

"How could he let himself be put on display like that during the last three months?" someone asked *Washington Post* executive editor Ben Bradlee the day after Humphrey died.

"How could he stop it?" said Bradlee, who had known Humphrey for 29 years.

"By staying in Minnesota and acting like a dying man."

"Yes," said Bradlee with a laugh, "but that's like asking Hubert to give a five-minute speech—he just couldn't do it."

If some people found Humphrey's lingering swan song unseemingly, even ghoulish—and some people did—Bradlee was not one of them. "I wasn't offended by it at all," he says. "He was special. He could write his own rules." Nor does Bradlee believe the media overplayed Humphrey's exit. "He wasn't a normal politician. You shift into higher gear for national heroes."

"Personally," says one of Humphrey's best-known Senate colleagues, himself a hero to some, "if I were dying of cancer, I would want to see my close friends, but, unlike Hubert, not in clumps of two or three thousand. Still, each to his own. The only reason a lot of people around here were complaining about all the publicity was because they were jealous; for most of us, no one would pay that much attention."

Many believe that Humphrey's up-front departure was a predictable reflection of his career and personality. "He could never be secretive, never keep his thoughts to himself," says Irv Kupcinet. "His dying was bound to be a public one—Hubert went public with everything."

Murray Kempton agrees. "He had no function off stage," says Kempton. "His entire life was as a campaigner, and a campaigner has no privacy. In that rough and tumble world, public torments are the rule."

In the end, most of those who knew him found the phenomenon of Hubert Humphrey's final days a fitting one. "At first I thought it was in poor taste," admits Mary McGrory, "but then it was so obvious that it was what he wanted. It meant a great deal to him, seeing the tears and hearing the applause, knowing that he was loved."

In his last months, Humphrey acknowledged as much: "The greatest gift in life," he tearfully told the Senate, "is the gift of friendship, and I have received it." During the effusive Senate session in his honor, Arkansas Senator Dale Bumpers, who was sitting beside him, leaned over and whispered, "This is just a little bit too much, isn't it, Hubert?" Replied Humphrey, "Hush, I like it."

"What I want more in life than anything else now is respect, which I think I'm beginning to earn," he said to one reporter. "When I come back from the Senate chamber to my office," he told another, "I'm a walking historical object." And one day near the end, he leaned into the crib of his infant granddaughter and declared: "I'm your grandfather and I'm worth remembering."

"Life," Humphrey liked to say, "was not meant to be endured, but enjoyed." As best he could, he tried to apply that to his own dying as well. "It was a glorious death," says his old friend James Reston. "He fought and lost and kept fighting. What could be more glorious than that?" Added Humphrey's protégé, Walter Mondale, at the Capitol memorial service, "He taught us all how to hope and how to love, how to live and, finally, how to die."

Three weeks before his death, after first checking with several friends as to its propriety, Humphrey taped a final farewell to the American people, leaving it up to Muriel whether to play it at his funeral, elsewhere, or never. "You know," he told Irv Kupcinet with a grin on his deathbed, "old Hubert always has the last word."

Mr. ANDERSON. Mr. President, I earlier submitted as part of this tribute to Senator Humphrey a transcript of the funeral service for the family of Senator Humphrey in the Capitol rotunda on January 14, conducted by the Chaplain of the Senate, Edward L. R. Elson. Senator BYRD has submitted a transcript of the memorial service for Senator Humphrey in the Capitol rotunda on January 15, including the eulogies by Vice President MONDALE and President Carter. Senator KENNEDY has submitted the eulogies to Senator Humphrey by the Vice President and President on January 16 at the funeral service at House of Hope Presbyterian Church in St. Paul. I ask unanimous consent to have printed in the RECORD as part of this tribute the program of the funeral service at House of Hope Presbyterian Church on January 16 and the opening prayer, invocation, meditation, and prayers by Rev. Calvin Whitefield Didier, pastor of the House of Hope Presbyterian Church at the funeral service. I ask unanimous consent to have printed in the RECORD the remarks of Dr. Robert Schuller at the funeral service.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FUNERAL SERVICE, HOUSE OF HOPE PRESBYTERIAN CHURCH, JANUARY 16, 1978

Organ Prelude, House of Hope Church organist, Sharon Kleckner.

Instrumental Prelude, Sonata Number 1 in G Major, Movement 1, Brahms, by Eugene Istomin, Isaac Stern.

Solo, Schubert's "Ave Maria," by Robert Merrill.

Invocation, Rev. Calvin Whitefield Didier, pastor, House of Hope Presbyterian Church.

Hymn, "A Mighty Fortress Is Our God," by congregation.

Old Testament Lesson, Psalm 8, Rabbi Max A. Shapiro, Senior Rabbi, Temple Israel, Minneapolis.

Spirituals, "He'll Understand, Well Done" and "I'm Going Up Yonder," Tom Tipton (soloist) and Sabathani Baptist Church of Minneapolis Choir.

Remarks, Dr. Robert Schuller.

Solo, "The Lord's Prayer," Robert Merrill.

New Testament Lesson, John 14, The Most

Rev. John R. Roach, Archbishop of the Archdiocese of St. Paul and Minneapolis.

Anthem, "Hallelujah," (Mount of Olives), Beethoven, by congregation.

Remarks, Vice President Mondale.

Remarks, President Carter.

Selection, Sonata Number 1 in G Major, Movement 2, Brahms, by Mr. Stern and Mr. Istomin.

Meditation, prayers, Rev. Didier.

Response, "Alleluia" and "America the Beautiful" Congregation.

Benediction, Rev. Didier.

Response, Hallelujah Chorus (Messiah), House of Hope Church Choir.

Postlude, Prelude and Fugue in C. Minor, Bach, by House of Hope Church Organist.

Interment, Lakewood Cemetery, 36th and Hennepin, Minneapolis.

OPENING

From the rising of the sun to the going down thereof, the Lord's name is to be praised.

For the earth is the Lord's and the fulness thereof. The World and they that dwell therein.

Therefore, whether we live, we live unto the Lord; or whether we die, we die unto the Lord; whether we live, therefore, or die, we are the Lord's.

And I am certain that neither death, nor life, nor angels, not principalities, nor powers, nor things present, nor things to come, nor height, nor depth, nor anything in creation shall be able to separate us from the love of God, which is in Christ Jesus our Lord.

INVOCATION

Eternal force that holds the spiraling galaxies in tension, hold us at attention.

If it is not too much to ask, attend our meaningless-without-you ceremonies in memory of Hubert Horatio Humphrey.

Storm maker, flake maker, maker of men in the image of God,

In the dead of winter blaze our hearths with circles of care around us to hold back the cold a little stronger.

Stay the sun in his brief circuit above us until we are able to finish our Ajalon.

Quicken our mornings with high expectations, and create an outlook of rare beauty on all our windowpanes that we may look upon the mighty works of the Lord and wonder that He is mindful of such a man as His servant, Hubert.

Through Jesus Christ our Lord.

MEDITATION

"Let there be no eulogy. I have had enough eulogy for two lives. Instead, let us have a celebration of life for me, for my family, and for the people of the little towns all over Minnesota. And let us have congregational singing, and music, and happiness! No sympathy for me . . . I've had a wonderful life."

With these simple words a few days ago, Hubert Horatio Humphrey instructed us how to commemorate these great times of our lives we have had together.

Now I want you to know that we are not accustomed to holding services of this length in House of Hope Church. In fact the last time a service was this long was when Hubert himself was the preacher.

It is the same spirit of celebration that peeked from out his frailing body several weeks ago when he came home to Minnesota. Asked if he were considering resignation, he snapped, "I'm not resigning anything. I might even join something."

Well, he has now joined that splendid congress of those to whom we dare address the words of our Lord, "Well done, thou good and faithful servant. Enter thou into the joy of thy Lord."

This audacious spirit in the face of adversity is imitative of our Lord's spirit when he called in his friends for one festive last supper together. And before they went out to his Gethsemane, they sang a hymn.

Now, true to the example of those earliest followers of our Lord, we have sung together for our friend at his request, "A Mighty Fortress Is Our God"—an expression of his Christian faith and life.

And he wanted his friends gathered about his memory to make music, and spoke hopefully that good friends Eugene Istomin and Isaac Stern and Robert Merrill and all the rest of us might come for old times' sake.

When Senator Humphrey asked us to celebrate with music, he was reminiscing about his own love for opera and symphony and recital and all the popular forms. And what music did for him he hoped it would do for others.

One day here when he was introducing Mr. Istomin, who was the key to our association at House of Hope, Senator Humphrey gave the congregation these lines:

How many of us ever stop to think of music
as a wondrous magic link
With God, taking sometimes the place of
prayer
When words have failed us 'neath the weight
of care.
Music, that knows no country, race, or creed,
But gives to each according to his need.

On my first acquaintance with the Senator, he pointed out to me, framed on the wall of his trophy room, one of his major themes in teaching at Macalester College and his own political philosophy:

"The saint may dream and the philosopher construct his ideal world, but the man who wields power must live in the pit of reality, doing the very best he can and ever reconciled to the limited and the partial."

Of these many skirmishes in that pit of reality, few move me so much as the Vice President's confrontation with Charles de Gaulle. At a time of strain, he threw away a speech that had been written for him citing our aid to France in two world wars. The Vice President felt that would be an insult. Instead, he spoke informally of visiting Yorktown and reading there the many names of French soldiers who died for us in our struggle for freedom. He said, "How can I as an American ever forget the debt we owe France for our independence. What binds us is our common belief in liberty. No disagreement between our countries today can possibly erase these immortal memories."

Tears welled in de Gaulle's eyes as our Vice President spoke. And de Gaulle said to our Ambassador, "Your Vice President is a scholar."

In that same way of thinking, Senator Humphrey did not want us to dwell today on what he has done for us, but, rather, to give his happy thanks for what the people have done for him.

I think back on that Father's Day when he had come to deliver a sermon here at House of Hope and heard the Beethoven "Hallelujah." As the choir finished, he leaned over to ask me, "Can we clap?"

Hubert Humphrey was a clapping kind of man. And how the world needs more clappers and fewer shouters and shooters and sad sacks!

And as we were talking about these things a few days ago, each of us sensing the turning of the tide, Muriel mused, "One is tempted to ask 'Why?', but I often think, wasn't even Mary at the foot of the cross asking the same question? And Mary probably never really knew in her lifetime what was taking place around her."

You are right, Muriel. Does any one of us ever understand the events of our lives as they unfold in the Providence of God? This was my communication to Hubert when he was confined to Sloan-Kettering last spring. I simply offered him the words spoken centuries ago to the wondering Esther when the threats were closing in.

"Who knows but that for such a time as this you were brought into the kingdom."

Was it at such a time as this that Hubert found in his distress his finest hour? Was it for such a time as this he spoke his message most eloquently? Was it in such a time as this he has been elevated to his highest role of human leadership?

Early in the 1972 Presidential campaign, Hubert Humphrey said,

"What I want, if you'll let me, is to bring this country together as a family."

Well, it didn't turn out that way then. And some of you didn't help enough. But he said, intuitively, when he lost, "Maybe we can make an even greater contribution."

And I was pondering these things a few days ago when he was pleased to tell me about his conversations during this Christmas season with our three Presidents. He said to them,

"If we do not show our love and forgiveness for one another in this season of the birth of our Lord, then what is the celebration all about?"

And, you see, what no American has been able to do in his life, Hubert Horatio Humphrey has done in his death—he has brought us together in a literal way to celebrate the life relationships we count most valuable in the gracious embrace of a nation we love most dearly.

And if he could speak to us once again as he spoke from this very pulpit—and speak Hubert would if he could—he would say:

"O America, O America the Beautiful . . . we must be one people, we can be one people, we are one people under God."

And Hubert, dear friend, Happy Warrior, we will not know rest until we *do* secure that liberty and justice and those human rights for all the world you so loved.

The only other time Hubert ever spoke to me about death was upon his return from the funeral of Walter and May Reuther.

He gave me then these lines from that event that deeply moved him:

I dreamed I saw Joe Hill last night alive
as you and me.
Says I, "But Joe, you're ten years dead."
"I never died," says he.
"I never died," says he.

And standing there as big as life and
smiling with his eyes,
Joe says, "What they forgot to kill
went on to organize,
went on to organize."

"Joe Hill ain't dead," he says to me
"Joe Hill ain't never died.
Where working men are out on strike
Joe Hill is at their side,
Joe Hill is at their side."

I Dreamed I saw Joe Hill last night
alive as you and me.
Says I, "But Joe, you're ten years dead."
"I never died," says he,
"I never died," says he.

PRAYER

O Lord, give us more of Hubert's kind to pump hands, and clap hands, and slap backs, and kiss babies, and cry a little, to make big promises and fulfill some of them, to harangue us into better behavior toward one another, and to remind us that no one can hear the words "well done" until the prescription of our Lord is fulfilled: "Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me."

Sometimes, Lord, we thought Hubert had a hankering for the top that only heaven could satisfy. And since his reach always exceeded his grasp, he seemed heaven-bent from the start.

That brought many a heart-break, but never a broken spirit.

And so, Lord, unto thy safekeeping we commend the spirit of thy servant, Hubert Horatio Humphrey. If he seems loquacious,

be patient with him, Lord, as we have been, for he almost always has a good point.

Enfold him now in thine everlasting arms until we see no longer as through a glass, darkly, but face to face.

Through Jesus Christ our Lord.

REMARKS OF DR. ROBERT SCHULLER

"God loves you and so do I"

It's easy for me to say that sentence today.

My next sentence is not so easy, but I know he wants me to say it.

"This is the day the Lord has made, let us rejoice and be glad in it."

We can rejoice because Hubert Humphrey has just finished his last, his hardest, and his best campaign! He knew what victory celebrations were like. And he wanted this to be a victory celebration with the banners flying, "Hubert Humphrey wins by a landslide!" Yes, the last vote is in. And he is declared by the American people to be super successful? Success is building self-esteem into humanity. By that definition, Hubert Horatio Humphrey was a super success!

I suppose we could ask the question. "What was the secret of his success? Optimism? Yes.

Enthusiasm? Definitely.

Bounce-back ability? You bet.

Possibility thinking? For sure.

But to encapsulate it into one word, I would call it courage. He had the big "C." Yes, big courage.

I ask three questions: What is courage? Where does it come from? And why do we exalt it in him today?

Courage: What is it? It's not the absence of fear. There are people who have no fear but they are not courageous. They never dare to attempt to do something great for their fellow human beings. Hubert and I spent some time sharing favorite quotations and this is one we both liked: "I'd rather attempt to do something great and fail than attempt to do nothing and succeed!" That's courage! Being willing to commit your prestige to a great cause! Courage is being willing to fail in a great cause rather than to win in a demeaning alliance. Hubert had that kind of courage. His big "C" was evident in many ways. One of the obvious examples was in his courage to campaign. Every person in political office knows what courage that takes.

But think of this, he also had the *courage to love*. I'm often asked. "Why isn't there more love in the world today?" And I always answer the same way. "That's the wrong question. The right question is, 'Why isn't there more courage?' " It takes nerve to love. When you really love you get involved. You make risky commitments because you know it's the right thing to do! You make the right decisions even though the task seems impossible. You run the risk of failure and perhaps, even rejection. Boy, does it take courage to love! Some people gain fame for leadership in battle; other people gain fame for leadership in culture. In my mind, and I think in yours, Hubert Humphrey gained fame for his leadership in love.

His courage to love was authenticated by his courage to forgive. In all of life this is true: You won't love long if you can't forgive quickly. And it takes courage to forgive because you run the risk of receiving the rebuke, the insult, and the scorn of those whose scales of injustice weigh too heavily while their scales of mercy weigh too lightly. The big "C." What is it? The back side of love; that's what courage is! And love, in the final analysis, is my deciding to make your problem my problem. That definition of love explains a lot of Hubert Humphrey's public life, doesn't it?

II.

Where did his courage come from? We are not born with courage, that's for sure. Erik Erikson outlines his brilliant phases of human life and told us that for the first twelve months of life each person lacks trust. We are born as nontrusting creatures. Birth is itself a traumatic experience. So how do we become courageous?

Well, I suppose people draw courage from many different sources. And I'm close enough to know where Hubert Humphrey drew his courage. First, of course, from his father and his mother. And then, continually, through his family. From a wife like you, Muriel, and your children and grandchildren along with your friends. You know, all the eulogies and all of the accolades that have been offered to Hubert (and he deserved everyone), are, at a deeper level, really all subtle and unintentionally yet truthfully, compliments to his family and his marriage!

Courage! Where did he get it? I remember how a few hours before he went into surgery, at Sloan Kettering, he called me: "Thank you, Bob, thank you, thank you." "For what?" I asked. "For the words," he answered. "The words! The words! They are tremendous!" All I did was telegram him a Bible verse from Jeremiah 29:11:

"I have a plan for your life, it is a plan for good and not for evil, it is a plan to give you a future and a hope!"

He drew enormous courage from that!

Then last October I was with him in his apartment in Minneapolis. "I don't want to lay a heavy trip on you, Dr. Schuller," his aide Fred Gates said to me as he drove me to the senator's apartment. "But Mrs. Humphrey and I hope you can revive his spirits so he'll go back to Washington. He doesn't have long but it could be so stimulating for him if he went back." He really didn't want to go back to Washington then. But I shared these words with Hubert then from Isaiah 43:

"Fear not, for I have redeemed you! I know your name! You are mine!

"For when you go through the waters, they will not overwhelm you.

"When you go through the fire, it will not consume you.

"For I will be with you!"

How those words fired him up! "Great! Great!" he enthused. "I must remember that." So I know where he drew his courage; he drew it from the deeper wellspring of the word of God!

Then I will always remember how he said to me (one of the last things I remember him saying; it was a question actually) "Bob," he asked, "why is it that lately, every time the name or thought of Jesus comes into my mind, I want to shed tears of joy!?!"

He knew how to fight the battle. He had real courage! He found it in his family; the word of God; and in Jesus!

III.

Why do we exalt courage like he had? There are, after all, people who are inspired by courage, mismanaged and misdirected of course, who commit themselves to projects and dreams that turn out to be heartbreakers and to hopes that turn to ashes. Why do we exalt courage—the courage to dare to try the impossible or that makes a person willing to march into hell for a heavenly cause? Why do we exalt courage when you may come out scarred? Because courage alone uncovers the self-esteem building possibilities necessary to uplift the human race.

So the alternative to courage is unthinkable! Unthinkable! For at the bottom line, your life and mine, yes, our immortal souls will have to stand up before the judgment seat of God and answer this almighty question, "Did I inspire, in my living and dying, my fellow human beings to fight a better fight? Did I to some small or significant degree inspire someone to have greater faith in themselves?" Courage is what uncovers possibilities! And without that there is no salvation; there is no redemption; there is nothing creative in life!

It was Horace Mann who said: "Be embarrassed to die until you have scored a victory for humanity!" Hubert Humphrey scored his victories for humanity. No wonder he was not embarrassed to die. Yes, courage alone lifts the collective self-esteem in society. And when we do that you can be sure we are glorifying God and enjoying Him forever. Why do we exalt courage? Because it leads us to dare to believe in God!

There were some other words that he liked; he liked them and he lived them! I first passed them on to him when we first met five years ago. It's called the Possibility Thinkers Creed. I recall he cried as he read them that first time:

"When faced with a mountain I will not quit, I will keep on striving until I climb over, find a pass through, tunnel underneath or simply stay and turn the mountain into a gold mine with God's help."

This year, when Christmas came and Hubert and Muriel didn't know what to put on their Christmas card, they used these words: "God loves you and so do we!" That's the key to a Merry Christmas!

Scrawled alongside the Star of David in a basement in a shell-torn home in West Berlin were these words written by a nameless Jew:

"I believe in the sun even when it is not shining, I believe in love even when I do not have it, I believe in God even when He is silent!"

Take that kind of faith and you'll come to your end and discover that it's not *the end of the road, it's only a bend in the road!*

Let us be inspired by Hubert Humphrey's courage, to live lives that will uplift our fellow humans. Ask yourself these "bottom-line questions": Shall I resolve in living and dying to conduct myself that I shall inspire my fellow humans to aspire until they shall discover and develop their God-given possibilities? Shall I take my hurts, like he did, and turn my scars into stars? Shall I—in sickness and health, in labor and leisure, in laughter and tears, in winning and losing, in lying down and rising up—so live that I will add some measure of dignity to God's special creatures—these human beings—and hence lift the collective level of society's self respect?

Then for you too, it will be like it was for Hubert Humphrey on his last day, with pride behind you, love around you and hope ahead of you!

God bless you Muriel! God loves you and so do I!

Mr. ANDERSON. Mr. President, I also ask unanimous consent to have printed in the RECORD as part of the Senate tribute to Hubert H. Humphrey the remarks of Dr. Mark A. Siegel, Deputy Assistant for Policy Analysis to the President, at the Jewish memorial service for Hubert H. Humphrey at the Religious Action Center on January 19, 1978.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF MARK A. SIEGEL

Since there is no way to approach doing justice to Hubert Humphrey in 2 hours, no less 2 minutes, I will make some very personal comments, and let Hubert's record speak for itself, stand by itself, as his own greatest tribute.

He was my friend. I worked for him. I loved him.

There has never been anyone like him serving this Nation, and I'm certain there never will be anyone like him again. He loved all people, but had a very special, unique relationship with "Ahm Yisrael," the Jewish people, whom he served so very well through the years. In fact, the final favor I asked of Hubert Humphrey was to intervene on behalf of a Soviet Jewish family that had

been brought to my attenion in Israel by the Israeli Council for Soviet Jewry. I sent Hubert a short note, and enclosed photographs of the family. He called me when he received the note and said that when he looked at those children, he saw the faces of his own children. Three days later the family was granted an exit visa, after six years of persecution. There is a wonderful family of four people now living in Israel, living as human beings, and as Jews, because Hubert Humphrey cared enough, in his last days, to help them.

He told us he wanted his death to be a celebration of life, a time of joy. But I will be honest with you and with him. I feel no joy, just sadness, and an overpowering sense of loss.

The Senate's greatest expert on agriculture, on education, on welfare, on foreign policy, on disarmament—all embodied in one man, in a single man. This extraordinary congruence of commitment and expertise will not happen again, but we were very fortunate that it happened once.

Hubert Humphrey said over and over again that he was no saint. And many of the people in this room recognize that. Hubert Humphrey was no saint. He was a man. But he was the best man we have ever known, or will ever know. And each of us is significantly diminished by his death.

Hubert had no bitterness about the injustices in his own life, although he was bitter about injustice in the lives of others. He channeled that bitterness into commitment and service to improving the lives of people, ordinary people, little people, real people. He accepted the fact that he would never be president without bitterness. But many of us are not as good as Hubert was, we were and are bitter. Bitter for him, and bitter for ourselves, bitter for our nation, and for the world.

In 1968, some called him a fascist—I will never forget that. In 1972, he was vilified, and I remember being asked by a very prominent Democrat why I was working for a right wing candidate, the leader of the reactionaries. I will never forget that. I still feel the rage. But he forgot it, and forgave, and came to terms with his own life, and ultimately his own death.

My background is academic, I am a teacher, as was Hubert. And as a teacher, I look at the performance of the American public in 1968, and see a choice between Hubert Humphrey and Richard Nixon. As a nation, we flunked the ultimate test, we failed, we failed him and ourselves and our children. That is something we all have to live with, consequences we still see unfolding.

But Hubert passed the test with flying colors. In over thirty years of public service, the most extraordinary public career of anyone in our Nation's history, Hubert Humphrey gets an "A". He gets the "A", and with his death we retire the grade.

We will continue to serve, and be active in public life, and look for good leaders for our Nation. We will look for public servants who can earn the grade of "B" but there are no more "A's". Hubert Humphrey will be the model by which we measure all who come after him, but rest assured that we will not see the likes of our beloved Hubert again in our lifetimes.

RECOGNITION OF THE INDEPENDENCE AND NATIONAL DAY OF SRI LANKA

Mr. STONE. Mr. President, as chairman of the Near Eastern and South Asian Affairs Subcommittee of the Senate Foreign Relations Committee, it is my pleasure to insert into the RECORD remarks commemorating the 30th anniversary of the Independence and National Day of Sri Lanka, which is being celebrated this year on February 4.

It will also mark the assumption of the office of the country's first Executive President by the Prime Minister and, therefore, the day will be of special significance.

The seventh general election since independence was held in Sri Lanka on July 22, 1977. The United National Party led by Mr. J. R. Jayawardene was returned to power. He had been campaigning for the last 10 years for the establishment of a strong executive elected directly by the people, as opposed to the prevailing practice of the executive being chosen from among members of the majority party in the legislature under the British Parliamentary Conventions of Cabinet Government. His victory has therefore enunciated this constitutional change as one of its fundamental policies.

The Government is establishing a free trade zone in an area designated the Greater Colombo Economic Commission. This effort by the government of Sri Lanka should be complimented on the country's Independence and National Day.

The United States has played a major role in economic assistance to Sri Lanka. The new Government of Sri Lanka has allowed the exchange rate to float and has instituted a substantial degree of liberalization of the country's external trade. The policy shift is aimed clearly toward greater growth in order to accelerate development.

Additionally, I wish to add that Ambassador Neville Kanakaratne will be relinquishing his duties on February 28, 1978 and I wish to congratulate him on his fine service which he has provided his country.

ORDER FOR RECESS UNTIL 10:45 A.M. ON MONDAY, FEBRUARY 6, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:30 a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:45 a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR A PERIOD FOR ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements limited therein to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM MONDAY, FEBRUARY 6, 1978, TO TUESDAY AT 8 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday it stand in recess until the hour of 9:45 a.m. on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday it stand in recess until the hour of 8 a.m. on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF VARIOUS SENATORS ON TUESDAY, FEBRUARY 7, 1978

Mr. ROBERT C. BYRD. Mr. President, may I ask the Chair if any order has been previously entered for the recognition of a Senator on Monday or Tuesday?

The PRESIDING OFFICER. There have been no orders.

Mr. BAKER. Mr. President, if the majority leader will yield to me, I take it the unusual convening hour is to accommodate the requests of eight Senators who are listed as wishing to be heard on the matter of world economic concern to be led by the distinguished Senator from New York (Mr. JAVITS)?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. That will take about 2 hours?

Mr. ROBERT C. BYRD. That will take about 2 hours. The distinguished minority leader mentioned this to me earlier, and I had temporarily, inadvertently, forgotten about it.

Mr. President, I ask unanimous consent that immediately after the disposition of the reading of the Journal on Tuesday, the distinguished Senator from New York (Mr. JAVITS), the equally distinguished Senator from Tennessee (Mr. BAKER, Mr. PERCY, Mr. GLENN, the junior Senator from West Virginia—a very junior Senator from West Virginia—Mr. ROBERT C. BYRD, Mr. HATCH, Mr. GARN, and Mr. MCCLURE each be recognized for not to exceed 15 minutes, not necessarily in the order named, but in an order that will meet the convenience of those Senators who wish to engage in that 2-hour colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF THE UNFINISHED BUSINESS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that at the end of the 2 hours or not later than 10 a.m. on Tuesday, in accordance with the order previously entered, the Senate will resume consideration of its unfinished business.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Do I understand that on Tuesday the standing order for leadership time would be abdicated?

Mr. ROBERT C. BYRD. It would be eliminated.

Mr. BAKER. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the minority leader.

ORDER OF BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, did I get a period for the transaction of routine morning business on Monday?

The PRESIDING OFFICER. The Senator, the majority leader, did.

Mr. ROBERT C. BYRD. To close at what time, may I ask?

The PRESIDING OFFICER. To close at 11 o'clock.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR THE RESUMPTION OF CONSIDERATION OF UNFINISHED BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business or no later than 11 a.m. on Monday, the Senate resume its consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO HAVE UNTIL MIDNIGHT FRIDAY, FEBRUARY 3, 1978, TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, at this time I ask unanimous consent that committees may have until midnight tomorrow, Friday, February 3, 1978, to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HART). The Chair, on behalf of the Vice President, appoints the following Senators to attend the International Conference on Tanker Safety and Pollution Prevention, to be held in London, England, February 6–17, 1978: The Senator from Washington (Mr. MAGNUSON); the Senator from South Carolina (Mr. HOLLINGS), as an alternate to attend the conference in the absence of Senator MAGNUSON; and the Senator from Alaska (Mr. STEVENS).

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, during the recess of the Senate over until Monday, the Secretary of the Senate be authorized to receive messages from the President of the United States and from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, during the recess of the Senate over until Monday, the Vice President of the United States, the President of the Senate pro tempore, and the Acting President pro tempore be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. On Monday the Senate will convene at 10:45 a.m. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m. with statements limited therein to 3 minutes each.

At the hour of 11 a.m. the Senate will resume its consideration of the unfinished business under a unanimous-consent agreement and rollcall votes will occur during the afternoon but not prior to the hour of 2 p.m.

Such rollcall votes may occur on amendments or motions in relation to the unfinished business, and the unanimous-consent agreement provides for control of time for debate on amendments, on the bill, and on debatable motions or appeals or points of order carrying through Tuesday on final passage of the bill.

RECESS UNTIL 10:45 A.M. MONDAY, FEBRUARY 6, 1978

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10:45 a.m. Monday next.

The motion was agreed; and at 5:29 p.m., the Senate recessed, until Monday, February 6, 1978, at 10:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 2, 1978:

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. Bryce Poe, II, [redacted], U.S. Air Force.

Gen. Daniel James, Jr., U.S. Air Force, (age 57), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066 in grade as follows:

To be lieutenant general

Maj. Gen. Edgar Starr Harris, Jr., [redacted], U.S. Air Force.

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier general

Col. James P. Albritton, [redacted], Regular Air Force.

Col. Spence M. Armstrong, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Ernest A. Bedke, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Donald W. Bennett, [redacted], Regular Air Force.

Col. Schuyler Bissell, [redacted] Regular Air Force.

Col. William R. Brooksher, [redacted], Regular Air Force.

Col. James R. Brown, [redacted], Regular Air Force.

Col. Thomas B. Bruton, [redacted], Regular Air Force.

Col. Robert E. Buhrow, [redacted], Regular Air Force.

Col. John T. Chain, Jr., [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Robert E. Chapman, [redacted], Regular Air Force.

Col. Joseph H. Connolly, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Thomas G. Darling, [redacted], Regular Air Force.

Col. Donald L. Evans, [redacted], Regular Air Force.

Col. Kenneth R. Fleenor, [redacted], Regular Air Force.

Col. James L. Gardner, Jr., [redacted], Regular Air Force.

Col. Lawrence D. Garrison, [redacted], Regular Air Force.

Col. Harry A. Goodall, [redacted] (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. William H. Greendyke, [redacted], Regular Air Force, medical.

Col. Titus C. Hall, [redacted], Regular Air Force.

Col. Richard D. Hansen, [redacted], Regular Air Force, medical.

Col. Guy L. Hecker, Jr., [redacted], Regular Air Force.

Col. Robert C. Karns, [redacted], Regular Air Force.

Col. Melbourne Kimsey, [redacted], Regular Air Force.

Col. Donald L. Lamberson, [redacted], Regular Air Force.

Col. Gerald D. Larson, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. John R. Lasater, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. William E. Lindeman, [redacted], Regular Air Force.

Col. Leo Marquez, [redacted], Regular Air Force.

Col. Keith D. McCartney, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Gerald E. McIlmoyle, [redacted], Regular Air Force.

Col. Robert E. Messerli, [redacted], Regular Air Force.

Col. John F. O'Donnell, [redacted], Regular Air Force.
Col. Marvin C. Patton, [redacted], Regular Air Force.
Col. Milton R. Peterson, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. Richard W. Phillips, Jr., [redacted] FR, Regular Air Force.
Col. George B. Powers, Jr., [redacted], Regular Air Force.
Col. Winston D. Powers, [redacted], Regular Air Force.
Col. Marc C. Reynolds, [redacted], Regular Air Force.
Col. Thomas C. Richard, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. Graham W. Rider, [redacted], Regular Air Force.
Col. Davis C. Rohr, [redacted] Regular Air Force.
Col. John P. Rollston, [redacted] Regular Air Force.
Col. Robert A. Rosenberg, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. Click D. Smith, Jr., [redacted], Regular Air Force.
Col. William L. Strand, [redacted], Regular Air Force.
Col. William E. Thurman, [redacted], Regular Air Force.
Col. Edward L. Tixier, [redacted] Regular Air Force.
Col. Harold W. Todd, [redacted] (major, Regular Air Force), U.S. Air Force.
Col. Brien D. Ward, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. Clinton H. Winne, Jr., [redacted], Regular Air Force.
Col. Thomas E. Wolters, [redacted], Regular Air Force.

IN THE ARMY

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Ernest Graves, Jr., [redacted], Army of the United States (major general, U.S. Army).

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

To be major general

Brig. Gen. Freeman Henry Forrest, [redacted]
Brig. Gen. Robert Lewis Frantz, [redacted]
Brig. Gen. George Emmett McGovern, Jr., [redacted]
Brig. Gen. Frederick John Scheer, [redacted]

To be brigadier general

Col. Jason Alfred Aisner, [redacted]
Col. George Leighton Allen, [redacted]
Col. Jack Nelson Bohm, [redacted]
Col. James Thomas Bonsall, [redacted]
Col. James Eliot Chapman, [redacted]
Col. Anthony Harry Conrad, Jr., [redacted]
Col. James Carroll Crawford, [redacted]
Col. Ernest Stephen Ellis, [redacted]
Col. Joseph Melvin Lojek, [redacted]
Col. Carl Daniel McIntosh, [redacted]
Col. Charles Dunford Palmer, [redacted]
Col. Emory Conrad Parrish, [redacted]
Col. Herbert Joseph Riley, [redacted]
Col. Will Hill Tankersley, [redacted]
Col. James Robert Trapp, [redacted]
Col. William Francis Ward, Jr., [redacted]

The Army National Guard of the U.S. officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Francis Joseph Higgins, [redacted]

To be brigadier general

Col. Owen Daniel Griffith, [redacted]
Col. David Workman Hancock, [redacted]
Col. William McGee Ingram, [redacted]
Col. Harold Joseph Lavell, [redacted]
Col. Paul Andrew McGowan, [redacted]
Col. Paul Warren Reed, Jr., [redacted]
Col. William Grey Waters, Jr., [redacted]

The Army National Guard of the U.S. officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. John Elina Alona, Jr., [redacted]
Col. Cornelius Otway Baker, [redacted]
Col. Douglas Milton Byington, [redacted]
Col. Guy Homer Harding, [redacted]
Col. Hubert Monroe Leonard, [redacted]
Col. Anthony Lewis Palumbo, [redacted]
Col. Arthur Nims Phillips, [redacted]

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. John Holloway Cushman, [redacted], (age 56), Army of the United States (major general, U.S. Army).

IN THE NAVY

Vice Adm. Edward W. Cooke, U.S. Navy, (age 56) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. William N. Small, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

IN THE AIR FORCE

Air Force nominations beginning Jack D. Abercombie, to be colonel, and ending James W. McBride, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 20, 1978.

IN THE ARMY

Army nominations beginning James Bennett, to be colonel, and ending Luther J. McGaughy, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 20, 1978.

IN THE NAVY

Navy nominations beginning Rodney A. Marcom, to be commander, and ending Paul F. Kruger, to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 20, 1978.

IN THE NAVY

Navy nominations beginning Jimmy L. Aaron, to be ensign, and ending Harry R. Erichson, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 20, 1978.

HOUSE OF REPRESENTATIVES—*Thursday, February 2, 1978*

The House met at 11 o'clock a.m.

The Reverend Julian Roger Cameron, superintendent, Camp Wesley Pines, Mississippi Conference, the United Methodist Church, Gallman, Miss., offered the following prayer:

Almighty God, we thank Thee that we are Thy children and that Thou doest love us.

We love Thee, because Thou didst first love us.

We know that Thou art able to look into our hearts and truly know us, our desires, intentions, and greatest ambitions.

Father, above all today we ask that Thou wouldst motivate each one of us to do our part, large or small, to make this a better world, one free from false pride, selfish desires, deceit, and hatred.

Take these whom we have chosen to lead us and use them in Thy great plan for all mankind. Help them to find the way to help bring the day of peace and understanding to all mankind. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. BRADEMAS. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BRADEMAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 368, nays 21, not voting 43, as follows:

[Roll No. 29]

YEAS—368

Abdnor	Aspin	Bowen
Addabbo	Badham	Brademas
Akaka	Bafalis	Breaux
Alexander	Baldus	Breckinridge
Allen	Barnard	Brinkley
Ammerman	Baucus	Brodhead
Anderson, Calif.	Bauman	Brooks
	Beard, R.I.	Brown, Calif.
Anderson, Ill.	Bedell	Broyhill
Andrews, N.C.	Bellenson	Buchanan
Andrews, N. Dak.	Benjamin	Burgener
	Bennett	Burke, Calif.
Annunzio	Biaggi	Burke, Fla.
Applegate	Blanchard	Burke, Mass.
Archer	Blouin	Burleson, Tex.
Ashbrook	Boggs	Burlison, Mo.
Ashley	Boland	Burton, John

Burton, Phillip	Harkin	Nolan
Butler	Harrington	Nowak
Byron	Harris	O'Brien
Caputo	Harsha	Oakar
Carney	Hawkins	Oberstar
Carr	Hefner	Obey
Carter	Heftel	Ottinger
Cavanaugh	Hillis	Patten
Cederberg	Holland	Patterson
Chappell	Holt	Pattison
Chisholm	Holtzman	Pease
Clausen, Don H.	Horton	Pepper
	Howard	Perkins
Clawson, Del	Hubbard	Pettis
Clay	Huckaby	Pickle
Cleveland	Hughes	Pike
Cochran	Hyde	Poage
Cohen	Ichord	Pressler
Coleman	Ireland	Preyer
Collins, Tex.	Jeffords	Price
Conable	Jenkins	Pursell
Conte	Jenrette	Quie
Corcoran	Johnson, Calif.	Quillen
Corman	Johnson, Colo.	Railsback
Cornell	Jones, N.C.	Rangel
Cornwell	Jordan	Regula
Cotter	Kasten	Reuss
Crane	Kastenmeier	Rhodes
Cunningham	Kazen	Rinaldo
Daniel, Dan	Kelly	Roberts
Daniel, R. W.	Kemp	Robinson
Danielson	Ketchum	Rodino
Davis	Keys	Roe
de la Garza	Kildee	Rogers
Delaney	Kindness	Rooney
Dellums	Kostmayer	Rose
Derrick	Krebs	Rosenthal
Derwinski	LaFalce	Rostenkowski
Devine	Lagomarsino	Rousselot
Dickinson	Latta	Roybal
Dicks	Leach	Rudd
Dingell	Lederer	Runnels
Dodd	Leggett	Russo
Dornan	Lent	Ryan
Downey	Levitas	Santini
Drinan	Livingston	Satterfield
Duncan, Oreg.	Lloyd, Calif.	Sawyer
Duncan, Tenn.	Lloyd, Tenn.	Scheuer
Early	Long, La.	Schroeder
Edgar	Long, Md.	Schulze
Edwards, Ala.	Lott	Sebelius
Edwards, Calif.	Lujan	Seiberling
Edwards, Okla.	Luken	Sharp
Eilberg	McClory	Shipley
Emery	McCloskey	Shuster
English	McCormack	Sikes
Erlenborn	McDade	Simon
Ertel	McEwen	Skelton
Evans, Colo.	McFall	Skubitz
Evans, Del.	McHugh	Slack
Evans, Ga.	McKay	Smith, Iowa
Evans, Ind.	McKinney	Smith, Nebr.
Fary	Madigan	Snyder
Fascell	Maguire	Solarz
Fenwick	Mahon	Spellman
Findley	Mann	Spence
Fish	Markey	St Germain
Fisher	Marks	Staggers
Fithian	Marlenee	Stangeland
Flippo	Marriott	Stanton
Flood	Mathis	Stark
Florio	Mazzoli	Steed
Flowers	Meeds	Steers
Flynt	Metcalfe	Stokes
Foley	Meyner	Stratton
Ford, Tenn.	Michel	Studds
Fountain	Mikulski	Stump
Fowler	Mikva	Symms
Fraser	Milford	Taylor
Frenzel	Miller, Calif.	Thompson
Frey	Miller, Ohio	Thornton
Gammage	Mineta	Trible
Gaydos	Minish	Tsongas
Gephardt	Moakley	Udall
Giaimo	Moffett	Ullman
Gibbons	Mollohan	Van Deerlin
Gilman	Montgomery	Vander Jagt
Ginn	Moore	Vanik
Goldwater	Moorhead, Calif.	Vento
Gonzalez		Volkmer
Gore	Moorhead, Pa.	Waggonner
Gradison	Mottl	Walgren
Grassley	Murphy, N.Y.	Walsh
Gudger	Murphy, Pa.	Wampler
Guyer	Murtha	Watkins
Hagedorn	Myers, Gary	Waxman
Hall	Myers, John	Weaver
Hamilton	Myers, Michael	Weiss
Hammer-schmidt	Natcher	Whalen
	Neal	White
Hanley	Nedzi	Whitehurst
Hannaford	Nichols	Whitley
Hansen	Nix	Whitten
Wilson, C. H.	Wylie	Young, Tex.
Wilson, Tex.	Yates	Zablocki
Wirth	Yatron	Zeferetti
Wolff	Young, Alaska	
Wydler	Young, Mo.	

NAYS—21

AuCoin	Hollenbeck	Quayle
Brown, Mich.	Jacobs	Sarasin
Coughlin	Jones, Okla.	Steiger
D'Amours	Krueger	Traxler
Forsythe	Mattox	Treen
Glickman	Mitchell, Md.	Walker
Goodling	Pritchard	Young, Fla.

NOT VOTING—43

Ambro	Ford, Mich.	Richmond
Armstrong	Fuqua	Risenhoover
Beard, Tenn.	Heckler	Roncalio
Bevill	Hightower	Ruppe
Bingham	Jones, Tenn.	Sisk
Bolling	LeFante	Stockman
Bonior	Lehman	Teague
Bonker	Lundine	Thone
Broomfield	McDonald	Tucker
Brown, Ohio	Martin	Wiggins
Collins, Ill.	Mitchell, N.Y.	Wilson, Bob
Conyers	Moss	Winn
Dent	Murphy, Ill.	Wright
Diggs	Panetta	
Eckhardt	Rahall	

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9375) entitled "An act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes."

And that the Senate agrees to the amendments of the House of Representatives to the amendments of the Senate numbered 1, 7, 16, 22, 23, 37, and 52 to the above-entitled bill.

The message further announced that the Senate further insists upon its amendment numbered 43 and requests a further conference with the House on the disagreeing votes of the two Houses thereon and appoints Mr. MAGNUSON, Mr. STENNIS, Mr. PROXMIRE, Mr. INOUYE, Mr. YOUNG, Mr. CASE, and Mr. STEVENS to be the conferees on the part of the Senate.

THE REVEREND JULIAN ROGER CAMERON

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, the gentleman delivering this morning's invocation has made outstanding contributions to the youth of my home State of Mississippi through his involvement in Methodist church camp work. The Reverend Julian Roger Cameron presently serves as superintendent of Camp Wesley Pines in Gallman, Miss., a position he has held since the creation of the camp 18 years ago. In fact, he supervised the construction of this fine facility, recognized to be the largest and best equipped church camp in our State.

Reverend Cameron was educated in the public schools of Meridian, Miss., and graduated from Lambuth College in Jackson, Tenn., in 1942. He has been affiliated with the Mississippi Conference of the United Methodist Church for some 35 years, serving 17 years on pastoral charges before becoming camp superintendent. I want to say, too, that he has been assisted in his ministry by his wife, Rosemary Cameron.

It would be hard to estimate how many young people Reverend and Mrs. Cameron have influenced toward the good during their ministry, but they number in the thousands. It is an honor for me to welcome you, Reverend Cameron, on behalf of my colleagues here in the U.S. House of Representatives.

PUNXSUTAWNEY PHIL REPORTS—WATCH OUT FOR 6 MORE WEEKS OF WINTER!

(Mr. MURTHA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MURTHA. Mr. Speaker, I can with complete confidence today advise my colleagues that the Northeast and Midwest can expect continuing winter weather, that the Southern and Southwest Congressmen can continue to expect a long tourist season, and that my Western colleagues can expect the rain to continue to end their drought problems.

I am certain because this morning, my most famous constituent—Punxsutawney Phil—emerged from the ground to see his shadow, thus insuring 6 more weeks of winter weather.

Last weekend after my congressional workshop I visited with Phil and Phyllis at their home in Punxsutawney. I can report that both seemed in good health. I urged Phil to wait for cloudy weather this morning so winter would end more quickly, but it goes to show that we can only react to the weather, not create it. Phil did his duty. Unfortunately, he saw his shadow.

For the information of the Members, I wish to insert into the RECORD the official proclamation from the weather capital of the world:

OFFICIAL GROUNDHOG PROCLAMATION

Hear Ye! Hear Ye! To all faithful followers assembled here on Gobbler's Knob,

And to all true believers around the world:

I, Charles M. Erhard, Jr., President of the Punxsutawney Groundhog Club, hereby proclaim that his Imperial Majesty—King Phillip, The Only True Weather Prophet—emerged from his snow covered burrow at 7:27 this morning. The King of all weather prognosticators braved the blasts of cold, wintry air,

Only long enough to cast a noticeably long, gray shadow.

Having made his annual forecast, Punxsutawney Phil scampered back into the warmth of his royal residence.

Thus, it is official! There will be six more weeks of winter weather,

But the worst is over!

Once again . . . the shadow knows! That's the word today from the weather capital of the world—Punxsutawney, Pennsylvania . . . The home of the only reliable weather forecasting groundhog!

BRAZEN DISREGARD FOR HUMAN RIGHTS IN SAUDI ARABIA

(Mr. VANIK asked and was given permission to address the House for 1 min-

ute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, all Americans should be angry and shocked at the revelation in today's newspapers of the crude and inhumane punishments inflicted last week in Saudi Arabia. The United States, as a leading advocate of human rights, simply cannot tolerate the brazen disregard for human rights and decency that are indicated by this situation. Our Government has a duty to find out precisely what has happened and inform the American people.

How long can we tolerate the differential in human rights standards among our trading partners. We pay billions of dollars in oil payments to Saudi Arabia. We have a right to demand some measure of human decency as a condition of our continued relationship.

In the area of human rights, there can be no Saudi Arabian exemption.

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

(Mr. FITHIAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FITHIAN. Mr. Speaker, recently Mother Nature has seen fit to deposit on the great State of Indiana and on other Midwestern States a very considerable amount of snow. Frequently we hear from the grassroots the complaints against the Federal Government. I would like to take this happy opportunity to report to the House the tremendous response on the part of the Federal Disaster Assistance Administration, for not only did they respond to the Governor's and Senator BAYH's call, but they responded further to the call of the gentleman from Indiana (Mr. BRADEMAS) for flexibility in terms of the administration of that law. Those local units of government which are struggling now with the residue of that storm are among those who most appreciate the ability of the Federal Government and the State government to work together when we are confronted with this kind of serious calamity.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. FITHIAN. I am happy to yield to my distinguished colleague, the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I want to thank my friend, the gentleman from Indiana (Mr. FITHIAN), for what he has had to say, and I would like to take this opportunity to express the appreciation that all of us whose communities were very hard hit by snow, as South Bend, Ind. was, with 40 inches in about 3 days, feel toward President Carter, toward Jack Watson, Secretary to the Cabinet and Assistant to the President for Intergovernmental Affairs, and toward Federal Disaster Assistance Administrator William Wilcox for their willingness to modify the disaster assistance program to provide that, for a period of 5 days from the point of declaration by the President of a state of emergency, the Federal Government will reimburse local units of Government for 75 percent of the cost of using private contractors to remove snow.

This action on the part of the President and his counselors represents a sensitivity to the needs of human beings which I think is highly commendable, and I want to reiterate my appreciation to the President, Mr. Watson, and Mr. Wilcox, and to my colleague, the gentleman from Indiana (Mr. FITHIAN), for what he has said on this matter.

Mr. FITHIAN. Mr. Speaker, I thank the gentleman for his remarks.

Mr. Speaker, I would only say that in these days when we are so prone to criticize the Federal Government, I thought it might be heartwarming to report to the House on an occasion in which the Federal Government has indeed responded in a humane fashion.

A PLAN TO PROVIDE FUNDS FOR EMPLOYING STUDENTS IN SNOW-REMOVAL DUTIES

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Speaker, I wish to congratulate the majority whip, the gentleman from Indiana (Mr. BRADEMAS), on his statement.

I had lunch yesterday with the Secretary of Labor, and we had an interesting discussion. It seems to me that in our Midwestern cities we have an unusual situation with regard to snow removal. Arterial streets can easily be cleaned after a heavy snow, because we have good snow-removal equipment and because we have established snow routes. The real problems occur on the side streets of the inner cities, when there is an excess amount of snow. It obviously becomes very difficult for snow-removal equipment to enter these streets particularly when you consider the many cars that have become stranded.

I think it would be a wise idea for the Committee on Education and Labor to consider legislation that would permit the Secretary of Labor, without the mayors declaring disaster areas, to allocate funds so that we could engage young students in their after-school hours to manually shovel the snow from these nonarterial streets to further facilitate snow removal procedures.

I know that in Chicago during the last week we have really had a problem in trying to move our snow-removal equipment into the side streets, but if we could engage these young students immediately after school to manually shovel the snow against the various curbs, I think we could get these thoroughfares opened up.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman from Illinois (Mr. ROSTENKOWSKI) for what he has said, and I want to commend him for this very imaginative suggestion. I would like to work with him with an eye toward developing some appropriate legislation that might make possible, in the event it is not possible to do it under existing legislative authority, the granting of authority to carry out the kind of program in such situations that the gentleman has suggested.

Mr. ROSTENKOWSKI. Mr. Speaker, I think it is true that mayors are always apprehensive about requesting that a disaster area be recognized by the President. I really think we could use this money productively if we could engage young people for this purpose and at the same time give them some needed exercise.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I just want to join with my fellow Hoosiers in thanking the President for his humane work and his good acts.

I also wish to extend praise to the gentleman from Indiana (Mr. BRADEMAS) for his leadership in bringing our entire delegation together and getting this cooperation. This is certainly helpful to our people who have just faced this tragedy.

PRESIDENT'S TALK ON PANAMA CANAL; GREATEST "SNOW JOB" OF THEM ALL

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, many parts of the United States have indeed suffered from severe snowfalls in recent weeks, but the biggest "snow job" I have seen this entire winter was the speech last night the President made about the Panama Canal Treaties. No amount of removal equipment could possibly clean up the total distortions that were presented to the American people. I would not even attempt in 1 minute to answer these gross misrepresentations.

I am quite sure that the fellow who wrote the President's speech was not the same one who wrote his campaign speeches last year in which the President said, "You can believe me," and "Trust me."

The President says we do not own the canal. We not only own the Panama Canal, but we paid for it four different times, much of it with fee simple deeds for every square foot. We are told that the treaties are not going to cost any more money, but on the same day the President made that statement the Comptroller General was testifying before a Senate committee that not only will the treaties fail to finance the cost of the agreement but the United States will have to be doling out hundreds of millions of taxpayers' dollars to finance this deal for the rest of the century.

Mr. Speaker, somebody had better write the President's speeches with a lot less "snow" and a lot more truth.

PRESIDENT CARTER SHOULD DECLARE THE STATE OF OHIO A DISASTER AREA

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, I have listened with a great deal of interest to the statements lauding the work that has been done by the Federal Government to help the States and local governments in the Midwest during this disastrous snow storm. Much has been done but more needs to be done. We are still waiting in Ohio for action downtown on a request by the Governor of Ohio for the President to declare the State of Ohio a disaster area so that all of the disaster programs of the Federal Government can become operative.

Now, once again, Mr. Speaker, I ask the President, as I asked on Monday, Why not a disaster area declaration for the State of Ohio now? Why the delay?

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9370, PROVIDING FOR DEVELOPMENT OF AQUACULTURE IN UNITED STATES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–863) on the resolution (H. Res. 998) providing for the consideration of the bill (H.R. 9370) to provide for the development of aquaculture in the United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEES OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT TODAY IN THE MORNING AND AFTERNOON DURING THE 5-MINUTE RULE

Mr. HARKIN. Mr. Speaker, I ask unanimous consent that the Subcommittees of the Committee on Science and Technology may have permission to sit this morning and afternoon, Thursday, February 2, 1978, during the 5-minute rule, for the purpose of receiving testimony on the DOE, NASA, and fire authorizations for fiscal year 1979.

The SPEAKER pro tempore (Mr. GIAIMO). Is there objection to the request of the gentleman from Iowa?

There was no objection.

PRESIDENT CARTER SHOULD INVOKE TAFT-HARTLEY ACT IN UNITED MINE WORKERS STRIKE

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, President Carter still is a bit timid about invoking the provisions of the Taft-Hartley Act.

The United Mine Workers, in the event they did come to some type of agreement, would still have to submit it for ratification, which would take 10 days. Assuming they did ratify it, another 10 days would be needed for the mines to start up again. Therefore, we are talking about at least a 20-day delay from now, if the strike were settled.

Mr. Speaker, the President, rather than exercising leadership, is exercising, as I said the other day, timidity. He must be afraid of what the United Mine Workers might do at the polls.

The emergency in Ohio has reached a point where, in my city of Columbus, they have to turn out all the freeway lights, the street lights, and the mayor complains about the increase in crime, because the Federal Government is afraid to avail itself of existing remedies.

Another paradox is the fact President Carter's so-called energy program predicts coal production will double by 1985. How in the world can this happen if the President looks away while the coal miners sit idle?

Mr. Speaker, now is the time to act.

DO-IT-YOURSELF DIPLOMACY STRIKES AGAIN

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, President Carter's first year began with the curious diplomatic practices of Andy Young, whose shoot-from-the-lip diplomacy soon established the Carter administration as one in which anything can happen and usually does.

Now, as the President begins his second year, the Young tradition has been carried on by the U.S. envoy in Peking, Leonard Woodcock. According to reports, Woodcock, in what is described as "off-the-cuff" comments, told reporters the United States would "find the necessary courage" to withdraw recognition from Taiwan and establish full diplomatic ties with Communist China.

What do we have here, Mr. Speaker? Is it an Andy Young special in which the words are not supposed to be taken seriously? Or is President Carter testing the diplomatic waters? Is Woodcock engaging in do-it-yourself diplomacy or is the President using Woodcock to get the message out?

Communist China at this moment is the world's number one violator of human rights and civil liberties. Taiwan is—compared to Communist China—a bastion of freedom. What is the President doing? Or, does he know what he is doing? That is the question we hear more and more, every day.

U.S. DEPARTMENT OF AGRICULTURE REORGANIZATION

(Mr. GRASSLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRASSLEY. Mr. Speaker, when he was campaigning for the Presidency, Jimmy Carter promised to manage more efficiently and to bring it closer to the people. One of the agencies rumored at the time as a possible target of reorganization was the U.S. Department of Agriculture.

Today, that rumor is a reality—or at least a possibilty—unless the Congress acts to head it off. President Carter has proposed reorganizing the Government's so-called natural resources and environmental functions into one agency to be known as the Department of Natural Resources and Environment. Included in this new department would be the U.S. Forest Service and Soil Conservation Service—both now under the Department of Agriculture—as well as the present Department of the Interior and National Oceanic and Atmospheric Administration from the Commerce Department and the Civil Works Activities of the Army Corps of Engineers and the Water Resources Council.

At the same time, the President has proposed formation of a new Department of Agriculture and Renewable Resources which would be made up of farm-related activities of USDA and would include the management of public and private nonurban lands and related renewable resources now under USDA, Interior, and other agencies.

Mr. Speaker, I am not opposed to reorganization when I am convinced there is merit in consolidating certain agencies or in realigning bureaus of like-activity into one office. But I am unalterably opposed to breaking up the functions of a working department of Government such as USDA and subordinating its objectives to those of a new superagency. This is one campaign promise I hope Mr. Carter will not pursue.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1977

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 1614, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, February 1, 1978, title II was under consideration and pending was an amendment offered by the gentleman from New York (Mr. MURPHY) and a substitute amendment offered by the gentleman from Ohio (Mr. WHALEN).

The gentleman from Ohio (Mr. WHALEN) is now recognized for 5 minutes in support of his substitute amendment.

Mr. WHALEN. Mr. Chairman, this amendment would delete section 31, which would require U.S. documentation, registry, and employment of U.S. nationals for OCS facilities and vessels. Although section 31 purports to maximize U.S. employment and use of American equipment in OCS operations, it would accomplish neither of these legitimate goals but could invite retaliation by other countries against U.S. nationals working overseas and against a major export market for American products. Mr. Chairman, I advocate deletion of section 31 for three reasons:

First, section 31 would not increase the number of Americans working on the OCS or the amount of U.S.-produced equipment used in OCS development. There is no evidence that large numbers of aliens are or will be employed in coastal drilling operations. Rather, economics and logistics dictate that while operating off U.S. coasts, the vast majority of crew members will be Americans or legally admitted aliens with proper work visas. Likewise, a prohibition against foreign-flag vessels and drilling units on the OCS is unnecessary. America currently produces approximately 80 to 90 percent of the world's oil and gas production equipment, and, thus, the predominance of equipment and vessels used on OCS lands will undoubtedly be American. According to Offshore Rig Data Services of Houston, Tex., of the 141 drilling units currently on the American OCS, 124 were built in the United States, 4 were built in U.S.-owned yards overseas, and only 13 were constructed in foreign facilities.

Second, Mr. Chairman, section 31 would serve to protect a market that needs no protection at the cost of inviting retaliation by other countries. The embassies of Great Britain, Norway, and the European Communities have protested the provisions of section 31 and have noted that their governments are under considerable pressure from labor and industry to institute similar "buy and hire national" restrictions in the North Sea oilfields. The Department of Commerce reports that 1977 U.S. exports of oil field machinery amounted to $2.7 billion, while imports of such products were insignificant. These factors lead me to believe that protective restrictions such as those contained in the provisions of section 31 cannot be justified on the basis of the needs of American industry or American workers, and in fact could lead to retaliatory measures by other nations to the detriment of an important U.S. export market.

Third, section 31 is contrary to current U.S. multilateral efforts to liberalize trade through a variety of international organizations, including the multilateral trade negotiations (GATT), the Organization for Economic Cooperation and Development, and the International Energy Agency. In addition, the United States is actively engaged in bilateral talks with individual countries to open foreign markets to our exporters to a much greater degree than present. Adopting the restrictive measures of section 31 while these negotiations are taking place would seriously hamper our efforts and would be viewed by other countries as a shift by America toward increased protectionism. As Charles L. Schultze, Chairman of the President's Council on Economic Advisers, warned recently in the Council's annual report to the President, the world and U.S. economies could be seriously harmed by protectionism and the resultant slump in international trade.

Section 31 is unnecessary and counterproductive. It is opposed by the administration, including the Department of State and the Department of the Interior. A similar proposal was rejected by the House during consideration of the OCS bill in 1976, and no "preference America" language is contained in the OCS legislation that was passed by the Senate last year. I strongly believe that section 31 is not in the best interests of the United States and I urge you to support my amendment to delete it from H.R. 1614.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

I strongly support the position the gentleman is taking. It seems to me this is absolutely the worst time to try to enact a measure of this sort. The measure would be anticonsumer, and in my view it would be cutting off our nose to spite our face. We have a tremendous stake in the export trade, particularly of the type of high technology items we are here considering.

(Mr. CONABLE asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. The time of the gentleman has expired.

At the request of Mr. ZEFERETTI, and by unanimous consent, Mr. WHALEN was allowed to proceed for 2 additional minutes.)

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from New York.

Mr. ZEFERETTI. I thank the gentleman for yielding.

I have before me some offshore mobile drilling construction orders for the years 1978 through 1979, and in them there are some 12 rigs under construction that are being built by Finland, by Spain, by the Netherlands, by Nova Scotia, by Scotland, by Singapore, and by Japan. I also have before me an assessment of the impact on the maritime industry, an assessment of offshore industry and a paragraph which I would like to bring to the gentleman's attention. In it it says that—

> One of the most apparent changes has occurred in the offshore oil and gas industry where once the United State was virtually alone in technological development, rig and platform fabrication and offshore production . . . of 171 rigs constructed prior to 1970, 71 percent were built by yards in the United States, 16 percent were built in other parts of the world. Since 1970, 272 rigs have been delivered or are on order, and of this number the U.S. will have produced only 34 percent, Europe 28 percent, and the rest of the world 38 percent. With the growth in North Sea activity, Europe has assumed a place of leadership in semisubmersible construction and concrete structures.

For that reason I have to oppose the gentleman's striking that section.

Mr. WHALEN. I think that the fundamental issue was discussed last night when the gentleman from New York's (Mr. MURPHY) amendment was introduced. That is the effect that protection legislation of this kind will have in the long run. If we adopt protective legislation, certainly we are going to see retaliation by our trading partners abroad. What is going to happen is that even while we enjoy this lead, we are not going to be able to take advantage of it economically because we will be frozen out of these other areas. So for this reason I again would stress that section 31 be deleted from the bill.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MURPHY of New York, and by unanimous consent, Mr. WHALEN was allowed to proceed for 1 additional minute.)

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding. The long-range trend of dumping in the United States by different foreign countries is probably highlighted by Japan and the auto industry. I think as of now there are over 1,200,000 cars coming into the U.S. market, and I think we have put about 1,100 cars into the Japanese market. That is the type of reciprocity that we are dealing with on an international basis.

I think the gentleman from New York (Mr. ZEFERETTI), just pointed out that same trend is now established in the construction on our own Continental Shelf.

Mr. WHALEN. If I may just respond to the gentleman's comments, he has of course broadened the scope of my discussion. It seems to me that the negotiations that are taking place right now in the fora to which I previously have referred hopefully will resolve some of these protectionist attitudes on the part of Japan and other countries. But if we become involved ourselves in those very same practices it is very evident we are not going to ameliorate the problem to which I have referred.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(On request of Mr. DUNCAN of Oregon, and by unanimous consent, Mr. WHALEN was allowed to proceed for 1 additional minute.)

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I commend the gentleman from Ohio for his remarks and I must say philosophically I am in complete agreement with what the gentleman from Ohio has said. Also I am in accordance with the American building of these rigs but I am not in a position to support the gentleman 100 percent. I must emphasize to the House that this Nation is a trading nation and the opportunity we have at the present time to recover from the very unfavorable balance of trade depends on our continuing to be a trading nation.

The gentleman from New York, the chairman of the committee, raised the question of unfair trade practices, dumping, and the gentleman in the well I think correctly distinguishes between that situation and the one we are faced with here today in the OCS bill. I agree that foreign trade must be a two-way street and I have supported the administration's move to stop the unfair trade and the dumping of Japanese products in this country. I think this House has likewise generally been supportive of the efforts to have fair free trade in the textile industry, but that is not what we are talking about here.

American rigs are all over the world and what we can expect from the passage of the legislative change the chairman is endorsing from his own bill is reciprocity that will drive our rigs from the drilling sites all around the world, to the great deprivation and ultimate deprivation of labor in this country.

I thank the gentleman for yielding.

Mr. WHALEN. I thank the gentleman for his comments.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, I appreciate very much my colleague, the gentleman from Ohio, yielding.

I would have to say I hope that the House does not make a decision on an issue of this kind by trying to follow the logic of our friend, the gentleman from New York (Mr. MURPHY).

So far as I know there has never been an accusation made that these are dumped rigs that are competing with American rigs in the Outer Continental Shelf, nor is this an issue with the automobile industry.

And, yes, the Japanese have a track record which indicates that they are less than willing to allow American products to come into Japan as we allow the Japanese products to come in, but that is no reason to adopt section 31 with the Murphy of New York amendment. It is one thing just to send Bob Strauss to see Minister Uishiba or to see people in Britain and Malaysia or Hong Kong or Taiwan or anywhere else and it is another thing when the House of Representatives acts up and decides to accept this kind of clearly protective measure. We cannot have it both ways and we cannot argue that we ought to be trying to tear down the unfair barriers that exist abroad when we are enacting barriers in the United States.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(On request of Mr. FRENZEL, and by unanimous consent, Mr. WHALEN was allowed to proceed for 2 additional minutes.)

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I will say that is the reason the Whalen amendment ought to be adopted. Then we have a fair shot at attempting to try to deal on a negotiated basis in a multinational setting; but it clouds the issue and is exceedingly shortsighted to adopt what is recommended by the committee.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I want to congratulate the gentleman for making the amendment that I wanted to make myself. The gentleman has articulated correctly, and forcefully, that America is a trading nation. The combination of our exports and imports amount to now something over 12 percent of our gross national product.

Our ability to provide for the general welfare of our people in the future will depend on our ability to compete internationally. We are no longer an isolated country. If we lock up our markets to foreigners, that will simply lock up their markets to us.

Certainly in this field, drilling, we have more to lose than in most areas because we get the lion's share of the drilling contracts abroad. It will be a dreadful mistake to do anything other than pass the amendment of the gentleman from Ohio.

Mr. WHALEN. Mr. Chairman, I think the gentleman from Minnesota has effectively defined the issue.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with some difficulty that I speak in opposition to the amendment, because I think many of the things people have said about this country being a trading nation and about this country depending on its trading partners is true; but one of the things I think is very troubling is that we have seen while the United States has resisted protective actions, we have seen a steady encroachment on jobs of American citizens.

I represent an area, the San Francisco Bay area, which is directly involved in the production of offshore oil rigs and let me tell you that the west coast steel industry is deeply concerned about our accelerated leasing program and the demand for rigs continues. The fact is that the Japanese are building these with Government supported steel and we cannot compete. We know they have a superior product, because they just built one of the largest rigs in the world now drilling off of Santa Barbara in excess of 800 to 1,000 feet of water.

I share the concern of the gentleman from Louisiana that some of the residents of the gentleman's State and the residents of the State of Texas may be called back from duty overseas; but the steelworkers in the west coast would like to share in this bountiful bill. The boilermakers would like to go to work. The carpenters would like to go to work. They have a possibility of doing that, not in my district, but at Mare Island and over in Oakland to work on these rigs, to assemble and build them.

We see policies by Norway and Britain that the goods and services be purchased in their respective countries. I do not see anything inconsistent in having Mr. Strauss go and negotiate with these things in mind.

I just think this is a rational statement that when we develop America's resources that American citizens, American jobholders, have a right to participate. It still sticks in the craw of the American people that Alaska oil was brought through our pipelines built with Japanese steel.

I think we have a right when we develop our resources to say that all the cross segments of our society will participate in the development, participate in the construction, participate in the manning, knowing they are working under proper safety regulations. I think that is what this amendment really does. There are exceptions to the amendment offered by the gentleman from New York (Mr. MURPHY) to see that if the goods are not available, if a specific good is not manufactured here, you can go elsewhere; if it will cause a delay, you can go elsewhere. If they are in short supply, you can go elsewhere; but where we have the capability to make steel in California and we have the capability to assemble it in California and we have the technology to man these rigs, let me say that our first priority ought to be to carry out that policy.

I think it is very clear that in the tours of this committee overseas we have heard time and again that the only game in town is American technology and management; so I do not think the adoption of the Murphy amendment will cause the adverse effects that have been mentioned. If they do we can come back and examine this policy. If the trade negotiators or Mr. Strauss tell us we are ineffective, we can come back and reexamine it.

But, why should we not make a statement of this Congress as to the ability of the American people to participate in what is supposed to be the bounty of this country, in the development of these resources for the good of this country, so that they can go to work and have jobs?

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield.

Mr. DUNCAN of Oregon. I cannot totally disagree, and the gentleman enunciates, I think, a very popular viewpoint that will have a great deal of appeal to the people of the country, including the working people. But, I would ask the gentleman to take a look at what

happened to American intercoastal shipping under the Jones Act, intended to protect American shipping and American seamen's jobs. The experience of this country and virtually every other country in the world that has experimented with sabotage laws of this sort, which are intended to protect and furnish jobs, has inevitably been one of failure.

I have personally tried to find intercoastal shipping on which to ship large cargoes from one coast to the other. It is just impossible. Intercoastal shipping, which has been protected by the Jones Act for years, just does not exist.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. I am not an authority on the Jones Act, but I suspect that my chairman may very well be. If you had trouble with the Jones Act, let me tell the gentleman what happened in my district. Five hundred yards down the road from the existing Antioch Bridge, there is the American Bridge Co. They bid on a new highway bridge and lost the bid to Japanese steel. It was constructed and assembled in Japan; it was taken apart and shipped to Antioch, and is being assembled; and jobs were lost at American Bridge.

We have sat around, we have seen these things. We have asked them to please not do it, but we have not taken firm and tough actions to protect these jobs.

Mr. DUNCAN of Oregon. I agree with the gentleman on that problem he had with his bridge, and I think that situation prevails as a result of unfair trade dumping of Japanese steel. Our Government has moved to correct that. We may have to take even stronger action, but I suggest that that is a really different proposition than the one we are facing here today.

Mr. MILLER of California. I would respectfully disagree with the gentleman.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the chairman.

Mr. MURPHY of New York. On the question of the Jones Act, I frankly do not see its relevance in this debate. The Jones Act was one of the first laws passed by the original Congress for one specific purpose, which was to insure that there was a shipbuilding industrial base, as well as an American-flag merchant marine. Since the passage of that act we have seen development of the inland waterways of America; the railways of America; the land-bridge concept. We have seen a vast change in the Interstate Highway System and various competitive modes of transportation.

What the Jones Act does today—and it is just as viable as it ever was—is to insure that our intercoastal trade is done in American-flag ships, and done by ships built in America.

The CHAIRMAN. The time of the gentleman from California has again expired.

(On request of Mr. MURPHY of New York and by unanimous consent Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. The fact that we have a dynamic transportation industry, and the fact that cargoes do not move from New York to Miami by ship, but perhaps move by rail or by truck or some combination of modes, is not an indictment of the integrity and the intent of the Jones Act. The Jones Act is imperative to America's security as well as its shipbuilding and industrial bases.

What I think we are faced with here is a misunderstanding in the Congress as to the various—let us call it special interest areas. We have basically the opponents of build and buy American being agricultural interests. For some years, we have come, in this country, to the point where a vast amount of our overseas trade involves our agricultural products, and we are trying to offset with this amendment because of an in balance due to manufactured imports.

I frankly do not see the relevance of Smoot-Hawley in this argument today. The history of that act was that it was passed in 1930. There were amendments made in subsequent Congresses in which the President was given power to engage in reciprocal trade agreements to reduce tariffs on certain products and by 1939 America's trade balance was right back to the balance that it was at pre Smoot-Hawley. That act, I do not think, is relevant to this debate. It was a tariff act.

What we are doing here is plainly and simply stating that there is foreign competition; that we have seen other countries enact very specific and strict special preferences on constructing or manning and using, not only in their oil and gas industry, but also in their other industries.

What we are doing here is saying, "Let the U.S. industry build the equipment to be used on the U.S. Outer Continental Shelf. Let the Americans have the jobs in the construction on those platforms."

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

(By unanimous consent, Mr. MURPHY was allowed to proceed for 1 additional minute.)

Mr. MURPHY of New York. Let the American men and women have the jobs that are vital on the Outer Continental Shelf.

In the amendment that we are trying to strike here, we have the safety valve that if items are scarce, we will go foreign for them. If there is a lack of competition, we can still go foreign. If there is a technology we do not have, we can still buy foreign. If some contingency in those areas develop, the safety valve is there. But let us not prejudice America's industry and America's working men and women.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are not moving in a good direction if we fail to support the Whalen amendment. That is the right step for this House to take. We know where the protectionist road leads—we tried this before, as was said yesterday—right down the path to the Smoot-Hawley tariffs and all of the problems and dislocations of international trade that we experienced before.

Mr. Chairman, I will not take the time of this House because I think everybody has given their views, but I hope that we will seriously consider that we live in an interdependent world and we must compete successfully in world trade. America can do it if we determine to do it, and this Whalen amendment leads us in that direction.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to this debate. It has been very interesting. It seems to me that the debate poses about three questions. To the opponents of the Whalen amendment, I would ask, cannot this administration deal with dumping under existing law; and, cannot this administration successfully negotiate in the negotiations that are being carried on and accomplish fair and free trade worldwide with all nations? If you answer those questions "yes," which I assume you would have to do, then it seems to me that the final question is, do you insist that our industry have a preference that we do not agree other nations should have?

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from New York.

Mr. MURPHY of New York. I frankly do not see the relevancy of whether we are talking about this administration or other administrations. We had this same debate in the last Congress under a different administration. We heard the same arguments. I think they are relatively philosophical. The gentleman comes from a State which has been severely impacted by foreign imports, and the jobs of the men and women in his State are at stake. What we are discussing here is the philosophical question: Does the U.S. Congress move to protect America's industrial base, America's products, and America's jobs?

This administration is moving properly in the tariff areas. What we are doing here is to try to write rational regulations to protect America's manufacturers.

Mr. BROWN of Michigan. Mr. Chairman, I would suggest that the gentleman is rather myopic in his view of international trade. He is saying that if we take measures of this nature for the specific industry he wishes to protect that there will not be retaliation or if there is, the retaliation will be against someone else's constituent industries and, therefore, since the retaliation is against someone else, that is all right, just do not affect my industry.

I think that is about as myopic as one can be, and I think the gentleman's amendment is myopic.

I support the Whalen amendment.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I may be myopic, but that myopia is probably heightened by the fact that I happened to look at the deficit passed on to this administration by the last administration, and those billions of dollars in deficit happen to be because of the imbalance in our trade and the advantage of our so-called trading partners and the advantage they have taken of the United States, and this is an effort to deliver a message in one particular industry as to how we can correct it and protect the United States.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield briefly.

Mr. BROWN of Michigan. Mr. Chairman, I trust the gentleman understands that approximately six reassessments have been made by this administration with respect to dumping, and I know of two during the previous administration and within the last few years.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, this is a tool we can give Mr. Strauss to use in his visits to Japan in trying to correct the dumping problem. This would give Mr. Strauss a strong bargaining hand in those negotiations.

Mr. SIMON. Mr. Chairman, I rise in support of the Whalen amendment.

I do so, recognizing that my colleagues from the States of California and New York are dealing with a fundamental problem, but I do not think this is the way to deal with that fundamental problem.

Smoot-Hawley is relevant, in that in 1930 we also had a very serious problem of unemployment, and so Smoot-Hawley came along. The thinking was, of course, that we would protect American jobs in the process, but what we did was to hurt the employment opportunities in this Nation.

Let us just take a look at my own State, for example. Caterpillar, one of the major exporters in the United States, uses about 90 percent American steel. As these trade barriers rise, Caterpillar will be able to buy less and less American steel.

International Harvester and John Deere, manufacturers of major proportions in my State, face the same kind of situation.

I am concerned about the rising tide of protectionism that I sense here on the floor of Congress and out among the people of the Nation. I think a second factor has to be considered here, and that is this: Is the administration under the leadership of Bob Strauss doing an effective job?

My response is that from what I can see, he is doing a very effective job, and I do not think this strengthens his hand; this weakens his hand. I would prefer to leave this kind of thing in the hands of our negotiators.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I appreciate what the gentleman is saying. I think one of the things that should be set straight is the fact as to America's ability to compete.

For one thing, in 1976 only $23 billion of our exports were in agricultural products; we exported $105 billion worth of goods. We have a trade deficit, to be sure, at this point, but if we were not importing oil, we would have a $15 billion trade surplus.

So in terms of our ability to compete abroad, our ability to compete specifically in this field is well known, and our ability to compete abroad generally with respect to industrialized goods is also demonstrable by the statistics themselves.

Mr. SIMON. Mr. Chairman, if I may ask my colleague, the gentleman from New York (Mr. CONABLE) to remain at the microphone, I believe I am correct in this—the gentleman is on the Committee on Ways and Means and can verify this—in the last decade the number of American jobs dependent on exports has doubled; is that correct?

Mr. CONABLE. That is correct. Exports now account for about 8 percent of our gross national product. Ten years ago they accounted for a little less than 4 percent.

Mr. FORSYTHE. Mr. Chairman, I move to strike the requisite number of words.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I thank the gentleman for yielding.

I would just like to try and put this issue in perspective. I think it is very important for the Members to understand we are not talking about television sets and we are not talking about Hondas and Toyotas being imported into this country. We are talking about putting up a screen around ourselves, and it can only hurt.

About 90 percent of all the oil and gas equipment being used around the entire world is already American-made. Most of the men and women who are working in the offshore oil and gas industry are already Americans, not only off our own coast but all over the world.

Who do we think is the most populous Nation working in the North Sea? It is us. We have hundreds of thousands of men and women who are working, not only in our coastal areas already, but in the North Sea, off the coast of Indonesia, and off the coast of South America. We are already at every possible advantage in working world-wide in the oil and gas industry.

The only thing we are going to accomplish by passing this amendment is this: We would say to the members of Parliament in Great Britain and the members of other legislative bodies that "By golly, we are the only ones who can have the jobs," and then they will say that if Americans can say only Americans can work on those installations, then they are going to pass the same type of legislation. Then it would only be British citizens who would be working in the North Sea, and it would be only Norwegians who would be working in the Norwegian area of the North Sea.

Then they are going to retaliate and say they will have to have all Norwegian equipment used in the North Sea.

We are already way ahead in this area, and I say that by adopting this kind of legislation we are going to end up hurting ourselves. Right now we are way ahead, and we should not be taking this sort of step. I strongly support the amendment offered by the gentleman from Ohio (Mr. WHALEN).

I think it is a step in the right direction. I would be supportive of it if I thought it would help, but this is one area in which we do not need any help.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

I would like to endorse the statements made by the gentleman from Louisiana (Mr. BREAUX).

Mr. Chairman, I have a substantial offshore rig building industry in my district; and I know that at this time most of what they produce is going overseas. I think that industry in my particular district would be very adversely affected should the Whalen amendment not pass.

Mr. Chairman, I think that if we are concerned about what might happen in the future we should take another look at this matter later. But let's not put something in this bill that might have an adverse effect.

Therefore, Mr. Chairman, I urge the adoption of the Whalen amendment.

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from New York.

Mr. ZEFERETTI. Mr. Chairman, I thank the gentleman from New Jersey (Mr. FORSYTHE) for yielding.

In answer to the gentleman from Louisiana (Mr. BREAUX), we are not talking about televisions and appliances; but perhaps we should be talking about the loss of another industry which will be the steel industry if we do not take some cognizance of the fact that we need that kind of industry in this country.

Mr. Chairman, the people laid off throughout the country, who work in the steel industry, should be alerted to the fact that if we do stop building rigs here, the same thing could apply to that industry as happened to the shoe industry, the TV industry, and the like. I do draw an analogy, in considering this type of amendment, to the loss of those types of industries.

Mr. Chairman, I rise at this time to add my enthusiastic support to the amendment offered by my colleague from New York.

At the present time, there are no restrictions on the national origin of the equipment used on the Outer Continental Shelf and foreign-made rigs are free to operate—costing valuable jobs for American workers.

After spending the past few weeks in our home districts, most of us know that two of the biggest problems on the

minds of the American people are jobs and the economy. This amendment is directed at helping to alleviate both of those concerns: It would not only generate jobs for shoreside workers and assist U.S. maritime workers in gaining employment, but the work and payrolls generated by this activity would, no doubt, result in a "ripple effect" that would spur the entire American economy.

Many of us take it for granted that the United States almost totally dominates the offshore rig construction market. However, figures indicate that we are rapidly losing a large share of that market to foreign competitors. We need only look at the massive layoffs that have taken place in recent years in the rig construction industry, as well as the worsening condition of the steel industry and other related areas, to understand the inaccuracy of that notion.

Just 5 years ago the United States enjoyed nearly a 60-percent share of the offshore rig construction market. That figure has plummeted to merely a 29-percent share of world rig orders. The reason for this dramatic drop is clear: Foreign governments are providing massive subsidies to their national companies enabling them to "dump" their rigs and platforms on drilling companies at below cost prices.

What we are dealing with here is the future of a potential billion-dollar industry employing over 8,000 workers—one-fifth of these workers are minority group members. In addition, thousands of other jobs in supportive industries, many located in the inner city, are also at stake.

One of the major arguments used by opponents of Mr. MURPHY's amendment is that such a "build American" provision would lead to "retaliatory" tactics by foreign governments. In fact, this provision, which would be phased in over a period of time so as not to affect the operations of equipment already in operation off our coasts, is quite similar to laws already in effect around the globe. In the North Sea, for example, both Norway and Great Britain have such "build national" provisions for their offshore equipment.

While foreign nontariff barriers are carried out by Government edict or policy, the United States can only respond by passing a law. The U.S. trade system does not allow for unwritten policies or Government pressures to accomplish goals such as building offshore equipment in the United States.

As an example of the problem, at the multilateral trade talks, the United States has listed some 600 nontariff barriers in Europe. These devices effectively protect Europe's markets, particularly for agriculture goods.

Beyond these barriers, the governments of Europe also effectively pressure their industries to help each other. For example, British Government pressure is expected to be applied to the oil companies in the North Sea to build a large firefighting ship in British yards.

The United States does not have the same type of system and thus to accomplish the same result we must pass this "domestic preference" legislation.

Those who argue that the provision violates free trade ignore the European system of government pressure and policy that cannot be duplicated by our form of government. To say no such system exists abroad is to ignore foreign nontariff barriers which are more effective than any tariff or quota system.

We must also keep in mind the environmental impact of the "build American" amendment. At the present time, the rigs and platforms operating off our coasts represent a dangerous threat to our waters and marine life. The Murphy amendment would ease this environmental threat by compelling U.S.-built rigs and platforms to meet rigorous U.S. Coast Guard safety standards, greatly reducing the risk of leakage and blowouts.

For these reasons, I implore my colleagues to consider all of the factors involved in this complex issue. Opponents claim that the amendment smacks of protectionism. I say that the overall purpose of the Outer Continental Shelf legislation before us is to more fully exploit our own natural resources in the OCS. We should be certain that we maximize these benefits to our own economy rather than the economies of foreign governments. Therefore, I will vote in favor of the amendment and I ask my colleagues to do the same.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WHALEN) as a substitute for the amendment offered by the gentleman from New York City (Mr. MURPHY).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 22, noes 21.

RECORDED VOTE

Mr. MURPHY of New York. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 118, noes 280, not voting 34, as follows:

[Roll No. 30]

AYES—118

Alexander	Edwards, Calif.	LaFalce
Anderson, Ill.	Erlenborn	Lagomarsino
Andrews, N. Dak.	Evans, Colo.	Leach
Ashley	Fenwick	Long, Md.
Aspin	Findley	McClory
Badham	Fisher	McCloskey
Bedell	Foley	McDonald
Beilenson	Forsythe	McEwen
Bennett	Fraser	Madigan
Blouin	Frenzel	Maguire
Bolling	Fuqua	Mahon
Bonior	Gibbons	Mathis
Brademas	Goldwater	Mattox
Breaux	Gore	Mazzoli
Breckinridge	Gradison	Meeds
Brown, Mich.	Hagedorn	Michel
Burgener	Hamilton	Mikva
Burke, Fla.	Harkin	Moore
Burleson, Tex.	Harrington	Myers, Gary
Carr	Harris	Myers, John
Cederberg	Harsha	Obey
Cleveland	Hillis	Pattison
Cochran	Holtzman	Pease
Cohen	Hyde	Perkins
Collins, Tex.	Jeffords	Pettis
Conable	Johnson, Calif.	Pickle
Corman	Johnson, Colo.	Poage
Dickinson	Jones, Okla.	Pritchard
Diggs	Kastenmeier	Quayle
Drinan	Kelly	Quie
Early	Kemp	Railsback
	Krueger	Reuss
Rosenthal	Smith, Iowa	Vanik
Sawyer	Stangeland	Weiss
Scheuer	Stanton	Whalen
Schulze	Steers	Wiggins
Seiberling	Steiger	Wilson, C. H.
Sharp	Ullman	Wirth
Sikes	Van Deerlin	Yates
Simon	Vander Jagt	

NOES—280

Abdnor	Ford, Tenn.	Natcher
Addabbo	Fountain	Neal
Akaka	Fowler	Nedzi
Allen	Frey	Nichols
Ambro	Gammage	Nix
Ammerman	Gaydos	Nolan
Anderson, Calif.	Gephardt	Nowak
Andrews, N.C.	Giaimo	O'Brien
Annunzio	Gilman	Oakar
Applegate	Ginn	Oberstar
Archer	Glickman	Ottinger
Ashbrook	Gonzalez	Patten
Bafalis	Goodling	Patterson
Baldus	Grassley	Pepper
Barnard	Gudger	Pike
Baucus	Guyer	Pressler
Bauman	Hall	Preyer
Beard, R.I.	Hammer-schmidt	Price
Benjamin	Hanley	Quillen
Bevill	Hannaford	Rahall
Biaggi	Hansen	Rangel
Blanchard	Hawkins	Regula
Boggs	Heckler	Rinaldo
Boland	Hefner	Roberts
Bowen	Heftel	Robinson
Brinkley	Hightower	Rodino
Brodhead	Holland	Roe
Brooks	Hollenbeck	Rogers
Brown, Calif.	Holt	Rooney
Broyhill	Horton	Rose
Buchanan	Howard	Rostenkowski
Burke, Calif.	Hubbard	Rousselot
Burke, Mass.	Huckaby	Rudd
Burlison, Mo.	Hughes	Russo
Burton, John	Ichord	Ryan
Burton, Phillip	Ireland	Santini
Butler	Jacobs	Sarasin
Byron	Jenkins	Satterfield
Caputo	Jenrette	Schroeder
Carney	Jones, N.C.	Sebelius
Cavanaugh	Jordan	Shipley
Chappell	Kasten	Shuster
Chisholm	Kazen	Sisk
Clausen, Don H.	Ketchum	Skelton
Clawson, Del	Keys	Skubitz
Clay	Kildee	Slack
Coleman	Kindness	Smith, Nebr.
Conte	Kostmayer	Snyder
Corcoran	Krebs	Solarz
Cornell	Latta	Spellman
Cornwell	LeFante	Spence
Cotter	Lederer	St Germain
Coughlin	Leggett	Staggers
Crane	Lent	Stark
Cunningham	Levitas	Steed
D'Amours	Livingston	Stokes
Daniel, Dan	Lloyd, Calif.	Stratton
Daniel, R. W.	Lloyd, Tenn.	Studds
Danielson	Long, La.	Stump
Davis	Lott	Symms
de la Garza	Luken	Taylor
Delaney	Lundine	Thompson
Dellums	McCormack	Thornton
Derrick	McDade	Traxler
Derwinski	McFall	Treen
Devine	McHugh	Trible
Dicks	McKinney	Tsongas
Dingell	Mann	Udall
Dodd	Markey	Vento
Dornan	Marks	Volkmer
Downey	Marlenee	Waggonner
Duncan, Oreg.	Marriott	Walgren
Duncan, Tenn.	Metcalfe	Walker
Eckhardt	Meyner	Walsh
Edgar	Mikulski	Wampler
Edwards, Ala.	Milford	Watkins
Edwards, Okla.	Miller, Calif.	Waxman
Eilberg	Miller, Ohio	Weaver
Emery	Mineta	White
English	Minish	Whitehurst
Ertel	Mitchell, Md.	Whitley
Evans, Del.	Moakley	Whitten
Evans, Ga.	Moffett	Wilson, Tex.
Evans, Ind.	Mollohan	Winn
Fary	Montgomery	Wolff
Fascell	Moorhead, Calif.	Wydler
Fish	Moorhead, Pa.	Wylie
Fithian	Mottl	Yatron
Flippo	Murphy, Ill.	Young, Alaska
Flood	Murphy, N.Y.	Young, Fla.
Florio	Murphy, Pa.	Young, Mo.
Flowers	Murtha	Young, Tex.
Flynt	Myers, Michael	Zablocki
		Zeferetti

NOT VOTING—34

Armstrong	Jones, Tenn.	Roncalio
AuCoin	Lehman	Roybal
Beard, Tenn.	Lujan	Runnels
Bingham	McKay	Ruppe
Bonker	Martin	Stockman
Broomfield	Mitchell, N.Y.	Teague
Brown, Ohio	Moss	Thone
Carter	Panetta	Tucker
Collins, Ill.	Pursell	Wilson, Bob
Conyers	Rhodes	Wright
Dent	Richmond	
Ford, Mich.	Risenhoover	

Messrs. FITHIAN, HORTON, ST GERMAIN, MOLLOHAN, UDALL, ABDNOR, NEAL, and MARLENEE changed their vote from "aye" to "no."

Messrs. YATES, EDWARDS of California, MEEDS, and HYDE changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. GIBBONS. Mr. Chairman, I rise in opposition to the amendment of the gentleman from New York (Mr. MURPHY).

Mr. Chairman, I am going to oppose the Murphy amendment. Now that we have had our emotional binge and we have gotten it out of our systems, let us talk about the real world for a while. Let us talk about what the facts are on this planet where we all live.

As you came through the door, most of you made up your minds on "Buy American" and, sure, that sounds patriotic. That is like motherhood and goodness and graciousness and everything else and I cannot oppose that.

Nobody can oppose that kind of appeal to emotionalism, but let us talk about reality; where we are today and what this actually means for America, for every American, not just a few Americans.

The facts are that we live in a world that is organized under treaties, and one of the treaties, one of the important treaties is the GATT treaty. If we erect this kind of barrier that Mr. MURPHY now wants to erect and will erect by his amendment, then every other nation in the world that is a party to that treaty can retaliate against America, against American jobs, and they are not stupid; they are not altruistic. They will, and it will cost your constituents jobs because they will zero in on those jobs.

Now, that is what Mr. MURPHY's amendment means, and that is what we are about to vote on, to give a license to all those people on the other side of the shore to come in here and singleshot against jobs that are now in existence in our society. They may be jobs on a farm; they may be jobs in a factory; they may be in an aerospace factory; they may be jobs in any kind of factory in this country.

If we adopt the Murphy amendment, that is what we are doing. As I say, we have had our binge, our emotionalism, our coming through the door and just voting because somebody said to us a code word such as "buy American." Now, we have got to deal with the real facts, as to what they are.

The other day when the man who I think probably knows more about what he is talking about than anybody else in the steel industry talked to the Ways and Means Committee—I am talking about the president of United States Steel now, a fellow whose company has got more at stake in all this—he did not ask for anything like this. He said that the American laws we now have on the books are sufficient to meet the problem. All he wanted was honest, fair enforcement of those laws, and he is entitled to that. He did not advocate anything like this, and his company has been impacted by trade.

Nobody who understands the international trade situation believes that this is a sound and reasonable and rational amendment. It could be disastrous for us.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield.

Mr. VANIK. Mr. Chairman, I want to compliment the gentleman in the well on his statement, I agree with his position on this issue. The Department of Commerce projects a $3.1 billion export business in drilling equipment. This is a big business in this country. It involves American jobs in the making of the steel, the fabrication of it, the development of the technological tools that have become uniquely an American achievement.

We have so much more to lose in a restraint on these tremendous export sales. I certainly hope that the members of this committee will not let this happen. We cannot let this amendment prevent the tremendous export business in this very important segment of the American economy.

Mr. GIBBONS. Well, Mr. Chairman, I repeat that I am in favor of the building up of American industry. I think we ought to build it up. There are proper ways in which to do it. I want to follow all those proper ways.

We are trying to do that through the international negotiations we are carrying on now, but what Mr. MURPHY has proposed here now, and what he is asking us to approve here now, is a reckless and dangerous way of destroying our system which we have for a long time built up in this country. It could take away good jobs in good paying industries, on good farms, and in good manufacturing industry, and destroy all of that. If Members vote down the Murphy amendment as it is now proposed, they will still have the American manning of these platforms, and the American manning of these jobs.

We will still have the Coast Guard licensing, and all of that. We will have those safety regulations. But we will not cut off America from participating with the rest of the nations. Any time we have done that, it has led to economic disaster. We will be preserving better jobs for America if we defeat the Murphy amendment.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. The gentleman was very active on the Committee on Ways and Means in 1974, when we passed the 1974–75 Trade Act. He and I had a debate at that time. I asked him whether or not the legislation at that time was sufficient in the nontariff barrier area, and the gentleman suggested it was sufficient.

I informally informed the gentleman of the GAO report, which, on the very point, stated that the nontariff barrier legislation did not exist.

Mr. GIBBONS. Will the gentleman allow me to answer the question? I will be glad to answer the question.

Mr. GAYDOS. The GAO very plainly, clearly, and specifically points out that the legislation was remis in not properly identifying nontariff barriers.

I want to close by asking the gentleman this question: How long do we have to stand for a $30-billion trade deficit?

We have been practicing restraint as the gentleman preaches for the last 10 years, and have suffered for doing so.

The CHAIRMAN. The time of the gentleman from Florida (Mr. GIBBONS) has expired.

(By unanimous consent, Mr. GIBBONS was allowed to proceed for 2 additional minutes.)

Mr. GIBBONS. Mr. Chairman, we cannot legislate some other foreign country's nontariff barriers away. You have to negotiate them away. We are in the process of doing that. We are meeting in Geneva right now, negotiating with all of the other nations. It cannot do us any good to change our laws unless other nations change their laws, because we cannot control what goes on inside their country. We are negotiating those tariff barriers away. Obviously, the GAO report was wrong, and the gentleman just did not understand what nontariff barriers were. That is one of the problems. The reason for our big trade deficit, if it were not for the fact that we have to import $45 billion worth of oil a year, we would have a tremendous surplus of other trade. In fact, we do have a tremendous surplus of other trade when you take out of the calculation the rapid and artificial increase in oil prices.

Mr. GAYDOS. Mr. Chairman, would the gentleman yield further?

Mr. GIBBONS. I will be glad to answer any more of the gentleman's questions.

Mr. GAYDOS. How can the gentleman justify the differential between the trade balance of Japan and this country? Everybody knows that the increase in oil import prices is a factor. But nobody is addressing themselves to the real point, and the point of the matter is that we are selling our products overseas at additional prices. It is balancing out. The oil differential has nothing to do with balance of trade.

Mr. GIBBONS. Mr. Chairman, I do not know of any other person in the United States who agrees with the gentleman on that question.

The CHAIRMAN. The time of the gentleman from Florida (Mr. GIBBONS) has again expired.

(On request of Mr. BROWN of Michigan and by unanimous consent, Mr. GIBBONS was allowed to proceed for 1 additional minute.)

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

Mr. Chairman, I first of all wish to commend the gentleman for his remarks, and I also wish to commend the gentleman from Ohio (Mr. VANIK) for his remarks. What we probably ought to do, if we want to improve our trade balance, is have a "buy America oil amendment." Then we would be in great shape.

Mr. GIBBONS. There would be about as many problems with that as there are with this.

Mr. BROWN of Michigan. When the bill comes up, we ought to have a "buy America oil amendments," and then we can meet the problems of those who say we should have a balance of trade.

Mr. GAYDOS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from New York (Mr. MURPHY).

Mr. Chairman, I would like to point out to our colleagues that the genesis of the trade problem we are discussing is not a difficult matter. Everybody tries to make it very, very difficult. Sometimes I wonder who is representing who in this House.

When we start raising questions, it is assumed that it is only this country that is going to be responsible for a trade war and it is only going to be this country that will set a policy which will result in some kind of retaliatory reactions worldwide. Nobody points a finger at any other country. Be it England, France, Italy, or Japan, nobody points an accusing finger at those people and asks the question: What are they doing internationally, for instance, to keep the International Monetary Fund stable and make sure that free trade and fair trade exists? It always comes back to this country, the biggest market in the world and the country with the biggest trade deficit.

Let me make what I think are proper observations. I know they are factual, and they are substantiated by the General Accounting Office report.

No. 1, this report, which was asked for and issued after the 1975 Trade Act, says specifically and unqualifiedly that the act of 1974 and 1975 did not sufficiently identify what we call nontrade barriers.

Some may ask the question: What is a nontrade barrier? Where does it fit in this picture?

A nontrade barrier results from practices of many, many different colors and kinds throughout the whole world which for all intents and purposes set up a series of trade barriers against the free flow of trade.

Under the 1974 act, the GATT amendment of 1962, all that it said, sans all the fancy language, was that there be a general agreement among countries, that said, "Look, we are going to try and envision a free trade environment." That is how simple it is. It said that we are going to have a set of tariffs on certain items and everybody is going to follow them. That was to be the end of it. That is what the General Agreement on Tariffs and Trade was; that is the GATT arrangement. It is nothing more complicated than that.

What we did in 1974 and 1975 was this: We passed a new act, and the new act of 1974 and 1975 actually prolonged it and made some enlargements, and in that particular act we made some changes. But in short, we failed to identify what we call these nontariff barriers.

What are they? They take many, many different forms. We call one an equalization tax, we call another a border tax.

For instance, when a product leaves France in the Common Market and travels across Luxembourg into West Germany, they will put a tax on it. That is called a border tax, and that border tax is not in the trade agreement internationally; that is a local tax. That is what they call a nontariff barrier. That results in a higher price for that product. It then cannot be sold in competition by the manufacturers in West Germany. That is what we are talking about.

It takes the form of an equalization tax in instances where we send some machinery from Westinghouse over to Italy, for instance. The Italian Government will put on that machinery—say it is a generator or a water wheel or paddle wheel generator—what they call an equalization tax. The increase in the cost of that generator would be on a par with what the generator would cost in Rome.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I want to commend the gentleman on his keen analysis of the problem.

In last night's debate I pointed out that in Norway not only do they require building, buying, and manning, but they require that any company doing business must move its whole staff and management to Norway.

We know from the General Accounting Office study that the gentleman just referred to that Great Britain has substantially the same practices.

But in this amendment we have provided exceptions that are clearly defined to take care of the problems that were pointed out by our colleague, the gentleman from Florida (Mr. GIBBONS).

For instance, if compliance will unreasonably delay completion of any vessel or structure beyond its contracted delivery date, then this is not in effect. If the requirements will result in costs that are unreasonable, then it is not in effect. If the articles, materials, or supplies of the class or kind to be used in the building or rebuilding are not produced or manufactured in the United States in sufficient and usually available commercial quantities and of a satisfactory quality, then this would not be in effect.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GAYDOS) has expired.

(On request of Mr. MURPHY of New York and by unanimous consent, Mr. GAYDOS was allowed to proceed for 1 additional minute.)

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield further?

Mr. GAYDOS. I yield to the gentleman from New York.

Mr. MURPHY of New York. So, Mr. Chairman, we have those exceptions very clearly set down.

As far as the export business of oil field technology is concerned, we know that the United States is the leader in that field. However, with respect to where the 5,000 tons of steel which go into every offshore platform come from, that steel is not going to come from the United States. That comes from other areas; but where we have drill bits and other specialized equipment, the U.S. manufacturers, because of our technological lead and because of the continued rate of advance of that lead and because of the competitiveness of the United States, will have that export business.

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield further, is it not true that what the gentleman suggests in his amendment is no different, no more and no less than what every other country in this world of ours is practicing today?

Mr. MURPHY of New York. It is much less.

Mr. GAYDOS. Mr. Chairman, I urge support for the amendment.

Mr. POAGE. Mr. Chairman, I move to strike the last five words.

Mr. Chairman, I had not anticipated taking part in this discussion. I do not live on the coast. It is not a matter on which I am any expert, but, I am old enough to remember the story of the dog that had secured a choice bone which he was carrying with him over a log on a creek. He looked down and saw a reflection in the water of a dog with a bone in his mouth, so he dropped the bone he had and jumped into the creek to try to capture the bone the supposed other dog had.

Mr. Chairman, it seems to me that we in the United States are in very much that same situation. We have the overwhelming market for drilling equipment. We make the major part of it, for all the world. I believe the gentleman from New York said that there was quite a large percentage of it produced abroad, but we make something like four-fifths of it. We have the overwhelming majority of the market.

Mr. Chairman, we have the bone in our mouth now, so to speak. Yet, we suffer from the illusion that we can take something away from somebody else.

Mr. Chairman, are we going to drop what we have and invite competition that does not exist today? Are we going to invite retaliation in all of the areas of the world where they may be needing drilling equipment?

It seems to me that we would be most shortsighted to do that sort of thing. Every one of us, as the gentleman from Florida has so eloquently stated, wants to buy American. We want to develop our own country. We want to provide jobs for Americans. We are providing them now; we are providing four times as many jobs as the rest of the world is providing.

Again, Mr. Chairman, are we going to jeopardize the fine situation that we now enjoy in the production of drilling equipment on the chance of trying to keep somebody else from developing their resources?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding.

I wish to compliment the gentleman in the well, the gentleman from Texas (Mr. POAGE), for his excellent statement and analogy.

I recall an article in the Washington Post—I think it was last Sunday—describing my area of Houston as developing a great amount of the equipment used all over the world.

Mr. Chairman, I think we are the dog with the bone, and we had better not drop that bone to get something else.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, what the gentleman from Texas (Mr. POAGE) has said was true in the past; but as we pointed out in last night's debate, with respect to current orders for platforms on the U.S. Continental Shelf, only 29 percent of them are being built in the United States. Therefore, what we are dealing with is this trend and the fact that the foreign countries have already enacted these restrictive practices far more than this amendment would require.

Mr. Chairman, we are protecting the Houston-based industry and its technology, with the exceptions that clearly say that if there is a quality product some place else, the waivers are there. Nonetheless, we do say, Let us protect American jobs and American industry.

Mr. POAGE. Mr. Chairman, if, in fact, there is a smaller percentage being used on the Atlantic seaboard, I would point out that there has never been but three or four wells drilled there, whereas there have been hundreds and hundreds of wells drilled off the coast of Louisiana and off the coast of Texas. Furthermore, they have been drilled, almost 100 percent, with American equipment.

If we are going to develop the OCS and actually go to drilling, we are going to be using American equipment because these are our Texas and Louisiana people who are drilling the offshore wells, and they have been, are, and will continue to be drilling with American equipment.

I do not know what they are drilling with off Long Island. I never have heard about the drilling there, so they may very well have 100 percent foreign drilling equipment because they do not have any percentage of wells or equipment to begin with.

Mr. ZEFERETTI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will not take the 5 minutes.

However, let me say that just 5 years ago we enjoyed some 60 percent of the construction market. I imagine this figure has been cited over and over again. But presently we now enjoy some 29 percent of the world's market.

Mr. Chairman, we are talking about a $1 billion industry, and we are talking about retaliation by foreign governments.

I think retaliation by foreign governments has already started long before the amendment to this legislation was ever thought of by virtue of foreign governments dumping their rigs and platforms on our Outer Continental Shelves at below cost prices. I think it is incumbent on us to talk about some 8,000 jobs that can be realized and the ripple effect of those 8,000 jobs to the economy of our country.

Further, Mr. Chairman, I believe that we have reached a point in this debate when we should take a vote because I think all of the arguments have been made. If we are patriotic in our "buy American" attitudes, then it is about time that we accomplish that.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield, I think we are about ready to vote on this, but I would like to make one comment that I think will be agreed to by all of my colleagues and that is that I do not think there is a person here who approves of these restrictive trade policies that other nations have invoked against us. There is not a person here who agrees with them. In view of that, for Heaven's sake, let us not compete with them by retaliating ourselves. Let us use the law we have at the bargaining table rather than legislating this issue to a point from which we cannot retreat.

Mr. ZEFERETTI. Mr. Chairman, I do not think we are retaliating, I think we are just asking for a fair share of the market.

Mr. CONABLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to express my appreciation for the point that was raised by the gentleman from Colorado (Mr. EVANS). It seems to me that this is a particularly bad time for us to be establishing this type of nontariff barrier—that is what we are doing if we adopt these particularly restrictive "buy American" amendments—with regard to this important part of our market and economy.

We have had a difficult time with trade over the last couple of years. The 1974 Trade Reform Act was designed to try to get the trading patterns in the world back under control again. There is not any doubt there has been a rise of protectionism throughout the world and it is equally clear that we have seen a rise of protectionism in this country as a result of the feeling that we somehow or other have lost control over our international economic destiny.

The purpose of the international trade negotiations, the so-called MTN in Geneva, which came about after authorization to the President to continue to negotiate the position of this country in the international economic situation so as to try to get that international economic trade situation back under control again, has not been notoriously successful. For the first year of those negotiations we had, as everyone knows, a pending election. The Ford administration did the best it could but, of course, the Congress had the ultimate control and we just simply waited to see what kind of a trade mandate our head negotiator could get from the election.

Since the new administration has come in, there has been some delay but finally the appointment of a very strong and fine negotiator in the person of Bob Strauss. I hope that he is going to be successful in getting those trade negotiations underway. He needs our help, not undercutting with buy-American amendments. Unless we see these trade negotiations move, there will be a further deterioration of the world trade scene. If we see that deterioration we can be sure that nations no longer will be helping each other in digging out of their economic difficulties and we will break down into trading blocks and economic units that will be somewhat similar to the situation we had after the Smoot-Hawley tariff bill was adopted back in the early thirties that prolonged the depression far beyond anything that was necessary.

Quite frankly, if we enact legislation of this sort, we deprive the United States of the kind of leadership it needs if it is going to get the trade situation back under control, get more sense of movement, get some sort of perception again that we are capable of controlling our own destinies through understanding and through cooperation rather than through a pattern of attempted isolation.

It is a bad time to be doing this, it is a bad thing to be doing, and it is a particularly bad area in which to be doing it because quite frankly this is an area where we can compete effectively. I would be the first to acknowledge that we have competitive problems in some of our economic areas, but in a highly technological and highly skilled field of this sort the United States is preeminent.

It may be that the trend is against us, as the gentleman from New York (Mr. MURPHY) says, but our Government statistics do not prove that.

Quite frankly, as my friend, the gentleman from Texas (Mr. POAGE), says, we have the lion's share, and we should not risk it by trying to go for an unfair competitive advantage relative to the particular part of the oil scene that is so close to America's shores that we have already a built-in staggering advantage.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, I think the gentleman has put his finger on a good point. The President has sent out Bob Strauss to negotiate these matters. We are negotiating very actively in this field. If we vote for the Murphy of New York amendment we pull the rug out from under Mr. Strauss.

President Carter is opposed to the Murphy amendment. The Secretary of the Interior Mr. Andrus is opposed to the Murphy amendment. The Secretary of State is opposed to the Murphy amendment. We have heard from the American steel industry. None of them espouse the Murphy amendment. Frankly, I do not

know where the support comes from except that it is an emotional appeal.

Mr. STANTON. Mr. Chairman, I rise in opposition to the amendment and I move to strike the requisite number of words.

Mr. Chairman, I think we have heard in the last 15 or 20 minutes, and certainly yesterday and the day before from those Members who have commented concerning this Buy American amendment.

I think if we take time to stop to think for a couple of minutes, I think the proponents of the amendment, as far as I remember, gave this logic: Norway does it. Great Britain does it.

I would say to the Members, in all truth and honesty, that if we want the economic future of this country, a country that has been built from California to New York on the strength of exports to the world, and now we want to be like Norway or Great Britain, let us vote for the Murphy of New York amendment. But if we are not going to stand up for American pride and American workmen, and stand up and say to them that they cannot compete around the world, that they need the help of their American Government to stop all imports from abroad, then vote for the Murphy of New York amendment.

But I am telling the Members in all truth and honesty, what we have to do to the American worker is to give him a fair shake, to enforce the laws we now have on the books to receive fairness in our trade negotiations, and we will have the business overseas that will help them and the American economy. Let us not forget that we built this country into the greatest export business the world has ever known, and we did it on a free trade and a free enterprise operation. We did it because American workers produced the best products in the world at the best price.

Let me say further that when we really look at this amendment, as other speakers have said, we come to the realization that was stated just a few minutes ago is not true. I come from a district surrounding the greatest steel-producing district in the world. What do the steel companies say? They say not to give them more protection but please, please enforce the laws that are already on the books. I say to the Members, that is the answer. Let us enforce the laws we have.

I say further that when the Eximbank comes up, let us give this bank the tools with which to compete with the rest of the world. But in all truth and honesty, I say to my friend from Ohio, who is certainly right, and to the gentleman from New York who just preceded me in the well, and to the gentleman from Florida who made such an eloquent argument on open trade, that to go in this particular way at this particular time would not be in America's best interests.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I commend my friend and neighbor, the gentleman from Ohio, for his forthright position.

I think there may be a proper place for the Buy America law. Certainly I might have some serious reservations about the prospects of the building of bridges over the Mississippi River with steel that is made and fabricated in foreign countries.

However, I just cannot understand how we can embark on the folly of going to "Buy American" on an item in which most of the world's production is in the United States. We are the world providers of most of the drilling equipment and most of the accessories.

Certainly where we have the technical advantage and we have the know-how and we have the skills and we are recogized by the world as the foremost producer of this item, what kind of sense does it make to ask for the retaliation of our trading partners in an area in which we do not need protection? We can agressively meet the rest of the world on any kind of market terms.

I hope the amendment will be defeated.

Mr. CARNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will only speak briefly. I hear this fine oratory. I want to tell you something. The American worker wants protection. Last year we had roughly a $30 billion trade deficit. It cannot be such a great country. If it was not for our great agricultural industry, we would have had a balance of payments even worse.

No longer is the United States the leader in manufacturing and trade. I want to tell you, the AFL–CIO came out strongly for this. Despite all the previous speakers have said, most of the steel industry leaders that talk to me want a strong "Buy American" and we had better think of the American workers and the American people.

We are going down hill. We have high unemployment. We have a terrible balance of trade. Far better to do something now.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. CARNEY. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I want to respond to my friend, the gentleman from Ohio. People are not very particular how they throw facts around. This is a fact. I am going to read it from a factfinding sheet. The fact is of the 40 rigs being constructed today around the country, of the 40 rigs, 34 are being built overseas.

Now, yes, I understand, we do not want to start or precipitate some kind of trade war. Fair trade or free trade is debatable, but cool minds should prevail. We should be international. Everyone knows, however, we should start doing something to protect ourselves. This might seem insignificant, these 34 rigs, but it is an indication of what has been going on in every area of construction in the whole country.

Mr. CARNEY. Mr. Chairman, I want to say this, that there is not a TV set made in the United States; there is not a radio made in the United States. They take a little bit at a time. We have a continual deficit in the balance of trade. We have a continuing problem.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. CARNEY. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, our colleague, the gentleman from Ohio, mentioned the foreign steel bridges over the Mississippi. I want in all fairness to ask my colleague, the gentleman from Ohio, if this occurred because of something American or "Buy American" or non-American, or did this really occur because both the Democratic and Republican administrations did not enforce the antidumping laws on steel? The answer is obvious.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. CARNEY. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, this has occurred because this country has been in a trade war for 20 years and nobody wants to admit it. All the facts indicate that we cannot continue with an imbalance of trade.

Why do you think we have devalued the American currency two times, in 1971 and 1973? Where do you think that came from? We better start taking a look at these things.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. CARNEY. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, all I want to say is that when you move to establish trade restraints in a sector where we do not need this kind of protection, you are jeopardizing the real fight. I am ready to fight on steel and steel products. I am ready to fight on electronics, on televisions, and micro-ovens which unfairly overwhelm our markets. We may soon have to address the problem of mounting automobile imports, but I think we are going off on an unnecessary tangent here that discredits the whole cause of fair trade.

Mr. CARNEY. Mr. Chairman, I want to fight on every front. I want to stop losing American jobs. That is why I am up here.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 44, noes 59.

RECORDED VOTE

Mr. MURPHY of New York. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 208, not voting 23, as follows:

[Roll No. 31]

AYES—201

Abdnor	Applegate	Blanchard
Addabbo	Ashbrook	Bonker
Akaka	Bafalis	Brodhead
Ambro	Bauman	Brooks
Ammerman	Beard, R.I.	Brown, Calif.
Anderson, Calif.	Benjamin	Buchanan
Annunzio	Bevill	Burke, Calif.
	Biaggi	Burke, Mass.

Burlison, Mo.	Hawkins	Ottinger
Burton, John	Hightower	Patten
Burton, Phillip	Holland	Patterson
Byron	Hollenbeck	Pepper
Caputo	Holt	Perkins
Carney	Howard	Pike
Carter	Hubbard	Pressler
Chappell	Huckaby	Pursell
Chisholm	Hughes	Quillen
Clausen, Don H.	Ichord	Rahall
Clay	Ireland	Rangel
Coleman	Jacobs	Regula
Collins, Ill.	Jenrette	Rinaldo
Conte	Johnson, Calif.	Roberts
Conyers	Jordan	Roe
Corcoran	Kasten	Rooney
Cornwell	Kazen	Roybal
Cotter	Kildee	Russo
Cunningham	Krebs	Santini
D'Amours	Le Fante	Schroeder
Daniel, Dan	Lederer	Shipley
Daniel, R. W.	Leggett	Shuster
Davis	Lent	Sisk
de la Garza	Levitas	Skelton
Delaney	Livingston	Slack
Dellums	Lloyd, Tenn.	Snyder
Derwinski	Long, La.	Solarz
Dicks	Lott	Spence
Dingell	Lujan	St Germain
Dodd	Luken	Staggers
Dornan	Lundine	Stark
Downey	McCormack	Steed
Duncan, Tenn.	McDade	Stokes
Eilberg	McFall	Stratton
Emery	Marks	Taylor
Ertel	Mathis	Thompson
Evans, Del.	Metcalfe	Traxler
Evans, Ga.	Meyner	Treen
Evans, Ind.	Mikulski	Trible
Fary	Miller, Calif.	Vento
Fascell	Miller, Ohio	Volkmer
Fish	Minish	Walgren
Fithian	Mitchell, Md.	Walker
Flippo	Moakley	Walsh
Flood	Mollohan	Wampler
Florio	Montgomery	Watkins
Flowers	Moorhead, Pa.	Waxman
Flynt	Motti	Weaver
Ford, Mich.	Murphy, Ill.	Whitehurst
Gammage	Murphy, N.Y.	Wilson, Tex.
Gaydos	Murphy, Pa.	Winn
Gephardt	Murtha	Wolff
Gilman	Myers, Michael	Wydler
Ginn	Natcher	Yatron
Gonzalez	Nichols	Young, Alaska
Goodling	Nix	Young, Fla.
Grassley	Nolan	Young, Mo.
Hanley	Nowak	Young, Tex.
Harsha	Oakar	Zeferetti
	Oberstar	

NOES—208

Alexander	Cornell	Harkin
Allen	Coughlin	Harrington
Anderson, Ill.	Crane	Harris
Andrews, N.C.	Danielson	Heckler
Andrews, N. Dak.	Derrick	Hefner
Archer	Devine	Heftel
Ashley	Drinan	Hillis
Aspin	Duncan, Oreg.	Holtzman
AuCoin	Early	Horton
Badham	Eckhardt	Hyde
Baldus	Edgar	Jeffords
Barnard	Edwards, Ala.	Jenkins
Baucus	Edwards, Calif.	Johnson, Colo.
Beard, Tenn.	Edwards, Okla.	Jones, N.C.
Bedell	English	Jones, Okla.
Beilenson	Erlenborn	Kastenmeier
Bennett	Evans, Colo.	Kelly
Blouin	Fenwick	Kemp
Boggs	Findley	Ketchum
Boland	Fisher	Keys
Bolling	Foley	Kindness
Bonior	Ford, Tenn.	Kostmayer
Bowen	Forsythe	LaFalce
Brademas	Fountain	Lagomarsino
Breaux	Fowler	Latta
Breckinridge	Fraser	Leach
Brinkley	Frenzel	Lloyd, Calif.
Brown, Mich.	Frey	Long, Md.
Broyhill	Fuqua	McClory
Burgener	Giaimo	McCloskey
Burke, Fla.	Gibbons	McDonald
Burleson, Tex.	Glickman	McEwen
Butler	Goldwater	McHugh
Carr	Gore	McKay
Cavanaugh	Gradison	McKinney
Cederberg	Gudger	Madigan
Clawson, Del	Guyer	Maguire
Cleveland	Hagedorn	Mahon
Cochran	Hall	Mann
Cohen	Hamilton	Markey
Collins, Tex.	Hammer-schmidt	Marlenee
Corman	Hannaford	Marriott
Conable	Hansen	Martin
		Mattox
		Mazzoli
		Meeds
		Michel
		Mikva
		Milford
		Mineta
		Moffett
		Moore
		Moorhead, Calif.
		Myers, Gary
		Myers, John
		Neal
		Nedzi
		O'Brien
		Obey
		Pattison
		Pease
		Pettis
		Pickle
		Poage
		Preyer
		Price
		Pritchard
		Quayle
		Quie
		Railsback
		Reuss
		Rhodes
		Robinson
		Rodino
		Rogers
		Rose
		Rosenthal
		Rostenkowski
		Rousselot
		Rudd
		Runnels
		Ryan
		Sarasin
		Satterfield
		Sawyer
		Scheuer
		Schulze
		Sebelius
		Seiberling
		Sharp
		Sikes
		Simon
		Skubitz
		Smith, Iowa
		Smith, Nebr.
		Spellman
		Stangeland
		Stanton
		Steers
		Steiger
		Studds
		Stump
		Symms
		Thornton
		Tsongas
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Waggonner
		Weiss
		Whalen
		White
		Whitley
		Whitten
		Wiggins
		Wilson, C. H.
		Wirth
		Wylie
		Yates
		Zablocki

NOT VOTING—23

Armstrong	Krueger	Ruppe
Bingham	Lehman	Stockman
Broomfield	Mitchell, N.Y.	Teague
Brown, Ohio	Moss	Thone
Dent	Panetta	Tucker
Dickinson	Richmond	Wilson, Bob
Diggs	Risenhoover	Wright
Jones, Tenn.	Roncalio	

The Clerk announced the following pairs:

On this vote:

Mr. Lehman for, with Mr. Jones of Tennessee against.

Mr. Risenhoover for, with Mr. Bingham against.

Mr. Dent for, with Mr. Broomfield against.

Mr. Richmond for, with Mr. Brown of Ohio against.

Mr. Mitchell of New York for, with Mr. Thone against.

Mr. Diggs for, with Mr. Teague against.

Mr. MARRIOTT and Mrs. HECKLER changed their vote from "aye" to "no."

Mr. WAXMAN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer three amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. MURPHY of New York:

(To incorporate the Federal consistency provision of the Coastal Zone Management Act into new Section 11 of OCSLA—at the exploration stage.)

On page 174, after line 21, insert the following new paragraph and redesignate the succeeding paragraphs accordingly:

"(2) The Secretary shall not grant any license or permit for any activity described in detail in an exploration plan and affecting any land use or water use in the coastal zone of a state with a coastal zone management program approved pursuant to Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the state concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to subsections 307(c)(3)(B)(i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by subsection 307(c)(3)(B)(iii) of such Act."

(To delete the obligation on the Secretary to make the five year leasing program consistent or coordinated with coastal zone management programs and to provide only for consideration of such program.)

At page 181, delete lines 16 through 18 and renumber subsequent subparagraphs accordingly.

At page 186, delete lines 16 through 22 and substitute in lieu thereof, the following:

"(5) Consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 305 or section 306 respectively of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455)."

(To incorporate the language of the federal consistency provision of the Coastal Zone Management Act (CZMA) into the new oil and gas development and production section of OCSLA, to remove inappropriate and unnecessary CZMA language in the present provision on modification of plans, and to conform the language of the plan disapproval provision with existing CZMA federal consistency section.)

At page 207, after line 14, insert the following new subsection and renumber the subsequent subsections accordingly:

"(d) The Secretary shall not grant any license or permit for any activity described in detail in a plan and affecting any land use or water use in the coastal zone of a state with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the state concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to subsections 307(c)(3)(B)(i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by subsection 307(c)(3)(B)(iii) of such Act."

At page 209, line 7, strike "Any mod-" and all that follows through "Act." on line 14.

At page 209, strike lines 21 through 25; at page 210, strike lines 1 through 3; and substitute in lieu thereof the following:

"(B) if any of the activities described in detail therein for which a federal license or permit is required and which affects any land use or water use in the coastal zone of a state with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), do not receive concurrence by such state with respect to the consistency certification accompanying such plan pursuant to subsections 307(c)(3)(B)(i) or (ii) of such Act and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;"

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. MURPHY of New York asked and was given permission to revise and extend his remarks.)

Mr. MURPHY of New York. Mr. Chairman, these amendments deal with the Federal consistency provision of the Coastal Zone Management Act and the protection of that provision in the procedures of the Outer Continental Shelf Lands Act. I would like to discuss them separately, but I believe they are all corelated. I want to assure my colleagues that we are simply making sure that the provisions of the 1976 Coastal Zone Management Act consistency amendments

will continue to operate in these revised OCS procedures. No additional time is added to the OCS development by these amendments.

I have discussed these three amendments with the minority and I hope that we will have support for them from that side of the aisle.

Mr. TREEN. Mr. Chairman, if the gentleman will yield, we on this side have reviewed these three amendments. We think that they make an improvement to the bill. They are acceptable to the minority side.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. MURPHY).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. FORSYTHE

Mr. FORSYTHE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FORSYTHE: Page 193, line 7, strike the comma after "operating" and all that follows through the end of line 14, and insert in lieu thereof the following: "shall establish standards for operations on the outer Continental Shelf to insure that such operations will be conducted in a safe manner by well trained personnel using technology, precautions, and techniques to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstructions to other users of the waters and seabed, or other occurrences which could cause damage to the environment or to property, or endanger life or health. In establishing such standards, each such Secretary shall require, on all new drilling and production operations; and, whenever practicable, on existing operations, the use of technology which he determines is economically achievable after taking into account the incremental costs and benefits of available technology. Each such Secretary shall permit the use of any equpment or technique which he determines meets or exceeds such standards, and the reliability of which has been demonstrated to his satisfaction.".

Mr. FORSYTHE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FORSYTHE. Mr. Chairman, we have heard a lot of talk these last few days in our discussion of this bill about anticompetitive operations on the Outer Continental Shelf. In my view, the language in the bill in this area is very anticompetitive because it mandates that the Secretary establish what is the safest and best technology so far as all of the operations on the shelf are concerned. It is pretty difficult when something is safe to say that somebody is going to select the safest. In my view, that becomes a very, very anticompetitive situation in that the Secretary will review all of the technology and then say, "This is the safest," thereby really ruling out many other similar products that may well be safe.

It actually has to cost substantial amounts of money and it has to cost time in their processing, to go through these decisionmaking processes. I believe it will be very harmful to the speedy exploration and development of the Outer Continental Shelf.

Now I know it can be said how can one be against the safest? That is not the issue. I do not believe that really is relevant because, when it is safe, that is what we are seeking and we are, in our substitute language here, providing for safe technology. If we are to try and mandate throughout all of the operations on the Outer Continental Shelf, the best or safest technology we are going to perhaps add very substantially to the cost and delay. It seems to me to be one area where we can increase competition in this whole field and also maintain the highest standards of safety that are required, which we all support.

So, Mr. Chairman, I urge an aye vote for my amendment.

Mr. MURPHY of New York. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from New Jersey (Mr. FORSYTHE).

Mr. Chairman, I must strongly oppose the gentleman's amendment. The OCS bill would insure that the best available and safest technology be used in OCS operations. The gentleman's amendment would eliminate that requirement, and only provide for technology that is "economically achievable." A general statement that such operations are to be "conducted in a safe manner" is also added.

Much concern has been raised in our hearings about the need to insure safe operations. Our provision is very limited. It provides for the use of the best available and safety technology which the Secretary determines to be economically achievable. Any reduction in that standard could only mean higher risk of injury. This amendment must be defeated.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it seems to me the gentleman from New Jersey has got a very good point here. He is not striking the section having to do with the respective responsibilities of the Coast Guard and the Secretary under this act, but instead gives us language which I think will contribute to removing the elements of delay which the committee bill currently contains. For example, the gentleman from New Jersey states that the purpose is—

To insure that such operations will be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstructions . . .

All very clear mandates to the appropriate authorities.

What would happen if this is not adopted and the Secretary is mandated to use the best available and safest technology? First of all, we do not know what best available and safest technology means in relationship to carrying out our national policy goals, as stated in the act; that is, that the operations on the Outer Continental Shelf should be conducted in a safe manner by well trained personnel using technology, precautions, and techniques sufficient to prevent or minimize.

It would seem to me that we are going to have delays in implementing this standard of best and safest. For example, once a decision is made that a certain machine is the best and safest machine and the only one, therefore, permissible on new operations, I think we can foresee lawsuits being brought by manufacturers of competitive devices, whether they argue that they indeed have the best and the safest or that the Secretary's decision was arbitrary and capricious.

I think that also there will be just delays in forcing the Secretary to try to make a determination that a given technology is the best, absolutely the best and absolutely the safest at any given time, and with the rapid development and changes in technology and particularly as we accelerate the development of exploration and development and production on the Outer Continental Shelf we are bound to have new techniques.

In fact, this was the subject of testimony before another committee that I serve on, the Committee on Science and Technology, which went into the details of the fact that there is a need for new technology in oil exploration and a great field for future advances.

I think that the present law is adequate as a mandate for the responsible official to be safe without telling him that he cannot go ahead on decisions today because of the delays inherent, that they will be facing lawsuits, and many other possible dangers that once again are inherent throughout this bill, that will simply lead to further delays in getting about the business of discovering and producing oil and gas on the OCS.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, any law that requires an administrator to select the best and the safest is inherently irrational. Only one technology is best; but in determining which as between competing processes is the best is inherently subjective, lending itself, I might say, to corruption and, indeed, to a concentation in our marketplace which is undesirable.

What if we were to mandate upon the Secretary of Transportation that he only buys the safest automobile? Now, what if we were to do that for use in the Federal Establishment? Who would win out? The safest would require that just one would be a winner and that is not right at all.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. FISH was allowed to proceed for an additional 3 minutes.)

Mr. FISH. Mr. Chairman, I am glad the gentleman brought this up, as it is a very important point. There is indeed

a very strong possibility that this term could lead to monopolies.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the author of the amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, the thing that concerns me about the bill and why I think this amendment should be adopted is that not only the monopoly situation, the possibility of monopoly that the gentleman from California (Mr. WIGGINS) pointed out, but also, I think we could have a situation where one process or system is approved by the Secretary and, thereby, it reduces competition to develop better systems in the future. What would be the point of doing that if one is already picked?

Mr. FISH. Mr. Chairman, I applaud the gentleman.

Mr. Chairman, as I said, in my other jurisdiction in the Committee on Science and Technology this is a matter of great concern in the area of energy technology. It puts people in doubt where such possibilities are not cut off. This would not be the case where we assume that the decision on the part of the Secretary is correct that this and only this is the safest technology. You are not going to have the response we need for active competition on the part of industry. It would be an inhibiting factor.

Mr. LAGOMARSINO. To say nothing about what is the proper technology in the Atlantic region might not be the proper one on the gulf.

Mr. FISH. Exactly, or the fragile environment in Alaska.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank my colleague for yielding.

I think my colleague resides in an area where we had the biggest blowout in history. It really bears out what the gentleman is saying, that we do not want regulations prescribing the greatest number of drill strings to be used.

The State of California required much more stringent regulation. The blowout would never have occurred if the Federal regulations had complied with the State regulations; that is, maybe in one area four strings should be used and maybe in another two strings are only required. It would leave us with one option that might not be safe. I concur in the gentleman's remarks.

Mr. FISH. Mr. Chairman, I ask for an aye vote on the amendment.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

I will try not to take the 5 minutes. I hesitate to rise and differ with my colleague from New Jersey. In fact, we have differed on a number of provisions of the bill, but on this one I just cannot sit here and say nothing. He is just dead wrong.

The present Secretary of the Interior utilizes this particular language. It is language that we consider to be works of art. We debated it, I think very thoroughly, both in the 94th and 95th Congress. It is modified by language which indicates that such available and safest technology must still be economically achievable.

We cannot just sit here at this point and argue about the meaning of "the safest." The Secretary has to make that determination. The Secretary has to make a lot of determinations or value judgments. I think people that are going to be experiencing the tremendous onshore impact from offshore development in frontier waters must have the assurance that we are going to utilize the best available and safest technology.

I would urge my colleagues to defeat the amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I will be happy to yield.

Mr. FISH. I thank the gentleman. I appreciate his pointing out the qualifying language in the committee bill, "that the Secretary determines to be economically achievable," but I would point that this does not reach the arguments that I was making that this still could lead to monopoly and still generate lawsuits by the firms that are disappointed.

Mr. HUGHES. If I can recapture my time, the gentleman takes it, I think, to the ultimate. Anything can occur, but it is not within the realm of reasonable probabilities.

The Secretary of the Interior is already utilizing this language presently, and I do not see how it can be suggested that the Secretary cannot arrive at the kind of value judgments we are calling for. We are asking the Secretary to make a number of value judgments. Even in my colleague's amendment the Secretary has to make some value judgments, and I think it is kind of absurd to argue that it is going to lead perhaps to some monopoly. I thought that we had addressed the antitrust problems yesterday.

Mr. FISH. I do not think we decided on the principle. This is an effort to guide the authorities. The trouble is that the committee bill has inserted this language: "Best available and safest technology," which really is at odds with our own statement of purpose, as outlined in the bill and which the gentleman from New Jersey (Mr. FORSYTHE) tracks in his amendment. It says that operations on the Outer Continental Shelf should be conducted in a safe manner, by well-trained personnel, using technologies so as to prevent or minimize the likelihood of blowouts, to control fires, and so forth.

This is the language of the pending amendment, which I think is more in keeping with the policy purposes of the bill and avoids all these other issues, this new language of best technology and safest.

Mr. HUGHES. I do not think that the language does violence to any of the policy considerations set forth in the bill.

I would yield back the balance of my time.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the last word.

I would like to address a question to the gentleman from New Jersey. It seems to me that the section of the bill addresses all the possible technologies that will be utilized at any stage of development, drilling, production, exploration, and so forth. So, is what we are doing here, is saying that there will be one grand scheme which will be approved from the point of departure to the point of delivery of a product to shore; that each step in each portion of that scheme of development or equipment deployment can meet only one design criteria?

Mr. HUGHES. No. Of course not. I do not think it is at all suggested in the bill, and that would be an absurd interpretation. The language in the bill are words of art that suggest to the Secretary of the Interior that as we develop our Outer Continental Shelf, the Secretary should make every effort to insure that what we do is utilizing the best and safest available technology. I think that frontier areas, where the infrastructure is often fragile areas, such as in my district, where we have a multi-billion-dollar tourist economy, deserve no less than the best and safest available technology.

Mr. GARY A. MYERS. I can agree that it deserves to have the assurances of a safe level of operation.

Let me give the gentleman another example that might be a parallel to it. I know of no restriction of alternative designs on light water nuclear reactors. There are a number of designs which are accepted as safe. If there is an area in which the general public ought to be concerned about the safest design, this is such an area that is open for this sort of temptation. It would seem to me that, even under that risky technology, that probably has as many potential hazards to environment and personal safety. Certainly the Government has been able to develop a set of regulations in which it assures a safe level of operation but, under that umbrella, allows a number of different types of technologies to grow.

Mr. HUGHES. Mr. Chairman, if the gentleman will yield further, the gentleman makes a good point. And it is not suggested in any way in this language that it has to be one particular technology. The Secretary has the flexibility to determine under the circumstances which is the best and safest general technology available to the industry. I do not think there is any suggestion that there has to be one technique.

Mr. GARY A. MYERS. I may have been not hearing things correctly, but it was my interpretation of the gentleman's remarks and the remarks of other individuals who have spoken previously that that was the intent, for the Secretary to guarantee that the safest technology is utilized. And if we read the section of the bill, it talks about all of the technologies in regard to the exploration, development, drilling, and so forth. But one could conceive that the Secretary is going to have to design the technical scheme from the point where we embark offshore until the oil and gas comes onshore.

Mr. HUGHES. I do not think that is a concern, but if in fact the gentleman is concerned about it, we certainly have developed enough legislative history that that is not the intent.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. I thank the gentleman for yielding.

Mr. Chairman, I think I understand the gentleman to say that for south Jersey we should have the best and safest. Are we going to say something else for somebody else?

Mr. HUGHES. Of course not. In the area.

Mr. FORSYTHE. We want it all safe. That is what we want. I just believe that when we say "best and safest," we cannot say there is a whole range of best and safest.

Mr. HUGHES. I want the best and safest for all areas.

Mr. FORSYTHE. The gentleman is playing with words and trying to strive for something that is not there.

Mr. EMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it seems to me that what we are really doing is arguing about different ways to accomplish the same thing. I am certainly in favor of using the safest available technology, but that technology may not be always the same. We may find improvements in a technology and we may find ways of improving safety by other means. My point is to make certain that the Coast Guard, the Secretary, other people who are in a position to review available technology, have an opportunity to examine different ideas and different techniques as we go along, so that the technology that is approved for use in offshore drilling, whether it is one technology or two or three or four, meet the standards that we are trying to achieve.

What I am asking the gentleman from New Jersey is: If we can come up with an addition to the section which clarifies that point, one which will allow the Secretary and the Coast Guard to permit and approve different technologies that meet the standards we desire, would the gentleman be satisfied?

Mr. HUGHES. No. Mr. Chairman, if the gentleman will yield, I think the language in the bill does exactly what the gentleman would intend. I think it gives the Secretary discretion to do exactly what the gentleman has indicated should be the broad public policy considerations.

I do not think there can be a value judgment given for any particular area for all times. The Secretary under this language has the flexibility to determine what is in the public interest at a given time.

Mr. EMERY. Mr. Chairman, the thing that disturbs me and, I think, disturbs some of the Members on this side is that the language in this particular section can be interpreted as meaning one technology rather than a variety of technologies, all of which accomplish the same thing but perhaps in different ways.

So all I am saying is that maybe we ought to consider minor amendments to the section to make it crystal clear that as long as the Coast Guard and the Secretary approve these technologies, as many as 2, 3, 10, or even a dozen technologies all could be approved and used, as long as they meet the minimum requirements. The language, as it is written, might be interpreted to mean one technology rather than 2, 3, or 4.

Mr. MURPHY of New York. I do not think so. I think the committee made it rather clear that the Secretary does have that discretion. I do not think it indicates in any way that it has to be one particular technology that would be considered to be the best and safest available technology.

Mr. EMERY. But, Mr. Chairman, to further clarify the point, it is the gentleman's understanding, and the understanding of the Members who wrote the original bill, that it is not their intent to limit the technology to only one, but that the Coast Guard and the Secretary may include any of those that may qualify?

Mr. MURPHY of New York. Yes, that is exactly right, and for that reason the amendment should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FORSYTHE).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 16, noes 18.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN: On page 205, line 14, after the word "enactment" and before the word "with" insert the following: "in a frontier area".

Mr. TREEN. Mr. Chairman, this amendment, which has been discussed with the majority on the committee. would have the effect of making sure that sections (a) through (j) of the new section 25 of the OCSLA would apply only to the frontier area.

As I say, Mr. Chairman, the majority has indicated that it will support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH: Section 23, page 200, line 8: At the end of the first sentence of section 23(a)(5) of H.R. 1614, i.e., ending with the words "such award is appropriate." insert the following new sentence: "The court shall award such costs of litigation to the appropriate party if it finds that the litigation is frivolous, or was brought primarily for the purpose of delaying activities authorized by, or conducted pursuant to, this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act."

Mr. FISH. Mr. Chairman, I would like to address my remarks to the majority.

This is an amendment which was printed in the RECORD by the gentleman from Nevada (Mr. SANTINI), who gave us a copy of it a couple of days ago asking for support. We said we would be glad to support his amendment.

Mr. Chairman, I want to protect the rights of the gentleman from Nevada (Mr. SANTINI), who is not on the floor at the moment. We are nearing the end of title II, and he may be precluded from offering this amendment by not being on the floor.

I previously indicated that I would support this amendment. I do not see how we can really disagree with it. We are talking about a penalty for bringing a frivolous lawsuit. Certainly, we are all conscious of the issue of delay, and I do not think anybody can be on the side of frivolous lawsuits.

Mr. Chairman, I think it was a good amendment when the gentleman from Nevada (Mr. SANTINI) brought it to the minority desk in the last couple of days. In his absence, I am introducing it at this time.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the gentleman's amendment would provide that a court would have the authority to award costs against a plaintiff filing a citizen's suit if such action is frivolous or solely for delay. I am adamantly opposed to this provision.

The present language of a citizen's suit provides for symmetry and equity. Individuals are given the authority to sue and the court has the authority to award reasonable attorneys fees and cost to any party—whenever a court determines such award is proper. Thus, under the present provision, a plaintiff or defendant can obtain costs of litigation when felt to be appropriate. The decision is to be based on a case by case determination. No preference is given to the plaintiff and no preference is given to the defendant. The gentleman's amendment would give preference to the defendant. Thus, under the gentleman's amendment a special rule would be established for an oil company who is sued by, for example, a citizens group or a State or local government. No preference is given in the gentleman's amendment to a citizen or State when it is successful.

Under recent cases interpreting the provision such as that contained in our bill, Aleyska pipeline, the court can and will award fees to a defendant if the plaintiff acts frivolously, in bad faith or for oppressive reasons.

The effect of the gentleman's amendment would be to result in extended litigation as to whether or not "an action" is frivolous or for delay, rather than as now, allowing the court to make that determination as part of its decision.

The administration has indicated that they do not support this amendment but

rather believe it could result in a watering down of the citizen's suit section. The clear result would be that citizens would not sue under our provision, but would seek other remedies. Thus, one of the basic provisions of the bill—to provide one uniform procedure for challenges to actions under the OCS Lands Act would be seriously threatened if the House adopted this amendment.

Again, let me restate that our bill presently provides that a court can, in appropriate cases, award costs and fees to a plaintiff or defendant. The gentleman's amendment would provide such a standard only for a defendant. It is, therefore, unfair and one-sided.

Mr. FISH. Mr. Chairman, it is unlikely that any defendants would bring a lawsuit. This is not a question of acting precipitately. I do think passing this amendment would be a wise thing because we know the possibilities. We can cite many more cases of frivolous lawsuits being brought solely as a delaying tactic.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I hope the gentleman from New York (Mr. FISH) is not suggesting that any suit that does not prevail is therefore, by definition, frivolous.

Mr. FISH. Absolutely not. There would have to be a determination of the courts. The amendment would not change the authority with respect to that.

Mr. STUDDS. If the gentleman will yield further, if I understand this amendment correctly, it would mean, for example, in the case of the suit brought 2 weeks ago by the Conservation Law Foundation against the Commonwealth of Massachusetts to delay a lease sale, that had the State of Massachusetts not prevailed in that suit, under this amendment the State would have had to reimburse the oil companies for their own attorneys' fees; is that correct?

Mr. FISH. Not at all.

Mr. STUDDS. That is not correct?

Mr. FISH. No, of course not.

Mr. STUDDS. Then perhaps the gentleman can reexplain the amendment.

Mr. FISH. I would not consider the Massachusetts suit a frivolous lawsuit. I do not think the court would either.

Mr. STUDDS. Had the State not prevailed, perhaps the gentleman would consider it frivolous.

Mr. FISH. No. That determination would be for the courts since "frivolous" is a term of art known to any lawyer.

Mr. STUDDS. If the gentleman will yield further, if we take it the other way around, then the oil companies should reimburse the State of Massachusetts; is that not correct?

Mr. FISH. I understand that under the present law it would work both ways, that the court has the authority to treat both the plaintiff and the defendant in that manner.

Mr. STUDDS. Mr. Chairman, I appreciate the gentleman's statement, but I oppose the amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I am interested in clarifying the dialog.

In the event the amendment passes, I think it is important to make some legislative history here.

The amendment says as follows:

The court shall award such costs of litigation to the appropriate party.

It does not designate the plaintiff or the defendant.

It further says that it will do so if it finds that the litigation is frivolous.

I assume the gentleman intends that that frivolity would apply to both the defendant as well as to the plaintiff, so that the amendment is drawn in a balanced fashion, and awards could be made against either party in the event the litigation itself is frivolous; is that correct?

Mr. FISH. The amendment in that sense is similar to the current law, according to the chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. FISH).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 14, noes 15.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. EMERY

Mr. EMERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY: Line 9, page 193, after the word "technology", add the following language: ", not limited to one technology, but including any and all that the Secretary and the Coast Guard determines to meet safety standards consistent with this section,".

Mr. MURPHY of New York. Mr. Chairman, would the gentleman yield?

Mr. EMERY. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I would merely point out to the gentleman from Maine that we do not have a copy of the gentleman's amendment.

Mr. EMERY. In response to the inquiry of the gentleman from New York let me say that a copy of the amendment is on its way to the gentleman's desk.

Mr. MURPHY of New York. I appreciate that.

Mr. Chairman, let me merely add to the gentleman now in the well and others, that we would appreciate that the amendments that are being offered be presented to the majority side before they are read by the Clerk so that we may have an opportunity to examine them in advance. We have been attempting to work diligently and rapidly in the consideration of amendments on this bill and that would help expedite matters.

Mr. EMERY. Mr. Chairman, let me state to the gentleman from New York that I apologize for any inconvenience that I may have caused the gentleman from New York. However, the gentleman from Maine can only be in one place at one time.

Mr. FISH. Mr. Chairman, would the gentleman yield?

Mr. EMERY. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding and I have asked the gentleman to yield only for the purpose of saying that I am very sympathetic with the situation the gentleman has found himself in and also that of my colleague, the gentleman from New York (Mr. MURPHY). I realize as I am sure the gentleman from Maine does that we are working under great time limits and this certainly causes difficulty at times.

Mr. EMERY. I thank the gentleman.

Mr. Chairman, the amendment that I offer consists of very simple language, and it is the purpose of clarifying the language with respect to technology that we discussed a few moments ago. It merely ties down the principle that we agreed upon in our colloquy a few minutes ago, that the technology available guaranteeing safety, shall be approved by the Secretary and the Coast Guard, and will be limited not just to one but to all technologies that can do the job. It merely prevents the possibility of one technology being mandated when two or three other technologies are completely adequate, that are agreed to be adequate by the Secretary and the Coast Guard.

I urge an aye vote on the amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I certainly would say that the minority side is glad to accept the amendment offered by the gentleman from Maine (Mr. EMERY). This matter was thoroughly discussed during the debate on the amendment offered by the gentleman from New Jersey (Mr. FORSYTHE) a few minutes ago when we were discussing the effect of the safest and the best technology and the adverse consequences that may result from that.

Mr. Chairman, I would further add that I believe we are indeed fortunate to have in our midst a Member who has the expertise such as the gentleman from Maine (Mr. EMERY) does. I would hope that we can also receive the approval of the majority side so that this amendment offered by the gentleman from Maine (Mr. EMERY) will be accepted.

Mr. EMERY. Mr. Chairman, let me say that I thank the gentleman from New York (Mr. FISH) for the comments he has made. I would further like to say that the cooperation from both sides of the aisle in discussing the various aspects of this bill has been superlative, and I wish to congratulate both the gentleman from New York (Mr. FISH) and the gentleman from New York (Mr. MURPHY) for managing the legislation, and that I certainly can understand the confusion that has occurred on some aspects of the bill.

I realize we cannot think of all these things at once, but I really think this amendment begins to solve the problem, and I certainly hope it is accepted.

Mr. STUDDS. Mr. Chairman, I rise in opposition to the amendment.

There is a substitute being prepared which I believe will accomplish what we understand to be the purpose of the gentleman from Maine in introducing the amendment. I would suggest to the gentleman from Maine, if we understand his intent clearly, that his amendment is not properly drawn to achieve that purpose.

The gentleman fails to strike lines 9 through 14, which I think he intended to do.

I think what he is proposing is to get away from the feeling on the minority side, expressed a few minutes ago, where there was a fear the Secretary would be requiring a particular brand name or particular company's product, and I believe the gentleman from New Jersey intends to offer a substitute amendment changing the word "technology" to "technologies," to make it plural and quite clear that we do not wish to see the Secretary in a position of seeming anticompetitive.

AMENDMENT OFFERED BY MR. HUGHES AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. EMERY

Mr. HUGHES. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES as a substitute for the amendment offered by Mr. EMERY: Line 9, page 193, change "technology" to "technologies".

Mr. HUGHES. Mr. Chairman, I will speak just briefly. I think that this amendment makes it extremely clear that we are talking about perhaps a number of technologies. I do not think it is necessary to add a great deal of language that the gentleman from Maine has offered in his amendment. I think that this clarifies my colleague's concern and I would urge support of my amendment.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, as far as I am concerned, the amendment is fine. For my part I am willing to accept it. I thank the gentleman for his contribution.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, is the word "technologies" being modified by the word "best"?

Mr. HUGHES. Yes. They are both modifying it, "best" and "safest."

Mr. WIGGINS. I thank the gentleman. Now it is only 50 percent ambiguous instead of 100 percent. I only hope the wording is clear to the Secretary that he is not to pay attention to the word "best" if it means he is to select one.

I realize that is the intent of the gentleman and the intent of the gentleman from Maine, but we are just obstinate if we refuse to take the word out of the text.

Mr. HUGHES. Mr. Chairman, if the gentleman will permit me, I think the Secretary will understand.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Chairman, I just want to say I think the gentleman is helping us to arrive at the point we wished to arrive at.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES) as a substitute for the amendment offered by the gentleman from Maine (Mr. EMERY).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. EMERY), as amended.

The amendment, as amended, was agreed to.

AMENDMENTS OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer several technical amendments, which I have talked to the majority and minority counsel about, and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. BREAUX: Page 189: On line 2, strike "are not consistent with the national interest" and insert: "provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State".

SEC. 204. Section 5 of OSCLA "Administration of Leasing".

Page 153: line 25, strike ", ";

Page 154: line 1, strike "shrouding".

SEC. 204. Section 5 of OSCLA "Administration of Leasing".

Page 148: On line 20 strike the phrase ", in the national interest," insert at line 21 after the word "lease" the phrase "in the national interest".

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, just very briefly, these are technical amendments. I think they make sound drafting corrections in the language to make it more readable and clearly understood. I think they are amendments for the lack of which there would be some misunderstanding and difficulty. I ask that the Committee accept them.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the Committee agrees that the amendments are technical in nature and would be supportive of the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Louisiana (Mr. BREAUX).

The amendments were agreed to.

Mr. MURPHY of New York. Mr. Chairman, I believe those are all the amendments to title II.

The CHAIRMAN. The Clerk will designate the title which is now pending.

The Clerk read as follows:

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

SEC. 301. As used in this title, unless the context indicates otherwise, the term—

(1) "cleanup costs" means all reasonable and actual costs, including administrative and other costs, to the Federal Government, to any State or local government, or to any foreign government, or to their contractors or subcontractors, or (A) removing or attempting to remove oil discharged from any offshore facility or vessel, or (B) taking other measures to prevent such discharge, or to reduce or mitigate damages to the public health or welfare, or to public property, including shorelines, beaches, and the natural resources of the marine environment;

(2) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

(3) "discharge" includes any spilling, leaking, pumping, pouring, emptying, or dumping, regardless of whether it occurred intentionally or unintentionally;

(4) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(5) "Fund" means the Offshore Oil Pollution Compensation Fund established under section 302(a) of this title;

(6) "owner" means (A) with respect to an offshore facility, any person owning such facility, whether by lease, permit, contract, license, or other form of agreement, (B) with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment, and (C) with respect to a vessel, any person owning such vessel;

(7) "operator" means (A) with respect to an offshore facility, any person operating such facility, whether by lease, permit, contract, license, or other form of agreement, and (B) with respect to a vessel, any person operating or chartering by demise such vessel;

(8) "person" means an individual, a public or private corporation, partnership, or other association, or a government entity;

(9) "person in charge" means the individual immediately responsible for the operations of an offshore facility or vessel;

(10) "Secretary "means the Secretary of Transportation;

(11) "revolving account" means the account in the Treasury of the United States

which is established under section 302(b) of this title;

(12) "incident" means any occurrence or series of related occurrences, including one or more offshore facilities or vessels, which cause or pose an imminent threat of oil pollution; and

(13) "vessel" means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term "Outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term "navigable waters" is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)).

ESTABLISHMENT OF THE FUND AND THE REVOLVING ACCOUNT

SEC. 302. (a) There is established within the Department of Transportation an Offshore Oil Production Compensation Fund. The Fund may sue or be sued in its own name.

(b) There is established in the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to the Fund to carry out the provisions of this title.

PROHIBITION

SEC. 303. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful, is prohibited.

NOTIFICATION

SEC. 304. (a) Any person in charge of an offshore facility or vessel shall, as soon as he has knowledge of any discharge of oil from such offshore facility or vessel which may be in violation of section 303 of this title, immediately notify the Secretary of such discharge.

(b) Any person in charge of an offshore facility or vessel who fails to immediately notify the Secretary, as required by subsection (a) of this section, shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both, except that no person convicted under this section shall also be convicted for the same failure to notify under section 311(b)(5) of the Federal Water Pollution Control Act.

(c) Notification received pursuant to this section or information obtained by the exploitation of such notification shall not be used against any person providing such notification in any criminal case, except a prosecution for perjury or for giving a false statement.

REMOVAL OF DISCHARGED OIL

SEC. 305. (a) Whenever any oil is discharged from any offshore facility or vessel in violation of section 303 of this title, the President shall act to remove or arrange for the removal of such oil, unless he determines such removal will be done properly and expeditiously by the owner or operator of such offshore facility or vessel.

(b) Removal of oil and actions to minimize damage from oil discharged shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the Federal Water Pollution Control Act.

(c) Whenever the President acts to remove a discharge of oil pursuant to this section, he is authorized to draw upon the money available in the revolving account. Such money shall be used to pay promptly for all cleanup costs incurred by the President in removing such oil or in minimizing damage caused by such oil discharge.

DUTIES AND POWERS

SEC. 306. (a) In order to carry out the purposes of this title, the Secretary shall—

(1) administer and maintain the Fund, in accordance with the provisions of this title;

(2) establish regulations and provide for the fair and expeditious settlement of claims in accordance with section 313 of this title;

(3) provide public access to information, in accordance with section 319(a) of this title;

(4) submit an annual report, in accordance with section 320 of this title; and

(5) perform such other functions as are prescribed by law.

(b) In the performance of his duties under this title, the Secretary is authorized to—

(1) utilize, with the consent of the agency concerned the services or personnel, on a reimbursable or replacement basis or otherwise, of any Federal Government agency, of any State or local government agency, or of any organization, to perform such functions on behalf of the Fund as are necessary or appropriate;

(2) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this title;

(3) conduct such studies and investigations, obtain such data and information, and hold such meetings or public hearings as may be necessary or appropriate to facilitate the exercise of any authority granted to, or the performance of any duty imposed on, the Fund under this title;

(4) enter into such contracts, agreements, and other arrangements as are deemed necessary or appropriate for the acquisition of material, information, or other assistance related to, or required by, the implementation of this title; and

(5) issue and enforce orders during proceedings conducted pursuant to this title, including issuing subpenas, administering oaths, compelling the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, and the taking of depositions.

RECOVERABLE DAMAGES

SEC. 307. Damages may be recovered under this title for—

(1) the value of any loss or injury, at the time such loss or injury is incurred, with respect to any real or personal property which is damaged or destroyed as a result of a discharge of oil;

(2)(A) the cost to the owner of restoring, repairing, or replacing any real or personal property which is damaged or destroyed by a discharge of oil, (B) any income necessarily lost by such owner during the time such property is being restored, repaired, or replaced, and (C) any reduction in the value of such property caused by such discharge;

(3) any loss of income or impairment of earning capacity for a period of not to exceed five years due to damages to real or personal property, or to natural resources, without regard to ownership of such property or resources, which are damaged or destroyed by a discharge of oil, if the claimant derives at least 25 per centum of his earnings from activities which utilize such property or natural resources;

(4) any costs and expenses incurred by the Federal Government or any State government in the restoration, repair, or replacement of natural resources which are damaged or destroyed by a discharge of oil; and

(5) any loss of tax revenue by the Federal Government or any State or local government for a period of not to exceed one year due to injury to real or personal property resulting from a discharge of oil.

CLEANUP COSTS AND DAMAGES

SEC. 308. (a) All cleanup costs incurred by the President, the Secretary, or any other Federal, State, or local official or agency, in connection with a discharge of oil shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

(b) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of an offshore facility shall be held jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such offshore facility. Such liability shall not exceed $35,000,000, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such offshore facility, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(c) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of a vessel shall be jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such vessel. Such liability shall not exceed $150 per gross registered ton, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such vessel, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(d) No liability shall be imposed under subsection (b) or (c) of this section to the extent the owner or operator establishes that the discharge of oil or that any damages resulting from such discharge were caused by (1) an act of war, or (2) the negligent or intentional act of the damaged party or of any third party (including any government entity).

(e)(1) To the extent that liability is not imposed, pursuant to subsection (d)(2) of this section, on the owner or operator of an offshore facility or vessel for cleanup costs or damages resulting from a discharge of oil from such facility or vessel, the damaged party or third party whose negligent or intentional act caused such discharge or any damages resulting from such discharge shall, if such damaged party or third party is also an offshore facility or vessel, be liable for such cleanup costs or damages to the same extent as if such discharge had occurred from the offshore facility or vessel of such damaged party or third party.

(2) Payment of cleanup costs or damages by the owner or operator of any offshore facility or vessel to any person pursuant to this title shall be subject to such owner or operator acquiring by subrogation all rights of such person to recover such cleanup costs or damages from any other person.

(3) The provisions of this section shall not in any way affect or limit any rights which an owner or operator of an offshore facility or vessel, or the Fund, may have against any third party whose acts may have caused or contributed to a discharge of oil.

(f) Notwithstanding any other provision of this title, no person shall be liable under this title for payment of cleanup costs or damages to any government of a foreign country, or any citizen of a foreign country not a resident of the United States, unless

(1) such payment is authorized by a treaty or executive agreement between such country and the United States, or (2) the Secretary of State, in consultation with the Attorney General, certifies that such country provides an adequate and substantially similar remedy for United States claimants for cleanup costs and damages related to discharges of oil produced from the Continental Shelf of such country.

(g) Any owner or operator of any offshore facility or vessel liable for damages to any person pursuant to subsection (b), (c), or (e)(1) of this section shall also be liable to such person for interest on the amount of such damages for which such owner or operator is liable, at the existing commercial interest rate, from the date the claim or amended claim including such damages was presented to the date on which the damages are paid. Such interest shall not be subject to any limitation of liability specified in subsection (b) or (c) of this section.

DISBURSEMENTS FROM THE REVOLVING ACCOUNT

SEC. 309. (a) Amounts in the revolving account shall be available for disbursement and shall be disbursed by the Fund for only the following purposes:

(1) Administrative and personnel expenses of the Fund.

(2) Cleanup costs resulting from the discharge of oil which are incurred pursuant to this title or pursuant to any State or local law, and costs of the removal of oil incurred by the owner or operator of an offshore facility or vessel to the extent that the discharge of such oil was caused solely by an act of war or negligence on the part of the Federal Government in establishing and maintaining aids to navigation.

(3) Subject to the provisions of section 313 of this title, all damages not actually compensated pursuant to section 308 (b) or (c) of this title.

(b) Payment of compensation by the Fund shall be subject to the Fund acquiring by subrogation all rights of the claimant to recover cleanup costs or damages from the person responsible for such discharge. The Fund shall diligently pursue recovery for any such subrogated rights.

(c) Notwithstanding any other provision of this section, the Fund shall not be liable to pay (1) cleanup costs and damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by the negligent or intentional act of the damaged party, or (2) damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by an act of war.

(d) In all claims or actions by the Fund against the owner, operator, or person providing financial responsibility, the Fund shall recover (1) except as otherwise provided in this title, the amount the Fund has paid to the claimant or to any government entity undertaking cleanup operations, without reduction, (2) interest on that amount, at the existing commercial interest rate, from the date upon which the request for reimbursement was issued from the Fund to the owner, operator, or such person, to the date on which the Fund is paid by such owner, operator, or person, and (3) all reasonable and actual administrative costs incurred by the Secretary and disbursed by the Fund in connection with such claim or action, including costs of investigation, processing, hearings, appeals, and collection. Costs recovered pursuant to clause (3) of this subsection shall not be subject to any limitation of liability applicable to such owner, operator, or person providing financial responsibility, under the provisions of subsection (b) or (c) of section 308 of this title.

(e) Whenever the amount in the revolving account is not sufficient to pay cleanup costs and damages for which the Fund is liable pursuant to this section, the Fund may issue, in an amount not to exceed $500,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, being such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by the Fund under this subsection shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by the Fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

FEE COLLECTION; DEPOSITS IN REVOLVING ACCOUNT

SEC. 310. (a)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The collection of the fee imposed pursuant to paragraph (1) of this subsection shall continue until the amount in the revolving account totals at least $100,000,000, whereupon imposition of such fee may be suspended by the Secretary. Thereafter, the Secretary shall from time to time and in accordance with the limitation set forth in the first sentence of paragraph (1) of this subsection, modify by regulation the amount of the fee, if any, to be collected under this subsection in order to maintain the revolving account at a level of not less than $100,000,000 and not more than $200,000,000. For purposes of this paragraph, all sums deposited pursuant to subsection (b) of this section shall be included in the calculation of the balance in the revolving account.

(b) All sums received through fee collection, reimbursements, fines, penalties, investments, and judgments pursuant to this title shall be deposited in the revolving account.

(c) All sums not needed for the purposes specified in this title shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury.

FINANCIAL RESPONSIBILITY

SEC. 311. (a) Each owner or operator of an offshore facility shall establish and maintain, under rules and regulations prescribed by the President, evidence of financial responsibility based on the capacity of the offshore facility and other relevant factors. Financial responsibility may be established by any one, or a combination of, the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(b) Each owner or operator of a vessel over three hundred gross registered tons (other than a vessel which is not self-propelled and which does not carry oil as cargo or fuel) shall establish and maintain, under rules and regulations prescribed by the Federal Maritime Commission, evidence of financial responsibility based on the liability requirements of this title and the tonnage of the vessel. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one, or combination, of the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(c) Any claim for cleanup costs and damages by any claimant or by the Fund may be brought directly against the surety, the insurer, or any other person providing financial responsibility.

(d) Any person who fails to comply with the provisions of this section or any regulation issued under this section shall be subjected to a fine of not more than $25,000.

(e) The President shall adjust the requirements established under this section and the limit of liability under section 308 of this title annually, by an amount equal to the annual percentage change in the wholesale price index.

(f) No owner or operator of an offshore facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this section shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such offshore facility or vessel. Evidence of compliance with the financial responsibility requirement of this section shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such offshore facility or vessel.

TRUSTEE OF NATURAL RESOURCES

SEC. 312. (a) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for damages to such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

CLAIMS PROCEDURE

SEC. 313. The Secretary shall prescribe, and may from time to time amend, regulations for the filing, processing, settlement, and adjudication of claims for cleanup costs and damages resulting from the discharge of oil from an offshore facility or vessel.

(b)(1) Whenever the Secretary receives information from any person alleging the discharge of oil from any offshore facility or vessel in violation of section 303 of this title, he shall notify the owner and operator of such offshore facility or vessel of such allegation. Such owner or operator may, within five days after receiving such notification, deny such allegations, or deny liability for damages for any of the reasons set forth in section 308(d) of this title.

(2) Any denial made pursuant to paragraph (1) of this subsection shall be adjudicated in accordance with the provisions of subsection (i) of this section.

(c)(1) If a denial is not made pursuant to subsection (b)(1) of this section, the owner and operator, or the person providing financial responsibility, shall advertise, in accordance with regulations promulgated by

the Secretary, in any area where damages may occur, the procedures under which claims may be presented to such owners and operator or such person providing financial responsibility. The Secretary shall publish the text of such advertisement, in modified form if necessary, in the Federal Register. If any person fails to make any advertisement required by this paragraph, the Secretary shall do so and such person shall pay the costs of such advertisement.

(2) If a denial is made pursuant to subsection (b) of this section, the Secretary shall advertise and publish procedures under which claims may be presented to the Secretary for payment by the Fund from the revolving account.

(3) Any advertisement made under this subsection shall commence no later than fifteen days after the date of the notification and shall continue for a period of no less than thirty days. Such advertisement shall be repeated thereafter in such modified form as may be necessary, but not less frequently than once each calendar quarter for a total period of five years.

(d)(1) Any claim presented to any person under subsection (c)(1) of this section, or to the Secretary for payment from the Fund, shall be presented within one year after the date of discovery of any damages for which such claim is made, except that no such claim may be presented after the end of the five-year period beginning on the date on which advertising was commenced pursuant to subsection (c) of this section.

(2) Each person's damage claims arising from one incident which are presented to the Secretary shall be slated in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known, and which are not included in the claim at the time compensation is made, shall be deemed waived.

(e)(1) Except as provided in subsection (f) of this section, all claims shall be presented (A) to the owner and operator, or (B) to the person providing financial responsibility.

(2) Any person to whom a claim has been presented pursuant to paragraph (1) of this subsection shall promptly notify the claimant of the rights which such claimant may have under this title and notify the Secretary of receipt of such claim.

(f) The following claims may be presented to the Secretary for payment by the Fund from the revolving account:

(1) Any claim for damages resulting from any discharge with respect to which a denial has been made pursuant to subsection (b)(1) of this section.

(2) Any claim which has been presented to any person pursuant to subsection (c)(1) of this section, if such person—

(A) has not accepted liability for such claim for any reason,

(B) submits to the claimant a written offer for settlement of the claim, which the claimant rejects for any reason, or

(C) has not settled such claim by agreement with the claimant within sixty days after the date on which (i) such claim was presented, or (ii) advertising was commenced pursuant to subsection (c) of this section, whichever date is later.

(g) In the case of a claim which has been presented to any person under subsection (e)(1) of this section, and which may be presented to the Secretary under subsection (f)(2) of this section, such person shall, within two days after a request by the claimant, transmit directly to the Secretary such claim and such other supporting documents as the Secretary may by regulation prescribe, and such claim shall be deemed presented to the Secretary for payment by the Fund.

(h)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall use the facilities and services of private insurance and claims adjusting organizations in administering this section and may contract to pay compensation for such facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, upon a showing by the Secretary that advertising is not reasonably practicable, and advance payments may be made. A payment to a claimant, for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary.

(2) In extraordinary circumstances in which the services of such private organizations are inadequate, the Secretary may use Federal personnel to administer the provisions of this section, to the extent necessitated by such extraordinary circumstances.

(i) The following matters in dspute shall be submitted to the Secretary and adjudicated pursuant to the provisions of this section:

(1) Upon the petition of a claimant, in the case of a claim which has been presented to the Secretary for payment by the Fund, and in which the Secretary—

(A) has, for any reason, denied liability for such claim; or

(B) has not settled such claim by agreement with such claimant within ninety days after the date on which (i) such claim was presented to the Secretary, or (ii) advertising was commenced pursuant to subsection (c)(2) of this section, whichever date is later.

(2) Upon the petition of the owner and operator or the person providing financial responsibility, who is or may be liable for cleanup costs and damages pursuant to section 308 of this title—

(A) any denial made pursuant to subsection (b)(1) of this section;

(B) any objection to an exception to the limit of liability set forth in section 308(b) or (c) of this title; and

(C) the amount of any payment or proposed payment by the Fund which may be recovered from such owner and operator, or such person providing financial responsibility, pursuant to section 309(d) of this title.

(j)(1) Upon receipt of any matter in dispute submitted for adjudication pursuant to subsection (i) of this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(2) For purposes of any hearing conducted pursuant to this subsection, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented for determination.

(3) A hearing conducted under this subsection shall be conducted within the United States judicial district within which the matter in dispute occurred, or, if such matter occurred within two or more districts, in any of the affected districts or, if such matter in dispute occurred outside of any district, in the nearest district.

(k) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid from the revolving account shall be certified to the Fund which shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

JUDICIAL REVIEW

SEC. 314. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner may, no later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

(b) In any case in which the person responsible for the discharge, or the Fund, seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision of the hearing examiner is affirmed.

CLASS ACTIONS

SEC. 315. (a) The Attorney General may act on behalf of any group of damaged citizens which the Secretary determines would be more adequately represented as a class in the recovery of claims under this title. Sums recovered shall be distributed to the members of such group, except that the reasonable and actual costs incurred by the Attorney General in representing such class shall be paid out of such sums recovered, and shall be deposited in the Treasury of the United States, and credited to miscellaneous receipts. The Attorney General shall not commence any action under this subsection against the Fund or any other department, agency, or instrumentality of the United States.

(b) If, within ninety days after a discharge of oil in violation of section 303 of this title has occurred, the Attorney General fails to act on behalf of a group who may be entitled to compensation, any member of such group may maintain a class action to recover such damages on behalf of such group. Failure of the Attorney General to act in accordance with this subsection shall have no bearing on any class action maintained in accordance with this subsection.

(c) In any case in which the number of members of the class seeking the recovery of claims under this title exceeds one thousand, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

REPRESENTATION

SEC. 316. The Secretary shall initially request the Attorney General to promptly institute court actions and to appear and represent the Fund for all claims under this title. Unless the Attorney General notifies the Secretary that he will institute such action or will otherwise appear within a reasonable time, attorney, appointed by the Secretary shall appear and represent the Fund.

JURISDICTION AND VENUE

SEC. 317. (a) The United States district courts shall have original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any district, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

ACCESS TO RECORDS

SEC. 318. (a) Each person responsible for contributing to the Fund in accordance with this title shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in such regulations.

(b) The Secretary shall have access to any books, documents, papers, and records of

such person relevant to the administration of this title, and shall undertake regular examinations of and audits on the collection of fees.

(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records, and other information of the Fund.

PUBLIC ACCESS TO INFORMATION

SEC. 319. (a) Copies of any communication, document, report, or information transmitted between any official of the Federal Government and any person concerning liability and compensation for damages resulting from the discharge of oil from an offshore facility or vessel shall be made available to the public for inspection, and shall be available for the purpose of reproduction at a reasonable cost, to the public upon identifiable request.

(b) Nothing contained in this section shall be construed to require the release of any information of the kind described in subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

ANNUAL REPORT

SEC. 320. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of the Fund during such fiscal year, (2) a summary of the management and enforcement activities of the Fund, and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 321. (a) There is authorized to be appropriated for the administration of this title $10,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, and $5,000,000 for the fiscal year ending September 30, 1980.

(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts pursuant to section 306(b)(4) of this title, any disbursements of funds pursuant to section 309(a) of this title, and the issuance of notes or other obligations pursuant to section 309(e) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts pursuant to section 306(b)(4) of this title, to make disbursements pursuant to section 309(a) of this title, to issue notes of other obligations pursuant to section 309(e) of this title, and to charge and collect fees pursuant to section 310(a) of this title shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

(d) There are hereby authorized to be appropriated to the Fund such sums as may be necessary to reimburse the Fund for amounts paid for cleanup costs and damages in connection with discharges of oil caused by the negligent or intentional act of any department, agency, or instrumentality of the United States.

RELATIONSHIP TO OTHER LAW

SEC. 322. (a) Except as otherwise provided in this title, this title shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or cleanup costs within the jurisdiction of any State.

(b) Any person who receives compensation for damages or cleanup costs pursuant to this title shall be precluded from recovering compensation for the same damages or cleanup costs pursuant to any other State or Federal law. Any person who receives compensation for damages or cleanup costs pursuant to any other State or Federal law shall be precluded from receiving compensation for the same damages or cleanup costs under this title.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: (To incorporate the relevant provisions of H.R. 6803 into Title III). On page 234, strike line 21 and all that follows through line 18 on page 264; and insert the following in lieu thereof:

"SEC. 301. For the purposes of this title, the term—

"(a) 'Secretary' means the Secretary of Transportation;

"(b) 'fund' means the fund established by section 302;

"(c) 'person' means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

"(d) 'incident' means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, or any combination thereof, which causes, or poses an imminent threat of oil pollution;

"(e) 'vessel' means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term 'Outer Continental Shelf' is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term 'navigable waters' is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362));

"(f) 'public vessel' means a vessel which—

"(1) is owned or chartered by demise, and operated by (A) the United States, (B) a State or political subdivision thereof, or (C) a foreign government; and

"(2) is not engaged in commercial service;

"(g) 'ship' means either of the following types of vessels carrying oil in bulk as cargo:

"(1) a self-propelled vessel, or

"(2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States;

"(h) 'facility' means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

"(i) 'offshore facility' includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, of (B) deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(j) 'oil pollution' means—

(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(2) the presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.);

(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

(k) 'United States claimant' means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

(l) 'foreign claimant' means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

(m) 'United States' and 'State' include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

(n) 'oil' means petroleum, including crude oil or any fraction or residue therefrom;

(o) 'cleanup costs' means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

(p) 'damages' means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

(q) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility;

(r) 'claim' means a demand in writing for a sum certain;

(s) 'discharge' means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(t) 'owner' means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or offshore facility, whether by lease, permit, contract, license, or other form of agreement; or with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment; but does not include a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect his security interest in the vessel or offshore facility;

(u) "operator" means—

(1) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(2) in the case of an offshore facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

(v) "property" means littoral, riparian, or marine property;

(w) "removal costs" means—

(1) costs incurred under section 5 of the Intervention on the High Seas Act; and

(2) cleanup costs, other than the costs described in clause (1);

(x) "guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

(y) "gross ton" means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel; and

(z) "barrel" means 42 United States gallons at 60 degrees Fahrenheit.

FUND ESTABLISHMENT, ADMINISTRATIVE, AND FINANCING

SEC. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) and (3) of this section being paid into such fund. The fund shall be administered by the Secretary and the Secretary of the Treasury, as specified in this section. The fund may sue and be sued in its own name.

(b) The fund shall be constituted from—

(1) all fees collected pursuant to subsection (d);

(2) all moneys recovered on behalf of the fund under section 308; and

(3) all other moneys recovered or collected on behalf of the fund, under this title.

(c) In addition to the processing and settlement of claims under section 307, the fund shall be immediately available for the removal costs described in section 301(w)(1), and the Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the fund for such purposes.

(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the fund is maintained at a level not less than $100,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. No modified fees paid by any owner pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination.

(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the fund.

(2) The Secretary of the Treasury may invest any excess in the fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund.

(f) If at any time the moneys available in the fund are insufficient to meet the obligations of the fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

DAMAGES AND CLAIMANTS

SEC. 303. (a) Claims for damages for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—

(1) removal costs;

(2) injury to, or destruction of, real or personal property;

(3) loss of use of real or personal property;

(4) injury to, or destruction of, natural resources;

(5) loss of use of natural resources;

(6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

(7) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) A claim authorized by subsection (a) may be asserted—

(1) under item 1, by any claimant: *Provided*, That the owner or operator of a vessel of offshore facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 304(c)(1) or 304(c)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 304(b): *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;

(2) under items 2, 3, and 5, by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

(3) under item 4, by the President, as trustees for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority; or by any State for natural resources within the boundary of the State belonging to, managed by controlled by, or appertaining to the State: Provided, That compensation paid under this item shall be used only for the restoration of the natural resources damaged or for acquisition of equivalent resources;

(4) under item 6, by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

(5) under item 7, by any State or political subdivision thereof;

(6) under items 2 through 7, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

(B) the claimant is not otherwise compensated for his loss;

(C) the oil was discharged from an offshore facility or from a vessel in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) and

(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

(7) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

(c) If the Attorney General fails to take action under clause (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 306 any member of a group may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

(d) If the number of members of a class in an action brought under subsection (b)(7) or subsection (c) exceeds one thousand, publication of notice of such action in local newspapers of general circulation in the areas in which the damaged persons reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

LIABILITY

SEC. 304. (a) Subject to the provisions of subsections (b) and (c), the owner and operator of a vessel other than a public vessel, or of an offshore facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(w)(1) of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 303.

(b) Except when the incident is caused primarily by willful misconduct or gross

negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

(1) in the case of a vessel, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater; or

(2) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, the total of removal and cleanup costs, and other damages up to $35,000,000.

(c) There shall be no liability under subsection (a)—

(1) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection, or by a natural phenomenon of an exceptional, inevitable, and irresistible character;

(2) to the extent that the incident is caused by an act or omission of a person other than—

(A) the claimant,

(B) the owner or operator,

(C) an employee or agent of the claimant, the owner, or the operator, or

(D) one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator;

(3) as to a particular claimant, where the incident or the economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(d) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b).

(e)(1) Subject to the provisions of paragraph (2) hereof, the fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 303, to the extent that the loss is not otherwise compensated.

(2) Except for the removal costs specified in clause (1) of section 301(w), there shall be no liability under paragraph (1) hereof—

(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(f)(1) In addition to the damages for which claims may be asserted under section 303, and without regard to the limitation of liability provided in section 304(b), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 306, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(g) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a) hereof, other than as specified in this title.

(h) Nothing in this title, including the provisions of subsection (g) hereof, shall bar a cause of action that an owner or operator, subject to liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

(i) To the extent that they are in conflict with, or otherwise inconsistent with, any other provisions of law relating to liability or the limitation thereof, the provisions of this section shall supersede all such other provisions of law, including those of section 4283 (a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).

FINANCIAL RESPONSIBILITY

SEC. 305. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo), which uses an offshore facility shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title. Financial responsibility may be established by any one, or any combination, of the following methods, acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States to any vessel, subject to this subsection, which does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(3) The Secretary, in accordance with regulations promulgated by him shall have access to all offshore facilities and vessels conducting activities under the Outer Continental Shelf Lands Act; and such facility or vessel shall, upon request, show certification of financial responsibility.

(b) The owner or operator of a facility which (1) is used for drilling for, producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed, in a case where he would be entitled to limit his liability, in accordance with the provisions of section 304(b) of this title, or $35,000,000, whichever is less.

(c) Any claim authorized by section 303(a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this title. He shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but shall not be entitled to invoke any other defense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

(d) The President shall conduct a study to determine (1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, and offshore facilities subject to liability under section 304, and (2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, co-insurance provisions and exclusions. The President shall submit the results of his study, together with his recommendations, within one year of the date of enactment of this Act, and shall submit an interim report on his study within three months of the date of enactment of this Act.

NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

SEC. 306. (a) The person in charge of a vessel or offshore facility, which is involved in an incident, shall immediately notify the Secretary of the incident, as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person of his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

(b)(1) When the Secretary receives information, pursuant to subsection (a) or otherwise, of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source, and the guarantor, of that designation.

(2) When a source designated under paragraph (1) is a vessel or offshore facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

(c) In a case where—

(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (b),

(2) the source of the discharge was a public vessel or

(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (b),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

(d) Advertisement under subsection (b) shall commence no later than fifteen days from the date of the designation made there-

under to continue for a period of no less than thirty days.

CLAIMS SETTLEMENT

SEC. 307. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

(b) All claims shall be presented to the fund—

(1) Where the Secretary has advertised or otherwise notified claimants in accordance with section 306 (c), or

(2) where the owner or operator may recover under the provisions of section 303 (b) (1).

(c) In the case of a claim presented in accordance with subsection (a), and in which—

(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 306(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the fund, that election to be irrevocable and exclusive.

(d) In the case of a claim presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 304(b) or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

(e) In the case of a claim which has been presented to any person, pursuant to subsection (a), and which is being presented to the fund, pursuant to subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

(f) In the case of a claim presented to the fund, pursuant to subsection (b), (c), or (d), and in which the fund—

(1) denies all liability for the claim, for any reason, or

(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced pursuant to section 306(c), whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund pursuant to subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision, that election is to be irrevocable and exclusive.

(g) (1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted by or on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special government employees, apply to panel members appointed from private life.

(i) (1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge, appointed under section 3105 of title 5, United States Code or (B) a panel appointed under subsection (h).

(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit of the nearest circuit.

(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, of the nearest district.

(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may promulgate, any review the decision upon his own initiative or upon exception of the claimant or the fund.

(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

(j) (1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

(2) The fund may intervene in the action as a matter of right.

(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 304(b) of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund under any provision of this title.

(l) No claim may be presented, nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 303(a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

SUBROGATION

SEC. 308. (a) Any person or governmental entity, including the fund, who shall pay compensation to any claimant for an economic loss, compensable under section 303, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant pursuant to this title. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, pursuant to any law, to the compensated claimant or to the fund, for damages for which the compensation was paid.

(c) In all claims or actions by the fund against any owner, operator, or guarantor, pursuant to the provisions of subsections (a) and (b), the fund shall recover—

(1) for a claim presented to the fund (where there has been a denial of source designation) pursuant to section 307(b)(1), or (where there has been a denial of liability) pursuant to section 307(c)(1)—

(A) subject only to the limitation of liability to which the defendant is entitled under section 304(b), the amount the fund has paid to the claimant, without reduction;

(B) interest on that amount, at the rate calculated in accordance with section 304(g)

(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

(C) all costs incurred by the fund by reason of the claim, both the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

(2) for a claim presented to the fund pursuant to section 307(c)(2)—

(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

(ii) interest, at the rate calculated in accordance with section 304(g)(2), for the period specified in clause (1) of this subsection; and

(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) the amount of the fund has paid to the claimant, without reduction;

(ii) interest, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause; *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

(e) The fund is entitled to recover for all interest and claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

JURISDICTION AND VENUE

SEC. 309. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

PREEMPTION

SEC. 310. (a) Except as provided in this title—

(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in section 303(a), a claim for which may be asserted under this title, and

(2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for such a loss, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss

(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and pre-positioning of oil pollution cleanup and removal equipment.

(c) Nothing in subsection (a) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid pursuant to this title.

PROHIBITION

SEC. 311. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful is prohibited.

PENALTIES

SEC. 312. (a)(1) Any person who fails to comply with the requirements of section 305, the regulations promulgated thereunder, or any denial or detention order, shall be subject to to a civil penalty of not more than $10,000.

(2) Such penalty may be assessed and compromised by the President or his designee, in connection with section 305(a)(1), and by the Secretary, in connection with section 305(a)(3) and section 305(b). No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

(3) At the request of the official assessing the penalty, the Attorney General may bring an action in the name of the fund to collect the penalty assessed.

(b) Any person in charge, subject to the jurisdiction of the United States, who fails to give the notification required by section 306(a) shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, of both.

AUTHORIZATION OF APPROPRIATIONS

SEC. 313. (a) There is authorized to be appropriated for the administration of this title $10,000,000, for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000, for the fiscal year ending September 30, 1981.

(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts, any disbursements of funds, and the issuance of notes or other obligations pursuant to section 302(f) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts, to make disbursements, to issue notes of other obligations pursuant to section 302(f) of this title, and to charge and collect fees pursuant to section 302(d) of this title or to exercise any other spending authority shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

ANNUAL REPORT

SEC. 314. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the fund and the administration of the liability provisions of this title.

SEC. 315. (a) This section, subsection (d) of section 305, section 316, and all provisions of this title authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of this Act.

(b) All other provisions of this title, and the regulations applicable thereto shall be effective on the one hundred and eightieth day after the date of enactment of this Act.

SEC. 316. If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby."

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Chairman, this amendment, which was introduced by the gentleman from Massachusetts (Mr. STUDDS), deals with a problem that the House dealt with very, very favorably in the last Congress. In fact, on September 12 of last year by a vote of 332 to 59 the House adopted a comprehensive oil pollution liability and compensation bill. That legislation is presently in the Senate awaiting Senate action. What we wanted to do was, because there was no comprehensive oil spill program for the Outer Continental Shelf, what we have done is taken the language of H.R. 6803

and request that the Committee adopt it as the language in H.R. 1614, so that there would be consistency with that legislation when it finally goes through the legislative process; but pending completion of action by the Senate of this bill, we feel this is necessary in H.R. 1614.

Mr. Chairman, I ask unanimous consent to substitute a committee amendment for title III of the bill, which establishes an offshore oil spill pollution fund.

No comprehensive national legislation presently exists for responsibility and liability for the effects of oil pollution resulting from OCS activities.

Title III provides the procedures to be followed in the event of an oil spill and compensation for cleanup costs and damages resulting from such a spill. The title applies to spills from any offshore facility operating in the OCS and any transportation device, while in OCS waters, including vessels for the delivery of the oil and gas from the offshore facility.

One need only to allude to such disasters as the recent North Sea oil platform blowout, the *Argo Merchant* oilspill, the Santa Barbara blowout and the *Torrey Canyon* oilspill to illustrate urgent need for a comprehensive offshore oilspill pollution fund. Such fund would provide expeditious relief for damages caused by OCS activities.

The committee strongly supports comprehensive legislation to establish a system of liability and compensation for oilspill damage. Title III received wide support in testimony before the committee, including environmental groups, State and local officials, and the administration. However, the administration did express a preference for the comprehensive oil pollution liability and compensation bill, H.R. 6803, reported by the Committees on Merchant Marine and Fisheries and Public Works and Transportation. H.R. 6803 passed the House under suspension of the rules by an overwhelming vote of 332 to 59 on September 12, 1977. The measure has been referred to the Senate Committees on Commerce, Science and Transportation and Environment and Public Works.

I and the rest of the OCS Committee overwhelmingly support a comprehensive approach to the problems of oilspill liability and compensation and hope that the Senate will act promptly on H.R. 6803 so that such legislation is enacted.

Since Senate action is not, unfortunately, imminent, some provision must therefore be made to provide for liability and compensation for, at the least, OCS and OCS-related oil pollution and damages. I, therefore, offer this amendment, retaining title III on oil pollution liability and compensation but adopting and incorporating those provisions of the comprehensive bill passed by the House, which relate to the scope of H.R. 1614 and the jurisdiction of the OCS Committee. If comprehensive legislation is passed, these provisions will easily "fold into" the comprehensive approach. If no such bill is enacted, citizens and businesses will be at least assured of the protection of the comprehensive bill as they affect OCS and OCS-related spills.

The new title III changes are largely technical in nature; they have been reviewed by the minority; and I know of no objection. Certain changes in the authorization language have been made to conform with the Budget Act, pursuant to an agreement with the chairman of the Budget Committee.

Title III establishes an offshore oil pollution compensation fund within the Department of Transportation. The fund would be supported by a fee of up to three cents per barrel of oil produced on the OCS, until the account totals at least $100 million and not more than $200 million. The fund will cover cleanup costs, payment of claims, and other administrative and personnel expenses. Authorization is provided for the appropriation of $10 million for fiscal year 1979, and $5 million for each of the two following fiscal years for the administration of the title.

A summary of major changes and the correspondence with the chairman of the Budget Committee follow; as well as the amendment:

First. In the case of a vessel, the extent of liability has been changed to $250,000, or $300 per gross ton, up to a maximum of $30 million, whichever is greater.

Second. To conform with the Congressional Budget and Impoundment Control Act of 1974, the $10 million authorization of appropriations for the administration of title III has been changed to the fiscal year ending September 30, 1979. Authorizations of $5 million each are provided for the following 2 fiscal years.

Third. The penalty for failure to comply with financial responsibility requirements has been reduced to $10,000, as in H.R. 6803.

Fourth. The $500,000,000 limit on borrowing authority on the part of the fund has been removed.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I think it makes eminently good sense to conform this title to what we all hope will become law very, very soon. I fully support the chairman's conforming amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, can the gentleman tell me, does this amendment we have before us track verbatim the bill that passed the House?

Mr. MURPHY of New York. Yes. It is in effect the bill that passed the House limited, of course, to the OCS areas.

Mr. FISH. Could the gentleman inform us of the status of the legislation pending in the Senate?

Mr. MURPHY of New York. Well, it is in the Commerce Committee of the Senate.

Mr. FISH. In the conference committee?

Mr. MURPHY of New York. No; in the Commerce Committee.

Mr. FISH. Are the prospects good for passage of that?

Mr. MURPHY of New York. Yes; the legislation is supported by the administration; however, the workload priority of that body is different than here and we feel with this legislation moving on schedule and the Senate having completed action on S. 9 it is appropriate to conform this to the prior action of the House.

Mr. FISH. Mr. Chairman, I think the gentleman.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, is the gentleman's amendment in the nature of a substitute for title III?

Mr. MURPHY of New York. Yes, it is to title III.

AMENDMENT OFFERED BY MR. WIGGINS TO THE AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. WIGGINS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS to the amendment offered by Mr. MURPHY of New York: On page 13, strike out lines 12 through 18.

Mr. WIGGINS. Mr. Chairman, for the benefit of the majority, this is the amendment that was submitted yesterday for your examination. The effect of it is to strike language in the gentleman's substitute which is identical to language found in section 315(c) on page 260 of the bill.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, I agree with my colleague, the gentleman from California, that it is a technical and conforming amendment and we are happy to accept it.

Mr. WIGGINS. Well, Mr. Chairman, I do not wish to mislead my colleague. It may not be conforming. It may be technical, but in all events, it is necessary.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, we are glad to accept the amendment.

Mr. WIGGINS. Mr. Chairman, as long as there are no other questions, I will reserve the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS) to the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from New York (Mr. MURPHY), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will now designate the title pending:

The Clerk read as follows:

TITLE IV—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

SEC. 401. (a) Paragraph (2) of section 308 (b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)) is amended—

(1) by striking out "The amounts" and inserting in lieu thereof "Subject to paragraph (3) of this subsection, the amounts";

(2) by striking out "(A), (B), (C), and (D)" and inserting in lieu thereof "(A) and (B)";

(3) in subparagraph (A), by striking out "one-third" and inserting in lieu thereof "one-half";

(4) by striking out subparagraph (B);

(5) by relettering subparagraph (C), and any references thereto, as subparagraph (B), and by striking out "one-sixth" in such subparagraph and inserting in lieu thereof "one-half"; and

(6) by striking out subparagraph (D).

(b) Such section 308(b) is amended—

(1) by renumbering paragraphs (3) through (5), and any references thereto, as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Secretary shall not make grants under this subsection to any state in any fiscal year the total of which exceeds 30 per centum of the total amount available to the Secretary for payment to all states in such fiscal year.

"(B)(i) If, in any fiscal year, any coastal state will not receive a grant under subparagraph (A) or (B) of paragraph (2), the Secretary shall make a grant to such coastal state in an amount equal to 2 per centum of the total amount available for making grants to all states under such paragraph (2) in such fiscal year if any other coastal state in the same region is receiving a grant under either such subparagraph in such fiscal year.

"(ii) For purposes of this subparagraph—

"(I) the states of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia (the Atlantic coastal states) shall constitute one 'region';

"(II) the states of Alabama, Florida, Louisiana, Mississippi, and Texas (the Gulf coastal states) shall constitute one 'region';

"(III) the states of California, Oregon, and Washington (the Pacific coastal states) shall constitute one 'region'; and

"(IV) the state of Alaska shall constitute one 'region'.

"(C) If, in any fiscal year, the total amount of funds available for making grants to coastal states pursuant to this subsection is greater than the total amount of grants payable to such states pursuant to this subsection, the difference between such two amounts shall remain in the Treasury of the United States and be credited to miscellaneous receipts.

"(D) If, in any fiscal year, the total amount of funds available for making grants to coastal states pursuant to this subsection is less than the total amount of grants payable to all coastal states pursuant to this subsection, there shall be deducted from the amount payable to each coastal state an amount equal to the product of—

"(i) the amount by which the total amount of grants payable to all coastal states exceeds the total amount of funds available for such grants; multiplied by

"(ii) a fraction, the numerator of which is the amount of grants payable to such coastal state in such fiscal year and the denominator of which is the total amount of grants payable to all coastal states in such fiscal year.".

(c) Paragraph (5)(B)(i) of such section 308(b) (as renumbered by subsection (b) of this section) is amended—

(1) by striking out "necessary, because of the unavailability of adequate financing under any other subsection," and inserting in lieu thereof "necessary"; and

(2) by striking out "new or expanded".

(d) Paragraph (6) of such section 308(b) (as renumbered by subsection (b) of this section) is amended to read as follows:

"(6) After making the calculations provided in paragraphs (2) and (3) of this subsection, the Secretary shall require each coastal state which is to receive grants under this subsection to provide adequate assurances of being able to return to the United States any funds to which paragraph (8) of this subsection may apply. After obtaining such assurances, the Secretary shall disburse the proceeds of such grants to such coastal state.

"(7) Any coastal state which receives proceeds of any grant under this subsection only may expend or commit such proceeds—

"(A) after a determination by the Secretary that such proceeds will be expended or committed by such state in accordance with the purposes set forth in paragraph (5) of this subsection; and

"(B) before the close of the fiscal year immediately following the fiscal year in which the proceeds were received.

"(8) The United States shall be entitled to recover from any coastal state an amount equal to all or any portion of a grant made to such state under this subsection which is not expended or committed in compliance with paragraph (7) of this subsection.".

(e) Paragraph (3) of section 318(a) of the Coastal Zone Management Act of 1972 is amended to read as follows:

"(3) such sums, not to exceed $50,000,000 for the fiscal year ending September 30, 1978, and not to exceed $125,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984, as may be necessary for grants under section 308(b);".

(f) The amendments made by this section shall take effect on October 1, 1977.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: (To provide funds to coastal states, through the coastal zone management program, to assist such states in carrying out their responsibilities under the OCS Lands Act).

Page 269, immediately after line 11, insert and following new section:

OUTER CONTINENTAL SHELF GRANTS

SEC. 402. (a) Section 308(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(a)(c)) is amended—

(1) by inserting "(1)" immediately after "(c)" and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall make grants under this paragraph to any coastal state which the Secretary finds is likely to be affected by outer Continental Shelf energy activities. Such grants shall be used by such state to carry out its responsibilities under the Outer Continental Shelf Lands Act. The amount of any such grant shall not exceed 80 per centum of the cost of carrying out such responsibilities."

(b) Section 308(a)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(a)(1)) is amended—

(1) in subparagraph (B) thereof, by striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(1)"; and

(2) by redesignating subparagraphs (C) through (F), and all references thereto, as subparagraphs (D) through (G), respectively, and inserting immediately after subparagraph (B) the following new subparagraph:

"(C) grants, under subsection (c)(2), to coastal states to carry out their responsibilities under the Outer Continental Shelf Lands Act;".

(c) Section 308(h) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(h)) is amended by striking out "subsections (c)" each place it appears and inserting in lieu thereof "subsections (c)(1)".

(d) Section 308(k)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(k)(1)) is amended by striking out "and (c)" and inserting in lieu thereof "and (c)(1)".

(e) Section 318(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(a)) is amended—

(1) by redesignating paragraphs (4) through (8), and all references thereto, as paragraphs (5) through (9), respectively; and

(2) by inserting immediately after paragraph (3) the following new paragraph:

"(4) such sums, not to exceed $5,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, as may be necessary for grants under section 308(c)(2), to remain available until expended;".

(f) Section 318(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(b)) is amended—

(1) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)(2)"; and

(2) by striking out "subsections (c)" and inserting in lieu thereof "subsections (c)(1)".

Page 264, strike out lines 21 and 22 and insert in lieu thereof "Coastal energy impact program".

Page 129, in the table of contents for title IV, strike out the item relating to section 401 and insert in lieu thereof the following:

"Sec. 401. Coastal energy impact program.
"Sec. 402. Outer Continental Shelf grants.".

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Chairman because of our Nation's need to accelerate its production of domestic offshore oil and gas resources, affected coastal States will play an increasing role in the Federal OCS leasing program.

The Coastal Zone Management Act (CZMA) Amendments of 1976 provide for Federal assistance to States for the public facilities, public services and environmental costs occasioned by OCS development.

However, the policy, operational, and managerial aspects of the Federal leasing program for which the States are beginning to assume responsibility—and will continue to do so under the amendments to the Outer Continental Shelf

Lands Act contained in H.R. 1614—are not presently covered by CZM.

The proposed amendments to the Outer Continental Shelf Lands Act call for significant State participation at both the policy and the technical levels, including:

The call for nominations;

Tract selection;

Input into Federal leasing schedule process;

Review of lease stipulations and operating orders;

Review of exploration and development plans;

Review of oil and gas resource information;

Input into environmental baseline studies; and

Input into nearshore and offshore research programs.

Additionally, States will be called upon to provide guidance and information for the preparation of environmental impact statements.

Consequently, the OCS administrative burdens on affected coastal States will be substantial. Because of the national interest dimensions of offshore oil and gas development, and because we are calling upon our coastal States to carry out much of the environmental and technical responsibilities in assuring a rational system for the management of our own offshore energy sources—a system which includes the balancing of competing demands on this Nation's coastal zone—we should provide funds to the States for administering these important OCS-related responsibilities.

This amendment provides for 80 percent grants to coastal States likely to be affected by OCS energy activities to carry out their responsibility under the OCS legislation. The grants are to be administered through the Coastal Zone Management Act and the amendment is an addition to the coastal energy impact program planning grant provision—section 308(c)—of CZMA.

The amount of funding authorized by the amendment is very moderate—$5 million per year for the next 5 fiscal years. The authorization will begin in fiscal year 1979 to conform with requirements of the Budget Act.

Under the language of the amendment, the Secretary of Commerce, who administers the CZM program, has a great deal of discretion in administering this new grant provision. This flexibility is needed because of the uncertainty of lease sale schedules, exploration and production timetables, and the precise incidence and magnitude of actual impacts on any individual coastal State.

However, the amendment evisions the establishment of some types of formula for the allocation of available moneys. It would be a formula contained in regulations promulgated by the Secretary.

In 1975, $3 million was appropriated in supplemental funds to coastal States through the coastal zone management program. This money was to be used by the States to improve their capabilities to plan for and manage projected OCS impacts. In the regulations which were developed to implement these grants, a formula was provided for their allocation among the States. Specifically, a uniform allocation of 1 percent to the affected States was established. Then, of the remaining funds, 40 percent was to be allocated based on the length of a State's marine shoreline; 40 percent on coastal county population; and 20 percent on the basis of identified needs.

Some formula along these lines is intended by this amendment although the precise system of allocation remains with the Secretary and should be based, to the maximum extent possible, on the actual OCS administrative responsibilities borne by each affected State.

Finally, it should be noted that the recipient executive agency in each State will vary—depending on which department or unit has OCS responsibilities. It need not be the same agency as the one which administers the coastal management program for the State or the one which receives coastal energy impact program financial assistance.

I urge that you support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. HUGHES: On page 173, after line 2, insert the following new section:

DISPOSITION OF REVENUES

SEC. 206. Section 9 of the Outer Continetal Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"SEC. 9. Disposition of Revenues.—(a) For the period beginning June 5, 1950, and ending September 30, 1978, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf can be deposited in the Treasury of the United States and credited to miscellaneous recipts.

"(b) Beginning on October 1, 1978, and for each fiscal year thereafter, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts (other than any amount credited to the Land and Water Conservation Fund pursuant to section 2(c)(2) of the Land and Water Conservation Fund Act of 1965; and of the amounts so deposited, in each fiscal year, 20 percentum, up to a maximum of $200,000,000, shall be credited to the Coastal Energy Impact Fund established by section 308(h) of the Coastal Zone Management Act of 1972, as amended."

Redesignate sections 206 through 208 as 207 through 209 respectively.

On page 268, immediately after line 23, insert the following new subsection:

(e) Subsection (h) of section 308 of the Coastal Zone Management Act of 1972 is amended to read as follows:

"(h)(1) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The Fund shall consist of—

"(A) amounts credited to the Fund under section 9 of the Outer Continental Shelf Lands Act;

"(B) any sums appropriated to the Fund;

"(C) payments of principal and interest received under any loan made under subsection (d)(1);

"(D) any fees received in connection with any guarantee made under subsection (d)(2); and

"(E) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

"(2) Amounts in the Fund received under clause (A) of paragraph (1) of this subsection shall be available to the Secretary for the purpose of carrying out subsection (b) of this section. All payments made by the Secretary to carry out the provisions of subsection (b) shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not appropriated for purposes of subsection (b) shall be returned to the Treasury.

"(4) Amounts in the Fund received under clauses (B) through (D) of paragraph (1) of this subsection shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of carrying out subsections (c) and (d). All payments made by the Secretary to carry out the provisions of subsections (c), (d), and (f) (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided for in appropriations Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d), and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States."

On page 269, strike lines 1 through 9 and insert in lieu thereof the following: "Zone Management Act of 1972 is amended by striking "8 fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984" and inserting in lieu thereof "fiscal years ending September 30, 1977 and September 30, 1978, respectively".".

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, the amendments I am offering provide for the sharing of 20 percent of OCS revenues, up to a maximum of $200 million per year, with the coastal States that are most directly affected by offshore development.

There is strong precedent for the type of program I am proposing.

For many years, the Federal Government has paid coal producing States a portion of the revenues received from Federal mineral leases in those States. Only 2 years ago, the Congress increased the States' share of Federal coal revenues from 37½ to 50 percent, and to 90 percent in the case of Alaska.

This sharing of mineral royalties with the States applies to oil and gas as well produced from federally owned onshore lands.

Money shared with the States under this program has risen from $56.7 million in 1974 to $173.9 in fiscal 1978. The administration estimates that coal revenue sharing will amount to $202 million in fiscal 1979, and we can doubtless expect further increases in future years.

I might add that those amounts paid to the coal States are in addition to

Federal payments in lieu of taxes for the same lands owned by the Bureau of Land Management.

There are, of course, very good reasons why the interior States should receive a share of Federal coal revenues. As was pointed out in the committee report to accompany the Coal Leasing Act Amendments, "when an area is newly opened to large scale mining, local governmental entities must assume the responsibility of providing public services needed for new communities, including schools, roads, hospitals, sewers, police protection, and other public facilities. * * * An effort must be made to alleviate these problems by making funds available for the various aspects of community development."

As a result of those findings, the Congress increased coal revenue sharing by 12½ percent.

The committee report also quoted a report by the Council on Economic Priorities as follows:

> The sudden jump in population growth, the emergence of urban centers, and the possible "boom-bust" economic cycle will cause many social and cultural changes. The Bureau of Reclamation predicts that coal development in the Northern Great Plains could result in "the seven-fold increase in the present population," because between 200,000 and 400,000 people are expected to migrate to eastern Montana.

I supported increased revenue sharing for coal-producing States in the last Congress because I was convinced of the need. And I am likewise convinced of the need to share Federal OCS revenues to a lesser extent with the coastal States.

It has been estimated that, in the mid-Atlantic region alone, between 5,600 and 20,000 people will move into the region, depending upon how much oil or gas is found off our shores. With these new residents will come the need for new public services, such as water and sewer, waste disposal, police and fire protection, educational and health facilities, and many other services.

We will also have to plan for and accommodate new facilities relating to offshore production, such as onshore operations bases, pipeline shore terminals, gas processing plants, offices of various kinds, cement and mud suppliers, warehouse, tool rental companies, and an endless array of other facilities.

A lot of people might look at this situation and conclude that it means we will have a great economic boom, and we do not need financial assistance. But I think my colleagues from the coal producing regions know that this is not true, as do my colleagues from the Gulf Coast States.

In Louisiana, between 1938 and 1971, 80 percent of all manufacturing investment—some $5 billion—was in the coastal parishes, reflecting support for offshore development. Over 100 major petroleum and petrochemical plants were located in the coastal parishes.

A 1973 study compared tax revenues in Louisiana from oil-related facilities with the costs incurred in providing public services and facilities for persons directly or indirectly involved in operating them, as well as their families. The study concluded that Louisiana had sustained a net loss of $38 million during 1972 from Federal offshore oil and gas operations.

This conclusion bears out the testimony we heard from local officials in the Cook Inlet, Alaska area, where tax revenues always lagged behind the need for improved public facilities generated by offshore development.

It is clear that decisions made in Washington on offshore leasing have a great deal of impact in the States that are adjacent to the lease area. But although it is the coastal States that must bear the impacts, the revenues go to Washington.

The coastal States in the frontier areas are prepared to do their part to meet our Nation's energy needs. But we do not want to see the mistakes of the past repeated in some of our coastal areas. To help cope with those impacts, I am hopeful that the House will recognize that additional funding is necessary, and entirely consistent with other efforts we have made to cope with impacts related to energy development.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, I think the committee bill which does provide $125 million for these purposes is a good measure. I congratulate the chairman of my committee for his leadership in seeing that we did have some provision for impact aid that does track to some extent the Coastal Zone Management Act.

I think, however, my amendment is a better approach. I think it is going to pave the way for the kind of OCS development we need in this country. I think it is going to provide the kind of assurance to the coastal States that they need to plan for offshore impact.

I am also going to offer two other amendments subsequently. They are amendments which would broaden the formula from a 50 percent leasing and 50 percent landing to a formula based on 50 percent leasing, 25 percent landing and 25 percent production. I will describe those amendments a little later in our debate.

I will also offer another amendment directed to the 2 percent minimum which I think improves the language of the bill and makes certain that the moneys will go to the areas that actually have the impact.

Mr. Chairman, I urge my colleagues to support these amendments.

Mr. TREEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in strong support of the amendments offered by the gentleman from New Jersey (Mr. HUGHES).

This is an issue that we had in our committee, on which there was some division, but there was in the committee strong support for the proposition that the coastal States must be compensated for some of the impacts that result from OCS activity.

As a matter of fact, Mr. Chairman, the President of the United States recognizes this. During the campaign, a few days before the election, in Louisana, he pointed out that the coastal States do need help as a result of these impacts. He promised to try to provide that help.

Mr. Chairman, I suggest to the Members that this is where we should do it, and this is the manner in which we should do it.

Some people say that when we have OCS activity off the coast of a State, it helps the economy of that State. We have had a lot of economic activity in Louisiana, particularly along the coast, because of OCS activity, a lot of frantic activity, ever since we started with offshore drilling in 1946. That has been one of the problems. It has been frantic. As we have moved more and more into increased production on the OCS, we have had to rapidly make decisions and implement decisions which have affected our social life, our economic life, the public facilities that we have, and the wetlands that we enjoy in south Louisiana.

We have this increased economic activity, and the Members who represent other coastal States are going to have it as there is more and more OCS activity in their States.

However, Mr. Chairman, there is something we should recognize about this increased activity. We are not going to get from this increased activity the tax revenues that we do from economic activity which is located onshore. The reason is that this activity is carried on in the Federal domain, and we may not collect any sales taxes for what is sold that goes into the OCS activities beyond 3 miles. No ad valorem taxes may be collected on any of these facilities that are out there, whereas if they were onshore, your States and your local governments would have the capacity to extract taxes from these facilities. Therefore, with respect to two major sources of revenues, both local and State, some States are going to be shortchanged.

Therefore, Mr. Chairman, I say, yes, we do have increased economic activity onshore, but we are denied what ordinarily would be tax resources as a result of that activity if the same.

That has happened in Louisiana. We have economic activity, and we have sustained some impacts that are detrimental to our State.

Mr. Chairman, we have in south Louisiana one of the most magnificent wetland basins in the world, the Atchafalaya basin. It is laced now with pipelines. They are getting ready now for another one 67 miles long from one of our salt domes, where we are going to store oil, in the case of an emergency, under the strategic oil storage program. That will run 67 miles across this beautiful basin, a pipeline to bring the oil to another pipeline so that we can put it into our system if and when we have that emergency.

Our wetlands are crisscrossed with channels of all kinds, channels to permit rigs to be moved, channels for pipelines, gas pipelines and oil pipelines. Our highways are in deplorable condition because of the necessity to bring heavy

equipment across highways that were not designed for that purpose, to bring drill pipe and heavy drilling equipment that goes to these rigs. As a result, all down through this fragile wetlands area we find our roads in terrible condition.

Mr. Chairman, this has happened because off the coast of Louisiana we have been serving our interests, yes, but the interests of this country, in providing additional energy sources. The other States are going to have these problems that I am talking about. And, those Members who are from interior States should support this as well.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has expired.

(By unanimous consent, Mr. TREEN was allowed to proceed for 2 additional minutes.)

Mr. TREEN. As I was saying, Mr. Chairman, Members from interior States should support this, too, because one of the problems that we have had in this country is that there has been resistance from the coastal States, other than Louisiana, Texas, and Mississippi, to OCS activity. There have been concerns about the environment, and I appreciate these concerns that the other States have, but we have had a lot of resistance.

I would suggest to you that one of the advantages of this program will be to cut down some of the apprehension of these States so that we can get on with energy production. They will have some money to compensate for these impacts and that will tend to minimize their fears. I think that will be encouraging to our energy goals. That should concern all of us whether we live in a coastal zone or in an interior State.

The program is subject to appropriation, it is not an automatic revenue sharing program, so it can be controlled, if that is necessary, through the appropriations process. Also it is tied to the coastal zone management program.

I suggest to my colleagues that this is the way for us to move ahead to produce and to protect the legitimate interests of the coastal zones.

Mr. MURPHY of New York. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, the amendment drafted by my friend and colleague, the gentleman from New Jersey (Mr. HUGHES), certainly has a laudable purpose. The purpose, of course, is to take 20 percent of the revenues derived from the oil and gas presumably to be found on the coastal zones of up to $200 million and then, under a very complex formula, to allocate it on a State-by-State basis.

The committee in its wisdom dealt with this problem and set a ceiling of $125 million. The Senate in its deliberation set a ceiling of $75 million.

I might say that the distinguished Senator from Louisiana was the proponent of that level of funding.

Mr. TREEN. Will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Louisiana.

Mr. TREEN. The gentleman is not suggesting that our Senator JOHNSTON from Louisiana would not support this higher range?

Mr. MURPHY of New York. I was merely stating an historical legislative fact that the $75 million level on the Senate side was his proposition.

Mr. Chairman, a careful analysis of this committee as it went from coast to coast and evaluated the cost effects on the intrusion of OCS activities into the coastal zones gave rise to the Coastal Zone Management Act of the last Congress on which the gentleman from Louisiana (Mr. TREEN) and the gentleman from New Jersey (Mr. HUGHES) worked on very carefully to bring about, because where the Federal Government does impact a State, particularly its coastal line, the Federal Government should bear the burden of that impact. That is the philosophy. We are trying to narrow it down as indicated as to demonstrated impacts in this fund. The $200 million in my judgment and in the judgment of the committee, is too high a figure in dollars to be put aside.

Mr. Chairman, that is why I rise in strong opposition to the amendment offered by the gentleman from New Jersey. This amendment would provide for 20 percent of OCS revenues, with a ceiling of $200 million per year, within the context of the Coastal Zone Management Act.

I have two major objections to this amendment.

First, $200 million per year is a dangerously high figure and presumably unacceptable to the administration. The administration has already expressed its concern about the $125 million figure which is in the committee bill as an amendment to the Coastal Zone Management Act.

Finding the proper level of authorization for OCS formula grants is, of course, a difficult process. There is no magic number on which all can agree with respect to providing adequate compensation to the States for their public service, public facility, and environmental costs occasioned by OCS development.

However, after spending some 3 years working on the coastal zone management program in my committee and in analyzing all the information which has been brought to our attention regarding such impacts, the figure of $200 million a year appears to be unconscionably high.

It must be remembered that OCS development will have certain positive economic benefits for some coastal States and local governments. Although the Federal Government bears responsibility for keeping States in a level fiscal position with respect to offshore development, we should not be providing funds which could lead to major and unnecessary public works projects in the fragile coastal zone of our Nation.

Unnecessary funding may encourage strong pressures on States to engage in development activities which are not in the best interest of the preservation of coastal resources. We must attempt to find that delicate balance in terms of funding which will encourage the States to be responsible in their OCS-related decisions. The authorization figure contained in the committee's bill is a more reasonable and more appropriate figure.

The second concern I have with the gentleman's amendment is that I believe it will create complications for the congressional appropriations process. This amendment is technically within the Appropriations Act as it provides that payments made by the Secretary of Commerce can only be made as provided for in Appropriation Acts.

However, the crediting of $200 million per year to the coastal energy impact fund is automatic and beyond the discretion of the Congress. Consequently, enormous pressure will be brought to bear on the Appropriations Committee to appropriate that amount each year. This may or may not be appropriate depending on the level of OCS activities and the precise negative fiscal impacts which such activities may have on various coastal States and local governments.

The congressional authorization and appropriation process has worked well and I believe that we should maintain the integrity of the present process and use the regular authorization language which is contained in the committee bill.

I have always proposed legislation which has conformed to the requirements of the Budget Act and the appropriations process and I believe that it is in the interest of the entire Congress that we continue to do so in the coastal zone program. I have every reason to believe that appropriation levels for the OCS formula grants will be significantly increased at the request of the administration. The present debate of revenue sharing has indicated to the executive branch the strong concern of the Congress that these grants are considered critically important for States to address their public service, public facility, and environmental costs.

Therefore, for these reasons I urge the defeat of this amendment.

Mr. Chairman, at this point I would like to yield to my distinguished colleague, the distinguished gentleman from West Virginia (Mr. SLACK), the chairman of the Subcommittee on State, Justice, Commerce and Judiciary of the Committee on Appropriations.

Mr. STACK. I appreciate the gentleman's yielding.

Mr. Chairman, I, too, rise in opposition to the amendment offered by the distinguished gentleman from New Jersey. I, too, wish to associate myself with the remarks of the chairman of this committee, the gentleman from New York (Mr. MURPHY). As chairman of the Appropriations Subcommittee which has jurisdiction over the Coastal Energy Impact Fund within the Department of Commerce, our subcommittee has a strong record of support for the programs which are financed through this fund. Last year we appropriated $230 million in initial capital for the fund. We were able to do this, Mr. Chairman, through the regular congressional authorization and appropriation process which, in my judgment, has worked very well through the years.

Mr. Chairman, I see no compelling reason to complicate that process by automatically crediting large sums from the fund without any action by the Congress and thereby creating a strong pressure to appropriate such amounts each year. For this reason I wish to join the remarks of our chairman, the gentleman from New York (Mr. MURPHY) in my opposition to the amendment.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. STACK. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

The gentleman does understand that the amendment does provide for the appropriation of funds. Until the funds are appropriated in the regular appropriating process of the Congress, no funds go to the coastal States that are impacted. It is still subject to the appropriation process.

Let me also say to the Chairman that this particular amendment when offered in the committee lost by one vote. It was not an overwhelming vote in support of the $125 million provided for energy impact in H.R. 1614.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HUGHES, and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 1 additional minute.)

Mr. HUGHES. If the gentleman will yield further, let me just finish by saying that was in all fairness the case with a number of amendments in the committee.

Mr. MURPHY of New York. I think the gentleman characterizes the committee well. It was the 10–9 committee, but the very purpose of the committee work was that it be drawn on a regional basis, that it be drawn by membership from the recommendations of the chairmen of the committees who would have had sequential or concurrent jurisdiction over the issue. That is the reason the committee was sharply divided in these areas and, accordingly, we did stay with the $125 million figure. I would hope that the Committee of the Whole would support the committee's funding at the $125 million level and reject this amendment.

Mr. Chairman, I reserve the remainder of my time.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman. I would like to address a question to the gentleman from New Jersey. As I understand it, because of the nature of the gentleman's amendment and the fact that he does create a fund which is certainly larger in amount than the committee bill provides, in the application of the formula in his amendment, States such as Maryland and Delaware which would have close proximity to such an area where oil and gas production will occur will in fact receive a much larger share of the revenues produced. In the case of Maryland, the amount increases from $16,200,000 to $25,300,000. Is that a correct estimate?

Mr. HUGHES. If the gentleman will yield, that is correct.

Mr. BAUMAN. It will also remove some of the inequities for some coastal States, because under the committee bill, as I understand it, depending upon where production occurs, some States might be completely ruled out of the benefits.

Mr. HUGHES. If the gentleman will yield further, I have three major amendments: one for increasing the amount so that 20 percent with a maximum of $200 million of the amount of the fund is still subject to the appropriation process.

Mr. BAUMAN. Yes.

Mr. HUGHES. I have an amendment which I will subsequently offer after we dispose of this amendment which will change the funding formula so it will track the Coastal Zone Management Act. In effect we will not just be paying out the money based upon 50 percent leasing and 50 percent landing, but will take production into account. Production is extremely important since as the gentleman well knows it is at that stage that often bears these onshore impacts.

The third amendment would be to modify the definition of region so that the Secretary would not be paying out the 2-percent minimum as contained in the committee bill unless in fact that State has been impacted. These are subsequent amendments that I will be offering.

Let me just say once again, $200 million is a cap or the maximum amount we are going to be paying out under my amendment. But the formula is based on 20 percent of the OCS revenues not to exceed $200 million. I am not so sure that we will reach the $200 million cap. But we do have such a cap.

Mr. BAUMAN. I thank the gentleman for his explanation and urge support of his amendment.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Jersey. I think he has made a number of good points.

One, in the committee bill as it exists now, it is my understanding when they are considering giving to a coastal State any portion of what is happening off the shore in terms of dollars, they are only considering the amount of oil leased off that coastal State and the amount that is landed. The problem is, many of the New England States will face the situation where they will have leasing done off their coastline but they will not have any oil and gas landed at all.

I am afraid that the formula is defective in that sense, and the formula of the gentleman from New Jersey with a second amendment is a far more preferable amendment and a better approach.

Another point I want to make is that the gentleman has said his formula says 20 percent, a maximum of 20 percent, of all the offshore revenues will go to the some 30 coastal States we have around the United States. I want Members to bear in mind that the interior States right now under the Mineral Leasing Act get 50 percent of all the revenues that are derived from leasing of Federal lands within their State boundaries. They do not have to show any impact whatsoever. They just take the dollar figure and see the total amount the Federal Government should get, and they get half of that.

So when we are talking about equity, we have 30 coastal States of the United States saying we want 30 percent of all the Federal revenues derived from Federal leasing. Unlike the interior States, the coastal States have to show they have been suffering from impact from the offshore leasing.

It is a tightly drawn formula. It is not just tossing out money. It is very tightly drawn and a very solid approach.

The only thing we are talking about in money is the difference between $125 million in the committee bill and $200 million which is in the amendment offered by the gentleman from New Jersey.

Bear in mind that no money will ever reach any coastal State unless we go through the entire appropriation process and through the appropriate committee.

The amendment offered by the gentleman from New Jersey, in my opinion, is a far more preferable approach and takes into consideration more of the things which should be considered and it is a more fair amendment.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, some of the concerns the gentleman just mentioned will apply to several subsequent amendments to be offered by the gentleman from New Jersey, which the committee feels are fully in order, but I might just hopefully close the debate by the statement that, should we go to this $200 million level, there would be enormous pressure on the Appropriations Committee to fund at that level even though the impact on the coastal States would not be at the level of $200 million.

We feel our studies fully bear out that even the $125 million may be very high. We carefully based our formula at that level after lengthy deliberations and I would hope we would not now have excessive funding and take money—which otherwise go to the Federal revenues for national problems—rather than going to a State where there has not been demonstrated an impact.

Mr. BREAUX. I would only say to my chairman in response that the $200 million is the absolute maximum as the outside figure. The 20 percent of offshore revenues could be a lot less than $200 million, and I might be talking about a figure less than the gentleman from New York, the chairman of the committee stated, and it could be less than $125 million. I would certainly hope that would not be the case, but it could be a cap and it might not go up to the $125 million figure.

I think the formula offered by the gentleman from New Jersey is a far more preferable formula. I hope the amendment will pass.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. HUGHES).

The question was taken; and on a di-

vision (demanded by Mr. MURPHY of New York) there were—ayes 21, noes 12.

Mr. MURPHY of New York. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Forty-two Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Commitee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 32]

Addabbo	Eckhardt	Moss
Alexander	Edwards, Ala.	Nichols
Ambro	Edwards, Okla.	Panetta
Archer	Evans, Ga.	Perkins
Armstrong	Fraser	Rhodes
Ashley	Gibbons	Richmond
Beard, R.I.	Gradison	Risenhoover
Bingham	Harsha	Roncalio
Breckinridge	Hawkins	Runnels
Broomfield	Heckler	Ruppe
Brown, Calif.	Huckaby	Scheuer
Brown, Ohio	Hyde	Shuster
Burke, Fla.	Jones, Tenn.	Solarz
Burton, John	Krueger	St Germain
Cederberg	Latta	Steed
Chappell	Lehman	Stockman
Clausen, Don H.	Lujan	Teague
	Lundine	Thone
Collins, Ill.	Madigan	Tucker
Conyers	Mathis	Udall
Cornwell	Mazzoli	Waxman
D'Amours	Meeds	Wiggins
Dent	Mikulski	Wilson, Bob
Derwinski	Mitchell, Md.	Wilson, C. H.
Dickinson	Mitchell, N.Y.	Wright
Diggs	Moorhead, Pa.	Young, Alaska

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 1614, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 355 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. At the time the point of order of no quorum was made, the gentleman from New York (Mr. MURPHY) demanded a recorded vote. Does the gentleman insist upon his request?

RECORDED VOTE

Mr. MURPHY of New York. I demand a recorded vote, Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 279, noes 120, not voting 33, as follows:

[Roll No. 33]

AYES—279

Addabbo	Flood	Miller, Ohio
Akaka	Florio	Mineta
Alexander	Flowers	Minish
Ambro	Flynt	Mitchell, Md.
Ammerman	Foley	Moakley
Anderson, Calif.	Ford, Tenn.	Moffett
	Forsythe	Montgomery
Anderson, Ill.	Fountain	Moore
Andrews, N.C.	Fowler	Moorhead, Calif.
Archer	Frey	
Ashbrook	Fuqua	Murphy, Pa.
AuCoin	Gammage	Murtha
Badham	Gaydos	Myers, Michael
Bafalis	Gephardt	Neal
Barnard	Giaimo	Nichols
Bauman	Gibbons	Nix
Beard, R.I.	Gilman	Nolan
Bedell	Ginn	Nowak
Beilenson	Goldwater	Oberstar
Benjamin	Gonzalez	Ottinger
Bennett	Grassley	Patten
Biaggi	Gudger	Patterson
Blouin	Guyer	Pattison
Boggs	Hall	Pepper
Boland	Hannaford	Pettis
Bonior	Hansen	Pickle
Bowen	Harkin	Pike
Breaux	Harrington	Poage
Brinkley	Harris	Preyer
Brooks	Harsha	Pritchard
Brown, Calif.	Hawkins	Quie
Broyhill	Heckler	Quillen
Buchanan	Hefner	Rangel
Burgener	Heftel	Regula
Burke, Calif.	Hightower	Rinaldo
Burke, Fla.	Hillis	Roberts
Burke, Mass.	Holland	Robinson
Burleson, Tex.	Hollenbeck	Rodino
Burton, John	Holt	Roe
Burton, Phillip	Holtzman	Rogers
Butler	Horton	Rose
Byron	Howard	Rosenthal
Caputo	Hubbard	Rousselot
Carr	Hughes	Roybal
Cederberg	Ireland	Runnels
Chappell	Jenkins	Ryan
Chisholm	Jenrette	Santini
Clawson, Del	Johnson, Calif.	Sarasin
Cleveland	Jones, N.C.	Satterfield
Cochran	Jordan	Sawyer
Cohen	Kazen	Scheuer
Coleman	Kelly	Shipley
Collins, Ill.	Kemp	Sikes
Collins, Tex.	Ketchum	Simon
Conable	Kindness	Sisk
Conte	Kostmayer	Skelton
Conyers	Krebs	Solarz
Corcoran	Lagomarsino	Spellman
Corman	Le Fante	Spence
Cotter	Leach	Stark
Coughlin	Lederer	Steers
Crane	Leggett	Steiger
Cunningham	Lent	Stratton
D'Amours	Levitas	Studds
Daniel, Dan	Livingston	Stump
Daniel, R. W.	Lloyd, Calif.	Symms
Davis	Lloyd, Tenn.	Thompson
de la Garza	Long, La.	Treen
Delaney	Lott	Trible
Dellums	Lundine	Tsongas
Derrick	McClory	Van Deerlin
Derwinski	McCloskey	Vento
Dicks	McCormack	Volkmer
Diggs	McDonald	Waggonner
Dodd	McEwen	Walgren
Dornan	McFall	Walsh
Downey	McHugh	Wampler
Drinan	McKinney	Waxman
Early	Madigan	Weaver
Eckhardt	Maguire	Weiss
Edgar	Mann	White
Edwards, Ala.	Markey	Whitehurst
Edwards, Calif.	Marlenee	Whitley
Eilberg	Marriott	Whitten
Emery	Martin	Wilson, Tex.
Ertel	Mathis	Wolff
Evans, Colo.	Mattox	Wydler
Evans, Del.	Mazzoli	Yatron
Evans, Ga.	Meeds	Young, Alaska
Fenwick	Meyner	Young, Fla.
Findley	Michel	Young, Mo.
Fish	Mikulski	Young, Tex.
Fisher	Milford	Zeferetti
Flippo	Miller, Calif.	

NOES—120

Abdnor	Goodling	Price
Allen	Gore	Pursell
Andrews, N. Dak.	Hagedorn	Quayle
	Hamilton	Rahall
Annunzio	Hammer-schmidt	Railsback
Applegate		Reuss
Ashley	Hanley	Rooney
Aspin	Hyde	Rostenkowski
Baldus	Ichord	Rudd
Baucus	Jacobs	Russo
Beard, Tenn.	Jeffords	Schroeder
Bevill	Johnson, Colo.	Schulze
Blanchard	Jones, Okla.	Sebelius
Bolling	Kasten	Seiberling
Bonker	Kastenmeier	Sharp
Brademas	Keys	Shuster
Brodhead	Kildee	Skubitz
Brown, Mich.	LaFalce	Slack
Burlison, Mo.	Long, Md.	Smith, Iowa
Carney	Lujan	Smith, Nebr.
Carter	Luken	Snyder
Cavanaugh	McDade	Staggers
Clay	McKay	Stangeland
Cornell	Mahon	Stanton
Cornwell	Marks	Steed
Danielson	Metcalfe	Stokes
Devine	Mikva	Taylor
Dingell	Mollohan	Thornton
Duncan, Oreg.	Moorhead, Pa.	Traxler
Duncan, Tenn.	Mottl	Udall
Edwards, Okla.	Murphy, Ill.	Ullman
English	Murphy, N.Y.	Vander Jagt
Erlenborn	Myers, Gary	Vanik
Evans, Ind.	Myers, John	Walker
Fary	Natcher	Watkins
Fascell	Nedzi	Whalen
Fithian	O'Brien	Winn
Ford, Mich.	Oakar	Wirth
Fraser	Obey	Yates
Frenzel	Pease	Zablocki
Glickman	Pressler	

NOT VOTING—33

Armstrong	Krueger	St Germain
Bingham	Latta	Stockman
Breckinridge	Lehman	Teague
Broomfield	Mitchell, N.Y.	Thone
Brown, Ohio	Moss	Tucker
Clausen, Don H.	Panetta	Wiggins
	Perkins	Wilson, Bob
Dent	Rhodes	Wilson, C. H.
Dickinson	Richmond	Wright
Gradison	Risenhoover	Wylie
Huckaby	Roncalio	
Jones, Tenn.	Ruppe	

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. Bingham against.

Mr. Panetta for, with Mr. Breckinridge against.

Mr. Dent for, with Mr. Lehman against.

Mr. Huckaby for, with Mr. Risenhoover against.

Mr. Charles H. Wilson of California for, with Mr. Broomfield against.

Mr. Bob Wilson for, with Mr. Thone against.

Mr. Mitchell of New York for, with Mr. Richmond against.

So the amendments were agreed to.

The result of the vote was announced as above recorded.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to advise the committee that if we could keep the present membership on the floor, I think we just have some relatively technical amendments remaining. The ones I have seen seem to be agreeable to the committee, and we may be able to proceed very expeditiously toward the passage if the membership present would stay.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: On page 265, strike lines 4 through 13 and insert in lieu thereof the following:

(2) by striking out "(A), (B), (C), and (D)" and inserting in lieu thereof "(A), (B), and (C)";

(3) in subparagraph (A), by striking out "one-third" and inserting in lieu thereof "one-half";

(4) in subparagraph (B), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(5) in subparagraph (C), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(6) by striking out subparagraph (D).

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, this amendment has a very simple purpose and should not be controversial.

Under the formula now in H.R. 1614 for allocating funds to coastal States, 50 percent of the funds are distributed on the basis of the amount of Federal acreage that is leased off the coast of each State. The remaining 50 percent would be distributed on the basis of how much oil and gas is landed within each State. In other words, to qualify for funds under the latter part of the formula, a State must actually have oil or gas coming ashore.

Although I strongly support the emphasis of present language on the leasing factor, I suspect that it is possible, if not inevitable, that some otherwise deserving States will be excluded from their fair share under the landings factor.

That is because of the likelihood that some States will have substantial offshore development, with consequent impacts, but no landings.

Massachusetts is one such State—it has no refineries, so there is a good chance it will have no landings. Yet, if oil or gas is found off the New England coast, Massachusetts is likely to experience substantial impacts. Similarly, production from offshore New Jersey might go to some other State, even though we have substantial refining capacity. It is also possible that production from offshore Alaska might be tankered down to the Lower 48 States, rather than be landed in Alaska.

My amendment simply includes offshore production as a 25-percent factor, and reduces landings to a 25 percent factor. The 50-percent allocation to acreage leased is left unchanged by my amendment.

Offshore production inevitably leads to onshore impacts, even though there may be no landings. I feel that the inclusion of offshore production as a factor will provide a meaningful measurement for distributing funds on the basis of a formula that assures that no State receives less than its fair share.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, we have examined the gentlemans' amendment, and we feel that we can accept it.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, we have also examined the gentleman's amendment, and we will be happy to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HUGHES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: On page 265, strike line 24 through line 7 on page 266, and insert in lieu thereof the following:

"(B) (i) If, in any fiscal year, any coastal state will not receive a grant under subparagraph (A), (B) or (C) of paragraph (2), the Secretary shall make a grant to each coastal state in an amount equal to 2 percentum of the total amount available for making grants to all states under such paragraph (2) in such fiscal year if any other coastal state in the same region is receiving a grant under such subparagrhs in such fiscal year: *provided*, That no coastal state shall receive such grant unless the Secretary determinees that it is an affected state.

"(ii) For purposes of this subparagraph, the term 'affected state" means any State—

"(I) the laws of which are declared, pursuant to section 4(a)(2) of the Outer Continental Shelf Lands Act, to be the law of the United States for the portion of the outer Continental Shelf on which any program, plan, lease sale, or other activiity is proposed, conducted, or approved pursuant to the provisions of such Act;

"(II) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of the Outer Continental Shelf Lands Act;

"(III) which is receiving, or in accordance with a proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(IV) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic-infrastructure, resulting from the exploration, devleopment, and production of oil and gas anywhere on the outer Continental Shelf; or

"(V) in which the Secretary finds that because of outer Continental Shelf activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities. "(iii) For purposes of this subparagraph—".

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, my amendment deals with the issue of the 2-percent minimum payment to any State within one of the regions defined in H.R. 1614.

The 2-percent minimum payment is an excellent idea, since it will assure that each State will have a continuity of funding. This is critical since, in the early phases of OCS development, a State will not have any of the offshore production or landings necessary to trigger funding under the formula. Yet, it is during that early startup phase of OCS development that planning funds are most important to prepare for onshore impacts.

The unfortunate aspect of the minimum is that it could result in payments being made to States that do not have and will never have onshore impacts related to OCS development. At present, we do not know which States will or will not have onshore impacts, since we do not know which of our offshore areas will be productive, and which will be dry.

If the area of a particular State is not going to be productive, however, I feel it would be inappropriate to provide that State with the 2-percent minimum. The funding is scarce enough, and it should be devoted only to those States with the greatest need.

To remedy this problem, my amendment provides that the 2-percent minimum funding will continue only so long as a State is determined to be an "affected coastal State." In determining which States are affected coastal States, my amendment utilizes the definition set forth in section (2)(f) of the OCS Lands Act. That section lists five separate criteria to be used in determining whether a State is affected by OCS development. It includes prospective impacts as well.

My amendment will assure that all States with present or prospective onshore impacts will benefit from the 2-percent minimum payment provision. But it also assures that funding will not go to States without impacts, and allow those funds to be channeled to States that are suffering impacts.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, we have examined the gentleman's amendment, and we accept it.

Mr. HUGHES. Mr. Chairman, I thank my colleague.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, we will be happy to accept the gentleman's amendment.

Mr. HUGHES. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN: Page 265, beginning on line 22, strike out "available to the Secretary for payment to all States" and insert in lieu thereof: "credited to the Coastal Energy Impact Fund under section 9 of the Outer Continental Shelf Lands Act for payment to all States".

Mr. TREEN. Mr. Chairman, I hope the majority will accept this amendment. It is being offered here now to conform the bill with the program that was just passed through the Hughes amendment.

There is a limitation in the coastal energy impact program, as now changed by the Hughes amendment, that limits any State to 30 percent of the fund, and I am, with this amendment, simply adding the language that that 30 percent applies to the amount credited to that fund under section 9 of the OCS Lands Act.

So the 30-percent limitation applies to the amount that is credited to the fund as a result of the amendment offered by the gentleman from New Jersey (Mr. HUGHES), and I hope the majority will accept this amendment.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Part of the language contained in the amendment offered by the gentleman from Louisiana (Mr. TREEN)—that is, to strike "1977" and insert "1978" on page 269, line 11, would be acceptable to me. It is in the nature of a technical amendment.

But I have to oppose the section which would place a ceiling of 30 percent on the amount of funds which any individual State could receive under the coastal energy impact program.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, the amendment I am offering now does only one thing: It changes the language on line 22, page 265, so instead of talking about money available to the Secretary, we are talking about money credited to the coastal energy impact fund under section 9.

In other words, the 30-percent limitation will now apply in this fashion: 30 percent to any State in equal amounts credited to the fund. This language is required, because we made the change in the program through the Hughes amendment.

Mr. MURPHY of New York. Mr. Chairman, with that change, I will state to the gentleman that the amendment is acceptable to the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN: On page 269, line 7, strike all on lines 7, 8, and 9 and insert in lieu thereof: "September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary for grants under section 308(b);"

On line 11, strike "1977" and insert "1978".

The CHAIRMAN. The gentleman from Louisiana (Mr. TREEN) will be recognized for 5 minutes in support of his amendment.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, this amendment is, of course, a wise one. It moves the years up, and it is necessary, because we passed the one having to do with the year 1978. The committee is happy to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN: On page 268, after line 23, insert a new subsection (9):

(9) The provisions of Section 308(g)(1) shall not apply to grants made pursuant to this subsection. Any state with a program for managing its coastal resources, whether approved pursuant to Section 306 or not, shall qualify for assistance under this subsection.

Mr. TREEN. Mr. Chairman, this amendment is pretty simple in its impact.

What we have done here a few moments ago, in passing the Hughes amendment, is to improve the coastal energy impact program so that we have a maximum of $200 million to compensate the States for the impacts of offshore development.

Unfortunately, however, there is a problem with that program. No State can qualify for this program unless it has an approved coastal zone management program.

Mr. Chairman, under the Coastal Zone Management Act of 1972, which has been amended several times since, the States are encouraged to set up coastal zone management programs for their wetlands areas, and that is a good idea. I support that concept in Louisiana.

Under the Coastal Zone Management Act, however, that plan must be approved by the Federal Government, if the State is going to be the beneficiary of any of the programs that are set forth in that act, the carrot and stick approach.

The coastal energy impact program that we have in the law now and which has been changed by the amendment of the gentleman from New Jersey (Mr. HUGHES), improved upon by that amendment, is still tied to the Coastal Zone Management Act, so that the coastal State that does not have an approved coastal zone management program will not be able to get a CEIP grant. In other words, those in a coastal State will not be able to get the benefits of the program, which we have just adopted by an overwhelming margin, unless the Federal Government approves the State's land-use program. That is what it is.

In the Coastal Zone Management Act there are lots of criteria set forth which the Federal Government must look at in determining whether a coastal zone management program is approved; for example, "direct State land and water use planning and regulation," * * * "a method for assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit."

Mr. Chairman, the Federal Government, through this program, gets involved in the land use decisions and gets involved in the relationship between local governments and State governments with regard to land use. Therefore, Mr. Chairman, I think we have a dangerous precedent if my amendment is not adopted, because in our other revenue-sharing and other type of grant programs we find that those grants would be conditioned upon the bureaucracy up here approving a local land-use or local land-control program.

Mr. Chairman, those Members who do not believe that the Federal Government ought to get into that sort of thing will want to support my amendment.

Mr. MURPHY of New York. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think the key words in the gentleman's amendment are "any State with a program for managing its coastal resources."

When the Coastal Zone Management Act was passed, the Federal Government sent to the various coastal States $3 million to assist those States in drawing the State's coastal zone management program so that it would be very carefully drawn and would meet certain Federal guidelines. Then it would have consistency with Federal law.

However, Mr. Chairman, this amendment would permit a State, a State like Louisiana which just picked up $414 million in the last amendment, to merely, by having a program, one that is not approved as in accordance with Federal guidelines, go ahead and dispose of this money. However, the amendment makes such a serious modification to the existing requirements that the coastal State could only receive energy impact funds if it is participating in the program.

Mr. Chairman, we want the States to participate in a program that meets certain guidelines and not to just utilize funding that they could get for reasons that are outside of these guidelines.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I thank the gentleman for yielding.

I would just like the record to show that Louisiana is making progress in developing a coastal zone management program and, therefore, would be eligible for the funds under either provision.

Again, I just want the record to show that we are making that progress.

Mr. MURPHY of New York. Mr. Chairman, I think the gentleman should not support this language, because we are dealing not only with Louisiana; we are dealing with 32 other

coastal States, many of which have not made progress and are nowhere near the 3-year requirement we have set, and consequently, I think it would be most unwise to adopt this language.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, it should be understood that in my amendment I do not say a State does not have to have a coastal zone management program. As a matter of fact, my amendment specifically says that a State must have a program for managing its coastal zone areas, but it does not have to have a program that is approved by the Federal Government.

The gentleman from New York (Mr. MURPHY) makes the point that there are a number of States that do not have them approved by the Federal Government. That is my point. They will not be entitled to the funds which have been established in this program if their coastal zone management plans are not approved by the Federal Government.

The State of Louisiana does not have an approved coastal zone management program. I think there are only two or three States of the coastal zones that have these programs approved by the Federal Government. But I reiterate that I am in favor of it for my own State. I hope we can continue it whether or not it is necessary to get these grant funds. But if the grant program has as its legitimate purpose relief to those States for the impacts that they will have as a result of the OCS development then it should not be conditioned upon the State having its program approved by the Federal Government, with each "t" crossed and every "i" dotted by the Federal Government. How the States should manage their coastal zones is a matter which the States are capable of handling themselves.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I certainly want to rise in support of the amendment offered by the gentleman from Louisiana (Mr. TREEN).

Mr. Chairman, in the State of Maryland where almost all of my district is in a coastal zone area—and we have other such districts—there has been a great deal of local opposition to the Federal mandate where, in order to have a plan approved, the bureaucrats can make all sorts of comments and say, "This is what we want you to have, otherwise you will not have the plan funded." They can cut off the funding for the plan. But to make contingent the receipt of of funds we get from the coastal zone development of oil and gas upon Federal approval of the local CZM plan or else it will be rejected is wrong. That kind of a statutory approach, telling the States how they must abide by the Federal planning, is not right.

I would hope we would adopt this amendment so as to give the States the right that they have already under this bill. They do not need Federal planning in the interior States and they do not need it in the coastal zones.

Mr. FISH. Mr. Chairman, I would like to ask the author of this amendment the gentleman from Louisiana (Mr. TREEN) a question. As I understand, this amendment deals with State plans under the coastal zone law at present?

Mr. TREEN. That is right.

Mr. FISH. And as to the penalty to that State that does not have this in its plans?

Mr. TREEN. Yes, a State will not be able to receive the benefits of this program unless it has an approved Federal program. As I understand there are only two States that have federally approved plans. Even though we have had this act since 1972, it is my understanding that only two States have approved Federal programs.

There is something else I would like to point out to my colleagues from New York and that is that they have a tremendous problem in the State of New York on ever getting a federally approved coastal zone management program. As I understand, in the State of New York, under its constitution, local governments have the authority for zoning. There is a great conflict in the State of New York as to whether they ever can get a State plan that is federally approved because the local authorities would have to give up their constitutional power for zoning. So those Members in the State of New York may never get an approved coastal zone management program by the Federal Government. This means that they will not qualify for the CEIP program, the Federal grant program that we have just improved upon a few minutes ago.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, the classic example of the need for the Coastal Zone Management Act program and the Continental Shelf Land Act is the State of Louisiana.

In the very first hearing official after official, businessman after businessman, environmentalist after environmentalist from the State of Louisiana freely admitted that the movement of oil and gas there has had a severe impact on the State of Louisiana. What we are trying to do is to take the experience of the State of Louisiana and prevent it from occurring across the other coastal areas, and I would hope that that situation does not happen again.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FISH was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. So I may continue, will the gentleman yield further?

Mr. FISH. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman.

We have made such substantial progress in 30 of the other States in their moving toward the guidelines of a proper coastal zone management plan, I just think that this amendment here which would uncouple these funds from that legislation is unwise, and I will not support it.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Louisiana.

Mr. TREEN. I thank the gentleman for yielding.

I have just one final comment. Yes, we have had problems in Louisiana about the impact on our coastal zone; there is no question about it. Maybe we should have moved to do something about it sooner, but we think we are capable of doing that ourselves. Insofar as sharing our experience with the rest of the country, we do not have to do that via the Federal bureaucracy. We would be delighted to have all of the administrators of the coastal zones in their respective States come to Louisiana and see how we have coped with the problems we have had. We do not have to go through the Federal bureaucracy for that purpose.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The question was taken, and on a division (demanded by Mr. FISH) there were—ayes 41, noes 63.

RECORDED VOTE

Mr. TREEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electonic device, and there were—ayes 159, noes 230, not voting 43, as follows:

[Roll No. 34]

AYES—159

Abdnor	Edwards, Ala.	Johnson, Colo.
Anderson, Ill.	Edwards, Okla.	Jones, N.C.
Andrews, N.C.	English	Kazen
Andrews, N. Dak.	Erlenborn	Kelly
Applegate	Ertel	Kemp
Archer	Evans, Colo.	Ketchum
Ashbrook	Findley	Kindness
Bafalis	Fish	Leach
Barnard	Flippo	Livingston
Bauman	Flowers	Lloyd, Tenn.
Beard, Tenn.	Flynt	Long, La.
Boggs	Forsythe	Lott
Bowen	Fountain	Lujan
Breaux	Fowler	McClory
Brinkley	Frey	McDade
Brown, Mich.	Gammage	McDonald
Broyhill	Goldwater	McEwen
Buchanan	Gonzalez	McKinney
Burgener	Goodling	Madigan
Burke, Fla.	Grassley	Mahon
Burleson, Tex.	Gudger	Marlenee
Butler	Guyer	Marriott
Caputo	Hagedorn	Martin
Cederberg	Hall	Mathis
Clawson, Del	Hammer-schmidt	Mattox
Cochran	Hannaford	Michel
Coleman	Hansen	Milford
Collins, Tex.	Harsha	Miller, Ohio
Corcoran	Hefner	Montgomery
Cunningham	Hightower	Moore
Daniel, Dan	Hillis	Moorhead, Calif.
Daniel, R. W.	Holt	Murtha
Davis	Hubbard	Myers, John
de la Garza	Hyde	Neal
Derwinski	Ichord	Nichols
Devine	Ireland	O'Brien
Dornan	Jenkins	Pettis
Duncan, Tenn.	Jenrette	Poage

Preyer	Sawyer	Treen
Pritchard	Schulze	Trible
Pursell	Sebelius	Vander Jagt
Quayle	Shipley	Volkmer
Quillen	Shuster	Waggonner
Railsback	Smith, Nebr.	Wampler
Regula	Snyder	White
Roberts	Spence	Whitehurst
Robinson	Stangeland	Whitley
Rose	Stanton	Whitten
Rousselot	Steed	Wiggins
Runnels	Stump	Wilson, Tex.
Santini	Symms	Winn
Sarasin	Taylor	Yatron
Satterfield	Thornton	Young, Alaska

NOES—230

Addabbo	Ford, Mich.	Natcher
Akaka	Fraser	Nedzi
Allen	Frenzel	Nix
Ambro	Fuqua	Nolan
Ammerman	Gaydos	Nowak
Annunzio	Gephardt	Oakar
Ashley	Giaimo	Oberstar
Aspin	Gibbons	Obey
AuCoin	Gilman	Ottinger
Baldus	Ginn	Patten
Beard, R.I.	Glickman	Patterson
Bedell	Gore	Pattison
Beilenson	Gradison	Pease
Benjamin	Hamilton	Pepper
Bennett	Hanley	Pickle
Bevill	Harkin	Pike
Biaggi	Harrington	Pressler
Blanchard	Harris	Price
Blouin	Hawkins	Rahall
Boland	Heckler	Rangel
Bolling	Heftel	Reuss
Bonior	Holland	Rinaldo
Bonker	Hollenbeck	Rodino
Brademas	Holtzman	Roe
Brodhead	Horton	Rogers
Brooks	Howard	Rooney
Burke, Calif.	Hughes	Rosenthal
Burke, Mass.	Jacobs	Rostenkowski
Burlison, Mo.	Jeffords	Roybal
Burton, John	Johnson, Calif.	Russo
Burton, Phillip	Jones, Okla.	Ryan
Byron	Jordan	Scheuer
Carney	Kasten	Schroeder
Carr	Kastenmeier	Seiberling
Carter	Keys	Sharp
Cavanaugh	Kildee	Sikes
Chappell	Kostmayer	Simon
Chisholm	Krebs	Sisk
Clay	LaFalce	Skelton
Cleveland	Lagomarsino	Skubitz
Cohen	Le Fante	Slack
Collins, Ill.	Lederer	Smith, Iowa
Conte	Leggett	Spellman
Conyers	Lent	St Germain
Cornell	Levitas	Staggers
Cornwell	Lloyd, Calif.	Stark
Cotter	Long, Md.	Steers
Coughlin	Luken	Steiger
D'Amours	Lundine	Stokes
Danielson	McCloskey	Stratton
Delaney	McCormack	Studds
Dellums	McFall	Thompson
Derrick	McHugh	Traxler
Dicks	Maguire	Tsongas
Diggs	Mann	Udall
Dingell	Markey	Ullman
Dodd	Marks	Van Deerlin
Downey	Mazzoli	Vanik
Drinan	Meeds	Vento
Duncan, Oreg.	Metcalfe	Walgren
Early	Meyner	Walker
Eckhardt	Mikulski	Walsh
Edgar	Mikva	Watkins
Edwards, Calif.	Miller, Calif.	Waxman
Eilberg	Mineta	Weaver
Emery	Minish	Weiss
Evans, Del.	Mitchell, Md.	Whalen
Evans, Ga.	Moakley	Wirth
Evans, Ind.	Moffett	Wolff
Fary	Mollohan	Wydler
Fascell	Moorhead, Pa.	Yates
Fenwick	Mottl	Young, Fla.
Fisher	Murphy, Ill.	Young, Mo.
Fithian	Murphy, N.Y.	Young, Tex.
Flood	Murphy, Pa.	Zablocki
Florio	Myers, Gary	Zeferetti
Foley	Myers, Michael	

NOT VOTING—43

Alexander	Breckinridge	Corman
Anderson, Calif.	Broomfield	Crane
Armstrong	Brown, Calif.	Dent
Badham	Brown, Ohio	Dickinson
Baucus	Clausen, Don H.	Ford, Tenn.
Bingham	Conable	Huckaby
Krueger	Quie	Stockman
Latta	Rhodes	Teague
Lehman	Richmond	Thone
McKay	Risenhoover	Tucker
Mitchell, N.Y.	Roncalio	Wilson, Bob
Moss	Rudd	Wilson, C. H.
Panetta	Ruppe	Wright
Perkins	Solarz	Wylie

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. Bingham against.

Mr. Huckaby for, with Mr. Panetta against.

Mr. Risenhoover for, with Mr. Brown of California against.

Mr. Teague for, with Mr. Breckinridge against.

Mr. Broomfield for, with Mr. Lehman against.

Mr. Brown of Ohio for, with Mr. Richmond against.

Mr. Crane for, with Mr. Dent against.

Mr. Dickinson for, with Mr. Charles H. Wilson of California against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title IV? If not, the Clerk will designate the title now pending.

The Clerk read as follows:

TITLE V—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 501. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 502. As soon as feasible but no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 503. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 504. Each Federal agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affimative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment conducted pursuant to the provisions of this Act or the Outer Contnental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

SUNSHINE IN GOVERNMENT

SEC. 505. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to, the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

SEC. 506. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal departments and agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope,

and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the natural security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1) an independent determination of the MER (maximum efficient rate) and MPR (maximum production rate) in relation to the actual production from the fields, reservoirs, and wells on the Outer Continental Shelf commencing with production during the twelve-month period immediately prior to the date of enactment of this section, and an independent estimate indicating whether production from such fields, reservoirs, and wells has been less than the maximum efficient rate and maximum production rate, and, if so, the reason for such difference;

(2) an independent estimate of total discovered reserves (including proved and indicated reserves) and undiscovered resources (including hypothetical and speculative resources) of Outer Continental Shelf oil and natural gas by fields and reservoirs;

(3) a determination of the utilization of Outer Continental Shelf oil and natural gas in terms of end-use markets so as to ascertain the consumption by different classes and types of end users;

(4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense; and

(5) an independent evaluation of trade association estimates of Outer Continental Shelf reserves, ultimate recovery, and productive capacity since 1965 which shall be accompanied by a detailed description of procedures used by such associations and the manner in which their data relates to the results yielded in the investigation under this section. In order to provide maximum opportunity for evaluation and continuity, the Secretary of the Interior shall obtain all of the available data and other records which the trade associations have used in compiling their data with respect to reserves.

(e) The Secretary of the Interior shall, not later than six months after the date of enactment of this section, submit an initial report to the Congress on the results of the continuing investigation required under this section and shall submit subsequent reports annually thereafter. The initial report shall include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the required information within a year after the date of enactment of this section. The Secretary of the Interior shall make separate reports on past data as follows:

(1) within six months after the date of enactment of this section, on the acquisition and details of trade association data and information; and

(2) within twelve months after such date, an evaluation of the trade association materials, and within eighteen months after such date, the relationship between trade association data and the new data collected under this section.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

(g) For purposes of this section, the term "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act.

STATE MANAGEMENT PROGRAM

SEC. 507. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except that the time period after which such concurrence shall be presumed shall be three months; or".

RELATIONSHIP TO EXISTING LAW

SEC. 508. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

AMENDMENT OFFERED BY MR. MOORE

Mr. MOORE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORE: Page 277, immediately after line 18, add the following new section:

RULE AND REGULATION REVIEW

SEC. 508. (a) Any rule or regulation prescribed pursuant to this Act or the Outer Continental Shelf Lands Act, as amended by this Act, by the head of any Federal department or agency may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the head of such department or agency. The head of any Federal department or agency who prescribes such a rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within such 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resclution of disapproval of a rule or regulation promulgated under this Act or the Outer Continental Shelf Lands Act, as amended by this Act, shall not be deemed an expression of approval of such rule or regulation.

(c) The provisions of this section shall not apply to any finding or action by the Secretary of the Interior pursuant to section 8(a)(5)(C)(ii) or 8(b)(4) of the Outer Continental Shelf Lands Act, as amended by this Act.

Page 277, line 20, strike out "508" and insert in lieu thereof "509".

Page 129, strike out—

"SEC. 508. RELATIONSHIP TO EXISTING LAW."

And insert in lieu thereof—

"SEC. 508. RULE AND REGULATION REVIEW.

"SEC. 509. RELATIONSHIP TO EXISTING LAW.".

Mr. MOORE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. MOORE. Mr. Chairman, I will not take the full 5 minutes. This amendment is what is commonly known as the legislative veto amendment. This amendment has been adopted by this Congress in the first session some five times which became law and in some additional nine times which is currently awaiting completion of the legislative process.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the committee will accept the gentleman's amendment.

Mr. MOORE. I thank the chairman.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, the minority has examined the amendment and is happy to accept it.

Mr. MOORE. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. MOORE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CLAY

Mr. CLAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLAY: On Page 271, strike lines 6 to 19, and insert in lieu thereof the following:

SEC. 504. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act, shall take such affirmative action as deemed necessary to prohibit all unlawful employment practices and to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI and title VII of the Civil Rights Amendments of 1964, except that such provisions under this Act shall be made to apply to aliens and include employment outside the United States and to which the Secretary of Labor shall not have the authority to grant exemptions.

Mr. CLAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Chairman, I rise today to offer an amendment to section 504 of H.R. 1614, the Outer Continental Shelf Lands Act Amendment of 1977. My amendment would incorporate into the bill, three integral components: First, compliance with title VII of the civil rights act, as amended; second, inclusion of aliens under the requirements of title VII; and three, the incorporation of employment outside the United States under the umbrella of title VII.

H.R. 1614, as reported out of the ad hoc select committee on OCS lands act, contains a provision (second 504) that is exactly the same as contained in S9 already passed by the Senate relating to antidiscrimination. However, as it now stands, it incorporates only title VI of the Civil Rights Act of 1964. Title VI, in general terms, prohibits exclusion from activity or employment on grounds of race, creed, color, national origin, or sex, but it specifically provides that there shall be no administrative correction of unlawful employment practices. Title VII of the Civil Rights Act prohibits unlawful employment practices, which are defined in broad scope and provides administrative remedy as well as Department of Justice intervention.

I also include a provision whereby title VII would apply to aliens and include employment outside the United States and to which the Secretary of Labor would not have authority to grant exemptions.

The report of the ad hoc committee states on page 198 that several Federal programs designated to guarantee equal employment and contracting opportunity, might not be automatically applicable to activities on the Outer Continental Shelf; to insure that such provisions would become applicable, the committee adopted a provision (section 504) to assure that no person shall be excluded from receiving or participating in any activity, sale or employment pursuant to the provisions of the act, on the grounds of race, creed, color, national origin, or sex. The agencies and department, however, are directed to promulgate rules and regulations to provide this protection only in accordance with title VI of the civil rights amendments. If my amendment is not adopted, the important, in fact the vital, part of the Civil Rights Act will be left out of the Outer Continental Shelf Lands Act.

Leaving out title VII of the Civil Rights Act does serious damage to the concept of civil rights. When we examine title VI we find that it specifically states that the construction of its provisions shall not authorize administrative action with respect to employment practices except where the primary objective of Federal assistance is to provide employment. Since the primary purpose of neither the Outer Continental Shelf Lands Act nor this amendment is to provide employment, employers may be able to engage in unlawful employment practices without restriction under these amendments as currently written. If my amendment is adopted, it will add title VII of the Civil Rights Act, which specifically prohibits unlawful employment practices of employers, of employment agencies, of labor unions, and of others.

An unlawful employment practice on the part of an employer is failing to, or refusing to hire, or to compensate, or to grant privileges of employment, because of race, color, religion, sex, or national origin; or to limit, segregate or classify employees or deprive an individual of employment because of race, color, religion, sex, or national origin.

By the same token, an unlawful employment practice on the part of a labor union is to exclude or expel from membership or to limit, to segregate, or to classify its membership or to refuse to refer for employment, because of race, color, religion, sex, or national origin.

Further, recent proposed amendments to the Civil Rights Acts have recognized the fact that civil rights should extend to aliens as well as citizens and should extend to employment outside the United States, and that no one should have the right to grant exemptions.

Only by the adoption of this amendment can it be said that we have served the cause of civil rights in the development of our Outer Continental Shelf lands. Only through adoption of this amendment, can we insure the protection of equal rights under the law.

The ad hoc committee in its report on the bill now before us states on page 198 that all agencies responsible for regulations relating to OCS must insure that equal opportunity be provided to all persons and to all activities associated with exploration, leasing, development, and production, and that specifically includes employment, bidding and awarding of contracts and subcontracts relating to the Outer Continental Shelf. We have no assurance that affirmative action programs will be required in these leases and in these contracts unless we make certain that the provisions of title VII come into play.

It can be argued that these programs will automatically apply to Outer Continental Shelf activities, and therefore, we do not need these antidiscrimination provisions. That argument has some validity because we are dealing here with binding contracts between the Government of the United States and contractors and subcontractors that provide for the use of Government property. However, the ad hoc committee has already decided that the antidiscrimination provisions should be spelled out as applicable here. Therefore, they should be. But let us spell them all out, not just one.

The Congress long ago adopted the policy of enumerating constitutional requirements in legislation for the purpose of using the leverage of the Government's immense purchasing power to assure equal employment opportunity, raise labor standards and prevent unlawful employment practices.

The Equal Employment Opportunity Commission has recently announced new "procedural regulations" on administering and enforcing title VII of the Civil Rights Act of 1964.

Unless this amendment is adopted we will not have the benefit of any of these progressive steps relating to equal rights. We must make certain that the requirements of title VII of the Civil Rights Act are included in H.R. 1614.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the committee is happy to accept the gentleman's amendment.

Mr. CLAY. I thank the Chairman.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, the minority is familiar with this amendment from past offerings in legislation, and we will be glad to accept it.

Mr. CLAY. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. CLAY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: Page 277, immediately after line 18, insert the following new section:

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 508. Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation, or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment, is properly trained to operate, or supervise the operation of such equipment, as the case may be.

Page 277, line 20, strike out "Sec. 508." and insert in lieu thereof "Sec. 509."

Page 129, in the table of contents for title V, strike out "Sec. 508. Relationship to existing law." and insert in lieu thereof the following:

"Sec. 508. Recommendations for training program."

"Sec. 509. Relationship to existing law."

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to title V of the bill to help insure that those individuals who are directly responsible for the operation, implementation, and/or supervision of antipollution equipment know how to operate this equipment and can effectively install and operate it during emergency conditions.

My amendment is quite simple and, I should think, not controversial. Simply

stated, the amendment would require the Secretary of the Interior, in consultation with the Coast Guard, to submit his recommendations to Congress within 90 days after the date of enactment for a training program for key OCS employees. The program should be directed to those individuals who are directly responsible for the implementation and operation of antipollution equipment, and primarily we are talking about antiblowout preventers. At such time the Congress receives the Secretary's recommendations, it would be my hope that the appropriate committees would review the Secretary's recommendations in both an oversight capacity and also to determine if further legislation is necessary.

Mr. Chairman, as you may know, the Department of Interior, through the U.S. Geological Survey, recently completed work on such a training and certification program and declared that all drilling crew members must attend a certified school in order to stay on the job. I commend the Department for their commitment and responsiveness in this matter. I should point out that the Department now has the regulatory authority to institute such a program.

In light of this recent development, I believe my amendment has perhaps a greater significance and need now than before the Department's action. First, it would provide for congressional oversight, which I believe to be very important to assure the training program is both effective and would not seriously disrupt OCS activities for frivolous purposes. Second, it would mandate into law, the commitment of Congress to a training and certification program for key OCS workers. Under the current authority, the Department of Interior may or may not institute such a program; and subsequent administrations may decide to discontinue the program. It seems to me this matter is of vital concern. It could lead to significantly improved OCS safety records and the Congress should endorse it.

The need for a Federal training program has been tragically demonstrated all too often in the past. The disastrous blowout in the Santa Barbara Channel in 1969 resulted in millions of dollars in damage and severe environmental impacts. Thousands of birds were contaminated and died, the beaches were fouled, and commercial and pleasure craft were coated with black crude. This tragedy resulted at least in part because of inexperienced and poorly trained crews who failed to act with established procedure during an emergency situation. In fact, the crews committed one mistake after another, and still the situation could have been brought under control if the proper procedure had been followed at the very last.

Following the most recent blowout, in the North Sea, an official commission of inquiry ruled that insufficient training, poor organization, and inadequate inspections were responsible for that mishap which resulted in millions of gallons of crude being dumped into the ocean. I understand that the crew tried to put the blowout preventer upside down. In fact, if one studies the causes of all of the significant accidents on the OCS you find that a major portion is directly attributable to human error and poor training; not equipment failure. Clearly, there is sufficient cause for responsible Government action to rectify this situation and just as clearly there is a responsibility with this body to insure that Federal training programs are effective and will not unnecessarily disrupt production activities on the OCS.

Mr. Chairman, I want to emphasize that my amendment will not in any way interfere with the ongoing efforts of the Department of the Interior to establish a training and certification program. The amendment will, however, demonstrate congressional interest in the safe development of OCS oil and gas.

In closing, I want to point out I have contacted every responsible party I could think of that may have an interest in this amendment. I, and my staff, have checked with industry representatives, environmental groups, and the U.S. Geological Survey and all have been supportive of the concept.

I urge adoption of the amendment.

Parties we have contacted:

Santa Fe International Corp., Mr. Charles R. Ball, Jr.

American Petroleum Institute, Mr. Jack Ware.

U.S. Geological Survey, Mr. Dick Foot.

Majority counsel, OCS Committee, Marty Belsky.

National Oceans Industry Association, Charlie Mathews.

Congressman BREAUX, Val Marmillion.

NACOA, Mr. Jack Willis.

All the above individuals expressed support, or at least did not express opposition to the amendment.

Mr. Chairman, as you know, the proponents of H.R. 1614, the Outer Continental Shelf Lands Act amendments say it is legislation critical to the future safe and ecologically compatible development of our offshore oil and gas reserves. This legislation is of, perhaps, greater concern to my constituents because they live along the Santa Barbara Channel, which has the dubious distinction of being the only area in the United States to have suffered through a massive offshore oil well spill. Certainly no one in my district, or anywhere for that matter, whether they be opponents or proponents of increased offshore drilling, would like to see a repeat of the 1969 blowout. As such, some legislation is necessary for both the beauty and environmental integrity of the area and also for economic prosperity.

Without a doubt, H.R. 1614 is controversial. I, for one, had serious reservations about certain provisions contained in the bill which came to us from committee. I am pleased to say, however, that I feel that this body has acted responsibly during our consideration of this legislation by adopting amendments which, in my opinion, greatly improve the legislation. I supported and was pleased to see amendments adopted which struck the Federal exploration and drilling provisions, the dual leasing provisions, mandatory experimental bidding, and expanded OSHA authorities over OCS workers when the Coast Guard has done such a good job in the past.

I was also most pleased to have the House adopt two amendments I offered—one to insure greater local participation in the tract selection process by providing for local public hearings, and another to insure greater environmental safety by demonstrating congressional interest and establishing a degree of congressional oversight in training programs for key OCS workers to insure that they know how to operate antipollution devices such as blowout preventers.

In my opinion, this bill has been greatly improved in critical areas. While some have said that H.R. 1614 is neither an environmental bill nor an energy bill, I think it can now be both if it remains in its present form. We have contributed greatly to the safety, the environmental compatibility, and the well-planned development of our OCS resources to help insure against accidents which result in damaging oil spills which foul our beaches and oceans, and threaten fisheries and other industries which are dependent on the ocean. At the same time, this legislation now provides assurances and direction so that we can get on with the business of producing offshore oil and gas resources so critical to our Nation's energy needs.

Mr. Chairman, I urge my colleagues who will sit on the conference committee on this bill to retain those critical improvements in the legislation made by the House.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the committee has examined the amendment, agrees with the content, and will accept the amendment.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, the minority accepts the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 277, line 20, after "SEC. 508." insert "(a)".

Page 277, after line 24, insert the following:

(b) Nothing in this Act or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) or any other Act shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I offer this amendment to title V. It has been printed in the RECORD, and I offer it on behalf of the ranking minority member of our subcommittee, Mr. BROWN of Ohio, and myself.

Mr. Chairman, on August 4, 1977, Congress enacted the Department of Energy Organization Act which transferred certain Interior Department functions relative to the OCS to the new Energy Department. It also transferred functions of the former Federal Power Commission relative to the OCS to FERC. Additionally, it provided that the information gathering authorities of the DOE Act and section 11 of the Energy Supply and Environmental Coordination Act of 1974 would apply to all functions transferred to the DOE.

The DOE Act, however, was enacted after Chairman MURPHY and the ad hoc committee ordered reported H.R. 1614. Indeed there are some provisions in the bill, such as the new section 5(e) of the OCS Act relative to pipeline rights-of-way and section 506 of the bill relative to information gathering, that appear to be inconsistent with the DOE Act.

Our amendment is technical and conforming. It merely recognizes that the DOE Act provisions shall apply to this bill. I understand that Chairman MURPHY agrees that it was never the intention of the ad hoc committee to undo what Congress did in establishing the new Energy Department and I am sure that he will agree that this amendment is sound and needed.

Our amendment is supported by the administration and by Chairman JACK BROOKS of the Government Operations Committee which handled the DOE law. I urge adoption.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my good friend and colleague, the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, this is the consistency provision having to do with the Department of Energy, and the committee is happy to accept the amendment.

Mr. DINGELL. Mr. Chairman, I thank my good friend, the gentleman from New York.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding.

I understand the gentleman has two amendments, and this is the one having to do with page 277 that deals with the matter of consistency?

Mr. DINGELL. Mr. Chairman, the gentleman is correct. This is the amendment at page 277, line 20. It is the second of the two amendments I have.

Mr. FISH. Mr. Chairman, I thank the gentleman. I am happy to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to direct a question to the chairman of the committee.

On pages 274 and 275 of the committee bill there is mandated an investigation by the Department of the Interior to find certain information relative to the extent of energy resources on the Outer Continental Shelf. On page 275, line 9, the bill specifically mandates an investigation which will include an independent estimate of total discovered reserves, and so on.

Is my interpretation correct that this in no way would permit the Department of the Interior to engage in any sort of exploratory drilling or production or other activities of this nature such as were ruled out by Studs-Treen amendment yesterday?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, let me state that the gentleman from New Jersey (Mr. HUGHES) was the author of this amendment in the committee, and I will ask him to respond to the gentleman's question.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding.

I can assure the gentleman from Maryland (Mr. BAUMAN) that there is nothing in the language that would permit the Secretary to enter into Federal exploration to determine oil and gas resources.

I might also say to the gentleman that I do have some additional perfecting language which is supported by the administration. I will be offering such an amendment.

Mr. BAUMAN. In the additional language the gentleman will offer, would there be any authorization for any Federal drilling or production activity?

Mr. HUGHES. Mr. Chairman, I can assure the gentleman there would not.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, if I may respond further, just to make it crystal clear, I will say that the intent of the gentleman from New Jersey (Mr. HUGHES) would agree with the intent of the committee.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for clarifying this matter.

Mr. BAUMAN. Mr. Chairman, I would just at this point like to urge the support of this legislation.

I was one of those Members who voted against reporting this bill from the committee, although I had supported an improved version last year.

One of the principal reasons I opposed the legislation was, as has been noted, that it did at one point, before our deliberations changed it by an overwhelming vote, offer the possibility of Federal exploration and perhaps production of oil and gas. That we do not need. There has been a number of major improvements made in this bill. It contains provisions to protect coastal areas and give States and local governments a say in leasing decisions. Its revenue sharing provision has been improved.

The only thing I would hope is that we would not now go to conference with the other body and sell out the position of this House. I would recall the history of this legislation last year. That is precisely what happened last year, and the net result was that the OCS bill came back from conference, was defeated, and sent back to conference where it died.

So, Mr. Chairman, I would hope, after the debate we have had during these many days, that we will stand by our position, and I urge support for the legislation.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: On page 274, strike line 21 through line 25 on page 276, and insert in lieu thereof the following:

(d) The investigation conducted pursuant to this section shall include, among other items—

(1)(A) a determination of the maximum attainable rate of production (MAR) of crude oil and natural gas from significant fields on the Outer Continental Shelf; and

(B) an analysis of whether the actual production has been less than the MAR and, if so, the reasons for the differences.

(C) For purposes of this subsection, the term "maximum attainable rate of production" or "MAR" means the maximum rate of production of crude oil and natural gas which may be produced under actual operating conditions without loss of ultimate recovery of crude oil and natural gas.

(2) an estimate of the total discovered crude oil and natural gas reserves by fields (including proved and indicated reserves) and undiscovered crude oil and natural gas resources (including hypothetical and speculative resources) of the Outer Continental Shelf;

(3) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense;

(4) an independent evaluation of trade association procedures for estimating Outer Continental Shelf reserves, ultimate recovery, and productive capacity for years in which trade associations made such estimates. In order to provide maximum opportunity for evaluation and continuity, the Secretary shall obtain all the available data and other records, including a description of the methodology and estimating procedures, which the trade associations used in compiling their data with respect to the reserves.

(e) The Secretary shall, not later than one year after the date of enactment of this section, submit an initial report to Congress. The initial report shall include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the information required in subsections (d)(1)(A), (d)(2), and (d)(3) of this section on the day following the first complete calendar year after enactment, and every two years thereafter. The Secretary shall make separate re-

ports on the data acquired pursuant to subsection (d)(4) of this section as follows:

(1) a report within six months after the date of enactment of this section, on the acquisition and details of trade association data and information;

(2) within twelve months after submission of the report required by subsection (e)(1) above, an evaluation of the trade association materials; and

(3) within twelve months after submission of the report required by clause 2 of this subsection, the relationship between trade association data and the new data collected under this section.

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, the amendments I am offering incorporates the recommendations of the administration with regard to section 506, which provides for an investigation and review of the availability of oil and natural gas from the Outer Continental Shelf.

The basic purpose of the section 506 is to assure that the Federal Government has adequate, independent information concerning the amount of our oil and gas resources on the Outer Continental Shelf. However, as now drafted, they have pointed out a number of problem areas. As the individual who offered this section 506 in committee, I am happy to accept the administration's recommendations, which I feel would make the program more workable and feasible.

Basically, the amendment changes three aspects of section 506:

It substitutes the term "maximum attainable rate of production" for "maximum efficient rate." Over past years, the maximum efficient rates has proved difficult to work with, since it is more or less hypothetical. Maximum attainable rate is a much more feasible and practical term for assessing the actual producing capacity of any given reservoir.

The amendment requires review of only significant fields, rather than an undefined category of fields as now provided in section 506. By concentrating on significant fields, the program can be more cost effective;

The amendment also provides for a revised time frame for reports to Congress under this section, to provide for continuity in statistical data collection techniques.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the administration supports this amendment, and the committee supports it.

Also, it would reduce the costs of investigation and fulfill the original intent and it would further allay the concerns of the gentleman from Maryland (Mr. BAUMAN).

Mr. Chairman, we are happy to support the amendment.

Mr. HUGHES. I thank the gentleman.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I would like to ask the gentleman a question.

The gentleman's amendment says that the Federal Government should find out more about the reserves and resources. There is no problem with that.

However, the Senate version of this amendment goes one step further and says that the Federal Government can do a lot more in finding out what the resources are.

The gentleman's amendment, as I understand, does not have that provision in it; does it?

Mr. HUGHES. I can assure the gentleman that it does not.

Mr. BREAUX. Mr. Chairman, I would hope that the gentleman would support that provision when we get to conference and not support the Senate provision which would add that section to it.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I am not going to oppose the gentleman's amendment because I consider it to be an improvement over the committee bill, although my preference would be to see the entire section 506 stricken.

As the gentleman knows, section 506 says that there is a serious lack of adequate basic energy information, which should be called for; and that again, there is currently an urgent need for this information. I think what it says is totally erroneous and misleading.

Mr. Chairman, would the gentleman turn to page 217 of the bill. On line 5 it says the following:

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

I do not think there is any justification for a finding that there is indeed a serious lack of adequate basic energy information in the Nation. I think we have all the information we need today.

Mr. HUGHES. Mr. Chairman, I welcome the gentleman's support.

All I can say is that I think much of the data we have resembles fiction sheets more than anything else because we have relied too heavily upon industry to furnish us with this data.

I do think it is time that we have an independent determination of our resources.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 270, strike out line 18 and all that follows down through the period on line 4 on page 271 and insert in lieu thereof the following:

SEC. 503. (a) The purpose of this section is to encourage expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company.

(b) The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promptly promulgate and publish in the Federal Register a statement of Commission policy which carries out the purpose of this section and sets forth the standards under which the Commission will consider applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements the Commission will apply in determining:

(1) whether the application of any local distribution company qualifiies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation. Such statement of policy shall also set forth the terms or limitations on which the Commission may condition, pursuant to section 7 of the Natural Gas Act, the issuance of a certificate of transportation under such statement of policy.

(c) For purposes of this section:

(1) the term "local distribution company" means any person:

(A) engaged in the distribution of natural gas at retail; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof.

(2) The term "interstate commerce" shall have the same meaning as such term has under section 2(7) of the Natural Gas Act.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. MURPHY of New York. Mr. Chairman, would the gentleman yield?

Mr. DINGELL. I would be glad to yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, this amendment again is acceptable to the committee and acceptable to the administration and is in consistency with the other regulations.

Mr. DINGELL. I thank the gentleman.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I would be glad to yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I would hope the gentleman from Michigan (Mr. DINGELL) would take just a few minutes to explain his amendment.

Mr. DINGELL. I would be happy to do so briefly.

Mr. FISH. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, this is an amendment that is very similar to an amendment offered earlier by myself on behalf of my friend and colleague, the gentleman from Ohio (Mr. BROWN), who is the senior minority member of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce. The amendment is quite similar to that offered and accepted to the Breaux substitute by the House last week. In order to clarify the purposes of the section, some changes have been made at the suggestion of FERC and Mr. Fred Moring of the Associated Gas Distributors who are the beneficiaries of this provision. Both FERC and the AGD advised my staff that they support this amendment. The administration supports this amendment, as changed.

Section 503 relates solely to the certification, transportation, and distribution of natural gas and directly affects matters within the jurisdiction of our committee. It is a special interest section benefiting the big gas distributors, such as Washington Gas Light, Philadelphia Gas, and others. It is opposed by the Federal Energy Regulatory Commission, as noted in a January 26, 1978, letter to me (CONGRESSIONAL RECORD, page 977, January 26, 1978).

Our amendment achieves the objectives sought to be accomplished by the ad hoc committee without creating the potential adverse consequences of the broader language utilized by the ad hoc committee. Our amendment goes beyond present law. Under present law, the discretionary nature of FERC's authority has created uncertainty. It is this uncertainty which the ad hoc committee sought to remove. The amendment changes present law by requiring FERC to promptly prescribe, after a period of public participation, including public hearings, a statement of Commission policy setting forth the standards on which future Commission action on applications for transportation certificates by local distribution companies will be based. The policy must be consistent with the purposes of the section. This statement of policy will give local distribution companies the assurances, lacking today, but needed before they can justify the large front-end investment required to develop OCS natural gas resources.

The amendment leaves the FERC its existing authority under the Natural Gas Act to assure that the public convenience and necessity is served by the grant of a transportation certificate. The retention of this authority is essential to assuring that abuses and unintended adverse consequences may be controlled or eliminated by FERC. The policy statement and any later revision thereof will prescribe general terms and conditions to be included in the certificate. It allows FERC to provide special conditions that may be needed on a case-by-case basis.

In summation, the amendment requires FERC to set forth the rules of the game, in advance, thereby removing the uncertainty which presently limits participation by local distribution companies in OCS leasing. Thus, the amendment accomplishes the objectives set forth in the report of the ad hoc committee, but avoids the potental for serious adverse consequences created by the overly broad language in the bill. It allows FERC to determine, by policy, when and under what circumstances such certificates are, in fact, in the public interest and to avoid or prevent problems for the pipelines, other distributors, and the users and to prevent, to the greatest extent possible, high costs to the ratepayers.

I urge its adoption.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am glad to yield to my friend, the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding. If I could just ask a few questions of the gentleman, I will try to abbreviate them.

In the amendment it calls for a statement of commission policy. I am curious as to the effect of the statement of commission policy. Will it stipulate certain conditions which if met by an applicant distribution company would result in its being granted the right to transport any OCS gas they find back to their services area?

Mr. DINGELL. That is correct. I would like to tell the gentleman that the issuance would be automatic at that point, but what would happen would be that the gas company then, after the rules were drafted, would go in to FERC, and if it could show it met the criteria, it could get almost the pro forma issuance of the certificate for the carrier, assuming there was space in the pipeline and other good-sense conditions were met.

Mr. FISH. If the FERC finds under 503(b)(2) of the gentleman's amendment that the public convenience and necessity will be served by the issuance of a requested certificate of transportation, does that mean that a company would get the certificate just on the basis of this finding?

Mr. DINGELL. Yes, subject to the availability of space in the pipeline and subject to the fact that it would not foul up, let us say, the existing priorities with regard to small businesses, residential householders, schools, hospitals, and agricultural priorities, and perhaps some safety conditions that might be sensibly imposed by FERC.

Mr. FISH. I thank the gentleman and support his amendment.

Mr. DINGELL. I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

TECHNICAL AMENDMENTS OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent that I may be permitted to offer certain technical amendments that have already been agreed to by the minority and have already been drafted.

The Clerk read as follows:

Technical amendments offered by Mr. MURPHY of New York:

On page 140, between 13 and 14, add the following new subsection: "(r) The term 'minerals' includes oil gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an act of Congress to be produced from 'public lands' as defined in Section 103 of the Federal Land Policy and Management Act of 1976."

On page 135, lines 3 and 4, change "(1) deposits of oil, gas or other minerals, or (2) geothermal steam;" to "deposits of minerals:". On page 128, lines 6 and 7, change "oil, natural gas, or other minerals, or geothermal steam," to "minerals", and make the same change in three other places: page 138, line 18; page 139, lines 1 and 2; and page 139, line 14. On page 139, lines 16 and 22 and on page 140, line 1, delete the words "or geothermal steam". On page 148, lines 3 and 4 add line 25, delete the words "or geothermal steam resources."

On page 145, lines 6–8 delete "within the fishery conservation zone or within fifty miles of any artificial island, installation, or other device referred to in subsection (a) of this section"; on lines 15–16 delete "jurisdiction of such Secretary with respect to the"; and on page 146, line 20, delete "; and "and all that follows through line 23.

On page 148, line 21, change "unavailability" to "construction or negotiation for use".

On page 149, line 3, add "under (A) or (B)" after "prohibition".

On page 152, line 13, change "extension, renewal, or replacement" to "assignment or other transfer".

On page 152, delete lines 16–19.

On page 152, line 22, delete "if the" and all that follows through "hereof" on page 153, line 1.

On page 153, line 8, delete "if the lease" and all that follows through "hereof" on line 12.

On page 156, lines 13–14, delete "which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act."

On page 156, line 14, before the word "The" add the following sentence: "Such regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary announces his decision on whether to accept the bids, with the interest earned thereon to be paid to the Treasury as to bids that are accepted and to the unsuccessful bidders as to bids that are rejected."

On page 165, line 9, add the word "planned" after "systems".

On page 165, line 11, add the word "expected" before "benefits".

On page 167, line 25, after the word "areas" add "because"; and on page 168, amend line 1 as follows: "unusually deep water or other unusually adverse".

On page 169, amend lines 19 through 25 to read as follows: "No lease may be issued to a bidder if the Secretary finds that the bidder is not meeting due diligence requirements on other leases."

On page 170, line 16, before the word "offered" add "proposed to be".

On page 172, delete lines 21 through 25, and on page 173, delete lines 1 through 2.

On page 179, line 25, delete the word "indicate" and in its place add "consist of a schedule of proposed lease sales indicating".

On page 182, change "baseline" to "environmental", and on line 23 delete "baseline"; on page 189, line 19, change, "BASELINE AND MONITORING" to "ENVIRONMENTAL", one line 21 delete "baseline", and on line 22 change "concerning the status of" to "needed for assessment and management of environ-

mental impacts on"; on page 190, line 11, change "baseline" to "environmental", and on line 22 change "baseline" to "environmental"; on page 191, line 22 change "baseline" to "environmental"; and on page 128, change the title of Section 20 from "Baseline and Monitoring Studies" to "Environmental Studies".

On page 188, line 13, delete the word "full".

On page 190, line 4, change the word "scheduled" to "announced by publication of a notice of proposed lease sale".

On page 190, lines 9 through 10, delete the words "in conducting any such study".

On page 194, line 11, delete "or duplicate".

On page 196, line 22, change "over" to "during".

On page 205, change the word "section" to "Act" on lines 4, 5 and 7.

On page 205, line 15, change "commercial quantities" to "paying quantities."

On page 208, amend lines 4 through 7 as follows: "the Governor of any affected State, and upon request, to the executive of any local government, and shall make such draft available to any appropriate interstate regional entity and the public."

On page 208, line 12, after the word "Secretary" add the words "or from the date it is made available".

On page 214, amend lines 1 through 5 as follows: "be cancelled in accordance with section 5 (c) and (d). Termina-"

On page 216, amend lines 3 through 6 as follows: "the Secretary access to all data and information (including processed, analyzed and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accord-"

On page 217, line 5, change "Information" to "Data and information".

On page 219, line 22, add the following after "section": "and to hold the United States harmless from any violations of the regulations prescribed pursuant to subsection (c) that the State or its employees may commit."

On page 221, line 10, change "sections 6 and 7" to "section 7".

On page 221, lines 12 and 18, delete "or permit".

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Reserving the right to object, can the gentleman from New York explain why this is necessary?

Mr. MURPHY of New York. If the gentleman will yield, the question is that the creation of the Department of Energy and FERC has caused certain consistency questions in language, and many of these amendments are technical to conform the language of this act to those very recent changes.

Mr. ROUSSELOT. The gentleman can assure us that there are absolutely no substantive changes in any way?

Mr. MURPHY of New York. There are no substantive changes, and these amendments have all been agreed to by the minority.

Mr. ROUSSELOT. They have nothing to do with cargo preference?

Mr. MURPHY of New York. No cargo preference, only a 20-percent provision.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. MURPHY).

The amendments were agreed to.

Mr. HUBBARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, when the Committee of the Whole rises, I plan to demand a separate vote on the Seiberling amendment. I shall ask for a rollcall vote to be taken on the amendment offered yesterday by the gentleman from Ohio (Mr. SEIBERLING) and passed 20 to 19 by a division vote of the House. An issue as important as the transfer of the Department of the Interior's authority to regulate OCS oil pipelines to the Department of Energy and specifically to the Federal Energy Regulatory Commission should not be resolved by a single vote when less than one-tenth of the House membership is present.

To repeat the strong arguments to defeat this amendment made by my colleague, the gentleman from New York (Mr. FISH) yesterday, this amendment could allow nonowners of pipelines to force expansion of the throughput capacity of a pipeline while not being forced to bear the cost or the risks associated with such an expansion. The language of the Seiberling amendment gives the Secretary of Energy the power to determine that owners will pay if, and I quote:

. . . alternative allocation of costs and risks is equitably required . . .

This dangerously vague language offers no real guidelines to the Secretary and encourages litigation. Should the Secretary determine that an allocation of costs is "equitably required," owners of an affected pipeline would surely sue to require nonowners to pay for the expansion. Likewise, if the Secretary requires nonowners to pay for the expansion of the pipeline's capacity, nonowners are likely to sue, claiming that the owners should pay for the expansion if equity is to be recognized.

In closing I would say that the language of the Seiberling amendment provides for regulation of pipelines unless the Secretary specifically, by order or regulation, exempts them from overall regulation. Such regulation was not advocated by the administration or anyone else during the 2½ years of hearings held by the select committee, and there is no reason to adopt such regulation at this time.

Again, a vote soon will be asked on the Seiberling amendment. We hope we can defeat it.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not know if I am going to be the last person this afternoon to take the well of the House before we vote on a straight motion to recommit and the final passage, but I share the hopes of the Members that I am.

At the start of this debate I warned of the danger that H.R. 1614 had so many defects that I doubted it could be perfected and would ultimately be written in conference. The patience, diligence, and wisdom of this body has proved me wrong. While not perfect, the bill before us is now much improved.

As the author of a comprehensive substitute that the committee bill now more nearly resembles, the consistent position on my part is to favor passage of this legislation.

Here is the record of what we have accomplished in the last 3 days:

Dual leasing has been knocked out of the bill;

The Santa Barbara Channel has been removed as an automatic frontier area;

We have deleted Federal exploration;

We have changed the mandate for new systems from a minimum of 50 percent to a minimum of 20 and a maximum of 50 percent;

We have knocked out OSHA's authority on the OCS;

Just compensation has been reinstated as the sole measure of the damages should a lease be canceled;

And we have increased the impact funds for coastal areas.

But Mr. Chairman, a conference with the Senate is still ahead of us, and the Senate bill contains many provisions the House has deemed to be not in the public interest. If some in this body believe the House changes that we have adopted were merely tactical, I believe they seriously misjudged the temper of this body, and I remind my colleagues that once before this House has recommitted a conference report on this bill. After long debate I think the House is more aware of the numerous problems that were inherent in this legislation.

If the will of this House is not adhered to in the conference with the Senate, we shall be back to seek instructions for the conferees, and if necessary, regrettably, we shall again return to seek recommital.

At this point I hope the Members will vote in favor of this legislation.

Mr. LEGGETT. Mr. Chairman, in considering this amendment, I would first like to express my support for passage of the committee version of the Outer Continental Shelf Lands Act amendments. H.R. 1614 is a comprehensive revision of the statutes pertaining to the development of oil and gas resources of the Continental Shelf of the United States. The bill would revise the existing statutes in order to insure the speedy development of these much needed resources while at the same time providing for the necessary protection of our coastal and marine environment. The bill would also provide a mechanism for State participation in offshore and coastal oil and gas development plans and the means for States to manage the impacts resulting from such development.

The balancing of the many different and sometimes conflicting interests of energy development and environmental conservation is a difficult task. H.R. 1614 is the consensus product of a special "ad hoc" committee which spent many hours considering testimony from a wide array of witnesses, and produced hearing transcripts running to thousands of pages. The broad support that has been expressed for H.R. 1614 by public interest groups and the concerned Federal agencies is testimony to the effectiveness of the hard work of the "ad hoc" committee and to the fairness of the bill's pro-

visions. In this regard, I must congratulate Mr. MURPHY on his fine work as chairman of the Outer Continental Shelf Ad Hoc Committee.

Despite its general excellence, the bill contains a major deficiency in that it does not provide an adequate basis for the maintenance of the health of the U.S. offshore oil construction industry.

Construction of drilling and production platforms for the offshore oil industry is in itself a major industry. Mobile drilling rigs are massive structures costing in excess of $50 million, requiring over 1,500 man-years of labor and in excess of 4,000 tons of steel to construct. Production platforms are permanent structures placed over a well after drilling in order to control the flow of oil during the production phase. These permanent production platforms are also massive structures costing millions of dollars. Presently over 8,000 workers are employed directly in offshore oil rig construction while at least 16,000 are employed in a variety supporting industries in the United States.

Until the early part of this decade, the U.S. offshore oil construction was predominant in the world. However, this predominance has been eroded away so that less than 30 percent of current orders for drilling rigs are placed in the United States. The seriousness of the situation is more clearly understood when it is realized that our less than 30 percent share of the market represents only 7 orders in 1977 compared for example with 33 orders which were active in 1972.

It is illuminating to review the history of the offshore oil construction industry to see the possible reasons for the erosion in the United States position relative to other countries. The technology required for offshore drilling was developed substantially in the United States and almost all of the early offshore drilling took place in the U.S. coastal zone. However, in the early 1970's, there was a very rapid expansion in offshore drilling in many parts of the world. Drilling in Europe and Asia was at first carried out with U.S. built rigs.

Many nations particularly Great Britain and Japan, quickly developed their own offshore oil construction industry. In some countries this development was financed by the national government as a means to relieve unemployment in their shipbuilding industries. In each country the offshore oil construction industry was developed with the aid of technology transferred from the United States, often with U.S. citizens in key managerial roles.

At the same time that drilling activities outside the United States were expanding rapidly the rate of growth of drilling activities was slowing in the U.S. coastal zone. Some of the decline in the U.S. offshore oil construction industry was, therefore, related to the shift of drilling activities away from the United States.

The present situation sees the U.S. coastal zone as the area for rapidly expanding exploratory drilling in waters deeper than previously leased, requiring the construction of a number of drilling rigs. However, the rate of growth of exploratory drilling is beginning to slow in other parts of the world and the requirement for offshore drilling rig construction is falling. The foreign yards who have now developed a capability for construction of offshore drilling rigs are, therefore, looking towards the U.S. market for continued sales. Just as they did when the foreign offshore oil construction industry was being developed, some foreign governments are likely to provide support for the industry in bidding on U.S. contracts. Indeed this may already have happened in at least one instance.

An amendment has been offered to H.R. 1614 by Chairman MURPHY, which seeks to recognize the reality of the competitive situation of the world offshore oil construction industry. This amendment would require offshore drilling lease holders who wished to use drilling rigs or support vessels constructed outside the United States, to demonstrate to the Secretary of the Interior that such purchase would aid the timely or cost effective development of our Outer Continental Shelf oil reserves. Such foreign purchases would only be approved by the Secretary if the rig or vessel purchased from the foreign source could not be purchased in the United States because of unsatisfactory quality, price, availability, or delivery date. This is clearly not a protectionist measure as portrayed by some. The requirement for purchase of U.S.-built drilling rigs as proposed in the Murphy amendment will insure that American jobs will not be lost to unfair competition from Government-subsidized foreign yards, but its most important effect may be to protect the U.S. coastline from unnecessary oilspills.

Accidental spillage of oil from oil rigs due to operation error or malfunctioning equipment can and has in the past created large scale degradation of the beaches and the ecology of our coastline. The development of our Outer Continental Shelf must be carried out in such a manner as to reduce the chances of such spills to the minimum possible, and to provide for orderly, rapid, and effective control and clearing of a spill when it occurs. We must avoid the use of inferior equipment that could result if offshore drilling rigs were to be built for sale at below their cost by foreign firms with Government support designed to keep their industry alive. The temptation in such an instance would be to reduce the quality of the product to minimize losses.

The American public will pay the bill for offshore oil and gas development. They must be guaranteed that foreign competitors do not benefit unfairly from that investment and that every possible effort will be made to prevent the unacceptable cost of unnecessary environmental degradation.

Mr. GLICKMAN. Mr. Chairman, earlier today, I voted against the so-called preference America amendment offered by our colleague from New York (Mr. MURPHY). I feel that I should clarify my vote because the size of our trade deficit and the amount of unemployment in our country are both problems which concern me greatly. I recognize that Mr. MURPHY sincerely believes that the amendment he offered would have benefited American workers. I must disagree. The result of amendments like that one could be devastating if other nations decided to respond with similar restrictions. We certainly do not need a trade war at a time when we are trying to increase our exports of agricultural commodities in effort to stabilize this country's severely sagging farm economy.

On the other hand, I would point out that I did oppose the amendment offered by Mr. WHALEN to delete the language included in the committee bill to provide reasonable assurances that work related to Outer Continental Shelf would benefit American workers. The point I am trying to make and which I think should be evident by those two votes is that I recognize the need for some reasonable language to protect American jobs, but I feel strongly that language to achieve that end needs to be carefully drafted to assure a balanced approach. We certainly do not need to lose more jobs and further worsen our balance of trade as a result of good intentions.

Mr. HARRIS. Mr. Chairman, I am quite concerned about several provisions in H.R. 1614, the Outer Continental Shelf Lands Act, which unfairly place strict requirements on career Federal employees.

DISCLOSURE SHOULD PROTECT PRIVACY OF FEDERAL EMPLOYEES

Specifically, section 505 requires employees who work in the OCS program in Interior and who have a financial interest in a company or concern subject to the OCS Act to annually file a public statement of any "interest held." Commendably, there is a provision allowing the Secretary to identify positions that are nonregulatory or nonpolicymaking and to exempt them from the public disclosure provision.

While I believe that disclosure of financial interests is a strong deterrent to conflicts of interest—sunshine is the best disinfectant—I think that the language of this bill is too vague and uncertain and is subject to discretionary judgment. It could place unreasonable and unwarranted requirements on career Federal employees who should not have to live in a public "fish bowl."

The bill should clearly delineate what is meant by financial interests, rather than leave it to the discretion of the Secretary. For example, would the bill cover earned income, unearned income, investments, assets, liabilities, stock, or other transactions?

I believe also that a clearer distinction should be made in law as to who would and would not be required to file disclosure reports. I believe the "political" officials of the executive branch—Presidential appointees, executive level personnel, and schedule C personnel—should accept the responsibility of public disclosure and accountability to the public when they accept their appointment. I do not believe career, civil service employees should have to agree as a condition of employment to open up all of their private finances to the public.

Additionally, both the House Judiciary Committee and the Post Office and Civil Service Committee have reported H.R. 1, a financial disclosure bill covering all agencies. This legislation outlines with some specificity the types of financial disclosure requirements and attempts to balance the public interest and the employee's right to privacy. With these bills proceeding toward enactment, I think it is wrong to place additional and possibly conflicting requirements on this single group of Interior employees. Should both bills be enacted, certain employees could be required to file similar information on different forms twice in 1 year. I believe that we should have consistent, governmentwide standards—not conflicting and duplicative ones.

TOTAL BAN ON POSTEMPLOYMENT, MISPLACED EMPHASIS

I also believe that in section 208 the committee has erred by adding the new section 29 which would bar for 2 years all full-time employees GS–16 and up of the Department of Interior who worked in the OCS program from accepting employment with a firm subject to OCS regulation. I am firmly against the "revolving door" notion. I do not think it is right for an employee to work in an agency for the public, gain "inside" knowledge about the subject matter, and then go outside to a regulated firm and represent that special interest against the Government. A 1976 Common Cause study entitled "Serving Two Masters" produced evidence that of the 35 commissioners who left their regulatory agency within a 4-year period, 17 or 50 percent took jobs with a company they previously regulated. The report concluded,

> The information on former commissioners indicates a tendency to take jobs with regulated companies or with law firms that represent them in government proceedings.

The study lays out what is wrong with this quite clearly: First, a commissioner who envisions working for a regulated company in the future might have a vested interest in making decisions favorable to that company; second, a commissioner anticipating future employment in the regulated industry knows, consciously or subconsciously, that more opportunities will be available if he or she maintains friendly relations with the industry and generally acts to promote or protect the industry's interests while in office. This in my view is the evil—going from the agency to the industry and coming back to the agency representing the industry viewpoint in a matter in which the former employee was previously representing the public interest. The revolving door practice would be severely curtailed by the provision in H.R. 1 which I supported. We must remove the revolving door when necessary to assure impartial performance and public confidence. But we must not stifle people's right to seek the job of their choice when it is not in conflict with this principle.

The key here is representation. In H.R. 1, in the Judiciary Committee, we drafted and I supported a ban on representation of industry viewpoints before an agency or matter in which the former employee was involved. This bill, H.R. 1614, takes a blunderbuss approach by prohibiting employees from accepting any employment or compensation; it is not fine tuned to bar representation before the agency. Thus, I support the amendment that would bring this bill more in line with the provision of H.R. 1 which bars representation and would delete the blanket postemployment ban.

I will support amendments to this bill along the lines I have suggested. We must stop conflict of interest. We must not let the revolving door syndrome continue. And in the process we must not abridge individual rights.

Mr. EVANS of Delaware. Mr. Chairman, I rise in support of H.R. 1614, the Outer Continental Shelf Lands Act. As one who had serious questions regarding the original version of this legislation as reported to the full House, I am extremely pleased that the House has worked its will and has, through the amendatory process, corrected several serious concerns that I had regarding the bill as reported by the ad hoc committee.

It is important that this legislation be passed because our Nation desperately needs a national policy on the Outer Continental Shelf. In recent days, we have seen very clearly what will be the result of not passing an OCS bill. Judge Garrity in Massachusetts forbid the Secretary of the Interior to lease lands in the Georges Bank area in the Atlantic. It was also not so very long ago that another Federal judge forbid the leasing of lands in the Baltimore Canyon. The case could very well end up in the Supreme Court. Another Federal oil and gas lease planned for March off the coast of Georgia may be in doubt because of recent court decisions. If Congress does not pass an OCS bill, I am deeply concerned that we will see more and more cases in litigation, and Federal judges will assume the responsibility of determining whether this Nation will explore for and develop its oil and gas resources in the OCS.

We have had too many delays already. Each day this Nation imports vast quantities of foreign oil. These imports not only place us at the mercy of a few Arab sheiks, but they are having an increasingly disastrous effect on our country's economy. The decline in the dollar is a clear barometer of what effect increasing oil imports are having on this Nation.

Mr. Chairman, I am unalterably opposed to allowing the Federal Government to get into the business of developing and producing the energy resources off our coast. Private industry is willing to take the risks. I think we should let them, instead of saddling the taxpayer with the tremendous costs which exploration and production will mean. As my colleagues know, the original bill would, in my opinion, have moved the Government dangerously close to getting into the actual exploration and production of oil resources. Fortunately, however, the House has adopted amendments deleting the dual leasing provisions as well as language allowing the Secretary to conduct geological and geophysical explorations and core and test drillings. The bill, as it now stands, will enable the Federal Government to closely monitor the resources of the Outer Continental Shelf, thus assuring that the American taxpayer receives full value for those resources, while at the same time allowing private enterprise to take the risks and do the actual production work.

There are other provisions of H.R. 1614 which I also fully support.

The tough environmental regulations in the bill will protect our beaches, our wildlife, and the economic benefits which stem from tourism.

The offshore oilspill pollution fund will protect those beaches and allow persons damaged by the oilspills to be compensated. This legislation is very similar to a measure I cosponsored and which has previously passed the House.

The encouragement of new bidding systems will help small- and medium-sized drillers compete for the resources in the OCS.

And the grant program in the bill will provide precious millions of dollars to States like Delaware through the existing coastal zone management program to allow for planning and construction of needed roads, schools, and other on-land impacts.

But, above all, the bill sets out national policy with regard to the Outer Continental Shelf. It has been nearly a quarter century since the original OCS bill was passed. Our Nation has experienced much in that time period. We have an energy problem which, if not dealt with quickly, will undoubtedly wreck our economy. Therefore, we must begin exploring and developing the known oil and gas resources in our frontier areas. This bill establishes national policy in this critical area and I urge my colleagues to support its passage.

Mr. LEGGETT. Mr. Chairman, we all know that the United States needs additional energy. Our offshore reserves of oil and gas obviously represent one of the primary sources of the extra energy America must have, especially as onshore petroleum production continues to decline. According to U.S. Geological Survey estimates, offshore reserves account for about one-third of our discoverable and producible oil, and over 20 percent of our natural gas deposits. It is clear that we must develop these valuable offshore reserves if we are to meet our needs for fossil fuels without further dependence on foreign sources in the ensuing decades.

It is equally clear, however, that development of Outer Continental Shelf petroleum cannot be allowed to proceed at the expense of environmental and other concerns. The proper approach to OCS exploration and development requires us to do a number of things.

It is essential that we protect the coastal and marine environment. We must involve the States affected by it in the planning and decision process. I believe we should also encourage greater competition and the involvement of smaller, independent producers to the extent possible. And we ought to structure the leasing process for OCS re-

serves so as to obtain the maximum return for all American citizens, to whom the Outer Continental Shelf ultimately belongs. What is needed is an approach that finds a balance among the many interests and concerns, some conflicting, which are involved in OCS development.

With an era of significantly increased reliance on offshore oil and gas ahead, it is particularly appropriate to have before us the bill H.R. 1614 to amend the OCS Lands Act of 1953, unchanged for 25 years. A more comprehensive policy in this area is clearly needed. The bill would establish specific statutory guidelines, standards and procedures to govern all aspects of OCS development.

This legislation obviously represents a considerable effort on the part of our ad hoc committee to find a balance among the many diverse and competing interests involved in such a complicated area. Many of us could no doubt find one or more provisions which we would change. I find the outcome, whatever its imperfections, to be definitely preferable to having no bill at all. In the interest of time, I will confine my remarks to certain of the provisions which are of particular interest to me.

A basic purpose of H.R. 1614 is to establish a comprehensive policy for the rational management of offshore oil and gas reserves in accordance with the basic interests involved. New responsibility is vested in the Secretary of the Interior for this purpose. He must first develop an overall 5-year leasing plan which would set forth the size, timing, and location of OCS leases. This plan is to represent a balanced assessment of the proposed program's environmental consequences, discovery potential, and impact on the coastal zone. The Secretary must submit his plan to the Attorney General and the Federal Trade Commission to determine its effect on competition within the energy industry.

The intention of Attorney General and Federal Trade Commission review is that the leasing plan should promote more competition in the offshore oil industry than is presently the case. This review is backed up by a provision that the Justice Department and the Federal Trade Commission should have 30 days in which to review any particular OCS lease sale for anticompetitive consequences before the Interior Department issues the leases.

In addition to the prior review of lease sales by the Justice Department, a report must be submitted to Congress at least 30 days before a lease sale identifying bidding systems to be used, lease tracts selected to be offered, and the reasons lease tracts are to be offered under a particular bidding system. The Congress has the authority to withdraw lands from particular lease sales by a concurrent resolution. Proper public debate of controversial lease sales is, therefore, insured.

One of the major emphases of this bill, of prime importance in the effort to increase competition in OCS development, is the provision for reform of the bidding process in offshore leasing. It has been brought out in study after study that the practice of awarding OCS leases on the basis of front end, or cash bonus, bidding is probably the greatest defect in the current leasing procedure.

There is no question but that this procedure is anticompetitive. It requires a company to have vast amounts of capital to bid on a tract, and the price is set without sufficient knowledge of the value of its reserves. The system appears almost to be designed to prevent all but the major oil companies from being able to compete for OCS leases.

Another of the effects of this system is to prevent the public from getting a fair return for its oil and gas reserves. This is so not only because cash bonus bidding reduces competition, but also because bids are not usually based on meaningful estimates of the amount of oil or gas that could actually be obtained from a lease. With only the majors competing, bids tend to be based as much on the availability as the potential of the tracts being bid. Furthermore, in periods of accelerated sales, as in recent years, bids tend to fall in response to the greater supply of available tracts.

As a start toward changing this oligopolistic system, increasing competition, and gaining higher returns for the public, the bill would allow Interior to utilize other bidding methods—based on net profits, royalties, or percentages of a lease area. Since the 1953 law already gives the Interior Secretary broad discretionary authority which would encompass these alternative bidding systems, the significant provision is the one requiring the Secretary to use one of the alternatives in between 20 and 50 percent of all lease sales in frontier areas over the next 5 years.

Mr. Chairman, the 20-percent minimum provision is but a modest attempt to try changing a system which has prevailed, not as a requirement of law but at the discretion of the Interior Department, for over 20 years. The alternative bidding systems have been used by both foreign countries and coastal States for some time. They represent "experiments" only to a Federal department which took 23 years to try any of them.

The 20- to 50-percent provision is perhaps the most contentious aspect of H.R. 1614. However, it is my firm belief that this provision is necessary to insure rapid development of our OCS oil reserves. The fact is that the industry opposes the new leasing systems. However, they themselves testified before the ad hoc committee that payment of large quantities of up-front money when the present leasing system is extended to a large number of new exploration areas would deplete their capital resources and so inhibit lease development. The alternative leasing systems insure that the industry will maintain sufficient capital to vigorously pursue exploration of the maximum possible number of new lease areas. The alternative, as I have already described, is that industry capital will be preserved for exploration by bidding very low for new leases. The losers in this event would be the American people and the winners the oil companies, who would insure much larger returns on their leasing investments when oil is eventually brought in. Nobody has yet suggested that if the oil companies pay less for their leases that they will sell the oil eventually produced at a lower price.

I regret that as many as 80 percent of new leases will still be subject to the bonus bid system if this bill passes. However, it is at least a small step forward that at least 20 percent of the lease sales will use alternative bidding systems.

Another major purpose of the bill is to provide the States a much greater degree of participation in the entire decision process on OCS exploitation. This is of particular importance in my home State of California, which has experienced so many difficulties in obtaining information from the Department of the Interior, not to speak of involvement in decisionmaking, concerning the leasing program off the California coast.

Section 18 of the bill would require the Secretary of the Interior's 5-year plan to be submitted to both the States and local governments for their review. Furthermore, section 19 would establish a mechanism for the Governors and local government officials to work with Federal agencies on OCS activities. The key provision is that any recommendation concerning a proposed lease sale or development and production plan, made by either a Regional Board or the Governor of an affected State, can be rejected by the Secretary only if he determines that it is not consistent with an overriding national interest.

A closely related matter is the access of both Federal and State and local authorities to information about OCS activities. The bill would require all OCS operators to provide the Secretary of the Interior all of the data obtained from their offshore activities, as well as any other specific information he requires. A summary of this data, including estimates of reserves, size and timing of development, and location of pipelines and onshore facilities, is to be made available to the States to assist them in planning to deal with the effects of offshore activity on them. This provision should help my State and others deal with one of the major problems they have encountered in OCS development—the inability to find out what is going on and what the Federal Government and the oil companies are doing.

In order to provide a forum for local interests to fully discuss issues raised by a proposed lease sale, the Secretary of the Interior is required to hold a public hearing prior to announcement of the lease sale in the States adjacent to the continental shelf where the proposed lease tract is located upon the request of the Governor of the State.

Another provision which is of real importance to both my own and other coastal States concerns State lands, those within 3 miles of the seaward boundary of a coastal State. The bill requires Interior to offer the Governor of the affected State the opportunity to lease jointly any such area which might contain a geological structure or trap common to both State and Federal lands. This provision would prevent Federal lessees from draining State resources by

drilling close to the borderline and would not delay the leasing process.

H.R. 1614 also establishes a revenue sharing program which deposits 20 percent of OCS revenues, up to $200 million, into a coastal energy impact fund for distribution to States under the coastal energy impact program.

I have dwelled at length on the decisionmaking processes and leasing procedures embodied in the bill. Just as important, perhaps more so, are the provisions of H.R. 1614 directly oriented toward protection of the marine, coastal, and human environment.

There is now no law establishing either responsibility or liability for dealing with oil pollution resulting from development of OCS oil and gas reserves. Similarly, just as current law gives the States no voice in decisionmaking on OCS leasing and development, neither does it provide for consultation with or assistance to States which are adversely affected by offshore development. H.R. 1614 would fill a number of these gaps.

Title III of the bill would establish procedures for dealing with oil spills from any offshore facility in the OCS, and any device or vessel used to transport oil or gas from such a facility to shore. It provides that the owner or operator involved is strictly liable for all costs of cleaning up an oil spill, as well as for the first $35 million of damages resulting from an oil spill. In addition, the bill creates an offshore oil pollution fund, which would pay any damages or cleanup costs not covered by the perpetrator of the oil spill, as well as those involved in cases where the spiller was not identified. This fund would be maintained at between $100 and $200 million by a 3-cent surcharge on each barrel of oil produced on the OCS, and it would also be authorized to borrow up to $500 million from the Treasury in the event that the costs of a spill exceeded its financial reserves.

A similar fund, the fishermen's gear compensation fund, may be set up for each appropriate lease area to insure that losses of fishermen's equipment caused by OCS equipment are compensated in those instances where no liability for the loss can be established. This is an important provision which should do much to minimize the impact of OCS development in prime fishing areas such as the Georges Bank. Experience in the North Sea has shown that the most difficult problem posed by OCS activities to fishermen is the problem of loss of their gear due to OCS structures.

The environmental impact process which the bill establishes is closely related to the new role of Governors and regional advisory boards in OCS decisionmaking. Section 25 requires environmental impact statements and a hearing for each major lease area in previously undeveloped regions prior to approval of development and production. The Governors and regional boards are assured that their recommendations stemming from this process will be a part of the decisions on whether to approve such plans. And if the environmental studies show that safe operation of an offshore facility cannot be insured, as a result of unusual circumstances, then the Secretary is authorized to cancel the lease in question, with all costs of the lessee reimbursed.

I should note that the effects of OCS development on the marine environment are certainly not limited to the problem of well blowouts and oilspills. The bill also authorized the National Oceanic and Atmospheric Administration to try to predict the impact of OCS activities and possible oilspills, on the marine biota in a proposed exploration area. NOAA's studies must be completed prior to approval of any development or production plan.

The bill would also call for establishment of a new set of regulations for employee and navigational safety, as well as environmental protection. These regulations would require use of the best and safest technologies economically feasible on all new drilling and production operations, as well as in existing areas if practicable.

In sum, the many provisions of the bill relating to the marine and coastal environment would establish a comprehensive new regime for the governance of OCS activities. It is my hope that these new new procedures will enable us to combine the OCS development that is needed with maintenance of the natural environment.

We must keep in mind, though, that the impact of OCS development is not limited to its effects on the coasts and oceans. It will also have major consequences for coastal States as the oil and gas is brought ashore, processed, stored, and transported. The States will need assistance to minimize the adverse effects of the various stages of the process, as well as new infrastructure in the form of housing, schools, roads, and other services in the areas where onshore activities take place. The bill would authorize an impact fund as a means of providing the necessary assistance.

Permit me to mention one other issue in conclusion. The bill retains the existing provisions of law authorizing the Secretary of the Interior tc conduct offshore geophysical and geological surveys, either with Government personnel or via private contractors. Frankly, I had hoped the bill would go further toward establishing a greater Federal role in offshore exploration and development.

One of the biggest flaws in the current system is that our Government is now able to obtain very little knowledge of the public petroleum resources which it is selling to the oil companies in OCS leases. And with essentially none of the substantive geological work done before leasing, the companies do not really know what they are bidding on. We could help solve many of these problems by obtaining geological and physical information on potential lease areas in a federally contracted exploration program, designed to supplement, not replace, the activities of the companies. I think we should consider not taking over offshore oil exploration, but starting a limited program of exploration on contract designed to tell both the seller and the buyer more about the value of what is being leased.

Let me reiterate, however, that this reservation and those I expressed earlier do not cause me to oppose the bill. I urge my colleagues to support H.R. 1614 because, on balance, it will provide a comprehensive process for the management of both our valuable offshore petroleum resources and the equally valuable resources represented by the marine and coastal environment in which they are located. I had hoped for more from this bill and would have preferred the version that the ad hoc OCS committee reported without the amendments that the Committee of the Whole House adopted. However, reform of the Outer Continental Shelf Lands Act is long overdue, and this bill represents at least a first step in the right direction.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, pursuant to House Resolution 964, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. HUBBARD. Mr. Speaker, I demand a separate vote on the so-called Seiberling amendment.

The SPEAKER. Is a separate vote demanded on any other amendment?

If not, the Clerk will report the amendment upon which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 153, line 16, strike everything down through line 16 on page 154, and insert in lieu thereof the following:

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of minerals under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate by the Secretary of Transportation, including utilization of the best available and safest technology in accordance with the standard established in section 21(b) of this Act. All pipelines constructed on rights-of-way or constructed pursuant to easements granted under this

Act, except pipelines operated entirely within a single lease, shall (1) be subject to regulation under the Natural Gas Act, as amended, in the case of pipelines carrying natural gas, and under the Interstate Commerce Act, as amended, in the case of other pipelines, and shall (2) accept, convey, transport or purchase, without discrimination and at reasonable rates, minerals produced from submerged lands in the vicinity of the pipeline in such proportionate amounts as the Secretary of Energy in the case of energy minerals, and the Interstate Commerce Commission in the case of other minerals, may determine to be reasonable, taking into account, among other things, conservation of resources and the prevention of waste. Grants of rights-of-way or easements for such pipelines for energy minerals shall be subject to any other reasonable condition deemed necessary by the Secretary of Energy, after consideration of the views of the Attorney General, to promote competition, including, without limitation, conditions requiring open and nondiscriminatory access to such pipelines, conditions requiring the construction and nondiscriminatory operation of oil storage facilities directly related to such pipelines, and conditions relating to the initial sizing or subsequent expansion of throughput capacity of such pipelines and facilities within technological limits and economic feasibility; *provided*, That subsequent throughput capacity expansion may be ordered pursuant to this subsection only upon the specific request of one or more shippers, owners or non-owners able to provide a guaranteed level of throughput and on the condition that the person or persons requesting such expansion shall be responsible for bearing the costs and risks related to the requested expansion, except where the Secretary of Energy determines that an alternative allocation of the costs and risks is equitably required; and *provided further*, That authority to require throughput capacity expansion pursuant to this subsection shall not apply to any pipeline for which United States Government approvals have been obtained or construction begun, on or before the effective date of this subsection. After giving the Secretary of Energy and the Attorney General reasonable opportunity for comment, the Secretary may by order or regulation exempt from any or all requirements of the preceding two sentences any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or into a facility where oil and gas are first separated, dehydrated or otherwise processed. Failure to comply with the provisions of this subsection or the regulations and conditions prescribed under this subsection shall be grounds for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any district court of the United States having jurisdiction under the provisions of this Act. For purposes of this subsection, the term 'energy minerals' shall incorporate those minerals listed in section 2 of the Department of Energy Organization Act. As to any authority or functions under this subsection which are exercised by the Federal Energy Regulatory Commission, or which are similar to those exercised by the Federal Energy Regulatory Commission with respect to onshore pipelines, the term 'Secretary of Energy' shall be deemed to mean the Federal Energy Regulatory Commission."

Mr. HUBBARD (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER. The question is on the amendment.

The amendment was rejected.

The SPEAKER. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK moves to recommit the bill H.R. 1614 to the Ad Hoc Select Committee on the Outer Continental Shelf.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 291, nays 91, not voting 50, as follows:

[Roll No. 35]

YEAS—291

Addabbo	Burgener	Dodd
Akaka	Burke, Calif.	Downey
Allen	Burke, Mass.	Drinan
Ambro	Burlison, Mo.	Duncan, Oreg.
Ammerman	Burton, John	Early
Anderson, Ill.	Burton, Phillip	Eckhardt
Andrews, N.C.	Byron	Edgar
Annunzio	Carney	Edwards, Calif.
Applegate	Carr	Eilberg
Ashley	Carter	Emery
Aspin	Cavanaugh	Erlenborn
AuCoin	Cederberg	Ertel
Bafalis	Chappell	Evans, Colo.
Baldus	Chisholm	Evans, Del.
Barnard	Clay	Evans, Ga.
Bauman	Cleveland	Evans, Ind.
Beard, R.I.	Cohen	Fary
Beard, Tenn.	Coleman	Fascell
Bedell	Collins, Ill.	Fenwick
Beilenson	Conte	Findley
Benjamin	Conyers	Fish
Bennett	Corcoran	Fisher
Bevill	Cornell	Fithian
Biaggi	Cotter	Flood
Blanchard	Coughlin	Florio
Blouin	Cunningham	Flowers
Boland	D'Amours	Foley
Bolling	Daniel, R. W.	Ford, Mich.
Bonior	Danielson	Forsythe
Bonker	Davis	Fountain
Brademas	de la Garza	Fowler
Breaux	Delaney	Fraser
Brinkley	Dellums	Frenzel
Brodhead	Derrick	Frey
Brooks	Dicks	Fuqua
Brown, Calif.	Diggs	Gaydos
Broyhill	Dingell	Gephardt
Giaimo	Madigan	Roe
Gibbons	Maguire	Rogers
Gilman	Mann	Rooney
Ginn	Markey	Rose
Glickman	Marks	Rosenthal
Goldwater	Marlenee	Rostenkowski
Goodling	Martin	Roybal
Gore	Mathis	Russo
Gradison	Mattox	Ryan
Gudger	Mazzoli	Sarasin
Hamilton	Meeds	Scheuer
Hanley	Metcalfe	Schroeder
Hannaford	Meyner	Schulze
Harkin	Michel	Seiberling
Harrington	Mikulski	Sharp
Harris	Mikva	Shipley
Harsha	Miller, Calif.	Simon
Hawkins	Mineta	Sisk
Heckler	Minish	Skelton
Hefner	Mitchell, Md.	Smith, Iowa
Heftel	Moakley	Solarz
Holland	Moffett	Spellman
Hollenbeck	Moorhead, Pa.	St Germain
Holt	Murphy, Ill.	Staggers
Horton	Murphy, N.Y.	Stanton
Howard	Murphy, Pa.	Stark
Hughes	Murtha	Steers
Hyde	Myers, Michael	Steiger
Ireland	Natcher	Stokes
Jacobs	Neal	Stratton
Jeffords	Nedzi	Studds
Jenkins	Nix	Thompson
Jenrette	Nolan	Traxler
Johnson, Calif.	Nowak	Trible
Johnson, Colo.	O'Brien	Tsongas
Jones, N.C.	Oakar	Udall
Kastenmeier	Oberstar	Ullman
Keys	Obey	Van Deerlin
Kildee	Ottinger	Vander Jagt
Kostmayer	Patten	Vanik
Krebs	Patterson	Vento
Lagomarsino	Pattison	Volkmer
Le Fante	Pease	Walgren
Leach	Pepper	Walsh
Lederer	Pettis	Waxman
Leggett	Pike	Weaver
Lent	Pressler	Weiss
Levitas	Preyer	Whalen
Lloyd, Calif.	Price	Whitehurst
Lloyd, Tenn.	Pritchard	Whitley
Long, Md.	Pursell	Wilson, C. H.
Luken	Quie	Wirth
Lundine	Rahall	Wolff
McCloskey	Railsback	Wydler
McCormack	Rangel	Yates
McDade	Regula	Yatron
McEwen	Reuss	Young, Fla.
McFall	Rinaldo	Young, Mo.
McHugh	Roberts	Zablocki
McKinney	Rodino	Zeferetti

NAYS—91

Abdnor	Hansen	Rousselot
Andrews, N. Dak.	Hightower	Runnels
Archer	Hillis	Satterfield
Ashbrook	Holtzman	Sebelius
Boggs	Hubbard	Shuster
Bowen	Ichord	Skubitz
Brown, Mich.	Jones, Okla.	Slack
Buchanan	Kasten	Smith, Nebr.
Burke, Fla.	Kazen	Snyder
Burleson, Tex.	Kelly	Spence
Butler	Kemp	Stangeland
Caputo	Ketchum	Steed
Clawson, Del	Kindness	Stump
Cochran	Livingston	Symms
Collins, Tex.	Long, La.	Taylor
Cornwell	Lott	Thornton
Daniel, Dan	Lujan	Treen
Derwinski	McClory	Waggonner
Devine	McDonald	Walker
Dornan	Mahon	Wampler
Edwards, Ala.	Marriott	Watkins
Edwards, Okla.	Milford	White
English	Miller, Ohio	Whitten
Flippo	Mollohan	Wilson, Tex.
Flynt	Montgomery	Wiggins
Gammage	Moore	Winn
Grassley	Moorhead, Calif.	Young, Alaska
Guyer	Myers, Gary	Young, Tex.
Hagedorn	Myers, John	
Hall	Poage	
Hammer-schmidt	Quayle	
	Robinson	

NOT VOTING—50

Alexander	Bingham	Conable
Anderson, Calif.	Breckinridge	Corman
Armstrong	Broomfield	Crane
Badham	Brown, Ohio	Dent
Baucus	Clausen, Don H.	Dickinson
		Duncan, Tenn.

Ford, Tenn.	Mottl	Santini
Gonzalez	Nichols	Sawyer
Huckaby	Panetta	Sikes
Jones, Tenn.	Perkins	Stockman
Jordan	Pickle	Teague
Krueger	Quillen	Thone
LaFalce	Rhodes	Tucker
Latta	Richmond	Wilson, Bob
Lehman	Risenhoover	Wright
McKay	Roncalio	Wylie
Mitchell, N.Y.	Rudd	
Moss	Ruppe	

The Clerk announced the following pairs:

On this vote:

Mr. Panetta for, with Mr. Jones of Tennessee against.

Mr. Breckinridge for, with Mr. Pickle against.

Mr. Bingham for, with Mr. Teague against.

Mr. Richmond for, with Mr. Huckaby against.

Mr. Mottl for, with Mr. Risenhoover against.

Mr. Duncan of Tennessee for, with Mr. Crane against.

Mr. Mitchell of New York for, with Mr. Dickinson against.

Mr. Quillen for, with Mr. Latta against.

Mr. Sawyer for, with Mr. Rudd against.

Mr. Anderson of California for, with Mr. Dent against.

Until further notice:

Mr. Lehman with Mr. Badham.
Mr. Nichols with Mr. Conable.
Mr. LaFalce with Mr. Ford of Tennessee.
Mr. Tucker with Mr. Ruppe.
Mr. Baucus with Mr. Brown of Ohio.
Mr. Corman with Mr. Roncalio.
Mr. Wright with Mr. Armstrong.
Mr. Sikes with Mr. Broomfield.
Mr. Alexander with Mr. Don H. Clausen.
Mr. Santini with Mr. Thone.
Mr. Gonzalez with Mr. Bob Wilson.
Mr. McKay with Mr. Wylie.
Mr. Moss with Miss Jordan.
Mr. Perkins with Mr. Krueger.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, pursuant to the provisions of House Resolution 964, I call up from the Speaker's table the Senate bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate bill S. 9, and to insert in lieu the provisions of H.R. 1614, as passed, as follows:

That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1977".

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TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraphs (b) and (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(c)) are amended to read as follows:

"(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be.

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of (1) oil, gas, or other minerals, or (2) geothermal steam;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of minerals in paying quantities, including geophysical activity, drilling, platform construction, pipeline routing, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and workover drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any minerals (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

"(q) The term 'frontier area' means any area where there has been no development of oil and gas prior to October 1, 1975, and includes the outer Continental Shelf off southern California, including the Santa Barbara Channel, except for those tracts in the channel in which leasing was begun prior to October 1, 1975, and on which exploration, or development, or production was begun prior to January 1, 1978; and

"(r) The term 'minerals' includes oil, gas, sulfur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from 'public lands' as defined in section 103 of the Federal Land Policy and Management Act of 1976.".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a

manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources and geothermal steam of the outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources and geothermal steam of the outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations on the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333 (a)) is amended—

(1) in paragraph (1), by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,";

(2) in paragraph (1), by striking out "removing and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel for the purpose of transporting such resources"; and

(3) in paragraph (2), by striking out "artificial islands and fixed structures erected thereon" and inserting in lieu thereof "those artificial islands, installations, and other devices referred to in paragraph (1) of this subsection".

(b) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(c) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(d) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(e) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (e) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(f) Section 4(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Any owner or operator of a vessel which is not a vessel of the United States shall, prior to conducting any activity pursuant to this Act or in support of any activity pursuant to this Act, enter into an agreement pursuant to this paragraph with the Secretary of the Department in which the Coast Guard is operating. Subject to the provisions of subparagraph (B) of this paragraph, such agreement shall provide that such vessel, while engaged in the conduct or support of such activities, shall be subject, in the same manner and to the same extent as a vessel of the United States, to the laws of the United States relating to the operation, design, construction, and equipment of vessels, the training of the crews of vessels, and the control of discharges from vessels.

"(B) An agreement entered into between the owner or operator of a vessel and the Secretary of the Department in which the Coast Guard is operating pursuant to subparagraph (A) of this paragraph shall provide that such vessel shall not be subject to the jurisdiction of such Secretary with respect to laws relating to vessel design, construction, equipment, and similar matters—

"(i) if such vessel is engaged in making an emergency call (as defined by such Secretary) at any artificial island, installation, or other device referred to in subsection (a) of this section; or

"(ii) if such vessel is in compliance with standards relating to vessel design, construction, equipment, and similar matters imposed by the country in which such vessel is registered, and such standards are substantially comparable to the standards imposed by such Secretary.

"(C) As used in this paragraph—

"(i) the term 'vessel of the United States' means any vessel, whether or not self-propelled, which is documented under the laws of the United States or registered under the laws of any State; and

"(ii) the term 'support of any activity' includes the transportation of resources from any artificial island, installation, or other device referred to in subsection (a) of this section.".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f) respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing of the Outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General and the Federal Trade Commission with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, to facilitate proper development of a lease in the national interest, or to allow for the construction or negotiation for use of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition under (A) or (B) by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitization, pooling, and drilling agreements;

"(5) for the subsurface of oil and gas other than by the Federal Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area;

"(8) for compliance with the national ambient air quality standards or requirements pursuant to the Clean Air Act, to the extent that activities authorized under this Act affect the air quality of any state; and

"(9) for the establishment of air quality standards for operations on the outer Continental Shelf under this Act consistent with standards or requirements under the Clean Air Act.

"(b) The issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral, or geothermal steam, under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) utilization of the best available and safest technology for pipeline burial and other procedures, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from such lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any district court of the United States having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(g)(1) In administering the provisions of this Act, the Secretary shall coordinate the activities of any Federal department or agency having authority to issue any license, lease, or permit to engage in any activity related to the exploration, development, or production of oil or gas from the outer Continental Shelf for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed upon any applicant for, or holder of, any such license, lease, or permit.

"(2) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify and consult with the Governor of any affected State and the Secretary may thereafter recommend such change or changes in such action as are considered appropriate.

"(h) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, an oil and gas lease on submerged lands of the outer Continental Shelf. Such regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary announces his decision on whether to accept the bids, with the interest earned thereon to be paid to the Treasury as to bids that are accepted and to the unsuccessful bidders as to bids that are rejected. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) fixed cash bonus of not less than sixty-two dollars per hectare with a work commitment stated in a dollar amount as the bid variable;

"(H) a fixed royalty at not less than 12½ per centum in amount or value of the production saved, removed, or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area, with a work commitment stated in a dollar amount as the bid variable;

"(I) a fixed cash bonus of not less than sixty-two dollars per hectare, with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area with a work commitment stated in dollar amounts as the bid variable; or

"(J) any modification of bidding systems authorized in subparagraphs (A) through (I) of this paragraph and any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this section.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) Before utilizing any bidding system authorized in subparagraphs (C) through (J) of paragraph (1), the Secretary shall establish such system in accordance with this paragraph.

"(B) The establishment by the Secretary of any bidding system pursuant to subparagraph (A) of this paragraph shall be by rule, after an opportunity for a hearing, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). Any modification of any such bidding system shall be by rule in accordance with such section 501.

"(C) Not later than thirty days before the effective date of any rule prescribed under subparagraph (B) of this paragraph, the Secretary shall transmit such rule to Congress.

"(5)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, includng (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accom-

plish the purposes and policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisiton of valid statistical data and otherwise consistent with the provisions of this Act.

"(C) The bidding systems authorized by subparagraphs (C) through (I) of paragraph (1) of this subsection shall be applied to not less than 20 per centum and not more than 50 per centum of the total area offered for lease each year during the five-year period beginning on the date of enactment of this subsection, unless the Secretary determines that the requirement set forth in this subparagraph is inconsistent with subparagraph (A) of this paragraph.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized; and

"(v) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(E) If, not later than the thirtieth day before the initial announcement of the tracts selected for inclusion in a proposed lease sale based upon public nominations of lease tracts submitted to the Secretary, the Governor of any State which may be an affected State as a result of such lease sale, or the chief executive officer of any local government of such State which may be an affected local government as a result of such lease sale, requests that the Secretary hold a public hearing to consider suggestions and comments from any residents of the State. The Secretary, prior to such initial announcement, shall hold such a public hearing within the area of such State which is adjacent to the area of the outer Continental Shelf where such lease tracts are located.

"(6) The Secretary may, by regulation, permit submission of bids made jointly by or on behalf of two or more persons for an oil and gas lease under this Act unless more than one of the joint bidders, directly or indirectly, controls or is chargeable worldwide with an average daily production of one million six hundred thousand barrels a day or more, or the equivalent, in crude oil, natural gas, and liquefied petroleum products.

"(7) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice—

"(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

"(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions, and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce oil and gas resources contained within the lease area, conditioned upon due diligent requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

"(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced from such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (i) through (o), respectively, and by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids the Secretary shall allow the Attorney General and the Federal Trade Commission thirty days to review the results of such lease sale, except that the Attorney General and the Federal Trade Commission may agree to a shorter review period.

"(2) The Attorney General and the Federal Trade Commission may each conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General and the Federal Trade Commission deem appropriate and each shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General and the Federal Trade Commission may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.

"(3) The Attorney General and the Federal Trade Commission may make such recommendations to the Secretary, including the nonacceptance of any bid, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General or the Federal Trade Commission advises the Secretary, prior to the issuance of any lease, that such lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

"(A) refuse (i) to accept an otherwise qualified bid for such lease or (ii) to issue such lease, notwithstanding subsection (a) of this section; or

"(B) issue such lease, and notify the lessee, the Attorney General, and the Federal Trade Commission of the reason for such decision.

"(4) An antitrust review authorized by this subsection shall be deemed an 'antitrust investigation' within the meaning of the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.).

"(5) Neither the issuance of a lease nor anything in this subsection shall be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws or modify or abridge any private right of action under such laws.

(d) No lease may be issued to a bidder if the Secretary finds that the bidder is not meeting due diligence requirements on other leases.

"(e) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of, and subject to renegotiation by, the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General and the Federal Trade Commission.

"(f) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(g)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing and which he concludes, in consultation with the Governor of such coastal State, may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of rev-

enues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(h) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.".

DISPOSITION OF REVENUES

SEC. 206. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"SEC. 9. Disposition of Revenues.—(a) For the period beginning June 5, 1950, and ending September 30, 1978, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b) Beginning on October 1, 1978, and for each fiscal year thereafter, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts (other than any amount credited to the Land and Water Conservation Fund pursuant to section 2(c)(2) of the Land and Water Conservation Fund Act of 1965); and of the amounts so deposited, in each fiscal year, 20 per centum, up to a maximum of $200,000,000, shall be credited to the Coastal Energy Impact Fund established by section 308(h) of the Coastal Zone Management Act of 1972, as amended."

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 207. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11. OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a)(1) Any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations, in the Outer Continental Shelf, which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Except as otherwise provided in this Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease or leases. The Secretary shall require such modifications or remodifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within 30 days of its submission or resubmission, except that the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would result in any condition described in section 5(a)(2)(A)(i) of this Act, and (B) such proposed activity cannot be modified to avoid such condition. If the Secretary disapproves a plan under the preceding sentence, he may, subject to section 5(a)(2)(B)(i) of this Act, cancel such lease and the lessee shall be entitled to compensation in accordance with the regulations prescribed under section 5(a)(2)(B)(ii) or (iii) of this Act

"(2) The Secretary shall not grant any license or permit for any activity described in detail in an exploration plan and affecting any land use or water use in the coastal zone of a state with a coastal zone management program approved pursuant to Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the state concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to subsections 307(c)(3)(B)(i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by subsection 307(c)(3)(B)(iii) of such Act.

"(3) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(4) The Secretary may, by regulation, require that such plan be accompanied by a general statement of anticipated onshore activity resulting from such exploration, the effects and impacts of such activity, and the development and production intentions, which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) Except as otherwise provided in this Act, all exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f)(1) Exploration activities pursuant to any lease on which a drilling permit has been issued prior to the date of enactment of this subsection shall be considered in compliance with this section, but the Secretary may require such activities to be described in an exploration plan, or require a revised exploration plan, and require any such plan to be accompanied by a general statement in accordance with subsection (c)(3) of this section.

"(2) In accordance with section 5(a) of this Act, the Secretary may require the submission of additional information or establish additional requirements of lessees conducting exploration activities pursuant to any lease issued prior to the date of enactment of this subsection.

"(g)(1) The Secretary may permit qualified applicants to conduct geological explorations, including core and test drilling, in those areas and subsurface geological structures of the outer Continental Shelf which the Secretary or the applicants believe contain significant hydrocarbon accumulations.

"(2) The Secretary shall, at least once during the two-year period beginning on the date of enactment of this subsection, offer persons wishing to conduct geological explorations pursuant to permits issued under paragraph (1) of this subsection an opportunity to apply for such permits.

"(3) The Secretary shall provide by regulation the length of time during which he will offer applicants the opportunity to obtain a permit pursuant to this subsection.

"(h) Any permit for geological explorations authorized by this section shall be issued only if the Secretary determines, in accordance with regulations issued by the Secretary, that—

"(1) the applicant for such permit is qualified;

"(2) the exploration will not interfere with or endanger operations under any lease issued or maintained pursuant to this Act; and

"(3) such exploration will not be unduly harmful to acquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance.

"(i) The Secretary shall exclude from any lease or pre-lease exploratory drilling any tract lying within fifteen miles of the boundaries of any existing National Wilderness Area, except if a State conducts a leasing or development within its tidelands adjacent to such area."

RESERVATIONS BY THE CONGRESS

SEC. 208. Section 12(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341) is amended by inserting "(1)" immediately after "(a)" and by adding at the end thereof the following new paragraph:

"(2) The Congress of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf by the passage of a concurrent resolution so declaring and identifying the lands to be withdrawn.".

ANNUAL REPORT

SEC. 209. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (1) for improvements in management, safety,

and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General, any plans for implementing recommended administrative changes, and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to insure an adequate supply of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 210. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d), shall prepare, periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall consist of a schedule of proposed lease sales indicating as precisely as possible the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner;

"(H) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

"(I) relevant environmental and predictive information for different areas of the outer Continental Shelf.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair value for the lands leased and the rights conveyed by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

"(3) conduct environmental studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 (2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Attorney General and the Federal Trade Commission shall report to the Secretary with respect to the effect on competition of outer Continental Shelf exploration, development, and production. Such reports shall analyze competition and individual market shares within regional markets.

"(2) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, from the Governor of any State which may become an affected State under such proposed program, and from the executive of any affected local government unit in such an affected State. The Secretary may also invite or consider suggestions from any other person.

"(3) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (4) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor shall solicit comments from the executives of local governments in his State affected by the proposed program. If any comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (4) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(4) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, the Federal Trade Commission, the Governors of affected States, and through the Governors, the executives of affected local governments, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or a local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 305 or section 306 respectively of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455).

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged data or information for such period of time

as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged information and may provide the Secretary with any privileged information he requests to assist him in preparing the leasing program. Privileged information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or ninety days after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected state shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but not be limited to, the sharing of information (in accordance with the provisions of section 26 of this Act), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

"SEC. 20. ENVIRONMENTAL STUDIES.—(a)(1) The Secretary shall conduct a study of any area or region included in any lease sale in order to establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held or announced by publication of a notice of proposed lease sale before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The Secretary may utilize information collected in any study prior to such date of enactment.

"(3) In addition to developing environmental information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish environmental information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) The Secretary shall consider available relevant environmental information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

"(e) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(f) In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

"SEC. 21. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, development, and production of the natural resources of the outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan to Congress of his proposals to promote safety and health in the exploration, development, and production of the natural resources of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technology.

"(c) Within sixty days after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he determines such regulations or standards are necessary. Such regulations or standards may be modified from time to time as necessary, and shall remain in effect until final regulations or standards are promulgated.

"(d) Nothing in this section shall affect any authority provided by law to the Secretary of Transportation to establish and enforce pipeline safety standards and regulations.

"(e)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 22. ENFORCEMENT.—(a) The applicable Federal officials shall strictly enforce safety and environmental regulations promulgated pursuant to this Act. Each Federal department and agency may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of other Federal departments and agencies for the enforcement of their respective regulations.

"(b) It shall be the duty of any holder of a lease or permit under this Act to—

"(1) maintain all places of employment within such lease area or within the area covered by such permit in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the lease holder or permit holder or of any contractor or subcontractor operating within such lease area or within the area covered by such permit on the outer Continental Shelf;

"(2) maintain all operations within such lease area or within the area covered by such permit in compliance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf; and

"(3) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

"(c) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection, at least once a year, without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil during a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.

"(2) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.

"(3) For purposes of carrying out their responsibilities under this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal department or agency.

"(e) The Secretary, or, in the case of occupational safety and health, the Secretary of the Department in which the Coast Guard is operating, shall consider any allegation from any person of the existence of a violation of a safety regulation issued under this Act. The respective Secretary shall answer such allegation no later than ninety days after receipt thereof, stating whether or not such alleged violation exists and if so, what action has been taken.

"(f) In any investigation conducted pursuant to this section, the Secretary or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in district courts of the United States. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

"(g) The Secretary shall, after consultation with the Secretary of the Department in which the Coast Guard is operating, include in his annual report to Congress required by section 15 of this Act the number of violations of safety regulations reported or alleged, the investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations.

"SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease by the Secretary under this Act.

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; and

"(B) if the Attorney General has commenced and is diligently prosecuting a civil action in court of the United States of a State with respect to such matter, but in any such action any person having a legal interest which is or may be adversely affected may intervene as a matter of right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Attorney General, upon the request of the Secretary, or any other appropriate Federal official, may intervene as a matter of right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"SEC. 24. REMEDIES AND PENALTIES.—(a) Upon a request by the Secretary, the Attorney General may institute a civil action in the District Court of the United States for the District in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, of any term of a lease, license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period

allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this Act shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this Act shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in a frontier area, or issued or maintained prior to such date of enactment, in a frontier area, with respect to which no oil or gas has been discovered in paying quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development, production, transportation, processing, or refining of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for any privileged information (as such term is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and upon request, to the executive of any affected local government, and (B) make such plan and statement available to any other appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any frontier area, unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d) The Secretary shall not grant any license or permit for any activity described in detail in a plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to subsections 307(c)(3)(B)(i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by subsection 307(c)(3)(B)(iii) of such Act.

"(e)(1) The Secretary shall, at least once in each frontier area, declare the approval of a development and production plan or plans to be a major Federal action. In preparing an environmental impact statement on such action, the Secretary shall evaluate the cumulative effect on the area and the affected States as a result of activities proposed in the plan or plans submitted for approval, plans previously approved and available preliminary plans for production in the area.

"(2) The Secretary may require lessees of tracts for which development and production plans have not been approved, to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(f) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, and upon request, to the executive of any local government, and shall make such draft available to any appropriate interstate regional entity and the public.

"(g) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State, and the executive of any affected local government area shall have ninety days from receipt of the plan from the Secretary or from the date it is made available to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(h)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (g) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (e) of this section, or sixty days after the period provided for comment under subsection (g) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraphs (8) and (9) of section 5(a) of this Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraphs (8) and (9) of section 5(a) of this Act;

"(B) if any of the activities described in detail therein for which a federal license or permit is required and which affects any land use or water use in the coastal zone of a state with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), do not receive concurrence by such state with respect to the consistency certification accompanying such plan pursuant to subsections 307(c)(3)(B)(i) or (ii) of such Act and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 US.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, and such approval occurs after the lessee has submitted a plan to the Secretary,

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection.

"(C) Upon the expiration of the five-year period described in subparagraph (B) of this

paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease. Such cancellation shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law. The Secretary may, at any time within the five-year period described in such subparagraph (B), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(i) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(j) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may be cancelled in accordance with section 5(c) and (d). Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(k) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare any environmental impact statement which may be required pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting any studies which they may deem desirable pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"(l) An oil and gas lease issued or maintained under this Act which is located in any area which is not a frontier area shall be subject to the provisions of this section if the Secretary determines, pursuant to regulations prescribed by the Secretary, that the likely environmental or onshore impacts of the development and production of such lease make the application of the provisions of this section in the public interest.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data and information (including processed, analyzed and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Data and information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States and to any requesting affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section, and to hold the United States harmless from any violations of the regulations prescribed pursuant to subsection (c) that the State or its employees may commit.

"(f)(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of

such suit was acting outside the scope of his employment in revealing such information.

"(g) Any provisions of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(i) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provisions of section 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease issued or maintained under this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) Except as otherwise provided in section 12(b) of this Act, the United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease issued under this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b)(1) The Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase. Any oil sold or allocated to small refiners under this paragraph shall be credited against the amount required to be offered to small refiners under section 8(b)(7) of this Act.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

SEC. 28. LIMITATIONS ON EXPORTS.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase the number of barrels of oil or cubic feet of gas imported into this country, are in the national interest, and are in accordance with the provisions and requirements of the Export Administration Act of 1969.

(c) The President shall submit reports to the Congress containing the findings made under this section, and after the date of receipt of such reports Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section meet the requirements of subsection (b). If Congress within such time period passes a concurrent resolution of disapproval stating disagreement with any of the President's findings concerning the requirements of subsection (b), further exports made pursuant to such Presidential findings shall cease.

(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, or which is exchanged or exported pursuant to an existing international agreement.

"(2) the term 'small refiner' has the meaning given such term by Small Business Administration Standards 128.3-8 (d) and (g).

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

"SEC. 29. RESTRICTIONS ON EMPLOYMENT.—No full-time-officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule shall—

"(a) within two years after his employment with the Department has ceased, knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States), in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to, or knowingly aid or assist in representing any other person (except the United States) in any formal or informal appearance before—

"(1) any department, agency, or court of the United States, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order, lease, permit, rulemaking, or other particular matter involving a specific party or parties in which the United State is a party or has a direct and substantial interest, and

"(3) which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

"(b) within one year after his employment with the Department has ceased, knowingly act as agent or attorney for or otherwise represent any other person (except the United States) in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to—

"(1) the Department of Interior, or any officer or employee thereof, and

"(2) in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, or other particular matter, and

"(3) which is pending before the Department of Interior or in which the Department has a direct and substantial interest.".

"SEC. 30. FISHERMEN'S GEAR COMPENSATION FUND.—(a) As used in this section, the term—

"(1) 'commercial fisherman' means any citizen of the United States who owns, operates, or derives income from being employed on, a commercial fishing vessel;

"(2) 'commercial fishing vessel' means any vessel which is used primarily for the handling or harvesting of living marine resources for commercial purposes; and

"(3) 'fishing gear' means (A) any commercial fishing vessel, and (B) any equipment, whether or not attached to such a vessel, which is used in the handling or harvesting of living marine resources for commercial purposes.

"(b)(1) There is hereby established in the Treasury of the United States a Fishermen's Gear Compenstaion Fund (hereafter in this section referred to as the 'Fund'). The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of making payments pursuant to this section. The total amount in the Fund shall at no time exceed $600,000. Amounts paid pursuant to the provisions of paragraphs (3) and (4) of this subsection shall be deposited in the Fund. The Fund may sue or be sued in its own name.

"(2) The Secretary is authorized to establish and maintain an area account within the Fund for any area of the outer Continental Shelf for purposes of providing reasonable compensation for damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area.

"(3) Upon assessment by the Secretary, any holder of a lease issued under section 8 of this Act for any tract in any area of the Outer Continental Shelf, and any holder of a permit issued for the construction of a pipeline in such area shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of an area account for such area. In any calendar year, no lessee or permittee shall be required by the Secretary to pay an amount in excess of $5,000 per lease.

"(4) Subject to paragraph (1) of this subsection, each area account established pursuant to this section shall be maintained at a level not to exceed $120,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder and each pipeline permit holder in such area.

"(5) Amounts in each such area account shall be available for disbursement and shall be disbursed, subject to such amounts as are provided in appropriations Acts, for only the following purposes:

"(A) Administrative and personnel expenses of such area account and administrative and personnel expenses of the Fund which relate to such area account except that amounts disbursed for such expenses in any fiscal year shall not exceed 15 per centum of the amounts deposited in such revolving account in such fiscal year.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered as a result of activities in the area for which such area account was established.

"(C) Reasonable attorney's fees awarded pursuant to subsection (e)(2)(B) of this section.

"(6) After the date of enactment of this section, any exploration plan and any develcpment and production plan approved by the Secretary for an area of the outer Continental Shelf and any permit issued for the construction of a pipeline in such area shall contain a condition that the lessee or permittee, upon request by the Secretary shall pay the amount specified by the Secretary for purposes of the establishment and maintenance of a fishermen's gear compensation fund for such area. No lessee or permittee shall be required by the Secretary to pay in any calendar year an amount in excess of $5,000 per lease or permit.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing, processing, and fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface; and

"(C) establish regulations requiring all materials, equipment, tools, containers, and all other items used on the outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from the appropriate area account to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment may be made by the Secretary from any area account established under this section—

"(i) where the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party;

"(ii) in an amount in excess of $75,000 per incident;

"(iii) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim;

"(iv) when the damage set forth in the claim was sustained prior to the date of enactment of this section;

"(v) in an amount in excess of the depreciated value of the fishing gear with respect to which the claim is filed;

"(vi) in the case of a claim for loss of profits (I) for any period in excess of 6 months, and (II) unless such claim is supported by records with respect to the claimant's profits during the previous 12-month period; and

"(vii) for any portion of the damages claimed with respect to which the claimant has or will receive compensation from insurance.

"(d) With respect to any claim for damages filed pursuant to this section, there shall be a presumption that such claim is valid if the claimant establishes that—

"(1) the commercial fishing vessel was being used for fishing and was located in an area prescribed by the Secretary of Commerce as an area affected by outer Continental Shelf activities;

"(2) a report on the location of the material, equipment, tool, container, or other item which caused such damages and the nature of such damages was made within five days after the date on which such damages were discovered;

"(3) there was no record on nautical charts or the Notice to Mariners on the date such damages were sustained that such material, equipment, tool, container, or other item existed in such area; and

"(4) there was no proper surface marker or lighted buoy which was attached or closely anchored to such material, equipment, tool, container, or other item.

"(e)(1) Any commercial fisherman suffering damages compensable under this section may file a claim for compensation with the Secretary, except that no such claim may be filed more than 60 days after the date of discovery of the damages with respect to which such claim is made.

"(2)(A) Upon receipt of any claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code, and shall make reasonable efforts to notify all persons known to have engaged in activities associated with outer Continental Shelf energy activity in the vicinity. Each such person shall promptly notify the Secretary as to whether he admits or denies responsibility for the damages claimed. Any such person, including lessees or permittees or their contractors or subcontractors, may submit evidence at any hearing conducted with respect to such claim. The hearing examiner shall, within 120 days after such matter is referred to him by the Secretary, adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

"(B) If the decision of the hearing examiner is in favor of the commercial fisherman filing the claim, such hearing examiner shall include, as part of the amount certified to the Secretary under paragraph (5)(A) of this subsection, reasonable attorneys' fees incurred by such commercial fisherman in pursuing such claim.

"(3)(A) For purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance of testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(B) In any hearing conducted pursuant to this section with respect to a claim for damages resulting from activities on any area of the outer Continental Shelf, the hearing examiner shall consider evidence of obstructions in such area which have been identified pursuant to the survey conducted under subsection (1) of this section.

"(4) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

"(5)(A) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

"(B) Upon payment of a claim by the Secretary pursuant to this paragraph, the Secretary shall acquire by subrogation all rights of the claimants against any person found to be responsible for the damages with respect to which such claim was made.

"(C) Any person who denies responsibility for damages with respect to which a claim is made and who is subsequently found to be responsible for such damages, and any commercial fisherman who files a claim for damages and who is subsequently found to be responsible for such damages, shall pay the costs of the proceedings under this subsection with respect to such claim.

"(6) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than 60 days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit.

"(k) The Secretary shall submit an annual report to the Congress which shall set forth—

"(1) an evaluation of the feasibility and comparative cost of preventing or reducing obstructions on the outer Continental Shelf which pose potential hazards to commercial fishing or fishing gear by (A) imposing fines or penalties on lessees or permittees, or contractors or subcontractors of lessees or permittees, who are responsible for such obstructions, or (B) requiring the bonding of such lessees or permittees or such contractors or subcontractors;

"(2) a description of the types of damages set forth in claims filed with the Secretary during the previous year for compensation from a fishermen's gear compensation fund;

"(3) the amount of compensation awarded to claimants during the previous year; and

"(4) the number of cases during the previous year in which damages were determined to be the responsibility of a lessee or permittee conducting operations on the outer Continental Shelf, or the contractor or subcontractor of such a lessee or permittee.

"(l) (1) The Administrator of the National Oceanic and Atmospheric Administration shall conduct a two-year survey of obstructions on the outer Continental Shelf. Such survey shall be conducted for purposes of identifying (A) natural obstructions on the outer Continental Shelf which pose potential hazards to commercial fishing or fishing gear, and (B) in addition, in the case of areas in which oil and gas exploration, development, or production is taking place, man-made obstructions relating to such activities which pose potential hazards to commercial fishing or fishing gear.

"(2) The Administrator shall report the results of the survey conducted under this subsection to the Secretary and to the Secretary of Commerce, and shall, on the basis of such survey, develop charts for commercial fishermen identifying obstructions on the outer Continental Shelf.

"(3) During the first six months of the survey conducted under this subsection, the Administrator shall concentrate on areas of the outer Continental Shelf where oil and gas production has commenced or is expected to commence prior to the expiration of the two-year period of such survey.".

"SEC. 31. DOCUMENTATION, REGISTRY, AND MANNING REQUIREMENTS.—Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall by regulation require that any vessel, rig, platform, or other vehicle or structure—

"(1) which is used at any time after the one-year period beginning on the effective date of such regulation for activities pursuant to this Act shall be manned or crewed by citizens of the United States or aliens lawfully admitted to the United States for permanent residence, unless (A) specific contractual provisions or national registry manning requirements in effect on such date of enactment provide to the contrary, or (B) there are not a sufficient number of such citizens or aliens who are qualified and available for such work;

"(2) which is used at any time after the one-year period beginning on the effective date of such regulation for activities pursuant to this Act and which is built or rebuilt at any time after such one-year period, when required to be documented, shall be documented under the laws of the United States; and

"(3) which is used for activities pursuant to this Act, shall comply with such minimum standards of design, construction, alteration, and repair as the Secretary of the Department in which the Coast Guard is operating establishes.".

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

SEC. 301. For the purposes of this title, the term

(a) "Secretary" means the Secretary of Transportation;

(b) "fund" means the fund established by section 302;

(c) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

(d) "incident" means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, or any combination thereof, which causes, or poses an imminent threat of oil pollution;

(e) "vessel" means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term "Outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term 'navigable waters' is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362));

(f) "public vessel" means a vessel which—

(1) is owned or chartered by demise, and operated by (A) the United States, (B) a State or political subdivision thereof, or (C) a foreign government, and

(2) is not engaged in commercial service;

(g) "ship" means either of the following types of vessels carrying oil in bulk as cargo:

(1) a self-propelled vessel, or

(2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States;

(h) "facility" means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

(i) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(j) "oil pollution" means—

(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(2) the presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.);

(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under this title

(k) "United States claimant" means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof. who asserts a claim;

(l) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

(m) "United States" and "State" include the several States of the United States, The District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

(n) "oil" means petroleum, including crude oil or any fraction of residue therefrom;

(o) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

(p) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

(q) "person in charge" means the individual immediately responsible for the operation of a vessel or facility;

(r) "claim" means a demand in writing for a sum certain;

(s) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(t) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or offshore facility, whether by lease, permit, contract, license. or other form of agreement; or with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment; but does not include a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect his security interest in the vessel or offshore facility;

(u) "operator" means—

(1) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(2) in the case of an offshore facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

(v) "property" means littoral, riparian, or marine property;

(w) "removal costs" means—

(1) costs incurred under section 5 of the Intervention on the High Seas Act; and

(2) cleanup costs other than the costs described in clause (1);

(x) "guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

(y) "gross ton" means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel; and

(z) "barrel" means 42 United States gallons at 60 degrees Fehrenheit.

FUND ESTABLISHMENT, ADMINISTRATIVE, AND FINANCE

SEC. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) and (3) of this section being paid into such fund. The fund shall be administered by the Secretary and the Secretary of the Treasury, as specified in this section. The fund may sue and be sued in its own name.

(b) The fund shall be constituted from—
(1) all fees collected pursuant to subsection (d);
(2) all moneys recovered on behalf of the fund under section 308; and
(3) all other moneys recovered or collected on behalf of the fund, under this title.

(c) In addition to the processing and settlement of claims under section 307, the fund shall be immediately available for the removal costs described in section 301(w)(1), and the Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the fund for such purposes.

(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the fund is maintained at a level not less than $100,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. No modified fees paid by any owner pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination.

(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the fund.

(2) The Secretary of the Treasury may invest any excess in the fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund.

(f) If at any time the moneys available in the fund are insufficient to meet the obligations of the fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

DAMAGES AND CLAIMANTS

SEC. 303. (a) Claims for damages for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—
(1) removal costs;
(2) injury to, or destruction of, real or personal property;
(3) loss of use of real or personal property;
(4) injury to, or destruction of, natural resources;
(5) loss of use of natural resources;
(6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and
(7) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) A claim authorized by subsection (a) may be asserted—
(1) under item 1, by any claimant: *Provided*, That the owner or operator of a vessel of offshore facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 304(c)(1) or 304(c)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 304(b): *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;
(2) under items 2, 3, and 5, by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized by the claimant;
(3) under item 4, by the President, as trustees for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority; or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item shall be used only for the restoration of the natural resources damaged or for acquisition of equivalent resources;
(4) under item 6, by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;
(5) under item 7, by any State or political subdivision thereof;
(6) under items 2 through 7, by a foreign claimant to the same extent that a United States claimant may assert a claim if—
(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;
(B) the claimant is not otherwise compensated for his loss;
(C) the oil was discharged from an offshore facility or from a vessel in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) and
(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.
(7) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

(c) If the Attorney General fails to take action under clause (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 306 any member of a group may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

LIABILITY

SEC. 304. (a) Subject to the provisions of subsections (b) and (c), the owner and operator of a vessel other than a public vessel, or of an offshore facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(w)(1) of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 303.

(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—
(1) in the case of a vessel, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater; or
(2) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, the total of removal and cleanup costs, and other damages up to $35,000,000.

(c) There shall be no liability under subsection (a)—
(1) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection, or by a natural phenomenon of an exceptional, inevitable, and irresistible character;
(2) to the extent that the incident is caused by an act or omission of a person other than—
(A) the claimant,
(B) the owner or operator,

(C) an employee or agent of the claimant, the owner, or the operator, or

(D) one whose act or omission occurs in connection with a contractural relationship with the claimant, the owner, or the operator;

(3) as to a particular claimant, where the incident or the economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(d) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b).

(e)(1) Subject to the provisions of paragraph (2) hereof, the fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 303, to the extent that the loss is not otherwise compensated.

(2) Except for the removal costs specified in clause (1) of section 301(w), there shall be no liability under paragraph (1) hereof—

(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(f)(1) In addition to the damages for which claims may be asserted under section 303, and without regard to the limitation of liability provided in section 304(b), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 306, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(g) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a) hereof, other than as specified in this title.

(h) Nothing in this title, including the provisions of subsection (g) hereof, shall bar a cause of action that an owner or operator, subject to liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

(i) To the extent that they are in conflict with, or otherwise inconsistent with, any other provisions of law relating to liability or the limitation thereof, the provisions of this section shall supersede all such other provisions of law, including those of section 4283 (a) of the Revised Statutes, as amended (46 U.S.C. 183 (a)).

FINANCIAL RESPONSIBILITY

SEC. 305. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo), which uses an offshore facility shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304 (b) of this title. Financial responsibility may be established by any one, or any combination, of the following methods, acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States to any vessel, subject to this subsection, which does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(3) The Secretary, in accordance with regulations promulgated by him shall have access to all offshore facilities and vessels conducting activities under the Outer Continental Shelf Lands Act; and such facility or vessel shall, upon request, show certification of financial responsibility.

(b) The owner or operator of a facility which (1) is used for drilling for, producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed, in a case where he would be entitled to limit his liability, in accordance with the provisions of section 304(b) of this title, or $35,000,000, whichever is less.

(c) Any claim authorized by section 303 (a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this title. He shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but shall not be entitled to invoke any other defense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

(d) The President shall conduct a study to determine (1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, and offshore facilities subject to liability under section 304, and (2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, co-insurance provisions and exclusions. The President shall submit the results of his study, together with his recommendations, within one year of the date of enactment of this Act, and shall submit an interim report on his study within three months of the date of enactment of this Act.

NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

SEC. 306. (a) The person in charge of a vessel or offshore facility, which is involved in an incident, shall immediately notify the Secretary of the incident, as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploration of such notification shall not be used against any such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

(b)(1) When the Secretary receives information, pursuant to subsection (a) or otherwise, of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source, and the guarantor, of that designation.

(2) When a source designated under paragraph (1) is a vessel or offshore facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

(c) In a case where—

(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (b),

(2) the source of the discharge was a public vessel or

(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (b),

the Secretary shall advertise or otherwise notify potential claimants to the procedures by which claims may be presented to the fund.

(d) Advertisement under subsection (b) shall commence no later than fifteen days from the date of the designation made thereunder to continue for a period of no less than thirty days.

CLAIMS SETTLEMENT

SEC. 307. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

(b) All claims shall be presented to the fund—

(1) Where the Secretary has advertised or otherwise notified claimants in accordance with section 306(c), or

(2) where the owner or operator may recover under the provisions of section 303 (b)(1).

(c) In the case of a claim presented in accordance with subsection (a), and in which—

(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 306(b)(2), whichever is later,

the claimant may elect to commerce an action in court against the owner, operator, or guarantor, or to present the claim to the fund, that election to be irrevocable and exclusive.

(d) In the case of a claim presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 304(b) or because the owner, operator, and guaranator are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

(e) In the case of a claim which has been presented to any person, pursuant to subsection (a), and which is being presented to the fund, pursuant to subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

(f) In the case of a claim presented to the fund, pursuant to subsection (b), (c) or (d), and in which the fund—

(1) denies all liability for the claim, for any reason, or

(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced pursuant to section 306 (c), whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund pursuant to subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision, that election is to be irrevocable and exclusive.

(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of setcion 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on or behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special government employees, apply to panel members appointed from private life.

(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge, appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h).

(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit of the nearest circuit.

(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents or any tangible things.

(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more ditsricts, in any of the affected districts, or, if the damage occurred outside any district, of the nearest district.

(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the fund.

(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

(2) The fund may intervene in the action as a matter of right.

(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 304(b) of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund under any provision of this title.

(l) No claim may be presented nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 303 (a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

SUBROGATION

SEC. 308. (a) Any person or governmental entity, including the fund, who shall pay compensation to any claimant for an economic loss, compensable under section 303, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant pursuant to this title. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, pursuant to any law, to the compensated claimant or to the fund, for damages for which the compensation was paid.

(c) In all claims or actions by the fund against any owner, operator, or guarantor, pursuant to the provisions of subsections (a) and (b), the fund shall recover—

(1) for a claim presented to the fund (where there has been a denial of source designation) pursuant to section 307(b)(1), or (where there has been a denial of liability) pursuant to section 307(c)(1)—

(A) subject only to the limitation of liability to which the defendant is entitled under section 304(b), the amount the fund has paid to the claimant, without reduction;

(B) interest on that amount, at the rate calculated in accordance with section 304 (g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

(2) for a claim presented to the fund pursuant to section 307(c)(2)—

(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) subject to dispute by the defendant as to any excess over the amount offered to

the claimant by the defendant, the amount the fund has paid to the claimant;

(ii) interest, at the rate calculated in accordance with section 304(g)(2), for the period specified in clause (1) of this subsection; and

(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) the amount of the fund has paid to the claimant, without reduction;

(ii) interest, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause; *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

(e) The fund is entitled to recover for all interest and claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

JURISDICTION AND VENUE

SEC. 309. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

PREEMPTION

SEC. 310. (a) Except as provided in this title—

(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in section 303(a), a claim for which may be asserted under this title, and

(2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for such a loss, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and pre-positioning of oil pollution cleanup and removal equipment.

(c) Nothing in subsection (a) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid pursuant to this title.

PROHIBITION

SEC. 311. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful is prohibited.

PENALTIES

SEC. 312. (a)(1) Any person who fails to comply with the requirements of section 305, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not more than $10,000.

(2) Such penalty may be assessed and compromised by the President or his designee, in connection with section 305(a)(1), and by the Secretary, in connection with section 305(a)(3) and section 305(b). No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

(3) At the request of the official assessing the penalty, the Attorney General may bring an action in the name of the fund to collect the penalty assessed.

(b) Any person in charge, subject to the jurisdiction of the United States, who fails to give the notification required by section 306(a) shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both.

AUTHORIZATION OF APPROPRIATIONS

SEC. 313. (a) There is authorized to be appropriated for the administration of this title $10,000,000, for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000, for the fiscal year ending September 30, 1981.

(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts, any disbursements of funds, and the issuance of notes or other obligations pursuant to section 302(f) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts, to make disbursements, to issue notes or other obligations pursuant to section 302(f) of this title, and to charge and collect fees pursuant to section 302(d) of this title or to exercise any other spending authority shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

ANNUAL REPORT

SEC. 314. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the fund and the administration of the liability provisions of this title.

SEC. 315. (a) This section, subsection (d) of section 305, section 316, and all provisions of this title authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of this Act.

(b) All other provisions of this title, and the regulations applicable thereto shall be effective on the one hundred and eightieth day after the date of enactment of this Act.

SEC. 316. If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

TITLE IV—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

COASTAL ENERGY IMPACT AND PROGRAM

SEC. 401. (a) Paragraph (2) of section 308(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)) is amended—

(1) by striking out "The amounts" and inserting in lieu thereof "Subject to paragraph (3) of this subsection, the amounts";

(2) by striking out "(A), (B), (C), and (D)" and inserting in lieu thereof "(A), (B), and (C)";

(3) in subparagraph (A), by striking out "one-third" and inserting in lieu thereof "one-half";

(4) in subparagraph (B), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(5) in subparagraph (C), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(6) by striking out subparagraph (D).

(b) Such section 308(b) is amended—

(1) by renumbering paragraphs (3) through (5), and any references thereto, as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Secretary shall not make grants under this subsection to any state in any fiscal year the total of which exceeds 30 per centum of the total amount credited to the Coastal Energy Impact Fund under section 9 of the Outer Continental Shelf Lands Act for payment to all states in such fiscal year.

"(B)(i) If, in any fiscal year, any coastal state will not receive a grant under subparagraph (A), (B) or (C) of paragraph (2), the Secretary shall make a grant to each coastal state in an amount equal to 2 percentum of the total amount available for making grants to all states under such paragraph (2) in such fiscal year if any other coastal state in the same region is receiving a grant under such subparagraphs in such fiscal year: *Provided*, That no coastal state

shall receive such grant unless the Secretary determines that it is an affected state.

"(ii) For purposes of this subparagraph, the term 'affected state' means any State—

"(I) the laws of which are declared, pursuant to section 4(a)(2) of the Outer Continental Shelf Lands Act, to be the law of the United States for the portion of the outer Continental Shelf on which any program, plan, lease sale, or other activity is proposed, conducted or approved pursuant to the provisions of such Act;

"(II) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of the Outer Continental Shelf Lands Act;

"(III) which is receiving, or in accordance with a proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(IV) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(V) in which the Secretary finds that because of outer Continental Shelf activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities.

"(iii) For purposes of this subparagraph—".

"(I) the states of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia (the Atlantic coastal states) shall constitute one 'region';

"(II) the states of Alabama, Florida, Louisiana, Mississippi, and Texas (the Gulf coastal states) shall constitute one 'region';

"(III) the states of California, Oregon, and Washington (the Pacific coastal states) shall constitute one 'region'; and

"(IV) the state of Alaska shall constitute one 'region'.

"(C) If, in any fiscal year, the total amount of funds available for making grants to coastal states pursuant to this subsection is greater than the total amount of grants payable to such states pursuant to this subsection, the difference between such two amounts shall remain in the Treasury of the United States and be credited to miscellaneous receipts.

"(D) If, in any fiscal year, the total amount of funds available for making grants to coastal states pursuant to this subsection is less than the total amount of grant payable to all coastal states pursuant to this subsection, there shall be deducted from the amount payable to each coastal state an amount equal to the product of—

"(i) the amount by which the total amount of grants payable to all coastal states exceeds the total amount of funds available for such grants; multiplied by

"(ii) a fraction, the numerator of which is the amount of grants payable to such coastal state in such fiscal year and the denominator of which is the total amount of grants payable to all coastal states in such fiscal year.".

(c) Paragraph (5)(B)(i) of such section 308(b) (as renumbered by subsection (b) of this section is amended—

(1) by striking out "necessary, because of the unavailability of adequate financing under any other subsection," and inserting in lieu thereof "necessary"; and

(2) by striking out "new or expanded".

(d) Paragraph (6) of such section 308(b) (as renumbered by subsection (b) of this section) is amended to read as follows:

"(6) After making the calculations provided in paragraphs (2) and (3) of this subsection, the Secretary shall require each coastal state which is to receive grants under this subsection to provide adequate assurances of being able to return to the United States any funds to which paragraph (8) of this subsection may apply. After obtaining such assurances, the Secretary shall disburse the proceeds of such grants to such coastal state.

"(7) Any coastal state which receives proceeds of any grants under this subsection only may expend or commit such proceeds—

"(A) after a determination by the Secretary that such proceeds will be expended or commited by such state in accordance with the purposes set forth in paragraph (5) of this subsection; and

"(B) before the close of the fiscal year immediately following the fiscal year in which the proceeds were received.

"(8) The United States shall be entitled to recover from any coastal state an amount equal to all or any portion of a grant made to such state under this subsection which is not expended or commited in compliance with paragraph (7) of this subsection.

"(9) The provisions of section 308(g)(1) shall not apply to grants made pursuant to this subsection. Any state with a program for managing its coastal resources, whether approved pursuant to section 306 or not, shall qualify for assistance under this subsection.".

(e) Subsection (h) of section 308 of the Coastal Zone Management Act of 1972 is amended to read as follows:

"(h)(1) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The Fund shall consist of—

"(A) amounts credited to the Fund under section 9 of the Outer Continental Shelf Lands Act;

"(B) any sums appropriated to the Fund;

"(C) payments of principal and interest received under any loan made under subsection (d)(1);

"(D) any fees received in connection with any guarantee made under subsection (d)(2); and

"(E) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

"(2) Amounts in the Fund received under clause (A) of paragraph (1) of this subsection shall be available to the Secretary for the purpose of carrying out subsection (b) of this section. All payments made by the Secretary to carry out the provisions of subsection (b) shall be paid from the Fund, only to the extent provided for in appropriations Acts. Sums in the Fund which are not appropriated for purposes of subsection (b) shall be returned to the Treasury.

"(3) Amounts in the Fund received under clauses (B) through (D) of paragraph (1) of this subsection shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of carrying out subsections (c) and (d). All payments made by the Secretary to carry out the provisions of subsections (c), (d), and (f) (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided for in appropriations Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d), and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States."

(f) The amendments made by this section shall take effect on October 1, 1978.

OUTER CONTINENTAL SHELF GRANTS

SEC. 402. (a) Section 308(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(a)(c) is amended—

(1) by inserting "(1)" immediately after "(c)" and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall make grants under this paragraph to any coastal state which the Secretary finds is likely to be affected by outer Continental Shelf enrgy activities. Such grants shall be used by such state to carry out its responsibilities under the Outer Continental Shelf Lands Act. The amount of any such grant shall not exceed 80 per centum of the cost of carrying out such responsibilities."

(b) Section 308(a)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(a)(1)) is amended—

(1) in subparagraph (B) thereof, by striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(1)"; and

(2) by redesignating subparagraphs (C) through (F), and all references thereto, as subparagraphs (D) through (G), respectively, and inserting immediately after subparagraph (B) the following new subparagraph:

"(C) grants, under subsection (c)(2), to coastal states to carry out their responsibilities under the Outer Continental Shelf Lands Act;".

(c) Section 308(h) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(h)) is amended by striking out "subsections (c)" each place it appears and inserting in lieu thereof "subsections (c)(1)".

(d) Section 308(k)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(k)(1)) is amended by striking out "and (c)" and inserting in lieu thereof "and (c)(1)".

(e) Section 318(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(a)) is amended—

(1) by redesignating paragraphs (4) through (8), and all references thereto, as paragraphs (5) through (9), respectively; and

(2) by inserting immediately after paragraph (3) the following new paragraph:

"(4) such sums, not to exceed $5,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, as may be necessary for grants under section 308(c)(2), to remain available until expended;".

(f) Section 318(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(b)) is amended—

(1) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)(2)"; and

(2) by striking out "subsections (c)" and inserting in lieu thereof "subsections (c)(1)".

TITLE V—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 501. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 502. As soon as feasible but no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 503. (a) The purpose of this section is to encourage expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company.

(b) The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promptly promulgate and publish in the Federal Register a statement of Commission policy which carries out the purpose of this section and sets forth the standards under which the Commission will consider applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements the Commission will apply in determining:

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation. Such statement of policy shall also set forth the terms or limitations on which the Commission may condition, pursuant to section 7 of the Natural Gas Act, the issuance of a certificate of transportation under such statement of policy.

(c) For purposes of this section:

(1) the term "local distribution company" means any person:

(A) engaged in the distribution of natural gas at retail; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof.

(2) The term "interstate commerce" shall have the same meaning as such term has under section 2(7) of the Natural Gas Act.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

ANTIDISCRIMINATION PROVISIONS

SEC. 504. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act, shall take such affirmative action as deemed necessary to prohibit all unlawful employment practices and to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI and title VII of the Civil Rights Amendments of 1964, except that such provisions under this Act shall be made to apply to aliens and include employment outside the United States and to which the Secretary of Labor shall not have the authority to grant exemptions.

SUNSHINE IN GOVERNMENT

SEC. 505. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to, the provisions of this Act or the Outer Continental Shelf Lands Act, shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

SEC. 506. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal departments and agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope, and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the national security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1) (A) a determination of the maximum attainable rate of production (MAR) of crude oil and natural gas from significant fields on the Outer Continental Shelf; and

(B) an analysis of whether the actual production has been less than the MAR and, if so, the reasons for the differences.

(C) For purposes of this subsection, the term "maximum attainable rate of production" or "MAR" means the maximum rate of production of crude oil and natural gas which may be produced under actual operating conditions without loss of ultimate recovery of crude oil and natural gas.

(2) an estimate of the total discovered crude oil and natural gas reserves by fields (including proved and indicated reserves) and undiscovered crude oil and natural gas resources (including hypothetical and speculative resources) of the Outer Continental Shelf;

(3) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense;

(4) an independent evaluation of trade association procedures for estimating Outer Continental Shelf reserves, ultimate recovery, and productive capacity for years in which trade associations made such estimates. In order to provide maximum opportunity for evaluation and continuity, the Secretary shall obtain all the available data and other records, including a description of the methodology and estimating procedures, which the trade associations used in compiling their data with respect to the reserves.

(e) The Secretary shall, not later than one year after the date of enactment of this section, submit an initial report to Congress. The initial report shall include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the information required in subsections (d)(1)(A), (d)(2), and (d)(3) of this section on the day following the first complete calendar year after enactment, and every two years thereafter. The Secretary shall make separate reports on the data acquired pursuant to subsection (d)(4) of this section as follows:

(1) a report within six months after the date of enactment of this section, on the acquisition and details of trade association data and information;

(2) within twelve months after submission of the report required by subsection (e)(1) above, an evaluation of the trade association materials; and

(3) within twelve months after submission of the report required by clause 2 of this subsection, the relationship between trade association data and the new data collected under this section.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

(g) For purposes of this section, the term "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act.

STATE MANAGEMENT PROGRAM

SEC. 507. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except that the time period after which such concurrence shall be presumed shall be three months; or".

RULE AND REGULATION REVIEW

SEC. 508. (a) Any rule or regulation prescribed pursuant to this Act or the Outer Continental Shelf Lands Act, as amended by this Act, by the head of any Federal department or agency may by resolution of either House of Congress be disapproved, in whole or in part if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the head of such department or agency. The head of any Federal department or agency who prescribes such a rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within such 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval of a rule or regulation promulgated under this Act or the Outer Continental Shelf Lands Act, as amended by this Act, shall not be deemed an expression of approval of such rule or regulation.

(c) The provisions of this section shall not apply to any finding or action by the Secretary of the Interior pursuant to section 8(a)(5)(C)(ii) or 8(b)(4) of the Outer Continental Shelf Lands Act, as amended by this Act.

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 509. Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation, or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment, is properly trained to operate, or supervise the operation of such equipment, as the case may be.

RELATIONSHIP TO EXISTING LAW

SEC. 510. (a) Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

(b) Nothing in this Act or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) or any other Act shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 1614) was laid on the table.

AUTHORIZING THE CLERK TO MAKE CERTAIN CORRECTIONS IN ENGROSSMENT OF AMENDMENTS TO S. 9

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate bill S. 9, the Clerk be authorized to correct section numbers, punctuation, and cross references to reflect the actions of the House in amending the Senate bill S. 9.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1614, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time to inquire of the distinguished minority whip as to what the program for next week will be.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, the program for the House of Representatives for the week of February 6, 1978, is as follows:

On Monday the House meets at noon. We will have the Consent Calendar and there will be two bills considered under suspension. Votes on suspensions will be postponed until the end of consideration of suspensions on that day.

The first bill is S. 2076, Grand Canyon School District. The second is H.R. 9434, medicaid increases in Puerto Rico, Guam, and Virgin Islands.

Then we will consider H.R. 6362, to establish an Advisory Committee on Timber Sales Procedure, open rule, 1 hour.

Next, H.R. 2664, Sioux Indian claims, open rule, 1 hour.

Then H.R. 8336, Chattahooche River National Park (adopt the rule only).

On Tuesday, the House meets at noon. We will have the Private Calendar and consider one bill under suspension, which is H.R. 7843, additional Federal judges, followed by H.R. 6805, the Consumer Protection Act of 1977 (H.R. 9718, Consumer Representation and Reorganization Act), open rule, 1 hour.

With respect to Wednesday and Thursday, the House meets at 3 p.m. on Wednesday and at 11 a.m. on Thursday to consider the following bills: H.R. 3813, Redwood National Park, subject to a rule being granted; H.R. 2637, cargo capacity for civil aircraft, open rule, 1 hour; H.R. 5503, Defense Officer Personnel Management Act, open rule, 1 hour; and H.R. 8336, Chattahooche River National Park, general debate and votes.

The House will adjourn by 5:30 p.m. on all days except Wednesdays. There will be no Friday sessions.

The House will adjourn for the Lincoln Day work period from the close of business on Thursday, February 9, 1978, until 12 noon on Tuesday, February 14, 1978.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. Speaker, I thank my colleague, the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, may I ask one question with respect to the supplemental appropriation bill and especially with respect to the amendment in disagreement on the B–1 bomber.

Are there any plans at present to bring that measure up next week?

Mr. BRADEMAS. I know of no plan for bringing that bill up on a day certain, but that would be a matter for the chairman of the committee and the Speaker of the House.

Mr. MICHEL. Would we be given at least 1 day's notice on that or would it be programed 24 hours in advance?

Mr. BRADEMAS. That would be up to the chairman of the committee and the Speaker of the House.

Mr. MICHEL. Yes. Then I would expect that, considering how troublesome an issue that is or how tight an issue that is, we would have ample notice because Members would want to come back. As I understand it, when it was pulled, there were some Members absent who wanted to be recorded one way or the other, and I hope that we would afford those Members that courtesy.

Mr. BRADEMAS. I appreciate the observation of the gentleman from Illinois.

Mr. MICHEL. I hope that the gentleman will take it in good spirit.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, I wonder if I could ask the gentleman from Indiana (Mr. BRADEMAS) a question? We have an unusual situation in this body where we are still talking about 1977 dollars. We are now in the fifth month of this fiscal year. There are 7,300 workers in my district who work on the B–1 project. They would like to know what in holy heaven's name is going on. When are we going to get a vote on the B–1 so that the GAO can get around to suing the

President of the United States to spend that money?

Mr. BRADEMAS. Mr. Speaker, I am always grateful for the observations of the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Does the gentleman have any idea when it will be taken up?

Mr. BRADEMAS. I have nothing to add to what I said in response to the inquiries of the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. I thank the distinguished majority whip and I yield back the balance of my time.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule may be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT TO MONDAY, FEBRUARY 6, 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

BLACK LUNG BENEFITS REFORM ACT OF 1977

Mr. ANDREWS of North Carolina (on behalf of Mr. PERKINS) filed the following conference report and statement on the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95-864)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Black Lung Benefits Reform Act of 1977".

DEFINITIONS

SEC. 2. (a) Section 402(b) of the Federal Mine Safety and Health Act of 1977 (hereinafter in this Act referred to as the "Act") is amended to read as follows:

"(b) The term 'pneumoconiosis' means a chronic dust disease of the lung and its sequelae, including respiratory and pulmonary impairments, arising out of coal mine employment.".

(b) Section 402(d) of the Act is amended to read as follows:

"(d) The term 'miner' means any individual who works or has worked in or around a coal mine or coal preparation facility in the extraction or preparation of coal. Such term also includes an individual who works or has worked in coal mine construction or transportation in or around a coal mine, to the extent such individual was exposed to coal dust as a result of such employment.".

(c) Section 402(f) of the Act is amended to read as follows:

"(f)(1) The term 'total disability' has the meaning given it by regulations of the Secretary of Health, Education, and Welfare for claims under part B of this title, and by regulations of the Secretary of Labor for claims under part C of this title, subject to the relevant provisions of subsections (b) and (d) of section 413, except that—

"(A) in the case of a living miner, such regulations shall provide that a miner shall be considered totally disabled when pneumoconiosis prevents him or her from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines in which he or she previously engaged with some regularity and over a substantial period of time;

"(B) such regulations shall provide that (i) a deceased miner's employment in a mine at the time of death shall not be used as conclusive evidence that the miner was not totally disabled; and (ii) in the case of a living miner, if there are changed circumstances of employment indicative of reduced ability to perform his or her usual coal mine work, such miner's employment in a mine shall not be used as conclusive evidence that the miner is not totally disabled;

"(C) such regulations shall not provide more restrictive criteria than those applicable under section 223(d) of the Social Security Act; and

"(D) the Secretary of Labor, in consultation with the Director of the National Institute for Occupational Safety and Health, shall establish criteria for all appropriate medical tests under this subsection which accurately reflect total disability in coal miners as defined in subparagraph (A).

"(2) Criteria applied by the Secretary of Labor in the case of—

"(A) any claim which is subject to review by the Secretary of Health, Education, and Welfare, or subject to a determination by the Secretary of Labor, under section 435(a);

"(B) any claim which is subject to review by the Secretary of Labor under section 435(b); and

"(C) any claim filed on or before the effective date of regulations promulgated under this subsection by the Secretary of Labor;

shall not be more restrictive than the criteria applicable to a claim filed on June 30, 1973, whether or not the final disposition of any such claim occurs after the date of such promulgation of regulations by the Secretary of Labor.".

(d) Section 402 of the Act is amended by adding at the end thereof the following new subsection:

"(h) The term 'fund' means the Black Lung Disability Trust Fund established in section 3(a)(1) of the Black Lung Benefits Revenue Act of 1977.".

SURVIVOR ENTITLEMENT

SEC. 3. (a) Section 411(c) of the Act is amended—

(1) in paragraphs (1) and (2) thereof, by striking out "if" and inserting in lieu thereof "If" and by striking out the semicolon and inserting in lieu thereof a period;

(2) in paragraph (3) thereof, by striking out "if" the first place it appears therein and inserting in lieu thereof "If" and by striking out "; and" and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following new paragraph:

"(5) In the case of a miner who dies on or before the date of the enactment of the Black Lung Benefits Reform Act of 1977 who was employed for 25 years or more in one or more coal mines before June 30, 1971, the eligible survivors of such miner shall be entitled to the payment of benefits, at the rate applicable under section 412(a)(2), unless it is established that at the time of his or her death such miner was not partially or totally disabled due to pneumoconiosis. Eligible survivors shall, upon request by the Secretary, furnish such evidence as is available with respect to the health of the miner at the time of his or her death.".

(b)(1)(A) Section 412(a)(3) of the Act is amended by striking out "and" the first place it appears therein, and by inserting after "the time of her death," the following: "and in the case of any child or children entitled to the payment of benefits under paragraph (5) of section 411(c),".

(B) The first sentence of section 412(a)(5) of the Act is amended—

(i) by striking out "or" the fifth place it appears therein; and

(ii) by inserting after "child, or parent," the following: "in the case of the dependent parent or parents of a miner (who is not survived at the time of his or her death by a widow or a child) who are entitled to the payment of benefits under paragraph (5) of section 411(c), or in the case of the dependent surviving brother(s) or sister(s) of a miner (who is not survived at the time of his or her death by a widow, child, or parent) who are entitled to the payment of benefits under paragraph (5) of section 411(c).".

(2) Section 411(e) of the Act is amended by striking out "or" the second place it appears therein and by striking out the period at the end thereof and inserting in lieu thereof the following: ", or (3) any such individual is entitled to benefits under paragraph (5) of section 411(c).".

(3) Section 421(a) of the Act is amended by inserting after "pneumoconiosis" the second place it appears therein the following: ", and in any case in which benefits based upon eligibility under paragraph (5) of section 411(c) are involved.".

(4) The first sentence of section 422(a) of the Act is amended by inserting before the period at the end thereof the following: ", or with respect to entitlements established in paragraph (5) of section 411(c)".

OFFSET LIMITATION

SEC. 4. The first sentence of section 412(b) of the Act is amended by inserting after "disability of such miner" the following: "due to pneumoconiosis".

EVIDENCE REQUIRED TO ESTABLISH CLAIM

SEC. 5. (a) Section 413(b) of the Act is amended by inserting after the second sentence thereof the following new sentences: "Where there is no medical or other relevant evidence in the case of a deceased miner, such affidavits shall be considered to be sufficient to establish that the miner was totally disabled due to pneumoconiosis or that his or her death was due to pneumoconiosis. In any case in which there is other evidence that a miner has a pulmonary or respiratory impairment, the Secretary shall accept a board certified or board eligible radiologist's interpretation of a chest roentgenogram which is of a quality sufficent to demonstrate the presense of pneumoconiosis submitted in support of a claim for benefits under this title if such roentgenogram has been taken by a radiologist or qualified technician, except where the Secretary has reason to believe that the claim has been fraudulently represented.

In order to insure that any such roentgenogram is of adequate quality to demonstrate the presence of pneumoconiosis, and in order to provide for uniform quality in the roentgenograms, the Secretary of Labor may, by regulation establish specific requirements for the techniques used to take roentgenograms of the chest. Unless the Secretary has good cause to believe that an autopsy report is not accurate, or that the condition of the miner is being fraudulently misrepresented, the Secretary shall accept such autopsy report concerning the presence of pneumoconiosis and the stage of advancement of pneumoconiosis.".

(b) Section 413(b) of the Act, as amended in subsection (a), is further amended by adding at the end thereof the following new sentence: "Each miner who files a claim for benefits under this title shall upon request be provided an opportunity to substantiate his or her claim by means of a complete pulmonary evaluation.".

(c) The fifth sentence of section 413(b) of the Act is amended by striking out "(f)," and by striking out "and (1)," and inserting in lieu thereof "(1), and (n),".

(d) Section 413 of the Act is amended by adding at the end thereof the following new subsection:

"(d) No miner who is engaged in coal mine employment shall (except as provided in section 411(c)(3)) be entitled to any benefits under this part while so employed. Any miner who has been determined to be eligible for benefits pursuant to a claim filed while such miner was engaged in coal mine employment shall be entitled to such benefits if his or her employment terminates within one year after the date such determination becomes final.".

APPROVAL OF STATE WORKERS' COMPENSATION LAWS

SEC. 6. (a) Section 421(b)(2)(A) of the Act is amended by inserting before the semicolon the following: ", except that (i) such law shall not be required to provide such benefits where the miner's last employment in a coal mine terminated before the Secretary's approval of the State law pursuant to this section; and (ii) each operator of a coal mine shall secure the payment of benefits pursuant to section 423 with respect to any miner whose last employment in a coal mine terminated before the Secretary's approval of the State law pursuant to this section".

(b) Section 421(b)(2)(C) of the Act is amended by striking out "part B of this title" and inserting in lieu thereof "this part", by striking out "of Health, Education, and Welfare", and by striking out "thereunder" and inserting in lieu thereof "under this part".

(c) Section 421(b)(2)(D) of the Act is amended to read as follows:

"(D) any claim for benefits on account of total disability of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years after a medical determination of total disability due to pneumoconiosis;".

DETERMINATION OF CLAIMS FOR BENEFITS UNDER PART C OF TITLE IV OF THE ACT

SEC. 7. (a) The first sentence of section 422(a) of the Act is amended—

(1) by inserting after "as amended" the following: ", and as it may be amended from time to time";

(2) by inserting a comma after "and 51 thereof)"; and

(3) by striking out "and except as the Secretary shall by regulation otherwise provide" and inserting in lieu thereof "or by regulations of the Secretary and except that references in such Act to the employer shall be considered to refer to the trustees of the fund, as the Secretary considers appropriate and as is consistent with the provisions of section 424".

(b) Section 422(b) of the Act is amended by adding at the end thereof the following new sentence: "An employer, other than an operator of a coal mine, shall not be required to secure the payment of such benefits with respect to any employee of such employer to the extent such employee is engaged in the transportation of coal or in coal mine construction. Upon determination by the Secretary of the eligibility of the employee, the Secretary may require such employer to secure a bond or otherwise guarantee the payment of such benefits to the employee.".

(c) Section 422(c) of the Act is amended—

(1) by striking out "and the Secretary of Health, Education, and Welfare"; and

(2) by striking out "the period" and inserting in lieu thereof "a period after December 31, 1969,".

(d) Section 422(e) of the Act is amended by inserting "or" at the end of paragraph (1) thereof, by striking out ", or" at the end of paragraph (2) thereof and inserting in lieu thereof a period, and by striking out paragraph (3) thereof.

(e) Section 422(f) of the Act is amended to read as follows:

"(f) Any claim for benefits by a miner under this section shall be filed within three years after whichever of the following occurs later—

"(1) a medical determination of total disability due to pneumoconiosis; or

"(2) the date of the enactment of the Black Lung Benefits Reform Act of 1977.".

(f) Section 422(h) of the Act is amended by striking out the first sentence thereof.

(g) Section 422(i) of the Act is amended to read as follows:

"(i)(1) During any period in which this section is applicable to the operator of a coal mine who on or after January 1, 1970, acquired such mine or substantially all the assets thereof, from a person (hereinafter in this subsection referred to as a 'prior operator') who was an operator of such mine, or owner of such assets on or after January 1, 1970, such operator shall be liable for and shall, in accordance with section 423, secure the payment of all benefits which would have been payable by the prior operator under this section with respect to miners previously employed by such prior operator as if the acquisition had not occurred and the prior operator had continued to be an operator of a coal mine.

"(2) Nothing in this subsection shall relieve any prior operator of any liability under this section.

"(3)(A) For purposes of paragraph (1) of this subsection, the provisions of this paragraph shall apply to corporate reorganizations, liquidations, and such other transactions as are specified in this paragraph.

"(B) If an operator ceases to exist by reason of a reorganization or other transaction or series of transactions which involves a change in identity, form, or place of business or organization, however affected, the successor operator or other corporate or business entity resulting from such reorganization or other change shall be treated as the operator to whom this section applies.

"(C) If an operator ceases to exist by reason of a liquidation into a parent or successor corporation, the parent or successor corporation shall be treated as the operator to whom this section applies.

"(D) If an operator ceases to exist by reason of a sale of substantially all his or her assets, or as the result of a merger, consolidation, or division, the successor operator, corporation, or other business entity shall be treated as the operator to whom this section applies.

"(4) In any case in which there is a determination under section 424 that no operator is liable for the payment of benefits to a claimant, nothing in this subsection may be construed to require the payment of benefits to a claimant by or on behalf of any operator.".

(h) Section 422 of the Act is amended by adding at the end thereof the following new subsections:

"(j) Notwithstanding the provisions of this section, section 424 shall govern the payment of benefits in cases—

"(1) described in section 424(a)(1); or

"(2) in which the miner's last coal mine employment was before January 1, 1970.

"(k) The Secretary shall be a party in any proceeding relative to a claim for benefits under this part.

"(l) In no case shall the eligible survivors of a miner who was determined to be eligible to receive benefits under this title at the time of his or her death be required to file a new claim for benefits, or refile or otherwise revalidate the claim of such miner.".

(i) Notwithstanding the provisions of section 422(a) of the Act, individuals appointed to hear and determine claims for benefits under part C of title IV of the Act and under section 415 of the Act pursuant to Public Law 94-504 (90 Stat. 2428) may continue to adjudicate such claims during the one-year period following the date of the enactment of this Act.

PENALTIES FOR FAILURE TO SECURE PAYMENT OF BENEFITS

SEC. 8. Section 423 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Any employer required to secure the payment of benefits under this section who fails to secure such benefits shall be subject to a civil penalty assessed by the Secretary of not more than $1,000 for each day during which such failure occurs. In any case where such employer is a corporation, the president, secretary, and treasurer thereof also shall be severally liable to such civil penalty as provided in this subsection for the failure of such corporation to secure the payment of benefits. Such president, secretary, and treasurer shall be severally personally liable, jointly with such corporation, for any benefit which may accrue under this title in respect to any disability which may occur to any employee of such corporation while it shall so fail to secure the payment of benefits as required by this section.

"(2) Any employer of a miner who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes, or destroys any property belonging to such employer, after any miner employed by such employer has filed a claim under this title, and with intent to avoid the payment of benefits under this title to such miner or his or her dependents, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or both. In any case where such employer is a corporation, the president, secretary, and treasurer thereof also shall be severally liable for such penalty of imprisonment as well as jointly liable with such corporation for such fine.

"(3) This subsection shall not affect any other liability of the employer under this part.".

CLINICAL FACILITIES

SEC. 9. The first sentence of section 427(c) of the Act is amended by striking out "of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975" and inserting in lieu thereof "fiscal year".

APPLICABILITY OF AMENDMENTS

SEC. 10. Section 430 of the Act is amended—

(1) by inserting "and by the Black Lung Benefits Reform Act of 1977" after "1972"; and

(2) by striking out the colon and all that follows it and inserting in lieu thereof a period.

MEDICAL CARE

SEC. 11. The Secretary of Health, Education, and Welfare shall notify each miner receiving benefits under part B of title IV of the Act on account of his or her total disability who such Secretary has reason to believe became eligible for medical services and supplies on January 1, 1974, of his or her possible eligibility for such benefits. Where such Secretary so notifies a miner, the period during which he or she may file a claim for medical services and supplies under part C of title IV of the Act shall not terminate before six months after such notification is made.

PENALTIES FOR FALSE STATEMENTS AND FAILURES TO FILE REPORTS

SEC. 12. (a) Section 431 of the Act is amended to read as follows:

"SEC. 431. Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this title shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or both.".

(b) Part C of title IV of the Act is amended by adding at the end thereof the following new section:

"SEC. 432. (a) The Secretary may by regulation require employers to file reports concerning miners who may be or are entitled to benefits under this part, including the date of commencement and cessation of benefits and the amount of such benefits. Any such report shall not be evidence of any fact stated therein in any proceeding relating to death or total disability due to pneumoconiosis of any miner to which such report relates.

"(b) Any employer who fails or refuses to file any report required of such employer under this section shall be subject to a civil penalty of not more than $500 for each such failure or refusal.".

INSURANCE FUND

SEC. 13. Part C of title IV of the Act, as amended by section 12(b), is further amended by adding at the end thereof the following new section:

"SEC. 433. (a) The Secretary is authorized to establish and carry out a black lung insurance program which will enable operators of coal mines to purchase insurance covering their obligations under section 422.

"(b) The Secretary may exercise his or her authority under this section only if, and to the extent that, insurance coverage is not otherwise available, at reasonable cost, to operators or coal mines.

"(c)(1) The Secretary may enter into agreements with operators of coal mines who may be liable for the payment of benefits under section 422, under which the Black Lung Compensation Insurance Fund established under subsection (a) (hereinafter in this section referred to as the 'insurance fund') shall assume all or part of the liability of such operator in return for the payment of premiums to the insurance fund, and on such terms and conditions as will fully protect the financial solvency of the insurance fund. During any period in which such agreement is in effect the operator shall be deemed in compliance with the requirements of section 423 with respect to the risks covered by such agreement.

"(2) The Secretary may also enter into reinsurance agreements with one or more insurers or pools of insurers under which, in return for the payment of premiums to the insurance fund, and on such terms and conditions as will fully protect the financial solvency of the insurance fund, the insurance fund shall provide reinsurance coverage for benefits required to be paid under section 422.

"(d) The Secretary may by regulation provide for general terms and conditions of insurability as applicable to operators of coal mines or insurers eligible for insurance or reinsurance under this section, including—

"(1) the types, classes, and locations of operators or facilities which shall be eligible for such insurance or reinsurance;

"(2) the classification, limitation, and rejection of any operator or facility which may be advisable;

"(3) appropriate premiums for different classifications of operators or facilities;

"(4) appropriate loss deductibles;

"(5) experience rating; and

"(6) any other terms and conditions relating to insurance or reinsurance coverage or exclusion which may be appropriate to carry out the purposes of this section.

"(e) The Secretary may undertake and carry out such studies and investigations, and receive or exchange such information, as may be necessary to formulate a premium schedule which will enable the insurance and reinsurance authorized by this section to be provided on a basis which is (1) in accordance with accepted actuarial principles; and (2) fair and equitable.

"(f)(1) On the basis of estimates made by the Secretary in formulating a premium schedule under subsection (e), and such other information as may be available, the Secretary shall from time to time prescribe by regulation the chargeable premium rates for types and classes of insurers, operators of coal mines, and facilities for which insurance or reinsurance coverage shall be available under this section and the terms and conditions under which, and the area within which, such insurance or reinsurance shall be available and such rates shall apply.

"(2) Such premium rates shall be (A) based on a consideration of the risks involved, taking into account differences, if any, in risks based on location, type of operations, facilities, type of coal, experience, and any other matter which may be considered under accepted actuarial principles; and (B) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses.

"(3) All premiums received by the Secretary shall be paid into the insurance fund.

"(g)(1) The Secretary may establish in the Department of Labor a Black Lung Compensation Insurance Fund which shall be available, without fiscal year limitation—

"(A) to pay claims of miners for benefits covered by insurance or reinsurance issued under this section;

"(B) to pay the administrative expenses of carrying out the black lung compensation insurance program under this section; and

"(C) to repay to the Secretary of the Treasury such sums as may be borrowed in accordance with the authority provided in subsection (i).

"(2) The insurance fund shall be credited with—

"(A) premiums, fees, or other charges which may be collected in connection with insurance or reinsurance coverage provided under this section;

"(B) such amounts as may be advanced to the insurance fund from appropriations in order to maintain the insurance fund in an operative condition adequate to meets its liabilities; and

"(C) income which may be earned on investments of the insurance fund pursuant to paragraph (3).

"(3) If, after all outstanding current obligations of the insurance fund have been liquidated and any outstanding amounts which may have been advanced to the insurance fund from appropriations authorized under subsection (i) have been credited to the appropriation from which advanced, the Secretary determines that the moneys of the insurance fund are in excess of current needs, he or she may request the investment of such amounts as he or she deems advisable by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the insurance fund and bearing interest at prevailing market rates.

"(h) The Secretary shall report to the Congress not later than the first day of April of each year on the financial condition of the insurance fund and the results of the operations of the insurance fund during the preceding fiscal year and on its expected condition and operations during the fiscal year in which the report is made.

"(i) There are authorized to be appropriated to the insurance fund, as repayable advances, such sums as may be necessary to meet obligation incurred under subsection (g). All such sums shall remain available without fiscal year limitation. Advances made pursuant to this subsection shall be repaid, with interest, to the general fund of the Treasury when the Secretary determines that moneys are available in the insurance fund for such repayments. Interest on such advances shall be computed in the same manner as provided in subsection (b)(2) of section 3 of the Black Lung Benefits Revenue Act of 1977.".

STATEMENT OF REASONS FOR DENIAL OF CLAIMS

SEC. 14. Part C of title IV of the Act, as amended by sections 12(b) and 13, is further amended by adding at the end thereof the following new section:

"SEC. 434. Any individual whose claim for benefits under this title is denied shall receive from the Secretary a written statement of the reasons for denial of such claim, and a summary of the administrative hearing record or, upon good cause shown, a copy of any transcript thereof.".

REVIEW OF PENDING AND PREVIOUSLY DENIED CLAIMS

SEC. 15. Part C of title IV of the Act, as amended by sections 12(b), 13, and 14, is further amended by adding at the end thereof the following new section:

"SEC. 435. (a)(1) The Secretary of Health, Education, and Welfare shall promptly notify each claimant who has filed a claim for benefits under part B of this title and whose claim is either pending on the effective date of this section or has been denied on or before that effective date, that, upon the request of the claimant, the claim shall be either—

"(A) reviewed by the Secretary of Health, Education, and Welfare under paragraph (2) for a determination based on the evidence on file, taking into account the amendments made by the Black Lung Benefits Reform Act of 1977; or

"(B) referred directly by the Secretary of Health, Education, and Welfare to the Secretary of Labor for a determination under paragraph (3), with an opportunity for the claimant to present additional medical or other evidence in accordance with that paragraph, taking into account the amendments made by the Black Lung Benefits Reform Act of 1977.

"(2)(A) The Secretary of Health, Education, and Welfare shall approve forthwith each claim for which review is requested under paragraph (1)(A) if, based upon the evidence on file, the provisions of part B of this title, as amended by the Black Lung Benefits Reform Act of 1977, require such approval. The Secretary of Health, Education, and Welfare shall certify such approval to the Secretary of Labor and such approval shall be binding upon the Secretary of Labor as an initial determination of eligibility. Upon receipt of that certification, the Secretary of Labor shall immediately make or otherwise provide for the payment of the claim in accordance with this part.

"(B)(i) The Secretary of Health, Education, and Welfare shall refer to the Secretary

of Labor any claim not approved under subparagraph (A) for a determination under paragraph (3), and shall notify the claimant of that referral to the Secretary of Labor for such a determination.

"(ii) The Secretary of Health, Education, and Welfare shall notify each claimant whose claim has been approved under subparagraph (A) that, if the claimant disputes the scope or terms of the award, such dispute shall be referred to the Secretary of Labor for a determination under paragraph (3).

"(C) Upon the completion of the review of any claim by the Secretary of Health, Education, and Welfare under this paragraph, the responsibility for further action with respect to such claim shall be transferred to the Secretary of Labor. The Secretary of Labor shall consider each such claim in accordance with paragraph (3).

"(3)(A) Except as provided in this section, the Secretary of Labor shall treat each claim referred by the Secretary of Health, Education, and Welfare under paragraph (1)(B) or (2)(B) as if it were a claim filed under this part. The provisions of subsection (b) shall apply to any determination of the Secretary with respect to any such claim referred to the Secretary.

"(B) The Secretary of Health, Education, and Welfare shall promptly furnish to the Secretary of Labor all pertinent information in the possession of the Department of Health, Education, and Welfare relating to claims referred to the Secretary of Labor under this subsection.

"(4) For the purposes of any determination by the Secretary of Labor under paragraph (3), the date of the request under paragraph (1) shall be considered the date of filing of the claim.

"(b)(1) The Secretary of Labor shall review each claim which has been denied under this part (or under section 415) on or before the effective date of this subsection, and each claim which is pending under this part (or under section 415) on such effective date, taking into account the amendments made to this part by the Black Lung Benefits Reform Act of 1977. The Secretary shall approve any such claim forthwith if the provisions of this part, as so amended, require that approval, and the Secretary shall immediately make or otherwise provide for the payment of the claim in accordance with this part.

"(2)(A) The Secretary, in carrying out the review of any claim under paragraph (1) and in making any determination under subsection (a)(3), shall not require any additional medical or other evidence to be submitted if the evidence on file is sufficient for approval of the claim, taking into account the amendments made to this part by the Black Lung Benefits Reform Act of 1977.

"(B) If the evidence on file is not sufficient for approval of the claim, the Secretary shall provide an opportunity for the claimant to present additional medical or other evidence to substantiate his or her claim and shall notify each claimant of that opportunity.

"(c) Any individual whose claim is approved pursuant to this section shall be awarded benefits on a retroactive basis for a period which begins no earlier than January 1, 1974.".

SHORT TITLE FOR THE ACT

SEC. 16. Section 401 of the Act is amended by inserting "(a)" after "SEC. 401." and by adding at the end thereof the following new subsection:

"(b) This title may be cited as the 'Black Lung Benefits Act'."

OCCUPATIONAL DISEASE STUDY

SEC. 17. (a) The Secretary of Labor, in cooperation with the Director of the National Institute for Occupational Safety and Health, shall conduct a study of all occupationally related pulmonary and respiratory diseases, including the extent and severity of such diseases in the United States. Such study shall further include analyses of (1) any etiologic, symptomatologic, and pathologic factors which are similar to such factors in coal workers' pneumoconiosis and its sequelae; (2) the adequacy of current workers' compensation programs in compensating individuals with such diseases; and (3) the status and adequacy of Federal health and safety laws and regulations relating to the industries with which such diseases are associated.

(b) The study required in subsection (a) shall be completed and a report thereon submitted to the President and to the appropriate committees of the Congress no later than 18 months after the date of the enactment of this Act.

FIELD OFFICES

SEC. 18. (a) The Secretary of Labor shall establish and operate such field offices as may be necessary to assist miners and survivors of miners in the filing and processing of claims under title IV of the Act. Such field offices shall, to the extent feasible, be reasonably accessible to such miners and survivors. The Secretary, in connection with the establishment and operation of field offices, may enter into arrangements with other Federal departments and agencies, and with State agencies, for the use of existing facilities operated by such departments and agencies. Where the establishment of separate facilities is not feasible the Secretary may enter into such arrangements as he deems necessary with the heads of Federal departments, agencies, and instrumentalities and with State agencies for the use of existing facilities and personnel under their control.

(b) There are authorized to be appropriated for the purposes of subsection (a) such sums as may be necessary.

INFORMATION TO POTENTIAL BENEFICIARIES

SEC. 19. The Secretary of Health, Education, and Welfare and the Secretary of Labor shall disseminate to interested persons and groups the changes in title IV of the Act made by this Act, together with an explanation of such changes, and shall undertake, through appropriate organizations, groups, and coal mine operators, to notify individuals who are likely to have become eligible for benefits by reason of such changes. Individual assistance in preparing and processing claims shall be offered by the Secretary of Health, Education, and Welfare and the Secretary of Labor and provided to potential beneficaries.

EFFECTIVE DATES

SEC. 20. (a) The provisions of this Act shall take effect on the date of the enactment of this Act.

(b) In the event that the payment of benefits to miners and to eligible survivors of miners cannot be made from the Black Lung Disability Trust Fund established by section 3(a) of the Black Lung Benefits Revenue Act of 1977, the provisions of the Act relating to the payment of benefits to miners and to eligible survivors of miners, as in effect immediately before the date of the enactment of this Act, shall take effect, as rules and regulations of the Secretary of Labor until such provisions are revoked, amended, or revised by law. The Secretary of Labor may promulgate additional rules and regulations to carry out such provisions and shall make benefit payments to miners and to eligible survivors of miners in accordance with such provisions.

(c) In accordance with the requirements of section 5 of the Black Lung Benefits Revenue Act of 1977, it is hereby provided that such Act shall take effect in accordance with the provisions of such Act. The provisions of this subsection are hereby deemed to be in explicit satisfaction of the requirements of section 5 of such Act.

And the Senate agree to the same.

CARL D. PERKINS,
JOHN H. DENT,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
W. L. CLAY,
MARIO BIAGGI,
LEO C. ZEFERETTI,
MICHAEL O. MYERS,
AUSTIN J. MURPHY,
BALTASAR CORRADA,
PAUL SIMON,
GEO. MILLER,
FRANK THOMPSON, JR.,
IKE ANDREWS,
AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLES VANIK,
JOHN J. DUNCAN,
Managers on the Part of the House.

HARRISON A. WILLIAMS,
CLAIBORNE PELL,
GAYLORD NELSON,
DON RIEGLE,
JENNINGS RANDOLPH,
EDWARD M. KENNEDY,
RUSSELL LONG,
FLOYD K. HASKELL,
JACOB K. JAVITS,
DICK SCHWEIKER,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
PAUL LAXALT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DEFINITIONS

Pneumoconiosis

The House bill did not modify the existing law defining "pneumoconiosis". The Senate amendment defined pneumoconiosis as a "chronic dust disease of the lung and its sequelae, including respiratory and pulmonary impairments, arising out of coal mine employment".

The conference substitute conforms to the Senate amendment.

Miner

The House bill did not modify the existing definition of "miner". The Senate amendment modified the definition to include all self-employed miners and specified that the term includes workers who are employed in or around a coal mine or preparation facility in the extraction, preparation, or transportation of coal, and construction workers who are exposed to coal dust in their employment.

The conference substitute conforms generally to the Senate amendment with an

amendment to clarify that transportation and construction workers are covered only to the extent they work in or around a coal mine and are exposed to coal dust. The conference substitute elsewhere provides that coal mine construction and transportation employers who are not also mine operators shall not be obligated to purchase insurance for the payment of claims under the Federal Mine Safety and Health Act of 1971. However, the conference substitute elsewhere also provides that coal mine construction and transportation employers who are not also mine operators shall be individually liable for the payment of approved claims in appropriate cases. (See section 7, which amends the Act to require such employers to secure a bond or otherwise guarantee the payment of such claims once approved.)

Total disability

The House bill did not modify the provisions of current law which authorize the Secretary of Health, and Welfare to promulgate medical standards for the determination of total disability for all claims. The House bill did, however, bind the Secretary of HEW to prescribing part C regulations no more restrictive than those in effect for claims filed on June 30, 1973 ("interim" standards). The Senate amendment authorized the Secretary of Labor to promulgate new medical standards to be applied to all part C claims and retained the standard-setting authority of the Secretary of HEW with respect to part B claims. The Senate amendment further provided that the Secretary of Labor, in consultation with NIOSH, would establish criteria for medical tests consistent with the definition of total disability.

The conference substitute conforms to the Senate amendment with the proviso that the so-called "interim" part B medical standards are to be applied to all reviewed and pending claims filed before the date the Secretary of Labor promulgate new medical standards for part C cases.

The conferees intend that the Secretary of Labor shall promulgate regulations for the determination of total disability or death due to pneumoconiosis. With respect to a claim filed or pending prior to the promulgation of such regulations, such regulations shall not provide more restrictive criteria than those applicable to a claim filed on June 30, 1973, except that in determining claims under such criteria all relevant medical evidence shall be considered in accordance with standards prescribed by the Secretary of Labor and published in the Federal Register.

The conferees also intend that all standards are to incorporate the presumptions contained in section 411(c) of the Act.

The House bill amended section 413 to provide that a claim cannot be rejected solely on the basis of current employment as a miner if (1) the miner's work location has recently been changed to a less dusty area; (2) the nature of employment has been changed to be less rigorous; or (3) the nature of employment has been changed to result in receipt of substantially less pay.

The Senate amendment modified the definition of "total disability" to provide that: (1) a deceased miner's employment in a mine at the time of death is not conclusive evidence that the miner was not totally disabled; and (2) a living miner's employment with changed employment circumstances indicating a reduced ability to do his usual coal mine work, is not conclusive evidence that the miner is not totally disabled.

The conference substitute conforms to the Senate amendment. By this amendment, the conferees intend to conclusively establish what is already implicit in current law; that is, that mere status as an employee is not always accompanied by the absence of total disability (within the meaning of the Act). It is in response to the administrative practice of denying claims solely on the basis of employment status without regard to the type of work being performed. The amendment thus identifies certain situations which may suggest the existence of legal disability notwithstanding continued employment status and where additional administrative inquiry is therefore directed.

The House bill also provided that a miner could file a claim for benefits regardless of whether the miner was currently employed and that the Secretary of Labor could advise the miner if he would be eligible for benefits if he changed the circumstances of his work. The Senate amendment did not contain these provisions.

The conference substitute does not include the House provision since the provision would essentially duplicate authority provided elsewhere in the conference substitute, arising out of identical provisions in the House bill and Senate amendment, which prohibits benefit payments to employed miners (except those afflicted with complicated pneumoconiosis, as described by section 411(c)(3)), but permits a miner to receive benefits if his employment terminates within 1 year after he is determined to be otherwise eligible for benefits.

EVIDENCE

Affidavits

The House bill provided that where there is no relevant medical evidence in the case of a deceased miner, affidavits shall be considered sufficient to establish eligibility. The Senate amendment provided that in the case of a deceased miner, where there is no medical evidence or where such evidence is inconclusive, a claim shall be approved if other evidence in the record, including affidavits, taken as a whole, establishes eligibility.

The conference substitute conforms to the House provision with a Senate amendment that affidavits are sufficient to establish eligibility in the case of a deceased miner where there is no medical "or other" relevant evidence.

X-ray rereading prohibition

The House bill required the Secretary to accept the opinion of a claimant's physician regarding whether the miner's X-ray shows pneumoconiosis unless the Secretary has good cause to believe the X-ray is not of sufficient quality, or the miner's condition is being fraudulently represented. The Senate amendment provided that if the miner is employed for 25 or more years in the mines and there is other evidence of pulmonary or respiratory impairment, the Secretary must accept the reading of a board-certified or board-eligible radiologist if the X-ray is of sufficient quality and is taken by a radiologist or a qualified radiologic technologist or technician, except where the Secretary has reason to believe that the claim has been fraudulently misrepresented. The Secretary of Labor may by regulation establish specific requirements for techniques used to take X-rays.

The conference substitute generally conforms to the Senate provision except that the limitation on the prohibition as it pertained to claims of miners with 25 or more years of mining employment contained in the Senate amendment is deleted. In the case of X-rays read by a board-certified or board-eligible radiologist it is the intention of the conferees that the Secretary shall accept, for whatever evidentiary value X-rays generally may have, the evaluation of such X-rays read by a board-certified or board-eligible radiologist without submitting them to a further rereading.

Autopsy reports

The House bill provided that the Secretary must accept an autopsy report for purposes of determining the presence of pneumoconiosis and the stage of advancement of pneumoconiosis, unless the Secretary has good cause to believe it is not accurate, or that the miner's condition is being fraudulently misrepresented. The Senate amendment did not contain these provisions.

The conference substitute conforms to the House bill.

Pulmonary examination

The Senate amendment required that miners be provided an opportunity to substantiate their claims by means of complete pulmonary examinations. The House bill contained no such provision.

The conference substitute adopts the Senate provision with an amendment to clarify that the miner-claimant has the right to insist on a complete pulmonary examination in substantiating the claim. The conferees recognize that complete pulmonary examinations, including blood gas tests, may be an especially important tool in diagnosing total disability due to pneumoconiosis for miners in certain cases, such as high-altitude miners. In adopting this provision, the conferees intend that in evaluating claims, all relevant evidence be considered but that no claim may be denied unless the claimant has been offered the opportunity to substantiate his claim by means of such pulmonary examinations (except where it is determined in consultation with the miner's physician that such test is medically contraindicated) and the miner has been given a reasonable period of time to avail himself or herself of such opportunity. The conferees do not intend by this provision, however, that any single medical test be given priority in establishing total disability due to pneumoconiosis.

BENEFIT ELIGIBILITY

Survivor presumption

The Senate amendment entitled the survivor of a miner who died before the date of enactment of the 1977 amendments and who had at least 25 years of coal mine employment prior to June 30, 1971, to benefits, unless it is established that, at the time of death, the miner was not partially or totally disabled due to pneumoconiosis. The survivor was required upon request to supply the Secretary with available evidence concerning the health of the miner at the time of death. The House bill had no equivalent provision.

The conference substitute adopts the Senate provision.

Mine accident provisions

The House bill provided that if a miner was employed 17 years or more in underground coal mines and died as a result of an accident in any such coal mine which occurred before June 30, 1971, an eligible survivor would be entitled to part B black lung benefits. The Senate amendment had no comparable provision.

The conference substitute does not contain this provision.

Determination of year of employment

The Senate amendment provided that a miner would be credited with a year of employment if the miner had four quarters of coverage as defined in the Social Security Act, was continuously on the payroll of a coal company, or if the Secretary of Labor determined on the basis of other evidence that he was employed as a miner. The House bill had no comparable provision.

The conference substitute does not contain this provision.

Use of 15-year presumption

The House bill did not modify current law under which part C claimants, in order to use the section 411(c)(4) presumption of total disability due to pneumoconiosis, must have worked 15 years in the coal mines prior to June 30, 1971, and have filed the claim within 3 years of last exposed employment in a coal mine for a living miner and within

15 years of last exposed employment in a coal mine in the case of a survivor's claim. The Senate amendment eliminated all time limitations on the use of the section 411(c)(4) presumption.

The conference substitute conforms to the Senate amendment.

Statute of limitations

The House bill provided that, in addition to the provisions of current law under which a part C claim may be filed within 3 years of discovery of total disability due to pneumoconiosis or within 3 years of death due to pneumoconiosis, a part C claim may also be filed within 3 years of the date of enactment of these amendments. The Senate amendment permitted the filing of a part C claim by a miner within 3 years after a medical determination of total disability due to pneumoconiosis, and eliminated the statute of limitations on survivor claims.

The conference substitute conforms to the Senate provision with an amendment which would permit the filing of a part C claim within 3 years of the date of enactment of these amendments.

Survivors of approved claimants

The Senate amendment provided that the eligible survivors of approved claimants would not be required to file a new claim for benefits. The House bill had no comparable provision.

The conference substitute conforms to the Senate amendment.

Medical benefits

The House bill required the Secretary of HEW to notify miners receiving benefits under part B of the eligibility to file for medical benefits under part C. Such miners would then have 6 months to file a part C claim for medical benefits, without regard to the current 3-year statute of limitations. The Senate amendment had no comparable provision.

The conference substitute adopts the provision of the House bill. The conferees intend that the so-called "interim" part B medical standards are to be applied to all of these medical benefits claims.

Applicability of 1977 part B amendments to part C

The Senate amendment made these amendments to part B applicable to part C where relevant. The House bill had no comparable provision. The conference substitute conforms to the Senate amendment. Neither this provision nor any other provision in the conference substitute eliminates or narrows the current applicability of all part B presumptions to part C claims. Indeed, it is the express intent of the conferees to expand the regulatory authority of the Department of Labor in administering the black lung benefits program.

NOTIFICATION AND REVIEW

Notification

The House bill provided that the Secretaries of Labor and HEW would disseminate to interested persons and groups information on changes in the law. Each Secretary would undertake a program to give individual notices. The Secretary of HEW would locate and notify individuals with long periods of coal mine employment or their survivors of their eligibility to file a part B claim if they had not previously filed a part B or part C claim and such persons could file clai mswithin 6 months of notification.

The Senate amendment required the Secretaries of Labor and HEW to disseminate jointly to interested persons and groups information on changes in the law, and through group organizations and operators to undertake to notify individuals. Individual assistance was to be provided to potential beneficiaries.

The conference substitute conforms to the House bill with an amendment to delete any requirement that a delegate of the Secretary personally visit individuals to inform them of their eligibility for benefits. Also deleted is the provision in the House bill permitting the reopening of part B to "notified" potential claimants. In addition, as discussed below, the Secretary of HEW will notify denied part B claimants and the Secretary of Labor will notify denied part C claimants of their review rights and, with regard to part C claimants, of their right to augment their files. The conference substitute also retains the Senate provision requiring that individual assistance be provided to potential beneficiaries. The conferees intend that the Secretaries undertake a broad campaign to disseminate information about the changes in the program and to notify individuals who may have become eligible for benefits, through appropriate organizations, groups, and coal mine operators.

Review

The House bill provided that the Department of Health, Education, and Welfare would automatically review all previously denied or pending part B claims and that the Department of Labor would likewise review all previously denied or pending part C claims to determine if the respective claimants would be eligible for benefits in light of the 1977 amendments. The Senate amendment provided that claimants with previously denied claims would be permitted to refile under part C under an expedited procedure to be established by the Secretary of Labor.

The conference substitute adopts the requirement of the House bill of entitlement to review of all denied or pending claims (part B and part C) taking into account the changes made by these amendments. It requires the Department of HEW to notify individuals whose part B claims have been denied or are pending that they may elect to have HEW review the claim on the existing record or have the claim referred to the Department of Labor for refiling under part C with an opportunity to submit new evidence. Where the claimant elects review under part B and the Department of HEW finds the claimant eligible in light of these amendments, or for other reasons, the Secretary of HEW is to certify this determination to the Secretary of Labor. This certification is binding upon the Secretary of Labor as an initial determination of eligibility and the Secretary of Labor is required to immediately make or otherwise provide for the full payment of the claim in accordance with relevant part C provisions.

When the claimant elects review under part B and the Department of HEW does not find the claimant eligible for benefits on the existing record, the claim will be referred to the Secretary of Labor for refiling under part C, and consideration thereunder (including the opportunity to submit new evidence), and the claimant is notified by HEW of that referral. Once the Secretary of HEW makes the determination of claim approval or denial based on review on the existing record, the responsibility for further review action on any such claim is transferred to the Secretary of Labor. This also includes the situation where a claimant is dissatisfied with the scope or terms of an HEW approval (e.g., dispute regarding augmentation of benefits because of dependents). The Department of HEW is thus expressly relieved of providing an administrative process for appeal from its determinations under these provisions and that responsibility rests with the Department of Labor.

Where the claimant does not elect review under part B, but elects to have the claim referred to the Department of Labor for refiling under part C, HEW shall so notify the Secretary of Labor and shall promptly provide the Secretary with the claimant's case file, and all pertinent information necessary to further process the claim. With respect to all claims referred by HEW to the Secretary of Labor, and thus refiled as part C claims, the Secretary of Labor shall provide an opportunity for the claimant to present additional medical or other evidence in support of the claim and shall notify each claimant of that opportunity.

The conference substitute also requires the Secretary of Labor to automatically review all currently denied or pending part C claims, taking into account the changes made by these amendments. The Secretary is required to immediately make or otherwise provide for the full payment of claims approved under these provisions in accordance with relevant part C provisions. If the evidence on file is not sufficient for approval of a claim, the Secretary shall provide an opportunity for the claimant to present additional medical or other evidence in support of the claim and shall notify each claimant of that opportunity. If a claim is denied on review on the existing record, the claimant shall once again be informed of his right to submit additional evidence in support of the claim under part C.

All reviews or refiled claims shall receive expedited treatment. The conferees also expect the Secretaries of HEW and Labor to establish a satisfactory mechanism to coordinate their responsibilities and to avoid both agencies simultaneously reviewing the claim of any claimant previously denied under part B and later denied, pending, or entitled under part C. The conferees expect the Secretary of HEW to administer the "interim" standards with a view to the just accomplishment of the purpose of allowing for reviewed part B claims to establish disability within the meaning of the 1977 amendments as they apply to all reviewed part B claims.

For purposes of payment of benefits, all claims under review shall be treated as part C claims and shall be subject to relevant part C provisions which require payment of benefits by a coal mine operator, other employer, or by the trust fund established by the Black Lung Benefits Revenue Act of 1977.

Retroactivity

The House bill provided no payment retroactivity pursuant to review. The Senate amendment provided that a part B denial, refiled as a part C claim and approved, would be paid from January 1, 1974, as would a denied section 415 claim (that is, a claim filed between July 1 and December 31, 1973). A previously denied part C claim approved after refiling would be paid benefits from the date of original filing.

The conference substitute conforms generally to the Senate amendment with an amendment which does not alter the current law regarding retroactivity of benefits payments but which precludes any retroactivity of benefits for a period prior to January 1, 1974.

Pre-1970 employment

The House bill reopened part B (claims paid out of general revenues) for all claims predicated upon employment which terminated prior to December 30, 1969. The Senate amendment provided that any approved part C claim based upon coal mine employment which terminated prior to January 1, 1970, was to be paid by the trust fund established by the Senate amendment. The Senate amendment did not permit newly filed claims under part B.

The conference substitute conforms to the Senate amendment. The responsibility for payment of part B claims approved upon review pursuant to these amendments is dealt with elsewhere in the conference substitute.

Successor operator

The Senate amendment added to current law a requirement that, on or after Janu-

ary 1, 1970, if an operator reorganizes to change its identity, form, or place of organization, is liquidated into a parent corporation, or ceases to exist because of a sale of assets, merger, consolidation, or division, the successor operator or corporation is liable for claims based on coal mine employment for the predecessor operator, except that a predecessor operator shall be primarily liable if the predecessor operator remains a coal mine operator and is financially responsible for the payment of the claim. The House bill had no such provision.

The conference substitute conforms to the Senate amendment.

CLAIMS ADJUDICATION

Procedures

The House bill retained provisions under current law by which the Longshoremen's and Harbor Workers' Act procedures applied with respect to claims processed by the Secretary of Labor. In addition, the House bill added provisions establishing a new hearing procedure which required an expedited hearing within 45 days if requested by a claimant. The House bill also required the claimant's appeal from a final decision of the Secretary to be taken to a U.S. district court. The standard of review applied by the district court would have been "weight of the evidence".

The Senate amendment retained the Longshoremen's Act procedures for the adjudication of all claims processed by the Secretary of Labor but permitted the use of hearing officers for a period of 1 year. It also made future amendments to Longshoremen's Act procedures automatically applicable to black lung claims.

The conference substitute conforms to the Senate amendment. For purposes of adjudication, all claims certified, referred, or otherwise subject to review by the Secretary of Labor under section 435, shall be treated as part C claims.

Participation

The House bill provided that no operator may participate in the adjudication of any claim. The trustees of the fund (established by the House bill) could participate in the claims process on behalf of all operators only to the extent that they could appeal a prior decision, and medical determinations of the Secretary would not be appealable. If the trustees appealed a decision their appeal would be taken to the appropriate court of appeals.

The Senate amendment provided that only the Secretary and the claimant may participate in proceedings for which the trust fund may be liable. Neither the fund nor any operator could participate in any trust fund claim initially or on appeal. The Senate amendment made the Secretary of Labor a party in any part C proceeding and retained the current authority for operators to participate in claims adjudication with respect to claims for which they might be responsible.

The conference substitute conforms to the Senate amendment in the respect that the Secretary of Labor is a party in any part C proceeding and in retaining the authority of current law for operators to participate in the adjudication of claims for which they may be individually found liable (including part B claims certified or otherwise referred to the Secretary of Labor by the Secretary of HEW pursuant to the conference substitute). The balance of the Senate provision is incorporated in the provisions of the Black Lung Benefits Revenue Act of 1977, a prior and separate enactment dealing generally with the trust fund financing mechanism for the Black Lung Benefits Act.

Enforcement of operator liability to claimants

The House bill did not modify current law under which the failure of an operator to pay a claimant results in payments by the Secretary of Labor made on behalf of such operator. The Secretary may bring a civil action for recovery. Pursuant to incorporated Longshoremen's Act provisions, the operator may be required to pay the claimant 20 percent in addition to compensation if timely payments are not made. There is no penalty for failure to insure.

The Senate amendment provided that the failure of an operator to pay a claimant would result in payments being made by the trust fund. If the operator refused to repay the fund, there would be a lien against such operator's assets, enforceable in a U.S. district court. The operator would also be liable for the payment of a 20 percent penalty to the claimant pursuant to the Longshoremen's Act. A civil penalty of up to $1,000 a day would be provided for failure of an employer to secure benefits and corporate officers would be made jointly and severally liable. Criminal penalties would be imposed against an operator who knowingly destroyed or encumbered his property to avoid paying benefits. Other penalties would be imposed by the Senate amendment for the filing of false statements. The Secretary would be authorized to require employers to file reports concerning who may be entitled to benefits. Failure to file such reports would be subject to a civil penalty.

The conference substitute conforms to the Senate amendment with regard to its provisions establishing penalties for failure to secure payment of benefits and for false statements and reports. The balance of the Senate provision (e.g., trust fund liability lien provisions) is incorporated in the provisions of the Black Lung Benefits Revenue Act of 1977 (discussed above).

The conferees intend that the Secretary of Labor fully utilize the regulatory authority under which he or she may require reports of employers (regarding black lung beneficiaries or potential beneficiaries) to collect broad statistical data and to monitor the status of individual or groups of claims.

Enforcement of operator liability to fund

The House bill provided that if an operator failed or refused to pay an assessment or premium to the fund, the trustees would be authorized to bring a civil action against such operator in an appropriate U.S. district court. Nine percent interest could be assessed on past due balances. In addition, the Secretary of the Treasury could assess penalties not in excess of unpaid premiums and assessments to be paid by a defaulting operator. Penalties could be recovered by the Secretary of the Treasury in an appropriate U.S. district court, and would be paid into the fund.

The Senate amendment provided that if an operator failed to pay his designated 1 percent sales tax or repay the fund for the amounts paid on such operator's behalf, there would be either a default in tax liability declared by the Internal Revenue Service or in the latter case a lien imposed pursuant to provisions of the Internal Revenue Code of 1954. Such lien would be enforced by the Secretary of Labor in a U.S. district court.

The conference substitute does not contain either provision since the provision of the Senate amendment is incorporated in the provisions of the Black Lung Benefits Revenue Act of 1977, a prior and separate enactment (discussed above).

Administration

The House bill established a coal industry administered fund, the trustees of which would be elected by coal mine operators. The operator trustees administered and managed the fund and were authorized to invest the corpus in accordance with ERISA limitations. The Senate amendment established a trust fund and provided that the trustees of the fund would be the Secretaries of Treasury, Labor, and HEW, with the Secretary of the Treasury the managing trustee. Assets of the fund would be invested only in public debt securities.

The conference substitute does not contain either provision since the provision of the Senate amendment is incorporated in the provisions of the Black Lung Benefits Revenue Act of 1977 (discussed above).

Payments

The House bill provided that the trust fund would pay the full cost of all part C claims including reimbursing the Federal Government for any payments made after December 31, 1973, for claims filed after June 30, 1973, and authorized the trust fund to assume payment of the obligations (in return for reasonable payment) of insurance carriers or operators who incurred a prior obligation under this part. The fund would pay only its own administrative expenses.

The Senate amendment provided that the trust fund would pay all part C claims which are predicated upon employment which terminated prior to January 1, 1970, and claims with respect to employment after that date where no responsible operator can be found or the miner's coal mine employer is insolvent or uninsured. The fund would also reimburse the Treasury for all part C claims paid by the Federal Government prior to enactment of these amendments with respect to periods of eligibility from January 1, 1974. The fund would pay the administrative expenses of Labor, HEW, and Treasury.

The conference substitute provides that the trust fund (established by the Black Lung Benefits Revenue Act of 1977) pays benefits in cases in which there is no operator who is required to secure the payment of such benefits or where a liable operator has failed to make payment in a timely manner or cases in which the miner's last coal mine employment was before January 1, 1970 (irrespective that in cases reviewed under section 435 the claim was initially filed as a part B or part C claim). The balance of the Senate amendment is incorporated in the provisions of the Black Lung Benefits Revenue Act of 1977 (discussed above).

Financing

The House bill provided that the trust fund would be supported by premiums and assessments payable by each coal mine operator in the United States, except where a State law has been certified. The amount of the premium would be established in the first year by the Secretary of Labor predicated upon the tons of coal mined by each such operator. In following years, the premium would be established by the trustees subject to modification by the Secretary. Premiums would have to be sufficient to meet the obligations of the fund. Premium rates would be uniform throughout the coal mine industry. Premiums due and payable would be collected by the Secretary of the Treasury in the same manner as quarterly payroll reports of employers, and penalties could be assessed by the Secretary of the Treasury for failure to pay premiums. In addition to the annual premiums, assessments would also be required to be paid into the fund by individual coal mine operators at the end of each year in an amount which would be equal to the claim liability experience of such operator.

The Senate amendment established a trust fund on the books of Treasury, supported by a uniform 1 percent ad valorem manufacturers excise tax on coal (other than lignite) sold by producers, after September 30, 1977. Claims for which there is a responsible operator would be financed through insurance or self-insurance, as under current law.

The conference substitute makes reference to the Black Lung Disability Trust Fund established by the Black Lung Benefits Revenue Act of 1977 (discussed above). The fi-

nancing mechanism for the trust fund, as prescribed in the Revenue Act, conforms generally to the Senate amendment, except that the tax is based upon the tonnage of coal mined by coal operators (as in the House bill) at the rate of $0.50 per ton for underground coal and $0.25 per ton for surface-mined coal (but not to exceed 2 percent of the price at which the ton of coal is sold by the producer). The conference substitute does continue the current law regarding the individual liability of responsible operators (except where the miner's last coal mine employment was before January 1, 1970).

MISCELLANEOUS

Insurance

The Senate amendment created a black lung compensation insurance fund in the Department of Labor to enable the Secretary of Labor to offer insurance to operators if such insurance is unavailable privately at reasonable cost. The Senate amendment further authorized repayable advances to the insurance fund. The insurance fund would charge premiums consistent with accepted actuarial principles. The House bill had no such provision.

The conference substitute conforms to the Senate amendment. It is the intent of the conferees that the insurance fund not be operated solely as an insurer of a high-risk pool. The Secretary is also expected to utilize this authority to assist in encouraging private insurers to make contract insurance widely available at reasonable costs.

Field offices

The House bill required the Secretary of Labor to establish field offices. The Senate amendment authorized the Secretary of Labor to establish field offices.

The conference substitute conforms to the House bill with an amendment authorizing the Secretary of Labor to enter into agreements to use the facilities of other Federal or State agencies in establishing such field offices, and to use such facilities and also personnel if necessary in lieu of establishing separate field offices where separate Labor Department staffed field offices are not feasible. The conferees intend that, while the Secretary of Labor establish field offices wherever there are sufficent claimants in need of assistance, the Secretary not be required to maintain separately staffed field offices in locales where there is likely to be an insufficient number of claimants to justify their continued existence.

Occupational disease study

The House bill provided that the House Education and Labor Committee would conduct a study of white lung disease in 1 year. The Senate amendment required the Secretary of Labor, in cooperation with NIOSH, to conduct an 18-month study of all occupationally-related pulmonary and respiratory diseases.

The conference substitute conforms to the Senate amendment.

Information to denied claimants

The Senate amendment required the Secretary of Labor to supply each denied claimant with a written statement of the reasons for such denial and a summary of the administrative hearing record or, on a showing of good cause, a copy of any transcript thereof. The House bill had no such provision.

The conference substitute conforms to the Senate amendment.

Interim part C payments

The House bill provided that part C benefits would be paid by the Secretary in any case in which the Black Lung Disability Insurance Trust Fund was not in operation. The Senate amendment had no such provision.

The conference substitute conforms to the House bill except that the reference is to the Black Lung Disability Trust Fund established by the Black Lung Benefits Revenue Act of 1977 (discussed above). The intent underlying this provision is to essentially "revive" the payment provisions of the current law in the event payments cannot lawfully be made from the trust fund. An example (and perhaps the only imaginable eventuality which could trigger this provision) would be a Supreme Court finding of legal infirmity going to an aspect of the trust fund sufficient to prevent the trust fund from adequately assuming the purpose and responsibility for which it was established.

Retroactivity—State exemption

The House bill made no change in the current law under which a State could gain an exemption for its operators from the provisions of the Federal statute if the State enacts a black lung compensation law which the Secretary of Labor could certify as meeting the Federal statutory standards. Such standards required *inter alia* State law coverage for miners last employed before enactment. The Senate amendment modified the existing law to permit the Secretary of Labor to approve State laws which provided coverage for miners whose last employment terminates after the Secretary's approval of such State law.

The conference substitute conforms to the provisions of the Senate amendment with an amendment to clarify the intent of the conferees that operators in certified States under the Federal statute would still be required to secure the payment of benefits pursuant to Federal law with respect to miners whose last employment in coal mining terminated before the Secretary's approval of the State law. It is the intent of the conferees that no miner currently covered by the Federal statute be denied coverage under either the Federal statute or a certified State law because of the operation of this provision. Operators in certified States would nonetheless be liable for the coal excise tax imposed by the Black Lung Benefits Revenue Act of 1977, and miners whose employment ceased before the State law was certified would be paid pursuant to the operation of the Federal law.

Self-insurance

The Senate amendment provided specific income tax treatment for a qualifying trust used by a coal mine operator to self-insure for liabilities under Federal and State black lung benefits laws, and allowed deductions within certain limits for amounts contributed to the trust by the operator. The Senate amendment further imposed certain investment limitations and prohibitions on "self-dealing" and "taxable expenditures" designed to prevent abuses of such trusts. The Senate amendment provisions would be effective for taxable years beginning after December 31, 1977. The House bill contained no such provision.

The conference substitute does not contain this provision although it is incorporated in the provisions of the Black Lung Benefits Revenue Act of 1977 (discussed above).

Addresses

The Senate amendment amended section 6103 of the Internal Revenue Code of 1954 to allow the IRS to provide NIOSH with addresses of taxpayers for purposes of locating individuals who may have been exposed to occupational hazards. The House bill contained no such provision.

The conference substitute does not contain this provision because this provision was included in the Act of December 13, 1977 (Public Law 95-210; 91 Stat. 1485), an amendment to the Social Security Act to provide payment for rural health clinic services.

Location of Division of Coal Mine Workers' Compensation

The House bill provided that the Division of Coal Mine Workers' Compensation would be located in the Office of the Secretary of Labor. The Senate amendment had no such provision.

The conference substitute does not contain this provision from the House bill.

Effective dates

The House bill provided generally that the bill would take effect on the date of enactment. The House bill also contained additional effective dates relating to the manner in which the funding provisions of the House bill would take effect. The Senate amendment contained similar provisions for a generally applicable effective date on the date of enactment, with additional effective date provisions relating to funding.

The conference substitute provides that the amendments will take effect on the date of enactment. Additional effective dates relating to funding were made unnecessary as a result of the enactment of the Black Lung Benefits Revenue Act of 1977 (discussed above).

CARL D. PERKINS,
JOHN H. DENT,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
W. L. CLAY,
MARIO BIAGGI,
LEO C. ZEFERETTI,
MICHAEL O. MYERS,
AUSTIN J. MURPHY,
BALTASAR CORRADA,
PAUL SIMON,
GEO. MILLER,
FRANK THOMPSON, Jr.,
IKE ANDREWS,
AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLES VANIK,
JOHN J. DUNCAN,
Managers on the Part of the House.

HARRISON A. WILLIAMS,
CLAIBORNE PELL,
GAYLORD NELSON,
DON RIEGLE,
JENNINGS RANDOLPH,
EDWARD M. KENNEDY,
RUSSELL LONG,
FLOYD K. HASKELL,
JACOB K. JAVITS,
DICK SCHWEIKER,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
PAUL LAXALT,
Managers on the Part of the Senate.

SALT II: THE HIGH STAKES GAME WE ARE LOSING

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, as a Member of the House appointed by the Speaker to be an official observer to the SALT II negotiations, as a ranking member on the Subcommittee on Intelligence and Military Application of Nuclear Energy and Arms Control and a member of the full House Armed Services Committee for the past 15 years, no one is more aware of the need to control strategic nuclear armaments. As an observer of a great deal of the world's history over several decades, I am also aware of the dangers inherent in unilateral disarmament.

In our desire to control strategic weapons, we should always be aware that

our own weakness is a source of strength for a potential enemy. We must take every precaution to assure that our strategic forces will be sufficient to meet our possible future needs. SALT II gives me no such assurance.

SALT II is of vital importance to every American and to others in the world whose peaceful existence depends upon the deterrent power of our "nuclear umbrella." It is a matter which should be widely understood and debated. Our purposes for seeking a SALT II agreement should be made clear. Americans deserve to know the full risks and ramifications to our national security even if the Soviets live up to the terms of the treaty and protocol, and where we will stand as a nation if the United States continues to push vital decisions on strategic systems into the future.

For this reason, I would like to present my declassified report on the SALT II negotiations which I submitted to the Speaker and the chairman of the House Armed Services Committee for the consideration and debate of my colleagues in the Congress.

REPORT OF REPRESENTATIVE CHARLES H. WILSON ON SALT III

On December 8, 1977, I completed a nine-day period of official travel in connection with matters within the legislative and oversight jurisdiction of the Subcommittee on Intelligence and Military Application of Nuclear Energy in the furtherance of my responsibilities as a Delegate of the House of Representatives to the Strategic Arms Limitation Talks (SALT) in Geneva, Switzerland.

THE SALT TALKS

Meetings attended

I arrived in Geneva on the afternoon of Sunday, December 4, and on the following morning met privately with Ambassador Ralph Earle II who has been appointed by Ambassador Paul Warnke to act as chief negotiator for SALT. Mr. Warnke is not only the chief negotiator for SALT but he is simultaneously handling SALT, the Indian Ocean negotiations, and the Comprehensive Test Ban Treaty (CTBT) talks. In addition, he plays a leading role in the Mutual and Balanced Force Reduction (MBFR) talks and as a liaison with U.S. Allies in Western Europe.

I also attended meetings of the members of the U.S. Delegation, joint meetings of the U.S./Soviet drafting group at the Soviet Mission, and the Plenary session on December 6, 1977. The Plenary (formal) session at the Soviet Mission was also attended by Senators Culver and Hart. Plenary sessions involve the reading of formal statements by the chief negotiators which state the positions of each government. Following these formal sessions, delegation members meet privately with their counterparts in informal conferences where the give and take is polite but unconstrained. It is at this level, which includes both members of the two delegations and staff members, that most tentative agreements have been reached. Informal meetings between U.S. and Soviet delegation members, or between staff members, take place on an almost daily basis.

I attended meetings on December 5, 6, and 7. In addition to these meetings, a reception was attended at the residence of Ambassador Earle on the evening of December 6, during which an exchange of views with members of the Soviet SALT Delegation was possible. I also met with Ambassador Warnke and United States and British negotiators who are working on the Comprehensive Test Ban Treaty.

SUMMARY OF FINDINGS (SALT)

The following remarks summarize factual information obtained and general impressions formed during the SALT sessions:

The U.S. versus the Soviet SALT delegations

With the exception of two members of the U.S. Delegation (Ambassador Earle and Lt. Gen. Rowny), no U.S. negotiator has had previous experience with SALT or other negotiations with the Soviets.

The Soviet Delegation on the other hand, headed by Mr. Vladimir S. Semenov, is an experienced team which has dealt with SALT matters since the SALT I talks began in 1969. Most members of the Soviet Delegation speak fluent English and several have occupied diplomatic posts within the United States.

The philosophy of U.S. negotiations

The guiding principles which should drive U.S. negotiations in SALT II are the maintenance of a credible U.S. strategic nuclear deterrent force during the life of any subsequent treaty and, in the event that the treaty were to be abrogated, the assurance of balanced strategic forces in future years. Unfortunately, the majority of the U.S. Delegation do not emphasize deterrence, nor do they consider the possible shape of things after 1985.

Too little attention is being given to the question of the real power of the U.S. nuclear deterrent in terms of throw weight, weapon yields, accuracy, silo hardening, and civil defense. Allowances are not being made for the the future effects of Executive Branch decisions which will vitally affect U.S. security in the 1980's and 1990's, such as:

Cancellation of the B–1;

Ageing of the B–52 force;

The future or non-future of the FB–111H;

The future or non-future of the MX missile;

Uncertainty of the cruise missile and cruise missile carriers;

Improvements in Soviet missile accuracy;

Current and future asymmetry in throw weight and weapon yield;

Improved and expanded Soviet air defenses; and

The issue of the BACKFIRE bomber.

The philosophy of Soviet negotiations

The Soviet negotiators are pragmatists who recognize that the U.S. manned bomber force is on the decline as a result of the President's unilateral decision. They realize that the U.S. Minuteman force is highly vulnerable and that a considerable percentage of their land-based missile forces could perhaps survive a first strike or counterblow. The Soviets now have about 35 percent of their long-range (4,200 NM) strategic missiles in submarines, while our C–4 is in the testing stage. They have already deployed a 600 KM air- and sea-launched cruise missile. They have tested a 5,700 NM SLBM.

The Soviet negotiators do not speak in terms of deterrence. While the Soviets offer no apologies for their growing strategic and conventional forces, they also offer no clues to the intended use of these forces.

Lest we forget the traditional pragmatism of the Soviets with respect to military matters, and become naively overconfident and trusting, we should consider other possible Soviet motivations toward a SALT treaty. First, neither the treaty nor the protocol would enhance the survivability of the U.S. Minuteman force, while the survivable MX system is stalled in R&D for at least three years. United States cruise missile technology may become limited. Limitations on testing and deployment of "new systems" will tend to freeze U.S. ICBM and SLBM accuracy at present levels. The Backfire bomber is not even under discussion in SALT, nor are the thousands of MRBMs targeted upon NATO.

Given the statements of the President, and the selection of policymakers and negotiators with a disarmament (at times unilateral) mind set, the Soviets may well perceive that a treaty as now shaped is to their great advantage. It would seem to have several advantages to them:

It would freeze U.S. technology while permitting the Soviets to go ahead. (SALT I permitted them to pull even.)

It would undercut congressional support for defense programs, including R&D. (Systems delayed by the treaty or protocol will probably be delayed in the appropriations process.)

It would result in favorable world propaganda, and

The treatment of cruise missile technology transfer could possibly drive a wedge between the U.S. and NATO Allies.

The Soviets are also very interested in whether SALT II can be "sold" to the Congress. They had received encouragement from some other Members of Congress but had been discouraged by others.

Reminding the members of the Soviet Delegation that the House does not vote on ratification, I advised them that in my opinion, the acceptance of a treaty and the protocol by the American people and the Senate would depend on the final content. If either the treaty or protocol are considered to be one-sided, inequitable or adverse to our national security interests, I predicted that ratification would be very difficult if not impossible. In this connection, I pointed out that the Soviet conventional arms buildup and Soviet intentions were also things which bothered most Americans. While the two problems—conventional and strategic arms—are not directly linked in the SALT talks, I pointed out that they are linked in the minds of many Members of Congress and U.S. citizens.

Verification

Perhaps one of the most troubling features of the SALT II accord, as now structured, is an inadequate degree of verifiability of compliance. The Soviet Union is a closed society with a controlled press where the movements of persons are carefully controlled. There are no Congressional Committees to review military programs, and harsh punishments are meted out for the unauthorized disclosure of security information. The fact that the opposite is true in the United States assures our 100 percent compliance with a treaty or protocol, while the Soviets would be relatively free to cheat.

The U.S. national means of verification may permit us to verify total numbers of ICBMs or SLBMs and, to some extent, which missiles are "heavy" missiles. The number of missiles which are MIRVed will depend upon Soviet compliance with the SALT rules. The national means of verification will not satisfactorily disclose which systems have been upgraded with new guidance systems or other components, nor will it disclose the range or type of warhead of a cruise missile. In addition, verification of the configuration of BACKFIRE for cruise missile carriage may present a considerable problem.

Without this information, even if the Soviets supplied some information, there can be no satisfactory verification of the series of interlocking ceilings to control the active Soviet inventory of strategic weapons.

The "numbers game" and semantics

Those who may wish to view the current state of the SALT treaty as an enhancement of U.S. security through a more credible deterrent force should be disappointed. Those who may wish to view it as stabilizing the arms race or as any real constraint upon the raw strategic power of the Soviets should also be disappointed. The treaty merely deals with gross numbers of weapons and, as it now stands, the Soviets are assured of a degree or nuclear superiority. For example, the Soviets are assured of at least twice the number of RVs on ICBMs that the U.S. will pos-

sess. Modern Soviet RVs are believed to be approaching the accuracy of those of the U.S., while possessing yields several times higher.

The Soviets are permitted more than 300 "heavy" ICBMs, while the U.S. would have none.

Aside from the treaty, the SALT negotiators are considering a protocol and a "statement of principles." The protocol, in the nature of an Executive agreement, restricts "new" systems, and the deployment of cruise missiles beyond a 600 KM range capability. While Backfire bombers would not count under the treaty or under the protocol, the FB–111, B–52, wide-bodied or any other aircraft equipped to carry long-range missiles would count against the total systems permitted, probably as a MIRVed system.

The NATO/cruise missile issue

The Soviets have been adamant in their position that the agreement must provide against the transfer of cruise missile technology to U.S. NATO Allies. Since the land- and sea-launched cruise missile is considered by several allies, Britain, Germany and France in particular, as a means of stabilizing the situation in Western Europe, they are seriously afraid that the U.S. will foreclose any land- or sea-based options which they may have. I share their concern.

The cruise missile is also considered to be a stabilizing strategic weapon since it can be deployed in large numbers and cannot be targeted in a first strike by the Soviets as missile silos and strategic aircraft may be. It represents a ready and secure retaliatory force.

The treaty and U.S. policy

The policy of the United States with respect to the limitation of strategic offensive arms is expressed in Public Law 92–448, approved by the President on September 30, 1972. As stated in Section 3 of Public Law 92–448, national policy calls for:

A stable international strategic balance. No threat to the survivability of U.S. strategic deterrent forces;

A future treaty that would not limit the U.S. to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union;

Maintenance of a vigorous research and development and modernization program.

The SALT agreement under discussion in Geneva does not, in my opinion, measure up to our existing policy for the following reasons:

The asymmetry in total strategic power is continued and will grow more favorable to the Soviets during the life of the treaty, with the deployment of Soviet MIRVed heavy and more accurate missiles, and the deployment of additional Backfires.

The survivability of U.S. ICBMs is already threatened by heavy Soviet ICBMs. So is at least a part of SAC and those units of our SLBM force which would not be at sea. Nothing in the proposed treaty will make our ICBM force more secure. Instead, the threat will grow in proportion with the increasing number and accuracy of Soviet RVs, especially on ICBMs. Under current Administration policies, the manned bomber leg of the triad will deteriorate. The Administration is not committed to the production or deployment of any new systems.

With the exception of "heavy" ICBMs which the Soviets will be able to deploy under the treaty, and the BACKFIRE bombers which are not even under discussion, the U.S. and Soviet sides will be permitted a rough equivalence in numbers of strategic delivery systems. Numbers alone, however, are no measure of the inferiority or superiority of intercontinental strategic force levels. Even without the BACKFIRE, the Soviets will be guaranteed superiority in the numbers of ICBM RVs and yield, and the opportunity to modernize and improve the accuracy of existing systems.

Soviet concessions, and even some U.S. concessions, have dealt with systems which we do not have such as the cruise missile, cruise missile carriers, FB–111H, and the MX. In the absence of an early Presidential commitment, we may never have these systems.

U.S. concessions have dealt with Soviet systems which are in being or under advanced development such as the SS–9, SS–16, SS–17, SS–18, SS–19, and SS–NX–18 SLBM.

The status of the U.S. cruise missile, cruise missile carriers, the MX missile, and the TRIDENT II missile are to be left by the treaty and protocol in a state of limbo. The fate of each of these systems is in the hands of OSD, OMB, the President and the Congress, creating a double uncertainty. Each of them may suffer the same fate as the B–1. I fear that a hastily signed treaty, which has no real advantages to the U.S., may well have the effect of drying up R. & D. funds for our deterrent forces of the future. This, coupled with a comprehensive test ban treaty and the stockpile problems such a treaty would cause, would result in woefully weak U.S. deterrent forces by 1985.

Conclusion and recommendations

The SALT II treaty in its present form is not in the best interest of the United States during the period 1978–85. In view of a withering bomber force which will decline in capability during the period, a highly vulnerable ICBM force, and with the TRIDENT and cruise missile programs in doubt within our own government, no treaty would be preferable to an instrument which would guarantee Soviet strategic superiority for the remainder of the century.

In view of the seriousness of this matter, and the desire of the Administration to conclude a treaty, I recommend:

That all Members of the Committee on Armed Services make a special effort to attend one or more of the SALT plenary and/or working sessions early in calendar year 1978.

That the Chairman establish a special panel on international arms control and disarmament within the Subcommittee on Intelligence and Military Application of Nuclear Energy for consideration and study of the SALT II and Comprehensive Test Ban Treaties (CTBT). The issues involved are complicated and constantly shifting. I believe that it is most important and urgent that the Committee on Armed Services should have a forum in which to examine these critical national security issues on a continuing basis.

That the Chairman appoint Members of the Committee on Armed Services as observers to the negotiations now in progress on the Comprehensive Test Ban Treaty, Indian Ocean, and Mutual and Balanced Force Reductions.

CONCURRENT RESOLUTION BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA, FEBRUARY 2, 1978

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 5 minutes.

Mr. GRASSLEY. Mr. Speaker, since Congress reconvened for the second session of the 95th Congress, farmers from throughout the Nation have spent many hours telling their elected officials here in Washington of the current plight of American farmers. In my opinion, a serious situation does exist with many farmers, and I feel that Congress and the administration must address the problems of the American farmers in a sensible and reasonable manner. I am pleased that the House Committee on Agriculture will be holding hearings shortly on the current farm problems.

The American farmer is the backbone of our Nation and, in a way, represents the hardworking, independent, productive individuals who have made our country great. The family farm is an institution which must be preserved. I have the distinct honor and privilege of serving as the ranking minority member on the Subcommittee on Family Farms, Rural Development, and Special Studies. In this capacity I pledge to work for the family farmers.

In addition to the public demonstration here in Washington, farmers have held rallies in their communities and State capitals. This has been the case in my home State of Iowa. In response to the conditions facing farmers in Iowa, the Iowa General Assembly has passed a concurrent resolution regarding the situation facing the family farmers and their need for assistance. At this time I would like to share with my colleagues the text of the resolution passed by the general assembly of Iowa. It reads as follows:

HOUSE CONCURRENT RESOLUTION 104

A concurrent resolution in support of the family farm and the need for family farmers to earn an economic profit

Whereas, the family farm is the most efficent in the nation; and

Whereas, Iowa family farmers have lost equity and enormous sums of money in the last four years due to drought and depressed prices for agricultural products; and

Whereas, more than one-fourth of the nation's farmers and ranchers will be forced to either liquidate or refinance their operations this year; and

Whereas, it is a policy of the nation that a minimum of the people's disposable income be spent on food; and

Whereas, this directly affects the prices paid to family farmers; and

Whereas, unless positive action is taken by the federal government to assure that family farmers are able to recover production costs and earn an economic profit on their food products, large corporations will be the only entities left with the resources required for the production of food, now therefore,

Be it resolved by the House of Representatives, the Senate concurring, That the members of the Sixty-seventh Iowa General Assembly, 1978 Session, recognizes that the Iowa family farmer needs and should recover fair, profitable return from his farming enterprise; and

Be it further resolved, That a copy of this Resolution be sent to President Carter, Secretary of Agriculture Bergland and members of the Iowa Congressional Delegation.

We, Dale M. Cochran, Speaker of the House and Arthur A. Neu, President of the Senate, and David L. Wray, Chief Clerk of the House and Steven C. Cross, Secretary of the Senate, hereby certify that the above and foregoing Resolution was adopted by the House of Representatives and the Senate of the Sixty-seventh General Assembly, Second Regular Session.

LOBBY DISCLOSURE LOOPHOLES

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, an article in this morning's Washington Post clearly points out the need for lobby reform. I am encouraged that both the Senate and House committees will be considering such legislation this month.

As we all know, those who lobby the legislative branch are currently supposed to file quarterly reports under the 1946 Federal Regulation of Lobbying Act. However, the statute is really a sham, and so treated by the multitude of professional lobbyists and Washington representatives who should register and report, but do not.

I would like to say, however, that I firmly believe that seeking to influence the decisions of Government officials is not inherently wrong nor necessarily injurious to the policymaking process. This is a right guaranteed by the constitutional safeguards of free speech, assembly, and petition for the redress of grievances. Further, various interest groups often provide valuable information and technical assistance that is simply not available elsewhere.

However, I believe just as strongly that the secrecy that too often dominates lobbying activities and undermines accountability and contributes to a loss of confidence in the conduct of our Government and its officials must be eliminated. Citizens and policymakers alike have the right to know how money, in particular, is being spent to influence a public decision. Knowing who is supporting a particular piece of legislation and the extent of that support as measured in the dollars and cents an individual or group is willing to expend in its cause, provides the public and policymakers with important knowledge on which to base informed decisions.

The lobby law we now have has been woefully inadequate in meeting the need for accountability in the lobbying process. In 1970 House hearings, it was described as "vague and ambiguous," "incomprehensible and unworkable." A 1975 GAO report cited the incompleteness of lobbying reports and the lack of enforcement.

As the 1946 act is written, large loopholes exist which permit many interests to avoid registering. Under the narrow definitions of the law as set forth by the Supreme Court decision in 1954, numerous organizations do not register by claiming lobbying is not their principal purpose. The act also does not cover lobbying activities unless the Member of Congress is contacted directly by the lobbyist. Contacts with members of a congressional staff and much of the grassroots pressure are thus exempted.

Perhaps the extent to which the law has failed is suggested by the fluctuations in lobby registrations, depending on whether Congress is investigating lobbying abuses. For example, Watergate was investigated by Congress from early spring 1973, through the impeachment inquiry which ended in the summer of 1974. Available lobby registration figures disclose that for the period from October 1972, through December 1973, 799 persons registered as lobbyists, as compared with only 374 persons who registered as lobbyists during the immediate preceding period, December 1971, through October 1972. Similarly, the investigation into the activities of Bobby Baker was followed by a rise in lobby registrations.

Now a report, published by Common Cause, points out even more dramatically the loopholes in our current lobby disclosure law. This report, the Power Persuaders, explains how little information is currently disclosed about the oil companies and their lobbying activities. I would urge every Member to read this publication, as I believe it all too well points out the need for a new lobby law. For example, in the study of 376 organizations and 954 individuals, only 1 in 10 energy-related organizations with Washington representatives register with Congress as lobbying groups, and most of those who do register with Congress report such small expenditures that their reports are close to meaningless.

This and other information about the Common Cause study appear in Mary Russell's Washington Post article, and for the review of my colleagues I ask that it be included in the RECORD immediately following my remarks:

"LOOPHOLES" IN U.S. LOBBY DISCLOSURE LAW SCORED

(By Mary Russell)

Loopholes in the current federal lobby disclosure law have allowed the energy companies to "hide more than they disclose" about their "multimillion-dollar lobbying campaign on President Carter's energy package," Common Cause charged yesterday.

Common Cause, which calls itself a public interest lobby, released a study of lobby disclosure reports by energy-related organization during the first nine months of 1977, when Carter's energy package was being fought out in Congress.

The law is so full of loopholes that, according to the Common Cause study:

Not one of the seven major oil companies registered as a lobbyist and only one in 10 energy-related organizations registered, since the law requires only groups whose "principal purpose" is lobbying to register.

The law did not require Mobil Oil to report $4 million spent on "advocacy" advertising in relation to energy, and does not require reporting of activities aimed at getting the "grass roots" to lobby Congress.

Cumulative spending reported by the gas and oil industry is "misleadingly low." The oil industry reported spending "only $600,000" and the gas industry $550,000. Common Cause, with a $5 million budget, reported spending $1 million, while the American Petroleum Institute, with a 1977 budget of $30 million, reported spending "only $274,900."

Among the individual energy lobbyists identified by Common Cause, fewer than half file lobby reports with Congress.

Expenditures reported by lobbyists are sometimes so low as to be meaningless. Several full-time lobbyists reported expenditures of less than $10 during the quarterly period, the report said.

Common Cause President David Cohen termed the lobby disclosure requirements "a charade" and called for enactment of a tougher lobby disclosure law.

A House subcommittee has reported a bill that would tighten the provisions in the lobby disclosure law. The House Judiciary Committee is expected to mark up the bill in a couple of weeks. A Senate Governmental Affairs subcommittee is expected to consider a similar bill soon.

A revision of the lobby disclosure law passed both the Senate and the House in 1976, but died in conference.

According to Common Cause, any new law should require reports by organizations, not individuals; should cover all groups that engage in significant lobbying; and should include meaningful reports on expenditures, advertising and mass-mailing efforts.

The study said that under a tighter California law "the same oil companies which don't register as lobbying groups under federal law report spending hundreds of thousands of dollars to influence California decision-making."

"In 1978, for example, Standard Oil of California reported spending $292,933, Union Oil $146,876 and Mobil Oil $107,540 on California lobbying—a total of $547,349, only $90,000 less than the entire oil industry reported spending on federal lobbying during the first nine months of 1977."

Three gas and electric utilities reported spending $930,968 on California lobbying in 1976, "one and a half times as much as the $507,047 the entire gas industry reported spending during the first nine months of 1977 on their federal lobby disclosure reports," the study said.

CONSUMERS CAN HELP THEMSELVES WITH CO-OP BANK

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, last July this body approved the National Consumer Cooperative Bank Act, H.R. 2777, which I was proud to cosponsor. Now, after some delay, our colleagues in the Senate have begun deliberation on this important bill. It is my hope that they will act quickly to pass this legislation so that millions of Americans can get about the business of developing their own self-help organizations.

As I have stated before, there is an urgent need for such a bank. The growth of co-ops in this country has been stunted by the lack of credit available from private lending sources. Banks and other institutions are reluctant to invest in blighted urban areas or in programs designed not to make a profit. In some parts of our great cities there are limited services—services such as food, health care, and housing which are essential to the survival of a community. And cooperatives springing up to meet these needs face the double hex of lack of funds and lack of technical assistance. The Consumer Co-op Bank will be a vehicle for consumers to help themselves.

This bill will establish a bank to make loans at the market rate of interest to fledgling co-ops and it will create a self-help development fund to insure that these co-ops receive the assistance necessary for success. This will be a particular boon to low income, minority, and elderly residents of inner-cities in desperate need of revitalization. It will make sure that the dollars spent by the community stay in the community. It will boost local economies so that these areas can develop into growing and self-supporting entities.

It should be noted that far from being a Government subsidized program, the Consumer Co-op Bank will repay the Government's investment at competitive interest rates. Like the Farm Credit System, established more than 60 years ago, these co-ops will merely be started with

Government capital—seed money—and they will be owned and operated entirely by their members. And if the Farm Credit System is any yardstick, we can predict that this bill will result in a successful and rewarding venture.

Mr. Speaker, the kinds of consumer cooperatives that this bill can stimulate are endless. From child care to automobile repairs to optical and health services, greater segments of the population will now be able to take advantage of services and goods that were either unavailable or too costly before. And contrary to what some opponents have said, the small businessman will not suffer. Rather, cooperatives can be an added feature to our free enterprise system, for they can determine competitive prices and give the consumer bargaining power.

I am especially gratified that the administration has come out in support of this bill. President Carter has long been an advocate of cooperatives and I applaud his concern in this area. With this bill, the ball is passed to the consumers—to the people who benefit most by an improving quality of life and services in their community. And just as the Farm Credit System helped the economic recovery of rural areas, the Consumer Co-op Bank can inject a much needed stimulus into deteriorating inner-cities.

I urge the Senate to pass this bill and to provide a means of self-help for consumers that will work to the advantage of all.

SOCIAL SECURITY REFORM: VOLUNTARY COVERAGE

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 10 minutes.

Mr. CHARLES H. WILSON of California. Mr. Speaker, as previously scheduled FICA tax rate increases go into effect this year and take-home pay deductions jump from $585 to $605 for the average $10,000 wage earners. Americans will be able to perceive firsthand the hard implications of the recently enacted social security financing amendments. For more than 92 percent of all working Americans, they mean an increased tax burden of more than $80 billion in the next 5 years, and I, for one, do not approve.

Raising social security taxes is a temporary, simplistic, and unacceptable solution to a very complex problem that Congress and the President are committed to face. Part of that problem is the social security system's financial structure. The trust funds that keep the system in the black are low, and reports have indicated that, without immediate replenishment, the funds will vanish altogether and leave millions of beneficiaries either out in the cold or completely reliant on the general revenue for financial and medical assistance.

Justifiably, Congress reacted to this threat; regretfully, the reaction was impetuous. While the recently enacted social security bill may, indeed, remove the immediate bankruptcy threat and "provide financing well into the next century," that is all it does. There are no far-reaching reforms and no guarantees that there will not be a replay of last year's financial havoc sometime in the future.

Congress has prescribed a cure for a symptom of the social security problem without diagnosing the disease, itself. And this—when added with the extravagance of the cure—is unconscionable. Why should taxpayers have to pay more into a system to keep it solvent when, first, the extra money will not correct its fundamental faults, and second, the need for an all-inclusive social security system is debatable? They should not, and I voted against the bill for that reason.

The economic and demographic character of the country have changed so significantly in the 40 years since social security was originally conceived and implemented, that we are compelled to examine the needs of contemporary American workers and the modern implications of the social security system. Is the recently enacted legislation in the best interest of the American worker or does it merely perpetuate a 40-year tradition? I think the latter, and the increasingly expensive tradition has to change.

It is such a change that I have just proposed in the form of H.R. 10458, a bill that would make it possible for an individual to elect, on an annual basis, to contribute to a private retirement fund rather than social security.

The social security system, as it stands now, is unfair to the many social security contributors that either do not intend to collect benefits or cannot because they do not meet any number of fairly specific prerequisites for eligibility. This fundamental inequity in the system is made even more intolerable by the size of the tax increases that these contributors are now bound to pay. Under H.R. 10458, workers would have the freedom to choose their own retirment plan without penalty (while contribution to some retirement program would remain mandatory to insure that workers are not left destitute upon reaching retirement age).

It is only through such responsible reform efforts that the integrity of the social security system, as well as Americans' confidence in a secure retirement, can be restored.

IMMIGRATION AND NATURALIZATION SERVICE OVERSIGHT HEARINGS

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 10 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law will conduct 2 days of oversight/authorization hearings on the administration of the Immigration and Nationality Act by the Immigration and Naturalization Service.

Testimony will be received from INS Commissioner Leonel J. Castillo, and the subcommittee will review various areas of internal management and operational functions including: Backlogs in adjudications, the problem of fraudulent immigration documents, antismuggling efforts, and recent court decisions affecting the administration of the Immigration and Nationality Act.

The hearings will be held Wednesday, February 8 and commence at 10 a.m. in room 2237, Rayburn House Office Building, and continue on Thursday, February 9 at 9 a.m. in room 2226.

FAMILY FARM DEVELOPMENT ACT OF 1978

The SPEAKER. Under the previous order of the House, the gentleman from Minnesota (Mr. NOLAN) is recognized for 5 minutes.

Mr. NOLAN. Mr. Speaker, the fact is that we have a feast or famine, boom or bust farm policy in this country that fuels inflation, forces family farmers off the land and increasingly concentrates ownership in food production to a few wealthy and powerful individuals. Earlier this year, our Subcommittee on Family Farms, Rural Development, and Special Studies held extensive hearings in Vermont, Iowa, California, and Minnesota. We were seeking evidence as to the obstacles which are serving to break down the family farm system, and everywhere we have gone, the story has been the same. Good sized, efficient family farmers are leaving the land and leaving our small communities by the tens of thousands, because Government land policy, Government price policy, Government tax policy, Government marketing policy, and Government extension policies are designed to enhance large corporate farmers, speculators, and middlemen. The legislation we are introducing today establishes a price support goal of 100 percent of parity—parity being nothing more than a method of computing cost of production plus a reasonable profit. We believe we can reach that goal by authorizing nonrecourse loans at 90 percent of parity and by prohibiting the Commodity Credit Corporation from releasing stocks at below 110 percent of parity. Under this plan, price supports for milk would be increased to 100 percent of parity for the first 500,000 pounds of production. As you will note from the attached sheets, this new price support system would be tied to strict national production goals and orderly marketing procedures; a grain reserve with new incentives to participate; a food price review board—and new authority whereby the Commodity Credit Corporation serves as seller or marketing agent for all export sales of wheat, feedgrains, and oilseeds—selling at as close to 100 percent of parity as possible. It is fact that a successful fam-

ily farm policy must be geared toward a program which gives farmers the opportunity to obtain 100 percent of parity in the marketplace—but not in such a way as to allow huge farmers and corporations to receive windfall profits—profits which they, in turn, use to compound the problems even further. Despite what you may have heard and read, the truth of the matter is that 100 percent of parity for farmers—tied to production controls, orderly marketing, and sound conservation practices—fights inflation in the marketplace and assures consumers a stable supply of food at reasonable prices in the supermarket. Finally, I want to make it clear that within the coming days it is still my intention to introduce legislation calling for 100 percent of parity at first point of sale—a concept advanced and supported by the American Agriculture Movement—legislation which in no way would be in conflict with the loan proposal but in fact would complement it by providing absolute assurance of 100 percent of parity prices at the first point of sale for agricultural commodities.

The problems in our food policy have many potential solutions, and in order to arrive at the right combination, we intend to explore them all.

Mr. BROWN of California. Mr. Speaker, this legislation is an appeal. It appeals to the Congress, the administration, and the people to recognize the crossroads that agricultural and rural development has reached. We all know that family farms are constantly going out of business, that other farms are expanding greatly in size, that farm technology is becoming more and more energy intensive, large and costly, that our farm soil and water quality are being seriously depleted and exhausted and that young farmers are unable to consider farming as a viable way to make a living. What we do not seem to recognize is that unless we change our directions now—change our overall agricultural policy—that farming will no longer have the family orientation which has made it so productive in this country. Without that change in direction the small rural communities dependent on the buying power of such farmers will be eliminated or changed completely. Is this what we want?

We can change directions. Family farms of a small or moderate-size can survive and be successful if given the chance. We would be closing off our opportunities—our choices—if we allow the current trend to exist. We would also be ignoring the harmful effects that very large-scale farming has and will have on our soil quality and our food quality. Moreover, we would be maintaining a dependence on the costly and limited sources of fossil-fuel energy on which high capital corporate-scale farming depends.

Many groups and organizations have recognized these problems and have provided in depth studies of the productive potential of small and family farms. The small farm viability project in California, just produced a vitally important report on the potential of small farms and the needed support for such enterprises. Numerous solar energy projects on farms are also demonstrating reduction in costs in changing technologies. On the other side of the coin, statistics are showing the impact of farm loss on rural economies. This has led me to the realization that we must move now to support small- and moderate-sized family farms, and support them strongly. The family is a bulwark of our entire society and I do not wish to see it further undermined.

To reverse the trend will take a massive effort. Congressman NOLAN and I have worked for over a year with many organizations, farmers, and other Members, including Congressmen PANETTA, RICHMOND, and JEFFORDS of the Agriculture Committee, in putting together a package of proposals known as the Family Farm Development Act. We have tackled price policy, conservation, loans, availability of land for new farmers, USDA reorganization, education, demonstration, and research. We feel that this legislation has many new ideas and a cohesive plan to move us in the direction of supporting a strong family farm system of agriculture. We will be strongly urging the support of our colleagues on the Agriculture Committees of the House and the Senate as well as in the Congress as a whole.

FAMILY FARM DEVELOPMENT ACT OUTLINE

This legislation contains a variety of urgently needed new and amended programs dealing with farm prices, conservation, taxes, loans, research, and education affecting the development and maintenance of a strong family farm system of agriculture.

This legislation seeks to change the direction of Federal priorities in agriculture to the goals of strengthening the position of the family farmer, helping young farmers become established in farming, improving and maintaining soil, water. and food quality, and improving the economy of rural communities in general.

To do so requires improved prices for the farmer, a vast array of improved low-cost, energy-efficient, environmentally protective farming practices and technology, better marketing systems, a method with which to deal with prohibitive land prices, loans to assist new and marginal farmers, amendments to the tax structure to remove support for tax-loss farming and corporate farming, education and training of new farmers, and improved managerial and technical assistance to marginal farmers.

We have attempted to pull these pieces together in the Family Farm Development Act, which will be introduced on February 2. Attached is an outline of the bill:

TITLE I: 90 PERCENT PARITY COMMODITY LOANS TIED TO CONSERVATION PRACTICES

This title raises the loan rate for agriculture commodities currently covered by the commodity loan program—wheat, feedgrains, cotton, wool, rice, soybeans, and peanuts—in return for establishing conservation practices on the farm. In addition,

PRICE SUPPORT

Milk price supports shall be raised to 100% of parity for up to 500,000 pounds of annual production. Milk production exceeding that amount shall be supported at levels as the Secretary is authorized to establish. The Commodity Credit Corporation shall not sell in the domestic market production which it owns or controls for less than 110% of parity. The goal, therefore, is for commodity prices to reach 100% of parity in the market place.

GRAIN EXPORT BOARD

The CCC shall be the seller or marketing agent for all export sales of wheat and feed grains. Private exporters will continune to function as they do now, except that the CCC must approve the prices, terms and conditions for all export sales.

The CCC may negotiate export sales at less than 100% of parity, but the CCC must seek export prices which are as close to parity as possible. Losses, if any, will be borne by the Treasury.

PRODUCTION GOALS AND MARKETING CERTIFICATES

In order for farmers to market their production in an orderly manner, the Secretary shall establish national production goals for all agriculture commodities other than livestock and poultry. The Secretary shall also issue marketing certificates, allocated to producers on the basis of their average production history over the previous three years. If increases or decreases in the production goals are announced, the amount allocated by marketing certificates will be adjusted accordingly and applied on a uniform basis to all producers.

Market certificates shall be allocated only to producers actively engaged in agriculture production and each such producer or land owner shall not receive marketing certificates valued in excess of $500,000. No agriculture commodities shall be bought, sold, or traded, unless accompanied by marketing certificates.

The Secretary shall establish rules and procedures to assure fair and equitable allocations of marketing certificates, giving priority to new and beginning farmers in any reallocation of certificates. In addition, any producer who purchases land in an amount which exceeds 150 percent of the average farm size in the county wherein the farming operation is located, shall not receive marketing certificates for the land held in excess of the county average.

GRAIN RESERVES

In order to build the extended producer-owned reserve program mandated by Congress, the Secretary shall establish a uniform storage rate authorizing storage payments of 25 cents per bushel for wheat and corn. If the extended reserve is not accumulated within one year, the interest charged shall be adjusted or waived.

FOOD PRICE REVIEW BOARD

In order to prevent unwarranted increases in food prices, the Department of Agriculture (specifically, the Assistant Secretary for Marketing Services) shall have oversight authority over food price increases. A Consumer Price Review Board representing the interests of farmers, consumers, other federal agencies, and the food industry shall be established by the USDA to conduct hearings investigating food price increases. If the Board determines that food price increases are unwarranted, the Department shall report such findings, together with recommendations, to the President and to Congress. The President shall have the authority to roll back food prices to the levels recommended by the Board.

To receive this increased 90 percent loan payment, a farmer would have to apply a system of best management practices on the farm with the help of the Soil Conservation Service. In return for applying these conservation practices, the farmer would receive a certificate from SCS to be turned in at the request for loan payments. With-

out the certificate, the farmer would receive no loan payments whatsoever.

These conservation practices will not have to be applied all at once. The farmer will have a five-year period to apply the entire conservation plan.

TITLE II: TAX-STRUCTURE AMENDMENTS

Two changes would be made in the Internal Revenue Rules which permit farmers to create artificial tax losses by using cash accounting (and ignoring inventory changes).

1. Farmers having more than $100,000 annual gross farm sales would be required to adopt accrual accounting;

2. Taxpayers having more than $15,000 non-farm income will be discouraged from using cash accounting methods.

For tax purposes, farm losses allowable to off-set non-farm income would be limited to $15,000 reduced by the amount that non-farm income exceeded $15,000. If non-farm income exceeded $30,000, no farm losses could be used to off-set any non-farm income, unless accrual accounting were adopted.

These two changes would discourage tax loss farming by very large farms, and by non-farmers, but still allow small family farmers to obtain the full benefit of cash accounting.

TITLE III: FAMILY FARM PRESERVATION PROGRAM

This title establishes a new program for buying and selling agricultural land for the purpose of 1) providing opportunities for new, young, small or limited resource family farmers to acquire farm land, 2) keeping family farmers on the land to prevent it from being used for non-agricultural development or acquisition by large land owners; 3) helping the economic base of rural communities by bringing more farmers into the area.

The program will work this way: when farmland is up for sale, local organizations or county or city governments, are authorized to buy the land at market price. The cash for such purchases will be available from a federal grant to be used exclusively for purchase and sale of local farmland.

The land can then be sold (or divided and sold) to new, small or limited resource family farmers who need to acquire land in order to establish a family farm of no larger than 640 acres.

TITLE IV: FAMILY FARM OWNERSHIP AND OPERATING LOANS

(1) This is a new Farmers' Home Loan program for those new and marginal small and family farms and cooperatives who presently are unable to obtain loans for the ownership or operation of farms from traditional public or private lenders.

(a) The ownership loan section provides for low interest (5%) loans with payments that amount to 10% of normal annual payment during the 1st year, 20% in the second year, etc., until the tenth year of the term, when the recipient of the loan would pay 100% of what the normal annual payment would be under regular interest/principal payments. The difference over those 10 years of reduced payments is amortized over the remaining 30 years of the loan period:

(b) The Farm Operating Loan program resembles normal Farmers Home Administration (FMHA) operating loans except that it offers a 3% low-interest payment and is available only to small or family farmers who can not otherwise obtain loans because they are considered high risk;

(c) Farm cooperatives and farm partnership are included in the eligibility requirements for these two loan programs.

(2) Farmers Home Loan program are amended to give FMHA authority to offer loans for installation of appropriate technology on farms.

(3) The ownership loan program outlined in 1(a) is also extended to those participating in the program outlined in Title III, at a reduced 3% interest levels, to encourage use of the program.

TITLE V: FARM MARKETING PROGRAMS

This title creates new marketing programs, including the following:

(1) Broadening the authority of the Farmer Cooperative Service to give assistance to small and moderate sized family farmers with technical, managerial, financial and statistical information so they can establish small cooperatives to help market their products and also encouraging FCS to emphasize aid to small and family farm cooperatives succeed at marketing their products.

(2) Amending the school lunch program to provide that schools shall spend an average of 2c per lunch to buy local fresh farm products which are nutritional, valuable and acceptable to local eating preferences, emphasizing those purchases having greatest impact on small and moderate sized family farms.

(3) Directing the Agricultural Marketing Service to evaluate its programs to determine the extent to which they aid small and family farmers and how they could be made more useful to these farmers;

(4) Establishing a pilot project in 12 states based on a program in Indiana which uses electronic computer systems to help small and family farmers;

(5) Establishing Federal-State Direct Marketing Program which allows any interested state government or private organization to submit a proposal to USDA for creating a state-wide direct marketing system that includes:

(a) Maximum participation by farmers and consumers;

(b) A method to attract wholesale and retail buyers;

(c) Locations and good facilities for storage and selling of farm products;

(d) Methods of transferring products between each market, so surpluses are reallocated in an efficient manner.

If the proposal is satisfactory, the cost for establishing and operating it for 3 years are shared 75/25—federal/state or private organization.

(6) The Farmer-to-Consumer Direct Marketing Act is amended to permit non-profit organizations to receive grant money from the U.S.D.A. to carry out direct marketing projects. (Currently, only the Extension Service and State Departments of Agriculture can receive it.)

TITLE VI: FAMILY FARM DEVELOPMENT

This title establishes a Family Farm Development Service within the U.S. Department of Agriculture to focus needed attention on the small family farmer's problems. This Service would have the authority to:

(1) Coordinate activities within the USDA concerning development & maintenance of small and moderate-sized family farms. This would require working with Extension Service, Farmer Cooperative Service, etc. to enhance communication and avoid duplication of efforts;

(2) Evaluate the activities of the USDA in terms of their impact on small & family farmers and communicate this annual evaluation to the Congress with recommendations for changes;

(3) Develop a national long-term plan to re-direct agricultural policy towards an agricultural system comprised of energy-efficient, environmentally-protective, economically sound family farms which provide a good standard of living to their owners; and report this national plan to Congress in 3½ years;

(4) Set up a Family Farm Assistance board which will also be responsible for giving out research and education grants that will help develop the technology and practices necessary to re-vitalize the family farm.

TITLE VII: RESEARCH PROGRAM

The Family Farm Development Service will give grants to individual organizations, colleges and universities, agencies of a state or local government and other federal agencies to conduct research concerning the development and maintenance of small and moderate-sized family farms—primarily for small farms with gross sales under $30,000 and moderate-sized farms with gross sales of less than $100,000. This research shall include the following matters:

(1) Analysis of the situation leading to the decline in farm numbers—causes of the trend (economic, social, and other) ways to reverse trend, statistics on present farm sizes and numbers, analysis of the relationship between rural economic stability and reduction in numbers of farmers;

(2) Surveys to determine who are beneficial and nominal owners of land and an analysis of trends regarding land ownership;

(3) Ways to enhance the lifestyle of small and moderate-sized family farmers, including community services;

(4) Development of energy efficient, appropriate farm techniques and technologies that are low-in-cost, environmentally protective, such as utilization of solar, wind, water, waste products, and improved soil and water conservation;

(5) Analysis of costs/benefits of these various technologies in comparison to currently used systems and deveopment of means by which to apply these methods on the farm;

(6) Ways to increase and improve nutrient levels of the soil, increase soil productivity, reduce nutrient runoff and water pollution from farming;

(7) Benefits of increasing humus content of the soil—costs/benefits; water retention; food quality; effects on soil erosion, pest control, necessity for irrigation;

(8) Methods to increase humus methods in soil, i.e., composting, cover cropping;

(9) New and improved methods of biological and integrated pest control;

(10) Development of closed-nutrient cycle models for small farms and a cost-benefit analysis;

(11) Studies of agricultural methods in other countries and ways they could be applied to us farmers;

TITLE VIII: EDUCATION, TRAINING AND DEMONSTRATION PROGRAMS

This title contains new programs and amends old programs to change the emphasis of existing education and demonstration programs. These include the following:

(a) Broadening the small farm extension program (often called the "para-professional program") to apply it in every state to help small farmers with financial, managerial, credit, bookkeeping marketing, conservation, and choices of cropping assistance which will help lower costs. This assistance shall include providing information and training on pest control, new crops and better machinery, etc. The para-professionals hired to do this shall be mostly local people, and preferably consist of small farmers themselves.

(b) Establishing Farm Demonstration and Training Centers in each state, located in rural areas, to help train new farmers in improved methods of small and moderate-sized farming and simultaneously demonstrate the new methods and technologies being researched which are energy-efficient, low-in-cost, and environmentally protective.

These Centers shall be managed by the agency, group or individual in each state whose proposal is approved by the Family Farm Development Service and funded by the service.

Instruction to students will include all basic skills needed to operate and manage a small family farm—bookkeeping, machinery repair, carpentry, livestock and crop production, soil and water maintenance and protection, etc.—utilizing those new methods and technology which are energy-efficient, low-in-cost and ecological.

Tours of these Centers and demonstrations shall be provided to farmers and interested groups on a regular basis; reports on costs, energy-savings, soil erosion and quality, and other pertinent statistics of the Centers' operation shall be prepared annually.

(c) Training one USDA agent per state to help instruct small and family farmers in installing and operating appropriate technology;

(d) Establishing a new USDA program to instruct and demonstrate biological and integrated pest control methods, and soil and water conservation methods to family farmers; also to instruct methods to increase soil humus content of soil;

(e) Authorizing new USDA program called the "Apprenticeship Program" to establish a system to help farmers needing workers, and young people wishing to learn how to farm, contact, each other. If an apprentice works for 3 years, this then counts as eligibility for a young farmer loan program to buy and operate a farm.

TITLE 9

The Secretary of Agriculture is authorized to establish regulations by which retail stores shall display signs under all major food commodities which compare the "unit price" to the price received by the farmer for the food value within that community.

Through this mechanism consumers will be able to see the percentage of the price they are paying for the commodity that the farmer received for his product.

HOME HEALTH CARE LEGISLATION TO REDUCE UNNECESSARY INSTITUTIONALIZATION OF THE AGING

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I am today introducing legislation which can take us a long way toward our goal of improved health care for older Americans. I am joined by two of my colleagues on the Select Committee on Aging, which it is my privilege to chair, Representative WILLIAM S. COHEN, who serves very ably as Ranking Minority Member of the Subcommittee on Health and Long-Term Care, which I also chair, and Representative HAROLD E. FORD, who serves with great distinction as a member of our subcommittee as well as the Ways and Means Subcommittee on Health.

The bills we offer seek to implement recommendations adopted by the committee in 1976. They are simplified, refined versions of legislation I introduced at the beginning of the 95th Congress with broad bipartisan cosponsorship as part of a "legislative package for the elderly."

The first, the "Medicare Home Health Amendments of 1978" seeks to remove several restrictive requirements which prevent many older and disabled persons from receiving home health benefits under Medicare—benefits which they need and to which they are entitled. The second, the "Home Health Clearinghouse Act") addresses the insidious and pervasive problems of proliferation and fragmentation which prevent the effective delivery of in-home services.

MEDICARE HOME HEALTH AMENDMENTS OF 1978

Since its establishment, the Select Committee on Aging and its Subcommittee on Health and Long-Term Care have devoted a great deal of time and attention to the need for a coordinated system of health and social services for the elderly. This simply just does not exist under our current health care programs.

Medicare, the health insurance program for the aged, is a crisis management system. It provides assistance in meeting the costs of hospital care and some degree of rehabilitative care in skilled nursing facilities and home health care, but for the most part, the system is built around hospital stays and direct services by physicians. Its acute, episodic illness orientation denies assistance where the elderly need it most—in health maintenance and treatment of chronic disease. Elderly citizens pay more now for health care than they did before medicare was enacted more than a dozen years ago.

It has been estimated that some 8.5 million of the almost 23 million elderly Americans suffer from some form of chronic impairment. Almost one-fifth are limited in mobility, while over two-fifths experience limited activity as a result of chronic disability. The incidence of chronic disability among the elderly is greater than twice that of any other age group. Despite this fact, chronic illness is effectively ignored in the current medicare reimbursement structure.

As an early and ardent supporter of medicare, I am well aware that it has been a godsend for millions of Americans. But at least 17 days of hearings by our committee have demonstrated the weaknesses which plague the program—shortcomings which prevent medicare from providing care where it is needed most.

Dr. Stanley Brody of the University of Pennsylvania has aptly observed:

While the aged have need for acute medical care, their major requirement is in the continuum of services for the chronically disabled that will enable them to function optimally. Any health system which continues to be limited to a disease orientation will not meet the increasing needs of the aging community. Medical services must take their place as a part—and only part—of the continuum of health care.

The current medicare program perpetuates an institutional bias, a bias which is costly, both in terms of dollars inappropriately spent, and more importantly, in terms of the quality of human life.

Chief among the goals of our committee is the development of a continuum of care, a network of services, both community-based, noninstitutional, and institutional services, which can meet the specific needs of older citizens and which acknowledges the changing nature of this need.

An established spectrum of services available in the community can prevent delayed entry into the acute care health system by promoting early detection and treatment. It can promote more efficient use of health resources and manpower. It can minimize dependency upon institutionalization for individuals whose needs call less for cure than for maintenance and rehabilitation. It can help to remedy the neglect of millions of older Americans whose needs for care do not conform to the artificial, institution-biased, reimbursement structure.

The network we envision would include day care programs, multipurpose senior centers, outpatient clinics, and other community-based programs, as well as long-term care facilities.

At the heart of this network should exist a well-developed program of home health services—medical-social services provided in the home, where older persons are most comfortable and where families and friends remain the basis of a supportive environment.

The need for greater attention to home health care has been clearly demonstrated in hearings before our committee. In our 1976 report entitled, "New Perspective in Health Care for Older Americans," the committee pointed to a 1975 study contracted by the Department of Health, Education, and Welfare which indicated that between 14 and 25 percent of the approximately 1 million institutionalized elderly may be "unnecessarily maintained in an institutional environment."

A 1972 General Accounting Office report observed:

There is a consensus among health care authorities that about 25 percent of the patient population are treated in facilities which are excessive to their needs.

Moreover, Dr. Robert Morris, of the Levinson Gerontological Policy Institute at Brandeis University, testified that unnecessary institutionalization ranges as high as 40 percent, depending on the part of the country studied.

The National Council of Senior Citizens has estimated that one out of six noninstitutionalized older persons needs health and social services in order to remain in their own homes. Our own 2 to 3 million noninstitutionalized elderly persons are bedfast, homebound, or have difficulty getting outdoors without assistance.

The need is great, Mr. Speaker. And we have the ability to address it effectively. But current restrictions make it extremely difficult for older persons to obtain home health benefits under medicare.

In order to obtain home health care, under part A (hospital insurance), an elderly or disabled person must have had a hospital stay of at least 3 days; he or she must be "homebound" and require "skilled" care that is directly related to the spell of illness for which he or she was hospitalized to be eligible for any in-home care; the care must be prescribed by a physician; and visits are limited to 100 per spell of illness.

Under part B no hospitalization is required, but the "homebound" and "skilled" requirements must nevertheless

be met. Visits under this part, medical insurance, are limited to 100 per calendar year.

These requirements are so restrictive, in many cases, that older persons who need some form of in-home care are unable to benefit at all. The result, too often, is needless institutionalization.

Mr. Speaker, the call for increased home health benefits is loud and clear. In October of last year, the Department of Health, Education, and Welfare conducted a far-reaching "outreach" effort to obtain views and recommendations from the public regarding National Health Insurance. Through public hearings, small meetings, and written comments, thousands of individuals expressed their views. In its National Health Insurance National Outreach Report, the Department noted many of these comments. The report states, for example:

There was very strong support for expanded coverage for home health services.

In a section regarding reform of the health delivery system, the Department noted:

It was stated that the current lack of home health services forces individuals to seek out less humane and costly long term care facilities. Home health services were also seen as contributing to the preservation of the extended family.

According to the report, some regions reported the feeling that home health care and outpatient care should be the norm and institutionalization or hospitalization only a last resort.

Further along in the report, the Department notes:

While priorities for supporting specific programs varied from region to region, a number of special services were consistently advocated.

Not surprisingly, home health care is listed first. Continuing, it was noted:

Comprehensive home health care services both to shorten and prevent institutionalization, especially of the elderly, were highlighted in several regions.

Finally, the report observes:

The elderly want to remain full members of society, living in their own homes and many would be able to do so if reimbursement were available for supportive home services. Many felt that the stringency of Medicare requirements make less desirable and more costly institutionalization the only affordable alternative.

Mr. Speaker, the elderly have told us, time and time again: They want to remain at home, in their own communities, among their friends and families.

It is time that we listen. Hopefully the administration will listen to these pleas when a national health insurance proposal is drafted. But we cannot wait for national health insurance, and we need not wait.

The legislation we introduce today would make several changes in the medicare home health benefit structure. This proposal reflects the most affordable and the most often called for changes in the current program. It would remove the prior hospitalization requirement in part A; eliminate the requirement in both parts A and B that a patient be "homebound" in order to qualify; delete the visit limits in both parts A and B; and add homemaker and periodic chore services to the list of covered services.

Early last month, the General Accounting Office released a report which was prepared as a result of a request I made in August of 1976. This report gives us important evidence that a wide range of home health services can be as economical in terms of dollars as it is in terms of the quality of life.

The GAO concluded:

Until older people become greatly or extremely impaired, the cost of nursing home care exceeds the cost of home care including the value of the general support services provided by family and friends.

This is an important conclusion for several reasons. First, the GAO did what few, if any, have done thus far: It computed the dollar value of the services provided by friends and families, in addition to the home health care that is paid for by public agencies. It concluded, using this formula, that only when an older person becomes greatly or extremely impaired does the cost of home care exceed the cost of institutional care.

The GAO noted that only about 17 percent of those over 65 are greatly or extremely impaired. Of these, some one-third are in institutions. Those most likely to enter institutions are the greatly or extremely impaired who live alone. Of the 17 percent who are greatly or extremely impaired, 31 percent live alone; 76 percent of these persons enter institutions.

The GAO was not suggesting that institutional care may be desirable for those who are greatly impaired; on the contrary, it has recommended that the 200,000 public service jobs intended to provide home services under the President's welfare reform proposal be directed at these, who are most vulnerable to institutionalization.

The report was most helpful in describing the elderly population who could benefit from home health care, but it also refutes the contention that we cannot afford to expand home health coverage. At my request, the GAO report calculated the projected costs, estimated by Social Security Administration actuaries, of eliminating certain medicare restrictions. The results were revealing. The projected fiscal year 1978 cost of eliminating the home visit limit, for example, is $12.5 million, or a 2-percent increase in home health benefits costs. The cost of eliminating the prior hospitalization requirement would also be $12.5 million. To do away with the requirement that patients be homebound would cost $92.5 million, according to this estimate, and to add homemaker and chore services would cost some $75 million.

It is difficult to estimate with any precision what the overall cost-saving might be in the short term. In my view, the most telling evidence will come over a few years, when we are able to observe reduced numbers of unnecessary hospital and nursing home placements.

But one thing we know with certainty, the institutional bias that colors our current programs means that the vast majority of elderly citizens are not receiving the kinds of care they need. In fiscal year 1976, only some 1 percent of the $3 billion spent by medicaid for persons over 65 was spent for home health care, as compared to the 70 percent that went for care in long-term care facilities. Only about 10 percent of medicare part A funds paid for home health care, and only some 1 percent of part B funds paid home health bills. We cannot continue to invest this disproportionate share of the scarce health dollar in nursing home care for those who do not need or wish it.

The proposal we offer goes to the heart of the GAO report. We contend, as does the GAO, that institutional care is not the only financially feasible way of caring for elderly persons. But no study can estimate the real savings provided by home health alternatives. The cost of needless institutionalization cannot be measured merely in dollars; it must also be measured in terms of its effect on the quality of human life. The human cost involved in tearing elderly persons from their homes and their communities is incalculable.

We must delay no longer. We must make these changes not only because they hold the promise of saving money, but because it is the right thing to do.

"HOME HEALTH CLEARINGHOUSE ACT"

The second bill we propose, Mr. Speaker, addresses another recommendation of our committee, and it speaks to a problem brought out in the GAO report—the proliferation and fragmentation of current home health programs.

Some form of home health benefit is now available under at least eight Federal programs, including titles XVIII (medicare), XIX (medicaid), and XX (social services) of the Social Security Act; the Public Health Service Act program of home health demonstration grants and training; titles III and VII of the Older Americans Act; the senior companion program and retired senior volunteer program under title II of the Domestic Volunteer Service Act; and older American community service employment program, senior opportunities and services under the Community Services Act.

The proliferation and fragmentation of Government and private programs serve to prevent many citizens from receiving benefits to which they are entitled. Time and again, hearings conducted by our subcommittee brought to light the difficulties experienced by older persons who endeavor to obtain information on the health programs available to them.

We propose to establish, within the Department of Health, Education, and Welfare a clearinghouse to disseminate information concerning the various public and private agencies which provide home care and related services to the elderly.

It would collect information on Federal, State, local, and private services and assist in information referral to organizations, agencies, and private individuals.

Under our proposal, the clearinghouse would establish a computer system to gather pertinent information from local Social Security Administration offices and other public and private agencies which provide services for the elderly.

The Secretary of HEW would be required to insure the fullest possible utilization of existing computer systems within the department.

Moreover, the Secretary would be instructed to consider the existing functions of area agencies on aging and social security offices, and, if appropriate, locate the clearinghouse in these offices.

The clearinghouse established by this bill would be required to keep an up-to-date publication describing services and benefits, eligibility criteria for each service, and how the services may be obtained. In addition to feeding into the social security offices which already have computer systems, the following locations would also be considered for computer linkages: area agencies on aging; local welfare offices; senior centers; and other public or voluntary agencies.

The system we envision would produce virtually instantaneous information, while protecting the privacy of the beneficiary. Necessary information, without the beneficiary's name, would be given to the computer and a printout would be made of the Federal, State, and local outpatient and home health benefits to which that person is entitled, names of persons to contact with regard to benefits, and hopefully a list of benefits from voluntary agencies, as well.

Mr. Speaker, these steps are long overdue. It is my hope that the committees with jurisdiction will act expeditiously to bring these proposals before the House.

VETERANS' AFFAIRS COMMITTEE TO HOLD HEARINGS ON OVERALL PENSION PROGRAM FOR NON-SERVICE-CONNECTED VETERANS

The SPEAKER. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I am pleased to announce that the House Veterans Affairs Subcommittee on Compensation, Pension and Insurance will hold hearings February 7, 8, and 9 on the overall pension program for our non-service-connected veterans. The focal point for the hearings will be the Veterans and Survivors Pension Improvement Act of 1978, which I introduced last November. We will also be considering other legislation of a similar nature introduced by our colleagues.

World War I veterans have continued in their support of a service pension and at the same time there has been a groundswell in the Congress for pension reform which would solve the problem of reducing VA pensions for all veterans and survivors as a result of increases in social security.

My bill is designed in such a way that it will solve the social security adjustment dilemma, and it will also raise the basic level of support for eligible veterans and survivors well above the poverty level. The bill also provides for automatic cost-of-living increases every year without the necessity of congressional approval as is the case currently.

Mr. Speaker, as my colleagues probably remember the last Congress passed Public Law 94-432 mandating that the Veterans' Administration analyze and evaluate the veterans pension program, develop legislative recommendations and cost estimates for its reform. The law required that the study be submitted to Congress no later than October 1, 1977.

Unfortunately, the VA did not submit the report as required by law until 4 months after the deadline passed. I finally received the report January 30 of this year. Also unfortunately, this 2-inch thick study does not contain what the law specifically required: legislative recommendations and their costs. I am most concerned that the VA did not address the cost estimates as they were clearly required to do by law and I am further concerned that the VA budget which was submitted to Congress a few days ago allowed only $111 million for pension improvement—a pittance considering the need.

Mr. Speaker, with or without the help and cooperation of the Veterans' Administration, our committee will provide needed reform of the veterans pension program. We ask each Member of the House to consider this problem with us and to share his or her thoughts during our studies.

NATIONAL PRAYER BREAKFAST

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. CORNWELL) is recognized for 5 minutes.

Mr. CORNWELL. Mr. Speaker, this morning I attended my first national prayer breakfast. I left feeling wiser and with a sense of comfort and security that I had never felt before. I was particularly moved by the very deep and highly inspirational message of Max Cleland, Administrator of the Veterans' Administration. Mr. Cleland recounted to those in attendance, his life, and its processes and failures. His success as an Army officer in Vietnam and his disheartening return as a battered triple amputee. His successful bid for the State Senate of Georgia, and then his defeat in a political bid for Lieutenant Governor of Georgia. And now as head of the Veterans' Administration and the spiritual strength he must call upon to correct the inadequacies of that Administration.

I am not an active religious person. But the message of all of those who spoke—Congressman BEDELL, Congresslady JORDAN, Senator ALLEN, Senator LUGAR, Judge Sirica, General Wilson, and President Carter, told me that I too must see that my strength is not only in the presence of a physical human body. But that there is an entity more supreme and more right than am I. Max Cleland only confirmed this unusual but comforting sensation. As a veteran of the Vietnam conflict I often found it necessary to communicate with Christ. But when the conflict passed and I returned to the security of U.S. soil, I lost that need to keep in touch with Christ. This morning's program has shown me that I cannot turn on and off this need as I would a light bulb. It is a daily happening, painless but morally profitable and in no way embarrassing as I have sometimes felt it to be.

My thanks and my prayers to those who today have taught me a great lesson.

LEGISLATION IS INTRODUCED TO REVERSE PROPOSED TREASURY ACTION ON DEFERRED COMPENSATION PLANS

The SPEAKER. Under a previous order of the House, the gentleman from Louisiana (Mr. WAGGONNER) is recognized for 10 minutes.

Mr. WAGGONNER. Mr. Speaker, I am introducing today a bill to reverse proposed Treasury action that would seriously impact the public employees of my State and the public employees of 30 other States. My bill requires the Treasury to issue regulations consistent with longstanding Internal Revenue Service actions upon which my State and the States of many of my colleagues have relied.

Pursuant to State statute, Louisiana adopted and authorized the State of Louisiana Deferred Compensation Commission to establish and administer a deferred compensation plan for all public employees of my State. I understand that at least 30 other States have similar plans or have enacted legislation providing for such plans.

On January 17, 1977, the Internal Revenue Service issued a favorable ruling with respect to Louisiana's plan. In specific reliance upon this ruling and other Treasury and Internal Revenue Service pronouncements, Louisiana undertook full scale implementation of this plan. In the short period of time that enrollment procedures have been ongoing, almost 3,000 employees of my State have enrolled and are realizing the benefits of this plan.

Mr. Speaker, these plans, of which Louisiana's is typical, allow the State's employees to defer part of their salary to provide for their retirement. The amounts deferred are not taxed to them in the year deferred. When paid upon retirement, such amounts are then taxed as income to the participant. In these days of increasing concern over the availability of adequate income during the retirement years, such plans should be encouraged, not discouraged.

From my State's viewpoint, its plan offers ease of administration, encouragement of voluntary savings for retirement and at no additional cost to the State. Louisiana employees are offered a practical method of aiding in providing for their eventual retirement. Everyone benefits by these type plans.

Let me emphasize that the Louisiana plan is nondiscriminatory and experience with the Louisiana plan indicates that it is not utilized as a tax shelter for the highly compensated. To the contrary, it is utilized by employees at all salary levels. In fact, 80 percent of the

participants in my State's plan earn less than $20,000 yearly.

The legislation I have introduced today simply reiterates what until now has been the continuous and consistent Treasury and IRS policy toward these plans. That policy needs to be continued. With this legislation, the public employees of Louisiana and the employees of other States which have adopted such plans, will be able to more fully plan for their retirement.

The following States have public employee deferred compensation plans currently in operation or have adopted legislation providing for such plans. Additionally, there are any number of municipalities which have deferred compensation plans in operation or contemplate implementing them.

Alabama, Alaska, Arizona, California, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Kansas.

Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Carolina.

North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Wyoming.

PARTIAL CORPORATE INTEGRATION—RELIEF FROM DOUBLE TAXATION OF DIVIDENDS

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 10 minutes.

Mr. ULLMAN. Mr. Speaker, today, I am making a proposal that would represent a start toward eliminating the double taxation of dividends. I will ask the Committee on Ways and Means to consider this proposal along with President Carter's tax reduction and reform program, and I hope that witnesses will address themselves to it during the committee's hearings on the subject.

Many of us are concerned that the current system of double taxation of dividend income reduces business investment, causes distortions in the capital markets, creates a dangerous bias toward debt financing over new stock issues, and encourages the unnecessary retention of earnings. My proposal would be a modest, but important start toward making corporate finance more efficient and more responsive to the country's need for increased capital formation. More investment will lead to increases in both employment and wages.

Under existing law, corporate income is subject to two income taxes. Corporate taxable income is subject to a tax rate of up to 48 percent. When this corporate income is distributed to individual shareholders as dividends, it is subject to another tax at the individual level at tax rates up to 70 percent. Thus, there is double taxation of corporate income paid out as dividends. In contrast, earnings retained by the corporation, while they are taxed once at the corporate level, are not taxed at all at the shareholder level except to the extent they raise the value of the stock and result in recognized capital gains.

Under my corporate integration proposal, shareholders would receive a tax credit equal to a percentage of their dividend income—initially 10 percent but increasing over a 6-year period to 20 percent. They would include this credit in their gross income. This shareholder credit would, when fully phased in, eliminate almost 22 percent of the current double tax on dividends.

First. Capital formation.—The double tax on dividends significantly increases the cost of funds for corporate investment financed by new issues of stock. As a result, corporations undertake fewer investments than they otherwise would. More investment is needed in the economy to create high-paying productive jobs for our work force.

Second. Bias toward debt financing.—A strong tax incentive encourages corporations to use certain sources of funds and to avoid others. In particular, current law makes debt financing more appealing than new issues of common stock, because interest payments are deductible and dividends are not. More use of debt increases the risk associated with corporate financial structures because firms must meet higher fixed payments for interest and face greater risk of bankruptcy. In my opinion, this distortion in corporate finance is a major cause of our inadequate economic performance in the past decade.

Third. Bias toward retained earnings.—The existing tax laws also encourage corporations to retain earnings in order to avoid the double tax on dividends. By encouraging the use of retained earnings as a source of equity financing rather than new issues of stock, the double taxation of dividends bias the allocation of capital in favor of those firms that are already earning income and against new businesses. This tax incentive for earnings retention may also be a major cause of corporate mergers and takeovers.

Fourth. Tax equity.—In an equitable tax system, all income would be taxed only once. The double taxation of dividends clearly violates this principle, and reducing double taxation is the most equitable and progressive way of encouraging capital formation.

Fifth. Tax preferences.—Under my integration proposal, shareholders would generally only be able to receive a credit to the extent corporations actually paid U.S. Federal income tax. I plan, however, to make some exceptions from this general rule during a transitional period to give corporations time to adjust to the new system. This aspect of integration will discourage corporations from using tax preferences as much as they have in the past, and thus integration will lead to a more uniform system of corporate taxation.

I do not intend integration to be a substitute for other corporate tax reductions or to be contingent on enactment of any offsetting tax increases. My integration program is designed to have a modest initial revenue impact—about $1½ billion—so that there is no need for any trade-offs.

I insert in the RECORD a summary and explanation of my integration proposal.

PARTIAL CORPORATE INTEGRATION—RELIEF FROM DOUBLE TAXATION OF DIVIDENDS

SUMMARY OF PROPOSAL

Under present law, income earned by a corporation is taxed at corporate tax rates of up to 48 percent. This corporate income is again taxed when distributed as dividends to individual shareholders at tax rates ranging from 14 to 70 percent. However, each individual is allowed to exclude from gross income the first $100 of dividends received.

Under my integration proposal, for 1979 and 1980, shareholders would receive a tax credit generally equal to 10 percent of their cash dividends. This credit would be increased by an additional 2 percentage points a year beginning in 1981 up to a credit of 20 percent for cash dividends received in 1985 and thereafter. This shareholder credit, in effect, refunds to eligible shareholders a portion of the corporate income tax associated with corporate earnings from which the dividend was paid, and in that way it eliminates a portion of the double taxation of dividends.

Shareholders receiving dividends would include in their gross income the amount of cash dividend received plus the amount of their shareholder credit. They would be allowed to treat the amount of the shareholder credit as a payment against their Federal income tax liability.

The following example illustrates how the proposal affects individual shareholders:

Under present law, individual shareholders A and B each compute their marginal Federal income tax liability attributable to their dividends received as follows (the example disregards the dividend exclusion):

	Shareholder	
	A	B
Dividend income ($10 × 10 shares)	$100	$100
Tax rate (percent)	20	60
Tax liability on dividends	$20	$60

Under the proposed credit, the tax computation would be as follows:

	Shareholder	
	A	B
Dividend income ($10 × 10 shares)	$100	$100
Gross-up by amount of shareholder credit ($100 × 10 percent)	10	10
Dividends included in gross income	$110	$110
Tax rate (percent)	20	60
Tax on dividends before credit	$22	$66
Shareholder credit	10	10
Tax on dividends after credit	$12	$56
Tax reduction from present law	$8	$4

Note that the tax reduction is higher for the low-bracket shareholder than for the shareholder in the high bracket. This illustrates that integration is a relatively progressive way to reduce corporate taxes.

Under the proposal, the shareholder credit would only reflect corporate income taxes actually paid to the U.S. Treasury. However, there would be some exceptions to this general rule during a transitional period to give corporations time to adjust to the new system. If a corporation has not paid enough tax to justify the full 10-percent credit, it

would be given the choice of either declaring a lower rate of credit for its shareholders or of paying an additional withholding tax.

GENERAL EXPLANATION

Present law

Under present law, income earned by a corporation is taxed at the corporate level at tax rates up to 48 percent. This corporate income is again taxed when distributed as a dividend to individual shareholders at individual tax rates ranging from 14 to 70 percent. In order to relieve a portion of this double tax, each individual is given an exclusion for the first $100 of dividends.

General proposal

Under the proposal, starting in 1979, eligible shareholders would receive a tax credit generally equal to 10 percent of their cash dividends. This shareholder credit would increase by 2 percentage points a year starting in 1981 to a total credit of 20 percent of cash dividends paid in 1985.

For any corporation, credits allowable to its shareholders would be limited to the amount in a "shareholder credit account." This account would initially equal 10.83 percent of the U.S. Federal income taxes actually paid by the corporation.[1] However, there could be certain additions to the account during a transitional period. The 10.83 percent figure would increase in 1981 and subsequent years as the rate of the shareholder credit increased from 10 to 20 percent.

Whenever allowable shareholder credits would otherwise exceed this limitation, corporations would be given the choice of either paying a shareholder withholding tax to the Treasury, which dollar for dollar would be treated as additional shareholder credits or of electing a lower rate of shareholder credit for their shareholders.

Shareholders receiving dividends would include in their gross income the amount of any cash dividend received plus the amount of their shareholder credit. They would be allowed to claim the amount of the shareholder credit against their Federal income tax liability. Shareholders would be allowed to claim a refund if this credit exceeded their income tax liability.

The current $100 dividend exclusion could be phased out during a transitional period.

Shareholder credit account

Each corporation would maintain a "shareholder credit account" on its books. At the close of each taxable year a corporation would add a certain percentage of its Federal income tax liability (net of all allowable tax credits) to its shareholder credit account. The percentage of a corporation's tax liability that would be added to the shareholder credit account would be fixed by statute as follows:

Percentage of corporate tax liability added to shareholder credit account

Taxable years beginning in:	Percent
1979	10.83
1980	10.83
1981	13.00
1982	15.17
1983	17.33
1984	19.50
1985 and thereafter	21.67

[1] The 10.83 percent figure is derived as follows: With a 48-percent tax rate, $100 of before-tax corporate income yields $52 in after-tax income. A credit of 10 percent of the cash dividend equals $5.20, which is 10.83 percent of the $48 corporate tax liability. This explanation assumes the 48-percent maximum statutory rate of existing law. No inference is intended about the possibility of Congress' reducing that rate, and any such reduction would require a change in the 10.83 percent figure.

These percentages would have to be changed if Congress enacts a cut in the maximum statutory corporate tax rate.

At the close of each of its taxable years, the corporation would subtract from its shareholder credit account the total amount of the shareholder credits it declared for the benefits of its shareholders for the year. Unless the corporation elected a lower rate, this would initially be 10 percent of cash dividends paid. Any amount remaining in the shareholder credit account after these adjustments would be accumulated in the account and carried forward to future taxable years.

This accounting mechanism is necessary to ensure that the shareholder credit is based upon corporate taxes actually paid. However, certain adjustments could be made during a transitional period to permit a larger shareholder credit even though a corporation may not have paid enough corporate tax to justify the statutory shareholder credit.

Foreign tax credits

The Secretary of the Treasury would have the authority (within certain limits) to allow corporations to add a portion of foreign tax credits to the shareholder credit account as a result of tax treaties with foreign governments.

Corporate election

The corporation would be required to elect the rate of shareholder credit applicable to all dividends paid during the taxable year prior to the first dividend distribution made during the taxable year.

Shareholders eligible for the tax credit

All U.S. citizens and individual resident aliens would be permitted to claim the shareholder credit.

Shareholders not eligible for tax credit

a. Tax-exempt shareholders—

Tax-exempt shareholders would not be permitted to claim the shareholder credit on dividends they receive from U.S. corporations except to the extent such dividends are taxed to them as unrelated business income. For these purposes, tax-exempt shareholders would include qualified pension and profit-sharing trusts.

b. Foreign shareholders—

Foreign shareholders of U.S. corporations would not be permitted to claim the shareholder credit on dividends they receive from such corporations. However, the Secretary of the Treasury would have the authority to grant such treatment through tax treaties with foreign governments.

Corporate shareholders

Under current law, corporations are generally entitled to a deduction equal to 85 percent of the amount of dividends received from U.S. domestic corporations. A 100-percent dividend received deduction is allowed for dividends received from small business investment companies and from members of an affiliated group.

Under the proposal, corporations would still be entitled to the dividends received deduction. However, corporations would not be entitled to claim the shareholder credit on dividends received from other corporations. Instead, corporate shareholders would be permitted to add the shareholder credit otherwise allowable to its shareholder credit account. These additions to the shareholder credit account would be available as credits to the individual shareholders of the corporate shareholder when the corporation's dividend income is distributed.

Corporate distributions eligible for shareholder credit

The shareholder credit would be given only with respect to cash dividends that under State law are legally declared and paid, and that are classified as dividends under the Internal Revenue Code. Thus, the shareholder credit would not be given with respect to redemptions, constructive dividends, or other corporate distributions which are not paid from earnings and profits. Special rules will be developed for other corporate transactions, such as liquidations and reorganizations.

Net operating losses

Under present law, a net operating loss may be carried to, and allowed as a deduction in, the three immediately preceding taxable years and the seven taxable years following the year in which the net operating loss arose. A taxpayer may, however, elect not to carry the loss back to preceding years.

Under the proposal, if a net operating loss is carried back and applied against an earlier year's taxable income, the corporation would be required to adjust its shareholder credit account to take account of its reduced tax liability for the prior year. If, after making this adjustment, the corporation has a negative balance in its shareholder credit account for any taxable year, it would be required to pay a shareholder withholding tax equal to the negative balance.

Audit adjustments and amended returns

Any adjustments to tax liability for the corporation's previously filed tax returns made by an amended tax return or audit would require adjustments to the shareholder credit account. If the adjustment results in a native balance in the shareholder credit account, the corporation would be required to pay a shareholder withholding tax equal to the negative balance. The tax liability of any shareholder would not be affected by any such adjustments.

Timely reporting

Corporations would be required to report to shareholders by the end of February the amount of dividends paid during the preceding calendar year and the shareholder credit allowable with respect to those dividends.

Rules for specially treated entities

Special rules will be developed to clarify the treatment of the shareholder credit for estates and trusts, subschapter S corporations, insurance companies, mutual funds and other entities specially treated under the Internal Revenue Code.

Examples

Example 1—For its taxable year ended December 31, 1979, X Corporation has financial income of $100 on which it pays a Federal income tax of $48 ($100 taxable income times 48 percent Federal income tax rate).

As of the end of 1979, X places $5.20 ($48 tax liability times 10.83 percent) in its shareholder credit account. During 1979, X declares and pays a $20 cash dividend to its shareholders. The shareholder credit on this dividend will be $2 ($20 cash dividend paid times 10 percent). The balance in X's shareholder credit account after the payment of the $20 cash dividend is $3.20 ($5.20 minus $2.00) which may be carried over to 1980 and future years.

X's eligible shareholders will include $22 ($20 actual cash dividend received plus $2 shareholder credit) in their gross income for 1979, and will be entitled to a $2 shareholder credit against their personal income tax liability for 1979.

Example 2—For its taxable year ended December 31, 1979, X Corporation has financial income of $100 and has taxable income of $38.47 ($100 financial income less $61.53 of special deductions and exclusions. X pays a Federal income tax of $18.47 ($38.47 taxable income times 48 percent Federal income tax rate). During 1979, X pays a $20 cash dividend.

As of the end of 1979, X places $2 ($18.47 Federal tax liability times 10.83 percent) into its shareholder credit account. The share-

holder credit will still be $2 ($20 cash dividend times 10 percent). The balance in X's shareholder credit account after the payment of the $20 cash dividend would be zero ($2 put in the account minus $2 applied shareholder credit).

X's eligible shareholders will include $22 ($20 actual cash dividend received plus $2 shareholder credit) in their gross income for 1979, and will be entitled to a $2 shareholder dividend credit for 1979.

Example 3—For its taxable year ended December 31, 1979, X Corporation has financial income of $100, and has taxable income of $38.47 ($100 financial income less $61.53 of special deductions and exclusions). X pays a Federal income tax of $18.47 ($38.47 taxable income times 48 percent Federal income tax rate). During 1979, X pays a $30 cash dividend to its shareholders.

As of the end of 1979, X places $2 into its shareholder credit account ($18.47 Federal tax liability times 10.83 percent). Unless X elects a lower rate for its shareholders, their credit would be $3 (10 percent of $30 cash dividend). Thus, X would have to pay $1 ($3 shareholder credit less $2 in the shareholder credit account) of shareholder withholding tax to the U.S. Treasury. If, instead, X elected a lower shareholder credit rate of 6⅔ percent for its shareholders, the shareholders would be entitled to credits of $2, and the corporation would not have to make a withholding tax payment to the U.S. Treasury.

If X declared the lower shareholder credit rate of 6⅔ percent, its eligible shareholders would include $32 ($30 actual cash dividend received plus $2 shareholder credit) in their gross income for 1979, and will be entitled to a $2 shareholder dividend credit for 1979.

CONSUMER REPRESENTATION AND REORGANIZATION ACT OF 1977

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, next week the House is expected to consider legislation to create an Office of Consumer Representation (H.R. 9718). The text of this bill will be offered as an amendment in the nature of a substitute to H.R. 6805.

H.R. 9718 has been available to Members for study for the past 3 months. It makes significant changes in the committee reported bill. Under the substitute bill the powers vested in the OCR before the Federal Government and courts are no greater than those already available to business. To be sure, the OCR, under H.R. 9718, is empowered to intervene, to seek judicial review, to petition another agency to initiate an action within its authority, and to use a host agency's subpena powers during a formal-type proceeding. But, each of these powers is available to any business entity to precisely the same extent that they would be available to OCR.

Because opponents of H.R. 9718 persist in misrepresenting its clear meaning. I am joining with Mr. ROSENTHAL and Mr. HORTON in a further report on and explanation of the substitute, which we will include in the RECORD at this point:

CONSUMER REPRESENTATION AND REORGANIZATION ACT OF 1977

(Mr. BROOKS, Mr. ROSENTHAL and Mr. HORTON submitted the following report to accompany H.R. 9718)

On May 16, 1977, the Government Operations Committee reported to the Committee of the Whole House on the State of the Union, H.R. 6805, a bill to establish an agency for consumer protection. In response to expressions of concern over the nature and extent of powers vested to the administrator of the Agency by H.R. 6805, the principal sponsors of the bill and others fashioned an Amendment in the nature of a substitute (H.R. 9718) which made significant changes in the committee-reported legislation. On October 26, 1977, the Committee on Rules granted an open rule providing one hour of general debate and making it in order to consider the text of H.R. 9718 as an Amendment in the nature of a substitute for H.R. 6805.

SUMMARY AND PURPOSE

H.R. 9718, like the legislation for which it is a substitute, is designed to provide an institutional mechanism for the representation of consumer interests before Federal agencies and courts. The underlying premise of the legislation is that the "public interest" can best be served when Federal decisions of importance to consumers are made after all other interested parties—including consumers—have had an ample opportunity to be heard. There is incontestable evidence that in the overwhelming majority of such Federal agency proceedings, decisions are made after detailed testimony from business interests but without effective representation for consumer interests.

Just as the principles of "equal justice" and "due process" require that all parties to a judicial proceeding be adequately represented by counsel; the principles of "basic fairness" and "good government" require that each major interest group affected by a Government decision be effectively represented.

Although there are a number of vital differences between H.R. 9718 and the committee-reported bill, both share the following similarities:

Both bills would establish a non-regulatory agency in the Executive Branch to represent consumers before Federal agencies and courts, to develop and provide information to the public about consumer products and to serve as a clearinghouse for consumer complaints.

The consumer agencies created by both bills have no power whatsoever to regulate any business activity and no power whatsoever to tell any other agency or court how to decide consumer issues.

Both bills provide comprehensive safeguards against the disclosure of trade secrets and commercial and financial information. The consumer agencies established by both bills can be denied access to legally privileged information and information concerning national security, internal policy recommendations, personnel and medical files, etc. They can both be prohibited from publicly disclosing information obtained from another Federal agency if the information is declared, by another agency, to be exempt from disclosure under the Freedom of Information Act.

Both bills require that interventions and judicial review activities by the consumer office conform to the rules of practice and procedures of the host agency or the court.

DIFFERENCES BETWEEN H.R. 9718 AND H.R. 6805

H.R. 9718 differs in material ways from the committee-reported bill. The underlying difference is that under H.R. 9718, the powers vested in the OCR before the Federal Government and courts are no greater than those already available to business. To be sure, the OCR, under H.R. 9718, is empowered to intervene, to seek judicial review, to petition another agency to initiate an action within its authority, and to use a host agency's subpena powers during a formal-type proceeding. But, each of these powers is available to any business entity to precisely the same extent that they would be available to OCR. In fact, in one instance—where the OCR seeks to participate in an ongoing judicial review from a Federal agency's decision to which it was not a party or participant—the OCR's opportunity to secure judicial review is more narrow than that of a business non-party or non-participant.

Major differences between the two bills are enumerated below:

H.R. 9718 creates an Office of Consumer Representation (OCR) to represent consumer interests before Federal agencies and courts.

H.R. 9718 provides for a statutory reorganization which transfers the resources of 20 existing onsumer programs totaling $11.6 million to the new OCR and requires to cut an additional $10 million in consumer-related spending in the next budget request. As compared to the consumer office's FY 78 authorization of $15 million, a net savings of almost $7 million per year will result from the creation of a consumer office.

OCR would have no greater rights than those already enjoyed by advocates for business interests:

OCR itself would have no interrogatory powers. It could not require business to answer interrogatories or to file reports.

OCR would have no greater rights of judicial review from a Federal agency decision than any business entity. This equality of judicial review rights would extend both to instances where OCR was a party or participant in a proceeding and where it was not.

OCR would have no greater rights than any business entity to use a host agency subpena or other discovery powers during a proceeding.

OCR would be authorized to represent the interests of small business as consumers of regulated goods and services.

OCR would have no authority to set up product testing laboratories.

OCR would have no authority to set up regional offices.

OCR would be required to report to Congress on any rules or orders of a Federal agency found to be in conflict with or duplicative of those of another agency.

OCR would be required to report to Congress on the impact of intervention (including delays) on the effectiveness and efficiency of the regulatory process.

OCR would be required to notify the President 30 days in advance of its intention to seek judicial review of an Executive Branch, non-regulatory action.

SECTION-BY-SECTION STATEMENT OF DIFFERENCES BETWEEN H.R. 9718 AND H.R. 6805

SECTION DESCRIPTION	H.R. 6805	SUBSTITUTE (H.R. 9718)
1. Short Title	Consumer Protection Act of 1977 (p. 1)	Consumer Representation and Reorganization Act of 1977 (p. 1)
2. Sec. 2, "Statement of Findings"	Interests of consumer inadequately represented and protected within the Federal Government; such representation and protection essential to fair and efficient functioning of free market economy (pp. 1–2)	Adds: Consumer interests adversely affected when Government rules, regulations or orders are contrary to regulatory intent or are duplicative or conflicting in purpose or implementation; proper protection of con-

SECTION-BY-SECTION STATEMENT OF DIFFERENCES BETWEEN H.R. 9718 AND H.R. 6805—Continued

SECTION DESCRIPTION	H.R. 6085	SUBSTITUTE (H.R. 9718)
		sumer interests requires establishment of Office of Consumer Representation and reorganization of certain existing consumer programs (pp. 1–2)
3. Sec. 3, "Establishment"	Establishes independent Agency for Consumer Protection (ACP) within executive branch of Government (pp. 2–3)	Establishes independent Office of Consumer Representation (OCR) within executive branch of Government (pp. 2–3)
4. Sec. 4 "Powers and Duties of Administrator" (Annual report to Congress)	Subsection "(d)", (Annual Report to Congress), requires a statement of ACP activities, summary of consumer complaints received and evaluation of selected major consumer programs of other Federal agencies (p. 7)	Subsection "(d)", (Annual Report to Congress) adds: identification of and comments on any Federal agency rule, regulation or order found to be contrary to legislative intent or in conflict with or duplicative of a rule, regulation or order of another Federal agency; and Assessment of the impact of intervention by the Office and by others on the effectiveness and efficiency of the administrative processes of the Government (p. 7)
5. Sec. 6, "Representation of Consumers" (Judicial Review)	A. Subsection "(d)" (Judicial Review) provides the Consumer Agency with automatic "standing" to get court review of a Federal agency action when ACP did not intervene at the Federal agency level, unless the court chooses to find that judicial review would impede the interests of justice (p. 11)	A. Subsection "(d)" revokes the automatic standing of the Office to require judicial review when it did not intervene at the Federal agency level. Under the substitute, the OCR could get into court only "to the same extent and in the same manner" as any other person or business entity who did not intervene or participate at the Federal agency level. Additionally, the court would have to find that the agency action being appealed from "may adversely affect an interest of consumers," and, where the OCR sought to join an ongoing judicial review of a Federal agency action, "that the consumer interests would not otherwise be adequately represented in a judicial review of such action". Before the OCR could undertake an intervention which might lead to a judicial review request, it would first have to determine that the result of the Federal agency proceeding or activity may "substantially affect an interest of consumers". B. Paragraph (4) of subsection (d) imposes a new limitation on the OCR's judicial review authority: before the Administrator can seek judicial review of a Federal agency decision that is of a nonregulatory, policy type, the Administrator must notify the President 30 days in advance of his intention to seek such review. (p. 12)
6. Section 6, "Representation of Consumers" (use of host agency discovery powers)	Subsection "(g)" requires a host agency to issue subpoenas at the request of the Consumer Agency during a formal-type proceeding on a showing of general relevance and reasonable scope of the evidence sought (p. 13)	Subsection "(g)" equalizes the use, by the office and a private person, of a host agency's subpoena power during a formal-type intervention. It allows the use of another agency's discovery powers only "to the same extent, upon the same statement or showing and subject to the same requirements as are applicable to requests for such orders from any other intervenor or participant." (p. 13)
7. Section 9, "Research"		Prohibits the establishment, by OCR, of consumer products testing laboratories (p. 19)
8. Section 10, "Information Gathering"	Section 10(a) authorizes the ACP to issue interrogatories to and mandate reports from business entities regarding actions that may constitute consumer fraud, substantial economic injury or which may injure consumers (p. 18)	No authority to issue interrogatories to or mandate reports from any business or other entity.
9. Section 14, "Transfer of Programs, Operations, and Activities"	A. Requires the President to submit a Reorganization Plan to the Congress within 6 months of the date of enactment providing for the eventual transfer to the ACP of consumer programs which could more effectively be performed in the new agency and the abolition of those consumer programs which are ineffective. No dollar amounts specified.	A. Requires (1) the transfer to the Office of specified duplicative consumer programs totaling $11.6 million and (2) a FY 1979 administration request for a budget reduction of an additional $10 million in duplicative consumer programs (p. 26) B. Authorizes OMB to report to Congress on the consumer programs of any Government agency that duplicate or conflict with the OCR's functions (p. 29)
10. "Definitions"	Section 16, Definition of "interests of consumers" excludes concerns of small business.	Section 15(5) of substitute adds to the definition of the term "interests of consumers" any concerns of small business entities that are consistent with those of consumers. This allows the OCR to represent the interests of small business on matters such as freight rates, utility costs, enforcement of anti-trust laws, etc. (pp. 30–31)

SECTION-BY-SECTION STATEMENT OF DIFFERENCES BETWEEN H.R. 9718 AND H.R. 6805—Continued

SECTION DESCRIPTION	H.R. 6085	SUBSTITUTE (H.R. 9718)
11. "Termination"	Section 23 provided for ACP's termination on Sept. 30, 1982.	Section 22 contains a sunset provision specifying termination five years after the effective date of the Act and specifies a study and report to Congress by the oversight committees of the Congress and by the President on OCR's effectiveness. (p. 35)

EXPLANATION OF SECTIONS 6 AND 14 OF H.R. 9718

SEC. 6. ("Representation of Consumers"):

This section authorizes the Office of Consumer Representation to represent the interests of consumers in proceedings or activities of other Federal agencies and in actions pending before courts of the United States. The Office of Consumer Representation's authority to intervene as a party involves those proceedings conducted under the applicable sections of the Administrative Procedure Act, generally described as "formal" or "structured" proceedings. The bill also gives the OCR authority to participate or communicate in Federal agency proceedings and activities that are generally described as informal or unstructured. These may lead to formal proceedings or to final agency action where formal proceedings are not required. The Act permits the Administrator to "participate or communicate" in these "informal" activities or proceedings in any manner that any person may do so. This "participation" is not the same as "intervention", for generally there is no way to "intervene" in such activity. But the Administrator will be able to make his voice heard, and the agency must give his views full consideration in agency activities where it is important that consumer interests be considered. All intervention and participation by OCR must be accomplished without thwarting or obstructing the agency's normal operations. OCR may also initiate or intervene in a court review of an agency decision.

Section 6(a)—If the Administrator determines that a proceeding or activity of a Federal agency may substantially effect the interests of consumers, he may as of right intervene as a party or otherwise participate in a proceeding subject to special provisions of the Administrative Procedure Act (5 U.S.C. 553, 554, 556, or 557) or a proceeding conducted on the record after opportunity for agency hearing. In any other agency proceeding or activity, he may as a right participate or communicate in any manner that any person may so participate. In the latter case, the Federal agency is required to give full consideration to the submission of the OCR which shall be presented in an orderly manner without causing undue delay. In all cases, the OCR's intervention or participation shall be in accordance with the Federal agency's statutes and rules of procedure.

Section 6(b)—At such time as the OCR decides to intervene or participate in a proceeding he shall issue a public statement (and file a copy in the proceeding) stating concisely the interests of consumers to be protected.

Section 6(c)—With respect to any proceeding before a Federal agency which seeks primarily to impose a fine, or forfeiture which the agency may impose under its own authority, where it is the opinion of the OCR that the interests of consumers may be substantially affected, the OCR, may upon its own motion or at the request of the officer charged with presenting the case for the Federal agency or the United States, transmit relevant information or evidence. Furthermore, in the discretion of the agency or court, the OCR may appear as amicus curiae.

Section 6(d)—Judicial Review.—The OCR, only to the extent that any aggrieved person may have such a right, may institute a proceeding for judicial review or intervene as a party in such a judicial review of any Federal agency action in which the Administrator intervened or participated. Where the Administrator did not intervene or participate at the agency level the Administrator can seek the initiation of judicial review if the court finds that such agency action may adversely affect an interest of consumers; and, in the case of an intervention in an ongoing judicial proceeding, that the consumers' interests would not otherwise be adequately represented in a judicial review of such action.

The Administrator's institution of or intervention in a judicial review proceeding where he did not intervene or participate at the Federal agency level, is authorized only "to the same extent and in the same manner as any person not a party or participant. . . ." This requirement encompasses procedural and substantive tests. For example, if any person not a party of a participant is required, under the rules of practice and procedure of the host agency, to file a petition for rehearing or reconsideration at the agency level, then that same procedural requirement would be imposed on the Administrator of the OCR.

In the case of an intervention, by the Administrator, in an ongoing court proceeding, such intervention would be dependent on the court's conclusion that "the consumers' interests would not otherwise be adequately represented in a judicial review of such action." This requirement imposes a test to which private parties are not ordinarily subjected.

Because the OCR Administrator—prior to intervention—must find that the result of a Federal agency proceeding or activity may "substantially affect an interest of consumers", any request for judicial review would necessarily be premised on such a finding.

When decisions which result from Federal agency activities are of a nonregulatory, policy-nature (such as State Department decisions pertaining to an International Coffee Agreement), the Administrator's judicial review authority cannot be exercised without 30 days advance notice in writing to the President.

In any Federal agency proceeding which is subject to the Administrative Procedure Act or to any other statute, regulation or practice authorizing a hearing or which is conducted on the record after opportunity for agency hearing, the Administrator is authorized to request a Federal agency to issue, and the Federal agency shall issue, such orders as are authorized by the Federal agency's statutory powers, for the copying of documents, papers and records, summoning of witnesses, production of books and papers and submission of information in writing. The Federal agency's issuance of such orders at the request of the OCR is dependent on the OCR's ability to meet the procedural and substantive tests required by the host agency's rules of practice and procedure. The OCR's authority to request and receive information pursuant to the host agency's discovery powers is no greater than that available to any other intervenor or participant.

Sec. 14. ("Transfer of Programs, Operations, and Activities"):

This section specifies that all funds, records and property utilized in connection with 20 named Federal consumer entities shall be transferred to the Office of Consumer Representation within 120 days of the effective date of the Act. The total value of the transferred resources of these 20 entities is $11.6 million. This section also requires OMB to recommend to Congress in the President's fiscal 1980 budget an additional $10 million reduction in Federal consumer functions. The net effect of these transfers and reductions will be a savings to the taxpayer in the millions of dollars over the authorized annual cost of the OCR at the end of its first full year of operation.

LE FANTE URGES TIGHTER CONTROLS ON POISONOUS SUBSTANCES IN HUDSON COUNTY

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. LE FANTE) is recognized for 5 minutes.

Mr. LE FANTE. Mr. Speaker, I want to bring to the attention of my colleagues in the House a situation which must not be left uncorrected. Last spring, the U.S. Environmental Protection Agency discovered residue of the highly toxic substance polybrominated biphenyls (PBBs') in human hair, fish, water, and soil near one chemical plant in my district in Hudson County, and another in central New Jersey.

At my urging and that of my colleagues in the New Jersey congressional delegation, the EPA will hold a hearing tomorrow on proposed rules which will regulate and possibly ban the use of PBB's. I want to bring to your attention the testimony I prepared for the hearing and include it here in my remarks:

TESTIMONY BY REPRESENTATIVE JOSEPH A. LE FANTE

I would like to commend the Environmental Protection Agency for holding a hearing today on the need for control of the release of Polybrominated Biphenyls (PBBs) into the environment. This subject is one of great concern to me and to my constituents.

I represent Bayonne, New Jersey where the White Chemical Company is located. In the summer of 1977, E.P.A. announced that there had been possible contamination of the Bayonne environment by the toxic polybrominated biphenyls produced at White Chemical.

My constituents are extremely troubled about this situation and the eventual effect which it might have on their lives. While production of PBBs has stopped and no adverse reactions to the chemical have thus far been reported in New Jersey, the disastrous results of the direct ingestion of the substance by Michigan residents and the potentially adverse effects of the substance already established by scientists make it imperative that we investigate and document the short and long range impact of PBBs. It is also necessary that we establish controls on the production of this chemical until this impact can be determined.

I realize that there are difficulties in estimating the consequences of the dispersal of PBBs into the environment during the next

few years. The very nature of this substance—which can remain stable and persistent while stored in fatty tissues—has led many scientists to declare that the lingering effects of PBBs may not be evident for many years to come.

Already we know that PBBs have an adverse effect on the kidney, liver and thyroid of laboratory animals. Scientists have labeled PBB a suspected carcinogen. Certainly, these facts indicate that controls must be placed on the dispersal and disposal of PBBs.

Our first concern in deciding what these controls should be is the health and safety of those human beings who come into contact with the substance during its manufacture, use and disposal. These include workers in chemical plants, individuals who have ingested the chemical and eventually, those who have used products containing PBB.

In order to decide which types of control are necessary, we must identify the extent and magnitude of the PBB contamination which has taken place to date. We must also enforce the provisions of the Toxic Substances Control Act to prevent incidents like the PBB disasters from reoccurring. As early as 1970, two major chemical companies—Dow and Dupont Chemical—tested PBBs and decided against manufacture because of the potential health and environmental problems involved. These companies advised the Federal Government of the possible dangers of PBBs. Yet manufacture of the chemical was allowed to begin at Michigan Chemical in 1971.

The Toxic Substances Control Act, which was passed by the Congress in 1976 would have prevented this manufacture from taking place without further testing and regulation of this toxic substance, and the deleterious effects of PBB could have been studied before its manufacture.

Now it is not a question of prevention but one of cure. The release of PBBs into the New Jersey and Michigan environments is not an isolated incident, but part of a growing trend where toxic substances such as PBBs, PCBs and Kepone are being continually dispersed into the atmosphere. This is a trend which we can not allow to continue unchecked. Controls must be established for both the manufacture of and disposal of PBBs. If production of polybrominated biphenyls poses a serious threat to the lives and well being of humans, then we must ban the continued use of the substance. The hazards created by PBBs far outweigh any worth which they might have in production and manufacture. We must act and we must act quickly.

THE AGRICULTURE REFINANCE ACT OF 1978

The SPEAKER. Under a previous order of the House, the gentleman from Oklahoma (Mr. ENGLISH) is recognized for 5 minutes.

Mr. ENGLISH. Mr. Speaker, there is no Member of the House who is not aware that there is a serious problem facing America's agricultural producers. But many of my colleagues may not be aware of the extent of the crisis which is threatening the economy of our entire Nation.

The U.S. Department of Agriculture now estimates that more than 5 percent of America's family farmers—more than 1 in 20—are in immediate danger of bankruptcy. This alarming warning, combined with the fact that one-third of our gross national product is made up of agricultural production, makes it clear that immediate action is necessary to prevent a major disaster for our Nation.

Mr. Speaker, I am today joining with 34 of my colleagues from both parties, and from both urban and rural areas in reintroducing H.R. 10539, the Agriculture Refinance Act of 1978, which I first introduced last week. This legislation will provide those farmers facing bankruptcy with an opportunity to consolidate their agricultural indebtedness under a single Farmers Home Administration loan, and it will allow them to defer their first payment on the consolidated loan for up to 5 years, depending upon the nature of the loan.

Since Congress reconvened a few weeks ago, thousands of farmers from across the Nation have visited Capitol Hill asking us to provide help for their troubled industry. This legislation is designed to address the immediate and urgent needs of those most in danger of bankruptcy—an entire generation of young family farmers. H.R. 10539 will help preserve the future of family farming, while allowing farmers and legislators alike enough time to find a more permanent solution to the problems facing our agricultural community.

Mr. Speaker, I urge my colleagues from all areas of the country to join me in this vital effort, and I insert a copy of the Agriculture Refinance Act of 1978, and a fact sheet describing the legislation, be printed in the RECORD at the conclusion of my remarks.

Thank you very much.

The material follows:

MAJOR PROVISIONS OF CONGRESSMAN ENGLISH'S AGRICULTURAL REFINANCE ACT

(1) Qualified farmers and ranchers may obtain Farmers Home Administration financing to consolidate up to one million dollars in agricultural indebtedness incurred between January, 1973 and January, 1978. Only farmers unable to obtain credit elsewhere would be eligible for such a loan.

(2) Interest on the outstanding balance of the loan shall accrue annually at the rate of interest currently charged to the Federal Government.

(3) The first payment of interest and principle under the program shall be deferred according to the type of original indebtedness refinanced by the following schedule:

Real Estate Loans; deferred for five years.
Equipment Loans; deferred for three years.
Operating Loans; deferred for two years.

(4) The entire outlay under this program will be repaid with interest.

H.R. 10724

A bill to amend the consolidated Farm and Rural Development Act to provide an alternative method of financing the land, equipment, and operating expenses of qualified farm families, including young farmers, and to help provide the farm family with adequate standards of living and the consumer with reasonable prices for agricultural products and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this Act may be cited as the Agriculture Refinance Act of 1978.

SEC. 2. The Consolidated Farm and Rural Development Act as amended is amended to provide that:

(a) Direct loans may be made under sections 303 and 312 for the purpose of refinancing existing indebtedness incurred by farm owners and operators for the purchase of land, equipment, and/or for debts incurred for operating expenses during the years January 1, 1973, through December 31, 1977, inclusive, without regard to the limitations of sections 305 and 313, but not to exceed one million dollars ($1,000,000).

(b) Notwithstanding the provisions of sections 307 and 316, loans made or insured under this section shall bear interest at rates determined by the Secretary, but not in excess of a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States comparable to the average maturities of such loans, and considering the Secretary's insurance of the loans, plus an additional charge, as may be prescribed by the Secretary, to cover the Secretary's losses and cost of administration, which charge shall be deposited in the rural development insurance fund or the agricultural credit insurance fund as appropriate; any rate determined by the Secretary under this subsection shall be adjusted to the nearest one-eighth of 1 per centum.

(c) The pro rata amount of the loan approved under this section that is attributed to the refinancing of real estate loans may be repaid in a period not to exceed forty years. Interest shall accrue annually on the entire indebtedness attributed to real estate loans at the rate specified in subsection (b) of this section; but the first payment for interest and principle on the real estate shall not be due and payable for five years after the receipt of the loan funds by the borrower; and the balance of the real estate loan shall be due and payable in equal annual installments over the immediately following thirty-four years.

(d) The pro rata amount of the loan approved under this section that is attributed to refinancing of equipment loans may be repaid in a period not to exceed twelve years. Interest shall accrue annually on the entire indebtedness attributed to equipment loans at the rate specified in subsection (b) of this section; but the first payment for interest and principle shall not be due and payable on the equipment loan for three years after the receipt of the loan funds by the borrower; and the balance of the equipment loan shall be due and payable in equal annual installments over the immediately following eight years.

(e) The pro rata amount of the loan approved under this section that is attributed to refinancing of operational loans may be repaid in a period not to exceed five years. Interest shall accrue annually on the entire indebtedness attributed to operational loans at the rate specified in subsection (b) of this section; but the first payment for interest and principle shall not be due and payable on the operational loan for two years after the receipt of the loan funds by the borrower; and the balance of the operational loan shall be due and payable in equal annual installments over the immediately following two years.

(f) The Secretary is authorized to make and insure loans under this section to farmers and ranchers in the United States and in Puerto Rico and the Virgin Islands who (1) are citizens of the United States, (2) have a farm background, except with respect to veterans as defined in section 1983(e) of title 7 of the United States Code. A farm background shall not be required as a condition precedent to obtaining any loan, and either training or farming experience which the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, (3) are or will become owner-operators of not larger than family farms, and (4) are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms,

taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

SEC. 3. The amount of unpaid principle and interest of prior loans consolidated or rescheduled pursuant to section 2 of this act shall not create a new charge against any loan levels authorized by Congress.

"DE LUNA"

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, there is a new historical novel on the market. The title is "De Luna." The book provides a graphic portrayal of the exciting beginning and tragic ending of the first European settlement in what is now the United States. Those who are interested in early American history will find it highly worth while.

The book was written by John Appleyard, a historian of note and an author of ability in Pensacola, Fla.

The first expedition to found a settlement north of Mexico was headed by Don Tristan de Luna in 1556. It was heralded as Spain's answer to French and English claims to the then-unsettled areas of the continent. The riches of Mexico were being successfully exploited by Spain. Early explorations led to the belief that there were cities of gold elsewhere in the continent as well.

Fifteen hundred soldiers, settlers, and clergy with a wealth of supplies sailed from Vera Cruz to Pensacola Bay, which was called Achuse or Ochus on early maps and was called Polonza by de Luna. Their auspicious start with high hopes came to naught when a vicious hurricane destroyed nearly all the expedition's ships and supplies 2 days after they landed on the shores of Pensacola Bay. After 2 years of constant hardship and unbelievable misfortune, it was abandoned. In 1566, another settlement was undertaken at St. Augustine. This one was successful.

Mr. Appleyard's book represents a great amount of research in which recorded history is interwoven with imagination to provide a work of great interest. It is a book that is hard to put down once you start reading it.

SPOILER'S ROLE IN RHODESIA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, courage of an unusual degree is required for a frank and factual discussion of the efforts now underway for control of the Government of Rhodesia. The attitude of our Government is such that the truth about Rhodesia apparently is not wanted. For a newspaper to speak out in opposition to the popular line requires a high degree of courage. The Washington Star has shown that kind of courage.

The case of Rhodesia is one of the few instances in history where the U.S. Government has tried to undermine and destroy a movement for independence. The Rhodesians declared their independence of Britain. The British Government refused to recognize independence and asked for sanctions by the United Nations. We have tagged along like a puppet on a string. We claim to base this attitude on the fact that Rhodesia has an all-white government in a country which is very predominantly black. However, in response to world demand, the Rhodesian Government has been seeking and apparently is nearing accord with black leaders within the country for a new government which would shift control to the blacks.

Instead of applauding this progress, the United States and Britain oppose it and have held meetings with black leaders who operate from outside Rhodesia and carry on terrorist raids across the borders from bases in Zambia and Mozambique to kill and burn indiscriminately. These factions are Communist-armed and Communist-trained. Support for them is a direct step toward a handover of Rhodesia to Soviet domination. The black factions which our Government supports want immediate control of Rhodesia with no guarantee of any type for the safety of the whites.

The Washington Star on January 31 editorialized on this situation and told it like it is. This editorial deserves to be reprinted in the CONGRESSIONAL RECORD and I submit it for that purpose:

[From the Washington Star, Jan. 31, 1978]

SPOILER'S ROLE IN RHODESIA

If the American people understood the spoiler's role which their government is playing in the current Rhodesian negotiations, how long would they tolerate it? Not long, we suspect. They would insist that Ambassador Andrew Young be summoned from the spoilers' conclave at Malta this week, where another attempt is being made to revive the faltering Anglo-American peace plan. And they would probably insist that the U.S. at long last wish godspeed to those who now seem on the verge of negotiating an internal peace in Rhodesia.

This, we say, is what would probably happen if the complexities of the issue were understood. Unfortunately, they are not. It is not widely understood that after years of international clamor, Prime Minister Ian Smith has conceded the principles of universal suffrage and majority rule. It is not widely understood that, in response to this, three moderate black leaders—who are thought by informed observers to represent a considerable majority of Rhodesian blacks—have negotiated with Mr. Smith a new constitution providing for assured "minority" representation (i.e., largely white) in parliament; a bill of rights; an independent judiciary; and other institutional arrangements that seem fair and workable. It is not widely understood that this "internal" breakthrough, proceeding from Mr. Smith's concession of universal suffrage, is on the verge of consummation if it is not derailed by the foot-dragging of U.S., British and UN officials, who seem to think the black negotiators should hold out for tougher terms.

Finally, it is not widely understood that the U.S. is closely identified with the unyielding terrorist-guerrilla "front" led by Joshua Nkomo and Robert Mugabe, which is armed by the communists and supported by the five neighboring "front-line" African states.

The peace terms of these "external" forces are extreme. Although Mr. Nkomo has made occasional noises of moderation, Mr. Mugabe recently threatened to "bash" all the "reactionary" participants in the internal negotiations: a threat that may happily prove idle if peace comes to Rhodesia and his guerrilla troops begin to melt away.

Meanwhile, the Nkomo-Mugabe faction insists that Rhodesia's future must be settled between Great Britain (whose crown colony Rhodesia was before declaring its independence unilaterally in 1965) and their "Patriotic Front," whose "patriotic" activities consist largely of the ruthless murder of women, children and the elderly, mostly black. They insist that Ian Smith be deposed, and that they, the intruders and disturbers of the peace, be handed immediate control of the army and the police. In short, they demand capitulation by the Rhodesian moderates; and they indicate no willingness to compromise.

What is preverse about the U.S. position is that the closer Ian Smith and the black moderates come to an agreement, the more cozily we seem to collaborate with the U.S.-British-UN cabal to undermine it. The Economist's Salisbury correspondent reported, on January 21: "There are signs that the (Patriotic Front) is speeding up the war and deliberately picking on black civilian targets in an effort to prevent a peaceful changeover to majority rule. From Salisbury, it appears as if the British foreign secretary, D. Owen, and the British commissioner-designate, Lord Carver, are actively discouraging an internal settlement."

In harsher language, the U.S. risks playing accomplice to further bloodshed by pursuing a Rhodesian settlement agreeable to radical outsiders and guerillas. This is the actual, but we cannot imagine the calculated risk of U.S. policy. Why, then, do we take so sour a view of the heartening chances of internal peacemaking?

The reasons must necessarily be a matter of speculation. In Washington, we suppose, it may be thought more important to appease the demands of Rhodesia's "front-line" neighbors than to bring internal peace to the country. The effect of that policy, intended or not, is to sacrifice the moderate majority in Rhodesia, black and white, to considerations of African real-politik.

This is discreditable enough. It becomes unconscionable if one considers how close Mr. Smith and the black moderates are to a peace settlement and a new constitution. As noted by Morley Safer on the CBS program "60 Minutes" Sunday evening, Rhodesia is one of the few functioning biracial societies in Africa. It is not a police state. Its segregationist policies are disappearing. The army and police are predominantly black, and, so organized, can hardly be accounted dependable instruments of white tyranny.

In bitter truth, the Anglo-American policy on Rhodesia seems to be influenced not only by dubious strategic calculations, but also by an uncharacteristically petty-minded British resentment that Rhodesia has made a success of unauthorized independence. Against all odds and predictions, Rhodesia has become a country in being. It needs only the support of the outside world to make reasonable democratic terms with the black majority.

That the U.S. might not only neglect but actually undercut this success is an offense to sense and conscience. Let us call a halt to this foolish policy—now.

PROPOSED WELFARE PROGRAM

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, I am offering today a welfare program that is

workable. It is achievable. And we can afford it.

The country has no clear welfare philosophy. We have patched and pasted together programs with no design in mind. The result is frustrating and wasteful. Today, the welfare check is a symbol of shame—both for the poor and the taxpayers.

The President has offered a plan in the spirit of welfare reform. But, we cannot afford to spend an extra $20 billion without threatening general economic recovery. We cannot go on trying to buy reform.

The administration has fallen into an old trap. It is convinced that we can make poor Americans happy and secure by giving them a guaranteed national income based on family size and earnings. To accept that concept is to perpetuate the "welfare syndrome."

I do not think there is the time or the climate in Congress to push through a massive all-or-nothing welfare program this year.

By contrast, my proposal is comprehensive, but can be put into effect one piece at a time. It repairs existing programs in a sensible, economic way—rather than tearing down the entire system and rebuilding it at enormous cost and disruption.

The bottom line of my program is jobs—with heavy emphasis on putting people back to work in the private sector. We must give the poor who can work the greatest possible incentives to take a job—and the least possible incentives to stay home.

My bill rewards States for finding private jobs—especially for families with both parents unemployed—and adds a heavy financial burden for standing still. Employers are given tax incentives for hiring workers off welfare rolls. And an expanded earned income credit provides liberal benefits for those who work and have at least one child.

Those who cannot work must have the security of uniform benefits. Today the Nation has 50 different welfare programs to help families with dependent children. Why should a single-grant family of four in Yonkers, N.Y., get $7,300, when the same family with the same income, gets $2,700 in Yazoo City, Miss.?

My plan sets forth a national standard for aid to families with dependent children (AFDC). It establishes a national minimum payment and slowly but surely closes the benefits gap between States.

Food stamps remain a basic element in the bill. I do not agree that food stamps are demeaning or presumptious. Food stamps are only one way this Nation feeds its own people in economic distress. The program works. And it should be continued.

My plan cuts through much of the administrative mess. It brings order and simplicity to a jumble of programs and benefits. States, rather than the Federal Government, are given control over programs. The bill takes a tough approach to fraud and abuse. Administrative errors bring financial penalties to the States. Excessive payments to high-income earners will bring dollar-for-dollar collection through the tax system.

My welfare plan is essentially an employment plan. It focuses on private sector jobs. We do not have the money or the experience to open up a million new public jobs. The ball carries an overall cost of less than half of the President's program. But more important, we can move critical parts of the plan through Congress this year.

The Ullman plan hits six of the most visible trouble areas in the welfare system.

TROUBLE AREAS IN THE WELFARE SYSTEM

UNIFORMITY/EQUITY IN PUBLIC ASSISTANCE

1. National standards for AFDC.—
Mandate unemployed parent (UP) program in all states;
$4,200 minimum benefit for family of four (including food stamps); and
Cash assistance is not computed by family size (food stamps continue to vary).
2. All states get increased Federal assistance—with recipients in poorer states benefiting more than recipients in bigger states.
3. Benefit levels (ultimately 30 percent of median state income) expected to converge across nation.
4. AFDC is entirely administered by states.

WORK INCENTIVES

1. Overall incentives for finding work in the private sector are much greater than taking job in the public sector.—
Increase in the EITC (faster phase out of public assistance);
Substantial credit for employers who hire from AFDC and public sector rolls;
Longer period for job search;
States forced to pay assistance cost to intact families if no private sector job found within 17 weeks; and
Limited bonus to states for finding private sector jobs.
2. Expansion of Work Incentives (WIN) to create a limited number of targeted public sector employment (PSE) jobs.
3. Virtual guarantee of PSE job to each two-parent family. Persons receiving AFDC are eligible for PSE on a volunteer basis. Students, childless couples and singles are not eligible for PSE.
4. Stiff penalty for a head of two-parent family refusing a job.
5. Taxing of unemployment insurance (UI) as ordinary income.

FEDERAL-STATE RELATIONS

1. States pay a fixed 85 percent of their 1977 cost in the future—relieving much of the political decision on benefit levels, tax rates and income eligibility cutoffs.
2. Federal government pays rest, including additional increases due to unemployment and inflation.
3. State administration of all public assistance programs.
4. Caseload increases due to unemployment will be borne by Federal government.
5. Increased fiscal relief to all states.

SIMPLIFICATION

1. Uniform AFDC and Food Stamp rules with a single application form.
2. Earned income tax credit (EITC) that doesn't depend on family size—as does Carter proposal.
3. Eligibility is calculated on a one-month retrospective accounting period—rather than six.
4. Federal and state costs and responsibilities are well defined and predictable.

ADMINISTRATION

1. Simplified eligibility rules.
2. No additional federal employees or federal welfare bureaucracy.
3. Fiscal rewards for good administration—fiscal penalties for error rates.
4. No disruption of state agencies that are working efficiently.

FRAUD AND ABUSE

1. Simplification of eligibility rules.
2. More reliance on food, rather than cash, as welfare support.
3. Overpayments, especially to higher income earners, is collected dollar-for-dollar through the tax system.
4. States are penalized 50 percent of the cost of errors.

SUMMARY OF ULLMAN WELFARE REFORM PROPOSAL FEBRUARY 2, 1978

EARNED INCOME TAX CREDIT

1. Increase credit to 20 percent of first $5,000; phased out between $7,500 and $15,000. Not available for public service employment.
2. Available to all families with children, including those on welfare with earnings.
3. Available from employers through withholding system on a current payroll basis.

FOOD STAMPS

1. Lower benefit reduction rate to .2 below $7,500 of income to provide more work incentive to recipients covered by AFDC; raise benefit reduction rate to .4 above $7,500.
2. Repeal shelter deduction.
3. Repeal deduction for work expenses; a lowered benefit reduction rate will compensate for this repeal.
4. Liberalize itemized child care deduction to $100 per month per child; maximum of $300 per family or 50 percent of income of person with lowest earnings.
5. Allow standard deduction of $30 per month.
6. Institute minimum benefit of $10 per month for all household sizes.

SSI (AGED, BLIND AND DISABLED)

1. Grant a one-time increase in Federal benefits of $15 per month for single individuals, $30 per month for couples, replacing Food Stamp eligibility.
2. Require states which supplement to pass the Federal increase through.

AFDC (SINGLE-PARENT FAMILIES WITH CHILDREN)

1. Institute a national minimum benefit of $4,200 (cash plus Food Stamps) for a family of four.
2. Gradually move benefits toward Federally-mandated targets based on state median family incomes; any benefits greater than Federal levels are entirely at state expense.
3. Federal government pays entire cost of program, except state pays 85% of 1977 AFDC payments to single-parent families and 50% of the cost of all errors made.
4. Adopt same nationally uniform income definitions, accounting periods, work requirements, reporting requirements and asset rules as Food Stamps. No distinction between initial and subsequent eligibility.
5. Repeal deduction for work expenses; increased earned income tax credit will cover these.
6. Child care deduction in AFDC is identical to that in Food Stamps.
7. Allow a $30 deduction from income and a ⅓ deduction of all remaining income.
8. Cash benefits would not vary by family size; Food Stamp benefits would continue to vary.
9. Institute minimum benefit of $10 per month.
10. Medicaid expense is not increased, nor is there a dual eligibility determination for Medicaid.
11. Administrative reforms—State takeover of welfare administration; redetermination required every four months or sooner at State

option; and common application form for AFDC and Food Stamps.

REFORMED UNEMFLOYED PARENT COMPONENT OF AFDC (INTACT FAMILIES WITH CHILDREN)

1. Families with incomes less than $350 per month are eligible for aid in all states.

2. Aid would be available to any family for a maximum of 17 weeks per 52-week period entirely at Federal expense. If, at the end of 17 weeks, a PSE job is not available, the state must extend aid for another 35 weeks at state expense.

3. Benefits for families with no income would be $200 for families with children (regardless of family size) with a benefit reduction rate of 60%. States may supplement this schedule up to $150 per month.

4. Families may not receive unemployment compensation and aid simultaneously. They may receive aid after their unemployment compensation has expired, but not vice versa.

5. Other rules are the same as AFDC.

COORDINATION WITH TAX SYSTEM

1. Unemployment Compensation benefits would be treated as income.

2. Recoup all Food Stamp and AFDC benefits paid to families whose adjusted gross income plus transfers exceed the Food Stamp phaseout point by $2,000.

EMPLOYMENT PROPOSALS

1. Expand public service jobs component of WIN and insure that State has primary responsibility and control of administration.

2. WIN should contract with CETA prime sponsors for job creation to maximum extent feasible.

3. Jobs available to families who were on AFDC for at least 16 weeks with priority to two-parent families. No single-parent families with children would be required to take subsidized jobs.

4. Workers would start at minimum wages; funds would be available to raise the wage rate to reward good work behavior.

5. Tax credits to private employers for hiring WIN registrants including those with public service jobs.

6. Bonus to employment service of $200 each for placing these individuals.

7. Provide general or specific vocational training in lieu of PSE job. Stipend is $30 per week, plus continuation of full AFDC and Food Stamp benefits.

8. Expand existing WIN job referral and supportive service components.

9. Employer cost increases if time on PSE job extends to over a year.

Ullman Plan cost.—Preliminary estimates

(Incremental cost over current law, fiscal year 1982)

[Billions of dollars]

Title I:	
Earned income tax credit	3.356
Tax unemployment benefits	−1.734
Recoupment (7 percent of benefits)	−1.472
Jobs credit	0.050
Title II:	
AFDC	3.336
Title III:	
Food stamps	−0.683
Title IV:	
WIN expansion	5.070
Title V:	
SSI benefit increase	0.542
Less Federal tax increases	−0.283
Total cost	7.5–9.0

"SAVE ALASKA FOR POSTERITY"—TEXAS SUPPORT FOR ALASKA NATIONAL INTEREST LANDS BILL

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the House Interior Subcommittee on General Oversight and Alaska Lands is nearing completion of its markup of H.R. 39, the Alaska National Interest Lands Conservation Act. Today, the subcommittee approved a new title IX, providing a simplified process under which the Secretary of the Interior could recommend opening up nonwilderness areas in the national wildlife refuges and the national park preserves for mineral exploration, development, and extraction.

Upon making a finding of national need and no serious, permanent environmental damage, the Secretary could recommend opening up specified areas and Congress would have a limited time in which to act on his recommendation.

The subcommittee has yet to determine how much land will be set aside as wilderness and, therefore, not subject to the mineral process. That vote is now scheduled for next Monday. That, of course, is the crucial vote, since the unique and superlative value that the legislation is attempting to preserve for the enjoyment of all Americans is some prime samples of the vast, unspoiled Alaskan wilderness.

Mr. Speaker, the Austin American-Statesman of Austin, Tex., on September 17, 1977, wrote an outstanding editorial on this subject entitled "Save Alaska for Posterity." As the editorial points out:

If the opportunity is passed by, protection of the land, wild rivers, wildlife and forests will expire. And a once-in-history chance will have gone the way of the passenger pigeon, into oblivion.

The full text of the editorial follows these remarks:

SAVE ALASKA FOR POSTERITY

The Carter administration, through the Interior Department, has sided with protectionists in proposing to set aside nearly 92 million acres of Alaskan wilderness for eternal preservation.

The Carter proposal is for a greater amount of land than had been anticipated, but less than the amount wanted by the Alaska Coalition of conservation groups, which had proposed 115 million acres.

Thus the stage is set for a fierce fight between environmentalists and those who want to capitalize on the vast mineral and other resources of the biggest state.

The weight of the administration is gratifying in the battle, for the country's last wilderness is at stake, and as much as possible should be preserved.

The area proposed to be saved is indeed vast—the size of Montana. It would create 10 new national parks, add to three others, add nine new wildlife refuges, enhance five others, supplement two national forests and add 33 scenic river systems.

But there is much of Alaska left for development and exploitation. The state itself gets 103 million acres under the plan, and the native Alaskan peoples get more than 44 million acres.

Certainly the Congress will be urged to go the whole way and preserve everything; and it will be urged to preserve only a little bit of the pristine wilderness and let the rest go to sawmills and mines. And almost certainly the Congress will do neither; extremism is not its bag.

But as the Congress wrangles with the various proposals, it should weigh heavily the benefits to future generations offered by conserving a large portion of the wild area. There is an opportunity to do something in Alaska which was not done in the lower states. That is to preserve entire ecosystems and watersheds.

If the opportunity is passed by, protection of the land, wild rivers, wildlife and forests will expire. And a once-in-history chance will have gone the way of the passenger pigeon, into oblivion.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Minnesota, Mr. NOLAN.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CORMAN (at the request of Mr. WRIGHT), for after 3:30 p.m. today, on account of official business.

Mr. BINGHAM (at the request of Mr. WRIGHT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAPUTO) and to revise and extend their remarks and include extraneous matter:)

Mr. GRASSLEY, for 5 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

(The following Members (at the request of Mr. RAHALL) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. CHARLES H. WILSON of California, for 10 minutes, today.

Mr. EILBERG, for 5 minutes, today.

Mr. NOLAN, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. CORNWELL, for 5 minutes, today.

Mr. WAGGONNER, for 10 minutes, today.

Mr. ULLMAN, for 10 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Mr. LE FANTE, for 5 minutes, today.

Mr. HANLEY, for 5 minutes, today.

Mr. LONG of Maryland, for 5 minutes, today.

Mr. ENGLISH, for 5 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CAPUTO) and to include extraneous matter:)

Mr. COUGHLIN in two instances.

Mr. HAMMERSCHMIDT.

Mr. PURSELL.

Mr. HORTON.

Mr. LAGOMARSINO.

Mr. DERWINSKI in three instances.

Mr. HOLLENBECK.

Mr. ANDERSON of Illinois in five instances.

Mr. HYDE.
Mr. WYDLER.
Mr. RAILSBACK.
Mr. SYMMS.
Mr. DORNAN in three instances.
Mr. SEBELIUS.
Mr. STEERS.
Mr. WHITEHURST.
Mr. LEACH.
Mr. YOUNG of Florida.

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. HARKIN.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. MURTHA.
Mr. STUDDS.
Ms. MIKULSKI.
Mr. AKAKA.
Mr. MITCHELL of Maryland in two instances.
Mr. BINGHAM.
Mr. NOLAN.
Mr. PATTEN.
Mr. WON PAT.
Mr. RODINO.
Mr. MILFORD.
Mr. ULLMAN.
Mr. FRASER.
Mr. EDWARDS of California.
Mrs. MEYNER.
Mr. GLICKMAN.
Mr. SIMON in three instances.
Mr. HANLEY.
Mr. MAGUIRE.
Mr. ROE.
Ms. HOLTZMAN in five instances.
Mr. DERRICK.

ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 31 minutes p.m.), under its previous order, the House adjourned until Monday, February 6, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive comunications were taken from the Speaker's table and referred as follows:

3153. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment and services to the United Kingdom (transmittal No. 78–10), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

3154. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to the Government of Ecuador, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

3155. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to Greece, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

3156. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell the diesel submarine *Lizardfish* to Italy, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

3157. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell the salvage ship *Grasp* (*ARS–24*) to the Republic of Korea, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

3158. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to Mexico, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

3159. A letter from the Public Printer, transmitting his annual report for fiscal year 1977; to the Committee on House Administration.

3160. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the operations and mandate of the Bureau of Human Rights and Humanitarian Affairs, pursuant to section 109(a)(7) of Public Law 95–105; to the Committee on International Relations.

3161. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on the observance of human rights by recipients of economic assistance and proposed recipients of security assistance, pursuant to sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended (91 Stat. 537 and 90 Stat. 748), to the Committee on International Relations.

3162. A letter from the Acting Administrator, Agency for International Development, Department of State, transmitting a report on the study of options for implementing cooperative programs with developing countries to meet their energy needs, pursuant to section 119(b)(2) of the Foreign Assistance Act of 1961, as amended (91 Stat. 538); to the Committee on International Relations.

3163. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to the United Kingdom (transmittal No. 78–10), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3164. A letter from the Comptroller General of the United States, transmitting a report recommending that cost ranges which measure the potential cost impact of a Federal program be used instead of the single-point or specific-dollar estimates currently in use (PSAD–78–12, February 2, 1978); jointly, to the Committees on Government Operations, and Appropriations.

3165. A letter from the Comptroller General of the United States, transmitting a report on the problems involved in developing, putting into practice, and complying with Federal equal employment opportunity guidelines on employee selection (FPCD–77–54, February 2, 1978); jointly, to the Committees on Government Operations, Education and Labor, and Post Office and Civil Service.

3166. A letter from the Chairman, Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, transmitting a summary of the committee's review and evaluation of the Commission's safety research program, previously submitted pursuant to section 29 of the Atomic Energy Act of 1954, as amended (91 Stat. 1483); jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LONG of Louisiana: Committee on Rules. House Resolution 998. Resolution providing for the consideration of H.R. 9370. A bill to provide for the development of aquaculture in the United States, and for other purposes (Rept. No. 95–863). Referred to the House Calendar.

Mr. PERKINS: Committee of conference. Conference report on H.R. 4544 (Rept. No. 95–864). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN:

H.R. 10711. A bill to amend the Internal Revenue Code of 1954, parts A and C of title IV of the Social Security Act, and the Food Stamp Act of 1977 for the purpose of revising, coordinating, and improving Federal public assistance and food stamp programs and for the purpose of providing increased employment opportunities for needy families, and for other purposes; jointly, to the Committees on Agriculture, Education and Labor, and Ways and Means.

By Mr. ABDNOR:

H.R. 10712. A bill to name a certain Federal building in Huron, S. Dak., the Hubert H. Humphrey Building; to the Committee on Public Works and Transportation.

By Mr. ADDABBO (for himself, Mr. CONTE, Mr. STEED, Mr. RICHMOND, Mr. GONZALEZ, Mr. MCDADE, Mr. NOLAN, and Mrs. FENWICK):

H.R. 10713. A bill to amend the Small Business Act and the Small Business Investment Act of 1958; to the Committee on Small Business.

By Mr. ANDERSON of Illinois:

H.R. 10714. A bill to amend title XIV of the Public Health Service Act to provide Federal grants for small public water systems to meet national primary drinking water regulations; to the Committee on Interstate and Foreign Commerce.

By Mr. ASHBROOK (for himself and Mr. MILLER of Ohio):

H.R. 10715. A bill to direct the Secretary of the Army to conduct an inspection of the Buckeye Lake dam and levee, Buckeye Lake, Ohio, to determine its structural stability; to the Committee on Public Works and Transportation.

By Mr. BROWN of California (for himself, Mr. NOLAN, Mr. RICHMOND, Mr. JEFFORDS, and Mr. PANETTA):

H.R. 10716. A bill to encourage the continuation of family farming as a part of the agricultural system in the United States; jointly, to the Committee on Agriculture and Ways and Means.

By Mr. BROYHILL (for himself, Mr. RINALDO, Mr. KRUEGER, and Mr. LUKEN):

H.R. 10717. A bill to amend the Securities Act of 1933 and the Investment Company Act of 1940 to encourage investment in small business concerns; to the Committee on Interstate and Foreign Commerce.

By Mrs. BURKE of California (for herself, Mr. PREYER, Mr. CORNELL, Mr. MCCLOSKEY, and Mr. BONKER):

H.R. 10718. A bill to amend the Comprehensive Employment and Training Act of 1973 to establish a program of assistance to multipurpose service centers for displaced homemakers, and for other purposes; to the Committee on Education and Labor.

By Mr. BURKE of Massachusetts (for himself, Mr. ADDABBO, Mr. ANNUNZIO, Mr. BOLAND, Mr. BEARD of Rhode Island, Mr. BIAGGI, Mr. BLANCHARD, Mr. BONIOR, Mr. BRODHEAD, Mr. CARNEY, Mr. CLAY, Mr. CONYERS, Mr. DE LUGO, Mr. DRINAN, Mr. EARLY, Mr. EILBERG, Mr. EVANS of Colorado, Mr. FARY, Mr. FAUNTROY, Mr. FLOOD, Mr. FLORIO, Mr. FORD of Tennessee, Mr. GAYDOS. Mr. HANLEY, and Mr. MARKEY):

H.R. 10719. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare

program, with appropriate reductions in social security taxes to reflect such participation, and with a substantial increase in the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts (for himself, Ms. CHISHOLM, Mr. HARRINGTON, Mr. LE FANTE, Mr. MITCHELL of Maryland, Mr. MURPHY of Illinois, Mr. NOLAN, Mr. PATTISON of New York, Mr. PATTERSON of California, Mr. PERKINS, Mr. PRICE, Mr. RANGEL, Mr. RICHMOND, Mr. RODINO, Mr. ROSE, Mr. ROSENTHAL, Mr. SHIPLEY, Mr. SEIBERLING, Mr. SIMON, Mr. SISK, Mr. ST GERMAIN, Mr. STUDDS, Mr. TSONGAS, Mr. WEAVER, and Mr. WOLFF):

H.R. 10720. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare program, with appropriate reductions in social security taxes to reflect such participation, and with a substantial increase in the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Ways and Means.

By Mr. CARNEY (by request):

H.R. 10721. A bill to provide a bonus to each World War II veteran; to the Committee on Veterans' Affairs.

By Mrs. COLLINS of Illinois (for herself, Mr. MARKEY, and Mr. DOWNEY):

H.R. 10722. A bill to prohibit the export of certain militarily significant items to the Republic of South Africa and to provide for notification to the Congress of the proposed issuance of a validated license for an export to the Republic of South Africa, with each House of Congress being able to prevent the issuance of any such license by adoption of a resolution of disapproval; to the Committee on International Relations.

By Mr. ENGLISH (for himself, Mr. AKAKA, Mr. ANDREWS of North Dakota, Mr. BAUCUS, Mr. CAVANAUGH, Mr. DAN DANIEL, Mr. EDWARDS of Oklahoma, Mr. EVANS of Georgia, Mr. FUQUA, Mr. GLICKMAN, Mr. HALL, Mr. HIGHTOWER, Mr. HUCKABY, Mr. JENRETTE, Mr. JOHNSON of Colorado, Mr. JONES of Oklahoma, Mr. KEMP, Ms. KEYS, and Mr. KINDNESS):

H.R. 10723. A bill to amend the consolidated Farm and Rural Development Act to provide an alternative method of financing the land, equipment and operating expenses of qualified farm families, including young farmers, and to help provide the farm family with adequate standards of living and the consumer with reasonable prices for agricultural products and for other purposes; to the Committee on Agriculture.

By Mr. ENGLISH (for himself, Mrs. LLOYD of Tennessee, Mr. MCCORMACK, Mr. NOLAN, Mr. PURSELL, Mr. RISENHOOVER, Mr. RUNNELS, Mr. RYAN, Mr. SANTINI, Mr. SEBELIUS, Mr. STEED, Mr. THOMPSON, Mr. TRIBLE, Mr. TUCKER, Mr. UDALL, Mr. WATKINS, and Mr. YATRON):

H.R. 10724. A bill to amend the consolidated Farm and Rural Development Act to provide an alternative method of financing the land, equipment and operating expenses of qualified farm families, including young farmers, and to help provide the farm family with adequate standards of living and the consumer with reasonable prices for agricultural products and for other purposes; to the Committee on Agriculture.

By Mr. FISH (for himself, Mr. CEDERBERG, Ms. SPELLMAN, Mr. CONTE, Mr. THOMPSON, Mr. ZEFERETTI, Mr. TRIBLE, Mr. GLICKMAN, and Mr. O'BRIEN):

H.R. 10725. A bill to amend section 1332 of title 28, United States Code, to grant jurisdiction to the district courts to enforce any custody order of a State court against a parent who, in contravention of such order, takes a child to another State; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.R. 10726. A bill to amend title 38, United States Code, to increase the maximum permissible loan amounts in the case of a Veterans' Administration home loan guarantee; to the Committee on Veterans' Affairs.

By Mr. MOAKLEY (for himself, Mr. HANNAFORD, Mr. DRINAN, Mr. TRAXLER, Mr. ICHORD, Mr. CORRADA, Mr. FITHIAN, Mr. PATTERSON of California, Mr. THONE, Mr. MARKEY, Mr. LAFALCE, Mr. ROSE, Mr. BONIOR, Mr. SNYDER, Mr. HUGHES, Mr. ADDABBO, Mr. FARY, Mr. OBERSTAR, Mr. MITCHELL of Maryland, Mr. CORNWELL, Mr. MURPHY of Pennsylvania, Mr. BURKE of Massachusetts, Mr. NEDZI, Mr. BEARD of Rhode Island, and Mrs. HECKLER):

H.R. 10727. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for the cutting and removal of corns, warts, and calluses and the reduction of club nails; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. MONTGOMERY (for himself, Mr. EDWARDS of California, Mr. HARRINGTON, Mr. PERKINS, Mr. HUCKABY, Mr. GINN, Mr. D'AMOURS, Mr. YATRON, Mr. GOODLING, Mr. COTTER, Mr. BURKE of Florida, Mr. OTTINGER, Mr. BROYHILL, Mr. CEDERBERG, Mr. FLOWERS, Mr. PEPPER, Mr. WHITE, Mr. DUNCAN of Tennessee, Mr. LOTT, Mr. YOUNG of Alaska, Mr. EILBERG, Mr. JOHNSON of California, Mr. CAPUTO, Mr. STEERS, and Mr. O'BRIEN):

H.R. 10728. A bill to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MURPHY of New York (for himself, Mr. RUPPE, Mr. DINGELL, Mr. JONES of North Carolina, Mr. LEGGETT, Mr. BIAGGI, Mr. ANDERSON of California, Mr. DE LA GARZA, Mr. METCALFE, Mr. BREAUX, Mr. ROONEY, Mr. GINN, Mr. STUDDS, Mr. BOWEN, Mr. EILBERG, Mr. DE LUGO, Mr. HUBBARD, Mr. BONKER, Mr. PATTERSON of California, Mr. ZEFERETTI, Mr. OBERSTAR, Ms. MIKULSKI, Mr. AKAKA, Mr. YOUNG of Alaska, Mr. EMERY, and Mr. TRIBLE):

H.R. 10729. A bill to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. RUPPE, Mr. BIAGGI, Mr. ANDERSON of California, Mr. FORSYTHE, Mr. DE LA GARZA, Mr. METCALFE, Mr. MCCLOSKEY, Mr. BREAUX, Mr. GINN, Mr. PRITCHARD, Mr. STUDDS, Mr. BOWEN, Mr. LENT, Mr. DE LUGO, Mr. HUBBARD, Mr. EMERY, Mr. BONKER, Mr. AUCOIN, Mr. BAUMAN, Mr. D'AMOURS, Mr. PATTERSON of California, Mr. ZEFERETTI, and Mr. OBERSTAR):

H.R. 10730. A bill to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981; to the Committee on Merchant Marine and Fisheries.

By Mr. MURPHY of New York (for himself, Mr. AKAKA, Mr. TRIBLE, and Ms. MIKULSKI):

H.R. 10731. A bill to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981; to the Committee on Merchant Marine and Fisheries.

By Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. FORSYTHE, Mr. BIAGGI, Mr. METCALFE, Mr. MCCLOSKEY, Mr. BREAUX, Mr. GINN, Mr. PRITCHARD, Mr. STUDDS, Mr. BOWEN, Mr. YOUNG of Alaska, Mr. DE LUGO, Mr. HUBBARD, Mr. LENT, Mr. BONKER, Mr. AUCOIN, Mr. EMERY, Mr. D'AMOURS, Mr. PATTERSON of California, Mr. DORNAN, Mr. ZEFERETTI, Mr. OBERSTAR, Mr. BAUMAN, and Mr. HUGHES):

H.R. 10732. A bill to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981; to the Committee on Agriculture.

By Mr. MURPHY of New York (for himself, Mr. AKAKA, Mr. TRIBLE, and Ms. MIKULSKI):

H.R. 10733. A bill to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981; to the Committee on Merchant Marine and Fisheries.

By Mr. NEAL (for himself and Mr. RINALDO):

H.R. 10734. A bill to establish a Solar Energy Development Bank to provide long-term low-interest loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. OBERSTAR (for himself and Mr. RUSSO):

H.R. 10735. A bill to amend title XIX of the Social Security Act to eliminate Federal payments for abortions under the medicaid program except for abortions to prevent the death of the mother; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mrs. CHISHOLM, and Mr. ROYBAL):

H.R. 10736. A bill to amend the Elementary and Secondary Education Act of 1965 to establish projects to educate, motivate, and encourage secondary school students from an economically disadvantaged background to pursue training at the undergraduate and graduate levels in the biomedical sciences; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. COHEN, and Mr. FORD of Tennessee):

H.R. 10737. A bill to establish within the Department of Health, Education, and Welfare a Home Health Clearinghouse to provide elderly persons with a single place where they can obtain complete information on the Federal home health programs available to them; to the Committee on Interstate and Foreign Commerce.

H.R. 10738. A bill to amend title XVIII of the Social Security Act to remove all limits on the number of home health visits for which payment may be made under both part A and part B (eliminating the requirement of prior hospitalization in the case of home health care under part A), to include additional types of services as home health care, and for other purposes; jointly, to the Committees on Ways and Means, Interstate and Foreign Commerce.

By Mr. NOLAN (for himself, Mr. BROWN of California, Mr. RICHMOND, Mr. JEFFORDS, and Mr. PANETTA):

H.R. 10739. A bill to encourage the continuation of family farming as a part of the agricultural system in the United States; jointly, to the Committees on Agriculture, and Ways and Means.

By Mr. PURSELL:

H.R. 10740. A bill to encourage on-the-scene emergency care aboard aircraft by relieving physicians, registered nurses, and aircraft employees from civil liability for damages resulting from any act or omission in rendering such care; to the Committee on the Judiciary.

By Mrs. SPELLMAN (for herself, Mr. LUNDINE, and Mr. MCKINNEY):

H.R. 10741. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by State and local governments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STAGGERS:

H.R. 10742. A bill to amend part I of the Interstate Commerce Act to provide that certain provisions for the protection of railroad employees shall be prepared by the Commission in consultation with the Secretary of Labor and shall be subject to subsequent review by such Secretary; to the Committee on Interstate and Foreign Commerce.

By Mr. STEERS:

H.R. 10743. A bill to amend title 5, United States Code, to make the birthday of Abraham Lincoln a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. UDALL (for himself, Mr. EILBERG, Mr. GLICKMAN, Mr. MOTTL, and Mr. VANIK):

H.R. 10744. A bill to provide for limited public financing of congressional general election campaigns, to provide that candidates receiving public funds in Presidential elections may accept certain contributions and make increased expenditures, and for other purposes; to the Committee on House Administration.

By Mr. ULLMAN:

H.R. 10745. A bill relating to the year for including in income certain payments received in 1978 under the Agricultural Act of 1949 and attributable to drought or other disaster in 1977; to the Committee on Ways and Means.

By Mr. WAGGONNER (for himself and Mr. HOLLAND):

H.R. 10746. A bill to defer from income certain amounts deferred pursuant to State or local public employee deferred compensation plans; to the Committee on Ways and Means.

By Mr. WALSH:

H.R. 10747. A bill to amend the Federal Food, Drug, and Cosmetic Act to require food package labels to disclose, in addition to other information required under law, the packing date and last sale date of the food; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITEHURST:

H.R. 10748. A bill to assist former spouses of Federal employees in obtaining court-ordered payments; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 10749. A bill to provide policies, methods, and criteria for the acquisition of property and services by executive agencies; to the Committee on Government Operations.

By Mrs. HECKLER:

H.J. Res. 712. Joint resolution to authorize the President to call a White House Conference on the Arts; to the Committee on Education and Labor.

By Mr. HANSEN (for himself, Mr. MURPHY of New York, Mr. MICHEL, Mr. GAMMAGE, Mr. JENKINS, Mr. DUNCAN of Oregon, Mr. MURPHY of Illinois, Mr. DERWINSKI, Mr. YATRON, Mr. YOUNG of Texas, Mr. ROBERTS, and Mrs. COLLINS of Illinois):

H. Con. Res. 467. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. HANSEN (for himself, Mr. MURPHY of New York, Mr. ZABLOCKI, Mr. PATTEN, and Mr. NEAL):

H. Con. Res. 468. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. MAGUIRE (for himself and Mr. MITCHELL of Maryland):

H. Con. Res. 469. Concurrent resolution to disapprove the determination of the President denying import relief under the Trade Act of 1974 to the U.S. high-carbon ferrochrome industry; to the Committee on Ways and Means.

By Mrs. SPELLMAN:

H. Con. Res. 470. Concurrent resolution expressing the sense of the Congress that coffee containers available for retail distribution should be labeled to specify the percentage of coffee which has been purchased from Uganda; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER:

H. Res. 999. Resolution authorizing the Subcommittee on International Organizations of the Committee on International Relations in conducting its investigation of Korean-American relations to require, by subpena or otherwise, the attendance of any person at the taking of a deposition by any member of that subcommittee; to the Committee on Rules.

By Mr. MURPHY of New York:

H. Res. 1000. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DORNAN introduced a bill (H.R. 10750) for the relief of Surip Karmowiredjo, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 9214

By Mr. STEERS:

Page 3, add new section (d) after line 14: The Bretton Woods Agreement Act (22 USC 286–286k–2), as amended, is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of the Treasury shall instruct the United States Executive Director on the Executive Board of the International Monetary Fund to initiate a wide consultation with the Managing Director of the Fund and other member country Executive Directors with regard to encouraging the IMF staff to formulate stabilization programs which, to the maximum feasible extent, foster a broader base of productive investment and employment, especially in those productive activities which are designed to meet basic human needs.

"(2) In accordance with the unique character of the International Monetary Fund, the Secretary of the Treasury shall direct the U.S. Executive Director to take all possible steps to the end that all Fund transactions, including economic programs developed in connection with the utilization of Fund resources, do not contribute to the deprivation of basic human needs, nor to the violation of basic human rights, such as torture, cruel or inhumane treatment or degrading punishment, prolonged detention without charge, or other flagrant denials of life, liberty and the security of person; and to oppose all such transactions which would contribute to such deprivations or violations.

"(3) In order to gain a better understanding of the social, political and economic impact of the Fund's stabilization programs on borrowing countries, especially as it relates to the poor majority within those countries, the Secretary of the Treasury shall direct the Executive Director representing the United States to the Fund to prepare and submit, not later than 180 days after the close of each calendar year, a report to the Congress. Such report shall evaluate, with respect to countries to which loans are made by the Fund during such year, the effects of policies of those countries which result from the standby agreement(s) on the ability of the poor in such countries to obtain:

(a) an adequate supply of food with sufficient nutritional value to avoid the debilitating effects of malnutrition;

(b) shelter and clothing;

(c) public services, including health care, education, clean water, energy resources, and transportation;

(d) productive employment that provides a reasonable and adequate wage."

S. 2076

By Mr. UDALL:

Page 3, line 11, after the word "authorized" insert "for the two-year period commencing October 1, 1978, and ending September 30, 1980."

Page 4, lines 20 through 23, strike the portion of the sentence beginning on line 20 to the proviso on line 23 and insert in lieu thereof the following: "There are authorized to be appropriated an amount not to exceed $1,500,000 for fiscal year 1979 and an amount not to exceed $1,500,000 for fiscal year 1980 to carry out the provisions of this Act:".

EXTENSIONS OF REMARKS

AMERICAN POLICY IN RHODESIA

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, February 2, 1978

Mr. HARRY F. BYRD, JR. Mr. President, the United States has been pursuing a policy with regard to Rhodesia that is an affront to the American people.

The State Department, which has proudly boasted of its concern for majority rule in southern Africa, has been pursuing a policy which may very well spoil the chances for a peaceful transition to a true majority rule in Rhodesia.

Negotiations between the white government and black Rhodesian moderates have been proceeding well and there is every likelihood that if left alone they will soon come to agreement.

However, our State Department is making every effort to see the negotiations fail.

The reason for this is that our State Department is supporting a group of Marxist terrorist who want to take over Rhodesia by violence.

I am pleased to note, however, that a growing number of Americans are raising their voices in protest as they become aware of the travesty of current American policy in southern Africa.

This week important editorials were published in the Richmond Times-Dispatch and the Washington Star concerning this matter. I ask unanimous consent that they be printed in Extensions of Remarks.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Richmond Times-Dispatch, Jan. 30, 1978]

REALLY, MR. VANCE?

In a recent preview of foreign policy decisions for 1978 Secretary of State Cyrus Vance spoke in glowing terms of the American effort to bring about solutions to the difficult racial problems of Rhodesia and South Africa.

Declared Mr. Vance: ". . . we are among the few governments in the world that can talk to both white and black Africans frankly, and yet with a measure of trust."

That is a remarkable assertion to come from the head of a department that has disparaged the current negotiations in Rhodesia between the white governmental leaders and black moderates. The talks are aimed at transferring political power to the black majority without bloodshed. Here are whites and blacks sitting down together at a conference table to try and settle their differences, but the State Department wants none of it.

Mr. Vance's puffery about the administration's ability to communicate with both white and black Africans is all the harder to swallow because of his department's denial of visas late last year to three black tribal leaders from Rhodesia who wished to visit the United States. The three are members of the Zimbabwe United People's Organization, which supports the current talks in Salisbury. But that does not mean ZUPO is a Rhodesian "Uncle Tom" outfit that favors continuation of white rule. Quite to the contrary, ZUPO is seeking the reins of power for itself. But by peaceful means.

What makes the current black-white negotiations and the activism of moderate Rhodesian blacks so unpalatable to the Department of State is that they exclude the black nationalist who are fighting the white government from bases outside Rhodesia using tactics of murder, arson and pillage. Washington wishes to impose a solution on both black and white Rhodesians that would give these black terrorists a share of power.

The non-violent methods that the Rev. Martin Luther King espoused to advance black rights in the United States are not the methods that the Carter administration is encouraging in southern Africa. Any claim by an American spokesman of credit for a black-white dialogue in that troubled region of the world will be spurious so long as Washington continues to favor the warmongers over the peacemakers among the blacks.

[From the Washington Star, Jan. 31, 1978]

SPOILER'S ROLE IN RHODESIA

If the American people understood the spoiler's role which their government is playing in the current Rhodesian negotiations, how long would they tolerate it? Not long, we suspect. They would insist that Ambassador Andrew Young be summoned from the spoiler's conclave at Malta this week, where another attempt is being made to revive the faltering Anglo-American peace plan. And they would probably insist that the U.S. at long last wish godspeed to those who now seem on the verge of negotiating an internal peace in Rhodesia.

This, we say, is what would probably happen if the complexities of the issue were understood. Unfortunately, they are not. It is not widely understood that after years of international clamor, Prime Minister Ian Smith has conceded the principles of universal suffrage and majority rule. It is not widely understood that, in response to this, three moderate black leaders—who are thought by informed observers to represent a considerable majority of Rhodesian blacks—have negotiated with Mr. Smith a new constitution providing for assured "minority" representation (i.e., largely white) in parliament; a bill of rights; an independent judiciary; and other institutional arrangements that seem fair and workable. It is not widely understood that this "internal" breakthrough, proceeding from Mr. Smith's concession of universal suffrage, is on the verge of consummation if it is not derailed by the foot-dragging of U.S., British and UN officials, who seem to think the black negotiators should hold out for tougher terms.

Finally, it is not widely understood that the U.S. is closely identified with the unyielding terrorist-guerrilla "front" led by Joshua Nkomo and Robert Mugabe, which is armed by the communists and supported by the five neighboring "front-line" African states.

The peace terms of these "external" forces are extreme. Although Mr. Nkomo has made occasional noises of moderation, Mr. Mugabe recently threatened to "bash" all the "reactionary" participants in the internal negotiations: a threat that may happily prove idle if peace comes to Rhodesia and his guerrilla troops begin to melt away.

Meanwhile, the Nkomo-Mugabe faction insists that Rhodesia's future must be settled between Great Britain (whose crown colony Rhodesia was before declaring its independence unilaterally in 1965) and their "Patriotic Front," whose "patriotic" activities consist largely of the ruthless murder of women, children and the elderly, mostly black. They insist that Ian Smith be deposed, and that they, the intruders and disturbers of the peace, be handed immediate control of the army and the police. In short, they demand capitulation by the Rhodesian moderates; and they indicate no willingness to compromise.

What is perverse about the U.S. position is that the closer Ian Smith and the black moderates come to an agreement, the more cozily we seem to collaborate with the U.S.-British-UN cabal to undermine it. The Economist's Salisbury correspondent reported, on January 21: "There are signs that the (Patriotic Front) is speeding up the war and deliberately picking on black civilian targets in an effort to prevent a peaceful changeover to majority rule. From Salisbury, it appears as if the British foreign secretary, Dr. Owen, and the British commissioner-designate, Lord Carver, are actively discouraging an internal settlement."

In harsher language, the U.S. risks playing accomplice to further bloodshed by pursuing a Rhodesian settlement agreeable to radical outsiders and guerrillas. This is the actual, but we cannot imagine the calculated risk of U.S. policy. Why, then, do we take so sour a view of the heartening chances of internal peacemaking?

The reasons must necessarily be a matter of speculation. In Washington, we suppose, it may be thought more important to appease the demands of Rhodesia's "front-line" neighbors than to bring internal peace to the country. The effect of that policy, intended or not, is to sacrifice the moderate majority in Rhodesia, black and white, to considerations of African realpolitik.

This is discreditable enough. It becomes unconscionable if one considers how close Mr. Smith and the black moderates are to a peace settlement and a new constitution. As noted by Morley Safer on the CBS program "60 Minutes" Sunday evening, Rhodesia is one of the few functioning biracial societies in Africa. It is not a police state. Its segregationist policies are disappearing. The army and police are predominantly black, and, so organized, can hardly be accounted dependable instruments of white tyranny.

In bitter truth, the Anglo-American policy on Rhodesia seems to be influenced not only by dubious strategic calculations, but also by an uncharacteristically petty-minded British resentment that Rhodesia has made a success of unauthorized independence. Against all odds and predictions, Rhodesia has become a country in being. It needs only the support of the outside world to make reasonable democratic terms with the black majority.

That the U.S. might not only neglect but actually undercut this success is an offense to sense and conscience. Let us call a halt to this foolish policy—now.

CONGRESSIONAL BLACK CAUCUS LEGISLATIVE AGENDA

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. MITCHELL of Maryland. Mr. Speaker, I am inserting into the RECORD the Congressional Black Caucus legislative agenda for the 2d session of the 95th Congress. This is the fourth formal legislative agenda presented by the Caucus, and it defines the primary legislative goals for 1978 for the caucus and for many persons who look to us for leadership in the national policymaking process. We hope that each of our colleagues, and many others throughout the Nation, will look closely at the objectives and legislative proposals set forth in the agenda and will lend us their support during the coming year.

This year, the Congressional Black Caucus' primary legislative agenda item, as it has been for the past 3 years, is passage of the Full Employment and Balanced Growth Act (H.R. 50), the Humphrey-Hawkins bill. This year the House and Senate will act on the Full Employment bill, and we expect that it will be passed. setting into law a national commitment to the elimination of unemployment. It will then be our task jointly with the administration to define the specific economic policies to eliminate unemployment. We urge that each subcommittee and committee, and the full House and Senate, include in deliberations on each piece of proposed legislation a review of its impact on job creation. In that way, we will be able to rapidly implement the policy in the Humphrey-Hawkins Full Employment Act.

CONGRESSIONAL BLACK CAUCUS LEGISLATIVE AGENDA

Over the last year, the Congressional Black Caucus has developed its role of working together with a President of the same party while maintaining its independence to speak out on issues as its members see them. It has been a year of notable successes. The Full Employment and Balanced Growth Act (H.R.

50), the Humphrey-Hawkins bill, has been endorsed by the President and will be acted upon by the Congress early this year. Progress has been made in strengthening equal opportunity law enforcement, in providing set-asides for minorities in public works programs, in raising the minimum wage and in applying additional pressure aganist the illegal South African regime. Congress passed legislation prohibiting the importation of Rhodesian chrome because of that country's illegal regime. Appropriations for health, education and welfare programs were increased, and a major effort to limit those appropriations was defeated. Additional jobs for youth were created in the Youth Employment Act.

These are clear legislative gains. They occurred, in part, because of efforts by the Congressional Black Caucus, and also because people and organizations across the country participated in the political process by letting their representatives in Congress know of their support for these bills. Only with a national legislative support movement can the effort to pass legislation to benefit underrepresented groups succeed.

Each year, since the first Congressional Black Caucus Legislative Agenda was published in 1975, we have attempted to specify particular legislation supported by the Caucus while providing a brief discussion of the substance of that legislation. In the Agenda this year, we continue to stress a brief description of the Caucus' position and encourage individuals to write to the Caucus Members and to their own Representatives and Senators to gain additional information about the legislative proposals supported by the Caucus.

FULL EMPLOYMENT (HAWKINS, CONYERS)

Goal: National commitment to the principles of the Humphrey-Hawkins Full Employment Act and delineation of specific economic policies in monetary and fiscal terms and in terms of programs to address structural unemployment. The Congress must this year pass the Full Employment Act setting an interim target of no more than 4 percent unemployment in 5 years.

Status: The Humphrey-Hawkins bill has been endorsed by the President, has 69 cosponsors, and is expected to be acted upon by the House by March and by the Senate soon after.

Bill No. H.R. 50/S. 50.

EQUAL OPPORTUNITY/AFFIRMATIVE ACTION (HAWKINS, CLAY, BURKE, JORDAN)

Goal: There are four clear goals in furthering equal opportunity efforts: (1) strengthen legislation protecting civil rights: (2) reorganize the Federal civil rights enforcement agencies so that the machinery for enforcing the civil rights laws is more effective: (3) support affirmative action efforts and require set-asides for minorities both in legislation and by executive action; (4) defeat restrictive amendments designed to weaken the civil rights laws (such amendments have been offered to a variety of legislation in the past several years).

Status: (1) a bill to strengthen title VI of the 1964 Civil Rights Act was introduced at the end of 1977; (2) independently, the Office of Management and Budget has recommendations to the President for reorganithe Federal equal employment opportunity agencies designed to strengthen the enforcement machinery in this area. The Caucus, in February 1977, submitted firm recommendations to the President for reorganizing the equal employment agencies, and these recommendations stand as a guideline; (3) the *Bakke* case, which may have broad implications for affirmative action, is expected to be decided by the Supreme Court by Spring; a set-aside amendment was adopted to the Public Works bill in 1977; (4) amendments restricting civil rights laws may be offered to any legislation, but most have frequently been offered to the Labor-HEW appropriations bill.

Bill No. (1) The bill to strengthen title VI is H.R. 9329 and would provide timetables for fund cutoffs for civil rights violations and provides for strict enforcement of the 1964 Civil Rights Act; (2) the President's reorganization proposal is expected to be submitted to the Congress in February and will receive a bill number at that time; (3) affirmative action and set-asides are relevant to all legislation; (4) the Labor-HEW appropriations bill is not given a number until it is offered for House floor action, probably about June.

MINORITY BUSINESS DEVELOPMENT (MITCHELL)

Goal: To increase substantially minority participation in business, including gaining the benefits of government spending, and to reorganize Federal agencies concerned with minority enterprise. The Minority Enterprise Act would centralize minority small business programs under an Assistant Administrator of the Small Business Administration, increase maximum loan amounts, provide set-asides for minority businesses, and waive bonding requirements for minority small businesses. It is intended to make a major breakthrough in minority economic development and to move minorities further toward economic parity.

Status: Hearings were held during 1977 on the legislation before the Minority Enterprise Subcommittee of the House Small Business Committee. Action by the House and Senate are expected during 1978.

Bill No. H.R. 567

POLITICAL PARTICIPATION (FAUNTROY, JORDAN)

Goal: To simplify voter registration procedures and to encourage political participation by all persons, particularly by minorities, who continue to vote less frequently than others.

Status: Legislation to eliminate the requirement for voter registration prior to election day was not considered by Congress last year due to heavy political opposition. Bills to simplify voter registration by permitting persons to register by mail are still pending. Legislative action and enforcement actions, such as for the Voting Rights Act of 1965, remain necessary to ensure full political participation by all persons.

Bill No. H.R. 5400 (the universal registration bill not considered last year); H.R. 2347 (registration by mail).

FOREIGN AFFAIRS (DIGGS, COLLINS, NIX)

Goal: Primary aims are to bring about majority rule in South Africa and Rhodesia and provide greater economic assistance and trade benefits to the Third World Nations. The Administration must commit itself to firm steps to bring about majority rule in southern Africa, and the Congress must pass additional legislation providing diplomatic and economic sanctions against South Africa.

Status: While an important bill—banning Rhodesian chrome imports—and an important Resolution—condemning South Africa for its repressive actions and calling for effective actions against that country—were passed by the House, legislation providing specific economic and diplomatic sanctions against South Africa has not been passed. Also, few of the twelve points for actions recommended by the CBS have been implemented by the Administration.

Bill No. H. Con. Res. 94, H. Con. Res. 356, H. Con. Res. 357, H. J. Res. 338, H. J. Res. 379, H.R. 5796, H.R. 9102, H.R. 9103. H. Res. 931, H. Res. 913, H.R. 9754, H. Con. Res. 414, H.R. 10091, H.R. 9746.

URBAN POLICY (MITCHELL, DELLUMS)

Goal: There must be a firm commitment to coordinate programs with adequate funds to make an advance against the physical and social ills of the cities and against similar conditions in non-urban areas. These policies must be under the overall umbrella of a full employment policy. The urban policy must address housing revitalization, improvement of other physical conditions and provide a broad-based attack on other aspects of urban ills such as crime, educational shortcomings, public assistance needs and others. There must be a clear commitment to provide the aid to persons with the greatest need, while recognizing the general fiscal needs of the cities.

Status: An Administration task force is presently revising a policy for presidential approval, following widespread criticism of an initial draft. The President has stated an unwillingness to provide major new funds for old programs, but left open the possibility of additional funding for new programs. The final plan is expected in March.

Bill No. A variety of legislative initiatives will be required to implement an urban policy, and much of the legislation coming before Congress this year will have an impact on urban areas.

EDUCATION (CHISHOLM)

Goal: To greatly improve public school education, provide equality of educational opportunity, and in higher education to provide greater resources to predominantly Black colleges and universities, increase the number of predominantly Black medical schools, and provide greater access of minority students to other universities and colleges in undergraduate, gradute and professional school studies.

Status: The major legislative issue in 1978 will be renewal and revision of the Elementary and Secondary Education Act. The Congressional Black Caucus supports H.R. 9968, a major bill which retains the present Title I focus on educationally and economically deprived children. This bill includes revisions which would ensure assistance to the students most in need, strengthens parent involvement and auditing procedures and provides for summer programs and a progam for gifted and talented children. In addition, H.R. 250 would ensure that lower-income children participating under the Title I program remain eligible for assistance through grade 3, notwithstanding improvements in their reading aptitude, to ensure that gains made by young children are not quickly lost.

Bill No. H.R. 9968.

WELFARE REFORM (HAWKINS, CLAY, RANGEL, FORD, CHISHOLM)

Goal: To bring about a major reform of the welfare assistance system which provides decent jobs to those able and seeking to work, adequate cash assistance to those in need, elimination of oppressive requirements to obtain assistance, provision of adequate social services and humanization of the welfare system in general.

Status: The House Welfare Subcommittee has completed a major portion of the markup on the welfare bill submitted by the Administration. Congressional Black Caucus testimony raised major concerns about the Administration bill. The picture for welfare reform this year is not clear, with talk of alternative legislation from the House and the possibility that only minor changes in the law will result from the process.

Bill No. H.R. 9030 (Administration bill)

HEALTH (STOKES, METCALFE, DELLUMS, FORD)

Goal: To provide adequate health care protection for every person in the country both prior to and during illness. Legislation to provide a National Health Service Act, or in the alternative, a system of National Health Insurance operated by the Federal government, should be passed to implement the protection.

Status: A bill to create a National Health Service System and several bills to provide a system of national health insurance have

been introduced in Congress. The Administration is expected to introduce its national health insurance bill toward the end of 1978.

Bill No. National Health Service Act—H.R. 6894. Health Security Act (Kennedy-Corman)—H.R. 21/S. 3.

COMMUNICATIONS (CLAY, STOKES)

Goal: To provide access to all forms of mass communication, printed and electronic, to minorities and to greatly increase minority ownership of media. In addition to ownership, this includes programing more responsive to minorities, more minorities hired in all aspects of media, greater minority involvement in publicly supported broadcasting and better coverage of minority viewpoints by all media.

Status: The Communications Act of 1934 will be rewritten during the 1978 congressional session and the Congressional Black Caucus will be proposing amendments to that legislation to achieve the stated purposes.

Bill No. —. Not yet introduced.

The preceding list of major legislative goals are, for the most part, specific proposals with potentially significant impact. Each year. however, Members of Congress vote on innumerable issues and a large number of bills are introduced. A review of the Caucus' legislative agenda for the past 3 years indicates other legislation which the Caucus has supported and continues to support. In particular, the Congressional Black Caucus supports passage of: (1) The bill to make the birthday of Dr. Martin Luther King, Jr., a national holiday (H.R. 2973); (2) full voting representation for the District of Columbia (H.J. Res. 554); (3) the transfer amendment to the budget resolution to shift funds from military purposes to domestic needs; (4) labor law reform (H.R. 8410, S. 1883); (5) the Consumer Bank bill (H.R. 2777).

1978: THE YEAR FOR TAX INDEXATION

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. COUGHLIN. Mr. Speaker, for years the Federal Government has reaped a hidden reward from inflation because of a tax system which taxes rising dollar incomes at ever higher rates while purchasing power in real terms stays the same or actually declines. The average taxpayer is awakening to the fact that the tax cuts Congress votes for him every few years really do nothing more than repeal the built-in tax increases which take place as inflation steadily pushes his dollar income into higher brackets where it is taxed at a higher rate.

As chief House sponsor in this and the past two Congresses of tax indexing legislation which would correct this inequity by requiring automatic annual cost-of-living adjustments in the tax rates, standard deduction, personal exemption, depreciation allowance, capital gains, and interest on certain U.S. obligations, I regret that President Carter's long-awaited proposals for revision of the tax code ignore this fundamental reform.

Tax indexing has gained broad bipartisan support not only in Congress but from such national figures as Leonard Woodcock, former president of the United Automobile Workers, and Walter Wriston, president of the First National City Bank. The Wall Street Journal has repeatedly called for the adoption of tax indexing and the National Taxpayers Union has endorsed it. Furthermore, a staff study prepared last year by the Joint Economic Committee concluded that present tax schedules aggravated the 1974–75 economic downturn and that indexing the tax rates to offset the impact of inflation would contribute to economic stability.

Once again I urge the Ways and Means Committee to heed these voices as it considers the issues of tax reform this year. 1978 can and should be the year in which Congress enacts meaningful tax reform and there is not more logical or compelling place to begin than with tax indexing.

On January 31, 1978, The Washington Post reprinted an article from The National Journal entitled "Indexation: An Idea Whose Time Has Come" by Robert J. Samuelson. It is a cogent explanation of what tax indexing is and why it makes such good sense. I insert it in the RECORD at this point:

[From the Washington Post, Jan. 31, 1978]

INDEXATION: AN IDEA WHOSE TIME HAS COME

(By Robert J. Samuelson)

Tax indexation is an idea whose time has come—and this year is going to prove it.

Though indexation sounds complicated, it actually is simple. It means that the government automatically corrects the income tax system to prevent inflation from kicking taxpayers into higher and higher brackets. Assume, for example, that inflation raises a family's income 10 percent. It goes into a higher tax bracket, and its tax rate increases even though its "real" income hasn't. Without indexation, Congress must pass a major tax "cut" every few years to prevent this invisible tax increase.

That's precisely what has been happening. Assuming a tax package passes in 1978. Congress will have approved major tax reduction bills in three of the past four years. So long as inflation persists at a 5 percent to 6 percent annual rate, the cycle will continue.

The defects of this system are now becoming increasingly clear.

Most important, it's fundamentally dishonest. It confuses the average citizen and, indeed, possibly the average congressman. It puts the nation's highest officials, starting with the president, in the foolish and ultimately self-defeating position of pushing half-truths on the public. They promise tax reductions, but in the main, all they are doing is repealing automatic tax increases.

Average taxes, as a percentage of personal income, are declining largely against what they would have been, not what they were. Even if President Carter's program passes as proposed the average tax level is estimated to be higher in 1979 than in seven out of the past 10 years, as the following table indicates. It shows federal income taxes as a percentage of personal income since 1969:

	Percent
1969	11.6
1970	10.5
1971	9.9
1972	9.9
1973	10.3
1974	10.7
1975	9.9
1976	10.2
1977	10.1
1978 (est.)	10.3
1979 (est.)	10.5

Bombarded from Washington with propaganda about the beneficence of tax cuts and confronted with a largely static tax bill, the average taxpayer sooner or later is bound to react in anger and disillusionment.

A second flaw of the current system is that it hampers economic policy and increases the likelihood of an economic downturn or recession. In the days when inflation crept along at an annual rate of 1 percent to 3 percent, the dynamics of the income tax system were thought to represent a helpful "automatic stabilizer." If inflation increased, incomes would rise and, consequently, so would the tax bite. That would reduce consumer spending, the economy would slow, and inflationary pressures would abate. This was a comforting notion.

Unfortunately, it does not sit well with reality. As the past few years have demonstrated vividly, inflation has an independent momentum. Through powerful unions, oligopolistic companies, government fiat and social custom—the idea that everybody should stay "even"—inflation gets perpetuated, checked only feebly by weak constraints.

In this climate, the "automatic stabilizer" simply puts the economy on its backside—or threatens to do so—with a mild impact on inflation. There is then a rush to pass a tax cut to revive the economy.

The outlook for 1978 illustrates the risks. Many economists worry that the economy may slow down in the second half of the year, in part because the rising tax bite will curb consumer spending. But the administration doesn't think it can possibly get its tax cut passed before Oct. 1. So Carter's economists are forced to bite their nails and hope that the timing turns out right.

A final defect of the existing anarchic approach is that it constitutes a cruel and unusual punishment of congressmen. This, of course, contradicts the conventional wisdom that politicians like nothing better than approving tax cuts and then basking in the ensuing public approval. Many congressmen may have once embraced this simple logic. but, by now, a more complicated reality is forcefully asserting itself.

That reality is that Congress stirs up as much grief as gratitude when it acts on a major tax bill. Every interest group that feels entitled to some new tax break, or simply wants to protect an existing benefit, makes a pilgrimage to Capitol Hill. Any congressman is bound to disappoint some of these petitioners. And the more big tax bills there are, the greater the opportunity for offense.

Moreover, on the other side of the political ledger, public gratitude for tax reductions is increasingly tempered by the realization that they largely represent a holding action against inflation. The political arithmetic of this process is not especially favorable. The more the cycle of phantom tax cuts occurs, the worse the arithmetic will become. Ultimately, Congress is bound to search for an exit.

Indexation would minimize its problems. Although adjusting corporate and business taxes for inflation is difficult, the necessary alterations for the personal tax present no insuperable technical problems. Tax rates, deductions, exemptions and credits can automatically be changed to reflect inflation.

Indexation wouldn't—and shouldn't—exempt Congress from the necessity of changing the tax laws. There are fundamental political and social problems that will not conveniently vanish. As Social Security taxes

rise (reflecting the program's higher costs), should Congress let the total federal tax bite increase, or should it cut some existing spending? Should the tax system be used more aggressively to promote income redistribution or, on the other hand, investment?

Regardless of what it does, Congress will have a difficult time permanently evading these issues. But, already overburdened by complicated problems that it only dimly understands, it does not need to create added uncertainties by having to fiddle with tax rates every 18 months.

HOW I REMEMBER IKE

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. HAMMERSCHMIDT. Mr. Speaker. Dwight David Eisenhower will always enjoy a very special place in the national memory. The respect, appreciation, and affection felt for him transcends partisan politics and conflicting philosophies.

He was self-effacing. But he was gregarious. His love for people was well established. His spirit of good will and well-being was contagious. Respect for him was universal.

He hated war. But he became one of history's greatest wartime military commanders. He was a commander charged with more than bringing conflicting national elements together. His was the greater job of bringing conflicting international elements together. He did it well. The war in Europe was brought to its appropriate conclusion, in Eisenhower-commanded Allied victory.

He had little zest for politics. Yet, even as his job as Allied commander, Europe, sought him, so did his job as President. In that job, as in the earlier job, he went about it calmly, and without great, self-seeking fanfare. Yet, there never was any question about his interest in America, and her future.

I remember when, as a newly elected Member of Congress, I had the privilege of visiting him at his Gettysburg farm. He was, of course, in well-earned official retirement from the world and national cares which, so so long, he helped to bear. But he still demonstrated an enormous interest in the continuing course of world and national events. Needless to say, he also continued to demonstrate great pride, faith, and confidence in America and in her people.

In contemplating his place in history, I can only conclude that he was, certainly, one of those rare men of destiny who, in war, and in peace, was the right man, in the right place, at the right time.

In contemplating, specifically, his more obvious Presidential contributions, I remember him as the President who kept his campaign promise to bring the Korean conflict to an end. I remember him as the President who kept his campaign promise to restore calm to America. He was, of course, too experienced a leader to attempt to be an activistic Chief Executive when such was neither needed nor desired.

So, I miss him—particularly amid efforts, by some, at hyperactivism when, again, the people plead for calm. I miss him, too, in this era of half-trillion-dollar budgets when the people plead for easement from the resultant burden of high taxes and high inflation.

And, I am certain that we all miss his fiscal sanity which, among other things, gave this Nation 2 years of back-to-back budgetary surplus.

ATTACK ON FIRE

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. HOLLENBECK. Mr. Speaker, I was appalled to learn of the enormity of fire losses in this country; 7,500 deaths and 300,000 injuries a year. The Federal Government is only appropriating very small amounts, on the order of $12 to $14 million a year to the Fire Administration. This year the request is just under $18 million, whereas for medical research alone we appropriate billions of dollars. It appears to me, the lack of visibility and support for the Federal fire program is itself symptomatic of the fact that people in this country are generally unaware of the enormous toll that fire takes. We tend to think of fire as the excitement of clanging trucks and dramatic blazes, but this represents a tragedy to the person involved, it is not a game, it is not a pretty picture in a newspaper, and it is time that these attitudes change.

We must work much more diligently on fire prevention and adequate warning. In Japan, I am told, it is a social disgrace to have a fire, to have one's house burn, not a moment of excitement. In this connection, I have introduced legislation to permit individuals a tax deduction for the purchase of smoke detectors. But adequate warning is only one small step in a much larger picture. We must train members of the fire services, who themselves undergo enormous risks, to the importance of fire prevention and in this I see the National Fire Academy playing a vital role. I, too, am shocked to learn that the administration does not intend to ask for funds to complete the renovations of the recently purchased site at Marjorie Webster Junior College in Northwest Washington. We need, too, much better data on fire so we can understand the causes and not just the symptoms of our national fire problem. To this extent I am pleased by the progress that the Fire Administration has made in developing the National Fire Data Center. Two States are reporting complete data on fire losses and 19 more are joining the system this year. However, we have a long way to go, and I am sorry to say that my own home State of New Jersey has not yet joined the National Fire Data System and that many States including those believed to have the highest fire losses have not seen fit to join the national data system.

In conclusion let me say that I think the moment is near at hand for the Congress to decide whether it seriously intends to mount a coordinated national attack to assist States in combating the epidemic of fire or whether it will merely continue to pay lipservice to fire prevention in this country. I do not think that we have arrived at the turning point yet for we must receive the mandated report on master planning and receive more complete data from the national fire data system. However, I hope these hearings will provide us with the information we require, not only to determine the proper authorization for the Fire Administration and the Center for Fire Research, but also to set the stage for an aggressive Federal attack on fire.

CHICAGO TRIBUNE COLUMNIST POINTS TO FRA PROBLEM

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. SIMON. Mr. Speaker, as I have discussed with some of my colleagues, the Federal Railroad Administration, one of the slowest moving agencies in the entire Federal bureaucracy, has spent some years trying to determine whether or not railroad locomotives should have strobe lights or some other type of light to warn cars that may cross on unguarded crossings.

They have had three studies already, all of which have indicated they should go ahead and have strobe lights, but, apparently, they are waiting for higher fatality figures or who knows what. They have now indicated to me that come August, they are going to render a decision. In the meantime, approximately 100 people a month will be killed in collisions between automobiles and trains.

Michael Kilian writes a column for the Chicago Tribune and commented on all of this recently, and I thought my colleagues might be interested.

DIM U.S. RAIL AGENCY PUTS A BRIGHT IDEA ON SIDETRACK

(By Michael Kilian)

WASHINGTON.—Among the many things I've never cared much for is being run over by a train.

Give me the choice betweeen spending a week tea dancing with Candice Bergen in St. Tropez and being run over by a train, and I'll take the tea dancing every time.

Unfortunately, I seem to stand a much better chance of being run over by a train. I think the odds are that I would be run over by a train seven million times before once even getting to say hello to Miss Bergen.

Congressman Paul Simon would like to improve those odds—not, alas, by introducing me to Miss Bergen but by reducing the chances of me or anyone getting hit by a train.

Last year, no fewer than 1,200 people died in automobile-train accidents. Some of these cases involved disregarded crossing signals; some, malfunctioning crossing signals; some, nonexistent crossing signals. But nearly all shared one common factor: The driver didn't see the train approaching.

This wasn't necessarily negligence, as I learned some years ago. At the time, I was driving through a little town named Big

Bay Station in Congressman Simon's southern Illinois district. I don't know why the town is named that; it has no station, no bay, and nothing at all big.

At the edge of town [everything in Big Bay Station is at the edge of town], the main tracks at a crossing marked only by a stop sign. I obediently stopped, noted the tracks, looked, listened, and then moved ahead.

Halfway across, I heard the deep blast of a diesel locomotive horn as a train materialized out of absolutely nowhere, missing my scampering Volkswagen by only a few feet.

A great mind like Ralph Nader's would deal with this problem by requiring the installation of devices in automobiles that would prevent them from crossing railroad tracks. Congressman Simon has a simpler idea, rare though such things are among our Nation's lawmakers.

Why not, he asks, equip the Nation's 34,500 railroad locomotives with flashing strobe lights? That would make them extremely easy to see, even from long distances. Such lights have been installed on jetliners and some emergency vehicles with great success.

Even better—and even rarer for something thought up by a congressman—the cost would be low. Only about $500 per locomotive. The average railroad must spend that much every day on new playing cards and coffee pots for its train crews.

It is a peculiarity of our government that its regulatory agencies in time come to resemble the industries they're supposed to regulate, just as chameleons take on the color of their surroundings. Our Nation's sluggish railroads are overseen by the Federal Railroad Administration.

Simon made his strobe light suggestion to the FRA nearly two years ago, just after a train wiped out 11 children and one adult near another town in his district.

Since then, the FRA has been studying the matter.

It has completed three studies and has embarked on a fourth. It has spent $260,000 on these studies, enough money to install strobe lights on 520 trains. In all of these studies, the closest thing to an objection raised was the notion that the flashing lights might induce epileptic seizures, although neurosurgeons say there is no danger of that even with flashes as fast as three a second Amtrak, of all things, has begun ordering strobe lights on the new locomotives it buys.

The FRA, whose flashes do not come three to a second, says it may arrive at a decision as soon as next August.

Ha. Sooner will you see Candice and me dancing at Cap D'Antibes—with strobe lights strapped to our foreheads. But that's not all you'll see first.

Since Simon made his suggestion, more than 2,000 people have been killed by trains—clickety-click, clickety-click.

TRAFFIC SAFETY EDUCATIONAL PROGRAM IN NEW JERSEY

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. PATTEN. Mr. Speaker, David H. Mayerowitz, member and secretary of the New Brunswick, N.J., Traffic Safety Commission, spoke recently at a regional seminar of the New Jersey State Safety Council in Morristown.

In his address, Mr. Mayerowitz made several recommendations on pedestrian and two-wheel vehicle safety. The recommendations should be seriously considered.

They would help senior citizens, the physically handicapped and blind persons. Several organizations have expressed support for the recommended programs.

Mr. Speaker, Mr. Mayerowitz is an active, dedicated leader in the traffic safety field, so I am inserting an analysis of his recent speech in the CONGRESSIONAL RECORD with the hope that my colleagues will become familiar with some of the fine work he and others are doing to help people and to improve traffic safety:

REGIONAL SEMINAR ON PEDESTRIAN AND TWO-WHEEL VEHICLE SAFETY

Colonel David H. Mayerowitz, a Traffic Commissioner of the New Brunswick Traffic Safety Commission of New Brunswick, New Jersey addressed members of the conference and made the following constructive statements in the interest of formulating traffic safety programs relating to senior citizens, the physically handicapped, and blind persons.

Colonel Mayerowitz stated that he has conducted a research survey in regards to initiating a traffic safety education program in the State of New Jersey. According to his findings, senior citizens, the physically handicapped, and especially blind persons have been put in double jeopardy at busy intersections in business Districts where there are signal lights and crosswalks due to the fact that the State has initiated a right turn on red light law under title 39 of the revised statutes of the State of New Jersey. Further hazardous conditions in many of the cities throughout the State have been caused by bicycle riders of school age, college students, and adults who use sidewalks and walkways of shopping centers as bike paths. To safeguard these citizens of New Jersey, he suggests that new rules and regulations and new ordinances be adopted regarding bicycles, mopeds, and that signs should be erected in all municipalities at schools prohibiting right turns on red lights to protect senior citzens, the physically handicapped, and blind persons who use the facilities. He further recommends that a digest of the new traffic laws regarding a two-wheel vehicle, especially, the mopeds, and the turn right on red light be printed in Spanish and Braille under a Federal grant by the Traffic Safety Division of the New Jersey Department of Transportation and be distributed to the Spanish-speaking people and to blind persons as part of an educational traffic safety program to keep the State of New Jersey number 1 as the safest State in the Nation.

To further ensure the execution of his proposals, he also suggests that the New Jersey safety council recommend to all county safety councils the immediate adoption of resolutions in the interest of senior citizens, the physically handicapped, and blind persons and their safety and to forward copies of their resolution to the proper authorities so that this issue of vital importance can be expedited quickly in a successful traffic safety educational program.

NEW STAFF MEMBER

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mrs. MEYNER. Mr. Speaker, it is with great pleasure that I announce to my colleagues and constituents the name of the newest addition to my staff: Andrew A. Berrigan, III, born this morning to my press secretary, Tom Berrigan, and his wife Cesarina.

A GUIDE TO THE HUMPHREY-HAWKINS FULL EMPLOYMENT ACT

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. MITCHELL of Maryland. Mr. Speaker, the Humphrey-Hawkins Full Employment and Balanced Growth Act, which the Congressional Black Caucus has championed for the past several years, is now set for House action at the end of February. While the bill is now widely known by name, it is still little understood. I am inserting in the RECORD an explanation of the Full Employment Act which explains its provisions and purpose. I hope that each Member of the Congress, and other persons throughout the country will read this summary and the bill, itself, as we move to enact into law a national full employment policy.

A GUIDE TO THE FULL EMPLOYMENT AND BALANCED GROWTH ACT

In late 1977, the Humphrey-Hawkins Full Employment and Balanced Growth Act, H.R. 50 in the House and S. 50 in the Senate, became the central focus of national debate as President Carter gave his formal endorsement to the bill. Even though the Humphrey-Hawkins bill has been discussed for a number of years, it is still little understood, and at times misinterpreted. This paper is intended to give a simple and straightforward description of the bill and its provisions and purpose.

WHAT IS THE HUMPHREY-HAWKINS FULL EMPLOYMENT ACT?

Very simply, the Full Employment Act is an economic policy bill which focuses the Nation's resources on greatly reducing unemployment while controlling inflation. It does this by setting forth a specific goal to be reached in a specific time period and by requiring the President to submit an Economic Report to the Congress each year spelling out the programs and policies to reach the goals set. It is the President's responsibility to propose the programs and economic policies which will reduce the unemployment rate consistent with the goals and timetable. The Congress would be required to pass a resolution approving these or alternative policies, and the resolution would serve as a guide to Congress on legislative action to achieve full employment.

The goals and timetables are extremely important. It must be understood that the Humphrey-Hawkins bill simply amends existing law—the Employment Act of 1946—to strengthen that existing law. For instance, where the 1946 Act calls for "maximum employment", the Humphrey-Hawkins bill calls for a meaningful job for every person able, willing and seeking to work at fair rates of compensation and for no more than 4 percent overall unemployment within no more than 5 years. The Humphrey-Hawkins bill clearly states that this is an "interim" goal, and that the ultimate goal is to provide a useful job at a decent wage to everyone willing and able to work. Rejected outright is the idea that we must accept a so-called "tolerable" level of unemployment.

HOW WILL THE HUMPHREY-HAWKINS BILL ACHIEVE FULL EMPLOYMENT?

Each day, the Federal government makes thousands of decisions which affect the number of jobs which will be created in the private economy. Some of those decisions are large decisions with great impact, such as tax increases or decreases, the setting of interest rates, the level of federal spending, amounts of federal dollars going to different geographic areas and to different sectors of the economy. Included are subsidies, grants, loans, guarantees, and outright contracts to provide goods and services.

For example, if a certain program distributes money to every city and town in the country, regardless of the unemployment level, a smaller percentage of the money is likely to be used to create jobs than if all the money went to cities and rural areas with high unemployment.

A decrease in interest rates may result in greater borrowing and investment in industries which will produce more jobs. A tax decrease for certain income groups might stimulate spending resulting in more goods being produced and more people hired to produce them.

The major economic powers of the Federal government consist of fiscal (taxation and spending) and monetary (money supply and interest rates) policies. These have generally been used to stimulate aggregate demand or purchasing power.

Often these powers have not been used effectively, resulting in recessions and inflation. Since 1969, for example, the Federal government has deliberately followed a policy of maintaining high unemployment as a means of fighting inflation despite the fact that no evidence indicates inflation is caused by too many people working, but just the opposite.

The Humphrey-Hawkins bill prohibits such a trade-off and requires that the means used to reduce unemployment and inflation must be mutually self-reinforcing. For example, putting people to work producing goods in short supply or in skills where shortages exist both reduce costs and prices as well as unemployment. It is also true that ending discrimination against women, minorities and our aged would increase production and employment and decrease inflation.

The Humphrey-Hawkins bill, by requiring the President to present a plan directed at reducing the unemployment rate to a specific level in a specific time period would require by law that all of these economic decisions which take place each day would be directed toward the primary goal of reducing unemployment.

There is one additional aspect to the means by which full employment will be achieved, and it is one that is frequently misunderstood when the bill is discussed. To the extent that the types of economic policies mentioned above do not reduce the unemployment rate to the levels required in the bill, the President must develop programs to reach the goal. This includes so-called "last resort" jobs. These are jobs funded directly by the Federal Government where employees perform public services which result in the general betterment of the community. Jobs under the Comprehensive Employment and Training Act (CETA) and other manpower programs are such public service jobs, and expansion of these programs is one means by which additional last resort jobs might be created. The bill permits the last resort jobs to be instituted only after two years following the bill's passage, but the President can expand existing programs at any time with congressional agreement.

The confusion has been that many persons have seen the Humphrey-Hawkins bill as simply a bill to create government paid jobs. In fact, as has been shown, it is a bill to require by law that Federal policies work to maximize private employment opportunities, and only those persons who remain unemployed will be employed on Federal public jobs programs.

WHAT JOBS WILL THE UNEMPLOYED TAKE?

The double harm done by the high unemployment rate is that those who desire work cannot find jobs, and that great physical and social needs of the nation in housing, health, food production, energy, education and many, many other areas remain unmet. It is a tragedy that those who want to work are not matched up with the work that needs to be done. While this may sound like a simple concept, the essence of the problem is that the match is not made and that human resources have not been coordinated around priority needs. Economic decisions have not brought together the unemployed and the necessary work to be done within these national priorities.

WHAT GROUPS DOES THE BILL HELP?

As a national economic policy bill, the Full Employment and Balanced Growth Act is aimed at improving the conditions for all people in the country. Its basic, underlying premise is that the economy has not operated to full capacity, and an economy operating at full capacity will improve conditions for all persons.

The bill, of course, will specifically benefit the unemployed—not just minority unemployed, but all the nation's unemployed. It puts the full weight of the Federal government and the laws and policies of the United States behind creating jobs for the unemployed.

The Full Employment Act is very explicit about reducing and eliminating the employment gap for groups with unusually high unemployment rates. These are primarily minorities, young people and women. Among the methods for actieving these goals are targeted training programs and a strong non-discrimination provision.

WHY HAVE THESE GOALS NOT BEEN ACHIEVED? HOW WILL THE BILL HELP?

If full employment is a desirable goal, many ask, why has the government not undertaken the policies to achieve full employment in the past? The answer is first that the Federal government has failed to fully coordinate the large number of programs and policies which affect employment because these were created individually and are responsive to fragmented authorities. Second, there are always competing political and economic pressures which move decisions away from those policies which maximize employment.

There is one very important point to be made on competing economic interests. Some have suggested that significantly reducing unemployment would necessarily result in inflation. There are three answers to this contention: (1) there is substantial evidence that this would not take place; (2) the bill provides strong anti-inflation protections: (3) our economy does not require high unemployment to operate properly, as the theory suggests, and economic policies can be found to achieve low unemployment and low inflation simultaneously.

"Stagflation" is a word which has been used more and more. It describes the situation of high unemployment and high inflation, which presently exists. This contradicts the notion of some economists that high unemployment will control inflation. It is part of the evidence that has been cited by such distinguished economists as Dr. Leon Keyserling, former Chairman of the Council of Economic Advisers, Dr. Robert Browne of the Black Economic Research Center, Professor Robert Lekachman of the City University of New York, Gus Tyler, Assistant President of the International Ladies Garment Workers Union and Dr. Gar Alperovitz of the Exploratory Project on Economic Alternatives. The Full Employment bill, itself, provides seven steps to control inflation, including strong antitrust law enforcement and other action to increase competition in the private sector.

Currently, it is being suggested that 6 percent unemployment is comparable to what 4 percent unemployment used to be, and that perhaps we ought to accept such a goal. Humphrey-Hawkins rejects this idea as both uneconomic and immoral. The bill and its supporters reject the position that our economy requires a high unemployment rate to operate properly. Expanding job opportunities in general and targeting programs to specific groups at the same time is the only way in which the goals and ultimate objectives of full employment properly defined can be achieved.

WHAT ABOUT CRITICISMS OF THE BILL?

"It would be a mistake to regard Humphrey-Hawkins as a legislative paper tiger. . . . Carter's acceptance of Humphrey-Hawkins, which Congress will probably pass early next year, puts the nation's unemployment problem squarely at the center of economic policymaking for years to come. . . ." So said the respected business magazine *Business Week*, November 28, 1977, in commenting on the Full Employment bill agreed to between the President and the bill's proponents in Congress and outside.

There have been two major criticisms of the bill: That it will lead to higher inflation and that it is weak and ineffective. These are, of course, contradictory assertions, and the bill cannot be both at the same time. The inflation argument was answered in the last section.

As for the argument that the bill has been weakened in the negotiating process with the President, the answer is simply that while the bill now gives the President and Congress flexibility as to the exact methods and programs to be used to achieve lower unemployment goals, it continues to require them, by force of law and national policy, to use every effort to reach those given unemployment goals and timetables and ultimate full employment.

The bill requires that the President's annual Economic Report spell out proposals to reach full employment and interim unemployment goals.

The bill requires that the main elements of the President's budget support the full employment goal.

The bill requires incorporating key national priorities in the program for full employment.

The bill requires that the last resort jobs be made available to reach the stated goals if after two years other economic policies are not succeeding in moving the nation to the goals.

The bill requires the use of tools such as training and counseling programs, youth employment programs and other microeconomic tools to attain the goal.

The bill requires the Federal Reserve Board to transmit to Congress its intended policies for the year ahead and their relationship to the short-term goals in the President's Economic Report.

What the current version of the bill does that it did not do in the past is to allow the President to set forth the proper mix of these policies and programs to achieve the goals. But the law would require that the goals be met. That is not weakening the bill; it is merely providing flexibility as to how the goal is achieved, not whether it should be achieved.

These arguments have been made by the bill's authors, Congressman Augustus Hawkins and the late Senator Hubert Humphrey, and by its major proponents, and their validity has been affirmed by some of the major economic commentators in the nation. The

chief economic correspondent for the New York Times, A. H. Raskin, wrote that:

"The Humphrey-Hawkins bill is much more than a palid extension of the Employment Act of 1946. If enacted next year in anything like its present form, it will establish targets for economic activity and jobs involving a degree of specificity the nation has never known before." (November 20, 1977).

The chief economic writer for the Washington Post, Hobart Rowen, made the same point:

"There is much more than meets the eye in the compromise Humphrey-Hawkins "full employment" bill . . . the vigor of the attack on this latest Humphrey-Hawkins version should suggest to the careful observer that the proposal would, in fact, have an impact on the economy and the way economic policy is made. . . . Complying with the timetables would not be optional. . . . The Humphrey-Hawkins bill, as it emerges now, with Carter's cooperation, is worthwhile." (November 17, 1977).

The respected Black journalist, Carl Rowan, made the same point:

"It does something very important: It establishes the right of all Americans to a useful job at fair wages. We have never before had such a specific national commitment. . . . You ought to understand what I am sure Jimmy Carter understands: While the compromise gives the President some flexibility, he cannot change the 4 percent goal without Congressional agreement. . . . I hope the Congress passes the Humphrey-Hawkins bill." (Washington Star, November 21, 1977).

The Congressional Research Service of the Library of Congress, in an analysis of changes made in the bill through negotiations between the President and bill's sponsors, said:

"A close review of the January 1977 version of the Humphrey-Hawkins bill and the November 1977 version indicates that very few changes have been made to the major provisions of the bill." (November 18, 1977).

A Business Week magazine editorial summed it up, "There should be no doubt that Humphrey-Hawkins can and will be used to maintain pressure on Carter and future Presidents to fight unemployment." (November 28, 1977).

We will not even begin to move toward full employment unless every person concerned about the tragedy of continuing high unemployment speaks out and works for passage of H.R. 50, the Humphrey-Hawkins Full Employment and Balanced Growth Act.

POSTAL SERVICE CRISIS

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. HANLEY. Mr. Speaker, what would happen if no one bought balcony seats in a theater, or the airlines could not book any tourist class seats, or the telephone company could get no business during its nonpeak hours. It is simple, either prices would have to go up drastically for the orchestra seats, first-class fares or peak-hour telephone calls or services would have to be cut even for those who continued to use them.

Sounds like a farfetched situation. No business would be stupid enough to throw away revenue which was important to the maintenance of a sound and balanced service.

No one, that is, except the Postal Service.

I have spoken many times of the problems facing the Postal Service and its patrons. Constant financial crises have eroded public and Congressional confidence in the Postal Service. Employee morale seems to hit a new low every day. Electronic communications has thrown into serious question the very future of the Postal Service.

Now, however, we are facing a new and potentially dangerous situation, the diversion of large quantities of mail not covered by the private express statutes into alternative sources of delivery.

Since we would still be required to maintain an extensive postal system to service first-class customers, those customers would be socked with a whopping bill far in excess of the increases suffered so far.

It is convenient to say that those who use first-class mail are really subsidizing other, less expensive, classes of mail. This is a vast oversimplification which, if totally accepted, could lead to even more substantial increases in first-class rates. The average postal patron is being misled if he or she believes that reasonable postal rates can be maintained if some of the less expensive classes of mail are dropped. Regular rate second and third-class mail provide valuable additional income. Loss of this income would not be offset by commensurate declines in costs—unless substantial service reductions are instituted. This leaves only one person to pick up the tab either through increased mail rates or through even greater subsidies.

However, postal rates have been so greatly increased during the past 7 years for third-class (advertising mail) and second-class (magazines and newspapers) that these mail users are seriously studying alternative means of delivery. Many rate experts are saying that only one more rate hike is needed in order to make it feasible for many major mail users to go to other sources of delivery. Some publishers have already reached the point where private delivery is cheaper than the Postal Service.

The Postal Service stands to lose billions of dollars in potential revenue from this alarming move.

Yesterday, the Magazine Publishers Association held an alternative delivery symposium in New York. Leaders from many major mail users met to discuss the feasibility of shifting delivery away from the Postal Service. The conclusions were sobering to anyone interested in the future of mail delivery in this country.

A few general figures might help put this serious problem in some perspective. Rates for magazines and newspapers have on the average, increased by more than 400 percent since the passage of the Postal Reorganization Act. We expected some increases—but nothing of this magnitude. To bring this general figure closer to home, the average mailing price for Better Homes and Gardens has jumped from 3 cents in 1970 to 9.3 cents this year. It will go to 16.8 cents in 1979 when phasing ceases and proposed rates go into effect.

Rates for third-class regular rate advertising mail have jumped at least 83 percent since 1971 and will go up even further in May of this year.

The average 2-pound book could be mailed for 18 cents in 1971 and is now being mailed for about 40 cents. In 1979, that price will go to 73 cents.

This would not be so alarming if rates were simply catching up to true postal costs. But, as the participants in the symposium graphically demonstrated, current and proposed rates are so high, that it is fast becoming more feasible to deliver privately in many areas. The Postal Service may be pricing itself out of existence.

Here are a few examples:

An official of Better Homes and Gardens said that their objective was to have 60 percent of the magazines delivered privately. Tests in Kansas City showed that Better Homes and Gardens could be delivered for a net cost to the magazine of 1 cent a copy by piggybacking advertising circulars—a double threat to the Postal Service.

Daily newspapers now have the capability to deliver privately to 90 percent of the homes in the country. This network could also be used by many other present customers of the Postal Service.

A model system developed by prominent economists indicates that it is now possible to deliver some high circulation magazines and newspapers in densely populated areas for from 1.5 cents to 7 cents less than the Postal Service.

Tests of alternative delivery for books indicate that private delivery could deliver a 2-pound book over long distances for 67 cents—which includes both drop shipment and local delivery. In July of this year, the Postal Service costs will go to 60 cents and in July, 1979, to 73 cents. It could cost only 48 cents to send a book shorter distances by private delivery.

The Wall Street Journal is now delivering 160,000 copies a day by alternative means at a cost of about 7 cents a copy versus 7.2 cents by the Postal Service. On top of that, private delivery of the newspaper is more reliable and timely. Also the 7-cent figure includes drop shipping whereas the 7.2 cents postal figure does not.

Imaginative use of alternative delivery can combine second-, third-, and fourth-class type of material to make alternative delivery even more attractive for many mailers. For example, national magazine advertising campaigns could be supplemented by including flyers from local businesses keyed to the overall campaign—flyers which previously would have been mailed. Magazine subscription campaigns heretofore conducted through the mail could be handled by private carriers delivering subscription material to the neighbors of subscribers. Specialty magazines could be accompanied by advertising material pitched to the particular audiences. The possibilities are almost infinite.

Almost no one at the conference wanted to leave the Postal Service but all said they were being forced by economics to do so. The possible results have

frightening implications for those interested in a sound Postal Service.

The tragedy goes even beyond the possibility of greater costs for customers who must continue to use the mail. The tragedy is that we seem to be slowly abandoning the principle that this country should continue to provide, as it has through most of its history, an inexpensive and convenient mode of communication.

What can be done. I believe that much of the solution can be found in H.R. 7700, the Postal Service Act of 1977. This bill would increase substantially authorizations for public service appropriations and return some measure of control over the Postal Service to the President and to Congress. It is a realistic approach and I strongly urge the positive and vocal support of my colleagues. I would also urge every Member of the House who is concerned about the future of the Postal Service to convey that concern to the President.

If we don't act soon, we might not have a Postal Service to be concerned about.

TAIWAN GOVERNMENT SHOULD HELP ITS CITIZENS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. SIMON. Mr. Speaker, I have been one of those who has stood on this floor and said that we must not turn our backs on our friends on Taiwan. I have also long advocated diplomatic recognition of the People's Republic of China. But our friends on mainland China should understand that while we stand ready at any point they desire to have mutual diplomatic recognition, it will not be at the expense of a loss of recognition of the Government of Taiwan; not a denial of a treaty that we have signed with Taiwan.

Having said that, which I hope establishes my credentials for friendship to the Government on Taiwan, I did read with regret the story in the Washington Post titled "Taiwan Reluctant To Accept Its Citizens From Vietnam."

I am having that printed in the RECORD for my colleagues in the House and Senate to read. I do so because we have a special responsibility for the tragedy of Vietnam.

I hope that our friends on Taiwan will reconsider the action they have taken.

[From the Washington Post]

TAIWAN RELUCTANT TO ACCEPT ITS CITIZENS FROM VIETNAM

(By Jay Mathews)

HONG KONG.—Wong Mei-lan, a 27-year-old teacher living in Saigon, is a citizen of Nationalist China, according to the passport given her in 1974 when Taiwan was promoting its image in Vietnam's Chinese community.

Now, reduced to basic rations and denied a regular job since the communist takeover in 1975, she would like to exercise her rights and move to Taiwan. The Vietnamese have her exit permit ready. But Taiwan, while still advertising itself as a champion of those fleeing communism, has effectively shut the door on her and an estimated 10,000 others holding Taiwan passports in a move one relief official here calls "the height of hypocrisy."

The practically forgotten Saigon Chinese, many of them former merchants now stripped of their livelihood, have appealed to friends and relatives outside Vietnam for help. Relief officials, usually reluctant to talk about sensitive political issues, have now been persuaded to speak out by what they see as one of the greatest injustices to come out of the fall of Saigon and Taiwan's 30-year-old propaganda war with its Communist Chinese rivals.

"Back during the war the Nationalist Chinese were big in Saigon," said one official who spent some time in Vietnam before 1975. "They had ROC [Republic of China] schools and handed out all those ROC passports. Now they're saying all those papers are worthless."

In the past two years, Taiwan has issued entry permits to 892 Chinese residents of Vietnam. In almost every case the permits have come through appeals from relatives already living in Taiwan where 16 million people enjoy one of the healthiest economies in Asia. Relief officials say authorities in the Taiwan capital of Taipei have dragged their feet in arranging flights for even these relatively few Saigon Chinese. The Vietnamese, eager to get rid of people they consider troublesome foreigners, have in contrast presented few problems.

Some Chinese have been told they have seats on the special flights from Saigon to Taipei through Bangkok. They have sold their belongings to ease the journey, and perhaps to pay off whatever bribes Vietnamese officials have extracted. Then they have suffered as the Taipei authorities have delayed the flights, relief officials say.

Taiwan authorities say publicly they can not process the Saigon Chinese applications for entry permits because they are living in a communist country without diplomatic ties to Taiwan. Privately they express the fear that some Chinese from Vietnam might be spies or pose too great an economic burden on the island.

None of this stops the official Taiwan news agency from regularly lamenting the plight of people living in China or Vietnam, or from vigorously protesting when governments like Hong Kong enforce regulations to stop the inflow of illegal refugees from communist neighbors.

"For the sake of humanity," said Taiwan's Free China Relief Association in a recent bulletin, "the Hong Kong government should allow the Chinese freedom seekers to stay in Hong Kong or let them leave for other free countries."

"How can they broadcast complaints on the morality of Hong Kong, when they turn their backs on their own documented citizens," asked one relief official here. "Sure the Chinese in Saigon are angry, but what can they do?" said a relative of Wong, the teacher. The relative asked that Wong's real name not be used in order not to prejudice what slim chance she might still have of leaving Vietnam.

"If the overseas Chinese in Vietnam go to countries in the free world, ROC representatives can process their applications," said an employee of the Overseas Chinese Affairs Commission in Taiwan. No one can legally leave Vietnam without valid entry permits to another country, however, and illegal escape remains difficult. Wong once traveled to the coastal city of Wungtau in an escape attempt. She just missed arrest when her companions were picked up by police while she was packing in her hotel room.

"The entry procedures for the Republic of China happen to be more cautious than those of the United States because we are fighting a war against communism," said the overseas Chinese commission employee.

Relief officials familiar with the business-oriented Chinese of Saigon, and their unhappiness with living under communism, scoff at suggestions that they pose a security threat.

Taiwan has allowed a private welfare organization in Taipei, the Vietnam-Taiwan Friendship Association, to transmit lists of the few Saigon Chinese it will accept to Hanoi.

The International Committee of the Red Cross serves as middleman in this process, reconciling the Taiwan list with a list of people Vietnam is willing to let go and chartering the flights from Saigon to Bangkok.

Relief officials say there are enough names cleared now to fill one or two more flights, but Taiwan is again delaying the scheduling of a pickup flight from Taipei.

Francis Amar, head of the Red Cross delegation in Bangkok, declined to comment on charges of Taiwan footdragging in the program. He said he did not expect Taipei to liberalize its entry policy but thought there would be another flight "in the not too distant future." He said he could not speculate when that would be.

U.S. FARM POLICY

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. NOLAN. Mr. Speaker, one of the featured speakers at last week's Consumer Federation of America's national assembly held here in Washington was our colleague, TOM HARKIN, of Iowa.

TOM HARKIN represents the eighth most rural congressional district in the Nation. As chairman of the House Subcommittee on Family Farms and Rural Development, I have come to know TOM HARKIN to be an able and effective spokesman for the Nation's family farmers.

TOM HARKIN rejects the age-old rhetoric that somehow farmers and consumers are natural enemies. "They are not," he told the consumer assembly. "They are natural allies."

In his remarks he outlined an agenda for dealing with the common problems shared by family farmers and consumers, including a call for some sweeping changes in U.S. farm policy—most notably, a call for a graduated farm program to concentrate the Federal Government's help on those who need it most—small and average sized family farmers.

I commend his remarks to the attention of my colleagues:

SPEECH BY REPRESENTATIVE TOM HARKIN

Thomas Jefferson, himself a farmer and farm innovator, once described farmers as "the chosen people of God." He went on further to say they had "a special character based on substance and genuine virtue."

Like most of our founding fathers, Jefferson believed very deeply in a system of agriculture, based on family farms.

That base had more than just symbolic importance to them . . . for as long as Americans could chart their own destiny and build their own prosperity as independent family farmers and land owners . . . Americans would remain free.

Many things have changed in this nation since then.

But perhaps no other change that has taken place since that time would surprise them as much as the change in our agriculture system.

The answer to the question: "Who shall control agriculture?" is not as easy to answer in our day as it was in theirs.

Then the answer was simple: family farmers shall control agriculture.

Today, our generation must decide:

Will it be the agri-business corporations?

An agriculture system based on absentee land ownership?

Will our system of agriculture be based on absentee land ownership?

Or will it be based on a great many farms, owned and operated by the independent families who live on these farms?

As a member of the House Agriculture Committee . . . and its Subcommittee on Family Farms . . . these are questions I face every day.

And as a Member of those committees, I want to take this opportunity to thank the Consumer Federation of America for the thoughtful and well documented testimony it provides as we consider these questions.

As the Representative of the 8th most rural Congressional District in the nation . . . and as the Representative of thousands of family farmers . . . I also want to take this opportunity to thank the Consumer Federation of America for its strong and enthusiastic support of legislation favoring the choice of a system of agriculture based on many farms, owned and operated by the families who live on them.

Your opinions are respected.

And your support has made the difference on several crucial occasions.

That support for family farms by the Consumer Federation of America sometimes surprises people.

Mostly, it surprises people who've "bought" the age-old rhetoric that somehow farmers and consumers are natural enemies.

They are not, and in fact, they are natural allies.

Too often, we tend to talk about farmers as if they were just producers, and therefore, as if they had nothing in common with consumers.

But farmers are not only producers.

Most of what farmers use to produce their crops—except their own labor and management abilities—they buy off the farm.

They, too, are important consumers.

They consume tractors, combines, plows, fertilizers, seed corn, cars, clothes, and gas . . . even food.

Inflation has taken a heavy toll on all consumers in the past five years. Its impact has, perhaps, been most noticeable on the nation's grocery shelves, in the retail price of food.

But it has also had an important impact on those on-the-farm consumers, as well.

Five years ago a loaf of bread cost 32 cents. Today it costs 36 cents. The farmer's share of that retail price has dropped from 5.6 cents to 2.8 cents . . . down 50 per cent . . . in the same period.

Five years ago, a 12 ounce box of cornflakes cereal cost 35 cents. Today, it costs 57 cents . . . up 63 per cent.

The farmer's share of that retail price has dropped from 4.2 cents to 3.2 cents . . . down 24 per cent.

Five years ago the average retail price for pork was $1.16 per pound. Today, it is $1.28 per pound.

The farmer's share of the retail price has not changed . . . and remains the same . . . at 70 cents per pound.

In the past five years, the retail price of USDA's Market Basket of Food has increased by 19 per cent.

The farmer's share of the retail price has decreased by 5.6 per cent, during the same time.

Yes, food prices are rising.

But not because of the farmer. Due to falling farm prices, fewer and fewer of our food dollars are going to the farmer.

And due to inflation on the goods he consumes . . . the farmer is having a hard time holding on to those few dollars that are reaching him, because of higher production costs.

In the past five years, the price farmers were paid for wheat dropped 49 per cent.

The price they were paid for corn dropped 17 per cent.

The price they were paid for beef cattle dropped 5 per cent.

The price they were paid for hogs went up, by only 2 per cent.

During the same past 5 years;

The price farmers paid for a medium sized tractor went up from $13,700 to $26,300 . . . up 92 percent.

The price they paid for a medium sized combine went up from $17,600 to $36,100 . . . an increase of 10 per cent.

The price of a new-five bottom plow went up from $1,920 to $3,900 . . . up 103 percent.

The price for one-ton of fertilizer went up from $92.50 to $170 . . . up 84 percent.

The price farmers paid for a bushel of seed corn went up from $23 to $39.50 . . . an increase of 72 percent.

If you think you've had problems with inflation go talk to a farmer.

Our food costs, according to the USDA, are up by about 19 percent in the past five years. The farmer's production costs, in most cases, have at least doubled.

With farm prices falling and retail prices going up, it's often popular to blame the "middle-man"—to blame his greed.

In many cases, that's probably true.

But more often than not . . . the real enemy is us.

That's right . . . us, the consumer.

We will continue to pay more for our food—and farmers will continue to get a smaller share of the food dollar—as long as we, the consumer, continue to demand extensive preparation, packaging, boxing, and general adulteration of our food in the name of convenience.

We don't need to buy cheese, sliced and individually wrapped in plastic. But we do, because it's easier to use. And we pay for it.

We don't need to buy potatoes partially cooked and sliced, or even mashed—so all we have to do is add hot water—

But we do buy them that way, because it's easier.

We've come to believe that if you can't "unzip the zip-lock" plastic bag, pop it in the micro-wave oven, and eat it in a matter of minutes, it is somehow less desirable than if we had to prepare it and cook it ourselves. And we pay the price for that attitude, at the check out counter.

Convenience packaging—that's one big avoidable cost of food. In fact, in 1976, food processing & marketing took about 60 cents of every dollar consumers spent on food.

So we pay at the check out counter—and the evidence is mounting that we pay in other ways, too.

For years we consumers have demanded the meat we buy in the grocery stores be bright red. So processors have filled their fresh meats with nitrates, which make them bright red.

They have minimal, but some preservative qualities. The major thing they add to the meat is a bright red color.

Without nitrates, the meat would taste just the same, would remain fresh nearly as long, but it would not appear so red. That's the only difference.

The evidence now suggests nitrates may be carcinogenic.

Consumers are understandably concerned about that. There's talk of banning them from the market.

Pork producers, who supply bacon, which is usually treated with nitrates by the processors, are understandably concerned about that.

So here's another area where farmers and consumers' interests come together.

We the consumers don't like chemicals and other junk added to our food. And I can tell you family farmers don't like it either. They don't like middle-men to add them, and they don't like adding them themselves, as pesticides and herbicides.

But right now, the system demands it.

We've got to change this system.

With farmers and consumers working together, we can do that.

We must let processors and the Department of Agriculture know that we don't want chemicals added to our food.

For many years the research service of the Department of Agriculture has promoted greater use of chemicals in growing food. At the time it seemed alright to most people. Most chemicals are derivatives of petroleum . . . and oil was very cheap.

The property of carcinogens were little understood and were hard to detect.

But now there are two good reasons why we must change the focus of the research service. The cost of chemicals has skyrocketed, and our testing procedures for detecting carcinogens is much better . . . and again in most cases, these chemicals are highly carcinogenic.

So we can make a difference that way.

There are other areas where farmers and consumers ought to get together and make that natural alliance work for them.

We can avoid some of the costs of consumable food by encouraging more direct marketing of food from the farmer to the consumer.

Farmers and consumers know the more farms we have, the greater the competition in the market place.

Yet in the last 25 years, the number of farms in this nation has been cut by one-half—down from 5.6 million to 2.8 million. More direct marketing will help reverse this trend.

Farmers and consumers know that the family farmer is the best trustee for our life-sustaining soil resources.

The large agri-business corporation or the speculator from the city is more concerned with immediate profits: tear down the wind breaks, plow up the pastures, cultivate the hills, deplete the water table by irrigating dry lands, and after the profits are made and the soil depleted they take their money to another business venture.

I can tell you from experience that family farmers have a conservation ethic and agri-business corporations do not.

Farmers and consumers know the family farmer is the best hope for maintaining a strong rural community with profitable and independent family businesses. Yet today agri-business corporations own nearly 1/10 of the nation's farm land and account for 1/5 the nation's farm produce sales.

Farmers and consumers know that if the family farm system is to remain viable, young people must be able to enter farming. Farm land must be available to them at prices they can afford.

But the price of land is skyrocketing. Farm land in my area of Iowa which 4 years ago sold for $600–$800 an acre is now selling for $1800–$2500 an acre.

Land that does come up for sale now is being purchased by established farmers. Farm enlargements by these established farmers now account for 63 percent of all farm land purchases.

The average age of the nation's farmers is in the mid-50s.

The size of the average farm has increased by 81 percent in the last 25 years.

Finally, farmers and consumers know if we are to have any family farms at all, a family has to be able to make a living at it.

Yet the purchasing power of farm income . . . currently at 64 percent of parity . . . has not been lower since March 1933.

Total net income for farmers in the United States in 1977, was $10 billion less than it was four years ago.

Each dollar of net cash farm income in 1977 supported over $8 in debt. Four years ago, each dollar in net cash farm income supported only $2.50 in debt.

Total outstanding farm debt on January 1, of this year, was estimated at $187.7 billion . . . double the debt load of farmers on January 1, 1972.

Farmers not only know this, they feel it. And that is why you have seen thousands of farmers in Washington and state capitols throughout the country demand better prices for their products and threatening not to plant if they don't get it.

But I also wanted to make sure that you, the leaders of the Consumer Movement in America also know it. The time has come to build an alliance between those farmers you see on the streets of Washington and consumers in the cities. Together we can have an impact. But apart, we will still be at the mercy of the forces which have brought us to our present situation.

What then should be our agenda, and what needs to be done to strengthen our family farms?

As I mentioned earlier, we must encourage more direct marketing from farms to consumers. Consumer cooperatives which buy in volume from the farmer should be encouraged. Farmers markets should be encouraged.

Consumers will pay less, farmers will make more, and the quality will be better.

But first and foremost, we must work for a new attitude in the Department of Agriculture and in Congress. We must have a new approach to our farm program and farm legislation.

One of the great errors of the past, is that our farm policies have treated all farmers as if they were alike.

All farmers are not alike.

Not all farmers need federal government help.

And not all farmers should have it.

There is no reason why a farmer with over a million dollars in equity and sales over $200,000 a year—be he an individual or a corporation—should receive the same price protection from the federal government as a small family farmer who genuinely needs that protection to stay in business another year.

We ought to have a graduated farm program . . . just like we have a graduated income tax.

As the farmer gets larger, the amount of government supports and guarantees should decrease.

Such a policy would concentrate our help on those who need it most, and end it for those who don't need it at all.

We must work for a new emphasis in the Department of Agriculture, and in Congress, on helping the young person start farming.

A graduated farm program would help in this effort. It would stop government subsidization and support for the giant farmer, which may check his expansion. More farm land might then be available, on the market, to the new farmer, since the giant farmer—or the "land hog" as we call them in Iowa—wouldn't have the use of government money to make his expansion purchases.

With the high cost of farm land, and farm equipment, the young farmer faces almost impossible capital requirements. We must help him meet his capital needs.

One way would be low interest, long term, deferred payment, loan program to help the new farmer get started.

We must discourage absentee ownership of farm land.

Absentee owners currently buy one-fifth to one-fourth of all farm acres that come on the market. Often buying as an investment, they drive the price of farm land even higher. That raises further the amount of money needed to start farming, and increases the property taxes due for all the near-by farms.

Absentee owners reduce the number of acres available to young people who want to begin farming. And they add nothing to their near-by communities, as they do little to support the local demand for goods and services.

We can discourage absentee ownership through our tax laws.

Income from farm land owned by people who do not live and work on it, should be taxed at a higher rate . . . it should be taxed on a progressive scale, so the absentee owner cannot recover those higher taxes, simply by charging his tenants more rent. Our tax laws should be written to make it more profitable to work farm land, rather than to hold on to it as an investment, waiting for appreciation to provide profit.

Another way is through utilization of the so-called Saskatchewan Plan or perhaps a plan recently enacted in the State of Minnesota. This is a plan whereby the government would purchase land on the open market and then sell it to qualified young people who want to enter farming.

There would be no payments on principal for the first several years or so, and then the payments on principal would increase and balloon at the end of 20–30 years.

I understand that Saskatchewan has had a great success with this plan and that a modified version is working well in Minnesota.

These tasks will not be easy.

But they must be done, if we are to preserve the family farm structure this nation was founded upon 200 years ago.

Farmers, alone, cannot achieve them.

And neither can consumers.

But by joining together, and working towards common goals, I think we can win the battle.

I hope—and I believe we are—entering a new day when farmers and consumers are recognizing they share a number of common goals . . . and when they are realizing they can only reach them, with each other's help.

No single other development could be more important for either the future of the family farmer, or the American consumer.

And I thank the Consumer Federation of America for leading the way.

SETTLEMENT OF STATE CLAIMS AGAINST HEW

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. RODINO. Mr. Speaker, recently I introduced a bill (H.R. 10101) that authorizes the appropriation of $543 million to implement a settlement reached by 28 States and the Department of Health, Education, and Welfare on outstanding State claims for reimbursement of expenditures for social services. The bill was referred jointly to the Committees on the Judiciary and on Ways and Means, and has also been introduced by our distinguished colleague JAMES C. CORMAN (H.R. 10511).

These States have been engaged in a long dispute with the Department over claims for reimbursemnt of expenditures for social services provided by the States prior to October 1, 1975 under various titles of the Social Security Act. Close to $3 billion of claims are in dispute, of which over half represents claims on file with the Department but not paid.

After months of negotiations, the Department of Health, Education, and Welfare and the States have reached agreement on a settlement of these claims. Virtually all States have agreed to accept the settlement, which provides for payment of up to $543 million. Under the agreement, the Department would also terminate all efforts to recover funds previously paid and the States would make no additional claims for Federal funding for this period.

On October 5, 1977, Secretary of Health, Education, and Welfare Joseph A. Califano, Jr. issued a statement describing the agreement and I ask that it be printed at this point in my remarks, together with a list of the proposed settlements by State.

This settlement ends many years of discord that has already produced extensive and burdensome litigation. It will prevent what promises to be several more years of struggle in administrative and court proceedings. The settlement is a compromise, but I believe its terms are reasonable and fair to both sides.

It is time to bring this long controversy to an end, for its continuation can only serve to exacerbate Federal-State relations and interfere with the proper functioning of crucial welfare programs. Moreover, the States involved have an urgent need for the additional Federal funds that would be received.

Mr. Speaker, a number of our colleagues have already indicated to me their desire to cosponsor this legislation, so I plan to reintroduce it and would welcome additional cosponsors. It is my hope that we will be able to obtain early consideration of this essential legislation and see it enacted before this Congress ends.

STATEMENT BY JOSEPH A. CALIFANO, JR., SECRETARY OF HEALTH, EDUCATION, AND WELFARE

We have reached an agreement to settle the largest financial dispute between the Federal government and the states. The agreement involves payments to 28 states for the cost of social services provided to low income families and individuals from 1969 to 1975.

Under the agreement, 19 states will receive Federal payments totaling $532 million and 22 states (13 of them also members of the group of 19) will have Federal government claims against them dropped.

The action, contingent upon the approval of Congress, is part of a settlement between HEW and a total of 28 states over some $2.4 billion in disputed payments. Of this $2.4 billion, $1.56 billion represented state claims that were never paid by HEW and the balance represented payments that had been

made by HEW but whose validity the Department disputed.

The Congress will be asked to authorize $543 million for the settlement. Eleven million dollars will be held as a contingency to be allotted as a part of the final agreement.

The dispute over these claims goes back into prior administrations. It has resulted in years of expensive and inconclusive litigation between the States and the Federal government, and it has been a nagging irritant in the relations between HEW and the states.

Shortly after I became Secretary of HEW, I asked Under Secretary Hale Champion to seek a compromise in this matter, instead of permitting it to drag through the courts for years. Mr. Champion has done a superb job in reaching this settlement. The agreement removes a major, long-standing barrier to accomplishing our goal of better Federal-State relations.

The dispute began in the early 1970's when HEW took two actions: (1) it refused to pay 19 of the States some $1.56 billion in social services claims; and (2) it sought reimbursement from 13 of these 19 states, plus nine other states, of Federal funds already paid to the states for social services.

The focus of the dispute has chiefly been over the types of social services for which the federal government should reimburse the states and whether certain state procedures were proper.

These services were covered under the old Titles I, IV, VI, X, XIV, and XVI of the Social Security Act which became obsolete on October 1, 1975, when Title XX became effective. Title XX of the Social Security Act is the new consolidated Title authorizing Federal payments for social services provided by the states.

The social services covered such areas as day care for children; protective services for neglected or abused children; drug and alcohol abuse services, counseling on family planning, and a variety of services for aged, blind, or disabled persons.

The agreement now reached would pay, on a formula worked out between the Depart- and the states, a portion of the pending unpaid claims. In addition, 22 affected states will not be asked for reimbursement of funds already given them. (See attached table.)

The amounts to be paid to the states may be adjusted slightly if existing claims by the states are adjusted or if additional claims are filed.

PROPOSED SETTLEMENTS BY STATE

[In millions]

State	Claimed payment due from HEW (1969–75)	Proposed payment	U.S. claims against States dropped
Alabama			$1.0
Alaska			.7
Arizona			5.2
Arkansas	3.8	$2.2	
California			1.5
Connecticut	38	22	6.0
Florida	28.7	11	29.1
Georgia	.7	.3	6.0
Idaho	1.1	.6	
Illinois	87.3	32.1	188.4
Kentucky			2.4
Louisiana			16.7
Maine	2.2	1.3	
Maryland	24.7	14.3	
Massachusetts	142	75	
Michigan	57.1	32.6	8.4
Minnesota	49.4	28.6	4.0
Missouri			.2
New Jersey	1.3	.7	
New York	914	214.4	490.0
Ohio	15.1	5.7	5.0
Oklahoma			13.8
Pennsylvania	4.2	1.6	2.8
Rhode Island			1.2
Tennessee	.004	.0015	.5
Texas	92.7	34	34.7
Washington	32.8	19	5.6
Wisconsin	65	36.5	6.3
Total	1,560	532	830.0

EXTEND THE LIFE OF THE U.S. COMMISSION ON CIVIL RIGHTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. EDWARDS of California. Mr. Speaker, today I am introducing a bill to extend the existence of the U.S. Commission on Civil Rights for an additional 5 years. The Commission is a temporary, independent, bipartisan agency established in 1957 for the purpose of studying and collecting information about or appraising any legal developments or laws that may constitute a denial of the equal protection of the laws, because of a person's sex, race, color, religion, or national origin or in the administration of justice. The Commission is a well-known and respected agency, and it has, since its founding 20 years ago, done more than any other governmental agency to identify and suggest solutions to various civil rights violations.

The Commission has been our official conscience. Both the President and we in the Congress have listened to its voice and responded by enacting legislation to right the wrongs of years of injustices. It has been our eyes and ears in helping us ascertain whether our efforts to end discrimination have been successful.

There are those who would say the sun should set on the Commission, that 20 years of analyses and recommendations are long enough. It seems to me, those persons must now be prepared to say that there no longer exists segregation in the schools and in housing, that discrimination against females and minorities in the insurance industry and in employment has ended; that equal opportunity for the aged and handicapped exists. They must be prepared to conclude that racial minorities and language minorities are no longer subject to blatant or subtle discriminatory practices—practices which are obvious to those who experience them but are not apparent to those of us who have the power to remedy such wrongs.

Surely, we are not prepared to say that equal justice and opportunity exists for all Americans; we have acknowledged that there are substantial numbers of Americans whom this Nation has forgotten. We need the Commission to continue to provide the objective insight necessary to our movement toward making this country realize the greatest potential of all its citizens.

I ask unanimous consent that the bill be included in the RECORD at this point.

The bill I am introducing today would extend the Commission for 5 years. It also includes both technical and substantive changes in its charter, the Civil Rights Act of 1957. Sections 2, 4, and 6 contain the technical amendments to the act, and sections 3, 5, and 7, the substantive provisions.

Section 2 (a) and (b) tracks the language citations that come about as a result of the 1966 codification of title 5 of the United States Code. Section 4 deletes language now in the act concerning the compensation due the Commission's staff director which was superseded by Public Law 89–554 and Public Law 88–426. Section 6 merely amends the citation to the sections of title 18 of the United States Code which were changed by Public Law 87–489.

The substantive changes found in section 3, 5, and 7 do relatively little to change the Commission or its work. Section 3(a) adds the authority to study, collect information, and appraise the laws in regard to discrimination on account of age or handicap; section 3(b) extends the Commission's existence for an additional 5 years. Section 5 would require the establishment of State Advisory Committees. Section 7 authorizes those appropriations necessary to carry out the Commission's duties during the extension until fiscal year 1983.

Mr. Speaker, the Subcommittee on Civil and Constitutional Rights, of the House Committee on the Judiciary, will begin hearings on this bill within the month.

The bill follows:

H.R. —

A bill to extend the Commission on Civil Rights for five years, to authorize appropriations for the Commission, to effect certain technical changes to comply with other changes in the law, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Commission Act of 1978".

SEC. 2. (a) Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b.(a); 71 Stat. 635), is amended by striking out "in accordance with section 5 of the Administrative Expenses Act of 1946, as amended" and inserting in lieu thereof the following: "in accordance with section 5703 of title 5".

(b) Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975b.(b); 71 Stat. 635) is amended by striking out "in accordance with the provisions of the Travel Expenses Act of 1949, as amended" and inserting in lieu thereof the following: "in accordance with the provisions of subchapter I of chapter 57 of title 5".

SEC. 3. (a) Section 104(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a); 71 Stat. 635) is amended by striking out "and" at the end of clause (5), by redesignating clause (6) and all references thereto, as clause (7), and by inserting after clause (5) the following new clause:

"(6) study and collect information concerning legal developments constituting unlawful discrimination or a denial of the equal protection of the laws under the Constitution on account of age, or with respect to handicapped individuals as defined by the second sentence of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6); 87 Stat. 361), appraise the laws and policies of the Federal Government with respect to such discrimination or denials on account of age, or with respect to handicapped individuals as defined by the second sentence of section 7(6) of the Rehabilitation Act of 1973, and serve as a national clearinghouse for information in respect to such discrimination or denials on account of age or with respect to handicapped individuals as defined by the second sentence of section 7(6) of the Rehabilitation Act of 1973; and". (b) Section 104(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975c.(b); 71 Stat. 635), is amended by striking out "1978" and inserting in lieu thereof "1983".

SEC. 4. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d.(a); 71 Stat. 636) is amended by striking out "and who

shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year".

SEC. 5. Section 105(c) of the Civil Rights Act of 1957 (42 U.S.C. 1975d.(c); 71 Stat. 636) is amended by striking out the word "may" the first time it appears and inserting in lieu thereof the word "shall".

SEC. 6. Section 105(d) of the Civil Rights Act of 1957 (42 U.S.C. 1975(d); 71 Stat. 636) is amended by striking "sections 281, 283, 284, 434, and 1914 of title 18, and section 190 of the Revised Statutes" and inserting in lieu thereof "sections 203, 205, 207, 208, and 209 of title 18".

SEC. 7. Section 106 of the Civil Rights Act of 1958 (42 U.S.C. 1975e.; 71 Stat. 636) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.".

THE PEACE CORPS AND LIGHT CAPITAL TECHNOLOGY

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. LONG of Maryland. Mr. Speaker, helping the poor people of the world to help themselves is the principal goal of the U.S. foreign aid program. Through light capital technologies that will enable small farmers and rural craftsmen to create their own "sweat capital," we can initiate endogenous development among the hundreds of millions of small producers in the poor countries.

I should like to bring to my colleague's attention a recent speech by Mary E. King, Deputy Director of ACTION, on the importance of appropriate technologies in involving the poor in their own development. In her speech, Ms. King describes how Ecuadorean villagers heard of a new technology in use nearby—a methane generation plant producing cooking fuel and fertilizer—and how these villagers asked a Peace Corps volunteer to help them build such a plant in their own village. This example illustrates the importance of providing poor people with information on existing technologies they can use as well as rural villagers' eagerness to help themselves.

The existing network of 6,000 Peace Corps volunteers around the world could provide a vital link in a worldwide information and delivery system for light capital technologies. I hope my colleagues will take the time to read the speech which follows:

REMARKS BY MARY E. KING

I am particularly pleased to address this meeting of the Partners of the Americas. The word "Partners" has a special significance for me, not simply because I am here representing the Peace Corps, another organization committed to the concept of partnership.

Indeed, we enjoy a special contractural agreement with the Partners to identify Volunteers to work in special education with mentally retarded, the blind and deaf. We have long worked together in agriculture, nutrition and health.

But the concept of partnership has meaning for me because of what I learned when I worked in the civil rights struggle in my country. The lessons are clear. Meaningful change comes about only when people work together in partnership, not as donors or recipients, but as equals, with an equal obligation to participate. The civil rights movement taught me that change cannot be bestowed from without nor can it be imposed from above; it can only be the result of the full participation of the people most affected.

So, too, in development.

It is clear that the principles relating to the involvement of people in their own development are universal: they apply to small communities, to nations, and to interaction between nations. Nothing can ultimately be substituted for the direct involvement of people, people who feel a deep sense of commitment to finding locally relevant solutions to local problems.

The Partners of the Americas and the Peace Corps have long held to these principles of participatory development. Today, as political leaders and development theoreticians increasingly come to these same conclusions, we have a special responsibility and a unique opportunity to serve as an example to the rest of the international community.

This leads me to my topic—"Appropriate Technology, the Key to Participatory Development."

Technology can be defined as the application of scientific principles for the achievement of "Progress." But when we talk of Appropriate Technology, we are talking about an approach, an attitude, a way of looking at the nature of change—a strategy which leads to meaningful development through increased self-reliance at the local level.

Writing over 40 years ago, Mahatma Gandhi said that helping small-scale industries and otherwise strengthening local communities, "provides an outlet for the creative faculties and resourcefulness of the people . . . It may harness all the energy that at present runs to waste."

The Appropriate Technology approach to development taps this energy and talent, and is based on certain principles. Let me suggest these three principles for our thought and discussion:

1. Development begins at the community level and moves upward and outward to build nations; it cannot be imposed "from the top down"

2. The goal of development is self-sufficiency, not reliance on external resources with resulting dependency.

3. No meaningful change can take place if people are not involved as full participants in the development and use of their own resources.

Generally, appropriate technology implies low cost, small-scale, labor-intensive solutions to local problems.

Always, it implies understanding that undue reliance on finite resources will inevitably lead to social and economic dislocation, and that all solutions must be socially and culturally appropriate to the particular setting.

The means and processes brought to bear, then, are those that can be reproduced and continued locally, without the need for unrealistic amounts of outside capital or technical support. At their best, appropriate technologies should be replicable in other communities, but only when and where it makes sense in local terms. Basic to appropriate technology is the premise that each approach must be constantly evaluated and reevaluated to determine just how appropriate it is for a given time, place, culture and setting.

As you probably know, questions have been raised about the true intent and impact of appropriate technology. To some, appropriate technology is village-level "busy work," sidetracking people from addressing broader and more fundamental institutional and political reforms. Some see it as second-class "hand-me-down" technology—an inexpensive way for the "have" nations to keep the "have-nots" temporarily satisfied and quiescent while continuing to control the more modern means of production.

Much of this skepticism has been spawned from previous development schemes which in fact were heavy-handed and sometimes arrogant. Such efforts, regardless of intent, imposed Western models on cultures and places where such models were inappropriate or even destructive.

By focusing on the community level, appropriate technology can help a society gradually adjust to the necessary changes that development can cause while maintaining, preserving, even promoting local culture, values and identities. Previous development approaches too often, whether intentional or not, required the wholesale abandonment of cultural standards.

Appropriate technology seeks to work in harmony with the cultural traditions of the area. With its emphasis on limited scale, appropriate technology can serve as a buffer against the kind of bulldozer-mentality development which has caused so much of the world (including large parts of the United States, I might add).

Perhaps the best way to describe appropriate technology is by illustration. Let me briefly tell you about a situation I think you'll agree exemplifies development at its best—leading to the kind of locally-based progress and self-sufficiency we all want to see.

People in the small community of Ilumán in the Province of Imbabura, Ecuador, heard about a machine in nearby Araque which converted cattle manure into a gas for cooking and a fertilizer for the fields and gardens. They went to see this Araque Methane Gas and Fertilizer Plant and were given a demonstration of how it worked. It was, in their words, "maravilloso" and they began to discuss how what they had seen could be usefully applied to their own village.

The Peace Corps became involved when these villagers sent a letter to the Volunteer who was working with the Araque project to ask for Peace Corps' help in establishing a similar methane digester operation in Ilumán. "We ask for your help," they wrote. "We will provide our total effort because we want to carry out this projected work for the benefit of our families."

In their letter, the farmers noted the need for better sanitation in their village. With the digester, manure would no longer be left along pathways or in other community places, but would be collected and converted into cooking gas. In addition, the resulting sludge would be an excellent fertilizer.

The villagers were very interested in the new source of fuel. To get firewood, they wrote, "we have to walk almost four hours to the hill of the hacienda, spend an hour to cut wood, and walk another four hours back to our house to cook with this wood, which lasts at most four days." Years ago, they could pick up the wood freely near their homes; now their land is denuded and bare, and they have to pay the owner of the hacienda for the privilege. "We are not satisfied living this way," they said.

Something else particularly attracted the people of Ilumán. Cattle would be kept in a central stable in order to facilitate the collection of manure for the digester. Villagers had long wanted a stable, because theft of cattle was a major problem. Many were forced to guard their precious cattle in their own houses with their families during the night.

There were several basic, predictable gains which would result from the methane digester. Yet, there is more to the story. When the pipes for the methane gas were installed in the village, they were tested for leakage with water. The sight of clear running water

in their houses prompted the village women to ask for a change in the plan. Our Volunteers are now working with them to convert the system so that it can deliver both water and gas, alternately, through the same pipes.

Three Peace Corps Volunteers served the people of Iluman. But the actual work—and even more importantly, the enthusiasm and desire—was based in the local community itself. The villagers are committed to the very hard work of building the digester because they know the potential the system offers.

You know as well as I do that "biogas generators" like the one in Iluman are not new. In various forms, such systems have been used for decades in India, China and elsewhere. To me, what is significant in this story is the development of human resources through the partnership of the Peace Corps Volunteers and the villagers—with appropriate technology. Although some of the skills and knowledge came from outsiders, there is NO way that this technology could have been imposed from outside on that village.

No expert could have predicted that a group of villagers would decide to use an alternative energy technology because their cows were being stolen, or that others in their village would become interested in joining the project because a test for leaks in the methane pipes resulting in running water in the houses of participating families. And the project is successful not just because the Volunteers are committed but because the people themselves want it to be; they have invested their energy, their sweat, their hopes—themselves—to make it succeed.

Appropriate technology recognizes that true development takes place only when the people who are to benefit are truly involved and committed.

Development theoreticians and practitioners are increasingly realizing that the focus of appropriate technology should be village-level development—as an antidote to the failure of 25 years of large-scale, capital-intensive development. But the principles of appropriate technology are equally applicable at all levels of development; both in the United States and in other countries. As an example, let me cite the predicament in which the U.S. finds itself with its current health care system.

Hospitals in the U.S. have become classic examples of what happens when technology is applied for technology's sake, losing sight of people and their real needs.

With massive expenditures of capital and professional energies, we in the United States have some of the most sophisticated medical training, records and facilities in the world. Yet at the same time, right in the nation's capital, the infant mortality rate of 29 per thousand live births in 1975 was higher than Taiwan's, which was 26. In that same year, the median income in Washington, D.C. was $9,583; in Taiwan it was $810. And life expectancy in Sri Lanka is higher than it is in Washington, D.C.

The hard fact is that in the U.S. something is wrong with our system of health. A single day in an American hospital can cost a patient several hundred dollars; care has become so costly that many don't even seek assistance when they need it.

We must, therefore, live with the contradiction of having highly sophisticated means to meet specialized problems and wholly inadequate, low-cost primary health care capabilities. The U.S. health system, in short, is inappropriate for large numbers of our nation's people. It has specialized and priced itself beyond reach of the basic needs of people in meeting the professional needs of practitioners and providers.

I believe that this situation can be turned around, especially if we're willing to learn from the experiences of other countries. Tanzania may be one example to study. President Julius Nyerere put it this way, "While other countries aim to reach the moon, we must aim for the time being to reach the village."

In 1972, over half of Tanzania's health budget went to hospital and high level care. By 1976, that number had dropped to 12 percent. The bulk of Tanzania's health budget last year was turned to more immediate primary care health needs.

The use of paraprofessionals, community based clinics, massive health immunization, and nutrition education programs—these are areas where the U.S. could learn a great deal from nations far ahead of us. The Peace Corps sends its volunteers to assist local communities. But equally important are the lessons they bring back to the United States.

The kind of volunteer exchange work in which you are involved has that same dual practical application. Texans going to work in their partner nation of Peru can go not only to assist Peruvians, but also to observe and study ways to improve basic social conditions and to foster cross-cultural understanding. And visiting Peruvians can offer assistance and also absorb information in a similar fashion. Ecuador has a partner in Idaho. Maybe the people from the mountainous area of Iluman could teach a few things to people from the mountains of Idaho.

We are coming to realize just how much is left to develop right at home in the U.S., how much we have to learn from others. In many countries, for example, women have much higher professional status, have more to say about policy, more control of family and community life and have more of an integral role in community and village life than is true in parts of the United States. Where women's efforts and contributions are wasted or downgraded, everyone loses. Some of you can be an example and a model for us.

We truly are partners here in the Americas. Partners in need, partners in interests, partners in meeting the economic, social and political needs of all of our people.

The Partners of the Americas represent the pluralism of the Americas as we are entering a period of perhaps less formal but more intense cooperation. We need to consult closely with each other, to assist and learn from each other's work.

The development work of private volunteer groups such as the Partners of the Americas has been outstanding. And while development needs still far outstrip all current efforts, volunteer potential is boundless. If the people of the Americas can be involved—as volunteers—in meaningful, relevant work to improve the situation for all our people, together we can move to meet basic human needs, and meet them in technically and culturally appropriate ways.

Appropriate technology can be a thread tying our efforts and our roles together. The opportunity exists now to achieve real and positive gains by building on the desire and resources of the people for whom our development programs are designed.

Pablo Casals once found the Peace Corps exciting in this way:

"It is new and it's always old. We have in a sense come full circle. We have come from the tyranny of the enormous, awesome discordant machine," he said, back to the realization that the beginning and end are people, that it is people who are important, not the machine; that it is people who account for growth, not just dollars or factories, and above all that it is people who are the object of all our efforts.

It is that vision we must all retain. Otherwise all the programs, all the spending, all the efforts in which we're engaged lose their point and their meaning.

THE 300TH AVIATION COMPANY

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. MILFORD. Mr. Speaker, I would like to call to the attention of my colleagues a special group of Army reservists in the Dallas/Fort Worth area.

The 300th Aviation Company, first organized in 1956, is composed of Army reservists who are also aviators. I believe this company is highly deserving of public recognition for their commitment to the ideals and purpose of the U.S. Army and its Reserve program.

Not only has the 300th maintained combat proficiency, but they have taken an active interest in community affairs. Individuals in the 300th have been cited for heroism in the rescue of three local citizens. Two were rescued from a creek flooded by torrential rain and one from a burning mobile home which was spotted on a routine training mission.

Our Reserve Forces are extremely important to our overall national defense policy. Since 1970, U.S. defense policy has consisted of small active professional forces immediately supported by reservists.

The All-Volunteer Force is a new concept. Some 820,000 personnel in selected Reserve units are now the only ready source of manpower for about 6 months, in any future conflicts.

Unless these Reserve units are combat-ready and capable of meeting exact deployment schedules, the concept fails. I believe the 300th Aviation Company meets the test. The 300th is stationed at Dallas Naval Air Station and has 31 UH–1 type helicopters assigned to it.

The primary mission of the 300th Aviation Company is to maintain combat proficiency. If called to active duty the company would support ground elements in conducting combat operations. Training goals are accomplished by meeting one weekend per month.

The unit conducts a 2-week summer camp annually for a total of 39 days of training per year. Pilots and crew members are authorized 24 additional flight training periods to assist them in maintaining their flight proficiency. Each aviator is required to fly a minimum of 80 hours per year and must maintain proficiency in a number of skills to include instruments, tactical, nap-of-the-earth, emergency procedures, formation and external load operations.

Because the unit is self-sufficient, unit enlisted personnel must remain proficient in aircraft maintenance, supply, administration, food preparation, finance, avionics, ground equipment maintenance and many other skills.

In addition to its primary mission, the 300th has taken a strong interest in community affairs. Through the USAR Boy Scout program, the company acts as sponsor and assists an Explorer Troop. A working relationships with local units of the Civil Air Patrol is maintained.

Joint training of Civil Air Patrol Cadets and USAR flight crewmen is conducted on simulated search and rescue missions. The unit has given support and realistic training to other Reserve, National Guard and ROTC groups in the Dallas/Fort Worth area.

I believe a strong, effective Guard and Reserve is the only alternative we have to larger, more costly active services. Pressure to keep defense spending down has made us more reliant and dependent upon the Reserve Forces. With this in mind, I think we must be prepared to invest money in the Reserves and provide the necessary training and equipment that is needed for a first-rate Reserve Force. I am proud of the 300th Aviation Company in the Dallas/Fort Worth Metroplex.

THE F–15 ONLY "DOUBLES TROUBLE"

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. EILBERG. Mr. Speaker, the news media continues to report that the Carter administration intends to propose the sale of 60 F–15 fighter bombers to Saudi Arabia.

The proposal will likely generate a great deal of heated debate. For this reason, I noted with special interest a January 27, 1978 New York Times column by James Reston, who points out that regardless of how one feels about the merits of the proposed sale, it clearly comes at an extremely poor time in light of the delicate negotiations now underway in the Middle East.

As Mr. Reston explains, this is no time to propose an arms sale of this magnitude. It has a large potential for disrupting the balance of power in the Middle East, and it unnecessarily presents a divisive issue to Congress at an inopportune time.

As the following column by Mr. Reston states, the proposed sale of the sophisticated F–15 fighter bomber only "doubles trouble" in the Middle East at a time when we would better serve the interests of peace by a more moderate approach to the problem.

[From The New York Times, Jan. 27, 1978]

HOW TO DOUBLE TROUBLE

(By James Reston)

WASHINGTON, Jan. 26.—Just when nobody needs it, another disruptive controversy is surfacing in Washington over Saudi Arabia's efforts to buy 60 F–15 fighter-bombers from the United States.

The F–15 is probably the most effective modern fighter-bomber in the world today. The Ford Administration originally promised to sell these planes to the Saudis, and President Carter, when he was in Saudi Arabia, apparently agreed to go through with the deal.

This is violently opposed by Israel on the ground that such a sale would alter the balance of power in the Middle East. So the outlook now is for a divisive debate on the issue between the Arabs and the Israelis and between the Carter Administration and the Congress precisely when the United States is trying to revive the Israeli-Egyptian peace talks.

The arguments for the deal within the Carter Administration—and this argument goes very high in the White House—is that Saudi Arabia is central to global stability and a moderate Arab world. It is important to the United States, according to this view, and also important to Israel.

In support of this argument, the highest security advisers to Mr. Carter emphasize that Saudi Arabia has been financing President Sadat and the more moderate Arabs; that it has opposed even higher oil prices and kept production of oil higher than it should have in its own interests; and that it is now threatened by the Soviet Union's efforts to establish military bases on Saudi Arabia's flank at the southern gate of the Red Sea.

The Israeli arguments against the deal, now being widely circulated in the Congress and the press here, are:

The F–15 is a very special aircraft, superior in its versatility, maneuverability and firepower, and would be a threat to the security of Israel, particularly if it were to be made available to other anti-Israeli states or taken over by militant Arabs in a coup against the Saudi Arabian monarchy.

The Saudis, according to this pro-Israeli argument, are already receiving 110 special F–5E fighters and 250 M–60 battle tanks from the United States, 300 French AMX tanks, and have not only produced a new military establishment in the last five years at a cost of over $12 billion but are building a major military complex at Tabuq, 125 miles from Israel's major southern port of Eilat and 140 miles from Sharm el-Sheikh on the Straits of Tiran.

If the Begin-Sadat peace talks had really broken down all the way, and the Israelis and the Arabs were squaring off for another tragic war, maybe the Saudi insistence on getting 60 of these special planes, and the Israeli opposition would make sense.

But what is developing here is a propaganda war over weapons before Messrs. Begin and Sadat have had a chance to remember why they startled the world with the hope of peace in the Middle East and what they are now in danger of losing.

For example, the American-Israel Public Affairs Committee in Washington has just put out a memorandum which not only calls the United States-Saudi deal a "threat to peace" but suggests that, if the deal goes through, Israel might have to take military action against Saudi Arabia in any major threat of war.

"If Saudi intentions are ambiguous or appear to be leaning toward involvement in a war," the memorandum says, "the Israelis will have to take this into account. During an Arab attack against Israel, should F–15's be stationed at or transferred to bases in the Northwest, the threat posed to Israel may compel the Israeli Air Force, faced with a multifront war, to undertake immediate strikes against these bases and aircraft even if Saudi Arabia had not yet brought its forces into the war. . . ."

So what's going on here? What is the point of this kind of talk at this awkward and sensitive but still hopeful time in Middle East negotiations? Why, if the Saudis are so "moderate" and "peaceful," are they pressing so hard now to get F–15's, which, even if they got them, couldn't possibly be put into operation by their own people for years? And why did President Carter go along at this particular time?

He is obliged, under present law, to notify the Congress 20 days in advance of his intention to make such an arms arrangement. And then he would be free to go through with it if the Congress did not forbid him to do so in the ensuing 30 days.

This would mean, if he gave notice Feb. 1, as I am told the Administration is now thinking of doing, that this military side issue would be dividing the Congress while Messrs. Sadat and Begin are still trying to come to their senses, when the Congress was trying to reach the long-delayed compromise on the energy bills, and when the Panama Canal treaties were coming up for debate in the Senate.

No doubt there is something to be said on both sides of the F–15 issue, but right now it only doubles trouble. As General Jackson said at the Battle of New Orleans: "Let's elevate them guns a little lower."

HOME HEALTH CARE

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. COHEN. Mr. Speaker, I join Mr. HAROLD FORD, my colleague on the House Select Committee on Aging, in cosponsoring two pieces of legislation introduced today by our chairman, Mr. PEPPER, to expand home health benefits under medicare and to improve information about home health programs through a national clearinghouse.

Since its inception, our committee has advocated a broad range of services to meet the needs of the chronically ill and disabled elderly in our society. Home health care is among these necessary services. Unfortunately, however, the Congress and the administration have not fostered the development of home health or other in-home services within Federal entitlement programs. They have been reluctant to make these services available without assurance that the public dollars needed to support such care would be well spent. As a consequence, Federal health care aid to the elderly relies almost excusively on costly institutional care, which is often inappropriate to treat the chronic conditions of the elderly and contrary to the wishes of the elderly themselves who want to remain independent in their own homes.

Two Government reports illustrate this point. The General Accounting Office has just released a report entitled, "Home Health—The Need for a National Policy to Better Provide for the Elderly." In that report, statistics indicate that approximately 17 percent of those 65 and older are considered greatly or extremely impaired. For these impaired older Americans, the costs of home care services exceed those of services provided by institutions. However, only a fraction of greatly impaired older citizens are in fact, institutionalized. Many of those not institutionalized prefer to remain at home, despite the additional costs. On the other hand, of the 5 percent of the elderly who are institutionalized, not all of them are severely impaired. A study done by HEW revealed that between 14 and 25 percent of those in institutions did not need that intensive level of care. These individuals have been placed in institutions, not because the institution is the best mode of care, but because, when financial alternatives to such care are not available, it becomes expedient.

The growing demand for quality, cost-effective home health services is begining to be heeded. HEW held hearings in the fall of 1976 which documented the need for a more coherent Federal policy on home health care. The hearings suggested that the issue of agency sponsorship would become less important if quality standards and appropriate cost controls were in force.

The issue of quality standards was addressed by the Congress in the recently enacted Medicare/Medicaid Anti-Fraud and Abuse Act. Section 18 of that act is based on legislation I introduced to insure quality care and effective utilization of the Federal Government's home health programs. We need standards for participation in Federal programs which are uniform, adequate, enforceable, and open to all providers who can meet them.

With these standards, which should be forthcoming later this year, we will be in a position to liberalize our Federal home health care benefits without fear that the Government will be forced to intervene in crisis situations, such as recent instances of fraud and abuse within the nursing home industry.

At present, home health benefits under medicare have been minimal because of requirements that confine beneficiaries to their homes and require that they be in need of skilled care, that limit the number of home visits and services which could be offered, and that require the beneficiaries to be hospitalized prior to receiving home health care. These barriers to home health care encourage overuse of institutional care. Clearly, present controls are misdirected, both in terms of patient need and suitable care.

Added to this is the proliferation and fragmentation in those long-term care and social service programs that now exist. At least eight programs, including medicare, medicaid, Title XX Social Services, and the Older Americans Act, provide supportive services for the elderly in their own homes. Each of these programs has a different set of eligibility requirements and income limits, and often they are governed by conflicting regulations. Until or order can be brought to this disarray, the elderly will be frustrated in their quest for the limited assistance to which they are now entitled.

Mr. PEPPER's bills are now sorely needed to move us toward a more rational, coordinated, and cost-effective approach to the Federal financing of home health care.

The first bill the Medicare Home Health Amendments of 1978—draws from the findings of the previously cited GAO report in determining how Federal home health benefits can be liberalized, taking into account budget limitations. Briefly, the bill would amend the medicare law to:

Remove the requirement of prior hospitalization as a qualification for receiving home health care;

Remove the requirement that a patient be confined to home;

Remove the limits on visit under both the hospital insurance and medical insurance programs; and

Add services to help maintain persons at home, such as periodic performance of household tasks, transportation for doctor visits, essential shopping and simple household repairs.

In GAO's view, the costs associated with these changes would not be prohibitive and could provide disincentives to institutionalization.

The second bill—the Home Health Clearinghouse Act—would provide for the establishment within the Department of Health, Education, and Welfare of a "Home Health Clearinghouse" to promote effective coordination and delivery of home health care by collecting and disseminating concise, understandable information regarding the availability of in-home services under Federal, State, local, and private agencies. The elderly need a place where they can obtain information on the health programs available to them.

The health care needs of the elderly are beyond the scope of the traditional health programs we have for them. We have the opportunity to establish a system which is not only cost-effective, but which allows the chronically ill and disabled elderly the dignity of a choice between care options. These bills deserve the thoughtful consideration of my colleagues, and I commend them to their attention.

SOCIAL JUSTICE IN SOUTH AFRICA: ECONOMIC JUSTICE IN THE UNITED STATES

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. MAGUIRE. Mr. Speaker, I have introduced a resolution today which would overturn the decision of the President to reject the recommendation of the International Trade Commission that import relief be granted to U.S. producers of high-carbon ferrochromium (HCF).

Increased imports of HCF are causing serious injury to the domestic industry and threaten its future survival. Much of the increased penetration of imports comes from South Africa. Since 1974, South African production has quadrupled, now approaching half the total requirement of ferrochrome worldwide and twice the maximum American demand for ferrochrome. This ambitious expansion has been undergirded by a pervasive system of production and export subsidies and benefits afforded the South African companies by their Government. The most objectionable, indeed immoral, aspect of this system of support is the governmental policy of apartheid, which enables the South African companies to exploit black labor at wage rates well below American wages. Further social repression and economic exploitation of that country's majority must not be condoned by the United States; nor should American labor and industry suffer because of the importation of goods produced cheaply under apartheid.

As a matter of economic and social justice, I urge quick and favorable consideration of this legislation by my colleagues.

THE BWCA: A SUMMARY OF THE CENTRAL ISSUES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. FRASER. Mr. Speaker, as the debate over the future of the Boundary Waters Canoe Area continues, it is important that we not lose sight of the central issues. Miron Heinselman, chairman of the Friends of the Boundary Waters Wilderness, recently wrote a guest editorial for the Minneapolis Star outlining clearly and concisely the problems on which we need to focus our attention. I think the statement is worth reading.

The article follows:

[From the Minneapolis Star, Jan. 5, 1978]

BWCA: RESOLUTION OF ISSUES SIGHTED

(By M. L. Heinselman)

Congress has now discussed the Boundary Waters Canoe Area problems of wilderness boundaries, logging, mining, snowmobiles and motorboats for two years, and a resolution of the issues is in sight. There is much feeling that no areas in the BWCA should be eliminated from the National Wilderness Preservation System, but that instead a few key areas should be added. Reps. Oberstar and Fraser agree on several additions, and the Carter administration has proposed boundaries similar to Fraser's. Oberstar still maintains that certain areas should be removed from the wilderness and made national recreation areas, but it is very unlikely that Congress will buy that.

A consensus has virtually been reached on ending BWCA logging, the cutoff to be offset by assistance to the timber industry. That approach has been endorsed by Reps. Fraser, Nolan, Quie and Vento, Sen. Anderson, Gov. Perpich, and the Carter administration. The key House committee chairmen, Reps. Phillip Burton and Morris Udall, urged the current logging moratorium, and Rep. Oberstar was very helpful in arranging it with the logging companies. The discussion now has shifted to ways to eliminate any economic impact by compensating the firms for contract terminations, finding alternative timber to offset the BWCA withdrawals, and accelerating the management of pine, spruce and balsam on better lands outside the BWCA.

Almost everyone supports a mining ban. The only question now is the precise bill language. (Copper-nickel) mining outside the BWCA is not involved.)

Snowmobile use remains controversial, but only a few thousand former BWCA users are affected. This is the second winter these machines have been banned, and it would be foolish to reintroduce them.

Motorboat use and the impact of a motorboat ban on resorts on the edge of the BWCA remain the toughest issues. Canoeists seeking solitude are the major watercraft users and they have no alternative wilderness to go to. Five independent studies commissioned by the U.S. Forest Service show that motorboats do mar canoeists' wilderness experiences, and the problem is worsening. In spite of this, present regulations and Rep. Oberstar's bill give canoeists only a small fraction of the water area in our nation's only

canoeing wilderness. Paddlers account for 72 percent of the visitor days of use and 85 percent of all camping groups, but current rules allow motorboaters to use 60 percent of the water area and 63 percent of the campsites.

Many motorboaters come from northeastern Minnesota, but even from there 45 percent of all BWCA watercraft users are paddlers and their percentage is growing. And, while most resort guests come from distant areas, many more canoeists come from afar. But even locally in Cook, Lake and St. Louis Counties there is 2½ times as much water area outside the BWCA as inside, almost all of it available to motorboaters, and some 30,000 lakes are available for such use throughout Minnesota, Wisconsin and Michigan. Congress simply must correct this misallocation of wilderness resources.

There are only 18 or 20 resorts on the edge of the BWCA that are heavily dependent on motorized BWCA fishing, and they serve only a tiny fraction of the resort guests in northeastern Minnesota. Only two are located inside proposed additions, and none remain inside the BWCA. In fact, some 45 resorts and 115 cabins formerly inside the area were acquired with public tax dollars under the 1948 Thye-Blatnik Act, to restore the wilderness and eliminate motorboats and aircraft. This gave resorts on the edge of the BWCA a new advantage, and modern high-speed motors and lightweight boats now allow fishermen from those resorts to penetrate far into the wilderness. Ontario recognized this problem in adjacent Quetico Park and all motors will be banned after 1978.

Fraser's bill has a five-year motor phase-out similar to that for Quetico, but Fraser understands the problems of certain resorts, and has suggested nine new measures to Chairman Burton to soften the impact:

(1) Extend the phase-out to 10 or 15 years on certain peripheral lakes.

(2) Allow permanent motor use on a few peripheral lakes, coupled with horsepower limits and other rules to limit motor impact.

(3) Provide a motorboat corridor to the Canadian side of Saganaga Lake to give Canadian resorts and cabins access from the Gunflint Trail.

(4) Provide funds for Small Business Administration loans to resorts to change their facilities to appeal to a wilderness-seeking clientele.

(5) Provide funds for Extension Service assistance to resorts and communities to help attract guests seeking quiet, motor-free vacations.

(6) Provide funds so that resort owners on certain lakes could voluntarily sell to the government during the phase-out without losses due to value changes, and with the right to retain a residence.

(7) Provide funds for new hiking trails in the BWCA to expand recreational opportunities for resort guests and others.

(8) Provide funds for the completion of some 110 miles of snowmobile trails outside the BWCA.

(9) Provide funds for new accesses and campsites on some 29 lakes suitable for motorboat recreation outside the BWCA.

Our nation has debated the fate of this unique lakeland wilderness for 75 years, and each discussion in the Congress, the Legislature, the courts, or the agencies has moved public policy closer to full protection. If any of those efforts had failed, there would be no wilderness to debate today. Now, at last, it is time to close off these endless debates by giving our only canoe country wilderness the full wilderness status it merits.

BOOK REVIEW

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. BROWN of California. Mr. Speaker, I have recently been privileged to review portions of a new book entitled "The Prospect For Presidential-Congressional Government" by Cohen, Hughes, Lepawsky, Moos, Vile and published by the Institute of Governmental Studies at the University of California, Berkeley. The book is a short one, consisting of four lectures delivered by four of the outstanding scholars of government in our time, with a fifth chapter by Prof. Albert Lepawsky of Berkeley, also an internationally respected political scientist. This last chapter seeks to assess the impact of the Nixon-Watergate years on the role of Congress, and should be of great interest to every Member of this body. The conclusions of the book may be summarized briefly as implying that for the foreseeable future American Government may be one of powers shared between President and Congress rather than powers separated. The book also contains a specific action recommendation, in the light of the numerous changes in Presidential-Congressional relationships which have already taken place or are in prospect. I quote a few lines which contain this recommendation:

Approximately, the present process of institutional revision and constitutional amendment is an experimental and flexible one. But it is unduly sporadic and, worse still, it is crisis-oriented. We need a more regular, continuing, systematic oversight of evolving constitutional arrangements. For this purpose, the appointment of a joint presidential-congressional commission on legislative-executive relations might be advisable, to evaluate, to facilitate, and possibly to monitor the process of change. My fellow authors share my views on the possible value of such a joint undertaking.

Mr. Speaker, in the expectation that many Members will have substantial interest in the content of this book, I am taking the liberty of quoting its foreword and material from Professor Lepawsky's last chapter rather extensively. The quotations follow in two parts. Below is part I.

PART I FOREWORD

Assuming that the incipient tendency toward Congressionalism becomes a more pronounced trend, it will not be the first alteration in the balance of governmental power between Congress and President. The last pronounced oscillation of this kind spanned the political life of Woodrow Wilson, when he was Professor of Government and President of Princeton University, finally becoming President of the United States. From the time of Wilson's basic essay of 1879 on "Cabinet Government" and of his classic 1885 book on *Congressional Government*, in which he then correctly characterized Congress as "the dominant, nay the irresistible, party of the Federal system," and the President as "merely the executor of the sovereign legislative will," to his own dynamic administration and aggrandizement of the Presidency from 1913 and 1920, Wilson presided over a total transformation in the constitutional balance of power.

Are we now witnessing another, milder swing of the pendulum between the Presidency and Congress, this time in favor of the latter? Whatever the answer may turn out to be, the authors of these essays anticipate emergence of a reciprocal set of shared Presidential-Congressional power relationships, as outlined in point number 3 above. Moreover, as documented in the fifth and final chapter, "Reconstituted Presidency and Resurgent Congress," this is the approximate degree to which Congress has actually enhanced its position in relation to the Presidency during the immediate post Nixon period.

The prescience of our four Royer lecturers derives from their comprehension of and commitment to the art and science of politics. Three have been professors and the fourth a university lecturer of political science. All have been senior civil servants or governmental consultants. Three have served in the post of Assistant to the President.

Malcolm C. Moos, who introduces the series with his lecture on "The American Presidency in Contemporary Statesmanship," is a prominent Republican party member as well as a leading educator. In his capacity as an Assistant to the President, he drafted President Dwight Eisenhower's famous farewell address warning the country against the rise of its "military-industrial complex." Moreover, at the earliest stage of the Watergate episode Moos courageously accused his own political party of attempting a *coup detat* against the American voter during the 1972 election. Moos' published works include *"A Grammar of American Politics"* (1949) and *"Politics, Presidents, and Coattails"* (1952).

Benjamin V. Cohen, author of the second lecture, entitled "Presidential Responsibility and American Democracy," is the renowned member of the Franklin Roosevelt Administration's famed team of "Braintrusters," Cohen-and-Corcoran. In that capacity, Cohen was the architect of some of the New Deal's major policies and basic legislation. He has been admired and beloved by both his adversaries and associates. Historian Arthur Schlesinger accurately rates Cohen as the New Deal's "brilliant draftsman and sagacious counselor."

Emmet J. Hughes, who contributes the third lecture on "The Presidency in the American Power Structure," is one of the nation's most versatile publicists and political scientists. His "Living Presidency" was one of the best sellers of the dramatic 1970s.

The fourth and final lecture in the series is by Maurice J. C. Vile on the subject of "Presidential and Parliamentary Systems." Professor Vile has focused his scholarship on the study of Anglo-American constitutionalism, a distinctly relevant specialty today for both the U.S.A. and Great Britain, and he has prepared the report on federalism—"Federalism in the United States, Canada and Australia" (1973)—for Britain's recent Royal Commission on the Constitution.

RECONSTITUTED PRESIDENCY AND RESURGENT CONGRESS

In the wake of the Nixon Administration, it is hard to contemplate the restoration of the powers of the Presidency without taking into account the enhanced role of Congress as a coordinate branch of the American political system. The Presidency still is and is likely to remain this country's pre-eminent governing institution. But if there has been any consequence of the demi-decade of the 1970's, it is a trend away from a pure Presidential government to more of a Presidential-Congressional form.

We are now beginning to reconsider our constitutional doctrine of checks and balances and of the separation of powers between branches of government. This was an

18th Century concept originally enunciated by the French Baron Montesquieu in his somewhat inaccurate description of the British Constitution. It was reiterated by our own James Madison in his Federalist dictum: "If there is a principle in our constitution, indeed in any free constitution, more sacred than another, it is that which separates the legislative, executive, and judicial powers." Today, however, we may with more assurance cite Madison's neglected but countervailing view of the separation of powers doctrine. Neither in Montesquieu's theory nor in British practice, Madison admitted, was it intended that the legislative, executive and judicial branches be "totally separate and distinct from each other" or that "these departments ought to have no partial agency in, or no control over, the acts of each other." On the contrary, asserted Madison, "unless these departments be so far connected and blended, as to give to each constitutional control over the others, the degree of separation which the maxim requires, as essential to a free government, can never in practice be duly maintained.

It is no wonder that in 1974, in weighing the historical evidence compiled by its Subcommittee on the Separation of Powers, the Senate Judiciary Committee concluded, "Our constitution reflects a commitment to shared, not concentrated, power." As we now proceed, in a chastened mood, with reconstitution of the Presidency, we find ourselves involved in recouping for Congress some measure of its historic status in the American system of government.

CONSTITUTIONAL CONTROLS OVER THE PRESIDENCY

At the time of the Watergate exposure, the most positive sanction against a future recurrence of such Presidential malconduct would have been the impeachment of President Nixon under the procedures laid down in the American Constitution. Since 1868, when the impeachment process was instituted against President Andrew Johnson in the House of Representatives but failed to carry in his trial before the Senate, impeachment has been regarded as a moribund institutional device in American government. In 1898, political scientist Henry Jones Ford called it "a rusted blunderbuss, that will probably never be taken in hand again."

Nevertheless in 1974 impeachment proceedings were duly initiated against President Nixon, and successfully cleared the crucial Judiciary Committee of the House of Representatives in July of that year. Although the proceedings were soon interrupted by Nixon's resignation, the impeachment process had had its effect. The Judiciary Committee's articles of impeachment against President Nixon were tightly and masterfully drawn; the facts it marshalled as evidence of his malfeasance were painstakingly presented and persuasive, the committee's deliberations—dramatically televised—were punctilious and awe-inspiring; its debates were statemanlike and transcended political party lines. Its final report was likewise non-partisan, receiving the incontestable support of its members. It was one of Congress' finest hours. There is little doubt that, had Nixon not resigned and had the proceedings continued, they would have been successfully and solemnly consummated by the full House and Senate.

Nevertheless, divergent schools of thought persist on the subject of President Nixon's resignation and "impeachment." Nixon himself and his supporters claim not only that impeachment would have failed in the Senate (where a two-thirds vote is required) but that he consented to resign, not because he was guilty of the impeachable charges, but because his "political base" in Congress and in the country at large had been eroded. In fact, in his televised exculpation of May 1977, Nixon perversely aserted, "I have impeached myself." The opposing school of thought holds that, precisely because Nixon's "political" resignation may be considered by some to have been tantamount to "judicial" impeachment, it was absolutely essential, for constitutional purposes, to consummate the formal impeachment process against him. In the first place, formal impeachment would have confirmed the fact that impeachment was a viable instrument for removing the President, instead of merely giving him the option of resigning. Secondly but more important, formal impeachment would have helped "to constitutionally redefine and to constitutionally limit the powers of the Presidency when those powers have been dangerously extended and abused."

This novel formula for dressing down the President and tidying up the Presidency was contributed by Congressman Jerome Waldie of California in the striking comments he appended to the House Judiciary Committee report on the Nixon impeachment. To emphasize that what he had in mind was a new constitutional sanction, and not a mere judicial precedent, Waldie added:

"It is therefore necessary to consider impeachment not in terms of its effects on Richard Nixon but in terms of its effects on the future occupants of the Presidency. . . . Impeachment for such activities is clearly warranted that we might redefine executive power and thereby limit it that future Presidents will not so abuse their powers—that future Presidents will understand theirs is a constitutionally limited office and an office as to which accountability is ever present."

On this particular point Congressman Waldie was simply the most explicit among the thirty-eight assiduous members of the House Judiciary Committee, most of whom were instinctively aware that they were laying down a binding, though unwritten, constitutional precedent in the Nixon case. Whether it be an actualized sanction or merely an enforceable threat, therefore, the impeachment power may be said to have been salvaged as an effectual as well as a potential instrument for a Presidential-Congressional system.

Now, as a consequence of the recent development unleashed by the Watergate-Nixon involvement, our slow historical pace of constitutional revision is accelerating. Moreover, the principal means is usually statutory enactment and political acquiescence rather than formal constitutional amendment. Above all, the current change taking place in the institution of the Presidency—some accomplished, others pending—transcend questions of structure and selection, and involve critical issues of executive-legislative decision-making and power sharing.

YEAR OF INCLUSION FOR CERTAIN DISASTER PAYMENTS

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. ULLMAN. Mr. Speaker, I am introducing today a bill that would prevent the unintentional bunching of income for farmers who receive farm disaster payments in 1978 with respect to crops which, in the normal course of business, they would have harvested and sold in 1977.

Many farmers who are entitled to "prevented planting" disaster payments or other farm disaster payments for crops which they harvested (or would have harvested) in 1977 did not receive these payments from the Department of Agriculture until 1978. Under present law, in the case of farmers on the cash method of accounting, these payments would have to be included in income in 1978. Since income from crops sold in 1978 will also be reported in 1978, the crop income of these farmers will be bunched in 1978 rather than spread over 1977 and 1978 as would be the normal situation. The primary reason for this income bunching problem was the work backlog of the Department of Agriculture.

This bill would allow a farmer to elect to treat these disaster payments as 1977 income if he can establish that, under his usual business practice, income from his crops would have been reported in 1977.

ATTITUDE TOWARD TAIWAN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. DERWINSKI. Mr. Speaker, Fred Reed is a regularly featured columnist in the Federal Times. In the January 30 edition of that publication, Mr. Reed comments on the attitude toward Taiwan in some segments of our society. I believe that his article is a very profound as well as timely commentary and certainly merits the attention of the Members. The article follows:

[From the Federal Times, Jan. 30, 1977]

PROSPERITY OF TAIWAN ENRAGES THE GURUS

(By Fred Reed)

Blank ignorance seems to be the only qualification for learned commentary on Nationalist China. If a man has never set foot on Taiwan, he is an authority. If he cannot name three of its cities, he is a pedigreed expert, registerable with the AKC.

If he can mispronounce T.V. Sung and H.H. Kung with an air of elephantine pedantry, there is no describing his respectability. He is a 24-carat, platinum-washed, ruby-studded guru, fit to eat granola with the Maharaj Ji.

Washington swims in gurus, with a few experts bobbing in the waves.

The guruish set believes, or says it believes, that Taiwan is a sort of oriental Leavenworth, dreadfully oppresed, whose inmates make calculators instead of license plates. Actually what Taiwan makes is money, and it infuriates the gurus. The dreadful-oppression view is terribly chic, a lot of fun for cocktail mynahs, and suffers only the minor defect of being wrong.

Untruth is a minor defect from a guru's point of view, because the public seldom goes to Taiwan. Truth in propaganda tends to vary inversely with ease of verification.

I am not a guru. My own ignorance of Taiwan was tainted by ten months of living in an alley off Tung An Jyeh in downtown Taipei—distinctly not a silk-stocking neighborhood. At no time was I trampled by liberal senators in search of facts, nor did I see Ted Kennedy lurking Holmeslike in an alley, peering at things with a magnifying glass. Although my own ignorance is sullied, fairness requires me to say that his is intact.

A FEW THOUGHTS

If a disinterested traveler flew into Taipei from California, he would find it drab, poor, and boring. By comparison to Los Angeles, it is.

But suppose he took six months to reach Taiwan by the instructive route—overland from Istanbul, down the peninsula to Indonesia, and then to Taiwan. He would gain astonishing insight into what we inaccurately call the developing world. In Calcutta he would see starving children naked in gutters, flies sucking at the drainage from their eyes.

In Indonesia he would see lepers patiently waiting in cardboard hutments, both dissolving in the monsoon. Cambodia is an abattoir, Laos is nothing, Burma is a pathetic backwash returning to the jungle. Generally speaking, the developing world is not developing.

But Taiwan is a bustling little Japan, developing at a rapid clip—not, incidentally, on American aid, which ceased long ago. Every third world colonel has a five-year plan and nothing else. Five years later, he still has a five-year plan and nothing else. Taiwan's development is visible, vertifiable: New reactors at Jin Shan, the longitudinal highway, the new port at Gao Syung. In remote farming villages our traveler would find well-dressed people with color TV, refrigeration, stereo, decent housing, schools.

Gurus scorn the merely material, which they have never lacked. The developing world craves material wealth so that its children won't grow up in the same stinking alleys, swatting the same droning roaches in the same sweltering slums.

In Taiwan, children will not grow up in stinking alleys. If Taiwan's existence weren't so damnably awkward—if it were only modishly to the left—gurus would love it. But alas . . .

Taiwan is a dictatorship, as are most countries. One might note that dictatorship is not an undifferentiated evil, there being considerable range between Marcus Aurelius and Khieu Samphan. Taiwan's people can associate freely with foreigners, marry them, buy stylish clothes which are widely available, listen to the Rolling Stones, buy a broad selection of western books, and buy somewhat censored copies of Newsweek.

These freedoms do not overwhelm someone from the U.S. with their extensiveness. The Russians and Chinese, one notes, allow almost none of them. Here we come to what irritates me about the gurus: Compartmen- * * * think, the insistence on judging dictatorships of the left and right by different standards.

I have an outrageous proposal. Let us judge all third-world countries by the same standards. If we break relations with Taiwan because it is a dictatorship, let us break relations with Moscow and Peking because they are worse dictatorships. If we writhe in ecstasy on learning that a few Mainlanders have wristwatches, we must surely expire of delight that Taiwan has television, stereo and, increasingly, automobiles. In short, let us attempt a modicum of integrity. I foresee the effects on our foreign policy, but let us bite the bullet.

BUT I DREAM

At my next cocktail party a guru will splash into the conversation like a Chesapeake retriever and emerge, dripping, with Chiang Kai Shek in his teeth. Chiang is currently a corpse. Chiang was a schnook in 1949, the retriever will gurgle triumphantly, and therefore Taiwan is the enemy. Confusing an island with a general would baffle an ordinary man, but a platinum-washed guru is not an ordinary man.

And I will slip off into the shadows, defeated, brooding over the future of thought.

HOUSING AND GROWTH POLICIES: THE PROBLEMS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. DORNAN. Mr. Speaker, government at all levels is having an increasing impact on the American homeowner. Nowhere is that more apparent than in my own State, California. Regulations, commissions, zoning laws, and other considerations can create major delays in construction or repair of housing and thereby reduce viable competition in the housing market. The ultimate results are soaring land and construction prices and housing units that are inadequate in quality and quantity.

The impact of growth management policies on homebuilders and owners is explained in a current article by Ross M. Blakely, chairman and president of Coast Federal Savings & Loan Association of California. Mr. Blakely has considerable expertise in this area. His firm has assisted the housing industry in numerous ways: It lent $73 million to homebuilders in the first half of 1977, and has become one of the Nation's most active participants in the secondary mortgage market. I hope that his analysis will be of considerable interest to my colleagues:

[From the Coast News]

CHAIRMAN'S MESSAGE

In Time magazine several months ago there appeared a photograph of a Santa Monica house with this dramatic and very telling caption: Bought 1974, $61,000; Sold 1977, $131,500.

For families in California this kind of information was not news. Developers here tell a grim joke about how it takes four years to win approval on a subdivision, four months to build the subdivision, and four hours to sell the homes. That's how it's been in the state for some time now. The demand for housing has been phenomenal, and the level of new construction simply isn't able to keep pace with that demand. The result: Bought 1974, $61,000; Sold 1977, $131,500.

We've all read about the so-called "affordability gap" in housing; that more and more people are being priced out of housing because those prices have risen beyond the means of the average family.

Inflation, without a doubt, has a major bearing on this widening gap. But there also are other factors at work, factors which in California have served to drive up the price of housing faster than in any other part of the country.

Public policy influences in housing have added substantially to the price of both single family and rental housing throughout the state. These policies may deal with such factors as state coastal zoning laws, sewer moratoria, environmental impact statements and subdivision reviews. They translate into two major cost factors in housing: delay, and increasing land scarcity.

Many jurisdictions in the state have experimented in recent years with land use restrictions and other environmental controls—constraints which impact immediately in higher costs to the supplier of housing. That added cost has been passed along to the consumer. California's penchant for open space preservation, clean air and water and other environmental concerns, has not come without cost. It has added substantially to the price of the average house within the state. In Orange County, for instance, that average price is today at $85,000—and rising. Raw land has become increasingly costly and increasingly hard to find. Costly developmental delays have been uniformly passed along to the homebuyer.

According to a study by the Urban Land Institute (ULI) on the impact of growth management policies on two homebuilders in San Jose, it was found that total public policy related costs between 1967 and 1976 rose by 118 per cent for one builder and by 195 per cent for the other builder. Sales prices of housing built by these builders during that period rose in one instance by 80 per cent and for the second builder, more than 121 per cent.

That study shows dramatically how growth management in San Jose has added significantly to the cost of housing in that area. And, much the same could be said for many other areas in the state. Pointing to a political change within the city government in the mid-1960s, the ULI study says San Jose turned from pro-growth to greater developmental controls.

In 1970, San Jose adopted its first urban development policy (UDP)—with goals of orderly, planned, balanced development; maintenance or enhancement of the physical and social quality of urban life.

Added to the UDP of San Jose was an important State Supreme Court decision that extended the California Environmental Quality Act to require the preparation of an environmental impact report (EIR) for all projects requiring a government permit. The Urban Land Institute study says of this: "EIRs became instrumental in turning cities' attention to themselves, making them aware of their forms and futures. They also gave the city another tool for reviewing and, if desired, delaying or curtailing development."

Those delays and curtailments have heaped additional costs on both new and existing housing. With a growth management policy, raw, vacant land that can be developed for housing becomes increasingly scarce and more expensive. In the case of the two San Jose builders, between 1967 and 1976, the price of that land rose by 29 per cent for one builder and by 168 per cent in the case of the second builder. The price of housing as reflected by just those increases rose by 4.7 per cent in the first builder's case, and by 13.9 per cent in the case of the second builder.

Delays in development created by the various environmental reviews and impact studies, among other public policy considerations, also have added to the cost of the average single family and rental housing unit. According to the ULI study, "Interest paid on land and construction loans, and property taxes paid during the loan periods, are important components of public policy related costs. Property tax paid during the land-holding and construction periods is quite clearly a public policy related cost. The interest costs attributable to public policies are a function of the delays endured by the developer in obtaining final approval to build, the cost of the land (where the availability of land is restricted because of city development policies and land cost consequently rises), and the cost of city-imposed fees."

How much do these delays cost in terms of the average house? According to data of the Construction Industry Research Board, each month that the start of construction on a $60,000 house is delayed, the purchaser of that house will have to add an estimated $900 to the total cost.

In another study, prepared by the Orange County Cost of Housing Committee, which includes consumers as well as construction industry representatives, it is more conservatively estimated that prices increase 1.1 per cent for every month that a residential project is delayed beyond its planned construction start date. A six-month delay in a $40,000 home, in other words, would lift the price of that house by $2,640.

None of this is to suggest that land planning or concern for the environment is less than proper for any jurisdiction. Indeed, good land planning is essential to all of us if we are to avoid excesses and abuses of development. "Good land planning" is the key phrase, and "good" is the important word. "Bad" land planning, whether it goes too far one way or another is still bad.

The pendulum in California appears to have swung to the extreme in terms of the benefits that people can expect from environmental and land use restrictions as opposed to the costs that are mounting from those restrictions. We know a good deal about the cost impact of these restrictions, but we know very little in terms of the benefits resulting from those costs. Clearly, where home prices have climbed to incredible dimensions—forcing too many deserving families out of the housing market—the pendulum needs to swing towards fewer restrictions rather than toward ever-more-stringent ones.

Professor Fred E. Case of UCLA, in a recent study, summed up the situation well for California and, indeed, for the nation. He said, "However noble their purposes, land use and environmental controls are working in direct contravention to the adopted national goal of providing safe, sanitary housing for every American family within its financial means. Whether there will be equivalent individual and social benefits sufficient to modify this national goal still remains to be seen."

Perhaps it's time for state and local government officials to begin to find out if the benefits of these constraints are worth the price being paid by families in our state who have been priced out of the housing market.

AGUEDA IGLESIAS JOHNSTON FIRST LADY OF GUAM

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. WON PAT. Mr. Speaker, recently the Territory of Guam lost one of its most beloved citizens, Agueda Iglesias Johnston. Agueda Johnston was a very special person, an educator, a civic leader, an inspiration, an example. In her 85 years she touched more hearts and minds on Guam than anyone I know. I will miss her. Guam will miss her. Everyone who knew her will miss her.

Agueda Johnston and education were virtually synonymous on Guam. Born on Guam on December 12, 1892, she began her teaching career in 1910 at the age of 15. In 1936 she founded Guam's first high school and I had the privilege of working with her during some of those years before World War II as one of the teachers in that school. She was a source of great personal inspiration. She was dynamic and dedicated, and blended these qualities with an ever-present style of dignity and grace. I never knew her to lose her temper or raise her voice. She was a great example to us all, and when the histories of Guam and her people are written in the future, the name of Agueda Johnston is destined to appear over and over again. Her contributions to the human development of the island were immense, and will continue to be felt for generations to come through the influences and inspiration that she imparted to so many of Guam's current leaders.

It is an honor to offer for the RECORD excerpts from an account of the life of Agueda I. Johnston that appeared in the December 31, 1977, issue of the Pacific Daily News:

[From the Pacific Daily News, Dec. 31, 1977]

SHE WAS TEACHER, MOTHER, HEROINE TO ALL GUAM

Born on Dec. 12, 1892 in Agana, Agueda Johnston began teaching at age 15, "hardly bigger than her students," according to family spokesman Emilie Johnston, her daughter-in-law. Young Agueda taught at the school where she had just graduated, Almacen Grammar School, continuing her education at the same time by taking correspondence courses.

Two years later, according to a Baltimore Sun story, ". . . fate entered her life in the person of William Gautier Johnston." A graduate of Peabody College with two years of graduate study at Vanderbilt, he was serving in the Marines on Guam when he was delegated to instruct island teachers in English. "To Agueda Iglesias, his most brilliant student, he also gave lessons in a still older language and in 1911, the two were married."

William Johnston left the Marines and opened the first theater on Guam, the Gayety. He also operated a soap factory.

As the two raised their seven children, Mrs. Johnston continued teaching until 1925, when she became principal of Almacen, opened the first junior high school (Seaton Schroeder) and served as its principal until 1936.

She was also founder and principal of the first high school, George Washington High School and Teachers' Institute, from 1936 to 1946, when she became assistant superintendent of the Department of Education. She retired for the first time from that position in 1955.

Concurently with those positions, she instructed in the summer normal schools in psychology, English and pedagogy; was public relations officer for the Department of Education, coordinator of nurses at Guam Memorial Hospital, chairman of the scholarship board, a member of the teacher certification committee and the advisory committee for the Territorial College of Guam and a member of the board of education from 1965 to 1973, serving as its chairman in 1949.

Agueda Johnston's life was marked with soaring courage, heroism and suffering, tempered with laughter she generated herself.

In 1934, she helped organize the first troop of Girl Scouts on Guam. She continued taking extension courses to improve her professional qualifications.

William Johnston was arrested and taken to Japan, where he died a year later in a prison camp. His wife was notified of his death by letters in Japanese and Chamorro.

It was forbidden to possess American flags or money. A leader in the resistance here, Mrs. Johnston had two fine silk paintings of her daughter hanging in the living room. As the Japanese admired the paintings, they were not aware that she had hundreds of American dollars hidden behind them.

She knew George Tweed and helped him hide, supplying him with soap, magazines, algebra books and cigarettes she stole from her children.

At first, she told him never to give up.

But later, watching the torture of her friends and relatives, she sent him a message that maybe he should turn himself in, to stop the torture. She asked him not to try to contact her any more.

She sent a message telling him that the Japanese had threatened to kill B. J. Bordallo, and asked him to turn himself in. "One man is not worth the life of the father of 13 children," she said.

Tweed answered that the United States wouldn't hesitate to put a woman before a firing squad for treason if she told where he was hiding, she said.

Her feelings were hurt by that message, for she felt she had done her part. She had been arrested with her daughter Cynthia, her son Tom and her son-in-law Joe Torres. They were separated and Mrs. Johnston was flogged with a cat-o'-nine-tails to force her to tell Tweed's whereabouts. Jagged bits of flesh were torn from her frail body—she weighed only 100 pounds—until she was beaten to the floor. She refused to tell.

Taken before the "big chief," she resorted to flattery, telling him she would be happy to be investigated by "such intelligent gentlemen who were believers in justice."

"He fell for that," she wrote in a letter to her daughter Margaret Goetz, and he let her go after making her promise to tell him if she learned anything about Tweed.

"I'm happy he didn't get caught," she said later, "but I'm not happy about the lives that were lost because of him. We protected him, but not for himself, but because he was a symbol of America."

She created Liberation Day. She had to convince Army and Navy leaders it was worth doing, and a year after the reoccupation, the celebration was established.

"All I had to supply was the building," she said, "and it turned out to be a bamboo shack. When they jitterbugged, I thought they would be hurled through the walls."

She founded George Washington Senior High School. The schools had been closed and ransacked by the Japanese, who used them for barracks buildings and burned books and benches to heat their bath water

Most of the texts were gone. so the teachers mimeographed parts of books (diligently censored by the military) and bits of newspapers and magazines.

In 1946, she became assistant superintendent of the Department of Education, and retired for the first time in 1955.

She campaigned against and succeeded in having outlawed the taxi-dance halls that were thriving. It wasn't the dancing she objected to, it was the "after-hours activities."

It was at this time that she ran for the legislature and was defeated. Deeply hurt, because she felt that the people of Guam didn't want her, she went to the States and stayed with her children. Perhaps she may not have realized the people of Guam may have thought her to be "above politics." She stayed in the states until Typhoon Karen devastated the island. Then she came back, when the island needed her.

Even in sorrow, her sense of humor didn't desert her. When told that a granddaughter would be named Libby for Liberation Day, she quipped, "What's the matter with Del Monte?"

On her return, she helped build parks and schools, and she did so much for the community that Agueda I. Johnston Junior High School was named after her.

At the dedication ceremonies, she looked around at the judges, governors and dignitaries who were her former students and murmured to her daughter, "Some of my students look older than I do."

It was true. Youthful in spirit and appearance, she said in her speech that day, that

she was enormously proud of the tremendous growth of education here. She also admitted there were problems.

"Parents used to deliver their child and say 'He's yours now.' They gave you confidence and responsibility, and you had to treat each child as your own." The disappearance of that unity, she felt, is one reason for today's problems.

Her work with the elderly helped her keep up with the times. "Old folks here are very shy," she said. "They say nothing if you hurt their feelings." So she tried to make them feel wanted, a part of the community.

She was the guiding force behind the foundation of Servicio Para I Manamko. Petite, her dark eyes sparkling, she was in the forefront of the organization, acting as consultant and adviser and appointment director, finding suitable homes and supervising the arrangements.

Mrs. Johnston once received a postcard addressed to "The First Lady of Guam." It had been delivered to Government House, and Mrs. Eldredge, wife of the civilian governor, brought it straight to Mrs. Johnston, saying she knew immediately that Mrs. Johnston was the intended recipient.

Agueda Johnston suffered a stroke last week, and yesterday, she was getting low, Emilie Johnston said. All her children and grandchildren came in to say farewell and some tried to tell her how much she had done for them. Elaine Borja, an adopted granddaughter, said she had received the greatest gift an identity, for "mama" had arranged for her adoption.

THE SUBTERRANEAN ECONOMY IS SPAWNED BY HIGH TAXES AND GOVERNMENT REGULATIONS AND LOSING REVENUE FOR ALL OF US

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. KEMP. Mr. Speaker, at too high a tax rate, taxes do not produce more revenue to government, because ultimately people withdraw their services from the market economy if they do not receive an adequate aftertax reward. Prof. Peter Gutmann has recently produced some important evidence to substantiate this view.

According to Professor Gutmann's estimates, there is a $200 billion subterranean economy in this country which operates on cash in order to avoid the payment of taxes. We all know that this activity exists and on a large scale.

It is clear to me that if tax rates were reduced substantially that this subterranean economy would evaporate and the Government would be able to greatly increase its revenues. The Federal Government's share of this subterranean economy would amount to more than $40 billion at lower tax rates.

I hope that my colleagues will consider Professor Gutmann's evidence carefully before launching into another round of tax reform.

[From Financial Analysts Journal, November-December 1977]

THE SUBTERRANEAN ECONOMY

(By Peter M. Gutmann)

The amount of currency in circulation outside banks is incredibly, indeed suspiciously, large—$380.68 per capita in December 1976, or $1,522.72 for a family of four. Why do people need these amazing sums? The answer's not hard to find: This currency lubricates a vast amount of nonreported income and nonreported work and employment, a whole subterranean economy, untaxed and substantially ignored, whose GNP of almost $200 billion exceeds the entire legal GNP in the middle of World War II.

Who participates in the subterranean economy? Anyone who receives cash in a business transaction has the option of joining. Cash transactions are common in certain kinds of businesses—e.g., retailing, personal services and the classic illegal and quasi-legal activities. Restaurants, car washing establishments, garages, bars and small retail shops, in particular, lend themselves to tax avoidance through cash transactions. Certain types of transactions—payments to casual labor, payments for part-time work, payments of bribes—also commonly involve cash.

How does the subterranean economy affect employment? Obviously, employment is greater than official statistics indicate. Some of those supposedly unemployed, some so-called discouraged workers and even some supposedly not in the labor force at all, are evidently busily at work in unrecorded activities.

The subterranean economy, like black markets throughout the world, was created by government rules and restrictions. It is a creature of the income tax, of other taxes, of limitations on the legal employment of certain groups and of prohibitions on certain activities. It exists because it provides goods and services that are either unavailable elsewhere or obtainable only at higher prices. It also provides employment for those unemployable in the legal economy; employment for those—like the retired who draw social security, or illegal aliens without residence status—whose freedom to work is restricted; and incentive to do additional work for those who would not do it if they were taxed.

MEASURING THE SUBTERRANEAN ECONOMY

We can estimate the size of the subterranean economy by examining the composition of the stock of money, M_1. M_1 has two components—currency and demand deposits. As an economy develops, ever more transactions are typically carried out with checking accounts, and demand deposits grow more rapidly than currency. For years this held true for the United States. In 1892, there were $352 of currency per $1,000 of demand deposits; by 1941, there were only $219—a drop of two-fifths during half a century.

With the war came high income taxes, rationing and controls. As black markets and tax avoidance mushroomed, currency shot up faster than demand deposits. By 1945, currency reached $363 for each $1,000 in demand deposits, making up in four short years the decline of half a century. Never thereafter did the ratio of currency to demand deposits return to the prewar level. Tax avoidance was here to stay.

Still, there was some decline from wartime levels. Currency dropped to $282 by 1950 and reached its postwar low of $249 per $1,000 in demand deposits in 1961. From that point onward, however, currency again grew more rapidly. By 1976, currency reached $344 per $1,000 of demand deposits.

How much of the total money supply is used to lubricate the subterranean economy? We take the pre-World War II period, prior to steep income taxes, as normal. During the five years 1937–41, currency averaged $217 per $1,000 of demand deposits. The difference between this and recent values of the ratio may be taken as a measure of the amount of currency held for illegal purposes. In 1976, for example, the difference measured $127 of currency per $1,000 of demand deposits.

On this basis, of the average $77.8 billion in circulation outside banks in 1976, about $28.7 billion were held for illegal and $49.1 billion for legal purposes. Hence, of the total $304 billion money supply, $275.3 billion represented legal and $28.7 billion—or 9.4 per cent—illegal purposes. The $275.3 billion held for legal purposes were needed to produce the $1,693 billion legal GNP in 1976, while the $28.7 billion held for illegal purposes were needed to produce an estimated $176 billion illegal GNP. (See Exibit 1.)

EXHIBIT 1: MEASURING THE SUBTERRANEAN ECONOMY

	1937–41 (percent)	1976 (percent)	= M_1 (billions)	= Percent	= GNP (billions)
Currency:					
Illegal	0	12.7	$28.7	9.4	[2] $176
Legal	21.7	[1] 21.7	49.1	} 90.6	1,693
Demand deposits	100.0	100.0	226.2	}	
Total			304.0	100.0	1,869

[1] The amount of currency required for legal transactions in 1976 is assumed the same percentage of demand deposits as in 1937–41. The amount of currency required for subterranean transactions is obtained by subtraction.

[2] The amount of GNP lubricated by $1 of M_1—whether currency or demand deposits—is assumed the same for both legal and subterranean activities.

The $176 billion figure may well be conservative. First, the ratio of currency to demand deposits would have continued its decline after World War II, had it not been for tax avoidance; the proportion of currency actually devoted to illegal use is higher than 36.9 per cent, and the illegal income larger. Second, since the end of World War II demand deposits—which are non-interest bearing—have expanded greatly as business has turned to using such deposits to compensate banks for services rendered, rather than paying the banks directly. Since some of the total demand deposits were held, not for transactions purposes, but simply to pay the banks, less than the total $226.2 billion of demand deposits and $49.1 billion in currency calculated in Exhibit 1 was needed to produce the legal GNP of $1,693 billion. In other words, illegal use of currency exceeded $28.7 billion and illegal GNP exceeded $176 billion.

We should note two partially compensating factors. Some currency is held abroad. Further, some currency may be held, not to lubricate the subterranean economy, but to store ill-gotten income. This amount is probably limited, however, since it is expensive to store wealth in non-interest bearing, non-appreciating form during times of inflation.

KEYNESIANS AND MONETARISTS

Our theory fits in very well with monetarists' views, since they believe all money is used for transactions purposes. It sems to fit less well with Keynesian theory, since Keynesians believe money is held for speculative and precautionary uses as well as for transactions uses.

But no one holds any legal speculative or precautionary balances in the form of M_1 anymore, since such balances can be held in interest-yielding savings accounts or short-term money market instruments instead. Only those with illegal speculative or precautionary balances will hold them in the form of the currency component of M_1, and then only if they are deluded about the prospects for inflation.

SUBTERRANEAN EMPLOYMENT

How many people does the subterranean economy employ? The answer depends on the proportion of subterranean income produced by those employed elsewhere in legal, recorded activities and the proportion produced by those employed only in unrecorded activities. Unfortunately we cannot measure this proportion. We can, however, at least put the magnitude of clandestine employment into perspective.

The $176 billion in 1976 illegal GNP correspond to about 8.2 million nonagricultural jobs, using the job-GNP ratio from the legal 1976 GNP ($1,693 billion, distributed among

79 million nonagricultural jobs). Most illegal income is probably produced by those also employed in recorded jobs. But if even 10 per cent of the subterranean economy comes from those not otherwise employed, total employment exceeds official statistics by some 820,000. If 20 per cent comes from the officially unemployed, total employment is more than 1.6 million greater.

Do these figures seem unduly large? Then compare them with a recent Bureau of Labor Statistics announcement. The Bureau found nearly half a million jobholders previously missed through failure to record adequately hiring by new businesses. Then, too, the job total recorded by the states runs about 1.6 million below the national figure complied by the Bureau. No one will bat an eyelash if another million or two workers turn in unrecorded activities.

CONCLUSION

What can be done about the subterranean economy? First, we must stop sticking our heads in the sand, pretending it doesn't exist. Second, we should revise employment, unemployment and labor force figures to take into account reasonable estimates of those employed in unrecorded activities. Third, we should recognize that the subterranean economy is created by government. Fourth, we should admit that the increasing public contempt for the tax system and government regulation is causing the subterranean economy to grow more rapidly, as the rapid growth of currency relative to demand deposits shows.

We must take a long, hard look at the rules, regulations, restrictions and taxes that have spawned the subterranean economy. If we fail to do so, an ever larger part of the total economy will go underground.

CHILDREN: PART OF OUR COMMUNITY?

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. DORNAN. Mr. Speaker, Ohio residents were shocked recently when a U.S. district court judge overruled an obscenity indictment by the city of Cleveland, questioning "whether children should be considered part of the community." The indictment was against the Sovereign News Co. of Reuben Sturman, identified as the largest pornographic distributor in the Cleveland area, and the case has been appealed to the U.S. Supreme Court. In an open letter to District Judge John Manos and the Supreme Court Justices, directed to the Cleveland Plain Dealer, Mrs. Roy Vernon expressed the feelings of many citizens following Judge Manos' ruling. Virginia Vernon's words apply to all of us who would be part of a community—a community not only of peers, but of generations:

OPEN LETTER TO U.S. DISTRICT JUDGE JOHN MANOS (U.S. SUPREME COURT JUDGES)

To accommodate a convicted pornographer you raise the question "whether children should be considered part of the community." Are not all human beings part of a community, be they young or old, well or sick?

As a daughter, beloved by my parents, I was an integral part of a family, an essential being. I belonged! As an infant I belonged to my grandparents, aunts, uncles, cousins and they helped watch over me. I belonged to the church, I belonged to the school, I belonged to my neighbors. I belonged to my community . . . or did I?

As a young woman, I was loved, was married. My friends, my church, my neighbors shared my happiness. We, my husband and I belonged! . . . or did we?

As a mother, the children became persons so important that the church, the schools, the neighborhood became a part of their lives, the community cared! They thought they belonged! . . . did they?

As a grandmother, I share the happiness of my children, with their children. We zealously guard against stumbling blocks put in their path. We anticipate and fully expect the community to be a stepping stone, not a stumbling block. My grandchildren think they belong . . . do they?

Judge Manos, just when did I not belong to the community? Was it as an infant, needing all the help and love from adults surrounding me? Was it as a young wife striving earnestly to be a good partner? Was it as a mother praying that my children would become wholesome and productive individuals? Was it as a grandmother looking to the future in a world that would serve my grandchildren well so that they could in turn become good citizens?

Had my community permitted it I believe that I could have become corrupted at any of the above stages. I believe that a community that does not show concern with a desire to put forth good values and to permit law enforcers to do their job without judges making loopholes for criminals, that community deserves what it gets! All of us, you and I, must be aware of what affects the community, not only those to the left and right of us but those in front and behind us!

VIRGINIA (Mrs. Roy) VERNON.

COFFEE AND IDI AMIN OF UGANDA

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mrs. SPELLMAN. Mr. Speaker, Ugandan dictator Idi Amin is not the person most of us would choose for company over that first bracing sip of morning coffee. But he is, nevertheless, an uninvited guest at many American breakfast tables.

Coffee, America's favorite breakfast drink, is also far and away Uganda's largest and most important export, accounting for 85.5 percent of the country's revenues last year. The United States is Uganda's largest importing market, buying nearly 40 percent of its annual coffee yield.

Today I submitted to the House of Representatives a resolution asking that coffee manufacturers list the percentage of Ugandan coffee on the cans or packages of their products. I did so in the belief that Americans should be able to choose to withhold economic support from a regime which continually abuses the human rights of its citizens.

My interest in this subject was first aroused by CBS newsman Mike Wallace in an interview on "Sixty Minutes." In the course of the interview, Mr. Henry Kyemba, formerly President Amin's Minister of Health, estimated that roughly 150,000 murders have been perpetrated by the Amin regime.

Mr. Kyemba said that Amin casually gives orders to kill and the orders are faithfully executed by his State Research Bureau, a euphemism for Amin's secret police. Membership in the bureau means having a license to kill, Mr. Kyemba said.

The former Health Minister said that these atrocities, as well as Amin's lavish personal lifestyle, are financed by national funds. And the vast majority of national funds come from coffee export revenues. The soaring world price of coffee has brought Uganda nearly $1 billion in just more than 2 years.

Uganda is the fifth leading source of coffee for the United States. We currently pay $300 million annually for Ugandan coffee. There can be little doubt that President Amin has used some of that money to eliminate thousands of Ugandans because they were a real or imagined threat to him.

The current issue of Newsweek contains still another chapter in the shocking and outrageous story of Idi Amin. My resolution would give Americans the opportunity of helping end the saga of atrocities through this refusal to purchase Ugandan coffee.

NEW TACKS AGAINST TERROR

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. DERWINSKI. Mr. Speaker, stronger international efforts to contain terrorism are long overdue. In this regard, I have joined in cosponsoring legislation toward this end. However, this is an international not simply a domestic issue.

I wish to call the attention of the Members to a very positive commentary in the Chicago Sun-Times of January 25, on the need to contain terrorist groups. The editorial follows:

NEW TACKS AGAINST TERROR

In Paris, terrorists kidnap a top industrialist. In Manitoba, a gunman with three hostages demands money and a flight from Canada. In Chicago, three men who refuse to help in a federal grand jury probe of terrorist bombings await release from jail next week.

Terrorist deeds not only remain an oftensenseless threat to innocent people (executives seem especially vulnerable) but world terrorism is rising after a lull. Without fresh steps to combat it, the outlook is grim.

Fortunately, some steps are under way.

A Senate committee holding hearings this week proposes a new anti-terrorism unit in the Justice Department; an array of sanctions—financial, travel and others—on countries that aid or abet terrorists, and new controls on explosives and nuclear materials.

The latter include "tagging" such materials in ways to help trace the source of terrorist bombs, even after detonation.

Though the State Department opposes mandatory sanctions that might hamper diplomats, safeguarding innocent lives may well demand some such steps. Of more concern is how to give anti-terrorist units the

tools they need without weakening constitutional liberties that safeguard basic freedoms—or a nation's right to grant political asylum.

The problems are sticky, but refusing refuge to those who take innocent hostages and denying skyjackers places to land are reasonable starting points—along with sanctions against countries that sit on their hands on the terrorist issue.

Some terrorists have been stopped by sharp commando responses. At times, that's the only way. But prevention is a surer cure.

MORGAN MURPHY POINTS OUT COCAINE DANGERS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. SIMON. Mr. Speaker, one of our colleagues who contributes a great deal to the House on the Rules Committee has gained a special knowledge in the field of drug abuse because of his membership on the House Select Committee on Narcotic Abuse and Control.

An article he wrote recently appeared in the Chicago Tribune, and I am taking the liberty of inserting it into the RECORD at this time so my colleagues will have a chance to see it. It is the kind of article that we would do well to call to the attention of the people of our districts, particularly some of the young people who may not be aware of the dangers of cocaine.

COCAINE: THE NEW "FUN" DRUG HAS SOME UNFUNNY PERILS

(By Morgan Murphy)

In his 1930s song, "I Get a Kick Out of You," composer Cole Porter reflected: "I get no kick from cocaine." But, unlike Porter, increasing numbers of Americans clearly are getting a kick from cocaine.

Cocaine's popularity has been growing steadily since 1970, when the drug surfaced in suburbia after a nearly 60-year existence "underground." Formerly, cocaine was the pastime pleasure and pick-me-up of Hollywood and Broadway entertainers, jazz musicians, and the thrill-seeking rich. Now, cocaine, like marijuana a few years back, has gone middle-class.

Some recent signs of cocaine's increased usage:

In 1976, the federal government, with the cooperation of state and local police, seized 571 pounds of cocaine—almost twice the amount confiscated in 1972. [And this represents, at best, only 10 per cent of the supply.]

Last July, the National Institute on Drug Abuse [NIDA] reported that cocaine "has become a serious drug of abuse." NIDA estimated that some 8 million Americans have taken the drug at least once.

Cocaine has been making more and more headlines of late: Actress Linda Blair ["The Exorcist"] was arrested last October in Florida for allegedly conspiring to buy cocaine. Last May, Louise Lasser of "Mary Hartman, Mary Hartman" pleaded guilty to possession of cocaine.

Why is a drug that is illegal, expensive, and potentially dangerous becoming more popular? For one thing, cocaine is a stimulant, not a narcotic, so it does not cause true physical addiction. As Newsweek recently noted, the cocaine sniffer does not develop a "tolerance" for the drug—a condition that requires him to use larger and larger doses to get high. Nor does the "cokehead" suffer withdrawal symptoms, such as nausea or cramps, when he is unable to buy the drug. [Nevertheless, cocaine's stimulative and euphoric effects can create a strong psychological dependence.]

Another reason for cocaine's appeal: It gives its users a sudden surge of physical and mental energy. Because cocaine is nature's most powerful stimulant, it is valued by a number of people in high-pressure jobs.

Still another reason for cocaine's growing use: As the so-called "Cadillac" of drugs, it has snob appeal. Well-heeled connoisseurs of cocaine sport necklaces with gold or silver razor blades [used to divide the cocaine powder into lines for sniffing]; sniff "coke" through rolled-up $100 bills or from gold spoons, which they wear around their necks; and store it in $350 glass vessels. At some lavish Hollywood and New York parties, a host or hostess will put an ounce of cocaine on the coffee table for guests.

This conspicuous consumption of cocaine, as the Los Angeles Police Department has said, has given the drug the reputation "of being a fun, nonaddictive 'champagne' drug posing no real danger to the user or to society." But this image is deceptive. Cocaine is regularly diluted, or cut, with other substances to increase the cocaine dealer's profits. While the adulterants are usually innocous [such as baking soda and milk sugar], they can be harmful. Among the more risky: strychnine, novocaine, and lime. Even without dangerous cutting agents, cocaine can produce adverse side effects, such as postnasal drip, destruction of nasal tissue and nosebleed [caused by sniffing], as well as a "postcoke" depression. Chronic abusers are prone to fits of violence, paranoia, and psychotic episodes. Of course, those who take the drug intravenously may contract hepatitis from a contaminated hypodermic needle. An overdose can cause convulsions, paralysis of muscles, and respiratory or cardiovascular failure.

What can be done to stop the spread of cocaine abuse?

First, the federal government must strike the cocaine trade at its source of supply. This means the United States must develop an effective drug control program with South American countries, where cocaine smuggling originates. The control effort would call for the exchange of intelligence information on cocaine smugglers; crop substitution for coca shrubs [from which cocaine is extracted]; and treatment of peasant farmers who are dependent on coca leaves for energy and pleasure.

Second, federal and state laws must be tightened to prevent cocaine traffickers from jumping bail and getting light or suspended sentences.

Third, the dangers of cocaine must be publicized in our schools. Tragically, young people all too often find out the hard way that a drug can seriously endanger their health. The message must go out that things don't go better with this kind of "coke."

AMENDMENTS TO THE EDUCATION OF THE HANDICAPPED ACT

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. AKAKA. Mr. Speaker, in a recent article, the New York Times praised the Education of the Handicapped Act, however several questions were raised concerning its practical implementation. It is to this problem of practical implementation that I wish to address myself.

On October 26, I introduced a bill (H.R. 9761) which would amend the Education of the Handicapped Act in several areas. This legislation was prompted by my experience as an educator, as well as by communication I have had with educators and State officials directly affected by the act.

With the start of the new session of Congress, I have decided to contact you regarding cosponsorship of H.R. 9761. The bill would provide for immediate full-level Federal support by first eliminating the phasein of Federal contributions from 5 percent for fiscal year 1977 to 40 percent for fiscal year 1982, and instead authorizing 40 percent of the national average per pupil expenditures multiplied by the child count beginning for fiscal year 1978. The law at present (Public Law 94–142) requires immediate provision for services, and there is no educationally justifiable rationale for a phaseout of Federal support.

The present census method would be amended to provide for duplicated and cumulative count of all pupils receiving special education during the first full school week for the month of February. This census method retains the administrative simplicity of the present procedure, provides an incentive for high quality services, and will give at least partial recognition to special education programs which do not operate on a a daily basis.

The present general supervision method would be amended to specify that the State educational agency shall be assigned responsibility for the general supervision of special education unless State law requires otherwise. States which legally cannot grant the State education agency such authority may satisfy the general supervision requirement by enacting legislation which guarantees the following: First, common standards for special education and related services no matter what agency or jurisdiction provides them; second, a process for coordinating providers of special education and related services, and third, an "agency of last resort" with the power to resolve interagency disputes over responsibility for providing handicapped children special education and related services.

Finally, the value of the individualized education program can best be insured by amending Public Law 94–142 to specify that it is intended as an educational planning device rather than as a contract for services or a guarantee for education achievements. These amendments conform with selected resolutions recently adopted by the National Governors' Conference, and it is my belief that H.R. 9761 will further expedite the laudable services which pupils have been receiving

under the Education of the Handicapped Act.

Mr. Speaker, I would like to insert the bill in the RECORD at this point:

H.R. 9761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 611(a)(1) of the Education of the Handicapped Act is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) 40 per centum, for the fiscal year ending September 30, 1978, and for each fiscal year thereafter, of the average per pupil expenditure in public elementary and secondary schools in the United States;".

SEC. 2. Paragraph (3) of section 611(a) of the Education of the Handicapped Act is amended to read as follows:

"(3) The number of handicapped children receiving special education and related services in any fiscal year shall be equal to the total number of such children receiving special education and related services during the first full school week of February of the fiscal year preceding the fiscal year for which the determination is made.".

SEC. 3. Paragraph (6) of section 612 is amended—

(1) by striking out "(6) The State" and inserting in lieu thereof "(6)(A) Except as provided in subparagraph (B), the State";

(2) by adding at the end thereof the following new subparagraph:

"(B) In any State in which State law prohibits the general supervision required by subparagraph (A), such subparagraph shall be deemed to be satisfied by the enactment of legislation by such State providing (i) for the establishment of statewide standards for special education and related services; (ii) for systematic and thorough coordination of providers of special education and related services; and (iii) for the establishment of responsibility in an agency of the State for the resolution of disputes between educational agencies over responsibility to provide special education and related services to particular handicapped children.".

SEC. 4. Section 614(a) is amended by adding at the end thereof the following: "No program established or revised pursuant to paragraph (5) of this subsection shall be deemed to be contract for services or a guarantee of educational achievement, but shall be regarded as a statement of objectives or goals for the purpose of planning.".

SEC. 5. The amendments made by this Act shall take effect October 1, 1977.

SOCIAL SECURITY

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Ms. MIKULSKI. Mr. Speaker, I wish to bring to your attention a poem written by one of my constituents, a retired woman who is trying to live on a social security pension. Clayre E. McCartle Whiteman has expressed the plight of our Nation's elderly, in this poignant poem:

SOCIAL SECURITY

(By Clayre E. McCartle Whiteman)

Oh, my life on social security,
Has really been a blast.
The prices keep on rising,
And the money doesn't last.

There isn't much that I can do,
I cannot work no more.
My health's not getting better,
And the wolf is at my door.

I get one fourth of what I earned,
And I cannot ask my kids,
I try to be independent,
While my life is on the skids.

We stand in line for food stamps,
Or anything else we need.
While the rich keep getting richer,
They forget the old folks need.

We fill out applications,
Complicated as they are.
They are afraid us older people,
Will get more than them by far.

Well, that is life at 69,
No help seems on the way.
They bring folks from other lands,
And them the welfare pays.

But we elders can't get any help,
Our medicines are dear.
I pray to God, gives me courage,
To get by another year.

THE GOOD SAMARITAN ACT

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. PURSELL. Mr. Speaker, several years ago, a constituent in my district, Dr. Melvin Reinhart, took an airline flight on which another passenger suffered a heart attack. Dr. Reinhart was very disturbed that basic medical equipment was not available to him and the other doctors on board, to assist the stewardess in caring for the heart patient. In the true spirit of the hippocratic oath, Dr. Reinhart promptly began efforts to require airlines to carry basic medical supplies on their planes.

Through contacts with the Federal Aviation Administration, it was learned that such equipment was not available on the airlines because their stewardesses and pilots, and doctors and nurses who were on board, could be held personally and legally liable in suits growing out of the emergency care. The whole question of malpractice insurance has received heightened attention in recent years and Dr. Reinhart's efforts certainly points to the need for fundamental changes in this field.

In response to Dr. Reinhart's efforts, my predecessor, Marvin Esch, introduced legislation to provide legal protection to doctors and nurses and aircraft personnel who assist passengers with medical difficulties. His legislation was supported by the Air Line Pilot Association and the Department of Transportation. Unfortunately, this bill did not see action by the House of Representatives.

However, I strongly believe in Dr. Reinhart's efforts and feel that we should continue to push for legislation which would lift the prohibitive costs of malpractice insurance for those on board airlines. It is frightening when one thinks of what the consequences might be if a person did not receive proper medical care while in flight. It is a fact that fatalities have occurred on airline flights. How many people might have been saved if medical equipment had been available to them? Certainly, better medical care would be available to those persons who become ill during a flight.

Therefore, I am introducing legislation today which will provide the legal protection necessary for doctors, nurses, and aircraft personnel to assist passengers who experience medical problems during a flight. The Good Samaritan Act is similar to the bill introduced by Mr. Esch during the 94th Congress. Hopefully, such a bill will lead the airlines to include basic medical supplies in their first aid supplies. I believe the past efforts of Dr. Reinhart must be recognized and continued in this area. Therefore, I would hope that my colleagues will assist me in supporting this bill and having it enacted promptly.

FALTERING PEACE PLAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial from the Washington Star entitled: "Spoiler's Role in Rhodesia."

[From the Washington Star, Jan. 31, 1978]

SPOILER'S ROLE IN RHODESIA

If the American people understood the spoiler's role which their government is playing in the current Rhodesian negotiations, how long would they tolerate it? Not long, we suspect. They would insist that Ambassador Andrew Young be summoned from the spoilers' conclave at Malta this week, where another attempt is being made to revive the faltering Anglo-American peace plan. And they would probably insist that the U.S. at long last wish godspeed to those who now seem on the verge of negotiating an internal peace in Rhodesia.

This, we say, is what would *probably* happen if the complexities of the issue were understood. Unfortunately, they are not. It is not widely understood that after years of international clamor, Prime Minister Ian Smith has conceded the principles of universal suffrage and majority rule. It is not widely understood that, in response to this, three moderate black leaders—who are thought by informed observers to represent a considerable majority of Rhodesian blacks—have negotiated with Mr. Smith a new constitution providing for assured "minority" representation (i.e., largely white) in parliament; a bill of rights; an independent judiciary; and other institutional arrangements that seem fair and workable. It is not widely understood that this "internal" breakthrough, proceeding from Mr. Smith's concession of universal suffrage, is on the verge of consummation if it is not derailed by the foot-dragging of U.S., British and UN officials, who seem to think the black negotiators should hold out for tougher terms.

Finally, it is not widely understood that the U.S. is closely identified with the unyielding terrorist-guerrilla "front" led by Joshua Nkomo and Robert Mugabe, which is armed by the communists and supported by the five neighboring "front-line" African states.

The peace terms of these "external" forces are extreme. Although Mr. Nkomo has made occasional noises of moderation, Mr. Mugabe recently threatened to "bash" all the "reactionary" participants in the internal nego-

tiations: a threat that may happily prove idle if peace comes to Rhodesia and his guerrilla troops begin to melt away.

Meanwhile, the Nkomo-Mugabe faction insists that Rhodesia's future must be settled between Great Britain (whose crown colony Rhodesia was before declaring its independence unilaterally in 1965) and their "Patriotic Front," whose "patriotic" activities consist largely of the ruthless murder of women, children and the elderly, mostly black. They insist that Ian Smith be deposed, and that they, the intruders and disturbers of the peace, be handed immediate control of the army and the police. In short, they demand capitulation by the Rhodesian moderates; and they indicate no willingness to compromise.

What is so perverse about the U.S. position is that the closer Ian Smith and the black moderates come to an agreement, the more cozily we seem to collaborate with the U.S.-British-UN cabal to undermine it. *The Economist's* Salisbury correspondent reported, on January 21: "There are signs that the (Patriotic Front) is speeding up the war and deliberately picking on black civilian targets in an effort to prevent a peaceful changeover to majority rule. From Salisbury, it appears as if the British foreign secretary, Dr. Owen, and the British commissioner-designate, Lord Carver, are actively discouraging an internal settlement."

In harsher language, the U.S. risks playing accomplice to further bloodshed by pursuing a Rhodesian settlement agreeable to radical outsiders and guerrillas. This is the actual, but we cannot imagine the calculated risk of U.S. policy Why, then, do we take so sour a view of the heartening chances of internal peacemaking?

The reasons must necessarily be a matter of speculation. In Washington, we suppose, it may be thought more important to appease the demands of Rhodesia's "front-line" neighbors than to bring internal peace to the country. The effect of that policy, intended or not, is to sacrifice the moderate majority in Rhodesia, black and white, to considerations of African *realpolitik*.

This is discreditable enough. It becomes unconscionable if one considers how close Mr. Smith and the black moderates are to a peace settlement and a new constitution. As noted by Morley Safer on the CBS program "60 Minutes" Sunday evening, Rhodesia is one of the few functioning biracial societies in Africa. It is not a police state. Its segregationist policies are disappearing. The army and police are predominantly black, and, so organized, can hardly be accounted dependable instruments of white tyranny.

In bitter truth, the Anglo-American policy on Rhodesia seems to be influenced not only by dubious strategic calculations, but also by an uncharacteristically petty-minded British resentment that Rhodesia has made a success of unauthorized independence. Against all odds and predictions, Rhodesia has become a country in being. It needs only the support of the outside world to make reasonable democratic terms with the black majority.

That the U.S. might not only neglect but actually undercut this success is an offense to sense and conscious. Let us call a halt to this foolish policy—now.

H.R. 10705

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. WHITEHURST. Mr. Speaker, on February 1, I introduced H.R. 10705, to assist former spouses of Federal employees in obtaining court-ordered payments. I am introducing a revised version of that bill today, so that there will be no doubt that it is intended for the benefit only of former spouses, and/or children, and not for any other purpose.

Thank you, Mr. Speaker.

GOVERNMENT VERSUS WORKERS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. ANDERSON of Illinois. Mr. Speaker, a constituent from Richmond, Ill., recently forwarded to me a copy of a "guest editorial" from the November 18, 1977, Wall Street Journal, with the comment that, "to read such clear commonsense written by a union official is to restore one's faith in the future of our Republic." He was referring to a press release issued by President Joseph Trerotola and Legislative Aide Nicholas Kisburg of Council 16 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. The thesis of that statement was that "government is in active competition and conflict in two areas with the individual worker: in taxing the employer, the amount available for employee wages is reduced; in taxing employees, the amount available for food, clothing and shelter is reduced. This in turn forces escalating wage demands which result in reduced employment opportunities and even business relocations."

Mr. Speaker, while the Teamsters' release had specific reference to the plight of New York City and State and local tax policies, the editorial points out that it is just as applicable to Federal social security tax policies. I commend the editorial to the reading of my colleagues:

[From the Wall Street Journal, Nov. 18, 1977]

GUEST EDITORIAL

We wrote the other day that no one will be fooled by the Senate's tactic of levying more of the Social Security tax on employers, that "it won't take workers long to figure out that employers can only throw so much money into a wage pot, and that if the government takes more workers get less."

This sparked a call from Joint Council No. 16 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. The Teamsters wanted us to notice the press release just put out by Council 16 President Joseph Trerotola and Legislative Aide Nicholas Kisburg. Its thesis was that New York is going to the dogs because taxes are too high. Mr. Trerotola complained that "state and local government taxing policies can and do nullify private sector union power."

The Teamsters continued:

"There remains one irrefutable reality: government is in active competition and conflict in two areas with the individual worker.

"What government extracts from the individual employer irrevocably reduces the amount of money the employees of that employer will be able to secure through union collective bargaining of individual negotiation.

"What government extracts in the form of open and concealed taxes from the individual worker simply reduces the amount of money available to the family for food, clothing and shelter.

"Having only one source to turn to, the worker attempts to replace the monies expropriated by government by escalating his wage demands on the employer. Thus begins the chain reaction which frequently leads to reduced employment opportunities and, worse, relocation of the business.

"The simple and ironical fact is that the tax collector does not pay union dues, does not walk the picket line, but is nevertheless the first beneficiary of any wage increase secured by the worker. This perfect stranger gets his cut first, leaving a substantially reduced amount for the family."

We couldn't say it better ourselves.

1978 PRAYER FOR PEACE BY DR. BASIL J. VLAVIANOS INTERNATIONAL LAWYER, JOURNALIST, AND PUBLISHER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. ROE. Mr. Speaker, pursuant to the request of one of my distinguished constituents, the Honorable Herbert M. Sorkin of Paterson, N.J., I insert at this point in our historical journal of Congress the following editorial which appeared in the Greek Daily Proini of New York on January 3, 1978. The author, Dr. Basil J. Vlavianos, is an international lawyer, journalist, and publisher and has taught diplomatic history for 14 years as an adjunct professor of public affairs and regional studies at New York University. He also served as a consultant to the Greek delegation at the United Nations, San Francisco Conference in 1945.

This editorial expresses a prayer for peace that all of us may well be inspired and guided by in our daily pursuits, as follows:

PRAYER FOR 1978

Omnipotent God of Goodness,

We salute you with love and humility today as we start once more to count the days and months from the beginning. We embark with good faith and good intention to accept the good and to do good—for ourselves, for our families, for our society, for the country in which we live, for the country of our origin, for the entire world. Help us to discern what is good and to avoid ill. Protect us from evil. Let the light of truth shine inside us and all over the world.

Many of the opportunities you offered us last year we lost. Our weaknesses prevailed. Show us new opportunities, and arm our hearts with the sensitivities to respond to them, our minds with the ability to recognize them, our souls and our wills with the power to use them.

Give us again the blessing of Peace this year. Disregard that we squandered last year, as well as those which preceded, by cultivating lies and violence, by organizing wars and other calamities; that we did not charge ourselves sincerely, tangibly and seriously with the task of securing peace; that we let the petty and temporary interests govern our lives.

Enlighten us to see and to say the truth with courage, thoughtfulness and love; to look high; to walk straight; to accept criticism; to recognise and accept our mistakes; to forgive others more easily than we forgive ourselves.

Without your assistance we are nothing.

Without your divine light we are blind.
Without your love we cannot know happiness.

XEROX PRESIDENT ADDRESSES ROCHESTER CHAMBER OF COMMERCE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. HORTON. Mr. Speaker, on January 9, 1978, David T. Kearns, president of the Xerox Corp., addressed the Rochester Chamber of Commerce on the need to improve the economic climate in New York State, the Empire State. While presenting a very clear picture of our State's unemployment statistics, revenue in relation to expenditures, and the relative position of the snowbelt to the sunbelt States, Mr. Kearns eloquently demonstrates some of the ways in which New York can reverse an unhealthy economic trend. Numbering among his many sound and progressive recommendations is a proposal on tax reform, a key to a revitalized and fiscally sound recovery. I strongly recommend Mr. Kearns' address before the Rochester Chamber of Commerce to my colleagues. The text follows:

LET'S MAKE NEW YORK THE EMPIRE STATE AGAIN

The thoughts I want to share with you this evening have their origins, naturally enough, in my experience as a businessman. But believe me when I say that I am not thinking only of industry's needs. My concern is with the well-being of every resident of the state. New York can be a good place to live and work in only if it enjoys a healthy economy and its governmental structure at every level, has sound financial underpinnings.

Unfortunately, as well all know, the state's economy and its public finances have been in growing disarray for a long time. Many of you are painfully familiar with the litany of depressing statistics that spell out the state's problems.

Nevertheless, I think it is worth our while to review some of these facts in order to put the situation in proper perspective.

Let me share with you some significant information provided by Fritz Grasberger of Rochester's Center for Governmental Research.

One of the more important indicators of the state's economic health is what has been happening to the number of people in manufacturing jobs. In 1960 New York had 1.9 million people employed in manufacturing. By 1976 the number had dropped to 1.4 million, a decline approaching 25 percent This is particularly alarming because, during that same 16-year period, nationwide manufacturing employment increased by 13 percent.

While this industrial job erosion was going on, the number of state and local public employees increased by 50 percent. Fewer than 840,000 government workers managed our public affairs in 1960. By 1976 it took more than 1.2 million.

These were years of public expansion throughout the country, especially in urban areas. But New York State has consistently been in the forefront of public spenders. A look at the most recently available figures, for the 1976 fiscal year, offers a good picture of the situation.

In most categories, only Alaska and the District of Columbia spend more per individual resident. New York was 46 percent ahead of the national average for outlays per resident by the state and local governments.

Not surprisingly, a major problem area has been public welfare, where New York's per capita outlays were 92 percent above the average. In outlays for health services, New York led the country.

If taxes don't bring in all the money you plan to spend, you have to borrow, and New York's state and municipal governments are 128 percent above the national average.

The interest on that debt totaled $142 per resident, leading the national average by close to 200 percent.

Because industry is such a major source of both tax revenue and jobs, the decline of industry in New York State, combined with heavy increases in public spending, has created a near-impossible burden for the state's taxpayers.

The various state and local governments collected more than $11 hundred per New Yorker in taxes during 1976. That is 56 percent higher than the national average of $730 per individual.

The result of all this taxing is the classic vicious cycle. Tax increases cause industry to vote with their feet and leave the state, driving individual tax rates up and thereby increasing the stampede to greener tax pastures.

This vicious cycle must be broken, and it must be broken now. Fortunately, our public officials have become increasingly aware of the magnitude of the problem and have already begun to take steps toward a solution.

It has been especially heartening to see organized labor and business management putting aside their traditional roles as adversaries and joining forces. The New York State AFL–CIO threw its full support behind the Associated Industries organization in its efforts to sell a major business incentives package to Albany. This combined effort succeeded.

Among other things, the resulting law provides a temporary increase in the present investment tax credit, and it extends the job incentive program of state and local tax benefits for new or expanded industrial facilities.

We can also be grateful that New York's elected leaders of both parties recognize the need to cut taxes. As you know, last week Governor Carey proposed a program that would cut 1978 taxes by $750 million.

Another positive note. We have growing evidence that industry will invest in New York State if it is given the right kind of incentive. One of the most striking examples can be found right here in Rochester. I'm referring to the plant that General Motors is building in the Outer Loop/Industrial Park to make emission-control devices.

The plant means 450 new jobs. GM's move is the direct result of local teamwork. Your own chamber executive, Tom Mooney, and Jack Hostutler of IMC worked with Mayor Ryan and other city officials to develop an attractive land-purchase and tax incentive package.

Things are happening on a state-wide level, as well. Earlier I talked about the inflation of public-sector employment and the serious decline in industrial employment since 1960. But between 1975 and 1976, public-sector employment in the state actually decreased 5 percent. And, as important, manufacturing employment increased. Not by much, only a bare 1 percent. But after 15 years of steady decline, even 1 percent is a welcome change of direction.

Now I certainly don't mean to say that New York has its problems licked. The state has a long way to go. New York City is still in a very precarious situation, taxes and state debt obligations are still deadly, and there is hardly any indication of a stampede of industry back from the sun belt. Even the tax cuts that the governor and the state legislature are so determined to deliver are surrounded by uncertainties. It is all well and good to cut taxes, but unless spending is also cut, tax reductions are a formula for fiscal catastrophe.

If spending isn't kept in line with tax revenues, the most likely result is a flurry of wild budget cutting at the last minute to avert financial collapse.

The final prospect, of course, is bankruptcy.

No businessman in his right mind would permit himself to be lured by tax benefits into a state where such fiscal sandbagging was a strong possibility.

Permanent and significant tax reduction can be achieved only by permanent and significant reductions in public spending. Let's examine a few possibilities.

There are instances where state regulations impose unnecessarily harsh spending requirements on municipalities, on public institutions and on commerce and industry. State nursing-home standards, which directly affect medicaid outlays, are one example of outdoing the federal government. Such regulations and mandated standards must be revised.

Some of these state-mandated standards create burdens so large that municipalities must understandably ask the state for the money to carry them out. But, at the same time, perhaps too much dependence has been put on state aid. If you feel you can turn to a higher authority for financing, you tend to get perhaps a bit too expansive about what you want to do. So I think it is fair to ask local government to be more self-reliant and more realistic.

Realistic management is also very important for New York's public school districts. During the 1975–76 school year, New York led the nation in spending on its elementary and high schools—almost $2,200 per pupil. This was 57 percent greater than the national average.

These figures must raise some questions. Has there been too much wasteful experimentation with curricula? Are learning materials being purchased only to be discarded in one or two years? Is adequate thought and care being given to the procurement of school equipment? Is every headquarters staff position making a contribution adequate to justify its effect on the payroll?

Every board of education in the state should be seeking answers to such questions.

The level of social service benefits in New York State requires rethinking. New York has always prided itself on its generosity in caring for those who cannot care for themselves. This is admirable, but the fact remains that benefit levels in New York State are far higher than those in any other state.

A package of welfare reforms has been developed by your chamber, in conjunction with other upstate chambers. It is a comprehensive, well thought-out package that certainly merits very serious consideration.

However, there is a bottom line of social service expense that cannot be trimmed simply because it represents a very large number of legitimate welfare clients.

To a very real extent, this is an imported problem, the product of national forces beyond local control. People in need of jobs have migrated to the cities of New York, as well as other northeastern states, from all over the country. As they came into the cities, affluent residents and business concerns moved out, and there weren't nearly enough jobs available for the newcomers.

The supreme court ruled several years ago that municipalities cannot set up residence requirements for eligibility for social services. And so the cities found themselves strapped to provide these legally mandated services to an ever-increasing clientele even as their sources of revenue eroded.

I am convinced that welfare is a national problem and should be treated as one. The Coalition of Northeast Governors and New York's Congressional representatives are trying to make this happen.

But while they work to turn the federal

government around on welfare, local government cannot shirk its responsibility to administer welfare equitably and efficiently.

Improved management of all public programs and services is a necessity in every area and at every level of state and local government. The so-called sunset law approach makes a great deal of sense because it means that every activity, every project must be scrutinized when budget time rolls around. Ideally, nothing should be taken for granted, and the benefits of every program should be measured carefully—even painfully—against its costs.

Let me digress for a moment. It is all very well for those of us in industry to lecture government officials on the importance of effective management. But we have our own problems in this area. It is particularly evident where foreign trade is concerned.

It is no secret that our international balance of payments is a sorry spectacle. A good part of this is a function of the international oil situation, and lack of economic expansion in Japan and Europe. But the competitiveness of business in Japan and Western Europe is a major factor. That's why the Carter Administration has been conducting unusually tough negotiations with the Japanese Government to reduce exports to the United States and lower barriers to our imports.

Such government initiatives won't do the trick alone. I am afraid U.S. industry is losing its technology and business management leadership. We can meet foreign competition only if we pull up our socks and do a better job of product development and of operating efficiently. Ever increasing cost effectiveness is an equally urgent requirement for success against foreign competition, just as it is an urgent requirement for New York State's public sector.

It is very important for public administrators and legislators to adopt a "show-me-why" attitude toward every new proposal that would add to expenditures. By the same token, this attitude should be applied to excessive regulation of business and industry. Unrealistic environmental and safety standards have added unreasonably to the cost of doing business.

There should also be a major effort to overhaul the tax structure so that it will be not only less burdensome but more equitable. Property taxes offer one of the greatest opportunities for improvement. The New York Times, in an editorial on December 1, noted that New York City's assessors have been far from consistent in setting values, a problem that is hardly confined to New York. Recent state court decisions have required equality of treatment for all taxpayers.

This is a complex problem because fair market value is always changing. For industry it has been especially onerous because commercial and industrial properties are invariably assessed higher than residential properties, in relation to fair market value. It is both the legal and the moral responsibility of every community to address this problem. The appropriate solution would seem to be a periodic reappraisal of all taxable properties in each jurisdiction and the use of full market value to determine assessed valuation.

Associated Industries and the Empire State Chamber of Commerce have developed a number of additional tax-reform proposals that appear very sensible. One is the permanent elimination of the present so-called temporary 20 percent surcharge on the corporate franchise tax. Another would end discriminatory treatment of smaller New York companies in interstate commerce. At present, the franchise tax is allocated in such a way that credits are granted for places of business located out of state. But no such credit is granted to a company without such out-of-state facilities, even if a large proportion of its business is done beyond New York's borders. The net effect, or course, is to encourage out-of-state expansion. The Associated Industries/Empire State Chamber formula would provide franchise tax credits for out-of-state sales.

By the same token, I think serious thought should be given to eliminating the unincorporated business tax. This is a classic case of double taxation of the small businessman, since he must also pay personal income taxes on the same income.

Finally, New York's business groups agree on the need for a lowering of the upper brackets of New York State's personal income tax. This would certainly make the state a more attractive place to live and work in.

Now it's all very well and good for industry to tell government what to do. But we have to be willing to help. And we are, through the mechanism of advisory boards. It is a way business experts can provide the public sector with consultative services, and I would like to see more done along these lines.

We at Xerox have some experience with this kind of arrangement. A short time ago we loaned Tom Winter, now our corporate controller, to the state of Connecticut for a five-month stint as chairman of a special business task force to study the state's financial systems and administrative services.

More than two-thirds of the group's administrative recommendations have been adopted, and a major proposal for reorganization of some executive functions was enacted into law by the legislature.

Last year a bi-partisan proposal to establish a permanent state management advisory board was passed by the New York State Legislature only to be vetoed by the governor. I would like to urge Governor Carey to reconsider his position and support the establishment of such a board.

Business advisory boards work at the local level, too. About two years ago, Niagara Falls, New York, was in a real fix. Its 1975 deficit was $1.5 million, and it was on the verge of defaulting on its bonds. Local companies offered to help, and the city council established a city management advisory board. Participating companies provided a core group of top executives and made other executives available as functional consultants.

Working closely with the city manager and his department heads, the board did a thorough study of municipal operations and came up with a number of proposals that were adopted. The city ended 1976 in the black.

The Niagara Falls model can be used by city and county governments throughout the state, with the backing of local business enterprise. I would suggest going even further and establishing similar advisory groups in local school districts. There is no doubt in my mind that the net result would be a great improvement in government operations.

In the final analysis, though, advisory bodies can only advise. Public administrators and legislators are still the people who have to make the hard decisions, and this is a time when they must even be willing to risk unpopular decisions.

I think there is evidence that the public wants responsible government. For the past several years a number of school districts have seen their budget proposals voted down, and pledges of fiscal responsibility have helped a number of candidates to win office.

The message, I suspect, is that it may finally be more politically expedient to act responsibly than to create costly new programs.

The problems are tough but they are solvable. I have travelled all over the world in the past two and a half years. I feel stronger than ever that while the democratic/capitalist system is not perfect, there is none better.

This nation did not just happen. It was built by bright, tough, innovative people.

I am optimistic about the future because this room, this state and our country are filled with bright, tough, innovative people that I believe will take the actions to solve the problems that face us. Thank you.

SPOILER'S ROLE IN RHODESIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. McDONALD. Mr. Speaker, the Washington Star is to be congratulated for its lead editorial on Tuesday, January 31, 1978, on Rhodesia. It pointed out how wrong our policymakers are and how they are actively on the side of the terrorists in Africa, while professing to be for "one-man, one-vote." In actuality what they are pushing for is the creation of yet another African dictatorship with the population enjoying no freedom or civil rights. Our policymakers will not even permit Mr. Ian Smith to proceed with his plans for majority rule if they can help it, so committed are they to Africa. It would certainly be interesting if our policymakers submitted our Rhodesian policy to a vote of the American people, but the last thing in the world, they care about, if the subject can be avoided, is how the American people feel. The plain facts are, as the editorial makes clear, that neither Andrew Young, our policymakers, nor the United Kingdom wants Mr. Ian Smith to succeed in his plans for majority rule in Rhodesia, all for different reasons. The editorial follows:

SPOILER'S ROLE IN RHODESIA

If the American people understood the spoiler's role which their government is playing in the current Rhodesian negotiations, how long would they tolerate it? Not long, we suspect. They would insist that Ambassador Andrew Young be summoned from the spoilers' conclave at Malta this week, where another attempt is being made to revive the faltering Anglo-American peace plan. And they would probably insist that the U.S. at long last wish godspeed to those who now seem on the verge of negotiating an internal peace in Rhodesia.

This, we say, is what would probably happen if the complexities of the issue were understood. Unfortunately, they are not. It is not widely understood that after years of international clamor, Prime Minister Ian Smith has conceded the principles of universal suffrage and majority rule. It is not widely understood that, in response to this, three moderate black leaders—who are thought by informed observers to represent a considerable majority of Rhodesian blacks—have negotiated with Mr. Smith a new constitution providing for assured "minority" representation (i.e., largely white) in parliament; a bill of rights; an independent judiciary; and other institutional arrangements that seem fair and workable. It is not widely understood that this "internal" breakthrough, proceeding from Mr. Smith's concession of universal suffrage, is on the verge of consummation if it is not derailed by the foot-dragging of U.S., British and UN officials, who seem to think the black negotiators should hold out for tougher terms.

Finally, it is not widely understood that the U. S. is closly identified with the unyielding terrorist-guerrilla "front" led by Joshua Nkomo and Robert Mugabe, which is armed by the communists and supported by the five neighboring "front-line" African states.

The peace terms of these "external" forces are extreme. Although Mr. Nkomo has made

occasional noises of moderation, Mr. Mugabe recently threatened to "bash" all the "reactionary" participants in the internal negotiations: a threat that may happily prove idle if peace comes to Rhodesia and his guerrilla troops begin to melt away.

Meanwhile, the Nkomo-Mugabe faction insists that Rhodesia's future must be settled between Great Britain (whose crown colony Rhodesia was before declaring its independence unilaterally in 1965) and their "Patriotic Front," whose "patriotic" activities consist largely of the ruthless murder of women, children and the elderly, mostly black. They insist that Ian Smith be deposed, and that they, the intruders and disturbers of the peace, be handed immediate control of the army and the police. In short, they demand capitulation by the Rhodesian moderates; and they indicate no willingness to compromise.

What is perverse about the U.S. position is that the closer Ian Smith and the black moderates come to an agreement, the more cozily we seem to collaborate with the U.S.-British-UN cabal to undermine it. *The Economist's* Salisbury correspondent reported, on January 21: "There are signs that the (Patriotic Front) is speeding up the war and deliberately picking on black civilian targets in an effort to prevent a peaceful changeover to majority rule. From Salisbury, it appears as if the British foreign secretary, Dr. Owen, and the British commissioner-designate, Lord Carver, are actively discouraging an internal settlement."

In harsher language, the U.S. risks playing accomplice to further bloodshed by pursuing a Rhodesian settlement agreeable to radical outsiders and guerrillas. This is the actual, but we cannot imagine the calculated risk of U.S. policy. Why, then, do we take so sour a view of the heartening chances of internal peacemaking?

The reasons must necessarily be a matter of speculation. In Washington, we suppose, it may be thought more important to appease the demands of Rhodesia's "front-line" neighbors than to bring internal peace to the country. The effect of that policy, intended or not, is to sacrifice the moderate majority in Rhodesia, black and white, to considerations of African real-politik.

This is discreditable enough. It becomes unconscionable if one considers how close Mr. Smith and the black moderates are to a peace settlement and new constitution. As noted by Morley Safer on the CBS program "60 Minutes" Sunday evening, Rhodesia is one of the few functioning biracial societies in Africa. It is not a police state. Its segregationist policies are disappearing. The army and police are predominantly black, and, so organized, can hardly be accounted dependable instruments of white tyranny.

In bitter truth, the Anglo-American policy on Rhodesia seems to be influenced not only by dubious strategic calculations, but also by an uncharacteristically petty-minded British resentment that Rhodesia has made a success of unauthorized independence. Against all odds and predictions, Rhodesia has become a country in being. It needs only the support of the outside world to make reasonable democrtaic terms with the black majority.

That the U.S. might not only neglect but actually undercut this success is an offense to sense and conscience. Let us call a halt to this foolish policy—now.

A TRIBUTE TO ANNA PERRY-FISKE

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. AKAKA. Mr. Speaker, Hawaiian-born Anna Perry-Fiske has been designing a show for years which has become a magnet for mainland visitors and gala gatherings of islanders. Every 2 years, in Waimea, on the big island of Hawaii, Ms. Perry-Fiske produces "Old Hawaii on Horseback," an extravaganza which includes everything from island princesses to Hawaiian cowboys, from sea captains to missionaries, portrayed in a sweep of local history. Chronologically, the show begins with the arrival of Capt. George Vancouver who brought the first cattle to the islands, and Capt. Richard Cleveland who brought the first horses to Hawaii.

Anna Perry-Fiske is a woman of truly remarkable talents. This extraordinarily disciplined woman not only originated this show, she also wrote, directed, and produced it. In addition, she researched and designed every costume, matched the horses, drilled the riders, and made all the hats. When she is not involved with the plans for "Old Hawaii on Horseback," Ms. Perry-Fiske can be found tending the Anna Ranch (the site of the show) which was started by her New England grandfather, Thomas Lindsey.

There will be only one performance of "Old Hawaii on Horseback": May 21 at 1 p.m. All moneys collected for admission go to the Hawaii Heart Association or toward the purchase of cardiac equipment in big island hospitals. Additionally, there are "heart barrels" set up on the show grounds to receive contributions. All time, labor, materials, and equipment are donated, and numerous civic agencies, business firms, and individuals contribute invaluable services.

This amazing showpiece of Hawaiian history, set amidst gentle rising hills chartreuse-green pastures, lava-rock fences, eucalyptus trees, ti hedges, and tree ferns, is more than spectacular, more than fantastic. It is history come alive—a brilliant array of characters from the past. Anna Perry-Fiske deserves our praise and admiration for she creates an event which is enjoyed by thousands of spectators, and appreciated by countless heart patients unable to attend.

ABRAHAM LINCOLN

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. STEERS. Mr. Speaker, Abraham Lincoln, the 16th President and first Republican leader of our Nation is undisputably one of the greatest men in the history of our country. He holds a unique place in the hearts of our people, for as George Washington is rightly celebrated for bringing this country into being, so Lincoln deserves a like recognition for saving it.

He led our Nation through the difficult ordeal of the Civil War, and under his leadership we came out stronger than before. His leadership throughout the war resolved, directly and indirectly, fundamental issues as to the nature of the federal system. His efforts in behalf of freedom and equality for all mankind ended the problem of slavery in our democratic Republic. It took a great man to lead this country through war and then reunite it in peace and Abraham Lincoln was such a man.

In designating his birthday as a national holiday, we would give official sanction to a widespread observance already celebrated in over 30 States. In that way we would pay long-due tribute to the sure instincts of our people.

Said Woodrow Wilson:

> Lincoln was a very normal man with very normal gifts, but all upon a great scale, all knit together in loose and natural form, like the great frame in which he moved and dwelt.

More than a gesture, such an act would encourage the study of his life, the thoughtful scutiny of his character, in the context of our history, past and present. While underlining Stanton's classic tribute—"Now he belongs to the ages"—it would emphasize that Lincoln also belongs in a special way to America and to the people whom he loved and for whose freedom and unity he gave his life.

I would hope that my colleagues would join me in paying tribute to one of the greatest of Americans by supporting this effort to designate February 12, Abraham Lincoln's birthday, as a national holiday.

SOUTH AFRICA AND THE IMF

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. HARKIN. Mr. Speaker, on Christmas Eve, the Washington Post reported that the U.S. Government is continuing to provide financial support for the racial policies of South Africa through the International Monetary Fund. The article clearly points out the irreconcilable fact that although the U.S. officially denounces the South Africa Government's racial policies. $107 million of the IMF's total $463 million loan to South Africa came from the U.S. contribution to the IMF.

For over the last 2 years, Congress has struggled to make human rights a cornerstone of our foreign policy. Yet if the United States is to achieve any credibility in this area, it must attain at least some degree of consistency in its human rights policy. Either human rights is a valid consideration for all U.S. international funding, or it is valid for none. Last fall, in the face of dire predictions made by the World Bank, strong human rights language was incorporated into the authorization bill for the international financial institutions. None of these multilateral lending organizations have collapsed or ceased functioning.

Some will argue that the IMF is "unique" in its functions. That its loans are to relieve balance-of-payment problems and not to aid in development. But is uniqueness sufficient enough to outweigh human rights considerations? And is not money fungible, and once lent difficult to trace to a specific expenditure? Yet if a country receives $463 million from the IMF it has the ability to spend $463 million on something—and that some-

thing could be on its military as in South Africa.

As the debate and vote on the IMF supplementary financing facility nears, I urge all my colleagues to read the following Washington Post article. While some of us may not understand all the intricacies of the international financial systems, all of us should at least know and consider the ramifications of the decisions made there:

UNITED STATES HELPED VORSTER GET LOANS FROM IMF

(By John M. Goshko)

Despite its official criticism of South Africa's racial policies, the United States has helped Prime Minister John Vorster obtain $463 million from the International Monetary Fund to combat his country's economic problems.

Rooted in that action is a case study of the contradictory choices confronting U.S. officials who must work out a design for furthering U.S. interests and policy objectives on a global basis.

Specifically, U.S. support of South Africa in the IMF raises questions about whether there is a built-in clash between the political and economic goals of Washington's foreign policy.

On one side, there is the concern of the United States, which played the leading role in creating international lending agencies like the IMF, that the integrity and impartiality of these institutions be protected so they can perform the jobs for which they were designed.

In the case of the IMF, that job is to help 130 member countries overcome threats to their economies caused by adverse trade balances—imports outstripping exports—that seriously deplete gold and currency reserves.

The success of the IMF's bail-out operations, U.S. officials note, is important to every country engaged in international trade. If a country, particularly a large country like South Africa, runs into balance-of-payments problems that make it unable to sell products and pay its foreign debts, the resulting chain reactions could disrupt international trade and monetary systems.

For that reason, officials say, the United States must treat loans made by the IMF differently than U.S. aid granted on a direct, government-to-government basis.

Washington, they argue, must set an example for other members by ensuring that U.S. votes in the IMF are strictly in accordance with the agency's rules and economic objectives rather than allowing them to be influenced by political considerations.

However, that argument increasingly has been challenged by human-rights activitists, leaders of the American black community and other opponents of South Africa's white supremacy policies. They charge that international agencies like the IMF have become convenient, backdoor devices for quietly channeling aid to countries like South Africa, whose domestic policies are bitterly opposed by many Americans.

By helping South Africa bolster its slumping economy, these critics charge, the United States has thrown away one of its most effective potential weapons for putting pressure on the Vorster government. As long as the United States helps keep money coming through agencies like the IMF, they contend, Vorster will be justified in dismissing Washington's remonstrances as "totally irrelevant."

This dissenting viewpoint has been heard with growing frequency in the months since concern with human rights became a major element of U.S. foreign policy. For instance, it was the basis of a recent, unsuccessful attempt in Congress to restrict U.S. contributions to some international lending agencies by specifying they could not be used to assist seven countries charged with human rights violations.

South Africa wasn't among them. But, the size and importance of the aid it received from the IMF make it perhaps the best illustration of the problem.

The IMF's balance-of-payments assistance to South Africa the last two years was greater than the combined IMF assistance to all other African countries the same period. In those two years, only two other nations, Britain and Mexico, were bigger beneficiaries of IMF aid.

Of the total received by South Africa, an estimated $107 million came from the U.S. government's contribution to IMF funds. Even more important, the United States, as the IMF's largest contributor and most influential member, probably could have blocked the South Africa loans by objecting.

Instead, U.S. representatives on the IMF's executive board supported the South African requests during closed-door deliberations.

That is revealed by minutes of executive board meetings, obtained by writers James Morrell and David Gisselquist working on a South Africa study for the Center for International Policy, a private, Washington-based political research group.

The documents show the process began in January, 1976, when South Africa applied to the IMF for help in fighting problems it said had been caused by rising imports, a slump in exports and resulting drain on reserves.

During subsequent internal IMF discussions, according to the documents, Thomas Leddy, one of the U.S. delegates to the executive board, strongly endorsed the South African requests.

With this U.S. encouragement, the IMF gave South Africa loans totalling $366 million in 1976. That was during the Ford administration when U.S. policy, under Secretary of State Henry A. Kissinger, tended to emphasize the carrot rather than the stick in dealing with South Africa.

The documents do not cover IMF deliberations on South Africa in 1977. However, diplomatic sources say, U.S. delegates to the IMF have continued to support additional South African loan requests through the first year of the Carter administration.

As a result, by October, total IMF aid to South Africa had mounted to $463 million. These loans were made at the same time the Carter administration, in line with its much-advertised championing of human rights, was taking an outspokenly critical task toward the Vorster government.

When asked about the apparent contradictions, administration officials reply that Washington has no single yardstick by which economic decisions on South Africa are made.

Since 1964, for example, U.S. policy has prohibited the Export-Import Bank, a government-controlled and funded agency that provides financing for U.S. sales overseas, from making direct loans to South African purchasers of U.S. products.

However, the bank is permitted to guarantee financing of loans obtained from private U.S. banks by South African importers of U.S. goods. Another federal agency, the Commodity Credit Corp., administered by the Agriculture Department, is allowed to lend money to South Africa for purchase of U.S. farm products.

The State Department follows what it calls "a neutral policy" of neither opposing nor encouraging U.S. business investment in South Africa. Instead, department officials say, they try to ensure that potential investors are aware of South Africa's internal political problems and to urge them to follow "enlightened racial employment politics."

"Neutrality" is also the word used by administration officials when discussing the U.S. role in the IMF. U.S. representatives there, they say, are instructed to approach decisions on strictly economic grounds, taking into account IMF rules about whether the country in question has a balance-of-payments problem caused by external factors beyond its control.

However, those who oppose that policy point out that the United States frequently has used its votes and influence in other international lending agencies such as the World Bank, the Asian Development Fund and the Inter-American Development Bank for frankly political purposes.

The Carter administration has been especially active in applying human rights considerations to its votes in many of these institutions. Recently, for example, Washington blocked an IADB loan to El Salvador for a hydroelectric project because of human rights factors. Then, when U.S. officials detected improvements they wanted to encourage, Washington reversed itself and offered to put up roughly half the loan.

In the view of human rights activists South Africa has been treated more favorably by the United States and other industrial powers dominating the IMF. They point to the sizeable U.S. and European investments there, the high percentage of South Africans foreign debt held by American and European banks and the strategic importance to the West of South Africa's mineral exports.

In the study they are preparing, Gisselquist and Morrell cite these charges and argue that political considerations should not—indeed, cannot—be divorced from any assessment of South Africa's economic situation.

They contend that South Africa's economic problems primarily are due not to an externally caused trade imbalance, but to overspending rooted in the high cost of repressing the 83 per cent of the population that is black or colored.

To buttress this argument, they cite a confidential IMF study in April that lists South Africa's defense budget as "a major cause of the rapid increase in total current expenditure; it's share of total expenditure has risen from 14 per cent in 1973–74 to 20 per cent in 1976–77."

"As a grisly footnote to the IMFs aid to South Africa," Gisselquist and Morrell add, "the April, 1977, IMF study said that the increase in military spending in 1976–77 came to $450 million—almost exactly the amount of IMF assistance."

The executive board minutes obtained by the two writers show that the only delegate to raise these points was Antoine W. Yameogo of Upper Volta, representing 17 black African countries.

The only doubts voiced by delegates from industrial nations involved questions about whether South Africa had caused its problems by keeping sizeable gold stocks off the export market in anticipation of higher world prices.

Even that objection was dismissed by U.S. delegate Leddy. The documents quote him as saying that "South Africa's export shortfall was probably due to factors largely beyond its control." Accordingly, he found the assistance request reasonable and worthy of support.

In summing up, Gisselquist and Morrell state: "Each of the IMF meetings covered in the minutes was held behind closed doors. Thus while South Africa was earning world condemnation for its racist policies, it was receiving a more tangible measure of support from the IMF. It is difficult to imagine any other international forum in which support would be forthcoming."

SMALL TOWN SAFE DRINKING WATER ASSISTANCE ACT

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. ANDERSON of Illinois. Mr. Speaker, I am today introducing the

Small Town Safe Drinking Water Assistance Act of 1978. The purpose of this bill is to provide Federal grant assistance to communities which cannot otherwise find necessary financial assistance to comply with national primary drinking water regulations.

Under the terms of my bill, Federal grants of up to 75 percent of the total costs of constructing or modifying a small public water system in order to bring it into compliance with Federal safe drinking water standards would be made available through the Environmental Protection Agency. To qualify for such a grant, a small community, commonly defined as one having a population of 10,000 or less people, would have to show that it could not "reasonably obtain financial assistance necessary to comply with such regulations from any other source." EPA in turn would have to determine that the proposed system "is not likely to be made obsolete by subsequent changes in primary regulations." The project would have to be approved by the State agency with jurisdiction over safe drinking water since in most States the State agencies have primary enforcement responsibilities. And, finally, the grant could only be used for construction or modification of a facility, and not for planning or operating expenses.

The bill authorizes a total of $100 million in grant assistance over 3 years; as follows: $20 million in fiscal year 1979; $30 million in fiscal year 1980; and $50 million in fiscal year 1981.

Mr. Speaker, the Congress enacted the Safe Drinking Water Act back in 1974 as a joint, Federal-State regulatory system under which the Federal Environmental Protection Agency was charged with setting national safe drinking water standards, and the States were given primary enforcement responsibility. While the act included grants to the States to assist them in carrying out their public water supervision programs, it did not contain any funds for assisting local communities in complying with the new standards. It was apparently felt that the users should absorb any additional costs that might be involved in coming into compliance, and that these costs would not be substantial.

Last year we renewed the Safe Drinking Water Act and extended the grant assistance program for State public water supervision programs. The 1977 amendments also called on the EPA Administrator to submit a report to Congress within 18 months identifying and analyzing the costs to States and local jurisdictions of complying with the new drinking water regulations, and alternative means of compliance and financing the costs of compliance, "including user charges, State or local taxes or subsidies, Federal grants, loans, et cetera." (H. Rept. 95–338, page 7). The 1977 amendments went on to require that the Administrator's report should analyze separately the compliance and financing problems of "public water systems serving small communities."

Mr. Speaker, while the Administrator's report is not due until spring of the new year, I do not think it is too early to begin consideration in this Congress of the special problems which will confront small communities in complying with the safe drinking water regulations. In my own 16th Congressional District of Illinois, for example, the town of Rochelle, which has fewer than 5,000 families, is faced with a $1.5 million price tag on converting its drinking water system to comply with the iron content standards promulgated by the State EPA. It is obvious that this cost burden on such a small community is extremely difficult if not impossible to bear. no matter how you stretch it out. While the crunch for most other small communities in the United States has yet to be felt since the current focus is on communities with populations of 75,000 or more, I predict we will eventually hear the anguished cries of thousands of villages and hamlets when presented with their new water bill, compliments of the U.S. Government.

I do not say any of this in derogation of the Safe Drinking Water Act. I happen to support national safe drinking water standards, because I think they will make a substantial contribution to the improved public health of our citizens. But I fear this is another case in which we did not give adequate prior consideration to the costs as well as the benefits of such regulations and make adequate provision for meeting those costs, particularly in the smaller communities. This is apparent when you consider that we passed the Safe Drinking Water Act in 1974, and then, in 1977, when it was up for renewal, we commissioned a study of whether there might be alternative means of complying with the standards and whether the existing means of financing compliance were sufficient. In the meantime, while this study is going on, communities will be expected to go forward with their compliance efforts, regardless of what the results of that study might show. Now obviously, if some imminent danger to the public health is found, immediate corrective action must be taken. But if the health hazards in the drinking water are less than substantial, communities should have the benefits of this study of compliance and financing alternatives before they are forced to proceed with changing their systems.

The Small Town Safe Drinking Water Assistance Act which I am introducing today recognizes that the Federal Government cannot and should not be expected to pay all the costs of all the water systems which will have to make changes in order to comply with the new regulations. The water users in most communities will have to bear this burden, for the most part and, for the most part, the average increase in costs is estimated to be between $6 and $10 a year per family. But there will be small towns which will be forced to make changes beyond their meager means to pay. My bill confines the grant assistance to such small communities which cannot obtain the financial assistance needed to comply from any other source. Thus, not all small towns would be eligible for a safe drinking water grant. These would be available only to the neediest cases—the most hard-hit hardship communities. I think this is the least we can do now, and I think we should do it now, even before the EPA study is completed.

FARMERS TELL GOVERNOR "WE'RE TIRED OF BEING FIRE PLUGS FOR THE STATE DEPARTMENT DOG"

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. SYMMS. Mr. Speaker, I would like to voice my great disappointment in the testimony delivered by Secretary of Agriculture Robert Bergland this week in the House Agriculture Committee hearings. Secretary Bergland's statement to the committee can be summed up to say that he is unwilling to stand up and fight for America's farmers because he does not want to start a fight he does not think he can win. The Secretary of Defense stands up for defense programs, and the Secretary of Labor supports labor interests. So why do we have a Secretary of Agriculture who is more interested in not offending the State Department than in standing up for fair market price for farmers.

Projections for 1978 show that farm income is expected to be comparable to what farmers earned 38 years ago, in 1940, and we have a Secretary of Agriculture who concedes the battle for fair prices before it has even begun. The only hope America's farmers have is to identify the cheap food boys in Congress and then throw the rascals out in the next election.

To illustrate the seriousness of the situation, I am commending to my colleagues a letter written by two Idaho farmers, Chris Yamamoto and Lon Klahr, to Idaho Governor John Evans, one of 38 Democratic Governors in the United States. The farmers ask Evans to come to Washington to stand up for the interests of Idaho's farmers. In their words "farmers are tired of being used as a fire plug for the U.S. State Department Dog."

JANUARY 20, 1978.

Governor John Evans must take a stand for the government or for the farmers, because the two are clearly in conflict. The people of this great state deserves to know the truth. Which is more important the Democratic Party, rubber-stamping one another for party unity or the economy of the state of Idaho. This cannot be done through local channels, but it must be done on the federal level.

"We want Gov. Evans to go to Washington, D.C. and demand to talk to President Carter, and then demand that something be done immediately to protect the farmers in Idaho and farmers in the rest of the nation."

"It will take some courage for Gov. Evans to do this, but those are his people in Washington and they should listen to a fellow Democrat and a governor of a sovereign farming state."

American people are being eaten up by a cancer, through regulations, high taxes, unemployment and anything else that can be shoved down their throats. This cancer for some reason is promoted by our government. American people need someone that will say this and mean it.

It seems like all of our politicians are panty-waists, afraid to say anything for fear

of hurting their careers or insulting their political parties.

Americans need men not puppets on a string, and it is time for Gov. Evans to be a man or a political puppet.

If Gov. Evans will tell President Carter to take his farm policies and shove them, farmers will stand and applaud, and probably other governors will do the same.

Farmers are tired of being used as a fire plug for the U.S. State Dept. dog and it should be so stated.

If Gov. Evans cannot see that the U.S. State Depts. bureaucrats in striped pants is what's making a mess out of American Agriculture maybe the people of Idaho need a new governor, who is more enthusiastic for Idaho's largest industry.

Sincerely,

CHRIS YAMAMOTO.
LON KLAHR.

REED LARSON AND THE RIGHT TO WORK

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. BAUMAN. Mr. Speaker, among the most sacred rights of every American is the right to work without being forced to pay anyone tribute as a condition of employment. One man has done more to protect and expand this right for the working men and women of America than any other single individual. That man is Reed Larson, the executive director of the National Right to Work Committee, and he deserves the thanks and commendation of every Member of Congress for his dedication to the preservation of right principles in labor relations.

Mr. Larson was recently the subject of an outstanding profile published in the New York Times and written by Jerry Flint. After reading this article, it becomes quite clear why the committee has expanded its membership from barely 40,000 12 years ago to the more than 1.25 million now enrolled. Reed Larson cares about the rights of the working men and women of America and he has dedicated himself and his organization to the preservation of those rights. I commend this article to the attention of my colleagues for the insights it provides about a man we will all be hearing a great deal more from in the future:

[From the New York Times, Dec. 4, 1977]

REED LARSON VERSUS THE UNION SHOP

(By Jerry Flint)

(NOTE.—(b) *Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law.*—Section 14(b) of the Taft-Hartley Act.)

Reed Larson. The name won't have a familiar ring. But Reed Larson can mobilize a right-wing army of hundreds of thousands, make Presidents change their minds and frustrate the best laid plans of organized labor. He even has his own zip code number.

As the leader of the right-to-work movement—its symbol is the Liberty Bell—Mr. Larson this year issued the call that brought thousands of letters pouring into Congress to defeat the common situs picketing bill (which would have let a union picket a single contractor to shut down an entire construction site). The defeat forced the American Federation of Labor and Congress of Industrial Organizations to abandon plans for repeal of 14(b); this section of the Taft-Hartley Act, allowing states to pass laws banning the union shop, is central to Mr. Larson's mission. Twenty states now have such laws.

His letters are rolling out—25 million this year—from the Fairfax, Va., base (near Washington, D.C.) of his organization, the National Right to Work Committee, and its legal and fund-raising arms. And the contributions are rolling in: $8.5 million this year. In behalf of 1.25 million members, he is bringing dozens of lawsuits around the country, placing ads in publications, commissioning national opinion polls. And looking for new victories.

In electoral politics: "We're looking at the Senate races next year and the seats that will be changing," he said softly, a touch of Kansas still in his speech.

In the states: "When we get 24 or 25 states, a few more members of Congress," he said, "one of these days they'll pass a law banning compulsory unionism." He is preparing to put right-to-work bills before legislatures next year in Idaho, New Mexico, Maine, New Hampshire, Vermont, Colorado and possibly Montana or Missouri.

In Congress, where the labor reform bill is the A.F.L.-C.I.O.'s most important pending legislation. "We'll stop it in the Senate."

Mr. Larson looks to other battlefronts as well. Campaign funding, for example. "The biggest single issue is diversion of compulsory union dues into politics," he says, charging that union money finances a liberal political machine. He has also mounted an attack on public-employee unionism and has started investigations into pro-union materials reaching public schools.

Some of this activity has led to suggestions that Mr. Larson is moving beyond his concentration on a single issue, the right-to-work campaign, into broader anti-union and conservative areas. He denies it.

"Right to Work," a phrase invented by a Dallas newspaperman in 1941, is the conservative answer to organized labor's battle for the union shop. Under Federal law, a union must represent all the workers in its recognized bargaining unit, including any who do not join the union and do not pay dues. Unions call such workers "free riders" and seek to negotiate the union shop, in which every worker must join and pay dues or lose his job. A variant, the agency shop, allows workers to stay out of the union but requires them to pay dues. "Everybody benefits," says Albert Zack, director of public relations for the A.F.L.-C.I.O., "so everybody ought to share the costs."

On one level, the right-to-work battle is philosophical. Mr. Larson insists that he is not anti-union, that the issue is one of civil and human rights and that he is only against compulsory unionism.

Union supporters dispute that. Said Joseph Rauh Jr., a lawyer heading a legal assault on the Right to Work Committee's legal defense fund to prevent it from collecting contributions from the public: "Reed Larson is devoted to the destruction of the trade union movement." Only such devotion, Mr. Rauh says, could have led to the sticker the Right to Work Committee was selling a few years ago with the words, "Eat California Grapes."

But the fight over the right-to-work issue is not a philosophical debate; it is about power.

If there is a strong anti-union faction in an organized plant, the union's solidarity and strike potential—thus its bargaining power—is weakened. Dues money and unionist zeal can be translated into power at election time through contributions of cash and manpower to get out the desired kind of vote.

The unions have not had much luck winning members in recent years. Union membership, totaling 19.4 million last year, was about the same as in 1967, but organized labor's share of the growing work force fell from 22.7 percent to 20.1 percent in the decade.

However, Mr. Larson and his movement's influence may be easily overestimated. The last election saw Democrats sweep Congress and the White House. Legislation being passed or considered generally calls for more Government action on the side of unions as well as more Federal intervention in the job market, in business and in the general environment.

There has been speculation about a conservative reaction in the nation. But some people see Mr. Larson as the effect of such a public shift, not the cause.

Mr. Rauh reads the right-to-work successes this way: "Whether Larson goes up or down is a function of what the labor movement does. If you continue to have scandals like the Teamsters and the Mine Workers, if the labor movement continues to go down in public esteem, he will go up."

But Mr. Larson's techniques can make trouble. His legal arm, for example, has about 60 cases going. Union lawyers may sneer at them, but the cases take time and money that could be used elsewhere.

A similar effect is felt at the state legislative level. "Even when we win it, we lose it," said one A.F.L.-C.I.O. man, back from beating away a right-to-work law. In Idaho, for example, the unions spent all their time on such a battle while a vocational education program they wanted went by the board.

Mr. Larson was born on a farm in Smith County, Kansas, 55 years ago. He studied electrical engineering at Kansas State Univerity, then worked at a Wichita lamp company for eight years and slid into Junior Chamber of Commerce activities, eventually being named state chairman. His career crystallized two decades ago when he took over the 1958 campaign for a Kansas right-to-work law.

That year the right-to-work forces were conducting a major push in six states, including a bruising referendum battle in Ohio. The unions beat the right-to-work forces in five states. Only in Kansas, where Mr. Larson ran the show, was such a law passed.

"We built Reed Larson because we lost," said Mr. Zack of the A.F.L.-C.I.O. "And he didn't win—we lost." The union official recalled that the grain millers in Kansas went on strike two weeks before the vote, and grain piled up around the state. "It infuriated Kansans to see that a union could destroy the state's one cash crop. We've had him ever since," Mr. Zack said.

Mr. Larson and his wife, Jeanne, who have three grown daughters, left Kansas when he became head of the National Right to Work Committee, where he earns about $50,000 a year. Since then the war at the state level has been largely a draw, with the right-to-workers winning few new states but beating back union efforts to kill the laws where they are already in effect.

In 1965 Mr. Larson was credited with persuading the Senate Republican leader, Everett Dirksen of Illinois, to personally lead the filibuster attack on a major Democratic effort to kill Section 14(b) of the Taft-Hartley Act. The late Senator's prestige and mighty voice carried the day.

In 1970 Mr. Larson mobilized his forces again and was credited with keeping the union shop out of the postal reform bill.

Victories have been coming a bit faster of late. Last year President Ford was ready to sign the common situs bill, passed by Congress, until Mr. Larson turned on his letter spigot. Mr. Ford vetoed the bill.

This year the A.F.L.-C.I.O. put up common situs again. A friendly President Car-

ter was ready to sign; common situs had merely to roll through Congress as it did in 1976.

"We were lulled into a sense of false security," said Mr. Zack. "We were so sure [about the result] that nobody counted" the votes in the House again. Mr. Larson, too, concedes he didn't think he could stop common situs in the House and, like the A.F.L.–C.I.O., had shifted his efforts to the Senate. But first he sent out his letters, urging citizens to write to their Congressmen.

Common situs was beaten in the House, a stunning blow to the unions. "We realized we weren't going to get 14(b) out of this session, so we put it on the back burner," Mr. Zack said. "Reed Larson was the key to the thing."

Opponents credit Mr. Larson and his assistants with dissociating the movement from the right wing generally and with appealing to liberals, too. Right-to-work ads featured women and blacks who had had union trouble. Publicity releases, inundating newsmen, were mostly temperate.

Case histories triggered thousands of sympathetic editorials. Repeated again and again in the Right to Work Committee's publications, for example, is the story of the murder of Joe Hooper, a non-A.F.L.–C.I.O. construction worker in Louisiana. Union crowds stormed the work site, and shooting began. "Little Joe Hooper had paid the ultimate price for exercising his freedom of choice," says the Committee's story.

"Hugh Newton [a former consultant to the Committee] worked 13 years and I worked five to establish credibility," said Herb Berkowitz, former Committee director of public relations. "You could go into the New Republic or the Arkansas Gazette in Little Rock and be welcome, not be regarded as some right winger that had to be frisked."

Mr. Larson is also credited with the discovery that mail (the committee spends close to $2 million a year on postage) could be used to mobilize hundreds of thousands of conservatives to write letters and give, give, give. Thanks to computer technology, mail could be pinpointed to produce thousands of letters aimed at a single legislator.

"We finally have union bosses on the run," said one letter, adding a page later: "Our legal experts tell me it will take another six months and $68,000 to finish the job." Some $215,000 came in.

"Congressman Mendel J. Davis [a Democrat] will be casting a critical vote on this issue. I hope you'll let him know," said another letter, signed by Mr. Larson. The packet included a call for money, copies of articles from The Washington Post and The Atlanta Constitution and already-addressed protest postcards. It was sent to 1,714 persons in Representative Davis' district in South Carolina.

Some people believe Mr. Larson has built a machine that can serve the conservative philosophy but is trapped with his single issue—the right-to-work issue. That has been broadened a bit, of course, to include the fight against common situs, the labor reform bill and the campaign funding laws.

"I believe there is a great war going on in the soul of Reed Larson," said one observer. "He's a very important part of the right-wing establishment, but he is champing at the bit. He wants to have more than the narrow issue."

Mr. Larson vows that his right-to-work movement will not coalesce with other groups on the right "to the extent that we support them," though there might be some "overlap" among causes and members."

And what about that war in the soul?

"You have to face that every day," Mr. Larson said. "It goes with the job."

CROWN OF ST. STEPHEN: A "GIFT" THE PEOPLE NEVER KNEW ABOUT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. DORNAN. Mr. Speaker, yesterday, I read into the CONGRESSIONAL RECORD an editorial and sworn testimony concerning the facts surrounding the Crown of St. Stephen, the U.S. possession of it and its surrender to the Communist regime of Janos Kadar.

On January 5, the day before the crown was so ignominiously returned to the Hungarian people's oppressors, the Crown of St. Stephen Protection Committee held a press conference deploring the actions of the administration.

Radio Free Europe transmitted the entire text of this press conference to the people of Hungary on the day and the hour that the crown was returned to the Communist regime.

The remarkable thing about this press conference is that this is the way the Hungarian people found out about the return of the crown. The Kadar regime had not told them. The Carter administration had not told them. The controlled Hungarian press had not told them.

And yet the Carter administration is still adamant in its assertion that the crown was returned to the "people" and not to the Soviet-controlled government of Janos Kadar.

So that the American people can learn how the Hungarian people really found out about the administration's wondrous gift to them, I ask that the text of the January 5 press conference be printed in the CONGRESSIONAL RECORD.

STATEMENT BY JOHN M. SZOSTAK

As one of the officials of the St. Stephen Crown Protection Committee, I would like to share with the American people a statement that I prepared and delivered on January 5, 1978 at a press conference in Washington, D.C. This statement was transmitted by Radio Free Europe (RFE) to the people of Hungary on the day and the hour that the Holy Crown of St. Stephen was being handed over to captivity by the Executive Branch of our Federal Government.

STATEMENT

The issue confronting America today is not the Crown of St. Stephen, the issue is the Constitution of the United States. The Executive Branch, of our Federal Government through deceit and intimidation of the Judiciary Branch have violated the constitutional prerogative of the Legislative Branch, The United States Senate, under Article II, Section 2 of the United States Constitution regarding the Senate's right to ratify treaties. The exchange of letters by the U.S. and Hungarian Governments on December 13, 1977 and the final act of handing over the Crown of St. Stephen to the Hungarian Communist Government is tantamount to entering into a treaty between the United States and Hungary, without proper advice and consent of the United States Senate.

Through deceitful tactics, the Department of State has gone to great length in secret to formulate plans of how and when the Crown is to be returned. Fortunately on November 4, 1977 this action was uncovered and leaked to the press via The New York Times.

Since November 4, 1977, the White House and the Department of State still conducted their policy of deceit with greater intensification and boldness. The unethical conduct of outright lies and denial on the part of the Executive Branch was not only limited to the American people but also to the Legislative Branch who have the privilege of obtaining classified information.

Since the official public announcement for the return of the Crown was made on December 15, 1977, the issue was brought to the attention of the U.S. Federal courts to seek a temporary injunction until the matter could be resolved in a Constitutional manner. At that moment, the Executive Branch directed their deceptive tactics to the Judiciary Branch where the American people thought that "equal justice under law" would prevail.

The conduct of justice in this matter has been violated as a result of pressure from the Executive Branch. The premise of justice was to do everything possible not to embarrass the President by delaying his plans to return the Crown. In essense the Executive Branch is under the opinion that the office of the President comes before the law, meaning the United States Constitution and its sacred tribunals.

The Executive Branch claims that the Crown of St. Stephen is the property of the Hungarian people, then why not let the American people via their elected representatives decide on this matter in a fully constitutional manner.

We as Americans grew up with the creed: "the government of the people by the people and for the people". As a result of the deceptive actions by the Executive Branch this sacred creed that is guaranteed to us by the signatories of our Declaration of Independence was severely tarnished. The late J. Edgar Hoover termed Communists as "Masters of Deceit", I never dreamed that the same term could be applied to our own Executive Branch of the Federal government, especially under the leadership of one who calls himself a "Born again Christian".

The conduct of the Executive Branch in this matter will signal the beginning of an "Imperial Presidency". Human rights which are claimed to be the cornerstone of this administration's foreign policy is nothing more than empty rhetoric and a rebirth of the Sonnenfeldt Doctrine—give lip service to human rights and give the communists what they want. The conduct of the trustees of our liberties are not only in question but proven beyond doubt that they have violated the Constitution and obstructed justice.

January 6, 1978 will go down in the annals of American History as a day of infamy, where we who are the last fortress of freedom have betrayed a sacred trust, by returning a sacred symbol of religious and political freedom to a government that is opposed to what it symbolizes. This hideous act against human rights was committed at the risk of violating the Constitution of the United States. This is nothing more than the making of an American Tragedy.

Quo Vadis America—your reputation as a moral leader in the world is severely damaged by this hideous act. The responsible media and the concerned voices of the American people are now the only trustees left for the preservation of freedom in America and in the rest of the free world today.

POSTSCRIPT

The media reports showed only gloomy, tense expressions on the faces of the carefully selected individuals who attended the ceremony. The Hungarian "people" were

conspicously absent. In fact it was Radio Free Europe that first announced the news of the Crown's return to the Hungarian people, which forced the Hungarian government to announce the return as well, but this was done in a low key manner.

"PREVENTIVE DETENTION" WILL GIVE PEACE OF MIND AND PEACE IN FACT TO LAW-ABIDING CITIZENS

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. SEBELIUS. Mr. Speaker, some years ago in a dissent filed in a criminal case on appeal to the United States Court of Appeals for the District of Columbia, Judge Miller took a position that was not in the mainstream of the criminal law at that time because of the general concern expressed for criminal defendants. Judge Miller stated that "law abiding citizens have some rights too."

My colleague from Kansas, Senator DOLE illustrated that times do change by offering a pretrial detention amendment to the omnibus revision of the U.S. criminal code, which the Senate accepted by a 2 to 1 margin.

My sentiments follow those of the editorial page of the Washington Star, which is "underwhelmed" by some of the arguments against pretrial detention. I commend to your reading the editorial from the Washington Star for February 1, 1978, and I wish to commend Senator DOLE for taking the action he did in amending this legislation.

[From the Washington Star, Feb. 1, 1978]

"PREVENTIVE DETENTION" AGAIN

It is a milestone of some sort, whether for good or ill one cannot immediately say. In voting last week on the omnibus revision of the U.S. criminal code, the Senate accepted (62–29) Sen. Robert Dole's amendment permitting "preventive detention" of accused rapists, kidnapers, armed robbers and anyone who seizes a hostage.

Sen. Edward Kennedy, the floor manager, mildly demurred; but few even among the Senate liberals rallied to his banner.

This event suggests that something has happened to the mood of the Senate since the fierce 1970 battle over the District of Columbia crime bill, or that something has happened to pluck the nettle from the concept of "preventive detention." Or both.

One thing that has happened in the Senate is that Sen. Sam Ervin Jr. is gone; and it was he whose thunder rallied the opposition eight years ago. One thing that has happened to "preventive detention" is that it seems, in fact, to have fulfilled neither the worries of its foes nor the hopes of its advocates. And that is not unusual in highly technical issues of criminal procedure.

We ourselves rather felt the force, eight years ago, of Senator Ervin's witty argument against preventive detention. Judges, he often observed, are sufficiently taxed to discover what happened in the past, and *a fortiori* unlikely to use prophetic powers wisely: prophetic powers, that is, as to the probable future behavior of accused criminals when out on bail. Indeed, predicting future human behavior from past example is an unmastered science.

But worries about the "presumption of innocence," which some critics profess, underwhelm us. A person previously convicted of serious crime, or several serious crimes, is "presumed" innocent. Quite properly, that is to say, it is for the state to prove its case, not for the accused to prove his innocence. Yet the formal delicacies of legal procedure aside, the fact is that most of us put the accused with a long criminal record into a sort of limbo; it is a strain to presume innocence, except in the formal sense.

Senator Dole offered his amendment as a deadly swat at the "ever-increasing rate" of crime, even though in the last two years the incidence of murder, rape, kidnapping, armed robbery and aggravated assault has shown a gratifying drop. It is anybody's guess why. It certainly was not because, in this jurisdiction at least, judges were stingy in tendering bail to arguably dangerous arrestees. Indeed, our guess is that "preventive detention," if incorporated in the pending consolidation of the criminal code, will of itself affect the crime rate very slightly if at all. It may, however, give some peace of mind to the law abiding citizens who are frequently appalled by some bizarre bail decision.

We have argued before in this space that judges need greater *discretion* to detain suspects, when they are accused of dangerous crimes and have lengthy criminal records. Discretion, let us observe, is not a mandate to lock everyone up, regardless of circumstances.

We still feel that way.

Senator Dole's amendment does violence only to the quite sweeping view of "the presumption of innocence." It could conceivably do some good—somewhere, sometime.

1977 GRADUATE IS ECKERD COLLEGE'S FIRST RHODES SCHOLAR

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. YOUNG of Florida. Eckerd College of St. Petersburg, Fla., located in my congressional district, has built a distinguished record as a liberal arts college. Founded in 1958 as Florida Presbyterian College, Eckerd College is a private school serving 918 students. The college and its faculty of 74 are proud of the fine work of its graduates begun after completion of their studies at Eckerd College.

In this regard, a 1977 Eckerd graduate, Miss Susan E. Russ, has been awarded a Rhodes Scholarship for 1978. Miss Russ of Kingsport, Tenn., is the first graduate of Eckerd College to be so honored, and she will begin her studies at Oxford University after completing graduate work in literature at the University of Virginia.

I congratulate Miss Russ and Eckerd College for being honored by the Rhodes Scholarship Committee, and it is a special privilege for me to bring the following story on Miss Russ and Eckerd Collebe to the attention of my colleagues:

[From the St. Petersburg Times, Dec. 19, 1977]

1977 GRADUATE IS ECKERD COLLEGE'S FIRST RHODES SCHOLAR

(By Johnnie Roberts)

Susan E. Russ, a 1977 graduate of Eckerd College, was named Sunday as one of 32 winners of the prestigious Rhodes Scholarship. It is the first time an Eckerd student has earned the award.

The scholarship, which was established 75 years ago in the will of British colonial pioneer Cecil Rhodes, will earn Miss Russ the honor of studying for two years at England's Oxford University, one of the world's oldest and most respected universities.

Miss Russ, who graduated from Eckerd with a BA in English Literature, was among 12 women to receive the coveted scholarship. This year is only the second year women have been eligible for the award.

"I'm just a little bit stunned," Miss Russ said from her home in Kingsport, Tenn. "I'm happy, of course, but it's so hard for something like this to sink in."

Miss Russ, 20, was nominated for the stiff competition that precedes selection of the scholarship by the University of Virginia, where she is doing graduate work in literature. Although her current school selected her for the scholarship, she praised Eckerd College for preparing her for the competition.

"I so much wanted to do this for Eckerd (College)," she said. "Too few people know about it (Eckerd College)."

The young woman, the fourth in her family to graduate from Eckerd College, said there is really no way to prepare for the competition. However, she added, "four years of college is preparation to some extent."

Although she obviously held her own against students from Harvard, Yale and other Ivy League schools, Miss Russ said she was still a bit intimidated by the prospect of competing with products of some of the nation's best colleges and universities.

Besides her academic work at Eckerd, for which she graduated with honors, Miss Russ' extracurricular activities included writing speeches for former Eckerd president Dr. Billy O. Wireman, editing the college newspaper and helping to spur interest in women's sports at the small liberal arts college.

Her honors and awards included Eckerd's Thomas Presidential Scholarship, worth $2,500 per academic year at Eckerd, and a national merit scholarship.

Miss Russ said she will continue studying literature at Oxford, probably specializing in Medieval and Renaissance literature.

Her selection "speaks very highly of the rigor and quality of our academic program," said Eckerd College provost Richard Hallin, who served on the Rhodes selection committee. "It will make us even more competitive for this scholarship in the future."

He noted that Miss Russ had to compete against students from Ivy League schools as well as other prestigious southern colleges.

"It's great when your youngest works as hard as she did," said Mrs. Erwin Russ of her daughter. "We're still recovering. We think it's wonderful.

"She (her daughter) said that it was Eckerd that got her here."

TRIBUTE TO EISENHOWER

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. COUGHLIN. Mr. Speaker, in commemorating the 25th anniversary this past January 20 of the inauguration of Dwight D. Eisenhower as the 34th President of the United States, we pay tribute to a man who served in our Nation's highest elective office at a time when our country greatly needed his remarkable

blend of commonsense, warmth, conciliation, and understanding.

A native of Texas who traced his ancestry to a small Mennonite colony in Abilene, Kans., Eisenhower was graduated from West Point in 1915 as a member of a class that was to produce 59 generals. In the struggles of those early years, he displayed the same steadiness of composure and strength of character that marked his service in World War II.

Eisenhower married Mamie Doud when he was assigned to duty in Texas. The couple lost their first child to scarlet fever in 1921. A year later, John Eisenhower was born.

In the early 1930's, Eisenhower served as an aide to Chief of Staff Gen. Douglas MacArthur and accompanied him to the Philippines. By 1941, he had gained a reputation as a knowledgeable strategist, a good mediator, and a constant optimist.

When the United States entered World War II, Eisenhower assumed his first major command for the invasion of North Africa. These were followed by the Sicily and Italy invasions. Not only did Eisenhower display outstanding military abilities, but he revealed his diplomatic flare in working out differences among the competing and sometimes jealous general officers of the varied units in the allied command.

Thus, Eisenhower was tapped as supreme Allied commander for the world's largest amphibian operation—the D-Day invasion of France on June 6, 1944. Combining his unique talents as a soldier and a diplomat, Eisenhower directed the overall operations that eventuallly were to lead to victory.

When Eisenhower returned home, he was eagerly sought as a Presidential candidate. He declined and accepted the post of president of Columbia University in 1948. But he returned to military life in 1950 when President Truman asked him to assume the role of commander of NATO.

By 1952, Eisenhower—his personal reputation untarnished and his abilities as a leader widely recognized—finally accepted an invitation to become a candidate for President as a Republican. He was nominated after a convention battle with the forces of Senator Robert Taft.

The Eisenhower ticket won overwhelmingly in the election, polling more than 33 million votes.

Although historians tend to view the Eisenhower years as President as a time of subdued and relaxed Presidential government, we should remember that there were the usual share of crises. Eisenhower handled these as skillfully and adeptly as his difficult war assignments. He exhibited moral courage and forceful judgment when the times demanded.

The McCarthy hearings, the dispatch of U.S. troops to enforce desegregation in Little Rock, Ark., troubles in Lebanon, East Germany, and the Suez, the creation of NASA in response to the launching of Sputnik I, and the aborted summit meeting with the Soviets when a U–2 spy plane was shot down over Russia.

Throughout the crises and everyday problems of Government, the American people never lost their faith and confidence in Dwight D. Eisenhower. Whether his ready smile or calm demeanor, he touched a sympathetic chord in the hearts of the citizens. He led without forcing, he spoke without lecturing, and he remained a friend of every American without ever knowing each personally.

With his death on March 28, 1969, an era of World War II and postwar giants ended for many of us.

Eisenhower's record as a soldier, a President, and a citizen stand as a testament to the qualities we revere in decent and honorable men. He was an American through and through, and made us proud that we were his countrymen.

The ultimate tribute lies with the people who preferred to call our 34th President, "Ike." He is remembered with affection and with respect. Regardless of high honors or notable achievements, we remember him as an individual who made our lives happier and brighter for his presence.

DWIGHT DAVID EISENHOWER

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 25, 1978

Mr. ANDERSON of Illinois. Mr. Speaker, on the occasion of the 15th anniversary of the inauguration of Dwight David Eisenhower, I wish to recall his accomplishments as a great American patriot and statesman.

Dwight Eisenhower served his country in ways that most men and women can only dream about: both in peace and war his steady hand and clear eye guided the Nation. He served with distinction in two world wars—a feat not shared by any other American President. As Supreme Commander of the Allied Expeditionary Forces, General Eisenhower demonstrated the quiet strength under duress which would later serve him well—and us—as President of the United States.

As a soldier, however, he never sought political office. His statement—"the necessary and wise subordination of the military to civil power will be best sustained when lifelong professional soldiers abstain from seeking high political office"—exemplified the strong ethical code he adhered to and which the American people respected. In 1948, he forestalled the burgeoning grassroots support for his nomination by announcing that he could not accept it. General Eisenhower was a man who knew his duty and did not shirk from it. He returned to Europe as Supreme Commander of NATO because he recognized the importance of reestablishing order on a continent devastated by war.

After conferring with President Truman in 1951, though, General Eisenhower realized his duty lay in returning to the country which needed him. His triumphal first ballot nomination at the Republican National Convention of 1952 was an indication of the love and respect the American people had for him. It was a personal tribute to the man who knew that:

> Freedom from fear and injustice and oppression will be ours only in the measure that men who value such freedom are ready to sustain its possession—to defend it against every thrust from within and without.

Mr. Speaker, I regret that I did not serve in Congress during Dwight Eisenhower's two terms. Some people today belittle the complacency of the 1950's and point to its leader as an example. My feeling is that the American people needed this calm, dignified man to lead them from the chaos of World War II, through the peril and uncertainty of the early cold war years. This Nation witnessed not a period of dullness, but of development, firmly grounded in President Eisenhower's unshakable, personal belief in America:

> Without exhaustive debate, even heated debate, of ideas and programs, free government would weaken and wither. But if we allow ourselves to be persuaded that every individual or party that takes issue with our own convictions is necessarily wicked or treasonous, then, indeed, we are approaching the end of freedom's road.

Ike's accomplishments as president rate him among our greatest leaders: as the second man to serve as President during the nuclear era, he was the first to call for international controls of atomic power; he created the Department of Health, Education, and Welfare; he established equality of rights during his administration; he stressed the elimination of a dominant Federal role in private enterprise and declared that the economy should be allowed to steer its own course because "the Federal Government—(is) not the most important factor in those dips and upturns of the economy." With great foresight, he recognized the impact of television upon the American public and authorized the first telecast of a Cabinet meeting, demonstrating his sincere desire to keep the voters informed—a harbinger of our current drive to restore confidence in our Government.

The strength of President Eisenhower's stewardship, however, lay not only in the measurable achievements of his administration, but in the faith that he and the American people shared in the Constitution:

> If we are going to continue to be proud that we are Americans there must be no weakening of the codes by which we have lived; by the right to meet your accuser face to face, if you have one; by your right to go to church or the synagogue or even the mosque of your own choosing; by your right to speak your mind and be protected in it.

These sentiments form the very foundation of our Government. As we steer our course through the complex issues of today, it would be wise for us to remember the fundamentals of democracy that were spelled out with such elegant simplicity during the Presidency of this great man, Dwight David Eisenhower.

BUCKLEY ON PANAMA

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. STUDDS. Mr. Speaker, the following column by Mr. William Buckley deals—very effectively, I believe—with several of the myths and pieces of misinformation which have been distorting the debate on the Panama Canal treaties in recent months. I believe that this column will be of great interest to my colleagues:

REAGAN IS ALL WET ON THE CANAL ISSUE

(By William F. Buckley)

In his opening remarks opposing the passage of the Panama treaties, Governor Ronald Reagan gave voice to a number of specific criticisms which turn up in much of the anti-treaties literature. They are of general interest, to the extent that 51 percent of the people opposed to the treaties rely on these criticisms in passing judgment.

Said Reagan: "[We would place] the over a $10 billion investment" to the Panamanians.

Really, there is no reason to exaggerate our generosity, though it is legendary. The original cost of all non-military property, equipment, facilities, and other improvements contemplated to be turned over to Panama by the year 2000 is $1.6 billion; and by the year 2000, the estimated book value will be down to approximately $62 billion.

The estimated cost of the military installations in Panama (including improvements) scheduled to be turned over by the year 2000 is $398.4 million. The total, in other words, is about $1.02 billion, or a modest one-tenth of the cited figure.

Said Reagan: "[We would place] the American military under the jurisdiction of a government not elected by the Panamanian people . . ."

In fact, the American military will of course remain under the command of the President of the U.S. and, under his direction, can act unilaterally, on the assumption that Anthony Lewis and Senator Church will, by the year 2000, have grown wiser.

Said Reagan: "We will pay the Panamanian government about a billion and a half dollars to take the canal off our hands."

Not exactly: the payments to Panama will be paid by users of the canal out of operating revenues. That is different from tax dollars.

Said Reagan: "We're dealing with a Panamanian government that has accumulated the highest per capita debt in the nine years of any nation in the world."

Would that were so. The total Panamanian government debt is about $1.2 billion (the IMF figure for June, 1976). With a population in Panama of 1.6 million, Panama has then a per capita debt of about $720. Ours, per capita, is $3,330. Torrijos may be a spendthrift, but he can't match our Congress.

Said Reagan: "We bought in fee simple all the privately owned land in the Canal Zone, and I've seen the figure of those purchases set at $163 million."

In fact, the total payment to private persons for interest in real property was less than that. Namely about four million dollars.

Said Reagan: "Panama derives one-fourth of its gross national product from the canal."

The correct figure is about 12 per cent.

Said Reagan: "In the neutrality treaty, in the event of war, our enemies have the same right of access to the canal that we have."

Technically, that's right. But the treaty's neutrality extends to an area three or four miles out from the actual opening of the canal. If our enemies are so dumb as to head for the canal, our navy or our air force will sink them—just like that!

Our only commitment is not to sink them while they are inside the canal. This presumably we would not want to do in any case, as it would make it extremely messy for our ships to move by theirs. A historical note: during the past two world wars, no enemy ship used the Panama Canal. No feature of the proposed treaties impinges on U.S. rights outside the mile or two that leads into the Canal.

On the whole, Reagan used perfectly defensible arguments and figures, and the above corrections may not weigh decisively in the mind of anybody, but it's a crazy world.

There are people going around—I mean grown people—saying the whole Panama Canal treaty revision is a plot comprehending Presidents Eisenhower, Kennedy, Johnson, Nixon, Ford and Carter, the State Dept., the Joint Chiefs of Staff, and the majority of the Senate to bail out a couple of U.S. banks that lent too much money to Panama. That's the right wing's Grassy Knoll.

CONGRESS FACES KEY DECISIONS ON STEEL POLICY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. MURTHA. Mr. Speaker, I would like to insert into the RECORD testimony I submitted recently to the Trade Subcommittee of the U.S. House Ways and Means Committee on the question of America's steel policy:

STATEMENT BY CONGRESSMAN JOHN P. MURTHA

In 1977 Congress helped draw the nation's attention to the problems of the steel producers. In 1978 Congress must translate that attention into positive steps that will stimulate the American steel industry, and provide jobs and economic stability for the nation.

I would like to congratulate you, Chairman Vanik, for the active role you and this Subcommittee have taken in this debate. The role of this Subcommittee and the Steel Caucus proved essential catalysts to recognizing steel problems.

I would also like to congratulate the Carter Administration. This is the first Administration that has taken an interest, that has been responsive to the problems of imports. Every other Administration in the past has always said this is a problem for that particular industry, and we are not willing to interfere. We are for free trade, they said. This Administration says they are for fair trade, and are going to restrict imports from foreign countries, if those countries subsidize the products being manufactured.

As a member of the Executive Board of the House Steel Caucus, I would like to outline briefly the key steps I believe Congress should take on steel in 1978.

1. *Imports*—the first goal must remain to control imports. The end of 1977 showed signs of progress as imports for October dropped 15 percent. But this comes after imports for the first three quarters of 1977 had risen 34 percent above 1976. In fact, 1976 was the third highest year for domestic steel consumption, but virtually all the growth went to foreign producers.

I believe the Administration's "trigger pricing" system to control the flow of imports deserves to be tried. But Congress must make it clear that if this system fails, we will not hesitate to impose stricter import laws. The problems we address of unemployment and community help would never have occurred if we had controlled imports.

2. *Environment*—the steel industry is one of the largest contributors to air and water pollution in the nation. In 1975, 20 percent of all U.S. man-made particulate pollution came from the steel industry. America should not abandon its goal of clean air and water. Neither can the nation sacrifice jobs for pollution goals that can be temporarily delayed without affecting citizens or workers health.

Three steps are needed on the environment. First, a tax incentive for pollution control equipment. I sponsored a bill to provide this last year. In his tax package President Carter recommends pollution abatement facilities placed in service after 1977 be allowed to qualify for a full 10 percent credit under all circumstances. This would provide significant tax relief on forced pollution control changes. Presently, money for pollution control uses capital that could otherwise be used for plant modernization. The steel industry spent $600 million on pollution abatement equipment in 1977 and estimates of capital costs for pollution control over the next 6 years range from $6.8 billion to $14 billion.

Second, we need coordination of environmental policy and quick decisions so industry is not caught between conflicting laws and long delays. Third, and most important, the nation needs a rational philosophy that rejects the extremes of those who would sacrifice economic growth to the environment and those who would halt all environmental progress in the name of the economy. With a rational approach, this nation can progress on both concerns.

3. *Modernization*—steel mills in the United States need to be modernized to compete successfully with foreign countries. With demand reduced in recent years the industry cannot develop the money needed to improve those plants (and create more jobs) without help. I support the Administration's recommendations on reducing the guideline life for depreciation of new steel industry machinery and equipment, plus any type of economic development partnership between government and industry that is satisfactory to both sides.

4. *Communities and Jobs*—Pennsylvania produces 24 percent of the nation's steel and 19 percent of our citizens are employed in steel production. When Johnstown, Pennsylvania, was hit by the twin blows of a flood and Bethlehem Steel's decision to cut their workforce by 2,500 jobs, the area's unemployment rate jumped from under 6 percent to 19.4 percent, and the area lost an estimated $69.1 million in wages. Even after the flood impact receded, unemployment remains above 9.8 percent, largely because of steel lay-offs.

The government needs more complete programs to protect local economies, insure every effort is made to preserve jobs, and improve the program of training for out-of-work individuals.

5. *Government*—we have a "Buy American" policy in the U.S. Government, but I have found that money from the Urban Mass Transit Administration has gone to purchasing transit cars from other countries, and the Steel Caucus is investigating the buying practices of the Defense Department. The

government must cooperate in the steel effort. I support the strongest possible "Buy American" law.

Mr. Chairman, some people ask me if the steel industry can come back. I know it can. The reason I am sure is that I know so many of the men and women who work in the steel industry. They work hard. They are proud Americans. They care about their country and its future. With the help of the U.S. Congress, and cooperation between the government, industry, and the steelworkers of this great country, we will succeed in putting Americans back to work, stabilizing the economy, and saving steel communities. We have started that process in 1977. We must continue it in 1978. I believe Congress will provide the guidance and stimulus for that action.

PARTISAN IMPLICATIONS OF PROPOSED CENSUS REFORM LEGISLATION

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. LEACH. Mr. Speaker, in the near future the House Post Office and Civil Service Committee is expected to consider census reform legislation. I should like to bring to the attention of my colleagues the impact this legislation could have on reapportionment and the distribution of Federal funds, as well as the potential damage it may do to the integrity and confidentiality of U.S. Government census taking.

The traditional census pretests undertaken by the Census Bureau 3 years before each decennial census make it clear that the 1980 census faces real difficulties. All indications are that the American public is fed up with Government and one reflection of citizen ire is an increasing unwillingness to cooperate in census taking.

Because of concern over the 1977 pretest results and the substantial reduction in the voluntary rate of return of census forms, the Census and Population Subcommittee of the House Post Office and Civil Service Committee held oversight hearings last summer and fall. Unfortunately the resultant legislative initiative (H.R. 8871 and its amended version H.R. 9623) specified radical changes in census methodolgy and called for the creation of a so-called Division of Evaluation located outside the Census Bureau to establish census standards and adjudicate challenges to census data.

Clearly the concerns raised by the 1977 pretest need to be addressed. But there is real question whether new legislation is the appropriate vehicle to deal with census problems. Too easily, whether by legislative intent or legislative slight, the Census Bureau can be subjected to politicization. Under H.R. 8871 and H.R. 9623 a new Division of Evaluation is created with a mandate to perform more than an evaluation function. Everyone in the census community recognizes the need for ongoing internal evaluation and input from outside experts in long range planning. But the vast majority would prefer to see the Census Bureau contract with an outside independent agency or group such as the National Academy of Sciences to conduct long range evaluations.

As far as internal evaluation is concerned, the integrity of current procedures are above reproach. With the creation of a Division of Evaluation as proposed in H.R. 8871 and H.R. 9623 unknown political appointees are authorized to interject procedural changes in census taking and adjudicated contested census results. Unfortunately, it should be clear that politicizing census procedures jeopardizes the confidentiality of census returns and brings seriously into question the impartiality and integrity of census results.

It should also be clear that legislation, unless carefully and restrictively drawn, can produce dramatic changes in the perception as well as the quality of census taking. In such a sensitive endeavor as revising census procedures the perception of what a particular bill attempts to do is as important as the results. The parts of H.R. 8871 and H.R. 9623 which give extraordinary new authorities to a politically appointed group outside Census Bureau control raise grave problems of perception. In addition, the sections of H.R. 8871 which would have established a detailed two stage census methodology raises a serious question as to whether Congress should mandate specific census procedures. Census operations should be immune to political pressures. They also should be protected from the well-intentioned, but excessively detailed directives of legislators. Defining the specifics of census methodology is properly the domain of statistical experts in the executive branch, not the policymakers of the legislative branch.

The legislation that the full Post Office and Civil Service Committee is finally expected to consider this month (H.R. 10386) represents a vast methodological improvement over H.R. 8871 and H.R. 9623. Specific procedural directives are largely abandoned. Unfortunately, however, H.R. 10386 provides unprecedented authority for an administration to execute a political takeover of the Census Bureau.

Central to the new legislation is the creation of a Census Review Committee in place of the proposed Division of Evaluation in the earlier bills. The committee is clearly not designed to be advisory in nature. It has a staff of undefined magnitude and has complete discretion to define for itself the parameters of its jurisdiction. The bill requires the Census Bureau to operate under the standards the review committee establishes. In other words, a newly established authority outside the Census Bureau will control census operations and activities.

Under this legislation, the prospect also exists that the Census Review Committee will control more than the decennial census. The committee has a broad enough mandate to delve into every census effort, including those projects performed under reimbursement for other Government departments.

With regard to the membership on the Census Review Committee, those who currently hold policy positions in the executive branch will be nonvoting members, but those who, by definition, are hand picked political appointees will be voting members. The committee and its staff appear to be independent, responsible only to themselves rather than the Secretary of Commerce.

Over the years the Census Bureau has established an impressive record of scrupulously insuring confidentially of census information. Only sworn Census Bureau staff have been allowed access to census data. Under this legislation, however, Federal, State and local employees, as well as employees of private organizations, could well be encouraged to seek access to this confidential material. Thus, the opportunity for abuse is greatly magnified.

Also, for the first time, H.R. 10386 involves Congress directly in census projections. The legislation stipulates that an official report must be submitted to Congress not later than September 30, 1978, indicating a methodology for estimating undercounts for each State. This requirement opens estimation of undercounts on a State-by-State basis to congressional appeal and influence and could easily provide a basis for demands that the next congressional apportionment decision take undercounts into consideration. This would be a stark departure from past policy and represents a severe challenge to rural areas, especially of the Midwest and West. Should the majority party attempt to slant statistics to benefit areas in which it holds dominant political sway, the viability of the two-party system could be significantly weakened. Using adulterated statistics, Eastern urban centers could all too easily be given additional representation at the expense of rural States like Iowa. In this regard it should be stressed that undercounts are not today considered in apportionment decisions, although they are in applying Federal funding allocations. The statistical community is deeply divided in its assessment of the magnitude of the illegal alien problem and undercounts in inner city areas. The potential mischief that could be wrought by an arbitrary political decision to substantially increase undercount projections in New York City or a one-party section of the South cannot be exaggerated. The allocation of congressional seats to a number of States could be effected as could the amount of Federal funds apportioned to all States.

Certainly a number of the provisions of H.R. 10386 are well motivated and represent a legitimate congressional response—albeit, a controversial one—to the problems that have developed in the 1977 pretests. However, there is no doubt whatsoever that the Census Review Committee—and in the previous legislation, a Division of Evaluation—is designed above all to serve as a political mechanism to control congressional apportionment as well as the distribution of Federal funding based on formulae using census data.

In closing, Mr. Speaker, I would like to reemphasize the very serious problems attendant to this census reform legislation. It is my hope that all involved will be able to reach agreement on more modest legislation which will not undermine the objectivity of the Census Bureau, compromise the integrity of census

statistics, nor infringe upon the confidentiality of the census returns of individual American citizens.

THE BIG BOARD AND THE NATIONAL MARKET SYSTEM

HON. JOHN W. WYDLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. WYDLER. Mr. Speaker, in 1975 the Congress completed and sent to the President a comprehensive revision of the Securities Exchange Act of 1934 which was hailed at the time as the most important securities legislation in some 40 years. The centerpiece of this legislation was the direction to the Securities and Exchange Commission that it "facilitate the establishment of a national market system for securities . . . in accordance with the findings and to carry out the objectives" set forth in the act.

The Securities and Exchange Commission has not followed this directive but rather has tried to place the responsibility for the lack of progress on the development of a national market system on the Nation's stock exchanges, especially the New York Stock Exchange.

To exacerbate the situation, the Commission recently proposed repeal of the off-board trading rules of the various exchanges, including New York Stock Exchange rule 390, citing as a reason for such a drastic proposal that the exchanges had not moved fast enough to implement a national market system. One irony of this situation is that the Commission has not given anyone the benefit of its views as to what it thinks ought to be done. The Midwest Stock Exchange so noted in testimony before the Commission last August 4:

> Moreover, we do not know, and we do not believe anyone else in the industry knows, what the Commission's assumptions and objectives concerning a national market system really are.

Despite the lack of direction by the Securities and Exchange Commission, the New York Stock Exchange and the other exchanges are making significant changes in response to the will of Congress as expressed in the 1975 legislation.

A good explanation of the developments and changes taking place at the New York Stock Exchange was recently made by John J. Phelan, Jr., vice-chairman of the board of directors of the New York Stock Exchange and a neighbor of mine in Garden City, N.Y. I know John Phelan to be a sincere and dedicated individual who occupies a position of high leadership at the New York Stock Exchange.

I therefore recommend to other Members of the House interested in the developments which are currently underway at the New York Stock Exchange to read the following article authored by Mr. Phelan which appeared in Dun's Review of November 1977.

[From Dun's Review, November 1977]

THE BIG BOARD AND THE NATIONAL MARKET SYSTEM

(By John J. Phelan, Jr.)

Wall Street is a changing neighborhood. While its physical appearance is likely to remain the same in coming years, the structure of its major industry—the securities business—is about to undergo a dramatic transformation. Sweeping changes are about to take place in the way equities are traded as the Congressionally mandated National Market System becomes operational.

One of the major changes in connection with the development of the National Market System concerns so-called offboard trading rules. The possible repeal of these rules, which generally require member brokerage firms to buy or sell listed stocks on a stock exchange, has been the subject of vigorous debate during the summer and fall. The New York Stock Exchange believes that repeal of these rules would result in fragmentation of order flow, concentration in the securities industry and a threat to public confidence in the stability and efficiency of our nation's capital-raising mechanism. But whatever the resolution of the off-board issue, it is certain we will see a National Market System.

How will this system work? In what ways will it differ from the existing system of stock trading?

Currently, of course, stock trading takes place on the New York Stock Exchange, the American Stock Exchange, regional exchanges and in the over-the-counter market. Every day, exchanges handle more than $800 million in purchases and sales of equities.

In 1975, Congress directed the Securities and Exchange Commission to "facilitate the development" of a National Market System with the objective of introducing greater competition in the securities industry. Congress stated that, among its other attributes, such a system should assure an opportunity for investors' orders to be executed without the participation of a dealer. In other words, Congress has declared that it is in the public interest to retain the best elements of the present auction stock market system, and to build upon these elements in a way that would foster competition and efficiency.

The New York Stock Exchange strongly supports the concept of a National Market System and in August presented a plan for such a system to the Securities and Exchange Commission.

ELECTRONIC LINK

The structure envisioned by the Exchange would electronically link exchange specialists and qualified over-the-counter market-makers to form a national trading arena in which there would be an optimum balance between competition among orders to buy and sell listed stocks and protecting the interests of public investors.

The National Market System structure put forward by the NYSE would require five key elements—one of which, the Consolidated Tape for all securities that would be traded in the system, is already in place and functioning smoothly.

The four other elements are:

A composite quotation system for displaying both bid and asked quotations in all reported stocks—and the number of shares bid for or offered.

A system of equal rules and regulations applying to all qualified market-makers within the system, with a provision that each market center would be free to establish higher—but not lower—standards within its own market.

Appropriate trading surveillance requirements, established and monitored by each market center.

Electronic communication among all the competing market centers to assure the all-important centralization of orders flow in reported stocks. This linkage will permit direct interaction among customers' orders without the intervention of a dealer, whenever that is possible. It will also maximize competition among market-makers to narrow price spreads and give any customer the benefit of the best quotation anywhere in the system whenever there is no other offsetting customer interest.

Following up on this concept, the New York Stock Exchange and the Pacific Stock Txchange jointly announced in August an agreement to create an electronic linkage between their trading floors. Subject to SEC approval, the link would accommodate trades between the exchanges and would provide a vehicle allowing for the interchange of market information prior to each day's opening.

While discussions about the shape and structure of the National Market System continue, the Exchange itself has been making some significant changes in the way it maintains markets for the stocks of more than 1,500 of the nation's leading corporations.

Oversight of our markets is now vested in a Quality of Markets Committee, made up entirely of members of the NYSE Board of Directors and chaired by one of our public directors, Gavin MacBain, a former chairman of Bristol-Myers Co.

The committee's charter is to maintain a constant surveillance of the quality of the NYSE marketplace and seek ways of improving the market.

Many of the committee's suggestions already have been implemented. For example, the Exchange has established highly visible new procedures for allocating stocks to specialists—based on levels of performance. Stocks may now be reallocated if a specialist turns in a substandard performance.

COMPETING SPECIALISTS

Other aspects of the specialist system—the unique feature of the New York Stock Exchange—have been changed. We are now taking steps to make it easier for qualified people to become specialists—and to compete as specialists. There already are 38 issues in which there are competing specialists.

In a related area, we have established a new category of competitive traders on our trading floor. These people are also closely regulated professionals who both buy and sell stock in competition with specialists. They bring an additional element of competition and liquidity to the auction trading crowds that are such an essential component of the unique pricing mechanism that determines the market value of listed stocks.

At present, the Quality of Markets Commitee is examining the possibility of changing the mechanics of the trading process. The committee's charter makes clear that nothing—no matter how time honored—need the considered as sacred or untouchable.

Another element of competition: Our membership last summer agreed to establish new forms of annual membership on the Exchange that would broaden broker-dealer access to our marketplace. Thus, the number of people who can be members and trade on the NYSE floor is no longer limited to a fixed number of seat-holders.

This change, clearly, should dispel—once and for all—the "private club" image that the Exchange has for too long had to carry.

Perhaps the most persuasive judgments on the success of the Quality of Markets Committee in fulfilling its mandate have been made by others. In particular, some major U.S. corporations in the past have made it no secret that they had satisfactory markets elsewhere and that there was no need for them to list their shares on the Big Board.

But over the last year or so, a number of these corporations—Bank America Corp.

and American Express Co. are two of them—decided that the market-making and other advantages of listing tens of millions of shares are now worth the expense that such listings entail. And the are now traded on the NYSE.

These substantive changes in the quality of NYSE markets have gone hand-in-hand with important changes in management style, aimed at assuring that the Exchange is operated efficiently and in a manner that reflects the needs of its constituents. Philosophically, the Big Board recognizes it belongs to all its constituents—listed companies, institutional investors, the small investor, members—and, more broadly, to America.

Listed companies have an intimate business relationship with the Exchange. They pay an important slice of Exchange revenues. They provide the products—the listed stocks—that are traded in our marketplace. In return, they require from us continuous, liquid markets. By providing a high-quality secondary market for listed securities, the Exchange plays a key role in enabling listed companies to tap fresh sources of capital.

THE LISTED COMPANIES

In short, it has become increasingly clear that listed companies have as great a stake in the viability of the New York Stock Exchange as do Big Board member firms. It follows, logically, that listed companies should have a direct line into the decision-making processes at the Exchange that intimately affect their own businesses.

One major channel of input, of course, is our Board of Directors. In addition to William M. Batten, the NYSE's chairman and chief executive officer, the Board consists of ten directors who are principals of member securities firms, and an equal number from outside the industry. Our public directors include seven present or former chief executive or senior officers of major U.S. corporations.

We also have added to our roster a new Listed Company Advisory Committee reporting to the Board that will be able to make a major contribution to Exchange decision-making. And we now circulate drafts of relevant policy proposals to all listed company chief executive officers for review and comment—early in the policy formulation process, so that their best ideas can be incorporated.

More than ever, the New York Stock Exchange is aware of its dual identity as a publicly oriented national institution and an integral part of the larger American business community.

Because of its commitment to quality and to improving upon the strengths of the auction market mechanism, the Exchange believes it will have a vital role to play in the emerging National Market System. It believes it has—and shares with others in the government, in the Exchange community and in the wider corporate world—a profound public obligation to help assure the maintenance of strong, healthy capital markets.

RESTRUCTURING FEDERAL CRIMINAL JUSTICE ASSISTANCE

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Ms. HOLTZMAN. Mr. Speaker, on December 20, more than two dozen of the Nation's most prominent State and local criminal justice leaders met in Columbia, Md., to discuss the various executive branch proposals for restructuring Federal criminal justice assistance. The participants in this meeting issued a consensus statement which was forwarded to the President and the Attorney General in January. Given both the professional reputations of the individuals involved in the meeting and the cross-section of criminal justice disciplines which they represent, I believe the statement merits careful consideration.

The text of the statement and a list of participants follows:

CONSENSUS STATEMENT RESULTING FROM CRIMINAL JUSTICE LEADERS' MEETING

The need to further reduce crime and delinquency and the need to further improve the efficiency, effectiveness and fairness of our criminal justice systems are two of our nation's top domestic priorities. The importance of these issues is no less today than when they were first identified as major national concerns by the President's Commission on Law Enforcement and the Administration of Justice in 1967 or by the Congress when it enacted the Omnibus Crime Control and Safe Streets Act in 1968. These objectives can only be met by the states and units of local government with continued Federal technical assistance, financial support and a stable, dependable Federal assistance program structure that is compatible with the fact that the states and localities are the governmental levels primarily responsible for the provision of crime control and criminal justice services.

We are aware that several proposals for restructuring the current Federal crime control program have been submitted or are now being formulated by Executive Branch agencies for the President's consideration. If the President decides to proceed with the reorganization of the Law Enforcement Assistance Administration and the legislative modification of the Crime Control Act at this time, we strongly recommend that the following basic concepts be incorporated into any new plan for the program submitted for the consideration of Congress:

1. The Federal Government should continue to provide encouragement and financial support for a required state-wide, system-wide, total-resource-oriented comprehensive criminal justice planning process in each state. Adequate Federal funding should be provided to state and local planning programs necessary to support such a process.

2. The crime control program should continue to employ the block grant system which delegates maximum authority to the states and localities for identifying their criminal justice improvement needs and for establishing priorities for the allocation of available program support funds. We do not advocate the use of the revenue-sharing grant approach for criminal justice because we fear that available action funds would be used to supplant state or local revenues in existing projects.

3. The essence of the crime control program should continue to be directed at eliminating this nation's crime control and criminal justice problems. We do not oppose the funding of civil justice projects that are inseparable from criminal justice improvement efforts nor do we question the need for Federal funding to support such activities. However, we are opposed to the expansion of the crime control program to accommodate civil justice projects not directly tied to criminal justice activities or any other program improvement initiatives which would further dissipate the limited funds available for crime control and criminal justice reform programs.

4. While we do not oppose the expansion of long-range Federal criminal justice research activities, we feel that any expansion should not take place at the expense of the Crime Control Act's action grant program which provides financial assistance to the states and localities to implement new programs that are already known to be worthwhile and urgently needed. Funds appropriated for financial assistance to the states and localities should be clearly earmarked so that they cannot be diverted to Federal research activities.

In addition since crime control and the administration of criminal justice are primarily responsibilities of the states and local units of government and since the states and localities will be most affected by any major changes in the Federal crime control program, we urge that elected state and local policy-makers, members of the judiciary, criminal justice program administrators and criminal justice planners be directly involved in the formulation of any legislative proposals to modify the existing program.

We believe that the Crime Control Act should receive greater attention in the Federal budget process in the future. In recent years, the budget priority of the crime control program has declined in relationship to other major Federal program improvement efforts. Since 1975, there has been an inflation-adjusted cut of 57 percent in anticrime action program funds available to the states and localities. Federal budget authorizations and appropriations for the program must be increased to a level more in keeping with the national concern for reducing crime and improving our nation's criminal justice systems. A thorough review of the programs true funding needs should be a major component of any restructuring effort.

During the past year, while various Federal departments and agencies have been examining alternative ways for modifying the Federal crime control program, the effectiveness of the program has suffered from a lack of stability and the absence of strong Federal leadership. The Law Enforcement Assistance Administration has been without a permanent Presidentially appointed Administrator for over 10 months. We recommend that the Administration quickly recruit and appoint a qualified LEAA Administrator so that a sense of direction can be restored to the Federal crime control program.

LISTING OF INDIVIDUALS PARTICIPATING IN FORMULATION OF THE CONSENSUS STATEMENT

The Honorable Brendan T. Byrne, Governor of New Jersey/Chairman, National Advisory Committee on Criminal Justice Standards and Goals.

Mr. Allen Breed, Special Master, U.S. District Court, Rhode Island/Chairman, Task Force on Juvenile Justice, National Advisory Committee on Criminal Justice Standards and Goals.

Dr. Noel Bufe, Administrator, Michigan Office of Criminal Justice Programs/Chairman, National Conference of State Criminal Justice Planning Administrators.

Mr. Norman Darwick, Director, Bureau of Operations and Research, International Association of Chiefs of Police.

Mr. Grady Decell, Director, South Carolina Division of Youth Services/President, National Association of State Juvenile Delinquency Program Administrators.

Mr. Peter Edelman, Director, New York State Division for Youth.

Professor William W. Greenhalgh, Professor of Criminal Law, Georgetown University Law Center.

Mr. Richard N. Harris, Director, Virginia Division of Justice and Crime Prevention/Immediate Past Chairman, National Conference of State Criminal Justice Planning Administrators.

The Honorable Charles S. House, Chief Justice, Connecticut Supreme Court/Vice-Chairman, National Advisory Committee on Criminal Justice Standards and Goals.

Mr. Frank Jasmine, Criminal Justice Program Associate, Office of the Governor of New York/Member, National Minority Advisory Council on Criminal Justice.

Mr. Perry Johnson, Director, Michigan Department of Corrections.

Mr. James F. Kelly, Prosecuting Attorney for the 19th Judicial Circuit of Indiana (Indianapolis).

Mr. John Lagomarcino, General Council and Staff Director, Committee on Crime Reduction and Public Protection, National Governor's Association.

Mr. William D. Leeke, Commissioner, South Carolina Department of Correction/President, American Correctional Association.

Dr. Peter Lejins, Director, Institute of Criminal Justice and Criminology, University of Maryland/Chairman, Task Force on Research and Development, National Advisory Committee on Criminal Justice Standards and Goals.

Mr. Mario Merola, District Attorney, Bronx County, New York.

Mr. Glenn Murphy, Director, Bureau of Governmental Relations and Legal Counsel, International Association of Chiefs of Police.

Mr. Thomas Parker, Executive Director, National Conference of State Criminal Justice Planning Administrators.

Mr. Thomas Peddicord, Jr., Chief Legislative Officer for the Governor of Maryland.

Mr. Henry Ruth, General Counsel, United Mine Workers Health and Retirement Fund.

Mr. Charles Schinitsky, Attorney-in-Charge, Juvenile Rights Division, New York Legal Aid Society.

Mr. Michael S. Silver, Chairman, Maryland Governor's Commission on Law Enforcement and the Administration of Justice.

Mr. Anthony P. Travisono, Executive Director, American Correctional Association.

Mr. Richard Velde, Attorney-at-Law, Bier, Bower and Rockefeller/Former Administrator, Law Enforcement Assistance Administration.

Mr. Benjamin Ward, Commissioner, New York State Department of Correctional Services.

Mr. Richard C. Wertz, Special Assistant for Criminal Justice Matters, Governor of Maryland/Executive Director, Governor's Commission on Law Enforcement and the Administration of Justice.

Mr. Charles Work, Attorney-at-Law, Peabody, Riblin, Lambert and Meyers/Former Deputy Administrator, Law Enforcement Assistance Administration.

Mr. Paul Wormeli, Vice-President, Operational Systems, Inc. Former Deputy Administrator, Law Enforcement Assistance Administrator.

MAJORITY OF PEOPLE SUPPORT CONSUMER PROTECTION AGENCY

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. ECKHARDT. Mr. Speaker, according to noted pollster Lou Harris, the majority of people favor the consumer protection agency bill and this support is growing. In remarks prepared for delivery to Consumer Federation's Consumer Assembly on January 20, Harris said that support for the legislation has increased so that the public is now 55 to 28 percent in favor of the bill. Unfortunately, Mr. Harris was snowed in up in New York so he was unable to actually deliver his remarks to the consumer assembly.

I think Mr. Harris' prepared remarks will be of great interest to the Members, and I am inserting them in today's RECORD:

THE CONSUMER PHENOMENA IN AMERICA

(By Lou Harris)

Let me say at the outset that I am deeply sorry that the snows and acts of God kept me from coming to appear before you in person, but it's a great privilege to report to you today anyway, and especially on the incredible movement of which you are all a much visible part. In our recent Sentry study, "Consumerism at the Crossroads", (I might say commissioned by the Sentry people with absolutely no strings attached) we uncovered a nerve cord that is close to the center of where the American people are and where they want to go. That study has become a best seller. By now over 100,000 copies have been requested, and over 4,000 separate news stories or broadcasts have been made about it.

The reason for this wide and abiding interest in this study is not hard to find, for in that study we documented a major social, economic and political phenomenon that has grown up in America and appears destined to affect what happens in this country for the rest of the century and beyond. In its most basic terms, consumers in America decided that things are not well nor right in the marketplace and they have decided in turn that in the future, their interests will be protected. The standards of quality of products and services they want to obtain, the quality of human experience they aspire to, all will be only achieved if they make their desires and their weight felt through their own purchasing power.

The consumer movement is broad and it is deep. It parallels historically the populist movement among small farmers who protested against entrenched business and banking privileges in the 1880's which gave rise to organized farm power in this country. It parallels a dramatic movement of the 1930's when the mass of industrial workers organized farm labor unions to bargain with their employers. It parallels the efforts on the part of blacks in the 1960's to cry out for equal justice after 300 years of active and benign neglect. But there is a critical difference between the consumer movement and the rest.

Farmers have now shrunk to a minority of less than 4 percent of the population; even though they have been visible just today and last month as they ride their tractors in protest. Union members are no more than 23 percent of the adult population. Blacks and other racial minorities are no more than 17 percent of the adult population. Another recent and significant movement is that of women who are a 53 percent majority. Yet the consumer movement dwarfs them all. By definition it encompasses the entire population. Even stripping away all those who would be businessmen first and consumers second, union members first and consumers second, farmers first and consumers second, minority group members first and consumers second. The consumer movement, made up of the who have placed a higher priority in making their consumer voices heard, still make up a potential of well over seven of every ten Americans 18 years of age and over.

The singular mark of this movement is the distrust of leaving the work of looking after their interests to the major institutions of political and economic power. Instinctively, they do not believe industry will reform by itself, but at the same time, they do not see big government as their savior either. Instead, they want an opening up of the bargaining and regulatory process to allow citizen participation at a scale never before witnessed in the history of this world, or this country. They are instinctively distrustful of nearly all other organized economic self-interest groups and will fight them tooth and nail in the ultimate arena of politics if need be. Over the past decade, consumers feel they have been hit in the blind side by a whole litany of violations against the public interest.

Soaring prices of products in short supply such as meat, energy, sugar, coffee, and others; questionable products with even more questionable quality and safety; alleged false claims in advertising; misleading packaging and labeling; grossly inadequate service of new products and even more shoddy repairs; lack of redress to handle their complaints; warranties and guarantees filled with gobbledygook words and empty promises; extreme difficulties in receiving common justice in the common marketplace. Our study, as you know, covered in depth the broad spectrum of the problems which are besetting the American consumer today. But we also obtained a reading of what the public top government people concerned with the consumer affairs, thought business representatives and what consumer activists such at you in this room think of your movement.

Here are some of the major findings in that part of the study. The charge that "the consumer movement is a threat to our free enterprise system" is violently rejected by a 60 to 13 percent majority among the public, by 85 to 9 percent by government consumer affairs people, and by 92 to 6 percent by you consumer activists. Most interesting of all, this charge is also rejected by 62 to 26 percent by top businessmen themselves. So let there be no doubt about it, the nearly unanimous feeling is that the consumer movement is simply not seen as some strange, foreign, wild movement whose basic tenet is to overthrow the system of private enterprise. Another claim is that "the consumer movement seems to be running out of steam." Of course you all know the answer to that, but by a 3 to 1 margin, most of the American people know it too. Significantly, by 3 to 1 top business leaders also know that the consumer movement has not run out of steam and is not about to go away.

Another charge is that "the consumer movement makes a lot of charges against companies which aren't justified." Well, that one is rejected by a clear 40 to 29 percent by the public, by 58 to 33 percent by government people, and not surprisingly by consumer activists by an even more sizable 5 to 1. But, alas, the first sign of a break in the ranks—top business leaders believe it by a massive 84 to 9 percent.

Another charge is that "the activities of the consumer movement will inevitably lead to too much government control over our lives." That one meets with a 42 to 26 percent rejection by the public, by 58 to 33 percent among government officials, and by 82 to 15 percent among consumer activists. However, top businessmen believe this by 63 to 25 percent. Another familiar charge is that the consumer movement "gives a one-sided and unfair picture of what industry and business do." This is rejected by the public by 49 to 21 percent, by key government people by 60 to 29 percent, and by yourselves—consumer activists—by 83 to 9 percent. But business leaders believe it by 79 to 15 percent.

Yet another charge is that "most people in the consumer movement are more interested in attacking the free enterprise system than in helping the consumer." The public again turns this charge away by a decisive 47 to 24 percent margin, public government

people by 72 to 12 percent, consumer activists by 90 to 5 percent. Top businessmen are less certain of the truth of that one, but they still believe it by 49 to 31 percent. But on two key positive attributes to your movement, there is agreement among all the groups we surveyed. The claim that the consumer movement has "kept industry and business on their toes" is believed by a 77 to 8 percent majority of the American people, by 84 to 8 percent among consumer activists, by an even 93 to 4 percent among government officials, and most significantly of all by a 77 to 9 percent majority among top business leaders. I might add, they said that standing on their collective toes.

Finally, the claim that "the consumer movement has helped a great deal to improve the quality and standards of the products and services people buy is believed by a 69 to 10 percent majority of the public, by 79 to 10 percent by consumer activists, by 79 to 7 percent among government officials, and by a 54 to 31 percent majority of the top business people.

Clearly, by any measure, your movement is widely respected and praised by the public and in some key instances, albeit perhaps grudgingly, by top business leaders themselves. A kind of bottom line on the movement came when we asked people if the consumer movement has done more good or more harm. By a massive, nearly unanimous 83 to 4 percent, the public thinks you have done more good than harm. It's no surprise that you activists were a 100 to 0 percent that you're only doing good, but government people also agree by almost as much—98 to 2 percent. The most fascinating result is that by 79 to 18 percent, top business people admit that you're doing more good than harm too.

Unless you think you've got it made, however, there are important pieces of advice which the leadership group we surveyed would like to give you. At the top of the list is to enroll more grassroots level involvement—get deeper into the local level at every community in this land. Another is that the leadership in the movement ought to be more professional. Because of the importance of your cause, you owe it to yourselves and your constituents to be top professionals in the field you have chosen to pursue. There is nothing less effective than well-meaning amateurs, especially in such subtle fields as legislation, which I shall get to in a moment.

Another is that better communications be established between the consumer movement and the business community. Let business know in detail both the logic and the facts about what you want from business.

Now let me get down o the matter that I am sure will absorb a major part of your attention right here in the Nation's capital in 1978—the question of whether Congress is going to pass a consumer protection agency bill. At the time we did our "Consumerism at the Crossroads" study, sentiment nationwide among the public was 52 to 34 percent in favor of that bill, but in the last study we did on the subject, we find that support has gone up to 55 to 28 percent, and in a brand new study just completed this month, we find that 76 to 15 percent majority say one of the top priorities of Congress in 1978 is "to begin to represent the consumer more and big business and big labor less." It is obvious that there is a consumer consciousness out among the public, and in 1978, I don't think the public is going to once again take "no" as an answer.

Now I must also report to you that there are some genuine doubts and worries people have about setting up a new consumer protection agency in the Federal Government. By 55 to 25 percent a majority worries that "adding another government bureaucracy—no matter how well intentioned—will lead to more red tape, spending more tax money and won't really give the consumer that much more protection. And by 49 to 31 percent, a plurality feels "business is tied up now by mountains of red tape from government regulations and a consumer protection agency would just add more red tape and keep business from doing its job." But these two concerns about the consumer protection agency are heavily outweighed by two other arguments that come through loud and clear. By 65 to 21 percent, a sizable majority feels that "Such an agency is long overdue."

The individual consumer needs help in making his complaints heard and in getting better quality and safer products and services. This sentiment, I might add, is growing with each passing year. By an even larger 67 to 16 percent the majority also feels that "big business has so much power with government that unless the consumer has someone in government to argue his case and make business give better quality, then the consumer will continue to be short-changed on products and services. It is apparent that people are convinced that a new consumer agency must be established as a counter-weight to what is seen as the excessive influence and power of business and government.

Now, having reported to you the result of public opinion on the consumer protection bill, let me add, that if it had come up diametrically opposite, I would have reported that to you without the slightest hesitation, here today. Having reported it, I would like to comment, if I may on the history of this bill before Congress. It's an open secret that the reason the bill did not come to a vote early in the 1977 session of Congress and again late in the session is that the business lobby against it had corralled too many votes in opposition to it. The leadership of Congress and the White House, both committed to it, were convinced the division would be too close to risk having it voted down.

I know there are some disagreements over the accuracy of the counts of heads on the bill. Now in this new year and this election year of 1978, when every Member of the House must face re-election, I understand a major effort will be made by the White House and the leadership of Congress to get the bill passed. Business, you can count on it, will once again mount a massive campaign against the bill. You consumer activists will be here in force pressing for its passage. I don't know how the bill will end up. If the bill does not pass, it will not be the first time that the majority of the American people have had their will thwarted by the legislative branch of government.

I feel I must make one comment about the business effort which is being revived up again to keep this legislation from passing. Let me say, I make a considerable part of my livelihood doing surveys for business and telling them straight the implications of what we find, but I have no evidence to say publicly and to give unsolicitated advice to American business. I think major elements of American business are putting themselves in a no win position by their vehement opposition to this bill; for if the bill passes, it will be seen as a singular victory for the consumers over entrenched business opposition. Ironically, the bill will then be seen as if it were a new Consumer Bill of Rights which it emphatically, as you all know, is not. And if the bill loses, the bitterness against business will mount and mount. Business knows that it is in the dog house these days with the public and with the voters and with some of their best customers. And such activity as this, against the Consumer Protection Agency is a typical reason why the public thinks business wants to buy and sell government and not keep the consumer clearly in mind.

I want to thank you for your indulgence in letting me talk to you today. As you can see, as one who analyzes the public mood, I find it irresistible to draw my conclusions to their ultimate significance. Thank you for letting me do that.

I'm sorry I'm not there in person today. It was an act of God that kept me away. I just wish I were there. But God speed you in your work, for it is among the most significant efforts this country has seen. Millions upon millions of people out there are pinning their hopes on you. Please wear that mantle well.

"GEN. OMAR BRADLEY DAY"

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. VOLKMER. Mr. Speaker, 6 months after Omar Nelson Bradley was commissioned as an infantry second lieutenant, he calculated that he would have to wait 16 years and 3 months for his first promotion. Fortunately for the country, his calculations were slightly off.

He made first lieutenant within 7 months, just over a year after his graduation from West Point (44th in the 164-man class of 1915). He moved up quickly to the rank of captain and then major. He was the first member of his class to make brigadier general, 9½ months before Pearl Harbor.

And as war raged over Europe, he was in command of the 12th Army Group, which at its peak consisted of 4 Armies and numbered more than 1.3 million troops in combat. It was the largest number of American soldiers ever to serve under one field commander. On September 20, 1950, he became the Army's fifth five-star general.

On February 6, the Nation's only surviving five-star general will be honored when Missouri Governor Teasdale signs a proclamation declaring February 12 as "Gen. Omar Bradley Day." February 12 is the 85th birthday of this distinguished American.

This is a fitting honor for the former Missourian, the man known as the "G.I.'s General." I am proud because General Bradley spent his early years in Randolph County, Mo., an area that I have the honor to represent in the U.S. House of Representatives.

He was born on a farm in Clark, Mo. When his father, John Bradley, a schoolteacher, died, Omar and his mother moved from the Clark-Higbee area to Moberly, Mo., a town then of about 10,000 people. After graduation in 1910 from the local high school, he went to work to help save for college.

He had thoughts about attending the University of Missouri and possibly law school, but instead he applied to West Point. He did so because his Sunday school teacher, Jim Crewson, pointed out that not only could he get a good education at the military academy, but he could also play baseball.

Those who love the game of baseball like I do, may not know that General

Bradley was deeply involved in the game at one time. He was good enough of a baseball player to be considered for a tryout with a minor league club. Partly because of his love for the sport, he decided to attend West Point, where he graduated in a class that included Dwight Eisenhower.

After a distinguished career in World War II, General Bradley assumed the head post at the Veterans' Administration. In that position in the years after the war, he led the fight to make the GI bill work. He called it an "investment in human beings."

In carrying out his responsibilities, he was known as one who would not mince words; the kind of man to make a decision and make it stick. Once as VA head, he selected a site for an Illinois veterans' hospital based on the research that showed where it ought to be located.

But a local Congressman was pushing for another site. He went to Bradley, but the general would not budge. "What will I tell my constituents," the Congressman wailed The general answered: "Tell them Bradley said no soap."

He is known to be simple, direct, unassuming, and amiable. Those persons who know him best will tell you that General Bradley's success represents the triumph of simple, absolute honesty, and good will. He has never lost faith in his belief in America's best qualities or in the teachings of the Sunday school teacher who set him on the course to West Point.

But of all that has been said and written about this man, it may be best summed up by the words of a Moberly seventh-grader, who in a 1962 school essay wrote:

He was a Missouri boy from our very own community. His rise to military fame was spectacular, even in our country of great opportunities. His plainness and his human touch have protected him from enemies that often destroy good men.

BOB BAUMAN—WATCHDOG OF THE HOUSE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. HYDE. Mr. Speaker, during the Christmas recess the Washington Post printed a most interesting article on one of our colleagues that deserves to be shared.

If any Member of this body can be called indispensable, it is BOB BAUMAN. He brings a keen intelligence and a fierce commitment to fair play to his legislative duties. Although he holds no formal party office, in fact he is our floor leader on an enormous number of important issues.

We Republicans take BOB too much for granted. We rely on him to understand and articulate our point of view on every single procedural issue, and on many substantive ones as well.

He possesses a rare combination of idealism and toughness that serves his district and his country most admirably. That even the Washington Post recognizes this is indeed gratifying.

The article follows:

MARYLAND CONSERVATIVE IS WATCHDOG OF THE HOUSE

(By Donald P. Baker)

The big blue Mercury gas-guzzler wheeled into its assigned parking space in the Cannon Office Building garage at 9:45 a.m. Thursday. The driver, Rep. Robert E. Bauman (R-Md.) hopped out buttoning his vest, and barely breaking stride, puffed off on the five-minute hike to the floor of the U.S. House of Representatives. Although he has the longest regular commute in Congress, making the 154-mile round trip from Easton on the Eastern Shore every day, Bauman was in his accustomed spot, near the minority table when the Rev. Edward G. Latch intoned the prayer opening the session at 10 a.m.

A House doorkeeper observed that "virtually every day" Bauman is the first member to enter the cloakroom.

Bauman explains his mission in the words of John Stuart Mill, the 19th century British philosopher, who wrote that "the proper office of a representative assembly is to watch and control the government."

Or as Bauman puts it, "Anytime the House is in session, America is in danger."

At age 40, the third-term member from the First Congressional District is Maryland's youngest, most conservative and probably most widely-quoted member of the House, a self-appointed parliamentary watchdog.

"He's the most valuable member of Congress," said Rep. Phillip Crane (R-Ill.) "He sees that they (Democrats) play by the rules of fair play."

Speaker Thomas P. (Tip) O'Neill is less enthusiastic, saying, "Every legislative body has a Bauman. He's tough and he certainly irks the leadership when we're trying to get things done."

The retirement in 1974 of Iowa's indomitable "no" man, H. R. Gross, catapulted Bauman from the obscurity of a freshman in the minority party to a position of informal leadership on the House floor.

"It was the consensus among conservatives that someone had to watch the store," Bauman said.

"With H. R. retired," recalled Rep. John H. Rousselot of California, "a few of us got together and asked 'who's willing?' Bauman was." Rousselot and Reps. John M. Ashbrook of Ohio, Steven D. Symms of Ohio and Chalmers Wylie of Ohio took Bauman up on the offer and that was it. "It's not an elective office, you know," Rousselot said.

House Minority Leader John J. Rhodes of Arizona said Bauman quickly proved to be "a successor in the line of Gross and Doc Hall."

If Bauman appears at home on the House floor, it is because he has spent nearly half his life in and around it, beginning at age 15 as a page. For the next 15 years, he worked in various capacities for the Republican side, going to Georgetown University and its law school at night.

Walter B. Little, a 35-year House employee, has known Bauman since he was a page. "He earmarked himself to be a member since he was a kid," Little said. "His attitude never changed. He was always conservative, but not against the little man. Just standing up for what he thinks is right."

And stand up he does, time and time again interrupting proceedings on technical points of which he is the House's acknowledged master.

"Mr. Speaker, reserving the right to object, I would like to propound a parliamentary inquiry to the chair." Or, "Further reserving the right to object, Mr. Speaker," and "Mr. Speaker, I would like to move a call of the House," and then, "Mr. Speaker, on that I demand the yeas and nays."

Rep. Robert Dornan (R-Calif.), a fellow conservative has "this picture of Bauman at the mike, feet apart, chest up, chin out, getting off one of his best line, such as, 'Mr. Speaker, has it come to this, that the Speaker would sweep off his feet a minority member because he disagrees with his viewpoint?' Tip sputtered, and then went into a platitudinous speech about the rights of all . . ." laughed Dornan.

Bauman has parlayed his diligence on the floor—(he missed only six of 745 votes taken this year through Monday)—and an articulation of the conservative philosophy into a national reputation. He is widely sought out for his reaction, by correspondents who have learned they can count on him for a concise, sarcastic and often witty view of events.

One moderate Republican complains that Bauman "wants to be a darling of the conservative cause. He's on TV all the damned time."

Human Events, the weekly newspaper of the intellectual right, rates Bauman as one of 35 leading American conservatives.

Bauman clearly takes delight in expressing what liberals view as simplistic solutions to complex issues. Some examples:

The Panama Canal—"It's as much a part of America as Talbot County (where he lives). We're in control of Talbot County in perpetuity, except during hunting season, when we need a little help from the fed."

Abortion—"It's murder. I know that disturbs the emotions of some," said Bauman, who converted to Catholicism as a teenager, "but children are being killed by the use of federally funded abortions and that must be faced. It's the ultimate child abuse."

Detente—"I don't say 'nuke them' by lobbing one into the john at the Kremlin, but communism is evil, always was and always will be."

Junkets—"I've never taken one, in or out of the country."

Liberal Republicans—"Democrats in drag."

Within the Maryland delegation, his closest associates are Republican Marjorie Holt of Severna Park and Democrat Goodloe E. Byron of Frederick.

"Marjorie and I confer daily," Bauman said. "We try to work together on state politics because we're not on the same wave length with Steers." (Rep. Newton I. Steers, a liberal Republican of Bethesda, is the only other Republican in the Maryland House delegation.)

Since Steers and Bauman have gone to Congress, Steers said he believes "both of us have mellowed. We differ sharply philosophically, but I like him personally. He is a most effective parliamentary gadfly. I just wish he voted differently."

Bauman gets some grudging praise from some of the Democrats in the Maryland delegation.

"Even Bauman comes on the side of the angels occasionally," said Rep. Barbara Mikulski of Baltimore. "On issues of mutual interest to Maryland, such as ocean dumping, preservation of the bay and economic development, we put ideology on the hold button."

Mikulski and Bauman serve on the Maritime and Fisheries Subcommittee, and when he is absent (which is any time the committee meets when the House also is in session), "I watch out for his interest and defend the Eastern Shore," Mikulski said.

Rep. Gladys Noon Spellman of Prince George's County said that if she has a problem with a constituent, "I can write a letter to the President or (Cabinet) secretary and know that Bob Bauman will be one of the people I can count on to back me up."

While he has gained a national following as the result of his frequent network television appearances and comments in leading conservative journals, Bauman has been tending to the home folks too.

For years, the First Congressional District of Maryland was composed of the nine coun-

ties east of the Chesapeake Bay, the Eastern Shore. But one-man, one-vote resulted in adding four counties west of the bay: Harford, near Baltimore, and Calvert, Charles and St. Mary's south of Washington.

"It's like representing three islands," said Bauman, whose secret in winning re-election has been to "keep at least two of them happy." (He lost Harford in 1974 and Southern Maryland in 1976.)

While his own polls show that his constituents are "uniformly conservative," his ideology is sometimes less apparent in positions he has taken in behalf of the First District.

He has proposed consolidating federal research on the bay (and is supported by Mikulski); rail service for the Delmarva Peninsula, and funding of the D.C. Retirement Act, because many current and former District police officers, firemen, teachers and judges live in Charles and Calvert counties.

Bauman, who acknowledges that he acquired a "smart-ass image" as an overly combative state legislator (perhaps a reflection of his admiration for his columnist friend, William F. Buckley Jr.), honed his parliamentary nit-picking skills as a state senator in Annapolis.

He always read the fine print, and was credited with discovering a printing error in one of 102 amendments offered to a 19-page land use bill that was highly desired by then Gov. Marvin Mandel. Bauman suggested the mistake might make the bill unconstitutional, forcing postponement of the vote, and a two-year delay in its passage. Bauman admitted recently that he hadn't found the error, but had benefited from a tipster who admired his careful reading of legislation.

The publicity that Bauman got enraged Bauman's fellow senator from the Shore, Democrat Frederick C. Malkus, Jr., himself a symbol of Eastern Shore conservatism and independence.

They wound up running against each other for Congress in a special election in 1973, after the shotgun suicide of Rep. William O. Mills. The ensuing defeat crushed Malkus, a 22-year legislator, who said last week he has "no intention" of ever challenging Bauman again, and therefore had "nothing to say about him."

Mills had beaten Bauman in the GOP primary in 1971, as they sought to succeed Rogers C. B. Morton, who had been appointed Secretary of the Interior by Nixon.

In 1974, Bauman was one of 47 congressmen targeted for defeat by the AFL-CIO's political action committee (COPE). At a rally that October in Bel Air, then-Georgia Gov. Jimmy Carter denounced Bauman as someone who "exemplifies all that's wrong with the Republican Party."

Although Bauman denies having ambitions beyond his House role, Laurence E. Hulbert, executive director of the Republican Party in Maryland, believes that "Bob is very interested in running for the Senate in 1980 against Mac (Mathias)."

Bauman permits himself a sly grin and adds, "All my experience has been in the House except for the McCarthy censure hearings in 1954, when John Marshall Butler was in the Senate. (Butler named Bauman a Senate page). He was the last good senator Maryland had."

THE LEGISLATIVE OVERSIGHT ACT OF 1978

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1978

Mr. DERRICK. Mr. Speaker, I introduced on January 19 and again on January 26, for myself and others, The Legislative Oversight Act of 1978 (H.R. 10421 and H.R. 10574).

As Members know, the need for improved congressional review and evaluation of Federal programs has long been widely recognized. At the same time, the delay in enacting a sunset law testifies to the tremendous problems that are involved in developing a truly workable approach, one that would not produce a massive additional workload for the Congress, with only marginal benefits in return.

I believe this bill proposes a workable approach to this very difficult subject. It would take effect with the beginning of the 96th Congress and has several important advantages. It does not impose a substantial new workload, which would result from an arbitrary schedule for reviewing all Federal programs on specified dates. It does not permit committees to avoid the review and evaluation process. And, it differs from sunset bills in that it would apply to tax expenditures, as well as authorizations for direct spending. Tax expenditures comprise a growing burden on the Federal budget, a major area of uncontrollable spending. This bill will help to insure that the public gets full value for the billions of dollars of lost revenues that result from these provisions of the tax law.

My bill would focus on the Congress' efforts on the front end of the legislative process where we are most often deficient. At the time a new program is to be authorized, the program's objectives and planned annual accomplishments would have to be more carefully and precisely set out in the bill itself, in quantifiable terms to the extent practicable. Then, through the annual agency reports, the Congress would be in a better position to evaluate a program's success against its own carefully stated objectives. And, finally, when a program is to be reauthorized, the committee of jurisdiction would be required to make an overall assessment of how well or badly the program had achieved its original objectives and planned accomplishments. This proposal should substantially improve the quality of legislation, on the one hand, and make the program oversight more meaningful and useful, on the other.

I believe we can pass this important oversight legislation during this session of the 95th Congress and, by doing so, we would demonstrate to our constituents that we are ready to make a real effort to end ineffective and wasteful Federal programs so that our scarce budget resources may be devoted to higher priority activities.

The text of the bill is as follows:

THE LEGISLATIVE OVERSIGHT ACT OF 1978

To improve Congressional oversight of Federal programs and activities by requiring greater specificity in setting program objectives, by requiring continuing information on the extent to which programs are achieving their stated objectives, by requiring periodic review of new authorizations of budget authority and tax expenditures, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Legislative Oversight Act of 1978".

FINDINGS AND PURPOSES

SEC. 2. The Congress finds that there is a recognized need for more effective oversight of Federal programs and activities in order to conserve and use more efficiently increasingly scarce Federal budget resources; that a major barrier to effective oversight is the lack of adequate specificity in the statement of objectives in the laws authorizing numerous Federal programs and activities; and that the Congress lacks continuing information on the extent to which programs and activities are achieving their stated objectives.

The purpose of this Act is to improve Congressional oversight of Federal programs and activities by—

(1) requiring greater specificity in establishing the objectives of Federal programs and activities;

(2) providing for continuing information from agencies administering such programs and activities on the extent to which they are achieving their specific objectives; and

(3) requiring periodic review of programs and activities to assure that budget resources are used efficiently in meeting national needs.

TITLE I—REQUIREMENTS FOR AUTHORIZATION BILLS

REQUIREMENT THAT BILLS INCLUDE STATEMENTS OF OBJECTIVES AND REQUIREMENTS FOR PRODUCTION OF CERTAIN INFORMATION

SEC. 101. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority, or provides new or increased tax expenditures, as defined in section 3(a) of the Congressional Budget Act of 1974, or which provides new spending authority, as defined in section 401(c) of the Congressional Budget Act of 1974, unless such bill or resolution includes—

(1) a statement of the specific objectives and planned annual accomplishments of the program to be authorized or established; and

(2) a requirement that the agency or agencies administering the program report annually to the Congress information designed to assist the Congress in determining the extent to which the program is meeting the specific objectives and planned accomplishments set forth in the bill or resolution.

The objectives and planned accomplishments set forth pursuant to this section shall be stated in such terms as to enable the agency or agencies administering the program to be authorized to provide, in the required annual reports, information which makes it possible to compare the costs and accomplishments of the activities comprising such program, and the costs and accomplishments of the program to other governmental and non-governmental programs having similar or related objectives.

AGENCY REPORTS

SEC. 102. On October 15 of each year, each agency administering a program established under legislation enacted pursuant to section 101 shall submit, through the Director of the Office of Management and Budget, a brief report to the Congress on the extent to which the program, including the activity or activities comprising such program, is meeting the specific objectives and planned annual accomplishments set forth in the authorizing law. Such reports shall emphasize, to the extent practicable, quantitative measures of program costs and accomplishments, including comparisons of costs and accomplishments between the program set forth in the authority legislation and other governmental and non-governmental programs having similar or related objec-

tives. Reports may also contain such additional information on costs, accomplishments, and deficiencies as the head of the administering agency may deem appropriate. In order to assist the Congress in determining whether programs should be reauthorized, modified, or discontinued, the agency report submitted in the year preceding the expiration of a multi-year program authorization shall summarize significant findings in each annual report submitted since the authorization was enacted.

TITLE II—REQUIREMENTS FOR REPORTS ACCOMPANYING AUTHORIZATION BILLS

STATEMENT TO BE INCLUDED IN AUTHORIZATION BILLS

SEC. 201. (a) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority or provides new or increased tax expenditures, as defined in section 3(a) of the Congressional Budget Act of 1974, or which provides new spending authority, as defined in section 401 (c) of the Congressional Budget Act of 1974, unless the report accompanying such bill or resolution contains a statement which—

(1) sets forth the specific objectives and planned annual accomplishments of the program to be authorized or established, its expected social and economic impact on individuals or groups intended to be served, the relationship of the expected costs of the program to such planned annual accomplishments and to other governmental and nongovernmental programs and activities having similar or related objectives, and the necessity for, appropriate extent of, and anticipated duration of Federal support of the program;

(2) identifies potentially or actually conflicting, overlapping, or duplicative programs and activities in other governmental and non-governmental programs, and explains the relationship of such programs and activities to the program to be authorized.

(3) identifies previous efforts to accomplish the objectives of the program, and compares the costs and accomplishments of such efforts to the expected costs and accomplishments of the activities to be authorized; and

(4) where provisions of Federal law conflict with the objectives of the program to be authorized or are obsolete in relation to the objectives of such program, sets forth recommendations for eliminating such conflicting or obsolete provisions.

(b) When an existing authorization of budget authority or tax expenditure is to be continued under a new authorization, the report submitted pursuant to this section shall contain, in addition to the statement required by this section, an assessment of the degree to which such program or tax expenditure has met previously stated objectives.

CATALOG OF INTERRELATED FEDERAL ACTIVITIES

SEC. 202. In order to assist the Congress in preparing statements required by Section 201 of this Act, within six months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Director of the Office of Management and Budget, shall publish a descriptive catalog of interrelated Federal activities, including tax expenditures, organized according to such classification scheme or schemes as deemed appropriate to the requirements of Section 201 of this Act. Such catalog shall include—

(1) comparisons of program costs (including, to the extent practicable, the costs per unit) and accomplishments among programs having similar or related objectives using, insofar as possible, information developed by agencies in reports submitted pursuant to Section 102 of this Act;

(2) description of program interrelationships, including identification of duplicative or overlapping programs and activities, and identification of provisions of law which authorize activities for which funds were not provided in the most recently concluded fiscal year and which may be obsolete; and

(3) descriptions of State and local government programs and private activities having similar or related objectives, including information on program costs and, to the extent practicable, costs per unit.

The Comptroller General shall periodically update the catalog, or sections thereof, with due consideration for the legislative programs of the committees; emphasize in the initial version of the catalog those activity areas expected to receive earliest consideration by the Congress; and provide such assistance to the committees of the Congress as may be necessary for fulfilling the requirements of sections 101 and 201 of this Act.

TITLE III—PRESIDENTIAL BUDGET RECOMMENDATIONS

SEC. 301. The annual budget submitted by the President in accord with section 201 of the Budget and Accounting Act, 1921, shall describe the relationship between his recommendations on program budgets and the program accomplishments reported pursuant to section 102 of this Act.

TITLE IV—AUTHORIZATION TIME LIMIT, CERTAIN OBLIGATIONS NOT IMPAIRED

AUTHORIZATION TIME LIMIT

SEC. 401. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority, or provides new or increased tax expenditures, as defined in section 3(a) of the Congressional Budget Act of 1974, or which provides new spending authority, as defined in section 401(c) of the Congressional Budget Act of 1974, for a time period exceeding five years.

CERTAIN OBLIGATIONS NOT IMPAIRED

SEC. 402. Nothing in section 401 of this Act shall be construed to impair or prevent—

(1) the payment of interest or the repayment of principal due lenders on debt instruments of the United States Government or its agencies irrespective of the date the obligations involved were incurred or the date such payment or repayment may be due; or

(2) the payment to individuals of benefits to which they are entitled by virtue of payments made by them and deposited into Federal trust funds.

TITLE V—MISCELLANEOUS PROVISIONS; EFFECTIVE DATE

EXERCISE OF RULEMAKING POWERS

SEC. 501. The provisions of this Act (except sections 102, 301, and 502) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

EFFECTIVE DATE

SEC. 502. Except as provided in section 202 of this Act, the provisions of this Act shall take effect on the first day of the first session of the Ninety-Sixth Congress.

SENATE—*Monday, February 6, 1978*

(Legislative day of Monday, January 30, 1978)

The Senate met at 10:45 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

I heard the voice of the Lord saying, Whom shall I send, and who will go for us? Then said I, Here am I; send me.
—Isaiah 6:8

O Thou Creator Spirit, Light of the world, and Revealer of truth, we thank Thee for moments of quiet reverence when all other voices are stilled and we are ready to receive Thy message. Give us ears to hear Thy voice above the din of many voices and grant us eyes to see the guideposts of history. Help us to discern the things of the spirit whether or not they are of Thee. And when we have heard Thy voice and read Thy signs on the horizon of history may we obey Thee and with the prophet say "Here am I; send me."

We pray in Thy Holy Name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 6, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, February 2, Groundhog Day, 1978, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER addressed the Chair.

Mr. ALLEN. Mr. President, will the Senator yield or will he yield after the distinguished majority leader has completed his remarks?

Mr. ROBERT C. BYRD. Yes.

THE DAVID MARSTON MATTER

Mr. BAKER. Mr. President, over the past weekend, a number of very thoughtful editorial pieces were published regarding the ramifications of the David Marston matter.

As the various authors indicate, it is difficult, if not impossible, to reconcile the administration's handling of this situation with the President's campaign promise to remove politics from the selection of U.S. attorneys.

In the event that all of my colleagues did not have a chance to read the articles mentioned, I commend them to their attention and ask unanimous consent that they be included in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 4, 1978]

THE MARSTON ISSUE

A BROKEN PROMISE—A BROKEN LAW?

(By Henry T. Roth)

When a presidential candidate makes campaign promises and then, when elected, breaks them, that is a moral and political issue that can be settled at the ballot box. But if a candidate for appointed public office adopts those promises as his intended policies in sworn public testimony at his confirmation hearing, knowing that he does not intend to carry them out—and can't, because of a prior secret political deal—that is not only a moral and political issue but also a serious legal one:

The moral and political issue is whether the country will stomach such devious conduct by the appointed public official.

The legal issue is whether the law has been broken—for it is clear that if a candidate for appointive public office willfully gives false testimony to a "competent tribunal," such as a duly convened confirmation hearing, that has been held to be a criminal offense designated in law as perjury.

Once the dust settles on the obstruction-of-justice charges concerning President Carter and Attorney General Griffin Bell on the Marston issue, the question of false testimony before the Congress by the attorney general will have to be resolved either by the courts, the Congress, the President or the court of last resort: public opinion.

Regrettably, the current quest for sensational news, in what probably will be an abortive effort to prove obstruction of justice, has diverted the spotlight of public concern from other, more lasting and significant aspects of the Martson affair that strike at the very core of the integrity of our political and justice systems.

The extraordinary public outcry over the Marston matter goes far deeper than mere disgust over a temporary delay in rooting out political corruption in eastern Pennsylvania. It reveals a frustrated and indignant public demanding that their politicians keep their campaign promises and keep politics out of our justice system.

The sorry story of lofty promises and secret wheeling and dealing involving the justice system is all spread on the public record:

First, President Carter, in his campaign platform of June 19, 1976, stated, "All federal judges and prosecutors should be appointed strictly on the basis of merit without any consideration of political aspects or influence."

Second, those promises were reiterated on Jan. 11, 1977, by Bell, under oath, as policies that would be carried out and implemented by him if he were confirmed by the Senate: ". . . If I am to be the attorney general, we want to professionalize the Department of Justice. We want to depoliticize it to the extent possible. Otherwise, I would not care to be the attorney general; he [Carter] would not care for me to be the attorney general.

". . . If we are really serious about doing something about crime in this country, then we must go into some career service in the prosecutorial forces.

". . . I intend for the Justice Department to be operated within the strictures of its being a law department, which would have nothing to do with politics. Of course, you touch politics because you are advising people, but it will not be a medium of politics, and it will not be used for political purposes."

Third, at his hearing before the confirmation committee, Bell was specifically questioned about his policies on retaining a hold-over U.S. attorney appointed by President Ford (such as David Marston in the Eastern District of Pennsylvania) who had made a "competent and meritorious record" and "wishes to be retained." His reply: ". . . They will have an opportunity to be considered for retention on the merit system. . . . Otherwise we would not be putting in a merit system."

Fourth, the above testimony is in stark contrast to what surfaced and transpired after Bell's confirmation:

On June 22, 1977, at a hearing convened by Rep. Robert Drinan (D-Mass.) Bell was asked to give Justice Department support to a bill being pushed by the congressman. Bell declined because, as he testified at that time, of an "agreement" with the Senate whereby in return for taking appointments to the federal circuit courts (but not the district courts) out of the patronage system, U.S. attorneys would continue under the politics-as-usual patronage system. Although the attorney general's office first denied the existence of such an agreement, it later admitted in a letter dated Dec. 20, 1977, that it was made during "an oral exchange between Judge Bell and Senator Eastland which took place in Atlanta in late December of 1976 or early January of 1977." This meeting has generally been reported to have been held on Dec. 13, 1976 (one week before Carter announced Bell's selection and three weeks before Bell gave the testimony above—testimony that not only made no mention of this secret arrangement, but was squarely contrary to it).

Fifth, on Jan. 9, 1977, Bell was quoted as having stated at the National Press Club that Marston's "job is to be replaced by a Democrat. . . . The 'ins' are the Democrats. . . . They can get in easier to complain. . . . I have nothing against Mr. Marston. He is a fine young man—but this is the political system in this country."

Finally, on Jan. 20, 1978, when Marston was fired, Bell complimented Marston on his performance and on the conduct of the office of the U.S. attorney in Philadelphia. At that time he reiterated that Marston was being removed "not because of lack of merit qualifications, but solely because of political considerations."

David Marston has now been fired—and he has now become a national folk hero. In due course, Philadelphia will get a new U.S. attorney, who will undoubtedly press, with equal vigor, to root out crime and political corruption.

But what about the promises to the nation to keep politics out of the justice system?

And what about the continued tenure of the attorney general? Whether, after all the evidence is in, it is found that he committed a criminal act at his confirmation hearing or aided and abetted in the obstruction of justice, is a complex factual and legal matter best left to the Congress, through impeachment proceedings, or to the due process of law in the courts.

But as the nation's chief law-enforcement officer, whose first duty is to search after truth, can Bell, in light of the gap between his word and deeds, continue to merit the respect and confidence of the nation, let alone the staff and subordinates, including the 94 U.S. attorneys, who report to him? This writer believes not.

And what about President Carter? Does he not have an obligation to square with the American people where he and we stand on his promise to take politics out of the justice system? Has he, or his attorney general, used the justice system as a pawn in a partisan political struggle?

[From the Washington Star, Feb. 3, 1978]

"PEOPLE'S WHITE HOUSE" TUNES OUT ON MARSTON FIRING CRITICS

(By Mary McGrory)

David Marston, the young ex-U.S. attorney from Eastern Pennsylvania, may be political. But he's not political enough to do the administration any good.

The storm-center came to Washington again to give his side of the story to a press breakfast. He has a fine opinion of himself and his performance. He has large brown eyes, a receding chin and a marmoset-like intensity of manner, and he wants to be sure that the world understands how he lost his job.

His version: "I am convinced that I would not have been dismissed if Eilberg had not called the president."

Rep. Joshua Eilberg, D-Pa., who was under investigation by Marston's office, telephoned Carter on Nov. 4 and told him, in Marston's phrase, to get the cop off the beat."

Senior loyalists, Tip O'Neill and Robert Strauss, tried to help out by painting Marston as brash and opportunistic, "viciously" pursuing Democrats. But these Goliaths did nothing to young David in the eyes of Pennsylvania voters.

The issue for them is not Marston's personality or his palpable ambition; it is his strenuous attack on the permanent, free-floating corruption in Pennsylvania politics.

"People know he is political, but they don't care," said Karen John, a Democratic town commiteewoman from Phoenixville, who testified in behalf of some 50 irate Pennsylvanians who came to Washington for an ad hoc, more or less bipartisan House hearing on the Marston affair.

She called the firing "the final rape of the judicial system," which may sound strong in pussyfooting Washington, but which seems to reflect the general feeling of the folks back home.

Marston was too smart to attend the rally. He said that he is "not trying to keep the issue alive," and he went back to Philadelphia immediately after his press breakfast.

Republican leader John J. Rhodes, who did attend, made somber and pointed reference to Watergate, and praised, for the first time, the impeachment contribution of Rep. Robert F. Drinan, D-Mass., who came to plump for a bill that would mandate merit selection of U.S. attorneys.

Another impeachment committee veteran, Rep. Tom Railsback, R-Ill., said he was on

hand to represent an incensed Democratic nephew in Valley Forge.

"They better," he rasped, referring to the stonewallers in the White House and Justice Department, "just come out and start telling us what happened."

Democrats may be able to turn back Republican demands for an investigation of the Marston firing, but the real political damage has already been done.

It isn't just that the campaign pledge of "Why Not the Best" in U.S. attorneys has been shredded—Marston is not so brilliant a lawyer that no Democratic counterpart can be found. Voters may, in time, recover from Carter's grating assertion that he would do it all over again—cornered politicians often bare their teeth.

But what comes out more strongly every day is of a more subtle and corroding nature. It is the howling discrepancy between the kind of open "people's" White House Jimmy Carter promised to run and the kind of impenetrable old-style bastion that he operates.

One of the Pennsylvanians, Brian P. Bowie, a well-tailored employee relations manager from Philadelphia, put his finger on it. Eilberg, he noted, got through to the Oval Office without any trouble and got an immediate response to his SOS. The people of Pennsylvania, who are up in arms, are getting the brushoff.

The dimensions of the run-around were detailed by the principal spokesperson for the protesters, a small, spirited gray-haired woman named Jean Irvin, who is not entirely clear on the difference between district attorneys and U.S. attorneys but knows what she likes. She told of her efforts to persuade the president to have a "town meeting" with the irate "Citizens United to Retain Marston," who, she says, will soon number 10,000.

She called appointments secretary Tim Kraft for two straight days beginning Jan. 14.

"Each time I was told he was either out of the office, out of town, or on another line," she recounted.

Another aide, Scott Burnett, advised her to send a mailgram. She did and she is still waiting for an answer. A week later, someone from the White House called her. It was Doug Huron, and he is from the office of the president's legal counsel. Ms. Irvin sniffed that she thought it was meant to scare her.

The point about all this is that Jimmy Carter stood in a thousand living rooms in this country two years ago and told people he wanted an "intimate relationship" with them, wanted them to "stay close to me," and would rely on their "advice."

The people of Pennsylvania have been trying desperately to stay close to him on the Marston affair. To date, 11,530 telephone calls and 27,385 letters have come to the White House. All but 50 of them have advised the president that he was dead wrong to sack Marston.

By his unresponsiveness, he is telling them to drop dead.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have a request for a portion of my time under the standing order. I will be happy to yield the floor at this time and reserve my time under the standing order, if the majority leader wishes to transact business on that side.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Alabama first and then to the distinguished Senator from South Carolina. How much time does the Senator want?

Mr. President, I yield briefly to the distinguished Senator from South Carolina.

REGULATION OF UTILITY POLE ATTACHMENTS

Mr. HOLLINGS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7442.

The ACTING PRESIDENT, pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 7442) entitled "An Act to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments", with the following amendments:

1. Page 1, strike out all after line 4 over to and including line 8 on page 7.

2. Page 7, line 9, strike out SEC. 5., and insert SEC. 2.

3. Page 7, line 13, strike out SEC. 6., and insert SEC. 3.

4. Page 10, strike out all after line 6 over to and including line 12 on page 11.

Mr. HOLLINGS. Mr. President, I move that the Senate disagree to the House amendments, en bloc, numbered (1), (2), and (3).

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

UP AMENDMENT NO. 1175

Mr. HOLLINGS. Mr. President, I move to concur in House amendment No. (4) with an amendment which I send to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 1175:

Beginning on page 10, strike all after line 6 over to and including line 12 on page 11, and insert in lieu thereof the following:

SEC. 7. The amendments made by this Act shall take effect on the thirtieth day after the date of enactment of this Act; except that the provisions of sections 503(b) and 510 of the Communications Act of 1934, as in effect on such date of enactment, shall continue to constitute the applicable law with the respect to any act or omission which occurs prior to such thirtieth day.

Mr. HOLLINGS. I move concurrence in House Amendment No. (4), as amended.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

Mr. HOLLINGS. I thank the Senator.

Mr. ROBERT C. BYRD. The Senator is welcome.

I yield to the distinguished Senator from Alabama (Mr. ALLEN).

PANAMA CANAL TREATIES

Mr. ALLEN. I thank the majority leader.

Mr. President, I would like to ask the distinguished majority leader when he plans to have laid before the Senate the Panama Canal treaties, for consideration by the Senate .

Mr. ROBERT C. BYRD. Under the rule, may I say to my distinguished friend from Alabama, Thursday would be the day on which the committee report would have been available 3 days. I would like to get unanimous consent, if I could, that we proceed on Wednesday. We had earlier planned to proceed on Wednesday, because all Senators had indicated that they could get their supplemental views, and so on, to the Foreign Relations Committee on time for the report to be printed and made available 3 days prior to Wednesday. That was not possible; Thursday is the earliest if there is objection, but if there is no objection, I would hope we could get to the consideration of the treaties on Wednesday.

Mr. ALLEN. I would say to the distinguished majority leader that I would have no objection to the matter coming up on Wednesday, or, if it were possible, today.

What does concern the Senator from Alabama, however, is that no unanimous-consent order with respect to the procedure on the treaties be made prior to the laying down of the treaties for consideration, because many of us would like to be here for the full proceedings, and would not like for unanimous-consent requests to be made prior to that time

I have absolutely no objection to the request that the treaties be considered, but they would be considered under the rule. We do not want to agree to short-circulating the Committee of the Whole's consideration.

Will the distinguished majority leader and the distinguished minority leader agree that no requests for unanimous consent with respect to the procedure on consideration of the treaties be made prior to the treaties being laid before the Senate for consideration?

Mr. ROBERT C. BYRD. Yes, that would be very agreeable to me.

Mr. BAKER. Mr. President, if the majority leader will yield to me for just a moment, so that I may respond to the inquiry of the Senator from Alabama, that is fine with me, too. I certainly have no desire to take anyone by surprise.

There are two matters I hoped we could take care of today, and I wonder how the Senator from Alabama would feel about them. Incidentally, the Senator from Michigan (Mr. GRIFFIN) is on his way to the floor. I have consulted with him about these matters, and he has no objection.

First, the majority leader has suggested that we abbreviate the 3-day rule by 1 day, so that the Senate could take up the matter Wednesday. I understand the Senator from Alabama has stated that he has no objection to that.

The second matter concerns controlled time. I have no desire to have a limitation of time, but this is such an emotional issue and the Senate and the country are so divided on it that I have suggested to the majority leader that possibility, and he suggested, I believe, that we put down a unanimous-consent order to control the time, that is, to allocate half of the time each day to Senators who could yield it to Members

who support their respective points of view.

I think that procedure would add to the orderly consideration of the matter, and I wonder how the Senator from Alabama would feel about it.

Mr. ALLEN. I feel that when the treaty is before the Senate, there should be no time restraints or orders for speeches, because we frequently have Senators who might be in line for speaking and not be on the floor. I think we have difficulty here in the Senate getting speeches made.

I feel that Senators should have an opportunity to be heard. I rather imagine that a procedure will be worked out, but I would not like to divide the time in any way. I think that will take care of itself, would be my judgment.

I have absolutely no objection to waiving the 3-day rule, or to waiving the 1-day requirement of having the treaty lie over for a day. I do not care about that; but I do not want to short-circuit the Committee of the Whole, because that is very important as an order of procedure; and also, the resolution of ratification could not be offered in the Committee of the Whole, whereas it could be in the full Senate, at any time, thereby cutting off amendments.

I am perfectly willing to abide by the statement of both leaders that unanimous-consent agreements will not be asked for other than those we have discussed. I would object to the second request, but not the first, on the matter being brought up.

I am hopeful that the committee report is in, and available to all Senators at this time.

Mr. ROBERT C. BYRD. The report has been printed, and is available.

Mr. ALLEN. At the time the matter is called up in executive session, at that time, if there are to be requests for immediate consideration, I would ask that that agreement be made now, rather than the request being made on Wednesday.

Mr. ROBERT C. BYRD. I have no objection.

Mr. BAKER. I have no objection to that. I thank the Senator from Alabama for his consideration.

Mr. ALLEN. I am happy to accommodate the Senator.

Mr. BAKER. And I have no objection to our proceeding on Wednesday.

Mr. ALLEN. I might, for the record, request that the distinguished majority leader alert the Vice President that his presence would be helpful as Presiding Officer at that time. I have a series of parliamentary inquiries that I would like to make concerning the procedure on the consideration of the treaties.

Mr. ROBERT C. BYRD. I may have some myself; so we will try to get the Vice President in the chair at that time.

Mr. ALLEN. I thank the distinguished Senator.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders: Nos. 570, 571, and 573, with the indulgence of the distinguished Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PUBLIC AIR SPACE IN THE DISTRICT OF COLUMBIA

The bill (H.R. 7766) to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service with respect to the use of certain public air space in the District of Columbia, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PARTICIPATION IN JUDICIAL PROCEEDINGS

The resolution (S. Res. 373) authorizing the Select Committee on Ethics to participate in judicial proceedings to obtain information regarding its Korean inquiry, was considered and agreed to, as follows:

Resolved, That the Select Committee on Ethics is authorized, on behalf of the Senate or on behalf of Members, officers or employees of the Senate who have been sued for actions taken in an official capacity, to participate in any judicial proceeding, whether initiated by the Select Committee or any other person, to obtain testimony, documents or other evidence concerning or relating in any way to its inquiry into or investigation of allegations that Members, officers, or employees of the Senate have been the object of efforts on behalf of the Republic of Korea, or of persons acting on behalf of or in connection with the Republic of Korea, to influence improperly the conduct of Members, officers or employees of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 380) authorizing additional expenditures by the Committee on Rules and Administration for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $793,000, of which amount not to exceed $76,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

THE PANAMA CANAL TREATIES

Mr. BAKER. Mr. President, I see that the distinguished Senator from Michigan is now in the Chamber, and the Senator from Alabama is here. I wonder if we might proceed now to make the unanimous-consent request with respect to the 3-day rule.

Mr. ROBERT C. BYRD. Mr. President, is my understanding correct that the eight Senators who wish to have a colloquy on tomorrow are willing to forgo that colloquy until Wednesday?

Mr. BAKER. That is my understanding. Mr. President, I would hope we might be able to substitute Wednesday on the order for tomorrow.

VACATION OF ORDER FOR RECOGNITION OF EIGHT SENATORS TOMORROW, AND ORDER FOR RECOGNITION OF THE SAME ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for recognition of eight Senators on tomorrow be vacated, and that the orders for the same Senators be reinstated for Wednesday, beginning at 10 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE PANAMA CANAL TREATY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 12 o'clock on Wednesday, the Senate go into executive session to consider the first treaty, Executive N, 95th Congress, First Session.

Mr. ALLEN. Reserving the right to object, and I do not plan to object, this request would cause the treaties automatically to be considered in the Committee of the Whole, would it not?

Mr. ROBERT C. BYRD. That is correct.

Mr. ALLEN. I thank the Senator.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, I urge all of my colleagues to agree to this unanimous-consent request. The only reason it is necessary is that the Committee on Foreign Relations accorded me the courtesy of having until Friday to file the views of the lone dissenter. I appreciate that courtesy. Except for that extension of an additional day until Friday, they would have been required to be filed on Thursday.

I would say that a printed copy of the report was available on Saturday, although in very limited numbers, and I hope that it will be available to all Senators today and to others beyond the Senate. This request, it seems to me, by the joint leadership is very much in order and appropriate. I join in the request.

Mr. BAKER. Mr. President, reserving the right to object, I thank my colleague from Michigan for his thoughtful handling of this matter. He, of course, was entirely within his rights to object had he chosen to do so, but I believe this is an appropriate method of handling it. I thank him for his statement.

Mr. ROBERT C. BYRD. Mr. President, I also thank the distinguished Senator from Michigan (Mr. GRIFFIN) and the distinguished Senator from Alabama (Mr. ALLEN). I misspoke earlier, when I said the report was available on Friday. It was not available on Friday; it was available on Saturday.

Mr. President, I express my appreciation, again, to my colleagues and to the distinguished minority leader for the assistance he has been able to render in making this consent request, hopefully, agreeable.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10 a.m. tomorrow instead of 8 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Rhode Island has been wanting recognition and the distinguished minority leader has suggested that his time be yielded to the distinguished Senator from Rhode Island. I ask unanimous consent that the minority leader's time be restored to the minority leader in full so that he make good on his promise to yield to the Senator from Rhode Island.

Mr. ALLEN. Reserving the right to object, and I shall not object, I wonder if the distinguished majority leader would have the morning business time ahead? I have two items that will not take more than 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR PERIOD FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. With the indulgence of the distinguished Senator from Ohio (Mr. GLENN), I ask unanimous consent that, following the 10 minutes or such time as is consumed normally allotted to the minority leader, there be a period for the transaction of routine morning business not to extend beyond 10 minutes, with statements therein limited to 5 minutes each.

Mr. ALLEN. Would the distinguished majority leader make it 15 minutes?

Mr. ROBERT C. BYRD. I ask unanimous consent that the period be 15 minutes and that, at the close of that morning business period, the Senate resume consideration of the unfinished business, with no time to begin running on the unfinished business until the morning hour has run out.

Mr. GLENN. This would not change our agreements on time this morning and debate on the bill today? I have no objection to what the distinguished majority leader has suggested, since the people proposing amendments are not on the floor. I should not want to see the time extended beyond that which we agreed to on Thursday last.

Mr. ROBERT C. BYRD. Very well. I do not think it will have any impact at all on today's debate, other than that it will delay the starting of it, and it will have no impact on the times set forth for tomorrow's debate.

Mr. GLENN. I was only concerned that, perhaps, when the people with amendments do show up, we not have an extended period of time that will prevent them from bringing their amendments to the floor.

Mr. ROBERT C. BYRD. We will not.

Mr. GRIFFIN. Reserving the right to object, while the two leaders are on the floor, I have no doubt in my mind that each of them would proceed in this manner, anyway, but I would formally like to make a request, since I feel a rather heavy responsibility in the position that I seem to have been thrust into to protect Senators. I should like to have the assurance that, in the event any unanimous-consent request is to be propounded with regard to the handling procedure for debate of the Panama Canal Treaties, of course, I would be notified in advance and have an opportunity to be on the floor.

Mr. BAKER. If the Senator will yield, of course, I shall make that representation. As the Senator knows, I have already consulted with him on the question of the 3-day rule and on the request of the possibility of an order for controlled time. It was my intention to recognize his status as a member of the Foreign Relations Committee who did not vote to support the treaties. I feel a personal obligation to consult in advance with him concerning any unanimous-consent request at all in this regard. For my part, I am happy to do that.

Mr. ROBERT C. BYRD. I think the distinguished minority leader's assurance fully protects the Senator from Michigan.

Mr. GRIFFIN. I thank both the leaders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield my time under the standing order, or so much of it as remains, to the distinguished Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. Five minutes remain.

Mr. CHAFEE. I thank the distinguished minority leader and distinguished majority leader for giving me this brief time. This statement deals with three bills I am going to introduce this afternoon to strengthen the investment and employment in our small business community.

INVESTMENT AND EMPLOYMENT IN THE SMALL BUSINESS COMMUNITY

Mr. CHAFEE. Mr. President, there is never a shortage of distinguished speakers who will rise to lament our high unemployment, the inability of our older industries to remain competitive, and the virtual impossibility of the newer ones to even get started. But today I am offering a legislative package that gives us a chance to do something about those problems.'

Hand in hand with this country's troublesome unemployment picture and sluggish economic performance has been an increasing inability of our smaller enterprises to raise money for new capital investments. The uncertain state of our economy in past years and other recent trends in the financial markets have combined to virtually cut off the small business community from outside financing. Both the individuals and banks who were once willing to risk lending money to new or smaller businesses have turned instead to bigger established corporations which offer more secure investments.

This alarming trend has accelerated to the point where small companies face a capital shortage estimated at $8 billion a year nationwide. Who can begin a business, much less expand one, when it cannot raise the money? In such a climate, is it any wonder why four out of five new businesses fail and go bankrupt in their first 10 years? Is it surprising to see so many older, antiquated factories in New England and elsewhere going out of business? When you think about it, it is sad but not surprising.

I am not just concerned, however, because small businesses are having trouble making a profit or getting money from the bank. I am concerned because it is the small businesses which provide most of the jobs in this country. There are over 2 million smaller enterprises in the

United States, and 36,000 in Rhode Island alone. We count on them for 56 percent of our national private sector employment, 48 percent of our total business output, 43 percent of the gross national product, and over half of our important industrial inventions and innovations.

The enormous potential of our small business community gives us a chance to tackle some of our most severe social and economic problems without setting up more top-heavy Government programs.

Last October, a New England Conference on Balanced National Growth and Economic Development was held so that our regional planners could prepare recommendations for the recent White House Conference on Balanced National Growth. The strong emphasis they placed on job creation was shared by every other delegate to the conference.

They said that Government policy must encourage jobs in the private sector. They said that Government policies to increase the availability of investment capital are crucial if the private sector is going to meet the problems of economic growth and development. And they said that revising national tax policy is the key to providing making this system work at its best.

In addition, Mr. President, a recent report of the Congressional Joint Economic Committee stressed that the percentage of GNP going to business investment over the next several years must be higher than in the past decade if the Nation's employment and productivity goals are to be fulfilled.

A strong flow of private investment back into smaller companies must be regained if we are to take advantage of their highly labor-intensive potential. This message is clear.

Each of the bills I shall introduce today take a different, yet coordinated, tack toward encouraging greater investment in smaller businesses.

My first bill will increase the $50,000 corporate surtax exemption. Under current law, this provision requires corporations to pay a tax rate of 20 percent on the first $25,000 profits and 22 percent on the second $25,000, but requires a 48-percent tax on everything above that. My bill raises the surtax exemption ceiling up to $150,000 of earnings, requiring a flat tax rate of only 20 percent on that amount.

The resulting tax saving will amount to as much as $28,500 for each company with taxable earnings of $150,000 or more. My formula gives smaller companies a substantially larger portion of the corporate tax cut pie proposed by President Carter last month. While $28,500 may not mean a lot to General Motors, it could be a lifesaver to a small firm in Pawtucket or Hoboken or Des Moines.

My second bill will permit investors to defer the tax on any capital gain as long as they reinvest their holdings in a small business within 2 years. This treatment is much the same as that allowed to homeowners who sell one house at a profit then buy another. This measure is essential to encouraging the flow of investor dollars back into small businesses.

My third bill will simplify depreciation rules and allow companies greater flexibility in depreciating the cost of their new investments. By making this provision, we will enable businesses to recover the cost of new buildings and equipment at a time and a rate which is most compatible with their financial situation.

While these bills may appear complex and technical, the real benefits will accrue to the employees and future employees of smaller companies, and I urge my colleagues in the Senate to give them prompt consideration.

I ask unanimous consent that the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Corporate Tax Reduction Act of 1977".

SEC. 2. (a) Subsection (b) of section 11 of the Internal Revenue Code of 1954 (relating to normal tax on corporations) is amended to read as follows:

"(b) NORMAL TAX.—The normal tax for a taxable year is equal to—

"(1) 20 percent of so much of the taxable income as does not exceed $50,000.".

(b) Subsection (d) of section 11 of such Code (relating to surtax exemption) is amended by striking out all that precedes "except that" and inserting in lieu thereof the following:

"(d) SURTAX EXEMPTION.—For purposes of this subtitle, the surtax exemption for any taxable year is $150,000;".

(c)(1) Paragraph (7) of section 12 of such Code (relating to cross references relating to tax on corporations) is amended by striking out "$50,000" and inserting in lieu thereof "$150,000".

(2) Subsection (f) of section 21 of such Code (relating to effect of changes in rates during a taxable year) is amended to read as follows:

"(f) CHANGE IN SURTAX EXEMPTION.—In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 2 of the Corporate Tax Reduction Act of 1977 in the surtax exemption shall be treated as a change in a rate of tax.".

(3) Paragraph (1) of section 821(a) of such Code (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(1) NORMAL TAX.—A normal tax for a taxable year equal to—

"(A) 20 percent of so much of the mutual insurance company taxable income as does not exceed $150,000,

or 44 percent of the amount by which such taxable income exceeds $6,000 whichever is lesser; plus".

(4) Subparagraph (A) of section 821(c)(1) of such Code (relating to alternative tax for certain small companies) is amended to read as follows:

"(A) NORMAL TAX.—A normal tax for a taxable year equal to—

"(i) 20 percent of so much of the taxable investment income as does not exceed $150,000,

or 44 percent of the amount by which such taxable income exceeds $3,000, whichever is lesser; plus".

SEC. 3. The amendments made by this Act shall apply to taxable years ending after December 31, 1977.

S. 2498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Small Business Reinvestment Act of 1978".

SEC. 2 (a) Part III of subchapter O of chapter 1 of subtitle A (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1040. SALES OF INTERESTS

"(a) NONRECOGNITION OF GAIN.—If an equity or proprietary interest is sold, gain (if any) from such sale shall, at the election of the taxpayer, be recognized only to the extent that the taxpayer's sale price exceeds the cost of replacement property in a small concern purchased by the taxpayer within 2 years from the date of such sale.

"(b) DEFINITIONS.—For purposes of this section:

"(1) The term 'small concern' means a small business as defined in the Small Business Act and in the regulations promulgated thereunder by the Small Business Administration.

"(2) The term 'replacement property' means an equity or proprietary interest in a small concern.

"(c) LIMITATIONS.—

"(1) Where the interest sold is evidenced by stock subsection (a) shall apply only to a sale of stock which, if such stock had been purchased by the issuing corporation, would have been treated as a redemption within the meaning of paragraphs (1), (2), and (3) of subsection 302(b).

"(d) BASIS OF REPLACEMENT PROPERTY.—The basis of replacement property shall be reduced by the amount of gain not recognized solely by reason of the application of subsection (a). If more than one item of replacement property is purchased, such reduction in the basis of the replacement property is purchased shall be applied to each such property in chronological order of purchase. The amount of the reduction applicable to each item of property shall be determined by multiplying the maximum gain not to be recognized pursuant to subsection (a) by a fraction the numerator of which is the cost of each replacement property and the denominator of which is the total cost of all replacement properties.

"(e) STATUTE OF LIMITATIONS.—If durable a taxable year a taxpayer sells an interest at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary or his delegate is notified by the taxpayer (in such manner as the Secretary or his delegate may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing replacement property which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase property within the period specified in subsection (2), or

"(C) a failure to make such purchase within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) Section 1223 shall be amended by designating paragraph (12) as paragraph (13) and by inserting a new paragraph (12) as follows:

"(12) In determining the period for which the taxpayer has held replacement property, the acquisition of which resulted under section 1040 in the nonrecognition of any part of the gain realized on the sale or exchange of an interest, there shall be included the period for which such interest had been held as of the date of such sale or exchange.".

(c) A taxpayer electing under subsection (a) shall so signify on his return for the taxable year in which the election is made.

S. 2499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Asset Depreciation Simplification Act of 1978.

ADJUSTMENT OF DEPRECIATION SCHEDULES

SEC. 2. (a) Subsection 167(b) (relating to use of certain methods and rates of depreciation) is amended—

(1) by striking the word "and" at the end of subparagraph (3),

(2) by redesignating subparagraph (4) as subparagraph (5), and

(3) by inserting after subparagraph (3) the following new subparagraph:

"(4) the practical cost recovery method, and".

(b) Subsection 167(c) (relating to limitations on use of certain methods and rates) is amended—

(1) by striking "and (4)" and by substituting in lieu thereof "(4), and (5)", and

(2) by striking "3 years or more" and substituting in lieu thereof "2 years or more".

(c) Subsection 167(m) (relating to class lives) is amended by adding at the end thereof the following new subparagraph:

"(4) SPECIAL RULES FOR PRACTICAL COST RECOVERY METHOD.—

"(A) IN GENERAL.—An election to utilize the practical cost recovery method under subparagraph (b)(4) shall entitle the taxpayer, notwithstanding any other provision of this section, to assign useful lives to depreciable assets at not less than the following:

"(i) in the case of highway transportation equipment, tools, and dies, 2 years;

"(ii) in the case of machinery, rail, water, and air transportation equipment, office furniture, equipment, and fixtures and leasehold improvements, 5 years; and

"(iii) in the case of real estate improvements and depreciable real estate, 10 years.

"(B) LIMITATION.—

"(i) The amount of property which shall qualify for the practical cost recovery method in any 1 year is limited as follows: (1) that in the case of assets described in subsection (A), the amount shall not exceed $200,000 in the aggregate.

"(ii) These limitations shall apply to each taxpayer and, in the case of married taxpayers, they shall be one-half of the amounts set forth in subparagraph (B)(i) for each spouse. For purposes of this limitation, controlled corporations, as defined by section 1536(a), will be treated as a single taxpayer.".

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes with statements therein limited to 3 minutes.

Is there morning business?

ADDITIONAL COSPONSOR—NEUTRALITY TREATY

Mr. ALLEN. Mr. President, late last week I received a letter from the joint leaders requesting—and I am sure the same letter went to all Members of the Senate—that I become a cosponsor of the Byrd-Baker amendment to articles 4 and 6 of the Neutrality Treaty. It is anticipated that will be offered during the consideration of the treaties.

Mr. President, I ask unanimous consent that my name be added as one of the cosponsors of this amendment at this time and, particularly, when it is offered here in the Senate. My making this request is in response to the invitation of the two leaders and of the Senators sponsoring the amendment that I become a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMENDING TROY STATE UNIVERSITY ON BECOMING THE HOME OF THE NATIONAL BAND ASSOCIATION HALL OF FAME OF DISTINGUISHED PERSONS

Mr. ALLEN. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 389) commending Troy State University on becoming the home of the National Band Association Hall of Fame of Distinguished Persons.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLEN. Mr. President, this commendatory resolution has been cleared with both leaders. There is no objection.

Mr. President, Troy State University, located at Troy, Ala., has added another achievement to its lengthening honor roll. Troy State will become the home of the National Band Association Hall of Fame of Distinguished Persons.

The National Band Association, the largest organization of its kind in the United States, voted at its December 15, 1977, meeting in Chicago to establish a National Band Association Hall of Fame.

The Hall of Fame was originally conceived by the honorary life president of NBA, Prof. Al G. Wright, of Purdue University. The matter was considered by the NBA Board over the last several years and an opportunity was made available for an interested institution or sponsoring group to present an invitation to host the Hall of Fame. Troy State was the ultimate selection.

A nonprofit corporation will be established to operate the Hall of Fame. Nominations will be limited to persons who are at least 65 years of age or deceased. Nominations may be received from any sources and will be voted on annually by a selection board to be appointed by the board of directors of the Band Hall of Fame Foundation.

Criteria for election to the Band Hall of Fame will include particularly distinguished service or contributions to the field of wind band music in the areas of conducting, performance, composition, arranging, musicology, public service, and other areas.

Mr. President, in my judgment, the National Band Association could not find a more suitable or desirable location than this outstanding university. I am happy today to extend congratulations to Dr. Ralph Adams, president of Troy State University and Dr. John M. Long, director of bands and dean of the College of Arts and Sciences, for their diligent efforts in bringing the National Band Hall of Fame to Troy State University.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 389) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 389

Whereas, the National Band Association voted at its December 15, 1977 meeting in Chicago to establish a "National Band Association Hall of Fame of Distinguished Persons;"

Whereas, this project will be located at Troy State University, Troy, Alabama, following the invitation from Troy President, Dr. Ralph W. Adams and Director of Bands and Dean of the College of Arts and Sciences, Dr. John M. Long;

Whereas, the Hall of Fame was originally conceived by the honorary life president of NBA, Professor Al G. Wright of Purdue University; and

Whereas, the matter was considered by the NBA Board over the last several years;

Whereas, a non-profit corporation will be established to operate the Hall of Fame. Nominations will be limited to persons who are 65 years of age or deceased. Nominations may be received from any sources and will be voted on annually by a Selection Board to be appointed by the Board of Directors of the Band Hall of Fame Foundations;

Whereas, criteria for election to the Band Hall of Fame will include particularly distinguished service or contributions to the field of wind band music in the areas of conducting, performance, composition, arranging, musicology, public service and other areas: Now, therefore, be it

Resolved, That the Senate of the United States congratulates and commends Troy State University and Dr. Ralph Adams for providing a home for the National Band Association Hall of Fame.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to Dr. Adams.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:16 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 1509) to provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes; without amendment.

The message also announced that the House recedes from its amendments numbered 1, 2, and 3 to the amendment of the Senate to the bill (H.R. 7442) to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments; and agrees to the amendment of the Senate to the amendment of the House numbered 4 to the aforesaid bill.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–2712. A communication from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of a commitment to guarantee a non-REA loan in the amount of $362,160,000 to San Miguel Electric Cooperative, Inc., of Jourdanton, Texas, to finance certain generating facilities (with accompanying papers); to the Committee on Appropriations.

EC–2713. A communication from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of a commitment to guarantee a non-REA loan in the amount of $49,561,000 to Brazos Electric Power Cooperative, Inc., of Waco, Texas, to finance certain transmission facilities (with accompanying papers); to the Committee on Appropriations.

EC–2714. A communication from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of a commitment to guarantee a non-REA loan in the amount of $2,945,000 to Medina Electric Cooperative, Inc., of Hondo, Texas, to finance certain transmission facilities (with accompanying papers) to the Committee on Appropriations.

EC–2715. A communication from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of a commitment to guarantee a non-REA loan in the amount of $14,715,000 to South Texas Electric Cooperative, Inc., of Victoria, Texas, to finance certain transmission facilities (with accompanying papers); to the Committee on Appropriations.

EC–2716. A communication from the Secretary of the Air Force, transmitting, pursuant to law, reports concerning military construction contracts awarded by the Air Force without formal advertisement for the periods July 1, 1976, to September 30, 1976, and October 1, 1976, to September 30, 1977 (with accompanying reports); to the Committee on Armed Services.

EC–2717. A secret communication from the Assistant Secretary of the Army (Research, Development, and Acquisition), transmitting, pursuant to law, a plan for the incorporation of NBC protection for armored vehicles and crews (with an accompanying secret document); to the Committee on Armed Services.

EC–2718. A confidential communication from the Acting Director, Defense Security Assistance Agency, transmitting, pursuant to law, information concerning the Department of the Navy's proposed Letter of Offer to Germany for Defense Articles estimated to cost in excess of $25 million (with accompanying confidential papers); to the Committee on Armed Services.

EC–2719. A communication from the Secretary of Defense, transmitting, pursuant to law, the Annual Report of the Department of Defense for fiscal year 1979, February 2, 1978 (with an accompanying report); to the Committee on Armed Services.

EC–2720. A communication from the President and Chairman, Export-Import Bank, transmitting, pursuant to law, a statement with respect to a transaction involving U.S. exports to the Republic of China (with accompanying papers); to the Committee on Banking, Housing, and Urban Affairs.

EC–2721. A communication from the President, United States Railway Association, transmitting, pursuant to law, the first quarterly report of the United States Railway Association (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2722. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the amounts of money paid to each State and local unit of government and a description of any action that the Secretary has taken under section 212 during the previous calendar quarter, January 9, 1978 (with an accompanying report); to the Committee on Finance.

EC–2723. A communication from the Acting Administrator, Agency for International Development, Department of State, transmitting, pursuant to law, a report entitled "Energy Organization Options, Report by a Panel of the National Academy of Public Administration," December 30, 1977 (with an accompanying report); to the Committee on Foreign Relations.

EC–2724. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on October 25, 1977, which would protect certain property rights and interests created as a result of the closing of streets, minor streets, roads, highways, and alleys in the District of Columbia, pursuant to resolutions previously adopted by the Council of the District of Columbia (Act 2–134) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2725. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on October 25, 1977, which would require the District of Columbia council approval of all revisions of the District's Water Quality Standards, and for other purposes (Act 2–136) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2726. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on October 11, 1977, which would establish certain requirements for the licensure of Occupational Therapy or Occupational Therapy Assistants, and for other purposes (Act 2–137) (with accompanying papers); to the Committee on Government Affairs.

EC–2727. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on October 11, 1977, which would license ambulatory surgical treatment centers (Act 2–138) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2728. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on October 27, 1977, which would amend the Solid Waste Regulations of the District of Columbia, and for other purposes (Act 2–135) (with accompanying papers); to the Committee on Governmental Affairs.

EC–2729. A communication from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, the Nineteenth Annual Report of the Advisory Commission on Intergovernmental Relations, January 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2730. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "A Range of Cost Measuring Risk and Uncertainty in Major Programs—An Aid to Decisionmaking," February 2, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2731. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems With Federal Equal Employment Opportunity Guidelines on Employee Selection Procedures Need to be Resolved," February 2, 1978 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2732. A communication from the Chairman, Commission on Federal Paperwork, transmitting, pursuant to law, a report with recommendations concerning the paperwork and disclosure requirements of the Consumer Credit Protection Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–2733. A communication from the General Counsel, Copyright Office, Library of Congress submitting the New Systems Report; to the Committee on Governmental Affairs.

PETITIONS

The ACTING PRESIDENT pro tempore laid before the Senate the following petitions, which were referred as indicated:

POM–450. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Agriculture, Nutrition, and Forestry:

"HOUSE CONCURRENT RESOLUTION No. 6

"Whereas, the family farm is the most efficient and dependable food producing unit in this nation; and

"Whereas, American farmers have lost equity and enormous sums of money in re-

cent years due to drought and depressed prices for agricultural products; and

"Whereas, unless some positive action is taken by the United States Government to bring net profit into the prices of agricultural products, family farms as we know them will cease to exist; and

"Whereas, the recent policy of the United States Government has been to encourage farmers to plant fence row to fence row and has consequently reduced market prices to dangerously low levels; and

"Whereas, the American people today pay considerably less of their total disposable income for food than people of other nations; and

"Whereas, parity pricing for American agricultural products would remove speculative profits for middleman and stabilize prices and profits for farmers and consumers; and

"Whereas, parity pricing means cost of production plus a reasonable profit on commodities produced, but does not protect against the natural risks including weather, insects, and all other calamities farmers face; now, therefore,

"Be it resolved, by the House of Representatives of the State of Minnesota, the Senate of Minnesota concurring, that the Minnesota Legislature support the goals and principles of the American Agriculture Movement.

"Be it further resolved, that Congress establish programs that result in 100 percent parity for all agricultural commodities except tobacco.

"Be it further resolved, that Congress adopt legislation comparable to the Minnesota Tax Loss Farming Act, and the Minnesota Corporate Farm Act (Minn. Statutes, Section 500.24).

"Be it further resolved, that Secretary of Agriculture Bergland establish loan rates at the highest level allowable by law.

"Be it further resolved, that the United States Government take an aggressive and positive position towards establishing international trade agreements with other exporting nations so as to establish a realistic level for farm commodities in world trade.

"Be it further resolved, that the Chief Clerk of the Minnesota House of Representatives transmit copies of this Resolution to President Carter, Vice President Mondale, Secretary of Agriculture Bergland, the congressional delegations of all fifty states, and the Secretary General of the United States."

POM–451. A joint resolution adopted by the Legislature of the State of Delaware; to the Committee on Energy and Natural Resources:

"HOUSE JOINT RESOLUTION No. 51

"Memorializing the President of the United States and the United States Congress to Enact Legislation Establishing a Fund for Dispersing Fifty Percent of Federal Outer Continental Shelf Revenues to Coastal State Governments and to Incorporate an Equitable Formula for the Allocation of Such Revenues.

"Whereas, Outer Continental Shelf oil and natural gas resources both discovered and undiscovered are expected to be an important means of satisfying future national energy needs; and

"Whereas, it is the policy of the federal government to develop such resources in the national interest; and

"Whereas, it is expected that in excess of 109 billion dollars may accrue to the federal government from lease purchase payments and royalties on undeveloped Outer Continental Shelf oil and natural gas resources; and

"Whereas, adjacent coastal states are likely to incur large economic and environmental costs as a consequence of Outer Continental Shelf oil and natural gas production; and

"Whereas, the major existing federal coastal state Outer Continental Shelf impact assistance program is inadequate for meeting coastal state responsibilities associated with such Outer Continental Shelf development; and

"Whereas, the continued preemption of financial resources by the federal government has dramatically shifted the balance of power in the federal system of the United States to the impairment of the ability of state governmens to meet emerging needs.

"Now, therefore:

"Be it resolved by the members of the 129th General Assembly of the State of Delaware, the Governor concurring therein, that the President of the United States and the 95th Congress of the United States are hereby memorialized to enact legislation which will endorse the concept of equitable coastal state government sharing of revenues derived by the federal government from Outer Continental Shelf oil and natural gas development and to enact a program establishing a fund for dispersing fifty percent of federal Outer Continental Shelf revenues to coastal state governments and to incorporate an equitable formula for the allocation of such revenues which entitles any coastal state within a given federal fiscal year to a minimum of two percent and a maximum of ten percent of such revenues and which is based upon the percentage of adjacent Outer Continental Shelf oil and natural gas acreage leased, the percentage of the volume of adjacent Outer Continental Shelf oil and natural gas production and the percentage of oil and natural gas first landed in such coastal state in a given federal fiscal year.

"Be it further resolved that upon enactment of this Joint Resolution, the Chief Clerk of the House of Representatives is hereby instructed to forward suitably prepared copies to the President of the United States, Jimmy Carter, to the Secretary of the Senate of the 95th Congress and to the Chief Clerk of the House of Representatives of the 95th Congress."

POM–452. A resolution adopted by the Legislature of the State of New York; laid on the table:

"RESOLUTION

"Whereas, Hubert Horatio Humphrey, United States Senator from Minnesota and former Vice President of the United States passed on to his eternal destiny on the thirteenth day of January, nineteen hundred seventy-eight bringing profound sadness to all people of this great Nation whose lives he has enriched and ennobled; and

"Whereas, A few days prior to his death this most joyous and ebullient of men advised his Pastor that his death was not to be mourned in the traditional manner, with dirge and lamentation, but to be observed as a time of celebration and in the words of President Carter, that is what we ought to do, 'as we mourn his death, we celebrate because such a man as Hubert Humphrey was among us'; and

"Whereas, This most virtuous of men, who knew neither rancor nor vindictiveness, who, in the words of Vice President Mondale spoken at the ceremonies at the rotunda of the United States Capitol on Sunday, January fifteenth, nineteen hundred seventy-eight, 'taught us all how to hope and how to love, how to win and how to lose; he taught us how to live, and, finally, he taught us how to die'; now, therefore, be it

"Resolved, That this Legislative Body respectfully pauses in its deliberations and, in the spirit of the entreaties of Hubert Horatio Humphrey to his Pastor, celebrates the triumphant life of this great United States Senator, and renowned Vice President who has, indeed, left us all, legacies of monuments more lasting than bronze, and jubilantly applauds the fact that such a man lived gloriously among us and was of us, to the enrichment and ennoblement of the lives of us all; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be forthwith transmitted to Mrs. Hubert H. Humphrey, to Honorable Jimmy Carter, President of the United States, to Honorable Walter Mondale, Vice President of the United States and to the Secretary of the Senate of the United States over which Body Mr. Humphrey once presided."

POM–453. A concurrent resolution adopted by the Legislature of the State of Delaware; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION No. 79

"Whereas, dissatisfaction among the citizenry about the decisions of the federal courts grows at an accelerated rate because the federal courts are far out of step with the people in such matters as education and criminal justice, among others; and

"Whereas, the situation is so critical that countless numbers of citizens boast they will not follow the mandates of the upper courts but will defy orders, especially in cases involving desegregation and forced busing; and

"Whereas, this growing public distrust of the judiciary augurs badly for the future of our nation; and

"Whereas, part of the problem lies in the lifetime appointments to the federal judiciary, making the judiciary disdainful of and deaf to the problems of the citizen majority.

"Now, therefore:

"Be it resolved by the Senate of the 129th General Assembly of Delaware, the House of Representatives concurring herein, that this resolution makes application to the Congress of the United States to call a convention for the purpose of amending the constitutional provision for the appointment of members of the federal judiciary so that the federal judiciary will no longer continue to ignore the citizenry.

"Be it further resolved that this application shall constitute a continuing application for such a convention pursuant to Article V of the Constitution of the United States until such time as the Legislatures of two-thirds of the States shall have made like applications and such convention shall have been called by the Congress of the United States.

"Be it further resolved that copies of this concurrent resolution be presented to the President of the Senate of the United States, the Secretary of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Clerk of the House of Representatives of the United States, and to each member of the Congress from Delaware attesting the adoption of this concurrent resolution by the 129th General Assembly of the State of Delaware.'

POM–454. A resolution adopted by the Legislature of the Commonwealth of Massachusetts; laid on the table:

"RESOLUTIONS ON THE DEATH OF SENATOR HUBERT H. HUMPHREY

"Whereas, Senator Hubert H. Humphrey has touched the lives of every citizen of the commonwealth, as well as the entire nation with his concern for the well-being and advancement of all individuals wherever born; and

"Whereas, Hubert H. Humphrey constructed his political career as Mayor of Minneapolis, as United States Senator from Minnesota, as Vice President of the United States and as Ambassador to the United Nations around the universal dream of life, liberty, and the pursuit of happiness for all

persons regardless of economic status, race, sex, color, religion or place of origin; and

"Whereas, Hubert H. Humphrey uniquely possessed in such great measure the qualities of boundless energy, joy, compassion, dedication, hope and grace; and

"Whereas, Hubert H. Humphrey found it impossible to allow either defeat or bitterness or the ravages of illness to overcome his commitment toward his fellow man; and

"Whereas, The extraordinary legislative accomplishments of Hubert H. Humphrey, among which can be listed the civil rights act of nineteen hundred and sixty-four, the medicare program, the peace corps, the arms control and disarmament agency, reflected his belief that government can work to improve the quality of all human life here in the United States of America and throughout the world; now therefore, be it

"Resolved, That the Massachusetts Senate hereby recognizes the accomplishments, sacrifices and hard work of Hubert H. Humphrey as a most beautiful gift to the American people, and further recognizes and extends its deepest appreciation for the support and dedication on the part of his wife, Muriel Humphrey, and daughter, Nancy Humphrey Solomonson, and sons, Hubert Humphrey III, Robert Humphrey and Douglas Humphrey; and be it further

"Resolved, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the family of the late Hubert H. Humphrey, the President of the United States, the Vice President of the United States and to the Clerk of the United States Senate."

POM-455. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Governmental Affairs:

"HOUSE CONCURRENT RESOLUTION No. 503

"Whereas, Since 1918, Americans have paid tribute one day each year to those who have fought to preserve our peace and our nationhood. The eleventh of November has been reestablished as the observance date for Veterans Day throughout the Nation; and

"Whereas, By collectively honoring the men and women who have fought to preserve our freedom, we reinforce America's strength as a free Nation; and

"Whereas, In honor of the reinstating of November the eleventh as Veterans Day, it would be fitting and proper for the U.S. Postal Service to issue a Veteran Day stamp for the 1978 observance; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States be hereby urged to have the United States Postal Service issue a Veterans Day stamp for the November 11, 1978, Veterans Day; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the U.S. House of Representatives, and to each member of the Michigan delegation to the Congress of the United States."

POM—456. A resolution adopted by the Council of the City of Philadelphia, relating to human rights in Northern Ireland; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2493. An original bill to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes (together with additional and minority views) (Rept. No. 95-631).

H.R. 8638—COMMITTEE DISCHARGED

Mr. GLENN. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from consideration of H.R. 8638, the Nuclear Antiproliferation Act of 1977, that the bill be placed on the calendar, and that the bill be eligible for consideration on February 7, 1978.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under authority of the order of February 2, 1978, the following reports were submitted on February 3, 1978:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Ex. N, 95-1. Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal; and The Panama Canal Treaty (Exec. Rept. No. 95-12, with minority and supplemental views).

By Mr. BAYH, from the Select Committee on Intelligence:

Frank C. Carlucci, of Pennsylvania, to be Deputy Director of Central Intelligence (Exec. Rept. No. 95-13).

(The above nomination from the Select Committee on Intelligence was reported with the recommendation that it be confirmed, subject to the nominee's committment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DECONCINI (for himself, Mr. THURMOND, and Mr. ALLEN):

S. 2486. A bill to limit the standing of a foreign sovereign to sue under the antitrust laws of the United States; to the Committee on the Judiciary.

By Mr. CLARK (for himself, Mr. LEAHY, and Mr. ANDERSON):

S. 2487. A bill to amend the Public Health Service Act to provide for greater emphasis on rural health care needs in health planning; to the Committee on Human Resources.

By Mr. DOLE:

S. 2488. A bill to amend the Internal Revenue Code of 1954 to allow small businesses and certain farming operations to claim a credit against income tax in lieu of a deduction for social security taxes paid by such businesses and farming operations; to the Committee on Finance.

By Mr. ZORINSKY:

S. 2489. A bill to direct the Secretary of the Interior to convey certain property to Daniel Mahr and Thelma M. Mahr, and Nyel H. Moss and Janice L. Moss; to the Committee on Energy and Natural Resources.

By Mr. RIBICOFF (for himself, Mr. ABOUREZK, Mr. PERCY, Mr. JAVITS, Mr. MATHIAS, and Mr. NUNN):

S. 2490. A bill to improve administrative agency efficiency, reduce delay in administrative agency practice and procedure, and for other purposes; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent, that when one committee orders the measure reported, the other committee shall then have 45 days to report or be discharged from further consideration thereof.

By Mr. WILLIAMS:

S. 2491. A bill to permit the Secretary of Defense to authorize officers and employees of the Department of Defense who provide police or security functions, including individuals employed pursuant to contract with the Department of Defense, to have the power of arrest on military facilities and installations, and for other purposes; to the Committee on Armed Services.

By Mr. DOLE (for himself, Mr. THURMOND, and Mr. MCCLURE):

S. 2492. A bill to amend the Meat Import Quota Act of 1964; to the Committee on Finance.

By Mr. CANNON:

S. 2493. A bill to amend the Federal Aviation Act of 1958, as amended, to encourage develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes; reported from the Committee on Commerce, Science, and Transportation, and placed on the calendar.

By Mr. CHURCH (by request):

S. 2494. A bill to protect the wildlands comprising the River of No Return Wilderness and the free-flowing Salmon River in the State of Idaho as an enduring resource of wilderness for the benefit of the people of Idaho and the nation pursuant to the Wilderness Act and the Wild and Scenic Rivers Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPARKMAN (by request):

S. 2495. A bill to authorize additional appropriations for the Department of State for fiscal year 1978; to the Committee on Foreign Relations.

S. 2496. A bill to authorize appropriations for the Department of State for fiscal years 1979, 1980, and for other purposes; to the Committee on Foreign Relations.

By Mr. CHAFEE:

S. 2497. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Finance.

S. 2498. A bill to amend the Internal Revenue Code of 1954 to encourage greater investment in independent small businesses; to the Committee on Finance.

S. 2499. A bill to amend the Internal Revenue Code of 1954 to give businesses more flexibility in depreciating the cost of new capital investments; to the Committee on Finance.

By Mr. BUMPERS:

S. 2500. A bill to amend the Federal Water Pollution Control Act in order to limit the information which may be obtained pursuant to such Act; to the Committee on Environment and Public Works.

By Mr. HATHAWAY (for himself, Mr. RIEGLE and Mr. EAGLETON):

S. 2501. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability

insurance program and the medicare program, with appropriate reductions in social security taxes to reflect such participation, and with a substantial increase in the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Finance.

By Mr. ABOUREZK:

S. 2502. A bill to authorize the States and the Indian Tribes to Enter into Mutual Agreements and Compacts Respecting Jurisdiction and Governmental Operations in Indian Country; to the Select Committee on Indian Affairs:

By Mr. NELSON (for himself, Mr. EAGLETON, Mr. DANFORTH, Mr. RIBICOFF, Mr. BENTSEN, Mr. HATHAWAY, Mr. JAVITS, Mr. HASKELL, Mr. MOYNIHAN, Mr. MATSUNAGA, Mr. CHILES, Mr. HOLLINGS, Mr. HART, Mr. HUDDLESTON, and Mr. HEINZ):

S. 2503. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that disability insurance benefits and the medicare program shall be financed from general revenues (pursuant to annual authorizations) rather than through the imposition of employment and self-employment taxes as at present, and to adjust the rates of such taxes (for purposes of financing the OASI program) accordingly; to the Committee on Finance.

By Mr. DOLE:

S. 2504. A bill to amend the Commodity Credit Corporation Act to direct the Secretary of Agriculture to establish a program for expanding exports of farm commodities by making available CCC financing to exporters who extend deferred payment terms to foreign buyers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JAVITS (for himself, Mr. DOLE, Mr. MOYNIHAN, Mr. STAFFORD, Mr. RANDOLPH, Mr. EAGLETON, Mr. BROOKE, and Mr. HATHAWAY):

S. 2505. A bill to amend Title XIX of the Social Security Act to provide that certain handicapped individuals shall be eligible for medical assistance; to the Committee on Finance.

By Mr. PERCY (for himself, Mr. HART, Mr. CRANSTON, Mr. TOWER, Mr. GOLDWATER, Mr. ANDERSON, Mr. MCINTYRE, Mr. MATHIAS, Mr. KENNEDY, Mr. CASE, Mr. DOMENICI, Mr. DURKIN, Mr. HAYAKAWA, Mr. HARRY F. BYRD, JR., Mr. ABOUREZK, Mr. GRAVEL, Mr. PELL, Mr. BAYH, Mr. SARBANES, Mr. LUGAR, Mr. DECONCINI, Mr. HEINZ, Mr. JAVITS, Mr. GRIFFIN, Mr. METZENBAUM, Mr. ZORINSKY, Mr. CHURCH, Mr. FORD, Mr. STONE, Mr. WALLOP, Mr. RIEGLE, Mr. MATSUNAGA, Mr. CHAFEE, Mr. HASKELL, Mr. MCGOVERN, Mr. RIBICOFF, Mr. MELCHER, Mr. HATCH, Mr. BROOKE, Mr. CANNON, Mr. HODGES, Mr. BURDICK, Mr. CLARK, Mr. MARK O. HATFIELD, Mr. PROXMIRE, Mr. MOYNIHAN, Mr. WILLIAMS, Mr. DANFORTH, Mr. PACKWOOD, Mr. HANSEN, Mr. GLENN, Mr. ALLEN, and Mr. DOLE):

S.J. Res. 110. A joint resolution establishing May 3, 1978, as "Sun Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI (for himself, Mr. THURMOND, and Mr. ALLEN):

S. 2486. A bill to limit the standing of a foreign sovereign to sue under the antitrust laws of the United States; to the Committee on the Judiciary.

ANTITRUST RECIPROCITY ACT

Mr. DECONCINI. Mr. President, on January 11, 1978, the U.S. Supreme Court in Pfizer, Inc., against Government of India ruled that a foreign nation is a "person" within the meaning of section 4 of the Clayton Act and thus is entitled to recover treble damages for violations of our antitrust laws. The court acknowledged that it found no legislative history to guide its interpretation of section 4, noting that the question of a foreign government's right to sue was apparently never even considered at the time the Sherman and Clayton Acts were debated and passed. I believe the time has come for Congress to consider the question and to make its intent clear. For this reason, I am introducing a bill which would limit the right of a foreign sovereign to sue under our antitrust laws.

This bill is intended to address some of the inequities and distortions created by the Supreme Court's decision in Pfizer. In addressing these problems in his vigorous dissent, Chief Justice Burger stated:

> . . . (T)he result reached by the Court today confronts us with the anomaly that while the United States Government cannot sue for treble damages under our antitrust laws, other nations are free to engage in the most flagrant kinds of combinations for price fixing, totally at odds with our antitrust concepts, and nevertheless are given the right by the Court to sue American suppliers in American courts for treble damages plus attorneys' fees.

My bill would revise the Supreme Court decision by bestowing upon foreign nations the same status as the United States has under our antitrust laws—that is, they would be allowed to recover actual, but not treble damages. In addition, however, my bill provides that the right to sue for actual damages is conditional. In order to maintain a suit under our antitrust laws, a foreign sovereign must meet two criteria. First, the bill requires that the foreign sovereign recognize a general right of the United States to sue on a civil claim in the courts of that foreign country, just as we recognize the right of foreign sovereigns to prosecute civil claims in our courts. Second, the bill requires that the foreign sovereign have laws prohibiting restrictive trade practices. In developing this legislation we considered the alternative of making the right to sue strictly reciprocal—that is, contingent on the existence of antitrust laws in the foreign country and the right of the United States to sue under those laws in the courts of the foreign sovereign. This approach was rejected as too restrictive. Many nations which have antitrust laws simply do not have a provision for a private right of action comparable to section 4 of the Clayton Act. Enforcement is strictly by the Government.

I believe that for the purposes of equity and comparability, it is sufficient that the right of a foreign sovereign to sue be triggered by a demonstrated commitment to the concepts embodied by our own antitrust laws. As Chief Justice Burger stated in his Pfizer dissent, foreign sovereigns are free to enact and enforce comprehensive antitrust laws. Many nations have done so. In 1958, for example, the European Economic Community by the Treaty of Rome agreed to prohibit practices which would result in the elimination or restriction of competition within the Common Market countries. And, in fact, India and the Philipines who were respondents in the Pfizer case, as well as West Germany who appeared as amicus curiae, have enacted antitrust laws of some kind. However, many nations still have no laws comparable to our antitrust legislation. I see no reason to allow a foreign nation the right to sue an American company for practices which it does not attempt to condemn—and, at least, tacitly condones—under its own laws.

The bill is thus based on a general principle of reciprocity. It seeks to serve broader purposes than simply the compensation of foreign nations which are victims of anticompetitive practices under our laws. By its enactment we would demonstrate our intent to encourage other nations to recognize the right of the United States to sue in their courts, thus providing an opportunity for the United States to vindicate any claims it might have under foreign laws in the courts of that country. But it would also signal our commitment to encourage other nations to adopt standards of fairness in the marketplace which are consistent with those reflected in our antitrust laws.

Let me add, Mr. President, that the puropse of this bill is not to penalize any nation. Each country remains free to accept or reject anticompetitive trade practices. But the United States ought to utilize its own courts to promote healthy competition and not to reward nations which, on the one hand, allow and sometimes encourage monopoly and price-fixing but, on the other, demand to sue when they are the victims of such practices. Justice requires that those nations who do make an honest effort should be afforded the same consideration under the same circumstances as the United States. Those which do not, however, should be excluded from suing under section 4 of the Sherman Act.

Let me also make it quite clear that this legislation in no way condones anticompetitive trade practices by American firms. These firms should be prosecuted to the fullest extent possible. What I am attempting to deal with is the dual standard implicit in the Supreme Court's decision.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Reciprocity Act".

SEC. 2. (a) Section 4 of the Clayton Act is amended by inserting immediately after "per-

son" the following: ", except a foreign sovereign,".

(b) Section 4A of the Clayton Act is amended—

(a) by inserting "(a)" immediately before "Whenever";

(b) by inserting "or a foreign sovereign" immediately after "United States" the first place it appears therein; and,

(3) by adding at the end thereof the following new subsection:

"(b) No foreign sovereign may bring an action in any court of the United States under the authority of this section unless the Attorney General of the United States certifies to the relevant court that—

"(1) the United States is entitled to sue in its own name and on its own behalf on a civil claim in the courts of such foreign sovereign; and

"(2) such foreign sovereign by its laws prohibits restrictive trade practices.".

By Mr. CLARK (for himself, Mr. LEAHY, and Mr. ANDERSON):

S. 2487. A bill to amend the Public Health Service Act to provide for greater emphasis on rural health care needs in health planning; to the Committee on Human Resources.

RURAL HEALTH NEEDS PLANNING ACT OF 1978

Mr. CLARK. Mr. President, the issue of health planning is of great concern to me, to the people of Iowa, and to all rural Americans. In the past 2 years, the Senate Rural Development Subcommittee—which I chair—has held extensive hearings on rural health care in various parts of the country. These hearings have led me to the conclusion that health planning can and should have a critical impact upon the medically underserved.

Equal access to health care is the top priority of the Health Planning Act. It is essential, then, that we structure the planning process to accomplish that goal—especially as it relates to the unique health needs of rural people.

Because I have a deep sense that the process is not working adequately to meet these needs, I come before you today with proposals to strengthen the Health Planning Act.

The recent controversy over the national health planning guidelines demonstrates that the act is not operating as it should. The rural community perceived them to be a direct threat to the existence of their hospitals. These guidelines were seen as a lack of good faith on the part of the Federal Government, because rural Americans felt that their needs and desires had been neglected.

This kind of situation must not occur again. Until we restore the faith of rural Americans in the health planning process, the process itself cannot possibly succeed. Now is the time to make the Planning Act more relevant and more responsive.

The health planning process must recognize the distinct differences between urban and rural communities. The conditions of rural America are very special. For example:

Metropolitan areas have 150 patient-care physicians per 100,000; nonmetropolitan areas have only 70.

Almost 50 percent of our Nation's poor people are rural residents.

Four of every ten older Americans live outside of metropolitan areas.

These examples underscore how rural communities differ in terms of the availability of physician care, access to health services, and the level of care required.

Thirty million Americans live in rural, medically underserved areas, we must no longer allow the health planning process to ignore these people.

I am introducing today, with Senators LEAHY and ANDERSON as cosponsors, a package of six rural amendments to the Health Planning Act. These are intended to build upon the efforts you have begun, and I ask for your support.

The amendments focus upon:

National health planning guidelines;

Adequate representation of rural interests; and

Financial support for health planning in medically underserved areas.

First, national health planning guidelines must deal with issues unique to rural areas. Our amendment mandates special attention within the overall guidelines to the needs and concerns of rural people.

This amendment precludes the imposition of inflexible national standards on rural and medically underserved communities. In fact, if this amendment had been law, I am convinced we could have completely avoided the recent small hospital controversy.

Second, rural consumers of health care should be assured of representation on the National Council on Health Planning and development—the body that advises and consults with the Secretary of HEW. Our amendment requires broader representation of population groups, including residents of nonmetropolitan areas, on the National Council, much as is required of HSA's.

Since the Department of Agriculture has major responsibility for rural development, this amendment also adds the Department's Assistant Secretary for rural development as an ex officio member of the National Council.

Third, our next amendment would assure adequate representation of the same groups on statewide health coordinating councils—which advise State health planning agencies.

Fourth, the amendment that I consider most significant encourages the development of subarea councils—which are smaller divisions of HSA's. The Secretary of HEW would be authorized to make grants to HSA's for the development and operation of subarea councils. The size of the grant would be related to both the square mileage and geographical barriers within a particular health services area.

This amendment would make sure that geographic isolation and barriers do not restrict active citizen participation in the health planning process. Subarea councils especially promote the involvement of rural people who have, up until now, been discouraged from participating.

This amendment also requires HSA's to consider subarea views in the planning process. It insures that interests at the local level will not be lost.

Fifth, the funding mechanism for HSA grants should include extra assistance for those areas with medically underserved populations. We feel another increase is needed to accommodate the special planing requirements of medically underserved populations. Specifically, the amount of any grant should be increased by 10 cents per medically underserved person in the health service area.

Finally, our sixth amendment would require centers for health planning to develop consumer education packages. Under our amendment, these centers, which provide technical assistance to HSA boards and there staffs, would emphasize the needs of the medically underserved.

These six amendments embody the views of several organizations active in the cause of rural health care. I have received valuable input from:

The Appalachian Regional Commission;

The Health Planning Council of the Midlands;

The Iowa Health Systems Agency, Inc.;

The National Farmers Union;

The National Rural Center;

The National Rural Electric Cooperatives Association;

Rural America, Inc., and

The U.S. Department of Agriculture.

I look forward to the day when access to high-quality health services is a fact for all Americans—rural and urban alike—rather than a hollow promise. I believe the adoption of these amendments will bring that day closer.

Mr. LEAHY. Mr. President, the health of rural America is not good. Sixty percent of the medically underserved persons in this country live in rural areas. Nearly one-half of the poor and a disproportionate share of the elderly live in nonmetropolitan America. In addition, special characteristics such as the acute health needs of migrant farmworkers and native Americans, and the high number of hazardous occupations like mining, logging, and farming, compound the ills of this section of the United States. Despite these facts, rural America receives a disproportionately small share of the Federal health dollars. It is time for rural America to receive its fair share. A fair share means funding which recognizes the special and unique needs of rural America and means adequate representation in the decisionmaking process.

To help insure rural America receives its fair share in health planning, Senator CLARK and I are introducing a package of amendments to the National Health Planning and Resources Development Act.

The Health Planning Act was designed to combine and revise Federal health planning programs into a single program of State and areawide health planning under title XV of the Public Health Service Act. This act's authorization expires at the end of this fiscal year. Senator Kennedy has introduced a bill,

S. 2410, to extend authorization of the act and to change some aspects of the program.

In general, I support S. 2410 and this package of amendments is meant to build on the proposal.

S. 2140 demonstrates an understanding of some of the present inequities in the federally supported planning program. I would like to strongly endorse his proposal for changing the funding mechanism of HSA's. Greater per capita funding for less populated HSA's recognizes the increased efficiencies of economies of scale—that is, it recognizes that there are certain basic costs in establishing and operating a health systems agency whether the service area includes 3 million or 300,000 people. In addition, this funding proposal acknowledges that the smaller HSA's, which are generally more rural and geographically dispersed, may incur extra costs due to their unique needs, for example, the greater costs for transportation.

I also support the efforts to broaden the representation and educational functions on the various boards established by the act.

However, I must say that S. 2410 does not go far enough to remove the bias against rural areas. The amendments which Senator CLARK and I are introducing go a few steps further in reducing the inequities of the present system. Our amendments focus on providng a fair share of funding, adequate representation, and program administration which considers the special circumstances of rural areas.

As I mentioned, I strongly support the funding proposal of S. 2410. However, I feel that special consideration should be given to HSA's with difficult planning problems posed by medically underserved areas. Therefore, we propose bonus funding be given to HSA's based on the number of persons in medically underserved areas in their service areas.

In any program which directly affects the decisions of local residents and communities, such as this program, it is very important that all affected groups be adequately represented. Moreover, a special attempt should be made to receive input from groups traditionally dfficult to reach or excluded, such as minorities and rural residents. Therefore, we have included a series of amendments which provide for greater consumer and rural representation on all levels.

I would like to concentrate on one of these provisions—the encouragement of subarea councils in HSA's covering large land areas. At present, the act authorizes but provides no funds for subarea councils. These subarea councils expand participation through location in different places in the HSA. A subarea council is especially important because it allows for input by various residents who previously may have found the location of the Agency inaccessible. This is definitely true for rural residents.

I would like to discuss some examples of the present problems. Montana has a single HSA for the whole State, 145,000 square miles, yet it receives approximately the same funding as nearby Montgomery County which encompasses only 495 square miles. Similarly, Mississippi with only one HSA is 50 times larger than the HSA in Oakland, Calif., but both have the same size budget. Another example is that the State of Vermont covering almost 10,000 square miles is 200 times the size of Hudson County, N.J. Yet both have one HSA and Hudson County has a budget six times the sze of Vermont's health planning budget. I think it would be fair to say that it costs more to establish and effectively run a HSA with large geographic size than with a single county or city. In fact, transportation costs alone make a significant difference.

For example, in Wyoming, a whole State HSA, staff and board members of the HSA must use air travel as a primary means to conduct business and consequently uses a large portion of their budget merely for these transportation costs.

Therefore, not only does a large geographic size mean less accessibility for the people who might want to participate in the planning process, but it also means higher costs for the HSA to provide subarea councils because they do not have adequate funds. Because of this situation, those in geographically isolated areas—mostly the rural residents—are totally left out of the decisionmaking process.

Therefore, we suggest a grant program for assisting in the establishment, development and support of the subarea councils. The funds appropriated would be divided on the basis of HSA geographic size with flexibility to take into account other geographical barriers, such as mountain ranges. We think that such a program would allow for much greater participation in the planning process and consequently better health planning.

Finally, we believe that the administration of the program through guidelines and plans must allow for the unique characteristics in certain areas of the country, such as rural America. Unfortunately we saw in this past year a total disregard for the special needs of rural areas when HEW published their first set of guidelines on hospitals. It was only after 55,000 letters from all across the country, and cajoling from Members of Congress that HEW became sensitive to the problem. Therefore, to insure that such a situation will not be repeated and to sensitize HEW to rural America, we propose an amendment which would require the Secretary of HEW to include separate guidelines for rural areas when it was determined that the needs of the rural areas are not adequately addressed by national guidelines.

These amendments have been developed in response to the concern of many involved in rural health care. We believe that the passage of these will better orient health planning to the needs of rural America. I am sure that the Human Resources Committee and the Senate will give these amendments full consideration.

By Mr. DOLE:

S. 2488. A bill to amend the Internal Revenue Code of 1954 to allow small businesses and certain farming operations to claim a credit against income tax in lieu of a deduciton for social security taxes paid by such businesses and farming operations; to the Committee on Finance.

SOCIAL SECURITY TAX CREDITS FOR SMALL BUSINESSES AND FARMS

Mr. DOLE. Mr. President, the Congress in the recently enacted Social Security Financing Amendments of 1977 has inflicted $227 billion tax increase upon the American people. Because the new taxes impose a serious threat to small businesses and small farms, I am introducing today legislation to provide tax relief for these enterprises.

TAX BURDEN

There is no question that the social security trust fund needs shoring up. However, the bill passed by the Congress is likely to force many Americans out of business. An increase in the employer portion of the payroll tax will place an upward pressure on prices. Since many small businesses are only marginally operating, an increase in price will reduce their ability to compete with larger firms.

Mr. President, the increase in social security taxes is likey to increase unemployment. Many small businessmen have told me that they will be unable to hire new workers because of the new expense involved.

TAX CREDIT

Under current law, an employer may take as a current deduction, the amount of social security taxes paid. My proposal provides a tax credit to small businesses and small farming operations equal to 40 percent of the social security employer tax liability in order to qualify for the credit, the small business or farming operation must have gross income of less than $500,000 per year.

Mr. President, the American public is disgruntled over the new social security tax increase. The social security system has experienced financial difficulty. But, unless we take action, the system will face a more severe problem and that is the loss of confidence by the American people. The Congress can avoid this dilemma by taking necessary steps to relieve the tax burden we have imposed upon small business.

By Mr. RIBICOFF (for himself, Mr. ABOUREZK, Mr. PERCY, Mr. JAVITS, Mr. MATHIAS, and Mr. NUNN):

S. 2490. A bill to improve administrative agency efficiency reduce delay in administrative agency practice and procedure, and for other purposes; to the Committee on the Judiciary and the

Committee on Governmental Affairs, jointly, by unanimous consent, that when one committee orders the measure reported, the other committee shall then have 45 days to report or be discharged from further consideration thereof.

REGULATORY PROCEDURES REFORM ACT

Mr. RIBICOFF. Mr. President, today I am introducing a bill to remedy the serious delay that now plagues the regulatory process The bill is entitled "The Regulatory Procedures Reform Act."

This legislation is cosponsored by Senator ABOUREZK, chairman of the Subcommittee on Administrative Practice and Procedure, of the Judiciary Committee, and by Senators PERCY, JAVITS, MATHIAS, and NUNN.

In July 1977, the Committee on Governmental Affairs issued a detailed study of delay in the regulatory process as part of its comprehensive study of Federal regulation. The study concluded that delay was a fundamental problem in the regulatory process.

This bill implements the recommendations the study made for legislation to end regulatory delay.

The committee study found that the regulatory process takes far too long to accomplish too little.

It is plagued by inefficiency.

It steers a rudderless course unassisted by plan or priority.

It leads to unnecessary delay which imposes significant costs on Government, consumers, and industry alike.

Those familiar with the regulatory process agree that delay is a very serious problem.

Delay was the most frequently cited major problem of Federal regulation in a committee study of about 1,000 regulatory lawyers. Similarly, 67 percent of the administrative lawyers responding to the committee survey listed delay as one of the top three problems. Only 4 percent of the Federal Trade Commission's own lawyers believe the Commission handles its cases in a timely fashion.

The committee study calculated that the Interstate Commerce Commission takes on the average 1,377 days, almost 4 years, to hear and act on proposed abandonments of rail service. On the average, it takes a regulatory agency over 1½ years to complete each licensing or ratemaking proceeding. Each enforcement action is likely to drag on for over 3 years before the agency makes a final decision.

A recent GAO study found that the three safety standards the Consumer Product Safety Commission has issued to date took an average of 834 days to develop and issue. The Consumer Product Safety Act specifies such proceedings should be completed in 330 days.

Unnecessary delay imposes real economic costs. The committee study concluded that costs directly traceable to regulatory backlog amount at least to tens-of-millions of dollars annually.

Undue delay costs the government added expense by wasting personnel and resources in unproductive ways. It prevents the agency from attacking other pressing problems. It has a demoralizing effect on agency personnel.

Delay causes added expense to private parties trying to do business with the Government. High legal fees account for some of the cost. In 1976, eight major airlines alone expended $2.5 million to retain outside law firms to represent them before just one agency, the Civil Aeronautics Board.

Companies lose money when they cannot undertake new projects because the Government is slow in granting the necessary approval.

Delay hurts the economy generally when continued uncertainty about the nature of the Government's regulatory policies discourages business initiative.

Unnecessary delay in the end costs every member of the public in the form of added costs for goods and services. It increases the risks that the goods the public buys will be a danger to their health or safety.

The committee study found that delay occurs at many stages of the agency process, and for many different reasons. It also found, however, that undue delay is not inevitable. Agencies can take practical steps to make the regulatory process more efficient.

The committee study identified the following agency practices as among the most serious causes of needless delay:

Planning, priority setting, and leadership by top agency management is often inadequate. Too often agencies respond on a case-by-case basis to outside initiative. As a result, the staff and the agency heads spend their time on the wrong issues. Or the agency spreads its resources so thin that nothing can be conducted in an expeditious manner.

Widespread failure of agencies to set and enforce deadlines and follow other good management practices results in needless delays. The committee study found that many agencies do not set timetables for completing action on proceedings. Yet this and other management procedures can reduce delay dramatically. By establishing deadlines and related management procedures, the National Labor Relations Board cut from 116 days to 50 days the median time required to process a case.

Excessive reliance on formal, trial-type hearings is one of the most important causes of delay. Among proceedings which travel the full route of hearing and agency review, informal rulemaking is at least 1½ to 3 times faster than adjudicative proceedings featuring full trial-type proceedings.

The Federal Power Commission found that setting rates by informal rulemaking was over four times faster than setting rates by formal trial-type proceedings.

Even if formal trial-type hearings are necessary, agencies fail to follow procedures that could significantly reduce unnecessary delays. For example, agencies fail to rely as much as they could on written procedures, and to limit unnecessary oral cross-examination. By using a modified procedure which relies more on written presentation than oral trial procedures, the Interstate Commerce Commission reduced by over 25 percent the time it took to complete one type of proceeding.

Cumbersome review provisions are another major cause of unnecessary delay. They add extra and unnecessary layers of review before agency actions become final. At the Civil Aeronautics Board in 1975, the Board took on the average a year and a half just to issue a final decision in cases before it on appeal. This delay occurred after the case had been fully briefed, and the Board had heard the arguments.

Substantial delay occurs at the prehearing stage.

The committee study calculated that on the average it takes 160 days to complete the prehearing stage in each ratemaking and licensing proceeding. In 1973 the Federal Trade Commission brought an antitrust action against the Exxon Corp. The agency may not be able to complete even the discovery phase of the case until the 1980's.

When a party resists a discovery request the entire progress of the proceeding slows while the agency enforces the discovery. It now takes the Federal Trade Commission an average of 178 days after issuance of a subpena to secure a court order upholding its validity.

The bill carries out the specific proposals the committee study makes for reducing delay at each stage in the process. At the same time, the bill respects the principles of due process. It preserves for all parties to a proceeding a full opportunity to be heard before the agency acts.

Title I of the bill seeks to reduce delay by encouraging better agency planning and management. Each year the agency will have to establish specific regulatory priorities and describe them in an annual report to Congress. The bill requires an agency to adopt at the start of each proceeding a deadline for completing the proceeding. Each agency will report annually to Congress on how well it has met its deadlines. It will have to describe what it is doing to complete action on the proceedings that have been delayed the longest. Any agency that does not already have a special office to oversee the planning and management of its regulatory activities must create one.

Title II amends portions of the Administrative Procedure Act to reduce the procedural delays that plague all stages of the proceeding.

The Administrative Procedure Act now requires the use of long trial-type proceedings in all formal proceedings. The bill would change this for all formal rulemaking, including ratemaking, all initial licensing proceedings, and all subsidy proceedings where any of these proceedings must now be decided in trial-type proceedings. The bill requires the

use of more informal procedures to decide these cases. In other kinds of formal proceedings the agency could, at its discretion, use the new procedures instead of holding trial-type proceedings. Under the new procedures the agency must give persons a chance to submit briefs and present oral arguments on the relevant facts and law. There would be no formal witnesses at the hearing to present evidence, however, and no cross-examination.

Formal trial-type hearings could subsequently be held only if the initial proceedings highlight the need to resolve specific factual disputes. Before the agency may convene a formal, trial-type hearing, the parties must demonstrate that there is a genuine dispute about the facts. Resolution of the dispute must be essential to the outcome of the proceedings.

Even where formal, trial-type hearings are required, the bill will reduce delay by clarifying the authority of each agency to use expedited procedures. It authorizes the agency to eliminate oral testimony and oral cross-examination, and to rely instead on written testimony. It specifically states that an agency may require the person bringing the action to submit his entire case for the record at the beginning of the proceeding.

The bill specifically charges the administrative law judge with general responsibility for controlling the course of the hearing so it is completed expeditiously. It authorizes him to set deadlines for the completion of the hearing. It encourages him to rule on questions before the conclusion of the hearing when additional, evidentiary hearings would be pointless.

To speed the agency review process, the bill allows each agency to establish intermediate review panels of agency employees. It authorizes the agency to place final authority for a proceeding in these boards, or in the employee who presides over the initial hearing.

At the discovery stage, the bill gives agencies greater subpena authority. It authorizes agencies to seek penalties against anyone who resists a subpena. As in Federal court, it allows an agency to make rulings against the interests of persons who fail to cooperate in discovery requests. It allows an agency, for example, to draw inferences about facts in dispute which are adverse to a party who refuses to comply with discovery requests.

At the same time the bill seeks to assure the objectivity of the agency's final decision. It preserves the principle that the same agency employee who advocates the agency position before the administrative law judge should not also act as a decisionmaker in the proceeding, or consult with those who make the final agency decision. The Administrative Procedure Act now applies these separation of functions principles to all types of formal, on-the-record proceedings except rulemaking and initial licensing. The bill would apply these same principles to formal rulemaking and initial licensing as well.

Title III of the bill gives the agencies greater flexibility in hiring administrative law judges. It will help assure the hiring of those best qualified to assure expeditious hearings.

The bill authorizes an agency to select as an administrative law judge any individual who passes a written Civil Service Commission examination, and has the required number of years of relevant work experience. No longer will the agency's choice be limited to just the three names which the Civil Service Commission places at the top of the list of eligible candidates.

The bill reflects our initial thinking and research on the subject of regulatory delay. Undoubtedly the various agencies, with their differing experiences, will be able to provide us with additional information and ideas to perfect the bill. I hope that each agency will carefully examine its current procedures and needs in light of those proposed in this bill. I hope they will provide us with their comments and suggested changes at an early date.

Mr. PERCY. Mr. President, today I join my distinguished colleague Senator RIBICOFF in sponsoring legislation designed to help alleviate delay in the regulatory process.

Regulatory delay is a fundamental impediment to the timely and effective functioning of this Government. It hurts consumers by denying them the protection and redress they seek and deserve. It hurts businessmen by putting a monkey wrench into their investments and sales plans for the future. It hurts the regulators themselves by making them appear unresponsive and callous. And, it hurts government in general by eroding public confidence in its ability to govern our society.

This legislation stems from the recommendations of the Committee on Governmental Affairs study on Federal regulation. Volume IV, entitled "Delay in the Regulatory Process," attributes agency delays to five key factors. First, agency procedures are excessively judicial—there is far too much emphasis on trial-type procedures. Second, planning, priority setting, and leadership by top agency management are often inadequate. Third, agencies have demonstrated too little effort in setting deadlines for the various stages of proceedings, and too little effort at enforcing deadlines. Fourth, many agencies provide unnecessary and excessive layers of review before actions become final. And, finally, agencies fail to effectively speed up regulatory proceedings.

Such delay in the proper functioning of government exacts a steep toll in economic costs. The committee study determined that costs directly traceable to regulatory delay may range in the tens-of-millions of dollars each year. There are indications that the real figure may be much greater. Resources are wasted and important programs designed to aid the Nation's poor and needy get lost in the shuffle. Mounting costs feed inflation. And all the while, agencies are prevented from confronting the genuine tasks for which they were created as the bureaucracy slowly bogs down.

There are countless illustrations which show just how costly regulatory delay can be to this Nation. I am reminded of a recent example.

Dow U.S.A., the American branch of the Dow Chemical Co. planned to spend $300 to $500 million to build a chemical processing complex in California's Sacramento Valley. The Dow project would create an estimated 1,000 construction jobs and an additional 1,000 permanent jobs.

Dow began preparation for the project in 1974. Federal, State, and local regulatory agencies required 65 permits before approving the project. By January 1977, Dow spent over $4 million and acquired only 4 permits. A Dow official recalls, "We were not turned down on most of these permits—only one out of 65—we simply couldn't get an answer." Finally, in January 1977, Dow had had enough. It simply cancelled its plans: no "maybe in future," no "perhaps we can negotiate further," just cancelled. Economist Eliot Janeway called the cancellation "The 1977 equivalent of the Boston Tea Party."

In seeking to cut down on delay in the Federal regulatory process, however, we do not want to force Government agencies to act so hastily as to violate legitimate due process rights of persons or businesses affected by agency decisions. Nor should we encourage too-hasty decisionmaking. Finding an appropriate length for very different kinds of regulatory proceedings requires a delicate balancing of these important considerations.

This legislation approaches that delicate balance through well-conceived proposals for reform. It would prevent the excessive delay that characterizes so many decisionmaking aspects. It would force agencies to focus on better planning and management by requiring them to establish priorities and reasonable deadlines for proceedings. It would help reduce the procedural delays that slow all stages of agency proceedings. And it would direct judges and agency officials to act expeditiously on hearings and rulemaking matters.

Mr. President, the purposes of this bill are part and parcel of the goal of regulatory reform. Together with S. 600, the Regulatory Reform Act introduced by Majority Leader ROBERT BYRD, Senator RIBICOFF and myself, it will redirect the Federal bureaucracy toward the tasks it should rightfully consider.

I commend the staff of the Governmental Affairs Committee that assisted in writing the study "Delay in the Regulatory Process" for their superlative work. They have pinpointed the primary causes of delay in the Federal bureaucracy and offered useful recommendations for reform.

I believe that it is time the Congress reversed the present trend toward an overgoverned society. Let us, instead, make Government operate the way Congress originally planned. To this end, I am pleased to join in introducing this important measure.

Mr. ABOUREZK. Mr. President, as chairman of the Subcommittee on Administrative Practice and Procedure I am delighted to join the distinguished chairman of the Governmental Affairs Committee in cosponsoring this bill to eliminate delay in the regulatory process. The subcommittee has legislative jurisdiction over amendments to the Administrative Procedure Act and title II of this bill sets forth some of the most innovative amendments to the APA ever proposed.

Two years ago, the Senate authorized the Governmental Affairs Committee to conduct a comprehensive study of the Federal regulatory process. That review was recently concluded and the results published in a six-volume report entitled "Study on Federal Regulation." The first five volumes of the study are currently available. They cover "The Regulatory Agencies," "Public Participation in Regulatory Agency Proceedings," "Delay in the Regulatory Process" and "Regulatory Organization and Coordination." The remaining volume, "The Substantive Framework for Agency Regulations," should be completed shortly. I commend the Governmental Affairs Committee study as perhaps the most scholarly, responsible, and indepth study of the regulatory process ever undertaken. This study will no doubt be the standard reference work on the subject of regulatory reform for years to come and will form the basis for numerous agency and legislative initiatives. I commend Chairman RIBICOFF for the high quality of these reports.

Let me briefly describe the major findings and recommendations of volume IV of the study, "Delay in the Regulatory Process." Recognizing that some delay is both necessary and proper in administrative proceedings, the study attempts to distinguish between "delay occasioned by careful consideration and delay that results from inertia, inability or dalliance."

In a survey of about a thousand lawyers who regularly practice before the eight major commissions, the committee found that "undue delay" was the most frequently cited major problem of Federal regulation. In the case of four agencies—the Civil Aeronautic Board, the Federal Communications Commission, the Federal Power Commission, and the Interstate Commerce Commission—undue delay was cited as a problem by 75 percent or more of those responding. At the Federal Trade Commission, only 4 percent of its own lawyers believe that cases are handled in a timely fashion.

Statistics compiled by the Administrative Conference of the United States show that administrative agency proceedings average more than 19 months for licensing, 21 months for ratemaking, and over 36 months for enforcement actions. In licensing and ratemaking proceedings, it takes an average of over 5 months for matters to even reach the hearing stage. For enforcement actions, it averages well over a year before a hearing is even convened.

Agency review of the decisions of administrative law judges in adjudications was also slow. It requires an average of 1,377 days for the ICC to review and act on rail abandonments, and an average of 1,315 days for the CAB to review and act on merger cases.

What these figures indicate is that as time consuming as rulemaking proceedings are, they are clearly faster than adjudicatory proceedings at most of the agencies. At two agencies, rulemaking was more than twice as fast as adjudications. At the FPC, setting area rates by rulemaking for gas sold by independent producers to pipelines was more than four times as fast as setting them by adjudication.

The cost of this delay is staggering. In one year—1975—A.T. & T. paid more than $2 million to lawyers for FCC work involving several major rate matters. A 7-year licensing process at the FPC cost one power company about $300,000 in legal fees to a single firm. In 1976 eight major airlines gave $2.5 million to eight law firms for CAB work. In fact in this CAB work a single month of needless delay costs almost $200,000.

I will not assign the blame for undue delay to any one group of individuals involved in the administrative process. The responsibility rests with all the agency commissioners, agency staff attorneys, the firms regulated by the agency, their lawyers, and the administrative law judges. I am certainly aware that some agencies use delay as a way to avoid taking positions on controversial subjects. I am equally aware that every day of delay in an FTC proceeding, for example, is profitable both to the attorneys representing the respondent and to the respondent.

I also know that one person's delay is another's due process. But I believe it is generally in the interest of the public, the agencies, the regulated parties, and all the attorneys involved to expedite agency proceedings in any way which is consistent with the public interest and constitutional due process requirements.

The principal recommendations of the study to remedy undue delay are for agencies to resolve as many issues as possible through informal rulemaking procedures and to eliminate as many trial-type adjudications as possible. The purpose of these proposals is to reverse the excessive reliance on adjudicatory proceedings during the administrative process. In the words of the Study,

> Agencies must show greater ingenuity and resourcefulness in adopting new forms of proceedings which escape the rigid bounds of traditional formal proceedings.

The distinction in the Administrative Procedure Act between the procedural requirements in adjudications and in rulemakings makes little sense according to the committee.

The APA presently provides that in an adjudication "a party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts." In contrast, no oral fact finding is now required in informal rulemakings under the APA.

However, contrary to the theoretical basis for this distinction, policy issues can arise in the course of an adjudication and specific factual issues can arise in a rulemaking. There is no more reason to assume that oral trials are always necessary in adjudications than there is to assume that oral trials are never necessary in rulemakings.

Indeed, on a number of occasions courts too have stated that the APA's distinction between adjudication and rulemaking is irrelevant to determining whether agency decisions should be upheld, *Appalachian Power Co.* v. *EPA*, 477 F. 2d 495, 500 (4th Cir. 1973); *City of Chicago* v. *FPC*, 458 F. 2d 731, 739 (D.C. Cir. 1971). The point is that the focus should not be on a metaphysical analysis of whether or not a decision must be made by adjudication or by rulemaking. What is important is whether the procedures used are fair in a particular case.

As a general proposition the study argues that an oral trial is necessary only to resolve specific factual issues on which the case may turn. Similarly oral direct and cross examination should only be allowed when the perceptions, memory, or honesty of the witness is at issue. Except under these two circumstances, the study concludes agencies should not be obligated to hold oral hearings nor should they permit oral direct or cross examination of witnesses.

Several agencies have already implemented this basic recommendations of the study. As some of you may know, about a year ago the Food and Drug Administration adopted rules of practice under the APA which substantially reduce the number and extent of oral trials. These rules were adopted on November 23, 1976 and appear as subpart B of part 2 of FDA's rules.

Under these new rules "a request for a formal evidentiary public hearing shall be granted" only if there is a "genuine and substantial issue of fact for resolution at a hearing" and "the factual issue is capable of being resolved by available and specifically identified reliable evidence" and the factual issue is dispositive of the agency action to result from the trial. 21 CFR 2.113(b).

If an oral trial is granted the FDA rules provide that "evidence * * * shall be developed to the maximum feasible extent through written submissions." 21 CFR 2.154(b). Finally the rules provide that "oral cross-examination of witnesses shall be permitted only upon a showing that cross-examination requested is necessary because alternative means of developing relevant evidentiary facts are insufficient." 21 CFR 1.154(b)(1)(ii).

To date there has been no court challenge and the FDA does not expect there to be one. Although their regulations have been in effect only a short while, I understand that most of the direct examination of witnesses is now in written form and the amount of oral cross-examination of witnesses has been substantially reduced.

As I mentioned, the new FDA rules were issued under the authority of the existing provisions of the Administrative Procedure Act. The Administrative Practice and Procedure Subcommittee commissioned a study of whether there is, in fact, sufficient authority under the APA for the new FDA regulations. Our study concludes that there is ample authority under the existing APA provisions to restrict oral trials and oral cross-examination as was done by the FDA.

Yet, no other Federal agency has shown as much interest as the FDA in streamlining its adjudicatory procedures. The question then becomes how to encourage agencies to utilize the authority they already have to streamline their procedures.

Congress can always use oversight hearings, letters, and other pressures to encourage agencies to review and revise their procedures. Failing that, Congress can amend the APA to make it absolutely clear that agencies have authority and must streamline their adjudicatory proceedings.

There are a number of areas where amendments to the APA may be particularly useful.

First, agencies should be required to set firm time schedules and deadlines for the proceedings they conduct.

Second, the power of agencies to limit oral direct and cross-examination should be made clear.

Third, the APA should directly authorize administrative law judges to grant summary judgment motions.

Fourth, all agencies should be given subpena power to expedite discovery.

Fifth, all agencies should be given power to enforce their subpenas in court and to impose civil fines in cases where a subpenaed party fails to comply with a subpena.

Sixth, as a further penalty for failing to comply with subpenas, agency power to strike pleadings and motions or draw adverse inferences should be strengthened.

Seventh and finally, all agencies should be authorized to establish appeal boards. Agencies could then limit appeals on a certiorari type basis.

This bill attempts to clarify the APA on these points. I am sure that the bill can be improved by agency and public comments. But, it is an excellent draft to begin a dialog on the important subject of undue regulatory delay.

The alienation which is caused by Government inefficiency hurts all of us. Those who oppose reforms designed to improve Government efficiency have no right later to criticize the Government for its inefficiency. We all have a responsibility to attempt to remedy the delay which has become the common denominator of Government regulatory proceedings.

Again, I commend Senator RIBICOFF and his committee for their initiative on regulatory reform. It is my understanding that—by unanimous consent—this bill will be jointly referred to the Governmental Affairs and Judiciary Committees.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that an annotated version of the bill showing specifically where the bill amends existing law be printed in the RECORD, together with a section-by-section analysis of the bill.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

THE REGULATORY PROCEDURES REFORM ACT

TITLE I—PLANNING AND MANAGEMENT

OFFICE OF PLANNING AND MANAGEMENT

SEC. 101. (a) Each agency shall establish or designate a single office or other organizational unit whose principal function shall be to exercise, under the direct guidance and supervision of the head of the agency, primary responsibility for the planning and management of the regulatory activities of the agency. The office shall be headed by an individual compensated at the rate of GS–18 or above.

(b) Each agency shall, through the office established by subsection (a) of this section—

(1) establish the deadlines required by section 102(a) of this Act in accordance with such criteria that the agency shall adopt;

(2) assure agency compliance with such deadlines;

(3) monitor the activities of the agency to assure prompt action on all regulatory matters;

(4) establish the regulatory priorities of the agency after consultation with interested members of the public;

(5) monitor the regulatory activities of the agency to assure the fullest and most efficient use of its resources possible consistent with the priorities of the agency;

(6) monitor the regulatory activities of the agency to assure that the agency employs, to the greatest extent possible, rulemaking or other procedures that will enable the agency to achieve its goals in the most efficient and expeditious manner possible;

(7) promote the use of any other appropriate means, including providing appropriate incentives to all participants, which will help avoid unnecessary delay in the regulatory process;

(8) review on a periodic basis existing rules and regulations of the agency in order to eliminate or amend any rules or regulations which are conflicting, inconsistent, redundant or inactive; and

(9) comply with the provisions of section 103 of this Act.

ESTABLISHMENT OF DEADLINES

SEC. 102. (a)(1) Whenever an agency provides notice of a proposed action on a matter pursuant to sections 553(b) or 554(b) of title 5, United States Code, the agency shall include in such notice an announcement of the date by which it intends to complete final agency action on the matter. Whenever the agency announcement indicates that the proceeding relating to such matter will require more than one year to complete, the agency shall also indicate the date by which it intends to complete each major portion of that proceeding. In carrying out the requirements of this subsection, the agency shall select those dates for completing agency action which will assure the most expeditious consideration of the matter possible, consistent with the interests of fairness and other agency priorities.

(2) The requirements of this subsection shall not apply to any matter in which the agency intends to complete action within three months of providing notice of the proposed action.

(b) In the event an agency fails to complete action on a matter by the date announced, or, in the case of a matter described in subsection (a)(2) of this section, an agency fails to complete action within three months of providing notice of such proposed action, the agency shall provide announcement of the new date by which the agency intends to complete action on such matter, if the expected delay in completing action exceeds 30 days.

(c) Each agency shall by rule indicate any other category of significant agency action which the agency determines should be subject to the provisions of this section in whole or in part.

ANNUAL REPORT ON REGULATORY ACTIVITIES

SEC. 103. (a) Not later than March 1st of each year each agency shall prepare and submit to the Congress an annual report on the regulatory activities of the agency in the prior calendar year. The report shall include with respect to proceedings in which the agency provided notice of the proposed action pursuant to sections 553(b) or 554(b) of title 5, United States Code—

(1) the number of such proceedings initiated by the agency during the prior year;

(2) the number of such proceedings concluded by the agency during the prior year;

(3) the number of instances during the prior year in which the agency failed to conclude a proceeding by the deadline originally announced for the completion of such proceeding, and an explanation of the reasons therefor; and

(4) an analysis of the 10 per cent of all pending proceedings which have been under consideration by the agency for the longest period of time, including an identification of each such proceeding, and the subject matter involved; the reason for the length of the proceedings; and what steps the agency has taken to expedite a conclusion of the proceedings.

Each agency shall arrange the information required by this subsection by categories according to the type of procedures involved. Each agency shall adopt only such categories as the Administrative Conference of the United States approves.

(b) The annual report required by this section shall also describe, with specificity—

(1) the regulatory priorities and goals of the agency for the succeeding 12 months, including the specific areas where substantive regulations or generic standards should be developed, where enforcement efforts should be pursued, and where other action is needed, together with the steps it has taken or intends to take, or procedures it has adopted or intends to adopt, to assure that the agency achieves such priorities and goals within the time proposed;

(2) the extent to which the regulatory activities of the agency in the prior year conformed with the previously announced priorities and goals of the agency;

(3) any changes the agency has made in the prior year in its organization, management, or procedures to expedite its regulatory actions; and

(4) any recommendations the agency has for legislative changes to improve the ability

of the agency to act in an expeditious manner.

ADMINISTRATIVE CONFERENCE ANALYSIS

SEC. 104. (a) The Administrative Conference of the United States shall review the annual reports submitted to the Congress by each agency pursuant to section 103 of this Act and shall, not later than June 1 of each year, prepare and submit to the Congress an analysis of such reports, together with any recommendations the Conference deems appropriate.

(b) The Administrative Conference of the United States shall study possible means for providing additional incentives to all participants in proceedings conducted pursuant to sections 553 or 554 of title 5, United States Code, to expedite the conduct of such proceedings. Within one year after enactment of this Act, and at such subsequent occasions as the Administrative Conference of the United States determines appropriate, the Conference shall report to the Congress on the initial findings and conclusions of such study, together with such recommendations as the Conference may have for legislation or amendments in agency procedures or practices.

(c) The Administrative Conference of the United States is authorized to examine such records in the possession of agencies, and require the agencies to provide to the Conference such records, information, and analysis as the Conference deems necessary to carry out its functions under this Act.

(d) There are authorized to be appropriated such sums as the Administrative Conference of the United States may require to carry out its functions under this Act.

APPLICABILITY AND DEFINITIONS

SEC. 105. (a) This title shall apply to each agency responsible for a regulatory function.

(b) For the purpose of this title, the term—

(1) "regulatory function" includes each function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rulemaking or adjudicative proceedings conducted pursuant to section 553 or section 554 of title 5, United States Code, or through similar proceedings conducted pursuant to other law, except that it does not include a military or foreign affairs function of the United States; and

(2) "agency" includes each authority as defined by section 551(1) of title 5, United States Code.

TITLE II—ADMINISTRATIVE PROCEDURE

FORMAL HEARINGS

SEC. 201. Amend section 554 of title 5, United States Code to read as follows: (Deletions are enclosed in brackets and additions are set in italic.)

SEC. 554 [Adjudications] *Proceedings Determined in the Record After an Agency Hearing*

(a) *Applicability*—This section applies, according to the provisions thereof, in every case [of adjudication] required by [statute] *law* to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved—

(1) a matter subject to a subsequent trial of the law and to facts de novo in a court;

(2) the selection or tenure of an employee, except a hearing examiner appointed under section 3105 of this title;

(3) proceedings in which decisions rest solely on inspections, tests, or elections;

(4) the conduct of military or foreign affairs functions;

(5) cases in which an agency is acting as an agent for a court; or

(6) the certification of worker representatives.

[556b] This subchapter does not supersede the [conduct of] *manner in which* specified classes of proceedings *are conducted*, in whole or in part, by or before boards or other employees specifically provided [for] *by*, or designated under, statute.

(b) *Notification; Initial Submissions*—Persons entitled to notice of an agency hearing shall be timely informed of—

(1) the time, place, and nature of the hearings;

(2) the legal authority and jurisdiction under which the hearing is to be held; and

(3) the matters of fact and law asserted. When private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleadings. *Each agency shall, to the extent practicable, require the moving party, including the agency, to submit in written form at the time the proceeding is initiated all the facts and arguments upon which that party proposes to rely.* In fixing the time and place for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

[556b] (c) *Authority of Presiding Employee—(1)* There shall preside at [the taking of evidence] *hearings conducted pursuant to this section a presiding employee. For purposes of this section, and section 556 and 557 of this title, the presiding employee may be—*

(A) the agency;

(B) one or more members of the body which comprises the agency;

(C) one or more *administrative law judges* [hearing examiners] appointed under section 3105 of this title; *or*

(D) *in the case of a hearing conducted pursuant to subsection (e) of this section, a board of appropriate agency employees described in section 557 of this title.*

[554d] The employee who presides *over a hearing held pursuant to this section* [at the reception of evidence pursuant to section 556 of this title] shall *comply with the requirements of section 557* [make the recommended decision or initial decision required by section 557 of this title] unless he becomes unavailable to the agency *in which case another employee qualified to preside at the hearings pursuant to this subsection shall preside.*

[556b] The functions of presiding employees participating in decisions in accordance with section 557 of this title, shall be conducted in an impartial manner. A presiding or participating employee may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a presiding or participating employee, the agency shall determine the matter as a part of the record and decision in the case.

[556c](2) Subject to published rules of the agency and within its powers, employees presiding at hearings conducted pursuant to this section may—

(A) administer oaths and affirmations;

(B) issue subpenas [authorized by law, rule on offers of proof and receive relevant evidence];

(C) take depositions or have depositions taken when the ends of justice would be served;

(D) regulate the course of the hearing;

(E) hold conferences for the settlement or simplification of the issues by consent of the parties;

(F) dispose of procedural requests or similar matters;

(G) make or recommend decisions or findings in accordance with section 557 of this title; and

(H) take other action authorized by agency rule consistent with this subchapter.

(3) The employee presiding over a hearing pursuant to this section shall act to—

(A) assure that discovery, and all other prehearing and hearing stages of the proceeding, are completed in an expeditious manner;

(B) provide a record of the proceeding that contains in a concise form only those matters that are relevant and material to a decision in the case, and not unduly repetitious;

(C) establish whenever appropriate deadlines for the completion of the hearing, or any other portion of the proceeding;

(D) rule on questions of fact or law in such a manner as to define the issues in as narrow and specific a manner as possible; and

(E) take any other appropriate action authorized by this subchapter or any other applicable law designed to assure prompt agency disposition of the matter.

(d) *Separation of Functions—(1)* [The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title unless he becomes unavailable to the agency.] Except to the extent required for the disposition of ex parte matters as authorized by law, [such an employee may not] *neither the employee who presides over a proceeding conducted in accordance with this section, nor any person participating or advising in any decision or review of a decision pursuant to section 557 of this title, including any member of an employee board, or any other responsible employee, may*

(A) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or

(B) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or [prosecuting] *litigating* functions for an agency.

(2) An employee or agent engaged in the performance of investigative or [prosecuting] *litigating* functions for an agency in a case may not, in that or a factually related case, participate or advise in [the decision, recommended decision or agency review] *making or reviewing any agency decision* pursuant to section 557 of this title, except as a *participant* [witness] or counsel in public proceedings.

(3) For purposes of this subsection, the term "litigating function" does not include participation in a proceeding for judicial review of agency action.

(4) Nothing in paragraph 2 of of this subsection shall apply [this subsection does not apply (A) in determining applications for initial licenses, (B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or (C)] to the agency or *any member* [a member or members] of the body comprising the agency.

(e) General Hearing Process—(1) This subsection applies to any rulemaking or licensing proceeding subject to subsection (a) of this section, other than a proceeding to withdraw, suspend, revoke, or annul a license, and to any proceeding subject to subsection (a) of this section to determine initial claims for subsidies or other benefits.

(2) This subsection shall also apply to any other agency proceeding subject to subsection (a) of this section which the agency determines should be conducted in accordance with the provisions of this subsection. In determining which such proceedings shall be conducted pursuant to this subsection, the agency shall consider, among

other factors, the extent to which the decision is likely to depend on the resolution of genuine and substantial disputes of facts; the number of persons interested in participating in the proceedings; and whether conducting the proceeding solely in accordance with subsection (f) of this section is essential to a full and fair disclosure of all the facts.

(3) In any proceeding subject to this subsection, the agency shall conduct a hearing to afford parties an opportunity to submit for the record written data, views, or arguments and, at the request of any party in the proceeding, an opportunity for oral argument with respect to such written submissions. To the extent authorized by section 555 of this title or other law, the hearing shall be preceded by such discovery procedures as the presiding employee determines necessary. At the conclusion of such hearing the presiding employee shall, subject to the provisions of section 557 of this title, rule on all questions of law and fact and make all related findings, except to the extent that a ruling or finding is dependent upon the resolution of a factual dispute subject to paragraph 4 of this subsection. For purposes of section 557 of this title any rulings and related findings made in a proceeding conducted pursuant to this subsection, together with any additional rulings or findings in the proceeding made pursuant to subsection (f), shall be reviewable at the same time, and as part of the same record.

(4) At the conclusion of any hearing held pursuant to paragraph 3 of this subsection, the presiding employee shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicative hearing conducted in accordance with subsection (f) of this section, except that the presiding employee may make such a designation only if he determines—

(A) there is a genuine and substantial dispute of fact which can be resolved with sufficient accuracy only by the introduction of reliable and specifically identified evidence in an adjudicative hearing) and

(B) the decision of the agency in the case is likely to depend on the resolution of such dispute.

In making any such finding the presiding employee shall, in writing, designate the specific facts which are in genuine and substantial dispute, and the reason why the decision of the agency is likely to depend on the resolution of such facts.

(f) Adjudicative Hearings—(1) This subsection shall apply to all proceedings subject to this section except proceedings or portions of such proceedings conducted pursuant to subsection (e) of this section.

[554c] (2) The agency shall give all interested parties opportunity for—

(A) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit; and

(B) to the extent that the parties are unable so to determine a controversy by consent, *an adjudicative* hearing and decision on notice and in accordance with *this section and* sections 556 and 557 of this title.

[556e](g) *Record as Basis of Decision*—The transcript of testimoy and exhibits, together with all papers and requests filed in the proceeding *conducted pursuant to this section* constitutes the exclusive record for decision in accordance with section 557 of this title and, on payment of lawfully prescribed costs, shall be made available to the parties. When an agency decision rests on official notice of a material fact not appearing [in the evidence] in the record, a party is entitled, on timely request, to an opportunity to show the contrary.

SUBPENA POWER AND OTHER ANCILLARY MATTERS

SEC. 202. Amend section 555 of title 5, United States Code, to read as follows: (Deletions are enclosed in brackets and additions are set in italic.)

SEC. 555. Ancillary Matters

(a) This section applies, according to the provisions thereof, except as otherwise provided by this subchapter.

(b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. *Each agency may prohibit any individual from appearing before the agency or its responsible employees whenever such individual refuses to adhere to reasonable standards of orderly and ethical conduct or engages in a continued use of dilatory tactics.* With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.

(c) Process, requirement of a report, inspection, or other investigative act or demand may not be issued, made, or enforced except as authorized by law. A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(d) In any proceeding subject to section 554 of this title the agency is authorized to require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things, or both, at a hearing or deposition at any designated place. Any subpenas authorized by law shall be issued to a party on request and, when required by rules of procedure, on a statement or showing of general relevance and reasonable scope of the evidence sought. On contest, the court shall sustain the subpena or similar process or demand to the extent that it is found to be in accordance with law. *Each agency shall designate by rule the officers, who shall include the presiding employee in all proceedings subject to section 554 of this title, authorized to sign and issue subpenas.*

(e)(1) In case of failure or refusal of any person to obey a subpena, the agency may invoke the aid of the district court of the United States for any district in which such person is found or resides or transacts business to enforce the subpena. [555d] In a proceeding for enforcement *of a subpena or similar process or demand found to be in accordance with law,* the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.

(2) Any person who fails to comply with any subpena or similar process or demand issued by the agency, where such failure continues for 30 days after service by the agency on such person of a notice of such default, shall be liable to the United States for a civil penalty of not more than $5,000, as the court may determine, for each day that such failure continues after such 30th day. The amount of such civil penalty shall be payable into the Treasury of the United States, and shall be recoverable in a civil action brought in the district court of the United States for any district in which such person is found or resides or transacts business.

(3) In lieu of any action brought pursuant to paragraph (1) or paragraph (2) of this subsection, or in addition to any such action, the employee presiding at a hearing conducted pursuant to section 554 may issue an order whenever a person fails to comply with an agency subpena or similar process or demand—

(A) refusing to allow such person to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters into the record;

(B) inferring that the testimony, documents, or evidence concerning which the subpena was issued would have been adverse to such person; or

(C) striking out pleadings or motions or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or any part thereof, or rendering a decision by default against such person.

(f) The authority granted by subsections (d) and (e) of this section is in addition to, and not in limitation of, any other statutory authority for the issuance of agency subpenas or the judicial enforcement thereof.

[555e] (g) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceeding. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.

[554e] (h) The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.

(i) Each agency shall compile and maintain in a file a record of significant agency actions likely to be of particular interest to the agency or other persons participating in subsequent agency proceedings, together with a detailed subject matter index to such file. The agency shall include in such file motions, briefs, and other legal arguments or pleadings filed with the agency relating to each such action and the action the agency took in connection with such filings. The agency shall make the file and index required by this subsection readily accessible to the public, and shall take any additional steps the agency deems appropriate to provide for the dissemination of such material to interested members of the public.

THE CONDUCT OF TRIAL-TYPE PROCEEDINGS

SEC. 203. Amend section 556 of title 5, United States Code, to read as follows: (Deletions are enclosed in brackets and additions are set in italic.)

556. *Adjudicative* hearings; presiding employees; power and duties; burden of proof; evidence; [record as basis of decision.]

(a) This section applies, according to the provisions thereof, to *adjudicative* hearings required by [section 553 or 554] *section 554 (f)* of this title to be conducted in accordance with this section.

[556(c)](b) Subject to published rules of the agency and within its powers, employees presiding at *adjudicative* hearings may rule on offers of proof, receive relevant evidence, *and conduct such cross-examina-*

tion as the presiding employee determines appropriate.

[556(d)] (c) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. A party is entitled to present his case or defense, [by oral or documentary evidence] to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. [In rulemaking or determining claims for money or benefits or applications for initial licenses an agency may, where a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.] *An agency shall by rule authorize the presiding employee to require the submission of evidence in written form, or the conduct of cross-examination in written form, unless oral presentation of testimony or oral cross-examination is required for a full and true disclosure of relevant evidentiary facts and a denial of such opportunity for oral proceedings would materially prejudice such party. Upon the motion of any party, the presiding employee may, prior to the completion of the adjudicative hearing, issue a decision in the case when there is no genuine and substantial dispute as to any material fact and the moving party is entitled to a judgment as a matter of law.*

AGENCY REVIEW OF DECISIONS

SEC. 204. Amend section 557 of title 5, United States Code, to read as follows: (Deletions are enclosed in brackets and additions are set in italic.)

557. Initial decisions; conclusiveness; review by agency; submission by parties; contents of decisions; record

(a) This section applies, according to the provisions thereof, when a hearing is required to be conducted in accordance with section [556] *554* of this title.

(b) *(1)* When the agency did not preside at the *hearing* [reception of the evidence] the presiding employee [or, in cases not subject to section 554(d) of this title, an employee qualified to preside at hearings pursuant to section 556 of this title,] shall initially decide the case unless the agency requires, either in specific cases or by general rule, the entire record to be certified to it for decision, *in accordance with paragraph (2) of this subsection.* When the presiding employee makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule.

(2) When the agency makes the decision without having presided at the [reception of the evidence,] *hearing, the agency may require the entire record to be certified to it for decision without an initial decision by the presiding employee. In any such case,* the presiding employee [or an employee qualified to preside at hearings pursuant to section 556 of this title] shall first recommend a decision, [except that in rulemaking or determining applications for initial license instead thereof the agency may] *or the agency may, except for any portion of a case conducted pursuant to section 554(f) of this title, require the presiding employee to submit the record without a recommended decision, but with such analysis of the record as the agency may specify. Whenever the presiding employee submits the record without an initial or recommended decision, the agency shall* issue a tentative decision or [one of its responsible employees may recommend a decision] *the agency shall designate one of its responsible employees to recommend a decision, except that such tentative or recommended decision* [or this procedure] may be omitted in a case in which the agency finds on the record that due and timely execution of its functions imperatively and unavoidably so requires.

(c) Before a recommended, initial, or tentative decision, or a decision on agency review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the employees participating in the decisions—

(1) proposed findings and conclusions; or

(2) exceptions to the decisions or recommended decisions of subordinate employees or to tentative agency decisions; and

(3) supporting reasons for the exceptions or proposed findings or conclusions.

The record shall show the ruling on each finding, conclusion or exception presented. All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of—

(A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and

(B) the appropriate rule, order, sanction, relief, or denial thereof.

(d)(1) Each agency may establish by rule one or more employee boards to review decisions of presiding employees in accordance with the provisions of this section. Each such board shall be composed of one or more employees of the agency, including any member of the body comprising the agency, any administrative law judge, or any other appropriate agency employee (other than the presiding employee in the proceeding on appeal). Subject to paragraph (2) of this subsection, any agency may provide by rule that—

(A) any decision or category of decisions by the presiding employee shall become final unless reviewed by an employee board or by the agency; and

(B) any decision or any category of decisions made by an employee board on review shall become final unless reviewed by the agency.

Each agency shall specify by rule the circumstances and conditions, if any, under which the agency will entertain and consider appeals from the decision of the employee board or presiding employee. Such rules shall also specify the circumstances and conditions under which the agency shall exclude from the jurisdiction of the employee board responsibility for reviewing a decision or category of decisions.

(2) The agency may exercise its discretionary right to review a decision pursuant to paragraph (1) of this subsection only upon a public finding specifying the particular issues to be reviewed and the reasons requiring agency review of such issues.

(3) Nothing in this subsection shall be construed to supersede—

(A) any provision of law specifically governing in a particular agency the composition and organization of any employee board or the right of any agency members to direct review of decisions, or

(B) any authority otherwise possessed by an agency to delegate the final decision to any agency members or other employees.

[557(d)] *(e)* (1) In any agency proceeding which is subject to subsection (a) of this section, except to the extent required for the disposition of ex parte matters as authorized by law—

(A) no interested person outside the agency shall make or knowlingly cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

(B) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or knowingly cause to be made to any interested person outside the agency an ex parte communication relevant to the merits of the proceeding;

(C) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or knowingly causes to be made, a communication prohibited by this subsection shall place on the public record of the proceeding:

(i) all such written communications;

(ii) memoranda stating the substance of all such oral communications; and

(iii) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (i) and (ii) of this subparagraph;

(D) upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this subsection, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

(E) the prohibitions of this subsection shall apply beginning at such time as the agency may designate, but in no case shall they begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

[556d] (2) The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of [section 557(d) of this title] *this subsection* sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.

[557(d)(2)] *(3)* This subsection does not constitute authority to withhold information from Congress.

SCOPE OF JUDICIAL REVIEW

SEC. 205. Amend section 706 of title 5, United States Code, to read as follows: (Deletions are enclosed in brackets and additions are set in italic.)

SEC. 706. *(a)* To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to [sections 556 and 557] *section 554* of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(b) In determining whether to compel agency action unreasonably delayed pursuant to subsection (a)(1) of this section, the reviewing court shall consider the extent to which the agency has failed to complete the action or a portion of the action by any date announced by the agency for completion of such action.

CONFORMING AMENDMENTS

SEC. 206. (a) Amend section 553(c) of title 5, United States Code, by amending the last sentence of the subsection to read as follows: (Deletions are enclosed in brackets and additions are set in italic.)

"When rules are required by [statute] *law* to be made on the record after opportunity for an agency hearing, section *554* [556 and 557] of this title applies instead of this subsection."

(b) Amend section 558(c) of title 5, United States Code, by amending the first sentence to read: (Deletions are enclosed in brackets and additions are set in italic.)

"(c) When application is made for a license required by law, the agency, with due regard to the rights and privileges of all the interested parties or adversely affected persons and within a reasonable time, shall set and complete proceedings required to be conducted in accordance with *section 554* [sections 556 and 557] of this title or other proceedings required by law and shall make its decision."

TITLE III—ADMINISTRATIVE LAW JUDGES

APPOINTMENT OF ADMINISTRATIVE LAW JUDGES

SEC. 301. Amend section 3105 of title 5, United States Code, to read as follows: (Deletions are enclosed in brackets and additions are set in italic.)

Sec. 3105. Appointment of [Hearing Examiners] *Administrative Law Judges*

3105(a). Each agency shall appoint as many [hearing-examiners] *administrative law judges* as are necessary for proceedings required to be conducted in accordance with section [556 and 557] *554* of this title. [Hearing-examiners] *Administrative law judges* shall be assigned to cases in rotation so far as practicable, and may not perform duties inconsistent with their duties and responsibilities as [hearing examiners] *administrative law judges*.

(b) Subject to the provisions of subsection (c), each agency is authorized, without regard to any provision of this title governing appointments or promotions in the competitive service, to appoint as administrative law judges, or to promote to any position as administrative law judge, any individual listed on a register of qualified candidates prepared by the Civil Service Commission. An individual shall be placed on such register if the individual—

(1) completes an appropriate written examination prepared and administered by the Civil Service Commission, and the individual achieves or exceeds on the examination a minimum score established by the Civil Service Commission; and

(2) possesses the necessary minimum qualifying experience as determined by the Civil Service Commission.

(c) Each agency appointing administrative law judges shall establish a panel to review the qualifications of candidates and to advise the agency on the selection of candidates. Such panel shall contain at least one attorney who is not an employee of the United States Government, and at least one individual who is not an attorney.

REFERENCES TO HEARING EXAMINERS

SEC. 302. Any reference in title 5 of the United States Code or in any other provision of law to "hearing examiners appointed pursuant to section 3105 of title 5, United States Code," shall hereafter constitute a reference to administrative law judges appointed pursuant to section 3105 of title 5, United States Code.

TITLE IV—GENERAL PROVISIONS

EFFECTIVE DATE

SEC. 401. (a) Except as provided in subsection (b) of this section, this Act shall become effective 180 days after the date of its enactment. The initial report filed by each agency pursuant to section 103 of this Act shall concern only activities of the agency during the prior year occurring after the effective date of this Act.

(b) Each agency subject to the provisions of this Act shall, within 150 days after the date of enactment of this Act, issue such agency rules as are required to conform the procedures and organization of the agency to the requirements of this Act.

THE REGULATORY PROCEDURES REFORM ACT—SECTION-BY-SECTION ANALYSIS

TITLE I—PLANNING AND MANAGEMENT

The study of the Senate Governmental Affairs Committee found that much of the present delay in the regulatory process could be reduced by careful management and adequate planning. Title I of the bill is designed to encourage each agency to adopt management and planning procedures that effectively eliminate regulatory delay wherever possible. It also provides for periodic reports to Congress by each regulatory agency and the Administrative Conference on the agency's planning and management efforts.

Office of Planning and Management

Section 101. This section requires each Federal agency to charge a single high-level office with primary responsibility for the planning and management of the agency's regulatory activities. Those agencies which do not have such an office now would be required to create one. The requirement applies to each agency responsible for one or more regulatory programs, as defined in Section 105 of the bill.

Acting under the direct guidance and supervision of the agency heads, the office would be responsible for implementing those planning and management procedures which can help reduce delay in the agency. This will include the following:

(1) Adopting deadlines and tracking the progress of proceedings. The office is charged with responsibility for seeing that each agency fulfills the requirement, established in section 102, to announce deadlines for the completion of agency actions. The office will work with the operational divisions of the agency to establish general criteria for determining deadlines for each type of proceeding. It will assure that reasonable deadlines are adopted in the case of particular proceedings. The office will be responsible for tracking the course of each proceeding through appropriate management techniques to make sure that the proceeding complies with the announced deadlines. This may mean in some agencies with a heavy regulatory workload a sophisticated computer tracking system. In other agencies less elaborate systems may be necessary. Where proceedings fall behind schedule, the office can work with the heads of the agency to assign extra resources, implement new procedures, or take whatever action is necessary to eliminate the delay. In addition the agency will have general responsibility for monitoring the activities of the agency to assure prompt action on all regulatory matters.

(2) Establishing Priorities. It will be the responsibility of the office to assist the agency heads in establishing regulatory priorities for the agency and then in assuring that the agency's resources are committed in a way that is consistent with these priorities. By establishing and following priorities, an agency should be able to expedite agency actions by avoiding instances where the agency initiates a large number of proceedings without the resources necessary to complete all of them in an expeditious manner. And it can avoid instances where an agency commits a large proportion of its resources to a proceeding which is of relatively low importance, while ignoring a number of other long-delayed proceedings of greater importance.

(3) Improving Administrative Procedures. The Office will also be responsible for assuring that the agency employs, to the greatest extent possible, the type of procedures that are likely to enable the agency to complete action as quickly as possible consistent with the requirements of due process.

It will be one responsibility of this office, for example, to see that the agency relies on informal rulemaking as much as possible. Informal rulemaking proceedings often take less time to complete than more formal agency adjudications. In addition, reliance on informal rulemaking encourages agencies to consider and adopt clear standards and interpretations of law of general applicability. The adoption of such standards and legal interpretations means that subsequent cases can be quickly decided without the need of considering all over again the basic policies relevant to a decision in the case. The adoption of such standards discourage parties in subsequent cases from filing petitions, or making arguments that clearly have no chance of prevailing in light of established agency policies.

It will also be the responsibility of the office to see to it that the agency does whatever else it can to assure expeditious agency action. This will include, for example, developing ways to provide financial or other incentives to encourage parties to seek an expeditious conclusion to the proceedings. In fulfilling this function each office can work closely with the Administrative Conference as it studies the question of incentives and other procedural reforms pursuant to their responsibilities under section 104 of this bill.

(4) Review of Regulations. Another responsibility of the office will be to review selected rules and regulations of the agency on a periodic basis. It will be expected to draw to the attention of the agency heads those rules and regulations which are inconsistent, or no longer necessary. The elimination of inconsistent or unnecessary rules will allow the agency to devote its resources to implementing other regulations, or drafting regulations that are needed. It will protect the public from the burden of having to comply with unnecessary regulations.

(5) Preparing Reports. Finally, the office will coordinate preparation of the annual reports to Congress required by section 103. This report will outline the agency's record in the prior year in completing action on proceedings in a timely fashion. It will describe the agency's priorities and goals for the succeeding year. It will review how well the agency succeeded in meeting its goals for the prior year.

In addition to these functions, the office will carry out such related functions as the agency assigns.

To be effective the office will have to be in frequent and direct contact with the agency heads. In order to give the office a stature equal to the importance of its responsibilities, the bill requires that the head of the office should be compensated at a rate at least equal to a GS–18. The bill specifies the

head or the office will report directly to the agency head.

The establishment of deadlines

Section 102(a) specifically requires the agency to announce the date when it expects to complete action on particular agency proceedings. In those cases where the proceeding is expected to take more than one year to complete, the notice will also indicate the date the agency intends to complete each major portion of the proceeding.

Section 102(a) applies to any informal rulemaking or formal on the record proceedings where the agency must already provide notice of the proceeding under the provisions of section 553(b) or section 554(b) of the Administrative Procedure Act. Other statutes may impose on particular agencies further, more detailed notice requirements in addition to those in sections 553 or 554. Or statutes may follow section 553(b) or section 554(b), but require particular agencies to conduct other aspects of the proceedings in a way that is not entirely consistent with sections 553 or 554. Nevertheless, the requirement in section 102(a) that the agency establish a date for completing the proceeding would still apply in each of these instances.

Where an agency proceeding is exempt from the notice requirement of section 553 of the Administrative Procedure Act, however, because it involves the issuance of rules of agency organization, procedure, or practice, the requirements of this subsection would not apply.

The agency will have to adopt a specific deadline for each proceeding. In many cases, however, the agency will find it useful to adopt general guidelines establishing how long each type of proceeding should take on the basis of its past experience. With these guidelines to assist it, the agency can with relative ease and consistency adopt deadlines for the completion of each individual proceeding. In any event, the bill specifies that the schedule adopted in any particular proceeding should be designed to assure the most expeditious conclusion to the proceeding possible, consistent with other requirements. The schedule must, of course, still make it possible for all due process requirements to be met and for full disclosure of all relevant facts. The schedule should also reflect the relative priority of the proceeding, and the extent that agency resources can be devoted to the proceeding consistent with the overall priorities of the agency.

The subsection does not require that the notice of the expected completion date be in any particular form. Presumably, it would be included in whatever type of announcement the agency already employs to meet the existing notice requirements in the Administrative Procedure Act.

The section does not apply to agency proceedings that will take less than three months to complete. Proceedings of this type are sufficiently short to make the establishment of precise deadlines unnecessary.

Deadlines should help avoid unnecessary delays. Deadlines will alert the agency to the need to take corrective action when a proceeding is unduly delayed. In any particular proceeding, deadlines will inform participants in advance when they must be ready to meet filing dates, participate in hearings, or the like. This should help prevent delays due to scheduling problems. Deadlines will make agency officials more accountable to agency heads and to the public for their record of success or failure in completing proceedings in an expeditious manner. They will provide further incentives for agency officials to complete on time the stage of the proceeding for which they are directly responsible. Finally, deadlines will enable agencies to follow schedules which reflect their priorities.

The Civil Aeronautics Board announces a target date for the completion of each of the hundreds of items that come before it. The Federal Communications Commission has in the past followed the practice of announcing publicly a month or more in advance when agency heads expect to consider the staff's conclusions and recommendations on a particular item. The Committee study reports that agency managers at the Federal Communications Commission have found that public knowledge of when the staff has agreed to complete its work on a particular matter creates a strong incentive to live up to that schedule.

Section 102(b) requires the agency, if it fails to complete final action within 30 days of its original estimate, to announce publicly a new target date for completion. This includes a proceeding for which no date was originally announced because the agency expected to complete it in less than three months. When such a proceeding becomes so delayed that it will still not be completed after four months of consideration, the agency will have to adopt a schedule and announce it.

Subsection (c) provides that the agency may, in its discretion, adopt rules requiring the use of deadlines for other types of agency actions, such as policy statements or investigations, that are not subject to the mandatory requirements of this section.

Annual reports on regulatory activities

Section 103. This section requires each regulatory agency to report to Congress by March 1 of each year. Subsection (a) requires statistical information about agency proceedings. It applies to each informal rulemaking or formal adjudicative proceeding subject to the notice provisions of the Administrative Procedure Act. The agency is required to provide the information according to procedural categories so that separate statistics are available for each type of agency proceeding.

The bill specifically requires the following information: the number of proceedings initiated in the prior year; the number of proceedings concluded in the prior year; the number of times when the agency failed to meet one of the deadlines established pursuant to section 102; and an explanation why the agency failed to meet its deadline in a particular instance or in a general category of cases.

The section also requires the agency each year to examine the 10 percent of all its pending informal rulemaking and formal adjudicative cases combined that have been under consideration for the longest period of time. The agency must identify the proceedings singled out in this fashion, and indicate to Congress what it intends to do to expedite a conclusion to them.

It is essential, for comparative purposes, that each agency provide its statistical information according to categories that are as comparable as possible. To assure this comparability the subsection requires the Administrative Conference of the United States to approve the categories of each agency adopts.

In 1969, the Administrative Conference recommended that each agency compile statistics on their current case load and the length of time proceedings take to complete. Yet in 1974 the Conference concluded that only five agencies were collecting such statistics on a regular basis. This subsection will assure that in the future each agency collects and reports the necessary data. This will allow Congress to exercise its oversight responsibilities in the area. It will also provide additional assurance that each agency has management procedures which adequately track, on a regular basis, the progress of proceedings under consideration in the agency.

Section 103(b) requires each agency to describe in the annual report, with as much specificity as possible, what the priorities and goals of the agency will be for the succeeding year. In addition to describing areas where generic standards will be developed or clarified, or new enforcement efforts made, the report will describe what steps it intends to take to assure that the agency achieves its goals. For example, whether it will rely on informal rulemaking or more formal adjudicative proceedings, when it expects to complete action on the proceeding, and the relative priority the effort will receive. Each year the report will also review the agency's record during the prior year in achieving its previously announced priorities and goals.

The annual report will also provide each agency an opportunity to report on what steps it has taken to expedite its regulatory actions by changing its organization, management, or administrative procedures. It will be expected to inform Congress of any legislation which it believes would be helpful in increasing the efficiency of the agency's regulatory process.

Administrative conference analysis

Section 104 imposes additional responsibilities on the Administrative Conference to monitor the efforts of the agencies to comply with the provisions of this bill. It will measure the extent that agencies succeed in expediting their regulatory procedures. The Administrative Conference has already begun on its own initiative a 3- to 5-year pilot program to obtain in a uniform manner statistical information from agencies on their case loads. The Administrative Conference will, consequently, be in a good position to monitor the collection system each agency adopts pursuant to this bill. It will be qualified to approve the categories the agencies use for statistical reporting purposes to make sure they are comparable.

Each year the Administrative Conference will review the reports submitted by the agencies pursuant to section 103 and by June 1 of each year provide Congress with an analysis of such reports. In its annual report the Administrative Conference will provide any recommendations it determines appropriate for additional legislation, for changes in agency practices and procedures that may be implemented without legislation, or any other steps it thinks Congress or the agencies should take to carry out the purposes of this bill.

Section 104(b) charges the Administrative conference with specific responsibility for studying possible ways to increase the incentives that all participants in a proceeding have to complete the proceeding in an expeditious way. This could include, for example, increasing the benefits accruing to parties that complete a proceeding quickly, as well as imposing costs of various kinds on participants that delay proceedings. While the bill contains a number of changes to increase the speed of agency proceedings, further experience under the new proceedings and further study should provide suggestions for additional ways to improve the process through the greater use of incentives. The Administrative Conference will submit its first report within one year of enactment of the bill, and additional reports from time to time as it determines appropriate.

Subsection (c) authorizes the Administrative Conference to gain access to such records and information and analysis that the Conference requires to carry out its functions under this Act. Currently, the Administrative Conference does not possess such specific statutory authority. Subsection (d) authorizes such additional sums as the Administrative Conference may need to carry out its functions under the Act.

Applicability and definitions

Section 105. This section describes the agencies which will be subject to the re-

quirements of title I. Any agency or department which engages in regulatory activities would be subject to title I unless the activities involve a military or foreign affairs function. The bill defines regulatory activities broadly to include any functions that protect the public interest and determine the rights, privileges and obligations of private persons by conducting informal rulemaking proceedings or formal on the record proceedings under sections 553 or 554 of the Administrative Procedure Act, or through similar types of proceedings conducted pursuant to other law.

TITLE II—ADMINISTRATIVE PROCEDURES

Title II amends the Administrative Procedure Act to encourage the use of a variety of procedures best designed to assure expeditious agency action consistent with the requirements of due process. This is achieved by a number of important, but limited, amendments to the Administrative Procedure Act. Most of the proposed amendments are to the provisions in sections 554 through 557 of the current Act which primarily deal with the more formal kind of agency proceedings. The general effect of many of the amendments to these procedures is to make them more closely resemble the procedures that govern informal rulemaking and to give the agency greater flexibility generally in conducting such proceedings. Since informal rulemaking on the whole takes less time, this change should help expedite the regulatory process. Other amendments are designed to avoid unnecessary delay at the discovery or review stage of a proceeding.

Title II does not amend in any significant way the current provisions in section 553 of the Administrative Procedure Act already governing informal rulemaking. One of the major recommendations of the Committee study was that agencies should make greater use of section 553 of the Administrative Procedure Act. Section 553 already provides agencies, however, with great flexibility in adopting procedures best calculated to assure speedy agency action. Major amendments to this section are therefore unnecessary in order to make possible expeditious agency consideration of proposed rules. Other provisions in title I of this Act are intended to encourage agencies, however, to make greater, use of informal rulemaking procedures.

Formal hearings

Section 201. This section amends section 554 in the Administrative Procedure Act governing proceedings now conducted as formal, on the record proceedings.

The amendments require the use of a more expedited procedure in the case of all formal rulemaking, including ratemaking, all initial licensing proceedings, and all proceedings involving the initial grant of a subsidy or other benefit wherever the law now requires that proceedings of these types be conducted as formal, trial-type proceedings. The bill requires the agency in such cases to substitute procedures more like those used in informal rulemaking procedures. Formal trial-type hearings may only be conducted after more informal hearings are first conducted, and then only if a participant can convince the presiding employee there remains a factual dispute in a matter on which a decision on the case is likely to depend.

Some agencies in their own have begun to use such hybrid procedures, especially in the many economic and technical areas that often determine agency action in licensing and ratemaking.

The Food and Drug Administration enacted rules of procedures in 1977 adopting this basic approach.

Similarly, several recent statutes have required an agency to combine informal rulemaking with limited use of procedural protections, such as cross-examination, more typical of formal adjudication. Examples include the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (P.L. 93–637), and section 6 of the Toxic Substance Act administered by the Environmental Protection Agency. (P.L. 94–469). The 1975 amendments to the laws administered by the Securities and Exchange Commission provide another example (P.L. 94–29). The thrust of this bill is different, however, from acts which force informal rulemaking into more formal procedures. This amendment converts proceedings which are now considered formal trial-type proceedings into largely informal rulemaking proceedings. Furthermore, in the Magnuson-Moss Act, the presiding employee designates at the beginning of the proceeding which facts must be decided in a trial-type proceeding. Issues are therefore designated for a full trial before any record is made showing which questions are key to a decision, and which of these really involve disputes of fact. The procedures proposed by section 201 reserve the designation of certain factual disputes for a trial-type proceeding until after a more informal hearing has in fact demonstrated the need of resolving a particular question in a factual trial-type hearing.

The amendment is also consistent with a growing number of statements by courts and commentators endorsing agency procedures which seek to combine features of both formal and informal proceedings in a way that functionally makes the most sense in each case. Commenting on the best procedural means for establishing rates for natural gas before the Federal Power Commission, the Court of Appeals for the District of Columbia noted:

"As we stated in Mobil, 483 F. 2d at 1251, the informal procedures of Section 553 of the APA and the more formal requirements of §§ 556 and 557, are not mutually exclusive. Moreover, they are not pre-emptive of available procedures. There may be occasions when rulemaking by notice, comment and reply, essentially as now before us, is all that is required insofar as the proceedings as a whole are concerned, but in particular parts a more formal procedure should be followed. As an example, the unsatisfactory state of the evidence on productivity could no doubt have been clarified one way or the other had the Commission subjected the submissions on reserves and reserve additions, so vital in arriving at the important productivity factor, to some method of testing their reliability and adequacy." Second Natural Gas Rate Case D.C. Cir. No. 76-2000 et al. (June 16, 1977).

The respective subsections of section 201 amend particular portions of section 554 of the Administrative Procedure Act. The changes to each subsection of section 554 are described below.

Applicability

Section 554(a). This section of the Administrative Procedure Act specifies which types of agency proceedings will be subject to the requirements of the section. It currently applies to "every case of adjudication required by statute to be determined on the record opportunity for an agency hearing."

The bill makes only two technical amendments in the wording of this subsection. The use of the word adjudication is deleted as no longer appropriate, since the thrust of the bill's amendments to section 554 is to provide more flexible procedures which resemble informal rulemaking in some cases as much as formal agency adjudication. Other amendments in section 201 of the bill delete similar references to evidence in section 554(c), 554(g), and 447(b) of the Administrative Procedure Act, as amended, as similarly inappropriate.

The bill also substitutes the word law for statute in section 554(a) since there may be instances where constitutional principles of due process rather than the specific words in a statute require that an agency conduct formal proceedings before taking certain action. The amendment does not change current law, for the Supreme Court has ruled that the word statute includes the due process requirements of the Constitution in such instances. (See *Wong Yang Sun* v. *McGrath*, 339 U.S. (1950)).

Under the current Act a number of the procedures applicable to formal proceedings are described in section 556 rather than section 554. The bill rearranges the order of provisions so that any requirement applicable to all types of formal proceedings are placed in section 554. At the same time, section 556 is reserved for those procedures which will apply only if the proceeding requires a trial-type hearing. Accordingly, the bill amends section 554(a) by adding to it, with only technical changes in the wording, the provision presently contained in the second sentence of section 556. This sentence specifies that nothing in the subchapter supersedes any special requirements contained in other statutes applicable to a specific class of proceedings.

Initial submissions

Section 554(b). Section 201 of the bill makes one addition to section 554(b) of the current Act. The new sentence makes it clear that the agency may require the party that initiates a proceeding to submit, at the time the proceeding is initiated, all the facts and arguments on which it proposes to rely. Since this procedure will help make agency proceedings more efficient, the bill specifies that the agency should adopt this approach wherever practicable. If a private party requests a license from an agency, the requirement could apply to the private party when the license application is filed. When an agency is the one that initiates the action, the procedure could apply equally to it. By requiring that the moving party disclose all his facts and arguments at the outset of the proceeding, other interested persons can more quickly discover the nature of the moving party's case. The procedure will also allow the other interested parties to prepare their own case more rapidly, and to decide whether there is any reason to contest the proposed action.

Selection of presiding employee

Section 554(c). Provisions now in subsections 556(b), 556(c), and 556(d) of the current Act, specifying who should preside over a hearing conducted pursuant to this section, and the general procedures applicable to the hearing, will continue to apply to all proceedings conducted under section 554. The bill transfers most of this wording from section 565 to section 554(c)(1) and (2), or a new section 554(g), with the following amendments. In addition to those people who may now preside over formal agency proceedings, the bill states that an employee board authorized by section 204 of this bill may preside over any part of the proceeding except any formal trial-type hearing conducted pursuant to subsection (f). The employee board may consist of any appropriate agency employee designated by the agency heads. Since these hearings will not involve formal trial-type proceedings, it will not be necessary to have an administrative law judge preside over them in each case. At the same time, amendments to other sections will assure the continued objectivity of the decision-making procsess by prohibiting the employee board from discussing the case with other agency employees responsible for advocating the agency's case in the proceeding.

Section 554(d) of the current Act contains the requirement that the employee who presides at the reception of evidence should make the recommended or initial

decision required by section 557 of this title, unless he becomes unavailable to the agency. For purposes of clarity, this sentence has been moved to this subsection. The bill amends current wording in one respect. It states that if the presiding employee becomes unavailable to the agency, another employee qualified pursuant to this section may be appointed to take his place and conclude the proceeding. The current Act fails to specify what happens when the presiding employee becomes no longer available.

The proposed change, recommended by the Administrative Law Conference, eliminates this oversight. The amendment should help assure that most proceedings will not have to be begun all over again if the presiding employees becomes unavailable in the middle of the proceeding. Current case law, however, that requires a new hearing where the credibility of witnesses is a key to the outcome of the case would not be changed by this amendment.

The present section 554(c) describes some of the trial-type procedures that must be provided in all cases subject to this section. Under the procedures proposed by this bill, such formal trial-type procedures will only be applicable in some cases, and for limited purposes. This wording has been separated, therefore, from the remainder of the section in a new subsection (f).

Authority of presiding employee

Section 554(c)(3). Paragraph (3) of section 554(c) of the Act as amended by the bill would contain new provisions not found in the current Act. This paragraph emphasizes that the presiding employee is under an affirmative duty to see that the proceeding is conducted in an expeditious manner. This new wording will require the presiding employee to take an active part in shaping the nature and extent of the record. It will be his affirmative duty to see that both the prehearing stage and the hearing itself is completed in an expeditious manner. It will be his affirmative duty to see that the record is a concise one that contains only those matters that are relevant and material to a decision. It will be his affirmative duty to exclude repetitious material from the record. The employee is authorized to establish deadlines for the completion of the hearing, or any other portion of the proceeding, in accordance with overall deadlines established by the agency pursuant to title I of this bill. The presiding employee is encouraged to rule on any questions of law or fact where by doing so, the official can help narrow and define the issues, and thus control the scope and length of the proceeding. The presiding employee will also be authorized to take any other appropriate action authorized by this subchapter, or any other applicable law, to assure prompt agency disposition of the matter.

Separation of functions

Subsection 554(d). This subsection of the current Act limits whom the presiding employee and other agency decision-makers may consult during the course of formal adjudicative proceedings. It prohibits, in general terms, agency employees engaged in the decision-making process from consulting off the record with those engaged in an investigative or prosecuting function in the same or factually related case.

Section 201 of the bill broadens the present provision in the following ways:

(1) The current subsection does not apply to formal rulemaking, including ratemaking, and requests for initial licenses which must be decided in formal on the record proceedings. The bill makes these provisions applicable to all formal on the record proceedings.

As a practical matter, agencies have in most cases voluntarily applied the rules on separation of functions to formal licensing and ratemaking procedures without unduly restricting their flexibility. Both the Administrative Conference and the American Bar Association have studied this matter for a number of years. They both support the general principle that these procedural protections should apply in some form to all formal on the record proceedings. A similar provision in somewhat different form was passed by the Senate in 1976 as section 1 of S. 798. Applying these procedural protections in all types of formal agency proceedings will make it easier for the agency to rely on a range of agency officials in addition to administrative law judges to preside over the hearing, to review the initial decision, or to recommend a decision The agency may rely on a range of such officials without fear it would be seen as undermining the integrity of the resulting decision. This added flexibility should help expedite agency proceedings.

(2) A portion of the current wording applies only to the employee who presides at the reception of evidence. The bill amends this portion of the subsection to specifically extend to an employee board created pursuant to this bill. The kinds of employees covered by the prohibitions of the subsection is further broadened to include any other employee, except an agency head, who participates or advises in any decision or review of a decision whether or not the individual has presided over the original decision. The current Act, however, exempts agency heads from the prohibitions of this subsection, and the bill does not amend this exemption

(3) The current Act prohibits the presiding employee from consulting with any other employee who is engaged in prosecuting, as well as investigative functions. Since the term prosecuting fails to accurately describe all the kinds of formal proceedings which may now be subject to the prohibition of this subsection, the term litigating has been substituted for the term prosecuting. Similarly, the exemption for a witness in public proceedings has been amended to refer to a participant in proceedings since, under the new procedures, on the record comments may come in a number of different forms in addition to the testimony of a witness. The wording of the bill specifically provides that the term litigating does not include participation in a judicial review proceeding. An agency official involved in a court appeal of a case would not be barred from subsequent agency consideration of the matter if the court remanded the proceeding to the agency with instructions to reconsider the matter.

These word changes are not intended to change the substantive nature of the prohibition. As now, an agency employee who acts as an investigator, or who participates as an advocate, in connection with any formal on the record proceeding should not be able to turn around and, off the record, act as a decision-maker or confidential adviser to the decision-maker in the same matter. The wording does not affect an agency employee whose only involvement with a case is to act as a confidential adviser to a decision-maker, such as a law clerk to any administrative law judge or an expert adviser to a commissioner.

General hearing process

Section 554(e). Section 201 adds a new subsection (e) to section 554 of the Administrative Procedure Act. It provides for more informal hearings in proceedings that currently must be conducted in their entirety as formal trial-type hearings.

Paragraphs (1) and (2) specify which kinds of proceedings must be conducted in accordance with this new subsection. Any rulemaking, including ratemaking, and most licensing now required by law to be conducted as formal on the record proceedings must be conducted in accordance with the procedures of this subsection. Licensing proceedings to withdraw, suspend, revocate or annul a license are exempted from the otherwise mandatory application of the subsection to formal licensing proceedings. The procedures of this new subsection must also be followed in the case of any matter involving an initial grant of a subsidy or other benefit which must by law be conducted as a formal on the record proceeding. For example, the Civil Aeronautics Board or Maritime Administration may, on occasion, conduct such proceedings.

In addition to those rulemaking, licensing, or other proceedings that must follow the procedures of this subsection, an agency may, in its discretion, utilize these new procedures in the case of any other matter which must be considered in a formal on the record proceeding. It is expected the agency would choose to follow these more informal procedures where questions of policy or law predominate over factual disputes of the specific kind most appropriately resolved by a more formal trial-type proceeding. Another factor an agency should consider is whether the large number of participants make it unduly cumbersome and unnecessary to consider the entire matter in a formal, trial-type proceeding. In each case the agency should consider whether a full trial-type hearing is essential to a full and fair disclosure of all the facts.

Paragraph (3) describes the procedures applicable to all hearings conducted under this subsection. The paragraph requires the presiding employee to first conduct a general hearing that addresses all questions of law and fact the agency or a participant believes relevant. Prior to such hearing, there would be such discovery as the presiding employee determines necessary. The extent and nature of discovery would be under the control of the presiding employee. It would also have to be consistent, of course, with the provisions of whatever other law authorizes such discovery.

The hearing will provide an opportunity for persons participating to submit such data, views, or arguments on the facts and law relevant to the case as it wishes. This may include affidavits, interrogatories or other written material. Whenever a participant in the proceeding requests, the hearing will include an opportunity for participants to argue their views orally in a manner similar to the opportunity the agencies may provide in informal rulemaking procedures for the oral presentation of views. The presiding employee could ask questions of any person appearing before it. Participants in the oral hearing could not call witnesses to testify, however, or cross-examine other participants.

Following the opportunity for the presentation of views, the presiding employee will rule on all questions of law and fact except for any that are dependent on the resolution of a factual dispute which the presiding employee rules requires a trial-type hearing. Where there are factual disputes which must be decided by a trial-type hearing, the rulings by the presiding employee in the initial hearing, plus any rulings arising from the subsequent trial-type hearing, will together constitute the decision in the case. All the decisions in the case will be reviewable at the same time in accordance with the review provisions of the Administrative Procedure Act. Interlocutory appeals on particular points would only be available to the extent agencies now allow them in order to reduce the overall length of the proceedings.

Paragraph (4) specifies when a particular issue may be designated for a trial-type hearing. The standards are intended to limit trial-type hearings to only those questions where a hearing of this type is really essential. The presiding employee must find there is "a genuine and substantial dispute of fact which can be resolved with sufficient accuracy only by the introduction of reliable and specifically identified evidence in an adjudicative hearing." In addition, the issue in dispute must be one on which the resolution

of the case is likely to depend in whole or in part.

When the presiding employee designates a dispute for a trial-type hearing, the official must specifically state which factual disputes will be the subject of the hearing, and why the decision of the agency is likely to depend on the resolution of such facts. The hearing will be limited to only those specific factual disputes specified by the presiding employee and any questions of law which depend for their resolution on an unresolved question of fact.

Courts should only reverse the agency's exercise of discretion under this paragraph in rare instances. Unless an agency's action is a clearly arbitrary or capricious one which materially prejudices the rights of participants, the agency's choice of procedures should not be disturbed. Otherwise the value of the new procedures as a way to expedite matters will be undermined, and the experience and judgment of the agency concerning the conduct of its own proceedings ignored.

The Governmental Affairs study concluded that use of this hybrid type procedure would contribute in a significant way to more expeditious proceedings. Many issues which arise in licensing, ratemaking, and other, often technically oriented proceedings are more appropriately resolved by an informal hearing. Often these proceedings feature a battle between experts on technical, scientific, or economic matters. The decision may rest in large measure on policy choices, on weighing acknowledged costs versus acknowledged benefits. The litigious atmosphere of a full trial-type proceeding is often not the best atmosphere in which to explore and weigh, in light of agency policy, differing interpretations of scientific, technical, or economic data. The opportunity of participants to conduct oral cross-examination does not add significantly to the record on most points since the demeanor or credibility of the witnesses will not often be at stake.

In these types of situations the views and arguments may be presented more quickly, and the disagreement highlighted more easily, in a more informal hearing. Where the hearing does serve to isolate and sharpen a genuine issue of fact, trial-type proceedings are always available to resolve them.

The procedures described in subsection (e) will thus save time by reducing or eliminating the need for oral, trial-type hearings. It will also assure the existence on review of a clear record which highlights the issues and the positions which each participant takes on these issues. This in turn should save time at the review stage of the proceeding.

The procedures described in this subsection have already been adopted by some agencies where particular statutory authority permits it. For example, the Food and Drug Administration rules bar referral of certain matters for a formal trial-type hearing unless the participants requesting it can demonstrate the need for such a hearing. Among meeting other criteria, the participant must show there is a genuine and substantial issue of fact capable of resolution by available, sepcifically identified, and reliable evidence. The factual issues must be determinative or controlling with respect to the action requested.

Adjudicative hearings

Section 554(f). Section 201 retains in a new section 555(f) procedures applicable to the conduct of any trial-type hearing. Paragraph (1) specifies the circumstances in which the subsection will apply to formal proceedings required by law to be conducted pursuant to section 554. The subsection will apply to entire proceedings when the agency determines the general hearing procedures in subsection (e) are not applicable in any way. The subsection will also apply to portions of a proceeding involving a factual dispute which the presiding employee under subsection (e) determines must be resolved in a formal, trial-type hearing. At the conclusion of a hearing conducted pursuant to this subsection the presiding employee must resolve all remaining questions of law or fact, and make all necessary rulings in the case, not already resolved in a prior hearing held pursuant to subsection (e).

Subpena authority and other ancillary powers

Section 202. Section 555(d) of the current Act governs agency use of subpenas where such use is authorized by other statutes.

The amendment authorizes the agency to take a number of steps to encourage prompt compliance with any agency subpena. The delays that now occur in proceedings while the agency obtains compliance with the subpena will be reduced by these provisions. This section of the bill also adds for the first time a general grant of subpena authority to the Administrative Procedure Act. Finally, it increases an agency's ancillary power in other ways to make it easier for the agency to avoid unnecessary delay.

Regulating the conduct of individuals before the agency

Section 555(b). The bill adds to this subsection of the Administrative Procedure Act a new sentence specifically authorizing the agency to bar individuals from appearing before the agency. The amendment provides that an attorney representing a party to a proceeding, or any other individual, may be barred from appearing "where such individual refuses to adhere to reasonable standards of orderly and ethical conduct or engages in a continued use of dilatory tactics." Individuals who continually seek to obstruct the course of proceedings should be held personally responsible for their conduct. Agencies probably have this inherent authority now. Specific reference to it should make it easier for agencies to act in those relatively rare cases when it is necessary.

Grant of subpena authority

Section 555(d) and section 555(e). The bill adds to section 555 a general grant of authority to all agencies to issue subpenas. The subpena authority conferred by this bill is in addition to, rather than in place of, the preexisting authority most agencies have under other statutes to issue subpenas.

The provision authorizes the grant of subpena authority by an agency only in connection with proceedings that are required by law to be conducted in accordance with the proceedings of section 554. The authority to issue subpenas under this general authority will be available to agencies only after the initiation of formal proceedings. An agency may not invoke this new authority during the preliminary investigative stage. These limitations on the use of the subpena contained in this subsection will not apply, of course, to the agency's use of subpenas under its preexisting authority.

The Administrative Procedure Act does not now grant agencies any subpena authority. While most agencies operate under statutes which give the agency this authority, there are a few instances where this authority is lacking or the grant of authority is adequate. This includes the Food and Drug Administration, the Postal Service, and the Department of the Interior. The Administrative Conference favors including a general grant of subpena authority in the Administrative Procedure Act. The amendment will eliminate any possibility that the discovery stage is slowed because the agency lacks adequate subpena authority. It will help eliminate the possibility that parties to a proceeding before an agency lacking subpena authority will slow the actual hearing by engaging in extensive cross-examination, and by otherwise using the hearing process itself, to accomplish the discovery it was unable to obtain before the hearing.

The amendment to section 555(d) also adds to the end of the subsection a new sentence specifying that the agency shall authorize the presiding employee to issue subpenas, as well as any other official the agency may wish to designate. Although section 556 of the present Act implies such an automatic delegation of authority to the presiding employee, nowhere in the Act is the delegation specifically required. Obvious savings in time occur when requests for subpenas may be acted upon by the presiding employee without requiring the action of agency heads.

The bill also amends subsection (e) of section 555 by adding at the beginning of the subsection a sentence specifically authorizing agencies to obtain enforcement of any subpenas issued by it through actions brought in the District Court of the United States, for any district in which the person is found or resides, or transacts business. The action would be brought by either agency lawyers or the Department of Justice, in accordance with current law.

Imposition of civil penalties for noncompliance with subpena

Section 555(e). Section 555(e), as amended by the bill, provides that an agency may obtain from the United States District Court the imposition of a penalty upon any person who violates any subpena issued by the agency. Enforcement suits would be brought either by the agency through its own attorneys, or by the Department of Justice, depending upon what current law provides.

Any person in violation of an agency subpena would accrue penalities for each day that he continues to refuse to comply with it after the agency has notified him of his non-compliance and provide him thirty days to comply. This thirty day period also gives a person time to seek an injunction from a court staying the imposition of a penalty, but to do so he will have to convince the court of the likelihood that the court will sustain his objections to the subpena.

The civil penalty shall not exceed more than $5,000 for each day the violation continues. The court will be able to fashion the exact size of the penalty after review of all the circumstances. Where any person's refusal to obey a subpena is frivolous the penalty can be accordingly high. At the same time the court will have the flexibility to avoid harsh penalties against a losing litigant who, in the view of the court, had a substantial argument.

The Federal Trade Commission has found by experience that enforcement of its subpenas where no penalties are available for noncompliance takes considerably longer than enforcement of certain other orders for annual or special economic or business reports where penalties are available for noncompliance.

This amendment should help expedite the discovery stage of proceedings by making such penalties available to all agencies operating under the Administrative Procedure Act.

Agency rulings against persons in noncompliance with discovery order

Section 555(e)(3). The bill provides an additional means to avoid the delay that may otherwise result from any person's failure to cooperate in a discovery request. In addition to bringing action in District Court to enforce a subpena, and in addition to any proceeding to penalize an individual who continues to refuse a subpena, paragraph (3) provides that the presiding employee may make certain rulings against a party who fails to cooperate. The presiding employee

may refuse to allow a person to support or oppose designated claims or defenses, or prohibit him from introducing designated matters into the record. He may infer that the testimony, documents, or evidence concerning which the subpena was issued would have been adverse to the person refusing to comply with the subpena. He may strike out pleadings or motions, or dismiss the action, or render a decision by default, against any person who declines to comply with an agency subpena. Or the presiding employee may stay further proceedings until the order is obeyed. This final option would be particularly appropriate where the noncompliance is by the moving party in the proceeding.

These provisions are analogous to Rule 37(b) of the Federal Rules of Civil Procedure and provisions in the current procedural rules of the Federal Trade Commission.

Conforming amendments

Section 555(f). The bill also adds a new section 555(f) to the Administrative Procedure Act. It specifically provides that the authority provided an agency pursuant to this bill to issue subpenas and to take certain actions when the subpenas are not complied with are in addition to, and not in limitation of, any other statutory authority for the issuance of subpenas or their enforcement.

Section 555(h). The Administrative Procedure Act in section 554(e) currently authorizes the agency to issue a declaratory order to terminate a controversy or remove uncertainty. This could be an important device to expedite agency action, and end uncertainty in the private sector about agency intentions. However, the wording appears in section 554, which governs procedures for the conduct of formal, on-the-record proceedings only. In order to make it clear that the agency should be able to employ this procedure, whether or not a formal on-the-record proceeding is involved, the provision has been moved to section 555. The actual wording of the provision has not been changed.

Other conforming changes to section 555 rearrange the order of some of the provisions governing the enforcement of subpenas.

Maintenance of public files

Section 555(i). Finally, section 202 adds a new section 555(i) to the Administrative Procedure Act. The purpose of the new subsection is to require each agency to maintain a public file of significant agency actions as well as an index to such file. The agency must include in its files those motions, briefs, and other legal arguments or pleadings, and the action of the agency on such filings, that the agency considers of significance and which it thinks could be of particular interest to the agency or other persons participating in subsequent agency proceedings. The agency would be expected to make it possible for the public to have ready access to the file and to copy material from it. Each agency is also encouraged to consider other ways to make the material available to the public. This could include, for example, cooperating with any company that wished to publish in a series of volumes opinions or other material from the file.

Some agencies do not now have such a public file to assist agency staff or outside parties in preparing arguments or motions. The file will enable agency attorneys and participants to readily determine how agency officials have ruled on similar issues in the past, and why. This should in turn help reduce the length of time proceedings are slowed while participants research and prepare anew legal arguments. It will provide a repository of practical experience which all presiding employees may readily consult when considering what practices and procedures may appropriately be used to assure the most expeditious conduct of the proceedings.

The conduct of trial-type proceedings

Section 203 amends provisions in section 556 of the Administrative Procedure Act further governing the conduct of formal trial-type hearings. As a result of the bill's amendments to section 554, only hearings conducted under section 554(f) will be subject to these procedures. The purpose of the amendments is to provide the agency with greater flexibility to conduct the proceedings in the most expeditious manner possible.

Procedures generally

Section 556(b). The bill transfers to section 554(c)(2) most of the procedures that now appear in section 556(b) since they are procedures equally applicable to all types of proceedings conducted under section 554. The bill does retain in section 556 the provisions governing offers of proof and receipt of evidence, since they are uniquely applicable to trial-type hearings. The amendment also adds new wording specifically authorizing the presiding employee to conduct his own cross-examination of witnesses. By inference the Act already confers this authority on presiding employees. By making it explicit the bill encourages presiding employees to control the course and extent of cross-examination. It is consistent with the new provision the bill adds to section 554(c)(3) specifically charging the presiding employee with responsibility for affirmatively controlling the course of the proceeding.

The use of written testimony and summary judgment to expedite hearings

Section 556(c). The bill's amendment to this subsection is intended to encourage reliance on written material rather than oral hearings. It requires each agency to issue rules authorizing the presiding employee to require the introduction of evidence in written form and the use of written interrogatories unless an oral presentation of testimony, or oral cross-examination, is necessary for a full and true disclosure of relevant evidentiary facts, and denial of such opportunity would materially prejudice a party. The amendment removes any present uncertainty about the authority of an agency to require the submission of evidence in written form regardless of the type of formal proceeding involved.

The last sentence of section 556(d) of the current Act already authorizes an agency to rely on written presentations in considering initial licensing, rulemaking, or claims for money or benefits. The amendment simply makes this option available in all formal proceedings. It is consistent with recent court decisions upholding the agency's reliance on written procedures. The case of *Shell Oil Co.* v. *FPC* (520 F.2d 1061, 5th Cir. 1975), for example, upheld a denial of oral cross-examination where such oral cross-examination was not necessary for a full and true disclosure of the facts, and the party's rights were not prejudiced by having to rely on written procedures. The bill adopts a similar standard.

The reliance on written material will reduce the length of the oral hearing. It eliminates the time at the oral hearing that must be devoted to receiving direct testimony orally or to conducting oral cross-examination. It also saves time in other ways. Even if oral cross-examination follows the submission of direct testimony in written form, the cross-examination will be better organized and more precise because the parties have had ample time to study the direct testimony. Since scheduling problems can often be the cause of delays in completing oral trials, greater reliance on written testimony also avoids instances where an oral hearing has to be postponed until the presiding employee, all the attorneys, and the witnesses can be available. At the Interstate Commerce Commission, for example, a case scheduled for an oral hearing must wait an average of 207 days before it is heard. A proceeding conducted solely in written form is subject to a wait that is only about one-half as long before an agency official can begin to consider the testimony.

Material submitted in written form is likely to be more concise and relevant, and better organized than evidence submitted orally. Greater use of written evidence should therefore reduce the time it takes during each subsequent step to analyze the record.

An analogous provision was recently adopted by the Food and Drug Administration. These rules specify, for example, that oral direct testimony and cross-examination shall be permitted only where other means are insufficient for a full and true disclosure of all relevant facts. The Interstate Commerce Commission and the Civil Aeronautics Board have also enjoyed considerable success reducing the length of proceedings by requiring proceedings to be conducted in written form.

The bill's amendment to section 556(c) also specifies that the presiding employee may issue a decision prior to the completion of the evidentiary portion of the hearing if the official believes that the facts and law in the case require a decision for one party or the other. This may occur, for example, after the prehearing conference, or after one side has submitted its case. In such instance, the development of a further evidentiary record only delays the final agency disposition in the matter. The agency, through its presiding employee, should be free to conclude the evidentiary stage of the hearing at that point, just as a court may issue a summary judgment to avoid further unnecessary proceedings.

Agency review of decisions

Section 204. This section contains amendments to section 557 of the Administrative Procedure Act governing procedures for making initial decisions and for agency review of initial decisions in formal proceedings governed by section 554. By authorizing agencies to reduce the number of steps in the agency decision-making process, it will help eliminate unnecessary delay.

Authorizing the issuance of recommended decisions by employees who have not presided at the hearings

Section 557(b). The Administrative Procedure Act provides that an agency may request the presiding employee to make an initial decision. This initial decision then becomes the agency's final decision if the agency heads do not review it. Or the agency may have the presiding employee simply recommend a decision to the agency heads who then must make the actual decision.

Section 557(b) of the current Act further provides that in the case of rulemaking or initial licensing the agency may elect to eliminate the formality of an initial or recommended decision altogether. Instead the agency may have someone other than the presiding employee recommend a decision, or it may issue a tentative decision of its own.

The bill amends section 557(b) to conform these provisions to the changes made in section 554. The amendment allows the agency to use some agency official other than the presiding employee to prepare a recommended decision, or issue a tentative decision of its own, in any proceeding or portion of a proceeding considered under the more informal procedures established by the new section 554(e). The matter would not have to involve rulemaking or initial licensing. The amendments in section 201 of this bill, enlarging the scope of the Act's separation

of function provisions, will mean, of course, that whoever does prepare the recommended decision will not be able to confer with agency employees who advocated the agency position at the hearing.

The amendment retains the provisions in the present law permitting the agency to omit entirely either an initial, tentative or recommended decision where the agency finds that "due and timely execution of its functions imperatively and unavoidably so requires." The current law permits this exception in the case of rulemaking or initial licensing. Consistent with the bill's other changes, the amendment has the effect of making this exception available in any matter heard pursuant to section 554(e). The exception would not apply as to any matter that became the subject of a formal trial-type hearing under section 554(f).

Where the agency heads intend to review the record thoroughly, reach their own decision, and prepare their own opinion, it may be faster for the agency heads to have an employee familiar with their thinking and policies, rather than the presiding employee, recommend a decision or draft a tentative decision, and then work with the agency heads in issuing the final decision. The recommended or tentative decision in such circumstances would be of more use to the agency heads, and be less likely to require substantial revision before a final decision. It also gives interested persons more accurate indication of the tentative thinking of the agency heads themselves.

Such expedited procedures will not reduce the quality of the decision. In any matter subject just to the informal procedures of section 554(e) policy questions will prevail over factual questions. Any factual findings will not rest on the demeanor or credibility of witnesses as they may in a trial-type proceeding under section 554(f). Consequently it will not be essential in these cases to have the official who presided over the hearing make an initial or recommended decision.

Furthermore, section 557(c) of the current Act requires the agency to give parties an opportunity to file exceptions to tentative or recommended agency decisions where the agency does not have the presiding employee issue the initial or recommended decision. The bill retains this provision. Consequently, parties are still assured the opportunity to learn the agency's tentative thinking. They will still have the opportunity to file comments on such thinking.

Finally, the amendment adds a new provision specifying that when the presiding employee does not issue a recommended or initial decision, the agency may require the presiding employee to submit, along with the record, such analysis of the record (and such findings) as the agency may require. Requiring the presiding employee to provide such analysis of the record may be another way to obtain the insights and conclusions of the presiding employee while at the same time expediting the time it takes to reach a final decision.

Vesting final authority in presiding employees or employee boards

Section 557(d). Section 204 adds a new section 557(d) to the Administrative Procedure Act authorizing agencies to establish employee boards to review initial or recommended decisions by the presiding employee. At the same time, the subsection authorizes the agency to rest final agency decision-making authority either in the employee who presides over the hearing, or in the employee board. When the agency delegates authority under this subsection to the presiding employee or the employee board, review by the agency heads would be at the discretion of the agency.

Currently there is uncertainty whether under section 557 agency heads can refuse to review an initial decision by lower level agency officials where review is requested by one of the participants. A report of the Administrative Conference has concluded that amendments to the Administrative Procedure Act are also required for some agencies to establish employee review boards. Both the American Bar Association and the Administrative Conference have recommended authorizing each agency to establish employee boards and to vest final authority for final decisions in such boards or in the official who presides over the hearing.

Delegatng final decision-making authority to the presiding employee will only expedite proceedings if the agency exercises its discretionary right of review in just those few cases where further review is clearly necessary. The provision therefore specifies certain procedures the agency must follow if the agency heads exercise their discretionary right of review. If the agency decides to review decisions of employee boards or presiding employees after delegating authority under this section, it must first publicly specify which issues will be reviewed and why review is necessary. For example, specified findings of fact may constitute reversible error, other specified findings may be contrary to law or agency rules or decisions, or certain findings of law may present especially important or novel issues. Review would be limited to those findings of fact or law specified by the agency when it agrees to review the decision.

In some cases the importance or complexity of the issues will make review by the agency itself inevitable. In those cases the agency should directly review the decision without waiting for an employee board to review it first. Otherwise, the matter will be subjected to an unnecessary layer of agency review, and inevitable delay. The provision therefore requires each agency to specify the conditions and circumstances under which it will act to take immediate jurisdiction over the review of an initial decision. The rule should indicate the category of decisions, if any, which will be subject to agency review without any intermediate review by an employee board. It should also indicate what procedures the agency will follow, on a case by case basis, to remove from board jurisdiction cases that would otherwise be subject to board review.

If an employee board is to reduce the number of decisions the agency heads review, review board members must be in tune with the thinking of the agency leadership, and be trusted by them. To assure this, the amendment gives the agency broad discretion in specifying the manner of selection and removal of the members of employee boards, and in selecting the type of employees chosen to serve on the board.

Finally, the amendment specifies that it does not supersede any preexisting provision of law governing a particular agency's ability to create review boards or to delegate final decision to one or more of its members or other employees. For example, several agencies such as the Interstate Commerce Commission, the Federal Communication Commission, and the Nuclear Regulatory Commission already have specific authority to create such boards. The Federal Mine Safety and Health Amendments Act of 1977 provided that review by the Federal Mine Safety and Health Review Commission of decisions by the Administrative Law Judge would be entirely at the discretion of the Commission. Similarly, some departments already have the authority to delegate final decision-making authority to a board or judicial officers. This saving provision is intended to preserve any such existing authority.

Reliance on employee boards should help reduce the delay now commonly experienced when action on the appeal of a large number of initial decisions is deferred until agency heads and their staff have time to review each one. The amendment will give agency heads more time to concentrate on establishing general policies and reviewing cases of special importance. Residing greater authority in the presiding employee to make the final decision in the case will also have the effect of increasing his authority and stature generally. This should make it easier for him to control and direct the course of the proceeding.

Conforming amendments

Section 557(e). Additional amendments to section 557 have been made to conform the section to the amendments in prior sections, and to further clarify the procedures available to the agency. The bill renumbers as subsection (e) the current subsection (d) prohibiting ex parte contacts during the course of the proceeding. It includes in the subsection the provision now in section 556 which authorizes an agency to consider a violation of the ex parte prohibitions when ruling on the merits of the case. The amendment is necessary as a technical matter since section 556, as amended, will not include all the types of formal proceedings to which these ex parte prohibitions apply under present law.

Scope of judicial review

Section 205. This section contains an amendment to the provisions in section 706 of the Administrative Procedure Act governing the review of agency action by a court. Section 706 of the current law authorizes the court to compel agency action unreasonably delayed. It complements the provision in Section 555(b) directing the agencies to conclude each matter presented to it within a reasonable time. The amendment specifies that in considering whether agency action has been unreasonably delayed, the court should consider the extent to which the agency has failed to meet any date announced for the completion of agency action pursuant to the requirements established in title I of this bill. Failure of an agency to meet its announced deadline will not be conclusive evidence that it has delayed action unreasonably. It will be one significant piece of evidence which the court shall consider, however, in considering a request to compel agency action.

Conforming amendments

Section 206. This section contains conforming amendments to section 553. 558, and 706 of the Administrative Procedure Act. Reference in those sections to sections 556 and 557 are amended so as to refer to section 554 in conformity with the bill's reorganization of those provisions.

The amendment to section 706 makes it clear that upon judicial review the substantial evidence test will continue to apply to all proceedings decided on the record after an opportunity for a hearing under section 554. Present law is not changed. The current standard will continue to apply in the case of proceedings considered pursuant to section 554(e), as well as proceedings considered in a trial type hearing under section 554(f).

The reference in subsection 553(c) to instances where rules are required by *statute* to be made on the record after an opportunity for an agency hearing is amended to refer instead to *law* in conformity with the previously described amendment to section 554(a).

TITLE III—ADMINISTRATIVE LAW JUDGES

Appointment of administrative law judges

Section 301. This section alters the provisions in section 3105 of title V of the United States Code governing the appointment of administrative law judges. The bill anticipates that administrative law judges will play an increasingly important role. Section 554, as amended by this bill, will require administrative law judges to play an active leadership role in shaping the record of the hearing, clarifying the issues, and bringing the hearing to a speedy conclusion. The bill's

amendment to section 557 encourages the agency to rest final decision-making authority in the presiding employees. It is therefore very important that agencies have the greatest flexibility possible to select individuals most able to fulfill this role anticipated for administrative law judges.

The Governmental Affairs Committee study found that under the present procedure an agency's choice of individuals to serve as administrative law judges is restricted in many instances to three people who have been ranked the highest on a list compiled by the Civil Service Commission. Selection of these three candidates are based on examinations, work experience, education, interviews, and preferences based on length of service with the government, status as a veteran, and other factors.

In order to increase the range of candidates from which it may choose, an agency often requests the Civil Service Commission to find that a particular administrative law judge position requires special experience in the regulatory field of concern to the agency. This permits an agency to select individuals on the list of qualified candidates even if they are not at the top of the list. It often results, however, in the agency selecting individuals who already work for the agency as attorneys, because they are most apt to possess the special expertise indicated. For example, a past study by the Administrative Law Conference reported that between 1964 and 1969, 52 of 66 administrative law judges appointed by this method had been previously employed on the staffs of the selecting agency. The selection of agency employees does not encourage public acceptance of the administrative law judges as impartial, independent decision-makers.

The Administrative Conference of the United States has recommended that the agency be allowed greater flexibility in selecting individuals to serve as administrative law judges.

Section 301 requires the Civil Service Commission to continue to maintain a list of eligible candidates. The Commission would continue to have responsibility for administering an appropriate written exam which an individual would have to pass in order to have his name appear on the list of eligible candidates. To appear on the list of eligible candidates an individual would also have to complete a specific number of years of relevant work experience. The extent or relevant work experience required would be determined by the Commission in the same manner as it does now. Any individual who achieves a minimum score established by the Civil Service Commission on the written exam, and who meets the minimum experience requirements, would be placed on the list of eligible candidates without having to meet additional qualifications. An agency which wishes to employ an administrative law judge would be free to select any individual appearing on the register regardless of the individual's relative place on that list.

The amendment further requires the agency to establish a panel to advise it on the selection process. The panel must contain at least one individual who is an attorney not employed by the United States government, and at least one individual who is not an attorney. This should assure that the perspective of non-lawyers, such as economists and others familiar with the work of the agency, will be considered. It also means members of the legal profession outside the agency will be consulted. The resulting cross-section of opinion should help assure the selection of the best possible candidates.

Reference to hearing examiners

Section 302. This section amends the references in title V to hearing examiners. The bill provides that henceforth they will be considered references to "administrative law judges." The latter term has for some time been the preferred way to describe such officials. Civil Service Commission regulations encourage use of the term "administrative law judge". 5 CFR § 930.203a. In light of the increased responsibilities anticipated by this bill's amendments, it is desirable that their actual status be recognized by statute.

TITLE IV—GENERAL PROVISIONS

Effective date

Section 401. This section establishes the effective date of the bill. The bill will become effective 180 days after the date of enactment. This will give each agency time to review its present procedures, consult with interested persons outside the agency, and issue the required amendments to its rules. The section requires each agency to adopt and announce its new rules no later than thirty days prior to the bill's effective date in order to give the public adequate opportunity to become familiar with them.

The section further provides that the agency need not include in the first annual reports required by section 103 any statistics on agency actions occurring prior to the effective date of the bill.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Regulatory Procedures Reform Act be jointly referred to the Committees on the Judiciary and Governmental Affairs and that when one of the committees orders the measure reported the other committee shall then have 45 days to report or be discharged from further consideration of the matter.

Mr. LUGAR. Mr. President, reserving the right to object, has this been cleared?

Mr. RIBICOFF. Yes; this was cleared with Senator ABOUREZK and Senator EASTLAND. It is a bill being referred to both committees. There has been considerable discussion.

Mr. LUGAR. Has it been considered by the minority?

Mr. RIBICOFF. This is a matter so pro forma that I have not discussed it with the leadership on either side.

I will be glad to discuss it with Senator BAKER when he comes.

It is such a pro forma matter I did not think I had to clear a procedural thing like this with the minority leader.

Mr. LUGAR. I shall not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. WILLIAMS:

S. 2491. A bill to permit the Secretary of Defense to authorize officers and employees of the Department of Defense who provide police or security functions, including individuals employed pursuant to contract with the Department of Defense, to have the power of arrest on military facilities and installations, and for other purposes; to the Committee on Armed Services.

PEACE OFFICER STATUS FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

Mr. WILLIAMS. Mr. President, I would like to take a few minutes to bring to the attention of my esteemed colleagues a problem which has resulted from the Army's increased use of civilian employees to perform functions formerly handled by military personnel. I was first made aware of this problem by Mr. Frank McGuffin, president of Local 1550 of the National Federation of Federal Employees.

Although all law enforcement and security functions on military installations have historically been handled by the military police, the Department of Defense now employs a number of civilians in a law enforcement capacity. These civilians perform all the functions formerly performed by the military police, yet they possess no arrest powers beyond that of an ordinary citizen's arrest. The resultant situation has seriously undermined both the morale of these employees, whose lack of status as peace officers leaves them vulnerable to legal action on grounds of false arrest and their effectiveness as law enforcement officers since the people with whom these employees deal are well aware of their lack of warrantless arrest powers.

The Department of Defense perceives the need to grant these civilian employees arrest powers. Since this need has arisen only recently, however, the Secretary of Defense lacks the statutory authority to appoint civilian employees as special police empowered to make warrantless arrests. I, therefore, am introducing a bill to permit the Secretary of Defense to grant arrest powers to civilian employees who perform law enforcement or security functions on military facilities and installations.

Mr. President, at this point I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Defense is authorized to invest officers and employees of the Department of Defense, including individuals employed pursuant to a contract, who provide police or security services to the Department of Defense, with the power to arrest individuals on military facilities and installations.

By Mr. DOLE (for himself, Mr. THURMOND, and Mr. MCCLURE):

S. 2492. A bill to amend the Meat Import Quota Act of 1964; to the Committee on Finance.

AMENDMENT TO THE MEAT IMPORT QUOTA ACT OF 1964

Mr. DOLE. Mr. President, the American livestock industry is unique among other commodities in that there is a law on the books dealing with the question of fresh-chilled and frozen meat imports, the Meat Import Quota Act. This law passed in 1964. It is a unique law in that it not only provides a degree of reasonable protection for the domestic livestock industry, but also provides guaranteed access to the United States on the part of exporting nations.

There is a major flaw needing correction and several clarifying amendments in order to make the law more equitable and workable. For that reason I am introducing a bill to amend the law. The prime thrust is designed to build into the Meat Import Act what is referred to as a countercyclical formula. As now structured the law permits more meat to be imported in those years when U.S. beef production is high and less when pro-

duction is down. It should be just the opposite.

Under the suggested formula, yearly import quotas would be adjusted in inverse proportion to changes in per capita U.S. production of cow beef. At present, import quotas rise or fall along with the same trends in total U.S. beef output. The suggested formula would have imports decreasing when U.S. production of cow beef increased cyclically, and vice versa. This would help provide more stability of supplies and prices.

Cattle industry spokesmen and others have recommended the countercyclical approach.

As previously noted, the quota formula change is one of a number of changes in the law which are needed.

Other proposed changes are, first, all beef and veal, regardless of form or origin should be covered. (The law now covers fresh, frozen, or chilled.) These amendments also are needed to prevent any further circumvention of the law. Second, quarterly rather than annual quota determination—so that we will not have a disproportionate share of a year's quota crowded into a single quarter, causing an abnormal impact in a short period. Third, a study of past imports and recommendations to assist in the prevention of disproportionate shipments through limited numbers of ports of entry.

In developing a countercyclical formula, it was concluded that cow slaughter and per capita cow beef production are the best indicators of a specific stage of cattle cycle. Also, the formula addresses itself to the fact that boneless beef imports are more competitive with cow beef than with other types of domestic beef.

The suggested new formula is shown in table 1. As you can see, the adjusted base quota as currently determined under the law would be further adjusted to reflect the cyclical changes in per capita cow beef production.

The numerator of the modifying fraction is a 10-year moving average of per capita cow beef output. A 10-year moving average is used, because this is the approximate length of a cattle cycle; it introduces the cyclical factor in domestic production. The denominator of the fraction is an average of 2 years' per capita output-production in the year prior to the year under consideration and estimated production in the year for which the quota is being determined. Using these 2 years as part of the formula updates the adjusted base quota.

The figures in the ratio fraction in table 1 represent per capita cow beef production on a carcass weight basis. The adjusted base quota and proposed new quota are on a product weight basis.

Table 2 shows how the suggested change would have worked in the past and how it would work in the future in determining quotas. The second column in the table is the ratio which is obtained by dividing as shown in table 1. When this ratio is multipled by the adjusted base quota under the current formula, one comes up with the proposed new quota.

The final column in table 2 shows the amount by which the new quota would vary up or down from the quota as determined under the present law. During the last 4 years—the liquidation period of the current cycle—the quota would have been less each year.

I ask unanimous consent that the tables together with a history of the meat import law be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—PROPOSED FORMULA TO AMEND MEAL IMPORT LAW OF 1964

$$A \times \frac{B}{C} = Q \text{ (New Proposed Quota)}$$

A = Adjusted base quota as calculated under the 1964 meat import law.

B = Base period—This is a 10-yr moving average of per capita production of commercial cow beef. It is the 10 yr prior to year under consideration.

C = Average of 2-yr per capita cow beef production—including the year previous to and an estimate of the year under consideration.

Example for 1977

$$\underset{(A)}{1{,}165{,}400{,}000 \text{ lb}} \times \frac{\underset{(B)}{17.98 \text{ lb}}}{\underset{(C)}{23.25 \text{ lb}}} = \underset{(Q)}{897{,}400{,}000 \text{ lb}}{}^{1}$$

[1] New quota would equal 1,229,400,000 lb. on carcass weight equivalent basis or 5.7 lb per capita).

TABLE 2.—HOW THE PROPOSED CHANGE WOULD HAVE WORKED AND WILL WORK

Year	Adjusted base quota (from meal import law of 1964)	Ratio—base period divided by 2-yr average	New proposed quota	Differences from adjusted base quota
	Million pounds		Million pounds	Million pounds
1965	848.7	1.03	874.2	+25.5
1966	890.1	.96	854.5	−35.6
1967	904.6	.98	886.5	−18.1
1968	950.3	.98	931.3	−29.6
1970	998.8	1.03	1,028.8	+30.0
1971	1,025.0	1.07	1,096.7	+71.7
1972	1,042.4	1.10	1,146.6	+104.2
1973	1,046.8	1.11	1,161.9	+115.1
1974	1,027.9	1.03	1,058.7	+30.8
1975	1,074.3	.78	837.9	−236.4
1976	1,120.9	.70	784.6	−336.3
1977	1,165.4	.77	897.4	−268.0
1978 [1]	1,180.0	.89	1,050.2	−128.7
1979 [1]		1.02		
1980 [1]		1.09		
1981 [1]		1.13		

Note: All figures product weight.

[1] Estimates.

HISTORY OF THE MEAT IMPORT LAW (PUBLIC LAW 88–482) AND PROGRAM FOR 1977

Following a ten-year rise in imports and a sharp decline in U.S. cattle prices, Congress passed an Act on August 22, 1964 (P.L. 88–482), hereinafter referred to as "the Law") to maintain control over the growth of imports so as not to place undue stress on domestic cattle prices. Under the Law, imports of fresh, chilled or frozen beef, veal, mutton and goat meats are allowed to grow, from a base of 725.4 million pounds, at the same rate as domestic commercial production of these meats in the 1959–63 base period compared to the most recent three-year average (including an estimate of production in that year). A 10 percent overage is allowed, so that only when imports are expected to exceed the adjusted base quota level by 10 percent are those quotas triggered. Each year the Secretary of Agriculture is required to publish in the Federal Register the estimated quantity that would trigger the imposition of quotas under the Law, and quarterly, the quantity of meat that, but for the Law, would enter the United States in such calendar year.

If the Secretary's estimate of imports exceeds the trigger level, the President is required by law to invoke quotas on imports of meats subject to the Law. Quotas may be suspended or the total quantity increased if the President determines and proclaims that,

"(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the nation of the economic well-being of the domestic livestock industry;

"(2) the supply of articles of the kind described . . . will be inadequate to meet domestic demand at reasonable prices; or

"(3) trade agreements entered into after the date of the enactment of this Act ensure that policy set forth will be carried out."

In the first three years after the Law was passed, imports were below the trigger point for quota imposition. But by mid-1968 it was apparent that the year's imports would exceed the trigger quantity, and in August Australia and New Zealand were asked to restrain shipments voluntarily in order to avoid quotas. The other 11 supplying countries (eligible because they also were certified to be free of foot-and-mouth disease and met U.S. meat inspection standards) were asked to hold to shipments already scheduled. Imports in 1968 were above the quota level but below the trigger point.

For 1969 all supplying countries, except Canada and the United Kingdom, agreed to a restraint level below the trigger quantity. The program worked fairly well, although imports exceeded the restraint level somewhat and imports from one country—Honduras—had to be embargoed. The authority to negotiate "voluntary" agreements and restrict imports to the agreed quantity is provided by Section 204 of the Agricultural Act of 1956.

For 1970 a restraint program was negotiated with a target below the trigger point as was the case in previous restraint programs. Imports were extremely heavy, however, and at mid-year two actions were taken:

(1) The President proclaimed and then suspended quotas, and a new restraint level was authorized at a higher level than the trigger quantity, and (2) Section 204 was used to embargo transshipments through Canada, thus closing a serious loophole in the program. Section 204 also was used to hold five supplying countries to their restraint agreements.

For 1971 the restraint program continued at the level established in late 1970. This was higher than the trigger quantity for 1971 and required Presidential action to proclaim and suspend quotas as was done the year before. Actual 1971 imports were 48 million pounds below the restraint level, largely because of U.S. dock strikes.

For 1972 a restraint program 7 percent higher than the 1971 program was agreed to by the principal supplying countries. At mid-year the voluntary restraint program was suspended by the President in order to encourage greater shipments of beef to the United States at a time when retail prices were high and other major importing countries had removed import duties and levies or issued larger quotas to compete for limited world supplies.

Quotas under the Law were invoked by the President in both 1973 and 1974 but simultaneously suspended because of overriding economic interests. As the year 1974 progressed, domestic cattle slaughter increased significantly with a large part of the increase coming from greater slaughter of culled cows and non-fed steers and heifers. Imported beef competes principally with this type of domes-

tic production. As a consequence of this larger domestic production, prices for manufacturing grade beef fell and imports slowed so that by year's end they were below the point which would permit the imposition of quotas:

In 1975 and 1976 the Department of State negotiated programs of export restraint with supplying countries to keep imports below the trigger level. In 1976, larger than anticipated imports from Canada who was not a participant in the voluntary restraint program caused the Secretary of Agriculture to estimate in October that imports would exceed the trigger level.

This estimate caused the President to invoke formal quotas under the Meat Import Law. The Secretary of Agriculture in setting the individual country allocations took into consideration the voluntary restraint program that had been previously negotiated with 11 of the 15 supplying countries.

For 1977, a similar program of voluntary restraints is in place. Imports from Canada who has not formally participated in earlier programs will be covered by the 1977 arrangements and entries of meats processed in foreign-trade zones, trust territories, or possessions after January 1, 1977 will be counted against the individual country limitations.

PUBLIC LAW 88-482 IMPORTS AND USDA ESTIMATES, 1965 TO DATE

[In millions of pounds]

Year and quarter	Public Law 88-482 imports: Reported by Census	Public Law 88-482 imports: USDA estimate	Adjusted base quantity	Trigger level
1965:				
1st		732.9	848.7	933.6
2d		714.0	848.7	933.6
3d		675.0	848.7	933.6
4th		630.0	848.7	933.6
Total	613.9			
1966:				
1st		700.0	890.1	979.1
2d		760.0	890.1	979.1
3d		800.0	890.1	979.1
4th		800.0	890.1	979.1
Total	823.4			
1967:				
1st		960.0	904.6	995.1
2d		900.0	904.6	995.1
3d		860.0	904.6	995.1
4th		860.0	904.6	995.1
Total	894.9			
1968:				
1st		900.0	950.3	1,045.3
2d		925.0	950.3	1,045.3
3d		935.0	950.3	1,045.3
4th		[4] 990.0	950.3	1,045.3
Total	1,001.0			
1969:				
1st		[1] 1,035.0	988.0	1,086.8
2d		[1] 1,035.0	988.0	1,086.8
3d		[1] 1,035.0	988.0	1,086.8
4th		[1] 1,035.0	988.0	1,086.8
Total	1,084.1			
1970:				
1st		[1] 1,061.5	998.8	1,098.7
2d		[1] 1,061.5	998.8	1,098.7
3d		[2] 1,140.0	988.8	1,098.7
4th		[2][3] 1,160.0	988.8	1,098.7
Total	1,170.6			
1971:				
1st		[2] 1,160.0	1,025.0	1,127.5
2d		[2] 1,160.0	1,025.0	1,127.5
3d		[2] 1,160.0	1,025.0	1,127.5
4th		[2] 1,160.0	1,025.0	1,127.5
Total	1,132.3			
1972:				
1st		[2] 1,240.0	1,042.4	1,146.6
2d		[2] 1,240.0	1,042.4	1,146.6
3d		[4] 1,240.0	1,042.4	1,146.6
4th		[4][5] 1,275.0	1,042.4	1,146.6
Total	1,355.5			
1973:				
1st		[4] 1,450.0	1,046.8	1,151.1
2d		[4] 1,450.0	1,046.8	1,151.1
3d		[4] 1,450.0	1,046.8	1,151.1
4th		[4][5] 1,450.0	1,046.8	1,151.1
Total	1,355.6			
1974:				
1st		[4] 1,575.0	1,027.9	1,130.7
2d		[4] 1,575.0	1,027.9	1,130.7
3d		[4][5] 1,210.0	1,027.9	1,130.7
4th		[4][5] 1,115.0	1,027.9	1,200.0
Total	1,079.1			
1975:				
1st		[6] 1,150.0	1,074.3	1,181.7
2d		[6] 1,180.0	1,074.3	1,181.7
3d		[6] 1,180.0	1,074.3	1,181.7
4th		[6] 1,180.0	1,074.3	1,181.7
Total	1,208.9			
1976:				
1st		[8]	1,120.9	1,233.0
2d		[7] 1,223.0	1,120.9	1,233.0
3d		1,223.0	1,120.9	1,233.0
4th		[8][9] 1,250.0	1,120.9	1,233.0
Total	1,231.7			
1977:				
1st		[7] 1,271.9	1,165.4	1,281.9
2d		1,271.9	1,165.4	1,281.9
3d		1,271.9	1,165.4	1,281.9
4th		1,271.9	1,165.4	1,281.9
Total		[7] 1,271.9	1,165.4	1,281.9
1978 USDA estimate: 1st quarter		[7] 1,292.3	1,183.9	1,302.3
Total	1,249.8			

[1] Summation of individual country commitments and/or the voluntary restraint program.
[2] New restraint program following suspension of quotas under Public Law 88-482.
[3] Revision in estimated imports from Canada.
[4] No voluntary restraint program after suspension of quotas.
[5] Revision in estimated imports.
[6] New restraint program implemented for calendar year 1975 following suspension of quotas under Public Law 88-482 since June 26, 1972.
[7] Restraint program implemented below trigger level under Public Law 88-482 since June 26, 1972.
[8] Less than 110 percent of adjusted base quantity.
[9] Quotas imposed and increased to trigger level.

[35 F.R. 10733, July —, 1970, the President, Executive Order 11539]

DELEGATIONS OF AUTHORITY TO NEGOTIATE AGREEMENTS AND ISSUE REGULATIONS LIMITING IMPORTS OF CERTAIN MEATS

By virtue of the authority vested in me by section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of State, with the concurrence of the Secretary of Agriculture and Special Representative for Trade Negotiations, is authorized to negotiate bilateral agreements with representatives of governments of foreign countries limiting the export from the respective countries and the importation into the United States of fresh, chilled, or frozen cattle meat (item 106.10 of the Tariff Schedules of the United States) and fresh, chilled, or frozen meat of goats and sheep, except lambs (item 106.20 of the Tariff Schedules of the United States) which are the products of such countries.

SEC. 2. The Secretary of Agriculture, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, is authorized to issue regulations governing the entry or withdrawal from warehouse for consumption in the United States of any such meats to carry out any such agreement.

SEC. 3. The Commissioner of Customs shall take such actions and supply such information to the Secretary of Agriculture with respect to entry or withdrawal from warehouse for consumption in the United States of such meats as the Secretary of Agriculture, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, may request to carry out any such agreements or regulations.

SEC. 4. Heads of departments and heads of agencies are hereby authorized to redelegate within their respective departments or agencies the functions herein assigned to them, except that the function of negotiating agreements delegated to the Secretary of State by section 1 and the function of issuing regulations delegated to the Secretary of Agriculture by section 2 of this order may be redelegated only to officials required to be appointed by and with the advice and consent of the Senate, as provided by 3 U.S.C. 301.

RICHARD NIXON.

THE WHITE HOUSE, *June 30, 1970.*

[F.R. Doc 70-8539; Filed, July 1, 1970; 11:23 a.m.]

[Public Law 88-482, 88th Congress, H.R. 1839, August 22, 1964]

An act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) item 852.20 of title I of the Tariff Act of 1930 (Tariff Schedules of the United States; 28 F.R., part II, August 17, 1963) is amended to read as follows:

"852.20. Wild animals (including birds and fish) imported for use, or for sale for use, in any scientific public collection for exhibition for scientific or educational purposes: Free."

(b) Headnote 1 of part 4 of schedule 8 of such title I is amended by striking out "item 850.50," and inserting in lieu thereof "items 850.50 and 852.20,".

(c) The amendments made by this section shall take effect on the tenth day after the date of the enactment of this Act.

SEC. 2. (a) It is the policy of the Congress that the aggregate quantity of the articles specified in items 106.10 (relating to fresh, chilled, or frozen cattle meat) and 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep (except lambs)) of the Tariff Schedules of the United States which may be imported into the United States in any calendar year beginning after December 31, 1964, should not exceed 725,400,000 pounds; except that this quantity shall be increased or decreased for any calendar year by the same percentage that estimated average annual domestic commercial production of these articles in that calendar year and the two preceding calendar years increases or decreases in comparison with the average annual domestic commercial production of these articles during the years 1959 through 1963, inclusive.

(b) The Secretary of Agriculture, for each calendar year after 1964 shall estimate and publish—

(1) before the beginning of such calendar year, the aggregate quantity prescribed for such calendar year by subsection (a), and

(2) before the first day of each calendar quarter in such calendar year, the aggregate quantity of the articles described in subsection (a) which (but for this section) would be imported in such calendar year.

In applying paragraph (2) for the second or any succeeding calendar quarter in any calendar year, actual imports for the preceding calendar quarter or quarters in such calendar year shall be taken into account to the extent data is available.

(c) (1) If the aggregate quantity estimated before any calendar quarter by the Secretary of Agriculture pursuant to subsection (b) (2) equals or exceeds 110 percent of the aggregate quantity estimated by him pursuant to subsection (b) (1), and if there is no limitation in effect under this section with respect to such calendar year, the President shall by proclamation limit the total quantity of the articles described in subsection (a) which may be entered, or withdrawn from warehouse, for consumption, during such calendar year, to the aggregate quantity estimated for such calendar year by the Secretary of Agriculture pursuant to subsection (b) (1).

(2) If the aggregate quantity estimated before any calendar quarter by the Secretary of Agriculture pursuant to subsection (b) (2) does not equal or exceed 110 percent of the aggregate quantity estimated by him pursuant to subsection (b) (1), and if a limitation is in effect under this section with respect to such calendar year, such limitation shall cease to apply as of the first day of such calendar quarter; except that any calendar year shall continue in effect for the fourth calendar quarter of such year unless the proclamation is suspended or the total quantity is increased pursuant to subsection (d).

(3) The Secretary of Agriculture shall allocate the total quantity proclaimed under paragraph (1), and any increase in such quantity pursuant to subsection (d), among supplying countries on the basis of the shares such countries supplied to the United States market during a representative period of the articles described in subsection (a), except that due account may be given to special factors which have affected or may affect the trade in such articles. The Secretary of Agriculture shall certify such allocations to the Secretary of the Treasury.

(d) The President may suspend any proclamation made under subsection (c), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the nation of the economic well-being of the domestic livestock industry;

(2) the supply of articles of the kind described in subsection (a) will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into after the date of the enactment of this Act ensure that the policy set forth in subsection (a) will be carried out.

Any such suspension shall be for such period, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection.

(e) The Secretary of Agriculture shall issue such regulations as he determines to be necessary to prevent circumvention of the purposes of this section.

(f) All determinations by the President and the Secretary of Agriculture under this section shall be final.

Approved August 22, 1964.

Legislative History:

House reports: No. 25 (Comm. on Ways & Means) and No. 1824 (Comm. of Conference).

Senate report No. 1167 (Comm. on Finance).

Congressional record:

Vol. 109 (1963): Feb. 26, considered and passed House.

Vol. 110 (1964): July 27, considered in Senate.

July 28, considered and passed Senate, amended.

Aug. 11, House disagreed to Senate amendments and requested conference.

Aug. 18, House and Senate agreed to conference report.

The formula for deriving the quota and trigger point under the Meat Import Law is:

1. b/a=C×725,400,000 lbs.=Quota
2. Quota×1.10=Trigger Point

a=average U.S. production of beef, veal, mutton and goat meat for the period 1959 to 1963.

b=3 year moving average of U.S. production of beef, veal, mutton and goat

The following data for 1977 is provided: U.S. production of beef, veal, mutton and goatmeat:

Million pounds—carcass weight equivalent

1959	14,211
1960	15,461
1961	15,954
1962	15,935
1963	16,952
Average 1959-63	15,703

Million pounds—carcass weight equivalent

1975	24,541
1976 [1]	26,386
1977 [2]	24,757
Average 1974-76	25,228

[1] Estimate.

[2] Forecast.

25,228/15,703=1.6066

1.6066×725,400,000=1,165,400,000

Quota level is 1,165.4 million lbs of product weight imports, and 1,165.4 million × 1.10=1,281.9 million lbs of product weight imports is the trigger point for 1977.

Things to keep in mind about the 1964 Meat Import Law:

(1) The Law applies only to imports of fresh, chilled or frozen beef, veal, mutton and goat meat. Imports of pork, lamb and prepared or preserved beef and veal are not subject to the law.

(2) The Law permits imports to grow at the same rate as domestic production grows from a base period.

(3) For 1977 the level of permissable imports is 1,165.4 million pounds. The Law makes no provision for reducing imports below this quantity.

(4) If the Secretary of Agriculture's quarterly estimate of animal imports exceeds 110 percent of 1,120.9 million pounds in 1977, (1,281.9 million pounds) the President is required to invoke import quotas. He may suspend or increase the quotas. The quota level for 1977 would be 1,165.4 million pounds.

By Mr. CHURCH (by request):

S. 2494. A bill to protect the wildlands comprising the River of No Return Wilderness and the free-flowing Salmon River in the State of Idaho as an enduring resource of wilderness for the benefit of the people of Idaho and the Nation pursuant to the Wilderness Act and the Wild and Scenic Rivers Act, and for other purposes; to the Committee on Energy and Natural Resources.

RIVER OF NO RETURN WILDERNESS ACT OF 1978

Mr. CHURCH. Mr. President, today I am introducing, by request, a citizen-proposed bill for the preservation of the unique wilderness of central Idaho. This proposal, prepared by the River of No Return Wilderness Council, calls for the designation of a 2,320,688-acre River of No Return Wilderness and for the protection of the full 237 miles of the main Salmon River under the Wild and Scenic Rivers Act.

In coming weeks, other proposals for the reclassification as wilderness of the Idaho and Salmon River breaks primitive areas and surrounding lands may also be introduced. For example, the administration is soon expected to come forward with the proposal promised in President Carter's May 23, 1977, environmental message. At that time, the President said he intended to submit to Congress "an enlarged and expanded" proposal on behalf of the administration for reclassification of the primitive areas. Other alternative plans for this area of Idaho may also be introduced.

Public hearings, held by the Senate Energy and Natural Resources Committee, both in Idaho and in Washington, will provide the forum for comparison of alternative proposals and for developing additional information to assist Congress in reaching a wise and well-balanced decision.

Mr. President, the River of No Return Wilderness Council—an Idaho-based, nonprofit organization of conservationists, hunters, fishermen, and other outdoor enthusiasts—has prepared a statement of explanation in support of this bill. This statement was prepared in great part by one of Idaho's long-time

conservationists, and best known outdoor writers, Ted Trueblood. I ask unanimous consent that the statement be printed in the RECORD at this point, together with the text of the bill.

There being no objection, the statement and bill were ordered to be printed in the RECORD, as follows:

RIVER OF NO RETURN WILDERNESS COUNCIL

This bill proposes to extend permanent protection under the Wilderness Act to a unique and spectacular area of rivers and lakes rugged peaks and deep canyons that lies near the heart of Idaho. The area is bisected by the main Salmon River, whose deep canyon turned back Lewis and Clark and is today still unpenetrated by roads. The bill also extends Wild and Scenic River protection to the main Salmon River.

It is significant that in 1931, when Idaho had but 445,000 people in all its 83,000 square miles, the value of the central Idaho wilderness was already recognized and the first steps were taken to protect it by administrative classification. The core of this area has been managed as wilderness by the Forest Service for almost 47 years.

The "Idaho Primitive Area", created by executive order in 1931, is south of the Salmon River; the "Salmon River Breaks Primitive Area" slopes down to the Salmon from the north and was set aside in the same manner in 1936. These two administratively-established primitive areas, of 1,224,576 and 216,870 acres respectively, are the heart of the proposed "River of No Return Wilderness." The Middle Fork of the Salmon River, one of the original wild river segments designated by the 1968 Wild and Scenic Rivers Act, flows north through the Idaho Primitive Area.

THE FOREST SERVICE STUDY

The 1964 Wilderness Act required that adminstratively-established primitive areas would undergo special study, as the first step in upgrading those areas (with appropriate boundary modifications) to the stronger protection available as a statutorily-designated unit of our National Wilderness Preservation System. The Forest Service has made these studies, as well as the study of the main Salmon River required by the 1968 Wild and Scenic Rivers Act.

While the Forest Service study was underway, a broad-based group of Idaho citizens came together to conduct their own "citizen studies" of this very special area. The group included conservationists, representatives of wildlife clubs, outing groups, hunters, fishermen, and many others. Ultimately the group was formalized as the River of No Return Wilderness Council, and it produced a full scale citizen proposal for the "River of No Return Wilderness." That proposal embraces the two established primitive areas, together with key contiguous tracts vital to an ecologically-sensitive and well-rounded wilderness boundary.

In November 1973 the Forest Service conducted day-long public hearings to receive public comment on their study and proposal, and on alternative proposals put forward by others. These hearings, which are part of the process required by the Wilderness Act, were held in Boise, Lewiston, and Pocatello, Idaho,

The Forest Service has prepared a detailed summary and analysis of the public responses it received at the hearings and in written form during the post-hearing period.

WHAT THE PEOPLE WANT

This public involvement process for the central Idaho wilderness was one of the most extensive ever conducted by the Forest Service for a specific area, and certainly the most extensive ever conducted in Idaho. The message was loud and clear: the majority of public support favored not only the modest proposal of the Forest Service, but the full 2.3 million acre citizen proposal for the "River of No Return Wilderness." That same proposal, so strongly endorsed by the people, is now embodied in the legislation being introduced today.

In summarizing the results of those public hearings and all the written input received, it is useful to compare the responses to the three main plans offered as alternatives to the Forest Service recommendation. In addition to the 2.3 million acre "River of No Return Wilderness" proposal, two others were suggested. The Boise-Cascade Corporation plan called for no wilderness at all, with a small area of "roadless recreation" land along the rivers to be left under administrative designation, and a million acres of the existing primitive areas to be thrown open to "graduated multiple use." The alternative plan put forward by then-Governor Cecil Andrus called for a wildnerness area of at least 1.8 million acres, centered on key protection for the watershed of the Middle Fork of the Salmon River.

As summarized by the Forest Service, the public choice among these alternatives was overwhelmingly for the full 2.3 million acre "River of No Return Wilderness" proposal.

In total, 4,883 "inputs (oral and written) were received commenting on these three alternatives. Of those, 3,543, favored the River of No Return Wilderness Council's alternative, and an additional 935 favored the Governor's proposal. Only 124 "inputs" supported the Boise-Cascade Corporation plan. Significantly, 257 specifically expressed their opposition to the Boise-Cascade Corporation plan, while only 14 stated specific opposition to the River of No Return Wilderness Council's alternative and only 10 specifically opposed the Governor's plan.

Looking at these results by type of input, the oral testimony in the three Idaho hearings was overwhelmingly in support of the proposal of the River of No Return Wilderness Council. 184 witnesses endosed this citizen proposal, as against 6 who spoke in favor of the Boise-Cascade Corporation plan: a ratio of 30 to 1. The citizen proposal was preferred to the 1.8 million acre Governor's plan by a ratio of 4 to 1. Counting personal letters submitted for the hearing record (but excluding form letters), the Forest Service found again that support was overwhelmingly for the citizen proposal. Of nearly 4,000 personal letters, the ratio was 55 to 1 against the Boise-Cascade Corporation plan, and the citizen proposal was preferred 4 to 1 over the somewhat smaller Governor's proposal.

These results speak for themselves. The people favored the "River of No Return Wilderness" as now proposed in this legislation, by 4 to 1 over the next largest alternative.

These results are entirely consistent with other polls which have found that the people of Idaho want wildnerness as a part of their future. This is Idaho's greatest wilderness. With the future of the most precious jewel of Idaho's remarkable wilderness heritage at stake, the people of Idaho were overwhelmingly in support of the carefully-developed "River of No Return Wilderness" proposal.

THE IDAHO CITIZEN'S PROPOSAL

The plan prepared by the River of No Return Wilderness Council, and now embodied in this legislation for consideration by the Congress, is based upon the protection of the existing primitive areas, and on additional lands which are absolutely vital to fully preserve the unique scenic, recreational, fishery, archaeological, and wildlife values of this area.

To accomplish this, the River of No Return Wilderness Council believes that 14 areas of wilderness quality contiguous to the original primitive areas should be included as integral parts of the proposed wilderness.

The first purpose is to maintain the high water quality of the Middle Fork of the Salmon River. This is a big river, a tributary contributing nearly a million acre-feet of crystal-clear water per year to the Salmon River and, ultimately, to the Columbia. Not only is this water vital to the maintenance of the anadromous fish in the Columbia, the unsurpassed spawning riffles of the Middle Fork and its tributaries produce a major portion of the spring and summer Chinook salmon and steelhead smolts that eventually find their way to the Pacific.

In addition, the west-slope cutthroat trout, which was native to the Middle Fork and its tributaries, still thrives there. It requires clear, pure water and it has disappeared from other western rivers where roads and logging have hastened erosion and degraded the streams.

Among the 190-some kinds of wildlife that have been identified in the proposed wilderness are Rocky Mountain goats and bighorn sheep. Both have critical habitat requirements. They are not compatible with roads and logging, and the good ranges that remain are extremely limited. Some of the contiguous tracts proposed by the River of No Return Wilderness Council are important for sheep or goats; others provide moose habitat, which is also limited.

Still others of these contiguous tracts have been proposed for inclusion because of their recreational and scenic values. Their high Alpine terrain, with jagged peaks, sparkling lakes, and flower-dotted meadows, is not productive timber land, but it is an inspiring land to visit and valuable as watershed.

The proposed wilderness has a great range in elevation—from 2,000 to 10,000 feet above sea level. This is responsible for the wonderful variety of plant, bird, and animal life. At the lower elevations where the first Americans once spent their winters and the deer, elk, and sheep still do, the summer days are hot, but the south slopes are often bare in January. The high country is lush in summer but buried under deep snow in winter, and some of that snow remains the year around under the peaks.

THE KEY CONTIGUOUS TRACTS

The existing two primitive areas comprise the heart of this great wilderness. Full protection for the watersheds, the wildlife, and the recreational values of the area require the addition of 14 contiguous tracts. Each is briefly described here:

1. Clear Creek. The Forest Service proposal included only 8,020 acres. An additional 72,000 should be included to take in the Clear Creek drainage. This area is important to elk and bighorn sheep and is a buffer for the Bighorn Crags to the West.

2. Yellowjacket. Adjacent to the Bighorn Crags, this important fragile-soils area varies from 5,500 to 9,000 feet and includes several lakes and gentle alpine basins.

3. Camas Creek. An important anadromous fish spawning stream and a major drainage of the Middle Fork. Upper Camas Creek is a summer range and part of the migratory route for bighorn sheep wintering in Morgan Creek.

4. Warm Springs. The Forest Service proposal excluded a major portion of the Loon Creek drainage that is unroaded. This is another Middle Fork tributary, an important salmon spawning stream. There are numerous alpine lakes in the Sleeping Deer Mountains area.

5. Vanity Lakes. An alpine area with outstanding mountain lake fishing and scenery.

6. Soldier and Cutthroat Lakes. The most extensive lake system, other than the Bighorn Crags, is the Middle Fork drainage. An area of exceptional beauty, drained by Rapid River, a major Middle Fork tributary.

7. Sulphur Creek. Lying about four miles east of Deadwood Summit, this area contains Sulphur Creek which meanders

through a broad valley for eight miles including deciduous thickets and beaver dams. This is the second most important chinook salmon spawning water on the west side of the Middle Fork drainage (second only to Big Creek.) All but a small portion of the drainage is intact.

8. Chilcoot. Deep glacial troughs with marshes and meadows behind moraines provide a unique ecological system.

9. Pinnacles. A spectacular alpine lake area in the upper reaches of the Big Creek drainage. This area provides habitat for cougar, bear, elk, goats, deer and sheep, with numerous lakes, streams and beaver dams. A key summering area for elk.

10. South Fork Salmon. The Forest Service included an area on the east side. An area is also needed on the west side of the South Fork to protect the lower 14 miles, an outstanding stretch of this river. This is critical big game winter range.

11. Dixie Tall. The Dixie Tall of the Salmon River Breaks Primitive Area is important bighorn sheep range, a stronghold for sheep on the lower Salmon River. Without this area, there would be only a one-fourth mile wild river corridor on the west side of the main Salmon River in this area.

12. Big Mallard Creek. A 24,487-acre north of the Salmon River important to the Salmon watershed. This is an elk calving area and a valuable summer range for both elk and moose. Moose habitat is not abundant in Idaho. (Logging is proposed for this area).

13. Upper Bargamin Creek. Also a valuable moose summer range area and important to the Salmon River watershed. (Logging is proposed).

14. Upper Reynolds Creek. This is an area of highly unstable soils. Five alpine lakes and a summer area for elk.

THE BILL SUMMARIZED

The text of the River of No Return Wilderness bill is self-explanatory. All who are concerned with this issue should read it carefully.

Briefly, the objective of this proposal is to secure an adequate wilderness in the Salmon River country, in the heart of Idaho. Other proposals, calling for less of the critical contiguous tracts to be protected, are simply inadequate. The full 2.3 million acre area is vital; any reduction from it will result in a loss that cannot be replaced.

The opening sections of the bill spell out its objectives, recognizing that this is a wilderness and wildlife resource of truly national significance. The waters it protects are critical to the greatest runs of anadromous fish we have, and those waters could easily be defiled by road building, logging, or other land disturbance. In its present natural condition, this magnificent area represents perhaps our best sample of the wilderness heritage of Idaho and the Mountain West. We can preserve it all in a way which enhances its many values, without conflicting with established uses (such as hunting, existing patterns of access, and guide and outfitter services). The River of No Return Wilderness Council favors continuation of such existing uses, including the backcountry air strips, existing power boat use on the main Salmon River, and the management facilities associated with outfitter and guide services.

This legislation proposes a comprehensive statutory framework to guide the future protection and management of the area. Wilderness designation and wild river classification are embodied in a single bill. Full provision is made to protect the area and its waters and wildlife against their principal threats: logging, roadbuilding, and location of new mining claims. Existing rights—including valid existing mining claims—will be fully protected. As the Wilderness Act provides, recurring mineral surveys will be conducted by our expert government mineral agencies to assure an up-to-date assessment of mineral values should an emergency arise that might require Congress to consider opening up some part of the area.

Section 5 of the bill is included to stress that established uses may continue, just as is already specified in the provisions of the 1964 Wilderness Act. Each of those provisions—concerning established aircraft and motorboat use, established grazing of livestock, commercial services (such as guide and outfitter services), State water law, and fish and wildlife jurisdiction—are restated verbatim from the Wilderness Act, for emphasis.

THE HEART OF IDAHO

The debate over wilderness is often heated. Confusion and misunderstanding can blur the real issues. A frequent misunderstanding likely to be heard again in this debate was singled out in the Forest Service's analysis of the earlier public hearings. It is worth quoting here:

"Many of those opposing classification of the Primitive Areas or the Salmon River stated they favored "multiple use management" instead. The fact that wilderness is itself a resource which embodies several of the multiple uses of the National Forests and is consistent with the Multiple Use-Sustained Yield Act is not readily understood by the public.

This misunderstanding requires a broader perspective, and a better understanding. Both are provided by those two excerpts from a speech about this area made in 1975 by then-Governor of Idaho Cecil Andrus:

"To me, and from my viewpoint, Idaho's wilderness is its heart.

"In Idaho, as in the rest of the Northwest, we have branded our great natural inheritance with various signs of our civilization. We have built dams and logged forests; mined and dredged.

"We have turned plains into pasture and sloping valleys or flat river bottoms into irrigated farms that look from the air like green, gold and brown sections of a giant patchwork quilt.

"By domesticating much of our wild country, we have, in many cases, made it uninhabitable for fish and wildlife. In the wake of development then, we have traded some of our inheritance.

"Of Idaho's 53 million acres, approximately 11,000,000 acres remains much like it always was. The question currently before all of us is, how much of it can and will be wilderness in the future?

"In the context of mining, logging, and motorized recreation, the words multiple use refer only to people—not to wild life and (the) green plant base that is so important to the fragile granite soils of Idaho's primitive areas.

"On the other hand, the concept of Wilderness enables use and enjoyment of an area by hunters, backpackers, photographers, fishermen, boaters, floaters, researchers, outfitters, guides, and pilots—all on a renewable basis that does minimum damage to the environment and creates minimum interference with the natural fish and game cycles."

This is the essential perspective: to see wilderness as land which does indeed serve many needs for people, as land truly devoted to multiple use.

The "River of No Return Wilderness" will preserve this heartland of Idaho. Its clear waters will still flow free. Its native wildlife, in unsurpassed abundance, will roam free, protected in a wilderness area encompassing the whole ecological system. Here will remain, as it has always been, a wilderness paradise to be treasured by all Idahoans and all Americans, for this and for future generations.

S. 2494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "River of No Return Wilderness Act of 1978".

STATEMENT OF FINDINGS AND POLICY

SEC. 2. (a) The Congress hereby finds that—

(1) The Salmon River of Idaho—the famous "River of No Return"—and its wildland environment constitute a wilderness resource of national significance;

(2) The pure, high quality waters of the Salmon River provide the critical spawning and rearing habitat for runs of Chinook salmon, steelhead, and other anadromous and resident fish species of vital importance to commercial and sports fishermen and, therefore, to the commerce of Idaho and the entire Columbia-Snake River basin;

(3) The purity of the waters of the Salmon River depends upon rigorous protection of the land and fragile soils within the watershed from road building, logging, and other land disturbances, as does the future well-being of nationally significant populations of wilderness-dependent wildlife species, including elk, bighorn sheep, and cougar;

(4) Protection of these wildlands and free-flowing waters has been a long-standing objective of public policy, exemplified by the establishment of the Idaho Primitive Area in 1931 and the classification of the Middle Fork of the Salmon River as a wild river by the Congress in 1968;

(5) These wildlands and free-flowing waters comprise a precious sample of the vanishing wilderness heritage of Idaho and the Mountain West which can endure as a resource of wilderness and as an undisturbed control area for ecological research, without conflict with established uses, including hunting, grazing, ranching, and commercial guide and outfitter services; and

(6) Pursuant to the mandate of Congress, comprehensive studies, reviews, and public hearings have been completed, demonstrating that the people of Idaho, the West, and the United States overwhelmingly support the continued and expanded protection of the free-flowing Salmon River and two million three hundred thousand acres of its wilderness watershed.

(b) Therefore, it is hereby declared to be the policy of Congress that, in furtherance of the purposes of the Wilderness Act and the Wild and Scenic Rivers Act, the national interest will be served by the continuation of the established protection for the Idaho and Salmon River Breaks Primitive Areas, the strengthening of that protection as a matter of law, and the extension of such strengthened protection to additional endangered wildlands and to the main Salmon River. It is the purpose of this Act to provide a comprehensive statutory framework for the protection, administration, and management of these nationally significant wildlands and free-flowing waters through—

(1) classification of the 237-mile main Salmon River in the highest categories possible within the National Wild and Scenic Rivers System, and

(2) designation of some two million three hundred thousand acres of federal lands as the River of No Return Wilderness within the National Wilderness Preservation System.

CLASSIFICATION OF SALMON RIVER

SEC. 3. Section 3(a) of the Wild and Scenic Rivers Act, as amended (82 Stat. 906; 16 U.S.C. 1271 *et seq.*) is further amended by adding at the end thereof the following new paragraph:

(A) Salmon, Idaho.—The segment of the main river from the mouth of the North Fork Salmon River downstream to its confluence with the Snake River, in the following classes:

(1) the 46-mile segment from the mouth of the North Fork Salmon River to Corn Creek as a recreational river area;

(ii) the 79-mile segment from Corn Creek to Long Tom Bar as a wild river area;

(iii) the 59-mile segment from Long Tom Bar to Hammer Creek as a recreational river area; and

(iv) the 53-mile segment from Hammer Creek to its confluence with the Snake River as a scenic river area;

all as generally depicted on a map entitled "Proposed Classification, Main Salmon River, Idaho", dated March 1975.

(B) The portion of this river segment within the Hells Canyon National Recreation Area and the portion upstream from the boundary of the Nezperce National Forest shall be administered by the Secretary of Agriculture and the remainder shall be administered by the Secretary of the Interior. Action required to be taken under subsection (b) of this section shall be taken within one year from the date of enactment of this paragraph.

(C) Notwithstanding any other provision of law, but subject to valid existing rights, the minerals in federal lands within the boundary of this river segment are hereby withdrawn from all forms of appropriation under the mining laws, from disposition under all laws pertaining to mineral leasing and all amendments thereto, and from leasing or other disposition under the Geothermal Steam Act of 1970.

(D) For the purposes of this river segment there are hereby authorized to be appropriated not more than $6,211,000 for acquisition of lands and interests therein.

DESIGNATION OF WILDERNESS AREA

SEC. 4. (a) In accordance with subsection 3(b) of the Wilderness Act (78 Stat, 890; 16 U.S.C. 1131), the areas in the Boise, Challis, Payette, Salmon, Bitterroot, and Nezperce National Forests, Idaho, situated north and south of the Salmon River and which comprise about two million three hundred and twenty thousand six hundred and eighty-eight acres, as generally depicted on a map entitled "River of No Return Wilderness, Proposed", dated February 1978, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System. The previous classification of the Idaho and Salmon River Breaks Primitive Areas is hereby abolished.

(b) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the River of No Return Wilderness with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such description and map may be made.

(c) The wilderness area designated by this section shall be known as the "River of No Return Wilderness" and, except as otherwise provided by this section, shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of that Act shall be deemed to be a reference to the effective date of this Act.

(d) Notwithstanding any other provision of law, but subject to valid existing rights, the minerals in federal lands within the wilderness area designated by this act are hereby withdrawn from all forms of appropriation under the mining laws, from disposition under all laws pertaining to mineral leasing and all amendments thereto, and from leasing or other disposition under the Geothermal Steam Act of 1970.

CONTINUATION OF ESTABLISHED USES

SEC. 5. (a) Within the River of No Return Wilderness the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable.

(b) Within the River of No Return Wilderness the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

(c) Commercial services may be performed within the River of No Return Wilderness to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the area.

(d) Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water law.

(e) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the Department of Fish and Game of the State of Idaho with respect to wildlife and fish within the lands and waters subject to this Act.

By Mr. SPARKMAN (by request):

S. 2495. A bill to authorize additional appropriations for the Department of State for fiscal year 1978; to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill authorizing additional appropriations for the Department of State for fiscal year 1978.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated January 26, 1978, together with the section-by-section analysis.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ADDITIONAL AUTHORIZATION FOR THE CATEGORY INTERNATIONAL ORGANIZATIONS AND CONFERENCES

SECTION 1. Section 101(a) of the Foreign Relations Authorization Act, Fiscal Year 1978, is amended in paragraph (2) by striking out "$389,412,000", and inserting in lieu thereof "$426,687,000".

DEPARTMENT OF STATE,
Washington, D.C., January 25, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Senate.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed amendment to existing legislation that authorizes additional appropriations during fiscal year 1978 for the Department of State to carry out authorities, functions, duties and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations and other purposes authorized by law.

The amendment provides for an increase of $37,275,000 in the amount for authorization of appropriations for "International Organizations and Conferences". An analysis further explaining the proposed legislation is enclosed.

The Department has been informed by the Office of Management and Budget that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the President.

Respectfully,
DOUGLAS J. BENNET, Jr.,
Assistant Secretary
for Congressional Relations.

ANALYSIS

Sec. 1. The proposed amendment would provide an additional $37,275,000 in authorization to meet the United States assessed share of the UNESCO budget for the last part of calendar year 1977 and all of calendar year 1978.

By Mr. SPARKMAN (by request):

S. 2496. A bill to authorize appropriations for the Department of State for fiscal years 1979, 1980, and for other purposes; to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill authorizing appropriations for the Department of State for fiscal years 1979 and 1980, and for other purposes.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated January 26, 1978, together with the section-by-section analysis.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Department Authorization Act, Fiscal Years 1979 and 1980".

AUTHORIZATION OF APPROPRIATIONS—FISCAL YEAR 1979

SEC. 2. (a) There are authorized to be appropriated for the Department of State for fiscal year 1979, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) For the "Administration of Foreign Affairs", $830,143,000

(2) For "International Organizations and Conferences", $412,781,000

(3) For "International Commissions", $19,973,000

(4) For "Migration and Refugee Assistance", $56,336,000

(5) For increases in salary, pay, retirement, and other employee benefits author-

ized by law, and for other nondiscretionary costs, such amounts as may be necessary.

(b) Amounts appropriated under this section are authorized to remain available until expended.

AUTHORIZATION OF APPROPRIATIONS—FISCAL YEAR 1980

SEC. 3. There are authorized to be appropriated to the Department of State for fiscal year 1980 such amounts as may be necessary to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law.

TRANSFER AUTHORITY

SEC. 4. Funds authorized to be appropriated for fiscal year 1979 by paragraphs (1)–(4) of section 2 may be appropriated for fiscal year 1979 for a purpose for which appropriations are authorized by any other of these paragraphs, except that the total amount appropriated for a purpose described in any of paragraphs (1)–(4) may not exceed the amount specifically authorized for such purpose by section 2 by more than 10 per centum.

INTERNATIONAL COMMISSIONS—AMERICAN SECTIONS

SEC. 5. Section 19 of "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, is amended by deleting the phrase "not to exceed $1,500 of the".

AID TO DESTITUTE AMERICANS ABROAD

SEC. 6. Section 3 of "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended by Section 2 of P.L. 95–45, is amended by inserting the phrase "or destitute United States citizens abroad," immediately after the word "abroad".

WORKING CAPITAL FUND

SEC. 7. Section 13 of "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, is amended by:

(1) deleting the word "supply" in the clause numbered (2) in the first sentence thereof;

(2) deleting ", and" following the term "repairs" in the clause numbered (2) in the first sentence thereof and inserting a semicolon in lieu thereof;

(3) inserting the following before the period at the end of the first sentence:

"; and (4) medical and health care services";

(4) deleting the third sentence; and

(5) adding the following new paragraph (b):

"(b) The current value of supplies returned to the working capital fund by a post, activity or agency may be charged to the fund. The proceeds thereof shall, if otherwise authorized, be credited to current applicable appropriations and shall remain available for expenditures for the same purposes for which those appropriations are available. Credits may not be made to appropriations under this subsection as the result of capitalization of inventories."

POST EMPLOYEE SERVICES

SEC. 8. The Foreign Service Act of 1946, 22 USC 801 et seq., is hereby amended by:

(1) substituting "Post Employee Services" for "Commissary Services" as the title of Part C of Title IX thereof;

(2) amending section 921 (b) and (c) thereof to read as follows:

"(b) The Secretary, under such regulations as he may prescribe, may authorize and assist in the establishment, maintenance, and operation, by officers and employees of the Service, of non-Government-operated non-appropriated fund activities at posts abroad, including the furnishing of space, utilities, and properties owned or leased by the United States for use by its diplomatic and consular missions. The provisions of the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 292–300), and section 13 of the Act to provide certain basic authority for the Department of State, approved August 1, 1956, as amended, may be utilized by the Secretary in providing such assistance. Non-appropriated fund activities established pursuant pursuant to this subsection shall be made available, insofar as practicable, to officers and employees of other Government agencies and their dependents who are stationed abroad. Such activities shall not be established in localities where another United States agency operates similar activities unless the Secretary determines that such additional activities are necessary.

"(c) Notwithstanding the last paragraph under the heading "Subsistence Department" in the Act of March 3, 1911 (10 U.S.C. 1253), or the provisions of any other law, charges at any post abroad for a non-appropriated fund activity authorized or assisted under this section shall be at the same rate for all civilian personnel of the Government serviced thereby, and all charges for supplies furnished to such activity abroad by any Government agency shall be at the same rate as that charged by the furnishing agency to its civilian non-appropriated fund activities.

MEDICAL SERVICES

SEC. 9. Section 942(b) of the Foreign Service Act of 1946, 22 USC 801 et seq., is hereby amended to read as follows:

"(b) The Secretary may establish medical treatment and health care facilities and provide for the services of physicians, nurses, or other medical or health care personnel at a post at which, in his opinion, sufficient personnel are employed to warrant such facilities or services."

DEPARTMENT OF STATE,
Washington, D.C., January 26, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Senate.

DEAR MR. PRESIDENT: In accordance with Section 16 of the Act of August 1, 1956 as amended (22 U.S.C. 2680), there is transmitted herewith proposed legislation that would authorize appropriations for the Department of State to carry out its authorities and responsibilities in the conduct of foreign affairs during fiscal years 1979 and 1980.

The prime purpose of the bill is to provide for authorization of appropriations for (a) "Administration of Foreign Affairs", which supports the operation of the United States diplomatic and consular posts abroad and the Department of State in the United States; (b) "International Organizations and Conferences" including contributions to meet obligations of the United States to international organizations pursuant to treaties, conventions or specific acts of Congress; (c) "International Commissions" which enables the United States to fulfill treaty and other international obligations; and (d) "Migration and Refugee Assistance" which includes the United States annual contribution to the International Committee of the Red Cross and refugee assistance programs. A section-by-section analysis further explaining the proposed legislation is enclosed.

The Department has been informed by the Office of Management and Budget that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the President.

Respectfully,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary
for Congressional Relations.

SECTION-BY-SECTION ANALYSIS—AUTHORIZATION OF FISCAL YEAR 1979 APPROPRIATIONS

Sec. (2)—Subsection (a)—This subsection provides an authorization of appropriations for the Department of State in accordance with the provisions of Section 407(b) of the Foreign Assistance Act of 1971. The proposed amendment authorizes funds to be appropriated under this legislation for the fiscal year 1979 by category.

Category (1)—Authorizes appropriations under the heading "Administration of Foreign Affairs" for fiscal year 1979. This category provides the necessary funds for the salaries, expenses and allowances of the officers and employees of the Department, both in the United States and abroad. It includes funds for executive direction and policy formulation, conduct of diplomatic and consular relations with foreign countries, conduct of diplomatic relations with international organizations, domestic public information activities, central program services, and administrative and staff activities. This category also provides for representational expenses in accordance with Section 901 of the Foreign Service Act of 1946, as amended. Further, it provides funds for such activities as the acquisition, operation and maintenance of office space and living quarters for American staff abroad; funds for relief and repatriation loans to United States citizens abroad and for other emergencies of the Department; and payments to the Foreign Service Retirement and Disability Fund.

Category (2)—Authorizes appropriations for fiscal year 1979 under the heading "International Organizations and Conferences". This category provides the necessary funds for United States contributions of its assessed share of the expenses of the United Nations and other international organizations of which we are a member. Also included are the necessary funds for the missions which represent the United States at the headquarters of certain international organizations in which the United States has membership or participates pursuant to treaties, conventions or specific Acts of Congress. In addition, provision is made for funding of official United States Government participation in regularly scheduled or planned multilateral intergovernmental conferences, meetings and related activities, including international trade negotiations, and for contributions to international peacekeeping activities in accordance with international multilateral agreements.

Category (3)—Authorizes appropriations for fiscal year 1979 under the heading "International Commissions". This category provides funds necessary to enable the United States to meet its obligations as a participant in International Commissions and includes expenses of the American Sections and the International Boundary and Water Commission. Also, expenses for the United States participation in International Fisheries Commissions are under this category.

Category (4)—Authorizes appropriations for fiscal year 1979 under the heading "Migration and Refugee Assistance" to enable the Secretary of State to provide assistance to migrants and refugees, both on a multilateral basis through contributions to organizations such as the Inter-governmental Committee for European Migration and the United Nations High Commissioner for Refugees, and on a unilateral basis through assistance to refugees designated by the President, as authorized by law.

Category (5)—Provides authorization of appropriations for increases in salary, pay, retirement and other employee benefits as authorized by law and for other nondiscretionary costs, such sums as may be necessary. This provides authorization of appropriations to meet mandatory items which were unanticipated and which have a material impact upon the operations and fiscal resources of the Department.

Subsection (b)—This section provides the customary extension of availability of funds beyond the end of the fiscal year. This authority is required to enable the Department to retain funds appropriated for construction projects, the completion of which extends beyond a single fiscal year, and to fund international conferences.

Sec. (3).—Authorization of Appropriations—FY 1980. This section provides for such amounts as may be necessary for the Department of State to meet its obligations in fiscal year 1980 in accordance with section 607 of the Congressional Budget Act of 1974 (P.L. 93-344). The phrase "such amounts as may be necessary" is used because exact dollars amounts are presently undeterminable.

Sec. (4).—Transfer Authority. This section provides the State Department a limited transfer authority between line-item authorizations, such that any unappropriated portion of one budget item be considered an authorization for another of the Department's budget items, provided that no item is increased by more than 10 percent.

Sec. (5).—International Commissions—American Sections. Section 5 removes the dollar limitation on representation and official entertainment expenses for the American Sections, International Joint Commission, U.S. and Canada. This change will bring the authorization legislation for representation and official entertainment expenses of the American Sections, International Joint Commission into conformity with similar legislation for other Departmental appropriations having language to cover official representation costs.

Sec. (6).—Aid to Destitute Americans Abroad. This legislation will provide the necessary authority to expand the Department's Emergency Medical and Dietary Assistance Program abroad by developing and maintaining a program to provide funds for emergencies and medical care on a reimbursable basis to those U.S. nationals who become destitute abroad, and for whom immediate repatriation is not a viable solution. For example, there are numerous incidents of Americans who become ill or injured while traveling or residing abroad and who have no financial resources to meet medical costs. At present, even if repatriation loans are granted to these individuals when they are able to return to the U.S., loans cannot be made to pay hospital or other medical costs.

Sec. (7).—Working Capital Fund. Legislation is proposed to clarify the authority of the Secretary of State to use the Working Capital Fund for certain centralized services performed by the Department for itself and other agencies overseas; to provide new authority for medical and health care services through the Working Capital Fund; and to remove the $750,000 capitalization limitation for the fund.

A technical amendment is requested to delete the term "supply" to clarify the Department's authority to provide services as well as supplies and equipment, such as related installation, maintenance and transportation.

Authority to include medical and health care services in the Working Capital Fund is required to comply with a decision by OMB to restrict the use of consolidated working funds. Funding for the Kabul Hospital in Afghanistan is handled by a consolidated working fund, and therefore, a new means of funding is necessary. Since medical and health care services are not "administrative" services, additional authority is required to allow these medical and health care services to be funded under the Working Capital Fund. Services will include equipment, facilities and services.

Deletion of the third sentence of the existing authority for the Working Capital Fund would remove the limitation of $750,000 on the capital of the Fund. This restriction was based on original inventories transferred to the fund in 1956. Due to increased price levels, that limitation no longer permits new services or programs or continuation of existing program levels. Equally, overseas programs could not be capitalized without this legislative change.

New authority is requested to permit the Working Capital Fund to repurchase and resell supplies excess to the needs of serviced agencies. A need for such authority often arises when an agency ceases operation at a specific location overseas.

Sec. (8).—Post Employee Services. Amendments are proposed to take account of increased post requirements for employee non-appropriated fund activities necessitated by the establishment of United States Government missions in many areas of the world, including the lesser developed areas. These requirements extend beyond the commissary, mess and recreational activities explicitly authorized to receive assistance and include, for example, central supply and procurement for these activities, temporary transfer quarters, dependent educational assistance, family counseling and day care services and related services which are needed for employee support and morale and cannot be obtained under local conditions. Accordingly, it is proposed that the term "non-appropriated fund activities" be used to cover this full range of requirements.

Additionally, it is proposed that the Working Capital Fund be authorized to assist non-appropriated fund activities, primarily through the sale and transportation of supplies and equipment. This would be accomplished by citing the authority for the Working Capital Fund (section 13 of the Act to Provide Certain Basic Authority for the Department of State).

Sec. (9).—Medical Services. Overseas requirements for employee medical and health care, particularly in areas of the world where such care is not available or is inadequate, have necessitated the estblishment of a small hospital in Kabul, Afghanistan and could require the establishment of medical facilities elsewhere. Although the term "first-aid station" has been interpreted as providing sufficient authority for such activities, it is desirable to provide more explicit authority for the operation of a wider range of medical and health care facilities.

By Mr. CHAFEE:

S. 2497. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Finance.

S. 2498. A bill to amend the Internal Revenue Code of 1954 to encourage greater investment in independent small businesses; to the Committee on Finance.

S. 2499. A bill to amend the Internal Revenue Code of 1954 to give businesses more flexibility in depreciating the cost of new capital investments; to the Committee on Finance.

(The remarks of Mr. CHAFEE when he introduced the above bills appear earlier in today's proceedings.)

By Mr. BUMPERS:

S. 2500. A bill to amend the Federal Water Pollution Control Act in order to limit the information which may be obtained pursuant to such act; to the Committee on Environment and Public Works.

Mr. BUMPERS. Mr. President, last month every Member of this body welcomed the enlightened decision of OSHA, the Occupational Safety and Health Administration, to cast aside scores of picky, ridiculous requirements that served to hamper, not help, the well intentioned goals of that agency. These actions were taken, however, only after a long and anguished effort on the part of our aggrieved constituents to get the Congress mad enough to threaten the very existence of OSHA. Were it not for the fact that we are ultimately the only lobby for our constituents, I doubt very much that OSHA would have sobered up without the drying-out power of the Congress.

While we are heartened that OSHA is beginning to emerge from dipsomania, all of us can cite a number of other Federal agencies that are drunk with arbitrary power, particularly with the power to crush the only living remnant of free enterprise in our country. I am talking about the small independent businessman. I am talking about the fact that we are fast approaching the point in this country when these business men and women have a great deal of difficulty in characterizing this as a free country. I am, today, talking about some specific requests of the Environmental Protection Agency, requests which are indeed "police state" procedures, requests which I want to dry out along with the wrongs of OSHA's recent binge.

I hope you will join me in eliminating the particularly oppressive elements of an extensive questionnaire served on all members of the wood-preserving industry by the Environmental Protection Agency. I ask unanimous consent that certain correspondence relating to this questionnaire follow my remarks. This correspondence includes a letter written to me by John W. Elrod, a constituent in Rison, Ark., my reply to Mr. Elrod, letters from me to the Honorable Douglas Costle, Administrator of the Environmental Protection Agency and the Honorable James T. McIntyre, Jr., now the Director of the Office of Management and Budget, and finally a letter from the office of Mr. Costle signed illegibly by someone, presumably from Mr. Costle's office. Apparently in the EPA, like other large regulatory agencies, you never sign the letter you write, and never write the letter you sign. I also ask unanimous consent that the questionnaire itself, styled "308 Questionnaire—Wood Preserving," and section 308 of the Water Pollution Control Act be printed along with the letters and the bill at the conclusion of my remarks in the RECORD.

Mr. President, section 308 of the Water Pollution Control Act, 33 U.S.C. 1318, authorizes and directs EPA to gather extensive information to enable it to carry out its responsibility of preserving water quality. In what I would like to believe has been a well-meaning effort to comply with this command of the Congress, EPA has formulated and served upon some 600 businesses a voluminous questionnaire. In addition to inquiring about discharges of effluent, pollution-control equipment, and related matters, the questionnaire goes on to seek disclosure of almost every kind of confidential financial information with respect to the general business operations

of the respondents, including all of their costs, what method of depreciation they use for accounting and tax purposes, what their profits are before and after taxes, what the value of their accounts receivable is, and what internal investment criteria they use in deciding whether their business is meeting a desired level of profitability. I direct your attention to questionnaire Nos. 19, 20, 21, 22, 24, 25 and 26, questions which my constituent John Elrod justly characterized as wholly beyond the scope of section 308 of the Water Pollution Control Act.

These questions are, indeed, intrusive and unreasonable. They are not information that the Administrator of the EPA may "reasonably require" to carry out his statutory responsibilities, as required by section 308. Even if they are within the outer limits of statutory authority, a proper exercise of discretion should have led EPA not to go so far.

In addition, the questionnaire appears to violate the Federal Reports Act, 44 U.S.C. 3501–11. The form was never approved by the Office of Management and Budget. In fact, it was never even submitted for approval, although 44 U.S.C. 3509, enacted in 1968, appears to require such submission unequivocally.

In brief, Mr. President, EPA's questionnaire itself is a violation of the law, and, second, it is practically irrelevant to the question of pollution control.

Let us look into the legality of the questionnaire. If the EPA has indeed violated the Federal Reports Act, it is in the anomalous position of threatening citizens with dire penalties, including imprisonment, for failure to answer a questionnaire whose very circulation by the Environmental Protection Agency is itself a violation of law. We can save the Supreme Court a lot of time by striking down EPA's intrusive requests. We can preserve the confidence of hundreds of small businessmen who, if they do not answer the questions, are under the threat of severe penalties up to $2,500 per day and a prison sentence for failure to provide the demanded data from an agency that may well be running the way OSHA used to operate. We can declare once again to the regulatory bureaucracies that the foundation of any kind of respect for law must be scrupulous adherence to the commands of the Congress by officials of the Federal Government.

Let us now look into the practical effect of the questionable questionnaire. Even if the form were legal, it would still be ill-advised to inquire into intimate financial details of a business when these details have at best only peripheral relevance to the importance of the Federal Water Pollution Control Act. This kind of imposition is especially burdensome to small businesses, many of which are among the 600 firms to which the questionnaire was directed. Government agencies should realize that small businessmen have neither the time nor the money to employ squads of lawyers, accountants, and clerks to fill out forms containing every conceivable piece of information that might be of interest. Common horse sense should limit such governmental inquiries, and I am hopeful that the bill I am now introducing and the exchange of correspondence will bring about the realism and humanism so frequently ignored when our administrators are told to write up some rules.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 308(b) of the Federal Water Pollution Control Act is amended by striking out "and (2)" and inserting in lieu thereof "(2) shall relate only to such matters as are necessarily and directly involved in carrying out the provisions of this Act and shall not include financial statements or other similar comprehensive financial information, investment data, tax information, or general production costs, and (3)".

ELROD CO.,
Rison, Ark., October 13, 1977.

Senator JOHN L. MCCLELLAN,
Senator DALE BUMPERS,
Congressman RAY THORNTON,
Congressman BILL ALEXANDER,
Congressman JIM GUY TUCKER,
Congressman JOHN PAUL HAMMERSCHMIDT.

GENTLEMEN: I am enclosing a copy of the questionnaire sent me by the Environmental Protection Agency which I consider to be representative of the outrageous results of well intended but poorly administered legislation. Typically, the law provides for severe penalties up to $2,500.00 per day and a prison sentence for failure to provide the requested information. I direct your attention to questionnaires nos. 19, 20, 21, 22, 24, 25 and 26 and ask if you conceive of any legitimate reason why the agency should be entitled to such detailed information in regard to our finances. I would genuinely appreciate your efforts to eliminate this kind of "police state" procedure in regard to this agency and any others with similar inclination.

We are fast approaching the point in this country when small independent businessmen have a great deal of difficulty in characterizing this as a free country. The enclosed questionnaire is a good illustration of the reason why.

Yours very truly,

JOHN W. ELROD.

U.S. SENATE,
COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, D.C., October 28, 1977.

JOHN W. ELROD, Esq.,
Elrod Co.,
Rison, Ark.

DEAR JOHN: I have your letter of October 13, and Richard has told me about your telephone conversations with respect to the "308 Questionnaire Wood Preserving" that you received from EPA.

You are quite right, of course, that the detailed financial data requested are wholly beyond the scope of Section 308 of the Water Pollution Control Act, 33 U.S.C. § 1318. Incidentally, I enclose a copy of that statute. The authority given by Congress to the Administrator of EPA to demand certain reports and information is limited to what "he may reasonably require" to carry out his statutory responsibilities. In addition, under section 308(b), any records, reports, or information obtained "shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or new source performance standards. . . ." I cannot for the life of me understand how question 19–22 and 24–26, listed in your letter, can meet either of these requirements.

A preliminary informal contact with EPA indicates that it may try to justify its action, at least in part, on the ground that the questionnaire was reviewed in advance at a meeting with a trade association known as the American Wood Preserving Institute. Do you know anything about this Association? I am told that the questionnaire was reviewed by this Institute and by unspecified "representatives of industry firms" on May 5 and June 22. Any trade association worth its salt would have objected strenuously to the intrusive questions included in this form, and perhaps such an objection was in fact registered.

In addition, the form was never approved by the Office of Management and Budget. In fact, it was never even submitted for approval. This omission is probably a violation of the Federal Reports Act, 44 U.S.C. §§ 3501–11. Specifically, 44 U.S.C. § 3509, added in 1968, provides that "a federal agency may not conduct or sponsor the collection of information upon identical terms, from 10 or more persons . . . unless . . . (1) the agency has submitted to the Director the plans or forms . . .; and (2) the Director has stated that he does not disapprove the proposed collection of information." The term "Director" refers to the Director of the Bureau of the Budget, which is now, of course, the Office of Management and Budget. A copy of this statute is also enclosed.

It is particularly irksome for a federal agency to threaten citizens with dire penalties when the agency itself may well be acting in violation of the law.

I take this incident seriously, and perhaps some good will come from it if we can get the attention of the agency heads involved. I have therefore directed letters to the Administrator of the Environmental Protection Agency and to the Acting Director of the Office of Management and Budget. Copies of these letters are enclosed. Copies are going also to Senator Jennings Randolph, Chairman of the Committee on Environment and Public Works, and Senator Abraham Ribicoff, Chairman of the Committee on Governmental Affairs. These Committees have oversight jurisdiction, respectively, over EPA and OMB.

When I have answers to any of these letters, I will share them with you. I appreciate your calling this troublesome situation to my attention. It is exactly the kind of thing that causes citizens to lose faith in their government.

Sincerely yours,

DALE BUMPERS.

U.S. SENATE,
COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, D.C., October 28, 1977.

Hon. DOUGLAS COSTLE,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. COSTLE: John W. Elrod of Rison, Arkansas, a friend and constituent of mine in the wood-preserving business, has called my attention to a disturbing questionnaire issued by your Agency. The form is styled "308 Questionnaire—Wood Preserving" and includes 25 detailed questions with respect to Mr. Elrod's business of wood preserving. Section 308 of the Water Pollution Control Act, 33 U.S.C. § 1318, is cited as authority for the right to demand answers to these questions. There is no doubt that Section 308 authorizes your Agency to gather extensive information, and you must do the job thoroughly in order to carry out the command of Congress. If you would take the time, though, to look at the individual questions posed. I think you will agree that a number of them, specifically questions 19–22 and 24–26, go beyond any conceivable scope of EPA's authority. These questions seek disclosure of almost every kind of confidential

financial information with respect to the general business operations of the respondent, including all of his costs, what method of depreciation is used for accounting and tax purposes, what his profits are before and after tax, what the value of his accounts receivable is, and what internal investment criteria he uses in deciding whether his business is meeting a desired level of profitability.

If you are of the opinion that judicial interpretations of § 308 authorize these questions, would you please give me citations to the reported opinions?

Mr. Elrod has discussed the questionnaire with personnel of your Agency and has returned it, so the issue is not his individual case. The question is much broader than that and goes to the heart of public discontent with government. It seems to me that the interest of the public at large, as well as of EPA itself, would be well served if you would examine this questionnaire closely and make an effort in the future to limit this kind of imposition on private citizens.

In addition, I understand that the questionnaire was not cleared by OMB, as required by the Federal Reports Act, 44 U.S.C. §§ 3501–11. In fact, it was not even submitted for clearance. Your Agency's covering letter to Mr. Elrod threatens severe penalties, including possible imprisonment, if he should fail to answer the questionnaire fully. Such penalties are of course provided for by law and no doubt should be imposed in appropriate cases. It is especially important, on the other hand, that government agencies and officials themselves abide by the law, and this instance is a case in point. I can see no reason why the form should not have been submitted to OMB under U.S.C. § 3509. If it had been, I cannot help believing that the Agency would have disapproved the form, reduced its size considerably, or at least made a number of helpful suggestions.

Would it be your intention to submit future similar forms for clearance?

You might also consider whether it would have been a good idea to consult with the Commission on Federal Paperwork, created by P. L. 93–556, 88 Stat. 1789, 44 U.S.C. § 3501 note.

I appreciate the many courtesies shown me by your Agency and look forward to your answer.

Sincerely yours,

DALE BUMPERS.

COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, D.C., October 28, 1978.

Hon. JAMES T. MCINTYRE, Jr.,
Acting Director of the Office of Management and Budget, Washington, D.C.

DEAR MR. MCINTYRE: Enclosed is a copy of a questionnaire served by EPA on several hundred businesses engaged in wood preserving. It was brought to my attention by John Elrod of Rison, Arkansas, a friend and constituent of mine.

You will notice that the questionnaire contains no OMB clearance number. It is my information that it was never submitted for clearance. This omission appears to be a violation of the Federal Reports Act, 44 U.S.C. § 3509. If you would take the time to look at the form in some detail, you will probably conclude, as I have, that it leaves a great deal to be desired. Specifically, many of the questions on financial subjects seem clearly to go beyond the authority of Section 308 of the Water Pollution Control Act, 33 U.S.C. § 1318. Beyond that, and even if the questions are within the outer limits of legal authority, it seems to me that some discretion should have been exercised in an effort to limit the intrusiveness of the form. It also seems that future similar forms should be submitted to your Agency for approval.

If you could consider these points and advise me, I would be most grateful.

Sincerely yours,

DALE BUMPERS.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., December 6, 1977.

Hon. DALE BUMPERS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BUMPERS: This will thank you for and respond to your letter of October 28, 1977 on behalf of Mr. John F. Elrod of Rison, Arkansas, concerning the Agency's request for financial data from wood preserving companies pursuant to Section 308 of the Federal Water Pollution Control Act.

Section 301 of the Federal Water Pollution Control Act mandates that EPA develop uniform, national effluent standards for major industrial categories covering waste waters discharged into streams and rivers or to municipal treatment facilities. In June 1976 this basic mandate was reinforced as a result of a judgment in the U.S. District Court for the District of Columbia in NRDC et. al. *v.* Train. Under the court order EPA is required to develop or revise "best available technology economically achievable" (1983) effluent limitations, new source performance standards (NSPS) and pretreatment standards for 21 major industrial categories covering 65 classes of potentially toxic pollutants. The timber products processing industry is one of the major industrial categories included in the U.S. District Court's order.

To ensure that the information needed to develop these regulations is both thorough and timely, EPA must engage in a wide range of information gathering, monitoring, sampling, and inspection activities. Section 308 of P.L. 92–500 authorizes EPA to require owners or operators of any point source to maintain records, submit any information necessary to develop a regulation, sample effluents, and install and maintain monitoring equipment. This authority includes requests for financial information pursuant to the regulatory process.

The Agency shares your concern over the confidentiality of financial information being requested from Mr. Elrod and other firms within this industry. Rules and regulations concerning the confidentiality of business information of this type have been promulgated and can be reviewed in full in the Federal Register of September 1, 1976. Enclosed for your information is a reprint of this regulation. The Agency is fully aware of the sensitive nature of the financial information being requested and every precaution allowed by law has been taken to maintain confidentiality of the information received.

It should be emphasized that the Agency's request for this information is to assure that regulations ultimately promulgated are both fair and economically achievable by the industry. Without an accurate assessment of industry's financial capabilities to meet potential pollution control requirements, there remains a risk that the technology based limitations ultimately recommended could place an unreasonable hardship on industry members. The Agency is concerned that hardship to the industry may result from the closure of facilities that find it impossible to expend funds to comply with effluent regulations.

The most accurate method of determining "affordability" at the plant level is to evaluate historical financial data, including data on sales, costs and profits, in order to determine what level of technology is economically achievable. Therefore, questions such as those specifically referenced in your letter are an integral part of the quantitative economic analysis required to meet the Court's requirements. Much of this data is not available to the Agency from any source except the firms within the industry. Industry members have the best information on the needs and capabilities of firms affected by EPA regulations.

To the extent possible, we have tried to simplify the survey to reduce the burden placed on the respondent. We have also made every effort to avoid unnecessary duplication of questions asked in other information requests or otherwise available data sources. To this end EPA met with several trade associations for the purpose of seeking their aid and advice on the collection of data and information from the wood preserving industry. Their suggestions for improving the data collection mechanism and reducing the time and technical efforts required to supply the needed information were incorporated into the questionnaire ultimately sent to industry members.

Your letter also noted that this questionnaire was not submitted to the Office of Management and Budget for clearance under the Federal Reports Act. The Agency believes that requests for the information described above are outside the scope of the Federal Reports Act. The Federal Reports Act was intended to apply to the gathering of general statistical information and not to circumstances in which the Agency's data collection activities are specifically required by Congress. Moreover, Section 308 of the Federal Water Pollution Control Act may be viewed as an explicit statement of this Agency's duties in gathering information, which has the effect of modifying the broader mandates of the Federal Reports Act.

However, even if information requests pursuant to Section 308 were subject to the Federal Reports Act, all requests done pursuant to the court order are clearly exempt from those requirements under section 9(e) of OMB Circular A–40, Attachment A. The circumstances under which we are proceeding with this project are precisely those for which the exception in paragraph 9(e) of the OMB Circular was created. The NRDC v. Train court order dictates that EPA take certain action by specific, stringent deadlines. In particular, before June 30, 1979, EPA must complete all aspects of its study of the entire timber products processing industry, which covers a dozen separate industry guidelines, and approximately 27,000 individual plant facilities. The "judicial action" exception in the Circular A–40 is intended specifically to allow agencies to meet their judicially imposed obligations.

I hope this response is helpful to you and gives you a clearer picture of the Agency's activities. If I can be of any further service please do not hesitate to contact me again.

Sincerely yours,

BARBARA BLUM,
Acting Director,
(For Douglas M. Costle).

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308 QUESTIONNAIRE: WOOD PRESERVING

A. General information:

1. What is the form of business organization of this plant?

Proprietorship or Partnership—.
Co-op—.
Privately-held Corporation—.
Publicly-held Corporation.—

2. Is this wood treating plant a stand-alone operations or part of a multi-plant complex at this location?

Stand-alone—.
Multi-plant complex—.

3. Approximately what percent of total sales at this complex or plant was from wood treating in FY 1976?—%.

4. Is this plant at an urban, suburban, or rural location?

Urban—, Suburban—, Rural—.

5. What year did the wood treating plant begin operation?

B. Effluent information:

6. How does this plant dispose of liquid process waste?

a. Discharge into navigable water—.
b. Dicharge into municipal sewer—.
c. Disposed on plant site—.
d. Disposed off plant site—.
e. Process waste is recycled (no discharge—.
f. This plant does not generate liquid process waste—.
g. Other— Please specify—.

If the answer to question 6 is (c), (d), (e), or (f), you may omit answers to the following questions: 7, 10, 20, 21b, 22, 25.

7.a If you do not discharge liquid *process waste* into a municipal sewer, do you have the option to connect? Yes—, No—, Don't Know—.

b. If you do have the option to connect to a municipal sewer, what is the initial capital investment cost? $—, Don't Know—.

c. If you discharge any wood treating *process waste* into a sewer system, on what basis are your sewer charges made? Flat annual fee—, Gallon of effluent—, Other, please specify—.

d. If you discharge into a municipal sewer, what were your total sewer charges in 1976? $—.

e. If you discharge liquid process waste into navigable waters, do you have an *NPDES permit*? Yes—, No—, Don't know—.

f. Do you own or have available for purchase about one acre of land at or adjacent to this facility that could be used for an effluent treatment system? Yes—, No.

If yes, what is the current market value per acre? $—.

C. Sales and product mix:

8. Fiscal year 1976 wood treating plant sales (thousands of dollars).

Under 70—, 71–155—, 156–300—, 301–700—, 701–1,200—, 1,201–1,800—, 1,801–2,400—, 2,401–3,200—, 3,201–4,800—, 4,801–7,200—, 7,201–11,500—, More than 11,500—.

9. Which of the following product types are treated at this plant:

Treated Wood Products
Treated at Plant.

As a percent of Plant Sales: Under 10; 11–30; 31–50; 51–70; 71–90; Over 90.

a. Organic (Oil or Dual Oil and Salt Treatment):
(1) Railroad Ties—.
(2) Pilings, Poles.—
(3) Timber, Lumber, and Other—.
b. Inorganic (Salt Based):
(1) Pilings, Poles—.
(2) Timber, Lumber, and Other—.

10.a. Are any changes (other than normal business fluctuations) planned in production process or product mix? Yes—, No—, (If No, Go to Part D).

b. Process change towards:
More Organic—, Less Organic—, More Inorganic—, Less Inorganic—.

c. Product Mix Change:
More Ties—, Less Ties—, More Poles—, Less Poles—, More Other—, Less Other—.

d. Other, please specify nature of change—.

D. Plant capacity and production:

11. What is your *peak design capacity* (or *peak capacity as modified*)? cu. ft.—. Cubic Feet/24 hour period [1]

12.a. What region of the country is the origin of *most* of the wood treated at this facility?

Northeast—, Northwest—, Southeast—, Southwest—, Midwest—, Other.

b. Is the wood mostly:
Hardwood—, or Softwood—.

13. Typical number of production days per week?

1–4—, 5—, 6—, 7—.

[1] If unable to calculate peak (design) capacity by the formula shown in "DEFINITIONS" attach a separate sheet describing the radius and length of each cylinder.

14. Number of weeks at each shift level (total should add to 52 weeks):

No. of Weeks
a. at 0 shifts (shut down or no wood preserving).
b. at 1 shift.
c. at 2 shifts.
d. at 3 shifts.
e. at 4 shifts.

52 weeks total of (a) plus (b) plus (c) plus (d) and plus (e).

15. 1976 Production (Thousands of cubic feet)—.

16. Typical number of production workers in 1976: 1–3, 4–6, 7–9, 10–19, 20–34, 35–48, 49–75, 76–99, 100–125, over 125.

17. This facility is primarily engaged in (a) treating service only (TSO), and or (b) treating owned wood products for sale to others:

Approximate Percent of Sales:
Under 10, 10–25, 26–50, 51–75, over 75;
a. Treating Service Only—.
b. Treating Owned Wood Products—.

18. What proportion of owned wood is from company-owned timberland?

Approximate Percent of Owned Wood Supply:
None, 1–24, 25–49, 50–74, 75–100.

E. Financial statement:

19. Revenue and Expenses. Check the box for each item which most closely approximates your 1976 fiscal year expense percent of sales.

Cost as a Percent of Plant Sales:
a. Wood Cost, Under 10, 10–15, 16–21, 22–28, 29–38, 39–48, 49–60, over —.
b. Other Materials Cost, Under 10, 10–15, 16–21, 22–28, 29–38, 39–48, 49–60, over —.
c. Payroll Cost, Under 10, 10–15, 16–21, 22–28, 29–38, 39–48, 49–60, over —.
d. Depreciation, Under 1, 1–2, 3–5, 6–8, Over —.
e. Gross Margin, Under 10, 11–15, 16–25, 26–30, Over 30.
f. General and Administrative Cost, Under 1, 1–5, 6–10, 11–15, Over 15.
G. Interest Expense, Under 1, 1–4, 5–8, 9–12, Over 12.
h. Profit Before Tax, Under 1, 1–4, 5–8, 9–12, Over 12.
i. Profit After Tax, Under 1, 1–2, 3–4, 5–7, Over 7.

20. How representative was this plant's 1976 profit before tax experience versus the average for 1971–1975?

About the same—Better than Average—, Worse than Average—.

21. Factors related to Revenues and Expenses.

a. Fixed Costs: If the plant faces lease, rental or mortgage commitments beyond 1976 (for buildings or equipment), indicate the average annual charges and the year the commitments expire.

(1) Average Annual Charge: Leases/Rental, Wood Contracts, Debt Payment, Other [2].

(2) Commitment Expires: Leases/Rental, 19—, Wood Contracts, 19—, Debt Payment 19—, Other 19—.

b. What Depreciation Method is Used: Equipment—Buildings?

(1) Book Basis: Straight-Line—, Double-Declining Balance—, Sum of Year's Digits—, Other: (Please Specify)—.

(2) Tax Basis: Straight Line—, Double-Declining Balance—, Sum of Year's Digits—, Other: (Please Specify)—.

(3) Pollution Control Equipment Amortization: Accelerated Over 5 Years—, Same method as other equipment—.

22. Unusual Production Costs. Are there any circumstances peculiar to this plant which result in unusual production costs? Yes—, No—.

If Yes, please describe:—.

[2] If other commitments attach separate sheet.

23. Historical/Annual Cost of Pollution Control and Other Environmental Regulations:

Don't Know; None; Fiscal Year Ending 1975, 1976:

(1) Water Pollution Regulations: (a) Annual Operating Costs—, (b) Annual Depreciation Charges—.

(2) Solid Waste Disposal (including waste water sludge and wood waste, contract hauling): (a) Annual Operating Costs—, (b) Annual Depreciation Charges—.

(3) Other Environmental Regulations Affecting Production Processes and Production Costs, Air—, OSHA—.

(Please Specify):—.

(a) Annual Operating Costs—, (b) Annual Depreciation Charges—.

(4) Other Administrative Costs: Environmental department, research, litigation, consultants, additional administrative costs—.

24. Value of wood treating plant Assets and Liabilities (as of the end of the most recent fiscal year).

a. Net Fixed Assets (Gross Fixed Assets less cumulative depreciation)—, Don't Know—.

b. Total Assets: (Net Fixed Assets, Cash receivables, inventory, other assets)—, Don't Know—.

c. What was the value of this wood treating plant's accounts receivable?—.

d. What was the value of this wood treating plant's accounts payable?—.

e. Current Plant Debt (i.e., debt maturing in current year or payable on demand).—.

f. Long-Term Plant Debt (debt maturing beyond the current year [1977])—.

g. Total Plant Liabilities (long-term debt, accounts payable, deferred taxes, other debt, etc.)—.

25. Capital Investment Criteria for the Plant.

a. What investment criteria do you use? Return on Investment (ROI)—, Payback—, Discounted Cash Flow—, Other—.

b. If you use return on investment criteria: (1) What is the target internal pre-tax rate of return on capital required for investment in this plant?—. (2) At what ROI would you consider plant shutdown?—.

c. If you use payback period criteria, what is the required payback period for investment? years—.

d. What is the current term interest rate you must pay for new capital? Percent per year—.

26. Capital Investment for the Plant (not including capitalized operating or maintenance expenses).

(Actual 1971–76: Total Capital Investment—, Water Pollution Control—, Other Environmental Regulation (State or Federal) Impacting Production Processes—.

(Planned) 1977 Total Capital Investment—, Water Pollution Control—, Other Environmental Regulation (State or Federal) Impacting Production Processes—.

PUBLIC LAW 92-500, 86 STAT. 859, 62 STAT. 791, OCTOBER 18, 1972

"INSPECTIONS, MONITORING AND ENTRY

"SEC. 308. (a) Whenever required to carry out the objective of this Act, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 305, 311, 402, and 504 of this Act—

"(A) the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and

maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require; and

"(B) the Administrator or his authorized representative, upon presentation of his credentials—

"(i) shall have a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under clause (A) of this subsection are located, and

"(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (A), and sample any effluents which the owner or operator of such source is required to sample under such clause.

"(b) Any records, reports, or information obtained under this section (1) shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or new source performance standards, and (2) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"(c) Each State may develop and submit to the Administrator procedures under State law for inspection, monitoring, and entry with respect to point sources located in such State. If the Administrator finds that the procedures and the law of any State relating to inspection, monitoring, and entry are applicable to at least the same extent as those required by this section, such State is authorized to apply and enforce its procedures for inspection, monitoring, and entry with respect to point sources located in such State (except with respect to point sources owned or operated by the United States)."

By Mr. HATHAWAY (for himself, Mr. RIEGLE, and Mr. EAGLETON):

S. 2501. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare program, with appropriate reductions in social security taxes to reflect such participation, and with a substantial increase in the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Finance.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1978

Mr. HATHAWAY. Mr. President, on behalf of Senators RIEGLE, EAGLETON, and myself, I am introducing legislation to revise the financing of the Social Security System. A similar bill has been introduced by Congressman JAMES BURKE of Massachusetts, the distinguished chairman of the Ways and Means Subcommittee on Social Security.

My bill provides for a reduction in the payroll tax rates for both employers and employees. It provides that one-third of the Social Security System shall be financed by Treasury general revenues. There is also an expansion in the taxable wage base.

This legislation parallels recommendations of the Social Security Advisory Council as far back as 1939. It is also responsive to comments received during the 1976 debate on the social security bill that employer/employee parity be retained and that the system retain a measure of payroll contribution along with general revenue funding.

I believe this legislation contains the basic programs to reduce employer payroll costs, thereby stimulating hiring and reducing our high unemployment rates. This could also strengthen international competitiveness of American business.

This concept of general revenue financing for social security has been endorsed by the following organizations:

American Federation of Labor and Congress of Industrial Organizations (AFL–CIO);

American Retail Federation;

American Society for Personnel Administration;

Citizens Against Confiscation of taxes in U.S.;

Council of State Chambers of Commerce;

International Brotherhood of Teamsters;

International Ladies Garment Workers Union;

National Association of Social Workers;

National Coal Association;

National Conference of Catholic Charities;

National Council on Aging, Inc.;

National Council of Senior Citizens;

National Farmers Union;

National Senior Citizens Law Center;

National Retired Teachers Association/American Association of Retired Persons; and

United Auto Workers.

Mr. President, Congressman REUSS has made an excellent statement on the use of general revenues to finance the social security system. I ask unanimous consent that the text of Mr. REUSS's remarks be included in the RECORD, together with the text of the bill.

There being no objections, the statement and bill were ordered to be printed in the RECORD, as follows:

REMARKS OF REP. REUSS

Mr. Speaker, we are faced with a desperate need to overhaul the financing of our social security system. For more than 2 years, the media have pointed out the financial difficulties facing the social security trust fund. There is no question that the system is in trouble. A sharp decline in the birth rate, steady increases in the level of benefits, and a severe recession, coupled with a slow recovery, threaten to push the trust fund deep into deficit over the next decade.

The financial health of the social security system is of immediate importance to millions of retired people and provides the retirement base for almost the entire American work force. There is not a man or woman in this Chamber who has not felt hometown concern about secure retirement income.

In meeting the future needs of the social security system the Congress could move in a number of directions. Tax rates could be increased as could the amount of income subject to the social security tax. Benefits could be readjusted. The system could be broadened to bring in more affluent workers Or the Congress could turn to general revenues and the progressive income tax to bear part of the retirement burden.

In fact, the Congress considered moving in almost all these directions at once. The House-passed version of the social security financing bill included small increases in social security tax rates, coupled with sharp increases in the amount of income subject to the tax. The so-called "double indexing" problem was also eliminated, so that benefits would no longer rise more rapidly than the cost of living.

The Senate approach also relied largely on the traditional payroll tax. Compared to the House bill, the Senate put somewhat more weight on higher tax rates, and somewhat less emphasis on a rising tax base. The Senate did depart from an historical pattern. From the inception of the social security program, employees and employers have paid social security taxes in equal proportion. The Senate broke with that practice by proposing to put more of the new tax burden on the employer.

Mr. Speaker, I know well that the bill now in conference has not been the product of a hasty process. Demographic studies and statistical analyses preceded congressional action. But if we accept the conference report as now being written, we will be asking the country to pay a needlessly high price for retirement security.

By continuing to rely on the payroll tax, we are exacerbating an already serious unemployment problem, threatening an often anemic recovery, courting more inflation, and doing little to alleviate the inequities of a regressive tax. Worse—the obvious alternative of general revenue financing has been shunted aside, only to reappear as a backdoor salvation for expected economic difficulties. It is time we walked directly to the right solution, rather than engaging in this social policy two-step.

There are almost 7 million Americans still looking for work they cannot find. Despite that staggering figure, we have persisted in using payroll taxes to finance unemployment compensation as well as social security. Higher costs for labor discourage hiring, accelerate the adoption of laborsaving machinery, and even influence the future course of technological innovation.

Nor can we ignore the inflationary implications of higher payroll taxes. Not only will the impact of higher payroll taxes ripple through an increasingly indexed economy. Worse, the future schedule of increases will be part of the public record for all to see and incorporate in their future pricing decisions.

Dare we ignore the future course of the recovery? An expected slowing in early calendar 1978 could turn into recession by 1979 unless corrective action is taken next year. In any case, a tax increase is not indicated. With one eye on the recovery and another on the prospect of sharply rising social security taxes, the administration has already begun to talk about a $20 billion tax cut next year to keep the workingman whole and the economy running smoothly.

What is so striking about all this is that general revenues are kept hovering in the background to ameliorate the bad effects of rising payroll taxes. In a very real sense, the Senate approach has already brought general revenues into the social security system through the side door. Putting a greater burden on corporate employers, the Senate has

indirectly increased business deductions, and therefore, reduced the corporate tax liability of most corporations. Social security trust funds go up and general revenues go down. It looks like general revenue financing, but apparently the indirect rise has a sweeter smell for the Senate.

The administration proposal for a 1973 tax cut is basically more of the same. Social security trust funds are to be increased with payroll taxes, while general revenues are to go down in order to repair some of the inequities of payroll taxes and to avoid any fiscal drag on the economy. The effect will be a general mismatch of benefits and losses. And even if this economic balancing act manages to offset some of the worst effects of the payroll tax rise, the burden that the rise places on workers and their employers will not so easily be lifted. Payroll costs will still go up, and the proinflation, antiemployment effects of that increase will still be with us.

What we should have done, and should still do, is to turn direcly to general revenues to help finance the social security system. If we turn to the progressive income tax, we lessen the dependence on regressive payroll taxes, avoid inflationary pressures, encourage employment, and pose no threat to the recovery.

There are, however, two arguments raised against the use of general revenues. The first suggests that without the discipline of the payroll tax-trust fund approach, there would be no limit on the amount of general revenues allocated to retirement income. Not at all. Trust funds and special taxes are the exception, not the rule, in the Federal budget. We do not rely on a defense trust fund or space trust fund to restrain expenditures. With the advent of the Budget Control Act and a new sense of congressional power and responsibility, the Congress has never been better prepared to talk intelligently about how much money should go where.

The second argument stirkes deeper and sounds a responsive chord in most of us. If we turn to general revenues, are we formally admitting that social security has become another welfare program? I have wrestled with this thought myself—but I have decided no.

What social securiy has become for people is their basic retirement plan. I see it more and more as society's version of the gold watch for a lifetime of work and service. The program was never designed to get you rich, but rather to get you by. Social security payments already ignore differences in an individual's lifetime earnings. And in breaking the direct link between past earnings and retirement income, society also ignores the vagaries of bad luck, the unexpected illness, the crippling accident, as well as good fortune and health. The past generation carried other burdens, including part of the retirement costs of those that preceded them. We can and should talk about how much children and grandchildren should pay for their parents and grandparents. But to say that society will see that every elderly person has a certain minimum retirement income just does not sound like welfare to me.

Mr. Speaker, I realize that the political pressures for the proposed payroll taxes are great. And we must take some action quickly. But if, in the face of the augury of inflation and unemployment, we enact in haste a payroll tax increase, we will almost surely repent at leisure. We should postpone final action on social security until the new session. And before we consider the social security system again, I ask my colleagues to take a long and hard look at general revenue financing.

The great industrial countries of Europe have for almost a century used general revenues for this purpose. It is time that we did, too. To parapharse the old hymn:

"It was good enough for Bismark,
"It was good for old Disraeli,
"It was good for Georges Clemenccau,
"And it's good for you and me!"

S. 2501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REDUCTIONS IN SOCIAL SECURITY TAXES

SECTION 1. (a)(1) Section 1401(a) of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income for purposes of old-age survivors, and disability insurance) is amended by striking out paragraphs (2) through (7) and inserting in lieu thereof the following:

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 7.10 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 4.80 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 4.875 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1990, the tax shall be equal to 5.275 percent of the amount of the self-employment income for such taxable year;

"(6) in the case of any taxable year beginning after December 31, 1989, and before January 1, 2010, the tax shall be equal to 6.00 percent of the amount of the self-employment income for such taxable year; and

"(7) in the case of any taxable year beginning after December 31, 2009, the tax shall be equal to 7.20 percent of the amount of the self-employment income for such taxable year.".

(2) Section 3101(a) of such Code (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (2) through (7) and inserting in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1978, the rate shall be 5.05 percent;

"(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 3.20 percent;

"(4) with respect to wages received during the calendar years 1981 through 1984, the rate shall be 3.25 percent;

"(5) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 3.55 percent;

"(6) with respect to wages received during the calendar years 1990 through 2009, the rate shall be 4.00 percent; and

"(7) with respect to wages received after December 31, 2009, the rate shall be 4.80 percent.".

(3) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striikng out paragraphs (2) through (7) and inserting in lieu thereof the following:

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.05 percent;

"(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 3.20 percent;

"(4) with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 3.25 percent;

"(5) with respect to wages paid during the calendar years 1985 through 1989, the rate shall be 3.55 percent;

"(6) with respect to wages paid during the calendar years 1990 through 2009, the rate shall be 4.00 percent; and

"(7) with respect to wages paid after December 31, 2009, the rate shall be 4.80.".

(b)(1) Section 1401(b) of such Code (relating to rate of tax on self-employment income for purposes of hospital insurance) is amended by striking out paragraphs (2) through (6) and inserting in lieu thereof the following:

"(2) in the case of any taxable year beginning December 31, 1977, and before January 1, 1979, the tax shall be equal to 1.00 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 0.70 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year; beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 0.75 percent of the amount of the self-employment income for such taxable year; and

"(5) in the case of any taxable year beginning after December 31, 1984, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year.".

(2) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended by striking out paragraphs (2) through (6) and inserting in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1978, the rate shall be 1.00 percent;

"(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 0.70 percent;

"(4) with respect to wages received during the calendar years 1981 through 1984, the rate shall be 0.75 percent; and

"(5) with respect to wages received after December 31, 1984, the rate shall be 0.90 percent.".

(3) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended by striking out paragraphs (2) through (6) and inserting in lieu thereof the following:

"(2) with respect to wages paid during the calendar year 1982, the rate shall be 1.00 percent;

"(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 0.70 percent;

"(4) with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 0.75 percent; and

"(5) with respect to wages paid after December 31, 1984, the rate shall be 0.90 percent.".

(c)(1) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (G) through (K) and inserting in lieu thereof the following: "(G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.00 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 0.96 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1983, and so reported, (J) 1.01 per centum of the wages (as so defined) paid after December 31, 1982, and before January 1, 1985, and so reported, (K) 1.18 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1990, and so reported, and (L) 1.80 per centum of the wages (as

so defined paid after December 31, 1989, and so reported,".

(2) Section 201(b)(2) of such Act is amended by striking out clauses (G) through (K) and inserting in lieu thereof the following: "(G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 0.750 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 0.720 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1983, (J) 0.7575 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1982, and before January 1, 1985, (K) 0.885 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (L) 1.350 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,".

(d) The amendments made by this section shall apply in the case of taxes imposed with respect to self-employment income for taxable years beginning after December 31, 1978, and with respect to wages paid or received during calendar years after 1978.

FEDERAL PARTICIPATION IN COST OF OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

SEC. 2. (a) In order to provide that one-third of the costs of the old-age, survivors, and disability insurance program under title II of the Social Security Act, and one-third of the costs of the hospital insurance program under part A of title XVIII of such Act, shall hereafter be borne by the Federal Government (with the remainder of such costs being financed from taxes imposed (as at present) on employees, employers, and the self-employed but at substantially reduced rates as provided by section 1 of this Act)—

(1) section 201(a) of the Social Security Act is amended by striking out "100 per centum" in the matter preceding paragraph (1) and inserting in lieu thereof "150 per centum";

(2) Section 201(b) of such Act is amended by striking out "100 per centum" in the matter preceding paragraph (1) and inserting in lieu thereof "150 per centum"; and

(3) section 1817(a) of such Act is amended by striking out "100 per centum" in the matter preceding paragraph (1) and inserting in lieu thereof "150 per centum".

(b) The amendments made by subsection (a) shall apply in the case of taxes imposed with respect to self-employment income for taxable years beginning after December 31, 1978, and wages paid or received during calendar years after 1978.

INCREASE IN CEILING ON AMOUNT OF ANNUAL EARNINGS COUNTED FOR BENEFIT AND TAX PURPOSES

SEC. 3. (a) Section 230(c) of the Social Security Act is amended—

(1) by striking out "and (2)" and all that follows in the first sentence and inserting in lieu thereof "and (2) the 'contribution and benefit base' with respect to remuneration paid (and taxable years beginning) in 1979 shall be $100,000.";

(2) by striking out "in 1982 and subsequent years, the dollar amounts" in the second sentence and inserting in lieu thereof "in 1980 and subsequent years, the dollar amount"; and

(3) by striking out "the years involved" in the second sentence and inserting in lieu thereof "the year 1979".

(b) The amendments made by subsection (a) shall apply with respect to remuneration paid (and self-employment income for taxable years beginning) after December 1978.

(c) As soon as practicable after the date of the enactment of this Act, the Secretary of Health, Education, and Welfare, in consultation with the Secretary of the Treasury, shall prepare and submit to the House of Representatives and the Senate a draft of any technical, conforming, or other changes in the Social Security Act, the Internal Revenue Code of 1954, and other laws which may be necessary to take account of or reflect the amendments made by subsection (a).

By Mr. NELSON (for himself, Mr. EAGLETON, Mr. DANFORTH, Mr. RIBICOFF, Mr. BENTSEN, Mr. HATHAWAY, Mr. JAVITS, Mr. HASKELL, Mr. MOYNIHAN, Mr. MATSUNAGA, Mr. CHILES, Mr. HOLLINGS, Mr. HART, Mr. HUDDLESTON, and Mr. HEINZ):

S. 2503. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that disability insurance benefits and the medicare program shall be financed from general revenues (pursuant to annual authorizations) rather than through the imposition of employment and self-employment taxes as at present, and to adjust the rates of such taxes (for purposes of financing the OASI program) accordingly; to the Committee on Finance.

SOCIAL SECURITY REFINANCING ACT

Mr. NELSON. Mr. President, today I am introducing legislation with Senators DANFORTH, RIBICOFF, BENTSEN, HATHAWAY, JAVITS, HASKELL, MOYNIHAN, MATSUNAGA, CHILES, HOLLINGS, HART, HUDDLESTON, and HEINZ to redesign and refinance the social security programs. Entitled the Social Security Refinancing Act, this bill would remove the disability insurance (DI) and hospital insurance (HI) programs from payroll tax financing and, instead, provide financing for these programs from Federal general revenues.

A companion bill is being introduced in the House of Representatives today by Congressmen MIKVA, GEPHARDT, BRODHEAD, TUCKER, and WIRTH.

Last December, Congress enacted legislation to put the old age and survivors (OASI) and disability insurance trust funds on a sound financial basis using current economic and demographic projections through the years 2032, and 2008 respectively. The HI trust fund was provided with sufficient funding through the year 1988, at which time additional funding will be needed to keep that trust fund solvent. In order to provide enough income and adequate trust fund reserves to finance these three social security programs, substantial new social security tax revenues had to be raised in addition to those which were provided under prior law.

As a result, the combination of the new social security taxes with those already provided under prior existing law increased the social security tax liability for all workers, employers and self-employed persons to very high levels. However, the impact of the new taxes will be especially harsh on small businessmen, individuals earning the maximum amount of wages subject to the social security tax, and upon the self-employed.

Consequently, many individuals and employers have begun to examine the social security programs more closely, with a view toward a fundamental structural change in the way in which the social security programs are financed.

This legislation would provide for such a fundamental change. It would continue to rely upon the payroll tax to provide financing for the OASI retirement program. But it would eliminate financing the DI and HI program through the social security payroll tax and provide financing for these programs from Federal general revenues.

The original designers of the social security program did not intend the payroll tax to support all three programs. Indeed, when the social security program was enacted some 40 years ago, the payroll tax supported only the OASI retirement program. The disability insurance program was not created until 1957 and the hospital insurance program was not enacted into law until 1964. While each of these programs provide important insurance coverage to workers, retirees and their families—and this particular legislation would not alter this coverage—the payroll taxes needed to finance these programs have become too burdensome.

Right now, the social security payroll tax has two particularly distinguishing features. First, over one-half of Americans pay more social security taxes than Federal income taxes. And second, payroll taxes have been documented by liberal, moderate and conservative economists alike to be a regressive form of taxation.

By detaching the financing of the DI and HI programs from the social security payroll tax, every worker's social security tax liability projected under current law would be reduced. Moreover, using general revenues to finance these programs would lead to a more progressive tax system without sacrificing the integrity of these two social security programs.

Under the provisions of this legislation, the reduction in social security payroll taxes would begin in calendar year 1979 and continue throughout the next 75 years. This change would have such a profound impact that social security payroll tax rates for the next 42 years would be below those now in effect. And the tax rate in the year 2051 under this legislation would be about the same as the tax rate schedule to be in effect in 1982 under the provisions of current law.

The following charts demonstrate the impact of this legislation on social security tax liability for employers, employees and the self-employed.

CHART 1.—SOCIAL SECURITY TAX RATES AND WAGE BASE UNDER PRESENT LAW AND THIS PROPOSAL

Year	Employee/employer tax rate		Self-employed tax rate		Wage base	
	Present law [1] (percent)	This proposal [2] (percent)	Present law [1] (percent)	This proposal [2] (percent)	Present law	This proposal
1978	6.05	6.05	8.1	----------	$17,700	[3]
1979	6.13	4.3	8.1	6.45	22,900	[3]
1980	6.13	4.3	8.1	6.45	25,900	[3]
1981	6.65	4.4	9.3	6.6	29,700	[3]
1982	6.70	4.4	9.35	6.6	31,800	[3]
1983	6.70	4.4	9.35	6.6	33,900	[3]
1984	6.70	4.4	9.35	6.6	36,000	[3]
1985	7.05	4.4	9.90	6.6	38,100	[3]
1986	7.15	4.4	10.00	6.6	40,200	[3]
1987	7.15	4.4	10.00	6.6	42,000	[3]
1990	7.65	4.4	10.75	6.6	[4]	[3]
1995	7.65	4.4	10.75	6.6	----------	[3]
2005	7.65	4.6	10.75	6.9	----------	[3]
2015	7.65	5.4	10.75	8.1	----------	[3]
2025	7.65	6.8	10.75	10.2	----------	[3]
2035	7.65	6.8	10.75	10.2	----------	[3]
2045	7.65	6.8	10.75	10.2	----------	[3]
2050	7.65	6.8	10.75	10.2	----------	[3]

[1] Tax rate supports OASI, DI, and HI trust funds.
[2] Tax rate supports OASI trust fund only.
[3] Same as present law.
[4] Wage base increases in response to increase in average wage levels.

CHART 2.—EMPLOYER/EMPLOYEE SOCIAL SECURITY TAX LIABILITY UNDER PRIOR LAW, CURRENT LAW, AND THIS PROPOSAL

	1979			1982			1985			1987		
	Prior law	Current law	This proposal	Prior law	Current law	This proposal	Prior law	Current law	This proposal	Prior law	Current law	This proposal
Average earnings:												
$10,000	$605	$613	$433	$630	$670	$440	$630	$705	$440	$645	$715	$440
$15,000	908	920	650	945	1,005	660	945	1,058	660	968	1,073	660
$20,000	1,143	1,226	866	1,260	1,340	880	1,260	1,410	880	1,290	1,430	880
$25,000	1,143	1,404	992	1,474	1,675	1,100	1,575	1,763	1,100	1,613	1,788	1,100
$30,000	1,143	1,404	992	1,474	2,010	1,320	1,758	2,115	1,320	1,935	2,145	1,320
$40,000	1,143	1,404	992	1,474	2,131	1,399	1,758	2,686	1,676	2,012	2,860	1,760

The concept of using general revenues for financing part of the social security programs is long overdue, in my opinion. During consideration of the social security bill last year, I proposed in the Senate Finance Committee to use part of the payroll taxes that support the HI program for financing the OASI and DI programs so that payroll tax rate increases could be kept to a minimum. The Finance Committee, however, rejected this course of action.

The OASI retirement benefits are a fairly accurate reflection of the contributions made by a worker, and these contributions reflect the wages upon which the social security tax is levied over the period of a worker's life. The OASI retirement benefits, in my opinion, should continue to be financed by the payroll tax. The DI and HI benefit payments, however, do not bear the same close relationship to a worker's payroll contributions, and therefore, need not continue to be financed by the payroll tax to maintain equity on an individual basis in social security. The HI program is the most obvious example of this phenomenon.

Whether a person gets sick, is admitted to a hospital and uses social security hospital insurance benefits is strictly an incidence of an individual's good health or lack of it, and not of the payroll taxes that have been paid over their working years. Yet, everyone covered by social security, whether healthy or not, is obligated to contribute payroll taxes in proportion to their annual earnings.

Under the provisions of the legislation, the OASI program would be actuarially sound throughout the next 75 years. The reserve levels in this trust fund would remain at a level consistent with the standards established by the actuaries of the social security system. The following charts show the status of the fund from now until 2051, and also show the general revenue payments necessary to support the DI and HI programs.

CHART 3.—TRUST FUND RESERVE RATIOS

Year	Present law			This proposal		
	OASI	DI	HI	OASI	DI	HI
1978	30	24	66	30	24	66
1980	26	23	45	26	[1]	[1]
1985	52	53	39	52	----------	----------
1990	99	77	[2]	68	----------	----------
1995	187	133	----------	76	----------	----------
2000	279	115	----------	87	----------	----------
2005	361	46	----------	112	----------	----------
2010	401	[3]	----------	113	----------	----------
2015	377	----------	----------	141	----------	----------
2020	317	----------	----------	107	----------	----------
2025	207	----------	----------	127	----------	----------
2030	76	----------	----------	110	----------	----------
2035	[4]	----------	----------	86	----------	----------
2040	----------	----------	----------	71	----------	----------
2045	----------	----------	----------	72	----------	----------
2050	----------	----------	----------	82	----------	----------

[1] Fund exhausted in 2032.
[2] Fund exhausted in 1988.
[3] Fund exhausted in 2008.
[4] General revenue financing beginning in calendar year 1979.

CHART 4.—GENERAL REVENUES NEEDED TO SUPPORT DISABILITY INSURANCE AND HOSPITAL INSURANCE BENEFIT LEVELS IN YEARS 1979–81.

[In billions of dollars]

Year	DI [1]	HI [1]
1979	15.3	22
1980	16.5	26
1981	17.5	26

[1] Estimates based on estimated operations of the trust funds under current law.

Mr. President, the passage of last year's social security legislation insured the 18 million Americans contributing social security taxes and the 33 million Americans receiving social security benefits that the social security trust funds would not go broke and that the necessary funds would be there to finance future benefits.

The passage of last year's bill need not be seen as the final word on financing social security benefits. As chairman of the Senate Social Security Subcommittee, I intend to hold hearings later this year on alternative mechanisms to finance social security. At that time, this legislation and other bills seeking to reform financing social security benefits will be considered.

Mr. CHILES. Mr. President, I am pleased to join Senator NELSON in cosponsoring the legislation he is introducing today, designated as the Social Security Refinancing Act. This proposal represents a significant initiative in addressing an issue that remains of vital importance to all Americans; namely, how best to finance our social security programs. It is an issue that demands the renewed attention of the Congress and I believe this bill will serve as the catalyst for such a continued focus.

At the end of the last year, the Congress completed work on legislation which had the stated aim of correcting the problems in financing social security. I am not at all convinced that this new law will succeed in its aim and I could not support its passage. It was considered in the pressure of the end of the session for the Senate. It was not reform but merely a way out of the dilemma. It represents the biggest peacetime tax increase in decades and involves major budget changes that will affect future year budget deficits by millions of dollars. Practically, all workers, all businesses, all families have their present and future livelihood affected.

As an end result of the new law the social security tax liability for workers, employers, and self-employed persons will be at record high levels. Such high levels for payroll taxes cannot fail to incur adverse economic effects. The increase in payroll taxes can only serve to drive up inflation and depress employment rates. At this juncture in our economic recovery such effects are indeed untimely.

The proposal we are introducing today is an important departure from the approach taken last December. While it would continue reliance on the payroll tax for financing of the old age and survivors insurance retirement program, it separates out the disability insurance and hospital insurance programs to be financed from Federal general revenues.

This action does not threaten the original and still viable concept of social security as a retirement insurance program. The disability insurance program and hospital insurance program are later additions to the social security system. These programs provide important coverage for workers, retirees, and their families and must be continued. However, they have bloated the burden on the average worker and the businessman to an unacceptable point. It is undisputed that the social security payroll tax is a most regressive form of taxation. To increase that tax in order to meet the growing costs of expanded coverage is merely to aggravate the tax burden of those least able to pay.

The time is long overdue to seriously consider the financing of these important social security programs out of general revenue which is based on a more progressive tax structure. I think the Congress is now in a much better position to exercise the control that will be necessary if general revenue is used to finance these benefits. The recently implemented but already successful congressional budget process now provides the Congress with an orderly means of considering and evaluating major changes in taxes and expenditures. The Senate and House must now live with the limits imposed in the concurrent budget resolution and can cope with the pressures to increase expenditures beyond what we can afford.

Mr. President, I seriously doubt that the American people want to consider the social security legislation of 1977 as the final word on how to finance this system. If we are to achieve a fair and reasonable means of supporting this program we must look at alternative mechanisms. I understand that Senator NELSON will initiate hearings on this subject to consider this legislation and other proposals. I congratulate him for his efforts and I look forward to working with him to develop a financing structure that insures the integrity of these vital programs while levying a fair tax burden on the American people.

By Mr. DOLE:

S. 2504. A bill to amend the Commodity Credit Corporation Act to direct the Secretary of Agriculture to establish a program for expanding exports of farm commodities by making available CCC financing to exporters who extend deferred payment terms to foreign buyers; to the Committee on Agriculture, Nutrition, and Forestry.

EXPORT STIMULATION ACT OF 1978

Mr. DOLE. Mr. President, I believe the best way to overcome the effects of the vicious cost price squeeze that is currently dragging the farm economy down to depression levels is:

First. Take judicious and timely action to realine production with anticipated demand; and

Second. Step up efforts to stimulate U.S. exports of farm commodities so that production adjustments will be minimal.

The first of these measures to help improve the farm economy has been addressed in my bill, Flexible Parity Act of 1978, which I introduced with 10 cosponsors on February 2, 1978.

Today, I am introducing a bill to stimulate exports of farm commodities. I call this bill the Export Stimulation Act of 1978. This bill will forge a partnership between the Commodity Credit Corporation and commodity exporters to seek out additional export opportunities for American farm products. In developing and expanding markets for farm products, cooperation between private exporters, farmer-owned cooperatives, and Government is essential to realize to the fullest extent the existing export potential. My bill will help realize this potential.

We need to increase our share of world trade in agricultural commodities. To do this we must use to the fullest extent every export tool at our disposal along with a good dose of innovation. I regret the fact that our farmers have not shared one iota in the 9-million ton grain purchases by the People's Republic of China this marketing year. We have been "out sold" in other markets also.

The Secretary of Agriculture needs to establish a program that will provide Commodity Credit Corporation financing to exporters of agricultural commodities who will extend deferred payment terms to foreign buyers in those situation that will result in additional export sales. Commodity exporters have the capability of quickly spotting sales opportunities for U.S. farm commodities and assessing competition in foreign markets.

My bill would permit them to present their plan for realizing increased exports to the Commodity Credit Corporation for approval. Upon Commodity Credit Corporation approval of the export sales plan and upon proof of export, the Commodity Credit Corporation would provide the exporters with the necessary financing. Repayment to the Commodity Credit Corporation would be made in dollars by the exporter in accordance with the terms and at the interest rate approved by the Commodity Credit Corporation in the exporter's plans.

Regarding the cost of this program, there would be no adverse impact on the Federal budget since the interest rates charged would be higher than the cost of money to CCC from the U.S. Treasury. As a matter of fact, Secretary Bergland has testified in hearings that "We make money on the CCC credit program."

I ask for the support of my colleagues in obtaining this legislation which could help substantially facilitate agricultural exports.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) is amended by adding at the end thereof the following new section:

"AGRICULTURAL EXPORT STIMULATION

"SEC. 20. (a) To increase the U.S. share of agricultural commodities in world trade, and to develop, maintain and expand foreign markets for such commodities and products thereof, the Secretary of Agriculture, notwithstanding any other provision of law, shall provide CCC financing to exporters of such commodities who wish to extend deferred payment terms to foreign buyers in order to meet foreign competition and to make additional export sales.

"(b) Exporters who are willing to sell U.S. agricultural commodities to foreign buyers on deferred payment terms not to exceed three years may apply to the Commodity Credit Corporation for financing of such commodities. Upon CCC aproval of the export sales plan and upon proof of export in accordance with the approved plan, the CCC shall provide the necessary financing.

"(c) Repayment to CCC shall be made in dollars by the exporter in accordance with the terms and at interest rates approved by CCC in the exporter's plan. Interest rates on such financing shall be no higher than those charged for similar terms under CCC country lines of credit.

"(d) The Secretary may, if he deems such action appropriate to protect the interest of the United States, require a performance bond from the exporter at the time of the sale.

"(e) Financing agreements with exporters entered into by the CCC under this act shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

"(f) The authority provided under this section shall be in addition to and not in place of any authority granted the Secretary or the Commodity Credit Corporation under this or any other Act.

"(g) This section may be cited as the 'Export Stimulation Act of 1978'.".

By Mr. JAVITS (for himself, Mr. DOLE, Mr. MOYNIHAN, Mr. STAFFORD, Mr. RANDOLPH, Mr. EAGLETON, Mr. BROOKE, and Mr. HATHAWAY):

S. 2505. A bill to amend title XIX of the Social Security Act to provide that certain handicapped individuals shall be eligible for medical assistance; to the Committee on Finance.

Mr. JAVITS. Mr. President, I am pleased to introduce for myself, Senators DOLE, MOYNIHAN, STAFFORD, RANDOLPH, EAGLETON, BROOKE, and HATHAWAY, a bill which will enable severely disabled persons who are capable of gainful employment to receive medicaid assistance.

Employable disabled persons in our country are victims of a most egregious situation: The medicaid program, designed to help people, instead may place severely handicapped individuals in very real "life-or-death" dilemmas, which virtually require them to go on public assistance.

Under title XIX of the Social Security Act, a disabled person's eligibility for medicaid depends not only upon financial eligibility under State-established

standards; but also upon meeting the requirements of the definition of "disabled" used for purposes of the supplemental security income (SSI) program under title XMI of the act. Section 1614(a)(3)(D) states in part:

The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding . . . [an individual otherwise meeting the SSI medical definition of disability], an individual whose services or earnings meet such criteria . . . *shall be found not to be disabled.*

Mr. President, "substantial gainful activity" under current Federal regulations is defined by a $200 monthly gross earnings limitation. This means that most disabled persons earning more than $200 monthly are considered legally not disabled, and hence, are ineligible for any medicaid services.

There are only two exceptions to this "substantial gainful activity" limitation. First, any disabled person may receive medicaid services if he or she engages in a trial work period of up to 9 months per disability regardless of monthly gross earnings over this period. Second, any disabled person eligible for medicaid services in December 1973 is still eligible, provided that his or her State's approved medicaid plan did not at that time include a "substantial gainful activity" test. Despite these exceptions, many severely disabled workers are eliminated from eligibility for required services.

Mr. President, severely disabled workers in this Nation frequently need home health aides, prescription drugs, and other services covered under State medicaid plans to assist them in meeting their daily personal requirements. The cost of these services may be quite high depending upon the individual's needs. Many disabled persons who are employed earn incomes above the $200 monthly gross earnings limitation—incomes too high for medicaid eligibility but often unquestionably too low to cover the cost of life-sustaining care. Thus, the employable disabled person who wishes to work may be forced by this limitation upon his or her earnings to remain unemployed (or underemployed), since his or her earnings cannot cover the cost of necessary personal services.

To force an individual to choose between employment and personal attendant care, for example, is unacceptable. Our employable disabled citizens should have the opportunity for both, so that they may lead productive, independent lives.

The case of a woman in New York is instructive of the devastating effect of this situation faced by disabled workers. She was forced to make the untenable choice between work or life. When she first wrote me, the earnings limitation for purposes of defining her as "disabled" was $140 per month, but the precise figure is less relevant to the issue than the very clear fact that, regardless of employment, a disabled person is still disabled, and still may require life-sustaining services such as a home health aide. I should like to read into the RECORD a part of her original letter to me:

I am a 26-year-old severely disabled woman who was put through school by the Division of Vocational Rehabilitation. I graduated Hofstra University in 1969 and sought work. In 1971 I began work for the Department of Social Services as a caseworker aide. I lived with my family; mother took care of my personal needs, such as bathing, dressing, toileting, as well as those of my disabled younger sister. In 1973 I moved into my own apartment as I realized that as my sister grew older it was increasingly more difficult for my mother to care for us (my sister is now 14).

I wanted to try to live independently, now, before I had to. My parent would someday be unable to care for me. I shared my apartment with a disabled roommate on public assistance. She had an aide paid for by medicaid. I supplemented the aide and she took care of me too. In June, my roommate moved. I used my savings to pay an aide and tried several "arrangements" where I offered free room and board in exchange for service. I had my life jeopardized by an alcoholic, a drug addict, and a mentally ill woman.

I applied for medicaid and was told I could not qualify as anyone between the ages of 21 to 64 who earns more than $140.00 per month cannot be considered disabled. I earned $9400 per year; took home $133.00 per week; paid $241.00 per month for utilities and rent and an aide costs from $25.00—$35.00 per day. I applied for public assistance on the grounds that the Home Health Aide was a necessary expenditure to my working. I was denied because if I needed a Home Health Aide I was disabled and should apply for S.S.I. Social Security said I would not be eligible for S.S.I. because if I worked full time I was not disabled.

The emotional strain and lack of proper care brought about by this catch-22 situation caused my condition to worsen. I resigned from my job with a Doctor's note. My case was opened for welfare and medicaid, and a Home Health Aide provided.

I can work, but I cannot live without a Home Health Aide. If I return to work, I lose my medicaid, my Aide, and therefore, my life. I do not want to remain on welfare or SSI. I want to be considered disabled because I cannot independently provide for my own personal activities of daily living (toileting, bathing, turning in bed, dressing, etc.)

Mr. President, this is a tragic situation, unfortunately not an uncommon one, which we must not allow to continue.

I have asked officials of the Department of Health, Education, and Welfare and their counterparts in State government whether this unintended result can be remedied by regulation. After much discussion and correspondence over a period of time, it has become apparent that the most feasible remedy to this highly inequitable situation is for the Congress to amend the Social Security Act.

The legislation which I introduce today will correct this intolerable situation by amending title XIX of the Social Security Act to permit any disabled individual who is unable to care for his or her own personal needs, even though employable, to receive the services of a home health aide, and other medicaid services, under applicable State plans. The bill will extend attendant care and medical assistance covered by medicaid to disabled individuals who would not otherwise qualify because their incomes, while low, nevertheless are presently deemed too high solely because of the substantial gainful activity test of current law which is applied only to disabled persons.

This bill establishes eligibility for medical assistance under medicaid programs for handicapped persons who presently are barred from eligibility by the "substantial gainful activity test" of present law which prohibits eligibility regardless of severity of need. Severely handicapped persons are no less in need of medical assistance, and no less deserving of such assistance, than, for example, are blind persons, the very young, or the elderly.

Under our proposal, disabled persons would be subject to the same State-determined financial eligibility requirements for medicaid as are, for example, blind and elderly persons. This bill simply removes the "substantial gainful activity" test, currently applicable only to the disabled, for purposes of receiving medicaid. The test will continue to apply for eligibility of disabled persons for title XVI, SSI assistance.

Under the provisions of this bill, disabled workers would be required to meet State medical and financial eligibility standards for receipt of medicaid. Thus, under most State medicaid eligibility formulae, disabled individuals with substantial annual incomes would not be eligible for any such assistance unless their personal medical expenses were astronomical.

This legislation could be, in fact, cost-saving, for part of the expenses incurred would be recoverable through the taxes of disabled citizens who now would be enabled to work and pay taxes. Most of our severely disabled workers do not wish to be on public assistance; we should not require them to be so.

Mr. President, this measure will provide severely disabled workers with the opportunity for full and productive lives, and will remedy an injustice which has for too long precluded our disabled citizens from exercising their right to live and work.

To present the disabled worker with a choice of either working and losing all assistance, or not working to retain eligibility for needed daily assistance is, in effect, no choice at all.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 1905(a) of the Social Security Act is amended—

(1) by striking out "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by inserting after clause (vii) the following new clause:

"(viii) unable without assistance to get in or out of bed, dress, bathe, or otherwise meet their daily personal needs by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be ex-

pected to last for a continuous period of not less than twelve months."

(b) The amendments made by this Act shall apply with respect to services furnished in calendar quarters beginning on or after the date of the enactment of this Act.

MEDICAID ELIGIBILITY FOR CERTAIN HANDICAPPED WORKERS

Mr. DOLE. Mr. President, in recent years, the thrust of Federal legislation has been aimed toward integrating handicapped individuals into contemporary American society. We are attempting to tear down various types of barriers which have been needlessly erected over the years. Barriers in architecture, transportation vehicles, educational opportunities—and most restrictive of all, barriers in attitudes—have kept disabled individuals from developing to their full potential.

As educational and job opportunities begin to open up for the handicapped, we are encountering new barriers that need to be removed. I am pleased to join Senator JAVITS in introducing a bill designed to eliminate a barrier handicapped persons have run into once they enter the labor force. The barrier results from the termination of medical assistance. Our bill amends title XIX of the Social Security Act to make handicapped workers eligible for medicaid coverage in instances where their medical expenses are high enough to classify them as medically needy.

BENEFITS END

Under current law, when a disabled person accepts employment, his supplemental security income and medicaid benefits continue through a 9-month trial work period. After that time, a person remains eligible for benefits only if his income is less than $200 monthly. If income exceeds $200, the worker is considered to be engaging in substantial gainful activity, which means that by definition, the person is no longer "disabled," and thus does not qualify for either SSI or medicaid. (This example is based on the handicapped worker who is not otherwise eligible for medicaid as an elderly person, a blind person, or an AFDC recipient.)

MISCONCEPTION IN THE LAW

The conflict is readily apparent. Many handicapped persons want to work, but on their salaries, they cannot finance the total cost of their medical expenses. Few persons with a severe handicap jump into a job that pays sufficiently to make up for lost medicaid benefits. The present law is based on the misconception that handicapped people are confined to their homes. It assumes that if a person works, he is not handicapped. If a person is handicapped, he does not work. We have got to recognize that handicapped people are often perfectly able to hold a job and earn a sufficient amount to cover daily living expenses. Often, though, they may not earn enough to offset the cost of their medical care.

When medical expenses outweigh income, the disabled person has no viable alternative but to leave the job and become totally dependent once again on public assistance. Our bill would allow handicapped persons to work and at the same time, apply for medicaid in the 32 States which have a "medically needy" spend-down provision in their medicaid programs. The spend-down provision allows a person to subtract his medical expenses from income, and if the adjusted income places him within income levels set by the State, the individual could receive medicaid assistance.

ELIMINATES WORK DISINCENTIVE

This bill eliminates a major work disincentive that handicapped persons face. Frequently, accepting employment for handicapped persons means going into debt over medical bills. The working individual who cannot afford to lose his medicaid coverage must lose his job instead. This is far from acceptable—a handicapped person should not be forced to choose between employment and medical services. We need to encourage employment; working should always be more attractive than not working. Our bill authorizes medicaid coverage as long as the individual's medical needs consume a disproportionate amount of his income.

I am not complaining because we have encountered this work barrier. It indicates that gradually even severely handicapped persons are finding their way into the job market. Some of these new workers will always have costly medical bills, but we must not let that fact interfere with their opportunity to work.

COST

It is difficult to estimate the cost of this bill, for there are no good figures on how many persons would be covered by this provision. I am hopeful it will prove cost efficient. Many members of this target population are presently receiving both SSI and medicaid. After termination of the trial work period, persons affected by this bill would be cut from SSI once their income exceeds $200 monthly, and they are no longer "disabled" as defined under SSI.

The situation is graphically explained in a letter I received last fall from a young woman caught in this predicament. I would like to read you her letter:

DEAR SENATOR DOLE: My name is Carol Ann Doyle. I was born on September 27, 1941 with a congenital disease called Arthrogryposis. This disease caused stiffening of the joints with incomplete muscle development resulting in deformity of all the extremities. I walk with a brace and crutches and also use a wheelchair for fuller mobility. My wrists are in a fixed position with limited motion in the elbows resulting in extreme hardships in manual dexterity.

To give you a more complete picture of my limitations, I would like to cite specific ways which I am able to do things. I can often reach the same goal as you but my means of getting there may differ. It is necessary for me to arise at 5:20 A.M. each morning so that I will be ready to leave for work by 7:00 A.M. Although my speed in getting myself dressed has improved over the years, I still require this amount of time. I am not able to get into a shower or bath tub but I am able to give myself a partial bath. I place a soapy facecloth over the top part of my crutch and I am able to reach most parts of my body. My health aide comes in five days a week to assist me with bathing my legs and feet and also washing my hair. It is not possible for me to change my nylons each day myself so it is necessary for me to sleep with them on and she changes them when she arrives. I can put my brace on and dress myself using a long stick with a hook on the end. I again utilize my crutch by placing my clothing over the top of it and then over my head. I use the stick to pull my clothing off. It is necessary for me to buy certain types of clothing and tops that have a wide neckline and pants with elasticized waist bands and no zippers or buttons can be used. Because of the lack of motion in my elbows I have to use a comb that is attached to a long stick; by maneuvering my head around I can reach all sides. Just before going out of the door in the morning I put my coat on one arm and carry out my school bag. My driver helps me get my other arm in. I have been able to walk since I was seven years old. Before that I used to crawl around. Because of the constant use of crutches for the past twenty-nine years, I am experiencing constant aggravation under my arms in the form of sores. They often open and it is necessary for me to have them bandaged. Again, my health aide is of utmost importance as I am not able to do this myself. I also have a problem with chronic swelling in my legs and feet. This is a mechanical problem brought on by the lack of muscle development which normally would act as a pump to assist in propelling the blood upward. Because the blood pools in my legs; fluids seep out and fill the surrounding tissue. Fluid pills and low sodium diet do not effectively alter this as it is more of a mechanical than a chemical condition.

I am able to clean my apartment on a limited basis. My health aide changes the bed and does my laundry, she also dusts and sweeps the floor. I also have assistance from my sister who does the heavier housework such as washing the floors and walls, etc. I am able to make my bed each day and wash the dishes. I cook my own supper. My health aide puts out the necessary pans and utensils I will need. I am not able to raise my hand to my mouth so I lower my head to my hand when eating. I was doing my own grocery shopping with my sister; but, because of the problems with sores under my arms, my health aide has taken over the task.

When teaching, I use a wheelchair to get around the building with the assistance of students. I am able to plan and implement educational programs for the Learning Disabilities students I work with as a teacher aide. It is necessary for me to cross my right arm over my left cupping one hand in the other to write.

The above instances are a few examples of my daily routine. I often take for granted the way in which I do things.

I have had extensive hospitalizations in my earlier years for the purposes of corrective surgery and rehabilitation. To my knowledge, the expense of these stays were paid for by The Crippled Childrens' Association and during my four years of high school, at the Massachusetts Hospital in Canton, I believe part of the expense was paid for by the veterans and my parents.

When I finished high school I started working at the Anna Jaques Hospital in Newburyport, MA as a switchboard operator. I lived at home and paid my own medical bills such as dentist, eye doctor, etc. I was covered under a Blue Cross plan and Massachusetts Rehabilitation Commission paid for corrective shoes, braces and other necessary appliances relating to my disability.

In 1968, my mother passed away and I was no longer able to live at home and I needed a certain amount of attendant care such as dressing and personal needs.

A social worker at the local welfare office assisted me in applying for Disability Assistance and also in finding a private home where I could live in as normal a family situation as possible. A very costly alterna-

tive to this placement was a nursing home. I was granted Disability Assistance because I did not earn enough money a week to pay for my living arrangement and personal care needs. I did, however, pay for what I could out of my limited income.

I continued to work at the hospital and almost completed eleven years there. I strongly felt that I was meant to do something different with my life than being a switchboard operator and I also had hopes of becoming financially independent. So, I pursued a career in education.

To this end, I was accepted at Boston College and attended classes on campus for four years. I earned my Bachelor of Arts degree in Elementary Education, with certification in Special Education. Massachusetts Rehabilitation Commission paid for my education and because I no longer worked while attending college, I was put on full disability assistance to pay for my living expenses and health needs.

Encouraged and motivated by the idea of a new career, my life took a new meaning. I was determined to become more self-sufficient and by using different gadgets and techniques, I learned to dress myself and take care of my personal needs. I decided to try and live on my own and four years ago, at age 31, I was accepted into an apartment for handicapped persons at a local elderly housing project. Because I was now living on my own, my disability assistance was decreased considerably. Consequently, disability assistance paid the people I formerly lived with over $400.00 a month but was now reduced to approximately $265.00 a month for me to take care of myself.

Upon graduating from college, I was hired as a teacher aide in a public school program for handicapped children. I earned $3.50 per hour for 30 hours a week. As a teacher's aide, I was paid only for the hours I worked. When holidays, sick days or vacations came I was not paid. Because of this irregular pay pattern, I asked if Supplement Security Income supplement my income until I got a full teaching position.

S.S.I. agreed to pay me $131.00 per month for the period from September 1975 to September 1977. During this time, I was also covered under Medicaid for my medical needs.

Presently, I am still a teacher aide, in a different school system, earning $3.50 an hour for 30 hours per week with no fringe benefits for 10 months a year.

On August 18th, 1977, I received a letter from S.S.I. informing me that I was be longer eligible for supplemental income as of October 1, 1977, because I was earning more than $200.00 a month and that my status for receiving Medicaid assistance is questionable because if I earn more than $200.00 a month, I am no longer considered disabled. This change was due to the fact that S.S.I. assistance was merely a transition period until it was shown that I was able to continue working.

Last winter, from January through May, I was hospitalized for three months with a deep rooted infection and bedridden at home for the remainder of the time. Because my job offers no benefits, I was totally dependent on S.S.I. income and Medicaid benefits.

Just prior to this hospital stay, I depended on friends and relatives to come when they could. At present, Medicaid pays for this aide at the cost of $7.25 per hour, $56.25 per week. If I am not able to maintain Medicaid support I will have to forfeit the health aide as my annual income of $3,780.00 as a teacher aide could not support the yearly cost of $2,925.00 for a health aide.

Not only am I alarmed by this unexpected change in supportive assistance, but I am fearful of what lies ahead for me, both physically and mentally. Considering the amount of income I presently earn, and the established and unexpected expenses ahead of me, I may be forced to stay at home, because of the financial feasibility rather than to continue working.

Please consider the following figures:

Monthly Income, Sept. 1977–June 1978 (excluding non paid holidays and vacation periods):

September, 18 days at $21.00 a day, $378.
October, 20 days at $21.00 a day, $420.
November, 19 days, $399.
December, 16 days, $336.
January, 20 days, $420.
February, 15 days, $315.
March, 22 days, $462.
April, 15 days, $315.
May, 22 days, $462.
June, 13 days, $273.
$3,780.00 (10 month year).
$315.00 average monthlly income.

My gross annual income of $3,780.00 over a 10 month period would be reduced by $21.00 per day for every day I was absent due to illness.

My annual deductions from this gross annual amount is as follows:

Federal Taxes, $23.40 bi-weekly, $321.20 yearly.
State Taxes, 10.37 bi-weekly, 186.66 yearly.
Retirement based on 7 percent of gross, 14.70 bi-weekly, 264.60 yearly.
Life Insurance, .28 bi-weekly, 7.20 yearly.
Total, $48.75 bi-weekly, $799.66 yearly deductions.
Gross Income, $3,780.00.
Deductions, 779.66.
Net Yearly Income, $3,000.34.

According to the monthly standards of eligibility for S.S.I. recipients in Massachusetts as of September 1977, a disabled individual paying the full cost of living expenses will receive $285.12 clear, per month, without any deductions.

On a yearly basis, if I were on S.S.I., I would receive $3,421.44 which comes to $421.44 more than my net annual income working as a teacher's aide for ten months.

In evaluating these figures, the financial incentive for me to continue working is definitely not there. The road to rehabilitation has been a long and tedious one for me and I am proud to say that I indeed have made it. Psychologically, I am healthier and happier when I can be involved in a work experience, as I am now, by teaching the handicapped.

Daily, I am meeting my own needs and I am enriching my own life as well as sharing my experiences and offering encouragement and perspective to the handicapped children I work with.

However, finances and medical insurance coverage for someone as myself with a chronic disease are of major consideration and importance.

As it is now, my annual income is far below the national poverty level.

Since graduating from college, I have been in constant search for a full time teaching position. I am hopeful that someday this will become a reality. However, even if I were to become a full time teacher, and in light of any additional medical and health care assistance being denied me, that, too, would become financially unfeasible.

Consider my income and expenditures if I were on a full time teacher's salary without Medicaid assistance.

Gross Annual Income, $9,862.00.
Net Annual Income, $6,966.90.
Withholding Deductions:

Fed. Tax bi-weekly	$56.60
State Tax bi-weekly	18.72
Retirement	26.55
Insurance	.28
Teacher Dues	5.61
Blue Cross	3.59
Total	111.35

$111.35 × 26 pay period = $2,895.10 total deduction yearly.

Gross salary	$9,862.00
Deductions yearly	2,895.10
Net Income yearly	$6,966.90
Annual living expenses:	
Health Aide	$2,925.00
Rent	2,275.80
Transportation	225.00
Orthopedic Shoes Brace adjustments	180.00
Food	1,300.00
Clothing (Specially fitted)	550.00
Doctors Visits	100.00
Dentist Visits	100.00
Prescriptions	50.00
Telephone	180.00
Miscellaneous	200.00
Total	8,085.80
Annual Income	$6,966.90
Living Expenses	8,085.80
Deficit	1,118.90

Because I am still disabled, my medical expenses are somewhat out of the ordinary. It is necessary for me to have a health aide; it is necessary to be outfitted with orthopedic shoes; it is necessary that I have the proper health care and medical treatment; and it is necessary that I have sufficient income to support my varied needs. Will it become necessary for me to turn down the opportunity for professional employment?

I find it difficult to believe that financially I may be forced to pass up a teaching position.

The question arises in my mind as to what other severely handicapped individuals are doing who are attempting to live independently as possible, but are prevented from doing so because of financial burdens that are incurred because of health aid and medical support services required because of their physical handicaps.

Could the handicapped, in situations such as mine, be covered under group insurance, such as Blue Cross-Blue Shield, for routine medical needs? Could the out of the ordinary expenses relating to the chronic conditions of some handicapped persons, not covered by general health insurance, be met by a State or Federal Health Plan?

Such coverage could and would give handicapped individuals the incentive to pursue careers, which they possibly have been trained for through rehabilitation programs, without being financially penalized because of their handicaps.

My fears are real. I fear being forced to give up my job; I fear the loss of motivation which has enabled me to attempt life at its fullest in spite of my handicap. I want to continue maintaining my apartment; I want to teach and to continue to share the hope of rehabilitation with the handicapped children I work with; I want to be productive and to have a feeling of self worth; and lastly, I want to continue to work towards becoming all that I can be.

I greatly appreciate that you have taken the time to listen to and evaluate my situation. My only hope is that I will not be forced into stagnation after the long trying years.

In November 1976, the Massachusetts Division of Employment Security awarded me a citation recognizing my success in employment and making note of my achievements as a handicapped person.

My handicap is not what is going to prevent me from continuing to be employed, but rather it is the system that is making the public acknowledgment of my success become a mockery by not allowing me to continue to be employed.

I need your help! I want to remain employed and to become as independent as I can become. Will you please help me?

Sincerely,

CAROL ANN DOYLE.

CONCLUSION

The impact of Ms. Doyle's letter is clear. The fear of losing. Medicaid is not idle speculation, but a real possibility to some handicapped persons who venture into the work force, often at great personal risk. The loss of medicaid in reward for employment hardly constitutes a work incentive. I think the bill introduced today recognizes and resolves this work disincentive.

I hope that my colleagues will also see the need for this legislation, and that it will be promptly considered and approved. It can have nothing but a positive effect on handicapped individuals who want to work, but who cannot afford to financially. This is a deplorable situation which could be corrected, and I am pleased to offer this bill as a solution to that problem.

Mr. HATHAWAY. Mr. President, it is my pleasure to join with my colleagues in introducing this bill to facilitate medicaid benefits for the severely disabled. The intention of this bill is to remove another obstacle confronting severely disabled individuals.

Severely disabled persons who are employable are currently faced with an unfortunate dilemma. If they work and earn over $200 a month, they lose their eligibility for medicaid. This results in great hardship because many of these individuals are dependent upon medicaid for assistance in performing the routines of daily life which enable them to work in the first place. Consequently, many severely handicapped individuals are forced to choose between remaining unemployed and thus, dependent on public assistance to qualify for medicaid, or engaging in work at the expense of critically needed medical assistance.

This situation is the unintended result of the present law which defines medicaid eligibility not only on the basis of State-determined financial status, but also under the definition of an individual's ability to engage in "substantial gainful activity." This phrase has been interpreted by Federal regulation to mean an income of over $200 per month.

Many severely disabled individuals have worked to overcome their handicaps, to develop the skills to surmount many barriers and become independent and self-supporting. However, the medical and related needs of the disabled are often extremely costly, and due to the ongoing nature of a disability, are a continuous expense.

An income of over $200 per month is often insufficient to meet these ongoing health needs which can include not only medical care, but also prescription drugs, home health care, and other life-sustaining services.

As a result of the present medicaid eligibility requirements, a disabled person is forced to forfeit the opportunity for a self-supporting existence in order to insure receiving the benefits which allow for his very survival. This situation is in contradiction with efforts at rehabilitation and with the belief that all citizens, regardless of any disability, should have open access to our society: to transportation, to building, and to employment. It is another obstacle to a disabled person's independence.

This bill substitutes an operational definition for eligibility for medicaid to be used in conjunction with the individual State's financial criteria which apply to other groups such as the blind and the elderly. This will allow those disabled individuals who wish to work and who are able to be self-supporting to do so without losing the medicaid benefits which are necessary for both their health and survival.

Those disabled who earn enough income to provide for their own medical and related care will continue to do so under the existing financial eligibility requirements for medicaid. Those disabled who are able to be self-supporting but cannot afford the ongoing cost of medical care will be able to work and receive medicaid benefits. Beyond returning the option to work to the disabled, this legislation may ultimately be cost-saving as the income of the employable disabled will be taxable. Furthermore, instead of receiving public assistance such as unemployment compensation and welfare, they will be productive members of society. Most severely disabled individuals wish to maintain as much independence as possible. The opportunity to participate more fully in our society is welcome.

This bill removes the contradiction between the requirements of the law and efforts at rehabilitation. It allows those disabled who are able to work, who have overcome the obstacles and constraints of their handicap, the opportunity to lead full and productive lives.

By Mr. PERCY (for himself, Mr. HART, Mr. CRANSTON, Mr. TOWER, Mr. GOLDWATER, Mr. ANDERSON, Mr. MCINTYRE, Mr. MATHIAS, Mr. KENNEDY, Mr. CASE, Mr. DOMENICI, Mr. DURKIN, Mr. HAYAKAWA, Mr. HARRY F. BYRD, JR., Mr. ABOUREZK, Mr. GRAVEL, Mr. PELL, Mr. BAYH, Mr. SARBANES, Mr. LUGAR, Mr. DECONCINI, Mr. HEINZ, Mr. JAVITS, Mr. GRIFFIN, Mr. METZENBAUM, Mr. ZORINSKY, Mr. CHURCH, Mr. FORD, Mr. STONE, Mr. WALLOP, Mr. RIEGLE, Mr. MATSUNAGA, Mr. CHAFEE, Mr. HASKELL, Mr. MCGOVERN, Mr. RIBICOFF, Mr. MELCHER, Mr. HATCH, Mr. BROOKE, Mr. CANNON, Mr. HODGES, Mr. BURDICK, Mr. CLARK, Mr. MARK O. HATFIELD, Mr. PROXIMIRE, Mr. MOYNIHAN, Mr. WILLIAMS, Mr. DANFORTH, Mr. PACKWOOD, Mr. HANSEN, Mr. GLENN, Mr. ALLEN, and Mr. DOLE):

S.J. Res. 110. A joint resolution establishing May 3, 1978, as "Sun Day"; to the Committee on the Judiciary.

SUN DAY

Mr. PERCY. Mr. President, Wednesday, May 3, 1978, is no longer just Wednesday. It is also Sun Day. Sun Day will be a nationwide celebration of solar energy. Citizens all across the country are organizing solar fairs, demonstrations of solar technologies, conferences, educational programs and the like to take place on and around May 3. There programs will demonstrate solar energy in all its forms: wind, crop-drying, and fast-growing plants, as well as direct solar heating and cooling, and electricity generation. Sun Day will be a widely celebrated, and very important, event.

Though Sun Day has been designed as a grassroots effort, it needs and deserves all the support we in Congress can give it. As a first step, Mr. President, I am today introducing a resolution which does three things: It proclaims May 3 Sun Day; it authorizes and requests the President to urge the general public, industry and labor to celebrate the day; and it further urges the President to direct all appropriate Federal agencies to participate. It gives me great pleasure, Mr. President, to be joined by 53 of my colleagues in submitting this resolution. Already, a majority of the Senate endorses the efforts of Sun Day to focus national attention on solar energy's potential ability to meet substantial portions of our energy needs.

Sun Day has found strong support in the House of Representatives also. This same resolution is being introduced on the House side today, by Congressmen RYAN, OTTINGER, JEFFORDS and with considerable bipartisan support. A majority of Representatives are cosponsoring it.

The Department of Energy, too, I am pleased to report, sanctions Sun Day. On January 25 of this year, Secretary Schlesinger circulated a memorandum among his principal staff underscoring DOE support of Sun Day. Secretary Schlesinger asserted that the broad objectives of Sun Day are consistent with the major objectives set forth in the national energy plan. The Department of Energy/Sun Day cooperation procedures detailed in the memorandum are excellent. Mr. President, I ask unanimous consent that Dr. Schlesinger's memorandum be inserted in the RECORD at the end of my speech.

Sun Day supports a good cause. So many of the problems that plague conventional energy sources do not afflict solar energy. It cannot be embargoed. Supplies will never run out. The price will never go up. The environment will not be fouled. There is no danger of catastrophe. Solar energy offers reduced dependence on imported oil, a stronger dollar, and a healthier balance of payments. Proliferation of solar technologies to less developed countries would be a development to celebrate.

Some solar technologies offer the advantage of being small and simple. When energy devices are family-, factory-, or community-oriented, they are understandable by those using the energy. Such comprehension and involvement fosters an appreciation for energy use and conservation. It gives one a little more control over his or her own life.

A look into the not-so-distant future reveals that solar energy must satisfy a much greater portion of our energy needs than it does today. We can and should begin now to look to the advancement of solar energy. The diverse back-

grounds of the cosponsors of this resolution demonstrates the broad base of solar energy's support. But it is one thing for U.S. Senators, surfeited with information, to support solar energy. The citizens of this country are not so well informed.

Sun Day will prove to a largely unaware general public that many solar technologies are not "exotic." Some of them predate the oil, gas, and nuclear technologies that surround us today. Now they are just waiting to be put to widespread use. In this respect, Sun Day will be crucial. By reaching hundreds of thousands of previously unconvinced people Sun Day can help foster massive support for solar energy. From massive support can follow increased demand for solar technologies, mass production, lower costs, widespread use, and all the advantages of solar energy I mentioned earlier.

It will not, of course, be so simple. But none of it can happen without the kind of commitment to solar energy Sun Day will encourage.

I hope this resolution is only the beginning of a Senate commitment to a successful Sun Day. Sun Day's value is beyond question. I urge all my colleagues to support Sun Day with their votes for this resolution, and in whatever other manner they choose.

Mr. President, I ask unanimous consent that the text of the resolution establishing May 3, 1978, as Sun Day be printed in the RECORD at this point, followed by the text of Dr. Schlesinger's Sun Day memorandum.

There being no objection, the resolution and memorandum were ordered to be printed in the RECORD, as follows:

S.J. RES. 110

Whereas the realization and the promise of solar energy will be observed and celebrated throughout the nation on the 3rd of May, 1978; and

Whereas the development of solar technologies will provide an abundant, economical, safe, and environmentally compatible energy supply; and

Whereas a day devoted to a celebration of all solar technologies should help inform the general public, industry and labor, and demonstrate the potential of the sun in meeting the nation's energy needs; and

Whereas Federal, state and local governments should foster and encourage the further development, refinement, and utilization of solar energy technologies: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that May 3, 1978 is proclaimed "Sun Day," and the President is authorized and requested (a) to issue a proclamation calling upon the general public, industry and labor of the United States to observe such day with appropriate activities and ceremonies, and (b) to direct all appropriate Federal agencies to cooperate with, and participate in, the celebration of "Sun Day."

DEPARTMENT OF ENERGY,
Washington, D.C., January 25, 1978.

From: James Schlesinger, Secretary.
Subject: DOE support of "Sun Day (May 3) activities."

MEMORANDUM FOR PRINCIPAL STAFF—HEADQUARTERS AND FIELD

Sun Day, *May 3, 1978,* is being planned by a broad coalition of consumer, labor, church, environmental, and university groups—as a community based focus on the Sun as the source of renewable energy supplies (sun, wind, biomass, ocean program, etc.). It seeks to:

A. Generate citizen interest in solving the Nation's energy problems; and

B. Increase community energy self-sufficiency through conservation and the use of renewable resources.

Comment received from the public during the preparation of the National Energy Plan (NEP) placed strong emphasis on the development of solar energy and other renewable or essentially inexhaustible resources. Chapter VII of the NEP encourages government promotion of efforts to develop renewable sources of energy. Chapter VIII states . . . "meeting the Nation's energy goals should be a great national cooperative effort that enlists the imagination and talents of all Americans. At home, on the road, at work, and elsewhere, all Americans can do their part to help solve the energy problem."

The broad objectives of Sun Day are consistent with major objectives set forth in the NEP. The Department of Energy (DOE), therefore, supports the concept of Sun Day and those activities associated with Sun Day which are compatible with the NEP.

I have designated the Assistant Secretary for Intergovernmental and Institutional Relations (IR) as the focal point for Sun Day policy guidance. IR, if circumstances indicate the necessity, may establish a steering committee to coordinate our liaison with "Sun Day" representatives throughout the DOE structure. Any proposals for direct funding of activities connected with Sun Day will be reviewed by Assistant Secretary Hughes in advance of commitments.

Each DOE office and employee should consider how they can assist the NEP supported activities of Sun Day. Consider offering kinds of assistance such as:

Technical assistance from program offices and laboratories;

Hosting "open houses" of our facilities and renewable energy demonstration projects;

Provide direct support in terms of energy outreach programs—prepare information packages or exhibits for all DOE and government facilities hosting the public during Sun Day "Week" and for Sun Day offices, community based energy information centers and public interest groups;

Provide or fund radio and TV spots on NEP-supported issues;

Assist communities in determining their energy vulnerabilities and how to deal with the problem;

Provide "speaker's bureau" support and make its availability known in advance to local government and civil groups;

Prepare DOE articles and reports on renewable energy resources for the full range of general public publications;

Encourage examination at the community level of problems associated with the introduction of renewable resources including shortages of skilled experts and potential consumer fraud;

Establish feedback mechanisms to ensure our responsiveness to the concerns citizens express during Sun Day.

Sun Day offers a unique opportunity for the nation and the Department to encourage public participation in the development of energy policy, to secure valid information on energy concerns at the community level, and to support the NEP goals related to renewable energy sources.

ADDITIONAL COSPONSORS

S. 2354

At the request of Mr. NELSON, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 2354, the Equal Access to the Courts Act.

S. 2453

At the request of Mr. YOUNG, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2453, a bill to provide that optional State coverage for medically needy individuals may be limited to those individuals under age 18.

S. 2478

At the request of Mr. ROBERT C. BYRD, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2478, the National Rail Passenger Corporation Authorization Act of 1978.

SENATE JOINT RESOLUTION 99

At the request of Mr. MATSUNAGA, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Joint Resolution 99, to require improvement and expansion in the collection, analysis, and publication of data relating to women in the professional, technical, and managerial fields.

SENATE JOINT RESOLUTION 105

At the request of Mr. MATSUNAGA, the Senator from Ohio (Mr. METZENBAUM) was added as a consponsor of Senate Joint Resolution 105, requesting the President to designate the Sunday following Fire Service Recognition Day as a memorial Sunday for firefighters disabled or killed in the line of duty.

AMENDMENTS SUBMITTED FOR PRINTING

NAVIGATION DEVELOPMENT ACT—H.R. 8309

AMENDMENT NO. 1690

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

Mr. DOLE. Mr. President, farmers all across our Nation are experiencing a severe cost-price freeze. Farm indebtedness in the last 5 years has increased about 63 percent and now stands at almost $119 billion. In terms of current dollars, farm income, on the other hand, has declined from $33 billion in 1973 to around $20 billion for 1977.

The ripple effect of the economic problems facing the American farmer is spreading to the dealers and manufacturers of farm machinery, farm supplies, and to others that serve farmers.

H.R. 8309, a bill which authorizes a new lock and dam 26 at Alton, Ill., on the Mississippi River, is of great importance to the farmers of this Nation. At the same time the bill provides for a fuel tax of 6 cents per gallon on the fuel burned by the barge lines. Make no mistake about it, that increased cost will have to immediately be passed on to the shipper and that means a corresponding reduction in the price paid to the farmer for his grain.

What is being done is a basic change in the U.S. policy—unchanged since the beginning of this Republic—a fee for the use of our navigable waters. The tech-

nique that is being used is to withhold approval of the lock and dam—through which more tonnage moves than the Panama Canal, unless a user fee is approved.

What we are really looking at, for the first time in the history of this Nation, is an export tax on farm products. This legislation merely puts the barge lines in the position of a Federal tax collector on farm products. Also, obviously, there will be an increase in the cost of barging fertilizer and fuel. The cost-price squeeze will increase its pressure on farmers and reduce their net farm income.

This shift in national policy would bring added hardship to our Nation's farmers. The effects would not only lower their net returns for the production from their farms, but would also increase even further the prices that they pay for production inputs.

In view of this, I am today offering an amendment which would preclude this fuel tax from being levied against shipments of any agricultural commodity or product thereof until the price received by farmers for that commodity shall equal or exceed the parity price thereof.

Mr. President, I ask unanimous consent that the amendment as submitted be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 12, line 12, insert the following: "(3) Provided, however, that this fuel tax shall not be levied against shipments of any agricultural commodity or product thereof until the price received by farmers for that commodity shall equal or exceed the parity price thereof.

AMENDMENT NO. 1691

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself and Mr. EAGLETON) submitted an amendment intended to be proposed to the bill (H.R. 8309), supra.

AMENDMENT NO. 1692

(Ordered to be printed and to lie on the table.)

Mr. WILLIAMS submitted an amendment intended to be proposed to the bill (H.R. 8309), supra.

PANAMA CANAL TREATIES—EXECUTIVE N, 95–2

AMENDMENT NO. 19

(Ordered to be printed and to lie on the table.)

Mr. HATCH, as in executive session, submitted an amendment intended to be proposed by him to the Panama Canal Treaty, executive N, 95–2.

Mr. HATCH. Mr. President, the Panama Canal Treaty contains a number of provisions which provide for substantial payments to the Republic of Panama. Article III, section 5 of the treaty provides that the newly formed Panama Canal Commission shall pay the Republic of Panama $10 million per year to reimburse it for providing certain public services in the canal operating area, such as police and fire protection, garbage collection, and street maintenance. Likewise, article XIII, section 4 of the treaty provides that the Republic of Panama shall receive from the Commission certain additional payments "to be paid out of canal operating revenues." Three separate payments are contemplated under this provision: First, an unspecified annual payment computed at a rate of thirty hundredths of a U.S. dollar ($0.30) per Panama Canal net ton, or its equivalency, for each vessel transiting the Canal for which tolls are charged, such payment to be adjusted upwards to reflect changes in the U.S. wholesale price index; second, a fixed annuity of $10 million; and third, a supplemental annual payment up to $10 million, the exact amount to be determined by the amount of surplus revenues of the Commission. It is estimated that these payments to Panama will total more than $60 million in the first year of operation, excluding the supplemental payment drawn from surplus revenues.

The language of the treaty does not indicate whether these payments to Panama shall be made in accordance with the legislative processes of Congress. Indeed, representatives of the State Department testifying before Congress have emphasized that the canal will be self-supporting under the treaty, and that all payments to Panama will be derived from operating revenues. In other words, the impression we have been given is that legislative appropriations will not be necessary because these payments will be made directly to Panama by the Commission.

Mr. President, this scheme, on its face, is constitutionally and financially defective. In the first place, it violates the Constitution. In the second place, it seems certain that there will not be sufficient revenue to cover all of these payments, in addition to the cost of the operation of the canal, and that Congress will have to make up the difference through appropriations anyway.

Article I, section 9 of the Constitution provides that—

No money shall be drawn from the Treasury but in Consequence of Appropriations made by Law.

Moreover, article I, section 7 provides that all bills for raising revenue shall originate in the House of Representatives. It is a well-established principle of our Constitution that the treatymaking power of the Chief Executive is limited by Congress power over the purse. Simply stated—and even State Department representatives acknowledge this rule—a treaty cannot appropriate funds.

TREATIES AND THE EXPENDITURES OF FUNDS

The Panama Canal Commission, according to article III, section 3 of the treaty, will "carry out its responsibilities" as "a U.S. Government agency," that "shall be constituted by and in conformity with the laws of the United States of America." Thus the treaty contemplates that a U.S. Government agency will be making payments to a foreign government for the remainder of this century without the consent of the House of Representatives and in derogation of the appropriations processes of the House and Senate. This clearly raises an important constitutional issue. The administration's view is that this is a self-executing treaty, meaning that it takes effect as domestic law without further action by Congress. But are these provisions of the treaty providing for payments by a U.S. Government agency self-executing in light of article I, section 9, clause 7 of the Constitution, which gives Congress the exclusive power to make appropriations? The answer, I believe, is that they are not self-executing.

It is not disputed that the President's treatymaking power extends to bilateral agreements by which the United States undertakes to make payments of money. The first treaty made by the United States after the adoption of the Constitution, the Jay Treaty of 1794 with Great Britain, provided for payments of debts owed by American citizens to British creditors. The treaties with France for the acquisition of Louisiana provided for a payment of 60 million francs. Countless other examples could be cited to illustrate the principle that the Chief Executive has the authority to make treaties which obligate the United States to make payments to a foreign government. But I am not aware that any President has ever made a self-executing treaty providing for such payments.

EARLIER PRECEDENTS

Debate over the provisions of the Jay Treaty requiring the expenditure of funds is instructive in this regard. The Members of the House of Representatives did not question the right of the President to enter into such a treaty. Instead, they debated the issue of whether the House was entitled to obtain copies of the instructions given by the President to the negotiators, and whether the Congress was required to appropriate the funds necessary to carry the treaty into effect. President Washington rejected the demand of the House for copies of the instructions, but the House adopted a resolution, vigorously supported by James Madison, which provided that—

When a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of the Congress, it must depend for its execution, as to such stipulations, on a law or laws to be passed by Congress. And it is the Constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or inexpediency of carrying such a treaty in effect, and to determine and act thereon, as, in their judgment, may be most conducive to the public good.

Congress subsequently enacted a law making the necessary appropriations. The same principles were recognized and the same procedure was followed regarding subsequent treaties where payments were required.

In the case of Turner against Baptist Missionary Union, a Federal circuit court considered the effect of an 1863 treaty with an Indian tribe, which provided for payment of the net proceeds of the sale of 160 acres of land to the owner of the buildings situated on the land. The court said:

A treaty under the Federal Constitution is declared to be the supreme law of the land. This, unquestionably, applies to all treaties, where the treaty-making power, without the aid of Congress, can carry it into effect. It is not, however, and cannot be the Supreme Law of the Land, where the concurrence of Congress is necessary to give it effect. Un-

til this power is exercised, as where the appropriation of money is required, the treaty is not perfect. It is not operative, in the sense of the Constitution, as money cannot be appropriated by the treaty-making power. This results from the limitations of our government. . . . As well might it be contended that an ordinary act of Congress, without the signature of the President, was a law, as that a treaty which engages to pay money, is in itself a law. . . . It [the treaty-making power] cannot bind or control the legislative action in this respect, and every foreign government may be presumed to know that as far as the treaty stipulates to pay money, the legislative action is required. (Fed. Cas. No. 14251 (1852), 24 Fed. Cas. 345, 346.).

In brief, the precedents, both political and constitutional, are well established that a treaty provision for the payment of money is not self-executing but requires an appropriation by Congress.

PAYMENT PROVISIONS OF THE NEW TREATY

This principle has been confirmed and duly respected in all previous treaties between the United States and the Republic of Panama. The treaty of 1903 provided under article XIV for an initial payment of $10 million and an annual payment of $250 thousand. Article VII of the 1936 treaty increased the amount of the annuity to 430,000 Balboas (B/430,000). A third treaty between the United States and the Republic of Panama in 1955 increased the annuity once again to 1,930,000 Balboas (B/1930,000). In each case, the payments were made under appropriations enacted by Congress; and it was never suggested that any of these treaties was self-executing. The current annual payment, $2,328,000, is shown as one of three permanent appropriations in the Department of State budget for fiscal year 1978.

The present treaty, of course, calls for payments by the Commission and it would thus appear that appropriations will not be necessary because no funds will be drawn from the U.S. Treasury. This understanding of the method of payment, however, ignores a number of important considerations. As I have previously noted, article III of the proposed treaty specifies that the Panama Canal Commission, a U.S. Government agency, "shall be constituted by and in conformity with the laws of the United States." The laws of the United States governing the fiscal management of Government agencies in general are contained in title 31 of the United States Code. Executive departments and noncorporate Federal agencies are subject generally to the provisions of title 31, except the provisions of the Government Corporation Control Act. Wholly owned government corporations are subject to the provisions of the Government Corporation Control Act and to many of the other provisions of title 31 as well.

Turning to title 31, we observe that it clearly delineates the fiscal responsibilities of Government agencies generally and their dependence on appropriations to authorize the expenditure of funds. The Budget and Accounting Act of 1921, which has been incorporated into title 31, defines "department or establishment" to include "any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government," and the term "appropriations" to include funds and authorizations to create obligations by contract in advance of appropriations or "any other authority making funds available for obligation or expenditure." All moneys received from whatever source for the use of the United States are required to be paid into the Treasury (31 U.S.C. 484). Detailed provisions are made for submission of estimates for appropriations for expenditure by Government agencies (31 U.S.C. 581–752Z). Expenditures in excess of appropriations are prohibited, and all appropriations or funds made available for obligation are required to be apportioned to avoid the necessity for deficiency or supplemental appropriations (31 U.S.C. 665).

In light of these requirements, the provision of the new treaty that the payments to Panama are to be made by the Panama Canal Commission is wholly contrary to article I of the Constitution and Federal law, unless it is assumed—and the language of the treaties does not seem to support such an assumption—that such funds must first be appropriated by Congress. Presumably no one would seriously contend that the effect of the constitutional provision limiting to Congress the power to make appropriations can be circumvented by the device of providing in the treaty that a payment without appropriations is to be made by a named Government agency instead of the United States.

With respect to article III of the proposed treaty, then, it is abundantly clear, that the Panama Canal Commission cannot pay the Republic of Panama $10 million per annum in advance of legislative appropriations authorizing such expenditures. This is also true of the additional payments made by the Commission "out of canal operating revenues" under article XIII of the treaty. Why article III provides simply for payments and article XIII provides for payments "out of canal operating revenues" is a distinction that apparently has no significance regarding constitutional and statutory requirements. The "canal operating revenues" referred to in article XIII are presumably the "tolls for the use of the Panama Canal, and other charges" which the United States—not the Panama Canal Commission—is authorized to "establish, modify, collect, and retain" by article III, section 2(c) of the treaty. These revenues, of course, are the same in kind as those that have been derived by the United States from the Panama Canal since it was first opened to commerce and which have been expended under appropriations by Congress since that time.

It may be that the purpose of making the payments "out of canal operating revenues" was to identify such payments as part of the cost of operation, in order to establish rates of tolls. Such a construction necessarily assumes, however, that revenues will be sufficient to cover both the payments to Panama and operating expenses over and above such payments. But this leaves unanswered the obvious question: What if there is a disparity between the amount of revenues and the total of such expenses? Is this deficiency to be absorbed by the U.S. Government by appropriations to cover losses, or by Panama through acceptance of less than the amount of payment stipulated by the treaty? In either case, the provision for payment out of revenues does not appear to affect the constitutional requirement for appropriations to carry these provisions into effect.

Section 4(c) of article XIII, which provides for payment of $10 million "out of canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission" not only runs headlong into present law requiring the agency operating the canal to pay surplus funds into the Treasury, but also substitutes Panama for the United States as the beneficiary of surplus funds. This would effectively preclude further reduction of the U.S. Government's investment in the canal. Like the provision of article XIII for annual payments based on the aggregate measurement tonnage of ships using the canal during the year, the qualifications introduced by section 4(c) relate solely to the determination of the amount of the payment. Neither provision recognizes nor makes mention of the need for congressional appropriations to authorize payment. To be sure, the payment provisions of the treaty seemingly attempt to provide permanent appropriations for the treaty payments, an objective prohibited by the constitutional rule that only Congress has the power to make appropriations.

In sum, the provisions of the proposed treaty for payment of money cannot become effective as domestic law unless Congress has, in accordance with article I, section 9 of the Constitution, appropriated the necessary funds. Under the treaties with Panama now in effect, which also provide for annual payments to Panama, revenues derived from operation of the canal are treated as public moneys and expenditures of those funds are limited to those authorized by appropriation acts of the Congress.

Neither the language of the treaties nor the testimony of State Department representatives, however, offers us any concrete, specific assurances that all of the payment provisions of the treaty will be implemented by appropriations of Congress. Although administration witnesses appearing before congressional committees have freely acknowledged that a treaty cannot appropriate funds, they have continued to insist that this is a self-executing treaty. Herbert Hansell, legal adviser to the State Department, has stated that there is "no ground" for the concern expressed by House Members that the treaty "could be regarded as a means of circumventing that constitutional provision with respect to the payments to be made to Panama under the treaty." Why? Because, he says:

It is intended that the payments to be made to Panama be financed wholly from projected revenues, so as to avoid any need to resort to general revenues.

Mr. President, in all of the testimony that I have examined in connection with

this treaty, I have nowhere seen a flat assertion by any representative of the State Department or the Department of Justice that this is a non-self-executing treaty that will require congressional appropriations in order to implement the payment provisions of the treaty; and the treaty itself is silent on this subject.

For these reasons, I am submitting an amendment to the treaty which would obviate this difficulty and eliminate all uncertainty and ambiguity about the method of payment to Panama. This amendment provides simply that all revenues of the Panama Canal Commission shall be deposited in the U.S. Treasury, and that all payments to Panama shall be based on legislative appropriations. It is wholly consistent with established constitutional precedents and laws governing Federal agencies.

PROJECTED DEFICIENCIES IN THE CANAL OPERATING COSTS UNDER THE NEW TREATY

Mr. President, it should further be noted, as I have previously indicated, that the future of the Panama Canal under this treaty, insofar as its financial structure is concerned, is rather bleak. In a recent study by Mr. W. M. Whitman, special consultant to the House Committee on Merchant Marine and Fisheries, it is estimated that the cost of operating the canal during the first year of operation under the treaty will exceed revenues by approximately $99 million, not counting additional costs to the U.S. Treasury of $7.7 million. Mr. Whitman's analysis is based on a tabulation provided by the Panama Canal Company, and is adjusted to reflect the same elements of cost as those shown in the 1978 budget. It also includes additional treaty costs that are not part of the Company's tabulation.

This study shows, Mr. President, it is illusory to think that the Panama Canal will be operating on a self-supporting basis, as the representatives of the State Department have insisted. Additional appropriations have to be made to make up the deficit, and cover the hidden costs of this treaty—this is not to mention the added economic burden, after the tolls increase, that the American people will have to bear under this treaty as a result of higher prices for materials, including Alaskan crude oil, that will be transiting the canal.

Whitman concludes:

If financial viability of the canal is equated to operation as a self-sustaining enterprise, the venture appears to be doomed from the first year after the treaty goes into effect. This was the thrust of the testimony of all the witnesses who urged or suggested the necessity for absorption of elements of the cost of operation by the Treasury through elimination of interest and depreciation or abandonment of the concept of recovery of the investment of the Government in the canal. There may be reasons to support adoption of such expedients, but the policy of operating the canal on a self-sustaining basis is not one of them.

Mr. President, I urge all Senators to read this perceptive study with care, and ask unanimous consent that it be printed in the RECORD, together with my amendment, at the conclusion of my remarks.

There being no objection, the statement and amendment were ordered to be printed in the RECORD, as follows:

PANAMA CANAL TREATY PROBLEMS

The written statements and testimony presented by the various witnesses appearing at the hearing of the Panama Canal Subcommittee on November 30 and December 1, 1977, disclosed several clearly identifiable problems of some concern to the Committee and the Congress in the consideration of the Panama Canal treaties and legislation to carry them into effect, assuming they are ratified. Those problems fall into five general categories, namely:

1. The projected deficiency in canal revenues to cover operating costs;
2. The sources of funds to cover the deficiency in canal revenues;
3. The form of the Government agency to be established to operate the canal;
4. Ambiguities in treaty provisions; and
5. Constitutional issues.

1. Canal revenue deficiency.

The negotiators and other proponents of the treaty repeatedly have stressed the proposition that under the treaty the operations of the canal are to be self-supporting and that canal revenues are to be used exclusively for payment of costs of the operation without cost to the U.S. taxpayer.

The treaty provides for annual payments to Panama totalling some $62 million in the first year of operation, exclusive of a contingent payment of an additional $10 million to be paid to the extent canal revenues exceed expenditures. Other provisions of the treaty transferring income-producing property to Panama will reduce the revenues of the Panama Canal by some $130 million, partially offset by a reduction of about $50 million in canal operating costs.

An analysis of Panama Canal revenues and costs in the first year of operation under the treaty in comparison to the estimate provided in the 1978 budget program, which does not include provision for the effect of the treaty, is attached. This analysis is based on a tabulation provided by the Panama Canal Company, adjusted to reflect the same elements of cost as those shown in the 1978 budget and to include additional treaty costs, so far identified, not included in the Company's tabulation.

The analysis shows that in the first year of operation under the treaty, Panama Canal revenues will fail to cover costs of operation of the canal and related treaty costs by about $99 million, exclusive of additional cost to the U.S. Treasury of $7.7 million. The recovery from canal revenues of operating expenses and all other treaty related costs would require an increase in rates of tolls of more than 60 percent. If the additional costs to the Treasury of $7.7 million, referred to above, are excluded from the calculation, the increase in rates of tolls required would be reduced to 56 percent.

Although the calculations of the insufficiency in Panama Canal revenues to cover expenses summarized above relate to the first year of operation, there is no basis for optimism that the financial results of operation will improve with the passage of time. No detailed analysis of costs and expenses for future years similar to that provided for the first year of operation under the treaty is presently available, but the conclusion to be drawn from the data so far available is that costs will rise at a rate higher than any foreseeable increase in revenues over the period of operation of the canal by the United States under the treaty.

If financial viability of the canal is equated to operation as a self-sustaining enterprise, the venture appears to be doomed from the first year after the treaty goes into effect. This was the thrust of the testimony of all the witnesses who urged or suggested the necessity for absorption of elements of the cost of operation by the Treasury through elimination of interest and depreciation or abandonment of the concept of recovery of the investment of the Government in the canal. There may be reasons to support adoption of such expedients, but the policy of operating the canal on a self-sustaining basis is not one of them.

2. Sources of funds to cover expenses of operation.

The ability of the canal to generate additional revenues required to cover canal operating expenses under the treaty lies in (1) possible increases in traffic, and (2) increases in rates of tolls.

a. Traffic increases. The factor cited most frequently as a partial solution to the financial problems of the Panama Canal under the treaty, is the anticipated increase in canal revenues from shipment through the canal of North Slope crude oil enroute from Alaska to the East Coast of the United States. The increase in Panama Canal revenue from this source has been estimated as high as $30 million a year, but for 1978 the estimate by the Panama Canal Company is $4 million. On the basis of the latter estimate, the deficiency of revenue in relation to costs would be reduced to $95 million or $103 million depending on whether the additional costs to the Treasury, noted above, are considered.

There is general agreement that the increase in revenues resulting from the movement of North Slope oil through the canal will be temporary because of the probability of use of less expensive alternatives such as pipelines. In the near time, the movement of this commodity through the canal will unquestionably improve the financial results of operation of the canal for two or three years, but it will neither eliminate the revenue deficiency in those years nor affect the long-term outlook.

The only other suggestion that canal revenues may increase to offset costs increases, even in part, is based on a presumption that historical growth of the canal will continue at the same rate or at a modified rate in the future. This logic has been rejected by most economists who insist that analysis of future individual commodity movements on established trade routes is the only sound basis for projections of future canal traffic.

b. Tolls increases. As previously indicated, on the basis of the Panama Canal revenue figure projected in the 1978 budget, the increased operating costs resulting from the treaty would require a toll increase of from 56 percent to 60 percent to put the canal on a self-sustaining basis.

Assuming an increase in revenue of $4 million from the movement through the canal of North Slope oil in the first year of operation under the treaty, the tolls increase would be reduced to the range of 52 percent to 57 percent.

Representatives of the shipping industry have indicated that increases in rates of tolls in the amount necessary to make the Panama Canal completely self-sustaining under the treaty are unrealistic and will price the canal out of the market because of the availability of less expensive alternatives.

Apparently, during the negotiation of the treaty there was no attempt at a systematic analysis of the potential canal revenues available for funding the cost of the various provisions eventually agreed to. The draft environmental impact statement, published by the Department of State in August 1977 (42 F.R. 43466) suggested that the assessment of the economic impact of the treaty was then impossible because of lack of data as to the costs of operation of the Panama Canal after the treaty became effective. The final EIS dated December 1977, states that "An initial toll increase in the neighborhood of 30 percent will be necessary to cover the operating costs . . . of the Canal during the

new Treaty period. The exact level of toll increases will depend on such factors as:

The structure of the canal operation under the new Treaty, especially its operating cost requirements, and

The short-term impact on Canal traffic of Alaskan oil shipments." (pages 33, 34)

c. Appropriations or absorption of costs by U.S. If tolls revenues cannot be increased in an amount sufficient to make the canal self-supporting, it appears to be obvious that the deficiency in revenues will have to be made up from the U.S. Treasury, either through absorption of part of the costs or by direct appropriations.

While the proponents of the treaty have consistently adhered to the position that one of the objectives of the treaty is that the canal continue to be self-supporting, they have also simultaneously proposed that substantial costs of operation of the canal be absorbed by the U.S. Treasury through discontinuance of payment of interest on the investment of the United States in the canal, writing off the investment entirely, and treatment of various costs arising from the treaty as obligations of the Treasury rather than of the Panama Canal. Representatives of the shipping industry and others go further and also propose elimination of depreciation as a cost of operation recoverable from tolls, and payment of interest by the United States on Government funds derived from operation of the canal and deposited in the Treasury.

Interest on U.S. investment. At the Panama Canal Subcommittee hearings on November 30, 1977, the testimony of Administration witnesses indicated general unfamiliarity with the history and purpose of payment from canal revenues of interest on the investment of the United States Government in the canal. Interest was described by those witnesses as "profit" and it was suggested that elimination of the interest payment is necessary to keep the Panama Canal Commission "self-sustaining." The Deputy Assistant Secretary of the Treasury described the background of the requirement of interest payments as follows:

"One reason that payment was required in 1951 when the Canal Company was established as a self-sustaining business enterprise was to avoid allowing the users to have a subsidized toll or exclusively subsidized toll by requiring that the cost of capital be included in the toll base. That requirement will no longer be necessary because under the new arrangements, the toll will increase in order to meet the costs and requirements under the new treaty arrangements.

"Tolls will approach a more economic level and a need for interest payment as a device in effect to avoid subsidy will no longer be necessary."

The requirement that the Panama Canal Company pay interest to the Treasury on the net direct investment of the U.S. Government in the Company is found in section 62 of title 2 of the Canal Zone Code. (76A Stat. 8). This provision was originally enacted in 1948 in the legislation incorporating the Panama Railroad Company (62 Stat. 1076) pursuant to the Government Corporation Control Act (31 U.S.C. 841 et seq.), and of course applied to that corporation which had been operated as an adjunct of the Panama Canal since the time of construction of the canal. See State ex rel Rogers. v. Graves, 299 U.S. 401 (1937).

In 1950, when responsibility for the operation of the Panama Canal was transferred to the Panama Railroad Company, which was renamed the Panama Canal Company, the requirement for payment of interest on the Government's investment in the corporation was continued. (Act. Sept. 26, 1950 (64 Stat. 1041)). The 1950 legislation was based on recommendations of the then Bureau of the Budget, approved and forwarded to the Congress by President Truman. In reference to the requirement that the corporation pay interest to the Treasury, the report of the Bureau of the Budget stated:

"The principle that Federal business enterprises should pay a rate of return on the Government's investment equal to the cost of the money to the Treasury is now well settled. The President recommended in his 1948 budget message that corporations should be required to reimburse the Treasury for the full cost of money advanced to the corporation. There is no reason why the Panama Canal and its adjuncts should be exempted from payment of interest since they are essentially Federal business enterprises." H. Doc. 460, 81st Cong., 2d Sess., p. 8.

At the Panama Canal Subcommittee hearing on December 1, 1977, Leonard Kujawa, a partner in Arthur Andersen & Co., testifying as an export on Panama Canal finances, confirmed that interest, as the cost of capital invested in a business, is part of the cost of operation of that business. As such, if a business operation such as the Panama Canal is to be self-sustaining, the revenues derived from the operation must be sufficient to cover interest payments on invested capital.

Conversely, as pointed out in the testimony of Comptroller General Staats, if annual interest payments are not made into the Treasury, the cash position of the Panama Canal Commission would be improved "but it would also reduce Treasury receipts and impact on the overall U.S. budget."

The amount of the interest payment to the Treasury in fiscal year 1978, shown in the 1978 budget program, is $19.7 million.

Depreciation. The statutory formula for establishing rates of tolls for use of the canal now includes depreciation as one of the elements of costs to be recovered from tolls.

The discontinuance of depreciation on part of the assets of the canal was another expedient suggested at the hearings for reducing the upward pressure on rates of tolls brought about by the treaty. On the other hand, the Comptroller General pointed out that the property transfers provided by the treaty would necessitate increased depreciation to make possible recovery of the U.S. investment in the canal over the life of the treaty and that "For the proposed Commission to be financially self-sufficient, toll rates would have to be raised to cover these increases in depreciation costs." The Comptroller General also noted that these actions "may not be economically sound, because of the impact on toll rates and possible adverse effect on traffic and revenues." In other words, under the treaty it may no longer be possible for the Panama Canal to be self-sustaining.

The property of the United States in the Canal Zone, to be transferred to Panama under the terms of the treaty, was acquired at an original cost of about $1 billion. The book value of the property associated with the Panama Canal, exclusive of military property, is currently $752 million.

Other treaty costs. Costs to the U.S. Treasury resulting from the treaty that are not directly and immediately associated with operation of the canal probably could not be included in the tolls formula for payment out of revenues of the canal. These costs have not been completely identified but they appear to include appropriations required to fund part of the economic assistance program under the separate agreement accompanying the treaty, the cost of the joint study for the need for and feasibility of a sea level canal for which the treaty provides, the loss to the Treasury of the payment now being made in reimbursement of capital appropriations to the Canal Zone Government, and possibly the cost to the Civil Service Commission and military departments of employee assistance programs contemplated by the treaty.

3. Form of Government agency to be established to operate the Panama Canal.

Legislation to be enacted by the Congress must establish the Government agency to operate the canal and provide the ground rules for its operation.

Article III of the Panama Canal treaty provides that the United States will carry out its responsibilities by means of a U.S. Government agency called the Panama Canal Commission "which shall be constituted by and in conformity with the laws of the United States of America." The treaty also provides that the Panama Canal Commission "shall be supervised" by a Board composed of nine members, five of whom are to be U.S. nationals and four nationals of Panama.

From the time of completion of the canal in 1914 until 1951, the canal was operated by an independent agency called *The Panama Canal*. The Panama Canal was established and functioned in accordance with the laws of the United States generally applicable to all Government agencies, including the various laws governing the financial management of such agencies now largely incorporated in title 31 of the U.S. Code. Under those laws revenues derived from operation of the canal were paid into the Treasury, and costs of operations were paid from direct appropriations for that purpose.

In 1950, Congress transferred responsibility for operation of the canal to the Panama Railroad Company, a government agency in corporate form that had been used by the United States Government as an adjunct to the operation of the canal from the time of construction of the canal.

The corporation was renamed the Panama Canal Company and its operations were subject to the provisions of the Government Corporation Control Act as well as other applicable provisions of title 31 of the U.S. Code. Revenues from the operation of the canal and related activities are deposited in the Treasury or depository banks approved by the Secretary of the Treasury, and expenditures are authorized by the Congress in appropriation acts authorizing the use of such revenues for the purposes set out in the corporation's budget program, as modified by the Congress in the appropriation act.

The 1950 legislation transferring operation of the canal to the Panama Canal Company changed the name of the agency known as The Panama Canal to Canal Zone Government with the responsibility of providing the various services incident to the civil government of the Canal Zone. No basic change was made in the form of organization of that agency. A brief summary of the history and laws applicable to the operation of the two agencies now responsible for operation of the canal and the government of the Canal Zone is included in the separate study of the relationship of the treaty provisions to the Constitutional power of Congress to make appropriations.

In establishing the government agency for operation of the canal under the new treaty, the Congress could select either the corporate form along the lines of the Panama Canal Company, the non-corporate form, following the prototype of the original Panama Canal agency, or some combination of the two. Some of the advantageous features of the corporate form, such as business-type budgeting and audit by the General Accounting Office, have been referred to by the Comptroller General. On the other hand, the corporate form is particularly useful for business operations that are truly self-sustaining, and if a substantial amount of direct or indirect subsidy is involved, the conventional unincorporated government agency offers the advantages of closer control by the Congress. Of course, if the unincorporated form of agency is selected, the

legislation could incorporate provision for business-type budgets and audit by the General Accounting Office.

A related matter of concern is that of providing for the qualifications and method of appointment of members of the Board to be appointed to surpervise the Panama Canal Commission. This feature of the legislation will be especially important in view of the provisions of the treaty for division of the membership between nationals of the United States and Panama.

4. Ambiguity of treaty provisions.

a. General considerations. Ambiguities in the language of the two treaties pose serious problems of interpretation that are virtually certain to become the subject of future controversy. Although the U.S. treaty negotiators have offered their explanations of the ambiguous language, those interpretations have often been at direct variance with those published by the Panamanian negotiators. In considering the significance of these diverse interpretations, the United States Government should keep in mind the enumeration of the causes of conflict between the United States and Panama, published by the Government of Panama on the occasion of the rejection by Panama of the new treaties negotiated in 1967. The concluding paragraph of Part I of the document read as follows:

"7. Last, so as not to make the list of causes of conflict interminable, we mention the greatest cause, the constant cause, the cause that has daily contributed to keep alive the resentment of Panamanians and feeds a sentiment of rebellion against the offensive presence in part of the national territory of a foreign Government which acts in an arbitrary, totalitarian and absolute manner, contemptuous toward the presence of the territorial sovereign. We refer to the invariable conduct of the Government of the United States of America of interpreting the clauses of the existing treaties in the manner most convenient to their interests and contrary to Panama's rights and imposing their arbitrary and unfair interpretations with the power in their hands, and that Panama has not been able to counteract to date, of excluding and throwing out of the Canal Zone the official presence of Panama and the enforcement of our laws." Reprinted in *Report on the Problems Concerning the Panama Canal*, Committee on Merchant Marine & Fisheries, 91st Cong., 2d Sess., p. 87.

As the quoted statement implies, the diplomatic relations of the United States and Panama have been characterized by almost continuous controversy over the construction of the language of treaties and agreements that the United States usually has regarded as plain and unambiguous. To cite only one example, Article V of the 1942 Agreement for the Lease of Defense Sites in the Republic of Panama (57 Stat. 1232) provided that the defense sites would be vacated "within one year after the date on which the definitive treaty of peace which brings about the cessation of the present war, shall have entered into effect." In 1947, Panama asserted that the surrender of Japan constituted a "definitive treaty of peace" ending the war. The United States did not accept that interpretation, but eventually yielded to pressure and vacated the sites before the peace treaty was signed. The history of this particular disagreement is set out at length in the Department of State's publication *Foreign Relations of the United States* for the years 1946 (pp. 1095, et seq.) and 1947 (pp. 881, et seq.).

b. *Payments to Panama.* Paragraph 4(a) of Article XIII of the treaty provides for payment to Panama of an annual amount of 30 cents "per Panama Canal net ton, *or its equivalent*, for each vessel transiting the Canal for which tolls are charged." (Emphasis supplied.) A Panama Canal net ton is clearly defined in existing laws and regulations as the basis for establishing rates of tolls for use of the canal. However, not all vessels are susceptible of measurement in Panama Canal net tons; some ships and other craft, such as warships, floating drydocks, etc., pay tolls on a displacement basis. Whether or not he phrase "or its equivalent" relates to the payment to Panama for ships that pay tolls on displacement rather than "Panama Canal" tonnage is not clear from the treaty provisions. If that is the intent of the provision, there is no criterion provided for determining what is the equivalent of a Panama Canal net ton in computing the payment to Panama. This could obviously become a matter of controversy and should be clarified before the treaty is ratified.

Paragraph 4(c) of Article XIII provides for a payment to Panama, in addition to other payments, of $10 million per year "to be paid out of canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to the treaty."

This provision apparently contemplates determination of whether or not the payment is due on a cash basis. If so, and if "expenditures" are limited to payments actually made, excluding unpaid obligations, it could create a serious problem for the financial administration of the canal. The theory of the treaty provisions seems to have derived from the statutory provision that now requires the Panama Canal Company to pay into the Treasury annually the amount of funds in excess of the Company's requirements for working capital and for authorized plant replacement and expansion. (2 C.Z. Code 70). However, there are obvious differences between the language of the two provisions, and it is questionable whether the treaty provision would permit retention by the Panama Canal Commission of funds for working capital or plant replacement and expansion.

The precise meaning of this paragraph of the treaty would become a matter of considerable importance to the financial management of the canal under the new treaty, and its meaning should be clarified before legislation is enacted to carry it into effect.

A third ambiguity appears in paragraph 5 of Article III of the treaty which, after providing for payment to Panama of $10 million in reimbursement for certain services, goes on to provide that at three year intervals "the costs involved in furnishing said services shall be reexamined to determine whether an adjustment of the annual payment should be made because of inflation *and other relevant factors affecting the cost of such services*." (Emphasis supplied.) There is nothing in the treaty or other documents accompanying the treaty that defines what other relevant factors are for consideration in the adjustment of the amount of this payment. It was suggested at the hearing that the actual cost of services provided might be one such factor, but it would appear to be desirable to reach a firm understanding, with appropriate documentation, defining the meaning of the phrase in question.

Implicit in all the provisions for payments to Panama is an ambiguity arising from the absence of any language referring to the indebtedness of the Government of Panama to the Panama Canal Company and Canal Zone Government, now aggregating some $8.5 million. In normal business transactions provision would be made either for set-off of this amount against the payments to Panama or for outright cancellation of the debt. Whichever result is intended, it should be clearly understood by both parties and incorporated in the legislation to carry the treaty into effect.

c. Property transfers. Paragraph I of Article XIII of the treaty provides that on termination of the treaty, Panama will assume total responsibility for operation of the Panama Canal which shall be turned over in operating condition and "free of liens and debts, except as the two parties may otherwise agree."

At the end of any year of operation of the canal as a continuing business enterprise, there remain and are carried forward obligations incurred in completed periods of operation, such as unpaid employee compensation, liability for unused leave, and other accounts payable, which aggregated $80 million in 1976, and are estimated at $87 million in 1978.

Whether or not the quoted provision of Article XIII requires the liquidation of these liabilities before the canal is turned over to Panama is not clear, but the ambiguity should be resolved to permit orderly financial planning and management in the period intervening between the effective date and termination of the treaty.

d. Use of the canal by U.S. Government vessels. Paragraph I of Article VI of the neutrality treaty provides that vessels of war and auxiliary vessels of the United States and of Panama "will be entitled to transit the Canal expeditiously." At the hearings on the treaties this provision has been referred to as providing that warships of the United States are entitled to priority in transit in case of emergency, but other statements in Panama by the treaty negotiators have indicated that no priority of passage is involved.

The statement issued by the White House after the meeting between President Carter and General Torrijos on October 14, 1977, discussed below, confirms that the provision in question "is intended, and shall be interpreted to assure the transit of such vessels through the canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the canal rapidly."

e. Defense of the canal. Article IV of the Panama Canal treaty provides that "Each party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack, or other action which threatens the security of the Panama Canal or of ships transiting it." Article V provides specifically against intervention in the internal affairs of Panama by U.S. nationals employed by the Commission. Article II of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal provides that Panama declares the "neutrality" of the canal in order that it shall remain open to peaceful transit of vessels of all nations on terms of entire equality, and Article IV provides that the United States and Panama agree to maintain the "regime of neutrality" established by the treaty "in order that the canal shall remain permanently neutral."

In the light of all these provisions the question has been raised as to whether the United States would be authorized to take appropriate action to keep the canal open if the threat to the operation of the canal originates in Panama. The statement issued by the White House after the meeting between President Carter and General Torrijos on October 14, 1977, states that under the neutrality treaty Panama and the United States have the responsibility to assure that the Panama Canal shall be open and secure to ships of all nations and that each country "shall, in accordance with its constitutional processes, defend the canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the canal

or against the peaceful transit of vessels through the canal." The statement goes on to say, however, that this does not mean nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any U.S. action will be directed at insuring that the canal "will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or political independence of Panama." Administration witnesses at the subcommittee hearing expressed the view that the treaty gives the United States the right to take whatever steps the United States deems necessary to maintain the neutrality of the canal, no matter what the threat may be.

f. Joint statement of October 1977. The statements issued by President Carter on October 14, and General Torrijos on October 18, for the purpose of elminating the ambiguities in the neutrality treaty are intrinsically ambiguous in themselves.

Apparently the statements were entirely informal. On his return to Panama following his meeting with President Carter, the press reported that General Torrijos emphasized that he had not signed anything on his visit to Washington. Granting that the statement represents the personal interpretation of the treaty provisions discussed on the part of President Carter and General Torrijos, the effect of the informal unsigned statements as amplifications of the language of the treaty is at least open to question.

5. Constitutional issues.

In addition to the financial problems in operation of the Panama Canal under the new treaties, the treaty language poses two fundamental constitutional problems that are of even greater significance to the United States Government, namely, the requirement for action by the Congress to dispose of property of the United States and to make appropriations of public funds. The treaty language purports to convey property of the United States to Panama and to provide for payments to Panama without action by the Congress as the Constitution requires. These issues are addressed at length in a memorandum on the necessity for appropriations to authorize the payments to Panama presented at the subcommittee hearings on December 1, 1977, and in extensive hearings and briefings conducted by the Committee on Merchant Marine and Fisheries in the first session of the 95th Congress. A further hearing by the Committee on the constitutional issues is scheduled in January, 1978.

W. M. WHITMAN.

Attachment.

Panama Canal Costs: First Year Operation under 1977 Treaty compared to 1978 Budget

[In thousands of dollars]

	Budget 1978	First year Treaty costs
Operating Costs, the Panama Canal:		
Revenues:		
Tolls:		
Commercial vessels	176,083	176,083
Government tolls credits	1,554	1,554
Total tolls revenues	177,637	177,637
Revenues other than tolls:		
Navigation service and control	29,962	26,247
General repair, storehouse, engineering and maintenance service	6,062	3,155
Marine terminals	24,151	1,645
Transportation and utilities	23,950	26,521
Retail and and housing	47,169	5,866
Government activities	63,132	115
Other	2,351	3,068
Total revenues other than tolls	196,777	66,617
Total revenues	374,414	244,254
Costs:		
Maintenance of channels and harbors	22,563	22,603
Navigation service and control	40,732	38,316
Locks	24,759	24,759
General repair, storehouse, engineering and maintenance services	8,966	9,108
Marine terminals	19,801	1,659
Transportation and utilities	22,137	25,353
Retail and housing	51,504	6,303
Other	44,367	41,383
General and administrative	26,231	25,662
Governmental activities	85,968	22,097
Repayment of prior year's interest costs	5,273	5,273
Interest	19,706	19,706
Fixed annuity to Panama	519	10,000
Annuity based on PC net tonnage	----------	42,471
Public service payments to Panama	----------	10,000
Severance pay	----------	6,093
Repatriation	----------	1,350
Plant relocation	----------	2,236
Early retirement of employees	----------	8,400
Training programs	----------	320
Elimination of tax factor in employee pay	----------	463
Rotation of employees	----------	509
Total operating costs	372,526	323,555
Net operating revenue (loss)	1,888	(79,301)
Capital costs, the Panama Canal	22,000	19,992
Total operating revenue (loss) and capital cost	(20,631)	(99,293)
Additional costs to Treasury:		
Depreciation on Canal Zone Government assets	----------	2,681
Military assistance loans to Panama	----------	5,000
Total additional costs to Treasury	----------	7,681
First Year costs of treaty in excess of Panama Canal revenues:		
Panama Canal Commission	----------	99,293
Treasury	----------	7,681
Total	----------	106,974

AMENDMENT NO. 19

In paragraph 3 of article III, at the end of the text immediately above subparagraph (a), add the following: "The operating revenues of the Panama Canal Commission shall be deposited in the Treasury of the United States of America.".

In the first sentence of paragraph 5 of article III, strike out "Panama Canal Commission shall reimburse" and insert in lieu thereof "United States of America shall reimburse, only after the amount of such reimbursement has been appropriated,".

In the text of paragraph 4 of article XIII immediately above subparagraph (a), strike out "Panama Canal Commission" and insert in lieu thereof "United States of America, only after such amount has been appropriated,".

In paragraph 4(a) of article XIII, strike out "Canal operating revenues" and insert in lieu thereof "the Treasury of the United States of America".

In paragraph 4(b) of article XIII, strike out "Canal operating revenues" and insert in lieu thereof "the Treasury of the United States of America".

In paragraph 4(b) of article XIII, strike out the last sentence.

In paragraph 4(c) of article XIII, strike out "Canal operating revenues to the extent that such revenues" and insert in lieu thereof "the Treasury of the United States of America, if its receipts from the Panama Canal Commission".

In the last sentence of paragraph 4(c) of article XIII, strike out "Canal operating revenues" and insert in lieu thereof "such receipts".

NOTICES OF HEARINGS

SUBCOMMITTEE ON IMMIGRATION

Mr. EASTLAND. Mr. President, I wish to announce that the Subcommittee on Immigration will conduct hearings on S. 2252, the administration's proposal concerning amnesty for undocumented aliens.

The hearings will be held on March 14, 16, 21, and 23 commencing at 10:30 a.m. in room 2228 Dirksen Senate Office Building.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Select Small Business Committee will hold a hearing on February 7, 1978, on the procurement assistance program of the Small Business Administration. The purpose of this hearing will be to aid the committee's evaluation of the effectiveness of these programs in helping small businesses to obtain opportunities to bid on government contracts. The hearing will be chaired by Senator HATHAWAY and will begin at 10 a.m. in room 1318 of the Dirksen Senate Office Building. Witnesses will be representatives of the Small Business Administration. Further information on the hearing is available from the Small Business Committee office at 424 Russell Senate Office Building at extension 4–5175.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. TALMADGE. Mr. President, at its organization meeting on Wednesday, the

Senate Committee on Agriculture, Nutrition, and Forestry, which I have the honor to chair, scheduled as its first priority of business of the session a series of hearings on the critical financial condition of American agriculture.

Working within a tight and urgent time frame, our committee will seek to determine through these hearings the extent of the farm crisis and consider various proposals and approaches for coming to grips with the problem.

Make no mistake about it. The problem is real and it is urgent. Many farmers throughout this Nation are literally being driven into bankruptcy. There is a limit to how much longer they can continue to produce the food and fiber which this Nation and much of the world must have while going broke.

We must find ways and means—and find them quickly—to bolster farm prices and farm income, and bring production into balance with need. Unless we do so, the economic disaster that farmers face will soon spread throughout the entire economy of the Nation.

The committee will begin the hearings at 9 a.m., February 23, 1978, with representatives of the American Agriculture Movement, the organization that has played a major part in bringing the farmers' plight to the attention of the public, the Congress and the administration. We want to provide the leaders of this movement full opportunity to spell out in detail their plan for providing 100 percent of parity for prices of all agriculture commodities and products. We will be prepared to devote the full first day of hearings, if necessary, to representatives of the American Agriculture Movement to discuss their plan.

Hearings will resume on Monday, February 28, and will continue until we have heard from other general farm organizations; specific commodity groups; livestock, poultry, and dairy organizations; fruit and vegetable groups; economic research and forecast authorities; Federal budgetary agencies; and consumer groups.

I recognize this is a full agenda. But we will move as expeditiously as possible. It is my hope that the hearings can be completed within 10 days.

Because of the large number of witnesses we expect to hear, oral testimony will be limited to 10 minutes, but written statements may be of any length and will be included in full in the hearing record. Anyone wishing to testify should contact Denise Love, hearing clerk, U.S. Senate Committee on Agriculture, Nutrition, and Forestry, 322 Russell Senate Office Building, Washington, D.C. 20510, telephone 202/224–2035.

Mr. President, I ask unanimous consent to insert in the RECORD as part of my remarks a news release of the Committee on Agriculture, Nutrition, and Forestry announcing the hearings and other action taken by the committee at its meeting on Wednesday.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

SENATE AGRICULTURE COMMITTEE SETS FARM HEARINGS; PRODS ADMINISTRATION TO IMPLEMENT EMERGENCY PLAN

WASHINGTON, February 1.—Chairman Herman E. Talmadge of the Senate Agriculture Committee today announced a full-scale inquiry into current farm problems with spokesmen for the American Agriculture Movement scheduled as lead-off witnesses on February 23.

Talmadge said the hearings will afford representatives of the Agriculture Movement an opportunity to spell out details of their key proposal of 100 percent of parity for all farm products.

He said the Committee will hear also from representatives of existing farmer organizations, livestock and other commodity groups, government and consumers on the impact of 100 percent of parity and other aspects of the farm problem.

The far-ranging hearings proposed by Talmadge were approved by the Senate Committee at its first regular meeting of the new session of Congress.

In a related action, the Committee approved a resolution sponsored by Talmadge expressing "the sense of the Senate that emergency action be taken by the President and the Secretary of Agriculture to bolster the farm economy."

The resolution calls on the Carter Administration to use authority it has under the new farm law to implement a voluntary land diversion program to pay farmers to take cropland out of production and to raise price support loan levels on wheat, feed grains, soybeans and non-quota peanuts.

The emergency action called for in the Committee resolution was proposed by Talmadge last week to Secretary of Agriculture Bob Bergland. Bergland said in an appearance before the Senate Committee that the Talmadge proposals would be considered, but gave little hope at that time that they would be implemented.

The resolution is an effort to bring Committee and possibly full Senate influence on the Administration to implement the Talmadge proposals.

During Committee discussion of the resolution, Senators Bob Dole of Kansas, ranking Republican member, and Walter D. Huddleston of Kentucky indicated they would push for legislation to increase target prices if the Administration does not act promptly under authority contained in the new farm law.

In proposing hearings on agriculture problems, Talmadge noted that many protesting farmers contend that the Food and Agriculture Act of 1977 is inadequate to meet "their urgent financial problems."

"As Chairman of this Committee, I believe we have an obligation to consider carefully the complaints lodged against the new farm law and to consider the various proposals that have been advanced to change it or to move in other directions," Talmadge said.

"I believe we should properly begin by hearing from representatives of the American Agriculture Movement, the catalyst group largely responsible for bringing the plight of the farmer to the attention of the nation," Talmadge said.

"As a broad objective, 100 percent of parity is something we all understand," Talmadge continued. "But what we need to know—and what I will ask the representatives of the Movement to present to this Committee—are the specific details of their proposal.

"We need to know what legislation and what administrative mechanisms will be required to achieve 100 percent of parity," Talmadge added.

Following the American Agriculture Movement witnesses, Talmadge said the Committee will hear from representatives of existing farm organizations, livestock and poultry groups, dairymen and consumers.

"It will be neecssary to look at the impact of 100 percent of parity on all agriculture commodities, on consumer prices, on exports, and on the total national economy," Talmade said. "The Committee also will consider the cost aspects involved. We will be looking at this question as seen by the Congressional Budget Office, USDA, and established academic and private economic analysts."

Talmadge said the hearings scheduled and witnesses to follow the American Agriculture Movement would be announced by the Committee within the next several days. He indicated that the hearings may be lengthy.

NOMINATION HEARING

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Tuesday, February 7, 1978, at 9 a.m. in room 4232, Dirksen Senate Office Building, on the nominations of:

Robert Clyde Benedict, of Pennsylvania, to be Commissioner on Aging;

Cecelia Denogean Esquer, of Arizona; Steven L. Ebgelberg, of Maryland; Hillary Diane Rodham, of Arkansas; Richard Allan Trudell, of California; and Josephine Marie Worthy, of Massachusetts, to be Members of the Board of Directors of the Legal Services Corporation for terms expiring July 13, 1980;

Robert B. Lagather, of Virginia, to be Assistant Secretary of Labor for Mine Safety and Health;

William P. Adams, of Virginia, to be a Member of the Railroad Retirement Board for the term of 5 years from August 29, 1977;

Howard Howe II, of New York, and Frederick Henry Schultz, of Florida, to be Members of the National Council on Educational Research for terms expiring September 30, 1980;

John W. Snyder, of the District of Columbia, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 14, 1983.

INTERSTATE TAXATION ACT—S. 2173

Mr. MATHIAS. Mr. President, I wish to announce that public hearings will be held by the Committee on the Judiciary on S. 2173, the interstate taxation bill of 1977. This legislation provides for Federal judicial review of the application of jurisdictional guidelines for State taxation of interstate commerce and for apportionment among the States of income received from interstate commerce. The hearings will be held on February 13–14, 1978, in room 333 of the L. Mendel Rivers Federal Office Building in Charleston, S.C.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the committee office. 2226 Dirksen Senate Office Building, telephone (202) 224–5225.

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. PELL. Mr. President, I wish to announce that the Subcommittee on Education, Arts, and Humanities of the

Committee on Human Resources will hold a hearing on February 8, 1978, at 10:30 a.m., in room 318, Russell Senate Office Building. The purpose of the hearing is to receive testimony concerning S. 2473, the College Opportunity Act of 1978.

Any person requesting information concerning this hearing should contact Mrs. Jean Frohlicher, counsel, Subcommittee on Education, Arts, and Humanities, at 224–7666.

ADDITIONAL STATEMENTS

TRIBUTE TO SENATOR HOWARD CANNON FOR HIS SERVICE

Mr. ROBERT C. BYRD. Mr. President, the first month of the new year marked the close of the distinguished leadership of a highly respected colleague and warm, personal friend here in this body as the chairman of an important standing committee of the Senate and his ascendancy to the leadership of a prestigious committee where the challenges for his innovative progress in this rapidly changing world will again be put to the test.

I refer to the distinguished senior Senator from Nevada, the Honorable HOWARD CANNON, and his movement from the chairmanship of the Committee on Rules and Administration to the chairmanship of the Committee on Commerce, Science and Transportation.

Nineteen years ago last January 3, both of us walked down the middle aisle of this Chamber to take the oath for the first time as Members of this body. Over those years the Senate, this Nation, and this world have seen tremendous change and the senior Senator from Nevada has had a participation in some of these changes.

Five years ago and after 14 years service as a member of the Committee on Rules and Administration, Senator CANNON assumed its chairmanship. The 93d and 94th Congresses and the 1st session of the 95th Congress saw that committee probably handle more major legislative responsibilities than at any time in the Senate's history.

In 1973 and 1974, that committee, under Senator CANNON's chairmanship, met its jurisdictional responsibilities by responding to the 25th amendment to the Constitution by conducting hearings and recommending within the span of a single year the confirmation of two Vice Presidents of the United States—one ascending to the Presidency. The first was that of Representative Gerald R. Ford who became Vice President and then President, and the second that of Gov. Nelson A. Rockefeller who became Vice President.

The leadership qualities of the distinguished Senator from Nevada were demonstrated again when his committee moved into broadened jurisdictional responsibilities by seeing enacted into law its recommendations contained in the landmark elections' monitoring statute, the Federal Election Campaign Act Amendments of 1974 and the 1976 amendments thereto necessitated by the U.S. Supreme Court decision in the historic case of Buckley against Valeo. These two enactments probably represented the most comprehensive election-reform legislation in this country's history.

Its jurisdiction over the Federal elections area was further highlighted by that committee holding protracted hearings in 1973 in the closest U.S. Senate race in history, a two-vote margin, involving Senator Louis Wyman and the present distinguished junior Senator from New Hampshire (Mr. DURKIN), with the voters of that State finally settling the matter at the polls of that State.

Additionally, that committee cleared an Overseas Citizens Voting Rights Act of 1975 and currently pending legislation establishing a universal voter registration program and another for the public financing of primary and general elections for the Senate.

Additionally, it was the Committee on Rules and Administration in 1974 that provided the forum for revising important provisions of the Congressional Budget and Impoundment Control Act of 1974 that led to the final enactment of a new congressional budget process that should assist in accomplishing, first, a reversal of the accelerating erosion of the congressional power over the Federal Government's "purse strings"; second, a reassertion of the correct role of the Congress in the American plan of government; and, third, more responsible and businesslike guidelines and control for the Federal revenue-raising and expenditure procedures than ever carried out in the Government's 200-year history.

Because one of that committee's responsibilities is supervising the day-to-day housekeeping chores of the Senate, that complex and knotty job was capably carried out betwixt and between its major legislative role to help make the Senate as a body operate more smoothly and efficiently.

For example, enactment of the Government in the Sunshine Act in 1976 prompted the Committee on Rules and Administration to recommend more openness with respect to Senate committees by the passage of such a resolution in 1975.

To meet the general public's demands for speedier and more efficient responses to letter inquiries to senatorial offices, Senator CANNON's committee moved another step into computer technology by authorizing establishment of a computerized correspondence management system to permit Senators to reply to inquiries of a maximum of 1 million persons per month. With improved communications between the electorate and their Senators here, our legislative efforts for the country's benefit should be enhanced.

And for the sake of statistics and to demonstrate in another manner the amount of effort, energy, and work hours taken by an active Senate committee, Senator CANNON's leadership over his 5 years as chairman saw the Committee on Rules and Administration consider 755 legislative measures, of which 563 were reported to the Senate and 546 approved by the Senate, including 324 simple Senate resolutions, 111 Senate-House concurrent resolutions, and 66 House and Senate bills and joint resolutions, of which 35 became public law.

Mr. President, we believe the record speaks adequately for itself of the great contribution the senior Senator from Nevada has made to this body and to this country. We wish for him many more years of a productive and continuingly successful leadership career in the Senate.

HOSPITAL COST CONTAINMENT

Mr. SCHMITT. Mr. President, last August I introduced into the RECORD several letters from New Mexico hospitals detailing suggestions by the medical profession in New Mexico for alternatives to hospital cost containment.

Mr. President, as another example of an innovative and modern management technique which helps reduce actual increasing hospital costs, I ask unanimous consent that the letter from Thomas Spencer of the New Mexico Hospital Consortium be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ALBUQUERQUE, N. MEX.,
October 21, 1977.

Hon. HARRISON "JACK" SCHMITT,
Senator from New Mexico,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR SCHMITT: I heard of your interest in learning about voluntary cost containment efforts by hospitals in New Mexico from Jim LaCombe of the New Mexico Hospital Association. I would like to take this opportunity to tell you about the New Mexico Hospital Consortium.

The New Mexico Hospital Consortium is an organization that provides a variety of services to member hospitals throughout the State of New Mexico. The Consortium is incorporated under the laws of the State of New Mexico as a not-for-profit cooperative association. The organization was founded by the chief executive officers of six hospitals in June of 1976, and now includes eleven hospitals as members and provides services to two hospitals and a clinic that are not members. The individuals involved recognize the advantages of pooling resources and sharing services to contain cost and to improve the quality and scope of the services that their institutions provide. They also are committed to maintaining the local autonomy of their institutions. The organization serves as a vehicle for accomplishing these purposes. The objectives of the NMHC are:

1. To foster and maintain autonomous operation of member hospitals.
2. To enhance the delivery of health care throughout New Mexico.
3. To help contain cost of operation by achieving economies of scale.
4. To help coordinate state wide planning.
5. To provide additional management and technical expertise to rural hospitals.
6. To improve continuing education among administrators and health professionals.

The Consortium is governed by a board of directors consisting of the chief executive officer of each member hospital. The board exerts no control over member hospitals but rather formulates policy and implements programs for the purpose of achieving the goals of the organization. The board employs an executive director and holds him responsible for planning, organizing, staffing, directing and controlling the programs, and activities of the organization.

Financial support for the Consortium is derived from monthly dues assessed members by bed size and fees for services rendered. The hospitals are not required to participate in Consortium programs. Each administrator determines what services are applicable to the situation at his/her hospital and pays only for the services the institution uses. At the present time the Consortium provides the following services:

A. GROUP PURCHASING

The cooperative group purchasing program of the Consortium has been in existence for one year. More than two hundred purchasing contracts have been made available to hospitals through the Consortium program. Consolidation of purchasing has not only resulted in price reductions, but has also resulted in agreements with distributors that improve representation, increase flexibility of shipping, shorten delivery time, and reduce freight costs. The purchasing program of the NMHC is a dynamic, ever-changing program and it is difficult to arrive at an exact figure of the savings involved. I feel, however, that a few examples might give you an idea of the magnitude of the savings involved.

1. I–V solutions. Espanola Hospital determined that its savings on the purchasing of I–V solutions under Consortium contracts is in excess of $1,000 per month. Studies in other hospitals have shown that their experience is similar to Espanola's. For the eleven hospitals participating in the program the savings on the purchase of I–V solutions alone is in excess of $11,000 per month, or $132,000 per year.

2. Needles and syringes. Consortium member hospitals were buying needles and syringes at $77.35 per thousand previous to the establishment of the Consortium contracts. The NMHC negotiated price is $48.30 per thousand. The savings is $29.05 per thousand. Using an estimated monthly volume of use for the total group the savings is $3,000 per month or $36,000 per year.

3. Disposable linen packs. The average list price for disposable linen packs prior to the negotiation of the Consortium was $9.90. The Consortium contract price is $8.42. The savings is $1.48 per pack. Using an estimated volume figure for the entire group the savings comes to $740 per month or $8,888 per year.

4. Underpads. Previous to the Consortium contract member hospitals were paying an average of $20 per case for underpads. The NMHC price is $15 per case, or a savings of $5 per case. Using an estimated usage figure for eleven member hospitals the savings per month comes to $550, or $6,600 per year.

The examples given relate to four contracts out of a total of 200 contracts covering many items—drugs, supply and equipment items. The savings from these four contracts alone is in excess of $15,000 per month or $182,000 per year.

B. EDUCATION PROGRAM

The NMHC provides continuing education for hospital personnel. The program includes courses in intensive care nursing, coronary care nursing, respiratory care, neonatal care, supervisory skills, communication skills, emergency room nursing, care of stroke victims, cancer detection and treatment, and needs of unwed mothers. These courses are available for presentation at each hospital. Prior to the inception of the NMHC education program continuing education was costing member hospitals $12 per person per hour. Education provided under the NMHC program, is costing member hospitals an average of $2 per person per hour. Since the beginning of the program 2800 person hours of education have been provided to member hospitals. This amount of education would have cost member hospitals $33,600 per year. The cost under the NMHC education program has been $4,857. The savings over the first six months is $28,743. In addition to monetary advantages there are other advantages to member hospitals resulting from the NMHC education program.

The presentation of courses at the local hospital minimizes problems related to coverage and family responsibilities that are associated with traveling to courses in distant areas. The effectiveness of the education is improved because more people are exposed to the information presented. The instructors involved in the education program are familiar with the hospital environment and are available for consultation on a continuing basis.

C. BIO-MEDICAL ENGINEERING PROGRAM

The Bio-Medical Engineering Program provides electrical safety assurance, preventive maintenance, and repair of medical equipment to the participating hospitals. The charge for this service is $16.50 per hour with no travel charges. The program involves an average of ten hours per month at each hospital and the average cost per hospital is $165.00 per month. Commercial firms offering similar service charge $25–$35 per hour, portal to portal. The same service to participating hospitals at these prices would be $350–$475 per month. The savings to participating hospitals averages $250 per hospital. With eight hospitals participating the savings related to the total program averages $2,000 per month or $24,000 per year.

The Bio-Medical Engineering Program has not only reduced cost for repairs of equipment, but it has had a beneficial effect on the quality of patient care provided in the hospitals. Insurance carriers have recognized this improvement in quality and has reflected this recognition in their rating structures. In one hospital this consideration amounted to $6,000, and in another it amounted to a $12,000 reduction in insurance premiums from what the insurance company had originally projected.

D. PROVIDER REPRESENTATIVE PROGRAM

The Provider Representative Program provides a liaison between the hospitals and the organization responsible for processing claims in the Medicaid program. In one member hospital the receivables relating to the Medicaid program have been reduced from an average of $80,000 to an average of $20,000 over a three months period.

E. PHYSICIAN RECRUITMENT

The Physician Recruitment Program provides recruiting services to member hospitals through a contract with a professional recruiting firm. The normal fee charged by the firm is $4,000 per physician placement. By combining contracts and negotiating the Consortium has been able to reduce this fee to $2,500 per physician placement for member hospital. Two hospitals are conducting searches for physicians using this program at the present time.

F. CONSULTATION SERVICES

1. Medical records

One hospital has contracted with the Consortium to provide a Medical Records consultation on a one visit per month basis. This arrangement has proved adequate for the hospitals and is costing approximately $110.00 per month. Without the Consortium the hospital would have hired an RRT at a cost of $800 per month.

2. Maintenance

One hospital contracted with the Consortium for maintenance consultation for repair of a roof. As a result of the consultation the problem was solved and the cost was $9,000 less than the cost of the solution arrived at by the hospital previous to consultation.

New programs are limited only by the imagination and creativity of those involved. Future plans include development of programs to provide transmission and automated interpretation of EKG's and pulmonary functions. Physical Therapy, continuing education for physicians in rural practice, consultation service in the area of long range planning, systems design in financial management, materials management, pharmaceutical distribution, education for hospital trustees and community health education.

The New Mexico Hospital Consortium was created by health care managers in the State of New Mexico in an effort to contain costs and improve service. The savings achieved by hospitals through Consortium participation are returned to the communities they serve in the form of reduction in rate increases and improvements in quality and scope of services available. The Consortium was founded voluntarily with no outside funding encouragement. Those involved in the Consortium feel that the problem of controlling health care costs can be addressed more effectively from inside the industry through efforts like this rather than through government mandated controls. The results to date are evidence of the validity of this position.

I hope the information I have provided will be of value to you. If you need more information or desire clarification please contact me.

Sincerely yours,

THOMAS E. SPENCER,
Executive Director.

SAVINGS SYNOPSIS—NEW MEXICO HOSPITAL CONSORTIUM

I–V: 11,000 per month.
I–V: 132,000 per year.
Needles and syringes: 3,600 per month.
Needles and syringes: 36,000 per year.
Disposable linen packs: 740 per month.
Disposable linen packs: 8,800 per year.
Underpads: 550 per month.
Underpads: 6,600 per year.

Total savings on examples given: $15,290 per month.

Total savings on examples given: $183,480 per year.

Education program. Savings of $28,743 for six months.

Bio-medical engineering program: Direct savings: $2,000 per month.

Direct savings: $24,000 per year.

Savings due to reduction in insurance: $22,000 per year.

Provider representative program: The program has not been operational long enough to measure savings.

Physician recruitment: 2 contracts signed and savings of $1,500 per contract equal $3,000 total.

Medical records consultation: $690 per month and $8,200 per year.

Maintenance consultation: $9,000 per year.

The estimated net savings to member hospitals resulting from all Consortium programs in the first year of operation of the New Mexico Hospital Consortium (using only four examples out of 200 contracts in the purchasing program).

Gross	$307,246
Less dues	45,615
Less purchasing fee	2,600
Net	268,031

ADDRESS BY HENRY FORD II TO THE WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

Mr. TALMADGE. Mr. President, I recently had an opportunity to read a very

forthright and meaningful address by Henry Ford II, chairman of the Ford Motor Co., at the White House Conference on Balanced National Growth and Economic Development in which Mr. Ford issues a very strong warning against the growing dangers of runaway Federal regulation of private business and industry.

Mr. Ford quite correctly points out that Government regulation that "goes too far and too fast" does more than just retard industrial growth and expansion. "It falls inevitably on the society at large, including many who do not share in the benefits of regulation. If regulation is not to become an even more serious constraint on economic growth, we must find the best balance between benefits to people as citizens and costs to people as consumers," Mr. Ford says, and I wholeheartedly agree.

Mr. Ford calls for a "sunset law" for regulations and regulatory agencies and a reassessment of national priorities that will lead to business and industrial expansion, increased productivity, and more jobs, instead of Government regulatory pressures which close plants down, stymie economic growth, and put people out of work.

I bring Mr. Ford's address to the attention of the Senate and urge that Congress heed his warning. If we continue much further in the direction we are now going, I fear for the future of the free enterprise system and the economic security of our Nation.

I ask unanimous consent that Mr. Ford's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY HENRY FORD II

I am honored to be one of your Conference speakers, and I welcome this chance to take a stand in favor of vigorous, sustained national growth.

You will note that I didn't say "balanced" national growth. I have no quarrel with the concept of balanced growth, but I am strongly opposed to many of the measures that have been adopted thus far in an effort to achieve that goal.

In my view, "balanced growth" is a euphemism often employed by those who argue that economic growth must be sacrificed to environmental quality. I realize that "balanced growth" means different things to different people. But to me, it suggests government regulation, industrial disruption and wholesale abandonment of our marketplace economy. If the term has no other meaning, it is an invitation to disaster.

There is no reason, in my opinion, why we can't have both vigorous economic growth and a high level of environmental quality at one and the same time. They need not be incompatible. But we will not have either, in the long run, if we do not give first priority to economic growth.

My primary concern today is whether there will be growth at all, given our government's increasing preoccupation with national policies that effectively impede growth.

As I look at our country today, I see a powerful but uncertain and unsteady giant being trussed up in a growing web of rules and regulations to the point where it can no longer exert its strength freely and effectively. I am reminded of the story of Gulliver in the land of the Lilliputians.

Maybe it's only a coincidence that the recent period of rapidly rising government spending and roughshod regulation also has been a period of high unemployment, slow productivity improvement, slow growth in personal income, soaring government deficits and unprecedented peacetime inflation. But I don't believe it's a coincidence at all, and I hope you don't either. Despite a mounting record of failure and frustration, our leaders have failed to grasp the fact that too much government inevitably leads to economic decay.

It is obvious to everyone—or should be—that the more government spends, the less wealth is left for productive investment as well as for private consumption. What is not so obvious—and our lawmakers and regulators apparently choose to ignore it—is that private spending to meet government requirements has very much the same consequences.

How do we provide more jobs for American workers? How will we create the resources needed to end poverty, disease, illiteracy, the decay of our cities and other chronic social ills? How do we develop new sources and forms of energy to meet our growing needs? How do we pay for the good things we want—clean air and water, improved health and safety, less noise, more leisure and so on—without cutting deeply into the things we must have, like jobs and homes and schools and efficient transportation?

We do it by maintaining the growth of our economy and increasing productivity to the maximum, by encouraging American business to take risks, to invest in new plants, products and services, to develop new processes, to become more efficient—and to generate enough capital to be able to repeat that process over and over again.

Some weeks ago, the National Association for the Advancement of Colored People spoke out in opposition to some provisions of the Administration's pending energy plan. The Executive Director of the NAACP explained his organization's concern in these words: "If there is no adequate energy supply available, then industry will not expand, new jobs will not be created and we'll end up with joblessness of epidemic proportions in the black community . . . we are saying to the President . . . that there must be greater effort put on expanding sources for energy. We cannot live in a no-growth economy; we cannot live in a situation where . . . jobs are not being created."

A very simliar warning, but in a different context, was sounded in another country not long ago—and from a totally unexpected source. All of us know what has happened in England over the past quarter-century or more. Speaking from bitter experience, the British Minister and Labor Party leader, James Callaghan, offered these words of advice to Labor Party members in September, 1976:

"The willingness of industry to invest in new plant and machinery," said Mr. Callaghan, "requires not only that we overcome inflation but that industry is left with sufficient funds and sufficient confidence to make the new investment. . . . If industry cannot generate sufficient funds to buy its new plant and machinery then you will not get the investment and we shall continue to go downhill. There are elementary facts of life. . . . "

I wonder how many people in our own government have read that remarkable statement, or have admitted its relevance to our situation here in the United States. Very few appear to recognize that every new law or regulation that siphons off capital for non-productive purposes leaves that much less for growth, jobs and improved efficiency. And every new law and regulation that undermines business confidence in the prospects for growth pushes us in the direction of economic decline and recession.

Is that a price worth paying for double-quick rules and regulations that too often deny industry a chance to work toward the same goals at a pace that would involve far less cost and far less disruption to the economy?

Let me make clear that I am not arguing with the need for government action to conserve energy, reduce harmful pollution and protect the health and safety of all of us. But I am arguing with the tendency to sanctify each goal—to seek instant perfection with little regard for costs and consequences. In our national effort to solve common problems caused by our private choices, we have spent too much time on moralistic and ideological disputes and too little time looking for practical compromises.

When regulation goes too far and too fast, the burden does not fall on business alone. It falls inevitably on the society at large, including many who do not share in the benefits of regulation. If regulation is not to become an even more serious constraint on economic growth, we must find the best balance between benefits to people as citizens and costs to people as consumers.

How much have the regulators learned, for example, from the situation of the U.S. steel industry? For many years, foresighted firms in that industry tried to increase their prices and thus accumulate capital to modernize facilities and introduce more efficient processes. In many cases, those price increases were denied or rolled back by government pressure. Now the industry has been told that its facilities, of whatever age and condition, must meet strict environmental standards—in fast order and at today's highly inflated costs—or there will be severe penalties. At least one company has chosen instead to close its older plants and lay off thousands of workers. Does this serve the people of America?

For at least five years, a group of Utah utilities has been trying to build a huge coal-fired power plant that would provide needed electricity to a million homes in California and Utah. The plant's output would reduce demand for oil by 35 million barrels a year and thus reduce our foreign trade deficit by some $500 million annually. But environmentalists have blocked its construction on grounds that it would invade the national park system and forests in that part of the country. The fact that $600 million worth of pollution-control equipment would be installed in the plant apparently makes no difference.

That kind of problem is not easy to resolve, obviously. But again I ask, what would best serve the people of America? And who will decide what is truly in the interest of the people?

In the course of developing these remarks, I saw a newspaper report in which the National Wildlife Federation and the Environmental Action Foundation were quoted as saying in a joint statement: "Since the 1930's, when the automobile replaced indoor plumbing as the most desired household item, this nation has operated under assumptions about auto transportation that have largely lost their validity. (We need) national priorities that move us away from total dependence on the automobile. . . ."

I wonder what year in the 1930's those organizations would like to see us go back to—1935, when there were fewer than four million vehicles produced in this country and the national unemployment rate was 20.3 per cent? Or maybe 1932, when only 1,331,000 vehicles were produced and the unemployment rate reached 24.1 per cent?

It is no secret that the automobile industry has been the prime target of those who have presumed to tell the American people, through single-minded and hastily drawn regulation, what is best for them. With

little apparent concern for costs and long-range economic consequences, they have set themselves up as key arbiters of automotive design and utility. And they have made it clear that they intend to keep at it until they—not the 130-million-plus vehicle owners in this country—are satisfied with the results.

I am not at all reluctant to say that some automotive regulations have been needed. The industry simply did not respond quickly and effectively enough to the harmful side-effects of vastly increased automotive usage in highly populated areas. And some obviously desirable goals such as reduced emission of pollutants and increased passenger protection in the event of accidents could not have been achieved as readily without uniform, across-the-board government mandates. In retrospect, I think it is fair to say also that the law requiring greater fuel economy in motor vehicle usage has moved us faster toward energy conservation goals than competitive, free-market forces would have done.

The automobile industry disputed some of the provisions of those laws, primarily the timing of certain standards, but it has stepped up to the task of meeting established goals as quickly and efficiently as resources will permit. The Congress has made clear what is wanted, and we and the other automobile companies are making a mighty effort to respond.

But the effect of even the most desirable law can be unnecessarily costly and disruptive to both manufacturers and consumers if it is interpreted in a narrow or punitive way by those who carry out the law. Regulatory decisions can have far greater impact than was intended or foreseen by those who enacted the basic legislation. To the extent that those decisions are biased or overzealous, there can be no hope of seeing the law carried out objectively.

Last month, to take just one recent example, the National Highway Traffic Safety Administration issued a proposal requiring that our 1980-model light and medium trucks achieve a fuel economy level more than 33 percent greater than will be obtained in our 1979 models. We would be given only 14 months in which to bring off that small miracle. Not only does the proposal ignore technological limitations, but it does not take account of the extent to which our financial, technical and human resources are already being strained to meet fuel economy and emission standards for passenger cars.

This is not the place to spell out all of the other things that are wrong with the National Highway Traffic Safety Administration's proposal, but I think it illustrates very clearly the unreasonable time restrictions that are so often imposed by those who regulate automotive products. An equally serious problem for an industry that must plan its products well in advance of production is the constant uncertainty as to what will be required of us next. We can never be sure that the standards toward which we are working today will not be made unattainable by arbitrary regulatory action or overturned by new and unanticipated requirements.

There is a very real danger that regulation will continue to feed upon regulation and become not so much a means to an end as an end in itself. It is a happy hunting ground for many in Washington and elsewhere who find themselves possessed of a power that is greater in some respects than that of the Congress or state legislators.

It is an insidious kind of power. It lacks accountability to the people, has few real restraints and avoids any immediate public outcry because it does not make any direct or substantial demands upon the U.S. Treasury. The staggering cost of meeting regulations falls first upon the affected industry and its customers, and only later does the impact begin to be felt by the society at large in terms of general price rises, slower economic growth and fewer jobs. One of our critical needs today is a "sunset law" for regulations and regulatory agencies.

President Carter has made a move in that direction through his proposed issuance of an executive order requiring each government agency to give advance notice of its agenda, to offer an analysis of the impact of its major regulatory proposals and to conduct periodic reviews of existing regulations. The question at issue is whether that order will apply also to the so-called independent regulatory agencies, who prefer not to see their power restricted in any way. I applaud the Presidents' action, and I hope that the order can be given effect at an early date—with all regulatory agencies included.

One question we should be asking is how much more regulation all of us can afford, either directly in product costs or indirectly through lost opportunities for economic growth. For every significant federal or state regulation there is a trade-off of one kind or another that often goes unrecognized because the impact is delayed. We as individuals make trade-offs every day, but many find it difficult to view government actions in the same way. Most of us, given a choice, would undoubtedly choose clean air, clean water, safety and fuel economy measures over some equally expensive but less beneficial alternative. But I believe there should always—and particularly in the case of regulatory actions—be a clear understanding of the trade-offs involved.

Some people might ask why the automobile industry and others cannot pay for the immediate costs of regulation out of profits. One answer is that the short-term costs of meeting government regulations are pretty well fixed year after year. Profits are not.

Ford Motor Company will spend nearly $2 billion a year over the next four years to re-engineer its cars and trucks and build the facilities needed for compliance with U.S. fuel-economy, emissions and safety requirements. On the basis of our own costs and share of industry, we estimate that the entire industry could spend as much as $40 billion in the next four or five years to meet product standards established by government. Add to that the cost of other kinds of government regulations and the many other costs of doing business in a competitive industry.

There have been estimates, for example, that the cost of meeting noise standards in industrial plants of all kinds will range from $10 to $15 billion.

A current study being done at the Brookings Institution indicates that the cost to business of meeting environmental requirements is now more than $10 billion a year and the cumulative capital investment for that purpose over the past ten years is approaching something like $100 billion.

The total before-tax profits of all U.S. non-financial corporations in 1976 amounted to $102 billion. But the comparable figure for 1975 was $78 billion and for 1974, $60 billion. And of course there are many other claims on profits, like taxes for the government, dividends to stockholders, pension reserves, competitive actions and more.

Fortunately, Ford Motor Company's earnings in 1977 were enough to enable us to meet both government and other normal business demands, and we look for another good year in 1978. But because of the cyclical nature of our business, there will be some not-so-good years ahead when earnings will fall far short of our needs. By then we will have lost much of our freedom to adjust spending accordingly. We will have no choice but to maintain expenditures at the levels needed to meet government requirements within the time frame demanded by law.

What the regulators evidently do not recognize in all of this is that they are forcing some fundamental changes in the structure of our economy. To the extent that some companies are unable to sustain the level of spending required by government regulation, they could find it necessary to cut back operations, reduce product lines or—at the extreme—simply go out of business. One automobile company has already dropped out of the heavy truck business because, by its own account, it "could not keep pace with the growing list of government standards." Despite efforts by government throughout the years to prevent concentration in industry, the regulators are fast bringing us to a point where only the largest companies can survive.

Again I ask, does this serve the people of America?

What troubles me most about all of this is our apparent inability or unwillingness to recognize that there is something wrong about the way we look at our national problems and the way we try to solve them. We want clean, sparkling rivers and streams wherever we go. But must we close down all the industrial plants along their borders in order to achieve that goal? We want clean air. But is 90 per cent clean much worse than 99.9 per cent clean? We want safe motor vehicles. But can the vehicle alone guarantee absolute protection from accidents and injuries?

Several years ago, I came down to Washington at the invitation of the late Senator Humphrey to testify before the Joint Economic Committee. I suggested that this country would be well served if we introduced into the conduct of our national economy some of the planning concepts that are common in business.

My words had different meaning for different groups. Conservative elements in the business community and elsewhere were sure I'd become a Socialist who wanted government to control everything. Liberals, on the other hand, sought to embrace me as a repentant sinner who finally had seen the light. What I really said and meant never quite surfaced.

I was trying to suggest that we in this country had better know and understand all the factors that must be taken into account when we size up the economy and lay out our course for the future. We cannot have economic growth, balanced or otherwise, if we go at our problems with tunnel vision. We must know how each action affects another, and be willing to change or eliminate those that are counter-productive. I'm going to repeat that suggestion today—not only because it should be a lot more palatable to the business community now, but because the development of some such approach to national growth could be the most important outcome of the Conference.

It seems to me also that we have made too little use of incentives in attempting to resolve many of our most difficult social and environmental problems. That's the essence of this economic system that has served our country so well for so many years. Even a donkey will respond to a carrot as well as a stick. The more we can encourage people—manufacturers and consumers alike—to want to do what should be done because it is demonstrably in their best interest to do so, the less damage will be done to our economy and to the society at large.

That assumes, of course, that we can arrive at some better way of deciding—by consensus—what our national priorities should be. To paraphrase Winston Churchill, never before have so few attempted to speak for so many with such devastating results.

I hope that this Conference will help point the way to a clear and objective understanding of what truly serves our national interest and that it will reaffirm the right of all

of us to have a voice in what our national priorities will be.

WESTERN GOVERNORS URGE AID TO ENERGY-IMPACTED COMMUNITIES

Mr. STEVENS. Mr. President, the development of domestic energy resources to meet our national energy needs will cause major impacts on nearby communities. The influx of personnel and their families to these areas to work on these energy projects will necessitate the expansion of public services and facilities in these communities. In many cases the communities will need financial and planning assistance.

By and large, Western States and communities are willing to see the development of their resources, if assistance is provided to meet the increased demands on public services and facilities and if compensation is provided for other adverse environmental and social impacts.

The Western Governors' Conference, meeting in Anchorage in September, adopted a resolution expressing the need for impact assistance and some of the considerations for implementing such a program.

In 1976, Congress enacted the coastal energy impact program, to provide impact assistance to energy-related development in the coastal zone. This program needs to be expanded to accommodate inland energy development. This is important to my State, Alaska, because we have vast energy resources and numerous communities of varying sizes which will be impacted when these resources are developed.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

AID TO ENERGY-IMPACTED COMMUNITIES

The Western Governors recognize the national need for the development of our national resources in the Western United States. This development however had failed to recognize the social burden it carries with it, the disruption of lives and communities and the resultant requirements for a national impact assessment policy.

We strongly urge Congress and the Administration to provide for examinations of the social, economic, and cultural effects of projected extensive resource development projects which will induce rapid community development and change. These analyses should lead to the design of an impact assessment policy within the States and communities to be affected. We urge Congress and the Administration to:

1. Establish a policy which considers the social environment of our citizens to be as important as the physical environment.

2. Develop, in liason with the states, a formal method whereby social factors are considered when decisions are made regarding location, the nature and extent of major on-and-off-shore resources development projects. This may include provisions for conducting functional social impact analyses. Such analyses will: (a) be conducted in a manner which will provide both short and long-term projections of the effects of the projects on the impacted States and communities; (b) specify actions necessary to strengthen positive effects and alter neutral or negative effects of the exploration, development, production, and post-project phases; and (c) include a monitoring system to insure that the development project adheres to the stipulations designed to achieve the social, cultural, and economic goals addressed by the impacted citizens.

3. Restructure and reorganize federal energy-related agencies to reflect the need for better coordination and utilization of impact assessment and mitigation programs.

Specifically, the newly created Department of Energy (DOE) should have the capacity to identify and assure the reasonable mitigation of impact that is likely to be precipitated by federal energy programs and policies.

The federal government should utilize existing agencies and programs where possible for the delivery of impact assistance rather than create new agencies.

However, in doing so, an interagency mechanism and the designation of a lead energy impact assistance agency must be forthcoming for the better coordination of these federal activities.

4. All levels of government, federal, state and local, must share the responsibilities of assessing and mitigating the impacts of energy development.

State and local governments offer the most reasonable level for the actual delivery of impact funds, whether those be federal, state, or locally originated.

Residents of producing states and communities should not have to bear the costs of mitigating net adverse impacts. Those net costs that cannot be internationalized are recognized as a responsibility of the federal government.

State governments and local governments must be in a position to understand the impacts of energy programs before they are initiated and to influence the resource commitment decisions.

Working with the states, the federal government has the responsibility to fully and expeditiously assess the impacts of their energy policies and programs before a decision to proceed is made.

In those cases where impacts are a result of federal policies and programs, regardless of whether they occur on federal or private land, the federal government must assume the ultimate risk of providing impact mitigation.

Federal assistance programs should be automatically triggered by the federal policy or programs which precipitated the impact.

5. *The use of existing federal assistance programs to solve the new set of problems caused by accelerated energy development is of concern to the Governors.*

The better coordination of existing programs that are appropriate for use in energy impact situations is needed and would lead to a better ultilization of federal funds. In the same manner, the lessening of restrictions which prevent states and local governments from using existing categorical programs for solving energy-related impacts would be beneficial.

A substantial utilization of existing federal programs will warrant an increase in funding levels within these programs to address the new costs of energy development associated with an impact assessment policy.

6. *Any new comprehensive federal impact assistance program must be designed in a manner that will allow maximum utilization by state and local governments.*

Such a program should emphasize automatic grants for planning, management, and infrastructure needs, along with other funding mechanisms.

Federal loans and loan guarantees could be utilized if properly designed, but should not be the sole form of federal assistance. Loans and loan guarantee programs should take into account state constitution and usury law constratins.

Federal impact assistance programs must identify actual needs and costs and not rely only upon stringent formula allocations.

Any comprehensive federal program should apply to the mitigation of energy impacts regardless of whether they occur as a result of development of public or private resources.

ENERGY-EFFICIENT HOME DESIGN

Mr. CLARK. Mr. President, last month I toured an energy-efficient house belonging to Dave Sparks, who is a television broadcaster in Waterloo, Iowa. I was much impressed by the house and very pleased also that Dave had put together a description of some of the problems he had run into in trying to have his house designed so that it would be both energy efficient and moderately priced. He pointed out very clearly that there is a need for further Federal Government innovation in encouraging the development of housing which is designed for energy efficiency. As he learned, the usefulness of solar energy in some kinds of residential situations is not yet economical, but homes designed to make the best possible use of the Sun in a more passive way are.

I think Dave made some excellent points about what we could be doing to encourage energy-efficient design and I would like to share his experience with the rest of the Senate. Mr. President, I ask unanimous consent that Dave's description, "Efficiency: Energy's Ugly Duckling," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EFFICIENCY: ENERGY'S UGLY DUCKLING

Howard Hunt, the planner of the Watergate burglary, told Barbara Walters that he prefers to avoid personal examples when undertaking to persuade. His reason was that such examples appear self-serving, and weaken the attempt.

Unfortunately, that being the case, this narrative may have a flaw. A citizen who asks for an hour of a Senator's time must have a point he wishes to make, and so we have. But our point was made first to us by our own experience. Our experience remains the basis and sole example we can cite of our point. In any event, the use of personal example here will not be the first time Mr. Hunt and I have disagreed on the means to an end. We do not pretend to be experts in any building problems except our own. But even as the world's best swordsman fears not the second best, but the unpredictable novice, so the amateur builder may hope to thrust his point into the energy fray.

We are not wealthy. Middle class by background, our young income still barely qualifies us as such economically. We are among that marginal 2½ million Americans whom the Department of Labor feels could benefit by mechanisms that would lower the monthly outlay for home ownership. Our personal mechanism was to design for economy, pare down that design, then contract only enough to make the place habitable.

We knew at the outset that we could not afford a typical heating bill. We were also impressed by the proceedings of Earth Day back in 1970, when so many of us discovered the notion that oil is not forever. An old fascination with geodesic domes,

and all the Buckminster Fuller philosophy on space and resources that comes with them, brought us to the door of an architect we knew slightly.

Darrell Andersen counselled against domes as inefficient when compared with partially-buried conventional structures. This was our first clear conflict between the glamorous (dome) and the plain. We elected the plain, but insisted that it incorporate solar heating.

At that time, in 1976, Chamberlain Manufacturing Company of Waterloo was testing flat plate collectors on its roof. Yet, surprisingly, even as this firm was preparing to market its devices, it advised us to consider efficient design first.

Here was our second encounter with the Ugly Duckling. But simple economics forced us to accept it again. Chamberlain's price for a system to provide 75% of the 80,000 BTU's a conventional house would need was $5,000 to $7,000. On the other hand, argued Bill Sims of Chamberlain, modifications in conventional building could cut that heat loss by 75% virtually for free.

The truth is that energy efficiency costs money to design, and more money to build. But walls and roofs must be designed and built anyway. The difference in cost added by efficiency comes mostly from added insulation, and the price of professional inexperience.

There was no designer in the area who felt prepared to design an efficient house. It is our personal belief that the payoff, under the architect's contingency fee, was not high enough. Parenthetically, I note that ERDA has finally decided its earlier solar grants do not provide answers to the problems of large-scale application, because the individual projects have been expensive. In each case, an architect has been paid by percentage of total cost, which on its face appears to conflict with economic efficiency in such projects.

We finally worked out an arrangement to get a certain number of architect hours for a flat fee. Much of the time went into research. The design of our house was determined by the results of that research. Joel Lakin deserves credit for both, the research and the resulting design.

The point has already been made: existing materials and construction techniques can be employed at, ultimately, no additional cost, to provide energy efficient buildings. But some adjustments in thinking are needed. And some plain, basic education has to happen.

We paid for the education of one designer. How many more must learn on the job, at the expense of government programs or (more dearly) of individuals? This also applies to builders, one of whom admitted he had padded his bid because, "I ain't gonna stand the cost of my men learning how to do that."

There is the more difficult job of educating the home buyer. Our house does not look like a typical tract home. Some of that results from custom-building and what I call "architect-fancy." But the design imposes fundamental aesthetic requirements.

Energy efficiency requires two design criteria, one much less obvious than the other, but perhaps more important. First, there is the obvious requirement of limiting heat loss. More subtle is the second requirement of passive heat gain.

We limit loss by insulation, wind protection, and partial burial. The last item provides sure wind protection, and also means part of the outside wall never gets below freezing. As heat loss varies directly with inside-outside temperature difference, reducing the difference through partial burial reduces the loss. A similar effect helps cool the house in the summer.

The heat gain features are the fireplaces, which are designed in a particular way, and the windows. The fireplaces are contained in a central, masonry mass. They are sealed from the rooms by fireglass doors, and are provided outside combustion air. This design eliminates heat loss through the flue, alleviates the danger of gas intrusion that tightly-built houses present, and enables what heat is absorbed by the chimney to radiate into the house, instead of to the outside as a conventional exterior chimney does.

Paul Sidles, the solar information specialist with ERDA's Ames Lab, says the best, cheapest solar collector is a south window. All of our windows face south. They are designed with overhangs to block the sun's rays in summer, but allow full penetration in cooler seasons. The downstairs is done in masonry, insulated on the outside. Even the floor is concrete poured over 2" styrofoam. The passive principle applies here: the sun warms the masonry directly, and indirectly by its warming effect on the air. The masonry is protected, and so retains this heat for a time. Most masonry walls are insulated on the inside, which would block off the passive principle. A simple change, moving the insulation outside, has profound energy implications.

Partial burial, windows on one side only, southward orientation, interior chimneys, open spaces inside for air circulation, and other features demanded by energy efficiency can all be accomplished by inexpensive modifications in present methods and materials. But the inertia is astonishing.

Our greatest problems were with building inspectors who had "never seen anything like this." In a good-faith effort to make the building fit traditional appearances, they almost forced us to compromise the energy efficient design. As it was, partially to get the inspector off our backs, we made several hundred dollars' worth of modifications in our roof. The Uniform Building Code is silent on the features we employed. Faced with deciding in unfamiliar territory, without benefit of UBC guidance, the inspectors excercised understandable, if frustrating caution. Here, again, some education is in order. So might HUD seriously consider an addendum to the UBC, giving guidance to inspectors across the country.

The final point goes to the title of this soliloquy, and carries the taint of cynicism. To the public official who senses the shortness of his term, his budget year, or what-have-you; to the public official who senses the public's desire to see progress being made; to the public official anxious to display some hardware at the end of an expenditure, such things as solar collectors are a godsend.

Solar technology is for real. We accept that, and designed a house to which it can be fitted later at minimum cost. But it is also glamorous, shining there in the sunlight, almost statuesque in its clean, visual simplicity. Nevermind that underneath there is an economic paradox, *it looks good.* It is tricky, scientific, and full of the allure of something-for-nothing. It is futuristic, with a flavor of wide open spaces. No wonder Americans are thrilled with the notion of it.

Like ducklings, who hatch cute, and delight the eye with their bobbing and scooting, solar energy is a newborn beauty with some promise for tomorrow.

But efficient design is another matter, awkward to describe, a bit ungainly to behold. It does no glamorous tricks. It lurches when it moves. But it has the promise of becoming a beautiful swan, that accomplishes more by using what is already used, in a different way.

Here, by the way, is the economic paradox referred to earlier. The cost of a solar system varies with the collector area required. The fixed costs of plumbing, ducting, controls, pumps, fans, and other hardware for distribution and storage change but little. The collector area varies with the BTU demand of the structure. Make the structure more energy efficient, and the collector area is reduced. This raises the cost-per-BTU of a solar system, since the constant, fixed costs must now be borne by a smaller yield. Energy efficiency actually contravenes in a homeowner's evaluation of solar heating. The answer, for us, lies in those passive, masonry walls. Simple, air-type flat plate collectors will heat the interior air, warming those walls. The building then becomes its own storage system, and simple re-radiation of the stored heat provides a direct distribution for the stored heat. All of this is already in the cost of the basic structure. But such relationships result from efficient design of buildings, and not from government-funded research by solar manufacturers.

We do not suggest that government should cease funding research and even manufacture of solar technology. Ours is a more modest, positive proposal. It recognizes that people by themselves, even people exhorted by their leaders, probably lack the drive to curb energy use. Here is a way to bring that about quietly, without costing them much or expending large public sums. Simply (as if such a thing could be as simple to do as to say) apply the attention of government to the ugly duckling of efficient design, even as it is presently applied to energy's more glamorous creatures.

MIDDLE EAST CONFLICTS

Mr. CASE. Mr. President, Senator PAUL LAXALT of Nevada spoke recently at a meeting of the Northern California American Israel Public Affairs Committee on political developments in the Middle East. His thoughts on the subject reflect, I believe, a good understanding of the dynamics of the situation in that region.

In particular, I want to point out a key point in Senator LAXALT's speech. He suggests that our primary objective "must be to isolate the radical elements (in the Middle East) and to avoid giving them a veto over any peace conference policy proceedings."

Indeed, the radical elements, affecting even some of the moderate Arab States such as Jordan and Saudi Arabia, already have harmed the peace talks. Of all the "obstacles to peace" cited recently, the threats to moderate Arab governments, and the murder and terror attacks being carried out on the West Bank and in the Arab world and in Europe, are the biggest danger to a solution of the Middle Eastern conflict.

Mr. President, I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY HONORABLE PAUL LAXALT

First, let me say that I am delighted to address you today as a United States Senator, as a neighboring Nevadan, and as a conservative Republican. Some of you may know that one of the nicer things that has happened to me in my public career was to have had the honor of being Governor Reagan's National Chairman for the Presidency, and of nominating him at the Republican National Convention in Kansas City. It may also interest you to know that I happened to mention my invitation to come here in the Senate cloakroom before leaving and a number of my

Republican colleagues commented that a new dialogue is taking place between Republicans and the Jewish community throughout the country. They thought it exceedingly healthy. I believe that it is long overdue. I think that we conservatives who stand for stability and strength in foreign relations and particularly for standing firm with our friends are particularly valuable political allies for you.

I am not here to pose as an expert on the Middle East. But, I will tell you that I think I am as conversant as most Senators with foreign relations and with the problems in the Mideast. I have had occasion to follow them for a long while—during the time I was Governor of Nevada, thereafter in private life, and more particularly since I have been in the Senate. Last year, I went to the Mideast as part of a delegation headed by Senators Baker and Ribicoff. I must say that this trip was an invaluable experience.

Although we traveled through most of the Middle East, I think the two most significant meetings we had were in Cairo and Jerusalem. In Cairo, we saw first-hand the tremendous problems besetting Anwar Sadat. Never had I conceived of the problems that this man has in governing. Difficulties were everywhere, tremendously serious political, economic and social problems. In talking with the man, as all of us did for a long while, I acquired a considerable respect for him. I saw the strength, the fierce determination and evident ability made manifest by his recent trip to Jerusalem.

In Israel I had similarly favorable impressions of Yitzhak Rabin, Defense Minister Peres and Foreign Minister Allon. During the course of one of the meetings, I also had a chance to meet with a relatively obscure conservative leader of the opposition by the name of Begin—with whom I related very quickly. But, the thing that struck me in all these various conversations with all these people, Egyptian as well as Israeli, was a common thread of an unquenchable thirst for peace.

I came back from that visit feeling I had a strong commitment as a United States Senator to protect Israel's vital security interests, to honor the commitment we have had since its creation in 1948, and to do whatever I could to assist in attaining peace in the region. With that in mind, I became both more avid a student of the Middle Eastern question and increasingly concerned by the actions of the new Administration in Washington.

During the campaign, I felt generally that if Mr. Carter were elected, our foreign policy would be in fairly good hands. But, I soon began to wonder. The first disquieting event was an almost off-hand remark to the effect that Israel should withdraw to its 1967 borders with only minor adjustments. I thought to myself how serious it was for off-hand statements to be made on such important subjects. But, I soon dismissed it as coming from one who was new and unfamiliar with the terms of all concerning the Mideast.

Then, it happened again when Prime Minister Rabin came to Washington. In March there were press leaks—Washington is a great place for leaks—to the effect that Rabin's meetings with the President were unproductive, which I thought was unfair to Mr. Rabin, particularly with an election coming up.

After this, I grew increasingly concerned. When I observed what appeared to me to be an overly friendly posture toward the Palestinians by way of press statements and attitudes emanating from the White House I was most disturbed. Still, I think that most of us gave the new Administration the benefit of the doubt, acknowledging that they were feeling their way and Washington is a long ways from Plains, Georgia.

But, then came the joint U.S./Soviet statement. I think that for many of us this was the end of our illusions. However you wanted to characterize it for Republicans and conservatives, that communique was absolutely disastrous because a good deal of previous effort in Middle Eastern diplomacy had been directed toward putting the Soviets on the sidelines, it was senseless without prior consultation with the parties immediately involved to bring them right back to stage center. The joint statement gave the Soviets credibility they could not achieve otherwise. And, within the framework of the joint statement for the first time, we hear reference to the "legitimate rights" of the Palestinians. "Rights?" This was an exceedingly serious statement by the Administration because it can be translated in terms of calling for an end to Israel.

What I see of this Administration in this and other areas is the same syndrome. The President goes for the home run. This is all well and good, but home run hitters strike out a lot too. This is just what we have been doing in energy where we have to have an energy bill—at any price. The same type of syndrome is in effect with reference to a Geneva Conference. We have to have a Geneva Conference at any price. And, we have to have it before the first of the year. I think that probably this was the stimulus for the joint U.S./Soviet statement.

This Administration, with little support in Congress, has nonetheless gone ahead with its Mideast policies. It was hell-bent for Geneva without giving real consideration to what would happen once we got there and, perhaps the most disastrous thing of all when it comes to foreign affairs, they let events run ahead of them.

I think both Israel and Egypt came to the conclusion that they could not permit the destiny of their respective countries be placed in the hands of what they perceived to be an incompetent, bungling Administration. When Sadat's statement came as it did in almost a throw-away fashion, I can remember the comments around town to the effect that there was no way, absolutely no way, that there would ever be a personal meeting between Sadat and Begin. I did not share that view because a year ago I felt that Sadat was the kind of man who would have the courage to follow through. And, of course, as it developed that is precisely what happened.

Sadat really had no choice. As I indicated before, he is having desperate internal problems. He has 39 million people, many of whom are suffering from poverty and disease. When we were there, he indicated that by the year 2000 Egypt's population would double with no prospect of relief.

I think Sadat's decision to go to Jerusalem was to his great credit and that of Mr. Begin's. They took control. They decided among themselves that the time had come to push the Americans and the Soviets aside and approach their differences on a bilateral basis and start talking face-to-face. This was the most memorable thing that's happened in years. Sadat coming to Tel Aviv Airport and later Jerusalem was among the most exciting public events I can remember. The day that Sadat set foot as he did on Israeli soil—everybody watched. Particularly in Israel. Before then the Arabs treated Israel as if it just plain didn't exist. The day that Sadat set foot on Israeli soil, he told the Mideast, he told the Arabs, he told the world, Israel exists. This was the unstated, but obvious, consequence of the visit.

There are going to be other benefits from that meeting. Communications first of all. How invaluable it is now for them to be able to pick up a phone to talk to one another directly. How invaluable it is going to be in the future if there are difficulties to be able to meet and sort them out.

I was struck too by the symbolism of Mrs. Golda Meir's exchange with Mr. Sadat. That did more good, as far as I was concerned, than all of the State Department's efforts for years. Here were two people exchanging stories like friends. I think that probably did as much good in transmitting a message to the world as anything and I have seen in a long time.

So, it has gone well so far. As Morrie Amitay and, I am sure, the other speakers have indicated, we have only finished the first inning and this could all be terribly counterproductive if we lose momentum. Momentum must be continued and it is imperative, I think, that we in the United States encourage both sides. Unfortunately, the Administration, for reasons best known to itself, seems to be dragging its feet on encouraging Begin and Sadat so it is imperative that the Congress do all that it can to encourage a peaceful settlement. Congress at this time needs to be encouraged itself. It needs to be prodded and the type of effort that Morrie was referring to by way of mail is exceedingly important to stimulate it on a continuing basis.

Egypt and Israel have to know that they are not alone, because I have a suspicion that the days ahead could be lonely at times. They have to know it is not the policy of this country to stall. I think we have to be realistic as we look to the future. Surely, two heads of state meeting as they did in Israel could only state their respective positions in the beginning of negotiations.

I think that among our primary objectives must be to isolate the radical elements and to avoid giving them a veto over any peace conference policy proceedings. Of course, Administration policy of supporting a unified delegation representing all the Arab states in one bloc works in the opposite direction. All you really do in that circumstance is give additional credibility to radical elements. I think that if we go ahead along those lines suggested by the Carter Administration there cannot be a successful Geneva. We must understand what former Secretary Kissinger and many others have recently said in connection with these negotiations—that they can only be the culmination of a long, gradual process. It is going to take patience and perseverance, beacuse we are eventually going to have to have meaningful provisions relating to security. We are going to have to have meaningful guarantees. And these cannot be achieved overnight.

Let me close with making these observations. I am greatly concerned about where our foreign policy is going. It is almost impossible to discern any adherent themes in our foreign policy. Signals change almost by the day. I think, for example, that we have repudiated good friends for human rights reasons while ignoring more heinous crimes in places like Cuba and Panama. In my judgment, too often we have treated our friends like enemies and our enemies like friends. Our credibility is also in doubt. This particularly affects Israel because if you are going to have this kind of uncertainty in relations, in backing up our other friends and allies when they need help, what source of comfort is there for a little country like Israel?

I think that we have too many people at the State Department who are pursuing an illusion of peace. I think we have to have consistency, I think we have to indicate to one and all throughout this world that our allies are with us, and we are with them. It is not a one-way street. Particularly during the course of this coming year we have to take positive steps with a realistic energy program to release and reduce our dependence upon Mideast oil. Because as long as that type of economic servitude exists, we are going to be in serious trouble, and Israel particularly is going to be in serious difficulty. The greatest contribution that all of us can make in these very difficult days is to make certain that in the days ahead you can continue to be as active as you have been.

I hope that you continue to have functions of this kind so that those of us in Washington have an opportunity to communicate with you and understand that with this kind of activity all of us in our own ways can insure the security and future of Israel.

ELECTRICAL POWER—A CLEAR AND PRESENT DANGER

Mr. METZENBAUM. Mr. President, the Congress, in its wisdom in 1920 provided in the Federal Power Act that whenever the Commission determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy, the Commission shall have authority to require temporary connections of facilities and interchange or transmission of electric energy.

There is just one catch to that in 1978—we cannot do it. As all the world knows, the State of Ohio is struggling with the aftereffect of the worst blizzard in years. Voluntary conservation efforts for electrical power are now in effect with a possibility of mandatory requirements and cutbacks affecting industry if the situation does not abate.

I am advised Ohio uses 18,000 megawatts of electricity daily. The best we can hope for in bringing outside power into Ohio is less than 8,000 megawatts and that to be shared among five other States.

I get an uncomfortable feeling, Mr. President, that we are not capable of emergency preparedness with regard to exchange of electricity as envisioned by the Congress in the 1920 Power Act.

I have written to Secretary Schlesinger asking that he activate the Department of Energy to provide whatever immediate help we can get. I have also asked the Secretary to expedite a study he promised to make before March 31 for Lee Metcalf.

Senator Metcalf, in his wisdom, saw the need for a national power grid and introduced Senate bill S. 1991 in August of last year which I cosponsored.

To guarantee the availability of electricity, local power distribution systems must be fully integrated into large regional or national grids in which power is controlled and dispatched from a central point that has knowledge of the energy situation in every part of the region.

On July 18, President Carter also asked his Cabinet and the FPC to investigate a possible national grid system that would allow a more orderly and structured transfer of power to an imperiled system on an emergency basis.

I look forward to early hearings on this legislation and, Mr. President, ask that my letter to Secretary Schlesinger be printed in the RECORD for the benefit of the Senate.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., January 31, 1978.

Hon. JAMES R. SCHLESINGER,
Secretary, Department of Energy,
The White House, Washington, D.C.

DEAR MR. SECRETARY: The problems of the State of Ohio related to meeting critical energy needs have been intensified by the unprecedented storms of recent days. The state is now faced with voluntary and mandatory cutbacks in energy consistent with the plans presented to your department by utility company officials representing an eight state region last week.

The current situation intensifies the need for prompt action on legislation to establish a national electrical power grid and bulk distribution system which Senator Lee Metcalf introduced last August.

This critical electric power supply problem in Ohio and neighboring states underscores the necessity of a national power grid capable of transmitting large blocks of power from one region of the country to another to meet such emergency conditions.

I recall the President's direction to you, following Con Ed's major blackout last year, to address the issue of a national power grid. I am one of the co-sponsors of S. 1991, the National Electrical Energy Reliability and Conservation Act of 1977, which is before the Committee on Energy and Natural Resources. As a member of that committee, I want to have hearings on the bill promptly, so this grid legislation can be considered by both the Senate and House in the 95th Congress.

Last September the late Senator Metcalf asked you to submit a Department of Energy study of a national power grid, with recommendations, no later than March 31, 1978. I urge that this proposed timetable be accelerated, so the committee will have the benefit of your considered views as soon as possible.

In the interim it is imperative that your agency take the lead to assure the maximum available power from existing non-coal sources for Ohio and other states in such need.

I urge you immediately to take whatever measures are necessary to wheel power from those areas with a surplus to the most critically affected areas in the Midwest. It is my understanding that mandatory wheeling to the State of Ohio alone could provide a significant amount of additional power.

Very sincerely yours,

HOWARD M. METZENBAUM,
U.S. Senator.

USER FEES ON DEEP-DRAFT PORTS

Mr. DANFORTH. Mr. President, I have introduced an amendment (No. 1682) to Senator DOMENICI's amendment to H.R. 8309 which would extend Senator DOMENICI's inland waterway user fee concept to deep-draft harbors and ports. The Department of Transportation has studied the applicability of user fees to deep-draft navigation and has found that there is no meaningful distinction between the inland waterways and deep-draft harbors and ports as far as the user fee theory is concerned.

In August 1977, the Department of Transportation issued a report entitled "Deep-Draft Navigation User Charges: Recovery Options and Impacts" (Rept. No. DOT-TSC-OST-77-45). I quote from pages 1-2 and 1-3 of the Department of Transportation report:

> The distinction between the inland waterway and deep-draft systems is somewhat arbitrary and cannot be made in terms of depth or purpose or location alone. The Mississippi River at and below Baton Rouge has a project depth of 40 feet and is one of the busiest oceans ports in the United States, and yet is at the same time a link in the Mississippi River-GIWW barge system. Conversely, many coastal rivers (e.g., the Connecticut River below Hartford or the Thames River, CT.) serve either as "elongated ports", shipping and receiving foreign and coastwise traffic, or as appendages to ports interacting with a coastal port at the mouth, but not with the rest of the "inland system".
>
> Nor is depth itself an adequate metric for classifying projects. A draft criterion would place many coastal harbors (Commercial cargo, fishing, and recreation) together with the inland waterway system, even though they functionally resemble the deeper-draft harbors—i.e., they are generally "point" projects (not system links) which interact with other ports, but whose commerce may involve significant movement in open waters beyond Government-maintained channels.
>
> Earlier TSC studies have dealt with the issue of inland waterway user charges, concentrating on the contiguous river system consisting of the Mississippi River and tributaries, GIWW, and Warrior River systems. The present study deals with the remaining commercial navigation projects, with special emphasis on ports and connecting waterways whose major channels exceed 20 feet. As noted above, the divisions imposed by the analysis are artificial, and the decision whether to implement user charges and what collection option to utilize requires examination of how the alternatives affect each "system", since it is impossible to segregate traffic operations. For example, a fuel tax on diesel bunker fuel would fall on harbor and coastwise tugs burning this fuel as well as river towboats. It would be extremely difficult to institute an inland waterway fuel tax without extending that option to the rest of the system. Therefore, this study will also examine issues of shallow-and-deep-draft systems interactions.

One sentence in the above quoted language deserves special attention:

> It would be extremely difficult to institute an inland waterway fuel tax without extending that option to the rest of the system.

Thus it appears that the position of the Department of Transportation is that a fee for the use of the inland waterway system is phase 1 in a two-phase approach. Phase 2 would be the imposition of a system of user fees on deep-draft harbors and ports. The administration's intent to seek recovery of all Federal expenditures on deep-draft harbors and ports is again clearly stated in the executive summary section of the report, page vii:

> The development of a consistent and equitable approach to recovery of all Federal deep-draft costs was mandated by Section 80(c) of the Water Resource Development Act of 1979.

The 1974 act, Public Law 93-251, covers all "federally financed water and related resources projects." The amendment I have introduced will allow the Senate to consider both phases at the same time so as to avoid the divide and conquer strategy of the administration on this issue.

The following table extrapolates from the Department of Transportation study quoted above, 1971 through 1975 Army Corps of Engineers expenditures by States for operations and maintenance for selected deep-draft harbors and ports. These ports and harbors accounted for approximately 98 percent of total foreign and domestic traffic during this period:

TABLE

Maine: $88,000, Portland harbor.

Massachusetts: $10,893,000, Boston harbor Cape Cod canal.

Connecticut: $2,263,000, New Haven harbor.

New York: $54,417,000. Hudson River, New York, and Buffalo harbors.

Pennsylvania/Delaware: $39,052,000, Philadelphia/Wilmington harbors.

Maryland: $3,778,000, Baltimore harbor.

Virginia: $13,431,000, Hampton Roads harbor.

Florida: $11,608,000, Jacksonville, Tampa, Port Everglades and Canaveral harbors.

Alabama: $8,700,000, Mobile harbor.

Louisiana: $74,522,000, New Orleans and Baton Rouge harbors.

Texas: $38,640,000, Houston ship channel, Galveston harbor, Texas City channels, Sabine Neches waterway and Corpus Christi ship channel.

California: $28,686,000, San Francisco Bay ports.

Oregon: $32,615,000, Columbia River, Coos Bay.

North Carolina: $6,769,000, Wilmington harbor.

South Carolina: $32,143,000, Charleston and Savannah harbors, Shipyard River.

Washington: $10,363,000, Seattle and Tacoma harbors, Lake Washington canal.

Minnesota: $5,097,000, Duluth, Superior harbors, Two harbors.

Michigan: $30,511,000, St. Mary, St. Clair and Detroit Rivers, and channels in Lake St. Clair.

Ohio: $33,196,000, Cleveland, Toledo, Ashtabula, Lorain, Conneaut and Sandusky harbors.

Illinois: $2,130,000, Chicago harbor and Calumet River and harbor (Indiana).

Indiana: $463,000, Indiana harbor.

PANAMÁ CANAL OPERATION

Mr. SPARKMAN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter and enclosure which I received from the Department of State on February 3 in reply to a request by the Committee on Foreign Relations for additional economic and financial data concerning the operation of the Panama Canal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
February 3, 1978.

HON. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Attached to this letter you will find some additional economic and financial data concerning the operation of the Panama Canal. We are supplying this data in response to the request made by the Committee as a result of the hearing held on January 20, 1978.

We hope that this material helps to clarify some of the questions which arose during the hearing and stand ready to supply any additional information the Committee may need.

Sincerely yours,

DOUGLAS J. BENNETT, Jr.,
Assistant Secretary of State for Congressional Relations.

ECONOMIC AND FINANCIAL IMPLICATIONS OF THE NEW PANAMA CANAL TREATIES

This paper summarizes research on the ability of the Panama Canal to be operationally self-sustaining until the end of the century and examines the implications of the Panama Canal Treaty on domestic and world commerce.

Research performed by the U.S. treaty negotiating team, by independent consultants and by various U.S. Government departments indicates that:

1. The Canal enterprise can generate sufficient revenue under the basic treaty to cover all its costs.

2. Opportunities for toll increases substantially exceed the revenues which will be required.

3. Cost savings opportunities are substantial.

4. The impact of likely toll increases on domestic and world commerce will be minimal, if not negligible.

CAN THE CANAL PRODUCE SUFFICIENT REVENUE UNDER THE NEW TREATY TO COVER COSTS?

Since 1915 toll revenues have risen from $4 million to $165 million in fiscal year 1977. At current toll levels they will increase to $210 milion in 1985 and to $224 million in 1990. With a modest 25 percent toll increase, revenues would increase to $251 million in 1985 and to $268 million in 1990.

At the same time various estimates have been made of the Panama Canal Commission's operating costs. An exhaustive study on Panama Commission cost projects has just been prepared by Arthur Anderson & Company for the 1979–83 period. These projections conclude that Canal costs, including payments to Panama and including an inflation factor, will range between $241 million and $249 million in 1979 to between $237 million and $262 million in 1983.

The most significant impact of the new Treaties on future Canal financial operations will be the several annual payments to Panama which will be funded out of Canal operating revenues as operating Canal expenditures of the new Panama Canal Commission.

Article XIII of the Treaty specifies three annual payments to Panama from Canal revenues as an equitable return to Panama on the national resources it has provided the Canal. The first payment is calculated on the basis of 30 cents per Panama Canal ton for each vessel transiting the Canal. Five years after the Treaty goes into effect, this payment will be adjusted every two years to reflect changes in the wholesale price index. This payment should cost the Panama Canal Commission about $45 million in fiscal year 1979. This payment is a direct result of Canal traffic and would not, of course, be paid if the Canal were not operating.

The Panama Canal Commission will also pay Panama a fixed annuity of $10 million out of Canal operating revenues. This payment is a fixed expense of the Company and is not a function of traffic.

The Commission will also pay Panama a third annuity of up to $10 million only to the extent the Commission has a surplus. Should the Canal's revenues not produce a surplus sufficient to cover this contingent payment, the unpaid balance would be paid from future year surpluses.

Any unpaid balance remaining at the expiration of the Treaty would not represent a liability to the United States. Since this payment is only a contingent obligation, the Panama Canal Commission is not required to reflect it in its budget or the toll base.

In addition, Article III of the Treaty which is discussed in greater detail below requires an annual payment of $10 million for specified public services furnished by Panama in Commission operating and housing areas. This reimbursement is for public services which currently cost the U.S. Government approximately $18 million to perform.

Governor Parfitt, speaking for the Panama Canal Company, has suggested that an initial toll increase of 19.6 percent over existing rates would be required to meet these costs. However, the Governor pointed out a similar toll increase would be necessary by 1981 even without the treaties. American Management Services Commission has suggested an initial toll increase of 25 percent. The State Department in its initial estimates and testimony had suggested a toll increase in the neighborhood of 30 to 40 percent which subsequent study indicates was excessively conservative.

A study on Canal traffic and revenue forecasts recently completed by International Research Associates offers estimates that are more optimistic than those developed by our negotiating staff during the actual treaty negotiations. The study concludes that:

(*a*) Tolls could be increased up to slightly over 100 percent before revenues would begin to decline.

(*b*) Toll rate increases ranging from 15 percent to 50 percent would result in losses of traffic, on a tonnage basis, ranging from 2.4 percent for a 15 percent increase to 11.8 percent for a 50 percent increase.

Various studies concur in the finding that an initial toll increase is well within the ability of the Canal to generate revenue through tolls.

This was our judgment during the negotiations. It is a judgment which has been supported by all subsequent analyses with which we are familiar, including the IRA study, a study of Commission costs by Arthur Anderson, and the findings of the Armed Services Committee consultant whose report was issued by the Armed Services Committee on February 1.

WHAT COST SAVINGS WILL BE AFFECTED?

Since 1951, the Panama Canal Company has been administered as a self-sustaining U.S. Government corporation. Currently, in addition to the Canal, annual costs funded by Canal revenues include the Canal Zone Government, Canal Company retail and commercial operations, an "interest" payment to the Treasury of $18 to $20 million and approximately $500,000 of the $2.3 million annuity paid to Panama under the 1903 treaty.

In addition to the requirement to provide payments to Panama, the cost structure of the Panama Canal operation will be changed significantly by the new treaty.

The costs of the Canal Zone Government (about $25 million per year) will disappear after a 30 month transition period. In addition, all commercial and retail facilities will no longer be part of the Canal operation. Costs of providing schools and hospitals for Canal Zone employees will be reimbursed from toll revenues, as is now the case.

The new treaty provides that the Commission pay Panama $10 million per year in return for public services provided by Panama in the Canal operating and housing areas. This cost will be in contrast to the costs currently paid of approximately $18 million.

The Executive Branch will specifically recommend to Congress that the legislation organizing the Panama Canal Commission not charge it with an annual "interest" payment to the Treasury of $18 to $20 million. Congress, however, can decide to include an interest payment in the cost base to be covered by increased tolls. The Congress should recognize that it has always been the policy of the United States to operate the Canal as a public service and that this interest charge is in some ways a departure from this concept.

Beyond these cost savings, American Management Services has reviewed planning budgets for the Panama Canal operation and has considered reductions proposed in connection with the reduced scope of activity of the Panama Canal Commission versus the Panama Canal Company. The American Management Study reported that cost reductions, even larger than those envisioned by the Company, could be made.

WHAT WILL BE THE IMPACT OF THE TREATIES ON DOMESTIC AND WORLD COMMERCE?

Since 1914, the Panama Canal has served world commerce as an important transportation route. Canal traffic has risen from 5 mil-

lion Panama tons in 1915 to 123 million Panama Canal tons in fiscal year 1977. The IRA study indicates that traffic will further increase to 201.9 million tons by the year 2000.

Canal toll rates, however, have remained at low levels. They have changed very little over the years despite mammoth price changes for just about everything else. In 1914, tolls were set at $1.20 per laden Panama Canal ton, and changed to 90 cents per laden ton in 1937. Since 1974, there have been increases in toll rates of 50 percent. Tolls today are set at $1.29 per laden ton.

A toll increase of 20 to 30 percent over existing levels will have a minimum, if not negligible, impact on our trade and economy. A toll increase of about 30 percent will involve a transportation cost increase of less than one percent. Users of the Canal would pay only about $50 million more in tolls per year on cargoes that have a value in excess of roughly $50 billion, or one-tenth of one percent. In most instances, it will be the foreign buyer of U.S. commodities transiting the Canal who is the ultimate payer of Canal tolls and not the seller or shipper. Therefore, of the $50 million, U.S. businesses and consumers will be the ultimate payers of only about $15 million. The overall impact of this on a $1.7 trillion economy is negligible on either our business or the purchasing power of the consumer.

Obviously, there are uncertainties with respect to Panama Canal traffic and revenue, especially after 1990. The same is true of any projection of world or national economic conditions. These uncertainties would exist whether or not we undertake a new treaty relationship with Panama. The new treaty will provide a stable environment, while the alternative of continuing the present relationship could almost certainly involve greater costs and uncertainty for shippers.

BREAKING THE TAX BARRIERS TO ECONOMIC GROWTH

Mr. SCHMITT. Mr. President, the issue of tax reform is very much on the minds of my colleagues this session. One of the chief goals of any tax reform considered by the Congress should be the removal of barriers to economic growth which are built into the Internal Revenue Code. Our present level of capital formation is so low that productivity increases for the United States are among the lowest of the industrialized world.

With this thought in mind, I would like to call attention to an article which I read recently on the issue of barriers to economic growth in our tax law. It was written by a distinguished scholar of macroeconomic policy, Dr. David Meiselman. I commend this informative piece to my colleagues and ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BREAKING THE TAX BARRIERS TO ECONOMIC GROWTH

(By David I. Meiselman)

In the past few years we have all seen many reports describing and analyzing the slow and faltering growth of the American economy over the past decade. After two and a half years of the current business cycle expansion, the performance of the American economy is still highly unsatisfactory, a record which cannot be explained or excused by the temporary adversities of the business cycle or the weather, or even the serious and not so temporary adversity of the OPEC oil cartel. Inflation and unemployment are simply too high; productivity and growth are too low. Moreover, I believe that poor and ill-advised public policy, especially in the tax area, is the major factor causing our dismal performance.

There are many mysteries about economic growth, but the lack of complete knowledge should not blind us to what we do know. We do know that in recent years, since at least 1960, growth in American productivity and output has been the slowest of any of the Western world's major industrial economies! Indeed, despite all her many serious problems, even Great Britain has experienced more per capita growth than the United States. Between 1960 and 1973, real output per employed person increased by an average of only 2.1 percent per year in the United States, while in the U.K. it increased by about 2.8 percent per year or about a third more. Since 1974, per capita output in the United States and the U.K. have increased at an average of about 1 percent per year, partly reflecting sharp recessions in both countries. These differences in growth may appear small in any one year, but they accumulate over the years like compound interest so that during the 13 year period the overall increase in output per employed person was about 43 percent in the United Kingdom compared with about 31 percent in the United States. Other countries grew still more rapidly.

One of the main reasons for our slow growth is that the American economy has been devoting too many resources to consumption and to government and not enough resources to the capital formation which makes growth possible. In fact, of all the Western industrial countries, the United States has devoted the smallest fraction of its Gross National Product since 1960 to private capital formation. Between 1960 and 1973, total fixed investments, which includes housing, has been 17.5 percent of real output, compared with 22 percent in Canada, about 25 percent in France and Germany, and over 35 percent in Japan. Even the British have devoted a large proportion of output to capital formation than we have. Furthermore, the differences between American and foreign capital formation would be even greater if we excluded housing from the comparisons and examined only investment in plant and equipment, inventories and the like.

It is not merely coincidental that the United States has been lowest in both capital formation and economic growth. Output can increase only when technology improves or, with a given level of technology, when either more capital or more labor is used. Technical progress itself depends on capital formation. Technological improvements do not occur automatically; instead, they are typically the consequence of deliberate and planned research and development, a form of capital investment. And for a given level of technology, if there is little additional fixed capital, output can increase only when there are more labor inputs—from more people working, or from people working longer hours. The only dependable way to increase labor productivity, output per man-hour, is to increase the amount of capital per worker. Alternatively, a decrease in the amount of capital per worker tends to decrease labor productivity. These regularities depend on the operation of perhaps the oldest and best established principle in all of economics, known either as the Law of Diminishing Returns or the Law of Variable Proportions. Economists of diverse persuasions from Karl Marx or Paul Samuelson or Milton Friedman to Friedrich von Hayek may differ on many matters, but all agree that labor productivity depends on the amount of capital per worker.

PRODUCTIVITY DETERMINES WAGES

Thus, one factor making for slow growth per worker has been a sharp rise in the labor forces in recent years unmatched by any speedup in the rate of capital formation.

In the 1950–1955 period, the growth of capital per worker increased at the rate of 3.6 percent per year, and slowed in the decade thereafter. From 1965 to 1970 capital per worker increased at the rate of 2.6 percent per year. In the 1970's there has been a sharp decline in the growth of capital per worker. The Congressional Budget Office estimates that it grew at the rate of about 1.6 percent per year between 1970 and 1975 and only 1 percent per year since 1975. In fact, during the current business cycle expansion since early 1975, real gross non-residential fixed capital formation has increased only slightly and has actually declined as a fraction of Gross National Product. This is hardly the basis for the economic growth and the expansion of opportunity which the nation can and should achieve.

It turns out that real wage rates, and, to some extent, employment as well, depend on labor productivity—not because employers are guided by ethical reasons to reward workers for their productivity, but because market forces compel employers to do so. When, as the result of capital investment, employees become more productive, it will pay at least some employers to add to their work forces. As the demand for labor goes up, the result will be some combination of more employment and higher real wages as employers in general are forced to offer higher wages both to attract workers and to keep them from quitting. The maximum each employer is willing to pay is determined by the productivity of labor, and hence by the ratio of capital to labor. Competition among employers tends to drive wage rates to this point. Therefore, wages and employment opportunities will be held down if capital investment is slow.

If capital formation is so crucial for economic growth and rising real wage rates, why is the United States doing such a bad job of it? I contend that a number of public policy measures, by unduly penalizing saving and investment, have diverted resources that individuals would prefer to devote to capital formation and future consumption towards present consumption by households and by government. And one of the worst sets of policies, resulting in this wasteful distortion, is our Federal tax system.

TAXATION ON CURRENT CONSUMPTION

The fundamental bias against capital formation in our tax system results from the multiple taxation of income which is saved and invested. Individuals must pay taxes on essentially all income they earn, whether they spend it immediately or save it. The same holds true for corporations and their profits. This means that a dollar of current income is taxed only once when spent for consumer goods. However, the same dollar of current income devoted to saving is subject to multiple taxation because taxes must also be paid on the interest, dividends, capital gains, and the like that result from saving and investing. The use of income for saving is thereby taxed at substantially higher rates than the use of income for consumption. People naturally respond by saving and investing less. This distortion by multiple taxation is particularly great in the case of dividends, for the return on equity is also subject to an initial corporate profits tax of 48 percent. To be sure, so-called capital gains are taxed at lower rates than ordinary income, but this only moderates the distortion; it does not eliminate it.

For full tax equality between saving and consumption, all private sector saving should be deductible from the income tax base, whether invested in a savings account, the purchase of machine tools, the education of one's children, or the building of a shopping center. Only current consumption would be taxed. This would mean that businesses could, in effect, write off 100 percent of the cost of production facilities in the year they acquire them, thereby eliminating depreciation and other recovery allowances. Canada and England already essentially have this

system, and other countries generally permit substantially faster write-offs of depreciating capital assets than the United States does.

To be sure, some savings, especially in pension funds, do receive a partial tax break partly because under some circumstances taxes can be deferred and partly because some or all of employer contributions may not be taxed at all. But this route has its own dangers and shortcomings because it further bureaucratizes yet another important feature of American life by separating people from control of their own assets. Instead, control is vested in the hands of faceless caretakers and institutions who are required to act "prudently," which means they tend to provide funds to safe, established and large enterprises and activities. The system offers little to new, to risky or to small enterprises, cr to individuals and families who wish to start new businesses. This is yet another sad example of how government keeps people out and protects those who have already made it. Indeed, much of the tax system seems like an evil contrivance designed to keep people from becoming rich rather than striking at the rich themselves.

The damage wrought by our Federal tax system has been aggravated by inflation. Taxable profits have traditionally been calculated on the basis of historic rather than replacement costs. When prices increase, the cost of replacing inventories also increases, and depreciation, based on historic costs, becomes insufficient to replace machines being used. During inflation, therefore, recorded profits are overstated. Inflation thereby levies a special and additional tax on business capital under our current tax laws. Shifting from FIFO to LIFO accounting for inventories moderates but does not eliminate these problems for the inventory component. By itself, the extra inflation tax on business capital would result in a reduced rate of capital formation relative to periods such as the first half of the 1960's when there was little or no inflation. Because post-tax rates of return depend crucially on inflation, capital formation depends on anticipations of future inflation as well as on actual and anticipated public policies affecting future inflation.

INDEXATION RECOMMENDED

Thus, one important and needed reform would be to permit indexation of depreciation allowances to permit depreciation charges to cover current replacement costs rather than historic costs. Of course, if saving were exempt from income taxation there would be full write-offs of capital expenditures and no such adjustments would be necessary. However, if saving is not made deductible, indexation of depreciation would help mitigate some of the bad effects in inflation. Indexation is also desirable because it avoids creating erroneous capital gains when capital gains are subject to tax. Under present arrangements, the combination of inflation and capital gains taxation essentially amounts to a capital levy. Indexation of the entire tax code, including personal and corporate tax rates, are also desirable second-best solutions because indexation avoids the problems caused when the inflation process effectively alters real tax rates by putting individuals into higher tax brackets even when their real incomes remain the same. Tacitly raising tax rates and imposing capital levies by inflation rather than by explicit debate and legislation are not among the Congress's more forthright and honorable actions.

I may add that, even without inflation, taxing capital gains suffers from the basic fault of the tax system as a whole, which is that it tends to cause multiple taxation of income which is saved and invested rather than consumed. When people save they add to their wealth. Multiple taxation results when *both* income and the wealth generating the income are taxed. Because the capital gains tax is levied only when assets are sold and capital gains are realized, the capital gains tax is a peculiar kind of transactions tax, not even a systematic or uniform tax on increases in value. As such, the capital gains tax is yet another form of capital levy which not only reduces saving and investment, but seriously interferes with the efficiency of capital markets.

I regret that some Administration spokesmen and others seem to be suggesting a further blurring of the fundamental distinction between capital and income, including an increase in the capital gains tax. I find it hard to see how an increase in the multiple taxation of capital would help to achieve the Administration's stated goal of spurring capital formation.

INFLATION INCREASES TAX BIAS

The combination of inflation, capital gains taxation and other features of the present tax code also bear heavily on saving as well as capital formation, both because the effects of inflation are far from uniform and because the pace of future inflation is uncertain and, in many respects, subject to the erratic twists and turns of public policies, especially Federal Reserve monetary policy, which are themselves highly uncertain and unpredictable. Markets try to reflect future inflation, but large errors are unavoidable. Under current inflationary circumstances, there is no effective way an ordinary faimly can attain or depend on future real income and real wealth by accumulating real assets for emergencies or for planned future needs such as retirement or sending children to college.

In addition, inflation increases the tax bias against saving because inflation causes still higher taxes on saving relative to other uses of income for several reasons. First, inflation-induced nominal capital gains are subject to tax, even if the assets lose real value because their nominal values increase less than the inflation rate. The result is a capital levy. Second, historic cost accounting for depreciation and various other business costs mean that reported profits are overstated, effectively causing an increase in real tax rates, resulting in still another capital levy. Third, because some payments, such as interest rates, reflect inflation, classifying them as income and subjecting them to taxation is yet another form of capital levy. For some years the small saver has not only suffered a loss in the real value of his deposit, but he has also paid a tax on his interest "earnings," even though the real interest rate has been negative! The same has been true for large investors who hold Treasury bills. Indeed, the puzzle is why so many people continue to hold assets in these and similar forms when overall real rates of returns are negative. One answer may well be that large numbers of people are so fearful of alternative investments that they are effectively willing to pay something to be able to hold on to their existing assets. In view of poor business earnings, reflected in the poor performance of the stock market, and the lack of progress on the inflation front as well as the growing web of burdensome, irksome and costly regulation, who is to say that they are wrong?

Indeed, I believe that the problem of trying to save and to accumulate or conserve real assets is one of the most pressing and pervasive economic and social problems in America today, seriously affecting all of our citizens as well as all of our private institutions. As an economist, the question I am most frequently asked is, "How can I save and protect myself from inflation?" I regret that I have no good answer under present circumstances, even for myself or my family. The tragedy is compounded by the fact that on the other side of the coin there is a growing short-fall of capital formation.

FULL DEDUCTIBILITY OF SAVING

Where do we go from here? First, I believe that the long-standing bias in the Federal tax system against saving and investment should be corrected. For full tax equality between the consumption and saving uses of after-tax income, savings should be deductible from the income tax base so that only consumption is taxed. Progressivity can be built into such a tax and I would favor a mild degree of progressivity with appropriate deduction for human capital outlays such as health care and education. I would also favor an indexing arrangement to keep "real" tax rates intact. With the full deductibility of saving, taxes on corporate income and on capital gains can be eliminated. In addition, taxes such as the estate and gift taxes that yield little revenue and create much mischief can be reduced or eliminated.

A roughly equivalent alternative would be a value added tax with appropriate deductions for capital outlays.

Second, as an inferior alternative to the full deductibility of saving, other steps can be taken to moderate the bias against saving and investment, including a partial deductibility of saving. Major elements of the tax code can and should be indexed. The corporate tax should be eliminated, with corporate income attributed to stockholders. Instead of increasing capital gains taxes, present rates should be reduced or, preferably, capital gains and losses should not be included in the tax base, especially since the corporation could no longer be used as a device for keeping earnings out of the personal income tax base.

For other desirable tax changes I would urge the Congress to review the record and follow the examples of the Kennedy Administration and of the Congress during the early 1960's, actions which set the stage for a surge of economic growth as well as for the elimination of inflation. Then, the distortions of the tax system were moderated by effectively reducing the tax biases against saving and investment by means of a combination of policies that included more rapid depreciation and the investment credit as well as the reduction in both corporate and personal tax rates. The Kennedy tax cuts have been more than offset by inflation moving people and businesses into higher tax brackets. We would need tax cuts to get us back to the Kennedy tax rates.

Third, it is essential to abandon the deliberate use of inflation as an instrument of public policy, even for short periods of time. To avoid an abrupt shock to the economy, the inflation should be slowed gradually and eliminated over a four-to-five year period. The maintenance of general price stability will require steady, non-inflationary courses for monetary and for fiscal policies. For monetary policy this means a long-term growth of money in the neighborhood of 1 percent per year for M_1 and 4.0 percent for M_2; for fiscal policy, relatively stable taxes and expenditures close to or at a balanced budget. The staggering deficit of the federal government must be eliminated, primarily through expenditure control, partly to avoid having the deficit crowd out private capital formation. I see no need and much danger in setting out to achieve a budget surplus in order to facilitate capital formation, a negative crowding-out effect, as it were. Paying the additional taxes to provide the surpluses results in undesirable distortions and I find it difficult to believe that any surplus, once achieved, can long be protected against the expenditure bias of governments and of special interests. There are better and more dependable ways to eliminate the bias against saving and investment, and to get the country moving again.

PANAMA CANAL TREATY

Mr. CANNON. Mr. President, during the past several years the question of the Panama Canal Treaty has assumed greater and greater importance. In recent months it has become an emotional

issue to the extent that my constituent mail is now almost totally against ratification. I have consistently told my correspondents that I prefer to wait until we held hearings in the Senate Armed Services Committee before making up my mind. I thought it was in our national interest to review the subject objectively so that whatever we do would be in the best interest of the United States. So you might say I am uncommitted and therefore this subject has considerable significance to me. In reviewing the material on the proposed treaties I am struck by the lopsided concessions being proposed in an attempt to obtain an agreement. I am not opposed to a new treaty if sufficient safeguards are included, but do feel some amendments are in order and am glad to see that the majority and minority leaders feel the same way.

Panama is seeking to take on vast responsibilities, in fact to take the place of the United States in running the Panama Canal which has great importance to the United States and the entire world. Accordingly, it appears proper to look at her capability to do so. The basic economy of Panama without the canal appears badly shaken. The Torrijos government seized power in 1968 when the Panamanian economy was riding the crest of a wave that began in the early 1960's. The rate of growth was an astounding 8 percent. Then in 1974 a recession started. By 1975 things started picking up elsewhere in Latin America but not in Panama. By 1977 Panama's economic growth rate had sunk from 8 percent to less than 1 percent. The national debt had risen from $167 million in 1968 to $1.5 billion in 1977. Almost a 1,000-percent increase in 8 years. The per capita debt had become the largest in all of Latin America. The annual interest payment on the national debt alone has reached $150 million, almost half of the current revenue taken in by the government. The balance of payments stands at a staggering minus $500 million, about half of their gross national product.

Financed for the past several years by loans from abroad, most of them short term, Panama has just about run out of credit. Three-fourths of the current debt will come due within the next 10 years. If it were not for the stability provided from the income of the canal, Panama would be broke. With that background I would like to highlight what we found out in recent hearings in the Senate Armed Services Committee.

We consistently hear the statement that the new treaty will cost the taxpayers nothing. That all expenses will be paid out of revenue generated by canal tolls. Well, that doesn't tell the whole story. It was my privilege to chair the Senate Armed Services Committee hearings when we looked into the financial aspects of the treaties.

The first 2 days of our hearings were principally concerned with the military implications of the proposed changes in our relationship with Panama. During the last 2 days we moved into the financial and economic aspects.

While a great deal of attention in the Senate and in public discussion has been given the neutralitly treaty and to the other broad issues raised by the treaties, not enough attention has been focused on the finanical arrangements. Major changes are to be made in the structure and operations of the canal enterprise, including adding large payments to Panama onto the costs of operating the waterway. We need to satisfy ourselves that these provisions are sound and that they will not lead to trouble later if the treaties are ratified.

Before delving into the question, however, I would like to bring the subject into focus. A major reason for building the canal was to promote ocean commerce for the United States. A major importance of the canal to the United States and I might add to the entire world. If it is going to continue to be important from an economic standpoint, much is at stake in the proposed new treaties, particularly in relation to the canal's future operational control.

The true economic significance of the canal has always been in the distance and time savings it affords interocean shipping. The canal cuts 7800 miles off the distance between New York and San Francisco. The days saved are also impressive. For example, a ship traveling at 15 knots can reach Los Angeles from New York in 13 days by way of the Canal. It takes more than a month around South America, through the Straits of Magellan. Savings in miles and days mean fewer ships are required for the movement of the same amount of cargo. Hence it also means reduced fuel consumption and lowered crewing costs, which is a big economic factor. So the big question is, what does the Canal mean to the United States from an economic viewpoint?

About 66 percent of all cargo that moves through the canal comes or goes to U.S. ports. Of that amount, about 34 percent is exports from the United States, 23 percent is imports into the United States, and about 9 percent is U.S. coastal trade. This will increase with the shipment of Alaskan oil to our east coast.

The canal is of great importance to South America and also we cannot overlook its importance to the Far East. A lot of westbound cargo going through the canal is headed for Japan, Australia, and New Zealand. Generally speaking the number of ships transiting the canal has increased steadily over the years reaching a peak of 14,000 in 1971. This dropped off for the next 2 years but went back up over 14,000 in 1974. Since then there has been a decline. During the period 1973 to 1976 the number of ships transiting the canal each day dropped from 39 to 33. In the meantime, operating costs increased. In 1973 the Canal Company sustained a loss for the first time in the canal's history. It has lost money every year since except for last year despite a hike in toll rates in 1974 and another in 1976. I would like to examine why this is so. Probably for the foreseeable future, foreign trade in bulk commodities like coal, oil, ore, and agricultural products will continue to be transported by ship. But there is a change going on in the technology of transportation. One need only look at the constantly increasing volume of air transportation to appreciate what is happening. We have already seen the end of express passenger ships. They have been replaced by the airplane. With the use of jumbo jets, air freight is growing at a rapid rate.

Also a development that could in time have an effect on canal traffic is the minibridge system being advanced by the U.S. railroads. This involves the movement of goods in containers across the United States on fast unitized trains operating on schedules synchronized with ship arrivals and departures at east and west coast ports. If the nation's railroads become viable again which is an AMTRAC goal, the effect of the minibridge concept on the canal's economic value to United States foreign trade could be substantial.

Then too, we have the era of oversized ships unable to transit the canal, like the huge oil tankers. Already there are over 1,000 vessels in the world's mercantile fleet that cannot go through the canal because of their size. In addition to oil, some carry large quantities of dry bulk commodities such as ore, coal, and grain. In total, these oversized vessels are bound to have an economic impact on the canal. Also the reopening of the Suez Canal several years back has had some effect.

So we have a problem of rising costs and no assurance of steady canal traffic. I have some concern that this issue is not being faced squarely in our treaty considerations. It does appear that unless the canal is subsidized, tolls will have to be increased further to make ends meet. We have had two increases totaling over 40 percent, one in 1974, and the other in 1976; so the question is really how much in the way of increases will the traffic bear? What is the likelihood that the Panama Canal Commission, when viewed as a business enterprise, will be self-sustaining and under what conditions can this be achieved? These are some of the issues the Armed Services Committee looked at.

Because of the committee's special concern over the financial impact of these treaties, it engaged its own outside financial consultant to make an independent appraisal. Though the time to accomplish an undertaking of this scope was extremely short, the consultant did an excellent job, and produced an interesting and provocative report.

The committee had four principal areas of interest.

First, we felt it was necessary to explore the details of the treaties' financial workings because the administration has stressed from the beginning that the treaties involve no cost to the taxpayer and no appropriated funds. It is vitally important that the Senate understand before it votes on these treaties whether that is true or not. What are the direct costs of implementing these treaties, and what are the risks that appropriated funds will be necessary to support the Panama Canal Commission during the

next 22 years? What burdens will the taxpayers actually assume? In order to answer these questions we need to understand how the treaties work and what the prospects for profitable operation of the canal really are.

Second, we need to analyze more closely than has been the case thus far the provisions of the treaties relating to payments to Panama. There are ambiguities in those provisions which need to be cleared up so that the Senate can determine whether modifications of the financial provisions are necessary.

Third, is the closely related question whether these financial arrangements have the potential for increasing rather than decreasing the friction between the United States and Panama in the years to come. If the financial provisions have serious ambiguities, or if they create an operational structure that will lead to disputes about how much money the Panamanians are supposed to receive, we need to know about it. One of the major arguments in favor of the treaties has been that they will create a friendly and cooperative attitude which is crucial to canal defense and efficient operation. If that friendly and cooperative attitude will be undermined by continuing financial problems and deficits, we will have gained little or nothing in this effort to reformulate United States-Panamanian relations.

Finally, the financial problems have a direct bearing on our ability to keep the canal open and keep it operating efficiently. If we have constructed through these treaties a financial structure that is doomed to failure then we must act now, before the treaties are approved, to prevent that structure from affecting our vital interest in free and open access to the canal.

The committee had expert witnesses to assist them in reviewing these matters. They were Maj. Gen. Harold Parfitt, Governor of the Canal Zone and President of the Panama Canal Company; Mr. Frank Nicolai of American Management Systems, who supervised the work AMS did on these problems for the Armed Services Committee; and the Honorable Elmer B. Staats, the Comptroller General of the United States.

Before reviewing what these witnesses told us I would like to itemize what we have agreed to provide to Panama in a financial way.

Panama will receive 30 cents per ton transiting the canal. Also a fixed sum of $10 million per annum and an additional $10 million per year if canal traffic revenue permits. In addition the United States pledges to arrange for an economic program of loans under existing statutory programs. Up to $200 million in Export-Import Bank credits; up to $75 million in AID housing guarantees; and $200 million in Overseas Private Investment Corporation loan guarantees. This totals some $300 million. Also, Panama will receive up to $50 million in foreign military sales credits over a period of 10 years to assist in the canal's defense. The current annual payments by the United States to Panama is $2.3 million.

Now to discuss specifics.

General Parfitt, Governor of the Panama Canal Zone, warned that the canal operation may not be self-sustaining after 1984 under the terms of the treaties being considered. He said in answer to questions from committee members that the United States would be obliged to turn over the canal to Panama in the year 2000 free of liens and debts.

If there are outstanding debts the U.S. Government will have to pay them when the canal passes into Panama's hands. The Governor said that after 1984 canal revenue probably will not support the operation of the canal or meet the U.S. obligation to pay Panama large sums of money from toll revenues.

In his estimation, this means there is a high probability that the United States will have to make up the differences between 1984 and 2000 from appropriated funds. And since the treaties require that the canal pass to Panama debt free, his testimony means that the United States would have to write off the millions of dollars owed to it by the Panama Canal Commission.

There is another item that is not clearly understood which relates to the public service fund of $10 million a year. This amount is given to Panama for police and other services and is calculated at what it would cost the United States at American wage scales. The cost to Panama is less than half that amount a year because of their lower wages. Consequently there appears to be a $5 million annual Panamanian profit on the public service fund payment at U.S. expense.

In reference to canal tolls, the long period of toll rate stability in the words of Governor Parfitt has lulled many into the illusion that there was some special magic at work on the isthmus that sheltered the Panama Canal from economic pressures. To the contrary, toll rates and stability are dependent, as are prices in most businesses, on the volume of business and the rate of inflation. He said periodic increases in tolls will be required even without taking into account the impact of the new treaties. He estimated these increases would begin early in the 1980's and be necessary about every 3 years with average increases of about 10 or 11 percent.

He also warned that canal traffic is sensitive to toll increases and that there is a point of diminishing return on how high tolls can be raised to increase revenues. Increases of 50 percent would result in little additional revenue and that the maximum amount of additional revenue obtainable is about 40 percent which would require toll increases of between 75 to 100 percent to obtain.

The implication is that toll increases beyond a certain point would force traffice to use other routes like going around the cape. He foresaw no problem between 1978 through 1984 because North Slope oil from Alaska would generate enough tolls to cover all operations. But after that when oil pipelines will be traversing the United States, it appears periodic toll increases will be required.

Comptroller General Elmer B. Staats warned the committee of another potential problem in the treaties pertaining to the payment of $10 million a year to Panama. Some Panamanians contend that the $10 million carries over into the next year if canal receipts are insufficient to pay it the first year. This means the United States might owe Panama $220 million at the end of the treaties if the canal does not break even or make a profit during the life of the treaties. The Department of State feels that the Canal Commission will be obligated to make the payment only to the extent that operating surpluses exist and that there will be no obligation to pay Panama any unpaid cumulative balance after December 31, 1999. There are of course other monetary implications which when considered in their totality could cost the American taxpayers well over $2 billion.

Mr. Staats and Governor Parfitt both recommend that State's interpretation be spelled out in implementing legislation. In that regard it would help considerably if the administration presented the Senate with the information to accommodate the Senate's understanding of how the treaties are to be implemented. To date the Senate has not even been privileged to see an outline.

However, the Senate Armed Services Committee has written a report on its hearings as has the Foreign Relations Committee. The report by the Armed Services Committee is a summary of the testimony I have just commented on. It is indexed by subject matter for easy reference and makes no conclusions or recommendations, leaving that up to the judgment of each individual Senator. I commend it to my colleagues as necessary reading before making up their minds on the financial aspects of these treaties.

"PUSHBUTTON UNIONISM"—A MISSTATEMENT

Mr. JAVITS. Mr. President, the debate over the Labor Law Reform Act of 1978, recently reported by the Human Resources Committee as S. 2467 by a vote of 13 to 2, has escalated to rhetorical excess beyond the bounds of reason. In my judgment, the Labor Reform Act does not embody a change in Federal policy toward collective bargaining—rather, it represents the reaffirmation of this country's long-established national labor policy in favor of free and democratic employee choice as to union representation. The opponents of S. 2467 who characterize it as establishing "pushbutton unionism" are seriously misstating the facts.

In this regard, I would like to call attention to an article appearing in the February 3, 1978, Washington Post editorial pages. I believe that the article correctly summarizes the need for S. 2467 and the true nature of the bill. I hope that this and similar disinterested calls to reason will prevail over the recent tide of rhetoric and code-word emotional appeals by the bill's opponents.

Mr. President, I ask unanimous consent that the February 3, Washington Post article, "Labor Law Reform: Just a Matter of Fine Tuning," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LABOR-LAW REFORM; JUST A MATTER OF FINE TUNING

(By Michael Kerper and Austin Raney)

Rational political discussion always suffers when a relatively innocuous issue becomes the symbolic focal point of a broader debate. Such is the case with the current controversy over President Carter's proposed reforms of the National Labor Relations Act. The opponents have, quite simply, created a mountain out of a molehill. Just recently, the Chamber of Commerce—the leading antagonist of the reform package—suggested that the measures were formulated with one purpose in mind: to "strong-arm" 60 percent of America's work force into joining trade unions.

Strident rhetoric, such as the chamber's, is hardly surprising. Although political discussion in America has never been overtly "class-oriented," few domestic issues have been more inflamatory than those involving the proper role and regulation of labor organizations. The furious legal and political battles that accompanied the adoption of the Wagner Act in 1935 and the Taft-Hartley Act in 1947 serve as ample reminders that Americans have widely different viewpoints on what was once known as the "labor question."

It is also important to remember that the attitudes and policies of America's two major political parties toward organized labor have, to a very large extent, helped shape and define their respective public images. But those images were formed during debates over broad principles and long-term policy direction rather than administrative and procedural adjustments. At the most, President Carter's legislation is a short appendage to the Wagner Act, a slight tinkering with an already well-functioning and reliable mechanism. It is not, as some opponents have argued, "a push-button unionism" bill that will "push hundreds of thousands of workers [into] Big Unions, even though they may not want to join unions."

Compared with the Wagner and Taft-Hartley Acts, the bill currently before Congress is of slight historical significance. Rather than enunciating a new labor policy for the nation, the bill does little more than reaffirm longstanding policy and practice. But all of this is not meant to imply that the issues at hand are unimportant and lacking in consequence. Quite the contrary, America needs to preserve a fair, efficient and representative system of collective bargaining: and the proposed reforms do just that.

Why are reforms needed now? Simply put, the present system can no longer withstand the strains of a steadily mounting caseload and the growing disregard for the law. Since 1958, the number of representation elections and cases involving unfair labor practices has more than doubled. At the end of fiscal year 1966, the National Labor Relations Board had a little under 10,000 pending cases. But at the close of fiscal year 1977, slightly over 20,000 cases waited for final adjudication by the board. In many instances, employees who have petitioned for NLRB-sponsored representation elections have waited for nearly a full year before casting their ballots. Such delays are intolerable and undermine the very foundation of America's labor-relations framework. Without a system of quick, precise and legally binding decisions, labor-management relations will be governed more by sheer power than by the rule of law.

As President Carter pointed out in his message to Congress on labor-law reform, these delays "are the most serious problem. . . . Workers are often denied a fair chance to decide in an NLRB election whether they want union representation. The same problems often deny employers the predictability they, too, need from the labor laws."

Under President Carter's reforms, a definite election timetable would be established. Except for elections that involve issues of "exceptional novelty or complexity," all elections would be held not less than 45 days after a sufficient number of employees had petitioned for an election. To further speed the representation process, the NLRB would be required to formulate more precise definitions of "appropriate bargaining units"—that is, specific groups of employees with shared job skills and responsibilities.

In recent years, the number of labor-law violations—especially on the part of a small number of employers—has risen at a disturbing pace. In 1966 the NLRB dealt with slightly over 7,000 cases involving employer discrimination against pro-union employees (i.e., firings and other less drastic reprisals). By 1976, cases of this type had grown to over 15,000. "Bad-faith bargaining" cases have grown at similar rates.

All this reflects an unfortunate, indeed alarming, erosion of the rule of law. Although it is difficult to explain completely this rapid increase in lawlessness, one contributory factor can be said to be the weakness of penalties included in the National Labor Relations Act. One important feature of the labor-law reform bill is the establishment of stronger penalties for lawbreakers. In the future, employers who consistently break the nation's labor laws would be barred from receiving government contracts. Such "contract bars" have worked exceptionally well in the past, especially in enforcing federal laws forbidding racial, religious and sex discrimination. It is to be hoped such a harsh penalty would reinforce compliance with the basic tenets of the nation's labor law as well.

Finally, the National Labor Relations Board desperately needs expansion. Under Carter's bill, the NLRB would be increased from five members to seven members. With the addition of two members, the board would have another three-member panel with authority to act on behalf of the full board. Two operating NLRB panels would be able to reduce the administrative backlog over the next few years, and otherwise enhance the efficiency of the agency.

America's industrial-relations system, as embodied in the National Labor Relations Act, reflects many of the basic political and social values that molded the nation's system of government. It is broadly representative. It recognizes the diversity of employee groups as well as entrepreneurs. It is flexible and open to change. But above all it has been extraordinarily successful in reconciling the frequently conflicting interests of labor and management. Our industrial-relations system is well worth preserving; indeed, it is an essential part of our society. And Carter's proposed reforms would go a long way in ensuring its survival.

IOWA SENATOR CHAMPIONS THE CAUSE OF RURAL AMERICA

Mr. LEAHY. Mr. President, during the past few years I have had the pleasure of working with Senator DICK CLARK in several efforts related to rural health care. His leadership in this issue comes at a time when advocates for rural Americans are scarce and when health services for these citizens are increasingly threatened.

Field hearings we conducted in 1976 for the Senate Rural Development Subcommittee, which is chaired by Senator CLARK, directly led to congressional consideration and passage of the Rural Health Clinic Act, Public Law 95–210. This important law authorizes payments under medicare and medicaid for medical services furnished by rural health clinics. The Department of Health, Education, and Welfare is currently writing the regulations for the act, so that it can take effect on March 1.

Senator CLARK also led the Senate effort to clarify the National Guidelines for Health Planning as they would relate to rural areas. He was joined by 48 Senators in a letter to Secretary of HEW Califano asking that the initial guidelines be revised. The Department complied with this request, and I believe we all would agree that the new guidelines represent a marked improvement.

These topics and others, including hospital cost containment, national health insurance, and the role of rural hospitals, are discussed by Senator CLARK in a recent interview that appeared in hospitals, the Journal of the American Hospital Association. His perspective on these crucial issues is a special one that reflects his concern for rural Americans' access to health services.

Since the interview is timely—given that Congress will consider this year legislation for hospital cost containment, health planning, and other health services programs—I ask unanimous consent that it be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

IOWA SENATOR CHAMPIONS THE CAUSE OF RURAL AMERICA

(By Michael Lesparre)

As senior United States Senator from Iowa, Democrat Dick Clark emerged during the first session of the 95th Congress as a leading spokesman for rural America. Before the session came to its sluggish end, bogged down in congressional disputes over President Carter's voluminous program to conserve energy, Senator Clark had mustered strong support for his Rural Health Clinic bill, which became law this past November; he succeeded in mobilizing his colleagues in urging HEW Secretary Joseph A. Califano Jr. to redraft and clarify the controversial Health Planning Guidelines for P.L. 93–641 and to extend the period for public comment on them.

The impact of the guidelines on small rural hospitals, the Senator said, "is not clear," and "if the Department is indeed sincere in wanting to preserve small, community hospitals, then it clearly has not yet communicated this intention to the public in an effective way." His chief concerns were that the guidelines prescribed a ratio of 4 hospital beds per 1,000 population and an average hospital occupancy rate of 80 percent.

A greater bed ratio "should be justified" in rural areas where residents have to travel more than 45 miles to the nearest hospital, he maintained, and lower average annual occupancy rates often are required by small hospitals to accommodate normal fluctuations in admissions.

Such seemingly moderate criticisms were expressed with characteristic firmness by Senator Clark, who also opposed the Administration's hospital cost containment proposal on the ground that it would create a hardship for a majority of small hospitals throughout the nation. He is expected to reinforce this view as Congress once again takes up the cost containment issue early in 1978. He is a low-key but tenacious legislator, who is known for keeping cool while

stating his case with assurance, secure in his knowledge of the facts.

Senator Clark was first elected to the U.S. Senate in 1972 following a 1,300-mile campaign walk across his state. He is a member of the Senate Agriculture, Foreign Relations, and Rules Committees, and he serves on the Democratic Steering Committee. In addition, he serves as chairman of the subcommittees on Rural Development and African Affairs.

Senator Clark also has been deeply committed to congressional reform, having played a key role in the movement for public financing of political campaigns. He is known for his efforts in working to overturn the old seniority system, under which senators used to become committee chairman; chairmanships now have to be won by election.

The 48-year-old Senator grew up in rural Iowa, served in the U.S. Army following World War II, and subsequently received his master's degree in history from the University of Iowa; he later completed course work for a doctorate and served on the university's faculty. Before becoming a U.S. Senator, he was administrative assistant to Representative John Culver who, by political paradox, is now Iowa's junior Senator.

Senator Clark, what do you consider to be
care?
the top priority problems in rural health

The first problem of families in rural areas is lacking access to adequate primary and emergency care, which is a direct result of there not being enough general practitioners available. We see this situation in Iowa, and it's characteristic throughout rural America where we don't have enough primary care physicians and where such physicians continue to move out rather than in.

The same problem exists with respect to hospitals. I'm very concerned that the small hospitals that are able to provide primary and emergency care might be lost as a result of policies being developed for health programs.

Quite frankly—and every hospital administrator and physician serving rural populations knows this—the small, rural hospital has its limitations. It can't provide tertiary or sophisticated or complex care, or even some types of secondary care, although it is critically important in the provision of primary and emergency services.

What do rural areas need to do first—attract more physicians?

Well, the problems go hand in hand. It's hard to have hospitals without having physicians, and it's difficult to attract physicians without having facilities.

On the other hand, some primary care, even care provided outside the hospital, can be provided through physician extenders of various kinds—nurse practitioners and physician's assistants for example. The rural health clinic bill passed in the first session of the 95th Congress (P.L. 95–210) makes rural health clinic services a mandatory Medicaid benefit and provides for payments and incentives for care provided by physician extenders to beneficiaries of both Medicare and Medicaid. This was a bill I introduced with Sen. Patrick Leahy (D-Vt) that was supported by many large health organizations, including the American Hospital Association.

The point is that care must be accessible. If it isn't, it doesn't matter much where it exists. We're aware of the limitations—that it isn't possible to provide the most sophisticated kind of care that is available only in large metropolitan areas, perhaps only in one or two places in some states. But primary and emergency care must be equally available to all Americans.

As a further step to deal with the problems of small hospitals, Congress needs to remove the obstacles to merging hospital and nursing home patients within the same facility. This "swing bed" concept would give small, rural hospitals a chance to reduce the number of underutilized beds and thereby reduce their costs.

Has Iowa concentrated on developing statewide emergency services and home health services?

A branch of our state health department is devoted solely to emergency care, but many of the facilities are still in the developmental stages, or their personnel are undergoing training.

Home health services are of tremendous importance in our state, and I have discussed them with many of my constituents. I have personally visited homes, particularly with the Meals on Wheels program. Again, the problem is that as soon as you leave the metropolitan areas, organized programs just are not very available. In some of our counties where there are fewer than 7,000 residents, it is very difficult to have available the kinds of home services people really need, and as a result they get short-changed. So a primary goal is to extend those services as much as possible. P.L. 95–210 should help considerably in that it enables rural clinics to become designated as home health agencies.

Some urban areas also are underserved, but we must remember that in largely rural states there is likely to be a greater proportion of poor and elderly people who need health care than there are in metropolitan areas. Of course, this is the case in many of the problem areas that characterize the rural sector, and not just in health care.

Is improved transportation between rural and metropolitan areas a partial answer?

Yes, if that transportation links primary and emergency care facilities with facilities that can provide more complex care. You would imagine that so simple a concept would be obvious, but this kind of programming is just beginning to reach the awareness of Congress. Legislation to help bring this movement about is just in its infancy, even though we've had some emergency care, usually through ambulance services, in rural areas for years.

To some degree, transportation is even a problem in getting patients to primary care centers. In our state, a patient may easily be 20 to 25 miles from that kind of care, and in some western states, the distances are often considerably greater.

Long distance travel to a center can be very disorienting for some patients, particularly rural patients, and it is a substitute only when adequate care can't be provided closer to home. So the first criterion always is accessibility to the appropriate level of care. That's the first test. But there are levels of care that can be provided in rural hospitals, and that's why we want to preserve them.

In trying to solve such problems, have you looked to national health insurance? Do you support one of the NHI proposals?

I certainly support the concept of NHI, and I have some opinions about the directions I would like to see for a national program; at the moment, however, I'm not married to any specific proposal.

For the record, I must say that I'm not an expert on health care or a member of a health subcommittee. So I see my role as one of watching very carefully any of the plans that may come along with respect to their application to rural areas. I'm Chairman of the Rural Development Subcommittee, and inasmuch as no one, as far as I know, is paying specific attention to NHI as it would apply to rural areas, I see that as my direct assignment.

What direction would I prefer to see the program take? A phased-in form of NHI, certainly, and one that eventually would be very comprehensive. But how quickly the phase-in is accomplished is a very serious question.

For beginners, some members of Congress would be content to enact catastrophic coverage; but others fear that if you choose catastrophic coverage as the first step, there's a danger of stopping there. Sen. Russell Long (D–LA), who is chairman of the Senate Finance Committee, favors catastrophic coverage as a goal, as does Sen. Abraham Ribicoff (D–CT), who is a prominent member of the committee. However, I'm not close enough to the situation to say whether the fear I've mentioned—that these senators would wish to go no further than catastrophic coverage—is justified.

You've come down hard on the Adminisals. How do you feel about some of the proposed modifications to that plan, especially broader delegation of authority for cost containment to the states?

I frankly think that the proposed nine percent limit on hospital revenues—or any flat limit—wouldn't work very well. We tried cost controls some five or six years ago, and, with some exceptions, they were largely a failure. It is very very difficult to impose such a program on a specific area of the economy such as the health care sector.

If in some way you could control the inputs, as economists call them, then a program might be feasible. But a flat cap applied to all hospitals regardless of their costs would have more adverse effects than one can even imagine, so I'm very much opposed to it. Small rural hospitals especially would be jeopardized because they already operate on slim financial margins. This is why I favor the exemption from such a program for small hospitals, as provided in S. 1391, which was approved this session by the Committee in Human Resources.

I do share the Administration's view that hospital costs have gone up faster than is good for the general interest of the country and that something has to be done about it. We have to find areas in which efficiencies and economies can be realized without significantly sacrificing the nation's health care. Again, admittedly as a novice. I think that probably through the health planning process we can find some reasonable solutions, as we can in almost every area of our economy.

I have seen in my own state—although this tends to be more true of metropolitan areas than it does of rural areas—duplicative services as a result of hospitals competing with each other, areas in which we would be much better off having systems in which the hospitals would provide different kinds of care. Their services should complement each other, not compete with each other. I feel that the planning agencies have the potential to come up with some answers.

Whether administration of the proposed cost containment program were at the federal or state level, I still feel that a flat cap would fail.

What is your assessment of the impact of the passing law (P.L. 93–641) in the state of Iowa?

It's really too early to tell. We've had regional health planning agencies during the past several years that covered parts of Iowa, but we're not at all sure of what the new law is going to produce. Rationalization of the system is really needed, for all of the reasons I've been talking about, but I feel it's difficult at this stage to say what that will mean.

One thing I find disconcerting is wondering—even if we have required consumer representation, even if we give the Health Systems Agencies the money to carry out the job, even if they do get solid public support—what will happen to their plans in terms of final authority? Eventually the workable ideas will have to be implemented in some way, by someone, or all of the planning will have meant very little. To understand the situation, we have to develop better ways to implement planning.

At the moment, the entire question of whether national planning guidelines are merely guidelines or whether they are or could be absolutes is a highly controversial one. For example, if the bed-population ratio of 4.0 per thousand were rigidly adhered to, it would jeopardize existence of some 78 hospitals in my state alone. So, if such guidelines become more than rules of thumb, we immediately get into trouble. The system needed in Los Angeles is quite different from what is needed just 100 miles away, in Nevada. The same standards can't be applied.

Rarely can legislation have universal application without creating inequities, so we have to ensure reasonable application of the law while allowing for many variables. That's the hard part.

On the other hand, some critics of planning feel that too many options make the process impossible. Will you comment?

It's a very real fear. If you have two hospital boards in the same small metropolitan area, they may each want to provide similar services even though they're only four blocks apart. The question becomes one of finding the mean between such facts, and—to broaden the scope of the example—to push for a national health plan that serves people but at the same time doesn't mandate rules that are impossible to live by. We may never know precisely where that mean really is, but I feel it's what we have to continue to work for.

The whole dilemma is hardly new, but economic pressures are increasing to the point that a degree of federal intervention is inevitable in health care. We have some already, but the questions are, what is reasonable and to what extent is such intervention productive in terms of national health goals? How much can we leave to local decision, and how much can wisely be mandated from above?

We are going to have to do some keen listening to people who will be affected by the health care system. We will need constant oversight of what is taking place as a result of what we have enacted or opposed. It's part of the democratic process, and it is difficult but not impossible.

Will keen listening to consumers really help? Did your constituents provide guidance in your drafting of the rural health clinic bill?

Yes, I think so, though perhaps not in a technical sense. For example, we asked people what they thought of rural clinics, of physician's assistants and nurse practitioners, and whether they had confidence in the care they were receiving. Many, if not most, of our ideas came from people who are actually served by rural health clinics. During hearings we also leaned heavily on the knowledge of providers, who made up about half of the witnesses.

From consumers we learned that many of them don't know where to go for care. Some consumers are in need of primary care, but because of inconvenience or lack of transportation, they simply forego it. On the other hand, those people for whom a rural clinic with primary physicians and/or physician extenders has been established really use it. We concluded that most rural residents are predominantly concerned about the availability of primary and emergency care.

As you might expect, many consumers complained to us about the cost of care, but it is very hard to evaluate this criticism because of inflation throughout the economy, especially because we heard many complaints from older people who live on fixed incomes. They feel the brunt in all areas, not just in health care. If you look into housing for older people, for example, the question of cost is always of first concern.

I'd say that the most common complaint from the elderly with respect to health care costs is related to prescription drugs and the great drain they place on what little discretionary income the elderly have.

A last question, Senator. In your view, could programs of health educations make a contribution to improvement of health care in rural areas?

I know you don't mean that to sound like the obligatory question about motherhood, but of course, the answer is yes. At first, the cost of health education programming would mean a greater investment and therefore would result, when and if facilities become available in rural areas, in a greater use of services and an increase in expenditures for health care. In the long run, however, as in urban areas, we would hope that health education would prevent much illness and help substantially to reduce its recurrence. In any case, it is my intention to support health education as a primary component of the national health policy that in many ways seems to be taking shape.

PANAMA CANAL

Mr. PEARSON. Mr. President, after carefully examining the strong and persuasive arguments on both sides, after listening to the testimony of some of the expert witnesses before the Senate Foreign Relations Committee and visiting Panama, I have concluded that on balance ratification of the Panama Canal Treaties is in the best interests of the United States.

These treaties have been negotiated to replace the 1903 Hay-Bunau Varilla Treaty—a source of irritation in the relations between the United States and Panama since the day it was signed. It is important to mention that the 1903 treaty was negotiated and signed for Panama by a French citizen, Philippe Bunau-Varilla. No Panamanian ever saw the treaty before it was signed. Panama had no choice but to ratify the treaty, for failure to do so would have meant a return of the Colombian armed forces. The 1903 treaty created a canal zone which is still seen by most Panamanians as infringing upon their sovereignty. They feel that it would be analogous to another country controlling a stretch of land 10 miles long, running the full length of the Mississippi River. Panamanians have also been concerned that the 1903 treaty deprives them of the full benefit of their major natural resource—their geographic location.

Because the historical background is essential to an understanding of the issue, I am attaching a statement I issued on February 3, 1977.

Mr. President, while I feel sympathy for the sentiments of the Panamanian people, my greatest concern is the long-term security and foreign policy interests of the United States. In 1964, President Johnson announced the intention of the United States to negotiate a new treaty with Panama. Since then, each President, two Democratic and two Republican, has worked toward achieving this goal.

Presidents Johnson, Nixon, Ford, and Carter were persuaded that a new treaty relationship with Panama is more likely to serve long-term security and foreign policy interests of the United States. Above all, it would assure what is the essence of our interests—the efficiency, neutrality, accessibility, and security of the Panama Canal.

Americans are faced with a difficult choice. We do not know how well the new treaties will operate. We do not know if they take into account all contingencies. We are forced to make a choice between the uncertainty of the future against the unacceptability of the past.

The new treaties present us with risks, but Americans have always been willing to accept risks, provided they seem reasonable. I believe that these new treaties are as reasonable for our time as those risks that were assumed by Teddy Roosevelt in his time.

Another important consideration is how the new treaties would affect our relations with other Latin American countries. The other nations of Latin America have joined with Panama in urging a new treaty with the United States. In their eyes, the canal runs not just through the center of Panama but through the center of the Western Hemisphere. Indeed, the problem affects our relations with the entire Third World, since the nations of the Third World have made common cause on this issue. In March 1973, the United Nations Security Council would have passed a resolution favoring the Panamanian position on this issue had not the United States used its veto. The other nations of the world view our position on the canal as the last vestige of a colonial past which evokes bitter memories and deep animosities. The new canal treaties provide the United States with a unique position to improve our relations with virtually all of the countries of this hemisphere, and, indeed, the people of the entire developing world.

Mr. President, before arriving at my decision to support these treaties, I listened very carefully to the opponents and to the arguments that they made. I read with great interest the vast volume of mail from my constituents in Kansas. I must admit that I, too, have been deeply troubled by many of the issues raised by opponents of the treaties. Primarily these deal with the sovereignty issue, the economic questions, the possible need for a new sea level canal, the security questions and the role of Omar Torrijos.

Mr. President, many of my constituents have written to me and asked, "We bought it, we paid for it, why give it away?" "If we give away Panama, what is to prevent us from giving away Alaska or Louisiana?"

To answer those questions, one must look at article 3 of the Hay-Bunau-Varilla treaty in which the U.S. was granted all "rights, power, and authority within the zone," as "if it were sovereign." The United States never claimed sovereignty over the Canal Zone. In fact, we continue to pay rent for the use of the Zone.

Secretary of War William Howard Taft, the future President and later Chief Justice of the Supreme Court, studied the question of sovereignty further and declared,

> The truth is that while we have all the attributes of sovereignty in the construction, maintenance, and protection of the canal, the very form in which these attributes are conferred in the treaty seems to preserve the

titular sovereignty over the canal zone in the Republic of Panama.

The United States did not purchase the Canal Zone as it did Alaska and Louisiana. The Hay-Bunau-Varilla treaty provided for a payment of $10 million to Panama for treaty rights, not territory. In the Louisiana Purchase of 1803, France ceded to the United States, "forever and in full sovereignty the territory with all its rights and appurtenances." When the United States purchased Alaska, it received all rights, franchises and privileges previously belonging to Russia. In both cases, the United States received all public lands and all the inhabitants became U.S. citizens. In neither case did the United States have to pay a continuing annuity or rent or assume other obligations after taking over the territory. In addition, it should be mentioned that children born in Alaska or Louisiana are automatically U.S. citizens, while children born in the Canal Zone do not automatically become American citizens.

Mr. President, let me turn to some of the economic considerations involved. The Panama Canal Treaty changes the basic economic assumptions under which the canal has historically been operated. For the first time in history the new treaty gives long overdue recognition to the fact that the canal is Panama's primary economic resource. While Panama has benefited from the presence of the canal through salaries paid Panamanian nationals, direct purchases by the Canal Company and establishment of private, commercial, and service industries related to the canal, the direct payment to Panama for use of the canal was held to a minimum, presently only $2.3 million annually.

The important point to consider is that the treaty does not allocate one dime from the American Treasury to go to Panama. The entire payments to Panama specified in the treaty are all to come from canal revenues.

The United States has been operating the canal "at cost." We have deliberately kept the canal's toll rates low. In effect, the United States has been subsidizing the shippers of the over 70 nations which use the canal. The canal could easily absorb the toll increases that might be needed under the new treaty. These increases would provide sufficient revenue to pay Panama the annuities pledged in article XIII.

Toll increases would have less than a 2-percent effect on the total shipping costs of items that transit the canal. The total effect on the cost to the American consumer would be even smaller. Thus, I agree with the Foreign Relations Committee which concluded that the economic effect of the new treaty on the total U.S. economy would be minimal.

Mr. President, I have received a number of letters questioning the additional economic package to Panama. This additional assistance program is not part of the Panama Canal treaties. It will be considered by separate congressional procedures. The program is based upon the desire for greater cooperation between the United States and Panama, in light of the new partnership arrangements which will result from the treaty. It must also be pointed out that this assistance program consists of loans, not grants. The bulk of the program is supported by money lent by the Export-Import Bank for American exports to Panama. In addition, this section will help U.S. manufacturers, and it will not cost the American taxpayer any money.

Mr. President, I am concerned about the future capacity of the Panama Canal and the possible necessity to enlarge it or to build a new canal. The canal is truly the "moonshot of the early 20th century." As David McCullough wrote in his excellent book, "The Path Between the Seas,"

> The creation of a water passage across Panama was one of the supreme human achievements of all time, the culmination of a heroic dream of 400 years and of more than 20 years of phenomenal effort and sacrifice . . . Primarily the canal is an expression of that old and noble desire to bridge the divide, to bring people together. It is a work of civilization.

The canal is a masterpiece of design and construction. The locks have performed well from the time they were opened. Ships now transit the canal at a rate of over one per hour, every hour of the day during the year.

Ships of a size that were never dreamed of when the canal was built are now capable of transiting the canal. However, we are now building larger and larger ships, and it may become necessary to build a new canal in the future.

Section 2 of article XII of the Canal Treaty prevents the United States from building a new sea level canal in any other place other than Panama. On the other hand, it prevents Panama from negotiating with any other power to build a canal through its territory.

Mr. President, this section has received much criticism, but it was added at the insistence of the United States. President Johnson appointed the Atlantic-Pacific Interoceanic Canal Study Commission, headed by former Secretary of the Navy, Robert Anderson. In 1970, the Commission filed its voluminous report, concluding that the best route for a sea level canal would be in Panama. We did not wish Panama to negotiate with other powers to build such a canal. Thus, our negotiators insisted that the treaty include the provision giving us the first option on a sea level canal in Panama. Now, if the treaty is approved, Panama cannot allow another country to build such a waterway unless the United States grants permission. In return for this concession, we agreed not to build a canal in any other country other than Panama, which we had no intention of doing in any case.

Mr. President, I also am concerned about the defense of the canal. The defense of the Panama Canal consists of two components: internal security and external defense. Both are presently the responsibility of the U.S. Government. Internal security is primarily concerned with countering sabotage and terrorist activities. Under the new treaty the internal defense of the Panama Canal will be greatly enhanced by our cooperating with the Government of Panama.

The external defense of the canal will remain the primary responsibility of the United States during the balance of this century. Under the new Panama Canal Treaty, the Panamanian Guardia Nacional and appropriate U.S. commanders will develop plans in concert to provide for mutual defense. As past and present members of the Joint Chiefs of Staff have repeatedly pointed out, the capacity to defend the Panama Canal would be improved through cooperation with the Government of Panama. After the year 2000, the Neutrality Treaty provides for a canal open to ships of all nations in times of peace or war. However, it specifically provides that the United States and Panamanian Naval ships shall transit expeditiously and without impediments or preconditions.

Our ability to defend the canal, and our rights to do so, were further strengthened by the "Statement of Understanding" by President Carter and Omar Torrijos, which are now amendments to the treaty.

Although we can never be sure that no one will ever attack the canal, we can be sure that the United States will always be prepared to defend it.

Mr. President, I must admit that the aspect of these treaties which troubles me most is that we had to deal with the government of Omar Torrijos. I am troubled that Torrijos is a dictator. I am troubled that Panama's "human rights policies" leave a lot to be desired.

The treaties do not accomplish the impossible. They will not restructure the Government of Panama in our own image; they will not guarantee respect for human rights; they will not prevent drug smuggling through Panama into the United States; they will not insure that every Panamanian Government official will agree with the ideological line of the United States. But, while I wish the United States did not have to deal with Torrijos, we cannot pick and choose the heads of governments of other countries. We deal with the leaders of many countries, even when we disagree with them. We should also not forget that the United States has been committed to a new Panama Canal Treaty since 1964, 4 years before Torrijos came to power.

Although we may not approve of the Torrijos regime, it is important to note that the recent plebiscite in Panama approved the treaties by a majority of over 2 to 1. Whatever the Panamanian people may think of Torrijos, they are strong in their opposition to the continuation of the Hay-Bunau-Varilla Treaty. As William Jordan, our Ambassador to Panama, testified before the Foreign Relations Committee,

> This is an issue—probably the only issue—which brings Panamanians together in a kind of national unanimity that is rare in history. . . . Talk with Panamanians. You will find that whether they are rich or poor, city or campesinos, university graduates or day laborers, they are as one in their dream of a Panama that is united and sovereign, a country that is no longer divided in half by a foreign enclave.

In sum, Mr. President, I support the new treaties because they are in the best interests of the United States. They will make the canal easier to operate and easier to defend. They will assure for the

United States continued access to the canal, for both military and commercial purposes. They will advance our position throughout Latin America, and, in many important respects, throughout the world. It is a signal to the world community that few actions can be taken independent of the welfare of others.

Finally, they will fulfill the expectations of every American that this country will continue to act as a world leader, proud of its heritage and willing to accept the challenges of the future. As Theodore Roosevelt stated,

The important thing is the next step. It often happens that the good conditions of the past can be regained not by going back, but by going forward. We cannot recreate what is dead; we cannot stop the march of events; but we can direct this march, and out of the conditions develop something better than the past knew.

Mr. President, I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

HISTORICAL BACKGROUND ON THE PANAMA CANAL

To understand the present situation, it is necessary to review the events that led up to the Hay-Bunau-Varilla Treaty of 1903 and see how it came about, for it is still at the heart of the argument. Americans had been interested in a Panama Canal as early as 1826, when Secretary of State Henry Clay came out in favor of building such canal. In 1850, the United States and Britain agreed to the Clayton-Bulwer Treaty stating that both nations would cooperate in the construction of an isthmian canal; they also bound themselves never to fortify or exercise exclusive control over such a waterway.

From 1881 through 1889, the French attempted to build a canal through Panama. The French ran into insuperable medical, engineering and financial problems. More than 20,000 workers died, mostly from yellow fever. In one stretch of the Canal, the walls kept caving in as fast as they were dug. Besides the tremendous actual cost of the construction, the company building the canal was rocked by charges of high-level corruption.

The United States emerged from the Spanish-American War a Caribbean as well as a Pacific power. This changed status brought about a remarkable resurgence of interest in an isthmian canal. Although the United States had built a railroad across the isthmus, such a water passage now seemed imperatively necessary if the American people were to take full advantage of their new trade opportunities in the Pacific, and at the same time, unfeather their fleet. During the war, the United States battleship *Oregon* had been ordered from Puget Sound to Cuban waters. It had to sail almost 13,000 miles around Cape Horn to get from the Pacific to the Atlantic; had there been a canal, the ship would have had to travel only 4,600 miles.

The first obstacle in the path of the building of the canal was diplomatic, rather than physical. In November 1901, two months after the assassination of President McKinley, Britain agreed to give up its claims to the United States. The second Hay-Pauncefote Treaty allowed the United States a free hand to build, control and fortify an isthmian canal.

In 1899, Congress appointed the Walker Commission to study whether it would be better to build the canal in Panama or Nicaragua. In November 1901, the Commission reported in favor of the Nicaraguan route, primarily on the grounds of lower costs. On January 9, 1902, the House of Representatives voted in favor of a Nicaraguan waterway (308 to 2). Shortly thereafter, Congress changed its mind and voted to support the Panamanian route, largely as a result of the efforts of William Cromwell and Phillipe Bunau-Varilla. Cromwell was a member of the law firm of Sullivan and Cromwell, John Foster Dulles' law firm. The firm represented the railroad that the Americans had built across the isthmus. Bunau-Varilla represented the new Panama Canal Company successor to the French Canal Company.

Bunau-Varilla and Cromwell formed an alliance to convince the United States to opt for a canal through Panama; their price was criginally $109 million, but this was quickly reduced to $40 million. Cromwell was most influential, especially as he had donated $60,000 to the Republican National Committee. The Committee Chairman, Senator Mark Hanna, changed his support to a Panmaa route shortly after this. Bunau-Varilla astutely lobbied for the Panama route by sending each Senator a letter with the postage stamp showing volcanic action in Nicaragua. In June 1902, Congress approved the Panama route.

In 1903, Panama was still part of Colombia. The Hay-Herran Treaty in January 1903, gave the United States the Canal Zone, six miles wide, for a cash payment of $10 million and an annual payment of $250,000 to Colombia. The new Panama Canal Company was to receive $40 million for their rights and property and the trans-isthmus Panama railroad.

In August 1903, Colombia rejected the pact, due to insufficient funds and the possibility that it seriously impinged upon Colombian sovereignty in Panama. Rocsevelt referred to the Colombians as "insufficient bandits," "foolish and homicidal corruptionists", "contemptible little creatures", "jack rabbits", and "cat rabbits". He stated that "the blackmailers of Bogota . . . should not be permitted to permanently bar one of the future highways of civilization."

Bunau-Varilla was convicted that the time was right for Panama to revolt against Colombia. The center of the revolutionary activity was Room 1162 of the Hotel Waldorf Astoria in New York City. The revolutionists raised a "patriot" army consisting of 500 bought" Colombian troops, in addition to members of the local fire department. The leader of the revolt was Dr. Manuel Ambador, a physician who had worked for Cromwell's railroad. Dr. Amador was presented with $100,000, supplied by J. P. Morgan, a secret code, a Declaration of Independence, a draft of the new nation's Constitution, and the soon to be born Republic's flag, thoughtfully designed and sewn by Bunau-Varilla's wife. On November 2, 1903, the *U.S.S. Nashville* reached Colon, Panama. A day later, the revolt took place and on November 4, Panama declared its independence. An hour after the news reached Washington, the new govermnent was recognized.

Bunau-Varilla, although a French citizen, represented the Republic of Panama in Washington. Hay sent him a draft treaty similar to the Colombian one. Two days later, Bunau-Varilla sent one back more disadvantageous to Panama, in the hope that the Senate would approve it. A day later, and only a few hours before representatives from Panama came to negotiate a treaty, the new pact was signed. Hay admitted we shall have a treaty vastly advantageous to the United States, and we must confess, not so advantageous to Panama.

The Hay-Bunau-Varilla Treaty gave the United States the right to the Canal in perpetuity—instead of to the year 2003, which the Colombian Treaty had called for. Article II afforded the United States all the rights, power and authority within the zone . . which the United States would possess and exercise if it were the sovereign of the Territory.

The Panamanians were disappointed with the terms and talked of rejecting the Treaty. They were warned that Colombia might try and overthrow the new government and that the United States would not help unless Panama agreed to the Treaty. With the news that Colombian gun boats were on their way to Panama, the Panamanian government ratified the Treaty in February 1904.

The European and Latin American press criticized Roosevelt, who defended himself by claiming a "mandate from civilization." In 1911, Roosevelt boasted "I took the Canal Zone and let Congress debate; and while the debate goes on, the Canal does also".

In 1914, a Treaty was signed with Colombia in which the United States "expressed sincere regret" for the Panama business and agreed to pay a $25 million sum as compensation for the loss of Panama. Roosevelt's friends in the Senate, notably Henry Cabot Lodge, were able to defeat this Treaty. In 1921, a new Treaty paying Colombia $25 million was accepted.

BRIEF ANALYSIS OF THE PANAMA CANAL ZONE TREATY NEGOTIATIONS

In 1903, the United States and the Republic of Panama signed the Hay-Bunau-Varilla Treaty which granted the United States a strip of land ten miles wide and fifty miles long for the purpose of constructing, operating, maintaining and defending a canal between the Atlantic and Pacific Oceans and which gave the United States rights as "if it were the sovereign" in perpetuity on Panamanian soil.

The events leading up to the 1903 Hay-Bunau-Varilla Treaty are important in order to gain a full understanding of U.S.-Panamanian relations. As President Theodore Roosevelt himself boasted in 1911, "I am interested in the Panama Canal because I started it. If I had followed the traditional conservative methods, I would have submitted a dignified state paper of probably 200 pages to Congress and the debates on it would still have been going on yet; but I took the Canal Zone and let Congress debate; and while the debate goes on the Canal does also."

The basic Treaty was revised twice. The 1936 Hull-Alfaro Treaty cancelled U.S. guarantees of Panamanian independence from Colombia and the right of the U.S. to intervene in certain internal Panamanian affairs. It also increased the annual U.S. payment to Panama from $250,000 to $430,000. In 1955, the Eisenhower-Remon Treaty transferred certain U.S. rights and properties to Panama and again increased the annual payment, this time to $1.93 million.

From the Panamanian point of view the existence of a United States controlled "enclave" in the heart of their sovereign territory has become a major affront to national dignity and national sovereignty. It is virtually the only issue capable of uniting all Panamanians. Among the major grievances voiced by Panama are the existence of a United States "government within a government" in their territory, the "overwhelming presence" of U.S. civilian and military personnel and the inequitable sharing of the economic benefits derived from the Canal.

In the past, this nationalist sentiment has erupted periodically and it culminated in serious demonstrations in 1959 and again in 1964. Recognizing the vulnerability of the situation, President Johnson committed the U.S. to bilateral negotiations in 1964. By 1967, three draft treaties had been agreed upon; one, joint U.S.-Panamanian control of the Canal; two, joint construction of a new, sea-level canal; three, U.S. defense of the old and the new canal for a specified period of time. Action was never taken by either nation, attributed in part to the fact that both nations were then involved in major election

campaigns. In August 1970, the government of General Omar Torrijos, in power as a result of a military coup in 1968, formerly rejected the draft treaties.

Talks resumed in 1971. In March 1973, the U.S. vetoed a U.N. Security Council resolution referring to a new Panama Canal Treaty which would "guarantee full respect for Panama's effective sovereignty over all its territories" on the grounds that the Treaty negotiations were a bilateral matter. Shortly thereafter, serious negotiations were resumed. In February 1974, Secretary of State Henry Kissinger and Panamanian Foreign Minister Juan A. Tack signed an agreement of principles as the basis for the formal negotiations. The eight principles called for an entirely new treaty with a fixed termination date, thus ending the concept of perpetuity; the return to Panama of the territory in which the Canal is located; a "just and equitable" share for Panama of the benefits from the Canal; a role for Panama in administering the Canal during the life of the new Treaty and total responsibility for its operation upon termination of the Treaty; joint protection and defense of the Canal by the two countries; the rights necessary for the United States to regulate the flow of ships through the Canal and to operate, maintain and defend it; and provisions for the future enlargement of the waterway.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, Mr. President, I ask unanimous consent to have printed in the RECORD at this point the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., February 2, 1978.

In reply refer to: I-24817/77ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78-10, concerning the Department of the Air Force's proposed Letter of Offer to the United Kingdom for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $40 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director Defense Security Assistance Agency, Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 78-10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act—

(i) Prospective Purchaser: United Kingdom.

(ii) Total Estimated Value:
Major Defense Equipment [1]—$40.0 million.
Other—$0.0 million.
Total—$40.0 million.

(iii) Description of Articles or Services Offered: [Deleted].

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress:

PANAMA CANAL TREATIES

Mr. GRIFFIN. Mr. President, being the lone dissenter on the Foreign Relations Committee, which has favorably reported the Panama Canal treaties by a vote of 14 to 1, I have filed minority views as part of the committee's report to the Senate.

I ask unanimous consent that a copy be printed in the RECORD.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATOR ROBERT P. GRIFFIN

This has been one of the most difficult issues I have confronted in my 21 years in the Congress. I have long recognized that a major revision in our treaty relationship with the Republic of Panama is desirable and could be in the interests of both countries.

I recognize the importance of maintaining close and friendly relations with the people of Panama and with the people of other nations throughout the hemisphere. I am deeply conscious of, and concerned about, the impact that outright rejection of the treaties could have on our relations in the hemisphere.

Sometimes political responsibility imposes upon public officials the necessity of choosing among several undesirable courses of action. That may seem to be the dilemma that we face with these treaties.

After months of agonizing consideration, I have concluded that I cannot consent to ratification of the treaties before us. I think they are fatally flawed in a number of substantive respects. In my view they do not adequately protect the interests of the United States or of other nations that depend upon the Canal.

Furthermore, I believe the defects are so basic and so serious that they cannot be remedied by trying to rewrite the treaties on the Senate floor.

Although these treaties should not be ratified, I believe there is a course open to the Senate other than outright rejection. Despite all of his knowledge about the history of the Canal, or perhaps because of it, David McCullough, the distinguished author of *The Path Between the Seas* acknowledged before the Senate Foreign Relations Committee that he had experienced great difficulty in reaching a personal decision about the merit of these treaties. Although he finally decided, on balance, to support the treaties, when he appeared before the Committee he made this profound and perceptive point:

* * * if we say "yes" to these [treaties] in a gruding way * * * [because we think] we have painted ourselves into a corner and we have to get out * * * [that would be] unfortunate * * * [and] just as wrong, and in some ways a greater mistake than to say "no" in the spirit of saying "no" because [it should be] done right—because we don't want to have to come back in 15 or 20 years and have to do it all over again.[1]

Under the Constitution, of course, the Senate's role is one of "advice and consent." Instead of consenting to these treaties, I believe it would be a wiser course for the Senate to exercise only its "advice" authority. In other words, without rejecting the treaties outright, the Senate in this instance ought to advise the President to send the negotiators back to the drawing boards with instructions to persist until a more acceptable treaty can be fashioned.

As I said in a meeting of the Foreign Relations Committee, I respect our two Senate leaders and my colleagues who have reached a contrary conclusion—those who are convinced in their own minds that these treaties do serve the best interests of the nation. I salute them for having the courage of their convictions, because I believe with Edmund Burke that a senator owes his constituents his judgment and should not sacrifice it to public opinion alone.

However, I also believe that when the call on the merits of an issue is as close as this is, or as close as I perceive it to be, the judgment of the people ought not to be taken lightly. Very honestly and frankly, I have come to the conclusion that in this situation, as so often is the case, the people are right.

I. THE CANAL AND U.S. SECURITY

Military experts may disagree as to the advisability of ratifying these treaties, but there is general agreement that the Panama Canal is vital to the security of the United States.

Indeed, as the Soviet Navy continues to grow larger and larger, while our own Navy shrinks, the Canal becomes more—not less—important.

If access to the Canal were denied to U.S. naval vessels, the trip from ocean to ocean would involve an 8,000 mile journey around Cape Horn—an extra 17 days for a warship traveling at 20 knots.[2]

In 1968 the United States had 976 naval ships. Today that figure has been cut by more than half—to 459. In 1974, when the Soviet fleet was smaller than it is today, our Joint Chiefs of Staff asserted that we need more than 800 ships to "support our current national defense strategy."[3]

Furthermore, as far as U.S. naval strength is concerned, it appears that things will get worse before they get better. Writing in the January 4, 1978, issue of the *Baltimore Sun*, Charles W. Corddry wrote:

The [Carter Administration] request for shipbuilding funds in fiscal 1979 is to be cut 20 per cent below the $5.8 billion that Congress provided for this year after doing some pruning of its own. * * * The Navy goal of expanding the fleet from its present 459 ships to more than 500 in the early 1980s now may be as elusive as the onetime target of 600 became. Officials acknowledge that the fleet will shrink further before there is an upturn in numbers.

In contrast, the Soviet Navy by 1975 had grown to 1,200 vessels—although, admittedly, their ships do not compare with ours in tonnage or combat effectiveness.[4]

The sobering fact is, however, that the rapidly expanding Soviet Navy raises real concerns about future control of the maritime "choke points" of the world—one of which is the Panama Canal.[5]

As Admiral Thomas Moorer, former Chairman of the Joint Chiefs of Staff, has testified, we do not have a two-ocean Navy. "A large majority of our war and contingency plans are totally infeasible unless one assumes that full and priority use of the canal will be available,"[6] said Admiral Moorer.

It's true that our aircraft carriers, of which we have 13, are too large to transit

[1] As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Footnotes at end of article.

the Canal. But the United States has a Navy, that is effective in both major oceans precisely because the rest of the Navy, particularly supply and support ships for the aircraft carriers, are able to shuttle between the oceans through the Canal.

Of course, we can only speculate about the real intentions of the Soviet Union and its Caribbean proxy, Cuba, with respect to the Canal. But few would argue against the proposition that it will be a tragic blow to U.S. and free world security if the Panama Canal should fall into Communist hands.

Since as far back as the 1959 Panama riots, there has been reason for concern about the covetous eye of Castro. For example, the *New York Times* wrote then about the "obvious influence Cuban revolutionaries were exerting on crowds that eventually formed mobs." The *Times* noted:

Banners and insignia were largely dedicated to endorsement of Premier Fidel Castro and the Cuban revolutionary movement. Two Cuban newsmen were continuously in the forefront of the most violent group, urging it on toward the Canal Zone.[7]

Evidence of Cuban influence may have been less obvious in recent years, but it also is true at the moment Castro has his hands full in Africa.

On June 8, 1977, four of the nation's most respected naval leaders (Retired Admirals Robert Carney, George Anderson, Arleigh Burke and Thomas Moorer)—each of whom has served as Chief of Naval Operations—wrote to President Carter and forcefully expressed concerns about the treaties then being negotiated. They wrote, in part:

* * * Contrary to what we read about the declining strategic and economic value of the Canal, the truth is that this interoceanic waterway is as important, if not more so, to the United States than ever.

* * * * *

The existing maritime threat to us is compounded by the possibility that the Canal under Panamanian sovereignty could be neutralized or lost depending on that government's relationship with other nations. We note that the present Panamanian government has close ties with the present Cuban government which in turn is closely tied to the Soviet Union. Loss of the Panama Canal, which would be a serious setback in war, would contribute to the encirclement of the United States by hostile naval forces, and threaten our ability to survive.[8]

Adequacy of the proposed treaties

During the 1976 presidential campaign, candidate Jimmy Carter told the voters:

I would *never* give up complete control or practical control of the Panama *Canal Zone*. (Emphasis supplied)[9]

The treaties negotiated shortly after President Carter assumed office, and which now are before the Senate, not only turn the Canal over to Panama in the year 2000, but also they would turn practical—if not complete—control of the Canal *Zone* over to Panama *30 months after the treaties became effective*. The treaties become effective six months following ratification, so Panama would take effective control of the Canal *Zone* 36 months, or three years, following ratification.

If we accept the decision to turn the Canal over to Panama in the year 2000, still our security interests require, in my view, that the treaties be rewritten to include certain fundamental safeguards:

We need more control and jurisdiction between now and the year 2000 to insure that we will be able *effectively* to operate and defend the Canal.

We must have the right, in *unambiguous* terms, beyond the year 2000 to use military force, if necessary, to protect the neutrality of the Canal against any threat—even a domestic Panamanian threat.

We need to maintain our option to negotiate for construction of a second (perhaps sea level) and *outside* of Panama, should that prove necessary because of Panamanian intransigence, or desirable because of economic or security considerations.

The Panama Canal Treaty

Of course, under the existing 1903 Treaty, the United States exercises within the 10-mile-wide strip of land known as the Panama Canal Zone:

* * * [A]ll the rights, power and authority * * * which the United States would possess and exercise if it were the sovereign of the territory * * * to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.[10]

Conceding that the United States is not sovereign—but has all the rights, power, and authority *as if* it were sovereign—the point is that such control is important and, in my view, essential to the effective operation and maintenance of the Canal by the United States between now and the year 2000.

Under the proposed treaty, the United States would have the responsibility to operate the Canal during the next 23 years with employees—U.S. and Panamanians—who would be subject (even while performing their duties with respect to the Canal) to the laws, the police and the courts of Panama.[11]

Instead of solving problems, this arrangement is pregnant with the seeds of acrimony and conflict.

Under the treaty, persons employed by the Panama Canal Commission would be "employees of the United States"; they would have the right to be represented by unions and to "negotiate collective contracts."[12] If disputes arose—and that would not be unusual in labor relations—how would they be resolved?

Under the treaty arrangement, the Commission itself would be immune from suit in the courts of Panama, and could be sued only in the U.S. District Court in Louisiana—something of an inconvenience for employees in Panama who claim back pay for discrimination or who have any other claims against the Commission.[13]

How would the Commission enforce legal obligations undertaken by others—a union, for example? Apparently, such matters would be left to the Panamanian courts. Would they apply United States law or Panamanian law?

Panamanian civil and criminal jurisdiction would extend throughout the strip now known as the Canal Zone. One exception is provided with respect to criminal jurisdiction applicable to our military personnel who would be stationed on the four U.S. bases that would remain after ratification.[14] However, even that exception would be subject to the following provision:

* * * (5)(c)(iii) when *charged* with murder, rape, robbery with violence, trafficking in drugs, or *crimes against the security of the Panamanian State*, the accused *shall* be handed over to Panamanian authorities upon *their* request, or if already in their custody, shall remain with them. (Emphasis supplied)[15]

It's no wonder that many U.S. military and civilian personnel who now work in the Zone are deeply concerned about this and other parts of the arrangement.

Outside the boundaries of our four remaining military bases, of course, U.S. military and civilian personnel would be subject at all times to arrest and prosecution by Panamanian police in Panamanian courts.[16]

We are assured by the State Department that arrested U.S. personnel in Panama would be protected by a "status of forces" type agreement set forth in Annex D, which is similar to agreements we have with Japan and certain NATO countries where U.S. forces are stationed."[17]

Annex D does recite that such U.S. citizens charged with crime in a Panamanian court would have the right to a "prompt and speedy trial," protection against involuntary confessions, self-incrimination, and the like. But the decision on what constitutes a "speedy trial" or an "involuntary confession" will be left, once again, to the Panamanian courts.

For years, Soviet citizens have been "guaranteed" human rights by the Constitution of the Soviet Union. The only problem, of course, is that officials of the Soviet Union pay no attention to them.

That allusion would be unfair and out of order if the Panamanian Government under General Torrios had a good record of observing human rights in Panama. However, despite the fact that similar "guarantees" are set forth in the Constitution of Panama, last year the Torrijos government had the worst human rights record of any country in this hemisphere, except Cuba.[18] Indeed, in this respect, Panama was rated by Freedom House as being about par with the Soviet Union.[19]

Our "status of forces" agreements in other situations have worked reasonably well, perhaps because the host country has wanted the continued presence of our U.S. troops. Obviously, if a NATO ally didn't appreciate our military presence, and asked us to leave—we would.

In contrast, our troops are—and would be—stationed in the Canal Zone because we have a treaty right to protect the Canal. Under the new treaty—at least in theory—our right to have troops there until the year 2000 would not depend on the continuing permission of General Tirrijos or any successor.

In that kind of setting, it seems to me there is reason for concern about the adequacy of the protection in Annex D accorded U.S. citizens.

In a country where anti-Americanism has a proven political value,[20] and where courts may be heavily influenced by the ruler in power, one is left to wonder whether such a treaty arrangement would be used as the basis for harassing U.S. military and civilian personnel to force them out of the country.

Because many U.S. citizens (as well as some black Panamanians) who now work in the Canal Zone are deeply concerned about their human rights if the new treaty should be ratified, morale among such employees is "very poor."[21] Many of these employees indicate that they will leave if these treaties are approved; one recent, poll indicated that more than 60 percent of U.S. civilians in the Zone consider themselves in that category.[22]

According to Gen. H. R. Parfitt, Governor of the Canal Zone, there are at least 1,000 highly skilled U.S. citizens whose services are absolutely essential and for whom Panamanian replacements could not be trained in the short term. In this category are 210 ship pilots, all but two of whom are U.S. citizens.[23]

In view of the great importance of keeping the Canal open, it would be ironic as well as tragic if the Senate, by approving these treaties, should trigger an exodus that closes down the Canal.

The Neutrality Treaty

The "primary responsibility" of the United States to protect the Panama Canal would end with expiration of the Canal Treaty on December 31, 1999. After that date, only the second treaty—the Neutrality Treaty—would remain in effect.[24]

Prior to the year 2000, while both treaties would be in effect, deficiencies in the Neutrality Treaty provisions for Canal security would

Footnotes at end of article.

be masked by the stronger language of the Panama Canal Treaty.

However, since the Neutrality Treaty would stand alone after termination of the Canal Treaty, its provisions must be very carefully examined now.

One key provision is Article One of the Neutrality Treaty, which recites:

The Republic of Panama *declares* that the Canal, as an international transit waterway, shall be permanently neutral * * * (Emphasis supplied)

Obviously, this is only a unilateral declaration by Panama—rather than a joint commitment by the two countries—and it would be difficult to base any U.S. defense move after the year 1999 on this language.

Perhaps a U.S. role after 1999 can be inferred—but certainly it was not spelled out—in the language of Article IV, which reads:

The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties.

This language, while obviously vague and ambiguous, is seized upon by many who promote the treaties as a guarantee that "* * * the United States will have the permanent right to defend the Canal from any threat." [25]

The vague language of Article IV is further qualified by Article V, which reads:

After the termination of the Panama Canal Treaty (in 1999), *only* the Republic of Panama shall * * * maintain military forces * * * within its national territory. (Emphasis supplied)

Surely, a principal purpose of any treaty ought to be to prevent or settle disagreements, not create them. If the parties disagree from the outset on the meaning of important provisions, a treaty is doomed to failure—even if it is ratified.

On the vital issue of the right of the United States under Article IV to intervene and defend the neutrality of the Canal with military force, if necessary, major disagreements have existed between U.S. and Panamanian negotiators, and those disagreements have continued even after the signing of the treaties.

We owe it to ourselves—and to our children who would have to suffer the consequences of our mistakes—to understand the depth of these disagreements and their grave implications for the future if left unresolved.

Accordingly, it is not only instructive but essential to scrutinize and compare carefully the public statements of American and Panamanian officials on this crucial point.

For example, on July 29, 1977, chief Panamanian negotiator Romulo Escobar told a Panama City press conference:

* * * we can tell you that the draft neutrality pact between our two countries does not make the U.S. a guarantor of * * * neutrality * * * U.S. intervention within the neutrality pact would take place only if another power attacked Panama.[26]

On August 19, after negotiations were completed and the treaties had been initiated, Dr. Escobar reported to the Panamanian National Assembly:

We did not give in either to the Americans' insistence that the United States and Panama jointly declare the neutrality of the Canal. We said the declaration of the Canal's neutrality was an act relating to Panama's sovereignty, and that it would have to be a unilateral declaration. * * * [W]ith the neutrality pact, we are not giving the United States the right of intervention. What we are giving is an assurance that the Canal will be permanently neutral. * * * [27]

When the Committee began hearings on these treaties on September 26, 1977, this interpretation was called to the attention of the U.S. negotiators and the Secretary of State. The following exchange transpired:

Senator CASE. A point has been made that the Panamanian negotiators are telling the Panamanians that this does not give the United States the right to intervene in protecting the neutrality of the canal. * * * I wish you would corroborate me in this as to our right to intervene as opposed to our power to do it.

[Ambassador Linowitz nods affirmatively.]

Secretary VANCE. * * * I think our right to do so is clear, and there can be no question about it.[28]

Later, when asked about the Escobar statement, Ambassador Linowitz told the Committee:

We know of these statements. We are disturbed by them. We have discussed them with our Panamanian colleagues. I don't think you will hear such statements again.[29]

The Ambassador's words were not prophetic. Only four days later another member of the Panamanian negotiating team, Carlos Lopez-Guevara, said on Panamanian television:

I have heard it said that the United States has the right to intervene in Panama after the year 2000. It is sad to see highly responsible officials in the United States say that this neutrality treaty grants the right of intervention. It is sad to note this inconsistency * * * because there is nothing in this treaty to serve as a basis for such a claim.[30]

An effort to end some of the ambiguity was made on October 14, 1977, when President Carter and General Torrijos issued an unsigned Joint Statement of Understanding, which read in part:

Under the Treaty [of Neutrality] * * * Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal * * *

This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.[31]

While clearly an improvement over the actual treaty text, the Joint Statement itself was not without its own ambiguities.

As if to emphasize this, on the day the statement was released, General Torrijos provided an interpretation not inconsistent with the earlier position taken by Dr. Escobar. According to the *Washington Star:*

Torrijos left Washington yesterday afternoon. In a brief airport news conference, the general said through an interpreter that he did not agree to anything that would permit a foreign country to intervene in Panama. Any leader who would permit such a thing, he continued, should not be trusted.

Torrijos indicated that the United States had a right to defend the canal if attacked by a great power.

Linowitz was later asked about this qualification, which had been attributed to Torrijos in news accounts.

The U.S. negotiator said that as the language of the statement of understanding indicated, the United States had a right to defend the canal against any threat or aggression from whatever quarters.[32]

The situation was further complicated when General Torrijos arrived back in Panama and remarked, "I haven't even signed an autograph"—at least implicitly suggesting that the unsigned statement was of questionable legal validity.[33]

Four days after the release of the joint Statement of Understanding, Dr. Escobar discussed it at a press conference. Far from conceding that it represented a different interpretation of U.S. rights after 1999 than the one he had provided earlier, he asserted that "what they have said is what has been said all along." [34] Of particular interest, the Panamanian chief negotiator stated:

Why did the problem arise? Because some Senators in the United States maintained that the language used in Article IV effectively gave the United States the right of defense against attacks on the Panama Canal in violation of the Neutrality Treaty. They extended this to mean that, as a consequence of this right of defense, they had the right to intervene in the Republic of Panama.

On the other hand, ever since the first public and official explanation in our country on 19 August, we said . . . that the scope of this right of defense at no time could be extended to mean the right to intervene within the Republic of Panama.[35]

Surprisingly, the suggestion that the dispute had been caused by members of the United States Senate, rather than by the Panamanian negotiator, was endorsed the next day by Ambassador Linowitz. Reversing his earlier position that Dr. Escobar had misstated the terms of the treaty, Mr. Linowitz told the Foreign Relations Committee on October 19:

We believe that there never was disagreement between the responsible chiefs of state of both countries as to what the treaties meant. Had the issue not been raised here, sir, we don't think it would have been necessary to have this statement of understanding.[36]

Nevertheless, the next day, by contrast, Ambassador Linowitz continued to assure the Committee that the U.S. had the right to protect the neutrality of the Canal *even from a Panamanian threat.*

He had this exchange with Chairman Sparkman:

The CHAIRMAN. * * * Will the statement limit our response to a threat to the neutrality of the Canal from the Government or people of Panama?

Ambassador LINOWITZ. No, sir. There is no limitation in this statement with reference to the action which the United States may undertake to counter any threat or aggression against the canal and its neutrality.[37]

Later during that hearing, the same issue was raised by Senator Stone:

Senator STONE. The problem is that the Joint Statement says "internal." If the Panamanians say this is an internal dispute we have going here, do we then have the right to intervene?

Ambassador LINOWITZ. If the issue is maintaining an open, secure, and accessible canal, the United States is authorized to take such actions as it thinks necessary, and there is no qualificational limitation as to where that threat comes from. * * *

Since there is no limitation, it obviously would not exclude any action which involves a Panamanian threat to the canal.[38]

That same day, however, this interpretation was questioned by the American Law Division of the Library of Congress' Congressional Research Service, which concluded:

* * * [T]he Carter-Torrijos statement, while guaranteeing each party the right to act against threats directed at the Canal, also specifies that the U.S. may not intervene in the internal affairs of Panama. *It is not altogether clear that the statement would permit the United States to intervene*

Footnotes at end of article.

in the event that the aggression or threat should result from Panamanian action. (Emphasis supplied)[39]

The following day, October 20—three days before Panama's national plebiscite on the proposed treaties—General Torrijos addressed the Panamanian people on nationwide radio and television.

He said that prior to the release of the Joint Statement he talked with President Carter, who assured him that the United States has no interest in intervening in the peaceful existence of Panama. According to Torrijos, President Carter said:

Tell your people * * * that in case the Canal is attacked or threatened, or if the free circulation or transit * * * is endangered, we do want to have the right to support that people so that their principal natural resource is not blocked.

Torrijos continued:

Then I told him: "Well, that is the way I see it, too. I feel you are obliged—obliged—to come and defend us if our military or defense capacity is insufficient compared with the attacking force.

He said: "Well, that is where the difference lies. You say obliged, but here I have to sell this as having the right to do so. We feel the same, we are saying the same thing."[40]

Repeatedly, General Torrijos assured his Panamanian radio and TV audience that the role of the United States under the Neutrality Treaty was to defend the Canal from *foreign* aggression *if* requested by Panama. Thus, he said:

"* * * [I]f we are attacked by superior forces, the United States is obligated to come to our defense.

* * * [I]t is necessary for the United States to be committed so that *when we ring the bell* here, *when we push the button*, a bell rings over there, and the United States comes in defense of the Panama Canal. * * *

I repeat, *we push the button*, the bell rings, and the United States is obligated to come to our defense." (Emphasis supplied)[41]

This statement by General Torrijos highlights yet another crucial disagreement between the two negotiating teams. Specifically, can a determination that the Canal's neutrality has been threatened or violated be made unilaterally by the United States, or is U.S. action dependent upon a prior agreement with Panama that neutrality is in jeopardy?

Nearly two months earlier, during an August 22 press conference, Dr. Escobar said:

The neutrality pact does *not* provide that the United States will say when neutrality is violated. That is not provided there. There is an article which reads that Panama and the United States will maintain the neutrality pact with the purpose that the Canal remain open peacefully for all ships of all flags of the world. That is all it says. *It does not say that it falls to the United States to decide when neutrality is violated or not.* (Emphasis supplied)[42]

On September 26, this position was challenged by Ambassador Linowitz, who—in his prepared statement to the Committee on Foreign Relations—asserted:

Under the treaty the United States is in a position to assure that the Canal's permanent neutrality is maintained and there is *no limitation* on our ability to take such action as we may deem necessary in the event the Canal's neutrality is threatened or violated from *any source*. * * *

But the key point is that it is for the United States to make the determination as to how we should respond and how we should defend our rights under the Canal's regime of permanent neutrality.

* * * *We are under no obligation to consult with or seek approval from any other nation* or international body *before acting* to maintain the neutrality of the canal nor does the treaty in any other way limit our ability to act. (Emphasis supplied.)[43]

Once again, following the October 14 Carter-Torrijos "understanding," it became clear that the two sides still had not reached agreement. On October 18, Dr. Escobar told a press conference:

"There is no exact method of interpretation on how violations of the neutrality treaty will be determined. * * * The general treaty includes an article which states that in case of a discrepancy between the two sides concerning the interpretation of an article, they will reach an agreement between themselves or, if necessary, they will appoint an arbiter to decide the issue. This is the general way these situations are handled."[44]

On this record, it is painfully obvious that the United States and Panama have been in disagreement—and still disagree, despite the October 14 Carter-Torrijos "understanding"—on at least two major points:

Our Administration tells the American people that the United States will have the right to defend the Canal after the year 2000 against *any* threat to its neutrality, including an internal threat from within Panama. But spokesmen for Panama assert that the United States will have such a right only if the Canal is threatened by a *foreign* power.

Our Administration tells the American people that the U.S. can determine *unilaterally* when such a right to defend the Canal can be exercised. But Panamanian spokesmen insist that U.S. forces can come in only when requested or when the action is agreed to by Panama.

We would be living in a fool's paradise to assume that these contradictory interpretations will simply go away if the treaty is ratified. Indeed, we would be most fortunate if they did not come back to haunt us in a most agonizing way.

If, at some future time, we genuinely believed that the neutrality of security of the Canal is being threatened by a third party—and Panama, for whatever reason, disagrees—what would we do?

Or if we became convinced that Panama itself (or forces within Panama) were violating the Canal's neutrality or endangering its security—and we could not persuade Panama to change its course—what would we do?

Would we feel compelled to stand by and watch while the Panama Canal fell into hostile hands?

Or would we be justified in using military force to protect the Canal even in the face of Panamanian protest or, perhaps, outright resistance and military confrontations?

These questions are not easy, and there are no simple answers. It is essential that we avoid being placed in such a dilemma—by resolving in advance of ratification such ambiguities and misunderstandings, which contain the seeds of future agony.

If we fail—or if we try to paper over serious deficiencies and disagreements for short-term political expediency—we could be buying ourselves a one-way ticket to another Vietnam.

II. THE NEW CANAL OPTION

If the security and economic interests of the United States are to be protected, we should *not* relinquish our option to negotiate for construction of a second canal (possibly a sea level canal in a country *other* than Panama.

That's exactly what we would do under Article XII of the proposed Canal Treaty, which reads in part:

(b) During the duration of this Treaty, the United States of America *shall not negotiate with third States* for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree. (Emphasis supplied)

In exchange for our commitment *not* to build a new canal in any other country, what would we get in return under the proposed treaty?

The Administration says we would get a commitment that Panama will not collaborate with any other nation to build a second canal in Panama.[45] Whether that would be a fair exchange is open to serious question. But beyond that, there are three important points to be made: (1) the language of the new treaty does *not* say that; (2) we already have such a guarantee under the existing 1903 treaty; and (3) the existing guarantee would be wiped out if we were to ratify the proposed treaty.

In exchange for our clear and unambiguous commitment *not* to build a new canal in any other country, Panama would be "bound" by the following language in Article XII:

* * * during the duration of the Treaty, both parties commit themselves to *study* jointly the feasibility of a sea level canal in the Republic of Panama, and *in the event* they determine that such a waterway is necessary, they shall negotiate terms agreeable to both parties for its construction. (Emphasis supplied)

It isn't necessary to take a high school course in business law to realize that, under such language, Panama would be obligated only to "study" and to "negotiate." There is no clear and unambiguous commitment there—or anywhere else in the treaty—that would preclude Panama's joining with a nation other than the United States to construct a second, or sea level, canal in Panama.

Subsection 2(a) of Article XII does say that—

No new interoceanic canal shall be constructed in the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two parties may otherwise agree.

At worse, this language is meaningless. At best, it is fuzzy and ambiguous.

If Panama acts "in accordance with" the treaty, it is under no prohibition with respect to the construction of a second canal. It is required only to "study jointly" and to "negotiate" with the United States concerning the Canal.

Under this language, it might be claimed that the United States has sort of a "first option"—but it is a pretty weak claim under the language employed.

Even though the existing Canal is not obsolete, we must look toward the day when it will no longer be adequate.

The dream of a sea level canal—without locks—ought to be more than a dream in an era when men and women are going to the moon.

Studies have indicated that the least expensive place to build a second canal would be in Panama. But, for political and other reasons, it might be very wise to construct the second canal in another country—even though it might cost a few billion dollars more.

Furthermore, perhaps such a canal should be built under the auspices of the Organization of American States or some other arrangement of international interests.

In a study published under the auspices of the Council on Foreign Relations in 1967, Immanuel J. Klette surveyed various canal options and concluded that, if nuclear excavation were prohibited, the preferable route for a new canal would be the Nicaragua-Costa Rica route.[46] He observed:

Although the cost of construction bears on the final choices, it should not be the prime factor in making decisions on a new canal. A waterway which is less expensive in dollars may be the most expensive in political consequences.[47]

As we move toward a new treaty relationship with Panama, we should not ignore the

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value of competition—economic, political, and even diplomatic.

Holding open even the possibility of building a new canal outside of Panama—an option foreclosed by the proposed treaty—could be very important and useful in our relations with Panama.

After all, for the foreseeable future, Panama's economic survival is dependent on the Panama Canal. As Professor Edwin C. Hoyt observed several years ago in the *Virginia Journal of International Law:*

If Panama is too intransigent, she may lose the [sea level] canal to one of these other countries. This would be an economic disaster for Panama.[48]

Furthermore, if a canal were constructed elsewhere in Latin America, Panama would be forced to keep its own tolls competitive or risk losing most of the traffic to its almost certainly more modern rival.

A major conference on Panama sponsored by Georgetown University's Center for Strategic Studies in 1967 reached a number of conclusions, one of which was:

Though the Republic of Panama seems technically to be the best place for a future canal facility, the United States should not abandon the right to approach other countries for possible canal location in the event that future political conditions exclude the project from Panama.[49]

Under the circumstances, it is difficult to conclude that Article XII of the proposed Canal treaty serves the best interests of the United States.

III. SOME ECONOMIC CONCERNS

Importance of the Canal

When he testified before the Committee, Ambassador Sol Linowitz asserted that the Canal has "to a substantial extent become economically obsolescent." [50] That is the view of many who support the treaties.

Of course, it is true that modern-day "supertankers" are too large to transit the Canal. But it also is true that none of the coastal ports of the United States is able to accommodate the supertankers.

A variety of facts and statistics can be summoned to suggest that the Canal is rapidly losing its economic importance to the United States. Sometimes the point is buttressed by noting that the number of commerical U.S.-flag vessels transiting the Canal has decreased substantially during the past two decades.[51]

But the fact is that most cargo going to or from U.S. ports is carried in vessels that are not U.S.-flag carriers. The tonnage of U.S. cargo transiting the Canal actually has increased during the last two decades by more than 300 per cent.[52]

Careful analysis underscores that the Panama Canal remains economically very important, both to the United States and to world commerce in general.

Consider a few statistics

Between 1948 and 1976, cargo tonnage moving through the Canal increased almost 400 per cent.[53] That upward trend continued during fiscal year 1977.[54]

About 93 per cent of the world fleet of 27,000 ships of 1,000 gross registered tons and over are capable of transiting the Canal.[55]

At least 96 per cent of U.S. merchant ships and more than 98 per cent of our naval vessels can use the Canal.[56]

At least 57 per cent of all the tonnage passing through the Canal is shipped from, or is destined for, United States ports.[57]

The Canal is particularly important to producers and consumers of certain American commodities—for example, Alaskan oil shipped through the Canal to refineries on the East and Gulf Coasts, and farm products bound for foreign and domestic markets. Twenty per cent of all U.S. farm exports pass through the Canal.

Footnotes at end of article.

A study by the U.S. Maritime Administration concluded if the Canal were closed the price of U.S. exports would be increased by $932 million and the price of imports would be increased by $583 million.[58]

While the Canal is important to the United States, relatively speaking, it is even more important to some other countries. For example, Japan probably is more dependent on the Canal than is the United States,[59] and several Latin American nations rely on the waterway for more than half of their foreign commerce.[61]

Not only is the Canal economically important, but also transits are projected to increase in the years to come. Canal Zone Governor H. R. Parfitt has testified that transits probably will increase about 40 per cent by the year 2000.[61]

Self-sustaining or profitmaking

While the United States (along with much of the rest of the world) certainly has benefitted from the existence of the Panama Canal, it has not been—and never was intended by the United States to be—a profitmaking venture. On the contrary, according to calculations by Arthur Anderson & Company, unrecovered U.S. investments in the Panama Canal and the Canal Zone Government has exceeded $3 billion.[62]

In his recent book, *The Panama Canal Controversy*, Paul Ryan wrote:

The United States government, in a strictly bookkeeping sense, has never made a profit on the Panama Canal and in fact, beginning in the 1970s, has lost money on its operation. It was President Theodore Roosevelt's goal that the international waterway be devoted to the common good of mankind, and for over sixty years ships of all nations enjoyed safe, secure transit and paid the same low tolls.[63]

In fact, the refusal of the United States to view the Canal as an economically profitable venture has been a cause of some friction in our relations with Panama.

Former Assistant Secretary of State and Ambassador Thomas C. Mann has observed:

The main thing to be said is that Panama and the U.S. have entirely different concepts about the role of the Canal. Panama has always aspired to sole control . . . for the purpose of maximizing revenues from the Canal to it; for the purpose of charging all that the traffic will bear for the right of transit. The United States . . . has had two objectives: first, to keep transit tolls as low as possible so as not to add to the cost of goods that must transit the Canal; second, ability of the United States ships to transit the Canal in peace and in war and on a nondiscriminatory basis.[64]

This difference of approach was even reflected in testimony by Transportation Secretary Brock Adams, who told the Committee that after the year 2000 he thought the Panamanians "will try to get out of the [Canal] passage their operating costs and to obtain the amounts of money that will not only cover it but give them a profit." [65]

If Panama should try to extract a profit from the Canal, perhaps it would not be surprising.

Since General Torrijos came to power in 1968, Panama's national debt has grown from $167 million to about $1.5 billion—an increase of nearly 900 percent—giving the country the dubious honor of having the highest per capita debt in Latin America.[66]

Between 1975 and 1977, under General Torrijos' leadership, the interest on Panama's debt has increased from $138 million to $243 million—a jump of more than 75 percent in just two years.[67]

Nowhere in the treaties does Panama make a commitment to maintain the Canal—least of all out of revenues. We are left to hope that, in its own self-interest, it would do so. But a future government of Panama might well decide that the tolls would be better used for social programs than for the cost of maintaining the Canal—maintenance which is enormously expensive as well as highly technical.[68]

Financing canal operations

Some who seek to sell the new treaties to the American people have portrayed the economic provisions as painless and cost-free.

They assert that tolls from the Canal will cover not only its operating costs, without subsidy by American taxpayers, but also the cost of specified payments, which the treaties categorically require the United States to make to Panama.

On the first day of Senate hearings, for example, Secretary of State Cyrus Vance assured the committee that "the treaties require no new appropriations, nor do they add to the burdens of the American taxpayers." [69]

Similarly, President Carter, in his fireside chat on February 1, 1978, gave this assurance:

Are we paying Panama to take the Canal? We are not. Under the new treaties payments to Panama will come from tolls paid by ships which use the Canal.[70]

The best that can be said for such simplistic assurances is that they are optimistic to the point of naivete.

Current payments made to Panama under the existing treaty amount to $2.3 million a year. Under the new Canal treaty, our annual payments would be increased by about 3,000 per cent.[71]

Just what would go into this 3,000 per cent increase?

The annual payment from tolls would go up from $2.3 million to $50 million to $70 million.[72]

The treaty calls for a fixed annuity of another $10 million.[73]

In addition, the treaty provides up to $10 million more to be paid out of revenues if they exceed expenses.[74]

Beyond that, we would pay $10 million a year to Panama for police, fire and other municipal services—and these costs can be negotiated upward every three years.[75]

Outside these provisions of the treaty, if Congress concurs with President Carter's commitment, Panama will receive various types of loans, guarantees and credits totaling about $300 million over the next 10 years—plus $50 million worth of military hardware.[76]

All this is beyond the fact that we would be giving Panama the Canal itself and all related facilities (valued well in excess of $1 billion), and giving them the Panama Railroad—all without any reimbursement or recompense.

Notwithstanding all of this, President Carter told the American people on December 28: "We wanted a treaty that did not put a financial burden on the American taxpayer, and we got it." [77]

In theory—but only in theory—these treaty obligations will be paid out of Canal revenues. But it is clear that until the year 2000 the United States is obligated to meet these financial commitments with appropriated funds, if necessary, should revenues from tolls fall short.

Since Article III(2)(d) of the Panama Canal Treaty grants to the United States until the year 2000 the right to "[e]stablish, modify, collect and retain tolls for the use of the Panama Canal," some may assume that such authority will be sufficient to avoid the need for appropriations.

Unfortunately, even with control of the checkbook, we have to face some stark realities.

During a 60-year period prior to 1974, there was never an increase in the toll charge for transiting the Canal.

Since 1974, however, because of the escalating costs of operating and maintaining the Canal, there have been two toll increases, totaling about 50 per cent.[78]

If the treaties are ratified, even Administration witnesses concede that tolls will have to be hiked again—immediately—by 25 to 40 per cent.[79] Other experts predict that the increase will be as much as 46 per cent.[80]

In a report prepared for the House Panama Canal Subcommittee in December, 1977, W. M. Whitman, an expert on the economics of the Canal, presented this disturbing analysis:

In the first year of operation under the treaty, Panama Canal revenues will fail to cover costs of operation of the canal and related treaty costs by about $99 million. [This] would require an increase in rates of tolls of more than 60 per cent * * *.

* * * [T]he conclusion to be drawn from the data so far available is that costs will rise at a rate higher than any foreseeable increase in revenues over the period of operation of the Canal by the United States under the Treaty.

Constraints on our ability to raise tolls to keep pace with rising costs are both political and economic.

In view of the great emphasis placed by Administration spokesmen on the value of this treaty as a "positive action * * * in our relations with Latin America," [81] one must wonder how much thought has been given to the possible reactions in Latin America to such gigantic toll increases.

One would have expected, and our Latin American neighbors must have hoped, that before the Administration agreed to a treaty that would drive tolls up so dramatically in order to cover such a huge increase in our annual payments to Panama, more consideration would have been given to the 1977 resolution of the Organization of American States—adopted last June by a vote of 19 to 0 (with the U.S. abstaining and Panama not voting). The OAS resolution:

Reaffirms the principle that Panama Canal tolls should *only* reflect the operational cost of the waterway. (Emphasis supplied.) [82]

Neither should we ignore the fact that the Panama Canal is not a monopoly. Other trade routes exist, and their appeal will increase as Canal tolls are raised.

Consider these excerpts from the prepared testimony to the House Panama Canal Subcommittee by Leonard J. Kujawa, a partner in Arthur Anderson & Company who since 1962 has been a consultant on various financial and accounting matters to the Panama Canal Company:

To those that argue that Panama Canal tolls can be increased significantly with no effect on traffic, I would say "prove it in the market place." * * *

Tolls must be adjusted moderately and prudently or there can be severe dislocations that would set into motion irrevocable economic consequences. In a short term, tolls could be increased very substantially creating economic hardship for the users who, in the short term, would have available few alternatives. However, such action would have serious long-term consequences. * * *

* * * [I]n the long term, an imprudent toll increase could sour traffic growth and set in motion irreversible decisions. Loss of traffic coupled with growth of costs could result in higher unit costs and the need for further toll increases, producing a vicious cycle that would result in eventual financial collapse.[83]

Thus, despite the Administration's soothing reassurances, there is every reason to believe that even increased Canal tolls will not cover required treaty payments to Panama and sharply escalating operating costs, particularly after 1984 when it is likely that North Slope oil will bypass the Canal. In that unhappy—but likely—event, the American taxpayer will once again be stuck with the bill.

IV. OTHER CONCERNS

Beyond the points already discussed, there are a number of other disturbing concerns.

1. Although the Canal would be turned over to Panama under the proposed treaties in the year 2000, no firm obligation is undertaken by Panama to operate and maintain the Canal thereafter.

Notwithstanding testimony by Secretary of State Vance that Panama's obligation to do so is "clear," [84] Panamanian negotiator Romulo Escobar has categorically stated that "* * * Panama could *not* be tied down to keeping open a canal which was not earning revenues." [85]

For the United States, Ambassador Linowitz concluded:

We did disagree with them on the position they asserted and therefore that (commitment) was not included in the Treaty. The position we took was should such a circumstance arise, we would have to talk with one another.[86]

There is only one ambiguous phrase in Article II that could even be used as the basis for implying an obligation on Panama to keep the Canal open after 2000. But our negotiators have conceded the point in statements such as that made by Ambassador Linowitz. This sets the stage for Panama after the year 2000 (particularly if we are precluded in the interim from building a second canal) to demand that the United States continue to subsidize the operation and maintenance of the Canal.

2. Would Panama be able to nationalize or expropriate the Canal shortly after ratification of the treaties—without waiting until the year 2000 to take control?

Under the existing 1903 Treaty, the U.S. has all rights, power and authority *as if* it were sovereign. Panama, under the existing treaty, cannot claim the sovereign power of eminent domain.

The proposed treaty would "wipe out" the 1903 Treaty and all the powers of sovereignty would become vested in Panama once the treaties are ratified.[87] We already have seen that the United States would have no clear right to intervene if the Canal were the subject of a take-over by Panama itself.

The Suez comparison is worth some reflection. One month after the British withdrew from the Suez Canal Zone in 1956, the Suez Canal Company was nationalized and Egypt kept the canal profits. And it also kept the canal—and kept it closed to Israeli shipping—despite treaty commitments, war with Israel, attack by Britain and France, condemnation by the United States, and a 1948 U.N. resolution demanding Israeli access to the canal.

While no forecast of similar action by Panama is intended, our negotiators might have avoided this risk by calling upon Panama, as an act of good faith, to surrender (in the terms of the proposed treaties) any right to nationalize or expropriate the Canal during the period between now and the year 2000.

3. In testimony before the Committee by a panel of international law scholars, concerns were expressed that the new treaties are not compatible with the Revised Charter of the Organization of American States.[88]

It was maintained that, at a minimum, the OAS Charter appears to make even more ambiguous and uncertain any claim under the Neutrality Treaty by the United States of a right to protect the Canal against a threat from within Panama. At the very least, legal conflicts between the OAS Charter and the proposed Neutrality Treaty appear to give Panama a basis for arguing that *any* introduction of U.S. military forces on Panamanian soil would violate Article 20 of the OAS Charter.

In light of all the problems of interpretation to be found within the four corners of the treaties themselves, this additional cause for uncertainty is not exactly needed.

4. Were these treaties negotiated in haste under the pressure of a time deadline?

Because the treaties contain so much ambiguous language and so many provisions of doubtful merit, it is appropriate to ask such a question. And, unfortunately, there is reason for some concern.

On *February 10, 1977*, shortly after he took office, President Carter named Sol Linowitz to represent the United States as negotiator for the Panama Canal treaties. But, strangely, Mr. Linowitz was appointed only on a temporary basis—for a six month period. Under the law,[89] an appointment on this basis does not require confirmation by the Senate. Such an appointment operates to bypass the usual scrutiny by a Senate committee of a nominee's qualifications and possible conflicts of interest.

If hearings had been held, the Senate would have learned that Mr. Linowitz was serving as director of a New York bank that participated in making huge loans, still outstanding, to the Torrijos government of Panama.[90] Furthermore, the committee might have cleared the air with respect to allegations that Mr. Linowitz formerly represented the Marxist Allende government of Chile, and was required in connection therewith to register as an agent of a foreign government.[91]

Because the Senate is an integral part of the treaty-making process under the Constitution, it was unwise and something of an affront to the Senate for the Administration not to submit a treaty negotiator's name for confirmation. Utilizing such a short circuit procedure did not build Senate confidence in the treaty negotiations, and it also denied Mr. Linowitz the opportunity he should have had to explain away any possible conflicts of interest.

Mr. Linowitz, who was appointed on February 10, had six months—until August 10—to negotiate a new treaty without having his name submitted to the Senate for confirmation.

Interestingly enough, it was on August 10 that negotiators for the two countries finally announced their agreement in principle on new treaties relating to the Panama Canal.

CONCLUSION

Clearly, as submitted to the Senate by the President, these treaties are fatally flawed.

Any new treaty relationship built upon the ambiguities of the treaties now before us would be doomed to failure from the start.

It is argued by some that defects in the treaties can be remedied by adopting a series of amendments.

Along with David McCullough, I believe that how we say "no" in this situation is very important in terms of our future relations with the people of Panama.

To adopt amendments that make substantive changes in the text of the treaties is one way of saying "no." As the late Professor L. Oppenheim has pointed out:

"* * * the proposal of an amendment to a treaty on the part of the Senate amounts to a proposal of a new treaty * * *" [92]

If the Senate tries to make substantive changes in the text of the treaties—and particularly if General Torrijos should decide later to "accept" them without holding another plebiscite—the foundation would be laid for future Panamanian claims that the treaties are invalid because in their final form they were not properly ratified in accordance with Panama's constitution.[93]

In my judgment the appropriate course for the Senate is to withhold its "consent"—and instead to "advise" the President to persist in negotiations until acceptable treaties can be fashioned.

ROBERT P. GRIFFIN.

Footnotes at end of article.

FOOTNOTES

[1] U.S. Senate, Committee on Foreign Relations. *Panama Canal Treaties; Hearings on Executive N*, 95th Congress, 1st Session, September 1977–January 1978 (hereafter cited at *Hearings*), pt. IV, p. 40.

[2] *Ibid.* pt. III. p. 156.

[3] *Sea Power* magazine, vol. 20, No. 12, December 1977, p. 8, quotes then Chief of Naval Operations Admiral Thomas Moorer as reporting to Congress in 1969 that "a Navy of 850 ships ought to be attained by 1980."

[4] Paul B. Ryan, *The Panama Canal Controversy* (Stanford, Ca.: Hoover Institution Press, 1977), p. 50.

[5] *Ibid.*

[6] U.S. Senate, *Hearings*, pt. III, p. 8.

[7] *New York Times*, November 30, 1959. Both U.S. Senator Mike Mansfield (Congressional Research Service [hereafter CRS], Library of Congress, *Background Documents Relating to the Panama Canal*, Prepared for the Committee on Foreign Relations, U.S. Senate, 95th Congress, 1st Session [Washington, D.C.: U.S. Government Printing Office. November 1977], p. 978), and Panama's National Police Chief (*ibid.*, p. 967), recognized a communist role in the 1949 student riots. Following the 1964 riots, Ambassador Ellsworth Bunker—then U.S. Representative on the Council of the Organization of American States—called for an investigation and asserted:

"If an investigation is made it will demonstrate * * * that violent mobs, infiltrated and led by extremists, including persons trained in Communist countries for political action of the kind that took place, assaulted the zone * * *.

(Statement of January 21, 1964, reprinted in Arthur M. Schlesinger, Jr., (ed.). *The Dynamics of World Power* [New York: Chelsea House, 1973], Vol. III. pp. 262–267.)

[8] Reprinted in Ryan, *The Panama Canal Controversy*, pp. 142–144.

[9] Debate between Jimmy Carter and Gerald Ford, San Francisco, Oct. 6, 1976, as quoted by United Press International, Oct. 7, 1976.

[10] CRS, *Background Documents Relating to the Panama Canal*, p. 280 (Article III).

[11] See Article IX of the Panama Canal Treaty, and Article XIX of the Agreement in Implementation of Article III of the Panama Canal Treaty.

[12] Article X(9)(a) of the Panama Canal Treaty.

[13] Article VIII(2) of the Panama Canal Treaty.

[14] Article VI of the Agreement in Implementation of Article IV of the Panama Canal Treaty.

[15] *Ibid.*, par. (5)(c)(iii).

[16] *Ibid.*, par. (1).

[17] U.S. Senate, *Hearings*, pt. I, pp. 255–257.

[18] *Ibid.*, pt. I, pp. 292–294, 313.

[19] *Ibid.*, pt. I, p. 294.

[20] See for example Ryan, *The Panama Canal Controversy*, ch. 2.

[21] U.S. Senate Hearings, pt. I, p. 292.

[22] *Ibid.*, pt. II, p. 283.

[23] *Ibid.*, pt. I, p. 312; pt. III, p. 462.

[24] Articles IV(2) and II(2) of the Panama Canal Treaty.

[25] President Jimmy Carter, letter to Members of Congress, Aug. 12, 1977, attachment, p. 1.

[26] Foreign Broadcast Information Service (FBIS), *Latin America Daily Report* (Springfield, Va.; U.S. Department of Commerce), Aug. 1, 1977.

[27] U.S. Senate Hearings, pt. III, pp. 478–479.

[28] *Ibid.*, pt. I, p. 30.

[29] *Ibid.*, pt. I, p. 56. Subsequently (*ibid.*, p. 57). Senator Baker asked if the negotiators could obtain a statement in writing from the Panamanian Government saying that the Escobar remarks at the August 22, 1977, press conference "is not the position of the Panamanian Government." Ambassador Linowitz responded: "We will try. We will ask for it." I am advised by Committee staff that no statement was provided.

[30] *Ibid.*, pt. II, p. 233.

[31] CRS, *Background Documents Relating to the Panama Canal*, p. 1620.

[32] *Washington Star*, Oct. 15, 1977, p. A–4.

[33] *Washington Post*, Oct. 16, 1977, p. A–12.

[34] U.S. Senate, *Hearings*, pt. I, p. 461.

[35] *Ibid.*, pt. I, p. 457.

[36] *Ibid.*, pt. I, p. 465. See also pp. 31, 473.

[37] *Ibid.*, pt. I, pp. 454–455.

[38] *Ibid.*, pt. I, p. 481.

[39] *Congressional Record*, Oct. 27, 1977, p. E. 6652. See also U.S. Senate, *Hearings*, pt. III, p. 637, for a similar opinion by Columbia Law School Professor Hans Smit.

[40] *FBIS, Latin America Daily Report*, Oct. 21, 1977, p. N–3.

[41] *Ibid.*, p. N–10.

[42] *Ibid.*, Aug. 24, 1977.

[43] U.S. Senate, *Hearings*, pt. I, pp. 26–27.

[44] *Ibid.*, pt. I, pp. 461–462.

[45] *Ibid.*, pt. I, pp. 46–47.

[46] Immanuel J. Klette, *From Atlantic to Pacific: A New Interocean Canal*, (New York: Harper and Row, 1967), pp. 125–127.

[47] *Ibid.*, p. 129.

[48] Hoyt, 6 *Virginia Journal of International Law* 289, at 300. See also David G. Hanrahan, "Legal Aspects of the Panama Canal Zone—In Perspective." 45 *Boston University Law Review* 64, (1965) at 86–87: "Confronted with the possibility of not being chosen for the sea level canal site and resulting economic disaster, Panama cannot afford to be inflexible in reaching an agreement." Writing in the *Washington Star* (Dec. 16, 1977), Prof. William C. Davis argued: "What we need most is flexibility to negotiate—to play off one country against another. With this leverage, we should be able to construct a new canal at reasonable costs."

[49] Center for Strategic Studies, Georgetown University, *Panama: Canal Issue and Treaty Talks* (Washington, D.C.: Special Report Series, No. 3, March 1967), p. ix.

[50] U.S. Senate, *Hearings*, pt. I, p. 26.

[51] *Ibid.*, pt. I, p. 339.

[52] *Ibid.*, pt. I, pp. 339, 356.

[53] U.S. Congress, House Committee on Merchant Marine and Fisheries, Panama Canal Subcommittee, *U.S. Interest in Panama Canal*, Hearings, 95th Cong., 1st Sess., Serial No. 95–10, July 1977, p. 11.

[54] *Ibid.*, p. 12.

[55] *Ibid.*, p. 10.

[56] *Ibid.*

[57] U.S. Senate, *Hearings*, pt. I, pp. 341–343. Ryan (*The Panama Canal Controversy*, p. 92), gives a figure of 70 percent.

[58] U.S. Congress, *U.S. Interest in Panama Canal*, p. 8.

[59] U.S. Senate, *Hearings*, pt. I, p. 341.

[60] U.S. Congress, *U.S. Interest in Panama Canal*, p. 11.

[61] *Ibid.*, pp. 10, 12.

[62] *Ibid.*, p. 64.

[63] Ryan, *The Panama Canal Controversy*, p. 79.

[64] Quoted in *ibid.*, p. 105.

[65] U.S. Senate, *Hearings*, pt. I, p. 368.

[66] Ryan, *The Panama Canal Controversy*, p. 84. Testimony before the Committee on January 19, 1978, Professor Richard Falk quoted Cornell historian Walter LaFeber as having concluded: "Only large Canal revenues could rescue the government debt . . . [and] even with those revenues could be insufficient." (*Hearings*, pt. IV, p. 62).

[67] Department of State, response to questions submitted by Committee, dated Dec. 21, 1977, pp. 39–40.

[68] See for example Denison Kitchel, *The Truth About the Panama Canal* (New Rochelle, New York; Arlington House, 1978), pp. 141–142.

[69] U.S. Senate, *Hearings*, pt. I, p. 12.

[70] *New York Times*, Feb. 2, 1978.

[71] The original annuity was established at $250,000 by Article XIV of the 1903 Treaty. This was amended to $430,000 by Article VII of the 1936 Treaty, and again to $1.93 million by the 1955 Treaty. Because the payments were designated in Panamanian balboas, instead of U.S. dollars, subsequent devaluations of the American dollar have raised the annuity to $2,328,200.

[72] Article XIII(4)(a) of the Panama Canal Treaty. The actual payment under this provision will vary dependent upon the total tonnage transiting the waterway. Because the payment is indexed to the U.S. inflation rate, this payment can be expected to increase at regular intervals in the years to come.

[73] *Ibid.*, paragraph (4)(b).

[74] Article III(5) of the Panama Canal Treaty.

[75] Article XIII(4)(c) of the Panama Canal Treaty.

[76] "Note Regarding Economic and Military Cooperation," addressed to Panamanian Ambassador Gabriel Lewis Galindo and signed by Cyrus Vance, reprinted in Department of State, *Documents Associated With the Panama Canal Treaties*, (Washington, D.C.: Bureau of Public Affairs, Selected Documents No. 6B, 1977), p. 57.

[77] *Weekly Compilation of Presidential Documents*, Jan. 2, 1978, p. 1949.

[78] U.S. Senate, *Hearings*, pt. I, p. 296; U.S. Congress, *U.S. Interest in Panama Canal*, p. 93.

[79] U.S. Senate, *Hearings*, pt. I, pp. 276, 43.

[80] M. W. Whitman, letter to Department of State dated Sept. 28, 1977.

[81] U.S. Senate, *Hearings*, pt. I, p. 11.

[82] *Ibid.*, pt. II, p. 294; *U.S. Congress Committee on Merchant Marine and Fisheries, New Panama Canal Treaty*. Hearing on the Agreement in Principle with Respect to the Proposed Panama Canal Treaties of 1977, Series No. 95–13, 95th Congress, 1st Session, Aug. 17, 1977, p. 13.

[83] U.S. Congress, *U.S. Interest in Panama Canal*, pp. 66–67, 70.

[84] U.S. Senate, *Hearings, pt. I*, p. 60.

[85] *Ibid., pt. I*, pp. 59–60.

[86] *Ibid., pt. I*, p. 61.

[87] Article I(a) of the Panama Canal Treaty.

[88] U.S. Senate. *Hearings*, pt. IV, pp. 92–93. Article 20 of the Revised OAS Charter reads: "The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly on any grounds whatever."

This is modified by Article 22, which provides: "Measures adopted for the maintenance of peace and security in accordance with *existing* treaties do not constitute a violation of the principles set forth in Articles 18 and 20." (Emphasis supplied.)

Since the 1903 Treaty qualifies as an "existing" treaty, action taken to defend the Canal under its provisions is less likely to be in conflict with the OAS Charter than action under any new treaty.

[89] See Article II, Section 2 of the Constitution, and Section 501(c) of the Foreign Service Act of 1946, as amended.

[90] See for example, *Congressional Record*, February 22, 1977, pp. S. 2819–2824.

[91] See for example Reed Irvine, "Treaty Negotiator Was Allende Agent," Bethesda (Md.) *Advertiser*, Jan. 1, 1978.

[92] L. Oppenheim, *International Law* (London: Longmans, Green and Co., Eighth Edition, 1955), Volume I, p. 912, note 1. See also Prof. Elmer Plischke, *Conduct of American Diplomacy* (N.Y.: D. Van Nostrand, 3d ed.), p. 394, who writes: "Amendments * * * constitute actual textual changes and, as such, even if acceptable to the President, require renewed negotiations to induce other signatories to accept them . . . Technically, of course, the Senate cannot amend a treaty, but it merely suggests changes which it requires to be incorporated before it will grant its consent to ratification."

[13] See Article 274 of the *Constitution of Panama 1972* (Washington, D.C.: General Secretariat, Organization of American States, 1974, p. 44), and Articles II(1) of the Panama Canal Treaty and VIII of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

GENERAL TORRIJOS TELEVISION ADDRESS

Mr. GRIFFIN. Mr. President, in my minority views which accompany the report of the Committee on Foreign Relations on the Panama Canal treaties (Ex. Rept. 95–12), I have quoted from an October 20, 1977, television and radio address to the Panamanian people delivered by Gen. Omar Torrijos.

Because it was delivered after the October 14 joint statement of understanding released by General Torrijos and President Carter, and shortly before the October 23 Panamanian plebiscite, I believe this lengthy speech provides important insight into the interpretations which General Torrijos and future Panamanian leaders are likely to give to key provisions of these treaties. And, as I have pointed out in my minority views, some of those interpretations are very disturbing.

In order that my colleagues will have access to the full text of the remarks delivered by General Torrijos on that occasion, I ask unanimous consent that a translation thereof by the Foreign Broadcast Information Service, provided by the Department of State, be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TORRIJOS ADDRESSES NATION PRIOR TO TREATY PLEBISCITE

(Nationwide radio and TV conversation with the nation by Chief of Government Gen. Omar Torrijos at the Televisora Naoinal TV studios in Panama City with Mario Valasquez as moderator—live.)

(Moderator) General Torrijos, welcome to Televisora Naoinal, welcome to Panamanian television. For us it is a source of great pride and pleasure that you should be in our studios tonight to have this conversation with the Panamanian people—this friendly conversation, by which you show great interest in sending a message, in communicating your impressions of your trip to Europe. Would you be so kind, General Torrijos, to talk to us first about your trip to Europe? I understand that this was the first time that a Panamanian chief of government, a Panamanian ruler, has made a trip to Europe while in office.

(Answer) This is true. Following my return to the country after a trip of almost 20,000 km, I wish to use this media to resume our dialog, in which we have been engaged for 9 years. Our trip was very interesting. The traveler was not General Torrijos, but he was the representative of a people with a cause. When in the various countries I was addressed and the national anthem was played, I felt, in my deepest soul, that the national anthem was not being played for Omar, but the national anthem was being played for 1.7 million Panamanians who, through their struggle, through their principles, through many sacrifices, decided to end a shameful colonialist enclave and decided that international public opinion should never consider us a colony.

I was proud because now the name of Panama has been incorporated among those of the dignified countries of the world. I was proud because all the attention shown to me was attention which I was receiving on your behalf, and I was proud because our country is being heard at the highest levels, and it is being heard as a country which has issued a cry to the world, a cry which has been heard by the moral leaders of the most powerful and highly industrialized countries of the world.

I emerged from my meetings with optimism. I was optimistic because I went there with the timidity of one who is unfamiliar with this great world. I felt optimistic because in each of these leaders I found sincere support, an in-depth knowledge of our cause, and a profound conviction that the Panamanian people had exhausted all peaceful means of solving a problem. I received congratulations, which I hereby extend to you. I received congratulations from those great leaders because they say that Panama, despite its small geographical size, has given a very significant example—the use of peaceful means to resolve a problem, the use of negotiations as a means of settling a problem of great significance to the world. I had been very confused, and I had had the impression that this was a bilateral problem between Panama and the United States.

I return with a more complete idea of the significance of this problem. Leaders like German Chancellor Schmidt told me: Look, Torrijos, for me and for Germany, but especially for me, the problem of the canal is not just a matter of free, innocent passage for our tonnage; it is as much a sentimental matter for me as it is for you. I was raised in Hamburg, one of Germany's main ports, and even as a child, ever since I could move around the wharves, I saw ships which were coming from or going to Panama.

So that name has a sentimental meaning for me, as it does for your people. I congratulate you. Do not feel alone and never believe that this treaty will not be ratified. I say that it cannot fail to be ratified because it is a problem of such significance to world shipping that it is not possible to commit the irresponsible act of refusing to ratify it for your people. And it is such an important matter, other leaders told me, that it would be disastrous for world trade if the intransigence of those who do not understand the true importance of this should be allowed to endanger the innocent passage of ships of all the world's flags that transit the canal.

I return with great optimism. I am very optimistic because I had felt that the problem was local. The problem has an umbrella, a universe that is much larger than we thought, and the support of these men is much more extensive than I expected.

On returning from Europe, I had a meeting with President Carter, a meeting which was much commented upon in this country, and justly so because, as a result of a standing operating procedure in history the booby traps always come at the end. It is always at the end that the Panamanian people are asked to sign receipts for intervention, to sign receipts which are degrading, or to sign receipts which disguise the perpetual presence of a foreign power in our territory. There were those who advised me: Omar, do not go. Do not go because those people are very smart, very clever, very smart and very clever and they make you unknowingly sign something that could reverse all that we have won. I went. I paid no attention to this advice. I paid no attention to this advice, first of all, because I divine, I discover, I visualize, and I see in Carter—when I talk with Carter I realize that I am talking of a man who has turned his back on intervention, that I am facing a man of high moral character. We met, and what he proposed was quite acceptable for my signature, but I did not wish to sign it precisely because I represent 1.7 million inhabitants and I did not wish there to be the slightest doubt regarding my actions. And I did not wish anyone to believe that, by deceit, flattery or attention, I could be made to accept something which our people do not accept.

However, those who think this way—this way of thinking is the product of the exaggerated foreign presence in the Canal Zone, because to think this way is to underestimate or underrate the ability of the Panamanians.

Listen, I regard myself just as smart as those people, and those people are so smart they can detect a lame man even if he is sitting. [laughter] They can detect a lame man even if he is sitting, those people are so smart. Nevertheless, I talked to him and he told me the following very respectfully. He speaks quite a bit of Spanish and if one talks to him slowly he understands. There they use the term a four-eye meeting, a six-eye meeting, an eight-eye meeting because the interpreter's eyes are innocent eyes, they do not count. We held a four-eye meeting with the interpreter. And he said to me: Torrijos, we have made a commitment. We made a commitment and signed it. The commitment was that we would sell the same product on different markets. I said, that is correct. [Then he added] but it turns out we are not selling the same product. When Romulo—they know Romulo's name, he handles it very well—when Romulo says that we go indiscriminately anywhere we please and when Linowitz says that, regardless of any pact or signature, we [always] follow our national interests, both of them are hurting us because that was not the intention of what we signed.

Tell your people, but please tell them that neither the United States nor this government has any interest in intervening in the peaceful existence of that nation. And I said: Would you affirm this, Mr. President. [He answered] I affirm this to you as many times as you want. We have no interest in intervening in your internal, intimate or domestic life, in your political form or in the way of being of the Panamanians. But tell them also that in case the canal is attacked or threatened, or if the free circulation or transit of 15,000 ships per year now, 26,000 in 2000, is endangered, we do want to have the right to support that people so that their principal natural resource is not blocked.

When I told him: Well, that is the way I see it, too. I feel you are obliged—obliged—to come and defend us if our military or defense capacity is insufficient compared with the attacking force.

He said: Well, that is where the difference lies. You say obliged, but here I have to sell this as having the right to do so. We feel the same, we are saying the same thing.

So we drafted a declaration. We drafted one in the United States and we drafted one here. It is a declaration which guarantees and explains. It explains because he was elected in a country of 200,000 [as heard] inhabitants who felt a certain moral loathing because their fatherland, the United States, had turned into the world's international policeman, because they have young people on their way back from interventions, because it is a youth which feels moral loathing and repugnance for what happened in Santo Domingo, for what happened in Vietnam and for what happened in Playa Giron. It is a youth [he corrects himself] it is a country on its way back from such interventions and he did not want for a single moment . . . he said: Explain this to them well, but explain it to them in the way I am explaining it to you. I do not want the Panamanian people to think for a single moment that I am disguising here a receipt to intervene in their peaceful existence or way of life. That is signable and I [Torrijos] believe I should have signed it, but I did not do so to avoid misinterpretations.

We then parted. Both of us felt very happy.

He told me: Have faith, have faith because moral causes always prevail. Your cause is moral and so is my attitude in listening to a moral attitude. I know I am capable of convincing my people that they have been taught a distorted story and that, as a result of this, many of them have come to feel that Panama exists under the same moral or geographical condition as Alaska or Louisiana, but that is my problem and I can assure you that I can resolve that problem.

When I asked him what were the possibilities that the treaty would be rejected, he answered: Do not think negatively, Torrijos, do not think negatively. The only thing is that I do not want you to pressure me or tell me to sign it Monday, Tuesday, or tomorrow. Give me some time and this treaty will be signed.

I told him, a treaty awaiting to be ratified represents hope, but a rejected treaty is a provocation. And he said, that is right, that is the way I see it, too.

On arriving here and as a good observer of my people—I feel that I am a man who understands your feelings, who understands my people's intimate truth, because there are two types of truths, public truths and intimate truth, and I understand intimate truth, that truth which you will express in the plebiscite. I understand it and I come pretty close to understanding almost perfectly—I realized that the issue was being viewed differently here.

Instead of talking about the real present, they were talking about the legal future. What does the real present mean?

The real present means that there is an enclave there, that bases have to be built and that those military bases have teeth, claws, cannons and a large capacity for retaliation. That is the real present. The real present means that because the country is divided by that enclave we have not been able to perfect our independence and place our flag there, the visible symbol of our sovereignty. The real symbol of our sovereignty is the right of every Panamanian to attend a school or hold a job, the right of every Panamanian mother not to be abandoned to her own resources, and her right to have the state provide herewith a job and her child with an education. That is the real present. We often forget this.

The new treaty—although I never like to mix the economic aspects with the issue of sovereignty, I must also admit that sovereignty means not being dependent; that sovereignty means having a job, that sovereignty means to continue providing our school age children with decent classrooms. I must admit that in this aspect we have not been sovereign. We have not been fulfilling certain sacred principles of sovereignty, and one can easily make a mistake and confuse pseudonationalistic feelings with real nationalistic feelings. In this we have had many pseudonationalistic factors. Let us look at things as nationalists. As nationalists we see that thousands are jobless; as nationalists we see that Colon is demanding and awaiting a response; as nationalists we see that farmers want the Canal Zone market incorporated into their sales market whenever there is superproduction. That is being nationalistic. There we see a part, an important aspect, of real sovereignty. Panamanian farmers want the Canal Zone incorporated into their market because at present there is such contempt . . . the 1903 treaty is so bad that under it [Americans in the Canal Zone] are authorized to bring in tomatoes from California. [laughter].

Those are tomatoes from California that are brought here on ships and when they arrive here how could they taste like a Los Santo tomato? They do not. However, there are some people who despise our people so much that they prefer to eat a tasteless and colorless tomato rather than a tomato produced in the hills of Volcan, or Boquete, or in the warm lands of Herrera, Los Santo and Nata. These are things we have to explain to you, and we have to explain them to you because these are things which form part of the dismantling and gradual turnover that the treaty establishes, that the treaty authorizes, we will replace milk from the Netherlands with milk from Panama and Australian meat with Panamanian meat. All these things will solve the situation of thousands and thousands of jobless persons in our country.

So, instead of thinking about those great elegant legal theories, let us think about the real future of our fatherland. Do not think that in the year 2001 there will be a ruler who will be the reincarnation of Theodore Roosevelt. No, gentlemen, the course of history is as irreversible as the course of a river. No one can tell a river to return to the mountains. Rivers flow to the sea because this is their natural and historic path. The course of history cannot be stopped. Those who think that history can be stopped, those having these legal shortcircuits are not aware of the reality of our people. They are not thinking about the reality of our people, because we have a different situation. Our people are a nation that feels, that thinks and that is urging me to solve their needs. Sovereignty is part of life. It can be touched, but it cannot be eaten. Sovereignty is also an obligation on the part of the government to give all Panamanians a decent job, to give all Panamanian children a health program that will begin to take care of them before they are born and continue taking care of them until they die. This is sovereignty. This is the real present. This is real sovereignty.

It is also being said that the treaty should not be approved because we are going to misuse the annuity of 80 million [balboas]. I do not know why. 80 million will not hurt. We need it. These people are claiming 80 million for their development. 80 million can be used to create 40,000 jobs, each paying 200 balboas. So what do they want? For us to keep 2 million? I do not understand.

There is something of which we must be aware: There are Panamanians who are not thinking only of occupying the zone, but of occupying it to plunder it. They are mistaken. Those who think that filth will replace cleanliness, that anarchy will replace order, and that disrespect will take the place of respect, those who are working so that there will not be free and innocent transit for all the nations of the world are working from the position of those who do not want us to administer the canal. They are working together.

I have just returned from a trip around the world. The world has much faith and knows a great deal about Panama. The leaders do. They trust that Panama has the capacity to manage the canal with common sense.

Somebody told me: Torrijos, you have shown great political maturity. Your presence here is evidence of the great political maturity of your people. Your people have accepted a negotiated solution. Probably I will not be alive in the year 2000 to see it, but this, one of those leaders told me is the greatest altruistic action a ruler can perform.

When I told this same thing to another leader, he told me: What do you mean? What is this about you not being around in the year 2000? You are still young. In the year 2000 I will be 70 or 71 years old, if I do not hide the years and if I keep continuing. He said: You will still be strong at that time. I said: No. Statistics say that the average lifespan in our country is 64 years. He then asked: Do you believe in statistics? And I said: Yes, I believe in my country's statistics because they are accurate.

However, there is need for mixing the credo with punishment. As somebody once said you should mix the credo with rocks and faith with the whip. [sentence as heard] Those thinking about entering the zone to plunder . . . and I am talking about all Panamanians—including those in the government, including myself—we are going to leave Gamboa prison open in order to lock them up right there, so that they may taste it. We are going to let them try out the jail there so that they can correctly use the jail if they try to use the Canal Zone incorrectly.

The treaty states that there will be loans of up to 50 million balboas for the National Guard. This scares even me, but what the people do not know is that a study by the staff has made three recommendations: First, this 50 million must not be used to increase the National Guard's capacity for reprisal, movement or firepower. Second recommendation: If we want to continue having, or make possible, peaceful coexistence among our people, the National Guard should never have a percentage greater than 50 percent of the number of teachers in the country. That is, the National Guard can only be half as large as the total number of teachers in the country. This means that if we have 30,000 teachers, there can be a maximum of 15,000 guards. But if there are 100,000 teachers, we will not have 50,000 guards because that would be too many.

The third recommendation is that in the Canal Zone the policing of the installations can be perfectly carried out with only an additional 300 guards. However, the staff recommends that, although 300 guards are sufficient, we should have 500 in order to further distribute jobs.

However, these 500 guards must be high school graduates and bilingual, and they must have no military training, but detective training and training in criminal investigation for crimes that could occur around a canal, and training in the problems that result from the movement of 15,000 ships a year. However, they also recommend that these Panamanian graduates include men and women—because there is much discrimination against women in this country. We will see to it that the new system will not discriminate much against women. Women can direct traffic perfectly well. We will give these 500 graduates the opportunity to work and to study in order not to cut short their careers so they can go on to the university.

When we think about obtaining that 50 million in 10 years, I am in fact thinking about a war, but about the war we have now, a war whose mission it is to have helicopters and planes not for combat but for transportation to take a medical team at any time to any part of the country; that is, we are thinking about a structure that would correspond to that kind of war and that type of mission.

When we think about equipping the National Guard we are not thinking about tanks. We are thinking about attack tractors, tractors to attack the land, about cranes and machinery with which to attack and punish, to punish the river which has killed so many children on their way to school, to punish it with a bridge. This is the type of war we think about, to develop a National Guard with a strong civic action at the service of the people. We do not need too many rifles. We only require the number necessary to guarantee peaceful coexistence and we do not believe that we are—and never want to be—a repressive government. We are not thinking about flamethrowers, but about guns that spread seed killer. We are not thinking about destructive war machinery, but we are thinking about machinery to destroy ignorance, machinery that will promote development.

Are we in a hurry to sign the treaty for economic reasons? What reason would we have to hurry? The economic problems do exist. I will not deny this. The money we have spent and owe has been invested. You have

seen it. The country has progressed a lot in 9 years and it could have progressed more, it could have progressed more. We are aware of this. We now have a country and government that are well equipped, well organized, a government that not only has ideas but has turned the ideas into projects and the projects will be turned into work.

We have been negotiating for 13 years. There has been no hurry. Nine of those 13 years correspond to our government. Understand me well, I want this nation to continue having confidence in me. No one makes me sign anything under pressure. I would prefer to disappear from the world of the living rather than permit the humiliation of my people with my signature. I am not looking for that. There has been no pressure of any kind. What has happened is that a series of circumstances arose in which the correlation of force was a correlation of moral forces, because a President Carter emerged who is ashamed to apply force to a weak country, who feels shame and listens to his country youth who do not want to return to the battlefields of Vietnam, because there was understanding and because I also matured a lot politically. Previously I was very intransigent. I wanted the gringos to leave on Monday. However, a negotiation is a compromise. It is not a cosmetic document, it is not a precious document, but it is a working instrument. Note that working instruments are designed to be effective, not to be pretty. I am satisfied with this instrument we have designed because this instrument guarantees that gradually the enclave will disappear and guarantees that more than 1,000 square kilometers will be incorporated in 3 years; that is, 30 full moons, 3 sugar harvests, 3 holy weeks—in 3 years all these square kilometers are incorporated into the geography of national dignity.

What do I mean by that? I mean that the police disappear immediately and our police, who could be the son of Nino, the son of (Pincho) or whoever, go in. However, the Panamanian policeman will be paid better because his responsibility will be much greater since he will be protecting vital installations and since we must set an example of guaranteeing with our responsibility the support that the world has given us. We must keep order and these policemen will have to be well prepared and specialized. We have National Guardsmen, many National Guardsmen with a high degree of professionalism and who speak English. However, they must speak one, two or three languages, at least.

Therefore, there has been no hurry. That has not been the ingredient. The ingredient has been those who gave me their support, all those who gave me their support, because this very local cause was first converted by us into a national cause, then into a hemispheric cause and finally we turned it into a world cause and we have to act with responsibility in reply to the support that the world has given us.

(Question) I would like to make an observation. You have made a general presentation of the prospects for our development, not only economic but also political and administrative and governmental, assuming that the treaties become effective. Since you have just returned from Washington and spoke to President Carter, you are bringing back the experience and situation of Washington. I would like to ask you, what would happen or what would be the reaction of your government or the Panamanian people if the United States were to reject the treaties?

(Answer) First of all, I returned very convinced, not only due to Carter's opinion, but due to the opinion of the world's leaders who told me that this problem is not yours alone, but it is also our problem. We see the canal in a worldwide frame of reference, not in a local one. This problem goes far beyond the country or the electoral district of a senator. Nevertheless, in asking President Tito this question [words indistinct] he said don't worry man, how could they not approve this. It would be such an irresponsible act that it is inconceivable in this day and age of history to commit such an irresponsible act.

Nevertheless, let us be pessimistic. Let us assume that it will not be approved in spite of the pressure—not pressure of force but pressure to convince—which all the leaders of the world will exercise in support of Carter. All these things could happen, (I asked him the same question you asked). He said: Well, undoubtedly I completely agree with you that when all the paths for a peaceful solution are closed to a nation, it is completely justified to undertake a violent path. However, Torrijos, that does not justify that if it is rejected today you will take the violent path on Monday. You have to convince all the leaders of the world that you are right. You have to convince all the world's leaders that you are right and that it is the Senate's intransigence that endangers free transit, not you with a guerrilla movement or a unilateral decision. If you do not convince them, they will blame you and they will say that with your intransigence, by feeling and thinking, you have affected free transit, you have converted the transit of 8 hours into a transit of 30 days. Therefore, it is up to you to take a plane and go to talk to all the heads of state of the world. This could take you almost a year. You must convince them so that whenever this people must take another course because all the peaceful routes have been closed to it, it will have 150 spokesmen in the world and we will have not only moral support but even material support. I say 150 because this is the number of countries existing in the world.

(Question) General Torrijos, there is another matter which has been in the news during this period of intense debate in the country.

It refers to the possibility of building a sea-level canal. The opponents of the treaty claim that, by means of the treaty, Panama is mortgaging its future and granting the United States a series of rights for the building of a sea-level canal at its discretion. I would like you, General, in this talk with the Panamanian people, to explain to us really what is the nature of the agreement existing in the treaties regarding the possibility of building a sea-level canal.

[Answer] This is correct. If there was not so much suspicion—but I see it not as suspicion about me because the people know me, but it is traditional distrust because the people always look for the bad parts—if it were not for this suspicion we would be working already with the United States on the updating and adaptation of the studies for a sea-level canal. However, since this is not a matter in dispute, nor must it be solved in the treaty, I have not wanted to bring it up or accept that it be brought because if we accept this it could mean that attention will be sidetracked to the sea-level canal and the U.S. reactionary forces could say: Let us leave the situation as it is and wait for the sea-level canal.

However, there is a great deal of interest in the United States. In the treaty we give priority, not exclusiveness, for the building of a sea-level canal. The United States is given the first option. We commit ourselves to jointly study what the construction methods and route shall be, keeping in mind that it will use conventional means—that is, the atomic bomb cannot be used in building the sea-level canal.

The senator from Alaska is the one most interested in this sea-level canal because Alaska has become a great source of petroleum with possibilities that go far beyond the petroleum produced in the continental U.S. territory. The Alaska senator said: Omar, if you sign this letter I can get from the Senate 7 million balboas so that jointly with you—when I say you I am thinking about who I am going to appoint, I am thinking of the Polytechnical Institute, I am thinking of the best trained Panamanian minds in ecology, in engineering, in canal problems—let us begin to make this study now. This study should cost 7 million: 3 million for ecology, 3 million for engineering and another for something else.

I brought this matter up because some may say: He has not solved the treaty problems as yet and he is getting involved in another problem. I do not want our people to think—and our people know this—that a second marriage is the triumph of hope over experience.

(Question) General, if you have no objection, there is a matter to which I would like to return. It deals with the economic aspects of the treaty, especially the prospects of economic development in the country by means of the use of the annuity. My insistence is based on the fact that in general the country is confronting a series of economic problems, and economic factors are very important. I understand that the people are very interested in knowing how the return of the canal will reflect on the well-being of their families.

(Answer) This is a fact. This is what I say: It means the sovereignty of the Panamanian, the sovereignty of the moment, the true sovereignty. The treaty brings many economic benefits. From $2 million it passes to $80 million. There are aid plans. They are not gifts. I am very distrustful and do not accept generosity or gifts of any kind. He who accepts a gift runs the risk of being deprived of it later. The treaty includes loans which will almost allow us to solve the housing problem in the country. I feel that I have been foiled when after 9 years I have not been able to solve the problem of giving every Panamanian family a roof over their heads.

This economic injection—it is not a gift, but it is like collecting an earned salary—brings with it loans for the Agricultural Development Bank which has so much influence in our agriculture. It brings loans for irrigation and it returns the docks and drydocks. When I was in Sweden I contracted with a Swedish concern for the greatest utilization of the drydocks which are now not being used. They are among the installations to be returned. It also has the economic advantage that we can, in an organized, orderly and planned manner, build housing projects that are not as far away as Cerro Batea and the Chagres, which is detrimental to the family economy because what they save in housing they will spend on transportation. They are too far from the marketing and working centers. It also means that every North American who retires must be replaced by a Panamanian. It sees a prosperous economic horizon and I also see that there is the hope of solving our problems. It is a real hope, not a false one. It is a positive and not a fictitious hope. I see this people having the basic things which every government must provide.

(Question) General, as in the case of the economic aspect about which I feel very pleased because of the new concept and emphasis you have given this matter, I want to bring up the matter of neutrality because during these 6 weeks of debate it has been the central point of debate and it seems that the neutrality pact, the treaty dealing with permanent neutrality and the canal's operation, has become the Achilles heel of these documents. I would like for you, tonight in this talk with the Panamanian people, to explain more thoroughly how we should understand neutrality, what it represents for our country, what degree of mortgage, if any, it represents for our sovereignty and how it affects our development as an independent nation.

(Answer) This is correct. What does neutrality mean? It means that Panama com-

mits itself to the free transit of all ships of all flags of the world, without charging one more than the other. It means that Panama takes on the obligation of maintaining the geographic basin at the service of this shipping, because the canal can be very well defended, but if we did not keep the geographic basin at the service of this shipping, navigation would be impossible because there would be no water. And no matter how good a sailor the captain of a ship may be, he cannot navigate without water. It means that Panamanians, no matter how much we may fight internally, must respect the fact that this strategic belt is at the service of humanity, and that this strategic belt is our main natural resource, which has to bear the burden of the development of future generations.

What happens, then? There are those who allege that this must be weighted against what can happen in 23 years, that what we have signed is a receipt for intervention. This is not true, I would be irresponsible if I were to sign a receipt that permits intervention in Panama, but I would be equally irresponsible if I failed to leave future generations the certainty that, if their country is attacked by forces which are superior to our capacity to respond, the United States is obligated to come to our defense.

I do not want the money, the assets, the economic benefits generated by the canal to be spent totally for weapons. It would be irresponsible to spend it all on weapons because all the weapons we could buy would be useless against the weapons which other countries have. I do not want The Netherlands to say in the future that they have the right—and there is a basis—to intervene in Panama. Those who wish to intervene always find a basis to do so: that is, tomorrow the Nordic countries could say: The first people to arrive in Panama were the Vikings, and we have the right to that strategic waterway. Spain could say: Columbus was there, so it belongs to us. Others near here, because we looked at them with disapproval, could say: You have disrespect for our flag and we are going to intervene there.

I do not want the security and tranquillity of future generations to be dependent on the number of tanks that another country may have. We will maintain the force necessary to insure peaceful coexistence, but if we are attacked by superior forces, the United States is obligated to come to our defense. And when I said that we remain under protective umbrella, I say it without shame. I feel no shame because I do not wish to escape the threat of a lizard only to be threatened by a shark. This is the way it is. I do not wish to escape the threat of one kind of snake only to be threatened by another kind of snake. No, sir! What I want is for this to be really neutral and for the whole world to respect the isthmus as a peaceful place where all flags are welcome and which has opened its depth, for the benefit of humanity.

However, since at times this respect . . . it is necessary for the United States to be committed so that when we ring the bell here, when we push the button, a bell rings over there, and the United States comes in defense of the Panama Canal.

(Question) General, certain comments have been made regarding the influence to which the National Guard could be subjected because of the mechanism of joint defense provided for in the treaty for the next 23 years, an influence which, of course, would be exerted by the United States, by the U.S. troops. Some critics of the treaty call this the Americanization of the National Guard. As chief of government, and also as commander in chief of the National Guard, what do you have to say about this?

(Answer) The people think that joint defense means being in the same barracks, that we are going to send all our combat troops, our guards, the Tigres, the Diablos Rojos, the Massemontes [National Guard units], all the companies to the Canal Zone. This is not so. They are going to remain at their posts. In the event of an attack on the Canal Zone, the troops which are in Chiriqui, the troops in Tinajita, the troops which are here, come from their duty stations, and if the attack is superior to our capacity for response, I repeat, we push the button, the bell rings, and the United States is obligated to come to our defense. On the other hand, when one says Americanization, it seems as if they are disrespecting our nature. Why do they not think—if our guards were really going to be there—that perhaps we would Panamanianize the Gringo soldiers?

There is one thing that I wish to be very clear, that is that every one will remain at this post, and that guard duty will be carried out by 500, 600 or 400 guards, whether men or women, who are specialized in police surveillance of the canal. This is so because we have to maintain standards of respect which are somewhat higher than usual, but without repressing anyone. When the guardsman, the policeman, the policewoman, the traffic officer is a compatriot, he can reprimand one for a violation, cite one for a violation, but not oppress, which is what is happening at present. They (the U.S. forces) do not reprimand; they repress and oppress.

(Question) General, you were out of Panama for almost 3 weeks. You returned 1 week ago, and, of course, you have rapidly been able to sound out the level of the debate which will culminate in the plebiscite on Sunday. What comments, what message, do you have for the Panamanian people with regard to the plebiscite on Sunday?

(Answer) Mario, here is a document which it might be appropriate to read now, or else I will read it later, so that the people can see—there is talk about what Torrijos signed.

(Question) Let us read it now.

(Answer) Here President Carter commits himself, and he confirmed what he said.

(I said:) Look, Mr. President, you are not going to intervene in our domestic affairs, [and he said]: I told you that this is not my intention. Read it, read the document, so that people do not think that I went around signing things, that I hid this or that. Let the people know that when they go to vote on 23 October, everything will have been said. There is nothing, absolutely nothing, hidden.

(Velasquez) Very well, General, with pleasure. It concerns the joint Carter-Torrijos declaration agreed upon in Washington on Friday, which states as follows: In accordance with the treaty concerning the permanent neutrality and the functioning of the Panama Canal—the neutrality treaty—Panama and the United States have the responsibility of insuring that the canal will remain secure and open to the ships of all nations. The correct interpretation of this principle is that each of the two countries in accordance with its respective constitutional procedures, will defend the canal against any threat to the regime of neutrality and will consequently have the right to act in the event of an aggression or threat to the canal or the peaceful transit of ships through the canal. It does not mean, nor will it be interpreted to mean, that the United States has the right to intervene in Panama's internal affairs. Any action by the United States will be designed to insure that the canal will remain open, secure and accessible, and will never be directed against the territorial integrity or the political independence of Panama. The neutrality treaty provides that warships and auxiliary vessels of the United States and Panama will have the right to transit the canal expeditiously. This was the intention, and it will be so interpreted, of guaranteeing the passage of these ships through the canal as rapidly as possible, without obstacles, with simplified processing and, in the case of necessity or emergency, they may go to the head of the line of ships in order to transit the canal quickly. This is the end of the quote from the joint declaration.

(Torrijos) This is what we all want. There was a problem about whether they would go first. All warships will be first in line. I do not wish to see warships around here. Those warships have guns which point everywhere. They point everywhere, and when warships are in line, I would prefer to let a ship carrying copper wait rather than delay a ship which has such destructive power, because if that ship is attacked near here because it did not transit quickly, it (?harms) the country. So let it leave quickly, let it leave quickly. This is the interpretation. And I would sign this right here if you want. If Carter asks, I would sign this because this is what our youth, our generations want. And this is the peace which I am going to take to my grave—that I do not leave a canal which is greatly coveted by the whole world without knowing that a great power is obligated to come to its defense.

Finally, in closing, I would like to ask our people, now that we are incorporating the entire country under a single flag and now that our cause is only a few days from an overwhelming triumph, I would not like to see a country united under one flag, with a single geography, but with the Panamanian family divided. I ask you not to promote hatred. Let us not encourage bad blood. If in the heat of discussion—it had to be heated since it is such a hot topic—I have offended anyone, I sincerely ask them to forgive me. I do not want to leave a country united under one flag but with a divided Panamanian family. Thank you very much.

AMTRAK RAILROAD SERVICE THROUGH GEORGIA

Mr. TALMADGE. Mr. President, the Georgia House of Representatives, now in session in Atlanta, has adopted a resolution which, for myself and my colleague, Senator NUNN, I bring to the attention of the Senate, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, many citizens of the State of Georgia are desirous of having adequate rail passenger service provided to Florida and to the Midwest; and

Whereas, Amtrak has recently cancelled the Floridian rail passenger service which operated from Chicago to Florida through Birmingham, Alabama, as a result of a lack of adequate financial support for the service; and

Whereas, rail passenger service through Atlanta and Savannah would provide Amtrak with the opportunity to serve a larger population base than the former service; and

Whereas, Amtrak has directed its staff to examine the possibility of providing service through Atlanta and Savannah; and

Whereas, such service would provide numerous Georgians with an efficient, effective and alternative mode of transportation which they do not currently have available to them; and

Whereas, the Honorable Bo Ginn, a distinguished member of Congress from the State of Georgia, is currently seeking methods for providing rail service to Georgia.

Now, therefore, be it resolved by the House of Representatives that the members of this Body hereby urge the Congress of the United States to appropriate necessary funds to Amtrak for the provision of rail passenger

service from Chicago to Florida via Atlanta and Savannah.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit appropriate copies of this Resolution to the Clerk of the House of Representatives of the United States, the Secretary of the Senate of the United States and to each member of Congress from the State of Georgia.

FARM POLICY

Mr. PEARSON. Mr. President, today the House Agriculture Committee initiates a set of hearings designed to assess the magnitude of the farm problem and to determine what changes should be made to the present farm program. It is my understanding that the Senate Agriculture Committee will initiate similar hearings later this month.

I am pleased that this effort is underway for it is increasingly apparent that the agriculture situation has deteriorated appreciably since the Congress wrote a new farm program last year. This reassessment is essential and we must do it as quickly as possible. The chairman of the Senate Agriculture Committee has proposed that the administration act under the authority it currently has under the existing farm program to provide substantial economic relief to the agriculture community. The ranking member of the committee and my Kansas colleague have proposed a substantial revision in the target price system as well as some modifications to the grain reserve program. Both approaches deserve serious consideration by the committee.

I have joined in cosponsoring Senator DOLE'S Flexible Parity Act of 1978. It is not yet clear that this is the direction in which we should move but this proposal is a new idea and represents fresh thinking and we need to give it very serious and careful consideration.

Other ideas will be brought forth in the weeks ahead. I know that many of those in the American agriculture movement feel frustrated by the fact that the Congress does not act immediately upon their proposals but I believe that they are coming to more keenly appreciate the fact that major shifts in public policy which affect many different interests cannot be taken except after due consideration. That consideration is now underway primarily because the American agriculture movement has effectively demonstrated that a reevaluation of present farm policy is needed.

A PITTANCE OF AID

Mr. CLARK. Mr. President, Senator Humphrey left us a major new legislative initiative in the International Development Cooperation Act, which has already been cosponsored by a number of Senators. This bill would reorganize and revamp our foreign assistance efforts by the establishment of a new administration to bring together U.S. bilateral and multilateral aid efforts. It is a major step forward in making our aid more effective in dealing with fundamental problems of world poverty.

The lead editorial in the New York Times today pays tribute to Senator Humphrey's view that foreign aid is a great investment in the long-term prosperity and stability of the world. However, the editorial points out that the President's request for funds for fiscal year 1979 fails to meet his own earlier commitment for a doubling of aid over the next 5 years. This is not just altruism, the Times states. Vital global considerations are at stake, including food shortages and population increases that will have a major impact on the way Americans live in the next decades. Interdependence is no longer a catch phrase, but a fact of life that will increasingly affect our food supply, energy needs, access to raw materials, and employment opportunities.

But we shall be hard pressed to address these needs in the context of our present foreign assistance legislation. That is why Senator Humphrey's legacy is so important to us, because it provides the organizational framework for addressing these issues. We have a chance to deal seriously with these global economic concerns this year if we will only seize it.

Mr. President, I ask unanimous consent that the editorial from the New York Times of January 31 be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 31, 1978]

A PITTANCE OF AID

In a eulogy to Hubert Humphrey, President Carter opened a window into his own heart on an issue close to the heart of the Minnesota Senator. "He didn't see foreign aid as a give-away," the President said. "He didn't see foreign aid as billions of dollars going from our nation to others. He said human needs. He saw foreign aid as a great investment—from a rich nation, a pittance almost, compared to what we earn and have—that builds up a well-spring of friendship between us and those hungry people."

Yet, when the time came to send his new budget to Congress last week, Mr. Carter postponed for a second year the large initiatives in economic aid that he had promised. His requests for fiscal 1979 are roughly the same as those he made last year, except for "catch-up" funds that Congress failed to provide to meet Administration pledges to the international development banks.

As presented, the Agency for International Development's program of economic assistance remains at about $4 billion, essentially unchanged except for a shift in funds from Portugal to still poorer nations. Food aid through the Agriculture Department is also held steady at about $1.4 billion. The Administration's annual commitment to the "soft" or concessional loan windows of the World Bank and regional development banks is put at $1.1 billion. Yet bookkeeping changes and a bid to make up for past delinquencies will bring this year's request for the international banks to $3.5 billion, a sum that is sure to revive last year's destructive Congressional attacks on the banks. What should be debated, however, is not why so much indirect aid is earmarked for the banks but why direct loans and grants, which Congress prefers, are not being increased to a responsible level.

Of A.I.D.'s proposed $4 billion, about half would go to the Middle East, mostly to Egypt and Israel, to keep their economies going. Direct development assistance, to be spread thinly over some 50 countries, is allotted only $1.7 billion—truly Mr. Carter's "pittance." Congress provided these funds without argument last year and has been calling since 1973 for "new directions" strategy to give priority to basic human needs. The emphasis would be on smaller rural-development programs designed to improve food output, health and employment and to reduce infant mortality and population growth. The aid agency is prepared to stress this direction. What it needs is money. Congress is unlikely to vote more than the Administration requests. The low level of Mr. Carter's proposal is variously attributed to the lagging economy, inflation, the competing demands of domestic programs, the budget deficit and Congressional opposition. These are obstacles, but not easily sustained excuses.

The United States now ranks 12th on the list of 17 aid-giving industrial democracies. It contributes one-quarter of one percent of the gross national product. That compares with one-half of one percent during the Kennedy Administration. During the 1976 campaign and at the London economic summit last May, Mr. Carter spoke of "doubling" American aid over four or five years. After Administration studies listed this goal as the highest of three plausible options, Mr. Carter chose a more modest goal last October: an increase, adjusted for inflation, of 50 percent by 1982. Now, three months later, he has failed to take even a first step in this direction.

The issue here is not just altruism. Apart from tactical considerations in the North-South diplomatic confrontations, some vital global considerations are at stake. Unless the developing countries can be helped to feed themselves, there will be widespread food shortages (and soaring prices in American supermarkets) as the world's population doubles to 8 billion around the turn of the century. Unless adverse social and economic trends can be arrested, that figure may continue to rise to 11 billion before it stabilizes. Mr. Carter was right the first time around. American aid needs to be doubled. But to achieve a 50 percent increase by 1982, some increase is needed now. It should at least be possible to more than double the small but critical development assistance element in A.I.D.'s program. That is the element that focuses directly on third-world food production and other elementary needs. Pinching pennies in this area will in the end cost Americans more than dollars.

PANAMA CANAL TREATIES

Mr. MATHIAS. Mr. President, the Senate debate regarding the ratification of the Panama Canal treaties will begin shortly. Like so many of my colleagues, I have spent the months since the treaties were signed carefully examining the issues raised by them. As part of this examination, I wrote to Secretary of State Cyrus Vance requesting the administration's position on what appear to me to be the major questions raised by the treaties. On December 5, 1977, I received a very detailed response to my letter.

As we embark on this debate, I think it important that my colleagues have the benefit of this exchange. Accordingly, Mr. President, I ask unanimous consent that my letter and the administration's response be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

NOVEMBER 3, 1977.

Hon. CYRUS R. VANCE,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I am writing in reference to the proposed Panama Canal Treaties.

I have examined with great interest the

testimony you and other Administration officials gave to the Senate Foreign Relations Committee regarding these treaties. This testimony, together with that given by opponents of the treaties, has been very helpful in clarifying the issues. The major questions have been delineated.

I attach a list of what I think, from my perspective as a Maryland Senator, are the major questions regarding these treaties. I would appreciate having the Administration's views on these questions. I intend to share both my questions and your responses with my constituents.

With best wishes.

Sincerely,

CHARLES MCC. MATHIAS, Jr.,
U.S. Senator.

Attachment.

QUESTIONS REGARDING THE PANAMA CANAL TREATIES

GENERAL SUGGESTIONS

1. Sovereignty—Is the Panama Canal Zone part of the United States as has been suggested by some people? What "right" do we presently have to the Panama Canal?

2. Cost and Benefit to U.S.—How much money has the United States invested in the Panama Canal since 1903, and what benefits have we derived from this investment?

3. Future Costs—Besides the many physical assets of the Canal Zone, what other economic benefits would Panama receive under the Treaty and at what cost to the American taxpayer and consumer?

4. Commercial Value—What are U.S. commercial interests in the Canal? How will U.S. commerce be affected by expected increases in toll rates?

5. Port of Baltimore—How might the volume of traffic to or from the Port of Baltimore be affected by expected toll increases?

6. Canal Operation—Once the U.S. has departed, what evidence is there that the Canal would continue to be efficiently operated?

7. Government of Panama—In dealing with the Torrijos government, are we dealing with a regime whose word and human rights record is suspect?

8. Strategic Significance—What is the strategic and diplomatic importance of the Canal? What will the strategic value be in the year 2000 when the last of our troops will be gone?

9. National Security Interests—On what basis does the Administration contend that the national security interests of the United States are best safeguarded by ratification?

10. Risks of Non-ratification—What, if any, are the risks run by the United States if we do not ratify this Treaty?

11. Alternatives—What are the feasible alternatives to ratification of the treaties?

SPECIFIC QUESTIONS

Panama Canal Treaty

1. Need for modernization (Article XII)—Why is it in the national interest to give Panama a veto over our construction of a canal through a third country?

2. Financial (Article XIII)—The Panama Canal has operated at a loss in recent years. What evidence does the Administration have that the greatly expanded payments to Panama incorporated into the Treaty can be met out of Canal revenues?

Neutrality Treaty

1. Article IV—What specific rights will the United States have to intervene in Panama after the year 2000? What is the Panamanian interpretation of these rights?

2. Article VI—What is meant by the word "expeditiously"? Does it mean priority passage of the Canal by our warships? What is the Panamanian interpretation of this word?

3. What legal weight, if any, can be attached to the statement issued by the White House at the time of General Torrijos' recent meeting with President Carter?

4. Are U.S. obligations under the neutrality treaty consistent with other U.S. obligations—for example, the Rio Pact and the OAS and UN Charters?

DEPARTMENT OF STATE,
Washington, D.C., December 5, 1977.

Hon. CHARLES MCC. MATHIAS, Jr.
U.S. Senate

DEAR SENATOR MATHIAS: Secretary Vance has asked me to reply to your letter of November 23 concerning the Panama Canal Treaties.

I am enclosing a response to the specific questions you raised and some related materials. We are happy to have been able to respond to your inquiry and hope the attached information will be helpful.

Sincerely,

DOUGLAS J. BENNETT, Jr.,
Assistant Secretary,
for Congressional Relations.

Enclosures: Material as stated.

QUESTIONS AND ANSWERS ON THE PANAMA CANAL TREATIES

1. Sovereignty—Is the Panama Canal Zone part of the United States as has been suggested by some people? What "right" do we presently have to the Panama Canal?

The enclosed statement entitled "Panama Canal Treaty Negotiations—Legal Status of the Canal Zone" describes our treaty rights in Panama. In brief, we have authority as if sovereign in the Canal Zone. We have never had sovereignty, which remains with Panama.

As a result of our treaty rights, the United States controls a strip of territory ten miles wide, coast to coast. It exercises exclusive jurisdiction over 550 square miles. Within this area we operate not only the Canal but a government on Panamanian soil. The Canal Zone Government maintains a police force, courts, and jails to enforce U.S. laws, which apply equally to all persons, including Panamanians. We maintain seven military areas. For all these rights we pay Panama an annuity of $2.3 million.

The status of the Canal Zone is different from that of territory over which the United States has sovereignty such as Alaska or the areas included in the Louisiana Purchase. In the treaty for the Louisiana Purchase the United States was explicitly granted full sovereignty over the "territory with all its rights and appurtenances." The purchase of Alaska involved a similar cession of territory. In neither transaction was provision made—as in the 1903 Treaty with Panama—for a continuing annual payment or for a continuing relationship on the matters covered by the agreements.

2. Cost of Benefits to U.S.—How much money has the United States invested in the Panama Canal since 1903, and what benefits have we derived from this investment?

Partly because accounting procedures for the Canal enterprise during its history have varied, there has been uncertainty over what would be an appropriate figure for the total United States investment in the Canal. In an effort to clarify this matter, we have asked the Treasury to review total United States expenditures on and receipts from the Canal since its inception. The final figures are not yet available, but a preliminary calculation indicates that over the entire period since 1903 expenditures have exceeded receipts by $130 million. We expect to have a definitive figure shortly and will forward it to you together with explanatory material.

The benefits of the Canal to the United States are in the time and money it saves our vessels when they move between the Atlantic and Pacific. That is why we built it, and that is why we continue to care about its future. We have operated the Canal more as a public service than as a business. The Canal's tolls have been set as low as has been compatible with meeting costs. As a result, shipping of all nations, not just our own trade, has benefited from the waterway.

3. Future Costs—Besides the many physical assets of the Canal Zone, what other economic benefits would Panama receive under the Treaty and at what cost to the American taxpayer and consumer?

An enclosed fact sheet outlines the payments Panama will receive under the new Canal agreement. We believe these payments represent a reasonable economic settlement and one which is in the interest of the United States. The annuity payments (first paragraph of the fact sheet) are to be drawn entirely from canal revenues and thus do not require the use of United States tax revenues. The public service payment (second paragraph of the fact sheet) reimburses Panama for services to be provided to the Panama Canal Commission. These services are presently provided by the Canal Zone Government at a cost of $18 million annually—or $8 million more than we will be paying Panama for these services at the start of the new treaty. The loans, guarantees, and credits contained in the economic cooperation program (third paragraph of the fact sheet) are within existing authorized programs. The only appropriation required will be $50 million to a reserve fund for the Foreign Military Sales credits. Thus, the cooperation program will for the most part impose no additional burdens on the taxpayer.

4. Commerical Value—What are United States commercial interests in the Canal? How will United States commerce be affected by the expected increases in toll rates?

Roughly 70 percent by tonnage of the cargo passing through the Canal is either going to or coming from United States ports; however, this cargo amounts to only about 12 percent of total United States waterborne trade by tonnage and is an even smaller portion of our total foreign trade.

As noted in our answer to Question 3, the Canal Treaties will provide increased payments to Panama from Canal revenues. They will also entail a number of changes in the Canal administration that will increase some operating costs and decrease others. The net effect of these changes on Canal operating costs will, we estimate, require that toll rates be increased about 30 percent when the treaties go into effect in order that the Canal can continue—as at present—to be financially self-sufficient. On the basis of studies that have been made, we do not anticipate that a 30 percent toll increase will be a burden to world shipping or the American consumer. In this connection, it is of interest to note that toll were incerased 50 percent between 1974 and 1976 and that the overall economic effect of these increases in the United States was small.

5. Port of Baltimore—The expected toll increase in the neighborhood of 30 percent resulting from the treaties should not affect the volume of traffic to and from the port of Baltimore. About 20 percent of all cargo handled in Baltimore transits the Canal—24 percent of all general cargo. In most cases, a 30 percent toll increase would not cause diversion to alternative routes or commodities. Where this might result, the cargo would continue to be handled at the port in spite of a different route.

For example, the bulk of this trade is destined for the Far East. If the tolls were to rise substantially, traffic might be diverted around the Cape of Good Hope or through the Suez Canal. This is already the case with an increasing amount of Appalachian coal destined for the Orient. From either Norfolk or Baltimore, it is shipped around the Cape of Good Hope on ships of up to 125,000 tons at a cost that is comparable to the shipping of coal through the canal on smaller ships, and any increase in Panama Canal tolls

would accelerate this trend. But, by either route, the volume of coal leaving the port of Baltimore is unaffected. Therefore, even if the toll increase resulting from the treaty changes transportation routing from the East to the Orient, the Port of Baltimore would continue to handle the traffic.

In the case of Baltimore's trade with the west coast of Latin America, the traffic would not be diverted by a toll increase and therefore the Port of Baltimore would not be adversely affected. General cargo is the largest category of trade originating from the port destined for Latin America. Our sensitivity studies show that a 30 percent increase would have a minimal impact on the average additional transport cost (for example, approximately $3.00 on a new automobile). This is not enough of an increase to cause diversion to alternative routes.

6. Canal Operation—Once the United States has departed, what evidence is there that the Canal would continue to be efficiently operated?

More than 70 percent of the work force is Panamanian. The Treaty provides for training programs and on-the-job experience for Panamanians at all levels of the operation during the period of United States control. We believe that this period of twenty years provides ample time to prepare Panamanian personnel to operate the Canal.

By the time the treaty expires, there should be well-qualified Panamanians to fill all the positions related to Canal operation.

7. Government of Panama—In dealing with a regime whose word and human rights record is suspect?

In general, Panamanian enjoy life, liberty and security of person. Secretary Vance stated in his testimony before the Senate Foreign Relations Committee on September 26:

"The Panamanian Government has in the past been charged with abusing the civil and political rights of some of its citizens and we have discussed this issue with that Government. The closer relations between our two governments that will grow out of the new treaties will provide a more positive context in which to express such concerns, should it be necessary to do so in the future."

I am enclosing the full text of this statement and a copy of the Department's Human Rights Report which was part of the Congressional presentation document for the FY 1978 Security Assistance Program.

8. Strategic Significance—What is the strategic and diplomatic importance of the Canal? What will the strategic value be in the year 2000 when the last of our troops will be gone?

The position of the Joint Chiefs of Staff has been that the Panama Canal is a major defense asset, the use of which enhances United States capability for timely reinforcement of United States forces. Its strategic military advantage lies in the economy and flexibility it provides to accelerate the shift of military forces and logistic support by sea between the Atlantic and Pacific Oceans and to overseas areas. The strategic value of the canal is not expected to change substantially through the life of the new canal treaty and beyond. The United States military interest in the Canal, however, is in its use, not ownership. We need to be able to depend on the Canal when we need to move ships or cargo. This requires an arrangement that guarantees, as much as is possible, free passage at all times. It means making sure that:

The canal system is not physically put out of use by sabotage or by inexpert operation.

Ships passing through are safe from attack.

9. National Security Interests—On what basis does the Administration contend that the national security interests of the United States are best safeguarded by ratification?

While the Panama Canal and the Canal Zone can be defended, even in a hostile environment, the continuous operation of the Canal could not be ensured in that environment. The canal complex is susceptible to varying degrees of sabotage and the Canal Zone is vulnerable to attack from forces or weapons located outside the the area of United States jurisdiction.

The political environment, therefore, is a very important factor in canal defense. The preferred defense of the Canal would be in conjunction with a friendly Panama. Thus a new Canal treaty, by fostering a friendly and cooperative relationship with Panama, would be most conducive to effective canal defense.

10. Risks of Non-ratification—What, if any, are the risks run by the United States if we don't ratify this Treaty?

It is fair to say that after 13 years of negotiating, if the treaties were rejected, our relations with Panama would be shattered, our standing in Latin America damaged significantly, and the security of the Canal itself placed in jeopardy.

11. Alternatives—What are the feasible alternatives to ratification of the Treaties?

a. No action.—

This option assumes that the *status quo ante* can be preserved. However, a decision not to press ahead with the treaty does not mean that the existing situation in Panama would continue indefinitely. Nationalists and extremist political forces in Panama are pressing for immediate and drastic changes in the Canal's status, and discontent in Panama will become stronger and more forceful if frustrated by the absence of a treaty.

b. Postponement.—

Postponement would satisfy neither those Panamanians who support the Treaty nor the Treaty's opponents, who want Panama to take possession of the Canal immediately. Thus, postponement would create an unstable situation, whose consequences would eventually be similar to those of taking no action.

SPECIFIC QUESTIONS

1. Article XII.—

For the duration of the Panama Canal Treaty, the United States and Panama are committed to deal exclusively with each other concerning the possible construction of any new canal. Paragraph I of Article XII states that both countries will conduct a joint feasibility study, and if the two countries conclude that a sea-level canal is necessary, will negotiate mutually acceptable terms and conditions for its construction.

Panama has agreed that no new canal will be built in its territory during the treaty period without the agreement of the United States, and in return, we have agreed not to negotiate for the right to construct an interoceanic canal elsewhere in the hemisphere.

We believe the agreement not to negotiate elsewhere is not detrimental to United States interests. On the contrary, this arrangement has assured us exclusive rights to participate in a sea-level canal along the only really suitable routes. The 1970 United States study of possible alternative routes for a sea-level canal concluded that from the standpoint of engineering feasibility and cost, sites in Panama are far more suitable for a sea-level canal than sites in any other country. For example, the estimated cost for constructing a canal with conventional explosives on the Nicaragua route was $11 billion, compared with $2 billion for a Canal in Panama.

2. Article XIII.—

While it is true that the Canal Company has been operating at a deficit for the last few years, we anticipate the Company will show a slight profit this year. Traffic is increasing, and with the advent of North Slope oil from Alaska, we expect this trend to accelerate.

In addition, under the terms of the new treaties, the Canal Zone Government will be dismantled and some of the Company's activities will revert to Panama. This will reduce expenditures and lower operating costs. We anticipate that a toll increase in the neighborhood of 30 percent will be necessary to meet our treaty obligations. It should be possible to hold toll increases at reasonable levels, although increases will, as in the past, be necessary from time to time to cover increases in operating costs due to inflation or other reasons.

Neutrality treaty

1. Article IV.

2. Article VI.—

There is no disagreement between the United States and Panama as to the meaning of Articles IV and VI. In October, both governments issued a statement of understanding which reaffirmed their interpretations of the meaning of these provisions. Enclosed is that statement and a paper on the Defense and Neutrality of the Panama Canal under the new treaties.

3. What legal weight does the understanding have?

Such statements are often made which are signed by neither party but represent their views. Our legal interpretation is that it is an agreed statement by both parties, and is the definitive interpretation of those two articles.

4. Consistency with Rio Pact, OAS and UN Charters.

The Neutrality Treaty is entirely consistent with this provision. It authorizes the use of force for the sole purpose of maintaining the neutrality of the Panama Canal. It does not authorize, and the United States would not consider the use of, armed force against the territorial integrity or independence of Panama or in any other manner inconsistent with the purposes of these Charters.

PANAMA CANAL TREATY NEGOTIATIONS

I. Legal Status of the Canal Zone.—

The legal status of the Panama Canal Zone is a question of considerable interest in the context of current negotiations with Panama for a new canal treaty. The position of the United States Government concerning this matter is as follows:

Article II of the 1903 Treaty grants to the United States "the use, occupation and control" of the Canal Zone, and Article III authorizes the United States to exercise therein "all the rights, power and authority . . . which it would possess and exercise if it were the sovereign of the territory . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The question is often posed as to whether this grant of rights had the effect, under international law, of transferring the territory comprising the Canal Zone from Panamanian sovereignty to that of the United States. In other words, is the international legal status of the Canal Zone that of Panamanian or of United States territory?

It is clearly established under international law that a state may grant to a foreign state the right to exercise exclusive sovereign powers within portions of its territory without effecting a cession of its own sovereignty over that territory. For example, during the latter part of the 19th Century China's leases of naval bases to France, Germany and Russia included grants to the lessees of rights to exercise sovereign powers within the leased ares. (I MacMurray, Treaties and Agreements with and Concerning China, 1894–1919, at 112, 119, and 128.) Similarly, Article III of the U.S.-Cuba Agreement of February 16, 1903, relating to Guantanamo Naval Station provides:

"While on the one hand the United States recognizes the continuance of the ultimate

sovereignty of the Republic of Cuba over the above described areas of land and water, on the other hand the Republic of Cuba consents that during the period of the occupation by the United States of said areas under the terms of this agreement the United States shall exercise complete jurisdiction and control over and within said areas. . . ." (TS 418; 6 Bevans 1113.)

A more recent example of one nation being granted sovereign rights within the territory of another is found in Article III of the Treaty of Peace with Japan (3 UST 3169; TIAS 2490) which authorized the United States to "exercise all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of (the Ryukyu and Daito islands)" while Japan retained what Secretary Dulles termed "residual sovereignty"[1] over those areas. (The rights of the United States under Article III were terminated by the US-Japan Treaty of June 17, 1971).

With respect to the Canal Zone, the United States has consistently recognized that Panama retains "titular" sovereignty over the area.

". . . The truth is that while we have all the attributes of sovereignty necessary in the construction, maintenance, and protection of the Canal, the very form in which these attributes are conferred in the treaty (of 1903) seems to preserve the titular sovereignty over the Canal Zone in the Republic of Panama . . . (Letter from Secretary of War William H. Taft to President Theodore Roosevelt, January 12, 1905.)

In essence, while the United States required extensive treaty rights to use the Canal Zone and to exercise sovereign powers within it, the area technically remains part of the territory of the Republic of Panama.

"The rights of the United States in the Panama Canal Zone offer an example of the most complete transfer of jurisdiction over a territory without its being a cession in the technical international law sense . . ." (Vali, Servitudes of International Law, 2d ed., 1958, 254.)

This distinction between the right to exercise jurisdiction within the Zone area and its international status was recognized in Article III of the Treaty of Friendship and Cooperation of March 2, 1936 (53 Stat. 1807; TS 945), which refers to the Zone as "territory of the Republic of Panama under the jurisdiction of the United States."

Perhaps the most clear description of the nature of the rights the U.S. acquired in the 1903 treaty is that of M. Phillipe Bunau-Varilla, the principal drafter of the document:

"I decided to grant to the United States, *in the interior of the zone, all rights, power, and authority that she would have if she were sovereign, to the entire exclusion of the use of any such rights, power and authority by the sovereign Republic of Panama.*

"The United States, without becoming the sovereign, received the *exclusive use* of the rights of sovereignty, while respecting the sovereigntly itself of the Panama Republic." (Italics in original.) (Bunau-Varilla, *From Panama to Verdun* (1940 158).)

With respect to the domestic law of the United States, the Canal Zone has been treated in various ways for the purpose of defining the applicability to the Zone of specific legislative provisions. For example, the Canal Zone is considered to be an organized territory of the U.S. for purposes of extradition (37 Stat. 48 USC 1330). On the other hand, it is treated as foreign territory for purposes of customs duties (33 Stat. 843, 19 USC 126) and its ports are considered foreign ports for purposes of the transportation of mail (*Luckenback Steamship Co.* v. *U.S.* 280 U.S. 173 (1930)).

Thus, U.S. domestic legislation and court decisions would not appear to provide a basis for any definitive conclusions with respect to the international status of the Canal Zone, nor are they intended to. Rather, such definitions are made for the sole purpose of extending the effect of a specific provision of U.S. law to the Canal Zone or of exempting the Zone from its application.

The often cited case of *Wilson* v. *Shaw* (204 U.S. 24 1907) must be considered in this context. That case was taken to the Supreme Court by a taxpayer who maintained that the Federal Government could not continue to expend funds lawfully for the Construction of an interoceanic ship canal in Panama. He sought an injunction against any further expenditures on the grounds that the U.S. did not have a sufficient legal interest in the Canal Zone to authorize the expenditure of tax money there. The Supreme Court held that the Federal Government did have broad enough power to encompass expenditure of funds for the construction of the Canal and refused to issue an injunction. In speaking of the legal interest of the U.S. in the Zone, the Court said.

"It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate."

Thus, the Supreme Court did equate the Canal Zone with territory belonging to the United States, but in the context of establishing the authority of the Federal Government to expend funds and to engage in construction work in the Zone. As noted above, the Court has subsequently held the Zone to be foreign territory for other purposes (*Luckenbach Steamship Co.* v. *U.S.* (280 U.S. 173 1930)), and such interpretations of the status of the Canal Zone under domestic U.S. law for the purpose of determining the applicability of specific statutes therein are not determinative as to its international status.

PANAMA CANAL TREATY—ECONOMIC ARRANGEMENTS FACT SHEET

1. Annuity Provisions (Article XIII.)—

The new Panama Canal Commission shall pay Panama the following three annual payments exclusively out of Canal operating revenues:

a. 30 cents per Panama Canal ton transiting the canal. (This rate will be readjusted during biennial periods on the basis of the wholesale price index of total manufactured goods of the U.S. beginning 5 years after entry into force of the treaty.);

b. $10 million; and

c. Up to $10 million to the extent Canal operating revenues exceed expenditures.

2. Payments for Public Services (Article III).—

The new Panama Canal Commission and its U.S. citizen employees will be exempted from taxation by Panama. The Commission shall reimburse Panama $10 million for the cost of municipal public services; i.e., police, fire protection, street maintenance, street lighting, street cleaning, traffic management and garbage collection. Every three years that cost will be reexamined to determine whether an adjustment of the payment should be made.

3. Economic Cooperation Outside the Treaty.—

Outside the treaty, the United States has pledged its best efforts commitment to provide Panama with an economic program to promote its economic stability and development under existing statutory programs. Each element of the program would provide non-concessional loans, credits or guarantees and would require private sector participation. The economic cooperation program over 5 years would include:

Up to $200 million in Export-Import Bank credits;

Up to $75 million in A.I.D. Housing Guarantees; and

$20 million in Overseas Private Investment Corporation loan guarantees.

Panama will also receive up to $50 million in foreign military sales credits over a period of 10 years, under existing statutory programs, to improve Panama's ability in the Canal's defense.

HUMAN RIGHTS REPORT

I. POLITICAL SITUATION

Panama is a republic governed under the provisions of a constitution which entered into force October 11, 1972. The present government came into power in 1968 following a coup. Organized opposition by political parties is not permitted. A transitory provision of the 1972 Constitution grants General Omar Torrijos broad powers as Chief of Government for a six-year period.

Torrijos has based his government on broad support within Panama, and has made a number of concessions to both the left and the right to assure the continuation of this support.

II. LEGAL SITUATION

The Constitution guarantees equality before the law. It guarantees a hearing before a competent authority within 24 hours of detention, and writ of habeas corpus. Warrants are required before a search can be undertaken. The Constitution also guarantees freedom of movement, religion, assembly and expression. These guarantees are generally observed.

Justice is generally administered fairly and without regard to race, social class or wealth.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. Integrity of the person

Article 3: Panamanians enjoy the guarantee of life, liberty, and security of person. A very few exceptions have occurred where individuals engage in political activities which the Government considers inimical. Nearly all of the exceptions involving arbitrary imprisonment occurred prior to 1972. The noteworthy exceptions in recent years occurred when 14 participants in the January 1976 political protests and three persons who allegedly fomented riots in September 1976 were exiled.

Article 5: There is no evidence that the Panamanian Government makes a practice of arbitrary imprisonment, torture, or murder for political purposes. A "Panamanian Committee for Human Rights" has published an anonymously-authored pamphlet alleging brutality on the part of the Government. There is no independent corroboration of the allegations and it appears that nearly all of the alleged incidents are believed to have occurred during the 1968–71 period.

Article 8: In general, Panamanians can obtain an effective remedy from the courts if their rights are violated. Exceptions to this are more frequent for political opponents of the Government.

Article 9: The Government has exiled opponents who it felt threatened its existence. This occurred most recently in January and September 1976, when the government summarily exiled 17 prominent Panamanians. Although this latest group was composed primarily of lawyers and businessmen, opponents who have been exiled represent the full political spectrum including radicals on the left and leaders of the Communist party (PDP). Some exiled persons have been permitted to return to Panama after a time.

Article 10. The practice of *amparo* (habeas corpus), which requires that a hearing to

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[1] Conference for the Conclusion and Signature of the Treaty of Peace with Japan: Record of Proceedings 78 (Department of State Pub. 4392, 1951.)

determine charges and rights be held within twenty-four hours after arrest, is generally observed in Panama.

Article 11: Panamanians have reasonable assurance of obtaining a fair trial in the vast majority of civil and criminal cases. The guarantee of a fair trial might not be observed in a case with important political considerations, however.

B. Other important freedoms

The Government does not condone discrimination although some evidence of it remains in Panama's racially-mixed population. In general, Panamanians can move freely within the country and may travel abroad without restrictions. Property rights are respected.

There is freedom of religion. Freedom of assembly is observed. However, political organization and activity are limited. Organized open political opposition is not tolerated. The media are monitored by the government. While strict censorship is not imposed, editors and others in positions of responsibility are made aware of what will be tolerated by the government; and editors of one newspaper chain, which is owned primarily by high officials of the GOP, take guidance from the Government. While radio criticism of the GOP has occasionally been sharp, criticism appearing in the press is aimed primarily at low-level officials and at failures in the implementation of policies rather than broadside attacks on top leadership.

IV. OTHER HUMAN RIGHTS REPORTING

The Amnesty International Report on Torture, published in 1973, states that the most serious allegations of torture in Panama date from before 1970, but notes allegations of single instances in 1971 and 1972. The Amnesty International Report 1975–76 does not contain a section on Panama.

Freedom House describes Panama as "not free".

THE DEFENSE AND NEUTRALITY OF THE PANAMA CANAL UNDER THE NEW TREATIES

The new Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal provide the framework for the United States permanently to protect the security of the Panama Canal and to assure its operation in accordance with the general principle of transit by the vessels of all nations on a non-discriminatory basis. The arrangements under which the United States will assure the security and neutrality of the Canal are in two forms: those which apply until 2000, while the United States operates, maintains and defends the Canal, and those which apply permanently thereafter.

PANAMA CANAL TREATY

The arrangements in the Panama Canal Treaty for the protection and defense of the Canal until 2000 are based on the concept of a combined defense with Panama. However, under Article IV of the Treaty, the United States assumes primary responsibility to protect and defend the Canal throughout the period of United States operation of it. Panama has agreed further in Article IV that the United States may act unilaterally against a threat to the Canal from any source.[1] While the United States has undertaken in Article IV to attempt to maintain its military force in Panama at a level no greater than that in the Canal Zone at the entry into force of the Treaty (at present approximately 9300), the United States may increase that force as it deems necessary for the defense of the Canal. In addition, the Treaty and its related agreements grant to the United States the rights until the year 2000 to use the specified defense sites and military installations necessary for the protection and defense of the Canal.

Article IV further provides for close coordination and cooperation between the United States Forces and the Panamanian National Guard. This will be carried out through the military Combined Board established in the Treaty. It is anticipated that during the Treaty term the Panamanian Forces will assume an increasing degree of operational responsibility in the combined plans the Combined Board will develop for Canal defense.

TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL

Assurance of permanent access to the Canal for the United States after 1999 is provided by the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Neutrality Treaty). This treaty enters into force simultaneously with the Panama Canal Treaty and does not terminate regardless of the termination of any other treaty or agreement between the two countries. The United States and Panama, during their respective periods as Canal operator, must operate the Canal in accordance with the regime of neutrality which is established in the Treaty. Thus, after 2000, Panama is obligated to the United States to afford access to the Canal to United States vessels, in accordance with these same provisions, including the right for its military vessels to transit the Canal at the head of the line of vessels waiting to transit when the United States considers it necessary. Panama will have the same obligation as regards any other canal constructed in Panama.

THE REGIME OF NEUTRALITY

The Treaty establishes a "regime of neutrality"—general rules for operation of the Canal and the transit of vessels—that are set out in the Treaty. The basic principle of this regime, stated in Article II of the Treaty, is that "both in time of peace and time of war the Canal will remain secure and open to peaceful transit by vessels of all nations on terms of entire equality without discrimination against any nation concerning conditions or charges of transit."

In addition to establishing the basic premise of non-discriminatory operation of the Canal, this statement sets forth two important general principles for the future. First, it makes clear that the security of the Canal is a vital element of its regime of neutrality. Secondly, it contains the basic commitment of both Parties to maintain the Canal open.

RULES OF NEUTRALITY

The regime of neutrality also contains specific standards for the operation of the Canal. These include commitments that it shall be operated efficiently and that the conditions of transit and the applicable rules and regulations shall be just, equitable, reasonable and limited to those necessary for safe navigation and efficient operation of the Canal (Article III Section 1(a)). There is a further requirement that tolls and other charges for transit and related services must be just, reasonable, equitable and consistent with the principles of international law. (Article III Section 1(c)).

Special provision is made for the transit of military vessels without inspection, and irrespective of the type of armament they carry or how they are powered. (Article III Section 1(e)). Under this provision, military vessels which may be nuclear powered or armed are assured of the right to transit the Canal permanently without inspection. The Treaty permits such vessels to transit the Canal at all times, irrespective of any belligerent status they may have. However, the waters of the Canal would extend only for about three miles, as they do at present.[2] While a general blockade of the Canal outside these waters would not be permissible, belligerents of the United States navigating the high seas would be fair game.

One of the most significant elements of this regime of neutrality is Panama's commitment that after after 1999 only Panama will operate this Canal or any other canal ever constructed in Panama (Article V and Article I). Panama has also agreed that it alone will maintain military forces or military installations within its territory after the termination of the Panama Canal Treaty (Article V).

Article VI of the Neutrality Treaty provides certain limited exceptions to the general principle of non-discriminatory transit established in Article II. The first exception is that U.S. and Panamanian military vessels may transit the Canal expeditiously regardless of "their internal operation, means of propulsion, origin, destination, armament or cargo carried."

It is agreed that this special right of transit assures United States and Panamanian military vessels the quickest transit possible which will include, when necessary, the scheduling of their transit at the head of the line of vessels waiting to transit. The provision for expeditious passage is stated as an explicit exception but is not inconsistent with the general implementation of the principle of non-discrimination under the 1903 Convention in which certain vessels, e.g., passenger vessels and vessels carrying perishable cargos, may be scheduled ahead of waiting vessels when circumstances warrant.

The second exception to the general principle of non-discrimination is that the Canal operator is authorized to provide toll-free transit to the troops, vessels of war and materials of war of Colombia. This provision allows the United States, as Canal operator, to accord it such preferential transit in order to fulfill the United States' obligation to Colombia under the 1914 Thompson-Urritia Treaty. After 1999 Panama is authorized to extend such preferential treatment to Costa Rica, its other neighboring country, as well.

The inclusion in the regime of neutrality of authorization for Panama to make this exception to the general principle of non-discrimination for Costa Rica after 1999 highlights the fact that the Neutrality Treaty constitutes a permanent commitment from Panama to the United States to operate the Canal always in accordance with this regime; no changes in the regime could be made in the future unless the United States were to agree.

An important additional aspect of the Neutrality Treaty is its assurance in Article I that this "same regime of neutrality shall apply to any other international waterway that may be built either partially or wholly in the territory of the Republic of Panama." This means that the assurances of efficient operation and non-discriminatory access contained in the Treaty would continue in effect for any new Canal in Panama irrespective of when or by whom it may be constructed. (Under Article XII of the Panama Canal Treaty, the United States has a veto over any sea-level canal construction in Panama until the year 2000.)

MAINTENANCE OF THE REGIME OF NEUTRALITY

In Article IV of the Treaty, Panama and the United States agree to maintain permanently the regime of neutrality for this Canal and for any other canal which may ever be built in Panama with United States partici-

[1] "Each Party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it."

[2] See map attachment to the Annex of the Neutrality Treaty.

pation in construction or financing.[3] Panama and the United States have issued a statement of interpretation clarifying the meaning of this Article. The statement recognizes that this Article commits both parties to defend the Canal permanently against any threat to the regime of neutrality established in the Treaty. Accordingly, either party would have the right to take whatever action it would deem necessary, including military action in appropriate circumstances, to defend the Canal against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

However, the United States would not have the right, nor would it intend, to intervene in the political processes or internal affairs of Panama. The statement thus makes clear that any United States action would be directed at insuring that the Canal will remain open, secure and accessible, and would not be directed against the political independence or territorial integrity of Panama.

While this provision commits the parties to maintain the Canal's neutrality, the means either party would use to accomplish that objective would be entirely within its discretion. A wide range of measures would be available. It is clearly understood, as noted in the statement of interpretation, that any decision by the United States to use military force in a particular circumstance, would be made in accordance with its Constitutional processes.

PROTOCOL TO THE NEUTRALITY TREATY

Following the ratification of the Panama Canal Treaties, a protocol to the Neutrality Treaty would be opened for accession by all nations of the world in accordance with a resolution to be sponsored by the United States and Panama in the Organization of American States. The nations acceding to this Protocol will associate themselves with the objectives of the regime of neutrality described above, and will promise that they will respect that regime and that the vessels of their registry will observe its rules. The Protocol also recognizes that the maintenance of the established regime of neutrality will ensure access to the Canal permanently on a basis of entire equality.

NUCLEAR SECURITY

Mr. NUNN. Mr. President, I would like to take this opportunity to insert into the RECORD three articles which recently appeared in the Atlanta Journal-Constitution. Written by investigative reporter, Joseph Albright, they recount in detail the ease with which Mr. Albright, under the feigned identity of a construction contractor, managed to gain entry into two nuclear weapons storage sites of the Strategic Air Command. The lack of security precautions which Mr. Albright encountered in penetrating these two highly sensitive installations raises questions about the vulnerability of our nuclear weapons to unauthorized seizure.

On January 19, I wrote a letter to Secretary of Defense Harold Brown expressing my concern and asking for a status report on the security of our nuclear storage facilities in the United States.

I believe that both the executive branch and the appropriate congressional committees should give immediate and careful consideration to the questions this series of articles presents to the security of our weapons.

Mr. President, I ask unanimous consent to have these articles printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NUCLEAR SECURITY: HOW SECURE?—I

(By Joseph Albright)

WASHINGTON.—As an impostor, I talked my way past the security guards at two highly secret Air Force nuclear weapons depots last month and was given a tour of the weak links in their defenses against terrorist attacks.

I passed within a stone throw of six metal tubes that appeared to be hydrogen bombs. I could not tell if they were live bombs or dummy training devices, which contain merely the electronic ingredients of bombs.

Without doing anything illegal, I also purchased a set of government blueprints showing the exact layout of the weapons compounds and the nearby alert areas where bomb-laden B–52s of the Strategic Air Command are ready to take off in case of nuclear war.

One blueprint disclosed a method of knocking out the alarm circuits. Another diagram showed two unguarded gates through the innermost security fence.

Carrying a Brooks Brothers topcoat and a yellow plastic hardhat, I appeared at the first base last month and claimed to be a potential bidder on a construction contract.

No one questioned me or asked for any credentials except for my District of Columbia driver's license. No one searched me or demanded to inspect my bulky briefcase.

As far as the guards knew, I could have been carrying hand grenades.

Looking equally amateurish, I entered another SAC base a few weeks later and joined a tour of its weapons compound which had been organized for prospective contractors.

This time, guards required two IDs—a credit card and my driver's license. They also manifested a considerable interest in my middle initial. They even went so far as to search all briefcases. However, no one asked whether I really was a contractor.

The first SAC base is less than 10 miles from a medium-sized American city, in a region that has been beset by terrorist dynamitings. The second SAC base is about 20 miles from a major state university.

The exercise was part of a two-month investigation into one of the ghastly, yet unavoidable, questions of the nuclear age. Are Americans safe from their own nuclear weapons?

Without succumbing to hand-wringing or hysteria, it is fair to conclude that there are some inexcusable chinks in the doors to the U.S. atomic arsenal.

Informed in advance about this story, Pentagon nuclear weapons chief Donald R. Cotter ordered an immediate investigation into Defense Department construction procedures involving weapons sites. As part of the inquiry, Cotter phoned Air Force Gen. Richard Ellis, SAC commander in Omaha, to find the exact circumstances of my unwanted visits.

"You did find a considerable chink in the security system," acknowledged Cotter, who is Defense Secretary Harold Brown's assistant for atomic energy.

"This was too . . . simple," said Cotter. "This story should be a plus for our security efforts." In recent years, Cotter explained, construction jobs at weapons sites have been opened to contractors without security clearances in an effort to avoid concentrating too much business among a small "club" of high-priced builders.

My nuclear excursion was only one piece in a disturbing pattern. Other evidence, found in government documents and in interviews with Pentagon and Department of Energy weapons experts, includes:

The CIA, Defense Department and key members of Congress are clearly concerned about the possibility of terrorist groups seizing weapons of mass destruction for high-stakes political extortion. "It seems prudent to assume that sooner or later some group is bound to take the plunge," an unclassified CIA study declared in 1976.

Although no one has ever stolen a nuclear weapon, there have been troubling incidents that have received little or no publicity. Thus in 1974, guards at a Nike-Hercules anti-aircraft battery near Baltimore were unable to capture an intruder whom they saw near the corner of a warhead building. In 1975 a terrorist group affiliated with the West German Baader Meinhof gang reportedly stole some mustard gas from a munitions depot in France. In 1976 an unidentified Army unit found what the Defense Nuclear Agency calls "indications of possible attempts to reconnoiter or photograph a storage site." Last year according to the Defense Nuclear Agency an Army unit "reported that two individuals attempted penetration of the outer boundaries of a security area."

Despite these warnings, the Defense Department is relying on relatively unsophisticated devices to keep intruders out. When the military finishes its $300 million program to "harden" weapons storage sites, they will have stronger fences, better lighting and bullet-resistant glass in the guard shacks. But in many cases, the sites will not be protected with the most modern electronic sensors, such as those which make up the "early warning system" operated by a U.S. support mission in the Sinai desert to detect an attack from either the Egyptian or Israeli side.

Officially, the Defense Department tries to keep secret the location of nuclear storage sites by refusing to confirm or deny the presence of nuclear weapons. However, in congressional testimony, the Air Force published a list of 16 of its bases where it sought funds for "nuclear weapons security improvements."

The CIA, in its 1976 study "International and Transnational Terrorism," said it would be "a few years yet" before any terrorist group would be able to manufacture or steal a nuclear weapon. But the CIA study chillingly added:

". . . A more likely scenario—at least in the short term—would seem to be a terrorist seizure of a nuclear weapons storage facility or a nuclear power plant in a straightforward barricade operation. Such a group need not threaten a nuclear holocaust (although that possibility would be in the back of everyone's mind), just the destruction of the bunker or reactor with the attendant danger of radiological pollution. The publicity would be enormous. And if their demands were to be denied, the terrorists would be in a position to tailor the amount of damage they actually inflicted to their appreciation of the existing circumstances."

Defense bomb experts insist that American nuclear weapons are designed so that their nuclear components cannot be detonated by a single external shock or fire. However, nuclear weapons contain powerful TNT charges, which can explode and scatter plutonium into the atmosphere without setting off a nuclear blast.

Last year, Joe F. Meis, a ranking Pentagon logistics expert, acknowledged to the House Appropriations Committee that some of our stockpiled tactical nuclear weapons—those with destructive power equivalent to the bomb dropped on Hiroshima—are not fully safe from theft.

"It is remote, but it is conceivable," Meis said, "that an attempt to capture a tactical nuclear weapon might succeed against the limited existing security systems. The latter

[3] The definition of "Canal" in Annex A includes the existing Canal and any other interoceanic canal in Panama in which the United States participates in construction or financing.

were designed for a quieter age and not configured to meet the bold and sophisticated operations of today's highly organized revolutionary groups."

The official assumption is that no one could ever penetrate a SAC base and seize a strategic weapon—a weapon that could explode with the force of 50 Hiroshima-sized bombs.

As Alfred D. Starbird, the retired Army general who heads the nuclear weapons program in the Department of Energy, put it, bombs stored at SAC bases "are secure at this time."

If my experience means anything, the average commercial airport in America is in some ways better prepared against terrorists today than some of SAC's bomb storage sites. This is due, in part, to revealing bits of information in unclassified government publications.

Last fall, a U.S. Commerce Department magazine published a notice to prospective bidders entitled, "Weapons System Security Improvements." According to the notice, the successful bidder would provide "lighting, fencing and security entry control facilities of both the bomber alert area (apron) and weapons storage area." The cost estimate for this job was given at $1 million to $5 million.

What was dangerous about the notice was that it named the base where this construction would take place. By referring to published congressional testimony, anyone could readily deduce that this was a nuclear weapons storage site.

The Army Corps of Engineers, which placed the contract notice, included an inviting sentence: "Plans and specifications available on or about 14 Nov 77 at a cost of $5.30 per set (non-refundable)."

Curious about whether the Corps of Engineers could distinguish between a legitimate contractor and a phony. I mailed them my personal check for $5.30. It was accompanied by a five-line letter, typed on my personal stationary in which my nonexistent "assistant" asked for the plans without specifying that I was a contractor.

A fat brown envelope, stamped "Priority Mail," arrived at my home the following week. Inside was a large book of 53 blueprints showing how the weapons storage area is now protected and how it would be after planned security renovations. Also enclosed were about 300 pages of technical specifications for the contract, including instructions on how workmen can get credentials to enter the base.

Amid the dense language of the specifications one passage stood out: "Bidders are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of the contract. . . ."

It took me three phone calls to reach a Mrs. Hilda Ferry, a kindly secretary who works in the base construction office. Could she, I wondered, arrange for me to tour the site next Tuesday? She asked for my Social Security number and told me to call back in 24 hours so she could check it with her boss, Capt. William Branford.

The following day, I telephoned Mrs. Ferry once again. No problem, she said. Be here at 1:30 p.m. and ask for a Mr. Wilmer.

I know nothing at all about soil compaction, mitering of joints, electromagnet capability or anything else about the construction industry. I thought I might pick up some of the jargon by visiting the Washington library of the Association of General Contractors. As it turned out, I spent two hours reading an encyclopedia of construction terms and got no further than the "B"s.

Steve Wilmer, a civilian construction employee at the base since 1966, was mostly interested in talking about the weather. At one point he said something about electrical generators I did not understand. I said I was deaf in one ear. He nodded.

He suggested that I could leave my yellow hardhat in my car.

Under the specifications for the contract, the Corps of Engineers had the right to ask for a list of my other construction contracts before showing me the site.

No one asked.

Nor was I asked to prove that I was a licensed contractor. Although many states require construction contractors to be licensed, it turns out that the federal government does not.

Even so, I thought the game was up when Wilmer led me into a windowless room inside the SAC security detachment and we stood waiting for 20 minutes. But the only trouble, it finally developed, was that the sergeant who was supposed to escort us was out to lunch.

So Lt. Andrew Ford, the chief Air Force security man on duty, offered to drive us around the post in his pickup truck.

First stop was the bomber alert apron, a fenced-in airplane parking lot where I counted the row of jungle-camouflaged B–52s. Before entering the area, Ford spent almost a minute checking under the hood of his truck and inside each of the wheel covers to find if anyone was hiding there. If he had any curiosity about me, he satisfied it by examining my D.C. driver's license.

Inside the alert apron, I asked Wilmer why the Corps of Engineers had decided to bulldoze one area near the fence.

"We have to get rid of those hiding places," said Wilmer, pointing to several erosion-caused ditches.

"We wanted to do a little more work over there, but it was cut out." I asked why. "Money," said Wilmer.

Ford now drove us a mile down an isolated road to a weapons depot, a fenced compound about the size of six football fields. Inside the fence were about half a dozen earth-covered mounds, known in the Air Force as igloos, which serve as warehouses for city-buster bombs.

At Ford's suggestion, we began by slowly driving around the outside of the fence.

"You know how long it would take to get over that?" Ford asked, nodding at the chain link fence topped with barbed wire.

I said I didn't have any idea.

"Three seconds," Ford said. "If you know what you are doing—three seconds."

Just then, I noticed a small tractor hauling an open trailer inside the weapons compound about 150 feet away. On the trailer were four torpedo-shaped cylinders, each painted silver, with metallic fins on their tails. The tractor driver was slowly maneuvering the cylinders into what looked like a cinderblock garage.

At that moment, I was holding my briefcase, which no one had bothered to examine. Ford, who had a pistol on his hip, had both hands on the wheel.

Based on unclassified Atomic Energy Commission photographs I had examined before my visit, the cylinders looked exactly like model MK–28 hydrogen bombs, each packing the equivalent of at least one million tons of TNT. Four such bombs are the typical payload of a B–52 bomber when on nuclear alert.

"Seen enough?" asked Ford.

One more thing, I said: How about letting me inside the security guardhouse in the weapons compound? He looked sideways at me but agreed, after once again asking for my Social Security number.

I stayed inside the guardhouse long enough to count the guards and to find the button which opens the turnstile to the weapons' compound.

Then, on my way out, I asked whether "my" work crews would have to worry about guard dogs. No, replied Wilmer. He proceeded to tell me the hours when the dogs are kept in their cages.

Could it have been a one-time fluke that no one saw through this pose?

To find out, I mailed $6 to another regional office of the Corps of Engineers and asked for plans and specifications for a similar construction job at yet another SAC base.

Back came an equally revealing set of blueprints, along with an invitation to bidders to join a tour of the site.

For me, the highlight of touring inside the second weapons storage area was the sight of an unattended red trailer on the west side of Building 323, about 100 feet away. The trailer could have carried two canoes. Instead, it held two taped cylinders that looked considerably like the official photographs of B–43 hydrogen bombs.

My host, an Air Force sergeant, was also good enough to tell me the route and approximate daily schedule for the vehicles that carry nuclear weapons back and forth between the storage site and the B–52's.

Upon learning of my tour, Gen. Ellis of SAC informed the Pentagon that at the second base I had seen dummy training bombs.

Could I have seized a nuclear weapon?

Not at the second SAC base, where the guards were careful to search all briefcases. And even at the first base, where the security verged on lackadaisical, the odds would have been against me.

Escaping with a hydrogen bomb is not a simple matter since the MK–28 model weighs one ton.

But, there was a chance I might have succeeded. Given a few suicidal confederates, a CB radio and a fast getaway helicopter, there is no telling how far I might have gone.

NUCLEAR BUNKER MISHAP MAY SCATTER PLUTONIUM

The destruction of a bunker containing several nuclear weapons could scatter tiny but measurable amounts of plutonium downwind over a 100-square mile area, according to a recent calculation by government bomb experts at Lawrence Livermore Laboratory, done at the request of Cox Newspapers.

Within that area—roughly 50 miles long and two miles wide—the plutonium contamination of the soil would exceed the plutonium "screening level" recently proposed by the Environmental Protection Agency as safe for permanent human habitation.

In the event of such a nuclear accident, the government would move in and strip away the most heavily contaminated soil, plowing under areas with minor radiation levels. However, it would be virtually impossible to render a 100-square-mile area completely safe by EPA's proposed plutonium "screening level."

Specifically, the EPA proposed a "screening level" of two-tenths of a millicurie of plutonium radioactivity per square meter of soil. The agency noted that even at this very low level of plutonium contamination, residents would incur a slight extra risk of developing cancer.

LAX GUARDING OF N-WEAPONS AN INVITATION TO TERRORISTS—II

(By Joseph Albright)

WASHINGTON.—Marine Pvt. Timothy Scudder, 17 could be considered an atomic-age hero. He is the only American serviceman known to have lost his life while guarding a nuclear weapons compound against the prospect of terrorist attack.

The Marine Corps band is not about to schedule any full-dress parades for him, however. Very few Pentagon officials have been told how he died. Those who know would be happy to forget the whole thing.

Yet the story of his death is worth telling, for it exposes a grisly problem that has at-

tracted only sporadic attention at high levels in Washington. How can the 20,000 U.S. nuclear weapons be kept ready for use in wartime without inviting a terrorist incident or freak accident in time of peace?

It is a question that continues to worry the United States intelligence community. CIA analyst David Milbank warned in a 1976 unclassified agency study that "it seems prudent to assume" that sooner or later a terrorist group will attempt to steal a nuclear weapon for its value in a political extortion scheme.

And in a report called "Facing Tomorrow's Terrorist Incident Today," one of the government's chief experts on terrorist behavior, Robert H. Kupperman of the Arms Control and Disarmament Agency, warned four months ago: "Although few terrorist groups have yet focused systematic attacks on nonhuman targets, this may become a more attractive alternative as we become inured to assassinations, bombings and hostage-taking.

"Incidents such as the attacks on mass-transit ticket machines in West Germany, power facilities in California, broadcasting studios in Spain and Argentina and nuclear power plants in France, Spain and Argentina may foreshadow more extensive nationally disruptive acts. . . .

"It is no secret that many governments—and some subnational groups—are anxious to get their hands on a nuclear weapon."

By an unofficial estimate, it will cost more than $350 million this year just to guard the U.S. nuclear weapons stockpile. At each weapons site, the two-man weapons patrols are backed up by a Response Force of at least 15 heavily armed troops that supposedly can meet any emergency in less than five minutes, and by an Augmentation Force of several hundred men that can reach the scene in less than an hour.

The weapons themselves are generally stored in steel-doored igloos, protected by anti-intruder alarms and security locks that cannot be opened by one person.

The Pentagon is proud of its safety record over the last 33 years of protecting its worldwide inventory of nuclear bombs, artillery shells, mines and rocket warheads. So far, no atomic weapons have ever been stolen or accidently detonated.

Defense sources said the scariest incident in recent years occurred one night last March at a nuclear weapons storage site in southern Virginia known as the Advanced Undersea Weapons Compound.

When the episode was over, Marine Pvt. Scudder—a high school dropout from Hamilton, Ohio—lay dead of bullet wounds.

His partner on the two-man guard team, Pfc. Milton Scott, 20, insisted that Scudder had been cut down by sniper fire from outside the compound.

What was first reported as a terrorist attack later turned out to be a different sort of incident. Even now many of the facts are disputed, but it is clear that Scudder had been shot six times at point-blank range. After that was established, his partner Scott changed his story and said he had never actually seen any sniper fire. In fact, said Scott, he was asleep on watch when Scudder was shot.

Navy authorities soon concluded that Scudder must have been killed by Scott. But the embarrassing part was to figure out how Scudder was shot with his own rifle. Scott was charged with the murder, and last summer he was convicted of unpremeditated murder by a military court-martial on the basis of circumstantial evidence. He was sentenced to 30 years at hard labor.

At Scott's trial, the fact that Scott and Scudder were on duty guarding nuclear weapons was not divulged by any witness. But the nature of their duties has been subsequently confirmed by a key Pentagon source. Considered in this light, some of the other evidence in the court-martial is not particularly comforting.

According to Scott's statements to Navy investigators, it was common practice for one of the two guards on duty to sleep while his partner covered for him. Another young Marine, who had not been on duty that night, testified that he, too, knew of times when guards at the compound went to sleep on watch. The prosecution did not seriously dispute this.

The backup force, asleep in the guard barracks less than a mile away from the magazines, never heard the shooting. Thus once Scudder died, Scott was alone near the weapons magazines. And just outside the rear fence of the compound, not far from the shooting scene, was a little-traveled road leading out of the naval base.

The incident in southern Virginia was perhaps unique in that a nuclear weapons guard was killed. But there have been other events and observations involving nuclear weapons which seem equally unsettling.

In 1971, two Mexican border-jumpers made their way through at least three security fences and found themselves inside the Monzano Mountain base, a secret depot in New Mexico that serves as a central stockpile for Air Force nuclear weapons. Seeking jobs, the two aliens mistook this atomic Fort Knox for a cattle ranch and simply went through the fence. Forty-five minutes later, they were finally spotted by an Air Force security patrol and evicted.

In 1967, according to Senate Foreign Relations Committee testimony, Greek military troops surrounded several American nuclear bases near Athens during an attempt by dissident Greek colonels to overthrow the American-supported Greek government. The aim, it was thought at the time, was to prevent U.S. forces from interfering with the coup. As it turned out, the Greek colonels succeeding in taking power without any direct confrontation with American weapons custodians.

In 1972, an investigator from the U.S. Joint Atomic Energy Committee toured half a dozen American nuclear weapons sites in Europe. At one post in Germany, the investigator found nuclear weapons stored in the basement of a barracks. When he arrived, the basement door was open and unguarded. At another European site, nuclear weapons were found stored at a depot outside the gates of an airbase, so that they had to be transported to planes over a strip of public road.

In 1974, Sen. Sam Nunn, D-Ga., spoke to American commanders and enlisted men in Europe assigned to nuclear units. "I was frankly appalled by our lack of security," Nunn recalled recently. "There were all sorts of problems over there—narcotics, inadequate lighting, guards forced to work tours that were too long."

In 1975, House Appropriations Committee investigators toured 38 tactical nuclear weapons depots in Europe and wrote a top-secret report enmerating dozens of weaknesses in their security arrangements. The report, which led to a series of classified hearings, is said to have persuaded several members of the Defense Appropriations subcommittee that that there was some danger of an "inside job," in which a weapons guard would be induced to cooperate in a scheme to "embezzle" a nuclear weapon.

Between 1973 and 1977, U.S. authorities reportedly have had to deal with about 72 threats from cranks claiming to have manufactured or stolen nuclear weapons. So far, all these threats have been hoaxes.

There is no single solution for the government's doomsday storage problem. The military needs some more money for electronic sensors, hardened guard posts, and other anti-terrorist devices. But equipment isn't everything. As Pfc. Scott's defense lawyer, James Brydges, put it:

"It becomes a question of who is going to watch the guy on watch."

That is a dilemma which the military services try to answer by means of a rigorous program of background checks and psychological screening known in the Pentagon as the "human reliability program." The theory behind the program is to make sure no unstable servicemen are ever assigned to duties involving access to nuclear weapons.

However, in practice, the arithmetic of the U.S. atomic arsenal makes complete human reliability an almost impossible goal. With about 20,000 warheads spread out among about 636 "nuclear-capable" units around the world, errors in personnel assignments are all but unavoidable. About 20,000 servicemen are assigned to guard nuclear weapons under the "human reliability program," a Pentagon spokesman said.

The Navy, in response to a Cox Newspapers query, disclosed that in 1976 it had to drop 48 Navy or Marine guards from nuclear security duty for "negligence or delinquency in performance of duty."

The Air Force, with considerably more nuclear weapons to protect, was obliged to drop 326 weapons guards in 1976 for "negligence or delinquency" on duty or during training, an Air Force spokesman said.

The Army said it disqualified 12 nuclear weapons guards in 1976 for "negligence or delinquency" on duty. A spokesman insisted that none of these instances involved carelessness with a weapon, but was unable to say exactly what the 12 guards had done.

Incredibly, there is no official in the Pentagon who knows the details of these reported instances of negligence or delinquency. Cases were dealt with by base commanders without being reported in detail to the Pentagon, officials said. "Negligence and delinquency" is usually a very minor infraction in a program with very high standards, the officials contended.

Guards are only one factor in the situation. Pentagon figures released by Rep. Les Aspin, D-Wis., show that in 1976, 115,767 military people were assigned to duties involving some access to nuclear weapons. Besides guards, they included weapons maintenance technicians, loading crews, bomb couriers, command and control officers and emergency disposal teams and flight crews.

Despite strict entrance requirements for the "human reliability program," military commanders in 1976 found reason to wash out 4,965 of these nuclear specialists and guards from jobs involving access to weapons. The reasons ranged from drug and alcohol abuse (usually off-duty) to mental stress to negligence or conviction of criminal offenses.

Some commanders are evidently more successful than others in weeding misfits out of nuclear weapons crews. In the last four years, inspection teams from the Defense Nuclear Agency have given "unsatisfactory" ratings to 79 out of the 520 "nuclear-capable" units that have been subjected to formal inspections.

A breakdown of the reasons for "unsatisfactory" ratings showed that 45 units were flunked for "security," nine for "safety" and another 29 for deficiencies in the human reliability program.

Sometimes one unit was deficient in several categories.

Other reasons for nuclear demerits included improper techniques in handling, storing and transporting weapons.

All this is not too surprising, for the task of caring for America's weapons of mass destruction is left to men and women with human frailities, many of them very young. And, as Nunn has remarked, "Guarding a nuclear weapon is the most boring job in the world."

After the death of 17-year-old Timothy Scudder, a reporter asked a Marine commander involved in the incident whether

Scudder had been given too heavy a responsibility for his age.

"He joined up to be a Marine," answered the commander, who declined to be identified. "He's just as much a man at 17 as someone who is 19 or 20 or older.

"We've got people 17 years walking sentry duty all over the world."

H-BOMB VIGILANCE ORDERED

WASHINGTON.—The Air Force has issued a worldwide directive to its major commands re-emphasizing vigilance against intruders as a result of last week's article by a Cox Newspapers reporter who made an incognito tour of two hydrogen bomb depots.

The message instructed commanders to insist on "strict adherence" to all current security rules governing entry into sensitive nuclear areas. It was transmitted late Wednesday by Brig. Gen. William E. Brown, Jr., chief of the Air Force security police.

The Air Force is still investigating the circumstances under which reporter Joseph Albright penetrated the two weapons sites last month posing as a contractor.

An Air Force spokesman said it was "very probable" that some of six metal cylinders viewed by Albright in the weapons depots were live nuclear bombs, despite an initial Air Force statement suggesting they were all dummy training devices.

NO SAFETY ON MANY NUCLEAR WEAPONS—III

(By Joseph Albright)

WASHINGTON.—Largely to save money, the Pentagon plans to retain into the mid-1980s at least 10,000 nuclear weapons which lack modern safety devices to prevent them from being blown up by terrorists or destroyed by accident.

Some of these obsolete warheads are Army "mini-nukes" that will fit in a backpack. Others are multi-megaton Air Force hydrogen bombs that can create city-wrecking fireballs 15 miles wide.

Deployed around the world to deter a Communist attack, these warheads are stored in military weapons compounds such as the two Strategic Air Command weapons sites that were penetrated last month by this reporter posing as a fencing contractor.

Pentagon authorities now concede that four metal cylinders that were a highlight of this incognito visit to SAC were indeed hydrogen bombs.

Judging from government photographs, they were 1950s-model H-bombs, which are not equipped with recent electronic safety devices to prevent unauthorized explosions. This early-model weapon apparently was a Mark-28 hydrogen bomb.

As the Defense Department points out, such a weapon is under the electronic control of the president whenever it is inside the bomb bay of a B–52.

But these older H-bombs are not under presidential control when they are on the ground outside the bombers, Pentagon officials concede.

Unhappily, a Mark-28 could be opened and reworked by a competent electrician so that it would detonate when dropped from a civilian plane or left in a warehouse. The explosion could be as much as 50 times as powerful as the A-blast at Hiroshima.

Eventually these older SAC bombs are due to be replaced by a new, safer model. But the changeover has been several times postponed.

A weapons factory in Amarillo, Tex., was supposed to be assembling a replacement bomb late this year. But it was learned last week the Carter administration has denied an Air Force request for funds to begin making the new bomb. The Carter budget reflecting the decision will be released Monday.

The lack of sophisticated safety devices on older American nuclear weapons is a documented fact. Alfred Starbird, then chief of the U.S. weapons program, told a House Appropriations subcommittee in 1976 that the newest Air Force nuclear bombs "are all much safer and more secure than the weapons we have in the stockpile at the present time."

Starbird's little-noticed testimony shows he was emphatic about the benefits of a new electronic safety catches, known as the Category D Permissive Action Link.

The job of this so-called PAL device, which costs about $20,000, is to insure that the bomb cannot be detonated without using the proper six-digit code.

Starbird also praised a new triggering system, which he said is less prone to accident since it uses an "insensitive" high explosive instead of TNT used to set off the older warheads.

"These are of the nature of the features that will tremendously increase the safety against an accident (deleted) either just the high explosive and scatter the plutonium or nuclear fire the weapons," said Starbird, according to the censored transcript.

Asked to explain this passage, a spokesman for the U.S. weapons building program, now part of the Department of Energy, said Starbird was alerting the subcommittee about two hazards inherent in some older warheads:

A so-called "plutonium-scattering accident" set off by bomber crash, a lightning strike or some other external blow to the weapon. This can occur when something accidentally explodes the TNT trigger of a nuclear weapon, discharging plutonium particles into the atmosphere but without causing a nuclear blast.

Terrorist seizure of a nuclear weapons site followed by an attempt to detonate, or "nuclear fire the weapons," in Starbird's words.

Despite Starbird's seemingly compelling case for weapons safety improvements, the Pentagon is not initiating a crash program to purchase the new models and retire the old ones.

In fact, a two-month Cox Newspapers investigation has uncovered a pattern of only halting progress toward nuclear weapons security, coupled with instances of delay, neglect and overconfidence.

Air Force Maj. Gen. Richard N. Cody, deputy director of the Defense Nuclear Agency, acknowledged in an interview that safety features could be phased in somewhat more rapidly if money was made available.

"Naturally, everything in the national security budget has to compete for funds, whether it is a new warhead or a battalion in Europe," Cody said.

Of course, there are several layers of weapons safeguards already, many of them classified.

There has not been an accident involving a nuclear weapon since 1968, when a B–52 carrying four H-bombs crashed on a frozen bay in Greenland.

In that incident, the weapons and jet fuel caught fire in the crash, scattering plutonium on the icecap. The fire was hot enough to burn through eight feet of ice, and some bomb components were lost in 800 feet of water.

As a result of the Greenland crash, and an earlier B–52 wreck near Palomares, Spain, the Defense Department in 1968 eliminated the practice of keeping some B–52s with nuclear weapons on around-the-clock airborne alert. Today, the bombers are kept on alert on SAC base runways.

The prospect of an air crash involving nuclear weapons has not been completely eliminated, however. For example, a Defense Department order has authorized helicopters and "tactical aircraft" to airlift nuclear weapons on "logistic flights."

The unclassified Pentagon order, dated Dec. 20, 1972, contains a laconic warning to pilots: "Nuclear weapons and major assemblies shall be jettisoned from transporting aircraft only in accordance with the provisions of the USAF Special Weapons Overflight Guide."

Air Force officials said the overflight guide, a top-secret publication, contains maps showing unpopulated areas around the world where nuclear weapons could be tossed overboard if necessary.

The military shopping list for new nuclear weapons is a secret document issued annually and known in atomic circles as the "New Dog." The aim of the Nuclear Weapons Development Guidance, as it is officially known, is to put all requests for new warheads in priority order.

"In the past, the 'New Dog' has been relatively fiscally unconstrained," said Cody. "It is more constrained now."

What that means is that requests for safety improvements on existing weapons sometimes have to be delayed so that the government weapons factories can concentrate on higher-priority weapons.

Those now about to enter full production include warheads for the cruise missile, the Trident submarine-launched missile, the Minuteman missile, the eight-inch Army artillery shell and—most controversial—the Army's neutron warhead.

As part of its shopping list, the Air Force wants to replace its old Mark-28 H-bombs, which have been in storage for as long as 19 years. It also wants to supplant a 1961-model bomb, the B-43, which also lacks safety devices.

But the Air Force is not in much of a hurry.

So far, it has ordered the new and safer B–61–4 warheads favored by Starbird to replace only those Mark-28 and B–43 bombs now located at the 1,000 or so U.S. and NATO fighter-bombers bases in Europe.

Later, the Air Force also hopes to replace the older H-bombs used by the Strategic Air Command bombers in the United States.

In fact, weapons designers already have conducted underground tests on a new, safer replacement bomb known as the B–77 FUFO bomb. For peacetime, its safety features include the new insensitive high explosive trigger and a Category D permissive action link.

Its wartime advantages include a delayed fusing system allowing it to be dropped from a low-flying bomber without killing the crew.

Although the Air Force wants the B–77 bomb, it is not a high-priority item. Under current Air Force plans old model H-bombs in SAC weapons depots will be replaced by B–77s over seven years or longer.

Although the B–77 bomb has a built-in permissive action link system, congressional testimony in 1976 indicated that SAC does not believe it actually needs the new safety system.

SAC's explanation, which has come into question in these articles, was that nuclear weapons stored at its bases are "secure at this time against terrorists."

The Air Force did seek funds for the B–77 bomb in next year's budget, but two key sources said OMB denied the request for reasons that have not been spelled out. The OMB decision will freeze the B–77 bomb in the development stage for an extra year unless Congress intervenes.

SAC has at least 6,780 strategic nuclear weapons at its 19 bomber bases in the United States. This does not include a large supply of "re-strike" weapons, supposedly for use by bombers not shot down on their first mission.

Not all of these weapons are bombs. Some are nuclear-tipped shortrange attack missiles, which hang under the wings or in the bomb bays of B–52s and are fired before the pilot reaches the target.

According to the Pentagon's testimony, the existing short-range missiles have safety problems of their own. That was largely why a new version, known as the SRAM–B, was developed for the B–1 bomber.

Justifying the new SRAM–B, Brig. Gen. William B. Maxson, then the deputy nuclear weapons chief in the Pentagon, said in 1976: "From a safety standpoint, we are talking of putting aircraft on alert and keeping them on alert with the SRAM missiles onboard with the insensitivity high explosive, and it is a much safer operation."

In spite of its safety features, the SRAM–B project was canceled in the Pentagon after Carter killed the B–1 bomber. SRAM–B could have been purchased instead for the older B–52s, but it wasn't.

The delays in phasing out Air Force weapons are matched by the slow-motion pace of the government's actions to replace several thousand 25-year-old Army nuclear warheads assigned to NATO artillery units in Europe.

In the meantime, as a recent Congressional Budget Office study put it, "the frequency of incidents of international terrorism in the early 1970s prompted a realization that highly determined, well-organized, trained and equipped groups of terrorists might succeed in an attempt to penetrate special ammunition storage sites and gain control of a nuclear weapon."

This prospect prompted NATO to increase security forces at the approximately 100 atomic weapons stockpiles in Western Europe. But so far, at least, plans to make the weapons themselves terrorist-proof are at an early stage.

Among the more tempting targets for a group such as the now defunct Baader-Meinhof gang is the U.S. Army's 155-millimeter howitzer shell.

It can be carried by one man. It will destroy almost everything in a radius of a quarter-mile.

Although its shipping case has a tough combination lock referred to as a PAL device, Pentagon experts fear it could be jimmied open.

When investigators for the House Appropriations Committee expressed alarm in 1975 about the security of nuclear weapons in Europe, the Defense Department reportedly replied that it had made a technological breakthrough to minimize the terrorist problem arising from such "mininukes" as the 155-millimeter and 8-inch atomic artillery shells.

The supposed breakthrough was a 4,000-pound steel box for each warhead. Inside would be a special self-destruct feature allowing weapons custodians to destroy a warhead by remote control in the event it was seized by a terrorist.

Three years later, the chief of the House investigating team learned—as a result of the Cox Newspapers investigation—that the warhead destruct boxes had been canceled.

"The system was too expensive and too heavy," Gen. Cody of the Defense Nuclear Agency said in an interview. "It was just too darned expensive in terms of competing priorities."

Instead of the destruct box, the Army has developed an electronic self-destruct device that it plans to install inside its new 8-inch atomic shells.

The Army is also hoping to replace its old 155-millimeter warheads with a new 155-millimeter atomic shell containing this self-destruct feature. But full funding has not been approved, in part because of the separate controversy over the neutron warhead.

A high Pentagon official was asked whether it is possible in the meantime for a military commander in Europe to destroy one of the older atomic artillery shells to keep it out of terrorist hands.

"We can do it," he replied, "but it is not a very delightful option, because we would have to scatter the plutonium (into the atmosphere)."

Fabricating nuclear weapons is not highly expensive, by Pentagon standards. One high official said once new warheads have been designed, they cost about $100,000 apiece to produce, assuming the nuclear ingredients of an older weapon are recycled. Fitting in a Category D safety device and an insensitive high explosive trigger will add "a few tens of thousands of dollars" to the warheads's price tag, it was noted.

Like all assembly lines, the government's nuclear bomb factories cannot be turned off and on at will. The Department of Energy, which runs the weapons plants, tried to achieve and maintain a "sustained level of effort" while avoiding "undue fluctuations" in its weapons work force.

Even so, the government's leading bomb experts acknowledge that the job of replacing old warheads which lack modern safety equipment could be speeded up.

But it would cost money: Perhaps as much as $5 billion in spending over the next few years that could otherwise be postponed until the late 1980s.

Is it worth it? That is a question which until now, Congress and the Carter administration have left to the military weapons bureaucracy.

Yet, in light of demonstrated weaknesses in security arrangements at nuclear weapons sites, it is a question that needs to be answered soon.

SRI LANKA

Mr. PERCY. Mr. President, Friday was the 30th anniversary of the independence of the Republic of Sri Lanka. This island, known better to the world as Ceylon, is famous for its tea and its jewels. Its name means resplendent island, and its lush tropical beauty has served as the backdrop for many motion pictures including "The Bridge Over the River Kwai."

But in marking its independence day, I believe Sri Lanka deserves recognition for something else. For three decades this nation has maintained its commitment to the principles of democracy. The reigns of power have changed hands peacefully through democratic elections six times since independence. As recently as July 1977 the Ceylonese people reaffirmed their rights as citizens in a democracy and chose a new government headed by Junius Richard Jayewardene.

Sri Lanka has also made important social progress. The literacy rate has climbed 85 percent, education is universal and free through the university level with the average Ceylonese now having attended 9 years of school. Its rate of population growth compares favorably with that of the developed world, and life expectancy has increased to 67 years.

These impressive gains have not come without cost, however. Like many developing nations, Sri Lanka is heavily dependent on export earnings from a few commodities. Its economy was hit severely by the worldwide inflation that resulted from the increase in oil prices since 1973. Sri Lanka has grown dependent on imports to meet its food requirements. I am pleased to note that the new government of J. R. Jayewardene has taken a number of steps to improve the Sri Lankan economy, aimed at increasing agricultural production, decreasing unemployment, and reducing dependence on imported food. Much progress has been made since my visit to, then Ceylon, a decade and a half ago.

Mr. President, Sri Lanka has compiled an impressive political and social record in the past three decades and I believe that its efforts to bring about new achievements in the economic sphere are equally worthy of our support and praise.

THE NEED FOR A BETTER NAVAL PROGRAM

Mr. HART. Mr. President, I would like to bring to the attention of my colleagues a column from the Washington Post of Sunday, February 5, by Mr. Joseph Kraft.

Mr. Kraft argues that in view of the continuing Soviet military buildup, it would be appropriate for the United States to take steps to improve its own naval capability. The Soviets have developed a formidable navy, according to Mr. Kraft, and it is difficult to reconcile our foreign policy objectives with Secretary Brown's moves to cut back our naval forces.

I think Mr. Kraft is fully correct. By all basic criteria—geography, imports and exports, alliance commitments and tradition—the United States is a sea power, not a continental land power. We do need to improve the defense capabilities of NATO in central Europe, but it is not prudent for us to do so at the expense of adequate naval power. Like Britain in the 18th and 19th centuries, we are inherently a maritime nation, and a continental strategy is likely to prove as unfortunate for us as it did for Britain in the First World War. Britain has yet to recover fully from the draining of her blood and treasure into the fields of northern France.

Mr. President, I ask unanimous consent that the column by Mr. Joseph Kraft, "Toward a Rational Defense Policy," be printed in the RECORD.

There being no objection, the article, was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 5, 1978]

TOWARD A RATIONAL DEFENSE POLICY

(By Joseph Kraft)

Leaks from the Pentagon combine with a series of official statements to demonstrate the extreme difficulty of developing a rational defense policy while living in the same world as the Russians. For the Soviet Union is maintaining a steady military buildup.

Sensible countermeasures in defense are not readily available to the United States. But because this country is taking many political steps that suggest a relaxed attitude toward security, some additional military efforts probably have to be made to warn the Russians they are playing a fool's game.

According to the defense posture statement presented to the Congress by Secretary Harold Brown last week, "Soviet defense spending has been gradually increasing . . . over the past 15 years." In particular, the Russians have strengthened conventional forces in Europe, developed a formidable navy and expanded their nuclear forces in a way that will eventually threaten this country's land-based strategic weapons.

The United States can obviously do some things to prevent the actuality—or, more likely, the impression—of a strategic imbalance in appropriations of about 2 per cent for the next five years.

He rightly gives high priority to improving the combat effectiveness of NATO forces with new tanks, new antitank weapons and a highly modern system of communications and control. The Mideast, and particularly the Persian Gulf area, is singled out as a region requiring more American attention.

But Brown and the Carter administration tend to take a dim view of some of the bigger items recommended earlier by the Ford administration. In the matter of advanced strategic weapons especially, the Carter administration has shown extraordinary self-restraint.

President Carter cancelled—without getting any Soviet concessions in return—the advanced supersonic bomber, or B–1 program. The allocation of funds for a new land-based, mobile missile, the MX, is stretched out in the current budget. Brown argues that there is already so much nuclear power available to the two superpowers that neither can acquire a decisive edge.

He pours cold water on the fashionable idea of limited nuclear war. In the posture statement he said: "Any use of nuclear weapons by the two super-powers against one another—whether tactical or strategic—would carry a high risk . . . of escalating the conflict to a full-scale thermonuclear exchange."

I find these arguments highly convincing. Indeed, I should confess to a feeling of something like reverence for Brown's defense judgments. But defense judgments need to be weighed against the political actions of the Carter administration, which—rightly or wrongly—strike many persons as indicating a lack of stomach for tough thinking on security issues.

The Panama Canal treaties are one example. The new arms-control treaty, especially when measured against the proposals originally advanced by the administration, is another. In the same mold are the withdrawal of troops from South Korea and the hostile attitude toward arms sales abroad.

Maybe all these steps are, as the president said of the Panama Canal treaties in his speech Wednesday night, "right." But the world tends to be more impressed by strategic consequences than moral motives, and strategically all these steps look like standing down. So the United States, it seems to me, needs to find defense measures that will let the Russians know this country needs to be taken seriously.

Building up the Navy strikes me as the obvious right step. In 1975 then-Secretary of Defense James Schlesinger expressed alarm when the fleet was at 600 ships. Now it has less than 500.

Leaks from an internal Pentagon document—a first draft of the so-called Consolidated Guidance—suggest that Brown's analysts are dubious about a larger role for the Navy. They think it has the job of protecting the sea lanes, as in World War II, and of supporting American forces on shore, as in Vietnam. But they apparently do not see any special need for matching the growth of the Soviet fleet.

I cannot challenge these views. But translated into foreign policy they sound less than compelling. Everything that is known about the Carter White House, moreover, suggests poor coordination of defense and foreign policy. So I hope the Congress will press Brown to take another look at defense posture—and particularly at the naval estimates—with a view to convincing the Russians that the unrestrained military buildup is only taking them into deeper and deeper water.

THE CASE FOR CETA REAUTHORIZATION: CONTINUED DECENTRALIZATION AND DECATEGORIZATION

Mr. MATHIAS. Mr. President, in January of 1977, when I introduced S. 1, the Employment Resources Act, unemployment was hovering around the 8-percent mark. Despite recent fluctuations in the level of unemployment, it remains at an unacceptably high rate. We must, therefore, continue our efforts to put every able and willing American to work.

The National Council on Employment Policy has just issued its statement on CETA reauthorization which comes up for review this session. It provides a valuable insight into the continued need for CETA and for revision of that act.

I think it only fitting to note at this point that the Council has dedicated its report on CETA reauthorization this year to a man who worked ceaselessly for the principle for which that body stands. Gerald G. Somers died on December 30, 1977. All those who worked with Jerry came to admire and respect his talent and dedication. He will be missed as the work he pursued so vigorously is carried on by his colleagues.

I think the dedication of the Council's report states clearly what kind of person Mr. Somers was, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the dedication from the report was ordered to be printed in the RECORD, as follows:

A DEDICATION

Gerald G. Somers died on December 30, 1977. He was fifty-five years old and at the peak of his career. Jerry achieved prominence among labor economists not only because of his own work, but also as a result of work by his students and colleagues who he inspired, and with whom he collaborated. Because of his wide interests, professional skills, and personal qualities, he was a bridge between quantitative labor market analysts and institutionalists, and between social welfare scholars and economists.

Jerry became a member of the National Council on Employment Policy in 1969, but his work in the Council's area of greatest interest—the relationship between government policies and labor market outcomes—began more than ten years earlier. The modern period of an "active labor market policy" by the federal government had its roots in the late 1950s with the bill proposing aid to depressed areas. It flourished in the 1960s with the Area Redevelopment Act, the Manpower Development and Training Act, and today operates on a larger scale mainly through the Comprehensive Employment and Training Act. Jerry was a pioneer in the analysis and evaluation of ARA and MDTA, and he was beginning a study of CETA when he died. It is fitting that the National Council's report on CETA be dedicated to him. The report expresses his approach—constructive criticism and sympathetic encouragement. We have lost a humanitarian, colleague, and a great friend.

GLEN G. CAIN.

Mr. MATHIAS. Mr. President, with that as a prologue, I ask unanimous consent that the entire text of the Council statement on CETA be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE CASE FOR CETA REAUTHORIZATION: CONTINUED DECENTRALIZATION AND DECATEGORIZATION

After its first three years of operation and only cursory congressional review, CETA was extended for a year in 1977. In 1978 it is deliberate assessment of its record. When we first endorsed CETA in 1974, saying it was "a solid achievement . . . the right approach for the right time," [1] the Council also cautioned that a major effort would be required in order to make state and local officials fully appreciative of the complexity of manpower problems. We were concerned at the time that there would be an overeager shift of responsibility and authority from the federal level to an unprepared local level. We are hoping now that the CETA record will be examined in light of what has been feasible over the last few years and not on the basis of some earlier optimistic expectations.

CETA's first few years have not been easy. Thus far it has operated in an intractable, high unemployment economy. These adverse conditions have put the CETA delivery mechanism to a test unlike anything the earlier categorical efforts encountered. Those earlier efforts were created to cope with largely structural problems, mostly among the hardcore unemployed.

In contrast, CETA, although first conceived largely as a structural measure, has been pressed to channel vast countercyclical assistance to local areas around the country hit hard by a sluggish economy, as well as to bring into the employment and training arena actors who have not traditionally been involved in delivering manpower services and in serving manpower clients.

While CETA has not delivered on the promises that some had hoped for, we think that the central policy choice to decentralize and decategorize was a sound one. Experience prior to CETA demonstrated the inability of centralized federal merchanisms to respond flexibly and expeditiously to changing local conditions. The CETA experience so far represents a three and a half year test of the notion of whether a decentralized-decategorized approach can be effective for identifying labor market pathologies and formulating solutions to correct them. It is the opinion of the National Council on Employment Policy, based on the evidence available, that CETA's immediate objectives of decentralization and decategorization have been achieved, and that some locally based planning and delivery systems tailored to local needs have indeed emerged. We believe that creative use of CETA by local prime sponsors has improved the quality of the nation's manpower service system and reinforced the validity of local partnership. This is no mean accomplishment during a period in which the country has gone through three changes in leadership and the most serious economic recession in four decades.

Within the context of a decentralized, decategorized manpower planning and delivery system, a number of important issues have surfaced. Some were foreseen and debated before CETA was adopted. Others have emerged since then. The most important ones revolve around questions concerning targeting, the state role, service deliverers, accountability, the role of public service employment, funding levels and cycles, private sector involvement, and the effectiveness of employment and training policy analysis. These issues all need to be aired before the next building block in America's manpower policy is laid in place. The obligation now is to draw on our recent lessons and improve the efforts started in 1974.

THE CASE FOR CETA REAUTHORIZATION: CONTINUED DECENTRALIZATION AND DECATEGORIZATION

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[1] "Manpower Policy for a New Administration," October 1974; a position paper of the National Manpower Policy Task Force.

The issues examined here are neither extensive nor all inclusive. But, in the opinion of the National Council on Employment Policy, they are the most important ones. They are the underpinnings of the CETA approach. If they can be addressed head-on now, and if the policy choices they present can be decided now, the questions raised by a number of other subsidiary issues can be settled administratively.

TARGETING: WHO SHOULD BE SERVED UNDER CETA

One of the most volatile issues associated with CETA has been the question of whom it should serve. Departing from the precedent of the antipoverty programs in the 1960s that entailed strict means tests, Congress broadened under CETA the potential clientele by expanding participant eligibility critera to include the unemployed and the underemployed. This wider targeting has given CETA a broader constituency, making it more politically viable at the local point. Relaxed provisions also work to the advantage of program participants.

Targeting CETA services just to the disadvantaged could stigmatize CETA participants resulting in more rather than less isolation for the poor. We believe the current provisions should be retained. A reversion to narrower targeting could incite serious social divisiveness. The special targeting provision for Indians, immigrant labor, and youth (Title III) has helped prevent this from happening by allowing pursuit for national priorities related to special problems while maintaining a broad focus at the local level through other titles.

Whether the full benefits of less restrictive targeting will fully materialize remains to be seen. While CETA has gotten into the mainstream of community service delivery in some areas, it is anathema to others. But the evidence suggests that the looser targeting provisions have not resulted in wholesale abandonment of the poor by local prime sponsors. The available data suggest that Title I participants are comparable to the population served by earlier categorical programs. It also appears that the proportion of poor served under the public service employment components are even higher than under the Emergency Employment Act of the pre-CETA days. Furthermore, the current administration has shown a pronounced sensitivity to the problems of the disadvantaged.

Even where there are open-ended targeting provisions, the emphasis of the program should continue to be on the poor. However, where strict targeting is adopted, requiring income criteria for determining eligibility, there is need for uniformity and simplicity.

For present CETA programs with means-tested eligibility provisions, there are no fewer than three different sets of criteria now in force for different programs. The multiple standards complicate program administration and confuse program participants and prime sponsor planners alike. In light of the relatively unenforceable small differences between the different income criteria a single income eligibility criterion should be adopted.

THE STATE ROLE

The multiple role of balance of state prime sponsor—to coordinate the manpower services from state agencies, to review local prime sponsor plans and to promote interagency linkages—has not necessarily been effective in several states. With the same staff handling both prime sponsor and state manpower services council responsibilities in too many states, the balance of state role, encompassing programmatic responsibility and most of the funding, has demanded the bulk of the attention. State manpower service councils are often unwieldy and since their purposes are less than clear, many governors do not provide personal leadership.

There is little payoff for the governor and the manpower council to review prime plans, or to monitor and coordinate the participation of state agencies. The bulk of the 4 percent discretionary funds is more often used for special projects than for encouragement of comprehensive planning and interagency coordination. The 5 percent CETA/vocational education grants rarely have been coordinated with other vocational education activities and, even worse, rerely have been used to involve the vocational education establishment in program development and evaluation either for prime sponsors or in the balance of state.

It is clear after these years of experience that, at a minimum, the balance of state prime sponsor and statewide interagency coordinator functions should be separated. In many states it might be well to divide the balance of state responsibility among local prime sponsors on an "economic watershed" basis. In others it would be well to delegate the prime sponsor role to associations of local governments too small for national prime sponsor designation. Many scarcely populated states are best served by a statewide prime sponsor, as long as the two roles are kept clearly separate.

We recommend that the thrust of the state role should be focused on the promotion and enforcement of interagency linkages, the coordination and the provision of labor market information, and technical assistance to prime sponsors.

WHO GETS THE ROLES AS SERVICE DELIVERERS?

Another critical issue that CETA has not resolved concerns the perennial question of presumptive deliverers of service; which players are going to be tapped for key roles in service delivery, and how will they fit into a comprehensive manpower delivery system? A key concept of CETA was that service deliverers should be tied to high performance, and awarded on the basis of competition. Most prime sponsors started off with little hard knowledge about the performance capabilities of the local deliverers of services. Therefore, in the first year, many of the actors were given extensions of their current contracts to enable local prime sponsors to develop benchmarks or track records by which performance could be measured. In other cases, local community sentiment was so clearly articulated against certain service deliverers, based on reputation, that their inclusion as delivery agents would have jeopardized the credibility of the system.

As the CETA system has developed, the notion of "demonstrated effectiveness" has assumed genuine importance at the local levels as prime sponsors have tried to find effective program agents. The attempted monitoring and evaluation by some prime sponsors has been a new and threatening experience for some service deliverers. The search for the appropriate role of the employment service, community-based organizations, community action agencies, and others under CETA has been a constantly evolving process. There have been promising developments in some communities, and disagreement and conflict in others. On the whole, however, the myriad actors on the CETA stage have learned to accept each other and to devote their major energies to the improvement of manpower services for the disadvantaged.

We believe the development and promotion of local initiatives should be encouraged and strengthened. This can be done by avoiding strict requirements on prime sponsors to contract more services to predetermined service deliveries. Congressional mandates for presumptive deliverers of consolidated manpower services might cut off the development of neighborhood initiatives and reduce the effectiveness of comprehensive manpower planning by prime sponsors. The record of the past is clear that those who become too immersed in day-to-day service delivery have difficulty maintaining the perspective for strategic planning or the objectivity for evaluating results.

On the one hand, prime sponsors should retain a broad measure of flexibility to plan, coordinate, and implement comprehensive manpower plans appropriate to their communities. At the same time, prime sponsors should avoid building extensive capacity for programs delivery activities of their own when capable and experienced. Every effort should be made to maximize the use of organizations that have shown an ability to reach and effectively serve those most in need of manpower services. Such pluralism is the essence of decentralization.

The relationship of CETA to the state employment security system has been more complex and more ambiguous. Initially, the Department of Labor indicated that there would be no presumptive role for any former service deliverer. Consequently, each former player had to negotiate his role with local prime sponsors. If this was an uncomfortable role for community based organizations, it was an even more unfamiliar experience for the state employment services. During the second year of CETA, it became clear that the Department of Labor, as the parent of both the employment service and CETA, was beginning to favor its first born. Conflicting policy statements emanated from the national level of the Department of Labor office. At one point the regulations mandated job placement services by the employment service. But the national office later acquiesced to the urging of prime sponsors who viewed compulsory reliance upon state employment services as an intrusion on their mandated flexibility to select deliveries of service based on locally demonstration effectiveness.

There is growing evidence that CETA and the employment service are developing accommodations to each other reflecting the recognition that, at a minimum, the combined resources of the two systems are necessary prerequisities to the development of labor market exchange and employability development functions required of a manpower system. In many areas there are examples of coordination of roles to effect better penetration of the private sector to locate increased numbers of jobs, as well as better integration of efforts for outreach and recruitment of target populations. We are persuaded that prime sponsors and employment service agencies at the local level are better able to work out their individual patterns of accommodations without imposing a single national model. While acknowledging that a single, compartmentalized solution may be "neater" and conceptually more appealing, we agree with the Employment and Training Administration official who suggested that we develop a tolerance for a little "disorder" in the interest of more effective service delivery at the local level.

Many possible approaches have been suggested to address the issues of two national manpower systems, CETA and employment services, but much of the thinking on the subject is purely conjectural. We trust that Congress and the Administration will avoid hasty "solutions" that divide functions between the two systems. Assigning intake and job referral to the employment service and employability development to the CETA system, or other equally simplistic suggested approaches that would assign job ready client groups to the employment service and non-job ready to the CETA system would be a mistake at this time. Some more definitive analysis may be in sight, however. The Department of Labor funded 10 demonstration projects to test various models of interface between CETA and the employment services. It will be well to examine the results before Congress attempts to mandate any changes in CETA.

ACCOUNTABILITY

The issue of accountability in a decentralized, decategorized system is a complex and sensitive one. The responsibility at the federal level to see that CETA funds are spent

in line with legislative objectives has to be balanced against the stated purpose of the Act to permit prime sponsors to exercise their judgment in assembling a local manpower capability. Conceptually, this is one of the biggest puzzles in the CETA system. It resists any cut and dried solution, but demands further attention because the present arrangements are not adequate.

Early charges notwithstanding that initially the feds intended to leave the money on the stump and run, the Department of Labor established early standards of financial accountability which are apparently working. They are sensible and direct. Funds mismanagement is occurring probably no more frequently than is to be expected or can be reasonably prevented. Because the federal government has a responsibility to demand financial accountability, financial management standards have an appropriate place.

Program accountability presents a different story. Although the Department of Labor has an understandable need to know whether prime sponsors are doing their jobs, there is an explicit question about how such information should be distilled. There is also an implicit question about whether the prime sponsor should adapt to providing standardized evaluation information to the Department of Labor, or whether the Department of Labor should adapt to evaluating unstandardized programs run by prime sponsors.

In the 1970s, the Employment and Training Administration's (ETA) capacity to monitor the activities under its purview has been steadily eroded. Personnel cuts and ceilings and internal management policies that have inhibited staff development have all hurt agency morale and reduced ETA's capabilities. This has come at a time when the demand has been for an expanding ETA role.

Centralized performance goals run counter to the spirit of the CETA approach. Individual prime sponsors and their programs are as unalike as apples and oranges; attempting to apply a single standard to them denies local initiative. Yet, that is all ETA is capable of doing in its present condition. A special problem emerges because so few in national and regional offices have front line experience in decentralized manpower programming. Suggested program guidelines and performance indicators promulgated by the national office as rough guides in reviewing prime sponsor plans and actual performance, are instead applied mechanically in areas where there is no substitute for seasoned and informed judgments. Just as importantly, ETA lacks a critical capacity for providing technical assistance. By virtue of CETA being a decentralized, decategorized system that assumes no program model, the technical assistance capacity is needed now more than ever.

Flexible decisionmaking authority and the responsibility for developing performance indicators should be retained at the local level. This will better assure the development of comprehensive employment and training services responsive to local labor market needs. The monitoring role of the Employment and Training Administration should be expanded to include reviewing prime sponsor evaluation plans and performance measures. ETA's review should then be carried on with reference to prime sponsors' goals. ETA should also extend its technical assistance capability to assist prime sponsors developing evaluation strategies.

ETA national and regional office staffs should be augmented to permit ETA to carry out a genuinely decentralized program of monitoring and technical assistance. A more aggressive use of the Intergovernmental Personnel Act could bring into the national and regional DOL offices more people who know the procedures and problems of prime sponsors and their subcontractors.

While we feel that accountability should be defined in terms of locally established standards, we are not proposing that the Department of Labor abdicate its responsibility under CETA of pursuing national policy goals. We think that if the notion of a national/state/local manpower partnership is still valid (and we think it is), then there is a definite place for national programs to complement state and local emphases. In the cases of such national programs, ETA does have an appropriate role in determining general standards of performance. But even here the standards should be formulated to steer prime sponsors towards desired final effects, not intermediate objectives based on national office views of how goals should be achieved.

PUBLIC SERVICE EMPLOYMENT

The public service employment (PSE) component of CETA, only a relatively small provision under Title II of the original CETA legislation, has mushroomed. Starting at a level of $250 million, PSE efforts are budgeted for $6 billion in fiscal 1978 under Titles II and VI; three-fifths of the CETA total.

The continued expansion of PSE as a countercyclical tool has created a dependency in local governments on CETA that has evolved as a major policy issue. Other topics for concern are the extent of substitution at the local level on one hand and the uncertainty over whether additional useful jobs can be created on the other hand. Prime sponsors are especially concerned with the changes in eligibility criteria for PSE slots and the quixotic nature of PSE funding—unpredictable funding releases whose timing and levels are nearly impossible to predict.

The dependency issue is real. Many urban areas are hard hit simultaneously by recession-induced revenue shortfalls and social service demand increases, as well as deteriorating tax bases. They are dependent on PSE for delivery of basic municipal services. The issue of substitution—which various observers estimate to range between 0 and 100 per cent—clouds the serious municipal service delivery situation of many local governments. While most prime sponsors have utilized PSE funds to hire new workers for new or expanded services, some cities have found themselves in the position of having to lay off thousands of teachers, police, fire, sanitation and other employees due to a severe fiscal crisis. Maintenance of effort is meaningless under those conditions. People would be without jobs and municipal services would not be delivered without PSE. City officials could not defend laying off employees with years of seniority while hiring new workers with PSE funds.

Observers have also followed a line of questioning from the opposite direction, asking whether or not prime sponsors have reached the saturation point with PSE slots. Fearing a wave of make-work jobs, there are doubts about how much good additional allocations for job creation would do. Intuitively, these concerns seem ungrounded given the ever expanding demands for added governmental services. In fact, however, some prime sponsors have encountered administrative difficulties in developing worthwhile slots integrated into service agencies.

It may be that the potential expansion of service type jobs is approaching its limits. In any event, it might be possible to put the unemployed to work more productively if local sponsors could shift to a service mix that includes social capital formation. Some of this can now be done by improving linkages between public works and economic development projects at the local level. But the statutory one-year time limit on PSE projects should also be relaxed where it stands in the way of projects achieving self-sufficiency at the local level. Consideration should be given in any expansion of a PSE program for including on a limited basis authority for prime sponsors to engage directly in capital formation projects.

It appears that PSE has fast become a kind of special purpose financial assistance program for local governments. Unless improvements in municipal finance capacity coincide with drops in unemployment, there could be serious disruptions in municipal services, as unemployment falls and the PSE spigot is shut down to a trickle.

The big if in this scenario is if the revenue-raising capacity of municipalities will improve as employment opportunities improve. In all likelihood, any general upsurge in economic activity that reduces unemployment will improve the revenues of most prime sponsors. But it is not so certain that increases in revenues will be sufficient to offset lost PSE resources. Local governments have been hit hard by inflation, limiting service capability. The tax structures are regressive and, in some cases, have already been pushed to the limit. What this means is that although high unemployment may not always be with us, a need for the kind of municipal service support that PSE provides will be. The job creation requirements of welfare reform may provide a bridge maintaining those services when and if unemployment declines. But employment programs should not be used as a permanent subterfuge for general revenue sharing. Congress should decide directly to what extent local government costs are to be federally subsidized.

Though the emphasis has been on PSE's value as a countercyclical tool, the original thrust as a structural instrument should not be lost. Prime sponsors should be free to continue to offer public service job opportunities to those who normally are not considered for public employment. The design can ensure transition to nonsubsidized jobs for many and the opening of new routes into public employment for many of the disadvantaged.

Another consideration to keep in mind with respect to PSE is, of course, the job creation provisions of any welfare reform legislation. It would be premature to lock in rigid funding formulas or program features while that aspect of welfare reform is up in the air. But it should be recognized that a large proportion of the candidates for welfare reform job creation might also be candidates for PSE slots aimed at structural unemployment.

Substitution is a lesser problem for structural uses of public service employment than it is for countercyclical purposes. Changing the allocation formula as we suggest below would make a larger proportion of the funds available for public job creation in those areas where employment potential is most limited. However, because job creation needs in such areas require a long-term commitment, it is essential for PSE to be related to economic development and population distribution policies which offer either occupational or geographic mobility.

CETA FUNDING

The CETA funding mechanism has built-in problems that are inhibiting the flexibility of prime sponsor operations and limiting the effectiveness of CETA. Some of the problems are simply fruits of the democratic process; but others are a function of poor legislative and administrative design, and they can be changed.

Perhaps the most pervasive problem has been the unpredictability of CETA funding, including the level as well as the timing of funding. Under Title I, questions about the level of funding have impinged upon the amount of genuine planning prime sponsors have been able to do, forcing either hap-

hazard planning or requiring the devotion of excessive energy to contingency planning. The problems have been compounded by the fact that Title I grants—the centerpiece to prime sponsor manpower efforts—have been eroded by inflation.

Consequently, prime sponsors have seen their Title I service capacity steadily diminished by rising costs, as total appropriations have not kept pace with inflation. The multiyear funding authority built into CETA has not been exercised exacerbating the difficulties of long-range planning by prime sponsors. Lacking the fair warning that multiyear funding might give them, prime sponsors have not even been in the position to improvise in their plans to compensate for underfunding or overfunding.

While prime sponsors have encountered problems under Title III similar to those under Title I, especially for summer youth programs, Titles II and VI have presented different problems. Pegged as they are to unemployment rates, the PSE funding is even more uncertain. Because the unemployment trigger is only an on-off switch, prime sponsors have not been able to make legitimate estimates of how much PSE funds to expect. With the unemployment rates as high as they have been since 1974, prime sponsors have known only that they will get some assistance. Once it arrives, the demand for fast enrollment pushed by the Department of Labor and the nature of countercyclical measures has seriously undercut attempts to create solid, functional jobs.

Because the state of the local economy is no more perdictable than the national economy, it is impossible to remove the uncertainty attached to funding many activities under CETA. But some changes can be made by taking advantage of the permanent aspects of some of the programs and reducing the wide range of response possible under the countercyclical efforts.

The Title I allocations to prime sponsors, should be adjusted for the effects of inflation so that service levels can be maintained. It is essential though, that prime sponsors have a guaranteed base. It certainly would be a mistake to allocate a specific percentage of total employment and training funds for Title I. The need for such funds would vary with the stages in the business cycle and would force prime sponsors to engage in extensive training during periods of high unemployment. The discretionary set-aside for the Secretary of Labor should be increased so that the prime sponsor base can be supplemented where special considerations warrant.

In order to improve the conditions for prime sponsor planning, CETA should be authorized for at least three years, and the Department of Labor should take advantage of advance appropriation provisions. The level of additional funding should depend on the state of the economy. There should also be a trigger for additional funds under Title VI, to provide countercyclical assistance to local areas. The national level of assistance should be set by a guideline of creating at least 25,000 jobs for every 100,000 unemployed above 4.5 percent.

But, no matter what the details of a PSE trigger might be, Congress should frankly recognize the limits of the data that the Bureau of Labor Statistics can furnish. BLS presently is not equipped to provide more sophisticated data, because of limits on the state of the art and limits on BLS resources.

One serious shortcoming in the allocation formulas used in apportioning the CETA funds to the various prime sponsors is the inadequate attention paid to economic hardship. Unemployment ratios continue to be the principal tool for identifying areas of greatest need. Four years ago, the Council recognized the limits of unemployment data: "The unemployment rate has become less and less useful as a measure of deficient aggregate demand or of deprivation and need." [2] The feeling then as now is that underemployment on one hand, and the network of income transfer and in-kind aid on the other hand, make a simple measure of unemployment an insufficient indicator of need.

We recommend that the Bureau of Labor Statistics develop the methodology for determining economic hardship as required by Section 312, of CETA and that such a measure be incorporated into CETA allocation formulas.

The question of relating funding to economic hardship raises the issue of resource allocation. Pre-CETA employment and training programs tended to stress an antipoverty focus. CETA gave more concern to unemployment levels in its allocation formulas, thus shifting funds away from central cities and rural areas where labor force participation tends to be low and poverty high. We recommend that as the economy continues its recovery, leaving behind residual structural problems, the allocation formulas be adjusted to put more emphasis on family income and less on unemployment, hence shifting resources to redressing the problems of the most disadvantaged population.

PRIVATE SECTOR INVOLVEMENT

Rhetoric and good intentions notwithstanding, CETA has not successfully tapped the resources of the private sector, nor has it succeeded in taking advantage of private sector labor demand any more than prior manpower efforts. Program operators have had difficulty placing many CETA clients in jobs where they have attempted to set up work experience situations. Many factors have accounted for these problems. CETA has operated in a high unemployment economy. Rigid legislative and regulatory requirements have limited prime sponsors in making arrangements with private sector interests.

When private firms are laying off their own workers or are putting them on part-time schedules, they have little opportunity or need to train or hire CETA clients. In times of economic growth, employers are seeking new employees and can be influenced in regard to who is to be hired. But, in the past, incentives for disadvantaged workers have been largely limited to underwriting training costs. There has been a reluctance to experiment with straightforward wage subsidization for groups such as inexperienced youth who employers have been slow to hire. We recommend such experimentation.

If experience is any indicator, firms are reluctant to establish any financial ties with local manpower efforts even in good times, because of reporting requirements and possible new liability to federal regulation. Those who have tried cooperation have come away disenchanted over the unpredictable funding, recordkeeping standards, and management headaches that go with the programs.

Where it is feasible and not self-defeating or inequitable, private sector involvement should be encouraged. This should be done using a variety of strategies, including provisions for experimentation with wage subsidies beyond that which is already permitted under the Youth Employment and Demonstration Projects Act. Whatever is done should be accomplished in such a way as to minimize administrative complexity.

Any new attempts at private sector involvement within the context of present programs. Dramatic new program initiatives from the national level are not going to overcome the biases of private employers against getting involved in government manpower efforts. But flexibility at the national level that permits greater experimentation by prime sponsors may have some appreciable payoffs.

THE NATIONAL COMMISSION FOR MANPOWER POLICY

One of the important provisions of CETA was the establishment of the National Commission for Manpower Policy as an independent body for reviewing national employment and training policy. Maintaining an outside perspective it has brought to the Department of Labor good quality policy analysis and independent assessment of employment and training programs. However, the Commission has been restrained by lack of independence from administration policy. While the majority of its members are from the general public, the Commission also includes members representing a number of executive departments and agencies. This has had a stifling effect on some of the Commission's policy statements. At very little risk to the policy relevance of its work, the Commission could be granted more freedom in expressing independent opinion.

Voting privileges, and the authority to approve or disapprove Commission position statements, should be vested only with the public members of the Commission. To further strengthen the independence of the Commission, it should be provided direct funding. Administration members should be retained in an advisory capacity.

[2] "Adapting Labor Market Statistics to Policy Needs," A Policy Statement of the National Manpower Policy Task Force, January 31, 1974, p. 4.

LOWER FARES GENERATE GROWTH IN PROFITS AND TRAFFIC IN AIRLINE PASSENGER INDUSTRY

Mr. KENNEDY. Mr. President, as Members of the Senate are aware, the Air Transportation Regulatory Reform Act will be before us in a matter of weeks. This bill is the culmination of over 3 years of legislative effort by the Judiciary and Commerce Committees to encourage, through regulatory reform, the development of an air transportation system which relies upon competitive market forces to determine the variety, quality and price of air services. All present data indicate that competition within the industry will result in substantially lower fares for passenger service.

Fear has been voiced that these lower fares will cause a loss of revenue for the airlines by diverting passengers from higher fare services to the lower ones. It is becoming increasingly clear that this will not be the case and that lower fares will instead generate new growth in traffic and revenue by adding passengers. This growth will reflect a utilization of air transportation by segments of our population that have previously used it only sparingly or not at all due to the high rates. No significant diversion of existing higher fare passengers is likely to take place, and to the extent that it does, revenue losses will be more than made up by the increased traffic.

Discount fares already in effect are beginning to have a positive impact on the air industry. United Airlines has applied to the CAB to expand its discount service because its experience has shown that lower fares generate new passengers and sustained profits. British Airways has confirmed that its new low air fares between New York and London have added passengers to the transatlantic market, not diverted others from higher fare services. Trans World Airlines has reported its best quarter

since 1966 due, in large part to the swift growth in airline traffic generated by new discount fares.

Greater profitability and increased traffic will demonstrate that more competition will mean more jobs, not less, and that the airline workers will be better off in an industry whose growth is no longer hampered by restrictive regulation.

Mr. President, I request unanimous consent that the text of articles in the Washington Post and the Wall Street Journal discussing these new developments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 5, 1977]

LOWER AIR FARES ADDING PASSENGERS

(By Carole Shifrin)

A top British Airways official yesterday confirmed that the new low air fares between New York and London have added new passengers to the transatlantic market, not diverted others from higher-fare services.

"The evidence at the moment—if we are talking about our own scheduled services—is that quite a bit of the market is new," Roy Watts, director of finance and planning for British Airways, said yesterday.

BA, along with the other airlines on the New York-London route, responded to the introduction of Laker Airways' low-cost no-reservations Skytrain air passenger service in September with three kinds of low-fare offerings of their own, although officials of some of the airlines complained that the new fares most likely just would divert passengers from their other fares.

Watts said yesterday there was little evidence that had happened, although he acknowledged that some observers feel there might be more diversion from the charter airlines. "Certainly we wouldn't claim at the moment that we have diversion," he said. In October and November, for instance, he said BA carried "rather more passengers" on the North Atlantic than usual for those months and "large numbers of stand-by traffic" (one form of low fare).

Watts expects BA to continue to offer the entire package of low fares after their initial expiration in March, although the price levels could change a bit. "I don't see the scene changing the next year," he said. "The fares are here and they appear to be successful."

Watts also disclosed that British Airways is looking into the possibility of instituting shuttle service—patterned after the Eastern Airlines' shuttle between Washington and New York—between London, on the one hand, and Paris, Brussels, Amsterdam and Dublin on the other.

BA introduced shuttle service between London and Edinburgh, Glasgow and Belfast four years ago, but this is the first time it is considering a no-reservations, walk-on, high-frequency "Euro-Shuttle" service on the dense routes to some of Europe's capital cities.

The airline is talking with the major airlines with which it competes on those routes because a formula would have to be worked out where the carriers of the different countries on each route could run the shuttle jointly, Watts said. They also would have to develop a different philosophy seeking to identify customers with a destination, not a carrier. "You wouldn't fly British Airways or Air France; you'd fly 'to Paris'," he said.

All shuttles to Europe would have to go through something like a "Eurogate" in a separate satellite building between the main terminals at Heathrow Airport in London, he added.

Watts also said:

BA is in the market this year for 20 planes each seating about 120 persons. In the running are planes made by two American companies, Boeing Co. and McDonnell Douglas Corp.

Concorde flights between New York and London were 90 to 92 per cent full before Christmas, while the Washington-London Concorde flights fell off to about 60–65 per cent full.

[From the Wall Street Journal, Jan. 18, 1978]

TRANS WORLD AIR SAYS ITS 4TH PERIOD RESULTS WERE BEST SINCE 1966

New York.—Trans World Airlines will report its best fourth quarter results since 1966, Edwin Smart, chairman and chief executive officer, said.

Because of slow business for airlines, the fourth period is usually a loss period for the company. But for the 1977 fourth quarter, TWA expects to break even or report a profit, Mr. Smart said.

The results would mean TWA, for the full year, will report record profit, the executive added.

Despite these results, TWA doesn't have any plans to declare a dividend on the common stock in the immediate future, Mr. Smart indicated. He noted that bank and insurance-company loans to the company carry restrictions that currently preclude any common dividends. He added, however, that with another $10 million in airline earnings, readjusted for certain items, TWA will be free of such restrictions.

TWA reported a loss of $2.1 million in the 1976 fourth quarter. For the full year, TWA reported profit of $37 million, or $2.51 a share. TWA's previous record profit was $54 million in 1965.

Although Hilton International, a hotel subsidiary and Canteen Corp., a food-service subsidiary, recorded good performances, it was the airline that showed the principal improvement in the fourth quarter, Mr. Smart said.

Earlier in the year, airline results had been deteriorating, mainly because of increased losses on domestic routes. But Hilton International and Canteen had contributed greater profit. As a result, in the first 11 months consolidated profit was $65.6 million, or $3.98 a share, up from $44.8 million or $3.10 a share a year earlier.

A surge in traffic, which has been experienced by many airlines, has been triggering a recent improvement in airline operations, Mr. Smart indicated. He noted that while traffic grew 7 percent in the entire year, TWA traffic jumped 8 percent in November and 13 percent in December.

Discount fares are a major reason for airline traffic's swift growth recently, Mr. Smart said. The discounts have generated so much new traffic that they have more than offset any revenue losses and have become profitable, he said.

TWA is following American Airlines' lead in extending Super Saver fares, Mr. Smart noted. The fares, which link major cities in the East and Midwest with the West Coast, offer discounts ranging up to 45 percent.

[From the Washington Post, Feb. 1, 1978]

UNITED PROPOSES BROAD FARE DISCOUNTS

(By Carole Shifrin)

United Airlines yesterday proposed the most wide-ranging fare discounts yet in the continuing and escalating domestic air travel price war.

The nation's largest airline said it would ask the Civil Aeronautics Board today for permission to extend Super Saver discount fares to all United routes over 900 miles. The plan would expand the discount fares, with savings of 30 to 40 per cent off regular coach fares, to each of the 110 cities United serves.

From Washington, the new low fares would be available to 34 different cities.

Until now, United offered Super Saver fares between a total of 26 pairs of cities, all of which were major transcontinental routes. With CAB approval, the discount fares would be offered between a total of 1,500 pairs of cities on United's extensive route system.

Under United's proposal, the new fares—with discounts of about 40 percent Monday through Thursday and 30 percent Friday through Sunday—would be available for travel beginning March 18. An exception would be made for travel to Florida cities, where Super Saver fares would be available beginning April 26.

Also on April 26, the new fares would replace Super Saver fares which now offer 30, 40 and 45 percent discounts depending on the day of the week.

All the new fares, which would be available on a maximum of 36 percent of the seats on all flights, would remain in effect through May 31. They would apply on round-trip travel only to trips between seven and 45 days in length, not counting the day of departure. Reservations must be confirmed at least 30 days before departure.

Howard Putnam, United group-vice president for marketing, said United hopes the fares will stimulate pleasure travel during traditionally "soft" spring months, especially on longer routes that frequently have empty seats this time of year.

The discount fares have proven most popular on those routes, he said. He noted that United's Freedom fares, which feature discounts of up to 20 per cent, will continue to be available on routes shorter than 900 miles.

Putmam said results of the spring discount fare expansion would help the airline decide what to do about summer fares.

Alluding to the fact that United officials were skeptical at first about the ability of the discount fares to generate new passengers, Putnam said, "We now believe Super Saver fares at the discounts we're proposing are capable of generating sustained profit for the airlines. We have experienced substantial growth in markets currently offering the fares."

In a related development, the CAB yesterday approved Braniff Airways' proposal to institute a 50 per cent fare reduction "Home Free" plan on certain routes after Braniff agreed to modify certain cancellation and no-transfer conditions.

Braniff resubmitted a proposal that would allow a traveler with a discount ticket who wants to cancel a reservation to transfer the ticket to another within 14 days of the flight or to forfeit half of the ticket price. Braniff's original proposal would have allowed no transfers. A person cancelling a reservation would have had to forfeit the entire ticket price under that plan.

CONCERN FOR RURAL AMERICA

Mr. ABOUREZK. Mr. President, I had the pleasure of taking part in the Third National Conference on Rural America held at the Shoreham-Americana Hotel here in Washington on December 5 to 7. The conference was held simultaneously with one on rural housing and one on rural health. Some 2,000 people participated in the 3 events.

A broad cross section of concerned rural Americans attended. They came from rural community service agencies, national farm organizations, from nonprofit housing corporations, rural doctors, nurses, and paramedics. Legal service aids attended, as did environmentalists, farmers, transportation specialists. Many church groups took part.

Also, people concerned with the problem of farm workers and the rural elderly.

Among the proposals coming out of the three meetings was a call for a national commitment to an energy program that would center around renewable energy sources such as solar, wind, and distilled fuels made from farm products.

The Rural Health Conference delegates voted to form a rural health council that will work for a national health service of salaried professionals including physicians that would be financed by the Federal Government. This council is now taking shape.

The Rural Housing Conference called on the Federal Government to create a home ownership program to assist families with very low incomes acquire their own home. President Carter, in his budget message, announced his intention to submit such legislation this year.

The conferences were well covered by the media and several of the articles do a good job of capturing the spirit and content of the meetings. I ask unanimous consent to print a selection of the press coverage in the RECORD at this time.

There being no objection, the press coverage was ordered to be printed in the RECORD, as follows:

[From the St. Louis Post Dispatch, Dec. 11, 1977]

RURAL POVERTY: "THESE PEOPLE SUFFER IN SILENCE"

(By William K. Wyant, Jr.)

WASHINGTON.—"There has been a rising ooze of consciousness about rural poverty—there is some movement," executive director Clay L. Cochran of Rural America Inc. said last week.

Cochran, a large and bearded New Mexican who is given to smoking a corncob pipe, has long been trying to pry from the federal establishment a little more than the widow's mite that now goes to the poor Americans who live in the countryside.

As their Demosthenes, county lawyer, and Capitol Hill shepherd, he allowed himself a guarded optimism after the fire and fury of the three-day third National Rural American Conference, which ended Wednesday, had died down.

One of the practical consequences of the coming together, which attracted more than 2000 delegates and included the Rural Housing Conference and the National Rural Health Conference, was a decision to set up a Rural Health Council.

It is Cochran's conviction that the nation is urban-oriented, and every time it sets up a program to help Americans the 60,000,000 to 80,000,000 people in the small towns and on the farm tend to be left out.

What ought to be kept in mind, he says, is that more Americans live in towns of 2500 and below than live in the nation's 153 largest cities, and the rural element accounts for 44 per cent of the officially designated poor.

Cochran is old enough to have seen something of the Great Depression of the 1930s. He was admitted to the Texas bar in 1939, did graduate work at the University of Texas and took a Ph.D. in economics at the University of North Carolina in 1950.

He was a legislative consultant on agriculture and resources for the American Federation of Labor-Congress of Industrial Unions. He ran the Rural Housing Alliance from its formation in 1966. The alliance merged this year with Rural America, Inc.

Central to the credo of the organization, which is quasi-government because it subsists on federal funds as well as foundation and member contributions, is the idea that national policies discriminate against citizens in non-metropolitan areas.

Documenting that thesis is easier than getting something done about it. Cochran often uses the word "metropolyanna" to describe what he calls "a nearly universal tacit assumption that, sooner or later, everybody is going to come to the city and live happily ever after."

There is no malice in it, Cochran says, but the laws on housing and the like are written with the cities in mind, and it sometimes looks as if the nation is "dedicated to the maldistribution of income" as far as the rural poor are concerned.

Cochran said one recurrent difficulty has been that federal assistance typically comes in a package in which the federal government puts up the capital, but local government must pay operating costs. Rural counties cannot afford to do much, and their poor suffer.

President Carter's proposed welfare program, aimed in part at righting the imbalance between welfare payments in cities and the country, is being watched carefully and skeptically as it goes through the congressional mill.

In line with the "to him who hath it, shall be given" philosophy that usually prevails, some in Rural America, Inc., believe, the benefits to poor people in rural areas are being pared so that more money can be poured into the urban areas.

The rural America constituency overlaps with but is not the same as the farm elements involved in this weekend's "American Agriculture" grass-roots protest strike. The conference here this week tabled a motion to support the strike.

In his own conference speech, Cochran was pleased to note that Farmers Home Administration funds for rural housing had increased six-fold in one decade from less than half a billion dollars to more than 3.1 billions. But he was not euphoric.

"There is an establishment of awesome power, resilient and resourceful, with a base solidly glued into our culture, and that establishment is as wedded to a maldistribution of income as a skunk is to its odor," said Cochran.

Inasmuch as getting a decent habitation for poor rural people seems a visionary objective in the short run, Cochran suggested as a "modest proposal" that the president and Congress undertake to build at least "a nice sanitary pit toilet" for all dwellings that need one.

Senator James Abourezk, D-S.D., delivered a strong address on the plight of the American farmer, as did Secretary of Agriculture Bob Bergland, whose agency, Cochran said, should be a Department of Rural Affairs instead of a "Department of Agribusiness."

A great many people are left out, Bergland said, when the American countryside is thought to be composed of only farms and farm communities. He said many are only indirectly part of the farm economy, but still are part of the rural picture and must be given consideration.

For decades and decades, today as well as yesterday, rural people have been found to have the highest percentage levels of poverty, the worst housing, the most inadequate medical care and education and the least access to public transportation, Bergland said.

"These folks suffer in silence," Bergland repeated.

Since President Theodore Roosevelt's Country Life Commission of 1908, and even before, there has been a series of studies about the needs and difficulties of families living out in the rural places.

"If there is one lesson taught by history," Teddy Roosevelt said, "it is that the permanent greatness of any state must ultimately depend more upon the character of its country population than upon anything else."

Franklin D. Roosevelt put great emphasis on the alleviation of rural poverty. In 1966, President Lyndon B. Johnson set up a National Advisory Commission on Rural Poverty. Johnson, embroiled in the Vietnam War, was accused of trying to suppress the commission's report, called "The People Left Behind."

Some of the farm leaders involved in rural America, Inc., considered President Richard M. Nixon a decidedly negative force. As for President Carter, they find it hard to see that he has made much difference, except that the Carter-appointed officials are more friendly.

[From the Washington Post, Dec. 6, 1977]

SMALL FARMS SEEN PERILED BY CARTER'S PROPOSALS ON ENERGY

(By William Claiborne)

The Carter administration's national energy plan would seriously undercut the life-and-death struggle of rural America for economic survival and would speed the extinction of the small family farm.

That was the conclusion of several speakers yesterday at the opening session of the third National Conference on Rural America in which the economic and social malaise of the nation's heartland is undergoing scrutiny by 1,500 individuals involved in rural economic, health, housing and social welfare programs.

Carter's energy policy is inseparable from the development of nonrenewable resources, such as oil and natural gas, and would inevitably squeeze farmers in a continuous spiral of rising costs, said Barry Commoner, a leading ecologist and advocate of solar energy.

"The time has come, I believe, to recognize that the [energy plan], whether it emerges approximately intact or is reassembled from the contradictory scraps now before Congress, is the answer to the wrong question," said Commoner, director of the Center for the Biology of Natural Systems at Washington University in St. Louis.

No matter which side wins the "political burlesque" in the House-Senate conference on energy, Commoner said, the farmer will lose.

Since 1973, he said, farm production costs have increased at an average annual rate of 11.8 per cent, led by 100 per cent cost increases in propane, 250 per cent rises in nitrogen fertilizer costs and 67 per cent costs in pesticides—all petroleum-based commodities. At the same time, the farmers' selling price has fallen "to the point of squeezing the grain farmer up against the inexorable rising costs of production."

Moreover, he said, the energy plan would worsen the energy industry's drain on the availability of capital, which would make it even harder for the American farmer to raise capital.

"In practical terms, if the national energy plan were adopted, farmers would find it harder to get loans as the banks' capital is grabbed up by the equally hard-pressed, but much more powerful utilities and coal companies," Commoner asserted.

"It is time, I believe, to start over again with the right question. When that is done, we will discover that the right answer is the farmer's oldest partner—the sun," Commoner said.

Renewable energy sources produced by the sun—such as grain that can be converted to ethyl alcohol and wood that can be used to manufacture methane gas—ultimately can help the farmer "escape from the economic tyranny which the industry has imposed on him," Commoner said.

A similar theme was advanced by Sen. James Abourezk (D.S.D.), who assailed the "exploitation" of the small farmer by the oil

industry, grain traders, agribusiness conglomerates and the "duplicity of the Commerce Department and the venality and stupidity of officials of the Department of Agriculture."

"The classic example of this ripoff mentality at the expense of the farmer was the Great Grain Robbery of 1973," Abourezk said, referring to grain sales to the Soviet Union.

In an attack on current energy policy, Abourezk singled out a drive to deregulate natural gas, which he said is "tantamount to an express train to economic oblivion for the American farmer and consumer."

He urged Carter to withdraw his support of the bill emerging from joint Energy Conference Committee, and substitute a plan reliant on renewable resources such as solar and wind power, bio-energy and conversion of alcohol to natural gas.

The conference, held at the Shoreham Americana, is sponsored by Rural America, a non-profit Washington based organization to promote the economic and social welfare or rural people.

Simultaneously sessions are being held by the National Rural Housing Conference and the National Rural Health Conference.

[From the Washington Post, Dec. 6, 1977]

RURAL AMERICA: THE UNNOTICED PLACES

(By Colman McCarthy)

Even though we have a President with a rural background and even though the social problems of rural America continue to dominate the lives of the 60 million citizens who live in our small towns and country places, it usually takes something quirky to focus attention on what is happening "out there." Recently, wire photos pictured some protesting farmers jamming the roads of Plains, Ga., with their tractors. Last spring, floods in Appalachia captured the headlines for a day or two.

But this week in Washington, attention of a more positive kind is to be given the unnoticed places beyond the cities. The Third National Conference on Rural America, which began its three-day meeting yesterday, brings together some of the nation's most dogged and resourceful organizers who have committed themselves to such goals as better health-care delivery; more adequate sewer and water systems; more land ownership for blacks, Chicanos and Indians; improved transportation services; and, in general, a fairer distribution of the nation's resources to rural America.

Those attending the conference are neither theorists demanding instant or unrealistic reforms nor professional conference-goers ready to issue a position paper at the drop of a per diem. They are mostly community workers, lower-level government officials and lone citizens who know that while city dwellers romanticize rural America as the place "to get away from it all," the rural scene is, in fact, deep in the anguish of its own problems.

According to figures from the Department of Agriculture, the Department of Health, Education and Welfare and the federally funded Rural Housing Alliance:

One-half of the nation's poor are rural people, though they are only a third of the population.

For every one substandard housing unit in a metropolitan area, two can be found in rural areas.

Only 12 per cent of the nation's doctors are in rural areas, while half of all rural citizens live in areas officially designated as "medically underserved."

Two million acres of farmland are lost annually. This year in Wisconsin, four times the number of farmers are leaving the land than in 1974. America's farmers pay $3 billion annually in state and local taxes, up 53 per cent from 1967.

Forty-one per cent of the nation's elderly are rural residents. One third of that number have incomes below the poverty level, against 25 per cent of the urban elderly.

Nearly 150 bus companies that were serving small towns in 1962 are now out of business.

Some 5.3 per cent of rural school-aged children are not enrolled in school, a non-enrollment rate twice that of urban children.

These figures are less a sudden overdose of bleakness than a reflection of a slow process of decay that began decades ago when industrialization, migration from the countryside and technology exerted their pressures on rural America. But decay is not despair, and many of those at this week's conference believe a turning point may be at hand.

In federal legislation, for example, several victories are in sight. These include the new water-pollution-control amendments, with a $600-million authorization for conservation assistance to mostly small farmers fighting land-resource problems; at a time when farmlands suffer 25 per cent more erosion than in the dust bowl years, the money would translate into production in future years. They also include the new rural-health-clinic bill, which would allow nurse practitioners and doctors' assistants to be reimbursed for their services under Medicare and Medicaid (formerly, rural health clinics could provide coverage only if a doctor was physically present at the clinic).

According to Roger Blobaum, chairman of the conference: "Throughout the country, evidence exists that the problems of rural people are being treated with unaccustomed respect and interest. Congress now has a Rural Caucus that last spring developed and fought for a multibillion-dollar budget for federal programs serving rural America. One agency alone, the Farmers Home Administration, now has authority to lend and grant more than $8 billion a year. The agriculture committees of both the Senate and the House have held extensive oversight hearings on rural development, seeking to bring life to the programs they had mandated."

In the two earlier conferences, frustrations emerged because it wasn't even felt that the federal government was an ally of rural citizens. That feeling has changed, however slightly. Several appointments have been made within the bureaucracy to suggest that at least some of the Cabinet members will be fed some accurate information on what is or is not happening outside Washington. Rural America still endures a disproportionate share of the nation's economic and social ills, but for the moment it is taking for itself a larger share of hope that a modest revival is occurring.

[From the Milwaukee Journal, Dec. 6, 1977]

ABOUREZK BACKS SMALL FARMS

(By Steve Hannah)

WASHINGTON, D.C.—Sen. James Abourezk (D-S.D.) warned Monday that the two biggest threats to the welfare of America's small farmers were the menace of agribusiness conglomerates and the indifference of the US Agriculture Department.

"Make no mistake about it," he said, we are in the midst of a life and death struggle to preserve the best of agricultural America from exploitation by those who farm the farmers—the commercial grain traders, packing houses, agribusiness congolmerates and the money men who provide the financing."

Abourezk directed his remarks to more than 2,000 persons at the opening session of the National Conference on Rural America.

The South Dakota Democrat said the classic example of agribusiness maneuvering at the expense of the small farmer was what he called the Great Grain Robbery of 1972. Abourezk said that thanks to the stupidity of USDA officials, the Russians cornered one-quarter of the world grain market at reduced rates while agribusiness insiders pocketed millions in profits.

SMALL—EFFICIENT

Yet, he said, "it is a statistical fact that small family farm units are much more efficient than corporate farms. The only area in which conglomerate agriculture displays any efficiency is in gathering capital and obtaining huge amounts of credit. This enables them to accumulate more land in order to control all aspects of production from the seed to the supermarket."

Abourezk maintained that the USDA, despite denials, had continued to subsidize corporate agriculture at the expense of the research needs of the small farmer.

He said a careful examination of the federal research and development budget provided a pathetic commentary on the federal government's inverted priorities. Abourezk said the defense budget consumed 48 percent of the total, with space research a distant second at 16 percent.

"Agricultural research is a paltry 2 percent of the total—approximately $700 million," he said. "And the overwhelming portion of that figure goes exclusively for the promotion of agribusiness interests."

WATER FIGHT HAILED

Abourezk said he was gratified to see that Rural America had played an active role in the current controversy over acreage limitations for federal water projects. That issue is now before the US Supreme Court.

The US Interior Department, faced with a lawsuit filed by a California group called National Land for People, has issued new regulations that would limit ownership of federally irrigated lands to 160 acres per family member. The regulations also would impose strict residency requirements on persons receiving federal water.

"This is a crucial problem area, for there are 9 million acres irrigated by federally supplied and subsidized water," Abourezk said.

[From The Burlington (Vt.) Free Press, Dec. 11, 1977]

RURAL ACTIVISTS PUSH FOR NATIONAL HEALTH PLAN

(By Don Kendall)

WASHINGTON.—Rural America, a nonprofit activist group, is deeply rooted in projects aimed at improving the housing for poor people in small towns and rural areas but health care is also high on its list.

So are many social and economic issues: farm labor housing, minority rights in agricultural programs, agricultural marketing, the encroachment of corporate farming, water rights and virtually all other topics having to do with the quality of life outside the big cities.

A major part of Rural America's three-day annual meeting last week was directed at rural health services which, speakers repeatedly pointed out, lag far behind those which are available in urban areas.

Leaders of Rural America are uncompromising in their view that a national health program is needed to replace what they say has been a failure of private medicine to provide adequate service to rural people.

"We have permitted the development in this country of a health-care system which is grossly inequitable, prohibitively expensive and largely unresponsive to the people's needs," the group says in one of its reports.

"Quality health care is a presumed right of the privileged and those who live in the right communities and can afford it, but is denied to large segments of our population, both in the central cities as well as in small towns and rural areas."

Sen. Patrick J. Leahy, D-Vt., told the conference that "the federal government's pol-

icy toward rural health is a policy of neglect" and that rural people generally do not get their fair share of federal allocations for various programs of many types.

For example, Leahy said that rural women make up only 20 percent of all women of child-bearing age yet account for 50 percent of all maternal deaths. Despite this, he said, rural areas get only 11.7 percent of the federal maternal and child-care funds while metropolitan areas get the remaining 88.3 percent.

"I believe that rural areas lose health-care dollars because of an urban bias in federal health programs," Leahy said. "Unfortunately, this bias in health programs is merely an example of an urban bias which pervades many of our federal programs."

Leahy said that "this bias comes not out of malice but more out of ignorance" of the problems of rural areas. He cited these statistics:

"Forty-six percent of our country's poor still live in non-metropolitan areas. Yet they receive less than 20 percent of the public assistance funds, and less than 25 percent of the Health, Education and Welfare social service and the Community Services Administration anti-poverty money.

"Rural areas have three-fifths of the nation's substandard housing but receive less than one-fifth of the federal housing loan and program dollars.

"More than 30,000 small communities lack safe water systems, and the absence of adequate waste disposal systems affect millions of rural Americans.

"Moreover, the major legislative vehicle for assisting rural areas, the Rural Development Act, remains a showpiece. Most of the programs authorized have never been funded. Those which have received money are seriously under-funded."

Leahy said that one mark of progress was the recent passage by Congress of the Rural Health Clinic Reimbursement Act. It authorizes the use of Medicare and Medicaid funds to pay for health services in areas where doctors are not available or are in acute short supply.

The act specifically is aimed at reimbursing doctors' assistants and nurses who provide primary medical care in rural areas where there are shortage of doctors. It also will help rural health clinics where physicians supervise the services.

While health services are of major importance to Rural America, the organization views as pervasive a far-ranging set of problems which not only affect medical care but the quality of life generally in rural areas.

Clay L. Cochran, executive director of Rural America, said that some progress has been made since the first national rural housing conference was called in 1969—the forerunner of last week's meeting—but that major goals still have not been gained fully.

"Basically, what we want is a combination of income creation—employment and farm prices—and income redistribution," Cochran said.

This has to involve a commitment "that the various agencies of this people's government are to see to it that every living soul in this country has a relatively wind-and-water-tight shelter with electricity, running water and a place to run the waste water where the insects won't flourish and the kids won't get diseases from it, and where it won't pollute the water supply."

Cochran said that Rural America will agree to a 10-year plan to achieve that goal "but unless we can come up with a lot of clever ideas to sell the establishment" it will not be achieved.

"There is an establishment of awesome power, resilient and resourceful, with a base solidly glued to our culture, and that establishment is as wedded to a maldistribution of income as a skunk is to its odor," Cochran said.

About 2,000 persons attended all or parts of the three-day meeting, a spokesman said.

[From the Milwaukee Journal, Dec. 13, 1977]

RURAL JUSTICE MISSES POOR

(By Steve Hannah)

WASHINGTON, D.C.—In recent years, television and a couple of big box office attractions have combined to show the American public just how justice is exercised in Small Town, USA.

According to Hollywood, it looks something like this:

A rather rotund sheriff, who splits his waking hours with hovering over a checkerboard or bowl of chili, apprehends a poor suspect. The suspect is carted off to the courthouse, where we find the two cornerstones of the local justice system—the county judge and his crony, the town's leading lawyer—also playing checkers.

The sheriff presents his charges. The attorney advises his newfound client to plead guilty and throw himself upon the mercy of the court. The judge, a most paternal character, convicts the poor fellow after delivering a stirring speech on the virtues of law and order in rural America.

RURAL JUSTICE SUFFERING

The offender is carted off to the county jail. The checkerboard and bowl of chili reappear.

Some of the lawyers from Southern states, who attended the National Conference on Rural America here, suggested that Hollywood's rendition of rural justice was not entirely distorted. Lawyers north of the Mason-Dixon Line, however, painted a more moderate picture.

But both groups agreed that the health of the justice system in rural America was suffering, at best, from a severe case of undernourishment.

There is a statistical dimension to the problem. According to the American Bar Association, there are about one-quarter as many lawyers serving the rural areas of the United States as the cities.

SCARCITY OF LAWYERS

Russell Hahn, a staff attorney for Rural America, Inc., said the statistics could not begin to tell the human side of the rural injustice story.

The scarcity of lawyers, particularly advocates representing the rural poor, prevents representation in many civil cases. In criminal cases, where every citizen has a constitutional right to legal counsel, the consequences can be far more dramatic.

Hahn said the principal problem with the rural justice system was that it had a weak private sector.

"There is just not enough business to support any sort of public interest law firms in small towns," he pointed out, "so legal matters fall by default on private, small town lawyers. They are not, because of the social structure of the communities, likely to take on cases which will upset the status quo. Consequenctly, poor people in rural areas rarely get the kind of legal help that might improve their social situation."

EVERYBODY KNOWS

Lee Reno, an attorney who organized a national conference for rural lawyers in Texas last month, said the delivery of justice in small towns suffered, too, simply because "everybody knows everybody else."

In small towns all across the country, Reno said, any controversial action in the local scheme of justice is inevitably followed by personal reaction.

Hahn said that where the legal system was purely the responsibility of the private sector—"as in most rural areas where the social hierarchy is obvious"—people at the lower end of the social spectrum were not likely to call upon people at the top for help.

Hahn said a recent case in a rural Maryland town was a good illustration of just how far removed from the justice system poor people often found themselves.

The community in question applied for a federal grant, presumably to repair a cluster of substandard homes. The town fathers, however, decided that the federal money could best be spent on constructing a marina to house a dozen cabin cruisers.

Hahn said the marina was built, and the next winter two persons living in the substandard homes froze to death.

FEARED EVICTION

"Those shacks just happened to be owned by one of the city council members," Hahn said. "You know, the poor people who live in those houses knew that the grant was federal money and they had a gut feeling about what it was supposed to be used for.

"But they thought they might be evicted from their homes if they complained. They were too scared and there was no sympathetic legal service to approach."

Legal assistance for the rural poor—41% of the people below the federal government's poverty level live in nonmetropolitan areas—must come from government supported attorneys. Today, that means the federal government's Legal Services Corp. Unfortunately, Hahn said, there is no requirement that it devote a percentage of its funds or legal assistance to rural clients.

"Oftentimes Legal Services opens up shop in an area that has lots of rural turf," Hahn said. "But the tendency has always been to spend most of the time and money on the problems of the urban poor. Among other things, they are just a lot more vocal."

[From In These Times, Dec. 21–27, 1977]

REPRESENTING THE NEEDS OF RURAL AMERICA

(By Joe Belden)

WASHINGTON.—There are as many people in the rural U.S. as in the country's 153 largest cities. The fact that those 60 million citizens lacks the private and public resources and services available to their city cousins provided motivation for the Third National Conference on Rural America.

Meeting here the first week of December, this gathering of nearly 2,000 farmers, workers, consumers, land reformers, housing and utility activists, organizers, environmentalists, and other advocates for the countryside was actually three conferences—on rural housing, rural health care, and "rural America." That last term covers agriculture, the elderly, women, farmworkers and education.

In all of those areas non-metropolitan Americans usually get the short end of the stick. Sometimes they get the stick broken over their heads. As Secretary of Agriculture Bob Bergland told the conference, there has been recent growth in rural areas, but "rural people still have the highest percentage levels of poverty, the poorest housing, the most inadequate medical care and the least access to public transportation."

The conference was put together by Rural America, a national membership organization that serves as a sort of populist-agrarian Common Cause. Founded in 1975 after a conference of that name, Rural America merged this year with the ten-year-old Rural Housing Alliance. The organization has a detailed platform covering many issues. A Washington-based staff coordinates policy research, information and action on rural needs.

MANY NEEDS

The needs are many. Rural areas, for example, get only 20 percent of all federal housing subsidies but have 60 percent of the country's bad housing.

In 1974 non-metropolitan areas had six physicians for every 10,000 people, while

metropolitan areas had 16. There are no medical doctors at all in 5,000 towns and 138 rural counties.

More than two-fifths of the working poor live in rural America. Two million rural adults lack a fifth-grade education. And rural median income is 27 percent less than the urban figure.

With these inequities in mind, Sen. James Abourezk (D-SD) told the assembled activists that "Today," for rural and urban people, "our government is, in too many instances, a government of the few, by citizen."

As the Great Depression lifted, Abourezk said, "major portions of urban and suburban America rushed forward in mad pursuit of the bitch-goddess success. They left trampled in the dust the millions of rural Americans to be content to diet on the leftovers of shattered dreams and broken promises. For too many Americans the horrors depicted in *The Grapes of Wrath* and *Let Us Now Praise Famous Men* are still an everyday reality of life."

Two of the most pressing rural concerns are the plight of the small farmer and the energy "crisis." Abourezk declared that the farmer, who has often been asked to turn the other cheek, "has turned all four cheeks in recent years." On energy, Abourezk noted that rural people in particular should be aware that in the past five years the top 20 oil companies have gained control over nearly 40 percent of the nation's own coal deposits.

NEW ENERGY DIRECTIONS

Barry Commoner, author of *The Closing Circle and The Poverty of Power*, also dealt with rural energy problems. Over the past few years Commoner's Center for the Biology of Natural Systems has done valuable research on organic farming and energy.

Commoner told the conference that, while industry has replaced human labor with energy-intensive machinery, agriculture is in the more precarious position of having used machines and chemicals to replace such natural and renewable energy and fertilizer sources as wind, wood, manure, grass and feed. He urged that the nation, and farmers especially, turn to solar energy and other appropriate technologies as alternatives to President Carter's energy blueprint.

Some of the new energy directions that Commoner advocated are being put into practice by the Small Farm Energy Project, a research and demonstration program in Cedar County, Nebraska. Dennis Demmell of the project's staff told a conference workshop that 25 small farmers in Cedar County are adopting a variety of practices to increase their energy self-sufficiency, including better insulation, wind pumps and generators, solar heating and grain drying, methane production from manure, composting of manure for fertilizer and the making of alcohol fuel from plants. The aim is to show that agriculture need not be so energy-intensive.

Housing is another issue of concern to rural people. Clay Cochran, executive director of Rural America, told the housing portion of the conference that the public goal should be "that every living soul in this country has a relatively wind-and-water-tight shelter with electricity, running water and a place to run the waste . . . where it won't pollute your water supply."

Cochran went on to say that the people living in such housing should "have to pay no more for debt, interest, insurance, taxes, maintenance, heat, water, and electricity than 25 percent of their income if they are low or moderate income people."

Outlining a policy, Cochran added, is easy; getting it implemented is not.

INADEQUATE PROGRAMS

The Farmers Home Administration, which now has $8 billion a year to loan to rural people and communities, should be meeting much of the need. But at the rate the FHA is presently replacing bad rural housing in Kentucky, it will take 51 years to finish the job. In McDowell County, West Virginia, it will take 359 years and in Mingo County, West Virginia, 738 years.

Some government programs, like Farmers Home, fail even when specifically designed to help rural people. The Rural Development Act of 1972 has not even been given the chance to succeed or fall due to inadequate funding.

Other federal programs are designed to discriminate openly against the needs of the countryside. The Carter administration's $4 billion public works program, for instance, effectively redlines all towns with populations of less that 50,000. No public jobs for them.

The argument is, that the cities' jobless rate are worse. But when discouraged jobseekers and the underemployed are figured in, it's clear that rural unemployment is much higher than the figures of the Bureau of Labor Statistics would indicate. One estimate of "subemployment" in rural Mississippi is 42 percent.

For most of the 20th century, people have left rural areas for urban ones. It was argued by many that rural problems would go away as an increasingly industrialized society provided jobs and a better, more "civilized" life in metropolis. Rural to urban migration, however, did not always make matters better for those who sought the city lights. Not everyone found a decent job—or even a job at all. The rural exodus thus helped create today's "urban crisis."

But the immediacy of urban problems has tended to confer a second-class citizenship on rural Americans, especially the poor. They are, as the Presidential Advisory Commission on Rural Poverty said in 1967, "the people left behind."

RETURNING TO THE COUNTRY

Recently though, flight to the cities has been turned on its head. Demographers at the Department of Agriculture have shown that during the 1970s rural areas have been gaining population faster than urban places.

This provides new human and fiscal resources for rural communities, but also puts stress on local services, already tight job markets, disappearing agricultural land and other problem areas.

The rural conference reflected both hopes and fears. Roger Blobaum, chairperson of Rural America, said, "Throughout the country, there is evidence that the problems of rural people are being treated with unaccustomed respect and interest . . . And yet, while the signs of a reawakening fill us with hope, much work needs to be done."

There was some tension at this gathering of people committed to so many different causes. Some farmers and environmentalists felt that others wanted to bring too much industry (and thus jobs) to rural areas. Some of the conflicts were reflected in the debate on resolutions and revisions to the Rural America platform.

Dealing with a very current rural movement, the conference also passed a resolution supporting, in general terms, the concept of a farmers' strike.

Yet despite some internal tuggings and pullings, there appeared to be a spirit of consensus, of closed or closing ranks in the face of adversity. But, for a change, it was an adversity tempered by hope. Sen. Abourezk may have summed it up when he said, "Like Woody Guthries, we are secure in the knowledge that this land is our land—and we intend to keep it. But, like Langston Hughes, we will no longer tolerate a concept of a dream deferred."

Jimmy Carter, rural American, was asked to address the conference, but had to cancel at the last minute. Too bad, he might have picked up a few things. Rural activists hope, now that Carter has made that migration to the city, that he will not turn his back on the problem at his roots. One thing is certain: Carter is no dummy. Before leaving the farm, he made sure he had a job waiting.

[From the Toledo (Ohio) Blade, Dec. 7, 1977]

U.S. ASKED TO SLOW FARMLAND TAKE-OVER

WASHINGTON.—More government leverage should be used to slow down the take-over of valuable farmland by urban development, highways, recreational facilities, and other nonagricultural projects, Rural America says.

The organization, which describes itself as a nonprofit group "formed to promote the economic and social welfare" of people in small towns and rural areas, is meeting here this week.

"The most formidable obstacle to the rational use of our land is that we have come to rely on what we call the 'market' to determine the uses and abuses of it," one of its reports says.

In other words, if the encroachment of a city or industry happens to trigger soaring land prices in a community, farmers will respond to this market—and often because they cannot pay the higher taxes—by selling their land.

"The market is a miserable piece of machinery to use in protecting and determining the use of the resources basic to human existence," the report said.

BIGGEST THREAT SEEN TO "PRIME" LAND

Urban growth and other developments have caused the U.S. farmland inventory to shrink for many years. Agriculture Department experts say, however, that the biggest threat is to "prime" land—the most productive—and that it is primarily up to states and local governments to decide on which kind of policies they need to guard against the drain.

The report by Rural America includes these observations:

Two million acres of farmland "disappear" each year.

Between 1950 and 1973, the nation lost 6 per cent of its taxable farm acreage.

In the same period, New England lost half of all its farm acreage; New Jersey lost 45 per cent.

California cedes 375 acres of farmland to commercial development each day.

According to the Agriculture Department, there were about 1.08 billion acres in farms as of last Jan. 1, a decline of about 2.75 million acres in one year. Although significant, the lost farmland still represented a reduction from the total on Jan. 1, 1976, of about 0.25 per cent.

CITES LOSS OF SOIL FERTILITY

The Rural America report said that loss of soil fertility from erosion also is a major problem. In the past, it said, too much emphasis was placed by the U.S. Soil Conservation Service in helping farmers who voluntarily sought help while ignoring those with the most severe erosion problems.

Citing a study by the General Accounting Office, an investigative agency of Congress, the report said programs operated by the Agriculture Department to help pay farmers for carrying out conservation projects have not focused enough on long-range measures to protect the land.

"Some people believe that the voluntary nature of the programs should be changed and that USDA (price-support) loan and

target-price programs should have compliance with measures recommended by the Soil Conservation Service as a prerequisite for individual participation in those programs," the Rural America report said.

The group added that "other observers" believe state governments should take a more active role in controlling soil erosion and that "Iowa is currently the only state with a soil-erosion program comparable to the Federal Government's."

[From the (Calif.) San Gabriel Valley Tribune, Dec. 4, 1977]

FARMWORKERS' HOUSING NEEDS TO BE AIRED

WASHINGTON—The housing needs of migrant and seasonal farmworkers will be spotlighted at a three-day conference opening Monday at the Shoreham-Americana Hotel.

More than 500 people are expected to attend the Third National Rural Housing Conference, convened by the Housing Assistance Council (HAC), Rural America, and the National Rural Housing Coalition.

The special housing problems of farmworkers—many of whom are Hispanic Americans—will be discussed in a panel moderated by Humberto Fuentes, of the Idaho Migrant Council, in Boise. Panelists include Rudy Juarez, chairman of the board of Organized Migrants in Community Action, Homestead, Florida; Alex Morrisey, executive director of the New Jersey Farmworker Corporation, Vineland, New Jersey; and Frank Salazar, executive director of the Edcough Rural Housing Authority, Edcough, Texas.

Hispanic American panelists another sessions of the Conference include: Ernesto Arzola, executive director of the Tierra del Sol Housing Corporation, Las Cruces, New Mexico; John Lopez, project director for the National Council of La Raza, Phoenix, Arizona; Ronnie Lopez, chairman of the board of the Housing Assistance Council (HAC); John Maldonado, executive director of Colorado Housing, Inc., Denver; and Senator Miguel Hernandez Agosto of Puerto Rico.

Alex P. Mercure, assistant secretary of agricultuer for rural development and former vice president of the University of New Mexico, will speak to the conference at a Tuesday luncheon. Mercure is the former executive director of the New Mexico Home Education Livelihood Program, where he was instrumental in setting up a statewide nonprofit agency for training migrant farmworkers.

Opening speaker at the conference is Congressman John B. Breckinridge, chairman of the Congressional Rural Caucus. He will be followed by Professor Barry Commoner, noted environmentalist, who will discuss the energy needs of rural people. Representative Les Au Coin (D-Ore.), chief co-sponsor of the rural title of the 1977 Housing and Community Development Act, will be the keynote speaker. On Tuesday, Gordon Cavanaugh, administrator of the Farmers Home Administration and former executive diretcor of HAC, will speak.

The Conference is called to discuss alternative proposals for meeting the housing needs of the rural poor. It will examine the effectiveness of current housing initiatives in key federal agencies and Congress. It will take a hard look at the equity of existing programs and their delivery systems. Workshops on credit and subsidies, land acquisition, and community facilities, will explore new methods and techniques for overcoming roadblocks to developing successful rural housing programs.

For Hispanic Americans, the Conference has particular significance, acording to HAC Board Chairman Ronnie Lopez. Says Lopez:

"We know that for every substandard unit in a metropolitan area, there are two in rural areas. In the rural areas where Hispanic Americans live, we find that nearly half of their housing units are substandard—more than double what it is for white Americans in those areas."

The Housing Assistance Council is a national nonprofit corporation federally-funded to increase the availability of decent housing for rural low-income people The six-year old organization is governed by a 36-member board of directors representing public and nonprofit housing agencies, public interest organizations, unions and minorities at the local, state and national level.

[From the Mitchell (S. Dak.) Republic, Dec. 13, 1977]

WE MUST FIGHT "BIG OIL"

(By Judy Burke)

WASHINGTON.—Sen. James Abourezk of South Dakota told delegates to a conference on rural problems this week that they must fight the power of big oil companies.

The Democratic senator said rural America can't survive, if oil companies are allowed to keep increasing petroleum prices and buying up alternate sources of fuel.

Higher fuel costs that hit the farmer hardest are inevitable, unless people in rural America do something to cut back the mushrooming monopoly of oil companies, Abourezk told the Third Annual National Conference of Rural America

"So let me lay it on the line," Abourezk said, "rural America ought to have the biggest stake in constraining the power of the big oil companies . . . companies whose sole motivation for acting in this manner at the present time is their unmitigated greed . . . Their only concern is to maximize their profits, and they will use any means available to them, legal or illegal, to achieve their objective."

Abourezk has been denouncing the oil industry most of his five-year career in the Senate. Sen. Howard Metzenbaum of Ohio and he spent almost two weeks in the Senate this fall holding up a vote that removed federal price controls on natural gas, most of which is owned by major oil companies.

The fight of federal price controls is continuing during the lengthy conference sessions between the Senate, which voted to deregulate, and the House, which did not.

Abourezk told the rural representatives that the conference committee is producing a "case study in utter chaos and confusion."

Congress should be rebelling against "Big Oil" and turning to renewable fuel sources such as the sun and the wind, as well as reducing fuel consumption by setting "honest" mileage standards on cars and rebuilding the country's railroads, Abourezk said.

He told the Rural Conference, "We must prevail over the James Schlesingers (Secretary of Energy) of this society. That is, if we want to leave our children a legacy of sanity and safety in the search for new energy sources."

Abourezk also criticized the Department of Agriculture, the Housing and Urban Development Department and Congress in general for neglecting the housing, medical and financial needs of people in rural areas.

The government should stop the growth of agricultural conglomerates by making it easier for small farmers to get capital and a fair return on their produce, he said.

The senator said the government should let American farmers export goods to whatever countries want to buy, including Cuba, "which used to be the seventh largest importer of U.S. agricultural products."

He said the best solution to the inefficiency and indifference of the Agriculture Department to rural people might be to set up a new department for rural affairs, a step he said would improve services "at less cost to the taxpayer."

[From the Astoria (Ore.) Astorian, Dec. 14, 1977]

AUCOIN CALLS FOR RURAL STRATEGY

WASHINGTON.—There isn't an "urban crisis" in America, there is a "human community crisis" that plagues urban and rural areas alike, Congressman Les AuCoin said in the keynote address to the National Rural Housing Conference here.

"No urban strategy will work," AuCoin, D-Ore., told a crowd of 700 conference delegates, "unless it also proposes concrete steps to improve the living environment of rural America."

Recalling a recent mobile office tour he took through his congressional district that included a town meeting in Warrenton, AuCoin said he saw the extent of rural blight first-hand, adding:

"It's not right that the government wastes millions of dollars on military cost overruns while a bucket on the front porch passes for sanitary facilities in some remote parts of my congressional district.

"It's wrong that there are two substandard housing units in rural areas for every one in a metrotropolitan area.

"It's wrong that in America today there are migrant farmworker families who actually live in the abandoned hulks of automobiles."

AuCoin, a member of the Housing Subcommittee, praised the recently passed Housing and Community Development Act which contained an entire section that modernizes and strengthens Farmers Home Administration housing programs. "It's the first time," he said, "a major housing bill spoke to both urban and rural needs."

But the congressman said more action is needed as he declared the nation is at a crossroads in devising new housing strategies and proposed a "Rural Housing Agenda."

He called for:

A program to broaden home ownership opportunities for low-income rural families;

Investigation into problems contributing to rapidly escalating housing costs, a problem of troubling proportions in urban and rural areas;

Establishment of a rural development agency that draws together "rural and housing and community development programs into an orderly, coherent single unit;"

A balanced growth policy that recognizes the importance of diversifying and strengthening rural economies; and

—Improved terms and availability of Farmers Home sewer and water grant programs.

AuCoin indicated he plans to re-introduce the Rural Housing Act of 1977 next year, as well as examine rural housing issues as chairman of the Task Force on Home Ownership charged with making recommendations on how to curb skyrocketing housing costs.

[From the Sidney (Nebr.) Telegraph, Dec. 14, 1977]

BERGLAND PROPOSES NEW RURAL STRATEGY

WASHINGTON.—Secretary of Agriculture Bob Bergland told delegates to the Conference on Rural America in Washington last week that despite recent population growth in rural areas, "rural people still have the highest percentage levels of poverty, the poorest housing, the most inadequate medical care, and the least access to public transportation."

He said the U.S. Department of Agriculture (USDA) and the Administration were determined "to develop a new national strategy for meeting these problems through a comprehensive and coordinated rural development program."

The secretary said that elements of this program were:

Reorganization of USDA's Rural Development Service so that it works more closely with programs of the Farmers Homes Administration (FmHA), which has budgeted programs for rural development.

A 20 percent increase in fiscal program budget for the Farmers Home Administration—to $8.2 billion.

Redirection of FmHA-insured lending of families of low and moderate incomes.

An FmHA rent supplement program that will provide subsidies for 20,000 rental units with renters paying 25 percent of their income as rent with the government making up the difference.

Bergland said that, "Despite the fact that the FmHA budget is up 25 percent over 1961, we have never as a nation had a real rural America policy or strategy since the enactment of the Homestead Act more than 100 years ago.

"We have had some earnest and sincere attempts to understand rural America's problems. But it has been a piecemeal effort—with no unified and comprehensive national policy or even a complete understanding of the magnitude of the problem.

"We intend to use our administrative authorities to the fullest in developing such a strategy."

[From the Economic Opportunity Report, Dec. 12, 1977]

RURAL HEALTH NEEDS NEGLECTED, CHARGES SEN. LEAHY

"The Federal government's policy toward rural health is a policy of neglect," said Sen. Patrick Leahy, D-Vt., chief sponsor of rural health clinics legislation, at last week's national rural health conferences in Washington.

The bias in favor of urban America comes not out of malice, Leahy said, but out of ignorance of rural America. He reeled off statistics to show just how neglected rural America's health needs are. Sixty percent of all medically underserved people, 83 percent of the critical health manpower shortage areas, one-half of the nation's poor, and a disproportionate share of the elderly are located in rural places, he said. Also, most Native Americans and migrant farmworkers are rural residents, and the most hazardous jobs—lumbering, mining and farming—are performed by rural workers.

Metropolitan America, on the other hand, has benefited from Congress' attention to the nation's health needs, said Leahy. Urban areas receive over 88 percent of maternal and child health care funds and 75 percent of Community Health Center grants. Urban areas also get 75 percent of all Medicare funds, although 31 percent of the elderly population live in rural areas.

Also, Leahy said, grants from the Rural Health Initiative (RHI) program are about one-fifth the size of grants awarded by the generally urban-oriented Community Health Service Program. RHI grants, along with Health Underserved Rural Area grants, are the main sources of funds for rural projects. Together, these two programs will spend only $45 million in FY 1978 for rural health projects.

Leahy said the best thing for rural America would be a nationally financed system of health care, but only if it does not perpetuate present inequities. He warned that improved health for rural people will not automatically result from national health insurance. The administration's cost containment bill will not work in rural America, according to Leahy, "because merely cutting back programs and services is impossible. We don't even have adequate services now."

REGULATORY PROCEDURES REFORM ACT—LEGISLATION TO END REGULATORY DELAY

Mr. MATHIAS. Mr. President, today I am pleased to join several of my colleagues in sponsoring the Regulatory Procedures Reform Act, a bill to remedy the serious delay that Americans now encounter when they go before the agencies.

Our Committee on Governmental Affairs has been pursuing this subject for some time. In July of 1977, the committee issued its detailed Study of Delay in the Regulatory Process as part of its comprehensive review of Federal regulation. This particular study concluded that delay was a fundamental problem in the regulatory process.

The bill we are introducing today seeks to implement the recommendations made in that study in order to end this unnecessary and costly regulatory delay.

Senator RIBICOFF, the chairman of the Governmental Affairs Committee and principal author and architect of this measure, has noted that the study found that the regulatory process takes far too long to accomplish far too little. There is tremendous inefficiency. In many instances the process seems without aim or purpose, unassisted by plan or priority. This process all too frequently leads to unnecessary delay which imposes significant costs on government, consumers and industry alike.

This bill addresses that issue directly and forcefully, while remaining sensitive to the need for fairness and due process. It is an innovative approach that I think offers the Senate an opportunity to be creative in a vital area of national concern.

This bill reflects the committee's initial thinking and research on the subject of regulatory delay. There is no doubt in my mind that many agencies, with vast experience in their areas, will provide us with added insight into ways of perfecting this measure. I join the chairman in hoping that they will be prompt in examining this bill and sending their comments and suggestions. The need for reform in this area is critical. Their cooperation is essential. Our responsibility is clear. If we all pull together on this issue, the benefits to society as a whole will be incalculable.

I look forward to the hearings on this vital piece of legislation with anticipation. The bill demonstrates the Senate's good faith to the American people and to various segments of the economy which need their confidence bolstered now more than ever. We are dead serious about addressing this national problem and determined to do something about it.

SUPPORTING THE FARMER

Mr. TALMADGE. Mr. President, the Georgia Senate, now in session in Atlanta, has adopted two resolutions which, for myself and my colleague, Senator NUNN, I bring to the attention of the Senate, and ask unanimous consent that they be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the backbone of our free enterprise system and our American way of life is and always has been the untiring contributions of our farmers and since the founding of this great nation the farmer has been the major source of stability and strength of America; and

Whereas, the American farmer has led the world in agricultural innovation and in solving chronic food shortages which have plagued the developed and undeveloped world alike; and

Whereas, agribusiness is the largest economic activity in Georgia and the citizens of the State of Georgia are deeply and forever indebted to Georgia farmers for their contributions to the overall standard of living and way of life Georgians enjoy and take pride in; and

Whereas, while the standard of living for many segments of our nation's economy has steadily increased, the farmer has been receiving a steadily decreasing share of the national income and this has led to an overall weakening of the agribusiness morale and if this adverse trend plaguing our farmers is not reversed, it most definitely will lead to a national economic crisis and will undermine our national strength in every area; and

Whereas, after suffering through escalating production costs, declining market prices, and extremely harsh weather conditions which literally destroyed whole crops, the farmers, out of virtual desperation, have joined together throughout this great State and nation under the banner of the American Agricultural Movement to peacefully, but dramatically, focus national attention on the economic woes of the agribusiness community; and

Whereas, although the Georgia Senate realizes the Congressional Delegation of the State of Georgia understands the plight of Georgia's farmers, there are those in the Congress of the United States who don't even have a single farmer in their district.

Now, therefore, be it resolved by the Georgia Senate that this body does hereby strongly support the farmer and hereby urge the United States Congress to take whatever steps are necessary and appropriate to assure economic parity for the farmer.

Be it further resolved that all members of the Georgia Senate are individually and collectively in support of the farmer and intend to do all in their power and authority to help the farmer resolve his economic dilemma and regain his long established leadership role in virtually every facet of American life.

Be it further resolved that the Secretary of the Senate is hereby authorized and directed to transmit appropriate copies of this Resolution to each member of the Georgia Congressional Delegation.

RESOLUTION

Whereas, the fundamental role that farmers have in our society was effectively summarized by Daniel Webster when he said: "Let us never forget that the cultivation of the earth is the most important labor of man"; and

Whereas, the honesty, individualism, dedication and independence that has always characterized the American farmer provide examples of qualities most valued by our citizens; and

Whereas, in recent weeks Georgia farmers have rendered a very valuable service in bringing to the attention of our citizens the serious problems facing the farmers of our country; and

Whereas, it is essential that the economy and governmental policy provide an environment where "the most important labor of man" is properly recognized and rewarded, and Georgia farmers have made an important contribution in sending this message to the American people.

Now, therefore, be it resolved by the Senate that the farmers of Georgia are hereby commended for providing the most valuable of all services and for bringing the plight of the farmer to the attention of the American people in a most effective and responsible manner.

Be it further resolved that the Secretary of the Senate is hereby authorized and directed to transmit an appropriate copy of this Resolution to Honorable Jimmy Carter, President of the United States, and to each member of the Georgia delegation to the United States Congress and to Honorable Tommy Kersey of Unadilla, Georgia, who has been an effective spokesman for the Georgia farmer.

THE DEPARTMENT OF AGRICULTURE'S RECOMMENDATIONS FOR WILDERNESS IN SOUTHEAST ALASKA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Alaska (Mr. GRAVEL).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GRAVEL

Secretary of Agriculture Bergland in a letter to Congressman John Seiberling dated February 1, 1978, announced the Administration's recomendations for wilderness designations within the two national forests in Alaska. In one stroke, these recommendations have largely wiped out over one and one-half years of planning effort.

Two years ago I became deeply involved in the growing controversy over wilderness, primarily on the Tongass National Forest in Southeast Alaska. The Forest Service had obviously neglected formal study of potential wilderness areas in Southeast Alaska up to that time, and several potential wilderness areas were being considered for timber harvest activities. While conservationists were pressing for designated wilderness or wilderness study areas, timber interests were equally concerned with clarifying which areas would be open for continued harvesting without constant threat of lengthy legal battles.

Thus, simulated from several sides, the Forest Service embarked on a comprehensive planning process in September of 1976 designed to seek public input, to gather resource information, and to make specific land use recommendations, including wilderness proposals, for the Tongass Forest. The first phase of this process was completed in April 1977 with the publication of the Southeast Area Guide. This Guide identified and resolved some of the major issues involving the Forest and established a process by which other issues could be resolved. A second major action was taken last summer when over two dozen public meetings were held, and over 1200 individual responses were solicited. Final resource and socio-economic studies are just now in the process of being completed and analyzed. A draft environmental statement describing the final recomendations of the Forest Service is scheduled for completion and release this June followed by a final statement in December.

By the Department's own admission its recent wilderness recommendations have been released far in advance of the orderly completion of its planning process. In the letter Mr. Bergland states "As this planning proceeds, we will make the information available to the Congress and may further perfect our recommendations. Our objective is to recommend the strongest wilderness package possible in Southeast Alaska coordinated with other needs and uses." I contend that this is obviously a political decision rather than a resource-based judgement, and has aready put the knife to any rational conclusion of the planning process. The Secretary has already prejudged the "other needs and uses" for which the information is still coming in.

Not only do I object to this type of decision-making approach, but I take strong exception to the recommendations themselves. Using the Department's own figures, which are open to much question, the Department's wilderness proposals would result in removal of 215–250 million board feet of timber from the annual potential yield of the Tongass Forest. If these recommendations were adopted, between 464–498 million board feet of timber would be economically available to the timber industry. In comparison, the Department places the average annual harvest for the years 1972–1976 at 510 million board feet (industry figures are somewhat higher). Thus, these recommendations would seriously jeopardize jobs and the entire economic fabric of Southeast Alaska.

The Department's answer to this apparent short-fall in available timber is that the industry must cut more of the so-called "special" or "marginal" components of timber. Yet, by definition, these are timber areas which, due to high environmental risk, low timber volumes, or other special requirements or conditions involved, are not economical to harvest under today's available technology for the region or which should probably not be harvested because of environmental concerns. The gulf between the industry and the Department in this respect is great: The Department says up to 60% of the special and marginal components should be harvested while the industry claims that the current level of 10% utilization of these components realistically represents the level for the foreseeable future.

This is tragic situation. All of the time, man-power, and money which have at long last gone into the Tongass planning process have now, in effect, been cast to the wind. Obviously wilderness should be recognized as a valuable part of the total land use pattern in Southeast Alaska, but we can not be expected to support this type of hasty decision-making, nor can we support any proposals which would so blatently threaten one of the chief economic components of life in Southeastern.

LIBRARY OF CONGRESS STUDY CRITICIZES DISC AND DEFERRAL TAX LOOPHOLES

Mr. KENNEDY. Mr. President, on Friday, February 3, the Library of Congress released a study criticizing the DISC and deferral tax loopholes and the disruption in the United States and world economy caused by these measures.

According to the study, repeal of DISC and deferral would reduce the tax-induced distortions affecting international investments decisions, and "increase the overall economic efficiency of investment allocation, resulting in somewhat higher levels of economic growth, real income and productivity."

As Members of the Senate and House of Representatives are aware, the Carter administration's 1978 tax reform proposals, now pending in Congress, call for the repeal of both DISC and deferral. The new Library of Congress study provides strong support for action by Congress to carry out the President's recommendations and eliminate two of the most unjustifiable tax abuses in the Internal Revenue Code.

Under current law, DISC enables exporters to avoid up to half the U.S. tax otherwise due on export income, if they set up so-called Domestic International Sales Corporations. Deferral allows U.S. multinational corporations to escape U.S. tax on overseas earnings of foreign subsidiaries until the earnings actually flow back to the U.S. parent. DISC costs the Treasury $1.2 billion a year, and deferral costs $410 million a year.

The Library of Congress study emphasizes the distorting effects of DISC and deferral on investment decisions. Because of interactions with other provisions of the tax laws (principally the foreign tax credit, which allows foreign tax payments to be subtracted from U.S. taxes due), the effect of deferral is to encourage excessive U.S. investment in low-tax foreign countries, at the expense of domestic U.S. investment. It also discourages U.S. investment in most of our major trading partners, such as Britain, France, West Germany, and Japan, where tax rates are higher than the U.S. rate, and where deferral, therefore, confers no advantage on investment.

A table in the Library of Congress study lists 37 nations with tax rates below the 48-percent U.S. corporate rate, where deferral therefore operates to encourage investment. One of the most serious distortions caused by deferral is its incentive for runaway plants, in which U.S. firms move abroad to produce for the U.S. market with cheap foreign labor.

The effect of DISC is to encourage excessive investment in U.S. export industries. As a result, in the current international system of floating exchange rates, DISC puts upward pressure on the dollar, thereby encouraging U.S. imports, and impairing domestic U.S. industries that must compete with such imports.

Both of these loopholes have undesirable consequences on U.S. jobs. The effect of deferral is to export U.S. jobs by encouraging American firms to build plants overseas. And the increase in job stimulated by DISC in export industries is offset by the DISC-induced loss of jobs in U.S. industries competing with imports. Because import-competing U.S. industries tend to be labor intensive, DISC actually has a negative impact on U.S. jobs, since the gain in jobs in capital-intensive export industries is more than offset by the loss of jobs in labor-intensive industries that must compete with imports.

With regard to DISC and the balance of payments, the Library of Congress study emphasizes that with the adoption of flexible exchange rates, a permanent effect on the balance of payments cannot be expected. Provisions such as DISC may cause the balance in international accounts to be established at a higher level

of exports and imports. The study notes, however, that this effect does not actually change the balance of payments. It does, however, increase the size of U.S. export industries such as agriculture, transportation and equipment and machinery, while reducing the size of import-competing industries such as textiles, shoes, and electronics.

The study also rejects the argument that DISC and deferral are necessary to offset comparable tax practices of other countries. With regard to deferral, U.S. firms operating abroad do not compare their rates of return with those of other industries, but rather with alternative investments in the United States.

With regard to DISC, the study makes the point that export subsidies of foreign countries, given the present exchange rate system, are actually more likely to harm import-competing industries in those nations, while having little or no impact on U.S. exporters. Thus, DISC benefits U.S. exporters, even though they may not be harmed by foreign export subsidies, but it damages import-competing U.S. industries by increasing imports.

Mr. President, I believe that the Library of Congress study will be of interest to all of us as we consider these two tax loopholes and the President's recommendations, and I ask unanimous consent that the study be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

DEFERRAL AND DISC: TWO TARGETS OF TAX REFORM

(By Jane G Gravelle and Donald W Kiefer, Specialist in Taxation and Fiscal Policy, Economics Division Congressional Research Service, Library of Congress, Febrary 3, 1978)

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SUMMARY

The tax cut and reform proposals announced by the Carter Administration in January 1978 include termination of the deferral of U.S. taxation of the income of foreign subsidiaries and repeal of the Domestic International Sales Corporation (DISC) provision. Deferral refers to the fact that, in general, the United States does not tax the income of a foreign subsidiary of a domestic corporation until (and unless) the income is paid as a dividend to the U.S. parent corporation. DISC allows U.S. exporters to set up special domestic corporations through which to channel their export sales and which receive tax deferral benefits on a portion of their income.

The direct economic effect of deferral is to reduce the worldwide effective tax rate on foreign source income of subsidiaries of U.S. corporations located in foreign countries in which the total effective tax rate on earnings by U.S. subsidiaries is less than the statutory U.S. tax rate (presently 48 percent). Foreign countries with effective tax rates lower than the U.S. rate tend to be underdeveloped nations which use the low tax rates to stimulate economic development. The direct economic effect of the LISC provision is to reduce the effective tax rate on U.S. export income.

The most important economic effects of deferral and DISC are their investment incentive effects which influence the international allocation of American capital resources. The investment incentive effects of these two provisions cannot be examined in isolation; they must be studied within the context of the overall U.S. tax treatment of foreign source income. The entire U.S. tax structure affecting foreign source income, including deferral and DISC, results in a complex pattern of counteracting influences or international investment decisions. These influences weigh differently on each investment opportnuity depending on the foreign country and type of investment involved; however, in general, the U.S. tax structure, including deferral and DISC, provides advantages for labor intensive investments in low-tax foreign countries and it provides disincentives to capital intensive investment in high-tax foreign conutries.

Under a system of flexible exchange rates, which has existed since 1973, a permanent effect on the balance of payments cannot be expected from policies such as DISC or terminating deferral. This is because a flexible exchange rate system will automatically move, through market adjustments in exchange rates, toward a position of balance in the international payments accounts of each country. Thus, in the long run any policy which attempts to permanently improve a nation's balance of payments will be rendered ineffectual by market forces.

To the extent that short term intervention in the exchange market is desired to moderate exchange rate fluctuations or ease adjustments in international markets, DISC and deferral are inappropriate because of their permanent nature, their slow action, the inability to control them on a day to day basis and inability to coordinate them with policies of other countries. The appropriate short term policy tool for this purpose is buying and selling of foreign exchange.

Under a system of flexible exchange rates, DISC and the repeal of deferral cannot be expected to have more than a brief impact on the aggregate level of employment in the United States. However, because the policies may lead to a higher overall level of foreign trade, they may create jobs in the export industries, such as agriculture, transportation equipment, and machinery, and accelerate the decline of import competing industries, such as textiles, shoes, and electronics, leading to less employment in those sectors.

It is argued that the repeal of deferral would lead to a reduction of U.S. business activities in low-tax foreign countries—interpreted as reduced "competitiveness" by the multinational corporations—however, the implications of this observation for tax policy deserve careful consideration. Elimination of deferral would remove the special U.S. tax treatment of investments in low-tax countries and, therefore, would be expected to diminish such investment. However, the standard of tax policy with regard to business opportunities is to treat alternative investments uniformly so the tax structure does not cause distortions in the relative attractiveness of investments unless a clear national purpose is served by such nonneutralities. U.S. multinational corporations make investment decisions, not with reference to what other firms of different nationalities are earning on any given investment, but rather with reference to the rate of return on alternative investments available to U.S. corporations, including investments in the U.S. domestic economy and U.S. export activities. However, the deferral policies of other countries do have an indirect effect on the investment allocation of U.S. multinationals, and there is no unilateral U.S. policy response which will perfectly neutralize this indirect effect of the foreign tax preferences. If the U.S. does not allow deferral, the foreign country deferral policies will disadvantage U.S. multinationals with regard to their "competitiveness" in low-tax foreign countries. On the other hand, if the U.S. retains deferral of the taxation of foreign income, this policy leads to a disproportionate investment of U.S. capital in low-tax foreign countries.

The situation with regard to DISC as a response to foreign export subsidies is very similar; there is no unilateral policy option available to the United States which will perfectly neutralize the effects of a foreign export subsidy. Adoption of a competing export subsidy, such as DISC, benefits exporters and further harms import competing industries. Conversely, U.S. adoption of a countervailing tariff to protect import competing industries from the subsidized foreign exports would damage U.S. exporters. A more direct response would be to negotiate the removal of all export subsidies; however, to date this approach has not been successful. One important consideration is that foreign export subsidies, while they may adversely affect some sectors of the U.S. economy, may be beneficial to the U.S. as a whole because they will typically result in a relatively larger real quantity of imports as compared with real exports.

The economic impact of a terminating deferral and DISC is not known with certainty. The direct result of the combined policy changes would be to increase the effective tax rates on investments by U.S. companies in export activities and in operations in low-tax foreign countries. The most important economic impact of this change would be the influence on the allocation of U.S. investment capital. Investment in the U.S. economy for domestic production would be expected to increase, as would investment in high-tax foreign countries. The effects of the combined policies on U.S. export investment and foreign investment in low-tax countries are offsetting, and the overall result is uncertain. In general terms, however, the repeal of deferral and DISC would reduce the tax induced distortions affecting international investment decisions (although not eliminate them) and thereby increase the overall economic efficiency of investment allocation, resulting in somewhat higher levels of economic growth, real income, and productivity.

I. INTRODUCTION

The continued effort to "reform" the Federal tax system has affected virtually every aspect of the Internal Revenue Code. Many of the subjects of tax reform have been highly complex and controversial, but probably none more so than the provisions affecting the taxation of foreign source income. Two such "foreign tax" topics—deferral and DISC—are again being targeted for possible "reform" in early 1978.

Deferral does not refer to a provision of the tax code but rather an omission; it refers to income which is not taxed, not because of a specific exemption but because it is not included in the definition of taxable income. Basically, deferral refers to the fact that foreign source income earned by a foreign subsidiary of a U.S. parent corporation is not

taxed (in most cases) by the United States until the income is remitted to the U.S. parent.[1] Deferral was first the target of a tax reform effort in the early 1960's. President Kennedy had proposed substantial elimination of deferral by taxing all foreign income currently regardless of repatriation. The Revenue Act of 1962 stopped short of this revision and instead created Subpart F of the tax code which currently taxes so-called "tax haven" income. Tax haven income, now termed "Subpart F Income," refers to income channeled through subsidiaries in low-tax-rate foreign countries to serve as pipelines or reservoirs for income generated in other foreign countries, and thereby reduce the worldwide tax on the income. Deferral has been discussed in virtually every tax reform debate in Congress during the past fifteen years, and in the Tax Reduction Act of 1975 amendments were enacted to further tighten the provisions of Subpart F.

The Domestic International Sales Corporation (DISC) provisions of the tax code were adopted in 1971. Basically, DISC allows a domestic corporation to establish an export subsidiary and enjoy partial tax deferral on the export income earned by the subsidiary. Several arguments were offered in support of DISC at the time of its inception, one of which was that it would serve as a domestic counterpart to deferral, so exporters would not have to establish foreign subsidiaries to enjoy deferral of U.S. taxation on export earnings. DISC has been the subject of controversy almost since its enactment. The debate peaked in 1975–76 during the drafting of the Tax Reform Act of 1976; an effort was made to repeal DISC but instead the Act reduced DISC benefits and made the provision incremental.

Deferral and DISC are both again the subject of renewed tax reform interest. When the Carter Administration was preparing major tax reform proposals for announcement in the fall of 1977, the repeal of deferral and DISC were among the reform options. The "Tax Reform Option Papers" prepared by the Treasury for the White House and "leaked" to the press on September 2, 1977, discussed repeal of deferral and DISC as possible options.[2] Subsequently, the major tax reform effort by the Administration was postponed, and replaced in January 1978 by a tax cut proposal, coupled with selected "minor" tax reforms. The repeal of deferral and DISC are among the reforms proposed by the Administration, and will thus be the subject of extensive congressional debate.

In anticipation of this debate this report provides background information on deferral and DISC. Section II provides a general description of the provisions, section III discusses their direct economic effects, section IV analyzes their impact on capital investment, section V examines their effects on the balance of payments, employment, and the competitiveness of American industry, and section VI looks at the effects of repealing deferral and DISC. The approach is to provide specific information focused on these two provisions rather than a detailed theoretical and applied analysis of the general subject of the taxation of foreign income.

II. A DESCRIPTION OF DEFERRAL AND DISC

A. Deferral

In general terms, if a company wishes to operate abroad directly, as opposed to portfolio investment or a licensing or export sales arrangement, it will operate through a foreign branch of subsidiary. The distinguishing characteristic of a branch operation, as opposed to a subsidiary, is that a branch is not a separate legal entity from the "parent" corporation. A branch is merely an outgrowth of the parent which is separated by geography or purpose (however, the branch may require separate accounting, decision making, etc.). Thus, the income of a branch is also income of the parent. Because the United States corporate income tax is imposed on the worldwide income of U.S. corporations, the tax applies to all branch income, foreign and domestic.

However, special rules apply to the taxation of foreign income to avoid double national-level taxation of foreign earnings. The U.S. income tax provides a foreign tax credit for income or profits taxes paid to foreign governments on foreign source earnings. The rules governing the application and computation of the foreign tax credit are complex. Basically, however, the foreign tax credit claimed by a domestic corporation for any year may not exceed the tax which would be imposed on the foreign source income of the corporation by the U.S. income tax. For purposes of computing this limitation on the foreign tax credit, the aggregate foreign operations of a U.S. taxpayer are treated as one overall business operation (except that the limitation must be computed separately for interest income not directly related to the conduct of a trade or business, DISC income, and certain oil and gas related income). Excess foreign tax credits may be carried back by the taxpayer for two years and then forward for five years to offset taxes in a year in which a residual U.S. tax liability on foreign source income may be due.

For a variety of reasons a U.S. corporation may wish to operate in a foreign country through a subsidiary rather than a branch. The foreign host country may require local incorporation for certain types of operations (for example, mineral extraction) or may require that a specified percentage of certain types of business operations be locally owned. Incorporation in the host country allows compliance with such requirements or bringing in partners with required skills in technology, finance, marketing, etc. Operating as a foreign subsidiary may also provide the parent corporation with certain U.S. tax benefits.

A subsidiary is a separate corporation from its parent and, therefore, income of the subsidiary is not necessarily regarded as income of the parent corporation (although it may be under Subpart F of the Internal Revenue Code). Thus, under normal circumstances, foreign subsidiary income is not taxable to the parent corporation unless and until the subsidiary pays a dividend to the parent corporation. This delay of U.S. taxability of earnings of foreign subsidiaries of U.S. corporations is popularly referred to as "deferral."[3]

When a foreign subsidiary pays a dividend to a U.S. parent, the U.S. taxation of the dividend income works differently (although the same principles are involved) than the taxation of foreign branch earnings, because the entire income of the subsidiary is not regarded as income of the parent. Only the dividend paid from the subsidiary to the parent, which is paid out of after-foreign-tax income of the subsidiary, and a pro rata share of the foreign tax is regarded as income of the parent. Thus, the dividend received by the parent must be "grossed up" to calculate the total amount of taxable earnings represented by the dividend and the amount of foreign taxes allowable as a credit against the U.S. tax liability. Because of this gross up procedure and the attribution of a proportionate share of foreign taxes paid to the dividend received by the parent, the foreign tax credit allowable against U.S. tax liability on dividends is frequently referred to as the "indirect" foreign tax credit or the "deemed-paid" foreign tax credit.[4]

The principles involved in computing the U.S. tax liability on a dividend received by a parent from a foreign subsidiary can be illustrated by an example. Assume a foreign subsidiary has earnings of $100, operates in a foreign country having an effective income tax rate[5] of 40 percent, and distributes all of its after tax earnings (i.e., $60) to its U.S. parent. The U.S. income tax on the dividend received by the parent would be computed as follows (assuming no foreign withholding tax):

Taxable income of foreign subsidiary			$100
Foreign income tax (40 percent)		$40	
Income available for distribution		$60	
Dividend received by U.S. parent	$60		
Grossup	40		
Taxable income to parent	100		
U.S. income tax (48 percent)	$48		
Foreign tax credit	40		
Net U.S. tax		8	
Total income taxes			48
Income after taxes			52

If the same subsidiary distributed only half of its after tax earnings to its U.S. parent, the computation would be as follows:

Taxable income of foreign subsidiary			$100
Foreign income tax (40 percent)		$40	
Income available for distribution		$60	
Divident received by U.S. parent	$30		
Grossup	20		
Taxable income to parent	50		
U.S. income tax (48 percent)	$24		
Foreign tax credit	20		
Net U.S. tax		4	
Total income taxes			44
Income after taxes			56

Thus, the proportion of total taxes paid by the subsidiary to the host foreign government which is included in the gross-up and is allowable as a credit against U.S. tax liability on the dividend received by the U.S. parent is equal to the proportion of total subsidiary earnings available for distribution which is actually paid through a dividend to the U.S. parent. The second illustration also reveals the benefit of deferral. When the subsidiary distributes only half of its after tax earnings, the total tax bill on the foreign source earnings is reduced because U.S. taxation of the undistributed portion of the subsidiary's earnings is "deferred." This

[1] The U.S. owners may be individuals, but the more typical case is a U.S. parent corporation with a wholly or partially owned foreign subsidiary.

[2] The Treasury memorandum recommended repeal of DISC but the retention of deferral.

[3] Deferral of a tax liability provides a benefit to the taxpayer even though the full tax amount may eventually be paid. For example, if the interest rate is 8 percent, a 5-year deferral of a $1,000 tax liability is equivalent to a reduction of the tax by $319.26, because $680.74 invested for 5 years at 8 percent will yield $1,000. Similarly, a 10-year deferral is equivalent to a tax reduction of $536.80.

[4] Some foreign countries impose a withholding tax on dividends paid by corporations, in addition to the regular corporate income tax. Such withholding taxes are also creditable against the U.S. income tax but are ignored in this description for simplicity. See pp. 48–49 for implications of withholding taxes for repeal of deferral.

[5] The term "effective income tax rate" refers to the amount of tax divided by the amount of taxable income (earnings and profits) according to the U.S. definition.

tax benefit (compared to U.S. taxation of branch earnings) occurs in cases in which the foreign tax rate is lower than the U.S. rate and the foreign subsidiary distributes less than 100 percent of after tax earnings. Effective foreign tax rates which are lower than the U.S. corporate tax rate appear primarily in the underdeveloped countries of Asia, Africa, and Latin America, where low taxes commonly are used as an inducement to capital development.

B. Domestic International Sales Corporation

The Domestic International Sales Corporation (DISC) provisions were added to U.S. tax law in 1971 to provide a partial deferral of U.S. taxation of income from exports. DISC was adopted partially as a stimulant to increased exports, partially as an offset to export subsidies in foreign countries, and partially as a way of reducing the relative advantage to U.S. exporters of operating abroad through foreign subsidiaries to reap the benefit of tax deferral on export income. The DISC provisions allow exporters to set up special domestic corporations through which to channel their export sales and which receive special treatment in the taxation of their income.

To qualify as a DISC a corporation must receive 95 percent of its gross receipts from exports and export-related activities, and also 95 percent of its assets must be export-related. Included in export-related assets are "producer's loans," which are loans of the DISC profits to a U.S. export producer, usually the DISC's parent corporation. The "producer's loan" enables the parent corporation to use the DISC profits in its operations without receiving the profits as a dividend and thereby incurring tax liability.

The taxable income allocable to the DISC (and therefore eligible for the tax benefit) may be calculated in whichever of three ways yields the highest DISC income. First, the DISC taxable income may be computed under the normal inter-company pricing rules and subject to the normal allocation regulations (under section 482 of the tax code). Second, the transfer prices may be set so DISC net income equals 4 percent of the DISC's export promotion expenses. Alternatively, DISC net income may equal 50 percent of the combined taxable income of the DISC and the parent corporation received from export sales through the DISC, plus 10 percent of the DISC's export promotion expenses.[6]

The special tax treatment accorded a DISC is the deferral of U.S. taxation of a portion of DISC income. In some ways a DISC is treated by U.S. tax law similarly to a foreign subsidiary. The DISC is not actually taxed, but the parent is taxed on a constructive divident of DISC income (similar to Subpart F treatment). Also a DISC shareholder is allowed to claim the foreign tax credit on a DISC divident (corporate shareholders may claim a deemed paid credit) and a DISC parent corporation is not allowed to claim the intercorporate divident deduction on DISC dividends.

Prior to the Tax Reform Act of 1976, the parent corporation of a DISC was taxed on a constructive divident of 50 percent of DISC net income. Thus, assuming the DISC used the 50 percent income allocation rule, the effect of DISC was to reduce the effective tax rate on export income by one-fourth, from 48 percent to 36 percent. The Tax Reform Act of 1976 changed the constructive dividend rules to reduce the amount of DISC income on which taxation is deferred beginning January 1, 1976.

A new constructive dividend is now taxed to DISC shareholders. The new constructive dividend is equal to a fraction of the DISC's net income; the fraction equals 67 percent of the DISC average export gross receipts for a 4-year base period divided by the DISC's current year export gross receipts. The 4-year base period initially is the years 1972–1975; beginning in 1980 the base period advances one year for each year beyond 1979 (i.e., in 1980 the 4-year base period will be 1973–1976). In addition to the new constructive dividend, 50 percent of the excess of the DISC's taxable income over the new constructive dividend will also be taxed as a constructive dividend.

The effect of these new provisions is to allow benefits, similar to prior DISC benefits, for only those DISC receipts which exceed 67 percent of the average receipts during the 4-year base period. The logic of the new provision, especially with the moving average base period, was that if DISC is an export promotion intended to stimulate increased exports, then DISC benefits should be available mostly for incremental export receipts rather than all exports.

Small DISC's with adjusted taxable income of $100,000 or less are exempt from the new constructive dividend provision, and thus continue to be taxed under the prior system. The exemption phases out between $100,000 and $150,000 of taxable income. Since 50.4 percent of DISC's have net income under $100,000 and another 14.3 percent have net income between $100,000 and $200,000, over half of the DISC's will be wholly or partially exempt from the new system; however, these DISC's receive less than 5 percent of the gross receipts and less than 4 percent of the net income of all DISC's.[7]

There are several other more minor constructive dividend items taxed to the shareholders of a DISC, among them the amount of gross interest received by the DISC on producers' loans and 50 percent of the taxable income of the DISC attributable to the sale of military property (the latter provision added by the Tax Reform Act of 1976). Additionally, DISC benefits are denied for the export of certain products on which a percentage depletion deduction is allowed, including oil, gas, coal, and uranium products (added by the Tax Reduction Act of 1975 and modified by the Tax Reform Act of 1976).

III. THE DIRECT ECONOMIC EFFECTS OF DEFERRAL AND DISC

A. Deferral

The direct effect of deferral is to reduce the worldwide effective tax rate on foreign source income of subsidiaries of U.S. corporations located in low tax rate foreign countries, that is, countries in which the total effective tax rate on earnings by U.S. subsidiaries is less than 48 percent (the statutory U.S. rate). The relationship between total effective tax rates, including domestic and foreign taxes, on foreign branch earnings and dividends from foreign subsidiaries, for various distribution rates and different foreign host country tax rates, is illustrated in Figure 1.[8] (Figure not printed in Record.) The top, solid line in the graph shows the total effective tax rate on foreign branch earnings and income from a foreign subsidiary which distributes all of its after foreign tax income. In either case there is no deferral of U.S. taxation of the foreign income. Thus, the total effective tax rate, U.S. and foreign is always 48 percent regardless of the foreign tax rate, unless the foreign rate is higher than 48 percent, in which case the foreign rate also becomes the total effective rate (because no U.S. tax would be imposed). For foreign subsidiaries which distribute less than 100 percent of their after tax income, however, the total effective tax rate may be less than 48 percent due to the deferral of U.S. tax liability.

For example, if a foreign subsidiary distributes 50 percent of its after tax foreign income to its U.S. parent, half of the U.S. tax on that income will be deferred. Thus, in the extreme case, if the foreign host country imposes no income tax on the subsidiary's income, the total effective tax rate will be merely the U.S. tax applied to the half of the subsidiaries' income which is repatriated, i.e., 24 percent (see graph). As the foreign host country's tax rate on the subsidiary's income increases from 0 to 48 percent, the total effective tax rate also increases, but only half as fast because of the U.S. foreign tax credit. Thus, if the foreign country imposes a 10 percent income tax, the total effective tax rate on the income will be 29 percent (24 percent plus 5 percent); if the foreign country imposes a 20 percent tax, the total effective rate will be 34 percent (24 percent plus 10 percent); etc. Similar reasoning lies behind each of the other lines in the graph representing different distribution levels.

As Figure 1 illustrates, substantial tax advantage (compared to the U.S. statutory rate) is available to foreign subsidiaries which operate in low tax rate countries and make low distributions.[9] Table 1 reports statutory and realized (effective) corporate tax rates, the withholding tax rate which applies to dividend payments to the United States, and the total realized tax rate on grossed-up dividends for more than 60 countries.[10] An important fact indicated by the table is that most of our major trading partners have total effective tax rates higher than the U.S. statutory rate. Thus, deferral is not an issue with regard to U.S. investments in these countries.

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[6] Neither the 4 percent method nor the 50 percent method may be applied in such a way as to create a loss to the DISC's parent corporation while the DISC earns a net profit.

[7] Source: 1975 Annual Report of the Department of Treasury on the Operation and Effects of the Domestic International Sales Corporation Legislation, issued April 1977, Table 4–4. (Hereafter referred to as 1975 Treasury Annual Report on DISC.)

[8] The effective tax rates portrayed in the graph for subsidiaries assume that the deferral of U.S. taxation of the foreign income is effectively permanent. If the deferral is not permanent then the true effective tax rates would be higher than shown.

[9] This statement is true only for the subsidiary's earnings which are not "Subpart F income." See section VI A.

[10] Table 1 is taken from Hufbauer, Gary and David Foster, U.S. Taxation of the Undistributed Income of Controlled Foreign Corporations, in Essays in International Taxation: 1976, Department of the Treasury, Washington, D.C., December 31, 1976.

TABLE 1.—STATUTORY AND REALIZED CORPORATE INCOME TAX RATES ON MANUFACTURING FIRMS, 1974

Country	Statutory tax rates			Realized corporate tax rate [3]	Withholding tax rates on dividends distributed to United States		Total realized tax rate on grossed-up dividends
	Corporate tax rate [1]	Distributed profits tax rate, if different [2]	Local income taxes		Statutory or treaty rate	Realized rate on grossed-up dividends	
Canada	48.0		13.0	41.1	15.0	8.8	49.9
Europe:							
Austria	55.0	27.5	15.0	53.4	5.0	2.3	55.7
Belgium	42.0	[4]		37.5	15.0	9.4	46.9
Denmark	36.0			32.5	5.0	3.4	35.9
France	50.0	25.0		48.0	5.0	2.6	50.6
Germany	51.0	15.0	13.0	43.0	15.0	8.5	51.5
Greece	38.2	[4]		11.9	30.0	26.4	38.3
Ireland	50.0	27.0		12.7	5.0	4.4	17.1
Italy	43.8		[5]	41.9	5.0	2.9	44.8
Luxembourg	40.0		14.0	17.1	5.0	4.1	21.2
Netherlands	48.0			36.0	10.0	6.4	42.4
Norway	26.5	[4]	21.3	40.5	15.0	8.9	49.4
Spain	32.8			30.3	15.0	10.5	40.8
Sweden	40.0		25.0	43.1	5.0	2.8	45.9
Switzerland	8.8		28.0	27.1	5.0	3.6	30.7
United Kingdom	52.0	26.2		44.6	15.0	8.3	52.9
Oceania:							
Australia	47.5			42.9	15.0	8.6	51.5
New Zealand	45.0			51.7	5.0	2.4	54.1
Latin America:							
Mexico	42.0			42.2	20.0	11.6	35.8
Argentina	42.9			28.2	12.0	8.6	76.8
Brazil	30.0	33.5		30.3	25.0	17.4	43.7
Chile	41.7			39.4	40.0	24.2	63.6
Colombia	36.0			47.3	20.0	10.5	57.8
Ecuador	20.0	40.0		18.7	40.0	32.5	51.2
Peru	55.0			47.7	30.0	15.7	63.4
Uruguay	37.5			25.2	25.0	18.7	43.9
Venezuela	50.0			30.0	15.0	10.5	40.5
Costa Rica	40.0			33.7	15.0	9.9	43.6
El Salvador	15.0			7.6	38.0	35.1	42.7
Guatemala	52.8			21.0	10.0	7.9	28.9
Honduras	40.0			25.2	5.0	3.7	28.9
Nicaragua	30.0			1.8	0	0	1.8
Panama	50.0			15.4	10.0	8.5	23.9
Africa:							
Algeria	50.0			0	18.0	18.0	18.0
Morocco	48.0			54.5	25.0	11.4	65.9
Liberia	45.0			[6] 5.7	15.0	14.1	19.8
Ethiopa	40.0			38.6	0	0	38.6
Kenya	40.0			19.0	12.5	10.1	29.1
Nigeria	45.0			4.7	15.0	14.3	19.0
Rhodesia	40.0			30.9	15.0	10.4	41.3
South Africa	43.0			41.9	15.0	8.7	50.6
Zambia	45.0			28.0	15.0	10.8	38.8
Middle East:							
Iran	10.0	55.0	3.4	10.5	60.0	53.7	64.2
Israel	56.5	42.0		44.7	30.0	16.6	61.3
Lebanon	42.0		15.0	15.1	10.0	8.5	23.6
Asia:							
Sri Lanka	60.0	33.3		21.2	39.3	31.0	52.2
India	60.0			57.0	25.7	11.1	68.1
Malaysia	40.0			27.9	40.0	28.8	56.7
Pakistan	60.0			52.6	15.0	7.1	59.7
Phillippines	35.0			29.6	35.0	24.6	54.2
Singapore	40 0			26.9	40.0	29.2	56.1
Taiwan	25.0			6.0	10.0	9.4	15.4
Thailand	30.0			14.9	25.0	21.3	36.2
Hong Kong	15.0			15.5	0	0	15.5
Japan	40.0	28.0	12.0	47.4	10.0	5.6	53.0
Indonesia	45.0			[6] 36.4	20.0	12.7	49.1
Other Western Henisphere:							
Bahamas	0			5.1	0	0	5.1
Bermuda	0			0.3	0	0	.3
Netherlands Antilles	34.0		15.0	[6] 4.5	0	0	4.5
Dominican Republic	41.1			21.7	18.0	14.1	35.8
Jamaica	45.0			22.6	37.5	29.0	51.6
Puerto Rico	40.0			12.2	15.0	13.2	25.4
Trinidad & Tobago	45.0			36.7	10.0	6.3	43.0

[1] For some countries, 1974 rates were unavailable and 1973 rates were used.
[2] The distributed profits tax rate reflects both split rates and imputation systems.
[3] Estimated by increasing (or decreasing) the 1968 realized corporate rate for manufacturing by the percentage change in the statutory corporate rate.
[4] Dividends are fully deductible from earnings in Greece and Norway; in Belgium, they are deductible within limits.
[5] Included in the corporate rate.
[6] This is the realized rate for all industries.

Source. M. E. Kyrouz, "Foreign Tax Rates and Tax Bases," National Tax Journal, March 1975; upublished data. Table reproduced from, Hufbauer, Gary and David Foster, "U.S. Taxation of the Undistributed Income of Controlled Foreign Corporations" in Essays in International Taxation: 1976, The Department of the Treasury, Dec. 31, 1976. pp. 27-29.

Thirty-seven countries have total effective tax rates below the U.S. statutory rate of 48 percent. Twenty-seven of these countries are underdeveloped nations which presumably use the low tax rates to stimulate economic development.

B. Domestic International Sales Corporation

The direct effect of the DISC provision is to reduce the effective tax rate on export income. The amount of reduction depends on two factors: the allocation method used and, under the incremental provisions adopted in 1976, the past and current export performance of the DISC.

According to the Treasury Annual Report on DISC, the 50–50 allocation rule is estimated to be used by DISC's reporting 82 percent of total income on exports. The arms length method is associated with about 12 percent of export income and the remaining 6 percent of income is associated with the 4 percent method.[11]

Using the 50–50 method, the effective tax rate is reduced from 48 percent to 36 percent without consideration of the incremental rule (or alternatively the tax rate is reduced to 36 percent for that DISC income eligible for the provision). The other rules afford a lower rate which may be as low as 24 percent (when all income is allocated to the DISC).

The effect of the incremental DISC provision is to increase the effective overall tax rate on DISC exports. The total effect depends on the ratio of the 67 percent base period amount to the amount of current year exports. If eligible income is one half of total export income (i.e., current receipts are 134 percent of the base period receipts) the re-

[11] 1975 Treasury Annual Report on DISC, op. cit., Table 5–4.

duction, under the 50–50 pricing rule, is from 48 percent to 42 percent.

Initial revenue estimates indicate that the adoption of the incremental rate reduced DISC benefits by about one third, therefore reducing the effective tax rate under the 50–50 pricing rule to around 40 percent. Since the base remains fixed for a period of years, the effective tax rate will be lower over time.

The purpose of adoption of the incremental credit was to provide DISC benefits only for incremental exports, therefore increasing the so-called "bang for the buck" per dollar of DISC revenue loss. However, the Treasury Department notes that the use of a moving base means that the incentive to expand exports under DISC is reduced even if the producer looks only at the marginal export rather than the overall effective tax rate. Because an additional dollar of gross receipts today will enter into the export base period and reduce the DISC benefits sometime in the future, the present value of the future reduction in benefits (i.e., the future value discounted by an appropriate interest rate) must be subtracted from the current value of the DISC benefits. The Treasury has estimated that this effect reduces the benefits of DISC by about 40 percent, using a discount rate of 10 percent.[12]

IV. THE EFFECTS OF DEFERRAL AND DISC ON INVESTMENT

While the direct economic effects of deferral and DISC are clear, the effects of the tax provisions on the real economic variables of investment, GNP, trade, employment, etc. are not so clear, nor are the potential effects of eliminating the tax provisions. For example, it has been argued that deferral provides a tax incentive for U.S. corporations to invest abroad in low-tax-rate foreign countries rather than in the U.S. Of course, other things being equal, a lower effective tax rate on investments in certain countries would be expected to encourage investment in those countries. However, the situation is not quite that simple; other provisions of the tax system operate to diminish or alter the effect of deferral.

The investment tax credit (ITC) allows taxpayers to claim a credit against taxes due equal to 10 percent of the amount of investment in qualified property. Qualified property includes depreciable tangible personal property and certain limited kinds of depreciable real property with a useful life of at least seven years (property with a useful life of three to seven years qualifies for a partial credit). There is a limit on the amount of ITC which may be claimed each year but excess credits are allowed carryover treatment. Because the ITC was adopted largely as a stimulus to investment, capital formation, productivity, and economic growth in the United States, it is allowed only on domestic investment. The limited exceptions to this rule involve vehicles, aircraft, containers, cables, and satellites which provide transportation or communication to and from the United States, and property used in resource management or extraction in international waters in the northern portion of the Western Hemisphere.

First, of course, DISC provides a counteracting incentive to invest in the U.S. and export to foreign markets rather than locate abroad. As indicated earlier, DISC is available only to domestic exporters and was adopted, in part, to serve as an offset to the attractiveness of deferral. In addition, some of the most beneficial provisions of the U.S. tax code are available only with regard to domestic income; these provisions include the investment tax credit, the asset depreciation range, and the ability to file a consolidated tax return.

[12] 1975 Treasury Annual Report on DISC, op. cit., p. 16.

The asset depreciation range (ADR) is a system which allows taxpayers to choose the useful life of assets for purposes of depreciation from ranges specified by the Treasury for designated classes of assets. For each designated class of assets the Treasury specifies an "asset guideline life," and taxpayers are permitted to depreciate assets over a period ranging from 20 percent shorter than the guideline life to 20 percent longer than the guideline life without justification of the period chosen (use of a period outside the ADR may require justification based on historical records, industry practice, etc.).

The ADR system was adopted in 1971 for several reasons, including providing an additional incentive for investment (others were to reduce administrative problems associated with the determination of depreciation lives, to correlate tax treatment with actual practice, etc.). Use of the ADR system by a company provides a tax benefit compared to prior depreciation rules, because shorter depreciation lives yield accelerated deductions and thereby reduce tax liability. The ADR system (i.e., the 20 percent range from the asset guideline life) is not available for depreciating foreign property used outside the U.S.; however, taxpayers may use the asset guideline life in depreciating foreign property.

With certain exceptions,[13] domestic corporations which are members of an affiliated group are permitted to file a consolidated tax return. Through this device the members of the affiliated group are essentially treated as one taxpayer.[14] Thus, the losses of one domestic subsidiary may be offset against the income of another in computing taxable income. This enables the losses to be used to reduce current tax liability rather than carried over to reduce future taxes for the loss subsidiary. Foreign corporations are generally ineligible to join in a consolidated tax return; the only exception applies to wholly owned subsidiaries in Canada or Mexico organized solely for the purpose of complying with the laws of those countries. The overall limitation on the foreign tax credit operates similarly to allowing consolidation of all foreign operations of a taxpayer with regard to computation of the foreign tax credit but not with regard to losses. Foreign branch losses may be deducted in computing taxable income of the parent subject to the recapture provision of the Tax Reform Act of 1976. Thus, foreign losses are generally treated less favorably than domestic losses in the U.S. tax code.

A final important asymmetry in the tax treatment of domestic and foreign source income is the crediting of foreign sub-national income taxes against U.S. tax liability. U.S. States and local taxes paid by a domestic corporation may only be deducted in computing Federal taxable income. However, income taxes paid to foreign sub-national governments are accorded foreign tax credit treatment.

The picture presented by these counteracting tax influences on the international investment decisions of U.S. multinational corporations is summarized in Figure 2, which is, of course, somewhat oversimplified. Deferral increases the attractiveness of investment in low-tax foreign countries (i.e., it increases the after-tax rate of return on such investment) both relative to domestic investment and relative to foreign investment in high-tax countries. An additional factor weighing in favor of foreign investment is the creditability of foreign sub-national taxes. Opposing influences on the international investment decision result from DISC, the investment tax credit, the asset depreciation range, and tax return consolidation which are available only with regard to domestic income.

Of course, the situation is actually more complex than depicted in the diagram. For example, DISC is available only with regard to U.S. exports and thus is an incentive to produc in the U.S. only for the foreign market. It offers no domestic production incentive for the so-called "runaway plant," the U.S. subsidiary which produces abroad for the U.S. market. For the same reason DISC influences investment decisions within the U.S. toward production for the export market, as opposed to the domestic market, since only exports qualify for DISC benefits. An additional complication from the simplified picture in the diagram is that deferral is an incentive to invest in low-tax foreign countries only to the extent that the business operations contemplated would not run afoul of Subpart F of the tax code and thus be taxed currently.

The overall effect of these differing treatments of domestic and foreign income in the U.S. tax code will vary among companies and among investment opportunities within given companies. For companies which are relatively capital intensive, the availability of the investment tax credit and the asset depreciation range on domestic investment provides a strong tax inducement to manufacturing at home and exporting goods to foreign markets, perhaps through a DISC. This inducement is especially strong if the foreign market is in one of our major trading partners; with the domestic tax benefits the company can enjoy an effective tax rate on domestic source income which averages about 41 percent (and is lower for the most capital intensive firms) as opposed to the effective tax rates shown in Table 1 for our major trading partners.

In regard to business opportunities in less developed countries with lower tax rates, whether the tax system favors investment at home or abroad will depend on the relative magnitudes of ITC, ADR, and DISC versus deferral and crediting sub-national taxes for the specific investment choice. Business firms which are less capital intensive would be expected to find the benefits of deferral relatively more attractive, and, of course, for all firms the appeal of deferral will be stronger the lower the foreign tax rate.

Thus, the U.S. tax treatment of foreign source income results in a complex pattern of counteracting influences on international investment decisions. These influences weigh differently on each investment opportunity depending on the foreign country and type of investment involved; however, in general, the U.S. tax structure provides advantages for labor intensive investments in low-tax foreign countries and it provides disincentives to capital intensive investment in high-tax foreign countries.

These investment incentives and disincentives, which influence the allocation of American capital resources, are the most important economic effects of deferral and DISC. The allocation of capital investment and the influence of the tax structure on that allocation, have become the subjects of intense interest and public debate in the United States in the last several years. In general, in the absence of outside distortions, natural economic forces will cause investment capital to flow into investment opportunities which provide the highest rate of return. So long as the private rates of return

[13] The exceptions apply to tax exempt corporations (under section 501), life and mutual insurance companies, possessions corporations, mutual funds, real estate investment trusts, and DISC's.

[14] An affiliated group consists of a group of corporations of which at least 80 percent of the voting power of all classes of stock of each corporation is owned by other corporations in the group.

accurately reflect the economics of alternative investments, this process will also maximize economic growth, productivity and income levels, and minimize inflation. However, to the extent that tax provisions, such as deferral and DISC, alter the relationship between private and social rates of return, investors in the favored projects will be benefited, and the costs to society as a whole will be felt in lower levels of economic growth, real income, and productivity. Hence, the importance of evaluating the tax provisions to determine whether, and to what extent, they serve important policy goals and therefore justify their economic cost.

V. THE EFFECTS OF DEFERRAL AND DISC ON THE BALANCE OF PAYMENTS, EMPLOYMENT, AND THE COMPETITIVENESS OF AMERICAN INDUSTRY

The effects on investment induced by provisions such as deferral and DISC subsequently result in a variety of short-term and long-term indirect economic effects which have become important issues in terms of policy formulation. These effects include balance of payments implications, effects on employment, and considerations of equitable treatment of multinational firms and the effect of the U.S. tax structure on their competitive position in world markets.

A. Balance-of-payments effects

Both the 1962 proposal to eliminate deferral and the evolution and eventual adoption of DISC were motivated in part by a desire to favorably affect the U.S. balance of payments. These balance of payments objectives were formulated during a period of fixed exchange rates. In 1973 the world switched to a system of floating exchange rates, and the effects of tax provisions which influence investment and the size of export revenues are very different under a fixed exchange rate regime from when currencies float.

Under a fixed exchange rate regime these provisions could have permanent effects on the balance of payments. An export subsidy like DISC would act to increase export receipts in two ways. First, by inducing firms to locate in the United States rather than abroad in order to produce for foreign markets, it would improve the balance of payments because the costs of production (wages, taxes, etc.) would accrue to workers and others in the United States—amounts which formerly accrued abroad. DISC would also act to expand the total supply of goods sold to foreigners, since it induces investment within the United States to flow into export production, and given current estimates of elasticities, this effect would also increase export revenue.

Deferral had the opposite effect. It provided an inducement to invest abroad in low-tax countries and, through the location choice, presumably reduced export revenues. Unlike DISC, however, deferral also provided an incentive to firms producing for sale in the United States to locate overseas and export goods back into the U.S. This effect would also increase any balance of payments deficit by increasing imports.

During the 1960's making changes such as repealing deferral and adopting DISC could be seen as one solution—perhaps a "second best" solution—for what was perceived as a long term balance of payments problem. This problem, which resulted from a dollar price that was too high, hurt both U.S. exporters whose goods were artificially overpriced abroad and U.S. import competing industries since imports were artificially underpriced.

However, with the adoption of flexible exchange rates, a permanent effect on the balance of payments from such tax policies can no longer be expected. This is because a flexible exchange rate system will automatically move, through market adjustments in exchange rates, toward a position of balance in the international payments accounts of each country. This movement may be somewhat unsteady and protracted, and may be moderated or retarded by the policies of interested governments (as the world is presently experiencing), but in the long run any policy which attempts to increase permanently net export receipts without also increasing exports of investment capital will be rendered ineffectual by market forces. For example, it was observed above that under a system of fixed exchange rates DISC would improve the balance of payments by increasing exports and reducing payments to foreign factors of production. Under flexible exchange rates these initial effects will eventually cause an increase in the price of the dollar on foreign exchange markets; this exchange rate change will reduce U.S. exports and increase imports, thus offsetting the effects of the original incentive as far as the balance of payments is concerned. Deferral has the opposite impact; by contributing to higher foreign investments and lower U.S. exports it will be a force toward decreasing the price of the dollar thus offsetting its original impact. Thus, under a system of flexible exchange rates, international currency price adjustments will render ineffective policies which attempt to have a long-term impact on a nation's balance of payments.

These adjustments are part of the normal economic process by which supply and demand adjustments in international markets occur under a system of flexible exchange rates. There might occasionally be reasons a country would wish to intervene on a short-term basis in the foreign exchange market. First, all countries have an interest in smooth adjustments in the exchange markets because erratic adjustments erode planning capabilities and cause a deterioration in trade and investment conditions. This concern for stable adjustments is particularly strong with regard to the U.S. dollar, not only within the U.S. but abroad, because the dollar is the exchange medium for much of the world's trade. Secondly, net exports (exports minus imports) enter into the aggregate demand of a nation's economy which determines levels of income and employment. Thus, for example, the U.S. may be concerned about an initial deficit in the trade account and wish the price of the dollar to fall more quickly, while foreign countries may be concerned, once the price of the dollar begins to fall, about the effect on their export sector and wish it to fall more slowly. In the case of some foreign countries whose economies are heavily dependent on the international trade sector, this concern may be greater than in the United States.

These reasons for intervening in the foreign exchange markets are short-term in nature. They require policies which are temporary, easily controlled, quick acting, and capable of coordination with the policies of other nations. Market adjustment mechanisms such as the buying and selling of foreign currencies meet these criteria; deferral and DISC do not.

One final point with regard to the balance of payment effect of the tax provisions should be made. While provisions designed to improve the balance of payments will not have a permanent effect on the payments balance (i.e., whether it is in surplus or deficit) under a flexible exchange rate system, such provisions may affect the level of international trade and investment activity at which the balance of payments is eventually achieved. For example, provisions such as DISC typically would be expected to cause the eventual balance in international accounts to be achieved at a position in which the real quantities of U.S. exports and imports are higher than otherwise.[15] This effect does not change the balance of payments, but it does increase the size of U.S. export industries such as agriculture, transportation equipment, and machinery and reduces the size of import competing industries such as textiles, shoes, and electronics.

B. Employment effects

Another argument which has been used in support of DISC and the elimination of deferral is the effect of these provisions on employment in the United States. It is argued that DISC increases employment by increasing exports and that elimination of deferral would also increase employment by inducing a shift of production by U.S. multinationals from low-tax foreign countries to the United States. This argument should be considered in both a short-term and long-term context.

Unemployment is generally considered to result from structural and cyclical problems. The structural problems may be considered long-term in nature and the cyclical problems short-term, although even the short-term may be somewhat protracted as demonstrated by current economic conditions. Cyclical unemployment results from a greater number of job seekers than job openings and can result from a number of factors such as a recession (or "growth recession"), an unusually large influx of new labor force entrants, and downwardly rigid wages. Appropriate policy responses to cyclical unemployment include countercyclical fiscal and monetary policy and programmatic responses such as job programs, public works projects, and countercyclical revenue sharing. DISC and the repeal of deferral are not candidates for short-term countercyclical policies because they are not amenable to increasing or decreasing as the cyclical pattern of the economy may require, nor can their impact be targetted toward the unemployed.

The structural unemployment problems involve the distribution of skills and the location of the labor force compared to the requirements of the job market. Policy responses to structural unemployment include training, relocation programs, and income maintenance programs. DISC and the repeal of deferral do not contribute directly to a solution to these structural unemployment problems. Additionally, as discussed in the previous subsection on balance of payments and trade effects, DISC and deferral repeal may create jobs in the export industries, but under a system of flexible exchange rates they will likely accelerate the decline of import competing industries and lead to less employment in those sectors. This is exactly the opposite of the effect which occurs with a tariff, under which import competing industries are generally benefitted and exporters are harmed.

The effects of provisions such as DISC and deferral on capital flows do lead to some ef-

[15] The actual effect depends on the induced investment location effects and elasticities of demand and supply in the export and import markets. Theoretically, virtually any new configuration of trade in terms of both physical quantities and the revenue volume of trade might result. Normally, however, one would expect the physical quantity of trade to increase, given usual elasticities of export demand, with the increase in the physical quantity of exports exceeding the increase in physical quantity of imports. The dollar volume of trade, however, might fall.

fects on labor income. Generally, foreign investment tends to increase capital income and decrease domestic labor income. However, if there is a desire to reduce the level of foreign investment, the appropriate device would be some type of generally less favorable tax treatment of such investment rather than provisions like DISC and deferral which distort investment allocation within the United States and the location of U.S. production abroad. For theoretically optimal worldwide efficiency in the location of production and investment, however, taxes should be equalized on foreign and domestic investment.

C. Effects on the competitiveness of American industry

Another argument which has been used in support of deferral and DISC is that these tax provisions are required to allow U.S. companies to be competitive in the world market. Specifically, it is argued that deferral is necessary to allow U.S. foreign subsidiaries to be competitive with the subsidiary operations of foreign firms which are not taxed currently by their home countries, and that DISC is necessary to allow U.S. exporters to compete with foreign firms which also enjoy export subsidies.

With regard to deferral, it is observed that most countries either do not tax, or defer taxation of, the foreign earnings of their corporations. Therefore, the corporations of other nations, with whom U.S. multinationals compete, will generally pay taxes only to the host countries with regard to their foreign investments and operations. It is argued that the U.S. policy of deferral puts U.S. multinationals on an equal competitive footing with these foreign subsidiaries with regard to business opportunities in low-tax foreign countries. Repeal of deferral would therefore reduce the competitiveness of U.S. firms in low-tax foreign countries and decrease their foreign activities.

The argument that repeal of deferral would lead to a reduction of U.S. business activities in low-tax foreign countries—interpreted as reduced "competitiveness"—is correct; however, the implications of this observation for tax policy deserve careful consideration. As discussed in section IV above on investment incentives, deferral causes an inducement to U.S. investments, particularly labor intensive investments, to flow into low-tax foreign countries. Elimination of deferral would be expected to remove this inducement and diminish U.S. investments in these countries (see the discussion of repeal effects in section VI below). This reduced foreign investment, combined with the resulting higher output prices on the goods and services produced by such investments, would be seen by U.S. multinationals (correctly from their perspective) as evidence of reduced "competitiveness."

However, the standard of tax policy with regard to business opportunities should be to treat alternative investments uniformly so the tax structure does not cause distortions in the relative attractiveness of investments unless a clear national purpose is served by such nonneutralities.[16] U.S. multinational corporations make investment decisions, not with reference to what other firms of different nationalities are earning on any given investment, but rather with reference to rates of return on alternative investments available to U.S. corporations, including investments in the U.S. domestic economy and U.S. export activities. Thus, the deferral policies of other countries do not directly affect the investment decisions of U.S. multinationals because they do not directly affect the rates of return on alternative investment opportunities available to the U.S. firms.

The deferral policies of other countries do, however, have an indirect effect on the investment allocation of U.S. multinationals. Other countries' policies of deferral, or not taxing their firms' foreign earnings, encourage foreign capital to flow into low-tax countries which tends to decrease the rate of return on invesements in those countries. This lower rate of return on investment opportunities in low-tax countries will affect the investment decisions of U.S. multi-nationals, leading to reduced investment in those countries. However, there is no unilateral U.S. policy response which will perfectly neutralize these indirect investment effects of the foreign tax preferences. If the U.S. does not allow deferral, the foreign country deferral policies will disadvantage U.S. multinationals with regard to their "competitiveness" in low-tax foreign countries. On the other hand, if the U.S. retains deferral of the taxation of foreign income, this policy leads to a disproportionate investment of U.S. capital in low-tax foreign countries.

The situation with regard to DISC as a response to foreign export subsidies is similar. It is important at the outset to distinguish between two types of supposed export subsidies which have played a role in this argument. One is the policy of other countries of rebating indirect taxes, primarily the value added tax, on exports. The second is the existence of export subsidies which are similar to DISC. With regard to the value added taxes and other indirect taxes, it is important to understand that rebates of these taxes do not constitute export subsidies which create disadvantages for U.S. firms.

For example: Suppose that Germany has a 10 percent value added tax on a specific item and New York has a 6 percent retail sales tax. An article produced in the United States and exported to Germany will not be subject to the 6 percent sales tax but will be subject to the 10 percent tax in Germany—just as the identical item produced by a German manufacturer and sold in Germany will be. Similarly, a German good exported to New York will not be subject to the 10 percent value added tax (which is rebated) but would be subject to the 6 percent sales tax. The goods are therefore subject to the same excise tax burden regardless of where they are sold and are thus on an equal competitive footing. Thus rebate of value added and similar indirect taxes on exports and imposition of indirect taxes on imports are consistent with tax neutrality.

However, traditionally direct taxes, such as the corporate income tax, are assumed to reduce the return to capital rather than being shifted forward in higher prices. If direct taxes to fall on capital, then rebating them is not consistent with tax neutrality. As an example, suppose that in the absence of taxation a good would sell for $100 and earn a profit of $20 per unit. Assume a corporate income tax is imposed in one country at a 50 percent rate. If the tax is ultimately borne by capital, then the after tax profit on the $100 will drop to $10 per unit, and the price will remain unchanged. Under this assumption it would not be consistent with tax neutrality to rebate or forgive the income taxes on exports. If the country did adopt a full rebate system, the profit margin on exports would revert to the pre-tax amount of $20 per unit, but the profit margin on other similar goods sold within the home country would remain at the after-tax level of $10 per unit, inducing more investment to flow into export activity until the rate of return were equalized at somewhere between $10 and $20 per unit. This effect would increase the output of export goods and result in a lower price than occurred prior to the imposition of the income tax. The effect would be to make the goods of the country imposing the tax unfairly competitive with goods produced by other countries. Thus, the rebate of direct taxes, such as the corporate income tax, does constitute an export subsidy.

Initially, export subsidies of other countries have two effects on the United States. First, they make foreign exports to third country markets more "competitive," thereby reducing the demand for U.S. exports. Secondly, foreign export subsidies reduce the price of the subsidizing countries' exports to the United States. These induced effects will result in exchange rate adjustments in all countries which will eliminate the initial trade imbalances which occur and tend to offset the initial reduction in export demand and in import prices.

The final results of these changes cannot be predicted precisely because they are dependent on supply and demand elasticities in each country for both imports and exports. However, some potential results can be gleaned from looking at estimates of these elasticities for the United States. Export demand for the United States tends to be relatively price elastic, while import demand elasticities are often estimated at close to one.[17] If import demand elasticity in the United States is precisely equal to one, then there will be no effect on import *revenues* from a foreign nation's export subsidy. As a result, to re-establish the original balance of trade, exchange rate adjustments will return U.S. exports to their original position. The effects on import *quantities* are indeterminate, but are typically expected to be positive and therefore harmful to U.S. import competing industries.[18]

In this situation, just as in the case of deferral, there is no unilateral policy option available to the United States which will perfectly neutralize the effects of the foreign export subsidy. Adoption of a competing export subsidy, such as DISC, would benefit exporters and further harm import competing industries. Conversely, U.S. adoption of a countervailing tariff to protect import competing industries from the subsidized foreign exports would damage U.S. exporters. Theoretically, a combination of all countries adopting countervailing tariffs with income transfers (to return the tariff revenues to the country providing the export subsidy) would restore the original position entirely. However, a much more direct response would be to negotiate the removal of all export subsidies. In this regard, DISC may have had two affects. First, it might be used as a bargaining chip in negotiations. Second, it might be viewed as a further escalation of an export subsidy battle, and its repeal might encourage other countries to remove their own export subsidies. Assessment of

[16] There are, of course, many nonneutral tax provisions which were adopted explicitly to serve national goals, such as the investment tax credit designed to stimulate capital investment.

[17] See, for example, Stephen P. Dresch, et al., Substituting a Value Added Tax for the Corporate Income Tax, National Bureau of Economic Research, 1977, Chapter 6.

[18] This typical expectation can be more easily seen by viewing it from the standpoint of the country granting the export subsidy, where the normal results are that the country ends up with a larger physical quantity of exports than imports compared to previous balances. The opposite effect would therefore occur with its trading partners; i.e., imports would increase more than exports.

these effects is difficult; however, to date the use of DISC as a bargaining chip has not been particularly successful. In 1973, the Dutch, French and Belgian governments brought action under GATT to have DISC declared a violation of GATT rules. The United States brought simultaneous action to have GATT void certain provisions of the French, Dutch and Belgian laws which were charged to constitute export subsidies. The GATT panel which considered these complaints decided that in all four cases the practices were inconsistent with GATT rules. The U.S. Government moved to have GATT accept the decision of the panel; however, the European countries expressed reservations about the findings and no action has been taken.

Before leaving the subject it should be noted that the effects of foreign export subsidies, while detrimental to efficient worldwide trade, are not necessarily harmful to the United States as a whole. While foreign export subsidies may adversely affect some sectors of the U.S. economy, they will typically result in a relatively larger real quantity of imports as compared with real exports. This effect occurs because the export subsidy of the foreign country has turned the terms of trade (relative prices of exports and imports) in favor of other countries. If foreign export subsidies enable the U.S. to receive more goods from the rest of the world while giving up fewer of our own, then in an aggregate sense, the United States will be better off. While the U.S. must be sensitive to the health of its exporters and import competing industries and facilitate any necessary adjustment in world trade patterns, the aggregate economic effects of foreign trade policies are to also be considered.

VI. THE EFFECTS OF REPEALING DEFERRAL AND DISC

Just as the effects of deferral and DISC are uncertain, or at least vary depending on the circumstances, the potential effects of eliminating deferral and DISC are also somewhat incalculable. This is especially true with regard to deferral because there are several alternative ways in which deferral could be terminated or curtailed, each with different potential consequences, and because the elimination or reduction of deferral could elicit behavioral changes on the part of U.S. multinational corporations and/or foreign governments which would wholly or partially offset the effect of the U.S. policy change.[19]

If deferral is to be restricted or eliminated, there are several ways this could be accomplished. One method would be to expand the applicability of Subpart F of the tax code to include virtually all income earned by foreign subsidiaries, rather than just "tax haven" income. This method offers the advantage of using an existing mechanism and also of policy flexibility. Through an expansion of Subpart F, for example, U.S. parent corporations could be taxed on the constructive receipt of a portion of foreign subsidiary earnings (say 75 percent) regardless of actual distribution, thereby curtailing but not eliminating deferral. Alternatively, if deferral is to be fully eliminated, the policy could be accomplished by treating subsidiary earnings the same as branch earnings (on a pro-rata basis according to the percentage of ownership). This policy would allow foreign subsidiary losses to offset domestic source income whereas the Subpart F expansion would not. The two methods would also differ in complexity and administrative approach. Legal restrictions would probably prevent either approach from taxing currently the income of foreign subsidiaries which are not controlled, or owned at least 50 percent, by U.S. shareholders; however, such subsidiaries currently represent only a small portion of foreign subsidiary earnings.

A second design consideration for a change in deferral is whether the change will be accompanied by the requirement that the limitation on the foreign tax credit be computed on the overall or the per country basis. The Tax Reform Act of 1976 requires all corporations presently to use the overall limitation; however, before that Act corporations generally had a choice (with limitations) between the methods (the foreign tax credit limitation on foreign oil and gas income was required to be computed on the overall basis by the Tax Reduction Act of 1975). The primary difference in the two limitations of relevance to consideration of the elimination of deferral is that the overall limitation would allow excess foreign tax credits generated in one country (i.e., tax payments in excess of the U.S. 48 percent statutory tax rate) to offset residual U.S. tax liability in another country (i.e., a country in which tax payments were less than the U.S. 48 percent rate) whereas the per country limitation would not allow such offsets. Thus, other things being equal, the per country limitation would be expected to produce higher revenues if deferral were ended because multinationals would not be able to use excess foreign tax credits from high-tax countries to mitigate the impact of current taxation of earnings in low-tax countries.

An additional design consideration is whether, and to what degree, to allow consolidation in the tax computations of foreign subsidiaries. U.S. taxes could be computed separately for each foreign subsidiary; consolidation could be allowed on a per country basis; or worldwide consolidation could be permitted. Consolidation allows the losses of unprofitable subsidiaries to be offset against the income of profitable subsidiaries in computing income tax, whereas disallowing consolidation forces the losses of the unprofitable subsidiary to be carried over to offset profits of that subsidiary in a profitable year.

The potential impact on the revenue effects of terminating deferral under alternative foreign tax credit limitation and consolidation rules is indicated in Table 2. The estimates in the table assume no behavioral changes on the part of corporations or foreign governments. Thus, they represent "first round" approximations only and not long-run impact estimates.

TABLE 2.—*Termination of deferral with alternative consolidation requirements and with current dividend distribution rate*[20]

[Millions of dollars]

	1976 calendar year tax liabilities
Overall limitation on foreign tax credit:	
Worldwide consolidation of CFCs	365
No consolidation of CFCs	1,100
Per-country limitation on foreign tax credit:[21]	
Country consolidation of CFCs	630
No consolidation of CFCs	1,300

(Office of the Secretary of the Treasury, Office of Tax Analysis, April 6, 1976.)

SOURCE: Reproduced from Hufbauer, Gary and David Foster, "U.S. Taxation of the Undistributed Income of Controlled Foreign Corporations," in Essays in International Taxation: 1976, The Department of the Treasury, December 31, 1976, p. 41.

One additional design consolidation would apply to the termination of both deferral and DISC: how to treat previously deferred taxes. The benefits of deferral and DISC have always been described as deferral of taxation, not forgiveness (although deferral is equivalent to partial forgiveness; see footnote 1, p. 5). Therefore, some tax reform advocates argue that if deferral and DISC are terminated, the deferred taxes from past years perhaps a limited number of years, say three) should become due and payable. Others argue that termination of the tax provisions should be only on a prospective basis, and that deferral of taxation of prior income should continue until it is received by the parent corporation. One solution would be to phase out tax deferral on prior income by requiring a constructive receipt of a portion of previous earnings over a period of several years. The arguments about the desirability of retrospective versus prospective termination of special tax provisions are many,[22] and the decision has significant revenue consequences. If the terminations of deferral and DISC are to some extent retroactive, the revenue impact of the policy changes, at least in the early years, would be considerably higher.

In assessing the impact of the proposed termination of deferral and DISC, one must also consider the probable reaction to the policy changes by U.S. multinationals and foreign governments.[23] This is especially true with regard to deferral because the range of potential reactions is considerable. One possible reaction on the part of corporations would be for foreign subsidiaries to increase the porion of earnings paid to U.S. parent corporations as dividends. Many U.S. multinationals would like to repatriate as much of foreign earnings as possible but also wish to minimize their tax burden. With deferral, repatriation from low tax rate foreign countries involves an additional tax cost unless excess foreign tax credits are available to offset the tax; however, without deferral taxes on the earnings will be paid regardless of repatriation. Increased repatriation would increase the amount of foreign taxes paid in the form of dividend withholding taxes and thereby increase the amount of foreign tax credits claimable by U.S. parent corporations. The potential magnitude of this effect is revealed by a Treasury estimate that if the termination of deferral would lead to a 100 percent distribution rate among foreign subsidiaries, the Treasury could experience a revenue loss (the magnitude depending on the type of limitation on the foreign tax credit) rather than a revenue gain from the policy change. It should be added that repatriation is unlikely to increase beyond the point at which foreign tax credits just offset the additional U.S.

[19] These issues are described very briefly here; for a detailed analysis see Hufbauer, Gary and David Foster, op. cit.

[20] These estimates assume the present dividend distribution rate is maintained.

[21] These estimates assume that the per-country limitation is already in place, and that deferral is then ended. The revenue changes refer only to the additional impact of eliminating deferral.

[22] See, for example, Graetz, Michael J., Legal Transitions: The Case of Retroactivity in Income Tax Revision, University of Pennsylvania Law Review, v. 126, Nov. 1977. pp. 47–87.

[23] The discussion here does not cover the complex, and largely separate, issues involving the taxation of international shipping; see Field, Marcia and Richard Gordon, Tax Treatment of Income From International Shipping, in Essays in International Taxation: 1976, Department of the Treasury, December 31, 1976. pp. 64–98.

tax liability, thus an actual revenue loss to the U.S. Treasury from terminating deferral is unlikely.

A second likely reaction among multinational corporations to the end of deferral would be to shift the capital structure of their foreign subsidiaries away from equity and toward debt financing. This shift would likely occur because the relative cost of equity financing would be increased by termination of deferral (because of higher U.S. taxation of foreign profits). This is a further influence toward higher dividend repatriation from foreign subsidiaries since reinvestment of foreign earnings is a common method of increasing the equity financing. Such a shift to greater debt financing would reduce the revenue productivity of the termination of deferral; however, this reduction could be more than offset by higher domestic profit tax receipts if the reduced equity financing abroad is matched by increased investment at home.

A third possible reaction of U.S. multinational corporations to ending deferral would be to take minority shareholder positions in foreign operations rather than operate abroad primarily through wholly owned or majority owned subsidiaries. The reason for this change in approach would be to challenge the legality of current U.S. taxation of the earnings of a shareholder in a foreign corporation if the shareholder is not, singly or in combination with other U.S. shareholders, a majority owner of the foreign corporation or in control of the corporation. The legality of current U.S. taxation of the earnings of U.S. shareholders in majority owned foreign corporations has been upheld by the courts. However, a precise delineation of what constitutes "control" or majority ownership (50 percent, or greater than 50 percent?) has not been made by the U.S. courts.[24] If deferral were ended this issue would probably be litigated, and some corporations would seek to avoid current U.S. taxation of foreign earnings by "decontrolling" their foreign operations. (There are other pressures in this direction as well; many foreign countries are pressuring the multinationals for greater local participation in their business enterprises.) All of the above potential reactions of U.S. corporations have a common theme: faced with higher effective tax rates on investment earnings in low-tax foreign countries, the multinationals would have a strong incentive to reduce their equity investments in those countries.

The termination of deferral might induce policy shifts in foreign countries as well as among the multinational corporation. The foreign countries which presently tax corporate income at or above the U.S. statutory rate would not be affected by eliminating deferral; however, some less-developed countries, including some countries with which the U.S. has important foreign policy ties (India, Pakistan, Israel, the United Arab Republic), maintain low effective tax rates on corporate income specifically as an incentive to development. These countries would be adversely affected by the termination of deferral and would be expected to react. This reaction could take one of two tax policy directions, in addition to possible political reactions (e.g., pressuring for new tax treaties). One possible tax policy reaction would be for the foreign country involved to change its policies in an attempt to preserve the economic incentives to invest in the country despite the termination of deferral in the U.S. tax code. One way to accomplish this would be to move away from tax relief and toward direct cash subsidies as investment incentives. Through a combination of direct subsidies and higher tax rates a foreign country could insure equal after-tax profits to foreign firms despite termination of deferral. Alternatively, foreign governments could merely increase their tax rates on profits of U.S. corporations (through a dividend withholding tax, for example) so that any increased tax on the foreign enterprise would accrue to the host countries rather than the U.S. Once deferral were terminated in the U.S. tax code, such a foreign tax increase, at least up to an effective rate of 48 percent, would be essentially costless to the corporations involved and thus, one of these two reactions on the part of foreign governments would be highly likely.[25]

Given the above discussion, the economic impact of terminating deferral and DISC is obviously not known with certainty. Foreign governments would be expected to make some statutory changes designed to minimize the adverse impact of the U.S. policy change or capture the increased tax revenue for themselves. The direct result of the combined policy changes would be to increase the effective tax rates on investments by U.S. companies in export activities and in operations in low-tax foreign countries. The reduction in marginal investment in some developing countries may suggest some consideration of offsetting revisions in the U.S. foreign aid program.

As discussed in section IV above, the most important impact of this change would be the influence on the allocation of U.S. investment capital. The repeal of deferral, as a separate policy, would reduce U.S. investments in low-tax foreign countries and increase the relative rates of return on investments in high-tax foreign countries, investment in the U.S. for export, and investment in the U.S. for the domestic market. Repeal of DISC, as a separate policy, would reduce the rate of return on investment in the U.S. for export production; it would increase the relative profitability of investment in the U.S. economy for domestic production and foreign investment in both high-tax and low-tax countries. The two policies in combination would, therefore, be expected to increase investment in the U.S. economy for domestic production and increase investment in high-tax foreign countries. However, the effects of the combined policies on U.S. export investment and foreign investment in low-tax countries are offsetting, and the overall result is uncertain. While these issues have been the subject of economic research, the present level of development of that research does not permit reliable estimation of the overall investment shifts which would occur as a result of repealing deferral and DISC. In general terms, however, repeal of deferral and DISC would reduce the tax induced distortions affecting international investment decisions (although not eliminate them) and thereby increase the overall economic efficiency of investment allocation, resulting in somewhat higher levels of economic growth, real income, and productivity.

The potential outcome for the tax system of repealing deferral and DISC is also not known with certainty. While two non-neutral tax provisions would be removed, tax induced influences on foreign trade and investment decisions would remain. Additionally, while two so-called "tax expenditure" items would be eliminated, deferral amounting to approximately $410 million per year and DISC equaling about $1.2 billion annually, the increase in tax collections might be considerably different from these amounts. The tax rise resulting directly from repeal of deferral could be nil, depending on responses by multinational corporations and foreign governments. The tax rise resulting directly from repeal of DISC could be higher or lower than the tax expenditure estimate depending on the net result of the investment shifts. Additionally, some rise in tax revenue would be expected to result from the higher level of investment in domestic production induced by the repeal of deferral and DISC.

[24] For further detail on the legal history of this issue, see Hufbauer and Foster, op. cit., pp. 19–21.

[25] For example, assume a U.S. multinational operates in a foreign country with no income tax, earns $100 of profit, and repatriates none of its foreign earnings. With deferral the after-tax profit is $100 (ignoring any future tax liability); without deferral the firm would owe a tax of $48 to the U.S. However, the foreign country could offer the company an annual subsidy of $100 and tax the profits of the company at a 50 percent rate. This would leave the company with $100 of after-tax profits and a $100 foreign tax credit which will fully offset the U.S. tax liability of $96 on the $200 of foreign earnings.

THE AMERICAN CONTRIBUTION TO PANAMA'S PROSPERITY

Mr. HATCH. Mr. President, one of the most frequently repeated arguments in support of the proposed Panama Canal Treaties is the claim that Panama is a "colonial enclave" and a victim of U.S. "exploitation." This argument, reminiscent of Marxist dialectics, fails to take into account the fact that Panama has received very substantial benefits because of U.S. investments in the zone, to say nothing of American largesse in terms of foreign aid. Contrary to the false impressions created by the State Department, these benefits amount to a solid contribution to every major facet of Panama's economy.

A recent letter appearing in the Baltimore Sun does much towards elucidating, in a dispassionate and factual manner, this little publicized aspect of our relationship with Panama. I ask unanimous consent that the letter, by Mr. Martin D. Tullai of Brooklandville, Md., be printed in the RECORD for the benefit of my colleagues.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Jan. 28, 1978]

AMERICAN BENEVOLENCE IN PANAMA

Sir: As the U.S. Senate prepares to face its moment of truth regarding the Panama Canal Treaties, there seems to be a revival of the absurd contention that the U.S. has been the aggressive exploiter of Panama. Myths like this, repeated often enough, die hard. And one would be remiss to allow them to stand without refutation, for a dispassionate appraisal of the facts reveals otherwise.

Although no more than a pestilential swamp in 1903, Panama is today a fairly prosperous nation almost entirely due to our generosity and monies that poured into the region because of the canal. Panama has been and still is the greatest single beneficiary of the canal enterprise. Harold R. Parfitt, governor, Panama Canal Zone, has testified that, "the presence of the Panama Canal has infused much money into the Panamanian economy, and is responsible for the high standard of living in that part of Central

America." This claim is not difficult to substantiate. Consider some facts:

(1) There is an inflow to the economy of Panama of between $240 million and $250 million annually. In addition, it receives an annuity of $2,328,000. The initial annuity was set at $250,000. In 1936, this was increased to $430,000, it was raised again in 1955 to $1,930,000. Today it stands at the aforementioned $2,328,000.

This is not a rental fee as some have mistakenly construed. It was an annuity designed to assume the annual franchise payment which the Panama Railroad formerly paid to Colombia. It did not affect the status of the Canal Zone, but was the obligation of the railroad to Colombia. This obligation was now assumed by the United States which paid Panama the annuity or "compensation." This was not a rental or lease—these words do not appear in the treaty, but significantly, the term "grants" appears 19 times.

(2) The canal is larger than any other single source of employment in Panama. About 10,000 people—72 per cent of the total work force of the Panama Canal Company and the Canal Zone Government—are Panamanian nationals, thousands more work for the U.S. military.

(3) Panama has the highest per capita income in all of Central America ($1,375) and stands fourth of 19 nations in all of Latin America. It has twice the per capita wealth of Colombia, the nation from whom she declared her independence.

(4) The U.S. has favored Panama with more per capita foreign aid than any other country in the world. Between 1947 and 1973, this amounted to $342 million.

(5) American businessmen have contributed to Panama's economy with investments approximating $250 million.

(6) Until 1975, Panama had one of the lowest inflation rates in Latin America.

(7) In addition to direct economic boosts, Panama has gained much from a variety of beneficent projects. These include a bridge and highway across the Canal, built at U.S. expense to link the two parts of Panama; the country's deep water ports are U.S. built and operated; its principal international airfield was U.S. built, the U.S. constructed its transisthmian road and railroad; Panama's water supply comes largely from reservoirs and purification systems constructed by the U.S. its sanitation system was primarily the result of U.S. efforts; and U.S.-owned merchant ships flying Panama's flag of convenience add to her economic well-being, just as tourism, attracted by the Canal, adds many dollars to the merchants' coffers.

(8) The picture of health and social statistics is also quite striking. After the French failure, due largely to tropical fevers, U.S. physicians and scientists conquered the endemic, devastating diseases. They sanitized Panamanian swamps and established an extremely effective health system. Some results of these programs point up their successes:

Panama's infant mortality per 1,000 live births in 1970 was 3.0—lowest in all of Latin America, Argentina's being 60.1, Brazil's 85 to 95, Boliva's 159.0 and Haiti's 149.1; Panamanians have the fourth best life expectancy in Latin America—66.5 years; at 5.3 per thousand, its mortality rate in 1974 was the second lowest in Latin America; Panama's literacy rate of 84.0 stands fifth in all of Latin America—well above fourteen other nations of that region.

These obvious benefits have made Panama, despite its unstable and dictatorial government, one of the most favored nations in all of Latin America. Far from being exploited, it is evident that Panama's well-being has been greatly enhanced by the American presence in the Canal Zone. The canal is Panama's greatest single revenue source.

Hanson Baldwin, noted military expert and writer for the New York *Times*, has declared: "The exploitation myth is just that: a propaganda ploy fostered by Panama's politicians, by Castro's Cuba and by the Soviet bloc to help force the United States out of the zone. It has no basis in fact."

MARTIN D. TULLAI.

PROFESSOR BERGER'S REPLY TO LOUIS POLLAK

Mr. HATCH. Mr. President, as my colleagues are aware, I have submitted an amendment to the Panama Canal Treaties which provides that these agreements shall enter into force only after both houses of Congress have enacted legislation authorizing the transfer of Canal Zone territory and property to the Republic of Panama.

This amendment is necessary because there are, in my judgment, no adequate precedents to support the assumption that the Chief Executive has the authority to dispose of U.S. territory by treaty alone. The testimony of State Department and Justice Department representatives, as well as constitutional scholars appearing before congressional committees, has persuaded me that the territorial clause of the Constitution, which gives Congress exclusive power over the disposal of U.S. territory, would be violated if the House of Representatives is bypassed regarding the transfer of the zone to Panama.

Especially noteworthy in this regard is the testimony of the eminent constitutional scholar, Raoul Berger, whose searching analysis shows, beyond peradventure, that these treaties, as presently drafted, seek to expand the treatymaking powers of the Chief Executive beyond the limits of the Constitution—see CONGRESSIONAL RECORD, January 26, 1978, pages S596–S599.

On January 30, 1978, however, my distinguished colleague from Iowa (Mr. CLARK) called to the Senate's attention an interesting paper, written by Dean Louis Pollak of the University of Pennsylvania Law School, which purports to demonstrate the fallacies of Berger's testimony. Unmoved and unshaken, Professor Berger finds that Dean Pollak's critique simply confirms his own belief that there is no constitutional basis for the extraordinary exercise of Presidential power that is contemplated under these treaties.

Professor Berger has favored me with a copy of his reply to Pollak's paper which I would like to share with my colleagues. Of particular significance is Berger's observation that the Pollak paper has added confusion to the controversy by misstating the constitutional issue. As Senator CLARK pointed out one of Pollak's important conclusions is "that the discussion in the Constitutional Convention of 1787 confirms the settled understanding of our treatymakers and of the Supreme Court that territory belonging to the United States may be ceded by treaty." This conclusion detracts little from the strength of Berger's analysis, of course, for the simple reason that no one—including Berger—has denied that the treaty power extends to the disposal of U.S. territory. The real issue, as Berger explains, is whether the Chief Executive has the power to dispose of U.S. territory by a self-executing treaty, thereby circumventing Congress.

Mr. President, I believe that any Senator who fairly and impartially studies the constitutional question that is before us, and subjects the different interpretations of the precedents offered by Berger and Pollak to an objective and forthright analysis, will conclude that the weight of authority clearly supports the view that these transfers under the treaties cannot take effect until Congress has approved them.

To assist the Senate in its consideration of this matter, Mr. President, I ask unanimous consent that Raoul Berger's response to Dean Pollak's paper be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

To: Senator Dick Clark.
From: Raoul Berger.
Re Panama Canal Treaty: Dean Louis Pollak's Reply.
Date: February 1978.

Dean Louis Pollak has favored me with a copy of his critique of my statement before the Subcommittee on the Separation of Powers addressed to you under date of January 19, 1978. I am honored by his expressions of esteem, and his sentiments are warmly reciprocated. High regard for his attainments, however, may not inhibit the expression of scholarly differences on a great constitutional issue; it requires careful study of the alleged infirmities that have persuaded him that I am in error.

At the outset I must disclaim the version of the issue that he attributes to me, namely that the Panama cession "cannot be effectuated by treaty, but only by statute." My objection is to a "self-executing" treaty because Article IV of the Constitution requires Congress' consent to the disposition.

The starting point of analysis must be the Constitution itself not what others have said about it. A great British scholar, W. S. McKechnie, faced by contrary opinion by respected scholars, stated, "the truth of historical questions does not depend on the counting of votes or the weight of authority" but rather on the historical record.[1] So too, in the construction of the Constitution, the document is always here to speak for itself. On this score I cannot improve upon John C. Calhoun, then a Congressman, whose remarks in the House respecting the treaty power are quoted *in extenso* by Dean Pollak, stating that Calhoun explained "with more precision than either [Marshall or Story] achieved, the scope of the treaty power and the constraints which other parts of the Constitution impose upon its exercise." Said Calhoun: "Whatever limits are imposed in those general terms ought to be the results of the construction of the instrument." The treaty power Calhoun continued is competent "to regulate all subjects" that require "the consent of another nation,"

provided, and here are its true limits, such regulations are not inconsistent with the Constitution. If so they are void. No treaty can . . . *do that differently which is directed to be done in a particular given mode.* (emphasis added).

Quoted Pollak 7–8. In terms of the present issue, a treaty may not "dispose" of the

Footnotes at end of article.

Panama Canal without the consent of Congress because Article IV confers that power on Congress.

Here Calhoun applies a rule of construction—the specific governs the general—upon which the administration has refrained from comment, and which remains unmentioned by Dean Pollak: "A broad statutory provision will not apply to a matter specifically dealt with in another part of the same act." [2] Then there is the complementary rule—express mention implies exclusion of the unmentioned—or as held by the Supreme Court, "When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode." [3] Although the exclusion of the treaty power was not before the Court, it tacitly ratified the application of the foregoing rules when it stated that Article IV *"implies an exclusion* of all other authority over the property which could interfere with this right . . . ." [4]

From the beginning such rules of construction were respected; Justice Story recommended the "excellent summary of the rules for construing statutes" in Bacon's Abridgment.[5] If there is any doubt as to the legislative intent—Deputy Assistant Attorney General Ralph E. Erickson testified in 1971 (before Panama became a political issue) that the issue "is not altogether free from doubt." [6]—such rules serve as a guide to construction. Such "doubt" counsels against invasion of a power explicitly conferred on Congress; a clear case for the "concurrent power" is needed in the teeth of the express grant.

The treaty power is given to the President "with the advice and consent of the Senate." Without question the House is thereby excluded from participation in treaty making. By parity of reasoning, the "Congress shall have power to dispose" equally bars its exercise by the President and Senate. It is no adequate answer to say, as does Dean Pollak, that the "Congress shall have power" phrase "syntatically, does not preclude concurrent jurisdiction in the President and Senate as treaty makers," (Pollak 4), for grammatical syntax must yield to established canons of construction which show that Atricle IV "implies an exclusion of all other authority." One who disputes the results to which traditional canons lead has the burden of proof to show they are inapplicable.

Dean Pollak leads off with an appeal to John Marshall's remarks as a young Congressman on the Jay Treaty. In considering these and other treaty remarks, it is constantly necessary to distinguish between the treaty making process and any subsequent exercise of power by the House. That distinction was clearly drawn by Marshall. Washington had submitted the treaty for ratification to the Senate along with some instructions to the Miniser who had negotiated it; but he refused them to the House on the ground that it had no right to participate in treaty making.[7] Among the objections by the House, to quote Albert Bevereridge's "Life of John Marshall," invoked by Dean Pollak, were that though the "treaty regulated commerce . . . the House had not been consulted," that though "the raising and expending of public money must originate in the House," it had been ignored. The question raised, said Beveridge, was "whether a commercial treaty, or an international compact requiring an appropriation of money . . . could be made without the concurrence of the House as well as the Senate."

To this Marshall replied that it was " 'more in the spirit of the Constitution' for the National House to refuse support after ratification than to have a treaty 'stified in embryo' by the House passing on it before ratification." [8] Exclusion of the House from treaty making did not mean for Marshall that the House would be denied its function after ratification. Dean Pollak reads this as a "tactical concession" that was "not at odds with Marshall's constitutional definition of the potential scope of the treaty power." (Pollak 3n). If this was merely a "tactical concession" then his entire statement was a political "tactic", for Marshall gave no clue as to when he spoke as politician and when as constitutional sage.

Attorney General Griffin B. Bell conceded in his statement before the Senate Foreign Relations Committee, September 29, 1977, pp. 4–5, that the Senate and President may not "bypass the power of Congress and in particular the House of Representatives" in the "raising of revenue or expenditure of funds." What distinguishes "all bills . . . shall originate in the House" from "The Congress shall have power to dispose?" The thinness of the distinction is underlined by the State Department's concession that "treaties may [not] impose taxes." [9] Nothing in the Article I, § 8(1) "The Congress shall have power to lay and collect taxes" distinguishes it from the Article IV "The Congress shall have power to dispose."

JUDICIAL DECISIONS

Boundary dispute cases

The "boundary dispute" cases invoked by the administration are tacitly abandoned by Dean Pollak, presumably because, as he quotes Justice Story:

"In the case of a contested boundary, there is no pretence to say that an ascertainment of the true boundary involves the question of cession (Pollak, Appendix A, p. 3).

This was the ground upon which I dismissed those cases.

But Dean Pollak's reference to Story was for the purpose of showing his awareness "that the treaty power includes authority to cede American Territory. . . ." Governor Edward Everett of Massachusetts had written Story with respect to the Northeastern boundary, that in his words presented "a question not of ceding an admitted portion of Maine, but of ascertaining the boundary between the British territory and ours." (Pollak, Appendix, p. 1) As we have seen, Story concurred in this view. Everett sought Story's advice regarding a resolution by the Massachusetts legislature "That no power delegated by the Constitution *to the government* of the United States authorizes them to cede to any foreign nation any territory lying within the limits of either of the States of the Union." Id., (emphasis added).

Of course, Story rejected this drastic restriction, and added that Marshall "was unequivocally of opinion, that the treaty-making power did extend to cases of cession of territory, though he would not undertake to say that it could extend to all cases. . . ." Id. 3. Presumably what Marshall had in mind were the boundary disputes that called for settlement in his time. I would not deny that the President and Senate may enter into a treaty for the cession of territory; what is disputed is whether such a treaty may be "self-executing," without the subsequent consent of Congress under Article IV. Nor can Story's letter be read to repudiate the statement in his Commentaries that "The power of Congress over the public territory is clearly exclusive and universal." [10]

Indian treaty cases

(1) Dean Pollak follows the administration view of *Jones* v. *Meehan*, 175 U.S. 1, 10 (1899), quoting "that a good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe, without any act of Congress." (Pollak 10). But there the grant was made by the tribe, not the United States. The treaty had "set apart from the tract hereby ceded [by the tribe] a reservation of six hundred and forty acres" for an individual Indian, and the issue was what kind of title did he take. The Court, as I showed, quoted from an opinion of Attorney General Roger Taney:

"These reservation are *excepted* out of the grant made by the treaty, and *did not therefore pass with it*; consequently the title remains as it was before the treaty, that is to say, the lands reserved are still held under the original Indian title."

The Court held that "the reservation, unless accompanied by words limiting its effect, is equivalent to a present grant of complete title in fee simple." [11] Dean Pollak states that "the Taney opinion . . . was discussed by the Court and rejected as not controlling." (Pollak 11n). Only a not relevant portion of the opinion was held not controlling, the Taney clause immediately following the above quotation: "and therefore 'the Indian occupants *cannot convey them to individuals*, and no valid cession can be made of their interest but to the United States.' " (emphasis added).

Within a year of Taney's opinion, said the Court, Congress in a new Act "omitted the prohibition, contained in former statutes, of purchase or lease from 'any Indian' " and adopted an "altered form." Hence the Court concluded that "Congress did not intend that there should thenceforth be a general restriction upon the *alienation* by individual Indians of sections of land *reserved to them* respectively by a treaty with the United States. 175 U.S. at 12–13 (emphasis added.) In short, only that portion of Taney's opinion that denied to individual Indians the right to alienate their property was deemed "not controlling," because superseded by an Act of Congress; the power of Indian tribes to "reserve" portions of ceded property to individual Indians was left untouched.

It is not necessary to go into the Court's discussion of the nature of the reserved title, e.g. was it legal or equitable, arising from the fact that Indian lands were held in common; there were no individual titles. Suffice it to set out the Court's quotation from *Doe* v. *Wilson*, 25 How. 457, 463–464 (1859):

"The Pottawatomie nation was the owner of the possessory right of the country ceded, and all the subjects of the nation were joint owners of it. The reservees took by the treaty, directly from the nation, the Indian title." 175 U.S. at 15.

The continued validity of Taney's statement that title "reserved" to individual Indians does not pass to the United States may be gathered from *Francis* v. *Francis*, 203 U.S. 233, 238 (1906), which cites *Jones* v. *Meehan* for the proposition that when a treaty makes "a reservation of a specified number of sections of land . . . the treaty itself converts the reserved land into individual property."

(2) Apparently Dean Pollak concurs with my reading of *Percheman* v. *United States*, 32 U.S. (7 Pet. 0 51 (1833). *Percheman* was cited by Attorney General Bell to show that "the Court held self-executing certain clauses of the Florida Treaty with Spain which related to the regulations of property rights in newly acquired territory." [12] Those were property rights of individuals, not of the United States, and therefore irrelevant to Article IV. The treaty secured to private individuals grants that theretofore had been made to them by the Spanish King, being akin to "reserves" of the Indian treaties. Dean Pollak agree's that "Marshall held that the Treaty of Spain of 1819 had of its own force confirmed the titles of *pre-treaty owners* of Florida land ceded to the United States

Footnotes at end of article.

by the treaty." (Pollak 12n.; emphasis added).

But Dean Pollak states that *"Percheman* held that the interpretation of the 1819 treaty approved in *Foster* v. *Neilson,* 27 U.S. (2 Pet.) 253 (1829) (a case relied on by Mr. Berger . . .) was in error." Id. I cited *Foster* for the statement that "the ratification and confirmation which are promised must be by the act of the Legislature," i.e. Congress. *Percheman* held that no ratification was required because the Court discovered that the Spanish counterpart version of the treaty dispensed with all ratification, a fact not known to the *Foster* Court. 32 U.S. at 89. This does not repudiate the *Foster* holding that if ratification *is* required, it falls to Congress.

(3) There is no need to belabor Dean Pollak's mention of *Holden* v. *Joy,* 84 U.S. 211, 247 (1872), for Attorney General Bell granted that at best it was a "strong dictum," noting that "The Court conceded that the question was immaterial in the case because Congress has actually implemented and ratified that particular treaty." [13] Although Dean Pollak relies on dicta running in his favor, he rejects as dicta judicial statements that the Congressional power to dispose" is "exclusive." (Pollak 14). In fact the latter are not dicta, but were essential to decision as I shall prove by Dean Pollak. He recognizes that *Sioux Tribe* v. *United States,* 316 U.S. 317 (1942), "properly held presidential power over federal lands to be subordinate to the Congressional power," consequently the Court's reference to Congress "exclusive" power was immediately relevant to decision, not dictum. So too, *Wisconsin Central R.R. Co.* v. *Price,* 133 U.S. 496, 504 (1890), which stated that Article IV "implies an exclusion of all other authority over the property . . ." held, according to Dean Pollak, "state authority over federal lands to be subordinate to Congressional authority," again relevant to decision. Such holdings were earlier expressed by Justice Story as a general principle: "The power of Congress over the public territory is clearly exclusive and universal. . . ." [14] True, that principle has yet to be applied to the treaty power (as is equally true of Dean Pollak's citations), but it derives not from dicta but from statements essential to decision, whereas *Holden* v. *Joy* concededly is pure dictum. For this reason, I consider the cases I cite as more worthy of credence than the dictum of *Holden* v. *Joy.*

(4) Repeatedly Dean Pollak dwells on the "classic exposition," the "classic formulation of the [treaty] power in *Geofroy* v. *Riggs,* 133 U.S. 258, 267 (1890)." (Pollak 4n., 12). That case had not the slightest bearing on the effect of Article IV for it had nothing to do with either the disposition or regulation of government property. Under a treaty providing for reciprocal rights of inheritance by citizens of the respective countries, it was held that a Frenchman could take land by descent in the District of Columbia. In Dean Pollak's view, *"Geofroy* v. *Riggs* is a particular illustration of the capacity of treaties to regulate matters delegated to Congress: That case applied to rights of inheritance in the District of Columbia, notwithstanding that Article I, § 8(17) confers the power of 'exclusive legislation in all cases whatsoever' relating to the District." (Pollak 12n.). That still does not stretch to "regulation" by treaty of United States property and therefore in nowise diminishes Congress' power to dispose of it. Moreover, the treaty of 1853 conferred the right only in States "whose existing laws permit it" (the Court held the District a State for purposes of the treaty), and though the Act of March 7, 1887, forbade ownership of land in the District to aliens, it excepted the disposition of lands "secured by existing treaties" to them,[15] which the Court held included realty "acquired by inheritance." 133 U.S. at 272. Thus the treaty did not pretend to override local law to the contrary, and Congress had consented to application of the treaty to inheritance by Frenchmen.

(5) Finally, Dean Pollak summons *Missouri* v. *Holland,* 252 U.S. 1416 (1920), for the proposition that the treaty makers can "empower Congress to enact legislation going beyond its specifically enumerated grants of power." (Pollak 18). That, with all due respect, is a startling proposition. For the Founders, in the words of George Nicholas in the Virginia Ratification Convention, held that no treaty can be "inconsistent with the delegated powers," [16] let alone confer additional, undelegated powers. Lee assured that Convention that "When a question arises with respect to the legality of any power, exercised or assumed by Congress [the question will be] . . . is it enumerated in the Constitution? . . . It is otherwise arbitrary and unconstitutional." [17] The reservation of undelegated powers to the people by the Tenth Amendment was not made subject to treaty; additional power requires a grant from the people by amendment. Madison, chief architect of the Constitution, said, "Had the power of making treaties, for example, been omitted, however necessary it might have been, the defect could only have been lamented, or supplied by an amendment to the Constitution." [18]

For present purposes it suffices that *Missouri* v. *Holland* had nothing to do with the disposition or regulation of United States property. It arose out of a State challenge to a treaty with Great Britain for the protection of migratory birds which annually traversed parts of United States and Canada. Justice Holmes stated that "The whole question is whether it is forbidden by some invisible radiation from the general terms of the Tenth Amendment." Since, he held, "Wild birds are not in the possession of any one; and possession is the beginning of ownership," [19] the State could assert no property interest, and by the same reasoning, neither could the United States *Missouri* v. *Holland* is therefore wholly irrelevant to the power by treaty to dispose of property of the United States.

THE LEGISLATIVE HISTORY

Here I ruefully confess error in one particular, though it does not vitiate my basic analysis. Dean Pollak correctly charges me with an erroneous inference drawn from the Morris-Sherman remarks, which were not in fact "subsequent" to the discussion of the treaty power." (Pollak 16–17). I myself had caught the error and confessed it before the House Committee on Merchant Marine on January 18, 1978, a copy of which statement is attached hereto. As I there explained (p. 11):

"When [the Attorney General's statement before the Foreign Relations Committee] reached me late of a Saturday afternoon, as appears in my own Senate statement, I had only about two days to prepare my comments before having them typed and forwarded to the Senate Committee. Pressure of time conduces to oversights, and I was mistaken respecting a time sequence and in following the Attorney General's erroneous identification of a motion made by Williamson and Spaight with one he attributed to Sherman and Morris Leisure for reflection and further research has since enabled me to correct such inaccuracies and to sharpen my analysis."

Such oversights are regrettable, even though induced by undue pressure of time and accentuated by lack of secretarial service and a corps of research assistants such as the administration can devote to the task.

The Attorney General was guilty of a similar oversight in emphasizing a remark on the treaty power by George Mason during a debate on whether the Senate could share in originating revenue bills.[20] For Mason spoke *before* the Article IV progenitor had been proposed and referred to the Committee on Detail, and of course before the resultant "disposition" provision was debated./2 M. Farrand, Records of the Federal Convention of 1787, 297, 321, 324, 466 (1911). Manifestly Mason's earlier remark hardly expressed the view that the treaty power overrode the as yet unborn "power to dispose."

There is no need to repeat the fresh analysis on more thorough research that is set forth at pages 12–17 of my attached statement before the House Committee on Merchant Marine. Throughout, all that was under discussion was the performance of the Senate's own "advice and consent" function, whether it should turn on more or less than a two-thirds vote, without a hint of desire to curtail the House function under Article IV. It was one thing to insist that the Senate, in the performance of its own function, must act by a two thirds vote, and something else again to court the wrath of those who placed their faith in the more democratic House and were already displeased by the exclusion of the House from treaty making, by further reducing its role under Article IV. There is not, I repeat, the slightest hint in the history of an intention to do so. More is required to deprive the Article IV language of its clear meaning.

It remains to comment on Dean Pollak's rejection of my reminder that what the President seeks today with the "advice and consent" of the Senate he may next time seek to accomplish single-handedly by executive agreement. (Pollak 19n.) Doubtless you are familiar with the rapid proliferation of executive agreements in recent years, a label pasted on a treaty to avoid the necessity of submission to the Senate.[21] When Senator J. William Fulbright was chairman of the Foreign Relations Committee, he complained that the State Department submitted treaties for "the most trivial matters" but declined to submit them for agreements respecting Spanish bases and the like. As he ironically told Secretary of State Rogers, "something as important as stationing troops and the payment of millions of dollars is proper for an executive agreement." [22]

Dean Pollak dismisses my concerns "about the aggrandizement of executive authority" as

"not pertinent—indeed, they may properly be termed impertinent—when a President, acting in meticulous conformity with the procedure specified in the Constitution, has asked the Senate to fulfill the partnership role in making of treaties which the President expressly contemplates." (Pollak 19n.)

Since fulfillment of that "partnership role" (for which I broke more than one lance) was many times frustrated by attaching the "executive agreement" label to treaties, I may be pardoned for being skeptical about the rake's reform. Permit me to close with the words of Alexander Hamilton, the great proponent of expansive presidential power:

An agent cannot new model his own commission. A treaty cannot transfer the legislative power to the executive department.[23]

FOOTNOTES

[1] W. S. McKechnie, Magna Carta 135 (1905).

[2] *Le Page* v. *United States,* 146 F. 2d 536, 538 (8th Cir. 1945); see also *Ginsberg & Son* v. *Popkin,* 285 U.S. 204, 208 (1932); *Swiss Natl. Ins. Co.* v. *Miller,* 289 Fed. 570, 574 (D.C. Cir. 1923).

[3] *Botany Worsted Mills* v. *United States,* 278 U.S. 282, 289 (1929) (emphasis added).

T.I.M.E. v. *United States*, 359 U.S. 464, 471 (1959): "we find it impossible to impute to Congress an intention to give such a right to shippers under the Motor Carriers Act when the very sections which established that right in Part I [for railroads] were wholly omitted in the Motor Carrier Act."

[4] *Wisconsin Cent. R.R. Co.* v. *Price County*, 133 U.S. 496, 504 (1890) (emphasis added); *Sioux Tribe of Indians* v. *United States*, 316 U.S. 317, 326 (1942); *Swiss Natl. Ins. Co.* v. *Miller*, 289 Fed. 571, 574 (D.C. Cir. 1923).

[5] 1 J. Story, *Commentaries on the Constitution of the United States*, 305 n.2 (5th ed. 1905).

[6] Hearings before the House Subcommittee on the Panama Canal on "Treaties Affecting the Operation of the Panama Canal (92d Cong. 2d Sess.) p. 95 (December 2, 1971).

[7] Berger, *Executive Privilege* v. *Congressional Inquiry*, 12 U.C.L.A. L.Rev. 1044, 1085–86 (1965).

[8] 2 A. Beveridge, *Life of John Marshall*, 133–135 (1916).

[9] Hearings on the Panama Canal Treaty before the Senate Committee on Separation of Powers (95th Cong. 1st Sess.) Part II, p. 25 (July 9, 1977).

[10] Supra n. 5, 2 story at p. 200.

[11] *Jones* v. *Meehan*, 175 U.S. 1, 12, 21 (emphasis added).

[12] Statement before the Senate Foreign Relations Committee, September 29, 1977, p. 10.

[13] Id. 9.

[14] Supra n. 5 at 200.

[15] 133 U.S. at 267–271. The 1887 Act prohibited alien ownership of land in the District of Columbia "Provided that the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries." 24 Stat. 476. Like Dean Pollak, I had mistakenly assumed that "local law withheld the right." My statement before the Senate Subcommittee on the Separation of Powers, November 13, 1977, p. 8.

[16] 3 J. Elliot, *Debates in the Several State Conventions on the Adoption of the Federal Constitution* 507 (2d ed. 1836).

[17] Id. 186. For additional citations, see R. Berger, *Congress v. The Supreme Court* 13–15 (1969).

[18] 2 Annals of Congress 1900–1901 (February 2, 1791).

[19] 252 U.S. at 433–434.

[20] Supra n. 12 at 6.

[21] Professor Philip Kurland asked, "Should the Constitution really be read to mean that by calling an agreement an executive agreement rather than a treaty, the obligation to secure Senate approval is dissolved." Kurland, The Impotence of Reticence, 1968 Duke L.J. 619, 626.

[22] These and other citations are set out in R. Berger, *Executive Privilege: A Constitutional Myth* 142 (1974): A detailed discussion of executive agreements will be found at pp. 140–162.

[23] "Letters of Camillus," 6 A. Hamilton, Works 166 (Lodge ed. 1904).

SENATOR HUBERT HUMPHREY

Mr. HART. Mr. President, Hubert Humphrey surely led one of the richest and most enlightened political careers in the history of our Nation. As Vice President Mondale said, it is almost impossible to speak of him in the past tense. His vitality, his boundless energy, and his interest in virtually everything that might improve the condition of his fellow man, will long pervade this Chamber.

Senator Humphrey's political legislative accomplishments are well known to us all. His legacy of achievement in social and economic legislation and in foreign affairs is unmatched in the Senate. What is more difficult to convey is the sense of personal warmth, courage, and genuine affection that he generated.

Although his voice has been stilled, his spirit remains to sustain us and future generations of Americans. We learned from Hubert Humphrey that America can be stronger and wiser, that America can learn from its past and look forward with confidence to a better and brighter future.

Not long before his death he said that more than anything else, he wanted respect. Respect is a quality that cannot be given, but must be earned. Hubert Humphrey earned more than our respect, he earned our admiration, gratitude friendship, and love.

His counsel was sought and adhered to by many of us, as well as by the leaders of this country, and leaders abroad. I know that I will deeply miss the valuable guidance he provided and the wisdom he shared. In both victory and defeat his spirit set an example that should be an inspiration to us all. His devotion to public service set a standard to which every one of us should strive.

ACHE INDIANS CF PARAGUAY

MR. ABOUREZK. Mr. President, The continuing genocide and persecution of the Ache Indians of Paraguay has not and will not go unnoticed, particularly when the Congress will have the opportunity to soon review U.S. assistance programs to that country. Prof. Richard Arens who has long studied the tragic case of the Ache Indians has written still another report on his most recent visit to Paraguay and what he found there. I think my colleagues will find his impressions interesting and therefore, Mr. President, I ask unanimous consent to have article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Inquiry, Jan. 2, 1978]

DEATH CAMPS IN PARAGUAY

(By Richard Arens)

The Ache Indians of Paraguay, a peaceful and primitive tribe that has lived for centuries in the jungles of South America, hunting and gathering food, is being systematically exterminated. As a matter of official policy, the Ache have been hunted like animals; the survivors of these manhunts have been sold into slavery or forced onto reservations. Today, their tribe numbers no more than 1000, and as a result of the continuing genocidal policies of the government of Paraguay, is in danger of extinction.

What have the Ache done to deserve this fate? In recent years Paraguay has experienced something of an economic boom. In 1965 and again in 1968, roads were cut through the jungle, making it more accessible and vastly increasing land values. Large lumber and cattle interests began moving into the interior of Paraguay. When this happened, as one observer has noted, the Ache became "inconvenient." Quite simply, they became an obstacle to economic development. And, as the corporations and their willing accomplice, the government of Paraguay, saw it, the Indians had to be removed.

The official policy was to "sedentarize" the Ache on reservations. Unofficially, the Paraguayan government set about to remove the Indians from their land by any means necessary. It is well documented that the man in charge of the "sedentarization" project, Manuel de Jesus Pereira, conducted manhunts against the Ache. Bands of Ache were slaughtered by rifle and machete, and the survivors were sent to reservations. Conditions on these reservations have been described as comparable to those in Nazi concentration camps.

These basic facts were first brought to the world's attention in 1973 by the German anthropologist Mark Münezl in a publication of the International Work Group for Indigenous Affairs (IWGIA), an organization based in Copenhagen. The International Commission of Jurists and the Anti-Slavery Society of Great Britain found his report persuasive, and the International League for the Rights of Man, as well as the Roman Catholic Church of Paraguay, denounced what they labeled as a campaign of genocide against the Aché Indians. Still, the atrocities continued, and the Paraguayan government continued to deny their existence.

In 1976, Temple University Press published, under my editorship, *Genocide in Paraguay*, in which the Paraguayan government was charged with complicity in the extermination of its Aché Indians. The genocidal practices perpetrated against the Aché included, but were not limited to, the following:

Aché were subjected to manhunts in which they were pursued like animals. Many were killed outright. The survivors were taken to reservations.

Many of the Aché on the reservations were sold as slaves—the men as manual laborers, the women as prostitutes, and the children as domestic servants. Others were simply left to die. Reservation officials would induce periodic waves of starvation in which both food and medicine would be withheld.

Indians on the reservation were denied the right to speak their language, sing their songs, practice their religious rites, and give their children Aché names. The purpose—and result—of these prohibitions was to create a feeling of helplessness and despair among the Aché and to destroy their cultural identity.

Genocide in Paraguay succeeded in attracting additional attention, including some expressions of concern by congressmen, to the plight of the Aché. Not long after its publication, the director of Indian Affairs of the Paraguayan Ministry of Defense invited me to come to Paraguay, so that I could be convinced, he said, on the basis of firsthand observation that the life of the Aché—and of other Paraguayan Indian tribes, as well—was not as bad as had been described in the book. The U.S. ambassador to Paraguay, George Landau, also telephoned my office several times to persuade me that my going to Paraguay would serve a useful purpose and that, if I went, my safety would be guaranteed.

This was, in fact, no small concern. About the time *Genocide in Paraguay* was published, the Paraguayan government arrested the staff members of a project called *Marandu*, which had sought to provide the forest Indians with food and medical assistance and to inform them of their rights under Paraguayan and international law. The members of the Marandu project were drugged, beaten, submerged in excrement to the point of near drowning, and the women

were subjected to grotesque forms of sexual abuse. In 1976, the Paraguayan government deported six Roman Catholic priests who had denounced the genocide of the Aché; it also arrested and tortured a seminarian. Six Protestant missionaries doing Indian relief work were arrested.

However, the representatives of both the Paraguayan and U.S. governments persisted, charging that by not accepting the invitation to go to Paraguay I would be acting perversely. They declared that as editor of *Genocide in Paraguay*, I bore a special responsibility at least to see for myself that the book was based on false information. Not to do so, they said, would prove that I was unwilling to test the argument of the book against the facts.

It appeared as if I had to go.

Funded by Survival International of Great Britain, I left for Paraguay on August 17, 1977, and arrived in Asunción on August 18, 1977. I was met by Colonel Alberto Samaniego, the director of Indian affairs; a civilian member of the Asociación de Parcialidades Indígenas (API), the successor to the defunct Marandu; and the third secretary of the U.S. embassy.

My arrival had been presaged by the arrest and detention (as usual without charges) of Oscar Rodriguez, a member of the API staff. The U.S. embassy seemed confident on the day of my arrival that his release was imminent, but as this article went to press, he was still a prisoner.

At 7:00 sharp the next morning, General Marcial Samaniego, the minister of defense, received me in the presence of a retinue of aides. There was much heel-clicking and I was photographed alongside a smiling minister. He assured me that a German anthropologist, whom he accused with some virulence of misconduct involving Indians, had concocted the lies about Indian suffering, and that now that I could see for myself, I should easily be able to tell fact from fiction. The fact was, and he put his right hand over his heart (above a most impressive paunch) in a gesture suggestive of the taking of an oath, that "we love our Indians." He added immediately thereafter that it was the policy of Paraguay "to integrate them into our society"—an expression I had come to understand as meaning that the Indians had to be driven out of the forests and rendered sedentary. As has often been noted, the "sedentarization" of a free hunting community, without decades of careful material and psychological preparation, inflicts suffering and, ultimately, death upon those rendered "sedentary." When I tried to raise this point, the minister shook my hand as though I had just expressed a sentiment of appreciation. A question about the imprisoned API staff member was left similarly unanswered. The minister assured me of the willingness of the Paraguayan government to let me see everything. I was *not* told that a northern part of the Chaco region in western Paraguay was barred to all unauthorized visitors, which included me. (I never was permitted into that area.) I was informed that I would be accompanied by a Ministry of Defense official who would serve as my interpreter wherever I went to meet Indians. After several days of surveillance, the young man attached to me from that moment on admitted, over a drink, that he was a member of the Intelligence Service of the Paraguayan Army and was reporting on me at required intervals.

Not until after an officer of the Ministry of Defense had telephoned the Colonia Nacional Guayaki on August 18 about an impending visit, was I finally permitted to proceed to the Colonia on August 20, 1977. This was the major reservation for Aché Indians, located in the eastern part of Paraguay, which Mark Münzel and others had described as a death camp. It took approximately five hours to reach it by embassy limousine, starting on moderately well paved highways and continuing upon dirt tracks and rocky and untended mountain trails.

The reservation was in a secluded area of the jungle, much of which showed evidences of ravages by the white man. Approximately 30 miles before reaching the reservation, the jungle changed from lush and wooded terrain to a lunar landscape, marked by ghostly emptiness save for grotesquely charred protruding tree stumps, mute relics of the Paraguayan deforestation program that had dispossessed the Aché nation in this area. Neatly constructed houses for officials of the New Tribes Mission, which is in charge of the reservation, contrasted sharply with dilapidated hovels available for the Achés at a not insignificant distance from the missionaries.

The hovels reserved for the Indians consisted of a makeshift collection of logs haphazardly attached to the ground and maintaining a precarious balance as they swayed in the Paraguayan winter wind. Gaps left between the logs were often wide enough to admit a child or even an adult, to say nothing of the elements. Canvas and paper and odd pieces of aluminum would occasionally be used to plug such openings. Logs of comparable quality were used for the creation of a roof. Here, too, the logs were in no way suited to keep out the elements—although they might be reinforced by canvas, cardboard, or aluminum sheeting.

A glance at the interior of the hovels revealed an absence of any bedding materials, with the occasional exception of a piece of wood; in only one instance was the wooden slab raised from floor level. The hovels were strewn with offal, an occasional log for making a fire, rusty food utensils, and scraps of newspapers handed to the Indians by the missionaries as cover against the winter cold. No sanitary facilities were visible save for the outhouses of the administration.

An unmistakable odor of human excrement lingered over the Indian part of the reservation.

The Indian population we encounteed consisted predominantly of elderly women and young children. A few elderly men were observed. There was a striking absence of young adult males.

Indian adults were squatting in positions of abject depression. No man or boy was seen wearing the traditional lip ornament known as the *betta*. All evidence of Indianness had been vigorously suppressed. Children disclaimed all knowledge of the Aché language. Indian women responded to inquiries about their native songs by saying that they had not sung them for a long time. When asked why, the women said they were weak and lacked energy. An Indian maintaining conversation with me through an interpreter in a standing position would sit or lie down on the ground in what seemed total apathy or fatigue within minutes of the conversation. Yet the conversation was not cut off. It seemed that he lacked energy to stand for any protracted period of time.

The missionaries proudly announced that all Indians were Christians. I asked for the name of a four-year-old Indian boy, and one of the missionaries' wives replied, "It is Felipe, a civilized name." When I asked the boy what name he preferred, he unhesitatingly gave his Indian name.

Aché Indians lack a sense of time as it is understood in the industrialized West. But they knew that they had been in the Colonia Nacional Guayaki for what could pass for a lifetime. When asked who had brought them there, almost all of them said, "Pereira"—Manuel de Jesús Pereira, the first administrator of the reservation—and with a frenzy born of a recollection long stifled, began displaying the scars left on the bodies of those who had survived the machetes wielded by Manuel de Jesús Pereira and his manhunters. And they remembered those who had been struck down, never to rise again. But then the frenzy died as suddenly as it had started, and men and women, prematurely old, sank back against the ground, as if in anticipation of final interment. Psychological death stared us in the face.

The appearance of the children, who at times appeared to play fitfully as though they lacked energy for more demanding games, was marked at first glance by excessive fat. A closer look revealed unevenly distributed fat deposits, an unhealthy chubbiness, in point of fact an appearance of bloating highlighted by distended abdomens, sometimes to the point of angularity. There was, moreover, not a child who did not suffer from festering sores, lesions, and blotches, covering arms, legs, and scalp, which was often completely denuded of hair. All the children were coughing and had runny noses. Both the diet (the staple on this reservation is the sweet potato) and the physical appearance of the Indians—above all, the appearance of the Indian children—were consistent with the protein-deficiency disease known as kwashiorkor.

Outside one of the huts, seated near his mother, was an Indian boy, barely 18 years old. Though no sound passed his lips, tears were streaming down his cheeks as he looked into space, clearly avoiding eye contact with any person. The mother approached the interpreter of the API and explained that he had been like this for at least six weeks. She showed us a half-empty aspirin bottle that the missionaries had given her for his use. When I turned to the missionaries for an explanation, I was told that the boy was merely trying to attract my attention. While this explanation was being offered, the boy went into convulsions on the ground, and one of the women in the missionary group said: "Oh, just look at him. Isn't he a marvelous actor?" I replied that I did not think this was a matter of acting and that while I could not speak for the embassy, I could assure the reservation official that the fate of the boy would be watched with keen and sympathetic interest by such international human rights organizations as Survival International and the International League for Human Rights. The immediate response was surly, but the warning at least produced some action. We were permitted to take the boy in the embassy limousine to a doctor living some 50 miles up a rocky jungle path, though not to a hospital, because that would cost money. We were told, however, that if the doctor recommended it, hospitalization might then be considered.

Upon arriving at the doctor's office after a bumpy three-hour ride, the Indian boy, Santiago Duarte, was pronounced gravely ill and in need of instant hospital attention. At the end of another three-hour ride in the embassy limousine, the boy was received in an Asunción hospital in a semiconscious state. Within days, the biopsy that was performed revealed a widely metastasized malignancy. Doctors familiar with the case said that the boy's condition had been ignored by the reservation officials for at least 18 months and that the prognosis was grave. Within days of this development, representatives of the New Tribes Mission had removed the boy from the hospital, claiming that the boy was unhappy there and that the cost of hospitalization was prohibitive. Their claim was without foundation, as they could not converse with Santiago in his Aché dialect. I had promised to hold myself personally responsible for the cost of the first

few days of hospitalization, and API had assumed full responsibility for his treatment. I immediately informed Colonel Samaniego of the boy's removal from the hospital and urged him to take the necessary steps to see that treatment was in fact made available. Samaniego ordered the boy brought to a military hospital from which removal by the New Tribes Mission would be barred. Within days, the New Tribes Mission filed a letter of complaint against me with the U.S. embassy.

I visited the Father Livio Farina Mission of Puerto Casado on August 22, 1977. The mission is located near a tannin factory, which is the industrial mainstay of this part of the Chaco. It houses some 700 Indian residents, drawn on for unskilled labor for the factory. Approximately 800 more Indians, occasionally attracted by the factory, bivouac in the neighborhood within a radius of 30 miles. They include the Angarte, Sanapana, Guana, Lengua, Toba, and Guarayos.

Upon entering the mission proper, one was immediately struck with the same stench of excrement noted in the Colonia Nacional. Here, however, it appeared more pervasive. The mission's Indian settlement was conspicuously divided by a fence segregating "Christions" from "pagans." While the hovels in which Indians lived were essentially indistinguishable on both sides of the fence, the "Christian" area did have a sheltered outhouse, while the "pagan" area lacked all sanitary facilities. The ramshackle housing, incapable of offering shelter against the elements, was again the dominant characteristic of Indian living. The interiors of the hovels in which Indians lived were, like those of the Colonia Nacional, devoid of bedding but contained charred logs and rusty eating utensils. Elderly men and women, some near death, could be seen squatting or lying in the debris. I asked a woman whose eye had been gouged out how she had sustained the injury. She shrugged and said it was an accident. When I asked whether she had asked for medical attention, she gestured with contempt and said that she did not have the money and medical attention had to be paid for. Another woman, clearly in pain and lying on the ground of a hovel, was asked why she had not requested medical attention. She replied that is was not made available.

The adult males in this mission made their living as unskilled laborers, working a 12-hour day in the tannin factory. Looking clearly emaciated and resigned, they could be seen struggling with bags of produce on their backs.

When believed to be unobserved, an Indian would occasionally display his back to a visitor or reveal the abrasions and sores caused by the weights that he carried, day in and day out in the factory. Festering wounds were shown to have been left unattended.

Factory wages for Indians were not easily ascertained, although it was clear from the general level of undernourishment that they were below any reasonable subsistence level. Occasionally, "wages" would be disbursed in rotgut whiskey. Numerous Indians could be seen lying drunk or comatose upon the ground. One Indian, his eyes glazed with alcohol, wandered past our group. His gait was steady and his speech only slightly slurred. He said he was happy. The alcohol had wiped out all recollection of his suffering and yet he could still enjoy the sun and the trees. Within minutes he had collapsed upon the ground.

During our stay at Puerto Casado, an Indian died within a few feet of me. When I asked if an autopsy would be conducted to determine the cause of death, I was told that Indians do not rate autopsies. Besides, said the officials, the multitude of Indian deaths at work would render normal autopsy procedures financially and practically prohibitive.

The political and religious purity of the Indians was policed by nuns. They followed me to overhear each conversation I had with an Indian, "Christian" or "pagan." Asked whether the Church looked after such matters as Indian health, one nun replied that most Indians could not pay for it but that "serious" emergencies would be handled without cost to the patient. The impression that I gleaned was that the nuns were the liaison officers between the priest, the industry, and the police.

The reservation was supervised by a priest of the Saliciano Order. He addressed several of his parishioners in my presence with such remarks as "Hello, you old liar," or "Buster, you're due for another warning from me." It was widely claimed that he had reported as Communists parishioners who appeared to be troublemakers at the plant. What appeared beyond dspute was that this mission—acting in defiance of habitual Catholic church policy in Paraguay—had prohibited Indian songs and dances and did not tolerate the open practice of Indian religious rites, even for the "pagans" segregated behind their ghetto fence.

I told the priest that I was shocked by the sanitary and health conditions of his mission—on both sides of the fence—and appalled by the practice of dispensing medicine, even for snakebite, on what seemed a cash-and-carry basis. The priest said that life was hard and medicine high and that we had to be patient. In the only outburst of anger I permitted myself in Paraguay, I replied that life was sacred and that patience with life-destroying conditions was intolerable. The priest nodded and said that it was all very sad. He seemed stooped and older than his years; some of the residents of his mission said that he was sick, and some said that he drank to excess. He walked with difficulty toward his quarters, apparently resigned to realities beyond his strength.

A cesspool was located in the heart of the reservation on the "pagan" side. It was flanked by four hovels constructed in part of aluminum and timber, and with scraps of cardboard, newspapers, and rags stuffed into the more prominent gaps. A photograph in my possession displays this particular scene with the further addition of a gnarled woman attempting to prepare some edibles outdoors. She is sitting outside her hovel, flanked by a tree and a number of branches, which have fallen into the cesspool. A vulture perched on one such branch is facing the woman, the hovel, and its inhabitants.

On August 26 we arrived by military plane at Faro Moro in the Chaco. We taxied down a makeshift airfield located in what at first glance looked like a wild expanse of wilderness. Almost immediately upon arrival, our military aircraft was surrounded by approximately 100 Indians. They were Moros or Ayoreos. It seemed that more than the novelty of a flying machine in a primitive wilderness had attracted them, for they stroke it and clung to it until they finally turned compulsively to every one of the strangers who emerged. Each Indian had something to tell. I was unable to make immediate verbal contact with an Indian as I was temporarily separated from the Moro interpreter whom we had brought with us from the nearby settlement of Filadelfia.

In the interim, I found myself talking to the mission administrator—this was yet another reservation under the jurisdiction of the New Tribes Mission. The mission administrator informed me that he had about 200 Moro Indians on his premises, that he regarded their food as adequate, and that he saw no health problems among his flock, 90 percent of whom he regarded as Christians. When asked whether the Indians were given freedom of religion and cultural expression, he replied in the affirmative, adding, however, "but we forbid immoral and wicked chants."

Everywhere I looked, I found the overcrowded makeshift hovels, wide open to the elements and cluttered with charred wood and offal, yes, and an occasional snake. Nowhere I looked were there sanitary facilities for Indians, and the place reeked of excrement with a pungency which exceeded even that of the Father Livio Farina Mission.

Again, there seemed a strange absence of young adult males. Fewer than a handful could be seen.

Upon returning to our Moro interpreter, I was in direct and friendly contact with the Indians for the rest of our stay, and their story was the worse of all we had heard.

They had, so they said, insufficient and inedible food, no doctor and no medicines. They were faced, they continued, with a never ending and demeaning interference with their folkways. An Indian informed us that one Indian had died the day before our arrival; another, a few weeks before. Both were described as having lingered for weeks without medical attention. As I looked about one of the Indian hovels, I noted a mound of recently shoveled earth. I was told that this was a grave of a man buried within the last few weeks. Were there more than I had been told about? The Moro interpreter communicated my question and waited. I was met with silence as an unspoken fear transmitted itself to all present—the figure of the reservation administrator, absent at the start of the interview, now loomed over the assembled Indians and their interviewers. One thing, however, was clear: Since the Indians traditionally buried their dead in the jungle, the graves suggested either a total psychological and cultural disorganization on the part of the Indians, or else a refusal by the New Tribes Mission administration to permit Indians to bury their dead according to their rites.

As I mingled with more and more of the Indians, I found myself engulfed by the collective gloom of a people who had given up on life. The administrator asked me how the Indians impressed me. I replied: "They are terribly depressed." "Repressed?" asked the administrator in a note of indignation. "No, depressed," I replied—and the adminitrator shrugged as if at something inconsequential. Yet, the people collectively bore the demeanor of a group of mourners at a funeral—and this is understatement, since the expression of mourning appeared mingled with despair.

I was about to enter another Indian hovel, but was stopped by an Indian woman, Kai Che Ke. She flung herself at me with a face contorted with grief, but without tears. She reported that four of her children had recently died on the reservation without medical attention. As I entered the hut, I encountered a Moro Indian, approximately 20 years old, struggling to support himself in a sitting position which, in the custom of his tribe, is the ceremonial position anticipatory of death. The mission administrator, who had previously told me that there was no health problem, stepped inside and said that this Indian was a terminal tuberculosis case, and that there was nothing that could be done for him. Several seriously emaciated Indian children hovered in the background. The immediate family of the dying Indian, whose name was Epajai (although the whites, against his wishes, called him Roberto), showed me a bottle of aspirin, the medication he was given for his illness. He was visibly convulsed by stomach spasms and coughs, and told me, through the inter-

preter, that he was no longer able to stand upright.

I asked the reservation administrator why Epajai could not be taken in our plane to a hospital. The administrator replied that he could not afford it. When told that he would not be responsible for the expenses, he replied that the Indian would be unhappy away from his family. "Nothing can be done for him, in any event," he concluded. The administrator then promptly contradicted himself by saying that the Indian had been working the fields only a few days ago—and then added, hastily, that he had been doing only light labor. Once again, he turned down a request to permit the Indian to be taken to a hospital. On leaving the hovel, we were surrounded by another group of Moro Indians. Once again, the striking fact was the absence of any normal proportion of adult males. Many cried and said that now that we were about to depart, they would soon die. A Moro woman, perhaps 50 years old but much older in appearance, took my arm and said she did not want to live. I held her hand and made the usual superficial remark about hope. She recoiled but replied without bitterness, "My husband died only a little while ago and so did the rest of my family. I want to follow them."

We had spent approximately two hours on this reservation. As we proceeded to the aircraft, we inspected some of the primitive cooking utensils utilized by the Indians. We found no food we would have regarded as edible, but we discovered foul-smelling animal skins, apparently intended for Indian consumption. The physical appearance of the adults tended toward the emaciated. Children varied—some showing the conventional signs of malnutrition, others the bloated appearance described at the Colonia Nacional.

As we entered the plane, Indians tried to delay our departure, as if life itself depended on our continued presence. Some of them held on to the plane as though to keep it in place. For a minute or two all of us, and particularly the pilot, sat immobile in response to their plea. Then as if accepting the verdict against them, the men and women who had surrounded the plane stepped aside. The pilot started the engine. The plane took off and the unhappy Moro Indians dissolved into the distance.

At 7:00 a.m. on September 2, 1977, I kept an appointment made for me by the U.S. embassy with Paraguayan Minister of Defense Marcial Samaniego. I was received by a number of uniformed aides and then left with the minister and the member of the Paraguayan Intelligence Service (my security escort) as the only interpreter. For almost two hours, I was forced to listen to a monologue maintained by the minister between sips of tea, which was handed to us in porcelain cups refilled with almost embarrassing regularity.

The tone of the monologue was an extraordinarily friendly one. Paraguay was the best friend that America had in the hemisphere. It tolerated no iron curtain embassies or missions and was a haven for American investment, which was not subject to the fluctuations of less carefully regulated markets like North America.

The minister moved his chair toward mine conspiratorially as he explained to me how I, or any American national, could make a modest investment multiply with almost lightning rapidity in Paraguay under proper guidance.

I barely had a chance to raise a question or two about the plight of the Indians, to which the minister replied that the situation was much worse in Brazil. At this point, heel-clicking men in uniform entered the room, headed by Air Force General Ranalfo Gonzalez. My interview with the minister was over.

A new stage of the proceedings was about to begin; I was escorted into another conference room adjoining the minister's, for yet another exposure to Paraguayan governmental procedure. The meeting was chaired by General Ranalfo Gonzalez.

A group of approximately eight people in civilian clothes had marched into the room from one of the other doors and had seated themselves at the conference table. They were led by General Bejarano, the president of the Asociación Indigenista del Paraguay, the official government-sponsored group for Indian welfare. Yet another group of approximately six uniformed men had accompanied General Gonzalez alongside the director of Indian affairs, Colonel Alberto Samaniego, who was silent from beginning to end, and almost worshipful in the anxious glances that he cast toward his superior. There could be no doubt who was in charge of both the conference and the ultimate disposition of Indian affairs—Air Force General Ranalfo Gonzalez, one of whose more colorful "campaign" ribbons signified three years service as Paraguayan air attaché in the political campaigns of the Washington cocktail party circuit.

General Gonzalez, who had once told a senior official of the Inter-American Foundation who had come to see him from Washington to intercede for a political prisoner, "I don't recognize you as an American. You are just a Chicano," adopted an identical tone with me. His suggestion, by no means veiled, was that I go back where I came from, Eastern Europe, where the matter of human rights violations was more like to be usefully explored than in Paraguay. This was followed by a crude attempt at testing my political purity when he inquired about my opinion of Solzhenitsyn and the failure of the White House to receive him. Hoping to salvage what I could from this conversation, I replied that Solzhenitsyn was one of the world's great writers, and that the general would appreciate that I had not been consulted as to whether he should be received by the White House, but that Secretary Kissinger doubtlessly had. "Kissinger," continued the general, "is not an American either. He is a Jew and a German." As for me, resumed the general, and his tone was now coldly prosecutorial, I was patently guilty of libeling his country and his government. The only reason that he could conceive for the lies I had peddled in *Genocide in Paraguay* was the desire to undermine the only stable anti-Communist government in South America, and only one conclusion could be drawn from that: I was a Communist.

Since the API had begged me to make every effort I could to plead for an Indian land grant, I found myself, however reluctantly, striking a conciliatory note. I told them that the picture I had seen of Indian life on my brief trip in Paraguay was not as bad as had been anticipated, although it would be a serious distortion for me not to point out that wherever I went I had found Indians suffering and dying. No, I had not seen any Indian manhunts—surely an improvement attributable to Paraguayan government policy—but I had seen repeated evidence of Indian slavery. The response to this statement was morose silence, followed by ad hominem attacks by generals and their aides, shifting from the contributors to the book to me.

General Gonzalez's assessment of me as at least a crypto-Communist was swiftly supported by General Bejarano. Pounding the table with his fist for emphasis, he shouted that the claim that there was genocide in Paraguay was "a lie, a Communist lie, a diabolical lie." His colleagues in civilian clothes and military uniforms nodded and looked appropriately outraged. I had, moreover, continued General Bejarano, pointing to me, avoided every opportunity of meeting with him, notwithstanding the repeated requests that he had made to the U.S. embassy. He had been prepared from the start to explain to me the inferiority and savagery of the Indian. A recent example was an attack staged by an 11-year-old Indian savage on a white woman for whom the Indian boy had worked in Asunción.

"I will at this stage," declared the general, "proceed with you to the headquarters of my organization, where you will be left in no doubt as to existing realities." General Bejarano rose at this point, accompanied by his cohort of civilian flunkies and assorted military aides. I remained seated and replied that I was going nowhere except to the U.S. embassy, where I was shortly expected, and then to the airport, at which I was to catch my flight back to the United States in the afternoon. "You have said," responded General Bejarano, "that Paraguayans are assassins." "No," I said, "I regard Paraguayans as some of the most charming people I have met." General Gonzalez spoke up: "Your apology comes too late. You, as a guest of the Paraguayan government, have soiled its honor." I replied that a Paraguayan government policy of concern for its Indian population could be readily expressed by terminating the slave trade. I reported specifically having met four Indians who had been slaves less than two weeks before I met them, and added: "Where was the prosecution of the slave traders?" But there was not even a ripple of interest in this theme, let alone a taking of notes, as I offered to provide the names of the slave traders to the military and civilian gentlemen determined to uphold their honor.

As I rose to leave, I was not sure that I would be leaving under my own power or with the help of an armed escort directing me to the Departmento de Investigaciones. But to my surprise there were perfunctory handshakes. I was told, in stern military tones, to inform the American public that the Paraguayan government loved its Indians and that was why it would persist in resettling them, and, further, that my report would be expected in Paraguay without fail and would be studied with care.

If the purpose of my trip to Paraguay was to persuade me that conditions of Indian life had improved under a Paraguayan government spurred, for whatever reasons, to a policy of greater benevolence toward Indians, it was not a success.

My view of Indian life in Paraguay was, in fact, significantly more pessimistic after I had come and seen for myself, and the fact that I was on a strictly conducted tour—with large areas of Paraguay barred to me—did not help.

Let me deal with my findings on the trip in the order of their seriousness.

The book had recounted the subjection of the Aché to manhunts. Did I see manhunts?

No. I did, however, see survivors of the manhunts, carried out, among others, by the notorious manhunter, murderer, and slave trader, Manuel de Jesus Pereira. The survivors I saw were kept at the Colonia Nacional Guayaki. As previously described, they gave full and gory accounts of their capture and transportation by Pereira. They displayed the scars that had been inflicted upon them with machetes, and they spoke of those who had never risen after a manhunt and of those who had been taken far, far away on the trucks of the white man. These eyewitnesses have not been interviewed by Paraguayan officials with a view to securing their testimony in a court of law. They have been left to rot. So has their testimony. Evewitnesses who made a concerted attempt to put the

evidence of the massacres, and the identity of the perpetrators, before the Paraguayan authorities have been threatened with their lives. Some have been literally intimidated from going anywhere near the U.S. embassy to prevent such information from being transmitted to Washington. There is no indication that the State Department has intervened in this harassment of individuals seeking to communicate with our government. Statements by credible informants have asserted that "Peace Corps" volunteers have, at least in one recent instance, actually attempted to discourage a potential informant from trying to contact the U.S. embassy with such information.

It is true that the Pereira reign over the Colonia Nacional was formally terminated around 1973. Pereira, however, was allowed to settle on a plantation of his selection, serviced in all of his needs by Aché Indians. The estate is at present open to inspection to visitors like myself, although I chose not to see it. It is clear, however, that Pereira is aging in the comfort of the semiretirement and that the Paraguayan government is not proceeding against him on the basis of the evidence of mass murder, torture, and slave trading, which is readily at hand. Rumors have him reporting to the minister of defense as a consultant in Indian affairs—even though General Gonzalez vigorously asserts that Pereira has fully severed all connections with the Paraguayan armed forces.

I interviewed an Aché Indian—outside of the reservations I visited—about manhunts. And he told me, with the culturally conditioned smile used to avoid distressing listeners, how he and a group of 30 Aché, singing around a fire they had built in a jungle forest, were set upon by white men (in a maneuver evidently planned with some care) and mowed down from all sides by rifles or shotguns. Almost all were killed, including the wife of my informant. They had heard of manhunts before, but had tried not to believe in them. That night, he and his band of Indians had suddenly found themselves surrounded by white men who shot them down. His voice consistently flat, his face consistently smiling, he explained how he had made his escape. He carried one of his children in his arms as he fled through the forest.

As he gave his account, the flatness of his voice at times gave way to what sounded like a giggle, at times to a prolonged hysterical-sounding laugh. Throughout, however, his eyes reflected unremitting sadness and resignation, rarely lightened by the suggestion of a gleam of appeal to his listeners. Had he reported this massacre to the authorities? His answer to me carried the patience of an adult responding to the question of a child. But for the first time the flatness of his tone seemed controlled with some difficulty. "It would have been very dangerous," he replied through an interpreter.

Are the Indians of Paraguay held as slaves? I interviewed a member of the Paraguayan bureaucracy (who cannot be more directly identified) who reported that an American New Tribes missionary, known by the first name of Roberto, had acquired 300 Indian slaves in 1975. These slaves worked for him in a remote part of the northern Chaco. Yet another informant, an Indian, told me that the owner of an *estancia*, José Dolorez Pereira, was widely believed to have participated in manhunts. He was now keeping an Indian girl slave and refused to return her to her family, in spite of all entreaties. He lived approximately 9 kilometers from an Indian settlement in Lauril.

I interviewed three 15-year-old girls who had found refuge from slavery less than two weeks before meeting me. I found a 15-year-old boy who had also been a slave and had escaped only a few days ago. Each of them had been sold after a manhunt, one as recently as 1973. All spoke of other slaves whom they had known while acting as domestic servants or manual laborers, some of them in Asunción. They provided the names of their slavemasters and, in one case, of their captors. The three girls had been used for domestic labor. All complained of overwork, malnutrition, and being kept in rags. Two of them displayed evidence of barbaric punishment. One showed large scars on her legs, which, she explained, had been the result of beating; the other showed another scar upon her leg resulting, she explained, from having boiling oil thrown at her by her slavemaster. An attending doctor confirmed that the scar was consistent with second-degree burns. She escaped when taken to a hospital in Asunción for childbirth and informed that immediately after delivery her child would be sold to other Paraguayans. Mother and child escaped with the assistance of a nun.

The boy remembered being captured in the jungle by Pereira around 1973. Taken to the Colonia Nacional Guayaki, he was sold as well, but finally made his escape. One of the girls had been bartered in exchange for two dogs.

A summary of recent information on known episodes of slavery in Paraguay, submitted to the Inter-American Commission on Human Rights and left uncontroverted by the Paraguayan government, has pinpointed six specific areas of thriving Aché slavery. The number is almost certainly an underestimate.

The overall impression based upon these materials, as well as upon my interviews, is that Indian slavery, far from being inhibited by the Paraguayan authorities, has been permitted to flourish and strike deeper roots—at times, it seems with the assistance of Paraguayan army units.

Genocide in Paraguay documented the pervasive existence of deculturation, the destruction of Indianness, and the initimate link of deculturation with the growing death rate of the Indians.

What I now found was that deculturation and its induced death rate, mainly from tuberculosis, influenza, and diseases of malnutrition, yes, and even the more subtle forms of "psychological death," had grown apace.

And this is a report on reservations that the Paraguayan government was willing to display. What about those to which access was barred? At least one New Tribes Mission in the northern Chaco, for example, is still out of bounds for ordinary travelers. Indians are suffering and dying at all but one of the reservations I saw—the only exception being the reservation at the Mission of St. Augustin, which is financed by the Inter-American Foundation and staffed by the API.

The descriptions of the other reservations do not need restatement. Literally and figuratively they deserve to be called cesspools, calculated to induce disease and death. Given the further evidence of tuberculosis, and the utter lack of medical care or concern for Indians on the reservations, it would be foolhardy to assume that even 50 percent of the Indians seen by me in all but one of the reservations will not die within a year, if not in a matter of months.

Are we to assume that the horror of existing conditions of Indian life is the product of a nationwide state of impoverishment that affects white and Indian alike? The short answer to that suggestion is that Paraguayan whites, including the poor, whose death rate is admittedly high, are not upon the threshold of extinction as a group. The Indians are. In a word, we are witnessing the Paraguayan version of a "final solution" directed against the forest Indians of the land, Aché, Moro, and all the remaining forest Indians who, however indirectly, have blocked the economic development plans of the government of Paraguay.

STOPPING CRIME AS A CAREER

Mr. KENNEDY. Mr. President. In the past 8 years of its existence, the Law Enforcement Assistance Administration has often and appropriately been criticized for wasting money on projects and programs of questionable value. Even though there have been instances in which LEAA has deserved the criticism it has received, there are also programs and projects which it has developed and for which it deserves praise.

One of those programs is the career-criminal prosecution units which LEAA developed to deal effectively with the repeat offender. Statistics have shown that about 7 percent of arrested suspects are responsible for more than 25 percent of the crimes which are committed. Twenty-four cities throughout the country have set up career-criminal prosecution units to deal with these major violators, and the success of these programs has been remarkable. Conviction rates are an amazing 94 percent as compared to a national average of 73 percent. These units, because of their success and determination, are at least partially responsible for the reduction in crime which we have witnessed in some of our large cities.

Almost as remarkable as their success is their low cost. The program has cost only $14 million of the $4.8 billion spent by LEAA in the past 5 years. Unfortunately, funding for these projects is being phased out. I ask all of my colleagues to join me in urging the agency to continue these programs. I sincerely doubt that any other program funded by LEAA has had so great a return on so little investment.

Mr. President, Time magazine recently had an article about these programs, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Time magazine, Jan. 30, 1978]

STOPPING CRIME AS A CAREER

Two elderly black sisters were knitting and singing *We Shall Overcome* in the kitchen of their small Boston house one hot night last summer when a convicted burglar burst through the back door and demanded money. The intruder, 6 ft. 4 in. and 220 lbs., viciously beat the two women before fleeing. Police captured him a short time later. Thanks to clogged conditions in many urban courts, suspects in felony cases often relax on the street for a year or more and eventually extract a light, plea-bargained sentence from beleaguered prosecutors. But only 61 days after the Boston assault, the intruder had been tried, convicted of five felonies and sent off to the maximum-security prison at Walpole, Mass., for ten to 20 years.

The assailant had qualified, through an elaborate point system, for special treatment under Boston's Major Violators program. It is hardly news in the U.S. that industrious malefactors, variously known as revolving-door or career criminals, commit crime after crime, year after year. About 7% of arrested suspects account for a quarter or more of

the nation's crime. The first wholesale attack on the problem began only three years ago, when 24 cities, with federal funds and a good idea, both provided by the Law Enforcement Assistance Administration, began establishing career-criminal prosecution units. The aim: first identify multiple offenders, then shepherd their cases diligently through the courts until conviction. In 30 months, the nationwide program has put away over 5,000 hard-core criminals for terms averaging more than 14 years each.

Local prosecutors select their career violators using individual systems. Louisville targets suspects with two previous felony convictions or five arrests. Washington concentrates on parolees who are arrested again, for a crime of violence; Detroit zeros in on three-time offenders charged with murder, rape, household burglary and armed robbery. Boston uses a "case evaluation form," based on a ten-point penalty system. Penalty points are given for brutality, use of firearms, parole or bail status at the time of the crime, and even strength of the evidence against the suspect. Any suspect who gets ten points or more gets the Major Violator treatment. "It's almost like being selected for college," a Boston prosecutor notes, "only they're going to jail, not school."

Once identified and apprehended, a career criminal will find his case assigned to a district attorney for start-to-finish prosecution. With a light case load (one-third that of other prosecutors), the D.A. usually seeks high bail, or no bail, to keep the suspect in jail, refuses to plea bargain, and pushes for an early trial.

Reluctant witnesses, who tend to disappear, thus scuttling the prosecution's case, are cajoled into court. Several prosecutors have allowed defense attorneys to look through all police evidence against the suspect in an "open file" policy, to prevent long courtroom delays for "discovery." Says Washington Attorney Charles Work, who started the program in 1975 when he was with LEAA: "These cases get the same attention they'd receive in a small town. It's not a concentration of resources against an individual. It's a simple effort to keep the important cases from falling apart in our swamped, pothole-strewn big-city prosecution system."

Despite discouragement of plea bargaining, conviction rates are startingly high: 94% nationally, compared with a regular conviction rate of 73%. That rate naturally troubles defense attorneys. Some of them are critical of the program on grounds that it is racist, because a notable percentage of career criminals are black. Others claim that their clients are stigmatized by the career-criminal category, even though the trial jury never learns the defendant has been specially labeled. The career-criminal program has reduced the gap between arrest and trial to about 60 days in some cities, a marked improvement. Remarks Boston Prosecutor Lloyd Macdonald: "Defense attorneys are always trying to stall."

Law-enforcement officials say the program is partially responsible for the slight reduction in big-city crime last year. Detroit reports a decline in major crime for the first six months of 1977: murder down 27%, burglary and armed robbery each down about 25%. New Orleans District Attorney Harry Connick, who started the first LEAA-financed career-criminal program in 1975, cites a Rand Corp. estimate that a career criminal commits 20 offenses a year. If that is true, the 992 career-criminal convictions obtained thus far in New Orleans could prevent about 198,000 crimes over the next ten years.

The program has cost LEAA only $14 million (of $4.8 billion spent by the agency in the years 1972 through 1977). But federal funding for the project is now being phased out. LEAA officials blame budget cutbacks, noting, however, that successful experiments should be taken over by state and local officials Most communities are struggling to do just that. Washington, D.C., has been running its version of the program, Operation Doorstop, without LEAA funds for 17 months. When Norfolk's LEAA grant runs out in October, prosecutors plan to work overtime to keep the program alive. New York, New Orleans and Boston are seeking state aid to continue. "Anybody who knows anything about crime in this society knows that what criminals fear most is a speedy trial and the certainty of punishment," says retired Massachusetts Jurist Walter H. McLaughlin. "The Major Violators program combines both. It ought to be continued at all costs."

HUBERT HUMPHREY

Mr. DECONCINI. Men of vision in politics are rare. Most of us are overwhelmed by the moment; like other men we only dimly see the outlines of the future, and we have little heart to struggle to mould its shape. Hubert Horatio Humphrey was, however, one of those rare men of vision, a man willing to expend the energy to help create a future based on certain transcendental values. Most of us live our lives on a day-to-day basis, facing decisions when they arise, incapable or unwilling to fit them into an overall congruent pattern. But Hubert Humphrey has a lifetime of political decisions that proclaim to anyone who will look or listen that he truly held a philosophy, a conception of life and politics.

Hubert Humphrey is gone. He has passed from this life into what my faith teaches will be a fuller and more perfect existence. But he leaves us a patrimony of ideas and beliefs that enrich by their mere presence. This Senate loved Hubert Humphrey. This Nation loved Hubert Humphrey. We did so not because each and every one of us agreed with all he said and did. We do so, in part, because we recognized in this warm and loving man certain rare qualities that only occasionally grace the mundane world of politics, qualities that elevate politics and transform it into the noble endeavor envisioned by Aristotle and Cicero and Aquinas.

Every man and woman in public life wishes in the deep recesses of his or her heart to have the inner qualities of spirit and intellect to make a memorable imprint on the fabric of history. Some men leave their mark because of the battles they fought and the people who died. Hubert Humphrey leaves his mark on each of us and future generations because he feasted on life. He loved life. Life was the supreme value. To this man, each and every human being was important. From that great love flowed the political philosophy and the political action that is the essence of Hubert Humphrey.

If Hubert Humphrey had a flaw in his character, it was his immense optimism about the nature of man. It led him to believe the best of even the worst of men. He did not speak ill of others. He did not bear grudges, even against his most hostile and vociferous political opponents. He relished the political arena—its combats, its victories, and even its defeats. He fought hard to win and believed in the justness of his causes. Yet, he respected every viewpoint. Some idealists become ideologues; Hubert Humphrey was a confirmed humanitarian.

Hubert Humphrey never spoke on this floor in anger. He always spoke with passion. He spoke with conviction and belief. He spoke to share with others his vision of the world, his hopes for humanity, his love for life, his belief in man. His causes were the causes of the New Testament. He was an ecumenical man before that term was invented. All men should be free, thus he led the struggle for civil rights. All men should be without suffering, thus he led the struggle to provide assistance for those no longer able to care for themselves. All men should live in dignity, thus he led the struggle for full employment and decent working conditions.

My deep personal regret is that I came to the Senate too late to know this man well. I met him early in my political career when my brother, Dino, coordinated his presidential campaign in Arizona. Like so many thousands of other Americans who met this man during his long career as a public servant, I was immediately drawn to him. I felt his warmth; I never questioned his absolute sincerity; and I recognized that he was a very special man.

Few Americans will be as long or as fondly remembered as Hubert Humphrey. Few will leave as deep an impression on our social and political life. This is, perhaps, more notable because he never achieved the office of the Presidency. That he did not, is a terrible loss. Few men had more potential for greatness in the office.

The Senate of the United States has counted many outstanding men among its number. But I do not believe that the Senate has ever had a man greater in stature, a man greater in contribution to the public good, or a man of greater love for humanity than Hubert Horatio Humphrey.

SENATOR LEE METCALF

Mr. HART. Mr. President, I would like to join my colleagues in expressing deep sorrow over the death of Lee Metcalf, the distinguished senior Senator from Montana. Highly respected and genuinely well liked, Lee Metcalf was an effective advocate of the traditional western populism of his native State.

Honesty, integrity, and decency epitomize Lee Metcalf's life. His public service was always characterized by a belief that the purpose of government is to champion the public interest, not private gain.

His early sponsorship of legislation for clean water, consumer protection, Federal aid to education, and land reclamation, demonstrates a vision that was truly national in scope. Lee Metcalf was a tireless advocate for preserving and protecting our Nation's national herit-

age and was an important leader in developing wilderness legislation.

Lee Metcalf had a passion for the vast natural resources and scenic beauty that made his State unique. He worked quietly and diligently with considerable legislative skill to insure the preservation of land for future generations. The people of Montana should take enormous pride in the accomplishments of Lee Metcalf. Though he will be truly missed, his legacy will live on through his achievements.

DEPARTMENT OF STATE REPORT ON HUMAN RIGHTS POLICY

Mr. KENNEDY. Mr. President, I would like to share with the Senate a report by the Secretary of State on the administration's human rights policies and the operations of the recently established Bureau of Human Rights and Humanitarian Affairs in the Department of State.

The Secretary's report to Congress was required by legislation I sponsored last year during our consideration of the Foreign Relations Authorization Act for 1978.

I believe the Secretary's report is an important indicator of the high priority the administration continues to attach to human rights and related humanitarian concerns in our Nation's foreign policy. And I am sure I speak for many Americans in welcoming the Secretary's pledge to strengthen further our national commitment in this significant area of public policy and concern.

I am pleased that the report notes "progress" and "some tentative results" in the human rights field after the first year of the new administration. I am gratified that the report pledges renewed efforts to marshall additional "resources and machinery" to assist the growing number of refugees and displaced persons around the world.

In many parts of the world, the flow of refugees not only tells us of human needs, but also of the deprivation of human rights. Certainly this is true of refugees fleeing their homes in South Africa, Uganda, Chile, Cambodia, and other countries. And we must fully participate in the international efforts to resolve the serious humanitarian problems posed by homeless people on the move in so many parts of the world.

Mr. President, I ask unanimous consent that the text of the Secretary's report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF THE SECRETARY OF STATE TO CONGRESS REGARDING THE OPERATIONS AND MANDATE OF THE BUREAU OF HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

INTRODUCTION

President Carter and his Administration, the Congress of the United States, and the American people share a determination to increase the importance of human rights and humanitarian concerns in the design and implementation of United States foreign policy. In recent years, the Congress has called for a renewed emphasis in our foreign policy on traditional American values of individual integrity and the expansion of human freedom. This Administration fully endorses as a principal goal of United States foreign policy, increased observance of internationally-recognized human rights. Respect for human rights and fundamental freedoms is deeply rooted in the American constitutional heritage and embodied in the United Nations Charter and the Helsinki Final Act.

Respect for human rights as a fundamental tenet of our foreign policy was underlined by Presidetn Carter in his inaugural address when he said that "The world itself is now dominated by a new spirit. Peoples more numerous and more politically aware are changing and now demand their places in the sun—not just for the benefit of their own physical condition, but for basic human rights." We are engaged in the process of assuring that this new spirit—a far higher priority for human rights and humanitarian considerations than has been the case in the past—is reflected in the foreign policy decision-making process.

Secretary of State Vance who, along with Deputy Secretary Christopher, has been closely and personally involved in the conduct of the policy, has spoken on the specific rights which the Carter Administration will emphasize in its foreign policy—all of which stem from traditional American values and the Universal Declaration of Human Rights.

The first of these is the right to be free from governmental violation of the integrity of the person. Such violation includes torture, arbitrary arrest or imprisonment and cruel, inhuman or degrading treatment or punishment. It also includes denial of fair public trial and invasion of the home.

Second, is the right to such vital needs as food, shelter, health care, and education. We recognize that the fulfillment of this right depends, in part, on the stage of a nation's economic development. But we also know that governments violate this right by indifference to the plight of the poor or through corrupt official practices which divert resources to an elite at the expense of the needy.

Third, is the right to enjoy civil and political liberties such as freedom of thought, religion, assembly, speech, freedom of the press, freedom of movement within and outside one's own country and freedom to participate in government.

There has been progress during the past year in bringing the instruments of our foreign policy to bear on our human rights objectives. This has involved more active communication of our human rights concerns to other governments and, at times, some restriction in foreign assistance programs. We also have worked to increase the attention to human rights issues in international organizations.

Over the past year, there have been some tentative results. While we do not seek to take credit for the following developments, we believe the human rights policy of this Administration has contributed to them. First, there has been more intense focus on human rights by the world's press and media. Second, human rights issues have become a major theme of discussions in international organizations such as the United Nations, the Organization of American States and the Belgrade Conference. Third, human rights has become a subject of active national policy debate in a number of countries. Finally, we have seen some easing of repression in several countries. In some instances, the liberalization may be token, but over all there are positive steps: Prisoners have been released; there have been some liberalizations of authoritarian systems; and there have been some improvements in the treatment of political detainees.

The Bureau of Human Rights and Humanitarian Affairs is the focal point for the advocacy of human rights and humanitarian concerns within the Department of State. It is actively involved in day-to-day policy development and the implementation of important foreign policy decisions. The Bureau's ideas and recommendations are incorporated into the constant flow of briefing memoranda, action memoranda, cables, letters, press statements and speeches which reflect policy implementation.

Public Law 95–105 requires a report on the current "mandate and operations of the Office of the Assistant Secretary for Human Rights and Humanitarian Affairs, the mandate and operations of its predecessor offices and proposals for the reorganization of the Department of State that would strengthen human rights and humanitarian considerations in the conduct of United States foreign policy and promote the ability of the United States to participate effectively in international humanitarian efforts." This report is submitted in fulfillment of that requirement.

The mandate and a history of operations

In 1975, the Department of State established the position of Coordinator for Humanitarian Affairs within the Office of the Deputy Secretary of State. The Coordinator's responsibilities included operating the refugee and migration programs, pursuing POW/MIA concerns, and advising the Department on matters relating to human rights in the conduct of our foreign policy. At first, the staff consisted of the Coordinator and a Deputy Coordinator for Human Rights. Later, a second Foreign Service Officer was assigned to assist the Deputy Coordinator with human rights work. During this period of limited staffing, the human rights responsibilities of the office were assigned less priority than we now believe desirable.

PL 94–329, enacted in 1976, established a Coordinator for Human Rights and Humanitarian Affairs in the Department of State. Section 502B of this law directed the Secretary of State, acting through the new Coordinator, to promote the enhancement of human rights as a fundamental foreign policy objective. The Coordinator's responsibilities under Section 502B are to advise the Secretary on human rights and humanitarian affairs including matters relating to refugees, prisoners of war, and members of the U.S. Armed Forces missing in action.

The new office was changed with the following specific responsibilities in the human rights area:

"(A) gathering detailed information regarding humanitarian affairs and the observance of and respect for internationally recognized human rights in each country to which requirements of Sections 116 and 502B of this Act are relevant;

"(B) preparing the statements and reports to Congress required under Section 502B of this Act;

"(C) making recommendations to the Secretary of State and the Administrator of the Agency for International Development and regarding compliance with Sections 116 and 502B of this Act; and

"(D) performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries".

The first human rights reports required under Section 502B were submitted to Congress in early 1977 with the Security Assistance budget presentation for FY 1978.

The Office of the Coordinator for Human Rights and Humanitarian Affairs helped prepare the reports.

The mandate and current operations

From its earliest days, the new Administration resolved to give far higher priority to human rights considerations in the formulation of American foreign policy. The Administration also wished to comply fully with the letter and intent of Section 502B. The following institutional, administrative and procedural changes have been undertaken to strengthen our human rights policies.

The Administration supported legislative changes upgrading the rank of the Coordinator for Human Rights and Humanitarian Affairs to that of an Assistant Secretary (PL 95–105, Section 109). Consistent with this action, the Department established an independent Bureau of Human Rights and Humanitarian Affairs.

The Bureau is now comprised of three divisions: the Office of Human Rights, the Office of Refugee and Migration Affairs, and a separate section responsible for POW/MIAs.

OFFICE OF HUMAN RIGHTS

Five human rights officers were added to the Bureau staff, and assigned to the Human Rights Office in order to increase its capacity to carry out our statutory responsibilities and implement the Administration's intent to make human rights a central element of our foreign policy. The Office now has a total of 13 officers and support personnel, including a Deputy Assistant Secretary for Human Rights. The human rights officers have both functional and geographic responsibilities.

One officer is responsible for monitoring the security assistance program, commercial arms sales, military training for foreign military personnel, and other aspects of our military relationships with other countries. This officer also monitors human rights developments and U.S. policy in the Near East and South Asia.

Another human rights officer monitors bilateral economic assistance programs (including PL 480), U.S. participation in the international financial institutions, and other U.S. economic activities such as the Export-Import Bank, OPIC and the Commodity Credit Corporation. In addition, this officer follows human rights conditions in the Latin American countries and assists with the formulation of U.S. policy in the region. She also monitors the activities of the Organization of American States.

A human rights officer is responsible for overseeing the information gathering system that forms the basis for the preparation of human rights country reports required by Sections 116 and 502B of the Foreign Assistance Act of 1961. This officer also is responsible for monitoring human rights developments and assisting in the development of policy with respect to human rights in the countries in East Asia and the Pacific region. In view of the importance and the volume of work involved in gathering and analyzing information on country conditions, another officer has been assigned to work on this area.

One human rights officer is responsible for monitoring the human rights aspects of our policies in international organizations, with a major focus on the Third Committee of the United Nations General Assembly, UNESCO, and the International Court of Justice. This officer is a member of the U.S. Delegation to the United Nations Human Rights Commission. In addition, he is responsible for monitoring human rights developments and assisting in the design of policy with respect to the countries of Africa, including the activities of the Organization for African unity.

Another officer is responsible for following U.S. participation in the Commission on Security and Cooperation in Europe (CSCE) and advising the Assistant Secretary in her role as the State Department representative on the CSCE Commission and a member of our delegation to the CSCE Review Conference. This officer also is responsible for following human rights concerns and assisting in policy development with respect to the countries in Eastern and Western Europe, including the activities of the Council of Europe.

One officer is responsible for liaison with international non-governmental organizations active in the human rights field, particularly those cited in relevant statutes. This officer also is responsible for increasing contacts with appropriate domestic human rights and foreign policy organizations.

Several additional institutional changes have been made to further strengthen the human rights policy of the U.S. government.

First, an Inter-Agency Committee on Human Rights and Foreign Assistance was established to insure consideration of human rights factors in the conduct and administration of foreign assistance policy. The Bureau of Human Rights and Humanitarian Affairs is represented on this inter-agency body, along with other State Department bureaus and representatives of the Departments of Defense, Commerce, Agriculture, and Treasury, the National Security Council, representatives of the Export-Import Bank, OPIC, AID and the U.S. Directors of both the Inter-American Development Bank and the World Bank also attend its meetings. The Committee is chaired by the Deputy Secretary of State. The Committee examines the human rights aspects of all AID budgetary program decisions and the U.S. position on loans awaiting action in the international financial institutions. A working group comprised of all participating agencies reports to the Committee. The working group is co-chaired by the Deputy Assistant Secretary for Human Rights and his counterpart in the Economic and Business Bureau.

The Arms Export Control Board, which was formed to consider all aspects of the Administration's arms transfers policy, includes a permanent representative of the Bureau of Human Rights and Humanitarian Affairs. The Bureau is also charged with advising the Secretary of State and the Under Secretary for Security Assistance on all munitions export license approvals.

The Department has designated full-time human rights officers each geographic bureau to provide liaison with the Bureau of Human Rights and Humanitarian Affairs to assure more effective human rights policy guidance.

The Department has directed all Ambassadors to assume personal responsibility for implementing the human rights policy and human rights officers have been designated at each Embassy to report on local human rights conditions. This has resulted in an increase in the amount and quality of information on human rights developments reported to the Department from our overseas posts during the past year. The Assistant Secretary or other senior Bureau representatives have participated significantly in human rights policy discussions at regional meetings of U.S. Ambassadors, and regional consular conferences.

The Department has established new lines of communication with international and domestic human rights organizations to insure that we receive information they wish to provide on human rights conditions in various countries. We have worked with these organizations to obtain human rights improvements and to encourage cooperation by other governments. A representative of the Bureau headed the U.S. Government delegation to the 1977 International Conference of the Red Cross in Bucharest, a conference which significantly highlighted human rights questions. In addition, Bureau representatives have participated in conferences sponsored by the International Commission of Jurists, Amnesty International, the International Rescue Committee, and the International League for Human Rights.

Finally, the Department has broadened its training programs for incoming Foreign Service Officers and its midcareer training programs to include special programs on human rights in the formulation and conduct of foreign policy.

We believe that the operations of the Bureau of Human Rights and Humanitarian Affairs clearly respond to the intent of the Congress. The bureau coordinates a human rights policy for the Department and makes recommendations to the Secretary designed to ensure that human rights are a central element of U.S. foreign policy.

Bilateral relations

The Bureau has helped communicate our human rights policy to foreign governments and representatives by supporting and complementing the role of our Embassies abroad and the regional bureaus in Washington.

The Assistant Secretary has visited Argentina, El Salvador, Bolivia, Brazil, Uruguay, Indonesia, Singapore, the Philippines, Thailand, and Yugoslavia, and has held discussions with the highest government officials in those countries. She has also met with local groups and organizations familiar with human rights conditions in these and other countries. She attended the Belgrade CSCE meeting and has had intensive discussions with NATO representatives on human rights issues. The Deputy Assistant Secretary for Human Rights, and other human rights officers, also have met with high officials of other governments to communicate our specific concerns on the human rights situation in their countries, and to seek where possible to work with them on efforts to enhance the respect for human rights.

Consultations are expanding with other governments on ways to increase international cooperation and concern for human rights around the world. These discussions include consultations on human rights conditions in individual countries and specific human rights initiatives in international organizations and in the international financial institutions.

These actions by the Bureau and its officers have complemented representatives and communications by our Embassies overseas and the Department in Washington. There is a continuing exchange between the Bureau and other regional and functional bureaus in the Department on both immediate operational questions and long range strategies to achieve our policy objectives.

Bilateral economic assistant

The Bureau of Human Rights and Humanitarian Affairs plays a continuing role in advising AID on human rights conditions in particular countries.

It also has worked closely with AID in the Inter-agency Committee on Human Rights and Foreign Assistance. In addition to working with AID to respond more fully to development needs in countries with positive human rights records, we have collaborated with AID in devising new ways to support non-government groups and individuals concerned with the international human rights movement. In the past, AID has provided varying forms of assistance to

legal aid and legal assistance programs in developing countries. These efforts are now being expanded and special attention paid to women's rights. Finally, the Bureau is discussing with AID ways to identify and support programs and activities which will encourage or promote increased adherence to civil and political rights in the spirit of Section 116 of the Foreign Assistance Act.

The Administrator of AID, and the Department as a whole, have considered the human rights record of potential recipient countries an important factor in determining the funding level of bilateral development assistance programs, including PL–480.

We intend to pursue our human rights policy objectives even more systematically in future years, giving particular attention to using our development assistance as a positive incentive to governments which are seriously attempting to improve their human rights situation.

Where countries engage in practices which seriously violate the human rights of their citizens, the Bureau has worked with AID to bring about a reduction or halt in our aid programs, except in cases where those programs directly benefit needy people. In such cases we have worked with AID to insure that help for the needy is the primary purpose of the project and that the needy will be the principal beneficiaries of a program. During the course of the year, the Bureau has helped develop guidelines to assist overseas posts in determining whether bilateral projects benefit the needy. The definitions of "needy people" continue to be those established in AID's 1975 report to the House of Representatives on implementing New Directions.

In 1977 AID projects were delayed or halted in some countries, and the bilateral economic assistance program was linked to expressions of our concern over human rights conditions in other countries.

Provisions were also adopted in PL 95–88 to require consideration of human rights conditions in extending PL–480 Title I assistance. In furtherance on this policy the Bureau advises AID and the Department of Agriculture on human rights conditions in the relevant countries. The Inter-Agency Committee also reviews PL–480 allocations. Thus far in FY 1978, we have instructed our missions in some recipient countries to negotiate an additional provision to our PL–480 agreements to insure that the food or the proceeds of the program will go directly to the needy. In two countries, adjustments were made in the allocation level to proposed PL–480 recipients.

Security assistance

The Bureau advised the Arms Export Control Board, the Under Secretary for Security Assistance and the Secretary of State concerning human rights conditions in countries for which security assistance was proposed. Human rights factors were also considered, under section 502B, in the preparations for the submission of the FY 1979 budget, and in the allocation levels for the security assistance program.

In administering the security assistance program approved by the Congress for FY 1978, we plan to consider current human rights conditions prior to the actual implementation of particular country agreements. The Bureau also will examine the recipient agency within each country and the character of the equipment or arms involved in transfers in order to reduce or eliminate the identification of the United States with human rights violations.

International financial institutions

Under Section 701 of PL 95–118, the Executive Branch is charged with using its voice and vote in the IFIs ". . . to channel assistance toward countries other than those whose governments engage in a consistent pattern of gross violations of internationally recognized human rights." The Bureau advises the Treasury Department, through the Inter-Agency Committee, on human rights conditions in countries before the U.S. position on particular loans is decided and, in conjunction with other appropriate Bureaus within the Department of State and the Department of the Treasury, has participated in a series of consultations with other nations to discuss the role of human rights in the IFI's.

During the past year, the United States opposed loans to several countries because of the human rights situation in those countries. In other instances, after advising the country that the United States would oppose loan applications if they were presented to the governing boards of international financial institutions, the countries chose to withdraw their applications.

Cultural affairs

The Bureau of Human Rights and Humanitarian Affairs has worked to emphasize human rights considerations in our cultural affairs programs. Our educational exchange programs have, in the last year, significantly increased the number of exchanges and activities designed to promote a better understanding of human rights.

These programs deal with human rights and related issues in a number of ways and with varying degrees of specificity. For example, American specialists traveled to all parts of the world to meet and discuss with their colleagues human rights and related issues such as comparative legal systems, the administration of justice, the changing role of women in society and economic and legal delivery systems needed to reach poor. International visitors came to this country to meet with their professional counterparts, and in the process both visitors and Americans shared views on human rights. The exchange program has increased its support to private nongovernmental organizations in this country, such as the American Association for the International Commission of Jurists and the American Bar Association, both actively involved with human right issues.

During the past year, the Bureau has consulted with the U.S. Information Agency on increasing programming to reflect our human rights policy. Such programming will explain the Administration's human rights policy, the role of the Congress on championing human rights, the workings of the U.S. judicial system, the continuing deficiencies in our own society and our efforts to rectify our shortcomings.

The Agency has mobilized special efforts to enlist the ideas and energies of its overseas posts behind new initiatives to stimulate program interest in this vital area. Varied projects, with programs reaching large audiences, are underway utilizing all the modern media—TV, films, radio, press, books and other publications. Wide distribution is given to human rights statements by the President, Secretary of State and other USG officials. Thorough media coverage is given to events such as Human Rights Week and the CSCE Conference in Belgrade.

But USIA's major medium for human rights programs is the personal dialogue with small, select audiences including one-to-one discussions, seminars, panel discussions and lecture/discussion meetings. These efforts involve qualified official and private Americans who can engage foreign audiences from many points of view—including politics, law, philosophy, economics, social sciences—all using human rights as a point of reference. Such approaches, we believe, are effective in explaining U.S. attitudes and practices on human rights.

International organizations

The Bureau has worked within the Department to develop a strategy and objectives in the human rights area throughout the past UN General Assembly and in preparation for the upcoming United Nations Human Rights Commission meeting. We will continue to pursue efforts for a UN High Commissoner for Human Rights, or its equivalent, to expand the capacity of the United Nations to respond to human rights problems in particular countries and to coordinate the human rights activities of the various United Nations Agencies. We have worked to establish new human rights procedures within UNESCO. The Bureau maintained regular contact with our UN Mission and contributed policy guidance for General Assembly deliberations on human rights matters. The human rights officer responsible for these matters participated in the day to day activities of the Third Committee. The Committee's deliberations included resolutions to establish procedures for implementing the 1975 Declaration Against the Use of Torture, and a resolution to create regional human rights commissions in areas where none now exist.

With the Organization of American States, the Bureau worked to establish a unique interchange between the Inter-American Commission on Human Rights and the European Commission on Human Rights. The Bureau also assisted with the development of a policy aimed at strengthening the role and resources of the Inter-American Commission on Human Rights and encouraging nations within the hemisphere to cooperate with its activities. Four countries recently have agreed to investigations by that body.

Public Affairs

The Bureau has participated in a series of town meetings sponsored by the Department to help communicate our human rights policy to the American public and to seek public comment and criticism of our current efforts. Bureau officers also have participated in a wide range of seminars and conferences sponsored by non-governmental organizations including universities, business groups and professional associations where the human rights activities of the Department were discussed.

OFFICE OF REFUGE AND MIGRATION AFFAIRS

Establishment of the Bureau of Human Rights and Humanitarian Affairs headed by an Assistant Secretary of State has provided an appropriate and permanent place in the Department's structure for the Office of Refugee and Migration Affairs (ORM). Concern about and assistance to international refugees has long been a basic aspect of our foreign policy, and the work accomplished by ORM has long been an expression of our humanitarian purposes. Over the years ORM has been attached to various entities in the Department—the former Bureau of Security and Consular Affairs and, starting in 1966, the Office of the Special Assistant to the Secretary for Refugee and Migration Affairs. Making ORM a major component of the Human Rights and Humanitarian Affairs Bureau now gives due recognition to this humanitarian subject in which the U.S. has a major and continuing involvement.

The Assistant Secretary for Human Rights and Humanitarian Affairs has been particularly interested in bringing about close liaison and cooperation between human rights and refugee matters, both within the Bureau and in the foreign affairs community as a whole.

Because it was an already existing office, ORM has undergone less dramatic structural changes than the new human rights office. The number of positions remains at 40, including support personnel, some of which, particularly on the administrative side, continue to do double duty for the Bureau as a whole. During the past year ORM's major activities have included the Indochina refugee program, assistance to refugees in Latin America, new programs for African refugees, and participation in regular and special meetings of the major refugee organizations. For the purpose of this report it may be useful to provide a review of U.S. refugee policy, with special attention to its relationships to our humanitarian and human rights concerns.

United States policy toward refugees is based on a traditional American concern for the uprooted and persecuted who, fearing oppressions flee their home countries. The United States has taken the lead for more than three decades in translating this humanitarian concern into action through programs of refugee assistance.

One of our fundamental objectives is to create conditions in the world which would facilitate the freer movement of people, a process which would enable people to leave and return to their own country as they choose. Unfortunately, in many parts of the world, restrictions exist which prohibit such choice. Moreover, periodic political upheaval or military action also cause massive migrations or individual flight. These conditions will not be eliminated soon, and refugees will likely remain with us for the foreseeable future.

We believe that refugees must be treated humanely and that their basic material needs must be met. They should be accorded the same rights and protection as other citizens. Their status as refugees should be of the briefest possible duration, and they should be returned to an active, productive life as quickly as possible. While in refugee status they should be given asylum and counsel. Efforts should be made to prevent large groups of refugees from creating political instability, or to be a factor in reducing economic welfare. On the whole it is our objective to reduce their total number.

We recognize that in order to achieve these objectives, the avenues for flight must be kept open.

Conditions must be maintained wherein governments will continue to be willing to offer asylum and not engage in forced repatriation. Large groups of refugees should not be allowed to accumulate in asylum areas thereby creating local or even international friction.

To achieve our objectives in the area of refugees, existing resources and machinery must be marshalled and new ones created. Obtaining the necessary financial resources and keeping the machinery viable is a primary function of the Human Rights and Humanitarian Affairs Bureau. Clearly the problem of refugees is not ours alone, but we must continue to exercise the necessary leadership to assure refugees receive international humanitarian attention.

The existing machinery is largely of U.S. design and is compatible with essential U.S. interests. In specific terms, it consists of the private American and international voluntary agencies, the United Nations High Commissioner for Refugees (UNHCR), the Intergovernmental Committee for European Migration (ICEM), and the International Committee of the Red Cross (ICRC). The voluntary agencies deal with individual refugees, providing counseling, care and maintenance, and resettlement assistance. The UNHCR provides for legal protection and interim care (sometimes through the voluntary agencies) and promotes permanent solutions for refugee problems through resettlement, repatriation or integration. ICEM's principal function is to provide low cost transportation and related resettlement services for the refugee migrants. The politically neutral ICRC provides relief in conflict situations and promotes the rights of political detainees and prisoners of war.

Programs fall into two general categories—on-going or anticipated activities; and new, unforeseen problems, some of which may be emergencies. The existing structure can deal with both categories, but U.S. support is vital to the structure.

The United States Refugee Program (USRP) is an on-going, annual effort to assist refugees from communist-dominated areas of the world. USRP is an expression of concern by the United States for those who manage to escape and have valid reasons to fear persecution should they return home. USRP helps keep the avenues of escape open and contributes material resources to support refugees in first asylum areas. Without these resources governments might exercise more stringent admission policies or even close their doors. USRP's supplementary care and maintenance program is only a first step. The larger effort involves finding permanent resettlement opportunities for refugees wherever possible and locating resources to finance resettlements. Unless there is movement out of the asylum areas these doors also will close.

Funds which support the work of the United Nations High Commissioner for Refugees (UNHCR) satisfy our objectives of giving practical meaning to the need for legal protection for refugees worldwide and to meet other material needs of the refugees. The UNHCR operates in Africa, Latin America and East Asia where the bulk of the refugee populations are now located. The United States is providing a modest amount for on-going programs and higher amounts for situations of special concerns such as the Indochina refugee program and refugees in Africa.

The most sensible and lasting solution to refugee problems is repatriation or resettlement. Since most refugees usually prefer resettlement to repatriation the Inter governmental Committee for European Migration (ICEM), a creation of the United States, is frequently involved. Its principal function is to provide transportation for refugees and migrants at reduced costs. ICEM also is concerned with related problems such as refugee resettlement processing and activities involving embarcation and reception. ICEM's program of selective migration to Latin America contributes to the economic and technical development of the Southern Hemisphere.

The International Committee of the Red Cross provides a wide range of humanitarian assistance in crisis areas afflicted by military and civil strife. In recent years it has functioned effectively in Cyprus, Lebanon and Angola.

The three international organizations discussed above have the capacity to expand their activities quickly in times of emergency—Hungary in 1956, Czechoslovakia in 1968, Uganda in 1972 and Indochina in 1975. It is in the U.S. interest to sustain this emergency capacity while assuring that ongoing tasks are met.

In 1977, some 60,000 refugees were resettled with the help of the voluntary agencies and ICEM. Over 80 governments contribute to the UNHCR's program, 35 governments contribute to ICEM, and over 80 support the ICRC.

The process is a continuing one worldwide. The major task is to ensure that both the resource and resettlement burden is shared by members of the international community. Participation by the United States in this effort is a major part of our humanitarian commitment and the key to any significant level of achievement.

In meeting its responsibilities in the area of Refugees and Migration, the Human Rights and Humanitarian Affairs Bureau, in cooperation with the regional bureaus, Consular Affairs and the Office of Legal Affairs, maintains close contact with our diplomatic posts in refugee problem areas, and cooperates closely with the U.S. Immigration and Naturalization Service (INS).

PRISONERS OF WAR AND MISSING IN ACTION

The third component of the Bureau responds to the Administration's and the Congress' continuing concern that all possible actions be taken on behalf of prisoners of war and Americans missing in action. This responsibility previously was handled in the Department by a Special Assistant to the Deputy Secretary, and it too has been integrated successfully with our human rights and humanitarian concerns. The Deputy Assistant Secretary responsible for this area participated in the diplomatic conference sponsored by the Swiss Government in Geneva in 1977 which completed a new protocol to the 1949 Geneva Conventions on the protection of war victims. A new section in that Protocol for the first time prescribes specific responsibilities for governments in accounting for the dead and missing in armed conflicts.

The major MIA responsibility in 1977 was the Carter Administration's initiatives with the countries of Indochina. In cooperation with the East Asia Bureau, the Bureau provided key staff support for the Presidential Commission headed by Leonard Woodcock which traveled to Vietnam and Laos for direct talks on the MIA accounting. Building on the work of the Woodcock Commission, the Deputy Assistant Secretary participated in our negotiations with Vietnamese government representatives in Paris in May, June, and December. He also travelled to Hanoi in September for the return of the remains of 22 U.S. servicemen on whom information had been provided during the May and June meetings. Preparations are now underway for a visit by Vietnamese MIA specialists to the U.S. Joint Casualty Resolution Center and Central Identification Laboratory in Hawaii, expected to take place later in the spring.

As an outgrowth of the POW/MIA responsibility, the Bureau has responsibility for liaison and cooperation with the International Committee of the Red Cross (ICRC). The ICRC's recognized role cuts across the entire range of the Bureau's responsibilities: human rights, refugees, and POW/MIA's. Increasingly in recent years the ICRC has assisted our human rights concerns by its interventions on behalf of political prisoners and other detainees in areas of tension and unrest. Its humanitarian assistance has been provided to refugees in areas from Lebanon to Africa to Indochina. It has taken the lead in family reunion efforts in Vietnam for relatives of American citizens, and is continuing to work for an MIA accounting. Our embassies have consulted the ICRC on human rights questions in a number of countries where the ICRC is active. The Secretary met with the President of the ICRC in Geneva in May, and a visit to the U.S. by the ICRC President is expected in March, 1978.

The Bureau's responsibility for ICRC liaison relates also to its responsibility for coordination with the Foreign Disaster Assist-

ance Office in AID. For more than a decade, and particularly since the Nigeria/Biafra and Congo crises in the 1960's, the ICRC has played a major role in providing international disaster and relief assistance in areas of armed conflict, where governments and other international bodies, including the United Nations, are unable to function for reasons of political sensitivity. The traditionally neutral, humanitarian character of the ICRC enables it to provide assistance to victims of the conflicts without regard to political differences and issues. The Bureau has worked closely with OFDA in arranging U.S. financial support for ICRC emergency programs in the Lebanon, Indochina, and the Ogaden conflict. This support is in addition to the U.S. government's annual contribution to the ICRC's regular budget, which is funded through the ORM appropriation.

DISCRIMINATION

The Assistant Secretary is required by the Foreign Assistance and the Foreign Military Sales Act to assist in the preparation of statements requested by Congress on any security assistance transactions in which a foreign government prohibits a U.S. citizen from participating on the basis of race, religion, national origin or sex. This requirement was part of the 1976 amendment to the Foreign Military Sales Act and is now included in section 501.

At the time that the new requirement was adopted, the Department instructed our embassies in security assistance recipient countries to report on any discriminatory or exclusionary policies or practices of their host government known to exist, or that might arise in connection with military assistance and sales programs. No reports of such discrimination were received at that time.

Again, in December 1977, the Department queried our embassies in security assistance countries regarding such discrimination and received no indications that it existed.

The Bureau remains in close touch with the geographic bureaus and others in the Department who have initial action responsibilities in discrimination cases. In the event of any confirmed cases of discrimination barring U.S. persons from participating in security assistance programs, the Bureau would ensure that all possible steps are taken to eliminate such discrimination.

FUTURE OPERATIONS AND MANDATE

In reviewing the organization of the Bureau of Human Rights and Humanitarian Affairs, the Department is convinced that the present structure provides an effective way to assure consideration of human rights and humanitarian considerations in the conduct of United States foreign policy. We believe the close connection between the various parts of the Bureau is useful and desirable. Maintaining these functions under the Assistant Secretary for Human Rights and Humanitarian Affairs is seen as an effective way to assure integration of our human rights and humanitarian objectives. The linkage extends across bureaucratic and voluntary agency lines to the individuals searching for relief. For example, many of the world's refugee population are victims of repressive governments which have denied these individuals their basic human rights.

Obviously, within the Bureau, the organization of our human rights efforts continues to receive review and examination. During this year, several additional reporting and statutory responsibilities in the area of PL 480, Export-Import Bank activities and the international financial institutions required reassessment of our personnel and resource needs.

In looking to the future, we intend to strengthen our capacity to assure the fulfillment of our statutory and policy objectives to make human rights a fundamental tenet of our foreign policy. To that end, we have begun to design an internal office reorganization which would establish within the Office of Human Rights the following three subdivisions: a division of regional affairs, a division of functional affairs and, a division of information and policy planning. The separation of responsibilities for regional and functional affairs would be a highly effective way to strengthen the implementation of our human rights policy.

Under this plan, the division of regional affairs will have individual human rights officers for the different geographical areas. The division of functional affairs will have officers responsible for security and military assistance issues, economic issues, international organizations, cultural affairs and USIA. The information and policy planning division will be the center for the continuing acquisition of information on country conditions, preparation of country reports, and development of longer range policy concepts.

The Department believes that past and proposed actions provide a foundation for the continuing effort to assure that human rights is a basic objective of our foreign policy, and that the United States continues its leadership in international humanitarian efforts.

POST ARTICLE RAISES SERIOUS NATO QUESTIONS

Mr. HART. Mr. President, the Washington Post of Sunday, January 15, published a cogent article about NATO, "Carter's NATO Budget Indicates Shift of Military Focus," which raises some interesting questions.

Many members of the Senate, including myself, have expressed their belief that NATO's defenses should be improved. As this article notes, the administration is putting new emphasis on doing this. However, there are several questions which can be asked about the administration's actions.

The first, which is mentioned in the Post article, is whether we should emphasize NATO to the extent that we seriously weaken other important capabilities. In particular, I would tend to question any moves which result in reducing our naval power, in a time when Soviet naval power is growing. Both our commitment to NATO and our interests elsewhere in the world require adequate naval forces. We must not forget that, however great our interests in NATO's central front, the United States is essentially a sea power, not a land power. Our geography alone dictates that.

The Post article also raises some interesting questions about the nature of our initiatives to strengthen NATO. Adm. George H. Miller notes that the current NATO strategy of Forward Defense violates the basic military rule of "don't put your main body of troops on the picket line." He suggested that the majority of U.S. troops in Europe be held back as operational reserves.

The question of forward defense is central to any improvement of NATO. The historical record of this type of defense is poor; conceptually, it is very much like the Maginot Line. Both German and Soviet World War II experience indicates the wisdom of putting comparatively few forces forward and keeping the main strength in the operational reserve, where it can act once the nature and direction of the opponent's main attack is clearly seen. As long as U.S. NATO initiatives are incorporated into a strategy of forward defense, it is not clear that any net improvement in NATO's defense capability will result.

Mr. President, I ask unanimous consent that the article, "Carter's NATO Budget Indicates Shift of Military Focus," be printed in the RECORD.

There being no objection, the article was order to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 15, 1978]

CARTER'S "NATO BUDGET" INDICATES SHIFT OF MILITARY FOCUS

(By George C. Wilson)

NATO, the 15-nation alliance of garrisoned soldiers who have yet to fire a shot in anger, is now where the action is for the American military.

So much so, for example, that President Carter's first military budget going to Congress later this month is being advertised as "the NATO budget."

The big increases in his $126 billion defense budget for fiscal 1979 are for NATO-related conventional forces and weapons. The President wants to increase NATO accounts by about 5 per cent, compared to only a little over 2 per cent for the entire Pentagon budget.

Service leaders, acutely aware that NATO is the name of the game, are putting Vietnam out of their minds and concentrating on widening their roles in Europe.

They are being encouraged to think NATO by an assistant defense secretary who himself dramatizes the shift in focus, Robert W. Komer.

Komer, formerly head of the U.S. government's pacification program in Vietnam, is now Defense Secretary Harold Brown's chief NATO adviser, working out of an office near Brown's in the Pentagon's prestigious E-ring.

Additional evidence of the NATO focus includes:

President Carter announcing on his recent overseas trip that 8,000 more U.S. troops will go to Europe to bring American units attached to NATO up to full strength.

The Marine Corps, long identified with the Pacific, trying to carve out a front-line role for itself in NATO by conducting maneuvers during the last two years on the northern and southern flanks of the alliance—Norway and Turkey.

The Air Force stationing more of its hottest planes in Europe, adding a wing of F-111s to those already in Britain and putting 72 F-15 fighters in Bitburg, Germany, without taking out the F-4s already there.

The Army, long worried whether its reserves could get into a European battle in time to stop a Warsaw Pact advance, considering a new scheme to take tanks and other heavy stuff out of reserve unit armories in the United States and garage them in Europe where reserves would fly to join up with them.

Defense leaders forcing the Navy and Marine Corps to buy cheaper planes—F-18 and A-4—on the theory that Israel losses in the Yom Kippur War of 1973 demonstrated that quantity will be more important than quality in a NATO war.

Although this NATO emphasis is widely supported in Congress, there are some concerns arising that the White House and Pentagon have developed tunnel vision.

Mike Mansfield, U.S. ambassador to Japan, warned Navy leaders recently that Japan is becoming nervous about being abandoned by the U.S. military. Those fears are nurtured

by the withdrawal of American combat troops from South Korea and the uncertainty about future Pacific deployment of aircraft carriers.

Adm. Elmo R. Zumwalt, former chief of naval operations, gave military substance to such fears by indicating current U.S. war plans call for pulling the carriers away from Japan if war breaks out in Europe.

Said Zumwalt on the ABC "Good Morning America" television program last week: "If we had a war with the Soviet Union, we would abandon our allies in the Western Pacific and concentrate on the defense of Hawaii and Alaska, putting most of our ships into the Atlantic in a desperate effort to try to save Europe."

Why all the new stress on beefing up NATO?

The official Pentagon answer is that the United States and its NATO allies, now that there is a standoff between the United States and Soviet Union in strategic nuclear weapons, must spend money to field more nonnuclear strength in Europe. Strong conventional forces are the best way, the argument goes, to persuade the Kremlin that attacking the West with nonnuclear forces would be a loser, too.

Also, U.S. officials state that while the United States was preoccupied with Vietnam, the Soviet Union expanded and modernized its Warsaw Pact forces by deploying new tanks, armored personnel carriers, antitank weapons, aircraft and electronic warfare equipment. The United States and its NATO allies have some catching up to do, both in arms and war planning, officials stress.

Carter has promised to increase the U.S. investment in NATO by at least 3 percent a year, urging other members of the 29-year-old alliance to follow suit. He has called for a summit meeting of NATO heads of state later this year in Washington.

Yet interviews with civilian defense officials and military leaders did not indicate any grave fears that the Soviet Union was on the verge of abandoning "detente" and attacking NATO.

In fact, some generals, when assured anonymity, said that, besides deterring Moscow from launching an attack, a big reason for the continued commitment of U.S. troops in West Germany is to keep the German war machine from rising again.

The United States had 272,247 military people on active duty attached to NATO as of Sept. 30. Of that total, 224,466 were stationed in West Germany, according to the Pentagon.

Soviet generals, in talking with their American counterparts in informal situations, often indicate they welcome the U.S. troop presence in Germany because of its restraining influence.

Retired Adm. George H. Miller, a former strategic planner for the Navy, said in a telephone interview that another reason the Soviets like to see "our forces tied down in NATO is so they can pick our pockets every place else in the world."

Miller is among the military professionals who complain that NATO planners are still looking at the last war, not the most likely new one; that more money alone will not make the alliance militarily viable.

"There's no way to do what we're committed to do," Miller said. "Anybody who really thinks we could reinforce NATO in a war is smoking opium."

He said the Soviets could disable landing fields for cargo aircraft in Europe with ease, then concentrate the submarines and planes on cutting the sea supply line.

Even if the United States somehow found the cargo ships needed to resupply Europe, Miller argued, the losses would be so high "that we wouldn't go. And if you don't go, NATO falls."

The bucket-kicking admiral also faulted NATO land warfare strategy, declaring it violates the basic military axiom of "don't put your main body of troops on the picket line."

He contended that crowding the bulk of NATO's troops along the front line shows the Soviet where the alliance is strong and where it is weak. The U.S. troops in Europe, he contended, should be regarded "as earnest money," with 50,000 on the line enough to serve that purpose. The rest should be kept back to strike where needed, he maintained.

Miller's recommendation is to "drive the submarine back to the drawing board" by building advanced surface ships that could cross the ocean at speeds of 60 knots to keep NATO supplied. He said Defense Secretary Harold Brown was shortsighted in cutting from the new budget funds for the surface effect ship that could achieve such speeds.

Although Miller's interest in high-speed ships might be considered parochial, he was not alone in contending NATO planning has failed to reckon with battlefield realities. Army officers who have commanded units deployed on the NATO front made these other complaints in discussing the theater that has become the focus of military interest:

Combat units of different allied armies still have a hard time talking to each other by radio—a possibly disastrous situation if war broke out suddenly. Microwave radio antennas used for front-line communications could easily be destroyed.

Front-line U.S. troops in Germany would be hard-pressed to retaliate to a surprise attack because their rifles and ammunition are locked in separate places.

Tactical nuclear weapons, with 155mm nuclear shells the most numerous, are so close to the front lines that a blitzkrieg attack might reach them before permission was granted to fire them at the invaders. The Army's own field manual on "request sequence" shows it might take 24 hours to get permission to go nuclear.

There is no well conceived plan for evacuating nukes—so much heavier than conventional weapons that it takes two men to load just one shell and four to lift the underground nuclear mines onto a truck—if they are in danger of being overrun. The alternative is to disable the nukes and leave them in place.

The U.S. Army, in response to the passage of an amendment by Sen. Sam Nunn (D-Ga.), has cut back on its logistical units in Europe to the point that there would not be enough support people to distribute replacement troops and ammunition in the crucial early days of a war.

"Now we're all teeth and no tail," complained one Army officer with considerable command experience in Europe.

There are so many American dependents in Germany that the roads would be blocked by them if war came, hindering troop movements. The Pentagon said that in Germany there were 224,466 active-duty U.S. military people (as of last September), 147,299 military dependents, 16,636 American civilian employees and 77,161 dependents of these employees (as of September, 1976.)

Gen. Alexander Haig, NATO commander, has no real war headquarters with the communications needed to run a war in Europe. "He apparently wants to fly around in an AWACS (airborne warning and control system airplane the United States is trying to persuade NATO countries to buy) to see who lost," one Army commander said.

Defense officials conceded there are indeed still a lot of NATO military problems to be solved but emphasized the Carter administration is determined to solve them—and is succeeding.

Komer, for example, agreed it is "scandalous" that communications between various allied forces in NATO are still inadequate but said command, control and communications are getting top-priority attention.

The Pentagon's civilian NATO chief added that the underlying planning assumption is a Warsaw Pact attack across the NATO line "would not be a bolt from the blue attack" but would provide the alliance with at least "two to three days" warning.

The "forward strategy" of putting heavy troop concentrations along the NATO front is the most effective way to deter an invasion and combat one if launched, defense officials believe. The new Pentagon budget will have billions in it to buttress the front lines with the new XM-1 tank, armored personnel carriers, antiaircraft and antitank missiles, artillery, attack helicopters and the Air Force's flying antitank gun, the A-10 plane.

To get more bang for the buck, the Pentagon's NATO team is pushing "standardization, rationalization, interoperability"—NATO buzz words for building weapons alliance members can use and repair interchangeably.

Defense officials asserted that Germany could handle resupply during a war and that Haig has various means of communicating with NATO forces although getting a better command post is a current objective.

Pentagon officials said there are plans for evacuating nukes but conceded they need improvement.

For the military services, "getting with the program" now means getting with NATO—the only game in town.

ANNOUNCEMENT OF POSITION ON VOTE ON CRIMINAL CODE REFORM ACT

Mr. CHILES. Mr. President, recently the Senate completed action on S. 1437, to revise and reform the Criminal Code of the United States. While I was present during consideration of this measure and the numerous amendments offered, I was not able to record my vote on final passage. I was required to return to Florida to attend the funeral of the son of a close friend of mine.

I do not wish to appear unrecorded on legislation of this magnitude and importance. If I had been present I would have voted affirmatively on the bill. I am certainly pleased that the Senate passed S. 1437 by a considerable majority.

As I am sure is the case with most other Senators, I am not satisfied with all the provisions of the criminal code revision package. Several amendments, which I think represented improvements, were not adopted by the Senate. However, on balance, I believe the legislation is a major step toward achieving a modern and workable criminal code for this Nation.

For over a decade revision of the criminal code has been an issue of consideration for the Senate. That such an extraordinarily complex and controversial proposal is successfully brought to fruition speaks well for our legislative process and for the Senators who labored so

diligently on this measure. The final achievement of a rational and coherent system of Federal criminal laws will be a major landmark in the continued progress of American jurisprudence.

THE NEED FOR FULL DIPLOMATIC RELATIONS NOW BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA—A STATEMENT BY SENATOR EDWARD M. KENNEDY

Mr. CRANSTON. Mr. President, I have just had the privilege of serving as chairman of the 16th congressional delegation to visit the People's Republic of China since the Shanghai Communique was signed by the United States and the People's Republic of China almost 6 years ago, on February 28, 1972.

The Shanghai Communique recognized the need for and is pledged to the normalization of relations between the United States and the People's Republic of China—that is, full diplomatic relations. At the time of the communique, both the Chinese and the Americans thought that this normalization would be achieved within a reasonable period of time. It is now 6 years later and we have made little progress on the path to normalization and full diplomatic recognition. As chairman of the 16th congressional delegation to the People's Republic of China, I will be making a formal report on the trip and the need to fulfill the promise of the Shanghai Communique. However, another of our distinguished colleagues, Senator EDWARD M. KENNEDY of Massachusetts, also visited China during January and has issued a statement concerning his 2 weeks in the People's Republic of China. I had the pleasure of meeting and conferring with Senator KENNEDY when I arrived in Peking just when he was about ready to conclude his visit. I also have read and considered his views on the People's Republic of China. I think that we all should have the benefit of that perceptive first hand statement made by Senator KENNEDY on his departure from the People's Republic of China.

Mr. President, I ask unanimous consent that the statement of Senator EDWARD M. KENNEDY in Hong Kong, on January 9, 1978, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDWARD M. KENNEDY IN HONG KONG, JANUARY 9, 1978

I came to China to hold discussions on a broad range of international issues of concern to both of our countries and peoples. I met with Chinese leaders directly responsible for these issues: Vice Chairman Teng Hsiao-Ping, Foreign Minister Huang Hua, Minister of Foreign Trade Li Chiang, and of course my hosts at the Chinese People's Institute of Foreign Affairs.

I leave China more committed than ever to helping move forward the process of normalizing relations between the United States and China.

It is a tragedy of history that normal diplomatic relations have been interrupted between us for almost 30 years.

For over 10 years, I have called for full diplomatic relations between our two countries. Since the hopeful opening in 1972, we have had an opportunity to establish normal and enduring relations not just of bilateral significance, but of global importance. We should not lose this historic and strategic opportunity. On the basis of my discussions, I believe the Chinese share this view and this hope for early normalization of relations.

I am convinced of the common destiny of our two peoples. We have important differences of principle. But no one should forget the fundamental transformation of our relations from confrontation and mutual isolation, in the 1950's and 1960's, to limited cooperation and parallel action today.

The facts that China and Japan now enjoy friendly relations for the first time in over a century, and that both these nations are also friendly to the United States, are important and encouraging developments for the future peace and prosperity of both Asia and the World.

The key obstacle to normalization is the future of the 16 million people on Taiwan. I did not expect and cannot report progress in resolving that issue. But I believe the Chinese have a better understanding of the view prevailing in America—which I share—that Taiwan should enjoy a peaceful and prosperous future. And I, for my part, have a better understanding of the Chinese view.

Clearly, further discussions will be needed to resolve continuing differences between the American and the Chinese positions on Taiwan. But surely it is one of the great anomolies of our foreign policy that the United States has not yet established diplomatic relations with Peking—increasingly a power of global proportions, and with many years of effective control over the 900 million people on the mainland of China.

I also believe that we and the Chinese share an interest in creating a positive political climate in which normalization can take place. Exchanges of visits and meetings of leaders in themselves make a contribution. The continued drawdown of U.S. military forces and of the official U.S. presence on Taiwan is an important element. So is the expansion of trade and cooperation on an increasing number of levels between our two societies.

While in China, I suggested that the United States supply advanced oil technology to China in exchange for a share of Chinese oil production.

On humanitarian grounds, I asked the Chinese leaders to consider a number of requests by their citizens to visit their relatives in the United States. In Shanghai, I was able to visit one such family with relatives in my own state of Massachusetts.

And I urged the Chinese leaders to consider six proposals by the National Academy of Sciences for new cooperative efforts in the field of science and technology, including exchanges of experts and data in the crucial field of cancer research.

I am hopeful that the Chinese will give favorable consideration to these various proposals. Already in Peking, we were told by the Peking Philharmonic Orchestra that it would like to send five or six Chinese musicians to join the Boston Symphony Orchestra next summer at Tanglewood—an important step in the cultural field.

I also devoted a substantial proportion of my discussions with Chinese leaders to the current world situation. We now share many common perspectives, not least the importance of a strong United States and Western Europe as well as a secure and prosperous Japan. I took the opportunity to describe extensively for the Chinese the many strengths we share with our allies in the political, military, and economic fields—in contrast to their view of weaknesses in the position of the West.

I believe the United States and China should work hard to expand the scope of our dialogue and of our cooperation on global issues. As Chinese power increases, I am convinced that it can and should be an influence for peace and for progress in international affairs.

Finally, and equally important, I came to China to learn as much as possible, within two short weeks, about the country and the Chinese people. I made efforts to meet with workers in factories and communes, students in universities, inmates in prisons.

Two weeks make no one an expert on any country, especially one as large and diverse as China. But after months of discussion and reflection before the trip—and our experiences during it—I come away with two somewhat contrasting sets of impressions.

On the one hand, China remains a developing country, one with immense economic challenges before it. It remains very much a closed society, with strictly limited freedom of expression. And its ideological commitment remains contrary to our own.

On the other hand, I am struck by the strong commitment of the Chinese people to modernization. I come away with an overall sense that China is a nation that can make it as a modern industrialized state in the future, if it can avoid the social and political upheavals that have threatened it in recent years.

It is very likely that China will be an increasingly important factor in the history of this century and the next. The goal of our leaders and Chinese leaders should be that China uses its growing international weight for constructive purposes. The United States should move quickly and responsibly to normalize the relations that were interrupted, more than a quarter century ago, between the world's most populous nation and the world's most powerful nation. When I return to the United States, I will work to help advance these important objectives, which are in the best interests of both our countries.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Larry D. Patton, of Oklahoma, to be U.S. attorney for the western district of Oklahoma for the term of 4 years, vice David L. Russell, resigned.

Coy W. Rogers, of Oklahoma, to be U.S. marshal for the western district of Oklahoma for the term of 4 years, vice Floyd E. Carrier, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, February 13, 1978, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

NUCLEAR NONPROLIFERATION ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will now resume consideration of the unfinished business, S. 897, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 897) to strengthen United States policies on non-proliferation and to recognize certain export functions of the Federal Government and to promote more efficient administration of such functions.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. Time for debate on the bill is limited to 4 hours, to be equally divided and controlled by the Senator from Ohio (Mr. GLENN) and the Senator from Illinois (Mr. PERCY), with 1 hour on any amendment in the first degree, 30 minutes on any amendment in the second degree, and with 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. GLENN. Mr. President, the Senator from Idaho was on the floor a few moments ago. I presume he is ready to address amendments to the bill.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1589

Mr. McCLURE. Mr. President, I call up amendment No. 1589.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an amendment numbered 1589.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 115, line 12, after the period insert "Such procedures shall include at a minimum the procedural details including time limitations comparable to those of Executive Order 11902, February 2, 1976. The processing of any subsequent arrangement proposed and filed as of October 3, 1977, shall not be delayed pending the development and establishment of procedures to implement the requirements of this section.".

Mr. McCLURE. Mr. President, this amendment is relatively simple. It has the effect of amending section 302 of the bill to require the administration to prepare specific procedures for the regulation under section 302. The amendment would require these procedures to include details comparable to Executive Order 11902, dated February 2, 1976.

The amendment also would grandfather subsequent arrangements which were proposed and filed as of October 3, 1977.

The purpose of the amendment is to provide some kind of procedural certainty and predictability for any licensing applicant. The Executive Order to which it makes reference did carry specific, step-by-step processes with deadlines and clear indication of who the responsible officials in the various involved agencies were for each step and each procedure. My amendment incorporates that requirement for similar procedural details. It does not require identical but requires similar procedural details, to be spelled out by referring to the Executive Order.

The administration, in its January 26 letter to Senator CHURCH, raised some question concerning the technical difficulty of a statute referring to an Executive Order. They recommended that the amendment should be modified to reflect that concern on their part. I understand that they have communicated that not only to Senator CHURCH but also to the floor managers of the bill.

I hope we can agree on a formulation to include the modifications which the administration asks to carry forward the purpose of this amendment without the objection to which they refer.

I yield to the Senator from Ohio to see if that is correct.

Mr. GLENN. Mr. President, in response to the administration's request that we not refer to an executive order directly, this substitute does flesh out the procedures which are comparable to those set forth in Executive Order 11902 and which have been agreed upon by the floor managers and by the distinguished Senator from Idaho (Mr. McCLURE).

This amendment also insures that while the substantive approval provisions of the section will become effective immediately upon enactment, there will be no delay while the specific interagency procedures are being developed.

So I am glad to accept the amendment proposed by the Senator from Idaho.

Mr. McCLURE. Mr. President, I understand there is an unprinted modification which I believe the majority staff has. I ask unanimous consent that the printed amendment be modified to include the agreed-upon formulation and the procedural detail as included in the unprinted amendment, which will be sent to the desk.

The ACTING PRESIDENT pro tempore. The Senator has a right to modify his amendment, and it will be so modified.

Mr. GLENN. Mr. President, I say to the Senator from Idaho that we do have a copy of the changes he refers to, and those also are acceptable to the floor manager on this side.

Mr. PERCY. Mr. President, I know of no objection on this side.

The ACTING PRESIDENT pro tempore. Will the Senator send the modification to the desk?

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I send to the desk an amendment to the amendment of the Senator from Idaho.

The ACTING PRESIDENT pro tempore. Is this the modification?

Mr. GLENN. This is the modification.

The modified amendment is as follows:

On page 115, line 10, insert a period after "Defense", delete all that appears thereafter through "provision." on line 12, and insert in lieu thereof the following: "The Secretary of Energy shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures, including provision for necessary administrative actions and interagency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for the consideration of requests for authorization under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an interagency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and interagency disagreements and appeals to higher authorities, frequent meetings of interagency administrative cordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decision required under this section. The processing of any request proposed and filed as of the date of enactment of this Act shall not be delayed pending the development and establishment of procedures to implement the requirements of this section."

The ACTING PRESIDENT pro tempore. Do Senators yield back their time?

Mr. GLENN. I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1597

Mr. McCLURE. Mr. President, I call up amendment No. 1597 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes amendment No. 1597.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 121, line 2, after the period insert "The Secretary of State within ninety days after the enactment of this section shall establish orderly and expeditious procedures for the preparation of the executive branch judgment which are mutually agreeable to the Secretary of Energy, the Secretary of Defense, and the Director of the Arms Control and Disarmament Agency. Such procedures shall include at a minimum procedural details, including time limitations comparable to those of Executive Order 11902, February 2, 1976.".

Mr. McCLURE. Mr. President, this amendment would require the executive branch to formulate mutually agreeable procedures for the coordination mandated in section 304 in the preparation of executive branch judgments for export licenses.

The bill requires a number of separate departments, agencies, and groups within the executive branch to take certain actions with regard to export licenses, but there is nothing in the bill as such which mandates the procedures which would coordinate their activities and, therefore, there is the great opportunity, perhaps the great likelihood for a very, very long time process within the executive agencies as they separately take the actions required by the statute.

This amendment would mandate that the procedures for coordination be spelled out so that there be a minimum of time delay and a maximum of predictability in the interagency processing of export licenses under the procedures of section 304.

The administration in the State Department's letter of January 26 commented that the reference to the Executive Order might lead to difficulties, as was mentioned on the last amendment, and the concern expressed there and the solution is identical in this amendment.

As I understand, the floor managers of the bill do have some suggested modifications in line with the administration's request.

Mr. GLENN. Mr. President, the Senator from Idaho is correct.

UP AMENDMENT NO. 1177

I send to the desk an unprinted substitute for amendment No. 1597 and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator will need unanimous consent so that the amendment may be in order at this time.

Mr. GLENN. Mr. President, I ask unanimous consent for consideration of this substitute for the amendment of the Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes a substitute amendment to amendment No. 1597, an unprinted amendment numbered 1177.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the substitute amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 121, line 2, after the period insert the following: "The Secretary of State shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures, including provision for necessary administrative actions and interagency memoranda of understanding, which are mutually agreeable to the Secretaries of Energy, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for the preparation of the Executive Branch judgment on export application under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such applications, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an interagency coordinating authority to monitor the processing of such applications, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of interagency administrative coordinators to review the status of all pending applications, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial applications should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decisions required under this section. The processing of any export application proposed and filed as of the date of enactment of this Act shall not be delayed pending the development and establishment of procedures to implement the requirements of this section."

Mr. GLENN. Mr. President, in response to the administration's request that we not refer to an executive order directly, this substitute does flesh out the procedures which are comparable to those set forth in executive order 11902 and which have been agreed upon by the floor managers and by the Senator from Idaho, Senator McCLURE.

This amendment also insures that while the substantive approval provisions of the section will become effective immediately upon enactment their will be no delay while the specific interagency procedures are being developed.

I understand that this substitute is acceptable to the Senator from Idaho.

Mr. McCLURE. I say to the Senator from Ohio that the substitute is acceptable, and I join in his request that it be adopted.

Mr. GLENN. Mr. President, I yield back all of my remaining time on this substitute amendment.

Mr. McCLURE. I yield back all my remaining time.

The PRESIDING OFFICER. The question then is on agreeing to the substitute amendment.

The substitute amendment was agreed to.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Does the procedure require the adoption of the substitute and than adoption of the amendment as amended?

The PRESIDING OFFICER. The Senator from Idaho is correct.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. Was the vote announced on that substitute to the amendment?

The PRESIDING OFFICER. The vote was announced on the substitute.

Mr. GLENN. All right.

Mr. President, I move to reconsider the vote by which the substitute amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, does the question now occur upon the amendment as amended?

The PRESIDING OFFICER. If Senators yield back their time, the question will occur on the amendment.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

Mr. GLENN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment as amended.

The amendment, as amended, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1594

Mr. McCLURE. Mr. President, I call up amendment No. 1594 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes amendment No. 1594.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 120, after line 6, insert the following new subsection (c).

(c) The Secretary of Energy within not more than ninety days after the enactment of this section shall establish orderly and expeditious procedures which are mutually agreeable to the Secretary of State, the Secretary of Defense, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for making the determinations and notifications required by this section. Such procedures shall include at a minimum procedural details, including time limitations comparable to those of Executive Order 11902, February 2, 1976. Further, such procedures shall specify that the Director must declare within five days of the receipt of a copy of a proposed subsequent arrangement whether he intends to

prepare a Nuclear Proliferation Assessment Statement, and if he intends to prepare such statement an additional thirty days to do so, unless pursuant to the Director's request, the President formally waives the thirty-day requirement and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such waiver and the justifications therefor.

Mr. McCLURE. Mr. President, this amendment would modify section 303 of the bill to specify the procedures for interagency coordination on approval of subsequent arrangements.

The amendment requires procedures which are comparable to those of Executive Order 11902, February 2, 1976.

Additionally, the amendment establishes a specific procedure for the Director of the Arms Control and Disarmament Agency in the timing of his decisions and preparation of a nuclear proliferation assessment statement.

These procedures will insure that the statutory authority granted to the Director cannot be used in a way to delay or stop a pending subsequent arrangement.

The amendment does provide a waiver of the 30-day time requirement in the event that the President grants such a waiver. The intended result of these various requirements will be to insure that subsequent arrangements are handled in an expeditious and procedurally predictable fashion.

Since section 303 in effect delineates the interagency coordination and approval requirements for U.S. Government actions with foreign governments and commercial entities, it is desirable that these coordination procedures provide for timely consideration of the approvals.

The executive branch had two comments on this amendment in its January 26, 1978, letter of the State Department to Senator SPARKMAN. One dealt with reference to the executive order as we have discussed on the last two amendments. The same agreed upon formulation for incorporation in the prior amendments will be used in this amendment.

In addition, the executive branch suggested that the Arms Control and Disarmament Agency may need more time to decide whether or not it will prepare a nuclear proliferation assessment statement, more time than is provided in the printed amendment.

I understand that Senator PERCY may have an amendment to make the recommended changes to the printed amendment.

If Senator PERCY has that amendment, perhaps it and the other conforming amendment could be offered at this time.

UP AMENDMENT NO. 1178

Mr. PERCY. Mr. President, I send to the desk an amendment in the form of a substitute to the pending amendment and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1178 as a substitute to amendment No. 1594.

Mr. PERCY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 120, line 6, after the period insert the following new subsection (c): "(C) The Secretary of Energy shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures, including provision for necessary administrative actions and interagency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce, the Director or the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for the consideration of requests for subsequent arrangements under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officals responsible for meeting such deadlines), an interagency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of interagency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decisions required under this section. Further, such procedures shall specify that if he intends to prepare a Nuclear Proliferation Assessment Statement, the Director shall so declare in his response to the Department of Energy. If the Director declares that he intends to prepare such a Statement, he shall do so within sixty days of his receipt of a copy of the proposed subsequent arrangement (during which time the Secretary of Energy may not enter into the subsequent arrangement), unless pursuant to the Director's request, the President waives the sixty day requirement and notifies the Committee of International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such waiver and the justification therefor. The processing of any subsequent arrangement proposed and filed as of the date of enactment of this Act shall not be delayed pending the development and establishment of procedures to implement the requirements of this section.

The processing of any request proposed and filed as of the date of enactment of this Act shall not be delayed pending the development and establishment of procedures to implement the requirements of this section."

Mr. PERCY. Mr. President, the reasons for this amendment are very similar to the reasons given by my distinguished colleague, Senator GLENN, on the previous amendment.

In addition, this amendment to the second portion of amendment No. 1594 reflects the administration's concern that the time limits on ACDA preparation of Nuclear Proliferation Assessment statements set forth in amendment No. 1594 as introduced would be inadequate.

Thus it requires ACDA to declare its intentions with respect to the need for a Nuclear Proliferation Assessment Statement when it transmits its views on a subsequent arrangement to DOE, and provides 60 days for preparation of such a Statement unless the President determines that additional time is necessary.

In addition, it provides that the required notice of a proposed subsequent arrangement in the Federal Register will not be made until ACDA has either completed the statement, or failed to complete the statement after all time authorized by the statute and any Presidential waiver has expired.

This might be a good time to ask our distinguished colleague to reaffirm the fact that in working together with him on this bill what we are trying to do is to ensure that adequate procedures will be followed and that the whole spirit and intent of the bill as we have agreed upon heretofore in previous colloquy will be followed.

But if the matters can be expedited in an effort to eliminate undue delay and to set a schedule that can be counted upon, we will remove a great deal of the ambiguity and doubt that previous suppliers have heretofore faced in dealing with the Federal Government.

Mr. McCLURE. I might say to my colleague from Illinois, if he will yield, that I agree with that statement. As I have tried to state in all the proceedings on his matter, we are in agreement on the goals.

My concern, and the concern of many others, have been twofold: One is that——

The PRESIDING OFFICER. The Chair is forced to interrupt. The second part of the amendment is not proper. It amends the section not amended by the prior amendment.

Mr. McCLURE. Mr. President, I thank the Chair for that comment. While we are checking that I might just continue my statement and then, perhaps, we can get some clarification on that matter.

The PRESIDING OFFICER. Very well. The Senator from Idaho.

Mr. McCLURE. I thank the Chair.

There are two concerns I have had. First and fundamentally is that if this procedure is not a workable procedure, instead of the United States being a participant in and a leader of the nonproliferation efforts in the world, that we will, as a matter of fact, have excluded ourselves from that process, and in doing so we will not have enhanced the likelihood of getting a control on the dangers of nuclear proliferation and the dangers of nuclear fuels in improper hands, but we will have increased the danger, if we do not make this bill workable, and if we can make this bill workable then we will have accomplished the goals of the managers of the bill and of the Senator from Idaho in making certain that we have the best possible nonproliferation statute and the best nonproliferation posture to present to the world.

In this latter context the amendment is absolutely necessary, and the Senator from Illinois is totally correct that we must have predictability, that we must have workable timeframes; we must have schedules that can and will be met.

I think this must be a procedure which is spelled out in the statute so that we know not only what those procedures are but that anyone looking at them can know what the procedures are so that they will have confidence in those procedures. But they must also be spelled out in sufficient detail so that they cannot be used by those who have other motives in mind, such as the complete destruction of the nuclear industry and the complete shutdown of United States nuclear supplies.

I know the Senator from Illinois shares that goal. I certainly agree with the statement he has made and, for that reason, I thought it was well that he appropriately did raise that issue with this amendment.

Mr. PERCY. Before responding to my distinguished colleague, I ask unanimous consent that I be permitted to modify the amendment sent forward in the form of a substitute by deleting the amendment on page 116.

The PRESIDING OFFICER. The Senator has the right to modify his amendment and, as so modified, it is so modified.

Mr. PERCY. I thank my colleague for his response. I think it appropriate as we go along in our colloquy today and tomorrow to reaffirm how united we are in intention and how the floor managers of this bill are very anxious to clarify any ambiguity, to set reasonable timeframes for every step that must be made, so that we can reensure and reinforce our position as a reliable supplier, and for this objective to which our distinguished colleague from Idaho is so devoted, we are very grateful indeed.

Mr. GLENN. Mr. President, I think it is well to point out at this time that the procedure we are going through with these amendments does set time limits in which actions have to occur in the licensing process. I rise to point that out because I think it is very, very important.

We are trying to streamline these procedures, not stop our nuclear industry from going ahead. I have had a number of inquiries in my office and by people approaching me that showed a lack of knowledge of what we are trying to do with this bill.

We are not trying to stop our nuclear industry from participating in markets around the world. In fact, we are trying to clarify procedures and to set time limits, which the Senator from Idaho very properly has pointed out that we need. We are happy to accept both of these amendments.

But these do set good limits; 60 days for ACDA, and with the other time provisions we have for the other licensing steps as we go ahead with approval of the licensing request which, I think, substantially helps the bill in that suppliers and buyers will know exactly what they are up against with regard to time. They can set specific time limits then for their negotiations and be assured that the United States will not only be a guaranteed nuclear supplier, but do it on a timely basis. That is the main point.

Mr. McCLURE. Mr. President, will the Senator yield for one other comment?

Mr. GLENN. Certainly.

Mr. McCLURE. There is a third group that is as interested and has to have notice, too, under the procedures under the statute, not only the prospective purchasers and the prospective suppliers, but the people who are opponents to that arrangement, and the amendments then set those timeframes so that anyone interested on either side of those issues knows what the procedures are, knows what the timeframe will be, and that the judgments will be made according to that timeframe.

Mr. GLENN. Mr. President, if the Senator will yield further to me, the procedures in this bill are designed to allow licenses to proceed in timely fashion and the intent is not to use these procedures to hold up licenses for 6 months, or 8 months, or as long as a year, which sometimes has happened, and which probably, has done more to stifle U.S. initiative abroad in the nuclear industry, and discourage prospective buyers of American products, than anything else we have had in our industry.

We are trying to clarify that in this bill, straighten out those procedures, put time limits on them. If anything, it should definitely help American industry abroad.

Mr. McCLURE. I thank the Senator for that comment because, of course, that is exactly the motivation of the Senator from Idaho, and nothing else. It has been characterized by some as an attempt to kill this legislation. My motivation has not been to do that but to do exactly as the Senator from Ohio has stated, to make this bill predictable to people in this country and outside this country so as to know exactly what the policies are, exactly what the procedures will be, exactly what it is, in order to know what they have to meet, and exactly the time frames in which they must meet them.

I think we can then be a reliable partner and we can then, in doing that, exert the maximum possible influence upon the world's nonproliferation concerns.

Mr. GLENN. At the same time put a roadblock in, very definite roadblocks, where it looks like we are having nuclear weapons fabrication as a possible result of our exports. That is the bottom line where we stop right there.

Mr. McCLURE. I agree with the Senator from Ohio.

Mr. PERCY. Mr. President, I feel that the Senator from Ohio has indicated there have been some concerns in the past by nuclear suppliers and the nuclear industry, and they have been very articulately voiced. There have been very genuine concerns which have been expressed individually to us and which have been noted. We have indicated throughout that we are working closely with the Senator from Idaho (Mr. McCLURE) on these matters, who is also concerned. I have noticed an increasing degree of understanding now. Very few questions are now being raised.

At the time I introduced the original bill, I said that it was imperfect, that it could have improvement, but I was submitting to get started, so we could begin the debate.

I have yet to find a member of the nuclear industry, to their credit, that disagrees with our overall objectives and goals. They would be the last ones who would want to be responsible for increasing the level of terror in the world, or placing our security and that of many other countries in jeopardy.

I think, as we move into these amendments, each of them fits into a mosaic that has been very carefully put together to balance out our desire to be a reliable source of supply, but also to fulfill the responsibility we feel we have to ourselves and all the rest of the peoples on the earth.

If no one wishes to speak further, I yield back the remainder of our time on the substitute amendment.

Mr. GLENN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the substitute amendment of the Senator from Illinois to the amendment of the Senator from Idaho.

The substitute amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. I yield back the time on the amendment, as amended.

Mr. GLENN. I yield back our time on the amendment, as amended.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho, as amended.

The amendment, as amended, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1179

Mr. McCLURE. Mr. President, I understand that the managers of the bill wish to offer an amendment to the substitute amendment, which will be properly drafted and again put in as an appropriate amendment.

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) offers an unprinted amendment numbered 1179:

On page 116, line 7, delete "notice of any such" and insert in lieu thereof the following: "Commission and, whenever the Director declares that he intends to prepare a Nuclear Proliferation Assessment Statement pursuant to paragraph (2) of this subsection, after the receipt by the Secretary of Energy

of such Statement or the expiration of the time authorized for the preparation of such Statement, whichever occurs first, notice of any".

Mr. PERCY. Mr. President, this is a technical amendment to alter the flaw that we found in the preceding amendment.

Mr. McCLURE. Mr. President, I support the amendment.

Mr. GLENN. I yield back our time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1555

Mr. McCLURE. Mr. President, I call up amendment No. 1555, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for himself and Mr. STONE, proposes an amendment numbered 1555.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 117, line 20, after "to" insert "all".

On page 118, line 2, after "material" insert ", and additionally, to the maximum extent feasible, will attempt to expedite such consideration".

Mr. McCLURE. Mr. President, this amendment redrafts subsection 303(a)(3) of the bill in order to clarify the exact intent with regard to the United States giving timely consideration to foreign requests for prior approvals, where they are required by this act. The reformulation accomplished by the amendment simply makes clear that it is the intent of Congress that the executive branch, in fact, give such timely consideration for the foreign requests for prior approval. It is our understanding that those requests are received by the State Department on a reasonably frequent basis. The requests often are of particular importance to a foreign nation where it is necessary to transfer spent fuel because of the lack of immediately available storage at the reactor site. The amendment, therefore, only clarifies what was intended to be the original intent when this subsection was added in the Foreign Relations Committee markup by Senator STONE.

Mr. President, I yield the floor to the managers of the bill at this point.

Mr. GLENN. Mr. President, I am prepared to accept the amendment by the Senator from Idaho. It basically cleans up some language in the bill and makes it more specific as to what is to be done. I think it is a good amendment, and I am happy to accept it.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. McCLURE. On my time, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I am now informed that one of the amendments adopted on last Thursday by agreement among all parties had the effect of doing exactly the same thing as this amendment, and by inadvertence this one was not subtracted from the list. I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. McCLURE. I thank the Chair.

AMENDMENT NO. 1603

Mr. McCLURE. Mr. President, I call up amendment No. 1603.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an amendment numbered 1603.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 126, after line 21, insert a new subsection to read as follows:

"(d) Within sixty days of the date of enactment of this Act, the Secretary of State shall, in consultation with the Secretary of Energy, the Director and the Commission, promulgate guidelines for adequate physical security measures to be applied to facilities and material referred to in paragraph (a)(3) of section 127 of the 1954 Act. Such guidelines shall be no less stringent than any guidelines contained in or promulgated to any international agreement, including an agreement for cooperation, to which the United States is a party.".

On page 127, after line 26, add a new sentence to read as follows: "Following the effective date of guidelines promulgated pursuant to section 304(d) of the Nuclear Nonproliferation Act of 1977, physical security measures shall be deemed adequate if such measures are in compliance with such guidelines.".

Mr. McCLURE. Mr. President, amendment No. 1603 would modify the criteria dealing with "adequate physical security" for any export license. The adequate physical security criteria was the subject of some concern because it was not clear exactly how the Commission would determine adequacy in the absence of any available guidelines or standards. There was also the concern that the Commission might attempt to adopt a test for adequacy which was solely based on our current domestic guidelines which generally are much more stringent than those that have been internationally agreed to. Consequently, the amendment provided for the establishment of guidelines that would be prepared on an interagency basis to be used in determining whether or not the physical security for an exported facility or fuel would be adequate.

This amendment would make the modification which I regard as necessary to avoid a great deal of potential uncertainty and possible litigaton resulting from the "adequate physical security" test now included in the bill.

I think that the floor managers and I are in agreement that there should not be that lack of certainty and predictability in terms of the statutorily-mandated criteria that must be satisfied before the Commission can approve an export license application. Amendment 1603 would provide for an interagency coordination in the establishment of the guidelines and would insure that the importing country had a clear understanding of its responsibilities under this Act.

The administration, in its January 26, 1978, State Department letter to Senator CHURCH, indicated that the specific formulation of the concept could cause some difficulty because it did not reflect the terminology that has evolved internationally in the consideration of this issue. Consequently, while supporting the general concept of providing for guidelines and predictability in the criteria, the administration suggested a change in language for it. I understand that the floor managers will offer a substitute for amendment 1603 which will incorporate the language recommended by the administration in the State Department letter. The substitute, however, does make one significant change to the administration proposed language. The administration substitute would give the responsibility for guidelines to the Secretary of State with consultation with the Secretary of Energy, the Secretary of Defense, the Director of the Arms Control and Disarmament Agency, and the NRC. I understand that the substitute to be offered will place the NRC in the lead role, with consultation with the Secretary of State and the other agencies. While I personally disagree with this change in the administration's recommendations, since it appears that the establishment of physical security guidelines does have important foreign policy implications in terms of the standards of the importing nations, I will defer to others at this point to offer whatever amendments might be appropriate to return the substitute to the administration recommendation.

While I might have preferred the other, I am certainly not going to resist the substitute which will be offered by the floor managers of the bill.

UP AMENDMENT NO. 1180

Mr. GLENN. Mr. President, I send to the desk a substitute for amendment 1603 and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. Hathaway). Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes a substitute for amendment 1603, numbered UP Amendment 1180.

Mr. GLENN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 126, in lieu of the language proposed to be inserted, in the following:

"(d) Within sixty days of the date of enactment of this Act, the Commission shall, in consultation with the Secretary of State, the Secretary of Energy, the Secretary of Defense, and the Director, promulgate (and may from time to time amend) regulations establishing the levels of physical security which in its judgment are no less strict than those established by any international guidelines to which the United States subscribes and which in its judgment will provide adequate protection for facilities and material referred to in paragraph (3) of Section 127 of the 1954 Act taking into consideration variations in risks to security as appropriate."

On page 127, in lieu of the matter proposed to be inserted, insert the following:

"Following the effective date of any regulations promulgated by the Commission pursuant to Section 304(d) of the Nuclear Nonproliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations.

Mr. GLENN. Mr. President, I understand fully Senator McCLURE's concern for wanting to set up a standard for adequate physical security so that the Nuclear Regulatory Commission and potential licensees will know precisely what standards are to be applied when the NRC makes a judgment that there will be adequate physical security on exported nuclear materials. The question of what constitutes adequate physical security is not, in my view, basically a foreign policy question. Local mores and customs are of little or no concern to terrorists, for example.

The technical expertise needed to set up appropriate guidelines for physical security reside in the Nuclear Regulatory Commission and the Department of Energy. Since the NRC now has the ultimate responsibility for determining whether physical security will be adequate in foreign countries in connection with our nuclear exports, it is then appropriate, in my view, for the Nuclear Regulatory Commission to be given the responsibility of setting up the physical security guidelines. That is what this amendment does.

Of course, the sensitivity of other countries in setting up these guidelines cannot be completely ignored. Accordingly, it is appropriate for the NRC to consult with the State Department in setting up such guidelines; indeed, the NRC should consult other agencies as well, including the Department of Energy, the Department of Defense, and the Arms Control and Disarmament Agency. My amendment, therefore, delineates the appropriate roles to be played by all these agencies.

The substitute also directs that the regulations establishing the levels of physical security for nuclear exports provide for variations in the risks to security which may obtain in particular cases, as appropriate.

Mr. President, I think this is a very important amendment. I am glad that the Senator from Idaho brought this up. One of the most dangerous things that we must beware of was spelled out very, very graphically in the Washington Post of a week ago yesterday, in their excellent writeup on what can happen if a terrorist bomb is set off in the middle of a populated area. They picked four target points in Washington, D.C.—the CIA, the Defense Department, or the Pentagon, the White House, and Andrews Air Force Base—and indicated what would happen if a 15 kt bomb were set off at one of those points by terrorists in possession of plutonium stored for weapons development obtained through a lack of physical security, or by an attack or by getting into one of these plants abroad in which there might be plutonium or highly enriched uranium stored.

What this does is to clearly spell out how and by whom, in the licensing process in this country, the adequacy of physical security of exported nuclear materials and facilities will be judged. So I support the efforts of the Senator from Idaho completely on this. I think the substitute I have proposed to his amendment does spell it out in a manner that is, perhaps, more satisfactory. I offer it for approval.

Mr. PERCY. Will the Senator yield for a comment?

Mr. GLENN. Yes.

Mr. PERCY. I also commend the distinguished Senator for raising this issue. It really goes to the heart of the months of deliberation we put in on the creation of the NRC. We heard expert testimony. What we wanted was no ambiguity and no opportunity for somebody to pass the buck. We wanted the buck to stop someplace when it came to physical security.

We recognized that the Department of State has an interest. They should know; this deals with foreign relations and they should have an input. But they have many other concerns as well. They have to establish relationships to achieve many objectives. We did not want the Department of State, which might have to subordinate one particular aspect of their responsibility to the dominance of another, to take an overriding concern for something other than our principal concern here.

Obviously, the Department of Commerce and the Department of Energy have an interest in this field. The Department of Commerce has an interest, essentially, in building exports. They are in the selling end. They want to keep up the balance of payments. The Department of Energy has another perspective. But, certainly, there should be no misunderstanding that we have to place the responsibility somewhere.

We held hearings, as Senator GLENN knows, just a few days ago on what was happening in airport security around the world. I suppose the Department of Transportation's Secretary Brock Adams could have come in and said, "Well, we are responsible for airport security in this country, but we are not responsible abroad." That is just nonsense. Do Americans travel abroad? Should we not know whether or not, when we arrive at an airport, there are adequate safeguards? What good does it do to have all the safeguards in the world right here in the United States when we travel abroad, as many businessmen, tourists, and people on Government business have to do? They should be able to know that we are doing business with a government that knows something about airport protection.

So, the knowledge that the Department of Transportation had and what they were doing to carry out that responsibility was crucial.

This amendment would preserve the present role of the Nuclear Regulatory Commission as the agency with final authority to set the physical security requirements which would apply to nuclear exports. These requirements will be set in consultation with the other agencies noted in the substitute. NRC has considerable expertise in this area and I believe that the present arrangement, whereby these requirements are set by the independent commission, should be retained.

I commend both the distinguished Senator from Idaho (Mr. McCLURE) for the original amendment and for the substitute that he has indicated he will be willing to accept.

Mr. GLENN. Mr. President, we have other hearings going on in the Senate now in the Governmental Affairs Committee regarding terrorism. In some of our testimony we have, in discussing this with the witnesses, talked about what will happen one of these days when we may have some plutonium or weapons grade material truly missing and then we have a terrorist threat.

If we take that Washington Post article of a week ago and apply that same ground zero to different cities around the country, I think that it perhaps graphically illustrates the problem we are up against.

We did that with some of the smaller cities in Ohio on what the impact would be if we truly had a terrorist attack with a nuclear weapon, if we really have missing plutonium, and if there really is a bomb set to go off, and what could happen if we take that mile-and-a-half circle and the 5-mile area that would receive such devastation if one of these even small nuclear weapons went off over one of our cities.

I am sure if we apply that around the Loop in Chicago the Senator from Illinois could think in his mind's eye of the tragedy, the area, the crater, the numbers of people that would be involved.

We can apply it in Idaho, or, as many of us just conjecture on this, in Columbus, Cleveland, Dayton, and Cincinnati, and what would happen if we take a mile and a half circle out of a central target point that could be a terrorist attack point, and we begin to see when we bring it down to one lone area what a tragedy this would be.

In the Cleveland area, this would go from the city square to Shaker Heights, take out the Republic Steel plant, the center of the city, or the west side. One

single bomb, if plutonium is used, in that area.

In Columbus, a mile and a half is pretty well out towards Bexley, half way to the university, to the freeway, on the west side, down to South Columbus.

It puts more importance on why we are trying to protect against the possibility that terrorists will get nuclear material into their hands.

I dread to think of the day sometime in the future when this may, in fact, occur.

The amendment the Senator from Idaho has offered and for which we have sent up a substitute deals directly with trying to put physical security on shipments and dealings with foreign countries, and to clearly define that so we will, hopefully, never see that day when we have a mushroom shaped cloud over one of our major cities, or anyplace in this country, from a terrorist attack.

Mr. PERCY. If the Senator will yield for a comment, I think, obviously, this bill is not as well known as the Humphrey-Hawkins bill, or something like that. We always tend to defer those things we do not want to think about. But just to say a nuclear terror is unthinkable is really not to think very clearly about the problem.

How many years has our former Vice President, Nelson Rockefeller, tried to alert this country to this particular danger?

We have, certainly, in the subway system in Washington, increased our ability to withstand some attack. But I think every citizen, and the whole nature of this bill and this debate, can help once again focus attention on a problem which is a measure of national security. If another country felt there was no way or alternative other than to strike us and they determined what they could obliterate us and we could not come back, they would be far more likely to do so.

If a terrorist thinks in terms of terrorizing a city, but that city is able to protect itself, then it is not nearly as vulnerable as if it has done nothing, if people have no idea where they would go.

We sit here and talk about a satellite coming down, and the reason the President did not alert the Nation was that he did not want to alarm us because no one in this country would know what to do. They would run around like a bunch of chickens with their heads off. They would not know where a shelter was or what to do to protect themselves. They would not know any procedures.

We go through fire alarms, but we have not, as a country, been through this kind of thing. Other countries have however, and we had better be alert to this particular problem.

One of the early things we did when we moved to Washington was to build a bomb shelter. I think of it as an insurance policy, living in the center of the Nation and in the most important Capital in the world, when we have had a bomb go off a few hundred feet from the place we are sitting in this Capitol Building.

Someday, as the distinguished Senator from Ohio said, it is not unthinkable at all that someone in some city will be held hostage by a terrorist group, that some mad person heading a country is going to use this kind of power.

It is for this reason that we are trying so hard now to close every conceivable gap and loophole, even though the number of Senators on the floor today is an indication that this is hardly a burning issue in everyone's mind. But I think we will thank God we have taken this necessary step someday.

Certainly, I have paid tribute to my distinguished colleague for the months and months of work put in to perfect this bill. This is something that will be an insurance policy for the future.

Mr. McCLURE. Mr. President, the remarks of my colleagues from Ohio and Illinois have covered a number of issues that are of fundamental importance to us. I commend them for doing that because the public needs to understand what problem we are dealing with and also to know some of the limitations we are dealing with.

There are two kinds of threats of nuclear proliferation in the world. One is to all nations that may acquire nuclear weapons capability. The other is the terrorists who might do so, independent of nations.

The terrorist threat is one which is more easily dealt with by safeguards than is the threat of a foreign country developing a nuclear capability. Both need to be dealt with.

The amendment I have offered and for which the substitute is pending deals with the question of how we develop the guidelines that deal with the safeguards question. There is a substantial argument within the administration as to who the lead agency should be and how those matters are dealt with, just as there is a debate raging in the Congress, although quietly, and, as my friend from Illinois has mentioned, among very few.

But the concern I have is not that the Nuclear Regulatory Commission have the lead role in the formulation of guidelines, but the manner in which those guidelines reflect the internal security requirements of foreign governments.

It is a question of whether or not we are going to dictate to them and be perceived by them as dictating to them, or whether or not we provide the means by which we, perhaps less directly but perhaps more effectively, bring them along with us in applying themselves, within their own countries, the safeguards which we think are necessary.

I have no objection to the NRC formulating the guidelines. I have some concerns but no objections. But I will be offering amendments that deal with the second question, of how NRC meets whatever responsibilities are placed upon it.

We are requiring in this instance that we look at very, very sensitive matters within foreign countries, upon which foreign countries must, as a matter of their own security and their own pride, be able to run their own affairs, without direct interference by foreign countries, and they are going to resist to some degree dictation from a foreign country, even the United States.

While I am not as concerned about this amendment as I am about some of the later ones, the issue is raised indirectly by this amendment and by the discussion on it, as to how far the NRC can go or must go in independent review of information given to it by the State Department or the CIA concerning foreign safeguard systems. It is that independent review that is more critically important than the development of the guidelines. NRC does have the expertise in regard to safeguard systems. The State Department does have the expertise in regard to dealing with foreign countries with respect to those issues.

I do not think the State Department should be characterized by anyone as some kind of group of mad executives rushing around the world, trying to proliferate the quantity of nuclear materials without appropriate safeguards or without a sensitive concern for those safeguards.

I think the report of the IAEA, which last year was confessing its difficulties in safeguard arrangements in foreign countries, is a sign of the difficulty. I believe we must continue to work with IAEA to get not unilateral action by ourselves but multilateral action involving all nuclear countries, so that they are involved in the safeguards question, so that they are involved in developing the safeguards guidelines, so that their international security arrangements can be protected, and so that they perceive that their international security arrangements can be protected by what is essentially a domestic process in the United States that is intended to deal with international problems on an international scope.

That is why I say that I can accept the idea that NRC will have the responsibility for developing guidelines much more easily than I can the concept that NRC must have an independent role in ferretting out information internally in foreign countries. We will get to that issue on later amendments.

It seems to me that the London suppliers' guidelines, while they do not go far enough, and the IAEA safeguards, while they are imperfect, need to be strengthened by the role which this bill will play and NRC will play, rather than supplanted totally by the procedures set forth in the proposed legislation.

If the latter occurs, if this, as a matter of fact or in perception, is a total disregard for the London suppliers' guidelines and the efforts under the IAEA, then I think we may well have set the process back rather than setting it forward.

I hope people will look at this legislation, not only in this country but also in other countries, for what it really is—an attempt to get the nuclear industry within the confines of the best possible and appropriate safeguard systems, both in this country and overseas. If they once perceive that this legislation is not intended to do that or, as a matter of fact, will not do that, then they will have a tendency to disregard the United States, its policies, and its suppliers, and will seek other suppliers, under safeguards and

under restrictions far less stringent than we could persuade them to take if, as a matter of fact, we were still dealing with them and negotiating with them.

So it seems to me that our efforts initially, of course, is to do the best possible job we can internally and then to do the best possible job we can to strengthen the IAEA and to strengthen the London suppliers' guidelines, so that the international community accepts, across the board spectrum of suppliers, the guidelines which are most appropriate to accomplish the goal we are after, rather than simply ignoring our policy and our leadership and going an independent route away from the United States.

So I do not oppose the substitute. I express the concern that the NRC, in developing the guidelines, does so with a sensitive concern for the internal security requirements of foreign countries, in which the State Department has perhaps greater expertise, and the need for the security of information upon which the State Department and the CIA can provide advice and guidance in the development of the guidelines. I think that with that concern, NRC can well develop the guidelines, and, if those are done appropriately, can set us on the right course.

Mr. GLENN. Mr. President, the concerns regarding the NRC which the distinguished Senator from Idaho alludes to, I am sure, will be the subject of other discussion later in the day. I would be surprised, in fact, if they were not.

This amendment, though does deal with something very elementary. It is just plain physical security: whether a territorist or other individual can get through the security perimeter surrounding these plants and get into where he can, in fact, obtain material which would be dangerous in weapons formulation or for whatever purpose it is going to be used.

I do not think this provision does as much to address what might govern governments themselves in this situation as it does to deal with the straight physical security around these plants, making them secure from outside breaching of that perimeter.

The Senator indicated some of the other organizations that are working on these complementary problems.

The IAEA report is indeed of concern to everyone. What we have seen so far, of course, are just press reports of what perhaps is in the IAEA report. I must say that I am somewhat encouraged by the fact that IAEA had the good sense to go ahead and analyze their situation and very forthrightly, apparently according to the press reports put down on paper where they see their own weaknesses, so that we can help them do something about it. IAEA may not be perfect, but it is all we have. I want to see it become stronger and better able to do its job than it is now doing.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. GLENN. I yield.

Mr. McCLURE. I think the fact that IAEA did take that action was the result of prodding from this Government. I would not characterize the other nations that are involved in IAEA as being unconcerned, but I know that this Government did urge this look. I am sure that the press for this legislation and the statements by the President on nonproliferation also have caused IAEA to take a look at its own procedures. I am encouraged by the fact that they felt, either by necessity or by desire, that they had the wisdom to make this statement publicly, so that the world's public can see what the concerns are and what the limitations are.

We, of course, also on the part of our Government have launched the international nuclear fuel cycle evaluation, which will be ongoing for the next several months and probably we will not see a report on that until in 1979.

But that report is an important part of the ongoing international inquiry as to what can be done to reduce the dangers to which we all address ourselves and about which we are all concerned.

Without belaboring the point on this amendment, though, let me say to my friend from Ohio, that basic simple security arrangements can also become highly technical closely held internal security matters.

Imagine a foreign government being required to come before our Nuclear Regulatory Commission to give details of the security arrangements around their nuclear weapons factory or installation for the security of nuclear weapons that may be stored. Even our own Government will not do that.

We cannot require other governments to do what we in our wisdom in our own country will not do, and that is the reason why basic simple security becomes a basic complex security question.

NRC is not necessarily suited under the statutory framework thus far developed to carry out that role in ways which will have the confidence of our country let alone other countries.

The PRESIDING OFFICER. All the time on the substitute amendment has expired.

Mr. GLENN. Very well. I am prepared to vote on the substitute to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment.

The substitute amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the substitute amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. I yield back time on the amendment.

Mr. McCLURE. I yield back time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended.

The amendment, as amended, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1601

Mr. McCLURE. Mr. President, I call up printed amendment No. 1601 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an amendment numbered 1601.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, line 10, strike the period, and insert in lieu thereof.": *And provided further*, That the procedures established pursuant to this section shall provide that the Commission shall immediately initiate review of any application for a license under this section and to the maximum extent feasible shall expeditiously process the application concurrently with the executive branch review, while awaiting the final executive branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such license and shall transmit such concerns and requests to the executive branch which shall address such concerns in its written communications with the Commission. Such procedures also shall provide that if the Commission has not completed action on the application within sixty days after receipt of an executive branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes and, if action has not been completed by the end of the sixty days, the Commission must formally provide the applicant with an explanation of the need for further time, including a description of any remaining issues to be considered. If the Commission has not completed action by the end of an additional sixty days (a total of one hundred and twenty days from receipt of the executive branch judgment), the President may, upon a finding that further delay would be excessive and upon making the findings which would otherwise have been required of the Commission or, if he is unable to make those findings, upon a finding that withholding the proposed export would be seriously prejudicial to the achievement of the United States non-proliferation objectives or would otherwise jeopardize the common defense and security, he may declare by Executive order that such application is approved, subject to the Congressional review procedures set forth in the immediately preceding proviso.".

Mr. McCLURE. Mr. President, this amendment has several important elements that are intended to streamline the procedures under the new export licensing procedures in section 304.

First, the amendment would direct the Nuclear Regulatory Commission to initiate its review of an application at the same time as the executive branch rather than waiting for the receipt of the executive branch's review.

This parallel consideration of the application should serve to speed the ultimate approval of such applications.

The amendment also incorporates an expressed direction to the executive branch to respond to any issues raised by the Commission during its parallel consideration when the executive branch presents its judgment on the application.

Finally, the amendment provides a procedure by which there is a time limitation placed upon the consideration by the Commission on the pending application.

If the Commission is not finished in its consideration by 60 days, it must inform the applicant of the reasons for the additional time and is given another 60 days after which the President may approve the application by Executive order upon making a finding that delay would be excessive and also prejudicial to our nonproliferation objectives or otherwise jeopardize the common defense and security.

This amendment, Mr. President, was formulated jointly with the floor managers in attempt to place some amount of pressures on NRC to discharge its responsibilities under the new export statute as expeditiously as possible while insuring that required statutory determinations were made.

Section 304 already provides that the President may approve an application if the Commission is unable to make the required findings.

This amendment would also give the President authority to approve a licensing application when the Commission was simply delaying its decision.

Both of these Presidential options would be subject to congressional review using the expedited procedures included in the bill.

The administration in the January 26, 1978, State Department letter to Senator CHURCH expressed concern of the possibility public participation by way of hearings and comments might cause the Commission to delay beyond the time limitation allowed in the formulation of amendment 1601.

Consequently, the executive branch has suggested an alternative which retains the section 1601 basic requirements but provides that additional time for the Commission for public participation has been allowed in the consideration of a given application. The administration also suggested additional delay in the event of a Commission request for additional information.

I understand, Mr. President, that the Senator from Illinois or the Senator from Ohio will offer the administration language with some modification as a substitute for amendment No. 1601.

UP AMENDMENT NO. 1181

Mr. GLENN. Mr. President, I send to the desk a substitute for the amendment under consideration and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes unprinted amendment No. 1181 in lieu of the language proposed in amendment No. 1601.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, line 10, strike the period and insert in lieu thereof: *"And Provided further,* That the procedures established pursuant to subsection (b) of Section 304 of the Nuclear Nonproliferation Act of 1978 shall provide that the Commission shall immediately initiate review of any application for a license under this Section and to the maximum extent feasible shall expeditiously process the application concurrently with the Executive Branch review, while awaiting the final Executive Branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such license and shall transmit such concerns and requests to the Executive Branch which shall address such concerns and requests in its written communications with the Commission. Such procedures shall also provide that if the Commission has not completed action on the application within sixty days after the receipt of an Executive Branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the Commission shall inform the applicant in writing of the reason for delay and provide follow-up reports as appropriate. If the Commission has not completed action by the end of an additional sixty days (a total of 120 days from receipt of the Executive Branch judgment), the President may authorize the proposed export by Executive Order, upon a finding that further delay would be excessive and upn making the findings required for such Presidential authorizations under this subsection, and subject to the Congressional review procedures set forth herein. However, if the Commission has commenced procedures for public participation regarding the proposed export under regulations promulgated pursuant to subsection (b) of Section 304 of the Nuclear Non-Proliferation Act of 1978, or—within sixty days after receipt of the Executive Branch judgment on the proposed export—the Commission has identified and transmitted to the Executive Branch a set of additional concerns or requests for information, the President may not authorize the proposed export until sixty days atfer public proceedings are completed or sixty days after a full Executive Branch response to the Commission's additional concerns or requests has been made consistent with subsection a. (1) of this Section. Provided, that nothing in this section shall affect the right of the Commission to obtain data and recommendations from the Secretary of State at any time provided in subsection a.(1) of this Section.

Mr. GLENN. Mr. President, this substitute to amendment No. 1601 is based upon language proposed by the administration. It differs from the amendment No. 1601 as offered in a number of important respects yet preserves that amendment's overall objective of placing certain limitations on the time normally available to the Nuclear Regulatory Commission for ruling on an export license application.

The most important change in the substitute is that it permits the NRC to hold public hearings on an export license and/or to forward an additional round of inquiries to the Department of State regarding the license without having the time needed for any such hearing or for the additional replies to be prepared by the Department of State counted against the time available to the Commission for considering the license.

In other words, Mr. President, we are providing limits on NRC, the limits that we spoke of earlier in the discussion this morning in the colloquy, but we do not want additional requests for information from the Department of State or the requirement for hearings in a particular instance to count against that time deadline. That would not be fair.

Providing for the tolling of the proposed amendment's time limits in this way is important to insure a proper balance between the interests of reasonable public participation and informed Commission action, on the one hand, and expeditious export licensing on the other, which we do want to maintain.

The substitute differs from the administration proposal, but is similar to the amendment as offered, in that the congressional review procedures of subsection b(2) of section 126 of the 1954 act would apply to any Presidential authorization made in the event of excessive delay by the Commission under the terms of the substitute.

The substitute also contains a proviso not found in either the amendment as offered or in the administration's proposed language which reaffirms the right of the Nuclear Regulatory Commission to obtain at any time all data it may require from the Secretary of State for the discharge of its responsibilities. Although, after a second full round of NRC inquiries to the Department of State, the time limits on the NRC provided in the substitute would continue to run, the Commission would thus remain free to address further questions to the Department. In such circumstances it would be highly unlikely, in my view, that the President would choose to exercise his right to authorize the license assuming important issues had not been resolved to the satisfaction of the Commission.

So, Mr. President, I believe this substitute to the amendment is acceptable to the distinguished Senator from Idaho, and I would be prepared to proceed to vote.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I thank the Senator from Ohio. I am prepared to accept the amendment.

I do wish to express one concern and one limitation on the addition which has been placed in the amendment above the suggestion or beyond the suggestion of the administration, and that again deals with the question I addressed in the colloquy earlier about NRC's authority to obtain information from the State Department where that matter may, as a matter of fact, be sensitive security information either on the part of this country or on the part of for-

eign governments, and that will be a concern which I hope will be addressed in the guidelines. I hope they will establish internally the limitations on both the obtaining of that information, of what kind of information they will get, by their own action because I think it would be an error if, as a matter of fact, there were no limitations placed upon NRC by their own restraint or by their own guidelines. It may be one or the other, and the guidelines themselves could restrain; because once that material is obtained it is unclear to this Senator what the Freedom of Information Act, the Administrative Procedure Act, may do with respect to sensitive information obtained from foreign governments by way of the State Department, which could then be under this provision requested by NRC.

There is no objection to NRC's being able to get it, but I am concerned with what happens after they get it if they have not exercised some prior restraint on the security requirements of both this country and of foreign governments.

It is my understanding they are prepared either by guidelines or by statute to accept that that information would be protected.

Mr. GLENN. Mr. President, will the Senator from Idaho yield?

Mr. McCLURE. I am happy to yield.

Mr. GLENN. I would not anticipate we would be breaching any other security guidelines at all so far as confidentiality of information, whether it was developed from a foreign source or here or whatever. If that information was classified information in the State Department it would remain that way.

The fact that NRC requested information from the State Department, as I see it, would not change the classification of that information or the confidentiality one bit.

Mr. McCLURE. I thank the Senator from Ohio for that statement, because I would not want the passage of this amendment, of this statute, to be taken by anyone as a change in the law with respect to those security requirements, both for internal security of this country and the internal security information obtained from a foreign government.

Mr. GLENN. I might add it was not intended to do that, and if it weer interpreted that way, it would be a wrong interpretation.

Mr. McCLURE. I thank the Senator from Ohio, and I do support the amendment.

Mr. PERCY. The procedures of this section are quite similar to those of the Presidential override in section 126b(2). Both of these provisions are designed for unusual cases. The NRC is intended to be the primary licensing body, and in the vast majority of cases their actions should be upheld. These provisions allowing for Presidential override and subsequent review should only be used where extraordinary nonproliferation or other national security questions would be jeopardized without a Presidential authorization of the export in question. We would expect that in these rare cases where the NRC does encounter a serious conflict between nonproliferation concerns and vital foreign policy factors set forth by the State Department, that the NRC will take advantage of this mechanism and raise the issue to the Presidential level rather than approving the license in deference to the State Department's views.

Mr. McCLURE. I yield back all time on the substitute.

Mr. GLENN. I yield back all time on the substitute to the amendment.

The PRESIDING OFFICER. The question is on agreeing to Mr. GLENN's substitute amendment to amendment No. 1601.

The substitute amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1601, as amended.

Mr. GLENN. I yield back all my time.

Mr. McCLURE. I yield back all my time.

The amendment, as amended, was agreed to.

Mr. McCLURE. I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. McCLURE. On the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

COMMEMORATION OF 150TH ANNIVERSARY OF FOUNDING OF THE BOROUGH OF MOUNT PLEASANT, PA.

Mr. HEINZ. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Who yields time? We are under controlled time.

Mr. GLENN. Mr. President, I yield 2 minutes to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank my distinguised colleague.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 390) commemorating the 150th Anniversary of the founding of the Borough of Mount Pleasant, Pa.

The PRESIDING OFFICER. Is there objection to the present consideration of the amendment?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HEINZ. Mr. President, I think the resolution is self-explanatory.

It commemorates the 150th anniversary of the founding of the Borough of Mount Pleasant, Pa.

Located at the foot of the western slopes of the Chestnut Ridge of the Allegheny Mountain, Mount Pleasant Borough is in an area rich in natural resources such as timber, farmland, wildlife, and underground bituminous coal. It is also in the watershed of the Ohio Valley. The oldest borough in Westmoreland County, Pa., Mount Pleasant has figured prominently in the economic growth and development of western Pennsylvania. In addition, its location has contributed to its importance in the movement of the Iroquois Nation, the early American settlers, and Colonial American troops, including those commanded by General Braddock. More recently, this community has been an important link in the transportation of both people and products crossing the country by highway and rail.

The Borough of Mount Pleasant has its own rich history of economic and cultural growth. It has consistently enjoyed economic expansion and community development, beginning with its enterprising early settlers, who were later joined by western and southern European immigrants who contributed greatly to the community.

It is with great pleasure that I introduce this resolution, and congratulate the people of Mount Pleasant Borough on its sesquicentennial anniversary.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The resolution (S. Res. 390) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 390

Whereas the borough of Mount Pleasant, Pennsylvania, will celebrate the one hundred and fiftieth anniversary of its founding on February 7, 1978;

Whereas the borough of Mount Pleasant is the oldest borough in Westmoreland County, Pennsylvania;

Whereas the borough of Mount Pleasant has played an important part in the economic growth of Westmoreland County; and

Whereas the cultural, historic, and economic growth of Mount Pleasant Borough exemplify the highest tradition in the development of American communities: Now, therefore, be it

Resolved, That the Senate recognizes and honors the borough of Mount Pleasant, Pennsylvania on the one hundred and fiftieth anniversary of its founding, February 7, 1978.

SEC. 2. The Secretary of the Senate is authorized to transmit a copy of this resolution to the Mayor of the borough of Mount Pleasant, Pennsylvania.

Mr. HEINZ. I move to reconsider the vote by which the resolution was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is the time equally divided?

Mr. HEINZ. Mr. President, that was with the understanding that the time will be equally divided on the bill, 1 minute each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR NONPROLIFERATION ACT OF 1977

UP AMENDMENT NO. 1182

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1182.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 120, line 6 after the period, insert the following new subsection (c):

"(c) Nothing in this section is intended to prohibit, permanently or unconditionally the reprocessing of spent fuel owned by a foreign nation which fuel has been supplied by the United States, to preclude the U.S. from full participation in the International Fuel Cycle Evaluation provided for in Section 105; to in any way limit the presentation or consideration in that evaluation of any nuclear fuel cycle by the U.S. or any other participation; nor to prejudice open and objective consideration of the results of the evaluation".

Mr. DOLE. Mr. President, This amendment if adopted, would eliminate one particular reservation I have about the bill.

I feel that the bill suffers from an internal contradiction. On the one hand, it states that negotiations will take place to arrive at international solutions to the proliferation problem.

On the other hand, there are measures in this bill that dictate what U.S. policies will be with respect to other countries, irrespective of what these international negotiations may decide.

Let me give you an example. The bill states that the United States will work toward binding international undertakings providing for "the establishment of an International Nuclear Fuel Authority (INFA) with responsibility for providing agreed upon fuel services and allocating agreed upon quantities of fuel to resources to insure fuel supply on reasonable terms in accordance with agreements betwen INFA and supplier and recipient nations."

Yet, the bill prejudges the outcome of those agreements. The bill says that the President shall in particular seek to "insure that the benefits of such undertakings are available to nonnuclear-weapons states only if such States—do not establish any new enrichment of reprocessing facilities on a national basis * * *."

Such unilateral statements indicate that the United States is not ready to negotiate as an equal with other countries that may feel it is in their interest to have enrichment and reprocessing facilities. But more important, there is some concern that this attitude can be seen by other countries to be an abrogation of our agreements under the nonproliferation treaty.

Consider these quotations from the treaty:

Article III.3. The safeguards required by the article shall be implemented in a manner designed . . . to avoid hampering the economic or technological development of the parties . . . including the international exchange of nuclear equipment for the processing or production of nuclear material for peaceful purposes.

And again:

Article IV. All parties to the treatyy undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy.

My concern is that we must show the world that the United States means to negotiate in good faith with other countries and that we are not prejudging the outcome of discussions that require equal participation with other countries.

Mr. President, the amendment I am offering corresponds to wording that is already contained in the House bill. When the wording was offered in the House, it was accepted as merely clarifying the intent of the bill. It is my hope that the managers of the bill will see fit to accept the amendment into the Senate bill on the same basis.

Mr. President, I understand this amendment has been discussed at the staff level. There may be some feeling that it is not necessary. It is much like the amendment offered by a distinguished Member of the other body, Representative MCCORMACK.

Mr. PERCY. Mr. President, I first wish to state that S. 897 does not prejudge the results of the international fuel cycle evaluation.

What I wish to do is just ask my distinguished colleague, the author of the amendment, whether his understanding is the same as mine of this amendment. I understand that the amendment, which has been adopted by the House of Representatives, simply underscores the fact that S. 897 does not prohibit reprocessing permanently or unconditionally and that the international fuel cycle evaluation should include a full and fair examination of all relevant technology.

Mr. DOLE. Yes.

Mr. PERCY. That is the proper understanding of the floor manager of the bill. I checked this out with Senator GLENN, and I have no objection to it.

I thank the distinguished Senator for offering his amendment.

Mr. DOLE. Mr. President, I agree with that understanding and indicate that it corresponds to the wording already contained in the House bill. The amendment was offered on that side. And I appreciate the distinguished floor manager of the bill indicating his support for the amendment.

Mr. McCLURE. Mr. President, will my colleague from Kansas yield?

Mr. DOLE. I yield.

Mr. McCLURE. I thank my colleague not only for yielding but also for offering this amendment. If he had not done so I would have offered this amendment.

I think it is an important addition, in the negative sense, to state what this bill does not do and, as has already been stated, both by the Senator from Kansas and the Senator from Illinois, we have not been prejudging the international nuclear fuel cycle evaluation nor does this bill prejudice the future consideration of the reprocessing option.

I support the amendment fully and lest I say too much I shall be very brief, but I do want this much to be stated on the record clearly.

As Senators will recall, the April 7, 1977, Presidential policy statement on nuclear power specifically deferred commercial reprocessing for the near future, but it did not have the effect of a Presidential policy totally in opposition to reprocessing at some point in the future. Therefore, it is valuable to ensure that this statute does not imply and cannot be judicially or administratively construed to have the effect of a congressional statement prohibiting reprocessing.

I think there are domestic political and foreign diplomatic advantages to having the statute include such a disclaimer on any prohibition of reprocessing at this time.

I think the timely warning test in section 303 has been established by this amendment and in identical form as that contained in the House bill. I hope that the amendment will be adopted, and I commend my friend from Kansas for having proposed it.

Mr. DOLE. I thank the Senator.

I yield back the remainder of my time.

Mr. PERCY. Mr. President, while the bill does not prejudice future choices, it does require, as I am sure we all do, that we must be certain that we do not sanction reprocessing under conditions which would result in a significant increase in the risk of proliferation. With that statement I simply concur with all of the utterances that have been made and assurances given by the distinguished Senator from Idaho, and I am certain that they coincide with the opinions of the distinguished Senator from Kansas.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection the amendment is agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1607

Mr. McCLURE. Mr. President, I call up my printed amendment No. 1607 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (MR. MCCLURE) proposes an amendment numbered 1607.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 150, line 13, insert the following new subsection:

"f. If after the date of enactment of the Nuclear Nonproliferation Act of 1977, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection 123(a)(2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to subsection 128b.(3) for purposes of the Commission's consideration of applications and requests under section 126(a)(2) and there shall be no congressional review of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress.".

Mr. McCLURE. Mr. President, this amendment has the effect of insuring that, if the President is able to get congressional approval for an exemption of the full scope safeguards with the appropriate conditions in the agreement for cooperation, for a period of 1 year thereafter the licensing procedure could work without having to require the President to once again exempt the licensing application which otherwise would be required by section 304.

This would allow for initial exports under an agreement for cooperation to proceed during that 1-year period but then would reimpose the requirement for periodic congressional approval of a further Presidential exemption of the full scope safeguards criteria.

In the absence of this amendment, the Presidential exemption in the agreement for cooperation which had been approved by Congress would not have the effect of allowing the licensing to go forward except with a further congressional approval of a Presidential exemption for the first export license.

The amendment would allow the President to negotiate such an exemption and an agreement for cooperation and to provide assurances that, if Congress were to agree to it, at least for a period of 1 year thereafter there would be predictability in terms of approvals of export licenses, assuming other criteria would be met.

In the absence of this modification to the procedure there would not be any such predictability, and it would render meaningless the exemption that the statute provides in the agreement for cooperation.

The original administration comment in the January 26, 1978 Department of State letter was to request a further extension of this principle to cover any exemption the President may offer, not just the full scope safeguards exemption.

The floor managers, as I understand, have objected to the extension of the concept to cover other exemptions, and I have indicated a willingness as part of the compromise to not force the administration view on the floor.

I understand that the floor managers will offer a technical amendment to my amendment numbered 1607 to bring it into conformance directly with reference to the full scope safeguard exemption.

Mr. PERCY. Mr. President, the amendment being offered by the Senator from Idaho is one that the managers of the bill do support. I have one modification, however, that I understand is acceptable to my distinguished colleague.

UP AMENDMENT NO. 1183

I send an amendment to the amendment to the desk at this time and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes unprinted amendment number 1183 to amendment No. 1607.

On page 2, line 2, insert the following: "pursuant to Section 128" after "Review".

Mr. PERCY. Mr. President, this minor modification would specify that effectively failing to override a waiver of the full-scope safeguards requirement by approving a new agreement which conflicts with section 128 would not preclude all congressional review of licenses to the recipient State for 12 months, as the amendment without this modification would possibly suggest, but rather would preclude only congressional review related to the full scope safeguards requirement.

I believe this modification is in full accord with the intent of the distinguished Senator from Idaho, and I trust that he will accept the amendment.

Mr. McCLURE. Mr. President, will my colleague yield?

Mr. PERCY. I yield.

Mr. McCLURE. Yes, I am in accord with the thrust of this amendment, and I am glad that we were able to work out a compromise on the language, and narrowing the scope of this amendment has my approval. I do support the amendment suggested by the Senator from Illinois.

Mr. PERCY. The managers of the bill yield back the remainder of their time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

Without objection, the amendment to the amendment is agreed to.

Mr. McCLURE. Mr. President, I yield back all of my time on the amendment.

Mr. PERCY. I yield back all of our time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended.

Without objection, the amendment, as amended, is agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1587

Mr. McCLURE. Mr. President, I call up my Amendment 1587 and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an amendment numbered 1587.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, line 13, insert "a" immediately after "SEC. 111.".

On page 114, line 19, delete "person.", and insert in lieu thereof the following: "person: *Provided*, That nothing in this section shall require that licensing of the distribution of byproduct material by the Department of Energy under section 82 of this Act.".

On page 114, between lines 19 and 20, add a new subparagraph (b) as follows:

"(b) The Department of Energy shall not distribute any special nuclear material, source material, or byproduct material under section 54, 64, or 82 of the 1954 Act other than under an export license issued by the Nuclear Regulatory Commission until (1) the Department has obtained the concurrence of the Department of State and has consulted with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commisison, and the Department of Defense under mutually agreed procedures which shall be established within not more than ninety days after the date of enactment of this provision and (2) the Department finds based on a reasonable judgment of the assurance provided and the information available to the United States Government, that the criteria in subsection 127 a. or their equivalent and any applicable criteria in subsection 128 are met, and that the proposed distribution would not be inimical to the common defense and security.".

Mr. McCLURE. Mr. President, this printed amendment would modify section 301 of the bill which deals with direct government-to-government transfers of nuclear materials as opposed to the licensing of commercial transfers of nuclear materials. The original 1587 was intended to remove from the full blown NRC licensing process these government-to-government transfers, and to place those transfers in a far less complicated and more standard interagency coordination type of control. The amendment also was intended to make clear that this act does not mandate the licensing of DOE activities by the Nuclear Regulatory Commission, but rather depends on the interagency process as

established under the printed amendment.

The modifications made by this amendment would avoid the complicated timely and unnecessary full blown licensing of DOE's direct government-to-government transfer activities. The substantive concerns of the drafters that there be a statutory determination and interagency review of such transfers is preserved without the unnecessary aspects of the full blown licensing. The sponsors have been concerned that the direct government-to-government transfer might become a major loophole in the overall licensing scheme established by Title III in the future. (It is ironic that one of the Commissioners of the NRC, reported Commissioner Gilinsky, advised the Department of Energy that the next shipment of fuel for Tarapur, India should be made by government-to-government transfer specifically to avoid another major battle within the NRC—the executive branch has just forwarded its recommendation for approval of the next Tarapur application, consistent with the President's pledge to President Desai and the Indian Parliament on his trip.) The amendment, therefore, should be acceptable from both a policy and a procedural point of view.

The Administration in the January 26, 1978, State Department letter suggested that there be a technical amendment to clarify the handling of so-called "by-product" materials.

I understand the managers will offer that technical amendment but otherwise will support No. 1587.

Mr. PERCY. Mr. President, the Senator is correct. The managers of the bill do accept, with appreciation, the amendment by our distinguished colleague from Idaho, subject to his acceptance of a technical change requested by the administration.

UP AMENDMENT NO. 1184

I send an amendment to the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1184 to amendment 1587:

On page 2, lines 4 and 5, delete ", source material, or by product material under section 54, 64, or 82" and insert in lieu thereof "or source material under Section 54 or 64".

Mr. PERCY. Mr. President, as I pointed out, this amendment is acceptable subject to this minor technical change. The revision is a technical change requested by the administration to delete the inappropriate reference to byproduct material in this provision regarding controls on government-to-government transfers of source and special nuclear material.

I would like to point out that amendment No. 1587 is essentially a technical and clarifying amendment and does not alter the limitations on government-to-government transfers which were established by S. 897 as reported from the committee.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I do support the technical amendment, and I urge its adoption. I yield back the remainder of my time.

Mr. PERCY. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois to amendment No. 1587.

The amendment to the amendment was agreed to.

Mr. McCLURE. Mr. President, I yield back all the time on the amendment.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I yield back the time of the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended.

The amendment, as amended, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

Mr. PERCY. Would the Senator withhold that request? The Senator from West Virginia has requested me to yield to him for a unanimous-consent request.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1604

Mr. McCLURE. Mr. President, I call up my amendment No. 1604 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposed an amendment numbered 1604.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 139, line 23, strike "The" and substitute in lieu thereof "Subject to the provisions of subsection c. of this section, the".

On page 140, after line 20, insert a new subsection c. to read as follows:

"c. No determination by the Commission that a component part is especially relevant from the standpoint of export control shall be effective until thirty days after the Commission notifies the Secretary of Energy of such determination. If, prior to the expiration of such thirty days, the Secretary of Energy finds that the Commission's determination should be amended in whole or in part, he shall so notify the Commission and the President, and the determination of the Commission shall not take effect for a period of fifteen days thereafter (plus any period for congressional review provided by this subsection). During such fifteen-day period, the President shall review the Commission's determination and the Secretary's finding, and may amend the Commission's determination in whole or in part: *Provided*, That any such Presidential amendment shall be submitted to the Congress for a period of sixty days of continuous session (as defined in subsection 130(g) of this Act), and shall be referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. If during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the amendment of the President, the Commission's determination shall take effect immediately. If no such concurrent resolution is adopted during such sixty-day period, by the Congress, the amendment of the President shall take effect at the expiration of such period. Any such amendment of the President shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.".

On page 140, line 21, redesignate subsection c. as subsection d.

Mr. McCLURE. Mr. President, this amendment would provide a procedure for interagency concurrence in the decision of the NRC under section 309 as to what nuclear components and other items are potentially significant for nonproliferation and therefore should be subjected to the stringent regulation of section 309. I object to the NRC by itself having the authority to declare anything significant for proliferation potentially and thereby expand unnecessarily its regulatory jurisdiction over exports. For instance, the House Committee report suggested that computers should be subjected to this regulation. I hope that interagency concurrence will help deal with this problem and my amendment would provide that coordination.

This amendment also demonstrates how such a simple notion as coordination can be taken to an illogical conclusion in the sense that the amendment which was a compromise with the floor managers. Its complexity reflects the stress in attempting to balance the various agency roles, and a Presidential decision in the event of disagreement. It indeed is unfortunate, perhaps, that we have become so concerned and polarized over our preconceived notions regarding these agencies.

The PRESIDING OFFICER. The Senate will be in order.

Mr. McCLURE. I thank the Chair.

The administration has recommended a much simpler formulation of the new procedure for consultation dealing with

the decision by the Commission to insure that other agencies are in fact involved. This will be offered as a substitute by the floor managers. We would prefer to require "concurrence" by the Department of Energy and the Department of State on the NRC's decision, but as a compromise have agreed to take the consultation language which will be offered.

UP AMENDMENT NO. 1185

Mr. PERCY. Mr. President, I send a perfecting amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the amendment being offered at this time? Without objection, the clerk will state the amendment.

Mr. PERCY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete all that appears after "thereof" on line 2 and insert in lieu thereof "After consulting with the Secretaries of State, Energy and Commerce and the Director, the".

Mr. PERCY. Mr. President, this amendment, which I understand is acceptable to the Senator from Idaho, and is supported by the administration, would greatly simplify the procedure for designating components subject to the export licensing criteria of section 109b and would give the NRC the final say in the designation. Under my amendment the Commission simply would be required to consult with the Secretaries of State, Energy and Commerce and the Director of ACDA before designating the components.

I believe the amendment is acceptable, and I yield back the remainder of my time.

Mr. McCLURE. Mr. President, as I have stated, I would have preferred requiring concurrence by the Department of Energy and the Department of State, but I do accept the language on consultation, and yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I yield back the remainder of my time on the amendment, as amended.

Mr. PERCY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended, of the Senator from Idaho.

The amendment (No. 1604), as amended, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

SENATOR FROM MINNESOTA

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

The Chair lays before the Senate the certificate of appointment of MURIEL BUCK HUMPHREY as a Senator from the State of Minnesota.

Without objection, it will be placed in the file. The certificate of appointment will be read.

The legislative clerk read as follows:

State of Minnesota

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Minnesota, I, Rudy Perpich, the Governor of said State, do hereby appoint Muriel Buck Humphrey a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the death of Hubert H. Humphrey, is filled by election as provided by law.

Witness: His excellency, our governor, Rudy Perpich, and our seal hereto affixed at St. Paul this twenty-fifth day of January in the year of our Lord 1978.

By the Governor:

RUDY PERPICH,
Governor.

JOAN ANDERSON GROWE,
Secretary of State.

The VICE PRESIDENT. If the Senator-designate will present herself at the desk, the Chair will administer the oath of office required by the Constitution and prescribed by law.

Mrs. HUMPHREY of Minnesota, escorted by Mr. ANDERSON, advanced to the desk of the Vice President; the oath prescribed by law was administered to her by the Vice President; and she subscribed to the oath in the official oath book.

[Applause, Senators rising.]

RECESS SUBJECT TO THE CALL OF THE CHAIR

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 20-minute recess without the time being charged to either side.

There being no objection, the Senate, at 2:03 p.m., recessed until 2:21 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

APPOINTMENT OF SENATOR TO STANDING COMMITTEES—SENATE RESOLUTION 391.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FORD). The resolution will be stated.

The legislative clerk read as follows:

Resolved, That Senator Humphrey of Minnesota be, and she is hereby, assigned to service on the Committee on Foreign Relations, and the Committee on Governmental Affairs to fill vacancies on those Committees.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Chair asks the galleries to give the Senate its respect so that we can hear what is going on in the Chamber. The Chair asks the pages to return to the steps.

Mr. ROBERT C. BYRD. I thank the Chair for securing order in the Chamber and in the galleries.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. RANDOLPH. as chairman of the conferees on H.R. 4544, the Black Lung Benefits Reform Act, and Mr. JAVITS, as the ranking member, each may have 10 minutes, and that Mr. LONG may have 5 minutes, on the Black Lung Benefits Reform Act conference report.

I also ask unanimous consent that the time not be charged against the time on the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that at the conclusion of that time and upon the disposition of the conference report, the Senate resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BLACK LUNG BENEFITS REFORM ACT OF 1977—CONFERENCE REPORT

Mr. RANDOLPH. Mr. President, I submit a report of the committee of conference on H.R. 4544 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4544) to amend the Federal Coal Mine Health Safety Act to improve the black lung benefits program established under such act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of February 2, 1978.)

Mr. RANDOLPH. Mr. President, I appreciate the cooperation of the Senator from West Virginia (Mr. ROBERT C. BYRD) in permitting us at this time to bring to the floor this conference report, which is a privileged matter. Our able majority leader has been an effective advocate of this black lung legislation.

It is a privilege to bring to the Senate the conference report on H.R. 4544 the Black Lung Benefits Reform Act of 1977. This report represents the extensive and comprehensive work of conferees from four committees—the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Human Resources and the Committee on Finance of the Senate.

I note for the record that the chairman of the Committee on Human Resources, Senator WILLIAMS, and the chairman of the Committee on Finance, Senator LONG, are in the Chamber at this time.

The measure provides significant improvements to the black lung program. It will enable afflicted miners and the survivors of deceased miners to have a deserved and needed opportunity to qualify for black lung benefits.

Very quickly, let us go back to 1969. At that time, we brought into Congress, and it became law, the original Black Lung Benefits Act. It was further modified in 1972, when we brought in the elements of pulmonary and respiratory diseases as a part of the possible proof.

Now, in 1978, we are finalizing a bill, which will qualify many persons who need the opportunity to have their claims reviewed in connection with this dread disease.

As my colleagues know, the Senate debate on this body's version of the black lung bill, S. 1538, took place on July 21, 1977, and gave it unanimous approval on September 20, 1977. Subsequently, the conferees from the four committees agreed to separate the legislation into two parts—a bill to establish a tax on coal to fund approved black lung claims and a bill to reform the standards for approval of such claims. The financing proposal, H.R. 5322, was approved by the Senate on December 15, 1977, and by the House on January 24, 1978. We are confident that legislation will be signed by the President. The reform proposal in its final version is the measure before us today.

Briefly, the major provisions of the conference report are as follows:

First, there will be an automatic review of all previously denied or pending claims to determine if claimants are now eligible under the 1977 amendments. The "interim" medical standards which I will refer to later will be used in evaluating these claims.

Previously denied and pending part C claims will be reviewed by the Secretary of Labor. Claimants will be given the opportunity to augment their files. When such claims are approved they will be paid by the black lung disability benefits trust fund unless a responsible operator can be identified and the coal miner's employment extended beyond January 1, 1970.

All denied part B claimants will be given the option of having their claims reviewed based on existing files by the Secretary of HEW or transferred to the Secretary of Labor for review. In the latter case, the Secretary of Labor will treat the claim like a reviewed part C claim. If the HEW Secretary reviews the claim and it is found not approvable, the claimant will have the opportunity to have his or her claim transferred to the Department of Labor for further review based on any additional evidence that the claimant may submit. If the HEW Secretary approves the claim, it is transferred to the Department of Labor for payment as an initial determination of eligibility. The Labor Secretary will immediately direct that the payments be made from the trust fund or by a responsible operator if a responsible operator is identified. Any responsible operator will have the right to litigate his responsibility and the eligibility of the claimant. If the operator prevails in such litigation, payments to the claimant will cease.

The number of such claims in HEW and Labor totals over 200,000. This estimate includes claims of miners and survivors.

All claims approved as a result of this review will be eligible for retroactive benefits from the date of onset of disability or January 1, 1974, whichever is later. It should be stressed that no benefits resulting from the review of part B or part C claims will be paid by the Federal Government.

Under the conference report, the Secretary of Labor is authorized to promulgate medical standards for the evaluation of part C claims at a time in the future. However, the review of all part B and part C claims and of all claims filed prior to the promulgation of the Labor Department's medical standards will be accomplished with the use of the "interim" medical standards which were in use after the Black Lung Amendments of 1972.

In the past, except for complicated pneumoconiosis cases, a miner who was working at the time of death or at the time of his or her claim was made, could not be found eligible for benefits. H.R. 4544 states that employment at the time of death cannot be conclusively used as evidence that the miner was not totally disabled in determining the survivor's claim. Also, the bill provides that a living miner's changed circumstances of employment can be indicative of reduced ability to perform coal mine work. As in current law, however, no miner can receive black lung benefits while still employed (except for those with complicated pneumoconiosis). A working miner must leave work within a year to collect benefits.

H.R. 4544 modifies the evidence required to show disability from black lung. This includes:

For deceased miners, where there is no medical or other relevant evidence, affidavits shall be sufficient to show that the deceased miner was totally disabled due to pneumoconiosis or died as a result of pneumoconiosis;

The Secretary is prohibited from rereading X-rays, provided that the X-ray was initially taken and read by qualified individuals, is of sufficient quality, and there is no evidence of fraud;

There is other evidence that a miner has a pulmonary or respiratory impairment;

The Secretary must accept an autopsy report, unless he has good cause to believe that it is not accurate or that the miner's condition is being fraudulently misrepresented; and

Claims cannot be denied unless the miner has been afforded the opportunity to have a complete pulmonary examination.

H.R. 4544 provides that for State workers' compensation laws to be in compliance with the Federal black lung standards such laws need only cover claims filed subsequent to the approval of the State law. This provision will aid States in qualifying their compensation programs for black lung.

The conference report amends part C so that coal mine operators can only be held responsible for black lung benefits if the miner's employment extended beyond January 1, 1970.

The Secretary of Labor is authorized to establish an insurance fund for operators who are unable to secure insurance for black lung liability or are unable to do so at reasonable cost.

The conference report provides that a survivor of a miner who had at least 25 years of coal mine employment prior to June 30, 1971, will be entitled to benefits unless it is established that at the time of death the miner was not partially or totally disabled due to pneumoconiosis.

On this point, the conferees agreed to incorporate both the Senate and House provisions which provide for the filing of a part C claim by a miner within 3 years after the date of enactment of these amendments or within 3 years after a medical determination of total disability due to pneumoconiosis. The statute of limitations on survivor claim is eliminated.

The conference report adopted a House provision which allows miners receiving benefits under part B to file for medical benefits under part C. Such filing must be done during a 6-month period after the enactment of these amendments.

The conference report generally retains the Longshoremen's and Harbor Workers' Act procedures for the adjudication of all claims subject to review by the Secretary of Labor.

With further reference to the claims adjudication features, many of the provisions that were in the Senate and House bills are now covered by the Black Lung Benefits Revenue Act which is before the President. These include participation by the operators in adjudication, enforcement of operator liability to the claimant and the fund, administration of the fund, payments from the fund, and the trust fund itself. Those features retained in H.R. 4544 are covered in the conference report on the bill.

Finally, Mr. President, there are several provisions of the conference report which should also be noted.

H.R. 4544 provides for—

The establishment of field offices, where warranted, to assist claimants;

An 18-month study of all occupationally related pulmonary and respiratory diseases by the Secretary of Labor in cooperation with NIOSH;

A process in which any denied claimants will be supplied with a written statement of the reasons for such denial; and

A mechanism for interim part C payments in the event payments cannot lawfully be made from the trust fund.

Mr. President, these amendments to the black lung program have been developed over a period of 3 years. They are necessary and urgently needed revisions to compensate those persons who have mined coal to energize our Nation and who, in this process, have been afflicted by pneumoconiosis—a disabling and progressively delibilitating disease. Miners and their families have sacrificed much over the years. They are still paying a heavy price for these sacrifices and it is incumbent on the Congress and the Federal Government to be alert and responsive to the health and welfare of those persons who constitute our mining population.

The black lung program has been a blessing for hundreds of thousands of deserving beneficiaries who have received and continue to receive compensation income. But it has been a bitter disappointment for thousands of claimants who have been denied benefits, and thousands of others who have waited for years for their claims to be decided. They have not yet had an opportunity for fair consideration under the original act and the later amendments.

The program has really been harsh to many who have submitted claims and pursued them in good faith. Through administrative or legal quirks they have been determined to be ineligible for benefits.

These and other reasons are compelling ones for the enactment of this program of reform legislation. Widows who know with certainty that their husbands were totally disabled by black lung have often been barred from receiving benefits because they have no medical evidence to substantiate their claim.

Miners who are told they are disabled and whose chest X-rays are interpreted as positive for pneumoconiosis have been denied benefits because the rereaders of the X-rays disagree with the original X-ray interpretation.

There are widows whose claims are clearly valid and who would receive benefits except for the passage of time since the miner husband's death.

There are miners who are ill but are faced with the dilemma of whether to continue working or whether to stop their labor and file a black lung claim, perhaps taking a chance on the probability of approval of such claims sometime distant in the future.

Finally, there are all the black lung claimants who must wait an average of 630 days for their claims to be processed, only to have such claims, in 97 percent of the cases approved by the Labor Department, controverted by the responsibile coal company.

Mr. President, these are some of the reasons that have brought us to the point of bringing a new black lung measure to enactment. We have been in the process of reasoned improvement of this legislation from its enactment in 1969 to the 1972 amendments. Those amendments were made necessary because the full extent of pulmonary and respiratory diseases was being ignored through the sole use of the X-ray finding.

This was a step forward. The Social Security Administration was required to take into account pulmonary and respiratory ailments, which are very marked in connection with those who labor in the coal mines of this country.

A black lung benefit program has certainly—and I underscore this—worked well and favorably for many; but for many other persons it has been something which causes sleepless nights and anguished days.

H.R. 4544 will not solve all the problems nor fulfill all the wishes of every claimant for black lung benefits. It will, however, necessarily result in dramatic improvements in the program. It is urgently needed, and it can give a certain degree of economic security to thousands of disabled miners, widows, and children, who are now unjustly denied the benefits of this program.

Mr. President, I strongly urge adoption of this conference report.

Mr. President, this is no mere pleasantry for me. It is something I want very much to do, and I am eager to do it. That is to express genuine appreciation to the chairman of the Committee on Human Resources, Senator HARRISON WILLIAMS.

From the very beginning, even earlier than the passage of the 1969 bill, he was deeply involved in the hearing process and the process of developing black lung legislation. Without his effective work, the 1969 measure and the 1972 amendments would not have become law.

I am grateful, and I express my personal as well as my official thanks, as do thousands and thousands of miners and their families who know of his endeavors both on black lung and on coal mine health and safety. The Senator from New Jersey (Mr. WILLIAMS) has been a leader in all areas of the effort to insure safe and healthy working conditions for the people of our Nation and his work has improved the lives of millions.

Mr. President, I wish also to say that we have constantly had the reasoned judgment of the articulate and able Senator from New York, the ranking minority member of the Human Resources Committee.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RANDOLPH. Mr. President, will the distinguished Senator from New York yield 1 minute from his time?

Mr. JAVITS. I yield 1 minute.

The PRESIDING OFFICER. The Senator has an additional minute.

Mr. RANDOLPH. Mr. President, it is not important here to be able to say that on all counts Senator JAVITS agreed with me or with Senator WILLIAMS or with others. But he constantly was at counsel table working with us to develop a measure that could receive hopefully unanimous approval of both the House of Representatives and Senate, and we believe that is happening. Miners and their families have benefited from the diligent efforts of the Senator from New York (Mr. JAVITS).

I also wish to strongly state the appreciation—of all of us who worked with him—of the leadership which has been given by the chairman of our Finance Committee, Senator LONG of Louisiana.

Someone might have said a little word or two along the way that he might have been a stumbling block. He was not that. He was trying to help us to work out a valid program for the payment of black lung benefits not only now but in the years ahead. And I think that it is important to have had that sort of counsel and assistance.

Representative CARL PERKINS, chairman of the House Education and Labor Committee, of course, was a vigorous and dedicated advocate of this legislation. He worked with us. We worked with him. We had times of stress and strain, but we came through that conference with goodwill, understanding, and purpose. I am deeply grateful to Representative PERKINS.

I stress also that Representative JOHN DENT had a significant role in developing this measure. His dedication to the miners of this country is known and this legislation is a further indication of it.

Finally, I thank the members of the staff, many of them who are here today. They worked constantly. They dug in early in the morning and late at night to help us bring about the finalization of this legislation. I personally commend and express appreciation to Mike Goldberg and Jerry Lindrew of the majority staff, Subcommittee on Labor; Don Zimmerman, minority staff; Wiley Jones, Senator LONG's staff; and Herb Chabot and Richard Ruge, Joint Committee on Taxation.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I ask my own chairman if he wishes some additional time.

Mr. WILLIAMS. Only an additional moment.

Mr. JAVITS. I yield to him.

Mr. WILLIAMS. Mr. President, coal workers' pneumoconiosis, or black lung disease, is a dreadful and insidious disease which interferes with the respiratory function of its victims, and which slowly and progressively makes the very act of breathing more and more difficult.

Over the years, our coal miners have made significant contributions to our Nation's energy production. They have done so at a great personal sacrifice to their own health. The Congress has, in turn, taken steps to prevent black lung and to compensate miners who are afflicted with this occupational disease.

In 1969, Congress launched a two-pronged attack on this national health problem. With last year's passage of the Federal Mine Safety and Health Act, we committed ourselves to controlling the levels of coal dust in our Nation's mines, and to eliminating the cause of black lung. By controlling dust levels, we

hoped that future generations of coal miners would not have to face the suffering and hardship of their forebears.

Today's legislation will simplify the task of compensating the victims of black lung disease, and will thus provide justice for past inequities. It will also encourage the investment necessary to clean up the mine and eliminate the cause of this dreaded disease.

In the past, the administration of the black lung benefits program has failed to reach its objectives of fairly compensating victims and of reaching an equitable distribution of the costs of black lung compensation. Miners have been put through one obstacle after another in order to justify their claims and all but a handful of these claims are still, 7 years after implementation of the program, being paid by the Federal Government.

The conference report eliminates bottlenecks in the processing of claims. It eliminates unfair statutes of limitations. It adjusts the criteria which are used to evaluate claims so that these criteria will apply fairly to all. Currently, the criteria work to the distinct disadvantage of older miners and their widows who often cannot accumulate the medical or other data necessary to establish eligibility.

By approving this conference report, the Congress will also shift the burden of paying black lung benefits to the coal industry. The Senate bill contained a trust fund to be paid for by the coal industry with the Federal Government assuming no new liability for black lung claims.

The House conferees accepted this important principle. The conferees agreed, however, that the black lung benefits trust fund, and the accompanying excise tax should be provided for by separate legislation—amending the internal revenue code. The conferees asked the Senate Committee on Finance and the Ways and Means Committee of the House of Representatives to provide such legislation, and as a result, the Black Lung Benefits Revenue Act (H.R. 5322) has already been passed by both the Senate and the House and is now awaiting the President's signature.

By effectively shifting the cost of paying black lung benefits to the coal mining industry, that industry will be encouraged to eliminate harmful dust from our coal mines and eventually, to eliminate this disease.

With the enactment of this conference report our efforts to control black lung will be complete.

Mr. President, the conferees have worked for nearly 4 months to develop this report. Although both the Senate and the House conferees worked toward the same objective, there were serious differences in approach. This conference report represents an accommodation of those differences and I would like to commend the chairman of the Senate conferees, the Senator from West Virginia (Mr. RANDOLPH) for his leadership and perseverance in the conference, and to congratulate him on the conference report. I would also like to express my appreciation for the positive assistance which we received from the other Senate conferees.

Mr. President, this conference report, the Black Lung Benefits Reform Act of 1977, will restore justice and fairness to the black lung program and will fulfill the promise which we made to our Nation's coal miners in 1969.

I commend this conference report to the Senate.

Mr. President, the Senator from West Virginia brought to our legislative effort to meet the needs of coal miners the knowledge that comes from one who lives close to the people he represents, and so many of them are employed in the coal mines. It is for nearly a decade that we have worked together to develop the two things that coal miners needed, a program to advance safety and health conditions in the mines, and then a program of compensation for those who have been diseased as a result of this employment.

It has been put all together in our legislation. Since 1969 problems have developed with this measure and with the bill that we passed that deals with a reorganization of the Mine Safety and Health Administration.

I think the coal miners of our land at last have the full measure that they are entitled to for compensation and also for insuring a work environment that over the years ahead will reduce, we hope to zero, the incidence of the disease that we compensate here.

Certainly, and I know my colleague from New York will share this with me, though we come from States that are not known as and are not coal mining States, we had to work and relv day in, day out, on every measure in this area on the most constructive and most humane Senator from West Virginia.

It is good that we had the complications of financing the black lung program so expertly resolved with the cooperation and all of the creative thought of the Senator from Louisiana.

I thank the Senator from New York.

Mr. JAVITS. I thank my colleague.

Mr. President, I yield myself 5 minutes.

Mr. President, as one of the Senate members of the conference committee, I support the conference report on the Black Lung Benefits Reform Act of 1977, and I urge its adoption here today. This legislation will correct several provisions of the present law which have unfairly caused benefits to be denied to miners suffering from pneumoconiosis and to their survivors, and will reform the financing of black lung compensation by shifting the burden of financing benefits from the general revenues of the Treasury to the users of coal by a sales tax collected through coal mine operators. Coal mine operators, through the tax revenues to the new trust fund and through liability for individual claims, will be responsible for financing the cost of all benefits, including claims certified by the Secretary of HEW under the new section 435 of the act.

These amendments finally achieve the objective I have sought since the inception of the black lung benefits program in 1969 of requiring the coal industry itself to pay the cost of compensating miners and their survivors for black lung disease. I urged this approach again during consideration of the 1972 amendments. Although the 1972 amendments incorporated the concept of operator liability for individual claims, the provisions adopted then under part C were largely ineffective and resulted in virtually all payments being made from general revenues.

I am also pleased that the bill as reported by the conferees retains a great many of the amendments which I proposed during its consideration by the Human Resources Committee, and also includes amendments which I offered during the conference itself.

My great interest in the black lung benefits program, since its inception in 1969, has been to insure equity for victims of black lung disease while being mindful of the burden on the U.S. taxpayer of as much as $1 billion per year in benefit payments. I wish to assure my colleagues that although the bill incorporates a number of liberalized standards governing the adjudication of black lung benefit claims, it clearly preserves its basic integrity as a workers' compensation program by requiring a finding not only of the presence of black lung disease, but also that the claimant's disability due to the disease prevents him from performing coal mine work.

In this connection, I was concerned throughout the consideration of this legislation by the conference committee that the dual responsibilities of HEW and the Department of Labor for reviewing previously denied claims be exercised in a manner that is fair to all concerned. These claims are to be reviewed by both agencies under medical criteria no more restrictive than the so-called interim medical standards which were originally promulgated by HEW for the determination of claims under part B of the act, for which HEW was responsible through June 30, 1973. The bill also provides authority for the Secretary of Labor to promulgate regulations establishing revised medical criteria, based on the best medical information available, to be applicable to all newly filed claims.

The "interim" standards as they were applied to determine benefit claims under part B, have been highly controversial and widely criticized. For example, the Secretary of Labor, on September 30, 1977, stated:

> The part B standards are not medically sound for providing benefits to all deserving individuals.

I therefore requested that the statement of managers include language to the effect that "all relevant medical evidence" be considered in applying the "interim" standards to the reviewed claims in order to more clearly explain the intent of the new section 402(f)(2) of the act created by section 2(c) of the bill. I also suggested the language that "the conferees expect the Secretary of HEW to administer the 'interim' standards with a view to the just accomplishment of the purpose of allowing for reviewed Part B claims to establish disability within the meaning of the

1977 amendments as they apply to all reviewed Part B claims." It is found in the statement of managers under the heading of "Review."

These amendments I believed were not intended to require payment of a claim where the evidence in the file is fragmentary or otherwise incomplete, but to require payment of a claim where there is evidence of the presence of pneumoconiosis and that it has caused disability for performing coal mine work. If in reviewing its files of previously denied cases HEW finds incomplete evidence, such as X-ray evidence of simple pneumoconiosis only (which X-ray evidence standing alone is insufficient to establish eligibility), it is expected to transfer the case to the Department of Labor for a determination under part C with an opportunity for the claimant to supplement the evidence already on record.

I believe it would be inequitable, and contrary to sound program administration, if the Departments of Labor and HEW were to give disparate treatment to claimants in carrying out their dual responsibilities for reviewing previously denied claims. I felt the departments must be mindful not only of the potential impact on the new trust fund, which may be significantly underfunded on the basis of the established sales tax rate, but also that any claims approved on the basis of inadequate evidence may be controverted by operators who may be found liable for benefits. This could lead to an avalanche of costly litigation, and add months and possibly years to the final adjudication process.

Also important to this legislation are the provisions concerning the evidentiary value of lay affidavits and of X-rays submitted by claimants' physicians. With respect to X-ray evidence, I am pleased that the bill essentially retains the intent of my amendment adopted by the Human Resources Committee to the effect that a positive interpretation by a claimant's physician would be accepted as evidence of pneumoconiosis without rereading by expert radiologist consultants to the Government if the submitted X-ray meets the Department of Labor's criteria for X-ray quality, was initially interpreted by a board-certified or board-eligible radiologist, and there is no reason to believe it is fraudulently misrepresented.

Of course, acceptance by the Secretary of such X-rays, refers to the Department's initial determination, and does not preclude any operator who may be liable for benefits from contesting the claimant's X-ray evidence or from seeking another X-ray. The amendment to section 413(b) concerning affidavits simply means that such evidence may be used to establish disability only where it is the only evidence available, and that affidavits alone are not sufficient to overcome more tangible evidence if in the record. And, even if there is not other evidence available, the affidavits should contain sufficient evidence that the miner was disabled, or died, due to pneumoconiosis in light of the applicable presumptions.

With the adoption of this conference report, I very much hope that the Senate will now broaden its concern to consideration of the wholly inadequate and inequitable compensation of the victims of other occupational diseases. The improvements in State workers compensation systems necessary to provide compensation in the case of dozens of other categories of employees disabled by occupational diseases—including textile workers, asbestos workers, and many others—will clearly not come about until Federal legislation establishing minimum standards for these State systems has been enacted.

I intend to join with the distinguished chairman of the Senate Human Resources Committee, to renew my efforts, to enact such legislation. Senator WILLIAMS and I have applied ourselves for some years to this problem. I know he feels as I do. We will continue to do so. I hope to enlist again in his leadership in the same activities which have brought so many reforms into the field of health and safety for working people. I know we will be thoroughly joined by Senator RANDOLPH, and I have felt that there is no reason why we should deny the coal miners their opportunity to get elementary justice in this respect because others were left out. We will wage our fight for others, be they asbestos workers or textile workers, because we are learning that these diseases have very long-term incubation periods and are very disabling. We take a lot of our industrial production out on the backs of our workers in terms of their health.

Finally, I would like to congratulate JENNINGS RANDOLPH and CARL PERKINS. Never did people who are injured have two more devoted and impassioned advocates than these two legislators. I think they have scored a signal success, but also one which gives proper accommodation to the fact that the industry should pay its way and that the taxpayers of the United States should not carry that load.

I thank the Chair, and I reserve the remainder of my time.

Mr. LONG. Mr. President, I want to thank the Senator from West Virginia, the Senator from New York, as well as the Senator from New Jersey for their comments here today.

The conferees from the Finance Committee have worked in harmony and concert with the conferees from the Human Resources Committee in order to develop both the black lung tax legislation, which the Senate passed in December, and the black lung benefits bill which we are considering today. Each of the two committees has acted responsibly in recognizing the jurisdiction of the other, with respect to the current legislation and with respect to future oversight and legislation in connection with the black lung program. Thus, the Finance Committee jurisdiction extends to those matters covered in H.R. 5322, the Black Lung Benefits Revenue Act of 1977, including the new excise tax on coal, the establishment of the black lung disability trust fund, the structure and administration of the trust fund, the purposes authorized for expenditures out of the trust fund, and provisions as to self-insurance trusts established by coal mine operators. The Human Resources Committee jurisdiction extends to those matters covered in H.R. 4544, which we are considering today, including eligibility for black lung benefits, rules for evidence of disability, claims adjudication, and related benefit provisions. I assure Senators that the Finance Committee, working jointly with the Human Resources Committee, will be alert to the needed levels of funding for approved claims under H.R. 4544. Based on the cost estimates set forth in the committee reports in both the House and Senate, by the end of fiscal year 1984 the new excise tax on coal will have produced more revenue than the estimated payments out of the trust fund to that time.

Mr. President, I congratulate the Senator from West Virginia (Mr. RANDOLPH) for his great work on this bill. This has been a long, continuous struggle for him, dating back to 1969. His indefatigable never-say-die efforts have prevailed again.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. HUDDLESTON. Mr. President, will the Senator yield me 1 minute?

The PRESIDING OFFICER. The Senator from New York has 1 minute left; the Senator from Louisiana has 2 minutes remaining.

Mr. LONG. I yield 1 minute.

Mr. HUDDLESTON. I thank the Senator. I just want to add my commendations to the Senator from Louisiana (Mr. LONG), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS) for joining with our colleague over on the other side of the building, in the House, Congressman PERKINS.

I am sure my colleague from Kentucky (Mr. FORD), who is in the chair at the present time, joins me in expressing our appreciation from a State that has many citizens who are afflicted with this disease, and who will benefit greatly from the farsightedness that has been demonstrated with this particular bill.

I think it will expedite the process. It shifts the burden from the taxpayer to the coal producers, and it will be of great benefit to our State and to all citizens who have been afflicted by the so-called black lung disease. I thank the Senator very much.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that both Mr. JAVITS and Mr. RANDOLPH have 4 additional minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. Senators have 4 minutes divided as they wish.

Mr. RANDOLPH. Mr. President, with the Senator from Kentucky (Mr. HUDDLESTON) saying what he said, expressing appreciation to those of us who were perhaps more closely identified with the actual hearing process and the writing of the bill, I want to say that the two Senators from Kentucky, both of them in the Chamber now, have certainly been very ardent advocates of this legislation. Senator FORD and Senator HUDDLESTON understand the problems of coal mining in the State of Kentucky—the largest producer of bituminous coal—and in our

Nation. Our action today is to me an indication of their continuing desire to see that which is right be done in the Congress of the United States for those afflicted with black lung. I thank the Senators.

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from Alabama, and I reserve 1 minute to myself.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from New York.

Mr. President, I wish to commend and pay tribute to the distinguished Senator from West Virginia (Mr. RANDOLPH), to the distinguished Senator from New Jersey (Mr. WILLIAMS), the distinguished Senator from New York (Mr. JAVITS), and the distinguished Senator from Louisiana (Mr. LONG) for this excellent and meritorius conference report that has been brought back to the Senate.

Certainly it illustrates that Congress does have a heart, it does have a conscience, because to stabilize the matter of black lung claims and to provide that those who are victims of black lung can obtain the benefits to which they are entitled, make this legislation landmark legislation.

I was very much interested—and the Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from New York (Mr. JAVITS) and also the distinguished Senator from New Jersey (Mr. WILLIAMS) will recall—that last year Senator SPARKMAN and I introduced a bill that would have provided for red lung benefits for miners in the iron ore mines, and also were interested in brown lung that textile workers have, and white lung that asbestos workers and lime plant workers have.

I was very much interested in the statement of the distinguished Senator from West Virginia that hearings would be held this year on these and other respiratory illnesses of workers, and I would like for him to state again, if he would, when it is anticipated that those hearings will be held.

Mr. RANDOLPH. Mr. President, I appreciate the question. The chairman of our committee is present. He has an intense interest in this subject as well as others of us. Perhaps the chairman (Mr. WILLIAMS) should make that response and if necessary, I will join with him.

Mr. ALLEN. I thank the Senator.

Mr. WILLIAMS. Mr. President, I assure the Senator from Alabama that he has kept the matter before us——

The PRESIDING OFFICER. The Senator's time is expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have 4 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield 3 minutes to the Senator from New Jersey.

Mr. WILLIAMS. I thank the Senator.

The Senator from Alabama has kept before us the fact that there are other respiratory diseases associated with the workplace. Brown lung is one of those diseases; red lung, which affects those who work in iron, is another.

Mr. ALLEN. Yes.

Mr. WILLIAMS. I know of the particular concern of the Senator from Alabama about that. The Senator from New York and I are, and have been over quite a period of time, developing comprehensive legislation that will deal expressly with these other diseases that should be compensable.

The timing, we can say, is this: Because the committee must proceed before May 15 on the reauthorization of existing programs. Our wise decision to look at all reauthorizations basically, or nearly from the ground up, will occupy us until that Budget Committee deadline of May 15.

Then the comprehensive workers' compensation bill will be before us, and hearings will be held, and we of course, will welcome at that time——

Mr. ALLEN. That would be this year?

Mr. WILLIAMS. This year. We will welcome whatever input the Senator from Alabama may have.

Mr. ALLEN. I hope that when that time arrives, the distinguished Senators, the Senator from New Jersey, Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS) will allow the Senators from Alabama to join as cosponsors of this legislation.

Mr. WILLIAMS. We certainly will present our legislation to the Senator from Alabama, and would welcome, indeed, his cosponsorship.

Mr. ALLEN. I thank the distinguished Senator.

I would like to commend also the Finance Committee on devising the trust fund approach, whereby claims will be able to be paid through the trust fund. I think that is a very sound and fiscally responsible approach.

I again commend the managers of the conference report.

Mr. JAVITS. Mr. President, let me take just 1 minute to associate myself with Senator WILLIAMS again, and assure him of my cooperation in every way.

Mr. President, as to the especially difficult trust fund issue, Senator LONG, I think, has made every effort to define the substantive responsibilities which we have and the tax responsibilities which the Finance Committee has. He used one phrase regarding Finance Committee juridiction: "Purposes for expenditures of the trust fund." I just wanted to make it clear that his original definition of Finance Committee jurisdiction is satisfactory, and that I would expect that this assertion fits within the context of the basic definition. If understood that way, it is reasonable and proper; but not if understood as an enlargement of Finance Committee jurisdiction. I just wanted to put my own caveat on the Record in that regard.

Finally, Mr. President, I think this has been a most creditable endeavor by all concerned—Senator RANDOLPH, Senator LONG, and Senator WILLIAMS—and I hope very much the Senate will agree to the conference report.

Mr. ROBERT C. BYRD. Mr. President, I wish to add my commendation to those so properly expressed by our colleagues with respect to the work performed by my senior colleague (Mr. RANDOLPH) and by the ranking members, Mr. WILLIAMS and Mr. JAVITS, and also by Mr. LONG and others, on this major legislation. It is a very important piece of legislation, and Senator RANDOLPH and the others have worked long and very hard in the process of the hearings and in the management of the bill on the floor and then in conference. They met with difficult problems in conference, but their dedication, their purpose, and their tenacity have prevailed. These plaudits are well deserved, and I am happy to add my own to those that others have so well expressed.

Mr. RANDOLPH. Mr. President, I thank my colleague. I do not forget what my colleague from West Virginia did in 1969 when we started this long trail, when he joined very, very actively in securing the funds with which the first payments could be made to the sufferers from black lung disease. I want the record to indicate that when I say this, I have a full knowledge of the contribution he has made and is making in helping those afflicted with black lung.

Mr. ROBERT C. BYRD. Mr. President, I thank my colleague for his generous remarks.

Mr. RANDOLPH. Mr. President, I urge the adoption of the conference report on H.R. 4544, the Black Lung Benefits Reform Act of 1977.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, in adopting the black lung conference report today, we have recommitted ourselves to assuring that our Nation's miners who have been or will become afflicted with this dread disease will receive just compensation.

During our original consideration of the Senate bill last summer, I indicated that we must assure adequate protection of our most precious resource—the miner. This legislation goes far to assure such protection.

The definition of total disability as contained in this measure assures that employment at the time of death does not arbitrarily bar a survivor's claim for total disability benefits. In the past it would have. Also in the past, if a miner was working when the disease was discovered he or she could not have been found totally disabled. Employment is no longer a conclusive bar to a determination of total disability. However, no miner can receive benefits if he is still employed.

In the past, one of the most controversial aspects of the old law was the determination of whether or not the miner had the disease. Under this legislation a more realistic approach is taken and other medical evidence, as well as affidavits in certain cases, may be used to establish the presence of the illness.

The legislation also assures that miners previously denied black lung benefit payments will be permitted to have their claims reconsidered to determine if they are eligible.

Additionally, the bill provides an insurance mechanism through the Secretary of Labor to provide coverage for coal operators who cannot secure workers compensation coverage or who are unable to do so at a reasonable cost.

Mr. President, we must recognize that one of the costs which we must bear in order to enjoy our energy-oriented lifestyle is the social cost we owe those who make such a lifestyle possible. We must realize that there is no way in which we can completely compensate our miners who suffer from black lung. This bill, however, at least recognizes the debt which we as a society owe them.

NUCLEAR NONPROLIFERATION ACT OF 1977

The PRESIDING OFFICER. The Senate will resume the consideration of the unfinished business, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 897) to strengthen United States policies on nonproliferation and to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 1186

Mr. McCLURE. Mr. President, I have an unprinted amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1186: On page 115, line 15—

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendments which I have sent to the desk be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 115, line 15, strike "." and insert in lieu thereof;

"; *Provided Further*, That notwithstanding subsection 402(d) of the Department of Energy Organization Act (P.L. 95-91), the Secretary of Energy and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function the Secretary of Energy in this section."

On page 120, line 6, insert new subsection (c) as follows:

"(c) Notwithstanding subsection 402(d) of the Department of Energy Organization Act (P.L. 95-91), the Secretary of Energy, and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section."

Mr. McCLURE. Mr. President, the two amendments which I have submitted I will describe as follows:

Section 402(d) of the Department of Energy Organization Act specifies that any matter involving a decision based on a hearing on the record, whether required by law or based on a discretionary decision by the Secretary, would be placed in the Federal Energy Regulatory Commission.

This amendment would insure that any matter to be decided on the basis of a hearing on the record would not, as a matter of law, be placed in the FERC, but rather could be retained within the jurisdiction of the Secretary of Energy.

A similar amendment was made in S. 1811 to deal with many of the functions transferred from ERDA to the Department which involved such hearings, such as patent appeals, contracting actions, et cetera.

Printed amendment No. 1595 would have, by statute, limited any application of the Administrative Procedure Act, and provided for limited judicial review for section 303, dealing with subsequent arrangements. Because of the opposition of the floor managers to that amendment, now the only possible protection against full administrative procedures dealing with subsequent arrangements would be on the basis of either the foreign policy exemptions in the Administrative Procedure Act or failure of a potential intervenor to obtain standing, and thereby trigger formal proceedings in a material matter.

We certainly hope they are correct in their assessment. We do not intend that this amendment in any way be construed to suggest that the Administrative Procedure Act should apply. However, there is some remote possibility that one or more classes of subsequent arrangements could be subjected to the Administrative Procedure Act, which may involve a formal hearing on the record.

If that were to occur, under the Department of Energy Organization Act, the on-the-record hearing would automatically trigger the jurisdiction of FERC. There certainly is no public policy to be served by placing subsequent arrangement considerations with the nonproliferation type findings contained in section 303 of the FERC.

Also, for certain of the subsequent arrangements, the Secretary of Energy might have reason, in his discretion, to schedule a formal hearing for consideration of public views and comments. Under section 402(d) of the DOE Organization Act, that discretionary decision might also trigger FERC jurisdiction. Again, there is no reason further to complicate these proceedings by placing them in the wrong reviewing and decisionmaking agency.

I understand that the floor managers will accept this amendment and I hope that that is true.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS assumed the chair.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, we have worked out the language of this, I believe, satisfactorily, and I would be glad to agree to the amendments of the Senator from Idaho as proposed, and as proposed en bloc.

Mr. McCLURE. With that understanding, I yield back the remainder of my time on the amendments.

Mr. GLENN. I yield back the remainder of my time on the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NUMBERED 1609 AND 1612

Mr. McCLURE. Mr. President, I call up my printed amendments numbered 1609 and 1612 and I ask unanimous consent they may be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendments numbered 1609 and 1612.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 156, line 19, after the comma, insert "and to cooperate with other nations in protecting the international environment from radioactive, chemical, or thermal contamination arising from nuclear activities".

On page 102, line 23, through page 103, line 2, strike subsection 2(e).

Mr. GLENN. Will the Senator yield for a moment?

Mr. McCLURE. I am happy to.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. The Senator from Ohio has an amendment to one of these amendments being proposed en bloc, is it necessary to split them and consider them separately?

The PRESIDING OFFICER. It would not be necessary to split them and consider them separately. It would not.

Mr. GLENN. I thank the Chair.

Mr. McCLURE. Mr. President, these two amendments offered en bloc have the effect of deleting the environmental policy statement from the policy section and placing it in the assistance to developing countries title, which is title V of the bill.

These amendments have the effect of moving a statement of policy regarding international cooperation in protecting the international environment from radioactive, chemical or thermal contamination arising from nuclear activities to the title of the bill dealing with international cooperation, title V. The concern regarding the placement of the policy statement is that it could be argued that congressional intent, as interpreted on the basis of this statement, was that the various provisions of the National Environmental Policy Act should apply to nuclear exports. As was discussed at length on Thursday during the earlier debate on this bill, it is the intent of the sponsors that the bill remain neutral on the issue of the NEPA requirements for these exports. Consequently, moving the statement to title V will avoid any misinterpretation of congressional intent in that regard. At the same time, however, it is also clear that moving the policy statement is not intended to prejudice one way or the other the current debate on the NEPA application to international activities.

I understand the floor managers will accept these two amendments in exchange for an unprinted amendment adding a new section 407 to title IV on agreements for cooperation. The new section 407 would encourage the President to attempt to get provisions in new agreements for cooperation that would provide for cooperation in this environmental area. Specifically, the section would read as follows:

SEC. 407. The President shall endeavor to provide, in any agreement entered into pursuant to Section 123 of the 1954 Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities.

I am prepared to support the adoption of section 407 at this time with the understanding similar to that of the floor managers and myself on amendments No. 1609 and No. 1612, to the effect that adoption of the new section 407 in no way prejudices positively or negatively the current debate on the application of NEPA to nuclear exports. Based on the assurance of an accompanying statement of neutrality, I am convinced that this section would not do any violence to the bill, but rather would indicate the view of Congress as to the proper vehicle for cooperation in protecting the environment from radioactive, chemical or thermal contamination arising from nuclear activities associated with our nuclear exports. This would clearly establish the congressional intent that such cooperation would be the subject of agreement of both parties, that is, the United States and the importing nations, as opposed to any implication that this would be a unilateral, statutorily mandated requirement for any specific environmental effort related to a nuclear export.

I also understand that the floor managers are prepared to indicate expressly their intention to support the maintenance of section 407 and the policy statement as moved to title V during the forthcoming Senate-House conference. I also understand that the floor managers will commit themselves to maintaining the strict neutrality of the nonproliferation legislation in its final conference form on this issue.

To place all this into an acceptable form on both sides, I proposed engaging the floor managers in a colloquy specifically discussing the relationship of amendment No. 1609, No. 1612, the unprinted new section 407, the neutrality of the bill as it will pass the Senate regarding NEPA, and the commitment of the floor managers to maintain that neutrality in the final conference bill.

Mr. President, it might be easier if the managers of the bill would propose their amendment to the amendments now pending and then we could engage in the colloquy as to the effect of these several actions.

UP AMENDMENT NO. 1187

Mr. GLENN. Mr. President, I send to the desk an unprinted substitute to amendment No. 1609 and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1197 as a substitute to amendment No. 1609.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the material in quotation marks and insert in lieu thereof the following new material: "to cooperate with both developing and industrialized nations in protecting the international environment from contamination arising from both nuclear and non-nuclear energy activities,"

Mr. GLENN. Mr. President, we are all aware of the environmental problems concerned with the development of energy resources, both nuclear and nonnuclear. The development of nonrenewable energy resources in particular cannot be done in an environmentally benign fashion. It is therefore, appropriate for the United States to cooperate with other nations by assisting them in the development of nuclear energy and nonnuclear energy activities in an environmentally acceptable way. Accordingly, since we are proposing in title V that we cooperate with other nations in developing energy resources in so called "developing countries," it behooves us independently of the nature of such a program to make a policy statement regarding our commitment to protect the international environment.

Mr. President, in introducing the amendments to title V of this bill, I do wish to say a few words concerning the reason why this title was included in the bill. Any strategy for nuclear nonproliferation must deal with the question of where proliferation begins. And on this score there can be no argument, proliferation risk begins however small it may be when a nation takes its first step toward nuclear power. We have attempted to deal with that internationally in a variety of ways including the Nuclear Non-Proliferation Treaty. Article 4 of that treaty says that parties to the treaty in a position to do so shall cooperate in contributing to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of nonnuclear weapon states, party to the treaty, and with due consideration for the needs of the developing areas of the world. In other words, the United States does have a commitment to aid other countries in developing nuclear energy resources if those countries sign the NPT. And indeed, we have provided massive assistance through the granting of low interest eximbank loans and through technical education and research. On the other hand, the United States, at the moment, has no commitment with respect to the other side of the energy coin, namely a commitment to cooperate with other countries in the development of indigenous nonnuclear energy resources, especially in developing countries.

This imbalance needs to be redressed, not only because of the question of proliferation, but because there are additional benefits to be gained by making such commitments beyond nonproliferation. For instance, there will political and economic stabilization in developing countries through reduction of foreign oil dependency, as well as dependency on capital intensive technology. In addition, developing countries can provide field laboratories for development of soft technologies such as solar and biomass.

Finally a commitment by the United States in this area can provide the same type of high-minded motivation to young people with technical training, as the peace corp has provided in the past. In fact title V calls for a study of the feasibility of expanding the authorized program into an international scientific peace corp for developing indigenous energy supplies in developing countries. Some have questioned why title V should be included in a bill on nuclear nonproliferation. And my opening statement answers this query. That is, countries that can meet their energy needs by indigenous nonnuclear means should be encouraged to do so.

In his testimony before the Senate Energy and Natural Resources Committee, on September 13, 1977, Robert Frye, who was then the Acting Administrator for ERDA, stated that—

I wish to emphasize our belief that there is a critical need for expanded cooperation with other countries particularly developing countries in examining the role that nonnuclear as well as nuclear technologies can play in national energy programs. We therefore support the objectives of Title V of S. 897.

Last fall when S. 897 was being marked up by the Senate Foreign Relations Committee, I was privileged to receive a letter from our late and dear colleague, Senator Hubert Humphrey. I would like to read an excerpt from this letter and then enter it into the record:

This is to advise you of my strong and unequivocal support for Title V to S. 897, which directs the United States to cooperate with other nations, international institutions, and private organizations to assist in the develop-

ment of non-nuclear and renewable sources of energy in developing countries.

This title is important for two reasons. First, one of the major obstacles to equitable economic growth in developing countries is access to inexpensive, renewable, and assured energy supplies. Unless, these energy needs can be met adequately, attempts to come to grips with the tremendous economic and social problems confronted by these countries will be continually frustrated.

Second, if we are, indeed, to have any chance of bringing nuclear proliferation under reasonable control, then it is imperative that alternative, renewable sources of energy be developed in developing countries. To ignore this fact, in my estimation, will only encourage growing attempts on the part of nations to acquire nuclear technology as an energy source. This, in turn, can only enhance prospects for the proliferation of weapons-grade nuclear material.

In essence, our concern of the dangers of nuclear proliferation will only be credible if we are willing to draw upon our own technological expertise and capability in assisting developing countries in meeting their rising energy needs. Therefore, if S. 897 is to have any meaning whatsoever, Title V must remain an integral part of this legislation.

Mr. President, that is the end of the quotation from Senator Humphrey's letter to me. I certainly appreciated his comments and his insight in forwarding that letter, and the views he expressed, because I believe he states very succinctly and to the point the objective of title V, and what we are trying to accomplish with it. I ask unanimous consent that the entire letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 28, 1977.

Hon. JOHN GLENN,
U.S. Senate,
Washington, D.C.

DEAR JOHN: This is to advise you of my strong and unequivocal support for Title V to S. 897, which directs the United States to cooperate with other nations, international institutions, and private organizations to assist in the development of non-nuclear and renewable sources of energy in developing countries.

This title is important for two reasons. First, one of the major obstacles to equitable economic growth in developing countries is access to inexpensive, renewable, and assured energy supplies. Unless these energy needs can be met adequately, attempts to come to grips with the tremendous economic and social problems confronted by these countries will be continually frustrated.

Second, if we are, indeed, to have any chance of bringing nuclear proliferation under reasonable control, then it is imperative that alternative, renewable sources of energy be developed in developing countries. To ignore this fact, in my estimation, will only encourage growing attempts on the part of nations to acquire nuclear technology as an energy source. This, in turn, can only enhance prospects for the proliferation of weapons-grade nuclear material.

In essence, our concern of the dangers of nuclear proliferation will only be credible if we are willing to draw upon our own technological expertise and capability in assisting developing countries in meeting their rising energy needs. Therefore, if S. 897 is to have any meaning whatsoever, Title V must remain an integral part of this legislation.

In conclusion, I want to take this opportunity to commend you for the fine work you have done with this measure and in particular for the foresight you have exhibited in developing Title V.

With warm personal regards.

Sincerely,

HUBERT H. HUMPHREY.

Mr. GLENN. That, Mr. President, concludes the remarks I wish to make. I ask that they be printed in the RECORD in the area in which we were considering the substitute to my amendment No. 1609.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. GLENN. Certainly.

Mr PERCY. I think the comments he has made are of considerable importance.

I would like to note that Senator GLENN and I have worked on so many things together that we are of one mind in this regard, that we have a duty and responsibility now not only to do everything we conceivably can to start working on alternate energy sources here, but to encourage others to do so.

I do not see how we can encourage others to do it unless we do it ourselves. How can we say, "It is all right for us to go the nuclear route and depend entirely or overwhelmingly on nuclear products but you should go some other route."?

It is for that reason that so many of us in the Senate—50 of us are going to sponsor Sunday, May 4, as Solar Energy Day and ask that the President so proclaim that day of this year; and it is for that reason that I am introducing legislation to require that the State Department buildings that we build abroad utilize solar technology, as an example of using an infinite source of energy rather than a finite source.

Our distinguished present Presiding Officer (Mr. MATSUNAGA) is evidencing his leadership in this field, and has been strong in his encouragement of this effort.

Recently, while on a personal trip to France, I visited with the President of the International Foundation for Cultural and Economic Development, where they had just completed a $250 million facility, built with local and provincial funds of France, to be an international conference center.

They have offered the facilities of their conference center for a conference that would embrace 400 or 500 representatives from countries all over the world, developing and developed countries, to discuss the subject of energy. France would be a good place to hold such a conference.

I have discussed this matter with the Russian delegation that was here just 2 weeks ago, to see whether they would have an interest. These are the kinds of things the developed countries of the world ought to be doing together. But we would have to go there able to say, "This is what we have done, and this is the technology and know-how we can share with you."

Certainly the Department of Energy has a tremendous responsibility to be innovative, creative, bold, and imaginative in what we do here in this country, so that we can then implement and carry out those sections of the foreign aid bill and those sections of the legislation authorizing a national energy policy to promulgate this idea.

I concur with and commend our distinguished colleague from Ohio on the comments he has made. And certainly it is appropriate that we should quote Senator Humphrey, who was a founding member and cochairman of the Alliance to Save Energy, because he recognized, above all, that the best way to create a new source of energy is to conserve the energy we have, and then go into other sources of energy. We will always be able to use the petroleum products we have, but once we use them all, they are gone, and it will take millions of years to create new resources.

It behooves us to use wind, waves, water power, and everything else we have in developing new sources of energy for the world.

Mr. McCLURE. Mr. President, will the Senator yield, on whatever time I have remaining on Amendment 1609?

Mr. PERCY. I yield.

Mr. McCLURE. I thank the Senator. Without unduly prolonging this discussion, I want to underscore the comments which both the Senator from Illinois and the Senator from Ohio have made with regard to the necessity and desirability of focusing on other forms of energy. As was mentioned last week, one of the nations which figures so importantly in the energy debate in the world today, Brazil, is also moving forward much more rapidly than we in the area of substitution of alcohol for petroleum products. Their mixture of 20-percent alcohol to 80-percent gasoline might well be a pattern for this Government. Often other nations may take actions that perhaps we should try to follow.

I might also mention that another government much in the news on energy is the Government of Saudi Arabia, which is very much interested in cooperative efforts with the United States in the field of solar energy. Just 2 weeks ago I was in Riyad, and discussed with them the proposal for a joint effort of $10 million in the development of solar energy technology. I was pleased to be able to urge them to join with us in that effort; even though it does not show likelihood of an immediate substitution for massive quantities of petroleum, certainly it does hold promise for significant additions to the world's arsenal of energy that could be a very constructive and useful addition, and it underscores the commitment, I think to the conservation of fossil fuels, their own concern about the conservation of their national assets, which is a matter of concern to that government.

So I join with my colleagues in suggesting that nuclear power is not the only source of energy for the petroleum or fossil fuel deficient countries.

Mr. PERCY. Mr. President, will the Senator yield for just one remark?

Mr. McCLURE. I am happy to yield.

Mr. PERCY. It is important to note also, and I think the public should understand, that not only is Saudi Arabia, the world's largest oil producer and the owner of the largest oil reserves in the world, looking for practical ways of

sponsoring the development of solar energy, but it has contributed $600,000 to a Virginia school to illustrate that we, too, can convert to solar energy.

Then the Shah of Iran recently contributed $25,000 to the Alliance to Save Energy, to demonstrate that country's interest in showing energy hungry Americans how to use less of the oil that we buy from Iran, because they think we are using it at an unconscionable rate. Also, $25,000 contributions have been made by Standard Oil of Indiana, Standard Oil of California, ARCO, and Union Oil. There is a matching grant of $100,000 from the Ford Foundation, just to tell Americans how to conserve energy and use it more efficiently and effectively and not to waste and squander it. The second part of that, of course, is then to go to alternate sources, which are so important.

I know that my distinguished colleague, who knows a tremendous amount about the energy field and is one of the more knowledgeable men in the U.S. Senate, puts emphasis on that. He is right in the leadership with the petroleum industry, because they also are saying that there has to be another way of doing it, rather than just continuing to draw down on the finite sources we have available to us.

I thank my distinguished colleague.

Mr. McCLURE. I thank my friend for those comments and also for his leadership in the field, which is well known, not only in this body but across the country. I think his actions speak very eloquently for his commitment.

Mr. GLENN. Mr. President, it is my understanding that the distinguished Senator from Idaho has agreed to the language proposed in this amendment.

Mr. McCLURE. If the Senator from Ohio will yield, my understanding of the substitute for No. 1609 is the rewording of the language so that it conforms to the format and the structure of the bill at this point, and it has my support.

Mr. GLENN. That is correct.

Mr. President, I am prepared to yield back the remainder of my time on this.

Mr. McCLURE. I yield back the remainder of my time on this.

The PRESIDING OFFICER. The question is on agreeing to the unprinted substitute amendment No. 1187 offered by the Senator from Ohio.

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the substitute was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I suggest that we go ahead and have amendments 1609 and 1612, as amended; that the managers of the bill then offer their amendment with regard to section 407; and that following that, we have the colloquy on the meaning of this action. Is that agreeable to the manager of the bill?

Mr. GLENN. That is agreeable to the Senator from Ohio.

Mr. McCLURE. If that is agreeable, then I yield back the remainder of my time on amendments 1609 and 1612.

Mr. GLENN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments as amended.

The amendments, as amended, were agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. As I understand it, amendments 1609 and 1612 were agreed to en bloc.

Mr. McCLURE. The Senator is correct.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At this point the Senate considered the matter concerning authorization for artists to be in gallery during consideration of the Panama Canal treaties. By unanimous consent the colloquy is printed elsewhere in today's RECORD.)

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. As to the status we were in before the quorum call, is there any reason why I could not bring up another amendment at this time?

The PRESIDING OFFICER. No amendment is pending.

Mr. McCLURE. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. GLENN. I yield.

Mr. McCLURE. Is it proper to request that the amendment brought up at this time will be placed in the RECORD following the sequence that had been established earlier and the amendment which the Senator from Ohio will offer in regard to section 407 and the colloquy on amendment 1609 and 1612, so that those amendments en bloc, plus the amendment of the Senator from Ohio on section 407 and the colloquy thereon would appear sequentially? The amendment offerred now would follow in the RECORD after that.

Mr. GLENN. That is agreeable to the Senator from Ohio.

Mr. McCLURE. I ask unaniomus consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1188

(Purpose: To provide for the participation of the Armed Services Committee of the House of Representatives and the Senate in the case of certain agreements for ccoperation)

Mr. GLENN. Mr. President, I send to the desk an unprinted amendment and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes unprinted amendment No. 1188.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 135, line 22, immediately after "Representatives" insert a comma and the following: "and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91c., 144b., or 144c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate,".

On page 149, line 9, immediately after "Senate," insert the following: "and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91c., 144b., or 144c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate,".

Mr. GLENN. Mr. President, this amendment would give the Committee on Foreign Relations and the Committee on Armed Services in the Senate and the Committee on International Relations and the Committee on Armed Services in the House shared responsibility for oversight and review of military agreements for nuclear cooperation. This approach is consistent with that of the comparable House bill, H.R. 8638. Agreements for peaceful cooperation would remain the sole responsibility of the Senate Committee on Foreign Relations and the House Committee on International Relations.

Under the reorganization of the Senate last year, the Committee on Foreign Relations was given jurisdiction over all "executive agreements except reciprocal trade agreements."

It is worth emphasizing that the only specified exception to the committee's exclusive jurisdiction over executive agreements is reciprocal trade agreements. Thus, it is clear that all agreements for nuclear cooperation will fall within the exclusive jurisdiction of the committee.

This point as it applies to agreements for nuclear cooperation is reinforced by clause 13 of the jurisdictional grant to the Foreign Relations Committee. That clause gives responsibility for "international aspects of nuclear energy, including nuclear transfer policy."

Although the committee will have full jurisdiction over all agreements for nuclear cooperation, as a matter of comity, the floor managers of this bill for the Committee on Foreign Relations, the Senator from Illinois (Mr. PERCY), and I, believe that responsibility for military agreements for nuclear cooperation should be shared by the Committee on Foreign Relations and the Committee on Armed Services. This would enable review from a foreign policy and military perspective and would allow the application of the expertise of both committees in a complex and critically important area. I expect that the two committees can work together to devise a mutually acceptable and effective way to handle military agreements for nuclear cooperation.

I believe the distinguished Senator from Idaho, Senator MCCLURE, has agreed to this amendment and we are prepared to proceed to a vote.

Mr. McCLURE. Mr. President, I say to the distinguished Senator from Ohio yes, indeed, I do support this amendment and support its adoption.

I yield back the remainder of my time.

Mr. GLENN. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, the amendment is agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I ask unanimous consent that it be in order for me to offer another amendment which again will appear sequentially as was agreed to on the last amendment.

Mr. GLENN. I have no objection to that, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1189

Mr. McCLURE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho, Mr. MCCLURE) proposes unprinted amendment No. 1189.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, line 13, after the comma, insert "or would modify any existing export criteria under this section,".

Mr. McCLURE. Mr. President, section 304 of the bill establishes a procedure for expedited congressional consideration of additional export criteria in the event that either the House or the Senate passes a joint resolution which would adopt additional criteria. This unprinted amendment would modify that section to also incorporate the concept of expedited procedures for a modification of an existing criteria. The rationale for the expedited procedures for new criteria was that there would be substantial uncertainty in the international community if one House of Congress were to pass a new export criteria to this bill.

The argument is that expedited procedures will insure that the Nuclear Regulatory Commission, the executive branch, and our nuclear trading partners would get a relatively quick decision on whether or not the other House of Congress was supportive of that criteria, rather than have it hanging as a potential problem for the export process. It has not always been clear that that was the only motivation for this expedited procedure for new criteria, since there is some sentiment that the sponsors have the hope of tightening the screws over time in the future.

On that basis, there was considerable opposition to the section of the bill that would accomplish that purpose. This would be a compromise approach. Addition of the language in the unprinted amendment would expand the application of expedited procedures, in order to also include possible modification to some of the criteria in the act. While this could be misused to make them more stringent, it also would provide flexibility in the future for a fix to problems which will undoubtedly arise. It also will insure that if either House does make a modification by amendment that there will not be the same uncertainty which has been mentioned as the rationale for the original language in the bill.

This amendment, I hope, will be acceptable to the floor managers of the bill.

Mr. GLENN. Mr. President, the suggested change is acceptable and we are glad to accept it and yield back my time if the Senator from Idaho yields back his time.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 1190

Mr. GLENN. Mr. President, I send to the desk an unprinted amendment and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes unprinted amendment numbered 1190.

On page 156, following line 12, insert the following new section:

"PROTECTION OF THE ENVIRONMENT"

407. The President shall endeavor to provide in any agreement entered into pursuant to section 123 of the 1954 Act for cooperation between the parties in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities."

Mr. GLENN. Mr. President, the purpose of this amendment is to provide, in the context of new or renegotiated agreements for cooperation, for enhanced cooperation with other nations in protecting the international environment from radioactivity, chemical or thermal contamination arising from peaceful nuclear activities.

This new section of the bill places no additional duties on the President with regard to the protection of the international environment other than in the context of agreements for cooperation and in no respect addresses any requirements which the National Environmental Policy Act of 1969, NEPA, as amended, may impose on the President or any Federal agency to consider such matters in this or any other context.

This is in keeping with the remaining provisions of S. 897 which likewise do not try to address the question of the possible international reach of the 1969 National Environmental Policy Act.

This question is one which will be resolved elsewhere, not in conjunction with this bill, and nothing in S. 897 should be taken as implying a view on the merits of this issue.

Mr. McCLURE. Mr. President, I support the adoption of the amendment offered by the distinguished Senator from Ohio.

Mr. GLENN. I yield back the remainder of my time.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I yield myself such time on the bill as may be consumed.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, the question of the implications of this bill with respect to application of NEPA have been the subject of considerable discussion in the debate thus far. After a great deal of further discussion between the floor managers and myself I believe we have formulated what may be the best response to the concerns that were discussed on the floor on Thursday. It is my understanding that we will ensure that complete neutrality of the nonproliferation bill by these actions, insofar as application of NEPA to nuclear exports is concerned. Is that the understanding of the floor managers?

Mr. GLENN. Yes, Mr. President. The Senator from Idaho is correct and our

actions are intended to ensure that there is complete neutrality in S. 897 with regards to any NEPA requirements that may be associated with the activities contained in the bill.

Mr. McCLURE. Do I further understand that the new section 407 which is to be added to the bill by Senator GLENN's unprinted amendment and the effect of my printed amendments 1609 and 1612, will have the effect of placing in the bill the statutory provisions for cooperation in the area of environmental protection which is the sole intention of the floor managers, and therefor neither section 407 nor the printed McClure amendments have the effect of requiring or precluding any specific environmental protection action outside of this context? Is that the understanding of the floor managers?

Mr. GLENN. Mr. President, I will respond by saying yes, it is my understanding that our actions with both printed amendment 1609 and 1612 and my unprinted amendment adding new section 407 will simply deal with the issue of international cooperation and environmental protection, but will not in any way indicate a congressional intent to mandate or preclude specific environmental protection actions in connection with the National Environmental Policy Act.

Mr. McCLURE. Am I correct then that this bill would not take any position either in support or in opposition to the currently proposed Council on Environmental Quality Guidelines dealing with international actions in environmental protection?

Mr. GLENN. The Senator from Idaho is correct. These actions will not be a statement of support or opposition by Congress with regards to the CEQ proposed guidelines.

Mr. McCLURE. Am I also correct in understanding that it would be the intention of the floor managers in the conference on the nonproliferation bill to use all possible persuasion with the House conferees to maintain the neutrality of this bill with regard to the National Environmental Policy Act and the pending CEQ guidelines?

Mr. GLENN. Yes, again the Senator from Idaho is correct. The respective floor managers and the leaderships of the committees of jurisdiction of this bill will make every effort in the conference to insure that the final statute maintains the neutrality which we are placing in the bill today with respect to the NEPA issue and the proposed CEQ guidelines.

Mr. McCLURE. Mr. President, I want to thank the floor manager for his restatement of our understandings with regard to this particularly controversial and very critical matter, and I look forward to working with him in the conference on this and many other issues which we have considered both here on the floor and in our many hours of separate consultation on this bill. I thank the Senator.

Mr. PERCY. Mr. President, will the Senator yield? Who has the floor?

Mr. McCLURE. I would be happy to yield to the Senator from Illinois.

Mr. PERCY. I would just like to indicate that I feel the distinguished Senator from Idaho has rendered a very valuable service again on this particular point. It was not the intention of the managers of the bill to get into this entire area. The bill itself is neutral in this regard, and it is important that it so indicates. Certainly the indication we have had that there will be a thorough discussion of this matter at some time in the future is encouraging. But the statement of the amendment itself and the bill itself is very clear indeed that we will endeavor to provide in any agreement entered into pursuant to section 123 of the 1954 act cooperation between the parties in protecting the international environment from radioactive, chemical, or thermal contamination arising from peaceful nuclear activities. This is a statement which none of us could really disagree with.

It is again an objective and a purpose, but it is limited to that, and the colloquy, I think, has helped a great deal.

I fully support the spirit and letter of the colloquy as the intention of the authors of the bill.

Mr. McCLURE. I thank the Senator from Illinois for that comment. I appreciate very much the remarks he has made with regard to my efforts on this bill and also to further the understanding of the floor managers of the bill on this very particular matter.

UP AMENDMENT NO. 1191

(Purpose: Euratom/IAEA Renegotiation)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1191.

On page 122, line 17, after "section 127", insert the following "for a period of thirty days after enactment of this Act, and thereafter".

Mr. McCLURE. Mr. President, this amendment would provide a 30-day time frame after enactment of the act to allow other nations to decide to renegotiate their agreements for cooperation when made necessary by criteria 4 and 5, dealing with U.S. rights to prior approval on retransfer and reprocessing of spent fuel. The bill, as now phrased in section 304, would require that any such nation must agree to renegotiation and the Secretary of State must notify the Commission of that fact before there can be the so-called 24-month Euratom exemption available for licensing. Consequently, this could be seen as an ultimatum by foreign nations, thereby presenting domestic, political, and international diplomacy problems in getting approval of such renegotiation.

I hope that the floor managers will accept this amendment. I am informed that they will.

Mr. PERCY. Mr. President, I have consulted with the floor manager of the bill on the majority side (Mr. GLENN). Both of us accept the amendment. We understand that it is simply intended to insure that the group of nations affected by the provisions in section 126a (2) of the 1954 act will have a reasonable opportunity to come to a final decision on the question of renegotiation.

I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

Mr. GLENN. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1192

Mr. CHURCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes unprinted amendment numbered 1192.

On page 128, line 2–4, delete "no such materials or facilities previously exported and subject to the applicable agreement for cooperation".

On page 128, lines 14–16, delete "or previously exported and subject to the applicable agreement for cooperation".

Mr. CHURCH. Mr. President, I yield myself such time as I may need to explain the amendment.

First of all, I commend my colleague (Mr. McCLURE) for the work he has done in an effort to perfect this bill and make it more workable. The amendment that I am offering also has that objective. I think that the managers of the bill, themselves, are determined to obtain legislation that will give us the most workable program possible, enabling us to sell nuclear generators and other nuclear technology abroad within the framework of an effective nonproliferation policy.

This particular amendment, Mr. President, deletes the references in section 305 of S. 897 (phase I licensing criteria) to prior U.S. approval of the reprocessing or retransfer of previous exports. These provisions would bar exports to Canada, EURATOM, and the IAEA, since those agreements for cooperation do not contain such controls with respect to certain previous exports, and it will be difficult to obtain retroactive application of these controls in all three of these cases.

It would eliminate the retroactive application of some of the export licensing criteria contained in S. 987. As the bill now reads, section 305 makes certain criteria—particularly, no retransfer of materials or reprocessing without prior approval—retroactive. Under that section, if the United States does not obtain reprocessing and retransfer consent rights retroactively applied to all previous U.S. transfers under a applicable agreement for cooperation, the NRC could not license a new export even if the country buying from us agreed to all our new conditions.

Presently, U.S. agreements with Canada, EURATOM and the International Atomic Energy Agency (IAEA) do not contain these requirements and, according to the administration, it is "highly unlikely, if not impossible," to obtain their revision. This means that, the United States would not be able to export to a country accepting all S. 897 conditions pursuant to the United States-IAEA cooperation agreement, unless we first were able to obtain reprocessing and retransfer veto rights for all prior transfers made to that country and other countries under the IAEA agreement.

This retroactive provision is unworkable and would gravely damage the United States in the eyes of the world as reliable supplier. Most importantly, it would help to frustrate our own nonproliferation goals.

Mr. President, I understand that this amendment has been carefully reviewed by the managers of the bill. I am told they have no objection to it. I am also informed that the amendment has the support of the administration.

I express the hope that the managers of the bill might see fit to accept the amendment.

Mr. McCLURE. Will my colleague yield briefly?

Mr. CHURCH. Yes, I yield.

Mr. McCLURE. First, Mr. President, I ask unanimous consent that I may be added as a cosponsor.

Mr. CHURCH. I am happy to have my colleague as a cosponsor.

Mr. McCLURE. I thank my colleague for that courtesy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I thank my colleague for bringing that amendment to the floor. I think if it had not been brought, there would have been the result of an immediate, absolute embargo on the shipment of fuel to our allies under old agreements. I commend the Senator for this amendment and urge its adoption.

Mr. CHURCH. I thank my colleague very much. As I have already said, I commend the Senator highly for his own efforts in perfecting the bill. I certainly approve of the work that he has done in amending the legislation and commend him for it.

Mr. GLENN. Mr. President, the amendment offered by Senators CHURCH and McCLURE was agreed to by the floor managers as part of a package of amendments worked out between the floor managers and the administration on February 2. Last Thursday, I entered into the RECORD the exchange of letters between the administration and myself, detailing the agreement. We are happy to accept the amendment proposed by the distinguished Senator from Idaho, with the understanding that we have the rest of this package yet to be considered, which was part of this agreement. I think if we had a few moments here, perhaps after a quorum call, we could consider those amendments right now and then it could all be completed, if that is agreeable to the Senator from Idaho.

Mr. CHURCH. It is perfectly agreeable with me. The Senator from Illinois raised the question as to whether both elements were contained in the amendment that I offered. The answer to that question is, yes, both elements are contained. The clerk simply read the first element, but the second also is included in the amendment. Since it is acceptable, I hope that, perhaps, we can have action on it now.

Mr. GLENN. I am happy to do that, with the agreement that we shall follow right onto the other amendments that were part of this package, which, as I understand, encompasses some three other amendments. I believe that is correct.

Mr. CHURCH. We have no objection to that procedure.

Mr. GLENN. If that is the agreement, I am happy to yield back my time on this particular amendment and proceed to vote.

Mr. PERCY. I have no objection to this amendment. It fits right in with the total package.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1193

Mr. GLENN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative Clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1193.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 154, line 20, insert the following immediately after the period: "To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party contains provisions equivalent to any or all of the criteria set forth in Section 127 of the 1954 Act with respect to materials and equipment transferred pursuant thereto or with respect to any special nuclear material used in or produced through the use of any such material or equipment, any renegotiated agreement with that cooperating party shall continue to contain an equivalent provision with respect to such transferred materials and equipment and such special nuclear material. To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party does not contain provisions with respect to any nuclear materials and equipment which have previously been transferred under an agreement for cooperation with the United States and which are under the jurisdiction or control of the cooperating party and with respect to any special nuclear material which is used in or produced through the use thereof and which is under the jurisdiction or control of the cooperating party, which are equivalent to any or all of those required for new and amended agreements for cooperation under Section 123a. of the 1954 Act, the President shall vigorously seek to obtain the application of such provisions with respect to such nuclear materials and equipment and such special nuclear material. Nothing in this Act or in the 1954 Act shall be deemed to relinquish any rights which the U.S. may have under any agreement for cooperation in force on the date of enactment of this Act.".

Mr. GLENN. Mr. President, the first sentence of this amendment will insure that no controls comparable to those of phase I licensing criteria, which we already have under an existing agreement for cooperation, will be relinquished as a result of the renegotiation of any agreement.

The second sentence expresses the strong desire of the Congress for the President to seek vigorously to obtain retrospective application of requirements for new and amended agreements to install the barriers against the nonpeaceful use of any nuclear material and equipment which has been exported by the United States.

The third sentence, Mr. President, insures that this bill will not be misconstrued as relinquishing any existing nonproliferation controls.

Mr. President, I understand that this has been agreed to.

Mr. McCLURE. Mr. President, I am happy to report I am in agreement with this amendment and urge its adoption.

Mr. GLENN. I yield back the remainder of my time on this amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1194

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1194.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 121, line 5, delete the period after "met" and insert in lieu thereof the following: "and the extent to which the cooperating party has adhered to the provisions of the applicable agreement for cooperation."

Mr. PERCY. Mr. President, this amendment, together with the general requirement for the State Department to provide information to the NRC on page 122 of the bill, will ensure that the NRC will receive all needed information from

the executive branch regarding the extent to which each export recipient has adhered to the terms of its agreement for cooperation with the United States. This information will be especially relevant in the NRC's consideration of whether the statutory licensing criteria will be met with respect to proposed exports.

I understand that the amendment is acceptable to the Senator from Idaho.

Mr. McCLURE. The Senator is correct.

Mr. PERCY. The floor managers yield back the balance of their time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1195

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1195:

On page 133, lines 23 and 24, delete "any guarantee it has given under".

Mr. PERCY. Mr. President, this is a technical amendment to clarify the original intent of new section 129a. (2)(A) of the Atomic Energy Act of 1954 that sanctions should be applied in the event of a material violation of any of the provisions of an agreement for cooperation with the United States, not just those provisions which are referred to as "guarantees."

Mr. President, we want to emphasize now very clearly that one of the major intents of this bill is to remove the ambiguity as to what the United States will do in the event that agreements that it has entered into as a supplied nation are broken. The agreements are very clear, they are entered into solemnly, and they involve in a way that simply cannot be adequately described for the safety and security of our own Nation as well as the people of the world.

When our materials were used by India to create a so-called peaceful nuclear explosion—it is certainly not very peaceful to any that might be underneath it just when it goes off—there was no provision for what we should do.

We did not even slap their wrist. I do not know if a diplomatic note was even sent. I do not know who commented on it. I know I did when in India, to the Prime Minister, but I was speaking not with the authority of the U.S. Government, just as one Senator who was aghast at the action India had taken.

But this has reverberated into many things. Therefore, I feel it essential to provide for the clarification of the original intent of the section and do everything we can to strengthen the sanctions part of the Nuclear Proliferation Act that is before us.

I understand this amendment has been cleared on all sides and is acceptable to the distinguished Senator from Idaho.

Mr. McCLURE. I support the amendment and urge its adoption.

Mr. PERCY. Mr. President, I yield back the remander of our time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. PERCY. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1196

Mr. McCLURE. Mr. President, I have an unprinted amendment which I send to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1196.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 163, line 17, after the period insert new subsection (e), as follows,

"(e) Three years after enactment of this Act, the Comptroller General shall complete a study and report to the Congress on the implementation and impact of this Act on the nuclear nonproliferation policies, purposes, and objectives of this Act. The Secretaries of State, Energy, Defense and Commerce and the Commission and the Director shall cooperate with the Comptroller General in the conduct of the study. The report shall contain such recommendations as the Comptroller General deems necessary to support the nuclear nonproliferation policies, purposes and objectives of this Act."

Mr. McCLURE. Mr. President, this amendment is cosponsored by my distinguished colleagues from the State of Pennsylvania (Mr. SCHWEIKER and Mr. HEINZ). I am pleased to have their support on the amendment.

This unprinted amendment, which is a compromise amendment, requires GAO to complete a study with a report to Congress within 3 years after enactment of this act. The study will review the implementation and impact of this act on the "nuclear nonproliferation policies, purposes and objectives of this act." Further, the amendment would direct the various agencies to cooperate with GAO and to require that the Comptroller General include any recommendations which may result from the study.

RATIONALE

This study and report by GAO is intended to keep alive the various issues associated with the impact of the bill on nuclear exports and the foreign policy and export ramifications flowing from the independent role of the NRC under this statute. The original draft from last fall incorporated much more specific information on the impact of nuclear exports, the potential difficulties with other countries, consideration of an alternative formulation with the Secretary of State having these responsibilities, et cetera. This amendment, however, preserves the idea of some independent review with a report at time certain by an independent authority. Three years from the bill will be fully implemented and will have had considerable time for experience to develop. Also, the International Nuclear Fuel Cycle Evaluation (INFCE) will have been completed and associated negotiations may very well have led to an international consensus either opposing or supporting various policies incorporated in this act.

I would anticipate that the GAO study would consider the full spectrum of potential concerns and interests resulting from the implementation of this act. For example, at a minimum, the study necessarily should consider a number of aspects of the implemented act.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Pennsylvania.

Mr. HEINZ. As I understand the Senator, this is his amendment which Senator SCHWEIKER and I have cosponsored to section 602, adding a new subsection thereto. Is that correct?

Mr. McCLURE. The Senator is correct.

Mr. HEINZ. Mr. President, as a supporter of the objectives of S. 897 I rise to speak in favor of Senator McCLURE's amendment to title VI, section 602, of S. 897. Title VI requires reports to the Congress on the implementation of this legislation. It must be stated immediately, clearly and without equivocation that this amendment has no impact whatever on the nuclear weapon nonproliferation objectives of this bill. This amendment goes to reporting only; to telling us in the Congress what is the practical down-on-the-ground effect of this legislation on the peaceful nuclear exports of the United States as related to global nuclear proliferation.

Because it is so basic, I would like to think that this amendment is not a matter of controversy—I would like to think that the managers of the bill would examine the amendment and despite a natural tendency not to adopt late additions to a bill, their examination would tell them is that what this amendment requires with regard to orderly nuclear exports policy is precisely what they already have written into the bill with regard to nuclear weapons nonproliferation policy. This is, after all, a bill treating what Senator GLENN has referred to as the Siamese twins of atoms for peace and atoms for war; and on which he is performing delicate surgery. (1 CONGRESSIONAL RECORD.) We should not neglect the atoms for peace. If, as the bill now states, there is required a report on its implementation as to atoms for war, then why should there not be required report on its implementation as to atoms for peace?

What should be included in this re-

port? The following would be an excellent outline:

First, whether any new or renegotiated agreements for cooperation, any other agreements proposed under or related to this act, or agreements with other supplier nations have not been or are not likely to be obtained from other nations, and the reasons therefor, specifically including where applicable any provision of this act, and whether, in light of such inability, American participation in international nuclear trade would be adversely affected. The report should identify which specific actions are required by this act, if any, cannot be agreed to, the reasons therefor, and the impact that therefore might be expected on American nuclear trade and nonproliferation objectives, if the United States continues to require that such specific action be taken, particularly with regard to any requirements which other nuclear supplier nations do not require. The President shall also propose whether it is in the interests of the United States therefore to suspend the application of any provision of this act or the 1954 act as amended, until such time as agreement with other nations is achieved.

Second, the report should also include an assessment of the impact of this act on the competitiveness of American nuclear exports in comparison to those of other supplier nations and whether, as a result of this act, any nation appears to have or has in fact chosen to place an order for civilian nuclear material or equipment with a nation other than the United States, and the economic and employment impact of such action on the U.S. economy.

Third, the report should evaluate the effectiveness of the interagency organizational structure for export licensing established pursuant to this act. Particular emphasis should be given to identifying overlapping and duplicative responsibilities or efforts and the timeliness of decisionmaking by agencies in carrying out their responsibilities under the act. In particular, the President should evaluate the merit of establishing an interagency nuclear export control board with operational responsibilities and streamlined procedures to process export licenses pursuant to and consistent with the nonproliferation policies and purposes of this act.

Fourth, the report also should focus in detail on the procedures of title III and the role of the Nuclear Regulatory Commission therein:

First. The adequacy for the objectives of this act of a licensing procedure whereby the Secretary of State directly makes the findings required of the Commission by sections 304 and 309 of this act.

Second. Any impact of the Commission's independent review on the timely processing of applications and requests and any related impact on the reliability of the United States as a nuclear supplier.

Third. Any foreign policy impact and implications of the Commission's independent review role.

Fourth. Any reaction of existing and potential nuclear trading nations of the United States to the Commission's independent review role.

Fifth. Any impact and implications of the Commission's responsibilities for regulation of the domestic nuclear industry.

Sixth. A detailed comparison of the procedures under this act with the export approval and licensing procedures of each foreign nuclear supplier nation and with any guidelines or agreements, formal or informal, among such nations.

Seventh. Recommendations for any change to the procedures of title III, including the role of the Commission.

There can be on the part of the managers no fear of facts—and this amendment requires only a reporting of facts, only a setting forth in greater detail and specificity the happenings related to S. 897 over the coming months and years. Thus, I hope the managers will pay special attention to this amendment and will consider it in a positive framework.

Debate opened last Thursday with much agreement by all that we share a common objective in nuclear weapon nonproliferation. That is a deeply felt commitment by all of us, and I have received no representations from any persons, including persons heavily involved in the nuclear export industry, which differ with the goal of nuclear weapon nonproliferation. The debate on this legislation cannot focus on whether the future of humanity is outweighed by commerce—that is not the point and no one is arguing on behalf of that proposition.

However, it is proper to focus on exactly what this legislation aims for and what we want to accomplish with it.

In the statement of purpose, section 3 the bill says:

SEC. 3. It is the purpose of this Act to promote the policies set forth above by—

(a) establishing a more effective framework for international cooperation to meet the energy needs of all nations and to ensure that the worldwide development of peaceful nuclear activities and the export by any nation of nuclear materials and equipment and nuclear technology intended for use in peaceful nuclear activities do not contribute to proliferation;

(b) authorizing the United States to take such actions as are required to ensure that it will act reliably in meeting its commitment to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies;

(c) providing incentives to the other nations of the world to join in such international cooperative efforts and to ratify the Treaty; and

(d) ensuring effective controls by the United States over its exports of nuclear materials and equipment, and of nuclear technology.

No one disagrees with that.

Now, where do we disagree and what can we do about it with this amendment? Much of our time over the past several days has been spent in disagreement over the practical effect of the unilateral imposition of strict controls by the United States. The administration admits that this legislation imposes stricter controls on our nuclear exports than presently exist in the newly signed London supplier agreement but says this is not a reason to change the bill. One group says S. 897 will cause greater proliferation, because foreign buyers will get nuclear material from suppliers not bound by the strict controls of this legislation. One group says it will not result in greater proliferation and postulates a different set of results from the same language. Now we can debate that kind of proposition for any length of time we wish without coming one step closer to reality than we were when we started. In the end, regardless of which side prevails, only passage of time and what happens during that time will answer the question. And make no mistake about it. S. 897 is not the end of this issue—the matter of nuclear nonproliferation is here to stay and we will debate again in 1 year, or 2, or 3.

But today as we look at the problem of the hypothetical effects of S. 897 let us for the sake of commonsense, at least, include in S. 897 the device we need to gather the facts we need to make future decisions on the basis of these facts and not on conjecture, however well founded or informed it may be.

Now, the managers have their focus in this legislation and that focus is nuclear nonproliferation. I do not ask them to change that focus or to weaken their attack—I ask them to read again the purpose of this bill and to join me insuring that the future reports to the Congress on this bill include all the purposes of the bill. I ask them to join me in insuring that future discussion and information on nuclear nonproliferation is based on all the facts and not on hypothetical cases. The reporting section of this bill needs strengthening and that is what this amendment would accomplish. What we can do about our disagreement on the bill today is to agree on this amendment to give us the tools to refine the case and to sharpen our focus regardless of where we stand on other parts of the bill.

Now, let us go one step further. Aside from the intellectual neatness of an amendment designed to require facts for information, judgment, and decision; aside from the nicety of completing the pattern of required reporting to properly balance the piece; why should anybody care? What is behind it? Where are the facts?

Here are the facts:

An exported nuclear power plant can create 30,000 to 40,000 man-years of domestic employment. (man-year equals one job for one person for 1 year).

Reasonable industry projections show a potential for 350,000 jobs annually in the nuclear export industry over the next 5 years.

These jobs would be created in 31 States, 202 congressional districts, 174 cities.

And that job potential is important, because according to U.S. Labor Department figures we need 35 million new jobs between 1977 and 1985 in order to achieve 5 percent unemployment with

the increased labor force and to replace jobs eliminated by automation and efficiency improvements.

Is this not incentive enough to pay attention to the atoms for peace side of S. 897?

Quite frankly, it is very simple. This legislation will be enacted on one form or another and it will be effective to some degree as is the case with all laws. And one way or another both sides of in this body will be breaking out the standard variations of "I told you so" before we see another new year. All sides will be making charges at or responding to charges from the antinuclear group. The nuclear group, industry, labor, and just plain interested folks. It did work; it did not work; it can work; it can not work; and on for ever and ever. Today, now, let us put in this bill an amendment to give us more answers: Why? Because serious questions are coming.

What about the $2 billion in nuclear materials that we may not be able to sell to Japan, but will instead be sold by Germany or France, because of S. 897 and thereby aggravate our stunningly bad trade deficit?

What about the nuclear plants that we may not be able to sell to Spain, which will buy from Germany or France instead, because of S. 897?

Are these serious questions? They certainly are. In my State of Pennsylvania alone every billion dollars we give away to Germany or France in nuclear plant sales means 16,000 people who do not work. Now when they ask me why they are not working and blame S. 897, I want something better than the hypotheses we have today as an answer.

In opening debate Senator GLENN paid at least as much attention to peaceful use of atomic power as to bombs. His intention is to make possible "benefits without bombs."[2] We agree on that. Now, is it his intention that the benefits accrue only to foreign countries and not to the United States? Of course not. Senator GLENN says the bill is designed to:

> Reduce the uncertainty surrounding U.S. nuclear export policy;
>
> Reestablish our reputation as a reliable supplier of nuclear fuel to those countries sharing our nonproliferation objectives; . . .
>
> But while doing the above, I believe this legislation substantially enhances the international prospects for U.S. industry, particularly by reducing uncertainty, by long-needed clarification of previously uncertain licensing procedures and criteria, by shortening the present too-long licensing process, and by instituting a new program for nuclear fuel assurance.[3]

Beyond these objectives, however, we should also be aiming for consistency. Atoms for peace is featured in the statements of policy and purpose; atoms for peace is costarred in the explanation on the floor of what the bill does; but when we get to title VI on Executive reporting and, alas, we find that our delicate surgery has been too severe. Atoms for war is with us for several paragraphs of required reporting. Atoms for peace is referred to at section 601(a)5 and all that is required in the report is "a description of the progress made toward establishing procedures * * *."

Mr. President, I can write that section 601(a)5 report today:

> Progress is about what can be expected under the circumstances."

Now, lest my colleagues Senator GLENN and Senator PERCY think me too harsh in my assessment let me assure them that I question neither their motives nor their sincerity in treating ably and with dedication a matter of fundamental importance to our very lives. They have the highest respect, admiration, and commendation of this body and of our Nation. Indeed, it is only because I believe what they say that I point out this small omission, this lack of symmetry, this fault which I feel certain they want to address. It is my acceptance of their accurate portrayal of atoms for peace and atoms for war which leads me to the inescapable conclusion that if atoms for peace means as much as atoms for war then we had better see to it there is no mistake about the intent of Congress.

From the commitments of nuclear material he made to India and to Iran I can only conclude that the President recognizes full well that denial of the means of nuclear destruction is only part of the matter. The other part is the supply of nuclear material for the benefit of mankind.

This is the objective of this amendment, which I understand has the support of the managers of the bill.

Mr. SCHWEIKER. Mr. President. I rise to speak in favor of the McClure amendment that requires a report to Congress on the impact of S. 897. The bill now before the Senate, S. 897, is one I have been hearing about from my constituents for a long time. I am not a member of the committees that considered this bill, so I have not been able to express my concerns until now. But if I may, I would like to make a few brief points on the bill and the amendment, and to discuss a few matters that are very much on the minds of Pennsylvanians.

First of all, let me say that I very strongly support the efforts of the Energy Committee and the Governmental Affairs Committee to find a workable solution to the problem of nuclear proliferation. Nobody in this body is more committed to the cause of wise nuclear safeguards and nonproliferation than I am. Even at a time of serious energy problems like today, it is our responsibility, as one of the world's major nuclear suppliers, to help insure that nuclear power is a safe tool for meeting energy needs and not a dangerous Pandora's box. I think we all feel this way, and my concerns here must be prefaced by my strong support for the ends S. 897 seeks to achieve: Control of atoms for war and a safe future for atoms for peace.

But although we agree on the ends, it is obvious many of us in this body have honest disagreements about how effective this bill will be in reaching those ends. Over the past weeks—in fact, over the past year or more—the primary concern I have heard about this type of legislation has revolved around the issue of international agreements—namely, can we best guard against proliferation by unilateral action along the lines of S. 897, or is it more practical to do it through multilateral agreements among the nations who share nuclear markets with us? I think this is a key question. It should be thoroughly discussed in this Chamber as we act on S. 897.

But it is not the international versus unilateral question I want to speak to today. Instead, I want to bring up another question, one that very much affects my State, but one that has wide national implications as well. I am talking about the impact this legislation may have on American jobs, especially in industries such as steel. I am talking about atoms for peace.

In bringing up this question, I do not mean to suggest that economics is somehow more important than the serious environmental and public safety questions addressed by S. 897. Weapons nonproliferation should not be subordinated to jobs. But I do want to suggest that, before we pass a bill such as this, we owe it to the American worker to assure him that we have fully considered the impact our actions will have on employment and industrial health close to home. In legislation which is supposed to deal with both, we need to pay at least as much attention to atoms for peace as to atoms for war. And atoms for peace means jobs.

My colleagues well know that, as a Senator from a major steel State, I have been very active in the fight to rescue American steel from the plight it is in, through my work on the steel caucus and my efforts to make the administration understand the need for import relief. We have made some real progress in that regard, and it can even be said in some ways that we are actually turning the tide for steel.

But when I examine the relation of steel to the nuclear industry, I see some very disturbing facts. First of all I see that the fate of steel is significantly tied to that of the nuclear export industry.

In a typical 1,000 megawatt nuclear electric powerplant produced for export, steel is used for components like piping, reactor vessels, generator casings, forgings, and so on. In this typical unit for export, 100,000 tons of American steel are used.

Mr. President, that is a very substantial figure, and let me remind the Senate what it means in terms of jobs: every single reactor we export translates into 1,000 jobs in the steel and steel-related industries for 5 years. That is a significant figure too, and I stress that I am only referring to the steel in the package—I do not include the many other jobs tied to reactor work that are not directly steel-related.

I understand that, based on the specific jobs available to U.S. suppliers with a high probability of success, we are talking about a minimum business worth of about $3 billion over the next 2 years.

[2] Congressional Record, S1063, February 2, 1978.

[3] Congressional Record, S1064, February 2, 1978.

I further understand that over the next 5 years, orders will be placed for nuclear power plants totaling about $32 billion.

What I am saying here is that, in talking about this bill, we must not lose sight of the fact that a lot of jobs are at stake, particularly in an industry that many of us in the Senate are trying desperately to save. Again, I repeat that I am not suggesting we subordinate safety and nonproliferation to economics. But I am saying we do the American people a disservice if we fail to plug the jobs issue into this equation.

It is disturbing to me that American nuclear related workers have been losing ground to their foreign counterparts over the past few years. Over the past 4 years alone, U.S. production in the nuclear field valued at over $10 billion has been lost to foreign competition in markets such as Finland, Belgium, Brazil, and others. Mr. President, this is serious. As in the case of steel, we cannot let American job providers face the competition time and again with the likelihood of getting clobbered. Too many American workers have a stake in this.

One job provider estimates that, if over the next 2 years American industry were to receive orders for eight reactors for which American industry has a good chance, then the State-by-State breakdown of export jobs and revenues would affect some 31 States. I offer the following table to illustrate this:

STATE-BY-STATE DISTRIBUTION OF EXPORT JOBS AND REVENUES

The total $ value, man years of effort and jobs are typically distributed among thirty-one states, based on an analysis of previous export orders. The breakdown for the fourteen major states is given below:

State	Value (millions)	Man-years	Total jobs (for 5-yr period)
Alabama	$50.3	1,673	337
Connecticut	53.8	1,792	362
Florida	157.1	5,229	1,061
Illinois	93.7	3,117	632
Indiana	51.5	1,667	337
Kentucky	35.8	1,190	241
Massachusetts	32.5	1,081	216
New Jersey	73.9	2,460	499
New York	355.6	11,969	2,304
North Carolina	190.3	6,433	1,281
Ohio	40.8	1,360	275
Pennsylvania	1,103.1	36,885	7,336
South Carolina	70.5	2,346	474
Tennessee	55.1	1,822	370
Total	2,364.0	79,024	15,723
17 other States	219.0	7,276	1,477
Total	2,583.0	86,300	17,200

Mr. SCHWEIKER. Our people in Pennsylvania do not build nuclear bombs; they do build nuclear powerplants which make an important contribution to the elimination of the want and need that cause world strife. And we ought to pay some attention to that want and need at home.

Mr. President, my distinguished friend, the Senator from Idaho (Mr. McCLURE), has put forth very sincere and commendable efforts to make this bill as realistic as possible, in terms of its impact on the competitive position of American industry and jobs. I think he deserves a great deal of credit for his concern, and his willingness to work with the managers of the bill, all of whom share a sincere desire for adequate nuclear safeguards.

In specific terms, it seems to me we face a very significant policy decision here. We have heard the legitimate concerns over proliferation expressed here by the managers of the bill and others. We have heard the equally legitimate concerns of those who, like Senator McCLURE and myself, do not want to see us take a path that could lead to serious economic disruption on its way to the admirable goal of nonproliferation that we all share. It seems to me, we have to say here and now whether, by this bill, we really are closing our eyes to economic realities, or whether, on the other hand, we really are willing to be realistic, as the backers of S. 897 say we are.

If this Senate wants to assure the American people that our actions on S. 897 are not taken in disregard of their jobs and their economy, we must offer clear words of policy that will give them that assurance.

Frankly, I think it would be well to include even stronger reporting requirements in this bill. It would be good to require that the President inform Congress promptly of any adverse impact this legislation might have on the competitive position of American industry with respect to nuclear exports, or of any instances in which a foreign nation chooses not to negotiate seriously with us toward multilateral nuclear safeguards because of the advantage this bill gives to foreign competitors against our own U.S. nuclear materials exporters.

But, in the absence of such strong requirements, this amendment is the very least we can do to try to achieve some feedback about whether the aims of S. 897 are really being achieved as we intended them.

These are questions Congress must have answered if we are to intelligently gage the effects of this legislation. Too often, Mr. President, I become aware of cases when Congress fails to track the results of our actions, when we fail to look back down the road to see exactly how legislation we pass is working in terms of its objectives. I have spoken many times of my own personal concern in this area. The McClure amendment before us, Mr. President, is a responsible method of addressing this problem of gaging the impact of S. 897 on the cause of nonproliferation.

Again, Mr. President, I restate my own commitment to the cause of wise nuclear safeguards against proliferation, with the stress on the word wise. I think Senator McCLURE has done us a real service over the past few days in trying to guide the terms of this bill into a realistic and balanced perspective. I believe that, by offering this amendment before us, he has again addressed the problem of economic impact. I urge my colleagues to join me in supporting this effort, and voting for the McClure amendment.

It all comes down to one simple point: Will S. 897 really accomplish what it is supposed to, and will it do so without destroying portions of the American economy in the process? This amendment can help give us those answers.

Mr. McCLURE. Mr. President, I thank the Senator from Pennsylvania for his remarks.

I concur with the items he has enumerated which should be included and covered by the report of the GAO which is called for by this amendment.

There is a reporting requirement in the bill under title VI, under section 601(a), subsections 4 and 5, for an annual report by the President of the United States. It would seem to me to be appropriate that these items might well be covered and should be covered by the President in the annual report, as well as the more extensive report at the end of 3 years which the GAO is directed to give under this amendment.

The concerns that the Senator from Pennsylvania has mentioned are concerns which I have sought to minimize by the amendments I have offered to this bill. The fact that the concerns do remain indicates that the work we have done so far has not satisfied everyone, and indeed does not satisfy this Senator; that we are not completely certain that we can answer all those questions in advance of some experience under the bill.

Therefore, I support the comments that were made, and I urge that the President include those items among others in the annual report, in addition to those that are required by sections 4 and 5 of 601(a).

I might just read those, because I think they are important requirements on the President of the United States.

I note, parenthetically, that there is a typographical error on page 161 of the bill. The first word in line 18, subsection 4, reads "as" and it should be "an." It should read:

(4) an assessment of whether any of the policies set forth in this Act have, on balance, been counter-productive from the standpoint of preventing proliferation; and

(5) a description of the progress made toward establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses in order to enhance the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies.

Mr. President, even though it will be 3 years from now before that report is due, nevertheless, I think the report by GAO gives us greater confidence that an independent look has been taken at the way in which this bill is functioning and the way it is being administered by the executive branch and in the Nuclear Regulatory Commission.

Mr. GLENN. Mr. President, I do not object to the amendment proposed by the Senator. Was that proposed by the Senator from Idaho or the Senator from Pennsylvania?

Mr. McCLURE. I might say it was cosponsored by both Senators from Pennsylvania, Mr. SCHWEIKER and Mr. HEINZ.

Mr. GLENN. The information of what would be encompassed in the GAO report as delineated by the Senator from Pennsylvania would require a very extensive report, and I am for that. I think it is good that we have a watchdog on what is happening. I had felt that prob-

ably the provisions that we had in the original legislation, to which the Senator from Idaho referred and which require extensive presidential reporting as we go along on this, were probably adequate, but I certainly do not object to any additional looking at this whole process which might be done by the General Accounting Office.

The Senator from Pennsylvania said that he hoped it would focus on the title III criteria which are spelled out in the bill, in addition to quite a lengthy list of other things that he wished the GAO to look into. I agree with all of those. I hope, however, that there are some other foci for this bill and that one of those would be in the area of whether the bill is doing its job as far as preventing nuclear proliferation around the world. Also if I read the Senator from Pennsylvania's comments correctly or the notes that I made while he was speaking, most of his remarks would indicate an effort to place a great burden of proof on NRC, the Nuclear Regulatory Commission, in their effectiveness evaluation, and I would say I have a little bit of concern about that focus because it would seem to me that a number of different departments must also function equally well if this whole process is to work. And I might say that in my view of what a GAO report might contain, I also wish to have specific comment from them as to whether the NRC at the end of this 3-year period has worked sufficiently well that perhaps their role should be expanded instead of contracted.

I hope this view they take of this whole process is done in light of what may be happening by that period of time with regard to the nuclear suppliers conference and what arrangements may have been worked out there, what new effective means IAEA may have come up with in that length of time to help prevent the spreading of this proliferation problem around the world as well as the effect of the international nuclear fuel cycle evaluation which is due to be completed within 2 years. So the GAO report at the end of 3 years could comment on that because all of these, Mr. President, do fit together as a package. No one of them stands alone in doing its own job including this legislation we are considering here as far as preventing the spread of nuclear weaponry around the world. One of the things we have kept in mind throughout this whole consideration of S. 897 has been to try and make it complementary to these other things that we knew that were going on, the INFCE report, international nuclear fuel cycle evaluation, as well as IAEA operations, and I hope that any GAO report getting into the detail as outlined by the Senator from Pennsylvania would also comment in these other areas that I think should be also addressed, and specifically with regard to whether NRC not only should have their role curtailed, as was indicated by the Senator from Pennsylvania or inferred as one of his points, where an independent review of their role in all phases should be assessed very completely. But I think that review should also say that if this bill has worked, as we hope it may, perhaps the NRC role could be expanded so I hope they would take an across-the-board neutral approach in their approach to this whole problem and not go into this with any prejudged idea that NRC, State, or anyone else should have their role necessarily altered. We would want an even-handed approach to this whole problem.

And with those understandings, I am very happy to support this request for a GAO study.

Mr. McCLURE. Mr. President, if my colleague will yield very briefly, certainly I do not want to prejudge the report by indicating that GAO is going to be critical of NRC involvement. They may well find that it has worked well. Certainly I share the hope that these other actions, both unilateral on the part of the United States, but more importantly the multilateral initiatives in which we are jointly involved with other nations will have yielded a great deal of progress between now and the time of the GAO report. And they may indeed then define a more appropriate role for NRC, whether that be restricted or expanded. But I think that will await the advance not only of progress under this legislation but of progress under those other initiatives as well and Congress should take a look at that time as to how well this is functioning, how well the other agreements have progressed and whether or not further legislation is needed.

Mr. PERCY. Mr. President, I have only one problem with this amendment. I think it is such a good amendment I wish I had thought of it myself. I, therefore, ask unanimous consent that the Senator from Illinois be added as a cosponsor of the amendment.

Mr. McCLURE. I am pleased to have the Senator as a cosponsor, and I join in that unanimous-consent request.

The PRESIDING OFFICER (Mr. DeCONCINI). Without objection, it is so ordered.

Mr. PERCY. Mr. President, I just look right at the wording of the report itself. I said recently back in Illinois that I considered this piece of legislation the most important legislation that I have authored since I came to the Senate. I think its impact will be far greater than anything many of us can do and will do in the future in the Senate. I wish that this procedure had been used on other legislation that we have authored, introduced, seen through, and seen enacted into law. If we ever just thought to have GAO monitor the national homeownership for low-income people at the end of 3 years we could have saved grand jury investigations, we could have prevented fraud, and we could have seen not just 3 million people put into their own homes for the first time in the history of the world at very low-income levels, but we would have seen to it that we did the counseling and the advising and the careful selection that was necessary. We had no real checkpoint on this. I was always concerned about having FHA do this. I said it would be like building Volkswagens in a Cadillac factory. That is just how it turned out to be. They did not know how to handle low-income people. They were used to dealing with middle-income families that did not need that kind of assistance and help. So we are going into a new area here with a known record of failure throughout the world now.

It is a remarkable record in that it has not been worse than it has, but the mistakes that can be made in the future are just tremendous.

So the very knowledge that everyone will have, the State Department, Department of Energy, Department of Defense, certainly the Nuclear Regulatory Commission, and all the others, that there is going to be an ongoing study—and I would hope the Comptroller General would set up a team to start monitoring right away—is so important.

That is all we have to do, that is what we want to see happen. The objectives we have all agreed upon; we want to make sure that the goals and principles of this act are implemented, and I think that will be the best insurance that we are going to be a reliable source of supply. It is the best insurance we will have that the State Department will be exercising due diligence to renegotiate many of these agreements and bring them in line with what we now know to be the imperative safeguard steps that must be taken.

So I commend my distinguished colleague very much indeed for his foresight in offering this amendment; and I commend our distinguished colleague from Pennsylvania (Mr. HEINZ). I am very pleased and proud not only to be a cosponsor but to indicate that I not only see no objection from our side of the aisle but I feel there would be a good deal of "amens" by many of our colleagues who feel this is a worthwhile addition.

Mr. GLENN. Mr. President, I would like to add only a couple of short comments here regarding this proposal for a study, too.

I note that approximately five or six of the points made by the Senator from Pennsylvania indicated the effect this will have on our trade, whether we are going to cut out U.S. participation; assessing the impact on trade as compared with other nations; evaluating the effectiveness of the interagency actions on licensing; further streamlining the procedures necessary for implementing business.

I am glad to see those things addressed. I think it will be very much in order to have those assessed because I think that with the conflicting situation we have had with regard to nuclear licensing up to this time, it has held back U.S. industry, perhaps, when other nations were considering whether they wished to go through the complexity of trying to comply with U.S. licensing procedures up to this time.

I think one of the things we do with this bill is take a lot of conflicting law and make it into a more comprehensible, more administrable, more attractive package for doing business with American industry.

If it does not do that, if some of the dire predictions of some of the critics of

the bill do come to pass, then certainly we should be making changes as we go along with this.

Nothing is cast in concrete forever. So I am glad to see that emphasis because it is my personal belief that at the end of 3 years, given a business climate in the world where there is money for expansion, and if there are additional buys of nuclear plants in the world, I think with this bill clarifying the situation with regard to American licensing processes, we will find, and I would predict we would find, that American business has moved up and will like the functioning of this bill by that time.

So I am glad this will be assessed in the proposed GAO study, and I would join in supporting the study as proposed by the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator for his comments, and I share both the concern and the optimism that this can be a constructive addition to the workings of this act.

I would also hope that if, as a matter of fact, the Presidential annual report indicates the problems that some are predicting, and that may arise under this legislation, that we do not await the 3 years to make corrections; that we hold ourselves in readiness, if the legislation proves to be unduly restrictive or burdensome before the end of the 3-year report; and certainly there will be a great deal of concern here, just as there has been concern among some of our allies and partners in the world, in this regard.

Mr. President, I am prepared to yield back the remainder of my time on this amendment.

Mr. GLENN. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1197

Mr. McCLURE. Mr. President, I have an amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1197.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 121, line 2, after the period insert, "The Executive Branch judgment shall be completed in not more than sixty days from receipt of the application or request, unless the Secretary of State, in his discretion, specifically authorizes an additional time for consideration of the application or request because it is in the national interest to allow additional time. The Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives of any such authorization. In no event, shall consideration of an application or request continue longer than 120 days unless the Secretary determines that additional time is necessary to avoid a serious prejudice to the achievement of the United States non-proliferation objectives or otherwise jeopardize the common defense and security of the United States, and so informs the aforementioned Committees.

Mr. McCLURE. Mr. President, this amendment now pending would establish a 60-day time period for executive branch consideration of license applications in preparation of the executive branch judgment which is required to be transmitted to the NRC under the section 304 procedures.

The Secretary of State could provide further extension of time for consideration of the application if he found it in the national interest to do so.

Ultimately, however, the President would have to approve any longer range extension of time on the basis that completion of consideration would be prejudicial to our nonproliferation or inimical to the common defense and security.

Currently the executive branch procedures for export applications require that the various reviewing agencies complete their consideration of the application in the same 60-day time-frame period. There is not an absolute deadline, however, and many license applications have taken months and years for final executive branch action.

Since this act will clarify much of the uncertainty surrounding the criteria and requirements for export licensing, it is reasonable to expect that applications can now be processed in a timely and predictable fashion.

This amendment would provide congressional guidance with regard to that processing, and at least establish some reasonable pressure on the executive branch to move expeditiously in the process, and might provide some variance in the use of the procedures under this bill for those who would desire to have a de facto moratorium or a de facto embargo rather than constructive progress under this legislation.

Mr. President, I think it would be fair to state that Senator HOLLINGS has indicated interest in this amendment and supports it, and I urge its adoption.

I might also add, Mr. President, we have received correspondence from a number of foreign countries with respect to the difficulties under current processes. I am not referring, when I say, "we have received," to myself because one of the letters I refer to at this time is addressed to the Honorable JOHN SPARKMAN, chairman of the Committee on Foreign Relations. But let me read an excerpt from this letter which was written under date of February 1, 1978:

I wish to make it known that some plants under construction have experienced the following delays in obtaining export licenses:

The Asco nuclear power plant: a 30 month delay for the reactor license.

The Valdecaballeros nuclear power plant: a 17 month delay for the reactor license.

The Lemoniz, Asco and Zorita nuclear power plants: from 7 to 17 month delays for the first core and reloads export licenses.

Mr. President, that is the kind of delay which does not lead to the reputation of the United States as a reliable partner in the nuclear field, but leads such countries to begin to look to other countries for their nuclear support and assistance and trade.

Again I want to underscore what I have tried to underscore throughout all of this debate, and that is it is not simply the loss of business, it is not simply the impact upon balance of payments; it is not simply the question of jobs in this country, all of which are important, but it also says something about whether or not we will be able to influence the policies of those nations.

Certainly it is no secret that the Government of Japan will be approaching this country in the next several weeks or several months in regard to what is potentially a $2 billion item of trade, but again it is not the trade that is important. It is the question of whether or not we will have influence on their policy or whether they will have to go somewhere else for their nuclear trade, for their nuclear supplies and, therefore, listen to someone else for their advice and the framework of their policy statements.

Let me conclude with one further statement from the letter which I read some excerpts from just a moment ago:

It is for this reason that the Spanish electric utilities will have to seriously consider, at the time of evaluating future contracts, all these aspects and the future repercussions that the application of the contemplated restrictions could have on the Spanish plants.

Mr. President, I think, in order to provide predictability, we have to establish procedural frameworks, and I urge the adoption of the amendment.

I ask unanimous consent that the full text of the letter from which I have quoted be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONTRAIES NUCLEARES DEL NORTE, S.A.,
Santander—España
February 1, 1978.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During meetings sponsored by the Atomic Industrial Forum last March 14, 1977, I explained on behalf of the Spanish electric utilities the effects U.S. Government imposed restrictions were causing and would cause on the Spanish nuclear program.

In this meeting I indicated that the implantation of restrictions to equipment exports and spent nuclear fuel transfers were causing such problems and economic prejudices, that the electric utilities could find themselves forced to reconsider their entire nuclear power plants construction program or, at least, to seriously reconsider the advantages of resorting to non-American markets.

This was fundamentally due to the delays in obtaining export licenses, in the case of the plants under construction, seriously affecting the starting date of the installations, with the tremendous economic repercussions that this would entail; and the delay of spent fuel transfer authorizations, in the case of the plants already in operation, conditioning the operation of the plants and causing additional high expenses.

I wish to make it known that some plants under construction have experienced the following delays in obtaining export licenses:

The ASCO nuclear power plant: a 30 month delay for the reactor license.

The VALDECABALLEROS nuclear power plant: a 17 month delay for the reactor license.

The LEMONIZ, ASCO AND ZORITA nuclear power plants: from 7 to 17 month delays for the first core and reloads export licenses.

The authorizations for the transfer of spent fuel from the plants in operation, Garona and Zorita, have also suffered serious delays, which have forced the operation of the Garona plant without the fuel emergency margin of the reactor for over a year, due to the lack of extra storage pool capacity. Presently, one of the transfer authorizations has been pending in the Department of Energy since August 22, 1977.

In the case of Spain, this situation acquires characteristics of special importance because if a reactor breakdown should occur, it would be required to close the plant for an indefinite period of time.

As you know, Spain is a country with scarce natural energy resources and must annually import more than 70 per cent of its primry sources of energy. The immense economic impact this has on the country, along with the dependence on foreign suppliers of these raw materials, has made the Spanish electric industry regard nuclear energy as a new source.

In order to confront this technological challenge, the Spanish electric utilities are trying to overcome serious difficulties and are making a great economic effort that could find itself bound by our own public opinion and by our Congress, since they argue—and not without reason—that the implantation of these measures would imply passing from a dependence on the oil producing countries to a dependence on the United States.

We consider that the procedures established by the nuclear legislation currently being studied by the Senate could make the situation even more serious, and could condition not only the operation of our plants, but the reliability of the U.S. as a future supplier of nuclear fuel and equipment.

It is for this reason that the Spanish electric utilities will have to seriously consider, at the time of evaluating future contracts, all these aspects and the future repercussions that the application of the contemplated restrictions could have on the Spanish plants.

Sincerely,

J. L. SÁNCHEZ,
Administration General Manager.

UP AMENDMENT NO. 1198

Mr. GLENN. Mr. President, I firmly support the objective of the Senator's amendment, but I am constrained to offer a substitute for it, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The substitute amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) offers an unprinted amendment numbered 1198, as a substitute for unprinted amendment No. 1197.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

Page 121, line 2, after the period insert:

"The Executive Branch judgment shall be completed in not more than sixty days from receipt of the application or request, unless the Secretary of State in his discretion specifically authorizes additional time for consideration of the application or request because it is in the national interest to allow such additional time. The Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives of any such authorization."

Mr. GLENN. Mr. President, my amendment would differ from the proposal of the Senator from Idaho in two respects. First, it would eliminate the firm 120-day cap on executive branch action, which would have been waivable only under very stringent conditions. By removing this cap, some additional flexibility would be provided to accommodate foreign policy and other legitimate demands.

The second change would make clear, by use of the words "in his discretion" that the Secretary of State's waiver of the 60-day time limitation would not be subject to judicial review.

This has been discussed with the Senator from Idaho, and I hope the Senator will accept this substitute for his amendment.

Mr. PERCY. Mr. President, I support the substitute offered by Senator GLENN, and feel that it places as much of a time limit on the executive branch as is wise. We must be extremely careful not to force the President to take a public position which could seriously upset sensitive foreign policy discussions. While expeditious consideration of amendments is desirable, we must be careful to avoid counterproductive results.

Since executive branch review is an extremely sensitive political matter, we must give the State Department a degree of flexibility. They may be in the midst, for example, of nonproliferation negotiations, in which a deal on an export license would be very helpful, at the right time. Certainly the present experience in India is reason enough alone to show the value of flexibility in negotiating for time—time for something we really want and the world wants from India, which I think we have every right to expect. We have the problem that they are requesting of us another shipment of enriched uranium for their plants.

The other country may be developing explosives and we want to hold the license until they stop—but for reasons of protecting intelligence information or making it easier for them to stop and save face, we may not want to publicly announce the problem.

Or there may be other foreign policy concerns—as with an export to the Middle East—where it is better to put off a decision or to avoid confrontation until it will not have a severe adverse impact on more important concerns.

In the midst of the delicate negotiations now going on with the Middle East, certainly as evidenced by the sobering comments made at the National Press Club by President Sadat today, and perhaps a sobering weekend at Camp David, we have to take all of those matters into account, and I am certain that our distinguished colleague, who is conversant with all these matters, will understand that, and perhaps be willing to accept the substitute.

Mr. McCLURE. Mr. President, let me make it clear to my distinguished colleagues, if I may, that, first, my amendment has in it language stating that this is within the discretion of the Secretary of State, to deal without judicial review of that discretion. I share the Senator's concern in that respect, and I think my amendment took care of that problem.

The additional portion of the amendment is the latter part, which adds a little longer time in certain circumstances.

It has not been the intention of the Senator from Idaho to place the administration in any kind of a procedural straitjacket, but I do want to provide them not only the flexibility to deal with the problem, but also guidelines that indicate that these long delays that have been experienced are destructive of the very purposes which we seek to serve.

I understand that our colleagues from Ohio and Illinois share with me the desire that the export licenses not be unduly or unnecessarily restricted or delayed, but that they be expedited and processed in a reasonable manner.

In that context, I am willing to accept the amendments, and hope the Senators will join with me in seeing if, as might be, there are unreasonable delays, that we can expedite, that we can get some help in going to the administration and saying that those delays are destructive of the purposes of the legislation.

I am sure that if that does occur, we will be able to get that kind of help.

Mr. GLENN. Mr. President, if the Senator will yield, it is indeed the intent of the substitute, that in 60 days, in normal circumstances, the NRC would obtain the views of the executive branch on export licenses. If there are overriding foreign policy considerations at the moment, such as those mentioned by the distinguished Senator from Illinois, the State Department should not be obliged to issue its views. I think we should provide the discretion for the State Department to waive the sixty day time limit, but we should make it definite that our intention is for the export licensing process to be shortened up only under the most compelling circumstances that the State Department review would go beyond the 60-day period.

Mr. McCLURE. I appreciate the comment of the Senator from Ohio. I yield back the remainder of my time on the substitute amendment.

Mr. GLENN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. GLENN. I move to reconsider the vote by which the substitute amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. I yield back the remainder of my time on the amendment.

Mr. GLENN. I yield back my remaining time on the amendment, Mr. President.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho, as amended.

The amendment, as amended, was agreed to.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I have, I believe, one more amendment which should be handled tonight. Then, if the leadership would be agreeable to a quorum call——

Mr. PERCY. Mr. President, if the Senator will withhold, today in the Chicago Sun-Times there appeared an excellent editorial entitled "Cutting A-Export Risks," commenting on the pending bill. I ask unanimous consent that extracts from that editorial be printed in the RECORD at this point.

There being no objection, the excerpts from the editorial were ordered to be printed in the RECORD, as follows:

CUTTING A-EXPORT RISKS

The spread of nuclear weapons is an issue all should worry about—especially those in the U.S. nuclear industry, who are vitally concerned with convincing the public that their nonweapon products are safe.

And although the industry has an obvious interest in selling as much of its wares as possible overseas as well as in the United States, it could in fact be threatening itself by opposing rational—and needed—controls on foreign sales of U.S. nuclear technology.

The Nuclear Nonproliferation Act wouldn't hobble exports. Far from it. Indeed, it would begin a program of nuclear-fuel assurances for nations that agree to effective policies against the spread of nuclear weapons.

That's a crucial concern, given the ever-expanding possibility of nuclear reactions to global instabilities. And it's a threat underlined by India's 1974 detonation of an A-bomb produced from nuclear materials intended for peaceful uses.

The Percy-Glenn bill would put strict controls on exports to prevent just such diversions from intended uses. In the long run, as Percy pointed out on the Senate floor last week, those safeguards work to the advantage of industry, insofar as they emphasize continuing U.S. commitment to the safe uses of nuclear power.

The proposal is flexible and reasonable—and vital. It could even make licensing of exports faster in virtually all cases, actually putting the U.S. nuclear industry at a business advantage. But international safety is its most compelling selling point.

President Carter has put welcome emphasis on the need for the limits that the Percy-Glenn bill sets. He and its legislative proponents deserve support.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will run equally against both sides.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, have any special orders been entered into for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. No orders have been entered.

Mr. ROBERT C. BYRD. The Senate, under the order, is to resume consideration of the unfinished business at 10 o'clock tomorrow morning. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

AUTHORIZATION FOR ARTISTS TO BE PRESENT IN THE GALLERY DURING CONSIDERATION OF THE PANAMA CANAL TREATIES

Mr. ROBERT C. BYRD. Mr. President, the Panama Canal treaties will be before the Senate beginning on Wednesday of this week. The first of the two treaties, the Neutrality Treaty, will be before the Senate.

Artists are now allowed to sit in the galleries and, like reporters, they are permitted to take written notes, but they are not permitted to do any drawing. In view of the fact that the Senate has given consent for audio transmission of the debates, the networks would like to have their artists present so that they might be permitted to sketch during the debate on the Panama Canal treaties. The networks are planning to carry audio feeds of up to a minute on their TV news programs during the Panama Canal debate, and a series of sketches will be needed to illustrate those audio feeds accurately.

I have cleared this unanimous-consent request with Mr. BAKER, Mr. HATFIELD, and Mr. PELL, and I, therefore, propound it as follows:

That the networks may have as many as four artists in the gallery, one for each network and a fourth for public TV or one of the chains. I will discuss this with the Sergeant at Arms so as to notify the networks as to which gallery their artists may be located in. I should think that it should be limited to a single media gallery, either where the print journalists sit or where the broadcast people sit, but that is a matter that can be determined, and the networks and public TV will be so informed.

I ask unanimous consent, therefore, that four artists, one for each of the three networks and one for public TV, may have access to the press gallery during the debates on the Panama Canal treaties—only during the debates on the treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This would mean that should the Senate go into legislative session for the consideration of other matters from time to time, the authorization would not carry forward into those legislative sessions.

ORDER FOR THE SENATE TO RESUME CONSIDERATION OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, after the prayer and the disposition of the approval of the Journal, the Senate resume its consideration of the unfinished business.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, while we are just sort of killing time, I move that the Senate stand in adjournment for 2 seconds.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn.

The motion was agreed to, and, at 5:03 p.m. on Monday, February 6, 1978, the Senate adjourned until 5:03:02 p.m., the same day.

AFTER ADJOURNMENT

MONDAY, FEBRUARY 6, 1978

The Senate met at 5:03:02 p.m., pursuant to adjournment, and was called to order by Hon. JAMES R. SASSER, a Senator from the State of Tennessee.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO DISPENSE WITH ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR NONPROLIFERATION ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, may we have resumption of the unfinished business?

The PRESIDING OFFICER. The clerk will state the unfinished business by title.

The assistant legislative clerk read as follows:

A bill (S. 897) to strengthen United States policies on nonproliferation and to recognize certain export functions of the Federal Government to promote more efficient administration of such functions.

UP AMENDMENT NO. 1199

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendment numbered 1199.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 123, line 23, strike the period and insert in lieu thereof, "; *and Provided Further*, that nothing contained in this section is intended to require the Commission independently to conduct or prohibit the Commission from independently conducting country or site specific visitations in the Commission's consideration of the application of IAEA safeguards.

Mr. McCLURE. Mr. President, this amendment would add a proviso to the part of the section 304 export licensing procedures dealing with the NRC independent regulatory functions. The thrust of the proviso is to negate any implication in section 304 that NRC is required, in reviewing a licensing application, independently to assess the adequacy of foreign safeguards.

In the absence of such a proviso, there would be a very strong implication, if not an express directive, to the effect that the NRC should conduct such independent assessment of foreign safeguards.

The proviso establishes the neutrality by expressly stating that nothing in this section requires such independent efforts and also to satisfy those on the other side of the issue, to indicate additionally that nothing in this section would necessarily prohibit the Commission from such independent assessments.

This is a direct response to the current debate raging within the NRC and within the executive branch over the exact responsibility of the NRC for assessment of the adequacy of foreign safeguards implemented for U.S. nuclear exports. Various commissioners, including Commissioner Kennedy, Commissioner Gilinsky, and NRC Chairman Hendry, have dealt with the issue.

Additionally, this has been the subject of a closed meeting with the NRC in which we have been represented. Placing this proviso in the bill has the effect of negating the very strong implication that NRC has such a role. It leaves open the question of the exact responsibility of the Federal Government, to review foreign safeguards and the exact procedures in which that will be done.

Clearly, it would be preferable to put an expressed prohibition on the NRC's assessment of foreign safeguards, but that, in my judgment, is highly unlikely to be done by Congress at this time. Consequently, maintaining strict neutrality on the face of this section 304, Procedures and Requirements, leaves that question open for determination by the administration between administrative agencies without prejudice to the conclusion of those debates.

Mr. President, while I recognize that this is a tremendously difficult question to state with neutrality, it is essential we do so.

I would hope that the managers of the bill can see fit at least to accept this amendment at this time and if, as a matter of fact, the language does not accomplish exactly what I suggest, that then we might in the conference be able to perfect the amendment to say exactly what it is that we are contemplating saying.

Maybe there is another way of saying it that would allow better results than the language I have submitted. But I think it is essential we have some such expression in the legislation.

Mr. GLENN. Mr. President, we discussed the proposed amendment here prior to the Senator from Idaho proposing it officially. It was my understanding that the amendment was designed only to make clear that the bill neither requires nor prohibits specific site visits to each country to consider the application of IAEA safeguards. I would be prepared to support the amendment if the thrust of it were limited to neither requiring nor prohibiting site visits, country by country, for the purpose of considering the applications of IAEA safeguards.

However, the way the Senator describes this gives me some pause because he specifically says NRC will as I understood it, not be required to independently assess the adequacy of the safeguards. It seems to me that would take away a tremendous thing they should be charged with doing.

Mr. McCLURE. If the Senator will yield, I will clarify what I intended.

That is the difficulty of what is an independent assessment. I agree with the Senator that that language is troublesome. Perhaps I stated it over broadly in my initial remarks. It was not my intention to raise that alarm because I think NRC does have the responsibility under this legislation to arrive at their own assessment of the safeguards.

But the amendment says specifically the country by country site specific visits will not be required as a component of that independent assessment.

Mr. GLENN. But did the Senator from Idaho intend that they would not independently assess the adequacy of safeguards?

Mr. McCLURE. It is not my intention to state it that broadly. The amendment only refers to site specific visits and not to the assessment of the safeguards question itself.

If my earlier language was broader than that, it was because of an inadvertence on my part, not because I want to broaden the import of the amendment beyond the language which appears on its face.

Mr. GLENN. Is it the Senator's understanding of the bill now that it specifically requires NRC to specifically assess the adequacy of the safeguards?

Mr. McCLURE. The bill does require NRC to make their own assessment. The question, I guess, boils down to what is an independent assessment.

Mr. GLENN. Further, is it the understanding of the Senator that that independence of NRC to assess IAEA safeguards would continue if we adopt his amendment?

Mr. McCLURE. It would be changed by this amendment with the exception that the amendment simply says that site specific visitations are not required by the act. That is all the amendment says.

Mr. GLENN. Neither required nor prohibited?

Mr. McCLURE. That is correct.

Mr. GLENN. All right, with that understanding, I think the amendment would be acceptable to the Senator from Ohio.

I was concerned about the previous remarks that I thought intended to take it out of the IAEA safeguards assessing business.

I think one of the intents of the bill is to keep the NRC indefinitely in that business because they report both to the legislative and executive branches and they are best equipped to assess the adequacy of safeguards, perhaps even more so than any other branch of Government in this country or any agency of Government in this country.

Mr. McCLURE. I might just refer to the bill, section 127. Their mandate is to make a reasonable judgment regarding IAEA safeguards as required by article III, subsection 2, of the treaty.

It is not my intention that this amendment in any way intereferes with their reasonable judgment requirements requiring IAEA safeguards.

Mr. GLENN. I would be prepared to support the amendment with the understanding that it applies only to not requiring nor prohibiting site visits country by country to consider the application of IAEA safeguards and does not in any way cut down on the requirement of NRC to independently assess the adequacy of IAEA safeguards.

Mr. McCLURE. All my amendment is intended to address is to make this provision neutral, neither prohibiting nor requiring site specific visitations and to make it clear on the face of the statute that that is our posture at this time on that issue.

Mr. PERCY. Mr. President, again thinking back on how the legislation was created that established NRC, I see nothing inconsistent with the wording of the amendment of the Senator from Idaho with the intent and purpose of the originating act.

I think the explanation that was just now heard from the majority floor manager of his interpretation of this amendment is accurate. It is not really a question of whether NRC independently will assess the adequacy of safeguards. The question is really how they will do it.

This amendment addresses whether or not they will use onsite visitations as the method.

I agree with the majority floor manager that this amendment underscores the fact that this legislation is not intended to prejudge the current debate as to the information which the United States should seek to obtain with respect to the adequacy of IAEA safeguards on U.S. exports or as to the roles which the various interested agencies should perform in the process. I think there is no question that the NRC should have full access to all information available to the executive branch on this and related issues, and that the NRC, in making the findings and judgments required under this act, should independently assess the information which is available to it. Just as past compliance with prior approval commitments is relevant to the question of whether such commitments will be meaningful with

respect to the export under consideration, by the same token information concerning the adequacy of safeguards should be carefully considered by the NRC in applying the first phase 1 criterion and in making general common defense and security findings.

I find no objection with the amendment or with the ultimate decision reached in the legislative history and colloquy just carried on.

Mr. GLENN. Mr. President, if the Senator from Idaho is finished with the discussion of this, I am prepared to yield back my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1200

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1200.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 145, line 23, before the word "and" insert the phrase "no uranium 233,".

On p. 145, line 24, strike "233".

On p. 145, line 25, strike "or".

On p. 153, line 10, after the word "plutonium" insert ", uranium 233,".

On p. 153, line 11, strike "233 or".

On p. 154, line 1, after the word "plutonium" insert ", uranium 233,".

On p. 154, line 2, strike "233 or".

Mr. GLENN. Mr. President, the fission characteristics of uranium 233 are much closer to those of plutonium than to uranium 235. It therefore should be treated in the legislation the way plutonium is, and that is what this technical amendment accomplishes.

I believe we have unanimous agreement on this side of the aisle on this matter; and if the Senator from Idaho is prepared to yield back his time, I will yield back mine.

Mr. McCLURE. Mr. President, I support this amendment, and I yield back the remainder of my time.

Mr. JAVITS. Mr. President, the minority supports this amendment as well.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, while I think all Senators would support the objectives of this bill, it is my view, as well as that of others, that its provisions raise numerous questions that should be examined in detail and at some length.

Without question I am in support of nuclear weapon nonproliferation. There is, in fact, no one in this body today opposed to nuclear weapon nonproliferation. From the more elder among us upon whom Hiroshima and Nagasaki burst as an awesome new terror to the younger among us who during the cold war learned in our school years that "atoms for peace" would elevate mankind; all of us share the knowledge that nuclear weapons capability must not be spread.

The real division among us is as to how we shall accomplish this goal.

The questions that particularly interest me in this regard, and interest most Pennsylvanians as well, relate primarily to whether this bill, as reported, will achieve its principle goal—halting the spread of nuclear weapons, without at the same time stopping nuclear development for peaceful purposes or eliminating the role of the American nuclear industry in that development. As I have said before with respect to the breeder reactor, nuclear technology poses serious safety and security problems, but these are problems we must work to solve so that development of the technology can go forward. I know some people may prefer a world without nuclear power, and I can respect that point of view, but the fact is that at the present time we have no viable alternative source options if we wish to reduce our dependence on fossil fuels. Reduction of that dependence, of course, is an essential national security objective in the short and mid term, as well as an inevitability in the long term as we exhaust fossil sources. While I have consistently supported accelerated development of other energy sources, we cannot bury our heads in the sand with respect to nuclear energy and simply ignore it.

Similarly, on the international level we have to face the fact that other nations are not ignoring nuclear development, that the growth of nuclear technology for power production is an inevitability, particularly in those nations that are more vulnerable to an oil embargo than we are, such as France and Germany, and finally that those nations are going to continue to seek to export their technology.

While I do not subscribe to the argument that we should seek to continue acting in the nuclear marketplace simply because others are doing so and we do not want to be left out; we must nonetheless ask ourselves what effect this bill, S. 897, will have on our participation in that marketplace, and, if it is correct that it will inhibit our involvement, then we must also ask ourselves whether that inhibiting effect will encourage other suppliers to adopt the same policy we have or whether it will discourage the proliferation of nuclear weapons.

With respect to the issue of the further expansion of nuclear technology, it is estimated that about 80 new nuclear plants producing about 84 thousand megawatts of electricity will be ordered worldwide between 1978 and the end of 1982. These plants will cost about 32 billion dollars. Ample evidence, indeed, of the need for weapon non-proliferation!

However, there is a serious question as to whether the pending legislation would do anything to halt weapon proliferation. These nuclear plants will be ordered and built regardless of this legislation. That is not in question. The real question is whether they will be ordered and built under a framework of safeguards organized by the United States or whether they come to life without the safeguards we seek. Will there be U.S. leadership and participation or will this $32 billion program be controlled by the United Kingdom, France, Germany, and Japan? Or even by others, not our friends? That is no idle question!

On Wednesday, February 1, 1978, in hearings before the Senate Finance Committee my distinguished colleague Senator HANSEN inquired of Special Trade Representative Strauss regarding trade with Japan in nuclear equipment. I ask to have printed in the RECORD at this point the text of that exchange with the caveat that it is from an as yet uncorrected transcript and there may be typographical errors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINANCE COMMITTEE HEARING—
FEBRUARY 1, 1978

Questions propounded by Senator Hansen to Ambassador Strauss:

H. Ambassador Strauss I think this has been a very worthwhile and productive morning and I would welcome an opportunity to reciprocate with my good friend the Chairman of the Subcommittee by saying that we have talked about beef and we've talked about citrus, I'm going to talk about something that I know will be of interest to the distinguished senior Senator from Connecticut—nuclear power. I would observe that I'm told that the number of man hours necessary to construct just one nuclear power plant entails the full-time efforts of thirty thousand man years of work. No one need remind my good friend Senator Ribicoff that

GE is a pretty important employer in the great State of Connecticut and I do have some questions that I'd like to ask you about that because on page 16 of your statement—allusion has already been made to that statement—that the ultimate value of these consultations depends largely upon what we do to follow through on our efforts—I agree with that and I note that on page 14 you say "also the Japanese government has announced its intention to form a number of joint industry groups to explore the possible purchase of citrus products, forest products" and then I underline "nuclear plant machinery and equipment and to increase imports of beef." The January 13th joint U.S. Japan communique included as a specific Japanese trade measure the following item:

"Dispatch to the United States of a mission to explore the possibility of purchasing electric power plant machinery and equipment, including nuclear plant components and equipments."

The Washington Post reported that the Japanese had specifically requested the addition of the nuclear plant reference. Could you comment on the circumstances surrounding the addition of this item? Is it, in fact, representative of a high level of interest in our nuclear exports?

S. That came out of some very private conversations that Mr. Ushiba [1] and I had in the early stages of our conversation when he was here and you will recall that I mentioned to a number of you who discussed it a little farther with him. We formalized it over there and I think its going to lead to substantial purchases of nuclear power plant components in this country and I said there are those who think this is a program this country shouldn't be fostering, but my views are a simple one. If those things are going to be bought they might as well be bought here instead of bought in Germany or built in Japan. It is something they can purchase from us, something they want to purchase from us something that will help them bring their account surplus in balance.

H. I couldn't agree with you more.

S. And we have already been furnished the fifty member team that will be over here in oh in March 13th or 10th or something.

H. I appreciate the President's philosophical desire to do everything he can to make improbable the development of nuclear weapons by countries aren't now making them but it seems to me as though in this respect he's expressing concern over a train that's already left the station. As you say, if Japan doesn't buy these plans from us and if we don't, in my opinion, continue to make available around the world, at least on a selective nation basis, those countries that will receive our uranium as well as nuclear power plants why they will be buying it some place else and if we're concerned as I know you are, and as I think as all members of the Senate are, it seems as though this is an ideal place to try to try to address and rectify that imbalance in the trade.

S. I don't want to be stuck with this figure, Senator Hansen, but I think we're talking about $2 billion potential purchases there. That's an awful lot.

H. Well. I was told that one plant is $1 billion but with the rapidly escalating rate of inflation you could be right today, my figures are a week or two old. As you may know the Senate will be considering shortly legislation which places a series of new regulatory controls and requirements on U.S. nuclear exports. Would it be your view, in light of the specific Japanese interest, as well as that of other trading partners, that the legislation should provide predictable and workable export licensing regime?

S. I'd like to see the type of legislation proposed and I'd like to give it a little more—have a little more time before I furnish an answer to that I'm not certain that I'm fully clear on it now.

H. Further what would be the impact on our trade relations and this agreement if the new export licensing regulations creates a de facto moratorium on nuclear exports, either generally or specifically to Japan?

S. Well, if we—its obvious Senator Hansen that if we were to create impediments to the sale of nuclear plant components it would have an adverse impact on our ability to sell those components and thereby reduce the trade account.

H. The Council on Environmental Quality has distributed a guide—draft guidelines to executive agencies which would require Environmental Impact Statements for U.S. international activities in other countries. I understand the guidelines would require Federal agencies to document and consider foreign impacts, both for direct U.S. government activities abroad and the licensing of commercial exports and activities abroad. This would place an immediate de facto moratorium on nuclear exports and related Ex-Im Bank financing—as well as many other activities. What is your view, as Special Trade Representative, regarding the advisability of such a new requirement?

S. Senator Hansen I have some very serious concerns in this whole area. Now these proposals are exceedingly preliminary in nature as I understand it now and I don't want to be negative or critical but I would say to you that is something I intend to monitor very carefully, something I expect to be heard on very forcefully and I am very concerned that nothing be done very strong reservations about anything being done that would in anyway impede our ability to do business outside the United States with products that are manufactured in this country and we will be as I said monitoring any proposals that come out of there closely and presenting our position on it. That's about all I have to say on it for now. We don't need any unnecessary barriers to trade we're having a tough enough time right now with what we've got overseas.

H. Well I thought that and it continues to be my opinion, that if we finally are drowned under a blizzard it won't be snow it will be paper and these Environmental Impact Statements I might note parenthetically some 212 of them, are going to be required of the Department of the Interior in before approval can be given to grazing permits and the amount of time and number of people who must have their full-time efforts committed to the preparation of those Impact Statements and the amount of money that will go into them is unbelievable, but that's just within this country. It seems to me that putting Environmental Impact Statements as a prerequisite to the export of materials and manufactured machinery in this country raises issues that I think are of serious foreign policy concern that question the sovereignty of foreign countries, long time delays, litigation, and all that sort of thing and in a word I don't think we have any business getting into that kind of operation.

S. I thank you for that statement Sir.

H. The Japanese are anxious to proceed with their own domestic nuclear power program, using imported U.S. fuels and equipment. That will require a new, renegotiated U.S. agreement in September, 1979 for U.S. approval of some of the intended uses. What would be the impact on our trade relations if the pending legislation, that is S. 897, by statute, would prohibit unilaterally the Japanese intentions and thus deny U.S. officials of any flexibility in the 1979 renegotiations?

S. I'm not familiar with that legislation as I should be and Senator in an attempt to answer that I think the question speaks for itself, it almost answers itself, I'm not familiar with the legislation.

H. It might be that—I know that you have many demands upon your time and when you do have an opportunity if you might have someone on your staff examine this legislation with particular reference it might be helpful.

S. I assure you it will be done.

H. Well, I appreciate your responses Mr. Ambassador, it seems to me as though we're headed in the wrong direction, the attack we've taken in this whole nuclear field, and I would hope very much that we can turn that around so as to permit GE and the State of Connecticut to share with the few crumbs that we're going to get from the Japanese purchase of more beef, Senator Ribicoff.

Mr. HEINZ. Mr. President, reasonable men may differ on the degree of response given by Ambassador Strauss but certain points are clear:

First. Japan has now and will continue to pursue a nuclear energy program with or without the United States.

Second. Purchase of nuclear equipment from the United States is an important part of reducing our stunning trade deficit with Japan.

Third. Enactment of impediments to nuclear exports would eliminate trade with the United States but would not eliminate the nuclear trade itself.

There is good reason to believe that with respect to Japan, nuclear weapons proliferation is not nearly the danger it is elsewhere. But the point remains the same—impediments to nuclear trade remove the United States not only from the marketplace but from the ability to affect the global nuclear trade picture. It would be a cruel hoax on the American people for the Senate to assure them of future safety when we would have, in fact, advanced weapons proliferation and exported American jobs to boot.

Given this recognition of the importance of nuclear exports to our balance of trade, we must then discuss the equally significant questions of whether the pending legislation impacts adversely on those exports.

I recently wrote President Carter in that regard, raising several questions concerning the recent commitments of our Government to India and Iran and our participation in the London Suppliers Group agreement, which differs in several respects from the pending bill. I ask unanimous consent that the text of my letter be included at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE BUDGET,
Washington, D.C., January 26, 1978.

The PRESIDENT,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: Your dedicated efforts over the past year to develop a coherent U.S. policy on nuclear proliferation are most commendable. I have been pleased to see legislation supporting your efforts making its way through the Congress. As a member of the Governmental Affairs Committee, I voted to report one such bill, the Nuclear Nonproliferation Act (S. 897), last August.

Since that time there have been a number of events, including your recent trip and the agreement reached by supplier nations, which require a serious review of S. 897.

[1] Mr. Ushiba is the Japanese counterpart to Mr. Strauss.

Before acting on S. 897, the Senate should be fully informed with respect to what commitments have been made in India, Iran and to the London Suppliers Group and whether these commitments can be kept if S. 897 passes as currently written.

In addition I am concerned that U.S. suppliers might be placed under more stringent export requirements than those we have agreed to with other nations, and I would be eager to know your views on this matter.

I believe the Senate can best make a informed decision on S. 897 after these questions have been satisfactorily and completely answered. Accordingly, I would appreciate your providing me with the information necessary to respond to these concerns.

Sincerely,

H. JOHN HEINZ III,
U.S. Senate.

Mr. HEINZ. In a response I recently received from the State Department, several of my suspicions are confirmed with respect to India and the London Suppliers Group. I ask unanimous consent that that letter be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C.

Hon. JOHN HEINZ, III,
U.S. Senate.

DEAR SENATOR HEINZ: The President has asked that I reply to your letter of January 26 concerning the effect of the Nuclear Non-Proliferation Act (S. 897) on commitments that the Administration has made to Iran, India, and the London Suppliers Group.

I can assure you that these commitments will be carried out in a manner that meets the requirements of the pending non-proliferation legislation. In Iran, the President and the Shah agreed, in principle, on an Agreement for Nuclear Cooperation. Some details remain to be worked out, but the draft Agreement meets all the conditions of this legislation. We hope that negotiations will be concluded in the near future.

With regard to India, where the US is supplying low-enriched uranium for US-built power reactors at Tarapur, the President stated that we are prepared to go ahead with the next shipment of this fuel. The President also stated that the US would be prepared to make available some heavy water to India. The President's offer of heavy water was a good will gesture in the context of an effort to work out with India an arrangement which gets the Indians to accept international safeguards on all their nuclear activities. India is aware of the impact of the pending legislation, which is strongly supported by the President, on nuclear supplies 18 months after enactment unless India puts all its nuclear activities under IAEA safeguards. We are hopeful that India will find a way to take this step so that US/Indian nuclear cooperation may continue.

Concerning the Nuclear Suppliers guidelines, I have enclosed, for your information, a copy of the guidelines and a paper discussing how they relate to S. 897. While the current US position, as reflected in S.897, is more stringent than the minimum criteria represented by the Guidelines, we are hopeful that the consensus among suppliers will continue to move toward our somewhat stricter position. We are very much aware that if we move too far out in front of others, we would undermine our nuclear export capabilities and thus reduce our leverage to shape stronger international export regime.

We believe that S. 897 achieves a good balance by establishing strong nuclear export criteria while allowing for sufficient flexibility to continue nuclear cooperation that is in the national interest. We strongly support passage of the legislation as soon as possible.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Mr. HEINZ. Further, in material submitted to the Senate Foreign Relations Committee on January 12, one major point is reconfirmed in detail—the difference between the London Suppliers Group agreement and S. 897. I also ask unanimous consent, Mr. President, to insert that material at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NUCLEAR SUPPLIERS GUIDELINES AND S.897

In January 1978, the export guidelines adopted by the London Nuclear Suppliers Group were for the first time officially made public. These guidelines establish minimum standards for safeguards and export controls to be applied by nuclear suppliers in transfers to any non-nuclear weapon state for peaceful purposes. The text of these guidelines was provided the Senate Foreign Relations Committee under cover of letters from Dr. Joseph S. Nye, of January 12, 1978.

As the Committee is aware, the major elements of these guidelines were developed in a series of confidential meetings in 1975 among seven major supplier nations. The original participating states in January 1976 informed each other of their intention to observe the guidelines in their national export policies. Several additional steps were necessary prior to official publication of the guidelines. First, several related documents had to be worked out: the trigger list, the annex to the trigger list containing additional clarifications, and the agreed levels of physical protection. Second, the group was enlarged from its original seven members to fifteen members. Third, several of the provisions in the guidelines were revised for technical reasons (e.g., to take into account the completion of work on the various annexes). Fourth, provisions in the guidelines were strengthened; thus, the provisions relating to "sanctions" in paragraph 14(c) were elaborated. Finally, procedures for publication were worked out. During this whole period, from the commencement of work on the guidelines, through the initial stages of adoption of the guidelines in confidence, the Executive Branch has periodically provided the Congressional Committees with confidential briefings on the progress of this work.

Since the main elements of the guidelines were established by the end of 1975, the work of the Executive Branch on non-proliferation legislation since then has taken into account the existence of this document. The positions taken by the Executive Branch in commenting on previous versions of the non-proliferation legislation, in proposing its own bill during this Administration (S.1432), and in working out compromise provisions in S. 897 have been fully consistent with and supportive of the London Nuclear Supplier Group Guidelines.

It is the Executive Branch's judgment that the publication of the guidelines does not necessitate any revision in S. 897, as most recently reported to the Senate. In fact, consistent with our view that the guidelines provide a floor and not a ceiling on the non-proliferation controls and commitments appropriate to be sought by nuclear suppliers in their export dealings, S. 897 is considerably stronger in many ways than the guidelines.

U.S. law as it would be set forth in S. 897 is stronger in some respects than the guidelines. Countries purchasing from the U.S. will be asked to agree to somewhat stricter terms than those which may be sought by some other suppliers, but we do not believe that the U.S. should adopt a "lowest common denominator" approach. In developing our policy and our position on S. 897, we have had clearly in mind the need to avoid policies so restrictive as to damage our competitive commercial position, or our leverage in moving others toward adequate safeguards and controls. We believe that our present policy and S. 1432 strike the proper balance between these factors.

For the sake of comparison, the following discussion relates provisions in the guidelines to provisions in S. 897.

Paragraph 2 of the guidelines requires that suppliers, in their civil nuclear dealings explicitly exclude uses which would result in any nuclear explosive device. This is reflected in S. 897 in proposed section 127 (2) and 123 (a) (3) of the Atomic Energy Act.

Paragraph 3 of the guidelines requires adequate physical protection in the recipient country of nuclear materials and facilities. This is reflected in S. 897 in proposed sections 127 (3) and 123 (a) (6) of the Atomic Energy Act.

Paragraph 4 of the guidelines requires IAEA safeguards on exported items. This is reflected in S. 897 in proposed sections 127 (1) and 123 (a) (1) of the Atomic Energy Act. In addition, S. 897 contains a more stringent provision, on which we have not yet succeeded in achieving consensus in the Nuclear Suppliers Group, which provides for full-scope safeguards (see proposed sections 128 and 123 (a) (2) of the Atomic Energy Act). Paragraph 5 provides that suppliers will jointly reconsider their common safeguards requirements whenever appropriate. This provides the United States the opportunity to continue to press for full-scope safeguards, as well as to take initiatives in the Nuclear Suppliers Group in accordance with provisions contained in sections 104, 201, and 403.

Paragraph 6 of the suppliers guidelines require that safeguards be triggered by the transfer of certain sensitive technology. This is reflected in S. 897 in proposed sections 127 (6) and 123 (a) (9) of the Atomic Energy Act. In addition. section 402 (b) would require specific provision in any Agreement for Cooperation to permit any export of any major critical component of a sensitive nuclear facility.

Paragraph 7 of the guidelines calls for supplier restraint in the transfer of sensitive facilities, technology and weapons usable materials. While this requirement in the suppliers guidelines lacks specificity, the United States, France and the Federal Republic of Germany have each publicly announced their intention not to export certain sensitive technology. President Carter in his April 7, 1977, nuclear policy announcement, indicated that "We will continue to embargo the export of equipment or technology that would permit uranium enrichment and chemical reprocessing." Further, with respect to weapons usable material, the White House announced a policy of restraint in Point 1 of its fact sheet of April 27, 1977 (see page 123 of *Nuclear Proliferation Fact Book*, Joint Committee Print, 95th Congress, First Session, September 23, 1977). This policy of restraint is reflected in many places in S. 897, such as section 402 (b).

Paragraph 8 of the guidelines requires that the recipient nation agree that any enrichment facility or any facility based on the technology to be exported will not be designed or operated for the production of greater than 20% enriched uranium without the consent of the supplier. This policy is reflected in section 402 (b) of S. 897.

Paragraph 9 of the suppliers guidelines is non-mandatory. It indicates that suppliers recognize the importance of including con-

trols on reprocessing, storage, alteration, use, transfer and retransfer in agreements for the supply of nuclear materials and facilities for production of weapons-usable material. Paragraph 10 of the guidelines require retransfer controls on all export items and material derived through their use, as well as on major critical components. S.897 is more stringent in some respects, and comparable in others. With respect to retransfers, S.897 reflects the provisions in the suppliers guidelines in proposed sections 127 (4) and 123 (a) (5). With respect to reprocessing and alteration, S.897 goes further than the guidelines in the provisions of proposed sections 127 (5) and 123 (a) (7). With respect to storage, S.897 reflects the provisions of the suppliers guidelines in section 123 (a) (8). As indicated above, all the controls listed, including those on reprocessing, storage, alteration, transfer and retransfer, apply to sensitive nuclear facilities, major critical components, and material produced through their use.

Paragraphs 11–16 of the guidelines concern "supporting activities".

Paragraph 11 calls on suppliers to promote international cooperation in the field of physical security. A U.S. initiative on this matter is proposed in section 403(b)(2) of S. 897. It is consistent with this that the U.S. proposed internationally a Convention on the Physical Protection of Nuclear Materials, Equipment and Transports. A first meeting to negotiate this Convention was held in November 1977, with the next meeting scheduled for April 10–21, 1978.

Paragraph 12 calls for suppliers to make special efforts in support of effective implementation of IAEA safeguards. Section 201 or S. 897 deals with this subject matter and reflects the provisions of the suppliers guidelines, in somewhat greater detail.

Paragraph 13 of the guidelines calls on suppliers to encourage designers and makers of sensitive equipment to construct it in such a way as to facilitate the application of safeguards. The U.S. Government is undertaking studies related to this initiative.

Paragraph 14 of the guidelines deals with consultations among suppliers. Paragraph 14 (c) deals particularly with the issue of sanctions. Even more stringent provisions are contained in S. 897 in proposed section 129 of the Atomic Energy Act. Proposed section 123(a)(4) would also require that provisions on sanctions be in all new or amended agreements for Cooperation.

Paragraph 15 of the guidelines calls on suppliers to exercise prudence taking into account the circumstances of each case, including the risk that transfers of nonsensitive technology may lead to unsafeguarded nuclear material. Through the variety of licensing and approval processes provided for in S. 897, all the agencies of the Executive Branch and the Nuclear Regulatory Commission will, as appropriate, have the opportunity to assess the risk of each particular nuclear export, so that exports which would, in the circumstances of a particular case create an undue risk, would be denied.

Mr. HEINZ. From these various materials, Mr. President, I think several conclusions are clear. First, that the President's agreement with India would be in serious difficulty if S. 897 were law today. The State Department letter assumes, optimistically in my view, that India can be persuaded to accept the necessary safeguards within 18 months of enactment of this legislation. I know of no evidence for this assumption.

Second, the letters admit that S. 897 is notably more stringent than the agreement negotiated by the London Suppliers Group.

Curiously, the executive branch seems to regard this as a good thing, despite saying simultaneously that there is a very real danger of getting too far out in front of other suppliers in terms of requirements. Aside from the inconsistency inherent in these two statements, the State Department also fails to draw the obvious conclusion that stricter standards for U.S. exporters will inevitably persuade buyers to turn to other sources of supply. The result of that will be no reduction in the spread of nuclear technology, but rather a reduction in the spread of American nuclear technology and American exports.

Particularly disturbing in the letter is the statement:

> We are very much aware that if we move too far out in front of others, we would undermine our nuclear export capabilities and thus reduce our leverage to shape stronger international export regime.

This is essentially an admission of both the present situation—we are too far out in front—and of the consequences for our world role in halting nuclear proliferation and for our domestic industry.

The latter consequences, in particular, need to be discussed in greater detail. Westinghouse, one of the major companies in this business, has provided lists of potential exports and job impacts, as well as current jobs in the export arm of the industry. Mr. President, I ask unanimous consent that this material be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NUCLEAR EXPORT ORDERS OBTAINABLE BY U.S. SUPPLIERS IN THE NEXT TWO YEARS INCLUDING THEIR ECONOMIC AND JOB IMPACTS ON THE U.S. ECONOMY

The following reactor orders are those which U.S. suppliers would have a reasonably high opportunity of obtaining between now and mid-1979:

1. South Korea—Between two and four 600 Mega-watt Electric Nuclear Power Plants.
2. Israel—Two 900 Mega-watt Electric Nuclear Power Plants.
3. Egypt—One 600 Mega-watt Electric Nuclear Power Plant.
4. Iran—Two 1200 Mega-watt Electric Nuclear Power Plants.
5. Spain—One 1000 Mega-watt Electric Nuclear Power Plant.

The attached table lists the overall basic economic and job information as well as the scope of supply for the above nuclear plants.

ATTACHMENT 6

Country	Number of units/size	Scope of supply	Export value (millions)[1]	Export jobs[2]
Spain	1/1,000 MWe	Reduced U.S. equipment supply	$150	6,000 man-years, 1,200 jobs.
Iran	2 /1,200 MWe	Turnkey	1020	42,000 man-years, 8,400 jobs.
Korea	2 or 4 900 MWe	U.S. equipment supply	480 or 960	11,900 man-years, 2,400 jobs; or 23,800 man-years, 4,800 jobs.
Israel	2 900 MWe	do	480	11,900 man-years, 2,400 jobs.
Egypt	1 600 MWe	Turnkey	353	14,500 man-years, 2,900 jobs.
Totals	8 to 10 units		2,583 or 3,063	86,300 man-years, 17,200 jobs; or 88,200 man-years, 19,600 jobs.

[1] The value listed is not the total value of a particular job but that of the goods and services provided from the United States. The value has been calculated assuming all sales were made in 1977 and includes an estimated escalation rate until the unit is delivered.

[2] The number of jobs has been estimated based on the simplifying assumption that the man years of effort are evenly distributed over the 5-yr manufacturing and construction cycle required to complete a large nuclear unit overseas.

ATTACHMENT 7

STATE-BY-STATE DISTRIBUTION OF EXPORT JOBS AND REVENUES

The total dollar value, man-years of effort, and jobs are typically distributed among 31 States, based on an analysis of previous export orders. The breakdown for the 14 major States is given below:

State	Value (millions)	Man-years	Total jobs (for 5-yr period)
Alabama	$50.3	1,673	337
Connecticut	53.8	1,792	362
Florida	157.1	5,229	1,061
Illinois	93.7	3,117	632
Indiana	51.5	1,667	337
Kentucky	35.8	1,190	241
Massachusetts	32.5	1,081	216
New Jersey	73.9	2,460	499
New York	355.6	11,969	2,304
North Carolina	190.3	6,433	1,281
Ohio	40.8	1,360	275
Pennsylvania	1,103.1	36,885	7,336
South Carolina	70.5	2,346	474
Tennessee	55.1	1,822	370
Total	2,364.0	79,024	15,723
17 other States	219.0	7,276	1,477
Total	2,583.0	86,300	17,200

Mr. HEINZ. Mr. President, these figures indicate a substantial amount at stake in this country, particularly in Pennsylvania, which has over 42 percent of the jobs involved.

As I have said before, Mr. President, while jobs are critically important, they should not be our sole consideration in debating any piece of legislation, and I would certainly not want to suggest that halting the proliferation of nuclear weapons is an unimportant goal to strive for. However, I will say again that in view of the potential economic cost of this bill to this country, we had better be very sure of achieving our goal before we pass S. 897.

At this point unfortunately I for one am not very sure of that goal and I hope the sponsors of the bill will be able to present a more compelling case. What we have had thus far are assertions that the rest of the world is moving in our direction and that more countries are indicating willingness to accept the stringent safeguards required by S. 897. That of course is good news, but important countries like India, Argentina, and South Africa continue to raise doubts, and countries like these pose the greatest threat of proliferation.

In the absence of progress with these countries, adoption of this bill unamended will only serve to remove us from the marketplace, thereby removing any degree of leverage and control we could exercise. The result will be failure to achieve our nonproliferation goals, but worse than that, the price for that failure will be thousands of American jobs, lost for no purpose. A better approach,

in my view, would be to recognize the multilateral nature of this problem and, in the State Department's words, not "get too far out in front" of the other suppliers, and instead work with them to develop a common, consistent policy on nonproliferation.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10 a.m.

After the prayer and the disposition of the approval of the Journal, the Senate will resume consideration of the unfinished business. Further amendments to S. 897 are in order.

At 1:30 p.m. tomorrow, the Senate will begin consideration of the spent fuel amendment by Mr. McCLURE. The vote on that amendment will occur no later than 4:30 p.m.

Following the disposition of the spent fuel amendment, there will be 1 hour of debate on the bill, and a vote will occur immediately upon the expiration of that 1 hour or upon the time being yielded back. So there will be rollcall votes tomorrow.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and at 5:24 p.m. the Senate recessed until tomorrow, Tuesday, February 7, 1978, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 6, 1978:

DEPARTMENT OF STATE

Robert J. McCloskey, of Maryland, a Foreign Service officer of the Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

NATIONAL TRANSPORTATION SAFETY BOARD

James B. King, of Massachusetts, to be Chairman of the National Transportation Safety Board for a term of 2 years, vice Webster B. Todd, Jr., resigned.

NATIONAL LIBRARY OF MEDICINE

The following-named persons to be members of the Board of Regents of the National Library of Medicine, Public Health Service, for the terms indicated:

For a term expiring August 3, 1979:

Thomas C. Chalmers, of New York, vice Bernice M. Hetzner, term expired.

Kelly M. West, of Oklahoma, vice Angelo M. May, term expired.

For a term expiring August 3, 1980:

Samuel Richardson Hill, Jr., of Alabama, vice Ethel Weinberg, term expired.

Doris H. Merritt, of Indiana, vice Max Michael, Jr., term expired.

Cecil George Sheps, of North Carolina, vice William N. Hubbard, Jr., term expired.

For a term expiring August 3, 1981:

James Franklin Williams II, of Michigan, vice Joseph Francis Volker, term expired.

Nicholas Edward Davies, of Georgia, vice William O. Baker, term expired.

INTERNATIONAL COMMUNICATIONS AGENCY

The following-named persons to the positions indicated:

John E. Reinhardt, of Maryland, to be Director of the International Communication Agency (new position).

Charles W. Bray III, of Maryland, to be Deputy Director of the International Communication Agency (new position).

DEPARTMENT OF STATE

The following-named Foreign Service information officers for promotion in the Foreign Service to the classes indicated:

Foreign Service information officers of class 1:

Robert L. Chatten, of California.
Mourad William Haratunian, of New Jersey.
Fred D. Hawkins, of the District of Columbia.

Foreign Service information officers of class 2:

Dennis Askey, of Hawaii.
Stephen F. Dachi, of Maryland.
Thomas C. Dove, Jr., of Connecticut.
Robert Barry Fulton, of Pennsylvania.
Norris D. Garnett, of California.
Allen C. Hansen, of Virginia.
Edward M. Harper, of California.
Robert E. Kays, of Virginia.
John F. Kordek, of Illinois.
Frederic S. Mabbatt III, of Virginia.
Edgar E. Noel, of the District of Columbia.
Phelon D. Peters, of California.
Donald E. Reilly, of California.
Robert A. Riccio, of California.
Lois W. Roth, of New Jersey.
John C. Scafe, of Kansas.
Frank W. Scotton, of Virginia.
Christopher L. Sholes, of New Jersey.
William F. Thompson, of Minnesota.
John H. Trattner, of Virginia.
G. Claude Villarreal, of Texas.

Foreign Service information officers of class 3:

Jeffrey Robert Biggs, of the District of Columbia.
Frances D. Cook, of Florida.
Robert T. Coonrod, of New Jersey.
Lawrence Donald Daks, of Illinois.
John Henry Hicks, of Missouri.
Larry J. Ikels, of Texas.
Robert Douglas Jones, of Maryland.
John M. Keller, of Minnesota.
Clara Sigrid Maitrejean, of Arizona.
Cynthia J. Miller, of Texas.
Thomas E. O'Connor, of Ohio.
Clathan McClain Ross, of North Carolina.
Ernesto Uribe, of Texas.

Foreign Service information officers of class 4:

Cresencio S. Arcos, Jr., of Texas.
Stephen Mark Dubrow, of Florida.
Joan Mary Gibbons, of Illinois.
Joe B. Johnson, of Texas.
Charles C. Loveridge, of Utah.
Francis William Lowrey, of New Mexico.
Robert L. Michael, of Ohio.
Steven J. Monblatt, of New York.
John J. Shippe, of Connecticut.
Frank F. Starbuck, of Florida.
Carmen Suro-Bredie, of the District of Columbia.
Larry R. Taylor, of Washington.
Van S. Wunder III, of Florida.
Michael D. Zimmerman, of New Jersey.

Foreign Service information officers of class 5:

Mary Lou Edmondson, of Colorado.
Hugh H. Hara, of Illinois.
Joel J. Levy, of Connecticut.
Mildred C. McCoo, of the District of Columbia.
Robert J. Meade, of New Jersey.
Patricia J. Moser, of Maryland.
Arthur L. Skop, of the District of Columbia.
Rosalind L. Swenson, of New York.
Louise Taylor, of California.
E. Ashley Wills, of Virginia.
Douglas B. Wilson, of Arizona.

Foreign Service information officers of class 6:

William R. Barr, of New York.
Michael Allen Betcher, of Ohio.
Anne M. Chermak, of Pennsylvania.
Mark E. Dillen, of California.
Louis P. Falino, Jr., of Pennsylvania.
Pamela Sterne Gumport, of New York.
Lynne E. Hart, of California.
Barbara E. Haven, of New York.
Lois Marie Herrmann, of the District of Columbia.
Thomas Neil Hull III, of Florida.
Robert S. Lapiner, of California.
Barbara St. C. Calandra Moore, of Oregon.
Jennifer E. Newton, of Minnesota.
Theresa L. Rusch, of Wisconsin.
Charla Saylor, of Ohio.
J. Riley Sever, of Florida.
Lynn Gunn-Smith Sever, of Florida.
William J. Shine, of New Hampshire.
Jane Daniel Wilson, of Arizona.

Foreign Service information officers of class 7:

Domenick DiPasquale, of New York.
Linda Jewell, of Arkansas.
K. Kimberly King, of California.
Gary B. MacDonald, of Washington.
Mary Jane McKinven, of Illinois.
Charles David Noziglia, of Virginia.

IN THE COAST GUARD

The following officer of the U.S. Coast Guard for promotion to the grade of lieutenant:

Lewis J. Buckley

The following-named Reserve officers of the Coast Guard to be permanent commissioned officers in the grades indicated:

Lieutenants

Robert F. Carter, Jr.	Francis P. Hopkins
Phillip R. Corpuz	Charles J. Mathis
Michael L. Dorsey	William J. Morani, Jr.
Robert W. Ferguson	William B. Short, Jr.
John R. Frost	Gerald W. Vonantz

Lieutenants (junior grade)

Kenneth A. Baker	Gabriel O. Kinney III
John E. Bate	Donald J. Klingenberg
Eric C. Bries	Denis A. Kremer
Johnny F. Burell	Leonard J. Kuhnemann
Elizabeth A. Calhoun	
Douglas B. Cameron	Larry R. Manthei
Kurt A. Carlson	Terry A. McKay
Bruce M. Carskadon	David F. Miller
John J. O'Connor	Steven P. Mojonnier
Gary A. Denhel	Dennis L. Crosby
Jonathan V. Embler	John R. Odom III
Alberto J. Gaston	Eric H. Olsson, Jr.
William T. Gibbs	Jerry R. Penska
Stewart L. Gingrich	John A. Pepe, Jr.
Bobby D. Greenlee	Douglas B. Perkins
Robert L. Griffin	Thomas R. Pigage
Gary H. Griffiths	Thomson Pray
Christopher A. Grimm	Rex J. Prosser
	Stephen P. Purvine
Dale L. Harrington	Michael A. Roberts
Kay L. Hartzell	John S. Ryba
Bradford C. Herter	James H. J. Schaeffer
Derrick W. James	Charles T. Schmincke
Gerald D. Jenkins	John E. Schrinner
Donald M. Johnson, Jr.	John G. Shaw
	Michael L. Stafford
Daniel E. Kah	Thomas P. Talbot, Jr.
Glen E. Kapitzke	Stanley J. Walz
Alan J. Kiehle	

Chief Warrant Officer, W-2

Theodore F. Ramsey

IN THE COAST GUARD

The following-named lieutenant commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of commander:

Ernest E. James	Edward B. Peel
Richard C. Binzley	Fred S. Golove
George A. Newton	Manuel C. Rosenfield
Clifford G. Speiman, Jr.	Thomas P. Noe
	Paul O. Larson
James (n) Keating	Peter N. Davidson
William H. Disney	Alvin N. Kellogg
Alfred (n) Haro	Peter J. Gaizutis
James L. Mears	Burton G. Womble
James A. Marvin	Kenneth A. Klein

Fred C. Willes
Richard J. Flynn
James L. Krish
Lawrence F. Merlino
Robert R. Caron
David M. Halstead
Paul M. Hureau
Roger S. Tucker
Larry E. Helber
Robert C. Isham
John G. Donovan
Joseph P. J. Cooley
Clinton R. Miller
Thomas M. Crehan
Paul B. Pascoe
Joseph M. Harasta
Edward C. Rawley
Victor K. Goodman, Jr.
Dalton L. Garrison
Patrick O. Boyle
Joseph S. Cromwell, Jr.
Eino E. Niinimaki
David J. Dehlin
Raymond O. Wickstrom
Bobby G. Christian
Norman D. Stevens
David W. Proudfoot
William S. Haight
Larry D. Brooks

IN THE COAST GUARD

The following-named officers of the Coast Guard for promotion to the grade of lieutenant:

Bruce E. Tate
Walter J. Brudzinski
David W. Beach
Michael K. Parmelee
Robert B. Buford
Michael R. Bowen
Thomas J. Neill
Mark D. Keyl
Michael E. Swigert
Robert E. McDaniel
Bradley N. Balch
Philip M. Kolb, Jr.
Frederick R. Hill
Leonard F. Edinger II
Robert R. Trescott
Harold L. Hayes
Steven L. Hamilton
Jerry M. Lentz
Ronald W. Batson
Thomas S. Cunningham
Lawrence C. Craig
Billy H. Reid
Donald J. Alciati
Steven T. Fothergill
Kent E. Fisher
Leslie H. Smith
Ronald Bunk
Robert C. Perry
Lawrence B. King
Daniel J. Elliott
Jeffrey M. Garrett
Leonard J. Kelly, Jr.
Pecos B. Field
James M. Seagraves
David D. Caron
Brian V. Hunter
Guy E. Motzer
Ronald R. Weston
Robert C. Shearer, Jr.
William A. Henrickson
Roman T. Lewandowski, Jr.
Richard R. Beardsworth
Charles A. Amen
John C. Burson
Terence M. Hurley
Richard E. Lang
Philip M. Sanders
William J. Lee II
Michael L. Hardie
Kenneth U. Dykstra
Fred F. Rogers III
Allen B. Hughes, Jr.
Philip G. Matyas
James L. House
Peter K. Mitchell
Andrew J. Sincali
Kevin J. Eldridge
Thomas W. Sechler
Lawrence I. Kiern
Walter L. Johnson
John K. Nelson
John P. Aherne
Richard A. Koehler
Mark A. Fisher
Joseph F. Ahern
David M. Loerzel
James M. Dwyer
Richard L. Ryan
Daniel G. Henderson
Dale E. Hower
Gary Krizanovic
Stefen G. Venckus
Scott W. Allen
Timothy W. Hylton
David M. Giraitis
James M. Garrett
Victor J. Zoschak, Jr.
Jeffrey J. Hathaway
Joseph A. Conroy, Jr.
Derek A. Capizzi
Joseph P. Brusseau
James C. Vansice
Bruce A. Russell, Jr.
William L. Powers
Albert F. Suchy IV
Guy R. Colomna
Scott F. Kayser
Stephen K. Toney
Michael W. Collier
Ronald A. Nilsen
Dana A. Goward
Larry C. Young
John T. O'Connor
Robert L. Gazley
Richard S. Hartman, Jr.
David W. Gault
Gregory B. Kirkbride
Kyle W. Blackman
Robert M. Wicklund
Drew F. Vanriper
Arthur S. Blaylock III
Gary W. Palmer
John T. Murray
Walter E. Hanson, Jr.
Steven P. Suttle
Steven D. Jorgensen
Gary R. Kaminski
Arthur E. Brooks
Charles L. Miller
William L. Clossey
Joseph C. Bridger III
Gerald M. Davis
Michael L. Maxey
Robert J. Brulle
Russell A. Bishop
Scott A. Laidlaw
Glenn R. Holmdahl
Myles S. Boothe
William G. Braceland
William M. Bentley
Timothy C. Haugan
Michael M. Blume
Thomas D. Johns
Vincent E. Matner
James E. Spence
Ronald R. Borison
Robert L. Porter, Jr.
Robert J. Flynn
Mark E. Ashley
Steven G. Hilferty
Domenico A. Diiulio
Kenneth A. Ward
Jeffrey G. Lantz
Richard J. Taylor
Robert N. Petersen
Paul A. Dufresne
Richard A. Huwel
David W. Reed
Robert F. Moore, Jr.
Thomas J. Falvey
Jonathan M. Prince
Daniel F. Ryan II
Marcus E. Jorgensen
Michael E. Saylor
Robert A. Roush
Steven G. Hein
Thomas C. King, Jr.
Christopher M. Schoonmaker
David W. MacKenzie
James B. Crawford
James A. Peltzer
Bradley J. Willis
Edmond R. Morris
Jerzy R. Kickner
Stephen J. Harvey
John P. Miceli
Stephen E. Sharpe
Richard J. Formisano
Roger D. Kacmarski
Gregg A. Leibert
James D. Thomas
Thomas C. Mielke
Donald R. O'Malley
Hugh A. McGraw
Glenn F. Epler
Carl E. McGill
Michael L. Arnold
Patrick E. Ryan
James F. Reed
James Rutkovsky
Frederick G. Phelps
John P. McDermott III
Randal W. Freitas
Thomas M. Curelli
Ralph L. Crawford, Jr.
Raymond J. Brown
Steven M. Waldmann
Richard J. Fitzpatrick
Gerald M. Donohoe
John A. Wcislo
Steven L. Nylund
Odell T. Powell, Jr.
Thomas J. Mackell
John L. Locke
George H. Detweiler, Jr.
Lloyd D. Barnes
John G. Arnold
George R. Long
Richard A. Roth
Adan D. Guerrero
Allen L. Thompson, Jr.
Walter L. Owens, Jr.
Edward Miller
John J. McQueeney II
William M. Albert III
John S. Sedlak
Dan Deputy
Curtis J. Gruver
Edgar T. Scott
Francis J. Lynch
Ellis H. Davison, II
Robert G. Stevens
Richard P. Glover
Dean W. Kutz
Stephen D. Hathaway
Barry R. Moore
John M. Berglund
Robert T. Powell
Lawrence P. Taylor
Gerald Bowe
Michael G. Ditto
Carl Schellenberg
Horace D. O'Neal
Daniel J. O'Shea

The following-named temporary officers of the Coast Guard to be permanent commissioned officers in the grade of lieutenant (junior grade):

Bruce E. Tate
Walter J. Brudzinski
Philip M. Kolb, Jr.
Frederick R. Hill
Leonard F. Edinger, II
Robert R. Trescott
Harold L. Hayes
Steven L. Hamilton
Jerry M. Lentz
Ronald W. Batson
Thomas S. Cunningham
Lawrence C. Craig
Billy H. Reid
Donald J. Alciati
Steven T. Fothergill
Kent E. Fisher
Leslie H. Smith
Ronald Bunk
Robert C. Perry
Lawrence B. King
Curtis J. Gruver
Edgar E. Scott
Francis J. Lynch
Ellis H. Davison, II
Robert G. Stevens
Richard P. Glover
Dean W. Kutz
Stephen D. Hathaway
John M. Berglund
Barry R. Moore
Robert T. Powell
Lawrence P. Taylor
Gerald Bowe
Michael G. Ditto
Carl Schellenberg
Horace D. O'Neal
Daniel J. O'Shea

The following-named officers of the Coast Guard for promotion to the grade of lieutenant (junior grade):

Roosevelt L. Kinney
Paul E. Redmond, Jr.
Richard R. Kelly
Philip Centonze
Lawrence J. Bowling
Glenn W. Anderson
Patrick B. Higbie
Eric N. Fagerholm
Jeffrey J. Steuer
Steven M. Day
Gary S. Scheer
Steven E. Johnson
James D. Chambers
Frederick A. Nyhuis, Jr.
Gary L. Jacobsen
Loren P. Tschohl
John S. Fetterolf III
Theodore L. Mar
Theodore F. Lagergren
Thomas T. Reilly
Timothy M. Rubert
Jeffrey J. Huhn
David S. Cline
John E. Carroll
Michael D. Anderson
John A. Gentile
Thomas A. Nies
Dennis W. Delgrosso
Gerald L. Timpe
John M. Richards
Robert J. Hoey III
Surran D. Dilks
Gary W. Chappell
Daniel R. Wrentmore
Terrence C. Julich
John M. Krupa
Larry C. Sultze
Dale K. Schulz
Richard R. Ingels
John C. Miller
Geoffrey L. Abbott
James S. Thomas, Jr.
Ross L. Tuxhorn
Joseph A. Halsch
Stephen M. Jacob
Scot A. Addis
Wayne T. Buchanan
Kevin C. Smith
David E. Ferg II
Peter L. Randall
Garrett J. Tirpak
Albert R. Stiles, Jr.
Robert W. McGarry
John J. Jaskot
David M. Keen
Thomas J. Coe
Raymond J. Christian
Daniel R. Cox
James E. Evans
Stephen J. Krupa
Richard D. Poore
Richard L. Rosseau
Joel D. Fujiwara
James E. Bussey III
William J. Fasel
Edward D. Welch, Jr.
James W. Decker
Brian B. Tousley
Glenn R. Gunn
Jeffrey S. Moller
William W. Peterson, Jr.
Thomas G. Falkenstein
James A. McDonough, Jr.
David A. Howell
Christopher A. White
John O. Olthuis
Scott E. Davis
Anthony Grande
Brian P. Cost
John R. Peiffer, Jr.
James T. Quinn
Craig D. Peterson
Mark H. Johnson
Brian J. Hunt
Richard W. Norris
Donald R. Lamb
Jay E. Hess
Bruce B. Connell
Douglas E. Fluddy
Albert D. Franzone
Patrick E. Flanagan
Jerome J. Amend
Arthur S. Olsen
Douglas S. Taggart
Douglas F. Grebe
David H. Hylton
Patrick M. O'Connor
Robert T. Majewski
Kenneth J. Cuite
Mark W. Richardson
Richard T. Burton
Lon N. Elledge
Gregory J. Edge
Charles M. Hince
Richard L. Stoppa II
Milton H. Ennis
Gene P. Shriver
Robert J. Slye
David E. VanPatten
Eric A. Hiner
Glenn E. Gately
James F. Murray
Ivan T. Luke, Jr.
David G. Wilder II
Marshall S. Reichenbaugh
Arthur H. Hanson, Jr.
Alexander J. Ogg, Jr.
Theodore P. Haenlein
Richard K. Miller
Robert G. Smith
Thomas E. Graf
David L. Kuzanek
Michael K. Grimes
Daniel G. Smith
John R. Thacker
William J. Nash
Hal M. Mueller
Mark H. Simpson
John C. Acton III
James R. Mongold
Louis M. Farrell
Michael B. Karr
Steven P. Wolf
Floyd G. Lyssy
Steven B. Gerke
John D. Carpenter
David J. Visneski
Albert W. Horsmon, Jr.
Raymond G. Cardwell
Glenn A. Wiltshire
Mark S. Kern
Michael R. Snider
Timothy S. Winslow
Jeffrey J. Tarr
Robert F. Murray, Jr.
Thomas E. Haase
Gregory J. MacGarva
James T. Lachowicz
Michael R. Shevock
Jeffrey A. McDannold
Glenn C. Burkert
Asher B. Grimes
David R. Bean
Matthew S. Compton
Jay C. Ellis
Arthur H. Smith
James M. Hasselbalch
William L. Bryant
Dennis C. Gibbons
Arn M. Heggers
James F. Freeman III
James W. Stark
Ralph E. Leighton
Ronald H. Jones, Jr.
Thomas J. Vanak
Robert T. Wright
Alan R. Freedman
Erich R. Ness
James D. Williamson
Thomas R. Vorholt
Marion J. Lewandowski
Douglas P. Heatherly
Kim R. Wilhelm
Michael J. Quigley
John K. Grady
Robert J. Steinhoff
Wayne R. Trosler
Ricardo Ledesma
James P. Harmon
Thomas C. Christian
Edwin T. Lynch
Edward A. Lane
Eric J. Rosenbluth
Steven F. Kane
Samuel T. Roudebush
Norman C. Smith
John Ashley III
Richard A. Volkmann
Edwin C. Guffy
Christopher J. Gregus
William D. Morris
Jerrold A. Browne II
Jeffry G. Way
Paul T. Neiswander
Stanford W. Deno
Gilbert J Kanazawa
Terry T. White
Patrick E. Clancy
Jeffrey S. Buehler
Paul R. Gauthier, Jr.
Paul L. Doherty
James J. Orgill
David W. Beard
Richard A. Klein
John A. Zedella
Carl M. Nagata
Calvin E. Weyers
Everette W. Hollingsworth
Carl A. Crampton
Dewey L. Hemba
Scott J. Glover
Alvert W. Hartberger II
Shawn M. Smith
Paul D. Kirkpatrick
James B. Pennewell, Jr.
Kevin L. Marshall
James C. Hillerns
Stanley A. Zdun, Jr.
John E. Wachter
Raymond H. Smoyer, Jr.
Paul A. Millican
William F. Diaduk
Timothy L. McCarty
Robert F. Lallier, Jr.

Grover N. Lipe, Jr.
Evan B. Clark
Paul A. Langlois
Larrey A. Owens
Robert E. Garrett
David R. Lawence
Robert D. Snowball
Alan D. Sine
Michael S. Sommers
Joseph F. Pepe
William J. Schmitz
Bruce S. Painter
Peter J. Hill
James O. Jaczinski
John F. Schmied
Dennis J. Sobeck
Theodore G. Roberge
Richard O. Cobb
Burton E. Carr
Peter A. Verrault
Charles D. Kakuska
Robert O. Smith
Curtis L. Gunn
Jerry D. Jackson

IN THE NAVY

The following-named captains of the line of the Navy for temporary promotion to the grade of rear admiral, subject to qualification therefor as provided by law:

John G. Wissler
William E. McGarrah, Jr.
Milton J. Schultz, Jr.
Robert B. Fuller
Charles E. Gurney III
Frank C. Collins, Jr.
Frederick W. Kelley
Dempster M. Jackson
John B. Mooney, Jr.
Lawrence Burkehardt III
Walter M. Locke
Joseph F. Frick
Richard A. Martini
Harry C. Schrader, Jr.
Joseph J. Barth, Jr.
Richard T. Gaskill
Glenwood Clark, Jr.
Richard A. Miller
Louis R. Sarosdy
Joseph B. Wilkinson, Jr.
Richard K. Fontaine
James E. Service
Peter C. Conrad
James A. Lyons, Jr.
James B. Busey
William C. Neel
Donald S. Jones
Louis A. Williams
Powell F. Carter, Jr.
Wayne D. Bodensteiner
Stanley G. Catola

IN THE AIR FORCE

The following-named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

DENTAL CORPS

Major to lieutenant colonel

Barkmeier, Wayne W., [redacted]
Bergman, Dennis W., [redacted]
Blaser, Paul K., [redacted]
Brennan, Mark E., [redacted]
Buchanan, William E., Jr., [redacted]
Eyman, Russell G., [redacted]
Goupil, Michael T., [redacted]
Halimon, William W., [redacted]
Hebda, Thomas W., [redacted]
Hickory, John E., Jr., [redacted]
Hill, Robert L., [redacted]
Jackson, Anson B., [redacted]
Killian, William F., [redacted]
Kreig, Louis T., Jr., [redacted]
Landers, Sam R., [redacted]
Lauder, Keith F., [redacted]
Lubow, Richard M., [redacted]
Maki, Karl A., [redacted]
Munford, Arthur G., [redacted]
Nielsen, Adrian M., [redacted]
Samuelson, John A., [redacted]
Steegstra, David A., [redacted]
Stevens, Fredric D., [redacted]
Stoffers, Kenneth W., [redacted]
Thompson, Larry D., [redacted]
Voss, James E., [redacted]
Westbrook, Steve D., [redacted]
Williams, Howard J., [redacted]
Zeitz, Stanley E., Jr., [redacted]

MEDICAL CORPS

Abraham, David A., [redacted]
Arnold, Hendrick J., III, [redacted]
Baldwin, John L., [redacted]
Barnes, Robert P., [redacted]
Biehl, Albert G., III, [redacted]
Bostrom, Stuart G., [redacted]
Brady, Charles E., III, [redacted]
Carbonneau, John R., [redacted]
Carson, James H., Jr., [redacted]
Celdran, Harriet H., [redacted]
Chasen, Marvin H., [redacted]
Christian, Charles B., Jr., [redacted]
Coburn, Bry H., [redacted]
Cofoid, Paul B., [redacted]
Cogburn, Bobby E., [redacted]
Collins, Cleve B., [redacted]
Conklin, James J., [redacted]
Corwin, James A., [redacted]
Crawford, Raymond S., III, [redacted]
Dall, Eric M., [redacted]
Davey, Joseph J., [redacted]
Davis, David L., [redacted]
Delermecolon, Melida E., [redacted]
Delp, Glenn R., [redacted]
Douglas, Glen A., [redacted]
Elms, John B., Jr., [redacted]
England, Douglas M., [redacted]
Evans, William M., [redacted]
Fan, Warner J., [redacted]
Fedosky, Allan L., [redacted]
Figueroadesigas, Ibis D., [redacted]
Fishburn, Frederick B., [redacted]
Fisk, David E., [redacted]
Floyd, John L., Jr., [redacted]
Frenger, Fred P., Jr., [redacted]
Fuller, Philip S. B., [redacted]
Gilmore, Robert W., [redacted]
Gilstrap, Larry C., III, [redacted]
Hall, Ronald R., [redacted]
Harasimowicz, Joseph A., [redacted]
Harris, Melvin E., [redacted]
Hastings, John R., [redacted]
Heffron, Charles H., Jr., [redacted]
Henderson, Richard A., III, [redacted]
Hidayat, Ahmed A., [redacted]
Hoenes, Douglas R., [redacted]
Holeyfield, Roy W., [redacted]
Howard, Wilbur F., Jr., [redacted]
Johnson, Sherman B., [redacted]
Jordan, Henry S., Jr., [redacted]
Josselson, Arnold R., [redacted]
Kee, Jimmy W., [redacted]
Keller, Harrison B., [redacted]
Learned, David K., [redacted]
Lee, Dennis R., [redacted]
Legaspi, Lester M., [redacted]
Lewis, Ramon L., [redacted]
Mabry, Earl W., II, [redacted]
Marquart, Chris D., [redacted]
Marsh, Royden W., [redacted]
Mataban, Antonio A. B., [redacted]
McClean, Charles K., [redacted]
McDonald, Robert E., [redacted]
Medina, Oswaldo F., [redacted]
Meier, Walter L., [redacted]
Mendlick, Richard M., [redacted]
Miller, Charles J., [redacted]
Mills, William C., III, [redacted]
Mimay, Antonio S., [redacted]
Mittuch, Joseph E., [redacted]
Moncrief, Hugh, [redacted]
Montgomery, Michael A., [redacted]
Muller, Stephen P., [redacted]
Murray, Harry M., Jr., [redacted]
Naguwa, Stanley M., [redacted]
Osterholzer, Heinz O., [redacted]
Paullus, Wayne S., Jr., [redacted]
Paxston, Donald K., [redacted]
Perschau, Richard A., [redacted]
Phillips, Daniel G., [redacted]
Player, David M., [redacted]
Poitrast, Bruce J., [redacted]
Racek, Edward L., [redacted]
Rasmussen, Reed C., [redacted]
Rettig, Kenneth R., [redacted]
Richardson, Howard M., [redacted]
Rigopoulou, Helen, [redacted]
Riley, Robert J., [redacted]
Risser, Christian F., [redacted]
Roadman, Charles H., II, [redacted]
Rogers, James H., Jr., [redacted]
Roper, Daniel L., [redacted]
Rose, Donald D., [redacted]
Ruehle, Charles J., [redacted]
Ruggles, Charles W., [redacted]
Ryan, Michael E., [redacted]
Schwartz, Gary P., [redacted]
Schwender, George E., [redacted]
Seith, William F., Jr., [redacted]
Sexson, William R., [redacted]
Shane, Jeffrey A., [redacted]
Shelley, James M., Jr., 2[redacted]
Shirley, Douglas P., [redacted]
Sigler, Robert W., [redacted]
Sipperley, Jack O., [redacted]
Smith, James M., [redacted]
Spielvogel, Richard L., [redacted]
Stelling, Henry G., Jr., [redacted]
Stevens, Edwin A., [redacted]
Stith, John A., [redacted]
Stonefeld, Donald F., [redacted]
Stutts, Baldwin S., III, [redacted]
Szpak, Michael W., [redacted]
Tolan, Gil D., [redacted]
Toon, Lee, [redacted]
Tremblay, Normand F., [redacted]
Trent, William G., [redacted]
Tuggle, Allen Q., [redacted]
Turlington, James T., [redacted]
Waring, William M., [redacted]
Warren, Fredric H., [redacted]
Whelan, Gerald P., [redacted]
Wilcox, Harry E., [redacted]
Wilson, Robert O., [redacted]
Wolfe, William H., [redacted]
Yu, Percy P. C., [redacted]
Yunes, Earl L., [redacted]

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates or rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be captain

Fisk, David E., [redacted]
Hall, Ronald R., [redacted]
Mabry, Earl W., II., [redacted]

IN THE AIR FORCE

The following-named officers for promotion in the United States Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Abate, Joseph D., [redacted]
Abbott, Mary N., [redacted]
Ache, Leroy P., [redacted]
Ackert, Bruce, [redacted]
Adair, Charles R., [redacted]
Adams, Charles C., [redacted]
Adams, Duane A., [redacted]
Adams, Harold B., [redacted]
Adams, John P., [redacted]
Adams, Jordan E., III, [redacted]
Adams Wendell M., [redacted]
Adinolfi, Jerry D., Jr., [redacted]
Aftosmis, Charles, [redacted]
Ague, Walter N., [redacted]
Ahl, Arthur W., [redacted]
Ahl, Gilbert W., [redacted]
Akridge, James A., [redacted]
Alba, Michael S., [redacted]
Albertson, Fred W., Jr., [redacted]
Aldinger, Richard T., [redacted]
Alexander, Charles R., [redacted]
Alexander, Lonny R., [redacted]
Alexander, Lynn B., [redacted]
Alexander, Norman C., [redacted]
Alexander, Theodore G., [redacted]
Alfieri, Guiseppe M. C., [redacted]
Allan, Donald F., [redacted]
Allen, Donald G., [redacted]
Allen, Douglas J., [redacted]
Allen, Theodore M., [redacted]
Allen, Wayne L., [redacted]
Altick, Stephen F., [redacted]
Altman, Herbert, [redacted]
Alvey, Dennis H., [redacted]
Ambre, William A., [redacted]
Ames, James R., [redacted]
Amfahr, Harold M., [redacted]
Amor, Jean P., [redacted]
Amoscato, Guy T., [redacted]
Anderson, Alan C., [redacted]
Anderson, Carlton E., [redacted]
Anderson, Charles E., [redacted]
Anderson, Gerald W., [redacted]
Anderson, James B., [redacted]
Anderson, John M., [redacted]
Anderson, John W., [redacted]
Anderson, Norman E., Jr., [redacted]
Anderson, Ralph L., Jr., [redacted]

Anderson, Richard C., xxx-xx-xxxx
Andrews, Melvin R., Jr., xxx-xx-xxxx
Andrews, Merle F., xxx-xx-xxxx
Andry, Ernest E., Jr., xxx-xx-xxxx
Anduss, Larry P., xxx-xx-xxxx
Anibal, Edward F., Jr., xxx-xx-xxxx
Anspaugh, Charles C., xxx-xx-xxxx
Anthony, George T., xxx-xx-xxxx
Anway, Mark D., xxx-xx-xxxx
Armentrout, Robert E., xxx-xx-xxxx
Armstrong, Robert M., xxx-xx-xxxx
Arnett, Larry W., xxx-xx-xxxx
Arnold, Francis W., xxx-xx-xxxx
Arnold, Terry A., xxx-xx-xxxx
Arthur, Paul M., xxx-xx-xxxx
Ashby, Lawrence E., xxx-xx-xxxx
Ashworth, Charles W., xxx-xx-xxxx
Atchison, Richard M., xxx-xx-xxxx
Augustyniak, Daniel A., xxx-xx-xxxx
Austin, James S., Jr., xxx-xx-xxxx
Austin, Noel F. xxx-xx-xxxx
Austin, William F., III, xxx-xx-xxxx
Auth, Edward G., Jr., xxx-xx-xxxx
Auvil, Robert E., xxx-xx-xxxx
Ayres, Roger A., xxx-xx-xxxx
Baber, Jerry W., xxx-xx-xxxx
Babio, Charles A., xxx-xx-xxxx
Baddley, Henry M., Jr., xxx-xx-xxxx
Bainton, Ronald W., xxx-xx-xxxx
Baker, Emmett J., Jr., xxx-xx-xxxx
Baker, James C., xxx-xx-xxxx
Baker, Robert L., xxx-xx-xxxx
Baker, Ronald F., xxx-xx-xxxx
Bakos, Andrew E., xxx-xx-xxxx
Ballard, Bobby D., xxx-xx-...
Banks, Frederick M., xxx-xx-xxxx
Bannwart, James L., xxx-xx-xxxx
Barber, Thomas J., xxx-xx-xxxx
Barlock, Lawrence A., xxx-xx-xxxx
Barlow, Charles F., xxx-xx-xxxx
Barnocky, John A., xxx-xx-xxxx
Barrett, Billy A., xxx-xx-xxxx
Barrett, Ford H., xxx-xx-xxxx
Barroqueiro, Silverio A., xxx-xx-xxxx
Barrows, Charles V., xxx-xx-xxxx
Barto, Emerson S., xxx-xx-xxxx
Barton, Roland S., Jr., xxx-xx-xxxx
Baschnagel, William R., xxx-xx-xxxx
Basque, Patricia E., xxx-xx-xxxx
Bates, Roy O., Jr., xxx-xx-xxxx
Baucom, Donald R., xxx-xx-xxxx
Bauer, Richard H., xxx-xx-xxxx
Baughman, John S., xxx-xx-xxxx
Bay, Philip E., Jr., xxx-xx-xxxx
Bayley, Harry P., xxx-xx-xxxx
Beamer, Samuel C., xxx-xx-xxxx
Beatty, Frederick M., xxx-xx-xxxx
Bechler, Wayne R., xxx-xx-xxxx
Becker, Lawrence D., xxx-xx-xxxx
Beebe, Dennis E., xxx-xx-xxxx
Behrens, Dennis D., xxx-xx-xxxx
Bell, James R., xxx-xx-xxxx
Bell, Jerald R., xxx-xx-xxxx
Bell, Lawrence L., xxx-xx-xxxx
Bell, Robert C., xxx-xx-xxxx
Belmont, Paul A., xxx-xx-xxxx
Belzer, George W., III, xxx-xx-xxxx
Bendere, George H., xxx-xx-xxxx
Benner, William H., Jr., xxx-xx-xxxx
Bennett, George R., xxx-xx-xxxx
Benson, Larry L., xxx-xx-xxxx
Benson, Linn D., xxx-xx-xxxx
Berdan, Richard L., xxx-xx-xxxx
Bergandi, Louis J., Jr., xxx-xx-xxxx
Bergen, John K., xxx-xx-xxxx
Berls, Robert E., Jr., xxx-xx-xxxx
Bernard, John P., Jr., xxx-xx-xxxx
Berringer, Lynn T., xxx-xx-xxxx
Berry, Gene A., xxx-xx-xxxx
Berry, James S., xxx-xx-xxxx
Berube, Paul J., xxx-xx-xxxx
Beson, Gary N., xxx-xx-xxxx
Bestgen, Robert F., xxx-xx-xxxx
Bettner, Donald J., xxx-xx-xxxx
Betts, Carlton L., xxx-xx-xxxx
Bevans, Peter C., xxx-xx-xxxx
Bickenbach, Jerry B., xxx-xx-xxxx
Bickford, John D., xxx-xx-xxxx
Bierly, Richard M., xxx-xx-xxxx
Bifolchi, George J., xxx-xx-xxxx
Bigoni, Robert A., xxx-xx-xxxx
Bikker, Arthur W., xxx-xx-xxxx
Billington, Gordon, F., xxx-xx-xxxx
Billotte, Robert A., xxx-xx-xxxx
Bilsbury, Stephen J., xxx-xx-xxxx
Biltz, James E., xxx-xx-xxxx
Bingham, Billy J., xxx-xx-xxxx
Bingham, Charles D., xxx-xx-xxxx
Birmingham, Milton D., xxx-xx-xxxx
Bittorf, Norman G., xxx-xx-xxxx
Bivens, Robert A., xxx-xx-xxxx
Bjers, Thomas D., xxx-xx-xxxx
Black, Franklin J., xxx-xx-xxxx
Black, Robert E., xxx-xx-xxxx
Blaha, John E., xxx-xx-xxxx
Blair, Robert L., xxx-xx-xxxx
Blakley, Norman L., xxx-xx-xxxx
Blass, Lawrence, xxx-xx-xxxx
Blaydes, Bernard B., xxx-xx-xxxx
Blazine, Fred V., xxx-xx-xxxx
Bleymaier, Joseph S., Jr., xxx-xx-xxxx
Blinn, Robert D., Jr., xxx-xx-xxxx
Blocker, Gettis A., xxx-xx-xxxx
Bluett, James J., xxx-xx-xxxx
Blythe, Herman E., xxx-xx-xxxx
Boaman, Richard A., Jr., xxx-xx-xxxx
Bobko, Peter B., xxx-xx-...
Bockelman, David C., xxx-xx-xxxx
Bodenheimer, Clyde E., xxx-xx-xxxx
Boergert, John R., xxx-xx-xxxx
Boersig, George R., xxx-xx-xxxx
Bogan, Robert L., xxx-xx-xxxx
Bogart, James H., xxx-xx-xxxx
Bogemann, Lawrence L., xxx-xx-xxxx
Bohler, Donald M., xxx-xx-xxxx
Boli, Fred C., xxx-xx-xxxx
Bolinger, Bobby G., xxx-xx-xxxx
Bolis, Larry R., xxx-xx-xxxx
Bomber, Thomas M., xxx-xx-xxxx
Bomhoff, Herbert M., xxx-xx-xxxx
Bond, David A., xxx-xx-xxxx
Bonham, Lawrence D., xxx-xx-xxxx
Booher, Donald R., xxx-xx-xxxx
Bosse, Frederick C., xxx-xx-xxxx
Bossi, Karl R., xxx-xx-xxxx
Bostur, Phillip L., xxx-xx-xxxx
Bourgeois, Paul J., xxx-xx-xxxx
Bourke, Theodore R., xxx-xx-xxxx
Box, Gene E., xxx-xx-xxxx
Boyanton, Earl B., Jr., xxx-xx-xxxx
Boyer, George K., xxx-xx-xxxx
Boyle, Francis J., xxx-xx-xxxx
Boynton, Gerald L., xxx-xx-xxxx
Bozarth, Thomas L., xxx-xx-xxxx
Brace, Donald C., xxx-xx-xxxx
Bracher, Phillip E., xxx-xx-xxxx
Bradley, Charles W., xxx-xx-xxxx
Bradley, Thomas P., xxx-xx-xxxx
Brady, James R., xxx-xx-xxxx
Bragaw, Robert A., xxx-xx-xxxx
Brahney, James H., xxx-xx-xxxx
Brake, Francis B., xxx-xx-xxxx
Brame, Charles E., xxx-xx-xxxx
Branham, Orville M., xxx-xx-xxxx
Braxton, Richard B., Jr., xxx-xx-xxxx
Brazelton, Michae L., xxx-xx-xxxx
Breese, Richard P., xxx-xx-xxxx
Brennan, Leo J., xxx-xx-xxxx
Breslin, Richard D., xxx-xx-xxxx
Brewster, John H., Jr., xxx-xx-xxxx
Brick, John E., xxx-xx-xxxx
Bridges, James E., xxx-xx-xxxx
Britt, Ronald P., xxx-xx-xxxx
Britton, Delford G., xxx-xx-xxxx
Brockman, Charles D., xxx-xx-xxxx
Bronzo, Anthony F., Jr., xxx-xx-xxxx
Brooks, Jack D., xxx-xx-xxxx
Brooks, John F., xxx-xx-xxxx
Brooks, Thomas A., xxx-xx-xxxx
Brothers, John N., xxx-xx-xxxx
Broussard, Whitney J., xxx-xx-xxxx
Brown, Christopher H., xxx-xx-xxxx
Brown, Dennis E., xxx-xx-xxxx
Brown, Donald E., xxx-xx-xxxx
Brown, Jack W., xxx-xx-xxxx
Brown, James W., xxx-xx-xxxx
Brown, Jerry E., xxx-xx-xxxx
Brown, Ronald R., xxx-xx-xx...
Brown, Richard D., xxx-xx-xxxx
Brownell, Thomas F., xxx-xx-xxxx
Browning, Ralph T., xxx-xx-xxxx
Browning, Richard A., xxx-xx-xxxx
Brozovsky, David A., xxx-xx-xxxx
Brubaker, Stanley E., xxx-xx-xxxx
Bruce, Donald W., xxx-xx-xxxx
Bruce, John R., xxx-xx-xxxx
Bruetsch, Edward J., xxx-xx-xxxx
Brunk, John E., xxx-xx-xxxx
Bryan, James B., III, xxx-xx-xxxx
Bryant, William F., Jr., xxx-xx-xxxx
Buchanan, George W., xxx-xx-xxxx
Buchta, Robert M., xxx-xx-xxxx
Buckley, Martin J., xxx-xx-xxxx
Budesheim, Stephen C., xxx-xx-xxxx
Buehrig, Richard H., xxx-xx-xxxx
Buell, Alan D., xxx-xx-xxxx
Bullard, Barry W., xxx-xx-xxxx
Bumen, Robert L., xxx-xx-xxxx
Burbage, Paul H., III, xxx-xx-xxxx
Burch, Thomas E., xxx-xx-xxxx
Burchfield, Hartsill R., xxx-xx-xxxx
Burd, Bobby R., xxx-xx-xxxx
Burhans, William A., xxx-xx-xxxx
Burke, Billy E., xxx-xx-xxxx
Burnette, Joseph R., xxx-xx-xxxx
Burns, Bruce A., xxx-xx-xxxx
Burns, Hugh P., Jr., xxx-xx-xxxx
Burns, James E. S., xxx-xx-xxxx
Burns, Kent B., xxx-xx-xxxx
Burns, Robert G., xxx-xx-xxxx
Burr, Hiram H., Jr., xxx-xx-xxxx
Burres, Keith E., xxx-xx-xxxx
Burton, Walter L., xxx-xx-xxxx
Busch, Francis N., xxx-xx-xxxx
Bush, Dennis K., xxx-xx-xxxx
Butler, David L., xxx-xx-xxxx
Butler, Jay M., xxx-xx-xxxx
Butler, Ronald L., xxx-xx-xxxx
Butler, Walter O., Jr., xxx-xx-xxxx
Butler, William K., xxx-xx-xxxx
Buzard, Nancy H., xxx-xx-xxxx
Buzzelli, James A., xxx-xx-xxxx
Byrd, Harold C., xxx-xx-xxxx
Byrd, Ronald H., xxx-xx-xxxx
Bythewood, Daniel H., xxx-xx-xxxx
Cady, John R., xxx-xx-xxxx
Caldwell, Glenn T., xxx-xx-xxxx
Caldwell, Lapsley R., Jr., xxx-xx-xxxx
Calhoun, Joseph D., xxx-xx-xxxx
Calvez, Clifton A., xxx-xx-xxxx
Camarano, Warren J., xxx-xx-xxxx
Campana, Augustine F., xxx-xx-xxxx
Campbell, Jimmie R., xxx-xx-xxxx
Campbell, Louis E., xxx-xx-xxxx
Canaga, Joseph R., xxx-xx-xxxx
Capellman, James J., xxx-xx-xxxx
Cappone, Mark W., Jr., xxx-xx-xxxx
Caravaglio, Francis J., xxx-xx-xxxx
Carlile, Billy R., xxx-xx-xxxx
Carlson, Myron R., xxx-xx-xxxx
Carlson, Raymond A., xxx-xx-xxxx
Carpenter, Daryl M., xxx-xx-xxxx
Carpenter, George R., xxx-xx-xxxx
Carr, Edward J., xxx-xx-...
Carrigan, Larry E., xxx-xx-xxxx
Carroll, Robert C., xxx-xx-xxxx
Carson, David A., xxx-xx-xxxx
Carstensen, John R., xxx-xx-xxxx
Carter, Clayton T., xxx-xx-xxxx
Carter, William P., xxx-xx-xxxx
Cartwright, Francis E., xxx-xx-xxxx
Casey, David R., xxx-xx-xxxx
Casey, Patrick J., xxx-xx-xxxx
Cash, Jimmy L., xxx-xx-xxxx
Casleton, Ronald G., xxx-xx-xxxx
Casperson, David I., xxx-xx-xxxx
Castillo, Robert L., xxx-xx-xxxx
Catherall, Michael H., xxx-xx-xxxx
Catlett, John A., xxx-xx-xxxx
Caton, Philip E., xxx-xx-xxxx
Caudill, Charles R., xxx-xx-xxxx
Cavanaugh, Michael E., xxx-xx-xxxx
Cavell, James E., xxx-xx-xxxx
Cavender, Dwight B., xxx-xx-xxxx
Cavender, Henry J., xxx-xx-xxxx
Challis, Ford F., xxx-xx-xxxx
Chambers, Eldon A., xxx-xx-xxxx
Chandler, Robert W., xxx-xx-xxxx
Chaney, Eugene E., xxx-xx-xxxx

Chastain, Calvin H., xxx-xx-xxxx.
Chasteen, Calvin L., xxx-xx-xxxx.
Chavanne, William G., xxx-xx-xxxx.
Cheatham, Walter H., Jr., xxx-xx-xxxx.
Cherone, Martin E., xxx-xx-xxxx.
Chittenden, Robert D., xxx-xx-xxxx.
Christensen, John L., xxx-xx-xxxx.
Christoffersen, Neil J., xxx-xx-xxxx.
Chronister, Vernon L., xxx-xx-xxxx.
Church, James B., Jr., xxx-xx-xxxx.
Churchill, Howard A., xxx-xx-xxxx.
Claassen, Elnathan L., xxx-xx-xxxx.
Clare, Eugene J., xxx-xx-xxxx.
Clark, Charles A. B., xxx-xx-xxxx.
Clark, David E., xxx-xx-xxxx.
Clark, John G., xxx-xx-xxxx.
Clark, Walter L., xxx-xx-xxxx.
Clary, John J., III, xxx-xx-xxxx.
Clawson, Lynn, xxx-xx-xxxx.
Clement, Bryan B., xxx-xx-xxxx.
Clements, Philip W., xxx-xx-xxxx.
Cline, Vinton J., xxx-xx-xxxx.
Clopton, Wilbur R., xxx-xx-xxxx.
Coble, Don C., xxx-xx-xxxx.
Cockrum, Donald J., xxx-xx-xxxx.
Coe, Peter S., xxx-xx-xxxx.
Coen, James K., Jr., xxx-xx-xxxx.
Coffey, Francis J., xxx-xx-xxxx.
Cole, George P., Jr., xxx-xx-xxxx.
Collier, RussellL., xxx-xx-xxxx.
Colligan, John J., xxx-xx-xxxx.
Collins, Thomas W., xxx-xx-xxxx.
Collins, William E., xxx-xx-xxxx.
Comfort, Gary C., xxx-xx-xxxx.
Coniglio, Joseph G., xxx-xx-xxxx.
Conklin, Norris L., xxx-xx-xxxx.
Conley, John L., xxx-xx-xxxx.
Connelly, Peter J., xxx-xx-xxxx.
Conner, William B., xxx-xx-xxxx.
Connerat, Edwin B., Jr., xxx-xx-xxxx.
Connolly, James M., xxx-xx-xxxx.
Connolly, Robert J., xxx-xx-xxxx.
Cook, Daryle D., xxx-xx-xxxx.
Cooper, Charles R., xxx-xx-xxxx.
Cooper, Horace J., xxx-xx-xxxx.
Cooper, William T., xxx-xx-xxxx.
Cope, William L., xxx-xx-xxxx.
Copeland, John M., xxx-xx-xxxx.
Corballis, Fred F., Jr., xxx-xx-xxxx.
Cordon, Shelby N., xxx-xx-xxxx.
Coronado, Gil, Jr., xxx-xx-xxxx.
Corr, James F., xxx-xx-....
Correll, John T., xxx-xx-xxxx.
Corrigan, James W., xxx-xx-xxxx.
Corrigan, Terence P., xxx-xx-xxxx.
Corsi, James A., xxx-xx-xxxx.
Costa, Nicholas P., Jr., xxx-xx-xxxx.
Costanzo, Lawrence G., xxx-xx-xxxx.
Cougill, Roscoe M., xxx-xx-xxxx.
Courrier, Ernest A., Jr., xxx-xx-xxxx.
Cox, Michael D., xxx-xx-xxxx.
Craig, James R., Jr., xxx-xx-xxxx.
Crake, Roger L., xxx-xx-xxxx.
Crawford, Jessie K., xxx-xx-xxxx.
Crawford, Roger A., xxx-xx-xxxx.
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Dyer, Richard P., xxx-xx-xxxx.
Edmonds, Robert D., xxx-xx-xxxx.
Frient, Gerald J., xxx-xx-xxxx.
Gibson, Reginald P., xxx-xx-xxxx.
Green, Kenneth E., xxx-xx-xxxx.
Handley, James G., xxx-xx-xxxx.
Iott, Robert O., xxx-xx-xxxx.
Lakey, Gene A., xxx-xx-xxxx.
Lawrence, Charles W., Jr., xxx-xx-xxxx.
McCann, Ray E., xxx-xx-xxxx.
McClain, Earl D., xxx-xx-xxxx.
Mills, Robert L., xxx-xx-xxxx.
Nadell, Avrom P., xxx-xx-xxxx.
Reilly, Neil B., xxx-xx-xxxx.
Rowe, Bobby G., xxx-xx-xxxx.
Smith, George D., xxx-xx-xxxx.
Stone, Carl P., xxx-xx-xxxx.
Stover, William L., xxx-xx-xxxx.
Tenbarge, Ronald W., xxx-xx-xxxx.

VETERINARY CORPS

Adams, George E., xxx-xx-xxxx.
Hall, Allen, III, xxx-xx-xx....
Jessop, Morris E., Jr., xxx-xx-xxxx.
Siemons, Richard D., xxx-xx-xxxx.
Thalken, Charles E., xxx-xx-xxxx.
Wiesenfeld, David S., xxx-xx-xxxx.

BIOMEDICAL SCIENCE CORPS

Behling, Edward A., xxx-xx-xxxx.
Benson, Edward H., xxx-xx-xxxx.
Blochberger, Charles W., Jr., xxx-xx-xxxx.
Eiles, Richard R., xxx-xx-xxxx.
Ellsworth, Robert W., xxx-xx-xxxx.
Esters, Lavada, xxx-xx-xxxx.
Falconer, Dennis D., xxx-xx-xxxx.
Graham, Roger B., xxx-xx-xxxx.
Harrah, Carlold B., xxx-xx-xxxx.
Lefebvre, Edward E., xxx-xx-xxxx.
Parkhurst, Michael J., xxx-xx-xxxx.
Pfoff, Billy J., xxx-xx-xxxx.
Provines, Wayne F., xxx-xx-xxxx.
Schulz, Victor B., xxx-xx-xxxx.
Strate, Robert D., xxx-xx-xxxx.

The following officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

To be major

Aftosmis, Charles, xxx-xx-xxxx.
Castillo, Robert L., xxx-xx-xxxx.
Davenport, Jesse P., III, xxx-xx-xxxx.
Falbo, Francis E., xxx-xx-xxxx.
Foringer, Harold F., xxx-xx-xxxx.
Geraghty, Kevin, xxx-xx-xxxx.
Goss, William K., xxx-xx-xxxx.
Jones, Reginald, xxx-xx-xxxx.
McLaughlin, Frank M., Jr., xxx-xx-xx....
Richardson, David M., xxx-xx-....
Schumaker, Arlyn D., xxx-xx-xxxx.

To be captain

Bond, David A., xxx-xx-xxxx.
Leach, Ronald S., xxx-xx-xx....

To be first lieutenant

Burns, Joseph E., xxx-xx-....
Jobson, Robert P., xxx-xx-....

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

CHAPLAIN CORPS

To be major

McGraw, William M., Jr., xxx-xx-....

MEDICAL SERVICE CORPS

Edmonds, Robert D., xxx-xx-x....

NURSE CORPS

To be captain

Cummings, Barbara A., xxx-xx-....

IN THE NAVY

The following-named Navy enlisted candidates to be appointed temporary Chief Warrant Officers, W–2, in the U.S. Navy, Subject to the qualifications therefore as provided by law:

Alfredo Zamora Acosta
Donald James Adams
Richard Lee Adams
Glenn Howard Allen
Brian Walter Ambrose
Gerold Boyd Anderson
Jon August Anderson
Richard Joseph Andrzejewski
Robert Bruce Archibald, Jr.
Terrence Donald Armbruster
Harold Thomas Austin
Kenneth Robert Baisey
Benildo Saria Baja
Jose Arturo Balderrama
Waite William Balog
Thomas Salvatore Barba
John Albert Barnhart
William Joseph Bauman
Dennis Dean Beesley
James Jesse Bell
Kenneth William Bendy
Francis Marion Bennett, Jr.
Frederick Joseph Bergeron
Thomas Jefferson Berry, Jr.
James Gordon Bickel
Robert Eugene Blansett
Jacinto Ubas Bolado
Gary George Boley
Frank John Boyd
Donald Franklin Bradley
Johnny Larry Brandon
William James Brazell
Gary Lamar Brown
Horace James Brown
John Leonard Brustol
Thomas Joseph Bryan
Kenneth Hugh Buttler, Jr.
Danilo Ilas Cajigas
Lind Antonio Canino
Tony Martin Cheesebrew
Virginia Bernice Ciborowski
Mariano Fulgueras Ciron, Jr.
Efren Dison Cisneros
Joseph Blue Clark
Harry Vernon Clifton
James Robert Clifton
Robert Woodrow Clouse, Jr.
John Herbert Coers
Robert John Coffin
Charles Arthur Commons
Howard Everet Conder
Chandler Cooks, Jr.
Robert Estol Cooper
Lewis Laverne Cornett
Byron Franklin Craig
Richard Joseph Crawford
Mitchell Hartley Danforth
Antonio Manaloto David
James Ray Davis
Orville Clinton Davis
James Lee Day
Dale Arrington Derricote
Ronald Paul Dill
Jimmie Leon Dodson
Daniel David Drahos
Robert Herman Dulin
Fredrick Charles Dunbar
Samuel Newton Dunlap
Wayne Lawrence Dupree
Billy Blake Earl
Ronald Dean Eberly
Thomas Patrick Eck, Jr.
Elton Edwin Ellis
Robert Allen Ellis
Ronald Michael Estrada
Charles Ronald Ethridge
William Stanley Ewashko
James Joseph Fenwick, Jr.
Dalton Lamar Fields
Elton Craig Fortner
Gerald Thomas Fountain
James Everett Francis
Lloyd Coleman Fraser
John Robert Frisko
Jesse James Gac
Gerald Monroe Gandy
William Jefferson Gardenhire, Jr.
John Edward Gates
Robert Francis Geihl
William Raymond Gideon
Robert Timothy Giffin
Dwain Eugene Glascock
Rodolfo Valentos Gloria
William David Goldfarb
William Matthew Gottschalk
Joseph George Graleski
William Alton Grizzard
Darrel Lee Gurley
Robert Andrew Hahn
John Dewey Haldeman
Gunnard Harvey Halvorson
Hubert Franklin Harrell
Wayne Darwin Hartman
Robert Olen Hastings
Thomas Cawley Hawkins
Robert Merle Henderson
Peter Francis Hennessy
Roy Dean Henson
Sidney William Hoder
Michael Edmond Holland
Carl Forrest Horne
Jackie Ray Horne
Larry Dean Hosterman
Charles Edward Hughes
John David Hundley
John William Hyde
Bobby Earl Hyman
Michael Rex Ingram
Danny Taylor Jenkins
"J" "L" Jenkins, Jr.
Elvin Jiles, Jr.
Del Gene Jondahl
Gilbert Harrison Jones, Jr.
Robert Jay Kemple
Robert Henry Kermon, Jr.
James Stephen King
Thomas Moses King, Jr.
Klifton Kay Kirk
John Henry Kolenda
Paul Donald Lacoe
Bruce Michael Laurendeau
Robert Howard Ledford
Clement Joseph Lestage
Donald Earl Lins
James Joseph Lloyd, Jr.
Jess Elmer Ludrick, Jr.
Charles Pat Lundy, Jr.
Robert Edward Lutz
Jackie Louree Lyon
John Dennis Lytle
Harold Bernard McAnney
Larry James McKee
Larry Steven McMahon
Jerry Lee Marquette
David Paul Martin
Rustic Allen Maultsby, Jr.
Jack Edward Maxey
William Earl Mick
Charles Earl Miller
Glenn Edward Miller
Jack Ritter Miller
Randy Scott Miller
Robert Bruce Miller, Jr.
William Lamar Miller
Ronald Joseph Moore
Suzanne Morgan
Peter Mularchuk
Michael Eugene Murphy
John Lewis Ness
James Alvin Nicholson
George Henry Niebler, Jr.
Stacy Lee Norris
John Harvey Olcott
George Bernard Overbeek
Norman Michael Overfield
William Stanley Pace
Bruce Elvan Palmer
John Pankiewicz
James Watson Parish
Marvin Frank Pash
Clifford Stanley Pashby
James Earl Pate
Louis Felix Pechon, Jr.
Edward Albert Rubbert Pfau
Blaine Haro Phillips
Richard Pierantozzi
Harold Lee Piper
"B" Jeffrey Pohly
Lawrence Kenneth Porter
Robert Eugene Potter
Michael Page Prendergast
Donald Weldon Putman
Darlito Gallardo Quimen
George Paul Eugene Randle
Billy Mac Ray
Harold Laverne Rayburn
Ronald Louis Reigottie, Jr.
Reuben Reinick, Jr.
William Arthur Retterer
Medardo Pantig Reyes
Donald Lee Richards
Donald Deane Richardson II
Bernard Charles Rowe
Augusto Dones Ruiz
Thomas Boyd Salisbury
Giacomo Walter Salvato
Pete Sanchez, Jr.
John Peter Schaeffer III
Donald Ray Schooler
Jerry Lee Schuck
John Joseph Sedlevicius, Jr.
Michael Wayne Seitz
Earl Havlin Selover, Jr.
Ronald John Shemanski
Benn Meade Sherman
Samuel Lewis Silvers
Francis Chester Sitte
Ronald "J" Smith
Donald Eugene Snider
Frank Russell Spellman, Jr.
Jimmy Ray Spurlock
Richard McLean Stilfield
Charles Leroy Stringer, Jr.
Richard Lee Strong
Russell Sturgis
Marvin DeWayne Taylor
Marcel Charles Theberge
Ruben Guerzon Tolentino
Clyde Dewane Truett
Ashley Eugene Turner
Thomas Leo Tyler
John Edward Ussery
William Francis Vahey, Jr.
Marvyn Arthur Wald
Joseph Dewey Wallis
Eddie Lee Watson
Raymond William Wells
Vernon Sherwin Werre
Billy Joe Williams
Richard Alan Williams
Larry Winzer
Jerry Lane Wood
Leonard Edward Wood
Jesse Alberto Ybanez
Cecil Leroy Yoder
Allan George Young
Richard Matthew Zablocki
Marion Davis Ziegler III

The following-named Navy enlisted candidates to be appointed ensigns in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Edmond Carroll Caviness II (deck-surface).
James Clifton Crout (deck-surface).
John Louis Haddox (deck-surface).
Rhudean Carl Musgrove (deck-surface).
Gerald Paul Ruggles (deck-surface).
William Joseph Rutland, Jr. (deck-surface).
Michael John Crone (operations-surface).
Russell Wallace Green (operations-surface).
Lawrence Dean Griffith (operations-surface).
Richard Harold Kluber (operations-surface).
Daniel Richard Martin (operations-surface).
Ronald Bruce Moorman (operations-surface).
George Ray Admire (engineering/repair-surface).
George Chester Bell, Jr. (engineering/repair-surface).
Michael Ray Bennett (engineering/repair-surface).

Donald Wayne Blackmore (engineering/repair-surface).
Lowell Karl Block (engineering/repair-surface).
Van Allen Case (engineering/repair-surface).
James Wilson Chester (engineering/repair-surface).
Michael Robert Dutton (engineering/repair-surface).
Marion Laverle Holloway (engineering/repair-surface).
James Raymond Hosking (engineering/repair-surface).
Thomas Ryles Howell (engineering/repair-surface).
Noah William Jackson (engineering/repair-surface).
James Douglas Jolley (engineering/repair-surface).
Ararat Kirkorian (engineering/repair-surface).
Ben "G" Lindsey, Jr. (engineering/repair-surface).
Robert Merle McKinney (engineering/repair-surface).
Glenn Earl Miller (engineering/repair-surface).
Charles Lewis Murphy, Jr. (engineering/repair-surface).
Raymond Paul Weber (engineering/repair-surface).
Gary Louis Whitney (engineering/repair-surface).
Jack Phillip Goldenberg (nuclear power-surface).
David Paul Gruber, II (nuclear power-surface).
Gary Wilbert Simpson (nuclear power-surface).
Richard Raymond Dickens (ordnance-surface).
James Lawrence Kuriger (ordnance-surface).
Seawood Murray, Jr. (ordnance-surface).
Howard David Suchland (ordnance-surface).
Steven Murray Albert (electronics-surface).
Michael David Belanger (electronics-surface).
Larry Lee Brown (electronics-surface).
Denis Ray Carpenter (electronics-surface).
David Eugene Draper (electronics-surface).
Joseph Earl Estrada (electronics-surface).
Marshall Earl Godwin (electronics-surface).
Michael Andrew Knight (electronics-surface).
Gene Francis Le Blanc (electronics-surface).
Curray Andrew Long (electronics-surface).
Gary Lee Manuel (electronics-surface).
Jack Weston Moody (electronics-surface).
Thomas Joseph Moore (electronics-surface).
Charles Howard Munter (electronics-surface).
William James Shank (electronics-surface).
James Frank Tichacek (electronics-surface).
John Joseph Vogel, Jr. (electronics-surface).
Robert Allan Webster (electronics-surface).
Kenneth James Wright (electronics-surface).
Harold Eugene Young (electronics-surface).
John Raymond Lynch, Jr. (deck-submarine).
Raymond Tex Mechasik (deck-submarine).
Jimmy Lee Manues (deck-submarine).
Samuel Melvin Smith, Jr. (deck-submarine).
Deaner Kadel Lawless, Jr. (operations-submarine).
George Edward McCarthy, Jr. (operations-submarine).
James Joseph Ackles (engineer/repair-submarine).
Jackie Leroy Baugher (engineering/repair-submarine)
John Arthur Briquelet (engineering/repair-submarine).
Lawrence Louis Musto, Jr. (engineering/repair-submarine).
William Dean Wilson (engineering/repair-submarine).
Thomas Joseph Bartoe (nuclear power-submarine).
Warren Gregory Branges (nuclear power-submarine).
Roger Nyle Griffith (nuclear power-submarine).
Joseph William Heery (nuclear power-submarine).
Denton Eugene Honodel (nuclear power-submarine).
Burce Wayne Hoskins (nuclear power-submarine).
Richard Edwin Kealoha Lee (nuclear power-submarine).
James Randall Overbey (nuclear-power-submarine).
Edward Lee Ruth (nuclear power-submarine).
George Olan Smith (nuclear power-submarine).
David Val Stewart (nuclear power-submarine).
Phillip Carl Wygans (nuclear power-submarine).
Alan Wayne Anthony (ordnance-submarine).
Robert Michael Arsenault (ordnance-submarine).
Thomas James Canning (ordnance-submarine).
Ralph Bernard Comp (ordnance-submarine).
Lindsey Sheraman Fulwood (ordnance-submarine).
Larry Eugene Furr (ordnance-submarine).
Richard John Henry (ordnance-submarine).
Howard Lamarr Icenhower (ordnance-submarine).
Joel Ernest Kersteter (ordnance-submarine).
John Steirly Preston (ordnance-submarine).
Alfred Edward Ptasznik (ordnance-submarine).
Stephen Edward Schultz (ordnance-submarine).
David Curtis Slone (ordnance-submarine).
Harry John Seibel (ordnance-submarine).
Robert Jennings Teague (ordnance-submarine).
Richard Keith Waite (ordnance-submarine).
George Penn Washington (ordnance-submarine).
Marco Robert Zanetti, Jr. (ordnance-submarine).
Ernest Charles Becker (electronic-submarine).
Clifford Noble Dodson, Jr. (electronics-submarine).
Charles August Kappelman, III (electronics-submarine).
Randall James Hatfield (aviation deck).
Frank Iferd (aviation deck).
Michael Raymond Mazzoleni (aviation deck).
Thomas Nathaniel Selden, Jr. (aviation deck).
Walter Hazard Tample, Jr. (aviation deck).
Theodore Thomas Tyler (aviation deck).
Robert Warren (aviation deck).
Robert Lawrence Whelan (aviation deck).
Robert Allen Armitage (aviation operations).
David Edward Fay, Jr. (aviation operations).
James Arthur Franklin (aviation operations).
Jonathan Alan McQuiston (aviation operations).
George Emory Mixson (aviation operations).
Stonewall Coburn Rain (aviation operations).
Martin Michael Banks, Jr. (aviation maintenance).
Mark Fredrick Boudah (aviation maintenance).
Ralph Joseph Boyer, Jr. (aviation maintenance).
Charles Gerald Cunningham (aviation maintenance).
James Bryon Fuller (aviation maintenance).
Stephen Everett Larkin (aviation maintenance).
Thomas Carter McElfresh (aviation maintenance).
Dennis Edgard Meadors (aviation maintenance).
Craig Penn Melio (aviation maintenance).
Tommy Jay Miller (aviation maintenance).
James Craig O'Dell (aviation maintenance).
Thomas Charles Schlink (aviation maintenance).
Kenneth Ray Sellers (aviation maintenance).
Leon Walls (aviation maintenance).
Gary Wayne Williamson (aviation maintenance).
Thomas Lynn Borgen (aviation ordnance).
John Bertram Corbett (aviation ordnance).
Daniel Francis Holub (aviation ordnance).
Larry Carl Hurst (aviation ordnance).
Alidor Joseph Lemieux (aviation ordnance).
Earl Leroy Newmiller (aviation ordnance).
Gary Robert Peebles (aviation ordnance).
James Michael Porter (aviation ordnance).
Charles Thomas Sellers (aviation ordnance).
Herman Gerhardt Witte (aviation ordnance).
Ronnie Howard Birge (avionics).
David Lynn Brooks (avionics).
Thomas Roy Brown, Jr. (avionics).
Lloyd Baker Jenkins Callis (avionics).
Steven Danield Ford (avionics).
Gordon John Hines (avionics).
Norman Tim Hoy Ho (avionics).
William McKinley Johnson, Jr. (avionics).
John Michael Kennedy, Jr. (avionics).
Thomas William McCarthy (avionics).
Larry Alan McThompson (avionics).
Paul Walter Kaminsky (avionics).
Julian Virgil McDowell (avionics).
Michael Lynn Pogge (avionics).
Robert Deaton Porter (avionics).
William Edward Resner (avionics).
Kennard Wayne Sharp (avionics)).
Stephen Dale Spiva (avionics).
Jim Ervin Sund (avionics).
Kenneth Wayne Thoms (avionics).
Thomas Stuart Benson (administration).
Charles Daniel Crabtree (administration).
Chester Mack Cummings (administration).
Thomas Vincent Curry (administration).
Pepito Mercado Javier (administration).
Paul Robert Lucas (administration).
Rosauro Carrasco Macaraeg (administration).
Ronald James Maul (administration).
Andre Henry Mayfield (administration).
Delbert Duane Miller (administration).
Vincent Dominic Odenbrett (administration).
Albert James Pavich (administration).
Godofredo Mayoral Reyes (administration).
Gerald Dean Rubink (administration).
Rayford Earl Wetherington (administration).
Paul Craig Hamersly (data processing).
Benjamin Arden Heath (data processing).
Leo Henry Leary, III (bandmaster).
Larry James Dustin (cryptology).
Thomas William Hanneke (cryptology).
Ronald Francis McClellan (cryptology).
Richard Gary Maples (cryptology).
Patrick Michael Mayock (cryptology).
Gene Riley Merritt (cryptology).

Joseph Aloysius O'Kane (cryptology).
John Clark Simmons (cryptology).
Leslie David Scarborough (intelligence).
Michael Lee Dickenson (meteorology).
Audie Lee Hudnell (meteorology).
James Lee Linaburg (meteorology).
Dennis Lamar Malijevac (meteorology).
William Henry North III (meteorology).
Daniel Fredrick Ross (meteorology).
John Lynn Shoemake (meteorology).
Clyde Wayne Blankenship (photography).
David Joel Bluestone (photography).
John Edward Hudson (photography).
Jim Ross Lane (Photography).
Bobby Dean Lincoln, (photography).
Robert Harrison Myers (photography).
Richard Allen Pendergist (photography).
Alfred Louis Tennyson (photography).
Franklin Donald Ball (explosive ordnance disposal).
Kip Victor Fisher (explosive ordnance disposal).
Joseph Franklin McKinnie (explosive ordnance disposal).
John William Bates (Supply Corps).
Nicholas Brooke Clark (Supply Corps).
John Charles Class (Supply Corps).
Bill Dean Fittro (Supply Corps).
Roy Allen Hollis, Jr., Supply Corp.
Augustine Charles Holstein, Supply Corps.
John William Keeter, Supply Corps.
Walter Joseph Ksiazek, Supply Corps.
Generato, Soliman Mercado, Supply Corps.
Edward Stuart Myers, Supply Corps.
Dallas Eugene Stamper, Supply Corps.
Thomas Gene Sulzer, Supply Corps.
Anthony Peter Frontiero, mess management (Supply Corps).
Rogelio Torres Gozum, mess management (Supply Corps).
Billie Joe Best, Civil Engineer Corps.
John Allen Hays, Civil Engineer Corps.
Elmer C. Salling, Civil Engineer Corps.
Nicholas Francis Zeoli, Civil Engineer Corps.

The following-named temporary chief warrant officers to be appointed Lieutenants (junior grade) in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

James A. Elliott (deck-surface).
Robert W. Hummel, Jr. (deck-surface).
Johnny R. Johnson (deck-surface).
Lawrence P. Malone (deck-surface).
Jerry W. Spillers (deck-surface).
Benjamin F. Woods, Jr. (deck-surface).
Virgil W. Asbury (operations-surface).
James D. Chambers (operations-surface).
Arthur D. Coleman (operations-surface).
Keith E. Hartman (operations-surface).
James V. Kennedy (operations-surface).
Richard F. Tanner (operations-surface).
John A. Webb (operations-surface).
James E. Cockrell (engineer/repair-surface).
Siegfried Fichte (engineering/repair-surface).
Bernard Greer (engineering/repair-surface).
Dewey W. Hickson (engineering/repair-surface).
Ronald D. Jones (engineering/repair-surface).
Kenyon B. Parker (engineering/repair-surface).
Harry M. Perry (engineering/repair-surface).
Bruce C. Putnam, Jr. (engineering/repair-surface).
Edward J. Skiba (engineering/repair-surface).
Carl H. Smith (engineering/repair-surface).
James L. Waterfield (engineering/repair-surface).
Claire H. Welch (nuclear power-surface).
Gary D. Grosz (ordnance-surface).
William R. White (ordnance-surface).
William J. Cornwell (electronics-surface).
Donavan V. Kaplan (electronics-surface).
James C. King (electronics-surface).
Lester T. McKillips, Jr. (electronics-surface).
Floyd W. Price (electronics-surface).
Vladimir Syrovatka (electronics-surface).
Francis G. Wilson, Jr. (electronics-surface).
Richard A. Boyce (deck-submarine).
Donald J. Smith (deck-submarine).
Curtis B. Woodward (operations-submarine).
Emory L. Bishop (engineering/repair- submarine).
Jerald P. Kamienski (engineering/repair-submarine).
John A. Sherman (engineering/repair-submarine).
David E. Young (engineering/repair-submarine).
James C. Howland (nuclear power-submarine).
Michael A. Rossi (nuclear power-submarine).
Marion R. Sisemore (nuclear power-submarine).
George W. Slade (nuclear power-submarine).
Daniel E. Whiting (nuclear power-submarine).
John W. Moyer (ordnance-submarine).
Leo A. Nunnink (ordnance-submarine).
Jack L. Shuttlesworth (ordnance-submarine).
Franklin J. Dooling (electronics-submarine).
James E. Jans (electronics-submarine).
Frank C. White (electronics-submarine).
Jessie K. Kitchens (aviation deck).
Jerome W. Madson (aviation deck).
Stanley L. Schmidt (aviation deck).
John M. Delorme (aviation operations).
George R. Hutchins (aviation operations).
Charles J. Morris (aviation operations).
Ray E. Pugh (aviation operations).
Richard D. Reeves (aviation operations).
Robert G. Snyder (aviation operations).
Robert C. Thorson (aviation operations).
Frank A. Beach (aviation maintenance).
Roger W. Benish (aviation maintenance).
James F. Bernicken (aviation maintenance).
Bruce E. Bowman (aviation maintenance).
James F. Cayse (aviation maintenance).
William S. Couch (aviation maintenance).
James P. Dunn, Jr. (aviation maintenance).
John D. Gaddy (aviation maintenance).
Charles L. Gosselin, Jr. (aviation maintenance).
John H. Hunt, Jr. (aviation maintenance).
Ralph B. Large (aviation maintenance).
Dominick Licciardi, Jr. (aviation maintenance).
John R. Meadows (aviation maintenance).
Robert C. Moore (aviation maintenance).
Richard H. Roberts (aviation maintenance).
Charles W. Shoaf (aviation maintenance).
Andrew Touchon (aviation maintenance).
Donald F. Swanlund (aviation maintenance).
Clyde L. Waltemyer (aviation maintenance).
Lewis J. Craig (aviation ordnance).
Robert S. Kline (aviation ordnance).
Bernard Lightfoot, Jr. (aviation ordnance).
Keith A. Lindsey (aviation ordnance).
Robert J. Ryan (aviation ordnance).
Joseph B. Swecker, Jr. (aviation ordnance).
James M. Temple, Jr. (aviation ordnance)
Michael A. Daugherty (avionics).
Donald E. Phillips, Jr. (avionics).
Wayne Schumacher (avionics).
Melvin D. Waltrip (avionics).
Harold J. Applebee (administration).
Terry G. Briggs (administration).
Thomas H. Crouch (administration).
Dick Datson (administration).
Austin T. Jordan (administration).
Gene D. Maples (administration).
Stephen R. Mariani (administration).
Robert W. Overton, Jr. (administration).
Richard R. Poe (administration).
Ruben M. Ratliff (administration).
Lonnie G. Satterwhite, Jr. (administration).
Robert H. Stoneking (administration).
Larry R. Wickman (administration).
Ronald T. Woolsey (administration).
William H. Lewis (data processing).
Kenneth S. Anderson (cryptology).
Robert W. Dickie (cryptology).
Thomas Donohue (cryptology).
David R. Fairchild (cryptology).
Kenneth W. Miller (cryptology).
Robert P. Oakes (cryptology).
David W. Squier (intelligence).
Larry G. Dickerson (meteorology).
Lance M. Kruse (meteorology).
Bobby K. Powell (photography).
Duane L. Romine (photography).
Robert C. Davidson (explosive ordnance disposal).
Eldon L. McDaniel, Jr. (explosive ordnance disposal).
Louis E. Butler (Supply Corps).
Earl F. Donnellon (Supply Corps).
George G. Ellery (Supply Corps).
Freddie L. Helm (Supply Corps).
Frederick L. Mallard (Supply Corps).
Henry E. Pettaway (Supply Corps).
Robert V. Thompson (Supply Corps).
Donald K. Birr (mess management (Supply Corps)).
Jose R. Candanoza (mess management (Supply Corps)).
Wilfredo O. Fernandez (mess management (Supply Corps)).
Samuel S. Williams (Civil Engineer Corps).

The following-named permanent chief warrant officers to be appointed lieutenants (junior grade) in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Frankie L. Phillips (operations-surface).
Anderson H. Cox (electronics-surface).
Richard W. Boehl (deck-submarine).
Robert A. McAllister (ordnance-submarine).
Marion K. Milne (ordnance-submarine).
Darrell L. Kulhanek (aviation maintenance).
Edwin J. Conners, Jr. (aviation ordnance).
Henry B. Smith (avionics).
John L. Griffin, Jr. (administration).
Aloysius F. Kempa (Supply Corps).

The following-named temporary chief warrant officers to be appointed permanent chief warrant officers, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Kenneth S. Anderson	George G. Ellery
Harold J. Applebee	James A. Elliott
Virgil W. Ashbury	David R. Fairchild
Frank A. Beach	John D. Gaddy
Roger W. Benish	Charles L. Gosselin, Jr.
James F. Bernicken	Bernard Greer
Donald K. Birr	Gary D. Grosz
Bruce E. Bowman	Keith E. Hartman
Richard A. Boyce	Freddie L. Helm
Louis E. Butler	Dewey W. Hickson
Jose R. Candanoza	Robert W. Hummel, Jr.
James D. Chambers	John H. Hunt, Jr.
James E. Cockrell	George R. Hutchins
Arthur D. Coleman	James E. Jans
William J. Cornwell	Johnny R. Johnson
William S. Couch	Ronald D. Jones
Lewis J. Craig	Austin T. Jordan
Thomas H. Crouch	Jerald P. Kamienski
Dick Datson	Donavan V. Kaplan
Michael A. Daugherty	James V. Kennedy
Richard C. Davidson	Jessie K. Kitchens
John M. Delmore	William H. Lewis
Larry G. Dickerson	Dominick Licciardi, Jr.
Robert W. Dickie	Bernard Lightfoot, Sr.
Earl F. Donnellon	Keith A. Lindsey
Thomas Donohue	
Franklin J. Dooling	
James P. Dunn, Jr.	

Eldon L. McDaniel, Jr.
Lester T. McKillips, Jr.
Jerome W. Madson
Lawrence P. Malone
Gene D. Maples
Stephen R. Mariani
Kenneth W. Miller
Robert C. Moore
Charles J. Morris
John W. Moyer
Robert P. Oakes
Robert W. Overton, Jr.
Kenyon B. Parker
Harry M. Perry
Donald E. Phillips, Jr.
Richard R. Poe
Floyd W. Price
Ruben M. Ratliff
Richard D. Reeves
Richard H. Roberts
Michael A. Rossi
Robert J. Ryan
Stanley L. Schmidt
Wayne Schumacher
John A. Sherman
Charles W. Shoaf
Jack L. Shuttlesworth
Marion R. Sisemore
Edward J. Skiba
George W. Slade
Carl H. Smith
Robert G. Snyder
Jerry W. Spillers
David W. Squier
Donald F. Swanlund
Joseph B. Swecker, Jr.
Vladimir Syrovatka
Richard F. Tanner
Robert V. Thompson
Robert C. Thorson
Andrew Touchon
Clyde L. Waltemyer, Jr.
John A. Webb
Claire H. Welch
Frank C. White
William R. White
Daniel E. Whiting
Larry R. Wickham
Samuel S. Williams
Francis G. Wilson, Jr.
Benjamin F. Woods, Jr.
Curtis B. Woodward
Ronald T. Woolsey
David E. Young

IN THE MARINE CORPS

The following-named male officers of the Marine Corps for temporary appointment to the grade of lieutenant colonel under the provisions of title 10, U.S. Code, section 5769:

Herbert M. Sanchez
Joseph J. Dzielski
Robert L. Mitchell
Fred W. Anthes
Howard A. Franz
Morris R. Roberts
James E. Rickmon

The following-named women officers of the Marine Corps for permanent appointment to the grade of major under the provisions of title 10, U.S. Code, section 5771:

Ingrid M. Pranger
Kyoko Pentz
Alice B. Speizman
Helen D. Kruger

The following named male officers of the Marine Corps for temporary appointment to the grade of major under the provisions of title 10, U.S. Code, section 5769:

James R. Acreback
Jerald R. Agenbroad
Gary R. Albin
Lester E. Amick III
Robert D. Amos, Jr.
Gary D. Andersen
James E. Andrews III
Russell E. Appleton
Bruce R. Archer
Rodney A. Arena
Michael D. Ashworth
George B. Atkinson
Paul C. Bacon
Ronnie J. Bailey
Wheeler L. Baker
William J. Baker
Charles Balchunas
David W. Baldwin
James E. Barksdale
James J. Barta
Allen C. Bartel
Richard J. Bartolomea
John M. Basel
Edmund Bauernfeind
Arthur S. Bausch
Hugo T. Beck
Emil R. Bedard
Charles A. Bellis, Jr.
Guiseppe A. Betta
John L. Bilodeau
Willie R. Bishoff, Jr.
David L. Bjork
William B. Blackshear, Jr.
James R. Blanich
Billy R. Blocker
Michael P. Boak
Robert J. Boardman
George J. Bolduc
James N. Bonner
Michel A. Boyle
Sevath A. Boyum
Clifford A. Brahmstadt
Leo A. Brandenburg
Ian Brennan
Robert R. Brewton
James Brigadier
James A. Brinson, Jr.
Thomas F. Broderick
George M. Brooke III
Kenneth H. Bruner
James F. Buchli
Robert J. Buechler
Mark C. Bunton
Victor L. Burgess
Edward B. Burrow, Jr.
James P. Byrnes
Carl P. Campbell
Edgar M. Campbell
Robert A. Cardell
George A. Carlson
Michael R. Cathey
Richard Chandler III
Roger G. Charles
Jonathan C. Chase
Maurice L. Chevalier
Jimmie W. Childs
James M. Clarke
Michael G. Coe
John R. Cole
Charles A. Collins
Clelland D. Collins, Jr.
Newton A. Collyar
Gary E. Colpas
Richard A. Combs
Timothy J. Coyle
Bradford L. Craddock
James P. Craig II
Jimmy R. Cranford
Richard R. Crawford
John P. Cress
Clifford J. Crews
James E. Cripps
James C. Crockett
Stephen Cucchiara
David J. Cummings
Edward B. Cummings
John T. Cummins, Jr.
Homer S. Cutlip
Paul P. Darling
Dellwyn L. Davis, Jr.
Robert C. Debussey
Michael P. Delong
John R. Dempsey
Charles F. Depreker
Michael J. Dineen
Richard Dinkel
Elmer H. Davis, Jr.
Stephen J. Dlugos II
Paul D. David
Carson R. Day
Donald L. Dickerson
Charles J. Dey
Alfred M. Doktor, Jr.
William R. Donnelly, Jr.
Robert C. Dopher, Jr.
William L. Cooper
Dennis Copson
Gary M. Costello
Walter S. Cover
Jefferson D. Dorroh III
Dennis L. Doyle
Wayne C. Doyle
Doyle D. Dudley
Donald L. Dziggel
Robert L. Earl
Max B. Eaton
Thomas B. Edwards III
Jay L. Elliott
Ketron H. Ellison
Don D. Enloe
John S. Evans, Jr.
William C. Evans
Walter R. Fabinsky
Michael J. Ferguson
Patrick J. Finneran, Jr.
John W. Fitch
Thomas E. Fitzpatrick, Jr.
Charles W. Fleischer, Jr.
Arturo Flores
John R. Fogg
John J. Folan, Jr.
Edwin C. Ford, Jr.
James L. Foresman
Robert W. Fout
Stephen P. Freiherr
Claude R. Fridley
Douglas D. Frisbie
Leonard R. Fuchs, Jr.
James L. Furgerson
Tony R. Gain
Joe D. Garrett
Algimantas V. Garsys
David M. Gee
George F. Getgood
John F. Gimber
Robert E. Gleisberg
Richard S. Glenzer
Daniel M. Glynn
James A. Goebel
Robert L. Graler
Maurice O. Green V
Theordore W. Griggs III
Allen D. Guins, Jr.
Steven P. Hadar
John R. Hagan
David C. Hague
Charles K. Haley
William H. Hamlin
Barry L. Hanchett
Edward Hanlon, Jr.
Jefferey T. Hansen
David W. Haughey
Paul Hayes
Jerry T. Harber
Roosevelt Harrelle
John T. Hart
Franklin J. Heacock
Harvey R. Hegstrom, Jr.
Joel K. Helm
Howard L. Helms
Wallace Q. Henderson
Edward W. Hermansen, Jr.
Richard L. Herrington
Robert T. Hickinbotham
Geoffrey B. Higginbotham
William R. Higgins
Klaus P. Hille
Thomas A. Hobbs
Harold D. Hockaday
James C. Hodges
Charles O. Hoelle, Jr.
William H. Hoff
Richard J. Hogan
Thomas W. Holden
John M. Holladay
Joseph R. Holzbauer
Franz H. Honeycutt
Raymond A. Hord
Joseph R. Horton, Jr.
Patrick G. Howard
William C. Howey
Lewis E. Hoyt
John M. Hudock, Jr.
Lucien N. Hudson, Jr.
Richard B. Hudson
James W. Hust
Robert P. Isbell
Peter M. Iverson
James W. Jackson
Albert E. James, Jr.
Herman R. Jennette, Jr.
Joseph M. Jewett
Kenneth D. Johnson
Ronald P. Johnson
Russell L. Johnson
William J. Johnston III
Kenneth W. Jones
Lee D. Kane
Michael R. Kanne
George M. Karamarkovich
William W. Kastner III
Wayne S. Keck
Joseph A. Kelleher
Joseph J. Kelly
Edwin C. Kelley, Jr.
John A. Kieffer, Jr.
John P. Kiley
Charles W. King
Richard L. Kline, Jr.
Manfred A. Koebig, Jr.
Nicholas L. Kopchinsky
Douglas M. Kruse
Leo E. Krusemark, Jr.
Richard H. Kunkel, Jr.
Richard C. Kurth
Gregory S. Kuzniewski
Don C. Lacey
Robert B. Lambdin
Howard W. Langdon, Jr.
Michael J. Larson
Jerry V. Lasher
John R. Laurent II
Luther L. Lawson III
Fitzhugh B. Lee
John S. Leffen, Jr.
Larry G. Lephart
Edward G. Lewis
Tyone L. Lewis
Dennis L. Lister
Lawrence H. Livingston
Arron K. Lockyer
Horace L. Logan III
Gary L. Loomis
Troy A. Lucas
Forest L. Lucy
Peter Lynch
Theodore H. Lyons
John G. MacNutt
John C. Malinowski, Jr.
Mark H. Mallett
Wesley R. Marks, Jr.
Philip M. Marrie
Bobby O. Martin
Kenneth W. Martin
Justin M. Martin II
Francis A. Mauro, Jr.
George B. Mayer, Jr.
Edward F. McCann
Dennis M. McCarthy
Frederick McCorkle
Orval W. McCormack
Thomas H. McDermott
James L. McDonnell, Jr.
Gregory M. McDonough
Frank W. McDuffee
Arthur L. McGinley
Mack L. McGlumphy
George R. McKay
James H. McKelligon
Daniel P. McKnight
James R. McNeece
William D. McSorley III
David E. Melchar
William R. Melton
Russell S. Michaelsen
Patrick A. Michel
Rodney A. Miller
John R. Mills
Edward H. Mills
Michael R. Mohr
Cecilio Montoya
John A. Morrison
Larry S. Mueller
Peter S. Morosoff
Michael R. Mullen
John J. Munn
Stephen D. Murray
John K. Narney
Richard O. Neal
Rafael Negron, Jr.
Robert B. Newlin
Howard B. Nielsen
Oliver L. North
Thomas G. Nulty
James M. O'Brien, Jr.
Brian A. O'Neill
Edward M. O'Shaughnessy
Jerry G. Pacassi II
Anthony J. Pack
Robert A. Packard, Jr.
Paul D. Parker II
Anthony J. Paruzynski
Richard E. Peasley
James M. Pendergast
David L. Percy
George Philip III
Willie R. Phillips
David R. Pia
Bernard T. Polentz
Alfred J. Ponnwitz
Richard J. Popps
David R. Powers
Ronald E. Pruiett
Kenneth R. Ptack
Norman H. Rackley
Sepp D. Ramsperger
William E. Ransbottom
David G. Ray
John D. Reed
Richard C. Regan
Johnny D. Restivo
Richard L. Reuter
Lawrence G. Richard
Clyde A. Rilea
Durwood W. Ringo, Jr.
Francis A. Ritchey III
Donald F. Ritenour
Michael G. Roach
Larry E. Roberson
Linton R. Roberts
John K. Robinson
Raymond A. Roll
Wayne N. Roman
Michael G. Roth
Theodore E. Roth
Randolph C. Rounds, Jr.
James E. Royds
James R. Ryan
Michael D. Ryan
Claude H. Ryan, Jr.
Zebedee L. Rush
Daryl L. Russell
James C. Sanborn
Steven R. Sanford
Andrew R. Sargent
Edward A. Saunders
Richard D. Schaub
John D. Schessler
Charles W. Schillinger
Charles J. Schoener III
Joel N. Schuette
Richard S. Scivicque
James D. Selim
Michael M. Sheedy III
Kermit H. Shelly, Jr.
Michael F. Shields
Michael R. Shuttleworth
Jasper V. Simpson
Jeffrey B. Sinclair
Richard C. Slack
Robert M. Slaters
Clinton A. Smith
Daniel M. Smith
Franklin B. Smith
Micheal D. Smith
Ray L. Smith
Thomas A. Smith
John S. Snowden
Kenneth A. Solum
Robert R. Spitze
Martin R. Steele
Edward R. Stepien
James R. Stewart
Bert A. Stevenson
Keith H. Stivers
Carl C. Stoehr II
Gerald A. Stone
Milton D. Stonebarger, Jr.
John B. Strange
Cecil L. Strouth
Joseph E. Sturtevant, Jr.
John J. Sullivan, Jr.
Donald R. Swaby
Eugene Swidonovich
Victor E. Taber
William J. Tehan III
Richard F. Thayer
William G. Thrash, Jr
Dale S. Town
Edward C. Traasdahl
Clyde R. Trathowen
William W. Treon
Thomas R. Trompeter
William M. Tucker
David J. Turner
Colin B. Tweddell
John M. Valovich
Richard F. Vercauteren
David A. Vetter
Donald D. Visnick
John R. Voneida
Thomas A. Voth
Bob C. Walker
Richard W. Walker
Samuel J. Ware
Robert W. Watkins
Charles G. Weaver
Arthur S. Weber, Jr.
Harry R. Weber III
Larry D. Webster
Ronald A. Weigand
William C. Weinmann

Joseph R. Welsh, Jr.
George E. Wetmore III
Kenneth J. Wilkinson
Richard F. Williams
Roger S. Williams II
Leon Williamson
James R. Wingerter
John H. Winslow
John D. Wintersteen
Pasquale Wojciechowski
Terry L. Wojcik
Anthony A. Wood
Peter A. Woog
Carroll L. Wright
Thomas F. Wunderlich
George A. Zahn, Jr.

The following-named women officers of the Marine Corps for permanent appointment to the grade of captain under the provisions of title 10, U.S. Code, section 5771:

Sylvia M. Ford
Virginia G. Handelsman

The following-named male officers of the Marine Corps for temporary appointment to the grade of captain under the provisions of title 10, U.S. Code, section 5769:

Garland G. Aaron
Michael L. Adams
Mitchel N. Ahlers, Sr.
John W. Ailshire
Mark E. Albritton
Michael E. Aldridge
Duff E. Alger
Homer L. Allen
Constantine G. Ambrose
Martin B. Ancellotti
James L. Anderson
Steven D. Anderson
Paul A. Andres
Clarke F. Ansel
Gregory M. Anthony
Robert E. Apple, Jr.
Ferdinand J. Appl, Jr.
Levon S. Asadoorian
Peter L. Aseritis
Donald H. Atchison
John B. Atkinson, Jr.
Robert J. Avila, Jr.
Joseph R. Ayala
Bruce M. Bachman
Leland W. Bacon
Winston E. Baggs
Donald L. Bailey
Johnny P. Bailey
Martin P. Bailey
Robert H. Bailey
William F. Bain
Charles L. Baker
Ernest N. Balignasay
Reno C. Bamford II
Richard A. Bandlow
William M. Bann
Walter C. Bansley
Paul R. Barlock
Larry B. Barnes
Edwin C. Barnett
Richard G. Barr
Charles D. Barrier
Theodore H. Barrow
Richard M. Barry
William M. Barth
Robert L. Bartley
John E. Barton
Richard K. Bartzer
Stephen B. Baumann
Dave Beasley, Jr.
Kenneth E. Beaton
Robert L. Beatty, Jr.
Bill R. Beauchamp
Paul E. Beckhart
David L. Beeman
Brian L. Behl
Richard G. Bell, Jr.
Wayne T. Bell
David C. Bender
Mark E. Bennett
Kenneth Berger
Robert F. Bickford
Mark H. Biser
Bruce M. Black
James Black
Matthew W. Blackledge
Charles H. Blackwell
Anthony D. Blice
Bruce K. Bohnker
Robert W. Borek, Jr.
John E. Borley
Robert W. Bostwick
Charles T. Botkin
William F. Botkin
Carl R. Bott
Carl S. Bourne, Jr.
Stephen F. Bouton
Reganold A. Bowser
John C. Boyd
Joseph S. Boyd
Raymond A. Boyd, Jr.
Rodell N. Branford, Jr.
Boyce A. Brasington, Jr.
Philip E. Bray
Glenn A. Brewer
Michael C. Bridges
Ronald G. Brogdon
Roderick L. Brotherton
Allen D. Broussard
Mark J. Brousseau
Jerry L. Brown
Scott L. Brown
Murray W. Bryant
Richard A. Bryant
Andrew J. Budka
John R. Bukowski
Mark A. Bultemeier
John D. Burell
David S. Burgess, Jr.
Joseph E. Burke, Jr.
Ted M. Burkhart
Jay E. Burzak
Terrance G. Buschelman
Curt C. Buss
James A. Bussiere
Ervin E. Cade III
Lee R. Cain, Jr.
Thomas R. Calkins
Charles J. Callaghan
Robert J. Cameron
James H. Campbell III
Mark F. Cancian
Paul B. Cannon
William G. Carey
Gary R. Carlson
Robert C. Carlson, Jr.
Roger W. Carlson
Albert R. Carmoney, Jr.
Robert A. Carnot
Edgar B. Carr
Charles R. Carrigan
Michael E. Carroll
Jere J. Carroll
Brett M. Carter
Charles D. Carter
Nearlin Carter, Jr.
James M. Casey
John M. Cassady, Jr.
Douglas M. Catlett
John D. Cauble, Jr.
Carroll L. Cawyer
James H. Charest
Madison C. Chisum, Jr.
Richard W. Christiansen
Jeffrey C. Christman
Thomas J. Christofk
Stephen L. Claiborne
Gary B. Clark
Gerald M. Clark, Sr.
Jackie K. Clark
James G. Clark, Jr.
Michael J. Clark
William M. Clark H.
John A. Clauer
Randall B. Claybourn
Robert L. Click
David R. Clifton
Sylvester P. Clymer, Jr.
Quentin M. Cole
Melvin Collins
Kenneth L. Collyer
Joseph H. Compton
James R. Conner
Robert E. Cook
Paul H. Coovert
Joseph G. Corbin
Carl H. Corby, Jr.
William B. Corley, Jr.
Robert B. Cory
Mark A. Costa
Wayne R. Cote
James A. Cothran
John W. Cox
Oscar E. Creech, Jr.
Lyn L. Creswell
Victor T. Cronauer
Craig C. Crowley
William S. Culler
Thomas J. Cummins
Daniel E. Curfiss
Stephen W. Dade
Joseph F. Dalton, Jr.
Walter W. Damewood, Jr.
Eddie A. Daniels III
Carmen M. Darmini
John W. Davenport
John S. Davidson
Alphonse G. Davis
Arthur H. Davis, Jr.
Charles M. Davis
Dequincey A. Davis
Herbert L. Day
Amo R. Debernardis
Raymond J. Decker, Jr.
George F. Deckert III
Jeffrey R. Degraff
Oscar Delagarza, Jr.
Charles C. Delorme
Enrico G. Delpuppo
Bruce A. Denault
James A. Dentinger
Mark F. Devane
Robert C. Dickerson, Jr.
John J. Dicks
Thomas E. Dillard, Jr.
Brian S. Dinwiddie
Donald L. Doggett
Arthur D. Doherty, Jr.
Robert L. Domina
Stanley Domino
Robert S. Donaghue
Patrick E. Donahue
Scott E. Donaldson
Steven B. Donnell
Edward J. Donofrio
Terrance S. Doran
David G. Dotterer
Thomas C. Douglas
Thomas J. Doyle
Peter J. Dubuisson
Terrence P. Dugan
Patrick J. Dulin
Frank D. Dunn
Billy D. Dunsmore
John A. Dzierzak
Edmund D. Eaton, Jr.
Gary H. Ebanks
Andrew F. Eble
Dana A. Eckel
James M. Edgerton
Ralph H. Files
Robert W. Elflein
John R. Elliott
Kenneth E. Elsbury
Ronald S. Eluk
Hugh T. Elwood
Homer R. Empey
Donald T. Eskam
Vincent P. Everman, Jr.
Roland W. Falana
Daniel C. Farina
Lloyd A. Feldman
Dennis G. Felhoelter
Kenneth P. Ferguson
William G. Fiegener
Barney J. Fisher
Daniel F. Fennell, Jr.
Patrick M. Flanagan
Richard W. Fleet
Ronald R. Fleming
Timothy H. Foley
James G. Fongemie
Ronald F. Franks
Robert R. Frederickson
Mark P. Freeman, Jr.
David D. Fulton
Larry G. Fulton
David A. Galati
Michael Gambino
Michael W. Gaston
Roger L. Gemar
John D. Genduso
Alan J. Genteman
Timothy F. Ghormley
John R. Giberson
Christopher P. Gieser
Ross C. Gildersleeve
Steele H. Glenn
John E. Glover
Joseph F. Gomes, Jr.
Gerold W. Graham
John W. Graham
Sammy C. Graham
Peter V. Gray
Robert L. Green
Richard L. Gregg
Elie S. Griffin, Jr.
Dennis H. Grimm
Steven P. Grohsmeyer
Albert J. Guidotti
Harry W. Gullett
Joseph A. Gunnels, Jr.
Gregory F. Gustin
Jackie W. Guthrie
Gerald L. Haden
Ralph D. Haddock
William J. Haffey
Lynn W. Hale
Ronald H. Haley
Edward A. Hall
John L. Hall
Dennis A. Halterman
James L. Hampton
Stephen D. Hanson
James A. Harler
Roger H. Harlow, Jr.
Samuel T. Harrelson, Jr.
Gregory Harrison
Dennis E. Haskins
Michael D. Haynes
Dennis L. Heider
Samuel T. Helland
Jacky C. Henderson
Douglas O. Hendricks
Leif H. Hendrickson
Terry W. Hendrix
Lawrence M. Hennebeck
Marvin W. Henry
Elvin W. Hensley
Ronald L. Herda
Leonardo G. Hernande
Timothy W. Hill
Rex L. Hinman
David L. Hoagland
Gerald P. Hogan
Michael B. Hogan
Clifford B. Holbrook
Roy J. Hollingsworth
Harry L. Holloway III
Daniel D. Holstein
Luther E. Holt, Jr.
John C. Hoogerwerff
Alan M. Hoover
William J. Horan, Jr.
David L. Horton
James F. Houston
Richard J. Huchel
William T. Huff, Jr.
James E. Hull
William C. Hurst
James R. Huston
John P. Hutchings
Michael J. Hutchinson
Gary R. Ing
Michael L. Inman
Donald A. Innis
Robert D. Iverson
David K. Jackson
Dennis M. Jackson
James E. Jackson, Jr.
Lowell B. Jackson
Raymond T. Jackson
Joseph M. Jacobs
George G. Jacobson
Peter A. James
Edgar W. Jatho, Jr.
John A. Jauregui
Donald S. Jefferson
Darrell K. Jenkins
David L. John
Andrew L. Johnson
Billy P. Johnson
Charles A. Johnson
Francis A. Johnson III
Kenneth D. Johnson
Patrick M. Johnson
Richard F. Johnson
Richard C. Jonely
Danny R. Jones
Jimmy B. Jones
Larry W. Jones
William M. Jones
Harold A. Juhl
Charles M. Justice
Thomas W. Kaldy
Stephen C. Kanaga
Michael W. Karnath
Edward M. Kasica, Jr.
Charles J. Kathrein
Frank L. Kebelman III
Martin P. Keeley III
John A. Keenan
Harold A. Keith
Dennis G. Keller
Jack L. Kelley
Sean Kelly
Michael B. Kennedy
William B. Kennedy
Earl L. Kent III
Gary J. Kenter
Thomas N. Kerigan
George Kerlek, Jr.
Michael B. Kessler
Richard K. Ketler
Roger D. Kirkpatrick
John B. Kiser
Chester H. Kittrell
Thomas G. Klappert
Lynn Klinefelter
Richard W. Knipp
Kerry A. Knowles
Richard C. Koch
Thomas H. Koger
George E. Kondreck, Jr.
Rudolph B. Kowalcyk
Richard S. Kramlich
George D. Krebs
Al Kris
Ray D. Kroeschen
Richard A. Krogh
Wayne E. Krout
Raymond L. Kunkle
Frederick G. Kuss
William J. Lademan
Robert N. Lafreniere
George C. Lake III
Richard L. Landis
Franklin D. Lane
Francis P. Lanzer
Robert L. Larkin, Jr.
Timothy R. Larsen
Leonard W. Laughlin,
Harold W. Laughlin, Jr.
Howard J. Laurie
Thomas L. Laws
Charles A. Leader III
Michael J. Leahey
Patrick R. Lederer
Lawrence E. Leggett
Michael R. Lehnert
Stanley J. Lehto
John A. Lemoine
Alberto S. Leonardo
Miklos, Lestyan
Michael W. Lindberg
Forrest R. Lindsey
George W. Lindstrom
David C. Ling
William F. Linnehan
William M. Lipsmeyer
Dennis E. Long
David M. Lumsden
David W. Lutz
Steven C. MacAllister
Gary D. MacFadden
John H. MacGhee.
Merle E. Mackie, Sr.
Donald C. Mahler
Emile Manara III
Harry Manchester, Jr.
Bruce H. Marquardt
Benjamin A. Marsh
William E. Marsh
Chez Marshall III
Robert W. Martin
William F. Martin
Arthur Martinez, Jr.
William L. Maruchi, Jr.
William J. Marvin
Jack D. Mathis
Robert C. Maywhort, Jr.
John M. McAfee
Clifton McAllister
Francis A. McBride III
John C. McCalla
Brad A. McCanna
Arthur R. McDaniel
Chance E. McDonald, Jr.
Michael F. McDonald
Michael M. McDonough
George M. McDowell
James S. McElhiney
James L. McGowan
John L. McGowan
Peter R. McGrew
James P. McGrory, Jr.
Edward A. McGuigan, Jr.
Daniel M. McHale
Charles E. McKeone
Edward P. McLyman
Robert A. McMichael
Wilburn E. Meador, Jr.
Andrew D. Mechling
Marlen B. Meierdierks
Gene Menke
Eric J. Mercer
Richard P. Meserve
Charles L. Meyer
Leslie A. Meyer
Daniel E. Miller
Donald E. Miller
Gary W. Miller
John E. Miller
Mark R. Mitchell
Michael C. Mitchell

Steven R. Mock
Lawrence W. Moczulski
George E. Monarch III
Monte G. Montgomery
Bertram E. Moore, Jr.
John T. Moore
Ralph F. Morgan
Robert J. Morgan
Marion K. Morgan
Allen R. Morris
Harey D. Morrow
James L. Morton
Mark S. Moses
Dirk P. Mosis D.
James M. Mulholand
John R. Murphy
Harry L. Myers, Jr.
Mark H. Naster
Richard F. Natonski
James P. Naughton
Rex E. Nelsen
Lance C. Newby
Clark C. Nielsen
Dennis E. Norman
Edward J. Novicki
Daniel C. O'Brien
Dennis A. O'Brien
Jeremiah J. O'Brien
Thomas M. Ochala
Sam G. Ochoco
William P. O'Donnell
John F. Ogden
Warren T. O'Hara III
William F. O'Hara, Jr.
Rudolf S. Olszyk
David P. O'Neil
James L. O'Neill
James V. Orlando III
Bryant C. Orr
Paul W. O'Toole, Jr.
Charles T. Owen
Huey S. Pace, Jr.
Vincent J. Palancia
Roland N. Pannell, Jr.
Dale M. Papworth
Angelo S. Parise
Larry R. Parks
Robert L. Parnell III
James L. Patterson
Roger C. Patton
Ronald W. Peck
Troy D. Pennington
Stephen W. Perkins
Michael P. Perry
Douglas T. Peters
Jimmie F. Peters
Charles L. Peterson
Christopher D. Peterson
James R. Philson
Richard F. Piasecki
Lawrence J. Pietropaulo
James W. Piggott
Paul R. Plante
Richard L. Plautz
Mark M. Pollitt
James E. Pons
Angus M. Prim
Dale A. Prondzinski
Rodney N. Propst
Lee C. Pugh
Joseph J. Quaglia, Jr.
Steven R. Quentmeyer
Anthony J. Quinn
Michael P. Rainey
Cecil E. Ralston, Jr.
Ronald E. Randolph
David G. Ranowsky
Bryan G. Ramey
David A. Raper
David J. Rash
Louis F. Rave
Robert W. Reese
Douglas C. Redlich
Joseph S. Regan
Arlen D. Rens
David M. Renzelman
Ronald R. Rhoads
Virgil G. Rhoads
Gordon A. Rice
Stephen M. Rich
Linwood D. Richards III
Edmond T. Richardson, Jr.
Steven M. Ritacco
William L. Riznychok
Richard W. Roan
Mark E. Robbins
Donald E. Roberson
William J. Robinson
David B. Roche
Lowell R. Rogers
Theron D. Rogers
Christopher J. Ross
Richard K. Rothell
Otis E. Rowland
Donald R. Ruch
Ronald W. Ruescher
Robert A. Rufo
Timothy J. Ryan
Joseph M. Sackett
Donald L. Sammons
Juan B. Sanchez
Richard F. Schalk
Walter A. Schartmann
Norman G. Schlaich
Michael F. Schlueter
Eddie R. Schmalz
Walter C. Schmick, Jr.
Joseph H. Schmid
Nolan D. Schmidt
Robert L. Schmitt
Jerry O. Schutt
Walter R. Schuette
Arlon T. Schuetz
Robert W. Semmler
Charles C. Senn, Jr.
Steven W. Shaulis
Gary D. Shaw
Howard D. Shea
Donald R. Shepherd
James L. Shipman, Jr.
Larry K. Shipman
Donald P. Shirk
George C. Siller, Jr.
Theron Simpson, Jr.
Wilbert O. Sisson
Robert W. Skaggs
Larry W. Slaugh
Barry L. Smith
Charles R. Smith III
David L. Smith
Guilford V. Smith, Jr.
Paris G. Smith, Jr.
Stephen L. Smith
William W. Smith, Jr.
Franklin J. Sofio
Steven B. Sonnenberg
Dennis C. Sorrell
Linwood W. Sparrow
Roger K. Spencer
William X. Spencer
Glenn C. Spradling
Marc A. Spurgeon
Philip A. Stanley
Clinton D. Stannard
Thomas S. Stanmore
John F. Stastny
William H. Steele
Craig M. Steenberg
Frank D. Stephens
Keith L. Stephens
Michael K. Stevens
John F. Stewart
Paul A. Stewart, Jr.
Richard A. Stewart
Clayton E. Stillings
Robert D. Stockman
Robert T. Stockman
Douglas M. Stone
Romuald A. Stone M.
Randall C. Stout
Thomas M. Strait
Joseph J. Streitz
Michael L. Stroud
James A. Stuart III
Roger G. Sturgis
Jerry L. Suenaga
Donald E. Summers
Jesse O. Sunderland
Lary A. Sunn
Mark E. Swanstrom
Tommy D. Sweatt
John M. Taska
Don W. Tatone
Chester M. Taylor
Norman B. Taylor
Richard A. Teeter
James G. Teskey
Charles A. Teubert
Mark C. Thoman
James E. Thomas
Johnny R. Thomas
Kenneth E. Thomas
Thomas H. Thomiszer
David L. Thompson
Gary O. Thompson
Gregory E. Thompson
Bruce P. Thompsonbowers
Ernest C. Threadgill II
Steven M. Timm
Eugene R. Timothy
James R. Tomlinson
Billy W. Tongate
Garvin O. Tootle
Stephen P. Toth
Francis V. Treybal III
Lawrence E. Troffer, Jr.
Donald R. Troutt
Barry W. Trudeau
Robert K. Tucker
Glenn H. Turley
Gregory P. Turner
William M. Twaddell
Dudley W. Urban
Robert J. Urban
John R. Vandrasek, Jr.
Edward B. Vanhaute
James W. Vaught
Servando J. Velarde III
Jose Villanueva, Jr.
Geramon W. Vinup
Peter R. Vogt
Charles P. Voith
Joel R. Voneida
Daniel D. Vuilleumier
Terry R. Wade
Larry D. Walden
Frederick M. Waller, Jr
Thomas A. Walliser
Francis R. Walker
Edward E. Waltrip
Michael B. Warlick
Gregory S. Warner
Albert A. Washington
Gene D. Watson M.
John H. Watson
William P. Watson III
Randel A. Webb
Loyd T. Weeks
Walter W. Weigle
Paul R. Weigley, Jr.
Robert D. Wetzel
Tait K. Wheeler
Dickie J. White
Richard H. White
Thomas H. White
Thomas B. White III
Harold E. Whitney, Jr.
Michael G. Whitten
Wayne E. Wickman
Clifford N. Wildsmith
Cornell A. Wilson, Jr.
Gregory V. Wilson
Timothy T. Wilson
Arthur P. Williams
Glenn R. Williams
Herlis A. Williams, Jr.
Lloyd E. Williams
Thomas J. Williams
Lance Wismer
Carl H. Wohlfeil, Jr.
Robert Wolf
Robert L. Wolf
Gary E. Wolfe
Richard K. Wolfe
Franklin P. Wood
John D. Woods
Billy E. Wright
Gregory R. Wright
William A. Wright III
John M. Yencha, Jr.
David H. Yound
Brett N. Younkin
Robert F. Zurface

The following named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, pursuant to title 10, U.S. Code, section 2107, subject to the qualifications thereof as provided by law:

Jesse R. Barker
Michael A. Corcoran
Frank M. Kenny
Peter W. Langevin
Michael M. Mascarena
Stephen P. O'Hara
Omar M. Rashash

The following named (Marine Corps enlisted commissioning education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, pursuant to title 10, U.S.C. Code, section 5583, subject to the qualifications therefor as provided by law:

James V. Aldrich
Willie M. Beardsley
Gregory S. Berger
Russell A. Demeyere
Donald Z. Dillon
Michael A. Glass
Ronald D. Jacob
Thomas D. Laboube
Daniel L. McManus
David M. Meyers
Dorel A. Nanna
Raymond J. Ponnath Jr.
Michael C. Rakaska
Bernard A. Reimondo
Ernest L. Schrader
Michael W. Thomas
Charles G. Wheeler, Jr

The following named (Navy enlisted scientific education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, pursuant to title 10, U.S. Code, section 5583, subject to the qualifications therefor as provided by law:

Thomas D. Olson
Robert D. Madison
Robert J. Watson

HOUSE OF REPRESENTATIVES—*Monday, February 6, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

They that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run and not be weary; and they shall walk and not faint.—Isaiah 40: 41.

O God, our Father, as we wait upon Thee may our strength be renewed that we may run and not be weary and walk with Thee and with one another and not faint. So shall we do our best for our country and so shall we bring our best to the tasks before us this day. Consecrate with Thy presence the way our feet may go that our thoughts may be creative, our words clear, our hearts clean, and our deeds constructive. In everything, move through us to lift our Nation and the nations of our planet to a higher plane of cooperative living for Thy sake and for the good of our human family. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House of Representatives numbered 1, 2, and 3 to the amendment of the Senate to the bill (H.R. 7442) entitled "An act to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments.".

The message also announced that the Senate agrees to the amendment of the House of Representatives numbered 4 to the amendment of the Senate to the above-entitled bill with an amendment.

The message also announced that the Vice President, pursuant to Public Law 95–45, appointed Mr. BELLMON and Mr. SCOTT to attend, on the part of the Senate, the Interparliamentary Union Spring Meeting, to be held in Lisbon, Portugal, March 27 to 31, 1978.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar Day. The Clerk will call the first bill on the Consent Calendar.

LAND CONSOLIDATION AND DEVELOPMENT ON THE UMATILLA INDIAN RESERVATION

The Clerk called the bill (H.R. 2539) pertaining to land consolidation and development on the Umatilla Indian Reservation.

The SPEAKER. Is there objection to the present consideration of the bill?

Ms. MIKULSKI. Mr. Speaker, I ask unanimous consent that the bill H.R. 2539 be stricken from the Consent Calendar.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

INHERITANCE OF TRUST OR RESTRICTED LANDS ON UMATILLA INDIAN RESERVATION

The Clerk called the bill (H.R. 2540) pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation.

There being no objection, the Clerk read the bill as follows:

H.R. 2540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right to inherit trust or restricted lands on the Umatilla Indian Reservation, to the extent that the laws of descent of the State of Oregon are inconsistent herewith, shall be as follows:

SECTION 1. When any Indian dies leaving any interest in trust or restricted land within the Umatilla Reservation and not having lawfully devised the same, such interest shall descend in equal shares to his or her children, and to the issue of any deceased child by right of representation; and if there is no child of the decedent living at the time of his or her death, such interest shall descend to all his or her other lineal descendants; and if all such descendants are in the same degree of kindred to the intestate, they shall take such real property equally, or otherwise they shall take according to the right of representation. Any interest taken hereunder shall be subject to the right of a surviving spouse as provided in section 2.

SEC. 2. The surviving spouse of any Indian who dies leaving any interest in trust or restricted land within the Umatilla Reservation shall be entitled to the use during his or her life of one-half part of all such trust or restricted interests in land.

SEC. 3. If any Indian who leaves any interest in trust or restricted land within the Umatilla Reservation, make provisions for his or her surviving spouse by an approved will, such surviving spouse shall have an election whether to take the provisions as made in such will or to take the interest as set forth in section 2 of the Act, but such surviving spouse shall not be entitled to both unless it plainly appears by the will to have been so intended by the testator. When any surviving spouse is entitled to an election under this section, he or she shall be deemed to have elected to take the provisions as made in such will unless at or prior to the first hearing to probate the will that he or she has elected to take under section 2 of this Act and not under the will.

With the following committee amendment:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That the right to inherit trust or restricted land on the Umatilla Indian Reservation, to the extent that the laws of descent of the State of Oregon are inconsistent herewith, shall be as provided herein.

SEC. 2. When any Indian dies leaving any interest in trust or restricted land within the Umatilla Reservation and not having lawfully devised the same, such interest shall descend in equal shares to his or her children and to the issue of any deceased child by right of representation; and if there is no child of the decedent living at the time of his or her death, such interests shall descend to his or her other lineal descendants; and if such descendants are in the same degree of kindred to the intestate, they shall take such real property equally, or otherwise they shall take according to the right of representation. An interest taken hereunder shall be subject to the right of a surviving spouse as provided in section 3.

SEC. 3. The surviving spouse of any Indian who dies leaving any interest in trust or restricted land within the Umatilla Reservation shall be entitled to obtain a one-half interest in all such trust or restricted interests in land during his or her lifetime.

SEC. 4. If any Indian, who leaves any interest in trust or restricted land within the Umatilla Reservation, makes provisions for his or her surviving spouse by an approved will, such surviving spouse shall have an election whether to take the provisions as made in such will or to take the interest as set forth in section 3 of this Act, but such surviving spouse shall not be entitled to both unless it plainly appears by the will to have been so intended by the testator. When any surviving spouse is entitled to an election under this section, he or she shall be deemed to have elected to take the provisions as made in such will unless, at or prior to the first hearing to probate the will, he or she has elected to take under section 3 of this Act and not under the will.

SEC. 5. The provisions of this Act shall apply to all estates of decedents who die on or after the date of enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE RETURN TO THE UNITED STATES OF TITLE TO CERTAIN LANDS CONVEYED TO CERTAIN INDIAN PUEBLOS OF NEW MEXICO AND FOR SUCH LAND TO BE HELD IN TRUST BY THE UNITED STATES FOR SUCH TRIBES

The Clerk called the Senate bill (S. 1509) to provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes.

There being no objection, the Clerk read the Senate bill as follows:

S. 1509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the duly authorized officials of each of the Indian pueblos of New Mexico are hereby authorized to convey to the United States all the right, title, and interest of such pueblos in the land located in Albuquerque, County of Bernalillo, State of New Mexico, which was conveyed to such pueblos on behalf of the United States and the Secretary of the Interior by the quitclaim deed executed on June 17, 1969, by the Acting Commissioner of Indian Affairs, and by the correction quitclaim deed executed July 30, 1970, by the Commissioner of Indian Affairs, and which is described as follows:

Tract "C"

A tract of land lying and being situated in section 7, township 10 north, range 3 east of the New Mexico principal meridian, within the city of Albuquerque, County of Bernalillo, State of New Mexico, said tract being more particularly described as follows:

Beginning at a point on the west right-of-way line for 12th Street and the north right-of-way line for Indian School Road, said point also being corner No. 2 of tract herein described and from whence the New Mexico Highway Department Triangulation Station 1–40–15 having established coordinates of Y–1494103.76, X–378204.72 of the New Mexico coordinate system, central zone, bears S. 16 degrees 02 minutes 03 seconds E., 989.43 feet.

Thence north 59 degrees 58 minutes 22 seconds west, 281.29 feet along the north right-of-way of Indian School Road to the point of curvature and corner No. 3 of said tract.

Thence in a northwesterly direction 212.69 feet along the range/west curve concave to the northeast having a radius of 1,393.27 feet to corner No. 4.

Thence north 8 degrees 49 minutes 05 seconds east, 865.60 feet to corner No. 5, a point on the south right-of-way of Menaul Boulevard extension.

Thence in a northeasterly direction 493.42 feet along the range/west curve concave of the south having a radius of 716.20 feet to corner No. 1, a point on the west range/west line for 12th Street.

Thence south 8 degrees 16 minutes west, 1,255.45 feet along said range/west to corner No. 2, the point and place of beginning, said tract containing 11.2857 acres, more or less.

Corner Coordinates of Tract "C"

Corner	Y— Coordinate	X— Coordinate
1	1496295.97	378116.98
2	1495054.70	377931.43
3	1495196.41	377688.55
4	1495316.87	377513.58
5	1496171.41	377649.72

(b) Upon approval by the Secretary of the Interior, the Secretary shall accept such conveyances on behalf of the United States. Such land shall be held in trust jointly for such Indian pueblos and shall enjoy the tax-exempt status of other trust lands, including exemption from State taxation and regulation. However, such property shall not be "Indian country" as defined in section 1151 of title 18, United States Code. The Secretary shall cause a description of such trust land to be published in the Federal Register.

(c) Nothing in this Act shall terminate or diminish the rights or interests of the Indian Pueblo Cultural Center, Inc., as an assignee or subleasee of the lease of such land to the All Indian Pueblo Council, Inc., approved on August 27, 1974, by the Bureau of Indian Affairs.

(d) Nothing in this Act shall alter the rights or interests, if any, in the adjacent lands previously conveyed to the County of Bernalillo for Four-H Club use by deed dated March 22, 1960.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING RETIREMENT OF CERTAIN RESERVE ENLISTED MEMBERS OF ARMY AND AIR FORCE AFTER 20 YEARS OF SERVICE

The Clerk called the bill (H.R. 10341) to amend title 10, United States Code, to authorize reserve enlisted members of the Army and the Air Force to retire with 20 years of service.

The SPEAKER. Is there objection to the present consideration of the bill?

Ms. MIKULSKI. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

RECALCULATING THE RETIRED PAY OF CERTAIN SERGEANT MAJORS OF MARINE CORPS

The Clerk called the bill (H.R. 10343) to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967.

Ms. MIKULSKI. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The SPEAKER. This ends the call of bills on the Consent Calendar.

APPOINTMENT AS MEMBERS OF NATIONAL COMMISSION ON SOCIAL SECURITY

The SPEAKER. Pursuant to the provisions of section 361(a)(2), Public Law 95-216, the Chair appoints as members of the National Commission on Social Security, the following from private life: Mr. Wilbur J. Cohen of Ann Arbor, Mich., and Mr. Robert Julius Myers of Silver Spring, Md.

APPOINTMENTS TO THE NATIONAL COMMISSION ON SOCIAL SECURITY

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker: You may recall that the Social Security Amendments of 1977, Public Law 95-216, provides for the establishment of a nine member National Commission on Social Security in which the Speaker of the House appoints two members.

I am very pleased to announce today the appointment of Wilbur Joseph Cohen as the Democratic appointment, and after consultation with the minority leader, JOHN RHODES, the appointment of Robert Julius Myers as the Republican appointment to the National Commission on Social Security.

We in the House of Representatives view this Commission with particular importance and feel very strongly that the members of this Commission should consist of men and women of bipartisan and recognized standing and distinction, and who have a special knowledge or expertise in those programs under the social security system.

The purpose of this Commission is to conduct a study, investigation, and review of the old age survivors and disability insurance program and the health insurance programs of the Social Security Act. The Commission will also examine the fiscal status of the trust funds, and more specifically, the adequacy of these trust funds to meet the immediate and long-term needs of the social security program; it will also examine the scope of coverage, the requirement for coverage, and the measurement of an adequate retirement income. This Commission will further examine the possible alternatives to the current Federal programs and the need for the development of a special consumer price index for the elderly as well as the financial impact of such alternatives. This National Commission will hold public hearings throughout the United States during its 2-year existence and will meet at least once each month.

Wilbur Cohen is eminently qualified to serve on this Commission. We Democrats call him "Mr. Social Security." He was the guiding light of President Roosevelt's Committee on Economic Security which was set up for the purpose of passing the Social Security Act. He has been an integral of the Social Security Administration from 1936 to 1956, former Secretary of the Department of Health, Education, and Welfare, former consultant on aging to the Senate Committee on Labor and Public Welfare, consultant on the impact of inflation on retired citizens to the White House Conference on Aging, and Chairman of the President's Task Force on Health and Social Security. In addition, Wilbur Cohen is an international adviser and consultant on social welfare, the recipient of numerous awards in this field, and the author of books and treatises on social security.

Robert Myers has held various actuarial positions in Government including the Committee on Economic Security, the Railroad Retirement Board, and the Social Security Administration. He has served as a consultant on social security to Republican Members of Congress, most recently during the deliberations on the Social Security Amendments of 1977. Like Wilbur Cohen, he has been associated with the American social security system from its infancy, is widely regarded as one of the world's foremost authorities on social insurance in general, and the U.S. social security system in particular, and is the author of several books on the subject.

APPOINTMENT AS MEMBERS OF U.S. DELEGATION OF CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER. Pursuant to the provisions of title 22 United States Code, section 276d, as amended, the Chair appoints as members of the United States delegation of the Canada-United States Interparliamentary Group to be held in New Orleans the following Members on the part of the House: Mr. FASCELL, Florida, chairman; Mr. JOHNSON, California, vice chairman; Mr. GIBBONS, Florida; Mr. HANLEY, New York; Mr. MEEDS, Washington; Mr. BAUCUS, Montana; Mr. OBERSTAR, Minnesota; Mr. FOWLER, Georgia; Mr. BROOMFIELD, Michigan; Mr. MCEWEN, New York; Mr. WINN, Kansas; and Mr. STANGELAND, Minnesota.

SOCIAL SECURITY HONOR ROLL

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

SOCIAL SECURITY ONE-THIRD, ONE-THIRD, ONE-THIRD GENERAL REVENUE FUNDING—THE BURKE PROPOSAL

Mr. BURKE of Massachusetts. Mr. Speaker, today I am publishing the first list of those who's names will appear on the Social Security Honor Roll for 1978. Names will be published once a week. They are Members of Congress who have cosponsored the one-third, one-third, one-third general revenue funding legislation I have filed calling for restructuring of the social security system.

If your name is not on this list, I hope you will hasten to join because the American people are looking for a reduction in the regressive social security taxes that has caused high unemployment in this Nation in every field of endeavor—the steel industry, auto, electronic, textile, footwear, hats, handbags, bicycle, and others. The high payroll tax has been the cause of increased prices for American made goods, higher utility rates and even affects farmers in the United States.

If your name is not included on this list, it will be published next week when new Members are added to the Social Security Honor Roll.

If you have joined as a cosponsor, and your name does not appear on this list, it will be published next week when new Members are added to the Social Security Honor Roll.

The list follows:

SOCIAL SECURITY HONOR ROLL

Hon. Joseph Addabbo, New York.
Hon. Frank Annunzio, Illinois.
Hon. Edward P. Boland, Massachusetts.
Hon. Edward P. Beard, Rhode Island.
Hon. Mario Biaggi, New York.
Hon. Jonathan B. Bingham, New York.
Hon. James J. Blanchard, Michigan.
Hon. David Bonior, Michigan.
Hon. William M. Brodhead, Michigan.
Hon. Yvonne Brathwaite Burke, California.
Hon. Charles J. Carney, Ohio.
Hon. Shirley Chisholm, New York.
Hon. William (Bill) Clay, Missouri.
Hon. Silvio O. Conte, Massachusetts.
Hon. John Conyers, Jr., Michigan.
Hon James C. Corman, California.
Hon. Ronald V. Dellums, California.
Hon Ron de Lugo, Virgin Islands.
Hon. Robert F. Drinan, Massachusetts.
Hon. Joeseph D. Early, Massachusetts.
Hon. Joshua Eilberg, Pennsylvania.
Hon. Frank E. Evans, Colorado.
Hon. John G. Fary, Illinois.
Hon. Walter F. Fauntroy, District of Columbia.
Hon. Daniel J. Flood, Pennsylvania.
Hon. James J. Florio, New Jersey.
Hon. Harold E. Ford, Tennessee.
Hon. Joseph M. Gaydos, Pennsylvania.
Hon. Albert Gore, Jr., Tennessee.
Hon. Tennyson Guyer, Ohio.
Hon. Margaret M. Heckler, Massachusetts.

Hon. James M. Hanley, New York.
Hon. Michael Harrington, Massachusetts.
Hon. Agustus F. Hawkins, California.
Hon. Barbara Jordan, Texas.
Hon. Joseph A. Le Fante, New Jersey.
Hon. Edward J. Markey, Massachusetts.
Hon. Parren J. Mitchell, Maryland.
Hon. Joe Moakley, Massachusetts.
Hon. Anthony Toby Moffett, Connecticut.
Hon. Austin J. Murphy, Pennsylvania.
Hon. Morgan F. Murphy, Illinois.
Hon. Robert N. C. Nix, Pennsylvania.
Hon. Richard Nolan, Minnesota.
Hon. Edward W. Pattison, New York.
Hon. Jerry Patterson, California.
Hon. Carl D. Perkins, Kentucky.
Hon. Melvin Price, Illinois.
Hon. Charles B. Rangel, New York.
Hon. Frederick W. Richmond, New York.
Hon. Peter W. Rodino, Jr., New Jersey.
Hon. Charles Rose, North Carolina.
Hon. Benjamin S. Rosenthal, New York.
Hon. George E. Shipley, Illinois.
Hon. John F. Seiberling, Ohio.
Hon. Paul Simon, Illinois.
Hon. B. F. Sisk, California.
Hon. Fernand J. St Germain, Rhode Island.
Hon. Stephen J. Solarz, New York.
Hon. Fortney H. (Pete) Stark, California.
Hon. Louis Stokes, Ohio.
Hon. Gerry E. Studds, Massachusetts.
Hon. Frank Thompson, Jr., New Jersey.
Hon. Paul E. Tsongas, Massachusetts.
Hon. James Weaver, Oregon.
Hon. Lester L. Wolff, New York.
Hon. Antonio Borja Won Pat, Guam.
Senator William Hathaway, Maine.
Senator Don Riegle, Michigan.

SPECIAL ORDER ON PUBLIC WORKS AND PUBLIC SERVICE EMPLOYMENT

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, on Thursday of this week I am scheduling a special order to consider the effects of the public works and public service employment programs on the national economy and on the economic and governmental relations climate of our own districts. When these programs first went into effect we had serious problems with them. The President recommended and Congress accepted an expansion of these programs as a large part of his $10 billion economic stimulus proposals at the beginning of this Congress. It was alleged that we had reformed the problems out of these programs when the stimulus package was enacted, and at least a substantial part of the package is likely to be extended or reenacted in revised form this year. Before we assume success, as the President did in his state of the Union message, from the improvement of the economy, I hope my colleagues will find time to check the statistics and compare their own experiences. My special order is an invitation to start this process, and I hope many will participate.

TRIBUTE TO FRANK CULLEN BROPHY

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, Arizona lost one of the pioneer guiding forces in the development and growth of our State last Friday, with the passing of Frank Cullen Brophy at the age of 83.

In addition to his leadership in Arizona's banking industry, and in mining, produce sales, ranching, and farming, Mr. Brophy was a generous philanthropist who furthered education and health care for our people. He was an early and firm supporter of Arizona political leaders who have also been dominant on the national scene.

Mr. Speaker, it is a mark of this gentle, creative, and energetic man's great contribution to Arizona that tributes to him have been forthcoming throughout this past weekend from every quarter of our State's leadership and citizenry.

A front-page story in the Arizona Republic, the State's largest statewide newspaper, and a column eulogizing Mr. Brophy by that paper's highly respected editor, Frederick S. Marquardt, are indicative of the reverance for this truly great Arizonan.

I feel a great personal loss at the passing of Frank Cullen Brophy, who it was my privilege to know as a friend and counselor.

I know that I speak for his many friends and admirers in Arizona and throughout the Nation when I say that Frank Brophy will be sorely missed. We are thankful for what he gave us throughout his life, and for his great family that will carry on the proud Brophy tradition.

INDIVIDUAL TAX RELIEF ACT OF 1978

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, last week Treasury Secretary Blumenthal appeared before the Ways and Means Committee to present the administration's tax proposals. The Secretary's statement and his responses to questions posed by myself and other members of the committee brought to light the need for certain additional modification to the tax code and the way it is administered.

Therefore, I am today introducing the Individual Tax Relief Act of 1978 which will make certain that taxpayers are not overtaxed due to inflation and will restore an element of fairness to the administration of the Internal Revenue Code.

Specifically the bill will:

First. Provide for an annual inflation adjustment to the income tax tables and exemption;

Second. Provide for the payment of interest to taxpayers at 6 percent on the amount by which their withholding exceeds actual tax liability;

Third. Provide a $100 tuition tax credit per household for attendance at elementary, secondary or vocational schools or at an institution of higher learning;

Fourth. Forgive all of the capital gain on the sale of a principal residence for taxpayers who have reached the age 65; and

Fifth. Exclude from income the first $100 of interest.

As a recent Roper poll has indicated, approximately 64 percent of the American taxpaying public feels the tax system is unfair. The Individual Tax Relief Act of 1978 will help to restore fairness and the respect of taxpayers for the system.

COMMUNICATIONS ACT AMENDMENTS OF 1978

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7442) to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments, with a Senate amendment to the House amendment to the Senate amendment thereto, recede from House amendments Nos. 1, 2, and 3, and concur in the Senate amendment to House amendment No. 4.

The Clerk read the title of the bill.

The Clerk read the House amendments to the Senate amendment, as follows:

Page 1, strike out all after line 4 over to and including line 8 on page 7.

Page 7, line 9, strike out "SEC. 5.", and insert *Sec. 2.*

Page 7, line 13, strike out SEC. 5 and insert *Sec. 3.*

Page 10, strike out all after line 6 over to and including line 12 on page 11.

The Clerk read the Senate amendment to House amendment No. 4, as follows:

Resolved, That the Senate disagree to the amendments of the House of Representatives numbered 1, 2, and 3 to the amendment of the Senate to the bill (H.R. 7442) entitled "An Act to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments.".

Resolved, That the Senate agree to the amendment of the House of Representatives numbered 4 to the amendment of the Senate to the above-entitled bill with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House of Representatives numbered 4 to the amendment of the Senate insert:

SEC. 7. The amendments made by this Act shall take effect on the thirtieth day after the date of enactment of this Act; except that the provisions of sections 503(b) and 510 of the Communications Act of 1934, as in effect on such date of enactment, shall continue to constitute the applicable law with respect to any act or omission which occurs prior to such thirtieth day.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I would ask my friend and colleague from California if this is the same bill that was sent over by unanimous consent last week?

Mr. VAN DEERLIN. It is.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, could my colleague indicate what has happened over there? Did it come back in substantially the same form?

Mr. VAN DEERLIN. Mr. Speaker, if the gentleman will yield further, no. The troublesome amendment the Senate had added is one that dealt with international common carrier communications. The House has held no hearings on this matter. There has been no action by the House of any kind. The Senate sent the bill back with one amendment intact. It

authorizes the Federal Communications Commission to impose penalties and forfeitures on cable operators for violation of FCC regulations and raises the ceiling on fines for other licensees, such as broadcasters and land mobile operators.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, is the latter amendment a new amendment that was attached in the Senate?

Mr. VAN DEERLIN. If the gentleman will yield, it is an amendment which was not in the House bill. It went over to the Senate late last year. It is precisely the same amendment that was part of the language of a House bill that failed to get to the floor in the last week of the 94th Congress.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, there is nothing that is nongermane that has been attached to this amendment or in any other way has changed the House position?

Mr. VAN DEERLIN. In specific response to the gentleman, I would have to say that the amendment that the Senate has left on the bill, which is satisfactory to the committee on this side, is nongermane to the subject of the bill sent over by the House. The Senate has exercised its prerogative of nongermaneness, and we are willing to accept its language in order to move the legislation.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

Mr. CARTER. Mr. Speaker, reserving the right to object, I would like to ask the nature of this nongermane amendment attached by the Senate, if you please.

Mr. VAN DEERLIN. Mr. Speaker, if the gentleman will yield, the major portion of the legislation goes to granting cable operators of the Nation a forum at the Federal level for the resolution of pole attachment disputes.

The amendment that the Senate has attached grants the Federal Communications Commission the right to impose, as it now has the right to impose on broadcasters, penalties and forfeitures against cable operators who violate FCC rules and regulations.

Mr. CARTER. Mr. Speaker, further reserving the right to object, I would say that I have closely followed cable television. There are a great many cable television, companies throughout our country. I see an increasing tendency of them to be gathered together under one group. In fact, I submit, Mr. Speaker, that within the next few years, just as we have only 3 major T.V. broadcasting companies, it is extremely likely that we will have only two or three major cable television companies.

Further, Mr. Speaker, I would say that in instances in which cable television companies have purchased recently, and in the district I represent, immediately after purchase up goes the price.

Mr. Speaker, I am alarmed at what is going on in this area, and I would like the Members of this body to take cognizance of what is really going on in my home town. The cost per month of cable television went up from $6 to $7.25. In Casey County, immediately after purchase by another company, again the cost went up $1 per month. In Knox County, further east in the district, the cost went up more.

Mr. Speaker, I want to see the people of our country served and served as reasonably as possible, but I do not want to see them ripped off. With the promise of the distinguished gentleman from California, the chairman of the Communications Committee, that he will see to it that they are not ripped off, I will not object.

Mr. VAN DEERLIN. Mr. Speaker, I grant the gentleman that assurance.

Mr. CARTER. The gentleman gives me that assurance.

Mr. Speaker, I have been noticing this. I would ask that the gentleman take this up with the FCC, to see that our people are not exploited by large companies. Furthermore, Mr. Speaker, I would ask the gentleman to see that all of the cable television companies are not gathered together into one huge combine.

Mr. Speaker, do I have that promise?

Mr. VAN DEERLIN. Mr. Speaker, let me assure the gentleman from Kentucky (Mr. CARTER) that I have been thinking along those lines mvself, and the gentleman's words will be helpful to us in bringing this matter to the attention of both the Commission and the cable television industry.

Mr. CARTER. With that assurance, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

GRAND CANYON SCHOOL DISTRICT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2076) to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Grand Canyon National Park, Ariz., to the Grand Canyon Unified School District, Ariz., and for other purposes, as amended.

The Clerk read as follows:

S. 2076

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior (hereafter referred to as the "Secretary") is authorized for the two-year period commencing October 1, 1978, and ending September 30, 1980 to make payments to reimburse the appropriate school district or districts (hereafter referred to as the "districts") for educational facilities and services (including, where appropriate, transportation to and from school) incurred by said districts in providing educational benefits to pupils living at or near the Grand Canyon National Park upon real property owned by the United States which is not subject to taxation by State or local agencies: Provided, That the payments for any school year to said districts shall not exceed that part of the cost of operating and maintaining such facilities and providing such services which the number of pupils as defined above bears to the whole number of pupils in average daily attendance within said districts for that year.

(b) If in the opinion of the Secretary of the Interior, the aforesaid educational facilities and services cannot be provided adequately and payment made therefor on a pro rata basis, as prescribed in subsection (a), the Secretary of the Interior may enter into cooperative agreements with State or local agencies for (1) the operation of school facilities, (2) for the construction and expansion of educational facilities at Federal expense, and (3) for contribution by the Federal Government, on an equitable basis satisfactory to the Secretary, to cover the increased cost to local agencies for providing the educational services required for the purposes of this section: *Provided,* That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) The Secretary shall submit an annual estimate of the anticipated payments which may be made in accordance with the provisions of this Act to the Committees on Appropriations of the United States Senate and House of Representatives. There are authorized to be appropriated an amount not to exceed $1,500,000 for fiscal year 1979 and an amount not to exceed $1,500,000 for fiscal year 1980 to carry out the provisions of this Act: *Provided,* That any appropriations made pursuant to this Act shall be reduced by the amount of any payments made to said districts pursuant to the Acts of September 23, 1950 (64 Stat. 906), as amended (20 U.S.C. 631 et seq.), and September 30, 1950 (64 Stat. 1100), as amended (20 U.S.C. 236 et seq.). Any amount appropriated pursuant to this Act for any fiscal year shall remain available until expended.

The SPEAKER. Is a second demanded?

Mr. ASHBROOK. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I discuss the specific provisions of the bill, let me state to the House that I do not intend to ask for a record vote on this legislation. I do this because of the severe storm which has paralyzed much of the Midwest and the Northeast. A number of our colleagues are unable to get here today by plane or other transportation.

I would hope that, with our limited schedule today, we would not make it difficult for our colleagues who might

be forced to miss rollcall votes. Many of our most conscientious Members are, through no fault of their own, in a position which makes it impossible for them to be here today.

Mr. Speaker, the Grand Canyon Unified School District is located within the Grand Canyon National Park. Because of this, a large percentage of the children who attend the school come from families of National Park Service employees or concessionaire employees who live on nontaxable Federal land, and therefore do not contribute to the financial base of the school district.

The legislation that is before the House today, S. 2076 as amended, was ordered reported by the full Interior Committee by voice vote on Novembr 29, 1977. The Senate passed the measure by unanimous consent on September 9 of last year.

The purpose of the legislation is to allow the Grand Canyon School District, severely strapped for operating funds, to attain solvency by authorizing the Secretary of Interior to reimburse the school district for educational services rendered to dependents of Park and Park-related employees.

This, to me, seems to be the only fair solution to this very complex problem. Over 90 percent of the children who attend the school are dependents of people who pay no property taxes, so the remaining 10 percent are, in effect, subsidizing the education of these remaining Federal and concessionaire employees. Without this legislation, I fear that the viability of the school district is threatened. The physical plant of the school is in serious disrepair and the present curriculum operates at bare minimum. Recent estimates by the National Park Service indicate that the situation will be worsening, with the school district population projected to more than double in the next 5 years. These increases, for the most part, will be from the families of National Park Service employees.

The superintendent of the school district, Dr. Thomas Caldwell, has explored every other possible avenue of relief before coming to the Congress for help. Consolidation with the Williams School District 65 miles away was explored, but because of the great distance involved and because the Williams School District was unwilling to increase their tax burden substantially, this alternative was dropped. Another alternative that was explored without success was to dissolve the Grand Canyon School District altogether and bus the children 80 miles away to the Flagstaff Public Schools. Because of the severe winter climate of northern Arizona, a 160-mile round trip to school every day by children in grades K–12 is impractical and dangerous. One other option that was explored was the feasibility of having Park Service and concessionaire employees children sent off to boarding schools every fall. This seems to me to be the most unacceptable approach not only from a financial viewpoint but from an ethical one, also.

The people of the Grand Canyon School District have done more than their fair share with the limited funds available to them to try to keep the school alive. Without this legislation the very few taxpayers on whose shoulders the responsibility for the upkeep and maintenance of the school rest will be forced to pay unrealistically high taxes to the point where the facility will be forced to close. As the only unified school district (K–12) in America within a national park, the need and uniqueness of this problem requires special legislation.

As Senator CLAIBORNE PELL, chairman of the Education, Arts and Humanities Subcommittee said after personally touring the school this past summer:

> I also saw the condition of the school buildings which was not good, and I learned about the financial situation which faced the school administration, which was worse. There are many schools in the United States which face financial difficulties; however, this case is special in a number of ways, and if we do not act upon this bill then this district will simply not be able to serve the students in that area. This would happen in spite of the fact that the parents of those children already pay some of the highest school taxes in the Nation.

In conclusion, I urge the Members of the House to vote favorably on this desperately needed piece of legislation, so that the children living in this area will at least have the opportunity to pursue a decent level of education.

Mr. PERKINS. Mr. Speaker, if the chairman of the committee will yield to me for a minute, I would like to ask him several questions about S. 2076 as reported by his committee.

Mr. UDALL. I will be pleased to yield to the gentleman from Kentucky.

Mr. PERKINS. At the beginning, I would like to state for the record that the gentleman from Arizona (Mr. UDALL) and I discussed this bill last Monday when it was supposed to be voted on by the House under suspension of the rules; and, after I expressed to the chairman a number of the concerns that some of us on the Education Committee had with this bill as it was amended in the Interior Committee, the chairman very graciously withdrew that bill from consideration and offered to discuss it further with us last week.

I am pleased to report to the House that the chairman of the committee has modified his bill to meet the concerns we had with it as it was reported by the Interior Committee. The first major concern we had was that the bill as reported created a permanent authorization to provide general operating funds to one school district in the country. We feared that, as with many permanent authorizations, this authority would never be looked at again after it was signed into law. I am pleased to report that the chairman modified the bill to make this into a limited 2-year authorization so that the Congress will have to review the wisdom of this provision within the next 2 years.

The other major concern we had was that the original Senate bill which took the revenues from the concessions operated in the Grand Canyon National Park and earmarked them for the benefit of the Grand Canyon School District was modified by the House Interior Committee to create instead an open-ended authorization of appropriations from general government revenues for the benefit of that school district. We, on the Education Committee, could possibly understand earmarking revenues from contracted concessions in a national park for a particular purpose if there were very unusual circumstances, but we had difficulty understanding drawing funds from the general treasury for this purpose.

Therefore, regarding this concern, I would like to ask the chairman of the committee whether it is his understanding that this bill, if it is to become law, will be within the oversight responsibility of the Committee on Education and Labor so that the Committee can propose amendments to it if necessary in the future.

Mr. UDALL. I would like to assure the gentleman that it is the understanding of the Committee on Interior and Insular Affairs that the Committee on Education and Labor will have oversight responsibility for this bill when it becomes law and that the Education and Labor Committee will also have the right under the rules of the House to propose amendments to it.

In turn, I would like to ask the gentleman from Kentucky whether he will take it upon himself as chairman of the Education Committee to delve further into the situation in which the Grand Canyon School District finds itself so that if, in fact, that school district needs a long-term solution to its problems the gentleman will take it upon himself to propose such a solution in the Education Amendments of 1978 which I understand is going to be reported from his committee this year.

Mr. PERKINS. I can assure the gentleman from Arizona that as a member of the Education Committee I will learn more about the situation of this school district and will try to propose an amendment to deal with its problems if those problems are as severe as the chairman and the Interior Committee seem to believe.

Mr. UDALL. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to associate myself with the comments of my colleague from Arizona concerning the Grand Canyon National Park School Aid Act that is now before us. This legislation is designed to provide educational benefits, and indeed, basic education opportunities, to those students served by the Grand Canyon Unified School District in Arizona.

The reason for this bill is the school district's financial crisis which developed because approximately 50 percent of the students attending Grand Canyon schools have parents employed by the National Park Service. As such, they are excluded from the State and local tax base which supports the school district. Since the Grand Canyon School District is wholly contained within the borders of a national park, it is incumbent upon

Congress to act in such a way as not to deny adequate education for children in this area.

Because of the deteriorating finanical situation in the school district and the effect this is having on the students of the Grand Canyon School System, I urge prompt passage of this measure.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. STUMP).

Mr. STUMP. Mr. Speaker, like many school districts, the Grand Canyon School District is in need of financial assistance. However, unlike many school districts, the financial assistance needs of the Grand Canyon School District are unique in that they require congressional action.

The school district is unique in that it is the only school district located wholly within the boundaries of a national park which provides a kindergarten through 12th grade education for 285 children. Approximately 90 percent of the student population makes no contribution to the financial base of the school district because their parents are Federal employees or concessionnaires residing on Federal property. Therefore, a large burden is placed on the few taxpayers who own property within the school district.

The condition of the school facilities are poor and inadequate, and seriously restrict the curriculum. The school has been cited for not complying with certain aspects of the North Central Accreditation requirements, and is in jeopardy of losing its accreditation.

Alternatives to Federal financial assistance have been studied by the Grand Canyon Board of Education. The alternatives would either place a much higher funding burden on the district, or require the students to be bused 150 miles to another school district. Both alternatives are unrealistic, and would lead to the closure of the school.

There has been a long history of Federal involvement in the school district. The school came into existence and now exists because of the Grand Canyon National Park. Federal funds have been used for the construction of the school buildings since 1921, and for the maintenance of those buildings until 1964, when the Grand Canyon Board of Education was given the responsibility of maintenance.

To insure the continued operation of the school district, and provide the necessary construction and maintenance of the educational facilities, S. 2076 authorizes the Secretary of Interior to make payments annually to the Grand Canyon School District from appropriations of the general fund. Because of the large number of students whose parents are Federal employees and are connected with the Grand Canyon National Park, the Federal Government should be responsible for the future financial viability of the Grand Canyon School District.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill S. 2076, now under consideration.

The SPEAKER pro tempore (Mr. GIAIMO). Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I have no further requests for time.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may consume.

I would like to ask my colleague, the gentleman from Arizona (Mr. UDALL), several questions.

I listened to the colloquy of the chairman of my full Committee on Education and Labor. I was not quite sure how it came out.

As I understand it, Mr. Speaker, the gentleman from Kentucky (Mr. PERKINS) indicated that he would like to have a 2-year trial on this and then bring it back for review.

What is the situation in the bill? As I understand it, it is a permanent piece of legislation, is it not?

Mr. PERKINS. If the gentleman would yield, Mr. Speaker, we certainly support the legislation, which was agreed to both by the gentleman from Michigan (Mr. FORD), who can speak for himself and myself. However, we do not expect to wait 2 years for oversight. We will commence the oversight consideration this year, and there will be oversight next year.

Mr. Speaker, this is a special problem, and I think it has much merit. I want to compliment the gentleman from Arizona (Mr. UDALL) for moving in this direction.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the motion I made to suspend the rules was with respect to the bill as amended by the committee, plus an amendment that I had printed in the RECORD, which ended this open-end authorization.

Mr. ASHBROOK. For 2 years, as I understand; is that correct?

Mr. UDALL. For 2 years; it will expire in 2 years.

Mr. ASHBROOK. This is a piece of legislation which deals with only one school district; is that correct?

Mr. UDALL. Yes. It is a very unique and unusual district, totally within the boundaries of the Grand Canyon National Park; and most of the students are children of park employees. It is also 80 miles from the nearest school to which they might go. Therefore, we have some special problems.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, on behalf of the committee, I raised a question with the chairman, the gentleman from Arizona (Mr. UDALL), when the bill was up on suspension the last time, about the fact that this seemed to be a peculiar and very special kind of change in the concept of Federal impact. As a result, he graciously pulled the bill back until we had an opportunity to discuss it.

They have an immediate problem with this school district; and if they have to wait until we act on the impact aid legislation that will be acted on this year, they could miss the opportunity for an appropriation in the current fiscal year. Therefore, there was an understanding reached that the legislation would be changed from a permanent authorization to a 2-year authorization, which will still require a specific appropriation, I might say to the gentleman from Ohio.

In the meantime, we are under the gun, in effect, on the Committee on Education and Labor to reenact the impact aid program during this session of Congress; and it would be our intention to take into account the special kind of considerations that are urged for the Grand Canyon school system to see whether we can accommodate them.

I might say, for example, to the gentleman that if he will look at the report accompanying the bill, the gentleman will see that the Department of the Interior has already drawn attention to the fact that the county in which the school district lies received $500,000 last year from legislation that we passed to soften the impact of a big Federal presence, the ownership of most of the land in a particular area, and they have not chosen to share any of that money with the school district. Perhaps we might be able to work out an arrangement so that in the future that money will be divided in some way with the school district.

But, in any event, the gentleman from Arizona (Mr. UDALL) and the Department of the Interior have agreed to cooperate with the Committee on Education and Labor. We hope to work it out so that we do not set a precedent for everyone with special school districts with special problems desiring to pass special laws.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague, the gentleman from Michigan (Mr. FORD), for saying that he hopes we will not set a precedent, however I think that some of us may feel that we may very well be setting a precedent. Further, Mr. Speaker, this seems to run contrary to the President's proposal to cut down on what might be called impact aid to schools.

By any fair evaluation would my friend and colleague the gentleman from Michigan (Mr. FORD) say that this is an impacted school district in the Grand Canyon?

Mr. FORD of Michigan. They are receiving impacted aid of some $300,000, as a matter of fact, a year, but they only receive impacted aid payments for the children of Federal Government employees. It is just simply a case of some very special circumstances where the Federal Government in effect does accept an activity that produces civilian employees in areas such as in this case.

I might add that it never came to our committee. It got in the other committee because it was a bill intended to provide some of the receipts from the concessionaires to the local school district in lieu of taxes and then it got changed in the other committee to where it resembles more of an educational bill and not

quite an earmarking of special funds bill in the Interior Department.

All we are trying to do is work out something without jeopardizing the current status of the school system, or give them at least 1 year, depending upon what they can justify in the Committee on Appropriations, the one and a half million dollars, and thereafter we should dispose of it in the treatment of the impact aid program.

Mr. ASHBROOK. I thank my colleague for his statement. I think this is probably an effort to accommodate either an amendment in a special situation, or a State, but I think by any fair evaluation that this is something that should be in the jurisdiction of the committee on education and labor. I am particularly concerned since the concessionaires, as I understand it, are not Federal employees, as to whether we are really in effect going one level beyond, that is, impacting these kind of employees in what might be a Federal enclave in a Federal park, or a military base.

Mr. FORD of Michigan. I might say to my friend and colleague the gentleman from Ohio (Mr. ASHBROOK) that this is not entirely new, if the gentleman will yield further to me. One of the sad things we did with impacted aid in years gone by arose where we had war production plants with lot of war workers who came there from many different parts of the country during the early days of impacted aid, because these war production and other related plants attracted people as I say from other parts of the country in large numbers without attracting a tax base with them, and impact aid was used to facilitate the expansion of the local school systems to accommodate the children of these civilian employees of a federally inspired activity.

We do recognize that there are peculiar problems when we get into a situation where the Federal Government owns all the land in sight, does all of the functions that a local government normally does, because most of the land is a national park, has all sorts of employees and employee relationships, as well as contractual relationships with people who in turn bring employees to perform that function that would not be there, as a matter of fact, except for the Federal ownership and use of the land. I do not view this as a potential large opening in the impact aid bill. Frankly, I would be pleased if I saw this as an excuse to get more impact aid, but I do not really see it that way at all. I think that what started out as a very logical sort of process in the Interior Committee got switched around along the way and that they are recognizing that the jurisdiction for any kind of permanent legislation to meet this situation ought to come from our committee. That is what we are trying to work out. I would suspect that the effect of this bill would be limited to this year and that before it would have any effect on ensuing school years we would have changed the impact aid law.

Mr. ASHBROOK. I thank my friend and colleague for that very fine explanation.

Mr. Speaker, I reserve the remainder of my time.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ), our ranking minority member.

Mr. SKUBITZ. Mr. Speaker, I understand that Mr. UDALL will propose an amendment which will place a 2-year cap upon this legislation and if this is done—I support this bill.

Mr. UDALL. If the gentleman will yield, let me say to the gentleman that that amendment is before the House, and the bill will not be passed unless the amendment is included.

Mr. SKUBITZ. I thank the chairman.

However, I must advise the committee that Mr. BAUMAN, who is chairman of the subcommittee that handled this bill, objects to the bill as I did in its original form. What his view might be today I do not know.

Mr. Chairman, heretofore, it has been recommended that special circumstances within the Grand Canyon National Park required special action by the Congress if the children within the park were to be assured adequate educational opportunities.

Because of its location within the park, most of the children attending the Grand Canyon Unified School District come from families of National Park Service employees, and the employees of the concessionaires who live on nontaxable Federal land. It has been estimated that 90 percent of the student population make no financial contribution to finance the school district.

Thus, the burden of operating the school falls heavily on the few people who own property within the park.

And of the few property owners, the primary taxpayer, is the Santa Fe Railroad which has not run a train to the Grand Canyon in several years, and recently has removed some spur tracks. I understand the railroad is contemplating removing the tracks entirely.

If this happens, the right-of-way becomes untaxable Federal land, thus dealing a crushing blow to the remaining taxpayers who would make up the loss.

In addition, the Havasuopee Tribe has expressed a desire that their children attend the Grand Canyon School as it is the school nearest their aboriginal home.

Without legislation, the future financial viability of the school district, is threatened.

This bill provides:

A. That the Secretary of the Interior make payments from appropriated money to assist the Grand Canyon School District in providing adequate facilities. However, the payments made to the school district are not to exceed that part of the cost of operating and maintaing the facilities.

Would authorize the Secretary to make pyaments in addition to those authorized in paragraph A:

For the operation of school facilities and the construction and expansion of additional facilities on an equitable basis satisfactory to the Secretary.

That authority to make payments under this subsection, shall be effective only, to the extent provided in advance, in appropriation acts.

As recommended by the committee S. 2076 would be amended to make it clear that all payments would be made from appropriations from the general funds of the Treasury rather than from franchise fees derived from the Treasury from concession operations in the park.

If the Udall amendment places a cap of 2 years on the bill, this give the Interior Committee and the Education Committee time to work out a more satisfactory solution to the problem.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time and ask for a vote on the motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the Senate bill S. 2076, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title was amended so as to read: "An act to authorize the Secretary of the Interior to make payments to appropriate school districts to assist in providing educational facilities and services for persons living within or near the Grand Canyon National Park on nontaxable Federal lands, and for other purposes.".

A motion to reconsider was laid on the table.

MEDICAID INCREASES IN PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9934) to mend the Social Security Act to increase the dollar limitations and Federal medical assistance percentages applicable to the medicaid programs of Puerto Rico, the Virgin Islands, and Guam.

The Clerk read as follows:

H.R. 9434

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ADJUSTMENT OF DOLLAR LIMITATION ON MEDICAID PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

SECTION 1. (a) Subsection (c) of section 1108 of the Social Security Act (42 U.S.C. 1308(c)) is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to—

"(1) the fiscal year ending September 30, 1978, for payment—

"(A) to Puerto Rico shall not exceed $50,000,000,

"(B) to the Virgin Islands shall not exceed $1,600,000, and

"(C) to Guam shall not exceed $1,475,000;

"(2) the fiscal year ending September 30, 1979, for payment—

"(A) to Puerto Rico shall not exceed $60,000,000,

"(B) to the Virgin Islands shall not exceed $2,000,000, and

"(C) to Guam shall not exceed $1,800,000; and

"(3) each subsequent fiscal year, for payment to Puerto Rico, the Virgin Islands, and Guam shall not exceed the amounts specified in subparagraphs (A), (B), and (C), respectively, of paragraph (2) increased by a percentage equal to the percentage increase in the Consumer Price Index (published monthly by the Bureau of Labor Statistics of the Department of Labor) between Octo-

ber 1, 1979, and the first day of such fiscal year.".

(b) The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1977.

ELIMINATION OF SPECIAL LIMITATION ON THE FEDERAL MEDICAL ASSISTANCE PERCENTAGE FOR PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

SEC. 2. (a) The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking out "(1)", and

(2) by striking out ", and (2)" and all that follows through "shall be 50 per centum".

(b)(1) Except as provided in paragraph (2), the amendments made by subsection (a) apply with respect to care and services provided, under a State plan approved under title XIX of the Social Security Act, in a calendar quarter beginning after September 30, 1978.

(2) Each of the agencies administering or supervising the administration of the State plan, approved under title XIX of the Social Security Act, for Puerto Rico, the Virgin Islands, or Guam may elect not to have the amendments made by subsection (a) apply to any care or services provided in its jurisdiction to an individual over a period of time beginning before October 1, 1978, and ending after October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) will be recognized for 20 minutes and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would increase the maximum amount of Federal dollars which can be spent to support the medicaid programs of Puerto Rico, Guam, and the Virgin Islands. These jurisdictions have traditionally received treatment under the Social Security Act which is different from that of the States. Although the general structure of the medicaid program is one where Federal matching funds are available for whatever level of expenditures a State finds necessary to run an adequate medicaid program, ceilings have been placed on the amount of Federal support which is available to assist these jurisdictions in their medical assistance programs for the poor. These ceilings were established in 1967, soon after enactment of medicaid. They were increased to their present level in 1972, when they were set at a maximum of $30 million for Puerto Rico, $1 million for the Virgin Islands, and $900,000 for Guam. Since that time, inflation in the cost of medical care has been high. Hospital expenditures have increased so rapidly that they double approximately every 5 years. Over the past several years, the medical care price index has increased at rates close to 10 percent annually. Erosion in the amount of Federal support in real dollars for the jurisdictions has clearly occurred. In fact, the amount of Federal dollars available today in constant terms is less than 60 percent of what it was when the ceilings were established.

This bill would provide the adjustments necessary to restore the level of actual Federal support that the Congress last approved. It would double the ceiling on Federal expenditures for fiscal year 1979, so that $60 million in matching funds would be available to Puerto Rico, $2 million to the Virgin Islands, and $1.8 million to Guam. In order to provide more immediate relief, fiscal year 1978 ceilings are also increased for the portion of this fiscal year which is remaining. Finally, to protect against the ceilings becoming insufficient again in several years, an automatic adjustment in the ceiling is provided for in fiscal year 1980 and fiscal years thereafter. The ceiling will be increased automatically by the same percentage as the consumer price index increases.

This legislation also provides that the Federal matching rate for the jurisdictions will be determined in the same manner as the Federal matching rate is established for the medicaid programs of the States and the District of Columbia. The medicaid program has generally been designed to provide relatively greater Federal assistance to areas which have limited resources. The Federal matching rate for medical assistance is variable, with a minimum rate of 50 percent and a maximum rate of 83 percent, with the higher matching rate being provided to States with low per capita incomes. However, although the per capita income in the jurisdictions has clearly been low relative to most States, nonetheless the Federal matching rate for Guam, Puerto Rico, and the Virgin Islands has been limited by law to 50 percent. The Committee on Interstate and Foreign Commerce is convinced that the same rationale for higher Federal matching rates for States with low per capita incomes is also persuasive in the case of the jurisdictions. Eliminating discriminatory treatment of the jurisdictions in the determination of their Federal medical assistance percentages will result in matching rates of 81.87 percent for Guam, 83 percent for Puerto Rico, and 74.6 percent for the Virgin Islands. The absolute dollar ceilings on Federal expenditures would continue to be effective. However, to claim its full $2 million ceiling, for example, the Virgin Islands would be required to spend only $667,000 in its own funds rather than $2 million, an amount more nearly within its economic capability.

The increasing cost of medical care, the limited economic base of the jurisdictions, the desirability of an adequate medicaid program, and the essential fairness of more equitable treatment for the jurisdictions all argue for the changes reported in this bill. I urge the Members to support it.

Mr. DE LUGO. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the Delegate from the Virgin Islands.

Mr. DE LUGO. Mr. Speaker, I thank the gentleman from Florida for yielding.

Mr. Speaker, I rise in support of H.R. 9434, legislation I have cosponsored to double the total amount of Federal medicaid funds for the Virgin Islands from $1 to $2 million annually and to lift the current restrictions on the matching formula for territorial participation in the medicaid program.

The purpose of this legislation, which was reported by an overwhelming margin by the House Committee on Interstate and Foreign Commerce, is to guarantee equal protection under the law by extending to the U.S. citizens of the Virgin Islands the same rights and benefits under the Federal medicaid program already enjoyed by citizens of the several States and the District of Columbia. This bill is in line with action taken by the House last year with respect to other public assistance programs in H.R. 7200, currently pending floor action in the Senate. Moreover, it is in accord with the principles of equitable treatment of the territories adopted by President Carter in the administration's welfare reform proposal.

Under the discriminatory provisions of the present law, the Virgin Islands is forced to suffer reduced levels of health care services for our low-income citizens, as well as an ever-increasing financial burden that is disproportionately higher than that of individual States. While doubling the amount of Federal medicaid funds and allowing the matching rate to rise to the State level will enable the Virgin Islands to finance much needed and long delayed improvements in its health system, HEW has estimated that additional Federal expenditures for the Virgin Islands under this bill will cost a bare $600,000 in fiscal year 1978 and a bare $800,000 in fiscal year 1979.

Mr. Speaker, I would like to commend chairman of the House Commerce Subcommittee on Public Health, PAUL ROGERS, for his outstanding leadership on this legislation and for the generous amount of time he has spent in helping to insure equal treatment for our U.S. citizens in our offshore areas. I would also like to thank Congressman TIM LEE CARTER, the ranking Republican member on the subcommittee, for making this a truly bipartisan effort.

I urge the Members of this House to follow the lead of Chairman ROGERS and Congressman CARTER in promoting better health care for all of our citizens by voting for this important legislation.

Mr. Speaker, I would like to commend the gentleman from Florida (Mr. ROGERS), chairman of the Health and Environment Subcommittee of the Committee on Interstate and Foreign Commerce for his outstanding leadership on this legislation and for the generous amount of time he has spent to insure equal treatment for our U.S. citizens in our offshore areas.

I also would like to thank the gentleman from Kentucky, Congressman TIM LEE CARTER, the ranking Republican member of the subcommiteee, for making this a truly bipartisan effort.

PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION OF GOVERNMENT OPERATIONS COMMITTEE TO SIT DURING 5-MINUTE RULE TODAY

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Government Activities and Trans-

portation of the Committee on Government Operations be permitted to sit while the House is in session today.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore (Mr. GIAIMO). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Speaker, I reserve the balance of my time.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation, H.R. 9434. It provides increased Federal assistance under medicaid for Puerto Rico, Guam, and the Virgin Islands, whose residents are citizens of the United States.

As it happens, Mr. Speaker, these people are very poor. Sixty-two thousand families in Puerto Rico have no visible means of support. Up until this time, under title 19, $30 million has been given to Puerto Rico to assist in caring for the sick. As we know, total Federal spending on health care has tripled in the past decade. It has increased at the rate of no less than 10 percent per year, over the last decade.

It is absolutely necessary, if we are to help these people, that our Federal medicaid contribution be increased; and that is what this legislation does. H.R. 9434 provides that by fiscal year 1979 our contribution to Puerto Rico will increase from $30 to $60 million; for Guam, from $900,000 to $1.8 million; and for the Virgin Islands from $1 to $2 million.

Mr. Speaker, in addition to raising the current ceilings this bill would permit the Federal matching rate to be determined by the same formula as that which applies to our States.

So rather than the present mandatory 50 percent matching rate, Puerto Rico, Guam, and the Virgin Islands would be able to receive a Federal match based on per capita income. The resulting rates would be as follows in fiscal year 1979:

Puerto Rico: Federal match of 83 percent.

Guam: Federal match of 81.87 percent.

Virgin Islands: Federal match of 74.6 percent.

Mr. Sepaker, this legislation is vital and necessary. Many of the States in our country which are poor have a like contribution, or almost as much, as that which will be given to Puerto Rico or to Guam or to the Virgin Islands. For us to deny health care to the poor of these islands, whose residents are citizens of the United States, would indeed not be compassionate.

I strongly support this legislation, Mr. Speaker.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I agree with all that was said about the medicaid need. We have talked much here about the increasing needs that do exist, but we have not talked about the tax contribution that we get from these particular areas. What concerns me is the fact that Puerto Rico, Guam, and the Virgin Islands contribute nothing in the way of taxation to the Federal Government.

As I understand it, in Puerto Rico they pay no income tax, no Federal income tax. In Guam and the Virgin Islands, they pay the Federal income tax but it is rebated back to the territorial government. In addition to that, we send back the money that they have paid from excise taxes. In fact, I was interested to see in Puerto Rico that we returned $180 million net—that is, after deduction of expenses—for the importation and excise taxes last year. Puerto Rico got a $180 million tax refund.

So, we have a situation here where these people pay no Federal taxation. We are talking about compassion, but everybody else pays Federal taxes and they do not.

I dissent from the action of the full Committee on Interstate and Foreign Commerce in reporting H.R. 9434, which increases the dollar limitations and Federal medical assistance percentages applicable to the medicaid programs of Puerto Rico, the Virgin Islands, and Guam.

My opposition is not meant to evince a lack of concern for certain problems respecting medical assistance in those jurisdictions. However, I am somewhat skeptical of conferring upon these jurisdictions certain additional benefits normally flowing from statehood without corresponding obligations. Indeed, it should be pointed out that individual income taxes of their citizens do not support the Federal share of the medicaid match.

Nevertheless, the primary reason for my opposition is the fiscal impact of this measure. Ceilings on Federal matching funds available for the jurisdiction will be doubled in fiscal year 1979 over the current level and the fiscal year 1978 ceiling would be increased on a proportionate basis to provide for the last three-quarters of that period. For fiscal years after fiscal year 1979, the ceiling would be increased automatically by the percentage increase in the Consumer Price Index. Further, the Federal matching rate would be determined by the same formula as for the States.

The increased fiscal year 1978 Federal costs would be approximately $21 million, which, though within the anticipated figure included in the committee's report to the Budget Committee, represents a substantial added Federal expenditure. Increased fiscal year 1979 Federal costs would be about $32 million. Because of the linkage of the ceiling to increases in the Consumer Price Index the Federal costs will be higher every year thereafter.

This represents another example of the unfortunate upward spiral of Government health expenditures. In 1965 (piror to medicare and medicaid), government at all levels spent about $9.5 billion on health care, constituting some 24 percent of total health spending. Ten years later, government spending had increased to some $50 billion, representing about 42 percent of the total. In the same period, the percent of the gross national product that went for medical expenses went from 5.9 to 8.2, with 87 percent of the increase attributed to Government spending. H.R. 9434 will only exacerbate this unfortunate fiscal trend.

Then to sum it all up, what we are facing here is a most important issue. We have Puerto Rico, Guam and the Virgin Islands paying no Federal income tax; also receiving back their excise and customs tax paid back to them net. This is a case where there is no income and all outgo. From Washington.

President Carter in his speech this year on the state of the Union said that he wants to have a lean Federal budget. This would certainly be the first place that Congress could start. Let us balance these territories that do not contribute anything. It seems only equitable that we start balancing out the fiscal responsibilities and what they are asking the Federal Government to provide. I think that the responsible position is to vote against this special interest bill.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I stated previously about this legislation, we are helping provide medical care to unfortunate people in Puerto Rico, Guam, and the Virgin Islands. While Puerto Rico is not subject to Federal income tax, Puerto Rico does pay excise tax on imports. However, only the excise tax on rum is rebated; the rest is returned to the United States.

As we all know, Puerto Rico is a very poor little island, as are the Virgin Islands. Guam itself does not have a lot of natural resources and since the citizens of these areas are citizens of this great country of ours, it behooves us to see that they have proper health care. Of course, if we come from rich States, great oil-producing States, perhaps we might feel constrained to overlook our less fortunate brothers; but there is a dire health need in these areas and we are only increasing the assistance to these States to the level at which some of our States here in this country are now receiving assistance in medicaid.

Mr. Speaker, are we as a compassionate country going to turn our backs on these parts of the United States whose residents are citizens of this country?

I say "no."

I say, Mr. Speaker, that we should strongly support this legislation.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I certainly would be the first to agree that we should be concerned about those less fortunate than ourselves. However, I think, as we look at this bill, we should ask ourselves, as we look at our policy, what it is that we do in order to help those people the most.

Mr. Speaker, I have been down to Puerto Rico. I think what we find in

Puerto Rico is a society which, by its nature, has tended to have lower income than the people of the United States. When we establish formulas that base the benefits upon income concerns completely, as we do in this situation, what we do is turn those countries into welfare states or welfare individuals. We find that in food stamps. I sit on the Committee on Agriculture. Something like half the people of Puerto Rico now get food stamps. I have been down there and talked to people. They tell me that the people who have been farming out in the hinterlands no longer farm because we have increased the income levels to keep them from farming and building their economy.

Mr. Speaker, I guess my plea to this House is that we look at this in some depth, to find out what it is that helps those people help themselves, because if we decide what we do is to have food stamp policies, if we decide what we do is to have medicaid policies, if we should have all of the policies which base the payments upon income limitations as we have in the United States, I think that, instead of furnishing a service and helping those countries, what we really are doing is doing a disservice to those people and turning those people into welfare dependents—and they are turning more and more—to the United States and saying, "Big Brother America, send us the money." We send them the money, and that is what we find. That is why I would have grave question about this particular legislation. I do not think a cap is the answer. I think the answer is a different formula, where the formula should not go by the square of the income of the people.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman for his remarks and I understand his concerns. But I think probably those basic policies as to how we treat Puerto Rico will have to be determined in other forums. Other committees are dealing with issues of statehood for Puerto Rico, the overall tax status of Puerto Rican residents, and food stamp coverage. We cannot solve those problems here. What this bill simply recognizes is that this is the condition now, and we are providing funds to pay for necessary health costs. That is what this adjustment is for, simply to keep paying the increase in program costs occurring because of the inflation of health costs. Until the other policies are changed, as the gentleman has suggested, until statehood is granted, or independence, which might have some effect, to say we are just going to let people suffer and die there in the meantime because they are poor is not a very realistic policy.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Speaker, will the gentleman give me some indication of what committee might be looking at our total policy, so that we will not come along in another year and have similar legislation, and the same on food stamps? Is there any committee in our Congress which is trying to determine what type of a legislative policy would be of the most help to the people of Puerto Rico?

Mr. ROGERS. I assume the Committee on the Interior is looking at that constantly. I presume the Committee on Ways and Means also is giving attention to tax questions relating to the jurisdictions. These committees, which have jurisdiction, would probably be the best forum for these issues.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would only add to what has been said that if we could but rebuild the land of Puerto Rico or increase the fertility of the soil of the Virgin Islands or increase the fertility of the soil and the mineral content of the soil out in Guam and make those countries as rich as the great State where the tall corn grows, then I would assure some of my distinguished friends that the funds to improve the health and to keep the people of that area healthy would be forthcoming. But these are some of God's unfortunate people. If one has been to the Virgin Islands, one will find that the hills are slanting, that there is no place much to raise crops.

If we go to Guam, we find it a rather large island, one which is covered with military installations and one on which there is not much room for agriculture.

In Puerto Rico we find the same sort of situation, Mr. Speaker. It is the same type of area. There is no intrinsic wealth there.

As I stated previously, 62,000 families, without any visible means of support, are involved, and all are citizens of the United States of America.

Yes, I will say to my friends and colleagues, if Puerto Rico had that rich land, the land where the tall corn grows and where the soybeans grow in profusion and where the farmers reap riches from the fields and go to Florida in the winter, then there would be no need for this legislation. But the fact is that these people are poor, and that they are not healthy. They need medical assistance, and I hope that our compassionate people will support this legislation for them.

Mr. Speaker, I yield 3 minutes to the distinguished gentlewomen from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding this time to me. I am most grateful.

With all due deference to our fine subcommittee chairman and the ranking minority member, we must introduce the voice of common sense here, as we have heard it from the State of Iowa, because I, too, have worked in this area, as an honorary Puerto Rican, and I know something of the situation.

I have worked long and hard in my district and outside my district in my State with the Puerto Rican community. We cannot continue to do what we are doing.

We are told that in Puerto Rico they could not get anybody on the island to pick the coffee crop. They had to bring people in from the Dominican Republic to pick the coffee crop. Why? Because we have so exaggerated our food stamp arrangements in Puerto Rico that they cannot get off food stamps and on again. If they do take a job, they are lost. The flood of food stamps is so high that it represents something that inflates the whole economic expectation of the island.

It does not cost as much to live in Puerto Rico as it does on the mainland. Puerto Rico is a rich island; fortunes used to be made there. We must care about those people enough to understand what we are doing to them. We do not care enough about them. We just use a formula, and we think, "Well, that's great." We give them $180 million, and we think that ought to be enough.

I do not know how this is calculated. I notice that repeatedly we speak about bringing up the costs to equal the effect of inflation.

Is this right? Do we plan on a per capita basis? Do we arrange that medical aid according to the cost to the people of that island?

Mr. BEDELL. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, let me state to the gentlewoman that it is computed by the square of the income of the people of the area, so it is not just the income that is considered. It is the square of the income that determines it.

Further than that, I am sure the gentlewoman will agree that there indeed is productive, fertile soil in Puerto Rico.

Mrs. FENWICK. Mr. Speaker, it is one of the richest islands on Earth. What I wish to point out is that we must use our commonsense if we care about those people. If we do not care about them, we can just hand out the money without regard to its effect. That is demoralizing. It is not serving the people well, and many of the people I know who are concerned about their compatriots are desperate. I think we have to stop our present practices.

Mr. ROGERS. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, the gentlewoman realizes that this legislation is only to increase support for medicaid?

Mrs. FENWICK. I do.

Mr. ROGERS. It does not go to food stamps. We are not considering food stamps.

If the gentlewoman will permit me to continue, what we are trying to do here for Puerto Rico is what we do for every State in the Union. We are not asking for different treatment than any State receives. In fact, because of the ceiling, we are really giving Puerto Rico less, relatively, than most States receive.

Mrs. FENWICK. Mr. Speaker, if the gentleman will allow me to reclaim my time, I will continue.

Mr. ROGERS. Surely.

Mrs. FENWICK. The point is that we should not treat Puerto Rico like another State in the Union. It is not like other States; it has different conditions.

In every single thing we do for other people, we ought to be considering the effects with the deepest sense of respon-

sibility. Maybe this has been done. I am not arguing about that. Nevertheless, it troubles me that we have this automatic increase in cost every single year.

The SPEAKER pro tempore (Mr. GIAIMO). The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this time because I would like to say in answer to the gentlewoman from New Jersey (Mrs. FENWICK) that I do not think we are going to change all the policies on Puerto Rico that she is concerned about by saying we are not going to treat them in their health care programs as we treat States. Food stamps are not considered here; the welfare program is not considered here.

That is handled by other committees in other bills.

All this is doing is saying that we are going to help these people because of the inflation in health care costs, just as we help New Jersey and just as we do Texas. Texas gets nearly $500 million for their medicaid program. This bill provides for $60 million for Puerto Rico.

May I also say that if the income tax applied to Puerto Rico, many poor persons in Puerto Rico would not pay taxes at all or would have their tax rebated back through the earned income tax credit, because their income is so low.

But we are not addressing the tax issue here. We are addressing needs for medical care. There is no doubt that these people are poor. We only want to make sure that these people who are sick and who may die can have some little help just as other citizens of the United States do.

Mr. DE LUGO. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from the Virgin Islands.

Mr. DE LUGO. Mr. Speaker, I thank the gentleman for yielding.

I wish to thank the gentleman from Kentucky, who has certainly been most eloquent on this matter, and also to thank the chairman of the subcommittee.

I would just like to point out to the House that what all of this is about, as far as the Virgin Islands is concerned, is an item which is already in the President's budget. We are talking here about the grand additional sum for the Virgin Islands of $600,000 for fiscal year 1978 for sick U.S. citizens; and, for fiscal year 1979 an additional sum of $800,000.

Mr. Speaker, I think the gentleman from Iowa (Mr. BEDELL) made a very good statement when he said, "What is the policy for the offshore areas?"

The fact is that there is none.

Mr. Speaker, if others had to live in an offshore area where constantly Federal laws are passed which impact them and they do not have control over them, such as tax cuts, the impact of this bill, or immigration legislation, which impacts one's entire area, they would continue to have the compassion that they have at the present time for these people.

Mr. Speaker, I would like to respond to some of the other arguments made in opposition to this bill, particularly those with respect to the special tax status of the Virgin Islands.

I would like to point out that in October of 1976, the HEW Under Secretary's advisory group on Puerto Rico, Guam, and the Virgin Islands issued a report addressed to this very issue and which concluded that—

> The current fiscal teatment of Puerto Rico and the territories under the Social Security Act is unduly discriminatory and undesirably restricts the ability of these jurisdictions to meet their public assistance needs.

The report went on to recommend full statelike treatment for the offshore areas, arguing that—

> While the legitimate obligations of Puerto Rico and the territories to contribute to general Federal tax revenues should be considered within the context of their overall political relationship with the Federal Government, there is little justification for addressing this issue within the context of the Social Security Act.

This conclusion is in accordance with statements of general policy the present administration has made with respect to the offshore territories. As President Carter recently stated:

> The Constitution of the United States does not distinguish between first and second class citizens.

Rather, the Constitution specifically guarantees equal protection under the law to all U.S. citizens, regardless of where they may live. The logic of the constitutional argument, moreover, is strengthened by the fact that while the people of the Virgin Islands do not contribute to the Federal Treasury, neither do millions of Americans who are unable to pay taxes because of economic circumstances. In the final analysis, neither of these circumstances relieves the Federal Government of its responsibilities to these citizens.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, the gentleman was right in stating that primarily this bill concerns Puerto Rico. They are the great recipient of health aid. However, I cannot think of a more healthy place to live than in Puerto Rico. It has a delightful climate. While we are up here literally freezing to death in Washington, they live in an ideal climate the year round.

Those of us who have visited Puerto Rico have never seen a more fertile soil. The country can grow anything.

When we talk about a poor, starving island, I think their problem is with economics, not with the medical program.

In that connection, Mr. Speaker, I think we ought to provide them with an incentive to work and we ought to help them to work.

Mr. ROGERS. Mr. Speaker, I might say to the gentleman from Texas (Mr. COLLINS) that Puerto Rico, as a percentage, puts far more of its funds into the medicaid program, about double the percentage that Texas puts into it. Puerto Rico is trying to pay its fair share; this provides for the Federal Government to do the same.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, from the gentleman's last statement, as I understand this legislation, the Federal Government would be paying 83 percent of the medicaid amount to Puerto Rico.

Certainly the gentleman does not feel that Texas is in the same position and that we are subsidizing the Texas medicaid program to the tune of 83 percent; does he?

Mr. ROGERS. We may not be subsidizing Texas at 83 percent, but we are also not subsidizing Puerto Rico at that rate. Nor would we under this bill. Although the matching rate is 83 percent, that simply means that they would be required to spend only about $1 for every $4 they would be entitled to receive. But the ceiling on Federal payments to Puerto Rico would override this. Since Puerto Rico's medicaid program already costs nearly $120 million, and the maximum Federal contribution is limited by this bill to $60 million, we will effectively only be paying 50 percent of the cost. We pay 64 percent of Texas medicaid. Changing the way the matching rate is determined for the jurisdiction really only has an effect on Guam and the Virgin Islands. With their current 50-percent matching rate, they cannot raise a large enough local contribution to take advantage of all the Federal dollars available to them under the ceiling.

Mr. BEDELL. If the gentleman will yield further, Mr. Speaker, can he tell us what the amount is in Mississippi or can the gentleman's staff provide that figure?

Mr. ROGERS. Yes, Mississippi currently receives 78 percent.

Mr. BEDELL. Mr. Speaker, I thank the gentleman.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from West Virginia (Mr. STAGGERS), the chairman of the Committee on Interstate and Foreign Commerce.

Mr. STAGGERS. Mr. Speaker, I thank the chairman for yielding to me. I want to congratulate him and his subcommittee for the attention they have given to this very important legislation.

Mr. Speaker, I seldom disagree with the gentlewoman from New Jersey (Mrs. FENWICK), very seldom, because we are usually on the same side; and as to the gentleman from Texas (Mr. COLLINS), I respect his opinion, as he knows. He is a great legislator and a great friend.

I would like to say that this was in the budget that was sent up by the President. We held hearings on it. It passed in our subcommittee unanimously. In the full committee there was a voice vote. The gentleman from Texas might have said no in voting on it. I do not know. But the gentleman did have dissenting views.

But I would like to say that there will not be any 83 percent paid because there is a ceiling we have in here on the amount of money. It would be less than 50 percent. So talking about Puerto Rico having 83 percent is simply out the window because, as I say, we set a ceiling on what they can pay.

Let me say as far as Puerto Rico is concerned that I flew in and out of Puerto Rico many times during the war and after the war and all I can say that there was only the really rich and the

really poor. There was no in-between The poor were so poor that it made me feel very sad to see humanity having to live the way some of them lived there and still live in that same way.

There has been mention made about the climate. I would say that next to Hawaii it has one of the finest climates anyone could find anywhere in the world. But that does not alleviate the fact that people do get sick.

I agree fully with the gentlewoman from New Jersey (Mrs. FENWICK). I know that her intentions are the best in the world. I want to repeat to the gentlewoman that there is a ceiling that has been put on this, the percentage would be less thon 50 percent. I believe that the gentlewoman from New Jersey (Mrs. FENWICK) would be for this 100 percent if she knew all of the facts that are involved in this.

Mrs. FENWICK. Mr. Speaker, if the gentleman would yield, I do not think anyone in this Chamber wants to see any poor person go unattended. The question I ask is that if this is done on this basis of real concern for the people of Puerto Rico that the costs there should tie in with what they need. I just wonder whether perhaps we are doing in this program that which we have done in so many others? It is not necessarily a question about how they live and what they do, or how different they are from others; but with these automatic increases we seem to be putting in every bill we vote upon I think we should start to question what is going to happen to this country and its ability to pay for every one of these demands, when our budget is so great and our deficit is rising every year.

However, that is not the question; the poor and the sick must be cared for. I believe every Member in this Chamber is of that frame of mind. It is a question of how we think about these things. We do not seem to get down to talking to the people who really know how these things work out.

Mr. STAGGERS. Mr. Speaker, I would like to respond to the gentlewoman from New Jersey (Mrs. FENWICK) by saying that I agree 100 percent with what the gentlewoman has said. I know the gentlewoman very well. She has a fine record. I would say that she is perhaps one of the finest Members in this Chamber in all of the years I have spent in this Chamber. She believes in what is right for America. I just thought that I would give some of these facts to the gentlewoman hoping they might help her just a litle bit. I have observed her voting record and I believe that she has always voted for what she believed was in the best interests of our country and I think that this is in the best interest of our country. We held good hearings on it. It was passed unanimously as I said before by the subcommittee. I think it should be done. I believe the House should pass the legislation.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. SISK).

(By unanimous consent, Mr. SISK was allowed to speak out of order.)

HUD LIMITS FANNIE MAE'S FUND'S ACCESS

Mr. SISK. Mr. Speaker, I wish to take this time to call to the attention of the House an article which appeared in the February 1 edition of the Washington Star, on page 1, under the headline "HUD Limits Fannie Mae's Fund's Access."

The story goes on to point out that the Secretary of Housing and Urban Development has refused to grant the Federal National Mortgage Association the authority it needs to issue commitments to purchase mortgages, so that more American families can buy their own homes.

I wish to call to the attention of the House that the Federal National Mortgage Association—despite its name—is not part of the Federal Government. It used to be, but in 1968 it was taken out of the Government. The Congress of the United States told this organization—known informally as Fannie Mae—that it should go out and raise its own funds and pay full Federal corporate income taxes and make money available for mortgages.

The Secretary of Housing and Urban Development was given some regulatory authority over Fannie Mae, including the right to set the outside limit on Fannie Mae's authority to borrow money and issue other obligations. The purpose of this authority was to assure that Fannie Mae did not overextend itself and damage its financial underpinnings. But Fannie Mae operates entirely on its own funds—it gets no money from the U.S. Government.

If you will read the article in the Star, you will find that the incumbent Secretary of Housing, Mrs. Patricia Roberts Harris, is using the debt limitation authority not to protect Fannie Mae's financial soundness—Fannie Mae has proven it is fully capable of taking care of itself in this regard—but rather to extract a political pound of flesh from the management of Fannie Mae.

Mr. Speaker, this action on the part of the Secretary of HUD is just one more example in a long series of incidents during the past year which have constituted a continuing policy of intimidation and harassment on the part of HUD over and against Fannie Mae. The upper echelon officers in the Department of Housing have used the privately operated gossip sheets of the housing industry as vehicles for a continuous campaign of vilification and doomsday forecasting, saying almost every other week that the management of Fannie Mae was going to be fired. HUD officials have allowed themselves to be quoted—anonymously, of course—as saying that Fannie Mae has not carried out its mission, that it has turned its back on the cities, and that it has failed the American people.

As might be expected in this kind of situation, neither Secretary Harris nor any of her senior staff have come up with any specific examples. The reason they have not come up with specifics is that Fannie Mae has in fact done an excellent job, as any careful examination of its record will show.

It is only fair to the Members of the House, Mr. Speaker, that I confess to having more than a passing interest in Fannie Mae. The chairman of the board and president of Fannie Mae, Oakley Hunter, is the man I defeated for my seat in Congress in 1954. We had a hard campaign, and during the campaign, feelings ran high. But as so often happens, once the campaign was over, we got to know each other better, and we have become friends.

It is suggested in the housing industry gossip sheets that the reason Mrs. Harris wants to sack the management of Fannie Mae is that Oakley Hunter is a Republican—and that is true. But what nobody bothers to point out is that since he came to Fannie Mae in 1970, he dropped completely out of politics. He has played no part in any political campaigns. He has kept Fannie Mae out of politics. Fannie Mae has not maintained any political slush funds. The operation of Fannie Mae has been entirely devoid of any political overtones.

During this past week there has been a flurry of rumors that Mrs. Harris was urging the President of the United States to exercise certain statutory authority that he has and to remove Oakley Hunter and two other members of the Fannie Mae board of directors "for cause." The implication was that this would create a situation where a bloodless coup could have been engineered in such a way that a majority of the board of directors of Fannie Mae—which numbers 15—would be obligated to Secretary Harris. The idea was to undertake this in such a way—if possible—as to preclude any opportunity for a judicial review of the legality of President Carter's removal action.

I do not know how much truth there was to this speculation. I do know that if such a course of action had been followed, it would raise a serious cloud of doubt about the integrity of the administration. This administration does not need another Marston case, but let me assure you that if this speculation should prove true, it will become a Marston case redoubled in spades.

If the President of the United States—or anyone else—has good cause for removing any member of the board of directors of the Federal National Mortgage Association, then he should remove that director, but it should be done in such a way that the rights of the shareholders of Fannie Mae are protected by affording ample time for an orderly review of the removal order through the courts. We have recently come through a very trying time in our history. If we learned one lesson from Watergate, it is that we must remember that ours is a government of laws, not of men.

I would hope that the Secretary of Housing and Urban Development would abandon the unjustified course of pressure tactics which she has been pursuing against Fannie Mae. Mrs. Harris is quoted in the February 2 issue of the Washington Post as expressing some skepticism about the willingness and ability of the private sector to shoulder its responsibilities. She seems to say that only Government can save us. This view is contrary to established national policy on housing matters, because the legislation creating the Department she heads clearly says that the private sector should be utilized to the greatest extent possible. Fannie Mae represents a unique blend of the strengths and flexibilities of the private sector and the sponsorship of the Federal Government. It can do much

to give meaning to private sector involvement in solving our housing problems and the Nation would be well served if Mrs. Harris would get off Fannie Mae's back.

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman from Florida (Mr. ROGERS) and assure him we will call for a vote presently. In reviewing some of the things that have been brought out today, I found that the great State of New Jersey also receives $183 million in the same sort of payments for medicaid that the little island of Puerto Rico receives $30 million for at the same time. I think it is necessary that the poor people of New Jersey receive this assistance. I do not object to that at all. But it is my feeling that the people of Puerto Rico should be adequately cared for. This does not include food stamps. Food stamps, as most people know, come from the Department of Agriculture and not from the committee on which we serve. I strongly support this legislation as humanitarian and compassionate, and I urge that it be passed.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I will be happy to yield to the gentleman for a question.

Mr. COLLINS of Texas. I thank the gentleman for yielding. I want to know, if the gentleman asks to put the question; does the gentleman know the percentage figures for Texas and for New Jersey and for Puerto Rico.

Mr. CARTER. I can give them to the gentleman right now. He asked the question; I will give them to him. At the present time Puerto Rico is $30 million; for Texas it is $256 million; and for New Jersey it is $183 million. Does the gentleman have other questions?

Mr. COLLINS of Texas. I asked for the percentage, if the gentleman knew the percentage.

Mr. CARTER. I can give the gentleman the approximate percentage. It would not be as much.

Mr. COLLINS of Texas. It is 83 percent for Puerto Rico.

Mr. CARTER. I am sure that is right.

Mr. COLLINS of Texas. It is 60 percent for Texas and 50 percent for New Jersey.

Mr. CARTER. Yes, I think that is right. Yes, Mr. Speaker, I believe the gentleman is right on that. We must admit that, because Puerto Rico has 20 percent unemployment, 62,000 people without any visible means of support. I do wish they had some oil wells down there, but they do not have them.

I thank the Speaker.

Mr. CORRADA. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. I thank the gentleman for yielding.

I would like to commend my colleagues, the gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky (Mr. CARTER), for their excellent work with respect to this bill.

Mr. Speaker, I rise in support of H.R. 9434, a bill that would expand the Federal participation in the medicaid program as it applies to Puerto Rico and the territories.

The bill provides for an additional $20 million in fiscal year 1978 and $30 million in fiscal year 1979 for medicaid expenditures in Puerto Rico and proportionate increases for Guam and the Virgin Islands. After fiscal year 1979 the funds available for payments would be increased by a percentage equal to the percentage increase in the Consumer Price Index.

The bill also eliminates the 50–50 matching requirement imposed on the medicaid program in Puerto Rico and the territories.

Mr. Speaker, since 1972 Puerto Rico's participation in the medicaid program has been restricted by legislation to $30 million per year. Therefore our Government has been forced to spend over $80 million per year in order to provide medical care to over 1.3 million residents of Puerto Rico who are considered to be medically indigent.

The government of Puerto Rico is deeply committed to provide the optimum health care for the medically indigent population in our island.

The line item in the health budget to provide services to the medically indigent has increased 162 percent in the last 10 years.

Another example of this commitment is the fact that we are spending $80 million to match $30 million which the Federal Government provides under the medicaid program. This, Mr. Speaker, is probably the highest matching ratio in the program, even though Puerto Rico is poorer than any State.

The fact that Puerto Rico's participation in the medicaid program is limited to $30 million per year on 50–50 matching ratio, has severely strained the resources of the Government of Puerto Rico, particularly, the health budget and has also constrained our ability to provide optimum health care to our medically indigent. Unless immediate action is taken through this legislation, our ability to provide these services will be severely hampered.

Mr. Speaker, we are experiencing a situation by which we find that we have to comply with Federal regulations and legislation requiring the states to provide more services, more sophisticated costs accounting and management information systems and the Government of Puerto Rico is having to bear the full burden of providing the services and developing the systems without any assistance whatsoever from the Federal Government, since most of our funds under the ceiling are already committed to providing the basic health care services.

To make things more difficult, during the last years most of the Federal legislation related to the delivery of health services to the medically indigent population has been based on the third party reimbursement concept. For example, this is true for mental health, family planning, community health services, rural health initiative, maternal and child health, et cetera. In the several States, the main source of third party reimbursement for these programs are the medicaid funds. Also because of the nature of the health economy in the mainland, medicare funds and several prepaid health plans become good sources of third party funding. In Puerto Rico the situation is quite different. Prepaid plans are few and there are no uncommitted medicaid funds available for third party purposes, because the only $30 million available are already being used within the system.

As a result of all this, any of such programs depending on third party reimbursement is doomed to failure in Puerto Rico. This is so because by disposition of law most of these programs provide only for "seed money" with a phaseout schedule providing the project enough time to become self-sufficient through third party funds. In Puerto Rico, we cannot foresee that this will ever be feasible because of the absence of third party payors, especially the main one available in the United States, the medicaid program.

If this trend continues, we in Puerto Rico will not be able to benefit from any of the new legislation our medically indigent counterpart in the United States are benefiting from. Furthermore, this tendency will make it very difficult for us to accept future such programs depending on third party payors, because we consider it will be unfair and unjust to start good health services in a community when we know ahead of time we will have to discontinue them in a few years, because we know we will not be able to obtain reimbursement. This situation is already eroding our relations with our needy population.

The limitations because of the ceiling also make it impossible for us to comply with the multiple requirements of the medicaid program like EPSDT, cost system and others. This is due to our difficult local health situation which demands from us to utilize our limited funds in the acute front of health services delivery.

Finally, Mr. Speaker, Congress has already included the funds needed to implement this legislation in its fiscal year 1978 budget resolution and the President has done likewise in his fiscal year 1979 budget.

This is a simple and straightforward bill and one of the highest priority to me and to the people of Puerto Rico. I urge my colleagues to support H.R. 9434.

Mr. CARTER. Mr. Speaker, I urge passage of the legislation and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 9434.

The question was taken; and the Speaker pro tempore being in doubt, the House divided, and there were—ayes 26, noes 14.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum

is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 253, nays 106, not voting 73, as follows:

[Roll No. 36]

YEAS—253

Abdnor	Gore	Oberstar
Addabbo	Gradison	Obey
Akaka	Gudger	Ottinger
Alexander	Guyer	Panetta
Allen	Hamilton	Patten
Ammerman	Hammer-schmidt	Pattison
Anderson, Calif.	Hanley	Pease
Andrews, N.C.	Hannaford	Perkins
Annunzio	Harkin	Pettis
Applegate	Harrington	Pickle
Baucus	Harris	Pike
Beard, R.I.	Hawkins	Pressler
Bedell	Heckler	Preyer
Beilenson	Hefner	Price
Benjamin	Heftel	Pritchard
Bennett	Hightower	Railsback
Bingham	Hillis	Rangel
Boggs	Hollenbeck	Regula
Boland	Holtzman	Reuss
Bonior	Horton	Richmond
Bonker	Howard	Roe
Bowen	Hubbard	Rogers
Brademas	Huckaby	Roncalio
Breckinridge	Hyde	Rooney
Brinkley	Ireland	Rose
Brodhead	Jacobs	Rosenthal
Brown, Calif.	Jeffords	Roybal
Buchanan	Jenkins	Russo
Burgener	Jenrette	Ryan
Burke, Mass.	Johnson, Calif.	Sarasin
Burlison, Mo.	Johnson, Colo.	Sawyer
Burton, John	Jones, N.C.	Scheuer
Burton, Phillip	Jones, Okla.	Schroeder
Carney	Jones, Tenn.	Sebelius
Carter	Jordan	Seiberling
Cavanaugh	Kastenmeier	Sharp
Chisholm	Kazen	Sikes
Clausen, Don H.	Ketchum	Simon
Clay	Keys	Sisk
Conte	Kildee	Skelton
Corman	Kostmayer	Skubitz
Cornell	Krebs	Slack
Cornwell	Lagomarsino	Smith, Iowa
Coughlin	Leach	Smith, Nebr.
Danielson	Lederer	Snyder
Davis	Leggett	Solarz
de la Garza	Lehman	Spellman
Delaney	Levitas	St Germain
Dellums	Lloyd, Calif.	Staggers
Derrick	Lloyd, Tenn.	Stanton
Derwinski	Long, La.	Stark
Dingell	Lujan	Steed
Dodd	Lundine	Steers
Downey	McClory	Steiger
Drinan	McCloskey	Stokes
Duncan, Oreg.	McCormack	Stratton
Early	McDade	Studds
Edgar	McFall	Thompson
Edwards, Calif.	McHugh	Thone
Eilberg	Madigan	Thornton
Erlenborn	Markey	Tsongas
Ertel	Mathis	Tucker
Evans, Colo.	Mattox	Udall
Fary	Mazzoli	Ullman
Fascell	Meeds	Van Deerlin
Fenwick	Meyner	Vander Jagt
Fish	Michel	Vanik
Fisher	Mikulski	Vento
Flippo	Mikva	Volkmer
Florio	Miller, Calif.	Walgren
Foley	Mitchell, Md.	Walsh
Ford, Tenn.	Mitchell, N.Y.	Waxman
Fowler	Moakley	Weaver
Fraser	Moffett	Whalen
Frenzel	Mollohan	Whitley
Fuqua	Moorhead, Pa.	Wilson, Tex.
Gammage	Moss	Winn
Gaydos	Murphy, N.Y.	Wolff
Gephardt	Murtha	Wright
Giaimo	Natcher	Yates
Gibbons	Neal	Yatron
Ginn	Nedzi	Young, Mo.
Glickman	Nolan	Young, Tex.
Gonzalez	Nowak	Zablocki
	Oakar	

NAYS—106

Andrews, N. Dak.	English	Myers, Gary
Archer	Evans, Ga.	Myers, John
Ashbrook	Evans, Ind.	Nichols
AuCoin	Findley	O'Brien
Badham	Fithian	Poage
Bafalis	Flowers	Quayle
Barnard	Flynt	Quillen
Beard, Tenn.	Forsythe	Rhodes
Blanchard	Fountain	Roberts
Breaux	Grassley	Robinson
Brooks	Hagedorn	Rousselot
Broomfield	Hall	Rudd
Brown, Ohio	Hansen	Runnels
Burke, Fla.	Harsha	Satterfield
Burleson, Tex.	Holt	Schulze
Butler	Ichord	Shuster
Cederberg	Kelly	Spence
Clawson, Del	Kindness	Stangeland
Cleveland	Latta	Stockman
Cochran	Lent	Stump
Cohen	Livingston	Symms
Coleman	Long, Md.	Taylor
Collins, Tex.	Lott	Treen
Conable	Luken	Trible
Corcoran	McDonald	Waggonner
Crane	McEwen	Walker
Cunningham	McKay	Wampler
Daniel, Dan	Marlenee	Watkins
Daniel, R. W.	Marriott	White
Devine	Martin	Whitehurst
Dickinson	Miller, Ohio	Whitten
Dornan	Montgomery	Wilson, C. H.
Duncan, Tenn.	Moore	Wirth
Edwards, Okla.	Moorhead, Calif.	Wylie
Emery	Mottl	Young, Alaska
		Young, Fla.

NOT VOTING—73

Ambro	Eckhardt	Murphy, Ill.
Anderson, Ill.	Edwards, Ala.	Murphy, Pa.
Armstrong	Evans, Del.	Myers, Michael
Ashley	Flood	Nix
Aspin	Ford, Mich.	Patterson
Baldus	Frey	Pepper
Bauman	Gilman	Pursell
Bevill	Goldwater	Quie
Biaggi	Goodling	Rahall
Blouin	Holland	Rinaldo
Bolling	Hughes	Risenhoover
Brown, Mich.	Kasten	Rodino
Broyhill	Kemp	Rostenkowski
Burke, Calif.	Krueger	Ruppe
Byron	LaFalce	Santini
Caputo	Le Fante	Shipley
Carr	McKinney	Teague
Chappell	Maguire	Traxler
Collins, Ill.	Mahon	Weiss
Conyers	Mann	Wiggins
Cotter	Marks	Wilson, Bob
D'Amours	Metcalfe	Wydler
Dent	Milford	Zeferetti
Dicks	Mineta	
Diggs	Minish	

The Clerk announced the following pairs:

Mr. Ambro with Mr. Wiggins.
Mr. Cotter with Mr. Shipley.
Mr. Biaggi with Mr. Byron.
Mr. Rostenkowski with Mr. Chappell.
Mrs. Burke of California with Mr. Mahon.
Mr. Le Fante with Mr. Bauman.
Mr. Ashley with Mr. Anderson of Illinois.
Mr. Weiss with Mr. Frey.
Mr. Caputo with Mr. Mann.
Mr. Wydler with Mr. Broyhill.
Mr. Gilman with Mr. Kasten.
Mr. Aspin with Mr. Goodling.
Mr. McKinney with Mr. Teague.
Mr. Rinaldo with Mr. Krueger.
Mr. Marks with Mr. Quie.
Mr. Baldus with Mr. Ruppe.
Mr. Mineta with Mr. Kemp.
Mr. Risenhoover with Mr. Evans of Delaware.
Mr. Pepper with Mr. Pursell.
Mr. Dent with Mr. Bob Wilson.
Mr. Holland with Mr. Brown of Michigan.
Mr. Nix with Mr. Eckhardt.
Mr. Zeferetti with Mr. Goldwater.
Mr. Flood with Mr. Edwards of Alabama.
Mr. Metcalfe with Mr. LaFalce.
Mr. Bevill with Mr. Diggs.
Mr. Rodino with Mr. Murphy of Pennsylvania.
Mr. Hughes with Mr. Conyers.
Mrs. Collins of Illinois with Mr. Patterson of California.
Mr. Santini with Mr. Murphy of Illinois.
Mr. Traxler with Mr. Minish.
Mr. Blouin with Mr. Carr.
Mr. Milford with Mr. Michael O. Myers.
Mr. D'Amours with Mr. Maguire.
Mr. Ford of Michigan with Mr. Rahall.

Mr. BREAUX and Mr. EVANS of Indiana changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT AS TO VOTE

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, due to official business of the Committee on International Relations, I was compelled to be absent from two rollcall votes on Thursday, January 19, 1978, and would like to announce how I would have voted had I been present.

Rollcall No. 2, an amendment to H.R. 2329 that strikes language allowing warrantless searches and seizures by enforcing officers where "there is reasonable grounds to believe that a person has committed or is attempting to commit an offense in his presence or view": I would have voted "aye."

Rollcall No. 3, H.R. 2329, to improve the administration of fish and wildlife programs: I would have voted "yea."

PROVIDING FOR CONSIDERATION OF H.R. 6362, FOREST SERVICE TIMBER SALES STUDY

Mr. MEEDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 974 and ask for its immediate consideration.

H. RES. 974

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6362) to establish an Advisory Committee on Timber Sales Procedure appointed by the Secretary of Agriculture for the purposes of studying, and making recommendations with respect to, procedures by which timber is sold by the Forest Service, and to restore stability to the Forest Service timber sales program and provide an opportunity for congressional review. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 6362, the Committee on Agriculture shall be discharged from the further consid-

eration of the bill S. 1360, and it shall then be in order to consider said bill in the House.

The SPEAKER pro tempore. The gentleman from Washington (Mr. MEEDS) is recognized for 1 hour.

Mr. MEEDS. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 974 provides for the consideration of H.R. 6362, a bill to establish an advisory committee on timber sales procedure.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. The bill will be open to all germane amendments under the 5-minute rule. There are no waivers or points of order included in this rule.

The rule provides that after the passage of H.R. 6362, the Committee on Agriculture shall be discharged from further consideration of the bill, S. 1360, and it shall then be in order to consider said bill in the House.

Mr. Speaker, H.R. 6362 establishes an advisory committee with the U.S. Department of Agriculture which would study the procedures by which the Forest Service sells timber including, among other things, the means by which such timber is put up for sale, appraised, bid upon, and factors affecting pricing of such timber. Under the bill the recommendations and conclusions of the committee are to be reported to the House and Senate Committees on Agriculture no later than January 1, 1979 at which point the advisory committee would cease to exist.

Also, the bill would repeal subsection 14e of the National Forest Management Act of 1976 which presently requires that the Forest Service employ a sealed bidding procedure for the sale of timber. Implementation of this provision by the Forest Service has subjected timber purchasers and small communities in many western timber markets to an extraordinary degree of uncertainty. A small independent operator has no way of knowing whether a sale which he needs will be made under the sealed or oral bid method.

Subsection 14e of the National Forest Management Act was inserted in that act during markup of the House bill and had not been the subject of public hearings. It abruptly changed procedures for sale of national forest timber in the crucial Pacific Northwest Federal timber producing region and has destabilized the timber industry thereby depriving small operators of the opportunity to bid only as high as necessary to purchase needed timber. These operators had enjoyed such an opportunity for over a quarter of a century under the highly competitive oral auction timber sale method heretofore utilized by the Forest Service. There have been several recent failures of small mills in the Pacific Northwest.

Finally, the bill will require no additional appropriations as the operating costs of the Commission would be absorbed within the operating funds otherwise available for carrying out the activities of the Department of Agriculture.

Mr. Speaker, I know of no opposition to the adoption of this rule, and I urge its adoption.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 974 provides an open rule with 1 hour of general debate for the consideration of H.R. 6362, the Forest Service timber sales study, which establishes an advisory committee on timber sales procedure. The bill will be open for amendment under the 5-minute rule.

The advisory committee would examine methods by which Forest Service timber is sold in order to submit a thorough report to the Secretary of Agriculture and the Agricultural Committees of Congress by January 1, 1979. H.R. 6362 would also repeal subsection (e) of section 14 of the National Forest Management Act of 1976 which requires sealed bidding on all national timber sales. This new procedure would provide the Department of Agriculture needed flexibility in determining the best bidding method on a case-by-case basis, without being locked into a predetermined statutory policy.

Mr. Speaker, the Senate has already passed this bill, and I recommend a favorable vote for the rule and the subject legislation.

Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker I rise in support of the bill.

Mr. DEL CLAWSON. Mr. Speaker, I have no further requests for time.

Mr. MEEDS. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2664, SIOUX INDIAN CLAIMS

Mr. MEEDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 958 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 958

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2664) to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto without intervening motion except one motion to recommit. After the passage of H.R. 2664, the Committee on Interior and Insular Affairs shall be discharged from the further consideration of the bill S. 838 and it shall then be in order to consider said bill in the House.

The SPEAKER pro tempore. The gentleman from Washington (Mr. MEEDS) will be recognized for 1 hour.

Mr. MEEDS. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 958 provides for the consideration of H.R. 2664, a bill to amend the Indian Claims Commission Act of August 13, 1946. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. The bill will be open to all germane amendments under the 5-minute rule. There are no waivers of points of order in this rule.

The rule further provides that after the passage of H.R. 2664 the Committee on Interior and Insular Affairs shall be discharged from further consideration of the Senate bill, S. 838, and it shall then be in order to consider said bill in the House.

Mr. Speaker, I do not generally take time on a rule to get into the merits of legislation but, as chairman of the Subcommittee on Indian Affairs, I was the one who started this legislation or first introduced it about 3 years ago, and I would like to take a few minutes now so that the entire hour can be saved for those who would like to discuss the bill when we consider it.

Mr. Speaker we are, with H.R. 2664, dealing with the largest, most historical and socially significant as well as oldest and most important of all the Indian claims. I think it is no secret that I have not agreed with all Indian claims but certainly hope that we will seriously consider this one because it is, without question, the most important of all of them.

An understanding of the history of this claim is necessary for full appreciation of what transpired.

Under a special act of this body in February of 1877, the United States unilaterally stripped the Sioux Indians of the Black Hills of South Dakota. Without question it is one of the darkest pages in our dealings with the American Indians. In fact, the U.S. Court of Claims in 1975 said:

A more ripe and rank case of dishonorable dealings will never in all probability be found in our history.

Why is it then, Mr. Speaker, that we have never settled this claim? The history of why we have not is a classic of frustration and failure of our entire system of government, both judicial, the legislative, and the executive branches of this Government.

The history begins in 1920 when, by a special statute, the Court of Claims as-

sumed jurisdiction over the settlement of the Sioux claim. After a long time that case was heard before the Court of Claims.

In a 79-page opinion which is very ambiguous, it is difficult to say whether the case was dismissed on the merits or whether the Court of Claims felt it lacked jurisdiction to hear the matter. In any event, it dismissed the complaint.

In 1975 after long consideration, the Indian Claims Commission held that the taking in 1877 was, indeed, a fifth amendment taking in violation of the fifth amendment and that the United States had waived or abandoned the defense of res judicata. By that holding the Indian Claims Commission was in effect saying that interest at 5 percent could be paid and should be paid on the original claim which was held to be worth $17,500,000.

In 1975 the Court of Claims reversed the Indian Claims Commission saying that rightly or wrongly the Court of Claims had made a decision on the fifth amendment, and that that was res judicata, and it applied to the matter before the Indian Claims Commission, and it dismissed the case.

I go through that rather complicated history for the purpose of pointing out to the Members that the purpose of this legislation is not to decide the matter on the merits. That is still for the court to do. The purpose of this legislation is only to waive the defense of res judicata and to waive this technical defense, as we have done in a number of other instances in this body, so this most important claim can get before the courts again and can be decided without a technical defense and on the merits.

I said earlier that this is a history of missed opportunities and frustration and bitterness. Rightly or wrongly, this case is regarded in the Indian world as the prime example of white man's injustice. Despite this, the Sioux have continued to press in the courts and before the Indian Claims Commission and before the Congress for redress of these grievances. Some of the Sioux point to this long history of frustration and problems and demand a return of large parts of five States of this Nation, but most of the Sioux prefer to work through the system to achieve ultimate justice. Our failure to pass this bill will only lend credence to the charges and demands of the Russell Meanses of the world for much more than we are doing here. Conversely, the passage of this act will reward the long-suffering hope of the vast majority of the Sioux people who have had faith in the system. Just as importantly, it will write a more honorable finish to a chapter of American history that has had less than an honorable beginning.

Mr. Speaker, I reserve the remainder of my time.

Mr. LOTT. I thank the gentleman for yielding, Mr. Speaker.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule permitting consideration of H.R. 2664, a bill amending the Indian Claims Commission Act of 1946. The rule provides that after the passage of H.R. 2664, the Committee on Interior and Insular Affairs is discharged from further consideration of S. 838; and it is in order then to consider the Senate bill in the House. Both the House and Senate versions are identical to each other.

The purpose of this legislation is to authorize the Court of Claims to review on the merits the question of whether or not the United States took the Black Hills area from the Sioux Nation in violation of the fifth amendment to the Constitution, notwithstanding any defense of res judicata or collateral estoppel. The Sioux Black Hills claim is for the 1877 acquisition of their Black Hills country without the payment of just compensation. In 1975 the Court of Claims ordered the claim dismissed on the technical ground of res judicata without reaching the merits of the case. The Supreme Court denied a Sioux petition for writ of certiorari to review the Court of Claims judgment.

Therefore, the Sioux are left with no procedure in the law for further appeal of their claim, except through the vehicle of legislation. H.R. 2664 is that vehicle, and it will enable the Sioux Nation to appear in the Court of Claims to have their fifth amendment taking claim adjudicated on its merits.

H.R. 2664 failed to pass under suspension of the rules on September 27, 1977, by a vote of 173 to 239.

It is my understanding that there are objections to this legislation. I am advised that the Department of Justice would prefer to delay its consideration until the administration has time to review all the ancient Indian claims. There is also some concern that passage of this bill will set an unwarranted precedent while discriminating against other Indian tribes.

I am certain these matters will be discussed during general debate, and I do not oppose the rule.

Mr. Speaker, I have no further request for time and I yield back the balance of my time.

Mr. MEEDS. Mr. Speaker, I know of no opposition to the rule. I have no further request for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR THE CONSIDERATION OF H.R. 8336, CHATTAHOOCHEE RIVER NATIONAL PARK

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 982 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 982

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8336) to enhance the outdoor recreation opportunities for the people of the United States by expanding the National Park System by providing access to and within areas of the National Park System, and for other purposes, and all points of order against section 105(a) of said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. All points of order against the amendment recommended by the Committee on Interior and Insular Affairs now printed in the bill, beginning at line 22, page 9 through line 3, page 10, for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for one hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 982 provides for the consideration of H.R. 8336 to establish the Chattahoochee River National Recreation Area in the State of Georgia and for other purposes.

This is a 1-hour open rule with time equally divided and controlled between the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

The rule contains two waivers. The first waives points of order under clause 5, rule XXI, appropriations in a legislative bill, pursuant to section 105(a) of the bill. This is necessary because the section in question authorizes the expenditure of $73 million from both current and future appropriations to the Land and Water Conservation Fund. Technically, this is an appropriation.

The second waiver is for an amendment recommended by the Committee on Interior and Insular Affairs. The amendment beginning on line 22, page 9 of the bill and continuing through line 3, page 10 provides an additional $750,000 for certain historical events in the State of Kansas. The amendment is not germane to the bill and thus requires a waiver of clause 7, rule XVI.

Mr. Speaker, H.R. 8336 creates the Chattahoochee National Recreation Area. It authorizes the expenditure of $73 million for the purchase of 6,300 acres of land along a 48-mile segment of the Chattahoochee River, generally in the Atlanta metropolitan area. The bill further authorizes $500,000 in fiscal year 1979 to develop public facilities in the recreation area.

The Interior Committee also recommended two amendments to the bill. Title II would increase funds for the

Fort Scott, Kans., historical project by some $750,000.

Title III expresses the intent of Congress that all inholdings in the national park system be acquired within 4 years following the effective date of the bill. Grand Teton National Park in Wyoming would be exempt from this requirement. Although this amendment is also nongermane to the bill, it was not given a waiver by the Committee on Rules.

Mr. Speaker, H.R. 8336, as well as a similar bill in the last Congress which would have established a national park along the Chatahoochee River in Georgia, was given careful consideration by the Committee on Interior and Insular Affairs. I urge my colleagues to adopt House Resolution 982 so that we might proceed to its consideration.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 982 provides an open rule with 1 hour of general debate for the consideration of H.R. 8336, a bill to establish the Chattahoochee River National Recreation Area in Georgia. The bill will be read for amendment under the 5-minute rule. Following this, the rule allows one motion to recommit.

The rule waives all points of order lying against section 105(a) of the bill. That section fails to comply with the provision of clause 5, rule 21, by providing an appropriation on a legislative measure. An additional waiver of points of order is made for title II of the bill, a subject not germane to a bill regarding the Chattahoochee River. Points of order were therefore waived for failure to comply with clause 7, rule 16, the germaneness rule.

Mr. Speaker, the Chattahoochee River is primarily of local concern. The State of Georgia has already shown its willingness to support the project by enactment of the Metropolitan River Protection Act. In fact, we understand much of the land in question has already been acquired by State and local governments. Georgia is enjoying a $55 million budget surplus, and the Federal Government is over $600 billion in debt.

The conclusion is simple: Georgia wishes to protect the Chattahoochee River, which they can afford to do. Though I agree that the Chattahoochee needs to be preserved, I oppose the passage of a bill which puts the responsibility into the wrong hands. My hope is that my colleagues will defeat the rule, or, failing that, defeat the bill.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. McDONALD).

Mr. McDONALD. Mr. Speaker, I feel that this is an incredibly bad bill. The Chattahoochee River Recreation Area has recently been tabled; consideration of this in the Senate has been tabled because of the adverse aspects of this particular bill, and also because of the extremely high price tag, making this particular bill the most expensive cost per acre that we have been asked to consider.

There is nothing of national concern in this particular bill. The Chattahoochee River begins and ends in Georgia. The area involved is completely within the State of Georgia. What we are doing by opening a Pandora's box and considering the Chattahoochee River proposal is putting the Federal Government into the business of providing urban recreation areas. If we are going to set this precedent, or do this for the Atlanta area, it is only going to be right that we do it for the St. Louis area, for the Charleston area, and for the San Antonio area.

My colleagues, there is simply not enough money in the world to finance that venture, or that extension of Federal activities. As my colleague from California has already stated, the State of Georgia has done and is doing an excellent job in providing for the recreation areas for the Metropolitan Atlanta area. The State of Georgia currently has over 1,000 acres involved in the Chattahoochee River currently, and the Federal involvement in expanding that effort is totally unnecessary.

In the last administration, the spokesman for the Interior Committee came out against this bill for exactly that reason. The State of Georgia enjoys a $55 million surplus at this time, this year, when we are looking at a $60 billion deficit.

There is nothing of national concern here. Members may be told of some archeological site. Frankly, as the one member of the Georgia delegation who grew up on the Chattahoochee and has boated, fished, and hunted on it, there is nothing of archeological concern in the area. This was a muddy river that overflowed once or twice a year, and it is because of the man-made aspect of the dam that the water has cleared, and for the first time trout are in the river, which are not natural to the river. If Members consider the finding of an arrowhead or a broken piece of pottery as an archeological site and see it as significant, I submit that this applies to almost every acre of the United States.

There is going to be virtually no logical way of choosing the 14 separate parcels located along a 48-mile corridor.

We are opening a precedent an unworkable situation, and a very bad bill that has just been tabled by the Senate Interior Committee.

I hope my colleagues will vote to defeat the rule and, failing that, to defeat the bill, that sets a very dangerous precedent to expand the Federal activity of such an urban recreation area, the most expensive project of its kind and one which, if accepted, will open a Pandora's box for future bankruptcy of the Federal Government.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, first of all, I would like to thank the gentleman from California for yielding this time to me. I would like to urge my colleagues to vote for adoption of the rule and ultimately vote for the bill itself.

I would like to begin by correcting one statement that was made by my colleague, the gentleman from Georgia, who stated that the bill has been tabled for consideration in a committee in the other body. That is not correct. The Senate committee never got a quorum today and after discussion, further consideration of the matter was postponed for later this week; so I want to set the record straight. The bill has not been tabled in the other body and the information I have provided was furnished by the office of the junior Senator from Georgia, who is a cosponsor of this bill in the other body, along with the senior Senator from Georgia; both Senators are sponsors of this legislation. In the other body we have every expectation that this bill will be voted on favorably very soon by the committee in the other body.

Now, as far as the river itself is concerned and this particular recreation area, it meets every one of the seven criteria set out by the Department of the Interior for a national park. Each of the criteria have been met by this particular unique treasure. We have been told it is only in one State. First of all, we should know that this particular river begins in the hills of north Georgia, runs down and forms the boundary between Alabama and the State of Georgia, crosses into Florida, and empties into the Gulf of Mexico.

The part of that river that is being proposed as a park is a unique treasure. It is similar to many other parks located near urban areas, such as the Gateway and Cayuhoga Park. It is not a new precedent being set, but it is saving a unique national resource.

It is estimated that the amount of use the national park will receive will be larger than any other national park in the United States. It is situated between two major interstate highways coming from the Midwest and from the East, and it is an opportunity for people from all over America to share in the enjoyment of this unique treasure, which in the absence of being made a national park will be lost forever, not only for ourselves, but for future generations.

I have, along with my colleague, the gentleman from Georgia (Mr. FOWLER), sent to each a "Dear Colleague" letter which deals with and refutes each of the points which my colleague, the gentleman from Georgia (Mr. McDONALD) has made.

This is a national treasure. This is a National Park. Rather than these sites being bumps on a log, as my colleague has indicated, they are, rather, beautiful pearls in a necklace, that necklace being the Chattahooche River where there are archeological and historically significant findings that go back as far as 10,000 years.

Mr. Speaker, this is a treasure that I trust Members of this body will make it a part of the National Park System.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Speaker, I want to commend my colleague, the gentleman from Georgia (Mr. LEVITAS) for the gentleman's leadership on this bill. I would just like to tell my colleagues that there are seven Members of the Georgia dele-

gation who are cosponsors of this legislation.

The gentleman from Georgia (Mr. LEVITAS) has made the case for the national concern. There were 2.4 million people who used the Chattahoochee River last year, more than used our National Park in Yosemite.

The Southeastern States are not the only States affected. People from all over the country are now taking advantage of the rafting, canoeing, fishing, and just plain pleasure to be enjoyed in and along the Chattahoohee River.

Mr. Speaker, I urge the Members' favorable consideration of this legislation as uniquely in the long term national interest.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McDONALD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 323, nays 41, "present" 1, not voting 67, as follows:

[Roll No. 37]

YEAS—323

Abdnor	Chisholm	Flynt
Addabbo	Clausen,	Foley
Akaka	Don H.	Ford, Tenn.
Alexander	Clay	Fountain
Allen	Cleveland	Fowler
Ammerman	Cochran	Frenzel
Anderson,	Cohen	Fuqua
Calif.	Collins, Ill.	Gammage
Andrews, N.C.	Conable	Gaydos
Andrews,	Conte	Gephardt
N. Dak.	Conyers	Giaimo
Annunzio	Corman	Gibbons
Applegate	Cornell	Ginn
Ashley	Cornwell	Glickman
Aspin	Coughlin	Goldwater
AuCoin	D'Amours	Gore
Bafalis	Daniel, Dan	Gradison
Baldus	Danielson	Gudger
Barnard	Davis	Guyer
Baucus	de la Garza	Hagedorn
Beard, R.I.	Delaney	Hall
Bedell	Dellums	Hamilton
Beilenson	Derrick	Hammer-
Benjamin	Derwinski	schmidt
Bennett	Dickinson	Hanley
Bevill	Dodd	Hannaford
Bingham	Downey	Harkin
Blanchard	Drinan	Harrington
Boggs	Early	Harris
Boland	Edgar	Harsha
Bonker	Edwards, Calif.	Hawkins
Bowen	Eilberg	Heckler
Brademas	Emery	Hefner
Breaux	English	Heftel
Breckinridge	Erlenborn	Hightower
Brinkley	Ertel	Hillis
Brodhead	Evans, Colo.	Hollenbeck
Brooks	Evans, Del.	Holtzman
Brown, Calif.	Evans, Ga.	Howard
Buchanan	Evans, Ind.	Hubbard
Burgener	Fary	Huckaby
Burke, Mass.	Fascell	Hyde
Burleson, Tex.	Fenwick	Ichord
Burlison, Mo.	Findley	Ireland
Burton, Phillip	Fish	Jacobs
Byron	Fisher	Jeffords
Carney	Fithian	Jenkins
Carter	Flippo	Jenrette
Cavanaugh	Florio	Johnson, Calif.
Cederberg	Flowers	Johnson, Colo.
Jones, N.C.	Mottl	Skelton
Jones, Okla.	Murphy, N.Y.	Skubitz
Jones, Tenn.	Murtha	Slack
Jordan	Myers, Gary	Smith, Iowa
Kastenmeier	Myers, John	Smith, Nebr.
Kazen	Myers, Michael	Snyder
Ketchum	Natcher	Solarz
Keys	Neal	Spellman
Kildee	Nedzi	Spence
Kostmayer	Nichols	St Germain
Krebs	Nolan	Staggers
Lagomarsino	Nowak	Stangeland
Leach	O'Brien	Stanton
Lederer	Oakar	Stark
Leggett	Oberstar	Steed
Lehman	Obey	Steers
Lent	Ottinger	Steiger
Levitas	Panetta	Stokes
Livingston	Patten	Stratton
Lloyd, Calif.	Pattison	Studds
Lloyd, Tenn.	Pease	Stump
Long, La.	Perkins	Taylor
Long, Md.	Pettis	Thompson
Lott	Pickle	Thone
Luken	Pike	Thornton
Lundine	Poage	Treen
McClory	Pressler	Tsongas
McCloskey	Preyer	Tucker
McCormack	Price	Udall
McDade	Pritchard	Ullman
McEwen	Pursell	Van Deerlin
McFall	Railsback	Vander Jagt
McHugh	Rangel	Vanik
McKay	Regula	Vento
Madigan	Rhodes	Volkmer
Markey	Richmond	Waggonner
Marlenee	Risenhoover	Walgren
Martin	Roberts	Walsh
Mathis	Roe	Wampler
Mattox	Rogers	Watkins
Mazzoli	Roncalio	Waxman
Meeds	Rooney	Weaver
Metcalfe	Rose	Whalen
Meyner	Rosenthal	White
Michel	Roybal	Whitehurst
Mikulski	Runnels	Whitley
Mikva	Russo	Wiggins
Milford	Ryan	Wilson, Tex.
Miller, Calif.	Sarasin	Winn
Mineta	Sawyer	Wirth
Mitchell, Md.	Scheuer	Wolff
Mitchell, N.Y.	Schroeder	Wright
Moakley	Sebelius	Wylie
Moffett	Seiberling	Yates
Mollohan	Sharp	Yatron
Montgomery	Shuster	Young, Fla.
Moore	Sikes	Young, Mo.
Moorhead, Pa.	Simon	Young, Tex.
Moss	Sisk	Zablocki

NAYS—41

Archer	Dornan	Miller, Ohio
Ashbrook	Duncan, Oreg.	Moorhead,
Beard, Tenn.	Duncan, Tenn.	Calif.
Brown, Ohio	Edwards, Okla.	Quayle
Burke, Fla.	Forsythe	Quillen
Butler	Grassley	Robinson
Clawson, Del	Hansen	Rousselot
Coleman	Holt	Rudd
Collins, Tex.	Kelly	Satterfield
Corcoran	Kindness	Schulze
Crane	Latta	Stockman
Cunningham	Lujan	Symms
Daniel, R. W.	McDonald	Trible
Devine	Marriott	Walker

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—67

Ambro	Edwards, Ala.	Nix
Anderson, Ill.	Flood	Patterson
Armstrong	Ford, Mich.	Pepper
Badham	Fraser	Quie
Bauman	Frey	Rahall
Biaggi	Gilman	Reuss
Blouin	Goodling	Rinaldo
Bolling	Holland	Rodino
Bonior	Horton	Rostenkowski
Broomfield	Hughes	Ruppe
Brown, Mich.	Kasten	Santini
Broyhill	Kemp	Shipley
Burke, Calif.	Krueger	Teague
Burton, John	LaFalce	Traxler
Caputo	Le Fante	Weiss
Carr	McKinney	Whitten
Chappell	Maguire	Wilson, Bob
Cotter	Mahon	Wilson, C. H.
Dent	Mann	Wydler
Dicks	Marks	Young, Alaska
Diggs	Minish	Zeferetti
Dingell	Murphy, Ill.	
Eckhardt	Murphy, Pa.	

The Clerk announced the following pairs:

Mr. Ambro with Mr. Shipley.
Mr. Cotter with Mr. Mahon.
Mr. Rostenkowski with Mr. Chappell.
Mrs. Burke of California with Mr. Anderson of Illinois.
Mr. Kasten with Mr. Frey.
Mr. Diggs with Mr. Mann.
Mr. Biaggi with Mr. Caputo.
Mr. Whitten with Mr. Broyhill.
Mr. Flood with Mr. Edwards of Alabama.
Mr. Zeferetti with Mr. Goodling.
Mr. Eckhardt with Mr. McKinney.
Mr. Reuss with Mr. Bauman.
Mr. Pepper with Mr. Kemp.
Mr. Nix with Mr. Badham.
Mr. Dent with Mr. Horton.
Mr. Teague with Mr. Gilman.
Mr. Murphy of Illinois with Mr. Marks.
Mr. Rodino with Mr. Wydler.
Mr. Hughes with Mr. Broomfield.
Mr. Minish with Mr. Ruppe.
Mr. Fraser with Mr. Quie.
Mr. John L. Burton with Mr. Young of Alaska.
Mr. Ford of Michigan with Mr. Bob Wilson.
Mr. Blouin with Mr. Traxler.
Mr. Patterson of California with Mr. Santini.
Mr. Weiss with Mr. Charles H. Wilson of California.
Mr. Murphy of Pennsylvania with Mr. Le Fante.
Mr. LaFalce with Mr. Krueger.
Mr. Holland with Mr. Maguire.
Mr. Dingell with Mr. Carr.
Mr. Bonior with Mr. Rinaldo.
Mr. Rahall with Mr. Brown of Michigan.

Mr. HAMMERSCHMIDT changed his vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FOREST SERVICE TIMBER SALES STUDY

Mr. WEAVER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6362) to establish an Advisory Committee on Timber Sales Procedure appointed by the Secretary of Agriculture for the purposes of studying, and making recommendations with respect to, procedures by which timber is sold by the Forest Service, and to restore stability to the Forest Service timber sales program and provide an opportunity for congressional review.

The SPEAKER pro tempore (Mr. WRIGHT). The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6362, with Mr. BREAUX in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. WEAVER) will be recognized for 30 minutes, and the gentleman from Colorado (Mr.

JOHNSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, we bring to the floor today H.R. 6362 which addresses an issue critical to scores of rural communities in the West whose economies are dependent on national forest timber.

H.R. 6362 would establish an advisory committee to study and make recommendations to the Secretary of Agriculture and to Congress on the procedures by which national forest timber is sold. The committee would be required to submit its report not later than January 1, 1979. Upon submission of its report, the committee would cease to exist.

H.R. 6362 also would repeal section 14(e) of the National Forest Management Act of 1976, which requires sealed bidding when national forest timber is sold, except where the Secretary determines otherwise by regulations.

Mr. Chairman, I believe an advisory committee whose purpose is to study and evaluate how national forest timber is sold would serve a very useful function at the present time. The role of the national forests in providing for the Nation's sawtimber needs is of singular importance because they contain most of the Nation's sawtimber inventory. And this role can only increase as sawtimber inventories on private lands are drawn down in the years ahead, as is anticipated. There have been very significant changes in timber supply sources for the forest product industries in recent years. There will be more changes in the years ahead, dramatic changes. I think it is time to examine the present system of allocating the timber resource of the national forests, to see how efficiently the present system is working, to see if it can be improved.

We cannot ask the Forest Service to make such an examination. The Agency would, in effect, be examining itself, and how productive would that likely be? Should Congress make an examination of this complex subject? Does it have the time? The expertise? I think not.

It is for these reasons that H.R. 6362 provides for an advisory committee. I am well aware of the administration's position in this regard, and I have a similar view. Nevertheless, there are worthy exceptions for every good rule. I believe that an advisory committee to study national forest timber sale procedure is, indeed, a worthy exception.

Mr. Chairman, I would like to say that while I feel the advisory committee is an important element of this bill, I will support the Foley substitute which deletes the advisory committee.

Mr. Chairman, section 14(e) was intended to prevent collusive bidding for national forest timber. The provision first appeared during markup of the House bill, which was parent to the National Forest Management Act. It should be clearly understood that section 14(e) was incorporated into the House bill without the benefit of public hearings. It should also be understood that the provision was substantially extended in conference—from applying only to sales of 1 million board feed or less to applying to all national forest timber sales—despite the fact that the Senate parent to the National Forest Management Act contained no comparable provision.

While the Forest Service has used both oral and sealed bidding in national forest timber sales, the predominant method used in the West—especially the Pacific Northwest—has been oral bidding. Section 14(e) generally calls for the use of sealed bidding. Implementation of the provision has been and remains controversial because it subjects timber purchasers and small communities in many western timber markets to an extraordinary degree of uncertainty.

The Forest Service is, effectively, the only seller of timber in many western timber markets. If a timber purchaser does not successfully bid for national forest timber, he has no alternative source of raw material.

This condition—together with the mechanics of sealed bidding—produce an onerous degree of uncertainty which prompted my introduction of H.R. 6362. Let me review the difference between sealed and oral bidding to aid understanding of the importance of this bill to scores of rural communities in the West whose economies are dependent on natonal forest timber.

Under sealed bidding, timber purchasers are allowed a single bid on the timber offered for sale. All bids are held secret until the day of the sale, at which time they are opened, and the timber is sold to the highest bidder. Under this procedure, a bidder could participate—actively and competently—in several successive timber sales in the timber market in which he operates and not be successful. Because he is unable to capture a national forest timber sale and because of no other supply sources of timber, the bidder will have to shut down any timber processing plants he may operate. Where the plants are located in small communities with a narrow economic base, there will be a loss of jobs for many workers, and the basis for community stability as well.

In contrast, when timber is sold under oral bidding, timber purchasers can make several consecutive bids for a sale. A purchaser who must obtain a sale to continue operating his mill, can react to the bids of other purchasers and secure his necessary raw material. He could even bid above the price he would normally pay so long as he is able to cover the fixed costs of operating his mill. Thus, oral bidding is well-suited to timber markets where there is a single seller of timber, which is the prevailing condition in many timber markets in the West. Repeal of section 14(e) of the National Forest Management Act will assure the full use of that procedure. It will assure that independent millowners in the West have an opportunity to protect their investments. It will assure that plants remain open and jobs secure. Repeal of section 14(e) will assure the existence of scores of rural communities in the West whose economies are dependent upon national forest timber.

There are some who argue that sealed bidding is necessary because it prevents collusion among bidders. Mr. Chairman, that argument is completely fallacious. The fact is there are many examples in the history of antitrust law enforcement of collusion under sealed bidding. Two noteworthy examples are United States against Westinghouse Electric Co. et al., the famous electrical equipment conspiracy of the 1950's and FTC against American Cyanamid Co. et al., the well-known tetracycline case. Sealed bidding in no way prevents collusion.

Mr. Chairman, I am opposed to collusion. I am confident that every Member of the House of Representatives is opposed to collusion. It is against the public interest, and it is unlawful. But repeal of section 14(e) does not remove or diminish the authority of the Secretary of Agriculture to take appropriate action to prevent collusive practices in the sale of national forest timber. Repeal of section 14(e) does not remove or diminish the authority of the Attorney General to enforce the antitrust laws of the United States. Repeal of section 14(e) of the National Forest Management Act, simply, allows the Secretary of Agriculture to use fully the bidding procedure best suited to the circumstances of particular timber markets, thereby assuring stability to many rural communities whose economies are dependent on national forest timber.

In conclusion, Mr. Chairman, I ask for speedy passage of this bill to maintain the stability of our economic community, and I repeat: I will be supporting the Foley substitute.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I rise just to commend the gentleman from Oregon (Mr. WEAVER) for his leadership in this effort to maintain a stable economic base for timber marketing in the West. The bill before us would do that and would correct the very inequitable sealed bid interpretation of the Forest Service. I commend the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. I thank the gentleman.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, as one who comes from an area which is very involved in timber and lumber management, I can tell the Members that this is in the best interest of the lumber industry and will definitely be in the best interest of the consumer, so I strongly support the gentleman from Oregon.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 5 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Chairman, I am pleased to have been involved with the development of this legislation since its consideration before the Forests Subcommittee. The issue is of limited impact nationally but for those in the Western States who are reliant upon forest products for jobs and a strong local economy, the legislation we consider today is essential.

Historically, our small mill operators have depended upon the practice of oral bidding to insure a stable flow of timber into communities which are almost totally dependent on Federal timber purchases. The milling capacity of these communities represents a substantial capital investment, and it is most often the case that all other economic activity in the area has grown up in support of that basic forest industry.

Concentrated as this milling investment might be, these communities are in no way prepared to compete with large companies within the industry which operate on a regional or national basis. It was for this reason that for many years the Forest Service sanctioned oral auction as a means of contracting specific, rather than random, sales to dependent communities.

The Forest Service performance in implementing the regulations under section 14(e) of the National Forest Management Act has not given one cause for optimism. In initial regulations after NFMA was passed, the Forest Service virtually eliminated the use of oral bidding on national forest timber, a result that was hardly anticipated by the Members of Congress who were involved in the development of 14(e).

On June 2, 1977, the Forest Service published final regulations for the sale of national forest timber. Although under these final regulations the requirements for sealed bidding originally contained in the Forest Service interim regulations are considerably relaxed, the final regulations would still be adverse to the economic stability of local dependent communities.

The final regulations provide that in areas determined by the Forest Service to be dependent, a mix of bidding methods will be used amounting to approximately 75 percent oral and 25 percent sealed bidding by volume. The proportion of volume sold by oral auction may be increased if very large sales are involved or if the volume purchased by firms outside of the tributary area increases above historic levels.

Although the Forest Service is to be commended for significantly improving the final regulations in comparison to those originally drafted, the final regulations still would be adverse to the economic stability of local dependent communities. Even in communities which the Forest Service determines to be substantially dependent upon national forest timber, the Forest Service will offer up to 25 percent of the volume on a sealed bid basis. The "safeguard" which the regulations provide for increasing the percentage of timber offered by oral auction if a substantial portion of the sales end up being purchased by outside firms has the obvious and critical flaw that nothing will be done unless substantial, and in all likelihood permanent and irreparable, damage has been done to the local economy.

Many small operators in certain parts of the country specialize in specific types of sales that have particular species or grades of logs. These small operators must obtain every single sale which comes up having the kinds of products they specialize in. If, by chance, that sale is one of those offered under sealed bidding, it puts the operator in an untenable position due to uncertainty over what he must bid to obtain the sale.

Another difficulty is created by the fact that in the past few years the amount of timber offered from the national forests has been reduced significantly in some parts of the West. In these areas the Forest Service is selling hardly enough to maintain existing mills on a break-even point. Putting into jeopardy 25 percent of the volume in these areas would be enough to severely damage the local economy.

Oral bidding recognizes that these operators usually have no alternative source of timber supply from private lands. It also recognizes that these mills by virtue of their size are highly specialized and must depend upon access to the kinds and volumes of timber which insure their operation on an even schedule. The alternative is eventual closure and community-wide unemployment.

It should be pointed out that a good portion of the land in the Western States is in the Federal domain, and we are heavily dependent on timber sales from national forest. In the East, South, and Southwest, most of the timber-producing acreage is held in private ownership. Thus, it can be readily seen that the problems of the Western and Pacific Northwestern States are unique compared to other parts of the country. While Southern mills and most timber operations in the East can make up unsuccessful bids for Federal timber by bidding on abundant private forest lands, western timber supplies which are bid out of a dependent community's operating area create immediate deficits and eventual closure.

Abuse of oral bidding procedures has been nearly nonexistent in our Western States. Over the years, one indictment has been made and a conviction was obtained by Federal attorneys. It would be unfair to assert from that record that the oral bidding mechanism is the inducement to collusion among timber operators. Where collusion has occurred in Federal contracting, it was because there was a desire to collude, regardless of the bidding or contracting method in use.

The legislation before you today, H.R. 6362, addresses that issue directly in reasserting what has always been this Government's statutory authority all along—namely, to pursue and seek litigation in any circumstances which indicate the possibility of collusion or antitrust activities. The bill calls for an advisory committee to study the matter in depth and report back to Congress. Until we receive that Commission's report, we should not, in the meantime, penalize small western communities by forcing a bidding method upon them which is proving disruptive and contrary to their interests.

We are not asking that the entire forest products industry operate through oral bidding; simply that the West be allowed to resume its historic practice of oral bidding. The decision on the method of bidding to be used would rest, as it always has, in the hands of the Chief of the Forest Service, along with his ongoing responsibility to insure full value to the Government for sale of Federal timber and to insure that the laws on detection and prosecution of collusion are vigorously enforced.

As indicated in the report accompanying the bill, H.R. 6362, repeal of subsection 14(e) would not remove the power of the Forest Service to use the sealed bid method. It would simply remove the qualified congressional mandate to use the sealed bid method contained in that subsection. The Forest Service would be expected to continue its procedures for monitoring and reporting bidding behavior that indicated less than competitive situations.

Mr. Chairman, we have had short experience with sealed bidding in the Pacific Northwest, but we have already seen from its presence the dislocation of significant volumes of timber outside dependent communities that historically processed it. Unemployment in the Pacific Northwest, even within industries related solely to timber products, is already high. This legislation would do much to alleviate the fear of continued mill closures, unemployment, and relocation of our western labor force.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I rise in opposition to H.R. 6362 and its counterpart S. 1360.

The timber on U.S. forest lands represents one of the most valuable assets the American people have. It not only produces substantial revenue for the Government, but it provides vitally needed products that help maintain our national way of life.

In an effort to protect this national treasure, Congress, little more than a year ago, directed the Secretary of Agriculture to require sealed bids for the sale of timber in the national forests. This was already the practice in the forests of all sections of the country but the West. There the practice has been to use auctions, with people bidding openly against each other.

There were two main reasons for the action taken by Congress. It wanted to prevent, or at least reduce, collusion among bidders. And it wanted to increase the revenue from timber sales. In the brief time the new bidding procedure has been in operation, it has shown promise of achieving both objectives. And now we have a bill on the floor to repeal it.

Collusion among bidders is hard to prove, but the Justice Department—which opposes this bill—says it has good reason to believe that collusive bidding exists in the sales of Federal timber. And it adds that it is far easier to enter into collusion in an auction than in a sealed bid process. We think that the sealed bidding technique generally provides a method of sale which best guarantees that timber will be available to all interested and that the Government will receive the most competitive price for it. The current statutory provision is thus

in our view entirely appropriate. We see no need for and oppose its alteration at this time by legislation along the lines of S. 1360 as passed by the Senate or H.R. 6362.

The Agriculture Department is also against this bill. Secretary Bergland says there is no basis for repealing, or even amending the existing law at this time. In the opinion of Secretary Bergland, the Department of Agriculture regulations provide ample protection to those communities where lumber companies are dependent on national forests for their timber.

The Office of Management and Budget opposes passage of H.R. 6362. A study conducted by the Forest Service shows that in just one section of the Cascade Mountains, sealed bidding for timber sales over a 6-month period produced $116 million more than the Forest Service's appraised price. In another section of the Cascades, where timber was sold at auctions, the total revenue for the period was only $19.2 million over the appraised price.

Mr. Chairman, there can be no justification at this time for Congress repealing a law that has barely begun to operate. And it is especially inappropriate to take such action when the early returns on the effect of the law show that it is working and can produce the results which were intended.

This is the public's property that we are selling. We owe it to the American people to protect that property against collusive bidding and to obtain the best price possible for it. We can do that by leaving the present law intact.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I am delighted to yield to the gentleman.

Mr. DUNCAN of Oregon. As usual the distinguished gentleman from Texas, I think, has posed the only two arguments that could possibly be advanced in opposition to this bill; one, the assumption that collusion will vanish if we sell this timber at sealed bid, and that it will prosper if we sell it at oral bid. I would like to suggest to the gentleman that his assumption there is absolutely fallacious, and that there is no evidence to support the proposition——

The CHAIRMAN. The time of the gentleman from Texas (Mr. BROOKS) has expired.

Mr. DUNCAN of Oregon. Mr. Chairman, I ask unanimous consent that the gentleman be granted 3 additional minutes.

The CHAIRMAN. The time is controlled by the gentleman from Oregon (Mr. WEAVER). The gentleman's time has expired.

Mr. WEAVER. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Chairman, I have been in this House now for 3 years, and I have never seen as much lobbying of Members of the House as on this piece of legislation. This is despite the fact that this legislation is supposed to jeopardize only the small mill operator. Obviously, we would not have seen this type of activity if the opposition had not been true.

First of all, I think it should be stated in no uncertain terms that both the Department of Agriculture and the Justice Department are opposed to this bill, and they are opposed to it for good reasons. This bill, as has already been stated, has been on the books for approximately 14 months. During the 14 months this legislation has been on the books, despite the statements that have been made from the well earlier, there has not been a single mill closed in the Northwest and California as a result of sealed bidding use.

I have a letter from the Chief of Forestry, dated January 23, 1978, to that effect.

Furthermore, there is no question that in those areas of the United States where oral bidding had been used prior to 1976 and this is in the Northwest and California, in contrast to the Eastern and Southern States and the Lake States, where sealed bidding is all that has been used, and in those States they have never had any problems with collusive bidding, but in the Northwest and California, if we look at the figures we will see there has been ample evidence of collusive bidding, unless one is blind.

It is for this reason that we at the present time have six grand jury investigations in California and the Northwest through local collusive bidding. Some have already told us, and I am sure others will tell us, that collusive practices and precollusive practices are just as easy under sealed bidding as under oral bidding. This simply is not true. It is not true because under sealed bidding there is an element of surprise that we do not have under oral bidding. It is for this reason and this reason only that the timber industry would like to go back to the old days that existed prior to 1976 when some of them, not all of them, but some of them, engaged in practices that I submit are highly detrimental to the well-being of the American taxpayer.

Why do I say that? In the first 9 months of 1977, which has been the first year that this legislation has been in effect, the amount of money that has been paid under sealed bidding in excess of the amount of money paid under oral bidding in the Northwest and California has added up to the high amount of $28 million for 9 months only; so we can imagine what it would be for the whole year.

It is exactly for this reason we have seen all the lobbying going on for the last couple weeks.

Now, the committee voted this bill out by a landslide vote of 22 to 20. I think this should be some indication to us as to whether this, indeed, would be in the best interests of the American taxpayers to vote for this piece of legislation.

We have also heard claims made earlier in this well that supposedly in the Northwest and California that a national forest has a monopoly on timber. Let us look at the fact. The fact is that in a letter that I received from the Congressional Research Service, dated February 6, 1978, the State of Washington showed the following figures: 82 percent of the wood, the timber that has been sold and was sold in that year came from nonnational forests and only 18 percent from the national forests.

Oregon: 63 percent from the nonnational forests, 37 percent from the national forests.

California: 64 percent from the nonnational forests, only 36 percent from the national forests.

The same pattern is true for Idaho and Montana; so how can anyone stand here and tell us there is a monopoly in national timber in the States of Washington, California, Oregon, Idaho, and Montana?

Now, there is one additional figure I would like to share with you. In region one last year, this involves Idaho and Montana, the bids on the sale from sealed bidding were 25 percent higher than oral bids.

In region 5, which is California west of the Sierra Nevada, 38 percent; and in region 6, which is Oregon and Washington, 36 percent higher under sealed bids.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of the legislation.

Mr. Chairman, prior to enactment of the National Forest Management Act, oral bidding was commonly used in timber sales from our national forests in the Northwest and in California while sealed bidding was used in the eastern national forests. This mixture of bidding procedures was in recognition of the unique characteristics of these different markets and permitted the necessary flexibility.

Subsection 14(e) of the National Forest Management Act requiring sealed bidding on all timber sales has removed this flexibility and imposed an unworkable bidding system on our mill owners in the Northwest and California.

Our mills have no alternative source of timber. They are dependent on sales from our national forests to insure a sufficient supply of timber to keep the mills operating. Oral bidding provided for an atmosphere of open competition and active bidding which assured purchasers an opportunity to obtain the timber necessary for them to maintain their operations. On the other hand, sealed bidding permits only one bid with no alternative action available if it is rejected. As a result, the economic viability of these businesses and our communities is being threatened.

In addition, the stated purpose of the sealed bidding requirement was to obviate collusion among bidders for national forest system timber. Yet, collusion in oral auction bidding is not pervasive as evidenced by the fact that the Justice Department has had only one indictment in 17 years during which time there have been thousands of sales valued at $0.5 billion annually.

Sealed bidding has gone through the test of time and has proven to be unsatisfactory. I urge my colleagues to support our efforts to correct this situation.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, today the House is considering a measure of great importance to the future economy of the western timber industry, H.R. 6362. I certainly sympathize with those in the Congress who are unfamiliar with the problems of western timber concerns. During the past few legislative days all of us have been deluged with "Dear Colleague" letters from both sides of the issue, including my own.

Stated quite simply, H.R. 6362 would establish an independent 17-member Advisory Committee on Timber Sales Procedure to determine by January 1, 1979, the manner in which U.S. Forest Service timber is appraised, put up for sale, bid, and priced. The measure would also repeal subsection (e) of section 14 of the National Forest Management Act of 1976 which required the sealed bidding of all U.S. Forest Service timber sales except where determined by the Secretary of Agriculture.

My main concern with the bill, however, centers around this latter provision. For decades the West and Northwest have held timber auctions by oral bidding rather than sealed bidding. With enactment of Public Law 94–588, which eliminated the long held tradition of oral bidding, the timber industry west of the Mississippi was thrown into a quandry. Consequently this measure seeks to readjust what has amounted to an economically disastrous timber policy.

As the representative from the 18th District of California, which includes both the Sequoia and Inyo National Forests, I have a special stake in the outcome of this bill today. For the past 2 years I have seen firsthand the drawbacks of sealed bidding in the West. It is not working, and the outlook for local timber economies is extremely shaky at best.

By no means do I want to confuse the necessity of oral bidding in the West with sealed bidding in the South and East. The situations simply are not analagous, and this bill does not seek to press on the East and South the necessities of oral bidding in the West. The reason for the differences, however, is quite simple. Between 1964 and 1972 the East and South averaged timber sales of 800,000 board feet in comparison to the sales of over 11 million board feet in California alone during the same period. Furthermore, national forest timber comprises approximately 6 percent of the timber supply in the South while many communities out West are entirely dependent on national forest timber.

With these statistics in mind the need for oral bidding becomes obvious. A one industry town dealing in timber seeks to bid for the opportunity to cut certain timber in national forest lands. The representative from the mill congregates with other such representatives across the table and bids in open auction. With this opportunity to bid for valuable timber orally, all competitors are able to determine the going bid for timber.

Had sealed bids been used, the mill operator would have submitted what he regarded as a high bid. Later, he might find that his bid was too low and that he lost the one opportunity to make his timber operation solvent. The inherent problems for a small timber community are obviously overwhelming.

One more aspect of oral bidding I would like to stress is the concern over collusive practice. Quite frankly, collusion in oral auction bidding simply is not as pervasive as critics of this bill contend. Furthermore, the Justice Department has investigated less than a dozen investigations in the past 17 years with sales amounting to $500 million annually. I want to make it further understood that through enactment of this measure collusive practices will be minimized through the discretionary power given to the Secretary of Agriculture.

I regret the controversy which has surrounded such a simple and forthright concept in establishing oral bidding in the West. Safeguards have been set, and the Western timber industry can once again return to a reliable means of sustaining what otherwise would be a precarious and unstable economy.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Mr. Chairman, I rise in support of the legislation.

Mr. Chairman, I would like to have this opportunity to put things in perspective, as this debate continues between the merits of sealed bidding against oral bidding.

I think it is important to look at the legislative history and what was intended at the time the National Forest Management Act of 1976 was passed. It was very clear that Congress did not intend 100 percent sealed bidding although that was the initial Forest Service interpretation. Later the Forest Service changed its interpretation to 75 percent oral and 25 percent sealed bidding. We need this legislation to clear the record.

Opponents of oral bidding argue that it is easier to have collusion under such a method than under sealed bidding. Forest Service Chief John McGuire has testified that there is no evidence to support the conclusion that sealed bidding does any more to reduce collusion than oral auction. No evidence has ever been presented to Congress to support this conclusion. In over 70 years, there has been only one conviction of collusion in the timber industry. Certainly this record is not one which would support the need for drastic changes in present policies.

It can be argued that individuals prone to collude will do so under any bidding system. If collusion is occurring, the guilty should be prosecuted.

Mr. Chairman, you have hundreds of communities today dependent on National Forest timber. When I say dependent, they have one mill, two mills, and those bills must have logs if the community is to survive. Under oral bidding mill operators will bid much higher than the true value if necessary, to make sure they have a supply of logs to keep their mill going. Under sealed biding this kind of self protection is impossible.

If sealed bidding becomes the sole bidding procedure in the West, we are going to see towns with 15, 20, and 25 percent unemployment.

Mr. Chairman, it is important to point out that under either bidding method, oral or sealed, the public interest is fully protected because the sale cannot be sold for less than its fair market value as determined by the Forest Service in an appraisal. Where bids greatly exceed the appraised fari market value, the Government is most often extracting a premium price because of the scarcity of available timber and because the Government is a monopoly timber owner in many parts of the country. This premium for the raw material is immediately reflected in increased prices for wood products and in the housing with which it goes. Even if sealed bidding produces higher prices, and the evidence thereon is not at all satisfactory or definitive, it is not necessarily a desirable result. Inflation is still the No. 1 concern of the country. The Government should get a fair price—and will under the proposal under debate—but, of all parties, the Government should be the last to seek to extract the last cent and thus add to the flames of inflation while it preaches restraint to labor and management on the question of wage and price increases.

Mr. WEAVER. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Chairman, I rise in support of this legislation and the substitute to be offered by the distinguished gentleman from Washington, the chairman of the Committee on Agriculture (Mr. FOLEY).

My part of the country is not directly affected by this bill. I know, however, there may be a number from the South here today listening to this debate. We do happen to have sealed bidding in the South, and have had it for a long while. It works because only about 6 percent of the timber sold in the South is from national forest lands. The rest is from privately owned lands.

In the West, of course, obviously the situation is quite different. There are some communities where 100 percent of the timber is Federal timber and, therefore, the entire existence of the community is in severe jeopardy under the present practice of sealed bidding.

I think one might well consider the statement made by the Chief of the Forest Service, John McGuire, who said in his testimony:

> There is no sound evidence that sealed bidding is any more effective in reducing collusion than is oral auction. Those inclined to collude will do so under any method. There is no substantial difference in risk of collusion whether oral or sealed bidding is used.

Mr. Chairman, the timber producers of the South feel that the West should be allowed to continue its historically

established and proved practice of open or oral bidding. Sealed bidding is appropriate for our part of the country, but open bidding is more appropriate for the West, and I urge my colleagues to support the amendment in the nature of a substitute to be offered by the gentleman from Washington (Mr. FOLEY).

Mr. WEAVER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, the simple issue that is before us is the repeal of the law that is presently on the books and has only been on the books for 14 months. The issue really is whether this body wants to do anything about collusion that takes place in the sale of timber in our national forest areas. It is not my judgment that collusion exists. It is the judgment of the Department of Justice, in testimony and letters presented to the committee. Indeed, since 1960, the Department of Justice has investigated collusion in 10 areas and has brought criminal cases, and convictions have been rendered. What led to the passage of 14(e) was the fact that collusion did exist in the sale of timber. Subsection 14(e) is a flexible law. It gives the Secretary the discretion to decide whether sealed bidding should be used and whether oral bidding should be used. In fact, regulations were issued under this law only in June 1977 and in the issuance of those regulations, 25 percent of the dependent communities were required to have sealed bidding; 75 percent were allowed oral bidding. So what are we arguing about? The flexibility is here under the law. The Secretary of Agriculture says give us a chance to have this law work. That is all we are asking for. Let us see if this deals with the problem of collusion. Let us not proceed to repeal a law which has not had a chance to work and try to deal with the problem and the possibility of collusion. Let us not repeal 14(e).

Mr. WEAVER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I am proud of our colleague, the gentleman from California (Mr. KREBS) for standing up on this issue in the public interest. I hear a lot of Fourth of July speeches about the free enterprise system. Let us make it competitive. Let us have the sealed bids. The experience in 14 months is that we get 25 percent more money for the public. That is what this is all about—whether that 25 percent goes to the public or whether it goes to a few lumber giants. I think our stand clearly ought to be for the public.

There is a Senator from Minnesota, MURIEL HUMPHREY, who was sworn in today over on the Senate side. Her husband worked hard in this area, and let me quote a couple of sentences from Hubert Humphrey:

> I am concerned that changing this law would give a small number of lumber giants the opportunity to engage in bidding practices which would possibly give them timber at a cost lower than would occur with sealed bidding. In fact, statistics support this concern.
>
> Now, this does not mean that oral bidding cannot take place. In fact, just the opposite is true. Oral bidding can and will take place when and where the Forest Service believes it is necessary to preserve the economic viability of local communities.

I have heard no one complain to my colleague, the gentleman from California, when he said that in 14 months not a single community has been hurt and not one single mill has been shut down because we have had genuine, competitive bidding.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I will be pleased to yield to my friend, the gentleman from Idaho, who believes in the free enterprise system. I have heard him talk a great deal about that on this floor.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much for yielding.

I just wish to ask the gentleman this: Do they not sell cattle in Illinois by auction, through oral auctions? I always thought that was free enterprise.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

Mr. WEAVER. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, let me say that the talk of lumber giants being benefited by open bidding is just simply the furthest thing from the truth. The people who are going to be out of business are the little lumber mills that operate in an area totally surrounded by national forests. They are in areas where they are totally dependent upon national forests.

What can happen here is that the giants can come in from across the mountain and in a sealed bid take all of the timber out from under the local mills and leave them totally without a lumber supply. Community stability is at stake.

We should remember that under procedures in the Foley substitute there is an appraisal made of the timber in the sale. This appraisal determines the market value as determined by comparable sales. That is where they start. They do not sell this timber below this appraised valuation. So we should not believe this argument that somebody is going to come in and buy timber at less than market valuation.

After the appraisal is made, sealed bids are called for followed by an oral auction. This is what allows the local mills to stay in business. They can bid the price up and get the sales they need to stay in business.

I urge support of the Foley substitute.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I had not intended to participate in this debate at this time because I know that the gentleman from Washington (Mr. FOLEY) is going to offer a substitute which most of us will endorse. But there have been some questions raised, and I suppose because of the interest of the Members who have raised them, we should answer them here in this debate. Obviously the gentleman from California (Mr. KREBS), the gentleman from California (Mr. PANETTA), and the gentleman from Illinois (Mr. SIMON) would like to hear the answers.

I yielded to the gentleman from Texas (Mr. BROOKS) because he could not get time on his own side to try to give his point of view. These points of view that have been presented, as I see them, are not correct, and they should be answered.

I come from an area in Colorado where there are located three small timber mills, and we are not really very much affected by this particular situation. I am the ranking member of this subcommittee, however, and I feel that I have some knowledge that has not been expressed here today. I feel that the expressions that have been given lead to wrong impressions. They could leave one with the wrong conclusion even if we listen very carefully to the opposite views already given.

Therefore, I would like to spend just a little time, if I might, in discussing where 14(e) came from and what it was originally intended to do and how, as a result of the misinterpretation of the Forest Service and their twisting of the original language, we now find ourselves in a dilemma.

It was never intended that there would be a sealed bidding method used in totality. At the time that we passed 14(e) we thought we were going to stay with the oral auction method in most cases. Because the gentleman from California (Mr. KREBS) was concerned about the one incident in which they had a conviction of collusion under the oral auction system—that system has been going on for 17 years in the West, and they had one conviction—he felt because he was familiar with that particular circumstance that something should be done about it.

All of us, of course, would not favor collusion. Everybody is obviously opposed to collusion, so we did incorporate the language of section 14(e). The Forest Service at the conference committee assured us that they would not go to 100-percent sealed bidding. They were going to stay with the oral auction system.

After we passed the bill, lo and behold, they decided there was going to be 100 percent sealed bidding. That was their interpretation, that there had to be, under section 14(e) 100 percent sealed bidding.

The gentleman from Oregon (Mr. WEAVER) and I reminded them of the previous situation, so they have modified it so that now it only requires 25 percent.

They have vacillated all over the lot, and they really have not paid too much attention to the legitimate requirements of the people in the Northwest.

Mr. Chairman, I have been asking for some time about the question of collusion. There is one gentleman who no longer is with the Justice Department who has written a letter saying that it is easier to collude under the oral auction method than it is under the sealed bidding method.

When I ask them, "Why?", they just say, "Just because it is."

Will you please tell me the difference. If we really have a group of people who want to collude, can they not collude just as easily with one system as they can with the other?

The Chief of the Forest Service says that he cannot see any difference. I ask you if you can see any real difference in the methods. Why is it that one can, all of a sudden, collude more easily under the oral auction system than he can under the sealed bidding system?

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I want to join in supporting the gentleman's argument. I think it is very profound.

I would like to ask the gentleman if it is not true that some of the great antitrust cases were based upon collusive bidding. For example, out in our State, I can recall millions of dollars being recovered by school districts because of collusion in the sale of athletic equipment, every one of them under a sealed bid.

Asphalt manufacturing was another big case. All of those asphalt bids were under seal.

Mr. JOHNSON of Colorado. Municipal bonds also.

Mr. DUNCAN of Oregon. Municipal bonds also. The assumption that there is not going to be any collusion under sealed bidding is a fallacious one. Nobody wants collusive bidding.

Is it not true that the Senate bill that will be offered as a substitute contains specific instructions to the Secretary of Agriculture to prevent collusion and to use whatever bidding system might be suitable to prevent it? Is that not right?

Mr. JOHNSON of Colorado. The gentleman is absolutely correct.

Mr. DUNCAN of Oregon. All we are really doing is removing the mandate.

Mr. JOHNSON of Colorado. The gentleman is correct.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. JOHNSON) has expired.

(By unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 3 additional minutes.)

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I am glad to yield to the gentleman from California.

Mr. RYAN. Mr. Chairman, I am not from the Northwest, but I am from the West, as the gentleman knows. I come from San Francisco, from the suburbs, which do not have any big timber lands. There are none in my district. They do not have much of anything except for a few eucalyptus trees that surround the Golden Gate National Cemetery. Some of them were blown down a few weeks ago.

Mr. JOHNSON of Colorado. I know about that.

Mr. RYAN. We are trying to get a little subsidy there on the east bank for some dead trees which are causing some problems. However, I am not here to argue that matter.

I am interested in supporting the bill we have here. I am interested in the fact that almost all the Members from Oregon, Washington, Colorado, and up in that area are in support of this legislation.

I am interested in the fact that one of the most distinguished of our colleagues on this floor, the gentleman from Oregon (Mr. AL ULLMAN), speaks eloquently in favor of the small town and the small bidder who will be or is economically affected by this legislation.

I can sympathize with that position, but then I listened to the chairman of the full Committee on Government Operations, who has a long reputation in this Chamber for pursuing relentlessly the best value for the consumers, that is, the taxpayer's dollar, on this floor. He yields to no one in his capacity to be successful in doing that.

The gentleman from Texas (Mr. BROOKS) is opposed to it. Why is the gentleman opposed to it? Because the gentleman says it would cost the taxpayers more money. I have heard no one challenge that fact here on the floor.

Mr. JOHNSON of Colorado. I intend to get into that later.

Mr. RYAN. That will be fine, and I wish the gentleman would do that.

The $116 million, if the figure is correct, is a significant factor as far as I am concerned because I am for the taxpayers because that is also me in South San Francisco and in Burlingame and other areas where other taxpayers reside. Of course, as taxpayers we have a certain sympathy for the small towns in Oregon because those small ones cannot be as efficient as the giant corporate interests and they can submit lower sealed bids.

Is not the purpose of using the system of sealed bids because you only get one shot at it in a sealed bid? And therefore you will get to the point where there is intense competition and where there is intense competition then there is a lower one-shot bid which is lower than you are going to get if people begin to mill around—and that is not a play on words—in a particular area where there is going to be a contract let, and so the bidding itself begins at a much higher level than it would otherwise?

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield myself 3 additional minutes. I trust the gentleman can finish his question soon.

Mr. RYAN. If the gentleman will yield still further, in other words, is it not going to allow for a higher low bid if we go to open bidding than under the sealed bidding system, under the previous system?

Then finally, why the sudden change after 14 months of an operation? Why do we go back to what it was? What has happened?

Mr. JOHNSON of Colorado. Mr. Chairman, to answer the gentleman's last question first, I have tried to explain earlier the interpretation that the Forest Service has placed upon section 14(e) is not what those of us who drafted the language expected it would be, so we do not have the result that we had in mind when we passed the Timber Management Act of 1976.

You will have to discern for yourself the difference in collusion and the possibility of collusion between the oral auction system and the sealed bid system, and I submit that there is not that much difference, and that either way you can get cheating if they want to do so. The fact is the Forest Service agrees with that. Only one person in the Justice Department has ever contradicted that, and we tend to rely on him too much, I think.

With reference to the amount that has been paid in, which the gentleman from Texas (Mr. BROOKS) has raised, I can tell you that there has been an increased amount of money that has come into the system, which the gentleman has acknowledged. The Forest Service says they are not yet sure whether this is because of the shift in methods because it has been only a short period of time that it has been in use.

I submit to the gentleman, and I will give the gentleman the argument, that there may be an increased amount of money under the sealed bid method. I do not accept that myself, but I will give it to you, just for the purpose of argument at this point because you wind up at the same place eventually.

You are talking about money that comes into the Federal Treasury, that is in terms of Federal income a very small amount of money, but it raises costs of doing business by the smaller timber operator and he will have to pass it on to his customer. The amount of money that comes to the Federal Government is relatively negligible under this system but the costs incurred by the small timber operator are significant as far as they are concerned. It is going to mean increased costs for them, so you will have to rely more and more on the large timber operators.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I will yield to the gentleman from Idaho (Mr. SYMMS) and the other gentleman in just a moment.

The gentleman from Oregon (Mr. ULLMAN) made the point that this is a small timber operator's bill. That is exactly right.

I do not want to get too personal on this, but none of the large timber companies have an interest in this bill, Weyerhaeuser, International Paper, Georgia Pacific, Louisiana Pacific, St. Regis, they do not have an interest in this bill because they harvest from private lands.

The companies that are interested in this are the small timber operators—not the large ones but the small ones. The gentleman from Oregon (Mr. ULLMAN) has made that point, and I just want to emphasize it.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. Now I will be glad to yield to the phalanx facing me, and I yield to the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

I would say if the large timber operators are not involved in this, then the little ones have nothing to fear from each other.

Mr. JOHNSON of Colorado. That is not correct, and that is because the gentleman does not understand the problem they have out there.

Mr. BROOKS. Let me give the gentleman one answer to his question about collusion. I did not say that collusion would be eliminated by the sealed bidding. Everybody understands that one can rig the sealed bids rather handily if you have a good working understanding with the participants. But what the Department of Justice is indicating is that they feel that it is much easier to have collusive bidding in oral bidding, and I will tell the gentleman how. All you have to do when you have oral bidding is if the gentleman is leasing his trucks from me, and he is bidding against me, and I bid so much a thousand for that timber stand—and the gentleman is leasing his trucks from me—and I am just looking at the gentleman, and I like him; he is a fine, able, intelligent, articulate, hard working gentleman.

Mr. JOHNSON of Colorado. The gentleman is going to persuade me.

Mr. BROOKS. The gentleman will be leasing trucks from somebody else tomorrow maybe if he bids against me. That is what happens in oral bidding. It is not a matter of a fixed operation; it is just the intuitive pressure that you put on people. You do not have to tell them. If you have to tell them, you are in grade school. You just visit with them, and they understand. People with thievery in their hearts do not have to lay out the plan. They understand instinctively.

Mr. JOHNSON of Colorado. Mr. Chairman, I take back my time and deny that is what has happened. That is not what has happened. The testimony and the experience on the bidding in the West is contrary to what the gentleman just said. I would like to point out that what has actually happened in the West is that this oral bidding system has been what has allowed the smaller timber operator to maintain his operation. They have to have enough in the way of timber contracts so that they can plan their future operations. The only way they can contract is when they know that they can get the contract by oral bidding, and those people in the local areas will bid whatever is necessary to get the timber contract necessary.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado I yield to the gentleman from Oregon.

Mr. AuCOIN. I appreciate the gentleman's yielding. I want to associate myself with the many points the gentleman has made today, and particularly the one that answered the assertion that the supposed increase in revenues from the sealed bidding method plays to the public interest. I think the gentleman makes the absolutely unassailable point, the one I can identify with, serving as I do as chairman of the cost of housing task force of the Housing Subcommittee, that any increase that is gained by that method is going to be passed along in component costs of housing, in lumber prices that go into the manufacture of every house built in this country that uses Federal timber. To say that contributing to the escalating cost of housing—already running 30 percent higher than the rise in general prices—is a help to the consumer is astounding to me. I think the gentleman makes a very good point, and I want to commend the gentleman.

Mr. JOHNSON of Colorado. I thank the gentleman.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I would like to make the point that the reason we want to act on this now is we do not want to wait until these mills are closing. I think that the gentleman from California (Mr. RYAN) brought the question up. I see this as a bigger concentration of big companies if the bidding procedure is not corrected, so the exact opposite of what the gentleman from California (Mr. KREBS) is afraid will happen will happen.

I would like to point to today's Wall Street Journal on page 8:

Stiff Penalties For Price Fixing Levied by Court

Eight Electric Device Firms, 11 Officers Get Big Fines, Prison Terms, No Parole.

Most of this business, as I understand it, was done through written or sealed bids; it was not done through oral options, and I would like to make the point.

I would like to substantiate what the gentleman from Oregon (Mr. ULLMAN) said about the small towns. For example, in my district the town of Princeton, Idaho, has one sawmill. It is the primary employer of everyone who works and lives in the town. They do not have large stands of privately held timber, so they have to buy timber from either the State of Idaho or the Federal Government—primarily the Federal Government.

Presently our State timberlands are being overcut to offset the restriction of Federal timber, but the dislocation and disruption in the towns is unbelievable because of the fact that people are wondering whether this small lumber company will get a bid. There are companies like the Weyerhauser and the Louisiana Pacific Co., and Georgia Pacific, who own or have large tracts of timber who are not as concerned about whether they get a particular bid or not to keep a mill open. It is the small company that is hurt in this, and that is why the gentleman from Colorado so correctly stated that the real interest in this is from the small lumber companies who do not own large stands of private timber and also from some large companies that do not have the timber.

Mr. JOHNSON of Colorado. The gentleman has made the point that I as one who comes from an area not as vitally involved has listened to the testimony and the evidence and reached that conclusion. The gentleman has stated it very well.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Montana.

Mr. Chairman, I address a question to the gentleman from California about the question he raised, and I will tell the Members what has happened. The mills are closed. The Forest Service has been unyielding in its position on oral and sealed bids despite the fact that 25 percent were supposed to be sealed bids and 75 percent were supposed to be oral bids. There have been no bids left in Montana in the past 14 months. The gentleman is correct. It is a question of giants, of whether the giants control the timber industry and whether they get all the timber or whether some of the smaller mills have the opportunity to raise the bid one last time to get enough timber to keep themselves in operation, and when only the giants are left then we will see collusion in the timber industry.

I have one other point I would like to make: I would ask the gentlemen, my colleagues: Have they ever seen collusion at an auction sale?

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. KREBS. Mr. Chairman, I thank the gentleman from Colorado for yielding.

Mr. Chairman, first of all I think the gentleman in the well has stated that he was concerned only about one conviction, but I was concerned about a pattern existing in California, Washington, and Oregon.

Mr. JOHNSON of Colorado. The gentleman will acknowledge there was only one conviction.

Mr. KREBS. But there were six other grand jury investigations.

Mr. JOHNSON of Colorado. But there was only one conviction.

Mr. KREBS. But there were six other cases investigated by the grand jury.

Mr. JOHNSON of Colorado. But we are still faced with only one conviction.

Mr. KREBS. And six grand jury investigations.

The gentleman also correctly stated that promulgations by the Secretary of Agriculture involved 100 percent sealed bidding.

Mr. JOHNSON of Colorado. As they originally came out, they did.

Mr. KREBS. But that is what we have now. Since June 2 of last year we have only 25 percent sealed bidding.

Mr. JOHNSON of Colorado. That is correct. But if the gentleman will acknowledge, there is nothing to prevent the Forest Service going back to 100 percent sealed bidding. They flip-flop back and forth, so we do not know what they will ever do.

Mr. KREBS. Let me go back to the gentleman from Montana. I am a little curious about the position he has taken,

because I have a letter from Earl B. Salmonson, chief of the Forest Management Bureau, Division of Forestry, of the State of Montana. Does the gentleman know the State of Montana since 1925 has been using sealed bidding exclusively in the sale of its timber from its State-owned forests? More than that, let me read this to the gentleman:

> We have not had inquiries or requests to have oral auction bids, and to my knowledeg, there has been no effort to get the law changed to permit oral auction on State timber sales.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I thank the gentleman for yielding. I shall try to be brief.

Mr. Chairman, I have heard two fundamental arguments for moving ahead with this legislation. One is that oral bidding is just as effective and the second argument is that sealed bidding is going to drive prices up on housing. Obviously there is a slight contradiction. And if my friend, the gentleman from Colorado and my friend, the gentleman from Oregon—and I have great respect for both of them—are correct that sealed bidding sends prices up and therefore costs of lumber, then that is going to be passed on to the consumers, but by that argument we ought to give this lumber away, that is the timber on the public land.

Mr. JOHNSON of Colorado. It might not be a bad idea.

Mr. SIMON. I do not advocate that for a number of reasons. But I think our colleague, the gentleman from California (Mr. KREBS), has hit a right note and I certainly support him in this.

Mr. WEAVER. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Chairman, I rise in support of the legislation.

Mr. Chairman, reduced to its simplest terms, we have here an issue in which the Justice Department has taken the attitude that "we haven't been very successful in convicting people for collusive bidding on Federal timber, so let's support legislation to take it out on those smaller firms who might want to cheat."

There are a few simple facts about lumbering in the Northwest which are central to this issue:

Smaller firms are nearly totally dependent upon a local supply of public timber. Loss of that supply threatens the survival of smaller firms. Smaller firms already face increased competition for a supply of public logs which is not keeping pace with demand. One of the reasons is that larger firms can export their own logs to Japan and turn around and compete for Federal timber to process in their mills. Oral auction is the means by which smaller mills can assure themselves a supply of logs.

What is amazing to me is that the Justice Department seems to have taken that very dependency upon local timber supplies for small mills as a reason for putting even more of a squeeze on them. The Justice Department seems to oppose oral auction precisely because it does guarantee a local supply.

The Justice Department has stated:

> In the past, oral bidding has permitted timber buyers to dominate timber sales in certain areas . . . When timber sales are offered within that area, the company bids to whatever level is necessary to purchase the timber.

And that is precisely the point. That is the virtue of oral bidding if you are a small mill totally dependent upon a local supply or a particular sale. A thirsty man will pay a lot for a glass of water.

But the Justice Department treats that virtue as a vice by claiming that this practice dissuades other bidders from entering the auction. Surely that, to the extent it does occur, is not collusion—it is survival.

The Justice Department, for all the fuss about this issue, has managed one case in which it got some convictions, and lost the only other case it got through a grand jury. This one case and a string of hypotheticals constitute the Justice Department case against oral auction.

The other argument raised against oral auction is that it returns less money to the Federal Government than does sealed bidding. Even though the Forest Service maintains that the data is still inconclusive on this point, even if true, is that any reason to drive another nail in the coffin of small mills? Many other Government programs, including the small business set-asides, recognize the national interest in maintaining the viability of small mills. I doubt that obtaining a few more dollars for the Treasury outweighs the survival of independent mills.

There is no better way to guarantee a tightly knit forest products industry dominated by a few giants than to prevent oral auction where it has historically been used. And I might add that the Justice Department record in price-fixing cases involving an industry dominated by a few giants is not so hot. In the long run, both the Treasury and the consumer—not to mention many smaller communities in the Northwest—will be the losers.

I hope it is unnecessary to add that this legislation is not an invitation to collusive bidding. When a smaller mill engages in illegal bidding—whether by sealed bid or oral bid—it should suffer the consequences, and this modification of the Forest Practices Management Act retains full authority to monitor bidding and take whatever action is necessary to prevent collusive bidding. All this legislation does is remove the statutory presumption in favor of sealed bidding.

Mr. Chairman, I urge support of this legislation. The Justice Department will survive its passage and continue to prosecute cases of rigged bidding. More importantly, it will help the little guys of western forestry survive.

Mr. Chairman, most of us in the Northwest support this legislation for one very good reason, and that is because our areas are primarily dependent on timber and the wood products industry. And we also represent—most of us—very small mills, and we want to see those mills survive.

I know that in my particular area we have experienced, over the last 4 to 6 years, a rather frightening decline of the small mill and the small lumber operator. This is due, in part, to the export of Federal logs and the fact that our mills have to compete with Japanese industry; but it also represents, I think, a continuing threat to small industry regardless of what line of work they are in.

My friend from Illinois said that he could not name one mill that has closed in the last 14 months, since this legislation has been in effect. But I have here a list of 16 sawmills and 4 plywood plants that have closed down in 1977. Whether we can attribute this to the sealed bid requirement or because it is just a combination of factors which have impacted these small businesses, the fact still remains that we are experiencing an undue decline of the small lumber mill in the Northwest.

I would like also to point out that so long as we have sealed bids, we are going to maintain artificially high prices on the cost of timber. It is important to remember that the Department of Agriculture appraises the land and sets a minimum amount so that the Govermnent can protect its investment. The program also has built-in guarantees against lower bid prices, but if we maintain artificially high prices through the sealed bidding system then we risk passing on higher prices to the consumers.

Mr. WEAVER. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. BRECKINRIDGE).

Mr. BRECKINRIDGE. Mr. Chairman, I think there is little to add to the debate at this point, except that I personally find our predicament rather anomalous. The often-referred to opinion of the Department of Justice is an opinion penned by Antitrust Assistant Attorney General, Mr. Donald Baker, a man who was hired by the previous administration and who expressed in that opinion his views to a Democratic administration.

I would also note that, in addition to the Department of Justice views as expressed by Mr. Baker, that, strangely enough, the Office of Management and Budget—which, if it does nothing else, concerns itself with the taxpayers' dollars—is opposed to the views being advanced on the other side today, as is Secretary Bergland who represents and speaks for the Department of Agriculture.

Let me address, from that opinion, one or two of the positions made here today. We all know that fraud is available to those who would perpetrate it. We also know that as a matter of national practice at the Federal, at the State, and at the local levels, that that formula calculated to subvert would-be-fraud is the sealed bid process. As Mr. Baker said, we believe this because each bidder has only one bid, and the bids of others are secret. Therefore, each bidder must bid at a level which corresponds to his interest at that sale. To implement a collusive

arrangement under a sealed bid, a bidder would have to arrange the amounts bid by every active bidder. We all recognize the fact that it can be done, it has been done, it will be done, and it will be prosecuted; but, again, it is much more difficult to arrange collusive practices in the case of sealed bid than in the case of oral bids.

Of the ongoing six investigations referred to here, each will be tolled by the action of this committee today in support of this legislation.

Mr. WEAVER. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. BAUCUS).

Mr. BAUCUS. Mr. Chairman, I need not repeat all the arguments we have heard so eloquently stated by the gentleman from Colorado, the gentleman from Idaho and others, in favor of this bill, and in favor of the Foley substitute.

Let me give another perspective to the discussion here by pointing out that in my State, particularly in western Montana, 51 percent of our State's income is attributable to the forest products industry. During these last several years the land base that is available for timber production, particularly public lands, is diminishing due to the many pressures affecting the use of public lands.

There are mills, particularly our small mills in Montana, that are in a very precarious balance. The gentleman from California (Mr. KREBS) stated that no mills have gone out of business, because of sealed bidding. I can tell the gentleman from California that mills in Montana in the last year have closed. I do not know whether this is due to sealed bidding or not, but I can say this: the practice in Montana is predominantly oral and if we go to sealed bidding, the likelihood is greater that the mills will have to close.

The gentleman also states that the State of Montana prefers sealed bidding. I might say to the gentleman that that is because there is virtually no State land involved in timber sales. In my State only 2 percent of timber sales are involved in State timberlands, whereas 60 percent are involved in Federal forest lands.

It is the smaller operators, not the larger ones, but the smaller ones that are dependent on public land sales. The larger ones have the resources that the smaller ones do not have.

I can state that in my State of Montana it is the smaller operators that are in a precarious balance between either surviving or not surviving unless the bill and the Foley substitute pass.

For the most part, sealed bidding is not appropriate in the West, because it denies mills in local communities the opportunity to respond to outside competition for nearby timber. In my district, as well as many other areas of the West, the national forests are the only source of timber and individual Forest Service timber sales tend to be large. Failure to successfully obtain one or two critical sales can create an economic hardship on a local mill and on the community which the mill supports. Oral bidding is often the best way to insure a full opportunity for small local mill operators to compete for the timber.

The enactment of this legislation would allow the Forest Service to return to historic bidding methods—oral and sealed. The legislation contains a clear direction to the Secretary on his obligation to combat collusion.

It would authorize continuation of the present Forest Service system of monitoring timber sale bidding patterns and require that the Forest Service notify the Justice Department if collusion is suspected. It eliminates the apparent mandate in section 14(e) of the National Forest Management Act to use sealed bidding in all situations and restores flexibility to use whatever bidding methods are determined will insure open and fair competition. Authority is provided to alter bidding methods or take whatever action is appropriate in situations in which collusions are suspected.

Other major provisions of Chairman FOLEY's substitute are that the Secretary must insure that the Federal Government receive not less than the appraised fair market value for the sale and that in his choice of bidding methods he must give consideration to the economic stability of communities dependent upon national forest timber.

The small mills and timber producers in the West are dependent upon Federal timber sales. The passage of this bill would allow traditional timber sale practices. It will allow flexibility in order that bidding procedures might be adjusted to the unique situations existing in any particular timber market. I urge the passage of this bill.

Mr. WEAVER. Mr. Chairman, I yield the remaining time to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, we have heard some comments that this is a bill which is favored by and will benefit the large timber companies. This is not the case. This is a bill, if anything, that seeks relief for small independent timber companies. The largest timber company in the United States, and a very fine company, owns 6.5 million acres of its own land in the continental United States. It leases approximately another 6 million acres in Canada. It has approximately 1 million acres under lease in Indonesia. This totals 13.5 million acres. That timber company does not need this bill. It is not concerned with the problem of obtaining individual Federal timber sales in order to remain in business. But there are many, many small companies, in the Northwest particularly, which are dependent on the individual sales put up by the Forest Service and which need the protection of oral auction. From World War II until the enactment of the 1976 act those sales have been predominantly by oral auction. We are seeking to provide the Department the flexibility to return to this historical pattern.

The Members who have spoken against this bill and have cited the various objections to it will be relieved to know that I am going to offer a substitute which should take care of all the problems they have raised about the bill itself. That substitute contains language requiring among other points that—

"In the sale of trees, portions of trees, or forest products from National Forest System lands (hereinafter referred to in this subsection as 'national forest materials'), the Secretary of Agriculture shall select the bidding method or methods which—

"(A) insure open and fair competition;

"(B) insure that the Federal Government receive not less than the appraised value as required by subsection (a) of this section;

"(C) consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary; and

"(D) are consistent with the objectives of this Act and other Federal statutes.

The Secretary shall select or alter the bidding method or methods as he determines necessary to achieve these objectives. . . .

It further requires that if the Secretary selects oral bidding, he shall require that all prospective purchasers submit written sealed qualifying bids. In other words, the only people who are able to engage in the oral auction are those people who first submit sealed bids at least equal to the appraised value of the timber.

The substitute further directs the Secretary to monitor bidding patterns involved in the sale of national forest materials, and if the Secretary has a reasonable belief that collusive bidding practices may be occurring, then he shall report any such instances of collusive bidding practices or suspected collusive bidding practices to the Attorney General of the United States with any and all supporting data.

In addition, the language provides him with the authority to alter the bidding methods used within the affected area and to take such other action as he deems necessary to eliminate such practices within the affected area.

Simply, what this substitute will do is put the responsibility clearly on the Secretary of Agriculture, who has the responsibility for managing our national forests, to insure an adequate return to the American people from timber sales, to take appropriate steps to insure that there is no collusive bidding, and to insure that the dependent communities have a reasonable opportunity to keep small mills in continued operation. This is in the interest, I should think, of everyone here in this room and of the American people.

I do not have any objection to large timber companies. They have no real interest in this legislation. But I do not want to see dozens of small mills whose existence is threatened because of a shrinking timber supply, be forced by sealed bid requirements to overbid or underbid sales. In either case, they stand to lose the opportunity to continue in business. In the first place, overbidding places them in a situation with a commodity for which they paid too high a price. Should the mill owner underbid, he may find himself without sufficient volume to continue the mill's operation.

This is a bill and a substitute designed to be fair to the small timber operation and to those dependent communities in which they operate. I think those who are familiar with the problem firsthand recognize what is happening to these small mills under sealed bidding procedures when the mill owner does not have an opportunity, as under oral auction, to bid higher in order to insure an adequate timber supply to keep his mill in operation. On the other hand, overbidding certainly does no good, particularly for the consumer.

I am asking for your support today for the substitute which I will offer when we go under the 5-minute rule.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield an additional 3 minutes to the gentleman from Washington (Mr. FOLEY).

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, I want to commend the gentleman from Washington (Mr. FOLEY).

Mr. Chairman, I rise in support of the amendment offered by my colleague from Washington (Mr. FOLEY).

I support the amendment offered today for several reasons. First, and foremost, however, I will vote for this amendment, because it does not create another Federal advisory commission.

I do not pretend to have been privy to the lengthy debates that were conducted in the gentleman from Oregon's (Mr. WEAVER) subcommittee, and I am thus unable to discuss the merits of this amendment from a factual basis. I would, however, like to say something about the policy implications of this amendment.

Mr. Chairman, the President has attempted to cut back on the uncontrolled growth of the Federal Government in many ways. He has personally abolished over 400 nonstatutory advisory commissions. He has asked Congress to follow suit and abolish 21 commissions created by law. It is ironic that legislation to abolish these commissions is being considered in one part of the Congress while the House debates the creation of yet another commission.

I wonder sometimes if our left hand knows what our right hand is doing, Mr. Chairman. I think some of my colleagues on the Agriculture Committee were correct when they argued that the appropriate advisory commission already exists in the Department of Agriculture to address the problem before us today. I think they were even more correct when they stated that such an investigatory function envisioned by this bill belongs to Congress, and not to such an advisory commission attached to the executive branch.

Certainly the $60,000 budgeted to the Advisory Commission on Timber Sales Procedure does not even rate a footnote in the budget of the United States. Sadly, that much money and more is probably lost everyday in the vast maze of Government. A more important question might concern the amount of money this Commission might influence. I am personally conducting an investigation into the disbursement of funds by advisory commissions, and some of my preliminary fears concern the possibility of a multitude of incestuous relationships between the various commissions and the corporations and educational institutions that supply the membership of these commissions. I have written all the Cabinet Secretaries and requested detailed information from them on the composition and role of the advisory commission in their departments, and I hope to make a further report to the House on this matter in the near future.

Nevertheless, if the House passes this bill without the amendment, the new members of this Commission will take their seats next to the members of the other 108 advisory commissions that report to the Department of Agriculture. For some of the new members, it will be a familiar routine, since they probably already serve on one or more advisory commissions. I have been told that it is a way of life for some people. For example, one person in a Government health agency serves on nine different advisory commissions, including the Advisory Commission to the Director of this agency. This assignment must be one of the easiest, since the gentleman in question is the Director, and he should not find it difficult to advise himself.

I am certain that supporters of the bill will point to the fact that this Advisory Commission is only designed to last for 2 years. I certainly support the concept of sunset legislation, and I am pleased to see the inclusion of such a provision in H.R. 6362. Nevertheless, I am troubled by the underlying assumption that any advisory Commission is necessary in this instance. I would remind my colleagues that sunset provisions are not an end in themselves, but rather a tool to use in cutting back the ever-expanding Government bureaucracy. If we can arrest such growth in its infancy, so much the better.

I hope my colleagues will join me in supporting this amendment. I think it is a fair proposal and one worthy of support.

Mr. FOLEY. Mr. Chairman, the Department has consistently opposed the provision of this bill which would create a new advisory commission. My substitute would eliminate that provision.

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California for a question and not debate.

Mr. KREBS. I thank the gentleman for yielding.

Mr. Chairman, will the gentleman be kind enough to point out where his substitute does anything except to take us back to 1976, before the enactment of the sealed bidding requirement?

Mr. FOLEY. What the substitute does is to provide specific guidance to the Secretary of Agriculture with respect to monitoring timber sales. That language is identical to that which is in the present subsection in 14(e), which the gentleman knows was part of the 1976 National Forest Management Act. It is retained in the substitute. The language directs the Secretary to make decisions on forest products and to review timber bidding practices in order to insure, one, a fair return to the Government; two, competitive practices in the sale of timber; and three, recognition of the concerns of dependent communities. In addition, and as the House is aware, the Secretary must meet the valid requirements of other statutes governing the various issues involved.

Finally, the substitute requires the Secretary to alter bidding methods as he may choose to assure that collusive practices are prevented. He has greater flexibility under the substitute to determine bidding methods than he has under the act. He is not held to any particular method of bidding. He can do whatever he deems necessary—indeed he is ordered to do it—to eliminate collusive practices.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, is it not true that the gentleman's substitute requires initial qualified sealed bids, which would be the base from which the oral bidding would thereby proceed?

Mr. FOLEY. The gentleman is correct.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I would like to associate myself with the remarks of my colleague, the gentleman from Washington (Mr. FOLEY), and congratulate him on offering his substitute.

The gentleman and I come from eastern Washington, and I share with him the recognition of the legitimate needs of a number of small timber operators in my district. In the Fourth Congressional District last year one mill was closed down. I can not attribute the closure to the sealed bidding system, but the closure does show how near the economic edge many of these small operators live.

Mr. Chairman, I think the Foley substitute will help to remedy this problem, and I offer my support of it.

Mr. JOHNSON of California. Mr. Chairman, I take this opportunity to add my support to Congressman FOLEY's recommendation for corrective legislation on the sealed bidding provision of the National Forest Management Act of 1976, section 14(e).

It is my understanding that hearings had been held on the issue during consideration of the National Forest Management Act of 1976 and no evidence was presented that national forest timber purchasers may be engaging in collusion.

This provision, I understand, was adopted anyway, directing the Secretary

of Agriculture, in general, to use sealed bidding methods.

It was adopted in a most difficult conference in the closing hours of the last Congress, so it is proper that we reconsider it now.

In initially implementing this section, the Forest Service virtually eliminated oral auction bidding on national forest timber sales.

The final regulations, although an improvement, would require that up to 25 percent of national forest timber be sold under sealed bids, even in dependent community situations.

Even this threatens disastrous effects on many dependent communities in my district.

Oral auction bidding has been the normal bidding method in most parts of the West.

It has been found to be in the public interest because it allows timber purchasers to respond to bidding competition in an open and free manner.

In many areas there are no alternate sources of timber supply to local mills.

National forests are in a virtual monopoly position.

In many cases, every timber sale is so important to a local mill, that injecting uncertainty as to what must be bid to obtain the sale, as is done under sealed bidding, puts the operator in an extremely difficult position.

He may put in what he considers a very high bid for a timber sale critical to his operations, but if someone else bids a little higher, he loses the sale and may be forced to close his mill.

When timber is sold by oral auction, however, timber purchasers are able to make several consecutive bids until they get the purchase.

A sawmill operator who needs the timber to keep his plant in production can assure his supply by increasing his bid on the spot.

He may have to pay more than he had planned to pay, but he gets the timber in the end.

This is why oral bidding, rather than sealed bidding, is the traditional method of timber sales in the regions where there are many dependent sawmill towns.

The legislation that the Congressman from Washington (Mr. FOLEY) is proposing would return historic methods of sales of Federal timber.

Additionally, it will preserve the Forest Service's flexibility to require sealed bidding, in those situations where deemed appropriate.

This is not an environmental issue, was disclosed during debate on this bill in the other body.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 6362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT

SECTION 1. There is hereby established an Advisory Committee within the Department of Agriculture to be known as the Advisory Committee on Timber Sales Procedures (hereinafter referred to as the "Committee").

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FOLEY: Beginning at page 1, line 3, strike out everything after the enacting clause and insert in lieu thereof the following:

That section 14(e) of the National Forest Management Act of 1976 (90 Stat. 2959; 16 U.S.C. 472a(e)) is amended to read as follows:

"(e)(1) In the sale of trees, portions of trees, or forest products from National Forest System lands (hereinafter referred to in this subsection as 'national forest materials'), the Secretary of Agriculture shall select the bidding method or methods which—

"(A) insure open and fair competition;

"(B) insure that the Federal Government receive not less than the appraised value as required by subsection (a) of this section;

"(C) consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary; and

"(D) are consistent with the objectives of this Act and other Federal statutes.

The Secretary shall select or alter the bidding method or methods as he determines necessary to achieve the objectives stated in clauses (A), (B), (C), and (D) of this paragraph.

"(2) In those instances when the Secretary selects oral auction as the bidding method for the sale of any national forest materials, he shall require that all prospective purchasers submit written sealed qualifying bids. Only prospective purchasers whose written sealed qualifying bids are equal to or in excess of the appraised value of such national forest materials may participate in the oral bidding process.

"(3) The Secretary shall monitor bidding patterns involved in the sale of national forest materials. If the Secretary has a reasonable belief that collusive bidding practices may be occurring, then—

"(A) he shall report any such instances of possible collusive bidding or suspected collusive bidding practices to the Attorney General of the United States with any and all supporting data;

"(B) he may alter the bidding methods used within the affected area; and

"(C) he shall take such other action as he deems necessary to eliminate such practices within the affected area."

Mr. FOLEY. Mr. Chairman, let me emphasize that my amendment in the nature of a substitute, which has just been read addresses, I believe, all the reasonable questions that might be raised concerning this legislation. It clearly mandates that the Secretary of Agriculture, in cooperation with the Attorney General of the United States, take whatever actions he deems appropriate in order to prevent any pattern of collusive bidding on national forest materials.

This point has been made before, but I want to reiterate it: There is no history that would indicate to any reasonable individual, in my judgment, that collusive bidding can only occur in oral auction sales.

Quite the contrary, the most dramatic of all of our antitrust cases over the years have been those involving sealed bidding. United States against Westinghouse, one of the great antitrust cases of the 1950's, involved large electric manufacturing companies. These cases involved sealed bidding under an elaborate bid-rigging system.

Federal Trade Commission against American Cyanamid was also a case involving sealed bidding. Other examples had been given here.

In any case, Mr. Chairman, under my substitute, the Secretary of Agriculture, will have a clear responsibility to monitor all Forest Service timber sale bidding practices in the United States. If he has any evidence that there may be collusive bidding, he is fully authorized to alter the bidding method, and he must report, with all supporting data, whatever information he has to the Attorney General of the United States, who is charged with the enforcement of the antitrust laws.

Furthermore, no one can participate in this oral auction unless the company has already submitted qualifying sealed bids at least equal to the appraised value of the timber. Therefore, under terms of the substitute, the Government will obtain at least reasonable market value for its timber.

The only thing that the substitute eliminates from existing law is the fixed requirement for sealed bidding in all sales except where the Secretary determines otherwise by regulation. My amendment provides the Secretary with the flexibility necessary to use the appropriate bidding method. He is required to monitor all timber sales and to report any evidence of collusion to the Department of Justice.

Therefore, Mr. Chairman, I would think that every Member of this House and of the committee could fully support this substitute.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I thank the gentleman for yielding.

I want to ask the gentleman this question: Is it not the gentleman's intent, in offering this amendment, to restore the flexibility to the Department to return to the historical patterns of bid methods that were used prior to the enactment of the National Forest Management Act? Is that not the gentleman's intent in offering the amendment?

Mr. FOLEY. Yes. In addition we give the Secretary the authority to take whatever action he finds necessary in order to carry out the other mandates of the substitute, including taking steps to avoid collusive bidding and to report the same to the Attorney General.

Mr. AuCOIN. I thank the gentleman, Mr. Chairman.

Mr. WEAVER. Mr. Chairman, I rise in support of the substitute amendment.

Mr. Chairman, when I first introduced this bill—I believe about 1 year ago—I introduced it with the advisory committee in it because I felt that many questions remained unanswered in the sales of Forest Service timber now that a new situation had developed in the Pacific Northwest, which, in effect, left the For-

est Service as the monopoly seller to hundreds of smaller independent mills.

The exigencies of time, however, are such that I believe at this time the advisory committee is best deleted from the bill.

For this reason, Mr. Chairman, I strongly support the Foley substitute and urge its passage today.

I would like to comment that under the substitute strong language is kept to set up the Forest Service as a watchdog over all sales of timber, monitoring them closely for any suspicion of collusion or any unusual practice; and if they find such, to immediately turn over the data to the Attorney General for prosecution.

With respect to collusion, Mr. Chairman, as the chairman of the full Commitee on Agriculture has said, the most famous cases were under the sealed bidding system.

Collusion will now be most carefully policed under the substitute amendment we have before us.

I would like to point out one thing to those who are not completely familiar with the practice of bidding on national forests. First, all bidders must submit a sealed bid. All bidders must submit a sealed bid regardless of whether it is a sealed bid or an oral auction.

Once those sealed bids are in, the oral auction comes on top of that. So that we will have a sealed bid, and then an oral auction on top of the sealed bid. So the Government, the taxpayers, get it both ways. They have both bids, the sealed bid and the oral auction, and the mills have the privilege of the oral auction so they can bid as high as possible to secure the timber they need.

AMENDMENT OFFERED BY MR. KREBS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. KREBS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. KREBS to the amendment in the nature of a substitute offered by Mr. FOLEY: Section 14(e) as contained in the matter proposed to be inserted by the amendment in the nature of a substitute is amended by adding at the end thereof the following:

"(4) The Secretary of Agriculture shall take such action as he may deem appropriate to obviate collusive practices in bidding for trees, portions of trees, or forest products from National Forest System lands, including but not limited to requiring sealed bidding on all sales except where the Secretary determines otherwise by regulation."

The matter proposed to be inserted by the amendment in the nature of a substitute is amended by striking out the quotation marks and the period immediately following section 14(e)(3)(C) as contained in such matter.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 38]

Ambro	Edwards, Okla.	Murphy, N.Y.
Anderson, Ill.	Flippo	Murphy, Pa.
Andrews, N.C.	Flood	Nix
Archer	Flynt	Pepper
Armstrong	Ford, Mich.	Quie
Bauman	Frey	Rahall
Beard, Tenn.	Gephardt	Reuss
Beilenson	Giaimo	Rosenthal
Biaggi	Goodling	Rostenkowski
Bingham	Harsha	Ruppe
Blouin	Hefner	Santini
Bolling	Holland	Scheuer
Broomfield	Holt	Shipley
Brown, Mich.	Jones, Tenn.	Shuster
Broyhill	Kemp	Solarz
Burke, Calif.	Krueger	Spellman
Burke, Mass.	LaFalce	St Germain
Burton, John	Le Fante	Steiger
Carr	Lehman	Thone
Cederberg	Long, La.	Traxler
Chappell	Lundine	Treen
Chisholm	McDade	Tucker
Collins, Ill.	McDonald	Waxman
Conyers	McKay	Weiss
Cotter	McKinney	Wilson, Bob
Davis	Maguire	Wilson, C.H.
Dent	Mahon	Wilson, Tex.
Derrick	Mann	Wolff
Dicks	Marks	Wydler
Diggs	Mazzoli	Yates
Drinan	Meeds	Young, Alaska
Eckhardt	Michel	Zeferetti
Edwards, Ala.	Mikva	
Edwards, Calif.	Murphy, Ill.	

Accordingly the Committee rose, and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. BREAUX, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 6362, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 332 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from California (Mr. KREBS) is recognized for 5 minutes in support of his amendment.

Mr. KREBS. I thank the Chair.

Mr. Chairman and members of the Committee, the legislation which prompted our presence here today started out with an innocuous title to create a commission to study timber sales.

Under this innocuous title what the proponents of this legislation were really after was to repeal a law that has been on the books for a mere 14 months. As a matter of fact, the timber industry had been after the repeal of the legislation to provide for sealed bidding even before the ink literally dried on the paper.

What we are here today to do is to consider a substitute to the bill which the proponents now realize really did not make much sense, namely, the formation of yet another commission. They have proposed the substitute amendment, which would do nothing more and nothing less than the initial bill was designed to do, namely, to repeal the present law.

What does the present law provide? The present law provides that the Secretary shall use sealed bidding, except as otherwise provided by regulation. The Secretary has provided a sealed and oral bid mixture to protect the communities that are totally dependent on timber supplies by providing that 75 percent of the sales be by oral bidding and 25 percent of the sales by sealed bidding.

This, however, has not been satisfactory to those who seek to repeal this law; and we have had a lot of statements about mills supposedly closing.

Mr. Chairman, I think it is rather significant that all of my colleagues who have told us about all these mills that are closing in the Northwest and in California have not been able to come up with a single example to which they can point to show that a particular mill was closed because of the use of sealed bidding.

On the contrary, I have a letter here dated January 23, 1978, from the chief forester, who has monitored these sales. He stated, flatly, that as of January 23, 1978, not a single mill had closed because of the use of sealed bidding.

Mr. Chairman, what I think some of my colleagues have not said is that mills have been closing in the Northwest and in California for years for any number of reasons, long before the legislation which they are now trying to repeal was put into effect.

There have been statements made that the cost of housing would soar if we used sealed bidding. The fact is that the cost of average housing in the United States today is $40,000, and the cost of the timber in that house is $1,200.

Mr. Chairman, I ask the Members, when was the last time that any Member remembers that the timber industry has ever shared their profits with them? Is anyone really naive enough to think that they are going to share the additional income with the American taxpayer?

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I ask the gentleman from California (Mr. KREBS), is it true that under this new rule which has been in effect the past 14 months, compensation to the Federal Government has increased about 25 percent?

Mr. KREBS. Mr. Chairman, let me respond to that question in this fashion: During the first 9 months that this law was in effect, the law that the timber industry is now trying to repeal, the proceeds from the sale or sales through sealed bidding exceeded those through oral bidding by $28 million which, I submit, is no puny sum.

Mr. SIMON. Percentagewise, it is approximately 25 percent, is that correct?

Mr. KREBS. That is correct.

Mr. SIMON. So, in a very real sense, what this House faces is a choice of whether that 25 percent will go to the timber companies or to the public, is that a fair summation of the issue?

Mr. KREBS. The gentleman from Illinois (Mr. SIMON) in his usual articulate way has put his finger exactly on the issue. That is the reason the lobbyists for the timber industry have been crawling all over Capitol Hill for the last 2 or 3 weeks, calling on Members two or three different times.

The substitute offered by the chairman, the gentleman from Washington (Mr. FOLEY), has no other purpose except to repeal the sealed bid provision. That is the reason I ask the Members to vote for my amendment and give the present law a chance to continue to function in the very beneficial manner in which it has functioned in the past.

So I urge an aye vote for my amendment.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment offered to the amendment in the nature of a substitute.

Mr. Chairman, for those Members who were not in the committee when the debate occurred earlier, I have offered an amendment in the nature of a substitute for the committee bill that requires the Secretary of Agriculture to use such bidding methods, sealed or oral, as in his judgment will produce a fair and equitable return to the Federal Government. It will require that, if the Secretary determines to use oral auction, first there must be qualifying sealed bids at or above the appraised price.

The amendment offered by the gentleman from California (Mr. KREBS) to my substitute—and I hesitate to use this word—might be called a cynical effort to gut the substitute. It simply goes back to the existing law. It does so in the guise of an amendment to the substitute. It does not seek to perfect the substitute; it seeks merely to go back to the existing law. Why have a substitute at all? This substitute is necessary because regulations issued by the Department implementing subsection 14(c) of the National Forest Management Act of 1976 relative to bidding practices for sales of national forest timber have created a problem with the small communities who are dependent upon the small timber operators. This is not a bill that helps the large timber companies. Indeed they can be completely indifferent to this bill because they have their own private lands and they are not dependent upon our national forest timber for operation of their mills.

This is a bill that is designed to try to give the smaller mills a chance of surviving. It will increase the opportunity for competition in the timber industry.

I would think that those Members who are interested in seeing small businesses survive and in seeing competitive conditions in our national forest bidding practices, would vote against this amendment to my substitute because its effect, if anything, would be to hurt small businesses. The amendment in the nature of a substitute which I have offered is designed to help small businesses.

The suggestion has been made that if we have higher bidding under sealed methods, above the appraised value of the national forest timber, that that helps the taxpayers. This is simply not the case because the timber companies simply pass the additional cost on to the consumer, thus forcing higher and higher building material prices. Those Members who think they are doing their constituents a favor by forcing higher bids for raw lumber, which will increase the cost of building materials at a time when costs are at a high level, do not really understand how this higher bidding for raw lumber from the national forests will impact on prices paid for finished wood products.

The proposed amendment to the substitute guts its intent. We have all seen that before, where people come out with a little amendment, a harmless little amendment to a substitute, the basic purpose of which is simply to reverse the whole process of the legislation. I submit to the Members that the substitute protects the interests of the public, requires the Secretary of Agriculture to avoid collusive bidding, gives him discretion to choose the appropriate bidding method, allows him the flexibility to alter bidding methods to avoid collusive bidding, and requires him to submit all data on collusive bidding practices to the Attorney General of the United States for prosecution under the antitrust laws. Nobody in this Chamber, I think, can take exception to what the substitute provides. It simply provides a chance for those small mills dependent on Federal lumber to bid in oral auction after they have already submitted a qualifying sealed bid. This gives them a chance to protect their own supply by meeting their competition face to face.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the substitute amendment containing the language of S. 1360 offered by the distinguished chairman of the Agriculture Committee.

I believe this represents a sensible way to reiterate and clarify congressional intent of the National Forest Management Act of 1976 by providing the Forest Service with clear guidelines by which to conduct timber sales while still providing the Secretary of Agriculture with ample flexibility to determine the most appropriate methods.

We have seen in the West in recent times severe economic problems caused by drought followed by torrential rains, followed by destructive floods, depressed farm prices, copper strikes and mine closings, and a general lack of employment opportunities in the many small, often isolated communities of this vast area. All this, of course, in spite of phenomenal growth of industrial development and population density in the Sun Belt. Still the impact of this growth is felt mainly around major metropolitan centers while outlying areas continue to suffer.

Unfortunately, this situation was exacerbated by overly-restrictive Forest Service bidding regulations which threatened the economic life of many small communities in the West which are totally dependent upon a timber industry supplied almost solely by national forest materials. To impose a new and different bidding system on a single community mill operator that encourages the outflow of available timber and does not allow him adequate supplies can result in a devastating ripple effect throughout the local economy. Even in the interest of increased competition, efficiency and uniform procedure, this action by the Forest Service does not seem quite fair.

Because of the diverse nature of the timber industry around the country, it made sense to adopt bidding methods best suited to local needs and customs, and historically this has been done. In the Southeast, for example, where most timber is privately grown and very little in volume obtained from public lands, sealed bidding works well. But an open bidding system works best for mill operators in remote areas close to national forests where steady supplies and reduced transportation costs can insure continued operations and sources of employment.

Mr. Chairman, let me say again that this is sensible legislation which addresses the problem of economic dislocation occurring in some areas, mostly in the Northwest, as a result of the newly established sealed bidding system. It also addresses the need to assure the Government a fair return for products of the public lands by setting a base price of appraised value above which bids would be accepted, beginning with sealed bids and allowing the highest bidders to then move into oral auction. Competition is preserved and the Secretary has the flexibility to select the most appropriate method to suit each region's needs.

Finally, we give the Secretary authority to watch closely for any hint of collusive or anticompetitive practices and to refer suspected cases to the Justice Department for investigation and possible prosecution.

I commend the chairman and the Agriculture Committee for accepting S. 1360 which, if adopted, will go a long way toward alleviating some of these problems which we have had in the West in recent months. I hope my colleagues will listen closely to the debate and approve the bill.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. SISK. I thank the gentleman for yielding.

Mr. Chairman, I with some hesitancy rise because I am getting into a battle between some good friends of mine on

both sides. But let me say in all frankness that, representing as I have for the last 24 years a substantial block of national forest in California, that it is important that we adopt the Foley substitute and that we defeat the pending amendment. As I say, I always hesitate to step on anyone's toes, but having represented the central California area's Sierra National Forest and other adjacent forests, we have yet to have had any problem previously in connection with oral bidding.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the basic purpose of the amendment is simply to preserve the thrust of the law that the Congress enacted just 1 year ago. The law is working well. It is producing exactly the results it was intended to produce, that is, a greater return for the Government on the sale of the Nation's timber resources, and it is producing this result without disrupting the local communities economically dependent upon the national forest timber preserves. Time and time again we have proven that the best means for the Government to sell its property is through the sealed bid mechanism. This is the basic procedure used in the Federal Property Act for the disposal of the Government's surplus real and personal property. It is equally applicable in a sale of timber from our national forests. Only through sealed bids can we be reasonably sure that the Government gets the highest return and that all of the potential purchasers have a reasonable opportunity to participate. The sealed bidding mechanism unequestionably reduces the opportunity for collusion. A return to the action mechanism for sales at this time is simply to accommodate the special interests, the small but very powerful group of timber operators in a certain geographic area of the United States represented by some of the finest members that you and I know. There is no justification for this special treatment. Why should we put at a disadvantage every other timber producer in the United States?

I would urge the Congress to accept the amendment offered by the gentleman from California (Mr. KREBS) that will preserve the basic principle of obtaining sealed bids in the sale of national forest timber throughout the Nation.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let us make no mistake about the substitute. The substitute targets at and repeals a key section of 14(e) which requires and emphasizes the use of sealed bidding. That is the heart and soul of the substitute which is essentially again to repeal the 14(e). This law did not just fall out of the sky. There was reason for passage of 14(e), and the reason was contained very recently in a letter to the Committee on Agriculture and to the Secretary of Agriculture which stated that the Department of Justice was involved in 10 areas of investigation with respect to collusion in the sale of timber and the latter made this statement:

> It is noteworthy that each of these investigations has concerned an area where oral bidding was the predominant method of selling timber.

That is not my view. That is the view of of the Justice Department in these investigations. That is the reason why 14(e) was enacted. In June of this year, for the first time, regulations were issued to implement 14(e), and the Secretary of Agriculture has said:

> Let us have a chance to implement this law to see if it works.

As a matter of fact, in a letter to the chairman of the Committee on Agriculture, John White, the Deputy Secretary of Agriculture at that time said the following:

> With regard to the bidding question, revised regulations were issued on June 2, 1977. We believe these regulations provide adequate protection for dependent communities. After careful review of these regulations and questions raised on the effects of the regulations, we conclude it is not necessary or desirable to change the basic statute under which they were developed. We, therefore, oppose enactment of H.R. 6362 or Senate Act, S. 1360 . . .

That is essentially the substitute.

So make no mistake about it: The Department of Agriculture opposes this substitute and he concludes with these words:

> We need to gain experience in implementing the law and will review the regulations at the end of one year of usage. We are committed to a fair and workable implementation of the law.

The point is, let the department have the chance to implement these laws. We do not have any evidence that this law is going to have the impact on dependent communities that has been stated. Let us give this law the chance to operate. The Department of Agriculture is against the substitute, the Justice Department is against the substitute, and OMB is against the substitute. I think Congress as well should be against the substitute and for this amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, it is the position of the gentleman then that the amendment by the gentleman then that the amendment by the gentleman from California (Mr. KREBS) is a desirable amendment and we should pass the amendment and continue the present way things are operating and give the Secretary of Agriculture and the President of the United States and the administration the opportunity to prove the workability of this law passed by the Congress less than a year ago?

Mr. PANETTA. The gentleman from Texas is correct. In effect what the amendment does is restore a key element of 14(e), which emphasizes sealed bidding.

Mr. FOLEY. If the gentleman will yield, Mr. Chairman, the only effect of the amendment to the substitute has just the same effect as defeating the bill; does it not?

Mr. PANETTA. The amendment to the substitute in effect will restore 14(e).

Mr. FOLEY. So as far as that is concerned, if one is going to vote for the amendment to the substitute, one might as well just vote against the bill. It is the same effect.

Mr. PANETTA. It makes sense to vote against the substitute, it makes sense to vote for the amendment and for the bill.

Mr. FOLEY. Then the gentleman will concede my point. I thank him for yielding.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, with all respect for my friends from the Northwest and with great affection, I say I understand why they are doing this. If I had as much political pressure on me as they appear to have, I might possibly consider taking the same course.

The hard fact of the matter is that only a little over a year ago we passed legislation which said we would go to sealed bidding on Federal timber sales. Now all of a sudden, before the process has had a chance to commence working, comes forth the Agriculture Committee with a most curious piece of legislation which is directed at doing away with those sealed biddings.

Now, the interesting thing is, first of all, that everybody has found that the Federal Government, the taxpayers, and the people of this Nation who own all the timber get more for the timber when timber sales are done by sealed bidding. The Department of Justice has found that there is less opportunity for collusion.

As a matter of fact, in the investigations of collusion that are being engaged in by the Department of Justice they find that the collusive bidding took place in connection with, not sealed bidding, but with oral bidding. That is where the rascality was.

Now, there is something else that is to this that I think is important. Everyone has talked about how this is going to help the small timber operator. The Department of the Interior says they have found no evidence that this mechanism, the sealed bid, has caused or will cause—in a letter to Mr. KREBS—the closure of small mills and in the lumber industry.

Now, what is wrong with sealed bidding? We use sealed bidding in connection with defense procurement; we use sealed bidding in connection with disposal of Federal property; we use sealed bidding in connection with Government contracts. What do we find when we get away from sealed bidding? We find that when we get away from sealed bidding, we have a great opportunity for collusion, rascality, and deprivation of the public interest.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Is the gentleman aware that there has only been one conviction of collusion in 17 years? Only one?

Mr. DINGELL. I think that probably indicates that we probably need a little more law enforcement in that area. I think what we ought to understand is that in every instance where the Government deals with lots of money—and there is lots of money involved in this timber business——

Mr. JOHNSON of Colorado. Will the gentleman yield further?

Mr. DINGELL. I cannot yield to my good friend right now. I will in just a minute.

There is lots of money involved here, and lots of money attracts folks who like to get this Federal property on the cheap. In order to obviate that, in connection with Government contracts for the procurement or sale of goods and services, we have always found that the best way to keep honest men honest and keep temptation out of the path of rascals is to see to it that we use sealed bidding.

The bill as drawn is opposed by every Government agency. The amendment as drawn is supported by every Government agency. Give sealed bidding, which protects the taxpayers, a chance to be used, and let us support the Krebs amendment; then, let us pass the bill.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield.

Mr. DUNCAN of Oregon. The gentleman speaks with a great deal of authority on the subject of political pressures that are brought from time to time.

Mr. DINGELL. I have been the subject of political pressure for many years.

Mr. DUNCAN of Oregon. I know the gentleman speaks from experience, and I would not challenge him on that. I would suggest, however, that if he had been in attendance at the debate that preceded the introduction of this amendment, he would understand that this question of rascality of which he speaks, again with not only authority, but with considerable eloquence——

Mr. DINGELL. I am glad the gentleman appreciates my eloquence.

Mr. DUNCAN of Oregon. I do, but I would just like to ask the Members of this House to take a look at the amendment. The question of collusive bidding is not involved here.

Mr. DINGELL. The gentleman is wrong. What is involved is the prevention of collusive bidding.

Mr. DUNCAN of Oregon. Exactly, and both sides I will give credit to. I will give credit to both sides as being opposed to collusive bidding. The error of the gentleman's argument is to assume that there will be no collusion under sealed bids, and there is under oral bids.

Mr. DINGELL. No. I do not yield further because the gentleman has made a point that really does need answering. If he had read the amendment he might find that it does not—

Mr. DUNCAN of Oregon. I have.

Mr. DINGELL. The fact of the matter is that the amendment also requires steps to be taken to obviate collusive bidding.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as I understand the proposed amendment offered by my colleague from California (Mr. KREBS), and its effect, the Krebs amendment would destroy the proposed Foley substitute and make present law effective. It would amend the substitute to that extent.

Now, we all know that there is nothing sacrosanct about either the sealed bid or oral bids. We all know there are occasions when one will better serve the interests of this Government and the people who buy these forest products than would the other.

So there is nothing wrong with the Secretary having that discretionary authority. I find it somewhat amusing that those who were so much opposed during the consideration of the Outer Continental Shelf amendments last week when sealed bids were discussed to be so much for them today. Last week sealed bids were all bad on the Outer Continental Shelf, but they are good now in the instance of timber to the exclusion of anything else.

Let us give the Secretary the discretionary authority to use sealed bids or oral bids and he will have the maximum authority to prevent collusion and protect the taxpayers of this country.

Mr. Chairman, the Krebs amendment ought to be voted down. The Foley substitute ought to be approved.

Mr. RONCALIO. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the substitute and for the amendment.

Mr. Chairman, I shall use but 1 minute to state that in my opinion a vigilant Department of Agriculture with the Justice Department cooperating can find collusive bidding where it wishes to and where it desires to search for it. It can detect where two sets of books are kept by a timber company or a sawmiller to defraud the Government. That has been the case time and time again.

But where, in the arid West, you have a small town whose economic life blood depends on the lumber cut in an adjoining lumber yard there is nothing improper when you give to the local firm an immediate right to oral bidding practices after their sealed bid comes in. He can top his bid with a cash bid. I see nothing wrong with this.

Therefore, for the first time in my record, I will vote against my esteemed friend from California and stay with the committee.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to my friend, the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, will the gentleman agree that the substitute offers more flexibility to determine the variances in bidding practices to avoid collusive bidding and fraud than does the Krebs amendment?

Mr. RONCALIO. Yes; I agree with the gentleman.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I just simply want to say that I support the Foley substitute and oppose the Krebs amendment.

I would point out that understanding operating procedures, the Forest Service offers first sealed bids and then all options after that, so we have both under that practice.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. KREBS) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KREBS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 239, not voting 57, as follows:

[Roll No. 39]

AYES—136

Addabbo	Fraser	Mottl
Allen	Giaimo	Nedzi
Ammerman	Gilman	Oakar
Anderson, Calif.	Glickman	Obey
Applegate	Gonzalez	Panetta
Aspin	Gore	Patterson
Bedell	Gradison	Pease
Beilenson	Hannaford	Pike
Brademas	Harkin	Rangel
Breckinridge	Harrington	Richmond
Brodhead	Harris	Rinaldo
Brooks	Hawkins	Rodino
Brown, Calif.	Heftel	Roe
Burgener	Hollenbeck	Rosenthal
Burton, Phillip	Holtzman	Roybal
Caputo	Howard	Runnels
Carr	Hughes	Russo
Clay	Jeffords	Ryan
Cleveland	Jordan	Scheuer
Conte	Kasten	Schroeder
Conyers	Kastenmeier	Schulze
Corman	Kazen	Seiberling
Cornell	Kildee	Sharp
Coughlin	Kostmayer	Simon
D'Amours	Krebs	Smith, Iowa
Danielson	Leach	Solarz
de la Garza	Lehman	Stark
Delaney	Lent	Steers
Derrick	Lloyd, Calif.	Stokes
Dingell	Long, Md.	Stratton
Dodd	Luken	Studds
Downey	McHugh	Thone
Drinan	McKinney	Traxler
Early	Markey	Tsongas
Edgar	Mattox	Van Deerlin
Edwards, Calif.	Mazzoli	Vanik
Edwards, Okla.	Metcalfe	Vento
Eilberg	Meyner	Volkmer
English	Miller, Calif.	Waxman
Evans, Del.	Mineta	Whalen
Evans, Ind.	Minish	Whitehurst
Fenwick	Moakley	Wiggins
Findley	Moore	Wilson, Tex.
Fithian	Moorhead, Calif.	Wirth
Ford, Tenn.	Moss	Wolff
		Yates

NOES—239

Abdnor	Bevill	Cederberg
Akaka	Blanchard	Clausen, Don H.
Alexander	Boggs	Clawson, Del
Andrews, N. Dak.	Boland	Cochran
Annunzio	Bonior	Cohen
Archer	Bonker	Coleman
Armstrong	Bowen	Collins, Ill.
Ashbrook	Breaux	Collins, Tex.
Ashley	Brinkley	Conable
AuCoin	Brown, Mich.	Corcoran
Badham	Brown, Ohio	Cornwell
Bafalis	Buchanan	Crane
Baldus	Burke, Fla.	Cunningham
Barnard	Burleson, Tex.	Daniel, Dan
Baucus	Burlison, Mo.	Daniel, R. W.
Beard, R.I.	Butler	Davis
Beard, Tenn.	Byron	Dellums
Benjamin	Carney	Derwinski
Bennett	Carter	Devine
	Cavanaugh	

Dickinson	Levitas	Risenhoover
Dornan	Livingston	Roberts
Duncan, Oreg.	Lloyd, Tenn.	Robinson
Duncan, Tenn.	Long, La.	Rogers
Emery	Lott	Roncalio
Erlenborn	Lujan	Rooney
Ertel	Lundine	Rose
Evans, Colo.	McClory	Rousselot
Evans, Ga.	McCloskey	Rudd
Fary	McCormack	Sarasin
Fascell	McDade	Satterfield
Fish	McDonald	Sawyer
Fisher	McEwen	Sebelius
Flippo	McFall	Shuster
Florio	McKay	Sikes
Flowers	Madigan	Sisk
Foley	Marlenee	Skelton
Ford, Mich.	Marriott	Skubitz
Forsythe	Martin	Slack
Fountain	Mathis	Smith, Nebr.
Fowler	Meeds	Snyder
Frenzel	Michel	Spellman
Fuqua	Mikulski	Spence
Gammage	Mikva	St Germain
Gaydos	Milford	Staggers
Gephardt	Miller, Ohio	Stangeland
Gibbons	Mitchell, Md.	Stanton
Ginn	Mitchell, N.Y.	Steed
Goldwater	Moffett	Steiger
Grassley	Mollohan	Stockman
Gudger	Montgomery	Stump
Guyer	Moorhead, Pa.	Symms
Hagedorn	Murphy, N.Y.	Taylor
Hall	Murtha	Teague
Hamilton	Myers, Gary	Thompson
Hammer-schmidt	Myers, John	Thornton
	Myers, Michael	Trible
Hanley	Natcher	Tucker
Hansen	Neal	Udall
Harsha	Nichols	Ullman
Hefner	Nolan	Vander Jagt
Hightower	Nowak	Waggonner
Hubbard	O'Brien	Walgren
Huckaby	Oberstar	Walker
Hyde	Ottinger	Walsh
Ichord	Patten	Wampler
Ireland	Pattison	Watkins
Jacobs	Perkins	Weaver
Jenkins	Pettis	White
Jenrette	Pickle	Whitley
Johnson, Calif.	Poage	Whitten
Johnson, Colo.	Pressler	Winn
Jones, N.C.	Preyer	Wright
Jones, Okla.	Price	Wylie
Kelly	Pritchard	Yatron
Ketchum	Pursell	Young, Alaska
Keys	Quayle	Young, Fla.
Lagomarsino	Quillen	Young, Mo.
Latta	Railsback	Young, Tex.
Lederer	Regula	Zablocki
Leggett	Rhodes	

NOT VOTING—57

Ambro	Eckhardt	Mann
Anderson, Ill.	Edwards, Ala.	Marks
Andrews, N.C.	Flood	Murphy, Ill.
Bauman	Flynt	Murphy, Pa.
Biaggi	Frey	Nix
Bingham	Goodling	Pepper
Blouin	Heckler	Quie
Bolling	Hillis	Rahall
Broomfield	Holland	Reuss
Broyhill	Holt	Rostenkowski
Burke, Calif.	Horton	Ruppe
Burke, Mass.	Jones, Tenn.	Santini
Burton, John	Kemp	Shipley
Chappell	Kindness	Treen
Chisholm	Krueger	Weiss
Cotter	LaFalce	Wilson, Bob
Dent	Le Fante	Wilson, C. H.
Dicks	Maguire	Wydler
Diggs	Mahon	Zeferetti

The Clerk announced the following pairs:

Mr. Ambro with Mr. Shipley.
Mr. Cotter with Mr. Mahon.
Mr. Rostenkowski with Mr. Chappell.
Mrs. Burke of California with Mr. Anderson of Illinois.
Mr. Nix with Mr. Frey.
Mr. Biaggi with Mr. Edwards of Alabama.
Mr. Mann with Mr. Kemp.
Mr. Dent with Mr. Kindness.
Mr. Flood with Mr. Broyhill.
Mr. Eckhardt with Mr. Ruppe.
Mr. Reuss with Mr. Quie.
Mr. Pepper with Mr. Bob Wilson.
Mr. Diggs with Mr. Horton.
Mr. Weiss with Mr. Goodling.
Mr. Murphy of Illinois with Mr. Marks.
Mr. John Burton with Mr. Bauman.
Mr. Flynt with Mr. Wydler.
Mr. Burke of Massachusetts with Mr. Holland.
Mr. Zeferetti with Mr. Bingham.
Mr. Blouin with Mrs. Chisholm.
Mr. Le Fante with Mr. Santini.
Mr. Maguire with Mr. Charles H. Wilson of California.
Mr. Krueger with Mr. Broomfield.
Mr. Andrews of North Carolina with Mr. Murphy of Pennsylvania.
Mr. Rahall with Mr. Treen.
Mr. Hillis with Mrs. Heckler.
Mr. Jones of Tennessee with Mrs. Holt.
Mr. LaFalce with Mr. Dicks.

Mr. SKUBITZ and Mr. MARTIN changed their vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KREBS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. KREBS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. KREBS to the amendment in the nature of a substitute offered by Mr. FOLEY: Section 14(e)(2) as contained in the matter proposed to be inserted by the amendment in the nature of a substitute is amended by adding at the end thereof the following: "Bidding at any oral auction shall start at an amount which is not less than the amount of the highest written sealed qualifying bid.".

Mr. KREBS. Mr. Chairman, I believe this is a very simple amendment and one that I thought would be noncontroversial in nature. All it really does is to provide that, according to the amendment in the nature of a substitute offered by the distinguished chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY), the bids on any oral sale would start with the sealed bid process. After the sealed bid process had been completed, it would then move on to an oral bid. What my amendment does to the amendment in the nature of a substitute is it requires that any oral bidding that follows sealed bidding would have to start from the highest sealed bid figure. Which seems to me, under the circumstances, in light of the fact that we have been told all afternoon that collusion is just as easy on the sealed bidding as in the oral bidding that the least we can do in this bill is to start with the highest sealed bid rather than starting from scratch again and going through the charade of the sealed bidding again.

I urge that the House support my amendment.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. KREBS) to the amendment I have offered in the nature of a substitute.

The amendment offered by the gentleman from California (Mr. KREBS) is not necessary, because the procedure that the gentleman from California would incorporate into the law is the one that is already used in oral bidding.

Mr. Chairman, I would like to read to the Members from a letter I received in my office written to me as chairman of the Committee on Agriculture from John R. McGuire, Chief of the U.S. Forest Service:

WASHINGTON, D.C.,
February 6, 1978.

Hon. THOMAS S. FOLEY,
Chairman, Committee on Agriculture,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for clarification of procedures which are followed in conducting an oral auction for a timber sale.

Each advertisement for a sale to be sold by oral auction specifies that a sealed bid, accompanied by a bid deposit, will be required as a prerequisite for participation in the auction. In the conduct of an auction, the sealed bids are opened at the specified time. The presiding officer verifies that the sealed bids are complete and that the deposit with bid is in order. Once the qualified participants are determined, the oral bidding begins. No reductions of the prices bid on any item are permitted after a sealed bid has been opened. When the oral bidding is completed and a high bidder determined, the high bidder signs a second bid form confirming his final bid price.

Sincerely,

JOHN R. MCGUIRE,
Chief.

This is a totally unnecessary amendment. It has already been incorporated into the timber sales procedures of the Forest Service as it conducts oral auctions. In rejecting it, we will not prohibit bidding from starting at the highest point. That is already what occurs under Forest Service regulation. But adoption of this amendment would require the bill to go back to the Senate and thus cause unnecessary delay in its passage. I hope the members of the committee will reject it.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I just wanted to endorse what the chairman of the Committee on Agriculture has said, urge defeat of the Krebs amendment, and let us get on with passage of the Foley substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. KREBS) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KREBS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 295, noes 78, not voting 59, as follows:

[Roll No. 40]

AYES—295

Abdnor	Anderson, Calif.	Applegate
Addabbo	Andrews, N. Dak.	Archer
Akaka	Annunzio	Armstrong
Alexander		Ashbrook
Allen		Ashley

Aspin	Glickman	Ottinger
AuCoin	Goldwater	Pattison
Badham	Grassley	Perkins
Bafalis	Gudger	Pettis
Baldus	Guyer	Pickle
Barnard	Hagedorn	Pike
Baucus	Hall	Poage
Beard, R.I.	Hamilton	Pressler
Beard, Tenn.	Hammer-	Preyer
Benjamin	schmidt	Price
Bennett	Hanley	Pritchard
Bevill	Hannaford	Pursell
Blanchard	Hansen	Quayle
Boggs	Harsha	Quillen
Boland	Hawkins	Railsback
Bonior	Hefner	Regula
Bonker	Heftel	Rhodes
Bowen	Hightower	Risenhoover
Breaux	Horton	Roberts
Brinkley	Hubbard	Robinson
Brown, Ohio	Huckaby	Rogers
Buchanan	Hyde	Roncalio
Burke, Fla.	Ichord	Rooney
Burleson, Tex.	Ireland	Rose
Burlison, Mo.	Jacobs	Rosenthal
Butler	Jenkins	Rousselot
Byron	Jenrette	Rudd
Carney	Johnson, Calif.	Runnels
Carr	Johnson, Colo.	Russo
Carter	Jones, N.C.	Sarasin
Cavanaugh	Jones, Okla.	Satterfield
Cederberg	Kasten	Sawyer
Clausen,	Kelly	Scheuer
Don H.	Kemp	Schroeder
Clawson, Del	Ketchum	Schulze
Clay	Keys	Sebelius
Cleveland	Kindness	Seiberling
Cochran	Lagomarsino	Sharp
Cohen	Latta	Shuster
Coleman	Lederer	Sikes
Collins, Ill.	Leggett	Sisk
Collins, Tex.	Lent	Skelton
Conable	Levitas	Skubitz
Conyers	Livingston	Slack
Corcoran	Lloyd, Calif.	Smith, Nebr.
Cornwell	Lloyd, Tenn.	Snyder
Coughlin	Long, La.	Solarz
Crane	Long, Md.	Spellman
Cunningham	Lott	Spence
Daniel, Dan	Lujan	St Germain
Daniel, R. W.	Luken	Staggers
Davis	Lundine	Stangeland
Dellums	McClory	Stanton
Derrick	McCloskey	Steed
Derwinski	McCormack	Steers
Devine	McDade	Steiger
Dickinson	McDonald	Stockman
Dornan	McEwen	Stokes
Downey	McFall	Stratton
Duncan, Oreg.	McKay	Stump
Duncan, Tenn.	McKinney	Symms
Edgar	Marlenee	Taylor
Edwards, Calif.	Marriott	Teague
Edwards, Okla.	Martin	Thompson
Eilberg	Mathis	Thone
Emery	Mattox	Thornton
Erlenborn	Mazzoli	Trible
Ertel	Meeds	Tucker
Evans, Colo.	Metcalfe	Udall
Evans, Ga.	Michel	Ullman
Evans, Ind.	Mikulski	Vander Jagt
Fary	Mikva	Vento
Fascell	Milford	Volkmer
Fish	Miller, Ohio	Waggonner
Fisher	Mitchell, N.Y.	Walgren
Fithian	Moffett	Walker
Flippo	Mollohan	Walsh
Florio	Montgomery	Wampler
Flowers	Moore	Watkins
Foley	Moorhead,	Weaver
Ford, Mich.	Calif.	White
Ford, Tenn.	Moorhead, Pa.	Whitley
Forsythe	Murphy, N.Y.	Whitten
Fountain	Murtha	Wiggins
Fowler	Myers, Gary	Winn
Fraser	Myers, John	Wirth
Frenzel	Myers, Michael	Wolff
Fuqua	Natcher	Wright
Gammage	Neal	Wylie
Gaydos	Nedzi	Yatron
Gephardt	Nichols	Young, Alaska
Giaimo	Nolan	Young, Fla.
Gibbons	Nowak	Young, Mo.
Gilman	O'Brien	Young, Tex.
Ginn	Oberstar	Zablocki

NOES—78

Ammerman	Brooks	Conte
Bedell	Brown, Calif.	Corman
Beilenson	Brown, Mich.	Cornell
Brademas	Burgener	D'Amours
Breckinridge	Burton, Phillip	Danielson
Brodhead	Caputo	de la Garza
Delaney	Jordan	Rangel
Dingell	Kastenmeier	Richmond
Dodd	Kazen	Rinaldo
Drinan	Kildee	Rodino
Early	Kostmayer	Roe
English	Krebs	Roybal
Evans, Del.	Leach	Ryan
Fenwick	Lehman	Simon
Findley	McHugh	Smith, Iowa
Gonzalez	Markey	Stark
Gore	Meyner	Studds
Gradison	Miller, Calif.	Traxler
Harkin	Mineta	Tsongas
Harrington	Minish	Van Deerlin
Harris	Mottl	Vanik
Hollenbeck	Oakar	Waxman
Holtzman	Panetta	Whalen
Howard	Patten	Whitehurst
Hughes	Patterson	Wilson, Tex.
Jeffords	Pease	Yates

NOT VOTING—59

Ambro	Edwards, Ala.	Moss
Anderson, Ill.	Flood	Murphy, Ill.
Andrews, N.C.	Flynt	Murphy, Pa.
Bauman	Frey	Nix
Biaggi	Goodling	Obey
Bingham	Heckler	Pepper
Blouin	Hillis	Quie
Bolling	Holland	Rahall
Broomfield	Holt	Reuss
Broyhill	Jones, Tenn.	Rostenkowski
Burke, Calif.	Krueger	Ruppe
Burke, Mass.	LaFalce	Santini
Burton, John	Le Fante	Shipley
Chappell	Madigan	Treen
Chisholm	Maguire	Weiss
Cotter	Mahon	Wilson, Bob
Dent	Mann	Wilson, C. H.
Dicks	Marks	Wydler
Diggs	Mitchell, Md.	Zeferetti
Eckhardt	Moakley	

The Clerk announced the following pairs:

Mr. Ambro with Mr. Shipley.
Mr. Cotter with Mr. Mahon.
Mr. Rostenkowski with Mr. Chappell.
Mrs. Burke of California with Mr. Anderson of Illinois.
Mr. Nix with Mr. Frey.
Mr. Biaggi with Mr. Edwards of Alabama.
Mr. Mann with Mr. Bob Wilson.
Mr. Dent with Mrs. Holt.
Mr. Flood with Mr. Bauman.
Mr. Eckhardt with Mr. Ruppe.
Mr. Pepper with Mr. Treen.
Mr. Reuss with Mr. Wydler.
Mr. Weiss with Mr. Goodling.
Mr. Burke of Massachusetts with Mr. Quie.
Mr. Obey with Mr. Broyhill.
Mr. Moss with Mr. Hillis.
Mrs. Chisholm with Mr. Moakley.
Mr. Blouin with Mr. Charles H. Wilson of California.
Mr. Diggs with Mr. Broomfield.
Mr. Mitchell of Maryland with Mr. Marks.
Mr. Zeferetti with Mr. Santini.
Mr. Murphy of Illinois with Mr. John Burton.
Mr. Bingham with Mr. Andrews of North Carolina.
Mr. Flynt with Mrs. Heckler.
Mr. Maguire with Mr. Le Fante.
Mr. Murphy of Pennsylvania with Mr. Madigan.
Mr. LaFalce with Mr. Krueger.
Mr. Jones of Tennessee with Mr. Dicks.
Mr. Rahall with Mr. Holland.

Mr. HUGHES changed his vote from "aye" to "no."

Mr. THONE changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. BREAUX, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6362) to establish an Advisory Committee on Timber Sales Procedure appointed by the Secretary of Agriculture for the purposes of studying, and making recommendations with respect to, procedures by which timber is sold by the Forest Service, and to restore stability to the Forest Service timber sales program and provide an opportunity for congressional review, pursuant to House Resolution 974, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HAGEDORN

Mr. HAGEDORN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HAGEDORN. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HAGEDORN moves to recommit the bill H.R. 6362 to the Committee on Agriculture.

The SPEAKER pro tempore. Without objection, the previous question is ordered on a motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. FOLEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FOLEY. Mr. Speaker, is it not correct that under the rule the next procedure will be to call up the Senate bill, which is identical in language with the substitute just adopted, and consider it in the House?

The SPEAKER pro tempore. The gentleman is correct. The gentleman has that option to so move.

Pursuant to the provisions of House Resolution 974, the Committee on Agriculture is discharged from the further consideration of the Senate bill (S. 1360) to amend section 14(e) of the National Forest Management Act of 1976.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill, as follows:

S. 1360

An Act to amend section 14(e) of the National Forest Management Act of 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(e) of the National Forest Manage-

ment Act of 1976 (90 Stat. 2959; 16 U.S.C. 472a(e)) is amended to read as follows:

"(e)(1) In the sale of trees, portions of trees, or forest products from National Forest System lands (hereinafter referred to in this subsection as 'national forest materials'), the Secretary of Agriculture shall select the bidding method or methods which—

"(A) insure open and fair competition;

"(B) insure that the Federal Government receive not less than the appraised value as required by subsection (a) of this section;

"(C) consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary; and

"(D) are consistent with the objectives of this Act and other Federal statutes.

The Secretary shall select or alter the bidding method or methods as he determines necessary to achieve the objectives stated in clauses (A), (B), (C), and (D) of this paragraph.

"(2) In those instances when the Secretary selects oral auction as the bidding method for the sale of any national forest materials, he shall require that all prospective purchasers submit written sealed qualifying bids. Only prospective purchasers whose written sealed qualifying bids are equal to or in excess of the appraised value of such national forest materials may participate in the oral bidding process.

"(3) The Secretary shall monitor bidding patterns involved in the sale of national forest materials. If the Secretary has a reasonable belief that collusive bidding practices may be occurring, then—

"(A) he shall report any such instances of possible collusive bidding or suspected collusive bidding practices to the Attorney General of the United States with any and all supporting data;

"(B) he may alter the bidding methods used within the affected area; and

"(C) he shall take such other action as he deems necessary to eliminate such practices within the affected area.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6362) was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill S. 1360 just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 7766. An act to authorize the mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service with respect to the use of certain public air space in the District of Columbia.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4544) entitled "An act to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes."

REMARKS OF THE HONORABLE CARROLL HUBBARD ON LEGISLATION TO CREATE AN INDEPENDENT FEDERAL CONSUMER PROTECTION AGENCY

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, tomorrow the House of Representatives is scheduled to consider H.R. 6805, the Consumer Protection Act. As one Member of Congress who has vigorously opposed the creation of yet another unwieldly Federal regulatory bureaucracy, as H.R. 6805 would, I want to share the following article appearing in the February 1978 addition of the Reader's Digest with my House colleagues. This timely article by Ralph Kinney Bennett is entitled "Consumer 'Protection' Consumers Don't Need." It is as follows:

The issues are clearly drawn. Supporters like Sen. Abraham Ribicoff (D., Conn.) say the legislation would "ensure that regulatory agencies take into consideration the views of consumers before making important decisions which have significant impact." Opponents echo the argument of Rep. Samuel Stratton (D., N.Y.) that this is no time "to create a whole new layer of bureaucracy to do essentially what existing federal agencies ought to be doing now."

After more than eight years of debate on Capitol Hill, a showdown is near on what many consumerists believe is the single most important piece of domestic legislation—creation of a tax-funded Office of Consumer Representation (OCR). They envision it as a grand watchdog that would intervene on behalf of consumers in the regulatory rulings and decisions of the federal government. It would serve as a countervailing force to regulatory agencies which, they contend, are captives of business and unresponsive to the consumer.

OCR's chief backer, Ralph Nader, originally envisioned the proposed agency as a "consumer strike agency" that would move throughout the federal regulatory system and "revolutionize" government. Over the years, efforts to make the concept more palatable for Congressional passage have perhaps made it less of a "strike agency." But they have not changed the basic thrust of the legislation, which would enable OCR to intervene in federal court against those agencies it felt were contravening the consumer interest. It could request those agencies to use their subpoena powers to extract sensitive, competitive information from businesses. Nader says this power is needed "to defend against corporate crime, against rapacious business practices." Moreover, supporters claim that the agency would have no greater power than any private party involved in regulatory matters.

To equate OCR with a private party is misleading. In a detailed analysis prepared for the Chamber of Commerce of the United States, regulatory-affairs attorney Mark Schultz notes: "OCR would have greater rights of judicial review of other federal decisions than any business entity. OCR has statutory authority to review any decision or action of government. No other public, private or governmental entity enjoys this same right."

In fact, it is precisely this power—unchanged through each form the bill has taken—that caused former Special Prosecutor Leon Jaworski to warn in April 1977 that a consumer agency "would be vested with authority so broad it could easily be turned to the political advantage of those who control it. There are no checks sufficient to harness that authority."

OCR's potential to disrupt normal dealings of various businesses and industries is awesome. An air-fare increase, duly deliberated and approved by the Civil Aeronautics Board, could be blocked by OCR and involved in litigation. Approval of a drug after lengthy study by the Food and Drug Administration might nonetheless be halted indefinitely by OCR. Banks, businesses, industries could be left in a state of apprehension and confusion by a single administering agency acting in the name of an undefined "interest."

Former Sen. Sam Ervin (D., N.C.), one of the nation's most respected authorities on constitutional law, warns that an OCR "would have all the rights of a regulatory agency, yet none of the responsibilities. It would have more power than real consumers ever dreamed of exercising."

OCR backers like Nader and Presidential consumer-affairs adviser Esther Peterson nevertheless continue to press for the agency's creation. Back in 1971, the 92nd Congress was just seizing consumerism as a solid voter issue when the House of Representatives passed a consumer-agency bill by an overwhelming vote of 344 to 44. In the 93rd Congress, the vote for an OCR was 293 to 94. When the 94th Congress voted on the measure in 1975, opposition in the House had grown to the point that it was barely approved, 208 to 199. Although the Senate had also passed the bill, certainty of a Presidential veto torpedoed it.

Last year, despite President Carter's strong support, the consumer-agency bill failed to reach the floor of either chamber for a vote. Clearly, many Congressmen who had previously voted for the measure had changed their minds. Rep. Patricia Schroeder (D. Colo.), one of the most ardent consumerists on Capitol Hill, questioned the need for an agency which, she says, "may satisfy the desires of a few consumer-advocate lawyers, but not necessarily the consumer." More than 400 newspapers across the country, including *The Wall Street Journal*, Chicago *Daily News*, *Washington Star*, Houston *Chronicle* and Boston *Herald American*, have editorialized against a consumer agency.

Late last year, the White House and consumerists amended the bill (changing the name from Agency for Consumer Protection to Office of Consumer Representation, but not changing the essential thrust of the agency as a powerful instrument for intervention). House leadership counted noses and found that this bill, too, could not pass. Rather than risk defeat in the waning days of the Congress, supporters promised to drive for passage early this session.

Why the dramatic legislative turnaround?

Polls have shown the public to be concerned over a broad range of consumer problems, but they also reflect a disillusionment with government as the potential solution, a disillusionment that seems to have been nourished by many consumer-oriented laws passed by Congress in the past decade. Enacted into law were dozens of new statutes from the Hazardous Substances Act to the Fair Labeling and Packaging Act, from the National Traffic and Motor Vehicle Safety Act to the Consumer Goods Pricing Act. A White House office of consumer affairs was enlarged and a Consumer Product Safety Commission was created to eliminate unsafe products from the marketplace. The country seemed to be embarking on a new era of assured quality and safety.

But the public quickly discovered that federal involvement on behalf of the consumer too often meant exasperating and expensive intrusion. One of the first ways this hit the public was through a piece of bureaucratic intervention called the ignition interlock. In the name of consumer safety, Americans could not start their new cars unless they fastened themselves into a harness of seat- and shoulder-belts. Congress was hit with a blizzard of angry mail and finally rescinded the law—but not before it had cost consumers $2.4 billion extra for their new cars.

But soon there was another well-meaning, ill-conceived rush to protect everybody from everything.

For example, when the Employe Retirement Income Security Act (ERISA) was passed to protect employe pensions, companies faced immense additional clerical work loads. A few companies estimated that costs of ERISA paperwork would exceed the amount of their annual contribution to their retirement plans. In 1975, the first full year under the law, ERISA regulations were a factor in 23 percent of the 4000 defined-benefit pension plans dropped. In 1976, 7300 plans were dropped and ERISA rules were a factor in 35 percent of them.

Well-meant regulations have often tended to disconcert consumers. Many people (those with arthritis, for instance) have found themselves frustrated by government-decreed child-proof caps on medicine bottles.* It is likely that many others would be frustrated by a new proposal that power lawnmowers be fitted with a device that would shut down the engine every time the machine came to a halt. Such a device could increase power-mower prices by as much as $100.

The cost of all this "protection" has been staggering. Washington University's Center for the Study of American Business estimates that federal regulation cost $65.5 billion in 1976; that's about $300 per citizen.

At the root of consumerism lies an elitist notion, say the opponents of the proposed OCR, that a third party knows better than either producer or consumer. Writing in the New York Times, Robert T. Quittmeyer, president of the Amstar Corporation, calls this "the arrogant desire to substitute some personal vision of order for the apparent disorder of the marketplace."

Consumerists insist that Office of Consumer Representation officials will have no difficulty in determining just what is in the consumer's interest. That interest, says Ralph Nader's organization, Public Citizen, is usually "apparent and uniform." But is it? Here are a few vexing policy areas in which OCR would have to decide, Solomon-like, the consumer interest.

The Food and Drug Administration wants saccharin banned on the ground it causes cancer in rats who ingest it in massive quantities. But what of the tens of millions of Americans, who, knowing this want saccharin to control their weight or because they suffer from diabetes?

Consumerists tend to favor continued federal controls of natural gas which keeps prices low. Some consumers benefit—at least in the short run. But what about those consumers who may get sharply limited amounts of gas because of price-induced shortages?

Dubious light is cast on OCR when one considers the important aspects of consumer interest that would not be covered, under the bill, because of political expediency.

As the price for organized labor's backing of the bill, OCR legislation exempts any intervention in matters regarding union agreements on labor disputes. Yet such agreements and disputes affect consumers through the higher product prices caused in part by wage hikes or long work stoppages, or through the sheer unavailability of, say, certain makes of cars during an auto strike.

Also exempted from OCR scrutiny would be a great many activities of the Department of Agriculture, virtually removing one of the prime consumer interests—food and food prices—from any consideration. License-renewal proceedings of radio and television broadcasting stations have also been exempted. In fact, at least 37 different exemptions were "sold" for support of a consumer agency. Says Sen. James Allen (D., Ala.): "This is evidence to me that those advocating further federal involvement want an official slot in government at any price. They are prepared to trade scope so they can get power."

Richard O. Simpson, former chairman of the Consumer Product Safety Commission, raises an interesting question: "If we accept the premise that federal agencies are not responsive to the interests of consumers, by what logic should we create another federal agency and expect thereby to correct the deficiency?"

If it votes to create an OCR, Congress will be going on record as unable to control the many agencies which it has set up over the years, unable to make them respond to the needs of the people—who are, after all, the consumers. And President Carter, who has proclaimed himself the nation's "top consumer advocate" has pledged his Administration to *reducing* the bureaucracy while making it more efficient and responsive.

Sen. Robert Dole (R., Kan.), one of those who once backed a consumer agency but now strongly opposes such legislation, says: "If reorganization to make government more responsive and efficient is a sincere concept, why then do we need a super-agency to police that government? I find the two concepts utterly inconsistent. We should follow the President's lead in putting our governmental house in order before we create an independent agency to do it for us."

*Bottles with ordinary caps can be obtained, on request, at pharmacies.

SOCIAL SECURITY REFINANCING ACT

(Mr. MIKVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MIKVA. Mr. Speaker, today we are announcing the introduction of the Social Security Refinancing Act, a bill which will substantially ease the burden of social security taxes on middle-income taxpayers while maintaining the financial integrity of the social security system and the commitment to senior citizens.

The primary purpose of the social security amendments adopted last year was to meet the urgent need of keeping the social security system solvent. In responding to that sense of urgency, it has become clear that last year's action also resulted in an intolerably burdensome payroll tax for middle-income taxpayers and for many businesses. The urgent task now is to seek alternatives for financing the social security system which we believe are incorporated in the bill we are introducing today.

In brief, this bill will reduce the payroll tax burden by almost one-third; make the social security system actuarially sound for the next 75 years; reestablish a 100 percent reserve fund to protect beneficiaries from inflation and recession; and, return the system to its original design as a retirement program.

The Social Security Refinancing Act accomplishes these goals by removing the Disability Insurance Trust Fund (DI) and the Hospital Insurance Trust fund (HI) (also known as the medicare program) from payroll tax financing. This change in financing would insure a payroll tax rate below the 1978 tax rate for the next 42 years. The magnitude of the change is so great that the new tax rate even in the year 2051 would be about the same as the scheduled tax rate for 1982.

These substantial tax cuts do not sacrifice actuarial integrity. Before the social security amendments were adopted last year, the old age and survivors trust—the largest social security program providing benefits to 33 million Americans—was expected to run out of funds in 1983. Passage of the amendments assured continuation of the program until 2030. The Social Security Refinancing Act, by comparison, puts the system on an actuarially sound basis with a substantial reserve fund until 2051. This guarantees all current social security retirement and survivor beneficiaries and all current social security taxpayers that their retirement benefits are secure well into the middle of the next century.

The use of a payroll tax solely to fund the old age and survivors trust is consistent with the original purpose of the social security system established in the 1930's. The DI program was not created until 1957, and HI was not added until 1965. Under the Social Security Refinancing Act, both of these funds would derive their contributions from general revenues. The change is an appropriate one: the supplementary medical insurance trust of medicare currently is funded primarily from general revenues, and 35 percent of all DI beneficiaries receive benefits from the Treasury financed supplemental security income (SSI) program.

Also, payroll tax financing is advisable only where benefits bear a relationship to earnings, as in a private pension plan. Neither medicare nor disability benefits bear the same nexus with earnings as retirement benefits.

Last year's social security amendments saved the system from impending collapse, and its beneficiaries from poverty and welfare. But those amendments also revealed the intolerable burden of the regressive payroll tax and its antiemployment bias. It is imperative that we now look to new financing methods for HI and DI. The new source of funding should be from general revenues.

For years, this source has been resisted because of a generalized fear that access to general revenues would eliminate Congress ability to resist interest groups clamoring for new and increased benefits. That argument is no longer persuasive. The experience of other western countries has been that the use of general revenues is possible without losing control. Moreover, the Congress now has the Budget Control Act which is a much more visible demonstration of Congress fiscal restraint than the payroll tax.

The Social Security Refinancing Act which we are introducing today is a concept, we believe, whose time has come.

It is not only consistent with easing the payroll tax burden of middle-income families and employers but is also consistent with the goal of an improved, stable economy.

Mr. Speaker, at this time we would like to include a chart showing the tax rates, wage base, and the contributions over the next year.

SOCIAL SECURITY WAGE BASE LEVELS, TAX RATES AND CONTRIBUTIONS UNDER PRIOR LAW (PL), CURRENT LAW (CL), AND THE SOCIAL SECURITY REFINANCING ACT (SSRA)

Year	Wage base		Tax rates			$10,000 wage earner			$15,000 wage earner			$20,000 wage earner		
	PL	CL SSRA	PL	CL	SSRA	PL	CL	SSRA	PL	CL	SSRA	PL	CL	SSRA
1979	$18,900	$22,900	6.05	6.13	4.33	$605	$613	$433	$908	$920	$650	$1,143	$1,266	$866
1982	23,400	31,800	6.30	6.70	4.40	630	670	440	945	1,005	660	1,260	1,340	880
1985	27,900	38,100	6.30	7.05	4.40	630	705	440	945	1,058	660	1,260	1,410	880
1987	31,200	42,600	6.45	7.15	4.40	645	715	440	968	1,073	660	1,290	1,430	880

Year	Wage base		Tax rates			$25,000 wage earner			$30,000 wage earner			$40,000 wage earner		
	PL	CL SSRA	PL	CL	SSRA	PL	CL	SSRA	PL	CL	SSRA	PL	CL	SSRA
1979	$18,900	$22,900	6.05	6.13	4.33	$1,143	$1,404	$992	$1,143	$1,404	$992	$1,143	$1,404	$992
1982	23,400	31,800	6.30	6.70	4.40	1,474	1,675	1,100	1,474	2,010	1,320	1,474	2,131	1,399
1985	27,900	38,000	6.30	7.05	4.40	1,575	1,763	1,100	1,785	2,115	1,320	1,758	2,686	1,676
1987	31,200	42,600	6.45	7.15	4.40	1,613	1,788	1,100	1,935	2,145	1,320	2,012	2,860	1,760

A NATIONAL ACADEMY OF MEDICINE

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, I am today introducing a bill to establish a National Academy of Medicine, to educate and train the many qualified students and scholars seeking to become doctors, surgeons, and other medical specialists, who are today denied admission to our existing medical colleges.

Students of the subject have come to recognize that the doctor shortage in this Nation is becoming critical. Whether or not we ever establish a comprehensive program of national health insurance, we must educate and provide a sufficient number of doctors, if we are ever to have adequate and proper health care for the ever-increasing population of this Nation.

Presently we graduate only about 15,000 doctors a year. Of these a much smaller number enter the active practice of patient care. Those who do practice tend to cluster in the more affluent sections of our cities, towns, and larger metropolitan areas, while the less densely populated areas, in all too many cases, do not have any doctor at all practicing in their communities.

HEW says that 16 million of our citizens live in doctor-shortage areas. Nine million of these are in the rural areas. Adding to the problem is the fact that many of the brightest students who graduate from medical schools never practice medicine at all, preferring the more desirable working hours, conditions, and guaranteed salaries which are open to them in the field of research.

As a consequence, we find our public general hospitals—which should be the centerpieces of our entire health care industry—understaffed and compelled to import foreign nationals simply to keep their doors open for the poor and the sick in their areas.

Furthermore, this shortage of practicing physicians contributes significantly to the high and constantly rising costs of adequate and proper health care, which has risen beyond the reach of many of our citizens in the middle- and low-income brackets.

It is common knowledge that both the public and the private medical colleges of the Nation have for many years engaged in the practice of limiting their enrollments. Thousands of able and qualified young people who have applied for admission to medical schools have been turned away, every year.

Many have been bitterly disappointed in the past, because—rightly or wrongly—they have felt their rejection and denial of an opportunity to obtain a medical education was a result of unfair discrimination, having to do with their sex, race, or ethnic backgrounds. While admission policies of many medical colleges have undergone a laudable change in the past few years, it is still true that existing medical colleges, for one reason or another, continue to accept only a fraction of those applicants who are top students and scholars, and who have all of the qualifications to make excellent physicians. In the meantime, the doctor shortage only gets worse. The public general hospitals in all too many cases are so severely handicapped by the lack of adequate and competent physicians they can barely function.

Think of it—all of our medical colleges in this great Nation are graduating only about 15,000 new doctors a year. A drop in the bucket. As perceived by all too many citizens, this smacks of a deliberate policy of planned scarcity. I, for one, believe we should do something about it. We can no longer wait. We know it will take many years to educate and train new physicians, and we had better face up to this very real problem today, before the shortage escalates to crisis proportions.

The bill I am introducing, today, is but one small step we must take, if we are serious about trying to provide adequate health delivery services to the people of this Nation. The bill—by amending the Public Health Service Act—sets up a National Academy of Medicine under the supervision of the Surgeon General of the United States, with discretion, subject to the approval of the President, to create up to three branches to be spread geographically and according to population and the proximity of essential supporting hospital and other facilities throughout the United States. This Academy would educate and train 1,600 graduating doctors a year, at no cost to the students. But a condition of eligibility for his free medical education, would be the agreement of each applicant to serve as a commissioned officer in the regular corps of the Public Health Service after the completion of residency and internship—for a period of 6 years in the case of general practitioners and 9 years in the case of surgeons or other specialists—during which periods there would be withheld from their salaries monthy an amount to compensate the Government, in part at least, for the cost of their education and training, as may be determined as just and equitable by the Congress.

The Surgeon General would be empowered to assign and reassign the graduate doctors to places of service in the Public Health Corps where he determines the greatest need exists, with an emphasis on service in the public general hospitals and other public health facilities of the Nation.

The bill sets up a five-man Select Commission for the Academy, the Commissioners to be appointed by the President, to undertake the development and supervision of the Academy and provide for its curriculum, faculty, accreditation, admission standards, and courses of study.

Admission to the student body of the Academy would be decided by competitive examinations from among nominees selected by all Members of the U.S. Senate and House of Representatives, each of whom may make 10 nominations for each of three vacancies in each entering class in the Academy.

By this bill, a new Academy would be able, within a few years, to start sending out approximately 1,600 graduate doctors per year.

Mr. Speaker, I feel that the National Academy of Medicine is a long overdue idea whose time has come, and I solicit the support of my colleagues in its speedy passage.

INADEQUATE BRIDGES: HOPE FOR IMPROVEMENT IN 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

Mr. CORCORAN of Illinois. Mr. Speaker, I was very interested to receive from the Carter administration its so-called highway/public transportation legislation proposal dated January 26, 1978, especially the section dealing with the bridge replacement and rehabilitation program. In that proposal, the administration recommends that the bridge program be expanded to include rehabilitation as well as replacement of bridges with a Federal share of 80 percent, increased from the present 75 percent share for bridge replacement programs. It also stated that up to 30 percent of the funds may be used for bridges which are located off the Federal aid system. This is certainly one area where bridge replacement funds can be and must be increased. Finally, the President's proposal would increase funding for the special bridge replacement program from $180 million annually to $1.9 billion over a 5-year period. These are certainly encouraging signs.

As many of my colleagues can attest to, the problems with the bridges in this country are critical and widespread. On November 21 of last year, I accompanied several transportation officials on an inspection tour of bridges in my district. These people represented the National Transportation Policy Study Commission and the Illinois Department of Transportation. Our purpose was to learn, first hand, the problems caused by unsafe and inadequate bridges in the area. On this inspection tour, we visited seven bridges, covering several types and various sizes. These bridges were located on major highways and on country roads as well as in cities.

We learned that, in this district, as in many others in the country, many of the bridges currently in use are reaching the end of their useful life. Take these facts as examples;

One highway bridge out of every five in the United States is deficient and dangerous to use. More than 100,000 spans are officially in that category now, and the number is rising.

Every 2 days, on average, another bridge sags, buckles or collapses.

Poor bridge approaches and lack of adequate signs and signals kill an estimated 1,000 Americans yearly, in addition to the 8 or 10 who die as a result of actual bridge failures.

These statistics and other findings appeared in a recent article in the U.S. News & World Report on January 9, 1978 entitled "Weak Bridges: Growing Hazard on the Highways." I bring this article to the attention of my colleagues and include it for printing in the RECORD in its entirety:

WEAK BRIDGES: GROWING HAZARD ON THE HIGHWAYS

At a time when cold weather is posing added problems, a survey of this country's highway bridges shows thousands so badly neglected that they comprise a "disaster just waiting to happen."

So reports a group of Federal Highway Administration engineers who have uncovered dangerous bridges in every part of the country.

Says W. J. Wilkes, director of FHA's Office of Engineering: "The hazard always grows at this time of the year, when bitter cold often causes the steelwork to become brittle, resulting in more bridge failures."

Among the findings of the survey—

One highway bridge out of every 5 in the U.S. is deficient and dangerous to use. More than 100,000 spans are officially in that category now, and the number is still rising.

Every two days, on average, another bridge sags, buckles or collapses.

Poor bridge approaches and lack of adequate signs and signals kill an estimated 1,000 Americans yearly, in addition to the 8 or 10 who die as a result of actual bridge failures.

DANGEROUS FAULTS

On highways built with federal aid—the nation's major roads—some 7,000 bridges are considered structurally unsound, FHA experts report, and another 25,000 are called "functionally obsolete" because they are narrow, have low overhead clearance or are poorly aligned with the road. Replacing these 32,000 unsafe bridges would cost about 10.4 billion dollars and would take 80 years at the present rate of the replacement program, the engineers estimate.

The cost of replacing all of the unsafe bridges, both those on federal-aid and nonaid local highways, is computed by FHA officials at 23 billion dollars.

Why have the nation's bridges been allowed to deteriorate to this extent? The main reason is that local governments tend to spend limited highway funds on other things first. A federal bridge-replacement program was started in 1972 to provide 75 per cent of the cost of needed work on city or State bridges, but only 475 million dollars has been authorized, and work is going slowly. Up to December, 1976, just 978 bridges had been or were being upgraded under this program.

Examples of what has happened to bridges as a result include—

A span over the Hudson River at Troy, N.Y., collapsed in 1977, fortunately with no deaths involved.

Two persons died when a bridge over the South Canadian River in central Oklahoma fell in 1976.

In 1975, a link over the Yadkin River near Siloam, N.C., collapsed, causing four deaths and 16 injuries.

The biggest modern tragedy was the collapse of the Silver Bridge over the Ohio River in 1967, with a death toll of 46 persons.

There are lesser problems, too, that are aggravating and time-consuming.

Near Weatherford, Tex., is a highway bridge with a 20,000-pound weight limit. But the county fire department there reportedly exceeds the legal limit by driving its 22,000-pound truck over the span routinely—because the detour would require 30 miles of driving and perhaps an hour of extra time.

Ten States with the most unsafe bridges

	Number of deficient or obsolete bridges
1. Iowa	14,000
2. Oklahoma	5,945
3. Pennsylvania	5,939
4. New York	5,750
5. Kansas	5,540
6. Texas	5,846
7. Missouri	4,786
8. Tennessee	4,755
9. Nebraska	4,500
10. Illinois	4,436

Rerouting of school buses around unsafe bridges is an increasingly common necessity. In one rural Midwestern community, this practice costs the schools an extra $12,000 a year.

In Indiana, a survey by Purdue University showed that more than 6,500 county bridges are unsafe for standard-sized school buses carrying 60 or 65 children. Several schools there have been forced to close from time to time as a direct result of bridge conditions.

Narrow bridges, built before 1935 when cars and trucks were smaller, lighter and fewer, are a particular problem. Three-fourths of all spans in the country are in this category, and many cannot handle modern traffic. Typically, a truck-bus collision in 1972 on a narrow bridge near Fort Summer, N.M.., killed 19. A similar accident in Fort Stockton, Tex., took 15 lives.

HOW COSTS SHOOT UP

Meanwhile, the number of deficient highway bridges in the country reported to the FHA is rising steadily.

In 1968, it was estimated that 88,900 of the nation's crossings were either structurally deficient or functionally obsolete. The replacement cost then was estimated at 14.8 billions. By last year, the number of unsafe bridges recorded had risen to 105,500, an increase of 15.7 per cent, and the estimated replacement cost had risen by more than 50 per cent.

In Congress, hearings have been started, and 14 bills are pending to expand the nation's bridge-upgrading program by as much as 2 billion dollars a year, from the present level of 180 million annually. No bill is likely to reach the floor of either house until next spring.

As one official remarked recently: "With at least 105,000 bridges that people use everyday now listed as unsafe and the number rising steadily, it's only a matter of time before a series of bridge disasters occurs that will make the recent dam breaks look like a Sunday picnic."

THE NEED FOR MORE COMPLETE FOOD LABELING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, in the CONGRESSIONAL RECORD of January 31, I discussed briefly some of the research being done in my office concerning the subject of food labeling. In my opinion, this is one of the most important consumer issues in the Nation today.

You may recall that the emphasis of my statement was on the interest private citizens have expressed in my efforts to require complete disclosure of ingredients on the labels of processed foods. Today I wish to share with my colleagues some of the items that have appeared in the press, reporting on what I am doing.

The first article appeared in the Chicago Tribune in mid-December and conveyed my interest in receiving letters from the citizens who are interested in the food labeling issue. As I noted before, that article resulted in dozens of letters coming into my office from concerned consumers all over Illinois.

A second article ran about a month later in several papers in the Cox news chain. It discusses some of the mail I received as a result of the first article. The Cox article, by Andy Alexander, also

gives a brief description of the current activity on the food labeling front.

Third, there is an article by Dave Hess that was syndicated recently by the Knight newspaper chain. It describes my current activities and discusses some likely next steps. This story recently appeared in one of my hometown newspapers, the Dayton Daily News.

At this point in the RECORD, I wish to insert the three articles:

[From the Chicago Tribune, Dec. 15, 1977]

ICE CREAM TRAGEDY SHOWS LABELING NEED

(By Carol Rasmussen)

U.S. Rep. Charles W. Whalen Jr. (R., Ohio) remembers Michael Grybsank. Many Chicagoans probably do, too.

Young Grybsank ate a bowl of butter finger ice cream at a friend's house and died shortly thereafter. He died because he was highly allergic to peanut butter, a sensitivity which he was so well aware of that he asked to see the carton of ice cream and could find no mention anywhere of peanut butter or peanuts as an ice cream ingredient.

So he ate the ice cream. It took too long to figure out that the food to which he was so sensitive was in the candy bar used in the flavoring of the ice cream.

The story about his death made national headlines back in 1972. Some people felt that this death, as unfortunate and unnecessary as it was, might at last be what the Food and Drug Administration (FDA) needed to make it see the value of listing all ingredients on food labels.

"There have been numerous efforts to broaden the laws on disclosure of food ingredients on labels," said Marc Rosenberg, special projects director to Congressman Whalen. "But all have petered out for one reason or another."

Congressman Whalen's interest in the problem, Rosenberg added, was piqued by a letter from one of his constituents who had recently learned that she had severe allegies and was encountering great difficulty in choosing foods that were safe for her because labels did not fully disclose all the ingredients used in the foods.

"He may not press the point further unless he sees there is public interest in the idea of full ingredient disclosure on food labels," Rosenberg added.

As the law presently stands, there are some foods that are standardized, explained Rosenberg, meaning all the ingredients that can be used in them are listed in a big fat book on the government's shelves, and labels on these foods do not have to disclose any ingredients, Rosenberg noted.

Its original purpose was to prevent fraud; a manufacturer couldn't claim that it was making, say, mayonnaise when the bottle really contained a look-alike that was something else.

But now that many foods can legally contain numerous chemical additives and people are beginning to recognize that allergies and other problems are attributed to some of them, many consumers feel they need to know all of the ingredients used in making all food products.

Beyond that, consumers should be told exactly what flavorings and colorings are used in any foods, standardized or not. "People look at the labels and when they see a long list of ingredients they assume everything is disclosed and it turns out that it's not," Rosenberg said. Labels presently only need state that flavorings and colorings are used, but they do not have to specify which ones.

In the case of yellow dye number 5, the American Academy of Allergy recently submitted a statement expressing concern that it was highly allergenic and they have patient histories of people getting sick from it, Rosenberg said.

On Feb. 4 of this year, the FDA proposed that this dye, when used, be listed on food labels, but to date it is still of proposal status, not a law, and therefore not mandatory.

Congressman Whalen thinks that if it can be shown that consumers really need to know all of the ingredients used in food products, then something might be done, Rosenberg said. He is asking that people write to him explaining the problems they face, if any, due to the lack of full disclosure of ingredients on food labels. His address is 1035 Longworth House Office Building, Washington, D.C. 20515.

[From the Lufkin (Tex.) News, Jan. 18, 1978]

CONGRESSMAN RECEIVES LETTERS ABOUT POOR LABELING

(By Andrew Alexander)

WASHINGTON.—It started with abdominal cramps. Then came the diarrhea, migraines and dizziness.

"This latter was so severe that when I got up I had to sit on the edge of the bed for five to ten minutes until my head quit whirling," wrote Irma Aleshire of Chicago.

After days of suffering, the 77-year-old retired physician finally traced the cause of her misery to the canned fruits she had been eating.

It seems the manufacturer had substituted less expensive corn syrup for sugar, but never noted the change on the can labels. Mrs. Aleshire, who has been highly allergic to corn for her entire adult life, had no way of knowing.

Her letter was just one of a bundle sent to Rep. Charles W. Whalen, R-Dayton, after a Chicago newspaper noted recently he was researching the problems of inadequate food labeling.

Most were from consumers with allergies who told horror stories of pain and misery caused because food labels had not warned them of what they would be eating.

Despite the pleas of America's estimated 15 million allergenics with special dietary needs, there has been little movement in recent years toward food labeling reform.

But with the new year there are signs of activity.

The Food and Drug Administration (FDA), whose job it is to enforce existing labeling laws, has said it will hold hearings on the problem.

And the House Subcommittee on Health and the Environment—for many years accused of neglecting the issue—will be holding its own hearings on reform by midsummer.

In fact, subcommittee chairman Rep. Paul G. Rogers, D-Fla., has already drafted a bill which would beef up labeling requirements.

Donald Dalrymple, a top subcommittee staffer, said last week he believes there is a good chance Congress will enact a new labeling law before adjourning later this year.

But with so many who suffer from allergies, the question is: Why has it taken so long?

Douglas M. Bloomfield, a legislative assistant to Rep. Benjamin S. Rosenthal, D-N.Y., who has been fighting for tougher labeling standards for years, says Congress is to blame.

"Congress responds more to crisis than to problems of this nature," he said. "This is a nagging, agonizing problem that goes on day after day, but there aren't a lot of people suddenly dropping over dead. And besides, the consumer side isn't organized, and where there is organization there's no funding to lobby."

"But on the other side," he said, "you've got pressure from some of the biggest commercial interests in the country."

Bloomfield was apparently referring to trade groups like the Grocery Manufacturers of America and the National Food Processors Association, which represents canned food producers.

The law today on food labeling is defined by a maze of confusing and seemingly illogical rules and regulations governed by FDA.

For example, "Standardized" foods (like ice cream) are required to contain certain "mandatory" ingredients, but none of those ingredients are required to be listed on the package. However, a long list of "optional" ice cream ingredients are required.

Other foods are required by FDA to list all their ingredients on the label—except for spices, flavorings and coloring additives which can be highly harmful to some allergenic consumers.

The result is often bewildering to the diet-conscious shopper.

"If it says 'plus flavor,' you still don't know which flavor was used," observed Marc H. Rosenberg, special projects director for Rep. Whalen.

"If you're buying a pizza mix and they use oregano in the sauce, they don't have to tell you that," said Bloomfield. "All they have to say is 'plus spice.'"

He also noted that in recent years a number of food coloring and flavoring additives have been found to be cancer-causing, yet they were frequently never required to be listed.

There are signs the food industry may be willing to agree to some modest changes in labeling requirements. For example, several industry spokesmen said they liked the Rogers bill, which calls for a listing of ingredients if FDA found them to have a "significant bearing" on the food product.

But the industry is still expected to adamantly oppose efforts to require a listing of every ingredient.

"They can go hog wild and pretty soon you have a label that's nine feet long with room for everything on it, including the name of the guy who cooked the food," mused Tony McHale of the National Food Processors Association.

McHale and some FDA officials say that food manufacturers frequently must vary their contents, substituting additives when some ingredients are in short supply. The result, they say, is that the cost of constantly switching labels will push up food prices.

"Every time you're forced to change a label," said McHale, "it's going to drive up the price, and somebody's got to pay for the extra cost."

But Dalrymple noted that food packages are already changed frequently to accommodate new coupon or discount offers. "If they can do that," he said, "I don't understand why they can't periodically change the information on the labeling."

Some industry spokesmen also warn that by revealing all ingredients, competitors might learn how to duplicate their product That is why they shriek at the suggestion by some consumer groups that the labels also contain a breakdown of the exact percentage of each ingredient used.

FDA consumer safety officer Ray Gill says proposed revisions in labeling should undergo a "cost-benefit analysis" to determine if there are really millions of consumers who would take advantage of the additional information.

A study by the General Accounting Office several years ago suggests there may be.

In addition to the millions of allergenics, GAO also estimated there are 23 million Americans with heart conditions and more than four million with diabetes or kidney ailments—most of whom need to avoid certain food ingredients.

"There are also dietary laws," noted Rosenberg. "If you're a Moslem or a Hindu, you want to know what you're eating."

In critical need of ingredient information are those allergic to chemical food additives, says Virginia Nichols, who runs a special food store for allergenics in Beavercreek, near Dayton. The store, which she says is one of only three of its kind in the nation, caters especially to "chemically sensitive" eaters.

She regularly flies in organically-grown chemical-free food from California. The air freight charges boost the prices, but the IRS has ruled that taxpayers may deduct that additional cost if the food is needed for their diet.

But the food industry is expected to oppose listing all chemical additives on the grounds that not enough people would benefit from the information.

[From the Dayton Daily News, Feb. 2, 1978]

WHALEN THROWS WEIGHT BEHIND CLEAR-LABEL EFFORT

(By Dave Hess)

WASHINGTON.—Rose Marie Vita's son became ill after eating a packaged spaghetti sauce mix.

Suspecting that her son might have been felled by an old nemesis, an allergy to corn and its byproducts, she wrote to the company that made the sauce and asked for a list of the ingredients.

The company, she said, "refused to tell me the list of ingredients."

Under existing food labeling laws, the company was within its rights to refuse. It is not required by law to list the various substances—oils, flavorings, colorings—in its products.

Vita, an Illinois businesswoman, says that is wrong: "Every American has the right to protect his health and indeed his very life."

Rep. Charles W. Whalen, Jr. (R–Dayton) agrees.

He is building a case for legislation to require all ingredients and chemicals that go into packaged foods be listed on the container.

Knowing the ingredients of packaged foods, Whalen said, "is of more than passing interest to millions of Americans who are allergic. In some cases, the answer to what's in the food can spell the difference between sickness and health."

The National Institutes of Health has estimated that about 35 million Americans suffer, in varying degrees, from some form of allergy.

Those who suffer from other chronic health problems—diabetes, high blood pressure, excess blood cholesterol, ulcers, hyperactivity—also have a right to know what is in their food, Whalen believes.

People whose diets are keyed to religious beliefs also should be told what they are eating, Whalen added.

Yet food labeling laws are severely restricted and sometimes unwittingly lead to misunderstandings about the actual content of many foods, Whalen said.

One of the classic examples cited by food-labeling advocates was the case of Michael Grybsank, who died from an allergic reaction to peanut extracts in an unlabeled box of ice cream.

Whalen calls ice cream a problem food because, under federal law, it is considered to be "standardized."

That means it must contain certain ingredients in order to be sold as genuine "ice cream."

The problem, Whalen said, is that no explanatory labeling is required for standardized foods because federal law presumes that people know what is in them.

"Even if that were true, that people did know," said Whalen aide Mark Rosenberg, "the fact is that these foods can also contain other things—artificial flavorings and colorings and the like—besides the basic ingredients that make them what they are."

An Indiana allergist, Dr. J. P. Ornelas, of Merrillville, said that the "average person consumes about five pounds of artificial dyes a year. And about 85 per cent of supermarket foods have artificial flavorings or artificial colorings or both."

Research has failed to prove whether an accumulation of these chemicals is harmful, said Ornelas. But his own practice, he said, along with other medical evidence, has shown that some widely used flavorings set off allergic reactions in people who also take aspirin.

Ornelas is critical of the various artificial flavorings used in cheaper, prepackaged ice creams.

Benzul acetate, for instance, a powerful nitrate solvent, is sometimes used to give ice cream a strawberry flavor, Amyl acetate, an oil paint solvent, imparts a banana flavor, Ornelas said. Ethyl acetate, a pineapple flavor, is used as a rug or leather cleaner, and its vapors have been implicated in cases of lung, heart and liver damage, he said.

Whalen is considering a petition to the Food and Drug Administration, asking it to use its existing powers to require more explicit labeling on food packages.

"We think FDA already has the authority, under its power to set 'standards of identity' for foods, to force fuller disclosure of ingredients," a Whalen aide said.

Whalen also indicated he might sponsor legislation to deal with the problem.

FLEXIBLE PARITY ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 10 minutes.

Mr. SEBELIUS. Mr. Speaker, last week in a statement released in Kansas, I said that despite the fact that the administration has said no again to additional assistance and various parity proposals, that our Kansas farmers should not give up trying to change and improve current farm policy.

I made these comments after questioning Agriculture Secretary Bob Bergland about the possibility of immediate cash flow assistance under existing farm program authority in view of administration opposition to changing the 1977 Farm Act and various parity proposals submitted by the American Agriculture Movement.

Secretary Bergland, and I am paraphrasing his response, told us that it was too soon to judge the new farm act, that farmers should participate in the set aside, put their grain into the Government reserve and be patient. However, the farmers in High Plains wheat country facing immediate foreclosure or that financial precipice down the road, cannot take patience to the bank. Patience is about the only commodity in short supply in farm country nowdays.

I realize that the administration just does not think the current problems we are experiencing merit changing current farm policy. I also realize that without hope and faith, the farmer would never plant a seed in the ground. I am hopeful that given some recent encouraging developments over the past few weeks, that the administration will change current policy decisions just as was done during consideration of the farm bill when we were able to win the battle for improved target price deficiency payments for grain.

I am encouraged because I believe that more of my colleagues fully understand that we are in the midst of the worst financial crisis since the Great Depression and are sympathetic to the farmer's plight. I am encouraged because recent polls show the American public better educated to basic farm economics and that it is in the consumer's best interests that the farmer make a profit.

I am encouraged because several political pundits, whose columns are followed closely by everyone in Washington, are now reporting the farm problem is the No. 1 political issue throughout the country.

I am also encouraged by the fact while the farmers' march and pleas to be on a par with the rest of our society has hit an administration roadblock, we still have farm representatives who are not giving up and believe there is always more than one way to find answers to our problems.

Last week, my good friend and colleague, the Honorable BOB DOLE, Senator from Kansas, along with several cosponsors, introduced S. 2481, the Flexible Parity Act of 1978. Rather than simply repeat what my colleague from Kansas has said I will simply let his remarks explain in full this unique and new legislative approach. This bill has merit worthy of consideration in terms of gasoline and diesel fuel savings alone. I commend to the attention of my colleagues the following remarks by my Kansas colleague, Senator BOB DOLE. It is my intent to solicit cosponsors and reintroduce this legislation next week:

REMARKS BY SENATOR DOLE

I am introducing a bill today to adjust target prices for grain and cotton. Under my bill, which I call the Flexible Parity Act of 1978:

An individual farmer can choose the target price he needs up to parity, but must scale down his production accordingly;

My bill will not interfere with exports;

It will not contribute to foreign production increases;

It will not encourage substitutes; and

Under my bill, costs would be reasonable since scaled down production should result in higher market prices, resulting in reasonable level of deficiency payments.

Now for the first time, farmers will have a mechanism under which they can collectively control their production and each individual may select the target level and set-aside that is best for his farm operation. With this legislation there will be no necessity for set-aside payments since farmers will be receiving target price incentives up to the parity level.

I have considered a similar approach on soybeans, ice, sugar, and peanuts and I may wish to apply this principle to these crops after producers have had an opportunity to testify at Agriculture Committee hearings scheduled to commence February 23, 1978.

Cost estimates are not easy to assess for this flexible parity approach because of the difficulty in anticipating farmers' response to the various target prices and set-aside options available to them. However, since substantial improvement in farm prices would likely occur as the effects of the set-aside are felt, I believe that budget exposure would be relatively modest. I will illustrate with an example for wheat, corn, and cotton:

WHEAT EXAMPLE

Assume farmers choose on the average a 35 percent set-aside in order to be assured of $4 per bushel target price, assume further that the 35 percent set-aside will actu-

ally cut production by 25 percent resulting in a 1.5-billion bushel crop instead of a 2-billion bushel crop.

If this production adjustment, coupled with a vigorous export market promotion program, raised market prices to $3.50 per bushel, the additional amount of exposure for deficiency payments would be $750 million (.50 per bushel × 1.5 million bushels).

CORN EXAMPLE

Assume farmers choose on the average a 35 percent set-aside in order to be assured of a $2.85 per bushel target price. Assume further that the 35 percent set-aside will actually cut production by 25 percent, resulting in a 4.5-billion-bushel corn crop instead of a 6-billion-bushel crop.

If this production adjustment coupled with a vigorous export market program raised market prices to $2.85 per bushel, the additional amount of budget exposure for deficiency payments would be zero.

COTTON EXAMPLE

Assume farmers choose on the average a 35 percent set-aside in order to be assured of a 69-cent-per-pound target price, assume further that the 35 percent set-aside will actually cut production by 25 percent resulting in a 10,500,000-bale crop instead of a 14-million-bale crop.

If this production adjustment, coupled with a vigorous export market promotion program, raised market prices to 65 cents per pound, the additional amount of exposure for deficiency payments would be $210 million ($20 per bale × 10,500,000 bales).

Let me say very quickly what this bill will do. It applies to wheat, feed grains, corn, and cotton. It says to that American farmer, whether he be in Kansas or Arkansas or New Mexico or South Carolina or Tennessee or Illinois, that he can choose the target price that he might need for parity, but if he does that, he has to scale down his production. Let me give a quick example of how that would apply to a wheat farmer in the State of Kansas or any other State.

Under the present program, if he sets aside 20 percent of his production, then the so-called target price is $3 a bushel. I want to state very quickly that that is not a Government payment. The target price is the target price. If the market price is $2.90, there is a payment of 10 cents. If the market price is $3, there is no payment at all.

The problem in America today is that there is too much supply. We have too much wheat, for example. It depresses market prices. In order to restore the marketable competition, we have to reduce that supply. Farmers are willing to reduce that supply, but they would like to stay in business in the process so they can continue to produce for themselves, for American consumers, and for the hungry in the world and others who look to us for leadership in agriculture.

What I have done is try to devise a flexible parity concept which says that, if you reduce your production of wheat 25 percent, the target price is $3.25 a bushel; if you reduce your production 30 percent, the target price is $3.50 a bushel; on a 35 percent reduction, the target prices goes to $4; on 40 percent, it goes to $4.25; 45 percent, it goes to $4.50; 50 percent, it goes to parity—$5.04 a bushel. The same is true for corn, for feed grains, or for cotton.

Let me make it very clear that before the farmer can receive that increased target price, that incentive, he has to cut production. He cannot have it both ways. He cannot have full production and high target prices.

It seems to me, after weeks of research and searching for some alternative, that we have come up with an idea and a program that is geared toward the marketplace.

Some have suggested that we ought to raise the loan rates up to parity. I do not believe that. All we do by raising loan rates up to parity or some higher figure than they are now, on wheat or corn or whatever, is to interfere with exports. If the farmer has any future in America, it is in exports.

In addition, this will not contribute to foreign production increases. We are not setting up some artificial price that will encourage every other wheat producer to plant fence-to-fence and destroy the market.

Also, I think it is going to cost a very small amount, because if you cut your production, you are going to have fewer bushels on which to pay a target price in the first place. In the second place, the market price is going to be strengthened and the target price concept will not go into effect.

SIXTIETH ANNIVERSARY OF LITHUANIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, February 16, 1978, marks a special day in man's historic struggle for freedom and self-determination, for it was on that day 60 years ago that the Lithuanian people established their own government and proclaimed their independence.

The Lithuanian Council of Chicago is commemorating this 60th anniversary with a program at Maria High School auditorium on Sunday, February 12. The officers of this outstanding organization include Rimas Sarka, president; Vincent Samaska, executive secretary; Ignas Andrasiunas, Algis Jasaitis, Casimir G. Oksas, Mykolas Pranevicius, vice presidents; Irena Sankus, treasurer; Antanas Svitra, financial secretary; Stasys Mankus, recording secretary.

Trustees include Euphrosine Mikuzis, Teodora Kuzas, Charles K. Smilgys, and Oskaras Kremeris.

The members of the Lithuanian Council of Chicago are as follows: Kristina Austin, Petras Bucas, Elena Bucinskas, John Evans, Adele Gabalis, Juze Gulbinas, Petras Jokubka, Jura Jasiunas, Veronika Lenkevicius, Julius R. Kuzas, Jr., Juozas Kapacinskas, Algirdas Puzauskas, Julius Pakalka, Donatas Stukas, Pranas Sekmokas, Vladas Soliunas, Justinas Sidlauskas, and Jonas Valaitis.

The Lithuanians took the historic step of independence in 1918, at the close of World War I, and for 20 years thereafter, Lithuania enjoyed peace and freedom from oppression. During this period the Lithuanian economy stabilized, and there was a great renaissance of national literature and culture.

But in 1939, the Soviet Union began a campaign of intimidation on this tiny country and concentrated its armed forces on the Lithuanian frontier. This massive threat was followed on June 15, 1940, by actual occupation of Lithuania by the Red Army. The valiant Lithuanian Government had no alternative, but to concede to brutal Soviet demands.

Immediately the Communists began arresting and executing the Lithuanian patriots. Non-Communist political parties were liquidated, and leaders in these parties were imprisoned. Thousands of Lithuanians lost their lives or were forcibly moved in cattle cars to distant parts of Russia's occupied territorities in the East. The people were forced to vote in national elections in which only the Communist Party was represented. The Lithuanians, despite these hopeless odds, resisted heroically—but to no avail. The Soviets finally succeeded in forcibly annexing Lithuania and subjugating these courageous people.

Despite condemnation by the free world of this unlawful aggression against the sovereign rights of a free people, the Soviet Union still occupies Lithuania and maintains Communist troops within her borders. The national culture is gradually being destroyed and the Lithuanian people are forced to suffer under the harsh yoke of cruel Soviet oppression.

Mr. Speaker, I was glad to join with other Members of Congress a few years ago in appealing to Soviet authorities for the release of Simas Kudirka, a Lithuanian seaman who tried to obtain political asylum in the United States by boarding a Coast Guard vessel. Kudirka was eventually released after harassment and imprisonment by Soviet authorities, and he eventually made his way to the United States. This courageous Lithuanian addressed the Bicentennial Convocation on Global Justice, convened by the National Conference of Catholic Bishops, on life in Soviet-occupied Lithuania at the preset time, and a portion of that statement by Simas Kudirka follows:

The Universal Declaration of Human Rights, adopted by the United Nations December 10th, 1948 and the Helsinki Accord, adopted last year at the European Security Conference, are regularly being trampled upon by the Soviet government in its dealings with the Lithuanian people in general, and religious believers in particular.

Article 7 of the Declaration of Human Rights states: "All are equal before the law and are entitled, without any discrimination, to equal protection of the law . . ."

In Catholic Lithuania today, ever since the Soviet Union seized that country by force in 1940, one set of standards is applied to atheists, and a completely different set of unwritten standards is applied to believers.

Atheists are allowed and encouraged to meet, to study their teachings, and to propagate atheism by every means, including the mass media. Believers are discouraged from attending religious services, and are denied any access to mass media at all. Only small token editions of a handful of publications have been allowed, completely inadequate for 3 million people, most of whom are still Catholic by persuasion.

Believers are harassed and imprisoned for transgression of the least regulation, while atheists go scot-free after breaking the law by interfering with the religious rights of believers and even burglarizing, vandalizing and burning places of worship (those that are still remaining).

Article 8 of the Universal Declaration of Human Rights states: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by law."

The Soviet constitution guarantees the rights of freedom of conscience, of worship, of association, and of the press. When Soviet authorities have daily violated these constitutional rights, repeated formal written complaints to the proper Soviet authorities by individuals and on occasion by thousands of signers have not only been ignored, but have brought upon the petitioners further injustices such as imprisonment and fines.

Article 9 of the Universal Declaration of Human Rights states: "No one shall be subjected to arbitrary arrest, detention or exile".

In one night alone, June 14–15, 1941, 34,260 Lithuanians were packed into cattle cars and sent on a harrowing journey to undisclosed regions in the Soviet Union. There were no trials; the only apparent reason for arrest of these thousands, including children, was that they were real or potential opponents of Soviet Communism. In all, it is estimated that some 300,000 Lithuanians suffered a similar fate, along with tens of thousands of Latvians and Estonians.

Julijus Steponavicius, the Archbishop of the capital city of Vilnius, has been forced into exile from his diocese for fifteen years. "To this day I do not know why I was exiled from my diocese, or how long the exile will last", he recently wrote in complaint to Lithuanian Premier Jonas Maniusis.

While I was still a prisoner in the concentration camp, on the eve of December 10, 1972, a freezing night, I secretly climbed a pole in the Potma prison compound and raised a makeshift flag of the United Nations for the whole camp to see the next morning, which was Universal Human Rights Day. The flag had been secretly pieced together from scraps of cloth by fellow prisoners. Tattered though it was, to us it symbolized hope. That hope, for me, was shattered once I reached the West and learned that the fate of Soviet political prisoners is not on the agenda of the United Nations, and is not likely to get there.

May I appeal to you, who represent the spiritual leadership of the free world, to put the human rights of the people in Soviet-occupied territories on your agenda.

SIMAS KUDIRKA.

Mr. Speaker, it is was for these reasons that I introduced House Concurrent Resolution 5 at the beginning of the 95th Congress, which follows:

H. CON. RES. 5

Whereas the Government and the people of the United States of America have maintained and enjoyed excellent and friendly relations with the Governments and peoples of the Baltic States Republics of Latvia, Lithuania, and Estonia, during the years of independence of these Republics; and

Whereas the concept of liberty and freedom of choice of government is still alive in this country, as it has been constantly since the Declaration of Independence; and

Whereas the evidence produced at the hearings of the select committee of the House of Representatives to investigate the incorporation of the Baltic States into the Union of Soviet Socialist Republics overwhelmingly tends to prove that the actions of the Union of Soviet Socialist Republics in relation to these free and independent Baltic Republics were contrary to the principles of international law and the principles of freedom; and

Whereas the people of this Nation have consistently shown great sympathy for the peoples of these three Republics, especially as a result of their enslavement and as a result of the inhuman exile and deportation of great numbers of law-abiding persons from their native lands to imprisonment in slave labor camps in the Union of the Soviet Socialist Republics: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) the President of the United States of America should continue the American policy of nonrecognition of the unlawful absorption of the Baltic States Republics of Latvia, Lithuania, and Estonia into the Union of Soviet Socialist Republics, and continue the recognition of the diplomatic and consular officers of these Republics as the lawful representatives of these three nations in the United States of America; and

(2) the President should take such steps as may be appropriate, through the United States delegation to the United Nations, to raise in the United Nations the question of the forced incorporation of Latvia, Lithuania, and Estonia into the Union of Soviet Socialist Republics and request the United Nations to conduct an investigation of conditions in the said Baltic Republics to the intent and purpose that Soviet armed forces, agents, and colonists be withdrawn therefrom, and that the exiled peoples of these Republics be returned thereto in freedom, and that free plebiscites and elections be held therein, under the supervision of the United Nations, to let the people, in freedom, make their own election and choice as to government.

Mr. Speaker, on behalf of the many thousands of Lithuanian Americans residing within my own 11th Illinois Congressional District, whom I am privileged to serve, and also for Americans of Lithuanian heritage all over this Nation who are commemorating this anniversary, I urge the early enactment of this legislation.

On this occasion, I want to assure the courageous Lithuanians that our Nation continues to support their just aspirations for freedom and independence, and I want to express the fervent hope that the goal of Lithuanian self-determination shall soon be realized.

THE PEACE CORPS AND LIGHT CAPITAL TECHNOLOGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland, (Mr. LONG) is recognized for 5 minutes.

Mr. LONG of Maryland. Mr. Speaker, helping the poor people of the world to help themselves is the principal goal of the U.S. foreign aid program. Through light capital technologies that will enable small farmers and rural craftsmen to create their own "sweat capital," we can initiate endogenous development among the hundreds of millions of small producers in the poor countries.

I should like to bring to my colleagues' attention a recent speech by Mary E. King, Deputy Director of ACTION, on the importance of appropriate technologies for involving the poor in their own development. In her speech, Ms. King recounts how Ecuadorean villagers heard of a new technology in use nearby—a methane generation plant producing cooking fuel and fertilizer—and how these villagers then asked a Peace Corps volunteer to help them build such a plant in their own village. This example illustrates the importance of providing poor people with information on existing technologies they can use and also demonstrates the eagerness of rural villagers to help themselves.

The existing network of 6,000 Peace Corps volunteers around the world could provide a vital link in a worldwide information and delivery system for light capital technologies. I hope my colleagues will take the time to read the speech which follows:

REMARKS BY MARY E. KING, DEPUTY DIRECTOR, ACTION AGENCY (PEACE CORPS), PARTNERS OF THE AMERICAS, SANTO DOMINGO, DOMINICAN REPUBLIC, SATURDAY, NOVEMBER 19, 1977

I am particularly pleased to address this meeting of the Partners of the Americas. The word "Partners" has a special significance for me, not simply because I am here representing the Peace Corps, another organization committed to the concept of partnership.

Indeed, we enjoy a special contractual agreement with the Partners to identify Volunteers to work in special education with mentally retarded, the blind and deaf. We have long worked together in agriculture, nutrition and health.

But the concept of partnership has meaning for me because of what I learned when I worked in the civil rights struggle in my country. The lessons are clear. Meaningful change comes about only when people work together in partnership, not as donors or recipients, but as equals, with an equal obligation to participate. The civil rights movement taught me that change cannot be bestowed from without nor can it be imposed from above; it can only be the result of the full participation of the people most affected.

So, too, in development.

It is clear that the principles relating to the involvement of people in their own development are universal: they apply to small communities, to nations, and to interaction between nations. Nothing can ultimately be substituted for the direct involvement of people, people who feel a deep sense of commitment to finding locally relevant solutions to local problems.

The Partners of the Americas and the Peace Corps have long held to these principles of participatory development. Today, as political leaders and development theoreticians increasingly come to these same conclusions, we have a special responsibility and a unique opportunity to serve as an example to the rest of the international community.

This leads me to my topic—"Appropriate Technology, the Key to Particpatory Development."

Technology can be defined as the application of scientific principles for the achievement of "Progress." But when we talk of Appropriate Technology, we are talking about an approach, an attitude, a way of looking at the nature of change—a strategy which leads to meaningful development through increased self-reliance at the local level.

Writing over 40 years ago, Mahatma Gandhi said that helping small-scale industries and otherwise strengthening local communities, "provides an outlet for the creative faculties and resourcefulness of the people . . . It may harness all the energy that at present runs to waste."

The Appropriate Technology approach to development taps this energy and talent, and is based on certain principles. Let me suggest these three principles for our thought and discussion:

1. Development begins at the community level and moves upward and outward to build nations; it cannot be imposed "from the top down"

2. The goal of development is self-sufficiency, not reliance on external resources with resulting dependency

3. No meaningful change can take place if people are not involved as full participants in the development and use of their own resources.

Generally, appropriate technology implies low cost, small-scale, labor-intensive solutions to local problems. Always, it implies understanding that undue reliance on finite resources will inevitably lead to social and economic dislocation, and that all solutions must be socially and culturally appropriate to the particular setting.

The means and processes brought to bear, then, are those that can be reproduced and continued locally, without the need for unrealistic amounts of outside capital or technical support. At their best, appropriate technologies should be replicable in other communities, but only when and where it makes sense in local terms. Basic to appropriate technology is the premise that each approach must be constantly evaluated and reevaluated to determine just how appro-

priate it is for a given time, place, culture and setting.

As you probably know, questions have been raised about the true intent and impact of appropriate technology. To some, appropriate technology is village-level "busy work," sidetracking people from addressing broader and more fundamental institutional and political reforms. Some see it as second-class "hand-me-down" technology—an inexpensive way for the "have" nations to keep the "have-nots" temporarily satisfied and quiescent while continuing to control the more modern means of production.

Much of this skepticism has been spawned from previous development schemes which in fact were heavy-handed and sometimes arrogant. Such efforts, regardless of intent, imposed Western models on cultures and places where such models were inappropriate or even destructive.

By focusing on the community level, appropriate technology can help a society gradually adjust to the necessary changes that development can cause while maintaining, preserving, even promoting local culture, values and identities. Previous development approaches too often, whether intentional or not, required the wholesale abandonment of cultural standards.

Appropriate technology seeks to work in harmony with the cultural traditions of the area. With its emphasis on limited scale, appropriate technology can serve as a buffer against the kind of bulldozer-mentality development which has abused so much of the world (including large parts of the United States, I might add).

Perhaps the best way to describe appropriate technology is by illustration. Let me briefly tell you about a situation I think you'll agree exemplifies development at its best—leading to the kind of locally-based progress and self-sufficiency we all want to see.

People in the small community of Ilumán in the Province of Imbabura, Ecuador, heard about a machine in nearby Araque which converted cattle manure into a gas for cooking and a fertilizer for the fields and gardens. They went to see this Araque Methane Gas and Fertilizer Plant and were given a demonstration of how it worked. It was, in their words, "maravilloso" and they began to discus how what they had seen could be usefully applied to their own village.

The Peace Corps became involved when these villagers sent a letter to the Volunteer who was working with the Araque project to ask for Peace Corps' help in establishing a similar methane digester operation in Ilumán. "We ask for your help," they wrote. "We will provide our total effort because we want to carry out this projected work for the benefit of our families."

In their letter, the farmers noted the need for better sanitation in their village. With the digester, manure would no longer be left along pathways or in other community places, but would be collected and converted into cooking gas. In addition, the resulting sludge would be an excellent fertilizer.

The villagers were very interested in the new source of fuel. To get firewood, they wrote, "we have to walk almost four hours to the hill of the hacienda, spend an hour to cut wood, and walk another four hours back to our house to cook with this wood, which lasts at most four days." Years ago, they could pick up the wood freely near their homes; now their land is denuded and bare, and they have to pay the owner of the hacienda for the privilege. "We are not satisfied living this way," they said.

Something else particularly attract the people of Ilumán. Cattle would be kept in a central stable in order to facilitate the collection of manure for the digester. Villagers had long wanted a stable, because theft of cattle was a major problem. Many were forced to guard their precious cattle in their own houses with their families during the night.

There were several basic, predictable gains which would result from the methane digester. Yet, there is more to the story. When the pipes for the methane gas were installed in the village, they were tested for leakage with water. The sight of clear running water in their houses prompted the village women to ask for a change in the plan. Our Volunteers are now working with them to convert the system so that it can deliver both water and gas, alternately, through the same pipes.

Three Peace Corps Volunteers served the people of Ilumán. But the actual work—and even more importantly, the enthusiasm and desire—was based in the local community itself. The villagers are committed to the very hard work of building the digester because they know the potential the system offers.

You know as well as I do that "biogas generators" like the one in Ilumán are not new. In various forms, such systems have been used for decades in India, China and elsewhere. To me, what is significant in this story is the development of human resources through the partnership of the Peace Corps Volunteers and the villagers—with appropriate technology. Although some of the skills and knowledge came from outsiders, there is no way that this technology could have been *imposed* from outside on that village.

No expert could have predicted that a group of villagers would decide to use an alternative energy technology because their cows were being stolen, or that others in their village would become interested in joining the project because a test for leaks in the methane pipes resulting in running water in the houses of participating families. And the project is successful not just because the Volunteers are committed but because the people themselves want it to be; they have invested their energy, their sweat, their hopes—themselves—to make it succeed.

Appropriate technology recognizes that true development takes place only when the people who are to benefit are truly involved and committed.

Development theoreticians and practitioners are increasingly realizing that the focus of appropriate technology should be village-level development—as an antidote to the failure of 25 years of large-scale, capital-intensive development. But the principles of appropriate technology are equally applicable at all levels of development; both in the United States and in other countries. As an example, let me cite the predicament in which the U.S. finds itself with its current health care system.

Hospitals in the U.S. have become classic examples of what happens when technology is applied for technology's sake, losing sight of people and their real needs

With massive expenditures of capital and professional energies, we in the United States have some of the most sophisticated medical training, records and facilities in the world. Yet at the same time, right in the nation's capital, the infant mortality rate of 29 per thousand live births in 1975 was higher than Taiwan's, which was 26. In that same year, the median income in Washington, D.C. was $9,583; in Taiwan it was $810. And life expectancy in Sri Lanka is higher than it is in Washington, D.C.

The hard fact is that in the U.S. something is wrong with our system of health. A single day in an American hospital can cost a patient several hundred dollars; care has become so costly that many don't even seek assistance when they need it.

We must, therefore, live with the contradiction of having highly sophisticated means to meet specialized problems and wholly inadequate, low-cost primary health care capabilities. The U.S. health system, in short, is inappropriate for large numbers of our nation's people. It has specialized and priced itself beyond reach of the basic needs of people in meeting the professional needs of practitioners and providers.

I believe that this situation can be turned around, especially if we're willing to learn from the experiences of other countries. Tanzania may be one example to study. President Julius Nyerere put it this way, "While other countries aim to reach the moon, we must aim for the time being to reach the village."

In 1972, over half of Tanzania's health budget went to hospital and high level care. By 1976, that number had dropped to 12%. The bulk of Tanzania's health budget last year was turned to more immediate primary care health needs.

The use of paraprofessionals, community based clinics, massive health immunization, and nutrition education programs—these are areas where the U.S. could learn a great deal from nations far ahead of us. The Peace Corps sends its volunteers to assist local communities. But equally important are the lessons they bring back to the United States.

The kind of volunteer exchange work in which you are involved has that same dual practical application. Texans going to work in their partner nation of Peru can go not only to assist Peruvians, but also to observe and study ways to improve basic social conditions and to foster crosscultural understanding. And visiting Peruvians can offer assistance and also absorb information in a similar fashion. Ecuador has a partner in Idaho. Maybe the people from the mountainous area of Iluman could teach a few things to people from the mountains of Idaho.

We are coming to realize just how much is left to develop right at home in the U.S., how much we have to learn from others. In many countries, for example, women have much higher professional status, have more to say about policy, more control of family and community life and have more of an integral role in community and village life than is true in parts of the United States. Where women's efforts and contributions are wasted or downgraded, everyone loses. Some of you can be an example and a model for us.

We truly are partners here in the Americas. Partners in need, partners in interests, partners in meeting the economic, social and political needs of all of our people.

The Partners of the Americas represent the pluralism of the Americas as we are entering a period of perhaps less formal but more intense cooperation. We need to consult closely with each other, to assist and learn from each other's work.

The development work of private volunteer groups such as the Partners of the Americas has been outstanding. And while development needs still far outstrip all current efforts, volunteer potential is boundless. If the people of the Americas can be involved—as volunteers—in meaningful, relevant work to improve the situation for all our people, together we can move to meet basic human needs, and meet them in technically and culturally appropriate ways.

Appropriate technology can be a thread tying our efforts and our roles together. The opportunity exists now to achieve real and positive gains by building on the desire and resources of the people for whom our development programs are designed.

Pablo Casals once found the Peace Corps exciting in this way:

It is new and it's always old. We have in a sense come full circle. We have come from the tyranny of the enormous, awesome discordant machine," he said, back to the realization that the beginning and end are people, that it is people who are important, not the machine; that it is people who account for growth, not just dollars or factories, and

above all that it is people who are the object of all our efforts.

It is that vision we must all retain. Otherwise all the programs, all the spending, all the efforts in which we're engaged lose their point and their meaning.

EXECUTIVE LEADERSHIP: THE KEY FACTOR IN DETERMINING THE SUCCESS OF THE WORLD HUNGER COMMISSION AND IN ADVANCING THE PRESIDENTIAL HUNGER INITIATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. NOLAN) is recognized for 5 minutes.

Mr. NOLAN. Mr. Speaker, on Friday, February 3, 1978, President Carter announced that he would sign an Executive order establishing the Commission on Domestic and International Hunger and Malnutrition as proposed by House Resolution 784 and Senate Resolution 271. The Commission's success, however, depends upon firm Executive leadership.

In order for the Commission to function as intended by Congress and in order to advance the President's own world hunger initiative, I recommend the following:

Appointment of a roving Ambassador on World Hunger by the President, with a Special Assistant to the President title as well to make clear that the Ambassador is the President's own envoy and liaison contact within the White House mechanisms on hunger issues at home and abroad, with duties including but not limited to:

Selecting personnel for and chairing the Commission on World Hunger, and to provide continued nongovernmental input into planning on hunger-related issues.

Representing the President in interagency preparations for and representation at major multilateral world hunger forums like the World Food Council, the Food and Agriculture Organization of the United Nations, the International Agricultural Development Fund, et cetera.

Chairing interagency policy mechanisms related to improved domestic and international food assistance operations, and their relationships to other economic development assistance.

Representing the President in speaking to the American people in mobilizing citizen support for greater initiatives in the broad economic assistance area involved in hunger problems, recognizing that mass support is needed to win congressional approval.

Assign the new Ambassador and Special Assistant to the President responsibility for developing, with all executive departments concerned, a new Executive order guiding division of responsibilities on administration of domestic and international food assistance and other hunger-related programs now cutting across agency lines

Designating an Ambassador on World Hunger firmly implants Presidential leadership on all such programs, gives the White House the opportunity to coordinate executive policy with the Commission on World Hunger, and responds to the intent of Congress while going even further to demonstrate the President's personal concern and leadership. The Ambasssador's role thus will complement and strengthen the work of the Commission.

Whatever else happens, some order must be brought out of the present administrative confusion concerning food assistance efforts in which the Department of Agriculture, the Department of Health, Education, and Welfare, the Agency for International Development, the Departments of State and Treasury, and the Office of Management and Budget are all involved. Instead of the normal interagency committee procedures, designation of a top public figure of the President's choice, acting in his name, will carry far more weight in bringing about administrative policy coordination without necessarily shifting actual operating responsibility from cabinet departments. The Ambassador's office could function with a minimal staff of a deputy knowledgeable about these programs, perhaps an economist and a writer detailed from departments concerned, and secretarial support.

There are ample precedents for establishing a special ambassadorial role out of the White House; the post and its functions would be similar to but broader in concept than the food for peace role filled at the White House by Senator GEORGE MCGOVERN back in the Kennedy era. It proved effective then in raising the level of concern with food aid, and in linking it more directly to the Presidency, and could do so again now.

As the author of House Resolution 784, it was always my intention that the Commission on World Hunger should perform a substantive rather than ornamental function. By having the President's Ambassador on World Hunger chair the Commission, its role will be significantly upgraded, giving it the scope of authority necessary to perform the task envisioned by Congress. Such executive leadership, carried out in consultation with Congress, will focus attention on developing a clearly defined and coordinated national food, hunger, and nutrition policy.

INTERVIEW WITH FORMER SPEAKER JOHN W. McCORMACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts, (Mr. O'NEILL) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, I would like to call to the attention of my colleagues an article in the December publication of Friar magazine. This magazine is published monthly by the Order of Friars Minor of New York.

In an interview with Barbara Craig of this magazine, our former Speaker, John McCormack, evaluates the Carter administration, the aftermath of Watergate and Vietnam, and discusses his busy daily schedule since retiring from the House of Representatives nearly 8 years ago. I have often travelled around Boston with the former Speaker and must say that his daily schedule is a difficult one even for people who are half his 85 years of age. Speaker McCormack is a very energetic, active member of the Boston community and has retained the same love of life, humor and compassion for this great Nation of ours that he always had when he served in the House of Representatives. While his whole life was that of a legislator, he has now found fulfilling opportunities to help in a very personal way the people whom he represented in the Congress for four decades.

I commend to the attention of my colleagues the following articles about the most well known and admired citizen of Boston, John W. McCormack.

JOHN W. MCCORMACK

"Hope for the best . . . be prepared for the worst."

(By Barbara Craig)

A strong hand is needed at the helm if the United States is to remain the world's greatest power, according to former Speaker of the House, the Honorable John W. McCormack.

"I believe Jimmy Carter will prove to be a great president," he said. "He has deep faith in the Almighty. We need such a man in the White House. Jimmy Carter has always had a good family life. He lives as he believes. We need a strong President, a deeply religious one. Jimmy Carter is such a man. It is my hope, and my prayer, he will get the United States back on the right track again. This is a great country. It can be so much greater."

The silver-haired Democrat, now 85, was interviewed in his office in the John W. McCormack Post Office Building in his home town of Boston, Massachusetts. McCormack, who retired in 1970 after 42 historic years in Congress, is still as alert and erect as he was during his years in Washington.

The retired Speaker was reluctant to discuss Richard Nixon, Watergate and related matters. "I don't believe in kicking a man when he's down," said the long time Democrat leader. "I'm not going to discuss Watergate. I do have my opinions, but I prefer to keep them to myself." As an afterthought, he added: "I did send Mrs. Nixon a letter at Christmas. I wanted her to know that her family still had John McCormack as a friend."

McCormack termed "isolationism" one of the great threats to the Nation's future. "No matter how we feel, we can't cut ourselves off from the rest of the world," he declared. "The wrong kind of public opinion can be a dangerous thing.

"Before Pearl Harbor, we had what I believe was a dangerous public opinion. I don't like to use the word dangerous, but I must. As a result, we were only able to squeeze the Selective Service bill through the House by one vote! Imagine what would have happened after Pearl Harbor, if the military draft was not operative. We would have lost thousands of lives while we were setting the machinery in motion. As it was, it took almost three years for this Nation to convert to full wartime production.

"Not too long ago, a wave of isolationism swept this country. It was after Vietnam. Isolationism was going full speed. Now I think that trend has stopped. I think the people are aware of our loss of direct influence in Southeast Asia. I think they are aware that, despite detente, the Soviet is still bent on world domination.

"Now I know the first law of survival is self preservation. And for that reason the idea of isolationism can be so contagious it is almost galloping. But we must oppose the idea. We can't lock ourselves away from our friends in other parts of the world. They need us, and we need them.

"Another thing. We cannot afford to live purely in a world of hope. We cannot just

hope for the best in the world situation. It is well to have our Government hope for the best, but we must always be prepared for the worst. We must remain strong, and always on the alert. We've got to be prepared before the fact. There will never be another after-the-fact opportunity. After Pearl Harbor in 1941, we were able to mend our wounds, and defeat our foes. We will never have another after-the-fact opportunity again."

The veteran legislator is extremely proud of the role he played in getting the Social Security Act on the books. "I led the fight in the Ways and Means Committee back in the thirties," he recalled. "I remember people called it Socialism. I used to stand up in Congress and say, 'You call it Socialism. I call it dynamic democracy in the industrial age!'

"I remember fighting to get the Bill through committee, and fighting for rapid advancement of this important legislation to what we called 'the top of the hill'. Many Bills made it to the top of the hill, but not over. And it was several years before we could get them back to the top again. The important thing was to get the Bill over the hill, so it could become law.

"In the beginning, there wasn't much money. But it was a start, and we were able to improve the Bill as the years went by. We had it on the book. That was the important first step. We were able to make improvements as the years went by. Don't worry. If Social Security runs into any financial problems in the future, Congress will pass the necessary legislation."

Despite his alleged retirement, McCormack has a daily schedule that would leave most younger men exhausted.

"I spend my days at the office," he revealed. "I get phone calls from all parts of the country. And there is usually a tremendous amount of mail. I bring home a dozen letters or so at night, and reply to them myself." In addition, the former Speaker is called upon to make countless appearances in the Boston area, where he is an authentic folk hero. During his half-century in Massachusetts and national politics, countless thousands of Bostonians have called upon John McCormack for help, and never once has he been known to fail them.

"I remember when I was only thirteen," stated the old time politician, "I was interested in politics even then. I used to love to attend the street corner rallies in South Boston where I grew up and listen to the politicians. Back then, the big issue was women's suffrage. Everybody was against it. There wasn't one politician who would speak out in favor of it.

"It was at those street corner rallies that I made up my mind about giving the women the right to vote. It was the first decision of a political nature I ever made. I would go home and look at my dear mother. I knew she was a citizen. It was only a question of marking a ballot. And I would say to myself, 'who dares tell me my mother can not vote as well as any man, and better than most?' "

When he was thirteen, McCormack's father, a bricklayer, died, and he became the man of the house. In addition to his mother, there were two younger brothers.

"I had a newspaper route," he recalled, "and that brought in some money. Still, I had to quit school. I never was able to attend high school, or college. I've always regretted that. I have great respect for the educated man. Education is one of the greatest investments any country can make.

"Still, if I had to make a choice between a man who was brilliant, but lacked common sense, and one who had a limited education and common sense, I'd take the latter man. In choosing my staff members, I always favored the man with common sense. It's a most important factor."

McCormack continued, "After I left school, I got a job with Western Union for a while, and then I went to work in a broker's office. I was making three dollars and fifty cents a week. Then William T. Way, a Boston lawyer, offered me a job for four dollars a week. I asked the broker if he could match it. He couldn't, so I went to work as an office boy in a law office. That extra fifty cents was the turning point in my life. The broker went out of business a year later. By that time, I had become interested in becoming a lawyer.

"Mr. Way, a wonderful man, encouraged me to read law, and he made all the books he had in his law library available to me. It seemed like a hopeless task, and the odds were against me. Still when I became discouraged, I would look at my dear wonderful mother and all my sadness would go away. I wanted to become a lawyer. I wanted her to be proud of me. I'm sorry to say she died five months before I passed the Massachusetts bar examination at the age of twenty-one."

For a while, McCormack served as a practicing attorney. But politics had captured his heart, and in 1917, he was elected to delegate to the Massachusetts Constitutional Convention. When World War I broke out, he resigned and enlisted in the Army. Later, he served in the Massachusetts House of Representatives from 1920 to 1922, and in the State Senate for three years.

In 1928, the voters of the 12th Congressional District sent the young politician to Congress. He remained there until his retirement in 1970. His memories are many.

"I remember back in 1945 when we were having coffee in a small room we called "The Board of Education,' " he stated, "Sam Rayburn was at the table with me. There were a couple of others too. Harry Truman was also at the table, and somebody came up and handed him a note. His face went white, I remember that. He stood up and said he had to go some place, and then left the room. Later that day, we learned that Franklin Delano Roosevelt had died, and Harry Truman had become President."

Then there was the matter of granting statehood to Alaska and Hawaii. "For some reason," he revealed, "Mr. Sam (Rayburn) felt that all states should be a part of the mainland of the United States. Lyndon had cleared the way in the Senate for statehood for Alaska and Hawaii. But Rayburn was slow in bringing the matter upon the floor of the House. He was Speaker at the time, and his approval was needed before a Bill could be introduced.

"Well, Lyndon and I kept talking to Sam. We kept at him. We didn't stop. And finally, after three or four weeks, Sam said, 'I will not stand in the way'. This meant he wasn't changing his position. He was still opposed to having states that were not part of the mainland. It also meant he wasn't going to prevent the statehood Bills from being introduced in the House. Later, statehood was granted to both Alaska and Hawaii."

With a smile, McCormack added "I think what won Sam over was that Lyndon and I kept telling him we should grant statehood while there was a Democratic Congress. We told him we didn't want the Republicans to get the credit later on."

There is one memory that still haunts the former Speaker. "It was during the early forties," he said. "At the time, I was majority leader. I was summoned to the White House by President Roosevelt along with Sam Rayburn and other key Congressional leaders. We knew it was going to be an important meeting because we were told that General George Marshall, Secretary of War Henry Stimson and other key administration officials were going to attend.

"At that meeting, President Rocsevelt told us he needed an appropriation of two billion dollars from Congress during the next two years. He said he needed it for a super weapon, but he did not reveal specific details.

"Rocsevelt said the appropriation would have to be kept a secret, because he did not want the Hitler government to know about it. He said the Hitler government was trying to build the same super weapon and if they did, the Germans would win the war overnight, no matter what we did on the battlefield. He said no matter how many victories we won, we'd lose the war if the Hitler government got the super weapon first.

"Naturally, we got Congress to appropriate the money. It was supposed to be funds for airplanes, ships and other war materials. But, with the White House's permission, we had to let members of the Subcommittee on Appropriations in on the secret.

"I remember that every night before I went to sleep I would say a prayer. I would pray to God that we got the super weapon first. Later, the atomic bomb was dropped, and the war ended. President Roosevelt told me we would lose a million men when we invaded Japan. The atomic bomb saved their lives. The weapons we have nowadays are much more powerful. They must never be used."

For fourteen months, after the assassination of John F. Kennedy, McCormack was the heir apparent to that Presidency in the event of the death of Lyndon B. Johnson. "Every night I said a prayer for Lyndon," he disclosed. "I prayed he would remain in good health, and that he would remain fit to perform the duties of President"

He paused for a moment, pondered what he had said, and then, with a trace of pride, added "I never wanted to be President, you know. My life was in the U.S. House of Representatives. I was a legislator. That was the life I loved."

CONGRESS SHOULD GO BACK TO LAST DECEMBER'S SOCIAL SECURITY BILL, AND DO IT RIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, last December the Congress enacted a major social security financing bill in response to the loss of revenue caused by the recent recession and to projections that raised the threat of imminent exhaustion of our social security trust fund accounts. The bill will raise payroll taxes for both employers and employees by a cumulative sum estimated as $185 billion in the 8 years 1979 through 1986. It also effects reductions in benefit levels estimated to cumulate to $25 billion by 1986.

The social security bill subjects the economy to excessive and needless fiscal bludgeoning. All of the three proposals that led up to its adoption would have been sharply restrictive, and the final bill was worse than any of the alternatives. The President's initial proposal would have had a net deflationary budget impact of $37 billion in 1986. The impact of the House and Senate passed versions would have been $40 and $42 billion respectively. However, the version that emerged from conference and was eventually signed into law adopted higher tax rates, and larger benefit reductions, than any of the other proposals and will take a massive $47 billion out of the economy

in 1986. The staff of the Joint Economic Committee estimates that, unless offset by other policies, this bill will lower real GNP by about $60 billion in 1986 and it will raise the unemployment rate by close to 3 percent.

Although President Carter hailed passage of the bill as an outstanding legislative accomplishment, he could hardly have been thrilled that his two innovative proposals—to infuse general revenue into social security during times of high unemployment and to tax employers more heavily than employees—were both rejected by the Congress.

In my opinion, this legislation, which follows the traditional pattern of financing social security by means of payroll taxes split evenly between employers and employees, is an unmitigated disaster; I fail to see how anyone can be pleased with it.

As a result of this bill workers will be burdened with far higher regressive payroll taxes. Employers will have to pay higher payroll taxes that will raise labor costs, force them to raise prices, and cause them to lose sales and thus force them to curtail production and employment. Economists are appalled that Congress has learned so little that it would choose to raise taxes when unemployment is still above 6 percent. And those economists who have made special studies of payroll taxation view the new legislation as a serious threat to growth and price stability for the indefinite future.

I hope my fellow Members of Congress are as nervous about what we have done as I am. I am somewhat relieved that for the first time in the history of social security legislation we appear to appreciate the need to compensate for the adverse economic effects of the measure by granting tax relief elsewhere. In addition, the final bill wisely added no new taxes until 1979 in recognition of the circumstance that the recovery from the recession remains fragile and incomplete. What is missing is recognition that a reduction in income taxes does not fully offset the economic harm done by an equivalent increase in payroll taxes, and that such a policy of payroll tax offset by means of income tax reduction therefore amounts to a sort of "Gresham's Law" of taxation in which bad taxes are steadily replacing good taxes.

Why are payroll taxes so harmful?

The part paid by employees is a proportional tax on wages up to a maximum taxable base. Labor income in excess of the base is not taxed at all, nor is nonlabor income such as rents, royalties, interest, and dividends. The social security tax is therefore a highly regressive and unfair form of taxation.

To raise these taxes while lowering the progressive income tax causes the net progressivity of our overall tax system to be reduced. Those who approve of this sort of assault on the tax system argue that the adverse equity effects are illusory because higher social security contributions will also lead to higher benefits. But this is cold comfort for the low-income worker who pays the heavy taxes and has to wait 20 years or more before retirement permits the inequities he has suffered to be corrected.

Raising the employer portion of the social security tax has very adverse economic consequences. Although the initial impact of an increase in the employer's contribution may be to reduce profits, ultimately the tax increase is either shifted backward and reflected in a slower rate of wage increase or it is shifted forward and reflected in higher prices.

In the former case the tax increase simply acts as a regressive form of income tax. In the latter case—which many economists feel to be the more likely—the increased labor cost will be passed forward into higher prices. Because this reduces consumer real income, real consumer outlays will decline and production and employment will therefore fall. In addition, the higher prices will lower the real quantity of money so that unless the Fed steps up the rate of nominal monetary growth—which it is unlikely to do in the face of more inflation—interest rates will rise. This will curtail expenditures on home construction and slow the growth of capital spending as well. These developments, of course, will further reduce production and employment.

Simulation studies conducted by the Senate Budget Committee and the Joint Economic Committee staffs show that a fully forward shifted employer payroll tax increase may reduce employment by twice as much as an equivalent yield increase in income tax, and the payroll tax will cause the rate of inflation to be relatively higher as well. In view of this, a more destructive way to combat stagflation than the raising of payroll taxes can scarcely be imagined.

The Gresham's law of taxation to which I referred earlier has been underway for many years. In 1960 contributions for social insurance came to 18.3 percent of total Federal revenue. By 1965 they had risen to 20 percent, by 1970 to 26 percent, and by 1976 to 32 percent. According to current forecasts social insurance taxes will rise to 33 percent of Federal revenue in 1979. Therefore, whereas social insurance taxes were less than one-fifth of Federal revenue in 1960, they will amount to one-third or more less than 20 years later. Meanwhile, the share of personal income taxes has remained roughly constant at about 45 percent, while the share of corporate income taxes has dropped sharply from 22 percent in 1960 to 17 percent in 1976.

Even if there were no net harm done by replacing income taxes by payroll taxes, it is simply silly for Congress to go through the painful process of producing a social security financing bill only to have to go through another arduous legislative round to undo the economic damage. It is time to stop this time-consuming charade and recognize that the only sensible approach to the financing of social insurance is through resort to the general fund of the Treasury. This would open the full financial resources of the Government to social security and unemployment compensation and would enable us to stop raising economically harmful payroll taxes. Perhaps most important, the borrowing power of the Treasury would be available so that resort to the general fund would permit us to avoid raising taxes during periods of economic slack when tax increases of any sort are harmful.

Those who oppose this approach claim that general fund assistance would be viewed as converting social security into a "welfare" program and that such a step would therefore be opposed by the elderly who feel they have earned their retirement benefits. It is, however, noteworthy that both the American Association of Retired Persons and the National Council of Senior Citizens have told the staff of the JEC that they do not subscribe to this view. Indeed, these organizations have expressed their fear that continued increases in the payroll tax will create resentment on the part of today's workers, a resentment that could provoke a taxpayers' revolt and rupture the intergenerational income transfer process that is effected by the social security program. These groups know that today's retired person is supported by the taxes paid by today's workers, just as his taxes previously paid for the benefits of persons who retired while he was still working.

The most serious obstacle to the use of general fund assistance comes from Congress' lack of faith in itself. If the general fund spigot is turned on, runs the argument, we will find it too tempting to raise benefits in election years. The truth is that Congress has shown little sign of embarking on spending binges since the inception of the congressional budget process in fiscal year 1976, and that, if anything, our fiscal policies have been conservative.

Further, the exceedingly heavy and rising cost of social security will surely make us very leary of any election year benefit increases. At all events, the safest way to avoid this problem is to adopt the President's proposal to trigger general fund infusion automatically by linking them to the unemployment rate. That way Congress would still have to find additional funds if it chooses to change benefit levels.

The social security system is already more heavily dependent on general revenues than some Members of Congress care to admit. The unshifted part of the employer's tax is a business cost which reduces profits and the business income tax liabilities of firms. Also, the earned income credit was passed in 1974 with the understanding that its purpose was to rebate the social security taxes paid by low-income workers. Finally, several of the recent proposals considered by Congress involved the use of general fund assistance. Specifically:

The administration proposed that between 1978 and 1980 funds be transferred from the general fund to social security when the unemployment rate exceeds 7 percent.

The House relied on equal payroll tax increases for both employee and employers. In order to maintain this parity

of employer and employee contributions and still generate sufficient revenue during recessions, the bill would have authorized Social Security to borrow general revenues if the assets of the social security trust funds drop below 25 percent of the preceding year's benefits.

The Senate bill adopted the President's proposal to raise the wage base for employers above that for employees. This measure was supported by the Finance Committee because no additional pension entitlements would be created, and also because it was thought that employers could deduct these higher payroll taxes from their taxable business income.

The realization by nonprofit institutions and State and local governments that they would not be able to charge a fraction of higher social security taxes against business income taxes produced complaints that prompted Senator DANFORTH to introduce two amendments to the Senate bill. The first amendment provided State and local government and nonprofit institutions with a 10-percent reduction in their social security tax liabilities. The second amendment provided that the revenue losses that result from the first amendment would be made up by transfers from the general fund. Ironically, from 1979 through 1986 the Senate bill would have transferred $13.5 billion of general revenues, about the same amount as proposed by the administration and previously rejected by the Senate.

I am led to the conclusion that we are only deceiving ourselves if we think we can preserve the fiction that social security is and should be financed from strictly earmarked payroll taxes. The payroll tax issue will not go away. The unemployment insurance system is currently in a financial shambles, and Congress will have to deal with that problem before long. Furthermore, a serious slowdown in the economy or unexpectedly adverse demographic or productivity trends would put social security right back into financial difficulty.

Because of the long-term demographic shift toward an older population, increased per capita contributions by the working population are necessary to support the retired. But further payroll tax rate and base increases will bring in relatively fewer dollars from relatively fewer, and increasingly burdened, employers and employees. Resorting to general revenues will be essential if our tax system is not to become oppressively inequitable and harmful to economic growth and price stability.

The payroll tax alternative is bound to become less and less acceptable to the present generation of workers. As James N. Morgan, an expert on social security, has said:

Simply raising payroll taxes on current workers will surely create a cumulative and massive problem for the future. When those generations get to retirement age they can appropriately ask why, since they paid much higher payroll taxes, they don't get proportionately higher benefits. We could postpone the showdown a while by raising payroll taxes again, but the problem would recur with the next generation.

Congress is kidding itself if it thinks it has solved the social security problem. It is time for a change. I suggest we undo the damage we have done by repealing the 1977 social security bill except for its decoupling provisions. Let us go back to the drawing board for a sensible solution. It is not as if there were none in sight.

H.R. 9718—CONSUMER REPRESENTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 10 minutes.

Mr. METCALFE. Mr. Speaker, on January 31, 1978, the chairman and three members of the Consumer Protection and Finance Subcommittee of the Interstate and Foreign Commerce Committee circulated a "Dear Colleague" letter in support of H.R. 9718, the Consumer Protection Representation and Reorganization Act.

Because some of my colleagues may not have seen this letter, I am inserting it in the RECORD at this point.

SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE, COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., January 31, 1978.

DEAR COLLEAGUE: As members of the Consumer Protection Subcommittee we have a special interest in legislation to create an Office of Consumer Representation. Since our Subcommittee has legislative and oversight jurisdiction over independent regulatory agencies, we have had an opportunity to observe how important it is that consumers be actively represented during the agency decision-making process.

Agency commissioners, administrators, and administrative law judges make daily decisions affecting the lives of consumers. These decisions are made after the agency holds informal and adjudicatory hearings designed to give interested consumers and businesses and opportunity to be heard on the proposed agency action. Unfortunately, all too often the consumer goes unrepresented in these hearings. This means that the decision maker is denied the benefit of hearing vigorous debate on the issue by representatives of both sides. As a consequence, the quality of the agency's decision suffers and the public loses.

Data compiled by the Senate Governmental Affairs Committee show how one-sided participation in agency rulemaking is now. According to the Committee's report "Public Participation in Federal Regulatory Agency Proceedings":

"At the FTC there were 843 industry submissions vs. 130 consumer group submissions for a trade regulation rule on the hearing aid industry.

"In an FTC proceeding on warranty terms, there were 346 industry submissions and 77 trade association submissions vs. 21 consumer group submissions.

"In the FTC proceeding on care labeling of textile products there were 172 industry submissions vs. 60 public interest group submissions."

The Office of Consumer Representation would correct this problem by serving as a legal advocate for the consumer viewpoint before the other agencies. The regulatory agencies will still be the ultimate decision-makers, but OCR will assure that the consumer viewpoint will be adequately represented. This means there will be a more balanced hearing record and ultimately more balanced agency decisions.

We urge you to vote for H.R. 9718 as a sensible step toward increasing consumer representation in the federal regulatory process.

Sincerely,

BOB ECKHARDT,
Chairman,
RALPH H. METCALFE,
CHARLES J. CARNEY,
JAMES H. SCHEUER.

LEGISLATION TO CREATE CENTRAL LIQUIDITY FACILITY ADMINISTERED BY NATIONAL CREDIT UNION ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 30 minutes.

Mr. ST GERMAIN. Mr. Speaker, today I am joining with my colleague, HENRY S. REUSS, chairman of the House Committee on Banking, Finance and Urban Affairs, in the introduction of legislation to create a central liquidity facility (CLF) administered by the National Credit Union Administration.

For nearly five decades the credit union movement in the United States has attempted to create effective vehicles to meet its various liquidity requirements. Central liquidity legislation of one kind or another has been introduced in each of the last 20 Congresses. The more recent efforts were a result of our beloved and distinguished former colleague, Chairman Wright Patman. These bills all failed, principally because the credit union movement and its regulatory agencies could not agree upon the specific structure and functions of such a CLF.

This legislation addresses the problems of the past and is a result of many months of discussion, study, and drafting by all elements of the credit union community. The National Credit Union Administration, the National Association of Federal Credit Unions, the Credit Union National Association have worked very closely in the drafting of this legislation and are in agreement with the purpose, operation, and control of the CLF proposed by this legislation. This break from the past periods of disagreement and lack of unanimity in the credit union community is most heartening. A CLF for credit unions is no longer a luxury; it is an absolute necessity.

With the near unanimous passage of Public Law 95–22, credit unions were granted broad new lending authorities. These new powers, such as long-term mortgage lending, self-replenishing lines of credit, removal of the secured and unsecured loan limits, a broad grant of leeway investment authority, and certificates of deposit at various rates and terms, can potentially impair the liquidity needs of credit unions. In our actions earlier in this Congress, credit unions were provided with the ability to enhance their services to their ever-increasing membership, and, therefore, provide the financial consumers of this country with greater saving and lending alternatives. We believe the CLF will enable credit unions to offer their new

services and at the same time insure that these new powers will enhance and not detract from the basic financial services currently provided by credit unions.

The traditional sources of external liquidity for credit unions have been commercial banks, central credit unions, and other credit unions. In many cases, the reliability of these sources is easily threatened, as was the case during the more recent credit crunch periods when competition for funds was intense. At such times, commercial banks, credit unions, and all other financial institutions suffer the same liquidity pressures. In the past, the existing system of corporate credit unions has served the credit union industry well. These corporate credit unions, while relatively new to the movement, have, in most instances, been able to provide the necessary liquidity through their local, regional, and national network.

However, corporate central credit unions are vulnerable to seasonal fluctuations in share and loan demands, as are other credit unions. When money is tight, credit unions are forced to call their loans to centrals or withdraw their share investments. Large deposits at centrals tend to be "hot money," moving elsewhere when most needed by other credit unions. Compounding this vulnerability to seasonal fluctuations in share and loan demands and liquidity needs are the new powers which this Congress granted to Federal credit unions. If corporate central credit unions are to continue to provide the excellent service they have in the past, they must no longer be subject to seasonal or short-term credit adjustments or to protracted adjustments in the event of unusual or emergency circumstances.

The CLF, as proposed by this legislation, would offer credit unions a reliable source of liquidity, which will greatly enhance the existing system of corporate central credit unions. If the existing system of corporate central credit unions fail to supply the capital needed at reasonable rates, credit unions will be able to call upon the CLF for its needs. The CLF would have at its disposal a broad spectrum of approaches—short- and long-term advances, discounting of notes, national interlending, and most importantly, the open market. The mere existence of a CLF as an alternative source of liquidity will greatly enhance the credit unions' bargaining position in dealing with local money sources. If the local institutions are unable or unwilling to accommodate the credit union at reasonable rates, credit unions will then be able to turn to a greatly enhanced system of corporate centrals for the necessary funds. All U.S. financial institutions, except credit unions, have liquidity sources available to them, and the knowledge of these liquidity sources often impells local institutions to provide maximum accommodation.

Most importantly, it is not the intention of this legislation to create a new Federal network requiring a huge bureaucracy, overwhelming amounts of paperwork, and great sums of tax dollars. Quite to the contrary, the CLF as proposed by Chairman REUSS and myself, will, among other things, recognize and utilize the existing private system of Federal and State corporate central credit unions as the operational agents of the CLF. By utilizing this private system, the CLF will avoid costly duplication and will greatly enhance the availability of a reliable and stable source of liquidity for all of its members.

Credit unions are an integral element of our financial system. Their growth and service were certainly recognized in the passage of Public Law 95–22. We must not allow the new powers, which can and will impair liquidity, to alter the excellent services credit unions have provided in the past. We must provide credit unions with a central liquidity facility. For many years, credit union competitors have had such sources of liquidity administered by the Federal Reserve Board and the Federal Home Loan Bank Board. I urge all of my colleagues to join with Chairman REUSS and myself in the introduction, support, and passage of a central liquidity facility administered by the National Credit Union Administration.

A copy of the bill, as well as a section-by-section analysis, are attached for inclusion in the RECORD.

NATIONAL CREDIT UNION CENTRAL LIQUIDITY FACILITY ACT

SECTION-BY-SECTION ANALYSIS

Section 101—Amends the Federal Credit Union Act to add a new subchapter providing for a Central Liquidity Facility (CLF).

Section 301—States principal purpose of CLF is to improve financial stability by meeting credit union liquidity needs.

Section 302—Defines scope of credit union "liquidity needs" which include emergency, seasonal, and protracted needs for credit assistance.

Section 303—Establishes a Central Liquidity Facility within NCUA and under NCUA management.

Section 304—Sets forth requirements for CLF membership. Credit Unions primarily serving natural persons may be Regular members by purchasing CLF stock. Credit unions primarily serving other credit unions may be Agent members by purchasing CLF stock and agreeing to submit to NCUA regulations and supervision, and to perform intermediary functions on behalf of the CLF. The minimum stock purchase for both Regular and Agent members is one-half of one percent of the paid-in capital and surplus of the credit union itself or the credit unions it serves.

Section 305—Provides the CLF authority to issue capital stock and requires that at least one-half of the stock a credit union subscribes to, in order to become a CLF member, must be paid for at the time of membership. The remainder may be held in call by the member and must be invested in assets acceptable to NCUA.

Section 306—Authorizes a member credit union to apply to the CLF for extensions of credit to meet its liquidity needs, and enables the CLF to extend the needed credit on whatever terms and conditions are appropriate. The Treasury Department is also authorized to lend to the CLF up to $500 million if the CLF does not have sufficient funds to meet the credit union liquidity needs.

Section 307—Authorizes the NCUA Administrator, on behalf of the CLF, to manage the CLF, to promulgate regulations needed to operate the CLF, and to borrow from outside sources with or without a U.S. Government guarantee so long as U.S. guaranteed borrowings do not exceed 20 times the subscribed capital stock and surplus of the CLF. The Administrator may also borrow up to $500 thousand from the NCUA Share Insurance Fund to cover CLF start-up expenses and is authorized to represent the CLF in court, hire additional staff, and enter into contracts.

Section 308—Authorizes the GAO to conduct full and unrestricted audits of the CLF.

Section 309—Mandates that an annual review of CLF activities be made a part of the NCUA annual report.

Section 102—Provides for conforming amendments enabling Federal credit unions to purchase CLF stock and to borrow freely from the CLF.

Section 103—Amends 18 U.S.C. 709, to reserve names and initials relating to the "National Credit Union Administration," the "Central Liquidity Facility," and the "Share Insurance Fund," for exclusive use of NCUA, in order to minimize the possibility of fraudulent use of the names and initials.

AMTRAK'S FINE TRAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 5 minutes.

Mr. STAGGERS. Mr. Speaker, needless to say, recent emergencies caused by severe winter storms have made all of us aware of travel difficulties. It is my sincere feeling the necessity for having adequate rail passenger service has been reemphasized.

I would like to call to the attention of my colleagues the article "Amtrak's Fine Train" in the Martinsburg Journal, Martinsburg, W. Va., of January 21, 1978, by Paul B. Martin, editor. I have known him for over 30 years, and Mr. Martin runs one of the finest newspapers in West Virginia. I do respect his judgment.

The article praises the service and convenience of Amtrak's "Shenandoah," which serves passengers between Washington, D.C., and Cincinnati, Ohio. The editorial is representative of numerous comments I have heard about this service.

"Buck" Martin's firsthand experience is great evidence, I believe, that passenger service on Amtrak does seem to be improving across the Nation. I feel that the preservation of rail service must continue to be essential as part of our national transportation system. The editorial follows:

[From the Martinsburg (W. Va.) Journal, Jan. 21, 1978]

AMTRAK'S FINE TRAIN

A couple of weeks ago we had some comments to make about Amtrak and our personal problems in arranging for a ticket to travel from Martinsburg to Cincinnati and back.

Well, we finally got our ticket and took our ride and we think Amtrak is deserving of a considerable amount of praise for the way The Shenandoah, the train from Washington to Cincinnati and back, is operated.

It has only two cars plus locomotive but the cars are comfortable, with reclining seats. The cars are also clean, the personnel is friendly and courteous and helpful and riding on the rails is easy. The train also runs

on time. There are clean restrooms and even special dressing rooms. One car is reserved for non-smokers and the other for smokers, so everyone should be happy. There is also a cafe which serves sandwiches, breakfasts and all types of drinks (alcoholic and non-alcoholic).

The trip from Martinsburg to Cincinnati takes 13 hours. The round trip fare is only $48, much cheaper than driving an automobile or flying in an airplane. Perhaps the nicest part of the trip, particularly in midwinter, is that all you have to do is get to the station, board the train and sit back and relax, without a worry in the world concerning the weather. In fact, coming back from Cincinnati we were joined by some folks whose commercial plane had been grounded by weather.

We congratulate Amtrak on its fine train, The Shenandoah, and recommend it highly to anyone looking for convenient and comfortable and economic means of travel.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, I call to the attention of my colleagues three communications from the Export-Import Bank which have been referred to me as chairman of the Banking Subcommittee on International Trade, Investment, and Monetary Policy. The communications notify the Congress of three proposed Eximbank transactions to assist in the construction and operation of nuclear powerplants in the Republic of China, Brazil, and Spain.

Section 2(b)(3)(iii) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees for nuclear-related exports at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In the first transaction, the Bank proposes to extend an additional loan of $23,400,000 to Brazil's electric power company to assist in the purchase of U.S. goods and services to be used in modification and completion of that country's first nuclear powerplant. Eximbank has previously made loans and guarantees totaling $163,920,000 in conjunction with this project. The new credit proposed by Eximbank will cover 60 percent of the total cost of additional U.S. goods and services for the project. The loan will bear interest at the rate of 8¾ percent per annum and will be repayable over a 12-year period commencing June 30, 1979.

In the second transaction, the Bank proposes to extend a loan of $106,800,000 to the Republic of China's power company to assist in the purchase of U.S. uranium ore and its conversion, enrichment, and fabrication for use as fuel cores in the fifth and sixth nuclear powerplants built on Taiwan. Eximbank previously made loans and guarantees totaling $297,000,000 in conjunction with the financing of these two nuclear powerplants. The new credit proposed by Eximbank will cover 75 percent of the total cost of additional U.S. goods and services for the project. The loan will bear interest at the rate of 8¼ percent per annum and will be repayable over a 4-year period commencing October 31, 1984.

In the third transaction, the Bank proposes to extend a loan of $17,470,050 to finance the increased U.S. costs being incurred by Spain's electric utility companies in the construction of a nuclear powerplant. Eximbank previously authorized financial support totaling $114,412,200 in conjunction with the financing of the nuclear powerplant. The new credit proposed by Eximbank will cover 85 percent of the total costs of additional U.S. goods and services for the project. The loan will bear interest at the rate of 8¾ percent per annum and will be repayable over a 3-year period commencing July 10, 1981.

I am inserting the letters from the Eximbank pertaining to these transactions at this point in the RECORD and I welcome any comments any of my colleagues may wish to offer concerning these proposed loans:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., January 19, 1978.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction:

A. DESCRIPTION OF TRANSACTION

1. Background and purposes

In late 1971, Eximbank authorized financial assistance of $138 million in the form of a credit of $69 million and a guarantee of commercial loans in an equal amount to Furnas Centrais Eletricas S.A. (FURNAS) to facilitate financing the U.S. costs for the Angra dos Reis Nuclear Power Plant, Brazil's first nuclear power plant, located on the coast between Rio de Janeiro and Sao Paulo. In May 1975, Eximbank increased the amount of its direct loan by $17.28 million and provided an additional guarantee of private bank loans of $8.64 million, for total Eximbank support of $163.92 million for this project. FURNAS has requested and Eximbank is prepared to provide an additional direct credit of $23.4 million.

FURNAS requires the additional financing for two primary reasons. First, in furtherance of the Government of Brazil's policy generally to conform to nuclear power plant guidelines reommended by the U.S. Nuclear Regulatory Commission (NRC), FURNAS has agreed to have its principal supplier, Westinghouse, revise its equipment supply and engineering services contract to allow for implementation of the latest NRC-recommended technical design criteria and safety standards. This policy is requiring ongoing reexamination and modification of the original designs of major plant components, together with the acquisition of additional plant-related equipment at a U.S. cost of approximately $16.0 million. These additional cost factors are common in current nuclear power plant projects as design technology of these plants continues to evolve. The equipment needed pursuant to plant modification includes components for upgraded piping systems, additional reactor components, a reactivity computer, additional controls, radiation protection equipment, laboratory equipment, security equipment and upgraded components included in many of the plant systems.

Second, FURNAS has requested Westinghouse to assume additional responsibilities in managing the project and coordinating the construction of the plant. FURNAS itself had performed this role but has now assigned it to Westinghouse, its major equipment and service contractor. These additional services will be performed by Westinghouse at a cost of approximately $14.2 million

In addition, FURNAS needs $5.0 million for the purchase of additional spare parts, $1.1 million for additional construction inspection services and $2.7 million to cover price escalation of equipment.

Eximbank considers the reasons for and the amount of the increased U.S. costs to be reasonable and necessary to complete this plant which is now scheduled for 1979.

2. Executive branch approval

In accordance with established procedures, Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. State's Bureau of Oceans and International Environmental and Scientific Affairs advised that the Executive Branch has no objection to Eximbank's proceeding with this transaction. According to State, on the basis of its review of the proposed loan, it was decided that "U.S. non-proliferation objectives would best be served by our continued cooperation with Brazil on the Angra I project" and therefore the Executive Branch "recommended to the Nuclear Regulatory Commission that the export license for the initial fuel core of Angra I be issued." State noted further that "these decisions are consistent with and reinforce our stated policy of seeking more stringent safeguards for nuclear energy without impairing the significant contribution nuclear projects such as Angra I will make toward meeting the urgent and legitimate energy needs of Brazil as well as other countries."

3. Identity of the parties

FURNAS is the largest subsidiary of Eletrobras, which is the Federal Government of Brazil's electric power holding company. Since 1973 FURNAS has held the status of a regional power company responsible for the supply of power to Brazil's southeastern region and for the construction of all power developments and high voltage transmission systems of regional interest. FURNAS sells its power under long-term contracts to private and government-owned utilities.

The Federative Republic of Brazil will issue to Eximbank an unconditional guarantee for repayment of the Eximbank direct credit.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank direct credit of $23.4 million will facilitate the export of $39 million of U.S. goods and services. Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services. This transaction will have a favorable impact on employment for substantial numbers of United States workers, as well as on the United States balance of trade. Westinghouse has advised Eximbank that this sale will result in 2,984,000 manhours, which is equivalent to 1,435 man-years directly created. The majority of equipment and services will be supplied from Philadelphia, Pittsburgh and New York where the unemployment rates in September, 1977 were 6.9%, 6.1% and 8.5%, respectively. None of the goods to be exported are in short supply in the United States.

2. The financing plan

The total cost of United States goods and services to be purchased by FURNAS is $39 million which will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$5,850,000	15
Eximbank credit	23,400,000	60
Private loans not guaranteed by Eximbank	9,750,000	25
Total	39,000,000	100

(a) Eximbank Charges.—The Eximbank Credit will bear interest at 8¾% per annum, payable semiannually. A commitment fee of 0.5% per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) The Eximbank credit and private loans, which total $33,150,000, will be repaid by the borrower in 24 semiannual installments beginning on June 30, 1979. Under this schedule, the first 7 installments and a portion of the 8th installment will be applied to repayment of the private loans and a portion of the 8th and all of the last 16 installments will be applied to repayment of the Eximbank direct credit.

Sincerely,

JOHN L. MOORE,
President and Chairman.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., January 31, 1978.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the House of Representatives with respect to the following transaction involving U.S. exports to the Republic of China.

A. DESCRIPTION OF TRANSACTION

1. Background and purpose

In mid-1974, Eximbank authorized financial assistance of $297 million in the form of a direct credit of $198 million and a guarantee of commercial loans in the amount of $198 million and a guarantee of commercial loans in the amount of $99 million to Taiwan Power Company (Taipower) to facilitate financing the U.S. costs of equipment, materials and services for the Maanshan Nuclear Power Plants No. 1 and No. 2 on the island of Taiwan. These plants were the fifth and sixth nuclear power projects in Taiwan. At the time no financial assistance was requested for the initial fuel core.

Taipower now requests financial assistance for the purchase in the United States of the initial fuel cores for the two Maanshan Power Plants and Eximbank is prepared to extend a direct credit of $106.8 million to Taipower for financing the purchase and export of uranium ore and its conversion, enrichment and fabrication for the initial fuel cores. Westinghouse Electric Corporation will be responsible for yellow-cake procurement and coordination of conversion and enrichment services, and will provide the fabrication services. The U.S. Department of Energy will provide the enrichment services. The total cost of the uranium and services is estimated to be $194 million which will be provided by the Eximbank direct credit, $48.5 million in private loans unguaranteed by Eximbank and a cash payment of $38.8 million.

2. Identity of the parties

Taipower, organized in 1946, is a corporation 95% owned by the Republic of China and its political subdivisions. It has the sole responsibility for the supply of electricity throughout the island of Taiwan. Taipower is one of the largest users of Eximbank's programs for its U.S. purchases and has maintained an excellent credit relationship with Eximbank.

The Ministry of Finance of the Republic of China will issue to Eximbank an unconditional, full faith and credit guarantee for repayment of the Eximbank direct credit.

3. Executive branch approval

In accordance with established procedures, Eximbank has requested through the Department of State the views of the Executive Branch on the proposed transaction. The Department of State's Bureau of Oceans and International Environment and Scientific Affairs has no objection to Eximbank's proceeding with this transaction. The Department of Energy advises that there is no actual or potential shortage of uranium ore in the United States; the enrichment services are covered by an existing contract with that Department; and there is more than sufficient capacity available for the fuel fabrication by U.S. firms.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank direct credit of $106.8 million will facilitate the export of $194 million of U.S. goods and services.

Eximbank perceives no adverse impact on the U.S. economy of these exports. This transaction will have a favorable impact on employment for substantial numbers of U.S. workers, as well as on the United States balance of trade. Westinghouse has advised Eximbank that its part of the transaction will result in 1,393 man-years of jobs created. The bulk of the Westinghouse work will be supplied from Pittsburgh, Pennsylvania and Columbia, South Carolina, which had unemployment rates of 6.9 and 4.7 percent respectively as of June 30, 1977. None of the goods or services to be exported are in short supply in the United States. While no actual foreign competition has been cited for this transaction, yellow-cake is available in South Africa, Canada and Australia; some enrichment facilities are available in Europe; and fabrication capabilities exist in many of the industrial nations.

2. The Financing plan

The total cost of United States goods and services for the initial fuel cores is $194,126,000, which will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$38,825,200	20.0
Eximbank credit	106,769,300	55.0
Private loans not guaranteed by Eximbank	48,531,500	25.0
Total	194,126,000	100.0

(a) Eximbank charges.—The Eximbank direct credit will bear interest at the rate of 8.25 percent per annum, payable semiannually. A commitment fee of 0.5 percent per annum also will be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms.—The Eximbank direct credit and private loans, which total $155,300,800, will be repaid by the Borrowers in 6 semiannual installments (i) beginning October 31, 1984 for disbursements for the Maanshan No. 1 plant; and (ii) beginning July 31, 1985 for disbursements for the Maanshan No. 2 plant. Under the first repayment schedule, the first 3 installments will be applied to repay related disbursements under the private loans; and all the last 3 installments will be applied to repay related disbursements under the Eximbank direct credit. Under the second repayment schedule a portion of the first installment will be applied to repay related disbursements under the private loans and the balance of this schedule will be applied to repay related disbursements under the Eximbank direct credit.

Sincerely,

JOHN L. MOORE,
President and Chairman.

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C., February 1, 1978.

The SPEAKER OF THE HOUSE OF
REPRESENTATIVES,
The Speaker's Room, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Spain.

A. DESCRIPTION OF TRANSACTION

1. Background and purpose

In April, 1973, Eximbank authorized financial support in the form of a direct loan of $49,033,800, a guarante of private bank loans of $49,033,800 and a local cost guarantee of offshore loans of $16,344,600 to four Spanish electric utilities—Fuerzas Electricas de Cataluna, S.A. (FECSA), Empresa Nacional Hidroelectrica del Ribagorzana, S.A. (ENHER), Hidroelectrica de Cataluna, S.A. (HEC) and Hidroelectrica del Segre, S.A. (SEGRE) (Borrowers) for the ASCO II nuclear power plant, located on the Ebro River in the Province of Tarragona, 135 KM West of Barcelona. This plant is the companion plant to the contiguous ASCO I nuclear plant. The Borrowers have requested, and Eximbank is prepared to provide, an additional direct loan of $17,470,050 to finance the increased U.S. costs being incurred by the Borrowers for the ASCO II project.

The Borrowers require the additional financing primarily for two reasons. First, to conform to nuclear power plant guidelines recommended by the U.S. Nuclear Regulatory Commission (NRC), the Borrowers have agreed to have their principal supplier, Westinghouse, upgrade its equipment supply and safeguard systems to permit implementation of the latest NRC-recommended technical design criteria and safety standards.

Second, Westinghouse is to provide additional engineering and project coordination services. In addition, the costs for fuel fabrication to be provided by Westinghouse and fuel enrichment to be undertaken by the U.S. Department of Energy have increased.

These increased costs, which are associated with evolving nuclear power plant technology and which were not included in the original design of the project, are common in current nuclear power projects. Eximbank considers the reasons for and the amount of the increased U.S. costs to be reasonable and necessary to complete construction of this project.

In connection with a two-year delay in the projected start of commercial operations of the ASCO II plant, commercial banks will provide loans of $20,965,000 to refinance the first four semiannual installments of the existing private financing for U.S. costs of the project. Since the installments to be refinanced are currently guaranteed by Eximbank, Eximbank's guarantee will apply to such new loans.

2. Approvals of other Government agencies

In accordance with established procedures, Eximbank requested through the State Department the views of the Executive Branch on the proposed transaction. State's Bureau of Oceans and International Environmental and Scientific Affairs advised that the Executive Branch has no objection to Eximbank's proceeding with this transaction. According to State, the Government of Spain has agreed to open discussions with the United States on amending its present nuclear agreement for cooperation to make it

consistent with new agreements under the pending U.S. non-proliferation legislation. However, the present agreement meets all of the "intial criteria contained in such legislation," and hence, "the Executive Branch believes that the Eximbank financing proposed . . . would be fully consistent with and supportive of U.S. non-proliferation objectives."

3. Identity of the parties

FECSA, a privately-owned company established in 1951 and headquartered in Barcelona, is Spain's third largest electric utility. It participates in the ownership of and financing for the project to the extent of 40 percent.

ENHER, incorporated in 1946, is a "national enterprise" corporation controlled by Instituto Nacional de Industria, an autonomous agency of the Spanish State established in 1941 to promote the establishment and reorganization of industrial enterprises important to the economic development of Spain. ENHER is the sixth largest electric utility enterprise in Spain and is a 40 percent participant in ASCO II.

HEC was incorporated in 1946 and is the twelfth largest electric utility in Spain. It is privately owned and is a 15 percent participant in the project.

SEGRE, a closely held private company, is the twenty-first largest electric utility in Spain and is a 5 percent participant in ASCO II.

4. Nature and use of goods and services

The principal goods and services to be exported from the United States in connection with the increased U.S. costs are design services, start-up assistance, project site coordination and inspection services to be provided by the Bechtel Corporation, and a matrix fuel assembly core and turbine generator equipment to be supplied by Westinghouse.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The proposed extension by Eximbank of a $17,470,050 direct credit will facilitate $20,553,000 of additional exports in the form of U.S. goods and services and higher prices for previously-contracted items.

Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services. This transaction will have a favorable impact on employment for substantial numbers of U.S. workers, as well as on the U.S. balance of trade. None of the goods to be exported are in short supply in the U.S.

2. The financing plan

The total cost of additional United States goods and services to be purchased by the Borrower is approximately $20,553,000, which will be financed as follows:

	Amount	Percent of U.S. Costs
Cash	$3,082,950	15
Eximbank credit	17,470,050	85
Total	20,553,000	100

(a) Eximbank Charges.—The Eximbank credit will bear interest at the rate of 8¾% per annum, payable semiannually on outstanding balances. A commitment fee of ½ of 1% per annum also will be charged on the undisbursed portion of the Eximbank credit.

Eximbank will charge a guarantee fee of 1% per annum on disbursed amounts of the new refinancing commercial bank loan and a commitment fee of ⅛ of 1% on the undisbursed amounts of such loan.

(b) Repayment Terms.—The portion of the Eximbank credit for additional plant costs will be repaid by the Borrowers in 20 semiannual installments commencing on July 10, 1981.

The portion of the Eximbank credit for additional fuel costs will be repaid by the Borrowers in 6 semiannual installments commencing on July 10, 1981.

Sincerely,

JOHN L. MOORE, Jr.

H.R. 9718, LEGISLATION TO CREATE AN OFFICE OF CONSUMER REPRESENTATION HAS SUPPORT OF BUSINESS EXECUTIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, below is the text of a letter that I recently received from the National Coalition for the Consumer. This letter not only points out some of the benefits of this legislation and clears up some of the misunderstanding surrounding it, but also points out the fact that a number of businessmen and corporations also support the legislation. I include it for the information of my colleagues.

NATIONAL COALITION FOR THE CONSUMER,
Washington, D.C., February 4, 1978.

DEAR MEMBER OF THE HOUSE OF REPRESENTATIVES: Through this letter we want to tell you why a group of concerned business executives support HR 9718, a bill to create an Office of Consumer Representation.

The idea of creating a small office to represent consumers before independent regulatory and executive branch agencies is not a radical idea. Congress has debated it for about eight years. In those eight years Congress has delegated more and more power to unelected regulators to make law. We frankly like the idea of having a small office, consolidated and created from existing programs, with the express job of finding out what consumers are saying and sharing consumer views with federal decision makers.

The deletion of special gathering powers in HR 9718 eliminated fears some business leaders had about being asked questions by the consumer office.

We believe it unreasonable for us to object to a small consumer office having the same rights of judicial review of regulators' decisions as those now enjoyed by companies and trade associations. Indeed, we feel that failure to accord consumers these same rights of representation could erode the confidence and continued vitality of our institutions of government and enterprise. We note with appreciation that the sponsors of HR 9718 have proposed that the consumer office will also represent the consumer interests of small business, many of whom suffer from the same deficiencies of representation before regulators as does the average consumer.

The proposed consumer office won't test products. It won't have authority to set up a vast or regional bureaucracy. It won't issue any regulations over business.

It will be mandated to ferret out conflicting or duplicative regulations that burden business and consumers unnecessarily, and thus will help hold down costs. It will automatically terminate in five years if, in Congress' judgment, it fails to do its primary job of representing consumer interests.

We, the undersigned, represent a larger group of business executives who believe the consumer office is needed to increase consumer confidence and consumer presence in government. (See attached list.) We don't consider ourselves consumer activists, but we wouldn't be responsible business executives if we were blind to consumer needs. H.R. 9718 is in our interest as well as in the interest of your constituents.

We urge your support for H.R. 9718 without weakening amendments.

Sincerely,

John W. Hechinger, Chairman, President, Hechinger Co.; Lawrence S. Phillips, President, Phillips Van Heusen Corp; Paul S. Forbes, Vice President for Communications and Public Affairs, Drug Fair; Avram Goldberg, President, The Stop & Shop Companies; Allen I. Bildner, Vice Chairman, President, Kings Super Markets, Inc.; Peter T. Jones, Senior Vice President and General Counsel, Levi Strauss & Co.; Sylvia Laurenti, Vice President, Consumers and Public Affairs, Consumers United Group, Inc.; Sidney Milwe, President, Stratford Town Fairs.

BUSINESS EXECUTIVES SUPPORTING THE CONSUMER REPRESENTATION & REORGANIZATION ACT (HR 9718)

Allan, Drucker, President, Advanced R & D, Inc.; Charles C. Fitzmorris, Jr., President, Aldi-Benner Co., Chain Store Systems, Ltd.; Bernard Rapoport, Chairman, American Income Life Insurance Co.; Frank S. Day, President, American Sound Corp., Condamatic Co., and Dyna Day Plastics; Emmanuel Sella, President, AMIVEST Corp.; Richard Fields, President, Applikay Textile Process Corp.; Thornton F. Bradshaw, President, Atlantic Richfield Co.; Oscar Dystel, President, Bantam Books, Inc.; and S. Peter Lebowitz, President, Big Smith, Inc.

Walter Lachman, President, Blakes; Walter J. McNerney, President, Blue Cross Association; Jess Bell, President, Bonne Bell; Robert M. Hart, Chairman, Boulder National Bank; Fred Berg, President, Brands Mart; William J. Dooner, President, Cardinal Pictorial Outdoor Advertising; Casper R. Taylor, Jr., President, The Cas Taylors; Edwin Ganson, President, Certron Corporation; and Lester Weisz, President, Chief Auto Supply.

Donald S. Rugoff, President, Cinema V Ltd.; A. P. Cubie, Vice President, Coffee Associated Food Enterprise; Camille Haney, President, Consumer Concepts; Min Takamoto, General Manager, Consumers Cooperative of Palo Alto, Inc.; Leonard Levitt, General Manager, Consumers Cooperative of Berkeley, Inc.; Richard A. Stout, President, Consumers United Insurance Co.; Burton Knopp, President, Country Gal; Henry B. Schacht, Chairman, Cummins Engine Co., Inc.; and Herb Blueweiss, Publisher, Daily News Record.

Howard Stein, Chairman, Dreyfus Corp.; John A. Moran, President, Dyson-Kissner Corp.; Robert Krissel, President, Equitable Bag Co., Inc.; Joseph Warren, President, Executive Life Insurance of New York; Harold Willens, Chairman, Factory Equipment Corp.; Dan Newman, Executive Vice President, Fairchild Publications; Seymour Klanfer, President, Federation of Cooperatives, Inc.; Andrew Bohjalian, Vice President, Feuer Precision Gauges, Inc.; and George F. Borger, President, Fishing Unlimited.

Robert Roess, President, Florida Investors Mortgage Co.; Richard Genser, President, Francis Chevrolet; Eugene Weisberg, President, Frankel Carbon & Ribbon Co.; Robert Craighead, Principal Officer, Gamble Corporate Buying; Frank G. Hickey, Chairman, General Instrument Corp.; Gilbert Bloch, President, Gentech Industries; Joseph Danzansky, Chairman, Giant Food, Inc.; Roy Bryant, President, Greenbelt Consumer Services, Inc.; and Allan Grossman, President, Grossman Paper Co.

Ronald Francioli, President, Group 70; Albert T. Marlowe, President, Hamburgers; Ronald Fox, President, Hang Ten International; Howard Harper, President, Harper Systems; Marshall Gluchow, President, Harris

& Frank, Inc.; Larry Rugg, President, Henhouse Interstate, Inc.; Lawrence Hill, President, Hill Publishing Co.; John C. Moore III, President, Holiday Universal, Inc.; and Gary Griffin, Director, Hydro Med Sciences, Inc.

Jane Silverman, Vice President, IK Information Systems; Charles Pearl, President, Imperial Packaging Corp., Henry P. Glass, Chairman, Industrial Designers' Society of America; Marvin Josephson, President, International Creative Management, Edward Singer, Chairman, International Group Plans; Nathan Gerdy, Chairman, International Seaway Trading Corp.; Bert G. Cox, President, Joseph & Feiss Co.; Robert Kahn, President, Robert Kahn & Associates; and Herbert Abrams, President, Kennedy Associates, Kennedy Group.

Max A. Brown, President, Kennedy's Arnold Bachner, Chairman, K-Mart Apparel Corporation; Arthur J. Kobacker, President, Kobacker Stores, Inc.; Sidney S. Good, Jr., Chairman, L. S. Good & Co.; Harold Lloyd, President, Lloyd Shopping Centers, Inc ; Jack Luskin, President, Luskin's Inc.; Lew R. Wasserman, Chairman, MCA, Inc.; and Mackey Arnstein, President, Mackey Travel.

Andre Blay, President, Magnetic Video Corp.; Emily Malino, President, Emily Malino Associates, Inc.; Marshall Doty, President, Marshall Doty Associates; Tadao Okada, Executive Vice President, Maxell Corporation of America; John Roberts, President, Media Sound; William P. Tavoulareas, President, Mobil Oil Corporation; Martin Stone, Chairman, Monogram Industries, Inc.; Patrick J. Head, Vice President & General Counsel, Montgomery Ward & Co.; and Albert M. Myers, President, Myers Brothers.

Robert R. Nathan, President, Robert R. Nathan Associates; Jerome I. Feldman, President, National Patent Development Corp.; Mary Roebling, Chairman, The National State Bank of Trenton; Jules Jacobsen, Publisher, New Jersey Suburbanite; William Metz, President, Oakland Consolidated Corp.; Alan H. Greenstadt, President, Optical Systems Corp.; Lew Theiling, President, Outdoor Enterprise, Inc.; Jack K. Busby, Chairman, Pennsylvania Power & Light Co.; and Martin L. Morrow, Chairman, Piedmont Industries.

Miles L. Rubin, Chairman, Pioneer Systems, Inc.; Leonard S. Polaner, President, M. Polaner & Sons, Inc.; John Wolbarst, Vice President for Consumer Affairs, Polaroid Corporation; Marvin Peace, President Professional Insurance Agents; Carl Rosen, President Puritan Fashions Corp.; Abraham Ratner, Chairman, Ratner Clothes Corp.; James Orwin, President, Redwood & Ross; Sidney Dworkin, President, REVCO; Kurt Rosenbach, Chairman, Rice's Department Store; Thomas Samiljan, President, Rob Roy Company, Inc.; James W. Rouse, President, The Rouse Company; and Thomas Miller, President, Royal Transmission.

Austin Stubblefield, President, Scottish Inns of America; M. D. Eggertsen, President, Security Title Guaranty Co.; Peter Nagler, President, Sentinel Bag & Paper Co.; Alfred P. Slaner, Trustee, Duplan Corp.; Peter Solomon, Director, Lehman Brothers; John Mugar, Chairman, Star Market Company; Samuel Slosberg, Chairman, Stride Rite Corp.; Ken Kohda, Marketing Manager, TDK Electronics Corp.; Steven J. Ross, President, Warner Communications; Ira Weissman, Accountant, Weissman, Mackta & Co.; and Barnett Zaffron, President, Barnett Zaffron & Associates.

PERSONAL EXPLANATION

(Mr. RINALDO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RINALDO. Mr. Speaker, I rise in order to explain my absence from the floor earlier today.

Although I was scheduled to arrive in Washington this morning, the snowstorm currently blanketing much of the Northeast closed both LaGuardia and Newark Airports, resulting in the cancellation of all flights to Washington. Although I obtained space on a Metroliner, my arrival was necessarily delayed.

LEAVES OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. TRAXLER (at the request of Mr. WRIGHT), for today, on account of inclement weather conditions.

To Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of official business.

To Mr. HUGHES (at the request of Mr. WRIGHT) for today, on account of inclement weather conditions.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COLEMAN) and to revise and extend their remarks and include extraneous matter:)

Mr. CONABLE, for 60 minutes, on February 9.

Mr. CORCORAN of Illinois for 5 minutes, today.

Mr. WHALEN, for 5 minutes, today.

Mr. SEBELIUS, for 10 minutes, today.

(The following Members (at the request of Mr. PANETTA) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. LONG of Maryland, for 5 minutes, today.

Mr. NOLAN, for 5 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

Mr. REUSS, for 20 minutes, today.

Mr. METCALFE, for 10 minutes, today.

Mr. ST GERMAIN, for 30 minutes, today.

Mr. STAGGERS, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ASHBROOK in two instances.

(The following Members (at the request of Mr. COLEMAN), and to include extraneous matter:)

Mr. WYDLER.
Mr. SCHULZE.
Mr. CUNNINGHAM.
Mr. RUPPE.
Mr. MCCLORY.
Mr. TREEN.
Mr. VANDER JAGT.
Mr. SNYDER.
Mr. STANGELAND.
Mr. WHALEN in two instances.
Mr. CRANE in five instances.
Mr. STEERS.
Mr. DORNAN.
Mr. HYDE.
Mr. LOTT.

(The following Members (at the request of Mr. PANETTA) and to include extraneous matter:)

Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mr. CLAY.
Mr. WAXMAN.
Mr. MAZZOLI in three instances.
Mr. NOLAN.
Mr. PEASE in three instances.
Mr. JONES of Tennessee.
Mr. SIMON.
Mr. PEPPER in two instances.
Mr. MCDONALD.
Mr. MITCHELL of Maryland.
Mr. EILBERG in three instances.
Mr. SKELTON.
Mr. PATTISON of New York.
Mr. MILLER of California.
Mr. DRINAN in two instances.

ADJOURNMENT

Mr. PANETTA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Tuesday, February 7, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3167. A letter from the Secretary of Defense, transmitting the annual report of the Department of Defense for fiscal year 1979; to the Committee on Armed Services.

3168. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a draft of proposed legislation to amend and extend the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

3169. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction involving nuclear facilities with four Spanish electric utilities, pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended (88 Stat. 2335; 91 Stat. 1210); to the Committee on Banking, Finance and Urban Affairs.

3170. A letter from the senior vice president, Potomac Electric Power Co., transmitting the company's balance sheet as of December 31, 1977, pursuant to section 8 of the act of March 4, 1913 (37 Stat. 979); to the Committee on the District of Columbia.

3171. A letter from the comptroller, Washington Gas Light Co., transmitting the company's balance sheet as of December 31, 1977, pursuant to section 8 of the act of March 4, 1913 (37 Stat. 979); to the Committee on the District of Columbia.

3172. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3173. A letter from the General Counsel, Copyright Office, Library of Congress, transmitting notice of two proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3174. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the funds awarded to the Confederated Tribes of the Colville Reservation for and on behalf of the Joseph Band of Nez

Perce before the Indian Claims Commission in docket 186, pursuant to sections 2(a) and 4 of Public Law 93–134; to the Committee on Interior and Insular Affairs.

3175. A letter from the Chief Commissioner, U.S. Court of Claims, transmitting a report on the allowance of attorney expense claims in docket No. F–8, Estate of Stanley J. McCutcheon, Clifford J. Groh, Ronald G. Benkert, and William A. Greene, pursuant to section 20 of the Alaska Native Claims Settlement Act; to the Committee on Interior and Insular Affairs.

3176. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting a report on the results of a study of ways to protect and enhance the historic resources in and around Gettysburg, Pa., pursuant to section 202(b) of the National Historic Preservation Act; to the Committee on Interior and Insular Affairs.

3177. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize a supplemental appropriation for the extension of credit and the issuance of guaranties under the Arms Export Control Act for the fiscal year 1978, and for other purposes, to the Committee on International Relations.

3178. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Portgual for permission to transfer certain U.S.-origin military equipment to the Government of Colombia, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

3179. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the second report on the extent to which the Republic of Korea is cooperating with the Department of Justice investigation into allegations of improper activity in the United States by agents of the Republic of Korea, pursuant to section 28 of Public Law 95–92; to the Committee on International Relations.

3180. A letter from the Staff Secretary, National Security Council, transmitting notice of delays in the preparation of arms control impact statements for fiscal year 1979, required by section 36(b) of the Arms Control and Disarmament Act, as amended (89 Stat. 758); to the Committee on International Relations.

3181. A letter from the president, Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc., transmitting notice of a delay in preparation of the Institute's annual report for fiscal year 1977, required by section 3 of the act of May 7, 1928, as amended; to the Committee on International Relations.

3182. A letter from the Chairman, Japan United States Friendship Commission, transmitting the first annual report of the Commission, covering fiscal year 1977, pursuant to section 5(b) of Public Law 94–118; to the Committee on International Relations.

3183. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the monthly report on sales of refined petroleum products for October 1977, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

3184. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

3185. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on professional and scientific positions established in the agency during calendar year 1977, pursuant to 5 U.S.C. 3104(c); to the Committee on Post Office and Civil Service.

3186. A letter from the Secretary, Railroad Retirement Board, transmitting a report on positions in grades GS–16, 17, and 18 during calendar year 1977, pursuant to 5 U.S.C. 5114(a); to the Committee on Post Office and Civil Service.

3187. A letter from the Administrator of General Services, transmitting an amendment to the approved prospectus for the Charles R. Jonas Federal Building, Charlotte, N.C., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3188. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations to carry out the Standard Reference Data Act; to the Committee on Science and Technology.

3189. A letter from the Comptroller General of the United States, transmitting a report on enforcement of fair housing laws (CED–78–21, February 2, 1978); jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, and the Judiciary.

3190. A letter from the Comptroller General of the United States, transmitting a report on handgun control (PAD–78–4, February 6, 1978); jointly, to the Committees on Government Operations and the Judiciary.

3191. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a draft of proposed legislation to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, International Relations, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Feb. 2, 1978, the following report was filed on Feb. 3, 1978*]

Mr. NEDZI: Committee on House Administration. H.R. 5981. A bill to amend the American Folklife Preservation Act to extend the authorizations of appropriations contained in such act; with amendment (Rept. No. 95–865). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN:

H.R. 10751. A bill to create a National Academy of Medicine, under the direct supervision of the Surgeon General, for the education and training of doctors of medicine, and other medical specialists who shall serve in the Regular Corps of the Public Health Service as commissioned officers thereof, to amend the Public Health Service Act, as amended (42 U.S.C. 201 et seq), and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ANNUNZIO (for himself and Mr. RICHMOND):

H.R. 10752. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes; to the Committee on the Judiciary.

By Mr. CUNNINGHAM (for himself, Mr. FOLEY, Mr. COUGHLIN, Mr. DORNAN, Mr. LAGOMARSINO, Mr. MANN, Mr. RYAN, and Mr. HARRINGTON):

H.R. 10753. A bill to amend the act commonly known as the Black Bass Act to provide further protection for steelhead trout, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. MIKVA (for himself, Mr. BRODHEAD, Mr. GEPHARDT, Mr. TUCKER, and Mr. WIRTH):

H.R. 10754. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that disability insurance benefits and the medicare program shall be financed from general revenues (pursuant to annual authorizations) rather than through the imposition of employment and self-employment taxes as at present, and to adjust the rates of such taxes (for purposes of financing the OASI programs) accordingly; to the Committee on Ways and Means.

By Mr. SCHULZE:

H.R. 10755. A bill to amend the Internal Revenue Code of 1954 to reduce individual income taxes; to the Committee on Ways and Means.

By Mr. GIAIMO:

H.R. 10756. A bill to rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95–285), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 10757. A bill to rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95–285), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 10758. A bill to rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95–285), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. SIMON:

H.R. 10759. A bill to establish a national system of financing child and maternal health care and a system of protection against catastrophic health care costs, and to improve and expand health care for the elderly; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. PHILLIP BURTON:

H.R. 10760. A bill to amend the act of October 2, 1968, an act to establish a Redwood National Park in the State of California, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Education and Labor.

By Mr. DUNCAN of Tennessee:

H.R. 10761. A bill to amend part II of the Interstate Commerce Act to exempt motor vehicles used in the transportation of members of certain religious organizations from the application of such part, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FORD of Michigan (for himself, Mr. QUIE, Mr. BALDUS, Mr. PHILLIP BURTON, Mr. CLAY, Mr. CONYERS, Mr. DIGGS, Mr. DUNCAN of Oregon, Mr. EILBERG, Mr. FARY, Mr. FAUNTROY, Mr. FRENZEL, Mr. JOHNSON of California, Mr. LAFALCE, Mr. MIKVA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. RODINO, Mr. ROSENTHAL, Mr. BIAGGI, Mr. STEIGER, Mr. THOMPSON, Mr. VAN DEERLIN, Mr. WINN, and Mr. MURTHA):

H.R. 10762. A bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs; to the Committee on Education and Labor.

By Mr. GAMMAGE:

H.R. 10763. A bill to amend the Internal Revenue Code of 1954, title 26 of the United States Code, to provide that taxpayers who itemize deductions may deduct from taxable income an amount equal to the amount of social security taxes paid during the taxable year, or, in lieu of such deduction, any taxpayer may claim a tax credit in the amount of 15 percent of the amount of such social security taxes paid, whichever results in greater savings; to the Committee on Ways and Means.

By Mr. HAGEDORN:

H.R. 10764. A bill to direct the Secretary of Agriculture not to further limit, restrict, or prohibit the use of nitrites or nitrates as preservatives in meat products for a period of 2 years, and for other purposes; to the Committee on Agriculture.

By Mr. HIGHTOWER:

H.R. 10765. A bill to provide wheat, feed grain and cotton producers the opportunity to receive parity prices for the 1978 through 1981 crops; to the Committee on Agriculture.

By Mr. HILLIS (for himself, Mr. DORNAN, and Mr. BUCHANAN):

H.R. 10766. A bill to amend the Internal Revenue Code of 1054 to allow taxpayers to treat certain federally required nonproductive expenditures as not chargeable to capital account and as currently deductible; to the Committee on Ways and Means.

By Mr. HYDE:

H.R. 10767. A bill to amend the Internal Revenue Code of 1954 to allow taxpayers to individuals filing separate returns the income tax rates applicable to unmarried individuals, and for other purposes; to the Committee on Ways and Means.

By Mr. JEFFORDS:

H.R. 10768. A bill to establish an incentive program for producers to cull dairy cattle; to the Committee on Agriculture.

By Mr. JONES of Tennessee:

H.R. 10769. A bill to amend the Rural Electrification Act of 1936, as amended, to provide for the financing of telecommunication facilities for cable television and other broadband services in small towns and rural areas; to the Committee on Agriculture.

By Mr. LAGOMARSINO (for himself and Mr. PATTERSON of California):

H.R. 10770. A bill to provide rental assistance under section 8 of the U.S. Housing Act of 1937 for owners of mobile homes who rent the real property on which their mobile homes are located; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MAGUIRE:

H.R. 10771. A bill to strengthen and improve the early and periodic screening, diagnosis, and treatment program, to establish a National Commission on Preventive Health, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Ms. MIKULSKI (for herself, Mrs. SPELLMAN, Mr. BEDELL, Mr. BROYHILL, Mr. BURGENER, Mr. CLEVELAND, Mr. COUGHLIN, Mr. EDGAR, Mr. GOODLING, Mr. HARRINGTON, Ms. HOLTZMAN, Mrs. LLOYD of Tennessee, Mr. MARTIN, and Mr. MATHIS):

H.R. 10772. A bill to amend title 39, United States Code, to prevent deceptive business solicitations by providing that any such solicitation which is designed to resemble a bill or statement of account shall be nonmailable matter; to the Committee on Post Office and Civil Service.

By Ms. MIKULSKI (for herself, Mrs. SPELLMAN, Mr. MITCHELL of Maryland, Mr. MOSS, Mr. OTTINGER, Mr. PATTERSON of California, Mr. PRICE, Mr. RICHMOND, Mr. ROSENTHAL, Mr. SARASIN, Mr. SOLARZ, Mr. STARK, Mr. WEISS, and Mr. WHITLEY):

H.R. 10773. A bill to amend title 39, United States Code, to prevent deceptive business solicitations by providing that any such solicitation which is designed to resemble a bill or statement of account shall be nonmailable matter; to the Committee on Post Office and Civil Service.

By Mr. MONTGOMERY (for himself, Mr. APPLEGATE, Mr. ICHORD, Mrs. HOLT, Mr. SIMON, Mr. FUQUA, Mr. ADDABBO, Mr. WAMPLER, Mr. SPENCE, Mr. LLOYD of California, Mr. WHITTEN, Mr. FLORIO, Mr. CHARLES WILSON of Texas, Mr. CORNWELL, Mr. YOUNG of Missouri, Mr. EMERY, Mr. D'AMOURS, Mr. CHAPPELL, Mr. DANIELSON, Mr. JOHN T. MYERS, Mr. HOLLAND, Mr. JENRETTE, Mr. PREYER, Mr. LEHMAN, and Mr. PANETTA):

H.R. 10774. A bill to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. NEDZI (for himself, Mr. PERKINS, Mr. OTTINGER, Mr. BEDELL, Mr. KAZEN, Mr. PREYER, Mr. PEPPER, Mr. WOLFF, Mr. COHEN, Mr. RODINO, Mr. ROE, Mr. CONTE, Mr. LUNDINE, Ms. HOLTZMAN, Mr. CARR, Mr. LEVITAS, Mr. ADDABBO, Mr. ENGLISH, Mr. EILBERG, Mr. BAUCUS, Mr. HUGHES, Mr. MIKVA, Mr. PANETTA, Mr. WAXMAN, and Mr. WEISS):

H.R. 10775. A bill to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship; to the Committee on House Administration.

By Mr. NEDZI (for himself, Mr. PRITCHARD, Mr. BRODHEAD, Mr. CORMAN, Mr. TRAXLER, Mr. PATTEN, Mr. AKAKA, Mr. VAN DEERLIN, Mr. MOAKLEY, Mr. GUDGER, Mr. BOLAND, Mr. FISHER, Mr. KREBS, Mr. BUCHANAN, Mr. GUYER, Mr. BOLLING, Mr. DERWINSKI, Mr. HORTON, Mr. BURKE of Massachusetts, Mr. RUSSO, Mr. LEGGETT, Mr. WHALEN, Mr. ERTEL, Mr. WHITEHURST, and Mr. LAFALCE):

H.R. 10776. A bill to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship; to the Committee on House Administration.

By Mr. NEDZI (for himself, Mr. MCCORMACK, Mr. RICHMOND, Mr. MANN, Mr. PATTERSON of California, Mr. MCHUGH, Mr. RYAN, Mr. MINETA, and Mr. ZEFERETTI):

H.R. 10777. A bill to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship; to the Committee on House Administration.

By Mr. REUSS (for himself and Mr. ST GERMAIN):

H.R. 10778. A bill to amend the Federal Credit Union Act in order to improve the efficiency and flexibility of the financial system of the United States by establishing within the National Credit Union Administration a Central Liquidity Facility for Federal and State credit unions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 10779. A bill to amend the Federal Credit Union Act in order to improve the efficiency and flexibility of the financial system of the United States by establishing within the National Credit Union Administration a Central Liquidity Facility for Federal and State credit unions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SEBELIUS:

H.R. 10780. A bill to amend the terms and conditions of the producer storage program for wheat and feed grains to provide incentives for participation by farmers; to the Committee on Agriculture.

By Mr. SEBELIUS (for himself, Mr. SKUBITZ, Mr. WINN, Mr. THONE, Mr. JOHNSON of Colorado, and Mr. MARLENEE):

H.R. 10781. A bill to provide wheat, feed grain and cotton producers the opportunity to receive parity prices for the 1978 crops; to the Committee on Agriculture.

By Mr. SEIBERLING:

H.R. 10782. A bill to amend title I of the Higher Education Act of 1956 to establish a system of grants for urban universities; to the Committee on Education and Labor.

H.R. 10783. A bill to authorize the recovery of damages by indirect purchasers injured in their business or property by reason of anything forbidden in the antitrust laws, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Iowa (for himself and Mr. CONTE):

H.R. 10784. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to small businesses by establishing a graduated income tax rate for corporations; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 10785. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 10786. A bill to amend Public Law 95-209 to increase the authorization for appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself and Mr. RONCALIO) (by request):

H.R. 10787. A bill to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management; to the Committee on Interior and Insular Affairs.

By Mr. COLLINS of Texas:

H.J. Res. 713. Joint resolution proposing an amendment to the Constitution of the United States relative to abolishing personal income, estate, and gift taxes and prohibiting the U.S. Government from engaging in business in competition with its citizens; to the Commttee on the Judiciary.

By Mr. FOUNTAIN:

H.J. Res. 714. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. RYAN (for himself, Mr. JEFFORDS, Mr. OTTINGER, Mr. ADDABBO, Mr. ALEXANDER, Mr. ALLEN, Mr. AMBRO, Mr. ANDREWS of North Dakota, Mr. ANNUNZIO, Mr. ASHLEY, Mr. ASPIN, Mr. AUCOIN, Mr. BALDUS, Mr. BAUCUS, Mr. BEDELL, Mr. BEILENSON, Mr. BENJAMIN, Mr. BENNETT, Mr. BIAGGI, Mr. BINGHAM, Mr. BLANCHARD, Mr. BLOUIN, Mr. BOGGS, Mr. BOLAND, and Mr. BONIOR):

H.J. Res. 715. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. RYAN (for himself, Mr. JEFFORDS, Mr. OTTINGER, Mr. BONKER, Mr. BOWEN, Mr. BRADEMAS, Mr. BREAUX, Mr. BRECKINRIDGE, Mr. BRODHEAD, Mr. BROWN of California, Mr.

BROYHILL, Mr. BURKE of Massachusetts, Mrs. BURKE of California, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mr. BUTLER, Mr. CAPUTO, Mr. CARNEY, Mr. CARR, Mr. CARTER, Mr. CAVANAUGH, Mrs. CHISHOLM, Mr. DON H. CLAUSEN, Mr. DEL CLAWSON, and Mr. CLAY):

H.J. Res. 716. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. JEFFORDS (for himself, Mr. RYAN, Mr. OTTINGER, Mr. CLEVELAND, Mr. COCHRAN of Mississippi, Mr. COHEN, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. CORMAN, Mr. CORNELL, Mr. CORNWELL, Mr. CUNNINGHAM, Mr. DANIELSON, Mr. DELLUMS, Mr. DE LUGO, Mr. DERRICK, Mr. DICKS, Mr. DIGGS, Mr. DINGELL, Mr. DODD, Mr. DOWNEY, Mr. DRINAN, Mr. DUNCAN of Oregon, Mr. ECKHARDT, and Mr. EDGAR):

H.J. Res. 717. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. RYAN (for himself, Mr. JEFFORDS, Mr. OTTINGER, Mr. EDWARDS of California, Mr. EILBERG, Mr. EMERY, Mr. ERTEL, Mr. EVANS of Georgia, Mr. EVANS of Indiana, Mr. EVANS of Colorado, Mr. EVANS of Delaware, Mr. FARY, Mrs. FENWICK, Mr. FISH, Mr. FISHER, Mr. FITHIAN, Mr. FLIPPO, Mr. FLORIO, Mr. FOLEY, Mr. FORD of Michigan, Mr. FOUNTAIN, Mr. FRASER, Mr. FRENZEL, Mr. FREY, and Mr. FUQUA):

H.J. Res. 718. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. RYAN (for himself, Mr. JEFFORDS, Mr. OTTINGER, Mr. GAMMAGE, Mr. GEPHARDT, Mr. GIBBONS, Mr. GILMAN, Mr. GLICKMAN, Mr. GOLDWATER, Mr. GOODLING, Mr. GORE, Mr. GRADISON, Mr. GRASSLEY, Mr. GUDGER, Mr. HAGEDORN, Mr. HAMMERSCHMIDT, Mr. HANLEY, Mr. HANNAFORD, Mr. HANSEN, Mr. HARKIN, Mr. HARRINGTON, Mr. HARRIS, Mr. HECKLER, Mr. HEFTEL, and Mr. HILLIS):

H.J. Res. 719. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. RYAN (for himself, Mr. JEFFORDS, Mr. OTTINGER, Mr. HOLLAND, Mr. HOLLENBECK, Mr. HOWARD, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. JACOBS, Mr. JENRETTE, Mr. JOHNSON of California, Mr. JONES of North Carolina, Mr. KASTEN, Mr. KASTENMEIER, Mr. KEMP, Mrs. KEYS, Mr. KILDEE, Mr. KINDNESS, Mr. KOSTMAYER, Mr. KREBS, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LE FANTE, and Mr. LEGGETT):

H.J. Res. 720. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. OTTINGER (for himself, Mr. JEFFORDS, Mr. RYAN, Mr. LEVITAS, Mr. LLOYD of California, Mrs. LLOYD of Tennessee, Mr. LONG of Maryland, Mr. LUJAN, Mr. LUKEN, Mr. LUNDINE, Mr. MCCLOSKEY, Mr. MCDONALD, Mr. MCFALL, Mr. MCHUGH, Mr. MCKINNEY, Mr. MAGUIRE, Mr. MARKEY, Mr. MARKS, Mr. MARTIN, Mr. MATTOX, Mr. MAZZOLI, Mr. MEEDS, Mr. METCALFE, Mrs. MEYNER, and Mr. MIKVA): proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

H.J. Res. 721. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. RYAN (for himself, Mr. JEFFORDS, Mr. OTTINGER, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of New York, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOORHEAD of California, Mr. MOORHEAD of Pennsylvania, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. MURPHY of Illinois, Mr. MURTHA, Mr. JOHN T. MYERS, Mr. NATCHER, Mr. NEAL, Mr. NIX, Mr. NOLAN, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. O'BRIEN, and Mr PANETTA):

H.J. Res. 722. Joint resolution proclaiming May 3 ,1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. RYAN (for himself, Mr. JEFFORDS, Mr. OTTINGER, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. PEPPER, Mrs. Pettis, Mr. PICKLE, Mr. PIKE, Mr. PRESSLER, Mr. PRICE, Mr. PURSELL, Mr. RAHALL, Mr. RANGEL, Mr. REUSS, Mr. RHODES, Mr. RICHMOND, Mr. ROBERTS, Mr. RODINO, Mr. ROE, Mr. ROSE, Mr. ROSENTHAL, Mr. ROYBAL, Mr. RUPPE, and Mr. RUSSO):

H.J. Res. 723. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. RYAN (for himself, Mr. JEFFORDS, Mr. OTTINGER, Mr. ST GERMAIN, Mr. SANTINI, Mr. SARASIN, Mr. SAWYER, Mr. SCHEUER, Mr. SEBELIUS, Mr. SEIBERLING, Mr. SHARP, Mr. SIMON, Mr. SKELTON, Mr. SLACK, Mr. SMITH of Iowa, Mr. SOLARZ, Mrs. SPELLMAN, Mr. SPENCE, Mr. STAGGERS, Mr. STARK, Mr. STEERS, Mr. STEIGER, Mr. STUDDS, Mr. TAYLOR, and Mr. TEAGUE):

H.J. Res. 724. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. RYAN (for himself, Mr. JEFFORDS, Mr. OTTINGER, Mr. THOMPSON, Mr. THONE, Mr. TRAXLER, Mr. TRIBLE, Mr. TSONGAS, Mr. TUCKER, Mr. UDALL, Mr. ULLMAN, Mr. VAN DEERLIN, Mr. VANDER JAGT, Mr. VANIK, Mr. VOLKMER, Mr. WAGGONNER, Mr. WALGREN, Mr. WAMPLER, Mr. WATKINS, Mr. WAXMAN, Mr. WEAVER, Mr. WEISS, Mr. WHALEN, Mr. WHITE, and Mr. WHITEHURST):

H.J. Res. 725. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. RYAN (for himself, Mr. JEFFORDS, Mr. OTTINGER, Mr. WHITTEN, Mr. CHARLES WILSON of Texas, Mr. WIRTH, Mr. WRIGHT, Mr. YATES, Mr. YOUNG of Missouri, Mr. ZEFERETTI, and Mr. CONTE):

H.J. Res. 726. Joint resolution proclaiming May 3, 1978, Sun Day; to the Committee on Post Office and Civil Service.

By Mr. TEAGUE (for himself, Mr. WRIGHT, Mr. LIVINGSTON, Mr. DUNCAN of Oregon, Mr. TREEN, Mr. RAHALL, Mr. BONKER, Mr. MEEDS, Mr. STEERS, Mr. TSONGAS, Mr. HANNAFORD, Mr. ARMSTRONG, Mr. DICKS, Mr. STAGGERS, Mr. MOLLOHAN, Mr. OTTINGER, Mr. OBERSTAR, Mr. DRINAN, Mr. MCCORMACK, Mr. PEASE, Mr. BRECKINRIDGE, Mr. CARR, Mr. ICHORD, Mr. THONE, and Mr. WALSH):

H.J. Res. 727. Joint resolution to designate May 21, 1978, as Firefighters' Memorial Sunday; to the Committee on Post Office and Civil Service.

By Mr. FAUNTROY (for himself, Mr. JONES of Oklahoma, Mr. DELLUMS, Mr. MCKINNEY, and Mr. WHALEN):

H. Con. Res. 471. Concurrent resolution approving an amendment to the District of Columbia charter relating to recall of elected officials; to the Committee on the District of Columbia.

By Mr. DORNAN (for himself, Mr. LEDERER, Mr. OTTINGER, and Mr. BEILENSON):

H. Con. Res. 472. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States; to the Committee on International Relations.

By Mr. BROOKS:

H. Res. 1001. Resolution to provide for the expenses of investigations, and studies to be conducted by the Committee on Government Operations; to the Committee on House Administration.

By Mr. CRANE:

H. Res. 1002. Resolution authorizing House Judiciary Committee investigation of Attorney General Bell for any impeachable offenses; to the Committee on Rules.

By Mr. JOHNSON of California (for himself and Mr. HARSHA):

H. Res. 1003. Resolution providing funds for the Committee on Public Works and Transportation, and for other purposes; to the Committee on House Administration.

By Mr. WOLFF:

H. Res. 1004. Resolution to provide for the expenses of investigations, and studies to be conducted by the Select Committee on Narcotics Abuse and Control; to the Committee on House Administration.

By Mr. YOUNG of Florida (by request):

H. Res. 1005. Resolution directing the Committee on Interstate and Foreign Commerce to conduct hearings to determine whether Federal safety standards for hang gliders are desirable and to determine the appropriate Federal agency to administer such standards; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally read as follows:

By Mr. BAUCUS:

H.R. 10788. A bill for the relief of the Mondakota Gas Co.; to the Committee on the Judiciary.

By Mr. MCFALL:

H.R. 10789. A bill for the relief of Marion Charlotte Williams; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H.R. 10790. A bill for the relief of Dr. Francisco Dozon and his wife, Luzviminda Dozon; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6805

By Mr. BLOUIN:

Page 33, line 5, strike out the colon and insert in lieu thereof the following: "(except to communicate information under paragraph (1) (B) or (2) of this section)".

Page 33, line 13, insert "agency" after "any" and insert "or activity" after "proceeding".

Page 33, line 12, strike out "and (B)" and insert in lieu thereof "(B) export and import policies, (C)".

Page 33, line 15, strike out "(2) in any proceeding concerning" and insert in lieu thereof "(D)".

Page 33, line 16, insert before the period the following: ", or (2) in any agency proceeding or activity under the Export Administration Act of 1969 relating to any agricultural commodity".

Page 33, line 5, strike out the colon and insert in lieu thereof the following: "(except to communicate information under paragraph (1) (B) or (2) of this section)".

Page 33, line 5, insert "agency" after "any" and insert "or activity" after "proceeding".

Page 33, line 12, strike out "and (B)" and insert in lieu thereof "(B) export and import policies, (C)".

Page 33, line 15, strike out "(2) in any proceeding concerning" and insert in lieu thereof "(D)".

Page 33, line 16, insert before the period the following: ", or (2) in any agency proceeding or activity under the Export Administration Act of 1969 relating to any agricultural commodity".

By Mr. GLICKMAN:

Strike out all after the enacting clause of the amendment in the nature of a substitute made in order by House Resolution 872, and insert the following:

That this Act may be cited as the "Consumer Protection Act of 1977".

SEC. 2. DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) In the execution of its constitutional and statutory responsibilities, the Federal Government and the agencies thereof—

(A) should consistently, completely, and adequately represent the interests of consumers;

(B) should not promulgate regulations or adopt policies without first developing and considering information as to their impact on consumers; and

(C) should act in such manner as to protect and serve the interests of consumers.

(2) The most effective and cost-efficient way to assure such representation and protection of consumers is to establish—

(A) an independent Office of Consumer Counsel within each significant operating unit of the executive branch of the Federal Government; and

(B) a Division of Consumer Protection and Advocacy in the Department of Justice to assist and support such Offices and to serve as the coordinating agency for consumer advocacy.

(b) PURPOSES.—

(1) It is the purpose of the Congress in this Act to reorganize each significant operating unit of the executive branch to the extent necessary to assure that each such unit, through an independent Office of Consumer Counsel, maintains internal processes and procedures for adequately representing, protecting, and serving the interests of consumers at all stages in, and in all phases of, the formulation, implementation, and review of policies, programs, regulations, and legislative recommendations.

(2) It shall be the specific purpose of each Office to represent the interests of consumers before and within the Federal agency of which it is a part; to receive, transmit, evaluate, and report on consumer complaints; to develop and disseminate information of interest to consumers; and to perform other functions to protect and promote the interests of consumers. In the exercise of its functions, powers, and duties, each such Office shall be independent of all other offices and officers of the agency of which it is a part.

(3) It shall be the specific purpose of the Division of Consumer Protection and Advocacy of the Department of Justice, in addition to such other functions as may be assigned to such Division by law or by the Attorney General, to—

(A) provide data, information, advocacy-training, and other appropriate services to each Office and to provide a forum for coordinating the activities and assuring the independence and effectiveness of the Offices;

(B) assist any Consumer Counsel in representing the interests of consumers before the relevant Federal agency;

(C) promote, through appropriate litigation, legislative recommendation, and recommendations to any Office the protection of consumers with respect to—

(i) the safety, quality, purity, potency, healthfulness, durability, performance repairability, effectiveness, dependability, availability, truthful representation, and cost of any goods, services, credit or other property;

(ii) assuring consumer choice and competitive markets;

(iii) preventing unfair or deceptive trade practices and restraints on trade; and

(iv) the legal rights and access of consumers to speedy, effective, and inexpensive mechanisms for the resolution of consumer contraversies.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires—

(1) The term "agency action" include the whole or any part of an agency "rule", "order", "license", "sanction", or "relief" (as defined in section 551 of title 5, United States Code), or the equivalent thereof, the denial thereof, or the failure to act.

(2) The term "agency activity" means any agency process, or phase thereof, conducted pursuant to any authority, or responsibility under law.

(3) The term "agency proceeding" means agency "rulemaking", "adjudication", or "licensing" (as defined in section 551 of title 5, United States Code).

(4) The term "commerce" means trade, traffic, commerce, or transportation, (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in clause (A).

(5) The term "consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any goods, services, credit, or other property for personal, family, agricultural, or household purposes.

(6) The term "Consumer Counsel" means, with respect to a Federal agency, the officer who is appointed pursuant to this Act to represent the interest of consumers in accordance with this Act.

(7) The term "Federal agency" or "agency" means the Departments of Agriculture, Defense, Commerce, Energy, Health, Education, and Welfare (other than the Food and Drug Administration), Housing and Urban Development, Interior, Labor, Transportation, and Treasury; the Civil Aeronautics Board; the Consumer Product Safety Commission; the Environmental Protection Agency; the Federal Communications Commission; the Federal Maritime Commission; the Federal Trade Commission; the Interstate Commerce Commission; the Food and Drug Administration; the National Transportation Safety Board; the Securities and Exchange Commission; the General Services Administration; the Small Business Administration; the Postal Rate Commission; and any successors thereto.

(8) The term "Federal court" means any court of the United States.

(9) The term "interest of consumers" means any substantial health, safety, or economic concern of consumers involving goods, services, credit, or other property, or the advertising or other representation thereof, which is or may become the subject of any commercial offer or any transaction affecting commerce or which may be related to any term or condition of such offer or transaction. Such offer or transaction need not involve the payment or promise of a consideration.

(10) The term "Office" means any Office of Consumer Counsel established pursuant to section 4 of this Act.

(11) The term "participation" includes any form of submission.

(12) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(13) The term "submission" means participation through the presentation or communication of relevant evidence, documents, arguments, or other information.

SEC. 4. ESTABLISHMENT.

(a) OFFICES OF CONSUMER COUNSEL.—

(1)(A) There shall be established within each Federal agency, within 60 days after the date of enactment of this Act and pursuant to a plan of reorganization prepared by the head of each such agency to provide for adequate representation of the interests of consumers, an independent Office of Consumer Counsel. Such reorganization shall provide that all existing consumer offices and staff within such agency shall be combined into that agency's Office of Consumer Counsel.

(B)(i) Except to the extent prohibited by law, the Director of the Office of Management and Budget is authorized and directed to review all other Federal programs and activities which have a consumer information advocacy, or related function and identify those which would overlap, duplicate, or conflict with the functions performed by these Offices. This review shall be carried out as a part of the President's first budget review process following establishment of the Office.

(ii) The Director of the Office of Management and Budget shall, one week after the submission of the President's budget to the Congress, report to the Committees on Appropriations and Government Operations of the House of Representatives and Appropriations and Governmental Affairs of the Senate the results of the review required by paragraph (1) of this subsection. Such report shall include (A) all activties identified as a part of the Office of Management and Budget's review; (B) a description of those activities including their costs during the fiscal year and how those activities overlap, duplicate, or conflict with the responsibilities of these Offices; and (C) the budgetary recommendations to the Congress to eliminate such activities.

(iii) Nothing in this subsection shall be construed to prohibit the Director of the Office of Management and Budget from including in the report required by paragraph (2) of this subsection, comments on the consumer related activities of independent regulatory agencies that overlap, duplicate, or conflict with the functions performed by these Offices.

(2) Each such Office shall be directed and administered by a Consumer Counsel. Each Consumer Counsel shall be appointed by the President, by and with the advice and consent of the Senate, for a fixed term of office not to exceed 3 years. The terms of office of the Consumer Counsel appointed initially shall be staggered, in a manner compatible with the oversight responsibilities of the Congress, to assure that all such terms do not expire simultaneously. Each Consumer Counsel shall be compensated at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. Each Consumer Counsel shall be an individual who, by reason of training or experience, and attainments, is qualified to represent effectively and independently the interests of consumers. Upon the expiration of his term of office, each Consumer Counsel shall continue in office until reappointment or until the appointment and qualification of his successor

(b) DIVISION OF CONSUMER PROTECTION AND ADVOCACY IN THE DEPARTMENT OF JUSTICE.—

(1) There is established, within the Department of Justice, a Division of Consumer Protection and Advocacy, which shall be directed by the Assistant Attorney General for Consumer Protection and Advocacy.

(2) Chapter 31 of title 28, United States Code, is amended by adding immediately after section 507 thereof, the following new section 507a:

"§ 507a. Assistant Attorney General for Consumer Protection and Advocacy

"The President shall appoint, by and with the advice and consent of the Senate, an As-

sistant Attorney General for Consumer Protection and Advocacy, pursuant to the Consumer Protection Act of 1977.".

(3) The analysis of chapter 31 of title 28, United States Code, is amended by adding at the appropriate place the following new item:

"507a. Assistant Attorney General for Consumer Protection and Advocacy.".

(4) Paragraph (19) of section 5315 of title 5, United States Code, is amended by striking out "(9)" and inserting in lieu thereof "(10)".

SEC. 5. POWERS AND DUTIES OF EACH CONSUMER COUNSEL.

(a) IN GENERAL.—Each Consumer Counsel shall be responsible for exercising the powers, duties, and functions provided for in this Act.

(b) SPECIFIC POWERS AND DUTIES.—Each Consumer Counsel may, in carrying out his functions under this Act and to the extent funds are appropriated—

(1) select, appoint, employ, and fix the compensation (subject to the civil service and classification laws) of such officers and employees as are necessary to carry out the provisions of this Act, and shall prescribe the authority and duties of officers and employees;

(2) employ and pay the expenses of experts and consultants, in accordance with section 3109 of title 5, United States Code, at daily rates (including traveltime) not in excess of the maximum rate of pay for grade GS–18, as provided in section 5332 of such title 5;

(3) promulgate, in accordance with the applicable provisions of chapter 5 of title 5, United States Code, such rules, regulations, and procedures as may be necessary to carry out the provisions of this Act and to assure fairness to all affected persons;

(4) delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(5) utilize, with their consent, the services, personnel, and facilities of State, regional, local, and private agencies and instrumentalities;

(6) accept voluntary uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(7) conduct conferences and hearings and otherwise secure data and expression of opinion;

(8) accept unconditional gifts or donations of services, money, or property (real, personal, or mixed, tangible or intangible);

(9) designate representatives to maintain effective liaison with (A) the Assistant Attorney General for Consumer Protection and Advocacy, (B) other Offices, and (C) State and local agencies carrying out programs and activities related to the interests of consumers; and

(10) perform such other administrative activities as may be necessary for the effective fulfillment of his duties and functions.

(c) REPORTS.—Each Consumer Counsel shall prepare and submit a quarterly report, on the activities of his Office to the head of the Federal agency of which such Office is a part and to the Assistant Attorney General for Consumer Protection and Advocacy. The annual report of each Federal agency shall include a separate section, which shall be prepared independently by the Consumer Counsel for such agency, on the consumer protection activities of such agency and on such agency's effectiveness in representing, protecting, and serving the interests of consumers. Each such separate section of each such annual report shall include, but not be limited to, a description and analysis of—

(1) the activities of the Office including its representation of the interests of consumers;

(2) the relevant Federal agency actions and Federal court decisions affecting the interests of consumers;

(3) the appropriation by Congress for the Office, the distribution of appropriated funds for current fiscal year, and a general estimate of the resource requirements of the Office for each of the next 3 fiscal years; and

(4) the extent of participation by consumers in the activities of the Office, and the effectiveness of the representation of consumers before the agency of which the Office is a part.

(d) DUTIES OF EACH FEDERAL AGENCY.—Each office and officer of the agency of which an Office is a part shall provide such Office with such information and data as the Consumer Counsel requests, except as provided in section 11 of this Act. The budget requests and budget estimates of each Office shall be submitted by the agency of which it is a part directly to the Congress, and moneys appropriated for the use of such Office shall not be used by the agency of which it is a part for any other purpose.

SEC. 6. FUNCTIONS OF EACH CONSUMER COUNSEL.

Each Consumer Counsel shall—

(1) represent the interests of consumers within and before the agency of which his Office is a part to the extent authorized by section 7 of this Act;

(2) conduct and support research, and studies, to the extent authorized by section 10 of this Act;

(3) submit recommendations annually, to the Assistant Attorney General for Consumer Protection and Advocacy, the appropriate committees of the Congress, and the head of the agency of which his Office is a part, on measures to improve the operation of such agency and of the Federal Government in general in the protection and promotion of the interests of consumers, including, but not limited to, any reorganization recommendations, and recommendations relative to the elimination of duplicative or unnecessary rules and regulations promulgated by such agency which it considers not to be in the consumers' interests;

(4) receive, transmit to appropriate officials, and make publicly available consumer complaints, to the extent authorized in section 8 of this Act;

(5) conduct conferences, surveys, and investigations, including economic surveys, concerning the needs, interests, and problems of consumers: *Provided*, That such conferences, surveys, or investigations are not duplicative in significant degree of similar activities conducted by other Federal officials or agencies;

(6) cooperate with State and local governments and encourage private enterprise in the promotion and protection of the interests of consumers;

(7) keep the appropriate committees of Congress fully and currently informed of all the activities of his Office;

(8) encourage the adoption and expansion of effective consumer education programs;

(9) encourage the application and use of new technology, including patents and inventions, for the promotion and protection of the interests of consumers;

(10) encourage the development of informal dispute settlement procedures involving consumers;

(11) encourage meaningful participation by consumers in the activities of his Office;

(12) publish information and material obtained and developed in carrying out his responsibilities under this Act, including, but not limited to, a consumer register of matters that may be useful to consumers; and

(13) perform other activities which are recommended by the Assistant Attorney General for Consumer Protection and Advocacy or which he deems necessary for the effective fulfillment of his duties and functions.

SEC. 7. REPRESENTATION OF CONSUMERS.

(a) ADMINISTRATIVE REPRESENTATION.—

(1) If a Consumer Counsel finds that the result of a relevant proceeding or activity of the Federal agency of which his Office is a part may substantially affect an interest of consumers, such Consumer Counsel may, as of right, intervene as a party or otherwise participate in such proceeding or activity, for the purpose of representing an interest of consumers. If a Consumer Counsel finds, with respect to the Federal agency of which his Office is a part, that the result of any relevant agency proceeding, which—

(A) is subject to the provisions of section 553, 554, 556, or 557 of title 5, United States Code;

(B) involves a hearing that is required by any statute, regulation, or practice;

(C) is conducted on the record after opportunity for an agency hearing; or

(D) is subject to a requirement of public notice and opportunity for comment,

may substantially affect an interest of consumers, such Consumer Counsel may, as of right, intervene as a party or otherwise participate in such proceeding, for the purpose of representing an interest of consumers. A Consumer Counsel shall refrain from intervening as a party in any proceeding unless such intervention is necessary to represent adequately an interest of consumers. Each Consumer Counsel shall comply with the relevant statutes and procedural rules of general applicability governing the timing of intervention or participation in such Federal agency proceeding or activity. Upon intervening or participating in a Federal agency proceeding or activity, a Consumer Counsel shall comply with any relevant statutes and procedural rules of general applicability. The intervention or other participation of a Consumer Counsel, pursuant to this subsection, shall not affect the obligation of the Federal agency involved to assure procedural fairness to all participants.

(2) The Assistant Attorney General for Consumer Protection and Advocacy may, upon the request of a Consumer Counsel, assist such Consumer Counsel in any such Counsel's intervention or other participation in that Counsel's Federal agency proceeding or activity, pursuant to this subsection, and may, in an appropriate circumstance, recommend such intervention or other participation to any applicable Consumer Counsel.

(3) Whenever a Consumer Counsel determines to intervene or otherwise participate in his agency's proceeding pursuant to this subsection, such Consumer Counsel shall publish in the Federal Register a statement setting forth his findings under paragraph (1) and the specific interest of consumers sought to be protected. Upon intervening or participating, such Consumer Counsel shall file a copy of such statement in the proceeding.

(b) JUDICIAL REPRESENTATION.—

(1) The Assistant Attorney General for Consumer Protection and Advocacy may, as of right, and in the manner prescribed by law for an aggrieved person, initiate, intervene, or otherwise participate in a civil action in a Federal court for the review of an agency action of any Federal agency if such Assistant Attorney General determines that such action may substantially affect an interest of consumers. If the applicable Consumer Counsel did not intervene or otherwise participate in the relevant Federal agency proceeding or activity out of which such agency action arose, the court shall determine whether the initiation of a judicial proceeding pursuant to this subsection would impede or would be necessary to preserve the interests of justice.

(2) If the Consumer Counsel believes that the initiation of a Federal civil action by the Assistant Attorney General, or the intervention in such Federal civil action, is war-

ranted, it shall recommend such action to the Assistant Attorney General, who shall take such action if the conditions outlined in subparagraph (1) of this section are met. The Consumer Counsel shall have no power and authority to initiate or intervene in any Federal court proceeding.

(3) The initiation of a judicial proceeding, or any other participation, by the Assistant Attorney General for Consumer Protection and Advocacy, in a judicial proceeding pursuant to this subsection shall not alter or affect the scope of review otherwise applicable to the agency action involved.

(c) REQUEST FOR JUDICIAL REVIEW.—Whenever a Consumer Counsel, or the Assistant Attorney General for Consumer Protection and Advocacy, determines it to be in the interest of consumers, he may request the relevant Federal agency to initiate a judicial proceeding for review, or to take such other action, as may be authorized by law with respect to such agency. If such Federal agency fails to take the action requested, it shall promptly notify such Consumer Counsel or Assistant Attorney General of its reasons therefor, and such notification shall be a matter of public record.

(d) TITLE OF APPEARANCES.—Appearances before a Federal agency by a Consumer Counsel under this Act shall be in the name of his Office and shall be made by qualified representatives designated by the consumer counsel involved. Appearances by the Assistant Attorney General for Consumer Protection and Advocacy shall be in the name of the United States unless the Attorney General otherwise provides, in which case such an appearance shall be in the name of such Assistant Attorney General, and shall be made by qualified representatives of the Department of Justice designated by such Assistant Attorney General and in appearance before Federal agencies by qualified representatives designated by the Consumer Counsel involved.

(e) POWERS.—A Consumer Counsel is authorized, with respect to any Federal agency proceeding in which such Consumer Counsel is intervening or otherwise participating, to request such Federal agency to issue such orders as it is authorized to issue pursuant to its statutory powers, for the copying of documents, papers, and records; for the summoning of witnesses and the production of books and papers; and for the submission of information in writing. Such Federal agency shall issue any such orders upon a statement or showing by such Consumer Counsel as to the general relevance or reasonableness thereof.

(f) PROHIBITION.—No Consumer Counsel is authorized to initiate or intervene in any proceedings or activity before any State or local agency or court.

(g) RULES CHANGES.—Each Federal agency shall review its rules of procedure of general applcability, and, after consultation with its Consumer Counsel, shall issue any additional rules or modifications of existing rules which may be necessary to provide for such Consumer Counsel's orderly intervention and other participation, in accordance with this section, in its proceedings and activities which may substantially affect the interests of consumers.

SEC. 8. CONSUMER COMPLAINTS.

(a) IN GENERAL.—Whenever a Consumer Counsel receives from any person any complaint or other information which discloses—

(1) an apparent violation of law, agency rule or order, or a judgment, decree, or order of a Federal court relating to an interest of consumers; or

(2) a commercial, trade, or other practice which is detrimental to an interest of consumers;

such Consumer Counsel shall, unless he determines that such complaint or information is frivolous or outside the jurisdiction of the agency of which his office is a part, promptly transmit such complaint or information to the Federal official which has the authority to enforce any relevant law or to take appropriate remedial action. Each Federal agency shall keep the appropriate Consumer Counsel informed to the greatest extent practicable of any action which it is taking on complaints transmitted by him.

(b) NOTIFICATION.—Each Consumer Counsel shall, to the greatest extent practicable, notify producers, distributors, retailers, lenders, or suppliers of goods, services, and credit of all complaints of any significance concerning them received or developed under this section, unless such Consumer Counsel determines that to do so is likely to prejudice or impede an action, investigation, or prosecution concerning an alleged violation of law.

(c) PUBLIC AVAILABILITY.—Each Consumer Counsel shall maintain a public document room for public inspection and copying (at a reasonable charge, not to exceed cost), containing an up-to-date listing of all consumer complaints of any significance which such Consumer Counsel has received, arranged in meaningful and useful categories, together with annotations of actions taken in response thereto. Unless a Consumer Counsel, for good cause, determines not to make any specific complaint available, complaints listed shall be made available for public inspection and copying: *Provided*, That—

(1) the party complained against has had a reasonable time to comment on such complaint and such comment, when received, is displayed together with the complaint;

(2) the Federal official to whom the complaint has been referred has had a reasonable time to notify the Consumer Counsel what action, if any, he intends to take with respect to the complaint; and

(3) no unsigned complaints shall be placed in the public document room.

(d) EVALUATION OF AND REPORTING ON COMPLAINT HANDLING PROCESSES.—Each Consumer Counsel shall evaluate the complaints received and transmitted and the effectiveness and efficiency with which such complaints are acted upon by the Federal agency of which his Office is a part. A summary of such evaluations, and recommendations for improvement, shall be included in the reports prepared by each such Consumer Counsel pursuant to section 5(c).

SEC. 9. CONSUMER INFORMATION.

(a) IN GENERAL.—In order to carry out the purposes of this Act, each Consumer Counsel shall—

(1) develop on his own initiative and shall, subject to the other provisions of this Act, gather from the other offices and officers of the Federal agency of which his Office is a part and from any other source; and

(2) disseminate to the public (in such manner, at such times, and in such form as he determines to be most effective) information, statistics, and other data, including, but not limited to, any matter over which such Federal agency has jurisdiction concerning—

(A) the functions and duties of the Office;

(B) consumer products and services;

(C) problems encountered by consumers generally or conditions, situations, developments, or practices which may adversely affect consumers; and

(D) an index of notices of hearings, proposed and final rules and orders, and other pertinent activities of such Federal agency that may affect consumers.

(b) DUTY OF COOPERATION.—All Federal agencies which possess information which would be useful to consumers shall cooperate with the appropriate Consumer Counsel in making information developed and gathered under subsection (a) available to the public in understandable form.

SEC. 10. STUDIES.

Each Consumer Counsel may conduct, support, or assist research, studies, plans, investigations, conferences, and surveys concerning the interests of consumers: *Provided*, That such activities are not unnecessarily duplicative of similar efforts by other Consumer Counsels for any Federal agency, or by similar efforts otherwise conducted by any Federal agency, and that such activities shall in no way constitute the creation of product-testing laboratories.

SEC. 11. ACCESS TO INFORMATION BY CONSUMER COUNSELS.

(a) IN GENERAL.—Upon written request by a Consumer Counsel, the Federal agency of which his Office is a part, shall furnish or allow access to all documents, papers, and records in its possession which such Consumer Counsel deems necessary for the performance of his functions and shall furnish, at cost, copies of specified documents, papers, and records. Notwithstanding this subsection, a Federal agency may deny a Consumer Counsel access to and copies of—

(1) information classified in the interest of national defense or national security by an individual authorized to classify such information under applicable Executive order or statutes, and restricted data whose dissemination is controlled pursuant to the Atomic Energy Act (42 U.S.C. 2011 et seq.);

(2) personnel and medical files and similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

(3) information which such Federal agency is expressly prohibited by law from disclosing to another Federal agency, including, but not limited to, such expressly prohibited information contained in or related to examination, operating, or condition reports concerning any individual financial institution prepared by, on behalf of, or for the use of an agency responsible for regulation or supervision of financial institutions;

(4) information which would disclose the financial condition of individuals who are customers of financial institutions; and

(5) trade secrets and commercial or financial information described in section 552(b)(4) of title 5, United States Code—

(A) obtained prior to the effective date of this Act by such Federal agency, if the agency had agreed to treat and has treated such information as privileged or confidential and states in writing to the appropriate Consumer Counsel that, taking into account the nature of the assurances given, the character of the information requested, and the purpose, as stated by the Consumer Counsel, for which access is sought, to permit such access would constitute a breach of faith by such agency; or

(B) obtained subsequent to the effective date of this Act by such Federal agency, if the agency has agreed in writing as a condition of receipt to treat such information as privileged or confidential, on the basis of its reasonable determination set forth in writing that such information was not obtainable without such an agreement and that failure to obtain such information would seriously impair performance of such agency's function.

(b) ACCESS TO TRADE SECRET INFORMATION.—Before granting a Consumer Counsel access to trade secrets or commercial or financial information described in section 552(b)(4) of title 5, United States Code, the Federal agency of which such Counsel's Office is a part shall notify the person who provided such information of its intention to provide such access, and shall afford such person a reasonable opportunity, not to exceed 10 days, to comment thereon or seek injunctive relief prohibiting such access. If a Federal agency denies access to any information to a Consumer Counsel, pursuant to this subsection, the head of such agency and the appropriate Consumer Counsel (and the Assistant Attorney General for Consumer Protection and Advocacy, if requested by such Counsel) shall seek to find a means of providing the

information in such other form, or under such conditions, as will meet such agency's objections.

SEC. 12. DISCLOSURE OF INFORMATION BY CONSUMER COUNSEL.

(a) IN GENERAL.—Except as provided in this section, section 552 of title 5, United States Code, shall govern the release of information by any Consumer Counsel, by any employee or agent of any Office, or by the Assistant Attorney General for Consumer Protection and Advocacy.

(b) PROHIBITION.—No Consumer Counsel, or officer or employee of any Office shall disclose to the public any information which was received solely from its Federal agency when such agency has notified the Consumer Counsel that—

(1) such information is within any exception set forth in section 552(b) of title 5, United States Code; and

(2) such agency has determined that such information should not be made available to the public.

If such Federal agency specifies that any such information may be disclosed to the public in a particular form or manner, such information may be disclosed by such Consumer Counsel in the form or manner specified.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS

For purposes of this Act, existing appropriated funds should be utilized to the greatest extent possible. However, there are authorized to be appropriated such sums as are necessary, not to exceed for each office $500,000 for the fiscal year ending September 30, 1978.

SEC. 14. EFFECTIVE DATE.

(a) This Act shall take effect 60 calendar days following the date on which this Act is approved, or on such earlier date as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act at any time after the date of the enactment of this Act. Such officers shall be compensated from the day they first take office at the rates provided for in this Act.

SEC. 15. SEPARABILITY.

If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any persons and circumstances shall not be affected thereby.

SEC. 16. TERMINATION.

(a) This Act shall terminate 5 years after the effective date of this Act, and the several Offices of Consumer Counsel and the Division of Consumer Protection and Advocacy of the Department of Justice shall be abolished as of the date of such termination.

(b) The President shall—

(1) commencing 2 years prior to the date of termination specified in subsection (a), conduct a review of these Offices' overall performance including, but not limited to, a study of the Offices' effectiveness in accomplishing their general purposes and promoting the general welfare; and

(2) not later than 12 months prior to the termination date specified in subsection (a), make public and submit to each House of Congress a report on the finding of the investigation conducted pursuant to paragraph (1), such report to include a recommendation that the authority of this Act be extended, that these offices be reorganized, or that the authority of this Act be allowed to lapse.

(c) The committees of the House and of the Senate having primary oversight responsibility with respect to the Offices shall, not later than 6 months prior to the termination date specified in subsection (a), conduct an inquiry into the performance and effectiveness of the Offices and make public a report of their findings, conclusions, and recommendations, including proposed legislation for such extension or reorganization of these Offices as they deem appropriate.

By Mr. HAGEDORN:

Page 13, after line 18, insert at the end of section 6 the following new subsection:

(j) The Administrator shall not intervene or otherwise participate in any Federal agency proceeding or activity or in a proceeding in a court of the United States involving judicial review of such agency proceeding or activity if such agency proceeding or activity affects two or more substantially conflicting interests of consumers. For the purposes of this subsection, two interests of consumers in a Federal agency proceeding or activity are substantially conflicting if a decision in such proceeding or activity leading to a significant improvement of one such interest would be likely to lead, directly or indirectly, to a significant impairment of the other.

Insert at the end of section 6 of the amendment in the nature of a substitute offered by the gentleman from Texas the following new subsection:

(j) The Administrator shall not intervene or otherwise participate in any Federal agency proceeding or activity or in a proceeding in a court of the United States involving judicial review of such agency proceeding or activity if such agency proceeding or activity affects two or more substantially conflicting interests of consumers. For the purposes of this subsection, two interests of consumers in a Federal agency proceeding or activity are substantially conflicting if a decision in such proceeding or activity leading to a significant improvement of one such interest would be likely to lead, directly or indirectly, to a significant impairment of the other.

By Mr. HOLLENBECK:

Section 9(d), on page 19, line 11, strike out the period and insert in lieu thereof the following: ", nor shall anything in this Act be construed to authorize the Administrator to request or direct the retesting of an aspect or characteristic of a consumer product or service when testing has been completed on such aspect or characteristic of that consumer product or service or a substantially identical consumer product or service within 18 months of the Administrator's request, unless a significant hazard to the consumer can be demonstrated."

By Mr. LEVITAS:

In section 6(a) of the amendment in the nature of a substitute offered by the gentleman from Texas, insert immediately after the first sentence thereof the following new sentence: "Whenever the Administrator intervenes or otherwise participates in any such proceeding or activity and such proceeding or activity may substantially affect more than one interest of consumers, the Administrator shall seek to represent each interest of consumers substantially affected.".

In section 6(d) of the amendment in the nature of a substitute offered by the gentleman from Texas, strike out paragraphs (2) and (3) and insert in lieu thereof the following:

(2) The Administrator may institute, or intervene as a party in, a proceeding in a court of the United States involving judicial review of any Federal agency action in which the Administrator did not intervene or participate if such court finds that such agency action adversely affects a substantial interest of consumers and, in the case of an intervention, that such consumers' interests would not otherwise be adequately represented in a judicial review of such action.

(3) The participation of the Administrator in a proceeding for judicial review of a Federal agency action shall not alter or affect the scope of review otherwise applicable to such agency action. Nothing in this subsection shall be deemed to grant to the Administrator a right of judicial review of any Federal agency action greater than the right to seek such review which is available to private persons. In any case in which the Administrator intervenes under paragraph (2), the court shall likewise permit the intervention of any person who has a substantial interest affected by such otherwise adequately represented in such proceeding.

In section 6(d)(4) of the amendment in the nature of a substitute offered by the gentleman from Texas strike out ", except that" and everything that follows through "regulatory nature".

In section 7 of the amendment in the nature of a substitute offered by the gentleman from Texas, strike out subsections (a) and (e), redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively, and in subsection (b) (as redesignated) strike out "subsection (b)" and insert in lieu thereof "subsection (a)".

In section 17 of the amendment in the nature of a substitute offered by the gentleman from Texas, strike out ", or to a labor dispute" and everything that follows through "Labor Management Relations Act, 1947 (29 U.S.C. 171)".

In section 17 of the amendment in the nature of a substitute offered by the gentleman from Texas, strike out ": *Provided*, That" and everything that follows through the remainder of such section and insert in lieu thereof a period.

Insert at the end of section 6 of the amendment in the nature of a substitute offered by the gentleman from Texas, the following new subsection:

(j)(1) Notwithstanding any other provisions of law, the head of any agency which has conducted a rulemaking proceeding in which the Administrator has intervened or otherwise participated pursuant to subsection (a) shall, simultaneously with the promulgation or repromulgation of any rule or regulation pursuant to such proceeding, transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), no such rule or regulation shall become effective if—

(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the Administrator of the Office of Consumer Representation dealing with the matter of , which rule or regulation was transmitted to Congress on .", the blank spaces therein being appropriately filled; or

(B) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

(2) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation subject to paragraph (1), no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolu-

tion, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (2).

(3) For the purposes of paragraphs (1) and (2) of this subsection—

(i) continuity of session is broken only by an adjournment of Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

(4) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

On page 13, line 24, of the amendment in the nature of a substitute offered by the gentleman from Texas, strike out "Federal agency shall" and insert in lieu thereof "Federal agency may".

By Mr. SHUSTER:

Page 31, on line 15, insert immediately after "involving" the following: ", presently or prospectively,".

Page 31, line 19, insert immediately before "adequacy" the following: "present or future".

Page 30, line 22, insert immediately after "involving" the following: ", presently or prospectively,".

Page 31, line 1, insert immediately before "adequacy" the following: "present or future".

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By Mr. TRAXLER:

On page 14, after line 14, insert at the end of section 6 of the amendment in the nature of a substitute offered by the gentleman from Texas the following new subsection:

(j) The Administrator shall not intervene or otherwise participate in any Federal agency proceeding or activity or in any civil proceeding in a Federal court, and the Administrator may not initiate any civil proceeding in a Federal court, if such intervention, initiation, or participation is intended to restrict or limit, or has the effect of restricting or limiting, the manufacture or sale of firearms, ammunition, or components of ammunition, including blackpowder and gunpowder.

EXTENSIONS OF REMARKS

SKOKIE DECISION SHOWS "CALLOUS DISREGARD"

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. EILBERG. Mr. Speaker, I am disappointed that the Illinois Supreme Court has ruled that the Nazi Party can march in Skokie, Ill., to carry out the Nazi program of inflaming racial prejudices and bigotry.

I fear that the court has failed to recognize the clearly stated hope of the Nazis to incite violence. In its decision, the court has been insensitive to public safety in Skokie, and has shown a callous disregard for the pain and anguish of the Jewish members of the community.

Mr. Speaker, freedom of speech has always been a part of the Jewish community's tradition. But this is not a question of protecting freedom of speech. It is a case of abusing it, because the Nazis make no attempt to disguise the fact that they seek to abuse the U.S. Constitution in order to carry out their program of hatred, bigotry, and violence.

We have seen what the Nazi swastika represents. It is not a political symbol. It is a symbol of racism and genocide, and anyone who doesn't realize this is overlooking the tragic history of our own lifetime.

The Jewish community and other minorities in our country have every reason to believe that the Nazis would carry out their threats if they had the opportunity to do so. Therefore, it is entirely appropriate for the community in Skokie to pursue every constitutional remedy at its disposal to prevent the Nazis from marching.

The following story from the January 30 Philadelphia Evening Bulletin recounts the terror visited by the Nazis on a woman who now is a resident of the district which I represent in Congress. This story illustrates the need to guard against those who would abuse the Constitution and hide behind it as a means of carrying out the violence and genocide that my constituent, Mrs. Mina Kalter, and her family know firsthand:

APPROVAL OF SWASTIKA IS SLAMMED: NAZI SYMBOL STIRS A PAST MEMORY

(By Robert Freedman)

When Mina Kalter's father and three brothers returned from their first day of forced labor at the hands of the conquering Nazis, two of the boys had the Nazi swastika carved into the flesh of their foreheads. It was Sept. 11, 1939.

"This was the first time I remember seeing a swastika," Mrs. Kalter recounted. "Literally, I saw it in the flesh—in the flesh of loved ones," she said yesterday at her home in Northeast Philadelphia.

Mrs. Kalter, then 16-year-old Mina Barseches, was living in her home town of Pryeworska, Poland, an important rail center of 55,000 persons.

Germany had invaded Poland on Sept. 1. Poland surrendered on Sept. 27th.

Almost 40 years later, Mrs. Kalter cannot believe that the swastika, the symbol of Hitler's Third Reich, has been ruled permissible for public display by the Illinois Supreme Court.

In a 6-1 decision, the court's majority opinion, handed down Friday, said, "The display of these swastikas, as offensive to the principles of a free nation as the memories it recalls may be, is symbolic political speech intended to convey to the public the beliefs of those who display it."

Those who asked the Court for permission to display the swastika are members of the National Socialist Party of America, a relatively small band of Nazi who claimed the constitutional right to march with it through Skokie, a predominantly Jewish suburb of Chicago.

Like Mrs. Kalter, many of Skokie's Jews are survivors of the Holocaust that claimed the lives of more than nine million people, six million of them Jews.

Like Mrs. Kalter, many of Skokie's Jewish people came to the United States in the years following World War II in hopes of a new beginning and in hopes of forgetting the terror and agony suffered at the hands of the Nazis.

"The mere thought of the swastika stirs dreaded memories deep in the hearts and souls of the survivors," Mrs. Kalter said. "These are memories better left in the backs of our minds, deep in our souls," she said.

"It's not that we try to forget completely," she explained. "We just want to make it through each day without being confronted by this symbol again," she said while sobbing at the memories the Skokie case brought to her mind.

The symbol Mrs. Kalter spoke of was seen many times during the ten years she spent as a young woman during the horrible years of 1939 through 1949.

It is a symbol she blames for the deaths of 67 members of her family—parents, grandparents, one of three brothers and her aunts, uncles and cousins.

A day after she saw the swastika carved in the foreheads of her two brothers, she saw it on the wings and tail of a German plane as it dove on her town's synagog and dropped one bomb on it that also destroyed the Jewish community surrounding it.

Mrs. Kalter saw it on the arms of the troops who led her family and all the town's other Jews into that burned out community to establish a "ghetto."

She saw it in 1940 when the German troops with swastika armbands took her mother and father away, never to be seen again, because her mother was too sick to perform forced labor and her father too dedicated to his wife to let her go alone.

She saw the swastika that same year when two drunken Nazi officers threw an 11-year-old child to his death from an apartment while Mrs. Kalter watched.

She saw the swastika on the arm of the German guards she escaped from when she jumped from a truck she was riding in a work convoy and escaped to the Russian sector of Poland.

"So you see, the sign of the swastika, for those who survived the holocaust, is a sign of terror and humiliation," she said.

"This Illinois ruling is a desecration to the memory of the six million Jewish martyrs killed at the hands of the Nazis under that sign of the swastika."

"I wonder if this (the Illinois ruling) is what was meant by our founding fathers when they spoke of freedom of speech under the First Amendment?" she asked.

"This case has gone beyond the limits of the First Amendment because when I see a swastika, I feel the knives and guns at my back," she said.

Mrs. Kalter's two brothers now live with their families in Israel. She has visited them there three times since 1949 and one of them has been to Philadelphia.

Sol Kalter, her husband whom she met while in a Russian work camp in Siberia, is a watch maker in center city. They have three children and live in a single ranch-style home in the Bustleton section of Northeast Philadelphia.

I REMEMBER GREG

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. WYDLER. Mr. Speaker, Gregory Thompson was my youngest nephew and he was killed a few days ago in an auto

accident. The funeral has been held and he has been buried. A few words about this fine young man.

Born as the last of three sons to my sister, Betty, and her husband, Tom, Greg proved to be the "personality" child of the family. Every family has one. His ways and mannerisms were so cute you could not get mad at him. While his brothers, Tom and Paul, were typical boys, Greg always instinctively knew when to stop in his playfulness.

As he grew into a man, he retained his softness and kept his appeal. It was based on a deep desire to be of help to those around him. Everyone sensed it.

All during his childhood Greg had wanted to be a lawyer, but just before college he came to see me. He stated he had changed his mind and wanted to be a doctor. Although I didn't understand it then, I later was told he chose medicine to help others, and that not only became his dream but his passion.

For some reason, although he attained many honors—including Phi Beta Kappa and Phi Kappa—he did not get accepted to the medical school. He never asked for any help—not even a recommendation from me. He wanted to do it on his own.

He was still trying when he was killed. It was on a trip from a medical school interview that the accident happened. It was likely he was close to realizing his life's dream.

He died at 28, after much living, but before a full life. He almost died of a childhood disease at 6 years old. God spared him that death. He experienced all life's emotions, good and bad, except the final satisfaction of helping others as a doctor. That's the bitter. The sweet is his memory.

Death, of course, brings every man to earth. But it does not eradicate the measure of the man.

At the parlor I overheard a young girl say to my sister; "He had magic in him." I'm too old to know what that means, but I am not too old to know it is beautiful to be thought of that way. I was stunned to meet his fifth grade teacher who came to pay his respect to a boy he taught 20 years before.

I knew him better as a boy than a man, but he had depth. He asked his parents this Christmas to give him something he could keep. They gave him a ring and he will keep it forever.

He refused my help and disliked the authority my position implied over his life, particularly during the Vietnam War. In a way that period changed him and hurt him.

He was concerned for others but independent as a person. He was soft toward others but strong within. He loved to learn and to serve. He was an idealist in a real world.

It would have pleased him that when a problem arose about opening his grave for burial at the St. Michael's Cemetery on Tuesday, I with all my congressional regalia could do nothing to get it done, that a bishop with all the church hierarchy could do nothing, but that his brother, Tom, with a personal visit and appeal to the grave diggers got it done. It would have pleased him, and it pleased me.

Greg did accomplish much. As a research assistant at Stony Brook, as an instructor at Suffolk and Nassau Community Colleges, as the apple of his parents eyes, and the bridge between his brothers and family.

He has been and will be truly mourned by many. No man gets more. He will see God, and my bet would be he is close up with the helpful angels.

My father started a family tradition. Whenever he left to start a trip he alwas said goodbye by shouting "Yo-Ho." It came to mean—I enjoyed seeing you and will do it soon again.

Greg's brother Paul sent the usual flowers to the funeral. The card had an unusual message. It said only, "Yo-Ho."

No better sendoff can be imagined for a journey we all make.

KENTUCKY STATE YMCA VISITS WASHINGTON

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. MAZZOLI. Mr. Speaker, I would like to welcome delegates from the State YMCA of Kentucky, who will be visiting Washington this week.

Among its other activities, the YMCA folks will be visiting Capitol Hill on Monday, Tuesday, and Wednesday of this week.

On Wednesday, before returning to Kentucky, the group will host a prayer breakfast for the Kentucky congressional delegation.

I would like to introduce the visitors to my colleagues on the House of Representatives:

Mr. Michael D. Haynes, Executive Director, State YMCA of Kentucky, Louisville, Ky.; Mr. Thomas Anderson, Mount Sterling, Ky.; Mr. and Mrs. Carl Brown, Louisville, Ky.; Mr. and Mrs. Mike LaVera, Louisville, Ky.; Rebecca Moore, Louisville, Ky.; Beverly Tyson, Louisville, Ky.; Thomas Whitus, Louisville, Ky.; Jane Harkess, Louisville, Ky.; Angela Gillum, Morehead, Ky.; Karen Cutliff, Bowling Green, Ky.; Melanie Vanderpool, Jeffersonville, Ind.; Jimmy Ward, Salt Lick, Ky.; Rusty Skinner, Mount Sterling, Ky.; Leslie Brown, Louisville, Ky.; David Calvert, Jeffersonville, Ky.; Lucy Ann Davis, Pikeville, Ky.; G. Marie Henson, Louisville, Ky.

Also: Barry Hickey, Mount Sterling, Ky.; Meg Hammer, Louisville, Ky.; Libby Deiss, Lousiville, Ky.; Jude Muller, Louisville, Ky.; Lea Anne Pauley, Louisville, Ky.; Cheryl Scheck, Williamstown, Ky.; Cecil Colliver, Mount Sterling, Ky.; Janet Foley, Louisville, Ky.; Kevin Barnard, Mount Sterling, Ky.; Janie L. Parker, Paducah, Ky.; David Hadden, Mount Sterling, Ky.; Sally Nasser, Louisville, Ky.; Joe Peters, Mount Sterling, Ky.; Julian Tackett, Lexington, Ky.

Also: Luanne Smith, Paducah, Ky.; Jean Bird, Bowling Green, Ky.; N. Beth Luther, Jeffersonville, Ind.; Charles R. Deaton, Pikeville, Ky.; Mark Dever, Madisonville, Ky.; Charles Zoellers, Pikeville, Ky.; Elizabeth Hamilton, Morehead, Ky.; Laura Hughes, Anchorage, Ky.; Kent Greenfield, Princeton, Ky.; Mindy Wigginton, Fredonia, Ky.; Joe C. Baker, Princeton, Ky.; Curtis Brown, Princeton, Ky.; and Jay Callis, Pendleton, Ky.

1978 WATERWAYS JOURNAL PLATFORM

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. TREEN. Mr. Speaker, earlier this year the Waterways Journal published a list of issues it considers vital to the future of waterborne transportation in this country.

The Waterways Journal asked that we in Congress consider this platform as we develop transportation legislation during 1978. Accordingly, I am placing it in the RECORD for the benefit of my colleagues:

1978 WATERWAYS JOURNAL PLATFORM

The United States stands at the crossroads in 1978. One road leads to the opportunities created by an expanding economy, wise use of the nation's natural resources and the proper conservation of all forms of energy. The other road leads to a declining economy, higher unemployment and a deepening energy shortage. The Waterways Journal recognizes that 1978 will be a year of decision, and the decision will be determined largely by those elected to the Congress in this national election year.

This year, more than ever before, it is essential that all waterway interests must stand united in support of the policies we are convinced are in the national interest.

One of the responsibilities of the second session of the 95th Congress is to enact a new national transportation policy. We urge that the new policy include:

Recognition that the nation's inland waterways are vital to national security. The 25,000 miles of navigable channels are the least vulnerable to enemy attack from without and from sabotage within. The waterways provide the safest and most efficient mode of transport for nuclear devices and all hazardous cargoes. The inland waterways make possible the use of shipyards in time of emergency and the inland waterways fleets can be expanded to meet emergency needs faster and cheaper than any other form of transport.

Recognition that all waterways shall be open to all and be free of any form of user charge that would significantly impair their use as part of a viable transportation system.

Recognition that the national interest is best served by a coordinated transportation system in which full use is made of the inherent advantages of each mode of transport.

Recognition of the inherent danger of permitting any form of transportation to own or operate a competing mode of transport.

The 95th Congress is charged with the responsibility of developing and adopting a new national water policy. Water is one of the nation's most valuable natural resources. The expeditious and efficient development and conservation of this resource must not be thwarted, nor diverted to serve any selfish interest. Protection and efficient use of water must not be surrendered to zealous environmentalists, nor to a few government agencies, nor to any industry. All environmental proposals should be fully described to the public in terms of objectives, projected benefits and costs.

In formulating a new national water policy, Congress should:

Retain full control of authorizing and funding all water resources projects, including new dams, and should establish a time schedule to assure the economical and efficient construction of all such projects.

Reject all proposals to transfer control

over water resource projects to any new and untried federal agency, or to state or local agencies.

Insist on an equitable benefit/cost formula for all projects.

Insist on the full use of the multipurpose concept as exemplified in the Pick-Sloan Plan of the Missouri basin in authorizing all future projects.

We recognize the worldwide reputation of the U.S. Engineers and commend the Corps for its exemplary record in protecting environmental standards as well as for its work in improving and maintaining the inland waterways. We are unalterably opposed to any proposal to transfer the civil functions of the U.S. Engineers to any other agency.

We reaffirm our support of the U.S. Coast Guard and its policy on adequate bridge clearances. We commend the Coast Guard for its promotion of marine safety and support its proposal that radiotelephones be installed at all drawbridges. We urge the expediting of the evaluation of protective works at all bridges and locks.

We call attention to the serious shortage of trained personnel for all phases of the maritime industry and urge the expansion of maritime studies in institutions of higher learning. We strongly support expansion of the National River Academy, and we recommend to all inland waterway interests that they increase their financial support of maritime curricula and research. In support of this recommendation, we urge the establishment of a National Waterways Museum which will serve as a focal point for maritime research.

We recognize the growing popularity of pleasure boating and reaffirm our support of pleasure boat owners and of all phases of the recreational boating industry. We welcome the support of these groups for the program of water resources development.

Finally, we call to the attention of the Congress and of the American people the need for a fuller understanding of the vital role of the water resources program in building a strong and prosperous nation.

SRI LANKA CELEBRATES ANNIVERSARY OF INDEPENDENCE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. McCLORY. Mr. Speaker, I would like to congratulate the people of Sri Lanka on their National Day, February 4. It marks the date, 30 years ago, when this magnificent island nation off the tip of India achieved independence from Great Britain although Sri Lanka remains a member of the Commonwealth of Nations.

Once known as Ceylon, Sri Lanka appears to have changed direction during national elections last July. It modified its form of government and elected its first Executive President, Mr. J. R. Jayawardene, who is responsible to all the people for all decisions made by the executive branch.

The United National Party, which Mr. Jayawardene represents, won a vast majority of seats in the legislative branch giving him and his party a powerful mandate to carry out its programs.

Mr. Speaker, I have had the honor of visiting Sri Lanka. It is a land of beauty, of extraordinary potential, of abundant vegetation, and gifted with great aspirations. We are told its new government is moving boldly to revive the economy, to stimulate savings and investment, and to move toward steady, sustained growth.

As Sri Lanka seeks to achieve this kind of stability, it is turning more toward a philosophy of private enterprise which we in the United States so well understand.

Mr. Speaker, we in this country and our free world allies have a great stake in others who prefer the ballot box to imposed dictatorship. I wish the people and the elected leaders of Sri Lanka well as they mark their National Day with new hopes and new plans.

CONVERTING TO WIND

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. HEFTEL. Mr. Speaker, it is both ironic and unfortunate that Congress has been unable to complete action on President Carter's energy program, almost 1 year after it was first proposed. But even as we continue to focus on the immediate problem of developing a workable and substantive program, it is important that we also pay heed to those among us who propose alternative solutions to our future energy requirements.

One of these innovators is Honolulu architect Jim Charlton, who offers this simple truth about energy: "The energy crisis exists not in the lack of energy, but in its storage and conversion to appropriate use." While most of us are embroiled in controversy over oil, Mr. Charlton has visions of harnessing the wind.

In a recent article written by Bruce Benson for Honolulu Magazine, Mr. Charlton describes his plan for capturing windpower, not through the use of windmills, where most windpower research is concentrated, but by channeling or vectoring the wind into confined spaces to spin rotors and power conventional generators.

Mr. Charlton's ideas deserve widespread dissemination, Mr. Speaker, and I request that the magazine article be inserted into the CONGRESSIONAL RECORD at this time.

CONVERTING TO WIND

(By Bruce Benson)

The view from Jim Charlton's high-rise living room is like a playpen for the imagination, and Charlton is busy playing with Honolulu's energy problems. He has placed his drawing board next to one window of his Moiliili condo where, at a glance, he can take in the Pali, Waialae Kahala, all of Diamond Head and Waikiki, and the new reef runway. He then proceeds to redesign the city on his sketch pads.

Charlton's renderings portray a place of unfamiliar-looking structures and devices that call to the wind for their source of power. But Charlton is an architect, not an artist of science fiction, and though his landscapes seem strange they are rooted in real architectural possibilities. The operating principle for his wind-powered Honolulu of the future is at once so simple, yet so filled with potential, that several engineers and scientists are encouraging him to pursue it.

Traditional wind research has concentrated on ways of building bigger, more efficient blades of windmills to catch the breeze and spin. Researchers nowadays are also going to great lengths to find the best sites for locating their wind power generators. Dr. Edward Teller, for example, and his associates at Lawrence Livermore Laboratory in California are deep into a research project on Oahu to measure wind patterns in the hills and mountains, using laser beams and complicated mathematical models in their search for the optimum winds.

Charlton too is interested in optimizing wind flow, but with a different twist. He proposes to enhance the breezes at his structures instead of bounding across hill and dale to find the most perfect wind sites.

He notes that any surface can be said to direct the wind. A mountain range, a rolling plain on the side of a building all control or vector the wind. In fact, engineers are well aware of wind forces on buildings, and several specialists have built entire careers out of calculating wind stress, especially on high-rises. They have worked out rather precise formulas to determine what must be done for structures to stay put and not wobble dangerously in windy cities such as Honolulu.

It is this force that Charlton thinks can be harnessed, and then concentrated. "The wind force so expensively resisted can be converted to a power supply," he says. "You use the contours and planes of a building to direct the wind where you want it. In this case I am talking about directing it toward a narrow opening that is designed as an integral part of a structure. At this opening you place an impeller, a spinning blade on a shaft. The shaft can either rise across vertically with the building or, in the case of low buildings run across horizontally."

His sketches reveal angulated planes that beckon the breeze to flow toward them. This is done by orienting one side of a structure generally toward the wind, then dividing that side into two surfaces. The surfaces angle inward in a concave shape. It is as if you put your fingertips together to describe the bow of a ship.

What the architect is doing is designing a structure with a built-in Venturi effect. He is channeling the wind from a broader aperture to a narrower one. At the point where the two inward-sloping walls or surfaces meet each other is where Charlton deliberately leaves an opening for the wind to spill through.

The Venturi slot increases the flow velocity of the wind since it is a well-established principle that a fluid, such as the wind, gains acceleration when constricted in a channel. The volume of air along the two angled walls then pass through the impeller located at the slot. The spinning impeller driven by the accelerated wind provides the energy to power a conventional generator for the production of electricity.

"Our goal at this point is to come up with first-generation, high-velocity small-scale wind rotors that are built into structures like appliances, vectoring energy into a collection system that is more efficient than your typical windmills," says Charlton.

Because the wind is an intermittent power source, the use of architectural enhancement of wind flow for energy has to be viewed at present as a part-time energy supplier, although Charlton has some ideas on ways of storing energy in a structure to draw upon when the wind ceases. Hawaiian Electric Co.'s market research director Alan S. Lloyd refers to intermittent power sources as "fuel oil displacers."

So just how much fuel oil could Charlton's concept displace? Lloyd says a typical tall office building in downtown Honolulu could

use something in the neighborhood of 700,000 kilowatt hours per month, assuming the building provides 270,000 square feet of rentable space and is in service about 350 hours a month.

Charlton's research indicates that a wind speed of 15 miles per hour could produce 340 kilowatts of energy per hour. That's 119,000 kilowatts over 350 hours, or 17 per cent of the building's power requirements. At a wind speed of 20 miles per hour he figures the wind could develop 800 kilowatts per hour. That's 280,000 kilowatts in a month, amounting to 40 per cent of the structure's requirements.

Hawaiian Electric manages to wring 588 kilowatt hours out of one barrel of oil. Charlton's theoretical office building could displace 476 barrels of oil per month simply by catching and using the wind that now escapes work.

All of this is assuming the wind will blow constantly at 20 miles per hour past the structure's built-in impeller system during the time the tenants are around. The actual average could be less . . . or even more. But with a power storage system the building could collect its wind-given kilowatts 24 hours a day, feeding them into the electrical system when needed. Kinds of power storage under investigation by many researchers include fluid-driven pumps, sophisticated flywheels, batteries and the hydrogenation of water. The latter approach calls for dissociating water into hydrogen and oxygen, storing the hydrogen as a fuel for later use by a power plant.

Energy through architecture isn't limited to large-scale buildings, according to Charlton. The concept could provide the power for single-family homes, especially hillside houses, providing far more than the thousand kilowatts per month for which the typical householder is now paying close to $50.

CONVERTING TO WIND

The architect also thinks it's possible to construct what he calls wind dams—long airfoils of some light frame construction. The dams could be hinged at their fulcrum to change their pitch or angle to the wind. They could be built horizontally and placed on plains or deserts or the roofs of factories and barns. They could be built vertically, and installed in the escarpments of the Pali, then painted green to camouflage their existence.

Charlton confesses that he is a dreamer and a romantic. As a youth of the Depression he recalls picking up a book of designs by Frank Lloyd Wright. That was a revelation, he says. He searched out Wright in Wisconsin and was put to work painting the walls of Wright's buildings. Later came cross-country trips by motor caravan to Taliesin West where he and other students labored in the desert as Wright created startling forms of stone and redwood from plans that existed only in his own mind.

Charlton also flew missions over Germany as a fighter pilot in World War II which further shaped his feelings about man's relationship to the air. Although a dreamer, three decades of his own practice have left him anchored firmly enough in practicality to know that life these days presents problems of a different order. It's hard enough to get a new traffic light put at the street corner let alone veer away overnight from the present madness of high-energy high-rises.

His ideas on energy from architecture, however, are perhaps a weather vane to future forms, the kind of thinking that is different enough to help people start looking in a new direction for less expensive power. He has stirred sufficient interest to be taken seriouly for possible funding in two programs set up to encourage just his kind of brainstorming.

One is a new program at the Energy Research and Development Administration (ERDA), where he has been advised to submit a proposal for further research. His project would fall under what some are calling ERDA's "Blue Sky" section—an upcoming funding source to provide modest grants for ideas of merit by people working without the benefit of full-time institutional or corporate facilities.

Another place offering encouragement is the Hawaii Natural Energy Institute at the University of Hawaii. Investigators George T. Koide and Patrick K. Takahashi have just released a report that recommended further research on the actual implementation of seven new potential ways to derive energy from the sun and wind. Charlton's ideas are included.

He is making no claims to originality in vectoring the wind. Rather, his strength seems to lie in bringing his background of aviation and architecture to an idea and then refining the implications. "I feel like the guy who has just realized that the wheel is round when others still don't see its potential," he says, "and I have to go around telling everybody."

TRIBUTE TO C. JASPER BELL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. SKELTON. Mr. Speaker, although it is my sad duty to report the death of a former Member of this body, my words today are not meant to be a lamentation, but rather a tribute to the long and distinguished career of C. Jasper Bell of Lee's Summit, Mo. Mr. Bell, who for 14 years represented the fourth district, the same district I have the honor of representing, died last month at the age of 93.

Mr. Bell's political career began in 1925, as a city councilman in Kansas City, Mo. In 1931 he was named judge of the Jackson County Court in Independence. In 1934 he was elected to the U.S. Congress from the fourth district, a position he held until retiring in 1948.

During his years in Congress, C. Jasper Bell distinguished himself in many areas. He made national headlines as chairman of a special investigating committee that exposed the "Townsend Plan" and others as moneymaking schemes. He served as chairman of the House Committee on Insular Affairs and sponsored legislation leading to the granting of independence to the Philippine Islands after World War II.

After retiring from politics in 1948, Mr. Bell helped form the Mosman, Rogers & Bell law firm, now the Rogers, Field, Gentry, Robertson & Benjamin law firm. For many years he was one of the leaders of Kansas City's legal community.

The life of Representative C. Jasper Bell was a remarkably full one. As a judge, as a Congressman, as an attorney, as a family man, as a citizen, he embodied all of the virtues of the public and private man.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meeting scheduled for Tuesday, March 7, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 8

9:00 a.m.
Human Resources
Aging Subcommittee
To continue oversight hearings on proposed extension of amendments to the Older Americans Act.
Until noon 457 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed authorizations for fiscal year 1979 for the Nuclear Regulatory Commission.
4200 Dirken Building

Environment and Public Works
Transportation Subcommittee
To hold hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate System, and the costs of maintenance on the Federal highway system.
1318 Dirksen Building

Human Resources
Child and Human Development Subcommittee
To hold hearings to review the current programs on child care and child development and the need for additional legislation.
Until 12:30 p.m. 4232 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on the extension of NIH research authorities and community mental health centers.
Until 12:30 p.m. S-207, Capitol

Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act.
2228 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Fine Arts Commission, Woodrow Wilson Center, National Capitol Planning Commission, and the National Gallery of Art, Department of the Interior and related agencies.
1114 Dirksen Building

Appropriations
Defense Subcommittee
To resume hearings, in closed session, on proposed budget estimates for fiscal year 1979 for the defense establishment.
1223 Dirksen Building
Banking, Housing, and Urban Affairs
To continue oversight hearings on the budgets of bank regulatory agencies.
5302 Dirksen Building
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed authorizations for fiscal year 1969 for the U.S. Railroad Association.
235 Russell Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the Federal coal leasing policy and its impact on western coal development.
3110 Dirksen Building
Finance
International Trade Subcommittee
To hold hearings on H.R. 5643, to implement the U.N. Convention on the means of prohibiting and preventing illicit import, export, and transfer of ownership of cultural property.
2221 Dirksen Building
Select Intelligence
To hold hearings on S. 1566, to establish procedures for electronic surveillance in the area of foreign intelligence information.
6226 Dirksen Building
Select Small Business
To hold hearings to delineate the problems of attracting capital to small and medium sized independent enterprises.
424 Russell Building
Joint Economic
To continue hearings on the President's economic report.
2337 Rayburn Building
10:30 a.m.
Human Resources
Education, Arts, and the Humanities Subcommittee
To hold hearings on S. 2473, proposed College Opportunity Act.
318 Russell Building
2:00 p.m.
Appropriations
Public Works Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1970 for public works projects.
S–126, Capitol

FEBRUARY 9

7:00 a.m.
Human Resources
Child and Human Development Subcommittee
To hold hearings on the reauthorization of the ACTION agency (P.L. 93–113).
Until 11:00 a.m. 4232 Dirksen Building
9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Edith B. Sloan and Susan B. King, both of the District of Columbia, each to be a Commissioner of the Consumer Product Safety Commission.
235 Russell Building
Governmental Affairs
Civil Service and General Services Subcommittee
To mark up H.R. 3447, H.R. 3755, and S. 1559, bills relating to civil service survivor annuities; H.R. 6975, increasing the number of hearing examiner positions which may be established by the Civil Service Commission at the GS–16 level; and S. 1265 and 1267, bills relating to the maintenance and orderly disposition of public records.
S–210, Capitol
9:15 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 2474, to extend through fiscal year 1983 the Public Health Service Act.
Until 12:30 p.m. 6226 Dirksen Building
9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for Regional Commissions of the Public Works and Economic Development Act of 1965, and the Appalachian Regional Commission.
4200 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act.
2228 Dirksen Building
10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Advisory Council on Historic Preservation, Museum Services, and Pennsylvania Avenue Development Corporation.
1318 Dirksen Building
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building
Finance
Public Assistance Subcommittee
To resume hearings to receive testimony from Secretary of Labor Marshall on S. 2084, the proposed "Better Jobs and Income Act".
2221 Dirksen Building
Governmental Affairs
To hold hearings on the handling of discrimination complaints in the Senate (pursuant to Rule 50 and Section 310 of S. Res. 110).
3302 Dirksen Building
Joint Economic
To continue hearings to receive testimony on the President's economic report from Treasury Secretary Blumenthal.
5110 Dirksen Building
10:30 a.m.
Judiciary
To hold hearings on the nomination of Paul A. Simmons, of Pennsylvania, to be U.S. district judge for the western district.
2228 Dirksen Building
Judiciary
Criminal Laws and Procedures
To resume hearings to examine the erosion of law enforcement intelligence gathering capabilities.
457 Russell Building
11:00 a.m.
Foreign Relations
Arms Control, Oceans, and International Environment Subcommittee
To resume hearings on S. Res. 49, favoring international agreement to a treaty requiring the propagation of an international environmental impact statement for any major project expected to have significant adverse effect on the physical environment.
4221 Dirksen Building
11:30 a.m.
Commerce, Science, and Transportation
To hold a business meeting.
235 Russell Building
2:00 p.m.
Appropriations
Public Works Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for public works projects.
S–126, Capitol

FEBRUARY 10

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the implementation of the National Science and Technology Policy Act (P.L. 94–282).
235 Russell Building
Judiciary
Juvenile Delinquency Subcommittee
To hold oversight hearings on the Drug Enforcement Administration's efforts to control drug trafficking on U.S. borders with Mexico.
2228 Dirksen Building
10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Department of the Interior
1114 Dirksen Building
Appropriations
Defense Subcommittee
To resume hearings, in closed session, on proposed budget estimates for fiscal year 1979 for the defense establishment.
1223 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To resume oversight hearings on the Federal coal leasing policy and its impact on western coal development.
3110 Dirksen Building
Foreign Relations
African Affairs Subcommittee
To meet in closed session to receive testimony from administration officials on foreign military activities in Africa.
S–116, Capitol
Select Small Business
To resume hearings to determine the problems of attracting capital to small and medium-sized independent enterprises.
424 Russell Building
Joint Economic
To continue hearings to receive testimony on the President's economic report from Secretary of Commerce Kreps and Secretary of Labor Marshall.
345 Cannon Building

FEBRUARY 15

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the National Bureau of Standards.
235 Russell Building

FEBRUARY 20

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for programs within the Department of the Interior, including General Services Building proposals.
4200 Dirksen Building
10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget

estimates for fiscal year 1979 for the Navajo-Hopi Relocation Commission.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for HUD.
5302 Dirksen Building

Foreign Relations
To hold hearings on the International Sugar Agreement (Exec. A, 95th Cong., 2d sess.).
4221 Dirksen Building

6:00 p.m.
Human Resources
Child and Human Development Subcommittee
To resume hearings to review the current programs on child care and child development and the need for additional legislation.
Until 9:00 p.m. 4232 Dirksen Building

FEBRUARY 21

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

9:30 a.m.
Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for the Economic Development Administration.
4200 Dirksen Building

10:00 a.m.
*Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Water Research and Technology.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Health Service Administration, Department of HEW.
S-128, Capitol

Banking, Housing, and Urban Affairs
Housing, and Urban Affairs Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for HUD.
5302 Dirksen Building

Budget
To receive testimony from Director Bosworth, Council on Wage and Price Stability, in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 2158, to permit the storing of foreign-caught shark fins at U.S. foreign trade zones for eventual exportation to foreign countries.
5110 Dirksen Building

Foreign Relations
To hold hearings on H.R. 7819, S. 1256, and S. 1257, to guarantee fair and equitable compensation for Americans injured in auto accidents with diplomatic personnel, and to require compulsory auto liability insurance for all diplomats.
4221 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend and amend the Elementary and Secondary Education Act
Until noon 4232 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Center for Disease Control, Department of HEW.
S-128, Capitol

FEBRUARY 22

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorization for NASA.
235 Russell Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To hold hearings on proposed legislation to extend the Comprehensive Employment Training Act (CETA).
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
*Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of the Secretary.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S-128, Capitol

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for military construction programs.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on HUD crime and riot reinsurance programs.
5302 Dirksen Building

Environment and Public Works
To hold hearings on proposed fiscal year 1979 authorizations for the Army Corps of Engineers.
4200 Dirksen Building

Joint Economic
To resume hearings on the President's economic report.
1202 Dirksen Building

Rules and Administration
To hold hearings to receive testimony in behalf of resolutions requesting funds for activities of Senate committees and subcommittees, to be followed by consideration of these resolutions and other committee business.
301 Russel Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S-128, Capitol

FEBRUARY 23

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue hearings on proposed legislation to extend the Comprehensive Employment Training Act (CETA).
Until 12:30 p.m. 4332 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Portection Subcommittee
To hold hearings on S. 1820, to preserve examples of America's diverse natural ecological resources for classification, identification, and protection.
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Veterans' Administration.
1818 Dirksen Building

Appropriations
Interior Subcommittee
To hold hearings to receive testimony from Secretary of the Interior Cecil Andrus, on proposed budget estimates for fiscal year 1979 for the Department of the Interior.
1114 Dirksen Building

Appropriations
Military Construction Subcommittee
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S-128, Capitol

Appropriations
Military Construction Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for military construction programs.
S-146, Capitol

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on U.S. export policy.
5302 Dirksen Building

Rules and Administration
To continue hearings to receive testimony in behalf of resolutions requesting funds for activities of Senate committees and subcommittees, to be followed by consideration of these resolutions and other committee business.
301 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Institutes of Health, Department of HEW.
S-128. Capitol

FEBRUARY 24

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To continue hearings on S. 1820, to preserve examples of all of America's diverse natural ecological resources for classification, identification, and protection.
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal years 1979 for the Veterans Administration.
1318 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Alcohol, Drug Abuse, and Mental Health Administration, Department of HEW.
S-128, Capitol

Foreign Relations
To resume hearings on the International Sugar Agreement (Exec. A. 95th Cong., 2nd sess.).
4221 Dirksen Building

Rules and Administration
To continue hearings to receive testimony in behalf of resolutions requesting funds for activities of Senate committees and subcommittees, to be followed by consideration of these resolutions and other committee business.
301 Russell Building

FEBRUARY 27

10:00
Banking, Housing, and Urban Affairs
To hold oversight hearings on the impact of building codes on housing rehabilitation.
5302 Dirksen Building
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume oversight hearings on U.S. export policy.
Room to be announced
Govermental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold oversight hearings on the SBA minority business program.
3302 Dirksen Building
Joint Economic
To resume hearings on the President's economic report.
1202 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Health Resources Administration, Department of HEW.
S-128, Capitol

FEBRUARY 28

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

9:30 a.m.
Human Resources
To hold a business meeting to consider recommendations it will make to the Budget Committee for the fiscal year 1979 budget in accordance with the Congressional Budget Act.
Until noon 4232 Dirksen Building
Veterans' Affairs
To consider committee budget resolution.
412 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To consider additional funding for items of the Department of the Interior and related agencies, proposed to be included in a second supplemental appropriations, and to hold hearings on proposed budget estimates for fiscal year 1979 for Alaska Land Use.
1114 Dirksen Building
Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for military construction programs.
S-146, Capitol
Budget
To receive testimony from Energy Secretary Schlesinger in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building
Environment and Public Works
Water Resources Subcommittee
To mark up H.R. 7744, to permit the contract dredging for improvement of rivers and harbors by private industry.
4200 Dirksen Building
Select Small Business
To hold hearings on small business aspects of the Administration's 1978 tax program.
424 Russell Building
Rules and Administration
To resume hearings to receive testimony in behalf of resolutions requesting funds for activities of Senate committees and subcommittees, to be followed by consideration of these resolutions and other committee business.
301 Russell Building

10:30 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Department of HEW.
S-128, Capitol

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

MARCH 1

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Outdoor Recreation, and Land and Water Conservation Fund.
1114 Dirksen Building
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for elementary and secondary education programs, Department of HEW.
S-128, Capitol
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building
Joint Economic
To resume hearings on the President's economic report.
1202 Dirksen Building

2:00 p.m.
Appropriations Labor: HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for school assistance in Federally-affected areas, and emergency school aid programs, Department of HEW.
S-128, Capitol

MARCH 2

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Consumer Product Safety Commission.
1318 Dirksen Building
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Park Service.
1114 Dirksen Building
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol
Budget
To receive testimony from Defense Secretary Brown in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal eyar 1979 for the Office of Education, Department of HEW.
S-128, Capitol

MARCH 3

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To mark up S. 1820, to preserve examples of America's diverse natural ecological resources for classification, identification, and protection, and S. 1140, to encourage and assist States in development of improvement programs for the conservation of "nongame" species of fish and wildlife.
4200 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on spending practices of individual departments (Mission Budgeting) at HEW, and on proposed budget estimates for fiscal year 1979 for the Health Care Financing Administration, Department of HEW.
S-128, Capitol

11:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Consumer Product Safety Commission, Office of Consumer Affairs, and Consumer Information Center.
1318 Dirksen Building

MARCH 6

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings on issues relating the Federal highway program, including the level of Federal support, completion of the Interstate System, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for the Office of Education, Department of HEW.
S-128, Capitol

6:00 p.m.
Veterans' Affairs
To resume hearings on a National Academy of Science study of health care for American veterans.
Until 10:30 p.m. 6226 Dirksen Building

MARCH 7

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To resume hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
*Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Surface Mining.
1114 Dirksen Building
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Human Development and special institutions, Department of HEW.
S-128, Capitol

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for military construction pograms, and funds for NATO.
S-146, Capitol
Banking, Housing, and Urban Affairs
To hold hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by bank holding companies and other banks.
5302 Dirksen Building

11:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from officials of the VFW.
318 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Office of Human Development and special institutions, Department of HEW.
S-128, Capitol

MARCH 8

9:00 a.m.
Commerce, Science and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue hearings on S. 50, the Full Employment and Balanced Growth Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Endowment for the Arts.
1114 Dirksen Building
Banking, Housing, and Urban Affairs
To continue hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by bank holding companies and other banks.
Budget
5302 Dirksen Building
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 9

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Environmental Protection Agency.
1318 Dirksen Building

*Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Fish and Wildlife Service.
1114 Dirksen Building
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Department of HEW.
S-128, Capitol
Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for military construction programs.
S-146, Capitol
Budget
To receive testimony from HEW Secretary Califano and Labor Secretary Marshall in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 10

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the Environmental Protection Agency and Council on Environmental Quality.
1318 Dirksen Building
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 13

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To resume hearings on S. 2090, 2081, and 1919, to extend certain programs authorized by the Economic Opportunity Act.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building
Foreign Relations
To hold hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

7:00 p.m.
Human Resources
Child and Human Development Subcommittee
To hold hearings on S. 258, the Children and Youth Camp Safety Act.
Until 10:30 p.m. 4232 Dirksen Building

MARCH 14

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue hearings on S. 2090, 2081, and 1919, to extend certain programs authorized by the Economic Opportunity Act.
Until 12:30 p.m. 6226 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Forest Service, Department of Agriculture.
1114 Dirksen Building
Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1979 for military construction programs.
S-146, Capitol
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building
Foreign Relations
To continue hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

MARCH 15

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building
Budget
To receive testimony from Federal Reserve Board Chairman-designate Miller in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building
Foreign Relations
To continue hearings on U.S.-U.S.S.R. relations.
4221 Dirksen Building

MARCH 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for NASA.
235 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Smithsonian Institution.
1114 Dirksen Building
Banking, Housing, and Urban Affairs
To hold oversight hearings on FDIC report on preferential bank lending policies.
5302 Dirksen Building
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 17

10:00 a.m.
Budget
To receive testimony from Secretary of HUD Harris in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 20

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 2040, the Comprehensive Drug Amendments Act.
Until 12:30 p.m. 4332 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Mines.
1114 Dirksen Building
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building
Budget
To receive testimony from Representative Bolling in preparation for reporting the first concurrent resolution on the fiscal year 1979 congressional budget.
6202 Dirksen Building

MARCH 21

9:30 a.m.
Environmental and Public Works
Transportation Subcommittee
To resume hearings on issues relating to Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building
Veterans' Affairs
To mark up S. 364, to provide for judicial review of administrative decisions promulgated by the VA, and to allow veterans full access to legal counsel in

proceedings before the VA, and S. 2384, the Veterans and Survivors Income Security Act.
412 Russell Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Science Foundation.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Land Management.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 22

9:00 a.m.
Human Resources
To hold hearings on S. 2084, the Administration's proposed welfare reform legislation.
Until 12:30 p.m. 4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance of the Federal highway system.
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for the National Science Foundation and Office of Science and Technology Policy.
1318 Dirksen Building

MARCH 23

9:00 a.m.
Human Resources
To continue hearings on S. 2084, the Administration's proposed welfare reform legislation.
Until 12:30 p.m. 4232 Dirksen Building

APRIL 3

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the National Endowment for the Humanities.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 4

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Bureau of Indian Affairs.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To continue oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 5

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on U.S. programs and facilities designed to increase U.S. exports.
5302 Dirksen Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from AM-VETS, Paralyzed Veterans of America, and Veterans of World War I.
Until 1:00 p.m. 6226 Dirksen Building

APRIL 6

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume oversight hearings on the National Bureau of Standards.
235 Russell Building

10 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Geological Survey.
1114 Dirksen Building

APRIL 7

11:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Office of Revenue Sharing, and New York City Seasonal Financing Fund, Department of the Treasury.
1318 Dirksen Building

APRIL 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 11

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2253, to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in U.S. district courts.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 12

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on proposed authorizations for fiscal year 1979 for the National Science Foundation.
Until 12:30 p.m. 4232 Dirksen Building

Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 13

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for HUD.
1318 Dirksen Building

APRIL 14

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for HUD.
1318 Dirksen Building

APRIL 18

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on the competitiveness of high technology U.S. exports in world markets and the potential adverse impact on exports from declining research and development expenditures by the U.S. Government and industry.
5302 Dirksen Building

APRIL 20

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for NASA.
1318 Dirksen Building

APRIL 21

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1979 for NASA.
1318 Dirksen Building

APRIL 24

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

APRIL 25

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building

APRIL 26

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1979 for the Federal Home Loan Bank Board and the National Institute of Building Sciences.
1318 Dirksen Building

MAY 17

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings in connection with restrictions employed by foreign countries to hold down imports of U.S. goods.
5302 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, February 7, 1978*

The House met at 12 o'clock noon.

Dr. Fuad Nucho, S.T.D., Ph. D., pastor, St. Stephen Lutheran Church, Baltimore, Md., offered the following prayer:

O Lord God, source of truth, love, and freedom: We thank Thee for our being and well-being, and turn to Thee for guidance, inspiration, and support. Add Thy blessing to the efforts of these Thy servants, the Representatives of our people, as they seek to serve our country. Prepare and direct their minds and

hearts that they may discharge their responsibilities wisely and faithfully, with integrity and imagination. Grant that their thinking may be sound, their motives honorable, their expectations realistic, and their decisions right. Bless their loved ones and all our people, and help our Nation to be equal to the challenge of our times. Give us the courage to stand for the right, and the determination to strive for excellence in all things. Amen.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 41]

Ambro	Gephardt	Pattison
Andrews, N.C.	Giaimo	Quie
Archer	Gibbons	Rangel
Armstrong	Goodling	Rostenkowski
Bellenson	Hansen	Ruppe
Bingham	Harsha	Sarasin
Breaux	Hawkins	Scheuer
Brown, Calif.	Heckler	Shipley
Brown, Mich.	Holland	Shuster
Brown, Ohio	Holt	Skubitz
Burton, John	Hyde	Smith, Iowa
Cederberg	Jeffords	Solarz
Coleman	Jenrette	Steiger
Conyers	Jones, Tenn.	Stockman
Cotter	Krueger	Teague
Dent	LaFalce	Thompson
Diggs	Le Fante	Thornton
Dodd	McDonald	Treen
Dornan	McFall	Tucker
Drinan	McKinney	Udall
Eckhardt	Martin	Ullman
Edwards, Ala.	Mikva	Vander Jagt
Evans, Colo.	Mitchell, Md.	Weiss
Fithian	Murphy, Ill.	Whitten
Flood	Myers, Michael	Wydler
Ford, Mich.	Nix	Yates
Fountain	Obey	Zeferetti
Fraser	Ottinger	
Frey	Patterson	

The SPEAKER pro tempore (Mr. WRIGHT). On this rollcall, 347 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 3084) for the relief of Morris and Lenke Gelb.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

OVERSIGHT HEARINGS ON RECENT GRAIN ELEVATOR EXPLOSIONS

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, the series of recent grain elevator explosions have prompted grave concerns about the health and safety conditions of those employees who work in the grain industry. Labeled as the worst disasters in the history of the U.S. grain industry, the recent explosions have claimed the lives of more than 60 persons. Every effort must be made to prevent a recurrence of such tragic loss of life and to insure a safe and healthful workplace for all workers.

Accordingly, the Subcommittee on Compensation, Health and Safety is continuing its oversight hearings on the Occupational Safety and Health Act, focusing on the recent explosions in Galveston, Tex., and Westwego, La. The disaster at Farmers Export Corporation in Galveston on December 27 took the lives of 18 persons and a December 22 explosion at Continental Grain Co.'s facility in Westwego resulted in 36 fatalities.

The oversight hearings will resume in Galveston at 9 a.m., February 9, in the first floor jury assembly room, Galveston County Courthouse, 722 Moody Street. The following persons have been invited to testify: The mayor, city manager, and fire marshal of Galveston; representatives of the Texas State air pollution board; employees of the Federal Grain Inspection Service and Farmers Export Corp.; and management representatives of Farmers Export Corp.

After concluding the Galveston hearings, the subcommittee will then travel to New Orleans for additional hearings on February 10 and 11. The Louisiana hearings will begin at 9 a.m. both days in the Jefferson Parish council chambers, Second and Derbigny Streets, Gretna. The following persons have been invited to testify: The lieutenant governor, James Fitzmorris of the State of Louisiana; Mayor Ernest Tassin of Westwego; Sheriff Cromvich of Jefferson Parish; State Fire Marshal Raymond B. Oliver; State Agriculture Commissioner Gilbert Dozier; employees of both Continental Grain Co. and the Federal Grain Inspection Service; Continental Grain representatives; and Mr. James Coerver, Director of the Bureau of Environmental Services, Office of Health Services and Environmental Quality.

Subsequent hearings will be conducted in Washington, D.C., when representatives of the scientific community, the insurance industry, the grain elevator industry, labor organizations and Federal agencies will be invited to participate in the hearings.

CONSUMER REPRESENTATION IS AN IDEA WHOSE TIME HAS PASSED

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, later today the House will consider a bill which is the so-called Consumer Protection Agency legislation. I think it is very significant that on this morning the prestigious Washington Post in its editorial column has editorially suggested that this legislation not be passed. The Washington Post concluded, as have many of us, that a new executive agency called the Consumer Protection Agency or the Office of Consumer Representation is an idea whose time has passed.

FINANCES OF THE U.S. GOVERNMENT OUT OF CONTROL

(Mr. BURGENER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGENER. Mr. Speaker, the President's 1979 budget provides ample proof that the finances of the U.S. Government are out of control. But to hear the President talk, this is a conservative budget and thus far he has managed to convince many of the press as well. But the facts speak otherwise:

Compared to 1978, outlays will rise 33 percent faster than the rate of inflation, and budget authority—that license for both present and future spending—will jump an astonishing 13 percent. Most important, we are now in our 35th consecutive month of economic recovery, yet the budget deficit remains unchanged at over $60 billion—and this coming from a man who solemnly pledged to balance the budget within 4 years. A promise, I might add, he has now unceremoniously dropped.

Let us look at the detail of this budget—because in so doing we can only conclude the budget is at best unrealistic and at worst deliberately distorted.

There are sensitive and important programs which have been eliminated or reduced by the President which any informed observer knows Congress will restore—water projects, school impact aid, veterans' cost-of-living adjustments, farm programs, and so forth. At the same time there are more than 20 new social program spending schemes, not the least of which is the proposed federally owned and operated consumer cooperative bank.

This rather incredible scheme passed the House last year by one single vote—after extensive arm twisting. The cost would be $1.6 billion in budget authority and $300 million in outlays for fiscal year 1979.

I fear Congress will fail to eliminate many of these costly and unnecessary social spending schemes.

Now in all fairness to the President, he inherited a Federal budget of runaway proportions from a Congress which has consistently rejected any attempt to restrain the growth in spending. Yet rather than try to slow this raging juggernaut, he has simply hopped aboard. He may have fooled the media so far, but he is going to have trouble convincing the American people that a $60 billion deficit, which could grow to over $80 billion, is either necessary or in their best interest.

NECESSARY FOR A NEW BUDGET WITH A NONINFLATIONARY DEFICIT

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, I would like to compliment the President on a master stroke of public relations. He has sent us a budget which the press has obligingly called "restrictive," "tight," and "lean." For all the world he appears a born-again conservative.

In fact it is a budget constructed to give the illusion of something that is not really there. Take the deficit of $61 billion, for example, and see what is likely to happen to that.

First, the President has made cuts in programs such as water resources, power projects, impact aid, veterans, and the like that he knows full well the Congress will restore. So add $3 billion right at the start. Then add back in money to make up for the wholly unrealistic cost estimates in some entitlement programs like farm price supports and disaster loans, and we have the deficit up to $70 billion just to pay for programs already passed. Now let us assume that the spending shortfall of $22 billion planned in the budget will not occur. This means outlays, and hence the deficit could go up by $22 billion. That puts us at $92 billion, and we have not done anything new.

Finally, if we accept the fact that those revenue-raising items the President refers to as tax "reform" are not adopted by the Congress, we have to knock out the $9 billion in revenues these measures would have raised. Suddenly, the budget deficit for 1979 could well be pushing a $100 billion, and this is before the Congress passes any new programs of its own, considers the forthcoming urban policy, more aid to New York City or to the Postal Service, or added relief for the hard-pressed farmers.

The irony of all this is that the Congress will be blamed by the White House for "busting" the budget when, in fact, the President has sent us a budget with a potential deficit of $100 billion already built into it.

I, for one, have absolutely no intention of being a party to an inflationary budget deficit, to say nothing of one in the $100 billion range. This budget must be completely reworked. The programs zero based budgeting should have eliminated or reduced will have to be cut by Congress; the wholesale increases the President has lavished on hundreds of social welfare programs must be pared back to more reasonable levels, and a new budget, with a noninflationary deficit provided to the American people.

ADDITIONAL FEDERAL JUDGESHIPS

Mr. RODINO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7843) to provide for the appointment of additional district and circuit judges and for other purposes, as amended.

The Clerk read as follows:

H.R. 7843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President shall appoint, by and with the advice and consent of the Senate, three additional district judges for the northern district of Alabama, one additional district judge for the middle district of Alabama, two additional district judges for the district of Arizona, two additional district judges for the eastern district of Arkansas, one additional district judge for the northern district of California, three additional district judges for the eastern district of California, one additional district judge for the central district of California, two additional district judges for the southern district of California, two additional district judges for the district of Colorado, one additional district judge for the district of Connecticut, three additional district judges for the middle district of Florida, five additional district judges for the southern district of Florida, four additional district judges for the northern district of Georgia, one additional district judge for the southern district of Georgia, three additional district judges for the northern district of Illinois, one additional district judge for the eastern district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Iowa, one additional district judge for the district of Kansas, two additional district judges for the eastern district of Kentucky, three additional district judges for the eastern district of Louisiana, one additional district judge for the middle district of Louisiana, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maine, two additional district judges for the district of Maryland, three additional district judges for the district of Massachusetts, three additional district judges for the eastern district of Michigan, two additional district judges for the western district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the eastern district of Missouri, two additional district judges for the western district of Missouri, one additional district judge for the district of Nevada, one additional district judge for the district of New Hampshire, two additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the northern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the middle district of North Carolina, one additional district judge for the western district of North Carolina, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the eastern and northern districts of Oklahoma, two additional district judges for the district of Oregon, two additional district judges for the middle district of Pennsylvania, three additional district judges for the district of Puerto Rico, three additional district judges for the district of South Carolina, one additional district judge for the district of South Dakota, one additional district judge for the middle district of Tennessee, three additional district judges for the northern district of Texas, one additional district judge for the eastern district of Texas, four additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the district of Utah, two additional district judges for the eastern district of Virginia, two additional district judges for the western district of Virginia, one additional district judge for the eastern district of Washington, one additional district judge for the western district of Washington, one additional district judge for the southern district of West Virginia, one additional district judge for the eastern district of Wisconsin, one additional district judge for the western district of Wisconsin, and one additional district judge for the district of Wyoming.

(b) One of the two existing district judgeships for the northern, eastern, and western districts of Oklahoma, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a judgeship for the northern district of Oklahoma only, and the other such judgeship shall hereafter be a judgeship for the western district of Oklahoma only. The more senior of the present incumbents in those two present judgeships shall henceforth serve only in the western district, and the more junior of the two shall henceforth serve only in the northern district. Both such present incumbents shall henceforth hold their offices under section 133, as amended by this Act.

(c) The existing district judgeship for the eastern and western districts of Washington, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the western district of Washington only, and the present incumbent of such judgeship shall henceforth hold office under such section 133, as amended by this Act.

(d) In order that the table contained in section 133 of title 28 of the United States Code will, with respect to each district therein, reflect the changes in the number of judgeships made by this Act, such table is amended to read as follows:

"Districts	*Judges*
Alabama:	
Northern	7
Middle	3
Southern	2
Alaska	2
Arizona	7
Arkansas:	
Eastern	3
Western	1
Eastern and Western	2
California:	
Northern	12
Eastern	6
Central	17
Southern	7
Colorado	6
Connecticut	5
Delaware	3

District of Columbia	15
Florida:	
Northern	2
Middle	9
Southern	12
Georgia:	
Northern	10
Middle	2
Southern	3
Hawaii	2
Idaho	2
Illinois:	
Northern	16
Southern	2
Eastern	3
Indiana:	*Judges*
Northern	4
Southern	4
Iowa:	
Northern	1
Southern	2
Northern and Southern	1
Kansas	5
Kentucky:	
Eastern	4
Western	3
Eastern and Western	1
Louisiana:	
Eastern	12
Middle	2
Western	5
Maine	2
Maryland	9
Massachusetts	9
Michigan:	
Eastern	13
Western	4
Minnesota	5
Mississippi:	
Northern	2
Southern	3
Missouri:	
Eastern	4
Western	5
Eastern and Western	2
Montana	2
Nebraska	3
Nevada	3
New Hampshire	2
New Jersey	11
New Mexico	4
New York:	
Northern	3
Southern	27
Eastern	10
Western	3
North Carolina:	
Eastern	3
Western	3
Middle	3
North Dakota	2
Ohio:	
Northern	9
Southern	6
Oklahoma:	
Northern	2
Eastern	1
Western	4
Eastern and Northern	1
Oregon	5
Pennsylvania:	
Eastern	19
Middle	5
Western	10
Puerto Rico	6
Rhode Island	2
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	3
Middle	3
Western	3
Texas:	
Northern	9
Southern	12
Eastern	4
Western	6
Utah	3
Vermont	2
Virginia:	
Eastern	8
Western	4
Washington:	
Eastern	2
Western	5
West Virginia:	
Northern	1
Southern	3
Northern and Southern	1
Wisconsin:	
Eastern	4
Western	2
Wyoming	2".

SEC. 2. The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the eastern district of Kentucky, one additional district judge for the district of Minnesota, one additional district judge for the northern district of Ohio, and one additional district judge for the southern district of West Virginia. The first vacancy in the office of district judge in the judicial districts named in this section occurring after the effective date of this Act shall not be filled.

SEC. 3. The President shall appoint, by and with the advice and consent of the Senate, one additional circuit judge for the first circuit, two additional circuit judges for the second circuit, one additional circuit judge for the third circuit, three additional circuit judges for the fourth circuit, eleven additional circuit judges for the fifth circuit, two additional circuit judges for the sixth circuit, one additional circuit judge for the seventh circuit, one additional circuit judge for the eighth circuit, ten additional circuit judges for the ninth circuit, one additional circuit judge for the tenth circuit, and two additional circuit judges for the District of Columbia.

SEC. 4. In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each circuit, reflect the changes in the number of judgeships made by this Act, such table is amended to read as follows:

"Circuits	*Number of judges*
District of Columbia	11
First	4
Second	11
Third	10
Fourth	10
Fifth	26
Sixth	11
Seventh	9
Eighth	9
Ninth	23
Tenth	8".

SEC. 5. Section 3 of the Act entitled "An Act to provide that chief judges of circuit courts and chief judges of district courts having three or more judges shall cease to serve as such upon reaching the age of seventy" (Public Law 85–593, approved August 6, 1958 (72 Stat. 497)) is amended by striking out ", except that the amendment made by section 136 shall not be effective with respect to any district having two judges in regular active service so long as the district judge holding the position of chief judge of any such district on such date of enactment continues to hold such position".

SEC. 6. (a) The first section and section 2 of this Act shall take effect immediately upon the President's promulgation and publication of regulations establishing procedures and guidelines for the selection, on the basis of merit, of nominees for United States district court judgeships authorized by this Act.

(b) The President may waive such regulations with respect to any nomination by notifying the Senate of the reasons for such waiver.

(c) Following the promulgation and publication of such regulations, no nomination or appointment to a United States district court judgeship may be invalidated on the basis of the President's failure to comply with this section or with any regulation promulgated under this section.

(d) This Act, other than the first section and section 2, shall take effect on the date of enactment of this Act.

SEC. 7. The Congress—

(1) takes notice of the fact that only 1 per centum of Federal judges are women and only 4 per centum are blacks; and

(2) recommends that the President, in selecting individuals for nomination to the Federal judgeships created by this Act, give due consideration to qualified women, blacks, Hispanics, and other minority individuals.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

Mr. BAUMAN. Mr. Speaker, is the gentleman from Illinois (Mr. McCLORY) opposed to the bill?

The SPEAKER pro tempore. Is the gentleman from Illinois (Mr. McCLORY) opposed to the bill?

Mr. McCLORY. No, I am not, Mr. Speaker.

Mr. BAUMAN. I demand a second, Mr. Speaker.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman qualifies. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. RODINO) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume in those 20 minutes.

Mr. Speaker, the House this afternoon has an opportunity to address as deep a concern as almost any that will face the Congress in 1978: The quality of justice in our Federal court system.

In recent years, that quality has been steadily eroding. The effectiveness of the U.S. district courts and the very operation of the U.S. circuit courts of appeal have been hampered by increasing congestion and frustrating delay.

Because those twin problems are partially the result of inadequate judicial manpower, H.R. 7843 authorizes the creation of 110 additional judgeships for the district courts and 35 additional judgeships for the circuit courts.

The Judiciary Committee, in reporting H.R. 7843 by a vote of 31 to 2, recognizes, of course, that simply adding more judges can only be a partial solution to the current problems facing the courts. A genuine, constructive, long-range solution must also include modifications in jurisdiction and other innovative approaches to modernization. But in order to achieve those goals without prejudicing individual rights, the committee is convinced that these new judges are critically needed at this time.

In 1950, only 92,000 cases were filed in our U.S. district courts. Last year, however, more than 177,000 cases were filed in those same courts.

And the figures for our Federal appellate courts are even more alarming. In 1953, 25 years ago, only 3,226 appeals were filed in the circuit courts. By 1967

the year before the Congress last acted to provide additional judgeships, the figure had risen to 7,903, but even that lofty figure translated into only 90 appeals filed per judge. Last year, however, better than 19,000 appeals were filed in our Federal courts—nearly six times the 1953 figure—and an average of 197 appeals per judge. That is more than double the figure that prompted the Congress to act 10 years ago.

When the most recent requests for new judgeships by the Judicial Conference of the United States came before the Congress early last year, they were referred to the Subcommittee on Monopolies and Commercial Law which undertook a careful 6-month examination of the Conference proposals. For a variety of reasons, including the extraordinary constitutional responsibilities exercised by the House during the 93d Congress, the prior quadrennial request of the Conference for 51 additional district judgeships in 1972 had not been acted upon. Thus at the start of the subcommittee's inquiry, the Congress was faced with an unprecedented request for 107 new district court judgeships, reflecting in fact the results of two quadrennial surveys.

Therefore, the subcommittee engaged in a painstaking scrutiny of the Conference requests. Many have said—and I believe it to be true—that the Subcommittee inquiry was one of the most exhaustive congressional analyses of the needs of the Federal courts undertaken in the post war era.

The subcommittee examination produced a number of important concerns with the method employed by the Judicial Conference in evaluating the judgeship needs of its district courts. Those problems are outlined in the committee report that accompanies this bill, but I am delighted to be able to report here today that the Chief Justice and other prominent representatives of the Conference have pledged to work closely with the committee and with the Congress in the future to develop newer, more reliable tools for evaluating these needs.

But that the Judicial Conference methodology is not presently without problems is hardly to state that the view of the committee is that its requests for judgeships are without merit.

It is abundantly clear, in fact, by all reasonable indicators—case filings, weighted case filings per judge, median time from filing to disposition of both civil and criminal cases, backlog, and statutory demands of the Speedy Trial Act—that the judicial manpower needs of the Federal courts have never been more substantial.

In order to meet those needs the committee wrestled with various hard and set formulas for determining precisely when a district court required additional help. For a variety of reasons, most importantly the need to retain flexibility so as to meet individual contingencies, the committee did not adopt any precise standard but it did follow a general rule of thumb that 350 weighted filings per judge was sufficient to warrant an additional judgeship.

Given the current backlog and the increasing amount of Federal litigation annually the committee believes that its general 350 guideline is the most responsible gage for congressional action.

Therefore, the 110 judgeships authorized by H.R. 7843 for the district courts and the 35 judgeships created for the circuit courts are demonstrably necessary to meet current needs. Never in our history, however, have this number of additional judgeships been created by a single act. Certainly then the bill before us is wholly fair—no area of the country has been denied help, and judgeships—in many cases seven, eight, even nine new judgeships—have been approved for every State for which a request was made.

The support for these judgeships and for this bill, Mr. Speaker, exists at all levels of the bench and bar, and the support is nationwide. The Judiciary Committee has received correspondence from lawyers, judges, and bar associations in almost every State of the Nation.

The Attorney General of the United States has stated the case directly:

> . . . We need more federal district judges. It is imperative that Congress act soon to create such additional judgeships and that the number of judgeships created realistically address the true present need, rather than what the need may have been several years ago. . . . A similar need exists for new circuit judgeships.

And Justin Stanley, president of the American Bar Association, also made an urgent plea in testimony before the committee last March. According to President Stanley:

> . . . In 1976 the need for additional judges was demonstrably great. This year that need is even greater . . .
>
> That need in my opinion, calls for prompt action on the part of the Congress.

And the Chief Justice has repeatedly urged this legislation saying as recently as December 10 that it was very "badly needed."

Finally then, Mr. Speaker, a brief word about sections 6 and 7 of the committee bill. Section 6 is the so-called merit selection provision and section 7 is the affirmative action language. Neither acts to limit, circumvent or in any way interfere with the President's article II power to nominate and, with the advice and consent of the Senate, to appoint Federal judges. But section 6, in dealing with the 110 district judgeship authorized by the bill, and section 7 in dealing with all the new positions, merely presents the strong view of the Congress that merit selection procedures and procedures to insure the consideration of qualified blacks, women, Hispanics, and other minorities be developed to the extent possible.

Mr. Speaker, H.R. 7843 is a good bill—in many ways a truly monumental piece of legislation. It is the product of a full year's work by the Judiciary Committee, including 7 days of markup at the full committee level following the subcommittee's own 6-month examination. All members of the committee, of course, deserve credit for the long hours of work put forward to craft this bill, but I personally want to thank BOB MCCLORY for his leadership, and want to express my gratitude for the enormous effort and support of the subcommittee membership with whom I worked so closely: JACK BROOKS, WALTER FLOWERS, JOHN SEIBERLING, BARBARA JORDAN, RON MAZZOLI, BILL HUGHES, BOB MCCLORY, CHUCK WIGGINS, and BILL COHEN. Without their efforts, this landmark bill would hardly have been possible.

Mr. Speaker, the House today can take a major step toward resolving a critical Federal problem. I urge the adoption of H.R. 7843.

Mr. SPEAKER, I yield such time as he may consume to the ranking minority member, the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Speaker, I rise in support of H.R. 7843, a bill to create additional judgeships. As reported, the bill would create 110 new district judgeships and 35 new circuit judgeships.

This is the largest judgeship bill in the history of the Republic. It would increase authorized judgeships by almost 30 percent. The enormity of this increase places critical stress on how these new judges are to be appointed. Recent events have underscored the need to maintain an impartial system of justice free of the politics of the past.

Consequently, the authorization of the 110 new district judgeships is made contingent upon the establishment of procedures to insure the merit selection of those appointed. In other words, under the bill, if those procedures are not promulgated, the 110 district judgeships are not created. This condition is placed only on the creation of district judgeships since a system for merit selection of circuit judges is already in place.

I am certain that we have all heard that President Carter promised to take the judiciary out of politics, but that either he or Attorney General Bell, or both, agreed with Senator EASTLAND in December of 1976 to limit the effect of that promise to circuit judgeships. The language in the bill would thus prompt the President to fulfill his promise to the American people.

The merit selection of district judges is critical to the legislation. To allow one President—no matter who he is—to reshape the Federal judiciary without such safeguards is an awesome prospect.

It should not be overlooked that the large number of judgeships authorized by the bill has been made necessary by political maneuvering in prior Congresses. In 1976, the committee reported to the House a district judgeship bill containing 49 judgeships. Although that bill was amended by me to delay the effective date until a newly elected administration was sworn in and thus keep the bill out of politics, some House Members were fearful that President Ford would be reelected, and the bill was killed. Just 14 months later the committee voted to recommend 110 judgeships—more than double the previous number.

But in suggesting that politics has brought us here, it must be noted that the politics was not partisan but personal. Our subcommittee of 10 members—7 Democrats and 3 Republicans—agreed unanimously to approve judgeship on the basis of actual needs; our

recommendation was for 81 district judgeships. In fact our objectivity required us to deprive the States we represent of judgeships that were requested by the Judicial Conference or the district courts in our respective States. But a bipartisan coalition overturned this result in full committee and added 29 additional judgeships.

In view of the great pressures surrounding the creation of additional judgeships—pressures from judges and pressures from Members of this body, pressures which the committee found hard to resist, it is imperative that safeguards be placed within the selection process. And in this regard, the bill goes as far as the Constitution permits.

In the first session of this Congress no bill was given as much thought and study by our committee as this bill. And there were many lessons to be learned.

First. The request for 132 judges made by the Judicial Conference was simply too large to handle. Although I am certain that the request was on the high side, even the most accurate request would have been too large to digest. Thus, the fault lies more with the Congress for having waited for the needs of the judiciary to have become so aggravated. And, of course, that happened because the Congress was awaiting a Democratic administration.

These political facts of life contribute to a sense of panic in the judiciary which only further exacerbates the problem. On the basis of the past, judges have good reason to fear that if the present administration were unseated in 1980 by a Republican who served two terms, it might be a long time before the next judgeship bill. Thus there is a natural inclination to inflate needs, lobby hard, and reach for as much as possible.

The solution for this problem is more frequent reviews and more limited bills. If instead of espousing "omnibus" bills the committee were to address the needs in segments on a rotating basis—say, three circuits and its districts the first year, three other circuits the next, and so on, the committee could focus on true needs and there would be less temptation to logroll.

Second. The experiment of the Judicial Conference in projecting needs to justify judgeships must be terminated. The practice is to make projections selectively to justify requests unsupported by actual needs. It thus prompts district judges to request additional judgeships which are known to be unnecessary in order to enter the projected judgeship sweepstakes.

Moreover, the projections made in the past have not been accurate. This is particularly troubling in view of the constitutional tenet that a sitting judgeship cannot be repealed. And in the near future, it appears that the workload of the courts may be reduced rather than increased. Congress may very well pass legislation to limit diversity jurisdiction, thereby curtailing the judicial workload by about 25 percent. Also, the bankruptcy reform recently enacted by this body and the magistrates bill in our committee may likewise lighten the load. Projections at this time are hazardous at best.

Third. It would be helpful if some independent agency could evaluate and comment upon the asserted needs for additional judgeships. Regrettably, neither the Justice Department nor the American Bar Association were willing and able to do so. Thus the committee is left without assistance to assess the self-serving statements of the judiciary. Of course, this is ultimately not the fault of the judiciary but of the Congress. If no one is willing to come forward with a helpful critique, we must seek it out.

Fourth. The information submitted by the Judicial Conference to support its requests has been inadequate. With regard to each district, it was never very clear what part of the workload was borne by magistrates, senior judges, or visiting judges. It was particularly incongruous that magistrates—who were authorized and empowered to share part of the judicial burden—were ignored as a resource of the district court. In some instances magistrates, in fact, were being used to handle a substantial part of the load, yet judges were being credited with the results. It might thus appear that judges were overworked when they were not. In other instances judges may have been overworked but only because they would not delegate authorized minor tasks to magistrates as Congress had envisioned. Thus in some instances additional magistrates would have sufficed. Yet to add to the confusion, some statistics in some districts were adjusted by the Judicial Conference to reflect the fact that magistrates had done the work. But this was done erratically both among categories of cases and among the districts.

Then, finally, the weights accorded the various categories of cases to reflect the time consumed appeared outmoded to all. This required a great deal of double counting of cases. Time and again, the committee approved a judgeship where the district in question fell below the standard of 400 weighted cases per judge because of the complexity of cases filed in that court. But this reasoning counts those complex cases twice—first in weighting the caseload upward and then a second time in justifying discounting the difference between the district's weighted caseload and the 400 figure. If only Members of Congress made these arguments, then one might suspect mere political rationalizations were being made. But since the judges and the Judicial Conference made them as well, it would appear that the weights accorded various categories of cases need to be updated to reflect the time that judges actually spend on them.

Mr. Speaker, there is no question that the judiciary is much in need of additional judgeships and has been for several years. We must end the delay that is bogging down our Federal justice system. I urge my colleagues to support this legislation.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I rise in strong support of the judgeship bill (H.R. 7843) reported by the Judiciary Committee.

But first I would like to commend the chairman of the Judiciary Committee (Mr. RODINO), who has worked extremely hard on the bill to insure that judgeships are added only where there is an objectively demonstrated need. I think the chairman has done everything possible to make this bill fair and balanced and to resist political pressures to add judgeships in districts that simply did not need them.

I would like to turn now to a subject of great importance, namely the merit selection of district court judges. Section 6 of the bill, states that the creation of the 110 new district court judgeships contained in the bill will become effective only upon the President's promulgation of regulations containing procedures and guidelines for the merit selection of the new district court judges.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for yielding.

I commend the gentleman for his leadership in providing in this bill the merit selection process.

I wonder if the gentleman could explain why that process is not stronger, why there is not language in the bill that would provide merit selection, mandating it to the White House.

Mr. SEIBERLING. Mr. Speaker, there are several reasons for that. First of all, as we know, the President ran into one of the hard political facts of life when, after his election, he looked into the implementation of his pledge to nominate judges on a merit basis. The problem is that Members of the other body like to reserve the powers they have by virtue of the Senate's role in approval of nominations of Federal judges by the President. So in order to enable him to come up with a merit selection system that would have a chance of being accepted, it was necessary to give him considerable flexibility in working out the details.

Furthermore, while it is probably permissible under the Constitution for the Congress to impose a detailed procedure for the screening of potential nominees for Federal judgeships before the President makes his selection, it seemed desirable, as a matter of comity, to recognize that the selection is, after all, the President's constitutional prerogative and that we should be careful not to intrude unduly on his exercise of that responsibility.

Mr. Speaker, the concept of merit selection of district court judges is not new. For the last 20 years, it has been supported by the American Judicature Society and the American Bar Association. Before our consideration of H.R. 7843, merit selection had received almost no attention in Congress. But the concept was given new life when Jimmy Carter made the following pledge during his campaign for the Presidency in 1976:

> All federal judges . . . should be appointed strictly on the basis of merit without any consideration of political aspect or influence. We can no longer afford to treat the administration of justice as political patronage.

Last year, Tom Ryan of the Missouri Public Interest Research Group, who has

worked very hard to promote merit selection of Federal judges, suggested that merit selection should be tied to the creation of the new judgeships in the omnibus judgeship bill. I offered the amendment in the subcommittee, but it lost. Then Representatives RON MAZZOLI, ROBERT MCCLORY, and I offered it last November 30 in the full Judiciary Committee, which adopted it by a 20 to 12 vote.

House passage of H.R. 7843 today will constitute the first effort by the House to remove partisan political patronage from the judicial selection process. House passage will also constitute a formal House endorsement of Jimmy Carter's campaign pledge.

Some people question our constitutional power to require merit selection of judges. I asked the Library of Congress to examine that issue, and its conclusion was that Congress very definitely has the power under article I of the Constitution, which authorizes Congress to place qualifications on congressionally created offices such as Federal district court judgeships. I would note also that the Library of Congress analysis appears to support the constitutionality of a statutory provision requiring merit selection of district court judges even if the provision is made far more binding than the one we have included in H.R. 7843.

It must be understood that the House bill would require the President to promulgate merit selection regulations before the 110 new judgeships would even be created. However, after promulgating the regulations, the the President could waive them by notifying the Senate in any particular case of the reasons for the waiver.

Of course, because of the requirement of germaneness, the merit selection provision only applies to the new judgeships. It would not technically apply to existing judgeships. Nonetheless, we hope that the President would exercise his inherent power to extend the regulations to all judgeships, in the same way that President Carter has already promulgated regulations creating panels in each judicial circuit to recommend qualified individuals for nomination to court of appeals judgeships and all other Federal court judgeships except on the district courts. President Carter's executive orders on this matter, which follow these remarks, represent a very important first step in removing partisan politics from the selection of Federal judges. President Carter and Attorney General Bell deserve our praise and that of the American public for their efforts to promote and achieve merit selection of all Federal judges.

While the executive orders do not reach district court judgeships, President Carter and Attorney General Bell have undertaken a quiet campaign to persuade individual Senators to create their own merit selection advisory panels, whose function is to recommend one or more names of qualified individuals to a Senator. It is very significant that the Senators from a dozen States have created their own panels and have taken positive steps to insulate themselves from undue political pressures in the selection of district court judges. While we commend the efforts of these Senators, we believe that the citizens of every State deserve to have their judges chosen on the basis of merit.

The need is especially great right now, since H.R. 7843 will increase the number of Federal judges by 30 percent and the appointment of these new judges will determine the quality of justice in America for the next generation.

The quality of justice in America does depend on the quality of our Federal district court judges, who get lifetime appointments. That is why it is so important that they be chosen on the basis of their quality and proven excellence, rather than on the basis of partisan political patronage. Unfortunately, the Senate-controlled patronage system has chosen Federal judges for decades under both Democratic and Republican Presidents alike. Even though many of the judges chosen in this manner have been perfectly good, and even though some Senators have sought the most qualified individuals possible for nomination to the Federal bench, the patronage system should now be replaced by a merit selection system. It is gratifying that the Senators from my own State of Ohio have adopted a system of panels to recommend nominees for Federal district judges in Ohio on a merit basis.

The merit selection provision, you will note, does not define the term "merit." What is important is the fact that merit selection is to be contrasted to the patronage system.

At the same time, we are fully aware that under President Carter's executive orders, merit involves the following: Good standing in the bar, good reputation, integrity, good character, sound health, outstanding legal ability, commitment to equal justice under law, traits indicating the likelihood of proper judicial temperament, training, experience, expertise, and the ability to serve the community's needs. We have no quarrel with these criteria.

Nor does the merit selection provision specify the kinds of procedures which must be established by the President. We intend for the President to have broad discretion. We intend for the President to consult fully with the Senate in order to achieve a workable system that is based on merit rather than on patronage.

Under the bill, it would, in my opinion, be entirely appropriate for the President to promulgate regulations stating that he will consider Senators' recommendations only if the Senators have established their own merit selection advisory panels. Alternatively, the President could decide to establish his own advisory panels in each State or he could utilize the circuit court panels to make recommendations for judgeships within the circuit. There may be other appropriate procedures, with or without the direct participation by individual Senators. Supporters of the merit selection provision are very flexible on the specific procedures, so long as a genuine merit selection system is established.

One of the purposes of any merit selection system is to give all qualified individuals a reasonable opportunity to be considered for nomination to a Federal district court judgeship. This includes nonestablishment lawyers and other individuals whose training and varied experiences and ability qualify them for nomination.

The point also needs to be made here that, unlike U.S. attorneys and other officers who are appointed to serve at the pleasure of the President and who are responsible to the President through the Attorney General, our Federal judges are appointed for life and are responsible only to the Constitution and laws of the United States. That fact alone makes it inappropriate for judges to be appointed under a patronage system.

Editorials from the New York Times, the Washington Post, and the St. Louis Post Dispatch have supported merit selection of Federal judges. Last August, the American Bar Association again went on record in favor of merit selection. In addition, merit selection is supported by the American Judicature Society, Congress Watch and Common Cause.

I would like to indicate my strong support for section 7 of the bill, which recommends that the President give "due consideration" to the nomination of qualified women, blacks, Hispanics, and other minority individuals to Federal judgeships created by the bill. I do not consider this incompatible with merit selection, since any procedure for merit selection should adopt an affirmative action approach to seek to redress the serious lack of balance in the numbers of women and minorities on the Federal bench. It is the Federal courts which are supposed to achieve and protect "equal justice under law" where that need is greatest to eliminate discrimination and the appearance of discrimination.

Mr. BAUMAN. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I think it is highly unfortunate that a small group of elite Members in this House of Representatives feels that it is their prerogative to decide whether or not the total membership that represents all the people of the United States will have a right to vote on important legislation of this character.

I asked why this bill was brought up under suspension. I was told blithely that everybody had been accommodated on the Committee on the Judiciary.

Well, that is just great. But there are a lot of us here who do not serve on the Committee on the Judiciary, and we are debating, under a restrictive, no-amendment, 40-minute suspension situation, the largest single creation of Federal district judgeships in the history of this Republic, and none of us has a chance to do anything about it except to vote for or against. Apparently the Committee on the Judiciary thinks we are a booboisie that that does not have sense enough to deal with these very sensitive judicial issues.

The bill provides for more than a hundred additional judges for President Carter to name. Many of us would have liked to have had a chance to address and amend the provisions of this bill,

not to give Maryland still more judges, although we get two additional in this bill, but simply to clean some of the bill's worst provisions.

I suggest that the Members read page 17 of the bill. I suggest they read what I was told is a constitutional provision—we might call it the Marston plan—which allows the Congress to pat itself on the back for supposedly supporting merit selection of Federal judges. But the bill gives the President wide discretion in the selection and appointment of Federal judges and allows him to waive merit selection on his own word alone.

This certainly is not merit selection. Perhaps we should set up a commission to select judges, and allow it to recommend nominess for the judiciary. But we are not allowed to offer such an amendment.

I also want to call the attention of the membership—these Members who do not have the right to vote on amendments and who have to swallow this thing whole or get nothing at all—to section 7 of the bill. I do not know of any precedent in Federal law that suggests a racial or sexual quota for appointment to Federal office. I know there are many laws—and they are good laws—that say we cannot discriminate on the basis of sex, age, creed, or ethnic background.

But on page 17 we are told that the President is supposed to select Federal judges, taking into "due consideration," whatever that is, qualified women, blacks, Hispanics, and other minority individuals.

I wanted to offer a conservative amendment to require that we appoint a certain number of conservatives to the Federal bench. They certainly are a minority on the Federal bench. We have had judges writing laws in this country for the last 25 years overthrowing the will of Congress and kicking the people in the teeth relative to their popular concerns such as busing, abortion, and other issues. And now you are telling us that we do not have any right to offer an amendment to give balance to this bill so that the President may also give due consideration to other views.

No, friends, this is not the way to consider this bill. If it were cleaned up with amendments and brought out under an open rule and considered in due time, as the other judgeship bills in the past, I assume, have been, then we ought to vote for it. But it only takes one-third to put this bill back into committee, let them have a rule, let them come out, again and let them give us the right to amend, the right to vote. There is absolutely no need to jam this thing through so the President can sign a bunch of midnight judges into positions without proper consideration by both Houses of Congress.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Speaker, I just heard our distinguished minority member of the Committee on the Judiciary say that if he had his druthers, the number of new judges would have been 81. And his rationale, as I understand it was, that 81 new judges would mean that each district judge would handle roughly, 400 filings per year per judge. I do not understand, if both the minority from our side and the chairman of the committee favored a more restrained number 81 to be exact—why we have to have this under suspension, and be forced to take it or leave it at 145. And I am really disappointed that we did not hear a better discussion of why the bill is given to us in a manner that we have to take it at 110 or leave it. There is no chance to amend it down to 81.

Mr. BAUMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, it is with deep regret that I must oppose the legislation before us. While I believe there is a need for the creation of new judgeships, I feel that the bill as reported by the Judiciary Committee is far too extravagant.

The Subcommittee on Monopolies and Commercial Law gave thorough consideration to the requests of the Judicial Conference and recommended the creation of 81 new Federal court district judges. The full Judiciary Committee increased this number to 113.

Creating a Federal district court judgeship is no trifling matter: each one costs $286,000 the first year and nearly $250,000 every year after that. Circuit court judgeships are hardly less expensive, costing $250,000 the first year and $201,000 every year after that.

But beyond mere costs, though they are critically important, I feel we are asked to rubber stamp the requests of the Judicial Conference if we pass the bill as reported by the Committee.

In 1950, we had only 218 Federal district court judges. By 1969 we had 400. Now we purport to add 110 more by H.R. 7843. The Subcommitee on Monopolies and Commercial Law found 81 to be necessary, not 110.

We cannot simply keep adding judges as our responses to the problems of the courts. It is foolishness because we are heading for 1,200 judges by the year 1990 at the present rate. And it is foolishness because a fair, honest evaluation simply cannot sustain the need for anywhere near the 110 judgeships authorized by H.R. 7843.

But, frankly, in too many areas the courts are not as overburdened as the judges might have us believe. The docket is not as imposing as the statistics they cite may indicate. In too many instances, judges simply need to be more efficient.

And I believe the subcommittee was correct, and even courageous in their assessment of the requests of the Judicial Conference. However, the full Judiciary Committee was not.

Mr. Speaker, I urge that the Members vote down this legislation and send it back to the Judiciary Committee for further consideration. I believe the committee can reexamine this issue and report a bill which will create judgeships only where they are needed.

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. RAILSBACK).

FEDERAL JUDGESHIPS

Mr. RAILSBACK. Mr. Speaker, today we are considering the bill, H.R. 7843, a bill to create additional Federal judgeships. This legislation has received very careful consideration by both the Subcommittee on Monopolies and Commercial Law and the House Judiciary Committee.

There has not been a bill to create additional Federal district judgeships since 1970. We are all certainly aware that the number of both criminal and civil cases have increased dramatically over the past 7 years. Because of the Speedy Trial Act many Federal district courts have only been able to hear criminal cases. Civil cases in some districts have been forced to wait over 24 months before being heard. These long delays are a hinderance to the judicial process.

This legislation will meet the needs of the district courts by providing additional judges so that each judge will have a fair and workable caseload and that all cases will receive a speedy trial. Another important section of the bill is the issue of merit selection. The bill recommends that the President shall promulgate guidelines and procedures for the appointments of judges to the district courts on the basis of merit. This is the first step toward the total merit selection of Federal judges and one which I feel is needed.

Certainly an important part of our judicial system is the right to a fair and speedy trial. Long delays with a hearing before an overworked judge does not provide this right. The bill, H.R. 7843, will provide the additional judges needed along with expressing the sense of Congress that Federal judges should always be chosen for their abilities. I would urge my colleagues to support this legislation.

Mr. QUAYLE. Mr. Speaker, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Indiana.

Mr. QUAYLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the Judiciary Committee and particularly my friend from Illinois (Mr. RAILSBACK) for its indulgence and generous consideration which resulted in the creation of a fourth judgeship for Northern Indiana.

As members of the committee well know, the first action of the committee was to delete the Judicial Conference's recommendation for an additional judge in the northern district of Indiana.

However, the committee was quite willing to listen to the facts and reasons why the additional judgeship was critical to the needs of northern Indiana. To its credit, the committee then included an additional judgeship for Indiana's northern district court in an amendment to H.R. 7843.

This is the legislative process at its best. Members of the committee earnestly and impartially reviewed all the requests and then acted accordingly. Again, I commend the committee for its deliber-

ate and judicious action in this regard.

I urge House passage of H.R. 7843, the Omnibus Judgeship bill which the House Judiciary Committee has considered at length for the past 12 months.

This is the first bill to add to the number of Federal judges since 1970. Because of the heavy caseloads and long delays both in civil and criminal cases, it is necessary that we increase the number of Federal judgeships—especially in Indiana's Northern District Court.

At the present time, just three Federal judges are working to meet the needs of northern Indiana residents, yet our district ranks third in the Nation in increased civil and criminal case filings. Of the 94 judicial districts in the country, only five have experienced longer delays than the Northern District of Indiana. Criminal filings have increased so rapidly that the three judges here will soon be trying nothing but criminal cases if another judgeship is not approved.

Civil cases have a 24-month backlog—118 percent above the national average of 11 months. Thus civil rights cases are waiting for a place on the calendar while the courts wrestle with complex, protracted cases involving narcotics, land fraud, and medicare fraud offenses.

A number of attorneys in my district have written me concerning this legislation. They tell me they will try any avenue rather than attempt to get a civil case into the Federal courts in northern Indiana.

I urge your support for equal judicial opportunity for the Northern District Court in Indiana. A fourth judge will give northern Indiana residents the same right of access to the courts available in other parts of the country.

Mr. BAUMAN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from North Carolina (Mr. ROSE).

Mr. ROSE. Mr. Speaker and my colleagues, on September 30, 1977, Raymond Taylor presented to the Federal Judicial Center this foot thick document entitled, "Federal Court Library Study Report and Recommendations." He had been employed months earlier by the Center to conduct this study.

In his recommendations he noted as follows and I quote:

> It is not unrealistic to suggest that if the Federal courts had the necessary facilities and personnel to do law research efficiency, the resulting increase in overall efficiency and production on the part of the present court personnel might substantially reduce the number of new judgeships that the Congress presently is considering creating.

This report has been criticized by some within the administrative office of the Courts. However, Judge Walter Hoffman has noted that Raymond Taylor's study was so complete that "we do not know" what to do with it."

Mr. Speaker, I will vote for this present bill, but I urge the Judiciary Committee, the Judicial Conference, and the Judicial Center to give careful attention to the work of Raymond Taylor to the end that Federal judges have the finest tools possible with which to dispense justice in this country.

Mr. Taylor's candle should not be hidden under the proverbial bushel.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. I thank the chairman. I rise in support of this legislation.

My support of it is not unqualified, and it is not enthusiastic. I am willing to admit that we on the Subcommittee on Monopolies and Commercial Law deferred to politics and certain political realities. Consequently we have a measure before us which we can justify because the additional judges are needed. The fact that we may have more than the 81 originally approved means that perhaps in the next 2 years and the next 2 years we will not have to come to the 96th and 97th Congresses seeking additional judgeships because of the increasing load.

No one will deny that we do need an infusion of judicial power, and this is the thrust of what we are trying to do. So, I support the legislation and ask the Members to do likewise.

Mrs. FENWICK. Mr. Speaker, will the gentlewoman yield?

Miss JORDAN. I yield.

Mrs. FENWICK. The candor of our colleague from Texas is refreshing, and most appreciated.

Miss JORDAN. I thank the gentlewoman.

Mr. BAUMAN. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Speaker, I rise in support of this measure. In following my colleague from Texas, I point out that the subcommittee did indeed try to exercise some zero-based budgeting, if I might make reference to that procedure, where the chairman of the committee said, "Let's reject the Judicial Conference recommendations and start from zero and see what the actual needs are."

We presented that recommendation to the full committee and were voted down, so as a matter of practicality we have to bring this measure to the floor in this present form. Neither I nor other Members are necessarily in favor of the additional judges added by the full committee, but are faced with the necessity of providing relief for our judicial system.

I think we do have to face the realistic needs of the judiciary and we can no longer defer action.

I would urge support of the measure.

Mr. Speaker, I yield the time I have left to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Speaker, let me add as a footnote to this discussion that additional judges are going to help reduce crime in America. In order to reduce crime, we have to bring people to trial swiftly. That is one reason why I have urged the creation of additional judgships. In the last Congress I pressed for legislation to create 49 additional judgships but the House failed to take up the legislation before the expiration of the Congress.

The need is very acute, so it seems to me that what we should do is enact this bill and get on with the business of improving our system of justice, especially in the criminal field.

Mr. BAUMAN. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, the House is starting off 1978 just like it operated through 1977. In the true spirit of reform, we are continuing the "gag rule" that has become the hallmark of our majority leadership.

This bill, H.R. 7843 which creates over 145, life-termed judges, is surely of major significance. But our leaders, in their usual style of openness, bring it to the floor under another of their favorite gag rules.

Debate is limited. Amendments are forbidden. Reform in the 95th Congress marches on—but backward, as usual.

And why has the Speaker gagged and handcuffed the House? I think it is so we will not be able to review the Marston scandal, nor to suggest in stronger terms than the timid committee report that we demand merit selection of these judges.

These Federal judges will make more important decisions about our lives, and those of our families, than most Congressmen. It is critically important that they be selected on the basis of merit, rather than on the basis of some secret cabal, made behind closed doors by the Attorney-General and the Chairman of the other body's Judiciary Committee.

The gag rule of this suspension process is merely ratifying that secret closed-door agreement. The Marston affair is a particularly offensive example, but it is only the tip of the iceberg.

This suspension process makes the House a party to that closed-door, spoils system agreement, and gives at least some evidence that our leadership concurs in it.

Never mind what the President promised. Never mind what the Attorney-General said when he was confirmed. The deals have already been made, and they are now being ratified by this House.

The lesson of this particular suspension is obvious: Never let urges to reform, or campaign promises, or openness, or fairness, interfere with partisan politics as usual.

It is also of some interest to note that this House never worried about creating new judges as long as there was a Republican in the White House. We somehow were able to struggle along with the same old complement of "judges until a Democrat was elected President."

Then, and only then, the need for 145 new judges somehow became compelling. How refreshing it would be if we had a true merit selection system, because then we could add judges as needed rather than adding them only when "our friends" can pick them.

It is doubly regrettable, then, that the Speaker's "gag rule" prevents the offering of an amendment to provide merit selection, and even restricts our ability to debate the issue. This process does not reflect only on the Speaker and the majority group. It, unjustly, makes us all look bad.

The essential problem is that we do need extra judges—not 120, of course, but the logrolling in committee was inevitable. The judge list in this bill is fat, but in a couple of years the needs will grow up to match the committee's appetite. Despite the rotten procedure, I cannot ignore the need.

So I will have to vote for the bill, despite the outrageous procedures, and despite my waning confidence in the Attorney General, and despite his repugnant agreement with the Member of the other body. I will do so simply because the judges, or most of them, are badly needed.

However unsatisfactory the spoils system is, the blunt fact is that the country needs the judges. One can only vote yes, with the forlorn hope that the spoils system operators would not turn their backs completely on quality.

But, if only we had a merit system and if only we could raise judges' salaries to a level that would attract the best people, then the country could have some real confidence in its judiciary.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, it was my pleasure to serve on the committee and, no question about it, it was a hard-working effort. We did not come out exactly as I wish we had, but I believe the work product before this House is a very supportable one.

I would like to address myself to the remarks of the gentleman from Maryland and other gentlemen who have spoken to the Marston affair and the fact that merit selection is a very loose operation in this bill. It is that. I helped to author it. I wish it could have been tighter. I was one who suggested to the President he was wrong to act in the way he did on the Marston case at that time. As far as the merit selection of the U.S. attorneys, I think it is very definitely germane to that and there will be a whole discussion of the problem.

I would suggest to the gentleman, this is a faltering start but it is a start toward merit selection for the Federal bench.

Mr. Speaker, I would like to take this opportunity to express my support for H.R. 7843, a bill which would provide for the creation of 110 additional district court judgeships and 35 additional circuit judgeships.

As a member of the House Judiciary Subcommittee on Monopolies and Commercial Law, which thoroughly studied and analyzed the workload of the court system, I can attest to the fact that these proposed judgeships are sorely needed to improve the efficiency and administration of justice in our Federal judicial system.

The need for these additional judgeships has been well documented. The number of cases filed in the district courts has increased from 92,000 cases filed in 1950 to more than 172,000 cases filed in 1977.

Likewise, the number of cases filed in the circuit courts has increased from 7,903 cases filed in 1967 to more than 19,000 cases filed last year.

These statistics indicate that the judges are encouraging a growing backlog of cases pending on their dockets, and that the American citizens' access to the Federal courts is continually being delayed. The result is that the judges are overworked and the citizens are being denied prompt justice.

KENTUCKY JUDGESHIPS

H.R. 7843 provides for the creation of three additional judgeships for the Eastern District Court of Kentucky, one of which would be temporary.

The record shows that there is a compelling need for these new judges in eastern Kentucky. There are presently two full-time judges in the eastern district and one roving judge who spends the majority of his time in the eastern district due to the tremendous backlog of cases in that district. The caseload situation is severe, primarily due to the large number of black lung cases now pending before the court.

In 1975, for example, 845 black lung cases were filed, compared to 1,723 such cases in 1976. The result is that there is a weighted filing of 740 cases per judge in this district, which gives it the sixth largest backlog of cases in the entire country.

The record clearly shows that two new judges would only reduce the workload to 444 weighted filings per judge, still an extraordinarily high figure. Therefore, a third new judge seems warranted. However, since the record indicates that the number of black lung cases may subside in the future, this bill would make the third judgeship a temporary position only.

Given the urgency of the situation in eastern Kentucky, I urge my colleagues in the House to approve these three judgeships for eastern Kentucky.

MERIT SELECTION PROVISION

During the Judiciary Committee markup of this bill, I offered an amendment—which was adopted by the committee—which requires the President to promulgate regulations for the selection of district court judges on the basis of merit. This amendment established section 6 of the bill which provides that those sections of the bill authorizing the creation of the additional district court judgeships, shall take effect immediately upon the President's promulgation of such regulations.

While this provision expressly permits the President to waive these regulations, nevertheless this provision would reflect the strong desire of Congress and millions of Americans to move toward an established, affirmative system of merit selection of district court judgeships. This provision would help the President resist the inevitable political pressures, and would help improve the quality of judicial appointments.

The Library of Congress has concluded that my approach to merit selection is constitutional and would not infringe on the President's constitutional powers of nomination.

President Carter has already established procedures for the merit selection of Federal appellate court judges. It is also worthy to note that Senators in 13 States, including my home State of Kentucky, have already voluntarily established nonpartisan merit selection panels to recommend qualified individuals for Federal judgeships.

In August 1977, the American Bar Association adopted a resolution calling for the nonpartisan merit selection of all Federal judges, including district court judges.

Therefore, it is apparent that the best interest of our Federal judicial system will be served if the House retains this provision calling for the merit selection of district judges.

I urge my colleagues to vote in favor of H.R. 7843.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I would say the merit selection is a condition upon which the creation of the 110 district judgeships becomes effective. Thus if the President does not promulgate procedures for merit selection, there are no district judgeships to fill. I do not know that this section can accurately be characterized as weak if it has that effect.

The President's constitutional right to nominate Federal judges cannot be diminished by statute. But this procedure will so order the nominating process and subject it to public scrutiny that purely political nominations will invoke political sanctions.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I think there is an urgent need for additional Federal judges and I think it exists in such a measure as it does because the majority has adamantly and arrogantly refused for 8 years to enact legislation and create additional judgeships while there remained in the White House a President of the opposite party.

Now, is the emergency all that great that we cannot send this bill back to the committee and get it enacted properly and not as a Christmas tree, as it has been referred to by the gentleman from Texas?

It will apparently lead the American public to think there is something being done about merit selection when nothing substantial is being done. As to the number of judges needed, in the bankruptcy reform bill recently passed by this House, we will provide for additional judgeships to provide for easing some of the load in the future.

I think we ought to quit putting more burden continually on the Federal courts by establishing new schedules of alertness and attention to the various types of cases. Provisions like that are continually placed in legislation which is passed by this Congress, adding to the need for judges.

This is not legislation of which we can be proud. We ought to defeat it and send it back to the committee with a message to the committee to cut back and clean it up. After 8 years' delay, we can certainly wait long enough for the committee to do the job right, and I would urge on the vote that we defeat this bill under suspension.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman for yielding.

I say the change that will be brought about by this bill is needed, and the statistics so indicate.

I indicate an "aye" vote.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the bill. I take special notice of section 7, page 17, which the gentleman from California amended, and it is included in this bill.

The section notes the fact that of our Federal Judges, only 1 percent are women and 4 percent are black. It recommends that the President, in selecting individuals for nomination to the 145 new Federal judgeships created under the act, give "due consideration" to qualified women, blacks, Hispanics, and other minority individuals.

It is unfortunate that the section is necessary at this time, but the fact of the matter is that the Federal judiciary is elitist in nature, and it is important that we have to take into consideration, given this fact, that blacks and women and Hispanics and other minorities should be considered. That is unfortunate but necessary.

I would like to point out that I have an Italian constituency, I have a Greek constituency, I have an Albanian, and many other constituencies, including Polish. I would ask the gentleman from California, who is the maker of the amendment: Does the term "other minorities" include these constituencies?

Mr. EDWARDS of California. Yes. There are many constituencies that are unrepresented in the Federal branch or represented to a very small extent. There are many Filipino and Polish and Italian and other minorities who are underrepresented and this legislation is suggesting to the President that qualified members of those particular minority groups be considered for appointment.

Mr. BIAGGI. I thank the gentleman and congratulate him once again for this very significant amendment.

I respect the committee's concern in rectifying past injustices as they relate to positions held in the Federal judiciary by certain groups. I am grateful for the clarification provided by the gentleman from California. I initially was concerned over the limits of the committee's scope in this matter but my fears have been somewhat allayed. I express this gratification despite the knowledge that it is only a first step. The overall record of the Italo-American community in Federal service is not good. Italo-American jurists make up less than 6 percent of all Federal judges. In our history we have only three Cabinet officers and three Senators. New York State, with one of this Nation's largest Italo-American population has never had a U.S. Senator of Italian descent. There has never been an Italo-American Supreme Court Justice.

This record is indefensible. Merit should be the one and only criteria in the selection of judges. The Italo-American community and its many fine State and local jurists, stand on their record and welcome merit as the means by which they will get the opportunity to serve as a Federal judge. I am pleased to have played a decisive role in permitting this opportunity.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, while I intend to support this bill, a few things need to be said about the legislative deception inherent in so-called merit selection language.

I refer specifically to section 6 of the judgeship bill—the section allegedly designed to aid the President in carrying out one of his campaign pledges.

Do not hold your breath.

I call my colleagues' attention to page 6 of the committee report:

> section 6 * * * further provides that no nomination or appointment may be invalidated on the basis of the President's failure to comply with either this section of the bill or with any regulation in fact promulgated.

Anyone taking the time to read this can clearly see that section 6 has about as much substance as the President's campaign promise itself.

The leadership had an opportunity to put teeth into section 6. They could have brought the judgeship bill to the floor of the House under an open rule with amendments limited to those sections not pertaining to the number of judges to be appointed—specifically section 6. Instead, we are permitted only 40 minutes of debate, under suspension of the rules and with no amendments permitted, on legislation that will allow the President to appoint 145 new judges, on top of those vacancies already existing, and in addition to the 35—10 circuit and 25 U.S. district—he has already nominated and/or appointed.

The House will undoubtedly pass this judgeship bill by an overwhelming margin; the media will applaud the legislation because of its inclusion of so-called merit selection of judges; and merit selection will mingle with the dust on the conference room floor.

I have no objection to the creation of new judgeships; I support merit selection, provided it has some teeth. But let us stop fooling the American people.

For 7 years, while Republican Presidents were in the White House, the Democratic Congress steadfastly refused to create new judgeships. Now that there is a Democrat in the White House, the Congress is rushing to create 145 new judgeships for him to select.

As a candidate, Jimmy Carter promised that "all Federal judges and prosecutors should be appointed on the basis of merit, without any consideration of political aspects or influence." The President has shown that he and the Attorney General have a different definition of "merit selection." By the end of 1977, President Carter had appointed 10 circuit court judges, all Democrats; 21 U.S. district court judges, all Democrats; U.S. district attorneys, 55 Democrats, 1 Republican. We need these new judges, but let us be honest about it—merit selection is nothing but another broken promise.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I rise in support of this bill. I think the greatest legitimate complaints against our judicial system in the United States right now are two—delay and expense.

Everyone who has worked in the courts knows that expense is the handmaiden of delay. The two go side by side.

Mr. Speaker, it has been stated that cases take 24 months to get to trial. That may be some kind of an average in certain areas, but I am acquainted with many districts where it takes 4 years to bring a civil case to trial.

You take that factor plus the imposition of the Speedy Trial Act, and the 90-day rule on top of that and it makes an impossible situation. I believe that the number of civil cases nationally is the backbreaker, because of the conditions in the courts caused by the Speedy Trial Act in criminal cases the courts never can get to them.

Mr. Speaker, the amount that is spent for the entire Federal judiciary is a very small amount compared to other amounts that we spend, such as for the B–1 bomber and other things.

This legislation will give the right and the ability to our people to receive justice.

The subcommittee in this instance I believe got enamoured with numbers and with statistics. We all know of the old saying that goes something like this: "Figures don't lie but lawyers can figure," and that is true here. The committee really did not have an analysis of the geography of all of the districts, some of which are huge, involving many metropolitan areas, where the courts are involved with a great number and a great complexity of cases they handle. The caseloads there have not only been greatly increased in the last few years, but the cases such as school desegregation cases and multitudes of other cases involving antitrust suits, product liability, and environmental suits against nuclear plants, tie up the courts for months on end in deciding a single case. I believe that our people are entitled to better than just a statistical analysis, they are entitled to an analysis of the districts which the final full committee bill did. You can statistically require a judge to decide a predetermined number of cases a year and if he is willing he can meet virtually any numerical requirement. But what about quality? Certainly our deeply respected system of justice is respected because thoughtful deliberate consideration of the merits of case is its hallmark. What good is the cherished "right to be heard" if the judge, because of numerical decision requirements, artificially imposed upon him, has no time to listen. The full committee bill corrected this drastic difficiency in the subcommitee bill.

It is now a good bill. One in which we can all take pride. I urge your support of it.

The SPEAKER pro tempore. The Chair will state that the gentleman from New Jersey (Mr. RODINO) has 4 minutes remaining.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I rise in support of the legislation. We have listened to a great deal of criticism coning the bill, about politics, and about logrolling and what have you, but I believe that here we have had an analysis made as to the caseloads involved, this has been very carefully analyzed, and also as to an analysis of the weighted caseload. Also there was a great deal of discussion with regard to the individual provisions here.

Mr. Speaker, I am sure that some Members may not consider that this is a perfect bill and, of course, they are right, but those who tell us that it is not a good bill are also wrong because it is a bill directed toward improving our Federal judiciary. It does consider the caseloads involved in the various districts and it does consider some of the geography that is involved. I believe that basically this is a step forward to bring justice to our people. That is the purpose of the bill.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, the gentleman from Virginia (Mr. HARRIS) is entirely correct in that we went into great detail with regard to the statistics involved and in great detail with regard to the weighted caseloads involved and with regard to the type of cases involved. Further, we considered the use of magistrates and also the failure to use magistrates. We went into tremendous detail which only a committee could do. We spent 7 full days in committee studying this legislation. We became thoroughly familiar with the needs of the 94 districts and the 11 circuits.

Mr. HARRIS. I thank the gentleman from Illinois.

The SPEAKER pro tempore. The Chair will state that the gentleman from Maryland (Mr. BAUMAN) has 2 minutes remaining and the gentleman from New Jersey (Mr. RODINO) has 3 minutes and 30 seconds remaining.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I commend the members of the Judiciary Committee for their efforts in reporting out the omnibus judgeships bill, to authorize additional judgeship positions for the district and circuit courts. This bill represents one of the most exhaustive congressional analyses of the needs of the Federal court system undertaken in the postwar era. I feel we would be remiss in our duties to delay any longer in authorizing these positions.

While I can understand the reasoning behind the decision to disallow amendments to the bill, I also feel obligated to register my view that the one additional district judge authorized for the western district of Texas is insufficient to adequately insure the proper administration of justice throughout the western district of Texas.

Hon. Adrian Spears, chief judge of the western district of Texas, has been an effective advocate for the creation of several additional judgeship positions for the district, based on his study of projected case filings through the year 1980. His testimony before the Senate Judiciary Committee last spring was an excellent and persuasive presentation of the district's caseload as shaped by the requirements of the Speedy Trial Act and the western district's unique geographic proximity to the southern border of the United States.

I respectfully request the consent of the House to insert a portion of Judge Spears' testimony into the RECORD:

The Western District of Texas is one of the largest, if not the largest, districts geographically in the United States, encompassing an area of over 91,000 square miles and 68 separate counties. It is as large as the states of New York and Pennsylvania combined.

Of the 24 congressional districts located within the state of Texas, 10 are either wholly or partially situated in this district. Presently, there are five district judges assigned to conduct the business of the federal court in this large area. At various times throughout the year, necessity dictates that each judge hold court within the district at cities other than that of his residence.

Although there are seven statutory divisions comprising this district, district judges reside in but three of the seven divisions. This leaves four divisions without the benefits of a resident judge. Of the total number of cases filed in this district, approximately 25 percent are filed in divisions without a resident judge. The problems stemming from substantial filings in the divisions without resident judges, coupled with the necessity of resident judges leaving their home bases and traveling comparatively lengthy distances throughout this extensive geographical area, create a situation somewhat unparalleled elsewhere. Of the 25 large metropolitan district courts with which this court is ordinarily compared, few, save the districts of Texas, are confronted with just this problem to such a large degree.

The geographical distances involved are too great to allow any practical joinder of divisions. Inasmuch as this is a problem not generally widespread among other districts, little consideration is apparently given to it. Without actually experiencing the difficulties involved, it is in a real sense quite difficult to get a definite grasp of the problem.

Realistically speaking, there is more to this matter of geographical size and nonresident judge divisions than is patently apparent at first glance. If there was a key word to describe the situation, it would in all likelihood be "time": precious judge-time; that entity of which there never seems to be enough. In conjunction with the aforementioned problem, the time spent due to necessary travel between divisions assumes a role of greater relative importance. When considered in light of the dictates of the Speedy Trial Act, the situation becomes increasingly more critical. The problem of travel-time between divisions is further complicated by the fact that three of the four divisions without resident judges where travel is required (Del Rio, Pecos, Waco), have no public transportation service other than buses. This results in the use of one's privately-owned vehicle rather than the luxury of a thirty-minute flight on a jet airliner. If the federal docket is to be adequately maintained and kept current in these outlying divisions, travel is both mandatory and frequent.

The time limits established by the Speedy Trial Act have likewise intensified the burden of holding court in these divisions. With respect to just the travel-time between divisions, approximately 125 travel days were consumed by the judges in this district in calendar year 1976. When one considers that there are only about 253 working days in a year, this figure becomes rather awesome. Interestingly enough, the figure for calendar year 1976 is up by about 20 days from the same figure for calendar year 1975. The net result is that it costs this district approximately one-half man year of judge-time for the sole purpose of traveling within the district to the non-resident judge divisions. A fair assumption is that this figure will continue to rise as the various time limits imposed by the Speedy Trial Act are progressively phased in, until the ultimate time limits are met in 1979. As the time limits shorten, the necessity to travel will proportionately increase. Again, this situation is quite unique and uncommon in most courts. It is also one which very definitely needs to be made known.

In addition to travel time between divisions, considerable time is consumed for the purpose of conducting the business of the Court in these divisions. In calendar year 1976, excluding the travel time to and from the non-resident judge divisions, court was held approximately a total of 170 days. One must keep in mind a fact not ordinarily raised when discussing this point. While a particular judge is away from his resident division in order to hold court in another division, the workload at home is neither stagnant nor moving along as if he was physically present there. Rather, it builds up and accumulates awaiting any action deemed appropriate upon his return. When the judge does return, after what has more often than not been a grueling, ten-hour-a-day work pace, he is immediately confronted with a massive accumulation of motions, new filings, correspondence, requests, instructional material, reports, etc., which he must begin to attack. In effect, the necessity of traveling to other divisions multiplies the actual work needed to get accomplished.

Oftentimes, inquiries are made as to how the judges of this district have been able to consistently terminate a large number of cases while at the same time retaining a low backlog of civil cases when they are confronted with the geographical and travel problems inherent in this district. The answer is simply that the judges in this district, and their supporting personnel, often find themselves working excessive hours far beyond the normal 8 hour day. Working long hours and taking work home is the norm rather than the exception for these judges.

The problem of time is further intensified by the fact that the judges of this district have a high rate of participation and attendance at the various seminars and workshops sponsored by such government agencies as the Federal Judicial Center, the Fifth Circuit Court of Appeals, etc. In calendar year 1976, approximately 84 days were devoted to the traveling to and attending of these various functions. As is true with travel time to divisions, time away from the district is a further taxation on judge-time which could otherwise be devoted to the business of the Court. While the judge is away, work in all the divisions accumulates.

All in all, with the phasing in of the Speedy Trial Act, the inherent problems of this district with respect to its size, nonresident judge divisions, and travel-time, will in no doubt increase. Without an adequate number of judgeships to cope with this situation, as the problems increase, the administration of justice will suffer. One cannot realistically expect the judges to continue to work at the accelerated and ex-

cessive pace which they have been forced to work in the past. One additional judgeship is needed to bring into balance just travel requirements alone. Two others are needed to satisfy the requirements of the Burdick Committee criteria, the Speedy Trial Act, and the other problems peculiar to this district as herein discussed.

Another aspect rather unique to this district is found in examining the seemingly drastic decline in the number of criminal filings. The reasons for this decline, to be discussed next, will in all likelihood cease, and this district will see a definite increase in the number of criminal filings in future years.

First, the actual decline in criminal filings is not so drastic as first seen upon initial observation. Inasmuch as the majority of Immigration matters for the past several years have been filed as misdemeanor offenses before the Magistrate, the greater percentage of the decline in criminal filings for this district from earlier years has in fact been this type of cases. Never before has the percentage of Immigration cases in this district been lower than in FY76. In comparison, the decline in the number of criminal filings is not as drastic as that which the total number of filings seems to indicate.

Secondly, for the past several years the United States Attorney for this district has been implementing a policy of "selective prosecution". This policy has contributed enormously to the decline in the number of criminal filings. Where before, all narcotic violations of any significance were adamantly prosecuted, since the adoption of this policy, the U.S. Attorney has been seeking "higher quantity" possession and transporting cases. In these instances where there has been concurrent jurisdiction with state authorities, the federal prosecutor has relinquished the duty of prosecuting the seemingly less serious narcotic offenses in favor of the state. Sadly, in many instances, neither the state nor the federal prosecutor has followed through with his respective prosecutorial duty. The net result has been that many of the drug traffickers who deal in relatively small quantities of narcotics are evading prosecution.

Another fact which should be mentioned in conjunction with this, is that according to the FBI, on a nationwide basis, the rate of crime has risen 33 percent since 1970.

It is indeed difficult to reconcile the "selective prosecution" policy in view of the ever increasing rate of crime. No doubt more extensive prosecution will ultimately result under the new administration which will take control of the Justice Department.

Moreover, the unilateral withdrawal from the Omnibus procedure by the U.S. Attorney Office in this district, in addition to the procedural uncertainties due to the newly implemented Speedy Trial Act, have likewise contributed to the decreasing number of criminal filings in the past three years. However, irrespective of the motives or actions of the U.S. Attorney's Office, it is respectfully submitted that there is every reason to believe that there will be a substantial increase in criminal filings when a new policy is implemented in that office. The trend toward low criminal filings has indeed "bottomed-out" and a gradual increase in the number of criminal filings is already becoming evident.

When it is remembered that about 450 miles of the border between Mexico and the United States is in this district, it is not unreasonable to assume that the criminal rate, especially with respect to the narcotics traffic, will continue to rise. It is easily seen that the criminal caseloads in the various divisions of this district will eventually increase and demonstrate that the projection made is on the conservative side.

The number of civil filings in this district has taken quite a different development than the criminal filing. For fiscal year 1976, there has been an 11.7 percent increase in civil filings over fiscal year 1975. This increase is slightly higher than the 11.3 percent increase in civil filings nationally. Since people of retirement age are moving their places of residence to such cities as San Antonio, El Paso, Kerrville, and Fredericksburg, we can further foresee a rise in Social Security cases. A large portion of the population in this district is at, or is nearing, the retirement age wherein they would be able to receive Social Security benefits. In short, civil filings for this district are as high now as ever. All indications substantiate even higher numbers of civil filings for this district in the near future.

Another consideration which should be taken into account, which may or not be unique to this district, relates to the number of pending criminal defendants presently incarcerated in jail awaiting trial. Pursuant to section 3164 of the Speedy Trial Act of 1974; "detained persons who are being held in detention solely because they are awaiting trial, and * * * released persons * * * of high risk" must go to trial within 90 days from either the date of their initial incarceration or the date of designation of high risk. As of November 30, 1976, there were a total of 574 defendants pending in criminal cases in this district. Approximately 225 of this number are fugitives. This leaves 349 triable defendants who are in jail, and in accordance with the Speedy Trial Act, must go to trial within 90 days of their initial arrest.

As of November 30, 1976: 574 pending defendants less 255 fugitives comes to 349 triable defendants. 110 defendants incarcerated in jail. 32 percent of triable defendants must go to trial within 90 days.

Hence, Speedy Trial creates additional problems to those mentioned earlier which related to judge-time and travel necessities. The resultant effect creates a very definite priority on the criminal docket, which will undoubtedly be reflected adversely on the civil docket.

A final facet of this discussion which definitely has relevance to the issues thus discussed and which, in varying degrees, is prevalent in all districts, concerns the mortgage on the time of the Chief Judge of the district by the mere fact of his position as Chief Judge. Each year, the drain on the chief judge's time due to the ever increasing number of administrative tasks becomes more burdensome. The effect of this additional responsibility on the shoulders of the chief judge has resulted in a voluminous amount of non-case related work being done by him. However, when evaluation of judge output is conducted, the weighted caseload statistics utilized to measure the "mortgage on the judge's time" do not reflect this enormous amount of time devoted to administration.

In order to calculate a percentage amount of time devoted to the accomplishment of the administrative duties of chief judge, the Chief Judge in this district embarked on a detailed "time study" of the total work-related output for him over a two-month period of time. The results indicated that during the first month, he devoted a total of 195.7 hours to work-related matters. Of this time, 95.5 hours, or approximately 49% of the total, were spent solely on administrative functions. During the second month there was an increase in the time spent on court administration. A total of 187 hours were put in by the chief judge during this month, of which 100 hours, or 59% of the total, were dedicated to the administrative duties of the Court, for which the district receives no actual credit under the current system of compiling statistics. Unfortunately, these administrative responsibilities have increased substantially in the last year, and with the Speedy Trial Act rapidly advancing to the more restrictive time periods, the situation is bound to get worse rather than better.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I am happy to yield to my colleague, the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I would like to associate myself with the remarks made by the gentleman from Texas (Mr. WHITE). I certainly hope that some time in the very near future we do get the judges that are necessary in the western district of Texas.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I rise to speak in favor of this bill to create additional judgeships. I am particularly supportive of the section that recommends that the President, in selecting individuals for nomination to Federal judgeships, give due consideration to qualified women, blacks, Hispanics, and other minorities. All these groups are severely underrepresented on the Federal bench and it is time for change.

At this time, I would like to amplify and clarify the term "other minority individuals." This term must include all people who have minority status in our country. To me, minority status, includes all people who are deprived of full participation in our society because of the way they look; the sound of their last name; the language they speak; or their cultural heritage. Thus this recommendation must include Asian-Americans, Native Americans, and those Americans whose heritage is Eastern and Southern European.

Naturally I speak with special feelings for the Polish-Americans. There are over 11 million Polish-American citizens in our country, but only three are Federal judges. In fact, only 27 of the 478 Federal judges are of Eastern or Southern European ancestry. I would like to see some of them on the bench. I would like to emphasize to my colleagues that when I speak of the need to include blacks, Hispanics and other minority individuals that I mean black women, Hispanic women, and women from other minority groups.

In conclusion, I believe that the profile of our court system should reflect all of American society, all who contribute—all who make it great.

Mr. BAUMAN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I feel this body is putting the cart before the horse. We badly need to enact a procedure through which the Federal judiciary can improve its own efficiency, and that is totally lacking today. Every Federal judge is virtually beyond discipline.

I have introduced in the last two Congresses such a procedure, and I think we ought to enact something of that sort through which we can determine the good conduct of judges, discipline those who do not do a good job and get rid of those who are beyond hope. Only then will we know how many judgeships we really need.

Mr. BAUMAN. Mr. Speaker, I have 1 minute remaining. I yield myself that time before I yield to the gentlewoman from Ohio.

I just want to say if you like gag rules, vote for this; if you like the Marston affair merit system, vote for this; if you like quota systems on a sexist and racist basis, vote for this; and if you want no chance to legislate properly, vote for this. Other than that, you might consider voting against it and we will have the bill back in due course.

I yield to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Speaker, I am opposed to this bill for one reason, pure and simple. Federal judges are appointed for life. There is no real review of what they do. That is part of the frustration of the merit in people, and I think it is about time we do not perpetuate something that should be looked into.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Utah (Mr. McKAY).

Mr. McKAY. Mr. Speaker, I have been involved with H.R. 7843, which creates additional Federal judgeships, since this legislation was reported out as a clean bill by the Monopolies and Commercial Law Subcommittee of the Judiciary Committee, some 9 months ago. I am aware of the many hours of hard work that have gone into this legislation. I want to commend Chairman RODINO and my colleagues on the Judiciary Committee for thcir perseverence.

Last June I called to the attention of the Monopolies Subcommittee a very unique situation that exists in Utah. As a result of a provision known as "the grandfather clause," Utah is left with the only Federal judge who has retained his chief judgeship status past age 70. Under normal circumstances a chief judge must relinquish administrative control over a judicial district when he turns 70 years of age. The grandfather clause exempts two-judge districts from this requirement. Through attrition this provision now protects only Utah's chief judge. In 1975 the Senate held several days of hearings on legislation to repeal this anomaly but took no affirmative action to repeal the law.

Utah's present chief district judge is 79-year-old Willis W. Ritter. Judge Ritter has been a source of controversy in my State since he was appointed to the Federal bench in 1950. He has the highest reversal rate on appeal of any judge in the Federal system. Recently, his refusal to enforce public land laws has allowed thousands of violations to occur without penalty. He will not allow Utah's Federal magistrates to adjudicate cases within their jurisdiction.

At my request, the Department of Justice communicated to Chairman RODINO its support for a specific remedy to this situation in June. In the first closed session since Watergate, the subcommittee voted 7 to 2 to repeal the grandfather clause in this legislation. This remedy seemed sufficient until early October when the United States for the first time filed a writ of mandamus with the 10th circuit court of appeals seeking to permanently remove Judge Ritter from hearing any criminal or civil case involving the Federal Government. The mandamus charges that because of Judge Ritter's extreme bias, it is impossible for the United States to receive a fair hearing in his court.

Should this mandamus be approved, Judge Ritter will be left with only 187 cases. Utah's other judge would have an impossible 595 cases. This potential disparity signaled a need to return to the full Judiciary Committee to head off this crisis.

Working through my close friend, Representative JIM SANTINI, Democrat, of Nevada, who is on the Judiciary Committee, we were successful in obtaining an additional judgeship to sit only until Judge Ritter leaves the bench. While this remedy seemed sufficient at the time, it became readily apparent in early November that Utah deserved a permanent third judgeship on the basis of the 389 cases filed in Utah's Federal district court.

Having approved additional judgeships for districts with 350 case filings per year, the Judiciary Committee accepted an amendment offered again by Representative SANTINI which converted the prior approved temporary additional judgeship to a permanent one.

In a period of 7 months the Judiciary Committee evaluated the situation in Utah on three separate occasions and each time fashioned what was then considered the most appropriate relief. Throughout this entire process, my colleagues acted in utmost integrity and candor. They recognized Utah's problems and responded appropriately without regard to political and personal pressures that were exerted by others. I commend their work and gladly vote for final passage of H.R. 7843.

I have been in contact with other members of the Utah congressional delegation and Gov. Scott Matheson concerning a bipartisan judicial nominating commission to assure that whomever is selected to occupy this new judgeship will be qualified in every respect.

Mr. McCLORY. Mr. Speaker, will the gentleman from New Jersey yield to me?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

I just want to say that for the first time in our history we are putting into legislation provision for the merit selection of district judges. It is a condition precedent to the creation of the 110 district judgeships. Those judgeships do not become effective until after the President promulgates merit selection procedures.

With respect to the provision requiring due consideration of qualified women, blacks, and others in connection with appointments, it is merely precatory. It is merely a recommendation that consideration should be given. It does not limit appointment to women, blacks, or any group. It does not prescribe or suggest any quotas. It does not preclude the appointment of conservatives or liberals, Republicans or Democrats.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

I wish to take this time just to commend my colleague, the gentleman from Michigan (Mr. SAWYER) for the fine work he did on this bill on behalf of the western district of Michigan. Despite the overwhelming evidence for the need for two judges, the subcommittee initially authorized only one but as a result of his able and deligent efforts the full committee authorized two. I commend the chairman of the full committee and I commend the gentleman from Michigan (Mr. SAWYER) for recognizing the needs of the western district of Michigan.

Mr. RODINO. I yield 30 seconds to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. I thank the gentleman for yielding.

I commend the distinguished chairman of the House Committee on the Judiciary and urge prompt enactment of this long overdue H.R. 7843.

Mr. RODINO. I yield 30 seconds to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, this legislation (H.R. 7843), which creates additional Federal district court judgeships, is extremely important. In my own State of New York, the judges this bill adds in the eastern and northern districts will greatly increase the ability of the Federal courts to deal with their heavy workload and render timely and correct decisions. Our democracy depends on the quality of justice in our courts. By relieving the congestion in the Federal system, this bill helps to assure that people will get justice in Federal courts. I urge its adoption.

Mr. DUNCAN of Oregon. Mr. Speaker, I am supporting this bill for all of the reasons enunciated here this morning. The volume of judicial business in our litigious society has increased and additional judges are needed to cope with the overflow.

On the other hand, I share the sentiments expressed by the gentleman from Texas (Mr. BROOKS). As I look ahead I do not believe that it is possible for us to continue to meet this problem by simply creating new judgeships ad infinitum. The time is long overdue when we must look to what is happening and what we are doing to our system of government, an illness, I suggest, of which the need for more judges is only symptomatic.

Part of the responsibility for this explosion of litigation can be laid at the door of some activist judges, but most of the responsibility lies with the Congress. We have vastly extended traditional concepts of standing to sue. What used to be called champerty and maintenance now flourishes under the protection of statute, indeed under constitutional guarantees.

But most of all, a natural unwillingness on the part of Members of Congress to come to grips with difficult political issues at the risk of offending substantial, vocal, and powerful constituences, has resulted, in my judgment, in an erosion of both legislative and executive authority, with a correlative rise in the power, authority, and responsibility of the judiciary. I need not delineate all of the areas in which judicial decisions are filling the legislative gaps. And all of us

are aware that the courts are increasingly running the schools, managing the national forests, acting as water masters, fish masters, deciding what highways and bridges should be built and which should not, and so forth.

I think we must look ahead to see what our system will look like down the road a few years. Will the checks and balances, conceived as a protection of individual liberty against tyrannical government be eroded, as the one unelected branch of government becomes more and more omnipotent? Will the judicial structure itself collapse under the burdens we are imposing upon it?

These, it seems to me, must be questions we must answer, not as we approve this bill for new judges, but as we daily pass bills with obscure provisions widening the areas of litigation or as we fail to pass legislation which will exercise the legislative power we have been too wont to abandon.

And, as we seek to solve this problem, we must never lose sight of the importance of maintaining (a) access to the courts for all citizens with legitimate grievances which cannot be settled elsewhere, and (b) a degree of flexibility to enable the courts to function as they did so nobly during the recent great constitutional crisis which so traumatized us all. It is this imperative that makes the solution to this problem so difficult.

Mr. DON H. CLAUSEN. Mr. Speaker, I oppose H.R. 7843—to provide for additional Federal judgeships—for a number of reasons and I urge my colleagues to do the same.

First of all, a bill as important as this should have been brought up in the regular procedural way, by obtaining a rule, to allow a full airing of its pros and cons and to permit the amendment process that is so important to perfecting such legislation.

Second, this bill increases the Federal judiciary by approximately 30 percent which would give the present administration appointive power over each of these lifetime appointments. The recent "Marston affair" clearly demonstrates that the aura of politics has invaded the Federal judiciary to such a degree that it would be inappropriate to give any one administration control over such a substantial segment of Federal judges.

The argument has been offered that our Federal judges are overworked and that there are serious problems of court congestion and delay. Perhaps one of the reasons for this is that judges are entering fields that they should not be in—fields that should be left to the legislative process. Merely increasing the number of judges does nothing to solve this problem—it will allow it to worsen. Moreover, there is no reasonable excuse that the Federal bench should be expanded this rapidly. It is too costly in terms of dollars and in terms of the potential for abuse.

For these reasons I oppose this measure and urge my colleagues to do the same.

Mr. ROGERS. Mr. Speaker, I rise in support of legislation to provide additional judges for our Nation's Federal district courts. It has always been a fundamental right of our citizens to seek redress in their courts and to have such redress heard within a reasonable period of time. In recent years this right has been eroded as court dockets have become clogged with cases.

In the southern district of Florida, the situation has become especially critical. The population of this 12-county district has increased dramatically. During the years since the last Federal judges were provided, 1 county alone—Broward County—has grown from roughly 500,000 to nearly 1 million people.

At the same time, the largest condemnation effort ever undertaken in this country—the acquisition of the Big Cypress Swamp—was begun in south Florida and will continue for an estimated 10 years. Data recently provided me by the clerk of the southern district, indicate that the filing rate for the last several months of 1977, if it continues as expected, will result in an annual filing rate of over 1,500 cases per judge each year. This is up from the 1976 filing rate of 679 cases per judge and far above the 400 per judge standard endorsed by the committee. The five additional judges allocated in this bill are an important first step toward alleviating the crisis that exists in the southern district of Florida.

The chief judge of the district, Judge Charles Fulton, deserves mention for the role he played in seeking additional judges. The distinguished chairman of the committee, Mr. RODINO, deserves commendation for the methodical and scholarly approach his committee used in carefully reviewing the needs of every district court in the country. Last, the members of the committee and especially my good friend from Alabama, Mr. FLOWERS, deserve credit for recognizing the critical situation in the southern district of Florida and amending the bill provide this district with five rather than four additional judges. In offering this amendment, the gentleman from Alabama proved that he is not only a good neighbor to Floridians, but is a good friend to all who believe in the fundamental right of access to courts.

Mr. EVANS of Delaware. Mr. Speaker, I rise in opposition to this legislation. Over the past several weeks, the fact has come to light that the President made a secret "agreement" with the chairman of the Senate Judiciary Committee. The essence of this agreement was that if the Senate agreed to appoint circuit court judges on the basis of merit alone, without regard to politics, they could continue to recommend the appointment of district court judges on the basis of politics. The President accepted this agreement, in spite of his explicit campaign statement, so often recalled in recent weeks, that "all Federal judges and prosecutors shall be appointed solely on the basis of merit."

The events surrounding the so-called "Marston affair" indicated quite clearly that the President's campaign promise was just that, a promise. Because of the "agreement" the President reached with Chairman EASTLAND, it is clear that the President never intended to carry out his promise. This legislation, while it pays lipservice to merit selection of Federal judges, will not force the President to honor his campaign commitment, and will further politicize the Federal judiciary at a time when strengthening public support for Government institutions is so imperative.

Section 6 of this bill contains language which would instruct the President to promulgate regulations establishing procedures and guidelines for the selection, on the basis of merit, of Federal court judgeships. However, as everyone in this Chamber is aware, the power of the President to appoint Federal judges is absolute. Because of the separation of powers doctrine, the Congress is powerless to impose requirements on the selection of executive appointees. The framers of our Constitution trusted the President to use sound judgment in giving him this power. But, as the committee report on H.R. 7843 noted, "the President may waive with impunity any regulations promulgated under this section." Clearly, the President may continue to appoint Federal judges on the basis of politics and not merit. Therefore, without assurances from the President that he is breaching his agreement with the Senate Judiciary Committee, and thereby renewing his pledge to the American people, I cannot support this legislation.

Mr. JONES of Oklahoma. Mr. Speaker, I want to compliment the chairman and members of the Judiciary Committee for fashioning a very sensible and workable bill. In particular, I thank the gentleman from New Jersey (Mr. RODINO) for his dedication and expertise in bringing this bill to the House for consideration.

We are all aware of the crushing caseload burdens on our Federal court system. H.R. 7843 addresses this problem by creating 145 new Federal judgeships, thus diminishing the overwhelming burdens on the existing judges.

Numbers do not tell the whole story, Mr. Speaker. The new judges are not merely scattered upon the landscape according to past practices, but are apportioned in a manner that will lead to the most efficient use of their skills. In this regard, H.R. 7843 is a vast improvement over the Senate-passed version of this bill. The Senate bill would have perpetuated the concept of "roving judges" to a much greater extent than the House bill does.

While I am not familiar with the operation of roving judges in other States, in Oklahoma it is both archaic and expensive. Improved transportation and communication have certainly decreased the need for such roving jurists. Moreover, the spiraling costs of per diem, room and board, office space, traveling law clerks and secretaries, plus the many other expenses associated with roving judges are too great to justify retention of this concept on a broad scale. The American taxpayer should no longer have to subsidize such a costly and ineffective system.

H.R. 7843 addresses these problems, Mr. Speaker. It would decrease the amount of roving judges in those jurisdictions where the cost-benefit ratio of such a system is no longer attractive. I

urge my colleagues to give their wholehearted support and endorsement to this bill, and again, I compliment the gentleman from New Jersey (Mr. RODINO) for his foresight and leadership on this bill.

Mr. CARR. Mr. Speaker, I would like to briefly explain the impact of the committee's bill on the western district of Michigan, in order to insure that the two extra judgeships which the committee proposes to add to the district will remain in the final version of this legislation. As you may know, the subcommittee bill contained provisions for only one extra judge. This decision was changed by the full committee, which determined that two extra judges were needed. A short explanation of the caseload and backlog crisis in the western district should be enough to convince the House that it is essential for the second additional judge to be maintained.

The backlog for the two current judges in the western district is now nearly 800 per judge, which is among the highest in the Federal judiciary. With only two judges, the district is second in its circuit in complex "weighted" cases, including school desegregation, nuclear powerplant cases, Indian treaties, antitrust litigation, and international trade. This growing backlog long ago reached the point where many attorneys simply stopped filing cases in the district, and others have had such interminable waiting periods that needless hardships and injustices have resulted.

The chief judge of the district, Judge Noel Fox, has for the past year made a prudent and well-documented argument that three additional judges are needed to lessen the backlog and to allow the district to operate normally. This is further evidence that the two judgeships now in the bill must be maintained if any semblance of speedy and reasonable justice is to exist in the western district.

Mr. ALEXANDER. Mr. Speaker, I rise in strong support of this legislation to create needed Federal judgeships throughout the country.

It was my privilege to work with my colleague, the Honorable LAMAR GUDGER of North Carolina, a member of the committee, in securing adoption, during full committee consideration of the bill, of an amendment to add an additional judgeship over and above the one recommended by the Subcommittee on Monopolies and Commercial Law for the eastern district of Arkansas.

Mr. Speaker, I can in all candor describe the Eastern District Court of Arkansas as a "court in crisis." Let me take a moment to outline the situation that exists in that judicial district today.

At present there are four Federal judgeships in Arkansas. While there are five judges, two of them are senior judges. One of the senior judges is 89 years of age and has in the past year had to reduce his workload to an absolute minimum. The second senior judge is 73 years of age and, while waiting for the judgeship vacancy, created by his taking senior status, to be filled, has had to increase his workload to a level higher than it was before he became a senior judge.

Two of the four judgeships in Arkansas are "roving" judges. One of the "rovers" spends 90 percent of his time in the eastern district, with the other spending 66 percent of his time there. Thus, counting the chief judge, the eastern district is receiving the services of the equivalent of 2.56 judges. Even so, the statistics clearly illustrate that the court is carrying a far heavier load than is the national average.

In fiscal year 1976 this district had a per judgeship weighted caseload of 615 compared to a national average of 432. Its civil filings per judge were 468, considerably higher than the national average of 327. The 128 criminal cases per judge initiated in the district were also above the national average of 103. The per judgeship trials averaged 74, compared with the national average of 49. While the national average pending caseload per judgeship was 401, the pending per judgeship in eastern Arkansas in fiscal year 1976 was 696.

This situation has developed despite the fact that in 1976 517 cases per judgeship were terminated in the eastern district of Arkansas. That is 146 more cases than the national average of 371.

Mr. Speaker, it has been 7 years since the Congress took action to augment our Federal judicial manpower to insure that the wheels of justice will continue to turn. The Senate has passed similar legislation. In the interest of the justice that our forefathers saw fit to guarantee in our Constitution, I urge adoption of this legislation.

Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 7843, a bill providing for the appointment of additional district and circuit judges.

The Committee on the Judiciary has done a remarkable job on this legislation. I want to congratulate them for their time and effort in reporting a bill that could very well be considered a landmark in the history of this Nation. As the committee stated in its report, never before in our history have as many as 110 additional judgeships been created by a single act.

However praiseworthy as their job is, I have to say in all fairness, that in the case of the Federal District Court of Puerto Rico the committee fell short in providing the number of judgeships that are really needed. The committee approved three new judgeships, which is certainly an improvement. However, the Judicial Conference had recommended four. Furthermore, the Senate passed S. 11 on May 24, 1977 approving the creation of four new judgeships for Puerto Rico.

The committee did not fully consider the language problem of my district. The court serves a community mostly comprised of Spanish-speaking American citizens—3.2 million population. To this effect, you should be aware that a criminal trial that requires the continuous use of an interpreter extends the normal trial time by 50 percent and that a criminal or civil trial that requires partial use of interpreters takes 15 to 25-percent more time to try. Spanish-speaking defendants, both Puerto Rican and Hispanics from other countries account for approximately 80 percent of all the criminal cases that reach the court. When the delays caused by the language factor are added to the case load, the need for four additional judgeships is clearly evident and justified. Because of its importance I would like to point out that on page 4 of its report, the committee made the following remarks:

> . . . in many districts with attractive climates, notable in Puerto Rico . . . , courts are blessed with large amounts of time donated by "visiting judges" from other district courts.

I have to take exception to this comment and I am in total disagreement with the committee's views on this particular point. I believe it proper that the record be corrected and that my fellow colleagues understand that the visiting judge program was an answer to a need, judges do not go to Puerto Rico to enjoy only the blessings of the climate or to help judges with a light case load.

For the record, I want to say that on page 17 and 18 of the statement for the record submitted to the Subcommittee on Monopolies and Commercial Law, House Committee on the Judiciary, in support of the position of Puerto Rico, the Chief Judge of the U.S. District Court for the District of Puerto Rico, Hon. Jose V. Toledo, stated that—

> . . . We must say that the visiting judges have been an extraordinary help to us at all times. Without their dedicated assistance, the judges of this Court would undoubtedly be medically incapacitated today. Nevertheless, their continued assistance is not the solution to our workload problems. Their availability is very limited inasmuch as they are not available during all the months of the year and that generally they are not willing to take all types of cases.

Judge Toledo then added:

> It seems evident that this Court cannot count on the services of a substantial number of visiting judges as long as their own courts are suffering the increases in workload reflected by the national statistics. Not only is the visiting judges recruitment effort time consuming, but the financial costs and the limitations in supporting personnel make the visiting judges program an inadequate alternative to the appointment of the judge power needed by this Court.

Also on January 13, 1978, Judge Toledo wrote to me a letter and addressing again to this same issue he stated to me that:

> Before closing, it should be interesting to note that our much criticized and little understood program of visiting judges should no longer be required in the event that we get the full complement of seven judgeships. As we have been and still are an overly burdened court, visiting judges are and have been the means to an effective conrtol of our ever mounting backlog. It would have been next to impossible to keep our backlog in check had we not been given the support of additional visiting judge-power. However, we are looking forward to the time when we can take care of our own workload. This we shall do as soon as each judge in this district is operating at a case load level which is comparable to that of their brother judges in other districts. Seven judgeships should allow us to do so. Else, we will soon again be seeking relief by way of visiting judges.

We need four new Federal judgeships, instead of the three recommended by the House Committee on the Judiciary.

This position has been endorsed by the chief judge of the District Court of

Puerto Rico, Honorable José V. Toledo, the Chief Judge of the U.S. Court of Appeals for the First Circuit, Hon. Frank M. Coffin and the Puerto Rico Chapter of the Federal Bar Association as well as the Judicial Conference.

I urge the House conferees to accept the Senate version of S. 11 regarding Puerto Rico. Four new judgeships are needed in order to bring this court in parity with their counterparts in the mainland. However, I urge my colleagues to support H.R. 7843 under the suspension rule.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 7843, legislation to authorize additional Federal judgeships.

This legislation is of great importance to the people of my congressional district. South Florida has experienced a crisis over the past several years in the shortages of judges available to try cases.

The trial of civil cases has slowed almost to a standstill in the southern district of Florida. Since "justice delayed is justice denied," the people of south Florida have, to a large degree, been denied the right to have their legal conflicts resolved in the judicial system as provided for by our Constitution.

This bill provides for five additional Federal district court judges in the southern district, the most additional judges authorized for any district. Despite this, the new judgeships will still be insufficient to meet the need.

The Judicial Conference of the United States requested six additional judges for the southern district of Florida, and this number was included in judgeship legislation passed by the Senate last year. I am hopeful that we can obtain the full six judges in conference with the Senate.

Even six additional Federal judges will barely enable the southern district to hold its head above the flood of caseload that has been engulfing the judges over the past few years. I am fearful that a backlog of civil cases that aggrieved parties have refrained from filing because of the inability to come to trial, may now be dumped on the court's calendar.

In addition, the court will be swamped by many thousands of land condemnation cases in connection with the Big Cypress National Preserve project—the largest land acquisition project ever undertaken by our Government.

Beyond this, projected case data indicate that there will be a pressing need for even more judges in the southern district of Florida in a very short time. I am aware that in some areas of the Nation, projections of future needs have sometimes failed to materialize, but the southern district of Florida serves the fastest-growing part of the fastest-growing State in the country. It is certain that the large-scale population increases will be translated into expanded litigation.

Already, the people of south Florida have suffered far too long because of the number of judges is inadequate to meet the demand. I will do all I can to obtain final adoption of this legislation as soon as possible.

I urge my colleagues to support H.R. 7843, to provide for additional Federal judgeships.

Mr. BENJAMIN. Mr. Speaker, I join with Chairman RODINO, whom I personally commend for his unmatched ability and understanding, and my other distinguished colleagues in support of H.R. 7843. I ask the Members of the House to support the omnibus judgeship bill of 1978.

This bill creates, among others, an additional Federal judgeship for the northern district of Indiana. It fills a need that was recognized before 1970, and it is of critical importance not only to my constituents, but to those of Representatives BRADEMAS, FITHIAN, and QUAYLE. To the extent that it will enhance the administration of justice in northern Indiana, it is of import to all Members of this body.

The need for an additional judge in our district is meritorious and is not based on a parochial interest or that of party. Rather, it has consistently had the bipartisan support of the Members of both Houses of Congress.

The northern district of Indiana contains three major urban centers which are heavily industrialized and where population density is high. Such demographic factors lead to the filing of complex legal matters involving substantial sums of money and technical issues of law.

The Judicial Conference's Court Administration Committee spoke of the issue of case complexity in the northern district when it reported that:

> In recent years, the combination of an ever more complex spectrum of criminal cases—in 1976, 35 percent of the criminal cases in this district were weighted heavier than average, and that if that trend continues, the three judges on this district bench may soon try only criminal cases and the trial of those cases—which more and more frequently are complex, protracted, multidefendant cases, involving narcotic, land fraud, and medicare fraud offenses—may very well require so much trial time that a criminal backlog will develop making compliance with the Speedy Trial Act impossible in many cases. In addition, many of the civil cases being filed are themselves complex in nature. Between July 1, 1975, and June 30, 1976, 13 percent of the civil cases filed were civil rights cases."

As the Court Administration Committee summarized:

> Raw numbers alone do not tell the whole story. The nature of the caseload determines the difficulty of the judicial workload, and the nature of this district's caseload is growing ever more complex.

Trial settings are now four and five deep. Alternate settings are numerous and the physical separation of the courts does not allow for the efficient solution of these secondary problems. As a result, clients are discouraged, witnesses frustrated, the bar inconvenienced and additional administrative burdens are imposed on the courts.

With jury trials being held nearly 80 percent of the time, arraignments and dispositions are being heard at 8:30 a.m. with trials starting thereafter.

Since December 1, 1976, Judge Phil M. McNaNagny, Jr., has held hearings during 135 of his lunch hours.

This pressure to "perform" was mentioned by Attorney James Wieser, one of many attorneys who have corresponded with the membership of the Judiciary Committee. Attorney Wieser said:

> No man should be expected to continuously work twelve to fourteen hours per day in a judicial capacity. The strain and fatigue will become too much. . . . We have found ourselves before the presiding judge during the lunch breaks of an ongoing trial.

Joseph S. Van Bokkelen, assistant U.S. attorney for the northern district of Indiana from 1972 to 1975 went further and explained that, there were, on numerous occasions, 2-day trials which commenced at 9 a.m. in the morning with the first day ending at 5 p.m. in the afternoon, and the second day beginning at 5 p.m. that same afternoon and going until the jury returned its verdict sometimes as late as 3 and 4 in the morning, and thereafter, the new trial starting that very next morning.

This growning burden has led to substantial delays within the district and since 1971, the median time, in months, to have a civil matter brought to trial has never been less than 14 months. In 1974, it was 26 months, in 1975, it was 31 months and last year, it was 24 months or 118 percent above the national average of 11 months. For the 10 years prior to my election to Congress, I practiced law in the district and am familiar—by harsh personal experience—with the import of these figures and the catastrophic effect of such delays.

Of 94 judicial districts, only five have experienced longer delays than the northern district of Indiana.

While substantial disincentives exist with regards to filing actions in the northern district of Indiana, recent filings have increased substantially. A recent report issued by the Court Administration Committee of the Judicial Conference said:

> While the pattern of consistent caseload growth cited by the Judicial Conference was broken during the period between July 1, 1975, and June 30, 1976, statistics which have now been compiled for the period between July 1 1976, and December 31 1976, very strongly suggest that the break in the pattern was indeed aberrational. Between July and December of 1976, civil filings in the district increased by 30 percent; among all 94 districts nationally, the district ranked 12th in increased civil filings and 3rd in increased civil and criminal filings combined. While the growth in the workload may have been interrupted, it quite obviously has been resumed. . . . At current rates, the civil backlog is increasing at 10 percent per year.

Additionally, with the creation of the Dunes National Lakeshore, the U.S. attorney's office for the northern district anticipates that an additional 500 land condemnation actions will be filed in the district during the next 5 years.

Finally, it should be noted that the courthouse located in Hammond, Ind., is currently equipped with two complete courtrooms, judges chambers, jury rooms, and so forth. Thus, the physical plant is already available for an additional judge reducing the costs necessary to provide for an additional judge.

The additional judgeship for the northern district of Indiana was approved by the U.S. Senate and recommended by the U.S. Judicial Conference. It has the support of the Hammond, East

Chicago, Whiting, Lake County, and South Lake County Bar Associations and the Indiana State Bar Association of Gary, local members of the State judiciary and other local and State public officials. The news media has voiced its support for an additional judge.

For a moment now, however, I would like to set aside those considerations directly affecting the people I represent and express my support for H.R. 7843 in its entirety.

As a legislator and former practicing attorney, I well understand the significance of H.R. 7843 and the voluminous and exhaustive facts and details that were weighed before the committee's arrived at its final decision.

During the consideration of the provision for Indiana's northern district, the members of the committee were accessible, fair, and unfailing in their willingness to consider any information which had a bearing on their deliberations.

Repeated memoranda were prepared for and read by committee members. They gave freely of their personal time to discuss the merits of our delegations arguments.

This sacrifice of time, the examination of endless statistics, details and correspondence and the measured consideration of all proposals were repeated many times over before the omnibus judgeship bill of 1978 was passed on by the committee.

The passage of it will be one of the significant acts of this Congress.

Having witnessed, at first hand, the meticulous and sincere effort that went into its preparation, I close by voicing my strong support for it.

Thank you.

Mr. RODINO. Mr. Speaker, I would like in conclusion to state that the Committee on the Judiciary and its subcommittee have considered this measure very carefully, and while the subcommittee was unanimous in reporting the bill with a lower number of district court judges, nonetheless, the full committee recognized that there were additional statistics and up-to-date data which support the bill that we now have. Therefore, the full Committee on the Judiciary by a vote of 31 to 2 reported this measure to the floor. Nine of the ten subcommittee members supported the full committee's action.

Finally, we have heard in debate that perhaps the merit selection provisions do not go far enough—that they leave the President with too much leeway. Mr. Speaker, I believe we have gone almost to the limit the Constitution permits. The nomination and appointment power under article II belong to the Executive, by and with the advice and consent of the Senate. We have adopted very strong language consistent with our fundamental incapacity to circumvent or limit that constitutional authority. The committee's merit selection language is a major, significant step forward and it deserves the full support of this House.

Mr. Speaker, again I urge adoption of H.R. 7843.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. RODINO) that the House suspend the rules and pass the bill H.R. 7843, as amended.

The question was taken.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 80, answered "present" 1, not voting 32, as follows:

[Roll No. 42]

YEAS—319

Abdnor	Drinan	Levitas
Addabbo	Duncan, Oreg.	Livingston
Akaka	Early	Lloyd, Calif.
Alexander	Eckhardt	Lloyd, Tenn.
Allen	Edgar	Long, La.
Ambro	Edwards, Calif.	Long, Md.
Anderson, Calif.	Eilberg	Lujan
	Emery	Luken
Anderson, Ill.	English	Lundine
Andrews, N.C.	Ertel	McClory
Andrews, N. Dak.	Evans, Colo.	McCloskey
	Evans, Ga.	McCormack
Annunzio	Fary	McDade
Applegate	Fascell	McFall
Archer	Fenwick	McHugh
Ashley	Fish	McKay
Aspin	Fisher	McKinney
AuCoin	Fithian	Maguire
Bafalis	Flippo	Mann
Baldus	Florio	Markey
Barnard	Flowers	Marks
Baucus	Flynt	Marriott
Beard, R.I.	Ford, Tenn.	Martin
Beard, Tenn.	Forsythe	Mathis
Bedell	Fountain	Mattox
Benjamin	Fowler	Mazzoli
Bennett	Fraser	Metcalfe
Bevill	Frenzel	Meyner
Biaggi	Fuqua	Mikulski
Bingham	Gammage	Mikva
Blanchard	Gaydos	Milford
Blouin	Gephardt	Miller, Calif.
Boggs	Giaimo	Mineta
Boland	Gibbons	Minish
Bolling	Gilman	Mitchell, Md.
Bonior	Ginn	Moakley
Bonker	Glickman	Moffett
Brademas	Gore	Mollohan
Breaux	Gudger	Moore
Breckinridge	Hall	Moorhead, Pa.
Brodhead	Hamilton	Moss
Brown, Calif.	Hammer-schmidt	Murphy, Ill.
Brown, Mich.		Murphy, N.Y.
Broyhill	Hanley	Murtha
Buchanan	Hannaford	Myers, Michael
Burke, Calif.	Harkin	Natcher
Burke, Fla.	Harrington	Neal
Burke, Mass.	Harris	Nedzi
Burlison, Mo.	Hawkins	Nichols
Burton, John	Hefner	Nolan
Burton, Phillip	Heftel	Nowak
Butler	Hightower	O'Brien
Byron	Hollenbeck	Oberstar
Carney	Holtzman	Obey
Carr	Horton	Ottinger
Carter	Howard	Patten
Cavanaugh	Hubbard	Patterson
Cederberg	Huckaby	Pattison
Chappell	Hughes	Pease
Chisholm	Hyde	Pepper
Clay	Ichord	Perkins
Cochran	Ireland	Pettis
Cohen	Jenkins	Pike
Coleman	Jenrette	Pressler
Collins, Ill.	Johnson, Calif.	Preyer
Conte	Johnson, Colo.	Price
Conyers	Jones, N.C.	Pritchard
Corcoran	Jones, Okla.	Pursell
Corman	Jordan	Quayle
Cornell	Kasten	Quie
Cornwell	Kastenmeier	Rahall
D'Amours	Kazen	Railsback
Danielson	Kelly	Rangel
Davis	Keys	Reuss
de la Garza	Kildee	Rhodes
Delaney	Krebs	Richmond
Dellums	Leach	Rinaldo
Derrick	Lederer	Risenhoover
Dicks	Leggett	Roberts
Dodd	Lehman	Rodino
Downey	Lent	Roe
Rogers	Solarz	Volkmer
Rooney	Spellman	Waggonner
Rose	Spence	Walgren
Rosenthal	St Germain	Watkins
Roybal	Staggers	Waxman
Rudd	Stangeland	Weaver
Runnels	Stark	Weiss
Russo	Steed	Whalen
Ryan	Steers	White
Santini	Steiger	Whitley
Sarasin	Stockman	Wiggins
Sawyer	Stokes	Wilson, Bob
Scheuer	Stratton	Wilson, C. H.
Schroeder	Studds	Wilson, Tex.
Sebelius	Stump	Winn
Seiberling	Thompson	Wirth
Sharp	Thone	Wolff
Shuster	Thornton	Wright
Sikes	Traxler	Yates
Simon	Trible	Yatron
Sisk	Tsongas	Young, Alaska
Skelton	Tucker	Young, Fla.
Skubitz	Ullman	Young, Mo.
Slack	Van Deerlin	Young, Tex.
Smith, Iowa	Vander Jagt	Zablocki
Smith, Nebr.	Vanik	
Snyder	Vento	

NAYS—80

Ammerman	Duncan, Tenn.	Mitchell, N.Y.
Armstrong	Edwards, Okla.	Montgomery
Ashbrook	Erlenborn	Moorhead, Calif.
Badham	Evans, Del.	
Bauman	Evans, Ind.	Mottl
Beilenson	Findley	Murphy, Pa.
Bowen	Goldwater	Myers, Gary
Brinkley	Gonzalez	Myers, John
Brooks	Gradison	Oakar
Broomfield	Grassley	Panetta
Burgener	Guyer	Pickle
Burleson, Tex.	Hansen	Poage
Caputo	Harsha	Quillen
Clausen, Don H.	Heckler	Regula
	Hillis	Robinson
Clawson, Del	Jacobs	Rousselot
Cleveland	Jeffords	Satterfield
Collins, Tex.	Kemp	Schulze
Conable	Ketchum	Stanton
Coughlin	Kindness	Symms
Cunningham	Kostmayer	Taylor
Daniel, Dan	Lagomarsino	Walker
Daniel, R. W.	Latta	Walsh
Derwinski	Lott	Wampler
Devine	McEwen	Whitehurst
Dickinson	Marlenee	Wylie
Dingell	Michel	
Dornan	Miller, Ohio	

ANSWERED "PRESENT"—1

Roncalio

NOT VOTING—32

Brown, Ohio	Hagedorn	Nix
Cotter	Holland	Rostenkowski
Crane	Holt	Ruppe
Dent	Jones, Tenn.	Shipley
Diggs	Krueger	Teague
Edwards, Ala.	LaFalce	Treen
Flood	Le Fante	Udall
Foley	McDonald	Whitten
Ford, Mich.	Madigan	Wydler
Frey	Mahon	Zeferetti
Goodling	Meeds	

The Clerk announced the following pairs:

Mr. Dent with Mr. Shipley.
Mr. Rostenkowski with Mr. Mahon.
Mr. Cotter with Mr. Whitten.
Mr. Teague with Mr. Udall.
Mr. Flood with Mr. Madigan.
Mr. Jones of Tennessee with Mr. Wydler.
Mr. Foley with Mr. Goodling.
Mr. Nix with Mr. Edwards of Alabama.
Mr. Diggs with Mr. Holland.
Mr. Le Fante with Frey.
Mr. Zeferetti with Mr. Crane.
Mr. Ford of Michigan with Mr. Ruppe.
Mr. Meeds with Mr. Treen.
Mr. LaFalce with Mrs. Holt.
Mr. McDonald with Mr. Brown of Ohio.
Mr. Krueger with Mr. Hagedorn.

Mr. ARMSTRONG and Mr. TAYLOR changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST FOR IMMEDIATE CONSIDERATION IN HOUSE OF S. 11, PROVIDING ADDITIONAL FEDERAL JUDGESHIPS

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 11) to provide for the appointment of additional district and circuit judges, for the creation of a new 5th judicial circuit and a new 11th judicial circuit, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. BAUMAN. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON SCIENCE, RESEARCH AND TECHNOLOGY OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET TODAY TO HEAR TESTIMONY WHILE HOUSE IS IN SESSION

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Science, Research and Technology of the Committee on Science and Technology may be permitted to meet today to hear testimony while the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, we have all this important consumer protection legislation or whatever it is called to consider today.

Why would we want to have a committee meeting while this important legislation is being considered?

Mr. FLIPPO. If the gentleman will yield, Mr. Speaker, simply for the purpose of hearing testimony.

Mr. ROUSSELOT. The subcommittee is only taking testimony? No markup of any bill is involved; is that correct?

Mr. FLIPPO. That is correct.

Mr. ROUSSELOT. In other words, the gentleman does not care about this other wonderful legislation; is that correct?

Mr. FLIPPO. I think it is wonderful legislation, and I know the gentleman from California (Mr. ROUSSELOT) will watch it very closely for us and then we can come back and follow the gentleman's lead.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON THE ENVIRONMENT AND THE ATMOSPHERE OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET TODAY WHILE HOUSE IS IN SESSION

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology may be permitted to meet today while the House is in session.

The Speaker pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, what is the gentleman going to do?

Mr. BROWN of California. It is just for the purpose of hearing departmental witnesses. There is no markup or any action.

Mr. ROUSSELOT. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3813, EXPANDING REDWOOD NATIONAL PARK IN STATE OF CALIFORNIA

Mr. MEEDS, from the Committee on Rules, submitted a privileged report (Rept. 95–866) on the resolution (H. Res. 1006) providing for the consideration of the bill (H.R. 3813) to amend the act of October 2, 1968, an act to establish a Redwood National Park in the State of California, and for other purposes, which was referred to the House Calendar and ordered printed.

CONSUMER PROTECTION ACT OF 1977

Mr. MEEDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 872 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES 872

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6805) to establish an Agency for Consumer Protection in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes. After general debate, which shall be confined to the bill and continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the text of the bill H.R. 9718 if offered as an amendment in the nature of a substitute for the bill H.R. 6805, said substitute shall be read for amendment under the five-minute rule as an original bill, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of H.R. 6805 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. MEEDS) is recognized for 1 hour.

Mr. MEEDS. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 872 provides for the consideration of H.R. 6805, the Consumer Protection Act of 1977. This is an open rule providing for 1 hour of general debate to be divided and controlled in the customary manner by the Committee on Government Operations. At the conclusion of general debate the bill shall be read for amendment under the 5-minute rule.

The rule provides that it shall be in order to consider the text of H.R. 9718, if offered, as an amendment in the nature of a substitute for H.R. 6805. If offered, H.R. 9718 shall be read for amendment under the 5-minute rule as an original bill. This will allow for the substitute to be amended in the second degree.

All points of order against said substitute for failure to comply with clause 5 of rule 21 are waived. This waiver is required to permit the amendment to actually achieve the transfer of 20 consumer-related programs and $11.6 million in funds already appropriated. Such a transfer would be in technical violation of clause 5 of rule 21 which prohibits the consideration of appropriations in a legislative measure.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, this legislation establishes a small effective office whose purpose it will be to plead the consumer's case within the Government. It will not require major additions to the Government size or operations; in fact it will be established by drawing together resources now scattered throughout the Government. It will not be another regulatory agency. Its purpose is to improve the way rules, regulations, and decisions are made and carried out, rather than issuing new rules itself.

This legislation is the product of extensive consideration by both the Congress and the President. Indeed the Congress passed similar legislation in the 94th Congress only to be frustrated in that effort by a Presidential veto. President Carter has made his support for this legislation well known to members of Congress and has worked with them to provide for the passage of an efficient and effective consumer representation office.

Mr. Speaker, it is this cooperative approach which the President and the Committee on Government Operations have followed which has produced the substitute which the Committee on Rules has made in order under this rule. Both the President and the committee have been sensitive to the concern which many Members have had about certain provisions of H.R. 6805. Specifically, many Members of Congress were concerned that the authority to issue interrogatories to business entities and the authority to seek judicial review from a Federal agency decision during a formal proceeding were unnecessary powers that might be used to harass business. Let me emphasize that the substitute made in order is a response to these concerns in that it eliminates these provisions and in no way adds provisions which were not a part of H.R. 6805.

In short, this rule gives Members a chance to vote not only on H.R. 6805 which has been before the House since May of this year, but also makes in order H.R. 9718 which is a lesser included version of H.R. 6805 about which many Members have expressed reservations. H.R. 9718 addresses all of these reservations without adding any new provisions which have not received the full scrutiny of the congressional hearings process. Finally, the rule provides for open amendments of either of these measures. Thus, the House will be completely free to work its will.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a turkey is a turkey is a turkey. A turkey by any other name is still a turkey. And that is the way it is with this bill. This bill which was introduced as a substitute was never considered in the committee. No hearings were held on this substitute and yet today it is here before this body after having run the gamut last year and after having been withdrawn. After many attempts to break the barrier for consideration in this House, we find this substitute now on the floor.

The Washington Post this morning in an editorial against this measure concluded by saying that there is "much more reason for Congress to set this idea aside and concentrate on helping improve the regulatory agencies themselves."

This bill if enacted creates a new bureaucratic dictatorship, a bureaucratic monster. If you do not have the facts then let me tell you the facts.

In 1975 alone, 11 cabinet departments, 44 agencies and roughly 1,200 advisory groups issued 10,245 new regulations. This continues to grow. Regulatory agencies proclaim their commands in the Federal Register.

In 1937, in its first full year of publication the Federal Register printed 3,450 pages of administrative monologue. By 1973 the figure had increased more than 10 fold to 35,591 pages.

In 1974 it increased to 45,422 pages and in 1975 to over 57,000 pages.

It continues to grow.

In contrast, the elected Members of Congress, we in this body and those in the other body, have been able to produce only half as many pages in the CONGRESSIONAL RECORD as have been produced in the Federal Register.

Those pages in the Federal Register are laws that the people of this country have to operate under.

Those bureaucratic dictators downtown will take this bill, if it is enacted into law, and publish page after page and page after page in the Federal Register, so as to make it hard for business to operate and also to make it hard for the consumers. This bill is supposed to protect the consumers when, in fact, it is a rope around the neck of the consumers. It should be defeated. Let us not create another agency, another bureaucratic monster to issue in the Federal Register more pages of rules and regulations for the American people to bear.

This is a guise, this is a turkey. This should be defeated. I plead with the Members here on the floor today to defeat this rule. Many forays have been made to bring this measure to the floor. Let us end it once and for all. Let us cut this bureaucratic monster's throat and let him bleed to death here on the floor.

Mr. Speaker, I urge the defeat of the rule.

Mr. MEEDS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Speaker, this bill has been around for a long time, 8 years, if I remember correctly. When it started out it was not a very good bill. It was the result of a very quick compromise by a very few people in the appropriate committee. Gradually as time has passed, it has changed. It is now not a turkey. It is a perfectly good, rather small bill that will do something quite useful.

Mr. Speaker, I have never seen but one or two examples of the kind of lobbying that has gone into this. More people have tried to persuade us that this bill was a movement or an attack on business when that simply is not the case. There is more reason for the bill today than there was 8 years ago. The problems that the consumers face are growing.

What horrible things does this bill do? It is very, very simple. It will actually put the consumer on the same level that business already is in dealing with the commissions and in appearing before the regulatory bodies that have so much to say about the fate of the consumers. I do not see anything even beginning to be unreasonable about this, and I urge the Members' vote for the rule and for the bill.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I hope the House will defeat this rule so we would not have to waste further time on a bill the people do not want, the administration keeps changing, and the committee has not bothered to issue a report on. I think it is pretty obvious from the changing mood of the country and the erosion of support for this type of agency in this House, that this is an idea whose time has passed, no matter what name you decide to call it. And this agency has already had more names than the Great Impostor: Consumer Protection Agency, Agency for Consumer Protection, Agency for Consumer Advocacy, and now, the Office of Consumer Representation. The proposed agency has already had enough acronyms to fill a bowl of alphabet soup—CPA, ACP, ACA, and OCR. And the bill itself has undergone so many changes in recent weeks that the bowl of soup is beginning to turn into a bowl of mush.

Mr. Speaker, I speak as one who used to support the concept of a consumer protection agency to represent consumer interests in Federal regulatory proceedings. In fact, I voted for similar bills on several occasions. But I have spent a lot of time back in my district in this 95th Congress and not only is there no groundswell of public support for such an agency, what I hear most from the small businessman and the average blue collar worker and consumer is: Government's already too big, too intrusive, and too bureaucratic. The people are not crying out for more bureaucracies to presumably protect them from other bureaucracies; they want us to strip away some of the layers of bureaucracy and redtape and make more commonsense out of what we have already got.

I happen to be one of the principal sponsors in this body, along with the gentlewoman from Texas (Ms. JORDAN), of a bill that would do just that—force us to reexamine and overhaul our entire regulatory bureaucracy according to a fixed 8-year timetable. Our Regulatory Reform Act, which has over 70 House cosponsors and has been introduced in the other body by the distinguished majority leader and the senior Senator from Illinois, is aimed at making more sense out of Federal regulatory agencies and activities and at the same time make them more responsive to the public interest. We do not have to create a new agency just to make existing agencies function better. As the Washington Post editorial put it today, in opposing this bill,

> Experience suggests that the most productive course is to change the character of the regulatory agencies themselves . . . Since President Carter took office, some excellent appointments and a real shift is governmental attitudes have greatly improved the propsects for real regulatory reform.

And the editorial concludes:

> Thus, there is much less need for any separate intervenor with limited powers—and much more reason for Congress to set this idea aside and concentrate on helping improve the regulatory agencies themselves.

The fact is, Mr. Speaker, this bill is going to make it more difficult for those

existing agencies to respond to consumer interests. By stripping those agencies of their own consumer offices, we leave them helpless to handle complaints referred to them by the new consumer agency. It is a Catch-22 situation and a bureaucratic paper-shufflers' delight. But it really does not do a thing for consumers that cannot already be done, and be done better, using existing resources and agencies. Let us spare the American the false promise that a new layer of bureaucracy is the answer to all their consuming woes. I urge defeat of this rule.

Mr. MEEDS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Speaker, I just want to respond very, very briefly to two points that my distinguished colleague made so articulately and eloquently that spoke to the fact we should be responsive to our constituents and the signals that the gentleman receives from the gentleman's grassroots are that the bill should be defeated, or presumably that the rule should be defeated.

Let me state what the facts are, exactly to the contrary, as far as the grassroots are concerned.

In a poll released on May 17, 1977, conducted for the Sentry Insurance Co. by the Marketing Sciences Institute and Lewis Harris Associates, the public supported a Federal consumer advocacy agency 52 percent to 34 percent.

Another Harris poll taken in January of 1977 showed that 63 percent of the public favored an agency for consumer advocacy, while only 17 percent opposed it.

In a Yankelovich survey taken in 1976, 79 percent of the respondents supported a Federal consumer protection agency.

A Roper poll conducted sometime ago in May 1974, found that 55 percent supported a Federal consumer protection agency and 29 percent opposed it.

In a 1973 poll taken by the University of Georgia Marketing Survey, 77 percent of the respondents supported a Federal Department of Consumer Protection.

In this week's issue of U.S. News & World Report, the American public is registered as voting 48 percent to 36 percent in favor of the creation to a consumer protection agency.

Every single poll taken by a national polling agency has found support for this bill.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. MEEDS. Mr. Speaker, I yield 1 additional minute to the gentleman from New York.

Mr. ROSENTHAL. Mr. Speaker, one other point that the distinguished gentleman from Illinois gives for opposing the bill and the gentleman from Tennessee gives for opposing the rule is that the substitute came up out of the dark in the middle of the night by a small elitest group of people who never considered it previously. Time and time again, as late as last week on the Outer Continental Shelf bill, we considered both the Fish substitute and the Breaux substitute neither one of which had been considered by the committee. On numerous other occasions we have considered substitutes that have not been considered or reported on by the committee.

The fact of the matter is that this substitute was agreed to by a distinguished bipartisan group of members of the committee 3 months ago and has been available for review and perusal since then and there have been, albeit, many comments in the CONGRESSIONAL RECORD as to the substance.

Mr. Speaker, I would urge a vote for the rule.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Speaker, I rise in support of the bill.

There has been a lot of heat generated about the substitute. I would point out this is an open rule, that there will be adequate opportunity to offer amendments and, as the gentleman from New York (Mr. ROSENTHAL) stated just previously, there is nothing that is improper or out of order with offering substitutes that have not gone through the committee. This bill and all the issues that are involved in the substitute have been the subject of much discussion and debate, not only in the Congress, but also in the general public.

As the gentleman from New York (Mr. ROSENTHAL) pointed out, the substitute has been made available publicly, so that the Members of the Congress are well informed as to what is proposed insofar as the substitute is concerned. So I submit that there is nothing undue; there is nothing unusual with respect to the rule itself.

The fact of the matter is that the House of Representatives for the past 9 years has had before it a proposal for an Office of Consumer Representative or a Consumer Protection Agency. On several occasions we passed the bill in this House and it has gone over to the Senate and it has not been passed in the Senate; so we have to come back and try to do it again.

Someone said earlier that the time for the bill has passed, that its time has come and is passed. I submit that the time is now. It should have been passed 8 or 9 years ago. The consumer has not been represented before the regulatory agencies. This is the goal of H.R. 9718. It is not a monster that we are creating. It is an agency to represent the consumer interest before the consumer interest is fixed in place. In other words, give the consumer an opportunity to be heard before the action is taken to his detriment.

Mr. Speaker, I too, have been back to my district, and I have talked to many people. There is no one in this Congress that is more for regulatory reform than the gentleman in the well. I am for regulatory reform. It is a very important thing that should be done. The American people are being strangled by regulation. You cannot go back to your district without finding people who are fed up with the regulations and rules that have been enacted by the administration carrying out the legislative precepts that we have passed.

But that is not what we are doing here now. We are not creating a regulatory agency. We are going to create an office to represent consumers before various Federal agencies. And if that had been done earlier, if that consumer interest had been represented earlier before many of these agencies, some of the bad regulations and some of the bad laws and some of the imposition on the American people would not have transpired and the American people would not have the regulatory reform need that they have now.

I submit that this bill is regulatory reform. It is a means of reforming the regulatory system, because the consumer will have a voice. And when the Members go back to their districts, in my judgment, if they have indicated that they voted against this rule or against this bill, I think they are going to have difficulty explaining to their constituents why they voted against consumers having simple representation before the regulatory agencies that are enacting the regulations that are strangling them.

So I urge that the Members vote for the rule and for the bill.

Mr. MEEDS. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I come before the House asking the Members to vote for the rule, not because I favor the bill—because I probably do not—but because the rule is open and, as I understand the situation, from my brief tenure in the House, we vote for an open rule because we have an opportunity to express all of our views.

Mr. Speaker, this rule gives me and my colleague, the gentleman from Iowa (Mr. LEACH), an opportunity to offer a substitute bill. It would have been nice to have offered this before the committee. I did not have that opportunity. It would have been nice to have, perhaps, a greater record before us, but we do not have that opportunity. To a certain extent, I feel like the lonely long-distance runner. I am offering a substitute bill, which is opposed by business, is opposed by labor, and is opposed by consumer groups. And for that reason I think there may be some real merit in our position. My substitute creates better consumer representation by beefing up and enhancing existing consumer units in Goverment but does not create a centralized Consumer Protection Agency. My substitute helps to improve the regulatory agencies by providing an ombudsman within each of those agencies—and, by the way, the consumer units already exist in those agencies—by giving that ombudsman an opportunity and a duty to intervene in his own agency's actions.

This can be done by improving consumer representation before the agency without the necessity of creating a central, elitist, consumer agency which I believe may not be consistent with our democratic institutions. I believe consumers need better representation before this Government, but not at any cost. Our function is to provide the tools of Government and improve upon them and

make them better, not to just wear blinders, because this bill has been before us for 8 years, and that is the only approach to take.

We will have before us 3 choices: One is to vote down the main bill, one is to vote up the main bill, and the third is to accept the Glickman-Leach substitute, thus providing better consumer protection without the negative implication inherent in the bill. This provides us an opportunity to vote for consumer representation without creating a separate agency.

Mr. Speaker, to conclude, I suggest that whatever the Members do, they vote in favor of the rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I said in the beginning, a turkey is a turkey is a turkey.

The cook may roast and disinfect it as much as he will,

But the stench of the skunk remains with it still.

Let us defeat this turkey.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, when President Carter was a candidate 2 years ago, he campaigned on the promise that he was going to reduce the size of Government. I recall that he promised that he would reduce the number of Government departments and agencies to no more than 200.

He campaigned against the Washington bureaucrats and suggested the solution to our problems were not going to be fashioned here in Washington.

I was absolutely amazed when I saw in one of the Sunday supplement magazines a story saying that the President was producing on that promise, and that he had abolished 750 units of Government. So I wrote to the author of the story and I asked, "Where did you get this information?"

She said:

Well, it was a handout from the White House.

So I wrote to the Office of the President, and I asked OMB, "What are the 750 units of Government that have been abolished?"

It turned out they are advisory committees, almost all of which have no staff, no appropriation, and never meet.

On the other hand, we have a new Department of Energy, which is, as I recall, the third largest in terms of appropriation in the entire Government, created at the suggestion of President Carter. He is now suggesting that we have a new Department of Education, which will be another large unit of Government.

Here today we are considering his recommendation to create a totally new unit of Government for consumer representation.

I am speaking to my colleagues on the other side of the aisle when I say that we can do the President a favor. I guess the President got committed to Ralph Nader during his campaign on these issues, so now he goes against his promise to the people. Jimmy Carter may have forgotten his campaign promises, but the voters have not. They do not want any more Government agencies; they do not want more bureaucrats. They consider Washington the source of their problems rather than the place where solutions to problems will be fashioned.

Mr. Speaker, let us do the President a favor. Let us vote down the rule.

Mr. MEEDS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Speaker, I appreciate my colleague's yielding me this time.

Mr. Speaker, I do not feel strongly about the rule. It may very well be that we should go ahead and adopt the rule and once and for all put this baby to bed permanently.

I strongly oppose, of course, the so-called consumer bill that has been here before us. I suppose we all hear different things, depending on what we want to hear when we go back to our districts. I speak from experience, because that is the kind of thing I have been following for the last 24 years in order to try to survive around here, at least the best I can. In any event, the things my people are saying, whether it is at a farm meeting, at a veterans' meeting, a business meeting, or a church meeting—you name it—are concerns about regulation.

We have become an overregulated society. That is what is being said, if I understand what people are saying. So what we are confronted with again today is more and more regulation.

I would hope that through the sunset provisions of the amendment offered by the gentleman from Georgia (Mr. LEVITAS) and others we will begin to put to rest some of these regulations which have created, as I say, an overregulated society.

Mr. Speaker, I would hope that this bill, as I say, may once and for all be put to bed and forgotten, and let us move on to more important matters.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I have no great concern about whether we vote the rule up or down. However, I do have great concern about what we might do with the legislation.

Mr. Speaker, Esther Peterson, bless her heart, has been puttering around this Hill for as long as I can remember. That is a long time. She is carrying the torch of Ralph Nader and his crew to try to inflict on the American people yet another bureaucracy, another way to restrict and regulate the American public.

Mr. Speaker, if we pass this bill, I think we are admitting that we are not doing our job. Why do I say that? I think the term "consumer" and the term "constituent" are interchangeable. I do not have a constituent who is not a consumer, and I do not know a consumer who is not a constituent of one of us here.

Therefore, if we are putting in a consumer-advocate agency in order to represent the consumer, what we are saying is that we, the Members of Congress, are not representing our constituencies.

Mr. Speaker, it is just that simple. We do not need another bureaucracy. We do not want President Carter to break another campaign promise by creating another bureaucracy.

Let us vote down the bill, Mr. Speaker.

Mr. MEEDS. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker and colleagues, with regard to the gentleman's comments about the President's campaign promises, the President also talked about an imbalance of power in the Nation's Capital between consumers and industry.

I think the real issue here today is whether the Government is going to be fair and whether we are going to be fair.

Mr. Speaker, my friend, the gentleman from Illinois (Mr. ANDERSON), who used to support this bill, mentioned that people do not want the bill. We all have to judge that as we see it in our districts; but I think we must look at the way the question is presented. Obviously, if we ask people if they want section 7 of the Federal Trade Commission Act Amendments, they are probably going to say no. If we ask them if they want another agency, they are probably going to say no.

In fact, Mr. Speaker, I am sure the people realize that there are hundreds of administrative proceedings going on every week in the Nation's capital that have to do with things which influence their lives, whether it is natural gas pricing, home heating oil, unfair advertising, airline prices, prescription drugs, warranties, hearing aids, things which affect their lives every day. If we present the entire picture to them of how these agencies work—and we all know how they work; they sit as quasi-judicial bodies, as judges, for the most part—the public will support this legislation. We know, on the one hand, that there is tremendous representation by industry. They have no problem in getting their point across.

Mr. Speaker, I do not want to do anything to change that; but let us not pretend that that happens and that there is still a balance on the other side because we all know that that is not true.

The committee of which I am a member sponsored this bill, led by the gentleman from Texas (Mr. BROOKS), and it has studied the issue of the imbalance in legal counsel, in technical assistance, a great imbalance between consumers and industry in appearing before these commissions.

There is no doubt that the imbalance is often something like 50-to-1 for industry or 100-to-1 for industry.

Mr. Speaker, this is a fairness issue. It does not have anything to do, with all due respect to my colleague from California and some of the other speakers, with regulations or with strangling people with redtape.

Mr. Speaker, I think this Congress is recognizing more and more that we should not make a lot of new laws. What we are trying to do is to make many of the old laws work.

Again, it is a fairness issue. Are we going to be fair or are we not? That is all this bill does, and I urge its support.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Speaker, I would just like to say, in answer to my friend and colleague, the gentleman from Connecticut (Mr. MOFFETT), that perhaps the fatal flaw with this Consumer Protection Agency we are trying to create is the fact that we are creating a new agency. We are creating a new bureaucracy.

Mr. Speaker, as my colleague, the gentleman from Illinois, pointed out, the alternative should be a close reexamination of the present Federal bureaucracy that we have right now. If we want to talk about fairness, if we want to talk about giving the consumer equal representation with business interests, with labor interests, let us not do it by creating another bureaucracy.

However, we are talking about the rule right now, and I really feel the rule in this particular case is much different, at least in my short tenure in Congress, than in the past.

We are going to be discusing H.R. 6805. Then we are going to be dicussing H.R. 9718.

It was mentioned, I believe, by the gentleman from New York that we will have several substitutes. Mention was made of the Fish substitute and of the Broyhill substitute.

This substitute is being offered by the distinguished chairman of the committee.

If we look at the facts, H.R. 6805 was introduced back in April 1977. We had subcommitee hearings.

We had the markup on May 10. We reported the bill out May 16 by one vote. It was after that one vote margin that all the complaints came together and then the elite Members go together and came up with this substitute. It is very substantially changed. We can go through the items; there are 11 sections that are going to be changed by this.

So why not defeat this rule and send it back to the committee where it belongs? We can then refer to the bill as a new and improved bill. If that is the case, our distinguished chairman of the committee who operates in a very expeditious manner, could have hearings and bring the substitute back on the floor in rather quick fashion.

In conclusion I would think the logical thing to do would be to defeat the rule, send it back to the committee for proper hearings. Then and only then can we talk about what the chairman and the rest of the cosponsors want on H.R. 9718.

Again, I urge defeat of this rule.

Mr. MEEDS. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I think we probably should adopt the rule even though it is a bad rule; it is a bad precedent, but I think the time has come to grab the bull by the horns and deal with this issue on its merits.

Now, the reason it is a bad rule and a bad precedent is that by adopting this rule—which I expect the House to do—we are vitiating the entire process of our committee system. Here is a bill that came out of the committee by one vote, surrounded by controversy, born in a sense of great turmoil, and it came out of committee by one vote.

The advocates of the bill have proposed a substitute, a substitute bill which they say is different. Now, they have not exactly leveled with us because it is not as different as what they say it is, but they brought out what they say is a new bill. It seems to me it is perfectly appropriate for a substitute bill to be proposed. That is part of our legislative process, but when the sponsors of the original legislation bypass committee consideration of legislation, then the question arises, why do we have committees?

If the sponsors of the original legislation say, "We want to offer a substitute for that bill that came out," why not let the committee that has jurisdiction say something about that legislation? Some people have suggested that if we put it back into committee, it will be defeated. This is the way to pigeonhole it. But, I have testified before the Rules Committee, and I said, having voted against the bill in committee, that I would give my proxy to the distinguished gentleman from New York, who is supportive of this legislation, to report it out of committee.

It seems to me that it is not asking too much, out of respect for the committee process, out of respect for the House of Representatives, to let the committee say, "Is this an improvement or is it not?"

I think the answer is going to be, later this afternoon, that it is not an improvement. It is the same bill. You know, when you see an animal that has feathers and webbed feet and quacks, you may say it is not a duck, but if it has webbed feet and it has feathers and it quacks, it is likely to be a duck.

I say to the Members that this so-called substitute is a duck, and I suggest to them it is no different; it has the interrogatories; it has the space; it has the judicial review; it has the leads between agencies. And the least we could have done was to have this legislation come back to the committee.

I think it is interesting that even the prestigious Washington Post, which year after year has supported this legislation, has editorialized today that this is legislation that should not pass, that Congress should get rid of this bill and put it aside, and get on to the important matters that are needed for consumer protection.

This bill is an idea whose time has come and whose time has passed. We ought to vote on the rule and support the rule and give the Members of this House the opportunity to defeat a bad bill.

At this point I insert a copy of the Washington Post editorial:

REPRESENTING CONSUMERS

After much maneuvering and many delays, the latest version of the consumer-agency legislation is scheduled to come before the House today. During earlier congressional go-rounds on the issue, we endorsed the creation of a new federal agency to represent consumers' viewpoints before regulatory bodies and in judicial reviews of regulatory decisions. But both the legislation and conditions have changed. In our view, the advocates of the current measure, H.R. 9718, have failed to make a persuasive case for enacting, now, what is left of the idea.

We are not primarily concerned about the powers or costs of the Office of Consumer Representation now proposed. The agency's authority has been substantially cut back, so that it would not have a general license to quiz companies or appeal any regulatory decision it didn't like. On the question of cost, the bill's sponsors maintain that the $15-million budget of the new agency would be more than offset by the transfer or elimination of existing consumer programs in over 20 agencies. We find the net-savings claim a bit hard to swallow. If the new office did turn out to be as aggressive as its sponsors plan, its budget would surely grow. Still, it could be worth much more than $15 million—*if* it were the best way to make federal regulatory bodies more sensitive to considerations such as cost, public health, safety and the other factors often cited as "consumers'" concerns.

That gets to the real problems with this bill. One is the assumption that consumers' interests are so clear, so consistent—and somehow so distinct from the general public interest. Consumer advocates argue, of course, that they do represent the general public. Yet the public interest, in the modern regulatory world, is usually more complex; it may involve balancing a given degree of safety against a certain increment of cost, or keeping down tomorrow's price increases without jeopardizing next year's supplies, or making a much more complicated type of accommodation among a hundred forces and factors bearing on the marketplace. Those who emphasize health or safety or retail cost should certainly be heard, along with those who have other priorities. But to enshrine any particular "consumer" viewpoint in a government advocacy office raises philosophical problems that trouble us.

Beyond that, what is the real purpose here? Surely it's not just to add another voice at agencies' hearings or another pile of briefs on commissioners' desks. One's aim may be "consumer justice," as Mark Green puts it on the opposite page today, or a better grasp of the public interest in all its complexities. In either case, experience suggests that the most productive course is to change the character of the regulatory agencies themselves.

This may sound like a hopeless task. But the Federal Trade Commission, for one, made notable progress even during the Nixon-Ford years when most presidential appointments and executive-branch attitudes were inclined to favor corporate views. Since President Carter took office, some excellent appointments and a real shift in governmental attitudes have greatly improved the prospects for real regulatory reform. Thus there is much less need for any separate intervenor with limited powers—and much more reason for Congress to set this idea aside and concentrate on helping improve the regulatory agencies themselves.

Mr. QUILLEN. Mr. Speaker, back in east Tennessee they say the way to get rid of a rattlesnake is to cut off its head. I would say the way to get rid of this bill is to defeat the rule.

I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I expect to vote for the rule because I think we have to consider this legislation, and I still do not know exactly how I am going to vote. A great deal depends on the nature and the drift of the debate and what is revealed as to intent and purpose.

I was Consumer Director for the Division of Consumer Affairs in my State, in the Attorney General's office, and I have been deeply concerned with consumer affairs for many years.

There is something that we desperately need and I do not think anybody in this House ought to dodge it. We need a group, a repesentative, somebody, who is going to be able to come before the agencies of Government—and I could give the Members chapter and verse—because as our colleague, the gentleman from Connecticut, has said, perforce the agencies that were set up in the public interest have become judges and they must hear what the consumer interest is.

There is a difference, and this is something I have learned too. The public interest is sometimes contrary to the consumer interest. As a consumer I fought for everything including what was called the Fair Trade Act, which meant one could buy a radio in New York for $7.45 less than one could buy it in New Jersey. As a consumer advocate I was fighting to get rid of those Fair Trade Acts because it is in the interest of the consumer to be able to buy good merchandise at the least expense. But the public good sometimes overrides that. We might have a situation where the consumer interest would suggest that we should be able to buy shoes at the least expense, but the public good, the questions of the employment involved, and other considerations must be taken into account.

The SPEAKER. The time of the gentlewoman from New Jersey has expired.

Mr. MEEDS. Mr. Speaker, I yield the gentlewoman from New Jersey 1 additional minute.

Mrs. FENWICK. Mr. Speaker, I thank my colleagues most warmly.

There is another purpose, however; we have all argued the necessity of appearing before the agencies before action is taken on some of these issues. I have an amendment I trust this House will consider.

Ask the Paper Work Commission where the problems of small business come from. The answer is out of this Congress of the United States. This agency must be empowered to come, uninvited or invited, before the committees and the subcommittees of Congress and describe the consumer interest in any particular piece of legislation.

Look: If we are going to really mean it, if for once we are going to show the people of this country we mean it, we have got to stick up for something when it is convenient and when it is not convenient. And that is what I hope this bill will turn into: something that people really can defend and say they really mean it. Are we prepared to subject the committees and subcommittees of the Congress to the kind of scrutiny that a consumer agent who really cares about consumers may be about to propose? OK. Let us see if we do.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, I did not intend to speak on the rule although I do intend to vote against the rule. I was waiting for my prepared remarks to be made during the general debate, assuming the rule passes, but my conscience will not allow me to sit there any longer realizing that the overwhelming majority of my constituents in Kentucky, who are Democrats, strongly oppose the creation of another agency, another unit of the bureaucracy here in Washington.

They overwhelmingly supported President Carter in November of 1976, believing what he said, that he meant to streamline the Government and to reorganize the Government.

But they sure did not have in mind that he was going to yield to the wishes of Ralph Nader and come up with an Office of Consumer Representation.

I was warned that if I made remarks like this as a Democrat that I would make Ralph Nader mad. Well, I was rated 28 percent by the Nader organization a few months ago and I got a lot of criticism and every letter of criticism wondered why I was that high.

I would urge my Democratic colleagues to think twice before they vote for the rule and especially for this bill. If you think the people in your districts are going to believe that what we are doing by creating an Office of Consumer Representation is lessening the bureaucracy and merging several units into one, I urge you to realize the people will not believe it. Also if you think that the people out there in your districts will believe that the agency will operate from now on at $15 million per year, surely you know that is not accurate and you know they will be in here asking for more and more money shortly after the office is created.

I would urge my colleagues to vote against the rule and against the bill.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard many arguments pro and con on this measure. I want to repeat that since 1937 when the Federal Register began its publication, it has overcome and outdistanced the CONGRESSIONAL RECORD in pages by more than 100 percent. And I would hasten to add that the Members of this Congress are very loquacious. We all like to talk. But the bureaucrats downtown issue these regulations and print them in the Federal Register and they become the law. It is time that we cut out some of these bureaucratic dictators and cut out some of the agencies rather than creating another one.

Mr. Speaker, I reserve the balance of my time.

Mr. MEEDS. Mr. Speaker, I only have one more request for time, and I would prefer that the gentleman from Tennessee (Mr. QUILLEN) conclude with his requests now.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MEEDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 271, nays 138, not voting 23, as follows:

[Roll No. 43]

YEAS—271

Abdnor	Evans, Colo.	Mitchell, Md.
Addabbo	Evans, Ga.	Moakley
Akaka	Evans, Ind.	Moffett
Alexander	Fary	Mollohan
Allen	Fascell	Moore
Ambro	Fenwick	Moorhead, Pa.
Ammerman	Fisher	Moss
Anderson, Calif.	Fithian	Mottl
	Flippo	Murphy, Ill.
Andrews, N.C.	Florio	Murphy, N.Y.
Andrews, N. Dak.	Flowers	Murphy, Pa.
	Foley	Murtha
Annunzio	Ford, Mich.	Myers, Gary
Applegate	Ford, Tenn.	Myers, Michael
Ashley	Fowler	Neal
Aspin	Fraser	Nedzi
AuCoin	Gaydos	Nichols
Baldus	Gephardt	Nolan
Baucus	Gibbons	Nowak
Beard, R.I.	Gilman	Oakar
Bedell	Ginn	Oberstar
Beilenson	Glickman	Obey
Benjamin	Gonzalez	Ottinger
Bevill	Gore	Panetta
Biaggi	Gudger	Patten
Bingham	Hamilton	Patterson
Blanchard	Hanley	Pattison
Blouin	Hannaford	Pease
Boggs	Harkin	Pepper
Boland	Harrington	Perkins
Bolling	Harris	Pickle
Bonior	Hawkins	Pike
Brademas	Hefner	Pressler
Breckinridge	Heftel	Preyer
Brodhead	Holland	Price
Brooks	Hollenbeck	Pritchard
Brown, Calif.	Holtzman	Pursell
Buchanan	Horton	Quie
Burke, Calif.	Howard	Rahall
Burke, Fla.	Hughes	Railsback
Burke, Mass.	Jacobs	Rangel
Burlison, Mo.	Jeffords	Reuss
Burton, John	Jenkins	Richmond
Burton, Phillip	Jenrette	Rinaldo
Byron	Johnson, Calif.	Risenhoover
Caputo	Jones, Okla.	Rodino
Carney	Jordan	Roe
Carr	Kastenmeier	Rogers
Carter	Kelly	Roncalio
Cavanaugh	Keys	Rooney
Chisholm	Kildee	Rose
Clay	Kostmayer	Rosenthal
Cohen	Krebs	Roybal
Collins, Ill.	Lederer	Russo
Conte	Leggett	Santini
Conyers	Lehman	Sawyer
Corman	Lent	Scheuer
Cornell	Levitas	Schroeder
Cornwell	Lloyd, Calif.	Seiberling
Coughlin	Lloyd, Tenn.	Sharp
D'Amours	Long, La.	Simon
Daniel, Dan	Long, Md.	Sisk
Danielson	Luken	Skelton
Davis	Lundine	Slack
Delaney	McCloskey	Smith, Iowa
Dellums	McCormack	Solarz
Derrick	McDade	Spellman
Dicks	McFall	St Germain
Diggs	McHugh	Staggers
Dingell	McKay	Stark
Dodd	Maguire	Steed
Downey	Mann	Steers
Drinan	Markey	Stokes
Duncan, Oreg.	Marks	Stratton
Early	Mattox	Studds
Eckhardt	Meeds	Thompson
Edgar	Metcalfe	Thornton
Edwards, Ala.	Meyner	Traxler
Edwards, Calif.	Mikulski	Tsongas
Edwards, Okla.	Mikva	Tucker
Eilberg	Miller, Calif.	Udall
Emery	Miller, Ohio	Ullman
English	Mineta	Van Deerlin
Ertel	Minish	Vanik

Vento	Weiss	Wylie
Volkmer	Whalen	Yates
Walgren	Wilson, C. H.	Yatron
Wampler	Wilson, Tex.	Young, Fla.
Watkins	Wirth	Young, Mo.
Waxman	Wolff	Young, Tex.
Weaver	Wright	Zablocki

NAYS—138

Anderson, Ill.	Fuqua	Montgomery
Archer	Gammage	Moorhead, Calif.
Ashbrook	Giaimo	Myers, John
Badham	Goldwater	Natcher
Bafalis	Gradison	O'Brien
Barnard	Grassley	Pettis
Bauman	Guyer	Poage
Beard, Tenn.	Hagedorn	Quayle
Bennett	Hall	Quillen
Bowen	Hammer-schmidt	Regula
Breaux	Hansen	Rhodes
Brinkley	Harsha	Roberts
Broomfield	Heckler	Robinson
Brown, Mich.	Hightower	Rousselot
Broyhill	Hillis	Rudd
Burgener	Hubbard	Runnels
Burleson, Tex.	Huckaby	Ryan
Butler	Hyde	Sarasin
Cederberg	Ichord	Satterfield
Chappell	Ireland	Schulze
Clausen, Don H.	Johnson, Colo.	Sebelius
Clawson, Del	Jones, N.C.	Shuster
Cleveland	Kasten	Sikes
Cochran	Kazen	Skubitz
Coleman	Kemp	Smith, Nebr.
Collins, Tex.	Ketchum	Snyder
Conable	Kindness	Spence
Corcoran	Lagomarsino	Stangeland
Crane	Latta	Stanton
Cunningham	Leach	Steiger
Daniel, R. W.	Livingston	Stockman
de la Garza	Lott	Stump
Derwinski	Lujan	Symms
Devine	McClory	Taylor
Dickinson	McEwen	Thone
Dornan	McKinney	Trible
Duncan, Tenn.	Madigan	Vander Jagt
Erlenborn	Mahon	Waggonner
Evans, Del.	Marlenee	Walker
Findley	Marriott	Walsh
Fish	Martin	White
Flynt	Mathis	Whitehurst
Forsythe	Mazzoli	Whitley
Fountain	Michel	Wilson, Bob
Frenzel	Milford	Winn
Frey	Mitchell, N.Y.	Young, Alaska

NOT VOTING—23

Armstrong	Jones, Tenn.	Shipley
Bonker	Krueger	Teague
Brown, Ohio	LaFalce	Treen
Cotter	Le Fante	Whitten
Dent	McDonald	Wiggins
Flood	Nix	Wydler
Goodling	Rostenkowski	Zeferetti
Holt	Ruppe	

The Clerk announced the following pairs:

On this vote:

Mr. Cotter for, with Mr. McDonald against.
Mr. Flood for, with Mr. Brown, Ohio, against.
Mr. Le Fante for, with Mr. Jones, Tenn., against.
Mr. Nix for, with Mr. Wiggins against.
Mr. Rostenkowski for, with Mr. Goodling against.
Mr. Zeferetti for, with Mrs. Holt against.

Until further notice:

Mr. Bonker with Mr. LaFalce.
Mr. Dent with Mr. Shipley.
Mr. Krueger with Mr. Teague.
Mr. Whitten with Mr. Ruppe.
Mr. Treen with Mr. Wydler.

Mr. BUTLER and Mr. WINN changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6805) to establish an Agency for Consumer Protection in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6805, with Mr. EVANS of Colorado in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. BROOKS) and the gentleman from New York (Mr. HORTON) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, this legislation has had a long and stormy history. Few bills coming before the Congress in recent years have been supported with more enthusiasm or opposed with more enthusiasm than this bill.

I hope that today we can put aside the emotional rhetoric that has whirled around this bill and that here on the House floor we can dispassionately debate the issues in this legislation.

Mr. Chairman, as was made clear during debate on the rule, the bill we are bringing before the House today is not precisely the bill that was reported by the Committee on Government Operations. At the time the committee approved H.R. 6805, its chances on the House floor were not very bright. So, we held it up and did what I think responsible legislators should do. We have attempted to identify those provisions in the bill which numerous members found objectionable that could be adjusted without damaging the principal concept embodied in the legislation.

There have been many meetings and discussions, particularly with members who had reservations about the original bill. We have finally put together a modified version that will be offered as a substitute when the bill is read for amendment. The substitute represents a fair and reasonable compromise which should remove many of the concerns that some of the members have legitimately had.

The substitute bill has been printed in the RECORD. Explanations have been sent to every Member. There can be no question that Members have had an opportunity to read and analyze it.

The main purpose of this legislation is to improve the way government decisions are made—to make them more responsive to the needs and concerns of the people of this Nation; to make them fairer. Business has vast resources to make its views known to Federal decisionmakers. That is fine. That is their right, and it is entirely proper that they try to protect their interests. But the consumer interest needs to be heard, too, and at present it rarely is. It is too fragmented, too disorganized. It is usually underfinanced. This inequality often has resulted in inadequate consideration by agencies of consumer problems.

The consumer office created by the substitute bill would have no power to regulate business activity. It will be basically a factfinding office that can use its resources to plead the case for consumers in the halls of government.

The main purpose of the changes made by the substitute is to make sure the consumer agency will have no greater power than any private party in its dealings with the Government. We want to be certain that when it participates in the Government's decisionmaking process it does so in the same manner, to the same extent, and under the same rules as the advocates of business or any other interest.

The first thing we do is change the name of the proposed agency from Agency for Consumer Protection to Office of Consumer Representation. That name is a better description of the role the agency will play.

Then we have eliminated a provision in H.R. 6805 that would have authorized the agency to issue interrogatories on its own or request reports from businesses. This was one of the major objections to the bill raised by business representatives, and we have taken it out.

We have provided that the Office of Consumer Representation will have no greater rights than any business entity to use a Federal agency's subpena power or other discovery powers during a proceeding. And we have placed the Office on the same footing with business advocates in seeking judicial review of a Federal agency decision.

In addition, we have authorized the consumer agency to represent the interests of small business as a consumer of regulated goods and services. This provision was not in H.R. 6805.

We have also dealt with another of the major objections to the original bill—the idea that it would create another layer of bureaucracy. The substitute bill is, in effect, a government reorganization bill. It provides—by statute—for the transfer to the new office of 20 existing consumer programs now scattered throughout the government.

So, far from adding another layer of bureaucracy, we are streamlining the Government, and we will wind up with a more efficient, less costly, operation on behalf of consumers.

I would just like to say a final word about the concept behind this legislation. We are dealing here with an idea that is very simple, and very basic, and very much in the tradition of the American way of life. It is the idea of fair play.

There is a great imbalance now in Government councils when decisions affecting the lives and pocketbooks of millions of people are being made. Well-organized, well-heeled special interests are represented in those rooms. Their voices are heard and their influence is

felt. But rarely is anyone speaking for the consumer. The 217,000,000 people in the United States are all consumers. Each of our districts has roughly 464,000 consumers. It is not fair that they be denied a voice. It is not right. I hope the substitute bill can be approved to make it right.

Mr. HORTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support and urge the adoption of H.R. 9718, the Consumer Representation and Reorganization Act of 1977. Today's debate marks the fourth time that I have come to the floor of the House in support of legislation to create an office in the executive branch to represent the consumer viewpoint. A great deal has changed since the first consumer legislation was defeated by a tie vote in the Rules Committee of this House December 3, 1970. On three previous occasions we have debated this bill. Today, we are clearly at the decisive point. If this legislation does not clear the House today, there is little likelihood that it will be successful at any time in the near future.

We need an Office of Consumer Representation. No piece of legislation can ever be justified as the absolute savior of the American people. However the bill before us today seeks to provide an objective voice in the regulatory decisionmaking process.

H.R. 9718. is a constructive rational compromise, reflecting the viewpoint of both supporters and opponents. In each of the provisions which were modified, a consistent goal was sought. The Office of Consumer Representation created by this bill will be an agency with no greater power than those of any other party to an agency proceeding. We are not proposing with this legislation the creation of another regulatory agency. Some people who are opposed to this legislation would make it appear that this is another bureaucracy or another regulatory agency. It is not.

There is no authority provided in this legislation to regulate anything. The legislation establishes an office which can represent the consumer viewpoint in an agency proceeding: no more and no less. Nothing in that representation activity is regulatory or of a regulatory nature.

The chairman of the Government Operations Committee has already outlined the major provisions of this legislation and the changes that were made in the proposed substitute. There is another feature of the proposed legislation that is of concern for the Members of this House at this particular time in our Nation's history. Whenever a new Government agency is created, a legitimate concern is expressed that we are adding to the bureaucracy. One of the major roles of the Government Operations Committee is to review each executive reorganization plan which is proposed by the President. In H.R. 9718 we have a proposal which will set up the new agency, but unlike many other proposals it will save money and reduce the size of other executive agencies. H.R. 9718 contains a statutory reorganization plan which transfers the resources of 20 existing consumer programs to the new agency. The Office of Management and Budget is also required to cut an additional $10 million in related consumer program expenditures for fiscal year 1979. The result will be a needed savings in the Federal budget of $7 million.

In addition to the savings that will result, H.R. 9718 also contains a sunset provision which will terminate the agency 5 years after the effective date of the act. This is no gimmick. There are no hidden provisions in this section. If there is no congressional initiative to reestablish the agency, then it will terminate, period. That is what the sunset provisions provides.

What makes the savings and the sunset provisions even more significant is that they represent attempts by the original sponsors of the legislation to accommodate the legitimate concerns of the Members of this House on both sides of the aisle. They are strengthening provisions and in my judgment provide a basis for broader support of the legislation.

Mr. Chairman, the final issue I wish to discuss concerns the future of this bill if it passes the House. Some of my colleagues are concerned about the form this legislation may take when the Senate has completed its action and when we go to conference. I wish to assure the Members that as far as this Member is concerned, and I expect to be a member of the conference committee, I would fight for the contents of the House bill and particularly for the provisions that I have just noted.

Mr. Chairman, our choice today is really quite simple. Does the House of Representatives have the will to vote for legislation that has no special interest stamp on it? Are we willing to provide a voice for the consumer which is not tainted by a narrow parochial concern?

I urge a resounding answer in the affirmative. Again I reiterate: This is not a regulatory agency. And as I said during the debate on the rule, this in my judgment is a step in the right direction toward regulatory reform. The editorial in the Washington Post this morning made the point that what we should do is to move forward with regulatory reform. I can tell the Members that this is not going to happen overnight.

It is important to have regulatory reform but this is not, and, I repeat, this is not a step away from regulatory reform. The creation of this office is a step toward regulatory reform. The individual who has a concern about strangulation by regulation will have his voice heard.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, I spoke during the debate on the rule about this being a basic fairness issue and I will not repeat those remarks, mainly because I spoke about that before but because both the gentleman from New York (Mr. HORTON), and the chairman of our committee, the gentleman from Texas (Mr. BROOKS), have done, in my opinion, a most brilliant job in explaining the issue. This is not an issue of regulation, not about strangling people with all kinds of regulations. It is an issue of basic fairness.

The Members who complained so much about the substitute that will be coming up should recognize that it came up because of their objections to the bill.

The bill has been whittled down, too much for me, but I think it is good enough to get it passed and good enough to support.

So what I would like to do is to give a perspective of it that might not be given by others, and that is that I was one of those who organized a little consumers group in Connecticut, a group supported with small contributions, averaging under a dollar. And all we tried to do was to make our presence known in the various agencies and to intervene in administrative proceedings as they came up regarding such things as prescription drugs, clean air, hearing aids, and a whole host of other issues. But while we were successful in many areas, we simply could not cover nearly all the important proceedings. No number of consumer groups could do it. We should not pretend that just because the door is open for a group to come in and intervene, that this will happen. The statistics that have been developed by the gentleman from Texas (Mr. BROOKS) and through the able leadership of the gentleman from New York (Mr. ROSENTHAL) have shown the imbalance of participation before the FTC, the FCC, and all the other agencies and regulatory groups. The statistics really bear out the fact that we will never be able to catch up by having consumer groups come in and maybe we will never be able to catch up at all and address the imbalance so far as these agencies are concerned. But, for heaven's sakes, let us make it a little more balanced.

In Connecticut, what happened there, at least in the area of utilities and utility rates, we had the development by the legislature of a consumers council, which is really the same kind of thing that we are developing here today, and there it has worked out magnificently and, in fact, in other States where it has been created, it has worked out very, very well. It has worked out cheaply. It has worked out efficiently. It has made industry more responsible and better prepared.

In fact, in our State, Mr. Chairman, you do not hear complaints any more about the consumers counsel by those who originally quarreled with it, and many industry people who opposed it in the first place think it is now a good idea because it makes industry come in better prepared. That is one of the benefits that we hope we will be able to create through the creation of this office. And we will also give people the idea that there is fairness in the system.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, in recent days some of my colleagues have asked me, "Now that we have one proposed substitute to remove some of the powers that otherwise would have been

given to this proposed new agency, do you think you will vote for the bill?"

My answer is no.

They say, "If you have this promise that it will not cost more than $15 million per year after the agency is created, will you support the bill?"

My answer is no.

My answer is no because the basic concept on which this bill is based is wrong. That concept is that we are going to create a government agency headed by a bureaucrat, who is going to decide, in the words of the proponents of this legislation, the consumer interest and represent that consumer interest before the other agencies of Government. There is no singular consumer interest. We ought not put the full authority of the Federal Government behind one man's concept of what the consumer interest is.

There are more than 215 million different consumers in the United States, each and every one of us being consumers. Some like it red; some like it green; some like it thin; some like it fat. Just think of one of those consumer-related issues now before the Congress, natural gas price deregulation, and I ask you, Who is going to determine what is the consumer interest in that case? We, the Representatives of our constituents, we, the elected consumer representatives, if you will, are having a great deal of difficulty in deciding what is in the public interest and the consumer interest in that case.

But at least when we get through having made that decision, we under the Constitution as elected officials, and as a matter of our collective judgment, 535 of us will have made that determination. But the concept of this agency is that one person heading this agency is going to make such decisions and go before other agencies of Government and try to impose his will upon them. If he does not like their decision, he will appeal, and then we will have the spectacle of one Government agency in the judicial system suing another Government agency.

If there is a disagreement in the executive branch, that should be resolved in the executive branch, and those decisions that were designed to have been made in the executive branch should be made there. Instead, the concept of this bill is to push more and more of those decisions out of the executive branch, and have a judicial determination. I think it is constitutionally flawed in that respect.

Mr. Chairman, this is a concept that has been around for a long time. Its time, if it ever was—and I do not think it ever was—has long since passed.

Attention has been called to the Members of the House and of this committee of the editorial in the Washington Post this morning. I call the Members' attention to a similar editorial in the Washington Star this evening, and many such editorials in newspapers across the country. As I said in the debate on the rule, President Carter came into office on a promise that he was going to reduce the size of Government and have no more than 200 agencies and departments of Government. Instead, he is recommending the creation of such a new bureaucracy as this and one whose concept is basically flawed, is incorrect, and is unsupportable.

I would hope that we would see the fallacy of this. I would hope that we would hold President Carter to his campaign promises and not let his promise to Ralph Nader override his promise to the people of the United States, and that we would vote down this bill and not create this agency.

One last thought: There are those who would like to change the bill substantially, take away what powers there are in the bill, and make it something less than the President proposed. They say, Why not do that, and then you can cast a cheap vote supposedly for the consumer?

Do not kid yourselves. That is not politically the smart thing to do. Do not kid yourselves. It can be changed in the Senate into something we do not like.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I have spent the greater part of my life in public service fighting for the consumers, for we are all consumers. And I am proud to be among those distinguished Members of this body who will vote today for the administration's bill, in the form of a substitute, establishing a Federal Office of Consumer Representation.

We all know the great difficulty, the prohibitive expense, and the long delays which face any individual consumer or retail merchant, who tries alone to take on one of the giant corporations, or utility, or some agency of the Federal Government, in seeking to prevent an injustice or ripoff by giant public utilities, Government agencies, and large corporations, which have available to them the very best of attorneys, sophisticated data-gathering procedures, platoons of accountants, and high-paid lawyers to represent them, while the individual consumer or merchant can afford none of these things to assist him in his fight.

I have long wanted to balance the scales; but in doing so, my concern has been that we not further clog-up the bureaucracy or increase Federal spending by creating still another agency in the Federal bureaucracy at further expense to the taxpayers, and at greater expense of both time and money to businesses, by imposing on them still more paperwork to comply with still more regulations promulgated by still another agency of the Federal Government.

Last summer, I discussed this problem with Esther Peterson, that dedicated champion of the consumer, and suggested that the original administration bill be redrafted in accordance with the President's pledge to streamline the Federal Government by eliminating duplicating agencies, and to redraft this bill so that we could do away with all of the ineffectual consumer offices which have been operating in separate departments, agencies and bureaus of the Federal bureaucracy, and to combine them all into one single, effective agency, so as not only to reduce, but to eliminate the mountain of paperwork and filling in of forms and questionnaires now being sent out to almost every business firm across the Nation.

I am happy to report that in the substitute bill now offered by the administration, all of the objections I had to the original bill have been met. This substitute consolidates the on-line resources of 26 different programs which have been costing the taxpayers $11.6 million and bringing little real results. It replaces them with one new agency, and directs the Office of Management and Budget to cut an additional $10 million in consumer-related spending out of the budget request for fiscal year 1979, so there can actually be a savings of $7 million above the $15 million for the first year of this new agency's operation, after these scattered consumer-related offices are eliminated.

Mr. Chairman, I think President Carter and Esther Peterson have responsibly met—and met well—the objection of "more bureaucracy" by the reorganization that is proposed in this substitute, today. There have been other "strawman" arguments against the idea of a consumer agency. Most of them have been designed, it seems to me, to prevent the creation of a truly effective consumer protection agency. I think this new, substitute bill, meets these arguments too.

For example, it prevents product-testing by the agency. It limits the agency to the same discovery procedures as any other party. It prohibits the agency absolutely from using or sending out interrogatories, to be filled in at great expense of both time and money by business firms. It does not confer on the new agency any power to make rules, to set standards, to punish lawbreakers, or to compel businesses to change any of their practices.

All the bill does is to give consumers an advocate, and, the consumers need an advocate—and an effective advocate, if they are to be properly protected.

To take just one example, as important to a consumer's welfare as information on consumer interest rates clearly is, it took a lawsuit—a long, protracted and costly lawsuit—to get that disclosure. The substitute bill before us today specifically directs the Office of Consumer Representation to make interest-rate reports to the public.

I have been assured by the Small Business Administration, that after this legislation has been changed in accordance with the substitute bill now before us, small businessmen have dropped their earlier objections, and they now support the new bill.

Mr. Chairman, as a long-time consumer advocate, I am happy and shall be proud to cast my vote today for the Consumer Representation and Reorganization Act of 1978.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Chairman, the gentleman from New York (Mr. ROSENTHAL) and the gentleman from Massachusetts (Mr. DRINAN) have supported an exemption in the consumer agency bill that would exclude Labor and Agriculture Department proceedings.

This is inconsistent with their positions in the past on the importance of Agriculture Department proceedings affecting consumers and should be inconsistent with the concept of fairness mentioned by the gentleman from Connecticut (Mr. MOFFETT).

The Labor Department exemption is politically motivated and does not deserve comment, but let me talk with the Members for a moment about the agriculture exemption.

Mr. Chairman, as ranking minority member of the Commerce, Consumer, and Monetary Affairs Subcommittee, which is chaired by the gentleman from New York (Mr. ROSENTHAL) I wish to inform the Members of the House of subcommittee hearings which touched on the consumer impact of Agriculture Department decisions such as the Russian wheat sale of 1972. The hearings were held in February and March 1976, as part of the oversight of the consumer representation plans proposed by President Ford.

At that time, Ms. Carol Foreman, then Executive Director of the Consumer Federation of America and who is now Assistant Secretary of Agriculture for Food and Consumer Services spoke out on what she believed to be a serious consumer issue. She said:

(F)or example, the 1972 wheat deal had a very substantial impact on consumer prices. It's the factor most responsible for the increase. (p. 33)

Apparently, Representative ROSENTHAL and Representative DRINAN agreed with Ms. Foreman on this issue because they each closely questioned administration witnesses on this point.

Father DRINAN wanted to know how the two women in the consumer representative position at Agriculture and State were going to act in the face of possible future grain sales. He inquired as follows—

Suppose you make an investigation . . . and all groups come to the conclusion that x amount of grain should be sold to Russia and no more.

What happens now if you recommend, and let's assume this is factually correct, that only so much wheat be sold and that the State Department does not follow that?

Why should the consumers of America think they have adequate representation if that could and might happen? (p. 140)

And he asked again:

I want to know what process you have and what process the State Department has to take this broad knowledge that we have about the fantastic impact on the consumer of this sale of wheat to Russia. What right do we have to think that this information will get through you two women to the top officials and that they will understand it and maybe follow it? (p. 141)

Chairman ROSENTHAL apparently felt the question was so important that he pursued the same line of questioning with the same witnesses only a few minutes later. He asked:

If you feel that the wheat deal would cause bread prices to go up 4 cents, as it did last time, and you hear that Ms. Foreman, Mr. Nader, and everybody else is opposed to it and you are intellectually persuaded that the wheat deal, at least in terms of consumer interest, will have a negative impact, do you think you can convince Dr. Kissinger to switch signals or something like that? (p. 158)

However, these two gentlemen seem to have forgotten those hearings. Now these two supporters of consumer protection have changed their positions and concluded that Agriculture Department decisions on wheat sales are so unimportant that they should be exempted from the bill. This proposed exemption illustrates the fallacious concept on which the Consumer Protection Agency bill is based. If Mr. ROSENTHAL and Mr. DRINAN believe the Agriculture Department can be brought around to act in the public interest without the watchdog Consumer Protection Agency or Office of Consumer Representation going after it, then why cannot the other departments and executive agencies also be made to act responsibly without the unnecessary new layer of Government.

Mr. Chairman, the question is rhetorical—the answer obvious.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I will be glad to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague, the gentleman from Michigan (Mr. BROWN), for yielding.

Mr. Chairman, I have an amendment I have handed in to strike the labor exemption clause. Perhaps that would still be wise for cosmetic purposes, but I have looked carefully into the Judicial Code, which is referred to on pages 32 and 33 of the bill, and I have looked into the Labor Management Relations Act, which is also referred to. I find there is no exemption granted that the consumer agency would need to examine.

What we have not noticed and what we should be noticing—and I hope it will be incorporated in our conversation about the bill—is title I of the Labor Management Relations Act of 1947, as amended.

I have examined four sections of this labor management relations bill, and the act, in section 1 specifically, refers to the duty of the National Labor Relations Board to consider what affects commerce. The language winds up as follows:

* * * to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce.

This section 1 remains without exemption, and the consumer agency would then be able to go before the National Labor Relations Board and urge that it consider the public welfare and issue a regulation in so doing. In 1977 this Board did issue a regulation.

It is not beyond the competence, and the consumer agency should be heard before this Board, and could be.

Mr. BROWN of Michigan. I appreciate the gentlewoman's comments. However, I trust the gentlewoman is not so politically naive as to think that the exemption that is in this legislation is not intended to be all comprehensive. And if it is not presently written as being all comprehensive, it will be made all comprehensive, and you can bet your life on that.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I appreciate the courtesy of the gentleman from Texas in dealing with me on this issue. As I indicated before, I intend to offer a substitute bill. I will explain that substitute in greater detail as soon as we get into that particular issue. But I think the fundamental philosophical difference between the main bill and my bill and the bill cosponsored by the gentleman from Iowa (Mr. LEACH) is the question of centralization. First of all, the gentleman from Iowa (Mr. LEACH) and I come to the conclusion that consumers need better representation before government. But do we do it by centralizing the function or do we do it by beefing up and strengthening the decentralized function? And we opt for the latter. I believe the decentralization is much better, where expertise is there; but more than that, avoiding the concept of elitism, which is repugnant but part of the idea of a central agency. In my judgment, what will happen with a central agency is that they will take only the sexy issues, the saccharin, the seat belts, and what happens to the abundance of mundane day-to-day consumer issues, the CAB regulations affecting small-town America? All sorts of things get lost in the shuffle because you pull all of these things out and put them in a set place with a small budget and they are going to attack the biggies. I submit that is not a positive thing to do in American life.

I would like to quote from a letter from "Public Citizen," which that organization sent out in January of this year. This is justifying their position.

In the late 1960's the National Commission Product Safety reported that each year 20 million Americans were injured and 30 million died in product-related accidents. As a result, the Consumer Product Safety Commission was created. In its first four years of existence, however, it has issued only 3 formal product safety standards.

Ergo, set up a new agency to push them on issuing more Federal product safety standards.

I say that the answer is to go in the agency itself, with the effective consumer representation within, give those people some independence, and do what the gentleman from Connecticut (Mr. MOFFETT) has said and what has been done in the States of Missouri and Georgia: Set up units within Federal agencies, the public counsels that we have seen, and see some real effective consumer action at all levels take place, as opposed to the necessity of setting up a centralized unit to do this kind of thing.

Mr. Chairman, again I point out that the bill that the gentleman from Iowa (Mr. LEACH) and I are introducing, no special-interest groups are sponsoring it. By saying that no special-interest groups are sponsoring it, I mean not only special-interest business groups, but labor groups and consumer groups. I would hope that the Members of this body

would find it within their good judgment to improve consumer representation by beefing up, by improving all government as it exists, without the necessity of centralizing and formalizing this new agency.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Chairman, I think I have heard a number of times people in the well say that this is a controversial and very important bill, and we have received a lot of letters. I might add that I am rather unimpressed by the number of people who are participating in the debate on this very important bill that is going to be offered. In my opinion, there are many things wrong with the bill. I think it is very difficult to define points of consumer interest. I think, really, there is a tacit admission by the sponsors of this bill that the present Federal Government simply has not worked and so the answer, due to the lack of work initiative by the present Government, is to create a new agency. I think the creation of a new agency and a new bureaucracy is the fatal flaw of this particular piece of legislation. As the President, and I am sure, many Members of Congress, campaigned against big business, big labor, and against big government, we all talked about reforming the Federal Government. In reform of the Government, I feel our constituents and consumers had in mind less government and not more government.

I think that the Washington Post editorial this morning was very accurate in talking about the fact that this is not really the proper way to go about it. The fatal flaw that I talk about, in the creation of the Consumer Protection Agency, I think has been discerned by the consumers themselves.

Mr. Chairman, if we go back and look at the vote on this Consumer Protection Agency, in the 92d Congress the vote was 334 to 44. In the 93d Congress it was 293 to 94. In the 94th Congress it was 208 to 199.

I would say, Mr. Chairman, that there is a definite message that the Members of Congress have received on this particular legislation.

In defining consumer interests, it has been mentioned before that there is a question as to whether the consumer advocates represent and talk about the real interests of the consumers. I think that this is a basic philosophical disagreement.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. QUAYLE) has expired.

Mr. HORTON. Mr. Chairman, I yield an additional 30 seconds to the gentleman from Indiana.

Mr. QUAYLE. As I was saying, Mr. Chairman, I think there is a basic disagreement because consumer advocates would favor the ban on saccharin, and consumer advocates would favor airbags in cars. However, the majority of the consumers, our constituents, would not favor these things.

Consequently, Mr. Chairman, I just wish that perhaps the consumers, by some referendum, could vote on this particular bill. I think it would be overwhelmingly defeated; and I hope that both the substitute and the final bill are defeated.

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I would like to thank the distinguished gentleman from Texas (Mr. BROOKS), the chairman of our committee, for yielding me this time.

I want to say that in the handling of this legislation he has been extremely fair and has permitted all of us who have had differing views to express our positions on this bill.

Mr. Chairman, in many ways I agree with the gentleman from Texas (Mr. BROOKS) and with my colleague, the gentleman from New York (Mr. ROSENTHAL). The American consumer does need better and more effective consumer representation, both at the Federal and at the State level; and the American consumer does need a better and a louder voice in the legislative process.

As a consumer, and as the representative of nearly half a million consumers, I strongly favor consumer protection. Also as a consumer and the representative of those half million other consumers, I do not favor more government. I do not believe that these two statements are contradictory. To the contrary, experience has shown us that more government does not provide better protection; in fact, it is just the opposite.

The proponents of this bill and the substitute offered by the gentleman from Texas (Mr. BROOKS) have made their basic point in explaining the need for this agency, that other Government agencies, originally designed to protect the "public interest," a term as nebulous and as difficult to define as "consumer interest," have been "captured" by the very industries they are supposed to regulate. They have given us histories of agency after agency which has become cozy with those they are supposed to regulate. What makes them believe that this brand new executive agency would be any different? Why will these new bureaucrats be any different from the others? And, my friends, if there's anything this country does not need, it is more bureaucrats.

Both the bill and the substitute do not achieve any of the lofty goals of better consumer representation so loudly proclaimed by the proponents. These measures do more and they do less. They do more because they create a new agency complete with new bureaucrats. They do less because they create not one iota more of protection for the consumers of this country.

Why do we need a new agency in Government to get the existing agencies to do what they are already supposed to be doing? If they are not, fire the laggards. Or let the President and Congress make the agencies do their appointed jobs.

We now have a President who has openly stated his support for strong consumer protection. He has recommended sweeping changes in the ways in which executive branch employees conduct themselves. He has promised reorganization and better performance of the regulatory agencies. This is the way to improve consumer protection and not by passing a bill which sets up a new agency within the executive branch. Such a structure is bizarre and would create a circuslike atmosphere in Government.

Can we expect the public to understand why one agency of the President's administration is suing another agency in the same administration to get it to do what the President wanted it to do in the first place?

This bill condemns both the President and the Congress. It says that the President is incapable of directing the executive branch to represent the consuming public, and it says that Congress cannot succeed in effective oversight of the bureaucracy—but that a new bureaucracy can succeed. Is that credible?

If the Food and Drug Administration, the National Highway Traffic Safety Agency, the Environmental Protection Agency, the Consumer Product Safety Commission, and others are not already consumer agencies, what are they?

If new funds and programs for existing agencies, such as the FTC Improvements Act of 1974, the Hart-Scott-Rodino Antitrust Improvements of 1977, the Toxic Substances Control Act of 1976, and the FDA Medical Devices Amendments of 1976 are not better consumer protection, what are they? What does this brandnew agency add? Nothing.

There are far more effective, direct, simple and inexpensive ways to insure that existing agencies do their jobs than the creation of a new agency. In these circumstances, creating a brandnew executive agency is an abdication of the responsibility of the President, Congress, and the many consumer protection agencies to discharge taxpayer trust.

I agree that there is a problem, but I disagree with this proposed solution. There are other means of accomplishing the legitimate purposes of consumer representation. For example, strengthen present laws affording remedies to aggrieved consumers. I supported the class action remedy in the recent Federal Trade Commission improvement amendments. Furthermore, Congress could do a better job of oversight—prodding agencies to do what they are supposed to be doing in behalf of the consumer in the first place.

This brandnew agency has not yet been established and it has already raised more questions than it will ever answer. Primarily, how will this agency of lawyer-bureaucrats determine the "real" consumer interest when there are conflicts? Some self-styled consumer advocates want saccharin taken off the market immediately, but consumers with concerns ranging from those as serious as heart trouble and diabetes to people who just worry about their weight firmly believe that it is in their best interests to be able to continue to use saccharin. How does the consumer advocate decide where the consumers' interests lie? Which prevails?

All consumers believe that it is in their best interests to pay a reasonable price for essentials; it is a major concern. Yet,

this bill exempts the agricultural sector of our economy from intervention of this new, so-called Office of Consumer Representation. What about the consumer's interest in milk, bread, and other prices?

Additional tariffs on imported goods will raise the prices of such goods substantially, putting the burden on the consumer who has to pay for them. This new agency will not be able to intervene on behalf of its self-proclaimed constituency, the consumers.

Are we developing an agency here with built-in biases? Are the interests of the agri-business or certain domestic industries more in line with the Office of Consumer Representation's definition of "consumer interests" than the pocketbooks of the consumers they are purporting to protect?

Why would anyone think that a brandnew executive agency is better able to determine the "public interest" than the 535 people elected to represent these consumers? And when there are conflicting opinions on "consumer interests," is not Congress the national forum for working out these differences? Who can seriously believe that a brandnew, $15 million budgeted agency of sheltered bureaucrats is better able to take the pulse of the Nation?

Let us look at this legislation for a moment. You have been told that the legislation does not give the Office of Consumer Representation the power to serve interrogatories and issue subpenas. You have been told that, and if you believe that, then you still believe in the tooth fairy; because let me tell you what this bill does. The Administrator of the office may not be able to sign his own name to that subpena, but as a matter of right he can go to the Government agency in question and use the power of that agency to issue the subpena or interrogatory; and the agency—in the words of the bill—shall issue such paper.

There is a very real need for consumer protection, and I have consistently voted for and supported consumer interests as vigorously as possible. The people across America want and need—and deserve—effective, meaningful consumer protection, but they are equally clear about not wanting another brandnew executive agency. We need less Government—not more Government. At a time when we have a President who wants to make Government smaller and restrict the number of agencies, it is inconsistent to advocate this establishment of a brandnew executive branch agency.

At a time when we have a President who wants to eliminate the overlap and duplication of functions in various agencies, it seems absurd to advocate a new executive agency whose real function is not to provide one iota of new consumer protection but whose purpose is to get existing agencies to do what they are already supposed to do.

This new agency and this bill, by their very names, are deceiving the American public into believing that this agency will handle their consumer complaints. But this agency will not really deal with the individual consumer's complaint about broken toasters or cars that turn out to be lemons. It will not intercede with the company selling defective vacuum sweepers and it will not get your picture tube replaced. And this is precisely the kind of help and protection the consumer wants; he does not want another brandnew agency to duplicate the efforts of countless other consumer programs in countless other agencies at the State and Federal levels. Strong, vigorous enforcement of the statutes we have to protect consumers by strong, forceful and well-directed regulatory agencies, doing the job they were designed to do, is what is needed and desirable.

To do less is to break faith with the electorate. To add more Government on top of an already precariously overburdened structure is to create another problem, not find a solution.

The American public is hungry for new approaches, new solutions, and new directions in solving our Nation's problems. We must find innovative ways of handling the problems of the current times, including the inadequate representation of the consumer interest in the Federal Establishment. We need not be afraid to lead—to strike out on a new course of action—and we must begin by turning down this ill-conceived piece of legislation which is before us today. While being committed to the goal of consumer representation, we must break away from the old idea that we must create a new agency to solve a problem. Creating new agencies will not in and of itself solve problems. Let the defeat of this legislation be the symbolic end of an era in which we created agencies to solve problems. Do not abandon the goals, do not forsake basic beliefs and ideals, but do find new approaches and methods to achieve goals and implement solutions. This Office of Consumer Representation is nothing more than a monument to man's ego. It is an idea whose time has come and passed and is now gone.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 9718, the substitute for H.R. 6805.

When the original committee bill, H.R. 6805, was reported, I was one of the many Members who voiced objections to it. My objections were sincerely rooted enough to lead me to cosponsor and support the substitute bill, authored by my good friend and distinguished colleague from California (Mr. MCCLOSKEY).

Yes, I was a target of the misguided "nickel brigade." I received over 800 nickels. I want to make it very clear that those nickels had anything but their intended effect on my thinking. The postcards they were attached to in no way addressed my objections to the original bill. As a matter of fact, I began to suspect that there was more wrong with the bill than I first thought, because certain proponents were resorting to such a cheap gimmick to push it through.

I returned all of the nickels and I explained to the senders why I could not endorse H.R. 6805 and why I preferred the McCloskey substitute. I also stated that I was hopeful that the committee bill could be reworked to satisfy the objections of supporters of the McCloskey substitute, as well as other objections that had been voiced in committee, on this floor, and in the press.

I am pleased, Mr. Chairman, that key people on the committee and in the administration saw the futility of trying to overcome legitimate objectives with a gimmick like the nickel brigade. Eventually they came to realize that we were not being obstructionists, that we shared their desire for a body to represent consumer interests within the Federal establishment, but that we could not support the establishment of a token agency that would have sown into it the seeds of is own destruction.

Eventually, people come to realize that a bill purporting to establish an effective consumer representative must address the problems of Government reorganization, avoidance of duplication, the possibility of arbitrary and capricious action resulting from unequal access to remedies, and the fear of the unknown shared by the business sector—especially the small business community.

I will not take the time to repeat what others have said in explaining this new version. But I do want to say that I have given careful consideration to the substitute bill before us. I believe it can provide effective consumer representation without placing an unduly heavy burden on the business sector.

There is still, in my opinion, a glaring defect in the bill. I refer to the exemption for agricultural issues. For reasons I will explain later, during the reading for amendments, I will support the effort to remove this exemption. But, with a few exceptions, I think H.R. 9718 is a good bill, one that deserves our support.

In closing, Mr. Chairman, I would like to commend the members of the Committee on Government Operations, the chairman from Texas (Mr. HIGHTOWER), ranking member who worked hard to put this substitute together and bring it to the floor. I would also like to commend Esther Peterson and her staff for the work they did in forging this substitute. I think these people made a very sincere and honest effort to admit the defects in the bill they first endorsed and they certainly made a good faith effort to work with us in correcting those defects. The result is a greatly improved bill—one that deserves enactment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Mr. Chairman, I would like to say first, in replying to something which the gentleman from Indiana (Mr. QUAYLE) said, that indeed the people of this country do favor this legislation. In fact, every public opinion poll indicates that they do strongly favor the legislation. Mr. Chairman, in mid-1976 the Federal Energy Administration removed price and allocation controls from home heating oil, assuring the public the cost would rise only by 2 to 3 cents per gallon, but in fact it rose more than twice that and cost consumers over $800 million extra a year.

Mr. Chairman, every year leukemia and other forms of cancer and serious genetic disorders are developed by 22,000 Americans, due to various forms of radia-

tion, and yet the EPA's radiation program has failed to issue a single standard that is currently being enforced.

These examples clarify the need for this legislation. I think we have compromised and compromised and compromised. And I say this to the Members of the majority, the Members of my own party: This legislation was promised by the Democratic platform to the people of this country. And it is to our party that the people look for protection of the public interest. Those who are will be turning our backs on those who are not represented, who do not have the money to pay for the lobbyist or for the lawyers or for the special interest groups to represent their interest in Washington they look to this party and to this legislation to speak for them.

I think if we reject this legislation we will be turning our backs on those who look to us for help. I hope we will pass the bill and ignore the lobbying efforts of the special interests who have tried so hard to destroy this legislation.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I listened carefully, and the gentleman is not saying, that if we do not pass this legislation, people are going to die of cancer; is he? And that is the implication of one of the gentleman's remarks.

Mr. KOSTMAYER. I think if we do not pass this legislation, the people of this country will continue to be unknowingly subjected to the dangers of cancer.

Mr. HORTON. I yield such time as he may consume to the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Chairman, John Dos Passos once observed that—

> Today's vested interest is government. Where in my day we used to wisecrack that the colleges were geared to turn out football players and bond salesmen, today you could say that they turn out football players and bureaucrats.

Certainly, nothing seems more illustrative of Dos Passos' observation than the so-called consumer protection legislation under consideration today, H.R. 9718. This much renamed bill would do little to aid consumers. It would only aid out-of-work lawyers and appease bureaucratic zealots in the Ralph Nader mold.

We have been told that the latest version is a meek, modest shadow of its earlier, fire-eating model. The Office of Consumer Representation would merely consolidate and reorganize the 20-odd agencies and bureaus concerned with consumer affairs, its proponents claim.

However, a careful review of this proposal indicates that it would still give the OCR inordinate powers, would increase governmental costs, and would provide a foot-in-the door to those whose chief delight is frustrating governmental decisionmaking as well as crippling private enterprise.

In some respects, the OCR's power to seek judicial review of Federal agency actions seem even broader than in the earlier version, H.R. 6805. The OCR retains the same unique powers previously granted to the Agency for Consumer Protection to intervene as a matter of right, as a dual prosecutor, in any nonpenalty agency enforcement action.

Many organizations that have examined H.R. 9718 sharply dispute its proponents' contention that the OCR would have no greater rights than any business entity to use a host agency's subpena powers to obtain various kinds of information. It would, indeed, be able to do so, and its authority to demand information from other Government agencies remains intact, with few exceptions.

It would still authorize the OCR to intervene in any Federal agency and court proceedings which substantially affect consumer interests, or to request such proceedings. It would still duplicate existing product testing and research activities. It would still exempt organized labor from coverage.

H.R. 9718 would authorize $15 million for fiscal year 1978 to create this new independent agency. As the Washington Star pointed out last October—

> Once in operation, it probably would just grow and grow, in size and authority and budget, as most other government agencies have.

I share the Star's belief about this controversial proposed new entity:

> Foisting a costly new agency off on the taxpayers is not likely to win friends, even if it is done in the name of consumerism.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, the Consumer Protection Agency idea has returned. It has undergone some cosmetic changes since the last time we saw it, but beneath the putty nose, fright-wig, and dark glasses there lurks the same old protection idea. It might be said that it is masquerading under a false name, but that is nothing new around here. Most bills that come before us have names that have little or nothing to do with their substance.

The American people are once again being told they need protection and they are going to get protection whether they want it or not. Those of us in Congress who serve the American people are told that we must buy this protection in the form of something called the Consumer Representation and Reorganization Act of 1977 (OCR).

This is one of those ideas which, if it were not so serious, would be hilarious. Consider the history of the consumer protection idea as it has been outlined by Mr. Ralph Bennett in Reader's Digest—

> OCR backers like Nader and Presidential consumer-affairs adviser Esther Peterson nevertheless continue to press for the agency's creation. Back in 1971, the 92nd Congress was just seizing consumerism as a solid voter issue when the House of Representatives passed a consumer-agency bill by an overwhelming vote of 344 to 44. In the 93rd Congress, the vote for an OCR was 293 to 94. When the 94th Congress voted on the measure in 1975, opposition in the House had grown to the point that it was barely approved, 208 to 199. Although the Senate had also passed the bill, certainty of a Presidential veto torpedoed it.

In the first session of this Congress, Mr. Chairman, the idea was so discredited, that despite the firm support of the President and Ralph Nader—it is becoming difficult to tell them apart in terms of unswerving conviction in their own righteousness—the bill cleared committee by one vote and failed to reach the floor of either chamber for a showdown vote. So much for popular support.

Mr. Chairman. I have read or heard all of the arguments in favor of OCR. Despite what its supporters say, this organization would be most powerful. It would have indirect power to subpena records from businesses. We are told it would have the power to represent the interests of small business as consumers of regulated goods and services. This sounds great.

I can see it now—big brother as pal of the small businessman—tears come to ones eyes as we imagine the touching scene of a Federal bureaucrat with his friendly arm around the shoulder of a small businessman. Well, when it comes to small business, OCR would represent the interests of small business only when the latter's interests are "consistent with those of consumers." In short, if some bureaucrat decides that small business is somehow not worthy of OCR support there is not a thing in the world small business can do about it, except to get ready to take it on the chin.

OCR would have the authority to require that all other Federal agencies allow OCR to use their budgets to conduct product testing. That is like allowing Dr. Frankenstein the right to putter around in your laboratory.

We have here simply another case of bureaucratic empire building. It is said that one of the victims of the French Revolution's reign of terror went to the guillotine saying: "Oh liberty, what crimes are committed in thy name."

Looking at the OCR, we might paraphrase it this way: "Oh, consumer protection, what bureaucratic follies will be committed in thy name."

All of this convinces me that I have to vote against this bill. But there is another good reason and that is—arrogance.

I just cannot fathom the incredible arrogance of the self-styled consumerists who say they alone know what consumers want and need. By what right do they claim such omnipotence.

It sounds good to tell people that this new OCR will represent the consumer. But will the consumer be able to tell OCR how to represent his best interests as he sees them? Will OCR take surveys of consumer desires before starting the bureaucratic machinery going?

At present we have 20 Federal agencies with consumer offices. We are told they are not working well. If that is true, what makes anyone think a new superagency like OCR will work any better?

Mr. Chairman, may I remind you that over 10 years ago, during the glory days of the Great Society, we played this act, with a slightly different script? In those days it was the war on poverty that was being pushed. One had to accept the majority's programs or be labeled as being against the poor. Well, we now know

the results of that multibillion dollar program.

The New York Times, February 3, 1978 said:

> This program is marred by waste, feuding . . . political empire building, patronage abuse and corruption. The Mayor of New York City, a certified liberal Democrat refers to "poverty pimps" who take the federal money and leave none for the poor. The article tells of "hundreds of millions of dollars" of anti-poverty funds that have been spent with almost no control over whether the money was properly used.

That is what you gave the people with your big war on poverty. Big words, great rhetoric about how much the majority cared. And what did the poor get?

The poor got it in the neck.

Yet the same people who brought us that program which even Ed Koch and Herman Badillo now admit is a disgrace, ask us to enact yet another turkey that will supposedly help all consumers.

Mr. Chairman, if the OCR does for consumers what the war on poverty did to the poor we will have a Nation of overregulated citizens yearning for the good old days when they didn't have all this high-priced "protection."

This bill will not save any one of us a dime, despite the claims put forth by its adherents. It is the son of the Great Society. Like father, like son.

Let us vote down this bill and do so in the name of the consumer. He and she deserve something more than yet another layer of governmental bureaucracy.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I am pleased to add my voice to those in support of H.R. 9718, the Consumer Representation and Reorganization Act of 1977.

I want to commend the distinguished committee chairman, Mr. BROOKS, as well as the gentleman from New York (Mr. ROSENTHAL) for their steadfast efforts to see this much needed legislation enacted into law.

The Consumer Representation and Reorganization Act of 1977 creates a small, nonregulatory agency within the executive branch to represent consumers before Federal agencies. The Office of Consumer Representation (OCR) would be empowered to participate in formal and informal regulatory proceedings as well as seek judicial review of agency decisions which substantially affect consumer interests. Further, the OCR would be authorized to provide information to the public about consumer products and to serve as a clearinghouse for consumer complaints. By increasing the extent of knowledge available to Federal regulators, the OCR would restore balance and perspective to a regulatory process long dominated by special interests.

The need for greater consumer representation in Government has been recognized for many years. As early as 1959, the late Senator Estes Kefauver sponsored legislation to secure within the Federal Government effective representation for the economic interests of consumers. Senator Kefauver referred to the American consumer as the "forgotten man in our Government structure."

Eighteen years have passed since Senator Kefauver introduced legislation creating a Department of Consumers. While the consumer movement has grown substantially during this period, the representation of consumer interests before the numerous Federal agencies and departments has remained inadequate.

Since my election to Congress, over 3 years ago, I have been increasingly troubled by the frustration of individual citizens in their efforts to obtain access to the decisionmaking processes of Government. It is all too often the case that decisions which affect the health, safety, and pocketbook of individual Americans are dictated by the wealthy and powerful interests of the business community. One cannot but conclude that the average homeowner, consumer, or small businessman is not represented in Washington. Recent opinion polls confirm the public's concern about the influence of big business on Government. A national poll, conducted by the Louis Harris organization at the request of the Sentry Insurance Co., found that there is pervasive public unrest at the insensitivity to consumer needs. They believe that the consumer is the forgotton man of Government.

President Carter recognizes the need for a greater consumer voice in Government. The President has made the creation of the Office of Consumer Representation one of his highest legislative priorities. In a statement delivered at the 10th annual convention of the Consumer Federation of America, the President wrote:

> The creation of an Office of Consumer Representation is long overdue. The establishment of this office will help assure the fair treatment of the individuals you represent—the consumers—the buyers and users of goods and services. The OCR will help us bring the voice, the needs and the wants of the consumer into the decision-making processes of our federal government. This voice has been silent too long.

Indeed, Mr. Chairman, the consumer voice has been silent too long. It is rarely heard in the regulatory chambers and proceedings of Government.

CONSUMER REPRESENTATION INADEQUATE

Each week Federal agencies issue hundreds of pages of regulations which substantially influence the price of food, the quality of drugs and the competitiveness of the marketplace. According to a July 1977 report by the Senate Government Operations Committee, the consumer interest is represented in less than half of all regulatory proceedings. It is all too often the case that regulatory decisions are developed in an environment where only those with the money and power participate. Regulated industries overwhelmingly dominate participation in Federal regulatory proceedings.

During 1976, trunk airlines spent over $2.8 million on outside counsel to represent them in proceedings before the Civil Aeronautics Board (CAB). In the same year, the Aviation Consumer Action Group, the principal public interest group working on CAB matters, was limited by a budget of $40,000.

Participation in just one regulatory proceeding can cost as much as $20,000. Such costs make participation by individual consumers or public interest groups prohibitive in most cases. Industry, however, is not under such price constraints. Their efforts to influence Federal regulators are tax deductible. The higher costs are merely passed on to consumers in the form of higher prices. Given the predominance of industry representation in regulatory proceedings, it is not surprising that agencies become captives of the industry they are charged by law to regulate.

Such relationships encourage agency decisions which favor special interests and often ignore a competing public interest. Since regulatory agencies act in a quasi-judicial capacity, it is essential that both sides to an issue be represented. Clearly the interests of the airline passenger are sufficiently different from the airline carrier to justify their equal representation before the regulatory bodies responsible for the fairness of ticket prices and the safety of aircraft design. The OCR will not guarantee that the consumer point of view will always win. It would, however, insure that a consumer viewpoint would be heard when decisions are made.

Were the OCR already in operation, there are several notable instances where it would have protected the consumer health and safety. The failure of agencies to give the consumer viewpoint adequate representation has resulted in the loss of thousands of lives and countless numbers of injuries.

In 1972, a DC–10 passenger plane was involved in a near fatal crash. Federal Aviation Administration (FAA) inspectors discovered that the plane's cargo door was at fault. In deliberations not subject to public scrutiny, the manufacturer urged the FAA to make the correction permissive rather than mandatory. FAA agreed, and as a result, modifications were not made on all DC–10's. In March 1974, a DC–10 crashed near Paris killing 344 people. The plane's cargo door had not been modified. The FAA believed that the faulty door caused the crash.

A great number of airplane crashes worldwide are caused by what is referred to as "controlled flight into terrain." In 1972 and 1975, 20 aircraft and 1,200 lives were lost due to such crashes. A warning device can prevent such accidents. Yet it was not until a December 1974 crash of a TWA 727 just outside Washington's Dulles Airport that the FAA decided to take action to require use of this device. As of December 1976, all planes are required to have this warning device.

The OCR might have worked for installation of an adequate device several years earlier, and perhaps hundreds of lives would have been saved.

About 7,000 skilled nursing homes receive HEW medicare and medicaid funds. A recent GAO audit of 32 of these homes found that 23, or 72 percent, had one or more deficiencies with respect to fire safety regulations. HEW has failed to enforce the fire safety standards of these homes and has unnecessarily jeopardized

the safety of residents. The Office of Consumer Representation could have prodded that agency to move more swiftly to end these abuses.

CLEARINGHOUSE FOR CONSUMER COMPLAINTS

In addition to representing consumer interests in regulatory proceedings, the OCR would play a direct and personal role in helping consumers who have complaints about consumer products, elicit assistance from Government agencies, and serve as a clearinghouse for consumer complaints.

Studies conducted by both the Ford and Carter administrations concluded that the consumer complaint offices within Federal agencies currently do more to delay, refer, and bury consumer complaints than they do to encourage greater agency attention to the real problems faced by individual citizens. The OCR would insure that consumer complaints were answered and that agencies gave higher priority to the concerns of individual consumers.

FEARS ABOUT OCR UNWARRANTED

A great deal of misinformation has been generated about this legislation by those who are jealously guarding their present dominance over the regulatory agencies. Their claims are groundless. The legislation currently before the House is the culmination of years of congressional scrutiny and debate. This bill has been meticulously drafted to provide safeguards sufficient to represent the interests of consumers and small business while fairly protecting the legitimate rights of big business.

Unlike any agency previously created by Congress, the Office of Consumer Representation is nonregulatory. It cannot issue regulations, require permits, overrule an agency decision, or otherwise alter existing business practices. Its only authority and responsibility is to participate in a limited number of agency proceedings representing the public in their role as consumers.

The OCR's sole function is to serve as an advocate for consumers before Federal regulatory agencies. The participation in agency proceedings and the seeking of judicial review is not a special privilege being accorded one group at the expense of another. Participating in regulatory proceedings and seeking judicial review of agency decisions is already a right guaranteed and fully exercised by the business community. The Office of Consumer Representation would simply insure that representations of consumers were placed on an equal footing with that of business.

Some critics have persisted in characterizing the OCR as a super agency which will add another layer of bureaucracy to the already red tape burdened small businessman. As a matter of fact, it is in the interest of the small businessman that such an office of consumer representation be established. Small businessmen are concerned about regulatory actions which grant inflationary price increases or place further restrictions on their ability to compete with the larger, more influential companies. One of OCR's highest priorities will be the elimination of unnecessary regulations and the opening up of the marketplace to free and vigorous competition.

Mr. Chairman, one of the more unusual objections to the creation of the OCR is the contention by some that the consumer interest cannot be distinguished from the corporate interest. I find this argument curious and self-serving. The interest of the homeowner in New England, faced with a cold winter and rising heating bills, is significantly different from the major oil company whose interest is in higher prices and higher profits. The small businessman interested in starting an independent bus line has an interest significantly different from that of the major national bus line, which is concerned about preserving its monopoly on passenger service and pricing. In most cases dealing with economic regulation, health, safety, and false advertising, the consumer interest is both apparent and uniform.

In those few instances, such as the recent saccharine controversy, when there may be more than one major consumer interest, the OCR would be responsible for determining whether all those interests were adequately represented. If so, the OCR need not advocate any specific viewpoint. Rather, the OCR could simply make sure the decisionmaker was aware of the other consumer interests.

As the budget of the OCR is limited, it will be necessary for the Administrator to use discretion and good judgment in selecting those cases in which the consumer viewpoint is most in need of representation.

THE OCR WILL REDUCE GOVERNMENT SPENDING

Mr. Chairman, one of the most promising aspects of this legislation is that, in addition to making Government regulations more effective, I believe it will actually reduce Government spending. Creation of the OCR will result in the elimination of 26 existing, but wholly ineffective, consumer offices. By transferring the resources of these 26 consumer programs to the new OCR and requiring the OMB to cut an additional $10 million in consumer-related spending from the fiscal 1979 budget request, total Federal spending will be reduced by $6.6 million. The new agency's entire $15 million budget would cost each taxpayer a mere nickel.

The OCR would not be another costly new agency. The OCR will actually save taxpayers money.

STATE CONSUMER ADVOCACY OFFICES

The potential success of the OCR is best demonstrated by a brief review of the successful State experience. Currently, 25 States have consumer advocacy offices similar in concept and purpose to the proposed Office of Consumer Representation. These offices have the power to intervene before the State regulatory commissions and seek judicial review of decisions harmful to consumers. In each case, their powers have been exercised without disrupting the State's administrative or judicial system.

In Florida, the Office of Public Counsel's intervention before the Florida Public Service Commission resulted in utility rate increases almost $21 million less than requested. In Georgia, the consumers' utility counsel achieved rate reductions of almost $95 million. The Public Advocate's Office in New Jersey has achieved savings of almost $1 billion.

In each case, the consumer advocate offices achieved consumer savings dramatically greater than their annual operating budgets. The potential savings at the Federal level are enormous. Over the last 4 years, the Federal Energy Regulatory Commission (formerly the FPC) has awarded natural gas and electric rate increases totaling $10 billion. During the same period, the Federal Communications Commission granted rate increases to A.T. & T. and Western Union which totaled almost $100 million. General freight rate increases granted by the Interstate Commerce Commission between 1974 and 1976 totaled $9.5 billion. Consumers were rarely represented in any of these proceedings. Obviously, there is an important, unfulfilled role for the OCR to play. The potential consumer savings far exceeds the initial $15 million budget of the advocacy agency.

CONCLUSION

The need for the OCR is twofold. Most importantly, the OCR will restore objectivity to the regulatory process. Federal agencies were originally created to act as impartial forums in which competing claims could be heard and balanced. By insuring that the views of consumers are heard in regulatory proceedings, the OCR would strengthen the agency's role as a mediator in the regulatory process.

Consumers do not need bigger Government or more regulations to protect their interests. What they need is a Government responsive to their needs. Government regulations which reflect the concerns of both consumers, small businessmen as well as corporations would go far to restore public faith in our regulatory process.

Second, the OCR will restore consumer confidence in the business community. Consumer confidence is essential to encourage a healthy and prosperous business environment. Over 100 corporations and businesses have worked arduously to achieve passage of this advocacy legislation. These businessmen recognize that the OCR will represent not only the interests of consumers but the interests of business to operate in a competitive marketplace devoid of unscrupulous business practices.

OCR intervention in regulatory proceedings would encourage free competition and eliminate unfair business practices. By restoring public confidence in the business community and by streamlining Government regulations, both consumers and business will benefit. No businessman should be unhappy about an improvement in consumer attitudes toward the market, and the role of Government in insuring its fair operation.

The time has come for Congress to choose between support of a one-sided and expensive system, which encourages regulations tailored to special interests, and a regulatory system conducive to equity and fairness. Given the assurance

that consumer interests will be consistently and duly considered, consumers will have additional grounds for confidence in the fairness and soundness of Government decisions which affect not only our pocketbook but our health and safety as well.

I am not satisfied with the way consumers are treated by regulatory agencies and I urge my colleagues to support passage of this much deserved legislation.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. STEERS).

Mr. STEERS. Mr. Chairman, I rise in support of this legislation, but I want to concentrate my time on the editorial in The Washington Post. The thrust of that editorial was that we should depend on the regulatory agencies to reform themselves. Leaving aside the somewhat visionary hope implicit in that assumption, I would point out that even if the regulatory agencies did their job totally, there would, nevertheless, be the need for consumer advocacy. That is because the regulatory agencies do not purport to be advocates; they purport to be quasi-judicial. And, frankly, so do we Members of Congress. Like regulatory bodies, we have to compose differing interests and conflicting objectives.

We have in Maryland an example. We have the Public Service Commission playing the regulatory role. In addition, we have a body called the People's Counsel, and that is the consumer's advocate. Those who are now referring approvingly to the Post usually refer to the Post in unprintable terms. I think the Post is prestigious. I read it regularly. I was endorsed by it. But I certainly oppose its point of view, and I think that my position during my campaign is the correct one.

We do not need somebody who can listen to the arguments on both sides; we need somebody who can support the point of view of the consumer, an advocate before the regulatory tribunal.

Mr. BAUMAN. Mr. Chairman, will my colleague, the gentleman from Maryland, yield?

Mr. STEERS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

I was just wondering which time the gentleman from Maryland thought the Post was editorially mistaken. Which of the two times the gentleman mentioned regarding its editorial stand did he think was mistaken?

Mr. STEERS. I think this morning's editorial was in error. The editorial endorsing me was a model of perspicacity and discernment.

Mr. BAUMAN. I just want the record to be very clear on that point.

Mr. STEERS. I thank my colleague.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. BLOUIN).

Mr. BLOUIN. Mr. Chairman, it is difficult to argue that the American consumer does not need a more effective voice in Federal Government decisionmaking or assistance in dealing with a bloated Federal bureaucracy.

However, as a member of the House Government Operations Committee, I was deeply concerned that the originally introduced bill (H.R. 6805) to create an agency for consumer protection overlooked a number of important considerations. I am pleased that most of my reservations have been addressed in the substitute bill (H.R. 9718).

The original bill had overlooked the plight of the American farmer and the small businessperson and sought to impose additional hardships on them in the form of an increase in burdensome paperwork. H.R. 6805 would have allowed the new "Administrator to issue written interrogatories or requests for reports and other related information to any person engaged in trade, business, or industry which substantially affects interstate commerce." Even though the originally drafted bill did exempt small businesses that did not have assets exceeding $1 million or that had an equivalent of 25 fulltime empoyees, it did not include "family farming operations" in its definition. I, therefore, introduced an amendment in full committee which corrected this inequity and which raised the total asset figure to $5 million.

The committee sided with my position that the small businessman and small farmer should not have additional bureaucratic hardships placed upon them and adopted this amendment.

Another concern of mine was answered in the adoption of my amendment that placed a 5-year "sunset" provision on this proposed new agency, limiting it's life unless it could justify to the Congress its effectiveness as an efficient agency. Opponents of this type of legislation consistently argue that if you want to abolish a Federal agency all you have to do is vote not to fund it when it is considered during the legislative appropriation process. Critics, however, have rightly stated that once you create a new governmental body it is almost impossible to dismantle it. It is for this reason that I insisted that if, in fact, this agency came into being that the people of this country would have more than "assurances" that any new agency would truly carry out in a prudent and economical fashion the public's interest.

The supporters of the new version have had the wisdom to completely eliminate the Administrator's authority to issue written interrogatives, as well as to mandate that the existing 26 Federal consumer agencies be transferred to the Office of Consumer Representation. Moreover, H.R. 9718 still contains the mandatory "sunset" provision that I authored in the Government Operations Committee.

Unfortunately, my greatest disappointment during the committee's consideration of H.R. 6805—and continues to be with H.R. 9718—was the fact that my amendment to exempt USDA import/export policy from the purview of this new agency was narrowly defeated.

Domestic producers—American farmers—are quite naturally dependent on stable and constant markets. The economics of farming are such that once an individual farmer has made crop decisions for a year he cannot suddenly change. He cannot decide one month after planting soybeans that corn would have been a better crop, and then suddenly shift priorities.

The original H.R. 6805, as well as the substitute (H.R. 9718) the House will consider, does not exempt agricultural import/export policies or the associated functions performed by the Department of Commerce under the Export Administration Act of 1969 as it relates to agricultural commodities from the jurisdiction of the proposed Office of Consumer Representation. Therefore, as the bill stands, this agency could intervene in agricultural import/export policy decisions of this country. That possibility obviously adds to the uncertainty and instability of agricultural trade, both for farmers and for foreign consumers, and creates very serious problems for those of us who are otherwise more kindly disposed toward the concept that consumers need to have a stronger and more effective voice in the affairs of their Government.

I reject the argument that such an agency needs the power to intervene in agricultural import/export trade in order to protect American consumers from American farmers. It presumes, first of all, that American farmers are not primarily interested in producing for the domestic market, and it presumes that foreign sales will produce scarcities—or unnaturally high prices—at home. Neither presumption is accurate.

In fact, the possibility that the proposed Office of Consumer Representation might actually intervene in agricultural import/export trade will only discourage American farmers from producing surplus commodities for foreign sales, but at the same time will encourage foreign buyers to find alternative suppliers in other countries. In my opinion, neither development is conducive to good economic policy at home or constructive international trade policies abroad.

It is for these aforementioned reasons, therefore, that I am offering this amendment to exempt USDA import/export policy to include those functions performed by the Department of Commerce vis-a-vis the Export Administration Act of 1969 as it relates to agricultural commodities from the purview of the Office of Consumer Representation.

Mr. Chairman, as I have consistently stated since this bill passed out of committee, I cannot support either H.R. 6805 or H.R. 9718 unless my amendment to exempt USDA import/export policy (to include any agency proceeding under the Export Administration Act of 1969 relating to any agricultural commodity) from the purview of this proposed agency.

If this is adopted, together with the other changes mentioned earlier I will support this 5-year experiment.

Mr. BROOKS. Mr. Chairman, I yield the remaining time to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Chairman, I, first of all, want to pay great tribute to the chairman of our committee, the gentleman from Texas (Mr. BROOKS) and the ranking minority member, the

gentleman from New York (Mr. HORTON) for the very important, significant, understanding job they have done.

Without all the rhetoric on both sides—and one could engage in rhetoric either way—this is really quite a simple bill which creates an Office with an extraordinarily important responsibility and job. What we are doing is reorganizing the consumer apparatus in the Federal Government, No. 1. No. 2, we are correcting a defective governmental mechanism. We are establishing an agency that has no regulatory authority whatsoever. One of the reasons that design developed was that as a result of the many regulatory commissions, bureaus, and agencies that the Congress established in the last 40 to 50 years, many people suggested that the industries that they regulated had taken over and had gained unfair advantages in these agencies, whether it be the ICC, the CAB, or any of the other agencies. So the first thing that those who began the responsibility for eveloping this legislation said was, Let us design an agency that had no regulatory authority and that filled the gaping hole in the Federal decisionmaking process. What is that hole? Every regulatory commission in Washington that is at the national level acts as a quasi-judicial agency. Their heads sit in a courtroom setting. The dais is not dissimilar to what we see here in this Chamber. The five commissioners, the seven commissioners, the nine commissioners walk in. They sit down in what we have expected to be an Anglo-Saxon judicial atmosphere. On one side, either in support or opposition to any piece of legislation, any rule, any judicial matter, are the business interests. I do not suggest in any way at all that there is anything nefarious in what they do or what they have done.

I suggest that they have been offered the opportunity to adequately represent, and quite appropriately so, their own interests. They have been able to engage sophisticated, competent lawyers, economists, and investigators. The gaping hole in the whole concept is the empty chair of one of the advocates. The business advocate chair, the commercial advocate chair, the corporation advocate chair, was filled with competent counsel. The point of view that was to be represented by the consumer advocate for 40 years has not been heard.

What develops when one side of the case is presented and not the other is a decision that is not in the interest of the public. It is inherently an unsound decision and it is a decision that ought to run contrary to everything all of us believe in. That is why I cannot understand any of the opposition to this bill, because all we are doing is transferring the 20 consumer representatives into one agency and cut down the total cost; in other words, transfer $11.6 million worth of present expenditures into the $15 million agency. The bill also mandates another $10 million savings in net cost to the taxpayer, an enormous increase in the validity of our governmental and judicial system.

Has this worked? Is it a good idea?

Let me tell you what the States have done. Connecticut has an office of consumer council that estimates that between 1975 and 1977 they saved their consumers $1.1 million.

Florida has an office of public council that estimates their savings at $21 million.

In the State of the gentleman from Georgia (Mr. LEVITAS), their consumer utility council has saved $95 million.

The Indiana Council of Public Office has saved $13 million.

I would like to include, at this point, a list of savings by State consumer advocacy offices:

EXAMPLES OF SAVINGS FROM ACTIVITIES OF STATE CONSUMER ADVOCATE OFFICES

STATE, OFFICE, AND SAVINGS

Connecticut, Office of Consumer Counsel, $1.1 million to consumers.

Florida, Office of the Public Counsel, utility rate increases $21 million less than requested.

Georgia, Consumers Utility Counsel, utility rate increases $95 million less than requested.

Indiana, Office of the Public Counselor, several million dollars to consumers. In one case alone utility rate increase was reduced by $13 million.

Massachusetts, Utilities Section of the Attorney General's Office, utility rate increases $190 million less than requested.

Missouri, Office of the Public Counsel, $140 million to consumers.

Montana, Consumer Counsel, $70 million to consumers.

New Hampshire, Legislative Utility Consumers Council, utility rate increases $1.2 million less than requested.

New Jersey, Department of the Public Advocate, $1 billion to consumers.

New Mexico, Economic Crimes Division of the Attorney Generals Office, $13½ million to consumers.

New York, Consumer Protection Board, $60 million to consumers.

North Carolina, Public Staff, $50–$100 million to consumers.

Ohio, Public Utilities Commission Counsel, utility rate increases $40 million less than requested.

Pennsylvania, Office of Consumer Advocate, utility rate increases $12 million less than requested.

Mr. Chairman, the potential for savings at the Federal level of government exceeds by far the combined savings generated in the 26 States.

Mr. HORTON. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I suppose the House ought to treat this bill like an old friend. It has been around here longer than most of us have been.

My first experience with it was in 1972 when I, along with three-quarters of the House, voted for the Consumer Protection Agency in a far stronger form than it comes to us today. In those days, I, and my constituency really believed a new agency of Government was the right way to give consumers a better voice in Federal decisionmaking.

Fortunately, that bill ultimately failed. So did a successor bill in 1974, even though it passed the House by a huge majority. And again in 1975, a similar bill failed.

Today we face, in the Brooks substitute, a watered down version now called the Office of Consumer Representation. There are a number of reasons I now oppose this bill, but none is as important as the fact that my constituency and I no longer believe that if a Government agency does not work well, we should then create another agency to do the same thing.

My total communications on this bill total only about 200. Only about a dozen were in favor of it. The most aggressive opposition comes from small business people who want no part of it. Proponents cite polls in its favor, but my own local experience is contradictory.

As a matter of fact, in my Third District questionnaire of 1976, 68 percent of the 15,000 respondents seem to understand this matter. They said we should retain but streamline existing Federal regulatory agencies. Only 4 percent wanted to add any new agencies. Twenty-two percent, incidentally, wanted to dismantle existing agencies.

The OCR, in other words, is a good example of that old congressional practice of never terminating a program or agency, but rather of laying new programs and agencies over existing ones. The result is almost always confusion, inefficiency, extra redtape, and delay.

I think that the answer to consumer inputs into Federal decisionmaking should not be to create a new regulatory agency to regulate existing regulatory agencies that are thought to be regulating poorly. I hope the House is beginning to understand the situation. Judging by this bill's difficulties in getting to the floor, perhaps the light is beginning to dawn even here.

Another new agency laid over the existing structure can only inhibit, delay, and confuse existing processes. Federal decisionmaking is almost an endless process now. It seems foolish to mess it up some more.

Those who support the new agency tell us that it does not have much power. If so, it will not work very well. However, to me, it has plenty of power to gum up, and delay, decisions that are too long in the making under current procedures.

The cost of the new super agency ought to be considered, too. The promoters of OCR have told us it will save money. They also say no one will be fired. Obviously, we are being subjected to the old shell game. No hocus-pocus can hide the fact that the new OCR agency will cost a bundle. No rhetoric can dispel the fact that it is a redundant, overlaid agency serving a function that belongs in existing agencies. No one can doubt that its cost and personnel will grow.

But, there are many other questions about this bill. One which bothers me is: Which consumers does the OCR represent? On every issue, there are myriads of consumer viewpoints. The OCR, it seems certain, will represent only one, even if we are told that all consumer points of view will be handled. If that is true, we would need an agency as big as the whole executive department.

I believe that effective consumer divisions inside the existing agencies are

a better means for promoting consumer interests than a separate, free-standing OCR. The separate agency is bound to promote a single point of view, or issue. The division of an existing agency would be bound to hear all the disparate consumer interests.

I shall support, therefore, the alternative called the Leach-Glickman substitute because I believe that it would be far more effective to improve the consumer input mechanisms of existing agencies than to create a new, giant, busybody agency.

I see the following advantages in the Leach-Glickman approach:

First. It is likely to be more effective to work from within the agency than from outside. Cooperation beats confrontation.

Second. Existing agencies will be open to all consumer points of view. The OCR will promote a single point of view.

Third. Any agency can move more promptly under its own processes and timetables.

An outside OCR will only prolong the process by information seeking and appeal.

My decision to vote against the Brooks bill is based not only on my lack of confidence in a redunant superagency. It also stands on the positive basis that existing agencies can function effectively, and can, if properly structured, make rational decisions which afford appropriate weight to various consumer interests.

For all these reasons, I urge my colleagues to vote down the Brooks substitute and the original bill, H.R. 6805. Instead, I believe we ought to pass the Leach-Glickman substitute.

Mr. MARLENEE. Mr. Chairman, I rise in opposition to the proposed Office of Consumer Representation. The new agency would just add another layer of bureaucracy and redtape in the Federal Government, and despite the claims of the agency's proponents that the bill would decrease costs, I have not seen any Federal agencies that have not grown and found ways to increase their budgets once they have been in operation a few years.

Consumer interests should be taken into account by all Government agencies. The reason why the agencies were created in the first place was to protect and assist the consumer and public. If the existing agencies do not fairly take into account consumer interests and needs, then the answer is to reform them and not create a new agency to oversee the old ones.

We have antitrust laws which should be vigorously enforced. A sunshine law has recently been enacted which gives the public much greater access to the decisionmaking process. These are the types of measures that can really benefit consumers and the public.

Mr. MURTHA. Mr. Chairman, I strongly oppose creation of a Consumer Protection Agency, or the renamed Office of Consumer Representation.

First, the people do not want this agency. In Pennsylvania's 12th Congressional District in 1975 I polled the 7,000 people in my "Instant Poll" project. I asked, "Should a new Federal Consumer Advocacy Agency be established?" The results were 32 percent yes, 64 percent no, 4 percent undecided. The comments at that time indicated people were tired of inefficient big government, and that Congress should cut back on spending and bureaucracy. From my weekly workshops and mail, I can tell you those feelings have intensified and increased over recent years.

Against the background of several negative polls, supporters of the CPA called a news conference last year to prove how badly the public wants this agency. The meeting unveiled a Harris poll. In the poll, a bare 52 percent favored establishment of such an agency, and according to Mr. Harris "fewer than one American in every three sees a solution to consumer problems coming from more Government regulation, or for that matter, any regulation."

In June 1977 a Roper survey showed 50 percent supported the agency. This was a decline from 55 percent in a 1974 Roper poll. While 66 percent in the overall Northeast found the CPA a good idea, less than a majority favored it in every other region of the country—the low being 40 percent in the West.

This hardly represents overwhelming public support for such a consumer agency. The people do not see this as an answer to their problems.

Second, the machinery exists to represent the consumer. It can be done in any Administration with sufficient commitment. A study of OMB identified 26 major consumer functions scattered throughout the Federal Government. Those agencies spend $11.6 billion and include over 200 employees. In addition to these units, 17 Federal agencies developed "consumer representation plans" that were required in the Ford administration. These plans add 290 more employees to do the job. After totaling all this, Congressional Research Service reported to me these figures "do not cover all the consumer activities of the Federal Government—it is extremely difficult to ascertain the budget figures for these functions because they are small offices within various agencies and do not appear broken out in the U.S. budget."

The revised CPA bill requires consolidating the 26 functions and cutting $10 million in consumer spending. Let us not consolidate and cut them. Let us simply use them to do their jobs. Their personnel are already available to represent the consumer.

Finally, the bill before us is not a compromise. As Hilton Davis, vice president of the Chamber of Commerce notes,

> In summary, most of the new OCR bill is merely a reprint of the earlier ACP bill. Contrary to the claim that it has "met every major concern" of the business community, this bill remains a highly complex piece of legislation which expands the role of government in the everyday affairs of business. At the same time, it does nothing to help consumers.

Mr. Chairman, this bill deserves to be defeated. It will help neither business or the individual consumer. I urge my colleagues to vote against it.

Mr. ANNUNZIO. Mr. Chairman, I rise in strong support of H.R. 9718, to provide for an Office of Consumer Representation. For too long the frustrated consumer has lacked the representation before Federal agencies and courts that business interests have pursued to the fullest. This bill will put the consumer and the producer on an equal footing.

Let me stress "equal footing." Just as business groups have every right to see their interests protected—and spend millions of dollars every year in doing so—the consumer has a right to the same voice and protection. Until now consumers have had little input into decisions which may affect their health and safety. H.R. 9718 will correct this imbalance by allowing the OCR to take part in administrative proceedings before Federal agencies and courts. This office will have no greater right than any other entity and it will merely insure that millions of consumers are represented fairly.

Opponents contend that by passing this bill we will be adding another layer to an already bloated bureaucracy. They say that the OCR's function can be handled from existing programs within the agencies. It is unfortunate that there has been so much misunderstanding. The fact is, the Office of Consumer Representation will be a small agency with a small budget. And Federal agencies do not now have the power to advocate consumer interests. This bill will allow representation that consumers do not have now. The alternative—the expression of only a limited viewpoint—is intolerable in a society based on full expression of ideas and equal representation.

Most consumers do not have the time or funds to represent themselves before the Federal Government. The administrative process is complex; it requires expertise and background that most consumers do not have. And yet, the decisions agencies make here in Washington often have a dramatic impact on the lives of Americans all across the country. A ruling by the Department of Health, Education, and Welfare may affect the quality of education. Action by the Department of Energy could determine the price of gasoline or heating fuel. The Environmental Protection Agency can act on the quality of air we breathe and water we drink. Is it fair that only those business interests involved may have a voice in these decisions? What recourse does the consumer have when faced with action that controls nearly every aspect of his life and community? Not much, not much at all. Until now.

H.R. 9718 is hardly a radical step designed to undermine the free enterprise system we all believe in. Rather, it would help insure that our great Nation remain free and that all interests have access to Federal rulings. As chairman of the Subcommittee on Consumer Affairs, I am well aware of the problems many consumers face in trying to get complaints resolved by Federal departments. With this bill, the consumer will get proper representation and he can be sure that someone is watching the thousands of rules, regulations, and decisions which

are issued every year by Federal agencies. And because the OCR can represent consumers in Federal court, its work will result in extensive benefits and cost savings.

I congratulate Mr. BROOKS, the distinguished chairman of the Committee on Government Operations, for his diligent efforts exerted on behalf of this measure. It is no easy matter to find the compromise that will work for an issue such as this. But I am confident that a solution has been arrived at that is both fair and workable. Once again, I urge my colleagues to support H.R. 9718 and pass this bill as quickly as possible.

Mr. CORCORAN of Illinois. Mr. Chairman, I rise in opposition to H.R. 6805—a bill which would establish an Agency for Consumer Protection and to H.R. 9718, a substitute of a similar nature which would create an Office of Consumer Representation. I oppose these bills for several reasons, not the least of which is that they would create yet another level of bureaucracy in the Federal Government. One of the reasons I sought public office is because I believe that governmental power and influence over our lives have increased to an unhealthy level; that trend should be stopped, not increased.

The proposed consumer agency is based on three invalid premises: First, that the consumer is gullible; second, that the businessman is always the culprit; and third, that the Government is infallible.

Regulatory agencies were created to serve the public interest. If these agencies are not doing their job, then the proper remedy is more diligent oversight by Congress, and specifically the House Government Operations Committee, on which I serve. The creation of another "super agency" to oversee the existing agencies is not the solution. The sponsors of the legislation characterize this as a "small agency with a modest budget." How many times during the last two decades have we seen any new Federal agency remain small and not increase its budget greatly?

The most disturbing aspect of this legislation, however, is that it may work to serve the purpose of aggressive special interest groups instead of individual consumers. The proposed Agency for Consumer Protection (ACP) would be the first agency designed by law to promote a special interest, not the public interest. The ACP or OCR purportedly would advocate the interests of a particular constituency—consumers—before other Federal bodies. The rest of the Federal Government is required to promote the public interest, even those agencies and departments that primarily work with narrowly defined constituencies. For example, the Environmental Protection Agency is officially chartered to protect the environment for the public, not lobby for environmental groups.

The proposed agency cannot function properly because it would be unable to define a single, well-defined consumer interest on most issues. Asking the administrator of an agency to define the consumer interest is like asking a person to name the color of a rainbow. The sponsors apparently do not understand that taxpayers are consumers, too, and that Government waste and inefficiency are costing American consumers literally billions of dollars. Richard O. Simpson, former Chairman of the Consumer Product Safety Commission, raised an interesting question recently:

> If we accept the premise that federal agencies are not responsive to the interests of consumers, by what logic should we create another federal agency and expect thereby to correct the deficiency?

I think that this hits the nail squarely on the head. What will this new $15 million Federal agency do to represent the views of the American people? Senator JAMES ALLEN of Alabama recently noted that those advocating further Federal involvement want an official Government position at any price. "They are prepared to trade scope so they can get power," said the Senator.

Mr. Chairman, I have received correspondence from several hundred of my constituents regarding this extremely controversial issue, an issue whose time has come and passed. Their response has been almost unanimous in opposition to the bill. As the Washington Post noted in an editorial today,

> * * * there is much less need for any separate intervenor with limited powers—and much more reason for Congress to set this idea aside and concentrate on helping improve the regulatory agencies themselves.

This should be the primary function of the Congress and its committees. As a member of the Government Operations Committee, I opposed the bill in committee and will continue to oppose any proposal which puts special interests before that of the public interest.

Mr. HILLIS. Mr. Chairman, I rise in opposition to the bill. Although the Consumer and Reorganization Act of 1977 has been offered as a substitute for the Consumer Protection Act of 1977, I see very few significant differentiating factors between the two.

Although the title has been changed three times, the bill itself is markedly similar to the unpopular previous consumer protection legislation. Efforts to appeal to previous opponents are apparent in the new language of H.R. 9718. However, this adapted language is still merely a soft-sell of the Consumer Protection Act of 1977. I have grave doubts that the name change from "agency" to "office" will limit the bureaucracy or power created by this measure. Once the power is delegated to this protection firm—regardless of whether it is referred to as an "office" or "agency"—it will have the authority to expand in spite of how small it is originally.

This would only become another branch of the already unwieldy bureaucracy. There are numerous existing consumer offices which should be able to handle the work-load without establishing new agencies. Why should the Federal Government create agencies to represent consumers before the Government when agencies have already been established for this reason? Increasing the bureaucracy can by no means create a more efficient program. If this system of consumer protection is unable to function effectively it should be reworked, but certainly not encumbered by an adtional layer of bureaucracy.

Not only would the OCR add another bureaucratic agency, it would also raise costs both directly and indirectly. Proponents of this legislation argue that this consolidation of the 23 existing consumer programs will decrease expenditures. This is just not true. This consolidation appears to save $11.6 million. However past history has proven that agencies have a tendency to grow well beyond their original financial allocations and expectations.

H.R. 9718 states that the OCR will not have interrogatory powers and will not issue questionnaires. However this merely leaves the discovery procedures to nonexempt Federal agencies to use their virtually unlimited subpena power to obtain depositions and documents as well as interrogatories. The OCR bill would eliminate the independent interrogatory power, but would leave the subpena power virtually intact. Although they must go through an extra step or two, the power is still there. Consequently the OCR's powers are not stricken, but merely delegated to subsidiaries thereof.

The creation of OCR would necessarily raise product prices. Although OCR does not have the power of interrogation it may induce other agencies to distribute questionnaires to business establishments and demand responses. This additional paperwork would burden the companies, possibly necessitating the creation of new positions, which would in turn cause an increase in prices. In this example it is dubious that the consumer is being protected since he must pay higher prices for the desired product.

I am opposed to the creation of any additional Consumer Protection agencies. In trying to mitigate the negative ramifications and opposition to H.R. 6805, this bill has merely camouflaged the controversial issues by introducing 9718 as a substitute. As a result, the bill has been left relatively unchanged.

This particular issue has been broached countless times in its 8-year history. Although H.R. 9718 was scheduled for consideration last November, the probability of defeat forced its rescheduling until today. The bill has not been changed since then. H.R. 9718 is a monumental deception to the American people. Furthermore, the integrity of this body of legislators will suffer should this deception be enacted.

The ambiguities of H.R. 9718 fail to check the power of the OCR, and I therefore urge my colleagues to defeat the creation of this new agency.

Mr. SIKES. Mr. Chairman, whether we are discussing the establishment of an Agency for Consumer Protection (H.R. 6805) or an Office of Consumer Representation (H.R. 9718) is a question which is essentially moot. Either bill has the goal of a unit of government who would serve as a spokesman for the consumer before Federal agencies and the courts. The nuances of such a group having the right to issue interrogatories or its use as

a clearinghouse for consumer information is less an issue. The fact is that we must today decide whether the expenditure of an additional several million dollars on top of the $12 million already paid for various existing consumer programs is necessary to provide the American public with a viable system of representation before various Federal agencies. I do not feel that it is needed or justifiable.

At present there are in existence some 20 major consumer programs functioning in the Fedral Government. In addition to the Federal Trade Commission, the largest Federal agency interested in consumer protection, recent studies have indicated some 400 units of the Federal Government are administering over 900 consumer-related activities. It would seem to me that what our citizens need is not another agency or office for consumer protection, nor another layer of officialdom but more a redefinition and reorganization of those functions already in place.

There should be another caution prior to the establishment of another consumer protection group; namely, that described by noted economics authority Dr. Milton Friedman:

> What reformers so often fail to recognize is that social, political and economic pressures determine the behavior of the men supposedly in charge of a governmental agency to a far greater extent than they determine its behavior. No doubt there are exceptions, but they are exceedingly rare—about as rare as barking cats.
>
> Ralph Nader is the most prominent current example of such a reformer. In a series of valuable reports he and his associates have confirmed dramatically what earlier studies had demonstrated less dramatically—that governmental agencies established to regulate an industry in order to protect consumers typically end up as instruments of the industry they are supposed to regulate, enabling the industry to protect monopoly positions and to exploit the consumer more effectively * * *

While some would probably choose to draw a fine line between the "nonregulatory" agencies proposed in this legislation before us today, and what Dr. Friedman talks about with reference to "regulating" industry, we are all aware of the propensity of both the authority and sheer size of any agency to grow with time. It would very likely be the case with this group we are asked to establish today.

Finally, I would share one more thought on the need, or more realistically the lack of it, for such an agency. That is that in far too many instances in the past decade Washington, the Federal Government, is being looked at as a great panacea, the protector of each and every segment of our daily life. It is as if this Nation were filled with individuals without the commonsense or thought processes which would fill a thimble. And I simply do not believe that is the case. Perhaps the minority report on a recent consumer protection bill, S707, says it better than I:

> We are asked to believe that all consumers are mental midgets who must look to Washington to find out how to manage their personal lives from some bureaucratic consumer representative who will have neither the time nor the knowledge to shop for and cook a decent supper.

In summary, I cannot recommend that my colleagues support this bill. Bigger government is not necessarily better government. I see no additional help for our citizens occurring through the passage of this bill.

Mr. DON H. CLAUSEN. Mr. Chairman, over 2 years ago I addressed the issue of creating an Agency for Consumer Protection. As I mentioned then, there had been a time in the past when it appeared that the creation of such an agency was the direction that Government should take. Many people believed this—and so did I.

However, having evaluated the kinds of trends that had developed in regulatory agencies created by previous legislative acts and the subsequent deluge of rules and regulations that inevitably evolve, I was sure then and today am more sure than ever before that our constituents have had enough of the Federal Government. The Federal bureaucracy has made a practice of becoming further involved in people's lives and the creation of this agency will only worsen an already intolerable trend towards more and more government.

I oppose H.R. 6805, the bill to create the Consumer Protection Agency; I oppose the substitute, H.R. 9718, which will be offered to create an Office of Consumer Representation; and I oppose the rule which makes this substitute in order. The changes in H.R. 9718 are merely those of form, not substance as many of my colleagues have reviewed. In fact, this bill has never even been before the committee of jurisdiction, there were no hearings, no mark-up and there is no report to accompany the bill. This is a blatant abuse of the legislative process and it insults our constituents by denying them the right to laws that have had the benefit of full legislative review.

In 1975 I stated that this type of agency would not be a knight in shining armor, fighting the battles for all consumers. And today I still maintain that it will be another nightmare of excessive Government control, burdensome redtape, increased inefficiency, more inflation, and more taxes.

One of the main premises on which this bill is based is that the Government is infallible, that the Government is the only guiding light which can effectively protect our gullible and uninformed consumers. I submit that our consumers are neither gullible nor uninformed. They are more discriminating than ever before. They spend their hard-earned dollars wisely and they have formed consumer groups to represent their many and varied interests.

Without Government intervention, businesses have formed consumer complaint and action departments. Consumers have inspired our media to concentrate on consumer problems, and they have been behind the creation of local and State consumer action offices. This is not the work of gullible, uninformed consumers—it is the solid record of accomplishment of thousands of informed, concerned and highly active citizens and by responsive men and women in business.

Cambridge Reports, Inc., recently did a survey on "Citizens' Attitudes Toward Consumer Protection." What they found is that 38 percent of the consumers interviewed nationwide said they have never had any problem with stores or products and 69 percent said that a store manager or owner had solved most of their problems as soon as they were told about them.

This says to me that consumers have clearly had an impact and, that this impact has been effective. It shows that consumer's problems are not as rampant as we are led to believe, that they are being solved at the local level and, that most consumers prefer to solve them at that level.

This brings us to the question of just who is the consumer? What makes this legislation particularly dangerous is its inability to define "consumer." Under this legislation there are no assurances that all consumers will be represented in agency proceedings. A case in point is the passive restraint issue—more notoriously known as the air bag issue. Had the Office for Consumer Representation been in existence during the Department of Transportation's consideration of this question last summer it would have had to decide between two basic consumer interests; to protect health and safety or to prevent price increases. Who is the consumer in this case? Clearly, both groups are made up of consumers but, only one would be represented by the new consumer agency in any agency proceedings. An important contingent of consumers would lose out.

The Office for Consumer Representation simply could not function properly because it would be unable to identify a single, well-defined consumer interest in most issues. Consumer interests are often in opposition to each other as this example points out.

Furthermore, rather than help consumers this new super-agency would abuse them by increasing the cost and diminishing the effectiveness of government and business. It will attach an expenive overtime period to the Federal application game, which is already wearing out local government officials and taxpayers. A decision which once took a week to be made could now take a month or maybe 3 months while this new agency decides if it likes another agency's rules. This will increase the uncertainty in the marketplace and will add to the price a consumer must pay for the products and services he purchases.

As I see it, it is this kind of inhibiting influence that is stifling economic growth, causing job losses and high unemployment, and preventing the real consumer protection of the marketplace—the lowest price, highest quality goods and services consistent with long-term availability—from working. The stated purpose of this legislation is to protect the consumer, but in my judgment we have a "consumer rip-off" before us today.

What we are considering today is another example of legislation that seeks the fast, easy answers. If Congress really wants to help the consumer then we should abandon this bill and begin to do away with some of the laws and regula-

tions which impose so great a burden on us all. It is time to make the machinery already in place more responsible and responsive and it is time to be honest to the public and tell them this new agency is not a pie in the sky but rather another method for the Federal Government to force its way into their lives and their pocketbooks.

I opposed this measure in 1975, I oppose it today and I'll oppose it tomorrow because it is not in the "consumer's interest." By all the polls Americans are clamoring for relief from Government intervention. They want the Federal Government off their backs and out of their pocketbooks. Time has come to put together a coalition of responsible Democrats and Republicans to bury this "turkey" once and for all. It is not a Democratic or Republican issue. It is an issue that affects all Americans.

Mrs. HECKLER. Mr. Chairman, I rise to object to House Resolution 872 to provide the rule for consideration of H.R. 6805, the Consumer Protection Act of 1977.

The substitute H.R. 9718 offers many important amendments that are not in the basic bill, H.R. 6805, yet these changes have not been considered by the full committee, and as a result the opponents and proponents have not been heard. The changes in H.R. 9718 have not been discussed in the final report of the committee—a major flaw in the procedure.

I consider the process under which we consider legislation to be almost as important as the legislation itself, and seek to provide a full and fair hearing for all interested citizens through the committee system.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 9718, a bill which would create an Office of Consumer Representation (OCR).

Mr. Chairman, the idea of office to represent consumers is not a new idea. Congress has debated it for years. I feel that the Office of Consumer Representation is an idea "whose time has come."

For too many years, the very regulatory bodies designed to protect the consumer now operate most effectively to protect business and industry. For too long, Federal agencies and courts have made decisions that significantly affect the health, safety, and economic well-being of American consumers without adequate consumer representation. This office will rectify the situation that now exists by making sure the consumer's side of the argument is heard along with the arguments of business, industry, and other organizations. It will give consumers a voice in the decisionmaking processes of Government.

Mr. Chairman, opponents of this bill base their opposition on arguments with which I disagree.

First of all, many argue that this bill will not help small business. This is not true. The bill includes the concerns of small business when consistent with those consumers. In other words, the bill authorizes the OCR to represent the views of business as consumers of federally regulated goods and services.

Others argue that the OCR will be a large, powerful, regulatory agency that will cost a lot. This also is not true. The OCR will have no regulatory power and will, in fact, reorganize and streamline government bureaucracy by consolidating 20 existing consumer units which will amount to a net savings of $5 million in the first year of operation. The office also is mandated to eliminate conflicting or duplicative regulations that burden consumers and therefore will cut down costs.

Additionally, the OCR will benefit family farmers, the elderly, and low-income families, all of whom represent a segment of our society which must spend a large portion of their salaries for the basic necessities of life. These people are affected the most when there is a change in prices. The OCR could intervene where certain elements are adding unduly to the cost of food, it could provide consumer-oriented data on energy price levels and allocation controls, and it could assure that the needs of senior citizens and minorities are considered as the Government moves to reform public assistance and provide basic services. This office will assist these people in reaping the benefits of the programs that Congress enacts for their assistance. And because of the sunset provision in this bill, the office will automatically terminate in 5 years, if in Congress' judgment, it fails to do its primary job of representing consumer interest.

Mr. Chairman, we are all consumers and there is a pressing need for having an office to represent us. This bill will save consumers millions of dollars by reducing fraud and stopping unwarranted price increases. I believe that the consumer segment of the American public deserves vigorous accredited advocacy in the various agencies of government which deeply affect their lives.

Mr. Chairman, I urge my colleagues to join me in support of H.R. 9718, the Office of Consumer Representation. The bill will structurally correct the imbalance that now weighs heavily against consumers. I feel that failure to pass this bill—failure to accord consumers the same rights of representation, could erode the confidence of our institutions of government and enterprise.

The CHAIRMAN. All time has expired.

Pursuant to the rule, it shall be in order to consider as an amendment in the nature of a substitute the text of the bill H.R. 9718, which shall be read for amendment under the 5-minute rule as an original bill, if offered.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. BROOKS).

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BROOKS: Strike out everything after the enacting clause and insert in lieu thereof the following: "That this Act may be cited as the "Consumer Representation and Reorganization Act of 1977".".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GLICKMAN FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS

Mr. GLICKMAN. Mr. Chairman, I offer an amendment in the nature of a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. GLICKMAN for the amendment in the nature of a substitute offered by Mr. BROOKS: Strike out all after the enacting clause and insert:

That this Act may be cited as the "Consumer Protection Act of 1977".

SEC. 2. DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) In the execution of its constitutional and statutory responsibilities, the Federal Government and the agencies thereof—

(A) should consistently, completely, and adequately represent the interests of consumers;

(B) should not promulgate regulations or adopt policies without first developing and considering information as to their impact on consumers; and

(C) should act in such manner as to protect and serve the interests of consumers.

(2) The most effective and cost-efficient way to assure such representation and protection of consumers is to establish—

(A) an independent Office of Consumer Counsel within each significant operating unit of the executive branch of the Federal Government; and

(B) a Division of Consumer Protection and Advocacy in the Department of Justice to assist and support such Offices and to serve as the coordinating agency for consumer advocacy.

(b) PURPOSES.—

(1) It is the purpose of the Congress in this Act to reorganize each significant operating unit of the executive branch to the extent necessary to assure that each such unit, through an independent Office of Consumer Counsel, maintains internal processes and procedures for adequately representing, protecting, and serving the interests of consumers at all stages in, and in all phases of, the formulation, implementation, and review of policies, programs, regulations, and legislative recommendations.

(2) It shall be the specific purposes of each Office to represent the interests of consumers before and within the Federal agency of which it is a part; to receive, transmit, evaluate, and report on consumer complaints; to develop and disseminate information of interest to consumers; and to perform other functions to protect and promote the interests of consumers. In the exercise of its functions, powers, and duties, each such Office shall be independent of all other offices and officers of the agency of which it is a part.

(3) It shall be the specific purpose of the Division of Consumer Protection and Advocacy of the Department of Justice, in addition to such other functions as may be assigned to such Division by law or by the Attorney General, to—

(A) provide data, information, advocacy-training, and other appropriate services to each Office and to provide a forum for coordinating the activities and assuring the independence and effectiveness of the Offices;

(B) assist any Consumer Counsel in representing the interests of consumers before the relevant Federal agency;

(C) promote, through appropriate litigation, legislative recommendation, and recommendations to any Office the protection of consumers with respect to—

(i) the safety, quality, purity, potency, healthfulness, durability, performance repairability, effectiveness dependability, availability, truthful representation, and cost of any goods, services, credit or other property;

(ii) assuring consumer choice and competitive markets;

(iii) preventing unfair or deceptive trade practices and restraints on trade; and

(iv) the legal rights and access of consumers to speedy, effective, and inexpensive mechanisms for the resolution of consumer controversies.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires—

(1) The term "agency action" include the whole or any part of an agency "rule", "order", "license", "sanction", or "relief' (as defined in section 551 of title 5, United States Code), or the equivalent thereof, the denial thereof, or the failure to act.

(2) The term "agency activity" means any agency process, or phase, thereof, conducted pursuant to any authority, or responsibility under law.

(3) The term "agency proceeding" means agency "rulemaking", "adjudication", or "licensing" (as defined in section 551 of title 5, United States Code).

(4) The term "commerce" means trade, traffic, commerce, or transportation, (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in clause (A).

(5) The term "consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any goods, services, credit, or other property for personal, family, agricultural, or household purposes.

(6) The term "Consumer Counsel" means, with respect to a Federal agency, the officer who is appointed pursuant to this Act to represent the interest of consumers in accordance with this Act.

(7) The term "Federal agency" or "agency" means the Departments of Agriculture, Defense, Commerce, Energy, Health, Education, and Welfare (other than the Food and Drug Administration), Housing and Urban Development. Interior, Labor, Transportation, and Treasury; the Civil Aeronautics Board; the Consumer Product Safety Commission; the Environmental Protection Agency; the Federal Communications Commission; the Federal Maritime Commission; the Federal Trade Commission; the Interstate Commerce Commission; the Food and Drug Administration; the National Transportation Safety Board; the Securities and Exchange Commission; the General Services Administration; the Small Business Administration; the Postal Rate Commission; and any successors thereto.

(8) The term "Federal court" means any court of the United States.

(9) Thc term "interest of consumers" means any substantial health, safety, or economic concern of consumers involving goods, services, credit, or other property, or the advertising or other representation thereof, which is or may become the subject of any commercial offer or any transaction affecting commerce or which may be related to any term or condition of such offer or transaction. Such offer or transaction need not involve the payment or promise of a consideration.

(10) The term "Office" means any Office of Consumer Counsel established pursuant to section 4 of this Act.

(11) The term "participation" includes any form of submission.

(12) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(13) The term "submission" means participation through the presentation or communication of relevant evidence, documents, arguments, or other information.

SEC. 4. ESTABLISHMENT.

(a) OFFICE OF CONSUMER COUNSEL.—

(1)(A) There shall be established within each Federal agency, within 60 days after the date of enactment of this Act and pursuant to a plan of reorganization prepared by the head of each such agency to provide for adequate representation of the interests of consumers, an independent Office of Consumer Counsel. Such reorganization shall provide that all existing consumer offices and staff within such agency shall be combined into that agency's Office of Consumer Counsel.

(B)(1) Except to the extent prohibited by law, the Director of the Office of Management and Budget is authorized and directed to review all other Federal programs and activities which have a consumer information advocacy, or related function and identify those which would overlap, duplicate, or conflict with the functions performed by these Offices. This review shall be carried out as a part of the President's first budget review process following establishment of the Office.

(ii) The Director of the Office of Management and Budget shall, one week after the submission of the President's budget to the Congress, report to the Committee on Appropriations and Government Operations of the House of Representatives and Appropriations and Governmental Affairs of the Senate the results of the review required by paragraph (1) of this subsection. Such report shall include (A) all activities identified as a part of the Office of Management and Budget's review; (B) a description of those activities including their costs during the fiscal year and how those activities overlap, duplicate, or conflict with the responsibilities of these Offices; and (C) the budgetary recommendations to the Congress to eliminate such activities.

(iii) Nothing in this subsection shall be construed to prohibit the Director of the Office of Management and Budget from including in the report required by paragraph (2) of this subsection, comments on the consumer related activities of independent regulatory agencies that overlap, duplicate, or conflict with the functions performed by these Offices.

(2) Each such Office shall be directed and administered by a Consumer Counsel. Each Consumer Counsel shall be appointed by the President, by and with the advice and consent of the Senate, for a fixed term of office not to exceed 3 years. The terms of office of the Consumer Counsel appointed initially shall be staggered, in a manner compatible with the oversight responsibilities of the Congress, to assure that all such terms do not expire simultaneously. Each Consumer Counsel shall be compensated at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, Each Consumer Counsel shall be an individual who, by reason of training or experience, and attainments, is qualified to represent effectively and independently the interests of consumers. Upon the expiration of his term of office, each Consumer Counsel shall continue in office until reappointment or until the appointment and qualification of his successor.

(b) DIVISION OF CONSUMER PROTECTION AND ADVOCACY IN THE DEPARTMENT OF JUSTICE.—

(1) There is established, within the Department of Justice, a Division of Consumer Protection and Advocacy, which shall be directed by the Assistant Attorney General for Consumer Protection and Advocacy.

(2) Chapter 31 of title 28, United States Code, is amended by adding immediately after section 507 thereof, the following new section 507a:

"§ 507a. Assistant Attorney General for Consumer Protection and Advocacy

"The President shall appoint, by and with the advice and consent of the Senate, an Assistant Attorney General for Consumer Protection and Advocacy, pursuant to the Consumer Protection Act of 1977.".

(3) The analysis of chapter 1 of title 28, United States Code, is amended by adding at the appropriate place the following new item:

"§ 507a. Assistant Attorney General for Consumer Protection and Advocacy

(4) Paragraph (19) of section 5315 of title 5, United States Code, is amended by striking out "(9)" and inserting in lieu thereof "(10)".

SEC. 5. POWERS AND DUTIES OF EACH CONSUMER COUNSEL.

(a) IN GENERAL.—Each Consumer Counsel shall be responsible for exercising the powers, duties, and functions provided for in this Act.

(b) SPECIFIC POWERS AND DUTIES.—Each Consumer Counsel may, in carrying out his functions under this Act and to the extent funds are appropriated—

(1) select, appoint, employ, and fix the compensation (subject to the civil service and classification laws) of such officers and employees as are necessary to carry out the provisions of this Act, and shall prescribe the authority and duties of officers and employees;

(2) employ and pay the expenses of experts and consultants, in accordance with section 3109 of title 5, United States Code, at daily rates (including traveltime) not in excess of the maximum rate of pay for grade GS–18, as provided in section 5332 of such title 5;

(3) promulgate, in accordance with the applicable provisions of chapter 5 of title 5, United States Code, such rules, regulations, and procedures as may be necessary to carry out the provisions of this Act and to assure fairness to all affected persons;

(4) delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(5) utilize, with their consent, the services, personnel, and facilities of State, regional, local, and private agencies and instrumentalities;

(6) accept voluntary uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(7) conduct conferences and hearings and otherwise secure data and expression of opinion;

(8) accept unconditional gifts or donations of services, money, or property (real, personal, or mixed, tangible or intangible);

(9) designate representatives to maintain effective liaison with (A) the Assistant Attorney General for Consumer Protection and Advocacy, (B) other Offices, and (C) State and local agencies carrying out programs and activities related to the interests of consumers; and

(10) perform such other administrative activities as may be necessary for the effective fulfillment of his duties and functions.

(c) REPORTS.—Each Consumer Counsel shall prepare and submit a quarterly report, on the activities of his Office to the head of the Federal agency of which such Office is a part and to the Assistant Attorney General for Consumer Protection and Advocacy. The annual report of each Federal agency shall include a separate section, which shall be prepared independently by the Consumer Counsel for such agency, on the consumer protection activities of such agency and on such agency's effectiveness in representing, protecting, and serving the interests of consumers. Each such separate section of each such annual report shall include, but not be limited to, a description and analysis of—

(1) the activities of the Office including its representation of the interests of consumers;

(2) the relevant Federal agency actions and Federal court decisions affecting the interests of consumers;

(3) the appropriation by Congress for the Office, the distribution of appropriated funds for current fiscal year, and a general estimate of the resource requirements of the Office for each of the next 3 fiscal years; and

(4) the extent of participation by consumers in the activities of the Office, and the effectiveness of the representation of consumers before the agency of which the Office is a part.

(d) DUTIES OF EACH FEDERAL AGENCY.—Each office and officer of the agency of which an Office is a part shall provide such Office with such information and data as the Consumer Counsel requests, except as provided in section 11 of this Act. The budget requests and budget estimates of each Office shall be submitted by the agency of which it is a part directly to the Congress, and moneys appropriated for the use of such Office shall not be used by the agency of which it is a part for any other purpose.

SEC. 6. FUNCTIONS OF EACH CONSUMER COUNSEL.

Each Consumer Counsel shall—

(1) represent the interests of consumers within and before the agency of which his Office is a part to the extent authorized by section 7 of this Act;

(2) conduct and support research, and studies, to the extent authorized by section 10 of this Act;

(3) submit recommendations annually to the Assistant Attorney General for Consumer Protection and Advocacy, the appropriate committees of the Congress, and the head of the agency of which his Office is a part, on measures to improve the operation of such agency and of the Federal Government in general in the protection and promotion of the interests of consumers, including, but not limited to, any reorganization recommendations, and recommendations relative to the elimination of duplicative or unnecessary rules and regulations promulgated by such agency which it considers not to be in the consumers' interests;

(4) receive, transmit to appropriate officials, and make publicly available consumer complaints, to the extent authorized in section 8 of this Act;

(5) conduct conferences, surveys, and investigations, including—economic surveys, concerning the needs, interests, and problems of consumers: *Provided*, That such conferences, surveys, or investigations are not duplicative in significant degree of similar activities conducted by other Federal officials or agencies;

(6) cooperate with State and local governments and encourage private enterprise in the promotion and protection of the interests of consumers;

(7) keep the appropriate committees of Congress fully and currently informed of all the activities of his Office;

(8) encourage the adoption and expansion of effective consumer education programs;

(9) encourage the application and use of new technology, including patents and inventions, for the promotion and protection of the interests of consumers;

(10) encourage the development of informal dispute settlement procedures involving consumers;

(11) encourage meaningful participation by consumers in the activities of his Office;

(12) publish information and material obtained and developed in carrying out his responsibilities under this Act, including, but not limited to, a consumer register of matters that may be useful to consumers; and

(13) perform other activities which are recommended by the Assistant Attorney General for Consumer Protection and Advocacy or which he deems necessary for the effective fulfillment of his duties and functions.

SEC. 7. REPRESENTATION OF CONSUMERS.

(a) ADMINISTRATIVE REPRESENTATION.—

(1) If a Consumer Counsel finds that the result of a relevant proceeding or activity of the Federal agency of which his Office is a part may substantially affect an interest of consumers, such Consumer Counsel may, as of right, intervene as a party or otherwise participate in such proceeding or activity, for the purpose of representing an interest of consumers. If a Consumer Counsel finds, with respect to the Federal agency of which his Office is a part, that the result of any relevant agency proceeding, which—

(A) is subject to the provisions of section 553, 554, 556, or 557 of title 5, United States Code;

(B) involves a hearing that is required by any statute, regulation, or practice;

(C) is conducted on the record after opportunity for an agency hearing; or

(D) is subject to a requirement of public notice and opportunity for comment,

may substantially affect an interest of consumers, such Consumer Counsel may, as of right, intervene as a party or otherwise participate in such proceeding, for the purpose of representing an interest of consumers. A Consumer Counsel shall refrain from intervening as a party in any proceeding unless such intervention is necessary to represent adequately an interest of consumers. Each Consumer Counsel shall comply with the relevant statutes and procedural rules of general applicability governing the timing of intervention or participation in such Federal agency proceeding or activity. Upon intervening or participating in a Federal agency proceeding or activity, a Consumer Counsel shall comply with any relevant statutes and procedural rules of general applicability. The intervention or other participation of a Consumer Counsel, pursuant to this subsection, shall not affect the obligation of the Federal agency involved to assure procedural fairness to all participants.

(2) The Assistant Attorney General for Consumer Protection and Advocacy may, upon the request of a Consumer Counsel, assist such Consumer Counsel in any such Counsel's intervention or other participation in that Counsel's Federal agency proceeding or activity, pursuant to this subsection, and may, in an appropriate circumstance, recommend such intervention or other participation to any applicable Consumer Counsel.

(3) Whenever a Consumer Counsel determines to intervene or otherwise participate in his agency's proceeding pursuant to this subsection, such Consumer Counsel shall publish in the Federal Register a statement setting forth his findings under paragraph (1) and the specific interest of consumers sought to be protected. Upon intervening or participating, such Consumer Counsel shall file a copy of such statement in the proceeding.

(b) JUDICIAL REPRESENTATION.—

(1) The Assistant Attorney General for Consumer Protection and Advocacy may, as of right, and in the manner prescribed by law for an aggrieved person, initiate, intervene, or otherwise participate in a civil action in a Federal court for the review of an agency action of any Federal agency if such Assistant Attorney General determines that such action may substantially affect an interest of consumers. If the applicable Consumer Counsel did not intervene or otherwise participate in the relevant Federal agency proceeding or activity out of which such agency action arose, the court shall determine whether the initiation of a judicial proceeding pursuant to this subsection would impede or would be necessary to preserve the interests of justice.

(2) If the Consumer Counsel believes that the initation of a Federal civil action by the Assistant Attorney General, or the intervention in such Federal civil action, is warranted, it shall recommend such action to the Assistant Attorney General, who shall take such action if the conditions outlined in subparagraph (1) of this section are met. The Consumer Counsel shall have no power and authority to initiate or intervene in any Federal court proceeding.

(3) The initiation of a judicial proceeding, or any other participation, by the Assistant Attorney General for Consumer Protection and Advocacy, in a judicial proceeding pursuant to this subsection shall not alter or affect the scope of review otherwise applicable to the agency action involved.

(c) REQUEST FOR JUDICIAL REVIEW.—Whenever a Consumer Counsel, or the Assistant Attorney General for Consumer Protection and Advocacy, determines it to be in the interest of consumers, he may request the relevant Federal agency to initiate a judicial proceeding for review, or to take such other action, as may be authorized by law with respect to such agency. If such Federal agency fails to take the action requested, it shall promptly notify such Consumer Counsel or Assistant Attorney General of its reasons therefor, and such notification shall be a matter of public record.

(d) TITLE OF APPEARANCES.—Appearances before a Federal agency by a Consumer Counsel under this Act shall be in the name of his Office and shall be made by qualified representatives designated by the Consumer Counsel involved. Appearances by the Assistant Attorney General for Consumer Protection and Advocacy shall be in the name of the United States unless the Attorney General otherwise provides, in which case such an appearance shall be in the name of such Assistant Attorney General, and shall be made by qualified representatives of the Department of Justice designated by such Assistant Attorney General and in appearance before Federal agencies by qualified representatives designated by the Consumer Counsel involved.

(e) POWERS.—A Consumer Counsel is authorized, with respect to any Federal agency proceeding in which such Consumer Counsel is intervening or otherwise participating, to request such Federal agency to issue such orders as it is authorized to issue pursuant to its statutory powers, for the copying of documents, papers, and records; for the summoning of witnesses and the production of books and papers; and for the submission of information in writing. Such Federal agency shall issue any such orders upon a statement or showing by such Consumer Counsel as to the general relevance or reasonableness thereof.

(f) PROHIBITION.—No Consumer Counsel is authorized to initiate or intervene in any proceedings or activity before any State or local agency or court.

(g) RULES CHANGES.—Each Federal agency shall review its rules of procedure of general applicability, and, after consultation with its Consumer Counsel, shall issue any additional rules or modifications of existing rules which may be necessary to provide for such Consumer Counsel's orderly intervention and other participation, in accordance with this section, in its proceedings and activities which may substantially affect the interests of consumers.

SEC. 8. CONSUMER COMPLAINTS.

(a) IN GENERAL.—Whenever a Consumer Counsel receives from any person any complaint or other information which discloses—

(1) an apparent violation of law, agency rule or order, or a judgment, decree, or order of a Federal court relating to an interest of consumers; or

(2) a commercial, trade, or other practice which is detrimental to an interest of consumers;

such Consumer Counsel shall, unless he determines that such complaint or information

is frivolous or outside the jurisdiction of the agency of which his office is a part, promptly transmit such complaint or information to the Federal official which has the authority to enforce any relevant law or to take appropriate remedial action. Each Federal agency shall keep the appropriate Consumer Counsel informed to the greatest extent practicable of any action which it is taking on complaints transmitted by him.

(b) NOTIFICATION.—Each Consumer Counsel shall, to the greatest extent practicable, notify producers, distributors, retailers, lenders, or suppliers of goods, services, and credit of all complaints of any significance concerning them received or developed under this section, unless such Consumer Counsel determines that to do so is likely to prejudice or impede an action, investigation, or prosecution concerning an alleged violation of law.

(c) PUBLIC AVAILABILITY.—Each Consumer Counsel shall maintain a public document room for public inspection and copying (at a reasonable charge, not to exceed cost), containing an up-to-date listing of all consumer complaints of any significance which such Consumer Counsel has received, arranged in meaningful and useful categories, together with annotations of actions taken in response thereto. Unless a Consumer Counsel, for good cause, determines not to make any specific complaint available, complaints listed shall be made available for public inspection and copying: *Provided*, That—

(1) the party complained against has had a reasonable time to comment on such complaint and such comment, when received, is displayed together with the complaint;

(2) the Federal official to whom the complaint has been referred has had a reasonable time to notify the Consumer Counsel what action, if any, he intends to take with respect to the complaint; and

(3) no unsigned complaints shall be placed in the public document room.

(d) EVALUATION OF AND REPORTING ON COMPLAINT HANDLING PROCESSES.—Each Consumer Counsel shall evaluate the complaints received and transmitted and the effectiveness and efficiency with which such complaints are acted upon by the Federal agency of which his Office is a part. A summary of such evaluations, and recommendations for improvement, shall be included in the reports prepared by each such Consumer Counsel pursuant to section 5(c).

SEC. 9. CONSUMER INFORMATION.

(a) IN GENERAL.—In order to carry out the purposes of this Act, each Consumer Counsel shall—

(1) develop on his own initiative and shall, subject to the other provisions of this Act, gather from the other offices and officers of the Federal agency of which his Office is a part and from any other source; and

(2) disseminate to the public (in such manner, at such times, and in such form as he determines to be most effective) information, statistics, and other data, including, but not limited to, any matter over which such Federal agency has jurisdiction concerning—

(A) the functions and duties of the Office;

(B) consumer products and services;

(C) problems encountered by consumers generally or conditions, situations, developments, or practices which may adversely affect consumers; and

(D) an index of notices of hearings, proposed and final rules and orders, and other pertinent activities of such Federal agency that may affect consumers.

(b) DUTY OF COOPERATION.—All Federal agencies which possess information which possess information which would be useful to consumers shall cooperate with the appropriate Consumer Counsel in making information developed and gathered under subsection (a) available to the public in understandable form.

SEC. 10. STUDIES.

Each Consumer Counsel may conduct, support, or assist research, studies, plans, investigations, conferences, and surveys concerning the interests of consumers: *Provided*, That such activities are not unnecessarily duplicative of similar efforts by other Consumer Counsels for any Federal agency, or by similar efforts otherwise conducted by any Federal agency, and that such activities shall in no way constitute the creation of product-testing laboratories.

SEC. 11. ACCESS TO INFORMATION BY CONGRESS COUNSELS.

(a) IN GENERAL.—Upon written request by a Consumer Counsel, the Federal agency of which his Office is a part, shall furnish or allow access to all documents, papers, and records in its possession which such Consumer Counsel deems necessary for the performance of his functions and shall furnish, at cost, copies of specified documents, papers, and records. Notwithstanding this subsection, a Federal agency may deny a Consumer Counsel access to and copies of—

(1) information classified in the interest of national defense or national security by an individual authorized to classify such information under applicable Executive order or statutes, and restricted data whose dissemination is controlled pursuant to the Atomic Energy Act (42 U.S.C. 2011 et seq.):

(2) personnel and medical files and similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

(3) information which such Federal agency is expressly prohibited by law from disclosing to another Federal agency, including, but not limited to, such expressly prohibited information contained in or related to examination, operating, or condition reports concerning any individual financial institution prepared by, on behalf of, or for the use of an agency responsible for regulation or supervision of financial institutions;

(4) information which would disclose the financial condition of individuals who are customers of financial institutions; and

(5) trade secrets and commercial or financial information described in section 552(b)(4) of title 5, United States Code—

(A) obtained prior to the effective date of this Act by such Federal agency, if the agency had agreed to treat and has treated such information as privileged or confidential and states in writing to the appropriate Consumer Counsel that, taking into account the nature of the assurances given, the character of the information requested, and the purpose, as stated by the Consumer Counsel, for which access sought, to permit such access would constitute a breach of faith by such agency; or

(B) obtained subsequent to the effective date of this Act by such Federal agency, if the agency has agreed in writing as a condition of receipt to treat such information as privileged or confidential, on the basis of its reasonable determination set forth in writing that such information was not obtainable without such an agreement and that failure to obtain such information would seriously impair performance of such agency's function.

(b) ACCESS TO TRADE SECRET INFORMATION.—Before granting a Consumer Counsel access to trade secrets or commercial or financial information described in section 552(b)(4) of title 5, United States Code, the Federal agency of which such Counsel's Office is a part shall notify the person who provided such information of its intention to provide such access, and shall afford such person a reasonable opportunity, not to exceed 10 days, to comment thereon or seek injunctive relief prohibiting such access. If a Federal agency denies access to any information to a Consumer Counsel, pursuant to this subsection, the head of such agency and the appropriate Consumer Counsel (and the Assistant Attorney General for Consumer Protection and Advocacy, if requested by such Counsel) shall seek to find a means of providing the information in such other form, or under such conditions, as will meet such agency's objections.

SEC. 12. DISCLOSURES OF INFORMATION BY CONSUMER COUNSEL.

(a) IN GENERAL.—Except as provided in this section, section 552 of title 5, United States Code, shall govern the release of information by any Consumer Counsel, by any employee or agent of any Office, or by the Assistant Attorney General for Consumer Protection and Advocacy.

(b) PROHIBITION.—No Consumer Counsel, or officer or employee or any Office shall disclose to the public any information which was received solely from its Federal agency when such agency has notified the Consumer Counsel that—

(1) such information is within any exception set forth in section 552(b) of title 5, United States Code; and

(2) such agency has determined that such information should not be made available to the public.

If such Federal agency specifies that any such information may be disclosed to the public in a particular form or manner, such information may be disclosed by such Consumer Counsel in the form or manner specified.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

For purposes of this Act, existing appropriated funds should be utilized to the greatest extent possible. However, there are authorized to be appropriated such sums as are necessary, not to exceed for each office $500,000 for the fiscal year ending September 30, 1978.

SEC. 14. EFFECTIVE DATE.

(a) This Act shall take 60 calendar days following the date on which this Act is approved, or on such earlier date as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act at any time after the date of the enactment of this Act. Such officers shall be compensated from the day they first take office at the rates provided for in this Act.

SEC. 15. SEPARABILITY.

If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any persons and circumstances shall not be affected thereby.

SEC. 16. TERMINATION.

(a) This Act shall terminate 5 years after the effective date of this Act, and the several Offices of Consumer Counsel and the Division of Consumer Protection and Advocacy of the Department of Justice shall be abolished as the date of such termination.

(b) The President shall—

(2) commencing 2 years prior to the date of termination specified in subsection (a), conduct a review of these Offices' overall performance including, but not limited to, a study of the Offices' effectiveness in accomplishing their general purposes and promoting the general welfare; and

(2) not later than 12 months prior to the termination date specified in subsection (a), make public and submit to each House of Congress a report on the finding of the investigation conducted pursuant to paragraph (1), such report to include a recommendation that the authority of this Act be ex-

tended, that these offices be reorganized, or that the authority of this Act be allowed to lapse.

(e) The committees of the House and of the Senate having primary oversight responsibility with respect to the Offices shall, not later than 6 months prior to the termination date specified in subsection (a), conduct an inquiry into the performance and effectiveness of the Offices and make public a report of their findings, conclusions, and recommendations, including proposed legislation for such extension or reorganization of these Offices as they deem appropriate.

Mr. GLICKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute offered for the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, there is no question that American consumers deserve a stronger, more effective voice in the Federal Government. What the House needs to decide is what structural approach will provide the needed consumer representation with a minimum of new bureaucracy and the redtape and delay which has become all too typical of our Federal Government—not to mention at a minimum of cost.

My constituents are tired of being told that our Government is inadequate, that it cannot fulfill its responsibilities. As I said in a "Dear Colleague" letter last week, it is time we fix our present system—just like we do our cars—before we give up on it. That is precisely what our substitute is designed to do.

The proposal I am offering with the support of my colleagues from Iowa, Mr. LEACH, Missouri, Mr. GEPHARDT, and Maryland, Mr. BYRON, will reorganize present consumer activities at the agency and departmental level into Offices of Consumer Counsel and strengthen them so they can effectively fulfill their mandates.

Those consumer counsels will have the responsibility and authority to independently participate or intervene in actions of their agencies on behalf of consumers. They will have the responsibility and authority to make recommendations to their own agencies, to the Department of Justice and directly to the Congress on actions needed to protect consumer interests. They will have the responsibility and authority to make public consumer complaints comments of parties complained against and corrective actions taken. There is one fundamental and critical difference between our proposal and the approach adopted by former President Ford. Under our substitute the Consumer Counsels will have the authority needed to fulfill their duty of consumer representation.

To supplement the functions of the Consumer Counsels within their agencies, our substitute would create an Assistant Attorney General for Consumer Protection and Advocacy to assist the Consumer Counsels in their activities, to recommend instances where the Consumer Counsels should consider intervening in agency proceedings and to, independently or upon request, initiate or participate in Federal court reviews of agency decisions on behalf of consumers.

I am convinced, for several reasons, that independent consumer counsels within appropriate substantive departments and agencies, with the support of the new Assistant Attorney General, will provide the most effective consumer voice in the Federal executive branch.

First, this decentralized approach will mean that consumer complaints will be acted upon with a minimum of redtape and delay.

Second, day to day responsibility for reviewing the actions of a particular Federal agency or department will permit individual Offices of Consumer Counsel to develop the kind of expertise needed to assess the impact of proposed agency actions on consumers.

And, third, vesting responsibility for protecting consumer interests with 23 district offices, rather than one central organization will assure that no single consumer interest is given priority over all others. It concerns me greatly to think that the Federal Government might, in the name of progress, develop a central agency which would, by its very nature, emphasize a few major, well-publicized consumer issues, as advocates have suggested, at the expense of numerous less obvious, but equally important issues. It is not at all unrealistic to expect a new Office of Consumer Representation to concentrate on the major issues on which its supporters have focused their attentions in recent years:

Auto safety, carcinogenic in foods and utility regulation, for example.

Those are all worthy of careful attention, I will not quarrel with that. But we cannot forget that, depending on our point of view, there are an almost limitless number of consumer issues which are similarly worthy of attention. Right now, I am trying to see that Kansas consumers have access to air service to Denver, Little Rock, Memphis, and Atlanta. I am sure each of you are involved in similar efforts on behalf of residents of your districts which fall within the purview of any number of Federal agencies. Those are not "big" issues when viewed from a national point of view, but those "consumer" issues, and they are precisely that—directly effecting our constituents—are of great concern to them. I do not want to see them overlooked in the rush to resolve more sensational issues, as I like to refer to saccharin or I doubt that any of you do either. Congress, I am sure that a consumer counsel in the CAB would consider those issues more important than would an Office of Consumer Representation trying to deal with major controversies like one over saccharin and innumerable less controversial issues simultaneously.

On another point, I am convinced our alternative is the most economical one available. This amendment would authorize $11.5 million to fund the operation of the 23 proposed Offices of Consumer Counsel. Though a specific authorization is not included in the bill, I estimate funding in the $1 million range will be necessary to support the functions of the new Assistant Attorney General for Consumer Protection and Advocacy. That total of $ 12.5 million is considerably below the present expenditure of $21 million or the $15 million proposed for the new Office of Consumer Representation. More importantly, looking at the long term, the fact that the committee proposal would direct the Office of Consumer Representation to refer consumer complaints to the appropriate agency means only one thing to me. The offices reorganized and consolidated now under the committee bill would have to be reconstituted at the agency level before long to handle those referrals. As a result, we will have new expense, and what will consumers get in return? More delays and redtape, another layer of bureaucracy. Not a great bargain, I must say.

This amendment includes a considerable number of safeguards to preserve the independence of the proposed Consumer Counsels and hence to assure their effectiveness. They would be Presidential, not departmental appointees, subject to Senate confirmation. Their budgets would be independently submitted, considered, and administered. And they would have independent, direct access to relevant congressional committees. With those protections and the support and supplementation of the new Assistant Attorney General, those Consumer Counsels through their authorities to intervene in agency proceedings and so forth, will be able to provide an effective consumer voice within the Federal Government.

In short, we do not need to give up on the present structure and create a new agency. We can improve and reorganize present functions—20 of the 23 agencies included under our amendment already have consumer offices. We do need to reorganize them, and more importantly, we need to strengthen them, to give them the authority they need to be able to respond to their mandate to serve the consuming public.

Our amendment addresses that need. "No one agency can arrogate itself to the power of God"—yet consumers need to be represented.

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to my colleague, the gentleman from Iowa.

Mr. LEACH. Mr. Chairman, I rise in support of the substitute offered by my colleague from Kansas and myself. I believe it is the most responsible alternative before the House this afternoon.

Along with a number of Members of this body, I am troubled by the creation of a centralized Consumer Protection Agency. Public opinion, as we all know, is in favor of less Government, not more. It is in favor of less redtape, not more. It is in favor of decentralized decisionmaking, not aggrandized Federal power And most importantly, the people of America today clearly wish to bind the divisive feelings that have dominated recent national politics. Stark consumer-producer antagonisms are neither in the Nation's best interest nor in that of the consumer.

On the other side of the coin, it is clear consumers have been inadequately represented in public decisionmaking. The objective therefore of legislation

should be to establish the most effective approach in providing for consumer input which does not carry the attendant disadvantages of redtape, devisive rhetoric and unneeded costs. The objective should also be to insure that too much power and authority is not posited in one set of hands. As John Locke once said, nothing is more dangerous than a good prince, for inevitally he will be followed by a bad one.

It is for these reasons, that I support the substitute before us. Briefly, our proposal would establish in each of 23 major Federal departments and agencies an independent Office of Consumer Counsel with the power and duty to intervene in their own agency's actions. Second, the substitute calls for a Division of Consumer Protection and Advocacy to be established in the Justice Department with authority to initiate or participate in Federal court proceedings for review of Federal agency actions where significant consumer interests are at stake.

This is not a weak substitute. Unlike the committee compromise, we have not been forced to water down the merits of our proposal. In fact we offer this substitute as a more attractive alternative to the committee substitute and hope that our colleagues who are disappointed with the committee's approach will join us in supporting this alternative.

In closing, I would like to comment on the most significant strengths of the substitute. First the consumer counsel in each individual agency will be able to develop a real, working expertise in a particular field of regulation or public policy, unlike the staff of a central agency with limited resources who will have to constantly discriminate between competing interests and demands from consumers in all areas.

Second, the counsels have a firmly estalished degree of independence, both in terms of being appointed by the President, with Senate confirmation, and in having a separately identified budget. The rights of business and producers will be protected by limiting the right of consumer counsel to go to court on behalf of consumers. Any potential legal action will be deferred to the Justice Department where such power is more appropriately posited. The ultimate right to go to court should not be denied to any aggrieved party, but where that right and authority is vested is crucial in maintaining a balance between consumer and producer rights.

Mr. Chairman, I believe our approach minimizes the potential of unproductive confrontation between the business sector and consumers while at the same time assuring the people of this country that there will be adequate attention to their interests at the very roots of public policy decisionmaking. I would urge my colleagues to join us in supporting this constructive substitute.

The CHAIRMAN. The time of the gentleman from Kansas (Mr. GLICKMAN) has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 3 additional minutes.)

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, since I came to the Congress, I have constantly experienced the new breed of representatives and have noted that in most cases the more things change, the more they remain the same.

Therefore, Mr. Chairman, I rise to take this opportunity to commend the gentleman from Kansas (Mr. GLICKMAN), the gentleman in the well, for being a genuine example of a new breed who thinks for himself and does not bow to political pressure.

Mr. Chairman, I think that this substitute represents the product of that kind of political courage, and I commend the gentleman from Kansas (Mr. GLICKMAN) for it.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I would like to get some information.

How many Offices of Consumer Counsel is it proposed that this substitute would set up?

Mr. GLICKMAN. There would be 23.

Mr. HORTON. How many people would be involved? How many new people would have to be added to the payroll in order to staff these offices, in the aggregate?

Mr. GLICKMAN. It is the intention of the author that there would be a reorganization and there is an authorized amount of $500,000 per office, which aggregates an amount of about $11.5 million.

It is my intention and it is the intention of the bill that that reorganization occur so that there be no additional expenditure whatsoever and no additional people whatsoever.

Mr. HORTON. Does the gentleman mean reorganization within each of the departments or wherever the offices would be set up?

Mr. GLICKMAN. What I basically have in mind is this: These consumer units exist all over the Government. Most of the time they are worthless.

I have talked to many of the people who staff these particular consumer units. I propose keeping the basic consumer unit, giving them statutory independence, making the head of that unit Presidentially appointed so that he or she is not subject to the Secretary of the Department. I would assume that that staffing would occur by reason of whoever was appointed to head the unit.

Mr. HORTON. That is the way the gentleman sets it up in this substitute; is that correct?

Mr. GLICKMAN. It provides for general reorganization, and that general reorganization is comparable to the reorganization contained in the committee bill, H.R. 9718.

Mr. HORTON. But does the substitute provide for the head of the Office of Consumer Counsel to be appointed by the President, with the advice of the Senate?

Mr. GLICKMAN. It does.

Mr. HORTON. The gentleman mentioned $500,000?

Mr. GLICKMAN. That is correct.

Mr. HORTON. Is that what the gentleman estimates to be the total cost of this proposal?

Mr. GLICKMAN. It would be $500,000 per agency.

Mr. HORTON. Per agency?

Mr. GLICKMAN. That is what I put in the authorizing legislation because, in my review of the various agencies, I think that it is a responsible figure.

Mr. HORTON. Is the gentleman talking about an overall figure of $11 million?

Mr. GLICKMAN. $11.5 million in the Offices of Consumer Counsel themselves.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I rise in support of the Glickman-Leach substitute amendment which would create Offices of Consumer Counsel in each of 23 agencies rather than create one centralized office designated to represent consumer interests in agency proceedings.

I believe the decentralized approach of the Glickman-Leach substitute offers better representation of consumer's interests with greater efficiency at a lower cost.

A single agency will be limited in its ability to act in all administrative proceedings affecting consumers—it will have to select several major cases and concentrate on them. Decentralization, on the other hand, assures that the consumer interest will be argued and explained before administrative agencies on more issues, large and small, than with a centralized approach. A consumer agency will be an illusion if it handles a few cases of broad impact a year but neglects the thousands of decisionmaking hearings where most consumers are affected in their daily lives.

By creating consumer counsels in each agency, furthermore, consumer interests can be presented with greater expertise and intensity in specific areas. By functioning within each agency, the consumer counsels will undoubtedly develop greater familiarity with the activities and issues handled by their respective agencies and thereby better evaluate their impact on consumers.

An article which appeared in the Washington Post this past Sunday February 5 well explained the advantages of a decentralized approach. The author, Arthur E. Rowse, wrote:

> Proponents of such centralization claim there would be better coordination. But would airlift passengers, for example, really be able to get better service than they now get with their problems at the Civil Aeronautics Board, whose consumer-advocate office would be transferred? Would the other offices operate better in a bigger organizational structure with a broader focus? It seems doubtful.

Not only would the Glickman-Leach substitute provide for better consumer representation, it also offers greater efficiency. By avoiding the extra layer of bureaucracy that would result from creation of a separate office, it should minimize delays and redtape. In addition, I

question the efficiency arguments of supporters of a single independent office. While existing consumer affairs offices spread throughout the executive branch would be eliminated initially, inevitably Federal departments, in trying to comply with requests and directives of the Office of Consumer Representation, will find it necessary to establish their own bureaus to accommodate the demands of the OCR. Thus, the reorganization advantages would soon be eliminated.

A final advantage of the Glickman-Leach substitute is that it offers consumer representation with a smaller price tag than an independent office. Each Consumer Counsel Office would have a separate authorization of $500,000. The new division within the Justice Department, which would have authority to litigate consumer interests, would be funded at an estimated level of $1 million. Thus, the Glickman-Leach substitute would cost about $12.5 million as compared with the initial authorization for the OCR of $15 million.

For some time I have been concerned about the implications of an independent Federal agency to represent consumer interests. Rather than dwell on them now, I call to my colleagues attention two articles from the Washington Post: The Arthur Rowse column I mentioned earlier and an editorial which appeared in today's paper. They both provide articulate explanations of the many disadvantages of the proposed Office of Consumer Representation.

But they also, appropriatedly, point out the need for a stronger consumer voice before Government agencies. The Glickman-Leach substitute offers that representation in an effective and efficient manner without the problems of an independent agency. I urge you to support this substitute amendment. I commend the gentleman from Kansas (Mr. GLICKMAN) for offering it, and I intend to vote for this substitute.

Mr. Chairman, at this point I include the following two items from the Washington Post:

[From the Washington Post, Feb. 7, 1978]

REPRESENTING CONSUMERS

After much maneuvering and many delays, the latest version of the consumer-agency legislation is scheduled to come before the House today. During earlier congressional go-rounds on this issue, we endorsed the creation of a new federal agency to represent consumers' viewpoints before regulatory bodies and in judicial reviews of regulatory decisions. But both the legislation and conditions have changed. In our view, the advocates of the current measure, H.R. 9718, have failed to make a persuasive case for enacting, now, what is left of the idea.

We are not primarily concerned about the powers or costs of the Office of Consumer Representation now proposed. The agency's authority has been substantially cut back, so that it would not have a general license to quiz companies or appeal any regulatory decision it didn't like. On the question of cost, the bill's sponsors maintain that the $15-million budget of the new agency would be more than offset by the transfer or elimination of existing consumer programs in over 20 agencies. We find the net-savings claim a bit hard to swallow. If the new office did turn out to be as aggressive as its sponsors plan, its budget would surely grow. Still, it could be worth much more than $15 million—*if* it were the best way to make federal regulatory bodies more sensitive to considerations such as cost, public health, safety and the other factors often cited as "consumers' " concerns.

That gets to the real problems with this bill. One is the assumption that consumers' interests are so clear, so consistent—and somehow so distinct from the general public interest. Consumer advocates argue, of course, that they do represent the general public. Yet the public interest, in the modern regulatory world, is usually more complex; it may involve balancing a given degree of safety against a certain increment of cost, or keeping down tomorrow's price increases without jeopardizing next year's price increases without jeopardizing next year's supplies, or making a much more complicated type of accommodation among a hundred forces and factors bearing on the marketplace. Those who emphasize health or safety or retail cost should certainly be heard, along with those who have other priorities. But to enshrine any particular "consumer" viewpoint in a government advocacy office raises philosophical problems that trouble us.

Beyond that, what is the real purpose here? Surely it's not just to add another voice at agencies' hearings or another pile of briefs on commissioners' desks. One's aim may be "consumer justice," as Mark Green puts it on the opposite page today, or a better grasp of the public interest in all its complexities. In either case, experience suggests that the most productive course is to change the character of the regulatory agencies themselves.

This may sound like a hopeless task. But the Federal Trade Commission, for one, made notable progress even during the Nixon-Ford years when most presidential appointments and executive-branch attitudes were inclined to favor corporate views. Since President Carter took office, some excellent appointments and a real shift in governmental attitudes have greatly improved the prospects for real regulatory reform. Thus there is much less need for any separate intervenor with limited powers—and much more reason for Congress to set this idea aside and concentrate on helping improve the regulatory agencies themselves.

[From the Washington Post, Feb. 5, 1978]

THE CONSUMER AGENCY BILL: TIME FOR A RECALL?

(By Arthur E. Rowse)

Once a proposition captures the fancy of the ruling clique of the so-called consumer movement, it seems to attain a sanctity that transcends any doubts or questions from followers until the final judgment of Congress has been rendered. During the traditional watering down of legislation to gain votes, a good consumer leader is never supposed to decide that the product is no longer a bargain. Such blind devotion to ideas despite changing conditions has helped fashion defective laws of packaging, lending, product safety, billing errors, settlement costs, warrants, to name only a few.

A current example of this lemming-like process at work is the plan to set up a government-wide consumer agency to monitor other federal agencies.

When it was first proposed by Ralph Nader eight years ago, President Nixon had managed to put regulated industries in charge of nearly every regulatory agency, thus effectively thwarting the concept that government should serve all the people, not just the chosen few.

But the Carter administration has begun to reverse that process. Many former consumer crusaders hold influential positions in the bureaucracy. And for the first time in eight years, a chief executive communicates with Ralph Nader. Regulatory agencies are slowly being returned to the people. They are even paying expenses of citizen witnesses.

Government is also becoming more responsive to the public through laws requiring open meetings, fewer secrets and closer scrutiny of budgets and administrative actions. Leaner, if not less, government also is in fashion.

In other words, there is less need for a broad consumer agency and less public desire for any new agency.

The current agency proposal is also less—far less—than what it used to be. Nader's idea was to set up a watchdog to ride herd on regulators who fail to perform properly. The agency was to have strong powers to intervene forcefully in other agency actions, to subpoena business records and to seek judicial review of such actions.

But during the interim, these ideas have been whittled down to virtually nothing. The bill pending in the House (H.R. 9718) would give the agency no more power than a private citizen to participate in other agency proceedings and seek court review. The subpoena power is also gone.

The original proposal also has been narrowed by giving exemptions to large economic factors, including food, energy, labor and the military.

Still another concession by the bill's sponsors is a section allowing the transfer of 20 separate consumer offices and affiliated services in the government to the proposed agency.

The Office of Management and Budget estimates that these changes will cut $21.5 million from current budgets, leaving a net saving of $6.5 million, since the proposed agency would cost $15 million.

But how can $21.5 million in government activities be purchased for $15 million? "Much present waste will be avoided," assures a White House consumer official. Yet OMB says people in present consumer activities will not lose their jobs.

Proponents of such centralization claim there would be better coordination. But would airline passengers, for example, really be able to get better service than they now get with their problems at the Civil Aeronautics Board, whose consumer-advocate office would be transferred? Would the other offices operate better in a bigger organizational structure with a broader focus? It seems doubtful.

The major concessions made to build support for the bill have brought no noticeable benefits. In fact, while the plan has been steadily weakened, the opposition—as measured by congressional votes—has become stronger. In previous years, a stronger bill passed the House by votes of 344 to 44 and 293 to 94. The business community has proven it will fight even a piece of paper with the words "consumer agency" on it.

Why then does the consumer establishment continue to work so hard for so little?

One reason may be to save face with a paper victory. Another may be a pursuit of jobs left vacant by transfers from present consumer offices. Still another may be an inability to review priorities and consider new approaches in changed circumstances.

Continuing to push for a concept that has been almost entirely traded away for less and less support in Congress drains precious energy from issues that are far larger and more urgent for consumers. Examples are inflation, unsafe diet, defective cars, unfair auto insurance, life insurance deceptions and oil and gas monopolies.

A plan that gives up $6.5 million more in present consumer services than it provides and has no more legal power than an ordinary citizen seems to be a move backward instead of forward.

A victory like that would really be a defeat. It would show that consumer leaders will settle for anything rather than fight for

something significant. It would also risk putting a lot of consumer hopes into a mini-agency with no power to regulate anything.

Furthermore, it would give representatives a beautiful opportunity to get credit for backing consumer interests while voting for an empty bill. Defeat would be still worse. It not only might kill the idea for good but could make passage of other consumer legislation more difficult by showing the consumer movement to be weaker than it really is.

American consumers might be better off without a House vote on the agency bill as it now stands. In the final analysis, consumer leaders might serve the public best by either strengthening the measure significantly or switching to something more productive.

The CHAIRMAN. The time of the gentleman from Kansas (Mr. GLICKMAN) has again expired.

(On request of Mr. FRENZEL and by unanimous consent, Mr. GLICKMAN was allowed to proceed for 5 additional minutes.)

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I would like to second the remarks of the gentleman from Indiana (Mr. JACOBS) and of the gentleman from Missouri (Mr. GEPHARDT) about the fine work that the authors of this amendments have done.

I personally am very tired of old rhetoric and tired symbolism in this body, and I think the two gentlemen who have presented this amendment have done some original thinking. In my judgment, the proposal which they are now putting before us gives the consumer a real chance to profit under our system, to have a voice, and to have some input in the decisionmaking of our Federal Government.

I see some real advantages in having the insiders meet the people rather than to have an outside confrontation by agencies. I see some other advantages in being able to maintain the time schedule of the agency which has to make the decision, and not worry about the second guessing of outsiders, or about information seeking. I particularly like the point about the elitism of the central institution, the new agency which is going to tell everybody how to operate.

I congratulate the gentleman. I think he has given the House an excellent opportunity.

Mrs. KEYS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentlewoman from Kansas.

Mrs. KEYS. Mr. Chairman, I commend the gentleman for his excellent work in pressing the substitute. I support the substitute, and I would like to say to my other colleagues that my long, soul searching working on the effort of effective consumer representation with many people from universities who have worked on this issue have convinced me that strengthening and making more independent the consumer offices within the agencies will be much more beneficial toward seeing real consumer representation in each proceeding.

I support the concept. I think the gentleman should be commended for his excellent work in bringing this to the floor of the House over considerable opposition.

Mr. GLICKMAN. I thank the gentlewoman.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

I want to say, very briefly, that the primary reason we need an independent consumer office is because the existing consumer offices in these agencies have utterly failed to effectively advocate any consumers' views. It is unrealistic to expect an office to operate independently from the department within which it is located. Even if it is separately funded, it is only human for the in-house "consumer offices" to feel somewhat restrained from criticizing activities of their own agencies.

Nothing in the substitute offered by our friend, Mr. GLICKMAN assures the independence of those consumer offices. H.R. 9718, by consolidating various consumer offices now spread throughout the Federal Government, will provide an effective and independent and cost-efficient voice for consumers.

I would ask for defeat of this amendment.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield.

Mr. GLICKMAN. The gentleman raises a good point, and that is the question of independence. That is one which we have all been wrestling with, and it is a serious problem. I do not deny that I have been concerned about the fact that these consumer units do need to be independent.

In the bill, we have tried to remedy the law that exists right now to strengthen the structural framework by which we have this independence. It may not be perfect, but I think it is about as close as we could have come in the type of legislation we are dealing with. I do believe offices will have greater independence than they have now.

Mr. BROOKS. I appreciate the gentleman's views, but feel that as long as they work for an agency, they will be somewhat limited and hindered by that agency.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this amendment leaves me in a quandary, and I would like to ask some questions of the sponsors. If I understand it correctly, it is the intention of the sponsors by this amendment to create even a stronger agency than is created in the basic bill that is before us. Is it correct that what you have done is to give precisely the same powers to the individuals who will occupy the positions of consumer counsel in the 23 offices as are given to the consumer advocate permitted in the bill?

Mr. GLICKMAN. No. We give the consumer counsel basically the power to intervene. We do not give that consumer counsel the power to sue and we do not give that consumer counsel the power to request interrogatories.

Mr. McCLOSKEY. The power to require interrogatories has been taken out of the original bill and the power to sue on the part of the consumer representative in the original bill has been limited to extraordinary circumstances. But if the consumer advocate, say, at Agriculture, does not have the power to test in litigation a decision by the Department of Agriculture, then how does he have the power to really advocate the consumer's interest?

Mr. GLICKMAN. In the first place, as stated in the Brooks-Rosenthal substitute, the main court of law occurs at the agency level itself where, I understand, by principles of administrative law, at that level 90 percent of the problem is solved right there. However, we do create within the Justice Department an Assistant Attorney General for Consumer Protection and that person is given the power under certain limited circumstances but under statutory circumstances to sue. And he can sue other agencies and can sue the Secretary of the agency. And we have an opinion from the Library of Congress stating that is an appropriate method for them to do.

Mr. McCLOSKEY. I want to say to the gentleman, I commend him for a thought that I think makes a real contribution in this field, but I do not think we can legislate on the floor of this House a change of this magnitude without careful consideration by the committee. I felt, for example, that H.R. 9718 substitute should have gone back to the committee for careful consideration. That was a decision made by others, not me. We have come to the floor with a completely new bill as a substitute which we have examined for many months, but not through committee debate. But here is a completely new concept which we have not had the opportunity to examine at all.

I would like to say to the gentleman, that the reason I offered the amendment I did 3 years ago to abolish the various existing consumer offices, if we were to create a new one, was because as we went through these 23 agencies one by one we found, in every instance the consumer advocate was responsible to the Secretary and he was so far down the line in the chain of command that to expect him to exercise independent judgment and possibly a challenge to the Secretary was beyond credible belief.

The gentleman has tried to solve this problem by appointing the counsels with the advice and consent of the Senate. We would then have 23 new assistants who would be submerged in this respective Cabinet offices without the power to test their boss' decision by lawsuit. It seems to me it is fallacious to expect allegedly-independent consumer advocates buried in 23 agencies to take real action.

I have yet to find in any Cabinet office an individual willing to delegate his decisionmaking authority to somebody underneath him. In the Food and Drug Administration the Administrator appoints his general counsel and relies on his advice. We cannot expect the General Counsel to override his boss.

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Chairman, on that point it is fair to point out that if we

have a single consumer protector at the top of the Consumer Protection Agency, that person is subject to Presidential authority within limits, and we are better off with 23 separate people who might have a degree of independence. Certainly the analogy of independence is weaker at the top than at the bottom.

It is true we are legislating on the floor, but there is no more important legislation than that which is before us today.

Mr. McCLOSKEY. I recognize that defect of our procedure today, but I still do not get the point how a person acting underneath a Secretary has independence. Granted that he has been appointed with the advice and consent of the Senate, I cannot imagine that a subordinate of the Secretary of Agriculture is going to feel much independence in dealing with the Secretary. The real independence must come from an agency that feels no responsibility to the Department of Agriculture.

Mr. TUCKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like also to engage in a colloquy with my friend, the distinguished gentleman from Kansas, with regard to his proposal.

I served as Attorney General of my State of Arkansas for two terms, and it was that experience that convinced me of the need for some type of Consumer Protection Agency that could ask questions of the bureaucracy that we have in this country.

I think all of us agree that our current method of proposing regulations is unsatisfactory. I think everybody agrees on that. We all get correspondence on it. The question is: Are we going to do anything to change it? The idea of the gentleman from Kansas (Mr. GLICKMAN) may be the proper approach.

I have been inclined to support strongly the approach of the chairman of our committee, the gentleman from Texas (Mr. BROOKS). But, let me give an example of a problem that severely harmed the people of my State. I would like to know how your agencies would have been able to respond if this same situation occurred again.

In 1973, just prior to, and following in the wake of, the Arab oil embargo, the Cost of Living Council, acting under the second stage of the price control regulations then in effect adjusted the method of allocating prices between special fuels and other types of fuels. Those regulations were subsequently adopted by the Federal Energy Agency. As a result of this innocuous change in regulations, a very unhappy change occurred in the price of propane. Prices went up 300 to 400 percent in a very short period of time. This had an incredible impact. For each nickel of increase in the price of propane the people in my state paid $25 million more—and it did not go up just one nickel; it went up about 5 nickels.

In order to try and help, I filed a petition, as the State Attorney General.

Mr. GLICKMAN. Who did the gentleman sue?

Mr. TUCKER. The Federal Energy Office, initially as an administrative action—but, finally, I went to court and we won our point. The law suit pressured them into changing the regulations. But our people suffered a severe and unfair hardship first.

So, what I want to see is an agency that asks some questions early, one that agrees with Finley Peter Dunn's character, Uncle Abner, who always said, "Trust everybody, but always cut the cards."

I want to see an agency that can cut the cards effectively.

Could it have gone to court and stopped the agency from issuing that ridiculous and damaging regulation? If not, then I cannot support it, if it does not have that authority then I do not want it.

Mr. GLICKMAN. First, it cannot go to court. It would have to make the intervention in its own action and put that intervention into the Federal Register. They cannot intervene if there is not a request for intervention that comes from a third party asking the council to intervene.

Mr. TUCKER. Must it be allowed to intervene at that point?

Mr. GLICKMAN. It can intervene if there is justification. However, if you get an incompetent, and everybody has been talking about a turkey around here, if you have a turkey in charge of the office it may not intervene. It says in section 6(b)(a) that whenever a Consumer Council believes—that whenever any civil action by the Assistant Attorney General—that intervention in such civil action is warranted, it shall recommend to the Assistant Attorney General for Consumer Protection, who shall take such action if the conditions outlined in subparagraph (1) are met. Those conditions are that judicial proceedings must be necessary to preserve the interests of justice.

Mr. TUCKER. Who defends the agency?

Mr. GLICKMAN. The Justice Department may.

Mr. TUCKER. So it will represent itself?

Mr. GLICKMAN. I have a memorandum that was requested, I believe, by the committee itself to that specific issue because it was raised back in May by the American Law Institute. They said that in many, many cases the Justice Department represents both parties to the suit. It may not if it is dealing with an independent agency, but otherwise obviously it represents both parties.

Mr. TUCKER. Mr. Chairman, I do appreciate the responses of the gentleman from Kansas (Mr. GLICKMAN) and the gentleman's interest in the bill but I must say that I feel if we are going to tell the American people that we are going to have an agency that will protect them from regulation-happy bureaucrats, that we should have one that is willing and able to ask hard questions, make the facts known, and have the capacity to put some reins on the bureaucracy. But if we are going to create this office, let's be sure it has some possibility of succeeding. I believe my colleagues recognize that it is important that we succeed. But we won't, if this office does not have the power to go to court with its own counsel and sue and say, "Listen, the bureaucrats are wrong on this and we want it checked."

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. WAXMAN and by unanimous consent, Mr. TUCKER was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield, I think the proponents of this amendment are quite sincere in wanting an independent consumer representation, that is what we are talking about in this legislation, but there are some major problems to this proposal in leading to an independent consumer representation even if we have presidential appointees or a consumer council in the 23 departments. It does not follow that we will have independence just because it is a Presidential appointment.

Experience proves that Under Secretaries, Deputy Secretaries, and other top officials of existing agencies are supportive in every meaningful way to the head of their agencies, even though they are appointed by the President. The counsel itself and all those who would be working for him are going to be organized under the department head. So I think we have a real problem about calling this an independent consumer representative.

Another reality is that the creation of 23 separate offices and an Assistant Attorney General will create a bureaucratic nightmare of the worst kind. There will be a duplication of effort, overlap, and general confusion, in addition to the fact, as the gentleman pointed out, that the Attorney General will then be called upon to sue himself in effect, because the only way the matter will get to court will be for that Attorney General, set up under the Glickman amendment to represent the consumer point of view, to sue the Attorney General's Office that is representing the agency itself. There is a potential for conflict of interest.

I think we can have true independent consumer representation by this one agency, and I would urge that we defeat the amendment.

Mr. TUCKER. I concur, and I appreciate the gentleman from California's remark.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, there is very little that can be added. The gentleman from Arkansas, in dialog with the gentleman from California, made it quite clear. The whole defect in the consumer representation mechanism was the inability of someone to, No. 1, present a case and a point of view, and, No. 2, the inability to challenge the decision if the decision was defective because the point of view was not presented. The 23 consumer counsels, all of whom would be presumably appointed by the President with the advice and consent of the Senate, would present an extraordinarily cumbersome procedure. But the fact is that the Consumer Counsels in each of the agencies would be subordinates to their agency heads.

Let us look in real life at what would happen. The consumer counsel makes a representation or a presentation to a quasi-judicial hearing or a board or agency within a department. That person thinks twice, if not 10 times, before he or she wants to challenge the decisions his boss who recommended his appointment. There is no mechanism psychologically, emotionally, politically, or otherwise, to stand up to one's boss and say, I am going to take this decision to the Attorney General of the United States to appeal your decision, because that person will have very, very modest tenure in his or her position after he does that once or twice.

We want to cement into statutory language independence, the ability to challenge a decision and to take it to court.

Second, in the Department of Justice, under the Glickman-Leach substitute, the Attorney General is the lawyer representative of both the department that defends the lawsuit and the person or plaintiff who represents the challenging party. How anyone can separate that conflict of interest is beyond me. So it does violence to the ability to be an independent person. It does violence to the ability to challenge it efficaciously. And it does not provide for independent counsel.

The whole trouble, the thing that we have tried to speak of so frequently here today, is the ability to have independent persons and the ability to go to court to challenge a defective decision. While the Glickman-Leach substitute is a thoughtful, responsible desire to create an independent counsel, it does exactly the opposite. It creates a subordinate, subservient-type person who cannot challenge a decision that that person feels is adverse to the consumer interests. Then if by some miracle they do challenge it, they go to the same lawyer that is going to defend it.

How many lawyers represent both sides of the case? How many lawyers represent the husband and wife? How many lawyers represent the plaintiff and defendant? It is just an unworkable solution—totally, massively unworkable, and I urge its defeat.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

One of the points that has concerned me about this amendment is that it provides that each of the 24 agencies that would be created would get the same amount of money.

Mr. ROSENTHAL. Right, exactly. Each one gets $500,000 without any concern for the volume of litigation, the needs and desires of the constituency of that agency. It simply does not make any sense.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, first of all, each gets the maximum of $500,000. That is the best good faith estimate I could determine of total cost. I assume they are all good, the issue will be dealt with again.

Mr. ROSENTHAL. If the matter is taken to court, are both parties represented by the Attorney General?

Mr. GLICKMAN. Of course, and that happens all the time in government. It happens with agencies such as the FCC and the ICC.

Mr. ROSENTHAL. In the gentleman's lifetime, has the gentleman ever found where one lawyer represents both parties?

Mr. GLICKMAN. If I may point out, the same memorandum the gentleman is referring to——

Mr. ROSENTHAL. No; the memorandum of the Library of Congress said it was constitutional for one agency to sue another agency, but they certainly do not want the same lawyer representing both sides of the case.

Mr. GLICKMAN. It does not say anything like that. The memo says the Justice Department may sue on behalf of one agency against the Justice Department representing another agency.

Mr. ROSENTHAL. How will they settle the suit? How will they get together?

Mr. GLICKMAN. They do it all the time.

Mr. ROSENTHAL. They do not do it all the time. What the courts have held, it is constitutional for one agency to sue another agency. They have never held that the same lawyer can decide to represent both parties. If a lawyer loses in the district court, how does he decide to take the case up on appeal?

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the Glickman substitute.

First of all, I would like to ask the sponsor of the substitute if there is a listing of the 23 agencies that are involved; does the gentleman have such a list?

Mr. GLICKMAN. Mr. Chairman, there are some agencies listed on pages 5 and 6 of the bill. Does the gentleman want me to list them off?

Mr. HORTON. Do they include all the regulatory agencies and the agencies that have regulatory authority?

Mr. GLICKMAN. It was the intention at the time the memo was drafted that it be all-encompassing. The gentleman would have to refer to it to determine whether they did so.

Mr. HORTON. The difficulty I have is that there might be some regulatory agencies that are left out of the listing, that might not be covered. I am sure the sponsors of the bill would not want that to happen; but I do want to commend the sponsors of the resolution, the gentleman from Kansas (Mr. GLICKMAN) and the gentleman from Iowa (Mr. LEACH) for providing this debate with an alternative.

Now, 20 consumer-related programs will be transferred to the OCR under the substitute offered by the gentleman from Texas (Mr. BROOKS). The Glickman substitute creates 23 Offices of Consumer Counsel appropriating $500,000 for each, totaling $11.5 million.

The question that I have with regard to the Glickman substitute is that I think it is very difficult to create an independent Office of Consumer Counsel. When we created the Department of Energy, we established within the Department a new agency, which was the Federal Energy Regulatory Commission, and we had a great deal of discussion on how to insure that this agency would be completely independent.

Some questions came up with regard to the budget: Who would prepare the budget and who would have final say-so with regard to the budget, who would select the personnel and all the other questions that are involved.

Even then there was some question as to whether or not there would be total independence. I seriously question that even if we solve all the problems, whether or not we can have complete independence in an Office of Consumer Counsel.

We may also find that we would have more independence in one office than we would have in another office.

This substitute is not something, it seems to me, that we can write here on the floor. We cannot write a bill which can resolve these problems and give us that type of independence. Personally, I do not opt for this approach. I would suggest that those who are opposed to the creation of the Office of Consumer Representation would be even more opposed to this approach because it is going to be much more costly, since we are dealing with 23 agencies. They are going to say, "We are not going to be able to do the job with the personnel now authorized. We need more personnel."

So when we talk about building up a bureaucracy, we should remember we are not going to build up just one bureaucracy but 23 bureaucracies in order to resolve this question.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. HORTON. Yes, I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, if I get time later on, I will try to deal with the specifics of the independence issue, because I think they are covered in the bill.

What is going to happen to the issue in the main bill under which the consumer agency, OCR, must refer back to the agencies consumer complaints? Who is going to handle those kinds of complaints?

Mr. HORTON. That is going to be done by the Office of Consumer Representation.

Mr. GLICKMAN. The bill has a requirement, as I understand it, with regard to consumer complaints.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. Mr. Chairman, the point I would like to make is that as far as I am personally concerned, I feel that there is a need for a centralized Office of Consumer Representation. I think if we proceed in that way, we can have a better handle on the budget and on the num-

ber of persons involved, and we will be better able to see what can be achieved.

When we have 23 consumer offices we are going to have 23 reports back to the Congress. We are going to have to have some type of oversight over those 23 offices. I believe our purposes can be better accomplished under the OCR instead of creating 23 offices of Consumer Council.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has again expired.

(On request of Mr. KOSTMAYER and by unanimous consent, Mr. HORTON was allowed to proceed for 1 addiitonal minute.)

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, I would like to ask the gentleman from Kansas (Mr. GLICKMAN) a question, if I may.

It seems to me that this proposal decentralizes the agency and creates a need for 23 supergrade agencies. My concern is this, and I direct it to my friend, the gentleman from Kansas (Mr. GLICKMAN).

If the consumer violations do not occur within the 23 agencies in which we have established a consumer representation, how are those questions to be resolved? I refer, for example, to the Home Loan Bank Board, the Federal Reserve Board, and the Federal Deposit Insurance Corporation.

I think the value of the OCR is that it has the ability to represent consumers throughout the entire Government, and the weakness of the proposal of the gentleman from Kansas (Mr. GLICKMAN) is that only those complaints falling in these particular 23 agencies are covered.

What if they fall in some of these other agencies which I have mentioned?

Mr. GLICKMAN. Mr. Chairman, let me say to the gentleman that we have tried to fill the cracks. There may be a few places where something was left out unintentionally. If the gentleman would like to offer an amendment to fill those cracks, I would be glad to accept it.

Mr. KOSTMAYER. Mr. Chairman, I have offered that in a separate bill. It is known as the establishment of the Office of Consumer Representation.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment in the nature of a substitute offered by the gentleman from Kansas (Mr. GLICKMAN).

Mr. Chairman, I have been listening to Members who first stand up and compliment the gentleman from Iowa (Mr. LEACH) and the gentleman from Kansas (Mr. GLICKMAN), and then turn around and say that it is too bad they are tilting at this windmill. I want to get up and not only compliment the gentlemen but say that they are hitting the right windmill. I would like to point out why I am supporting the Glickman-Leach "windmill," as it might be designated by some of the Members here.

First of all, I chair the Subcommittee on Employee Ethics and Utilization of the Committee on Post Office and Civil Service, and in that position I have had a lot of opportunities to look at these issues. I think that what these two gentlemen have come up with here is a very brilliant idea, and let me give the Members some of the reasons why I think that.

First, if we create a new agency, how many more positions would we have to create that have nothing to do with representing the consumer? We would have to create departments of personnel; we would have to create affirmative action offices; we would have to create a budget office; and we know we would have to create a congressional liaison office that would come over here and explain to us what the agency is doing.

I do not know how many positions there would be in the consumer agency or the consumer relations group, but I do know that for a Department of Education, it has been estimated there would be about 800 slots created that have nothing to do with education. It is a case of creating an agency and fueling the furnace. This amendment is a way to avoid having to create all of those additional slots which do not directly serve the consumer. Instead, the people they are putting on board will be in-house, in the agencies, and acting.

Second, the one thing we have found in dealing with ethics legislation—and we did have extensive hearings on ethics legislation—is that you can have an ethics counsel in every agency, but if the agency is not interested in ethics, obviously the counsel is not going to push it. This amendment has found a way around that by having Presidential appointees. People are saying they will not be independent. The answer is, I think, that you have 23 shots at them being independent, whereas with the Consumer Protection Agency there is only one shot, and if the man or woman in that agency turns out to want to cool it, he or she can certainly do it.

This way, we have at least 23 different shots that someone will be independent. All we have to do is to look at the Marston case and find out that getting rid of appointees is not the easiest thing to do. They are going to make noise; they are going to contact the press, and so forth. The other things I found, in dealing with the bureaucracy around here, is that he who has the information has the power. I have found that different agencies do not share information with each other and they do not share information with Congress. We all know that game, when they come up before us. We ask them a question, and they sit there with canary feathers in their mouths, giggling, and as long as you do not ask the right question in the right way, they can always escape, and they always look for a wonderful, wonderful out. "We don't volunteer anything. Thank you very much." It is almost like the Army. "You didn't ask the right question. It is all your fault."

If you have 23 in-house people who know where the files are, and who knows what is going on, you have a much greater chance that they are going to have the right information. And I find more and more and more that information is nine-tenths of the game.

The argument about the Justice Department representing both sides, let me answer that, because I happen to have been lucky enough to have been in the Senate one day when this issue came up in front of Appropriations. I will tell you what they do. They hire counsel for the other side. They weigh each case. If it looks overly difficult, they hire outside counsel. And we fund it year after year after year. It happens quite routinely. They come up with a big list. The other thing is that there is more than one lawyer in the Department of Justice. Either that, or they have phonied up the sheet they are turning in. So there are two different groups over there, and there are two different agencies, and they might have different bosses. It is not like a three-man law firm. Where they are, they have an awful lot of space over there, and we ought to consider taking some of it over for congressional office space. We have to look at where we are really coming down to. We have to look at what it is we are talking about.

The CHAIRMAN. The time of the gentlewoman from Colorado (Mrs. SCHROEDER) has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mrs. SCHROEDER. We are talking about finding a way to have people in-house who really know what is going on. They may decide to cop out. On the other hand, they may decide that their career is more important and they are going to be more aggressive and feel a real responsibility to the President who appointed them. I assume they are not the normal civil servant coming up through the testing process or they would not be Presidential appointees, anyway. So I really think the gentlemen have made an excellent, excellent presentation. I think from the hearings we had in my Subcommittee on Ethics Legislation we determined the same outcome, that there should be ethics counselors in each agency, because if they are not in the agency they do not know the right questions to ask.

They do not even know what the potential conflicts of interest might be. It will take them 5 years to even find that much out.

We wanted them in there, but we wanted a force outside so that the head of each agency could not obviate what we wanted.

We had a great fight going on that, but the gentlemen have taken the model that we had, including the extensive hearings makes an incredible amount of sense. It to the consumer agency; and I think that makes an incredible amount of sense. It is not the old formula which we know around here, but I think the day has come when we have to look at the old formula and change it around.

Therefore, Mr. Chairman, I say, congratulations to the authors of the amendment. I do not think it is a windmill. I think it is a breakthrough, and I think it is a way for us to look for other things.

Mr. Chairman, I urge the Members to vote in favor of the Glickman-Leach amendment.

Mr. QUAYLE. Mr. Chairman, I move to strike the requisite number of words.

I, too, like the gentlewoman from Colorado (Mrs. SCHROEDER), who preceded me, am a bit perplexed about everybody talking about what a new and imaginative idea this is, the Glickman-Leach substitute, but then saying, "We cannot go along with it."

Mr. Chairman, I would say the reason a number of people are reluctant to go along with it is precisely because it is a new idea.

The old-fashioned politics and legislative maneuvering call for creating a new agency and a new bureaucracy, which is precisely what the Brooks substitute does.

Mr. Chairman, I would like to join my colleagues in complimenting the gentleman from Kansas (Mr. GLICKMAN) and the gentleman from Iowa (Mr. LEACH) for the innovative and imaginative plan which has been described as totally unworkable by some individuals. I do not think it is. I think it is totally workable, and it would probably be much more independent than this new consumer agency would be.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, if the gentleman really believes that this is a new idea, the gentleman has never heard of Virginia Knauer. This should be called the Virginia Knauer bill because it is for doing nothing. Consumer units would become glorified under it.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I am not arguing with the gentleman that the previous units were set up as a vehicle for consumers.

I am trying to take that structure, which I think has some merit to it, and give it some statutory authority.

Virginia Knauer consumer agencies are not involved in this bill.

Mr. MOFFETT. If the gentleman will yield further, Mr. Chairman, the same thing that made Virginia Knauer more independent is exactly what makes these units more independent, because, as the gentleman from New York (Mr. ROSENTHAL) and others have said, "You are not going to go against your boss." There is no question about that.

Mr. GLICKMAN. But your boss is Presidentially appointed.

Mr. QUAYLE. Mr. Chairman, if I can reclaim my time, we now have two bills—a Virginia Knauer bill and a Ralph Nader bill. I would like to engage the gentleman from Texas (Mr. BROOKS) in a colloquy, if I could, because I have a couple of questions.

On page 26, section 14(a), where we talk about transferring these agencies, it says in this section that we are going to transfer "all funds, records, and property utilized in connection therewith * * *".

Are we also going to transfer the personnel as we did in the Department of Energy? I notice that the word "personnel" is missing.

Mr. BROOKS. If the gentleman will yield, Mr. Chairman, it is anticipated that the personnel would have the same option to transfer.

Mr. QUAYLE. And that would total about $11.6 million?

Mr. BROOKS. The administration assured us during the hearings, with some prodding on the second time around, that they would eliminate those offices, eliminate those people, eliminate those expenses within those agencies, and transfer those funds or appropriations therefor to the new agency.

Mr. QUAYLE. Are we going to transfer the people or the personnel as we did in the Department of Energy?

Mr. BROOKS. They will have that option to transfer. They may think that they are not appropriate. They may have other jobs for them. They may quit. They may do all sorts of things.

This is not to say that we are telling them where they have to go.

Mr. QUAYLE. The gentleman does not think that we should include personnel. All right.

One other thing: We are talking about $11.6 million that we are going to transfer to the consumer agency; is that correct?

Mr. BROOKS. That is correct.

Mr. QUAYLE. And then we are going to fund it at $15 million. Is that on top of the $11.6 million?

Mr. BROOKS. No, no.

Mr. QUAYLE. That is not correct?

Mr. BROOKS. There will be $3.4 million and $11.6 million, for a total of $15 million.

The administration has also said that they hope to, and we are going to make every effort to, cut an additional $10 million out of other agency areas so that we can actually have a net saving in this procedure.

Mr. QUAYLE. This is the thing that is perplexing, net savings, because it does not look like we are really going to be saving. That is because, if we are going to transfer that $11 million on top of $15 million, it adds up to $26 million. If they are going to cut $10 million, it is $16 million.

Mr. BROOKS. Not on top; not on top. Let me straighten the gentleman out. There is an appropriation of $15 million.

Mr. QUAYLE. An appropriation of $15 million for fiscal year ending September 30, 1978?

Mr. BROOKS. Right.

Mr. QUAYLE. An appropriation of $17 million for fiscal year ending September 30, 1979?

Mr. BROOKS. We just go one year at a time. Take the first year, $15 million. That year, of that $15 million they will transfer $11.6 million from other agencies to that counsel. Those agencies will not have that money. They will not have that appropriation to hire people. Those appropriations will be finis for those agencies. That money will be assigned to the new counsel, $11.6 million.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent Mr. QUAYLE was allowed to proceed for one additional minute.)

Mr. QUAYLE. But the appropriation for fiscal year ending September 30, 1978, is $15 million. Where is this $11.6 million? Is that just for this year?

Mr. BROOKS. That is right. It is in this right now.

Mr. QUAYLE. It will not go over $15 million, right?

Mr. BROOKS. That is right.

Mr. QUAYLE. I thank the gentleman.

Mr. ERTEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address a question to the proponent of the substitute measure. On page 15 of the bill which is proposed as now, I guess, the primary bill, the OCR provides at lines 5 and 6:

> It shall take such action within its authority as may be desirable, including the proposal of legislation . . .

Now, does the gentleman have such a thing in his bill? Second, is he now setting up another lobbying organization in Washington which is going to lobby me like they have lobbied me on this bill? If so, I am going to vote against both bills.

Mr. GLICKMAN. If the gentleman will yield, to make it perfectly clear, the gentleman was referring to H.R. 9718, the Brooks substitute, when he read. My bill and Mr. LEACH's bill contains no such specific language.

Let me tell the gentleman what it does provide. It does provide, on the Assistant Attorney General to be set up as one of that officer's duties, that he can promote only appropriate litigation, legislative recommendation, and recommendations to any office—that means consumer office—the protection of consumers.

That means that gentleman or gentlewoman, whoever it is, can recommend to the consumer offices that they pursue this, X, Y, and Z, but at the same time nowhere do we provide in this bill that the consumer offices have the power to make legislative recommendations to Congress.

Mr. ERTEL. I thank the gentleman. I would like to address my question now to the chairman of the committee (Mr. BROOKS). Does that set up a lobbying organization in the OCR which then can lobby Congress to pass particular legislation?

Mr. BROOKS. I say to my distinguished friend that this is essentially boilerplate language which any agency would have. If they want to make a recommendation on legislation, basically that is what that language is. That is what it means. It does not mean that it is going to be a lobbying organization like the U.S. Chamber of Commerce or the National Association of Manufacturers, which have worked very diligently in opposition to this legislation.

Mr. ERTEL. Mr. Chairman, if I might address a follow-up on that, boilerplate sometimes has the ability to have contents spilled into it. Is the gentleman saying that the interpretation of this, since we have no committee report, would be that there cannot be a lobbying operation by this office in the Congress to pass particular legislation, and

they will not be authorized to come down to Capitol Hill and to lobby?

Mr. BROOKS. I do not believe they have additional authority than any other agency in the Federal Government.

Mr. ERTEL. Well, we seem to have a lot of them coming down here lobbying every piece of legislation.

Mr. BROOKS. I find people like the gentleman and people like myself pretty resistant to undue lobbying pressure. I think we generally vote our consciences without much trouble.

Mr. ERTEL. I thank the gentleman for his compliment, but I am just questioning whether or not we are just setting up another lobbying agency to come down here.

Mr. SEBELIUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not on this committee, and I have listened here with great intent because of the fact that my fellow Kansan from Wichita (Mr. GLICKMAN) and our colleague from Iowa (Mr. LEACH) have coauthored a very unique idea. I am impressed with it.

I do have 450,000 consumers in my district, and I feel that they have a far different interpretation of their consumer interest than the 450,000 constituents that the gentleman from New York (Mr. ROSENTHAL) might have as to what the consumer interest is.

I am concerned over this bill. However, when I look at the Glickman-Leach amendment, I see it has economy in it, it has simplicity in it, and it has a sunset provision in it. And those three provisions are very, very persuasive.

Likewise, I would like to associate myself with the remarks of the gentlewoman from Colorado who added some fresh conversation to this discussion on the Glickman-Leach amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I just want to make a point, that the Brooks substitute also has a sunset provision in for 5 years.

Mr. SEBELIUS. I thank the gentleman. That is the best argument I have heard for it today.

With these thoughts in mind, Mr. Chairman, I think this substitute contains points that are very selling to me.

I do not intend to go into specifics because I have asked permission to revise and extend, but I ask my colleagues to give this substitute full and fair consideration.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to point out a couple of rebuttals to what I thought was a very eloquent plea made by the gentlewoman from Colorado (Mrs. SCHROEDER) in support of the Glickman proposal.

She articulated the position that this is a new, innovative idea. First of all, it is not new. I do not know how innovative it is. It is the proposal the Ford administration had before us in providing that in all the different departments and agencies there would be a consumer representation. The gentleman from Kansas (Mr. GLICKMAN) in responding to a question stated that he realized when that was originally proposed it was to do away with the effective consumer representation in the varying agencies. The Congresswoman from Colorado said even if they are not all independent, some of them may be.

I would like to examine the situation when all of these agencies come back for funding, and if we find that five are pretty effective, are we going to end up funding all of them, keeping in place all of these bureaucratic agencies set up within the bureaucratic agencies supposedly to represent the consumer point of view?

If we have an Office of Consumer Representation under the Brooks substitute, it has a lifespan of 5 years. After that there will be a sunset provision. We will have an opportunity to evaluate how effective it has been, whether it has really been independent, whether it serves the purposes for which Congress hopefully established it.

I think it would be far more effective to evaluate 1 Office of Consumer Representation than to evaluate 23 separate offices, some of which may be independent and effective and some of which may not be.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, I want to make several points.

One is the gentleman mentioned they will not be independent and we will not be able to tell what the different agencies are doing. I think we will have a much better chance to tell which ones are and which are not, and as Presidential appointees we will have a chance to get rid of them.

One of the difficult problems of my subcommittee is to find which agencies are good and efficient and deserve pats on the back and which ones just have a good press and make good headlines. When we have 23 different ones, we can find which ones are good and which are not. When we have one gigantic one, they predict they will be able to handle 1 case out of 10 but there will be some political decisions to be made and there will be Presidential appointees and we will have all sorts of things.

The point that this is not new and came up under the prior administration can be answered by saying that, well, the whole Government is not new and was in existence under a prior administration.

We cannot appoint a better institution, one that is going to be better than the people who man it, the people who run the institution. The institution, be it a church, a Congress, or an agency, is not going to be better than the people who run it.

If the President can appoint those people, then it will be easier for him to determine which ones are good and efficient.

Mr. WAXMAN. Mr. Chairman, I recall my time.

I appreciate the comments of the gentlewoman.

Even if we can spot those who are doing adequate jobs and are independent and efficient, they will end up being permanent parts of the bureaucracy.

It will become vested and become a permanent thing by itself.

Just to say in effect that the President appoints them makes no difference, either. They are Presidential appointments, and there have been and they are still there. If we have one office discharging the purpose that the proponents of this amendment say they want then certainly we ought to invest in this one office and provide for 5 years, as a preliminary period of time so that we can evaluate it and then change it if necessary or kill it. I do not think you can kill 23 of them. What about those consumers who are not protected in those agencies where they are ineffective, where they do things that affect the lives of so many people? We ought to have one effective agency to be the advocate and propose changes independently on the basis of consumer regulations and through enforcement of those regulations.

That is why I think whether it is a new idea or not, we ought to go along with the proposal that the gentleman from Texas (Mr. BROOKS) and the committee have recommended.

Mrs. SCHROEDER. But the one committee that is not going to be funded adequately, and will not be big enough to consume 2 hours of the Pentagon's budget, is not going to adequately represent the consumers.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mrs. SCHROEDER and by unanimous consent, Mr. WAXMAN was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield still further, I think if we see that happen we have still got a much better chance with it split through the different agencies. My experience has been through dealing with these different bureaucracies that they seem to exercise the same kind of thing that they call in the west "rumps together, horns out." If they have a burr under their saddle, an agency that is making noise enough to the President, you may have a much greater chance at getting it done.

Mr. WAXMAN. You would have a better chance if you put a burr under the saddle of the agencies who will be found independent, they become less independent and melt into the growing bureaucracy.

The regulatory agency ought to protect the public against special interests and they will not if they become captives of the public interests, they will be a consumer department that will be captive.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROSENTHAL. Mr. Chairman, I was going to ask unanimous consent, if I may, that all debate on this amendment end right now, and I do so ask.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. QUAYLE. I object.

The CHAIRMAN. Objection is heard.

The question is on the amendment in the nature of a substitute offered by the gentleman from Kansas (Mr. GLICKMAN) for the amendment in the nature of a

substitute offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 27, noes 26.

RECORDED VOTE

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 93, noes 313, not voting 26, as follows:

[Roll No. 44]

AYES—93

Alexander	Hagedorn	Poage
Applegate	Hefner	Quayle
Barnard	Hightower	Quie
Bevill	Hillis	Railsback
Bonker	Hubbard	Regula
Breaux	Huckaby	Runnels
Brinkley	Jacobs	Ryan
Brown, Mich.	Jenkins	Schroeder
Burleson, Tex.	Jones, N.C.	Schulze
Byron	Jones, Okla.	Sebelius
Caputo	Keys	Shuster
Cleveland	Krueger	Skelton
Coleman	Lagomarsino	Stangeland
Conable	Leach	Stanton
de la Garza	Lent	Stockman
Derwinski	Livingston	Stump
Duncan, Tenn.	Lloyd, Tenn.	Trible
Edwards, Ala.	Luken	Vander Jagt
Emery	McEwen	Waggonner
Ertel	McKay	Walgren
Evans, Del.	Madigan	Walker
Findley	Marks	Walsh
Flippo	Marlenee	Wampler
Frenzel	Martin	White
Frey	Mitchell, N.Y.	Whitehurst
Gammage	Moore	Whitley
Gephardt	Myers, John	Wilson, Bob
Ginn	Nichols	Wilson, Tex.
Glickman	O'Brien	Yatron
Grassley	Pettis	Young, Alaska
Gudger	Pike	Young, Fla.

NOES—313

Abdnor	Carney	Fascell
Addabbo	Carr	Fenwick
Akaka	Carter	Fish
Allen	Cavanaugh	Fisher
Ambro	Cederberg	Fithian
Ammerman	Chappell	Florio
Anderson, Calif.	Chisholm	Flowers
	Clausen, Don H.	Flynt
Anderson, Ill.		Foley
Andrews, N.C.	Clawson, Del	Ford, Mich.
Andrews, N. Dak.	Clay	Ford, Tenn.
	Cochran	Forsythe
Annunzio	Cohen	Fountain
Archer	Collins, Ill.	Fowler
Armstrong	Collins, Tex.	Fraser
Ashbrook	Conte	Fuqua
Ashley	Conyers	Gaydos
Aspin	Corcoran	Giaimo
AuCoin	Corman	Gibbons
Badham	Cornell	Gilman
Bafalis	Cornwell	Gonzalez
Baldus	Coughlin	Gore
Baucus	Crane	Gradison
Bauman	Cunningham	Guyer
Beard, Tenn.	D'Amours	Hall
Bedell	Daniel, Dan	Hamilton
Beilenson	Daniel, R. W.	Hammer-schmidt
Benjamin	Danielson	
Bennett	Davis	Hanley
Biaggi	Delaney	Hannaford
Bingham	Dellums	Hansen
Blanchard	Derrick	Harkin
Blouin	Devine	Harrington
Boggs	Dickinson	Harris
Boland	Dicks	Harsha
Bolling	Dingell	Hawkins
Bonior	Dodd	Heckler
Bowen	Dornan	Heftel
Brademas	Downey	Holland
Breckinridge	Drinan	Hollenbeck
Brodhead	Duncan, Oreg.	Holtzman
Brooks	Early	Horton
Brown, Calif.	Eckhardt	Howard
Broyhill	Edgar	Hughes
Buchanan	Edwards, Calif.	Hyde
Burgener	Edwards, Okla.	Ichord
Burke, Calif.	Eilberg	Ireland
Burke, Fla.	English	Jeffords
Burke, Mass.	Erlenborn	Jenrette
Burlison, Mo.	Evans, Colo.	Johnson, Calif.
Burton, John	Evans, Ga.	Johnson, Colo.
Burton, Phillip	Evans, Ind.	Jordan
Butler	Fary	Kasten
Kastenmeier	Moss	Selberling
Kazen	Murphy, Ill.	Sharp
Kelly	Murphy, N.Y.	Sikes
Kemp	Murphy, Pa.	Simon
Ketchum	Murtha	Sisk
Kildee	Myers, Gary	Skubitz
Kindness	Myers, Michael	Slack
Kostmayer	Natcher	Smith, Iowa
Krebs	Neal	Smith, Nebr.
Latta	Nedzi	Snyder
Lederer	Nolan	Solarz
Leggett	Nowak	Spellman
Lehman	Oberstar	Spence
Levitas	Obey	St Germain
Lloyd, Calif.	Ottinger	Staggers
Long, La.	Panetta	Stark
Long, Md.	Patten	Steed
Lott	Patterson	Steers
Lujan	Pattison	Steiger
Lundine	Pease	Stokes
McClory	Pepper	Stratton
McCloskey	Pickle	Studds
McCormack	Pressler	Symms
McDade	Preyer	Taylor
McFall	Price	Thompson
McHugh	Pritchard	Thone
McKinney	Pursell	Thornton
Maguire	Quillen	Traxler
Mahon	Rahall	Tsongas
Mann	Rangel	Tucker
Markey	Reuss	Udall
Marriott	Rhodes	Ullman
Mathis	Richmond	Van Deerlin
Mattox	Rinaldo	Vanik
Mazzoli	Risenhoover	Vento
Meeds	Roberts	Volkmer
Metcalfe	Robinson	Watkins
Meyner	Rodino	Waxman
Michel	Roe	Weaver
Mikulski	Rogers	Weiss
Mikva	Roncalio	Whalen
Milford	Rooney	Wiggins
Miller, Calif.	Rose	Wilson, C. H.
Miller, Ohio	Rosenthal	Winn
Mineta	Rousselot	Wirth
Minish	Roybal	Wolff
Moakley	Rudd	Wright
Moffett	Russo	Wylie
Mollohan	Santini	Yates
Montgomery	Sarasin	Young, Mo.
Moorhead, Calif.	Satterfield	Young, Tex.
	Sawyer	Zablocki
Moorhead, Pa.	Scheuer	Zeferetti

NOT VOTING—26

Beard, R.I.	Holt	Perkins
Broomfield	Jones, Tenn.	Rostenkowski
Brown, Ohio	LaFalce	Ruppe
Cotter	Le Fante	Shipley
Dent	McDonald	Teague
Diggs	Mitchell, Md.	Treen
Flood	Mottl	Whitten
Goldwater	Nix	Wydler
Goodling	Oakar	

Messrs. DAVIS, LEVITAS, KASTENMEIER, FORSYTHE, PRESSLER, McCLORY, and BROYHILL changed their vote from "aye" to "no."

Mr. APPLEGATE changed his vote from "no" to "aye."

So the amendment in the nature of a substitute offered for the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. EVANS of Colorado, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6805) to establish an Agency for Consumer Protection in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration, H.R. 6805.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 1 o'clock p.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Reserving the right to object, Mr. Speaker, I do so only to inquire of the distinguished majority leader whether his request would suggest that the measure which is currently before us and unresolved would be the first order of business tomorrow.

Mr. WRIGHT. If the gentleman will yield, Mr. Speaker, it is the hope of the leadership that we could come back onto this bill immediately as the first order of business; and that, tomorrow being Wednesday, hopefully we could go to its conclusion tomorrow.

Mr. MICHEL. Then would it be the intention of the leadership to bring up the four scheduled bills in the same chronological order as listed on the whip notice?

Mr. WRIGHT. There is no present plan to change the order. It could conceivably be altered by the remaining time available during this week. That, of course, depends upon how long it takes the House to dispose of the bill presently before us.

Mr. MICHEL. Would the distinguished majority leader venture a guess as to how long we would be in session, knowing full well that under the old rules, if we came in at 3 o'clock there was no time limit; and we could go until midnight?

Mr. WRIGHT. It is impossible to prognosticate. It is our hope that we will be able to conclude the bill tomorrow. That may be a forlorn hope. As the gentleman knows, one never can predict with accuracy how many amendments will be offered and how many Members will want to talk on any amendment.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I was just wondering why we could not continue this legislation and finish it or, at least, a good portion of it tonight.

I had originally heard that the Democratic Study Group was having a roast of the Speaker of the House of Representatives. I assume that it was canceled because I have not been invited, and certainly I would be one of the most qualified persons to engage in that roast.

The SPEAKER. The Chair is in agreement with that statement by the gentleman from Maryland.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make an announcement.

The Chair understands that the gentleman from Kentucky (Mr. PERKINS) has the black lung conference report that he would like to bring up.

Also, by Thursday, if possible, in view of the fact that we have made an agreement with the gentleman from the area in which the Chattahoochee River National Park is located, we would be able to finish that bill on that day. Therefore, it could possibly be that we would take some matters out of order.

With respect to the Redwood National Park bill, we are aware of the fact that it is an important piece of legislation. We have no idea how long it will take.

We hope to conclude the consumer protection bill tomorrow, and on Thursday we will meet at 11 a.m. and finish by 5:30 p.m.

Mr. MICHEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

(Mr. GILMAN asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, due to the transportation delays caused by a severe winter storm, I unavoidably missed part of the legislative session on Monday, February 6, 1978. Had I been present, I would have voted in the following fashion: H.R. 9434, medicaid increases to Puerto Rico, Guam, and the Virgin Islands, "yes"; the rule making it in order to consider H.R. 8336, the Chattahoochee River National Park bill, "yes."

MR. PRESIDENT, WHY NOT A DISASTER DECLARATION FOR OHIO NOW?

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LATTA. Mr. Speaker, it has now been 12 days since Ohio was hit by the most damaging snowstorm in its history. Many deaths and personal injuries occurred. The damages to property was in the millions of dollars. Yet, the President has not declared Ohio a disaster area to make all Federal disaster programs available. The Governor has requested such a declaration and I have sent two such requests to the President. In addition, I have taken the well of this House on two previous occasions to call this disaster to the attention of the House and to request the President to act. I now repeat this request and ask, "Why not a disaster declaration now, Mr. President?"

SUPPORT FOR 100 PERCENT OF PARITY FOR FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 30 minutes.

Mr. SIKES. Mr. Speaker, on today it was my opportunity to appear before the members of the distinguished House Committee on Agriculture in support of my bill, H.R. 10528, which would provide 100-percent parity to farmers for all agricultural commodities.

On that occasion, I congratulated the chairman, and the members of the committee for recognizing the plight of the farmers and for scheduling early hearings to look into possible solutions to their problems. That committee has consistently reported sound legislation providing valuable assistance to the farmers of this Nation. This is true of the farm bill which was reported and the Congress passed last year. That bill is a step in the right direction. It does not go far enough and I know it is not easy to go as far as many of us would like in order to help the farmer. I am convinced this is the time we in Government must do more.

Many bills have been introduced by concerned Members who recognize a requirement to help alleviate farm problems. There is merit in many of them. There are a number of approaches which could be helpful. A greatly expanded crop insurance program would help to alleviate the problem of crop failure due to weather. Definitely there is room for expansion of our activity to sell farm products abroad. There remains a major untapped market for American farm products in foreign nations. American agriculture exports have been the major export commodity that has held down the deficit in the balance of payments. This, also, is one of the keys to increased farm income and improved standards of living for farm families. An increase in farm exports will help offset the costs of the oil we are importing and will continue to import for a long time.

One proposal that has considerable appeal has been advanced by our good friend and highly respected colleague, JAMIE WHITTEN. His skill in getting difficult bills through the Congress is well known. He has recommended indexing of the target prices or loan rates for wheat, wheat grains, cotton, rice, peanuts, soybeans, and sugar and that they be tied to the cost-of-living increases granted to wage earners in the public or private sectors. If labor gets a 5-percent cost-of-living raise, the farmer would get the same. Another possibility would be to increase Government loan rates or target prices to reflect any boosts the Government grants in minimum wage. This would place agriculture on a parity with labor and industry.

Mr. Speaker, I fully realize the problem we have in attempting to find a solution that will be satisfactory to everyone, therefore, I believe all possible alternatives should be explored.

I hope that bills having at least some of the specific objectives I have outlined will speedily be enacted into law. The farmers are looking to Congress for help. My major purpose here today is to express my support for 100 percent of parity to farmers for all agricultural products. That one step will provide an immediate and permanent solution.

I recognize the reluctance of the administration to embark such a major change in agricultural programs. Our Government seems to feel that the farmers are rich, fat, and should be happy. All that says to me is that not enough of the Government experts have spent time on a working farm. Gross income for the farmer, on which the Government seems to rely, does not tell the true story. It is like saying every business firm that has an increase in sales volume should be making plenty of money. Few businesses are required to make capital investments as great as the farmer must make. None of them are required to buy at retail and sell at wholesale as the farmer does.

I would not undertake to tell you what this program would cost. This appears to be the principal area of concern. I question that the cost would be of greater magnitude than administration-endorsed proposals such as the Humphrey-Hawkins bill. Undoubtedly 100 percent of parity would result in additional costs to the consumer. One figure that is used is 22 percent additional. I am sure that means 22 percent increase to the farmer only for his work, and I do not consider this a frightening increase. Many of the labor unions get increases of that magnitude each time they go out on strike. The farmer is asking for a one-time increase only. If the farmer gets the benefit without having transportation, processing, packaging, etc., etc., add ons for a big unnecessary boost in final cost to the consumer it would not be ruinous in any sense to the economy. It should fuel the economy by giving the farmer for the first time a positive income for his products.

The actual cost figures are largely guesswork. I have heard the figure of $50 billion annually used. That does not frighten me in comparison with the cost of many of the Government agencies now. The minimum national health insurance program which has been proposed would cost about $50 billion a year. The maximum for the health program could be $250 billion. We are paying more than $50 billion a year for interest on the national debt. The actual figure is $58 billion for fiscal year 1978.

There is now a nationwide threat of a strike by farmers who seek to focus attention upon their problems. There may be no other way they can get the attention of the consumer public and the lawmakers and they must have attention now. Since the makeup of the Congress is predominately urban, few Members have basic knowledge of the difficulties which beset the American farmer. These difficulties have grown worse each year. During that time, Washington has appropriated billions upon billions of tax dollars for urban areas. That is where the votes are. Significantly, heavy Federal spending with no serious attempt to balance the budget has promoted the inflation which now hits the farmer harder than anyone else.

The urban Congressman listens to the complaints of the consumers about high prices of food and textiles. Automatically they assume the farmer is getting rich. It is not the farmer who gets the prices charged to the consumer. As this committee well knows, his percentage is only a small portion of that cost. The far great-

er portion goes to transportation and to merchandising costs.

Meanwhile, the farmer looks across the spectrum and he sees the Federal Government trying to guarantee almost everybody else an increased income. Federal employees receive an automatic salary increase. The increased minimum wage will further increase the farmer's operating costs. Social security taxes are increased. Federal spending and the Federal debt are soaring into the stratosphere.

Many of the commodities produced on the farm today are selling at less than the cost of production. Yet, costs to the farmer continue to grow by leaps and bounds. Farm operations and equipment require substantial financing. His products generally have little protection by way of subsidies or loan guarantees from the Government. Consequently, he is going deeper in debt year by year. Few understand that the farmer sells at the mercy of the buyer. It is time for the Congress and the American people to listen to the farmers. They produce the food and fabric which America requires and the world wants and needs. They cannot continue indefinitely to produce without a meaningful measure of the protection which is already provided to labor and most segments of the industrial world.

Now, let us get down to specifics.

The farmer is asking 100 percent parity for his crops' and I think he should receive it. Prices received by farmers for farm products are at historically low levels compared to prices paid by farmers. The parity ratio was at 64 in September. This is the lowest the parity ratio has been since 1933, when it also reached 64. Not since 1932 has the purchasing power of farm products been as weak as it is now.

Parity, as defined by Webster, is the state of being equal or equivalent. A simple definition of parity is essentially a ratio that compares the prices farmers receive for their commodities with the prices they must pay for production and living expenses.

The farmer feels that the middleman should absorb the increase in costs for parity. If the farmer receives 100 percent parity for his commodities and no other costs are tacked on by the middleman, the increase in price to the retail market would only be 3.1 percent. This is a modest amount which the farmers fully deserve; 100 percent parity could be accomplished without seriously affecting anyone, provided there is no price pyramiding.

For years the farmer has received parity based on 70 to 85 percent of the cost of past production. No one seems to be concerned about the fact this is a "sugar tit" which gives him the incentive to continue producing but in its operation pushes him further in debt year after year. The farmer is bedeviled by form filling and regulations just like any other segment of American business. He has few options. He can continue to produce or he can go out of business. Corporate farms have taken over where many individual farm families have been forced to the wall. More Americans need to realize that our American farm efficiency is one of the few advantages that we have left. The American consumer is the direct beneficiary.

The worker who is protected by the minimum wage does not receive 70 to 85 percent of what is considered a proper national wage base. He gets 100 percent. Why should not the farmer's labor receive the same guarantee?

The total net income from farming is estimated at $19.8 billion for 1977. This is lower than the previous year and continues a decline that has taken place every year since 1973. In fact, the 1977 net income level was only 59 percent of what it was in 1973. Total net income was equal to $33.3 billion in 1973.

Net income appears even worse when calculated in constant 1967 dollars. Using 1967 as the base year, total net income from farming will be about $10.5 billion for 1977. This is lower than any year since 1935. It was in the early 1930's when the purchasing power of net farm income previously reached such a low level.

Even though the number of farms has been declining, the drop in total net farm income has been even greater since 1973. In 1973 there were 2.844 million farms with net income per farm equal to $11,727. By 1976 the number of farms was down to 2.778 million but net income per farm was down to $7,203.

Another important factor to be considered is—in 1976 the personal income of the farm population derived from farm sources was equal to $17.786 billion. This was exceeded by personal income derived from nonfarm sources, which equaled $24.166 billion. Continued low earning from agricultural sales could force even more farm household members to seek off-farm employment as a means of boosting the otherwise inadequate household income.

In 1976 the per capita personal disposable income of the farm population was $4,518. This was only 81.4 percent of that accruing to the nonfarm population. The per capita personal disposable income of the nonfarm population was $5,552.

The farmers who are presently protesting the low prices for their products are only asking the Federal Government to furnish what has been repeatedly confirmed in legislation since 1933—full parity.

At the present time, the parity concept and policy of Congress with respect to the purchasing power of farm commodity prices and of farmers' incomes rests upon three major acts:

First. The Agricultural Adjustment Act of 1933 as amended by the Agricultural Act of 1935, the Agricultural Marketing Agreement Act of 1937, and the Agricultural Act of 1948.

This legislation states:

It is declared to be the policy of Congress—(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices. . . .

Second. The Soil Conservation and Domestic Allotment Act of 1936.

This legislation specifies as policy—

The reestablishment, at as rapid a rate as the Secretary of Agriculture determines to be practicable and in the general public interest, of the ratio between the purchasing power of the net income per person on farms and that of the income per person not on farms that prevailed during the five-year period August 1909–July 1914, inclusive, as determined from statistics available in the United States Department of Agriculture, and the maintenance of such a ratio. . . .

Third. The Agricultural Adjustment Act of 1938 as amended by the Agricultural Act of 1948 and the Agricultural Act of 1949.

This legislation declares it to be the policy of Congress—

To regulate interstate and foreign commerce in cotton, wheat, corn, tobacco, and rice to the extent necessary to provide an orderly, adequate, and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing quotas, assisting farmers to obtain, insofar as practicable, parity of income . . .

This legislation also specifies the method by which parity prices are to be calculated.

These laws are already on the statute books and could be implemented now administratively to bring immediate relief to the farmers. Unfortunately, there is little prospect that this will be done.

Mr. Chairman, the Congress and the administration should accept its responsibility toward the farmer before the proposed nationwide strike becomes a reality. His complaints are real and they are legitimate. The farmer needs our help now. I am hopeful this committee will favorably report a bill to the House at an early date. If the average farmer should stop working and go on welfare, he would probably be better off than he is today. This is not what we want for America. It is not what America wants.

THE HOUSE BROADCAST DECISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, it is curious that two different subcommittees of the Committee on Rules have recommended two different ways of providing television and radio coverage of House proceedings within 2 years of each other. On February 23, 1976, the Ad Hoc Subcommittee on Broadcasting recommended that:

The broadcast media should provide such broadcast coverage because this approach is the last expensive and burdensome for the House, will best protect the House from charges of censoring or otherwise attempting to control the media, and will ensure the most technically professional coverage of House proceedings.

Now, the Subcommittee on the Rules and Organization of the House has recommended that—

The House should operate its own broadcast coverage system following the example and building upon the experience of the Canadian Parliament.

Ironically, a special adviser to the Canadian House of Commons Broadcast Committee has likened the proposed, un-

manned, three-camera House of Representatives operation to "a department store surveillance system."

POLITICAL SWITCH

The ostensible reason for the switch in recommendations from a professional broadcast pool to a House system is the latest subcommittee's finding that the news media's quest for news and drama is incompatible with the House's desire for a complete record of its proceedings—"a kind of visual and audio parallel to the CONGRESSIONAL RECORD." If the House-produced broadcast is as accurate and interesting an account of our proceedings as the House-produced CONGRESSIONAL RECORD, we should brace ourselves for a real crisis of credibility and boredom.

Since the subcommittee has come up with no new information to refute the earlier finding that a professional broadcast pool would be less expensive and burdensome to the House, and more competent and credible, the real reason for the switch is more likely attributable to the old adage: "If at first you don't succeed, do it the Speaker's way." The subcommittee's recommendations are obviously more tailored to the Speaker's wishes than the merits of the issue.

POLITICAL DELAYS

This may also help to explain why the subcommittee's recommendations include enough frivolous delays to postpone the public airing of our proceedings until well after the next election. Not only has the subcommittee recommended that the House not go public until the Speaker determines that a broadcast quality picture has been attained—and it should not take more than 4 months to purchase and install the new equipment and make any necessary technical improvements and adjustments—but it has also recommended against going public "until appropriate legal and administrative arrangements connected with the use of broadcast coverage are completed or close to completion." There follows a whole laundry list of preliminary arrangements that seems formidable if not interminable. But most of these could either be completed in the same 4-month time frame in which the equipment is being purchased, installed and tested, and the rest would not have to be completed prior to going public.

In short, the subcommittee's prescription for diversion, distraction, and delay will give the Speaker a convenient excuse for keeping the American people electronically in the dark until well after they have emerged from the voting booths next November. This alone is a sad commentary on the confidence the House leadership has in a House-operated broadcast system, let alone in its own performance.

ANALYZING THE ALTERNATIVES

Putting aside the politics of House broadcasting, the arguments for and against the two live options—in-House and professional broadcast pool—should be examined closely.

The subcommittee has claimed to have divorced itself from the "emotionality" surrounding the issue and examined the alternative approaches "in light of reasonable criteria concerning the needs and the best interests of the American people, the House, and the broadcasting media." The report proceeds to list eight criteria and to measure each alternative against these. Following this lengthy discussion the report concludes that:

> . . . no single alternative would appear to have a decided advantage over any other . . . It should be obvious that none of the alternatives presents a perfect solution.

A more careful, objective, and informed review of these criteria, however, leads to a different conclusion, and that is that a professional broadcast pool is clearly the superior alternative. The report obscures this by digging up old red herrings to drag across the path of the pool, while engaging in supposition and fantasy over the advantages of a House-controlled broadcast system.

Consider each of the criteria which follow:

First. Technical and professional competency.—The report concedes that the professional broadcast pool already has "the experience and competence for this purpose," but claims the House could also obtain comparable professional services given sufficient funds and commitment.

Second. Availability to all broadcasters.—The report concedes that the networks have given assurance that the "pool would deal equitably and fairly with all"—and, indeed, equal access to coverage by all broadcasters would be written into the House contract with the pool—but the old bugaboo about independents being given short shrift by the pool, and the "appearance of monopoly control by one part of the industry" is again raised.

Third. Willingness to provide coverage.—The report indicates that the networks would prefer to cover only those portions of a debate they considered newsworthy, but reluctantly agreed to provide complete coverage in order to gain access for their purposes. The fact is, the pool came to the House with its proposal and is perfectly willing to provide gavel-to-gavel coverage.

Fourth. Continuing commitments to provide coverage.—It is argued that withdrawal of any or all of the members of the pool could result in its collapse, leaving the House with no equipment or personnel to provide continued coverage. While this is a possibility, the concern more expressed by some Members, at least in private, is that once the pool is in, it will be in for good and impossible to replace with another system.

Fifth. Full public accountability of operation.—The report indicates there is no reason to believe this would pose a problem for the networks, "although it would require them to disclose in considerable detail the costs they incur and the activities they perform in providing the service." The fact is that any contract with the pool would likely include a full financial disclosure requirement, and no concern about this has been expressed by any member of the pool.

Sixth. Comparative costs.—The report concedes that, "clearly the network pool approach would be the least expensive for the House in the short run." Moreover, the report hints that the House would have to spend considerably more than the original estimates in order to establish a quality system. The initial outlay for the Canadian Parliament's broadcast system, for instance, was more than $5 million, and the subcommittee's report recommends a House system "following the example and building on the experience of the Canadian Parliament."

Seventh. Administrative consequences and burdens.—The report concedes that, "House operation of the system clearly will entail an additional administrative burden for the House and for the Speaker that no other alternative would require."

Eighth. Union problems.—The report concedes that broadcast union agreements with two of the networks prohibit using more than 3 minutes of coverage produced by a nonlegitimate broadcast source (such as a House-controlled broadcast system), and, while this would not inhibit use on most news programs which use only short clips anyway, "It might pose serious problems for the networks in broadcasting lengthy live coverage or producing news documentaries."

Thus, an objective analysis of these criteria, established by the Subcommittee for Judging the Various Broadcast Alternatives, reveals that both the House and the pool measure up equally on three of the criteria (Nos. 2, 3, and 5), the House has the edge on one (No. 4), and the pool has the edge on four (Nos. 1, 6, 7, and 8). In summary, the House system meets only four of the criteria while the professional broadcast pool meets seven of the eight. This would hardly confirm the subcommittee's conclusion that "no single alternative would appear to have a decided advantage over any other." The professional broadcast pool clearly has a decided advantage over the House-controlled system.

THE REAL PROBLEM

There is a ninth criterion which apparently outweighs all the others and that is at the heart of the political determination which has been made against a professional broadcast pool and in favor of a House-controlled system. That criterion involves some politicians' traditional fear and mistrust of professional journalists, and particularly of the broadcast media. Put more diplomatically, it is the fear of the unknown and reluctance to give up any control over one's situation.

The report attempts to divorce itself from emotionality on both sides of the issue, which it claims range from misplaced first amendment concerns to "allegations that network pool control may produce coverage that is unbalanced, biased, deliberately or accidentally unfair to individual Members, and damaging to the dignity of the House"; and moreover, that "broadcast journalism is prone to judge what is newsworthy on the basis of conflict, drama and humor rather than on the substantive significance of a matter."

Nevertheless, it is this latter emotional charge on which the report finally comes to rely in its last ditch stand against a professional broadcast pool. While many

of these charges have a certain validity in terms of the abbreviated and often dramatic treatment given to certain events on the nightly news, they are more applicable to the actual use of the coverage than of the coverage itself. For if these were truly a major concern in the issue of who should provide the coverage, we would have to assume that the pool directors would be more intent on searching out humorous and dramatic scenes in the House with their cameras than on providing the most complete, accurate and interesting picture of the debate in progress. On the basis of the pool's past performance at such important events as the Senate Watergate hearings and the House impeachment proceedings, this demonic, conspiratorial theory is unfounded and unwarranted. The pool has demonstrated a sensitivity to maintaining the dignity and decorum of the House as well as to servicing all users with a complete record of what is being covered.

CROSS PURPOSES?

The report rejects network pool control of coverage on the grounds that the "deeply imbedded news and drama oriented predeliction (sic) of the broadcast media" is "inappropriate for what we see as the fundamental purpose of the coverage" which is "a complete, uninterrupted, undistracted, unbiased, and completely accurate record of the official actions of the House."

All this is longhand for the simple fear that any panning or reaction shots might catch some Members in an embarrassing pose or reveal a near-empty Chamber at times. It is also based on the assumption that the most accurate picture of the House at work is an exclusive focus on the person talking at the time and that reactions of others to what is being said, in the form of applause, laughter, heckling or booing, are not part of the total proceedings of the House.

The report even goes so far as to suggest that because the pool director will be calling the camera shots, other broadcast coverage users would be outraged at being subjected to "the unchangeable judgment of only one of their colleagues" and that, therefore, only the House can provide the type of unbiased coverage that would be preferred by and acceptable to all broadcast journalists. This contention flies in the face of the strong and widespread support throughout the journalistic community for coverage by professional broadcasters as opposed to by the House.

SUPPORT FOR PROFESSIONAL COVERAGE

On December 22, 1977, the coalition for Professional Broadcast Coverage of the House Floor issued a statement arguing that:

> It is clearly inappropriate that the persons who are making the news (in this case the members of the House) should also be in essence the persons *covering* the news. and that such a course will be distinctly against the public interest and will negate the major benefits which might be gained from the House decision to make its daily debates open to coverage by the media on which most Americans rely for their news coverage.

The coalition consists not only of the three major broadcast networks, but 16 other national journalistic organizations as well, from the National Association of Broadcasters to the Society of Professional Journalists/Sigma Delta Chi; from the two major broadcast unions to the National Press Club. It is obvious from this broad-based statement of support for professional broadcast coverage of House proceedings that the journalistic community does not share the report's conclusion that House coverage would be preferred by most broadcast journalists. (The full text of the coalition's statement and list of Members is appended to these views.)

THE CANADIAN EXAMPLE

While the report attempts to ride the wave of success of the Canadian Parliament's broadcast system as an example of what a House-controlled system could achieve, there are important differences which understandably have not been noted. The House of Commons broadcast system was planned, installed and operated by professional broadcast personnel from the Canadian Broadcasting Corporation (CBC) and not by existing House of Commons personnel. While the House of Commons has paid for and has ultimate control over the operation, it has purposely avoided placing restrictions on camera movements. As one CBC official put it, without flexibility, "you're going to have a dessicated product that nobody would watch."

Instead of the $500,000, 3-camera, remote-control system proposed for the U.S. House, the Canadian House has installed a $5 million, 8-camera operation, which includes 4 manned cameras, and another 30 professional broadcast personnel from the CBC.

THE ULTIMATE TEST

There seems to be a consensus in the House on two points; first, if we are going to broadcast our proceedings we should demand the best possible coverage; and secondly, the primary purpose of broadcasting our proceedings should be to serve the needs of the American people. The controversy arises over who can provide the best coverage, and at what cost, and how best to serve the needs of the American people which include learning more about how the House operates and about the public policy issues being debated here. This will come primarily through media use of the coverage.

Professional broadcasters are the most technically competent and professionally experienced providers of the type of quality broadcast coverage that will be most used by the media and most viewed by the public. The dual goals of providing a record of our proceedings and making it both usable and interesting are not mutually exclusive; they are complementary.

The House is confronted with a most important decision and should be permitted to debate and vote on it (as the Speaker has said). The central question is, Should we become the first Federal Government entity ever to establish our own domestic broadcast network for the purpose of covering our activities? The danger lies not in some imagined media "monopoly" over the media, but rather in a very real Government monopoly over its own media coverage.

The controversy over who should control the cameras is not an emotional one, but a very fundamental first amendment issue. I hope the House and Speaker will set aside whatever biases and fears they may have about the media and put some trust in the broadcasters' doing what is best for the Nation, the House, and their own profession. If we do not have confidence that the broadcasters will do their job to the credit of all, how can we ever expect the American people to have confidence in us attempting to do the broadcasters' job, even to our own credit?

STATEMENT BY COALITION FOR PROFESSIONAL BROADCAST COVERAGE OF THE HOUSE FLOOR

We respectfully urge the Subcommittee on the Rules and Organization of the House to reject any proposal for control of an audio-video feed from the House floor by the House, itself, or any of its agents.

We feel that such a course will be distinctly against the public interest and will negate the major benefits which might be gained from the House decision to make its daily debates open to coverage by the media on which most Americans rely for their news coverage.

It is clearly inappropriate that the persons who are making the news (in this case the members of the House) should also be in essence the persons covering the news. Public officials traditionally make policy and laws. Reporters traditionally cover the news. Each has its proper role in a free American society. The press, whether print or electronic, serves as the eyes and ears of the electorate in reporting on the activities of the House. It is important that all reporting by cameras and microphones be totally free and objective. It is also important the public understand this to be so. We do not believe it can appear so if the public knows that broadcast coverage is originating with the House itself, not with the broadcasters who are outside observers of events in the House and not participants in them.

Broadcasters ask only that the job of reporting the House (and cameras and microphones are only newer tools of an old trade) be left strictly to the reporter. There is no real need for the intrusion of a House system as a middle man who has no parallel in coverage by other reporters who happen to work for newspapers, wire services or magazines.

The mere fact that the viewing audience will see pictures of House floor action with captions superimposed (and these are legal necessities for broadcasters) indicating that these pictures were supplied, not by journalists, but by the House of Representatives, must raise a question of objectivity. Credibility will be sacrificed in the process and what the House gains by the new openness of its broadcast coverage will be lost by the suspicion that somehow the news from the House is being managed or censored

The precedent for direct coverage by broadcasters is all over Capitol Hill. Broadcast crews have been on hand for Congressional coverage going all the way back to the Roosevelt State of the Union message in 1934. Broadcasters make direct pickups on all State of the Union messages, all Presidential news conferences and speeches, on all major public events in Washington—state funerals, inaugurals, state visits, etc.

44 of the nation's fifty state legislatures now permit broadcast coverage of their floor debates. Forty of these legislative bodies allow broadcasters, themselves, to handle the audio/video pickups.

Apart from the element of credibility and the principles of the First Amendment there are other basic reasons why coverage should be in the hands of professional journalists.

(1) From long experience broadcast news crews have developed an expertise in live coverage which would assure the public quality

coverage both technically and editorially. An in-House camera system, while adequate for closed circuit operation, would not be adequate to service the needs of millions in the radio-television audience. The better the quality of picture and sound the more acceptable the material will be to professional journalists everywhere and the more frequent their use of the House debate in daily shows. The dividends of such an approach were never more apparent than in the public reaction to the daily, unrestricted coverage of the impeachment hearings by the House Judiciary Committee under Chairman Rodino.

(2) An in-House broadcast system will present at least two commercial networks (ABC and NBC) with serious union problems. Their contracts with NABET do not permit them to use more than three minutes from a House-provided feed. This limitation would be an obvious hardship for ABC, NBC, and the 2200 TV, AM and FM stations around the country which they serve. They would all be stymied on a major story which, by normal journalistic judgment, demanded extended coverage from the House floor, especially live coverage. CBS and public broadcasting stations operate under a different union contract but here, too, there may be some question of strong union objection to extensive use of material originating from non-broadcast sources.

(3) To the taxpayer, too, the concept of a broadcast industry pool is far superior to any in-House system. The House is better served by a broadcast system that is financed, set up and operated by outside broadcasters and it can save a very substantial sum of public money by subscribing to an industry pool. An in-House system would seem an unnecessary expense.

(4) The fears of some House members about cameras and audio systems run by broadcast organizations are not justified. For decades now broadcasters have covered a wide variety of public activities, some of them extremely sensitive, and the complaints about visual "cheap shots" have been virtually unknown. But we recognize that a certain number of Representatives do have real concern about the nature of coverage by outside broadcasters and we are always willing to consider such concerns in operating an industry pool.

Members of the Coalition for Professional Broadcast Coverage of the House floor:

ABC News.
CBS News.
Mutual Broadcasting System.
NBC News.
National Public Radio.
National Association of Broadcasters.
National Press Club.
Radio Television Correspondents Association.
Radio Television News Directors Association.
Reporters Committee for Freedom of the Press.
Society of Professional Journalists/Sigma Delta Chi.
International Brotherhood of Electrical Workers (IBEW).
National Association of Broadcast Employees and Techicians (NABET).
The Washington Press Club.
The American Newspaper Women's Club.
American Women in Radio and Television.

Associating with Coalition's first amendment and credibility statements:

Associated Press.
United Press International.
Public Broadcasting Service.

NEW ENGLAND'S ENERGY SITUATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, last week the House passed amendments to the Outer Continental Shelf Lands Act. This bill was extremely lengthy and complicated and during the course of debate numerous amendments were offered. Many of the amendments which were adopted substantially changed the nature of the bill. I would like at this time to explain my reasons for voting for final passage of the legislation and to offer my positions on some of the major issues considered.

As a Member of the House from New England, I have even more than usual interest in this legislation which affects the development and utilization of domestic energy resources. My colleagues from that region know too well that New England's energy situation remains the worst in the country. We are now importing over 63 percent of our total energy supplies and this figure has increased since the Arab oil embargo. In addition, our energy prices are 30 percent higher than those in other regions of the country. Clearly, there are environmental concerns over the impact of energy resource development but we can ill afford to overemphasize these concerns at the expense of our efforts to encourage and stimulate domestic supplies of energy. In my opinion, a balance can be struck and, indeed, I find it regrettable that the conflict appears to be of an adversary nature rather than a compatible merging of environmental and energy resource needs.

BREAUX AMENDMENT

Because of my concern that H.R. 1614 in its original form would lead to unnecessary delays in the leasing and production of offshore oil reserves, I voted for the Breaux substitute which was intended to streamline the process of developing our OCS resources.

DUAL LEASING

Among other provisions, the Breaux substitute eliminated the dual leasing provisions in the bill whereby two leases would be granted for a particular tract: one for the exploration phase and a second one for the development and production phase. Although the Breaux amendment failed to pass, sufficient concern about this provision's delaying effects led to subsequent passage of a separate amendment to eliminate dual leasing.

BIDDING

The committee, reacting to criticism that the prevalent "cash bonus" bidding system now used for the vast majority of offshore oil leases was limiting competition, required the use of new bidding systems in at least 50 percent of all lease sales. The Breaux amendment authorized the same alternative bidding systems but required instead that cash bonus bids be used in at least 50 percent of lease sales in frontier areas. A subsequent compromise amendment which I supported limits the mandatory use of alternative bidding systems to not more than 50 percent but not less than 20 percent of the total area offered for lease.

Other provisions of the Breaux amendment intended to prohibit the Federal Government from doing exploratory drilling in the absence of a specific appropriation. My colleagues will recall that this issue was central to the House defeat in the last Congress of the conference report to accompany OCS amendments. Again, a separate amendment adopted by the full House eliminated the Federal Government's authority to undertake exploratory drilling.

OSHA ON THE OUTER CONTINENTAL SHELF

Another major provision of the Breaux amendment later adopted separately by the full House was language retaining the Coast Guard's primary jurisdiction with regard to regulation of working conditions on the OCS based on the Coast Guard's history of expertise in this area.

In conclusion, Mr. Speaker, I cast my vote finally in favor of H.R. 1614 because the bill had been improved to an extent that I felt was worthy of support. However, remembering my vote in the last Congress for OCS legislation which was subsequently modified in a House-Senate conference in such a manner that I could not support the conference report, I await with great interest the final outcome of a similar conference on this bill and hope that the House's wisdom on many of these provisions will prevail.

CONSUMER PROTECTION AGENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. EVANS) is recognized for 5 minutes.

Mr. EVANS of Delaware. Mr. Speaker, I rise in opposition to legislation before the House today which would create a new Federal bureaucracy supposedly designed to represent consumer interests.

This legislation used to be called the Consumer Protection Agency bill. But, because the Carter administration could not find enough votes to pass the bill under that heading, the name was changed to the Office of Consumer Representation. But even though the label on the can has changed, what is inside remains the same—a very bad bill.

There are many things that are fundamentally wrong with trying to set up some Federal superagency to speak for consumer interests. First, and foremost in my mind, is who decides what the consumer interest is on a particular issue. Nowhere in this bill will you find any definition of consumer interest. No Washington bureaucrat—or even Ralph Nader, for that matter—can or should serve as the sole spokesman for all consumers. Yet we are in fact setting up an arbitrary consumer spokesman with this bill today.

Second, this legislation will create massive amounts of new paperwork and redtape, as businesses and even Federal departments try to keep up with its activities. I foresee the Office of Consumer Representation as an agency of Government answerable to no one, and one which will fire bureaucratic arrows in all directions. Businesses throughout this country would then have to spend

tremendous amounts of time, energy, and money responding to these suits, charges, and interrogatories which will flow out of the new Federal agency.

The Federal Government already has plenty of agencies and bureaus administering consumer-related programs. If they are not doing the job, then we should improve them, not create another agency. The Leach-Glickman substitute to this bill would strengthen existing agencies without setting up this new and unneeded bureaucracy, and I urge my colleagues to support it as an alternative to the OCR.

Government overregulation costs each of us every day in the form of higher taxes and higher prices. We need less, not more, Government in Washington. The people of Delaware, I can tell my colleagues, already have more Government protection than we can stand or afford.

I have sat on this floor and listened as Congressman after Congressman, Democrat and Republican, complained about rising Federal regulation, and how their constituents have simply had too much Government redtape. Now is the time to stop talking about Federal redtape, and start doing something about it—by voting against this bill.

Third, consumers are also taxpayers, and this Agency will spend more and more tax dollars. I am well aware of the argument that this office will start out small—if $15 million can be considered small by anybody. But I have yet to see a single Federal bureaucracy fail to grow like Topsy, and I do not think this one will start a new trend.

Fourth, the new Agency, through litigation or even the threat of litigation, will exercise tremendous influence over normal business operations, particularly as it affects small business. Most business firms could not match the resources or power that this Agency could put into one proceeding, and thus there will be a strong requirement to comply with the Agency's wishes—right or wrong—just to avoid the harassment of court battles, paperwork, and delay.

The sponsors of this so-called compromise have really not changed much in this bill beyond its name. It still fails to define consumer interests. It still sets a new Federal bureaucracy with tremendous power. It still promises massive amounts of Government redtape and harassment.

For these reasons, this legislation should be defeated.

LEGISLATION TO AUTHORIZE THE MUSEUM OF AFRICAN ART, THE SMITHSONIAN INSTITUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 10 minutes.

Mrs. BOGGS. Mr. Speaker, today our colleagues, GEORGE MAHON and ELFORD CEDERBERG, and I, who are congressional Regents of the Smithsonian are introducing legislation to authorize the Smithsonian Institution to acquire the Musuem of African Art, located at 318 A Street NE., in Washington, D.C. In this endeavor, we are joined in sponsorship by our colleagues JOHN BRADEMAS, JOHN CONYERS, and FRANK HORTON, who serve as members of the Board of Trustees of the museum.

Mr. Speaker, one of the few serious gaps in the coverage of art in the national museums of the Smithsonian is that of the continent of Africa. Elsewhere within the Institution the visitor and scholar alike can find worthy presentations of the art of Europe, of the Americas, of the Near and Far East—but not of Africa. During the last few years it has been belatedly recognized that African art is indeed one of the major art traditions of the world, one whose rediscovery in the West can be traced in some of the works of many of this century's greatest artists.

As a consequence of this rediscovery, other museums around the country have moved decisively to fill similar gaps in their own collections. For its own part, unless the Smithsonian acts to seize the unique opportunity afforded by the interest of the Museum of African Art in joining the Institution we will likely lose our one best chance to involve the Smithsonian in any major way in this important area of art scholarship.

To facilitate this acquisition, the legislation we are introducing today will do the following:

First. Authorize the Board of Regents to accept a deed or other instrument donating and transferring to the Smithsonian all the assets of the Museum of African Art;

Second. Establish in the Smithsonian a bureau to be known as the Frederick Douglass Museum of African Art;

Third. Authorize the Board of Regents to perform all the functions common to the operation of a museum including explicit authority "to sell, exchange, or otherwise dispose of any property of whatsoever nature * * *";

Fourth. Establish a Commission "which shall provide advice and assistance to the Board concerning the operation and development of the Museum * * *"

Fifth. Provide that the Commission shall originally consist of the present Trustees of the Museum, and shall thereafter be appointed by the Board of Regents;

Sitxh. Provide for the appointment by the Board of Regents of a director and staff, and provides that present employees of the museum shall be transferred to Federal employment;

Seventh. Pledge the faith of the United States will provide such sums as may be necessary for the continuing operation of the Museum under the Smithsonian; and

Eighth. Authorize the appropriation of $1,000,000 for the first fiscal year of operation under the Smithsonian, and "such amounts as may be necessary for succeeding fiscal years * * *"

Except for the authority to accept the transfer, and the authorization of appropriations, the provisions of the act are to take effect upon the date of the transfer to the Smithsonian.

Mr. Speaker, at their meeting of January 16 the Regents of the Smithsonian voted to support this acquisition and to seek appropriate congressional approval of this action. This legislation will provide authority to the regents to proceed with the acquisition.

As some of my colleagues may know, from almost the inception of the museum, our late friend, Senator Hubert H. Humphrey was one of its major supporters. He served as a member of its national council and as chairman of its board of trustees. He, more than anyone else, has been the moving force behind this proposed acquisition. Just prior to his death, Senator Humphrey requested that I sponsor this legislation in the House. In the other body, this legislation has been jointly sponsored by Senator WENDELL ANDERSON and Senator MURIEL HUMPHREY.

Mr. Speaker, I ask unanimous consent to include at this point additional information on the museum:

MUSEUM OF AFRICAN ART

During the almost fourteen years of its existence, the Museum of African Art has won international acclaim as the outstanding educational cultural institution in the United States devoted exclusively to fostering public understanding of Africa's traditional art and its creative contributions to mankind.

Occupying a block of nine Capitol Hill townhouses including the first Washington residence of the great 19th century black abolitionist orator, publisher and government official, Frederick Douglass, the Museum was founded in 1964 by former USIA Public Affairs Officer and Cultural Attache, Warren Robbins, its present Director.

Its collection of traditional African sculpture, numbering 7,000 objects is already among the three most important museum collections in the United States; even more important, several private collections of African sculpture conservatively valued at several million dollars would be bequeathed to the Museum if its institutional stability were assured. These collections, if received, would make Washington unquestionably the principal center in the world for the display and study of African art, an important fact in view of the city's large diplomatic community, the high proportion of African students in its colleges, and its black citizens.

The Museum has already received a bequest from the world renowned LIFE photographer and Africanist, Eliot Elisofon, of a photo archives numbering 150,000 slides, films, and photos on Africa, in addition to 600 objects of art. Together with a specialized library of 5,000 titles, the photo archives and the collection comprise a unique educational resource which will be made accessible to universities throughout the nation.

All told, the Museum's assets in art, educational material and real estate exceed $7,000,000. Some $4,000,000 has been raised or pledged thus far to launch and operate the Museum, including a $1,000,000 five-year development grant awarded by the National Endowment for the Humanities in 1970.

Best known for its far reaching and imaginative educational program, the Museum serves as a national prototype to foster mutual respect and social harmony among black and white citizens. Some 12,000 groups

from schools, colleges, church and civic organizations, etc., have already visited the Museum or participated in its extension programs emanating from the Museum.

The Board of Trustees of the Museum is prepared to donate to the United States, via the Smithsonian Institution, the entire Museum complex, its collections and its physical plant. The appropriations needed would be only about $750,000 per year, since the Museum, like other branches of the Smithsonian would continue to raise funds from private sources.

I think we all recognize the tremendous support and enthusiasm that exists for this museum in academia, the art world, in the community at large and here in Congress. I hope my colleagues in this House will share my feelings about the desirability of proceeding with the mechanics of the acquisition and will act upon this legislation as soon as possible. The Museum of African Art is a fine and important institution and deserves to be made a part of our National Museum.

GEN. THADDEUS KOSCIUSZKO—VALIANT SOLDIER, COURAGEOUS PATRIOT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on February 12 this Nation will observe the 232d anniversary of the birth of Gen. Thaddeus Kosciuszko, a valiant Polish patriot whose contributions were decisive in this country's revolutionary struggle for independence. Aloysius A. Mazewski, the outstanding and resourceful president of the Polish National Alliance and the Polish American Congress, spoke on "Kosciuszko's American Roots" during a previous Kosciuszko Day Observance, and excerpts from his address follow:

KOSCIUSZKO'S AMERICAN ROOTS

(By Aloysius A. Mazewski)

Today, on this solemn occasion of paying tribute to Kosciuszko's greatness, I would like to present to you an observation rarely, if ever, considered by his biographers.

The singular fact is that Kosciuszko's military genius found its first expression on the American soil.

And it was on American soil that Kosciuszko came to know the valor, heroism, and sacrifices of the underprivileged, undernourished, and underclothed soldiers of liberty, who, under George Washington, challenged the then most powerful colonial empire.

Briefly stating, Kosciuszko was born in February, 1746 in Mereczowczyzna, Poland.

During the reign of the last, ill-fated king of Poland, Stanislaw August Poniatowski, Kosciuszko studied in the elite Corps of Cadets in Warsaw for four years and in 1769 he entered the French Higher Military School Ecole Militaire in Paris where for four years he studied military strategy and engineering. After the first partition of Poland, in 1772, Kosciuszko left Paris for Switzerland and Italy, where he spent his next three and a half years.

In 1776 he landed in Philadelphia Harbor and offered his services to the Continental Congress.

Before the Congress acted, the Pennsylvania Committee of Defense asked Kosciuszko to draw plans for fortifying the Delaware River. Military skill and foresight with which he executed this commission, earned him the rank of Colonel of Engineers in the Continental Army.

His recommendation for Ticonderoga defenses were ignored due to a mix up in which General Gates was temporarily relieved of command and Ticonderoga was lost to the enemy.

When General Gates resumed his command of the Northern Army, he entrusted Kosciuszko with planning of the Saratoga fortification and defenses.

After the Saratoga battle, General Gates congratulated Kosciuszko whose strategy of defenses saved the day for Americans and changed history.

After an effective service in the Southern Theater of Operations, and after the war's end, Congress awarded Kosciuszko with the rank of Brigadier General, a pension and land estates in Franklin County, Ohio.

He was also elected to the Society of Cincinnati, of which Washington was the first president. Its motto read:

"Omnia reliquit servare Republicam"—he relinquished all to serve the Republic.

It was, indeed, a fitting tribute to Kosciuszko's contributions to the American Revolution.

In July, 1784, Kosciuszko returned to Poland, nurturing in his heart the most valuable lesson he learned in America.

It was the concept of the Citizens Army—the first truly Citizens Army in the world that won the American Revolution against overwhelming odds.

That concept will, in later years be brought into fruition with Kosciuszko's call to Polish peasants to fight for their country.

Given more time, Kosciuszko would have created a Citizens Army for defense and restoration of the Polish Republic.

Unfortunately, time was denied him.

On October 9, 1795, Kosciuszko was severely wounded at the Battle of Maciejowice and taken prisoner of war by the Russians.

He spent three years in St. Petersburg's prison until he was freed by Czar Paul I, in December, 1796.

By then Poland was already wiped off the map of Europe after the third partition in 1795.

After his release from Petersburg, he was greeted with enthusiasm and acclaim in London and in Sweden.

When he arrived in Philadelphia on May 18, 1797, his welcome by the population was truly enthusiastic and warm hearted.

President John Adams sent him a congratulatory message.

George Washington wrote from his retirement at Mt. Vernon:—"Having been just informed of your safe arrival in America, I was on the point of writing to you a congratulatory letter on the occasion, welcoming you to the land whose liberties you have been so instrumental in establishing."

In 1800 Kosciuszko wrote a textbook on Maneuvers of Horse Artillery, at the request of General William R. Davis, which was translated 8 years later into English and became the official handbook for American Armed Forces.

Of course, I had to confine my address to a few most important points in Kosciuszko's biography, to emphasize the first sentence of my speech to you, that Kosciuszko is one of the great soldiers of American history, and one of the greatest heroes in the annals of Poland.

Yet Kosciuszko, in addition to American and Polish reverence, has a universal appeal as well.

He was one of our great humanitarians of all time and one of the great statesmen of the Western world.

Kosciuszko's military genius, civic wisdom and compassion are part of our great American legacy and tradition that gave us victory in the War of Independence and made this Republic the greatest institution of individual freedom and dignity the world has ever known.

Mr. Speaker, in recognition of the enormous contributions made by Kosciuszko to the winning of America's War for Independence, I have cosponsored H.R. 7706, a bill to designate the Thaddeus Kosciuszko Historic Route. This legislation would make possible the identification, by historic markers or tablets, of the points of interest in the United States where Kosciuszko made his most important contributions, and I urge the support of my colleagues for this Senate-passed legislation which will be considered as part of the omnibus national parks bill now before the House Interior and Insular Affairs Committee.

Mr. Speaker, as Congressman from the 11th Congressional District of Illinois, where many Polish-Americans reside, I am privileged to join them and Americans of Polish descent all over the Nation in this commemoration of the birth of General Kosciuszko and his devotion to democracy and human freedom.

AIRLINE NOISE ABATEMENT SURCHARGE: WHAT MORE WILL THE AIRLINES ASK FOR?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, yesterday the Ways and Means Committee heard testimony on H.R. 8729, the Airport and Aircraft Noise Reduction Act, and the administration's proposal for reduction in certain airport and airway trust fund taxes. The airlines and aircraft industry are asking for a 2-percent reduction in their trust fund taxes and a corresponding 2-percent surcharge levied by each airline. Funds from the surcharge are to be placed in escrow accounts to help airlines finance noise abatement investments.

I share the concern of all Members of Congress, the administration, the airline industry, and many citizens that we work toward quieter and more efficient aircraft. However, I question the need for this indirect subsidy to the industry. Airlines pay one of the lowest effective Federal income tax rates of all sectors of American industry. According to my sixth annual corporate tax study, three airlines effectively paid no Federal income taxes in tax year 1976. Three more paid less than one-quarter the mandated 48-percent Federal tax rate, another paid less than half, and only one paid the mandated rate. The following table show this data in more detail:

	1975 (approximate)—thousands			1976 thousands										
				Thousands						Percent				
	Adjusted net income before Federal income tax	Federal income tax	U.S. effective tax rate on wor'd-wide income	U.S. income before tax [2]	Foreign income before tax [2]	Worldwide income before tax [1]	Current U.S. tax expense [4]	Current foreign tax expense [4]	Current worldwide tax expense [3]	Effective U.S. tax rate on U.S. income [5]	Effective rate on foreign income [5]	Effective world-wide tax rate on worldwide income [2]	Effective U.S. tax rate on worldwide income [5]
Airlines [6]													
Trans World Airlines				(*)	(*)	60.415	1,659	10,540	12,199	(*)	(*)	20.2	2.7
United Airlines				(*)	(*)	26,391	12,725	984	13,709	(*)	(*)	51.9	48.2
American Airlines				78,133	----------	78,133	0	----------	0	0	----------	0	0
Eastern Airlines				46,239	----------	46,239	0	----------	0	0	----------	0	0
Pan American World Airways				(*)	(*)	100,311	0	0	0	0	0	0	0
Delta Air Lines	73,679	(13,300)	0	106,876	----------	106,876	6,102	----------	6,102	5.7	----------	5.7	5.7
Northwest Airlines	45,677	(6,178)	0	(*)	(*)	95,316	9,241	587	9,828	(*)	(*)	10.3	9.7
Braniff International				35,322	----------	35,322	2,336	----------	2,336	6.6	----------	6.6	6.6

* Unavailable.

[1] Worldwide income before tax is comprised of income before Federal and foreign income taxes, adjusted to eliminate the equity in earnings or losses of unconsolidated subsidiaries and to restore the minority interest in earnings or losses of consolidated subsidiaries. In several instances the adjustment for equity in earnings of an unconsolidated subsidiary is not made because the parent has at least 80 percent ownership of the subsidiary and the subsidiary's income taxes are separately disclosed. In these circumstances it is likely that the subsidiary is consolidated with the parent for tax purposes, even though it is not for financial statement purposes.

[2] The allocation of income between U.S. and foreign sources is based on information voluntarily disclosed in the companies' financial statements. For the year under study there was no SEC or financial reporting requirement and such information be provided. Effective for fiscal years beginning after December 15, 1976, Financial Accounting Standards Board Statement No. 14 requires increased disclosure of foreign operations. The SEC is presently considering the adoption of a rule similar to FASB Statement No. 14.

Uniform methods of allocating income between U.S. and foreign sources have not been developed; and corporate administrative, capital and product development costs are subject to arbitrary allocation methods. However, the information provided, subject to the accuracy of the allocations, provides information useful in analyzing the effective income tax burden of multinational corporations.

Most companies allocate unrealized foreign currency exchange gains and losses recognized under FASB Statement No. 8 to foreign source income. Net exchange gains decrease the current effective tax rate and net exchange losses increase the effective tax rate. Some companies report high effective foreign tax rates (perhaps in excess of 100 percent) because of the recognition of such losses for financial reporting purposes.

[3] Current worldwide tax expense is comprised of the current portion of the Federal and foreign income taxes reported for financial accounting purposes. Generally, financial accounting rules require that the income taxes currently payable be stated separately from those payable in the future. The taxes payable in the future, called "deferred taxes", are attributable mostly to "timing differences" in recognizing income and deductions for financial accounting and tax purposes. The taxes payable currently in most cases represent the tax estimated to be shown on the return to be filed. However, the current provision for each year is adjusted by the over- and under-estimation of the prior year's current provision. To the extent of the current and prior year errors in estimation the current income tax provision does not represent actual current tax expense.

[4] The allocation of current income taxes between U.S. and foreign expense is required by the SEC. In some instances, where the amount involved is not material, State or foreign income taxes may be included with U.S. income taxes. Thus, companies that do not separately state U.S. and foreign earnings must at least separately state U.S. and foreign income taxes allocated between current and deferred, when they are material.

[5] The effective tax rates are computed by dividing the worldwide, foreign and U.S. current tax expenses by worldwide, foreign and U.S. income before tax, respectively. In addition, an effective rate of U.S. tax on worldwide income is computed by dividing the current U.S. tax expense by worldwide income before tax.

For those companies which chose to disclose foreign earnings, the computation of the effective U.S. tax rate on U.S. income and foreign tax rate on foreign income is possible. For those companies which chose not to disclose foreign earnings, only the effective rate of the U.S. tax on worldwide income and worldwide tax on worldwide income is determinable.

[6] Under the provisions of U.S. tax accounting rules and treaties with foreign countries, international air carriers are taxed on transportation income in their home country, regardless of where the revenues were generated. The foreign income and taxes reported for the airlines are attributable to non-transportation activities, such as hotels and resort facilities.

Aside from these abysmally low tax rates, the Senate Finance Committee voted on Friday to extend by 1 year the time in which airlines may offset 100 percent of their tax liability with the investment tax credit. Normally, industries can use the investment tax credit to offset only up to 50 percent of their tax liability. This measure could save airlines up to $50 million.

I understand that the reduction in airline trust fund taxes and the 2-percent surcharge will help airlines comply with Federal regulations that have a retroactive impact.

However, I doubt that the airlines make a proper case for further subsidy. The general taxpayer—including millions who use the airlines only occasionally—should not carry any new burdens for this pampered industry. The runways, the terminals, the monitoring of the airways, have been developed and carried on with general taxpayer funds. Aircraft technology is substantially paid for through defense expenditures. Frankly, we are at the end of the line in public subsidies.

Mr. Speaker, it is my hope that the Ways and Means Committee will think long and hard about the need and propriety of the tax aspects of this legislation.

THE STATE OF THE ECONOMY—AND WHAT TO DO ABOUT IT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, on Monday, February 6, I addressed the College of Commerce of DePaul University, at the Lewis Center Theater in Chicago, on the state of the economy and some proposals for maintaining economic expansion and dealing with basic problems of unemployment. The remarks follow:

THE STATE OF THE ECONOMY—AND WHAT TO DO ABOUT IT

Three weeks ago President Carter told us that "the State of the Union is sound." I am not going to dispute that judgment. We have a competent Administration in Washington, committed to sustained economic expansion, to good government management, and willing to undertake small, useful, carefully-thought-out initiatives on the social front—the "we-take-all-comers" youth jobs program in a few selected cities, the new HEW initiatives to help pregnant teenagers, for example. There is much here to admire and be thankful for.

This, I know, sounds like faint praise. And it is. For while the Administration has been getting the mechanics of government organization and economic stabilization under control, the President's broader, ennobling ambitions seem to have slipped beyond his grasp. Full employment, welfare reform, tax reform, national health care: all seem more distant now than ever. Cities and the poor who live in them have yet to benefit from this Administration. We are approaching another New York financial crisis, less serious perhaps than the one two years ago, but with every indication that the roles of the players—supplicant city, concerned but impecunious State, skinflint Federal government—have not changed in any fundamental way since 1975. Carter's people are giving us management, not leadership; and it is leadership that we need.

What has gone wrong here? Were the promises of the election campaign overblown, disingenuous, dishonest? Did Carter really not mean all those things he said? I don't think so. Rather, I think that the Administration has made two strategic mistakes, which have had the effect of forcing the

broader social objectives onto the back burner.

The first was a misplaced emphasis on the priority of the energy program. On this, I side with the medal-bedecked general of a recent New Yorker cartoon, who says to a Georgetown grande dame at a cocktail party: "Madam, in my opinion there is no moral equivalent of war." By weighing in with a complicated energy program of debatable urgency, equity and effectiveness, Carter opened himself to a protracted war of attrition with the oil, auto, and other special interests, sapping his political energies and dissipating his moral authority. At a time when the world is awash in oil, when the real price has been declining (because of inflation) for over 4 years, and when political relations between the U.S. and the major oil-producing states are better than ever, many legislators find it difficult to see the benefit in a crash commitment to energy independence.

I continue to hope and pray that the resulting legislative stalemate can be resolved.

The second mistake came in the autumn of 1977. The Administration's top economists, alarmed by a run of soft statistics, the stock slump, rising interest rates, and what seemed at the time to have been a stubborn 7 percent unemployment rate, succumbed to a general atmosphere of business nervousness and opted for a $25 billion tax cut. In so doing, they got themselves into a budgetary straitjacket from which they cannot easily escape. Again, cutbacks in proposed endeavors to deal with unemployment and urban ills have been the result.

How will the tax cut affect us? It will stimulate the economy some, reduce unemployment to perhaps 6.0 percent by 1979, and give minor boosts to inflation and the trade deficit. If the Federal Reserve responds as usual, the budget deficit will climb, from $50 billion in calendar 1977 to at least $60 billion through 1979, further from the once-promised balance than ever. Loud cries will be heard throughout the land that federal expenditures must be brought under control—despite the fact that federal spending as a share of GNP has not materially increased in 20 years. Then the unemployed, the poor, the declining cities and depressed rural regions will find the Washington cupboards bare. Their problems cannot be solved by tax cuts alone.

To be sure, those who have argued in favor of a tax cut have history on their side. We had a tax cut in 1964, and again in 1975, and again in the first months of the Carter Administration. There are people, not all of them outside the Administration, for whom cutting taxes is the remedy for all conceivable economic ills—unemployment, inflation, under-investment, you name it. Now the Republicans are joining the fray, seeking to outdo even the President in giving away federal revenues before they are received.

What this country really needs is a massive attack on unemployment, not a massive tax cut. Structural unemployment—half or more of the current 6.3 million unemployed—is the towering fact of our economic and social life. To cite the most depressingly familiar fact, half of black teenagers living in central cities are looking for jobs but cannot find them. Many others have given up. In the meantime, urban manufacturing concerns—steel is the most spectacular example—are shrinking, closing down, relocating to the suburbs, the Sunbelt, or to South Korea. The jobs that remain are low-paid, low-productivity service occupations that provide little work satisfaction and few prospects of advancement. The "welfare culture" that emerges is not, as many people imagine, one in which many people subsist indefinitely on the dole, never looking for or accepting employment. Rather, it is one in which millions of desperate, job-hungry men and women drift from one menial occupation to another, relying on welfare in between-times, but always looking and seldom finding the opportunity to gain a foothold in a career ladder.

This is not a destiny we would accept for ourselves, and not one we should expect our fellow-citizens to accept. We can break the cycle of pointless, stagnating lives, but only if we decide to put our back into it and keep it there.

There is so much to do.

In the private sector, closed-down factories ought to be manufacturing solar energy devices, pollution control machinery, mass transit vehicles, medical equipment. American corporations, great and small, have to be brought into the effort. The government ought to say to them: "Tell us what you think you can do to make jobs for the unemployed in your neighborhood—and reasonable profits for yourselves—and we'll help you to do it."

In the public sector, useful tasks likewise abound. Take just one example. In all our great cities, we've got public schools which are sitting empty because the school-age population has moved out. They are being heated at public cost. Or else they are simply abandoned, prime targets for vandals and arsonists. At the same time, there is tremendous need for day-care centers, and for lunch programs and recreational centers for senior citizens—the kind of functions that firehouses often serve in small towns. Why not use some of the ghetto unemployed for modernizing and reorganizing these buildings to serve a day-care or elderly care function? Why not use some of the young people who have studied to be teachers in this country, but can't get jobs, as straw bosses in the construction effort and as counselors when the centers open? And as paraprofessionals, why not use the hundreds of thousands of young people, mostly minorities, in our central cities who want and need useful work? Surely this is better than the degrading downward spiral of crime and drugs and mean streets and welfare and dependency that faces so many of them now.

Of course there are other things as well: sewerage and anti-pollution works, housing rehabilitation, civic maintenance, conservation work in the image of the old CCC, new roadbeds for our railroads, even such traditional public works as road maintenance and library construction. In Vienna, there are shopping centers in malls underneath the intersections of grand old city boulevards; in Paris, there is a fabulous new center for the arts; in London, a new national theatre complex. In Baltimore, federal financing is helping people buy and renovate structurally sound but run-down townhouses in an attractive 19th century neighborhood; in Boston, the waterfront is again thriving, thanks to the inspired rehabilitation of the historic Quincy markets. We can learn much from such endeavors. They provide jobs in the course of enriching the physical and cultural environments of all the people who come into contact with and use them.

At the moment, money to more than double the present 700,000-plus public service employment jobs is tucked away in the welfare reform bill, where it may easily languish for years. There is no reason for this. These jobs should be separated out and sent to Congress for immediate action. Additional measures—such as a differential minimum wage for labor-market entrants, and wage subsidies to encourage private industry to hire additional workers, should be tried experimentally in selected labor markets.

For the nation and in every major job market, we need a live-wire top-level extra-bureaucratic straw boss to ride herd on the total jobs-now effort in the area, both public and private. A dollar-a-year man, he or she could be appointed jointly by the President, and state governor, and the chief executives of local government. The task?—to tally up the structurally unemployed, and then to forward solutions by every thought, word, and deed. For starters, how about a Felix Rohatyn for New York, a Ben Heinemann for Chicago, a Bert Lance for Atlanta?

The Expediter's powers would derive not from any formal legal arrangement but out of the Expediter's public stature and the high-level source of his or her appointment. Deficiencies in public-sector jobs, and opportunities in private-sector jobs, should be pointed out and remedies suggested—by spoken and printed word, by press, radio and television, by any and all means of communication.

Can such a maximum jobs program sustain the economic recovery? Of course it can. Government spending, direct and indirect, has as much or more stimulative effect on the private economy as a tax cut. Incomes flow to the poor, who do not save, rather than to the relatively better-off who may be tempted to stock up their savings accounts, rather than plow their tax refunds back into consumption where it is needed. The effect on inflation of the two choices is probably about the same. And the effect on employment of direct job creation is much greater: each dollar spent on job creation does in fact create jobs, while only a fraction of tax-refund dollars do the same.

To be realistic, I don't expect to win this battle; at least not this time around. Having bolloxed up the Social Security bill by agreeing to a raised payroll tax rather than contributions from the general tax fund, the Administration needs an immediate offsetting tax reduction. Substantial energy tax increases are also in the works, and these too will have to be offset. Also it is a Congressional election year—and tax cuts at such times have a certain attraction for incumbents. So I think on October 1 those of you with incomes will see your taxes go down.

On the other hand, there is an increasing recognition of the futility of this approach. The problem of the American economy is not an insufficiency of cars, Japanese television sets, electric blow-dryers and inflatable swimming pools. Rather it is the existence of a substantial class of chronically unemployed and underemployed. It is the deterioration of our physical environment—our rail network, our public services, our city streets, our housing stock, the amenities of urban life.

We can, as many have done, simply leave the cities behind, and go forth to build a new life in sprawling suburbs or new towns. But suburbs in this age of expensive energy are becoming increasingly expensive to build and maintain. They too grow old and decay. And as we abandon the cities, we abandon the people who cannot afford to leave them—and for whom they have represented a remarkable haven from an even more destitute and oppressive existence on the sharecropping plantations of the rural South or the barrios of Puerto Rico—to an increasingly dangerous and miserable life.

So I am hopeful. My allies are increasing. Vernon Jordan of the Urban League sees the danger an addiction to tax cuts poses to the needs of his people. J. K. Galbraith and a group of distinguished economists have complained to the President about it. And the influence is spreading. G. William Miller, the new chairman of the Federal Reserve Board, has demonstrated his interest in an attack on structural unemployment. Members of the Business Council—200 top executives of United States industrial corporations—are with us. So is the business-sponsored Committee for Economic Development, which recently produced a valuable report on the subject. We may not win this time, but watch out. President Carter has already hinted that he may seek still another tax reduction in 1980. I predict he will find the support for

such an action very much reduced by that time.

What of inflation? If you haven't heard much lately about the Administration's anti-inflation program, it's because there isn't one. The proposed elimination of excise taxes on airline tickets and long-distance telephone conversations, while worthy measures in themselves, are all but irrelevant to the Consumer Price Index. Voluntary measures to bring wage settlements under the 8 percent level that seems endemic will work only so long as (a) unionized labor markets are loose, and (b) the Administration carries either great moral authority or a credible threat to sterner measures. None of the above, alas, is the case. If the inflation rate continues to decline, we will have good weather, good crops, and benevolent Arabs to thank, not the Council of Economic Advisers.

Ever since the Nixon wage and price controls of 1971–2, incomes policies have been around. It hasn't mattered all that much: the massive inflation of recent years, coinciding as it did with high unemployment and loose labor markets, must be blamed on supply factors such as the OPEC oil price rise, the food price increases of 1972–3, and on the devaluation of the dollar, far more than on the rapacity of particular corporations or labor unions. But this situation will not last. As the economy expands, bottlenecks appear in both the product and labor markets; certain key raw materials and certain specialized skills become scarce. Their price rises, and the dangerous phase of cost-push inflation is upon us again. As the evil day approaches, I predict you will hear more about the dangers of "overheating", and less about the supposed "market distortions" of controls. Already a plethora of new proposals have been tabled, many of whom would use tax penalties and incentives to encourage wage and price restraint. Such innovations are long overdue, and should be encouraged: perhaps a way of putting an incomes policy into effect with far lower administrative costs and less new bureaucracy is only around the corner. But an incomes policy we will have.

We will never, I hope, return to the bad old days of deliberately engineered recessions as the cure for inflation—with all the human and social consequences that such a strategy has produced in the past. But we cannot expect the high employment economy we desire to be inflation-free: the world simply is not so nice. I think you will see increasing recognition of this basic, unpleasant truth as time goes on.

What is the role of monetary policy in a continued economic recovery, capped with a structural employment program on a massive scale? Clearly, as William Miller himself has put it, it is best for the FRB to decide "independently" to cooperate rather than obstruct the Administration's goals. This means that the monetary hand should not retrieve, via tight money and higher interest rates, that which the fiscal hand provides. At the same time, the Fed should keep a close eye on the private credit markets, prepared to step in if a new wave of go-go lending—for corporate take-overs, real-estate swindles, bankrupt Third-World dictatorships—threatens to divert a significant amount of credit from economic development at home. We need, in short, a responsible, moderate monetary policy, neither inflationary nor restrictive.

The Fed, indeed, is the central element in that elusive compound, "business confidence". It is higher interest rates, not Administration policies, that have destroyed "confidence" in the stock market, and with it stock prices. It is signs of conflict between the FRB and the CEA—a pointless "so are you" and "you're another" contest—which led the financial community to doubt whether Carter has any economic policy at all.

There is an opportunity here for a change. The Fed can and should become more open, more forthright, more direct in setting and announcing its monetary growth and interest rate goals. It should revise the old goals—such as the M1 target now in effect for the year ending with this quarter—which have been exceeded, and hence cannot be met except by unthinkable monetary and economic contraction. It should drop the silly pretense that its short-run targets for the federal funds rate are secret for more than a day or two: sharp analysts invariably figure them out within that time and publish them in the Wall Street Journal. It should make clear just exactly what its medium-run targets are, not simply for such statistical artifacts as the monetary growth aggregates, but for such policy objectives as economic growth, employment and price stability.

A new era of openness at the FRB would greatly increase the ability of business to plan long-run investment and financing projects. It would, I venture to say, go far toward solving the "confidence" problem, and enable us to get on with our national goals.

I am hopeful that under William Miller we will get the kind of monetary policy we need. There is, however, a cloud on the horizon. This is the spectre, raised in early January of this year, of massive Federal Reserve intervention in the foreign exchange markets to prop up the declining international value of the dollar. The limited moves in January had a considerable but extremely temporary success: a few days after the intervention stopped the dollar's decline resumed.

I am not happy about the decline of the dollar. But the potential consequences of FRB involvement in the exchange markets bode far worse for business confidence, domestic interest rates, and the survival of the recovery itself than anything that is likely to happen in the foreign exchange markets left to themselves.

By well-justified tradition, the Federal Reserve has based its monetary policy in recent years on domestic and not principally on international economic conditions. The ostensible goals of that policy have been steady economic expansion and reasonably stable prices. This bedrock, and not the shifting sands of international currency markets, should remain the foundation of monetary decisions.

On July 29, 1977, Chairman Arthur Burns of the FRB testified as follows on the FRB's international role:

"The Federal Reserve has a certain responsibility for the position of the dollar in the exchange markets. Our broad policy is . . . to intervene only in the event of disorderly markets."

This is sound policy and good sense. While the definition of "disorderly markets" is a matter of professional judgment, and may vary, the principle is clear: the Federal Reserve should intervene in the exchange markets only to prevent wide, temporary fluctuations in exchange rates, of the kind that feed speculative profits, unsettle commercial transactions, and undermine confidence in the stability of the world order. The Federal Reserve should not attempt to peg the value of the dollar to that of any other particular currency or to SDRs. Such efforts are bound to fail, returning us to the era of unstable reserve balances, gold flight, and international monetary crises which the institution of flexible exchange rates was designed to end.

Intervention cannot be viewed as a significant long-term policy weapon. We have almost no ammunition for it. In a world where private international financial markets exceed $500 billion on a gross basis, the U.S. conducts foreign currency operations with a paltry $20 billion obtained on credit from foreign central banks. Such sums can effect day-to-day "blips" in the exchange rate, but that is about all. Interventions twice or three times as large (on a quarterly basis) have been attempted by foreign central banks recently without altering trends determined by underlying economic factors.

To the extent that short-term intervention to dampen fluctuations may be required, swap agreements of the sort employed by the Treasury and Federal Reserve on January 4 should be a satisfactory and sufficient tool. Domestic interest rates should not be changed for this purpose. On January 6, the FRB announced a ½ percent rise in the discount rate, from 6 to 6.5 percent, and cited "recent disorder in foreign exchange markets" as the reason. Even more disturbing are press reports linking the increase in the federal funds rate from 6½ to 6 9/16 percent on January 9 to the same cause. Such moves merely transfer "disorder" from the foreign exchange to the domestic credit markets. While the short-term impact on the dollar may be drastic, it soon may be offset by corresponding rises of interest rates in foreign credit markets, rather than yielding a permanent exchange rate adjustment. And the domestic impact of higher interest rates may be devastating: on the stock market, already slumping (partly in response to tightened monetary conditions), on business and investor confidence, on the level of investment and even on the health of the economy itself.

The recent decline of the dollar is not due to credit market conditions. Therefore, a stable dollar cannot be achieved by short-run credit tightening. The true cause of the recent decline of the dollar is apparent enough: our trade deficit, estimated at over $27 billion in 1977. This means, quite simply, that the U.S. has recently emitted $27 billion in paper obligations to foreign creditors, in exchange for which we have received real goods, chief among them oil. Much of that $27 billion is in the hands of the Arabs, who are unable to absorb a quantity of imports sufficient to digest their paper gains. Theirs is a cash management problem, to the tune of $130 billion dollars.

What happens? Naturally, Arabs and others with large dollar holdings diversify into other currencies, placing large upward price pressures on currencies like the Deutschmark and Swiss franc, which are in relatively scarce supply, and corresponding downward pressure on the value of the abundant dollar. This pressure is exacerbated by the now-rosy prospects of the pound sterling, which apparently is again competing with the dollar for a growing share of international money portfolio holdings.

The causes of our trade deficit are themselves also straightforward: (1) our increasing reliance on imported oil; and (2) the failure of other industrialized nations to expand their economies and share in absorbing the massive, unavoidable trade surplus of the OPEC nations.

Solutions are less easy to come by. We must try harder to diminish our reliance on foreign oil, and thus lessen our trade deficit with OPEC. We could control imports, at great cost to consumers, and to the efficiency of our import-dependent industries, to say nothing of the cost to our friends abroad. We could raise interest rates and collapse the economy until our import demand shrinks to the miserable level of the rest of the world. But who wants to return to the Depression?

Instead, the sensible course lies in keeping our own economic recovery firmly on track, paying special attention to structural unemployment and to developing a strategy against inflation. If we peg our currency to the mark, we lose control of domestic monetary policy to the Bundesbank. This represents a far graver threat to the "independence" of the Federal Reserve than any amount of rhetoric by the President. We can't afford it: we must maintain the mone-

tary flexibility to pursue continued domestic expansion.

Hope for the dollar also requires that we apply serious, steady, and inexorable pressure on our friends and allies. Only if the economies of Germany, Japan, France, Britain and Canada can be induced to expand more rapidly, can we hope for relief from the burden of financing world trade with an ever-unsteadier dollar. Partly, expanded Western economies will mean increased direct imports from us. Partly, too, they will mean increased exports from the Third World to our trading partners, with the U.S. benefiting on the rebound by increased capital equipment exports to the Third World. Only an increased level of world-wide demand, not any tinkering with the exchange rate or domestic interest rates, can contribute to the solution of the dollar problem.

We must address ourselves to the real malady of our patient, not merely fool around with his thermometer.

In applying such pressure on our allies, we are doing them no favor. We are asking a real sacrifice—namely that they risk the inflation and political instability that often accompany a rising economic trend. Inflation-minimizing growth policies, directed at structural unemployment, regional development, and selective management of incomes and prices, are possible but politically difficult. Many of our allies, especially those with weak or threatened governments, do not feel sufficiently secure in their seats to take risks for our sake. We should urge on them that unless they do, the long-term consequences for all of us—continued world-wide stagflation—could be very serious indeed.

The moral is: no easy solutions. This being so, easy solutions like rigging foreign exchange markets and raising domestic interest rates should not be tried. We must keep our own recovery under steam. We must work on the diplomatic front to help our allies participate in a world-wide recovery—without inflation.

So there you have it. In a nutshell, we need a jobs program; an incomes policy, a Brannan-type farm program, and a liberal import policy—all to combat inflation; and cooperation from the Federal Reserve Board and from our allies and to leave the foreign exchange markets alone. A tall order, you say, and I agree. If this proposal is a liberal one, because it places its emphasis on the human need for jobs for a living and for dignity, it is also a conservative one, because it accomplishes what needs to be done in the most direct and least costly manner possible, and with the utmost participation of the private sector.

Like anything worthwhile, this program would mean some sacrifices. Mostly these are sacrifices of belief: belief in the universal efficacy of tax cuts, in the sanctity of unimpeded wage and price determination in "free" markets, in the now-fashionable shibboleth that governments are good for nothing.

Those of us who are white, male, educated, experienced, and employable must be prepared to share our opportunities more than we have had to in the past. But this, I believe, is the way to progress. And a shift of strategy along these lines would demonstrate, as a tax cut never will, that President Carter's Washington has the guts and the integrity to face and master America's most compelling social problem.

CRIME SUBCOMMITTEE TO HOLD HEARINGS ON CIGARETTE BOOTLEGGING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime of the House Committee on the Judiciary has scheduled an initial set of hearings on H.R. 8853 and H.R. 10066, which address the problem of racketeering in the sale and distribution of cigarettes.

The first 2 days of hearings will be February 15, 1978, and February 28, 1978, beginning each day at 10 a.m. in room 2237, Rayburn House Office Building.

At the hearings on February 15, the subcommittee will take testimony from Members of Congress who have sponsored the major legislative proposals in this area. The subcommittee currently has pending before it 21 bills on the subject.

Those wishing to testify or to submit a statement for the record should address their requests to the House Committee on the Judiciary, Subcommittee on Crime, 207–E Cannon House Office Building, Washington, D.C. 20515 (Telephone: 202–225–1695).

VETERANS' PENSIONS AND SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FORD) is recognized for 5 minutes.

Mr. FORD of Tennessee. Mr. Speaker, the Committee on Veterans' Affairs is holding hearings today, tomorrow, and Thursday on the veterans' pension program. The focal point of these hearings is the Veterans and Survivors Pension Improvement Act of 1978, a bill which was introduced by Mr. MONTGOMERY, chairman of the Veterans' Affairs Subcommittee on Compensation, Pension, and Insurance.

This bill would raise pension levels to make sure that all veterans' pension recipients will not be forced to live below the poverty level. In addition, it would cure the inequitable situation which occurs when a pensioner who also draws social security receives an increase in social security. Currently, that person suffers a reduction in his veterans' pension as a result of the social security increase.

Mr. Speaker, last year I introduced H.R. 904, a bill which would eliminate this inequity by passing through the social security increase to the pensioner. This morning I testified before the subcommittee on this problem, and at this point I would like to share with you my testimony:

TESTIMONY BY HAROLD FORD ON THE SUBJECT OF VETERANS' PENSION LEGISLATION

Mr. Chairman and members of this distinguished subcommittee, I appreciate very much the opportunity to testify before you on the subject of veterans' pension legislation. One of the first problems I encountered when I served on the Veterans' Affairs Committee was the current procedure which mandates reductions in veterans' pensions in certain cases when social security benefits are increased.

Today, veteran pensioners who also receive social security benefits are deprived of the full cost-of-living increase which is granted social security recipients annually. Social security cost-of-living increases often push recipients into a higher income bracket. As a result, many individuals who also receive a veteran's pension suffer a reduction in that pension. In many cases, the pension has been terminated. In the 94th Congress and again in the 95th I introduced the Veterans' Benefits Pass-Through bill, which would eliminate this inequity by making certain that increases in social security would be "passed through" to those who receive a veteran's pension as well.

The amount of income used to determine benefit levels is called countable income. This figure excludes such forms of assistance as welfare and food stamps, but it includes 90 percent of a person's social security payments. Thus, as the general price level rises, and social security recipients are given a cost-of-living increase, the Federal government quickly recovers part of the increase by reducing that person's veteran's pension.

This form of giving with one hand but taking away with the other is especially important because of the number of pensioners it affects. Of the nearly 5,470 persons receiving a veteran's pension about 80 percent receive social security payments also. Many of these pensioners rely on these two benefits as their sole source of income. It is said that this procedure never leaves the pensioner with less overall monthly income—that the decrease never more than offsets the increase, but often leaves the recipient with a slight increase in monthly income. Such thinking fails to realize that when we speak in terms of real income—that is, buying power—the beneficiary is often worse off.

The social security cost-of-living increase is granted to offset the cruel bite of inflation. When the Government takes it away, the recipient is increasingly pressed for ways to make ends meet, since his monthly cost of living rises even though his income remains about the same. This is especially crucial in this case, where so many of those affected are surviving on the fixed income of veterans' pension benefits and social security.

Mr. Chairman, the purpose behind the veteran's pension program is twofold. First, it attempts to relieve the distress from disability or destitution which many veterans face when they find themselves past their prime in terms of working ability and earning power. In this sense it is an income maintenance program. But I believe it is much more. It is a program to reward veterans for interrupting their lives to defend our national freedom. It is a program to provide recognition for service in the most useful way. I find that the current procedure undermines this purpose and degrades our veterans and their families in their time of need.

Mr. Chairman, 176 Members of the House shared the concerns I have outlined by cosponsoring my bill. Many others introduced bills of their own which would address this problem in a similar manner. There is not a Member of Congress who is not familiar with the inequity I have described.

I commend you, Mr. Chairman, and the members of this subcommittee for finally addressing this and other problems with the veteran's pension. I have joined with you by cosponsoring H.R. 10173, and I support you in your efforts to obtain its favorable consideration.

BILL REDUCES FOUNDATION REPORTING REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of Oklahoma. Mr. Speaker, I am introducing a bill today to reduce the paperwork burden on private foundations and charitable trusts which are treated as private foundations under the tax code.

Specifically, my bill would simplify the

annual information return and reporting requirements imposed by the tax code by combining these two duplicative reports into one filing.

Under current law, a private foundation must annually file with the Internal Revenue Service a detailed information return setting forth data concerning the foundation's receipts and expenditures, assets and liabilities, contributors, managers, compensation expenses, distributions for exempt purposes, activities, and compliance with private foundation rules. In addition, a foundation having assets of $5,000 or more must file a short "annual report." For the most part, the annual report calls for the same data which is already shown on the annual information return.

Also under current law, a private foundation must file copies of both the information return and the report with the attorney general for the State in which the foundation was incorporated or organized, the State in which its principal office is located, and any State in which it is registered to carry on its activities. Copies of both the annual return and the annual report can be obtained by the public through the Internal Revenue Service, although necessarily there is some delay between the time of filing and the time copies can be obtained. The annual report—but not the more detailed information return—must be made available at the foundation's principal office for inspection during a period of 180 days following publication of newspaper notice as to the report's availability.

PROPOSED LEGISLATION

My bill would repeal the Internal Revenue Code provision (sec. 6056) which requires foundations to file an annual report containing certain information with the Revenue Service and with State officials (sec. 1 of bill). Since the annual report would be eliminated, the current list of required information which must be furnished in the information return would be modified to include those items now shown on the annual report but not on the information return (sec. 3 of bill). It appears that only minor changes would have to be made by the Revenue Service in the annual information return forms and instructions to request these additional items.

The bill would also make appropriate amendments to existing statutory provisions in order to provide for public inspection and filing with State officials of annual information returns, in place of annual reports (sec. 2 of bill); to require publication of newspaper notice with respect to availability of annual information returns, in place of annual reports (sec. 2 of bill); and to provide penalties for failure to comply with the requirement as to public inspection, and so forth of annual information returns (sec. 4 of bill). On the assumption the bill would be enacted in 1978, the changes made would be effective with respect to taxable years beginning after December 31, 1978; for example, as to the return for 1979 filed by a calendar-year foundation.

Because the annual information return of a foundation would require additional and more detailed information than does the annual report form, the proposed legislation would actually increase the amount of information about the foundation which would be available for public inspection at the foundation's office. Also, this more detailed information would be available, through the public inspection requirement, at an earlier time (immediately after the filing date) than such information currently can be obtained through request to the Revenue Service. (The legislation would not affect the existing procedures for requesting copies of information returns from certain IRS offices.) However, the duplication presently required by two separate returns would be eliminated by consolidating the two returns into one. In addition, the bill would make returns available for inspection at the foundation's office in the case of small foundations, assets of less than $5,000, which under current law need not file the annual report form.

Mr. Speaker, I hope that my colleagues will support this attempt to reduce the paperwork burden on private foundations. We are all familiar with the fine and humanitarian work of the many private foundations in this country. Any assistance we can give them in reducing Government red tape and duplication will allow them more time to concentrate on helping our fellow citizens.

I would welcome cosponsors on this measure.

STATE DEPARTMENT COMMENTS ON ECONOMIC ANALYSIS OF TREATIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 10 minutes.

Mr. METCALFE. Mr. Speaker, recent news reports have indicated that the economic and financial aspects of the Panama Canal treaties are receiving increased attention. Certainly the economic aspects of the treaties have been of major concern to the Panama Canal Subcommittee which I chair. This is the House subcommittee which will have to deal with treaty implementing legislation relating to the financing of the proposed canal commission and the establishment of a tolls structure for the canal.

On November 30 and December 1, 1977, the Panama Canal Subcommittee held hearings on the economic and financial aspects of the treaties. The printed record of these hearings should be available in the near future. Included in that hearing record will be the paper of Mr. W. M. Whitman, consultant to the Committee on Merchant Marine and Fisheries, whose paper was placed in the proceedings of the Senate of February 6, 1978 (page 2234) by the Senator from Utah (Mr. HATCH). Also included in the committee record will be the response of the Department of State to Mr. Whitman's paper. So that this response is available to the public, I present it here:

DEPARTMENT OF STATE,
Washington, D.C., February 3, 1978.

Hon. RALPH H. METCALFE,
Chairman, Committee on Merchant Marine and Fisheries, Panama Canal Subcommittee, House of Representatives.

DEAR MR. CHAIRMAN:

This is in response to your letter of January 9 asking for comments on Mr. W. M. Whitman's paper "Panama Canal Treaty Problems."

I note that a large segment of the paper is devoted to an analysis of operating costs under the new Treaties. It should interest you, therefore, to learn that a consultant to the Department is currently developing some cost projections. When we receive the final report in early February, I will provide a copy to the Subcommittee. It is my hope that the study offer considerable insight into the projected operating costs for the new Panama Canal Commission.

In the interim, I am enclosing a point-by-point analysis of the issues raised in Mr. Whitman's paper.

Sincerely,

DOUGLAS J. BENNET, JR.,
Assistant Secretary for Congressional Relations.

POINT-BY-POINT ANALYSIS

(1) CANAL REVENUE DEFICIENCY

Mr. Whitman is correct in stating that at the present time, Canal revenues would not cover the additional costs projected under the Treaty. But even without a new treaty, a toll increase might be necessary to meet operating costs. The new Treaty will significantly alter the cost structure of Panama Canal operations; certain functions will be transferred or eliminated, thereby increasing the net revenue and partly covering increased payments to Panama. An increase in toll rates in the neighborhood of 30% will be required to cover the total cost of Panama's annuity.

It should be observed in this respect, that Dr. Ely Brandes has testified before the Senate Foreign Relations Committee that the Panama Canal Commission should have sufficient revenue resources available to meet operating costs; that tolls could safely be raised 75% to 100%; and that this step would yield 40% more revenue. This estimate is more optimistic than the revenue estimates developed by our negotiating team during the treaty negotiations, and would allow a much greater increase in tolls than is necessary to provide for the annuity payment to Panama.

(2) TRAFFIC INCREASES

Our increased traffic projections are based on an analysis of future individual commodity movements on established trade routes. Mr. Whitman is correct that this is the only sound basis for projections of future Canal traffic. We anticipate that Panama Canal traffic will increase at a projected growth rate of about 2.2% per year. A sharp increase is projected for 1978 and 1979, mostly due to the transit of North Slope petroleum, which will begin to decline in 1980. However, increases in other commodity categories will tend to offset losses in petroleum shipments.

The anticipated toll increases would probably divert small volumes of traffic over time, but Canal traffic would still not reach the point of diminishing returns.

(3) APPROPRIATIONS OR ABSORPTIONS OF COSTS BY U.S.

We contemplate that the new Commission, like the present Canal Company, will have the authority to borrow funds from the U.S. Treasury with the obligation to repay. This option would cover any possibility of emergency that should be accorded the Canal operations in the interests of prudent management.

(a) *Interest of U.S. investment*

The interest referred to is a measure of the equity of the United States in the Panama Canal developed in the 1950's for accounting purposes. The definition of this equity in the Canal is a function of internal U.S.G. accountancy provided for under current law.

The Administration is familiar with the history and purposes of the requirement that the Canal Company make interest payments to the Treasury. It is a more complex matter than Mr. Whitman suggests. While he is correct that the Canal Company was to operate on the principle that "federal business enterprises should pay a rate of return on the Government's investment," Mr. Nachmanoff, the Deputy Assistant Secretary from Treasury whom he quotes, is also correct in stating that one reason for the interest requirement is to avoid a subsidy to users of the services of these business enterprises. The "subsidy" issue was in fact one of the key issues discussed in 1950 when Congress considered legislation to separate "business" from "government" functions in the Canal Zone. (See, in particular, Hearings on H.R. 8677, Subcommittee on the Panama Canal, House Committee on Merchant Marine and Fisheries, 81st Cong., 2nd. Session, and the Testimony of the Association of American Railroads, which urged that "no subsidy (should) be allowed to the water carriers . . . who are competitors" of the railroads. (Attention pp. 113–114.))

For all practical purposes, the interest requirement became effective in 1951, when President Truman organized the Canal Company and transferred the waterway and other assets to it, and when, pursuant to legislation enacted in 1950, the Canal Company could include interest in the tolls base. Prior to that time, it does not appear that interest was paid to Treasury.

The Administration intends to propose repeal of the interest requirement in the legislation to implement the treaties. This proposal will be based on considerations of national interest as well as on the expectation that the toll increase required to make the Commission self-sustaining will eliminate the need to avoid a possible subsidy. This proposal stems from efforts of the Negotiators to balance three policy objectives: (1) to keep the Commission self-sustaining; (2) to restrict Canal operating expenditures and costs to the Canal users; and (3) to help assure Panama's stake in the efficient operation of the Canal by providing Panama with an equitable share of the benefits of the Canal.

(b) *Depreciation*

Mr. Whitman's discussion on this subject does not appear to lead to his conclusion that the Panama Canal will not be self-sustaining under the Treaty. He fails to note that depreciation costs as used by the Panama Canal Company are a means of financing future capital costs of the Canal. During the treaty negotiations, the U.S. team assumed that there would be capital costs in excess of what would be provided by current depreciation techniques. The objective of the Negotiators was to insure that all Canal operating and capital requirements would be sustained by Canal revenues. This objective will be achieved through the use of appropriate accounting techniques.

(c) *Other treaty costs*

We have consistently maintained that the costs of payments to Panama can and will be met out of Canal revenues. Appropriated funds will only be necessary to implement other Treaty provisions that are not normal operating costs such as those for early retirement and relocation of military facilities.

(4) FORM OF GOVERNMENT AGENCY TO BE ESTABLISHED

The treaty provides that until the year 2000 the U.S. will have the right to manage, operate and maintain the Canal and that it will exercise these rights through a U.S.G. agency to be called the Panama Canal Commission. It will have a Board of Directors consisting of nine members, five of which will always be Americans.

Under the Treaty, it will be the sole prerogative of the U.S.G. to determine the structure of the Commission. For example, the method of selecting the five U.S. directors is left up to the internal processes of the U.S. The Executive Branch may recommend to Congress that like the Panama Canal Company, it should be a corporate agency of the U.S.G. Regardless of its structure, it will be a self-sustaining agency with revenues produced by operations to cover expenditures.

(5) AMBIGUITIES

There has never been any misunderstanding between President Carter and General Torrijos as to the exact meaning of the language of the Treaties. The Treaties clearly delineate our rights until the year 2000 and beyond. The Treaties are self-explanatory about our major rights and responsibilities.

(a) *Payments to Panama*

Paragraph 4(a) of Article XIII of the Treaty provides for payment to Panama of an annual amount of 30 cents "per Panama Canal net ton, or its equivalent, for each vessel transiting the Canal for which tolls are charged." The phrase "or its equivalent" refers to the measurement in PCTs for vessels transiting in ballast or on a displacement basis.

Paragraph 4(c) of Article XIII is a contingency payment due only if Canal revenues exceed expenditures. It is understood by the Parties that the "expenditures" referred to would include all actual costs of operation and maintenance of the Canal. These costs would include the payments to be made to Panama by the Commission pursuant to the provisions of the Treaty, funding for plant replacement and capital improvements, and repayment of borrowed funds. The need to finance these costs before making the Paragraph 4(c) payment was made clear to the Panamanian negotiating team. The specific accounting system to be utilized by the Commission is to be established by the U.S. The accounting system should be established in such a manner that it will be apparent from looking at the books at the end of the year whether such a surplus exists, and thus no disputes should arise on this question.

Paragraph 5 of Article III provides for payment to Panama of $10 million in reimbursement for certain public services. The payment for these services will be adjusted every three years to reflect inflation and other relevant factors including the actual costs incurred by Panama, and may be raised or lowered on the basis of each triennial review.

Panama currently owes the Panama Canal Company, Canal Zone Government $8.6 million. Most of the $8.6 million represents pre-1960 costs of garbage bills plus a $4.6 million leprosarium bill which increases at a rate of $37,000 per month.

Some of the debt is in dispute for various reasons. We expect that now that the new Treaties have been signed, we will be able to negotiate a reasonable settlement with the Panamanian Government.

The Treaty grants the U.S. all the rights necessary to operate the Canal, including authority to set tolls. It is contemplated that the Commission will be a self-sustaining entity. Since the U.S. has plenary authority to manage the Canal, Panama should not be saddled with deficits which might be incurred as a result of unilateral U.S. policies of Canal operation. However, the Treaty provides that Panama may agree to assume any liability contracted by the United States in connection with the operation of the Canal.

(b) *Statement of understanding*

It is clear from the Statement issued in Washington and Panama last October that our vessels of war are assured transit through the Canal as quickly as possible, without any impediment. Additionally, it is understood that the U.S. has the right to take whatever action it deems necessary, including the use of military force, to protect the neutrality of the Canal. Panamanian spokesmen have stated publicly that the Neutrality provision would allow the U.S. to take action against any threats to the Canal including those originating in Panama.

The Statement of Understanding is an official interpretation of these two articles. As such, it is not necessary that it be formally incorporated into the Treaty.

(6) CONSTITUTIONAL QUESTIONS

It is the position of the Executive Branch that a self-executing Treaty has the power to dispose of U.S. property concurrently and independent of the power of Congress under the Constitution.

On the question of appropriations, the Treaty provides for the measurement and source of the annuity payments. However, the Treaty does not dictate what procedures will be followed in appropriating these monies. Like all Treaties which include financial obligations, the procedures are left to the discretion of Congress.

THE BURKE PROPOSAL: SOCIAL SECURITY ONE-THIRD, ONE-THIRD, ONE-THIRD GENERAL REVENUE-FINANCING PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to take this opportunity to remind the House that I have filed a bill calling for restructuring of the financing for the social security system. I have received calls from a great many of the Members of the House and Senate asking for further information on my proposal. I have mailed to Members' offices a complete explanation of the program I have advocated—a program that was advocated by the late beloved Senator Robert F. Kennedy when he was in the U.S. Senate.

It is a sound system of financing. It is a system that is going to come about just as sure as you and I are here today. I think time is of the essence. I think it should be enacted this year.

I hope that each Member of this Congress is looking over the information I sent last week. The one-third, one-third, one-third bill will reinvigorate the textile industry, the footwear industry, the steel industry, the automobile industry—the manufacturing segment of America. It will help the farmers.

This is the type of legislation we have to put through to get the economy in this country moving. Any other step that has been proposed so far will be negligible. I think it is time that we take the bold initiative; financing through general revenue—reducing the tax to 3.9 percent rather than the regressive taxes we have today of 6.05 percent.

This tax is levied on the employer and employee, and is causing high unemployment in this country. It is causing the closing of steel plants and the lay off of workers. It is the major cause of the loss of 650,000 jobs in New York City that brought that city to the brink of bankruptcy. It is the cause of high unemployment in Detroit. It has also contributed to the closing of hundreds of shoe plants in New England. This exorbitant tax contributes to high hospital costs and high utility bills. Its regressive effect is to dampen the whole economy.

I now have well over 90 cosponsors on my one-third, one-third, one-third general revenue financing proposal, in response to my January 31 Dear Colleague letter. If you wish to become a cosponsor of this progressive legislation, please call my office—extension 53215.

Mr. Speaker, I would also like to bring to the attention of my colleagues the following news article which appeared in the Boston Sunday Globe on February 5, 1978:

SOCIAL SECURITY PLAN IS RIPE

(By Rachelle Patterson)

WASHINGTON.—General revenue financing of Social Security, which has been promoted by Rep. James Burke for nearly a decade, is an idea whose time apparently has come.

Every session since 1969 the 67-year-old Massachusetts Democrat and highest-ranking member of the House Ways and Means Committee has filed legislation calling for the federal government to pick up part of the tab for the Social Security system, a concept first introduced on Capitol Hill by Sen. Robert Kennedy in 1965.

"They used to laugh at him when he would introduce it," a Burke aide said the other day.

But ever since Burke sent out a "Dear colleague" letter on Monday, his office has been swamped with phone calls offering support from lawmakers who face reelection this year and who have heard from disgruntled wage earners upset over higher Social Security taxes enacted last year.

Under Burke's newest bill, the employee would pay one-third and the employer one-third. The other third would come from the U.S. Treasury, funded through the progressive income tax.

Currently Social Security is financed through equal contributions by employers and employees at a 6.05 percent rate. Burke would reduce the tax rate in 1979 from 6.13 percent to 3.90 percent for employees and employers.

The taxable wage base is currently $17,700 and is scheduled to rise to $22,900 in 1979. Under Burke's bill the taxable wage base would be increased in 1979 to $100,000.

Two other lawmakers have jumped on the bandwagon with proposals that call for general-revenue participation in Social Security financing.

Rep. John F. Seiberling (D-Ohio), a cosponsor of Burke's bill, has introduced a measure of his own that would phase in general-revenue financing next year by giving employees an 11-percent credit on what they pay in Social Security taxes. The credit would be reflected each week in the employee's paycheck. By 1982, the credit would increase to 22 percent, and in 1983 to 33 percent.

Tomorrow Rep. Abner Joseph Mikva (D-Ill.), one of the leading liberals on the House Ways and Means Committee, will announce his plan to have the Treasury assume about one-fifth of the costs of Social Security.

Under Mikva's plan, the disability insurance and hospital insurance portions of the payroll tax would be shifted to the general treasury. Sen. Gaylord Nelson (D-Wis.) is the Senate sponsor.

In its Social Security proposal last year, the Carter Administration sought to dip into general revenue as a backup in time of high unemployment. According to sources, the Administration would go further in promoting general revenue financing if it appeared politically viable.

The recent Carter tax cut plan is designed to effect the higher Social Security taxes and energy costs.

While the tax-cut proposal offers some tax benefits to industry, Burke feels that reducing the Social Security tax burden is a more effective way to stimulate employment. The Smaller Business Assn. of New England and the national AFL–CIO are among backers of Burke's plan. So are the 10 Massachusetts House Democrats, including House Speaker Thomas P. O'Neill, a number of liberal Republicans and members of the black caucus.

Among the arguments against the concept of general-revenue financing are: Social Security costs would be more controllable if reflected each week in a worker's paycheck; Congress could more easily resist special-interest groups seeking higher benefits, and philosophically the Social Security system is an insurance program that has no business being funded by the federal government.

PERSONAL EXPLANATION

(Mr. BAUMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BAUMAN. Mr. Speaker, due to the inclement weather yesterday, I was unable to attend the session of the House, a great regret to many of my colleagues, I am sure. The power of nature is greater even than the power of Congress, thank God, and the snow prevented my presence.

Had I been present I would have voted as follows:

Rollcall No. 36. Suspension and passage of H.R. 9434. Vote: "nay."

Rollcall No. 37. House Resolution 982. Passage of rule making in order, H.R. 8336. Vote "nay."

Rollcall No. 38. Quorum call. I would have voted "present."

Rollcall No. 39. Krebs amendment to H.R. 6362. Vote: "nay."

Rollcall No. 40. Foley substitute to H.R. 6362. Vote: "aye."

WILDLIFE IMPLICATIONS OF WILDERNESS PROVISIONS OF ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Subcommittee on General Oversight and Alaska Lands has completed its markup of H.R. 39, the Alaska National Interest Lands Conservation Act authored by our colleague, Mr. UDALL, and cosponsored by many other Members. The last issue we considered was the designation of units of the national wilderness preservation system. After a thorough debate, the subcommittee voted to retain the wilderness designations in the subcommittee print with only minor changes. Thus, as the bill goes to the full committee, it will contain a designation of 82,000,000 acres of wilderness in the 132,000,000 acres of national parks, wildlife refuges, and other conservation units that would be created or expanded by the bill. While this is a large acreage, it is substantially less than the 148,000,000 acres granted to the State of Alaska and its Native population under prior legislation.

Because wilderness designations are such an important part of this bill, I think the Members will be interested in the incisive discussion of "wilderness, wildlife, and d–2" in the Anchorage Daily News for January 23, 1978. The writer, David R. Cline, is a wildlife biologist and is a member of the State steering council on Alaska lands which has been so active in talking to Members in recent weeks. As he points out:

For many people, wilderness and wildlife are to a great extent what Alaska is all about. There are annual wildlife spectacles here that can be witnessed nowhere else in America or the world.

The full text of Mr. Cline's article follows these remarks:

[From the Anchorage Daily News, Jan. 23, 1978]

WILDERNESS AND WILDLIFE AND D-2

(By David R. Cline)

As the Alaska d-2 lands debate intensifies in the months ahead, nothing will be more volatile than the matter of "wilderness."

Most Alaskans probably associate wilderness with wild undeveloped country, remote landscapes and the presence of wildlife. Thereafter lines are soon drawn between those who further view it as a frontier to be exploited, and others who see it as a homeland or a national heritage to be protected.

Need it be said there are strong feelings on both sides. As a wise Indian Chief once said, "What we see depends on where we stand."

One of the major difficulties in describing wilderness and wildlife is you cannot attach a dollar value to them anymore than you can a beautiful sunset, an endangered species or historic site. Their true value cannot be measured in the market place; only in the hearts and minds of those who use and enjoy them, who make them part of their culture across generations.

The fact is wilderness is a non-renewable resource. Both it and wildlife are irreplaceable components of our national heritage.

For many people, wilderness and wildlife are to a great extent what Alaska is all about. There are annual wildlife spectacles here that can be witnessed nowhere else in America or the world. Many laws, international treaties and agreements have been carefully forged to protect these wildlife values for the benefit of people wherever they live. These contracts in conservation carry obligations and responsibilities for all Americans.

It is of interest to note that the modern concept of wilderness was actually born and reached fruition in the U.S. Forest Service, ironically, the agency that in Alaska has for so long been reluctant to make wilderness recommendations for the Tongass and Chugach National Forests.

The noted forester and conservationist, Aldo Leopold, was instrumental in establishment of the nation's first wilderness area, the Gila Wilderness in New Mexico in 1924. Leopold stated that, "the administration of the National Forests of America has for its real purpose the perpetuation of life—human, plant, and animal life."

And through the leadership of Robert Marshall the Forest Service on its own protected over 14 million acres of National Forest land as "wilderness," "wild" or "primi-

tive areas," prior to passage of the Wilderness Act of 1964. It was Marshall who pointed out that the National Forest System is uniquely suited to provide multiple values to man including, "the peaceful timelessness where vast forests germinate and flourish and die and rot and grow again without relationship to the ambitions and interference of man."

Assistant Secretary of Agriculture Dr. M. Rupert Cutler recently stated that, "these observations are as valid today as when they were made, and the value of wilderness will increase as our society becomes more dependent upon complex technology."

Without question the Great American wilderness has been conquered, to where today only about 1 percent of the entire country is considered to be in a wilderness condition. And only a portion of this will ever receive full protection. Incidentally, only about 30 million acres of what remains has been given permanent protection by inclusion in the National Wilderness Preservation System. About 76,000 acres of this total is in Alaska, about .02 percent of the state.

Alaska, despite being recognized for its outstanding wilderness country, actually has less protection in the Wilderness System than 13 other states.

The key to protecting wildlife is protecting its habitat. This is an undeniable fact whether we are talking of our back yard wildlife species or those of the wilderness. In this regard it seems worth noting a Report of the Committee on North American Wildlife Policy developed in 1973 by some of the most noted wildlife authorities and game managers in the United States. The report stated in part:

The time for dedicating wilderness is short. It should be given high priority in our public land management . . .

The committee supports a strong wilderness preservation system, with its many wildlife related benefits . . .

The areas should be . . . (delineated) as rapidly as possible . . .

Incompatible uses such as grazing, mining or timber salvage should be prohibited. . . .

Species that will be particularly benefited by large wilderness areas in Alaska include those familiar to us all: caribou, Dall sheep, wolves, grizzly bears, musk ox, wolverines, birds of prey including peregrine falcons and bald eagles, and many others.

The d-2 legislation now before the Congress expressly provides that any restrictions that may apply in a wilderness are made subject to existing rights. And Alaskan conservationists are supporting language in the bill that will provide access to wilderness areas by traditional and established means including snowmachine, motorboat and aircraft.

So despite the seemingly endless, complex and confusing d-2 lands debate as relates to wilderness and wildlife, the basic problem is this: some want to exploit the State's resources wherever they occur, and conservationists want to permanently protect at least portions of Alaska's rich wilderness and wildlife heritage in a variety of landscape situations.

The debate is now, as it should be, before the American people in the Congress where the outcome will be decided soon. It would seem prudent for Alaskans, rather than devote valuable time and effort to self defeating anti-wilderness and anti-federal government lobbying, to instead begin fostering the highest levels of cooperation between Native landowners, the State of Alaska, and federal agencies in wildlife conservation and innovative wilderness management. Wildlife, after all, do not recognize jurisdictional boundaries in their annual travels, and no one group of people or single government agency can provide them adequate protection for the benefit of people standing alone.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mrs. HOLT (at the request of Mr. RHODES), for today, on account of illness.

Mr. GOLDWATER (at the request of Mr. RHODES), for today, on account of illness.

Mr. GOODLING (at the request of Mr. RHODES), for February 6 and February 7, on account of inclement weather and adverse traveling conditions.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SIKES, for 30 minutes today, and to include extraneous material.

(The following Members (at the request of Mrs. FENWICK) and to revise and extend their remarks and include extraneous matter:)

Mr. ANDERSON of Illinois, for 30 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. CLEVELAND, for 5 minutes, today.

Mr. EVANS of Delaware, for 5 minutes, today.

(The following Members (at the request of Mr. LEDERER) to revise and extend their remarks and include extraneous material:)

Mrs. BOGGS, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes today.

Mr. BENJAMIN, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 60 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. REUSS, for 30 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. FORD of Tennessee, for 5 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. METCALFE, for 10 minutes, today.

Mr. BURKE of Massachusetts, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. MURPHY of Illinois, for 60 minutes on February 14, 1978.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LEVITAS, to insert extraneous material with his remarks on the rule and on the bill H.R. 6805 under consideration today.

(The following Members (at the request of Mrs. FENWICK), and to include extraneous matter:)

Mr. YOUNG of Florida.

Mr. COLEMAN.

Mr. CRANE.

Mr. STOCKMAN.

Mr. RHODES.

Mr. SARASIN.

Mr. RUPPE.

Mr. SYMMS in two instances.

Mr. HYDE.

Mr. MARTIN.

(The following Members (at the request of Mr. LEDERER) and to include extraneous matter:)

Mr. JACOBS in two instances.

Mr. WAXMAN.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. BINGHAM in 10 instances.

Mr. BENJAMIN.

Mr. JONES of Oklahoma in two instances.

Mrs. SCHROEDER.

Mr. HARRIS.

Mr. ROSE.

Mr. CONYERS.

Mr. MAZZOLI in two instances.

Mr. UDALL.

Mr. COTTER.

Mr. MCCORMACK.

Mr. LEHMAN.

Mr. SOLARZ.

Mr. PANETTA.

Ms. MIKULSKI in two instances.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1360. An act to amend section 14(e) of the National Forest Management Act of 1976; and

S. 1509. An act to provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes.

ADJOURNMENT

Mr. LEDERER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 35 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, February 8, 1978, at 1 o'clock p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications wre taken from the Speaker's table and referred as follows:

3192. A letter from the Secretary of Defense, transmitting a reorganization order abolishing certain unfilled positions in the Department of Defense, pursuant to 10 U.S.C. 125 (a); to the Committee on Armed Services.

3193. A letter from the Deputy Secretary of Defense, transmitting a report on funds obligated in the chemical warfare and biological defense research programs during fiscal year 1977, pursuant to section 409(a) of Public Law 91–121, as amended (88 Stat. 1971); to the Committee on Armed Services.

3194. A letter from the Director, Congressional Budget Office, transmitting the annual report of the Office, pursuant to section 202 (f) of Public Law 93–344 (H. Doc. No. 95–287); to the Committee on the Budget and ordered to be printed.

3195. A letter from the Comptroller General of the United States, transmitting a report on accounting for automatic data processing costs (FGMSD–78–14, February 7, 1978); to the Committee on Government Operations.

3196. A letter from the Deputy Secretary of Defense, transmitting the 11th report on the Federal voting assistance program, pursuant to section 201 of the Federal Voting

Assistance Act of 1955; to the Committee on House Administration.

3197. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on steps taken by the Agency for International Development because of human rights considerations to alter programs under part I of the Foreign Assistance Act of 1961, pursuant to section 116(d)(2) of the act, as amended (91 Stat. 537); to the Committee on International Relations.

3198. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

3199. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

3200. A letter from the Secretary of the Interior, transmitting the annual report of the Fish and Wildlife Service on administration of its functions under the Marine Mammal Protection Act of 1972, covering the period June 22, 1976, through June 21, 1977, pursuant to section 103(f) of the act; to the Committee on Merchant Marine and Fisheries.

3201. A letter from the Chairman, Council on Environmental Quality, Executive Office of the President, transmitting a draft of proposed legislation to authorize further appropriations for the Office of Environmental Quality, the Council on Environmental Quality, and for other purposes; to the Committee on Merchant Marine and Fisheries.

3202. A letter from the Chairman, Board of Governors, U.S. Postal Service, transmitting the annual report of the Postmaster General for fiscal year 1977, pursuant to 39 U.S.C. 2402; to the Committee on Post Office and Civil Service.

3203. A letter from the Comptroller General of the United States, transmitting a report on budgetary costs associated with implementing the All-Volunteer Force (FPCD–78–11, February 6, 1978); jointly, to the Committees on Government Operations, and Armed Services.

3204. A letter from the Comptroller General of the United States, transmitting a report recommending a coordinated Federal approach to planning, acquiring, and using computed tomography scanners (HRD–78–41, January 30, 1978); jointly, to the Committees on Government Operations, Armed Services, Interstate and Foriegn Commerce, and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules. House Resolution 1006. Resolution providing for the consideration of H.R. 3813. A bill to amend the act of October 2, 1968, an act to establish a Redwood National Park in the State of California, and for other purposes (Rept. No. 95–866). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEVILL:

H.R. 10791. A bill to amend title 38 of the United States Code in order to provide for the payment of service pensions to veterans of World War I and for certain surviving spouses and certain children; to the Committee on Veterans' Affairs.

By Mrs. BOGGS (for herself, Mr. MAHON, Mr. CEDERBERG, Mr. BRADEMAS, Mr. CONYERS, and Mr. HORTON):

H.R. 10792. A bill to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes; to the Committee on House Administration.

By Mrs. BOGGS (for herself, Mr. AKAKA, Mr. BONIOR, Mr. DRINAN, Mr. EDWARDS of California, Mr. EILBERG, Mr. FRENZEL, Mr. GOODLING, Mr. MEEDS, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. NOLAN, Mr. OTTINGER, Mr. PEPPER, Mr. PRICE, Mr. SIMON, Mr. SOLARZ, Mr. STEERS, Mr. THOMPSON, Mr. VENTO, Mr. WINN, Mr. ZEFERETTI, and Mr. EDGAR):

H.R. 10793. A bill to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes; to the Committee on House Administration.

By Mr. BURKE of Massachusetts (for himself, Mr. BINGHAM, Mrs. BURKE of California, Ms. COLLINS of Illinois, Mr. CONTE, Mr. DELLUMS, Ms. HECKLER, Mr. HAWKINS, Ms. JORDAN, Mr. METCALFE, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOSS, Mr. MCFALL, Mr. NIX, Mr. OTTINGER, Mr. PEPPER, Mr. SOLARZ, Mr. STARK, Mr. STOKES, Mr. STUDDS, Mr. THOMPSON, Mr. CHARLES H. WILSON of California, Mr. WON PAT, and Mr. ZABLOCKI):

H.R. 10794. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare program, with appropriate reductions in social security taxes to reflect such participation, and with a substantial increase in the amount of an individual's annual earnings which may be counted for benefit and tax purposes; to the Committee on Ways and Means.

By Mr. CONABLE:

H.R. 10795. A bill to amend the Internal Revenue Code of 1954 to allow an individual to take a deduction for charitable contributions whether or not he itemizes his deductions; to the Committee on Ways and Means.

By Mr. FASCELL:

H.R. 10796. A bill to improve the functioning of Federal agencies by requiring the completion of proceedings in a timely manner; to the Committee on the Judiciary.

By Mr. FORD of Michigan (for himself, Mr. QUIE, Mr. BEDELL, Mrs. BOGGS, Mr. BONIOR, Mr. BRADEMAS, Mr. CORNELL, Mr. DENT, Mr. HOWARD, Mr. LE FANTE, Mr. METCALFE, Mr. MILLER of California, Mr. PRICE, Mr. SHIPLEY, Mr. SOLARZ, Mr. ZEFERETTI, and Mr. ROE):

H.R. 10797. A bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs; to the Committee on Education and Labor.

By Mr. FORD of Michigan (for himself, Mr. HEFTEL, Mr. MURPHY of Pennsylvania, and Mr. KILDEE):

H.R. 10798. A bill to amend certain provisions of title II of the Higher Education Act of 1965 relating to college library assistance; to the Committee on Education and Labor.

By Mr. FRENZEL:

H.R. 10799. A bill to amend title 39 of the United States Code to provide that pledge reminders of charitable organizations may be mailed at third-class rates; to the Committee on Post Office and Civil Service.

By Ms. HOLTZMAN (for herself, Mr. ADDABBO, Mr. BALDUS, Mr. BEDELL, Mr. CONYERS, Mr. CORMAN, Mr. CORNWELL, Mr. FASCELL, Mr. FLOOD, Mr. GRADISON, Mr. GUDGER, Mr. HARRINGTON, Mr. LUNDINE, Mrs. MEYNER, Mr. MIKVA, Mr. MINETA, Mr. PANETTA, Mr. PRICE, Mr. ROSE, Mr. RYAN, Mrs. SPELLMAN, Mr. THOMPSON, Mr. TRIBLE, Mr. VENTO, and Mr. ZEFERETTI):

H.R. 10800. A bill to amend the Immigration and Nationality Act to exclude from admission into and to deport from the United States all aliens who persecuted others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany; to the Committee on the Judiciary.

By Mr. JONES of Oklahoma:

H.R. 10801. A bill to simplify the private foundation return and reporting requirements under the Internal Revenue Code, and to make private foundation information returns more readily accessible to the public; to the Committee on Ways and Means.

By Mr. LLOYD of California (for himself, Mr. ADDABBO, Mr. AKAKA, Mr. ANDREWS of North Dakota, Mr. BONIOR, Mr. BONKER, Mr. BURGENER, Mr. BYRON, Mr. DAN DANIEL, Mr. DUNCAN of Tennessee, Mr. EILBERG, Mr. ERTEL, Mr. EVANS of Georgia, Ms. FENWICK, Mr. FLORIO, Mr. GOODLING, Mr. GRASSLEY, Mr. HANNAFORD, Mr. HILLIS, Mr. HYDE, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LEDERER, Mr. LENT, Ms. LLOYD of Tennessee):

H.R. 10802. A bill to amend the Internal Revenue Code of 1954 to allow a deduction of not more than $1,500 for amounts paid or incurred for maintaining a household a member of which is a dependent of the taxpayer who has attained the age of 65; to the Committee on Ways and Means.

By Mr. LLOYD of California (for himself, Mr. MCKAY, Mr. MATHIS, Mr. MILLER of California, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. O'BRIEN, Mr. OTTINGER, Mr. PEASE, Mr. PERKINS, Mr. PRICE, Mr. PRITCHARD, Mr. RANDALL, Mr. RYAN, Mr. SOLARZ, Mr. TREEN, Mr. TRIBLE, Mr. CHARLES WILSON of Texas, and Mr. WOLFF):

H.R. 10803. A bill to amend the Internal Revenue Code of 1954 to allow a deduction of not more than $1,500 for amounts paid or incurred for maintaining a household a member of which is a dependent of the taxpayer who has attained the age of 65; to the Committee on Ways and Means.

By Mr. LLOYD of California (for himself, Mr. CHAPPELL, Mr. CUNNINGHAM, Mr. DAVIS, Mr. DERWINSKI, Mr. EVANS of Georgia, Mr. FISH, Mr. GOODLING, Mr. LUKEN, Mr. MURPHY of Pennsylvania, Mr. PATTERSON of California, Mr. PEPPER, Mrs. SPELLMAN, and Mr. CHARLES H. WILSON of California):

H.R. 10804. A bill to strengthen Federal programs and policies for combating international and domestic terrorism; jointly, to the Committees on International Relations, the Judiciary, and Public Works and Transportation.

By Mr. MAZZOLI:

H.R. 10805. A bill to suspend until the close of June 30, 1980, the duty on certain nitrocellulose; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 10806. A bill to amend the Tariff Schedules of the United States by repealing item 807 of schedule 8, part 1, subpart B; to the Committee on Ways and Means.

By Mr. RAILSBACK (for himself, Mr. MURPHY of Illinois, Mr. O'BRIEN, Mr. STEERS, Mr. PATTEN, Mr. SCHEUER, Mr. MOTTL, Mr. LAGOMARSINO, Mr.

DUNCAN of Tennessee, Mr. PRICE, Mr. CRANE, Mr. LEACH, Mr. SIMON, Mr. BEDELL, Mr. BAUCUS, Mrs. SPELLMAN, Mr. MCHUGH, Mr. GOODLING, Mr. MAZZOLI, and Mr. SOLARZ):

H.R. 10807. A bill to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes; to the Committee on the Judiciary.

By Mr. SEIBERLING (for himself, Mr. AMMERMAN, Mr. CAPUTO, Mr. EILBERG, Mr. HANNAFORD, Ms. HOLTZMAN, Mr. HUGHES, Mr. MATHIS, Mr. MCDADE, Mrs. MEYNER, Mr. MURPHY of Pennsylvania, Mr. PRICE, Mr. SIMON, Mr. TRAXLER, Mr. VENTO, Mr. WEAVER, and Mr. WEISS):

H.R. 10808. A bill to amend the Internal Revenue Code of 1954 to allow, as a credit against income tax, certain amounts of social security taxes paid by an employee, and to make the earned income credit permanent; to the Committee on Ways and Means.

By Mr. STANGELAND:

H.R. 10809. A bill to amend the Internal Revenue Code of 1954 to exempt farm vehicles from the highway use tax; to the Committee on Ways and Means.

By Mr. STOCKMAN:

H.R. 10810. A bill to amend the Farm Labor Contractor Registration Act of 1963 as amended to exclude from the requirement of registering as farm labor contractors certain farmers, and for other purposes; to the Committee on Education and Labor.

By Mr. TEAGUE (for himself, Mr. MILFORD, Mr. LLOYD of California, Mr. AMBRO, Mr. FUQUA, Mr. YOUNG of Missouri, Mr. RUDD, and Mr. GOLDWATER):

H.R. 10811. A bill to authorize research, development and demonstration projects relating to aviation, and for other purposes; to the Committee on Science and Technology.

By Mr. TEAGUE (by request):

H.R. 10812. A bill to authorize appropriations to carry out the Standard Reference Data Act; to the Committee on Science and Technology.

By Mr. THONE:

H.R. 10813. A bill to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training; to the Committee on Interstate and Foreign Commerce.

By Mr. WAXMAN:

H.R. 10814. A bill to provide employment programs for middle-aged and older workers; to the Committee on Education and Labor.

By Mr. BYRON:

H.R. 10815. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn or fiber, and for other purposes; to the Committee on the Judiciary.

H.R. 10816. A bill to amend title 38 of the United States Code in order to provide for the payment of service pensions to veterans of World War I and for certain surviving spouses and certain children; to the Committee on Veterans' Affairs.

By Mr. DERRICK (for himself, Mr. DINGELL, Mr. NATCHER, Mrs. LLOYD of Tennessee, Mr. CHARLES H. WILSON of Texas, Mr. BARNARD, Mr. TSONGAS, Mr. AKAKA, Mr. HYDE, Ms. HOLTZMAN, Mr. YOUNG of Missouri, Mrs. KEYS, Mr. EILBERG, Mr. MCKINNEY, Mr. ABDNOR, Mr. BURGENER, Mr. BAUMAN, Mr. FRENZEL, Mr. PANETTA, Mr. LENT, and Mr. MITCHELL of New York):

H.R. 10817. A bill to improve congressional oversight of Federal programs and activities by requiring greater specificity in setting program objectives, by requiring continuing information on the extent to which programs are achieving their stated objectives, by requiring periodic review of new authorizations of budget authority and tax expenditures, and for other purposes; to the Committee on Rules.

By Mr. DERRICK (for himself, Mr. PRICE, Mr. DODD, Mr. LEGGETT, Mr. COHEN, Mr. SANTINI, Mr. KREBS, Mr. PATTERSON of California, Mr. HOLLAND, Mr. JENRETTE, Mr. LUNDINE, Mr. PREYER, Mr. ROUSSELOT, Mr. HANNAFORD, Mr. WHITEHURST, Mr. MCHUGH, Mr. LUJAN, Mr. COTTER, Mr. GOODLING, and Mr. RAHALL):

H.R. 10818. A bill to improve congressional oversight of Federal programs and activities by requiring greater specificity in setting program objectives, by requiring continuing information on the extent to which programs are achieving their stated objectives, by requiring period review of new authorizations of budget authority and tax expenditures, and for other purpose; to the Committee on Rules.

By Mr. ECKHARDT:

H.R. 10819. A bill to amend the Consumer Product Safety Act to extend the authorization of appropriations contained in such act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FISHER (for himself and Mr. KRUEGER):

H.R. 10820. A bill to provide that individuals who retired on disability before October 1, 1976, shall be entitled to the exclusion for disability payments under section 105(d) of the Internal Revenue Code of 1954 without regard to the income limitation in such section, and for other purposes; to the Committee on Ways and Means.

By Mr. MURPHY of New York:

H.R. 10821. A bill to confer jurisdiction upon the Court of Claims to hear and make determinations with respect to certain claims and for other purposes; to the Committee on the Judiciary.

By Mr. MURPHY of New York (for himself, Mr. BREAUX, Mr. RUPPE, Mr. ROGERS, Mr. ANDERSON of California, Mr. PRITCHARD, Mr. METCALFE, Mr. GINN, Mr. STUDDS, Mr. BOWEN, Mr. BONKER, Mr. AUCOIN, Mr. PATTERSON of California, Mr. ZEFERETTI, Mr. OBERSTAR, Mr. HUGHES, Ms. MIKULSKI, Mr. BONIOR, and Mr. AKAKA):

H.R. 10822. A bill to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MURPHY of New York (for himself, Mr. BREAUX, Mr. PRITCHARD, Mr. AUCOIN, Mr. GINN, Mr. FORSYTHE, Mr. ZEFERETTI, Mr. OBERSTAR, Mr. HUGHES, Mr. AKAKA, and Ms. MIKULSKI):

H.R. 10823. A bill to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such act for fiscal years 1979 and 1980, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. RAHALL:

H.R. 10824. A bill to amend title 5 and title 28, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, to include supervisory and managerial or specialists positions, and for other purposes; jointly, to the Committees on the Judiciary, and Post Office and Civil Service.

By Mr. RUPPE (for himself, Mr. CEDERBERG, Mr. VANDER JAGT, Mr. PURSELL, Mr. PRITCHARD, Mr. WHITLEY, Mr. LAFALCE, and Mr. LENT):

H.R. 10825. A bill to amend the Coastal Zone Management Act of 1972 in order to provide financial assistance to Great Lakes States to enable the States to implement erosion management measures, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, and Public Works and Transportation.

By Mr. THONE:

H.R. 10826. A bill to authorize the Secretary of Health, Education, and Welfare to establish a grant program designed to develop methods of prevention and treatment relating to domestic violence, and for other purposes; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, and the Judiciary.

By Mr. FLYNT (for himself, Mr. BAUCUS, Mr. COLEMAN, Mr. DICKS, Mr. DOWNEY, Mr. ERTEL, Mrs. FENWICK, Mr. GEPHARDT, Mr. HANNAFORD, Ms. KEYS, Mr. LAGOMARSINO, Mr. LEVITAS, Mrs. LLOYD of Tennessee, Mr. MATHIS, Ms. MIKULSKI, Mr. MICHAEL O. MYERS, Mr. NOLAN, Mr. PEPPER, Mr. RAHALL, Mr. RODINO, Mr. WAXMAN, Mr. WINN, Mr. WOLFF, Mr. YOUNG of Missouri, and Mr. ZEFERETTI):

H.J. Res. 728. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as National Grandparents Day; to the Committee on Post Office and Civil Service.

By Mr. HARRIS (for himself, Mr. BRODHEAD, Mr. BUCHANAN, Mr. CARR, Mr. COTTER, Mr. DANIELSON, Mr. EDWARDS of California, Mrs. FENWICK, Mr. FITHIAN, Mr. KREBS, Mr. MANN, Mrs. MEYNER, Ms. MIKULSKI, Mr. MILLER of California, Mr. MOSS, Mr. OTTINGER, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. ROSE, Mr. RUNNELS, Mr. RYAN, Mr. STOKES, Mr. WEAVER, Mr. WHITLEY, and Mr. ZABLOCKI):

H. Res. 1007. Resolution to amend the Rules of the House of Representatives to restrict provisions of and amendments to appropriation bills; to the Committee on Rules.

By Mr. LEACH (for himself and Mr. BEILENSON):

H. Res. 1008. Resolution condemning the recent poisoning by terrorists of oranges exported from Israel; to the Committee on International Relations.

By Mr. LOTT:

H. Res. 1009. Resolution to extend the reporting date of the Committee on Rules respecting the study of broadcasting proceedings of the House of Representatives under House Resolution 866, 95th Congress, to April 30, 1978, and to authorize and direct the Speaker to make arrangements with a major television network pool to conduct a thorough study of television broadcasting of proceedings in the House Chamber during March 1978; to the Committee on Rules.

By Mr. RODINO:

H. Res. 1010. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on the Judiciary; to the Committee on House Administration.

By Mr. SISK:

H. Res. 1011. Resolution providing broadcast coverage of House floor proceedings; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

291. The SPEAKER presented a memorial of the Legislature of the State of California, relative to tuna fishing; to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. WALKER:

H.R. 10827. A bill for the relief of Claretha

Bessick and Fredericka Athena Clark Engs; to the Committee on the Judiciary.

By Mr. WHITEHURST:

H.R. 10828. A bill for the relief of Gloria Martinez Bustoz; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

392. The SPEAKER presented a petition of the board of supervisors, Los Angeles County, Calif., relative to use of excess water from the Columbia River for irrigation in the Southwestern United States and northern Mexico; jointly, to the Committees on Interior and Insular Affairs, and Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6805

By Mr. QUAYLE:

Section 4, page 6, after line 21 insert the following new subsection (c) to read:

"(c) Nothing in this Act shall be construed to give the Administrator the authority to designate regional offices of the Office."

Redesignate the following sections accordingly.

Section 14, page 26, line 12, following "records," insert "personnel,".

Section 17, page 32, line 20, following the words "of Energy", insert a period and strike out ", or to a labor dispute" and everything that follows through line 16 on page 33.

Section 17, page 32, line 20, strike out ", or to a labor dispute" and everything that follows through "Management Relations Act, 1947 (29 U.S.C. 171)" on page 33, line 2.

On page 33, line 15, strike out ", or" and insert in lieu thereof a semicolon.

On page 33, line 16, delete the period and add new (3) to read: "; or (3) in any labor dispute within the meaning of section 13 of the Act entitled 'An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes', approved March 23, 1932 (29 U.S.C. 113), or of section 2 of the Labor Management Relations Act (29 U.S.C. 152), or to a labor agreement within the meaning of section 201 or the Labor Management Relations Act, 1947 (29 U.S.C. 171)."

Section 19, page 34, line 5, delete "$15,000,000 for fiscal year" to the end of line 7, page 34. Insert in lieu thereof: $3,400,000 for the fiscal year ending September 30, 1979."

SENATE—*Tuesday, February 7, 1978*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

Rabbi Jack M. Rosoff, Congregation B'nai Israel, Ridge Road, Rumson, N.J., offered the following prayer:

Let us pray:

O Lord, we stand before you troubled and distressed.
Troubled because the older we become the less sure we are,
Distressed because what seemed so bright and certain in earlier years is now beclouded and insecure.
We yearn for days of yore when life was divided into the good and the bad,
When the world was inhabited by the righteous and the wicked and we knew which was which,
When ethical certainty and moral rectitude were absolute and clear.
But those days, O God, are indeed of yore and are gone for us.
For our pain and pleasure in life have taught us that morality comes in shades of gray.
Our triumphs and failures in life have instructed us that absolute right and absolute wrong are reserved for the philosophers and theologians.
They have little, if any, place in the affairs of men and nations.
Be with us our Father when, in the tumult of the public forum and the solitude of the study, we struggle to choose—
What is more right and less wrong
What is more good and less bad
What is more just and less unjust
Know that we wish with all our hearts that our choices were between absolutes,
But you did not so construct this world, this life or us.
And so we pray not for easy and clear choices
But rather for the wisdom to make the hard and blurred choices.
When each side has right and each, wrong;
When each advocate has justice and each, injustice;
For that is the life we have chosen.
And so we pray not for adulation and passing popularity
But rather for the peace and inner contentment that come only after the anguish and agony of real moral dilemmas.
We know that we will not always be right,
But we pray that you will grant us the courage to always try to be.
Accept this, our prayer, O Lord, for it issues forth from our fallible hearts and our imperfect souls.
Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 7, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Monday, February 6, 1978, following the adjournment, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements limited therein to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

OUTER SPACE WEAPONRY

Mr. ROBERT C. BYRD. Mr. President, the potential for mankind in the frontier of outer space is unlimited. We have already, over the span of two short decades, harvested benefits far beyond the imagination of most of us. These explorations have been healthy and profitable adventures, and in several space-related programs we have enjoyed the partnership and cooperation of the Soviet Union.

Now come disturbing developments that cast a shadow over this progress. We should be acutely aware of, and deeply concerned over, Soviet advancement in outer space weaponry.

In the past 5 years, it is reported that the Soviet Union has launched for military purposes 325 space satellites. The Soviets are, in fact, well on their way to developing a so-called hunter-killer satellite. Such a space armament would be capable of destroying the communications network by which the United States controls its military deterrent system.

At a time when the two great powers are groping with the problem of how best to halt the strategic arms race on Earth, it is alarming that there would be an escalation of military might in space. But, such a threat cannot be ignored, or placed on a security backburner.

Defense Secretary Harold Brown recently told the House Armed Services Committee that there was now a "standoff or stalemate" in the strategic nuclear balance between the United States and the Soviet Union. However, there can be no question that in recent years the Soviets have greatly increased their military spending.

The introduction of exotic outer space weaponry adds a dimension to the arms race which must either be curbed through negotiations or matched by the United States. This country has a strong desire to avoid an arms race in space.

President Carter has spoken of the administration's desire to negotiate with

the Soviets a commitment not to destroy each other's satellite observation posts. He has also suggested an agreement to prohibit Earth-orbiting satellites which carry atomic radiational material, or at the very least the institution of a sure-fire safety requirement.

These are necessary and urgent steps to be taken. The American people and the people of all countries do not desire to have their security threatened by military space pollution.

But, if the Soviets forge ahead in extending earthly rivalries into outer space, then—to use the words of Secretary Brown—"Our interests do not allow us the luxury of passivity."

The Washington Star, in a Monday, Feb. 6, editorial, posed the question:

Why would the Soviet Union be developing a satellite-killing system capable of severing the communications link that makes U.S. deterrence work, unless with hostile intent?

Before the 95th Congress adjourns, there is a chance we will have before us a new Strategic Arms Limitation Treaty.

Continued Soviet advancement in space weaponry would leave us but two alternatives: Greatly accelerating our own antisatellite program, or preferably, placing outer space weaponry under future SALT discussions or a similar negotiating forum.

Above all else, we must insure that our defense mechanism—our measure of security—cannot be short-circuited.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

NUCLEAR NONPROLIFERATION ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 897, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 897) to strengthen United States policies on non-proliferation and to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. McCLURE. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be divided equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 1201

Mr. GLENN. Mr. President, I send to the desk an unprinted amendment and ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, the amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1201:

On page 118, line 23, insert the following: after "15 days": "of continuous session (as defined in subsection 130 g. of the 1954 Act)".

Mr. GLENN. Mr. President, there is no part of this bill that is of more significance for the prevention of nuclear proliferation than the elevation of the "timely warning" standard to statutory force.

I think it is important to note that the standard of timely warning, the basic concept upon which the entire international safeguards program rests, is strictly a measure of whether warning of a diversion will be received far enough in advance of the time when the recipient could transform the diverted material into an explosive device to permit an adequate diplomatic response.

The amount of warning time required will vary depending on the type of response which would be needed—that is, in some cases a bilateral response would be adequate, whereas in others a coordinated response by several nations and/or international organizations would be necessary. In addition to determining the amount of warning time required, it will be necessary to determine how much time will actually be available under any specific circumstances. Some reprocessing technology would provide a greater warning time than others.

Another crucial consideration is the quality of the safeguards in place at the facility—especially the probability that the safeguards would in fact detect a diversion and the rapidity with which such detection would occur. Other factors include whether the nation would have limited access to the material because of multinational control or other barriers, whether the fuel is multinationally owned, and whether the nation has access to any facilities which might be needed to convert the diverted material to a weapons-usable form. Also, if the facility is of such a small size that it would take several months for the facility to produce enough weapons-usable material to make a bomb and in addition the nation does not have access to additional material from other sources, timely warning would probably be possible.

Other factors which may be taken into account in determining whether a subsequent arrangement for reprocessing will lead to a significant increase in the risk of proliferation are whether the nation is firmly committed to effective nonproliferation policies and is genuinely willing to accept conditions which would minimize the risk of proliferation, whether the nation has a security agreement or other important foreign policy relationship with the United States, the nature and stability of the recipient's government, its military and security position, and whether the nation has any practicable alternatives to reprocessing in meeting its energy needs. In other words, Mr. President, there is nothing in this section of the bill on subsequent arrangements that prohibits, permanently or unconditionally, the reprocessing of spent fuel by other nations.

I repeat that: There is nothing in this section of the bill on subsequent arrangements that prohibits, permanently or unconditionally, the reprocessing of spent fuel by other nations.

It is important to note, however, that the bill requires that foremost consideration be given to the question of timely warning. This implies that the latter will receive the greatest weight among all factors. Although this does not require denial of a request when timely warning is not clearly determinable, the language suggests that in the absence of a clear determination that timely warning will indeed be provided, a strong combination of other factors would be necessary to compensate for this weakness in safeguards. It then follows that a decision to approve reprocessing in the absence of such a clear determination would be an unusual event that should be carefully scrutinized.

Indeed the inherently sensitive nature of any subsequent arrangement for reprocessing or for the subsequent retransfer of plutonium in quantities greater than 500 grams makes it imperative that the Congress be given a sufficient amount of time to react to the Secretary of Energy's report as provided for in subsection 303(b)(1), a report which is designed to lay out the Secretary's reasons for entering into such subsequent arrangements, including his application of the timely warning standard.

The present language of the bill implies that 15 calendar days after the Secretary of Energy files his report with the Senate Foreign Relations Committee and the House International Relations Committee, he may then enter into the subsequent arrangement. I believe it is obvious what would happen if the 15-day period were to start, say, 5 days before Christmas, or during any other extended 2- or 3-month session of nonlegislative days in the Senate.

The proposed amendment simply changes the time involved to 15 days during which the Congress is in continuous session as defined in section 130(g) of the 1954 act. The amendment insures, Mr. President, that if the appropriate committees wish to react or to take any substantive action based upon the Secretary's report, they will have sufficient opportunity to do so.

Mr. President, I do not know whether the Senator from Idaho cares to make any comment on this proposed amendment. I know that, in private discussions, we have discussed the fact that, with this particular proposal, there might be an emergency type situation, but with reprocessing and plutonium transfer, and so on, that is involved here, I cannot imagine that we cannot foresee those

events coming up that would be of such a time-critical nature that we would have to react within a 15-calendar-day time period. I think it is reasonable to make this a 15-legislative-day basis instead of calendar-day basis.

Mr. McCLURE. Will the Senator yield?

Mr. President, we have discussed this matter. I think that, last year, there was a circumstance that arose in December that would have fallen under this provision. It may be that it was not important that it fall in December, that it might have easily waited until January. I am not sufficiently familiar with the background of that particular incident to know. But I think it is important to underscore that this does not deal with all transfers or retransfers of all uranium or fuel or spent fuel elements. It deals with the special nuclear material, it deals with transfer for reprocessing, it deals with the transfer of quantities of plutonium and not minute quantities of plutonium. I think that, with that understanding, the 15-day provision, referring to legislative days, does strengthen the congressional oversight, the congressional opportunity, which is, I think, fundamental to this legislation.

I do not oppose the amendment. As a matter of fact, I support it, recognizing that there may be a few unique circumstances in which timing of events will have to depend upon this provision. But I agree with the Senator from Ohio that it is unlikely that such events cannot be timed in such a way that they will not cause great difficulty and that it does not apply to the relatively routine types of fuels transfers and so on that occur so frequently that the congressional recess period—which, hopefully, this year, may be from October to January—would interfere with orderly commerce between the nations in the routine nuclear power business.

I understand that this does not apply to that and it is in that light that I can add my support to this amendment.

Mr. GLENN. I thank the Senator from Idaho. This would apply just to reprocessing and plutonium transfer subsequent to reprocessing.

If there are no further comments, I am happy to yield to the Senator from Illinois.

Mr. PERCY. If the Senator will yield, I do not think there is any more important aspect of the present program that we could consider. After all, when we debated the whole Korean situation, when we were going to withdraw ground forces, the essence, the crucial part of that whole program was, what is the timely warning we shall have, how far away from the demarcation line? When we determined that the warning time might be 6 hours, it conditions everything that we do on that program.

So, too, with the whole intercontinental missile program. The question is, What is the timely warning involved?

Here, too, the measure of whether or not warning of a diversion will be received far enough in advance of the time when the recipient could transform the diverted material into an explosive device to permit an adequate diplomatic response, I think, is extremely important. The amendment now being offered is a very important amendment.

I am delighted to hear that the distinguished Senator from Idaho supports the amendment. I think that the legislative process is important and we should have our say in these matters, so it should be legislative days, not calendar days. I think the Senator's amendment takes this into account.

Certainly, knowing that there is no opposition on this side of the aisle, I fully support the amendment. I commend the distinguished majority floor manager of the bill for it.

Mr. GLENN. Mr. President, I thank the Senator from Illinois.

If the Senator from Idaho is prepared, I am prepared to yield back the time.

Mr. McCLURE. Will the Senator yield?

Mr. GLENN. Certainly.

Mr. McCLURE. I will explain a little further because I had intended to offer an amendment dealing with the issue of timely warning. At this time, it is not my intention to do that. But since we have made some reference to it, I thought I might explain both what I had in mind, and why I will not be offering the amendment.

The issue of timely warning is one of the most difficult that we confront, not just in terms of the acceptance or rejection of our efforts by others who are involved in negotiations or dealings with the United States, but also in terms of the techniques by which we can know, and whether or not we can accept assurances, or whether or not we can verify these requirements. The technical questions associated with timely warning, are among the most difficult we have.

I think the sponsors and the floor managers of this legislation would agree that this whole issue of timely warning is one of the most complex and one of the most potentially difficult ones with which we have to deal.

Because of that, I proposed introducing an amendment, which would have inserted on page 118, on line 24, at the beginning of subsection 303(b)(2) the words, "after November 1, 1980" to provide that the timely warning standard for subsequent arrangements for approvals of reprocessing would become operative after that date. In other words, allowing 2 years to elapse before embarking upon an absolute prohibition against such subsequent arrangements, unless the timely warning standard had been satisfied.

As I understand what we have done up until now, it is that we have, in effect, grandfathered the existing reprocessing and fuel arrangements so that the ones that are in existence now are not subjected to the new tests and that the new facilities for reprocessing are not likely to come into being before November 1, 1980, whether they are in the United States, or in Japan, or in Brazil, or in Europe, wherever they may be. Because of this time lag, there will be a period of time in which we can work this out.

There are a number of other countries that we will be dealing with in that period of time, trying to get their agreement both through the Suppliers Conference Guidelines, through the strengthening of IAEA safeguards, through the negotiation on the International Nuclear Fuel Cycle Evaluation, which will be completed sometime in 1979.

All of these initiatives in negotiations are underway, and they will deal with this question in about the time frame that I was going to suggest in my amendment.

So my amendment is perhaps not needed. The only purpose in that amendment would be to set forth for the world to see what the framework of expectation on the part of the Congress of the United States and the U.S. policy was going to be on this issue, so they would be negotiated toward that conclusion.

I suspect they will be doing that whether I put my amendment in, or not.

Certainly, the United States is in no position to dictate to the rest of the world what the results will be 2, 3, 4 or 5 years from now. We simply do not have that kind of dominance in the market anymore. But, we can have a profound influence on the discussions of these negotiations and whatever the results of those negotiations may be, if they are carefully wrought and reasoned and have international support.

I suspect if any further refinement of this legislation is needed to reflect the results of those negotiations, we can attain that refinement in legislation.

I suspect that the Senator from Ohio would agree with me that we are exercising our best judgment now. If our best judgments later indicate a slightly differing result, the Congress can reflect that at that time. Congress does not need to attempt at this time to anticipate all of the results of the negotiating process in those various forums over the next couple of years.

So I will not be offering my amendment on this issue for that reason. I take the time now only because the issue of timely warning is associated with the amendment which the Senator has now offered and which I support.

Mr. GLENN. I thank the Senator from Idaho for his comments and I agree with him on this completely in several respects. First, in the difficulty of assessing timely warning. It is an imprecise phrase. We cannot quantify it with specific numbers of so much timely warning because every single case, as the Senator is well aware, varies and has to be subject to scrutiny on its own particular merits or demerits, whichever the case may be.

Yet even realizing that, the difficulty of establishing timely warning, and the whole worldwide network of looking at the nuclear plants around the world, IAEA's look at these plants, nuclear suppliers' look at their own and other people's plants, the international fuel cycle evaluation, which the Senator from Idaho referred to, all of these things, base their views on warning time in each individual situation. So warning time might vary in one situation from a matter of a very few days, or perhaps theoretically even hours, as opposed to perhaps years, requiring fabrication of a

nuclear weapon, in the situation existing in other countries.

So it is very difficult, and I agree with the Senator from Idaho completely on that.

As to his last comments, that we may have better judgments to make later on, I could not agree more. I think that is absolutely the case. I hope our wisdom in this whole field of nuclear proliferation increases with experience with this legislation and with the international nuclear fuel cycle evaluation, with experience with the nuclear suppliers conference.

I would certainly be very happy to work with him later on if we have other legislative proposals that we think can strengthen the cause of nuclear proliferation, and I think it will require some experience as we go along to reach those determinations.

So if there is no further discussion on this amendment, Mr. President, I am prepared to yield back the remainder of my time on this amendment and proceed to vote.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. PERCY. Yes, we yield back the remainder of our time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. President, I ask unanimous consent to have printed in the RECORD the lead editorial from the Washington Post of today, entitled "Nuclear Exports and Common Sense," which I think is an excellent statement of exactly where we are now.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will the Senator yield on that question?

Mr. GLENN. I yield.

Mr. McCLURE. I, too, read the editorial in the Washington Post. I may have had a slightly different reaction to it from that of the Senator from Ohio, because it did not mention him as much as it did me, and perhaps one can forgive some personal reaction.

I thought that the explanation the Senator from Ohio just made about the difference between warning and time and timely warning was a very good illustration of the difficulties of understanding this legislation. Perhaps the Washington Post editorial writers can be forgiven if they show certain lack of knowledge concerning the nuances and the intricacies of this legislation and prefer, instead, to paint with a broad brush that totally ignores those intricate difficulties.

The Senator from Ohio is correct. It is important that the legislation and the legislative history be stated carefully, or the results might be quite different from that which is anticipated by the editors of the Washington Post.

Mr. PERCY. Mr. President, if the Senator will yield, I should like to make it a matter of record that the perception of some of the media that there have been obstructionist efforts is a perception that might have gone back some time, but I think it is out of date. It is for that reason that I felt the Chicago Sun Times editorial was not completely current with what is now happening. I have not talked to them in a long time. When I submitted that editorial in the RECORD yesterday, I entered extracts from it, because I deleted from it what I felt was improper to put on the public record.

The efforts of the distinguished Senator from Idaho to date on the floor and in working with the floor managers of the bill have been entirely constructive. He has represented and presented a point of view, just as the distinguished senior Senator from Idaho (Mr. CHURCH) has presented a representative point of view, because he has interests in the State that are vital to that State and that State's economy, and we expect those interests to be represented.

Similarly, the Senator from Illinois has no hesitancy in presenting the point of view of various interests, whether they be labor or management, in Illinois, as it affects legislation on the floor.

To date, the Senator from Illinois and the Senator from Ohio have enjoyed very much working with the Senator from Idaho. We have presented our respective points of view and reconciled ourselves as to what was the overriding concern. Whenever a commercial interest should have been subordinated to the overriding issue of preventing nuclear proliferation throughout the world, the latter has won out, and it has been unanimous on the part of us all.

It is for that reason that I think the media have been somewhat out of date, as I believe we will have a legislative history, by 5:30 p.m. today, of working in accord with the distinguished Senator from Idaho, in arriving at a bill with which we can all live. In the end, it will be a better bill because of the cooperative effort we have had between us.

Mr. GLENN. Mr. President, I should like to amend my previous request, and I ask unanimous consent that excerpts from the editorial be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

NUCLEAR EXPORT AND COMMON SENSE

Today the Senate is scheduled to vote on legislation aimed at controlling U.S. exports of nuclear materials to countries around the world. That in itself is something—the scheduling of the vote, we mean. For months opponents of the legislation, chiefly spokesmen for the nuclear industry that does the exporting, have put their best (and, up till now, successful) efforts into preventing the Nuclear Nonproliferation Act from coming to the Senate floor at all. If you want to know why they were not eager for an open test of strength on the merits of the issue, you need only consider that in the House the companion bill (which they also tried to defeat) was passed last year by a vote of 411 to 0.

The House was right. This is legislation that emphatically deserves to be enacted. . . . The purpose of the bill, whose principal Senate sponsors are Democrat John Glenn of Ohio and Republican Charles Percy of Illinois, is not to limit or terminate American exports of nuclear fuel and plant to countries seeking to get the good of the atom for energy generation and other peaceful purposes. On the contrary, the bill is designed merely to make sure, to the extent possible, that such peaceful-purposes exports do not find their way into the makings of nuclear bombs. Is that an unreasonable goal?

What the legislation would do is establish some clear and consistent rules governing the circumstances under which fuel and plant could be exported. There would have to be very strict safeguards on all of a country's nuclear installations; activities that could not be properly safeguarded would be out of bounds for material exported by the United States; and American permission would be required for the retransfer to third countries of material originally exported from this country or for the reprocessing of U.S.-exported fuel. In addition, the legislation reaffirms the essential role of the Nuclear Regulatory Commission in overseeing U.S. exports, and it also provides a generous time span for renegotiating nuclear agreements we have with other countries in order to bring them into accord with the provisions of the new Act.

There has been a lot of sophistry and illogic thrown around by those opposing this sensible legislation, and a certain amount of hysteria has been injected into the argument, too. It has been noisily worried, for instance, that the legislation would destroy the homegrown nuclear industry, whereas all it would really do is make impossible the genuinely reckless sale. And it has also been argued that the legislation would demonstrate the United States to be an unreliable exporter, whereas a reasonable and consistent set of standards such as those embodied in the bill would make transactions far less chancy. How odd it is, coming from legislators not known for their roll-over-and-play-dead propensities where U.S. foreign relations are concerned, to hear all this anxious, nervous Nelly business about how if we make clear that our nuclear exports are not to be used for weapon-making . . . well, we will lose the market, or it just won't work or "they won't put up with it"—or something.

"They" will put up with it. The U.S. nuclear industry has a good product to sell, one that will withstand the inconvenience to importers of having to demonstrate that they do not intend to misuse that product. And the U.S. government has a real obligation not to let our nuclear exports be the stuff of which new nuclear bombs are made. The Senate should reject the troublesome amendments and vote for the Glenn-Percy measure as is.

Mr. McCLURE. Mr. President, I thank the Senator from Illinois for his comments. I thought that the editorial perhaps was written last week, rather than last night, because it reflects not the current situation but the situation that was in the perception of some people some time ago.

The only reason I took the time to comment upon it at all was that I think the legislative history of the last day or two very clearly indicates that the floor managers of the bill and the Senator from Idaho share a common goal, and that the legislative history has not been as polarized as the Post editorial would indicate it to be.

I thank my colleagues for their comments.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PERCY. Mr. President, I should like to put a question to the distinguished Senator from Ohio (Mr. GLENN), the floor manager of the bill. It pertains to page 104 of the bill, under "Definitions."

For the purpose of legislative history, it would be well for us to clarify the section beginning on line 18, subparagraph 6, entitled "Sensitive Nuclear Technology." The definition given is as follows:

"Sensitive nuclear technology" means any information (including information incorported in a production or utilization facility or important component part thereof), which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility, or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to chapter 12 of the 1954 Act;

The definition of "sensitive nuclear technology" as given in this section excludes information which is "available to the public."

Is it the Senator's understanding that this exclusion covers patent applications filed with the U.S. Patent Office that are not subject to a secrecy order?

Mr. GLENN. I am glad the distinguished Senator from Illinois has brought this up, because it has been brought to my attention that this act may be considered by some to apply to the filing of foreign patent applications involving nuclear technology.

When a U.S. patent application is filed and the provisions of 35 U.S.C. 184 have been complied with, a foreign patent application may be made. The ERDA regulations on this subject recognize that "information which is available to the public in published form" includes information contained in a patent application filed in accordance with the regulations of the U.S. Patent Office and eligible for foreign filing under 35 U.S.C. 184. (See 10 C.F.R. § 810.8 at p. 692.) The exclusion in the definition of "sensitive nuclear technology" for information available to the public includes foreign patent filings as now provided in those regulations.

Mr. PERCY. Mr. President, I thank the distinguished Senator for his explanation. I think it helps very much indeed. I concur with the conclusions he has reached.

UP AMENDMENT NO. 1202

Mr. PERCY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The statement will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1202:

On page 123, line 15, insert "and so notifies the Congress" before the period.

Mr. PERCY. Mr. President, this is a technical amendment which simply insures that Congress will receive notice of any extension of the proviso in section 126a(2) of the 1954 act. I understand that there is no disagreement with this amendment—that is, it has been reaffirmed that there is no disagreement on our side of the aisle.

Mr. GLENN. Mr. President, I am happy to agree to the amendment.

Mr. PERCY. I yield back the remainder of my time.

Mr. GLENN. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, I ask unanimous consent that I might proceed for 5 minutes and the time not be charged to either side and further that I might proceed without regard to the rule of germaneness.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

THE PANAMA CANAL TREATIES

Mr. ALLEN. Mr. President, on yesterday I respectfully requested the majority leader and the minority leader to request respectfully the attendance of the distinguished Vice President when the Panama Canal treaties are laid before the Senate on tomorrow. I stated that I plan to make parliamentary inquiries as to the Senate procedure with respect to consideration of these treaties.

I feel that the Vice President and the leaders should be informed of the inquiries I intend to make, and, therefore, for the benefit of the Vice President, the Parliamentarian, the joint leadership, the Members of the Senate, and concerned citizens, I shall send to the desk and I shall ask unanimous consent that there be printed in the RECORD the parliamentary inquiries that I plan to make on tomorrow. There are 17 inquiries, and I feel that when the Vice President gives answers to these parliamentary inquiries we will have the proper guidelines for the Senate in the consideration of these treaties. This will be one of the few times in some 50 years, I am informed, that the rules of the Senate will be used in connection with the consideration of treaties. Usually we have requests made that it be considered that all parliamentary steps have been taken down to the resolution of ratification and then we proceed to approve the treaty.

The rules, of course, provide that treaties shall first be considered in the Committee of the Whole and a set procedure is provided by the rules. That procedure will be followed with respect to this treaty. But there are still a number of questions that need a ruling, I feel in advance, by the Vice President, so we will know just the proper procedure.

So I send these inquiries to the desk and ask unanimous consent that they be printed in the RECORD.

There being no objection, the inquiries were ordered to be printed in the RECORD, as follows:

PARLIAMENTARY INQUIRIES OF MR. ALLEN AS TO SENATE PROCEDURE FOR CONSIDERATION OF PANAMA CANAL TREATIES

1. Are there not two treaties before the Senate in the Committee of the Whole involving the Panama Canal? And will it not be necessary to complete action on one through the Resolution of Ratification before action can be commenced on the other?

2. Are the amendments to Articles IV and VI of the Neutrality Treaty referred to in the Report of the Senate Foreign Relations Committee "amendments reported by the Committee" as such term is used in Senate Rule XXXVII, or will such amendments be the amendments only of the Senators who introduce and sponsor them?

3. It is not in order without unanimous consent, is it, for a Resolution of Ratification to be proposed as to a treaty until the following procedure has taken place with respect to a treaty:

A. Consideration and report by Committee of the Whole to the full Senate;

B. Consideration by the Senate of action by the Committee of the Whole;

C. Consideration of other amendments; and

D. Lying over for one day.

4. In considering each treaty by Articles, as the Rules provide, with Committee amendments, if any, to be considered first, would it not be necessary to consider amendments from the floor of the Senate as to an Article and to have a vote on such Article before amendments of any sort to the next succeeding Article could be offered or considered in the Senate?

5. If Calendar No. 1—the Neutrality Treaty is approved and Calendar No. 2—the Panama Canal Treaty is not approved by the Senate, would not the action on the Neutrality Treaty be thereby vitiated, since it is not to go into effect until the expiration of the term of Calendar No. 2—the Panama Canal Treaty.

6. For cloture to be invoked as to the treaties, would not a separate cloture motion and a separate cloture vote by at least 60 Senators on each motion be required?

7. If cloture is sought on one treaty and voted by the Senate, would it not be necessary to complete action on the clotured treaty before there could be a cloture vote on the second treaty?

8. At what point will the preamble of the treaties be before the Senate for consideration and for possible amendment and for action by the Senate?

UNANIMOUS CONSENT REQUEST

I ask unanimous consent that the "Documents Implementing the Panama Canal Treaty" and the "Other Documents" identified on page 221 of the Report of the Committee on Foreign Relations (Executive Report No. 95–12) be identified in like manner in the record at this point as predicate for my next two parliamentary inquiries.

9. Since most of the actual agreements between the United States and Panama are provided in the documents set forth in the record pursuant to the foregoing unanimous consent request, are such documents before the Senate for consideration and for vote thereon and for possible amendment prior thereto?

10. If amendments to a treaty or treaties inconsistent with the provisions of the documents set forth in the record pursuant to the foregoing unanimous consent request are agreed to by the Senate, would not such amendments so adopted supplant or supercede the inconsistent provisions of such documents?

11. Executive N contains in the case of the Panama Canal Treaty an annex and an agreed minute. Additionally, the Treaty Concerning the Permanent Neutrality and Oper-

ation of the Panama Canal, also within Executive N, has two annexes, each having a map attachment. At what point will the annexes, minutes, and associated attachments within Executive N be before the Committee of the Whole for consideration and possible amendment?

12. If amendments to a treaty or treaties are agreed to by the Senate and are inconsistent with the provisions contained in Executive N of the annexes, their attachments, or the agreed minute, would not such amendments so adopted supplant or supersede the inconsistent provisions in such annexes, attachments, or agreed minute?

13. Subject to the limitations that might be imposed by cloture, are not each article and each amendment to an article debatable?

14. Are not amendments offered to a treaty amendable in like manner as amendments to bills in legislative session? Are perfecting amendments to portions of the treaty sought to be amended in order?

15. In the absence of cloture, must amendments to articles be germane to the article under consideration?

16. Since both the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal are made in duplicate, in the English and Spanish languages, both texts being declared equally authentic, are the Spanish texts of both treaties before the Senate for consideration? If they are not, when will the Spanish language texts be presented to the Senate for consideration and comparison with the English language texts for purposes of ascertaining any discrepancies between them?

17. If the President transmits two treaties to the Senate under cover of one message and the same are received by the Senate and docketed as one executive message, if no action is taken in committee to change the manner in which the documents were transmitted, would not such documents remain in the order transmitted when reported by committee to the Senate for consideration in the Committee of the Whole? In other words, does the Executive Clerk have authority to rearrange the documents submitted by the President?

Mr. ALLEN. I yield the floor, Mr. President.

NUCLEAR NONPROLIFERATION ACT OF 1978

The Senate continued with the consideration of S. 897.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. ALLEN. I ask unanimous consent that it be equally divided.

Mr. GLENN. Evenly split, Mr. President?

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

There being no objection, the Senate, at 12:05 p.m., recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. TALMADGE).

NUCLEAR NONPROLIFERATION ACT OF 1978

The PRESIDING OFFICER. The Senate will resume the consideration of the unfinished business, S. 897, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 897) to strengthen United States policies on non-proliferation and to reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The Chair in his capacity as a Senator from Georgia suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. GLENN. Mr. President, I have two unanimous-consent requests regarding committee meetings that have been cleared on both sides of the aisle.

Mr. President, I ask unanimous consent that the Armed Services Committee be authorized to meet during the session of the Senate today to hold hearings on fiscal year 1979 military procurement authorization requests.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet during the session of the Senate today to hold hearings on judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR NONPROLIFERATION ACT OF 1978

The Senate continued with the consideration of S. 897.

UP AMENDMENT NO. 1203

Mr. CHURCH. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes an unprinted amendment numbered 1203.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Beginning on page 106, line 19, strike all the words through and including page 109, line 14, and insert in lieu thereof the following:

SEC. 104. (a) Consistent with section 105 of this Act, the President shall institute prompt discussions with other nations and groups of nations to develop international approaches for meeting future worldwide nuclear fuel needs. The President, in cooperation with the IAEA, is authorized to consider in these discussions with nations possessing nuclear fuel production facilities or source material and such other nations as may be deemed appropriate, the following:

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility for allocating agreed upon quantities of fuel resources and providing other agreed upon services to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations;

(2) a set of conditions under which international fuel assurance under INFA auspices will be provided to recipient nations, including conditions which will insure that the transferred materials cannot or will not be used for nuclear explosive devices;

(3) devising feasible and environmentally sound approaches for the siting, development, and management under effective international auspices of facilities for the provision of nuclear fuel services and the storage of special nuclear material which is sensitive from the standpoint of preventing the proliferation of nuclear explosive devices;

(4) the establishment of repositories under effective international auspices and inspection for the storage of spent nuclear reactor fuel;

(5) the establishment of arrangements under which nations placing their spent fuel in such repositories would receive appropriate compensation for the energy content of such spent fuel if recovery of such spent fuel is deemed necessary or desirable; and

(6) sanctions for violations of the provisions of or for abrogation of such binding international undertakings.

(b) The President shall submit to the Congress no later than twelve months after the date of enactment of this Act proposals for the establishment of an initial international undertaking to guarantee the supply of nuclear fuel to nations that adhere to strict policies designed to prevent proliferation. In preparing these proposals, the President may consider making available, for transfer to an international stockpile established pursuant to an international agreement, uranium enriched to less than 20 percent in the isotope 235 up to an amount sufficient to produce 100,000 MWe years of power from light water nuclear reactors.

(c) The President shall, in the report required by section 103, also address the desirability of and options for foreign participation, including investment in new United States uranium enrichment facilities. This report shall also address the arrangements that would be required to implement such participation and the commitments that would be required as a condition of such participation. This report shall be accompanied by any proposed legislation to implement these arrangements.

(d) The fuel assurances contemplated by this section shall be for the benefit of nations that adhere to policies designed to prevent proliferation. In the discussions called for in this section, the President shall, in particular, seek to ensure that the benefits of such arrangements are available to non-nuclear-weapon states only if such states accept IAEA safeguards on all their peaceful nuclear activities, do not manufacture or otherwise acquire any nuclear explosive device, do not establish any new enrichment or reprocessing facilities except on an internationally acceptable and agreed upon basis,

and place any existing facilities under effective international auspices and inspection.

(e) The report required by section 601 shall include information on the progress made in any negotiations pursuant to this section.

Mr. CHURCH. This unprinted amendment I offer on behalf of the Committee on Energy and Natural Resources. It substitutes a new section 104, which begins on page 106, line 19 of the bill.

The language of the amendment contains the wording of all of section 104 as reported from the Energy Committee. A detailed explanation of the Energy Committee's reasons for amending section 104 was given in the joint report of the committee, Senate Report 94–467.

Mr. President, since the Committee on Energy and Natural Resources took this action, we have conferred with the managers of the bill, and certain alterations have been made in the Energy Committee's recommended change of section 104. These alterations are acceptable, and the purpose of the committee has been carried out. The changes do not alter or affect that purpose, but they make the amendment acceptable to the managers of the bill and, for that reason, I would hope that the substitute, which, I understand, the distinguished Senator from Ohio (Mr. GLENN) will offer to this amendment, will be accepted and approved by the Senate.

Mr. GLENN. Mr. President, I appreciate the remarks of the distinguished Senator from Idaho.

UP AMENDMENT NO. 1204

I send to the desk a substitute for the amendment that the Senator from Idaho just described, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1204 in the nature of a substitute for the Church amendment.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the substitute amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 104. (a) Consistent with section 105 of this Act, the President shall institute prompt discussions with other nations and groups of nations, including both supplier and recipient nations, to develop international approaches for meeting future worldwide nuclear fuel needs. In particular, the President is authorized and urged to seek to negotiate as soon as practicable with nations possessing nuclear fuel production facilities or source material and such other nations and groups of nations, such as the IAEA, as may be deemed appropriate, with a view toward the timely establishment of binding international undertakings provided for—

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility for providing agreed upon fuel services and allocating agreed upon quantities of fuel resources to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations;

(2) a set of conditions consistent with subsection (d) under which international fuel assurances under INFA auspices will be provided to recipient nations, including conditions which will ensure that the transferred materials will not be used for nuclear explosive devices;

(3) devising, consistent with the policy set forth in section 403 of this Act, feasible and environmentally sound approaches for the siting, development, and management under effective international auspices and inspection of facilities for the provision of nuclear fuel services, including the storage of special nuclear material;

(4) the establishment of repositories for the storage of spent nuclear reactor fuel under effective auspices and inspection;

(5) the establishment of arrangements under which nations placing spent fuel in such repositories would receive appropriate composition for the energy content of such spent fuel if recovery of such energy content is deemed necessary or desirable; and

(6) sanctions for violations of the provisions of or for abrogation of such binding international undertakings.

(b) The President shall submit to Congress not later than six months after the date of enactment of this Act proposals for initial fuel assurances, including creation of an interim stockpile of uranium enriched to less than 20 percent in the uranium isotope 235 (low-enriched uranium) to be available for transfer pursuant to a sales arrangement to nations which adhere to strict policies designed to prevent proliferation when and if necessary to ensure continuity of nuclear fuel supply to such nations. Such submission shall include proposals for the transfer of low-enriched uranium up to an amount sufficient to produce 100,000 MWe years of power from light water nuclear reactors, and shall also include proposals for seeking contributions from other supplier nations to such an interim stockpile pending the establishment of INFA.

(c) The President shall, in the report required by section 103, also address the desirability of and options for foreign participation, including investment, in new United States uranium enrichment facilities. This report shall also address the arrangements that would be required to implement such participation and the commitments that would be required as a condition of such participation. This report shall be accompanied by any proposed legislation to implement these arrangements.

(d) The fuel assurances contemplated by this section shall be for the benefit of nations that adhere to policies designed to prevent proliferation. In negotiating the binding international undertakings called for in this section, the President shall, in particular, seek to ensure that the benefits of such undertakings are available to non-nuclear-weapon states only if such states accept IAEA safeguards on all their peaceful nuclear activities, do not manufacture or otherwise acquire any nuclear explosive device, do not establish any new enrichment or reprocessing facilities under their defacto or dejure control, and place any such existing facilities under effective international auspices and inspection.

(e) The report required by section 601 shall include information on the progress made in any negotiations pursuant to this section.

(f) (1) The President may not enter into any binding international undertaking negotiated pursuant to subsection (a) which is not a treaty until such time as such proposed undertaking has been submitted to the Congress and has been approved by concurrent resolution.

(2) The proposals prepared pursuant to subsection (b) shall be submitted to the Congress as part of an annual authorization act for the Department of Energy.

Mr. GLENN. Mr. President, this substitute for the amendment offered on behalf of the Energy Committee by the Senator from Idaho would differ from the committee's proposals in only two respects.

The International Nuclear Fuel Authority in the second amendment would go in with a two-house approval required, unless the arrangements worked out by the President brought it back to us in the form of a treaty, in which event, of course, it would be considered only by the Senate.

The second change is that the immediate set-aside of part of our nuclear fuel stockpile, the so-called fuel bank proposal, will be subject to the regular authorization processes of Congress.

I would add one thing to that: It was my view when we put in this International Nuclear Fuel Authority provision that this was not a giveaway of our resources in this country. I saw this stockpile and this bank as being a pool into which we would sell our nuclear fuel, and other nations perhaps, following our lead, would do the same thing.

I would not want anything in this bill to be construed as indicating that, because we are providing an authorization process, we are precluding the sale of nuclear fuel to such an international fuel stockpile. I do not object to this set-aside being required to go through our regular authorization processes here. If the President works out such an arrangement with other countries, whether it is a barter arrangement or whatever arrangement it may be, where we would need that authorization authority, I would be happy to see it provided. But, as I say, I do not want anyone to construe that this would preclude our sales of fuel to the International Nuclear Fuel Authority. I think this would be the proper way to handle the matter, and I would want my remarks to so indicate today.

Mr. CHURCH. Mr. President, I am in accord with the remarks of the Senator from Ohio.

Mr. McCLURE. Mr. President, the Senator from Illinois (Mr. PERCY) has asked me to express, on behalf of the Senator from Illinois, his endorsement of the action of the Senator from Ohio. I would like to add to that my personal endorsement as a member of the Committee on Energy and Natural Resources, this proposal having originally been made by my colleague from Idaho (Mr. CHURCH) and me in the comittee. I am in full accord with the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. GLENN. I yield back the remainder of my time.

Mr. CHURCH. I yield back the remainder of my time.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. The vote is on the substitute proposal, is that correct?

The PRESIDING OFFICER. The question is on agreeing to the substitute for the amendment.

The substitute amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Idaho, as amended. Do Senators yield back their time?

Mr. GLENN. I yield back the remainder of my time.

Mr. CHURCH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended.

The amendment, as amended, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1205

Mr. CHURCH. Mr. President, I wish to offer two additional amendments, en bloc, which reflect the action of the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) offers an unprinted amendment numbered 1205.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the amendments will be considered en bloc.

The amendments are as follows:

On page 106, line 9, after the period, insert the following:

Further, the Secretary as well as the Nuclear Regulatory Commission, the Secretary of State, and the Director of the Arms Control and Disarmament Agency are directed to establish and implement procedures which will insure to the maximum extent feasible, consistent with this Act, orderly processing of subsequent arrangements and export licenses with minimum time delay.

(2) On page 158, lines 13 and 14, strike the words "a total of $10,000,000 for fiscal year 1979 to", and insert in lieu thereof "such annual sums are as contained in annual authorization acts for". The provision in subsection (d) then reads as follows:

(d) For the purposes of carrying out this section, there is authorized to be appropriated such sums as are contained in annual authorization acts for the Department of Energy, including such sums which have been authorized for such purposes under previous legislation.

Mr. CHURCH. Mr. President, these unprinted amendments reflect adjustments which have been worked with the managers of the bill, Senators GLENN and PERCY.

The first amendment is an addition to section 102 which, except for a change of one word, is exactly the same as the Energy Committee amendment.

It is intended to insure maximum cooperation between the four Federal agencies involved in approving export licenses and subsequent arrangements.

The second amendment involves subsection 502(d). The subsection has been rewritten to authorize funding for the program outlined in title V as a part of an annual authorization act for the Department of Energy.

Mr. GLENN. Mr. President, I am glad to accept these amendments and to have them considered en bloc. The second of the amendments strikes the $10 million authorization for fiscal year 1979. While I have some regrets about seeing that taken out, it does not mean that consideration of the energy problems of other nations will be lacking because of this change: there are funds under other authorizations to do some of the same things. Moreover, we will be going through the regular authorization and appropriation process later on, and I think that taking this out at this particular time does, indeed, improve the measure, since we would want a minimum of conflict with our budgetary process as now established; and, as I say, it can be authorized later.

So I am glad to accept the amendment. Title V does remain in the bill, and I am glad to agree that we should proceed through the regular DOE authorization process.

I yield back the remainder of my time.

Mr. CHURCH. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing, en bloc, to the amendment of the Senator from Idaho.

Mr. McCLURE. Mr. President, will the Senator yield for a moment?

Mr. GLENN. I yield.

Mr. McCLURE. Senator PERCY had asked that I respond on behalf of the minority in support of these amendments and the action being taken, and I wish to express that on the record.

I thank the Senator for yielding.

The PRESIDING OFFICER. All remaining time is yielded back.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment of the Senator from Idaho (Mr CHURCH).

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, the substitute amendment I have offered, as far as title V is concerned has the effect of routing any authorized appropriations for this title through the Department of Energy Authorization Act. It was our intention originally to place at least $10 million into this program for fiscal 1979. Is the distinguished Senator from Idaho willing to commit himself to doing what he can to see to it that an adequate authorization of at least $10 million is put into this program when the Department of Energy 1979 authorization for research and development is taken up next year?

Mr. CHURCH. Mr. President, I assure the Senator that he has my commitment on that. And moreover, I believe the senior Senator from Ohio would make an excellent witness in support of this program when the DOE authorization hearings are held this year, and I hereby invite him for that purpose. But I would like to clarify the intent of the authorization language in title V. Am I correct in assuming that the Governmental Affairs Committee is not seeking to have referral of this authorization?

Mr. GLENN. That is correct.

Mr. CHURCH. Then, Mr. President, I believe we are in agreement on title V and all other aspects of these amendments.

Mr. GLENN. I believe that is correct.

Mr. CHURCH. I thank the Senator from Ohio.

Mr. HOLLINGS. I have been concerned about S. 897, the Nuclear Non-Proliferation Act of 1977.

My main concern is that the bill, as reported, does not pay enough attention to one factor vital to the success of our Nation's nonproliferation policy: The need to reassure other countries that we indeed will be a reliable supplier of nuclear fuel and technology.

It is vital that S. 897 be crystal clear about this. Otherwise, foreign nations may feel that they cannot count on the United States. And if they turn elsewhere, we will lose the leverage that comes when others are willing to accept safeguards in exchange for U.S. fuel and equipment that they would like.

Yet when I first read the bill, it did not seem clear on this vital point. As reported, it speaks of both new international fuel arrangements and the need for timely U.S. nuclear export decisions. But the operation of these promising international arrangements is still far off. This makes the export provisions of the bill all the more important.

But the bill is not completely explicit about its intention to stabilize nuclear export ground rules and to minimize unnecessary bureaucratic redtape and delay. For instance, it does not direct the responsible Federal agencies to establish clear and specific procedures to insure that they both individually and jointly process applications in a timely, reliable way. Such explicitness is important if others are to have full confidence that the United States is dependable. Also, in today's debate we should state forcefully that the United intends expeditiously and reliably to provide exports to those nations which properly adhere to safeguards requirements.

I do not believe that anything I am saying now is contrary to the philosophy

of this bill. But the bill should be more explicit on this matter of reliability, not just stating that we intend to be a dependable supplier but also showing how we plan to do this in practice.

In a letter dated last October, I expressed my concerns to the distinguished chairman of the Subcommittee on Energy, Nuclear Proliferation, and Federal Services, Senator GLENN, and suggested in particular that certain parts of the bill be clarified to make it absolutely clear that the United States intends to establish appropriate and expeditious export licensing procedures. I also suggested that certain sections affecting the Barnwell plant in my State be clarified.

Senator GLENN responded with a gracious letter, reaffirming his intention that the bill reestablish the United States as a reliable supplier and saying that some provisions could be clarified through either colloquy or amendment.

Mr. President, I ask unanimous consent that both my letter and Senator GLENN's reply be included in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HOLLINGS. Mr. President, I still have some concerns about this bill and the administration strategy that it implicitly endorses. Controlling the proliferation of nuclear weapons is one of the most important goals of our time. Yet our policies must recognize that many nations feel they need nuclear power—safeguarded to be sure, but nuclear power nonetheless. Current policy has not always recognized this. Yet our nonproliferation program must deal with this hard reality and contain concrete proposals that will win over others by meeting their perceived need for reliable and safe nuclear energy. Again, making it crystal clear that we will be a reliable supplier is central to this. I hope the clarifications of S. 897 that Senator GLENN and I are discussing today will be a step toward this objective.

Mr. President, at this time I would like to ask some questions of my distinguished friend, Senator GLENN, in the hope that we can clarify certain parts of S. 897, the nuclear nonproliferation bill.

As I have said before, I am concerned that this bill in its present form does not give as many assurances as it might that the United States fully intends to be a reliable supplier of nuclear fuel and technology. It does affirm that the United States should be a dependable source, but I wish there were more specifics on how we plan to become one.

For instance, the export licensing procedures in title III are complex, yet there are no provisions for coordinating the many Federal agencies involved. Such provisions would show presently skeptical nations that their applications will be handled in a timely manner according to stable ground rules. Clarifying the bill by urging or directing the agencies involved to establish appropriate procedures would be an improvement.

Mr. GLENN. Well, at several points in the bill we have urged the Nuclear Regulatory Commission and other agencies to give timely consideration to requests for export licenses and exemptions. I do not believe we disagree about the need to provide clear assurances to others, and I therefore would like to be as accommodating as possible in responding to your specific concerns. We have, in fact, directed the agencies involved to clarify the procedures you are referring to through the amendments we have adopted over the past few days, and it is my view that appropriate and expeditious export licensing procedures have been established by this bill.

Mr. HOLLINGS. Am I correct, then, in understanding that the amendment to section 102 that we passed earlier today is consistent with your view of the bill—that you do want the Federal agencies to establish clear and specific export licensing procedures, including ones for interagency coordination? Such procedures are important if other nations are to feel that we indeed will process applications in an expeditious manner, with a minimum of unnecessary bureaucratic redtape and delay.

Mr. GLENN. You are correct, Senator. I think the amendment is consistent with the philosophy of the bill, and I, too, would urge the appropriate Federal agencies to process applications as quickly and efficiently as is reasonable, in accordance with the procedures we have asked them to set up.

Title I of the bill contains several important provisions designed to reassure these nations. Specifically, it provides that the United States shall expand uranium enrichment capacity, authorizes the President to seek a new International Nuclear Fuel Authority (INFA), and pending the establishment of INFA gives the President the authority to supply enriched uranium fuel to an international stockpile. All of these would provide additional assurance of fuel delivery to nations that adhere to policies designed to prevent proliferation. They also will give other countries less reasons to move toward the use of plutonium fuel.

Mr. HOLLINGS. But other laws have already directed an expansion of enrichment capacity, have they not? And the operation of INFA seems a long way off. At the moment, reestablishing ourselves as a reliable exporter seems to be the most important way to reassure others that stable supplies of nuclear fuel will be available.

Mr. GLENN. True. But the title I steps are very important. They reaffirm our commitment to expanding enrichment capacity so that we can supply both ourselves and others. And the International Nuclear Fuel Authority is now a step closer since President Carter recently proposed the adoption of the first step in its formation. While details remain to be worked out, it is an important part of a stable long-term nonproliferation program.

Mr. HOLLINGS. One other question I have deals with the provision that Congress can add new export licensing criteria through joint resolution, rather than through the regular process of amending a statute. This section concerns me because it could be interpreted by others (i) as one more way a unit of the American Government can change the export ground rules and (ii) as saying that Congress is not certain it wants to limit itself to the export criteria already in the bill.

Mr. GLENN. Of course the Congress can add new export criteria in the future if it wishes. However, the intent of this provision is to reduce uncertainty, not increase it. As the Senate report on the bill says, the idea is to expedite the consideration of any proposed change in the export criteria, one such change has been adopted by either House so that any delays or uncertainty caused by the action of that House will be kept as short as possible. An amendment to this provision that we accept yesterday reflects this idea.

Mr. HOLLINGS. So you see this as a way to help stabilize the ground rules for nuclear exports, not a section encouraging people to suggest new and frequent changes in our nuclear export policy.

Mr. GLENN. Correct.

Mr. HOLLINGS. That clears up a major concern of mine. Now I would like to turn to the clarifications that Senator THURMOND and I have requested concerning the possible effects of S. 897 on the Barnwell Nuclear Fuels Plant in South Carolina. As you know, that plant is not reprocessing nuclear fuel but rather is now conducting safeguards and fuel cycle research in support of the President's nonproliferation program. Thus I am concerned about how this nonproliferation bill might affect this work at the plant. I would like to mention three items, and suggest that we agree on some clarifications.

First, section 104 advocates international and multinational approaches for meeting future fuel needs. The section will be given additional substance if it is stressed here today that section 104 provides for devising, consistent with the policy goals of section 403, feasible and environmentally sound approaches for the siting, development, and management under effective international auspices of facilities for the provisions of nuclear fuel services.

Second, section 105 calls for reevaluation of all aspects of the nuclear fuel cycle, with alternatives to an economy based on the separation of pure plutonium. It would be appropriate to clarify that this reevaluation should consider proliferation-resistant forms of reprocessing, including coprocessing and blending.

Third, section 202 directs the Energy Department, in consultation with the Nuclear Regulatory Commission, to establish and operate a program to train people from other countries about safeguards and physical security procedures. There should be some direction to the Department to consider using existing facilities for such a program.

Mr. GLENN. We have discussed these points, and I agree with you entirely regarding them. I also understand that there is some concern that section 303 (b)(3) inadvertently may place a reprocessing monopoly in foreign hands. That certainly is not my intention. While the bill does exempt certain existing re-

processing plants around the world from the criteria that would apply to any future plants, I would urge the Secretary of Energy to try to persuade owners of these existing plants to accept the same safeguards as will apply to future facilities.

Exhibit 1 follows:

EXHIBIT 1

U.S. SENATE,
October 25, 1977.

Senator JOHN GLENN,
Chairman, Subcommittee on Energy, Nuclear Proliferation Planning and Federal Services, Senate Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR JOHN: I am deeply concerned about S. 897, the "Nuclear Non-Proliferation Act of 1977," and urge you to consider further amendments and clarifications. The major problem is that the bill still neglects one factor vital to the success of our nation's non-proliferation policy: the need to assure other nations that we indeed are a reliable supplier of nuclear technology and fuel.

No one should underestimate the importance of such assurances, for it is totally unrealistic to believe that any non-proliferation strategy can succeed without them. Many countries which lack our nation's still rich supplies of coal, oil, and uranium see nuclear power as indispensible. Furthermore, these are now alternative sources of nuclear equipment and increasingly there are alternative sources of nuclear fuel. This means that they will turn to foreign suppliers for this much-desired technology if they feel that the United States is an unsure or unpredictable supplier. One piece of evidence is the recent Iranian purchase of two French reactors.

If other nations feel they cannot count on the United States and turn elsewhere, our policy will backfire. We will continue to lose the leverage that comes when others want our products and fuel and are willing to accept safeguards in exchange for them. Moreover, the U.S. nuclear export industry will be hurt. Maintaining export sales should not be the main aim here, of course, but neither should a major U.S. industry be scuttled unnecessarily.

This present version of the bill does not provide the necessary assurances to other nations. It does affirm that the U.S. should be a reliable supporter, but there is little in the bill to persuade others that we will be. For instance, the export licensing procedures in title III are complex, yet there are few provisions for coordinating the many agencies involved or signalling to presently skeptical nations that their applications will be handled in a timely manner according to stable ground rules. The Energy Committee's proposed amendment to section 102 would be a distinct improvement. Without weakening the criteria which guide export decisions, it would direct the Executive Branch "quickly develop and implement procedures which are designed specifically to provide the rapid and efficient consideration and administrative processing of all subsequent arrangements and export licenses."

One part of section 304(a) of the bill also concerns me. It provides that Congress can add new nuclear export criteria through joint resolution, rather than through the regular legislative procedure of amending a law. While this provision would add to the flexibility of Congress, it also would send out two serious negative signals to others: (i) others will see it as one more way that a unit of the American government can change the ground rules, and (ii) some will interpret it as saying that Congress is not certain it wants to limit itself to the export criteria in the bill.

Moreover, the bill is not just critical of plutonium reprocessing but generally antinuclear in tone. Aside from talk of still distant international fuel arrangements, there is little in the bill to show that we are truly aware of other nations' energy plights or we appreciate their very strong desire for significant—though safeguarded—nuclear programs. There is nothing ambiguous about the signals this bill will send out if it becomes law: its emphasis on controls without a parallel emphasis on meeting world energy needs implies not only a distrust of other nations—whether signers of the Non-Proliferation Treaty or not—but also gives them little reason to think that the United States actually wants to supply them with nuclear exports.

Without some improvements in both the substance and particularly the tone of this bill, it is not acceptable. While I commend the President and others on their goal of limiting proliferation, it is unrealistic to think that this bill—in its present form—will accomplish that very important goal. Unless it gives other nations true assurance that the U.S. is prepared to help them meet their energy needs, consistent with the safeguards criteria, these nations will turn to other suppliers and our policy largely will fail.

I also would like to request that three sections which impact on the Barnwell Nuclear Fuels Plant in South Carolina be clarified by colloquy or amendment.

First, section 104 advocates international and multinational approaches for meeting future fuel needs. This section will be given additional substance if it is stressed that section 104 provides for "devising feasible and environmentally sound approaches for the siting, development, and management under effective international auspices of facilities for the provisions of nuclear fuel services and the storage of spent nuclear fuel."

Second, section 105 calls for reevaluation of all aspects of the nuclear fuel cycle, with alternatives to an economy based on the separation of pure plutonium. It would be appropriate to clarify that this reevaluation should consider such proliferation-resistant forms of reprocessing as coprocessing and blending. Coprocessing in particular is a promising technology now being investigated at both Barnwell and the Tokai Mura plant in Japan.

Third, section 202 directs the Energy Department, in consultation with the Nuclear Regulatory Commission, to establish and operate a program to train people from other countries about safeguards and physical security procedures. There should be some direction to the Department to consider using existing facilities for such a program. Barnwell and other existing facilities contain some of the world's most advanced safeguards equipment and might be safe and cost-effective locations for the program. Language mentioning existing facilities would ensure that these plants receive full consideration.

I urge you to consider appropriate action to reflect my concerns.

Sincerely,

ERNEST F. HOLLINGS.

U.S. SENATE,
Washington, D.C., October 28, 1977.

Hon. ERNEST HOLLINGS,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR FRITZ: I appreciate the concerns you have expressed in your letter of October 25, concerning S. 897, the Nuclear Nonproliferation Act.

I agree with you that a vital factor in the success of any nonproliferation policy must be the need to assure other nations that we are a reliable supplier of nuclear technology and fuel. It was specifically for this reason that I added a major title (Title I) to the bill concerning United States initiatives to provide adequate nuclear fuel supply. This title provides a number of things:

First, it provides that the United States shall ensure that it will have available the capacity on a long-term basis to enter into new fuel supply commitments.

Secondly, and perhaps most importantly, it provides for the President to seek to negotiate with other countries the establishment of an International Nuclear Fuel Authority (INFA) which would provide agreed upon fuel services and allocate agreed upon quantities of fuel resources to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations.

INFA would deal with both the front end and back end of the fuel cycle. It could run repositories for the storage of spent nuclear reactor fuel and would provide for nations placing spent fuel in such repositories to receive appropriate compensation for the energy content of the spent fuel, if recovery of the energy content is deemed necessary or desirable.

Pending the establishment of INFA, the President is given authority to make available to an international stockpile, established pursuant to an international sales arrangement, low-enriched nuclear fuel up to an amount sufficient to produce 100,000 megawatt-years of power from light water nuclear reactors. This stockpile would be used to backup existing fuel contracts, thus providing assurances on delivery of fuel to nations that adhere to policies designed to prevent proliferation. I might add that I have been told that the INFA proposal was the inspiration for the President's recent proposal for an international fuel bank

With respect to the question of considering applications of export licenses in a timely manner, I would like to draw your attention to various places in the bill in which support is given to this idea

In Title I, under Section 101, the following statement appears: "The NRC shall on a timely basis authorize the export of nuclear materials and equipment when all applicable statutory requirements are met."

In Section 303(a)(3), under the title "Subsequent Arrangements," the following statement appears: "The United States will give timely consideration to requests for prior approval, when required by this Act, to the reprocessing of materials proposed to be exported, previously exported, and subject to the applicable agreement for cooperation . . ."

In Section 304 (the section on export licensing procedures), a new subsection 126 (b)(1) is added to the Atomic Energy Act of 1954. This subsection reads as follows:

"Timely consideration shall be given by the Commission to requests for export licenses and exemptions and by the Department of Energy to requests for distributions, and such requests shall be granted upon a determination that the application or request therefor is acceptable and that all applicable statutory requirements have been met." Further, in the section that immediately follows, additional impetus is given to the notion of issuing licenses on a timely basis. This section says, in part: "If, after receiving the Executive Branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license *on a timely basis* (emphasis added) because it is unable to make the statutory determinations required under this Act, the Commission shall publicly issue its decision to that affect and shall submit the license application to the President."

I believe that Title I, plus all of the language dealing with the timely processing of applications for licenses and subsequent arrangements, gives ample evidence that a

major intent of the bill is to restore the position of the U.S. to that of a reliable exporter of nuclear materials, fuel and technology. That is certainly one aspect of a good nonproliferation policy. The other aspect of the policy is that of export controls. While it is our desire to have the United States play a leadership role in this area, we recognize that if the United States gets too far ahead of all the other supplier nations, no one will follow. Accordingly, the export controls that are contained in this bill are relatively modest. For example, for the first 18 months after enactment, the export criteria contained in the bill represent nothing more than a codification of our present export policy. At the end of the 18-month period, we then require that full scope IAEA safeguards be adhered to by all recipient nations. I cannot imagine any nonproliferation policy which does not have this as a minimal provision. The Bill was intended to be, and I believe is, pro-fuel assurances and pro-safeguards, and not anti-nuclear. The assurances, in particular, are an absolute necessity if we are to avoid every small nation demanding reprocessing, or eventually breeders, as part of their equipment, with all plutonium spread potential that would entail.

I do not believe we are in basic disagreement regarding philosophy, and I would therefore like to be as accommodating as possible in responding to your specific concerns on specific sections of the bill. With respect to Section 102, the Energy Committee Amendment does not completely track with the language which you have suggested in your letter on page two. I believe your language is an improvement and I would be willing to accept an amendment to that subsection which would meet the substance of your concern and which would say the following: "Further the Secretary of Energy as well as the Director of ACDA are urged to establish and implement procedures to facilitate, consistent with this Act, timely processing of subsequent arrangements and export licenses."

Regarding Section 3049(a), the Senate Report on S. 897 states: "The provision for expedited Congressional consideration of additional export criteria is to ensure that any moratorium or delay in licensing of exports by the Nuclear Regulatory Commission which is likely to accompany such Congressional consideration shall be kept to an absolute minimum by encouraging expeditious Congressional consideration of any such additional export criteria." I am not totally wedded to this section of the bill. However, if new legislation is ever presented on nuclear export criteria in the future, it is my feeling that such legislation should be considered with expedited procedures in order to obviate the problem discussed in the Senate Report. I believe your concerns about this section can be met by a colloquy on the floor and I would be open to any suggestion on this part from you. Finally, on the three points that you raised with respect to the impact on Barnwell by the bill, our staffs have been in contact with each other on these points and I am willing to engage in a colloquy which would have the effect of meeting your concerns in this area as well. I am enclosing a copy of a letter to Senator Thurmond dealing with this issue and I believe the colloquy proposed to Senator Thurmond would also meet your concerns.

I have tried to address all the issues raised in your letter, and I hope we are now in agreement regarding the future disposition of this bill.

With best personal regards,

Sincerely,

JOHN GLENN.

U.S. SENATE,
Washington, D.C. October 28, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR STROM: I appreciate the concerns you have expressed in your letter of October 18, 1977 on the subject of S. 897, the Nuclear Nonproliferation Act. I believe those concerns are well-founded and I am glad to accommodate them through colloquy on the floor in accordance with the agreements between our staffs. In particular, on section 104, our colloquy could say that the creation of INFA involves devising feasible and environmentally sound approaches for the siting, development, and management under effective international auspices of facilities for the provisions of nuclear fuel services and the storage of spent nuclear fuel.

Second, in discussing the reevaluation of the nuclear fuel cycle in section 105, our colloquy could say that the reevaluation should consider coprocessing and blending.

Third, our colloquy could also say that in section 202, which deals with the establishment and operation of a program to train people from other countries on safeguards and physical security procedures, that the Department of Energy should consider using existing facilities for such a program.

Finally, section 303(b)(3) is certainly not intended to place a reprocessing monopoly in foreign hands and that should certainly be made clear in colloquy on the floor.

I would leave it to our staffs to work out whatever details are needed to put the colloquy together and trust that we are now in agreement on those aspects of the bill in which you expressed concern. If so, in accordance with the statement in the first paragraph of your letter, I hope you will withdraw your current hold on S. 897.

With best personal regards,

Sincerely,

JOHN GLENN.

UP AMENDMENT NO. 1206

The PRESIDING OFFICER. Under the previous order, the hour of 1:30 p.m. having arrived, the Senate will now proceed to the consideration of the spent fuel amendment offered by the Senator from Idaho (Mr. MCCLURE), with the vote thereon to occur no later than 4:30 p.m. today.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes unprinted amendment No. 1206.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 120, after the period, insert new subsection (c), in Section 303, as follows,

"(c)(1) With regard to any subsequent arrangement under subsection (a)(2)(E) (for the storage or disposition of irradiated fuel elements), where such arrangement involves a direct or indirect commitment of the United States for the storage or other disposition, interim or permanent, of any foreign spent nuclear fuel in the United States, the Secretary of Energy may not enter into any such subsequent arrangement, unless:

(A)(i) Such commitment of the United States has been previously and expressly authorized by Congress in a concurrent resolution or in legislation hereafter enacted, or

(ii) the President has submitted a detailed plan for such disposition or storage in the United States 60 days during which the Congress is in continuous session, as defined in section 130 of this Act, prior to entering into such subsequent arrangement, and neither House of Congress, using the procedures of section 130 of this Act, approves a resolution of disapproval of the plan.

(B) The Secretary of Energy has complied with subsection (a); and

(C) The Secretary of Energy has complied, or in the arrangement will comply with all other statutory requirements of the Atomic Energy Act, under sections 54 and 55 and any other applicable sections, and any other requirements of law.

(2) Subsection (1) shall not apply to the storage or other disposition in the United States of limited quantities of foreign spent nuclear fuel if the President determines that (1) commitment under section 54 or 55 of this Act of the United States for storage or other disposition of such limited quantities in the United States is required by an emergency situation, (2) it is in the national interest to take such immediate action, and (3) he notifies the Committees on International Relations and Science and Technology of the House of Representatives and the Committees on Foreign Relations and Energy and Natural Resources of the Senate of the determination and action, with a detailed explanation and justification thereof, as soon as possible.

(3) Any plan submitted by the President under subsection (c)(1) shall include a detailed discussion, with detailed information, and any supporting documentation thereof, relating to policy objectives, technical description, geographic information, cost data and justifications, legal and regulatory considerations, environmental impact information and any related international agreements, arrangements or understandings.

(4) For the purposes of this subsection, the term "foreign spent nuclear fuel" shall include any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or other control of the fuel or the reactor and regardless of the origin or licensing of the fuel or reactor, but not including fuel irradiated in a research reactor.

2. Section 303 is further amended by inserting the following new subsection immediately after the preceding new subsection:

(d) Conforming Amendments to the Atomic Energy Act of 1954, as amended

(1) Section 54 of the Act is amended by adding new subsection (d) as follows:

"(d) The authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under Section 131(a)(1)(E) shall be subject to the requirements of Section 131."

(2) Section 55 of this Act is amended by adding a proviso at the end of the section as follows: *"Provided,* That the authority in this section to commit United States funds for any activities pursuant to any subsequent arrangements under Section 131(a)(1)(E) shall be subject to the requirements of section 131."

Mr. McCLURE. Mr. President, I think the Senator from New Mexico and the Senator from Ohio want to have a brief period of time to discuss another matter. For that reason, I ask unanimous consent that we have a brief quorum call, with the time to be equally divided on the amendment.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, the pending amendment is one which comes as no surprise to anyone. The policy has been before the Senate for quite a little while, and the decision which must be made, I am certain, will be made today.

I want to stress at the outset of the debate that the bill before us is neutral on this question. There have been a number of discussions about various policy matters in which we sought to make certain that the bill remained neutral, that it expressed no policy choice and it made no policy decision.

This bill is not neutral on the question of whether or not spent fuel from the world may be returned to the United States because, under the provisions of 303(a)(2)(E) of the subsequent arrangements section of this bill, it is perfectly clear that the executive branch would have the authority to enter into arrangements for the return of spent fuel from all over the world to temporary or permanent repositories in the United States.

It seems to me, Mr. President, that that is an incredible thing to have happen at a time when the U.S. Government, and the Congress itself, has not yet come to grips with the domestic storage problems, let alone becoming the depository for all of the world's radioactive waste.

I think this bill needs to make a statement, but certainly not the statement which is contained within it now. The bill is now abdicating congressional responsibility or opportunity to express itself on this particular issue, by simply delegating that authority to the executive branch for decision by them on whatever terms, in whatever way, in whatever place, to whatever degree, the administration might decide to make us the world's storage place for spent fuel elements.

The Department of Energy announced on October 18 of last year a new policy that the United States would make commitments to bring foreign nuclear waste to the United States. Several of the members of the Energy and Natural Resources Committee, and myself, have been in disagreement with the administration over this policy since early June of 1977.

I think it might be informative to recite a little history as to why a number of us have been in that kind of a disagreement.

There are those who will recall that last year in acting on S. 1811, I offered a similar amendment to that bill, and that amendment was subsequently adopted by the Senate, was unanimously endorsed by the conference, and became part of that bill as it was sent to the President.

Now, that bill, as everyone khows, was the fiscal year 1978 ERDA authorization, the Department of Energy R. & D. authorization for this fiscal year, and it contained within it the Clinch River breeder reactor authorization, and the President vetoed that legislation for that reason.

Therefore, the limitation on the authorization which I had attached at that time, which the Senate had attached as a result of my amendment, died with the veto for other reasons.

But I wanted to note, as I did then, that it was my intention to offer a similar amendment to S. 897 at the appropriate time, when it came before the Senate.

I was not sure at that time, in October last year, whether this bill would be before the Senate in November, December, or later, as it turned out, and I anticipated it would be before us before the end of last session. But I did say at the time S. 1811 passed, that I would offer the amendment again for the same reasons that I had offered it then.

Let me look for a moment at what precipitated this amendment. The Carter administration in the May 16 budget amendment requested a section on nonproliferation initiatives generally and specifically for "international spent fuel disposition." That request of the May 16 budget submission of last year was for authority for the U.S. participation in multinational and international studies of international spent fuel storage and transportation, and for U.S. entry into agreements for appropriate support to increase international spent fuel storage. Twenty million dollars was included for fiscal year 1978 efforts in those areas.

In the hearings on the ERDA nuclear authorization, the Committee on Energy and Natural Resources questioned administration witnesses on the administration's then current plan for international spent fuel disposition, and details on how the authority contained in the relevant section of the administration's bill would be used.

The Energy Committee noted that the budget justification documents accompanying the draft bill did not define with specificity the anticipated actions for increasing international spent fuel shortage capacity.

The administration witnesses indicated that the President had not yet made a final decision on the specific options to be pursued in international discussions and negotiations.

The witnesses, in fact, did indicate that one of the several options under consideration was repurchase of the foreign spent fuel and storage of it in the United States and Energy Committee members expressed serious reservations about the wisdom of this course of action.

At that time, the administration witnesses concurred that such an action would involve a host of environmental, institutional and legal complications, as well as the probability of significant cost to increase our domestic spent fuel storage capacity.

The Energy Committee in those hearings formally and on the record asked to be notified of the final decisions by the President, but the information that has been submitted to the committee, or to the Congress, as a result of that request is almost totally lacking in any substance.

As a matter of fact, the record is quite the opposite of full and complete disclosure to the Congress of what the administration has in mind.

The Energy Committee in the markup on S. 1811, because of the potential problems with the proposed international agreement in markup, added the phrase "subject to the consent of Congress," and thereby required that any agreement providing for appropriate support by the United States to increase foreign fuel spent storage be approved by Congress.

I suggested that there be such a requirement and my colleague, Senator CHURCH, suggested the specific consent of the Congress phrase.

The administration objected to that requirement generally, and they still object to that requirement.

Secretary Vance, in a letter to Chairman JACKSON on September 12 discussed in detail below, stated as follows:

The activities contemplated under this section do not involve the return of foreign spent fuel to the U.S.; rather, they involve U.S. financial support to foreign spent fuel storage facilities. Pending the outcome of the President's proposed International Nuclear Fuel Cycle Evaluation, we expect many foreign reactor operators will need to expand their spent fuel storage facilities. U.S. support for this activity should be permitted without the need for additional Congressional consent.

A consent requirement has been retained.

First, it is clear that there should be a requirement for Congressional notification and approval. The Carter policy of no reprocessing will create a major spent fuel problem internationally, since the United States has approval rights over much of the free world fuel (U.S. enriched most of it), and since many of the foreign nuclear power programs included reprocessing in planning for facilities and fuel requirements. Also, failure to reprocess denies countries of the value, in both resource and cost terms, of the unburned fuel—a value for which many may request reimbursement for replacement cost. Consequently, agreements for appropriate support probably could lead to large costs over time and undoubtedly will be closely coupled to the nonproliferation policy's continued restriction on reprocessing. Congress therefore should play a positive role.

Second, the type of consent is consistent with the House conferees' feeling on the need for full congressional, as opposed to Senate only, consideration of these agreements.

As a result of the section 108 discussion in markup and because of ongoing policy analysis on international spent fuel disposition in the administration, we have followed the issue closely. The following events relate to the amendment.

I shall recite a little of the background that occurred prior to the time of the Vance letter in September. Remember, the date of that letter is September 12 of last year, and I will return to that a little later and explain the reason why that date is significant.

First. On June 8 and 10, during hearings on the nonproliferation bills, the committee again aksed ERDA Acting Administrator Fri to advise us of the administration policy on domestic and international spent fuel disposition. We were told only that the policy was awaiting then-pending Presidential decision.

Second. The June 30 Washington Post included an Associated Press report that the Nuclear Regulatory Commission yesterday approved the export of 27,000 pounds of uranium to fuel India's Tarapur atomic power station. The articles concluded with the following statement:

"Discussing points raised by the citizen groups, the NRC noted that the Indian government has agreed to have the U.S. repurchase spent nuclear fuel from Tarapur, as a safeguard against the conversion of that spent fuel into weapons material."

Because of the committee's interest in the international spent fuel disposition issue and its actions in the fiscal year 1978 ERDA authorization, we were immediately concerned by this report and initiated an effort to determine the validity of the report.

That appeared in the newspaper on June 30.

A copy of the Nuclear Regulatory Commission's memorandum and order on the Tarapur export application, dated June 28, 1977, was reviewed. The Commission's memo, in fact, supports the Associated Press report in this morning's paper. The Commission, based on reports of the Department of State, indicated that the United States does have an agreement with the Government of India giving the United States the option to repurchase the Indian spent fuel from Tarapur. The Commission states that "Indian Government authorities have agreed in principle to such an arrangement."

Remember that that was taking place following the inquiries by us initially in the prior hearings and the assurance by the administration that Congress would be involved and would be kept apprised of what was going to happen in regard to the return of spent nuclear fuel to the United States.

Senior administration sources confirmed at the time that the United States not only has the option to repurchase the spent fuel from Tarapur, but that exercising the repurchase option is the basis for an understanding which has been reached with the new Government of India.

That was not a result of information volunteered by the administration, not event the result of the prior request of the Energy Committee to be kept informed, but was the result of probing inquiries brought about by the Associated Press report.

This would be the first such repurchase understanding by the United States. It is particularly significant that the Commission's memo also states that the apparent intention for repurchase of the Tarapur spent fuel will be followed by similar understandings with other nations.

So it becomes apparent that that policy, initiated by commission action and State Department understandings with India, was not to be an isolated instance but the beginning of a new policy.

The sources further indicated that there had not yet been any decision within the administration on the ultimate duplication of repurchased spent fuel from Tarapur. In fact, however, it appears from a close reading of the Commission's memorandum that this probable repurchase and removal of the spent fuel was a significant factor in the Commission's approval of the export application, particularly in light of the nonproliferation significance attached to the detonation of a nuclear explosive device by the Government of India in 1974.

It therefore was possible that the administration was proceeding directly to a repurchase policy, even as the Congress has under consideration the exceedingly nonspecific authorization language for "international spent fuel disposition" in the ERDA authorization. In fact, one senior official indicated that the statutory language reported by the Committee on Energy and Natural Resources requiring congressional consent for any "agreement" would not be applicable to the Tarapur repurchase situation, because there is no "formal agreement," but rather an "understanding."

This series of events made clear the fact that the administration had every intention of proceeding to embark the United States on a potentially highly controversial and extremely costly program for repurchase and disposition of foreign spent fuel. And, further, the administration fully intended to do this without the agreement of the Congress and the full authorization for the required activities and funding which should be included in the ERDA authorization and appropriation. The administration thereby could repurchase the spent fuel, and without any limitation, commit the United States to its transport from India for storage in the United States.

The Tarapur events led to my amendment to S. 1611 on the Senate floor on July 12, adding the provisos to the section.

Third. On August 3, Secretary of Energy designate Dr. Schlesinger in his confirmation hearing before the Energy Committee stated that the administration shortly would announce a new policy for U.S. Government storage of spent nuclear fuel from domestic and foreign nuclear power reactors. The committee again criticized this apparent decision, with Senator ABOUREZK and DURKIN expressing serious concern about it. Senators HANSEN and DOMENICI and I wrote to President Carter on August 5, expressing strong reservations about the policy and urging the President to obtain congressional comment in the decisionmaking process.

We also requested a meeting and briefing on the policy. To date, the only response has been two perfunctory acknowledgements of receipt from a White House aide and an aide to Secretary Schlesinger.

In further hearings on the non-proliferation bills on September 12.

And again we get back to that date of September 12, the date of the letter Secretary Vance wrote to Senator Jackson—

ERDA Acting Administrator Fri, Dr. Nye of the State Department, and Dr. Keeny of the Arms Control and Disarmament Agency were asked about the administration's policy on international spent fuel disposition. Again, they only deferred to a reportedly pending spent-fuel policy decision by the President.

That was on September 12, the date Secretary Vance wrote Senator JACKSON and the date that they told us in the committee hearing that there was only a pending policy decision but no policy.

Concurrent with that hearing, Secretary Vance wrote to Chairman JACKSON on September 12 to advise him—

And this is the letter to which I made reference earlier—

of the administration's opposition to my amendment. In the letter, the Secretary acknowledged that the activities contemplated under this section to involve U.S. financial support to foreign spent fuel storage facilities because pending the outcome of the President's proposed International Nuclear Fuel Cycle Evaluation, we expect that many foreign reactor operators will need to expand their spent fuel storage.

Again they are indicating in that letter not anything concerning a policy decision that had been made, concerning the return of spent fuel to this country but only the need to support spent fuel storage in foreign countries.

The Secretary commented that—

U.S. support for this activity should be permitted without the need for additional congressional consent.

He did state that the contemplated activities do not involve the return of foreign spent fuel to the United States, significantly, he also stated:

At the current time the United States is actively engaged in discussions with the Indian Government which may lead to an agreement under which spent Tarapur fuel will be removed from India.

During informal meetings on the nonproliferation bill with the administration during the week of September 26, we were informed that a General Electric team, apparently under contract with ERDA, was in India to begin review of the Tarapur spent fuel disposition problem. In fact, then, fiscal year 1978 will begin with the United States already actively involved, and perhaps implicitly, if not expressly, committed to direct U.S. support for the disposition of foreign spent fuel. The Congress, however, despite repeated requests has never been advised of U.S. policy decision in this area.

I will turn in a moment to what they have told us, which is not much, but allow me first to make the following comment:

The conference adopted a revised concept as a compromise proposal directing that Congress be involved either by legislative route, by affirmative decision on a resolution of consent or subject to a congressional one-House veto procedure. That amendment was adopted in the conference unanimously and, as I stated earlier, the bill was vetoed for other reasons.

The September 12 Vance letter identified a major concern in the area of spent fuel from foreign research reactors. Current policy is to require the return of such spent fuel to the United States. The Vance letter cites the importance of that arrangement with South Africa and attached a long listing of other current contracts. These arrangements are also of particular importance because of the use of highly enriched fuels in these reactors, and the precedent that the 1974 Indian nuclear device reportedly used such fuel. It is clear that any prohibition should be on spent fuel from foreign power reactors and should expressly exempt research reactor spent fuel.

It also is clear that there should be an exemption for emergency situations, albeit with at least notification as soon as possible to Congress.

Since the Vance letter states that it is not contemplated that section 108 authority—the section in S. 1811—would be used to bring spent fuel from foreign power reactors to the United States, it should not be unacceptable to apply any prohibition to such activity unless subsequently authorized by Congress.

If the administration really means, as Secretary Vance said in his letter of September 12, they should have no objection to my amendment. Instead, they do object, and I think, as we can see from the events, we know why they object. They say they do not intend to do it, whereas, as a matter of fact, they were quietly and secretly negotiating such ar-

rangements at the time they so directly denied anything more than the possibility of such negotiations.

It is noteworthy that Dr. Nye, Deputy Under Secretary of State who has led the administration nonproliferation policy effort, informed me on September 29 that Dr. Nye did not believe the State Department would object to a notification and layover for any contractual commitment for the shipment to or storage in the United States of foreign power reactor spent fuel.

The "provided further" on the Tarapur export was included at the request of Chairman JACKSON as a disclaimer of any congressional intent to directly or indirectly criticize or reverse the President's decision and the NRC's concurrence to export the fuel for Tarapur. The chairman was concerned that, in the absence of such a statutory disclaimer, the new Desai government in India or any reviewing court in the event of a challenge to the NRC decision might get the wrong signal.

It is noteworthy that the only serious input we have received from the administration on this whole subject of foreign spent fuel disposition, which is a major problem directly resulting from the President's nonproliferation policy, is in the form of bits of information in communications opposing the committee which I had suggested in my amendments to section 105. All direct requests for information on the policy remained at the time of that enactment unanswered.

Let me now refer to a couple of items that might well be understood to put that in context.

One is remembering the date of the September 12 letter and the request for information that went unheeded. At that time the General Electric team was in India; they were under contract to ERDA. The administration was negotiating with the Indian Government. They did conclude an agreement which was signed by India on September 14, just 2 days after the Vance letter, and the United States signed it on September 24, which is several days, as a matter of fact weeks, prior to the time that Congress was notified of that arrangement.

They protest that we do not need this kind of amendment, because they will come forward with all candor with all of their proposals and discuss them with us fully and get our prior concurrence, but their track record indicates exactly the opposite.

What do we know about their policy at this time?

On October 18, the Department of Energy announced a new spent nuclear fuel policy. That nuclear spent fuel policy consists of one page, single-spaced, with some fine print on the back. And, the only thing to which that has any substantive reference I will read:

> Although the spent fuel policy is primarily designed to resolve the uncertainties facing U.S. utilities, the United States Government also intends in support of its non-proliferation goals to extend the offer to foreign users on a limited basis. The U.S. is encouraging other nations to expand their own storage capacity and is strongly supporting the study of regional or international storage sites.
>
> Under this policy, the United States would be compelled to store limited amounts of foreign spent fuel when this action would contribute to meeting non-proliferation goals. It is expected that foreign spent fuel will be a small part of the total spent fuel stored in the United States.
>
> Although specific details remain to be worked out, arrangements for storage of spent fuel from foreign users would probably be on the same terms as domestic spent fuel, subject to appropriate limitations established later.

There follows after that the suggestion that, "The Department of Energy will work closely with the Congress, State governments, and other agencies, utilities, industries, the public, and in conjunction with the State Department, and so forth, in establishing a policy."

In other words, as of October 18 their policy is not a policy. It is only a suggestion that a policy might be developed; and again a suggestion that Congress might be involved in it. But, if Congress is involved in it, it has been a massive secret to this day.

The fiscal year 1979 budget book contains:

> *Justification of activity*
>
> *Operating expenses:*
>
> 1. International spent fuel storage___ $3,000
>
> This program will support U.S. non-proliferation objectives by enabling DOE to assess foreign fuel storage capabilities and requirements in conjunction with foreign requests for approval to transfer fuel. Means of providing increased storage at reactors will be developed as an alternative to possible fuel transfers to the U.S.
>
> This funding provides technical support to international studies being conducted on spent fuel storage. International criteria will be developed on siting, design, construction, and operation of fuel storage facilities. Preliminary design studies will be performed on an international spent fuel storage facility which is suitable for use by an international organization having responsibility for spent fuel storage. Contractual arrangements for international storage will also be investigated. Studies will be performed to estimate fuel clad lifetimes for safe storage of foreign-origin spent fuel, to extend basin storage capacities in foreign plants. Available data on potential sites for international facilities will be evaluated and studies and evaluations of logistics requirements and needed systems will be conducted. An Environmental Impact Statement (EIS) will be completed and the technical support for licensing, environmental and economic aspects of spent fuel storage from foreign countries will be provided.

The last sentence is the only hint in the entire explanation of the fiscal year 1979 budget request that returned spent fuel to the United States from foreign sources is contemplated as a part of the international spent fuel storage policy efforts of this administration.

Mr. President, I think the record speaks loudly for the need to have congressional involvement in a matter of this importance, in light of the past record of the administration and in light of the extreme importance of this as a policy matter.

Mr. President, let me detail the kind of questions this Senator would ask—if this Congress is given a role by my amendment—of any administration witness when a proposal to bring foreign nuclear waste to the United States includes a detailed discussion of at least the following information and any supporting documentation thereto:

First. The exact policy objectives intended to be achieved by such repurchase, transportation, or storage, including the relation of such objectives to domestic and international energy policy, domestic and international nuclear power policy, and nuclear nonproliferation policy;

Second. A detailed technical description and discussion of the proposed mode or modes of transportation and storage, and an analysis of any technical alternatives thereto;

Third. A summary of the domestic and international transportation and storage facilities and capacity for disposition of spent nuclear fuels;

Fourth. A discussion of the proposed geographic sites for such storage, including any alternatives thereto;

Fifth. An identification and discussion of all proposed or potential international accords, agreements, arrangements, understandings, or any other direct or indirect form of conditional, discretionary, or mandatory arrangement with one or more foreign legal entities, government or nongovernment, or international or multinational organization for such repurchase, storage, or transportation, directly or indirectly.

Mr. President, you may wonder why the detail in that formulation of that particular question. But I remember when we were involved in the Energy and Natural Resources Committee with the congressional direction in the formulation by our committee for congressional consent for any agreement. The administration answered and said that the Tarapur repurchase situation would not be applicable, because there is no formal agreement but rather an understanding.

It is obvious we have to use a great many words if we hope to circumscribe the ingenuity of the administration in seeking total latitude to do what they wish without any congressional oversight or involvement regardless of the statute we may write.

Sixth. A discussion of all potential costs, direct and indirect, for that fiscal year and the following 10 fiscal years, on an annual basis, and 5-year increments beyond through the end of the century, including, but not limited to, all management and administrative costs, the value of any required U.S.-owned facilities or equipment, and all required payments to any legal entity for spent fuel, for facilities or equipment outside the United States, or for any supporting services;

Seventh. A discussion of any and all research, development or demonstration funds, personnel or facilities, which directly or indirectly will be required to support the technical implementation of the plan over the life of the proposed program;

Eighth. A complete justification of the basis for the price proposed to be paid for the foreign spent fuels, in terms of the remaining unburned fissionable fuel or other reusable fuel assembly component or element, or any amount considered to be an incentive payment for inducing the sale to the United States, any imputed value as a result of a particular

policy objective, any amount related to alternative costs for storage or reprocessing by the foreign entity, or any other factor;

Ninth. A cost/benefit analysis of such repurchase, transportation or storage, taking into account the factors discussed in previous subsections, and including a specific cost comparison analysis of the proposed disposition with other alternatives, including but not limited to, reprocessing and recycling the spent fuel;

Tenth. A discussion of all legal and regulatory considerations and requirement for the proposed actions under any applicable local, State, or Federal law or regulation, or under any international law, accord, agreement, understanding, arrangement or any other form of conditional, discretionary or mandatory arrangement with one or more foreign entities, government or nongovernment, or international or multinational organization;

Eleventh. For any transportation to or through, or interim or permanent storage of any foreign spent fuel in the United States, the proposed procedures for seeking and obtaining the comments and approval of the public and any local or State jurisdiction, as may be required by Federal law, in which or through which the foreign spent fuel will be transported or stored.

Additionally, any report submitted by the President under subsection (c)(3) shall include an environmental impact statement for any Federal actions in the United States.

Additionally, I would want to know exactly what the impact of the proposed action would be on our domestic nuclear waste alternatives. I understand that we are going to be very tight on waste storage from our existing nuclear plants. In fact, Mr. President, I understand that reactors in the utility of the State represented by the distinguished minority floor manager (Mr. PERCY), will have just such a problem in the not too distant future. I suggest that he certainly would want such information on the impact on our domestic storage option—and yet his bill does not give us the option to do so, as a matter of right for the Congress. Rather, the bill gives the administration a blank check, totally carte blanche authority, subject only to interagency concurrence.

All my amendment does, Mr. President, is give us the right by statute to ask those questions before the final decision—to ask the questions which the administration has refused thus far for 10 months to answer. They will not even answer the telephone, answer letters, or answer questions in hearing, where their witnesses do appear. Congress deserves that right, and I urge support of my amendment to require it.

Mr. President, in closing, let me state what may not be so obvious. This amendment is not intended as a bar to the return of foreign-spent fuel to the United States. There may be circumstances under which the values to the United States in support of nonproliferation or other objectives of this Government justify that action; but I think Congress must either set the guidelines or be involved in the approval of those arrangements and those procedures.

I cannot imagine that this Congress will sidestep its responsibility in such a tough issue simply because it is a tough issue, or simply because the administration finds it more convenient to act without public and congressional oversight rather than with it.

Mr. President, I hope that this amendment will be adopted on this bill, as it was on S. 1811 when it passed. I am confident that the administration, rather than finding it obstructive of their policies, will find that an informed consent on the part of the Congress of the United States will render their policies more meaningful and, therefore, will find that congressional involvement in the decision will yield strength to the nonproliferation goals of this administration, and not frustration, which I am certain would occur if the administration persists in attempting to go around Congress, and ignore Congress in this most fundamental of all of the questions dealing with the safety and the security of the people of this country.

Mr. President, I reserve the remainder of my time.

Mr. GLENN. Mr. President, as the Senator from Ohio understands the amendment by the Senator from Idaho, there would be two ways in which the administration could handle nuclear spent fuel imports for storage in this country. One would be for imports to occur pursuant to an overall U.S. generic plan or spent-fuel policy, which would cover any number of imports, and would spell out, generally, the details of the storage conditions, costs, and the like. That would be a generic plan.

However, the second instance, if no such plan were developed, and the administration proposed spent-fuel imports on a case-by-case basis, that would be a second alternative.

In the first instance, where there was a generic plan, Congress at that time would have the opportunity to veto the plan by a one-House vote, according to the proposal of the Senator from Idaho. In the second instance, where case-by-case consideration would be given to imports, a confirming congressional authorization from both Houses of Congress would be required.

Is the Senator from Ohio correct in those assumptions of what is intended by the Senator from Idaho?

Mr. McCLURE. Mr. President, I would say to the Senator that that is not my intent. I think in either instance the administration would have the option of proceeding with the generic plan, in which they could either ask for congressional concurrence or submit it to us for the possibility of congressional veto.

Mr. GLENN. If I might interrupt, if the Senator will yield to me just one moment, in that instance that would be a congressional one-House veto?

Mr. McCLURE. That is correct. And in a case-by-case situation, if they would elect not to submit a plan to be subject to the congressional veto, they could ask for an authorization of the generic plan or case-by-case arrangement, if they decide they want it, and ask for congressional concurrence.

This, of course, does raise the question of the one-House veto or the two-House veto. The one-House veto, of course, has always appealed to the Senator from Idaho. Where any positive action taken by the administration would require concurrence of both Houses, certainly requiring a veto by both Houses is a more onerous requirement than requiring concurrence by both Houses.

Mr. GLENN. I am not sure I understand the second case yet.

Where there would be a case-by-case approach to spent fuel imports and these were submitted by the administration, would that need a two-House congressional authority, to proceed?

Mr. McCLURE. They can either come in with a case-by-case basis subject to a veto, or they could come in, in the ordinary authorization process, subject to the authorization and approval by both Houses of Congress, which they would ordinarily do if they have an administrative program for which they seek approval.

Mr. GLENN. I thank the distinguished Senator from Idaho.

Mr. President, on October 18, 1977, the Department of Energy announced its spent fuel policy. So this policy has been in effect for only a short period of time, since just midfall of 1977.

This policy is a logical extension, given the indefinite deferral of reprocessing, of long-established Federal responsibility for permanent disposal of high-level waste; and no one in this country has quarreled, I believe, with the fact that this is a Federal responsibility.

Under this policy, the Federal Government would prepare to accept and take title to used or spent nuclear reactor fuel from utilities domestically on an ongoing payment basis or on a one-time storage fee basis.

This policy, just established in midfall of 1977, will remove, I think, a lot of the uncertainty faced by utilities in their planning processes up to now.

Although the spent fuel policy will have its primary impact domestically, the U.S. Government does intend, and has so stated, in support of its non-proliferation goals, to extend the offer to foreign users on a limited basis.

This is not intended by the administration, as I understand it, to encompass all nuclear wastes or all spent fuel. It would be on a case-by-case basis.

Most nuclear suppliers do not have policies involving return of spent fuel. In our case, however, the United States does have a special responsibility, for the following reason: We are, in fact, asking other nations to defer voluntarily commercial reprocessing and the premature use of plutonium around the world. This is important because plutonium carries with it the specter of nuclear holocaust either at the hands of terrorists should they obtain this material or as a result of nations' misappropriating nuclear materials from their peaceful nuclear programs.

In addition, the administration will be renegotiating all the agreements of cooperation in order to incorporate more stringent nonproliferation conditions on our nuclear exports. Our policy cannot succeed, however, if it is based solely on

denials and controls. We need to offer other nations adequate incentives—there needs to be the carrot with the stick, and big carrots, big incentives—to get other nations to abide by nonproliferation restraints. One of these is to offer them reasonable alternatives to reprocessing, such as the opportunity to return spent fuel to the United States.

We provide in this bill quite a number of incentives to get nations to refrain from reprocessing. INFA, the International Nuclear Fuel Authority, is one, whereby nations will be able to buy their fuels from apolitical, guaranteed international sources. Along with that, we are trying to reduce the time needed for the licensing processing, so that purchase of fresh fuel supplies from the United States will be attractive, again as an alternative to reprocessing. So we are not without incentives in this bill.

Our spent fuel storage policy is another such incentive. However, it should be stressed that this policy is not a general offer, but rather, one conditioned on the contribution it makes to our nonproliferation objectives, demonstrated need, and availability of capacity in the United States will be attractive, again as an alternative to reprocessing. So we are not without incentives in this bill.

With regard to spent fuels, specifically, however, this could be looked at as a very valuable commodity, because it can be reused to reenrich fuel and, in some ways, become a sort of minor league breeder reactor in its own right.

The administration is encouraging other nations to expand their own storage capacity now and actively promoting the study of regional and international storage sites.

I believe the view is that, while we might be storing some of this foreign fuel here now, for the reasons I have mentioned earlier, we hope eventually to see nations storing their own spent fuel or to develop international storage sites.

At the present time, the U.S. Government is preparing, as I understand it, environmental impact statements for both its domestic and international spent fuel policies. The work on this should be completed by about the beginning of March, so we should have a lot more information out of that study by this time.

The rate base for the program will be published in the Federal Register for comment. I think it is clear that there are reasonable cases where the spent fuel should be returned to the United States. I believe, however, that the one-House disapproval option over the return of spent fuel to the United States, as proposed in the amendment, would be overly restrictive. On the other hand, my informal contacts with the executive branch indicate that they do not want to cut Congress completely out of this process, a view which I share. The one-House veto procedure troubles me because it can interfere considerably in the reliability of the United States as a nuclear trading partner in this regard and sets up one more unnecessary hurdle that other nations must cross before they can obtain a satisfactory arrangement with us.

As a brief summary, I feel that the proposal by the Senator from Idaho gives too great discretion to Congress, particularly when a single-House veto is available. The proposal, it should be noted, also makes spent fuel returns subject to closer congressional scrutiny than any other nuclear cooperation arrangements covered in this bill; all of the other similar provisions call for a two-House veto as a means for disapproving executive actions. To single out spent fuel returns for easier congressional challenge than any other arrangements in this bill, to me, is unwarranted.

For those reasons, Mr. President, I have to rise in opposition to the proposed amendment by the distinguished Senator from Idaho. I hope that my colleagues will go along with the administration's policy, which was announced in October, and on which they are working now. This policy may be one of the key incentives to persuade nations that do not have their own storage facilities to avoid reprocessing. This would do much to keep nuclear terrorism and nuclear proliferation under control.

We know that if we make such arrangements to bring fuel back or bring nuclear wastes back into this country and store them for a fee, we will have the material under close guard and it will be less dangerous to the world and less dangerous to proliferation problems than if we leave it abroad in nations without that type of security.

For all of these reasons, Mr. President, I rise in opposition to the amendment proposed by the Senator from Idaho.

Mr. PERCY. Will the Senator yield?

Mr. GLENN. Yes.

Mr. PERCY. I should like very much to reason aloud between myself and my distinguished colleague, to reason along lines that I never felt I would. I believe we share a common desire to have a reliable source of supply. There is not any question about that. I just question whether placing in jeopardy our ability to offer a complete range of services would be a service to our nuclear industry, for instance, and our desire to be a reliable source of supply.

I merely want to point out the tremendous emotion that is involved in this particular issue. The Senator from Illinois testified before the House committee that held its hearings in Chicago just recently on nuclear waste disposal. Headlines day after day proclaimed that at Sheffield, Ill., and Morris, Ill., where we have some of the largest nuclear waste disposal facilities in the world, we were becoming a nuclear dumping ground in Illinois for all that nuclear waste—from Kansas, maybe, or Idaho, or other States. And there were a lot of emotions aroused about this. It was almost as if New York City suddenly was discovered to have been dumping its garbage in Lake Michigan, there was so much emotion about it.

I think we have to be extraordinarily careful, as we, as a nation, go out to convince others that we shall do our fair share, if they will do a fair share, in providing facilities and adequately secure places under international control and management for the storage of spent fuel. We do not want to lock ourselves in so that we cannot fulfill our part of the bargain and accept a fair share of nuclear waste in attempting to reduce the risks of nucear proliferation.

To take the risk that one House could block an action, I think, would place us in great jeopardy. I just ask my distinguished colleagues that are on the floor today whether or not we in the Senate would agree with, let us say, a procedure such as was accomplished in the House passage of a labor reform bill. It was overwhelmingly passed under the rules of the House, which, in a sense, caught everyone short and caused a major bill of that Congress to go through without what the business community feels is adequate understanding and debate of the issue. That is why the bicameral system is so extraordinarily important in this regard and why both we and the administration have been concerned.

I am concerned about the amendment as it now stands and, although there are certainly problems associated with the storage of foreign spent fuel in the United States, U.S. security interests are greatly affected by the risk associated with having plutonium-bearing spent fuel in the possession of non-nuclear-weapons states. Even though we consider it somewhat dangerous to have spent fuel in the United States, I ask my fellow citizens a question: Would you sooner have that fuel sitting in the possession of a non-nuclear-weapon state where it would be extraordinarily difficult to provide safeguard and security measures?

Would you feel very comfortable if a group of terrorists, or the head of a terrorist or radical state, had available this kind of material, plutonium-bearing spent fuel, in an area that they could more readily obtain it and easily obtain it than some secure place right here in the United States? Which is the more dangerous course?

I say it is more dangerous to have it in some remote area, easily accessible to some terrorist or some irresponsible chief of state and his forces, than to have it right here.

Second, the United States must demonstrate to others that we are willing to accept our fair share of the burden of solving the problem of providing secure storage for spent fuel produced in non-nuclear-weapon states if we are to convince them that we want to make certain that they take a share of it and we are left only with a fair share of it.

Last, because of our distinguished guest on the floor and our desire to recess for a few moments, I simply say that, under certain circumstances, assistance to another country with regard to spent fuel can provide a significant incentive to accept effective nonproliferation controls by providing additional time for the development of secure nuclear cycle facilities, especially international storage.

So, for these reasons, I would join with the majority floor manager of the bill, and would find myself compelled to oppose the pending amandment in its present form.

I am very happy to yield to my distinguished colleague from Maryland for a very important announcement.

VISIT TO THE SENATE BY DR. KARL CARSTENS, PRESIDENT OF THE GERMAN BUNDESTAG OF THE FEDERAL REPUBLIC OF GERMANY

Mr. MATHIAS. I thank the distinguished Senator for yielding.

Mr. President, we are honored in the Senate this afternoon by a visit from Dr. Carstens, the President of the German Bundestag, who is visiting Washington.

[Applause.]

RECESS

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Senate stand in recess for 3 minutes so that Members on the floor may have an opportunity to greet the President of the German Bundestag.

There being no objection, the Senate, a 2:44 p.m., recessed until 2:47 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. METZENBAUM).

NUCLEAR NONPROLIFERATION ACT OF 1977

The Senate continued with the consideration of S 897.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I suggest the absence of a quorum with the time to be divided equally.

Mr. HELMS. Will the Senator withhold that?

Mr. GLENN. Yes, I withhold that request.

Mr. McCLURE. Mr. President, I am prepared to yield to the distinguished Senator from North Carolina.

How much time does the Senator request?

Mr. HELMS. Five minutes.

Mr. McCLURE. I will yield whatever time he consumes.

Mr. HELMS. I thank the Senator.

Mr. President, I want to commend the distinguished Senator from Idaho for the diligent and perceptive work he has done on this bill. As a result of his efforts, it will be a far better piece of legislation.

I am not certain that even as amended it will be in the best interests of this country, but we shall see how further amendments affect the legislation when it goes to final passage.

Mr. President, as with so much other legislation we have seen in recent years, the bill before us, while enshrined with noble purposes, will in fact be counterproductive to its ends.

What is the purpose of this bill? Presumably, it is to slow or control nuclear proliferation. How is this goal to be accomplished? Apparently by imposing stringent, virtually impossible and certainly unrealistic requisites on the export of nuclear fuels and equipment from the United States.

Such a simplistic solution might be acceptable if the United States had a virtual monopoly of nuclear fuels and equipment. With little or no competition we would essentially be the sole arbiter of who received what and how much. This may have been the situation 30, 20, or even 10 years ago. But today many nations possess nuclear technology, and, for better or for worse, they do not seem to share our scruples about sharing this technology with other nations.

Ideally, it is nice to dream of a perfect and orderly world where all nations were as responsible and benevolent as the United States. Indeed, in such a world, if it existed, there would be no need to worry about nuclear proliferation because such a world would have no wars or threats of war. But we do not live in such a world, and we cannot afford to legislate our fantasies.

In the real world, this legislation is clearly counterproductive. Far from controlling proliferation, it would actually tend to increase it. If this bill makes it almost impossible for the United States to be a major nuclear exporter, then someone else, much less responsible and much less committed to the control of a potentially dangerous technology, will move in to fill the vacuum. The United States, under this bill, will become a wholly unreliable supplier of nuclear fuels and equipment. It is perfectly natural that the resulting lack of predictability will drive potential trading partners to other supplier nations.

It is clear that the other nations have rendered little more than lipservice to the President's nonproliferation goals. The President has tried, but he has not met with success. The situation is not likely to change. Therefore, little purpose is served by allowing ourselves to become self-proclaimed martyrs for righteousness in this matter. Whether it be the Clinch River issue, or the issue now before us, our nonproliferation policy will harm no one but ourselves and could very well result in greater proliferation.

On few matters have the nations of the world shown a greater willingness to work together than in the nuclear area. The organization of the International Atomic Energy Agency and the Nonproliferation Treaty are monuments to the international willingness to join together to control nuclear proliferation. As with most broadly-accepted international agreements, each contain tradeoffs. Under the Nonproliferation Treaty, for instance, nuclear weapons governments agree not to transfer, assist, or encourage nonnuclear weapon governments to acquire or gain control over nuclear explosive devices. Nonnuclear weapon governments agree not to seek or develop such devices and to submit to IAEA inspection on all peaceful nuclear activities within their territories, under their jurisdiction, or carried out under their control anywhere. In return, nonnuclear weapon governments receive assurances that all parties: First, have the right to develop and use nuclear energy for peaceful purposes; and second, should make available the benefits of peaceful applications of nuclear technology to the other parties "on a nondiscriminatory basis."

S. 897 imposes more stringent conditions on nuclear commerce and threatens the existing international legal regime without assurances that the ad hoc mechanism which it employs can provide a satisfactory replacement. It would impose conditions on U.S. exports which have not received the widespread international consensus which accompanied the creation of the International Atomic Energy Agency and the negotiation of the Nonproliferation Treaty. Perhaps they will in fact be broadly accepted within the international community. Yet the further the United States proceeds down this path of unilateral or narrowly sponsored new nuclear controls, the more difficult it will be to achieve a broad consensus.

Several dangers are present in this approach. First, the conditions are being imposed on our trading partners; they are left with very little negotiating room. With this alteration of the rules governing nuclear exports, recipient nonnuclear weapon governments could argue that the bargain struck in the NPT is no longer valid. The reaction of these nations during the 1975 NPT Review Conference and the threat of Yugoslavia to withdraw from the treaty because the United States and Soviet Union had not fulfilled their pledges to cooperate under article VI are clear evidence that this is no idle concern. It also could become a symbolic issue of contention in the continuing negotiations over the distribution of the world's resources, wealth, technological capabilities and power.

Whatever its shortcomings, the existing framework of bilateral and multilateral control is a significant factor in deterrence today. The technical barriers to the widespread development fell long ago, yet no nation has ever breached its international safeguards commitments. For these reasons, we should resist the temptation to adopt ad hoc, quasi-legal mechanisms to resolve matters of international significance.

Further, this legislation will damage our convalescing domestic economy. The reduction of nuclear exports will only add to our worsening trade balance and the continuation of the softening of the dollar, and, perhaps even more important in the long run, the resulting stagnation in our nuclear industry will cause a retardation in our nuclear energy development. Other nations, with an active trade and thriving industry, will naturally begin to surpass us in new technological innovations. Such a development has the most profound implication, both as to our military security and our energy resources. If our technological superiority, as the administration claims, is supposed to be the answer to our growing strategic inferiority vis-a-vis the Soviets, this is a strange way to go about maintaining it. Sick industries do not remain technologically alert. And, if again as the administration claims, we are engaged in a "moral equivalent of war" because we are importing too much oil, the administration's aversion to nuclear development is a strange way to go about fighting that war.

Further, Mr. President, I would add this one thought. I do not claim to be an expert on nuclear physics, or nuclear trade, or all the nuances of the proliferation issue. I doubt there are more than a

handful of Senators—if that many—who do possess such expertise. But I do know a little bit about history. And I cannot dismiss the obvious fact that new technological developments have always caused a certain amount of fear among the general populace. Fear of the unknown is common to man, and, to a great extent, nuclear energy—its use, its limits, its benefits, and its dangers—is still an unknown.

One can look back when the automobile was first developed and recall the fear expressed by some that speeds in excess of 60 mph might cause one's adam's apple to fall out. I do not mean to suggest that we should be careless or foolhardy. But I sense a certain irrational phobia that we must learn to overcome. It is interesting to note that we continuously receive mail from people worried about the dangers of peaceful nuclear energy projects—even though there has never been even a serious injury connected with these projects in more than 30 years—while we never hear about the accidents in coal mines and oil rigs that result in the loss of hundreds of lives and cause thousands of injuries year after year.

I believe it is time that we took a more rational approach in these matters. I do not oppose some reasonable controls on the export of nuclear materials, as we have at present. Certainly there are safety precautions and military security that must be protected. But creating new layers of bureaucracy and redtape, so burdensome that it will virtually lead to a moratorium of U.S. exports of nuclear fuels and equipment, protects neither safety nor military security. What it will do is damage our economy, retard our nuclear technology, and, if anything, accelerate nuclear proliferation throughout the world.

Mr. President, I commend the distinguished Senator from Idaho for the splendid work he has done on this bill. I know he did it at a great sacrifice of time which he could have spent on other issues which are equally important to him. As one Senator, I am thankful to him.

Mr. McCLURE. Mr. President, I thank the Senator from North Carolina for his comments and his support. I appreciate very much the wise counsel he has given in this matter, as well as in many others. He is one of the most distinguished Members of this body and a man who has contributed a great deal to the deliberations here.

Mr. President, I reserve the remainder of my time.

Mr. GLENN. Mr. President, I do not plan to respond at length to the distinguished Senator from North Carolina.

I agree with him on the safety aspects of nuclear energy and the remarkable safety record that has been established by this industry. We have some 300 plant year of operation in this country and have yet to have the first person killed. As the Senator points out, we have some 150 miners killed each year. Forty thousand or fifty thousand people are killed on the highways every year. I wish the citizens would become as exercised about some of these other things that occur year in and year out.

Having said that, we certainly must stress the safety aspects of nuclear energy.

But I think I must rise in opposition when the distinguished Senator from North Carolina uses such terms as "this bill is embarking upon new layers of bureaucracy and redtape" and "this bill will retard nuclear technology" and "this bill will hold down nuclear technology throughout the whole world." I could not disagree more strongly with those statements because I believe very firmly that this bill will do just the opposite.

Our licensing process in this country with regard to nuclear energy, our whole procedure around it has been in such a turmoil that I think this bill brings some order out of chaos, and with the amendments we have put on that we agreed to in private and put into the bill and then have agreed to accept here on the floor as we worked out our arrangements on it, I think it has really strengthened this bill and I think leaves our nuclear industry and our ability to be a reliable partner around the world in better shape by far than it is without this legislation. So I think that the bill very decidedly improves this situation and does not provide additional layers of bureaucracy or redtape. If anything, it straightens them out and reduces some and puts finite time limits on the licensing process at each step along the way.

So I look at this as a step forward in helping get away from some of the bureaucracy and get away from some of the redtape that the nuclear industry has been saddled with.

And I do not make any claim at all that this bill solves all the problems of the bureaucracy. It certainly does not. But it certainly does streamline some of those procedures and make us a more reliable partner to those interested in buying American nuclear equipment around the world. As nuclear sales open up in the future I think we will see our people be more competitive rather than less because of this legislation.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. HELMS. Will the Senator yield me 1 minute?

Mr. McCLURE. I am happy to yield to the Senator from North Carolina.

Mr. HELMS. I know my good friend from Ohio, whom I respect greatly, has that intent and I certainly hope that he is correct in his anticipation regarding this legislation.

Mr. President, so often we have been told on this floor relative to other pieces of legislation and in perfectly good faith that all of this will not increase bureaucracy, this will cure the problem and so forth; and this has not come to pass. As examples, we can use OSHA, and so many aspects of Federal aid to education and other issues.

But I have no doubt whatsoever about the sincerity and good intentions of the Senator from Ohio, and I say again that I hope he is correct and the Senator from North Carolina is wrong, and I thank the Senator for yielding to me.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On equal time?

Mr. GLENN. I ask unanimous consent that it be on equal time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I made reference earlier to a letter which had been written to the President of the United States dated August 5, 1977, which was signed by myself, Senator DOMENICI, and Senator HANSEN. And I think it might be well for the record to show at this point what was stated in that letter.

I say that only because I think it would illustrate the sense of frustration that some of us have in trying to deal with a fundamental policy consideration as important as this, with almost no access to discussion within the administration.

For that reason, I shall read that letter at this point.

COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, D.C., August 5, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Dr. James Schlesinger, in testimony during his confirmation hearing before the Committee on Energy and Natural Resources on August 3rd, stated that the Administration shortly would announce a new policy for United States Government storage of spent nuclear fuel from domestic and foreign nuclear power reactors. We are concerned greatly about the many budget, diplomatic, environmental, legal, political and technical ramifications of such a policy by the United States. We also are greatly troubled by the significant potential for further negative impact on our domestic nuclear power option resulting from this policy. We already have a national undercurrent of opposition to nuclear waste disposal and storage today at the local, state and Federal levels. This new policy would seriously exacerbate that problem and further erode the public support for the nuclear power option.

The Senate already has considered some of these nuclear waste issues in the actions on the McGovern amendment (defeating a state veto on waste disposal sites), the McClure-Church amendment (passing a requirement for Congressional approval of any U.S. bilateral or multilateral assistance agreement for spent fuel disposition), and the McClure amendment (passing a prohibition on any United States repurchase, transportation or storage of foreign spent nuclear fuel) to S. 1811, the Fiscal Year 1978 authorization bill for the Energy Research and Development Administration (ERDA). The House of Representatives has not considered yet the companion bill, H.R. 6796. The Senate's actions, however, does make it clear that these are potentially issues of major controversy.

We sincerely believe that the forthcoming policy statement, as briefly outlined by Dr. Schlesinger, should be closely coordinated with the Congress. We would note that we asked Mr. Fri, Acting Administrator of ERDA, on June 8th and June 10th in hearings before the Energy Committee, to advise

us of the Administration policy on domestic and international spent fuel disposition. We only were told that the policy was awaiting then-pending Presidential decisions. In fact, our apprehensions about the eventual new policy motivated the McClure-Church and McClure amendments to S. 1811. Dr. Schlesinger's confirmation testimony, under oath, was the first formal-word we have received since June 10th.

Mr. President, we urge you to make the Congress a full partner in your deliberations on the new policy before a final decision is made. Without prematurely passing judgment on any policy alternative for the disposition of domestic or foreign spent fuel, a full partnership is necessary to avoid any further embarrassment for the United States in nuclear power policy, resulting from a major Congressional-Executive disagreement In any event, S. 1811, and the companion H.R. 6796, should be the proper legislative vehicle for any Fiscal Year 1978 action under a new spent fuel disposition policy.

We, therefore, request a full and candid exchange between you and your advisors and this Committee before the final decision is made. Such a meeting should occur soon after the August Congressional recess to support further action on S. 1811 and H.R. 6796. Our staffs could initiate preliminary discussions during the recess. We would appreciate very much such an exchange, Mr. President, to ensure ultimately that Congress is a full partner in the spent fuel disposition decision.

We are anxious to work with you on this policy, Mr. President, and we look forward to your response.

Sincerely,

JAMES A. MCCLURE.
PETE V. DOMENICI.
CLIFFORD P. HANSEN.

Mr. McCLURE. Mr. President, that letter was dated August 5, 1977. Today, in February of 1978, we have not yet received anything other than a perfunctory acknowledgement of that letter. In spite of the fact we suggested action might occur soon after the congressional recess in August. The administration, instead of consulting with us on policy, instead of advising us of their policy role, went right ahead negotiating new agreements with India, and without announcing them to us signed such agreements in secrecy, rather than responding to this letter, either on the record or off.

Mr. President, that is the reason why some of us feel it is essential that Congress be involved in advance, not in retrospect, on the policy decisions that may be made with respect to the return of spent fuel from overseas.

Mr. BAKER. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Idaho (Mr. MCCLURE) which would require prior affirmative congressional authorization or a one-House veto of any administration plan to bring spent nuclear fuel from foreign nuclear power reactors to the United States for storage, interim or permanent. Some of my colleagues may remember that on last Thursday, when I addressed this Chamber on this bill, I indicated there was still a considerable degree of uncertainty both within this administration and in the international community, as well as in the Congress, over the entire series of matters associated with the international transporting of nuclear fuel, both enriched and spent.

In light of the serious uncertainty that still exists and is likely to continue for some time, I believe the amendment that is now before us not only protects American interests, but retains the right of Congress to exercise its will at a later date on the question of the storage of spent fuel. It is also my understanding that this amendment will require prior notification of the Congress for any commitment of U.S. funds for overseas storage or other disposition of foreign spent nuclear fuel.

As I also suggested on Thursday, it seems to me that certain inconsistencies in the current administration's proliferation policy may yet come to haunt us. On one hand, the President has signaled his intention to ship fuel to the Indian reactor at Tarapur, while supporting provisions in S. 897 that will make future shipments extraordinarily difficult, if not impossible. Throughout American policy in regard to nuclear exports, there are so many inconsistencies that I cannot help but think it wise for the Congress to retain a high level of control in this regard.

The recent Department of Energy October 18, 1977, statement announcing its intentions to make commitments to bring foreign spent nuclear fuel to the United States raises more budgetary, environmental, legal, technical, and nonproliferation issues than it solves. Certainly, these matters are a legitimate concern of the Senate, both now and in the future. I am told, for instance, that the foreign spent fuel problems alone could involve costs of $1 billion or more in the near term.

I will remind my colleagues that an amendment similar to the one currently offered by the Senator from Idaho, but limited to fiscal year 1978 funding, has already been passed by both Houses. Unfortunately, the President vetoed that bill because of the inclusion of the Clinch River breeder reactor project.

I would add, furthermore, that I am continuously perplexed, even at this late date, over the current administration's inability even to decide what its nuclear policy is. I believe I am correct in stating that, as late as last Thursday, when Senators MCCLURE, CHURCH, GLENN, DOMENICI, and I were discussing this bill on the floor, the administration was changing its mind once again on a series of amendments for which they had previously indicated support. Therefore, because of environmental and cost problems, as well as the overriding need for the Congress to retain control on these matters, I urge my colleagues to support this particular amendment.

Mr. McCLURE. Mr. President, I yield to the Senator from New Mexico (Mr. DOMENICI).

Mr. DOMENICI. Mr. President, I rise in support of the McClure amendment and to discuss with the Senate a few observations about this problem.

First of all, Mr. President, I believe the Senate and the people of this country ought to know that here we are today talking about a bill that could cause the United States, through the unilateral actions of the President, to bring more nuclear waste into this country for disposition when, as of this day and this particular hour this, country itself has no—and I repeat no—plan for the disposition of waste in this country at all—no plan whatsoever.

As a matter of fact, the truth is we have not even demonstrated a way to store spent fuel in this country. As a matter of fact, we do not know whether the first one we want to try should be a demonstration, should be retrievable, should be permanent, should involve commercial, should involve defense. We have not even been able to come up with a plan that anyone agrees to in the sovereign states of America to dispose of less than the commercial waste we are talking about.

As a matter of fact, I came down to speak in behalf of the McClure amendment because in the State of New Mexico, as of right now, probably the most significant issue among the people of that State is the status of a demonstration or pilot project which started out with low-level transuranic just to demonstrate we knew how to store it, and it is now out of all proportions in our State.

Nobody knows what the Federal Government intends, nobody knows their plans, and as of last week we met with the Secretary of Energy and his two or three top officials, the entire delegation from New Mexico, and concluded if substantial changes were not made there was no chance to even get this project considered by this State.

Pending in the legislature of the State is a constitutional amendment prohibiting the bringing into our State of any wastes that were not generated there. I suspect that might have a rather significant chance of passing. I am not suggesting what the validity of it would be, but I merely raise the issue that we presently have not even demonstrated in our own country how we are going to dispose of this kind of waste, not even demonstrated that we know how.

As a matter of fact, I can tell the Senator from Idaho that as of right now as a result of those meetings with the Secretary of Energy and others that they have agreed publicly that they will give the State of New Mexico veto authority over even a demonstration project.

They have agreed that a State like mine, with this kind of project contemplated, is going to be given the authority to say yes or no.

Now what we have with what we have pending in this bill, as I understand it, just makes this problem potentially even more critical, and the solution to the problem even more critical. I submit that the McClure amendment, which has already passed the Senate previously, which merely involves the Congress of the United States in a meaningful way before this country unilaterally at the executive level signs agreements, spends money to bring the wastes from other countries into this country, is a very logical and needed step. As a matter of fact, it appears to me that in short order before the Energy and Natural Resources Committee here in the Senate, and others, that the administration is going to have to come up with the beginnings, just the beginnings, of a plan for the

United States to demonstrate alternate ways of storing spent fuel; that is where we, as a nation, are about to approve a bill that would permit the President to spend money in other countries under a plan to bring their wastes here, with the Congress not even being involved.

So it appears to me that from the pure logic, and with full consideration, that we need to assume some of the responsibility in some of our States of this Nation to show that we can do this.

This is not being done yet; so that a proposal like the one suggested here adds a dimension of probability to our ever solving the problem here at home; whereas going the other way makes the chance of our ever demonstrating that we can in fact do it, of getting any State in the Union to ever consider it—it being as fragile as it is, and making it even more fragile—will make it less of an opportunity on the part of those trying to run this program in the Federal Government of ever getting anyone in this country to agree to even the beginnings or the demonstration of any kind of option, be it in the ground or otherwise.

I repeat, that as of today, the United States of America does not have a program, nor has it undertaken a demonstration to show that we know how to store this waste product.

I do not see how the McClure amendment could do anything but make it more feasible that we might in due course be able to come up with one.

I commend him for it, and I commend to the Senate a "yea" vote on it. It passed before, and it ought to pass now, certainly as part of an overall game plan involving a very genuine, good goal which this bill has of minimizing the international aspects of proliferation about which we are also concerned.

I thank the Senator from Idaho for yielding me time.

Mr. McCLURE. Mr. President, I thank the Senator from New Mexico for the remarks that he has made. I think his remarks are exactly accurate with respect to what may happen in reactions across this country State by State and locality by locality if, as a matter of fact, we do not have Congress involved in the formulation of a spent-fuel policy applicable domestically, as well as internationally.

I think the course the administration has embarked upon as far as unilateral determination is concerned is fraught with a great deal more danger than if Congress were involved in that responsibility.

Mr. GLENN. Mr. President, without attempting to repeat in detail the administration position announced on October 18, 1977, with regard to a spent-fuel policy—that has been covered previously and I think the record will speak for itself on that—the administration is moving in this area, and we are in the process at the moment, here on this floor, of trying to work out some agreement on the McClure amendment.

I do not believe all the answers are here yet that Senator McCLURE wished to get before we proceed with that matter; therefore, I ask unanimous consent that we set aside the consideration of this amendment and proceed to two other amendments that Senator PERCY has, with the specific agreement that we immediately, upon conclusion of action on those two amendments, come back to the McClure amendment on the same basis on which we have been proceeding. Is that agreeable?

Mr. McCLURE. Mr. President, I have no objection to that arrangement if the time remaining to the Senator from Idaho is not reduced as a result of that action. I think my time is just about used up, and I do not want to use a part of it in this manner.

The PRESIDING OFFICER (Mr. BUMPERS). Is there a unanimous-consent request?

Mr. GLENN. That is a unanimous-consent request that we proceed with the understanding that time used on the amendments to be offered by the Senator from Illinois, would not cut into the time of the Senator from Idaho.

Mr. McCLURE. The only request I have is that the time remaining to the Senator from Idaho under the unanimous-consent request not be reduced because of setting this matter aside.

Mr. GLENN. That would be agreeable, because I think just a few minutes would be required for this matter, anyway.

The PRESIDING OFFICER. Are the Senators attempting to change the time for the vote on the McClure amendment?

Mr. McCLURE. No.

The PRESIDING OFFICER. The vote is to occur at 4:30 under the unanimous-consent agreement, and therefore any other business would come out of that time.

The Senator from Ohio has 62 minutes remaining, and the Senator from Idaho has 7 minutes.

Mr. GLENN. Mr. President, I will agree to the time agreement as stated by the Senator from Idaho. I think these amendments will require just a few moments, and any time we use can come out of my time.

The PRESIDING OFFICER. Will the Senator be kind enough to restate his agreement, or his understanding, the Senator from Idaho?

Mr. McCLURE. Mr. President, as I understand the agreement, it is that the pending amendment be temporarily set aside for the consideration of two amendments to be offered by the Senator from Illinois (Mr. PERCY), and that upon the disposition of those amendments, we would return to the consideration of the pending amendment under the previous unanimous-consent agreement, conditioned that the time consumed by this request and the consideration of these amendments be charged against the time of the Senator from Ohio (Mr. GLENN).

Mr. GLENN. I accept that.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1207

Mr. PERCY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1207: On page—

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 101, line 11, delete "1977" and insert in lieu thereof "1978".

On page 102, line 12, delete the period and insert in lieu thereof a semicolon.

On page 102, line 15, insert "and" after the semicolon.

On page 102, line 18, delete the comma after "tion" and insert a comma after "and".

On page 102, line 22, delete "; and" and insert in lieu thereof a period.

On page 103, line 23, delete the comma after "ment".

On page 104, line 15, delete " 'physical security measures' " and insert in lieu thereof " "physical security measures" ".

On page 104, line 21, delete the comma after "thereof)".

On page 104, line 24, delete the comma after "facility".

On page 106, line 2, delete "NRC" and insert in lieu thereof "Commission".

On page 107, line 1, insert a comma after "material".

On page 107, line 2, delete "etablishment" and insert in lieu thereof "establishment".

On page 108, line 1, delete "violations" and insert in lieu thereof "violation".

On page 110, line 3, delete "GUARD" and insert in lieu thereof "GUARDS".

On page 110, line 11, delete "strength," and insert in lieu thereof "strengthen".

On page 111, line 13, delete "that" and insert in lieu thereof "of adherence to".

On page 111, line 14, delete "all being adhered to".

On page 112, line 18, delete "204" and insert in lieu thereof "203".

On page 113, line 5, insert a comma after "facilities".

On page 114, line 7, delete "(other" and insert in lieu thereof "other".

On page 114, line 8, delete "Commission)," and insert in lieu thereof "Commission".

On page 115, line 17, delete "(a)" and insert in lieu thereof " "a."

On page 115, line 20, delete "the 1954" and insert in lieu thereof "this".

On page 115, line 23, insert "the" before "Commission".

On page 116, line 14, delete "(2)" and insert in lieu thereof " "(2)".

On page 116, line 24, after "arrangements" " delete "means arrangement" and insert in lieu thereof "means arrangements".

On page 117, line 1, delete "(A)" and insert in lieu thereof " "(A)".

On page 117, line 3, delete "(B)" and insert in lieu thereof " "(B)".

On page 117, line 8, delete "(C)" and insert in lieu thereof " "(C)".

On page 117, line 9, delete "the 1954" and insert in lieu thereof "this", and delete "111 (b), Section 126, or Section 109 (b)" and insert in lieu thereof "111 b., Section 126, or Section 109 b.".

On page 117, line 10, delete "(D)" and insert in lieu thereof " "(D)".

On page 117, line 11, delete "(E)" and insert in lieu thereof " "(E)".

On page 117, line 13, delete "(F)" and insert in lieu thereof " "(F)".

On page 117, line 16, delete "(G)" and insert in lieu thereof " "(G)".

On page 117, line 19, delete "(3)" and insert in lieu thereof " "(3)".

On page 117, line 21, delete "to" and insert in lieu thereof "for".

On page 118, line 7, delete "the 1954" and insert in lieu thereof "this".

On page 118, after line 7, delete "(4)" and insert in lieu thereof "'(4)", and delete "(a)" after "pursuant to subsection" and insert in lieu thereof "a".

On page 118, line 8, delete "(b)" and insert in lieu thereof "'b.".

On page 118, line 12, delete "(1)" and insert in lieu thereof "'(1)".

On page 118, line 24, delete "(2)" and insert in lieu thereof "'(2)".

On page 119, line 4, delete "this Act" and insert in lieu thereof "the Nuclear Non-Proliferation Act of 1978".

On page 119, line 16, insert "-weapon" after "non-nuclear".

On page 119, line 19, delete "(3)" and insert in lieu thereof "'(3)".

On page 119, line 24, delete "this Act" and insert in lieu thereof "the Nuclear Non-Proliferation Act of 1978".

On page 120, line 6, delete "(2)", and insert in lieu thereof "(2).'".

On page 120, line 11, insert "Nuclear Regulatory" before "Commission", and insert "('the Commission')" after "Commission".

On page 121, line 15, delete "1977" and insert in lieu thereof "1978".

On page 121, line 25, insert a comma after "export".

On page 122, line 21, delete "1977" and insert in lieu thereof "1978".

On page 123, line 6, insert "not" after "has".

On page 123, line 23, delete "circumstance" after "reasonably similar" and insert in lieu thereof "circumstances", and delete "circumstances" after "there is no material changed" and insert in lieu thereof "circumstance".

On page 124, line 5, delete "(2)" and insert in lieu thereof "'(2)".

On page 124, line 18, delete "the" the second time it appears.

On page 126, line 7, insert "any" before "such".

On page 126, line 12, insert "or" before "separate".

On page 128, line 13, delete "subsection" and insert in lieu thereof "section".

On page 129, line 20, delete "foreign" and insert in lieu thereof "foregoing".

On page 130, line 19, insert "to any non-nuclear-weapon state which has failed to meet such criterion" after "made".

On page 130, lines 21 and 22, delete "to each non-nuclear-weapon state which has failed to meet such criterion".

On page 130, line 22, insert "to such state" before "is submitted".

On page 131, line 4, delete "(g)" and insert in lieu thereof "g.".

On page 133, line 3, delete "(a)".

On page 133, line 7, insert a comma after "section".

On page 134, line 7, delete "represents" and insert in lieu thereof "represent".

On page 135, line 5, delete "the 1954" and insert in lieu thereof "this".

On page 137, line 19, delete "phrase, 'does not,'" and insert in lieu thereof "phrase 'does not'".

On page 138, line 4, delete "purpose" and insert in lieu thereof "purposes".

On page 139, line 21, delete "inimical".

On page 141, line 6, delete "subsection (a)" and insert in lieu thereof "section 109 of the 1954 Act".

On page 141, line 12, delete "the" the second time it appears.

On page 141, line 21, delete "Nuclear Regulatory".

On page 147, line 7, insert "of the Arms Control' and Disarmament Agency ("the Director") after "Director".

On page 155, beginning on line 3, delete "and be subject to the procedures of section 128 of the 1954 Act" and insert in lieu thereof a period.

Mr. PERCY. Mr. President, this amendment is simply technical and conforming in nature, for correction of spelling errors and other technical changes. It has been cleared with Senator McCLURE and the majority floor manager of the bill, Mr. GLENN.

I yield back the remainder of my time.

Mr. GLENN. Mr. President, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. PERCY. I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1208

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) offers an unprinted amendment numbered 1208.

Mr. PERCY. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 133, line 25, delete "; or" and insert in lieu thereof ", or, with respect to material or equipment not supplied under an agreement for cooperation, materially violated the terms under which such material or equipment was supplied or the terms of any commitments obtained with respect thereto pursuant to Section 402(a) of the Nuclear-Non-Proliferation Act of 1978, or".

On page 145, line 14, after "reprocessed," add the word "enriched".

On page 150, delete section 402(a) and insert in lieu thereof the following:

"(a) Except as specifically provided in any agreement for cooperation, no source or special nuclear material hereafter exported from the United States may be enriched after export without the prior approval of the United States for such enrichment: *Provided,* That the procedures governing such approvals shall be identical to those set forth for the approval of proposed subsequent arrangements under section 303(a) of this Act, and any commitments from the recipient which the Secretary of Energy and the Secretary of State deem necessary to ensure that such approval will be obtained prior to such enrichment shall be obtained prior to the submission of the executive branch judgment regarding the export in question and shall be set forth in such submission; and *Provided further,* That no source or special nuclear material shall be exported for the purpose of enrichment or reactor fueling to any nation or group of nations which has, after the date of enactment of this Act, entered into a new or amended agreement for cooperation with the United States, except pursuant to such agreement."

Mr. PERCY. Mr. President, this amendment is designed to close a loophole in the export procedures of this bill which has recently come to my attention. Without this amendment, it will be possible to export nuclear materials without an agreement for cooperation indefinitely into the future. It would be a mistake to close out this avenue precipitously, as it would unduly interfere with existing contracts and planned future activities. Instead, this amendment insures that necessary controls will be placed on the use of any material exported under this procedure starting immediately and that once we have renegotiated an agreement with another country, no material exported by the United States could be enriched or used as reactor fuel except under the agreement. The amendment also calls for new and amended agreements to allow prior U.S. approval of the enrichment of U.S. material. Finally, the amendment clarifies the sanctions section to cover any arrangements setting the terms for enrichment until such activities are brought under an agreement.

This amendment has been cleared with the administration, and they have indicated that they have no objection, and in fact support the amendment.

The amendment has also been discussed with the distinguished Senator from Idaho (Mr. McCLURE). As I understand, he has no objection to it, nor does the floor manager of the bill, Mr. GLENN.

Mr. McCLURE. Mr. President, will the Senator yield briefly at that point?

Mr. PERCY. Yes.

Mr. McCLURE. The Senator from Wyoming (Mr. HANSEN) has expressed great interest in this amendment. He is concerned about the same embargo that would exist in the absence of the amendment.

Because of the extreme technical nature of the bill, it is difficult, sometimes, to determine whether we have anticipated all that we should have anticipated. I realize the Senator from Illinois wants these arrangements to be possible, as does the Senator from Wyoming. If, for any reason, the language of the amendment and the way it dovetails with the other provisions of the bill would indicate some additional language might be necessary, I assume that might possibly be worked out in conference with the other body. Does the Senator from Illinois agree with that general statement and general objective?

Mr. PERCY. Mr. President, it would be my hope that the amendment would stand on its own. I think there is adequate time between now and the time for passage, and I would just prefer to assume, if the Senator from Illinois is not advised to the contrary between now and passage, that this amendment is satisfactory.

Certainly every opportunity is given to fellow Senators who may have objection to make their objections known, but I would hope that if there is such it could be brought to my immediate attention, so that there would be no dispute hereafter.

Mr. McCLURE. Mr. President, I know of no objection. I just know of Senator HANSEN's interest. I know he would be

here on the floor now if he were not committed to the attempt to resolve some of the difficulties with the energy conference.

Mr. PERCY. The Senator from Illinois would feel better if it were possible to send a message to Senator HANSEN that we have this amendment before us, and we are accepting it, taking into account that he has an interest.

Mr. McCLURE. My only concern is that if there is any difficulty with the language, the Senator from Illinois, I am sure, would be as anxious to be sure it is workable as the Senator from Wyoming.

Mr. PERCY. I believe it is workable. I thank the Senator for the interest he has evidenced today.

Mr. President, I yield back the remainder of my time.

Mr. GLENN. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. PERCY. I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. I suggest the absence of a quorum, Mr. President, with time to be divided equally.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Put it on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. In the current parliamentary situation, if I offer an amendment to the amendment which Senator MCCLURE has pending at the present time, when would my amendment be voted on?

The PRESIDING OFFICER. The amendment is not in order under the present agreement until the time has expired, and once it is offered it is not debatable and will have to be voted on immediately.

Mr. GLENN. Mr. President, a further parliamentary inquiry: I presume that there would be no objection or no parliamentary reason why I could not discuss this amendment in advance on my current time with the idea that I would submit it at the appropriate time for consideration by the Senate?

The PRESIDING OFFICER. The Senator has that right.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. GLENN. Certainly.

Mr. McCLURE. I think the Senator is correct if he does it in that manner and I have no objection to it. I was going to agree to a unanimous-consent agreement to change it if necessary, but I think this may accommodate the Senator.

Mr. GLENN. That will be fine and we can stay with the current parliamentary situation. I thank the Senator from Idaho.

UNANIMOUS-CONSENT AGREEMENT ON DOMENICI AMENDMENT

Mr. DOMENICI. Mr. President, might I inquire of the Senator from Ohio if we might attempt a unanimous-consent request with reference to an amendment I will offer merely with reference to the time we would use and the time at which the vote would occur?

I ask unanimous consent that immediately following the disposition of the McClure amendment or any amendment to it that the Domenici amendment be the pending business; that we be allowed 5 minutes equally divided, with a vote to occur immediately thereafter. The vote may be a vote to table or a vote up or down on the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GLENN. Mr. President, it is my intention and the intention of the Senator from Illinois to offer an amendment to the McClure amendment at the appropriate time which does but one thing: It makes the veto not a single-House veto but a two-House veto and thus brings it into harmony with the rest of this bill. The other provisions we have in this bill require a two-House veto, and I see no reason why we should separate out the spent fuel provision.

Mr. McCLURE. Mr. President, will the Senator from Ohio yield—and I apologize for interrupting his presentation—but in the time that remains between now and 4:30, at which time the voting will commence, I ask unanimous consent that the time be equally divided between the Senator from Ohio and the Senator from Idaho.

Mr. GLENN. Well, reserving the right to object, I would like to dispose of my comments on this amendment, and then whatever time is remaining, at that time——

Mr. McCLURE. I think it works in the Senator's favor at this point. I am giving the Senator some of my time.

Mr. GLENN. What is the remaining time?

The PRESIDING OFFICER. The time at present is equally divided 7 minutes on each side.

Mr. McCLURE. Very good.

Mr. GLENN. Very good, that takes care of the problem.

Mr. President, this amendment to the amendment of the Senator from Idaho will provide for a two-House veto as opposed to a single-House veto as proposed by his amendment.

We provide for a two-House veto in other sections of this bill, and this will bring this into harmony with the rest of the bill.

I think we have seen that the two bodies of Congress quite often do go quite separate ways on some of these issues, and I believe it would make us a more assured supplier if my amendment were adopted and I believe it would make the original proposal somewhat more acceptable to the administration.

In informal conversations with members of the administration I believe they would accept this where they are very definitely opposed to the single-House veto as proposed by the Senator from Idaho.

So I would hope that the Senator from Idaho would accept the amendment, and if he saw fit to accept the amendment, I think it would change the complexion of his amendment sufficiently that we would be inclined to, in turn, accept that amendment, where we would otherwise be forced to oppose it.

I would appreciate hearing the views of the Senator from Idaho at this point.

Mr. McCLURE. Mr. President, I rise to oppose the amendment of the Senator from Ohio. We had discussed the possibility of compromising on this formula. If the administration had done what the administration told us they were going to do, by submitting a policy to us for our authorization and approval, it would require the concurrence of both Houses of Congress. To then say they can avoid asking Congress for approval, and instead subject it to a veto, but require both Houses to veto, is to increase the burden of the opponents of that policy, because in order to get approval, it must pass both Houses of Congress.

If either House of Congress were to disagree, the authorization would fail. For it to be suggested, then, that there is some kind of a neat symmetry in requiring a two-House veto seems to me to make the wrong comparison, because the two-House concurrence and the one-House veto are a logical pair; they represent the same actions by Congress. To say a two-House concurence is all right, but it also requires a two-House veto, elevates the initiative of the administration to a plane which it would not otherwise have. It presumes the concurrence of one of the Houses already, without identifying which one.

For that reason, Mr. President, I would have to oppose the amendment of the Senator from Ohio, and again ask the Senate's support for the amendment of the Senator from Idaho, which was adopted by the Senate and by the conference on S. 1811 last year.

The difference from the rest of the bill is that there already will have been an affirmative two-House congressional action by passage of this bill. That is positive two-House concurrence. All I am asking is that whatever action is taken under this proposal be either submitted to Congress for specific approval, or allow either body of Congress to specifically and pointedly reserve their approval, and thereby veto that action.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, the considerations regarding this bill have been many and have been long. We have had a lot of debate, and we have just about 6 minutes left before the voting will occur, with no further discussion to occur

between the vote on my amendment, which I shall propose as soon as all time has elapsed, and the vote on the McClure amendment, as amended by my amendment if that carries; and then we will vote on the Domenici proposal. So we will have three votes in a row. I shall move to table the second amendment at the appropriate time—that is, to table the Domenici amendments. Should this motion not carry, there is a possibility we might have another vote on that one also; hence we have a possibility of four votes remaining today.

There are a number of things we are not doing in this bill. We are not trying to bring down any heavy hand on the nuclear industry in this country. We are, quite on the contrary, I think, by this bill simplifying procedures, by, for example, setting appropriate time limits for all Federal agencies to act in considering export license requests. At the same time we are balancing American business interests with nonproliferation objectives abroad.

Those are the main objectives of the bill, and I think the bill goes a long way in clarifying those issues and opening the situation up for American business to move into what has been a nonexistent market for the last year and a half. It will help our nuclear industry, and at the same time provide a pattern which we hope other nations will follow as we attempt to curb a growing specter of potential nuclear holocaust around the world.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired. The Senator from Idaho has 3 minutes.

Mr. McCLURE. Mr. President, I yield 1½ minutes to the Senator from New Mexico (Mr. DOMENICI).

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment is not in order at this time.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the amendment be in order, subject to the previous agreement with respect to voting thereon.

Mr. McCLURE. Mr. President, if the Senator from New Mexico wishes, he may offer it on my time.

Mr. GLENN. Mr. President, reserving the right to object, this does not change in any way our previous arrangement?

Mr. DOMENICI. Not at all. I just want to be able to refer to the amendment; that is why I submit it at this point.

Mr. GLENN. Before we go to that, Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. Can I call for the yeas and nays in advance on the amendment I will submit as soon as time has expired?

The PRESIDING OFFICER. By unanimous consent.

Mr. GLENN. I ask unanimous consent that it be in order to ask for the yeas and nays on the amendment I shall offer.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. GLENN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Is it the Senator's intention to move to table the Domenici amendment?

Mr. GLENN. Yes, that is my intention.

Mr. DOMENICI. Then, Mr. President, I ask unanimous consent at this time that it be in order to ask for the yeas and nays on the motion of the Senator from Ohio to lay on the table the Domenici amendment, when that is in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, in the remaining time, let me just, in conclusion of this debate, indicate that if the President seriously has a nuclear spent fuel policy which he wishes Congress to adopt, and he could send that to us for authorization. Both Houses of Congress, through their regular proceedings, then would have the opportunity to make amendments, to make modifications, to establish whatever conditions they might wish, and to work their will on it, as well as accepting or rejecting such a proposal.

In sending a proposal to us which is subject to veto, Congress does not have the same right to make modifications. We can only accept or reject it. For that reason, as well as the reason that it requires both Houses, by affirmative action, to approve, and it should not require both Houses, by affirmative action, to reject. The burden of proof, or the level of approval, is different in those cases.

This is an issue that has often been debated. Whereas in the Senate it has been affirmed on most occasions by Senate approval of the one-House veto principle, I hope the Senate will see fit to reject the amendment of the Senator from Ohio and approve the amendment of the Senator from Idaho.

Mr. President, in view of the fact that it will not be in order for the Senator from Ohio to offer a motion to table the amendment of the Senator from Idaho, the Senator from Idaho will not make a motion to table the amendment of the Senator from Ohio. I hope that the Senate, in working its will, will vote directly on both issues.

The PRESIDING OFFICER. All time has expired.

UP AMENDMENT 1209 (TO UP AMENDMENT 1206)

Mr. GLENN. Mr. President, I send to the desk an unprinted amendment and, due to the previous arrangement, ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes unprinted amendment numbered 1209 to unprinted amendment Number 1206.

Strike subparagraph (c)(1)(A) of the amendment and substitute in lieu thereof:

(A)(i) Such commitment of the United States has been submitted to the Congress for a period of sixty days of continuous session (as defined in subsection 130g of this Act) and has been referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such commitment shall not become effective during end of the 60-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the commitment, any such commitment to be considered pursuant to the Procedures set forth in section 130 of this Act for the consideration of Presidential submission; or (ii) If the President has submitted a detailed generic plan for such disposition or storage in the United States to the Congress for a period of sixty days of continuous session (as defined in subsection 130g of this Act), which plan has been referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate and has not been disapproved during such sixty-day period by the adoption of a concurrent resolution stating in substance that Congress does not favor the plan; and the commitment is subject to the terms of an effective plan. Any such plan shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

Mr. DOLE. Mr. President, I would like to comment on the amendment offered by my colleague, the Senator from Idaho. This amendment would require congressional authorization for any plan to store foreign spent fuel in the United States.

Mr. President, I think this amendment will be a most important addition to the Nonproliferation Act. At the present time in this country, we have yet to adopt a comprehensive policy regarding our nuclear future. The decision to slow down our development of the breeder reactor is controversial. The decision to defer reprocessing is controversial. And the decision to influence the rest of the world to do likewise is also controversial.

Moreover, all these fragments of a nuclear policy are very much interrelated. And in the midst of these uncertainties, I question whether now is the time to allow the administration to offer land in the United States as a storage site for fuel from foreign reactors.

RISK AND COSTS ARE UNCERTAIN

It is a fact that some people in this country still perceive enormous risks from the storage of our own domestic fuel. Until this issue is settled, we should at the very least reserve the right to pass judgement on plans to bring foreign fuel into the country for storage.

Aside from the perceived risks associated with spent fuel, the decision to bring it into the country could prove to be enormously expensive.

It is estimated that accepting foreign fuel will add more than $1 billion to the expected cost of storage. I question whether we are yet ready to accept this burden, merely to unburden foreign nations.

ISSUES ARE INTERRELATED

Remember, our own policies will be the cause of the large stocks of spent fuel that will be created in other countries. These stocks will result if other countries follow our lead and forgo reprocessing as we seem determined to do. Should we influence other countries to forgo reprocessing? If we do, should we

then offer to relieve them of the burden that comes from following our lead? Again let me say that our entire policy in this area is uncertain and very controversial.

In light of these uncertainties I feel it is much too early to simply allow the President to offer countries a convenient place to store their spent fuel.

I think the McClure amendment offers a reasonable approach to dealing with this problem. When the time arises, the Congress will have the opportunity to review the facts. If a particular proposal seems consistent with our developing policies, there should be no reason for the Congress to refuse to approve it. But before the specifics are known, it is much too early to give the administration blanket authority to bring spent fuel into the United States for either temporary or permanent storage.

I compliment my colleague from Idaho for introducing this amendment. I think it is a most reasonable approach to the problems at this time and I would urge all my colleagues to give it their full support.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER) and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from South Dakota (Mr. MCGOVERN) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER) would vote "yea".

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Indiana (Mr. LUGAR), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "nay".

The result was announced—yeas 47, nays 44, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—47

Anderson	Hart	Moynihan
Bayh	Haskell	Muskie
Bentsen	Hatfield, Paul G.	Nelson
Bumpers	Hathaway	Pell
Burdick	Hodges	Percy
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Ribicoff
Chafee	Humphrey	Riegle
Chiles	Inouye	Sarbanes
Clark	Kennedy	Sasser
Cranston	Leahy	Sparkman
DeConcini	Long	Stafford
Eagleton	McIntyre	Stennis
Eastland	Mathias	Stevenson
Ford	Matsunaga	Talmadge
Glenn		Williams

NAYS—44

Allen	Byrd, Harry F., Jr.	Danforth
Bartlett	Case	Dole
Bellmon	Church	Domenici
Biden	Curtis	Durkin
Brooke	Griffin	Goldwater
Hansen	Laxalt	Scott
Hatch	McClure	Stevens
Hatfield, Mark O.	Magnuson	Stone
Hayakawa	Melcher	Thurmond
Heinz	Metzenbaum	Tower
Helms	Morgan	Wallop
Jackson	Nunn	Weicker
Javits	Pearson	Young
Johnston	Proxmire	Zorinsky
	Schmitt	
	Schweiker	

NOT VOTING—9

Abourezk	Garn	McGovern
Baker	Gravel	Packwood
Culver	Lugar	Roth

So Mr. GLENN's amendment (UP amendment 1209) to Mr. MCCLURE's amendment (UP amendment 1206) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Idaho, as amended by the amendment of the Senator from Ohio.

Mr. MCCLURE. Mr. President, a parliamentary inquiry. The yeas and nays have been ordered on this amendment.

The PRESIDING OFFICER. The Chair informs the Senator that the yeas and nays apparently have not been ordered on the amendment.

Mr. MCCLURE. Mr. President, they were ordered by the unanimous-consent agreement under which this matter is pending.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1206 (AS AMENDED BY UP AMENDMENT NO. 1209)

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from South Dakota (Mr. MCGOVERN) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Indiana (Mr. LUGAR), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "yea."

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—91

Allen	Hansen	Moynihan
Anderson	Hart	Muskie
Bartlett	Haskell	Nelson
Bayh	Hatch	Nunn
Bellmon	Hatfield, Mark O.	Pearson
Bentsen	Hatfield, Paul G.	Pell
Biden	Hathaway	Percy
Brooke	Hayakawa	Proxmire
Bumpers	Heinz	Randolph
Burdick	Helms	Ribicoff
Byrd, Harry F., Jr.	Hodges	Riegle
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Case	Humphrey	Schmitt
Chafee	Inouye	Schweiker
Chiles	Jackson	Scott
Church	Javits	Sparkman
Clark	Johnston	Stafford
Cranston	Kennedy	Stennis
Curtis	Laxalt	Stevens
Danforth	Leahy	Stevenson
DeConcini	Long	Stone
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McClure	Wallop
Eastland	McIntyre	Weicker
Ford	Melcher	Williams
Glenn	Metzenbaum	Young
Goldwater	Morgan	Zorinsky
Griffin		

NAYS—0

NOT VOTING—9

Abourezk	Garn	McGovern
Baker	Gravel	Packwood
Culver	Lugar	Roth

So Mr. MCCLURE's amendment (No. 1206), as amended, was agreed to.

The PRESIDING OFFICER (Mr. LEAHY). Under the previous order the Senator from New Mexico is recognized to call up an amendment under which there will be 5 minutes of debate, 2½ minutes on each side.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Dick Getzinger of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, could we have order?

The PRESIDING OFFICER. The Senator raises a good point. There is a very short time limit on this debate. The Chair will demand order so that the Senator from New Mexico can be heard.

UP AMENDMENT NO. 1210

Mr. DOMENICI. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and Mr. HELMS, proposes an unprinted amendment numbered 1210.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, line 19, insert the following: a new subsection d.

"d. Notwithstanding any other provision of this Act, once an export license for a

specific peaceful production or utilization facility, or for fuel or components for a facility exported or licensed prior to the enactment of the Nuclear Nonproliferation Act, has been finally approved pursuant to this section, all subsequent export licenses for the same production or utilization facility and fuel for it and licenses for the aforementioned fuel or components shall be approved by the Commission without requiring any further judgments or findings as called for by this section, unless the Commission determines on the basis of information provided by the Secretary of State that there has been a material change in circumstances regarding the recipient nation or the facility which probably would materially affect the prior findings required by this section for the previously approved export license. In the case that the Commission makes such a finding, the export license application or exemption shall be subject to the full provisions of this section: *Provided*, That if the Commission has not made a determination of such a material changed circumstance regarding a specific recipient nation or a specific facility for a period of five years after a license has been approved using the full procedures of this section and thus has not been subject to the full licensing procedures of this section for the five years, the next license for that recipient nation or facility shall be fully considered using procedures of this section."

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from New Mexico is perfectly correct.

May we please have order in the Chamber?

The Chair requests that all Members of the Senate and staff be in order.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this will not take long. I have 2½ minutes and I probably will not even use all of them.

I wish to make it as simple as I can.

I have before me the flow chart that this bill will now require for an export license to be granted, and I am just going to hold it up so that Senators can see it.

The first page and a half is what we use today, and I think if Senators go through it, it is now 10 pages of charts.

I was talking with a Senator who suggested he did not know how he stood on my amendment but he had a nice observation. He said if this chart were not produced by this bill he thinks it would be impossible to invent such a flow chart.

Having said that, let me tell Senators that my amendment leaves the flow chart intact. When Senators vote for this bill tonight that is the flow chart that export licenses are going to follow before they are going to be granted by the Nuclear Regulatory Commission.

What I am trying to do is to say this: A trading partner of the United States does not have to go through this flow chart every time he makes an order from a supplier in the United States.

The way the bill is now each and every time an order is placed an export license will have to be obtained and this process will be followed.

The Senator from Ohio is going to say, "However, we amended the bill on the floor and said that in the discretion of the Nuclear Regulatory Commission they do not have to do this every time."

Well, what my amendment does is to very simply say, "Once you grant it you put as many conditions as you want in it, be as careful as you want," and then thereafter, unless the Nuclear Regulatory Commission finds substantial changes, "a material change of circumstances"—those are the words of art, unless they find that, then for each and every succeeding order they do not require this but rather grant the export license.

For those who might say, therefore, is it a lifetime export license, let me say the discretion is always there for the Nuclear Regulatory Commission in the event of those material changes to require it and, in addition, my amendment says that in all events they will make a full review at least every 5 years.

That is basically my amendment.

You will soon be asked to table my amendment, and I hope you do not do that, because I believe that future trading partners of America already know about this 11-page flow chart, and if they have an option to deal with somebody that has something a little more rational, it appears to me they will deal with them and not us.

Yet I am not going to do away with this. This will be the basic export license format. I just do not want anyone to require it on each and every license for supply for a nuclear reactor during its life, but rather if there are material changes in the circumstances, they do it. If not, they do not have to. They must in any event review each 5 years.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. DOMENICI. I reserve the remainder of my time.

Mr. GLENN. Mr. President, I rise in opposition to the amendment.

The flow chart which the Senator waved around, I might submit, is accurate if a case were to go all the way through the licensing process. But such uses will only be the few most serious ones that could come before the Nuclear Regulatory Commission. These would concern a country about whose nuclear policy we had the most serious doubt. Only in such a case would a license go through all the procedures the Senator points out. In the typical case, however, procedures under the bill will be simpler than under existing law. We have simplified procedures, added deadlines and the like.

If certain countries are unreliable from a proliferation standpoint, they might well go through these additional checks if the Department of State and NRC could not agree on a common policy. And I think they should be looked at. But these complex procedures, including Presidential override and Congressional review would only be used in the most extreme cases. The objective we are searching for here is to maximize U.S. nuclear trade by improving licensing while also advancing nonproliferation objectives.

I would note that we agreed last Thursday to accept one of the McClure amendments, which provided for the Nuclear Regulatory Commission to implement a "no changed circumstance rule" as a matter of discretion. We thought that took care of this problem, but now it has come up again today.

If we put in this lifetime arrangement proposed in the amendment into effect then the NRC is going to be forced to do a much more thorough license review in the first instance; which this, too, can hurt predictability and our ability to sell nuclear reactors around the world. I do not want to see that happen.

I am opposed to this amendment because it would unduly constrain NRC from performing the role we have given it as an independent check on the judgments of the executive branch. The amendment would, in essence, foreclose NRC from doing a full license review unless a preliminary standard had been satisfied—a change in the circumstances surrounding the license when compared to previous exports to the same country. While I would share the view that predictability and consistency are highly desirable in the licensing of exports, I want NRC to be free to question the executive branch at any time on any license if it has serious concerns, without regard to whether there have been major changes in the surrounding circumstances. This freedom is vitally important where exports to sensitive nations are concerned; there should be no impediments here to a full and careful review.

The "changed circumstances" test in this amendment would, in effect, apply to virtually all exports to a given country for a number of years, removing these exports from full licensing review. I think it is clear, however, that there are a number of sensitive countries where we would want to review each export most carefully and for this reason I believe the amendment—which would limit licensing reviews across the board—is not well conceived. Let me note one very important point here: License-by-license review by the NRC can be most helpful to nuclear commerce where these sensitive nations are concerned; if this continuing oversight were lacking, there might be much greater reluctance to entering into nuclear export trade with these nations.

I would also note that for countries which are not of unusual proliferation concern, the licensing process has been working smoothly—delays and uncertainties have been extremely rare for exports to countries like Sweden, Japan, Switzerland, and West Germany. For these countries a mandatory waiver of the procedures and standards set forth in S. 897 is simply not needed. I am, moreover, very reluctant at this late juncture to suddenly and significantly revise the procedures which we have so carefully worked out with the administration and which have already been adopted by the House, 411 to 0. Let me also add that last Thursday we voted an amendment to S. 897 specifically giving NRC the authority to issue licenses upon a finding of no changed circumstances and to issue licenses for groups of exports. I believe this approach strikes the right balance. It is flexible and allows NRC to tailor its procedures to the countries involved. In conferring such au-

thority it was obviously our intention to encourage NRC to move in the direction of more streamlined licensing procedures in appropriate cases; but they will be the judge of when to use these new procedures. I am confident they will do so, and would cite NRC's recently promulgated export licensing procedural regulations as evidence that NRC is indeed concerned about administrative efficiency. As I understand them, these regulations provide that licenses for routine reloads for a previously approved reactor can be issued by the NRC staff and need not come before the Commission, itself, for review.

The Commission has also imposed upon itself new target deadlines for acting on export licenses; these are in keeping with the deadlines adopted in the amendments we passed yesterday and last Thursday. These amendments, I would add, provide a number of additional deadlines for executive branch and NRC actions. To me these various amendments will significantly streamline the licensing process and increase predictability; I do not, therefore, believe the further changes proposed by my colleague are necessary or desirable, and I oppose them.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GLENN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. We had 5 minutes to a side was my understanding.

Mr. DOMENICI. We had 2½ minutes on a side, but I have no objection to the Senator's taking time on the bill.

The PRESIDING OFFICER The journal clerk advises that it is 5 minutes.

Mr. PERCY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. How much time do we have on the bill?

The PRESIDING OFFICER. Thirty minutes on each side.

Mr. GLENN. Mr. President, I ask unanimous consent that the Senator from Illinois be granted 2 minutes.

Mr. DOMENICI. Reserving the right to object—Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Under the time limit as it presently exists can time be used from the bill without unanimous consent by either side?

The PRESIDING OFFICER. Time can be taken off the bill.

Mr. DOMENICI. Even if I were to object, based upon the 5-minute time limitation?

The PRESIDING OFFICER. That is correct. The time limitation under the basic agreement——

Mr. PERCY. I would suggest that certainly we would not object to the Senator's taking time off the bill. We have taken 30 amendments, and this is the first amendment involving licensing procedure that the managers of the bill have objected to, so I do not think it ought to be railroaded through without hearing the arguments.

Mr. DOMENICI. I do not object to that.

The PRESIDING OFFICER. The Chair is advised time can be taken off the bill under the basic agreement at the discretion of—the Senator from Illinois and the Senator from Ohio each had 30 minutes remaining under the basic agreement. There was a time limitation simply on this amendment. On that particular matter the Senator from New Mexico has 30 seconds remaining. Both the Senator from Illinois and the Senator from Ohio have 30 minutes each remaining on the bill itself and the amendments thereto.

Mr. DOMENICI. Mr. President, might I just say to the Senator from Illinois I merely wanted to live up to the commitment that we would expedite the matter. Senators understood that we would vote in 5 minutes. That was the only reason for my inquiry. I have no objection.

Mr. PERCY. Certainly the Senator from Illinois would want to see that there was an adequate chance to respond if I say anything that alarms the distinguished Senator from New Mexico.

I merely feel that this amendment goes really a little farther than we are able to go because it now starts to invade our ability to keep the nonproliferators in charge rather than the nuclear salesmen.

Look at the ludicrous position we would be in as a nation. Right in India today we are negotiating with India at the highest level—the President of the United States has just left India. We are all alarmed that we have a developing country that used technology and know-how from Canada and from the United States under the Atoms for Peace Program to develop a nuclear bomb. This has destabilized the whole condition in the subcontinent. Pakistan is now pressing France to fulfill its commitment to give them a full cycle which would give them by anyone's admission the capability of developing nuclear explosives.

So you have got India, you have got Pakistan; Afghanistan will want it next. Where is the subcontinent going to go? Where is Latin America going to go? Where is the Middle East going to go? That is the whole name of the game, to stop proliferation and this huge danger that we face.

Under the amendment of the Senator from New Mexico the NRC would be required to continue to supply enriched uranium to India. What we have, and what we have admitted from the start, is time. We are the principal suppliers. We have clout, and I think the world expects us to use that clout as a bargaining chip. We want to be able to keep it and, for that reason, the distinguished Senator from New Mexico's amendment would really undercut the policy of this Government to move toward nonproliferation.

Under this amendment, exports would simply have to go out if there were no changed circumstances.

We want changed circumstances in India. We want India to sign the Non-Proliferation Treaty, just as we want South Africa to sign the Non-Proliferation Treaty. Virtually every nation on Earth wants that, and we want to bring about that change through the leverage and the persuasive powers of the United States of America. We do not want to undercut the President in his bargaining power.

The amendment of the Senator from Idaho which we have already accepted has already gone just about as far as anyone who really feels nonproliferation is the essence of what we are trying to accomplish would go. Its language provides that the NRC may, if it makes a positive determination that there are no changed circumstances since a previous similar license, shorten the review of the license. This is within the discretion of the NRC, where it belongs. In addition, it does not create a statutory institutional bias against adequate review. Under the amendment which we have already accepted, the NRC will not be directed or encouraged to do a cursory review of exports. Instead, where they know that a country is adhering to effective nonproliferation controls, they can process the licenses every bit as quickly as they would under the Senator from New Mexico's amendment. However, the committee feels that in those cases where a problem either does or may exist, the assumption will be that a sufficient review will be performed.

We have accepted a large number of compromise amendments from Senator McCLURE. I am very concerned that this amendment would step over the line that we have drawn and jeopardize our nonproliferation objectives.

I simply feel that, with the safety and the safeguards we are attempting to preserve, at this stage we have to say "no" to the nuclear salesmen. We cannot say that a few more dollars in exports are as important to world security and U.S. national interests as to make certain that the United States retains its ability to use every bargaining chip that it has to try to bring into conformity the community of nations to adhere to a policy that most nations on Earth today recognize is wise. We can number on our fingers those nations that are still holdouts and have not conformed to what we consider to be minimum barriers to nuclear proliferation.

For that reason, I vigorously oppose the amendment of the Senator from New Mexico, and will support any motion to table that is made.

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 25 seconds.

Mr. DOMENICI. I ask unanimous consent that my time be extended to 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. First, Mr. President, let me repeat that my amendment in no way changes the new process for the granting of an export license. All of the things provided for on this chart must be accomplished before a license can be granted. If the Senator from Illinois is talking about all these countries that

might come to us wanting to buy, I want everyone to know that I am not changing the conditions that the United States, through the Nuclear Regulatory Commission, can impose on them. They must get a license as prescribed in this law.

All I am saying is that once they have granted that, and they can put all the conditions they want in under this series of protective events that must occur, I am just saying that once that has occurred, that country is entitled to buy the supplies it needs under that license, unless the Nuclear Regulatory Commission finds that there has been a material change in the facts.

From what I can tell, I would welcome——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. I would welcome the Nuclear Regulatory Commission taking whatever time is necessary before it granted that first license to a fragile country. I am not as worried about them as the countries that buy from us regularly, our good trading customers, when we are about to pass a law that will say, "We are passing this law and granting that first license, but for any subsequent sale, we can require that you do this all over again."

I am merely saying I would rather give them some security to remain our partners, and spend our time and resources on the fragile countries before we ever grant the first license.

I reserve the remainder of my time.

Mr. GLENN. Mr. President, I move to lay on the table the amendment of the Senator from New Mexico. The yeas and nays have previously been ordered, as I understand.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from South Dakota (Mr. McGOVERN) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "nay."

The result was announced—yeas 56, nays 36, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—56

Anderson	Hart	Morgan
Bayh	Haskell	Moynihan
Bentsen	Hatfield,	Muskie
Biden	Mark O.	Nelson
Brooke	Hatfield,	Nunn
Bumpers	Paul G.	Pell
Burdick	Hathaway	Percy
Byrd, Robert C.	Hodges	Proxmire
Cannon	Huddleston	Ribicoff
Case	Humphrey	Riegle
Chafee	Inouye	Sarbanes
Church	Jackson	Stafford
Clark	Javits	Stennis
Cranston	Kennedy	Stevenson
DeConcini	Leahy	Stone
Durkin	Magnuson	Talmadge
Eagleton	Matsunaga	Weicker
Eastland	McIntyre	Williams
Ford	Melcher	
Glenn	Metzenbaum	

NAYS—36

Allen	Hatch	Sasser
Bartlett	Hayakawa	Schmitt
Bellmon	Heinz	Schweiker
Byrd,	Helms	Scott
Harry F., Jr.	Hollings	Sparkman
Chiles	Johnston	Stevens
Danforth	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Garn	Mathias	Young
Goldwater	McClure	Zorinsky
Griffin	Pearson	
Hansen	Randolph	

NOT VOTING—8

Abourezk	Curtis	Packwood
Baker	Gravel	Roth
Culver	McGovern	

So the motion to lay on the table was agreed to.

H.R. 7843—APPOINTMENT OF ADDITIONAL DISTRICT AND CIRCUIT JUDGES

Mr. EASTLAND. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7843.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House, which the clerk will state.

The second assistant legislative clerk read as follows:

H.R. 7843, an act to provide for the appointment of additional district and circuit judges, and for other purposes.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice and the Senate will proceed to its immediate consideration.

Mr. EASTLAND. Mr. President, I move that all after the enacting clause of H.R. 7843 be stricken and the text of S. 11 as amended and passed by the Senate be inserted in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EASTLAND. Mr. President, I move that H.R. 7843, as amended, be given its third reading and passed by the Senate.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. JAVITS. Mr. President, may we know what this is about?

The PRESIDING OFFICER. The Senator from New York has requested an explanation of the nature of the bill.

Mr. JAVITS. I would like to know what it is.

The PRESIDING OFFICER. The clerk will state the bill by title.

The second assistant legislative clerk read as follows:

An act to provide for the appointment of additional district and circuit judges, and for other purposes.

Mr. JAVITS. Well, the purpose of the Senator then is not to pass the bill as amended?

Mr. EASTLAND. To amend the House bill and get to conference.

Mr. JAVITS. To appoint conferees, OK.

The PRESIDING OFFICER. Without objection, the bill as amended is passed.

Mr. EASTLAND. Mr. President, I move to reconsider the vote by which the bill was passed and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EASTLAND. Mr. President, I move that the Senate insist on its amendment, request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. LEAHY) appointed Mr. EASTLAND, Mr. KENNEDY, Mr. BAYH, Mr. ROBERT C. BYRD, Mr. DECONCINI, Mr. THURMOND, Mr. SCOTT, and Mr. HATCH conferees on the part of the Senate.

NUCLEAR NONPROLIFERATION ACT OF 1978

The Senate continued with the consideration of S. 897.

Mr. BROOKE addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I shall vote for this bill, but I do have a question I would like to propound to the distinguished floor managers of the bill and that has to do with the economic impact assessment.

I would like to ask the distinguished floor manager, what do the economic impact assessments indicate regarding the effects of this legislation on the U.S. balance of trade and the U.S. employment levels?

I think it would be useful to have an assessment for the present and the future projections.

Mr. GLENN. Mr. President, I am glad to respond to the question of the Senator from Massachusetts.

I think it would be well to note that last year there was only one nuclear reactor sold, in 1976 there was only one nuclear reactor sold by our American producers. There were only four sold by all producers worldwide.

Now, I think that by this bill simplify-

ing the procedures that potential buyers must go through and in providing an international nuclear fuel authority we can sell enriched fuel, along with other nations, and in providing for better control of our whole fuel cycle, goes a long way toward making the nuclear industry more acceptable with their products around the world.

While no one can give a precise answer at this point to the questions of the Senator from Massachusetts, I would anticipate that this would help our industry and not hurt it, because that means jobs in this country.

So the economic impact would be helpful to our industry in this country.

I cannot guarantee that will happen, obviously, but the GAO study will point out some of these things and I think might, perhaps, give a better answer.

I might add that all of this downturn in the American nuclear industry has certainly not been due just to the complexities of dealing with our Nation, because we have had a general worldwide recession in business and the cost of a nuclear generating plant of 1,000-megawatt capacity has gone steadily up and now stands somewhere around the $1.2 billion mark, a commitment nations must make on a long-term basis and a 7- to 10-year basis before the plant is actually built.

Those factors have also been responsible, I think, for a lot of the turndown in nuclear plant production business.

But I would anticipate with the simplification in this bill and the changes the distinguished Senator from Idaho (Mr. McCLURE) put on, that this helps our producers in this country be more competitive than they have been in the past.

Mr. BROOKE. I thank the distinguished floor manager.

Obviously, the producers in this country have suffered, our balance of trade has suffered, U.S. unemployment levels are extremely high. Of course, that has prompted me to propound this question to the Senator.

I would be pleased to have any response that the distinguished Senator from Idaho may have.

Mr. McCLURE. Mr. President, I thank the Senator for yielding, because I think it is premature to know. I think almost anything we would attempt to say is really conjectural, because the real key to the impact upon exports will be not in our judgment of what this bill does, but the judgment of people in other countries. We will have a good opportunity to test that when the Japanese are here, looking at future arrangements, sometime in April, as Ambassador Strauss has stressed. That may be as much as a $2 billion decision, and I think that how that comes out will be some indication of what we can expect.

I believe that the decision of both the Iranians and the Brazilians to seek suppliers in other countries than the United States has been directly attributable, at least in part, to uncertainty about U.S. policy. To the extent that this bill may make that policy more predictable, it should aid. To the extent that it makes the licensing required much more complex, it may detract.

I think the balance in those two things will be the questions that will be asked by foreign governments and by consumers in foreign countries, and their judgment is going to be the determination.

One thing further should be added: This bill will be discussed further in conference, and the Senator's question can better be addressed after we see what kind of action the conference takes between the House and Senate versions of this bill.

Mr. BROOKE. I thank the Senator from Idaho.

Obviously, we do not have a definitive answer to the question. However, as I understand the distinguished Senator from Ohio, it is his opinion that the bill will have a beneficial impact upon production in the United States.

It seems to me, from the response of the Senator from Idaho, that it could have an adverse impact upon the industry. I hope that an industry that already has suffered will not be affected adversely by the passage of this measure.

I thank the distinguished Senator.

UP AMENDMENT NO. 1211

Mr. GLENN. Mr. President, I send to the desk an amendment and ask for its immediate consideration. It will take just a couple of minutes. It has been agreed to on both sides of the aisle.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an amendment, unprinted amendment numbered 1211:

On the amendment on page 118, line 23 after the word "days", delete the period at the end of the line and insert in lieu thereof: ": *Provided, however,* That if in the view of the President an emergency exists due to unforeseen circumstances requiring immediate entry into a subsequent arrangement, such period shall consist of 15 calendar days."

Mr. GLENN. Mr. President, I am submitting this amendment in response to a request from the administration. It provides for quick approval of certain subsequent arrangements when an emergency exists due to unforeseen circumstances.

It involves a situation we discussed with the Senator from Idaho earlier today, in which he had some concerns. In further talk with administration representatives today, they had similar concerns, and we decided to offer this amendment. I believe it has the support of the Senator from Idaho, and I suggest that we have a voice vote.

Mr. McCLURE. Mr. President, I was amazed earlier, when this matter came up, and the Senator was advising us that the administration had no objection to the change to 15 legislative days, because I anticipated that the State Department would raise the alarms which they apparently now have. I understand their concern. I understand the effort of the Senator from Ohio to respond to it.

I think the amendment is responsible, and it goes a long way to removing some of the doubts I had earlier when this matter was discussed.

I, too, support the amendment, and I suggest that it be adopted by voice vote.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, our vote tonight culminates several years of work on the part of many of my colleagues and outstanding work done by members of the staff on both sides.

Overwhelming passage of the nonproliferation bill will put the Senate firmly on record in support of a nuclear export policy that seeks to insure that atomic power is used for peaceful purposes. When the United States sells nuclear fuel abroad, we want to make sure that the fuel and the know-how needed to use it produce energy for peace, not for war.

The nuclear fuel we sell to other nations has the potential of being used to make nuclear bombs. Imagine the consequences of a world with a growing number of nations with the capacity to make nuclear war.

This bill will not impair the ability of the United States to be a reliable nuclear exporter. In fact, it will strengthen the reputation of the United States as a reliable supplier to all nations that adhere to reasonable and sensible guidelines and safeguards. But the rules and safeguards it sets down for nuclear exports will help check the spread of nuclear warmaking capability.

I have worked on this measure for 3 years, and I consider it to be one of the most important bills I have worked on since I came to the Senate, and I think other Senators share that feeling. I can think of nothing more important than a bill that makes our nuclear export policy sound and safe and helps to reduce the atmosphere of terror created by the spread of nuclear weapons.

Mr. GLENN. Mr. President, I associate myself with the remarks of the distinguished Senator from Illinois, who has worked long and hard on this bill. I think it has been 2½ years that we have seen this effort going forward. Senator RIBICOFF, Senator JAVITS, Senator PERCY, and I have played roles in this matter.

As we go down the road and see the spread of nuclear energy around the world, I hope this legislation will play a major role in making that safe and sane benefit spread around the world without the bombs that can go along with it.

Mr. SPARKMAN. Mr. President, in connection with Senate consideration of S. 897, I wish to draw to the attention of my fellow Senators a letter I received, as chairman of the Senate Foreign Relations Committee, from the Honorable Joseph M. Hendrie, Chairman of the Nuclear Regulatory Commission.

Commissioner Hendrie sent a very thoughtful letter in regard to the Commission's role in assessing international safeguards against diversion of nuclear

materials. The adequacy of safeguards is a matter of particular concern now, especially in light of a recent International Atomic Energy Agency report of deficiencies in international safeguards.

The Commissioner made this central point:

The Commission wishes to reiterate that it does not receive sufficient country-specific safeguards information to allow it to make an independent assessment of the adequacy or effectiveness of safeguards implementation in a country for which an export license is being requested. It, therefore, is faced with making such licensing decisions on the basis of other factors noted previously and its general view of safeguards. The Commission's staff has noted its inability on the basis of available information to provide such independent safeguards assessments and has asked for Commission guidance as to the course it should follow in these circumstances. This issue is now before the Commission and clearly encompasses the nature and extent of the independent judgment which the Commission should make with respect to the adequacy of international safeguards before concluding that issuance of a license will not be inimical to the common defense and security of the United States.

Mr. President, I ask unanimous consent that the full text of Mr. Hendrie's letter appear in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPARKMAN. The Department of State was asked to comment on Commissioner Hendrie's letter. I was particularly interested in whether further amendments to the legislation might be advisable. Assistant Secretary of State Douglas J. Bennet, Jr., replied this morning with the recommendation that no further legislative changes are necessary. He said in part:

A further statutory restriction of the NRC role with regard to assessment of the adequacy of international safeguards is not, in our view, necessary since the Executive Branch believes that the independent role of the NRC in the nuclear export licensing process should be maintained. Conversely, broadening the NRC role, for example, to require the NRC to make on-site inspections would seriously undermine the international safeguards inspection system provided by the IAEA and thus, the current basis for worldwide nuclear cooperation.

Mr. President, I ask unanimous consent that Mr. Bennet's letter also appear in the RECORD following my remarks, together with the attached letter to the Senator from Idaho (Mr. CHURCH) from Joseph S. Nye, Deputy to the Under Secretary of State.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPARKMAN. Mr. President, the bill has been amended to provide that this legislation does not judge this issue one way or the other. My personal belief is that any changes in procedures at this time, in regard to the way in which the United States determines the adequacy of safeguards, could serve to undermine the International Atomic Energy Agency. At the same time, however, I believe that it is crucially important that the United States join with other nations to bolster and currently informed of all matters of and compliance with safeguards by all nations. I hope that the executive branch will take particular care to cooperate with the Nuclear Regulatory Commission and to keep the Commission fully and currenly informed of all matters pertinent to the Commission's needs.

EXHIBIT 1

WASHINGTON, D.C.,
February 2, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the past few months, the Commission has been reexamining the role of its assessments of international safeguards against diversion of nuclear materials in our export licensing decisions, particularly in light of a report by the International Atomic Energy Agency (IAEA) stating that deficiencies exist in the implementation of international safeguards.[1] In this connection, staff papers forwarding major export applications for Commission review now note that the staff does not have country-specific information which would permit it to reach an independent conclusion as to the effectiveness of IAEA or EURATOM nuclear material control and accounting safeguards on a country-by-country basis.

While the Commission and other Executive Branch agencies do have knowledge of the overall IAEA safeguards program and some of its deficiencies, no U.S. Government agency, including NRC, has direct access to country-specific IAEA safeguards confidential information as a basis for independent evaluations of the effectiveness of IAEA safeguards implementation on a country-by-country basis. The staff has clearly advised the Commission that, in the absence of country-specific detailed information it is not able to provide such independent evaluations. In this regard, representatives of the Department of State have expressed the view that, for the U.S. Government, either through the Executive Branch or the NRC, to insist now on country-specific inspection reports from the IAEA or alternatively on U.S. on-site inspections would undermine the basic international consensus that has developed around the safeguards system administered by the IAEA. This issue also arose in connection with recent testimony on anti-terrorism legislation before the Senate Governmental Affairs Committee.

In keeping with the Commission's duty to keep your Committee fully and currently informed, the purpose of this letter is to advise you how these matters, in our view, currently relate to our export licensing responsibilities.

In the past, the Commission has relied heavily in its licensing approvals on the fact that the recipient country was committed to accept IAEA or EURATOM safeguards. Recently, however, the IAEA's Special Safeguards Implementation Report (SSIR)[2] indicated that a country's agreement to subject its nuclear activities to IAEA safeguards does not necessarily assure that adequate material control and accounting measures are applied in all cases. It is therefore possible that the NRC could approve the export of nuclear materials to countries in which the IAEA is having implementation problems without the NRC knowing it.

In conducting its assessment, the Commission solicits and carefully considers the views of the Executive Branch on certain matters. These have been detailed in previous statements to the Congress and in formal Commission export license opinions. In summary, they include the purpose of a proposed export, the applicability of an agreement for cooperation containing certain governmental assurances and conditions, the application of International Atomic Energy Agency safeguards, the position of a recipient country on nonproliferation and the development of nuclear explosives for any purpose, and other factors which bear on issuance of a proposed export license.

Another consideration in proposed exports of significant quantities of weapon-usable material, such as highly enriched uranium or plutonium, is the adequacy of a recipient country's physical security measures to protect against theft or sabotage by subnational groups. Conclusions regarding the adequacy of recipient countries' physical security programs are based in part on information obtained from visits by U.S. teams to review countries' overall programs and representative sites and from follow-on exchanges. These teams, comprised of Department of Energy and NRC representatives, conduct visits with the cooperation of recipient countries. It is important to note that the application of physical security against subnational threats is largely considered a sovereign police power and that the IAEA has not been accorded the responsibility in physical security matters that it has for international material control and accounting safeguards.

The IAEA does have, by longstanding international consensus and pursuant to the Nonproliferation Treaty, responsibility for establishing and implementing material control and accounting safeguards to detect and, thereby, to deter national diversion of significant quantities of nuclear material. An element in the IAEA system is the principle of confidentiality, under which certain information concerning safeguards implementation in any given country is not generally made available to other countries.[3] In connection with its safeguards responsibilities, the agency is required to report unremedied noncompliance or violations of safeguards agreements to its Board of Governors, on which the United States has a permanent seat. It should be noted that there have been no such reports.

Since the creation of the IAEA, the U.S. has strongly supported development of an effective IAEA system in order to achieve a uniformly applied international system

[1] "International safeguards" refers to the material control and accounting measures applied by the IAEA, and does not include physical security measures, such as guards and fencing, whereas "domestic safeguards" includes both.

[2] We understand that copies of this report have been provided to you by the Department of State on a confidential basis.

[3] For example, paragraph 5 of the IAEA Information Circular/153, entitled "The Structure and Content of Agreements between the Agency and States required in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons," states that safeguards agreements "should provide that the Agency shall take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of the Agreement. The Agency shall not publish or communicate to any State, organization or person any information obtained by it in connection with the implementation of the Agreement, except that specific information relating to such implementation in the State may be given to the Board of Governors and to such Agency staff members as require such knowledge by reason of their official duties in connection with safeguards, but only to the extent necessary for the Agency to fulfill its responsibilities in implementing the Agreement. Summarized information on *nuclear material* being safeguarded by the Agency under the Agreement may be published upon decision of the Board if the States directly concerned agree."

that can provide assurances about other countries' overall programs. IAEA safeguards represent a long-established and central feature of U.S. nuclear cooperation with foreign countries. Indeed, the nonproliferation legislation now pending before Congress would make the application of IAEA safeguards an immediately applicable export licensing criterion.

The application of safeguards is a fundamental requirement in U.S. nuclear export activities. Other factors and considerations are also taken into account. With respect to the assessment of risks of potential national diversions, for example, relevant information includes any evidence of past or prospective diversion of material by a proposed recipient country. In this regard, we have recently emphasized to the Executive Branch the importance of assuring that all relevant information is brought promptly to the Commission's attention.

The Commission continues to believe that the U.S. should make every reasonable effort to gain better and more timely information on overall international safeguards effectiveness and on any significant safeguards problems in countries receiving U.S. exports. As a related matter, the NRC has strongly supported efforts by the Executive Branch to secure better information from the IAEA on implementation and effectiveness of the overall IAEA safeguards system. This has included efforts to have the Agency report on a periodic basis to the IAEA Board of Governors on how well the Agency's safeguards are operating and to identify, without reference to specific countries, safeguards problems in sufficient detail to permit corrective actions. The issues and recommendations of the first such report, entitled, as noted above, the Special Safeguards Implementation Report (SSIR), were considered by the Board at its September 1977 meeting. The SSIR highlighted deficiencies in a number of countries, which were not identified, in the implementation of IAEA safeguards.

While recognizing the deficiencies, the IAEA Secretariat concluded that, for the period covered by the report, in none of the 41 States in which inspections were carried out was there any diversion of a significant quantity of IAEA safeguarded nuclear material and expressed confidence that in these States there was no diversion at all. The report notes that this conclusion is based on both quantitative analyses and elements of judgment. Although there will always be some room for subjective judgment in evaluating safeguards systems generally, the Commission believes that the effectiveness of the IAEA system can and should be strengthened to minimize the element of subjective judgment.

The Agency's critical review of its safeguards system represents a very significant step in the right direction. It highlights the need for an energetic and constructive program to strengthen IAEA safeguards and, in this regard, it is essential that actions the U.S. takes serve to encourage, and not to inhibit, further candid and critical evaluations by the Agency.

The NRC is also actively involved in several ongoing U.S. efforts to improve both the effectiveness of IAEA safeguards and our knowledge of them. These efforts include not only the U.S. technical support program, but also political support to ensure that the system keeps pace with expanding nuclear programs. We are also engaged in U.S. efforts to establish technical safeguards objectives and to develop internationally-agreed standards for State systems of material control and accountancy.

In this regard, the Commission has actively supported development of a comprehensive action plan, under the auspices of the Interagency Steering Group on International Safeguards, for upgrading international safeguards. By bringing together a variety of U.S. activities, the plan is being designed not only to address the deficiencies identified in the SSIR but also assure that the U.S. Government is informed of significant safeguards problems. The ability and time required to introduce certain improvements in safeguards performance are, of course, subjects of considerable uncertainty at this time. It will take time and difficult negotiations to achieve many of the objectives in the plan. In the meantime, we are discussing with the Department of State ways in which we might improve the exercise of our responsibilities.

The Commission wishes to reiterate that it does not receive sufficient country-specific safeguards information to allow it to make an independent assessment of the adequacy or effectiveness of safeguards implementation in a country for which an export license is being requested. It, therefore, is faced with making such licensing decisions on the basis of other factors noted previously and its general view of safeguards. The Commission's staff has noted its inability on the basis of available information to provide such independent safeguards assessments and has asked for Commission guidance as to the course it should follow in these circumstances. This issue is now before the Commission and clearly encompasses the nature and extent of the independent judgment which the Commission should make with respect to the adequacy of international safeguards before concluding that issuance of a license will not be inimical to the common defense and security of the United States.

We trust that this information, which has also been forwarded to other cognizant Congressional committees, will clarify the role of NRC in nuclear export deliberations. We are ready to amplify any of these matters with you or members of your staff at any time.

Sincerely,

JOSEPH M. HENDRIE,
Chairman.

EXHIBIT 2

WASHINGTON, D.C., *February 7, 1978.*

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: In response to a request by your staff, we are pleased to convey our comments on a recent letter you received, dated February 2, from Joseph Hendrie, Chairman of the Nuclear Regulatory Commission, on the subject of international safeguards assessments. Specifically, the Committee staff wished to know whether, based on the information in the letter, the Executive Branch believes that further amendment of S. 897, the Nuclear Non-Proliferation Act, is needed.

As indicated in the Chairman's letter, the purpose of his communication is to ensure that the major Committees of the Congress concerned with US non-proliferation policy and nuclear export policy and those Committees responsible for oversight of the Commission's activity are fully aware of and are in agreement with the current basis upon which the Commission exercises its export licensing responsibilities with regard to international safeguards.

In commenting on this, we would first note that the Executive Branch has a responsibility to make a judgment on the adequacy of safeguards as part of its overall recommendation to the Commission on nuclear exports. In addition to this judgment, the recommendation by the Executive Branch necessarily takes into account the overall relationships between the US and the recipient state and the specific international and bilateral assurances provided by the recipient state to ensure further that US nuclear exports will not be used for military or nuclear explosive purposes. It is the position of the Executive Branch that a judgment as to the adequacy of safeguards implementation is part of the NRC's responsibility to make an overall determination as to whether US exports are inimical to the common defense and security of the US.

The current basis for this judgment, by both the Executive Branch and the NRC, is the information and assessments available to the Executive Branch. This includes information obtained through technical safeguards documents, reports by the Director General of the International Atomic Energy Agency (IAEA) to the Agency Board of Governors, and other country-specific information available to the Executive Branch in determining that a specific export will or will not be inimical to the national interest. This information has been and will continue to be made available to the NRC by the Executive Branch. We believe this is the proper basis for such judgments.

A further statutory restriction of the NRC role with regard to assessment of the adequacy of international safeguards is not, in our view, necessary since the Executive Branch believes that the independent role of the NRC in the nuclear export licensing process should be maintained. Conversely, broadening the NRC role, for example, to require the NRC to make on-site inspections would seriously undermine the international safeguards inspection system provided by the IAEA and thus, the current basis for worldwide nuclear cooperation. A detailed discussion of our concerns in this regard was provided in the February 4 letter from Joe Nye to Senator Church on this subject and is enclosed.

In view of the above, we strongly recommend that the current basis for independent NRC judgments be maintained. We do not believe that any legislative changes are necessary to further define the NRC role and would oppose any amendments that would attempt to further limit the role of the NRC or, alternatively, that would expand the role of the NRC.

We hope that these comments will be helpful to you in your consideration of S. 897.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Enclosure.

WASHINGTON, D.C.,
February 4, 1978.

Hon. FRANK CHURCH,
U.S. Senate.

DEAR SENATOR CHURCH: Thank you for your letter of January 30, regarding Commissioner Kennedy's concerns about the NRC's inability to assess independently the adequacy of IAEA safeguards.

While I share many of his concerns, I believe that the NRC, in exercising its statutory responsibilities to make assessments as to the inimicality of U.S. nuclear exports, has a responsibility to make an independent judgment as to the adequacy of safeguards implementation. This judgment, however, should be based primarily on information and assessments from the Executive Branch and should in no way undermine the role of IAEA.

The United States was the leading force behind the establishment of the IAEA as the international instrument for implementation of technical safeguards. We recognized that we needed a combination of political assurances and technical safeguards if we and other states were to be assured that peaceful nuclear cooperation would not lead to proliferation of nuclear weapons. At the same

time, we recognized that the on-site inspections required to implement technical safeguards could be interpreted by many states as an infringement of sovereignty if carried out by another state. For this reason, and because of the need to avoid a multiplicity of safeguards systems and to apply safeguards uniformly when other states entered the market as suppliers of nuclear fuel and technology, it was the judgment of the U.S. that the only viable long-term solution was for the IAEA to establish and administer safeguards. I believe that this judgment remains valid. The international community is now fundamentally committed, through the NPT and trilateral supply agreements, to IAEA safeguards, and the Agency has established a reputation for integrity and technical expertise.

Reliance on an international safeguards system does, of course, represent a trade-off. Instead of ascertaining for ourselves, through a direct bilateral approach, that technical safeguards are effectively applied, we must rely primarily on a multilateral mechanism, and we do not have direct access to the confidential information obtained by Agency inspectors. The Executive Branch and the NRC are, therefore, not able to obtain access on a country-by-country basis to the raw data on which the IAEA bases its safeguards conclusions. For the US Government, either through the Executive Branch or the NRC, to insist now on country-specific inspection reports from the Agency or alternatively on US on-site inspection would undermine the basic international consensus that has developed around the safeguards system administered by the IAEA. This would be inconsistent with the existing international framework. It is our judgment that the international safeguards system can best achieve our objective of deterring the diversion of nuclear material for non-peaceful purposes.

Having determined that US objectives can best be met through an international safeguards system, we have an obligation to ensure that this system is effective, and is improved and expanded to keep pace with technological developments and the growth of nuclear power. We must also rely upon the overall relationship between the US and recipient countries and the specific assurances they give us to further ensure that US nuclear exports will not be used for military and/or explosive purposes. The information obtained through technical safeguards documents, reports by the Director General to the Board, and through other information available to us is used by the Executive Branch in determining that a specific export will or will not be inimical to the national interest. Any information available to the Executive Branch that indicates that IAEA safeguards have been applied inadequately has been and will continue to be made available to the NRC and will be used in formulation of Executive Branch recommendations on export license approvals.

I do not share the view expressed by some that once we transfer US safeguards arrangements to the IAEA we relinquish any right to questions whether or not they satisfy US safeguards requirements or that the US is "blindly accepting" the adequacy of international safeguards. As noted above, besides the information made available formally by the IAEA, we have substantial data on which to judge whether diversion of material for non-peaceful purposes has occurred or is likely to occur. These assessments are not made on an ad hoc or intuitive basis.

The US has been and continues to be in the lead in promoting universal acceptance of IAEA safeguards and of improvements in the system. We have increased technical support for the Agency to a proposed $5 million in 1978. In addition, the US has played a lead role in pressing the IAEA to adopt tighter safeguards criteria, and the IAEA is in the process of adopting more stringent standards on taking physical inventories, accounting for material, and improved containment and surveillance procedures. In addition to establishing criteria against which effectiveness is to be judged, we need to assess the existing system againt these criteria. The Special Safeguards Implementation Report (SSIR) was prepared by the IAEA Secretariat with the strong support of the US and attempts to objectively assess the effectiveness of the existing system. The SSIR for the first time provides a basis upon which to identify practices needing correction and it offers an important opportunity for general improvement of the Agency safeguards system. As a parallel effort, the Executive Branch, with NRC participation, is now working on an action plan, the first stages of which are already being implemented, to help solve existing problems and to consolidate and coordinate US actions in support of effective IAEA safeguards. The main features of this action plan are:

To promote adequate and regularized information flow related to the application of Agency safeguards including more detailed technical information on the nature of deficiencies identified in the SSIR and on the status of corrective actions recommends in prior documents of the Board of Governors;

To provide US technical support to the Agency which includes improvements in equipment and techniques, safeguards research and development and inspector training;

To seek broad-based support among Agency members for specific goals for safeguards effectiveness and promote improvements in the effective application of Agency safeguards to meet these goals; and

To encourage and to provide technical assistance to the Agency and states to take necessary steps in order to correct deficiencies in state systems of accounting and control.

The Executive Branch does not propose to eliminate any NRC safeguards review as part of its overall inimicality determination or relegate the Commission to rubber-stamping license recommendations. Rather, I believe that, considering the above factors, the NRC can make a judgment on the adequacy of safeguards abroad based on information and assessment provided by the Executive Branch. On the other hand, as pointed out above, to carry this independent decision process too far e.g. to require bilateral on-site inspections) is not needed and, in my view, would seriously undermine the international safegards system.

I hope that these comments will be helpful to you in your consideration of S. 897.

Sincerely,

JOSEPH S. NYE,
Deputy to the Under Secretary.

Mr. THURMOND. Mr. President, on October 18, 1977, I wrote to Senator GLENN outlining concerns which I had with possible implications that sections 104, 105, 202, and 303(b)(3) of S. 897 might have for the Barnwell Nuclear Fuel Reprocessing Plant in South Carolina. His response to my concerns was satisfactory, and I ask unanimous consent that my letter and Senator GLENN's response to be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 18, 1977.

Senator JOHN GLENN,
Chairman, Subcommittee on Energy, Nuclear Proliferation Planning and Federal Services, Senate Committee on Governmental Affairs, Washington, D.C.

DEAR JOHN: I am writing to request that several outstanding issues relating to the implications that S. 897, the "Nuclear Non-Proliferation Act of 1977," and the impact take place under conditions that will ensure that passage of the Act might have on the Barnwell Nuclear Fuel Plant in South Carolina, be clarified in the Senate-House Conference Report on the respective non-proliferation bills. If this clarification is guaranteed with regard to Barnwell, I will withdraw my current hold on S. 897 for consideration by the full Senate.

The clarification I am seeking to the Foreign Relations Committee version of the bill is as follows:

First, Section 104 advocates international or multinational approaches for meeting future worldwide nuclear fuel needs. Under this Section, "the President is authorized and urged" to seek binding international undertakings providing for the establishment of an international nuclear fuel authority (INFA) for providing agreed upon fuel services. Nuclear fuel services is defined in the Committee Report on S. 897 to include enrichment, fuel fabrication and reprocessing. With this in mind, the Conference Report should stress that Section 104(a) provides for "devising feasible and environmentally sound approaches for the siting, development, and management under effective international auspices of facilities for the provision of nuclear fuel services and the storage of special nuclear material which is sensitive from the standpoint of preventing the proliferation of nuclear explosive devices."

This language is taken directly from Section 104(a) subsection (3) as reported out by the Energy and Natural Resources Committee. This language in the Conference Report would provide latitude for enrichment and reprocessing facilities if they are established and operated on an internationally acceptable and agreed-upon basis, such as regional fuel cycle centers.

Second, Section 105 calls for an international nuclear fuel cycle evaluation and, in the context of this evaluation, a re-evaluation of all aspects of the nuclear fuel cycle, with emphasis on alternatives to the separation of pure plutonium. The Conference Report should clarify that this study should also focus on such proliferation resistant variations of reprocessing as coprocessing and blending.

Third, Section 202 directs the Department of Energy and the Nuclear Regulatory Commission to establish and operate a safeguards and physical security training program available to other nations. The program would include advanced safeguards and physical security techniques and technology consistent with national security interests of the United States. The Conference Report should direct that consideration be given to use of existing domestic fuel cycle facilities for this purpose, such as the Barnwell Nuclear Fuel Plant, and recognize the fact that the International Atomic Energy Agency (IAEA) has expressed an interest in using the Barnwell Plant as a safeguards training center. It is contemplated that part of the FY '78 fuel cycle R&D programs at Barnwell will use the plant and staff to study such proliferation resistant measures as coprocessing and blending. Such measures may result in the establishment of a reprocessing procedure which would give the sort of "timely warning" discussed in Section 303. I understand that difficulty in quantifying "timely warning" has been one of the most serious deficiencies in drafting a meaningful non-proliferation policy.

Finally, Section 403(b)(1) calls for the President to take immediate and vigorous steps to seek international agreements whereby, among other things: "No source reprocessing in a facility 'which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of this Act" unless he is satisfied that such reprocessing will not result in a significant increase in the risk of proliferation. Among other factors, "foremost consideration" is to be given to whether such reprocessing will

"timely warning". Depending upon the meaning given to the phrase "timely warning", if a foreign Country entering into any such subsequent arrangement with the United States should insist, as seems probable, on a reciprocal provision applicable to the United States, then the result of such provision might be to place a reprocessing monopoly in foreign hands to the exclusion of Barnwell or any other U.S. reprocessing facility. In this regard, while 303(b) (3) provides that the Secretary of Energy "shall attempt to ensure" that the conditions of 303 (b) (2) are more applicable to existing facilities, he is not required to do so. Section 303(b) (2) could thus prove to be a detrimental provision to the use of Barnwell by the U.S.

I request that the Conference Report clarify the intent of this Section to prevent the prospect of a foreign reprocessing monopoly and prevent the adoption of a provision that could foreclose the future use of the Barnwell facility as a means of strengthening our non-proliferation policies.

If the above clarifications are agreed for inclusion in the Conference Report, we will not foreclose on future uses of the Barnwell Facility which the Congress has already directed the Administration to evaluate as part of the Fiscal Year 1978 Appropriation and Authorization Legislation.

With kindest personal regards and best wishes,

Sincerely,

STROM THURMOND.

U.S. SENATE,
Washington, D.C., October 28, 1977.

Hon. STROM THURMOND,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR STROM: I appreciate the concerns you have expressed in your letter of October 18, 1977 on the subject of S. 897, the Nuclear Nonproliferation Act. I believe those concerns are well-founded and I am glad to accommodate them through colloquy on the floor in accordance with the agreements between our staffs. In particular, on section 104, our colloquy could say that the creation of INFA involves devising feasible and environmentally sound approaches for the siting, development, and management under effective international auspices of facilities for the provisions of nuclear fuel services and the storage of spent nuclear fuel.

Second, in discussing the reevaluation of the nuclear fuel cycle in section 105, our colloquy could say that the reevaluation should consider coprocessing and blending.

Third, our colloquy could also say that in section 202, which deals with the establishment and operation of a program to train people from other countries on safeguards and physical scurity procedures, that the Department of Energy should consider using existing facilities for such a program.

Finally, section 303(b)(3) is certainly not intended to place a reprocessing monopoly in foreign hands and that should certainly be made clear in colloquy on the floor.

I would leave it to our staffs to work out whatever details are needed to put the colloquy together and trust that we are now in agreement on those aspects of the bill in which you expressed concern. If so, in accordance with the statement in the first paragraph of your letter, I hope you will withdraw your current hold on S. 897. With best personal regards,

Sincerely,

JOHN GLENN.

Mr. KENNEDY. Mr. President, I am pleased to be a cosponsor of S. 897, the Nuclear Nonproliferation Act. This landmark legislation represents a comprehensive statement of the conditions under which the United States will engage in peaceful nuclear cooperation. It recognizes the need for more comprehensive and effective international safeguards over nuclear materials that are supplied, as well as the importance of constraints against the transfer of materials and technology which can contribute directly to the spread of nuclear weapons capabilities.

At the same time as more effective controls are established, it is essential to provide more credible assurances of nonsensitive nuclear fuel supply to those consumers who accept our nonproliferation conditions. S. 897 recognizes this by initiating a program for nuclear fuel assurances and by making the nuclear licensing process more efficient and predictable.

Mr. President, in testimony before the Committee on Energy and Natural Resources, Deputy to the Under Secretary of State Joseph S. Nye stated that:

> The Administration considers it a matter of utmost importance that sound non-proliferation legislation be enacted this year.

I congratulate the floor managers and the members of the Governmental Affairs, Foreign Relations, and Energy Committees—for developing this comprehensive approach to nonproliferation policy, which has met with the strong support of the President as well as those advocating effective U.S. initiatives in this critical field.

Mr. BELLMON. Mr. President, the proposal before this body would attempt to reduce the spread of the nuclear arsenal internationally. Apparently the thinking behind this worthy proposal is that action by the United States can effectively halt the proliferation of these horrible weapons.

The time has long since passed when the United States unilaterally controlled the use of the atom. Despite—and perhaps in spite of—which policy President Carter chooses, other nuclear powers will continue to export their nuclear technology. This problem will not be rectified by a passive role on the part of this Nation. The United States must assume an active role.

The export of nuclear technology for research, for medical treatment and for electrical generation is inevitable, but the export of nuclear weapons capability is not inevitable.

With proper controls, sanctions and safeguards, the atom can be destined for peaceful purposes as more of its secrets become known to a more diverse portion of the world. It is necessary for the United States to be in a position to insure those controls, sanctions and safeguards are adequate. This Nation cannot assume that leadership position if she excludes herself from the international community engaged in nuclear commerce.

The Nuclear Nonproliferation Act of 1977 as reported out of committee appears to be designed to take the United States out of international nuclear commerce. A regulatory and licensing maze far more complex than the one now crippling our domestic nuclear power industry would be imposed on nations seeking business with us.

The United States cannot help to shape the international nuclear community's protocol if the Nation is not a member of its commerce. The United States must declare that nonproliferation is an international goal and must act positively in concert with other nuclear supplier nations to develop the necessary controls, sanctions, and safeguards for nuclear commerce.

A number of amendments which have been proposed by the Senators from Idaho, Kansas and New Mexico (Senator MCCLURE, Senator DOLE and Senator DOMENICI) are designed to eliminate the unnecessary regulatory maze. These amendments have been accepted so this bill can then be viewed as the expression of this Nation's desire to actively cooperate in an international effort to limit the spread of nuclear weapons.

As the bill now stands its amended form, it deserves our support. I plan to vote for this proposal because I abhor the growth of the nuclear arsenal around the world.

Mr. MOYNIHAN. Mr. President, it is with some reluctance that I offer a few observations about the nuclear nonproliferation legislation that is before the body. The history of this legislation testifies to its complexity and to its subtlety for, as we know, we have before us the product of three committees which have, in turn, worked closely with many agencies of the executive branch. And together with my other colleagues, I have been impressed by the presentation of those among us who have acquired a mastery of this difficult subject—Senators GLENN, PERCY, RIBICOFF, MCCLURE, CHURCH, and others. I, for one, have profited much from their diligence.

I wish to add only that I have had the opportunity to watch American nonproliferation policy from the "business end." Having served as Ambassador in India and as Permanent Representative to the United Nations, I have from time to time noted that the policy conceived and executed at home may not necessarily produce its intended effects abroad. In the matter on nonproliferation, for example, it happened that the Indian nuclear explosion occurred when I represented this country in New Delhi. If there remains a controversy as to whether the Indian explosion involved a breach of an agreement with the United States, there can be no controversy over the fact that we need less ambiguous, more precise, bilateral arrangements regarding the transfer of U.S. nuclear materials.

Indeed, it is this point which illuminates the important question: What exactly, is the continuing responsibility of the United States in the fate and future use of nuclear materials of U.S. origin? Here again, I would return to my experience with international organizations in general, and raise this question: How much of our responsibility in this can we, with prudence, yield up to any international organization?

I myself feel inclined toward the view that it would be unwise to weaken the capability of U.S. agencies to carry out monitoring functions as they relate to activities overseas. And if the issue is posed so as to ask whether our own regulatory agencies should be poised to

look over the shoulder of the International Atomic Energy Agency, I should respond in the affirmative. I say this not in denigration of the International Atomic Energy Agency, but rather because of one tendency I have observed, namely, the reluctance of this Government to interfere once a problem has fallen to one or another of the international bureaucracies. Whether this reluctance is wholly bureaucratic, or whether it grows out of a lack of conviction, the result is often the same.

It is my impression, further, that the Congress has never intended that the matter of controlling U.S. nuclear materials once they leave our actual control should fall exclusively or even principally to agencies outside our control. But, be this as it may, I should hope that we would not weaken our own capability. Of course, I well understand the need to maintain a reliable and sensible international mechanism for nuclear fuels. And, of course, the position of the United States in that market ought to be protected. But at some point we must choose, and I believe that the weight of the argument rests with those who wish to see the United States pursue a more assertive, less passive policy in these matters.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. McCLURE. Mr. President, will the Senator yield for 30 seconds?

Mr. GLENN. I yield.

Mr. McCLURE. Mr. President, I do not mean to belabor this, but at the beginning of the debate I made certain comments concerning the staff of the committee, both the majority and the minority. I did not at that time give any credit at all to the minority staff on the Energy Committee. Mr. Chuck Trabandt has been absolutely invaluable at all stages of the proceedings, and I would not want us to close the debate and vote on the measure without saying this for the RECORD.

Mr. GLENN. Mr. President, we are all aware that the staffs have done an outstanding job. It is a complex bill, and the staffs have been outstanding in the work they have done.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 8638; that the text of S. 897, as amended, be substituted for the text of H.R. 8638; and that the Senate then proceed immediately to final passage of H.R. 8638, as amended by S. 897.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. GLENN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

(Mr. MATSUNAGA assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Alaska (Mr. GRAVEL), and the Senator from Indiana (Mr. BAYH) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from South Dakota (Mr. McGOVERN) is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), and the Senator from Iowa (Mr. CULVER) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "yea."

The result was announced—yeas 88, nays 3, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—88

Allen	Hansen	Morgan
Anderson	Hart	Moynihan
Bartlett	Haskell	Muskie
Bellmon	Hatch	Nelson
Bentsen	Hatfield, Mark O.	Nunn
Biden	Hatfield, Paul G.	Pearson
Brooke	Hathaway	Pell
Bumpers	Hayakawa	Percy
Burdick	Heinz	Proxmire
Byrd, Harry F., Jr.	Hodges	Randolph
Byrd, Robert C.	Hollings	Ribicoff
Cannon	Huddleston	Riegle
Case	Humphrey	Sarbanes
Chafee	Inouye	Sasser
Chiles	Jackson	Schmitt
Church	Javits	Schweiker
Clark	Johnston	Sparkman
Cranston	Kennedy	Stafford
Danforth	Laxalt	Stennis
DeConcini	Leahy	Stevens
Dole	Long	Stevenson
Domenici	Lugar	Stone
Durkin	Magnuson	Talmadge
Eagleton	Mathias	Tower
Eastland	Matsunaga	Wallop
Ford	McClure	Weicker
Garn	McIntyre	Williams
Glenn	Melcher	Young
Goldwater	Metzenbaum	Zorinsky
Griffin		

NAYS—3

Helms	Scott	Thurmond

NOT VOTING—9

Abourezk	Culver	McGovern
Baker	Curtis	Packwood
Bayh	Gravel	Roth

So the bill (H.R. 8638), as amended, was passed.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I move that the Senate insist on its amendments and ask for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. SPARKMAN, Mr. PELL, Mr. CHURCH, Mr. RIBICOFF, Mr. GLENN, Mr. MUSKIE, Mr. JACKSON, Mr. CASE, Mr. JAVITS, Mr. PERCY, Mr. MATHIAS, and Mr. McCLURE conferees on the part of the Senate.

Mr. GLENN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to H.R. 8638.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that consideration of S. 897 be indefinitely postponed, since we are amending the House bill which we are sending back.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I want to state that an agreement was worked out among the sponsors of the legislation, Senator McCLURE, and the chairman of the Energy, Foreign Relations, and Governmental Affairs Committees to the effect that on the conference on this bill the Energy Committee would have two conferees on the conference for consideration of all matter in dispute with the House. This was our agreement even though S. 897 was referred to the Energy Committee for consideration of only a limited number of the bill's provisions. I would like it to appear in the RECORD that as part of this agreement it was understood that the appointment of Energy Committee conferees for consideration of the entire bill would not be considered precedent for Energy Committee jurisdiction over the subject matter of the entire bill or, for that matter, jurisdiction over any subject in the bill not contained in the provisions of the bill which were considered by the Energy Committee under the original referral of S. 897.

Mr. PERCY. Mr. President, if the Senator will yield, I would like to concur with the distinguished Senator on that. We have discussed that with the members of the Energy Committee, and they are in conformity and in support of this position.

Mr. GLENN. That is correct.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, the Senate has taken a major step forward toward a solution of one of the

gravest problems facing us today—the rapidly increasing proliferation of nuclear weaponry. We are all well aware that the uncontrolled spread of nuclear energy may one day lead to an outcome that is too terrible to imagine. At the same time, if peacefully used, nuclear energy offers the possibility of providing an answer to our ever-diminishing supplies of conventional energy sources.

The problem that we, as a nation, face is to insure the opportunity for continued peaceful development of nuclear energy while avoiding the dangers of its misuse.

The Nuclear Non-Proliferation Act of 1978 represents a comprehensive and sound effort to control the proliferation of nuclear weapons while maintaining the United States as a reliable nuclear supplier to other nations. It stands for continued peaceful development of the atom as an alternative energy source.

Mr. President, three Senate committees considered and reported on this major bill. I commend the chairman of those committees, Chairman SPARKMAN of the Foreign Relations Committee, Chairman RIBICOFF of the Governmental Affairs Committee, and Chairman JACKSON of the Energy and Natural Resources Committee for their assistance in facilitating Senate consideration of the measure.

Also I particularly thank the managers of the bill, Senator GLENN and Senator PERCY, who have labored long and diligently to bring it's consideration to a final conclusion.

Many other Members of the Senate contributed to the improvement of the measure we have just passed but I wish to make specific reference to the assistance of Senators MCCLURE and CHURCH. Their contributions were many and of value. The Members of this body have, once again, demonstrated their diligence and their devotion to their duties as evidenced by the passage of this extremely complex and comprehensive bill.

CONFERENCE REPORT ON ENDANGERED WILDERNESS ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield? I ask unanimous consent that it be in order at this time to order the yeas and nays on the adoption of the conference report on H.R. 3454.

Mr. STEVENS. Reserving the right to object, Mr. President, is that the Endangered American Wilderness Act of 1978?

Mr. ROBERT C. BYRD. Yes. I would anticipate, may I say to the distinguished Senator from Alaska, that the vote would occur tomorrow at 12 noon, but if we can order the yeas and nays it would save us some time tomorrow.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. CHURCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Idaho yield?

Mr. CHURCH. I would be happy to yield.

ORDER FOR VOTE TO OCCUR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the conference report which Mr. CHURCH is about to present to the Senate occur tomorrow at the hour of 12 noon or at the conclusion of the orders for the recognition of Senators, whichever is the later.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR EXECUTIVE SESSION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order calling for the going into executive session at 12 noon be modified to the extent that immediately after the rollcall vote on the adoption of the conference report, the Senate go into executive session to consider the first treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I yield to the distinguished Senator from California.

SENATE RESOLUTION 394—RESOLUTION TO COMMEMORATE THE DIAMOND JUBILEE OF THE COMMONWEALTH CLUB OF CALIFORNIA

Mr. HAYAKAWA. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 394) to commemorate the diamond jubilee of the Commonwealth Club of California.

Mr. ROBERT C. BYRD. Mr. President, since this is a matter not material to this side of the aisle, there is no objection.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the resolution.

Mr. HAYAKAWA. Mr. President, this resolution, which is to commemorate the 75th anniversary of the foundation of the Commonwealth Club of California, is cosponsored by the following Senators: Mr. PERCY, Mr. BAKER, Mr. CRANSTON, Mr. LAXALT, Mr. GOLDWATER, Mr. MARK O. HATFIELD, Mr. THURMOND, Mr. DOLE, Mr. CHURCH, Mr. MUSKIE, Mr. KENNEDY, Mr. JAVITS, Mr. STEVENS, and Mr. TOWER. Each of these Senators have spoken at this distinguished forum of opinion in California.

For 75 years, the Commonwealth Club has presented public issues to the people of California, and has organized study groups on special problems and topics of importance, such as crime, education, water problems, and so on. Its influence on public opinion to California and the west coast has been most distinguished.

I have cleared this resolution with the members of the Committee on Rules and Administration, and, as I understand, there is no objection to it. This is, as I say, a resolution commending the Commonwealth Club on its 75th anniversary.

Mr. PERCY. Mr. President, will the Senator yield for a brief comment?

Mr. HAYAKAWA. Yes.

Mr. PERCY. I commend our distinguished colleague on his resolution. I am proud to be a cosponsor of it. I have appeared before the Commonwealth Club a number of times.

There are many distinguished platforms in the State of Illinois, but taking the country as a whole, there are very few as distinguished as the Commonwealth Club of California, and I commend the Senator for paying tribute to them at this time on the floor of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the Commonwealth Club has provided a platform for many distinguished national and international speakers over the last seventy-five years for the purpose of timely and comprehensive debate on major issues;

Whereas the Commonwealth Club affords a variety of study sections to analyze and make recommendations on topics of importance in order to make them available to legislatures and libraries all over the world;

Whereas the membership of the Commonwealth Club comprises 14,000 members throughout the world whose concern for national and international affairs parallels that of its speakers;

Whereas the membership of the Commonwealth Club has made the results of its views and comments widely known to achieve better public understanding of the significant issues of our time: Now, therefore, be it

Resolved That the Senate of the United States commemorate the Commonwealth Club of California on its Diamond Jubilee.

Sec. 2. The Secretary of the Senate is authorized to transmit a copy of this resolution to the Commonwealth Club of California.

Mr. STEVENS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. STEVENS. If the Senator from Idaho will yield, I am sure the Senator from Idaho and I will be happy to join the Senator from California in celebrating its bicentennial when the time is appropriate.

Mr. CHURCH. Mr. President, has the resolution been acted upon?

The PRESIDING OFFICER. The resolution has been considered and agreed to.

Mr. CHURCH. I now yield to the able Senator from Colorado.

AUTHORIZATION FOR FINANCIAL ASSISTANCE TO LIMIT RADIATION EXPOSURE FROM URANIUM MILL TAILINGS USED FOR CONSTRUCTION

Mr. HASKELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 266.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 266) entitled "An Act to amend Public Law 92–314 to authorize appropriations to the Energy Research and Development Administration for financial assistance to limit radiation exposure from uranium mill tailings used for construction, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

APPROPRIATIONS AUTHORIZATION

SECTION 1. In addition to amounts otherwise authorized to be appropriated and appropriated, there is authorized to be appropriated, for the fiscal year 1979, $1,500,000 to carry out the provisions of title II of the Act of June 16, 1972 (Public Law 92–314; 86 Stat. 226).

AMENDMENTS TO PROGRAM PROVIDING REMEDIAL ACTION REGARDING URANIUM MILL TAILINGS

SEC. 2. (a) Section 202 of the Act of June 16, 1972, is amended—

(1) in subsection (b), by striking out "four years" and inserting in lieu thereof "eight years"; and

(2) by striking out "and" at the end of subsection (f), by striking out the colon at the end of subsection (g) and inserting a semicolon in lieu thereof, and by inserting after subsection (g) the following new subsections:

"(h) that, notwithstanding any requirement under subsection (b) or (c) of this section, payment for any remedial action commenced before the date of the enactment of this subsection may be made by the State to the property owner of record at the time such action was undertaken, but only if application therefor is filed by such owner with the State of Colorado within one year after such date of enactment and if the Secretary determines that such remedial action was undertaken in accordance with otherwise applicable provisions of this title and regulations thereunder; and

"(i) that the provision of subsection (c) of this section requiring any remedial action undertaken under this title be performed by the State of Colorado or its authorized contractor may be waived in writing by the State, with the approval of the Secretary, but only if application therefor is filed with the State by the property owner of record requesting such waiver and such waiver is granted before the commencement of such remedial action:".

(b) Title II of such Act is amended by adding at the end thereof the following new section:

"SEC. 205. Not later than one year after the date of the enactment of this section, the Secretary of Energy shall prepare and submit a detailed report to the Committees on Interstate and Foreign Commerce and on the Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate with respect to actions taken or to be taken under this title, including data on payments made to the State and owners of record and a time table of those actions yet to be taken.".

(c) Section 202 of such Act is further amended—

(1) by striking out "Atomic Energy Commission" each place it appears and inserting "Secretary of Energy" in lieu thereof;

(2) by striking out "Commission" each place it appears and inserting "Secretary" in lieu thereof; and

(3) by striking out "the Joint Committee on Atomic Energy" each place it appears and inserting "both Houses of Congress" in lieu thereof.

(d) Section 203 of such Act is amended—

(1) by striking out "Atomic Energy Commission" and inserting "Secretary of Energy" in lieu thereof; and

(2) by striking out "as it deems necessary" and inserting "as he deems necessary" in lieu thereof.

(e) Authority to make payments under title II of such Act under amendments made by this Act shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

Amend the title so as to read: "An Act to authorize appropriations for financial assisstance to limit radiation exposure to the public from uranium mill tailings used for construction, and for other purposes.".

Mr. HASKELL. Mr. President, this bill and the amendments of the House have been cleared on both sides of the aisle.

The bill, S. 266, initially passed the Senate on April 4, 1977, when it was considered on the Unanimous Content Calendar. There was no objection to any aspect of the bill and it was passed by voice vote.

In the intervening time, the bill was considered in the House by both the Committee on Interstate Commerce and the Committee on Interior and Insular Affairs. Upon their consideration of the bill, both committees reported the bill to the House floor with identical amendments. The bill was considered by the House under a suspension of the rules, and passed by a voice vote on January 24, 1978.

The legislation is intended to complete a program which was initiated with the passage of title II of Public Law 92–314. This law authorized a program of limited financial assistance to the State of Colorado to prevent radiation exposure to people in homes, schools, churches, and other buildings in the vicinity of Grand Junction, Colo. The problem arose from the widespread usage of uranium mill tailings from an abandoned mine which produced uranium for the Federal Government. Radiological surveys of the area have revealed that hazardous radon decay gas may enter the structures and poses a serious public health hazard. Initially, the statute authorized $5 million for a cost-sharing program in which the Federal Government and the State of Colorado participated on a 75–25-percent basis. Property owners were required to file by June 16, 1976, for remedial action to be undertaken. It is estimated that about 600 structures may require some sort of remedial action—a figure which is considerably more than was anticipated in 1972.

The House amendments to S. 266, in addition to technical amendments, include the authorization for an additional $1.5 million to complete the program and extend the deadline for eligible owners to file to June 16, 1980, which is an additional 4 years after the original deadline. It provides that persons who carried out remedial actions directly rather than waiting for it to be performed by the State of Colorado or its contractors may be reimbursed for the costs incurred. S. 266 is designed to insure that the remedial work will be completed at the end of this time extension and that no further funds will be needed.

Passage of this bill is an action which the people of Grand Junction expected to have completed 2 years ago. I believe that these people have lived with these health hazards and economic burdens long enough.

Mr. President, I move that the Senate concur in the amendments of the House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado.

The motion was agreed to.

Mr. HASKELL. I thank the Senator from Idaho very much for yielding.

ENDANGERED AMERICAN WILDERNESS ACT OF 1978—CONFERENCE REPORT

Mr. CHURCH. Mr. President, I submit a report of the committee of conference on H.R. 3454 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MATSUNAGA). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of January 31, 1978, 1644.)

Mr. CHURCH. Mr. President, I ask unanimous consent that Fred Hutchison of my staff and Tom Williams and Dan Dreyfus of the Energy and Natural Resources Committee staff be granted privileges of the floor during consideration of the conference report on H.R. 3454, the Endangered American Wilderness Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I am pleased today to rise in support of H.R. 3454, the Endangered American Wilderness Act.

As agreed to by the Conferees, H.R. 3454 would designate 17 areas comprising some 1.3 million acres of land for inclusion in the wilderness preservation system. One additional area—the so-called Spruce Creek additions to the proposed Hunter-Fryingpan Wilderness—would be designated for wilderness study.

I am well satisfied with the provisions of this bill as agreed to by the conference committee. The purpose of a conference is to seek middle ground—the resolution of differences in a manner acceptable to all parties. While this is never entirely possible, the conference did an excellent job in this instance of reconciling the positions of their respective Houses. Several areas included in the House-passed measure, but not

the Senate bill, were incorporated into the final version. Likewise, several areas included in the Senate measure, but not in the House-passed bill, were adopted for inclusion by the conference. Finally, agreement was reached on those areas included in both versions, but with differing acreages.

At this point, Mr. President, I ask unanimous consent that a summary of the conference substitute be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF CONFERENCE SUBSTITUTE

Area	H.R. 3454	Senate amendments	Conference substitute
Pusch Ridge, Ariz	56,430	56,430	56,430
Galiuro Add., Ariz	55,210		Deleted
Golden Trout, Cali	179,625	333,100	306,000
Santa Lucia, Calif	21,250	21,250	21,250
Ventana Additions, Calif	61,080	61,000	61,000
Chama River Canyon, N. Mex	50,300	50,300	50,300
Manzano Mountain, N. Mex	37,000	37,000	37,000
Sandia Mountain, N. Mex	30,930	30,930	30,930
Hunter-Fryingpan, Colo	68,000	81,000	74,450
Instant study			8,000
French Pete, Oreg	45,400	45,400	41,400
Wenaha-Tucannon, Oreg./Wash	175,000	185,000	180,000
Zig Zag, Oreg		33,000	33,000
Kalmiopsis, Oreg	280,000	82,400	92,000
Wild Rogue, Oreg	38,200		36,700
Lone Peak, Utah	29,567	29,567	29,567
Savage Run, Wyo	14,940		14,940
Welcome Creek, Mont	28,440		28,440
Gospel-Hump, Idaho:			
Wilderness		206,000	
Management		92,000	(same)
Development		45,000	

Mr. CHURCH. Mr. President, I am especially proud to note the inclusion of the Gospel-Hump area in Idaho in the final version of H.R. 3454.

The Gospel-Hump provision of this legislation is unique, providing for both wilderness and multiple use within this 343,000-acre roadless area in Idaho County.

The Gospel-Hump compromise was worked out between representatives of Idaho conservation groups and civic and business leaders in Idaho County during 1977. Last April, I brought both sides together in hopes of ending a protracted delay over the future status of this large roadless area, and once this compromise was reached, I introduced legislation to implement it. Hearings were held in Idaho and Washington, and the legislation was suitably refined.

The Gospel-Hump agreement is precedent-setting. It was drawn up by local people to meet local needs. It provides that, after years of delay, the wood products industry is assured of trees for local mills and continued jobs in the area. At the same time, it creates a readily accessible new wilderness.

Under the plan, about 206,000 acres in the alpine regions of Gospel-Hump north of the Salmon River will be designated for inclusion in the national wilderness system. Meanwhile, 137,000 acres will be added at once to the allowable cut for Idaho County, all of which will be eventually managed for multiple use. Of this, 45,000 acres will be opened for immediate development, and the remaining 92,000 acres will be made available once a study is completed on timber resources, fish and wildlife, and soil conditions.

It should be noted that the new wilderness will be one of the most accessible in Idaho. It was drawn specifically to leave intact existing roads that reach into the heart of the area, and the conference committee voted to direct that these roads be maintained and marked during winter months to insure continued access by the general public.

The compromise has significance beyond Idaho. It is a pilot project that can serve other areas where management decisions are bogged down in controversy. Gospel-Hump has shown that local citizens, working together, can resolve their differences to serve the common good.

Mr. President, in 1964, Congress enacted the Wilderness Act after more than 8 years of deliberation. That law created the National Wilderness Preservation System to be comprised of Federal land preserved as wilderness by decision of Congress. The lands involved are to be managed under a common policy: To perpetuate the natural character of the land and its ecological community of life, in order to secure for all Americans the significant benefits and values which wilderness gives our lives and our culture.

Without a doubt, Mr. President, the areas we are considering today for inclusion into that system meet these high purposes and standards. I urge my colleagues to join with me in adopting this conference report.

Mr. President, I yield first to my distinguished colleague on the committee, the able senior Senator from Oregon (Mr. MARK O. HATFIELD), whose help in seeing this legislation through, from the time of our initial committee hearings to the final resolution of some difficult questions in conference, was a source of steady reassurance to me. Without his help, I am quite certain we would not have this bill before us now. I commend him for his efforts and for the continuing demonstration of his commitment to the establishment of an adequate and appropriate wilderness system in this country.

Mr. MARK O. HATFIELD. I thank the Senator from Idaho for his very generous and gracious remarks.

Mr. President, I am pleased to support the conference report on the Endangered American Wilderness Act.

In particular, I would like to draw attention to section 3 of the bill, which is the Oregon Omnibus Wilderness Act. This proposal has undergone extensive examination and revision since it was first circulated in draft form over 5 years ago. With the enactment of this bill, two Oregon wilderness areas will be enlarged and three areas will be designated new wilderness areas in Oregon. In accordance with the report of this bill of the Senate Committee on Energy and Natural Resources, two additional areas in Oregon will be studied for their wilderness potential.

Mr. President, I ask unanimous consent that the section of the joint statement of the managers dealing with the Oregon areas be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

3. OREGON OMNIBUS WILDERNESS ACT

On June 20, 1977, the Senate passed S. 658, the Oregon Omnibus Wilderness Act. The Senate amendment to H.R. 3454 incorporates several provisions of S. 658 and retains the title of the Senate passed bill.

The House passed bill does not make specific reference to the Oregon Omnibus Wilderness Act.

The conference substitute adopts the Senate approach and incorporates the various proposed Oregon wilderness areas in a separate Oregon section.

A. KALMIOPSIS ADDITIONS, OREGON

The House bill designates a 280,000 acre addition to the existing Kalmiopsis Wilderness. The Senate amendment would increase the present wilderness by approximately 82,400 acres.

The conference substitute designates an area of approximately 92,000 acres for addition to the existing Kalmiopsis Wilderness. This area consists of the 82,400 acres contained in the Senate amendment and an additional area comprising some 10,000 acres south of the proposed Senate addition.

In agreeing to enlarge the Kalmiopsis Wilderness by 92,000 acres, the conferees recognize that additional acreage of roadless land surrounds this area. Much of this contiguous land was included in the House-passed bill and should be considered by the Forest Service in its Roadless Area Review and Evaluation program (RARE II).

In excluding the additional lands in the House-passed bill from the present wilderness additions, the conference committee stresses that it does not intend to prejudice further consideration of the wilderness suitability of these lands nor to prejudge in any way the possibility that some additional acreage may be proposed at a later time for addition to the enlarged Kalmiopsis Wilderness. The conferees direct that these lands be considered in the RARE II program.

B. WILD ROGUE, OREG.

The House bill designates a 38,200 acre Wild Rogue Wilderness. The Senate amendment contains no comparable provision.

The conference substitute designates a Wild Rogue Wilderness comprising approximately 36,700 acres. The conferees agreed to delete some 1,500 acres from the House proposal to exclude several areas which have recently been timbered.

The conferees also agreed to adopt a provision making it clear that the portion of the Wild Rogue wild and scenic river which flows through the proposed wilderness will continue to be managed as a wild river in accordance with the provisions of the Wild and Scenic Rivers Act, notwithstanding any provisions of that act or the Wilderness Act to the contrary.

The conferees noted that the Wild Rogue Wilderness Area and the additions to the Kalmiopsis Wilderness Area as proposed in the conference substitute include certain acreages of Oregon and California revested grant lands that are congressionally dedicated to commercial forest production and are managed by the Bureau of Land Management and the U.S. Forest Service. The fact that these special act lands which are intermingled with national forest lands are now designated as wilderness should not be considered as precedent setting. They are included because of their own unique wilderness qualities when combined with other Federal lands.

C. WENAHA-TUCANNON, OREG./WASH.

The House bill designates a 175,000 acre Wenaha-Tucannon Wilderness while the Senate amendment proposes a 185,000-acre wilderness.

The conference substitute designates a 180,000 acre wilderness, deleting approximately 5,700 acres from the Senate amendment and adding approximately 700 acres. The deletion consists of 3 parcels: the approximately 3,300 acre Bear Canyon area and two portions of the Wenaha Breaks area totalling approximately 2,400 acres. The addition eliminates an error in the Senate map and adopts the House boundary which adds approximately 700 acres to the wilderness by correctly placing the boundary line in the northwest portion of the proposed wilderness along Big Turkey Tail Ridge rather than along the Turkey Creek stream bottom.

During congressional consideration of possible wilderness designation in the Wenaha-Tucannon area of the Umatilla National Forest, it has become clear that this portion of the forest contains a multitude of resources. Not only do the lands contiguous to the proposed Wenaha-Tucannon Wilderness, as approved by the conference committee, embrace many merchantable stands of timber, but these lands are important habitat for Rocky Mountain Elk as well.

The conference, after some deliberation, felt that it was possible to allow some logging in those portions of the Upper Tucannon Roadless Area of the Oregon Butte Planning Unit (as referenced in the U.S.D.A. Forest Service Final Environmental Statement for the Oregon Butte Planning Unit, dated April 22, 1977), lying outside of the boundaries of the Wenaha-Tucannon Wilderness proposed in H.R. 3453, if certain prescriptions were followed to minimize the effects of such logging activities on the region's resident and migratory elk populations. Thus, the Secretary of Agriculture is directed to manage the above-mentioned areas for multiple-use purposes and to allow such logging activities provided that:

1. All roads built into these areas for the purpose of timber harvesting are to be designed and built to minimize soil disturbance and the possible adverse effects of these roads on fish and wildlife populations, including but not limited to:

a. constructing and maintaining such roads at the minimum widths necessary to safely accommodate logging trucks, but in no case wider than 12 feet on the running surface;

b. maintaining standards of alignment, and grade that will allow these roads to follow, as nearly as possible, the contours of the land with a minimum of excavation and earth movement to accomplish the construction; and

c. installing the types and quantities of drainage structures associated with these roads which will continue to function properly for several years without periodic maintenance.

2. Roads built into timber harvest areas shall be closed to all motorized use during the interim period between each harvesting or reforesting operation, unless needed in emergency situations for the protection of life or property. During the closure periods, measures shall be taken to ensure that motorized vehicles cannot enter onto or travel upon these roads. These measures are to include steel gates with suitable locks. In addition, roads shall be treated in these closure periods so as to minimize the danger of soil erosion. Erosion control measures to be taken might include, but need not be limited to:

a. revegetation of the roadbed with herbaceous species.

b. outsloping.

c. crossditching.

d. covering with logging slash, and

e. hand maintenance of drainage structures.

3. Timber harvest activities are not to be permitted in these areas during the months of October and November, or during the elk calving season in the spring.

4. The roads built into timber harvest areas shall be permanently closed at the conclusion of logging and reforestation activities and suitable measures shall be taken to assure their revegetation, and continued closure to motorized vehicle use.

5. No clearcuts shall be permitted within these areas.

Both the House and Senate recognized and approved of the long established use of much of the Wenaha-Tucannon area for hunting. Although wilderness designation does not affect hunting activity per se, the conferees want to emphasize the importance of this use in the Wenaha-Tucannon area and make clear that congressional intent is that Forest Service management policies, when at all possible, should make allowance for and not conflict with this activity. Established rustic shelters or structures, in particular, should not be disturbed. The use and some limited maintenance of these existing structures should be allowed to continue until their presence creates a clear conflict with the area's wilderness values. Of course, the use of motorized vehicles and chain saws in connection with hunting activities in the proposed wilderness, will not be allowed under wilderness designation.

D. ZIG ZAG (MT. HOOD ADDITIONS), OREG.

The Senate amendment to H.R. 3454 designates a 33,000-acre addition to the existing Mt. Hood Wilderness. The House bill contains no such provision.

The conference substitute adopts the Senate provision and includes the area. A description of the proposed Mt. Hood additions can be found in Senate Report 95-329.

E. FRENCH PETE, OREG.

Both the House bill and the Senate amendment would designate a 45,400-acre French Pete Wilderness.

Mr. MARK O. HATFIELD. Mr. President, I am completely comfortable with the action we are taking today. Very few areas have received the kind of comprehensive public and congressional study as those in section 3 of this bill. In the fall of 1972, I circulated my first draft proposal. The first bill was introduced in March of 1974, and a new version was introduced in the 94th Congress. Public hearings were conducted both in Oregon and in Washington, D.C. The input received at these hearings was given careful consideration, as were the many letters I have received on this subject.

I think, Mr. President, that there is no better example of the input of citizen groups in a piece of legislation than in this particular section of this Endangered American Wilderness Act and all other sections as well. But from my firsthand experience, I take this occasion to give recognition to the careful, scholarly input of citizen groups interested in wilderness promotion.

During the conference on this legislation, considerable controversy arose with reference to the Kalmiopsis additions. My colleague from Oregon, Representative JIM WEAVER, and I had an honest difference of opinion on the size of the area to be added. While it took some time, we were able to reach agreement on a 92,000-acre addition with the understanding that the difference between this area and the 280,000 acres included in the House bill will be considered in the Forest Service's roadless area review and evaluation process, known as Rare II. I want to take this opportunity to thank my colleague for the spirit which marked his approach to this issue. It was difficult for both of us, but I believe that the compromise agreement is a good one. I intend to give the Forest Service study and recommendations a thorough review when they are completed. I point out that the acres which were included in Representative WEAVER's approach will be adequately protected during this research and study period of Rare II.

In addition, Mr. President, I want to thank my other colleagues who served on the conference committee. In particular, Senator CHURCH as our chairman and Representative UDALL, the House committee chairman, deserve praise for their outstanding leadership on this issue.

I might say, the State Department could well utilize the diplomacy with which they handled this most difficult problem from the State of Oregon and Kalmiopsis.

Most importantly, I want to extend my thanks to all of those individuals who took part in developing the Oregon Omnibus Wilderness Act. Through their letters, personal comments and testimony, I believe that the bill has been greatly improved. The result is a product which insures that their children and future generations will benefit from the beauty we are protecting today in this bill.

Again, Mr. President, I wish to thank the Senator from Idaho (Mr. CHURCH), who very patiently and very understandingly sat through many sessions which were very difficult.

Mr. MELCHER. Mr. President, only one area in this bill is in Montana. It is described in (k) of section 2. Welcome Creek, in the Lolo National Forest, comprises 28,000 acres. It was not in the bill as it passed the Senate. Senator CHURCH, as chairman of the Senate conferees last fall, was fully apprised of my objections to portions of this area being classified as wilderness. Senator CHURCH and the other conferees courteously considered my objections. However, they were not swayed by my points of view, and the conference report includes the total 28,000 acres for Welcome Creek.

The area I had proposed for wilderness for the Welcome Creek area was somewhat different than what is in the conference report. The area I had suggested be excluded from the wilderness had been mined as old placers during the late 1800's. There was also lode mining in the Cleveland Mountain and Carron Creek areas. There has been active exploration and mining just to the west of the Welcome Creek area. There are still old ditches and cabins in the area along Welcome Creek.

The area also has about 20 miles of trails and about 4 miles of graded road that have been used by hunters and snowmobilers. The hunters use their four-wheel vehicles to enter the area on the roads and trials. The snowmobilers enter the trail system from the Eight-mile Saddle area and from roads approaching this trail system from further south, below the Cleveland Mountain area.

Until December 31, 1977, there was an active timber sale in the Carron Creek

drainage. There is a substantial chronology to what has happened to this sale which I will read into the RECORD.

The following is an outline of the flow of events surrounding the Carron Creek timber sale. There is serious question concerning potential claims against the Federal Government because of Forest Service delays and ultimate desire to unilaterally cancel the sale.

The Carron Creek timber sale on the Lolo National Forest was sold in December 1969, to Montana Lumber Sales Inc. of Missoula with an original termination date of October 1, 1974, but the corporation's mill burned in January 1972, and no activities took place on the sale. The sale was for 8.36 mm board feet.

In May of 1971, well before the mill burned, the Forest Service issued management guidelines and requirements for the Rock Creek drainage on the Lolo and Deerlodge National Forests, of which Carron Creek is a tributary.

Also in 1971, in June, both the Sierra Club and Trout Unlimited appealed the decision of the regional forester to sell timber in the Rock Creek drainage.

Five months after the mill burned, in June of 1972, Regional Forester Steve Yurich advised the Lolo and Deerlodge forests of a moratorium on any new developments or timber sales until planning was completed within specific planning units.

In October of 1973, an environmental analysis report was issued which excluded the Carron Creek sale because it already was under contract. In December of 1973, a third-party agreement was made by Montana Lumber Sales with Waleswood Inc. of Darby, with the original termination date, October 1, 1974, extended to November 9, 1974, because of heavy snow during the spring of 1974. A request by Waleswood for a further extension was denied by the Lolo National Forest supervisor.

Waleswood appealed the denial and the regional forester extended the sale to December 31, 1977. The extension, however, was contingent upon Waleswood accepting an environmental modification on the sale.

In April of 1974, Waleswood requested permission to use an alternate route to the sale and 2 months later began cutting right-of-way, only to be notified by the Forest Service of timber trespass because the Forest Service had not formally approved the alternate route.

In August of 1974, Waleswood and the Forest Service signed an agreement to modify the contract for the alternate route, but later the same month Waleswood requested a 1-year extension because of a depressed market.

The extension was denied by the Lolo National Forest supervisor, who said actual logging production was a key factor in considering an extension. The supervisor also mentioned that Forest Service policy was not to start new development in the Rock Creek drainage.

Waleswood appealed to the regional forester, who replied that contract extensions were not an appealable matter under new regulations effective in September 1974.

In May of 1975, however, the regional forester advised Waleswood he was reinstating the Carron Creek sale because of contractual extension language and because the sale was not considered a new activity in the drainage.

In June and July of 1975, Waleswood signed an interim contract modification providing that the sale boundary would stay at about 2,500 acres but that there would be 19 cutting blocks instead of the original 8 and that logging acreage would be cut from 700 to 350 acres. Average cutting block size was reduced from 87 to 18 acres.

The Western Montana Fish and Game Association asked for a stay of operations and oral review in August 1975; the request was sent to John McGuire, Chief of the Forest Service. McGuire advised the association later the same month that an oral presentation was granted but that a stay of operations was denied because of insufficient reasons in the association's request.

In May of 1976, the first written communication was noted in Forest Service files in which it was made known that Clifford Rawlings wanted to third party the sale, likely with a logging subcontractor to do the actual work. Rawlings' attorney was advised that standard timber volume had been reduced from 8,360M board feet to 4,000M board feet; that temporary road mileage was reduced from 22 to 7½ miles, and that all but two clearcut blocks were modified in shape or size or eliminated.

In June of 1976, the Missoula district office of the Montana Department of Fish and Game advised against logging the sale because of wildlife habitat disruption, but conceded that the Forest Service-developed environmental analysis report should be followed if the sale had to be brought to its logical conclusion.

In August of 1976, a Waleswood representative said the corporation intended to third party the sale. Waleswood in December 1976 signed the environmental modification for the sale and wanted a contract extension in order to negotiate the third-party agreement. The Forest Service reserved the right to approve any such agreement.

In late December 1976, the attorney for Waleswood formally requested the Forest Service to third party the sale to Rawlings because Waleswood had liquidated its sawmill at Darby and was no longer in the logging/sawmill business.

In May of 1977, the Lolo National Forest supervisor advised Rawlings' attorney that the third-party agreement was denied because:

Land management planning was in progress for the portion of Rock Creek including Carron Creek.

The administration supported the endangered American wilderness bill.

Two companies had the opportunity to perform on the sale but had failed to do so.

With recent timber volume reductions via the environmental modification, the sale was less economically viable.

The contract with Waleswood was still in existence, under which performance could take place.

In a memorandum dated June 14, 1977, the Lolo Forest supervisor advised the regional forester of the third-party denial and said:

Because of the history of the sale and the recent material change in the Administration's position from wilderness study to immediate wilderness for Welcome Creek, we not only intend to deny the third-party agreement but also are considering unilateral cancellation of the contract. No logging or road building has occured to date on the sale. Our course of action is to reaffirm our denial of Mr. Rawlings' application as third-party; and if it appears that Waleswood intends to log the sale, then we should immediately instigate cancellation."

Then on June 30, 1977, in another memorandum to the regional forester he recommended cancellation because of the administration's position, even though the legislation was modified to omit Welcome Creek.

Rawlings' attorney then requested reconsideration by the Lolo National Forest supervisor, who, last July, reaffirmed denial. Rawlings attorney appealed to the regional forester and, last October 26, the acting regional forester reaffirmed denial. Rawlings' attorney was given 30 days to file notice of appeal and request second-level review. This small business setaside sale is now settled as far as the Forest Service is concerned as of December 31, 1977.

I strongly recommended that the conference committee adopt my recommended 18,400 acres for Welcome Creek, which excluded this sale, excluded the graded road and other trails and the mining claims.

It is likely that the Forest Service record on this sale will be used as a basis for a claim by the present owner of this sale for a settlement.

The legal questions involved should not have been complicated by congressional action designating the sale area as wilderness. In my judgment, it is unfortunate that the Forest Service has used that possibility as one of the reasons for denying the third-party sale.

The area I had proposed for wilderness was about 10,000 acres less than what the conference included in their report, but it was the prime area and of very high wilderness character. I had hoped the conference would adopt the smaller area, but they did not.

For the reasons I have stated, I believe it is necessary for me to emphasize my objections by opposing the adoption of the conference report with the addition of the entire 28,000-acre Welcome Creek area, which was in the House-passed bill but not in the bill as it passed the Senate on October 20 of last year.

Mr. President, I think that the complications that have been involved with this timber sale and the possibility of litigation that will follow on the final settlement of the sale would be better carried out without any action on the part of Congress regarding designating it as wilderness.

For the reasons I have also stated

previously, I believe the quality of some of the land for wilderness designation is not as high as it should be and would be better left out of the national wilderness preservation system.

There is some activity that is usual in the area that will not be able to go forward—that is, the use of vehicles for hunters getting into the area, or snowmobilers, who have been using the area—once it is designated as wilderness.

Furthermore, I have developed a more purist concept in my judgment of what we should designate as wilderness in the West. The signs of man's activity in parts of this area make it less desirable for wilderness, in my judgment, and it should have been excluded.

However, I do appreciate the courtesy extended to me by Senator CHURCH and the other conferees in reviewing my views on this matter and taking them into consideration before their action.

In conclusion, Mr. President, while my vote will be in opposition to the conference report, it will not be cast in any way as an objection to the other areas that are included in the bill.

Mr. CHURCH. Mr. President, first of all, I thank the distinguished Senator from Montana for making his views a part of the record.

Nothing has been more difficult than to address those particular cases in which two Senators from a given State were in disagreement concerning the inclusion of a particular area in the national wilderness system. That was the case in this instance.

When the original Senate version of the bill was taken up in the committee, Welcome Creek was proposed as a wilderness study area. The late Senator Metcalf testified in favor of instant wilderness for the entire 28,400-acre area—identical to the House position—while Senator MELCHER requested that the area be designated as instant wilderness but reduced in size by about half. In an effort to avoid a clash on the Senate floor, we excluded the area from the Senate version knowing that the issue would have to resolved in conference.

The first day the conferees met on H.R. 3454, the House asked the Senate to recede and include the House provision in the conference substitute. The House provision called for the whole 28,400-acre area as instant wilderness.

Senator Metcalf moved that the Senate recede from its position and adopt the House boundary. While I think the votes were there on the Senate side to recede that day, the conferees agreed to postpone action in light of the fact that Senator MELCHER had written the Senate conferees asking them to consider his position.

The next day, Senator Metcalf, at the urging of the House conferees, moved the Senate recede to the House and the Senate conferees agreed. Nothing more was mentioned about the area during the other conference meetings.

It is my understanding that the boundaries proposed by Mr. MELCHER cut the Welcome Creek drainage in half by including only the lower reaches of Welcome Creek—about 18,000 acres. The House-passed boundary of 28,440 acres utilizes the main hydrologic boundary of the Sapphire divide as the western boundary thereby encompassing the entire drainage. All of the drainage is wild and all of it meets every criteria in the Wilderness Act. The area omitted by Senator MELCHER is very important as a migratory area for elk as well as watershed protection for a major tributary—Welcome Creek—of Rock Creek—a nationally famous blue-ribbon trout stream.

The boundary Senator MELCHER proposed is based primarily on three factors: First, exclusion of mining claims in the upper reaches of Welcome Creek. The conferees felt that all these claims are unpatented, and none of them having been worked in recent years, there was little evidence of past mining activity in the area, and therefore concluded that this argument should not be accepted; second, exclusion of the Welcome Mountain road—this road was built 15 years ago to facilitate logging which has never taken place because of low timber values. Further, the road is low standard due to lack of maintenance and thus does not meet the definition of a "road" as defined by RARE II. For these reasons, the conferees were not persuaded on the basis of this second argument; third, exclusion of the Carron Creek timber sale—this sale was originally sold in 1969, but because of low timber values in relation to hgh road costs the sale has been defaulted on three times and to this date remains unlogged. The sale would block a key migratory route for an important elk herd.

The purpose of designating this area as wilderness is to protect the Welcome Creek watershed. Like Savage Run in Wyoming, this is a small compact area and deleting the northern half of the watershed while protecting the southern half with wilderness designation just does not make good sense from a resource standpoint.

It was for these reasons that the conferees acted to accept the House provision and in accordance with the wishes of the late Senator Metcalf.

As I said at the outset, Mr. President, it is a difficult matter to deal with an issue when two Senators from the same State are in disagreement. However, I tried to keep Senator MELCHER informed as the conference proceeded and tried to deal in good faith with him. I respect the arguments he made and the reasons why he has taken his position this evening and why he feels constrained to vote against the bill on final passage.

I hope, however, that other Senators will not be stmpeded in voting against the adoption of the conference report.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States that on February 6, 1978, he approved and signed the following act:

S. 1585. An act to amend title 18 of the United States Code relating to the sexual exploitation of minors, and for other purposes.

MESSAGES FROM THE HOUSE

At 1 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (S. 1360) to amend section 14(e) of the National Forest Management Act of 1976, without amendment.

The message also announced that the Speaker has appointed Mr. FASCELL, chairman, Mr. JOHNSON of California, vice chairman, Mr. GIBBONS, Mr. HANLEY, Mr. MEEDS, Mr. BAUCUS, Mr. OBERSTAR, Mr. FOWLER, Mr. BROOMFIELD, Mr. MCEWEN, Mr. WINN, and Mr. STANGELAND as members of the U.S. delegation of the Canada-United States Interparliamentary Group to be held in New Orleans.

The message further announced that the Speaker has appointed Mr. Wilbur J. Cohen, of Ann Arbor, Mich., and Mr. Robert Julius Myers, of Silver Spring, Md., as members of the National Commission on Social Security.

ENROLLED BILLS SIGNED

At 5:33 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the Speaker has signed the following enrolled bills:

S. 1360. An act to amend section 14(e) of the National Forest Management Act of 1976.

S. 1509. An act to provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes.

The enrolled bills were subsequently signed by the President pro tempore.

The message also anounced that the House has passed the bill (H.R. 7843) to provide for the appointment of additional district and circuit judges, and for other purposes, in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, with an amendment:

S. 2360. A bill to authorize appropriations to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles, I. IV, VI, X, XIV, and XVI of the Social Security Act (Rept. No. 95–632).

SPECIAL REPORT RELATING TO THE PANAMA CANAL

By Mr. STENNIS, from the Committee on Armed Services:

A special report relating to the "Defense, Maintenance, and Operation of the Panama Canal, Including Administration and Government of the Canal Zone" (together with additional views) (Rept. No. 95–633).

Mr. STENNIS. Mr. President, I am pleased to deliver to the Senate the report of the Armed Services Committee of its hearings on the proposed Panama Canal treaties.

The Committee on Armed Services has had a long relationship with issues involving the Panama Canal and the Canal Zone. Pursuant to our jurisdiction under the Senate rules, we have worked on a number of pieces of legislation effecting the operation of the canal enterprise over the years, and of course have had a special concern for the national security aspects of our presence in Panama.

From the time the proposed treaties were announced, we have had our staff working on an indepth analysis of the treaties, with particular emphasis on the two areas where it was felt that our committee could make a special contribution to the public debate on the treaties—first, the military issues involving the value of the canal and its defense; and second, the economic and financial effects of the treaties on the Panama Canal Company and on the taxpayer. In addition to the work of our own staff, we engaged a consultant to do some of the basic economic and management analysis necessary for an intelligent discussion of the issue of economic impact. The consultant's report is printed with the record of the hearings for the use of the Members of the Senate.

The committee also held 3 full days of hearings on the proposed treaties. We heard from a spectrum of witnesses on the military value of the Panama Canal and the national security impact of these treaties. Some were opposed and some were in favor. We heard from members of the present joint chiefs and from former chairmen; we also took testimony from officers who had specific experience in Panama and in Latin America. On the economic issues we heard at some length from Governor Parfitt, who heads both the Panama Canal Company and the Canal Zone Government; from our own consultant; and from Mr. Elmer Staats, the Comptroller General of the United States.

In these hearings, we have tried to raise important military and financial questions that should be addressed in the debate on these treaties. We have rushed through the printing of the hearing record, so that it could be available tomorrow for all Members. I urge everyone to read the actual testimony.

The rules of the Senate also place on our committee the responsibility of studying and reporting to the Senate from time to time on matters within our jurisdiction. Pursuant to this charge I am delivering this report, which will supplement the printed hearings and assist Members in understanding the complex issues surrounding these treaties. The report consists of careful summaries of testimony of each witness heard by the committee, along with additional views of members of the committee who wished to submit them.

I would like to add, finally, that the Committee on Armed Services took no vote on these treaties as such. Primary jurisdiction on the treaties as such rests with the Senate Foreign Relations Committee. We felt our function was to explore the issues within our special areas of expertise, and make the results available to all. I hope that the matters we have raised will sharpen this debate and contribute to a more informed decision, and I believe this will be the case.

Mr. President, I hereby deliver the report of the committee.

By Mr. LONG, from the Committee on Finance, without amendment:

S. Res. 392. An original resolution authorizing additional expenditures by the Committee on Finance for inquiries and investigations. Referred to the Committee on Rules and Administration.

Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 393. An original resolution expressing the sense of the Senate that emergency action should be taken by the President and the Secretary of Agriculture to bolster the farm economy (Rept. No. 95–634).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

William H. Webster, of Missouri, to be Director of the Federal Bureau of Investigation (Ex. Rept. No. 95–14).

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judicary:

A. David Mazzone, of Massachusetts, to be U.S. District Judge for the District of Massachusetts.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CANNON (for himself and Mr. PEARSON) (by request):

S. 2506. A bill to amend the Intercoastal Shipping Act, 1933, to make public the financial reports of common carriers by water in interstate commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ANDERSON (for himself, Mrs. HUMPHREY, Mr. BROOKE, Mr. KENNEDY, Mr. BAYH, Mr. FORD, Mr. GRAVEL, Mr. CHURCH, Mr. STEVENSON, Mr. CLARK, Mr. WILLIAMS, Mr. MCGOVERN, Mr. HOLLINGS, Mr. GLENN, Mr. THURMOND, Mr. LAXALT, Mr. RANDOLPH, Mr. WEICKER, Mr. JACKSON, Mr. JAVITS, Mr. HAYAKAWA, Mr. LEAHY, Mr. MORGAN, and Mr. HASKELL):

S. 2507. A bill to authorize the Smithsonian Institution to acquire the Museum of African Act, and for other purposes; to the Committee on Rules and Administration.

By Mr. LONG:

S. 2508. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association; to the Committee on Commerce, Science, and Transportation.

By Mr. EASTLAND:

S. 2509. A bill for the relief of Rodolfo N. Arriola; to the Committee on the Judiciary.

By Mr. MORGAN:

S. 2510. A bill to provide that no funds be expended on the new program on smoking and health announced by the Secretary of Health, Education, and Welfare on January 11, 1978 without specific approval by Congress; to the Committee on Human Resources.

By Mr. RIBICOFF (by request):

S. 2511. A bill to restrict the possession and carrying of pistols, other firearms, and other dangerous weapons by members of the District of Columbia Department of Corrections to periods of time when they are on duty and authorized by the Director of the District of Columbia Department of Corrections; to the Committee on Governmental Affairs.

S. 2512. A bill to provide explicit authority for the arrest of material witnesses; to the Committee on Governmental Affairs.

S. 2513. A bill to establish the position of General Counsel in the Environmental Protection Agency; to the Committee on Governmental Affairs.

By Mr. GRIFFIN:

S. 2514. A bill to amend the Coastal Zone Management Act of 1972 in order to provide financial assistance to Great Lakes States to enable the States to implement erosion management measures, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATHAWAY (for himself and Mr. WILLIAMS):

S. 2515. A bill to require government contractors to establish and operate alcohol abuse and alcoholism programs and services, or otherwise arrange for referral to such services, and for other purposes; to the Committee on Governmental Affairs and the Committee on Human Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON (for himself and Mr. PEARSON) (by request):

S. 2506. A bill to amend the Intercoastal Shipping Act, 1933, to make public the financial reports of common carriers by water in interstate commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FINANCIAL REPORTS OF COMMON CARRIERS

Mr. CANNON. Mr. President, I introduce today, at the request of the Federal Maritime Commission, and on behalf of myself and my colleague, Mr. PEARSON, a bill to amend the Intercoastal Ship-

ping Act, 1933, to make public the financial reports of common carriers by water in interstate commerce and for other purposes.

I ask unanimous consent that the text of the bill, the letter of transmittal and the statement of purpose and need of the legislation be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Intercoastal Shipping Act, 1933, be amended by being redesignated section 6, and adding new section 5 as follows:

"SEC. 5. The Commission is hereby authorized to require annual, periodical, or special reports from every common carrier by water in interstate commerce, as defined in section 1 of the Shipping Act, 1916 and to prescribe the manner, and form in which such reports shall be made. Such annual reports shall give an account of the affairs of the carrier in such form and detail as may be prescribed by the Commission.

"The statistics, tables and figures contained in such annual or other reports shall be preserved as public records in the custody of the Secretary of the Commission, and shall be received as *prima facie* evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of and extracts from any of any of said reports, made public records as aforesaid, certified by the Secretary, under the Commission's seal, shall be received in evidence with like effect as the originals."

STATEMENT OF PURPOSE AND NEED FOR THE BILL TO AMEND INTERCOASTAL SHIPPING ACT, 1933, TO MAKE PUBLIC THE REPORTS OF DOMESTIC OFFSHORE OPERATORS

Every common carrier by water in the domestic offshore commerce of the United States is required by the Intercoastal Shipping Act, 1933, to file tariffs with the Federal Maritime Commission, and is also required by the Commission's General Order 5 to file an annual report within 120 days after the close of its fiscal year. Under the Commission's General Order 11, each such carrier is also required to file with the Commission, within 150 days of the close of its fiscal year, a statement of rate base and income account for each domestic offshore trade served by that carrier. It is believed that the Intercoastal Shipping Act, 1933, should be amended to enable the Commission to make available to the public the information contained in these reports, which is presently held confidential.

Both the Interstate Commerce Commission and the Civil Aeronautics Board have specific statutory authority to make available for public inspection the financial reports submitted by carriers subject to their respective jurisdictions. The Federal Maritime Commission should have similar authority, since it is often difficult, if not impossible, to explain this lack of comparability in responding to inquiries from the public.

The annual report which is filed with the Federal Maritime Commission pursuant to General Order 5 may, depending on the operations and ownership of the carrier, also be filed with the Interstate Commerce Commission and/or the Maritime Administration. In such cases data are submitted on the same form. If the carrier does not delete the Federal Maritime Commission information on its submission to the Interstate Commerce Commission, the Federal Maritime Commission is in the position of having to deny access to information which is publicly available at the Interstate Commerce Commission.

It is also believed that the availability of this information to the public may be meaningful to protestants of rate increases who, without this information, are forced to make uninformed protests of rate increases or endorsements of rate decreases.

This bill would make possible the conduct of domestic rate proceedings without the awkward imposition of confidentiality invoked under Rule 10(aa) of the Commission's Rules of Practice and Procedure. In some more recent Commission proceedings, carriers have not chosen to invoke confidentiality. Moreover, the invocation of Rule 10(aa) is not binding on the presiding Administrative Law Judge or the Commission.

Finally, this bill would be consistent with the current trend toward making available to the public all government-held information that the security of the nation permits. Such disclosure is in the spirit of the Freedom of Information and Sunshine Acts, would materially assist the administrative and judicial processes, and would be consistent with the authorities of the two other transportation regulatory agencies, the Interstate Commerce Commission and the Civil Aeronautics Board.

It is believed that this legislation will not involve any increase or decrease in appropriations.

By Mr. ANDERSON (for himself, Mrs. HUMPHREY, Mr. BROOKE, Mr. KENNEDY, Mr. BAYH, Mr. FORD, Mr. GRAVEL, Mr. CHURCH, Mr. STEVENSON, Mr. CLARK, Mr. WILLIAMS, Mr. MCGOVERN, Mr. HOLLINGS, Mr. GLENN, Mr. THURMOND, Mr. LAXALT, Mr. RANDOLPH, Mr. WEICKER, Mr. JACKSON, Mr. JAVITS, Mr. HAYAKAWA, Mr. LEAHY, Mr. MORGAN, and Mr. HASKELL):

S. 2507. A bill to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes; to the Committee on Rules and Administration.

MUSEUM OF AFRICAN ART

Mr. ANDERSON. Mr. President, our late colleague, Senator Hubert H. Humphrey, was a strong advocate of legislation to make the Museum of African Art, which is devoted to black art and culture, a part of the Smithsonian Institution. One of the Senator's last requests to me was that I introduce this bill in his place. I am honored to do so today along with cosponsors.

The extraordinary collection of the Museum of African Art, consisting of over 7,000 objects of traditional African sculpture, textiles and artifacts, is complemented by an impressive archives of films and photos donated by the world-renowned Life photographer and Africanist, Eliot Elisofon. The museum, its archives, and higher education department are housed in a series of townhouses including and adjacent to the Frederick Douglass Home on Capitol Hill. This location enhances the museum's value as a prototype for museums as living, dynamic community resources.

The museum, which was founded by former foreign service officer Warren Robbins, has hosted over 12,000 school and community groups since its creation in 1964. Its art objects and photos have delighted students from kindergartners to postgraduates, as well as scholars, photographers, artists, and craftspersons. Most importantly, the museum has opened up a wealth of African culture to Americans of every race, age and walk of life, and continues to serve as a critically important resource for hundreds of school officials, university professors, museum personnel, and Government officials.

In addition to its fine collection, the museum conducts a vigorous education program. Its higher education department which has conducted classes through 11 universities, will offer its resources to institutions of higher learning throughout the country in the near future. The museum also participates in educational television programing and sponsors symposia and traveling exhibitions. These activities in conjunction with the collection, provide a unique interdisciplinary approach to the study and appreciation of African culture. Workshops and craft demonstrations add a dimension of participation to the tours. Children are introduced daily to African art, its symbolism and functionalism. They are allowed to put on African clothing, play African instruments, and dance African dances. The vitality of Africa comes into their lives in a very personal way through museum programs.

Senator Humphrey, ever sensitive to the role of African culture in the American black experience, chaired the first board of the museum and continued to serve as chairman of its national council until his death. He worked diligently to assist and support its programs during times of financial distress. Although the museum's operations have benefited from many generous private gifts, Senator Humphrey believed that acquisition by the Smithsonian would add permanence and stability to the programs, and recognize the museum's value by making it a national institution. Acquisition would also allow the museum to take advantage of the Smithsonian's conservation processes and techniques, which are particularly important for the priceless collection of 150,000 slides, films and photos in the archives.

For the Smithsonian, the acquisition would introduce African art, which represents one of the major art traditions of the world into presentations already rich in European, American, and Far and Near Eastern art. This is a unique opportunity to fill this gap, and the Smithsonian Regents fully favor the museum's acquisition, as indicated by their resolution which provides the following:

Voted that the Board of Regents supports the Bill "To authorize the Smithsonian Institution to acquire the Frederick Douglass Museum of African Art, and for other purposes," and requests the Congressional members of the Board to join in introducing this Bill. The Secretary is authorized to conclude an Agreement with the Trustees of the Museum for acquisition of the Museum on terms consistent with the recommendations of the *ad hoc* Committee of the Board, and to accept the deed or instrument of donation referred to in the above Bill.

Mr. President, I urge my colleagues to walk the 3 blocks from the Senate office buildings to the African Art Museum at 316 A Street, SE., for a special tour of its beautiful galleries. The exhibits speak for themselves. I also urge them to join me in cosponsoring and supporting this important legislation, not only for its unquestioned substantive value, but for the

tribute it pays to Senator Humphrey and his ideals.

Mr. President, when Senator Humphrey requested that I introduce this legislation for him, he asked that a statement he prepared be included in support of S. 2507. I ask unanimous consent that this statement be printed in the RECORD. I also ask unanimous consent that the text of S. 2507 be printed in the RECORD.

There being no objection, the bill and statement were ordered to be printed in the RECORD, as follows:

S. 2507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. The Board of Regents of the Smithsonian Institution (hereinafter in this Act referred to as the "Board") is authorized to accept a deed or other instrument donating and transferring to the Smithsonian Institution, the land and impovements thereto, collections of works of art, and all other assets and property of the Museum of African Art.

SEC. 2. There is established in the Smithsonian Institution a bureau which shall be known as the "Museum of African Art" (hereinafter in this Act referred to as the "Museum"). The functions of such bureau shall be those authorized by Section 3(a).

SEC. 3. (a). For the purpose of carrying out sections 1 and 2 of this Act, the Board may:

(1) purchase, accept, borrow or otherwise acquire additional works of art or any other real or personal property for the Museum;

(2) preserve, maintain, restore, display, loan, transfer, store or otherwise hold any property of whatsoever nature acquired pursuant to section 1 or paragraph (1) of this subsection;

(3) conduct programs of research and education; and

(4) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatsoever nature acquired pursuant to the provisions of this Act; provided that the proceeds from the sale of any property acquired pursuant to section 1 shall be designated for the benefit of the Museum.

(b) In carrying out the purposes of this Act, the Board shall consider the recommendations of the Commission established pursuant to section 4.

SEC. 4. (a) There is established a Commission for the Museum of African Art (hereinafter the Commission) which shall provide advice and assistance to the Board concerning the operation and development of the Museum, its collections and programs.

(b) The Commission shall consist of 15 members to be appointed by the Board. In addition, the Secretary and an Assistant Secretary of the Smithsonian Institution shall serve as ex officio members. The Board shall appoint to the first term on the Commission no less than 10 members of the Board of Trustees of the Museum of African Art who are serving on the date of the enactment of this Act. Each initial member so appointed shall serve for a three year term. Thereafter, in appointing members of the Commission the Board shall continue to include representatives of the communities of African descendents in the United States, collectors of African Art, and scholars in the fields of African art and culture.

(c) Members of the Commission shall be appointed to serve for a three year term, except that after the appointment of the first term of the Commission as specified in subsection (b), the terms of office of members next appointed shall expire, as designated by the Board at the time of appointment, ⅓ at the end of one year, ⅓ at the end of two years, and ⅓ at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(d) A majority of the appointed members of the Commission shall constitute a quorum and any vacancy in the Commission shall not affect its power to function.

(e) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) The Commission shall select officers from among its members biennially and shall make Bylaws to carry out its functions under this Act.

SEC. 5. The Board may appoint and fix the compensation and duties of the Director and such other officers and employees of the Museum as may be necessary for the efficient administration, operation and maintenance of the Museum; the Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter II of chapter 53 of title 5; and all of the employees of the Museum who are serving on the date of the transfer authorized under section 1 shall be offered employment by the Smithsonian under its usual terms of employment and may be appointed without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter II of chapter 53 of title 5.

SEC. 6. (a) The faith of the United States is pledged that upon the completion of the acquisition in section 1, the United States will provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the Board, so the Museum shall at all times be properly maintained and works of art contained therein shall be exhibited regularly to the general public free of charge.

(b) There is authorized to be appropriated for the first fiscal year under this Act, the sum of $1,000,000 and such amounts as may be necessary for the succeeding fiscal years in order to carry out the provisions of this Act.

SEC. 7. Except for the provisions in sections 1 and 6(b), the provisions of this Act shall take effect on the date of transfer of a deed or other instrument under the provisions of section 1.

STATEMENT PREPARED BY SENATOR HUMPHREY

During the thirteen years of its existence, the Museum of African Art has won international acclaim as the outstanding educational and cultural institution in the United States devoted exclusively to fostering public understanding of Africa's traditional art and its creative contributions to mankind.

Its collections of traditional African sculpture, numbering over 7,000 objects is already among the three most important museum collections in the United States; even more important, several private collections of African sculpture, valued at several million dollars would be bequeathed to the Museum if its institutional stability were assured. This bill is intended to provide that stability and continuity of purpose. These collections, if received, would make Washington unquestionably the principal center in the world for the display and study of African Art, an important fact in view of this City's large diplomatic community, the high proportion of African students in its colleges, and its 76% Black population.

The Museum, however, is even better known for its far reaching and imaginative educational program. The Museum serves as a national prototype, designed to foster mutual respect and social harmony among Black and White citizens. Some 12,000 groups from schools, colleges, church and civic organizations from throughout the United States have participated in the Museum's orientation programs. More than a million persons have already visited the Museum or participated in its extension programs, with a far greater number having viewed educational television programs emanating from the Museum.

The Museum is at one and the same time:

An art museum, providing proper representation for traditional African art, among the museums of the nation's capital;

A humanistic museum, attempting to reflect the legitimacy of the culture and values of a non-Western, pre-industrial, society;

An interdisciplinary pedagogical institution directly involved with the reorientation of public thinking concerning the cultural antecedents of contemporary Black peoples of America and the world;

A prototype project demonstrating how scientific and aesthetic insights may be utilized to define and deal with barriers to cross-cultural communication;

A resource center for teachers, students, scholars, museum personnel, educational administrators, social workers, human resources program directors, and others concerned with the Black experience and seeking assistance in their own programs to redress educational grievances;

A higher education facility for scholarly research and university teaching in the areas of African art, history, culture and museology;

An adjunct to diplomacy, being utilized increasingly by African ambassadors as "their" cultural center in America and by American foreign affairs agencies as a means of demonstrating the respect and understanding of Americans for African traditions; and

An historic house, utilized as a living museum as well as a memorial to America's greatest Black historic figure.

The United States now has the rare opportunity to acquire this Museum and cultural center, its collections and its historic buildings. The cost in Federal appropriations would be less than $1 million annually because a portion of the Museum's operating costs would be met through continued private donations and proceeds of Museum operation.

The Museum is located on Capitol Hill in the first Washington residence of the great 19th Century Black abolitionist orator, publisher and government official, Frederick Douglass. It is fitting that the Museum should be in this location where Black history and national political currents meet and mingle. It is most fortunate that our nation, through the Smithsonian Institution, can continue to house these valuable collections in this historic house and its associated and supporting facilities, for to do so is a fitting tribute to a truly great American.

The Museum's Director and Board of Trustees have been negotiating with the Board of Regents of the Smithsonian and both desire an unmistakable indication from Congress of our support. The passage of this bill will demonstrate the overwhelming endorsement by Members of Congress for making the Museum of African Art a permanent part of America's cultural heritage. In the last Congress we obtained the signature of 36 Senators and 120 Representatives in support of the Museum's acquisition by the Smithsonian. It is now time to translate that support into concrete commitments.

By Mr. LONG:

S. 2508. A bill to amend the Regional Reorganiaztion Act of 1973 to authorize additional appropriations for the United States Railway Association; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL USRA AUTHORIZATIONS

Mr. LONG. Mr. President, I am introducing today legislation to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association. The legislation I am proposing would amend section 214(c) of the "3-R" Act by authorizing to the USRA $27,200,000 for fiscal year 1979. The legislation would further amend section 214(c) by eliminating the 2-year restriction on the availability of funds for the administrative expenses of the USRA and by allowing the authorized funds to remain available until expended.

The USRA is charged with the responsibilities of representing the Federal Government in the complex litigation resulting from the reorganization of the bankrupt northeast and midwest railroads and monitoring the performance of ConRail. It is important, therefore, that the association has adequate funding to carry out its important responsibilities efficiently and effectively.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 214(c) of the Regional Rail Reorganizational Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) Association.—There are authorized to be appropriated to the Association for purposes of carrying out its administartive expenses under this Act such sums as are necessary not to exceed $27,200,000 for the fiscal year ending September 30, 1979. Sums appropriated under this subsection are authorized to remain available until expended.".

By Mr. MORGAN:

S. 2510. A bill to provide that no funds be expended on the new program on smoking and health announced by the Secretary of Health, Education, and Welfare on January 11, 1978 without specific approval by Congress; to the Committee on Human Resources.

Mr. MORGAN. Mr. President, on January 11, 1978, in a speech before the National Interagency Council on Smoking and Health, Secretary Califano announced that he was embarking in a massive new campaign to harass those individuals who have chosen to use tobacco. To obtain some of the funds necessary for this campaign, he has reprogramed money within the HEW budget. Today, I am introducing a bill which would limit his authority to reprogram funds in this instance.

I am not introducing this bill because I wish to see more people, or even the same number, smoking. The Government has the right, and indeed, should inform people of the potential health hazards that arise from smoking, and it has been doing so for many years. Since 1964, cigarette packs have had health warnings printed on them. Cigarette advertising has been banned from the broadcast media for a decade, while advertisements in the printed press also carry the Surgeon General's warning.

Furthermore, there have been a large number of publicly and privately organized antismoking campaigns. I do not believe there is any American who is not aware if the health problems that have been linked to smoking, and yet almost 40 percent of our population still smokes. And this percentage is substantially unchanged in spite of all the efforts that have been made to reduce it. Americans who smoke have made an informed choice, and having made their choice, they have a right to be free from Government harassment.

Now, Secretary Califano is proposing to throw more money down the drain because the people have not done what he wants. This campaign of his is a waste of money, and in a period of record budget deficits and an increasing number of competing demands for Federal funds, wasting money is the last thing this Government should be doing.

Judging from his rhetoric, Secretary Califano wants to use all the resources of his Department to force people to give up smoking. He seems to have forgotten that it is not his Department, but the people's. As a nonsmoker, I commend him for having given up smoking. He made an individual choice, one which every other person must make for himself.

There is a great deal of alcohol and drug abuse in this country, and both of these activities lead to much more serious health and social problems than smoking. It seems a little odd that the same man who wants the Government to harass smokers is also proposing to limit Federal activities designed to combat these more serious problems.

Nonetheless, if the Secretary wishes to institute a massive new antismoking program, he should put together a concrete and sensible plan, obtain the President's approval, and then bring it to Congress for our consideration. That is the normal and proper method for establishing new programs.

He should not do what he is doing, which is to design and implement a program without obtaining the approval of a single elected official. Congress is the policymaking branch of the U.S. Government, not the Secretary of Health, Education, and Welfare. He is an appointed official whose job is to do what he is told by the Congress and the President, and this he seems to have forgotten. My bill is a small step toward correcting this problem.

By Mr. RIBICOFF (by request):

S. 2511. A bill to restrict the possession and carrying of pistols, other firearms, and other dangerous weapons by members of the District of Columbia Department of Corrections to periods of time when they are on duty and authorized by the Director of the District of Columbia Department of Corrections; to the Committee on Governmental Affairs.

Mr. RIBICOFF. Mr. President, at the request of the Attorney General, I am introducing legislation to restrict the possession and carrying of pistols, other firearms, and other dangerous weapons by members of the District of Columbia Department of Corrections to periods of time when they are on duty and authorized by the Director of the District of Columbia Department of Corrections.

The Attorney General advises that existing statutes, as construed by the U.S. Court of Appeals for the District of Columbia, permit District of Columbia Department of Corrections officers to carry weapons when off duty, but prohibit them from carrying weapons when on duty, except for guards in work towers, on escort duty, or in emergency situations.

This bill would clarify the situation by amending the existing applicable statutes so as to clearly restrict the possession and carrying of dangerous weapons by District of Columbia correctional officers to periods when they are on duty and they are authorized weapons by the Director of the D.C. Department of Corrections.

I ask unanimous consent that the text of the bill, and the accompanying letter explaining the need for this legislation, be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act of July 8, 1932 (D.C. Code § 22-3205), is amended—

(1) by deleting "prison or jail wardens, or their deputies, policemen or other duly appointed law enforcement officers,"; and

(2) by inserting in lieu thereof "or their deputies, policemen or other duly appointed law enforcement officers, or to prison or jail wardens or their deputies when on duty and authorized by the Director of the District of Columbia Department of Corrections,".

SEC. 2. Section 14 of the Act of July 8, 1932, as amended, (D. C. Code § 22-3214) is amended—

(1) by deleting "marshals, sheriffs, prison or jail wardens,"; and

(2) by inserting in lieu thereof "prison or jail wardens, or their deputies, when on duty and authorized by the Director of the District of Columbia Department of Corrections, and marshals and sheriffs,".

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., November 11, 1977.

The VICE PRESIDENT,
U.S. Senate, Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal "To restrict the possession and carrying of pistols, other firearms, and other dangerous weapons by members of the District of Columbia Department of Corrections to periods of time when they are on duty and authorized by the Director of the District of Columbia Department of Corrections."

The proposed legislation would amend sections 22-3205 and 22-3214 of the District of Columbia Code which, as presently drafted and construed by the District of Columbia Circuit Court of Appeals, place no limitations on the carrying of weapons by members of the District of Columbia Department of Corrections. See *United States* v. *Pritchett,*

470 F.2d 455 (D.C. Cir. 1972). Ironically, except for guards in work towers, on escort duty, or in emergency situations, District of Columbia correctional officers are not permitted to carry weapons when on duty. The present law permits them to carry and possess these weapons when *off* duty. In both the *Pritchett* case, *supra*, and another more recent case, *United States* v. *Gibbs*, D.C. Superior Court Criminal No. 21535–76, December 3, 1976, charges against correctional officers for illegally carrying a pistol were dismissed by the Court although the officers were clearly in a non-work status and not on duty.

We are advised that a number of correctional officers and employees believe that because of the nature of their employment, they should be authorized to carry guns at all times. The Director of the Department of Corrections, however, has had a long standing policy prohibiting his employees from carrying guns off duty. In fact, as mentioned above, he authorizes only a few officers to have guns when on duty. This Department supports the policy of the Director and believes the legislative authority to carry guns off duty should be eliminated. Accordingly, we recommend that sections 22–3205 and 22–3214 of the District of Columbia Code be amended.

The pertinent language of section 22–3205 presently reads as follows:

"The provisions of section 2–3204[1] shall not apply to marshals, sheriffs, prison or jail wardens, or their deputies, policemen or other duly appointed law enforcement officers, or to *members of the Army, Navy, Air Force, or Marine Corps of the United States or of the National Guard or Organized Reserves when on duty, . . .* " (Emphasis added.)

In the *Pritchett* case, *supra*, the phrase "when on duty" was restricted to those covered by the *underlined* portion above. The attached legislative proposal would amend section 22–3205 to clearly restrict the possession and carrying of dangerous weapons by members of the District of Columbia Department of Corrections to periods of time when they are on duty and authorized by the Director of the District of Columbia Department of Corrections. In addition, the proposal would amend section 22–3214 of the District of Columbia Code to clarify similar language pertaining to the carrying of machine guns, sawed-off shotguns or blackjacks.

We urge early consideration and adoption of this legislation.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this legislative proposal to the Congress.

Sincerely,

GRIFFIN B. BELL,
Attorney General.

By Mr. RIBICOFF (by request):

S. 2512. A bill to provide explicit authority for the arrest of material witnesses; to the Committee on Governmental Affairs.

Mr. RIBICOFF. Mr. President, at the request of the Attorney General of the United States, I am introducing a bill to provide explicit authority for the arrest of material witnesses.

The Attorney General advises that although explicit authority to arrest material witnesses was provided by Federal statute from 1789 to 1948, when Congress adopted the Federal Rules of Criminal Procedure in 1948, this explicit authority was apparently inadvertently omitted. Thus, although existing Federal and District of Columbia statutes allow for release on conditions of material witnesses who are detained in a criminal proceeding, there is no rule or statutory provision explicitly authorizing the arrest of such witnesses.

The Attorney General advises further that recent decisions of the U.S. Court of Appeals for the Ninth Circuit held that a grant of power to arrest may be inferred from the Federal Rules of Criminal Procedure, but that authority is not clear.

Legislation to clarify the situation with respect to the Federal Criminal Code is being processed by the Senate Committee on the Judiciary. The proposed legislation which I am introducing today is designed to clarify the situation with respect to the District of Columbia Code, and will provide the necessary explicit authority for the arrest of material witnesses in the District of Columbia.

I ask unanimous consent that the text of the bill and the accompanying letter explaining the need for this legislation be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1326 of Title 23, D.C. Code, is amended—

(a) by inserting in the title thereof "Arrest and" immediately before "release of material witnesses"; and

(b) by inserting in the first sentence thereof, immediately after "judicial officer", the following: "may order the arrest of such witness and".

SEC. 2. The item relating to D.C. Code, Section 23–1326 in the table of contents for Subchapter II of Chapter 13 of Title 23, D.C. Code, is amended to read as follows:

"23–1326. Arrest and release of material witnesses."

OFFICE OF THE ATTORNEY GENERAL,
Washington ,D.C., November 11, 1977.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration is a legislative proposal that will plug what is apparently an unintentional gap in the law relating to the authority to arrest a material witness.

The power to arrest a material witness was explicitly provided for by Federal statute from 1789 to 1948, *see* Act of September 24, 1789, ch. 20, § 33, 1 Stat. 91; Act of August 8, 1846, ch. § 7, 9 Stat. 73; 28 U.S.C. §§ 657, 658 (1925). However, this explicit authority was apparently dropped by inadvertence from Title 18, U.S. Code, when Congress enacted Federal Rule of Criminal Procedure 46(b). *see* Act of June 25, 1948, Pub. L. No. 772, ch. 645, § 21, 62 Stat. 862. At present the applicable Federal and District of Columbia provisions allow for the release on conditions of a material witness who is detained in a criminal proceeding, however, there is no rule or statutory provision explicity permitting the arrest of a material witness, see 18 U.S.C. § 3149, Fed. R. Crim. Proc. 46 (a) and (b), 23 D.C. Code § 1326, and D.C. Superior Court Criminal Rule 46(a)(6).

Fortunately, the Ninth Circuit Court of Appeals took note of this problem and held that "a grant of power to arrest material witnesses can fairly be inferred from Rule 46(b) and from Section 3149 as well." *Bacon* v. *United States*, 449 F. 2d 933, 937 (9th Cir. 1971); *see also United States* v. *Anfield*, 539 F. 2d 674, 677 (9th Cir. 1976). However, the *Bacon* decision candidly acknowledged that the effect of Rule 46(b) on the superseded provisions which had explicitly authorized the arrest of material witnesses" does not clearly emerge from the statutory history" 449 F. 2d at 938. In order to obviate this confusion with respect to federal law, the Subcommittee on Criminal Law and Procedure of the Senate Judiciary Committee has already reported out the proposed revision of the Federal Criminal Code, S. 1437, with an amendment which would specifically authorize the arrest of a material witness. *see* § 3505, p. 240, l. 29 of committee print. A similar statutory amendment is needed to clarify the law in the District of Columbia. Accordingly, we have developed the enclosed legislative proposal which would amend section 1326 of Title 23, D.C. Code, so as to provide explicit authority for the arrest of material witneses. Without such an amendment, law enforcement authorities in the District of Columbia will be placed in a difficult position if Superior Court judges in future cases raise the question as to what authority they have to issue arrest warrants for material witnesses. The Ninth Circuit's analysis of this issue may not persuade a judge in a given case that it is proper for him to issue an arrest warrant and the ends of Justice may be thwarted by this gap in the law.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

I respectfully urge that this proposal receive early consideration.

Sincerely,

GRIFFIN B. BELL,
Attorney General.

By Mr. RIBICOFF (by request):

S. 2513. A bill to establish the position of General Counsel in the Environmental Protection Agency; to the Committee on Governmental Affairs.

Mr. RIBICOFF. Mr. President, at the request of the Administrator of the U.S. Environmental Protection Agency, I am introducing a bill to establish the position of General Counsel in the Environmental Protection Agency at level V of the executive schedule.

According to information submitted by the Administrator, this legislation is necessary to accord the General Counsel of this Agency the status of Presidential appointment and Senate approval which is accorded to other senior officials of EPA and to other General Counsels in Federal agencies and departments with comparable responsibilities.

I ask unanimous consent that the text of the bill, together with the Administrator's explanation of the need for this legislation, be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Environmental Protection Agency a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate, and who

[1] Section 22–3204 prohibits the carrying of unlicensed pistols or any deadly or dangerous weapons capable of concealment on the person.

shall perform such functions and duties as the Administrator of such Agency shall prescribe.

SEC. 2. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(142) General Counsel, Environmental Protection Agency".

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., October 14, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To estabish the position of General Counsel in the Environmental Protection Agency" and to provide for his or her appointment by the President with the advice and consent of the Senate at the Executive Level V.

This legislation is necessary in order to accord the General Counsel of the Environmental Protection Agency the status of Presidential appointment and Senate approval which is accorded to the other senior officials of EPA and to other General Counsels in Federal agencies and departments who have comparable responsibilities. We urge that this bill be referred to the appropriate Committee for consideration, and that it be enacted.

The General Counsel of the Environmental Protection Agency is the chief legal officer for an Agency which has over ten thousand employees, and which has regulatory and financial assistance responsibilities that are among the broadest in the Federal Government. The General Counsel is responsible for providing legal services to the Agency involving seven major environmental statutes, all of which are relatively new and all of which raise difficult and unique problems of interpretation, frequently with far-reaching implications. In addition, the General Counsel is one of the Agency's few officials with an overview of the implementation of all the Agency's programs and serves as a source of communication and coordination among Assistant Administrators and Office Directors.

The Administrator of the Environmental Protection Agency looks to the General Counsel as a personal advisor and troubleshooter as well as legal counsel. This advice involves formulating and carrying out public policy for the Administration and requires a special sensitivity to the views of the Congress, public interest groups, and industry.

Every agency in the government of comparable size or regulatory responsibility has its General Counsel appointed by the President and approved by the Senate at the Executive Level IV or V. Further, because the General Counsel of the Environmental Protection Agency works closely with General Counsels of several other agencies on several committees, it is important that he or she have a similar status within the Administration.

We are advised by the Office of Management and Budget that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely yours,

DOUGLAS M. COSTLE.

By Mr. GRIFFIN:

S. 2514. A bill to amend the Coastal Zone Management Act of 1972 in order to provide financial assistance to Great Lakes States to enable the States to implement erosion management measures, and for other purposes; to the Committee on Commerce, Science, and Transportation.

GREAT LAKES SHORELINE EROSION MANAGEMENT PROGRAM

Mr. GRIFFIN. Mr. President, undoubtedly there is not a person in this Chamber who has not felt what the poet expressed when he penned:

> I know a lake where the cool waves break
> And softly fall on the silver sand.

However, the Roman philosopher Lucretius was also correct when he said, "Continual dropping wears away a stone." And if water can wear away a stone, what can—and does—it do to that silver sand?

Unfortunately, erosion is a major problem—particularly along the shores of the Great Lakes, where it is destroying miles of scenic and valuable land, as well as contaminating those beautiful waters with tons of sediment.

The U.S. Army Corps of Engineers, in cooperation with the various Great Lakes States, is conducting a study of shoreland damages along the Great Lakes for the most recent high water period of 1972–74. Although the final report from this study is not expected until next year, some preliminary conclusions have been drawn, and it appears that damages during the 1972–74 period could approach $500 million.

Meanwhile, the Great Lakes Basin Commission estimates that during the last few years high lake levels have contributed to the depositing of approximately 70 million metric tons of material into the near-shore waters annually. In fact, there have been reports of residents abandoning their homes, while losing as much as 100 feet of land in a single day.

Through the years, the subject of shoreline erosion has received periodical consideration by the Congress.

For example, in 1946 the Corps of Engineers was authorized to participate in projects for protecting shoreline properties owned by Federal and State governments or that have specified public benefits such as beach access. More recently, the Coastal Zone Management Act of 1972 (CZMA) established a national program for the management, use, protection, and the development of coastal areas by the States.

Attempts to provide disaster assistance or tax relief for individual citizens who have suffered losses as a result of factors beyond their control have not met with much success. Unfortunately, erosion in areas like the Great Lakes often affects small property owners who cannot afford to invest large sums of money in massive protective systems.

I have been advised that 82 percent of the Great Lakes shoreline is privately owned, and that 70 percent of the land undergoing critical erosion involves private property.

It is time that a way to directly assist such private property owners in an erosion management program is developed. Accordingly, today I am introducing the proposed "Great Lakes shoreline erosion management program." My colleague from Michigan, Congressman RUPPE, is sponsoring an identical bill in the House, along with other Representatives from delegations both within and beyond the Great Lakes States. Briefly, our bill involves the following features:

First. A Federal low-interest loan program to be administered by the States in order to provide loans to private owners for relocation assistance, and for nonstructural and to a lesser degree structural erosion management techniques.

Second. A Federal-State grant program established on an 80–20 shared funding process for relocating public facilities and for nonstructural and to a lesser degree structural erosion management techniques to protect the public interest.

Third. Authority for State-Federal agency consultation on erosion control structure techniques.

Fourth. Provisions for annual oversight and contingency funds for unforeseen damage.

Fifth. Allocation criteria for States based on shoreline recession rates, length, and other factors.

Sixth. An investigation to determine the extent of erosion damage related to the regulation of waters by the International Joint Commission—United States and Canada.

While erosion is a natural process, man often accelerates it. And in the case of the Great Lakes, such acceleration has been in large part as a result of Federal and international regulation—by such agencies as the Corps of Engineers and the Joint Commission—directly affecting water levels as well as other policies decided upon at the national level.

In addition, this bill would provide a measure of balance with respect to Federal benefits among coastal States by providing Great Lakes erosion control financing assistance while other States are receiving Outer Continental Shelf impact aid.

Because the Great Lakes erosion situation is not just a regional problem, but a national—and even international—one, I invite the support of my colleagues from throughout the Nation in this effort to help preserve one of our country's most valuable assets.

By Mr. HATHAWAY (for himself and Mr. WILLIAMS):

S. 2515. A bill to require Government contractors to establish and operate alcohol abuse and alcoholism programs and services, or otherwise arrange for referral to such services, and for other purposes; to the Committee on Governmental Affairs and the Committee on Human Resources, jointly, by unanimous consent.

OCCUPATIONAL ALCOHOLISM PROGRAMS UNDER GOVERNMENT CONTRACTS

Mr. HATHAWAY. Mr. President, I am pleased to introduce today legislation which would require Government contractors, as a condition of doing business with the Government to provide directly or indirectly for occupational alcoholism programs and services to their employees, or to arrange for referral of alcoholic employees to otherwise available programs and services, as deter-

mined to be cost effective for the contractor involved.

I am particularly pleased to be joined in this effort by the distinguished chairman of the Committee on Human Resources (Mr. WILLIAMS). Together we look forward to working toward seeing this proposal enacted into law.

This legislation is intended to fulfill a number of goals. First, and most obviously, it is intended to bring occupational alcoholism programs and services, which have a proven record of success and effectiveness, to a greatly increased number of individuals, in a form which will prove most beneficial to them and at the same time will prove to be cost effective to their employers. As a result, the gigantic and destructive impact which the illness of alcoholism has upon the health and well-being of our citizens, the stability of our society, and the productivity of our economy could be counteracted in an aggressive and direct fashion.

An additional benefit flowing from the adoption of cost-effective programs by Government contractors would be improved efficiency and productivity on the part of these firms, which in turn would ultimately benefit all taxpayers. Further, it is hoped that by requiring these contractors to provide a rational approach to the fact of alcoholism among their employees, they will create a climate in which other firms and businesses would voluntarily undertake similar programs.

Also, this legislation should go a long way toward clearing up confusion and controversy surrounding section 503 of the Rehabilitation Act of 1973. This bill would provide a positive tool to assist contractors in meeting the mandate of that section, and would, if properly implemented, greatly limit employers' fears about the impact of that section. That section requires all Federal contractors to take "affirmative action to employ and advance in employment qualified handicapped individuals," including alcoholics.

I shall be happy to elaborate on each of these aspects of this legislation.

NEED FOR OCCUPATIONAL ALCOHOLISM PROGRAMS

Alcohol abuse and alcoholism impose significant and increasing costs upon our economy and society. Recent estimates sanctioned by the National Institute on Alcohol Abuse and Alcoholism indicate that alcoholism results in a direct economic loss of about $20 billion in productivity annually. Total costs in terms of health care, automobile accidents, and so on, exceed $42 billion.

This figure becomes easier to appreciate when one examines various studies of the impact of alcoholism on the workplace. The National Council on Alcoholism estimates that between 6 and 10 percent of the work force is in the early middle, or latter stages of alcoholism. This represents between 6 and 10 million individuals. The NIAAA has indicated that approximately 70 percent of the Nation's 10 million alcoholics are fulfilling functions. Further, according to NCA, each alcoholic employee unless treated can be expected on the average to cost his employer approximately 25 percent of his annual salary in terms of production losses stemming from absenteeism, accidents, unnecessary scrap, and so on.

Other studies have indicated that the alcoholic employee, compared with his fellow workers, is absent 2.5 times more often, has twice the incidence of respiratory and cardiovascular diseases, and three times the incidence of digestive disorders.

Against this background, firms which have instituted occupational alcoholism programs have seen dramatic results. These programs promote early intervention and recovery before the more destructive and less reversible aspects of this progressive disease take hold. Data from a wide variety of programs indicate successful treatment and recovery in 60 to 86 percent of the individual cases, versus only 25 percent among unemployed alcoholics. In many cases treatment requirements are relatively inexpensive. One major corporation found that among 350 cases of alcoholism only 24 required inpatient treatment. Firms have documented benefit to cost ratios for such programs ranging from 2 to 1 up to 5 to 1.

While business and industry receive this kind of benefit, it is equally clear that society as a whole benefits. Along with the incremental increase in efficiency to our economy, societal costs of unemployment compensation, disability payments, medicare, medicaid, and so on are lessened to the extent that these individuals are successfully treated and returned to full productivity. Of course, other intangible, human costs associated with alcoholism would at the same time be limited. These include the human tragedy associated with auto fatalities, child abuse, and suicide.

Despite this potential, and these demonstrated results, only a small minority of our Nation's employees have such programs made available to them. At hearings held last spring by the Subcommittee on Alcoholism and Drug Abuse, it was estimated that only about 1,200 programs were then in existence. Other recent estimates go no higher than 2,400 firms.

At those hearings, which dealt with S. 1107, a bill to provide 50 percent Federal funding for occupational programs, it was pointed out time and again by witnesses that money was not really a problem in instituting these programs. All of them had shown that they paid for themselves many times over. Further, even startup costs were relatively low. The State of South Carolina Commission on Alcohol and Drug Abuse provides a basic occupational package for $2 per employee, and has under contract 94 private businesses which range in size down to 15 employees.

Rather, the apparent problem in implementation of these programs on a more widespread basis was, according to the testimony of witnesses, the stigma of alcoholism and the refusal of many in top management to seriously consider such programs, or to accept that alcoholism might be a problem among its employees.

While I would prefer that all firms voluntarily institute these programs, this inertia and its concommitant impact on the economy of our Nation and the health of our citizens calls for more direct action.

Because these programs are cost effective, and because they have a positive impact on lessening other governmental expenditures, it seems appropriate that as a matter of sound business practice the Federal Government ought to require such programs of those with whom it does business—namely Federal contractors. These firms, which total over 250,00, receive annually over $60 billion in Federal procurement contracts.

The Federal Government has a legitimate and direct interest that these firms operate as efficiently as possible in order to insure that these procurement costs do not include the costs of lost production which are otherwise avoidable.

But at the same time, I am reasonably certain that mandating these programs for Federal contractors will have a significant synergistic effect on their colleagues in business and industry, and result in an accelerated development of these programs.

SECTION 503—REQUIREMENTS AND OVERALL PUBLIC POLICY

The provisions of this bill are patterned after and intended to be complementary to those of section 503 of the Rehabilitation Act. That section enacted into law in 1973 requires Federal contractors to take affirmative action in employing and advancing qualified handicapped persons. It was Congress intention at the time of enactment of that legislation that alcoholics were to be considered within this handicapped classification. Administrative determinations confirmed this. That intention was further underlined by the regulations issued last spring by Secretary Califano of HEW with respect to section 504, requiring full participation of and barring discrimination against any handicapped individuals including alcoholics and drug abusers, solely by reason of handicap, in any activity receiving Federal financial assistance. These regulations followed a formal opinion to that effect by Attorney General Bell.

In July of this year, Assistant Secretary of Labor for Employment Standards Donald Elisburg issued a public statement reiterating that alcoholics were handicapped individuals for purposes of section 503. He pointed out at that time that the Office of Federal Contract Compliance programs received 11 complaints regarding alcoholism, and 6 more concerning drug abuse. Among these claims two of the individuals had received back pay totaling $7,500 and one individual was awarded a job for which he was previously turned down.

This principle is a sound one. As Assistant Secretary Elisburg stressed—

> Our government spends a considerable amount of money each year to rehabilitate alcoholics and drug abusers, to help them again become employable, productive citizens. It would be incongruous to turn around and deny them protection under the anti-discrimination law.

This announcement prompted a number of unfortunate and shortsighted statements. Generally, these statements

condemned this policy as tantamount to mandating that contractors must aggressively seek to employ alcoholics and drug abusers not capable of performing the work involved. Both the law and the subsequent interpretations have emphasized that such individuals must be "qualified." The law does not require the impossible, as Judge Bell's letter of April 12 to Secretary Califano pointed out:

> In sum, the statute does not require the impossible. It does not unrealistically require that recipients of Federal contracts and grants ignore all the behavioral or other problems that may accompany a person's alcoholism or drug addiction if they interfere with the performance of his job or his effective participation in a federally assisted program. At the same time, the statute requires that contractors and grantees covered by the act not automatically deny employment or benefits to persons solely because they might find their status as alcoholics or drug addicts personally offensive, any more than contractors or grantees could discriminate against an individual who had some other condition or disease—such as cancer, multiple sclerosis, amputation, or blindness—unless its manifestations or his conduct rendered him ineligible.

This opinion, and the accompanying regulations and policy statements on the part of the administration are most significant events and represent a further recognition that alcoholism and drug abuse are health problems which are preventable and treatable, and that Federal policies on a wide variety of levels ought to be mobilized toward that end. Therefore, it is most unfortunate that much of the resultant public debate has focused on strained interpretations of these affirmative action provisions rather than on developing an overall strategy to combat the underlying problems. This is particularly so with respect to alcoholism which impacts virtually every employer and every workplace. Many who assail section 503 would like to hide their heads in the sand and pretend this is not the case. While it is gratifying to know that two individuals who were discriminated against on these grounds have received some back pay, and one has been awarded a job, there remain several million more in the work force already whose not yet identified alcoholism may presently or as it progresses, render them unqualified for their work, ruin their health, and personal lives, and adversely affect their family and friends. Each of these individuals can and should be helped. Once Government contractors were forced to face up to this fact of life and initiate an affirmative program to counteract it, the affirmative action requirements of section 503 would be perceived by business to create no particular problems. They would know from direct observation that alcoholism is a preventable and treatable disease and that with appropriate programs, employees affected by this illness can be fully productive. I am confident that any firm which sets up a fully effective occupational program would have little to fear from section 503.

Implementation of a sound occupational program would foster in the employer an appreciation and understanding for the disease of alcoholism and would go a long way toward eliminating any stigma associated with it. Such employers would be in a far better position to evaluate the qualifications of each of their employees and applicants on objective performance grounds and to do their hiring and advancing on this basis.

That is really what section 503 is all about, and the new section 505 provides an overall blueprint which would insure compliance with respect to alcoholism. Further, this section would provide direct and tangible economic benefits to each firm, as alluded to earlier.

Given section 503's applicability to alcoholism and drug abuse, as well as other handicaps, one might properly inquire why this new section 505 deals only with occupational alcoholism programs, and chooses to exclude drug abuse. No discrimination is intended. I have vigorously supported and will continue to support effective treatment and rehabilitation programs for drug abusers. But to my knowledge, there has not been sufficient demonstration of occupational programs dealing with drug abuse and there is no comparable record of success and cost effectiveness. Of course, Federal contractors would be free to establish programs and policies relative to both licit and illicit drug abuse.

PROVISIONS OF THE BILL

This legislation applies to all Federal contractors and subcontractors holding contracts in excess of $2,500. It amends the Rehabilitation Act of 1973 by adding a new section 505 at the end of that act which provides a general requirement that each of these contractors must establish and operate individually or together with other employers, labor organizations, public agencies or private organizations, or consortiums thereof, appropriate prevention, identification, treatment, counseling and rehabilitation programs and services for alcohol abuse and alcoholism among its employees. Alternatively, these contractors may arrange for the referral of employees affected by the illness of alcoholism to appropriate available programs conducted by public agencies or private organizations.

These general requirements encompass a very broad range of responses which could potentially be deemed acceptable from a given contractor. But in order to provide some guidance and direction, section 2 of the bill requires the National Institute on Alcohol Abuse and Alcoholism to develop a wide variety of specific program models suitable for replication on a cost-effective basis by firms with widely different characteristics—including large and small firms, firms in major metropolitan cities and in outlying areas, firms which are able to rely on existing community facilities and programs, and firms lacking such programs. It is intended by this legislation that NIAAA create a range of options, one of which will prove attractive and feasible for each Government contractor, and which will be beneficial to the employees involved.

For example, many large industrial concerns—more than 60 of the largest 400 in the Nation—are already operating significant in-house programs with full time coordinators, counselors, and rehabilitation personnel.

Of course, this sort of approach ought not to be mandated for a small manufacturer of office supplies. If feasible, coordination of this firm's program probably ought to come from a consortium or contract approach, and community programs and facilities should be relied upon as much as possible. Likewise, paperwork and regulatory burdens should be kept to an absolute minimum. But as an absolute minimum, as delineated in section 1(a)(1)(B), every firm ought to have a mechanism in place for the referral of those employees who are identifiable as alcoholics to available programs and facilities.

In order to insure that these program models are responsive to the special needs of small business, the bill requires that the Small Business Administrator be consulted in the development of models affecting small business concerns. Throughout this process, it is intended that maximum reliance be placed on the pooling of available resources, and the development of consortiums of firms wherever feasible.

The bill also includes specific provisions with respect to model programs intended for implementation in business concerns employing individuals represented by labor organizations. These model programs shall require that, as they affect such individuals, their method of conduct, including particularly means of identifying those in need of assistance, and the scope of services provided, must flow from a mutual agreement entered into between the employer and the labor organization consistent with collective bargaining procedures.

This is intended to insure that the provisions of this legislation are consistent with and complementary to those of the National Labor Relations Act. At the same time, they are consistent with the prior experience gained in the implementation of such programs within firms whose employees are represented by labor organizations. This experience indicates forcefully that in order for such programs to work and work well they must result from joint labor-management cooperation.

The National Council on Alcoholism's Labor Management Committee, headed by George Meany, president of AFL–CIO, and James M. Roche, director and former chairman of General Motors, have provided sound and strong leadership in this regard. Their findings indicate that labor and management are ready and willing to cooperate on these matters and that better progress inevitably results from this cooperation. In this way the maximum number of employees needing assistance are reached and the greatest benefit results to them as individuals, to their families, and to their employers.

It should be noted that the provisions of this measure do not impose an increased burden upon NIAAA. Already in existing law, section 201(b) of the Com-

prehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 stipulates:

(b) The Secretary, acting through the Institute, shall be responsible for fostering similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and private industry.

Consistent with this mandate NIAAA has developed some program models, and over the past few years has funded staff positions in State alcoholism agencies to attempt to encourage businesses to implement such programs. This legislation continues and expands on this mandate and is intended to make clear that Congress places a very high priority on the development of program models which are appropriate and cost effective for all types of firms.

While the problems which have in the past inhibited the widespread development of occupational alcoholism programs—most particularly stigma—will no doubt continue, a legislatively mandated emphasis on workable and cost effective programs would go a long way toward making such programs more prevalent throughout our Nation's workplace.

This bill therefore amends section 201 (b) to incorporate these features. Additionally it charges NIAAA with disseminating materials relevant to these programs to State alcoholism agencies, and providing technical assistance to such agencies. At the same time the State agencies, as part of their State plan, are required to provide assurances that they will encourage and assist businesses with the State in developing these programs. Once again these activities are ones which are already taking place in the vast majority of States, but the problem is a significantly important one as to justify statutory attention and emphasis.

While providing needed guidance to the Government contractors affected by the proposed new section 505 of the Rehabilitation Act of 1973, these amendments to the Comprehensive Alcoholism Act will at the same time be helpful to all those firms not seeking Government contracts, but which would benefit from implementation of these programs. As model programs are developed they should be shared with all who could be assisted by them. In addition, the imposition of a requirement that Government contractors establish these programs should have a substantial spillover effect on the private sector generally. As the contractors seek to establish consortiums in various parts of the country, they will no doubt enlist the support of firms in the same area who may or may not hold or seek Government contracts. In this way this legislation is intended to have a synergistic effect and result in a situation where virtually every firm ultimately will establish and maintain an effective program.

Enforcement procedures for these provisions would be virtually identical to those already established for section 503. Employees who believe that an employer has failed to live up to his contract would file a complaint with the Department of Labor's Office of Federal Contract Compliance Programs. That Office would be empowered to investigate and impose a variety of sanctions ranging from debarring a contractor from future Federal business to withholding payment or a portion of payment, to taking the contractor to court and assessing penalties based on back pay.

But with respect to compliance, the establishment and operation of any of the model programs developed by NIAAA would be deemed sufficient. Of course, these model programs are not intended to be the sole means of meeting the requirements of the new section 505, and any firm which can demonstrate that its program has been established in good faith and is directed toward meeting the needs of its employees should have no trouble with this legislation.

Also, as discussed regarding development of model programs, firms with employees represented by labor organizations shall not be required to establish such programs until the program elements are mutually agreed to by the firm and the labor organization. Again, this is to insure consistency with Federal laws and regulations affecting collective bargaining, and also to promote implementation of effective programs.

Further, in order to insure that the requirements of this legislation are not unduly onerous or riddled with bureaucratic horror, firms have the option of establishing a quite simple referral mechanism as opposed to an in-house program or consortium program. This alternative is stipulated in section 505 (a) (1) (B).

The standards contained in this legislation are very flexible and purposefully so. The record of success and accomplishment among the programs which have already been instituted is sufficiently strong to convince me that once employers are required to make a commitment to some type of program or referral mechanism and once they experience the initial positive results they will follow through aggressively for the well being of their employees and their businesses.

For purposes of compliance actions, it is important to note that section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 would be in full force, since these occupational programs would certainly be "regulated * * * by a department * * * of the United States." This guarantees confidentiality of individual treatment records except in narrowly specified circumstances.

The bill allows the requirements of section 505 to be waived with regard to a particular contract consistent with regulations, as long as the reasons for the waiver are stated in writing by the President. This is intended to allow some flexibility to the executive in procuring items on an emergency basis, or as required for national security reasons.

Mr. President, at the conclusion of the remarks of the Senator from New Jersey (Mr. WILLIAMS) with respect to this measure, I ask unanimous consent that there be printed in the RECORD the bill itself, along with an article on occupational alcoholism programs which recently appeared in New England magazine authorized by Mike Sheridan, titled "Contrary to Common Belief: Business and Alcoholism"; an article which appeared in the February 6, 1978 edition of the Washington Post by Stacy Jolna titled "Business, Labor Join To Battle Alcoholism"; and an article which appeared in the December 11, 1977 Maine Sunday Telegram titled "Alcoholism: A $15 Billion Problem."

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Rehabilitation Act of 1973 is amended by adding after section 504 the following new section:

"OCCUPATIONAL ALCOHOLISM PROGRAMS UNDER FEDERAL CONTRACTS

"SEC. 505. (a) (1) Any contract in excess of $2,500 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that, in employing persons to carry out such contract the party contracting with the United States shall—

"(A) establish and operate by itself or together with one or more other employers, labor organizations, public agencies or private organizations, or with consortia thereof appropriate prevention, identification, treatment, counseling, and rehabilitation programs and services for alcohol abuse and alcoholism among its employees, or

"(B) arrange by way of contract, cooperative agreement, or other arrangement for the referral of employees affected by the illness of alcoholism to appropriate available programs and services conducted by public agencies or private organizations.

"(2) The provisions of this section shall apply to any subcontract in excess of $2,500 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States.

"(3) In the case of a contracting party with employees represented by a labor organization, no program affecting such employees shall be established or required under the provisions of this section unless the method of conduct identification, and the scope of services of such program have been determined by agreement entered into by the labor organization and the employer through collective bargaining procedures.

"(b) If any employed person of such contracting party believes that the party has failed or refuses to comply with the provisions of his contract with the United States, relating to alcohol abuse and alcoholism programs, services and referral mechanisms, such person may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto. A contracting party shall be deemed to be in compliance with the requirements of this section if he institutes and maintains one of the model programs developed pursuant to Section 201 (b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, except that such

model programs shall not be the exclusive methods of achieving compliance.

"(c) The requirements of this section may may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which he shall prescribe, when he determines that special circumstances in the national interest so require and states in writing his reasons for such determination.".

SEC. 2. (a). Section 201(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (hereinafter referred to as the "Act") is amended to read as follows:

"(b)(1) The Secretary, acting through the Institute, shall be responsible for fostering and encouraging similar alcohol abuse and alcoholism prevention, treatment and rehabilitation programs and services in state and local government and in private business and industry.

"(2) Consistent with such responsibility, the Secretary, acting through the Institute, shall develop a wide variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and state and local governmental entities, taking into account the number of employees, geographical location, proximity to other concerns and entities, and availability of existing services from public agencies and private organizations. With respect to small business concerns, the Secretary (acting through the Institute) shall consult with the Small Business Administrator in the development of model programs affecting such concerns.

"(3) With respect to business concerns and governmental entities which employ individuals representated by labor organizations, any model program affecting such individuals shall require that the method of conduct, identification, and scope of services to be provided shall be determined by agreement entered into by the labor organization and the employer through collective bargaining procedures prior to the establishment of such program.

"(4) The Secretary, acting through the Institute, shall disseminate information and materials relative to such model programs to single state agencies designated pursuant to Section 303 of this Act, and shall provide technical assistance to such agencies as requested."

(b) Section 303(a) of the Act is amended by—

(1) redesignating paragraph (16) as paragraph (17); and

(2) by inserting immediately after paragraph (15) the following:

"(16) Provide assurance that the State agency—

"(A) will foster and encourage the development of alcohol abuse and alcoholism prevention, treatment and rehabilitation programs and services in state and local governments and in private businesses and industry;

"(B) will make available to all business concerns and governmental entities within such State information and materials concerning such model programs suitable for replication on a cost-effective basis as developed pursuant to Section 201(b); and

"(C) will furnish technical assistance as requested to such business concerns and governmental entities.".

CONTRARY TO COMMON BELIEF: BUSINESS AND ALCOHOLISM

(By Mike Sheridan)

Drinking employees are driving up the cost of doing business in New England. The alcoholic worker—who is frequently late for work, absent several days per month, and who repeatedly makes on-the-job mistakes—is costing business and industry in the six-state region $500-million a year, officials estimate.

Alcoholics on the job are no longer confined to just one or two workers. An estimated 4.5-million alcoholics are employed in industry today—roughly 5% of the nation's work force, reports the National Council on Alcoholism (NCA).

Benjamin H. Ticknor, a field consultant for NCA, believes that industry must be charged with the responsibility of the disease because government is supported by taxes on alcohol—to the tune of some $15 billion yearly. "We have an alcohol-supported government," Ticknor says. "The government may pay lip service, but the paltry $100-million they throw at it isn't going to do any good. Industry has the clout—through the payroll, through their ability to talk from an authoritative standpoint. There's a morale factor, too. After all, a man has one half to two thirds of his life tied up in business."

The cost of keeping an alcoholic employee on the payroll, experts estimate, is 25% of the worker's annual wage. Research groups have said that cost averages out to $2,500 a year per alcoholic employee.

"It's dearly costing the company that ignores the problem," says Charles Pilkington, of the Special Services Division of Pratt & Whitney Aircraft Group, the largest employer in Connecticut. "The problem exists and must be reckoned with."

On the average, each alcoholic employee loses 22 days of work a year as the result of his drinking and its physically debilitating results.

Studies show that, compared with the norm, alcoholic employees:

Function at 67% of their work potential.

Have an accident rate three times higher.

Are involved repeatedly in grievance procedures.

File five times more compensation claims.

Ticknor emphasizes the alcoholic cost at the highest level of management is the most damaging. "It's my belief that the biggest cost of all is bad decisions to cover up, and I am more aware of this because I was in an executive position as an alcoholic. Alcoholics hide, they make bad decisions. You've got to keep hitting at the executive branch of business," Ticknor, who was president of Industrial Molasses Corp. for 35 years, now owns a guest house in Dublin, N.H., that caters to the recovering alcoholic.

Ticknor relates from his own experience the typical alcoholic's day: "The alcoholic starts the morning sick and dull. After a martini lunch he sparkles, maybe attends a meeting . . . has lots of great ideas. Then he begins to tire, starts needing another drink. . . . He says, "Let's get the business over,' before all the evidence is in. That's when the bad decisions come in. He's apt to call the meeting off, walk out before the meeting is over."

Moreover, Ticknor says, the drinking executive can be a great stumbling block in the company's attempts to treat alcoholics. "He will pooh-pooh the program," Ticknor explains. "He doesn't want it. It may interfere with his drinking."

Who is the alcoholic employee? Contrary to common belief, the problem drinker is not the skid-row bum. Studies show him to be a skilled or semi-skilled person, varying in age from 35 to 50, who has been at least seven years with the company, married, owns his own home, and usually has two or more children. In short, he is a respected member of the community.

"There is no typical alcoholic," says one business executive. "If you accept the concept that alcoholism is a disease, then a disease knows no boundaries. It can't read a paycheck or an address."

No business or industry is immune to the alcoholic and the cost of his addiction; and small businesses often have more to lose than large corporations. But it is the large company which has taken the initiative in alcohol treatment.

Fred Stevens, coordinator of special services for Textron, Providence, R.I., is a direct man with a down-to-earth approach. "It's called special services," he says with a grin, "but it means alcohol."

Stevens' job takes him all over the country, to Textron's many divisions, working to set up alcohol-treatment centers in each of the plants.

"I can walk into a place and say, "How many alcoholics do you have?" and they'll say, 'Well, out of so many, we've only had three people hospitalized for alcohol in the past five years.'

" 'Three!' I'll say. 'That's not many. Well, what other illnesses are on the record for those three people; gastroenteritis, nervous anxiety, and non-surgical back pain, right?'

" 'How did you know? Did you see the records?'

" 'No, I didn't see the records. Now look and see how many were hospitalized for those things. . . .'

"I know," Stevens says bluntly. "I used to go to the doctor and say, 'Doc, you've got to give me something. . . .' and he'd prescribe something for gastroenteritis. Now that's not saying that everybody with gastro is an alky. . . .

"We checked the records on drinking people. At a minimum he's hospitalized three times. Seven at the maximum. He takes 35 weeks off during a three-year period. Now, the man looks at that figure and says, 'No, Fred.' But what he doesn't realize is that doesn't mean a week off at a time. That's a day here, a day and a half there . .

"The executive can get away with it. If the employee takes the day off, he gets docked. An executive says, 'I'm going to Boston for a few days,' and nobody questions him. He could be around the corner, dead drunk in a hotel room, and nobody would know the difference. . . .

"I think half the time psychiatrists hurt more than they help. They give people excuses to drink. What difference does it make if you've got a problem mother—everybody's got problems. . . . Your problem is alcohol, and there's only one way you can handle the problem: Don't drink."

Alfred Van Sinderen, president of the Southern New England Telephone Co., estimates that the more than 600 alcoholics in the firm will cost SNET $500,000 this year. "Alcoholism is a very strange disease," Van Sinderen explains. "People who have it don't want to admit they do. They don't want to be cured. They don't want to be helped. Only people who are recovered alcoholics really understand the nature of the illness."

James S Kemper, Jr., president of the Kemper Insurance and Financial Companies, says employers who say they have no problem drinkers in their organizations are similar to the employed alcoholic who insists he has no drinking problem. "Neither is facing the realities of the situation," Kemper says. They are alike, too, in that both are paying a heavy and needless penalty for their illusions. According to our studies, the most expensive way to handle the problem drinker is to fire or ignore him or her, the most profitable and effective way is to help the employee recover."

Paul McGuide, of Century Brass, agrees, saying a firm gains nothing by firing alcoholic employees upon discovery. "A firm has an investment in the employee and has spent time in training him," says McGuire. "With a little bit of effort the employee will, hopefully, recover. If the worker is fired, he'll probably go away and get another job, and then it's someone else's problem."

A good recovery program, on the other hand, may have a success rate of 50%–70%. "Why sure!" Ticknor concurs, emphatically.

"A recovering alcoholic is one of your most valuable employees. He's a worker . . . he's got a conscience."

But fear of losing jobs forces many alcoholics to "mask" their problems while on the job. Thus alcoholism is detected only in its very late stages where chances of recovery are minimal.

"A social stigma has been attached to alcoholism," relates Frank O'Callaghan of the Massachusetts Council on Alcoholism. "For a long time, alcoholism was viewed as being symptomatic of other problems. People felt that if those problems were cleared up, the drinking would too."

Steps have since been taken to place alcoholism in the proper light. In 1956 the American Medical Assn. classified alcoholism as a disease. It is now viewed as a medical problem rather than a moral one by the insurance companies as well.

As alcoholism among industry employees spread, a few large corporations such as Kodak and DuPont—sensing the physical and financial losses from alcoholic employees—tried to do something about it. The firms pioneered occupational alcoholism programs to identify and to assist persons with alcohol-related problems. A large percentage of alcoholic employees were successfully rehabilitated.

But Ticknor says that some progress in the private sector has been discouraged by government funding. "Since the federal government has come into this, grant money is so free that people think "we don't need the private sector. But what it did was disrupt the private sector. With government money, you spend half your time reporting what you did with it, half the time getting the money. You end up with a lot of little bureaucracies."

The success of some private programs, however, has been encouraging:

One study of 25 alcoholics at General Motors Corp., based on one year's comparison before and after enrollment, showed 66% reduction in lost man-hours, 59% reduction in sickness and accident benefits, 39% reduction in on-the-job accidents, and 25% reduction in medical department visits.

At the former Scovill Manufacturing Co. (now Century Brass Products), in Waterbury, Conn., officials estimated several years ago that they saved $165,550 over a three-year period through their alcohol treatment programs.

A comparative study of 402 employees at Illinois Bell Telephone Co.—five years prior to referral against five years after referral—showed a 46% reduction in sickness disability resulting in savings of $459,000, and a rehabilitation rate of 72%.

Officials at the Kennecott Copper Co. found sickness and accident costs for identified alcoholics, compared with the average, to be more than 5 to 1; hospital, medical, and surgical costs were more than 3 to 1. After a year into the program, hospital, medical, and surgical costs decreased 55%.

Insurance companies have estimated that for every dollar spent in rehabilitating the alcoholic employee, $5 will ultimately be saved.

How does an alcoholism treatment program "save" money?

To illustrate the benefits of an occupational program, the Massachusetts Council on Alcoholism uses as an example a fictional company which employs 1,000 individuals at an average annual wage of $10,000. Since an estimated 5 percent of the workers are alcohol abusers (50 employees), the payroll for alcohol abusers would be $500,000.

The alcoholic employee will be absent more often, have more accidents, and will file more compensation claims—so the company will spend 24.8 percent of the employees annual wage additionally. The cost of alcohol abuse in the company, then, is $124,000.

During the first year of operation, an occupational program will deal with 20 percent of the alcohol abusers. Thus, in the fictional company with 50 alcohol abusers, 10 would be identified and offered assistance during the first year.

Since the company aiding the individuals is no longer spending the 24.8 percent that was the cost of their unidentified alcoholic abusers, it will realize a reduction in added operation cost of $17,360.

Training costs for supervisory personnel would be about $1,800, while educating employees about the program would cost $1,120, and treatment of the 10 individuals would run about $8,000. But most group health insurance policies will, after $100 deductible, cover 80 percent of the treatment costs. So, the net treatment cost for the 10 identified alcoholic individuals would be $2,400.

Thus, the total cost of running the first year program would be $5,320.

Subtract $5,320 from the reduction of operating costs mentioned previously ($17,360), and the first year net reduction in operating costs is $12,040, representing a savings equal to 2.26 times the cost of the program generating the savings.

During the first year of its program, Pratt & Whitney Aircraft saved $500,000, Pilkington reports. "Saved" is a misnomer, he adds. "I prefer to call it a 'cost avoidance'—you avoid extra costs for absenteeism, sick benefits, and the like."

The company received $3.72 in cost avoidance for every dollar PWA expended in the alcoholism treatment program, and during its first year, 451 persons were referred for treatment.

One of the problems a firm is faced with is training the supervisors in such a program. Ticknor believes that a valuable resource is being overlooked in company personnel directors.

"The personnel director is looked upon as a sort of rubber stamp in some companies, a hirer and firer of the lowly . . . While if there's a real problem, they go to the vice-president. Actually, he's the only one of the company who can speak to everyone."

Because of the daily contact, a supervisor is also in an excellent position to spot drinking problems. And a supervisor has legitimate, explicit expectations for the employees in the performance of their roles without slip-ups.

Part of the problem is getting the employee to admit to the drinking problem and to realize that alcohol is affecting his job. Personnel try to point out that problems at work would probably go away if the alcohol problem were cleared up.

Ticknor says that many companies are now implementing what is called a "troubled persons program." It may deal with problems ranging from athlete's foot to an overspending wife, he says, "but it is there that the alcohol problems surface. Eighty-three per cent of the problems turn out to be alcohol-related."

However, it is usually on the basis of job performance—not alcohol—that the employee is confronted.

Joseph Sheehan, occupational consultant for the Connecticut Alcohol Council, says that confronting the employee is the difficult part of the rehabilitation process. "No matter how you cut it, there has to be a confrontation," he continues. "Supervisors may postpone it because it's a difficult thing. But it has to happen."

Because of the confrontation factor, Pilkington reports, gaining acceptance from supervisors is far from easy. "We had to show them the program was good, and that we would not only be helping the employee, but also the supervisors," says Pilkington. We pointed out that with less employee absenteeism and better productivity, it would make the job easier.

If an employee persists in drinking, the company's course is obvious. After trying to persuade the employee to accept treatment, PWA's Pilkington says, "It's like you've got a broken hand and don't want to get it fixed. We're going to send you home."

"If an employee fails to take advantage of the offered treatment plan at Century Brass," says MGuire, "that worker is eventually dismissed because of poor work performance."

At Century Brass, however, the company will take the dismissed worker back after a year as a probationary employee, and will give the recovered employee one third of the benefits due him.

"For some," says McGuire, "it is the jolt they need. . . ."

[From the Washington Post, Feb. 5, 1978]

BUSINESS, LABOR JOIN TO BATTLE ALCOHOLISM

(By Stacy Jolna)

A telephone lineman in Michigan with a penchant for blended whiskey has curtailed his drinking—and his absenteeism—and is back on the job after a brief stint at a detoxification and counseling center. Bell Telephone Co. sent him there and paid the bill.

Standard Oil Co. of California is treating one of its executives for a bad case of too many martini lunches—before the martinis became more important to him than the job.

At the State Department, an administrator's secretary has been referred to a special alcoholism program within the agency to find out if her drinking habit has anything to do with her tardiness habit. The treatment is confidential and free—courtesy of the federal government.

Throughout the country, business, government and labor are joining forces to fight alcoholism where it usually can be indentified first, on the job. And both management and labor are finding that a company program designed to treat employees with drinking problems is mutually beneficial.

"It's good for the individual because it returns him to a position as a respected member of his family and helps him to become a productive member of society again," said Dr. Ruth V. Karrh, medical director of the Du Pont Co. and a director of the National Council on Alcoholism. "From the company's standpoint, we are able to benefit from resumed productivity of a trained individual who has been a good employee and has every expectation of again being a good employee."

Alcoholism's cost to society in 1976 was $43 billion, including about $20 billion in lost productivity and wages and $12 billion in health and medical costs, according to the U.S. Department of Health, Education and Welfare's National Institute on Alcoholism and Alcohol Abuse (NIAA). About half the alcoholics in the United States, or about 5 million persons, are employees.

At least half of those referred are helped, with some companies reporting recovery rates as high as 80 percent, according to Dr. Paul Sherman, president of the Association of Labor, Management, Administrators and Consultants on Alcoholism and director of occupational alcoholism programs at International Telephone & Telegraph Co. in New York.

A recent General Motor Corps, study shows decreases of 50 per cent in lost work hours and 30 percent in health problems among employees treated for alcoholism. And an Oct. 31 report of the NIAA shows that, among employees treated at International Harvester Co., there were reductions of 40 per cent in absenteeism and 50 per cent in disability payments.

Du Pont was the first company in the nation to realize the corporate benefits of an occupational alcoholism program. It instituted the first program of its kind in 1942, closely followed by Eastman Kodak.

Today, the list of businesses and industries with occupational alcoholism programs reads

like a who's who of the New York Stock Exchange.

The largest company in the country, the federal government, also mandated occupational alcoholism programs for federal employes in 1951 with the same legislation that created the NIAA.

"We use the job as the lever to get the alcoholic to face the problem and do something about it," said Dr. Sherman, a psychologist and recovered alcoholic. "The employee (at ITT) is given a choice: If his performance drops to an unacceptable level and he is not responding to corrective measures, he will either accept a referral to the alcoholism program or risk being fired."

Dr. Sherman noted that years before a drinking problem appears, there is a marked decline in job performance.

"By keeping the focus on performance, then anything that relates to productivity can be referred," Dr. Sherman said. "We find we are also picking up an equal number of other problems, like emotional and family problems which can lead to alcoholism."

Many of the companies have special training programs to alert management personnel and union shop stewards to the correlation between a drop in productivity and possible alcoholism.

"If performance drops at all, they just talk to the person," Dr. Sherman said. "We tell the supervisors if you've tried talking to the employe and it happens again we refer the person to the program."

Dr. Sherman said there is very little stigma attached to the program because all medical records are kept confidential and separate from personnel files. In most cases, in fact, the employe is not treated at the company but is referred to some outside source.

However, despite the apparent benefits of occupational alcoholism programs to both management and labor, Sherman said of the nearly 1200 companies that have programs, only about 300 currently are working well.

Donald Phillips, U.S. Civil Service alcoholism and drug abuse program manager, said the program has "treated 30,000 employes since 1972, and about 75 percent of all federal employes are covered by the programs.

"Some of our programs are highly effective like the one in the Government Printing Office. Some of them are just paper programs.

"What we have is a resource problem—no money and no personnel to administer these programs," Phillips said.

[From Maine Sunday Telegram, Dec. 11, 1977]

ALCOHOLISM: A $15 BILLION PROBLEM

NEW YORK.—Excessive drinking on and off the job is costing American industry at least $15 billion a year, according to authoritative studies.

Until just a few years ago, a businessman might say, "We don't have any problems with alcoholics—we fire them."

But with alcoholism recognized more widely as a disease—it ranks second only to heroin as a killer addiction—emphasis has turned to seeking cures beyond the instant panacea of dismissal.

The $15 billion figures comes from a special report to Congress by the National Institute on Alcohol Abuse and Alcoholism, prepared with the help of the Harvard School of Public Health. And the report said the figure probably was conservative.

Drinking to excess is not just a problem in itself. There also is the difficulty of making people think about it.

More than 100 million Americans are classified as "drinkers"—that is, people who take more than one drink in a year. Of those, an estimated nine million have had some kind of problem with their family, employment or the police because of drinking.

Does that make them alcoholics?

Possibly but not necessarily. Experts are leary of offering clear-cut definitions because two drinks might impair the faculties of one person while 10 drinks will leave another relativ-ly sober.

"Sure I drink, but I can handle it," is the classic response of the drinker who does not want to admit that he or she might have a problem.

One former alcoholic says, "You have to admit you're an alcoholic and decide if you want to live. It's your choice day by day."

Apart from the generally recognized organizations like Alcoholics Anonymous, there are today more than 1,200 occupational alcoholism programs in America, many of them set up by companies intent on recovering useful workers otherwise lost to them.

The heavy machinery manufacturer Deere & Co. of Moline, Ill., sees the problem, has analyzed it and offers help.

"Unfortunately it's difficult for a nonalcoholic to understand that alcoholism is a disease, just like diabetes," said Tom Riley, Deere's alcohol and drug abuse counselor.

"We're concentrating on a disease that, if it had any other name, would create a national panic," he said.

"When you add the number of heart attacks in which alcohol is a secondary cause, plus the number of car accidents—68 percent of highway fatalities are alcohol related—then alcohol becomes this country's number one killer . . .

"Yet no one alive today can even define alcoholism, much less know its causes."

Riley knows. He is a recovered alcoholic who has not had a drink in 22 years.

"The tragedy is that we can't do anything unless the employee's work has deteriorated substantially," Riley said. "I can't call him in and say, 'Listen Joe, I've heard you're drinking too much.' He'd have every reason to resent my interfering with his personal life."

So at Deere it's up to the supervisor to look out for the tell-tale signs of absenteeism, chronic lateness, lack of coordination and concentration and unhealthy appearance.

"After a verbal warning, if the employee's work doesn't improve he's brought before a committee of two company and two union officials," Riley said.

Deere will offer a wide range of counseling, treatment, financial help and even hospitalization to help an alcoholic employee.

Many other companies have the same kind of program.

The Kemper Insurance & Financial Co. was a pioneer back in 1964 and this year won an award from the Association of Labor-Management Administrators and Consultants on Alcoholism for the outstanding nature of its personal assistance program.

ALMACA serves as a forum for the exchange of information on occupational alcoholism programs and has more than 1,000 corporate and labor union members.

According to ALMACA: on-the-job alcoholism programs are the most effective way to help, motivate and refer the alcoholic to treatment.

"It has been demonstrated that between 40 and 60 percent of job performance problems relate to alcohol abuse and alcoholism," a spokesman said. "If these problems are caught in the early stages there have been recovery rates of between 50 and 80 percent."

The National Council on Alcoholism favors in-company programs as "the most promising way of treatment."

But everyone warns that alcoholism as such cannot be cured—it can only be treated and controlled.

Jules Saltman, writing in a pamphlet published by the Public Affairs Committee titled "The $15 billion Hangover," lists various methods of treatment:

—Detoxification: Usually requires hospitalization and use of sedatives and other drugs to control the pains of withdrawal from chronic depedence on alcohol.

—Drug Treatment: There are no "miracle drugs" that cure alcoholism, but some can be of use to a drinker who needs the support of a chemical fence between himself and alcohol. On the whole drug treatments have worked well only when used together with psychological therapies.

—Analysis: In many cases analysis can succeed if a committed and determined therapist maintains trust through all the backslidings and deceits the patient will probably practice in the course of a long treatment.

—Group Treatment: The most successful single treatment program of all is the group therapy practice at Alcoholism Anonymous.

—Behavior Modification: One technique used is aversion therapy, which attempts to change a taste for alcohol into a violent dislike by a conditioned reflex. For example, electric shocks administered at the moment of drinking becomes associated with drinking and can make drinking distasteful. Placing frogs or worms in an alcoholic's drink can have the same effect.

An industrial alcoholism program usually will not get involved in any of the above. Employers generally seek to pinpoint the problem but then will refer the drinker to outside help.

An employer has leverage few others can impose: The strong motivating force, in the view of some experts, that a drinking worker will try to hold on to his job even when almost everything else—family, friends, money—has already been lost.

Labor unions endorsed industrial alcoholism programs wholeheartedly because they prefer to see their members treated rather than fired.

Saltman said spreading the word on sympathetic and effective treatment of working alcoholics still has a long way to go, but added:

"Employers, as well as employees and unions, have learned that the problem of drinking on the job is too big to be ignored—if only on strictly economic grounds, not to speak of humanitarian concerns."

Mr. WILLIAMS. Mr. President, I am happy to join with the chairman of the Subcommittee on Alcoholism and Drug Abuse (Mr. HATHAWAY) in sponsoring an amendment to the Rehabilitation Act of 1973 to require Government contractors to provide alcohol abuse and alcoholism programs and services for their employees. It is our hope that this legislation will hurry the spread of occupational alcoholism programs which have proved to be so successful.

My interest in controlling the impact of alcohol abuse and alcoholism is of long standing. As early as July of 1969 I participated in 3 days of hearings on alcoholism held by the Subcommittee on Alcoholism and Narcotics—now the Subcommittee on Alcoholism and Drug Abuse—on which I have served since its creation in May of that year. At those first hearings of the subcommittee we heard compelling evidence of the effectiveness of occupational alcoholism programs. These programs—in the few companies in which they then existed—had not only proved themselves effective in saving human lives but cost effective as well.

As a result of those early hearings, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Re-

habilitation Act of 1970 required the Civil Service Commission to develop and maintain appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among Federal civilian employees. It also required the Secretary of Health, Education, and Welfare, working through the National Institute on Alcohol Abuse and Acoholism (NIAAA) to foster similar programs and services in State and local governments and in private industry.

Mr. President, the need for these programs is obvious. As of January 1977, nearly 87 million Americans were in the Nation's work force. The lowest, most conservative estimate indicates that some 4.5 million of the estimated 9 to 10 million Americans with alcohol problems are in the work force.

NIAAA estimates that the cost of alcohol abuse to our society exceeds $42 billion annually. The cost in lost production alone is estimated at $19.64 billion. Alcohol abuse is also known to contribute greatly to the incidence of industrial accidents, aviation accidents, traffic accidents, drowning, fire burns, falls, as well as to crime, suicide, and family abuse.

The greatest obstacle to getting an afflicted person into effective treatment is his denial system and consequent lack of motivation. The alcoholic can lose family, home, driver's license, and still cling to the hope that he is not an alcoholic. However, when alcohol has begun to affect job performance, the threat of job loss can provide the necessary motivation. The alternative of a treatment program suddenly becomes much more attractive. The occupational alcoholism program can steer the employee into the appropriate treatment and provide the monitoring and followup so vital to success.

Occupational alcoholism programs have proved to be successful. The National Council on Alcoholism (NCA) has reported that most companies that have an occupational alcoholism program report long-term, stable recovery rates ranging from 60 percent to 80 percent.

The following recovery rates are quoted in Joseph F. Follmann Jr.'s book, "Alcoholics and Business," published in 1976 by AMACOM, a division of the American Management Association:

DuPont, 66 percent; Hoerner Waldorf Corp., 60 percent; Honeywell, Inc., 60 percent–70 percent; United California Bank, 70 percent; Teamsters Union (Portland, Ore.), 76.7 percent; Standard Oil of Oregon, 86 percent; Eastman Kodak, 75 percent–80 percent; Metropolitan Life, 60 percent; Hughes Aircraft, 60 percent; Caterpillar Tractor, 60 percent; Scovill Manufacturing Co., 78 percent; Illinois Bell Telephone Co., 72 percent; General Motors, 80 percent; Raytheon Company, 80 percent; Philadelphia Police Department, 85 percent.

Occupational Alcoholism programs have proved to be cost effective. NCA estimates that each alcoholic employee costs his employer an amount at least equal to one-quarter of his annual salary in hidden losses such as absenteeism, tardiness, spoiled material, excess scrap, declining production, accidents, et cetera. NCA quotes the following:

The U.S. Postal System has reported (since the inception of its PAR program which started in San Francisco in 1968) an annual saving based on one quarter of each recovered alcoholic employee's annual salary. These reports have undergone three complete Federal audits, two by the General Accounting Office and one by the Inspector General's Office. A special study by the Postal Service found that savings per employee on paid and unpaid sick leave only amounted to $1,969 per employee per year. The study noted that no attempt was made to measuring loss of productivity, use and cost of health benefits, loss of time due to disciplinary action, training and turnover of employees or accident rates.

The New York Transit Authority made a study of 1,600 individuals who had been through the program. Only one item was considered—paid sick leave. On that item alone, the TA was then saving more than $1 million per year in that group.

Early returns from the General Motors program show reductions of 85 percent in lost man-hours; 72 percent in dollar amount of accident and sickness disability benefits paid; ¢6.7 percent in number of sick leaves taken.

An independent study of the Oldsmobile program in Lansing, Michigan, showed reductions of 56 percent in numbers of leaves of absence; 78 percent in numbers of grievances; 63 percent in numbers of disciplinary cases and 82 percent in on-the-job accidents among the employees who had been through the program.

Allis Chalmers reported in a study made by the National Industrial Conference Board in 1958, that its program had achieved a reduction of 70 percent in absenteeism and 61 perment in tardiness among employees who had been through the program.

In the same study, Consolidated Edison (of New York) reported a reduction of more than 67 percent in absenteeism among employees who had been through the program.

In a limited study, Bechtel Corporation pinpointed a cost savings of 25.5 percent of the total annual pay of individuals who had been through the program.

In a study of absenteeism, made in connection with the Kelsey-Hayes program, it was found that absenteeism among alcoholic employees was four times that of the plant average. Calculated in terms of lost income at an average rate of $5.15 an hour, each alcoholic was losing $2,627 per year. Since Kelsey-Hayes had to replace these individuals at comparable pay and/or time-and-a-half, the cost to the company was even greater, the study notes.

Mr. President, there is little reason to doubt that occupational alcoholism programs are the most promising mechanism through which alcohol problems can be identified and managed. Let us look more closely at the Program for Alcoholism Recovery (PAR) run by the U.S. Postal Service.

Assistant Postmaster General Paul N. Carlin, in testimony before the Subcommittee on Alcoholism and Drug Abuse, stated that the Postal Service was one of the forerunners in the development of programs within Government for the recovery of alcoholic employees. In 1968, while the climate for such programs was not generally favorable, the first PAR office opened in the San Francisco Post Office.

The first PAR office successfully demonstrated that alcoholism was a postal problem, and equally important, that something could be done about it. Additional PAR offices were opened in Chicago and Boston in 1970; and after an internal audit showed that the program was avoiding $4 in cost for every $1 invested, PAR began to expand on a nationwide basis. Subsequent audits have demonstrated that PAR remains a good investment for the Postal Service.

The PAR report for accounting period 6 of fiscal year 1977—from February 26 to March 25—indicates that PAR was available to 389,410 postal employees, including an estimated 31,145 problem drinkers. PAR enrollment was 6,303 clients, of which 5,828 showed improvement. Estimated savings for this period—calculated on the basis of the standard GAO cost factor of 25 percent of a problem drinker's salary—was $1,661,-051. Over a year, this would amount to a net saving of $17,699,563, after deducting the cost of the program. This translates into a cost avoidance ratio of almost $5 for every $1 spent.

Of the more than 10,000 employees who have participated in PAR, between 75 and 80 percent are recovering, and less than 10 percent have left the Postal Service. The social and humanitarian benefits to the employees helped by PAR, and to their families and communities, extend far beyond the financial savings the program has produced for the Postal Service.

Mr. President, last spring, in an effort to encourage the spread of occupational alcoholism programs, I joined with the Senator from Maine (Mr. HATHAWAY) in sponsoring the Occupational Alcoholism Prevention and Treatment Act of 1977 (S. 1107). That bill would provide Federal assistance of up to 50 percent of the costs to employers, labor organizations, and other groups to establish and operate occupaticnal alcoholism programs.

Subsequent testimony on that proposed legislation indicated that financial incentives alone might not be sufficient to encourage employers to provide such programs. Thus we are taking this new approach, requiring government contractors to provide occupational alcoholism programs for their employees.

This decision is based in part on testimony on S. 1107 at hearings held in Washington in May of this year. Dr. Paul Sherman, president of the Association of Labor-Management Administrators and Consultants on Alcoholism (ALMACA) testified that it is false to assume that lack of funding is a primary reason why there are so few programs. He believes there are two basic reasons for the relatively small number of programs.

First. The stigma. The stigma leads one to have the concept of the alcoholic as the skid row bum, and if one looks within a company or labor union only for the skid row bum, it is easy to say "We don't have much of a problem here." This in turn leads to the second problem, namely, that the need for an occupational program is given.

Second. A low priority. This is the major problem with which we are dealing. There are many real priorities that executives in corporations and labor leaders face, and the priorities shift from day to day. Dr. Sherman claims that what is needed is a vehicle to in-

fluence the top executive to say "This is important. Let us do it."

Dr. Sherman urged that a way be found to mandate such programs. The bill which Senator HATHAWAY and I are introducing today provides that mandate. It would:

Amend the Rehabilitation Act of 1973 by adding a new section 505 entitled "Occupational Alcoholism Programs under Federal Contracts."

Require that any Federal procurement contract in excess of $2,500 must contain a provision requiring the contractor to provide occupational alcoholism programs.

Stipulate that these provisions also apply to subcontractors holding contracts in excess of $2,500.

Provide that when employees represented by a labor organization, the program be determined by agreement entered into by the labor organization and the employer through collective bargaining procedures.

Provide an enforcement mechanism whereby an employee of the contractor who believes that the provisions of his contract with respect to these programs are being violated may file a complaint with the Department of Labor.

Allow the President to waive the provisions of this section with respect to a particular contract, pursuant to regulations he prescribes, when special circumstances in the national interest so require.

Amend section 201(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to:

Require the Secretary of HEW, acting through the National Institute on Alcohol Abuse and Alcoholism, to develop a wide variety of model programs suitable for replication on a cost-effective basis.

Provide that business concerns and governmental entities which employ individuals represented by labor organizations, the program be determined by agreement entered into by the labor organization and the employer through collective bargaining procedures.

Require the Secretary, acting through the Institute to disseminate information and materials relative to such model programs to single State agencies.

Amend section 303(a) of the act to:

Provide assurance that the State agency foster and encourage the development of such programs and services in State and local governments and in private business and industry;

Make available to all business concerns and governmental entities within such State information and materials concerning such model programs;

Furnish technical assistance as requested.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that S. 2515, a bill introduced earlier today by the Senator from Maine (Mr. HATHAWAY) be referred jointly to the Committee on Governmental Affairs and the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 724

At the request of Mr. THURMOND, the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 724, a bill to amend title 10, United States Code, to provide for the payment of survivor annuities to widows of certain members of the uniformed services who died before the effective date of the survivor benefit plan.

S. 1393

At the request of Mr. BAYH, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1393, a bill to protect the rights of institutionalized persons.

S. 2353

At the request of Mr. KENNEDY, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Iowa (Mr. CLARK), the Senator from New York (Mr. MOYNIHAN), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 2353, a bill to amend the Foreign Assistance Act of 1961, to provide Indian cyclone rehabilitation and reconstruction assistance.

S. 2360

At the request of Mr. MOYNIHAN, the Senator from Massachusetts (Mr. BROOKE), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Maryland (Mr. MATHIAS), the Senator from Wisconsin (Mr. NELSON), and the Senator from Florida (Mr. STONE) were added as cosponsors of S. 2360, a bill to authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security Act.

S. 2395

At the request of Mr. THURMOND, the Senator from Arizona (Mr. DECONCINI), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Michigan (Mr. RIEGLE), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of S. 2395, a bill to place the foreign sovereign governments and the United States of America on the same level—a level of actual damages when either is injured in its business or property, and for other purposes.

S. 2420

At the request of Mrs. HUMPHREY, her name was added as a cosponsor of S. 2420, the International Development Cooperation Act of 1978.

S. 2452

At the request of Mr. ANDERSON, the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Maine (Mr. HATHAWAY), the Senator from Maryland (Mr. SARBANES), the Senator from New Jersey (Mr. CASE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Oregon (Mr. PACKWOOD), the Senator from Iowa (Mr. CLARK), the Senator from New York (Mr. MOYNIHAN), the Senator from North Dakota (Mr. BURDICK), and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of S. 2452, a bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs.

S. 2484

At the request of Mr. BELLMON, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 2484, a bill to impose quotas on the importation of beef, including processed beef and beef quantities in the form of live cattle, when the domestic market price of cattle is less than 110 percent of parity and to impose custom duties on such articles when the domestic market price of cattle is less than 80 percent of parity.

SENATE JOINT RESOLUTION 101

At the request of Mr. DOMENICI, the Senator from Montana (Mr. MELCHER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Utah (Mr. GARN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Kansas (Mr. DOLE), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of Senate Joint Resolution 101, to authorize the President to issue a proclamation designating a memorial Sunday for firefighters who have been disabled or killed in the line of duty during the preceding year.

SENATE RESOLUTION 356

At the request of Mr. WEICKER, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Resolution 356, a resolution insisting that the Republic of Korea cooperate fully with the Select Committee on Ethics and declaring that a failure to cooperate will have a negative impact on relations between the United States and the Republic of Korea.

AMENDMENT NO. 1678

At the request of Mr. BAYH, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of amendment No. 1678 intended to be proposed to S. 148, a bill to provide for the establishment of multipurpose service centers for displaced homemakers.

SENATE RESOLUTION 392—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES

Mr. LONG, from the Committee on Finance, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 392

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Finance, is authorized from March 1, 1978, through February 28, 1979, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on

Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $635,000, of which amount not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1979.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 393—ORIGINAL RESOLUTION REPORTED PROPOSING EMERGENCY ACTION TO BOLSTER THE FARM ECONOMY

Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution, which was placed on the calendar:

S. RES. 393

Whereas a strong and vigorous agriculture is essential to the welfare of the Nation;

Whereas more than 218 million persons in this country and many millions more throughout the world depend upon American agriculture for food and fiber;

Whereas the Nation's agricultural economy is undergoing a crisis of major proportions—farmers are being crushed by overwhelming debt, the cost of producing food and fiber has outstripped the prices many farmers receive for their products, and farmers have been devastated by drought, floods, and other natural disasters; and

Whereas the Food and Agricultural Act of 1977 grants broad authority to the President and the Secretary of Agriculture to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President and the Secretary of Agriculture should exercise the broad authority vested in them under the Food and Agriculture Act of 1977 and other statutes to increase farm income, including, but not limited to the following actions:

(1) the institution of voluntary land diversion programs for 1978 under which payments would be made to producers of wheat, feed grains, and upland cotton who divert cropland from production in order to bring supply into balance with need;

(2) th establishment of price support loan rates for the 1978 crops of wheat, feed grains, and soybeans at levels substantially above the rates in effect for the 1977 crops in order to provide greater price protection for farmers;

(3) the establishment of a price support loan rate for the 1978 crop of additional peanuts at a level not less than the minimum level required for quota peanuts; and

(4) the immediate formulation and implementation of a program for the expansion of export sales of American agricultural commodities, including increased sales under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

SEC. 2. The adoption of this resolution is not intended in any way to affect the consideration by Congress of additional legislation that may be needed to assist farmers for the 1978 and subsequent crop years and alleviate the economic plight of the agricultural economy, including legislation involving new concepts and approaches.

SEC. 3. The Secretary of the Senate shall transmit copies of this resolution to the President and the Secretary of Agriculture.

SENATE CONCURRENT RESOLUTION 65—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO REVIEWS OF FEDERALLY OWNED ROADLESS AREAS

Mr. CHURCH (for himself, Mr. CRANSTON, Mr. MARK O. HATFIELD, Mr. PACKWOOD, Mr. MCCLURE, Mr. MCGOVERN, Mr. GRAVEL, Mr. WALLOP, Mr. SCHMITT, Mr. LAXALT, and Mr. HAYAKAWA) submitted the following concurrent resolution, which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 65

Whereas, Congress in 1964 established the National Wilderness Preservation System in order to secure for the American people an enduring resource of wilderness, consisting of certain federal lands preserved and protected in their natural condition;

Whereas, Congress has, on several occasions since the enactment of the Wilderness Act of 1964, moved to expand the National Wilderness Preservation System to meet growing public needs for wilderness;

Whereas, Congress enacted the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Forest Management Act of 1976, and the Federal Land Policy and Management Act of 1976, in order to protect, develop, and enhance the productivity and other values of certain portions of the Nation's lands and resources;

Whereas, unanticipated court and administrative actions have confused the wilderness picture in recent years by greatly expanding the potential addition of national forest lands to the National Wilderness Preservation System;

Whereas, the Forest Service is presently conducting a review of the roadless areas of the national forests and national grasslands to identify those areas that are best suited for wilderness as well as those areas better suited for non-wilderness uses, such as one or more of the multiple uses of fish and wildlife habitat, timber, livestock grazing, mining, developed recreation, and soil, land, and water rehabilitation;

Whereas, the Federal Land Policy and Management Act of 1976 directs the Bureau of Land Management to initiate a similar wilderness review of the roadless lands under its jurisdiction;

Whereas, other public lands under the jurisdiction of the National Park Service, the Fish and Wildlife Service, and other agencies are also being examined to determine their suitability as wilderness;

Whereas, in reaching decisions on land allocation, it is desirable to both preserve a rich heritage of the American wilderness and to assure that other resource and recreation needs and uses of the land are provided for in a sound balance;

Whereas, at present, the future use of over 150 million acres of publicly-owned roadless lands, which may not only be suitable additions to the National Wilderness Preservation Systems, but may also be of value for timber production, minerals, or other multiple-use applications, is largely uncertain;

Whereas, this uncertainty obscures the outlines of the National Wilderness System which should ultimately be created, and can also threaten the economic livelihood of certain towns and communities that are dependent upon the resources of the public domain; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring) that it is the sense of the Congress that the Secretary of Agriculture and the Secretary of Interior should coordinate, among their respective departments and with Congress, their efforts to develop the National Wilderness Preservation System.

Be it further resolved, that interested individuals and groups are urged to participate in the present roadless area reviews, and to base their participation on a careful review of the facts, with a view toward finding solutions that are well balanced and serve both the need for development and the need to preserve America's wilderness heritage.

And, be it further resolved, that the future use of the roadless lands now under study by the Forest Service in the Roadless Area Review and Evaluation (RARE II) process, and by the Bureau of Land Management in their roadless area review, be decided as rapidly as possible so as to assure that the resource needs of the Nation will be met, to protect the economic stability of communities which are dependent upon the resources of the public lands, and to further the purposes of the National Wilderness Preservation System.

RARE II RESOLUTION

Mr. CHURCH. Mr. President, I am today introducing, along with 10 cosponsors, a resolution relating to the present wilderness reviews of the roadless areas in the public domain.

Specifically, this resolution calls upon the Forest Service and the agencies of the Department of the Interior to complete their roadless area reviews as rapidly as possible. Expedition is needed to protect the communities which are dependent upon the resources of these lands.

The resolution also calls upon individuals and groups who are interested in the outcome of these studies to "participate in the present roadless area reviews, and to base their participation on a careful review of the facts, with a view toward finding solutions that are well balanced and serve both the need for development and the need to preserve America's wilderness heritage."

Finally, the resolution requests the Secretary of the Interior to coordinate both among their respective agencies and with Congress, their efforts to develop the National Wilderness Preservation System.

Mr. President, this resolution was prompted in large measure by the second review and evaluation of the roadless areas of the national forests and national grasslands that was begun by the Deprtment of Agriculture last year.

That study, known as RARE II, sought, first of all, to identify the remaining roadless tracts within the National Forest System. This inventory was completed last November, and a list of roadless areas—on a forest by forest basis—was published in the Federal Register. The next stage of RARE II, according

to the Forest Service plan, is to develop a set of recommendations as to which of these roadless areas should be included within the National Wilderness Preservation System, which should be set aside for further study, and which should be restored to multiple-use management.

If it is successful, RARE II could help to reduce much of the uncertainty which hangs like a thundercloud over forest-dependent communities in the West. Because these communities must depend upon a predictable supply of timber for their survival, they are concerned that prolonged studies will effectively deny them sustenance. They yearn for a timely completion of RARE II, so that they can plan with certainty for the future. I share their concerns and have been working closely with the Department of Agriculture in an effort to keep RARE II on schedule.

If it is a success, RARE II will result in some needed decisions and cut through the Gordian knot which threatens to tie up local forest-dependent communities for years to come.

The Department of Agriculture has recognized the need to finish RARE II as rapidly as possible. It has set a final deadline of January 1, 1979, for the transmission of its recommendations to Congress for our review and action. This resolution urges the Department to do everything possible to adhere to that timetable. If it does not, sawmills in Idaho and throughout the West will be forced to shut down.

Mr. President, I ask unanimous consent that an article from Western Wildlands on RARE II, authored by Assistant Secretary of Agriculture M. Rupert Cutler, which describes the outlines and goals of RARE II in some detail, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RARE II

(By M. Rupert Cutler)

Perhaps it's the nature of human beings that just when a major conflict seems to be settled, the really heated controversy breaks out and spreads to even more issues. This has certainly been the case with the roadless and undeveloped areas of the National Forest System. Although the roadless areas controversy has been viewed in the light of the wilderness issue, the controversy actually includes all possible uses of these lands—and therein lies the conflict.

Perhaps it's also the nature of human beings to continue to seek resolution of controversy—at least, it is my nature to do so. The Carter Administration is concerned that we identify opportunities to use public lands for their full array of values. Hoping to determine the best use of the National Forest System roadless areas, I initiated what has become known as RARE II—the new Roadless Area Review and Evaluation. Through RARE II, all interested groups and individuals are asked to help find satisfactory solutions to the roadless issues now facing the National Forest System—and the nation. Only then will we be able to devote our full attention to protecting and managing the National Forests and Grasslands, which, after all, belong to all of us.

In the last decade or so, the Forest Service has had to work under intense pressure in managing the National Forests for multiple use. The roadless areas have been a particularly touchy issue, because allocating them to some of the other uses might take away their wilderness potential. Thus, the roadless areas have in essence been in limbo until the wilderness controversy could be resolved.

In the late 1950s and early '60s, the great debate on wilderness legislation was waged. The Wilderness Act emerged in 1964, after 8 years of hard-fought politics and compromise. Many people thought the issue had been settled, except for the Congressional actions that would result from studies mandated by the Act. How wrong they were!

The 10-year study of specified areas was only partially completed when the Forest Service decided it ought to have a look at areas of National Forest land that could be managed for wilderness values, but which were not mandated for study. The 1972 Roadless Area Review and Evaluation—which we now refer to as RARE I—was a bold step forward in trying to insure that the roadless areas would be allocated to their best use without years of controversy and delay. RARE I was intended, once again, to "settle" the roadless area question. Time has shown, once again, that this was not to be.

RARE I identified 56 million acres of roadless area in 1973. The Forest Service then selected 274 roadless areas, containing 12.3 million acres, for further wilderness study. But there were never adequate funds to carefully study these areas, either by themselves or in the framework of the Resources Planning Act proposals. One inherent problem is that wilderness considerations have a national political nature, while land management planning is characterized by local public involvement and evaluation.

Areas in the eastern National Forests were not emphasized, because the roadless areas in those forests had generally been recovering from the effects of man's activities, and at that time Congress was not including such areas in the National Wilderness Preservation System.

In addition, administrative appeals and lawsuits delayed implementation of many of the land management decisions that involved other uses. Many of the areas are still awaiting decisions on their most beneficial use—and this is not a reasonable or realistic situation when demands on the National Forest System are so great.

Both advocates and opponents of wilderness voiced their dissatisfaction with this situation. The Congress, reflecting this dissatisfaction, hurried to act on wilderness designation. The result was "piecemeal" legislation that often overlapped or conflicted with decisions made during comprehensive land management planning. Nor did most legislation address the question of total national needs from the National Forest System, whether for wilderness or other uses of the roadless areas. It was this situation—and the controversy surrounding it—that faced the Carter Administration when it came into office last January.

President Carter expressed his commitment to promptly identify areas to be added to the Wilderness System. In his environmental message to Congress, the President said: "When the Congress passed the Wilderness Act in 1964, it established a landmark of American conservation policy. The National Wilderness Preservtaion System created by this Act must be expanded promptly, before the most deserving of federal lands are opened to other uses and lost to wilderness forever. . . ."

Although it's been 13 years since Congress passed the Wilderness Act, some of the most basic questions about wilderness still confront us:

How much wilderness do we need now and for future generations?

What should be the National Forest share of this total?

How should wilderness be distributed geographically?

What about eastern National Forests and National Grasslands—do they require special judgments and criteria different from those of other wilderness areas?

What criteria should be used for wilderness designations?

What are the trade-offs when we designate land as wilderness, and how should we deal with these tradeoffs??

How do we balance diverse, often diametrically opposed public views of wilderness, and perhaps even more importantly, how do we take into account the views of those who do not come forward to participate in the decision-making?

In its efforts to answer these questions, the Forest Service is guided by the following principles:

1. Maintain an enduring system of high-quality wilderness.

2. Perpetuate the wilderness resources.

3. Consistent with these first two principles, provide opportunities for public use, enjoyment, and understanding of wilderness and the unique experiences which depend upon a wilderness setting.

4. Maintain plants and animals indigenous to the area.

5. Accommodate and administer those "non-conforming, but accepted" uses provided for in the Act in a way that minimizes their impacts.

6. Maintain stable watersheds.

7. Address protection needs for endangered species and their habitats.

Thus, we have a viable wilderness policy, but we still have to round out the total wilderness system to which it will apply. In addressing this question, several things are apparent: First, there are gaps in the present Wilderness System that need to be filled. Second, candidates to fill the National Forest System's share of those gaps will come from the roadless and undeveloped areas, on which there is a great deal of competition from other potential uses. And, finally, decisions on allocating these roadless areas must include involvement of an informed public. It was for these reasons that RARE II was undertaken last summer.

The two primary aims of RARE II are to speed up decisions on: (1) which roadless and undeveloped areas are needed to help round out the National Forest portion of a quality National Wilderness Preservation System; and (2) which areas should receive no further wilderness consideration but be devoted to other uses. RARE II will be completed in late 1978. We realize that it is impossible during such a short time-frame to successfully place each and every roadless area into one or the other of these distinct categories. Some areas will have to be remanded to the more traditional planning and study processes. However, if we are successful, this third group of areas should be relatively small.

As expected, the plan has stirred the wilderness controversy to a new level of intensity. One newspaper reporter claimed that I am sitting on one of the hottest seats in Washington, and I don't think he was referring to last summer's forest fire situation! But, I believe that RARE II will work. It will require rational give-and-take on all sides. Of those concerned with the allocation of the National Forest System roadless areas, I ask a little of your time, a lot of your advice, and even more of your understanding.

RARE II has four main stages:

1. The first phase, just completed in November, was development of an inventory of roadless and undeveloped areas in the Na-

tional Forest System, and the criteria that should be used in determining whether areas should be recommended as wilderness or made available for other uses. This phase included a major public involvement effort.

2. The second phase, which is occurring now, is a review and evaluation of individual areas in the inventory, using the selected criteria.

3. The third phase will begin in the spring, when a nationwide programmatic draft environmental statement supported by state segments addressing each area will be issued during another major public involvement effort.

4. The fourth place of RARE II will be a final environmental statement issued in late 1978, which will recommend to Congress the areas that should be designated as wilderness and those that should be devoted to other uses. Congress is the only body that can designate wilderness, but the Secretary of Agriculture may designate areas for other uses.

During the first phase of RARE II, the public was asked to comment on two principal matters:

1. Inventories of roadless and undeveloped areas in the National Forest System.

2. The criteria to use in determining whether areas should be recommended for wilderness designation, or made available for other uses.

Over 50,000 people offered comments and suggestions. Over 17,000 of them attended 227 workshops across the country, and the others mailed their comments to the Forest Service.

To give the public a basis from which to comment, the Forest Service developed a basic list of known roadless and undeveloped areas in each National Forest and Grassland. The criteria for this initial list were derived from assessing Congressional actions over the past few years. At first glance, it would seem that the criteria for such an inventory would have already been set—in the Wilderness Act of 1964. However, we must remember that the real measure of any legislation lies in its interpretation and implementation, both of which undergo evolution over the years. Since 1964, the makeup of Congress has changed, our resource needs have changed, and the attitudes of the American people have changed. Congress now apparently views the Wilderness Act very differently than it did in 1964.

If one studies wilderness proposals and wilderness designations over the past 13 years, a definite trend can be discerned. Congress now seems willing to designate as wilderness areas that are less "pure," in terms of the marks of man's presence, than the earlier wilderness areas. This is particularly true for the eastern National Forests, which have felt the greatest impact of man's settlement and westward expansion. In addition, Congress, in the Wilderness Act, set criteria for individual areas of wilderness, but not for the National Wilderness Preservation System as a total system to meet America's present and future needs for wilderness.

In fact, I ask the Forest Service to "hang loose" on the initial inventory and to consider every area for which there was public support. The initial inventory from which the public worked was intended to include all possibe areas, with the full knowledge that some areas would not best serve as wilderness. In fact, in some cases, as much as 30 to 40 percent of a forest was included as roadless and undeveloped. Some people expressed concern that all the areas might be immediately designated as wilderness. This was not the intent; this will not happen.

The results of this first round of public comment were published in November. The response served two purposes. First, it helped to identify all roadless and undeveloped areas in the 187-million-acre National Forest System—a total of 1,920 areas encompassing 65.7 million acres. Unlike the previous roadless area inventory, this one included 305 areas with 2.3 million acres in the eastern National Forests, and 19 areas in the National Grasslands.

The only roadless and undeveloped areas not included are:

Those that would violate contractual agreements or legal rights.

Those that had already been allocated to nonwilderness uses by completed land management plans on which final environmental statements had been filed.

Those in which action plans were scheduled to be implemented by October 22, 1978.

Those that would be impractical to manage in their natural condition.

In addition, development will be deferred on 34 other areas for which land management plans have already been completed so that their wilderness potential can be re-evaluated. The re-evaluation of these 700,000 acres will occur at the same time the inventoried areas are evaluated.

The second purpose of the public comment was to help the agency establish criteria to use in preparing alternatives for further public review. Those alternatives will be designed to help determine which areas should be recommended as wilderness and which should be managed for other uses.

The criteria will be applied in two steps. The first will involve four criteria used to identify gaps in the existing wilderness system and describe the "ideal" system. These criteria are:

1. Representations of the nation's major ecosystems.

2. The presence of certain wildlife species, such as the fisher and the loon, which people associate with wilderness.

3. Availability and distribution of areas according to the nation's population.

4. Representation of major U.S. landforms, such as the Appalachian plateau, the Northern Rockies, and so on.

The second step will bring another set of criteria into play. These criteria, also addressed by the public in last summer's workshops, will focus on the social and economic costs of designating areas which successfully passed the first step for wilderness need under the RARE II evaluation. These criteria will include the present or potential impacts on timber, minerals and energy production, recreation use and development, wildlife habitat manipulation, and a number of other uses not generally in harmony with wilderness designation.

This, then, sets the stage for the second phase of RARE II—the review and evaluation of the individual areas in the inventory, using the selected criteria. The review and evaluation by the agency will be carried out within the constraints of the Resources Planning Act Program goals sent to Congress in 1976. That program, now being updated for 1980, established ranges of goals for all Forest Service resource systems, including wilderness.

The third stage of RARE II then, will begin next spring, when a nationwide programmatic draft environmental statement will be issued. The statement will be supported by geographic segments addressing specific areas, probably by states. Groups, government agencies, and individuals can then comment on whether specific areas should be recommended for wilderness designation or allocated for other uses. Releasing the document in the spring will allow an entire field season for people to view and study areas on which they wish to comment.

The fourth phase of RARE II will be the release of a final environental statement in late 1978 and subsequent decisions. This document will set forth an alternative for legislative proposals and planning directions that recommends certain roadless and undeveloped areas for wilderness units and other for nonwilderness uses.

The success of RARE II will depend on the Administration, Congress, and the American people. And, even with maximum success, RARE II cannot solve all aspects of the roadless area controversy. But, it will solve one of the first issues we must face before we can truly address the others—the prompt classification of areas into a comprehensive, high-quality National Wilderness Preservation System, and the winnowing out of those areas which can unquestionably be devoted to other uses.

This is what we are all seeking. Together, we can make it a reality. It was in this spirit that conservation movement was born, and wilderness pioneers initiated the concept of preserving some lands in their natural state. It is this spirit that will allow us to expand opportunities for future generations to enjoy an enduring National Wilderness Preservation System, and the other products and services that the National Forests provide. In this way, these lands, owned by the American people, will continue to help meet a multitude of the needs of our nation—now and in the future.

AMENDMENTS SUBMITTED FOR PRINTING

NAVIGATION DEVELOPMENT ACT—H.R. 8309

AMENDMENT NO. 1693

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

Mr. HEINZ. Mr. President, I submit an amendment which I intend to offer to H.R. 8309, the Navigation Development Act. I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1693

At the proper place in the bill insert a new section as follows:

SECTION —. The Project for Dashields Lock and Dam on the Ohio River in Allegheny County, Pennsylvania, as authorized by the River and Harbor Act of March 3, 1909 (35 Stat. 815), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, and in cooperation with Allegheny County, Pennsylvania, to construct public park and recreational facilities with improved access thereto in accordance with the requirements of section 4 of the Flood Control Act of 1944, as amended (16 U.S.C. 460d), on lands adjacent to the project that are acquired and held by Allegheny County for recreational use by the general public, and to permit Allegheny County to include the value of such lands as part of its contribution toward the development of such facilities.

PANAMA CANAL TREATIES—EX. N, 95–1

AMENDMENTS NOS. 20 AND 21

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD (for himself, Mr. ALLEN, Mr. ANDERSON, Mr. BAKER, Mr. BARTLETT, Mr. BAYH, Mr. BENTSEN, Mr. BIDEN, Mr. BROOKE, Mr. BUMPERS, Mr. BURDICK, Mr. CASE, Mr. CHAFEE, Mr.

CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DANFORTH, Mr. DECONCINI, Mr. DOMENICI, Mr. DURKIN, Mr. EAGLETON, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GOLDWATER, Mr. GRAVEL, Mr. HANSEN, Mr. HART, Mr. HASKELL, Mr. HATCH, Mr. PAUL G. HATFIELD, Mr. HATHAWAY, Mr. HEINZ, Mr. HOLLINGS, Mr. HUDDLESTON, Mrs. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. LAXALT, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCCLURE, Mr. MCGOVERN, Mr. METZENBAUM, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. NELSON, Mr. NUNN, Mr. PACKWOOD, Mr. PEARSON, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. RIEGLE, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SPARKMAN, Mr. STAFFORD, Mr. STEVENS, Mr. STEVENSON, Mr. STONE, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WEICKER, Mr. WILLIAMS, and Mr. YOUNG) submitted two amendments intended to be proposed by them, jointly, to Executive N, 95–1, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

(The remarks of Mr. ROBERT C. BYRD when he submitted the amendments appear later in today's proceedings.)

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Tuesday, February 21, 1978, at 10:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Benjamin R. Civiletti, of Maryland, to be Deputy Attorney General, vice Peter F. Flaherty, resigned.

Any person desiring to offer testimony in regard to this nomination, shall not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HASKELL. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Energy Production and Supply of the Senate Energy and Natural Resources Committee.

The hearing is scheduled for February 16, 1978 at 10 a.m. in Metals Hall at the Colorado School of Mines in Golden, Colo. This will be a hearing on the status of efforts to test the commercial possibilities of oil shale and certain suggestions for modification of S. 419, the Federal Oil Shale Commercialization Test Act.

For further information regarding the hearings you may wish to contact Thomas L. Laughlin of the subcommittee staff on extension 4–2564.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, I should like to announce that the Committee on Banking, Housing, and Urban Affairs will hold an oversight hearing on Wednesday, February 22, 1978, on the crime and riot reinsurance programs under the administrative jurisdiction of the Department of Housing and Urban Development.

The hearing will begin at 10 a.m. and will be held in room 5302, Dirksen Senate Office Building.

The committee would welcome statements for inclusion in the hearing record.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold an oversight hearing, on Monday, February 27, 1978, on the impact of building codes on housing rehabilitation.

The hearing will begin at 10 a.m. and will be held in room 5302, Dirksen Senate Office Building.

The committee welcomes statements for inclusion in the record of hearings.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs has scheduled hearings on S. 2441, the Federal Public Transportation Act of 1978.

The hearings will be held on March 1, 2, and 3 at 10 a.m. each day in the committee's hearing room, room 5300 Dirksen Senate Office Building.

CONGRESSIONAL TENURE

Mr. BAYH. Mr. President, the Subcommittee on the Constitution of the Committee on the Judiciary will hold 2 days of hearings, March 14 and 16, 1978, on proposed constitutional amendments to limit the number of terms of service for Members of Congress (S.J. Res. 27 and S.J. Res. 28). The hearings will commence at 9:30 a.m. on both days, March 14, 1978, in room 5110 Dirksen Senate Office Building, March 16, 1978 in room 6226 Dirksen Senate Office Building.

Anyone wishing to submit testimony for the hearing record should send his or her statement to or contact Mary K. Jolly, Subcommittee on the Constitution, 102B Russell Senate Office Building, Washington, D.C. 20510.

CANCELLATION OF HEARING ON SENATE RESOLUTION 49

Mr. PELL. Mr. President, the Subcommittee on Arms Control, Oceans and International Environment of the Committee on Foreign Relations had previously scheduled a hearing on the topic of Senate Resolution 49 (as revised) to be held in room 4221 of the Dirksen Senate Office Building at 11 a.m. on Thursday, February 9. This hearing has now been canceled and will be rescheduled at a later date.

ADDITIONAL STATEMENTS

COMMUNISM IN WESTERN EUROPE

Mr. BROOKE. Mr. President, in recent weeks a growing number of observers have cautioned against "optimistic assumptions" regarding the "conversion to democracy" professed by various Communist Parties in Western Europe. An increased awareness exists of the danger Communist Parties in France, Italy, and Portugal pose to the fabric of democracy in Western Europe and the stability of the NATO alliance, the cornerstone of American foreign policy for over 30 years.

Two recent articles, one by Claire Sterling in the Washington Post, the other by Edwin Yoder writing in the Star, offered perceptive analyses of the complexities besetting those of our allies who are challenged by assertive Communist Parties. The Sterling article points out that the decision by the Communist Party of Italy (PCI) to precipitate the crisis that led to the fall of the Andreotti government was not primarily motivated by a concern for the Italian people, but rather resulted from a PCI fear of loss of influence. The Andreotti government had made some progress in addressing the economic and social ills of the country and could, possibly, have been setting the stage for an erosion of Communist power. Moreover, the PCI was motivated, apparently, by the need to prove its bona fides to the radicals on the left who were charging that the PCI had become nothing more than Social Democrats. The PCI, in effect, was being charged as selling out to the Christian Democrats.

Related to the above was the PCI reaction to the growing realization in Italy that it could not deliver the working class in the effort to bring stability to the Italian labor scene. To the extent the so-called progressive elements in the PCI leadership had sought to act responsibly in giving de facto support to the Andreotti government's efforts to decrease the instability of the Italian economy and social environment, they had been attacked by radical labor elements, alienated left-wing students and the hard-line Stalinist elements in the PCI who continue to have major and, likely, controlling influence over the PCI. Confronted by such pressure the leadership front of the PCI buckled and demanded full membership in the Italian Cabinet as a price for any help in meeting the multiple crises of Italy. In doing so, they were fully aware that they might precipitate the disintegration of Italian society and a possible civil conflict. It does not take much imagination to surmise that many elements in the PCI would find such a development acceptable.

The Yoder articles also addresses itself to the democratic conversion claim. The author offers a persuasive refutation to that claim accepted far too readily by many in this country and elsewhere. He points out that the Communist parties in Western Europe certainly do not exhibit the least degree of democracy within their party structures and that it takes a blind leap of faith to assume that they are, nevertheless, irrevocably committed to democratic procedures. As he states:

If the "Eurocommunists" are not themselves internally democratic. why expect

them to observe parliamentary niceties when they are no longer expedient?

Why, indeed.

The author also points out that on matters of substance, there is no evidence to justify the view that the Communists of Western Europe diverge in any significant degree from espousal of Soviet foreign policy undertakings. He quotes Jean-Francois Revel to the effect that—

. . . Not once since 1975 has a Western communist party adopted . . . a reserved or critical attitude towards any Russian foreign policy.

I personally find the arguments put forward by these two authors to be in conformity with a realistic appraisal of the dangers inherent in the growth of influence of the Communist parties in Western Europe. I believe their articles merit careful consideration and, therefore, ask unanimous consent that the Yoder and Sterling articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star]

A PRIMER ON THE CLAIMS OF "EUROCOMMUNISM"

(By Edwin M. Yoder, Jr.)

I am easily bored, I admit, by the theoretical humbug of Marxism, so that it was only recently, when the imminent collapse of Italy's wobbly government inspired the Carter administration's January 12 statement against so-called "Eurocommunism," that I undertook a crash course in the subject.

I start with the bias that all communist parties, Euro and otherwise, are implacably hostile to Western political values and that no good can come of temporizing with them. When I put that view to certain friends then grinding their teeth over U..S "meddling" in Italian affairs (not that they mind our meddling in Brazil, Rhodesia or South Africa) I was assured that my worries are exaggerated.

Please understand: None of my friends who deplore the gall and *gaucherie* (as they see it) of the January 12 statement *like* communism. Their approach is pragmatic. They take the elaborate, and I fear rather academic view that Eurocommunism—especially in Italy—is a greater headache for the Russians than for the Western alliance. They are contemptuous of the ineffectiveness and corruption of the Italian Christian Democrats, and seem to argue that the communists could at least deliver the mail on time. As evidence of enlightenment, they cite the Eurocommunists' harsh criticism of Soviet intervention in Czechoslovakia. But they do not account for the inconsistency of Sr. Lombardo Radice, an ideologue often portrayed as one of the more "liberal" Italian communists. Sr. Radice has excused Khrushchev's tanks in Budapest in 1956, on the grounds that "socialism in Hungary was a weak plant, only some seven years old, and there was danger of regression to capitalism."

Finally, my friends believe that nothing intrinsic to an authoritarian party prevents its "evolution" toward democratic norms.

All these views seem to me historically debatable, to say the least.

"Eurocommunism," one gathers, does pain the Russians, probably for tactical reasons. Moscow is troubled that Western communist parties—of necessity, given their ambitions—promise to play parliamentary cricket. This "bourgeois" doctrine, cynical or sincere, by implication condemns six decades of absolute party rule in the Soviet Union; and it exposes unwilling Soviet vassals in Eastern Europe to a suggestive heresy.

The Russians are also troubled by Chilean precedent. In their view, Salvador Allende gained power at the ballot box but lacked the ruthlessness to consolidate it. They fear that premature political ambitions in Western Europe could bring on a similar debacle, in Italy or elsewhere. That is one reason why Sr. Berlinguer's party has not been pushy for ministerial portfolios in Rome.

It can't be said too often that no committed communists, anywhere, believe that governments derive legitimacy from consent. Elections are sometimes expedient, and always get lip service. But in the Leninist view, elections do not confer legitimacy. That belongs only to the proletarian "vanguard"—those who know and do the will of the working masses—the party and its bosses.

In Latin Europe today there are, to be sure, communist parties claiming to favor most of the things we favor, from the Common Market to free elections—even NATO, with reservations. (One Italian communist boss has conceded that American bases should remain in Italy as long as the Russians stay in Czechoslovakia, slyly equating an alliance with an occupation.)

But a telling mark of authoritarian orthodoxy lingers. No European communist party, so far, has abandoned the tell-tale Leninist doctrine of "democratic centralism." In plain English, that means rigid control of the party from the top, with no nonsense about internal democracy. Oh, there may be discussion, even "dissent," since for one thing the Eurocommunists are yet in control and cannot imprison obstreperous party critics, or find them to be suffering from political schizophrenia. But when the bosses speak and the line hardens, there is one orthodoxy. That accounts, incidentally, for the paradox that the current "democratic" professions of Eurocommunists are by and large the products of thoroughly authoritarian proceedings.

Ask yourself this critical question, then: If the "Eurocommunists" are not themselves internally democratic, why expect them to observe parliamentary niceties when they are no longer expedient? History's answer, at least, is that they won't—or never have.

It is suggested that these fusty worries are irrelevant to Italy. The Christian Democrats, you see, are only slightly more powerful than the communists and govern on their sufferance. Admitted to the government, the communists would only visibly gain the influence they already dispose behind the scenes.

Perhaps; perhaps, too, the Italians are of a mind to gamble, in their current weariness, on the possible redemption of their domestic communists from Leninist procedures. If they do, we probably won't send the Marines.

What we can do—now—is stop equivocating about the dangers. An Italy substantially influenced by communist ministers could become an ally at cross-purposes. As Jean-Francois Revel has recently observed, not once since 1975 has a Western communist party adopted "a reserved or critical attitude" towards any Russian foreign policy. "Whether it be Angola, Mozambique, the Polisario liberation front, the conflict between Ethiopia and Somalia, the Helsinki agreements, Israel, the civil war in Lebanon, communist newspapers and communist leaders in the West have approved wholly and unconditionally Soviet theories and behavior."

Claire Sterling reported from Rome the other day that the Italian communists have been living on American equivocations ever since Henry Kissinger left the State Department. I, for one, am delighted that the U.S. has at last made it clear that Eurocommunist purposes are not ours, and cannot be ours. If the Italians want to play with fire, we probably can't stop them. We can shut the match box.

[From the Washington Post]

WHY THE COMMUNISTS JUNKED THE ITALIAN GOVERNMENT

(By Claire Sterling)

ROME.—The Italian Communists contend, and many other people agree, that only they can save the country now. But how would they go about it, exactly?

The case of the late Andreotti government doesn't augur well. Though born of necessity, that is not what it died of. It was killed off deliberately when Communist leaders realized that even so modest a venture in collusion with the establishment was playing havoc with their party.

The Andreotti experiment lasted 17 months. A minority Christian Democratic Cabinet, in a Parliament with no workable majority, it came into being when the Communists agreed not to vote against it and passed away when they decided not to go on not voting against it. (The smaller Liberal, Republican, Social Democratic and Socialist parties did the same, but counted incomparably less.)

What made the Communists suddenly junk a government getting more done than most, whose elaborate six-party program they had helped to draft and warmly endorsed barely five months before, became disturbingly clear only after the event. What they *said* made them do it was a national emergency so bad that Italy could no longer be governed without them. As a consequence, Italy is no longer being governed at all. In a deadlock that could last for months, several urgent reforms have been frozen midway through their parliamentary passage: a comprehensive medical-care and health law, which Italians have dreamed of for years; a fair rent law they've been dreaming of since the war; and a bill giving the police special powers to cope with terrorist violence—which the Communists had approved in the six-party program and have kept bottled up in parliamentary committee ever since. Predictably, meanwhile, the emergency goes on getting worse.

Though Italy is not quite so desperately close to a crackup as some interested parties make out, it is certainly in a lot of trouble. It has the highest incidence of political terrorism in the world, the highest inflation in Europe (though reduced by a quarter last year) and the highest number of unemployed in Europe (1.6 million, three-quarters of them under 30). It owes $20 billion abroad, while its budget deficit has doubled in a year to over $30 billion. Its productivity is half, and labor costs per unit double, the Common Market average. It is nevertheless the only industrial nation where real wages went up 7 percent last year, on top of a 25 percent automatic, indexed increase to keep up with living costs. The majority of its larger factories are operating at half capacity, while forbidden by law and the unions to lay off workers with nothing to do. And many or most state-controlled industries would go under tomorrow if not for prodigal state handouts.

These are terrible problems, but they certainly can't all be blamed on Andreotti's government. Political terrorism, from the extreme left especially, is if anything directed more virulently against the Communists themselves than the ruling Christian Democrats. Nine-tenths of the yawning state deficit is caused by inflated state

payrolls and pensions, constantly swelling on the insistence of heavily Communist-influenced trade unions. Grotesque distortions in the economy are only partly the result of 30 years under Christian Democratic misrule; the other part is the fault of a rigidly protectionist unionized workers' caste, taking care of its own at the expense of the taxpayers, the backward south and the unemployed.

Yet throughout these 17 months, the Communists (and Socialists, to be fair) have demonstrably dragged their feet on effective antiterrorist measures. Communist leaders have promised a medium-term blueprint to restructure the economy, only to come up with a 120-page instant-happiness brochure that deserved no attention and got none. The six-party program, in which they had a very large voice, indeed promised terrific reforms of practically everything in the distant future, but thoughtfully avoided mentioning a single neuralgic issue affecting organized labor. The Communists' most spectacular success, in those programmatic negotiations, was in talking the Christian Democrats into divvying up on power posts and patronage: in the state radio-television network, in large and strategic banks, in control over welfare and credit institutions transferred from Rome to local and regional governments. The Communists' most spectacular failure, on the other hand, was in the area where they could supposedly do the most good.

Communist leaders here obviously recognize the need for something resembling Great Britain's social contract: wage restraints, mass layoffs where necessary, more work and less absenteeism in exchange for less inflation, more jobs and more social equity all around. Party labor leaders like Luciano Lama have undeniably tried hard to head Italian workers in that direction.

But the fact remains that wages went up 32 percent overall last year. Implacable worker resistance keeps blocking redundancy layoffs. Bankrupt state industries keep getting bailed out at colossal cost, on the insistence of riotous workers. The state-owned Alfasud car factory, symbol of so many deluded hopes for the disinherited south, is still losing $100 million a year, while union leaders were helpless to prevent 713 wildcat ministrikes there in 1974.

Lama himself could not persuade the workers of Fiat, Italy's biggest private industry and foreign currency earner, to put in six Saturdays of overtime to fill a huge export order this winter. Nor could he dissuade 200,000 metalworkers from marching on Rome last November with demands that no Italian government could meet in times like these. It was when Lama also failed to prevent a call for a nationwide general strike, issued by the whole confederation of Catholic, Social Democratic, Republican, Socialist and Communist unions, that the Communist Party changed overnight from the Andreotti government's friend and ally to its executioner.

The blunt truth is that, in this first experimental stage on the way to full Catholic-Communist collaboration—Enrico Berlinguer's historic compromise—the Communists could not do what they claim they alone can do: deliver the working class. Their efforts so far have met with sullen or openly outraged resistance on the shop floor, alienated left-wing students and run into such hard-eyed criticism from Stalinist old-timers (and not such old-timers) inside the party that Berlinguer, its general secretary, was forced into sensational retreat.

To allay bitter suspicion of a sellout in these quarters, Berlinguer is insisting preemptorily now on a jump from the very first to the very last stage of his proposed historic compromise: direct Communist participation in the government. Acceptance so soon of an ultimatum so imperious, from a party whose shady past is still a vivid memory and whose recent performance has been less than convincing, by a traditionally ruling Christian Democratic Party with an explicit electoral mandate to the contrary, might well tear that ruling party to pieces. Maybe that would save Berlinguer, but would it save the country?

FOREIGN-FLAG VESSELS; HIGH SEAS FISH CATCHES

Mr. INOUYE. Mr. President, on September 29, I introduced S. 2158, a bill to amend 46 U.S.C. 251 so that foreign-flag vessels would be permitted to land a particular category of their high seas fish catches in our foreign trade zones for a very limited purpose.

I wish to emphasize that this legislation does not permit the sale of these commodities in the United States.

It is intended to permit the storing of foreign caught shark fins at our foreign trade zones for eventual exportation to Hong Kong or other foreign countries.

Present law which prohibits foreign-flag vessels landing their high seas fish catches in ports of the United States (46 U.S.C. 251(a)), has the effect of forbidding such landing within our foreign trade zones by 19 U.S.C. 81(a–u). And the Customs Service has ruled that shark fins are identical in commodity classification to foreign caught fish.

I ask unanimous consent that a legal memorandum from the National Oceanic and Atmospheric Administration on this matter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INOUYE. Mr. President, if the limited purposes of this bill is achieved there will be a valuable new export for Hawaii. And, as I shall explain, it will not undermine our protection given the U.S. fishing industry against foreign competition.

The situation which would enable Hawaii to have a valuable new item for export comes about as follows:

Foreign-flag fishing vessels call into Honolulu for supplies, and so forth on board in many cases, and completely incidental and apart from their catch, are shark fins from sharks which the seamen have caught on their own time while at sea.

While it would be highly uneconomical to fish for shark fins commercially in this way, it becomes economically feasible when the shark fins are a byproduct as it were of the fishing expedition.

Hawaiian businessmen are willing to buy these shark fins, place them in a bonded warehouse, and sell them to markets in the Far East such as Hong Kong.

These shark fins will neither be sold on the U.S. market, nor does the catch pose a threat to the American fishing industry.

What S. 2158, would do, however, is add a new valuable export for Hawaii and, therefore, be an additional source of revenue.

Mr. President, I wish to emphasize this is the sole purpose of S. 2158, and if its scope goes beyond that, it is unintentional, and I would willingly accept whatever amendments are necessary.

EXHIBIT 1

LEGAL MEMORANDUM

The question has arisen whether the prohibition against foreign flag vessels landing their high seas fish catches in ports of the United States, 46 USC § 251(a), has the effect of forbidding such landing within the foreign trade zones authorized by 19 USC §§ 81a–u. I have concluded that it does have this effect, and that foreign flag vessels may not land their catches in foreign trade zones of the United States, except as otherwise provided by treaty or convention. 464 USC § 251(a) provides in relevant part as follows:

". . . Except as otherwise provided by treaty or convention to which the United States is a party, no foreign-flag vessel shall, whether documented as a cargo vessel or otherwise, land in a port of the United States its catch of fish taken on board such vessels on the high seas or fish products processed therefrom, or any fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products."

19 U.S.C. § 81c provides in part:

"Foreign and domestic merchandise of every description, except such as is prohibited by law, may, without being subject to the customs laws of the United States, except as otherwise provided in this chapter, be brought into a zone and may be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated, or be manufactured except as otherwise provided in this chapter, and be exported, destroyed, or sent into customs territory of the United States therefrom, in the original package or otherwise; but when foreign merchandise is so sent from a zone into customs territory of the United States it shall be subject to the laws and regulations of the United States affecting imported merchandise. . . ."

The question whether the fish and fish products described in 46 U.S.C. § 251(a) are "merchandise . . . such as is prohibited by law" within the meaning of 19 U.S.C. § 81c is one on which the legislative history of the latter statute is unenlightening, and which has not been addressed by the Foreign Trade Zones Board. These fish and fish products may freely enter the United States once they have been landed, even for a very short interval, in a foreign port. It appears, in fact, that the practice has arisen of taking such fish for a short time immediately after catch to nearby Canadian ports, and then shipping them in short order to the United States. It can thus be argued that 46 U.S.C. § 251(a) determines when certain fish and fish products may enter the United States, rather than whether they may do so; and that those fish and fish products should therefore not be considered "prohibited by law" for purposes of 19 U.S.C. § 81c.

The regulations of the Foreign Trade Zones Board, 15 CFR § 400.801, and U.S. Customs Service, 19 CFR § 146.11, describing the merchandise permitted in a Zone, do not shed any light on the merits of this argument. They attempt to distinguish "merchandise which is prohibited by law on the grounds of policy or morals" ("prohibited" merchandise), which may not be brought into a zone, from "merchandise which may be imported under certain conditions" either by permit or license, or after being brought into compliance with law ("conditionally admissible"

merchandise), which may be brought into a zone. Depending on whether one wishes to emphasize the policies underlying the prohibition of 46 U.S.C. § 251(a), or the fact that this prohibition will evaporate as soon as the foreign-caught fish are brought into another country, an argument can be made for classifying them in either of the categories provided for in the regulations.

Despite the plausible arguments that can be made to the contrary, I have concluded that the fish and fish products described in 46 U.S.C. § 251(a) are the "merchandise . . . such as is prohibited by law" within the meaning of 19 U.S.C. § 81c; and that they therefore may not be brought into a foreign trade zone in the absence of treaties or international conventions to the contrary. This conclusion is based on the policy of the 1950 amendment of 46 U.S.C. § 251(a) excluding these fish and fish products. This policy was to protect the United States fishing industry from foreign competition, 1950 U.S. Code Cong. Service 3539–40 (81st Cong. 2d Sess.), apparently by increasing the expense and inconvenience of foreign fishing off United States shores, and adversely affecting the competitive position of foreign-caught fish in the United States market. This policy would be appreciably undermined by not considering foreign fish catches to be "prohibited by law" for purposes of the Foreign Trade Zones Act. These fish would be brought into foreign trade zones only when it would be to the economic advantage of foreign fishing interests for this to be done. It was the very purpose of the 1950 amendment to disadvantage these interests, and it was passed under circumstances indicating the clear intent to override in this area liberal trade policies like those underlying the Foreign Trade Zones Act. Foreign fish catches should therefore be considered to be "prohibited by law" for purposes of 19 U.S.C. § 81c until the owners have gone to the expense and inconvenience, however nominal, of landing them in a foreign port.

This conclusion is consistent with the position taken by this Office in January 1976 on the shipment of South African sealskins into foreign trade zones. In a letter of January 22, 1976, to counsel for the Fouke Company, it was stated that the MMPA moratorium on importation of marine mammal products forbade shipment of the skins into a foreign trade zone until a waiver covering those skins had been obtained. After granting of the waiver, the skins became "conditionally admissible" merchandise for purposes of the regulations, and could be brought into the zone pending the grant of an import license. The landing prohibition of 46 U.S.C. § 251(a) is not subject to waiver or other relaxation like the MMPA moratorium. The fish and fish products described in that provision should therefore, if this Office is to maintain a consistent position, be treated for purposes of the Foreign Trade Zones Act like marine mammal products for which a waiver has not been granted, and forbidden entry into a zone except as otherwise provided by international agreement.

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

Mr. DOMENICI. Mr. President, I know that it is not often that we in this body can see the physical results of our work. Often it seems that we must operate in a vacuum.

However, in my home State of New Mexico, the actions of this body have taken concrete form in the Bosque del Apache National Wildlife Refuge. Part of that refuge is now wilderness, under a bill I authored and which was signed into law last Congress.

To show that America can have a refuge, a wilderness area, protected species, and use by sightseers and hunters, I bring to my colleagues' attention a recent article in the Wall Street Journal, "Goose Hunters Take Great Pains To Avoid Taking a Shot at Ida."

This excellently written story, by John Huey, who shows an unorthodox, but commonsense approach, has brought a real truce between conservationists and waterfowl hunters.

No one can imagine without actually going to the refuge the beauty of the Bosque del Apache. That both ornithologists and hunters enjoy it is testimony to what good will can accomplish. I send my congratulations to all those who work on the refuge and to those who enjoy it, abiding by the necessary rules.

I also congratulate the farsightedness of my colleagues who first instituted the refuge and wilderness systems. We in New Mexico have shown that these systems work for all.

Mr. President, I ask unanimous consent that the Wall Street Journal article, "Goose Hunters Take Great Pains To Avoid Taking a Shot at Ida" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOOSE HUNTERS TAKE GREAT PAINS TO AVOID TAKING A SHOT AT IDA

(By John Huey)

BOSQUE DEL APACHE, N. MEX.—It's 5 a.m. in this dark, icy bog somewhere in the Rio Grande Valley near the foot of the Magdalena Mountains. Forty eager goose hunters are seated on bales of hay in an army tent, shivering and staring at some stuffed birds.

The hunters have gone to almost as much trouble to get here as the geese, who flew 3,000 miles from the Arctic. They have bought special permits, taken bird-identification tests, and drawn lots for admission to the hunt. Now a stern voice from a tape recorder is reading them their rights.

If they shoot the wrong bird, the voice reminds them, they face a felony conviction punishable by two years in jail and a $20,000 fine. The stuffed birds help the hunters tell the difference between the right birds and the wrong ones.

Meanwhile, the prime wrong birds, Homer and Ida—two young whooping cranes, or whoopers as they are called here—are just beginning to stir down in the swamp. A wildlife biologist is nearby, watching them through binoculars, ready to report any flight to command headquarters on his walkie-talkie.

A PECULIAR EVENT

This is no ordinary goose hunt. What is happening here at the Bosque Del Apache National Wildlife Refuge is the result of a compromise as shocking in some circles as the Sadat-Begin talks. Conservationists and waterfowl hunters have reached an almost friendly standoff, allowing hunters to shoot the plentiful snow goose while in the vicinity of the rare whooper, the very symbol of the endangered species.

The result, a 16-day annual hunt, is surely one of the most peculiar sporting events ever held anywhere, combining the skills of air-traffic control with the confusion of a National Guard bivoauc and the tension of a World War II air raid. "It's rare," admits the refuge director, Richard Rigby. "It isn't exactly your old Chesapeake Bay waterfowl hunt."

Consider the scene back at the tent. The taped lecture ends, and the hunters—wrapped in wool, down and camouflage—are issued tiny transistor radios tuned to a station that plays sounds of a gurgling brook and assorted bird calls. (Later, refuge officials will interrupt these pastoral sounds to give the hunters vital instructions through their earphones.)

Next, each hunter is issued eight shotgun shells loaded with steel shot (shells brought from home must be tested with a magnet to make sure they don't contain lead shot, which would poison birds that ate it after it fell). Finally, after another drawing to assign goose blinds, the hunters unsheathe their guns, pile into the backs of old army trucks and rumble off to the hunt.

From his frigid post atop a 25-foot-high tower of hay bales, Mr. Rigby can see each of the 20 blinds, fashioned from hay and scattered a few hundred yards apart in a corn field ringed with cottonwood trees. Nesting within earshot of this outpost is the most spectacular gaggle of waterfowl and other birds imaginable: 20,000 snow geese; 11,000 greater sandhill cranes; another 20,000 mallards, teats, canvasbacks, ringneck coots and mudhens; a number of Canada geese, blue geese and Ross' geese; six golden eagles, two bald eagles and a partridge in a pear tree—no, it's some Afghanistan pheasant.

TWO OUT OF 78

Standing out in this fairly distinguished crowd, like ballerinas in a disco, are Homer and Ida, two of the only 78 wild whoopers left on earth at last count.

As whooping cranes, the two majestic, snow-white birds are dear enough to ornithologists and conservationists. But their worth goes beyond even that. As adopted offspring of unwitting sandhill cranes from Idaho, they are part of an international foster-parent program that is the most ambitious effort yet to save the species—which sank to only 15 birds in 1943.

By 1975, when the adoption program began, the wild whooper population had climbed to 57. But all those birds lived in one flock that migrates 2,600 hazardous miles each winter from Canada's Wood Buffalo Park to Arkansas National Wildlife Refuge on the Texas Gulf Coast. Biologists feared that having all the whoopers' eggs in one basket was dangerous to the species' chances for survival. So the U.S. Fish and Wildlife Service, the Canadian Wildlife Service and other agencies set out to create a new flock with the safest possible migratory habits.

Luckily, female whoopers lay two eggs each year but hatch only one. So biologists took spare eggs from whoopers' clutches in the remote Canadian nesting ground, packed them in suitcases with hot water bottles and flew them by helicopter and jet to Grays Lake National Wildlife Refuge in eastern Idaho. There they placed the eggs under carefully selected birds in a flock of greater sandhill cranes, close relatives of the whooper. A number of whoopers hatched. And though they experienced their share of "ugly duckling" problems, so far eight have survived to come south to the Bosque area with the sandhills.

Arrival of the whoopers at Bosque in 1975 created a considerable stir, but New Mexico waterfowl hunters weren't about to give up their shot at one of the tastiest snow-goose flocks anywhere. Confusion, rhetoric and anger prevailed at that first hunt, which featured a primitive siren. Each time a whooper took flight, the siren sounded and all hunters had to lay down their guns and stand up in the blinds.

"It's not something I'd want to go through again." Mr. Rigby says, adding that now "it's a nice, fairly workable setup. The biggest difference is that now all the hunters have to pass a bird-identification course.

Before, we were totally responsible; now it's on their shoulders, too.

This particular day, only Homer and Ida are in the refuge, making things fairly simple. Another whooper, Corny, is missing (she will eventually turn up). Two others, Pancho and Miracles, are up on a state refuge nearby, Ulcers, so named because of a habit of flying through the hunt unexpectedly, is not around today. Two other, unnamed whoopers are accounted for elsewhere. And Peanuts, sadly, was killed when he ran into a power line in Wyoming.

THE CRANES ARE FLYING

Soon the sun will pop up over the mountains, and thousands of birds in the wetlands just south of the field will be making their daily flight north, right over the guns of the goose-hungry hunters. Mr. Rigby and his charges are fairly relaxed, but there is an awareness that one mistake could mark a messy end to this strange detente.

Now the geese and sandhill cranes are flying. The hunters, who are allowed to shoot four geese with their eight shells, display their knowledge well, passing up shots at the sandhills and Canada geese; both species are illegal to shoot here.

Then, a few minutes after sunrise, Mr. Rigby's walkie-talkie crackles. This is unit one (which is actually Roderick Drewien of the University of Idaho) to base," the voice on the radio says. "Homer is up and northbound." The action is on. Back at the refuge office, an operator interrupts the bird calls on the hunters' radios to tell them a whooper is headed their way. Then other spotters track Homer's course with binoculars, reporting each change in direction on the walkie-talkies. At one point the spotters lose Homer in the sun, but they soon pick him up again after a few harsh words from Mr. Rigby.

Since the first warning of the little radios, the shots have grown more cautious. Whooping cranes, at four to five feet tall, are the tallest birds in North America and have wingspans of seven feet; they are much bigger and have a much different shape than snow geese. But because they have similar markings—white with black wing tips—there is always room for error. And in the words of hunter Carl Underwood, a 31 year old insurance salesman from Albuquerque, "I'd do just about anything to keep from shooting a $20,000 bird."

Ida's flight, a few minutes later, is similarly routine, as is the rest of the hunt. Around noon, the hunters get back on the trucks, having bagged 17 geese, a modest take for the day. But most are happy. Ralph Libby, a 63-year-old Albuquerque bus driver and his wife, Ethel, are thrilled with their four geese: "It's a lot better than last week," Mr. Libby says. "My radio didn't work then, and it cost me my goose." (Without a radio, he says, he wasn't sure if it was safe to shoot.)

BOTH SIDES SEEM PLEASED

Both hunters and bird watchers seem pleased enough with the detente. Last year more than 80,000 visitors came to the refuge compared to only 30,000 in 1974, before the whooper.

It is easy to see why they come to the Bosque del Apache—the Woods of the Apache. Late in the afternoon, the sun drops behind the mountains, streaking all the sky with a burst of vivid and pale oranges and reds. Thousands of cranes begin coming back to roost in the wetlands. At first, their individual calls are distinguishable—purring, musical trumpets. Soon there are so many that the sky darkens with their presence, and the sound builds to a cacophony, a fluttering, high-pitched roar like legions of Indians war whooping. Then the snow geese follow, honking.

In the distance, as if from a script, an Atchison, Topeka & Santa Fe locomotive sighs a long, low whistle. Homer and Ida have bedded down for another night, oblivious to the fuss being made over them.

WATERWAY USER CHARGES—"SAGA OF A SENATE BILL—II"

Mr. STAFFORD. Mr. President, several weeks ago, Senator WALLOP inserted into the RECORD a number of articles that have appeared in the Washington Post on the "Saga" of the waterway user charge bill. This series by T. R. Reid has detailed Senator DOMENICI's efforts to establish greater balance to our national transportation program.

Since that time, three additional articles in the series have appeared. Because of the significance of this issue and this excellent indepth series of articles, Mr. President, I ask unanimous consent that these three new Post articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WATERWAY FEE BILL RAN AFOUL OF CROWDED SENATE SCHEDULE

(By T. R. Reid)

The 95th Congress called it a session and went home Thursday night after a busy year that saw the passage of 24 private laws, 210 public laws, and nearly a thousand assorted resolutions—but not the waterway toll bill.

And so the waterway bill, S. 790—which would require barge lines to pay some fee for their use of federally maintained inland waterways—will be held over for final Senate action sometime after the second session begins next year.

Just a few weeks ago the waterway bill had seemed almost certain to emerge as a waterway act before the end of the 95th's first session. Both the House and Senate had voted for some kind of waterway charge, and the question remaining before the Senate was no longer "whether" but simply, "How much?"

But late in October the barge bill ran aground on a Senate schedule crowded with more urgent legislation. And when the majority leader, Robert C. Byrd (D-W. Va.), finally offered to squeeze in a waterway vote somewhere, senators on both sides of the issue turned him down—because neither side was sure it had enough votes to prevail.

With the final Senate vote delayed until late January at the earliest, various groups of lobbyists were meeting here to plan their efforts to pressure the members of Congress on their home turf during the interlude between sessions.

The barge industry, which has reluctantly come to the realization that some form of waterway charge is imminent, was building a campaign to push for Senate approval of the House bill, which established a relatively moderate fuel tax for the barges.

The railroads, the barge lines' arch competitors, were gearing up for a nationwide lobbying drive to convince the Senate to vote again for a much stiffer user charge plan that had passed the Senate by a narrow margin in June.

Although senators and lobbyists on both sides were insisting that they had no interest in a compromise solution, just about everybody involved in the battle had privately prepared his own version of a waterway bill that would fit somewhere between the House and Senate plans.

But nobody in Congress knew precisely where an acceptable compromise might be found. In fact, nobody in Congress could know, because the final arbiter of an "acceptable" waterway charge will be President Carter—and he doesn't seem to have made up his mind.

Carter holds the key to the waterway bill because he has promised to hold up federal funding for a major new barge facility—Locks and Dam 26, at Alton, Ill.—unless Congress establishes a "substantial" waterway fee.

The barge industry sorely wants that Alton project, and has told its supporters in Congress to vote for a waterway fee in order to win Carter's support.

But the bargemen cannot tell their congressional friends how large a fee to vote for, because Carter has not yet said just what he would consider "substantial."

That question is a subject of dispute within the Carter administration.

The Department of Transportation, which has jurisdiction over barge traffic, has been urging the President to accept just about any fee that Congress decides to pass. Since the inland waterways have been toll free since the birth of the republic, the transportation experts say it is enough to establish the concept of a barge charge this year. The tolls can always be raised later, they say.

But in the White House, a youthful corps of analysts in the President's Domestic Council and the Office of Management and Budget is taking a harder line. The Alton project offers leverage that will force Congress to approve a hefty waterway fee, as the analysts see it. The President should hold out for a significant barge charge.

Eventually, the President will have to resolve the issue and tell Congress what a "substantial" waterway fee might come to. For now, though, Congress has adjourned, and Carter will have plenty of time to mull over his position on S. 790.

BYRD SCHEDULES VOTE THIS WEEK ON WATERWAY TOLL BILL

(By T. R. Reid)

The Senate was droning through a laboriously long-winded debate on Title 18 of the U.S. Code one day last week when the majority leader, Sen Robert C. Byrd (D- W.Va.), interrupted with a brief announcement that electrified friends and foes of S. 790, the waterway toll bill.

Spurred by the heartfelt plea of a frustrated colleague, Byrd told the Senate that he would schedule a final vote sometime this week on the controversial bill, which would impose the first time a user fee for commercial barge moving freight on the nation's inland waterways.

For the senators, staff aides and lobbyists who have been working 10 months in support of or in opposition to the waterway toll, Byrd's announcement came as a shock. They had expected the bill to reach the floor early this year, but now they would have only days to marshall their arguments and push for votes.

Sen. Pete Domenici (R-N.M.), S. 790's sponsor, and the railroad and environmental lobbies aligned with him, were pushing the Senate to approve once again the waterway bill it approved last June.

That measure established a tough fee schedule that would recover more than half of the hundreds of millions of dollars the federal government spends annually on inland waterways.

On the other side, Sen. Russell B. Long (D-La.) and a coterie of barge industry lobbyists and farm groups were asking senators to vote instead for a considerably different waterway tax that the House passed in October. The House bill would be much less a burden on the barge operators, and would return less money to the government.

The barge industry isn't exactly enchanted

with a waterway fee. But Domenici had trapped it.

Early last year the senator had attached his waterway proposal to an authorization bill funding a major new barge facility on the Mississippi at Alton, Ill. The barge operator had never managed to separate the two, and now they had no choice; to get the Alton project, they would have to pay some level of waterway fee.

The barge lobbyists were taking a calculated risk in asking senators to vote for the modest House version of the waterway fee, because last fall President Carter jumped into the fray on Domenici's side.

In a letter signed by Transportation Secretary Brock Adams, the administration promised it would veto any authorization for the Alton barge facility unless Congress passed a waterway fee higher than that proposed in the House bill.

But Long and his supporters, including Sen. Adlai Stevenson (D-Ill.), maintain that the President is bluffing. "I think the Senate should approve the House-passed waterway fee," Stevenson said last week. "And I think the President, on reconsideration, would gladly sign it."

The waterway bill has been pending on the Senate floor since last October, but it had been in a legislative limbo because no one was pushing to bring it up. Neither Long nor Domenici was confident he had enough votes to win. Both men had been biding their time.

It was a neutral party, Sen. Mike Gravel (D-Alaska), who moved Byrd last week to schedule a vote.

As chairman of the Senate's water resources subcommittee, Gravel has sat through hearings year after year on the issues of the waterway toll and the Alton barge facility.

"None of this has anything to do with Alaska, you know," Gravel has observed. "And the thing never goes away. It's a hair shirt; what have I done to deserve this?"

When Gravel saw that both sides were stalling, he panicked. If the impasse went on much longer the whole waterway mess might be thrown back to him for more hearings. When he saw Byrd on the floor last week, Gravel made a personal plea for a quick vote that would decide the fate of the waterway fee.

Byrd, who was eager to clear away as many minor bills as possible before the Senate swims headlong into the Panama Canal debate, agreed. The waterway toll bill was once again on its way.

ADMINISTRATION GETS TOUGH AS VOTE ON BARGE FEES NEARS

(By T. R. Reid)

The time had come, the secretary of transportation told the president, to get tough on the waterway toll bill. The administration's credibility was on the chopping block; they'd have to act, now, to avert the ax.

The weekly Cabinet meeting had just ended. As the business suits and briefcases filed out the Cabinet Room, Brock Adams buttonholed Jimmy Carter. You don't get that many chances at a president, even if you're secretary of transportation, and Adams knew his message for Carter couldn't wait.

The message: the waterway bill, a controversial measure that would impose, for the first time, a user fee on barge lines moving freight on inland waterways, was coming up for a final vote in the Senate—probably the first week in February.

With Carter's backing, the Senate had passed S. 790, which established a strong waterway fee that would recover a large share of the government's annual expenditure on waterways. But the House had passed a much weaker bill. Now the issue was back in the Senate, and Adams had threatened, in writing, that Carter would veto the bill unless the Senate voted a fee substantially higher than the House version.

The problem was that a lot of senators—Democrats, influential ones—didn't believe that threat. At the urging of the barge industry, they were insisting they would vote for the House bill and then pressure the president to sign it.

If that happened, Adams said, the administration's final deterrent in its dealings with Congress—a veto threat—would be fatally defused.

The president told the secretary not to worry. The White House, he said, would take care of things.

It was a little vague, Adams told his allies in the Senate, but it was reassuring. Almost from the day last October when Adams had written his letter posing the veto threat, a lot of senators had insisted they didn't believe him. Good Democrats like Russell B. Long (La.), Adlai Stevenson (Ill.), and Warren G. Magnuson (Wash.) had been talking openly about "calling the president's bluff."

It got so bad that Sen. Gaylord Nelson (D-Wis.), an old friend, called Adams with a warning. "You've got a problem here, Brock," Nelson said. "If we pass the House bill, and Carter doesn't veto, your credibility is going to be mincemeat around here."

Adams' staff, too, had some moments, around the first of the year, when they feared a softening of backbone on the question in the White House.

They knew that Long had discussed the question with Carter himself, and then reported back to his colleagues that the president was not exactly breathing fire on the question. "He might veto, and he might not," Long told the other senators with a mischievous grin.

Within the White House, there was a degree of schizophrenia on the waterway toll. Frank Moore, the president's chief lobbyist, was pushing the president to reconsider—he would need Long's help on a lot of things more crucial than a barge charge bill. But Stuart Eizenstat, Carter's domestic issues expert, was taking the hardest possible line on behalf of a tough waterway fee.

Last weekend, Adams' own lobbying team had met in the White House with the various factions, but nothing had been firmly decided.

That was why Adams felt the need, after last Monday's Cabinet meeting, to take up the matter with Carter himself. The president's guarantee that something would be done made him feel a lot better.

Within hours after the meeting, something was done. Adams received a brief note on White House letterhead, signed by Richard G. Hutcheson III, Carter's chief paper shuffler. "Let our position be clearly known," Hutcheson quoted Carter as saying, "including possibility of veto."

It wasn't all Adams might have hoped for, but it was probably enough. The memo was quickly copied and dispatched to the Senate. It ought to scare those Democrats enough, the secretary thought, to make them vote for something more than the House-passed waterway fee.

In the Senate, meanwhile, Russell Long came down with the flu. The waterway bill, which had been scheduled for a vote on Thursday, would have to be put off until next week. Brock Adams would have to hang on a few more days.

COSMETIC SAFETY AMENDMENTS

Mr. EAGLETON. Mr. President, some of my colleagues are probably aware of my continued efforts to upgrade our now meager laws in the area of cosmetic regulation.

I first introduced a bill in this area in 1973. Not until July of 1976, was the bill taken up by the full Senate and passed. No action was taken by the House of Representatives prior to the end of the 94th Congress.

On December 15, 1977, I again introduced cosmetic safety amendments. In my view, never has the evidence of need for strengthening our existing laws been so persuasive.

Mr. President, I commend to my colleagues two recent articles from the Washington Post and ask unanimous consent that the text of both articles be printed in the RECORD at the conclusion of my brief remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. Mr. President, the first article indicates the support of the Food and Drug Administration for strengthening existing regulatory authority for cosmetics. Commissioner Kennedy indicates that he is "anxious" to have the authority to require premarket testing. My bill would clearly give him that authority.

A GAO spokesman cited as deficiencies in the present law the fact that FDA has been refused access to product formula data and consumer complaints because it has no authority to require manufacturers to permit FDA inspectors access to these records. My bill would require registration of all formulas with the FDA, and periodic submission of adverse reaction reports, in addition to inspection authority.

The second article, published February 3, details the findings of a GAO study that about 100 ingredients listed as suspected carcinogens by NIOSH's Registry of Toxic Effects of Chemical Substances are found in cosmetics. This article further emphasizes the need for strengthening the Federal food, drug, and cosmetic law as it relates to cosmetics.

Mr. President, we must act now to insure that the Federal agency charged with the responsibility of regulating the $6 billion a year cosmetic business can do so effectively.

I urge my colleagues to study my bill, S. 2365, and join with me in working for rapid enactment of this important consumer measure.

EXHIBIT 1

[From the Washington Post, Feb. 3, 1978]

MORE THAN 100 SUSPECT COSMETIC INGREDIENTS UNREGULATED, GAO STUDY FINDS

(By Ward Sinclair)

More than 100 ingredients suspected of causing cancer and birth defects are available for use in cosmetics, virtually free of federal regulation, congressional investigators have found.

A General Accounting Office survey of cosmetics, to be delivered to a House subcommittee today, found that millions of consumers may be exposed to "significant hazards" from the ingredients of beauty products.

The GAO report is critical of the Food and Drug Administration for alleged laxity of enforcement of existing federal cosmetics law.

But the GAO also determined that the law does not provide adequate powers for FDA to protect consumers from potential health hazards.

GAO's investigation will be discussed in detail today by the Interstate and Foreign

Commerce oversight subcommittee, headed by Rep. John E. Moss (D-Calif.).

The subcommittee also will hear from FDA Commissioner Donald Kennedy and, according to Moss aides, discuss legislation to ban the use of cancer-causing coal tar dyes in hair-coloring products.

The GAO report did not specify which of the potentially harmful ingredients are being used in cosmetics, nor did it name cosmetics that contain them.

But the investigators found that dozens of suspect agents are on the market, out of the reach of federal control, for use in cosmetics. They included:

About 100 ingredients listed as suspected carcinogens by the National Institute of Occupational Safety and Health's Registry of Toxic Effects of Chemical Substances.

Twenty-four ingredients listed in the registry as suspected of causing birth defects.

Twenty more that may cause adverse effects on the nervous system, including headaches, drowsiness and convulsions.

GAO noted that products listed on the NIOSH registry had been tested on laboratory animals and that their correlation to cosmetics exposure has not been evaluated.

But, the report continued, the Food, Drug and Cosmetic Act—which partially governs cosmetics content and labeling—does not give the FDA sufficient authority to assure that the products are harmless.

A specific exemption in the act bars the FDA from banning or restricting the use of coal tar dyes in hair-coloring products used by an estimated 33 million people.

Increasing evidence has shown that some colors used in coal tar hair dyes are capable of causing cancer in consumers, and the FDA has proposed warning labels for such products.

The Cosmetic, Toiletry and Fragrance Association (CTFA), an industry group, has opposed the FDA move. Association officials have maintained that no major hair dye manufacturer has used benzidine-derived colors—one of the major suspected carcinogens—in their products since 1973.

GAO investigators, however, recently purchased eight temporary rinses containing one or more of the benzidine-derived colors at drugstores in Rockville. The manufacturer, not named by GAO, is a CTFA member.

The GAO report that will be discussed today calls for a repeal of the exemptions for coal tar hair dyes.

GAO said that while the FDA does not have certain regulatory powers that would be helpful—such as a requirement that manufacturers test their cosmetics for safety—it could do a better job with the powers it has.

The investigators found that FDA has not inspected most plants or sampled products, as it is empowered to do. It has not established manufacturing standards, nor has it forcefully followed up with penalties after discovering violations of the law, GAO said.

GAO said the FDA has been lax in requiring warning labels on suspect products, and noted that some ingredients banned in other countries are available freely here without challenge by the FDA.

The agency also was criticized for failing to establish regulations limiting color additives that are not safe for use in cosmetics and for not establishing tests for safety evaluation of cosmetics.

[From the Washington Post, Feb. 4, 1978]

FDA CHIEF ASKS HILL FOR MORE POWER TO REGULATE COSMETICS

(By Mary Russell and T. R. Reid)

Food and Drug Administrator Donald Kennedy yesterday asked Congress for additional authority to regulate cosmetics and hair dyes that may contain cancer-causing chemicals.

Kennedy told a House Commerce subcommittee that a 1938 law exempting coal-tar hair dyes from an FDA ban should be repealed in light of recent National Cancer Institute studies showing that major ingredients of coal-tar hair dyes cause cancer in rats.

A General Accounting Office survey showed that more than 100 ingredients suspected of causing cancer, birth defects and nervous system disorders are available for use in cosmetics. Kennedy said his agency lacked authority to regulate the industry.

To show that the cosmetics industry is actually using the ingredients, GAO auditors bought products in Washington area stores with some of the suspect chemicals in them, and brought them to the committee hearing yesterday.

GAO auditor Jim Linz emphasized later that there is no evidence that the products cause cancer or that the ingredients are used in sufficient amounts to cause cancer. "What we were trying to do was to avoid the charge that none of the products now on the market are using those ingredients. We're pointing out that FDA needs additional authority to require the manufacturers to prove the safety of the products and the ingredients in them."

The GAO compared the ingredients in the products with chemicals labeled suspected carcinogens and suspected causes of birth defects and nervous disorders by the National Institute of Occupational Safety and Health Registry of Toxic Effects of Chemical Substances.

The products included Aim toothpaste, Grecian Formula 16 hair dye, Clairol Kindness Instant Protein Hair Conditioner, Clinique Clarifying Lotion 2, Helena Rubenstein Contour Lift Film and Helena Rubenstein Ultra Feminine Emollient Cleansing Cream EDTA, Max Factor super lash, eye pencil and Maxi-wear Nail Guard and Revlon Super Crystalline nail enamel.

Dr. Norman Estrin, vice president for science of the cosmetic industry trade group, the Cosmetic Toiletry and Fragrance Association, said, "It was very misleading and irresponsible of the GAO to parade a list of products in front of the cameras. Any competent scientist who's reviewed the registry knows that inclusion of a chemical there does not make it a carcinogen. Common table salt is included in that list and so is carbon dioxide, which we breathe out."

A spokesman for Lever Brothers, the makers of Aim, said it stopped using sodium and potassium carrageen, suspected of causing cancer in animals, in mid-1977 "based not on safety, but cost factors."

Sodium saccharin, the other ingredient, is used in an amount "so infinitesimal that a person would have to brush his teeth 12,000 times a day" to achieve "the massive doses fed to rats" in one study.

A spokesman for Combe Inc., which makes Grecian Formula 16, said the lead acetate, an animal carcinogen, in the product is there "in minute amounts and does not penertate the skin. I think these charges are irresponsible."

A Clairol spokesman also said it was "irresponsible," and added that the suspected carcinogen used in its hair conditioner has molecules "too large to be absorbed through human skin."

A Helena Rubenstein spokesman said carrageen (Irish moss) is a thickening agent most commonly used in food such as salad dressing. "It's always been considered a very inert substance."

Clinique said it had removed trichloroethylene from its product, though it's possible some stocks of the old formula are still in stores.

Max Factor said, "We are members of CTFA and stand by the CTFA statement."

A spokesman promised a "detailed response" to the GAO testimony at a later date.

Revlon's Super Crystalline nail enamel was listed because it contains Toluene, which the GAO identified as a suspected carcinogen in animals and a suspected teratogen (an agent that causes malformed fetuses). Roger Shelly, of Revlon, said that every nail enamel includes toluene, and that he knew of no previous warnings about the substance.

Kennedy admitted that the FDA had not fully used the authority it has to regulate cosmetics. But he added that the resources of the agency were limited and they had concentrated their activity in the two areas where they had more authority—foods and drugs. "Only a silly manager would overinvest in a cause that would only see his resources chewed up."

Kennedy said he was "anxious" to have the authority to require premarket testing. He denied an industry charge that it would be applied every time there was the minutest change in a formula, but said it would only be applied to important product ingredients and significant combinations of ingredients.

Gregory J. Ahart, director of the human resources division of GAO, who presented the GAO testimony, said FDA lacks authority to require compliance with the regulations it does set, does not have authority to require testing and has been refused access to records such as formulas used and consumer complaints because it has no authority to require manufacturers to permit FDA inspectors access to such records.

Legislation has been introduced in the Senate to broaden such authority. Reps. Andrew Maguire (D-N.J.), Albert A. Gore Jr. (D-Tenn.) and James J. Delaney (D-N.Y.) have introduced legislation to repeal the coal-tar exemption.

DEVILS LAKE, N. DAK.

Mr. YOUNG. Mr. President, for years there has been increasing ill feeling on the part of most people in the Devils Lake area of North Dakota and particularly between farmers and the Fish and Wildlife Service. The Devils Lake area is one of the best waterfowl producing areas of the United States.

It is unfortunate that this ill will between farmers and the Fish and Wildlife Service is increasing rather than decreasing as it should.

I ask unanimous consent to have printed in the RECORD an editorial of January 20, 1978 by the managing editor of the Devils Lake Daily Journal, Devils Lake, N. Dak., entitled "Farmers May Take Last Resort Action For Flood Project."

I believe John Zaleski, Jr., accurately expresses the feeling of most people of that important waterfowl area of the United States.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FARMERS MAY TAKE LAST RESORT ACTION FOR FLOOD PROJECT

(By John Zaleski Jr.)

Folks around here call it "the wildlife."

That's the term they use to describe all kinds of groups associated with environmental, conservation or sportsman and hunter activities. And the description seldom is used in a favorable sense. Rather, when people in the Devils Lake area speak about "the wildlife" they usually do so in angry or disgusted expletives.

Why?

The reasons are many, but the primary cause of the bitter feeling against wildlife groups stems from the wetland acquisition program of the U.S. Fish and Wildlife Service (FWS) of the Dept. of Interior. That's where the trouble started, and that's where most of it rests today.

Because of clumsy policies and practices of FWS, nearly every government and private group associated with wildlife is looked upon in the Devils Lake area with disfavor. Lake Region residents perceive the actions of FWS as nearly the same as radical environmental groups like the Audubon Society and Sierra Club. Often that perception is accurate. The result has been a blurring of the distinction between government agency and private organizations.

It's a serious matter, especially because Lake Region residents find themselves in the last remaining prairie pothole region in the lower 48 states. The mandate to FWS from the U.S. Congress is to preserve those remaining wetlands—preserve as many as possible. That directive has brought the interests of wildlife in head-to-head confrontation with the interests of agriculture.

The private groups, while not part of government, seem to have an inordinate influence over government policies. The most visible example is the Audubon-Interior agreement which effectively has stopped the Garrison Diversion project. Closer to home, local water boards find their flood relief projects stymied by lawsuits. A lawsuit lodged against the U.S. Army Corps of Engineers by the National Wildlife Federation threatens to kill the Channel A project in Ramsey County.

It is very understandable, therefore, that people around here detect a sinister conspiracy between government and unreasonable environmental groups. It is very difficult to find any evidence to the contrary.

The backlash among landowners in the Devils Lake Basin started a long time ago. Roadblocks placed in the path of needed flood control measures, like Channel A, apparently cannot be removed by reasoned compromise. Most environmental groups seem unable or unwilling to compromise. Farmers in the Devils Lake Basin again are beginning to talk about flexing their muscles.

Their muscles? Their muscles are their land resources.

One fact is clear: The majority of lands on which ducks are raised, geese are fed, deer are hunted and foxes are trapped, is in private ownership. Hunting and other recreational pursuits are allowed only at the okay of the landowner. Environmental radicals apparently don't like that situation. They seem to have an unbending penchant for the concept of "public lands."

Thus, the "conspiracy" between preservationists and certain elements of government takes on an even more sinister complexion. It becomes now an indirect attack upon the system of private ownership of rural lands. It becomes a serious attempt to gain control of the nation's basic resource—land.

A glance at a map showing FWS fee title and easement acreage in the Devils Lake Basin appears to confirm the trend.

How then, does the farmer and landowner in the Devils Lake area get the attention of the nation? How does he communicate to the majority urban population of the country that the very base upon which the nation's food production depends is threatened by the elitist conceptions of a few in government and environmental organizations? How indeed.

Again, the farmers' muscle is their land resource. The urbanite who wants to spend a few days hunting geese in North Dakota must, for the most part, have the landowners' blessings. No blessing, no hunting.

It seems, therefore, that the only way to get the proper attention to their sheetwater flooding plight, to the continued encroachment of federal land acquisition of private lands, and to the determined efforts of certain radical preservationists to destroy an efficient agricultural machine—it seems drastic action is necessary.

Close as much land as possible to hunting waterfowl. Lock it up as tightly as possible for an entire waterfowl hunting season. Make it especially difficult for the urban hunter from in and out of state to hunt in the Devils Lake Basin. Make it sparkling clear to the hunters and to the nation the reasons for the landowners' action.

That kind of action gets attention. And attention to the sheetwater flooding problems in the Devils Lake Basin is long overdue. Conservation and wildlife groups, and even some hunters, are fond of telling folks of the wonderful wetland and waterfowl resources in the Devils Lake area. But they fail to communicate the perennial problems of flooding in the region.

If it takes that kind of drastic action to force compromise between farming and wildlife interests, then such action should be taken. And in light of recent developments concerning Channel A, the effort should begin.

This is the only part of the country where "the wildlife" is seen in a negative light. In fact, employees of FWS recognize service at Devils Lake as the toughest of any of their agency's field offices. The conflicts between the federal agency's mandate to preserve wetlands and the practices of modern farming are most intense here because of the inherent value of both concepts.

But the apparent failure of wildlife interests to accept reasonable compromise regarding flood relief projects for farmers, requires agricultural interests to use their best weapons.

Closing land to hunting isn't the kind of action most of us would like to see. But support for projects like Channel A is general among people who have studied the project fairly. That includes city and county commissioners, chambers of commerce members, and merchants up and down the main streets of the Devils Lake Basin who realize their business depends upon the economic health of the farming community.

It's a last resort, but farmers in this area have been pushed to it.

GROUND HOG ENERGY INDEX

Mr. DOMENICI. Mr. President, in this ever-changing world, even our simplest and oldest traditions have taken on new meaning. It is said only those traditions which remain relevant and meaningful survive.

Therefore, I would like to include in the RECORD the modern technological implications and interpretations of our Ground Hog Day.

Mr. President, I ask unanimous consent that the lighthearted Ground Hog Energy Index statement of George L. Gleason of the American Nuclear Energy Council, given while testifying on the fiscal year 1979 budget before the House Science and Technology Committee, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

GROUND HOG ENERGY INDEX

In cooperation with the Head Ground hog at Punxsutawney, Pennsylvania, we have established the Ground Hog Energy Index. According to preliminary data coming out of this project, on any ground hog day on which the ground hog sees its shadow, the ensuing 6 weeks of bad weather means the burning of an additional 1.5 million barrels a day of oil or a total of 63 million barrels. This increases the cost of electric power by about $560 million, about half of which comes directly out of the consumer's pocket. It also increases our balance of trade deficit approximately $0.8 billion, or about 3 percent.

Under this index, for any years in which the ground hog sees his shadow, the forward energy situation is described as "serious." If he sees it two years in a row, we describe it as "acute"; and three years in a row as "catastrophic."

We bring this to your attention because, after looking at this budget, it is clear that the Ground Hog Index is at least as sophisticated as the system now used by DoE to forecast energy supply and demand. In fact, when they heard about our study DoE asked for a copy and I understand that after an environmental impact statement is prepared and Freedom of Information requests from NRDC are disposed of, they will be issuing it for comment and public hearing. The rumor is that they may adopt it as a benchmark for the National Energy Plan, Phase II.

By the way, I regret to report that the ground hog did see his shadow today so it looks like we may still face a "serious" energy crisis yet this winter.

TELEPHONE PRIVACY ACT

Mr. ANDERSON. Mr. President, on January 31, 1978, I shared with my colleagues a Washington Post editorial endorsing the concept of the Aspin-Anderson Telephone Privacy Act, S. 2193. Entitled "Hold Those Calls," the January 23, 1978, editorial asked readers with strong feelings on the subject to comment to the Post—in writing.

This morning, the Post's "Letters to the Editor" column carried some of the comments the newspaper received in response to the editorial. For the most part, these letters are representative of the more than 400 letters I have received on the subject since introducing S. 2193 in October 1977. I would only add that, in addition, I have received numerous letters from the elderly and handicapped who answer their phones in spite of great physical hardship and who are particularly irritated to have their efforts rewarded by a sales pitch for insurance or magazine subscriptions.

Mr. President, I ask unanimous consent that this morning's Washington Post "Letters to the Editor" column be printed in the RECORD. I feel that my colleagues can better understand both the seriousness of this problem and the wide support for remedial action by hearing from those who would benefit from the Telephone Privacy Act—the consumer. I ask that those Members of this Chamber who have not done so join me as a cosponsor to S. 2193 and demonstrate their support for our citizens' right to privacy.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

STRONG FEELINGS ABOUT "HOLD THOSE CALLS"

(EDITOR'S NOTE.—These letters are a sample of the responses to a Jan. 23 editorial that invited comments from readers with strong feelings about unsolicited commercial phone calls—especially those made by machines. To date we have received 46 letters, of which 45 objected to such calls.)

In response to your editorial ["Hold Those Calls," Jan. 23], you may definitely include this letter with the many others you will receive from people who have strong feelings about "junk" phone calls.

In fact, I have yet to become the victim of one of these little horrors but the prospect makes my mind boggle, my heart grow faint and my stomach churn. It's bad enough to trek through the snow to find only litter in the mailbox. It's worse to interrupt what one is doing (eating, sleeping, nursing the baby) to be flung a "live" spiel for anything from aluminum siding to cemetery lots. But to answer the phone simply to hear a recording that won't even free your line when you hang up on it—in a word, AARGH!

LOUISA P. WELLEMEYER.

Alexandria.

I consider unsolicited phone calls to be one of life's minor outrages. My present form of revenge consists of making certain I have the name and address of the call's sponsor so that I can keep a list of companies with whom I swear never to do business. I tell this to the caller and sometimes write directly to the company.

I dream of getting the home phone numbers of company executives whom I could call at the dinner hour to tell them what I think of their sales methods.

MARY EPREMIAN.

Alexandria.

I'm with you. This invasion of our privacy must be stopped. However, I disagree with the last sentence of your editorial: "If public sentiment is emphatic enough, perhaps the solicitors will get the message and hang up." My experience has been that where possible money is concerned, sentiment goes out the window. The only thing the unsolicitous will understand is mandataory regulation.

HARRY EARL TAYLOR.

Rockville.

It doesn't take much imagination to consider some of the serious consequences that could ensue if robot calls are not stringently controlled. Serious illness or accident can require immediate, unimpeded access to a physician, ambulance service, rescue squad or the police. A robot call that stayed on the line until the tape has run its course could be an impediment. At least with the human salesman, babbling happily away about his or her book, you can tell them to get off the line—pronto.

MARY LOUISE BROWN.

Washington.

You may quote me: "I will never buy anything advertised over the phone."

DOROTHY A. STRAUSBAUGH.

Bethesda.

Your editorial points to the lack of logic in attempting to control unwanted commercial solicitations by telephone through the mechanism of outlawing particular dialing devices. I would add that there is an equal lack of logic in imposing the responsibility for maintenance and use of no-call lists upon telephone companies simply because telephone companies provide the facilities through which calls are made. Policing is a governmental responsibility, and, borrowing your editorial's use of analogy, calling upon the telephone companies in this respect is tantamount to calling upon automobile manufacturers to enforce speed limits, or calling upon the U.S. Postal Service to maintain lists of people who do not wish to receive junk mail.

O. O. ASHWORTH, Jr.

The summons of a telephone ringing brings a negative emotional response in many people. Like winter weather reports, the message has a 90 percent chance of being bad news: Somebody *wants* something, if only an hour or two of our time that perhaps we can't or don't want to spare.

Recognizing this possible resistance, many sensitive callers are asking now if one has the time, or would a later call be better. The phone is, let's face it, an interruption of necessary or pleasant pursuits and really important types are inclined to hate the damn thing.

Please do whatever you can to put a stop to commercial calls. They're too annoying.

VIVIAN MCMAHILL.

Washington.

The day I get a machine-made phone call I'll give them a response that will curl their recording tape right around their ears.

ALOISE M. BELL.

Falls Church.

I have not received any of those obnoxious automated calls, but I'm furious and appalled at the very idea. I *never* buy anything as a result of telephone solicitation. Junk mail is bad enough, but at least I can read and consider that at *my* convenience, or throw it out unopened.

If this automated horror isn't unconstitutional as an entirely unwarranted invasion of privacy, it should be. If the practice continues, I hope Congress will quickly pass a law banning it, before 1984 is fully upon us with its shrill, demanding, insulting and dehumanizing arrogance.

ELAINE LEWIS.

I fully endorse the idea that a person should be on a no-call list with his telephone company, if he desires it. Why should a telephone I pay for be used to annoy me?

I am a non-working wife, and after 22 years of unsolicited phone calls and door-to-door salesmen, I can hardly be civil to charities, religious callers and Girl Scouts selling cookies. The thought of machines increasing dramatically the number of unsolicited phone calls I receive upsets me very much.

I recently moved here from Camarillo, Calif. where door-to-door soliciting was not allowed. It was wonderful! I am less annoyed by junk mail because I can ignore it but wonder if mail service wouldn't improve if there were a curtailment in the volume of junk mail.

I hope you have a huge response against the machines—if people aren't too busy answering the phone or the door or sorting the junk out of their mail.

JOAN MACDONALD.

Alexandria.

If their computer doesn't mind talking to our answering machine when we are not at home, we do not mind an occasional such call, so long as there is not more than one on the same topic.

A marketing firm would probably not go to the expense of mass phone calls unless the product or service they were selling had broad appeal. It is always possible to abbreviate the listening time by hanging up. People who do not want any such calls should be able to be placed on a telephone company "don't call" list.

ROBIN FICKER.

Bethesda.

For people living in Washington, the policy of The Post's circulation department is more relevant than the editorial department's. Does the circulation department concur with your editorial policy about limiting telephone solicitation?

ROBERT ELLIS SMITH,
Publisher, Privacy Journal.

Washington.

Your editorial raises a larger issue than perhaps you realized: Why is it that so many people do get up from dinner or out of the bathtub whenever any unidentified person—or, these days, even machine—decide it suits his or her or its convenience to interrupt? One of the truly peculiar characteristics of many people is that they respond to the damnable bell reflexively, without the slightest regard for their own convenience.

As a matter of political principle, I am unalterably opposed to government intervention in the conduct of business. Junk calls, however, emphatically are not the mere conduct of business. They are, in fact, acts of violent trespass. Thanks to this diabolical new means of intrusion, a state of emergency exists.

ROBERT S. KEEFE.

Lexington, Va.

Regarding your editorial about unsolicited phone calls, please be informed that in our family we consider the telephone an instrument for our convenience, especially since we are paying for it.

I have already been in touch with the Haines Co. in Cincinnati, Ohio, and have been taken out of their annual directory, which has eliminated some unwelcome phone calls, an intrusion I strongly resent.

Anything you can do to rouse public opinion to eliminate people being disturbed by unwelcome soliciting will be most appreciated.

EVA MILBURN.

Arlington.

U.S. FOREIGN POLICY: DRIFT OR DESIGN?

Mr. BAKER. Mr. President, on the 19th of January my good friend and colleague, the senior Senator from Maryland (Mr. MATHIAS) delivered an address before the Los Angeles World Affairs Council entitled "U.S. Foreign Policy: Drift or Design?" It is a thoughtful and comprehensive statement on America's foreign policy; and in order to make it available to all my colleagues, Mr. President, I ask that it be printed in its entirety at the conclusion of these remarks.

The principal theme, Mr. President, is that the American people have been offered no comprehensive vision, no overall plan into which the various foreign policy initiatives of the Carter administration, many of them commendable in and of themselves, can logically be placed, explained and understood. Senator MATHIAS notes that such issues as the Panama Canal or foreign assistance could much more easily be accepted by the American people if they were presented in the context of a coherent and comprehensive foreign policy.

The Senator explains clearly that the long-term security of the United States is a much larger issue than our relationship with the Soviet Union or the size of our defense budget. The security of the United States is dependent on our willingness and ability to work among the community of nations to develop global solutions to global problems. Our security requires a recognition of the interdependence of nations and of the link between assistance to the developing world and America's dependence on foreign natural resources.

He concludes with the thought that a comprehensive vision of what America's foreign policy should be and a bipartisan foreign policy go hand in hand. A foreign policy formulated by the bipartisan participation of the Congress and the

administration and comprehensively stated would mark a needed return to a national foreign policy. I would urge the administration to heed this call and express my belief that the Congress would enthusiastically support this effort. I commend, Mr. President, the "vision" of Senator MATHIAS to my colleagues.

Mr. President, I ask unanimous consent to have Senator MATHIAS' speech printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

U.S. FOREIGN POLICY: DRIFT OR DESIGN?

As recently as 100 years ago a British envoy in East Asia boasted that he could "declare war and make peace" before the news ever reached Whitehall.

Now, the most remote outpost of the world is only hours away. Two days ago, I was in the Peoples Republic of China. Tomorrow, I will be in Washington. This telescoping of time and space has profound and inescapable implications for our foreign policy.

The planet we live on is very small, and gets smaller every day. The problems we face are not local. They are universal. Everyone on earth shares them, which makes for a very complex, interdependent world.

The days when America could afford a foreign policy of splendid isolation are long gone. The development of intercontinental ballistic missiles and of an insatiable appetite for energy are but two of the things that foreclose that option.

Like Puck, we can almost "put a girdle round the globe in forty minutes." But, without Puck's magical ability to undo the mischief he created, we must be very careful how we use our powers. We cannot expect to dictate our vision of the future to others, neither can we afford to be without such a vision.

In my title, I question whether our foreign policy is by drift or by design because, while President Carter has moved boldly on a range of issues, he has not projected a vision of what America's role in world affairs should be as we approach the 21st Century.

It seems this omission is intentional.

Leslie Gelb, the President's new Director of the State Department's Bureau of Politico-Military Affairs, explains that, "The Carter approach to foreign policy rests on a belief that not only is the world far too complex to be reduced to a doctrine, but there is something inherently wrong in having a doctrine at all." In other words, we are now to have a pragmatic, issues-oriented foreign policy.

Both President Carter's aborted trip to eight countries on four continents in 11 days and his just-completed trip to seven countries on three continents in nine days were designed to underscore the new issues and new areas that demand a place in our foreign policy. I agree that new issues and new areas demand attention. But I question the President's approach to the problem. By choosing to barnstorm the world to dramatize an idea at home, I think President Carter has badly underestimated both the sophistication of the American people and the validity of the idea.

The American people will support a forceful foreign policy, even when it involves risk and sacrifice. But they will not support a foreign policy that lacks coherence and direction. People do not need spectaculars to help them understand the new imperatives of a changing world. They do need leadership that can articulate a comprehensible vision of where our foreign policy is heading and why.

For example, the Panama Canal is difficult to explain and to sell to the American people as an isolated issue. But, Panama Canal Treaties, presented as one facet of a larger perceived vision of our role in an interdependent world, would be a different thing. The American people must understand the global context in which they are being asked to support the Panama Canal Treaties, a SALT II agreement, expanded foreign aid and so on. When they do understand the equities involved, I am confident they will respond appropriately.

Woodrow Wilson discovered, to his regret, the consequences of getting ahead of his constituency on the issue of United States participation in the League of Nations. I hope President Carter will learn from his example and not make the same mistake.

The world we live in today has little room for big mistakes. Military power remains concentrated in the arsenals of the Soviet Union and the United States. But, the nuclear club is expanding. The Chinese are developing a delivery system that soon will give them intercontinental capabilities, too. Economic and political power is more and more diffused. There are new centers of financial power in Japan, Western Europe and the Middle East.

Riyadh, Lagos and Brasilia—only exotic names a decade ago—now are known throughout the world as political power centers. We can no longer reckon national security in strictly military terms. Global problems—ecological, social and economic—crowd us. They have become so critical that B–1 bombers and cruise missiles may have little relevance to real national security within a very few years.

In Washington, we are constantly reminded of the world's population problems by a clock that has been installed at one of the city's busiest intersections. If you hit the traffic light wrong, you can watch the clock tick off the world birth count at the rate of 172 new lives a minute. The birth hand on that clock moves almost three times as fast as the second hand on your wrist watch. It's a sobering thing to see and to think about.

It took about three million years to reach a world population of one billion. Then, in only 100 years, it doubled. After that we really picked up speed. In another 30 years, the population reached three billion and 15 years later it hit four billion. By the year 2000, the world population is expected to top 6.5 billion. Estimates place close to five billion of those people as inhabitants of one of the 114 "developing" countries, not including the Peoples Republic of China.

How to absorb and feed these additional billions remains an open question. The earth's finite resources are already severely strained.

Lester Brown, President of Worldwatch Institute which trains a concerned eye on the condition of Planet Earth, reports that, "The health of the earth's principal biological systems—fisheries, forests, grasslands, and croplands—is threatened by excessive human claims."

For example, between 1930 and 1970, the global fish catch rose from 21 to 70 million metric tons a year. But, since 1970 the catch has not grown at all. In fact, some years it has actually fallen below the 1970 level.

In the area of energy, we are all aware of the finite resources that sustain our highly industrialized society. But how many know of the firewood crisis that devils the "developing" world? A generation ago villagers in the Himalayan foothills of Nepal gathered all the firewood they needed in an hour or two. Now the process takes an entire day.

As our world and its problems change, so does our role in the world. The increasing diffusion of military, economic and political power, which I mentioned earlier, does not affect our absolute strength, which continues to grow militarily and economically. But, it does affect our relative strength. To put it bluntly, we are more dependent on the rest of the world than we have ever been before, and our dependence is increasing.

Fred Bergsten, Assistant Secretary of the Treasury for International Affairs, reports that today, "Imports provide more than one-quarter of our consumption of 12 of the 15 key industrial raw materials."

Oil, of course, is the most obvious example of our dependence. In 1971, we imported 25 percent of our oil, in 1976 that figure had risen to 41 percent, and last year it was up to 47 percent. The price tag for imported oil last year was a whopping $47 billion, which says all that need be said about our balance of payments deficit.

Less well known is the fact that we import 100 percent of the natural rubber we use; 98 percent of the manganese; 96 percent of the cobalt; 95 percent of the titanium; 94 percent of the bauxite; 92 percent of the chromium, and 90 percent of the tin, to name only the top seven.

Not only is our economy heavily dependent on foreign imports, it is also heavily export-oriented. Today, one in eight manufacturing jobs in the United States produces for export. Forty percent of our construction machinery is produced for export and exports account for 25 percent of the cash receipts of our agricultural sector.

I dwell on these facts and figures because they argue effectively the need for a new vision in U.S. foreign policy—a vision that is in tune with the complexities of a changing world. We will, of course, continue to be concerned with traditional security questions, particularly vis-a-vis the Soviet Union. We must deal with these issues both by negotiation and by maintaining a credible military posture.

But, more and more, we must center our concern on the global problems that threaten our existence. And, increasingly, we must focus on the Third World, where the bulk of the world's population will live by the year 2000, and which is rich in the natural resources so vital to our survival.

From what President Carter said before his election and from what members of his Administration have said since then, I believe the Executive Branch is aware of and concerned about these issues. But I am troubled that no Administration spokesman so far has come forth with a strategic approach to the problems of the Third World or, for that matter, to our allies' problems. And I am concerned because no one is telling the American people plain truths about what new directions we should be taking in foreign policy and about why they are a matter of national survival.

A hundred speeches about world interdependence by me would be meaningless beside one straight-from-the-shoulder, no-punches-pulled talk by the President of the United States. I hate to describe limits to the power of a U.S. Senator, but, I have to agree with Teddy Roosevelt: "The White House is a bully pulpit." Indeed, there is none bullier.

Just before Christmas an unexpected visit from an old friend started me thinking about why a foreign policy strategy is necessary even if you only intend to pursue a pragmatic policy of reacting to targets-of-opportunity. My friend, a distinguished European academician, came here in behalf of a group of Europeans concerned to know what the Carter Administration foreign policy was. He promised to send me his report and I promised to send him this speech. But the important point is that, offhand, neither of us could say with any certainty what U.S. foreign policy was or where it was heading.

That's a dangerous situation for us to be in, and it's dangerous for our allies and for our adversaries. Uncertainty can be very tempting to international adventurers.

The Carter Administration, of course, has not been inactive in foreign affairs this first year. Major departures in our arms transfer policy, nuclear proliferation and human rights have been discussed. But, in practice, most of President Carter's first year has gone to developing initiatives on SALT, the

Middle East, Panama and Africa which were legacies from past administrations.

After a shaky start, which should be laid more to inexperience than to ineptitude, the Carter Administration now has U.S.-Soviet relations back on the track. A great deal of attention is being devoted to a range of negotiations with the USSR on SALT, the Indian Ocean, MBFR and the Comprehensive Test Ban Treaty.

As a Senate advisor to the SALT talks, I have closely followed this issue, which is the linchpin in U.S.-Soviet relations. I am generally impressed with the care that is being taken in these negotiations. Certain key issues remain unresolved still. But there has been substantial progress, and I think we will have a good agreement before too long.

I don't know how much credit President Carter deserves for the positive developments in the Middle East. Frankly, I doubt we'll ever know whether his joint declaration with the Soviets frightened Sadat and Begin into direct talks, or whether he urged them in that direction from behind the scenes. Both scenarios are available in Washington. But, no matter how they came about, the Sadat-Begin talks are cause for rejoicing.

As an Israeli friend says, "Now, perhaps, perhaps, for the first time in our lives we can dream of peace coming to the Middle East."

President Carter has also brought to fruition the policy initiated by President Johnson, and continued by President Nixon and President Ford, of seeking a new relationship with Panama. Two treaties on the Panama Canal were signed on September 7, 1977, and now await Senate ratification. It won't come easily, however, unless the President finds some way of communicating to the American people just how much our national security requirements have changed since the Canal was built and precisely how these treaties fit into the national security picture in the year 1978 and thereafter.

And that brings me back to my central point: we urgently need a coherent approach to global issues within which we can weigh the consequences of such acts as ratifying, or failing to ratify, the Panama Canal Treaties.

We need a coherent explanation from President Carter of how he views America's role in a complex interdependent world and of where he would like to see this country at the end of his term in office.

Not long ago Time magazine reported that President Carter does have some longrange goals, but that he has confided them only to Vice President Mondale, Secretary of State Vance and National Security Advisor Brzezinski. The time has come, it seems to me, for the President to confide in the American people as well. Perhaps he will do so tonight in his State of the Union Message. I hope so.

I certainly don't pretend to have a blueprint for foreign policy myself. And I agree with those Administration officials who warn of the dangers of an inflexible doctrine. But, I do think some strategic guidelines for the conduct of American foreign policy are overdue.

We urgently need to define what our vital interests in the world arena are. Then, we must condition ourselves not to get involved in every issue, large and small, that arises on the face of the globe.

I know a fellow who advocates what he calls a foreign policy of "eclectic neglect." By his definition, you could ignore most of the world's problems. I don't go quite that far, but I do think we have to learn to say "No." We must define the limits of the possible and then we must not stretch ourselves beyond them.

Obviously, the Soviet Union will occupy a good deal of our attention in the coming years and the Peoples Republic of China undoubtedly will be increasingly important in the geo-political picture. At the same time, we must reassure our Western European allies and Japan that we consider our relations with them to be the fixed star of our foreign policy.

We must also focus more attention on our important relationships with Third World nations, for the truly crucial problems of the future—energy, population, hunger, the destruction of the environment—all intimately involve the Third World. And they can only be solved by cooperation not by flat.

I know it's not necessary to remind this audience that we can only be as strong abroad as we are at home. If our cities are decaying; if unemployment and inflation are sapping our strength and breaking our spirit; if our lakes and rivers are polluted; if the confidence of our business community is uncertain, then we cannot expect to provide leadership to a troubled world.

In great periods of American history, foreign policy has been bipartisan. Both parties have shared the takeoffs as well as the landings. The whole Senate has been broadly knowledgeable of the course and the goal of our foreign policy. It has interpreted them to the American people in multiple, mysterious ways in which we communicate such things.

Out of such a bipartisan effort may grow a conviction that positions are taken in the national interest and not merely in the President's interest, or the Administration's interest, or in the interest of a particular political party.

From time to time, there are signs on both sides that this tradition is being neglected or forgotten today. I call for its revival, not out of sentiment, but out of a sense of urgency dictated by the decisions required of us and the need for consensus to support solutions yet to be found.

I pledge my best effort to rekindle the sparks of bipartisan foreign policy the enabled America to overcome great challenges in the past. I hope others will join me in the effort which is long overdue. But, no matter how ready the rest of us are for a bipartisan foreign policy, we cannot go it alone. The President must provide the leadership. He must move us from drift to decision.

"TOWARD A NEO-CONSUMERISM"

Mr. DOMENICI. Mr. President, our colleague, Senator McCLURE, is author of an article which appeared in the February issue of Trial, the national legal magazine.

This articulation of the sentiments of the majority of Americans against the growing bureaucracy also defines a moderate approach in giving the American consumer the right to participate in Federal agency proceedings and to allow the individual access to remedies without encroachments by the bureaucracy on his personal freedoms.

I, therefore, request unanimous consent that the piece entitled "Toward a Neo-Consumerism" be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOWARD A NEO-CONSUMERISM

(By U.S. Senator JAMES A. McCLURE)

The epitaph of the twentieth century America may well be: "Its sparks of genius gutted the forest."

Over and over we have seen ideas, creative and imaginative in their conception, evolve into responses which are counterproductive to the problems which they supposedly address.

The particular conflagration which I propose to discuss in this article is the old-line consumerism, its antecedents, development, demise, and alternatives.

The old-line movement had its inception with the birth of Ralph Nader's Washington infrastructure in the 1960s. Following in the wake of the publication of *Unsafe at Any Speed*, the national highway safety program was created in 1966. Shortly thereafter, the Occupational Safety and Health Administration had its birth in 1970, and the Consumer Product Safety Commission came into being in 1972.

Most of these statutes are substantially similar in conception and format:

"Section 1. Congress finds that Problem X is a serious problem which impinges on interstate commerce.

"Section 2. Congress has no idea what can be done about the problem.

"Section 3. Congress therefore establishes a bureaucracy to solve it."

Unfortunately, much of Congress has yet to learn that, in the words of columnist Nicholas von Hoffman, "The creation of boards, councils, committees and commissions is not the equivalent of substantial accomplishment."

It has rapidly become apparent, in fact, that the bureaus which have been created are either unable to solve the problems which we have delegated or, even worse, can envision solutions only in terms of actions which seriously impact on individual liberty.

The Occupational Safety and Health Administration is an example. Created in 1970 to reduce the number of injuries in the American workplace, that agency has spent a half-billion dollars in its first five years of operation. However, between 1972 and 1974, the National Safety Council has found that the injury and illness rate per 100 full-time workers has increased from 10.17 to 10.20.

Although the Bureau of Labor Statistics has found a decline in non-serious injuries during 1975, it has been forced to conclude that the work days lost to injuries and illnesses per 100 workers rose to 54.4 in 1975, compared with 53.1 in 1974. The 1975 figures, therefore, represent a dramatic increase in serious accidents, at the expense of less serious ones.

YESTERDAY'S PROPOSALS

Faced with the possibility of extinction, OSHA belatedly decided to restructure its efforts around the detection of carcinogenic substances in the workplace. But once again, it appears that yesterday's proposals will be applied to today's problems. The OSHA carcinogenesis proposals thus far posited look suspiciously like the inflexible, outdated Delaney amendment.

OSHA, however, is not the only bureaucracy which has failed to live up to congressional expectations. Agencies regulating trucks and buses, airline routes, highway safety, and oil, and gas, to name but a few, have all been accused of perverting their functions of consumer protection in order to limit the availability of services and to drive up prices.

The Federal Trade Commission (FTC), in fact, has estimated that regulatory overkill results in a cost of $80 billion each year to the American consumer. The General Accounting Office put that figure at $60 billion yearly. And the President's Council of Economic Advisors, computing both direct and indirect costs to the consumer, set the figure at $130 billion a year. For the average American family, this translates into about $2000 per year for the full cost of regulation.

For the Interstate Commerce Commission (ICC) alone, estimates of the cost of regulation to the American consumer range

from about $4 billion to $9 billion annually. This means, according to one study, that 460,000,000 needlessly expended gallons of fuel belch 150,000 tons of pollutants into the air, thanks to the people at the Interstate Commerce Commission.

This is, in part, the result of regulations requiring trucks to roll along with trailers empty, even though shippers at both ends of the line would gladly provide cargo, if allowed by law. Unfortunately, having hauled freight one way, truckers are forbidden from carrying cargo on the return trip. It is, of course, the consumer who pays for this regulation.

Or take the Civil Aeronautics Board (CAB). A state regulated airline in Texas can fly passengers between Dallas and Houston for $15 per trip, and can still make a comfortable profit. An interstate line is required, as a result of regulation by the CAB, to charge $31 for the same trip. Again, it is the air travelling consumer who is forced to foot the additional $16 bill.

In the area of consumer product safety, mandatory safety standards developed by the Consumer Product Safety Commission threaten to nearly double the price of power lawnmowers, according to a Stanford Research Institute study.

In the case of automobiles, federally-mandated costs added $320 to the base price of every 1974 passenger automobile—for a grand total of $3 billion. This does not include the impact of a tire quality grading system being developed by the National Highway Safety Administration which, according to a trade association, could cost consumers as much as $150 million and still be too confusing to be of any assistance to tire buyers.

The list of federal government costs to the consumer could be drawn out almost indefinitely.

The solution? Old-line consumerists have normally responded with two types of proposals.

Their first panacea is the creation of a new agency to watch over the old agencies. This remedy must be regarded as a little extraordinary.

Currently, the federal government has 33 agencies and approximately 400 bureaus and subagencies operating more than 1000 "consumer-oriented" programs. But Congress has already created a dozen special regulatory agencies to oversee the others.

It was Richard Simpson, former chairman of the CPSC, who stated, "If we accept the premise that existing federal agencies are not responsive to the interests of consumers, by what logical reason could we create another federal agency and expect thereby to correct the deficiency?"

Ralph Nader's associates told us that since federal agencies can no longer handle the problem adequately, what we need is a super agency—a Consumer Protection Agency (CPA)—outside of the normal government structure, free of inconveniences of the normal checks-and-balances built into our system. They see the CPA as a separate entity unto itself, unhampered by higher authority, and responsible only to itself.

THE FOURTH ARM

It would be like a fourth arm of the government. There would be the Executive, the Legislature, the Judiciary, and the Consumer Protection Agency.

When that legislation was abandoned in Congress, they turned to the state court system and something called the Consumer Controversies Resolution Act, legislation to give the federal government omnibus jurisdiction over state small claims courts.

As serious as all this may sound, however, I am perhaps more alarmed by the second old-line consumer group response to the failure of old-line consumerism—attempts to increase the penalties for violation of agency prohibitions. This is a particularly disconcerting response in view of the recent congressional tendency to expand the ability of agencies to change the rules.

There was once a time when a businessman was required to violate the law before being subject to criminal penalties, and it was not so long ago that that violation had to be intentional. While ignorance of the law was never an excuse, ignorance of a fact which would make an otherwise lawful act unlawful has been a defense in most cases.

Legislation currently before the Senate would make unlawful otherwise lawful business transactions in which the actor was reckless with respect to the circumstances. The ambit of criminality under securities and antitrust laws is already a slippery slope, which the statutory removal of *scienter* would turn into a cliff.

The $1000 to $5000 per day penalties for rule violations, which are envisioned by recent legislation, also represent a considerable expansion of the ambit of criminality. Once an agency, be it the Federal Reserve Board or the Federal Trade Commission, is capable of imposing penalties for violation of its rules which are beyond the means of the violator, bureaucratic prescriptions have effectively been turned into criminal law—a power which has previously been reserved to Congress and the courts under the constitutional scheme.

If anything, we need to rethink the extent to which the bureaucracy's low opinion of the American people has resulted in a trade-off of liberty for security.

It is clear that the only real solution to the problem of increased prices and diminished services is less regulation, rather than more of it.

CONGRESSIONAL COALITION

I am not alone in this belief. In fact, the growing recognition that government is, in some instances, more the problem than the solution has led to informal coalitions of senators and representatives which transcend ideological labels—groups of legislators brought together around the limited notion that, in some instances, old-line solutions have become counterproductive.

The premier example of this phenomenon, which, for lack of a better title, I will call "neo-consumerism", is the "Sunset Bill" currently pending before the Senate Governmental Affairs Committee. Sponsored by some of the most liberal and some of the most conservative senators this legislation would phase out bureaucracies which were no longer able to justify their continuing existence.

Congress has also taken a positive step in requiring a number of regulatory agencies to recodify and simplify their rules along lines originally proposed by Senator Paul Fannin. Much more needs to be done, particularly in terms of introducing competition into the transportation industry through an orderly and non-cannibalizing process. This is a fight in which liberals and conservatives are also joining together.

I see many opportunities for neo-consumerists to work together in the future. Topics such as zero-based budgeting, the abuse of public funds for government public relations, and the award of legal fees to successful litigants against the federal government are all topics on which liberals and conservatives have worked hand-in-hand. What they all hold in common is the notion that the federal government is increasingly becoming the number one consumer problem.

Some of these legislative proposals deal with the necessity to relieve the consumer of the sheer volume of government regulation.

Others deal with the need to structure remedies which will allow the American consumer to resist encroachments by the bureaucracy on his personal freedom. High on the list of priorities in this regard is legislation recently approved by the Senate but deleted in conference which would grant a successful litigant against the federal government his reasonable legal fees. Such legislation would, for the first time, equalize the average American and the government bureaucracy in the eyes of the law.

Just as important is the prevention of further legislative erosion which would thrust the bureaucracy even more extensively into the marketplace.

The House defeat of a cargo preference bill which would have cost the American consumer $500,000,000 was a major victory; but at the same time we have not yet disposed of legislation which would move the federal government into the center of automobile insurance regulation.

CONCLUSION

As all of this would seem to indicate, I think we are beginning to realize that the stock approaches to consumer problems taken by old-line groups—the creation of new bureaucracies and the progressive shrinkage of the ambit of non-criminal conduct—have not worked.

Moreover, they have contributed significantly to the creation of a paternalistic state which deprives its citizens of responsibility for their own well-being. Like Hans Castorp in Thomas Mann's *Magic Mountain*, we will soon find that the cure becomes a prison and that we are no longer able to fend for ourselves outside its sheltering sanctuary.

Unfortunately, yesterday's muckrakers have become today's prison guards. While they are willing to make housekeeping changes, they are generally unwilling to dismantle their institutions in fundamental ways which would inure to the benefit of the general public.

Over the entrance to a New Jersey courthouse is carved the inscription, "That which stands best, stands still." There is probably no area of the law which, in recent years, has clung more tenaciously to that principle than old-line consumerism. It is time to embrace a new consumerism representing both innovation and reform. Neo-consumerism represents just such an alternative.

TRIBUTE TO SENATOR HUBERT H. HUMPHREY

Mr. HASKELL. Mr. President, the Senate has lost an irreplaceable colleague and the Nation has lost a great public servant with the passing of Hubert Horatio Humphrey. He has already received many eulogies. Additional tribute is made at the risk of repeating what has been said.

Hubert Humphrey was a remarkable man. His life was an inspirational example.

As mayor of Minneapolis, Senator from Minnesota, and Vice President of the United States he gave his total personal energy to the people he served. Hubert's constituency was not limited to parochial interests. His concerns were those of all the people of this country and the world.

His qualities of optimism, compassion, and hope, as well as his belief in equality and opportunity for all were not confined to any single area of expertise, sector of the Nation, or group of voters. The initiative he took in civil rights, health care, arms control, and full employment, exemplifies his disdain for political expediency and his overriding dedication to the public good.

His faith in the American political system was steadfast. His accomplishments were notable and lengthy. As early as 1948, Hubert took the lead in the fight for civil rights and equal opportunity for all Americans. He played a major role in the enactment of medicare, the creation of HUD, the food for peace and jobs corps programs and passage of the 1964 Civil Rights Act. He was an avid supporter of child nutrition, full employment and national health insurance.

He was not content with trying to solve the problems which confronted only Americans. He was a major international figure as well.

He stressed the need for human rights abroad and was instrumental in creating the Peace Corps. He also worked diligently in the Congress for passage of the Nuclear Test Ban Treaty.

Hubert has earned a place in history because of his notable public career. However, it is exceptional that he should also attain such an honor because of his extraordinary personal qualities.

I shall not forget one of my last meetings with Hubert Humphrey. A sudden hospitalization had caused him to cancel a trip to Colorado to support my upcoming campaign.

When he arrived back on the Senate floor he greeted me with profuse apologies for having to break his promise to appear on my behalf. The average person would have been soliciting sympathy and sharing hospital stories. Not Hubert. He was worrying about having disappointed a friend. Hubert Humphrey never disappointed me.

In the face of personal crisis and political defeat he did not become vindictive or vengeful. Characteristically, he remained benevolent, persistent, loyal, and optimistic. Perhaps his greatest attribute was his rare gift of empathy. Coming from a midwestern, rural background, he was able to communicate with real warmth with any person regardless of race, creed, occupation, or sex. It is this empathy which gained him the respect of every American.

On this occasion, I take pride in the fact that I had the opportunity to serve with and learn from such a distinguished Senator and citizen. He will be remembered as a beacon of the American character—fidelity, compassion, enthusiasm, and hope.

DISCRIMINATION IN PANAMA

Mr. BAKER. Mr. President, last fall I wrote to Mr. Benjamin L. Hooks, the executive director of the NAACP, to express my concern about reports that had appeared in the media describing extensive government discrimination against the black population of Panama.

Mr. Hooks responded with a most thoughtful letter reporting, ironically, not institutionalized discrimination by the Panamanian Government but discrimination by the Canal Zone Company and Canal Zone Government. Moreover, he expressed the strong support of the NAACP for ratification of the treaties.

I believe the letter well worth the consideration of my colleagues and ask, Mr. President, that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
New York, N.Y., November 10, 1977.

Hon. HOWARD H. BAKER, Jr.,
Office of the Minority Leader,
Senate Office Building,
Washington, D.C.

DEAR HOWARD: I have been out of the office hence the delay in responding to your letter of September 8 regarding the extent of discrimination against Blacks in Panama.

The NAACP has an active branch in Panama in the Canal Zone which was organized to address many of the concerns of the local population regarding the extent of discrimination in Panama. Our branch has reported that the Panama Canal Company and Canal Zone government have maintained unjust discriminatory practices in employment, housing and schools against Blacks and Panamanian citizens which has resulted in inferior living conditions and schools for Panamanians.

Based on our local branch's investigation, the NAACP adopted a resolution at its 66th Annual National Convention in 1975 strongly condemning the discrimination in employment and segregation in schools and housing in the Canal Zone and supporting the merging of the dual housing and educational systems. Since that time, our branch has continued to wage a campaign against the discriminatory practices.

The NAACP has taken a position, which I am personally and officially in favor of, that the Panama treaties should be ratified and I hope you can see your way clear to support that position.

In the mainstream of Black thought, it is felt that ratification of the treaties would be the embodiment of international cooperation and a positive and important instrument of peace and goodwill inasmuch as colonialism has long been a threat to international peace, freedom and the liberty of people of color.

Before I attended the White House Briefing on Panama, it was my personal opinion that the treaties should be ratified. Since that briefing, based on what we heard from General Brown and Secretary Brown, we believe that there is no real conflict in the ratification of the treaties and our military position.

I am reminded of a very serious meeting some years ago involving coal miners and the President was going to call out the National Guard. John L. Lewis is reported to have said, "You can't dig very much coal with bayonets."

Again, I am sorry for the delay in getting this letter to you. I really thought that I had already sent it and just discovered that I had not.

Sincerely,

BENJAMIN L. HOOKS,
Executive Director.

A TRIBUTE TO SENATOR HUMPHREY

Mr. ANDERSON. Mr. President, recently a sermon by the Reverend Will Dublin, Jr., pastor of Reliance United Methodist Church, in Reliance, Va., was brought to my attention. The sermon speaks of the principles to which Senator Humphrey was dedicated, and of his deep compassion for other people. It is in this sense that his spirit will remain with us, guiding our thoughts and actions as public servants. Mr. President, I ask unanimous consent that this sermon be printed in the RECORD.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

TRIBUTE TO HUBERT HORATIO HUMPHREY

The Power of the Good News: To Forgive Sinners.—Mark 2.1–12.

The Great, Happy Warrior, Hubert Horatio Humphrey is dead!

He now lies in the rotunda at the Capitol Building in our nation's capitol and at this very moment there is a memorial service being conducted with President Jimmy Carter delivering the eulogy.

Senator Humphrey, a former Vice-President of the United States, died Friday night of cancer following a courageous battle during which he hoped to return shortly to the second session of the 95th Congress. He is the second senator to die within the past week. Lee Metcalf of Montana died a couple of days ago.

Many honors have been bestowed upon the senator from Minnesota—my home state. It was 30 years ago that he came to Washington, D.C. as senator following a short stint as mayor of Minneapolis.

Humphrey was known for his long list of legislation—civil rights, education, nuclear test ban treaty, etc. However, those of you who watched the 1948 Democratic Convention might remember the time he took a bold and courageous action in his civil rights speech. He stated that we must move out of states rights and into the bright sunshine of human rights. Thirty years ago there were those in Washington talking about human rights. It is not something new with the present administration. However, it is evident that it may not have been practiced to its fullest within recent years.

Hubert Horatio Humphrey's disposition was such that it was hard for him to remain angry. He proved that we have to look for the good in people to make our society work. He refused to be discouraged. Whatever needed to be done could be with our resources, if we wanted to accomplish them bad enough. The problem was that sometimes there were those who felt it might take too much energy, too much trouble, too much sweat of the brow.

Friday night, when Vice-President Walter Mondale, a close colleague, announced the death of the great statesman from Minnesota, the current Vice-President stated, "Hubert showed us how to die with dignity. He had courage, spirit, and knew the meaning of life. He was larger than we might otherwise be."

In 1968 when Humphrey ran with Senator Edmund Muskie on the Democratic ticket for President and Vice-President of the United States, it would have been easy for the Minnesotan to become bitter in losing, but he didn't. Humphrey and Muskie developed a close relationship over the years—conversing once or twice weekly. Muskie reflected, "We usually talked twice a week but recently it had been only once weekly. This past week his voice was cracking but he said he felt better. No doubt his body was racked with pain." Muskie said, "If anyone could defeat death and hang on a little while longer it would be Hubert Humphrey. He just would not let on how he really felt. He knew what the future lay in store for him—the life Eternal beyond this life."

HHH had compassion, faith, and optimism.

Tributes have poured in all over the world.

Usually I do not give that much emphasis to our statesmen in Washington. However, HHH was of a different mold. His party affiliation was not that important. What mattered was that he believed in the human dignity of man.

As his coffin arrived at Andrews AFB late yesterday morning amidst the cold, bitter, wintery weather, his wife of 41 years, their four children, and ten grandchildren arrived on Air Force One. HHH was given a 19-gun salute after the armed forces honor guard had taken his coffin off the plane. The armed

forces band played the stirring hymn, which we sang earlier this morning, "My Faith Looks Up To Thee."

After lying in state in the capitol rotunda, HHH's body will be returned to his home state to lie in state followed by church and burial services there. HHH is the 25th individual to lie in the nation's rotunda, the first being Henry Clay.

And so HHH follows many great statesmen who have previously lain in state. There are many predecessors who have tried to make our nation a great one—one that is of, by, and for the people—enjoying the freedoms which we do.

Let us now turn the pages of time from 1978 back to the time of Jesus as we look at the words of St. Mark where he records his account of the paralytic man that was healed and the emphasis being that a penitent man is forgiven of his sins.

There was more in mind that Jesus had for the paralytic man than what he and his friends realized. In our reflections upon the Gospel of St. Mark we have dealt with the prophecy and power of the Holy Spirit and the matter of healing the sick in mind, body, and spirit. There are many questions that come to mind on why Jesus chooses to heal some and not others. This is one of the great mysteries of life for which we do not have proper answers.

I recall with fondness a young 39-year-old wife and mother of a teen-age son in a former parish. She lived her Christianity daily. It was not just a Sunday thing. She, too, contracted cancer. One of the greatest moments in her life was working closely with her husband in camping activities with the young people. One of the last times they could be together, she took her husband's hand and together they took time to walk down by a stream and meditate upon the richness of God's wonderful blessings. It was a tremendous loss to the parish when she died—also to her community, and especially her family. The church was packed for her funeral. She literally touched the lives of so many. She had made her peace with God by the great river. Jesus, too, gives us new life which comes from His flowing water. This wonderful Christian, along with many of the great saints is now home with her Heavenly Father. We must include HHH in this category of sainthood, and modern discipleship.

Through our sufferings we usually come closer to God and discover the true meaning and cost of discipleship.

Jesus had returned to Capernaum—the area where our Master preached to the fishermen from whom he collected his first followers. If one would go there today to visit, there would be primarily ruins and beautiful purple flower gardens. Capernaum was the home of Jesus where he began his mission and also the site of where we started our boat ride on the Sea of Galilee last spring when visiting the Holy Land. Our ride ended at Tiberius, also on the Sea of Galilee, 13 miles from start to finish.

The home where Jesus was located no doubt was Simon Peter's. He would preach at almost any opportunity available. There was a large crowd around Simon Peter's front door, so the paralytic had to be let down through the thatched roof by four of his friends. This type of incident reminds me of John Wesley in his field preaching where at times there were as many as 5,000 in attendance—many falling prostrate on the ground because of coming under conviction of the power of the Holy Spirit.

There could have been several reasons for the man's paralysis—one being mental (psychological). There was a special dialogue that took place. It was evident that there was a strong faith on the part of those who brought the man to be healed plus the individual himself. All of a sudden Jesus proclaimed, "My Son, your sins are forgiven." What an assurance! The paralysis may have been caused by guilt and the words of our Master tore the man loose from his paralysis. The twisted mind in the twisted body was healed and the man returned home to take up his normal duties.

The problem was not with the cure of one's paralysis; rather, the forgiveness of sins—"who can forgive your sins but God alone?"

So many times we walk around with guilt upon our shoulders. We are begging to be forgiven. We want to be forgiven. Jesus has forgiven us, but we have not bothered to forgive each other.

The scribes were objecting to a man claiming God's power. Was this act of forgiveness genuinely God's work, or not? The scribes wondered if there was fraud. Their hostility was evident upon their faces.

It was obvious that the experience of the five supported a positive answer—the gift of forgiveness and health was a gift from God. Their amazement led them to glorify God.

The important thing that we can be sure of for Mark is the fact that God had forgiven this man as a way of declaring that God would be glad to and had opened His Kingdom to such a sinner.

An interesting side note is not that the paralyzed man or his parents had sinned. Did Jesus see that the paralysis was the psychological result of a sense of guilt?

Many individuals inside and outside of our mental institutions have psychological problems that have cause certain physical problems. It may take months or years to unlock the psychological barrier. Then, too, there are times when these barriers are never unlocked. HHH was vitally concerned with the areas of mental health.

Last Sunday we celebrated the Lord's Supper as we renewed our covenant with God and the vows of church membership. Many times confession is good for the soul. Confession, too, can unlock some of these psychological barriers. When Jesus comes to us in Holy Communion, laying His merciful hands upon us and assures us from the Gates of Eternity that our sins are forgiven, there is no moment so great for the sin-burdened soul. Then we may rest in peace.

This is where we find the paralytic. This is where we find HHH. Both are at rest in the Lord.

What about those who seek revenge because of something someone had done to them or a close associate? HHH's life style was again one of compassion and love.

We may not have agreed with all of HHH's political decisions. However, there is no question as to his integrity as a person. His work on earth was finished and God has called him home. Who will take his place? Like Jesus, no one can fill his shoes. We might try, but there is no way!

Should HHH have had the opportunity to return for the second session of the 95th Congress, certainly one of his concerns would have been the continual dignity of man and the rights guaranteed by the Constitution of the USA.

Now, a noble statesman in his own right, HHH rests from his labors, his pain, and is at peace with God. He was a humble servant. Jesus, our Lord and Saviour, who has redeemed us by the power of His blood, has followed suit. The spirit of HHH, plus his compassion, his faith, his courage, his nobleness, his conviction of human rights, will rest with us always. May we take a page from the life of HHH and apply it to our own.

The beautiful thing about the Good News which Jesus Christ proclaims to all is that our sins can and have been forgiven and what is needed upon the part of all of us is to make this Good News a part of us and then share it with others. Whether a public servant in Washington, a pipe-fitter in Alaska, a teacher in the slums of New York, a carpenter in California, a housewife in the midwest, a nurse in a field of mission service, a retired plant worker in Virginia, a young person or child—our sins have been forgiven. This is the Good News and may it remain with us always.

Let us now pause for a few moments of silence in memory of HHH and others as we listen to the beautiful chimes of our church playing the hymn, "Faith of our Fathers." Amen!

WESTERN GOVERNORS URGE SOLAR ENERGY LEGISLATION

Mr. STEVENS. Mr. President, because of the national need to conserve oil and gas and because of the contribution solar energy can make toward meeting the energy needs of homes and businesses while cutting oil and gas consumption, the Western Governors' Conference, meeting in Anchorage in September, adopted a resolution urging the enactment of legislation providing tax credits and loans for solar energy.

This type of assistance is provided by the legislation which is now in conference. But final action has been delayed by disagreement on other aspects of the National Energy Plan. I urge that the measures regarding weatherization, solar power and other renewable energy sources be enacted quickly, so that homeowners and businesses can get on with installing this equipment, without regard to the other aspects of the package.

Mr. President, I ask unanimous consent that the resolution of the Western Governor's Conference be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

WESTERN GOVERNORS' CONFERENCE,
San Francisco, Calif., Sept. 2, 1977.

SOLAR ENERGY DEVELOPMENT

In order to accelerate the use of solar energy and reduce the growing demand for conventional fuels, we Western Governors urge Congress and the President to enact legislation (1) that allows federal income tax credits of an appropriate amount to building owners who install either passive or active solar energy devices and (2) that establishes a program for low-interest long-term loans covering initial costs of solar energy applications for buildings. Such federal tax incentives should be made retroactively effective to coincide with state laws already passed. We also intend to promote similar programs to encourage solar energy use within our states.

Approved by the Western Governors' Conference, Anchorage, Alaska.

THE CARTER ADMINISTRATION POSITION ON WATERWAY USER CHARGES

Mr. DOMENICI. Mr. President, I am told by some of my colleagues that they still do not know exactly what the administration's position is regarding waterway user charges. I believe that position is clear, forthright, and direct: They will veto a bill on Locks and Dam 26 if it contains a user charge as minimal as the House provision.

To place the administration's position in context, I ask unanimous consent that a letter from Transportation Secretary Brock Adams, together with statements by the President in both his state of the Union message and in his fiscal year 1979 budget and a recent White House memo be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 18, 1977.

DEAR SENATOR: I reported to you earlier of the President's firm intention to disapprove any bill authorizing construction of a new locks and dam facility at site 26 in Alton, Illinois, if the bill does not contain a provision establishing waterway user charges along the inland waterway system. Recent events require me to clarify the Administration's position on this issue.

As you know, we supported the waterway user charge legislation that the Senate passed. This bill would phase in a substantial user fee over a ten-year period. The House of Representatives has passed waterway user charge legislation which differs markedly from the Senate version. The House would authorize a six cent fuel tax on inland waterway commercial vessels. The House version would recover only a relatively small portion of operation and maintenance costs and new construction costs.

Because of the closed rule on the House bill and in order to insure Congressional action on this issue, on September 28, 1977, I wrote to Members of the House of Representatives indicating that the Administration would support the bill in the House, but that the Administration would work in the Senate for a higher recovery of waterway operation and construction costs. The user charge and level of recovery contained in the House bill is inadequate. In order to bring the necessary degree of equity to Federal government policy concerning the inland waterway system, legislation should be enacted which authorizes substantial waterway user charges.

Because this matter is so important to the development of a comprehensive transportation policy, I think that the Congress should be aware of the President's intention not to sign any bill authorizing a new Locks and Dam 26 which does not provide for waterway user charges that will recover a substantial portion of the operation and maintenance and new construction costs.

Sincerely,

BROCK ADAMS.

President Carter's detailed state of the Union message, submitted January 20, 1978, and beginning on S117 of the RECORD:

Users of Federal inland waterways should pay fees which will pay a substantial part of the cost of constructing, operating, and maintaining those waterways. My administration will continue to work closely with Congress toward passage of a bill that will, for the first time, establish inland waterway user fees.

FISCAL YEAR 1979 BUDGET

The administration strongly supports enactment of waterway user charge legislation that will establish charges to users of the inland waterways in amounts to recover a substantial portion of the Government's costs of building and maintaining the system. Users currently pay nothing towards those costs which now approach $500 million per year.

THE WHITE HOUSE,
Washington, January 30, 1978.

Re Status of waterway user fee legislation.

MEMORANDUM FOR THE HONORABLE BROCKMAN ADAMS, SECRETARY OF TRANSPORTATION

The President reviewed your memorandum dated January 23, 1978 on the above subject and stated: "Let our position be clearly known—including possibility of veto."

RICK HUTCHESON,
Staff Secretary.

COMMERCE COMMITTEE HOLDS HEARINGS ON THE BEVERAGE CONTAINER REUSE AND RECYCLING ACT

Mr. MARK O. HATFIELD. Mr. President, on January 25, 26, and 27, 1978, the Consumer Subcommittee of the Senate Commerce Committee held hearings on my Beverage Container Reuse and Recycling Act (S. 276). The hearings were alternately chaired by Senator FORD, chairman of the subcommittee, and Senator PACKWOOD, the ranking Republican and one of the cosponsors of the bill.

These hearings were the first held on this legislation by the Commerce Committee since May of 1974. Representatives of soft drink, beer, and container industries, as well as labor and environmentalist groups were heard. My belief that there is growing support for this legislation was reinforced by the proceedings, and I remain confident that Congress will enact returnable beverage container legislation.

Mr. President, I ask unanimous consent that the testimony I presented to the subcommittee be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR MARK O. HATFIELD

Mr. Chairman, thank you for this opportunity to testify before the Consumer Subcommittee of the Senate Commerce Committee regarding the Beverage Container Reuse and Recycling Act (S. 276). You and I have sponsored this bill in the Senate along with eight of our colleagues.

This is not the first time that this kind of legislation has been considered in the Senate. Beverage container legislation was first introduced in June, 1973. Hearings were held by this committee in May of the following year. The full Senate also had an opportunity to consider this measure when it was offered as an amendment to the Solid Waste Utilization Act in June of 1976. Also in 1976, the Environmental Protection Agency promulgated regulations requiring the use of returnables on federal facilities. The National Commission on Supplies and Shortages has endorsed the deposit concept, and the Resource Conservation Committee is also reviewing the effectiveness of returnable beverage containers in reducing litter and conserving energy.

In the past there has been a great deal of rhetoric offered by opponents of this legislation concerning the lack of information about the national bill and about muddled and contradictory statistics from Oregon. Let me assure the committee that there have been several studies which have considered the impact of this concept both in the states and nationwide. For example, the Federal Energy Administration published a comprehensive study in September, 1976, that outlines the energy and employment benefits of this legislation. More recently, the General Accounting Office also found that significant benefits would result from a switch to an all-returnable system.

At the outset, let me say that this program has worked in Oregon for the past five years, and it will continue to work. The throwaway ethic foisted upon us by the beverage industry in the name of "consumer convenience" has been rejected by the citizens of Oregon. The people of Oregon have reacted to growing environmental concern in this country by returning their bottles and cans at high rates. The nickel incentive to return beverage containers has gone a long way towards reducing litter and protecting the environment of the state.

The beverage industry has produced misleading statistics and horror stories of consumer inconvenience and increased costs in Oregon, which are categorically inaccurate. In a "before and after" study conducted by the Oregon State Highway Division, beverage container litter was reduced 73 percent the first year and 83 percent the second year after enactment of the law in 1972. In addition, overall litter was reduced 39 percent by piece count and 47 percent by volume two years after the enactment of the law. The *Oregon Journal* conducted a study of ten comparably traveled sections of highway in the States of Oregon and Washington in 1974. The study shows that under Oregon's deposit law, we have 7.5 times less roadside litter in beverage containers than Washington, which has a "litter tax." These figures demonstrate returnable beverage container legislation has and will continue to have a positive effect in reducing litter in Oregon.

The Oregon experience has also proven that returnable cans and bottles are not inconvenient nor are they expensive to buy. Representatives of the beverage industry would lead you to believe that sales have been reduced and that prices have risen. I would point out that although the prices of beverages in Oregon have increased, studies show that these increases were due to rising sugar prices and inflation, and cannot be attributable to the deposit law. In a study conducted by the Oregon Department of Environmental Equality, statistics show that the price of a six-pack of beer in Oregon does not differ significantly from the price of a six-pack of beer in Washington. What the industry will not tell you is that consumption did not deviate from historical trends and that sales have actually increased.

Another tactic used to oppose this concept is the threat of job loss and economic hardship. Statistics in Oregon prove that industry is wrong on both counts. New jobs created in the soft drink, bottling, transportation and retail sales industries resulted in a net gain for the state of 365 jobs. These same jobs resulted in a net increase of $16 million in annual payrolls. If a sufficient "phase-in" period is provided, such as the three years contained in S. 276, job dislocation should be minimized.

As recently as 1960, 95 percent of our soft drinks and 50 percent of our beer were sold in returnable containers. The beverage industry subsequently altered the habits of consumers, encouraging a throwaway ethic, which is indicative of our disregard for responsible consumption habits and conservation of natural resources. Clearly, the technology is available to return to the days when we could walk sandy beaches or enjoy our parks without having to worry about the cutting edge of broken glass and mindlessly-tossed pull tabs.

Another erroneous claim often raised by opponents of returnable beverage container legislation is that the Oregon experience shows that we are trying to "ban-the-can." Granted, the first year after this bill was approved in Oregon, the market share in cans dropped. However, this was a consequence of inadequate technology being available to accommodate the pull-tab ban enacted in Oregon. In subsequent years, the can market share has increased. Except for the pull-tab ban, S. 276 treats bottles and cans even-handedly, and no diminution in the can market share is likely.

There have been other benefits in Oregon as a consequence of the deposit law. Two of the more dramatic are those relating to materials and energy conservation. A study conducted by Don Waggoner of the Oregon Environmental Council shows that the switch to returnables in Oregon resulted in a net savings of 1.4 billion BTU's annually. This is equivalent to the annual home heating needs of 50,000 Oregonians. Mr. Waggoner has also shown that it takes one-third less energy to reuse a returnable bottle than it takes to make a new one. Likewise,

it takes 20 times more energy to make a new can from virgin materials than it takes to recycle an aluminum can.

The popularity of the bill in Oregon can be seen in public opinion polls and return rates. Clearly, the latter is most important, for it is the statistic that is truly indicative of the success of the Oregon law. Thus far, the return rate for bottles has been approximately 90 percent, while cans have been returned at an 80 percent rate. This computes to an average trippage rate of 15. The economic incentive of this legislation has made willing participants of 95 percent of Oregon citizens in reuse and recycling efforts. Polls show that these behaviour patterns carry over into public attitudes, as 90 percent of the citizens of Oregon favor the concept of returnables. Interestingly, 68 percent of the people in Washington also favor the use of deposits despite that state's "litter tax," according to a survey conducted by the Seattle Post-Intelligencer.

Skeptics often point to the rural nature of Oregon as being the reason for the state's dramatic success. I dispute these claims. Oregon is a state where approximately 50 percent of the population lives in the metropolitan Portland area and 95 percent of the population lives in a highly urbanized area, within a 150 mile radius of Portland. The 5-cent incentive not to litter will be just as effective for the urban dweller in Chicago as for the rural person in North Powder, Oregon.

Studies show that the national impact of this bill will be as dramatic as actual experience has proven to be in Oregon. It is predicted that there will be 60 billion soft drink containers produced this year, and that figure is expected to rise to 80 billion by 1982. Of the 60 billion containers being produced, one in four ends up being carelessly discarded as litter. If the Oregon and the Vermont experiences hold true for the nation, it can be expected that of the 15 billion containers that wind up as litter, approximately 11 billion would have been returned for reuse or recycling. The EPA has estimated that in 1973 beer and soft drink containers accounted for 8 million tons of waste. Their contribution to the solid waste of the United States has increased 10 percent between 1962 and 1972. The same statistics conclude that if 90 percent of all containers were returned, municipal solid waste could be reduced by 5 or 6 million tons nationally.

There would be tremendous savings in valuable natural resources, as well. At a time when U.S. dependency on foreign sources of raw materials is growing, deposit legislation would result in a 35–40 percent reduction in glass consumption; a 15 percent reduction in metal production; and a reduction of 30–45 percent in the consumption of aluminum. It is important to note here that 85 percent of all the bauxite used in aluminum products is imported.

There is also the promise of reduced energy consumption. It is estimated the legislation being considered here today could save the equivalent of 81,000 barrels of oil a day.

The consumer has had to pay for the convenience of one-way beverage containers through increased litter clean-up costs and higher beverage prices. Studies have shown that the "throwaway ethic" is costing the consumer 2 cents to 4 cents more per beverage than an all-returnable system would cost. The Environmental Protection Agency recently conducted a nationwide price survey. This study showed those who buy beverages in refillable containers from 7 to 16 ounces save an average of 30 cents per six-pack. Consumers would also save 16 cents for each individual 32 ounce returnable bottle purchased. While one soft drink manufacturer promises to "add life," the continued waste represented by the one-way container is actually threatening our quality of life.

Finally, I would like to respectfully ask opponents of this legislation how they reconcile their suggestion that consumers prefer a one-way system with the fact that a study conducted by Opinion Research Corporation shows that 73 percent of the Nation's population desires a return to an all-returnable system.

The returnable beverage container law is a source of pride to Oregonians. All one has to do is drive Oregon highways or walk along its beautiful beaches to see that the law is working. It represents Oregon's continued commitment to a cleaner environment. In Oregon, we have effectively and "conveniently" established a "conservation ethic."

Mandatory deposit legislation is a positive program. It encourages people to conserve and to be conscious of their environment. Voluminous studies have illustrated the success of this bill in Oregon, and there are an equal number of studies that forecast its success nationwide. Yet, there is a large, well-financed lobby that is trying to prevent passage of this law through misrepresentation and false statements. This bill will save energy, reduce litter, and conserve raw materials.

In closing, I urge the Committee to reject the gloomy forecasts offered by opponents of this legislation. These arguments have been heard before, and have been refuted by the success of laws in Oregon and Vermont. Let us take a positive approach to our litter and solid waste problem, an approach which does not require massive federal programs or high consumer costs. I urge the Commerce Committee to promptly report the "Beverage Container Reuse and Recycling Act" to the full Senate.

FLORENCE BARR

Mr. PROXMIRE. Mr. President, the Senate, and especially the Banking Committee, is a better, more efficient and more pleasant place because of Florence Barr. Twenty-five years ago this February 1, Florence joined the staff of the Banking Committee and has served as a secretarial assistant for the minority. And she served them efficiently and loyally. However, as anyone close to the committee knows, Florence worked hard for the committee as a whole, always carrying more than her share of the work responsibility, always offering to help any staff person in need, and always with a cheerful and friendly attitude.

Florence has made a contribution to the work of the committee through five different chairmanships. During the last quarter of a century, Florence has seen them come and go. And through it all, she has kept her sense of humor. And Florence never changes. She is always prompt, enthusiastic, friendly, hard working and efficient. In short, she cares.

And to show Florence that we care, I am taking this moment to thank her for those years and to let her know how we value knowing her and have benefited from working closely with her. And, hopefully, we can enjoy and benefit from her many attributes and qualities for years to come.

LIFELINE UTILITY RATES

Mr. ANDERSON. Mr. President, Harvey Lange, the mayor of Robbinsdale, Minn., has sent me a resolution recently passed by the Robbinsdale City Council which expresses their strong support for senior citizens lifeline utility rate reform legislation. As my colleagues know, after lengthy debate, the Senate adopted a provision in the electric utility rate reform bill which requires that senior citizens be charged for a subsistence amount of energy the lowest rate charged to any customer. Senator HART and I introduced the original Senate legislation authorizing this reform and worked hard for its passage. A similar provision was included in the House version of the National Energy Act.

I am confident that the final version of the National Energy Act to be presented to the Senate will include a lifeline rate requirement.

I am sure that my colleagues, particularly the Senate members of the Energy Conference, will benefit from the knowledge that many communities all across America endorse the lifeline provisions.

Mr. President, I ask unanimous consent that the full text of the resolution recommending adoption of the lifeline utility rate program amendment be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 2655

Be it resolved that:

Whereas, the cost of heating, cooking and lighting in the average home has increased 61 percent in the north central region of the nation in the last four years, while Social Security payments have risen only 30 percent; and

Whereas, the failure of Social Security payments to rise to meet the increase in utility costs has made a hardship on citizens receiving Social Security payments; and

Whereas, a Lifeline Utility Rate Program has been proposed in the United States Senate by Senator Wendell Anderson, Minnesota, and Senator Gary Hart, Colorado; and

Whereas, the Lifeline Utility Rate Program is an experimental program to be implemented for three years at the national level in which elderly citizens would receive a subsistence amount of electricity at the lowest rate possible; and

Whereas, the Lifeline Utility Rate Program has been disapproved in conference under the stipulation that it may be reintroduced, should no other utility rates subsidy program be implemented in the final Utility Rates Reform Bill.

Now, therefore, be it resolved by the City Council of the City of Robbinsdale that the Lifelife Utility Rate Program is a fair program and one which is greatly needed by the elderly in the City of Robbinsdale, as well as those elderly living anywhere in the United States who pay large amounts for electricity.

Bt it also resolved that the City Council of the City of Robbinsdale endorses the Lifeline Utility Rate Program and recommends that it, or any other program which gives financial relief to elderly paying large amounts for electricity, be adopted and implemented in the Utility Rate Reform Bill by the Senate and House of Representatives in the United States Congress.

THE NATIONAL WOMEN'S CONFERENCE: FROM $5 MILLION TO $25 BILLION IN TAXPAYERS' MONEY?

Mr. HELMS. Mr. President, several days ago the National Commission on the

Observation of International Women's Year sent to Members of Congress copies of the national plan of action adopted at the National Women's Conference last November 18 through 21 in Houston, Tex.

In a letter accompanying the plan, the presiding officer of the national commission, Ms. Bella Abzug, again reminded us that $5 million of taxpayers' money was used to finance the conference and the supplementing activity of the national commission. It admitted that a significant amount of those funds were used to cover the travel expenses of most of the delegates to the national conference. The commission's letter also pointed out that over a quarter of a million dollars of taxpayers' money was used to print and distribute the commission's educational publications. Those materials prompted complaints from many women who objected to Government publications promoting Federal funding of medically unnecessary abortions, ratification of the so-called equal rights amendment, and public acceptance of lesbianism in the name of American women.

Mr. President, because the national commission has submitted the national plan of action to Members of Congress, I believe it is important that it be considered in the context in which resolutions were brought forward and adopted at the National Women's Conference.

The resolutions proposed by the plan are not without controversy and are not without a price tag to the taxpayers. Michael Novak, in a recent column on the National Women's Conference estimated that the cost to the taxpayers' of only one of the conference's proposals could cost $25 billion.

Accordingly, Mr. President, I ask unanimous consent that the following newspaper columns and editorials regarding the National Women's Conference from the Washington Post, the Washington Star, the Tulsa Tribune, the Boston Herald-American, and the Chicago Tribune be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 18, 1977]

WOMEN'S VOICES

The National Women's Conference, which opens in Houston today, was a poor idea from the start. Such federally financed conferences, whether on women's issues or children and youth or urban policy generally give a public-relations push to ideas that don't need it and generate so much controversy over other issues that they create a public impression of even more discord than actually exists. Beyond these general liabilities, the women's conference has had special problems. Its charter, pushed through Congress by women's-rights advocates during International Women's Year (1975), directs the delegates to "identify the barriers that prevent women from participating fully and equally in all aspects of national life" and to send recommendations to the President. The trouble with that is that American men and women have so many different ideas about equality, participation and what family and cultural life should be like—as well as whether various laws defining the status of women are really barriers or shields.

The planning for Houston has not emphasized accommodation of these varying views. The conference's organizers, headed by former Rep. Bella Abzug, have advanced a "plan for action" that touches every inflammatory base. Among other things, it supports Medic aid-funded abortions, freedom in sexual matters, and federal aid for "voluntary, flexible-hour, bias-free, nonsexist, quality child care and development programs." This platform is, we believe, overloaded and doctrinaire.

In addition, the organizers have been trying to paint their opposition—including the stop-ERA forces and Mormon groups—as right-wing radicals whose views are somehow illegitimate or even dictated by men. However shrill some opposition groups may be, the drive to discredit them may wind up discrdeiting the meeting's sponsors and alienating some of their less ideological friends.

Why worry about any of this? The problem is that many political leaders and citizens may just sit back to watch a brawl. Some of the public's most harmful stereotypes of women in politics could thus be confirmed. That could hurt the Equal Rights Amendment and other important measures—such as reform of rape laws—whose progress depends on being generally perceived as reasonable and fair.

Moreover, such an outcome would misrepresent the real social and political changes that have occurred in the past several years. The more flagrant kinds of sex discrimination are gradually being dealt with by Congress, the courts and many states. The volatility of other issues, notably those bearing directly on the family, has been generally recognized. More and more women (and men) realize they can back the Equal Rights Amendment or the general concept of broader opportunity without endorsing all feminist rhetoric. And countless women, however diverse and sometimes tentative in their thinking, have become increasingly active and effective—not only on "women's issues" but across the spectrum of public concerns. We hope these quieter messages come through from Houston. It may take hard listening to hear them in the din.

[From the Washington Star, Dec. 18, 1977]

HOW SOMETHING USEFUL COULD HAVE GONE ON IN HOUSTON

(By Michael Novak)

Believe me, I have been trying to avoid writing on the government-subsidized meeting of 2,000 women in Houston. Right-to-Life groups have brought 20 times this many women to Washington for two days (and they paid their own way), but the media did not notice. Let the subject of a meeting be a cause the elite classes in this nation cherish with their hearts and the cameras will grind on and on. It's a national disgrace.

Five million dollars yet. Two thousand women in the pay of Daddy Government did not even invite a single leader of their opposition to speak; ran a disciplined meeting that put Richard Nixon's second nominating convention to shame; pulverized their internal opposition—and boasted to the world how liberal they are, how moral, and how beautiful.

Across town, five times as many women, not subsidized by the government, represented the counterculture. Almost unnoticed.

What is most curious about the elite conference in Houston is the dependence on government the new women insist upon. They say they are liberated. They say they are independent. But they want the federal government to pay for their meetings; to pay them $50 a day just to come; to pay for their child care; and to pay for abortions. Where would a modern woman be without Daddy?

Indeed, the real political meaning of the Equal Rights Amendment is not the symbolic emotional reinforcement it will give to those who desire redundant notice. The real political meaning is the interference it will warrant in state and local affairs by federal agencies.

Daddy is highly arbitrary, he has a temper, and he owns lots and lots of power and money. Nobody knows what Daddy will do with ERA. But those who love Daddy want him to show off in front of the others.

There are a number of urgent and practical questions that a women's congress could have looked into:

Thousands of American couples want babies. There are today far more "wanting" mothers and fathers than "unwanted" children. The thriving black market in babies is a scandal upon the women of this generation. In New York, the list of black parents who desire to adopt children is longer than the list of black babies up for adoption. Could not the woman's movement encourage some abortion prone who would so choose, to bear at least some babies for adoption? Many are "wanted" by loving parents.

Abortions are outrageously high priced. Conditions in some abortion mills are a scandal. Could not the women's movement see to it that the price is brought down (rather than ask Daddy to subsidize inflated prices)? Could not women protest against "windfall profits" in abortions? Must this grisly business be so shabbily conducted? It is, of course, as Time Magazine pointed out, something of a scandal for this generation of women that its liberty should be won through the death of the living. Could not the movement at least have the guts to depict honestly what happens in an abortion, and what it is like, instead of using surgical euphemisms?

The sexual aggressiveness of men constitutes a major difference between the sexes. As Bella Abzug said in Houston, she never saw a hotel full of women send out for call boys. What sort of social sexual code for men ought this society to develop now? Young women are under tremendous and unfair pressures. Our sexual mores are generating millions of personal disasters, whose effects will be felt in our children and our children's children for generations: fickleness, inconstancy, betrayal, infidelity, abandonment. Sexual confusion in our society is enormous. To those recently "liberated" from a stricter ethic, the sheer excitement of libertinism is blinding. But the jading will soon become hard to bear. Have liberated women nothing to say about sexual morals, except that lesbianism is a "sexual preference"?

Lesbians at Houston said, with pride, "we are all around you." Of course they are. In an age of sexual confusion, we may expect their numbers to increase. But the self-hatred involved in looking into the Narcissus-mirror of one's own sex will also, in time, deepen and grow. The fullness of human development lies in learning from the opposite sex. Of course, women from time immemorial have been known for being compassionate and forgiving; we did not really expect Houston to speak a word of judgment upon lesbianism. But to have said nothing at all about a public sexual morality in which women and men can find moral integrity and common understanding is a very bad omen.

Estimates for the costs of the child care desired by Houston—subsidized by Daddy—run to $25 billion a year. Are there to be no rewards from feminism, for those women who give their full time to their children, at least in the first three years of life? Is that choice, that precious service, to be treated with disdain—to be ignored? What

shocking indifference to the priceless gift so many millions of women have given to their children.

Believe me, I tried not to write about Houston.

[From the Tulsa Tribune, Nov. 19, 1977]

THE COSTLY CHARADE IN HOUSTON

(By Jenkin Lloyd Jones)

The International Women's Year conference, in progress this weekend in Houston, may be a very good thing for America.

Reform usually follows a reductio ad absurdum and this rigged and stacked powwow, purporting to represent a cross-section of all American female opinions, is not only morally fraudulent but probably illegal as well.

The case for illegality comes about because Congress last winter appropriated $5 million out of the public treasury to fund the conference. The Federal Advisory Committee Act of 1972 specifies that memberships in committees and meetings held by federally funded assemblies "must be fairly balanced in terms of the points of view represented" and not be "inappropriately influenced by the appointing authority or by special interest."

Indeed, last Dec. 10, Bella Abzug swore on a stack of something or other that "this is not a bill which requires the conference to project a particular point of view."

Rep. Shirley Chisholm promised that "any kind of lobbying activities would be negated," and Rep. Patsy Mink stated piously, "In the committee we were careful in accepting an amendment which restricted altogether any activities whatsoever that could in any manner, form or shape be called lobbying."

So what happened?

The International Women's Year Commission was already on record with a 35–0 vote in favor of pushing the Equal Rights Amendment. Thus the machinery got underway to fix the state caucuses so that those delegates would be elected who would insure a thunderous ERA vote in Houston.

The first move was to get ultraleftist former Rep. Bella Abzug appointed to head the conference, which President Jimmy Carter duly did. How well Bella Abzug represents the views of the majority of American women has never been tested at the polls, but this summer she ran fourth in the Democratic mayoralty primary in her native New York City.

Soon complaints of railroading, vote-packing and undemocratic procedures began pouring in from the state conferences. These didn't bother Bella. She stated, curtly, that such problems are "inevitable for such an ambitious enterprise" and that "all challenges have been denied."

But cats kept escaping from the bag. In New York State a complaint of bias against anti-ERA women was answered with "Get your own funds and have your own conference."

The Baltimore Sun quoted a member of the Maryland state commission as saying, "I perceive the Houston meeting as a political convention, and it has to be run like one. If we lose there we are finished."

Alas, these loaded conclaves weren't even run like political conventions. Some state convocations, ostensibly called to draw in women of all opinions, were almost secret.

In testimony last month before an ad hoc Senate committee, a Wisconsin woman said the publicity for the meeting in that state was "practically nonexistent."

A Missouri woman complained that she had to call a senator to get the time and place of the Missouri meeting.

A California witness said that not even the media had been notified. A Vermont woman described the Montpelier meeting as "the best-kept secret since Pearl Harbor," while another, in Mississippi, charged conflicting information as to time and place.

Nevertheless, opposition rose. Anti-ERA forces stormed into the Ohio, Missouri, Oklahoma and Utah meetings and took over. This triggered a unique defense. The pro-ERA forces in Arizona created a flying squad, identified with special ribbons, to hurry from workshop to workshop, wherever a vote opposing ERA or federally financed abortion was threatened.

The National Women's Political Caucus liked this tactic so much that it recommended it nationwide. Bella Abzug is on the NWPC advisory board.

The lesbians, of course, were out in force, and one shocked spectator at the Hawaiian meeting described a pornographic skit. A "spirituality" workshop in Virginia was even run by self-proclaimed witches.

Ms. Abzug has made sure that results in Houston will be satisfactory by giving herself the power to appoint 400 delegates "at large." But it should also destroy any credibility which this charade may have enjoyed with those American women who thought it really would be an honest attempt at consensus.

It isn't the principle of the thing.

It's our 5 million bucks.

[From the Boston Herald-American, Nov. 27, 1977]

IWY RESOLVES SHOULD BE SHELVED

(By Patrick J. Buchanan)

One day soon Ms. Bella Abzug and other grizzled, battle-weary veterans of the National Women's Conference will be arriving at the White House to present Jimmy Carter with their "National Plan of Action."

If Mr. Carter is thinking of a second term, he will thank them for their work, promise to study the agenda, give the girls some milk and cookies, and send them on their way. Then he will call in Hamilton Jordan and tell him to file that 25-point "Womandate" on the same shelf where the Scranton Commission Report and the Kerner Commission Report are gathering dust.

Why? Because the National Plan of Action, adopted in Houston, points Mr. Carter in precisely the opposite direction from where the national majority is headed.

Some weeks ago, Newsweek magazine ran a cover story on the "New Conservatism" that appears to be sweeping the country. Yet, what the Houston confab produced was a warmed-over hash of the radical liberalism that generally stunk up the '60s.

Item: The Houston delegates voted almost 4 to 1 for the Equal Rights Amendment. Yet, when put to the vote in New York State, ERA was crushed by a margin of 400,000 votes.

Item: The Houston Convention endorsed abortion-on-demand. Not only does this contradict the President's commitment and convictions, it runs against the trend of court and congressional opinion.

Item: The Houston conclave approved the same sort of "gay rights" provision that Dade County rejected 2 to 1 only weeks ago.

Here is how one Florida delegate, Virginia Harlan, described the "sickening . . . nauseous" scene at the Sam Houston Coliseum when the "sexual preference" plank was adopted:

"The demonstration after the vote was disgusting. Most of the pro-family delegation got up and walked out. Other delegations stood with their backs to the chair in protest. The lesbian element here was unbelievable—they were hugging and kissing each other, running through the aisles with their fists raised in a sign of militancy."

And the New York Times would have us believe those 2,000 delegates to Houston "fairly accurately reflect the general female population" in the United States.

Some of the proposals adopted, such as enforcement of the Federal Equal Credit Opportunity Act of 1974, were non-controversial. On balance, however, the National Plan of Actions reads like a political script written by Ms. Bella Abzug, ring mistress who cracked the whip at the Houston circus.

Yet we know from the returns in the New York mayoralty contest that the politics of Bella Abzug are on the wane in even the most retarded of political precincts. Though she started the race with almost 40 per cent of the vote, Bella ended out of the money in the Democratic primary, running a poor fourth. The winner: An apostate liberal named Ed Koch who captured the fancy of the Big Apple with the enthusiasm with which he discussed the societal benefits of rewiring the electric chair.

On the final day of the Houston Conference, the conservatives walked. The breaking point: the convention's demand that the American taxpayer fund yet another of these feminist pep rallies in the future.

Well, on this one, once is more than enough. The National Women's Conference came about through the good offices, if you will, of Gerald R. Ford in 1975 who asked $5 million to underwrite this nonsense. Next time ignorance and inexperience will be no excuse. Any congressperson who votes another dollop of tax dollars to further this kookery should be retired—without regard to race, creed, color, sex or national origin.

[From the Chicago Tribune, Nov. 28, 1977]

TAX MONEY USED FOR RIGGED CONVENTION

(By Nick Thimmesch)

The federally funded National Women's Conference was no place for a man. Nor for any poor soul who yearns for fairness in this vale of tears or for democratic procedures.

Rather, it is a classic case of a militant minority imposing its will on the majority—the American public, in this instance—and making it pay money for the experience.

It isn't so important that the Houston delegates rubber-stamped an action plan for ERA, abortion-on-demand, lesbian rights and government-controlled child-care centers. It is important that these highly debatable questions were endorsed under the rigged auspices of the federal government at a cost of more than $5 million to taxpayers.

While it is doubtful that the Houston proclamations truly represent the national will at this time, that argument can be put aside for a more important matter: Namely, the need for taxpayers to raise hell with those gigolo congressmen who fund this kind of authoritarianism.

As one who once served on a presidential commission, I know how single-minded staffers devise "action plans," arrange for witnesses sympathetic to those plans to appear before the hapless commission and try to ram through their viewpoint.

It doesn't always work, but it evidentally did in this episode. Militant feminists bamboozled Presidents Ford and Carter, and Congress as well, to back "women's rights" (motherhood and the flag are now obsolete shibboleths), though their real purpose was to win government blessings for controversial, partisan and minority views.

In July 1976, eight months before the first state conference on women was held, a national commission published the manual that yet-to-be-elected delegates were to follow—or else. It was titled "To Form a More Perfect Union" and included arguments for virtually all the controversial issues ultimately rubber-stamped in Houston.

In early 1977, President Carter, probably to salve an old political enemy, appointed Bella Abzug to head the commission running the Houston show. That act was a green light for militants across the land to stampede the state conferences, using muscle tactics to

reduce so-called traditional women to minimal or no-representation status on state delegations.

The militants used dirty tricks that would have made Watergate villains blush. In Florida they cut off nominations of traditionalist women. In Michigan they used questionable floor maneuvers to do the same. In Kansas militant bosses of the conference shut the doors to a crowd of opponents, claiming erroneously that their presence would violate fire ordinances.

In North Carolina women voted for delegates on a Saturday afternoon only to be informed by militants late that night that the election would have to be held again because one name was missing from the ballot. By then many traditionalist women had either left or were leaving for home to be with their families the next day—Father's Day. Naturally, in the election rerun, the militants won it all.

Just as revolutionaries use the shock of political theater to intimidate moderate sorts, so militant feminists did in Hawaii and California to show and frighten off "nice" ladies. In Honolulu feminists staged a program in which women in leotards performed simulated lesbian sexual acts in a pay toilet.

At the California conference dildoes, vibrators, mini-abortion kits and books on the joys of masturbation were exhibited to attendees—all to show how women could become sexually independent of men.

Well, if Bella Abzug wants to use her own plentiful supply of money to pay for this exhibitionism, that's all right. But why should taxpayers be stuck for it?

To make sure the rubber stamp couldn't be vanquished, Abzug and her fellow commission members, including Jean O'Leary, co-chief of the National Gay Task Force, were careful in their mandated selection of 400 at-large-delegates to pick an overwhelming majority sharing their views. For tokenism they also chose a black, Dr. Mildred Jefferson, chairman of the National Right-to-Life Committee and a distinguished professor of medicine.

Finally, in the best sharp-politics fashion, the militants trotted out the wives of Presidents Johnson, Ford and Carter—an unwitting array of dupes—to bless their conference, Middle America style.

Here's some scolding for the press. Why did editors send mostly feminists to cover Houston when the editorial requirement surely called for the dispatch of some H. L. Mencken types? Sending feminist journalists to Houston only padded the cheering section, and most of the coverage showed it.

No matter. I don't care whether ERA is ratified or not. The issue here is whether federal money should be used to support a partisan cause. Such misuse leads to what federally funded ($56,000 per year) White House assistant Midge Costanza did in Houston—calling for the defeat of political opponents. Will we next be paying taxes to fund political vendettas?

SUN DAY RESOLUTION

Mr. HART. Mr. President, as a member of the national board of directors of "Sun Day," I am pleased to join 53 of my colleagues in sponsoring Senate Joint Resolution 110 designating May 3 as a national celebration of the realization of solar energy.

The Sun Day activities across the Nation will heighten public awareness of the tremendous potential of solar energy in providing a substantial percentage of our energy needs.

Mr. President, the fact of the matter is that the Nation is far ahead of its leaders in anticipation of the widespread use of solar energy. In a poll conducted last fall by the Cambridge Survey Research Institute, 38 percent of the respondents nationwide thought solar energy would be a main source of power by the year 2000. This was equal to the percentage that chose a more established candidate, nuclear power.

The Federal commitment to the realization of solar energy has increased thirtyfold over the past 4 years—from $10 million to $300 million. However, this funding level comprises only 3 to 4 percent of the Federal energy budget, and is paltry in comparison to programs to develop a number of energy technologies with less promise of early realization, widespread acceptance and benign environmental consequences. Rather than expanding the Federal commitment to solar energy, the administration's proposed budget for next year would—if adopted—actually reduce the Federal resources devoted to the early realization of this energy alternative.

Mr. President, foresight is in devising solutions to our increasingly critical energy problems. The transition from an economy which is dependent upon depletable fossil fuels to greater reliance on renewable energy technologies will be a monumental undertaking, requiring an unprecedented peacetime investment of the Nation's resources. But by acting now, we can preempt the possibility that sudden shortages of more traditional energy sources will cause radical distruptions of the Nation's economy and social fabric. A national commitment to solar today will ease the transition to a post-petroleum world.

The National Energy Act, which is pending in conference, will do a great deal to promote the use of solar energy. However, much remains to be done in this area.

Mr. President, I hope that my colleagues will be active participants in the Sun Day activities in their respective States, and that this national celebration will serve to renew our commitment to the early realization of solar energy.

BALANCED GROWTH AND ECONOMIC DEVELOPMENT

Mr. BURDICK. Mr. President, on February 1, North Dakota State Senator Francis Barth, who is the assistant minority leader of the North Dakota State Senate, testified before the White House Conference on Balanced Growth and Economic Development. I believe Senator Barth made a number of important points about the way attempt to plan for the future, and I ask unanimous consent that his testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT BY FRANCIS BARTH

This Conference is most timely because we are at a critical crossroad in the entire matter of economic development. This is true for the Nation; it is even more true for those of us in the Old West states of Montana, Nebraska, North Dakota, South Dakota and Wyoming.

Nationally, we are beset by a pressing energy problems, our unfavorable balance of payments, and continuing inflation creating a disastrous situation for our farmers and ranchers. In our own Region, we feel the brunt of these national problems perhaps more acutely than other areas of the country, particularly the current farm cost-price squeeze which is driving our farmers nad ranchers steadily toward bankruptcy, and the Nation's need for expanded development of our remaining national energy resources—a great share of which lie in the Old West Region.

Our agricultural and energy problems bring the objectives of this Conference home to us in the Old West in most realistic terms. I applaud the Congress and the Administration for seeking the broadest possible public participation in developing solutions to these and other national economic problems.

We have a peculiar dilemma in our Region, calling for a high degree of coordinated planning among our Old West states and between our Region and the remainder of the Nation. We are literally the breadbasket of the world. For instance, North Dakota is responsible for 90 percent of the Nation's production of hard red spring wheat, 85 percent of the barley and 90 percent of the flax seed. At the same time we find ourselves in possession of the world's largest remaining coal reserves at a time when coal is one of our most valuable energy alternatives. Eighty percent of our Nation's lignite coal reserves lie in the Fort Union formation in Montana, Wyoming and Dakota.

These bountiful resources are not unmixed blessings. While there may be no basic contradiction in the dual role which nature has thrust upon us, it takes little imagination to recognize the many planning and operational problems confronting our states and localities in such areas as reclamation, water usage, environmental controls, removal of land from agricultural productions, and socio-economic impacts of growing industrialization upon an agriculture-oriented economy.

For instance, we are willing to share our energy with the rest of the Nation, but we feel our neighbors should understand we cherish our way of life and we want assurance as we do develop our energy that our traditional ways will be interrupted as little as possible. We value our role as the greatest food-producing area in the world, but we must have realization upon the part of others that this role also involves problems. We meet at a time when these problems were never more dangerous to the long-range welfare of our producers.

There are solutions, as there are whenever concerned parties get together and work out feasible and effective actions. But I am concerned with the profusion of governmental parties and agencies which inevitably become involved in problem-solving efforts. An area which values its individual freedom highly, an area which has a particular dislike for government red tape, we find ourselves overrun with well-intentioned agencies and officials whose positive results in many cases are eclipsed by the confusion, havoc, duplication and waste which result from their efforts. I have two suggestions for improving these efforts and they both involve a larger role for the Regional Economic Development Commissions.

These suggestions are:

1. Economy of action and dollars through better coordination of governmental efforts from the Federal level to the local level.

2. A mechanism which keeps the decision-making as close to home as possible.

Failure to adhere to these two principles is at the heart of so many of our governmental failures today. The complexity of governmental efforts requires an unremitting effort

to eliminate duplication and waste and to give careful and thoughtful consideration to every dollars spent. And in our anxiety to have the advantage of federal dollars, we as a Nation are inclined to forget that our governmental decisions will be more effective if they are made closer to home, fashioned and influenced by those who will be most intimately affected.

The answer to these two basic needs lies with the Regional Economic Development Commissions. In their relatively few years of operation, they have demonstrated an unusual capability of coordinating federal actions with those of a group of states to bring about an effective solution to a common problem. And contrary to the usual federal-state pattern, the Commissions are structured so that they not only provide a high degree of coordination, but they maintain the decision-making process where it belongs—at the grass roots level.

There are never enough tax dollars to go around. We must constantly strive to achieve more for each dollar spent. The key to achievement of this objective will be found in permitting a larger coordinating and decision-making role for the Regional Commissions. I urge this Conference to give favorable consideration to larger role for the Commissions in our governmental structure.

Mr. HART. Mr. President, President Carter, in his environmental message to Congress last May, promised to direct the Council on Environmental Quality to take a serious look at the National Environmental Policy Act (NEPA) process to see if it is, in fact, serving the purpose originally intended in the National Environmental Policy Act.

To date, we have seen evidence of the fact that the CEQ is taking this charge seriously. Last December, the Council began to solicit comments from other agencies on ways to streamline the NEPA process, including a limit on the number of issues to be considered in an environmental impact statement (EIS) as well as a limitation on the overall length of any statement.

However, another NEPA issue is beginning to take shape, and the bureaucratic battle lines are forming over the Council's proposal to require an EIS for certain major Federal international activities.

We in the Congress are going to hear more and more about this issue in the future, and I would, therefore, like to recommend to my colleagues several interesting articles on the subject.

Mr. President, I ask unanimous consent that an article from the National Journal by CEQ Chairman Charles Warren and the environmental study conference fact sheet of February 3, 1978, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL ENVIRONMENTAL IMPACT STATEMENTS RUN HEAD ON INTO FOREIGN POLICY, ECONOMIC QUESTIONS

(By Ken Murphy)

The much-publicized interagency struggle over the Council on Environmental Quality's proposed international impact statement rules should be coming to a head soon.

The new rules themselves, still in draft form, are not all that is at stake. CEQ's standing in the Carter administration and its credibility also are on the line.

Whether the dispute will boil over into Congress is uncertain at this point, but CEQ is trying to steer clear.

The requirement for impact statements on major federal actions abroad, such as nuclear export licenses and development aid, is only one small part of the council's proposals to overhaul and streamline the whole impact statement process. But it certainly has touched off the most controversy. The overhaul, mandated by executive order, is now undergoing interagency review and should be proposed formally for public comment in March.

Some recent news reports on the struggle have been misleading, resulting in much confusion. They also have dwelled on costs and problems, ignoring potential benefits.

CEQ Rationale: At present, many agencies with international activities have voluntarily developed environmental review programs under the National Environmental Policy Act. CEQ is now proposing to write specific impact statement requirements into binding regulations. They are based on informal proposals by CEQ's past chairman, Russell Peterson.

The council's immediate goal is to make U.S. decisionmakers, and indirectly foreign nations, more aware of the environmental consequences of major U.S. actions abroad. The United States simply should not be promoting environmentally questionable projects abroad, CEQ contends. In fact, it should be leading the way in protecting the world's environment. That is CEQ's ultimate goal.

Head-On Collision: The council, however, has run head on into a rather formidable array of opponents. The most outspoken—the State Department, the Export-Import Bank and the Nuclear Regulatory Commission—don't dispute CEQ's goals, and some of them point to their own voluntary environmental review programs as proof. But they do object strenuously to CEQ's move to establish specific impact statement requirements. The requirements are so rigid as to embarrass foreign leaders, infringe on other nations' sovereignty, impose U.S. environmental standards on the world and hurt U.S. exports, they believe.

CEQ's main response is that it is not tied to the draft rules and is willing to negotiate with agencies to meet their concerns.

Another real factor in the opposition, although the agencies won't admit it, is normal bureaucratic resistance to change.

Both Sides Cloud Issues: Still, CEQ's critics have raised a number of questions that the council, as yet, has failed to address head on. At the same time, neither have the critrics recognized the need for better environmental reviews or their potential benefits—for this country, foreign nations and the global environment alike. As a result, CEQ and its critics at times seem to be talking "at" rather than "to" one another.

The debate over the international rules is very reminiscent of the fight over impact statements in this country in the early 1970s, when opponents were predicting disaster. The predictions of course didn't come true for the most part. A key reason impact statement requirements have worked in this country is that everybody is playing by the same rules. That obviously is not the case in the international context, and that difference is the source of all the potential problems with CEQ's international rules.

Basic Policy Question: The potential foreign policy and economic problems vary with the type of action in question. For example, U.S. aid to developing nations should not present insurmountable problems, in part because the U.S. Agency for International Development, the main aid agency, supports CEQ's efforts and also because it seems fair to attach strings and conditions to foreign aid.

However, for major U.S. exports falling under the CEQ requirements because they are U.S.-licensed or financially assisted, the potential problems may be more severe, and the policy choices more difficult. For example, if the impact statement requirement does in fact delay an export license or U.S. financing the foreign nation might turn to the U.S. competitors. The requirement then not only has cost the United States the sale, but it also has done nothing to improve the environment.

Here lies the most difficult trade-off. Although it is by no means certain that the impact statement requirement will turn foreign nations to other suppliers, what if it does? On moral grounds, the answer may be that the United States simply shouldn't promote environmentally questionable exports. But if the goal is to protect the environment, then perhaps a rigid impact statement requirement is not the way to go.

The Proposals: Before taking up the specific issues, it is important to understand what CEQ's proposed international rules do and what they don't do.

The new rules would apply only to major federal action abroad that significantly affect the environment. They would not apply to the vast majority of overseas transactions, nor would they apply to any other U.S. actions abroad, for example by private companies where the federal government is not involved in a major role.

Exactly what would and would not be covered is not spelled out in the rules, and CEQ is reluctant to discuss the question, saying it is subject to negotiation with individual agencies. If an agency decided an action was not covered, it could be taken to court, just as with domestic impact statements.

However, the rules almost certainly would apply to nuclear export licenses, many major aid projects and many major Ex-Im Bank loans, among other things.

The specific impact statement requirements vary with the scope of environmental effects. For major federal actions significantly affecting the United States and its trust territories, the global commons—the oceans primarily—and Antarctica, CEQ proposes the same sort or impact statements now required on domestic projects.

However, for major federal actions significantly affecting the environment of foreign nations only, the agencies would have an option—a "foreign environmental statement" much more limited in scope than normal statements.

In proposing this flexibility, CEQ seems to recognize potential foreign policy and trade complications, as well as the fact that neither the U.S. environment nor the global commons would be affected.

No Decision Mandated: Even on major actions, the proposals would require only the preparation of statements, not a decision one way or the other on the action in question. For example, just as with domestic impact statements, a federal agency could discover terrible impacts and still go ahead with the project.

This is one point that some news reports totally missed.

The Legal Justification: The most immediate issue is legal—whether CEQ can require federal agencies under the National Environmental Policy Act to prepare impact statements on their major actions abroad. Both sides of the issue cite different sections of NEPA and its legislative history, as well as subsequent administrative and judicial precedents, to support their positions. The most

that can be said is that the record is by no means clear.

The Underlying Issues: Underlying the immediate legal issue, however, are the broader, and ultimately more important, policy questions:

Would CEQ's rules impose U.S. environmental standards on foreign nations, to the detriment of our relations with them?

Would they hurt U.S. imports by raising costs, leading to delays or turning foreign nations to other suppliers?

Would preparing statements be required projects in foreign countries be practical?

Should impact statements be required on major U.S. actions abroad?

A Global Policeman: A major charge leveled against CEQ's proposals is that they would impose U.S. environmental standards on foreign nations. When pinned down, CEQ's opponents acknowledge that the proposals don't do it directly. But they would do it indirectly, and the foreign policy consequences would be just as real, critics say.

For example, the purpose of impact statements on nuclear export licenses is to influence the decision. If the license is denied, critics say, the United States is, in fact, imposing its environmental standards. The foreign nation wants the reactor and feels it meets its own environmental standards, yet the United States says that's not good enough.

CEQ's main response to this charge is that its proposals don't require a decision one way or the other.

Foreign Policy Complications and Practical Considerations: The proposed rules probably would require collection of data on foreign soil. One touchy question is how to collect the data: send over U.S. researchers or force the foreign nation to do it. Both alternatives are fraught with practical problems and foreign policy conflicts, according to CEQ's critics.

Then what about publishing the impact statement, critics also ask. Foreign leaders are not going to be too happy about the publication of potentially critical or embarrassing information about their country.

CEQ responds that it stands ready to tailor the impact statement requirements to "the practical considerations of operating in the international context." In addition, it proposes specific safeguards, such as keeping the impact statement confidential.

The council's critics doubt whether the safeguards can be adequate. It is likely that impact statements would be subject to the Freedom of Information Act.

Another problem, particularly with exports, is that even if the foreign nation agrees to make a U.S.-assisted action more environmentally sound in order to gain U.S. approval, the United States has only limited leverage in monitoring and enforcing the agreement. Once an export license is granted, that's it. The only way to enforce an agreement is to use the next export license application.

All these problems, critics conclude, make it impossible for the United States to move unilaterally with impact statement requirements. The only way to assess the environmental impacts of U.S. actions abroad is in cooperation with foreign nations, through negotiated treaties and other agreements.

The strong counter argument is that the United States already imposes other kinds of requirements on foreign transactions. Currently, foreign nations must either meet U.S. conditions on nuclear exports or forfeit the reactor. What is so bad, the counter argument goes, about adding environmental requirements?

Export Business Hurt: Press reports on whether impact statements would hurt U.S. exports are slightly misleading. CEQ is proposing impact statements only on those exports involving a major federal action significantly affecting the environment. They would apply only to a very few exports, in which the United States has a major licensing role or in which it has a major financial assistance or aid role. Even then, the rules would not require rejection of environmentally questionable exports. Most exports would be totally unaffected.

For example, the Ex-Im Bank finances about 15 percent of U.S. exports in dollar volume. According to a bank spokesman, only about 25 to 40 perent of this business might be subject to impact statement requirements.

For exports subject to impact statements, prices certainly would rise, but if the experience with domestic statements is any guide, the increase will be relatively minimal.

As for delays and red tape, the CEQ proposals probably will slow down the export process as agencies get used to impact statements. But again, if domestic experience is any guide, most delays will disappear as the impact statement process is fully integrated into the normal decision-making process.

However, the Ex-Im Bank counters that the international situation is totally different. In the United States, everybody is subject to the same rules, and everybody faces the same delays and cost increases. But in the international marketplace, competing exporters won't have to meet CEQ's rules and will be able to offer lower prices and fewer delays, making it even more difficult for U.S. companies to compete.

The Need for Environmental Statements: To the extent that environmental impact statements have improved U.S. policies on domestic projects, they would have the same potential in the international arena.

However, their success in this country is tied to the changes federal agencies have made in response to the issues raised in the statements. Whether federal agencies can or will respond as well in actions abroad and whether foreign nations will do likewise are major unanswered questions.

Past Experience with EIS Requirements: In support of its proposals, CEQ cites a number of successful examples of federal agencies preparing impact statements. These include statements by the State Department on the Panama Canal treaties, the Department of Interior and the Federal Power Commission on Alaska natural gas pipelines, NOAA on its hurricane seeding program and the Agency for International Development on its worldwide pesticide program.

CEQ plays up AID's experience in particular. AID says it has been able to undertake environmental analysis "without strain" on foreign relations, has achieved its mandate at the same time, has not cost the United States any jobs and has not experienced excessive costs.

However, it should be noted that AID has mainly been doing informal environmental assessments, not full-fledged impact statements. So although AID probably will endorse CEQ's full-fledged impact statement requirement, it opposes the requirements where impacts are in foreign nations only.

CEQ Objectives: According to CEQ, the new rules are intended to insure:

—if a product is banned or strictly regulated in the United States on health grounds, the U.S. agency should at least be aware of it before providing the product to a foreign nation

—full disclosure before an American decisionmaker takes an action that threatens natural resources of global importance

—the U.S. decisionmaker is aware if his actions, however beneficial to one country, cause adverse effects in another country.

Potential Benefits: CEQ says that much of the criticism of its proposals ignore their many potential benefits. Pointing to AID again, CEQ notes the widely acknowledged benefits of agency's pesticides assessment and the resulting decision to cut back on exports of DDT, which is banned in this country. AID has found, CEQ explains, that foreign countries themselves have welcomed the recommendations coming out of impact assessments.

NRDC Suit: The CEQ rules parallel a pending suit against the Export-Import Bank to require environmental statements on its foreign operations. The suit was brought by the Natural Resources Defense Council, a public interest law firm, which CEQ member Gus Speth founded and worked for before joining the council.

Contacts: CEQ: Caroline Isber, 633–7005. NRC: Carl Stoiber, 254–8017. State Department: Mary Elizabeth Hoinkes, 632–1700. Ex-Im Bank: Patrick Daddario, 566–8967. AID: 632–8548.

THE INTERNATIONAL APPLICATION OF NEPA

On January 6, the Council on Environmental Quality (CEQ) invited representatives of 30 federal agencies to discuss proposed regulations for applying the National Environmental Policy Act (NEPA) to U.S. Government actions abroad.

Nobody, not even in government, enjoys having new regulations imposed on his or her conduct, hence it was not surprising that the reaction to CEQ's proposals, regardless of their merit, was less than ecstatic. Various agency representatives criticized our draft regulations on the grounds that there is no legal justification for extending NEPA to U.S. actions abroad, that NEPA-caused delays would hold up U.S. exports and send foreign buyers elsewhere and that our regulations would impose U.S. environmental standards on other nations. Columnists Evans and Novak said the proposals "would make Uncle Sam the environmental policeman of the world."

Each of these complaints deserves an answer. In point of fact, there are solid justifications—in the legislative history of NEPA, in the language of the law itself, in court precedent, and in past agency actions—for applying NEPA to federal activities beyond our borders. Further, there is an excellent, pragmatic argument for doing so: it will inform all concerned of choices available and their environmental implications without imposing our environmental standards on other nations.

First, as to the law itself: NEPA speaks of "national policy" and "national heritage," but its references to the environment are not similarly circumscribed. Instead we find references to "man and his environment," the "natural environment", the "importance of . . . maintaining environmental quality to the over-all welfare and development of man", and the global term "biosphere". In Section 102(2)(F), Congress directs all federal agencies to recognize "the worldwide and long-range character of environmental problems. . . ." Nowhere does the Act specify that it is only the U.S. environment whose quality is to be guarded by U.S. agencies.

This legislative language is, I concede, indicative rather than definitive. As in so many cases, the legislative history may help us decide whether the Congressional rhetoric exceeded Congressional intent on NEPA, or whether the law was written to be as all-embracing as it appears.

And Congress has, indeed, addressed the question of NEPA's application beyond our borders. On October 8, 1969, during floor debate on NEPA, Senator Henry Jackson inserted into the Congressional Record this summary of an earlier House-Senate colloquium on national environmental policy: "(a)lthough the influence of the U.S. policy will be limited outside its own borders, the global character of ecological relationships must be the guide for domestic activities."

More explicitly, during oversight hearings held in 1971 (the year after NEPA was passed), the House Merchant Marine and Fisheries Committee specifically rejected the

argument that NEPA should not be applied to U.S. actions within the jurisdiction of another nation:

"Stated most charitably, the committee disagrees with this interpretation of NEPA. The history of the act makes it quite clear that the global effects of environmental decisions are inevitably a part of the decision-making process and must be considered in that context."

CEQ itself has been consistent in its interpretation of NEPA's international implications In 1971, the Council's Legal Advisory Committee urged federal agencies to apply NEPA to their actions in foreign countries. CEQ's 1973 guidelines for the preparation of environmental impact statements require the assessment of "both the national and international environment." Most recently, in September 1976, former CEQ Chairman Russell W Peterson stated in a memo to all agencies:

"(W)e advise that NEPA requires analysis and disclosure of federal actions on the human environment—in the United States, and other countries, and in areas outside the jurisdiction of any country."

Courts, as well, have addressed the international application of NEPA on several occasions.

In *Wilderness Society* v. *Morton,* 463 F. 2d 1261 (D.C. Cir. 1972), the D.C. Court of Appeals ruled that Canadian environmentalists had a substantial interest in the choice of route for the Trans Alaska oil pipeline, and that this interest was protected by NEPA.

In Sierra Club v. AEC, 4 ELR 20885 (D.D.C. 1974), AEC and the Export-Import Bank were sued to force their compliance with NEPA on nuclear exports. In this case, the court assumed that government actions abroad were covered by the Act.

In Environmental Defense Fund v. AID, 6 ELR 20121 (D.D.C. 1975), the Agency for International Development agreed to prepare an Environmental Impact Statement (EIS) on its pest management program. The settlement specifically required that the EIS cover impacts within individual foreign countries.

Finally, some agencies have already applied NEPA to some of their actions abroad. Examples include the State Department, with its recent EIS on the Panama Canal Treaties; the Interior Department and the Federal Power Commission, with EISs on the Trans Alaska natural gas pipeline; the National Oceanic and Atmospheric Administration, with an EIS on its hurricane-seeding program, and AID, on its worldwide pesticide program.

Asked by the Office of Management and Budget to comment on its experience with NEPA on foreign projects, AID Administrator John J. Gilligan replied, last December 9:

"(O)ur over-all experience is a positive one. We have discovered that developing countries themselves have come increasingly to recognize the inter-related nature of environment and development, and to seek to ensure that environmental considerations are adequately addressed in development projects."

AID, Gilligan continued, has been able "to undertake environmental analyses without strain" on foreign relations. Pertinent to the complaint about NEPA delaying imports and costing us sales, Gilligan wrote: "No project has fallen through because of required environmental analyses . . ."

Thus the language of NEPA is inclusive, not exclusive; CEQ's interpretation of the international applicability of NEPA is not novel, but dates back to 1971; the courts have ruled, in specific cases, that NEPA governs the actions of U.S. agencies abroad, and several agencies have implicitly recognized that governance by voluntarily filing EISs.

U.S. precedents aside, would not such an application of NEPA violate foreign sovereignty?

It is crucial to realize that NEPA imposes no environmental standards on anybody, not even on U.S. agencies. Pared to essentials, NEPA is a "full disclosure" law with two parts: 1) it requires every federal agency to analyze the environmental impacts of its proposed actions, and 2) it requires the agency to publish its analysis, so that other governmental agencies and the public can inspect that analysis for accuracy and thoroughness.

In the international context, NEPA would give foreign governments the same access to analytical data on a proposed U.S. action. After examining that information, the foreign government would make its own decision on the project, regardless of U.S. environmental standards. CEQ's proposed draft regulations require an agency to point out any activities that are "unlawful or strictly regulated" in the U.S.; however, should another nation choose to proceed with such an activity, illegal by U.S. standards, it would be perfectly free to do so.

Legal justifications aside, is it worth applying NEPA to foreign actions at all?

Within our borders and beyond them we have seen, again and again, the indirect environmental effects of well-intended projects create havoc with a nation's food supplies and its people's health. We have seen, for example:

In the Ryukyu Islands, the spread of dysentery and of trachoma, an eye disease, following the U.S. introduction there of piped, potable water;

In Indonesia, the destination of a vital protein source when a pesticide used by farmers to control rice pests also killed fish in the paddies;

In Egypt, a ten-fold surge in the incidence of schistosomiasis—a debilitating, sometimes fatal, disease—following completion of the Russian-financed Aswan Dam;

In Peru's Canete Valley, the uncontrolled resurgence of a cotton pest when it developed a resistance to DDT—but its predators, which formerly held the pest in check, did not;

In Brazil's Sao Francisco Valley, the forced expenditure of more than $150 million to resettle farmers and control floods following construction of a hydroelectric project financed by two international agencies, two U.S. agencies and private banks in Canada, France and the U.S.

Foreign policy considerations may warrant our supporting dubious projects abroad; at an absolute minimum, however, the underdeveloped nations to whom the bulk of our non-military assistance goes have a right to know when a project they want might get them into serious health, safety and environmental trouble.

For the most part, developing nations cannot now duplicate our environmental expertise; we should not force them to duplicate our environmental misfortunes. Our own pragmatic self-interest dictates that, when our government engages in activities abroad, we should help other nations look before they—or we—leap.

CEQ believes that NEPA requires such a look, not as a matter of prudence, but as a matter of law.

INDEPENDENCE DAY FOR SRI LANKA

Mr. MARK O. HATFIELD. Mr. President, I am most pleased to take note of the fact that on February 4 Sri Lanka commemorated its 30-year anniversary of independence from the British Crown. This is a particularly happy occasion given the continuing effort toward political and economic advancement made by Sri Lanka in these three decades of self-rule.

Politically, the seventh general election since independence was declared in Sri Lanka was held on July 22, 1977. The United National Party led by Mr. J. R. Jayawardene was returned to power with an unprecedented majority of 140 seats in an assembly of 168 seats. Prime Minister Jayawardene advocates a mix between the systems existing in the United States of America and in France. The last general election enunciated this constitutional change as one of its fundamental policies, and by virtue of the mandate it received the Government amended the existing constitution to provide for the Prime Minister to assume duties as the first Executive President of Sri Lanka. On the 4th of February, Mr. J. R. Jayawardene assumed duties as the President of Sri Lanka and will in the future be both the head of state and head of Government of Sri Lanka. Future presidents will be elected once in 6 years by universal adult franchise. All citizens over 18 years will have the right to vote. Representatives to the national assembly will continue to be elected on the same basis.

With the assumption of duties of Mr. Jayawardene as President of Sri Lanka, one of the fundamental principles of the U.S. Constitution, the separation of powers between the executive, the legislature, and the judiciary, has been reinforced.

Economically, Sri Lanka is embarking on a course to revive and resuscitate economic growth and development. Special emphasis has been laid on increasing employment opportunities, particularly for the youth of the country. Stimulating domestic savings and investment and reducing pressures on balance of payments have also been considered important goals of economic policy. The measures proposed in the budget are designed not only to bring about substantial improvement in the domestic economy but are also meant as a signal that Sri Lanka is adopting policies which will provide a stable basis for sustained growth.

In order to free the economy from the controls and restrictive practices which had hampered development in the past, the new Government instituted a reform of the exchange system accompanied by a substantial degree of liberalization of the country's external trade. The exchange rate was allowed as from November 15, 1977, to float in response to the basic exchange market developments. The prevailing complex structure of import controls, allocations and licensing procedures on external trade and payment ceased to be effective from this date. Import monopolies which had been extended to public sector agencies have also been largely ended. A very large part of exchange control has also ceased to exist. This exchange reform and trade liberalization program is supported by substantial economic assistance made available to Sri Lanka by the International Monetary Fund, the World Bank, other financial institutions, and friendly governments, foremost among whom is the United States of America.

The government has decided to accelerate the pace of the development of the Mahaweli Ganga basin, the longest

river in Sri Lanka. The estimated potential of this river is treble the hydro power presently generated and double the land area that is presently developed under major irrigation schemes. The aim of the government is to complete within 5 to 6 years a development originally planned to be spread over 23 years. The proposal is now under the active consideration of the World Bank and once feasibility studies are over the government will be seeking the assistance of the World Bank itself, the Sri Lanka aid group and other friendly countries for this purpose. It is hoped by Sri Lanka that a generous and enthusiastic response would be received for this proposal from donor countries. The current estimate is that 40 percent of the cost of the project amounting to about $800 million will have to be met from external financing. The additional $1,200 million required to complete the project would be generated within the country.

Mr. President, I applaud Sri Lanka on its 30-year anniversary of independence and join with many other Americans in wishing it continued success in the future. On a more personal note, I would like to take this opportunity to extend my best wishes to my good friend and Sri Lanka's able Ambassador Neville Kanakaratne. I have been informed that Ambassador Kanakaratne is relinquishing his duties on February 28 of this year. He has made an outstanding contribution to the growing friendship between the people of the United States and Sri Lanka during his stay in Washington and I wanted to publicly thank him for his friendship and assistance over the years.

LETTING THE DOLLAR FLOAT

Mr. PROXMIRE. Mr. President, the Treasury and Federal Reserve have recently begun to intervene more actively in the foreign exchange market. I believe that the new policy entails grave risks of substantial loss to Treasury and the Fed, and is detrimental to the economy as a whole.

The United States benefits from a floating dollar. Since 1973, U.S. policy has been to let the exchange rate of the dollar be determined in the marketplace. Other countries have sought to manage exchange rates for their currencies through massive central bank intervention in the markets. In 1977 alone central banks intervened to the tune of $30 billion. The losses are not reported in most cases, but there is good reason to believe that they were substantial. One indicator might be the record of U.S. losses on previous interventions. Since 1968, Treasury and the Federal Reserve have lost $1 billion in the foreign exchange markets. Nearly the entire sum reflects losses on swap agreements entered into with other central banks prior to 1973. From March 1973 until last month the United States, quite sensibly in my opinion, let the dollar float and avoided market intervention losses.

The parameters of the new policy are not clear, but the initial signs are worrisome. Not only has Treasury opened a large swap line with the German Central Bank to supplement the Federal Reserve System swap network, but the Fed also raised the discount rate in an effort to influence the exchange markets. There is a clear danger that policy will drift back to a defense of the exchange value of the dollar. Higher interest rates adopted to defend the dollar would create costs in the domestic economy far out of proportion to any conceivable gain. Furthermore, a policy of market intervention and high domestic interest rates is likely to be unsuccessful, except in the very short term, because exchange rates respond to different national rates of inflation, growth, and productivity. If the market is allowed to work, exchange rates will move to levels which will equilibrate international trade.

Central banks do not like to see the value of their currency determined by the marketplace. They prefer to manipulate the rate to serve their own objectives, which in too many instances include permanent export surpluses. Since 1973, foreign central banks have prevented their currencies from appreciating against the dollar as much as market considerations would have dictated. The result has been an artificial stimulus to U.S. imports and retardant for U.S. exports.

If exchange rates were allowed to move more freely, the nearly $30 billion trade deficit which the United States incurred last year would undoubtedly have been much less. Arthur Okun reports an estimate that the depreciation of the dollar in 1977 should eventually reduce our trade deficit by $7 billion.

Dollar depreciation need not be inflationary. As other economists have noted, if the Federal Reserve follows appropriate monetary policies, the minor inflationary implications from dollar depreciation can be totally offset.

If other countries choose to manipulate the exchange rates there is very little we can do about it. But at least we can avoid repeating the mistake ourselves. As Prof. Milton Friedman has observed, Treasury and Fed intervention is a matter of gambling with public money for ends which do not serve the public interest.

It is rare to find leading Keynesian economists and monetarists in complete agreement on an economic policy question, but that is the case with respect to letting the dollar float. Arthur Okun, Milton Friedman, and Wilson Schmidt, former Deputy Assistant Secretary of the Treasury, currently professor of economics at Virginia Polytechnic Institute, agree: The United States should stay out of the exchange markets. Schmidt suggests that central banks, by resisting the appreciation of their currencies relative to the dollar, may precipitate market disorder. Then they beg the United States to help them intervene. Disorderly markets and speculation may be more than a figment of central bankers' imaginations; they may be a product of their own foolish intervention strategies. Professor Friedman recommends, and I concur, that the time has come for Congress to seriously consider removing the authority of the Federal Reserve and the Treasury to enter into swap agreements for the purpose of exchange market intervention.

Mr. President, I ask unanimous consent that articles by Professors Friedman, Okun, and Schmidt, and a table of profits and losses on U.S. foreign exchange transactions be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

According to one high government official, the dollar had by early January come to be "like the girl who doesn't believe you love her until you spend a lot of money on her." So, at the President's behest, the U.S. demonstrated its affection. The Federal Reserve began doing more intervening in foreign-exchange markets. It also raised the discount rate, the interest rate U.S. banks pay when they borrow from the Fed. These measures were designed to calm turbulent markets and assure nervous foreign officials that the U.S. is serious about defending the dollar.

Whether these actions will succeed in tranquilizing the agitated exchange markets for any substantial period of time remains debatable. Of even greater moment, however, is the question of whether the U.S. should be making a serious effort to support the value of the dollar. Many prominent economists feel that there has already been too much intervention in the foreign-exchange markets.

One economist who holds this view very strongly is Wilson E. Schmidt, a former deputy assistant secretary of the Treasury and now a professor of economics at Virginia Polytechnic Institute. Sanford Rose, a member of FORTUNE'S Board of Editors, recently sat down with Professor Schmidt to discuss what's been happening to the dollar—and what, if anything, the U.S. government should do to prop it up.

SCHMIDT. Last year will go down in international monetary history as the year of the filthy float. The central banks of the industrial nations intervened massively in the foreign-exchange markets to reduce the huge glut of dollars that threatened to depress the U.S. exchange rate.

ROSE. Everyone knows that the dollar has been depreciating against the D-mark, the yen, and the Swiss franc. But few people realize that the dollar would be falling much faster if central banks did not intervene. In the last quarter of 1977, the German central bank alone put more than 10 billion marks into the foreign-exchange markets to keep the dollar from skidding. All told, central banks soaked up more than $30 billion in 1977.

SCHMIDT. If the Germans had let the dollar fall by as much as the marketplace would have pulled it down, it would now be worth considerably less than the current exchange rate of about two marks. An American consumer who wanted to buy a German product would have to pay more dollars than he does now, and that would curb our imports of German goods.

ROSE. By flooding the foreign-exchange markets with their currencies, Germany, Japan, and Switzerland are making it possible for Americans to buy imported goods more cheaply than they otherwise could. By restraining the rise in their own exchange rates, these countries are, in effect, subsidizing U.S. consumption.

SCHMIDT. That's certainly true. The official intervention also affects our exports, of course. If the marketplace—and not central banks—determined our exchange rate, a product that sold for a dollar in the U.S. would now sell for less than two marks in Germany. An American manufacturer might

be able to raise his dollar price without changing his previous mark price. By diverting goods from the U.S. market to the German market, he could increase his profit margin without damaging his sales potential. In other words, if the dollar had been allowed to seek its own level in the exchange markets, imports would have fallen and exports would have risen. Last year's trade deficit would never have topped $30 billion.

ROSE. Besides damaging our trade balance, official intervention in the currency markets also poses a more serious threat. When exchange rates are officially supported, local banks that receive foreign exchange from, say, exporters sell this exchange to the central bank, which pays for it by crediting their reserve balances. With their reserves thus augmented, the local banks can expand their loans and deposits by some sizable multiple of the foreign exchange they originally received. The potential therefore exists for a runaway expansion of foreign money supplies. That's what used to happen under the old Bretton Woods system. During the Sixties and early Seventies, a number of countries that were unwilling to adjust their exchange rates lost control of their money supplies.

SCHMIDT. We may be drifting back to the world of the Sixties and early Seventies, but we are ambivalent about that drift. And this ambivalence, in a very important sense, is the key to the recent crisis in the exchange markets. As 1977 wore on, it became clear that many countries were supporting the dollar at an overvalued level. Gradually, the marketplace came to understand this fact. Then the Swiss and the Germans got alarmed at the quantity of dollars they were absorbing. So they started complaining loudly about "being forced to finance the U.S. deficit." They strongly suggested that the U.S. should take a more active role in the defense of its own currency.

In other words, just about when private holders of dollars began to realize how extensively central banks were buttressing the U.S. exchange rate, a serious question arose as to whether the major European countries and Japan would continue to support the dollar unless the Federal Reserve started doing some supporting of its own. And no one was sure that the Fed would be willing to offer that support. This created widespread uncertainty, which undoubtedly triggered speculative movements, such as the flight of dollars into Swiss francs.

ROSE. You're suggesting that if the surplus countries had allowed the dollar to weaken gradually in the marketplace, there would not have been any political fuss or end-of-year crisis and our overall trade problem would now be much less worrisome.

SCHMIDT. Yes. Let's look at the record. From 1971 to 1973, when the U.S. exchange rate was allowed to fall sharply, prices of U.S. manufactures, relative to those of our major trading partners, also fell. Then these relative prices remained approximately stable from 1973 to about the middle of 1975. In 1975 and 1976, U.S. price competitiveness began to deteriorate as the American economy recovered from the recession faster than the rest of the world. This deterioration might have been at least partially arrested if our exchange rate had fallen. Instead, our competitive position worsened sharply as central banks stepped up their intervention to prevent the dollar from depreciating in late 1976 and 1977.

ROSE. Official intervention kept us from reducing the selling prices of our manufactures in foreign markets. And that is crucial. Everyone expects us to run a huge deficit with OPEC. What brought on the current crisis was the disappearance of our once-robust surplus in manufactured goods.

SCHMIDT. At the same time, by buying up huge quantities of dollars and reinvesting them in U.S. Treasury obligations, foreign central banks helped hold down interest rates in the U.S. Low interest rates tend to stimulate capital outflows and reduce capital inflows.

ROSE. In other words, official intervention in the currency market has weakened both the trade and the capital accounts of the U.S. balance of payments. That's certainly one way to undermine worldwide confidence in the dollar.

SCHMIDT. Some European central banks could take a lesson from the British. When the pound climbed to about $1.72, the British decided to support the rate. They didn't want the pound to appreciate any further because that would have distressed their exporting community. As a result, from the end of 1976 to October, 1977, the British bought up about $16 billion. Then they realized that by buying all those dollars they were creating too many pounds. Resolving to head off further inflation, the British announced that they would no longer support the dollar. The pound was free to seek its market level, and it gradually appreciated, which meant that the dollar gradually depreciated.

ROSE. There's too little awareness of the desirability of gradual market-determined currency changes. In theory, as the dollar depreciates, the domestic price level rises, and the real value of consumers' liquid holdings—for example, bank balances—declines. In an effort to rebuild their savings, consumers tend to buy less, so there is likely to be a temporary slowing in economic activity. If the Federal Reserve tries to offset this by stepping up the growth of the money supply, it aggravates inflation and so defeats the purpose of the depreciation, which is to reduce spending on imports and cut down on the consumption of domestically produced goods that could be exported.

A rapid and substantial fall in the value of the dollar makes it extremely difficult for the Fed to resist public pressures to expand the money supply. But if the exchange rate falls slowly and steadily, any adverse effect on the economy should be barely discernible.

SCHMIDT. What you say underscores the stupidity of even considering massive U.S. intervention to support the value of the dollar. If the Fed takes over the job of maintaining our exchange rate—a job it may not want and is probably not even capable of performing—it is merely postponing the inevitable. Eventually, the dollar will have to depreciate, and the longer we wait, the more steeply it will have to fall.

As you point out, if the eventual depreciation turns out to be extensive, the Fed may come under pressure to prevent a rise in unemployment by inflating the money supply. This action could easily nullify the effects of the depreciation, and those countries that now complain about having to finance the American deficit will be forced to do even more financing.

ROSE. Unfortunately, because of all that filthy floating you spoke of, it is now probably too late for gradual exchange-rate depreciation.

SCHMIDT. There certainly will be further depreciation, because the dollar is still seriously overvalued. That is borne out by the data on the non-oil trade balance. If we subtract out all our trade transactions with the OPEC countries, our 1977 trade deficit still amounts to approximately $7 billion. And it will probably get worse next year. So the value of the dollar must eventually fall by a fairly sizable amount, and the depreciation will have to be accompanied by a much tighter domestic monetary policy than we now have.

ROSE. An appropriately tight monetary policy could limit the inflationary impact of that inevitable depreciation. But a severe impact on the domestic economy could be avoided if countries would let the marketplace adjust exchange rates on a daily basis. That would correct minor balance-of-payments problems before they can become major headaches requiring drastic solutions. As things are, however, the float is getting to be so dirty, so managed, that it's coming to resemble a fixed-rate system. Wilhelm Röpke, the great German economist, once said that trying to hold the exchange rate constant, while allowing everything else to move, reminded him of the behavior of a circus clown. The clown, seeing that a piano stool was too far from the piano, tried with sweat streaming down his face, to push the piano toward the stool. Will this situation change soon?

SCHMIDT. I think not. I detect tendencies in the direction of increased exchange-rate rigidity. First, the Administration seems to be pushing for more international reserves, which reminds me of the days when both government officials and a considerable number of academicians argued that the expansion of international liquidity could serve as a substitute for exchange-rate adjustment.

Second, we have added to our swap lines—a procedure by which the U.S. borrows foreign currencies in order to redeem surplus dollars from foreign holders and thus prevent our exchange rate from falling.

Third, one hears a disturbing amount of talk from high officials about the need to intervene in order to prevent disorderly currency markets. But what is a disorderly market? There is no convincing definition.

Fourth, many countries are trving to freeze exchange rates by means of direct controls over international transactions. The U.S. government, for example, is under continuing pressure to introduce more import quotas and "orderly" marketing arrangements as a partial substitute for exchange-rate adjustment.

ROSE. Aren't such protectionist efforts self-defeating?

SCHMIDT. In my opinion, yes. When exchange rates are fixed, political retaliation usually limits the effectiveness of quotas. If we won't let the Japanese sell us steel, they might refuse to buy some of our goods—say, soybeans.

When exchange rates are reasonably free to float, the retaliatory mechanism works automatically. Suppose that the U.S. clamps quotas on a whole gamut of Japanese goods and, as a result, Japanese exports to the U.S. fall. Such a decline would cause a floating yen to drop in value, or, what amounts to the same thing, prevent from rising in value. This process would raise the prices of U.S. goods in yen, relative to what they would have been. Some industries in the U.S. would become more effectively insulated from Japanese competition, but at the expense of other industries that would find it harder than ever to penetrate the Japanese market. By restricting imports, we would end up restricting exports as well.

ROSE. We are also seeing new capital controls designed to keep exchange rates from changing. The Germans, for example, have just introduced measures to restrict capital inflows that would, of course, raise the value of the mark. This step helps account for the recent appreciation of the Swiss franc relative to the mark. Since speculators could not get funds into Germany, they moved them into Switzerland instead.

SCHMIDT. The term "speculation" is much misused in this context. Many people envision the typical speculator as an Arab sheikh who has just instructed his money managers to sell dollars and buy Swiss francs. But that's not a very accurate picture of reality.

ROSE. No, it isn't. There is little evidence that OPEC investors have moved large sums out of dollars. If they did, they would reduce the value of their remaining dollar assets, which, of course, are quite large. In other words, OPEC dollar hoards would buy fewer goods in world markets. By lowering the

global purchasing power of their assets, such speculators would, in effect, be remitting a portion of the oil tax that was imposed on the industrial world some four years ago.

SCHMIDT. Moreover, there are few attractive places where investors who want to switch out of dollars can go. The Germans don't want foreign money. The Swiss will take in a little, but not very much. And what the Swiss take in, they quickly funnel out again, primarily by encouraging their banks to place funds in Eurodollar investments. The French are not especially anxious to get foreign money, and neither are the Japanese. About the only place where flight capital is welcome is Britain.

ROSE. Of course, there are some exceptions. German and Swiss exchange controls apply to private, not official, speculators. And there is some evidence that central banks, particularly those in Latin America, have recently diversified their portfolios of foreign-exchange reserves, moving out of dollars and into marks and Swiss francs.

These portfolio shifts account for some, but by no means all, of the pressure on the dollar. The bulk of speculation against the dollar, of course, takes the form of what are called "leads" and "lags." If a German importer of American goods is pessimistic about the value of the dollar, he may decide to delay payment to his U.S. supplier. That's a lag. If the dollar then depreciates, the German company can pay off its dollar obligations with fewer marks than would have been required had it paid promptly.

A lead involves speeding up the payment of bills or dividends that are denominated in dollars. For example, U.S.-based subsidiaries of foreign corporations frequently accelerate dividend payments whenever the dollar looks shaky. Indeed, some of these companies have on occasion borrowed as many dollars as they could in the U.S. and sent the proceeds overseas. In the early Seventies, the Japanese trading companies borrowed huge sums in the U.S., knowing that after the dollar sank, they could repay their debts with a much smaller quantity of yen.

Leads and lags have the effect of increasing the supply of dollars in foreign-exchange markets, while simultaneously reducing the demand for them. The combination of more supply and less demand can cause a sharp fall in the exchange rate. During 1977, the U.S. needed a steady net inflow of about $14 billion in order to finance our excess purchases of foreign goods and services. If, during any given period, just a small number of the major buyers of U.S. exports decided to delay payment of their bills, the demand for dollars could have fallen far short of the supply, and the value of the dollar would have dropped, unless it was propped up by official intervention.

SCHMIDT. Speculation by leads and lags causes a great deal of transitory turbulence in the exchange markets and, incidentally, helps account for some major statistical discrepancies in the balance of payments. In the third quarter of 1977, for example, the gap between recorded debits and recorded credits reached a record $5.2 billion. Undoubtedly, a substantial part of this discrepancy reflected the fact that foreign importers were deferring payment for goods that had already been involved and reported to the Department of Commerce as U.S. exports.

ROSE. The more rigid exchange rates are, the more confident speculators can be about the direction of future exchange-rate movements. With so many opportunities for profitable speculation, it is little wonder that there is pressure on central bankers to support exchange rates.

SCHMIDT. Most of the pressure, I believe, is self-induced. No central banker wants the marketplace to determine what his currency is going to be worth. The major countries have never been comfortable with the present system of so-called managed floating. When the D-mark appreciates, the European currencies linked to it must also appreciate which creates political problems. I am afraid that if we get a few more crises of the kind we have just experienced, we could well slip back into a world of completely fixed exchange rates. And, short of tight coordination of the monetary and fiscal policies of the world's leading countries, there is absolutely no way a system of fixed rates can work.

BACK TO THE GAMING TABLE

(By Milton Friedman)

The Federal Reserve Board and the Treasury Department recently—though, to their credit, reluctantly—announced that they intend to gamble on a large scale with your money and mine. Of course, that is not how the official announcement phrased it. It spoke of "intervention" to support the dollar and prevent "disorderly" markets. But a spade is a spade even if it is called an unearthing implement. And gambling is gambling even if it is called "intervention."

How does the Fed or the Treasury intervene to "support" the dollar? One example is the Fed's borrowing marks from the German Bundesbank under a so-called "swap" agreement and using them to buy dollars. The purchase of dollars tends to raise the price of dollars in terms of marks—but that is only half the story. Sooner or later, the Fed has to buy back marks (i.e., sell dollars) to repay the loan, which tends to lower the price of dollars. If the Fed gets more marks per dollar when it sells dollars than it paid to buy the dollars, it will end up making money; if it gets fewer marks per dollar, it will end up losing money.* The Fed is therefore gambling on the price at which it will be able to buy back the marks.

THE TEST OF SUCCESS

The announced purpose of the official gambling is to keep private speculators from driving the price of the dollar below the level justified by fundamental economic factors—to offset, as the Fed and Treasury would put it, "destabilizing" speculation. How can we judge whether the gamble succeeds? In general, there is a simple test: whether it makes or loses money. If recent downward pressure on the dollar was a speculative flurry, then the dollar will rebound, and the Fed will need fewer dollars to buy back the marks to repay its borrowings than it acquired when it sold the marks. The difference will be pure profit. Conversely, if the dollar does not rebound, the Fed will lose money and its operations will have simply postponed briefly a necessary change in exchange rates.

Which outcome is more likely? Of course, anything can happen in a particular case, but the verdict of experience since 1971 when the dollar was first cut loose from gold is unambiguous about average performance. Here is the record of gains or losses on foreign exchange transactions, as reported by the Fed:

	Million loss
1971	$8.1
1972	51.9
1973	47.4
1974	34.0
1975	241.8
1976	25.1
1977	146.0

A total of more than $550 million of the taxpayers' money lost on the international-currency gaming tables. Hardly a record that would justify anteing up to finance another go.

This experience is not unique. The cumulated exchange losses of the central banks of Britain, Germany and Japan over this period have never, so far as I know, been totaled, but there is little doubt that they are a multiple of U.S. losses. And is that surprising? What else would you expect from gambling with other people's money?

During another period of disturbed foreign exchanges, I wrote in this space (April 23, 1973), "The swap agreements [between the Fed and foreign central banks] serve no useful function and Congress should terminate the Fed's authority to enter into them. Their only role is to enable the U.S. Government to 'intervene' in order to affect exchange rates. We and the world would be better off if exchange rates were determined in a free market. And whatever other countries do, the U.S., as the source of the key international money, has no business engaging in currency manipulation to affect exchange rates."

THE REAL TASK

Five years of additional experience of throwing good money after bad only reinforces that conclusion. The Fed's task is to provide stable money at home. The dollar has declined in value against the German mark, the Swiss franc and the Japanese ven because the Fed—with a strong assist from Congress and the Administration—has failed in that task. If we succeeded in curbing inflation, the exchange rates would take care of themselves. If we continue to fail, it only makes matters worse to use currency intervention to paper over the consequences of domestic inflation.

SPECULATION AND SPECULATION

(By Milton Friedman)

During the recent international monetary crisis, governments in all lands blamed currency speculators for their troubles. At the same time, the governments themselves engaged in currency speculation—though of course they called it by a different and more dignified name. They engaged in "intervention."

The private speculation that the governments deplored was socially useful and had desirable effects. The official speculation in which the governments engaged was socially harmful and had undesirable effects.

USEFUL

Private speculation forced governments to face up to reality, to recognize that the exchange rates they were seeking to peg were artificial. It forced Japan and Germany in particular to recognize that their currencies were undervalued. It forced them and other countries to give the market a greater role have conquered in any event, sooner or later. Speculation made it sooner rather than later and thereby reduced the harm done by the artificial exchange rates.

Official speculation was very different. Its aim was to preserve artificial exchange rates, to postpone the recognition of reality. Had it succeeded, it would have permitted economic distortions to cumulate to still more harmful proportions.

Private speculators are far from omniscient. This time, they happened to be right and so made handsome profits. Next time, they may be wrong and suffer grievous losses. But in either case, they speculate at their own risk with their own money.

Official speculators, too, are far from omniscient. This time, they were wrong; next time, they may be right. But there is an important reason why they are more likely to be wrong than right. They speculate not with their own money but with the taxpayers' money. As a result, there is little pressure on them to control their natural impulse to resist change.

Regrettably, the U.S. participated in the

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* In practice, the swap agreements provide for joint gambling by the Fed and the foreign central bank, the gains and losses being split between the two.

official speculation. Prior to the so-called U.S. devaluation on Feb. 12, 1973, the Federal Reserve sold marks that it held and marks that it borrowed from Germany in a vain attempt to hold down the dollar price of the mark. It sold the marks for about $320 million. After the devaluation, it would have cost more than $350 million to buy back the same number of marks. The result? A negligible postponement of mark appreciation, at a cost of at least $30 million to the U.S. taxpayer and a worsening of the balance of payments, since that $30 million also had to be financed. The U.S. taxpayer got off cheaply. Official German and Japanese speculation probably cost German and Japanese taxpayers more than $1 billion—to equally little avail.

But we have not always gotten off so cheaply. And we may not do so in the future. Official U.S. speculation before the closing of the gold window on Aug. 15, 1971, cost the American taxpayer a much larger sum. And Secretary of the Treasury George Shultz, at the end of the recent European negotiations, announced that although the U.S. was not "committed" to intervening to support the new price of the dollar, it would do so at its discretion from time to time.

As U.S. citizens, we cannot and should not prevent German and Japanese governmental officials from speculating with their taxpayers' money. That is a task for German and Japanese citizens. But we can and should restrain our own officials.

HARMFUL

It would be nice if we could simply forbid U.S. Goverment purchase of foreign currencies. But that is not practicable. Foreign currencies must be purchased to pay government expenses abroad. But Congress could at least forbid the purchase or sale of foreign currencies to influence exchange rates.

Moreover, the Federal Reserve speculates via so-called swap agreements under which we agree with other countries to lend them dollars on demand for a short period and they agree to lend us their currency. These swap agreements now total something like $12 billion.

The swap agreements serve no useful function and Congress should terminate the Fed's authority to enter into them. Their only role is to enable the U.S. Government to "intervene" in order to affect exchange rates. We and the world would be better off if exchange rates were determined in a free market. And whatever other countries do, the U.S., as the source of the key international money, has no business engaging in currency manipulation to affect exchange rates.

THE FLOATING—NOT SINKING—DOLLAR

Our dollar has been weak in foreign exchange markets relative to other currencies mainly because the U.S. economy has been *strong*. The current episode of our falling exchange rate presents a sharp contrast to the recent experience of the United Kingdom and to our own experience earlier in the decade. It is not the result of above-average inflation rates or poor economic performance.

In 1977, the United States was the only capitalistic industrial country that met its target for economic growth; in the process, we generated higher demands for all types of goods, naturally including imports. And the rise in U.S. imports bolstered the sagging growth curve of other economies—perhaps even saving them from renewed recession. With our imports growing and our exports stagnating because of the weak economies of our trading partners, a lot of dollars were pumped into the rest of the world. Although foreign investors have a strong appetite for dollar securities, it isn't unlimited. With a U.S. trade deficit of $30 billion, it was hardly surprising to find an excess supply of dollars on world financial markets and a resulting adjustment of exchange rates, which lowered the value of the dollar relative to the average of other major currencies by 4½ percent in 1977.

The developments during 1977 were precisely the reverse of what happened during 1975. At that time, the U.S. economy was the sickest in the world, and we were spreading our acute recessionary disease abroad with an 11 percent decline in our real imports. Because we ran a substantial trade surplus, dollars were scarce throughout the world, producing an average rise of the dollar in foreign exchange markets by about 8 percent. That increase in the value of the dollar evidently created an overvaluation, making imports excessively attractive to us and our exports unduly expensive to others. When trade flows finally adjusted to this change in exchange rates after a year or two, that swelled our trade deficit of 1977.

In short, exchange rates have been responding to real phenomena: a U.S. trade deficit that is unsustainably high and surpluses in Germany and Japan that are unreasonably large. While exchange markets can get caught up in a speculative fever and can overshoot, there is no evidence to date that they have gone haywire, or even that they have necessarily completed the appropriate adjustment. Our exchange rate is still a few percentage points higher than it was three years ago, compared to the average of other major currencies; nobody can say with any conviction that the dollar is now undervalued (or still overvalued). To set a target for the exchange rate and try to maintain it would be like freezing the thermometer.

There are, to be sure, some unwelcome consequences of the decline in our exchange rate. First and foremost are higher prices of imports from Japan and Germany, and the additional inflationary effects on prices of U.S.-made products that compete with those imported goods. The drop in the dollar's exchange rate during 1977 is likely to add an extra half a point to our price level over the next year or two. Second, the instability of foreign-exchange values creates anxiety and uncertainty in international capital markets. When exchange markets are gyrating, foreign investors holding dollar bonds and stocks cannot feel secure about the ultimate purchasing power of those assets over the goods they buy. In a period of sharply fluctuating exchange rates, people may make very different bets on the future course of those rates, leading to large and destabilizing portfolio shifts. The results are regrettably disruptive for international and even domestic investors, although they do not add up to a crisis by any stretch of the imagination.

Not all of the consequences are undesirable. American industries that export heavily and those that compete strongly with German and Japanese imports will generate more jobs and earn more profits as a result of the movement of exchange rates. According to one statistical estimate, the decline in the exchange rate of the dollar during 1977 should ultimately reduce our trade deficit by about $7 billion below what it would otherwise be.

To the countries with rising exchange rates, the costs and benefits are reversed. They will get the boon of lower inflation from cheaper imports and the bane of lower export demand. I must say that some of the complaints from abroad do not make sense. For example, many comments from Germany fail to recognize the anti-inflationary benefits to them of lower import prices—even though the Germans stress their eagerness to control inflation. Some foreigners clearly want us to feel embarrassed by the drop in the dollar's exchange rate.

Others argue invalidly that U.S. oil imports have been the major source of the weakness. In fact, oil imports accounted for only about a third of the increase of total U.S. imports during 1977—in large measure an inevitable consequence of our economic growth. Moreover, the U.S. oil imports contribute little to the excess supply of dollars since the OPEC countries have been and remain very willing holders of dollar assets. To be sure, the United States needs an energy bill, and I hope the Senate conferees have made a New Year's resolution to achieve a prompt compromise on what is shaping up as a constructive long-run program. But no conceivable energy bill can lower our oil imports significantly for some years to come.

The plain fact is that some countries have been relying on rising exports to lead them back to prosperity, rather than taking the steps needed to promote growth at home. Their strategy can succeed only if the United States is willing to accept huge trade deficits and to go along with an artificial pegging of exchange rates to sustain that. It is clear why those countries don't enjoy the adjustment of exchange rates, but it should be equally clear why we cannot let them have their way.

Actually, U.S. policies in recent months have had the healthy effect of inducing some of our trading partners to reexamine their economic policies. Japan has responded in an encouraging way by adopting a more stimulative fiscal policy and by starting to liberalize its restrictive policies on imports. Other countries have to be mature enough to face their responsibilities as well.

Meanwhile, the United States must be alert to the causes and consequences of its trade deficit and its falling exchange rate. Our fundamental competitive position will improve over the years ahead if we can strengthen productivity, spur capital formation, slow the wage-price spiral, and economize on imported energy. But we must continue to refuse to freeze the thermometer. Our government should be buying dollars in exchange markets only when the markets are truly disorderly. And U.S. monetary policies ought to be focused on unemployment rates, inflation rates and investment rates—not exchange rates. We surely don't want to bring back the bad old days of 1975 with a strong exchange rate and a weak economy.

CHINA'S OIL POTENTIAL

Mr. KENNEDY. Mr. President, it is clearly in the interests of the United States to see China's petroleum potential, whatever it may be, developed to the fullest. Every additional barrel that can be found puts off a little further the day when world demand exceeds OPEC's production capacity. In the short run there would be a direct benefit for American and European consumers if Chinese oil displaces Saudi Arabian oil in Japanese markets.

On my recent trip to China I came to the conclusion that China's oil potential may offer an important opportunity for American trade. American petroleum technology would be an extremely valuable commodity if China wishes to quickly develop its oil potential. It is possible that both nations could realize enormous benefits from such trade.

In a recent article in Forbes (Feb. 6, 1978), James Cook discusses China's oil potential and the possible impact on U.S. trade. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OIL FOR THE LAMPS OF TOKYO?

(By James Cook)

In the thirties a nearly forgotten novelist, Alice Tisdale Hobart, wrote a bestseller called

Oil for the Lamps of China about an American kerosene salesman who brought light, if not enlightenment, to the downtrodden Chinese. But China imports oil no more. These days, the People's Republic of China, alone among the countries on the Asian mainland, is self-sufficient in oil, possessed of oil prospectively so abundant that the more exuberant of the West's new China hands sometimes talk of China these days as another Saudi Arabia.

Whether it is, probably no one knows, not even the Chinese themselves, but last month the People's Republic took some important steps toward finding out. In early January, a delegation of 16 top Chinese oil experts, including Sun Ching-wen, president of the Petroleum Corp. of the People's Republic of China, arrived at New York's Kennedy Airport at the invitation of Secretary of Energy James R. Schlesinger for a three-week tour of the U.S. oil industry. What Schlesinger wanted to show them was not simply U.S. production, refining and marketing facilities, but also the equipment manufacturing facilities that produce the rigs, pumps, meters and drilling equipment that make the U.S. oil industry the most proficient in the world. "The Chinese are seeking ways to adapt U.S. equipment and technology to the development of Chinese oil reserves," says an Energy Department official. "This isn't a buying expedition." And it's not—yet. But as Christopher H. Phillips, president of the National Council for U.S.-China Trade, points out: "They're not sending this delegation just to sightsee. I think they're seriously interested in American oil equipment."

Meanwhile, last month in Tokyo and Peking, negotiators were working out the final details of a precedent-setting eight-year agreement to sell Chinese oil to Japan. Japan has been importing oil somewhat erratically from China since 1972, and the new agreement would formalize an import pattern the Chinese have been trying to firm up ever since 1974. It will set the specified quantities for delivery within specified time periods, so essential in a centrally planned society like China's, and set the groundwork for a significant expansion of China's already substantial oil production.

By oil industry standards, the deal is nothing spectacular: 140,000 barrels a day in 1978, rising in contractual quantities to as much as 300,000 by 1982—about as much as Dubai now exports. But that appears to be the minimum. By the end of the eight-year period, Chinese Vice Premier Li Hsien-Nien recently announced, shipments could reach as much as 600,000 barrels a day.

Just how much oil the Japanese decide to take will depend upon what accommodation Japan and China make to the peculiar nature of Chinese oil. Unlike the benchmark Arabian crude Japan imports from the Middle East, Chinese oil has an unusually high (about 30%) paraffin content and yields an unusually high proportion of low-value residual oil—70% vs. 44% for Arabian light. Instead of being dewaxed and refined, the bulk of the 120,000 barrels a day the Japanese imported last year from China was burned in power plant boilers.

Given the demand for electric power, there's a limit to how much Japan can burn directly, however, and so the Japanese Ministry of International Trade & Industry has been trying to persuade the Japanese oil companies to build the refinery capacity to dewax the Chinese crude so it can move into various other petroleum markets as well. Industry is resisting. Oil is abundant these days and prices already sky high, so the cost has so far seemed prohibitive. "At the moment," says an official of one of Japan's great trading companies, "it is just not feasible to construct such facilities unless the Chinese promise to supply the crude at a cheaper price—$1 to $2 a barrel less, say—and I can't see that happening." The alternative is for the government to subsidize the construction of such dewaxing facilities, and MITI has asked Japan's finance ministry to fund the construction of a $103-million, 30,000-barrel-a-day refinery, so far without success. But this could change. The pressure is on Japan to reduce its exports to American and European markets. By trading more with China, Japan could simultaneously reduce both its need for exports to the West and its dependence on Arab oil. In today's strange, interdependent world, the net result of all this could be to reduce the pressure on the dollar.

"In exchange for the oil," Forbes' Lawrence Minard cabled from Tokyo last month, "the Japanese hope to sell to China directly the technology they need in steel, petrochemicals, fertilizer, ports and harbors and power generation, and make up the rest with drilling rigs, refinery equipment and computers provided through Japanese trading companies from U.S. sources." Overall, the prospects are so seductive that, for the moment at least, Japan is no longer pressing its dispute with China over areas offshore in the China Sea.

For the Chinese, oil has emerged as a central element in its long-term dreams of development. In the 17 months since Mao's death, China's Chairman Hua Kuofeng has set as a major objective China's reaching the level of the advanced industrial countries by the year 2000. To do that, in a country not much more advanced than Europe in the 18th century, he is going to need massive amounts of Western technology. China can't hope to pay for that technology with the income from exporting rugs, pigs' bristles, pork, varnish or even feathers. The most substantial foreign-exchange earner is oil. "Oil is the major export they have to earn the foreign exchange they need to accomplish these other things," says Christopher Phillips. "Their leadership appears to have made a decision to give oil development a very high priority."

Which is why the 16-man delegation spent a good part of its time in the U.S. touring oil equipment producers like Dresser Industries, Hughes Tool Co., National Supply Co., Smith International and Texas Instruments. The new Japanese agreement will bring China around $6.5 billion in oil revenue this year, with the total progressively rising to at least $15 billion by the early Eighties. While the money for the oil will come from Japan, much of it will eventually find its way to the U.S. for buying oil equipment and technology. So far the Chinese have bought only about $150 million worth of U.S. oil equipment over the past five years, but the ultimate market could be in the billions—exploitation of oil resources doesn't come cheap, as the Mexicans are learning. Thus again, in an indirect way Japanese pressure on the dollar could be greatly eased.

At this point, Chinese oil production is thought to run around 1.8 million barrels a day, in line more or less with second-rank producers like Abu Dhabi or Indonesia, and in contrast with the U.S.' 8 million barrels a day or Saudi Arabia's 9 million. But China has barely begun as an oil producer. Its "credible" reserve estimates, as Randall Hardy calls them, range from about 20 billion barels (two-thirds of the U.S.) to about 100 billion barrel (one-quarter those of Saudi Arabia's). "The foremost fact about Chinese oil," says Hardy, a Department of Energy official who has made himself expert in Chinese oil, "is that we don't know much that we're talking about. The Chinese haven't published any economic statistics since 1960. They'll say, 'We produced 3.5 times what we did in 1965,' which is fine if you know what they actually did then."

But even these minimum reserve figures would suggest that China has the potential to expand its present production dramatically. Chairman Hua announced not long ago that China intended to develop "ten more fields as big as Taching" by the year 2000, and Taching—named "Great Celebration" in honor of the revolution's tenth anniversary—is far and away China's biggest producing field, with an output some experts estimate at upwards of 700,000 barrels a day.

Many outsiders, including those in the U.S. Central Intelligence Agency and the Department of Energy, are skeptical of China's ability to come even close to realizing such ambitions, but Selig S. Harrison, who has just written an exhaustive study of Chinese oil, *China, Oil & Asia*, for the Carnegie Endowment for International Peace, thinks they have a "better than 50-50 chance." According to Harrison, "Peking has boldly embarked on a crash program to push this level upwards as rapidly as it can and has correspondingly started to downgrade the relative emphasis given to its investment in other spheres. . . . The unannounced Chinese target is 400 million tons (3 billion barrels) by 1990." And 3 billion barrels annually is upwards of 8 million barrels a day—about what the U.S. produces these days from its declining reserves and close to what Saudi Arabia currently produces.

In the past, China's oil development has been slowed by political considerations. The Gang of Four, Petroleum Minister Kang Shih-en charged last year, purposefully put "politics in opposition to professional work and being red in opposition to being expert." But the Hua regime has instead begun directing China's economy toward rapid development. As a party newspaper put it recently: "The struggle for production comes before the class struggle. The class struggle should be made to promote the development of the national economy."

Most of China's oil production currently comes from a group of fields in the Northeast—Taking, Shengli and Taching—which is perilously close to the Soviet border. But most of its future production will have to come from the remote provinces of the West where production and transportation costs are higher, or, more likely, from the more accessible, more easily exploited, but still largely unexplored offshore areas in the Po Hai Gulf and in the Yellow and China Seas. Which explains China's particular interest in U.S. technology these days: Nobody is more experienced than the Americans in offshore development.

Western oilmen like to dream of moving in under management contracts as they have all over the rest of the world, and helping the Chinese realize their oil potential. But nobody seriously believes that is likely to happen. The new regime may be more pragmatic and less seclusive than the old, but it is unlikely to seriously dilute its commitment to the Maoist principle of self-reliance. "Anything that involves foreign equity, product offtake or a share of the profits on a continuing basis," says Randall Hardy, "would be considered exploitative and inconsistent with the emphasis on self-reliance. But that doesn't preclude technical assistance. They have a fair number of petroequipment technicians—European—not only selling equipment directly but going over there and giving assistance on how it's used."

"The Chinese are very practical, very pragmatic," says Christopher Phillips, who suspects that the Chinese are more flexible than Hardy believes. "Isn't there some way they could agree to what amounts to foreign participation without actually calling it that? I'm not sure this will happen, but I have a hunch things may be moving in that direction."

SRI LANKA INDEPENDENCE DAY

Mr. MATHIAS. Mr. President, Sri Lanka celebrated its Independence and National Day on February 4, the date on which the country achieved independence from Great Britain in 1948.

In 30 years of independence, Sri Lanka has regularly reaffirmed its deep-rooted

faith in the democratic process. The promises and guarantees of its Constitution are carried out in practice. Freedom of the press has never been suspended, and Buddhists, Hindus, Christians, and Moslems live together and worship in harmony.

Sri Lanka stands out among developing nations in its level of social achievement. Life expectancy is 60 years, literacy is 85 percent (95 percent among younger people), education is free through the university level, and health care is provided to all. Moreover, in the last 30 years, the income distribution has become more equitable.

The Overseas Development Council uses a Physical Quality of Life Index (PQLI) to measure a country's success in meeting basic human needs for the majority of its population. Despite its annual per capita GNP of only $130 in 1977, Sri Lanka received an 83 point ranking out of 100 on the PQLI. This rating was higher than that of many countries with considerably higher per capita, GNP's, some as high as $1,091. Sri Lanka has every reason to be proud of these statistics.

This year's Independence and National Day celebration was a particularly special occasion since the Prime Minister, Mr. J. R. Jayawardene, assumed office as the country's first Executive President under the new Constitution. Mr. Jayawardene has been committed for the last 10 years to the establishment of a strong Executive elected directly by the people, as opposed to the previous parliamentary form of government, where the Executive was chosen from among the members of the majority party in the legislature. In the seventh general election since independence, Mr. J. R. Jayawardene was returned to power with an unprecedented majority of 140 seats in an assembly of 168 seats.

When Mr. Jayawardene assumed the presidency of Sri Lanka, one of the fundamental principles of our constitutional form of government—the separation of power between the executive, the legislature, and the judiciary—became one of the basic tenets and guiding principles of the Constitution of Sri Lanka.

I commend the Sri Lankans for their commitment to creating a free and just society, and I offer my congratulations to the people of Sri Lanka on the occasion of the 30th anniversary of their independence.

GENOCIDE CONVENTION SHOULD BE RATIFIED

Mr. PROXMIRE. Mr. President, I would like to address an issue about which I feel very strongly. It concerns a spurious argument which has often been used against the passage of the Genocide Convention. The convention, as every Senator knows, would condemn the destruction of an ethnic, national, racial, or religious group as an international crime.

The treaty was first submitted in 1949, and one of the arguments which its present day opponents use against it goes roughly as follows. They argue that the Senate would have already passed the treaty if it were in the best interests of the United States.

To make such a statement is a clear abnegation of our responsibility as Senators who are now serving in this body. It is not our duty to perpetuate the procrastination of the past. To the contrary, it is our duty to correct past oversights. And one of the most serious oversights in the history of this body has been its inaction on the Genocide Convention.

It is right for us to pay heed to the lessons of history—there is much in our past which can light the way to a better future. But the past should not justify the future. My feelings would be no different if the treaty were 50 or even 100 years old for they are based on logic and reason, not on the passage of time.

Many of the original reservations to the treaty were sound ones, and deserved the careful consideration of the Senate. America should always be careful about entering into a treaty. But thorough hearings have been held, and it is now time for each Senator to weigh the merits of the convention in his own conscience. We can all look back over the long course of history and find tragic failings in the action of men in all civilizations. I only hope that our failings with regard to the Genocide Convention will not be realized when it is too late. I call upon the Senate to pass the Genocide Convention as soon as possible.

SEX AND VIOLENCE ON TV

Mr. THURMOND. Mr. President, last Thursday, February 2, 1978, the Woodruff News of Woodruff, S.C., carried an editorial which I think should be brought to the attention of the Senate. In it, the Congress is encouraged to find a quick solution to the problem of television violence, even if the answer lies in an amendment to the Constitution. I agree with the thrust of this fine editorial, and intend to push for further action on my bill—S. 1178—to amend the Communications Act of 1934 to prohibit the broadcasting of television sex and violence.

Mr. President, this is an important issue, and one on which I receive steady mail from all over the country. Every citizen who writes to me has expressed support of S. 1178, and is most firmly opposed to the type of programing that this editorial addresses.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Woodruff (S.C.) News, Feb. 2, 1978]

95th & TV

One of the areas in which Congress has consistently failed in its obligation to the public is in the field of television violence—used to attract audiences to sell products.

An infuriated husband kills six children in Illinois in the most brutal fashion. An intruder slips into a girls' dormitory in Florida and strangles and beats five sorority sisters, two fatally. It now happens frequently in America—just like the violence on commercial television.

Congress does next to nothing—the committees which regulate the industry are partly composed of members who own interests in broadcast stations. In addition, the television networks are so powerful few politicians dare attack them.

The networks claim freedom equal to that of the press when assailed—but there's quite a difference between the print media and government-licensed monopolistic television station operations. Newspapers report news. Television creates fictional crime shows, in color and often glamorous, to attract viewers.

Congress, of course, holds hearings from time to time and some members try to do something. But calling witnesses from both sides usually leads to confusion and inaction. Anyone with fourth-grade common sense knows television sells crime. Shock, violence and brutality attract. People congregate at a tragic accident, etc. This human trait is exploited by the networks to sell products, and reap billions in profits, which continue to increase.

The 95th, perhaps with the lead of President Carter, should direct the FCC to minimize crime on television, and delegate to it the authority to do so. If this requires a constitutional amendment, one suspects three-fourths of the states would ratify it.

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications were received on February 6, 1978.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

Mr. President, I ask unanimous consent that the two notifications be printed in the RECORD.

There being no objection, the notifications were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
February 6, 1978.

In reply refer to: I–12392/77ct.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director, Defense Security Assistance Agency.

Attachment.

WASHINGTON, D.C.,
February 6, 1978.

In reply refer to: I-13467/77ct.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director, Defense Security Assistance Agency.

THE PEOPLE'S REPUBLIC OF CHINA, JAPAN, AND THE UNITED STATES—A STATEMENT BY SENATOR EDWARD M. KENNEDY

Mr. CRANSTON. Mr. President, yesterday I introduced in the RECORD the perceptive, firsthand statement of Senator KENNEDY upon his departure from a 2-week visit to the People's Republic of China.

After Senator KENNEDY completed his trip to the PRC, he spent a week in Japan studying, among other things, the relationship of Japan to China and the relationship of Japan to the United States. Senator KENNEDY also visited Hiroshima, a visit which reinforced his firm commitment to the necessity of nuclear arms control.

When Senator KENNEDY returned to Massachusetts, he made a report on his trip to his constituents. I think this timely and knowledgeable report will be of value to us all. I also should add that the trip by Senator KENNEDY was entirely at his own expense, but all of us are the beneficiaries of his experience.

Mr. President, I ask unanimous consent that the statement of Senator EDWARD M. KENNEDY on "Returning from China and Japan," dated January 17, 1978, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD as follows:

STATEMENT OF SENATOR EDWARD M. KENNEDY ON RETURNING FROM CHINA AND JAPAN

I am pleased to be back in Massachusetts after two weeks in China and one week in Japan.

This is a historic time for the future of Asia. For the first time since Pearl Harbor the United States enjoys a sustained peace in that vital region. China and Japan now have friendly relations for the first time in this century. The United States now has friendly relations with both of these nations. We must do all we can to build on these important and encouraging developments, in order to assure the future peace and prosperity of both Asia and the world.

I return to Massachusetts more committed than ever to helping move forward the process of normalizing relations between the United States and the People's Republic of China. And many hours of conversation with China's leaders, including an hour and a half discussion with Vice Premier Teng Hsiao-Ping convinced me of their personal desire for early normalization of relations with the United States.

No one should forget the fundamental transformation in U.S./China relations in recent years, from confrontation and mutual isolation in the 1950's and 1960's to limited cooperation and parallel action today. A historic and strategic opportunity is open for us to expand our cooperation, and to make it work to the benefit of international peace and progress.

The key obstacle to normalization of relations remains the future of the 16 million people on Taiwan. I did not expect, and cannot report, progress in resolving that issue. But I believe the Chinese have a better understanding of the American view that Taiwan should enjoy a peaceful and prosperous future. I also believe that we can take effective steps to create a more positive political climate in which normalization can take place. These steps include:

Exchanges of visits and meetings of leaders.

Continued drawdown of U.S. Military Forces and of the official U.S. presence in Taiwan; and

Expansion of trade and cooperation between our two societies.

While in China, I suggested that the U.S. supply advance oil technology in exchange for a share of Chinese oil production.

I also asked the Chinese leaders to consider a number of requests by their citizens to visit their relatives in the United States, including three families in Massachusetts.

And I asked them to consider six proposals by the National Academy of Sciences for new cooperative efforts in the field of Science and Technology.

I am hopeful that the Chinese will give favorable consideration to these specific proposals. By moving forward on these areas and on the basic political issues, I am hopeful that we can develop full and constructive relations with a government of 900 million people, a government that has been established for almost three decades on the Mainland of China, and that is becoming an increasingly powerful force in Asia and the world.

In Japan, I had the chance to see first hand the strength and importance of our bilateral relationship. In meetings in three Japanese cities—with students and faculty, labor and business leaders—it was apparent that our two industrialized democracies share common challenges, common opportunities, and a common future. In meetings with government leaders, including Prime Minister Fukula and Trade Minister Ushiba, it was clear that our alliance is steadfast and that we are committed to working more effectively together to overcome the economic crisis we now face.

My family and I also had the moving experience of visiting Hiroshima, and paying tribute to a city that stands as a constant reminder of the horror of nuclear devastation. We drew hope, as well, from Hiroshima's magnificent recovery over the past three decades, both material and spiritual. I spoke there about the goal for nuclear arms control, and the need for wise Japanese and American policies to ensure that nuclear energy will be used only for peaceful purposes.

I also had the opportunity to be in Tokyo while Ambassador Strauss and Minister Ushiba were completing the current phase of trade negotiations between our two countries. I spoke in that city of the concern of Massachusetts workers for their jobs and of the threat that the massive Japanese trade surplus poses to healthy relations between our two countries.

I believe that the Japanese increasingly recognize the danger of this threat, and I am hopeful that the efforts they are undertaking will be effective in reducing their current excessive surplus and in defusing the growing protectionist pressures that exist in both our nations. As I warned in Tokyo, it is extremely unlikely that Congress will continue to support an open trade policy by America, when a variety of restrictive trade policies continues to be practiced by Japan.

The interests of Massachusetts have played an important role in this trip in both China and Japan. I discussed technology cooperation with the Chinese, including computer exports of potential benefit to the Commonwealth. Japanese business leaders expressed to me their interest in considering future investment in Massachusetts. I intend to pursue these openings in the months ahead. And in Japan, I also had the opportunity to see the strong ties between Boston and our sister city, Kyoto, whose Mayor told me of the high importance he attaches to our continuing relationship.

I was also pleased to be able to visit Johnny Foo and his family in Shanghai. Mr. Foo hopes to visit his parents in Stoneham. I have just visited his parents' home this morning, and I told them that the Chinese are now considering my request that their son be allowed to visit them.

And, of course, Joan and I were very pleased to obtain agreement from the Peking Philharmonic Orchestra to send five or six musicians to join the Boston Symphony Orchestra next summer in Tanglewood. This is an important step forward in the field of musical cooperation between the United States and the People's Republic. I join with Maestro Seiji Ozawa in expressing satisfaction that this step should take place between Peking and Boston.

Three times in the past generation, Americans have sent their sons to fight in wars in Asia. Our highest national goal must be to work for peace in Asia and in other areas of the world, so that we may prevent such sacrifices and destruction in the future, not only by Americans, but by all peoples everywhere. Working together with both China and Japan, I am confident that our nation can achieve this goal.

THE COST OF PEACE

Mr. JACKSON. Mr. President, at the January 14 meeting of the United Jewish Appeal West Coast Conference in San Diego, Leonard Strelitz, general chairman of the conference, preceded me on the platform. He made a stirring and informative statement on the significance of the UJA campaign which, I believe, will be of special interest to my colleagues just at this time.

I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE COST OF PEACE: AN OPPORTUNITY TO GIVE

Mr. Chairman, Irwin Field, Senator Jackson, Honored Guests: No longer can we say that space and distance separate the West Coast from our National Campaign. The world has changed the course of Jewish life, and Jewish life has changed the course of the UJA.

So tonight, it is my pleasure to announce that UJA is building a new leadership team

on the West Coast—picking the best elements in the community to accelerate our campaign. Instead of one National Chairman for the Region, there will be three:

1. From Los Angeles, young in age, but old in experience, Irwin Field.

2. From San Francisco, my friend and that community's past Campaign Chairman, Richard Goldman.

3. From here in San Diego, a dynamic campaigner, which helps explain this community's 90 percent campaign increase, Herbert Solomon. And, I am asking Herb to direct a long-range planning committee for the West Coast.

SAPIR AWARD

Now, the UJA wishes to recognize how concerted leadership can make the difference, by honoring San Diego with the Annual UJA Pinhas Sapir Community Achievement Award.

The Sapir Award is given for excellence in campaigning; professional and lay leadership and community development.

For the 1977 Campaign, San Diego went from $1.8 million to $2.3 million. And this year, they are running almost 100 percent ahead of last year, and should reach $4 million.

I would like to call up last year's Campaign Chairman, now Federation President, Arthur Levinson; the new Campaign Chairman, Ernest Rady, and San Diego's Executive, Don Gartner.

Friends, not since man walked on the moon has the world been so captivated by an event as bold and important as the meeting of Begin and Sadat in Jerusalem.

It is hard to believe that our universe changed so drastically only 55 days ago. For with Sadat's 49-minute trip from Cairo to Tel Aviv, a new era of opportunity opened.

Now, we don't know if the process will bring peace . . . or frustration . . . or disappointment. But something profound has occurred.

"You see what we have done together. Your strength has helped bring us to this day. We've avoided another war," Menachem Begin told me in his home shortly after Sadat left Jerusalem.

And, tired but exhilarated, he looked at me and explained: "We see the light at the end of the tunnel!"

Yes, he was pleading with us, with our communities, to give him the strength to successfully bring his effort to a conclusion.

Because—you achieve peace from strength. That's why Sadat came to Jerusalem in the first place: Because he knows that Israel is strong. And we must keep Israel strong!

So while we continue to understand this unprecedented event, remember: there will be frequent swings from hope to disappointment. But there is a new reality. There is a chance for peace.

Sure, it is easy to give in war, but are we sophisticated enough, are we committed enough, to understand this new dimension?

The stakes are great. We're playing for "table stakes," if you know what I mean: everything is on the table. Israel has all to lose; the Egyptians little.

So it is this opportunity for increased giving for peace, and not war, that now confronts us. It is the credibility of what we do that counts: to accelerate our commitment and do more.

Because—the road ahead will be difficult. Grave questions of principle, as well as detail, still confront Israel. And that means leading from strength—keeping the people of Israel strong, providing them with a quality of life, and acting with purpose and resolve.

Because—the price paid to pursue peace is still painfully high. The people of Israel need the ability to product more, to learn more, to export more, to become more self-reliant, and to find peace within Israel.

After 30 years, the people of Israel:

Still spend a third of their wealth on security,

Still battle galloping inflation,

Still cope with the costs of modern weapons,

And still consider immigration their No. 1 priority, even when they are troubled.

But, my friends, four wars in one generation has left us with a backlog of unmet social needs.

We did a magnificent job in bringing over a million Jews to freedom—especially in the rescue of 400,000 Jews from concentration camps, and another 800,000 who fled Arab massacres.

We housed them, and cared for them the best we could. And today, without them, there would be no Israel. Their children guard Israel's borders, fly F–15s, and plant for tomorrow.

But some of them can not lift themselves out of the darkness of the past. The scars of oppression are too great. And, today, they are a problem we can no longer ignore.

What are we talking about? Not war, not security, but children living 3 and 4 and 5 to a room. It's shameful!

Friends, our gift to the people of Israel for their 30th anniversary must be a social upbuilding as daring and as imaginative as the Sadat-Begin talks.

There is no reason why every Jewish child in Israel cannot have a full education as a birthright!

There is no reason why each and every Jew seeking refuge—wherever anti-semitism rears its ugly head—cannot be welcomed with opportunity.

And there is no reason why after 30 years, we tolerate the fact that 45,000 Jewish families live in slums.

My friends, if we do accelerate our commitments for peace, we will see the light at the end of the tunnel—and we will win this game of table-stakes.

This is what I have been telling leadership for the last 55 days: We have an opportunity, if we lead from strength.

Throughout the nation, this is shaping up as a robust campaign: $150 million has already been pledged for 1978—16 percent ahead of 1977.

It is a measure of the American Jewish community's concern. So let us demonstrate that we can increase our giving for peace, remembering why Sadat came to Jerusalem: because Israel is strong, and we must keep her that way.

The world is watching us. The Arabs question our endurance, and Washington is monitoring our moves.

So let us send a powerful message for this Campaign because:

Our giving means strength to the people of Israel,

Our giving is a barometer of Jewish concern in Washington,

And our giving helps solidify our community.

If we remember this lesson, then we will respond to the cost of peace, standing proudly, acting from strength for our children, ourselves, for all Israel.

And we will be a Jewish community fiercely proud to be American and Jewish!

WASTE INTO ENERGY

Mr. KENNEDY. Mr. President, one solution to the energy problem may be as close as our garbage cans and as large as all of our urban waste. The solution is the conversion of garbage into steam, electricity, and methane gas.

An article in Parade magazine on January 29 points out that the average household of four could potentially provide 37 percent of the energy it needs from the waste it produces. Gerald Leighton of the Department of Energy estimates that all the Nation's garbage and other waste could provide 500,000 barrels of oil equivalent per day by 1985 if it could be collected and converted in a practical manner.

I have seen for myself how a good system can work. On December 9 I visited a plant in Saugus, Mass., which converts the waste from the homes of 500,000 people living north of Boston into steam energy. The steam is then delivered to a General Electric plant across the river in Lynn where it is used to create electricity and power industrial equipment. Ironically, the GE plant, which employees 13,000 people, makes oil and gas driven turbines.

The Saugus plant, built entirely with private capital at considerable risk by the Wheelabrator-Frye Co., is the world's largest refuse-powered boiler. While taking in millions of pounds of garbage, the plant adds few pollutants to the air and none to the water, saves landfill, and recovers metals which can be recycled.

Creating energy through waste—including energy from discarded biproducts of agriculture and forestry, is a promising technology. Not only does it create energy but it promises to help alleviate other problems as well, such as declining farm income and the rapid loss of available land for refuse landfill.

Mr. President, I ask unanimous consent that the article, "Waste Into Energy: Is It Practical?" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASTE INTO ENERGY: IS IT PRACTICAL?

(By Peter J. Ognibene)

WASHINGTON, D.C.—One of America's more promising sources of new energy may be as near as your garbage can. According to Donald K. Walter, head of the Department of Energy's waste-technology branch, the average household of four persons could "potentially provide roughly 37 percent of the energy it needs from the waste it produces.

"Waste is an underutilized resource," Walter told Parade, "not an environmental problem to be disposed of. Out of our urban waste stream, we can see producing 2 to 3 percent of our national energy requirements."

But before that potential can be realized, a number of questions must be answered: How will the waste be collected? What technological processes will convert it to energy? Will the price be affordable?

Proven technology already exists for a number of conversion methods. The best known is the anaerobic digestion process. Adding certain strains of bacteria to sewage, animal manure or other organic matter—the scientific term is "biomass"—will produce methane, a flammable gas useful as fuel.

In 1973, an English inventor, Harold Bate, converted pig manure to methane to run his car. In China and India, people use small, inexpensive converters to generate methane as a cooking fuel.

COLLECTION A PROBLEM

Collecting the manure to be converted presents a problem, however. A central collection point is necessary. But methane is a volatile gas; to use a barn or other enclosure would risk explosion. And collecting manure outdoors could prove prohibitively expen-

sive. Roscoe S. Ward, who works on some Energy Department biomass programs, made the point with humor: "You can't put a bag under every cow's tail—and if you did, who'd change the bags?"

To see if large-scale collection can be made economical, the department is providing funds to several projects around the country. The largest is a feedlot in Bartow, Fla., which has 10,000 head of cattle. The methane produced there is expected to supply most of the energy needed for the meat-packing plant nearby.

Most cities simply collect garbage and haul it to dumps or landfills. In the future, however, cities might send their garbage to processing plants that separate organic substances—wood, paper, rubber, most plastics—from inorganic materials such as metal, sand and glass.

MASHED TO PIECES

Tree trunks and engine blocks, along with normal garbage, would go through a shredder in which huge hammers mash everything into pieces no larger than a few square inches. Metals would be sold to recycling plants.

Such a plant is now working in Ames, Iowa. According to Arnold Chantland, director of public works, all the garbage from the surrounding county's 65,000 residents is taken to this plant, which can handle up to 400 tons a day. The organic matter goes to a power plant where it is burned to generate electricity. "We figure we're recovering 93 percent of the waste material that comes into the plant," Chantland said.

At present, however, it would still be cheaper to haul the county's garbage to a dump. "We're paying about $2 to $2.50 a ton more than we would for landfill," said Chantland. But he added: "This is not discouraging to us. Our volumes have increased; fuel and landfill costs are rising."

Yet another method of turning organic matter to energy is pyrolysis. The material is heated in a kiln without oxygen and converted into energy-rich fuels such as synthetic oil, gas or char (similar to charcoal).

Turning garbage into energy is still relatively expensive. A processor capable of handling 1000 tons a day would cost about $50 million, according to Walter. "Where there's good cheap landfill," he said, "it does not look economical" to build such plants.

There are also environmental considerations. "A lot of people wouldn't want a 1000-ton-a-day garbage plant located next to them," Walter noted.

GOOD DESIGN IS KEY

Stephen A. Lingle of the Environmental Protection Agency thinks good design will be the key to public acceptance. "Most plants are designed to have a negative air pressure to keep air flowing into the plant," he said. "If you walk into some of these plants, you'll smell solid waste. But outside, at a reasonable distance, you shouldn't smell it."

But garbage does not necessarily have to be ground, mashed and burned to create fuel. Nature produces methane in landfills, and wells can be drilled to tap the gas. This is now being done at the Palos Verdes landfill near Los Angeles. The gas is purified, pumped directly into the local company's pipeline and delivered to 3000 homes that would otherwise burn scarce natural gas.

Sewage is another potential source of energy, thanks to water hyacinths, fast-growing plants that have often clogged waterways in the Deep South. Scientists at the National Aeronautics and Space Administration in Bay St. Louis, Miss., have found that one acre of sewage contains enough nutrients to grow 800–1600 pounds of water hyacinths a day. The plants—which can turn murky sewage into clear water—not only absorb wastes, pesticides and toxic chemicals, they can also be harvested and converted to methane.

FUTURE UNCERTAIN

Whether waste will eventually provide substantial supplies of energy is anybody's guess at present. A variety of technological processes show promise, but it will be a number of years before we know how much of today's garbage can be put to work economically in tomorrow's gas tanks.

COMPULSORY UNIONISM?

Mr. CLARK. Mr. President, there has been a great deal of what I would call careless debate about what the labor law reform bill would or would not do. On January 28, 1978, the Des Moines Register, the largest newspaper in my home State of Iowa, published an editorial which I think puts the entire matter into the proper perspective. As the Register noted:

"Forced unionism" usually refers to requiring membership in a union as a condition of employment. Iowa law prohibits labor contracts that require anyone to join a union. Nothing in the proposed legislation would modify the Iowa law or compel union membership, and the ad was misleading if it gave the impression that a "right to work" is at stake.

Mr. President, I ask unanimous consent that the text of this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

"COMPULSORY" UNIONISM

A full-page ad in the Jan. 25 Register by the National Right to Work Committee charged that a pending Senate bill contains "compulsory unionism provisions" and "is just not acceptable to us or any other fair-minded person." The ad was addressed to Iowa's Senators Dick Clark and John Culver and asked why they are undecided "about forcing unionism on Iowa workers."

"Forced unionism" usually refers to requiring membership in a union as a condition of employment. Iowa law prohibits labor contracts that require anyone to join a union. Nothing in the proposed federal legislation would modify the Iowa law or compel union membership, and the ad was misleading if it gave the impression that "right to work" is at stake.

The National Right to Work Committee apparently justifies its "compulsory unionism" rhetoric on the ground that the measure is so coercive that employers would be forced to agree to union shop contracts. Even if they did, such contracts would have no force in Iowa and other "right to work" states.

The measure, as passed by the House, would increase the size of the National Labor Relations Board, speed up representation elections, provide for faster court action and impose stiff penalties, including double back-pay awards, to illegally discharged workers and possible denial of federal contracts in cases of "willful" violations.

Organized labor contends the measure is needed to combat such management abuses as the conduct of the J.P. Stevens textile company, which was unionized in 1974 but which has not signed a contract and repeatedly has been found guilty of unfair labor practices. Management groups contend the measure is one-sided. They have a point: It proposes remedies for abuses by management but not for abuses by organized labor.

But even labor law specialists who represent management privately concede that critics are overstating their case. Walter Mossberg, who writes on labor matters for the Wall Street Journal, put the dispute in perspective when he commented, "The fact that the bill's provisions might aid organized labor doesn't mean that it would unfairly tip the balance in U.S. labor relations in favor of the unions. . . . Almost nobody on either side denies there are some real management abuses that haven't been deterred by existing procedures and penalties."

Representation elections should not be so accelerated that management is denied a fair chance to tell its side of the story; denial of federal contracts could do more harm to workers than to management. But the bill would not force anyone to vote for, or to join, a union and a lot of the dire consequences predicted by the critics probably wouldn't materialize.

PRESIDENT SIGNS BAYH SPONSORED ACT TO PROTECT CHILDREN AGANIST SEXUAL EXPLOITATION

Mr. BAYH. Mr. President, I am pleased that yesterday the President signed into law the Protection of Children Against Sexual Exploitation Act of 1977.

The Senate unanimously passed the House-Senate conference report on this bill, S. 1585, on November 3, 1977. The House on January 24, 1978 passed this House-Senate conference report by a vote of 401 to 0, which then enabled the bill to be sent to the President for his signature.

This important and needed legislation will fill several voids in current Federal law.

There is currently no Federal statute that prohibits the use of children in the production of materials that depict explicit sexual conduct. The new law would prohibit the production of such materials for this purpose if the materials involved were to be mailed or otherwise transported in interstate commerce.

Similarly, there is presently no Federal statute prohibiting interstate trafficking in boy prostitutes. The law would extend the Mann Act provisions against juvenile female prostitution to include juvenile males.

The law will strengthen present obscenity statutes to provide much more severe penalties for the distribution and sale of obscene materials that depict sexual conduct by children.

The law will prohibit the transportation, sale, or distribution for sale of material depicting sexual exploitation of minors, when such materials are obscene.

Mr. President, as a cosponsor and conferee on this legislation, I wish to state that I believe it will be a most effective Federal response to the problem of sexual exploitation of our children. The law is tough, and most importantly, it is clearly constitutional. S. 1585 can be upheld by the courts and can serve as the basis of successful prosecutions resulting in the reduction of sexual exploitation of children.

Problems regarding the prohibiting of the publication, sale or distribution of pornographic materials involve serious constitutional questions. We must be ever watchful that in our efforts to control offensive pornography we do not infringe on our important constitutional rights of free speech and free press. However, I condemn the sexual exploitation of children for any purpose, in-

cluding commercial purposes, and I believe that S. 1566 together with existing criminal laws prohibiting child abuse and contributing to the delinquency of minors will provide the tools to limit such heinous activities.

Mr. President, as I reported on another occasion to the Senate, recently a most reprehensible and despicable activity was initiated in my State of Indiana. I refer to the nationwide promotion of "Mr. and Miss Nude Teeny Bopper Pageant" at the Naked City Nudist Camp in Roselawn, Ind. This sordid "event" was scheduled for August 27, 1977. I was utterly repulsed at the idea of this contest which was to feature nude children between the ages of 8 to 16. Parents were to be paid $10 to enter their children, $170 was to be given out in prize money, $10 was to be given to each contestant and spectators—for an admission price of $15—were solicited to take pictures of the nude children. Thousands were expected to attend.

On first being notified of this sordid enterprise, I immediately contacted the offices of the State attorney general and the Newton County prosecutor to express my grave concerns about this particularly gross form of child abuse. I am pleased to relate that the attorney general asked the judge of the Newton Circuit Court to issue an injunction restraining this activity. A preliminary injunction order was issued restraining the owner of Naked City from displaying these nude children before an adult paying audience and specifically enjoined the party from holding this contest until a hearing was held. Presently, a hearing is scheduled in Jasper County at which time an attempt will be made to amend the temporary restraining order to a permanent restraining order so that no further activities of this sort can be held. It was argued that the challenged activity constitutes a public nuisance and outrages the public decency at large. I cannot agree more with this argument. Thousands of Indiana residents have joined in signing petitions aimed at launching another legal challenge.

A contest of this sort panders to those interested in child pornography and sex and is exploitive of children and potentially damaging to their mental health—I can imagine the trauma a young girl or boy might experience while parading naked in front of a crowd of leering strangers. The nude contest would also seem to provide an excellent opportunity for child pornographers to meet potential stars. The question comes to mind—if a parent would make a child participate in a nude contest for a chance of winning $100—or just for the $10 that any participant receives—what would they have the child do if the stakes were higher?

It is clear that freedom of expression and the right to privacy are among our citizen's distinctive attributes and nudists should be permitted to indulge in their pastime in privacy. Naked City is not, as ads I have seen, a traditional family nudist colony—run in proper sexual atmosphere. Naked City events in the past have drawn criticism by publicizing their events nationwide and inviting outsiders—who are not nudists and who remain clothed while at Naked City—to pay their way into the camp to view and film the nudists. In the past years many of the participants in the Naked City contests have reportedly been models and strippers looking for publicity. The advertisements for Naked City are blatantly sexual and suggestive of orgies and, while adults have the right to sexual freedom, this is hardly the appropriate atmosphere for a young child.

I cannot help but feel that, if this event took place, many of the children would be unwittingly exploited to satisfy the appetites of spectators.

Mr. President, regrettably State and local laws which cover this type of conduct often cannot be enforced. Such live performances constitute a particular form of child abuse and should be prohibited. Conduct associated with live performances extends beyond State or local jurisdictions and involves widespread use of the mails, television, newspapers, radio, and telephones for promotion and solicitation of a potential audience and participants.

My amendment to S. 1585, which passed this body unanimously, prohibited certain activities relating to live performances using minors in sexually explicit conduct. The House version contained no comparable provisions. However, the House version of the Mann Act contained provisions which would have overlapped with my amendments, and as such I agreed with the conference majority that in light of the fact that the conference substitute provisions contained language that the conferees agreed in most cases would cover the sexual exploitation of minors in live performances as embodied in my amendment, I would withdraw my specific language which would be incorporated in the Mann Act provision. Thus, whoever transports, finances in whole or part the transportation of or otherwise causes or facilitates the movement of any minor in interstate or foreign commerce, or within the District of Columbia or any territory or other possession of the United States, with the intent: First, that such minor engage in prostitution; or second, that such minor engage in prohibited sexual conduct, if such person so transporting, financing, causing, or facilitating movement knows or has reason to know that such prohibited sexual conduct will be commercially exploited by any person, shall be guilty of an offense under this section and shall be fined not more than $10,000 or imprisoned not more than 10 years, or both. Mr. President, I consider it a privilege to be a member of the Juvenile Delinquency Subcommittee—being its former chairman for 7 years—and to follow the leadership of the new chairman, the Senator from Iowa.

This particular problem, of using minors in live performances exhibiting sexually explicit conduct, is designed to be dealt with by my amendment as incorporated into the conference Mann Act provisions.

Mr. President, at this point in the RECORD I would like to ask unanimous consent to put into the RECORD a colloquy that Senator CULVER and I had during the debate of S. 1585 in the Senate on October 10, 1977, when my live performances amendment was unanimously adopted.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

Mr. BAYH. I would like my colleague, the floor manager of this bill, to help me resolve a question or two I have about the proper language.

I do not want to get into an area that is unconstitutional. I do not want to reach protected expression, but I want to make certain that the Senator, as a principal floor manager of this bill, shares my belief that the wording that is used here of "sexually explicit conduct" would cover the type of situation that I am referring to that is occurring up in Naked City at that nudist colony.

Is it the Senator's understanding that according to the court's interpretation "sexually explicit conduct" includes, by definition, the lewd display of genitals or the pubic area of a person under the age of 16?

Mr. CULVER. That is correct.

Mr. BAYH. Is it the Senator's understanding that if a hawker or promotor attempts to promote a live performance in interstate commerce in which boys and girls under the age of 16 are paraded and displayed nude, where adults are asked to come and take pictures, that would be a lewd display of the genital and pubic areas, and that thus it comes within the sexually explicit conduct definition under section 2251 of this bill?

Mr. CULVER. That is correct.

Mr. BAYH. Am I correct in my understanding that in the definition section of the bill, commercial gain is tied into the definition of "promoting" to include "advertising for pecuniary profit?"

Mr. CULVER. That is correct.

Mr. BAYH. Mr. President, extensive hearings have been conducted by the Senate Juvenile Delinquency Subcommittee on the problems of child pornography and I believe the act the President signed today is designed to deal with these problems.

Further, I wish to praise the House and Senate for reaching a suitable and effective compromise on this measure.

I think it is clear that we now have a law that will go a long way toward eliminating an abuse that no society—but least of all our society—should tolerate.

Mr. President, Federal, State, and local law enforcement efforts must maintain a delicate balance in order to curb child pornography. The measure I cosponsored, and which the President signed yesterday, will fill a void in Federal law and will attack the production of materials depicting children in sexually explicit conduct and further, my amendment as incorporated into the Mann Act, will curb the use of minors in live performances exhibiting sexually explicit conduct as a form of child abuse and exploitation. I believe this measure will help to arouse our collective conscience, which will in turn lead to policies and behavior more sensitive to our child victims. We must have a regard for the general tone of our society and be especially watchful and discourage events that tend to lower that tone.

A WINNING EFFORT AT THE VA: AN EXAMPLE OF GOVERNMENT SERVING PEOPLE

Mr. CRANSTON. Mr. President, I would like to take this opportunity to bring to the attention of my colleagues an encouraging story of success. Amid frequent stories of the hard-heartedness of the bureaucracy, the many tales of frustrations citizens encounter in attempting to cut through miles of redtape and Government regulations, and the numerous allegations of the failure of the Federal Government to be responsive to the needs of those it is constituted to serve, incidents such as I will describe are all too rare. I believe that when they occur, they are worthy of our attention and our praise.

As a brief background, Mr. President, members will recall that the Veterans' Education and Employment Assistance Act of 1976 became law on October 15, 1976. That legislation mandated certain revisions in the payment procedures used by the Veterans' Administration for GI bill educational assistance benefits. One such change, effective in June 1977, mandated the payment of GI bill benefits at the end of the month rather than at the beginning—from prepay to postpay. In addition, the VA changed—effective for the fall 1977 enrollment—its educational assistance allowance certification procedures—from annual to semester or quarterly certification.

As chairman of the Senate Veterans' Affairs Committee, I was very concerned about the effects the legislative revisions and the VA's change in certification procedures might have on the timely and accurate processing and delivery of monthly benefit checks for hundreds of thousands of veterans and others receiving assistance under the GI bill. One need only think back to several past long fall enrollment periods—the most notable of which was the fiasco of 1973—when many congressional offices were besieged with complaints about late checks, no checks, and wrong checks. Based on this past experience, there was reason to be apprehensive that the two fall 1977 changes could have combined to cause lengthy waiting periods between the time the veteran enrolled in school and the time he received his first check. And as my colleagues are aware, many educational costs occur at the beginning of the semester. Thus, in GI bill hearings held by the Subcommittee on Health and Readjustment in June 1977 and followup correspondence, I sought from the VA their commitment to undertake vigorous efforts to deliver benefit checks to eligible veterans as expeditiously as possible.

In this connection, on August 24, 1977, I wrote the Honorable Elmer B. Staats, Comptroller General of the United States, requesting that the General Accounting Office (GAO) review and monitor the VA's efforts to mitigate any deleterious effects upon veteran-students—such as increased confusion and delay in the timely processing and delivery of GI bill benefit checks.

On January 5, Mr. President, the Comptroller General advised me of the GAO's findings. This report is most encouraging. The GAO found that the VA had prepared extensively in advance for an allout effort to expedite delivery of services to veterans and to minimize misunderstandings and inconvenience through the process. As a result of these advance preparations, workload monitoring, and outreach efforts, fall enrollments were processed smoothly and in a timely manner. No significant increase in pay complaints or inordinate delays were experienced.

In addition, Mr. President, the GAO noted that the VA "benefited from the personal interest and participation of the Administrator in efforts to get correct checks to veteran students in a timely manner."

I believe, Mr. President, that in addition to the efforts of Max Cleland, the Administrator of Veterans' Affairs, the efforts of all other responsible officials and employees of the VA should be highlighted. These individuals, such as Deputy Administrator Rufus Wilson, Dorothy Starbuck, Chief Benefits Director, Andrew Thornton, Director of the Education Service, and the thousands of VA employees agencywide, are deserving of our gratitude and praise for a job well done and for their individual and collective efforts.

Mr. President, at this point, so that Members can review this success story in detail, I ask unanimous consent that there be printed in the RECORD a copy of August 24, 1977, letter to the Comptroller General of; a copy of his response, dated January 5, 1978; and a copy of a letter I sent Friday, to VA Administrator Cleland congratulating him on this outstanding accomplishment by the VA.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
August 24, 1977.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: Last year, Congress enacted the Veterans Education and Employment Assistance Act of 1976, now Public Law 94-502. This legislation, and the regulations developed by the VA pursuant to it, mandated certain revisions in the payment procedures of GI Bill educational assistance benefits. In addition, the Veterans' Administration has changed its educational assistance allowance certification procedures—effective this Fall—changing from annual certification of GI Bill recipients to semester or quarterly certification.

As has already been discussed in detail with your staff by the Committee staff, the Senate Veterans' Affairs Committee is concerned that the legislative revisions and the increased workload stemming from the VA's change in certification procedures may cause confusion and delay in the timely processing and delivery of GI Bill benefit checks to students attending school this Fall under the GI Bill. The Committee is particularly concerned with the following procedural changes:

Annual certification of student enrollment has been replaced with semester or quarterly certification.

GI Bill payments will no longer be made at the beginning of the month of entitlement (pre-payment), but rather at the end of the month for which the veteran or eligible person is entitled to receive benefits (post-payment).

Advance payment procedures have, in conjunction with the switch from pre- to post-payment, been modified.

The Committee requests that the General Accounting Office undertake a review of the Veterans' Administration's efforts in regard to mitigating any deleterious effects upon veterans as a result of these alterations. In this regard, the Committee has a special interest in the identification and evaluation of efforts which the VA central and regional offices have undertaken (1) to avoid—to the extent possible—delays in the processing and delivering of GI Bill benefit checks to eligible veteran-students; (2) to facilitate the application for payment of work-study advances (§ 1685) and educational loans (§ 1798); (3) to inform eligible veterans of the existence of the work-study and educational loan programs as a means to mitigate any financial hardship (particularly early in the year) which the veteran may incur as a result of these changes; and (4) to impress participating educational institutions with the need for them to submit to the VA, as quickly as possible, error-free reports on veteran-student status changes.

In conducting this study, the Committee would appreciate the examination of at least six of the larger VA regional offices (geographically dispersed) and the VA central office.

The Committee believes that it is important that prior to September 10, 1977, the Committee staff receive from GAO a preliminary briefing on the progress of the study and a preliminary evaluation of the VA's efforts described above. Thereafter, the Committee requests that GAO monitor the VA's continuing efforts in this regard during the 1977–78 school year to the extent GAO's findings require. The Committee would appreciate appropriate periodic briefings through the Fall on these matters. Finally, after the examination and evaluation of VA's efforts have been completed, the Committee would appreciate a written report summarizing GAO's findings.

Enclosed is a copy of a letter I have written today to the Administration of Veterans' Affairs expressing the Committee's concerns and requesting his full cooperation with your study.

As in the past, I am most appreciative of any assistance you and your staff can provide us. Many thanks for your prompt attention to this matter.

With best wishes,

Sincerely,

ALAN CRANSTON,
Chairman.

WASHINGTON, D.C., *January 5, 1978.*

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: Your letter of August 24, 1977, requested that we review and monitor efforts of the Veterans Administration (VA) during the fall of 1977 enrollment period to:

(1) avoid delays in processing and delivery of educational benefit checks to veteran students;

(2) promote and facilitate educational loan and work study programs to alleviate financial hardships of veteran students; and

(3) emphasize to schools the need to give VA quick, error-free student enrollment and status reports.

We briefed your office on September 8 and November 8 on our tentative findings. Prior to our final report to the Committee, your office requested an interim report.

We reviewed 1977 fall enrollment processing and educational assistance payment

inquiries (pay complaints) at VA's Washington, D.C., headquarters and regional offices at San Francisco, Seattle, Chicago, St. Paul, Atlanta, St. Petersburg, and Washington, D.C. We observed processing of enrollment documents, reviewed workload volume and timeliness, discussed with VA central office and regional office officials monitoring procedures and internal VA controls for prevention of backlogs, and analyzed the overall efficiency for delivering student benefit payments in a timely manner.

We also visited several schools and talked to a number of veterans at these schools.

SUMMARY OF FINDINGS

VA was aware of the potential processing difficulties and fall payment problems stemming from legislative revisions and called for an all out effort to expedite delivery of services to veterans and to minimize misunderstanding and inconvenience. VA officials said that due to their advance preparations, fall enrollments were processed smoothly and in a timely manner.

Based on our work to date we found that VA:

Prepared extensively for the implementation of legislative changes from a prepayment to a postpayment system through circulars, media publicity, letters to schools, personal contacts, and task force monitoring of enrollments;

Placed special emphasis on streamlining applications for loans and work-study agreements so veteran students could avoid "financial binds";

Established and maintained communications with school officials and did not realize appreciable delays due to erroneous data from schools;

Centrally monitored the regional enrollment processing volume and backlog against desired weekly output levels;

Experienced no inordinate delays with student fall enrollment workload;

Incurred no significant increase in pay complaints especially related to the postponement changes, advance pay changes or the 1977 fall enrollment in particular;

Benefited from the personal interest and participation of the Administrator in efforts to get correct checks to veteran students in a timely manner.

Based on our observations and conversations with VA officials, we believe that VA's advance preparations, workload monitoring, and outreach efforts avoided workload backlogs, inordinate delays, or inaccuracy of payment checks.

We trust that this report will be satisfactory to your needs.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

WASHINGTON, D.C.,
February 3, 1978.

Hon. MAX CLELAND,
Administrator of Veterans' Affairs, Washington, D.C.

DEAR MAX: In August, 1977, I wrote to the Comptroller General of the United States with respect to the implementation by the Veterans' Administration of certain aspects of the payment procedures for GI Bill educational assistance benefits that were scheduled to take place during the fall of 1977.

My letter requested the General Accounting Office to review the VA's efforts to mitigate any deleterious effects upon veterans resulting from the following revisions:

The change in certification of veteran-student enrollment from annual to semester or quarterly certification;

The change in GI Bill payments from the beginning of the month of entitlement (prepayment) to the end of the month for which the veteran or eligible person is entitled to receive benefits (post-payment);

The change in advance pay procedures.

Specifically, the Committee sought identification and evaluation of efforts which the VA Central and Regional Offices had undertaken with respect to: (1) avoiding—to the extent possible—delays in the processing and delivery of GI Bill benefit checks to eligible veteran-students; (2) facilitating the application for payment of work-study advances (section 1685) in educational loans (section 1798); (3) informing eligible veterans of the existence of the work-study and educational loan programs as a means of mitigating any financial hardship (particularly early in the year) which a veteran may incur as a result of these payment procedure changes; and (4) urging participating educational institutions to submit to the VA, as quickly as possible, error-free reports on veteran-student status changes.

Recently, in a letter dated January 5, 1978, I received an interim report from the Comptroller General. The GAO reported, "based on our work to date, we found that the VA:

"Prepared extensively for the implementation of legislative changes from a prepayment to a postpayment system through circulars, media publicity, letters to schools, personal contacts, and task force monitoring of enrollments;

"Placed special emphasis on streamlining applications for loans and work-study agreements so veteran students could avoid 'financial binds';

"Established and maintained communications with school officials and did not realize appreciable delays due to erroneous data from schools;

"Centrally monitored and regional enrollment processing volume and backlog against desired weekly output levels;

"Experienced no inordinate delays with student fall enrollment workload;

"Incurred no significant increase in pay complaints especially related to the postpayment changes, advance pay changes or the 1977 fall enrollment in particular;

"Benefited from the personal interest and participation of the Administrator in efforts to get correct checks to veteran students in a timely manner."

Max, I want to congratulate you and all other responsible officials and employees of the Veterans' Administration on this laudatory report. I'm sure that your personal efforts, those of Chief Benefits Director Dorothy Starbuck, and, most importantly, of thousands of dedicated VA employees in the field and at headquarters, saved many veteran-students from lengthy delays in receiving GI Bill checks which might otherwise have resulted from the payment procedure changes.

Please extend my gratitude and admiration to all those VA employees whose hard work, skill, and commitment produced these outstanding results.

Thank you for your great attention to this matter, Max. You should all be proud of the Veterans' Administration accomplishment here.

With warmest regards.

Cordially,

ALAN CRANSTON,
Chairman.

TUITION TAX RELIEF

Mr. MOYNIHAN. Mr. President, at recent hearings before the Finance Committee on proposed tuition tax credit legislation, Senator S. I. HAYAKAWA offered testimony that for eloquence, stylistic grace, insight, and wisdom about the educational process rates as one of the finest statements it has been my pleasure to encounter. Because all of our Senate colleagues deserve an opportunity to reflect on the words of the distinguished junior Senator from California, I ask unanimous consent that the full text of his remarks be printed in the RECORD.

I believe Members of the Senate may also be interested in a recent editorial on this subject published in the Washington Star, and I ask unanimous consent that this, too, be printed in full in the RECORD at the conclusion of Senator HAYAKAWA'S remarks.

There being no objection, the statement and editorial were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR S. I. HAYAKAWA

Mr. Chairman: I am delighted to testify here today in favor of proposals to provide tuition tax relief. As a former educator, I am interested in this approach to restoring consumer control over education. I must admit that I am more interested in supplying a tax break at the elementary and secondary levels of education, but there are certain aspects of college tuition tax relief that appeal to me as well. I would like to address these areas first and then elaborate on the need for tuition tax relief for elementary and secondary education.

One of the major failings of our present system of financial assistance at the college level, as I see it, is its almost exclusive concentration on young, full-time students. The part-time student or the adult, evening student rarely receives any educational aid. But yet, as I look back over the best-remembered students in my years of teaching, those who remain most vivid in my mind are the adult, evening-class students at Illinois Institute of Technology, the University of Chicago, and San Francisco State. They were school teachers, firemen and policemen, business executives, nurses, at least two retired colonels, women starting a new life when their children were old enough to take care of themselves, men in their mid-thirties and forties contemplating a change of career. These mature adults have been my most exciting students. I've forgotten most of the kids. No doubt they have forgotten me.

Adult students are mature. They are, therefore, likely to be self-directing rather than dependent. They often have a reservoir of practical experience that is in itself a resource for further learning; and what they learn is not theory to be applied some day, but something to be used at once in their situations outside the classroom.

Today, there are in the United States more part-time college students than full-time students. This trend is likely to continue as more and more people discover that education is a life-long process. If we want to encourage this life-long learning, we should not provide assistance exclusively to young, full-time students, but to students in all stages of life. We can do this by providing tuition tax relief to all students, or, more precisely, to all who pay for their schooling. I therefore strongly recommend to this Committee that any tax relief provided for tuition payments be extended to part-time, as well as full-time students.

A second area of education which interests me is vocational education. Until recently, vocational education has received little public attention. This is probably a consequence of the contempt with which our educational system views some kinds of work. It tends to overvalue white-collar work at the expense of other labor. Students believed to be low in academic talent are steered into "vocational" programs, while gifted students are steered away from them, as if they were too good to work with their hands or with machinery.

Such a distinction is arbitrary and invidious, inflicting an injustice both on the academically slow and on the academically

gifted. Throughout all our high school and colleges there should be maintained an active relationship between the academic world and the world in which people labor for a living.

I believe that our system of financial assistance for higher education should be neutral, biased in favor of neither academic nor vocational pursuits. Why should we encourage someone to study Latin and Greek as opposed to auto mechanics, typing, or shorthand? We shouldn't! We should let the individual make the choice independently of the availability of government financial assistance. We can do this by providing tuition tax relief to both academically and vocationally oriented students. Therefore, I think it is important that any tuition tax relief proposal reported from this Committee apply equally to all types of education.

Finally, let me discuss what I believe to be the most important part of tuition tax relief—that provided for elementary and secondary education. I believe that public education at the elementary and secondary levels is approaching a crisis. Taxpayers have watched all levels of government quadruple the level of spending on education since 1960. At the same time, the quality of education has shown no corresponding improvement. There is much public concern today about the deterioration of public education at the primary and secondary levels.

Parents seem helpless to control their children's education. Teachers and administrators are often more interested in pleasing government bureaucrats who control the funds rather than parents who do not directly pay for their children's education. The structure of the system stands in the way of accountability to parents. There are instances where students receive their diplomas whether or not they can read or write, while their teachers and administrators receive their salaries and raises regardless of student performance.

I am particularly concerned about the quality of public education for the minorities and less fortunate in our country. It is widely recognized that the quality of public education available to blacks is inferior to that of the overall population. The typical bureaucratic reaction to this sad state of affairs is to recommend more school integration and busing, greater education budgets, and higher salaries for teachers. I do not think more money and more busing are the answer. There is a great body of evidence that indicates that: (1) black students do not have to sit beside white students to learn, although it might be to the advantage of white students to have that cultural exposure; and (2) high quality education is not necessarily dependent on large school budgets. There are better alternatives.

For instance, many black youths today have lower levels of academic skills than their parents who attended school when blacks were poorer and less free. It is also noteworthy that for years, many black parents have sent their children to Catholic and Black Muslin schools where per capita spending is much lower, but where the students achieve higher levels of academic skills than their counterparts in public schools. Numerous specific examples of this phenomenon are documented in an article entitled "Patterns of Black Excellence" which appeared in the spring 1976 issue of The Public Interest. This article was written by a good friend of mine. Dr. Thomas Sowell, an economist now at Amherst College in Massachusetts, who, if it makes any difference, happens to be black. I ask the Committee to include this article as part of my testimony.

Another enlightening article appeared recently in the Washington Post. This article focused on a Catholic school located in the Anacostia area of the District of Columbia. It is Our Lady of Perpetual Help Elementary School, which educates children from kindergarten through eighth grade. The school has 517 students, all of whom, except for 3, are black, and 42% of whom are Protestant. Annual tuition at the school is $330 for parish members, whose education is subsidized by other church income, and $505 for non-members, who pay full cost. By comparison, the annual per pupil cost in the D.C. public schools is $2,000.

But when you compare the levels of academic achievement of the students at Our Lady of Perpetual Help and the public school students, the results are astounding. Although Our Lady of Perpetual Help spends about one-fourth the amount per student as the public schools, its level of academic achievement is much higher. Its students score at almost the national average in reading according to standardized tests. For instance, eighth grade students at Our Lady of Perpetual Help read only seven months below the national average, whereas D.C. eighth grade public school students read 2½ years below the national norm. The level of achievement of public school students in Anacostia is even lower. Mr. Chairman, I ask that this article also be included in the transcript as part of my testimony.

Mr. Chairman, national data show that it costs less to educate a student at a private school than at public schools. In 1974, private elementary and secondary students were educated at a per student cost of $1,191 as opposed to $1,281 in the public schools. In parochial schools, the average per pupil cost was $310 for elementary and $700 for secondary.

How can schools with a lower per pupil expenditure provide a better education? I think the examples cited above give us the answer to that question. In all of the private and parochial schools where the students were performing better than their public school counterparts, there were several common characteristics in their approach to education—an emphasis on basic learning skills such as reading, spelling, and arithmetic; and insistence upon strict behavioral standards; and the consistent execution of disciplinary measures when necessary.

It is encouraging to me that so many parents have had the good sense to seek out a better education for their children. In Chicago, for instance, it has been estimated that 10 percent of all black children go to Catholic schools. I believe that to improve black education, as well as education in general, we need to restore parental control. As Dr. Walter Williams, a black economist at Temple University, writes:

"To understand how Blacks can be given more effective choice in education requires that we recognize that just because education is publicly financed does not require that it be publicly produced."

Mr. Chairman, today 5.3 million out of 49.5 million elementary and secondary school students attend private or parochial schools. Parents who send their children to these schools pay double for education, once through their taxes and once in the form of tuition payments. And as the cost of education increases, fewer parents have the financial flexibility to shop outside the public schools for an education for their children. Their plight is complicated as inflation has eaten away at real personal income by artificially pushing people into higher and higher tax brackets. Unless some sort of financial relief is provided to parents, essentially all children but those of the very rich will be forced to find their education in the public school system. As more and more private schools are forced to close their doors, there will be less and less competition for the public schools, and the quality of public education will deteriorate even further.

The future of our country depends on the quality of education we provide today. This in turn, in my opinion, depends upon the existence of independent schools competing with public schools, and upon our making it possible for parents to choose the kind of education they want for their children. There is no reason why only the wealthy should have this choice.

I think tuition tax relief is an excellent way to provide the financial flexibility for parents to have alternatives. I am encouraged at the interest that has developed in this concept in the past few years, and I hope, that the Committee reports some kind of tution tax relief bill, covering elementary through college education, to the Senate for its consideration. I thank the Committee for the opportunity to testify on these bills.

Tuition and Tax Credits

Sen. Daniel Patrick Moynihan believes that tuition tax credits are "an idea whose time has finally come," and so do his influential co-sponsors in the Senate.

If so—if, as the senator also submits, "the people of this nation want it"—the message isn't getting through to those who think they know what the people *need*.

There were hearings last week on the Moynihan-Packwood tuition credit bill in the Finance subcommittee on taxation. The hostile reactions to the bill reflect the same administration attitude that greeted Sen. William Roth's similar proposal of a few weeks ago. It seems to us a case of fatigued imagination.

The tax-credit offset of tuition, said several administration spokesmen, would wickedly benefit "the rich" (for which read, middle-income taxpayers). One Treasury offical also charged that the bill "would make it easier and cheaper for a student to attend a private school if his family wished to avoid an integrated public school."

These objections merit a passing glance. Indeed, tax credits would be available to all families, regardless of income, who send children (or a spouse) to a college or university (public or private), a vocational school, a secondary or elementary private school. The credit would equal half the tuition, up to a ceiling of $500 per student.

Yet it isn't a "rich man's bill"; it is a taxpayer's bill. "Most of the benefit," according to Senator Moynihan, "will go to families earning well under $20,000 a year, and by making the credit refundable the proposed legislation will also provide a real financial boost to low income families with limited tax liability."

This evidently false designation of a tax expenditure in aid of education as a bonanza for the wealthy is typical It is supposed to be an argument stopper, because it has somehow become official dogma in this administration that the only value worth seeking through tax policy is the redistribution of income from middle-class taxpayers to those designated "poor" under the escalating federal definition of that term. Redistribution is a proper concern of tax policy, but not the only one. Others worth consideration are (a) the preservation of a working system of private education, both as a check on the quality of public education and as a self-justifying value in a pluralistic society; and (b) a meaningful choice, for all parents, between public and private education.

The suggestion that parents might be "avoid an integrated public school" hardly rises to the dignity of argument. Most parents, if we are not mistaken, are looking for orderly, disciplined, effective education. To what degree it is integrated is a secondary concern—not, of course, a trivial concern. But the Supreme Court recently declared, in the Northern Virginia case of last term, that no tax benefits shall be available to racially segregated private education. That issue is closed.

The principal concern—at least where secondary and primary education are con-

cerned—is whether a tuition credit program of the sort Senators Moynihan and Packwood propose can meet the stern tests of religious pluralism now insisted upon by the Supreme Court. As matters stand, that is at least doubtful.

It is, however, Senator Moynihan's view—a view we share—that in the recent era the Court has imposed needlessly restrictive constitutional limits on state aid (and by implication, federal aid) to private "religious" education. In a commencement address last May at Lemoyne College, New York, the senator said of this line of jurisprudence that "the kindest thing to say is that (the decisions) are unpersuasive (and) the unkindest thing to say is that the Court has been given the thankless task of providing constitutional legitimacy for the religious bigotry of the 19th Century."

And what are the grounds for that suggestion? As recently as 1876, after more than half a century's experience with public support of private religious education in New York (and other states), its foes recommended a constitutional amendment to forbid it. The implication is that nothing in the establishment clause of the First Amendment renders such aid clearly unconstitutional.

As is well known, moreover, the Court's rigid line against "excessive government entanglement with religion" has been repeatedly strained, if not breached, by state programs of tuition assistance to private higher education, some of it to institutions far from secular in sponsorship and educational philosophy.

In any event, we share Senator Moynihan's basic feeling—that the "constitutional" case against tax benefits for parents of parochial school students is an unattractive vestige of archaic prejudice. Practically speaking, it is difficult to show that any federal aid "advances" religion per se; recent studies cited by the senator suggest that the "religious" effects of parochial education (measured by church communicants or candidates for the priesthood) are practically nil. But even if they were substantial, may we not distinguish between such desirable effects and "an establishment of religion"?

Putting aside the First Amendment problems, the main fact with which public policy must reckon today is this: A swollen system of public education threatens to swallow up the financially-starved private educational sector, to the eventual benefit of neither. For various reasons, private education is pricing itself out of middle-class reach. The Moynihan-Packwood plan would not necessarily work to the benefit of either sector, private or public; it would offer taxpayers an enhanced choice and would probably help restore a healthy balance.

THE INTERNATIONAL DEVELOPMENT COOPERATION ACT

Mr. CLARK. Mr. President, I am pleased at the great interest that is being expressed in Senator Humphrey's last major legislative initiative, the restructuring on U.S. foreign assistance efforts. I am excited by the prospect of finally dealing with the long catalog of complaints about U.S. foreign aid program by entirely rewriting the foreign assistance legislation. And I am quite encouraged by the positive response Senator Humphrey's initiative has received from the executive branch.

Many of us in Congress have recognized for a long time that present efforts in foreign assistance were inadequate to the task, that the fragmentation of programs among a number of different agencies limited the effectiveness of our efforts, and that development concerns were not adequately taken into account in international economic policymaking. Senator Humphrey gave us a fresh opportunity to deal with these concerns. We ought to seize this initiative to make needed changes.

A number of leading newspapers have recognized the importance of Senator Humphrey's legacy through this legislation. Both the Washington Post and the Christian Science Monitor wrote editorials on the bill last week. Both newspapers stressed the importance of the subject matter of this legislation, and saw it as far more than legislation dealing only with U.S. foreign assistance. Our entire set of economic and political relations with the developing countries is at stake. For it is from these countries that we can expect the most growth potential in our export markets, the greatest source of needed raw materials, and the most difficult issues in arms sales, regional conflicts, and the source of tensions between the great powers.

Just one very important example of our links with these countries: What they are able to achieve in food production in the next 25 years will have profound repercussions on food prices in American supermarkets. Great shortages in these countries could have a highly destabilizing impact on American agriculture, with disruption running all the way from farm to the checkout line. It is urgent that we make our aid more effective and more harmonious with other international economic policies. Senator Humphrey's bill, now supported by a significant number of Senators, gives us a chance to do that.

Mr. President, I ask unanimous consent that the articles from the Washington Post and the Christian Science Monitor be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 4, 1978]

HUBERT HUMPHREY'S AID FOR AID

Hubert Humphrey left behind a proposal, brought to public attention after his death, to collect the scattered and badly coordinated bits of American foreign aid into one organizational place, the better for the President to direct and the Congress to oversee. He figured this would permit a more efficient use of the resources the United States expends on "development" through its own programs and the international banks. He thought such a reorganization would help a now-muddled Congress to regain a vision of the responsibility of the United States in meeting the international obligations that cold self-interest compels it to acknowledge.

As usual on questions of aid, as on so much else, Sen. Humphrey was right on the money. Aid is in crisis. Americans have not made an adequate post-Vietnam transition to the concept that development assistance, far from being a cold-war tool or an expression of humanitarianism, is essential to the relations of the United States with a large number of nations increasingly important to it. Not only have the sums voted for development been niggardly; also, to the funds that are voted, Congress has gotten into the habit of attaching restrictive conditions—protectionists swooping in from the right, human rights activists from the left. The Humphrey approach, offering the possibility of a fresh start, could break that logjam.

Such is the respect—not merely sentiment—for Mr. Humphrey's political command of development issues that his bill has gained substantial early Hill support, even from some of the quarters whose committee jurisdiction the measure would reduce. Hearings will open in March. It remains unclear, however, to what extent the administration will wish to use the bill, and the political steam building up behind it, to advance its own still-tentative plans to reorganize foreign aid in Washington and to focus it abroad further on the poorest nations and the poorest people. Reorganization, requiring bruising battles over turf, promises more political infighting than this administration may want to take on.

The result of a successful effort, however, would be a foreign-aid instrument measurably better suited to serve the President's own high-minded development ideals. That in turn would ease aid's path in Congress and leave the United States better able to play its natural and, in recent years, poorly filled leadership role in mustering support for global development. The practical advantages are so apparent that it is not even necessary—though it certainly is nice—to portray the new aid legislation as a memorial to Hubert Humphrey.

[From the Christian Science Monitor, Feb. 2, 1978]

HUMPHREY WORLD AID PLAN

During his last few months Senator Hubert Humphrey devoted much of his time to a sweeping legislative proposal to reorganize the foreign aid program of the United States. It deserves thoughtful consideration.

For a man who fathered some ambitious government programs, the proposal might seem rather plebeian for a last legacy to the nation—even though James Grant of the Overseas Development Council believes such an overhaul could increase the efficiency of foreign aid by 50 percent.

But it wasn't plebeian. Humphrey wanted to prepare the United States for what he foresaw as a "gathering storm." The Churchillian phrase does not apply to the possibility of another world war, but of fundamental and radical change in the relations between the poor and rich countries of the world.

He wanted to provide the nation with a framework "to channel our creativity and inventiveness in meeting the challenge of abolishing the worst aspects of poverty from the face of the earth."

Reflecting a concern that extended beyond the borders of his own nation to the majority of mankind in the developing world, he said in a statement finished just two days before his passing: "We live in an era in which man's scientific, political and sociological advancement should make poverty an anachronism."

However, as he noted, it has not so far. Today 700 million adults in the world are unable to read or write. More than 500 million are suffering from severe hunger and malnutrition. It has been estimated that 10 to 15 million people die each year unnecessarily from economic and social deprivation.

Through his bill, Mr. Humphrey hoped to give U.S. development assistance policy more focus. Right now various development activities are scattered among the Agency for International Development, the State Department, the Treasury, the Department of Agriculture, and ACTION (the Peace Corps). The result in the present and past administrations has been some policy chaos and an inability to grasp the "big picture" in dealing with development problems. Moreover, the basic Foreign Assistance Act of 1961 has been encrusted with some 28 amendments over the years, some contradictory in nature.

The Humphrey bill would combine the various aid activities into a separate agency, the International Development Cooperation Administration. Its administrator would report directly to the President. The legislation would also spell out more clearly the goals of U.S. foreign aid—such as alleviation of "the worst physical manifestations of poverty among the world's poor majority" and promotion of conditions to enable developing countries to achieve "self-sustaining economic growth with equitable distribution of benefits."

Unfortunately, passage of the legislation, which now has Democratic and Republican sponsors, will not be easy. It may face the opposition of some bureaucrats, for instance, in the Treasury, whose kingdoms will be reorganized or dissolved. Nor is foreign aid a vote-getting measure in an election year. Success will probably require the White House to announce its approval of at least the basic concepts of the bill.

If passed, however, the legislation could give the nation the basic tools for dealing more effectively with the North-South issue, the split between the rich and poor nations that will undoubtedly trouble the world for decades.

Says Mr. Grant: "Humphrey left us with a vehicle of hope, a challenge. Have we the capacity to pick up this charge?"

It is important the United States do so.

THE LABOR LAW REFORM BILL

Mr. MOYNIHAN. Mr. President, on November 21, 1977, the Committee on Human Resources heard testimony on S. 1883, the labor law reform bill. Among the witnesses was Ben J. Wattenberg, who testified on behalf of the Coalition for a Democratic Majority, of which he is chairman. Senator JACKSON and I have the honor to serve as honorary cochairmen of Coalition for a Democratic Majority.

I ask unanimous consent that Mr. Wattenberg's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY BY BEN J. WATTENBERG

Some 42 years ago congress adopted the National Labor Relations Act which declared it "the policy of the United States . . . to encourage the practice and procedure of collective bargaining." That Law brought order to American industrial relations, codifying and carefully balancing the rights of management and labor. It was a remarkable legislative achievement. The system of collective bargaining and the unique American labor movement it fostered are today among the great strengths of our social fabric.

The basic wisdom of the NLRA has been proven beyond serious challenge. But, naturally enough, certain of the law's administration and enforcement provisions have grown outdated. It is this which the Labor Law Reform Bill seeks to correct. *Nothing in the Bill would alter the basic balance of rights between labor and management envisioned in the original Labor Relations Act.* Rather these amendments are designed only to assure that rights guaranteed in principle are enjoyed in practice. It does so by modernizing and streamlining the functioning of the National Labor Relations Board and by stiffening penalties for certain violations of the Act. The case for such reform seems to us to be compelling.

Basically, two issues are at stake in the consideration of the Labor Law Reform Bill.

The first concerns the value of unions as an institution in our society. Although the Bill will give unions no new rights, it will, no doubt, facilitate union organizing in areas where it has been held back by illegal employer actions or merely by the sluggishness of current NLRB procedures. We believe this is all to the good.

One need not approve of every action taken by every union nor need one side with the unions in every dispute, to understand that unionism, per se, is an essential ingredient of the American way of life.

Unions have benefitted America economically by generating the purchasing power which has undergirded our prosperity. They have brought stability and rationality to American industrial relations. They have helped in shaping the world's most productive workforce without which the great creative achievements of American business would not be possible.

Unions have contributed to making our society a just one by providing millions of workers protection against arbitrary treatment and a vehicle for seeking fair compensation for their labor.

Unions have benefitted America socially by providing dignity at the work place. They have served as a vehicle for the integration of scores of millions of poor and immigrants into society's mainstream. They have lent substance to the principle of civic equality by giving a measure of power to those otherwise of little wealth or station.

Unions have benefitted America politically by serving as a force both for progress and for stability. They have provided the impetus for the passage of much of our enduring social legislation, legislation which, although often controversial at the time of passage, came to be almost universally supported. In times of war, of polarization or other crises the consistent, steady policies of labor have been a source of strength and stability in our national life.

In sum, unionism is a very positive force in American life. While we would not compel every worker to join a union, we believe that every worker who desires to join a union should have the opportunity to do so. Today, some workers find that the opportunity is limited by the administrative weaknesses in the NLRA. The adoption of S1883 would constitute an important step toward remedying that.

The second basic issue raised by the Bill is not a matter of labor relations, but one of preserving the integrity of our system of law. It is widely understood that it is bad public policy to adopt laws which are not enforceable. To do so is only to invite capricious administration, discrimination, corruption and diminished public respect for law. Precisely the same deleterious effects may be expected from laws whose penalties are so mild that a violator may expect to gain more from violating the law than it will cost him even if he is caught at it.

This seems to be the situation we have reached with respect to certain categories of violations of labor law. Apparently some employers, mindful of the principle of "cost effectiveness" have concluded that it will cost less to willfully violate the law and pay legal fees, fines, and back-pay awards than it would cost to allow their employees to become unionized. Thus, we have the now celebrated case of the J. P. Stevens Company which has been cited for scores of violations of the NLRA, a record which has led a Federal Court to describe that firm as a "notorious recidivist." Thus, a leading management consultant on labor relations is quoted in the press (Washington Star, June 8, 1977) as openly advising his clients to violate the Act "if you are doing it for the right reasons." Thus, we have witnessed an enormous upsurge in the number of NLRA violation cases taken to the National Labor Relations Board in recent years. All who believe in the rule of law, even those least sympathetic to the cause of unionization, must agree that this situation is undesirable. The Labor Reform Bill would remedy this by providing a measured increase in the law's penalties, an increase which should make them sufficiently severe to deter willful violations.

For all of these reasons we strongly urge adoption of the major provisions of S1883, the Labor Law Reform Bill.

AMERICA'S NEED FOR FARSIGHTED AND OPTIMISTIC LEADERSHIP

Mr. GOLDWATER. Mr. President, on January 24, Mr. W. M. Agee, who is chairman, president, and chief executive officer of the Bendix Corp., spoke before the Kiwanis Club in San Francisco. This is a very interesting speech because it comes from a businessman and recognizes the relationship of the businessman and business to the Government but, more than that I would say in the reverse order. I ask unanimous consent that Mr. Agee's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE AGENDA FOR 1978

Thank you for asking me to be here today. Its a special pleasure to be one of your first speakers of the New Year.

The beginning of a new year is a traditional time for taking stock, for reviewing what has come before and what is likely to be ahead. It's also a good time to try to sort out the trivial from the important, to put our daily concerns in better perspective.

As we taken inventory, we find that we have our share of problems with unemployment, energy policy, race relations, pension funding, pollution, taxes, crime, housing, and education.

For Americans, this list has become a familiar litany. A couple of the items on it—pension funding and energy—are relatively new. The others have been with us a long while, and are likely to be included in our inventory for some years to come.

But it was only recently that we were forced to realize the importance of the energy question. Our thinking and our actions have been transformed dramatically since the events of 1973 underscored our society's dependence on adequate supplies of energy. As we meet today, the likelihood is for still more changes in this area.

Similarly, it is only in the very recent past that we have begun to come to grips with the problem of pension funding in this country. It was only at the end of last year that Congress passed the largest tax increase bill in our peacetime history, in order to begin to address the gap between the promises that have been made to those eligible for Social Security and the resources necessary to meet those promises. We could talk about this issue all day, because it is one which is still not receiving the attention it deserves.

Perhaps the problem is that our political system has an inherent inability to deal with long range problems of enormous magnitude in advance of some crisis that focuses public attention on the subject. That certainly seems to have been the case with energy, and the pattern was repeated in the Social Security debate. The demographic factors underlying the increasing insolvency of the Social Security system have been plain for all to see for years, but it was only as outright bankruptcy began to approach the government was able to act.

Perhaps that is one of the prices that we pay for democracy, an excessive preoccupation with the immediate problems of the day by our highest officials. But it need not always be so.

There have been occasions when vision and

leadership have combined to create a national effort out of proportion to the general public perception of the immediate need. These have generally been occasions of great achievement, and the most recent grand example was the effort to put a man on the moon.

President John F. Kennedy saw the exploration of space as more than a response to Russian technological advances and more than a prudent expenditure in the name of national security. Those factors were extremely important to him, but he also saw space as a challenge to American leadership and ingenuity. As he said at the time, "This is the new ocean and we must sail upon it." And so, after one of the most dramatic mobilizations of talent and technology, an American set foot on the moon.

I want to recall the later history of space exploration as a public policy question and to speculate a bit about the current state of public opinion on the subject.

I've always thought that the space program had a paradoxical fate. There we were on July 20, 1969, watching an American walk on the moon, a feat which no one from any other country has to this day repeated. There was a tremendous feeling of pride and accomplishment.

But the funds that made that moonwalk and later ones possible had been voted in earlier years. And by the time the actual landings on the moon were taking place, NASA was already facing its now familiar difficulties with a parsimonious Congress.

Fiscal year 1965 was the peak year for funding of NASA, when Congress appropriated $5.3 billion for the agency's activities. The fiscal year 1978 budget is only $4 billion, in dollars whose purchasing power is much less than the 1965 funds.

On this reduced scale, the space agency has done some important and useful things. Orbiting observatories and space telescopes to increase our astronomical observation capacity are underway, and beginning to produce data that may yet settle the dispute over the origins of the universe. Development of reusable or permanent hardware such as the space shuttle orbiter will make possible scientific and manufacturing undertakings that cannot be accomplished on earth. The satellites Pioneer 10 and Pioneer 11 will explore Jupiter and Saturn, and, if sufficient funds are available, will go on beyond the solar system.

"If sufficient funds are available," has, of course, become the catch. Funds are now available—grudgingly—for the most arguably practical missions that NASA proposes.

If we look for the historical cause of this tight-fisted attitude in Congress, I think we run squarely into the two major events that dominated American political life in the last years of the 1960's and on into the early 1970's. First of these was the war in Vietnam; second was the end of the seemingly effortless economic expansion of the American economy that had begun with the Kennedy tax cut.

As early as 1966, and increasingly thereafter, the war in Vietnam came to dominate our political life. I don't need to recount for anyone here the bitterness and division of those times. As a country, our heritage from Vietnam has been a deep generational conflict, expressed in an anti-idealism and a cynicism which evidences itself pervasively in American life.

The growth of permissive lifestyles was hardly created by the Vietnam war. But the deep suspicion of presidential motives and the pronounced desire to reduce America's role as a world power that accompanied opposition to the war made it fashionable to question *all* accepted values. Increasingly, adoption of the symbols of the "counter-culture" was necessary in order to be an acceptable member of certain intellectual and social circles.

Official obtuseness, which appeared to many as duplicity, combined with excessive rhetoric in defense of our actions in Vietnam to create a deep and abiding cynicism about the honesty and motives of American political leadership, a distrust which was catastrophically magnified by the later events of Watergate. Increased disinterest in political participation, as shown by the declining numbers of people voting in Presidential elections, now seems a deeply ingrained feature of our political life.

At the same time, and to some extent for the same reason, the era of inflation-free prosperity came to an end. The enthusiasm with which new Federal programs had been enacted in the mid-1960's can only be partly attributed to President Johnson's political skills with Congress and the temporary sense of national unity inspired by President Kennedy's assassination.

It was also a period of prosperity in which revenues rose quickly enough for the Federal government to finance these programs without tax increases. Only when the burden of the Vietnam war was added to the federal budget did we begin to spend beyond our means, and the inflation was set loose that eventually spelled recession.

As a result, the debate over domestic politics in the late 1960's and early 1970's became more acrimonious. Without an ever-expanding pie out of which to pay for new initiatives, battles between special interests over who would get how much of the existing pie became much sharper.

The net result of the conjunction of all of these events was disastrous for space exploration. By its very nature, space exploration is an optimistic enterprise, an undertaking for a self-confident people seeking to expand their horizons. In an atmosphere of pessimism, cynicism, and occasional revolutionary mutterings, it's a program certain at least to have a difficult time justifying itself. If one adds to this stew a disagreeable dose of economic trouble, it is easy to see that the prospects are not good.

So it became unfashionable to be for the space program. Advocates of new space initiatives were met with emotional, and therefore politically powerful, arguments that the country's resources were needed on earth, to fight poverty, ill health and hunger. Public opinion polls that ask the American people to list the programs on which they would like the government to spend more money generally show space exploration at or near the bottom of the list these days. Our political system is responsive—that attitude is recognized and embodied in lean appropriations for space every year.

And yet, the popularity of the movie "Star Wars" and "Close Encounters of the Third Kind" cannot be an accident. "Star Wars" recently eclipsed "Jaws" as the all time box office leader. Projections are that it will gross well over $200 million. "Close Encounters" seems destined for the same level of success, and I don't think that the fanaticism of fans of the former television science fiction series "Star Trek" is an unimportant phenomenon or an aberration.

The continued interest in science fiction as a form of expression is a most important feature of our mass culture. Science fiction now represents 13–14 percent of the total book market, and the field is growing. Such facts often go unacknowledged, because there are other trends that seem to contradict this interest in science.

The counter-culture inspired by opposition to the war in Vietnam was determinedly anti-materialist and anti-technology. Its influence is still evident, in the popularity of back-to-nature products such as organic foods, cosmetics, and handbooks on how to live in the woods.

But the older American love of novelty, of scientific spectaculars, of technological innovation is still vibrant. It is as much a part of the American scene as steamboats once were, or the telegraph.

Yankee ingenuity, American know-how—these are cliches that we have used to describe this strain in our lives, and it is alive and well in American popular taste, however unfashionable it may be in the more sophisticated circles that have adopted the countercultural view for their own.

So I would like to make a prediction at this point. I believe this interest in technology will in time again assert itself and we will once again be involved in space exploration and development on a grand scale.

Now that's a pretty bold prediction, and, as I warned earlier, trying to discern trends while they're actually happening is a riskier and a more controversial business than explaining away the past. So give me a chance and let me explain why I think my prediction will come to pass.

Space exploration, as I've said, is an essentially optimistic undertaking. But it is more than that. It also represents other things that historically have been very important to this country: it is a frontier; it is a challenge to the American talent for ingenious solution; and it is an enterprise of sufficient histrionic proportions that it excites the imagination.

All of these attributes are important and powerful parts of the American experience. Some historians have even suggested that it was the very fact of being a frontier country that defined our national character. Like most such historical generalizations, there is enough to this thought to make it meaningful.

Having a frontier always meant that those in this country who could not make a go of it in the established centers had an escape route, a place to which they could go and start over. There, people were judged by their ability to master a totally different environment, and a premium was placed on innovation and adaptability. We cannot realize the pervasive effects of this kind of influence on our culture until we stop and think about some of the things that are our heritage as a result.

The challenges of frontier life have always been a great spur to our creative minds. While many people may not realize it, the kind of wooden frame housing in which virtually all of us now live was first invented as a means of economizing on the amount of wood needed to build a house on the Great Plains, where no trees grew. More recently, the exploration of space has yielded us whole new digital and miniaturization technologies. Things as diverse as pocket calculators and Teflon pans are just part of our harvest from the exploration of this newest frontier. But the specific benefits are less important than the general stimulus to intellectual accomplishment that is necessarily involved in the effort to overcome the obstacles to exploration. In short, we can rarely predict what technological benefits there are to be gained in advance of the effort—but we can be sure that they will be there.

One of this country's great strengths, its diversity, was fostered by the availability of open space in which different life styles could be pursued without disruption to the society. Religiously fervent groups such as the Mormons, and various Utopian thinkers, including many socialists, were all free to move out West and flourish in a peace that they would never have been able to enjoy back East.

Dynamism, creativity, diversity—all are important national traits, and all were fostered by the availability of a place where they were valued and protected. Manifest Destiny was the slogan under which Americans proclaimed their right to territory from one seaboard to the other. "Go West, young man," is in this country a phrase that evokes adventure and opportunity.

We have not had a frontier for some time now within our own country, but the world as a whole has only recently been in the same situation. The increasing sophistication of global communications and transportation networks means that there are fewer and fewer unexplored and primitive areas. Vast tracts of land remain unexploited—that is one thing. But land marked "unknown" on a map is quite a different matter, and it is a tantalizing prospect lost to the adventurous among us only recently. As many have pointed out, outer space is the last such frontier.

Challenges to American know-how, and self-confident pleasure in meeting them, have been another casualty of the experience in Vietnam. The advantage of sophisticated weaponry, logistics, and techniques proved no match for a determined group of jungle guerillas. A little doubt—or perhaps maturity—tempers the optimism with which we now consider technological solutions to our problems.

The pursuit of historic missions is also an activity which lost much of its luster in the last battles in Southeast Asia. We are more likely now to carefully question the stirring appeal to patriotism, or blind enthusiasm for adventure. President Kennedy's speech proposing to go to the moon would sound tinny today, not stirring.

All of this is in reaction to a traumatic string of national experiences. But it cannot be a permanent state of mind. It is impossible to believe that the United States will never again enthusiastically embrace a challenge, and bring its best resources to bear in an effort to meet it. I suspect it will be done with a shade more sobriety, critical examination, and doubt than before. But that it will happen again in time is a virtual certainty.

I think that is precisely what is already beginning to happen in the case of space exploration. The popularity of science fiction is just one straw in the wind. The rise to celebrity status of a scientist whose interest is extraterrestrial biology, Carl Sagan, is another. The political clairvoyant, Governor Brown of California, recently involved himself in a Space Day celebration here on the West Coast. I don't think any of these things are accidents. I think they are the first indications that the pendulum has begun to swing back.

I don't want to sound giddy about the prospects. As a nation, we have learned a lot about our limitations from the events of the recent past. I'm sure that the new ventures that will come out of an increased attention to space will all have important practical applications.

Scientists have promised us, for example, that the use of an endless, weightless vacuum as an environment will allow us to manufacture exotic materials that cannot be easily made here on earth, to cast perfect ball bearings, and to produce new medicine with great potential. Eventually, we may find that space holds the key to our energy problem, allowing us to build orbiting power stations to generate electricity from solar energy.

Now is the time for leadership in this field. The country's mood is ripe, I believe, for an appeal to the traditional values of American exuberance. At junctures such as these, it is the role of our political and other leadership to try to sense and articulate this sort of mood.

It may be that this role is what we have in mind when we speak of leadership that has vision. Our form of government, for a variety of reasons, often suffers from a myopic preoccupation with the problems of the moment.

If there is one thing that can be said with certainty about the problems of today, it is that they will not be the problems of tomorrow. Certainly, great difficulties brought on by the historical conjunction of events are not going to go away overnight. The durability of the list of our nation's political agenda with which we began illustrates that point.

But most of the time and energy of our political leadership is too often spent on the trivia of the day. There is too little attention paid to the need to define tomorrow's agenda, to shape the direction as well as the content of our public discourse.

Perhaps I am more sensitive to this shortsighted aspect of our government because I try to insure that my own company does not fall victim to this kind of mindset. It's also possible that I sense the increased interest in space exploration sooner than most in government because I spend my time in a sector of American life, the business community, that is inherently more optimistic than others.

In any event, I look forward to recognition by our political leadership that the American appetite for optimistic leadership, instead of cynical or shortsighted management, has revived.

I think it would be a pleasure to live once again in a land where optimism and an enthusiastic struggle with difficult problems—though tempered by sad and sobbering experiences—would no longer be out of fashion. I hope you agree.

RURAL HEALTH NEEDS PLANNING ACT OF 1978

Mr. CLARK. Mr. President, yesterday I introduced, along with Senators LEAHY and ANDERSON, the Rural Health Needs Planning Act of 1978, S. 2487. We inadvertently failed to ask that the text of the bill be printed in the RECORD. Therefore, I ask unanimous consent that the text of S. 2487 be printed in the RECORD today, and to appear in the permanent RECORD following our statements of introduction that appeared on pages S1191 and 1192.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Health Needs Planning Act of 1978".

NATIONAL GUIDELINES

SEC. 2. (a) Section 1501 of the Public Health Service Act (42 U.S.C. 300k–1) is amended by redesignating subsection (c) and all references thereto as subsection (d) and inserting after subsection (b) the following:

"(c) In issuing guidelines under subsection (a) when (as determined by the Secretary) the needs of isolated rural communities and other non-urbanized areas within areas served by health systems agencies cannot be adequately met by the national guidelines the Secretary shall include separate guidelines and regulations for such nonurbanized areas.".

(b) Section 1501(d) (as so redesignated by subsection (a)) is amended by striking "subsection (a)" and substituting "subsections (a) and (c)".

NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

SEC. 3. Section 1503 (b) (1) of the Public Health Service Act (42 U.S.C. 300k–3) is amended by—

(1) inserting "the Assistant Secretary for Rural Development of the Department of Agriculture," after "Defense,"; and

(2) striking the second sentence thereof and substituting: "The remaining members shall be appointed by the Secretary and shall be persons who as a result of their training, experience, or attainments are exceptionally well qualified to assist in carrying out the functions of the Council. A majority of whom shall be consumers of health care and who are not also providers of health care and broadly representative of the population groups and subgroups including residents of non-metropolitan areas."

HEALTH SYSTEMS AGENCIES

SEC. 4. Section 1512 (c) of the Public Health Service Act (42 U.S.C. 300–1) is amended by—

(1) inserting "(1)" after "(c)";

(2) adding at the end thereof the following new paragraph:

"(2) The Secretary is authorized to make grants to health systems agencies, on the basis of the square mileage area served by such agency, for the development and operation of subarea councils. The Secretary shall adjust the amount of a grant for a health systems agency that contains a geographic barrier not reflected in the square mileage of the health service area served."; and

(3) inserting at the end of the first sentence of paragraph (1) (as so redesignated) the following new sentence: "The health systems agency shall demonstrate consideration of the views of the subarea councils.".

PLANNING GRANTS

SEC. 5. Section 1516 (b) (1) of the Public Health Service Act (42 U.S.C. 3001–5) is amended by inserting "the product of $0.10 and the medically underserved population of the health service area for which the health systems agency is designated, and" after "1515 (c) shall be".

STATEWIDE HEALTH COORDINATING COUNCIL

SEC. 6. Section 1524 (b) (1) (A) of the Public Health Service Act (42 U.S.C. 300m–3) is amended by adding at the end thereof the following:

"(iv) A majority of the members of the Statewide Health Coordinating Council shall be residents of the State and who are broadly representative of the population groups and subgroups including residents of nonmetropolitan areas.".

CENTERS FOR HEALTH PLANNING

SEC. 7. Section 1534 (c) (2) of the Public Health Service Act is amended to read as follows:

"(2) shall develop and use methods (satisfactory to the Secretary) to disseminate to such agencies and State agencies planning approaches, methodologies (including methodologies to provide for education of new board members and new staff and continuing education of board members and staff such agencies and State agencies, with special emphasis on the needs of medically underserved populations), policies, and standards.".

THE U.N.: SCRAPPING INDIVIDUAL RIGHTS FOR COLLECTIVE RIGHTS

Mr. MOYNIHAN. Mr. President, President Carter has once again stressed the importance of human rights in the foreign policy of the United States. That the President's concern is not misplaced is borne out in an especially illuminating commentary by William Korey, recently printed in the Washington Post. Mr. Korey reminds us that the vocabulary of human rights must itself be protected from those who wish to take it over for their own political purposes. I know from my own experience as Permanent Representative of the United States at the United Nations that we must remain

alert to all such endeavors. I ask unanimous consent that the text of Mr. Korey's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Jan. 11, 1978]

(By William Korey)

THE U.N.: SCRAPPING INDIVIDUAL RIGHTS FOR COLLECTIVE RIGHTS

A remarkable inversion of the traditional language of human rights took place, virtually unnoticed, at the past session of the U.N. General Assembly. What had been the isolated Soviet position in 1948 on the Universal Declaration of Human Rights emerged triumphant in 1977.

In 1948 Andrei Vishinsky had provided the General Assembly with a classic exposition of the Kremlin view. Human rights, said the prosecutor of the Great Purge epoch, is "a governmental concept" and "cannot be considered outside the prerogatives of governments." He called for either a year-long delay in the U.N. vote or the adoption of amendments that would have restricted individual freedoms in the interest of the state.

With the West then dominant in the General Assembly, Vishinsky's proposals were defeated. Eleanor Roosevelt, the principal architect of the Universal Declaration, predicted that the document, with its stress upon the rights of the individual, would become "the international Magna Carta of all men everywhere." And, indeed, it has.

Last month, however, the General Assembly decided that individual rights were no longer a principal concern. Two new "priorities" stressing collective and national rights were adopted. An exultant Soviet delegate welcomed the "significant" development as laying down a "new United Nations approach to human rights."

The new first priority of the world body is to combat violations of the "human rights of peoples." Apartheid, racial discrimination and colonialism headed the list of violations. But the subsequent categories were far more striking: "aggression and threats against national sovereignty, national unity and territorial integrity, as well as the refusal to recognize the fundamental rights of people to self-determination, and of every nation to exercise full sovereignty over its wealth and national resources."

The Irish delegate strongly objected to a U.N. resolution in which "collective rights must indispensably take priority over the rights of the human person." Ambassador Andrew Young, despite his sympathy for Third World aspirations, complained that "the promotion of vital rights of the individual" had been subordinated to this new "higher priority."

Western efforts to redress the imbalance went down to defeat. When an amendment was proposed that would have added the words "of individuals" to the phrase "human rights and fundamental freedoms," it was voted down 54 to 63, with 20 abstentions. Also rejected was an amendment that would have appended the words "for all, without distinction as to race, sex, color, language or religion" after reference to the "protection of rights." Nothing was said in the resolution about such gross and widespread human-rights violations as torture, killings, arbitrary arrest and detentions, and deprivations of speech, press and assembly.

The second new priority decided upon by the Assembly is "the realization of the New International Economic Order," which was held to be "an essential element for the effective promotion of human rights and fundamental freedoms." The key phrase is "an essential element." When an amendment was advanced to substitute for this phrase the words "likely to facilitate," it was rejected by a vote of 44 to 65, with 25 abstentions.

But there is an abundance of evidence drawn from the experience of numerous developing as well as developed countries that would demonstrate that higher economic standards have no necessary connection with improved human-rights conditions. Indeed, not infrequently the correlation is an inverse one. A leading specialist, Harold R. Isaacs, reecntly wrote: "Never have more 'liberated' people become more subject to more tyrannies in the name of achieving more freedom. . . ."

Besides, the New International Economic Order, however useful its purpose, has little, if anything, to do with human rights. It represents the aspiration of developing countries to restructure the world economy for their own benefit. The focus is upon benefits to be derived by Third World states, not necessarily their populations. Given the structures of most Third World countries, it is an open question whether economic benefits have raised the standard of living of more than their elites.

The new priorities reflect the interests of most Third World governments supported by the Communist bloc. Of the 33 sponsors, only three or four belong to the developed Western world. Almost three-quarters of the sponsors were authoritarian regimes of the right or left. Few sought to challenge the overwhelming majorities that could be mobilized by the geographical blocs. On the roll-call vote in the Third Committee, only 11 Western countries, including the United States, abstained. Some 126 governments were recorded as being in favor, with none opposed.

The task of fleshing out the new priorities was assigned to the next session of the U.N. Commission on Human Rights, beginning in February. Its "conclusions and recommendations" are to become the basis for programming by the General Assembly. Since the composition of the 32-member commission reflects a U.N. structure in which the Western democracies constitute an isolated minority, the possibility of modifying, let alone reversing, the current trend is severely limited. Yet the effort must be made, if only to preserve at least the essentials of Eleanor Roosevelt's handiwork.

AMBASSADOR YOUNG'S REPORT

Mr. MATHIAS. Mr. President. Representative CHARLES WHALEN of Ohio, who has served as a member of the U.S. delegation to the United Nations in the last session of the General Assembly, has called my attention to the statement delivered by U.S. Representative to the United Nations, Andrew Young, on December 21, 1977. Ambassador Young has been a lively and provocative spokesman at Turtle Bay. Whether his words evoke agreement or controversy, they carry the weight of the administration and so they are important and should be read carefully. The statement reports the Ambassador's views on the 32d session of the General Assembly. Mr. President, I ask unanimous consent to have the report printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

STATEMENT BY AMBASSADOR ANDREW YOUNG

I am pleased to say that I believe we have achieved an important and hopeful shift in the development of the General Assembly. We are drawing to a close what has been in many ways the most constructive session in many years. In this General Assembly we have seen a clearer consensus of the concerned emerge to replace some of the politics of frustration which seemed often to drive the work of the Assembly in the past.

This year we all saw an obvious change of mood, a sign that all of our governments and delegates are beginning to question the value of the slogans and cliches which have governed their activities so often during the past several years. I sense an increasing agreement that slogans lead nowhere, that purely political and tactical maneuvers in isolation from the substance not only are wasteful and damaging to this institution, but they engender unproductive confrontation which inhibits progress toward solution of the crucial problems of mankind.

In short, this has been a good Assembly. It may even have been historically important, because of progress on several fronts, but mainly because of this new will to talk together about resolving our common problems. This is a solid record that my Government values highly and a record that I intend to convey to the American people in the months ahead.

What has this Assembly accomplished, and why did this occur?

First, let us turn to the area where the UN has for 30 years borne special responsibilities for maintaining peace and security—the Middle East. This fall we saw in President Sadat's visit to Jerusalem one of the most courageous moves in the history of modern diplomacy. His action, and the response of Prime Minister Begin, have created an unprecedented opportunity. Their visit demonstrated the profound desire for peace by peoples who have undergone the devastation of four tragic wars.

On most other issues this fall, this Assembly gave the impression of being closely conscious of, and relevant to real events. But resolutions which were adopted in the Middle East tended to reflect the unhelpful rhetoric of the past rather than the refreshing and hopeful developments of the present. There seemed a very real possibility that the world was passing the United Nations by.

In all fairness, I think that the delegates and their governments may have sometimes found it difficult, because of the swift pace of developments, to reflect in New York the dynamic new possibilities for progress in the Middle East.

Despite the unreality of some of these debates, the role of the United Nations as an institution in Middle East affairs remained important and constructive. We must all keep this in mind, as the Secretary General did when he called on Prime Minister Begin to discuss the contribution the UN can make to the peace process. UN peacekeeping efforts for many years now have helped provide the breathing space which is necessary to permit the parties concerned to hammer out the terribly difficult but essential decisions which must be taken if we are to have an enduring peace—at long last—in the Middle East.

Amidst the headlines this fall, a fact overlooked was that the Security Council renewed without controversy the mandate of the Disengagement Observer Force in the Middle East, a process that in the past has been drawn-out and painful. Nor did the world or the media focus on the fact that General Assembly approval of funding for the Middle East was routine and non-controversial.

Nor did the public place sufficient importance on the UN role this fall in enabling intensive consultations to take place among the leaders of the governments principally concerned with a Middle East settlement. This included the opportunity for US and Soviet foreign ministers to further their talks on this subject. All of these developments helped prepare the way for the kind of agreements on meaningful measures which are

required for the ultimate settlement we all desire in the Middle East.

An important part of the new atmosphere in this General Assembly was engendered by what my Government considers to be significant movement of the UN community toward a new degree of consensus on the common goals in the southern African issues. I am proud that my Government and the people of the United States have drawn closer in association and cooperation with our African friends. The world community is virtually unanimous in its support for the goals of liberation of the people in southern Africa. There are few who would reject the work that has been launched to guarantee freedom, independence and self-rule for all of the people of this region. My Government is committed to this monumental task.

In Rhodesia, we have been sharply aware of the breathing room granted the UK-US effort by the way the General Assembly treated this problem in all its debates, in Committee as well as Plenary. We also understand and accept the significance of the postponement of further debate in the Security Council.

The tragic actions of the Government of South Africa this fall sparked a justifiable explosion of protest from around the world that found its expression in this Organization through the unanimous decision of the Security Council to impose mandatory sanctions on South Africa—the first time sanctions under Chapter VII of the Charter have been imposed on a member state of the UN. This was a true consensus. It was an historic step forward by the UN in its long effort to achieve freedom and human dignity in Africa.

On economic and social issues, we have reached two important milestones rooted in consensus. We have achieved agreement on a mechanism to oversee the continuing dialogue between the industrialized and the developing nations. Many thought we would not be able to come to terms on even the procedure for carrying on this dialogue—for we had failed numerous times in the past—but we were able to carry it off. In addition, after a two-year study on restructuring of the economic and social functions of the United Nations, we reached agreement on some highly significant changes that should clearly improve the efficiency and effectiveness of these operations and ensure that the delivery of services of the UN agencies to the world's poor is greatly enhanced.

We have also made some progress on human rights. This was the Assembly at which the President of the United States signed the Covenant on Economic and Social Rights and the Covenant on Civil and Political Rights. It was the Assembly at which broad co-sponsorship of the proposal to create the position of High Commissioner for Human Rights reflected support in most geographic regions, even though ultimate passage was not possible this year. This was also the Assembly at which delegations from a number of regions made significant human rights proposals. I think we have taken important steps toward achievement of more awareness and agreement on action in this sensitive but critical field than we have ever had. At the same time, we have much work to do.

One of the most encouraging things about this fall's General Assembly was the extent of agreement we reached on arms control issues. On a comprehensive test ban, for example. the key resolution commanded very broad support—not only from the Soviet Union and the United States, but also from almost all of the nonnuclear nations. On non-proliferation, there was a genuine readiness to exchange views seriously and to develop an acceptable resolution that recognizes the broad responsibility of all nations not to contribute to proliferation. Resolutions calling for nuclear free zones in Africa, the Middle East and South Asia commanded strong acceptance, and my Government was pleased to be able to support them. And both the U.S. and the Soviets were to vote for a resolution endorsing goals in the Strategic Arms Limitation Talks.

The action of this Assembly in adopting by consensus—I emphasize by consensus—a resolution on aircraft hijacking was a particularly significant achievement of this session, making the world's airways safer for peoples of all nations.

In addition, this fall negotiations in the UN have made substantial progress toward establishing a joint committee on missing persons in Cyprus, a positive indication that there is willingness on both sides to resolve differences through negotiation. We have taken steps to support the important recommendations of the International Civil Service Commission for improvements in the staffing of the United Nations. We have expanded the UN membership as we work toward the ultimate goal of universality. We reached a consensus resolution on Guam and avoided the confrontational resolutions of the past.

The reasons for this quite positive record are many. I do not need to recite them to delegates here, but I believe it is particularly important for people outside this body to focus on them.

First, I think, is the emerging agreement that the time for opportunism on many issues before the UN is passing. The issues are too pressing, the dangers too great. This year's Assembly gives us more hope that this body has taken a new and positive course. While we clearly cannot agree on all precise policy prescriptions, there is growing agreement that it is incumbent on all of us to advance serious proposals for dealing with critical issues.

Second, there is, I believe growing agreement among members that the developed and the developing countries have fundamental, long-term interests that converge more often than they diverge. In my own country, for example, changes of policy have resulted in deeper interest in the problems of southern Africa, progress on a Panama Canal treaty, renewed concern about human rights, and closer relations with many countries in the developing world. There are differences, to be sure, and some are hard to bridge. But for all nations—large and small—it is increasingly absurd to refuse to recognize the impact we all have on one another.

On economic issues, for example, my country, which has historically been oriented toward our industrialized trading partners, now finds that the developing nations constitute its fastest growing markets and continue to be a prime source of many of its raw materials. So we find that all regions are of growing importance to America's welfare and interests. In turn, the developing countries are finding that the industrialized societies offer indispensable markets, needed capital and vital technical assistance. Increasingly, we have to understand jointly that our task is not to pressure one another—both sides, after all, are quite capable of resisting pressure—but to find a much better process to help both sides to discern and develop their common interests in cooperation. This is why the agreement of this Assembly to an overview mechanism for the North-South dialogue is so critical.

Third, and this will be disputed by some, although I strongly believe it is true—we are moving toward a more widely shared set of common values and interests. Thirty years ago, few in the developed world cared one way or the other about economic or social conditions in the developing nations. In that period, few in the developing countries realized that internal domestic policies of the industrialized countries could have such significant impact on economic conditions in their own far away lands. Today there is an intense international debate about the best means for achieving a new international economic order which will be more just and healthy. The question is not whether we should do this, but how.

Fourth, and the world largely ignores this—effective new forms of decision-making have been employed in compiling our records at this General Assembly. One is the important development of small-group techniques of reaching agreement on potentially divisive issues. So-called "contract groups" consisting of representatives of the various interest groups, or "friends of the chairmen" of larger committees, have been able to make important progress in informal sessions.

The other major procedural technique that deserves mention is that of consensus decision-making. The public tends to focus on disagreements among us, but over the past two years about 63 percent of the decisions in the General Assembly have been taken by consensus. Although important differences are sometimes inappropriately covered over by consensus decisions, in most cases the differences have been so narrowed by intensive negotiation and debates that it is not even necessary to take a vote on these issues. Consensus decisions during the current Assembly have, I believe, been even more frequent than last year.

If we are striking a more constructive and cooperative tone in the conduct of our deliberations here, I do not mean to suggest that we be complacent. We have a difficult agenda facing us in the 12 months ahead.

On the vital issues of maintaining the peace, first of all, we must keep the momentum going. Almost all of us agree that the time is right for movement. We must maintain that consensus, and this is only possible by continuing our efforts to clarify the issues and achieve agreements on the problems that threaten us all.

In the Middle East, let us build on the historic steps already taken, abandon destructive positions, and seize an unprecedented opportunity for peace. Let us set our minds, in the intersessional months ahead, to contribute our ideas, our information, and our wisdom in conducting the affairs of the UN to support the moves toward peace.

In Cyprus, now that the parties have moved close to agreement on one important issue, the committee on missing persons, let us in the United Nations maintain the momentum to broaden the areas of agreement and reach a lasting settlement.

In Rhodesia, the supportive consensus created here by this body has undoubtedly played a major role in bringing Ian Smith to understand that he must step down in favor of a legitimate majority government elected by the people of Zimbabwe. We continue to believe that the initiative which the United States has been pursuing in support of the United Kingdom remains the best framework for an internationally acceptable transition to majority rule. Let us continue to work together to bring about the necessary peaceful conclusion to this effort.

In Namibia, the five Western ambassadors have just completed another round of talks with the Front Line states, SWAPO, Nigeria and South Africa. The differences between the parties have been narrowed considerably over the last several months since our contact group began functioning. But the remaining issues stubbornly resist final agreement between the parties. Let us continue to work together in pursuance of an internationally acceptable settlement which will lead to true self-determination and independence for the people of Namibia.

In South Africa itself, let us build on the new consensus—not merely on the utter unacceptability of apartheid, but also on the need to convince South Africa to move in a

progressive direction. The consensus of the world community is more solid and sweeping than ever before. Let us make clear that our goal is not to isolate South Africa but to encourage the kind of meaningful social change that can bring full participation by all South African citizens in their own governance and national life.

Next year we will mark the 30th anniversary of the signing of the Universal Declaration of Human Rights. Its adoption was accomplished at a very early stage of the life of this Organization. It was virtually our first priority in those days. While there has been some progress in human rights since then, we still have a long way to go. There are still far too many abuses. As we mark this significant anniversary, let us restore to high priority this Organization's concern for human rights and let us resolve that next year's General Assembly will be a high point for constructive collective action to advance this vital cause.

Next year will also provide us with a significant opportunity for progress on arms control issues. Our Special Session on Disarmament next May and June is unprecedented. Never before has the UN sponsored a gathering of this magnitude on this subject. Never before have we had a chance to concentrate the attention of all nations on these life-and-death questions in this way. This is no longer a concern of only the nations of the East and West. The developing countries, the non-nuclear countries—indeed all countries—have an important stake in these discussions. Let us all pledge to work within our governments to make a major effort to bring this Special Session successfully to meaningful understandings and practical ways to enhance our disarmament goals.

This session of the Assembly was another major step in the improved economic dialogue between the developing countries and the industrialized countries. As the resumed 31st session of this Assembly ended, just prior to the opening of this one, it was clear to all that a major task would be to find a mutually acceptable framework for the continuation of high-level overview of economic cooperation within the United Nations system. The 32nd General Assembly has met this challenge; let us all work for constructive discussions in the Committee of the Whole we have agreed upon.

For the US, expectations will be high. If the construction of a new international economic order is to be a growing consensus and not a verbal contest, each group of countries—East and West, oil producers and consumers, industrialized, industrializing and agricultural—must explore ways in which change can be achieved consistent with economic security for all. We know each others' needs and concerns. We have learned even more about them during this Assembly. Let us get on with the work that remains to be done.

In many areas once characterized by disagreement, we have achieved consensus. In others, we have thus far failed. One area in which more work remains to be done relates to the negotiations for a common fund under the auspices of UNCTAD. The suspension of the negotiations in Geneva took place rather late in our session; with so much else under way, it was certainly a difficult task for all of us here in New York to provide a real impetus for their constructive resumption.

Unfortunately, we were not able to reach agreement on a resolution which would have facilitated resumption of the negotiations. As you know, Mr. President, we worked towards a resolution in the Second Committee last week that would have permitted the negotiations to be resumed on a constructive basis. Regrettably, it was not possible to achieve a positive non-prejudicial statement. Let us therefore work together to find a way to minimize polemics and to conduct a balanced and dispassionate assessment of the important issues involved. We believe that such an assessment is necessary before any further progress can be made

Let me mention one final area that merits urgent attention next year. The budget we have just approved is nearly a 30 percent increase over that of the last biennium. We have approved many good programs and projects. Indeed, nearly all of them are good. But the UN's resources are not unlimited. I think it is fair to say we are sponsoring too many conferences, too many special interest programs, too many "private bills" of assistance in individual countries when such steps should be reserved for only the most critical cases. I will be the first to admit that my Government has not always followed a policy of fiscal restraint itself. But the need for fiscal stringency is paramount. It applies to all of us. We need to get priorities, carefully analyze all proposals, clarify our objectives, and restrain ourselves on expenditures until we have sorted out for ourselves exactly which actions are the most pressing. A consensus resolution of this Assembly last year expressed concern about this problem and requested the assistance of the Secretary General in identifying expenditure priorities. The UN system budget was $124 million in 1947. It was nearly $2.5 billion in 1976. These are significant sums which we all know can—with proper programming and management—be better used. Let us commit ourselves to this task in the coming year.

In short, we have a difficult agenda before us. The problems do not vanish with the sound of the last gavel. But with the consensus of the concerned that has clearly emerged at this year's General Assembly, we have begun to search for the common elements of our own interests, to stop shouting and to do more listening.

A senior official of another government told me early in this Assembly that the United Nations seemed to be catching its "second wind." I think that is clearly true. This emerging consensus on how to work together on world issues provides us all with a source of new hope and optimism. That is good for the United Nations. It is good for the world. It is good for the people we represent.

In closing, Mr. President, I would be remiss and would not reflect the strong view of my Government if I did not speak directly about the superlative manner in which you have managed the difficult business of this Assembly over the past three months. You have been a superb President in a line of outstanding statesmen and your Assembly has one of the most constructive and positive records of any Assembly in many years.

My delegation also wishes to express appreciation to the Secretary General, who once again this year has provided the United Nations with devoted and energetic leadership. We have missed Mrs. Waldheim's presence this fall and offer to you, Mr. Secretary General, and all the members of your family, our sincere hope that you can be united with your family as soon as possible. Finally, Mr. President, through you I would like to thank Under-Secretary Buffum and all the devoted members of the Secretariat Staff for their warm support and hard work, which obviously have played an essential part in the achievements of this Assembly.

PAY MORE, GET LESS

Mr. EAGLETON. Mr. President, I recently introduced a bill (S. 2459) to allow individual taxpayers a 15-percent tax credit against their social security taxes. I intend to offer the measure as an amendment to the President's tax reduction and reform package when it gets to the Senate.

The purpose of the amendment is to channel that part of the tax cut which is designed to lessen the impact of higher social security taxes to those who actually pay the payroll taxes. Last week, the Chairman of the President's Council of Economic Advisers testified that social security taxes will increase from $7 to $7.5 billion in both 1978 and 1979. There is no justification for giving the compensating portion of the tax reduction to the roughly 20 million taxpayers who do not contribute to social security. My bill would prevent that.

Mr. President, there is one school of thought asserting that those who are paying the higher social security taxes will be getting higher benefits in return, and therefore do not merit any special tax consideration. That is simply not the case. Last year's social security legislation not only increased the payroll taxes but also made other changes which will result in a significantly lower level of benefits. According to a Wall Street Journal article of February 6, 1978, a 25-year-old earning $10,000 this year formerly could plan on a social security retirement equal to 83 percent of his preretirement income. Under the new legislation his benefits will equal only 46.7 percent of his final pay. So, he pays more and gets less. Mr. President, I ask unanimous consent that the tax table of the Wall Street Journal article written by Donald Moffitt be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[As a percentage of final pay]

Year[1] of retirement	1978 earnings					
	$10,000		$20,000		$30,000	
	Old law	New law	Old law	New law	Old law	New law
1978	52.4	52.4	31.9	31.9	21.2	21.2
1983	58.1	48.4	35.4	30.3	23.6	20.6
1988	61.1	48.0	37.2	30.9	24.8	21.4
1998	66.1	47.7	41.6	32.1	27.7	22.0
2008	74.8	47.6	47.0	33.6	31.4	24.7
2018	38.0	46.7	51.2	34.0	34.1	25.5

[1] Year of retirement.

Note: Retirement is at age 65. "Final pay" is the average yearly pay for the 5 yrs. before retirement. Assumed inflation: 4 percent a year in cost of living and 5 percent a year in pay.

TRIBUTE TO JOHN McCLELLAN

Mr. MOYNIHAN. Mr. President, I join my colleagues in honoring the memory of John McClellan, so long a force in the U.S. Senate. Indeed, it is remarkable to note that he served in this body for some 35 years, a span of time once reckoned to be a full generation, but, in our day, a period which must be seen as encompassing several generations. If we think of our Nation's political history since 1943, if we consider the transformation of international politics in the same period, can we recall an era more challenging, more taxing, more demanding of the resources of our legislators?

Senator McClellan was a man of remarkable stamina and acuity, a Senator who could grasp the importance and the complexities of the rapid changes in our national life. He was, as we know, a man

who knew great tragedy in his personal life; his ability to persevere strikes me as all the more impressive on that account.

Everyone, of course, has his own remembrance of the important political figures of his time. I recall especially the role of Senator McClellan some 25 years ago, when the country was in the midst of an important crisis of political confidence. It was a time when some people sought to appropriate legitimate patriotic concerns for political purposes of their own, a time of reckless political accusation. It fell to Senator McClellan to set a standard of political decency and courage and his role at that juncture will not soon be forgotten. I do not think that I could have imagined that I would, someday, come to the Senate myself and serve alongside him. I was privileged to do so for 1 year, and greatly regret that I had not the opportunity to serve with him, and learn from him, longer. Through his prodigious efforts, Senator McClellan has made an indelible impression on the history of the United States in our time and, through his embodiment of the elemental virtues, he made an indelible impression on one much younger than he, who now has the privilege of continuing to work in this body. We are diminished by his death, but we are inspired by his memory.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask unanimous consent that the Senate proceed into executive session for 1 minute.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. KENNEDY. Mr President, I call up the nomination of David Mazzone for the Federal district bench, reported earlier today.

The PRESIDING OFFICER. The nomination will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of A. David Mazzone, of Massachusetts, to be U.S. district judge for the District of Massachusetts.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR EAGLETON AND SENATOR LEAHY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the prayer and the disposition of the approval of the Journal tomorrow, Mr. EAGLETON be recognized for not to exceed 15 minutes and that Mr. LEAHY be recognized for not to exceed 15 minutes prior to the orders for the recognition of eight other Senators, such orders having already been entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

PANAMA CANAL TREATIES

AMENDMENTS NOS. 20 AND 21

Mr. ROBERT C. BYRD. Mr. President, today I am submitting on behalf of the distinguished minority leader, Mr. BAKER, the distinguished chairman of the Foreign Relations Committee, Mr. SPARKMAN, the distinguished ranking minority member of the Foreign Relations Committee, Mr. CASE, the distinguished minority whip, Mr. STEVENS, the distinguished majority whip, Mr. CRANSTON, and 72 other Senators, making a total of 78 Senators, two amendments to the Panama Canal treaties which we feel represent a fundamental and essential improvement in strengthening the documents.

Since I first had the opportunity to review the treaties in September, it has been apparent to me that it would be necessary to clarify and guarantee two very important points:

First. The right of the United States to take action to defend the canal and to assure that it will remain open after the year 2000 for neutral use; and

Second. Expeditious, or "head-of-the-line," passage through the canal for U.S. military vessels in time of need or emergency.

The critical importance of these two issues clearly emerged in the hearings on the treaties before the Foreign Relations Committee.

A detailed study of the treaties, the public debate across the Nation, and a careful analysis of the hearings, have led us to conclude that articles IV and VI of the Neutrality Treaty should be amended accordingly.

We feel article IV should be amended to insure that the United States shall have the unchallenged right to take action on its own, if necessary, to defend the canal against any aggression directed against the canal or the peaceful transit of vessels.

Furthermore, article VI should be amended to provide that U.S. war and auxiliary vessels shall have the unquestionable right in the case of emergency or need to go to the head of the line in order to transit the canal rapidly.

These two amendments will formalize into the test of the treaties, if these amendments are adopted, the statement of understanding agreed to by President Carter and by Gen. Omar Torrijos, the Panamanian leader, October 14, 1977.

It is important that this statement of understanding was agreed to and publicized in General Torrijos' televised address to his people prior to the October 23, 1977, Panamanian plebiscite on the treaties.

Mr. President, these amendments have the bipartisan endorsement of the Senate leadership, together with Senator SPARKMAN, chairman of the Foreign Relations Committee, and Senator CASE, ranking member of the committee, as well as the cosponsorship of 74 others of our colleagues, as I say, making a total of 78 Senators who are sponsoring these amendments.

It is our belief that these two amendments will clear up any uncertainty surrounding the critical issues of the United States' right to defend the canal, as well as priority passage through the canal in time of emergency or need.

Mr. President, in addition to these 78 sponsors of this amendment, there are Senators who have indicated that they will support the amendment but for various reasons of their own they preferred not to join at this time as cosponsors of the amendments.

Mr. President, I send the amendments to the desk and I ask unanimous consent that they be printed in the RECORD as in executive session and that the list of cosponsors also be shown.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD (for himself, Mr. Allen, Mr. Anderson, Mr. Baker, Mr. Bartlett, Mr. Bayh, Mr. Bentsen, Mr. Biden, Mr. Brooke, Mr. Bumpers, Mr. Burdick, Mr. Case, Mr. Chafee, Mr. Chiles, Mr. Church, Mr. Clark, Mr. Cranston, Mr. Danforth, Mr. DeConcini, Mr. Domenici, Mr. Durkin, Mr. Eagleton, Mr. Ford, Mr. Garn, Mr. Glenn, Mr. Goldwater, Mr. Gravel, Mr. Hansen, Mr. Hart, Mr. Haskell, Mr. Hatch, Mr. Paul G. Hatfield, Mr. Hathaway, Mr. Heinz, Mr. Hollings, Mr. Huddleston, Mrs. Humphrey, Mr. Inouye, Mr. Jackson, Mr. Javits, Mr. Kennedy, Mr. Laxalt, Mr. Leahy, Mr. Lugar, Mr. Mathias, Mr. Matsunaga, Mr. McClure, Mr. McGovern, Mr. Metzenbaum, Mr. Morgan, Mr. Moynihan, Mr. Muskie, Mr. Nelson, Mr. Nunn, Mr. Packwood, Mr. Pearson, Mr. Pell, Mr. Percy, Mr. Randolph, Mr. Ribicoff, Mr. Riegle, Mr. Roth, Mr. Sarbanes, Mr. Sasser, Mr. Schmitt, Mr. Schweiker, Mr. Sparkman, Mr. Stafford, Mr. Stevens, Mr. Stevenson, Mr. Stone, Mr. Talmadge, Mr. Thurmond, Mr. Tower, Mr. Wallop, Mr. Weicker, Mr. Williams, and Mr. Young) submitted two amendments intended to be proposed by them, jointly, to Executive N, 95–1, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

AMENDMENT No. 20

At the end of Article IV, insert the following:

"A correct and authoritative statement of certain rights and duties of the Parties under the foregoing is contained in the Statement of Understanding issued by the Government of the United States of America on October 14, 1977, and by the Government of the Republic of Panama on October 18, 1977, which is hereby incorporated as an integral part of this Treaty, as follows:

" 'Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

" 'This does not mean, nor shall it be interpreted as, a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.' "

AMENDMENT No. 21

At the end of the first paragraph of Article VI, insert the following:

"In accordance with the Statement of Understanding mentioned in Article IV above: The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly."

Mr. ROBERT C. BYRD. And Mr. President, the amendments will be printed overnight, will they not?

The PRESIDING OFFICER. The Chair advises that it will be.

Mr. ROBERT C. BYRD. I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I should think that the program tomorrow would be about as follows:

The Senate will convene at 9:30 a.m. and after the prayer and the disposition of the approval of the Journal, a total of 10 Senators will be recognized under the orders previously entered, each for not to exceed 15 minutes, and this should run until about 12 o'clock noon.

At the hour of 12 o'clock noon, or upon the conclusion of the orders for recognition of the 10 Senators, whichever is later, the Senate will vote by rollcall on the adoption of the conference report on the Endangered American Wilderness Act of 1978, H.R. 3454, without prior debate thereon or motions, and upon the disposition of that vote the Senate will go into executive session, under the order previously entered, and will proceed immediately to the consideration of Executive N, 95th Congress, first session, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

I anticipate that following that point on tomorrow most of the day will be taken up by speeches made by proponents and opponents of the treaty, and I also anticipate that on Thursday and Friday most of both days will be consumed in debating the treaty with those in opposition and those in support of the treaties speaking throughout Thursday and Friday, and I anticipate that the length of those debates during those sessions should be perhaps 6 hours tomorrow, give or take a little, as to Thursday probably 7 or 8 hours, and as to Friday 6 or 7 hours should be sufficient. Of course, motions will be in order and amendments to the treaty will be in order as the Senate proceeds article by article to debate the treaty.

So rollcall votes could occur, as I say, in connection with the treaties, amendments, and/or motions in relation to the same, but I imagine that most if not all of the 3 days will be given to debate of the treaty.

Mr. President, it may very well be that other matters can be taken care of as we go along but only in the event that they are matters of an emergent nature or of an uncontroversial nature or in the event very brief time agreements can be worked out in relation to such matters so as not to consume much of the time of the Senate, it being desired that most of the time of the Senate be given to the action on the treaties.

Now, that is about all I will say at this point. As to the determination of what constitutes an emergent matter, this will depend upon the matter itself and can await such time as we are confronted with those situations.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and at 7:12 p.m. the Senate recessed until tomorrow, Wednesday, February 8, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 7, 1978:

DEPARTMENT OF STATE

John P. Condon, of Oklahoma, a Foreign Service officer of class 1 to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominion of Fiji.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

James Patrick Walsh, of the District of Columbia, to be Deputy Administrator of the National Oceanic and Atmospheric Administration, vice Howard W. Pollock, resigned.

CONFIRMATION

Executive nomination confirmed by the Senate February 7, 1978:

THE JUDICIARY

A. David Mazzone, of Massachusetts, to be U.S. district judge for the district of Massachusetts.

EXTENSIONS OF REMARKS

PANAMA CANAL

HON. JOHN KREBS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. KREBS. Mr. Speaker, regardless of where my colleagues stand on the Panama Canal ratification issue, I felt they would be interested in the following ariticle, which appeared in the February 2 edition of the Los Angeles Times, by William F. Buckley, Jr., whose impeccable conservative credentials cannot even be questioned by Ronald Reagan:

PANAMA: FOR THE RECORD

(By William F. Buckley, Jr.)

In Ronald Reagan's remarks opposing the passage of the Panama Canal treaties, he gave voice to a number of specific criticisms that turn up in much of the antitreaties literature. They are of general interest, to the extent that the 51% of the people opposed to the treaties rely on these criticisms in passing judgment.

Said Reagan: "We're asked to turn over a $10 billion investment" to the Panamians.

Really, there is no reason to exaggerate our generosity, though it is legendary. The original cost of all nonmilitary property, equipment, facilities, and other improvements contemplated to be turned over to Panama by the year 2000 is $1.6 billion; by the year 2000, the estimated book value will be down to approximately $0.62 billion. The estimated cost of the military installations in Panama (including improvements) scheduled to be turned over by the year 2000 is $398.4 million. The total, in other words, is about $1.02 billion, or a modest one-tenth of the cited figure.

Said Reagan: "(We would place) the U.S. military under the jurisdiction of a government, not elected by the Panamanian people."

In fact, the American military will remain under the command of the U.S. President and, under his direction, can act unilaterally.

Said Reagan: "We will pay the Panamanian government about a billion and a half dollars to take the canal off our hands."

Not exactly: The payments to Panama will be paid by canal users out of operating revenues. That is different from tax dollars.

Said Reagan: "We're dealing with a Panamanian government that has accumulated the highest per-capita debt in nine years of any nation in the world."

Would that it were so. The total Panamanian government debt is about $1.2 billion (the IMF figure for June, 1976). With a population in Panama of 1.6 million, Panama has then a per-capita debt of about $720. Ours, per capita, is $3,300. Gen. Omar Torrijos may be a spendthrift, but he can't match our Congress.

Said Reagan: "We bought in fee simple all the privately owned land in the Canal Zone, and I've seen the figure of those purchases set at $163 million."

In fact, the total payment to private persons for interest in real property was less than that. Namely, about $4 million.

Said Reagan: "Panama derives one-fourth of its gross national product from the canal."

The correct figure is about 12%.

Said Reagan: "In the neutrality treaty, in the event of war, our enemies have the same right of access to the canal that we have."

Technically, that's right. But the treaty's neutrality extends to an area three or four miles out from the actual opening of the canal. If our enemies are so dumb as to head for the canal, our Navy or our Air Force will sink them—just like that! Our only commitment is not to sink them while they are *inside* the canal. This presumably we would not want to do in any case, as it would make it extremely messy for our ships to move past theirs. A historical note: during the past two world wars, no enemy ship used the Panama Canal. No feature of the proposed treaties impinges on U.S. rights outside the mile or two that lead into the canal.

On the whole, Reagan used perfectly defensible arguments and figures, and the above corrections may not weigh decisively in the mind of anybody, but it's a crazy world. There are people going around—I mean grown people—saying that the whole Panama Canal treaty revision is a plot involving Presidents Eisenhower, Kennedy, Johnson, Nixon, Ford and Carter, the State Department, the Joint Chiefs of Staff and the majority of the Senate to bail out of couple of U.S. banks that lent too much money to Panama. That's the right wing's Grassy Knoll.

PRESIDENT CARTER DEAD WRONG ON HIS "FIRESIDE FACTS" ON PANAMA CANAL ZONE

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. SNYDER. Mr. Speaker, in his fireside chat on February 1, the President said:

We do not own the Panama Canal Zone—we have never had sovereignty over it. We have only had the right to use it * * * From the beginning we have made an annual payment to Panama to use their land. You do not pay rent on your own land. The Canal Zone has always been Panamanian territory. The U.S. Supreme Court and previous American Presidents have repeatedly acknowledged the sovereignty of Panama over the Canal Zone.

The Supreme Court has never ruled that Panama was or is sovereign over the Canal Zone. In fact, the Court has stated the precise opposite:

In the 1907 decision, *Wilson* v. *Shaw* 204 U.S. 24, the Supreme Court cited the plaintiff's contentions. Among them:

He contends that whatever title the Government has was not acquired as provided in the act of June 28, 1902, by treaty with the Republic of Colombia * * * Further, it is said that the boundaries of the zone are not described in the treaty * * *.

The Court declared:

A short but sufficient answer is that subsequent ratification is equivalent to original authority. The title to what may be called the Isthmian or Canal Zone, which at the date of the act was in the Republic of Colombia, passed by an act of secession to the newly formed Republic of Panama * * * A treaty with it, ceding the Canal Zone, was duly ratified. 33 Stat. 2234. Congress has passed several acts based upon the title of the United States * * *.

It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate * * *.

Alaska was ceded to us 40 years ago, but the boundary between it and the English possessions east was not settled until within the last two or three years. Yet no one ever doubted the title of this republic to Alaska.

I call to your attention that the Court used the words "cede" and "title" in reference to both Alaska and the Canal Zone—and used the same words in the same decision.

In the 1916 case, *Gideon Dixon et al.* v. *George W. Goethals et al.* 242 U.S. 616 the Court affirmed the judgment of the District Court, Canal Zone, 1915. That opinion, in part, reads as follows:

The plaintiffs in the above-entitled cause seek an injunction restraining defendants from the forcible seizure and destruction of their properties pending proceedings before the Joint Commission to determine the value thereof, and the payment of the amounts therefor.

The theory advanced by the plaintiffs in support of their application is that in cases of expropriation of private property for public use upon the Canal Zone, injunction should issue to prevent the dispossession of the owner until he receives compensation for his property as required by the Constitution and laws. In support thereof they relay upon the provisions of the Constitution of the Republic of Panama which were in force and effect at the time of the ratification of the treaty between the United States and the Republic of Panama which were in force and effect at the time of the ratification of the treaty between the United States and the Republic of Panama. The provisions of the Panama Constitution in question are as follows:

"For serious reasons of public utility, defined by the legislator, forcible alienation may take place by means of a judicial order, and indemnity shall be paid for the value of the property before the expropriation takes place."

Also:

"The private interest will give way to the public interest. But the expropriation which it is necessary to make, requires previous and full indeminization".

And also:

"For important reasons of public utility, defined by the legislator, there can take place the forced alienation of property or rights under judicial writ, but the payment of the declared value will be made before the dispossessing the owner of same."

And the conclusion which the plaintiffs' counsel reaches is that the inhabitants of the Canal Zone have not lost any of the guaranties of the Constitution of Panama and that in so far as these constitutional guaranties are abrogated or infringed by the treaty, that such provision of the treaty are unconstitutional and void.

It is their contention that a treaty can not grant, convey, or barter rights of the citizens which are protected by constitution and that treaty provisions in contraventions of preexisting constitutional guaranties have no binding force or effect. Generally speaking, this proposition may be conceded, but it must be equally conceded that where a government by treaty, parts with the sovereignty of a part of its possessions, that the new sovereignty is equally empowered to legislate therefor without regard to preexisting laws or constitutions.

The district judge then backstopped this statement by quoting in full article III of the 1903 treaty.

In *United States* v. *Husband R. (Roach)*, 453 F. 2d 1054 (5 Cir. 1971); cert. den. 406 U.S. 935 (1971) the circuit court declared: "The Canal Zone is an unincorporated territory of the United States."

Ownership is something totally different from sovereignty. There is no question but that even under Panamanian law the United States owns the canal as an installation built on the real estate at a cost of hundreds of millions of dollars. Even if Panama had not ceded the zone to the United States, as the Court has ruled it did, the United States has clear title to hundreds of square miles of real estate in the zone acquired by purchase at a cost of millions from the old French canal company, the Panama Railroad Co. and individual owners of private tracts of land.

The President was dead wrong on the matter of the annuity. The facts are these:

The Hay-Herman Treaty of 1903 between the United States and the Republic of Colombia, never ratified by the latter, states in article XXV:

"As the price or compensation for the right to use the zone granted in this convention by Colombia to the United States for the construction of a canal, together with the proprietary right over the Panama Railroad, and for the annuity of two hundred and fifty thousand dollars gold, which Colombia ceases to receive from the said railroad, as well as in compensation for other rights, privileges and exemptions granted to the United States, and in consideration of the increase in the administrative expenses of the Department of Panama consequent upon the construction of the said canal, the Government of the United States binds itself to pay Colombia the sum of ten million dollars in gold coin of the United States on the exchange of the ratification of this convention after its approval according to the laws of the respective countries, and also an annual payment during the life of this convention of two hundred and fifty thousand dollars in like gold coin, beginning nine years after the date aforesaid * * *.

The identical financial features of this article were incorporated in article XIV of the Hay-Bunau Varilla Treaty with Panama. Clearly, we could not offer less to Panama than already offered to Colombia.

The annuity therefore was to indemnify for loss of income from the Panama Railroad, and never was a lease payment.

Subsequent increases in the annuity were made in the 1936 and 1955 treaties. Both treaties spell out that the increases were not required by any treaty provision.

The annuity was increased in the 1936 treaty to $430,000. Senate Report No. 2375, dated June 27, 1956, from the Committee on Interstate and Foreign Commerce explained this:

". . . the monetary agreement with the Republic of Panama of June 20, 1904, provided for payment of the annuity in gold balboas. Hence, when the American gold dollar, and later the Panamanian balboa, were devaluated as the result of abandonment of the gold standard by the United

States in 1934, the annuity payment in gold balboas was increased to $430,000 solely to compensate for the decrease in gold content of the balboas."

The 1955 treaty increased the annuity to $1,930,000 purely as an act of generosity on our part.

Subsequent devaluation of the dollar has raised the figure to $2,328,200 at the present time.

Ambassador John M. Cabot, Chief U.S. negotiator of the 1955 Treaty with Panama, wrote the Washington Post May 15, 1976, and on the matter of the annuity stated:

Historically these payments were to be made in return for our taking over the formerly Colombian interest in the Panama Railroad.

President William Howard Taft, in a memorandum issued together with his signing of the Panama Canal Act of August 24, 1912, stated:

The Panama Canal is being constructed by the United States wholly at its own cost, upon territory ceded to it by the Republic of Panama for that purpose, and unless it has restricted itself, the United States enjoys absolute rights of ownership and control * * *.

President Carter also declared:

In the peaceful struggle against alien ideologies like communism, these treaties are a step in the right direction. Nothing could strengthen our competitors and adversaries in this hemisphere more than for us to reject this agreement.

I find this to border on the deceitful, indeed, for it is a matter of public record that the Communist Party of Panama—Partido del Pueblo—on October 14, 1977, announced its support of the new treaties.

What it did do was to state that it does not like continued U.S. military presence until 1999, so we can expect continued hostility and threats despite these treaties that Mr. Carter tries to sell as a hemispheric cure-all.

I shall refrain from commenting on other parts of the President's fireside chat. As I have stated over and over again, I wish the President would demand the truth from his State Department so that he could give the American people only facts on the Panama Canal and Canal Zone.

PRESENTATION OF A PETITION

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. QUILLEN. Mr. speaker, I have received a petition from my constituent, Mr. Oscar Riddle of Erwin, Tenn., who requests that the Congress repeal the withholding tax law. Mr. Riddle has asked that I present his petition to the House of Representatives, and I now submit it for appropriate referral:

PETITION OR MEMORIAL

Under clause 1 or 4 of rule XXII, the following petition and papers were laid on the Clerk's desk and referred as follows:

By Mr. QUILLEN, petition of Mr. Oscar Riddle of Erwin, Tenn.:

PETITION TO: REPEAL THE WITHHOLDING TAX LAW

Under the provisions of the First Amendment to the Constitution of the United States I hereby petition Congress to repeal the Withholding Tax Law so I can personally discharge the responsibility imposed on me when Congress taxes my income. Please include the following reasons in my petition.

(1) As a free people we have given Congress the authority to tax our income. We should all have the freedom to pay that tax directly so we will know exactly how much it is costing each of us to help support our government. This law tends to hide that fact.

(2) Most of us have never known the satisfaction of collecting all of the money we have earned. It is time that we experienced that feeling. We also need the experience of counting out a large portion of what we have earned for IRS so those of you in Washington will have that share of our income that you want to spend. This should make us a more responsible electorate and make our government a bit more responsive to us as well.

Please notify me at the address below when this petition has been presented to Congress, and send me a copy of the CONGRESSIONAL RECORD of that date so I will know it has been done: Oscar Riddle, 1304 Ash Highway, Erwin, Tenn. 37650.

OSCAR RIDDLE.

FRIEDMANNS ARE SCIENTIFIC PIONEERS

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. FUQUA. Mr. Speaker, after 15 years of research in the harsh, desolate environment of the world's deserts, the persistence, fortitude, and skill of two Florida State University biologists finally paid off in the form of what could be one of the most significant discoveries of this quarter century. Dr. E. Imre Friedmann and his wife, Roseli Ocampo-Friedmann, recently found and identified microbes living inside of certain porous rocks in the freezing, dry valleys of the Antarctic, an area that was believed to support no life forms whatsoever.

My heartfelt congratulations go out to these two pioneers. Their studies should have a great impact on future searches for life forms—not only on this planet, but on others as well. Mars for instance, has environmental conditions similar to those in which the Friedmanns discovered forms of fungi, bacteria, and algae by meticulously breaking open certain types of sandstone rocks. Undoubtedly, this team's work will influence the design and capabilities of future planetary probes. The Viking lander may not have yielded the greatest discovery in the history of mankind—that of extraterrestrial life—simply because it could not break open a stone.

In fact, Dr. Richard S. Young, Chief of Planetary Biology for the National Aeronautics and Space Administration, has said.

This interesting, if speculative, analogy—between Mars and Antarcitica—is of considerable interest to NASA in designing future attempts to study planetary surfaces for evidence of life.

The world owes a great debt to the Friedmanns, whose devotion to working in a difficult area of biology has already led us down corridors never before considered. Their find has brought us closer to understanding the ecology of our world and has garnered them well-deserved praise. This fascinating discovery is just another example of the fine scientific contributions being made by Florida State University. I sincerely hope that the National Science Foundation and NASA, both of which financed the study, will continue to aid this prestigious institution of scientific endeavor so that man may some day fully understand the universe.

ANOTHER LOOSE CANNON ON THE DECK?

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. HYDE. Mr. Speaker, the confusion and lack of direction in our foreign policy was further demonstrated last Wednesday when Leonard Woodcock, U.S. envoy to the People's Republic of China, declared that the United States will seek full diplomatic recognition of the Peking government.

Ambassador Woodcock further stated that our relations with Taiwan are founded on "an obvious absurdity."

Thursday, the State Department "disavowed all knowledge" of Ambassador Woodcock's statement, sounding something like the old television show, "Mission Impossbile."

Who is determining our foreign policy? Who is making the decisions on whether or not this country will fully recognize the Government of Communist China?

Is it President Carter, who said in March 1976 while campaigning "I believe that the foreign policy spokesman for our country should be the President"?

Or is it Leonard Woodcock, who because of his vast experience in foreign affairs as head of the United Auto Workers, was appointed by the President to be the U.S. Ambassador to Communist China?

Who speaks for whom and for what? Is this the President's way of telling Taiwan that we are preparing to abandon our traditional friendship with them in exchange for speculative benefits to be gained from normalizing relations with Red China?

It seems that President Carter was thinking ahead when, in May 1976 during his campaign, he said:

For many nations we have two policies: One announced in public, another pursued in secret. In the case of China, we even seem to have two Presidents.

It is no wonder that small countries, friendly to the United States, are jittery. Any tampering with the Taiwan Treaty

will further erode the trust these countries may still have in our consistency and credibility.

Is Ambassador Woodcock really playing Secretary of State, or is he floating a trial balloon as instructed by the President?

Taiwan and its 18 million people have, with the help and friendship of the United States, built their country into a prosperous, industrialized island state. It has, in turn, reciprocated with military support of our efforts in Korea and Vietnam. A break in diplomatic relations with Taiwan would have a ripple effect throughout the world. We would prove it does not pay to be successfully anti-Communist and expect to retain our friendship.

Our friends in Taiwan have a right to know what our policy is; the American people have a right to know; the Congress should demand to know.

NATIONAL HEALTH PROTECTION ACT OF 1978

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. SIMON. Mr. Speaker, today I am introducing the National Health Protection Act of 1978. This legislation attacks three of the critical problems in our existing health care system. First, is the lack of an effective mechanism for financing comprehensive maternal and child health services for all Americans. Second, is the fear shared by all families that the costs of catastrophic illness might obliterate their financial security. Third, and finally, is the need for an upgraded medicare system that more adequately meets the medical demands of the elderly.

The National Health Protection Act deals directly with each of these shortcomings. Title I would establish a system of Federal payments—through capitation grants—for comprehensive medical care services provided to children age 0 to 6 and pregnant women. Title II would establish a system of refundable tax credits to cover the costs of catastrophic medical expenses. Title III would extend medicare part B to include coverage of hearing aids, eyeglasses, dentures, and out-of-hospital prescription drugs. It would also reduce the inpatient hospital deduction under medicare part A from the present $144 to $50.

Mr. Speaker, as a member of the Budget Committee, I have become increasingly sensitive to the fiscal constraints on Federal programs. Many national health insurance schemes have been proposed, some representing an increased Federal cost of up to $130 billion. It is fiscally, politically, and administratively unfeasible for the Federal Government to adopt such a massive program in a single measure.

Despite these constraints, health care is clearly an area where we need to commit the political will and Federal funds necessary for meaningful change. Based on Social Security Administration calculations, the legislation I am proposing would cost the Federal Government approximately $29.9 billion. While this is no paltry sum, I believe it is a moderate figure for the goals that would be accomplished.

The three separate sections of the proposal could be inaugurated at different times. This would ease the financial burden on the Federal Government. For example, if the program for the aged began in the next fiscal year, one of the other two programs could be launched 6 or 9 months later. The increase in costs would then more nearly approximate anticipated increases in Federal revenues.

Passage of legislation such as this would provide us with an opportunity to implement improvements in our national health system, examine their effects, and then phase in other changes as necessary.

The justification for such an incremental approach to national health insurance has been effectively stated by former HEW Secretary Wilbur J. Cohen, in testimony to the House Health and Environment Subcommittee:

> * * * when one considers that there are before the Congress efforts for a comprehensive national health insurance, which I endorse, I still believe that it is necessary for the Congress, considering both fiscal aspects . . . and the managerial efficiency and effectiveness of programs, to proceed on what I call an incremental basis or what some people perhaps in a more critical view call a categorical, fragmented, or piecemeal basis, with the development of legislature * * *.
>
> I think it accepts an attitude that it is important to provide public support for whatever we do and that sometimes what I would refer to as millenial objectives are best put in place by a piecemeal, categorical, even fragmented approach as long as you are aware of what you are doing and you can see over the course of time the direction that you are proceeding and are willing to make continuous efforts in that direction.

Mr. Speaker, I would now like to move to closer examination of the needs my legislation addresses, and the manner in which it does so.

COMPREHENSIVE MATERNAL AND CHILD HEALTH PROTECTION FINANCING

This Nation ranks 15th in the world in infant mortality. There is no justification for this. About one-fourth of the children in this country never see a doctor before they reach the age of 18. Almost one-half of our children have not seen a dentist. Nearly 40 percent of children age, 0–5 have not received polio immunization shots.

Ten to twenty percent of all children in the United States suffer from chronic, handicapping conditions. It is estimated that at least one-third of these conditions could be prevented by appropriate care during preschool years. We ought to be encouraging this needed care.

The health of children—and concomitantly pregnant women—should be among the highest of our priorities in the health field. There is no greater investment in our future than to insure the healthy development of our children. With relatively small expenditures, we can provide comprehensive health care to children and pregnant women. Coverage of pregnant women is important, because so much of a child's mental and physical development depends on the prenatal environment.

Children have not been adequately served by current Federal health programs. In 1960, one of every 2 Federal dollars spent for health care reached children while in 1975, only 1 of every 10 Federal health dollars reached children. In the last 15 years, we have had a Seventeenfold increase in overall health expenditures. Yet for children, there has been only a fourfold increase.

The National Health Protection Act of 1978 would provide reimbursement by the Federal Government to providers of comprehensive health care services for all children age 0 to 6 and pregnant women. Payment would be made on a capitation basis. This means that fixed payments would be made to health care providers on the basis of the number of people they agree to serve.

There are several advantages of this system. It would encourage providers to keep children healthy. Preventative care—which is critical for child health—would be encouraged. Children would grow up healthy and learn the ingredients of preventive care that would keep them healthy. The use of unnecessary expensive equipment and unnecessary procedures would be discouraged. Per capita grants would encourage the formation of group health practices such as Health Maintenance Organizations, which further contribute to cost savings and preventive care.

A system of capitation payments would work especially well in the maternal and child health field. Care is predictable for these sectors of the population. Most care for children relates to prevention checkups, immunizations, and routine procedures for common illness. Illnesses and care related to pregnancy are also fairly uniform and predictable. In the few instances of unexpectly high costs of care, providers would be protected by reinsurance mechanisms that are encouraged in the bill.

Federal financing of maternal and child health care would not be expensive, when compared with the benefits. My bill would provide coverage for all pregnant women and children age 0 to 6. Based on Social Security Administraiton figures, the cost of such coverage is estimated at $9 billion. Children are much less expensive to serve than other sectors of the population. While per capita expenditures in 1976 for people over 65 was $1,521 and for people 19 to 64 was $547, it was only $249 for children under 19.

CATASTROPHIC PROTECTION TAX CREDITS

One of the greatest fears facing a significant portion of American families is the fear of catastrophic health costs that could be financially debilitating.

Many Americans are already covered by major medical insurance so that they have good protection. Others are covered under medicaid and have adequate protection against catastrophic medical costs. According to the Congressional Budget Office, this still leaves millions of people in this country who are inade-

quately protected against catastrophic costs.

Eighteen million Americans have no medical insurance and do not qualify for any public programs. They are unprotected against catastrophic costs. Another 24 million people who are covered by medicare have inadequate protection against catastrophic costs. Finally, according to CBO, at least another 40 million people have inadequate private insurance.

Something must be done to assist these unprotected and poorly protected people. The key is to insure that people's out-of-pocket costs are not excessive. There is no reason to reimburse people for what their insurance already covers.

While 21.4 million families will incur medical expenses exceeding 15 percent of their income in 1978, 90 percent of these costs will be met by private insurance or existing public programs. But nearly 7 million families will have out-of-pocket expenses exceeding 15 percent of their income. Over 4 million of these families will be low-income families. The large number of poor families in this category points to the need for coverage based on percentage of income, rather than on amount of the expenditure. As the Congressional Budget Office has noted: "A substantial number of low-income families have expenses that might be considered average or normal by absolute standards but are catastrophic in relation to low income."

The inadequacy of proposals to cover annual expenditures of over $2,000 or so can be viewed in this light. While an out-of-pocket expenditure of $1,500 may be easily absorbed by a family with an income of $20,000, it would clearly be catastrophic for a family with an income of $8,000.

The catastrophic tax credit system established in the National Health Protection Act of 1978 is based on percentage-of-income calculations. Once a family spent 10 percent of its income on medical expenses, it would qualify for refundable tax credits for one-half of its additional health expenditures up to 20 percent of income. At that point, any additional health expenditures would be reimbursed in full through the tax system.

Based on Social Security Administration estimates, such a catastrophic tax credit system would result in a net increased Federal cost of $16.9 billion. While this is expensive, it is worth the price to remove the hanging fear of catastrophic medical expenses from millions of American families.

While providing extensive coverage, this system has built-in cost controls. Few families are going to excessively pursue medical care or medical insurance when they must bear the burden of a significant deductible—all of the first 10 percent of their income spent on medical care—and a significant coinsurance payment—one-half of additional expenses up to 20 percent of their income. As CBO has commented in relation to a similar plan:

> Such a plan would respond to the most pressing problems of low-income families not covered by private insurance or medicaid. However, these families would still be required to commit a substantial share of their resources to purchasing medical care.

A catastrophic insurance administered through the tax system has the great advantage of simplicity. It uses established forms and procedures. The possibility of fraud is reduced. The system also assists providers of services in that it assures them of eventual payments for services rendered.

The refundable tax credit will replace the current tax deduction for medical expenses. This provides a partial source of funds for the new program and also increases the equity of the health portions of the tax system. The present tax deduction is extremely regressive. It only benefits higher income people who itemize deductions and is of no use to lower income taxpayers who use the standard deduction. Senator EDWARD KENNEDY has referred to this deduction as "The national health insurance plan for upper income homeowners." While the type of expenses covered would remain the same, the effect will be much more equitable.

EXPANSION OF MEDICARE

When we think of national health insurance proposals, we often neglect the elderly. We tend to assume that their expenses are covered sufficiently by medicare and medicaid. This is not the case, however. Despite the fact that 95 percent of the elderly are covered by medicare, the aged pay 29 percent of their personal health expenditures. Medicare actually covers only 42 percent of elderly health care costs, while medicaid covers an additional 16 percent. The elderly pay an average of $390 per year in out-of-pocket expenses for health care. For many, this is a large bite into their extremely limited income and savings. The catastrophic tax credit established in title II would handle some of these problems. There are, however, several shortcomings in the types of care covered under medicare. These shortcomings discourage people from utilizing needed services.

MEDICAL APPLIANCES

The well-being of millions of older Americans is dependent on medical appliances—eyeglasses, hearing aids, and dentures. These appliances are not covered under medicare. This results in millions of elderly Americans unnecessarily losing visual and audio contact with the world around them as well as being unable to chew the types of food that will keep them healthy and alive.

The problem is simple. According to the House Aging Committee's Subcommittee on Health and Long-Term Care: "In short, for millions of elderly Americans, medical appliances are essential to life itself * * * Presently, these needs for medical appliances are not being met."

Many elderly people simply cannot afford the price of eyeglasses, hearing aids, and dentures. So they do without them. The results are tragic, as pointed out by Nelson H. Cruikshank, formerly president of the National Council of Senior Citizens and now a member of the Carter administration:

> They pay but not in dollars. They pay in the quality of life. Some cut down on food requirements. Some go without the proper type of shelter. Some cut off their social life. Many just do without and fall back into more and more seclusion and live a restricted life because these appliances are not available to them as they should be.

The statistics are staggering. Over 5 million elderly Americans need new corrective lenses because the ones they have either do not help their sight or actually harm it. Countless additional elderly American need eyeglasses, but do not have them because they cannot afford them. Many elderly people cannot see well, and their life is severely restricted. Some are actually judged senile because they cannot see well enough to respond to normal stimuli.

There are 11.4 million elderly Americans without natural teeth. Of these, 600,000 have no teeth whatsoever. Of those who have dentures, 350,000 people over 65 have incomplete dentures. An additional 3.4 million people have dentures which need to be replaced or refitted. While some States provide certain dental services under medicaid, coverage is far from adequate.

Over one-half of all persons 65 years of age and over suffer from impaired hearing. Nearly 8 percent—1.5 million elderly Americans—are unable to hear words spoken in a normal voice. In many cases, a hearing aid can solve the problem. But there is virtually no coverage of hearing aids under medicaid, medicare, and other health benefit programs.

The National Health Protection Act of 1977 would alleviate these problems by including under medicare, part B, coverage of eyeglasses, hearing aids, and dentures, as well as related examinations. The cost, according to the Social Security Administration, would be $1.9 billion. This is not too great a price to pay to allow our senior citizens to be able to hear, see, and eat properly.

DRUGS

My bill would also cover under medicare, part B, the costs of out-of-hospital prescription drugs. In 1975, each senior citizen had average out-of-pocket expenditures for drugs of $102.30. This represented 87 percent of their overall drug expenses.

It is senseless for medicare to cover expensive hospital treatment, but not the followup drugs that are often needed to keep a person healthy and out of the hospital.

My bill would include coverage of out-of hospital drugs under medicare, with the regular 20 percent cost-sharing. The additional cost to the Federal Government would be $1.8 billion.

HOSPITAL DEDUCTIBLE

One additional problem with medicare is the inpatient hospital deductible under part A. It now costs an elderly person $144 to enter a hospital. This is often prohibitive. While it is important to discourage elderly people from unnecessarily entering the hospital, we should not, at the same time, discourage them from getting needed care.

The National Health Protection Act would set a better balance by lowering the inpatient hospital deductible to $50. The increased cost to the Government—

according to Social Security Administration estimates—would be $336 million.

Mr. Speaker, I believe the legislation I am introducing today is a reasonable and effective approach to some of our most serious health care problems. The principles I am advocating in this bill are supported in the Senate by GARY HART, who has introduced similar legislation.

I urge my colleagues to examine the National Health Protection Act. An outline of the bill follows:

OUTLINE OF NATIONAL HEALTH PROTECTION ACT OF 1978

(Introduced by Mr. Simon)

A bill to establish a national system of financing child and maternal health care and a system of protection against catastrophic health care costs, and to improve and expand health care for the elderly.

TITLE I—COMPREHENSIVE MATERNAL AND CHILD HEALTH PROTECTION

Sec. 101.—Definitions.

Sec. 102.—Establishes eligibility requirements for children 0 to 6 and pregnant women.

Sec. 111.—Establishes a system of Federal reimbursement through capitation payments to participating providers for coverage of children 0 to 6 for all health care services related to the diagnosis and treatment of any disease, injury or disability, as well as any other health care services necessary for the adequate protection, maintenance, or restoration of his or her mental and physical health, and coverage of pregnant women for all health care services related to the diagnosis and treatment of pregnancy, diseases or injuries that could threaten the healthy development of the child, and diseases or injuries caused by pregnancy which occur in the 12 weeks following termination of pregnancy.

Sec. 121.—Defines a participating provider as any provider of health care services that enters into an agreement with the Secretary of HEW to provide—at the established capitation rates—covered health care services.

Sec. 122.—Authorizes the Secretary of HEW to make prospective capitation payments to participating providers. These capitation payments may vary by geographic region or age of the child as needed to reduce shortages of providers in particular areas or among certain age groups. The Secretary of HEW is also given authority to assist in the formation of re-insurance mechanism to protect participating providers against unexpected costs.

Sec. 123.—Insures that there are no payments under other Federal programs for benefits provided under this Act.

Sec. 131.—Authorizes $9 billion a year for fiscal year 1980 and such sums as necessary for fiscal years 1981, 1982, 1983, and 1884.

Sec. 141.—Gives the Secretary of HEW the authority to establish capitation rates, establish standards and qualifications for participating providers, establish basic agreements between the Secretary and the participating providers, monitor and study operation of the program, prescribe needed rules and regulations, and report annually to Congress on the administration of the program.

Sec. 142.—Establishes a National Maternal and Child Health Protection Advisory Council to advise the Secretary on policy issues involved in the administration of the program and to study its operation.

Sec. 143.—Provides for coordination between the Secretary of HEW and State health planning and development agencies and health systems agencies.

Sec. 144—Gives the Secretary of HEW authority to make or contract out studies concerning the operation of the Act and how it fulfills its goals.

Sec. 145.—Establishes procedures for the Secretary of HEW, in cooperation with professional organizations, to suspend or terminate contracts with participating providers who are not meeting the terms of the agreement.

TITLE II—CATASTROPHIC PROTECTION TAX CREDIT

Sec. 201.—(A) Establishes a new medical expenses tax credit equal to half of a family's medical expenses that are between 10% and 20% of its modified adjusted gross income, and equal to all of its medical expenses above 20% of modified adjusted gross income.

Defines medical expenses as expenses incurred for the diagnosis, cure, mitigation, treatment or prevention of disease, or for the purpose of affecting any structure or function of the body. Also covered are transportation primarily for and essential to medical care, and insurance premiums covering medical care.

Defines modified adjusted gross income as adjusted gross income reduced by the amount of personal exemptions, and increased by the amount of income from capital gains, interest on government bonds, and government transfer payments.

Makes the tax credit refundable if it exceeds a family's tax liability.

Eliminates the current medical care deduction.

Makes a variety of technical and conforming amendments to the Internal Revenue Code.

Sets an effective date of January 1, 1980, and a "sunset" date of January 1, 1983.

(B) Gives the Secretary of the Treasury the authority, after consultation with the Secretary of Health, Education and Welfare, to prescribe regulations necessary to provide payments and prevent fraud.

TITLE III—EXPANSION OF MEDICARE

Sec. 301.—Provides coverage under Medicare Part B of hearing aids, dentures and eyeglasses (and related examinations), and prescription drugs.

Sec. 302.—Lowers the in-patient hospital deductible under Medicare Part A to $50.

Sec. 303.—Technical and conforming amendments.

Sec. 304.—Sets an effective date of October 1, 1979 for dentures, hearing aids, eyeglasses and prescription drugs. Sets an effective date of the first day of the first month following the enactment of the bill for lowering the hospital deductible.

THE 1978 PRESIDENTIAL CLASSROOM FOR YOUNG AMERICANS

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. LOTT. Mr. Speaker, I would like to take this opportunity to recognize three outstanding young people from the Fifth Congressional District of Mississippi, Robin Lee and Sarah Beth Stein of Biloxi, and William E. Kergosien, of Bay St. Louis, who are here in Washington this week to participate in the 1978 Presidential Classroom for Young Americans.

I always enjoy discussing the operations of our Federal Government with the presidential classroom students and commend these young Americans for their interest and attitude toward our Nation's destiny.

THE HIGH PRICE OF REGULATION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. ASHBROOK. Mr. Speaker, one of the most disturbing trends in our Nation is the growing number of Federal rules and regulations. The Government is expanding its involvement into all aspects of our economy and our lives.

So great is the paperwork flow that the American economy is in danger of being buried under. The Commission on Federal Paperwork estimates that the Government produces enough documents in a single year to fill 51 major league baseball stadiums or 11 new Washington Monuments. A former Commission member is quoted in the January 2 Time magazine as saying:

> Washington is the source of so much red tape that you'd think it was working on a landfill somewhere. Like the Grand Canyon.

And, as Time magazine goes on to say,

> The paper is backed up by the stern might of the law; it can be followed by fines, loss of federal aid, harassment and obloquy.

Not all regulation, of course, is bad. Reasonable regulation can produce positive benefits such as less pollution and safer working conditions. The overzealous regulation we are now experiencing, however, carries a very high price. The cost can be measured in terms of individual freedom, diminished competition and dollars and cents.

The Dow Chemical Co. recently completed an in-depth study of the cost of complying with Government regulations. The study showed Dow spent approximately $186 million to satisfy these requirements in 1976.

The dollar amount is staggering. Almost as disturbing, however, is the fact that this figure is 27 percent higher than the amount needed to comply with Government regulations only 1 year ago. These costs are passed on to the consumer in the form of higher product prices.

The price of Government regulation also must be viewed in terms of what the consumer did not get. Innovative products and scientific research can be blocked because of unreasonable regulation.

This fact has been stressed by Murray Weidenbaum, director of the Center for the Study of American Business at Washington University. He points out that spending on research and development has slowed to a crawl. Over the last decade, private spending on research has risen only 2 percent a year. And more scientists were employed in industry in 1968 then were employed in 1975.

This is exacting a heavy toll. While the number of patents issued to foreign nations more than doubled between 1963

and 1973, the number of patents to U.S. nationals declined.

As nationally syndicated columnist James J. Kilpatrick has written:

In the stifling atmosphere of excessive regulation, everything slows down.

Kilpatrick then quotes Murray Weidenbaum on how that is reflected in the Food and Drug Administration:

As a result in large part of the stringent drug approval regulations, the United States was the 30th country to approve the anti-asthma drug metaproterenol, the 32nd country to approve the anti-cancer drug adriamycin, the 51st country to approve the anti-tuberculosis drug rifampin, the 64th to approve the antiallergenic drug cromolyn, and the 106th to approve the anti-bacterial drug cotrimaxazone.

These regulatory delays result in heavy social costs. People who could find relief from their illness are deprived of the drugs they need.

Regulatory delays also lead to diminished competition. As Weidenbaum stresses,

Government regulations tend to hit the smaller companies disproportionately hard, in record-keeping, job safety, labor relations, environmental controls, and so on.

Large companies are better able to adjust to the regulatory burden while smaller companies tend to go out of business.

The price of governmental regulation is intolerably high. It is time to cut through much of this redtape. It is time to put an end to overregulation.

THE 26TH ANNUAL CONGRESSIONAL PRAYER BREAKFAST

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. MAZZOLI. Mr. Speaker, I was honored to take part in the 26th Annual National Congressional Prayer Breakfast held last week here in Washington.

Since the second session of the 95th Congress has just begun, it is fitting and proper that we call upon the good Lord for guidance and counsel to see us through our rigorous and demanding labors.

The United States was founded by men and women who recognized that a reliance upon the Almighty and the freedom to practice one's religion freely are essential to a nation which seeks to remain strong in the face of challenge from within and without.

Our Nation's Government has grown and flourished precisely because its foundation of prayer and love of God has remained strong and secure.

Prayer has always been an important part of my life and it has shaped my private as well as public life.

This annual prayer breakfast—which attracts people from all over the world—is a testimonial to the fact that increasing numbers of powerful governmental leaders are publicly declaring their dependency on prayer and on God.

This is positive proof that the spirit of our Founding Fathers remains strong today, and that this spirit keeps our Nation great and good.

WORTH REVIEWING

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. VANDER JAGT. Mr. Speaker, in recent weeks we have read and seen a great deal of publicity surrounding a report of the Civil Service Commission on its investigation concerning the Consumer Product Safety Commission (CPSC). This investigation apparently has focused on some 30 employees at the CPSC, as well as its Chairman, S. John Byington.

In recent days I have had the opportunity to review Mr. Byington's response to Hon. Alan K. Campbell, Chairman of the Civil Service Commission, dated February 2, particularly on those issues reflecting on Mr. Byington. Chairman Byington indicates that the CPSC will direct a response dealing with the 30 individual cases to the Civil Service Commission no later than February 13.

Most Michigan Republican Members of Congress have joined with me in urging Mr. Campbell's personal review and reevaluation of this entire matter. We do so only with the deep concern and interest that the matter be conducted solely on merit and facts.

In placing with this statement Mr. Byington's detailed response of February 2 to Mr. Campbell, I believe of particular consideration and interest would be Mr. Byington's listing of the major accomplishments of the CPSC in the past 18 months. His letter follows:

U.S. CONSUMER PRODUCT SAFETY COMMISSION,
Washington, D.C., February 2, 1978.

Hon. ALAN K. CAMPBELL,
Chairman, Civil Service Commission, Washington, D.C.

DEAR SCOTTY: The Commission's management and staff are in the process of preparing a detailed response regarding each of the 30 individual cases cited in Section V of the Civil Service Commission's January 12, 1978 report on its investigation of the merit system in the Consumer Product Safety Commission (January report). I believe that a precise analysis of these 30 individual cases, prepared independently from my own response, will serve to expose numerous deficiencies and errors in the report. It will also separate my personal response from the Agency's,—in hopes that the individual cases will be reviewed in the most objective and fair manner possible. The agency's response will be forwarded to you no later than February 13, 1978.

I would like to express our appreciation to you and your staff for your continuing assistance in dealing with these individual cases, in order to minimize any adverse impact on the careers of the individual employees whose cases are cited. I think that it is essential for the CSC to carefully consider the impact of this report on the rights of these dedicated public servants, and to take the necessary steps to correct any factual deficiencies and legal inaccuracies of the January report.

As to the findings in Sections I through IV, particularly those which relate to me personally and which have already been the subject of considerable publicity and public comment, I feel that any delay on my part in responding to such allegations might only serve to lend credibility to their content.

Let me begin by quoting from a letter to me dated March 9, 1977 from Mr. John D. R. Cole, Director of your Bureau of Personnel Management Evaluation:

"Enclosed is the report of the Civil Service Commission evaluation of personnel management at the Consumer Product Safety Commission. The report is based on findings from an onsite review by a CSC team from November 8 through November 22, 1976.

"The report covers in detail those findings presented to you, and other top management officials, on December 10, 1976. Generally, we found that the personnel management program of the agency is effectively contributing to CPSC mission accomplishment. The staffing program is generally producing quality candidates and promotion actions are being processed correctly."

The March report enclosed with Mr. Cole's letter generally gave the Commission management high marks for the handling of its personnel practices. It made specific recommendations for actions required by CPSC, all of which have been acted upon—including the 13 specific classification cases. It pointed out that, "The most important problem facing the agency is that a significant number of its positions are overgraded." Secondarily, "Timeliness in processing personnel actions was perceived to be the major staffing problem by both supervisors and employees." Thirdly, "The lack of published career ladders also slows down promotions in some cases." But the March report acknowledged that CPSC is revising its Merit Promotion Plan and made recommendations for conclusions in this revision. The record clearly indicates that these matters have continued to be given top priority. The March report stated:

"Agency compliance with CSC and internal regulations in processing personnel actions was satisfactory.

"The agency has already made significant progress in correcting this (use of temporary appointments) situation * * * from 277 in 1975 to 69 in 1976.

"The agency classification program has improved during the past year in several respects * * * the recently established controls on average grade have proven beneficial.

"The quality of candidates referred for vacancies at CPSC is usually good."

I find it difficult to understand why the Civil Service Commission would issue such an evaluation in March and shortly thereafter proceed with another evaluation covering some of the same positions and personnel procedures. Disturbingly, the investigation closely followed my refusal, based on our statute and our lack of transition authority to hire political campaign workers as requested by personnel from the White House.

In the January report, CSC departed from its normal professionalism. It amassed a document filled with innuendo, insinuations, and admittedly unsubstantiated allegations. The obsolescence and nature of many of the alleged violations are deliberate attempts to inflate the magnitude of the alleged improprieties and their inclusion is designed to sustain preconceived allegations of abuses. I believe that the instigation for this evaluation came from sources other than CSC particularly because this document was released to Congressional offices and the press simultaneously to being given to CPSC.

I can only conclude that the motivation for singling out CPSC and applying a special standard which is not broadly, much less universally applied to other agencies during a transition and reorganization period

is for political purposes. I am convinced that this report is directed solely at harassing me, one of the two remaining Republican Chairmen of a regulatory agency. It is particularly regrettable that 30 individuals have also become victims of this political harassment, and have had their privacy rights impaired.

I cannot understand the motivation for including so many cases in the report (approximately one-third) which the investigator knew were obsolete and required no action. Most of the remaining two-thirds of the cases relate to alleged procedural or classification errors that are primarily within the province of technical personnel specialists on whom management must rely in the day-to-day operation of a personnel system. At all times I have relied on the advice of our personnel specialists in personnel actions and in no case disregarded that advice. Although the report attributes blame to the management of the agency, management culpability is never substantiated. Documentation for management's culpability in the report comes from the personnel specialists whose own culpability is summarily dismissed by the CSC. The credibility of such information is suspect, lessening further the report's objectivity. This is especially troubling because in sworn statements I have indicated that no employee with personnel responsibilities ever brought the purported improprieties to my attention. Had he or she done so, I would have immediately investigated and taken the necessary corrective action.

Section IV on "Responsibility" is illustrative of the many unsubstantiated allegations found throughout the January report. It starts off with the allegation that "Most of the violations . . . occurred as a direct result of actions taken or sanctioned by either Mr. Byington or Mr. Dimcoff." It then specifically alleges that I "was principally responsible for the improper appointment of the 12 consultants." However, later in the same section, the narrative states: "The extent to which Chairman Byington knew that actions he took or were taken in his name were contrary to law or regulation is also unclear. It is doubtful he knew on a case-by-case basis the degree of impropriety; . . ."

In one instance—the discussion on consultants—I believe that the CSC oversteps its legal authority. The CPSC has the direct authority to hire and fire and to evaluate qualifications under 5 U.S.C. 3109. CSC's statutory authority is only to ensure that consultants do not perform work within the competitive service. However, in the report the CSC attempts to substitute its judgment on the qualifications of the individuals involved without ever fully and factually documenting the experience of those individuals. For example, the report contains sweeping, unsubstantiated statements like "Most of the consultants . . . were not qualified. . . ." To make such an allegation is clearly outside the province of CSC, and it is specifically refuted by a review of each consultant's record of performance—a matter that was available to and discussed with the investigators. Because CSC's authority is so limited in this area, it would be appropriate and fair for these improper suggestions and comments to be deleted from the final report.

I am also troubled by the allegations relating to the hiring of attorneys with veterans' preference, because a substantial effort has been made by the Office of General Counsel and the Directorate for Compliance and Enforcement over the last year to recruit and employ minority attorneys. Nowhere in the report is this effort ever recognized. With respect to the hiring of veterans, the attorneys discussed in the report were all hired according to the procedures in effect at the time, and to retrospectively criticize the agency for failing to follow new procedures is particularly unjust.

In addition to the specific allegations made in the report, I was very disappointed with other aspects of it. It is ironic that much of the report is directed at women and blacks. It concerns me greatly that 5 of the 30 people are black and 15 are women, two of whom are black. Thus 18 of the 30 cases relate to minorities. I am under the impression that it is Federal policy to make every reasonable effort to recruit qualified female and minority candidates.

The finding that preferential treatment and personal favoritism was extended to certain individuals is also without merit. Of the 30 cases, 15 were either employees of CPSC prior to my arrival as Chairman or confidential staff to other Commissioners. The other 15 were selected because in my judgment they had the knowledge, expertise or experience to perform important tasks in our difficult transition period. Eleven of these 15 were minorities or women. Six of the 15 have already completed their work and left the agency. Two are consultants who will complete their work within a couple of weeks. Three are presently holding consultancy positions that will be evaluated as CSC requested. One is a Schedule C on my immediate staff. Three are now career employees, within the agency, two of whom are long standing Federal civil servants. Therefore, only one individual has attained career status for the first time.

Nowhere in the January report is there any recognition of the fact that during the period covered, the Commission was undergoing a transition from one Chairman to another and was working closely with CSC to complete a major reorganization (its first since its creation) to revise its merit promotion procedures and to establish staffing patterns and career ladders. The actual progress made in these efforts during FY 1977 is completely disregarded and not mentioned despite the CSC commendation in the March report.

No mention is made of the fact that agency management was deliberately and responsibly not filling certain vacancies in January 1977—in the midst of its reorganization, which was later officially approved by CSC—because we were operating on a "no unnecessary adverse action" principle. It is clearly easier to move vacancies than it is people. Yet it is also clearly management's responsibility to anticipate and plan for potential events—such as a government-wide "hiring freeze".

Little or no consideration seems to have been given to the accepted use of, need for, or role played by experts and consultants in every agency reorganization. To even suggest otherwise would be to completely disregard the facts and events of past and present administrations.

Although we may not agree regarding the authority of the CSC to require certain of the actions or agree with the CSC regarding culpability on the part of management, we do agree that it is essential that this agency maintain a personnel program acceptable within the system and that good relations with the Civil Service Commission be established. Although there had been tension between CSC and CPSC since CPSC's inception, and prior to my assuming the Chairmanship, I thought the March report, and my efforts this summer to provide you with constructive comments on the CSC personnel reorganization project, showed real progress in developing better coordination and cooperation between our agencies. I believe it is critical to the long-range future of CPSC that our problems be resolved and, therefore, we intend to proceed with all necessary corrective measures.

Basically CPSC needs to have the political harassment aimed at me separated from any constructive criticism of the agency aimed at helping CPSC achieve its mission. Such is not the case with the January report. It appears to be a mechanism by which some people are still trying to reverse the results of my confirmation process, with little or no regard for the adverse consequences of such action on the agency and the public as a whole.

We have been operating under the worst possible political circumstances and we have been burdened with longstanding Commission vacancies and with lengthy and cumbersome procedural requirements under the laws we administer. Yet, I believe that CPSC has truly "come of age" as an independent regulatory commission.

Major accomplishments during the past 18 months include:

CPSC has established Commission-wide priorities as well as a system and criteria for reviewing and revising them periodically.

CPSC has finalized mandatory standards for matchbooks, architectural glazing materials and pacifiers and is proceeding with the development of mandatory standards for cellulose insulation, miniature Christmas tree lights and power lawn mowers.

CPSC has for the first time taken significant banning actions under Section 8 of the CPSA for unstable refuse bins, unvented gas space heaters (proposed), certain asbestos containing products, extremely flammable contact adhesives and lead-in-paint.

CPSC has completed the agency's first timeliness cases under Section 15 of the CPSA (Corning Glass Works, Inc.—defective coffee pot; Wham-o Manufacturing Co.—defective cross-bow; North American Systems—Mr. Coffee).

CPSC is moving aggressively against imminent hazards under Section 12 of the CPSA (aluminum wire, pitching machines and amusement rides).

CPSC has reduced its backlog of petitions from more than 60 to only 4 that are past the 120-day time limit.

CPSC is making real progress in the systematic regulation of chronic hazards through our draft cancer policy and the Interagency Regulatory Liaison Group (CPSC, EPA, FDA and OSHA), including regulatory action against chlorofluorocarbons and benzene (staff drafting proposal). I believe this is currently the most viable regulatory reform effort in the Federal government.

CPSC has issued the first labeling and data submission regulation for products containing chlorofluorocarbons under Section 27 of the CPSA. In addition, CPSC has proposed a regulation under Section 27 for CB antennae and is preparing to propose labeling regulations for sleepwear chemically treated for flame retardant purposes.

CPSC has proposed and/or finalized numerous procedural regulations (Section 15, 16 and 6(b) of the CPSA), in addition to rules of practice for adjudicatory and nonadjudicatory procedures under the CPSA and FFA.

CPSC has approved the creation of an Office of Public Participation, and has issued proposed procedures for financial compensation for participants in informal rulemaking proceedings.

CPSC has aggressively addressed the use of TRIS in children's wearing apparel.

CPSC has adopted two amendments to the Children's Sleepwear Standard.

CPSC has finalized technical requirements for sharp points for toys and children's articles and has proposed technical requirements for sharp edges on these products.

CPSC has established procedures for petitioning for exemptions under the PPPA.

CPSC has issued interim rules and procedures and has solicited comments for its responsibility under the National Environmental Policy Act (NEPA).

CPSC has in effect an aggressive voluntary standards program under which it is handling such products as: ladders, chain saws, extension cords, ranges and ovens, etc.

CPSC has developed partnerships with state and local governments and has commissioned state officials in Puerto Rico, Washington, Texas, North Dakota, Montana, Wyoming, Nebraska and Colorado, with others to be activated shortly.

CPSC has developed a draft long-range plan. It puts the agency's efforts into perspective, allowing us to plan our future and evaluate our accomplishments. This is a concept I have long espoused and sought to execute.

CPSC has a management structure and system that is operating efficiently and on schedule (via published schedule of anticipated regulatory development actions).

And most importantly, CPSC has institutionalized operating procedures that allow for direct involvement of the Commissioners in the setting of agendas, the establishment of annual operating plans with quarterly reviews and adjustments, and the development and submission of budgetary and legislative requests.

Emphasis must be given to furthering these major achievements rather than have them take a back seat to political attacks on me.

In June of 1976, I inherited an understaffed agency, with minimal resources, with a backlog of 180 projects, and with an inadequate organizational structure. Within the past 18 months, I believe this agency has turned around to the point where its actions and present activities are well on the way to deserved credibility as an effective regulatory agency.

Although I have long been extremely critical of the Federal personnel system, at no time during my tenure as Chairman has it ever been the policy or practice at CPSC to operate intentionally outside the scope of existing personnel laws. On the contrary, it has been our policy and practice to attempt our reorganization and revitalization of CPSC within the spirit and requirements of CSC rules and regulations. Although I always encourage creativity in problem solving, I am unaware of any improprieties in the utilization of the merit promotion system at any level within our organization or within any specific personnel transaction.

You have my assurance of my unqualified support of merit principles and my commitment to the continued exercise of strong leadership for their effective implementation. At the same time, I intend to continue to speak out strongly for extensive and dramatic modifications in the civil service system, which will allow managers to more effectively manage.

Sincerely,

S. JOHN BYINGTON,
Chairman.

ISAAC ZLOTVER APPLIES AGAIN FOR EMIGRATION FROM U.S.S.R.

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. STEERS. Mr. Speaker, I have been working for some time to secure emigration permission from the Soviet Union for Isaac Zlotver, a dying man who wishes to be reunited with his family living outside the U.S.S.R. I have just learned that he has reapplied for permission to emigrate, and I urge my colleagues to write Soviet officials to urge the approval of this dying man's request that he see once again his children.

I would like to present for my colleagues' benefit, the following appeal that came out of the Soviet Union in behalf of Isaac Zlotver. This week, I will circulate for signatures, a letter to the Minister of the Interior of the Soviet Union urging permission for Mr. Zlotver to emigrate:

APPEAL TO LEONID BREZHNEV ON BEHALF OF ISAAC ZLOTVER BY 30 SOVIET JEWS

We appeal to you with a special request that you intervene personally and prevent the continued suffering of a very ill and lonely man, who has been trying to immigrate to Israel for the past 6 years. Isaac Zlotver of Sverdlovsk. Issac Zlotver was a former deputy colonel who was decorated for his heroism during World War II by medals and awards after completing his military service during the war in Berlin. During the last 14 years, Isaac Zlotver was not employed in his military specialty. Until 1971, Isaac Zlotver was employed in the Sverdlovsk office of the Heat and Electricity Department which is an absolutely open office.

After his daughter emigrated to Israel, Isaac Zlotver was fired from his job, and excluded from the Communist Party. In 1975, Isaac Zlotver was operated on for cancer. Following the operation he needed especially good conditions because of his illness but, in fact, he was deprived of them. He received a refusal to his application for a visa and was thus deprived of being reunited with his children. In 1975, after all of his suffering, his wife also fell ill, and not being able to withstand this tragic life, died in July 1977.

Isaac Zlotver remains absolutely alone, an old man, suffering from the pains of his illness and loneliness, deprived not only of his wife, but also of his family in Israel. He has appealed to all possible Soviet officials who are connected with problems of emigration, but to no avail. He is still firmly denied a visa.

We appeal to you personally and we hope that you will give an order to reconsider Isaac Zlotver's appeals; that you will provide the possibility of an old and sick man who gave so much of himself for the Soviet Union, the right to be reunited with his children in Israel.

Vladimir Slepak, Chana Yellinson, Yakov Cretchenik, Yakov Rakhlenko, Alexander Lerner, Larissa Vilenskaya, Lev Godlin, Victor Yelistratov, Victor Eskin, Dina and Yosef Beilin, Natalya and Grigory Rosenshtein, Inna and Yuli Kosharovsky, Ida Nudel, Igor Rovolfov Vladimir Prestin, Zachar Tesker, Venyamin Bogomolny, Boris Chernobilsky, Yakov Schameyevich, Aaron Gurevich, Raphael Roshansky, Emanuel Richterov, Pavel Abramovich Anatoly Schvartsman, Victor Onaximenko, Gennady Chassin, Vladimir Schiffrin.

HUMAN RIGHTS IN CHINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. CRANE. Mr. Speaker, I am pleased to see that at last some attention is being given in this country to the question of human rights in the People's Republic of China. For too many years the scholars, journalists, and politicians of this country have painted an idealized picture of modern life in mainland China. American visitors to the PRC, impressed by the novelty of the experience, and shown only a limited and carefully selected cross-section of conditions on the mainland, have all too frequently returned home to write just those glowing descriptions of the PRC that the Communist leaders in Peking had hoped for. The press, which should have known better, exercised an effective self-censorship out of fear of Chinese Government retaliation.

Now it appears the ice has been broken, and a more realistic picture is emerging. In recent months, a number of articles have appeared in national newspapers depicting the sorry state of human rights inside the PRC. Whatever may be said for or against the Government of that country, it has now become a matter of public record that human rights, in the terms in which they are discussed today, are all but nonexistent in the PRC. Across the board, the state has preempted and suppressed the rights of the individual—political, economic, and social. In the People's Republic of China, totalitarianism has reached its extreme form.

In order to help establish the record on this point, I am inserting into the CONGRESSIONAL RECORD today the most recent of these articles on human rights in China. Written by Mr. Jay Matthews of the Washington Post, this article describes the forced separation of families which results from current Chinese policies. While some scholars might seek to excuse those policies by the observation that "The Chinese have a different set of cultural values to which our notions of human rights do not apply", the solidarity of the family and of the bond between husband and wife is a primary value which cuts across all cultural differences. This is particulary so in China, where the family has extraordinarily deep social and historical roots. The unity of the family is among the most fundamental of human rights. yet it, like other human rights, is granted no recognition in the PRC today. For an understanding of this problem. I highly recommend Mr Matthews' article to the Members.

MARRIAGE CHINESE STYLE: MANY COUPLES FORCED INTO LONG SEPARATIONS

(By Jay Mathews)

HONG KONG.—Chang Tu-li and Liu Mei-hua met and fell in love while attending Shanghai's Futan University. They looked forward to a long and happy married life pursuing their careers as engineers.

Then Chang was transferred in 1969 to a commune in Kwangtung Province 600 miles to the south. He managed to win a short vacation to return to Shanghai and marry Liu, assigned to a factory in that city, but for the next seven years before he finally fled to Hong Kong, Chang never saw his wife for more than a month each year. They only got that much time by exaggerating the seriousness of an old case of hepatitis. Even when the couple produced a son, Chang's appeals to be reassigned to Shanghai fell on deaf ears.

It is an old story in China, illustrating one of the most deep-seated grievances of the family-centered Chinese. Their government has decided to put the interest of the national economy before those of untold thousands of separated married couples. As the Chinese rebel against and adjust to this policy, they reveal interesting things about that one facet of life in China about which foreigners probably want to know the most and yet learn the least—sex.

The forced separations have brought heartbreak, corruption and even some cases of adultery. They have made life nervewracking and sometimes politically dangerous for government personnel officers. Interviews with young officials in China and refugees and sociologists here, along with a close reading of the Chinese press, indicate that the policy has been particularly hard on better-educated young, urban Chinese whose support for the government Peking now says is crucial in turning the country into a modern industrial state.

If there are any signs that the 28-year-old policy on separations, part of a general official callousness toward anything touching on sex, has softened in the post-Mao era, they are not readily apparent.

The system has even affected foreigners. Andrew and Lyn Kirkpatrick, a married student couple from Britain, were forbidden to live together when they arrived in Shanghai late last year for study. They slept in separate crowded dormitories. When a European businessman allowed them to spend the night together a few times at his Shanghai home, he was reprimanded by the local public security office.

Having lived with the policy for so long, most Chinese try to cope with it as best they can—and many have accepted the separations willingly as a necessary sacrifice for the revolution. A group of American birth control experts who recently toured China reported that pharmacies were distributing a popular "visiting pill," a powerful contraceptive that women could take during the occasional visits of husbands assigned far away.

Strolling through public squares in Chinese cities, visitors will sometimes see small posters marked with horizontal arrows pointed in opposite directions. They have been put up by men assigned to a distant city who seek to rejoin their wives by swapping jobs with someone.

Many separations go back to the 1950s. The newly victorious Communist Party, to disperse crucial industries that might be targets of nuclear attack and to develop the countryside, moved whole factories to remote parts of the country. Husbands or wives assigned to those factories had to go along. Rarely could their spouses arrange a job assignment to the same area. Many of them, preferring city life, would not have wanted to move to the remote places if they could.

The most severely affected marriages are those between college students, who are often given assignments far from their university towns after graduation. Also, in recent years, many men with city jobs, unable to find a wife in town, have married rural women, but have been unable to bring them to the city because of severe restrictions on urban growth.

William L. Parish, Jr., a University of Chicago sociologist who interviewed Chan Tu-Li (not his real name) and other refugees here, says Chinese couples do not take such separations as hard as Americans might. "But they're not very happy about them."

"The sexual aspect is not so important," he said, for even young Chinese couples permitted to live together find few moments of privacy.

One couple in Canton "lived in a place that had been partitioned off into bedrooms," he said. "But a guy sleeping in the top of a triple bunkbed in the next room could look down into their bed. They put up a sheet to block the view, but the sheet was full of holes."

In China, what you eat, what you wear and what work you do all depend on where you are registered to live. It is a system that leads some spouses to tolerate separation for fear of something worse.

The relatively few million people who are registered in large cities, like Peking, Shanghai or Canton, are guaranteed a steady supply of grain even during bad times when peasants in some drought-stricken communes must dine on roots. Children who grow up in cities are far more likely to get factory jobs, the pinnacle of prestige and job security for most Chinese. The cities provide schools that will better prepare children for the all-important college entrance examination.

Registration passes through the maternal line and families will suffer dislocations to win the advantages of urban life for their children. One refugee here told of an educated Canton woman who was assigned to rural Hainan Island, married there and had a child. She sent her small daughter back to be raised by the child's maternal grandmother in Canton, to avoid the peasant life that she herself could not escape.

Often, rural wives married to urban husbands will leave their communes for two or three days a week to live in the city, but cannot get permission to move their children into town. They take advantage of the liberal leave time given peasant women in China, whose menstrual cycles involve a good deal of inconvenience because of the shortage of disposal sanitary napkins. But they must work some time in the rural commune, or risk losing the grain rations and income they and their children need.

Such situations create all kinds of opportunities for corruption, as a recent article from the Manchurian city of Harbin revealed. A policeman there, raised by his elder sister, came under great family pressure when the younger brother of his sister's husband "fell in love with a girl from the countryside and wanted to bring her to the city."

Although "his sister kept pressuring him to settle the matter," the policeman said, "this was not in keeping with policy and so set it aside. His sister became angry and his mother said he had no feeling for a relative."

Eventually, the broadcast said, the policeman persuaded his relatives they were wrong.

The prominence given the story suggests that other officials have been more compliant.

At times when criticism of officials is encouraged, such as during the Cultural Revolution of the late 1960s, these tensions come to the surface. "One refugee who had been a personnel officer during the Cultural Revolution said the people who attacked him the most vehemently were married couples he had had to assign to separate work posts," Parish said.

Some separated couples insist it is all for the best. A women's association leader in Shanghai told visiting American psychologist Carol Tavris that although she only saw her husband two weeks each year, "we do not regard separation too seriously, as a bad thing. We accept it as necessary for the good of the country. We must think about our whole family, the motherland, rather than our own small interests."

Despite the Communist marriage law reforms of the early 1950s that ended the several forms of sexual bondage then existing in China, the centuries-old puritanism of the Chinese peasantry and the lack of time or privacy in the workday Chinese world appear to keep sexual activity at a low ebb. Tavris said it was her impression that "Chinese women have moved sexually from ninth-century feudalism to 19th century Victorianism."

The forced separations and the unwillingness of party officials to license marriages for people who have not reached their mid-20s does bring some extramarital sex, however. One refugee told of a Canton woman "who got pregnant by a next-door neighbor. Her husband was older and away a lot because he was a fisherman."

The woman's mother became enraged when she heard what had happened and threw her daughter out of her home, where she was living. The local party committee found her new quarters.

Parish said officials did not appear to punish extramarital affairs too harshly, "unless it was the wife of a party cadre working in another place. Then you could be accused of something called breaking up the family."

If the illicit relationship caused a pregnancy when it was not the woman's turn to have a child under the neighborhood birth control plan, the other women in the neighborhood could be very rough, he added.

"I've heard of some very nasty cases," said Parish, when they would bring the woman up before a meeting of everyone in her work unit "and ask her all the intimate details of her relationship."

Such stories have persuaded many young people to suppress all thought of love or marriage until they have been assigned to their permanent work post and reached the age when marriage is allowed—about 27 for men and 24 for women. In turn, this may be cutting down on the number of couples who suffer separations.

But the absolute numbers remain very large in this very large country.

Tian Li, a 28-year-old railway worker, recently was reunited with and allowed to marry his fiancee, a French woman, after intervention by the highest officials in the country, including Vice Premier Teng Hsiao-ping. A French journalist asked Tian why Teng was so popular in China. First he mentioned Teng's support for an increase in living standards, but then added: "Teng strongly supports the coming together of couples who are separated by their work throughout the country. The people are especially sensitive about this."

INDIVIDUAL TAX RELIEF ACT OF 1978

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. SCHULZE. Mr. Speaker, last week Secretary of the Treasury Blumenthal appeared before the Ways and Means Committee to present the administration's tax proposals. The Secretary's statement and his responses to questions posed by myself and other member of the committee brought to light the need for certain additional modifications to the tax code. In addition, the hearings highlighted the need for certain long overdue administrative changes. In response to one of my questions, I was shocked to learn that the Internal Revenue Service overwithholds more than $30 billion from American taxpayers each year. This amounts to an involuntary interest-free loan from American workers to the Treasury. In 1973, the average amount overwithheld was $380. Clearly, these are funds which lower and middle-income taxpayers could be using for basic necessities.

In addition, the hearings underscored the impact of inflation on the American taxpayer. Each year, in order to compensate for inflation, most workers receive a cost of living or similar increase in pay. This is done in order to keep the employee purchasing power in line with prices. However, because of the graduated tax rate structure the employee actually loses ground. The income tax

takes a bigger bite each year because the taxpayer is pushed up into a higher bracket and pays a higher precentage in tax. As a result, the taxpayer actually has a reduction in purchasing power.

The need for some form of relief for the elderly, the lower- and middle-income taxpayer and the tuition-paying household is also apparent. In an effort to correct some of these abuses and to partially alleviate the overwhelming tax burden endured by the average American taxpayer, I am today introducing (H.R. 10755), the Individual Tax Relief Act of 1978.

The Individual Tax Relief Act of 1978 contains five sections.

Section I provides for the annual adjustment of the income tax tables and exemption amounts to compensate for the effect on inflation, as I described earlier. This measure will make certain that a taxpayer is not paying a greater percentage of his income merely because of inflation. It is well known that inflation harms our economy in many ways. The annual indexing of individual income tax rates and exemptions will do a great deal to reverse one of the more insidious forms of economic harm. The periodic increase in the standard deduction has been used in the past to attempt to correct the impact of inflation on the tax rates. However, this is a simplistic approach to a complex problem which creates more problems than it solves. For example, charitable giving decreases each time the standard deduction is increased.

Section II provides for the payment of interest at 6 percent on the amount by which a taxpayer's withholding exceeds his actual tax liability. When the graduated withholding schedules were introduced in 1966, a congressional report indicated that it would approximate withholding to within $10 of final liability for 21 million of the estimated 63 million taxpayers subject to withholding. In 1973 only 3.8 million, a little over 5 percent of the 71 million taxpayers reporting withholding, were within $25 of final liability. Almost 88 percent of all taxpayers subject to withholding were overwithheld; the average overpayment was $380. A similar pattern has prevailed since 1966. Current law also provides for a substantial penalty if a taxpayer is underwithheld. For purposes of computation, interest on overwithholding would start to accrue on behalf of the taxpayer on September 1 of the tax year.

Section III provides for a $100 tuition tax credit per household for attendance at elementary, secondary, or vocational schools or at an institution of higher learning. This is an element of tax law which the American people are demanding and which will help to alleviate the burdens placed on those seeking the benefits inherent in education.

Section IV provides for the forgiveness of the long-term capital gain on the sale of a principle residence for taxpayers who have reached age 65. Inflation has had a profound effect on the cost of housing. This fact and the inadequacy of present laws have done little to assist the average retired person who wishes to sell his residence. When faced with the prospect of sale and the resulting capital gains tax many elderly persons choose not to sell. This phenomenon has a chilling effect on the housing market and often leaves the elderly with homes which they can no longer afford or maintain. This proposal would reduce the negative impact of such a sale and increase the availability of housing. The amount of sale proceeds would not totally escape taxation since presumably they would be included in the individual's estate. Moreover, this provision would help to insure that retired persons are less economically vulnerable and dependent.

Section V provides for the exclusion from income of the first $100 of interest income from a savings account or bond. Currently the first $100 of dividend income is exempt from taxation. This provision merely seeks to extend the same benefit to taxpayers who place their funds in savings accounts or buy bonds. In so doing, the provision furthers the concept of tax neutrality.

A Roper poll commissioned by the H&R Block Co. and published in July of last year indicated that approximately 64 percent of the American public believe the tax system is unfair. This is an alarming statistic but one which represents a point of view which is easily justified. Our system of taxation relies on voluntary compliance for its success. If continued compliance by U.S. taxpayers is to be expected, we, in the Congress, must take steps to bolster the tax laws and their administration. I therefore ask my colleagues to support the Individual Tax Relief Act of 1978.

THE PANAMA CANAL TREATIES: "AN ACT OF GRACE"

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. WHALEN. Mr. Speaker, rarely in our long consideration of the issues involved in the ratification of the Panama Canal treaties has an individual come forth with so clear and persuasive a case as does Pulitzer Prize winning columnist George F. Will in the current issue of Newsweek magazine. Mr. Will is known as a thoughtful spokesman for the conservative point of view.

"The treaties can be supported," Mr. Will argues, "as an act of grace by a great nation that, having attended to its interests, does not press its advantages."

Mr. Will expresses refreshing confidence in the international authority of the United States and in our inherent power to do what is right and necessary. Yet he warns:

If in an emergency the United States lacks the will to do what is necessary rather than what a treaty explicitly says the United States can do, then the United States lacks the will to do the unpleasant things it would have to do to protect the canal after rejecting the treaties.

Of particular interest is Mr. Will's contention that the treaties should be ratified even without the amendments which are being proposed in the other body. I commend this article to my colleagues and request permission that it be reprinted in the RECORD:

[From Newsweek Magazine, Feb. 6, 1978]

A VOTE FOR THE CANAL TREATIES

(By George F. Will)

In the fight for the Panama Canal treaties, the Administration's battle flag is gray flannel. Diplomats armed with technical arguments are marching into the teeth of conservatives' cannon. But there is a conservative case for the treaties and it begins by noting that Democratic debate must often be decoded.

When Congress considered subsidizing an SST, the air was thick with arguments about aerodynamics and airline economics. But the argument was not about an airplane; it was about what kind of country this should be. When should government decisions supplement market decisions? More crudely, should government build an expensive plane for "jet-setters"? Today's debate about the canal treaties is only partly about a canal. Beneath arguments about geopolitics and the effect of higher tolls on trade, there is resentment about vanished mastery. In 1954, in Guatemala, the U.S. brushed aside an unsatisfactory government as easily as a waiter brushes away crumbs. But in 1961, across the Caribbean at the Bay of Pigs, an era of shambles began. And now Americans are supposed to feel vaguely ashamed of having constructed the canal that their high-school textbooks celebrated.

A MAN OF THE LEFT

The way to restore Panama to the status quo ante (ante Theodore Roosevelt) is not to cede control of the canal to Panama but to cede Panama to Colombia, from which Panama seceded, with TR's connivance. But Gen. Omar Torrijos' passion for restoration does not extend to dissolving the state where he is supreme. Something like de Tocqueville's compliment to Napoleon (that Napoleon was as great as a man without morality can be) can be paid to Torrijos: he is about as nice as Latin dictators can be. He may be innocent of systematic thought, but he has had the good sense to get perceived as a man of the left. This has intensified the antipathy American conservatives would feel for him anyway, but it has insulated him against the scalding but selective indignation that liberals allocate for some dictators.

Conservatives know that some supporters of the treaties enjoy finding occasions for the U.S. to retreat, preferably apologetically. But it is a bit late for conservatives to become fastidious about liberty in nations with which the U.S. makes treaties. The canal treaties almost certainly will be approved, but after cosmetic improvements. For example, the Senate may insert language that stipulates that "expeditious" treatment of U.S. warships in emergencies means "preferential" treatment in the sense of head-of-the-line passage. Whether a second Panamanian plebiscite will be "necessary" to ratify revised treaties will depend largely on Torrijos' interpretation of Panamanian due process, which is unclear. Dictators usually do not think due process requires inconvenient or unpredictable plebiscites.

Some conservatives want the treaties to affirm the explicit right of the U.S. to intervene to protect the canal. Such a provision would be inconsistent with the purpose of the treaties and unnecessary, given the real rules of the game of nations. It would be inconsistent because the essential purpose of the treaties is to assure Panamanian sovereignty and sovereignty means that no power outside a nation has a right to decide what shall be done within that nation's ju-

risdiction. It is unnecessary for the treaties formally to concede a U.S. right to intervene, because the first law of nations is that "necessity knows no law." Americans must assume that in an emergency their government will do what is necessary to protect what is necessary.

Under the treaties, the U.S. shall have "primary" responsibility for defense of the canal until Dec. 31, 1999. After that, the two nations "agree to maintain" the canals neutrality. A State Department explanation says this does not give the U.S. "the right to intervene in the internal affairs of Panama," but it does give "each nation the discretion to take whatever action it deems necessary." (Emphasis added.) That may seem like a distinction without a difference, but this is a matter requiring reticence.

PARCHMENT BARRIER

Some conservatives believe that unless something like the State Department interpretation is incorporated into the treaties, the treaties will not "settle" the problem of possible conflict with Panama in extraordinary situations. But it is unconservative rationalism to think that all future contingencies can be frozen in ink, like flies in amber. Like most international agreements, the 1903 canal treaty ratified an act of force, and no laws are controlling when force is involved. A Gettysburg ordinance forbade discharge of firearms on part of what became the battlefield. Bismarck said that every treaty contains the unwritten clause *rebus sic stantibus* (so long as things remain the same). A treaty is only a parchment barrier, which means no barrier, to a nation's protection of its vital interests against weaker nations. If in an emergency the U.S. lacks the will to do what is necessary rather than what a treaty explicitly says the U.S. can do, then the U.S. lacks the will to do the unpleasant things it would have to do to protect the canal after rejecting the treaties.

Given the vulnerability of the canal's locks, and today's technology (and ideology) of free-lance violence, it is harder for the U.S. to protect the canal than to protect Europe. The treaties will not limit the U.S. right to guard air and seat approaches to the canal. And by increasing Panama's revenues, the treaties will give Panama an enlarged stake in helping with defense. Panama's only substantial "natural resource" is its narrowness. After the treaties are ratified, the tolls, which have been unreasonably low, will rise to a level that will mean much to Panama but will not be burdensome to the U.S.

AN ACT OF GRACE

The conservative intuition is correct: liberals exaggerate the importance and plasticity of foreign opinion. Latin America will still dislike the U.S. after the treaties are ratified. But the best situation for the U.S. in Latin America is one in which the U.S. is thought of as little as possible and rejection of the treaties would make the U.S. an obsession there.

Some conservatives would have the U.S. assuage its sense of impotence, and frighten its enemies, by frustrating Panama's nationalism. Not since the Mayaguez affair, the U.S. victory over the Cambodian Navy, has so much pride been invested in so small a challenge. The treaties are less instruments of strict equity than instruments in which considerations of prudence and magnanimity converge. Unquestionably, the U.S. has a formal, legal right to remain the cause of Panama's physical division and psychic distress. But proper conservatives insist upon higher standards of behavior than mere legality. Manners are a species of morals and it is ungentlemanly to insist too punctiliously upon formal "rights." The treaties can be supported as an act of grace by a great nation that, having attended to its interests, does not press its advantages.

PANAMA CANAL

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. STANGELAND. Mr. Speaker, I would like to share with my colleagues a letter I received from two Peace Corps workers stationed in the Dominican Republic concerning the Panama Canal Treaties. Their firsthand observations on Latin American and the impact of Senate ratification of the treaties are thought-provoking and certainly worth consideration. Although they presented several reasons why the United States should not ratify the treaties one thought was especially worth noting. Contrary to popular belief, they observed that many Latin Americans feel approval of the treaties will weaken rather than strengthen the position of the United States:

To: Arlan Stangeland, U.S. Representative, of Minnesota, House of Representatives, Congress of the United States, Washington, D.C. 20515, U.S.A.

From: Mr. and Mrs. Daniel Rugroden, Cuerpo de Paz, Apartado 1412, Santo Domingo, Republica Dominicana.

DEAR MR. STANGELAND: Just a short introduction is in order. We joined the Peace Corps about fourteen months ago and are stationed in the Dominican Republic. I have been trying to teach better agriculture practices to farmers in and around a town called Bonao. I have a degree in Agriculture Education from the University of Minnesota, St. Paul campus. I am from Hoffman, where my dad manages the only creamery in Grant County. My wife is a Certified Medical Laboratory Assistant and she has been trying to teach santitation and nutrition to rural housewives. We have gotten to know these people rather well because we have lived with them for over a year now. We also have had the opportunity to travel to Puerto Rico and South America.

Having been in direct contact with the people of Latin American Countries for over a year now we are beginning to understand them a little better. Because we know Spanish, we have been able to find out what the people in these countries think of the United States. And generally, most of these people have a very favorable attitude towards the United States. We fully realize that this favorable attitude is very important for our trade and safety. Therefore, it is the duty of our government to enhance and enrich our relationship with foreign countries. This applies to everything from trade argeements to treaties. However, it would be a great mistake for the United States government to make up a new treaty to give away the Panama Canal Zone. We feel there are several very good reasons for keeping the Canal Zone in the U.S. control.

We feel it may be a different story if the Panama Canal Zone was given to the U.S. due to the spoils of war. Like if it fell into the same classification as the Mexican cession after the Mexican-American War or our possession of Puerto Rico after the Spanish-American War. But it can not be labeled as the spoils of war. True, there was the bloodless war between Colombia and the new Panamanian Government in 1903, but that did not involve the U.S. directly. No, the Panama Canal Zone was bought and paid for according to the Hay-Bunau-Varilla Treaty of 1903. We paid ten million dollars for it. That is more than we paid for Florida, 5 million, or Alaska, 7.2 million. Plus, we are still paying about 2 million to Panama each year. The U.S. has lived up to its side of the treaty, we have paid for it. There is no need for another treaty which gives the canal to Panama. If we apply our Panama Canal Zone Policy to the rest of our treaties, we'd give up a lot of land. For example, should we give back the Louisiana Purchase to France, the Florida Purchase to Spain, the Gadsen Purchase to Mexico, the Alaskan Purchase to Russia, or the Virgin Islands to Denmark because they want it? No, we should keep what we paid for. If we give back just one of these purchases back, it would justify giving them all back. We must keep what we have paid for.

Needless to say, you probably know more about the terms of the original treaty than I do. However, I understand the Hay-Bunau-Varilla Treaty states that the United States Government leases the Panama Canal Zone in perpetuity. The word perpetuity is kind of an ambiguous word. But it has about the same meaning as infinitely or as long as we are around in this life. Based on this terminology the canal is ours now and for as long as we are a country. Let's honor this treaty. We have broken or laid aside enough treaties in the past.

The Panama Canal is one of the greatest achivements of modern mankind. The United States built it from 1904 to 1914 in spite of what skeptics said. We succeeded where the French failed. True, it cost us a fair amount of money to complete it, about $380,000,000. But it was built. It is a symbol of American ingenuity just as much as our present day space flights. We feel there is a certain amount of national pride in the construction of the canal. This national pride would be seriously hurt if we gave the canal away. Our pride as a nation is part of what holds us together as a nation. To know that as United States we can achieve fantastic feats is part of our heritage. It would be unfair to give away part of our national heritage. Not only unfair to us, but perhaps morally damaging to our country.

You are probably more aware of the political situation in Panama right now than we are. It is generally well known the General Omar Torrijos Herrera is a small time dictator. And because he is a dictator, his whole country is subject to his whims. It was the same way in this country for 31 years when General Rafael Trujillo was dictator. If Trujillo decided to kill some Haitians one afternoon—it was done. What Haiti or any other country thought did not matter. General Torrijos of Panama is no different. Once control over the canal is handed over to his government, what is to stop him from raising the canal toll atrociously high or even worse, preventing ships of certain countries from entering the canal zone. In addition, please consider the human injustices that are going on in Panama. Why should we not pursue our human rights theme in Panama? Dealing with the Panamanian Government without mentioning the people's freedom and rights is completely contradictory to our principles. General Torrijos can go around saying that he made the United States bow to him.

Like I, stated in the previous paragraph, Panama is ruled by General Omar Torrijos Herrara, a small time dictator. History has proven that dictators are very unstable. They usually are overthrown rather rapidly. What would happen if General Torrijos fell from power? Who would rule Panama? A government friendly to the west or friendly to the communist countries? Granted, the new treaty does allow us to maintain some control over the canal and preserve our interests. But I point out that according to the new treaty, whoever rules Panama rules the Panama Canal Zone by the year 2000. Because of the strategic importance of the canal, these are very important questions. I now ask; Can we take the chance of its falling under com-

munist influence? No! The free world needs that canal for trade as well as defense purposes. The canal has to remain open to all countries. And the only way to guarantee it being open to all countries is by keeping it that way under our control. We can not afford to take the chance of losing such an important piece of U.S. land.

Many people believe that our Latin American relations will hurt if we do not make a new treaty over the Panama Canal. Our experiences in Latin America have taught us just the opposite. Many of the people in these countries feel that a new treaty over the canal shows that the United States is weak. As I have said before, we have had the opportunity to travel to South America while we have lived in the Dominican Republic. I have gotten the impression from the people of these countries that they find it very difficult to understand the United States' policy. Generally, these people are pro-American. But it is our belief that they are laughing inwardly at us for signing away the canal. A show of power and force influences these people greatly here. If the U.S. seems to be weak by signing away the canal, they may be swayed under the influence of a stronger power, such as Russia. Giving the Panama Canal Zone to Panama will hurt our Latin American relationship in the long run.

Perhaps the best way to sum up the points for not giving the Panama Canal Zone away is by quoting a saying used during the last presidential race. It goes something like this; "We bought it, we paid for it, we built it, and we are going to keep it." I admit that Mr. Ronald Reagan may have oversimplified the issue in this one sentence. But it does bring up several important issues connected with the canal zone. We have paid a lot of money for it. The original treaty does state it is ours for perpetuity. Another point is the national pride that goes along with the construction of such a fantastic engineering accomplishment. There is also the problem of giving into a small time dictator. Not to mention, the possibility of that unstable government falling under the influence of unfriendly countries. The free world trade and security is too valuable to chance it. Our last reason to keep the canal, is to maintain the respect of the Latin-American people.

Realizing that you are a very busy man, we thank you for your time in going over the letter. Thank you very much.

In God We Trust,

DANIEL RUGRODEN.

GEORGE F. WILL BRINGS REASON TO SKOKIE DEBATE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. EILBERG. Mr. Speaker, one of the most thoughtful pieces of writing on the current debate as to whether the Nazi Party has the right to march in Skokie, Ill., is the February 2, 1978, column in the Washington Post by George F. Will.

As Mr. Will points out, the Nazis make it very clear that they hope to incite violence and racial hatred against Jews and other minorities.

The issue, then, is not the right to free speech. Rather, the issue is the right of the community of Skokie to use every constitutional means at its disposal to prevent the Nazis from abusing the freedom of our Constitution to carry out their violent program of bigotry and genocide.

Very plainly, the motives of the Nazis are totally contrary to the U.S. Constitution. Therefore, it is reasonable for the people of Skokie to take legal efforts to protect themselves against the violence which the Nazis promise to carry out as soon as they have the opportunity to do so.

I offer Mr. Will's commentary for the RECORD because I share his belief that those who defend the constitutional "right" of the Nazis to incite hatred and genocide ignore the fact that these same Nazis would, as Mr. Will states, "destroy the Constitution" if given the opportunity:

NAZIS: OUTSIDE THE CONSTITUTION

(By George F. Will)

During World War II, Sol Goldstein lived in Lithuania, where Nazis threw his mother down a well with 50 other women and buried them alive in gravel. Today he lives in Skokie, Ill., where on April 20 Nazis wearing brown shirts and swastikas may demonstrate to celebrate Hitler's birthday.

Sixty percent of Skokie residents are Jewish, including thousands of survivors of the Holocaust. Aided by the American Civil Liberties Union, the Nazis have successfully challenged an injunction against demonstrations with swastikas, and almost certainly will succeed in challenging ordinances banning demonstrations involving military-style uniforms and incitements of hatred. After 60 years of liberal construction of the First Amendment, almost anything counts as "speech"; almost nothing justifies restriction.

The Nazis say they want to demonstrate in Skokie because "where one finds the most Jews, one finds the most Jew-haters." Beyond inciting hatred, the Nazis' aim is to lacerate the feelings of Jews. Liberals say the Skokie ordinances place unconstitutional restrictions on the Nazis' "speech." But Skokie's ordinances do not prohibit "persuasion," in any meaningful sense. The ordinances prohibit defamatory verbal and symbolic assault. What constitutional values do such ordinances violate?

The Washington Post says the rationale for striking down restrictions on advocacy of genocide is that "public policy will develop best through the open clash of ideas, evil ideas as well as benign ones." A typical Nazi idea is expressed on the poster depicting three rabbis—the Nazi call them "loose-lipped Hebes"—conducting the ritual sacrifice of a child. The Post does not suggest exactly how it expects the development of policy to be improved by "clashes" over ideas like that, or the like idea that Jews favor the "nigger-ization" of America.

Liberals quote Oliver Wendell Holme's maxim that "the best test of truth is the power of the thought to get itself accepted in the competition of the market." Liberalism is a philosophy that yields the essential task of philosophy—distinguishing truth from error—to the "market," which measures preferences (popularity), not truth. Liberals say all ideas have an equal "right" to compete in the market. But the right to compete implies the right to win. So the logic of liberalism is that it is better to be ruled by Nazis than to restrict them.

Liberals seem to believe that all speech—any clash between any ideas—necessarily contributes to the political ends the First Amendment is supposed to serve. But they must believe that the amendment was not intended to promote particular political ends—that there is no connection between the rationale for free speech and the particular purposes of republican government.

A wiser theory is in "The First Amendment and the Future of American Democracy," in which Prof. Walter Berns argues that the First Amendment is part of a political document. There are political purposes for protecting speech, and some speech is incompatible with those purposes.

The purpose of the Constitution, he argues, is to establish a government faithful to the "self-evident" truths of the Declaration of Independence. Holmes said the Constitution was written for people of "fundamentally differing views." That would be an absurd idea about any constitutional community and is especially absurd about this one. The Founders thought rational persons could hardly avoid agreeing about "self-evident" fundamentals. The Founders believed in freedom for all speech that does not injure the health of the self-evidently proper kind of polity, a republic.

So the distinction between liberty and license, between permissible and proscribable speech, is implicit in the Constitution's purposes. Hence restraint can be based on the substance as well as the time, place and manner of speech.

Berns argues it is bizarre to say that the Constitution—a document designed to promote particular political ends—asserts the equality of ideas. There is no such thing as an amoral Constitution, neutral regarding all possible political outcomes.

American Nazis are weak, so liberals favor protecting Nazi swastikas and other "speech." Liberals say the pain to Jews is outweighted by the usefulness of the "clash of ideas" about "loose-lipped Hebes." Were the Nazis becoming stronger, liberals would favor protecting Nazi speech because the "market"—the best test of truth—would be affirming Nazi truth. Besides, restricting speech can be dangerous.

But it is not more dangerous than national confusion about fundamental values. Evidence of such confusion is the idea that restrictions on Nazi taunts and defamations are impermissible because the Constitution's fundamental value is political competition open equally to those who, if they win, will destroy the Constitution and then throw people down wells.

PANAMA CANAL: POLITICIZATION OF THE MILITARY SHOULD BE INVESTIGATED

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. DORNAN. Mr. Speaker, the question of the future status of the Panama Canal has become a matter of international as well as national concern. Its value to interoceanic commerce and national defense has been set forth in many carefully considered statements by various eminent civil and military leaders as well as by perceptive publicists and distinguished Members of Congress.

The latest contribution to the growing literature is a thoughtful article by Allan C. Brownfeld, a well known syndicated Washington columnist.

Drawing upon a number of excellent sources, he stresses the fact that virtually all prominent retired military leaders, in contrast to those on active duty, stress the canal as "vital to U.S. security." He also urges an investigation by the Congress of what he calls the "politicization of the military."

Mr. Speaker, because of the timeliness of the indicated article I quote it, along with the considered statement by four former Chiefs of Naval Operations cited therein, as parts of my remarks: I also call attention to a news story from

the Arizona Republic which quotes Defense Secretary Harold Brown as admitting that any member of the Joint Chiefs who advised against the canal treaties would be "expected" to resign. The entire news story follows the statements of the retired Navy admirals:

IS THE PANAMA CANAL STRATEGICALLY VITAL OR IS IT EXPENDABLE?

(By Allan C. Brownfeld)

All too often, the debate about the ratification of the Panama Canal treaties has been based upon emotional rather than strategic and geopolitical considerations.

Advocates of the treaties argue that the Canal is no longer strategically necessary, that the large new supertankers cannot use it anyway, and that by giving it to Panama we will solidify good relations with Latin America. Opponents of the treaties argue that it is still necessary and that, beyond this, the symbolism of yet another American retreat will not be lost upon those concerned with whether or not the U.S. intends to fulfill its international commitments. Some proponents declare that the Canal is a vestige of American "colonialism," and some opponents say that our national honor demands keeping the Canal.

It is high time—before the nation makes the wrong decision—to cut through much of this rhetoric and to consider the vital question upon which such a choice must be made: Is the Canal strategically vital—or is it really expendable?

It is curious indeed that, under pressure from first the Ford and then the Carter Administrations, our military leaders—such as General George Brown, Chairman of the Joint Chiefs of Staff, have shifted their longtime opposition to relinquishing control of the Canal. As recently as 1976, the Defense Department devoted one issue of The Commanders Digest, published by the Pentagon Office of Information, to the subject: "The Military Value of the Panama Canal." On June 8, 1977, four distinguished admirals, all former chiefs of naval operations, vigorously opposed any give-away of the Canal.

To the argument that the Canal is less important because of the large supertankers which can no longer use it, Admirals Carney, Burke, Anderson and Moorer declared: "We recognize that the Navy's largest aircraft carriers and some of the world's supertankers are too wide to transit the canal. The supertankers represent but a small percentage of the world's commerical fleets. From a strategic viewpoint, the Navy's largest carriers can be wisely positioned as pressures and tensions build in any kind of short range, limited situation. Meanwhile, the hundreds of combatants, from submarines to cruisers, can be funneled through the transit as can the vital fleet train needed to sustain the combatants—Our experience has been that as each crisis has developed during our active service—World War II, Korea, Vietnam and the Cuban Missile crisis—the value of the Canal was forcefully emphasized—sovereignty and control over the Canal Zone and the Canal offer the opportunity to use the waterway or to deny its use to others in wartime. Under the control of a potential adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the overall U.S. defense capability, with enormous potential consequences for evil."

The offhand dismissal by many in the Ford and Carter Administrations of the strategic significance of the Canal on the grounds that it could not accommodate the navy's thirteen large carriers prompted a sharp rejoinder from yet another former chief of naval operations, Admiral David L. McDonald, who held the post from 1963–1967. McDonald stated that, "Carriers as such do not operate independently but as the core of striking forces; and all other units of these striking forces can transit the canal including the very vital logistic support forces. And with Angola plus USSR actions in general I certainly do not think we should permit our presence in the Canal to be diluted."

Similarly, Retired Lt. General Victor Krulak of the U.S. Marines, a former member of the Pentagon's Joint Staff, attacked the argument that the canal was no longer needed because the U.S. boasted a "two-ocean" navy. Measured against its global operational requirements, the whittled-down navy of 1977 does not deserve to be called a two-ocean fleet. It was, said Krulak, a barebones, one-ocean navy. However, if the navy could exercise flexibility in times of emergency by shuttling ships through the canal (rather than resorting to an 8,000 mile detour around the Horn) then it might be described as "two-ocean." Krulak added: ". . . without absolute control of the Canal and the essential contiguous land, the U.S. could not accept the hazard of a one-ocean navy. It would be essential at once to initiate construction of fleets independently able to meet a crisis in either the Atlantic or the Pacific—a massive expenditure which we are now spared only because of our control of the Canal."

How can the fact be explained that almost all prominent retired military men tell us that the Canal is vital to U.S. security, while those on active duty uniformly accept the position of the Administration in power? The politicization of the military is a dangerous trend which is worthy of serious concern—and investigation by the Congress as well. We cannot afford to have military men acting like politicians—far too much depends upon their judgment.

It is not only retired military men who tell us that the Canal remains vital to U.S. security. Hanson Baldwin, for many years military editor of the New York Times, states that, ". . . control of the Panama Canal, for both operational and security purposes, should remain a U.S. responsibility. I feel this quite strongly . . . there is a parallelism in the status quo of the Canal Zone and Guantanamo, and this could be extended by implication to a great many other U.S. land-based facilities. . . . Once a retreat is started, it is hard to stop . . ."

Congress would do well to prevent President Carter's proposed retreat in Panama. The nation's safety, in the long run, may well depend upon what is done.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., June 15, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are enclosing a most important letter from four former Chiefs of Naval Operations who give their combined judgment on the strategic value of the Panama Canal to the United States.

We think you will agree that these four men are among the greatest living naval strategists today, both in terms of experience and judgment. Their letter concludes:

"It is our considered individual and combined judgement that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty."

We concur in their judgment and trust you will find such action wholly consistent with our national interest and will act accordingly.

Sincerely,

STROM THURMOND, USS,
JESSE HELMS, USS,
JOHN L. MCCLELLAN, USS,
HARRY F. BYRD, Jr., USS.

JUNE 8, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As former Chiefs of Naval Operations, fleet commanders and Naval Advisers to previous Presidents, we believe we have an obligation to you and the nation to offer our combined judgment on the strategic value of the Panama Canal to the United States.

Contrary to what we read about the declining strategic and economic value of the Canal, the truth is that this inter-oceanic waterway is as important, if not more so, to the United States than ever. The Panama Canal enables the United States to transfer its naval forces and commercial units from ocean to ocean as the need arises. This capability is increasingly important now in view of the reduced size of the U.S. Atlantic and Pacific fleets.

We recognize that the Navy's largest aircraft carriers and some of the world's supertankers are too wide to transit the Canal as its exists today. The super-tankers represent but a small percentage of the world's commercial fleets. From a strategic viewpoint, the Navy's largest carriers can be wisely positioned as pressures and tensions build in any kind of a short range, limited situation. Meanwhile, the hundreds of combatants, from submarines to cruisers, can be funneled through the transit as can the vital fleet train needed to sustain the combatants. In the years ahead, as carriers become smaller or as the Canal is modernized, this problem will no longer exist.

Our experience has been that as each crisis developed during our active service—World War II, Korea, Vietnam and the Cuban missile crisis—the value of the Canal was forcefully emphasized by emergency transits of our naval units and massive logistic support for the Armed Forces. The Canal provided operational flexibility and rapid mobility. In addition, there are the psychological advantages of this power potential. As Commander-in-Chief, you will find the ownership and sovereign control of the Canal indispensable during periods of tension and conflict.

As long as most of the world's combatant and commercial tonnage can transit through the Canal, it offers inestimable strategic advantages to the United States, giving us maximum strength at minimum cost. Moreover, sovereignty and jurisdiction over the Canal Zone and Canal offer the opportunity to use the waterway or to deny its use to others in wartime. This authority was especially helpful during World War II and also Vietnam. Under the control of a potential adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the over-all U.S. defense capability, with enormous potential consequences for evil.

Mr. President, you have become our leader at a time when the adequacy of our naval capabilities is being seriously challenged. The existing maritime threat to us is compounded by the possibility that the Canal under Panamanian sovereignty could be neutralized or lost, depending on that government's relationship with other nations. We note that the present Panamanian government has close ties with the present Cuban government which in turn is closely tied to the Soviet Union. Loss of the Panama Canal, which would be a serious set-back in war, would contribute to the encirclement of the U.S. by hostile naval forces, and threaten our ability to survive.

For meeting the current situation, you have the well-known precedent of former distinguished Secretary of State (later Chief Justice) Charles Evans Hughes, who, when faced with a comparable situation in 1923

declared to the Panamanian government that it was an "absolute futility" for it "to expect an American administration, no matter what it was, any President or any Secretary of State, ever to surrender any part of (the) rights which the United States had acquired under the Treaty of 1903," H. Doc. No. 474, 89th Congress, p. 154).

We recognize that a certain amount of social unrest is generated by the contrast in living standards between Zonians and Panamanians living nearby. Bilateral programs are recommended to upgrade Panamanian boundary areas. Canal modernization, once U.S. sovereignty is guaranteed, might benefit the entire Panamanian economy, and especially those areas near the U.S. Zone.

The Panama Canal represents a vital portion of our U.S. naval and maritime assets, all of which are absolutely essential for free world security. It is our considered individual and combined judgment that you should instruct our negotiators to retain full sovereign control for the United States over both the Panama Canal and its protective frame, the U.S. Canal Zone as provided in the existing treaty.

Very respectfully,

ROBERT B. CARNEY,
GEORGE ANDERSON,
ARLEIGH A. BURKE,
THOMAS H. MOORER.

[From the Arizona Republic, Wednesday, Jan. 25, 1978]

JOINT CHIEFS FACE "MUZZLING" IF THEY OPPOSE CANAL PACTS

Secretary of Defense Harold Brown admitted on Tuesday that if any of the Joint Chiefs of Staff opposed ratification of the Panama Canal treaties, they would be "muzzled."

They would be free to criticize the treaties, but Brown said if they do they should be prepared to resign. However, he said all support the treaties.

Referring to some former chiefs who oppose the treaties, Brown said they are not as well informed. Some expressed opposition even before both treaties were completely written, Brown said.

Brown made the remarks in answer to a question from the audience after he had finished a speech on the treaties at a dinner sponsored by the Military Affairs Committee of the Phoenix Metropolitan Chamber of Commerce in the TowneHouse.

Brown told another questioner he doesn't think the canal is a white elephant, but doesn't want to overstate its values.

In his speech, Brown said the treaties, subject to Senate approval, are needed to keep Panama as a friend.

"We want the canal protected from external threats involving sophisticated weapons launched from outside Panama," Brown said. "Just as important, we want it protected from guerrilla or terrorist attacks or threats that could originate close by."

The secretary emphasized that the United States "retains all rights necessary to take whatever actions may be required to ensure the canal's neutrality and security. Those rights include the right to use military force."

Basically, the United States feels it is in a better position to have a friendly nation running the canal than to have the United States operate it in an unfriendly atmosphere, Brown said.

In a press conference before the dinner, Brown praised the work of Adm. Stansfield Turner, Central Intelligence Agency director, who had been reported on the way out until President Carter expanded his authority Tuesday morning.

PROTECTING CHILDREN'S HEALTH

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. MAGUIRE. Mr. Speaker, today I am reintroducing the Child Health Assurance Act with technical amendments and two substantive amendments. The first amendment will insure that preventive health services are given a top national priority in the development of a national health plan—especially for children. This amendment will establish a National Commission on Preventive Health. The first goal of the Commission shall be to report on the preventive health needs for the children of the Nation by January 1, 1980 and on the needs of the rest of the population by January 1, 1981.

This Commission shall:

First. Compile and evaluate all the significant evidence concerning the promotion of health and the prevention of disease;

Second. Formulate national goals with respect to the health status of the Nation;

Third. Formulate a national policy for the promotion of health and the prevention of disease and disabling conditions; and

Fourth. Formulate legislation and administrative recommendations for the implementation of the national policy.

The Commission shall work closely with the Department of Health, Education, and Welfare in formulating its recomendations and shall include consumer representatives, professionals from the medical, scientific, mental health, allied health, and education professions, and representatives from Federal, State, and local health departments. The National Commission on Preventive Health shall be able to focus national attention on the importance of prevention as we develop a national health plan for the United States. We cannot afford to continue paying for the increasing costs of medical care without doing everything we possible can to insure that our people are encouraged to develop habits that promote health and are delivered preventive health services on a regular basis. The National Commission on Preventive Health will bring this too long forgotten concept of prevention to the forefront in the development of a national health plan.

The second amendment to the Child Health Assurance Act deletes the earlier penalty section and replaces it with an enforcement procedure which is relatively short and gives the State two opportunities to correct its failure to comply before a cease-and-desist order from the Secretary of Health, Education, and Welfare is given. The entire process should take no more than 6 months. The order is subject to review in a court of appeals, whose decision shall be final except for review by the Supreme Court.

The final order of the Secretary may be enforced in a civil action in a district court brought by the Secretary, or by the beneficiary. A beneficiary may also bring suit to require the Secretary to enforce his own order. The Secretary is required to watchdog States which have been out of compliance, for two quarters after the State is in compliance.

An enforcement procedure is absolutely essential to insure that States actually provide the preventive health services to its child medicaid population This procedure does not withdraw funds from the State, which ultimately punishes the beneficiary, but is designed to expedite enforcement procedures, reduce Federal paperwork, and provide explicitly for private enforcement of this act.

HIGH CUSTOM DUTY RATES TO UKRAINE

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. RUPPE. Mr. Speaker, recently, while participating in the Ukrainian Congress Committee this past January 22 in Michigan, I was approached by a group of Ukrainians who requested my assistance in urging the Russian Government to reduce their excessively high custom duty rates. One woman indicated that it cost her approximately $200 to send a couple of items to her family in the Ukraine.

In checking into this matter, I first contacted the State Department and learned that since 1976 custom duty has risen an alarming rate of 600 percent to 700 percent across the board on items previously sent from this country. Our citizens pay all costs on their end in sending these items and thus, bear the full burden of cost responsibility. Interestingly enough, the Russian Government will only permit items to be sent from the United States if they are sent through a U.S. company which has been licensed by their Government. The companies who have acquired a license maintain full responsibility in accepting the package and all costs involved.

I decided to obtain the names of two American companies that deal in this operation to see how much they would charge me to send a $20 pair of shoes and a $100 wool coat. Globe Parcel Service, Philadelphia, Pa., determined that costs would probably be approximately $75. However, Package Express and Travel Service, New York, N.Y., determined that costs would be between $90 to $100. The cost of the items had absolutely no bearing on the charges quoted.

It is difficult for me to accept the high custom duty charges which have been imposed on items sent from the United States to the Ukraine. The State Department acknowledges that they are aware of the exorbitant duties imposed and have asked the Soviets to reconsider these charges. Unfortunately, the Soviet Government has elected to ignore our request.

Each one of us has a loved one that we feel some sort of responsibility for. While we may not necessarily assume financial responsibility for them, we would probably provide them with items to fulfill their needs if they were unable to obtain these things for themselves. For this reason, many of our Ukraine citizens do still have strong ties to their families who remain in the Ukraine and thus, do feel a moral obligation and responsibility to provide their loved ones with items of clothing. It is absolutely shocking to me to have learned that in sending a coat and a pair of shoes, I would have been expected to pay between $75 to $100 to send these items to the Ukraine.

I would at this time like to share with you a letter that I sent to Ambassador Anatoly F. Dobrynin of the U.S.S.R. which was prompted by my awareness of this situation:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., January 31, 1978.

His Excellency ANATOLY F. DOBRYNIN,
Ambassador, Embassy of Union of Soviet Socialist Republics, Washington, D.C.

DEAR MR. AMBASSADOR: Recently, a matter of great concern has come to my attention which I believe merits your consideration. A short time ago, I was visiting with a group of my constituents who were originally from the Ukraine and who still have relatives residing there. I was advised that they are extremely concerned with regard to the very high duties which they must pay in order to send items to the Ukraine from this country.

In checking into this matter, I learned that high duties do exist. Since many of my constituents do feel a moral obligation to provide for their relatives who still reside in the Ukraine, the existing high duties are placing upon them a financial hardship in meeting what they feel is their family responsibility.

In bringing this matter to your attention, I am hopeful that you will bring this problem to the attention of your government in order that they may review this matter with the future prospect hopefully of a reduction in existing duties.

With best wishes,
Sincerely,

PHILIP E. RUPPE,
Member of Congress.

THE FLOATING—NOT SINKING—DOLLAR

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. WHALEN. Mr. Speaker, we have experienced a decline in the value of the U.S. dollar in comparison with other currencies and have generally found this to be a disquieting situation. As yet, however, we don't know the effects of our falling exchange rate upon the world or upon our domestic economy.

Arthur Okun is one of our country's foremost economists. Now a senior fellow at Brookings Institution, Mr. Okun is a former chairman of the Council of Economic Advisors. Writing in the Washington Post on January 29, he provides considerable insight into the causes and possible consequences of our trade deficit and the resulting oversupply of dollars on world markets. He notes that the United States was the only country which met its target for economic growth in 1977 and that last year's economic developments contrast sharply with what happened in 1975.

I believe Mr. Okun gives us a good guide to the currency fluctuations of recent years. Thus, I commend the article to the attention of my colleagues and other readers of the CONGRESSIONAL RECORD:

[From the Washington Post, Sunday, Jan. 29, 1978]

THE FLOATING—NOT SINKING—DOLLAR

(By Arthur M. Okun)

Our dollar has been weak in foreign exchange markets relative to other currencies mainly because the U.S. economy has been *strong*. The current episode of our falling exchange rate presents a sharp contrast to the recent experience of the United Kingdom and to our own experience earlier in the decade: It is *not* the result of above-average inflation rates or poor economic performance.

In 1977, the United States was the only capitalistic industrial country that met its target for economic growth; in the process, we generated higher demands for all types of goods, naturally including imports. And the rise in U.S. imports bolstered the sagging growth curve of other economies—perhaps even saving them from renewed recession. With our imports growing and our exports stagnating because of the weak economies of our trading partners, a lot of dollars were pumped into the rest of the world. Although foreign investors have a strong appetite for dollar securities, it isn't unlimited. With a U.S. trade deficit of $30 billion, it was hardly surprising to find an excess supply of dollars on world financial markets and a resulting adjustment of exchange rates, which lowered the value of the dollar relative to the average of other major currencies by 4½ percent in 1977.

The developments during 1977 were precisely the reverse of what happened during 1975. At that time, the U.S. economy was the sickest in the world, and we were spreading our acute recessionary disease abroad with an 11 percent decline in our real imports. Because we ran a substantial trade surplus, dollars were scarce throughout the world, producing an average rise of the dollar in foreign exchange markets by about 8 percent. That increase in the value of the dollar evidently created an overvaluation, making imports excessively attractive to us and our exports unduly expensive to others. When trade flows finally adjusted to this change in exchange rates after a year or two, that swelled our trade deficit of 1977.

In short, exchange rates have been responding to real phenomena: a U.S. trade deficit that is unsustaining high and surpluses in Germany and Japan that are unreasonably large. While exchange markets can get caught up in a speculative fever and can overshoot, there is no evidence to date that they have gone haywire, or even that they have necessarily completed the appropriate adjustment. Our exchange rate is still a few percentage points higher than it was three years ago, compared to the average of other major currencies; nobody can say with any conviction that the dollar is now undervalued (or still overvalued). To set a target for the exchange rate and try to maintain it would be like freezing the thermometer.

There are, to be sure, some unwelcome consequences of the decline in our exchange rate. First and foremost are higher prices of imports from Japan and Germany, and the additional inflationary effects on prices of U.S.-made products that compete with those imported goods. The drop in the dollar's exchange rate during 1977 is likely to add an extra half a point to our price level over the next year or two. Second, the instability of foreign-exchange values creates anxiety and uncertainty in international capital markets. When exchange markets are gyrating, foreign investors holding dollar bonds and stocks cannot feel secure about the ultimate purchasing power of those assets over the goods they buy. In a period of sharply fluctuating exchange rates, people may make very different bets on the future course of those rates, leading to large and destabilizing portfolio shifts. The results are regrettably disruptive for international and even domestic investors, although they do not add up to a crisis by any stretch of the imagination.

Not all of the consequences are undesirable. American industries that export heavily and those that compete strongly with German and Japanese imports will generate more jobs and earn more profits as a result of the movement of exchange rates. According to one statistical estimate, the decline in the exchange rate of the dollar during 1977 should ultimately reduce our trade deficit by about $7 billion below what it would otherwise be.

To the countries with rising exchange rates, the costs and benefits are reversed. They will get the boon of lower inflation from cheaper imports and the bane of lower export demand. I must say that some of the complaints from abroad do not make sense. For example, many comments from Germany fail to recognize the anti-inflationary benefits to them of lower import prices—even though the Germans stress their eagerness to control inflation. Some foreigners clearly want us to feel embarrassed by the drop in the dollar's exchange rate.

Others argue invalidly that U.S. oil imports have been the major source of the weakness. In fact, oil imports accounted for only about a third of the increase of total U.S. imports during 1977—in large measure an inevitable consequence of our economic growth. Moreover, the U.S. oil imports contribute little to the excess supply of dollars since the OPEC countries have been and remain very willing holders of dollar assets. To be sure, the United States needs an energy bill, and I hope the Senate conferees have made a New Year's resolution to achieve a prompt compromise on what is shaping up as a constructive long-run program. But no conceivable energy bill can lower our oil imports significantly for some years to come.

The plain fact is that some countries have been relying on rising exports to lead them back to prosperity, rather than taking the steps needed to promote growth at home. Their strategy can succeed only if the United States is willing to accept huge trade deficits and to go along with an artificial pegging of exchange rates to sustain that. It is clear why those countries don't enjoy the adjustment of exchange rates, but it should be equally clear why we cannot let them have their way.

Actually, U.S. policies in recent months have had the healthy effect of inducing some of our trading partners to reexamine their economic policies. Japan has responded in an ecouraging way by adopting a more stimulative fiscal policy and by starting to liberalize its restrictive policies on imports. Other countries have to be mature enough to face their responsibilities as well.

Meanwhile, the United States must be alert to the causes and consequences of its trade deficit and its falling exchange rate. Our fundamental competition position will improve over the years ahead if we can strengthen productivity, spur capital forma-

tion, slow the wage-price spiral, and economize on imported energy. But we must continue to refuse to freeze the thermometer. Our government should be buying dollars in exchange markets only when the markets are truly disorderly. And U.S. monetary policies ought to be focused on unemployment rates, inflation rates and investment rates—not exchange rates. We surely don't want to bring about the good old days of 1975 with a strong exchange rate and a weak economy.

PHILADELPHIA LAUNCHES PROGRAM OF FREE EYE EXAMINATIONS FOR SENIOR CITIZENS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. EILBERG. Mr. Speaker, I am very pleased to be able to report that a new program has been launched in the city of Philadelphia to provide free eye examinations for senior citizens in order to help prevent blindness among older people.

The new program is being offered by the Philadelphia Committee for the Prevention of Blindness, which will conduct a preventive program of eye examinations and followup services for approximately 2,500 Philadelphians age 60 and over through a $150,000 contract with the Philadelphia Department of Public Health.

Mayor Frank L. Rizzo, in announcing the city's participation in this effort, noted that this was one more effort of the Rizzo administration to bring vitally needed services and help to Philadelphia's senior citizens. The mayor said:

Many older people do not get their eyes examined regularly and do not realize that there are now medical treatments available which can save their eyesight provided they are treated in time.

The Philadelphia Committee for the Prevention of Blindness has developed this fine program to reach out to our senior citizens—particularly at the Health Department facilities that they use, such as the District Health Centers and the Older Adult Centers—and to help them get whatever eye care they need.

I am really pleased that the City can join in partnership with the Committee in this worthwhile endeavor. This is a good example of the ways in which private groups can work together with government to make life better for all our citizens.

Dr. George Spaeth, director of the glaucoma service at Wills Eye Hospital and president of the Philadelphia Committee for the Prevention of Blindness, noted that the most significant causes of blindness are the diseases that occcur among the older population. He said that the program would be based on face-to-face work with older people, including small group education programs and individual interviews, to find those who have not had their eyes examined in the past year. He said:

When people agree to have their eyes examined we will make appointments for them with ophthalmologists at Wills Eyes, Pennsylvania, Jefferson, Temple, and Hahnemann Hospitals, as well as the Scheie Institute and the Pennsylvania College of Optometry. We will also arrange for free transportation to and from the hospital and will have a member of our staff at the hospital to help them through what might be a strange and confusing situation.

Dr. Spaeth explained that those participating would be given a full eye examination, not just a superfiicial screening which might miss some disease condition and falsely reassure the individual that his or her eyes were in good condition. He said:

The examinations we will offer include a professional review of the person's medical history, taking of blood pressure, determination of visual sharpness, pressure check for glaucoma, examination of the inside of the eye by a light instrument, refraction of the eyes, and any special studies that might be indicated.

According to Martin Kaplan, director of the Committee for the Prevention of Blindness, the committee staff will follow up each person to make sure that the findings of the eye examination are understood and that arrangements are made for any necessary treatment:

In most instances the cost of the examinations and treatment, such as surgery, will be covered by the individual's medicare or medicaid coverage or by a third-party hospital insurance program, such as Blue Cross. We have limited funds in our budget to pay for the examinations when a person does not have any of this kind of health insurance and, although we cannot pay for treatment, area hospitals have indicated that no one will be refused needed treatment if they are without such resources.

If eyeglasses are prescribed, a limited amount of funds are available to pay for corrective lenses at a reduced rate which has been arranged with some opticians. The individual would have to pay for their frames; however, as many opticians have old frames which have been returned by their clients, these could be used at no charge should the individual wish.

Individuals who would like further information on the program, or senior citizens who would like to make an appointment to have their eyes examined should call the committee's office—925–3364.

The Philadelphia Committee for the Prevention of Blindness was formed in 1974, with representatives from business, social service, labor, medicine, optometry, nursing, government, and services to the blind agencies. Incorporated in 1976, its board of directors includes opthalmologists, physicians, optometrists, and other health personnel, social workers, specialists in services to the blind, and community leaders.

MR. FRED MEYER, AN AMERICAN STORY

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. CUNNINGHAM. Mr. Speaker, it is always heartening to see the success story of someone who exemplifies the American work ethic. Mr. Meyer of Fred Meyer, Inc., has just such a story. This man, who came West to pan for gold and ended up as one of the most successful American retailers, is to be highly commended.

He takes the mystique away from business many people seem to share, saying, "All we do is look around, and what people want we try to give them." That is what retailing is all about, and that is why he has been so successful.

Mr. Speaker, I offer the following article from Forbes magazine that tells Fred Meyer's story for my colleagues' review:

[From Forbes, Jan. 23, 1978]

NOTHING REALLY CHANGES

The son of a Brooklyn grocer, Fred Meyer came west around the turn of the century to pan for gold in Alaska, sold coffee, tea and spices door-to-door in a wagon, and rented space to retailers way before public markets had been replaced by supermarkets. Now 91, he is still chairman of the executive committee of Fred Meyer, Inc., the $750-million Portland, Ore.-based food and general merchandise chain. Today the Meyer chain has 62 stores in the Pacific Northwest, a flourishing wholesale food operation, and a net income in 1976 of $14 million.

"There are three basic things man has needed since he was civilized," says Meyer. "He had to have food, clothing and a place to live. Even when people lived in caves, if you had a monopoly on the caves you'd have done quite well. Well, we're in the food business, the clothing business, and now we have the mortgages on the homes."

What's that about mortgages? In 1975 the company acquired a savings and loan operation, becoming the first food retailer to do so. Of the 24 branches, 21 are located right in Meyer stores, and to attract savers, Meyer offers savings "specials" like a pound of coffee or a steak with each new account. While many of the savers are small first-time accounts, earnings from the S&Ls this year should reach an estimated $1.1 million, an increase of 161 percent over the previous year.

Last fall Meyer announced that he was entering the travel field, offering travel packages at prices lower than similar tours offered by travel agencies. "We don't know if we know a lot about the travel business," Meyer explains, "but the cost of entry is low, and we hope we know more than our customers."

All of these new services fit Meyer's basic philosophy that shopping should be simple, maybe even fun: "Going to the store should be like going to church used to be. It should be a social occasion." The typical Meyer complex, whether it is a single store with departments or a series of stores in one of Meyer's 37 shopping centers, offers customers services ranging from a pharmacy, food store and clothing store to a garden center and home-improvement center. Each department has a manager who is a specialist in his particular merchandise area, but decision-making is centralized at the divisional level. As the older stores are remodeled and expanded, nonfood merchandise is also taking a greater portion of sales so that the newer stores really look like department stores with one department devoted to groceries.

Meyer is one of those old-time executives who is fanatical about holding down the overhead. Executives must pick up their own mail and supplies and are addressed in interoffice memos only by their initials (to save the time required to type out full names). Even Meyer's late wife, who served as secretary-treasurer until her death in 1960, was known only as ECM. Buyers who visit Meyer's warehouse-like corporate headquarters find no chairs in the buying room—to discourage

long visits—and Meyer's own office is a jumble of old (not antique) furniture, yellowing maps and bare floors.

But putting his money where it counts has helped Meyer sustain net profit margins of 1.9 percent, better than those of big national chains like Winn-Dixie Stores (1.7 percent), Lucky Stores (1.5 percent) or Safeway (0.9 percent).

While Meyer's style clearly still runs the company, he has not made the mistake of trying to do everything himself. Although Meyer calls them his "boys," Oran Robertson, Meyer's chief executive officer and heir apparent, and President Cyril Green have been with the company for over 25 years and are highly respected within the industry. Jack Crocker, who was president of Fred Meyer, Inc. when it was first opening its Levi jeans centers to capitalize on the boom in blue jeans, is now chairman of Super Valu Stores, the highly successful food wholesaler and general merchandiser, doing the same thing with Super Valu's County Seat stores.

Fred Meyer has a long list of retailing firsts. He opened the world's first self-service drugstore in 1930. When cigarettes were still sold by the package, he sold them by the carton, just the way he sold prepackaged beans and sugar. "We were one of the first grocery stores with paperback books," claims Meyer, whose old-fashioned glasses and bow ties have not changed over the years. "The department stores had a monopoly on them, but today I guess we're the main source of paperbacks."

He argues there is really nothing new under the retailing sun. "Public libraries invented self-service, not retailers." The modern shopping center, Meyer says, is just a new version of the old public markets. He doesn't think of himself as a pioneer. "All we do is look around, and what people want we try to give them."

Fred Meyer, Inc. finally went public in 1960, and its 5.6 million shares recently traded at 25, an alltime high, nine times last year's estimated earnings. Meyer owns about 30 percent of the stock, worth on paper a hefty $43 million. But that doesn't impress the old man, who says: "I think we would have made more money if we bought land, but we had a good banker who said, 'Go into merchandising.' And we did."

HILLSDALE COLLEGE AGAINST HEW

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. SYMMS. Mr. Speaker, the following column by Bob Wiedrich which appeared in the January 10th issue of the Chicago Tribune describes a harrowing tale of the valiant struggle of one private college in Michigan which is facing off against the bureaucratic edicts of the overbearing department of HEW. HEW alleges that, because 205 of Hillsdale College's students accept some veterans benefits or Government loans, Hillsdale must comply with all of HEW's rules and regulations which pertain to schools who accept Federal aid. Yet Hillsdale prides itself in its independence from Government hand-outs while at the same time practicing an open admissions system offering equal consideration to any minority who chooses to apply to the college. Hillsdale has stood firm and has, over the 3 year period of this battle, raised a $29 million emergency fund, $14.7 million of which is earmarked for scholarships to cover, among others, those students whose Federal assistance is subject to HEW's whim. I am particularly proud to make note of the fact that our colleague, PHIL CRANE himself a graduate of Hillsdale, has headed up this impressive fund raising drive. Both he and Hillsdale have distinguished themselves in this remarkable fight for educational freedom. I commend this column to your reading and believe you will join me in extending to PHIL and to Hillsdale a hearty "Well done!"

The column follows:

[From the Chicago Tribune, January 10, 1978]

HILLSDALE COLLEGE VS. FEDERAL IDIOCY

(By Bob Wiedrich)

David and Goliath tangled over the weekend. And we bet you didn't even notice.

Sunday was the deadline for tiny Hillsdale College in southern Michigan to bend to the will of Uncle Sam's mighty might or lose federal aid to some of its students.

To say the least, the battle is unequal Hillsdale only has 1,028 students this semester. The United States government represents more than 200 million citizens.

However, the college has one thing going for it—its determination to resist to the bitter end attempts by the Department of Health, Education, and Welfare to force its idiotic will on the campus.

So the only people likely to become casualties of this fracas with Washington are the 205 young men and women who receive some form of federal aid to further their educations at Hillsdale.

The money they receive amounts to $300-000 annually.

Fortunately, even that is not a certainty. For the college administration and its many supporters are not taking Uncle Sam's guff lying down.

They have launched a three-year, $29-million fund raising drive, $14.7 million of which will be earmarked for scholarships, including some for the kids being threatened with intellectual extinction by the government.

And to date, $12 million has been received from admirers of the 133-year-old school that never has accepted any form of government aid and has no intention of starting now.

And therein lies the absolute bureaucratic stupidity that has cast Hillsdale College in a confrontation with HEW which it neither sought nor deserves.

Here is the scenario:

HEW says that Hillsdale is a recipient institution of federal aid because the 205 students, as individuals, accept veterans' benefits and government loans to pay for their tuitions.

According to Washington, that means the college has to toe the line and conform with all of HEW's affirmative action programs and other requirements imposed on educational institutions foolish enough to accept the government dole.

HEW maintains that Hillsdale must comply with government laws banning discrimination on the basis of sex.

And that by refusing to sign a statement swearing that it will not so discriminate, Hillsdale College has violated the law and should be penalized by a withdrawal of all forms of federal aid.

The obvious flaw in that thick-headed logic, of course, is that the school receives no federal aid and does not discriminate. Forty-five per cent of its student body are women.

So the quarrel obviously boils down to one simple fact—Hillsdale College's refusal, as a matter of principle, to swear in writing that it will not do what it never has done.

Since Hillsdale was founded in 1844, the campus has been open to blacks and females. That, incidentally, was long before the Civil War and Abraham Lincoln's Emancipation Proclamation.

So Hillsdale College has been far ahead of the United States government in practicing what it preaches—equal rights for all Americans.

Nevertheless, the HEW edict stands. And according to school officials, they have been notified to appear Jan. 16 at an HEW administrative hearing in Denver, which makes about as much sense as the rest of Uncle Sam's dingaling gig.

College authorities are not the only people incensed by Washington's heavyhanded intrusion on the free spirit at Hillsdale.

College President George C. Roche, currently on leave of absence to run for retiring Republican Sen. Robert Griffin's seat from Michigan, reports having received individual donations to the college fund of as much as $10,000.

And Joseph T. Gill of Palatine, Ill., an accountant with a son who is a junior at Hillsdale, was sufficiently angered to write this column an eloquent letter in defense of the school as a last bastion of independence and free enterprise.

"Having no legitimate leg to stand on is only a small challenge to the ingenuity and cleverness of those who would be our keepers," Gill wrote.

"Having discovered that roughly 20 per cent of the Hillsdale enrollment are recipients of government aid as individuals under several programs, the government has seized on this reed in the desert to declare the institution itself to be a recipient of federal funds. . . .

"That these students who freely chose Hillsdale could have chosen any other school makes no difference.

"They are interested only in placing freedom under the collectivist yoke and, if they have to twist the intent of Congress and distort the meaning of the law to accomplish that purpose, so be it."

Gill rightly points out that George Orwell's 1984 is but a scant six years off. And that the knuckleheads at HEW are apparently doing their best to speed up the novelist's terrifying schedule for an end to individual freedom by trying to topple Hillsdale College now.

This column normally does not hustle readers for contributions, however worthy the cause. But in this instance, if you can spare a dime, drop it in the mail to Hillsdale College, Hillsdale, Mich. 49242.

Then write a rousing indignant letter to your congressman and senators voicing your outrage at the idiocy that prevails along the Potomac.

THE RECORD CELEBRATES ITS 100TH YEAR

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to extend my congratulations to the editor and the staff of the Record, the publication of the Roman Catholic Archdiocese of Louisville which is celebrating its 100th year of publication.

The Record does an excellent job of informing the people of the Archdiocese of Louisville—and the community at large—about both religious and secular matters of concern.

In confusing times, such as we live in today, Reverend William Zahner, editor

of the Record, and his staff provide a fare of articles and columns designed to place today's event into a moral and ethical perspective.

Father Zahner, an energetic and talented priest-newspaperman, has given strong leadership to the Record. And, in his tenure as editor, the paper has won several awards for merit in newspapering.

The Record can take pride in its first 100 years of service to the archdiocese and to the whole community. I wish it another 100 years of achievement.

ARE WE THE SUPPLIER OF MILITARY WEAPONS FOR THE WORLD?

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. MITCHELL of Maryland. Mr. Speaker, on numerous occasions I have expressed open opposition to continued U.S. involvement in supplying military weapons to the Middle East countries. Yet, the Carter administration is contemplating another transaction involving the sale of defense aircraft vessels from the United States to Saudi Arabia.

We have noticed efforts by seven members of the Senate Foreign Relations Committee to urge the administration to delay approval of the sale of 60 F–15's to Saudi Arabia. However, a delay in these sales would not be enough, since generally, it is known that even with delays, the eventual transactions are bound to take place.

Currently, our Nation and others are witnessing a most historical occurrence. The two countries, Israel and Egypt, appear to be reaching the stages of peace as they continue to negotiate in terms of each country's perspective and proposed solutions to a conflict which has intensified itself within the last century.

We can continue to hope that the final outcome of these intense negotiations will be peace. Although we must also face the possibility of another war between these two forces. While we hate to think that war may be a result of the Middle East peace talks, it is unreal to deny that the further occurrence of war is a possibility and that Saudi Arabia might participate in such a war in light of its military capabilities.

If at any time we are to concern ourselves with the elimination of U.S. military arms sales to the Middle East, it should certainly be now, during a time when delicate peace talks are taking place between Israel and Egypt.

While we are of course concerned with the developments in the Middle East countries, let us not forget how our continued sales of defense mechanisms would interfere with our own domestic economic priorities. It is impossible to think in terms of a balanced budget for our Nation if we cannot meet the economic and social welfare needs of our people while our military programs continue to escalate.

The United States has cited human rights and the maintenance of a system which advocates fair opportunities for all as a goal which our Nation has professed as its own. However, it is ironic that we speak of such a high goal and continue to even consider selling defense weapons to other countries.

Particularly, at a time when Egypt and Israel are involved in an attempt to achieve an objective which our Nation professes to hold in such high esteem—peace.

As we monitor further developments in the area of U.S. sales of defense mechanisms to foreign countries, let us remember that at this time, we are contemplating an action which could contribute directly to the perpetuation of war between Israel and Egypt who are trying so hard to reach an agreement. Their desires are so like our own country—to live harmoniously and be at peace with neighboring countries, and to eventually be an integral part of an eventual worldwide peace.

The sale of the F–15's is but one isolated incident. However, it typifies many prior transaction between the United States and our foreign allies. The pattern remains the same. First, there is contemplation about the sales. Next there is a cry for a delay in these sales. Finally, the inevitable happens; the transaction is completed and we have again involved ourselves in the destruction of lives, property, and the morality of those countries that were plagued by war. Hopefully, the pattern will be different in this case and the sale of the 60 F–15's to Saudi Arabia will be canceled. The United States can no longer remain the weapon supplier for the world.

CRIME SUBCOMMITTEE TO HOLD HEARINGS ON CIGARETTE BOOTLEGGING

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime of the House Committee on the Judiciary has scheduled an initial set of hearings on H.R. 8853 and H.R. 10066, which address the problem of racketeering in the sale and distribution of cigarettes.

The first 2 days of hearings will be February 15, 1978 and February 28, 1978, beginning each day at 10 a.m. in room 2237, Rayburn House Office Building.

At the hearings on February 15, the subcommittee will take testimony from Members of Congress who have sponsored the major legislative proposals in this area. The subcommittee currently has pending before it 21 bills on the subject.

Those wishing to testify or to submit a statement for the record should address their requests to the House Committee on the Judiciary, Subcommittee on Crime, 207–E Cannon House Office Building, Washington, D.C. 20515 (telephone: 202–225–1695).

GEN. DANIEL JAMES, JR.

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. CLAY. Mr. Speaker, a great black American was honored on January 26, 1978, on the occasion of his formal retirement from the U.S. Air Force.

Gen. Daniel James, Jr., known affectionately to many of us as "Chappie" has set an unparalleled record of achievement in the history of the armed services. Of the hundreds of thousands of black Americans who have served their country ably and honorably, General James is the only one who was permitted to rise to the exalted rank of four-star grade. He alone will be remembered in the military mind of America as a leader of men.

His sparkling level of performance would easily place him high among the most respected members of the armed services. It is not just his outstanding record as an Army officer for which he should be honored. Chappie James is a living symbol of the kind of justice that is not in abundance in this country. Our youngsters need to know that once in a rare while a black man is properly rewarded for his sterling character and proud patriotism.

I wish to take this opportunity to share with my colleagues a few words taken from the program booklet of his official retirement ceremony:

General James is widely known for his speeches on Americanism and patriotism for which he has been editoralized in numerous national and international publications. Excerpts from some of the speeches have been read into the Congressional Record. He was awarded the George Washington Foundation Medal in 1967 and again in 1968. He received the Arnold Air Society Eugene M. Zuckert Award in 1970 for outstanding contributions to Air Force professionalism. His citation read ". . . fighter pilot with a magnificent record, public speaker, and eloquent spokesman for the American Dream we so rarely achieve."

Other civilian awards that General James has received include the following: 1960—Builders of a Greater Arizona Award; 1970—Phoenix Urban League Man of the Year Award, Distinguished Service Achievement Award from Kappa Alpha Psi Fraternity; 1971—American Legion National Commander's Public Relations Award, Veteran of Foreign Wars (VFW) Comander in Chief's Gold Medal Award and Citation; 1975—Capital Press Club. Washington, D.C., Salute to Black Pioneers Award; 1976—Air Force Association Jimmy Doolittle Chapter Man of the Year Award, Florida Association of Broadcasters' Gold Medal Award, American Veterans of World War II Silver Helmet Award, United Service Organization Liberty Bell Award, Blackbook Minority Business and Reference Guidance Par Excellence Award, American Academy of Achievement Golden Plate Award, United Negro College Fund's Distinguished Service Award, Horatio Alger Award, VFW Americanism Medal, Bishop Wright Air Industry Award, and the Kitty Hawk Award (Military). He was awarded honorary doctor of laws degrees from the University of West Florida in 1971, the University of Akron in 1973, Virginia State College in 1974, Delaware State Colege in 1975, and St. Louis University in 1976. He was also named Honorary National Commander, Arnold Air Society in 1971.

General James is a command pilot. He has received numerous military decorations and awards which are listed in the attached fact sheet.

General James is married to the former Dorothy Watkins of Tuskegee, Alabama. They have a daughter, Danice (Mrs. Frank W. Berry); and two sons, Daniel II, a captain in the Air Force, and Claude.

BOOK REVIEW

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. BROWN of California. Mr. Speaker, on Thursday last I inserted in the RECORD a few selected quotations from a new book about Presidential-congressional relations entitled "The Prospect for Presidential-Congressional Government," by Cohen, Hughes, Lepawsky, Moos, and Vile. I will not repeat the laudatory statements which I made at that time, but refer the reader to pages 2159–2160 of the CONGRESSIONAL RECORD. Today I would like to complete the quotations from Professor Lepawsky's last chapter of the book, those quotations dealing more specifically with the increasing role of the Congress:

PART II.—CONGRESSIONAL ASSUMPTION OF STRATEGIC PRESIDENTIAL POWERS

In the readjustment of functions and reallocation of responsibilities now underway, Congress is sharing in or encroaching upon some highly strategic powers and prerogatives that have been either constitutionally assigned to or historically appropriated by the Presidency. These include: (1) military decision and foreign policy, (2) the intelligence function and executive privilege, and (3) the exercise of emergency powers.

* * * * *

The War Powers Act of 1973 was the first general restriction imposed by Congress on the President's role as commander in chief of the armed forces. The fact that this "constitutional" legislation was initially vetoed by President Nixon, and then re-passed over his veto by the required two-thirds Congressional majority, will not readily be forgotten, even though cogent arguments may be raised in the future for restoration of the President's powers of military action. When the prestigious Senate Majority Leader, Mike Mansfield of Montana, announced, "There will be no more Vietnam wars," he was referring to the series of Presidentially declared wars, including the Korean War, that followed the Second World War.

This newly revised system of Presidentially-and-Congressionally shared warmaking and war-ending was enforced in 1975, during the delicate terminal stages of our withdrawal from Southeast Asia (including Cambodia as well as Vietnam). Despite the military complexities and diplomatic embarrassments in which we were embroiled, the new decisionmaking arrangement effectually met the challenge in 1975. Since then, Congress has delved deeper into the area of strategic policy and diplomatic decision previously occupied unilaterally by the President. In the earliest of these instances, President Ford deferred to Congressional opinion, while President Carter disregarded it. Where the facts involved are indecisive and the range of possible decisions is wide, the President may prevail. But at some point, Congress will resist, and it now possess more means than it did previously to inject its will into the decision process.

The newer interplay of diplomatic and military responsibilities, involving both policy or strategy and operations or tactics, now embraces recently recognized Congressional powers along with traditionally essential Presidential functions. For example, because the Senate possesses the constitutional power to participate in the treaty-making process, this body had become concerned by 1969—initial year of the Nixon Administration—over a Presidential initiative of longer standing, that of independently entering into "executive agreements" with foreign countries. Whether or not these agreements were in pursuit of duly negotiated treaties or previously established policies, over 5,500 of them had been made since the end of the Second World War, including especially critical commitments by President Nixon.

In a definitive 1969 resolution, therefore, the Senate declared that "a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress" specifically providing for: the use of armed forces of the United States on foreign territory; or a promise to assist a foreign country, government, or people by the use of armed forces or financial resources of the United States, either immediately or upon the happening of certain events.

Attacking the executive agreement question more directly was a 1972 Congressional act sponsored by Senate Foreign Relations Committee member Clifford Case of New Jersey. The Case Act requires the transmission of all executive agreements to Congress within sixty days unless they are secret, in which case they are to be routed to the Senate Foreign Relations Committee and the House International Relations Committee. The House of Representatives' involvement in the treaty-making process to this extent, along with its International Relations Committee's recently enlarged jurisdiction—ranging explicitly from "intervention abroad and declarations of war" to "relations of the United States with foreign nations generally"—has now augmented the movement toward Congressional assumption (or resumption) of strategic powers previously monopolized by the President.

* * * * *

The intelligence function and executive privilege

Here too, the Nixon Administration had overreached itself. In April 1973, at a joint hearing of several Senate subcommittees, including the Judiciary Committee's Subcommittee on the Separation of Powers, the Attorney-General, Richard Kleindienst, shocked the Senators by asserting that they had no power to compel anyone in the executive branch to testify or to produce documents if forbidden to do so by the President. Kleindienst argued, "Your power to get what the President knows is in the President's hands." The only recourse, he asserted, was the next Presidential election, or the President's impeachment, a challenge the Judiciary Committee soon accepted. Moreover, when President Nixon further defied Congress by refusing to produce his self-incriminating Watergate tapes, the case went to the Supreme Court. While upholding the doctrine of executive privilege generally, the court refused to apply it to the Nixon tapes and in July 1974 decided unanimously against the President.

* * * * *

CONGRESSIONAL RESUMPTION OF POLICYMAKING AND FUNDING RESPONSIBILITIES

The test of Congressional recovery of powers which have been historically assumed by the President is, of course, the extent to which Congress actually resumes its original legislative initiative and policymaking mandate, including its power to appropriate funds, without which public policies cannot be carried out. In fact, Congress is already making a distinct recovery of its powers in these fields.

* * * * *

Congressional limitations now pose a constant threat to Presidential inititives in international affairs. Apart from the strategic restrictions imposed on the President by the War Powers Act of 1973, Congressional restraints are now applied also to detailed military decisions and actions by the President, even though the necessary funds already lie in the Presidental pipeline.

* * * * *

Presidential impoundment and its impact on domestic policy

When the President withholds from public expenditure money which Congress has duly appropriated for domestic policies and programs, that is, when he "impounds" funds, legislative executive relations become most sorely strained. Although impoundment as an instrument of executive power did not originate with President Nixon's Administration, it did reach its peak during his battles with Congress in the early 1970s. Governmental activities which he philosophically opposed and financially obstructed through impoundment, ranged over the entire repertoire of established national policies and enacted federal programs: water pollution control and highway construction, urban housing and farmers' home loans, rural electrification and rural environmental assistance, hospital construction and community mental health centers, health manpower training and vocational education, elementary, secondary and higher education and library services, food stamps and child nutrition, urban renewal and economic opportunity programs. In the latter instance, the Nixon Administration actually began to dismantle the entire U.S. Office of Economic Opportunity.

The Nixon Administration's campaign of impoundment waged against national policies and programs resulted in some fifty separate lawsuits. The administration lost most of them, and was compelled to restore the impounded funds and reactivate the interrupted programs. In the OEO case, for example, the Federal District Court of the District of Columbia explicitly denied the implied Presidential contention that "the Constitution confers the discretionary power upon the President to refuse to execute laws passed by Congress with which he disagrees." When considering Nixon's impeachment in June 1974, the House Judiciary Committee went further and questioned "whether the 'impoundment' power being exercised is really 'executive' power at all, or whether the actions of the executive branch are an invasion of the legislative province assigned by the Constitution exclusively to Congress.

* * * * *

* * * Congress still has to demonstrate that it can thus match the fiscal achievements already attained by our existing executive-controlled economic planning body, namely, the Council of Economic Advisers, which pursues its own established system of relations and reporting to Congress and to Congress' prestigious Joint Economic Committee. The broader institutional issue, indeed, is whether planning generally—especially long-range and comprehensive policy planning—will remain exclusively an executive responsibility as it has been traditionally, or to what extent it will become a proper legislative function, or possibly a joint Presidential Congressional responsibility.

CONGRESSIONAL POWERS OF OVERSIGHT, LEGISLATIVE VETO, AND SHARED ADMINISTRATION

In addition to the powers of legislation newly expanded since Watergate, Congress now exercises enlarged controls over established policies and continuing programs. These Congressional controls seriously affect the Presidency because they partake partly of the administrative process, ranging all the way from a general "oversight" of the executive branch to detailed types of "shared administration" carried on jointly with the executive. Shared administration comprises a congeries of Congressional activities that not only impinge on the President's powers, but are particularly controversial, constitutionally speaking, because they reputedly violate much that remains of the separation of powers doctrine. Congressional oversight, on the other hand, though partly classifiable as an investigatory or inspectorial function normally belonging to the executive, is conceded to be a legitimate responsibility in modern democratic societies.

Congressionally shared administration through exercise of the legislative veto

Procedurally these laws and regulations all fall into two general categories which in practice often merge with one another: (1) the strictly legislative veto, whereby an executive or administrative proposal or decision is set aside or ultimately confirmed; and (2) the process more akin to share administration under which the executive or administrative officer is required to clear with Congress in advance of his decisions or actions, a process known in federal terminology as "a coming into agreement" between the legislative and administrative authorities and personalities involved. Consequently, matters of sheer executive responsibility and of concrete administrative substance are increasingly subject to vetoes, disapprovals, approvals, "agreements" by: Congress as a whole; or by either of the Houses; or merely by a Congressional committee or subcommittee; or simply by a single committee chairman; or solely (though rarely) by an individual Congressman.

We should acknowledge that this sort of administrative sharing and Congressional "interference" with the President and the administrators under his command has worked fairly smoothly so far. There is no running feud—at least not yet—between the White House and Capitol Hill over the Congressional veto, and Congress seldom finds it necessary to reject or reverse any particular executive proposal or administrative decision. If any warranted opposition appears in Congress, or if any substantiable objection is posed by an aggrieved Congressman, the item is generally withdrawn by the administrators and no issue arises.

Nevertheless, there are sometimes involved differing principles of public policy, or divergent concepts of proper administration, or opposed views of political parties, from which no retreat is possible. When the issue does become one of high policy or administrative conflict or partisan politics, as has been the case in some governmental reorganizations, the legislative veto and shared administration may become lethal instruments of the American decisionmaking process. A battle then often takes between President and Congress, involving the use of raw political power, a contest in which little quarter is asked and less given, but one which is ultimately resolved within the rugged realities of American politics.

How for will Congress continue to tread on executive turf and trespass on administrative terrain as a consequence of the Watergate-Nixon provocation? The legislative veto is widely regarded as evidence of Congressional aggrandizement of a type of power the Constitution assigned only to the President; and in strict constitutional constructionist circles, shared administration is considered to be in violation of the remnants of our separation of powers doctrine.

CONGRESSIONAL REORGANIZATION AND RELATED REFORMS

Effective Presidential-Congressional government thus requires both a reformed Congress and a reconstituted Presidency. And in its broadest sense, Congressional reform also entails modifications of our political party system and certain related "parliamentary" reforms. Although the latter constitutes one of the most problematic of these developments, present trends in both our party and our "parlimentary" affairs raise prospects for selective changes in our political constitution under the impetus of the continuing reaction to the Watergate-Nixon years.

* * * * *

CONGRESSIONAL REFORM AND PRESIDENTIAL-CONGRESSIONAL GOVERNMENT

The most emphatic expression of political independence is found in Congress itself. While acknowledging the need for a minimal measure of party discipline and granting the essential leadership role to the President, who enjoys a national mandate clearly exceeding the particularized Congressional constituencies, the resurgent Congress is now in a vigorous, historic contest over American constitutional powers as well as over current public policies. In any transition toward Presidential-Congressional government the long accepted adage that "the President proposes, Congress disposes" may take on new meaning. Although the American public rates the President primarily for his "legislative" accomplishments, and not merely his "executive" achievement, and although it still expects Congress to cooperate with the President and to expedite his legislative program, Congressmen are individually and collectively assuming independent initiatives and exercising increasing powers.

This is now a matter of Constitutional strategy, not, as it has often been in the past, a purely political tactic by a minority party. When the Republican Nixon-Ford Administration was displaced by the Democratic Carter-Mondale Administration, the Congressional leaders announced that their new attitude would be independent of the political coloration of the Presidency. Congress, they warned, was no longer going to "roll over and play dead." In a more serious vein, the Senate Majority Leader Mike Mansfield declared: "I believe the Congress will retain momentum. There will be a slow and deliberate effort by Congress to reassert its own power. Of course, we have to be sure the pendulum doesn't swing too far in the other direction. But the President will not continue to accumulate power at the expense of Congress."

* * * * *

A shopping list of "parliamentary" proposals

Other informal processes and more formal structures may emerge to help institutionalize a Presidential-Congressional system, but only experience will demonstrate their adaptability to the American form of government. During this most recent constitutional crisis, relatively few suggestions have been made for doing away entirely with our Presidential type of executive, or for totally transforming our other branches of government. However, the usual shopping list of Parliamentary proposals has been revived by a number of critics of American government, including several observant political scientists.

* * * * *

Some milder moves toward Presidential-Congressional Government

More indigenous to American government, and easier to accomplish, would be certain milder changes in a Parliamentary direction, of the kind suggested by our co-author Maurice Vile. Like him, some American political scientists have recommended seating the Cabinet (and some the President) in Congress, where they could be questioned but would have no power to vote. Such "Parliamentary" proposals not far removed from the present practice of Congressional committee hearings, where Cabinet members and policy-level civil servants are subjected to a "question-hour" as gruelling as any experienced in the British House of Commons.

Undoubtedly we could profit from increased dialog between the executive and Congress. The Carter Administration considered the advisability of formalizing such arrangements, including regular use of the President's room near the Senate chamber. But few who are conversant with comparative governmental institutions would wholly replace the Presidential or Presidential-Congressional system with Parliamentary government in the U.S.A. As Professor Vile has shown, the British system itself is being reappraised, recognizing the fact that Parliamentary government on its part has already undergone certain changes toward the Presidentially inclined Prime Ministership system.

In the same spirit is co-author Ben Cohen's recommended establishment, alongside the Presidency, of a super-cabinet Executive Council appointed by the President but confirmed by the Senate. Most pertinent is Cohen's sage suggestion for "quiet, prior consultation" between President and Congress in the course of policymaking and decisionmaking. Certainly, we should have more than the usual political pressures exerted by the President on Capitol Hill, including crisis conversations and emergency phone calls by White House assistants to leading Congressmen, in order to smooth out policy differences and legislative details. In fact, unless such executive-legislative contacts are conducted more systematically and sensitively, they can even become counterproductive as Congress learns better how to structure and stiffen its growing independence.

* * * * *

Internal congressional reforms accomplished

In its resurgence after Nixon-Watergate, Congress has pursued three major long-delayed internal reforms: committee reorganization, Congressional procedure, and Congressional staffing.

* * * With its elaborate committees and their extensive personnel, and with its own ample staff support for individual members. Congress has now become a billion dollar per year bureaucracy in its own right.

This is an affluent apparatus even for a great Democracy, and it will no doubt help Congress earn its reputation as "the greatest deliberative body in the world." Nevertheless, the expectant American public looking for a better legislative product will be scrutinizing Congress as never before. Can a burgeoning Congress, working side-by-side with a recuperating executive, live up to these expectations?

CONSTITUTIONALISM AND CONDUCT

We are now witnessing a historic test of talent and of will between our two primary branches of government. The outcome will depend in the first instance on our success in fashioning a shared and workable relationship between the two. Co-author Malcolm Moos correctly epitomizes the current constitutional challenge by asserting that the key question is "how to reconnect the President with the American political and administrative system and with the Congress in particular." Paradoxically, because of its pre-

viously subordinated position. Congress may, at the outset, decide to seize the advantage vis-a-vis a dynamic President in order to "keep him in his place," without, however, antagonizing an electorate still wedded to pure Presidential forms of government. A major unknown is whether, when issues of constitutional principle do arise, members of Congress will transcend their political party loyalties in favor of their institutional allegiances to the "club" of Congress itself. Yet, in the integrating play of American politics, there is always an inducement for minority party Congressmen to vote with (and to sustain the vetoes of) a President, especially when he is in contention with his own majority party.

* * * * *

* * * Appropriately, the present process of institutional revision and constitutional amendment is an experimental and flexible one. But it is unduly sporadic and, worse still, it is crisis-oriented. We need a more regular, continuing, systematic oversight of evolving constitutional arrangements. For this purpose, the appointment of a joint Presidential-Congressional commission on legislative-executive relations might be advisable, to evaluate, to facilitate, and possibly to monitor the process. My fellow authors share my views of the possible value of such a joint undertaking.

TERRORISM AND OPPRESSION CONTINUE IN ARGENTINA

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. DRINAN. Mr. Speaker, another delegation of international authorities has visited Argentina and has been told by the Argentine Government that it soon will be releasing a list of 3,474 political prisoners currently being detained by the authorities in Argentina.

This evidence confirms the conclusions of the three-person mission sent to Argentina by Amnesty International. This team, of which I was a member, filed a comprehensive report in March 1977, of the shocking conditions in Argentina where hundreds of people continue to disappear and the basic human freedoms are denied.

I attach herewith the statement of French Admiral Antoine Sanguinetti and American lawyer Herbert Semmel.

I attach also the statement issued by the Council on Hemispheric Affairs.

These sad documents confirm the wisdom of the Congress in terminating aid for Argentina.

Mr. Herbert Semmel, executive director of the Center for Law and Social Policy based in Washington, has raised an excellent point by calling for an immediate announcement by the U.S. State Department of its willingness to accept at least 500 prisoners and their families from Argentina. The Attorney General has the power under existing law to admit at least this number of persons from Argentina. Mr. Semmel and others associated with the most recent international visitation of Argentina stress the fact that the United States has been generous in accepting refugees from Cuba, Vietnam, and elsewhere and in this spirit should extend visas to those persons in Argentina who are most oppressed.

The statements follow:

STATEMENT OF ADMIRAL ANTOINE SANGUINETTI AND HERBERT SEMMEL

Argentina will shortly announce the names of 3,472 persons it acknowledges holding as political prisoners or alleged terrorists. The Argentine Minister of Interior admitted to an international delegation that few of these prisoners will be tried because legal proof of any guilt is lacking.

The statements of Argentine officials were made to members of the Delegation of the International Federation of the Rights of Man in Argentina to investigate the circumstances of political prisoners and disappeared persons. The delegation of four included Admiral Antoine Sanguinetti, a retired Admiral of the French Navy; Herbert Semmel, Director of the Center for Law and Social Policy; Judge John Carro from the Supreme Court of New York; and Franceline Lepany, a French attorney. The delegates were in Buenos Aires from January 18 to 25 and met with three Argentine cabinet officials, Foreign Minister Admiral Montes; Chief of the Navy Admiral Massera; a member of the ruling Junta; and the Minister of Interior General Harguindeguy. The delegation also met with three human rights organizations in Argentina: the League for Human Rights, the Permanent Assembly for Human Rights and the Ecumenical Movement for Human Rights with bishops, lawyers, professors and representatives of major political parties and trade unions; and with relatives of prisoners and disappeared persons.

Argentina at present is ruled by a military junta which seized power in 1976 and operates under a state of siege which has the effect of suspending all other provisions of the Constitution. The delegation received the first official figure issued by the Argentine Government of prisoners held for political reasons or as alleged terrorists, a total of 3,472. The Minister of Interior stated that many are held under executive detention, in which no charges are filed and the prisoners receive no trials. The Minister claimed that all these prisoners were connected with terrorists, but admitted that proof was lacking in many cases, in which event no trials are held.

In addition to the officially acknowledged prisoners, thousands of persons have disappeared in Argentina since the state of siege was imposed, a fact recognized by government officials, who, however deny any official responsibility. Members of the delegation were told by officials of human rights organizations that unofficial detention camps exist in a number of places around the country most notably the Army camp known as Campo de Mayo and the Navy Mechanic School, but government officials denied such reports.

Members of the delegation also spoke with many eyewitnesses to the seizure of persons. They reported that the seizures were generally made by persons dressed in civilian clothes who identified themselves as members of the security forces. The most well-known recent case was the seizure of two French nuns in December 1977 and nine other women. These seizures occurred within two blocks of a police station, lasted twenty minutes, and involved six cars with heavily armed men. No police interfered. Many seizures occur in broad daylight, at homes and in workplaces, so that it would appear that the cooperation of the security forces is necessary. The delegation met with persons who stated they had been seized, held, in some cases tortured and later released. Other persons stated that at least twenty pregnant women had disappeared and one grandmother told of being called by an orphanage to pick up her grandchild whose pregnant mother had been seized several months earlier and had not been heard from since.

Foreign Minister Montes stated that some of the prisoners would be allowed to leave the country but that the United States would not accept them because they were "terrorists." Mr. Semmel discussed this claim with U.S. Embassy officials in Buenos Aires and on his return with State Department officers in Washington. He learned that there is no active parole refugee program for Argentina but that the State Department has requested additional authorization for parole visas for Latin America from the Justice Department. Mr. Semmel discovered that there is a misunderstanding by U.S. Embassy officials in Buenos Aires of the legal requirements for parole immigrants involving the question of whether Congressional action is needed for any parole program for Argentina. State Department officials in Washington confirmed that only Justice Department action is required, although consultation with chairmen of the Congressional committees with jurisdiction is a usual practice. Mr. Semmel called for an immediate announcement by the United States of its willingness to accept at least 500 prisoners and their families. He also conferred with a member of Senator Kennedy's staff who expressed the Senator's continuing concern about the situation in Argentina.

CURRENT SITUATION IN ARGENTINA—A REPORT OF THE U.S. FRENCH STUDY MISSION

The Argentine interior minister told members of a delegation of prominent French and U.S. citizens, who have just returned from a fact-finding mission to Argentina, that his government would soon begin to release the names on a list of 3,474 political prisoners currently being detained by the authorities.

Argentine and international human rights organizations maintain, however, that many more thousands of additional persons are being unofficially held by government security forces. Up to this date the government has adamantly refused to disclose the names of any political prisoners in their hands. The minister's announcement is nevertheless seen as being significant because only a few weeks ago the Argentine ambassador in Washington, in a published response to three religious leaders, who are also members of COHA's board of trustees, flatly denied the existence of "any political prisoners in Argentina."

The fact-finding mission, sponsored by the International Human Rights Federation and the Association of Catholic Jurists, with the assistance of COHA, included Admiral Antoine Sanguinetti (Ret.) and civil rights lawyer Franceline Lemany from France, and Washington attorney Herbert Semmel, who is the director of the Center for Law and Social Policy, as well as New York State Supreme Court Justice John Carro, from the U.S.

The joint delegation met with Admiral Emilio Massera, the commander of the Argentine navy and a member of the three-man military junta which rules the nation; Foreign Minister Oscar Montes; and Minister of the Interior General Albano Harguindeguy, who heads the nation's police and prison system. The delegation also met with representatives of the three principal human rights organizations in Argentina as well as representatives of all of the nation's traditional political parties and community leaders.

The interior minister admitted to the delegation that the majority of those on the list to be made public are being held under State of Siege regulations, with no formal charges being lodged against them. He described many of them as being subversives or those the government "feels" are subversive,

but lacks the necessary proof to substantiate the claim.

In response to a query by the delegation as to why only 50 Argentines have been permitted to exercize their constitutional right to go into exile to the country of their choice, the interior minister responded by saying that the reason for this small figure was that neither France nor the U.S. would accept political refugees. He did not offer an explanation why the Argentine government was not responsive on this question to the offer of many nations to accept Argentine political prisoners.

Attorney Herbert Semmel discussed the minister's assertion with U.S. embassy officials in Buenos Aires and came to the conclusion that these officials were insufficiently aware of the possibility that the U.S. would accept asylum cases in this country. The American members of the delegation raised the question whether the time had not come for the U.S. to institute a parole program, patterned after what was done in Cuba and Viet Nam, in order to receive victims of Argentine repression.

Another observation of the delegation was that several U.S. embassy officials seemed more concerned with articulating the Argentine government's defense of its human rights excesses as being based on the need to extirpate terrorism in the country rather than vigorously representing the Carter Administration's policy of favoring human rights observance in the southern zone of Latin America.

A spokesman for COHA announced that the organization would broach the parole question with the commissioner of the Immigration and Naturalization Service and Congressional leaders and members of the Justice Department to advance the possibility of an emergency program to provide relief to Argentine refugees.

The French members of the delegation were disappointed over the inability of Argentine government officials to give satisfactory answers to the status of 16 missing French nationals in the country, including two recently abducted French nuns.

FARMERS AND THE OFFICE OF CONSUMER REPRESENTATION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. NOLAN. Mr. Speaker, farmers and consumers will both benefit from an Office of Consumer Representation. Farmers are also consumers and the following "Dear Colleague" letter explains the stake which farmers have in the establishment of the Office.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C.

DEAR COLLEAGUE: We urge your support for new legislation which will be offered on the House floor as a substitute for H.R. 6805, the Agency for Consumer Protection bill. The substitute, which creates an Office of Consumer Representation, is an attempt by supporters and critics of the Agency to resolve their major differences and to reach a mutual agreement which might more readily receive widespread support.

As representatives from farming districts, we support the substitute legislation to establish an Office of Consumer Representation. This Office will be an inflation and bureaucracy fighter, benefitting rural as well as urban consumers.

Individual farmers, like other consumers, have at times been adversely affected by inflationary government decisions or victimized by price-fixing and other unfair trade practices. The Office of Consumer Representation could help farmers by representing their interests as consumers before other federal agencies. The Office would also be empowered to petition the Justice Department and the Federal Trade Commission to initiate formal investigations of fraudulent trade practices which affect farmers and rural consumers.

An active Office of Consumer Representation could assist farmers with a variety of problems, including:

When farmers are bilked by grain elevator operators who illegally downgrade the grain which farmers deliver to them, and then sell it at the actual higher grade to processors and other consumers.

When federal energy policy establishes unjust pricing regulations, such as the arbitrary 1973 Cost of Living Council decision which resulted in a 300 percent rise in propane prices.

When the ballooning prices for machinery replacement parts are the result of illegal collusion by manufacturers.

Clearly, farmers and rural consumers also have a significant stake in securing the establishment of an Office of Consumer Representation. We strongly urge you to support the substitute when H.R. 6805 comes before the House.

Sincerely,

JOHN B. BRECKINRIDGE,
RICHARD NOLAN,
Members of Congress.

RURAL ELECTRIFICATION ACT AMENDMENTS OF 1978

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. JONES of Tennessee. Mr. Speaker, I am introducing the Rural Electrification Act Amendments of 1978, in order to assure that citizens of our rural areas are able to receive the benefits of new technologies emerging in the telecommunications industry. These technologies enable telephone and broadband telecommunications services to be economically provided to even the most rural areas through joint utilization of a single facility. This bill amends the Rural Electrification Act to permit REA financing of broadband facility construction including facilities for provision of cable television.

The rural telephone systems financed through the REA telephone loan programs have done an outstanding job in bringing telephone service to rural America.

In 1949, it was estimated that only 38 percent of rural homes and establishments had telephone service of any kind. Today that figure approaches 90 percent as 858 REA-financed rural telephone systems provide service to 3,560,532 subscribers. Again in 1949, the service standard established for the new REA telephone program was eight-party service. At present, 62 percent of the service provided by rural telephone system financed through REA is one-party service.

The mission of the rural telephone program. however, is still not completed. Rural telephone systems are providing initial service to an increasing number of new subscribers annually, over 500,000 in the past 4 years alone. The challenge also remains of upgrading existing service to single party and meeting customer demands for new services such as push-button dialing, call forwarding, conferencing, 911 and other convenience features which, today, are not generally available to rural area residents.

Demands from subscribers for these services, and simply the rate of technological development within the telephone industry mandates a continuing accelerating pace of change. The service provided by the most fully upgraded rural telephone systems will soon become technically obsolete. Developments in the areas of digital technology, electronic switching capacity, coaxial cables and, in the fairly short term, utilization of fiber optics will render our present rural telephone systems, which dot rural America with literally thousands of little cinder block or brick remote central office buildings, connected to subscriber premises by hundreds of thousands of miles of twisted copper wire, nearly as obsolete as the magneto crank phone.

The dominant trend in the telecommunications industry is the convergence of communications and computer technology. Many of the basic features of the modern computer were, in fact, developed in the Bell Laboratories, and the electronic telephone central office is actually nothing but a large computer. A number of other forms of computer-controlled types of equipment for maintaining and administering transmission facilities and switching machines are already in common use. The national telephone network is undergoing a conversion to digital technology, a process which promises a substantial cost savings in the delivery of ordinary telephone services and will also permit economic offering of premium and convenience services. In addition to plain old telephone service (POTS), utilization of these new technologies in the area of broadband communications will also permit delivery of any number of additional "nontelephone" services because of the enormous increase in bandwidth or capacity which is available. When this conversion to broadband technology is complete, it is difficult to identify a communications service which could not be provided over the local exchange network.

Today, the Rural Electrification Act precludes utilization of REA funding for provision of cable television other than those "intended exclusively for educational purpose".

This prohibition undoubtedly was intended to prevent any "unfair competition" to cable television companies from telephone systems, but the result has simply been to deny the availability of cable TV services to rural America.

This legislation would permit rural telephone systems to get financing to construct economically efficient facilities for provision of cable television service in rural areas where it is not generally presently available.

Certainly there is a growing awareness that the benefits of modern telecommunications services are not being made

fully available to rural areas. Provision of cable television services is the most common example of the capabilities of broadband communications. For several reasons, however, this superior type of television reception is simply not available in the rural areas and communities which are served by REA-financed member telephone systems. Over 1 million households in rural America receive no television service of any type—an additional 22 million receive only inadequate quality service according to a study conducted by the Denver Research Institute.

The National Cable Television Association stated in a recent Federal Communications Commission filing that:

> Under current economic and regulatory conditions, the goal of making broadband communications services available to all Americans can not be achieved by the private sector alone.

Under present circumstances, private CATV operators normally require a subscriber density of 30 to 40 per mile to achieve economic feasibility. Nationwide, the rural telephone systems financed by REA have an average subscriber density of less than 4 per mile of line. This gives an indication of the rural character of the areas which I am discussing. Although cost figures for combined provision of telephone and broadband services are not yet definitely established, I believe that by utilizing technology, rural telephone systems could provide telephone and cable television service as well as any number of additional broadband services at an affordable subscriber rate. Recent developments announced by the 33M Co. indicate in some instances a joint-use coaxial broadband system could be constructed for less than the present cost of a "conventional system."

Coaxial cable is now being used by rural telephone systems in several systems for purely telephone applications.

I believe that the substantial economies which would result from the technological developments in the industry will require greater utilization of these facilities without regard to the question of the provision of services beyond telephone. In my view, however, cable TV and broadband communications services are a definite part of the total telecommunications service which it is the objective of our rural telephone systems to provide.

In fact, the general inadequacy of television service represents one of the single greatest differences in the "quality of life" now existing between rural and urban America. The historic commitment by Congress to rural development over the past quarter century has insured that technological developments in central station electric service and modern, efficient telephone service did not bypass rural America. I believe this commitment must be continued if the benefits of broadband communications are to be made available in rural America.

In November of 1976, at the request of Senator HERMAN TALMADGE of Georgia, the Office of Technology Assessment held a 3-day conference and seminar in Washington to debate "The Feasibility and Value of Broadband Communications in Rural Areas." A proposal recommending amendment and revision of the Rural Electrification Act to permit Government-assisted financing was adopted by the conference in its tentative report and findings.

Very recently, an interagency task force coordinated by the Office of Telecommunications Policy, has published a massive study on future telecommunications needs of rural America. In this study the concept of provision of facilities for broadband telecommunications by REA-financed telephone systems is strongly endorsed.

By the use of the term "broadband telecommunication services," I mean far more than simple provision of cable television. I am not disposed to argue before the Congress that the interests of rural citizens are so neglected by their inability to receive "Starsky and Hutch" or the "Brady Bunch Hour" that immediate creation of a new Federal program and utilization of public revenues is necessary to rectify the situation. When delivered in combination with telephone service, however, cable TV is the economically feasible item which will make it possible for local telephone systems to offer to their subscribers a myriad of other services which are technically feasible but not economically viable in rural areas as separate considerations. That list includes remote meter reading, energy conservation, continuing education, telemedicine. law enforcement applications and many more.

The central question is how will the basic facilities over which these services are made available be provided. The REA-financed rural telephone systems have basic facilities in place. Their personnel are trained and competent. Most are managed by local area representatives—people completely aware of area conditions and subscriber needs. The economies of using these preexisting advantages are so self-evident that public policy should definitely not require the establishment of a new group of carriers to bring discrete portions of these multiple telecommunications services to the consumers.

In 1977 testimony before the Appropriations Subcommittees on Agriculture and Related Agencies of both the Senate and the House, the Administrator of REA, David A. Hamil, indicated an awareness of the desirability of providing broadband services to rural America.

> The technology exists which would permit the utilization of coaxial cable to provide, in this one facility, telephone and broadband subscriber service, including cable television, with only a small incremental cost over providing just telephone service.

The rural telephone systems are willing, even eager to undertake this challenge. The Agency, REA, appears to strongly support my contention that joint provision of broadband facilities is the most economically efficient means of bringing these services to rural areas. This legislation makes only a minor modification to the Rural Electrification Act. The distinctions the act presently contains have become outmoded through time and technical change. I hope this legislation can receive early consideration and passage by the House.

CONTINUING CRISIS IN FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. MILLER of California. Mr. Speaker, within the past year, the Congress has given more serious consideration to the problems of the foster care system, and the families and children who find themselves in it, than at any point in recent history. Extensive hearings and investigations, both within Congress and throughout the country, have established the wastefulness of the present Federal program, both in fiscal and in human terms.

H.R. 7200 would focus more attention on the rights of the family to needed preventive and reunification services, establish greatly needed accountability procedures, and provide adoption assistance to families wishing to adopt eligible children who, otherwise, would remain indefinitely in foster care at far greater cost to the Government, and to themselves.

When I first began my work on foster care and adoption, there seemed little hope that reforms in this system could be achieved. But the near unanimity of opinion in support of the thrust of H.R. 7200, and especially the superb leadership provided by my colleague, the chairman of the Subcommittee on Public Assistance (Mr. CORMAN of California), has brought us to the brink of fulfilling that reform in 1978.

Let us note what has occurred in the 10 months since my own "foster care and adoption reform bill" was introduced for the first time:

The Public Assistance Subcommittee, under Congressman CORMAN'S leadership, incorporated most of the provisions of my bill into H.R. 7200, and won the support of the full Ways and Means Committee;

The full House passed H.R. 7200 last June by the overwhelming margin of 335 to 64;

Vice President MONDALE announced, in July, the Carter administration's endorsement of a foster care and adoption reform package very similar to that passed by the House;

California Senator ALAN CRANSTON introduced the administration bill in the Senate, S. 1928;

Testimony from a wide range of social welfare, administrative, children and family, and legal rights groups before the Senate Finance Committee endorsed H.R. 7200's principles and urged swift enactment;

The Finance Committee modified H.R. 7200, but retained the essential thrust of the legislation, and passed it on to the full Senate, where it now awaits final action. It appears that the Senate will take up H.R. 7200 in March.

This is a great record of accomplishment in a very short time. I believe that, under the continued leadership of Con-

gressman CORMAN and Senator CRANSTON, we will see H.R. 7200 enacted. It is imperative, however, that we not reduce the pressure for its passage. As the accompanying excerpt from a recent Los Angeles Times story on foster care shows, the condition of the children in foster care demands expeditious action. Nothing has moved this legislation swiftly more than the concerted efforts of organizations and citizens working in the foster care and adoption field who have stressed the need for this legislation to their local congressmen and senators. Those efforts must be redoubled now, so that we move the final steps necessary to have H.R. 7200 signed into law this year.

The article follows:

[From the Los Angeles Times, Dec. 4, 1977]

FOSTER HOMES: A HUGE SYSTEM WITH MAJOR PROBLEMS

QUALITY TOO VARIABLE, PLACEMENTS TOO MANY, CASE LOADS TOO HEAVY

(On any day, more than 10,000 children in Los Angeles County are living away from their homes and parents. From infants to teen-agers, they are largely victims of circumstances—absent parents, sick parents, abusive parents. Some have behavior problems which had led to their removal from home. These are the county's foster children. This article examines whether the $100 million-plus foster care programs are doing all they should. An acompanying story describes some of the vivid scenes in the complex mosaic of foster care.)

(By Celeste Durant)

Fifty-seven tattoos were sanded from her body when she was 17—a record in pencil lead and skin of boredom, frustration and weakening sanity, a legacy in self-mutilation during 14 years in foster care.

She remembers drawing most of them to while away the hours she spent in solitary confinement in the 37 juvenile institutions she was placed in during her late childhood and adolescence.

Before, during and after the institutions there was a series of 30 foster homes where she also spent time, shuffled from family friends and relatives to homes licensed by the county.

And during her odyssey from one home to another, one institution to another, she watched herself progress from a lonely child looking for love to a person anesthetized to new people and new hopes.

She became hardened, difficult to handle, a chronic runaway who ended up spending four years of her life—two weeks here, three months there—in solitary with only two or three years of formal education and a nervous breakdown to show for it.

And when she left the system at age 18, she went out into the world, had three children and became a child abuser—a woman capable of dragging a child across the room by its hair, hurling a child through the air in a fit of rage or attempting to strangle one.

Her children also ended up in foster care; one of them, a son, she put up for adoption.

She is now 37, has two of her children back with her and is a foster mother.

"I can't say much for a system that underwrites that kind of life for kids."

Her name is Jolly K. and she is the founder of Parents Anonymous, a self-help group for child abusers.

When she looks back on her life and the years of physical and emotional isolation she suffered she says, "it's a —poor way for society to handle children.

"The institutions and half of those foster homes were with the full knowledge of the state and the county. They were directly involved.

"I can't say much for a system that would underwrite that kind of life for kids."

There are more than 10,000 foster children in Los Angeles County ranging in age from infancy to 18: they come in all sizes, colors and sexual preferences and are spread out from one end of the county to the other.

There is the baby in Long Beach whose mother brought her home from the hospital and left her in a crib in her own filth until she developed maggots that ate their way through one of her eardrums.

The 14-year-old boy from Carson, abused by his natural parents, rejected by his adoptive ones, who was picked up in the back seat of a car sexually servicing a 56-year-old man.

The 5-year-old girl from Highland Park who watched the adult cousin she was living with smother another small child because it started crying during the Donny and Marie television show.

The county's foster child population changes from day to day, week to week; some stay only a few days while others spend their entire childhoods.

They have been removed from their homes either to protect them from their parents or because they have committed crimes.

Where they live, how long they stay and what happens to these children is the responsibility of a sprawling, chaotic, fragmented system that the Los Angeles County government calls "out-of-home placement."

As county governmental systems go, "out-of-home placement" is awesome—it meanders over three separate county departments, employs about 2,800 county workers, utilizes the services of over 4,000 private households and more than 500 group homes and large institutions.

Its total budget hovers in the neighborhood of $118,117,694 a year with $40,204,880 of it coming from federal and state funds.

The system suffers from all the expected frailities of large bureaucracies—mountains of paper work, limited funds, inadequate resources and a general lack of communication among its various parts.

It also labors under the additional burdens that arise when a bureaucracy gets involved in the business of dealing wih people's lives.

Although there have been many changes in the system since Jolly K. was a child, she feels many of the problems are still there.

"I would like to tell you that I am an exception," she said. "On a scale of 1 to 10, I am towards a 10 but there are a lot of kids on the 5, 6 and 7 level. They haven't had as many placements as I had, but what's the arbitrary number before you break their hearts, minds and souls?

"I wish I could say I was unique—it would give me comfort to say this doesn't happen to many people, but it does."

Said Supervisor James A. Hayes, "The thing that really gets me is the fact that I found in juvenile camps and hall youngsters who had been bounced from eight to 10 foster homes."

Not surprisingly then, the foster care system here is frequently criticized. A federal General Accounting Office study released earlier this year accused the county of "losing" children—warehousing and forgetting them.

And Supervisor Hayes last spring urged that the county upgrade the quality of both foster homes and parents, while hiring more social workers to reduce case loads.

Both participants and observers agree—the system does not work as well as it should. They say its major problems are that:

Too many children are removed from their homes and kept for too long a time.

"There are more placement recommendations than there should be probably," said a commissioner in the Dependency Court, "because social workers are overburdened and don't have the resources to work with the situation in the home so the safest thing is to remove the child."

Social worker and probation officer case loads are too heavy to allow the kind of service the system says it wants to provide.

"I have 52 children on my case load," said a children's services worker in the San Fernando Valley. "About 15 are abused and neglected children, and it's very difficult to do what we should for them.

"You have to build a relationship so the child will confide in me and build a relationship with the parents, also. You want to return the child to a home you feel confident in—you like to know the family and the extended (other relatives) family. There just isn't enough time.

The quality of both individual foster homes and group facilities is uneven.

"The quality of placements vary from very good to average to not so good and Probation and (the Department of Public Social Service) from time to time close down sub-par ones but when you get to the lower end of the spectrum you are between a rock and a hard spot—you need bed spaces and you can't afford to be choosy," said Judge Peter Smith, presiding judge of the Juvenile Court.

"It's a question of whether you have people in homes that are not really bad but not all that good or have them sit in Juvenile Hall and have them get nothing."

There are very few bed spaces available in the county to handle what the system calls its "hard-to-place" population of severely emotionally disturbed youngsters.

Said Esther Strathy, central placement coordinator for the county Probation Department, "Too much time is spent seeking placements. We must divest ourselves of this frantic search for placements for these special kids, then we will be able to service all kids better."

Foster parents are not trained to deal with the kind of children that are now entering the system.

"Foster care is not what it was 10 years ago—no sweet little children who were abandoned because they were illegitimate," said Stephanie Klopfleisch, director of the Bureau of Social Services for the county Department of Public Social Services (DPSS). "We are getting older, physically ill, psychologically disturbed kids."

Said Mrs. Rhonda Kloempken, president of the California Foster Parents Assn., "We are getting children that we have no capability of handling."

According to a 1975 study by the state Department of Health, 14 percent of the foster children from L.A. County used in their survey entered the system because they had been abused by their parents, 30 percent because of parental absence from the home and 18 percent because of the child's behavior. The other 38 percent were divided among various causes.

Racially, Los Angeles county's foster child population in the survey was 41 percent white, 27 percent black and 21 percent Spanish surnamed with the remainder in the "other" category. Sexually it was 49 percent male and 51 percent female.

The Department of Adoptions has about 1,000 children, most of them referred by DPSS, in foster homes awaiting adoption.

IS CARTER "MAZE DULL?"

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. ASHBROOK. Mr. Speaker, President Carter's first year in office has left many Americans wondering whether

Carter is capable of handling the job. These doubts are now being openly expressed in management circles.

A management expert who is a personal adviser to some of the Nation's top executives has labeled Carter as "maze dull." According to Eugene Jennings, a psychologist and management professor at Michigan State University, this term is used to describe someone who is unintelligent about avoiding or maneuvering out of tight situations. People with this personality trait trip themselves up and create crises.

In Jennings view, this defect will work against the effectiveness of the Carter Presidency. "President Carter," he says, "is destined to be disappointed by his moment in history." He predicts it will be an administration marked by gaffes and blunders.

Following is an interesting article on this subject which appeared in the January 10, Mount Vernon, Ohio, News:

PRESIDENT CARTER IS "MAZE DULL," MSU MANAGEMENT EXPERT CLAIMS

(By John Cunniff)

NEW YORK.—A confidential adviser to top executives describes President Carter as "maze-dull," and terms it a defect that will hobble his administration.

Maze-dull, said Eugene Jennings, a psychologist and management professor at Michigan State University, is a person who is unintelligent about avoiding or maneuvering out of tight situations.

Such people, said Jennings, who has observed the personality condition in many corporation presidents, repeatedly trip themselves up and create crises because of traits such as arrogance and ignorance.

Jennings, who is a personal adviser to some of the nation's top executives and some Washington officials too, said the current administration is destined to be marked by gaffes and blunders.

Unless he manages to surround himself with wise aides, and defers to them, said Jennings, "President Carter is destined to be disappointed by his moment in history."

The characteristic, said Jennings, is "too much built into the nature of the man to be overcome by additional experience." He listed six qualities as among those that mark the maze-dull personality:

1. A vast ego; an idealized notion of self. This is the essential character trait that hides from the individual the imminence of trouble.

Such a person is guilty of the sin of presumption. "He presumes there is more power to the office than there is; and he presumes also that his personal power is greater than it is."

These characteristics lead to unrealistic promises. Applied to Carter, "you have to believe in the tooth fairy to think he will be able to balance the budget."

They also feed arrogance. "An arrogant person doesn't have respect for information and experience. He believes intelligent people can do anything."

2. Inward-oriented intelligence. Maze-dull people seek answers within. They immerse themselves in every detail. They read, read, read. They do not trust others. They cannot delegate.

Such behavior keeps them involved in trivia and prevents them from making the big decisions that can change the course of events. It prevents them from building a team, from tapping available wisdom.

3. A tendency toward ideas and programs almost to the exclusion of politics and people. "They believe a bright idea, when enunciated, should be convincing in itself."

Such people feel they should not have to engage in politics to sell their ideas. "They fail to understand that politics is the essential art of government, not bright ideas."

4. Intention versus consequences. They belive that good consequences follow from good intentions. "They fail to anticipate the consequences of their own behavior."

Faced with consequences other than those they see or feel justified, they either cave in or become a bull in a china closet. Such people should learn the creative art of silence, but they feel silence is impotence.

5. Conflict between right and proper. Jimmy Carter has a stronger sense of right and wrong than of propriety and impropriety.

"It was right that a good friend stand by Bert Lance; it was improper that the president of the United States do that. It was right that Carter establish his own White House style; it was improper the way he did it, because in ostentatious style he tried to appear the opposite."

6. Emotions rule reason.

In summary, said Jennings, "Carter is lacking for the Washington jungle what a kid from the typical middleclass suburb would lack if thrown into the jungle of New York. He lacks the smarts."

In the past, said Jennings, who has written many books on the executive behavior, maze-dull individuals have sought to overcome their defect by arming themselves with aides and subordinates who can see the pitfalls.

REPORT ON MIDDLE EAST TRIP

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. PEASE. Mr. Speaker, I recently returned from a 3-week trip through the Middle East as a member of the House International Relations Committee. During that time, I met with the leaders and other government officials in seven nations. I feel that my understanding of the personalities and the needs of these Middle Eastern countries has been tremendously enriched. In the past 2 weeks I reviewed and reflected on my experiences in three reports to my constituents. I would like to share these articles with my colleagues and include them at this point in the RECORD:

WASHINGTON REPORT NO. 1

(By DON J. PEASE)

After traveling 17,800 miles to and through seven Middle East nations in a period of 19 days, I have to fight off the temptation to consider myself an expert on the current Arab-Israeli peace efforts.

Assuredly, I am not an expert, even though I and a dozen fellow members of the House International Relations Committee were in the Middle East at a particularly fascinating and crucial time. After talking with top officials in Tunisia, Syria, Egypt, Jordan, Saudi Arabia and Iran, we flew into Israel on January 15 the day before the political committee of the Jerusalem peace talks was supposed to convene.

Taking off from Tehran, Iran for Tel Aviv, Israel, we learned that the peace talks were off the track and that U.S. Secretary of State Cyrus Vance had postponed his departure for Jerusalem. Within 12 hours that mini-crisis was solved. I was in Jerusalem for the start of the political committee meetings, and I attended the state dinner at which Israeli Prime Minister Menachem Begin affronted the Egyptian delegation, contributing to suspension of the negotiations the day after our congressional delegation departed Israel.

There's only one thing I think I know for sure at this point—that both the Arabs and the Israelis genuinely want peace.

Mainly, both sides want peace because they are sick of war. Too many young men of Israel, Syria, Jordan and Egypt have been killed or maimed in the four Arab-Israeli conflicts of the past 30 years. The pain of war is too directly real for too many families.

Another motivation for nations like Jordan and Egypt is their overwhelming need for economic development. With millions of their citizens living in abject poverty, the last thing they need is to spend what little wealth they have on another Arab-Israeli war. Egypt desperately needs to spend its money on agricultural development so it can feed its citizens.

For Israel, there is also an economic motivation. Even though per capita income in Israel is very high, the burden of defense has given Israel's citizens the highest tax rates in the world and annual inflation rate of 40 percent or more.

Another powerful motivation for peace on the Arab side—especially in oil-rich Saudi Arabia—is the fear of a resurgence of Arab radicalism in Syria, Iraq and perhaps even Egypt. Soviet-inspired Arab radicals would be a serious threat to the existence of conservative Arab state like Saudi Arabia.

Sadly, the fact that all nations want peace—for differing but very good reasons—doesn't mean that peace will come. As the headlines tell us every day, the peace negotiations threaten constantly to fall apart.

Here are some factors which may, individually or collectively, scuttle the current peace initiatives and lead to another war in the Middle East.

Thirty years of hostility and isolation on the part of the Israelis and Arabs. It's hard to assume good will on the part of someone you've fought with four times in 30 years, and there has been zero contact between individual citizens or officials of the nations. Despite President Sadat's dramatic gesture of acceptance, a vast reservoir of fear, mistrust and misunderstanding still exists among the Arabs and Israelis. I could sense it in every nation we visited, but especially in Israel, where Israelis see themselves as a beleaguered 3 million people pitted against 150 million Arabs bent on destroying them.

Territorial considerations—again as the news media tell us—produce a wide gulf between the two sides. United Nations resolutions 242 and 338 call for return to Egypt, Jordan and Syria of lands occupied by Israel in the 1967 war. To the Arabs of every nation we visited, that means return of ALL occupied lands. To the Israelis, retention of part of the occupied lands seems imperative to their security in their event of future hostilities. On the helicopter flight, the Israelis took us to a point on the occupied West Bank where return to the 1967 borders would put only nine miles between an Arab state and the Mediterranean Sea. The same helicopter took us to the Golan Heights, where Syrian territory looks down within easy rifle fire range of Israeli settlements.

Those Israeli concerns puzzle and infuriate Anwar Sadat, who told us at his retreat near the Aswan Dam that Israel doesn't understand the new reality opened up by his November visit to Jerusalem—that security for Israel lies not in land but in the peaceful intent of her Arab neighbors.

Yes, say the Israelis, but Sadat will not live forever, and he cannot speak for all 21 Arab nations.

The personalities of the two principal actors on the negotiating stage—Begin and Sadat—are also a factor which could bear heavily on success or failure of peace talks. In his meeting with us, Sadat did not seem emotional and impetuous, but his impatience with the peace negotiations suggests that he

may be. On the other hand, I can report that Begin in person definitely comes across as the doctrinaire hard-liner you've heard about. After two encounters with Begin, our congressional delegation was generally pessimistic that Begin could muster the flexibility to conduct sensitive political negotiations. The Egyptian foreign minister was visibly angered when Begin, giving a toast at what was to be a pleasant social occasion, made a partisan speech. We Americans present couldn't blame the Egyptian for being angry.

Domestic political considerations complicate matters for both Begin and Sadat. The latter has Arab hard-liners like Syria, Iraq, Libya and Algeria sniping at him. Sadat has to appear to be standing fast on Arab demands for return of all occupied lands and for self-determination for Palestinians. For his part, Begin is a prisoner of his own past rhetoric and that of his political party, the conservative Likud. To them, the occupied West Bank of the Jordan River is the ancient Jewish lands of Judea and Samaria.

When Sadat and Begin make statements designed for consumption by their domestic critics, they appear inflammatory when radio, television and newspapers carry them to the other nation.

And for domestic political reasons, Sadat feels the negotiations must proceed speedily so Arabs will see concrete results of the bold Sadat initiative. Begin says he needs slow negotiations so that Israelis can get used to the idea that maybe the Arabs really will live in peace with them.

Despite all this, will peace come? Can the hazards be surmounted? At this point, it's an act of real optimism to believe so. Nonetheless, both the Israelis and the Egyptians insist that the peace process has proceeded too far to be reversed. I hope they are right.

WASHINGTON REPORT

(By DON J. PEASE)

Iran and Saudi Arabia, both of which I visited during my recent three-week trip to the Middle East, have several interesting similarities.

Both maintain very close and friendly relations with the United States.

Both are staunchly anti-communist and deeply suspicious of the Soviet Union.

Both have ambitious programs to modernize themselves.

That's on the plus side.

Additionally, both have autocratic governments which are the opposite of the American concept of democratic rule.

At a time when President Jimmy Carter has raised worldwide the banner of human rights, both Iran and Saudi Arabia have poor records on human rights.

At the time when Carter is trying to slow the rapid spread of weapons of death and to reduce the role of the U.S. as the arms merchant of the world, both Iran and Saudi Arabia are pressing the U.S. hard to supply them with highly-sophisticated new weapons.

Yet the ability of the U.S. to resist those arms pressures and to seek improved human rights conditions in the two nations is severely hampered.

For there is one more important similarity between Iran and Saudi Arabia.

Both have the United States over an oil barrel. We are so heavily dependent upon them for oil—and they know we are—that U.S. policy options toward the two nations must always take oil into account.

In the case of Iran, the U.S. is in a tight bind but not a stranglehold. Iran supplies the United States with over 800,000 barrels of oil each day—about 10 percent of our imports. Because Iranian oil fields are approaching the peak of their productive capacity, it is expected that Iran will continue to supply about 10 percent of U.S. oil import needs.

With Saudi Arabia, the picture is ominously different.

First, Saudi Arabia supplies the U.S. now with over 1.5 million barrels of oil per day—20 percent of our daily imports and a full 10 percent of total U.S. consumption from both domestic and imported sources. For every 10 days that American gas stations are open, one day is Saudi Arabian oil day.

Secondly, Saudi Arabia—with 25 percent of the total world oil reserves—has a life-or-death hold on the future economic health of the United States and other western industrial nations. By 1985, it is estimated that daily U.S. demand for oil will increase by over 6 million barrels per day. New oil wells in the U.S. will meet only about 1 million barrels of that demand. The rest must come from imports, chiefly from the one nation that has a significant ability to increase its oil production—Saudi Arabia.

Within a half hour of my arrival in Riyadh, the capital of Saudi Arabia, other congressmen and I were told the brutal facts by American diplomatic officials. Unless Saudi Arabia agrees to double its daily production from 8.5 to 16.6 million barrels per day by 1985, there will be a severe world-wide shortage of oil. The price of an imported barrel of oil is likely to jump from the current $14 per barrel to between $30 and $45 per barrel.

From the viewpoint, then, of the United States, Japan and western Europe, it is imperative that Saudi Arabia agree to double its production of oil.

What about from the Saudi viewpoint? It is hard to avoid the conclusion that increasing oil capacity is not in the best interests of Saudi Arabia.

In the first place, the Saudis need produce only 5 million barrels of oil daily to provide the government with all the revenue it can possibly use for its ambitious programs to transform Saudi Arabia into a modern nation. The additional 3.5 million barrels currently being produced each day yield only money (mostly U.S. dollars) which—when invested—is eaten up by inflation. Saudi officials like Crown Prince Fahd, with whom we talked, are convinced that a barrel of oil in the ground will grow in value a lot more than an American dollar over the next several years.

Secondly, the huge Saudi oil reserves are not endless. The proven reserves will last about 50 years at the current rate of production. If the Saudis give in to U.S. pleading to double production, the proven reserves will last only about 25 years. Looking to their own future well-being, Saudi Arabian officials are developing a petrochemical industry which uses oil as a raw material for plastics, synthetic fibers and a hundred other products. As Zaki Yamani, the Saudi minister of petroleum, told me, "There will come a time when future generations will curse us for wasting oil as a fuel instead of saving it for use as a raw material."

Despite these convincing reasons for not increasing production, Saudi Arabia may do it anyhow. Saudi officials say they do recognize a responsibility to the economic health of the western world. Pragmatically, they know that world-wide economic chaos resulting from an oil crisis would be fertile ground for communism, which the Saudis strongly fear.

Clearly, however, the Saudis dislike the idea of their precious oil flowing so fast to meet the insatiable demands of the western nations. They are watching closely efforts by President Carter and the Congress to establish a national energy policy for the U.S.

Just as clearly, the U.S. dependence on Saudi oil limits severely our ability to restrict arms sales to Saudi Arabia and, to a lesser extent, Iran. That may explain why Saudi Arabia and Iran received 57 percent of all U.S. arms sales in 1976 and 68 percent of all sales in 1977.

To their credit, the Saudi officials never mentioned oil in the same breath as the super-sophisticated F-15 fighter planes they want to buy from the U.S. this year. But to the 15 congressmen who spent three days in Saudi Arabia, the connection was not hard to make.

WASHINGTON REPORT NO. 3

(By DON J. PEASE)

In this last column of a three-part series on my recent 20-day trip to the Middle East, I want to report on several general impressions that I gained from my discussions with heads of state and other governmental leaders.

The first two I have covered in detail in previous columns, and I will only summarize them here.

PEACE

The governmental leaders and, I believe, the people of all seven nations that we visited, are eager for peace to come to the Middle East. But there are enormous complications—involving historical considerations, strategic considerations and even the personalities of national leaders—which jeopardize the peace talks and make it very possible that peace will not be achieved despite the general longing for an end to 30 years of hostilities.

OIL

The alarming dependence of the United States upon Middle East oil, a dependence which is projected to grow dramatically by 1985, is of great concern not only to Americans but also to Saudi Arabian and Iranian leaders who are worried about how their countries will survive when their supplies of oil are gone.

Here are some other strong impressions which I have picked up during nearly three weeks of intensive conversations with Middle East leaders:

DEVELOPMENT

Every nation we visited was intensely interested in its own internal development. Growing enough food for the people, providing jobs for them, raising the national per capita income are overriding concerns. Where official U.S. aid is available (only to the poorest of the nations) it is greatly appreciated and is seen by foreign ledaers as a crucial element in their development plans. All of the nations we visited, bar none, were eager for the cooperation of American corporations, farm experts and others in furthering the development of local economies. The Syrians, for example, who disagree with the United States violently on how the Middle East peace talks should proceed, made it crystal clear that they desire the most friendy ties with the United States in the economic area.

The Soviet Union is held in low regard by almost all Middle East leaders, even including the Syrians, who receive considerable military and economic aid, but accept Soviet help out of practical necessity rather than any regard for the Russians. The Soviets are considered to be unreliable in the long term as either suppliers of military equipment or partners in economic development. In Israel, in Iran and in five Arab nations that we visited, the leaders distrust the Soviet Union, believing that the Russians are not sincerely interested in any nation of the Middle East or Africa.

The United States, on the other hand, is seen as not having an American ax to grind when it participates in the development of Middle Eastern nations. The U.S. is seen as genuinely interested in a Middle East peace settlement. That accounts for the unusual fact that both sides in the highly volatile Arab-Israeli situation look to the United States as an "honest broker", striving to bridge the gap between them.

CONFLICT

Middle Eastern leaders are convinced that the Soviet Union has only one basic strategy and purpose in the Middle East and Africa—to create unsettled economic and political conditions so that radical Marxist groups can gain political power. The United States and the Soviet Union are engaged in a global competition on a nation-by-nation basis, the Soviets trying to foment instability and the United States trying to promote stability. If that sounds like too much of a self-serving, flag-waving American viewpoint, it came not from Americans but from the top leaders of the Middle East. The current armed conflict between Ethiopia and Somalia was brought to our attention time and again as a prime example of Soviet trouble-making.

U.S. DIPLOMATS

In each nation we visited, we came into close contact with the U.S. ambassadors to those nations and to career foreign service officers working in the embassies. I was very pleased to find that the ambassadors were a very impressive group of people. Most were career foreign service officers who showed a fantastic knowledge of the social, economic and political traditions of the nations to whom they represented the United States government. The two ambassadors who were non-career, politically-appointed types displayed less expertise, but they came across as competent, hard-working individuals. There was not an "ugly American" in the lot. All seemed to have the respect, admiration and trust of the Middle East leaders with whom they worked.

CARTER AND VANCE

It was a great experience for a group of 15 American congressmen, visiting nation after nation, to find the universally-high degree of respect accorded to our country's two highest diplomatic representatives, Secretary of State Cyrus Vance and President Jimmy Carter. Without exception, Middle East leaders told us that they view Carter as men they can trust, who are genuinely interested in peace and progress for the nations of the Middle East, and who are friends in a very personal sense of the Middle East leaders they have met and worked with.

AN APOLOGIST FOR TERRORISM VISITS CAPITOL HILL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. McDONALD. Mr. Speaker, on Tuesday, January 31, Members and staff were invited by the ad hoc monitoring group on South Africa to hear a briefing by Donald Woods, a South African journalist who recently fled his country. The ad hoc group consisted of our colleague, THOMAS J. DOWNEY, of New York, and ANDREW MAGUIRE, of New Jersey. A member of my staff attended the briefing and reported to me on the discussion.

Representative DOWNEY opened the meeting by announcing that only staff and Members would be permitted to attend, as at a previous briefing, South African representatives had been present and revealed to the press matters that had been discussed, to the embarrassment of the organizers. My staff member reported, however, that Mr. Woods said little that he had not repeated at other gatherings, and later that day in congressional testimony. The only major difference was that, at the congressional briefing, questions were asked that seemed to upset Mr. Woods.

Woods stated in his opening remarks that in South Africa the security laws were "quite crazy" and designed to stamp out dissidents. He admitted, however, that he had edited his newspaper for 10 years, was often critical of the Government and that he himself had not been banned until last October.

He urged the United States to withdraw or downgrade its diplomatic relations with South Africa; institute a tougher visa policy which would bar South African visitors from the United States; and institute an economic embargo that would end both trade and loan capital to South Africa. He further stated that some people urge continued business with South Africa, because it benefits the blacks. He denied this and said the representative leaders of the African blacks, Nelson Mandela, Robert Mangaliso Sobukwe, and Steve Biko, all opposed trade with South Africa.

He warned that if South Africa does not give in to the demands of the responsible black leaders they would be faced with revolutionary Marxist-Leninists in the future. Woods further stated that if the United States does nothing against South Africa there would be racial civil war and the blacks would be hostile to the West.

Representative DOWNEY questioned Woods about the effect in South Africa of statements made in support of the Government by Gov. Meldrim Thomson of New Hampshire. Woods answered that the impression that was given was that Governor Thomson spoke for most Americans. He said in a joking manner that most Americans held the opposite view.

A questioner from the audience asked about Woods' view about repressive regimes in the Soviet Union and the rest of the Communist world. Woods answered that while he deplored repression, South Africa was worse than the Communists and that this matter was irrelevant, because the issue of the day is racism. Woods did not respond to statements from the audience showing that the Soviet Union was far more repressive than South Africa could ever be. He seemed disinterested.

Another questioner asked about the statement by Woods concerning responsible black leaders. Woods acknowledged that he felt that Mandela and Sobukwe were such leaders. He was asked that in light of the fact that he had just warned against revolutionary Marxist-Leninists, why was he promoting Mandela and Sobukwe who are Marxist-Leninist terrorists. He denied that they were. The questioner then pointed out that Mandela was the leader of the terrorist arm of African National Congress, which was called Spear of the Nation (Umkhonto We Sizwe). African National Congress is controlled by the Communist Party of South Africa, and receives financial support from the Soviet Union. Sobukwe's group, the Pan-Africanist Congress, proclaimed themselves Maoists and receives financial support from Red China. Both of these groups have engaged in terrorist attacks on innocent civilians. Congressman DOWNEY responded that it does not matter if they are terrorists since Menachem Begin, Prime Minister of Israel, was also a terrorist. The questioner pointed out that Begin had never killed innocent civilians, but Mandela and Sobukwe had.

Mr. Chairman, that is the essential difference between freedom fighters and terrorists. Freedom fighters make war on the enemy army, terrorists make war on innocent civilians. The Communist-led African National Congress publicly took responsibility for a series of bombings September 16, 1976, in Cape Town, South Africa. Their official communique was published in SECHABA, Official Organ of the African National Congress South Africa (Second Quarter, 1977). SECHABA is printed in English in Communist East Germany.

The communique follows:

DECEMBER 16TH IS A HISTORIC DAY IN THE FREEDOM STRUGGLE

The national liberation movement, under the leadership of the ANC, formed Umkhonto We Sizwe in 1961 when it became clear that only through armed struggle—no matter how long and bloody—could freedom be won. Umkhonto provides our people with the skills of modern warfare. The bomb blasts and sabotage actions that rocked South Africa in the early 1960's are being heard again. Now the conditions and opportunities for our struggle have become more favourable. The oppressor will be met bullet for bullet here in South Africa. Our youth—African, Indian and Coloured—must join Umkhonto in ever bigger numbers and train to become skilled freedom fighters. Remember: to succeed in struggle it is essential to be disciplined, organised and correctly to identify the enemy. You must be part of an organisation, part of a revolutionary movement—the ANC with its allies and military wing Umkhonto We Sizwe will lead our people to victory!

Countrymen and comrades: You have shown your courage and contempt for death. With such fighting spirit and unity our final victory is assured. Let us continue to convert our anger into revolutionary action. Let us harass the enemy on every front.

On this December 16th—Heroes Day—the NC dips its revolutionary banner in memory of all those comrades who have fallen in battle. To all the parents we say "Be proud for giving birth to such heroic children. They have not died in vain and we will continue the battle until victory is won."

To all of you we say: Forward brave fighters! Forward brothers and sisters! Maintain your revolutionary unity and fighting spirit. Together we will raise the struggle to more glorious heights The blood of our people has made us stronger and more determined.

Amandla Ngawethu.
The Struggle Continues.
Victory is certain.

At his press conference on February 2, 1978, Woods told a reporter that Mandela is not a Communist and Sobukwe is not a Maoist, but a Christian. I would like to commend to my colleagues the documentation on the Communist and terrorist activities of these two men that Woods would like to see rule South Africa. The documentation appeared in Terrorism, a staff study prepared by the Committee on Internal Security, U.S. House of Representatives, August 1, 1974. His support for terrorists and lack of concern for the violation of human rights behind the Iron Curtain cast serious doubts on the integrity and credibility of Donald Woods.

Excerpts from the House Internal Committee staff study follow:

SOUTH AFRICA (AZANIA)—AFRICAN NATIONAL CONGRESS

The African National Congress (ANC), the oldest of the southern African revolutionary parties, was formed in South Africa in 1912. It was outlawed in 1960.

According to The African Communist for January-March 1963 (p. 8), Moses Kotane, former secretary-general of the South African Communist Party, has served as a member of the executive committee of the African National Congress. Other Communist Party functionaries including J. B. Marks and Albert Nzula have also served on the executive committee, according to The African Communist of July-September 1964 (p. 11).

In 1961 the Communist Party decided to lead the African National Congress into a campaign of terrorism. An official of the African National Congress, Nelson Mandela, was placed in charge of the terrorist organization called Umkonto We Sizwe (Spear of the Nation).

On July 11, 1963 the police raided a farm near Johannesburg and captured many of the leaders of the terrorist movement including some white and black communists. The finding of the judge president in the trial of the Umkonto We Sizwe terrorists was that the African National Congress was "communist dominated." (See pamphlet, "Rivonia, Operation Mayibuye," a review of the Rivonia trial by H.H.W. DeVilliers, published in Johannesburg in 1964.)

Subsequently, Abram Fischer, a white Communist Party member and member of a prominent Afrikaans family, was captured. He admitted during his trial in 1966 that the leaders of the terrorist movement had given assurances to the Communist Party that no action would be taken without prior consultation with the party. As a result Mandela was allowed to choose the leadership of the terrorist movement. As Fischer said, "The Congresses and the Communist Party did not wish to have their membership held liable for every act of sabotage * * *."[63]

Despite the arrest of much of the terrorist leadership, the remnants of Umkonto We Sizwe continued to engage in terrorist activities and to coordinate with other African terrorist groups including ZAPU of Rhodesia, Frelimo of Mozambique, and the MPLA of Angola, according to The African Communist, Fourth Quarter, 1967 (pp. 5–8).

Sechaba, the official organ of the African National Congress of South Africa, and Zimbabwe Review, the official organ of the Zimbabwe African Peoples' Union (ZAPU) in Rhodesia, are both printed in English in East Germany.

The African Communist was originally published in England and still lists a London address. However, for a number of years it has been printed in East Germany. (See the African Communist, Second Quarter, 1970, p. 120.)

The editor of The African Communist until his death on June 18, 1974, was Michael Harmel. A white member of the central committee of the South African Communist Party, Harmel had spent the last few years in Czechoslovakia as a member of the editorial board of World Marxist Review, the international communist theoretical organ. In order to maintain the pretense that the South African Communist Party was led by Blacks, Harmel used the pen names of Umlweli, Titshale, Terence Africanus and A. Lerumo. An obituary article on Michael Harmel appeared in the Daily World, June 22, 1974 (p. 10).

The African Communist, a quarterly published "as a forum for Marxist-Leninist thought throughout our continent, by the South African Communist Party," in 1963 published a statement by the central committee of the South African Communist Party stating why acts of violence were necessary in South Africa, The party declared:

* * * the oppressed masses are turning to methods that are illegal and nonpeaceful. They are looking to illegal organizations like the African National Congress and the Communist Party for leadership and liberation. Violent outbreaks of one sort or another are becoming more and more common. Sometimes, as in the case of the operations of Umkonto We Sizwe, these outbreaks are purposeful, effective and carefully planned on a nation-wide level. * * *"[64]

The SACP proceeded to denounce the Poquo guerrillas sponsored by the Pan-Africanist Congress for their "uncontrolled and violent" outlook of "blind revenge on Whites."[65]

The African Communist for July-September 1960 carries an account of the arrest of seven people involved with the ANC, the SACP and the Spear of the Nation in 1963. The magazine said that "The police found many confidential documents, including 'Operation Mayibuye,' the Umkonto We Sizwe draft plan for guerrilla warfare." A tenant of a farm, a member of the SACP, was arrested, the article continued. He had:

"* * * documents in his handwriting indicating that he had been sent abroad on a mission to find whether arms could be obtained for the Umkonto soldiers."

* * * * *

"Among the documents discovered at Rivonia were manuscripts in the handwriting of Nelson Mandela, who had found refuge at the farm at one stage of his underground leadership. Next to Chief Lutuli, Mandela has become the best known and most popular of the Congress leaders. * * *"

* * * * *

"* * * The leaders in the dock * * * disdained to repudiate * * * or to deny the part that some of them had played in Umkonto. * * * "I admit immediately," said Mandela, "that I was one of the persons who helped to form Umkonto We Sizwe, and that I played a prominent role in its affairs until I was arrested in August 1962." "

* * * * *

" 'I do not deny that I planned sabotage,' said Mandela, 'I did not plan it in a spirit of recklessness, nor because I have any love of violence. I planned it as a result of a calm and sober assessment of the political situation that had arisen * * *.' "

* * * * *

"* * * Mandela vigorously defended the A.N.C. policy of cooperation with the [Communist] Party in the common struggle for national liberation. Leading Communists * * * had served on the National Executive of the A.N.C. This was not surprising, he pointed out. The Party had for very many years fought side by side with the Congress: many Africans equated Communism with Freedom * * *"[66]

Over the years the Soviets have used ANC and its leader, Oliver Tambo, to contact various emerging African military groups.[67]

The Maoist group operating in South Africa is the Pan-Africanist Congress (PAC), founded in 1959 by Mangaliso Sobukwe. Originally advocating nonviolence, PAC turned to Maoism in 1963 and organized its members into clandestine cells.[68] In 1963 PAC claimed sponsorship of the Poqo guerrilla terrorists in South Africa.[69]

In 1967, PAC leader Potlako Leballo described his strategy as "simultaneous, protracted rural and urban guerrilla warfare" which would "pin down the enemy in the cities at the outset."[70]

Despite these threats, the South African "liberation forces" have been only minimally active during 1972 and 1973. Oliver Tambo explained this in an interview in the November 1973 issue of Muhammad Speaks, publication of the Nation of Islam (Black Muslims), a violently antiwhite organization whose members have been involved in violent conflicts with local police:[71]

"* * * one simply can't place South Africa in the same category as every other country and say, "There is fighting here, why isn't fighting there?" We know historically and have decided that the answer to the situation is armed struggle. That stage of actual fighting must be reached as part of the process of struggle. Its timing must fit the conditions that prevail."[72]

While ANC is not yet, based on Tambo's statement, ready for armed struggle, one of their spokesmen, Tennyson Makiwane, has stated that ANC has "an operative link with the underground unions of the black workers."[73] This remark takes on added significance when taken in context with the recent strikes in South Africa and the statement made in the July 1973 issues of the South African Communist Party magazine, Inkululeko, that "strikes are a potent force because they begin to instill fear into the capitalists; because they help to educate the workers about the true nature of the capitalist state."[74]

The article stresses that the strikes must be seen in the context of the political and ideological struggles, and quotes Lenin who wrote, "Strikes are a school of war and not the war itself, strikes are only one means of struggle, one aspect of the working class movement." States the article, "The white ruling class will not surrender its control of the State without a violent struggle, therefore the continuation of the preparation for such a struggle is essential for victory.* * *"

FOOTNOTES

[63] Fischer, Abram, "What I Did Was Right . . .," pamphlet, Mayibuye Publications, London, 1966, p. 28.

[64] The African Communist, April-June 1963, p. 3.

[65] Ibid.

[66] The African Communist, July-Sept. 1964, pp. 4, 6, 9–11.

[67] See Chapter VI.

[68] Crozier, op. cit., p. 59.

[69] The African Communist, April-June 1963, p. 3.

[70] Crozier, op. cit., p. 59.

[71] Hoover, J. Edgar, FBI Director, statement before subcommittee of House Appropriations Committee, Mar. 3, 1965.

[73] Muhammad Speaks, Nov. 30, 1973, p. 21.

[73] Southern Africa, January 1974.

[74] Inkululeko, July 1973.

Footnotes at end of article.

TIPS ON HOW TO AVOID OVERPAYMENT OF INCOME TAX BY OLDER AMERICANS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. PEPPER. Mr. Speaker, in my position as chairman of the Select Committee on Aging, I am acutely aware older Americans are often faced with economic hardship due to limited, if not fixed, incomes. It is alarming to realize that a great number of older Americans are overpaying their income taxes, and thus losing additional income, by failing to take advantage of legal tax reduction mechanisms.

Provisions of the Tax Reduction and Simplification Act of 1977 have made possible increased tax relief for many

Americans. However, individuals cannot take advantage of these provisions and minimize their tax liabilities unless they are aware of the changes in the tax law.

The Senate Special Committee on Aging has revised its annual checklist of itemized deductions. This summary can serve as an invaluable tool to the elderly—even to nonelderly persons—as 1977 Federal income tax time approaches. I commend the committee for its efforts and submit its summary here for the benefit of all who may read it:

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES

(A Revised Checklist of Itemized Deductions for Use in Taxable Year 1977)

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

Medical and dental expenses

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3 percent of a taxpayer's adjusted gross income (line 31, Form 1040).

Insurance premiums

One-half of medical, hospital, or health insurance premiums are deductible (up to $150) without regard to the 3 percent limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3 percent rule.

Drugs and medicines

Included in medical expenses (subject to 3-percent rule) but only to extent exceeding 1 percent of adjusted gross income (line 31, Form 1040).

Other medical expenses

Other allowable medical and dental expenses (subject to 3-percent limitation):

Abdominal supports (prescribed by a doctor)
Acupuncture services
Ambulance hire
Anesthetist
Arch supports (prescribed by a doctor)
Artificial limbs and teeth
Back supports (prescribed by a doctor)
Braces

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs
Chiropodist
Chiropractor
Christian Science practitioner, authorized
Convalescent home (for medical treatment only)
Crutches
Dental service (e.g., cleaning, X-ray, filling teeth)
Dentures
Dermatologist
Eyeglasses
Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed)
Gynecologist
Hearing aids and batteries
Home health services
Hospital expenses
Insulin treatment
Invalid chair
Lab tests
Lipreading lessons (designed to overcome a handicap)
Neurologist
Nurses services (for medical care, including nurse's board paid by you)
Occupational therapist
Ophthalmologist
Optician
Optometrist
Oral surgery
Osteopath, licensed
Pediatrician
Physical examinations
Physical therapist
Physician
Podiatrist
Psychiatrist
Psychoanalyst
Psychologist
Psychotherapy
Radium therapy
Sacroiliac belt (prescribed by a doctor)
Seeing-eye dog and maintenance
Speech therapist
Splints
Supplementary medical insurance (Part B) under Medicare
Surgeon
Telephone/teletype special communications equipment for the deaf

Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.)

Vaccines
Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health)
Wheelchairs
Whirlpool baths for medical purposes
X-rays

Taxes

Real estate
State and local gasoline
General sales
State and local income
Personal property

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, recovery of pension costs, dividends untaxed under the dividend exclusion, interest on municipal bonds unemployment compensation and public assistance payments).

Contributions

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 31, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7 cents per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value for the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

Interest

Home mortgage.
Auto loan.
Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

Other charge accounts for installment purchases—may deduct the lesser of (1) 6% of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) or (2) the portion of the total fee or service charge allocable to the year.

Casualty or Theft Losses

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

Miscellaneous

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.
Union dues.
Cost of preparation of income tax return.
Cost of tools for employee (depreciated over the useful life of the tools).
Dues for Chamber of Commerce (if as a business expense).
Rental cost of a safe-deposit box for income-producing property.
Fees paid to investment counselors.
Subscriptions to business publications.
Telephone and postage in connection with investments.
Uniforms required for employment and not generally wearable off the job.
Maintenance of uniforms required for employment.
Special safety apparel (e.g., steel toe safety or helmets worn by construction workers; special masks worn by welders).
Business entertainment expenses.
Business gift expenses not exceeding $25 per recipient.
Employment agency fees under certain circumstances.
Cost of periodic physical examination if required by employer.
Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).
Cost of bond if required for employment.
Expenses of an office in your home if employment requires it.
Payments made by a teacher to a substitute.
Educational expenses required by your employer to maintain your position or for

maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may now claim either a deduction (line 31, Schedule A, Form 1040) or a credit (line 38, Form 1040), for nomination or election to any Federal, State, or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, a $25 ceiling ($50 for couples filing jointly).

Presidential election campaign fund

Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

Additional information

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

Other tax relief measures

Filing status	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,950
Single (age 65 or older)	3,700
Qualifying widow(er) under 65 with dependent child	3,950
Qualifying widow(er) 65 or older with dependent child	4,700
Married couple (both spouses under 65) filing jointly	4,700
Married couple (1 spouse 65 or older) filing jointly	5,450
Married couple (both spouses 65 or older) filing jointly	6,200
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1978, you will be entitled to the additional $750 personal exemption because of age for your 1977 Federal income tax return.

"Zero Bracket Amount" (Standard Deduction).—The former standard deduction has been replaced by a flat amount the law calls "zero bracket amount." This amount depends on your filing status. It is no longer a separate deduction as such; instead, the equivalent amount is built into the new simplified tax tables and tax rate schedules. Since this amount is built into the tax tables and tax rate schedules, taxpayers who itemize deductions will need to make an adjustment. However, itemizers will not experience any change in their tax liability and the tax computation will be simplified for many itemizers.

New Tax Tables.—New simplified tax tables have been developed to make it easier for you to find your tax if your income is under certain levels. Now, even if you itemize deductions, you may be able to use the tax tables to find your tax easier. In addition, you no longer need to deduct $750 for each exemption or figure your general tax credit, because these amounts are also built into the tax table for you.

General Tax Credit.—The general tax credit has been revised to take into consideration the exemptions for age and blindness. Married taxpayers filing separate returns will now be limited to a credit based on $35 per exemption.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $35,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $35,000, an election may be made to exclude part of the gain based on a ratio of $35,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpaver may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling your Home) may also be helpful.

Alimony Paid.—Payments for alimony are now adjustments to income. You no longer have to itemize deductions to claim a deduction for alimony you paid.

Credit for the Elderly.—An expanded and simplified credit for the elderly has replaced the former more complex retirement income credit.

A taxpayer may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if the taxpayer is:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

To be eligible for this credit, taxpayers no longer must meet the income requirement of having received over $600 of earned income during each of any 10 years before this year.

For more information, see instructions for Schedules R and RP.

Credit for Child and Dependent Care Expenses.—Certain payments made for child and dependent care may be claimed as a credit against tax.

If a taxpayer maintained a household that included a child under age 15 or a dependent or spouse incapable of self-care, a taxpayer may be allowed a 20-percent credit for employment related expenses. These expenses must have been paid during the taxable year in order to enable the taxpayer to work either full or part time.

For detailed information, see the instructions on Form 2441.

Earned Income Credit.—A taxpayer who maintains a household for a child who is under age 19, or is a student, or is a disabled dependent, may be entitled to a special payment or credit of up to $400. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if a taxpayer reported earned income and had adjusted gross income (line 31, Form 1040) of less than $8,000, the taxpayer may be able to claim the credit.

Earned income means wages, salaries, tips, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040, line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1040 or 1040A.

WHY SHOULD FRANK CARLUCCI BE THE NO. 2 MAN AT THE CIA?

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. DRINAN. Mr. Speaker, I know that Members of the House will want to read very carefully a perceptive article in the New Republic of February 4, on Frank Carlucci. The article raises several questions about the competence and the credibility of Mr. Carlucci, who has been nominated to be Deputy Director of the CIA.

This thoughtful article raises several questions suggesting that Mr. Carlucci is less than competent to assume a very important and highly sensitive position in the Carter administration.

The article follows:

"OÙ EST CARLUCCI?"

(By Suetonius)

The story is still savored in the usually melancholy folklore of the Foreign Service. Congolese Premier Cyril Adoula is about to sit down to a White House luncheon in 1962. Looking around the state dining room and finding only John Kennedy, Dean Rusk, Robert McNamara and other notables, Adoula is distressed at the absence of the equally important American official who had befriended him in the old days in Leopoldville. "Où est Carlucci?" the Premier asks plaintively. "Who the hell is Carlucci?" Kennedy whispers in turn to Rusk, and aides are dispatched on a frantic search. In a cheap Foggy Bottom cafe they find Frank Charles Carlucci III, grandson of an immigrant Italian stonecutter, 32-year-old Foreign Service Officer Class 5, and buddy of Cyril Adoula. He is spirited off to the White House just in time to have dessert with the Premier,

and save the administration from the fate of a diplomatic incident.

For a generation of bureaucrats, that anecdote has been a relished vindication against the pretense and naivete of elected political leadership—and so, too, has Frank Carlucci's career. Rescued from a stalled ascent in the Foreign Service, thrust suddenly through a succession of high level positions in domestic affairs, eventually returned to diplomacy as a key ambassador, he was named in December to be Stansfield Turner's principal deputy at the Central Intelligence Agency. Like the Adoula story, it all seems the civil servant's fantasy come true, a tale of buried brilliance discovered and suitably rewarded. But Carlucci's remarkable rise has owed more to mundane politics than to brilliance. His appointment to the Central Intelligence Agency is another example of how the Carter administration has chosen to govern.

Carlucci belonged to that wave of middle-class Foreign Service recruits that swelled the corps with ambition, idealism and excess personnel in the 1950s. The stonecutter's son had become an insurance broker, and Frank III grew up comfortably. After Princeton, Harvard Business School, two years in the Navy, and an unpromising start with Jantzen Swimwear, he joined the State Department in 1956. There followed some routine clerical assignments in Washington, a commercial posting in Johannesburg, and then, in 1960, a junior political reporting job in Leopoldville during the Congo's bloody passage to independence (and American patronage). It was a brief moment of diplomatic swagger and exploit in US African policy, charged with the myths of cold war rivalry and before the military dictators and CIA subsidies settled in. In the Congo, Carlucci distinguished himself not only by the contact with Adoula, a future premier, but also by acts of bravery, in rescuing a car full of Americans from a Congolese mob after a traffic accident, and of diplomatic skill, in negotiating the release by Patrice Lumumba (another friend) of several Belgian hostages. He won a department superior service award, a place at the Congo desk in Foggy Bottom and later one of the Foreign Service's few outside-Washington plums for an officer of his grade, the lone Consul-Generalship on the island of Zanzibar.

After nine years in government, Carlucci had been promoted at steady and routine two-year intervals. In the summer of 1965 he was sent to Rio de Janeiro, where he spent the next four years in a series of embassy administrative jobs and won another bureaucratic award for his management of housekeeping chores spurned by most of his fellow officers. But in Rio, the African zeal and adventure already filed away, his career began noticeably—and, again, routinely—to slow and dull. Held at Class Three, the foreign service's make-or-break threshold to either senior rank or early retirement, Carlucci at 39, like so many other FSOs, began to melt indistinguishably into the bureaucracy. No intellectual gifts, no rare expertise singled him out among hundreds of equally talented officers. Not even his past bravery and citations guaranteed promotion to the top: during the Vietnam period department awards were handed out, as one winner recalled, "like Iron Crosses in 1918."

So early in 1969, Frank Carlucci was in Brazil, one more obscure, middle-level embassy official apparently without much of a future. Yet in the next six years, he received four presidential appointments, sat occasionally with the cabinet and became ambassador to Portugal with enough political weight to challenge the most powerful Secretary of State in recent memory. What his foreign service record obscured was that, more important than knowing Adoula or rescuing Americans in Africa or being efficient in Rio, Carlucci had also wrestled with Don Rumsfeld at Princeton.

When Rumsfeld gave up a congressional seat to become Richard Nixon's director of the Office of Economic Opportunity, he promptly brought Carlucci home from Rio in July 1969 to be his assistant director for operations. Carrying responsibility for the then-still-massive community action program, the job catapulted Carlucci not only far upward in the bureaucratic pecking order, but also into the midst of complex domestic issues for which he had no apparent grasp or concern. The reason for the appointment, however, was rudimentary. OEO was a stepchild agency which the Nixon White House viewed (like the State Department) as a disloyal Democratic preserve and relic. Rumsfeld, intending to dismantle the poverty program and expecting sniping on all sides, reached in time-honored Washington tradition for a personal friend with no obvious political liabilities and some bureaucratic experience at taking orders. For his part, of course, Carlucci did not question the logic of his deliverance. I've never had a strong preference for location," he told the *New York Times*. "I've always been more interested in the nature of the job."

In the event, the "nature" of this particular job was to go along dutifully with the Nixon squeeze on OEO, and thus to get along handsomely in a regime that appreciated but rarely found such professional loyalty. Little more than a year later, with Rumsfeld himself promoted to White House Counselor Carlucci was made director of the poverty program. Over the next six months he continued the Nixon-Rumsfeld policies without major change; cultivated an affable nonpartisan image with the Congress; and dodged the only covert political controversy by sponsoring a temporary compromise between Governor Ronald Reagan and California's Rural Legal Assistance program which Reagan wished to destroy. Carlucci presided over the steady attrition of the antipoverty effort policies which threatened legal services and other valuable reforms nationwide and which cut OEO's budget by more than half during Nixons' first term.

Presumably on the basis of that performance, Carlucci was elevated again in July 1971, this time to the White House itself to be number three man under George Schultz in the Office of Management and Budget. Again there were no obvious credentials to explain the change, though Carlucci had won what the press called (without undue elaboration) "high marks" for his management at OEO. Don Rumsfeld was still sitting down the corridor from the President. Discreetly supporting the fiscal policies that plunged the country deeper into recession, Carlucci stayed on at OMB through most of the Watergate collapse. Late in 1973, with White House backing, he became Caspar Weinberger's undersecretary at the Department of Health, Education and Welfare. A December 1973 speech before the Georgia chapter of the American Society of Public Administration provides a good example of Carlucci's contribution at HEW to the function of American social policy. The speech is a vintage example of bureaucratic prose celebrating as it does the "synergistic impact" and "program considerations" of better administration. Only Nixon's "New Federalism," the undersecretary assured his audience, would keep more people from "falling down the dependency ladder."

In November 1974, early in the Ford regime—in which Rumsfeld was White House Chief of Staff and eventually Secretary of Defense—Carlucci was named ambassador to Portugal. His qualifications for the job—past diplomatic experience and a knowledge of Portuguese—were plainer than for any of his recent appointments. Still, bureaucratic politics seemed once again decisive in Carlucci's rotation through high office. For a new administration nervously watching the fresh, volatile and leftward-swinging democracy in Portugal, he would be a certifiably safe, conservative envoy. Perhaps more important, he would also be Rumsfeld's protege, one of the few direct Ford links in an ambassadorial corps bureaucratically owned or co-owned by Henry Kissinger.

Carlucci performed predictably as ambassador. To questions at his confirmation hearing, he stoutly denied any CIA meddling in Lisbon. (When pressed by one senator on the elliptical language of his answers, he even showed a rare flash of public irritation: "It means that I know that there isn't," he replied curtly.) Carlucci may have been discreetly ignorant as an unbriefed appointee (not uncommon) or consciously dissimulating. But whatever the reason, his answers were inaccurate. At the time Carlucci testified, the CIA, with Kissinger's approval, was lavishly devoting both money and agents to shore up the most conservative elements in Portugal. Later, in 1975, when Kissinger moved toward a virtual aid embargo against the independent and still non-Communist Lisbon regime, Carlucci opposed the cut-off in what several sources remember as a "blistering" cable exchange. To the usual ambassadorial fervor for one's clients he added the old alliance with Rumsfeld, and thus won the battle with rare immunity from Kissinger's retaliation. At the same time, however, he also reportedly conditioned U.S. humanitarian aid to Portugal's collapsing African colonies on the ouster of the most vocally anti-American officials in Lisbon.

Now, having been kept on in Lisbon by the Carter administration, he returns to Washington to be deputy director of the CIA. Ironically, he is once more the White House's choice. And again he appears as the loyal, blurred bureaucrat needed to ride out controversy. Admiral Turner refused to pick a deputy from the Agency's hostile old-boy network, while the old boys themselves are still smarting from the forced retirement of 200 superannuated agents last autumn. So Carlucci is the administration's happy compromise. As at OEO, OMB, HEW and the Lisbon Embassy, not to mention all those Foreign Service postings long ago, he will be expected, with some confidence, to follow orders and "manage" things quietly. Beyond that, of course, his qualifications for the job are, as usual, rather vague.

In the Congo he quietly watched the widening CIA intervention that led indirectly to the murder of his friend Lumumba and even to the later overthrow of Adoula. He arrived in Rio only months after the CIA engineered the military coup against the elected Goulart regime, and watched quietly as the Agency administered covert subsidies and technical aid to keep the torture-prone Brazilian junta in power. At his own Lisbon Embassy he sat quietly as the local CIA station struggled to keep the new Portuguese democracy within proper bounds. Now he will be the only official short of Turner himself who will have the writ and means to monitor the full range of CIA operations. Under the reorganization plan just announced, the Agency will exercise unprecedented central control over the planning and execution of American espionage. That organizational grip probably will make Carlucci the single most powerful deputy in the government, and surely the most powerful in the history of the CIA.

In the lavish sunny office of the deputy director, he will be another classic bureaucrat somehow expected to command and temper the bureaucracy. To ride one of the rogue elephants of Washington institutions he comes from an apprenticeship as a pliant passenger in a Nixon administration run amok. The bravery and brashness of the young Foreign Service officer seem to have deserted Carlucci some time ago, worn away by the mores and unbroken success of his promotion. The man who saved Americans from a mob and freed Belgian hostages could

not bring himself to try (and it would have taken equal courage, there is no doubt) to rescue poverty programs from a mob mentality in the White House, or to release the health and educational advances held hostage by Nixon-Ford policy. If there is any ideology apparent in his record since 1969, it is certainly not that of his present employer. More apparent than any ideology, though, is the old bureaucratic pragmatism, the career greased by a willing suspension of belief. Carlucci is known for a clipped informality that often passes for self-assertion and strength in the otherwise oily culture of bureaucacy. By several accounts of those who have worked with him, critics as well as admirers, he is personally an easy, unpretentious man devoted to his work—not at all unlike hundreds of his kind in the huge, faceless civil service from which he emerged eight years ago. And when the man is measured against his offices, particularly the CIA, what stands out is not evil or danger or gross incompetence, but simply the utterly pedestrian quality of it all.

Carlucci will not be alone at the upper reaches. On the National Security Council staff, at the State Department, in a dozen important embassies, under Andrew Young at the UN—in nearly every precinct of foreign policy, there remain men who similarly owe their rank, their present authority, in large part to the dubious people and practices Jimmy Carter was elected to replace. This feckless resort to bureaucratic government—the loss of independence and commitment beyond self, the further atrophy of merit and idealism—is expensive. The politics that now return Frank Carlucci to Washington, like those that hoisted him out of oblivion during the Nixon years, are still the politics of a closed system.

Last spring, when senior State Department bureaucrats put forward Carlucci's name for the job as Deputy Undersecretary of State for administration, rumblings of opposition from Congressman John Brademas and Senator Paul Sarbanes—opposition reportedly on the basis of Carlucci's Nixon record—stopped the move. With his CIA confirmation hearings upon us, there is apparently no serious questioning of Carlucci's new appointment.

"Où est Carlucci?" Why he's gone to be Deputy Director of the CIA, Cyril. It's a long story from when you knew him. But then, come to think about it, it's not all that different from how you and your boys ran things in the Congo.

HUMAN RIGHTS IN ESTONIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. EILBERG. Mr. Speaker, February 24 will mark the 60th anniversary of the proclamation of the independence of the Republic of Estonia—one of the nations of Eastern Europe which now exists in captivity under the domination of the Soviet Union.

In connection with this forthcoming anniversary, I would like to share with my colleagues in the Congress a very moving appeal for human and national rights in Estonia, prepared by the Estonian American National Council.

APPEAL FOR RESTORATION OF INDEPENDENCE TO ESTONIA

On February 24, 1918, Estonia proclaimed her independence, establishing thereby the basis for the free and independent Republic of Estonia. On the 60th anniversary of that historic event, it is appropriate to recall certain facts about the Estonian people and their land.

Since time immemorial the Estonians have lived in their present geographic location on the east coast of the Baltic Sea. They belong to the Finno-Ugric race and speak their own language—Estonian—which is related to Finnish. The Estonians have no relationship to either the Slavic or Germanic peoples or their languages. Their strong sense of national untity and cultural distinction have carried them through all previous periods of foreign oppression and exploitation. In the latter part of the 19th century their national consciousness became a particularly forceful element which eventually led to the creation of the independent state of Estonia.

The establishment of the independent Republic of Estonia was possible only after the Soviet Red Army was driven from Estonia in the War of Liberation, which lasted from November 28, 1918, to February 2, 1920, when a peace treaty was signed at Tartu, Estonia, in which Soviet Russia renounced forever any claims to the territority of Estonia. There followed several other basic treaties between Estonia and the Soviet Union:

1. The Pact of Non-Aggression and Peaceful Settlement of Conflicts, dated May 4, 1932.

2. The Convention of Conciliation, dated June 16, 1932.

3. The Convention for Definition of Aggression, dated July 3, 1933.

The Soviet Union and Estonia were also parties to the Kellogg-Briand Pact on renunciation of war as an instrument of national policy signed at Paris August 27, 1928, which is still on the list of treaties in force.

In spite of these solemn treaty obligations, the Soviet Union, without any scruples, decided to liquidate the independence of Estonia as well as of Latvia and Lithuania. On August 23, 1939, Stalin and Hitler agreed to divide Eastern Europe. In the first stage, the Baltic States were forced to agree to the establishment of Soviet military and naval bases on their territories and about nine months later, Estonia, Latvia, and Lithuania were unilaterally declared Soviet republics and annexed to the Soviet Union.

To camouflage this takeover of an independent country, the Soviets staged so-called "elections," completely disregarding the Estonian constitution and election laws, and presented to this illegally elected body prepared resolutions about sovietization of the entire country. Finally a delegation of this body was ordered by the Soviets to be sent to Moscow to "request" the Kremlin to incorporate Estonia as a part of the USSR.

In the history of the world there has never been a country that would voluntarily renounce its own freedom and independence and submit itself to the overlordship of a foreign ruler. But that is exactly what the Kremlin is trying to tell the world, claiming that the Baltic States joined the Soviet Union voluntarily. How ridiculous such a claim sounds when we observe scores of nations emerging from colonial rule and insisting on their right to self-determination and independence.

As far as the people of Estonia are concerned, they have suffered incalculable human and material losses since the start of the Soviet occupation. Tens of thousands of Estonians from all walks of life have been deported to remote areas of the Soviet Union or liquidated by secret execution squads. All of the freedoms enjoyed by the citizens of Estonia under their own constitution have been abolished and the authority of the Soviet government and the secret police has become the rule of the land.

More than 75,000 Estonians have managed to flee from the Communist terror in their homeland and are now living in various parts of the free world. They are deeply concerned about the future of their ancestral homeland and they feel morally obligated to speak out on behalf of the people of Estonia.

Confirmed reports from Estonia show that Russianization of the country is proceeding with full force. Thousands of alien people are being brought in as "necessary workers" to mix with the local population. The Estonian language is being relentlessly pushed into secondary place. Communist literature and propaganda are trying to raise young Estonians as obedient servants of the Kremlin. However the Estonian nationalist spirit is fighting back everywhere. In the last few years there have been many occasions where the youth of Estonia has shown a strong national will of resistance through demonstrations and appeals to the free world. Many of them have been arrested and sentenced to hard labor as dissidents of the Soviet Union.

The Final Act signed in Helsinki declares that the inherent dignity and equal and inalienable rights of members of the human family lie at the foundation of freedom, justice, and peace in the world, and the right of self-determination for every nation is the goal of mankind.

Keeping these principles in mind, all freedom-loving Estonians are united in their determination for the restoration of the independence and national rights of Estonia. On the 60th anniversary of the proclamation of Estonian independence, all Estonians appeal to world public opinion to support them in this struggle for freedom and justice.

UPSTATE BULL FINDS FAME IN WEST

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. PATTISON of New York. Mr. Speaker, many people are under the mistaken impression that New York State is an asphalt jungle.

For the purpose of dispelling this myth that New York is a tangle of highways and industries, I am inserting into the RECORD a January 18, 1978, New York Times article about Patriot, the 1,620-pound bull that won top honors at this year's National Western Stock Show.

Patriot and his owner, Jerome Brody, are residents of Columbia County, which is part of my district.

Patriot is a tribute to agriculture in New York State, and living proof that the best, if not the biggest, bull is from New York.

The article follows:

UPSTATE BULL FINDS FAME IN WEST

(By Molly Ivins)

DENVER, January 17.—Here at the National Western Stock Show, the cattle breeders' Kentucky Derby, top honors for Black Angus have once again been taken by a New York owner and a New York bull.

In a scene normally dominated by men with Western twangs in ten-gallon hats and pointy-toed boots, breeders are getting used to having tassle-loafered New Yorkers walk off with the prizes. New York State is one of the major cattle-breeding areas in the country, particularly for Black Angus.

For the second consecutive year, the owner who took top honors in Black Angus was Jerome Brody, who is also the owner of Gallagher's Steak House on West 52d Street and of the Grand Central Oyster Bar. Mr. Brody, a 50-year-old Princeton graduate, has been in the cattle-breeding business only three years. In his role as restaurateur he regularly hobnobs with the likes of Jacqueline Onassis and Vanessa Redgrave.

His Gallagher's Angus Farm is near Ghent, N.Y., in Columbia County. Over the past 15

years, Columbia and Dutchess Counties in New York have produced more grand champion bulls than all the rest of the United States.

Mr. Brody's bull Patriot, born on the Fourth of July in 1976, has now won two-thirds of the breeders' Triple Crown. He won at the North American Livestock Exposition in Louisville, Ky., and here in Denver. He will be shown at the All-American Breeders Futurity next summer. Patriot is 1,620 pounds of prime beef, but there is no possibility he will ever wind up as steak at Gallagher's.

Patriot's victory here probably increased the value of his stud services by about a third, Mr. Brody said. Almost all registered breeding of cattle is now done by artificial insemination, and a healthy bull can provide about 6,000 services a year.

Mr. Brody refused to put a price on Patriot, saying, "Anything I say would probably be underpricing him, but I don't want to sound like a raving, proud owner, either." Most bulls sell for $1,500 to $2,000, but a champion may be worth several hundred thousand dollars. Patriot is an intermediate bull and is young enough to be shown again next year.

Mr. Brody also owned the supreme champion at last year's National Western Show, Manhattan Gal, a relatively dainty beast of 1,300 pounds. There are 76 head of Black Angus at Gallagher's Farm, and a new crop of calves is due shortly.

New York State's cattle business is almost entirely in the breeding end, not to produce meat for the table but to produce breeding cattle that will eventually improve the beast that does wind up on the table.

Mr. Brody said that for him and for other New Yorkers, cattle breeding was not just a gentlemanly hobby but a highly competitive business. "You try to have your own sales and to sell the progeny at higher and higher prices," he said. Mr. Brody is even trying to spread the Angus message in Europe. Last March, he showed Pioneer, a bull, at the Paris Agricultural Exhibition. It was the first time an Angus had been shown in France.

Mr. Brody and other New York cattle breeders are well known to the readers of such publications as the Angus Journal. But the idea of New York as a cattle state still seems incongruous to most people. But, as Jerome Brody is regularly proving on the cattle show circuit, you don't need the boots if you've got the bull.

RESPONSIBILITY FOR HEALTH

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. JACOBS. Mr. Speaker, would you believe:

RESPONSIBILITY FOR HEALTH

Most individuals do not worry about their health until they lose it. Uncertain attempts at healthy living may be thwarted by the temptations of a culture whose economy depends on high production and high consumption. Asceticism is reserved for hair-shirted clerics and constipated cranks, and every time one of them dies at the age of 50, the hedonist smiles, inhales deeply, and takes another drink.

Prevention of disease means forsaking the bad habits which many people enjoy—overeating, too much drinking, taking pills, staying up at night, engaging in promiscuous sex, driving too fast, and smoking cigarettes—or, put another way, it means doing things which require special effort—exercising regularly, improving nutrition, going to the dentist, practicing contraception, ensuring harmonious family life, submitting to screening examinations. The idea of individual responsibility flies in the face of American history, which has seen a people steadfastly sanctifying individual freedom while progressively narrowing it through the development of the beneficent state. On the one hand, social Darwinism maintains its hold on the American mind despite the best intentions of the neoliberals. Those who are not supine before the federal Leviathan proclaim the survival of the fittest. On the other, the idea of individual responsibility has given way to that of individual rights—or demands, to be guaranteed by government and delivered by public and private institutions. The cost of private excess is now a national, not an individual, responsibility. This is justified as individual freedom—but one man's freedom in health is another man's shackle in taxes and insurance premiums. I believe the idea of a "right" to health should be replaced by that of a moral obligation to preserve one's own health. The individual then has the "right" to expect help with information, accessible services of good quality, and minimal financial barriers. Meanwhile, the people have been led to believe that national health insurance, more doctors, and greater use of high-cost, hospital-based technologies will improve health. Unfortunately, none of them will.

The barriers to the assumption of responsibility for one's own health are lack of knowledge (implicating the inadequacies of formal education, the too-powerful force of advertising, and the informal systems of continuing education), lack of sufficient interest in and knowledge about what is preventable and the cost/benefit ratios of nationwide health programs (implicating the powerful interests in the health establishment, which could not be less interested, and calling for a much larger investment in fundamental and applied research), and a culture which has progressively eroded the idea of individual responsibility while stressing individual rights, the responsibility of society at large, and the steady growth of production and consumption ("We have met the enemy and he is us!").

The individual must realize that perpetuating the present system of high-cost, after-the-fact medicine will only result in higher costs and greater frustration. The next major advances in the health of the American people will be determined by what the individual is willing to do for himself and for society at large. If he is willing to follow reasonable rules for healthy living, he can extend his life and enhance his own and the nation's productivity. If he is willing to reassert his authority with his children, he can provide for their optimal mental and physical development. If he participates fully in private and public efforts to reduce the hazards of the environment, he can reduce the causes of premature death and disability. If he is unwilling to do these things, he should stop complaining about the rising costs of medical care and the disproportionate share of the gross national product that is consumed by health care. He can either remain the problem or become the solution to it; beneficent government cannot.

JOHN H. KNOWLES.

EDUCATION AND CHILDREN: PRIORITIES OUT OF FOCUS

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. HARRIS. Mr. Speaker, approximately 2,300 years ago Plato told of the captured tribe that was chained in their captors' cave in a manner that they could see only the back wall of the cave. The captors kept a fire at the mouth of the cave and for a generation the captives could only view the shadows cast on the back wall of people passing in front of the cave. Plato tells us that when finally released, the former captives believed that shadows were reality and people were the reflection of shadows. We now have a generation that has grown up under the heavy influence of television. How "real" are the images they have watched on the television screen?

In preparing for a speech to the Delta Kappa Gamma Society, I asked my legislative assistant, Ms. Glenda Surovell, to gather information on television's apparent effect on our young people. She did more. Ms. Surovell prepared a statement that, in my opinion, is timely and thought provoking. I presented the statement on February 4 because I believed it to be worthwhile. I share it with my colleagues today for the same reason:

EDUCATION AND CHILDREN: PRIORITIES OUT OF FOCUS

I welcome this opportunity today to talk about the effect of television on children. Television, whether good or bad, is a fixture in American life today. It teaches us, it numbs us; it delights us, it saddens us. That box in our family room (there are now even televisions we can carry around in our pocket) is a pervasive and modern form of telecommunications we cannot afford to ignore.

What are the facts? Ninety-seven percent of all U.S. households have television sets. Nearly 45 percent of all homes have more than one. Seventy-seven percent of all home TV sets are color. Children average 25 hours and 38 minutes of viewing a week; teenagers average 22 hours and 36 minutes. Adult women watch 30 hours and 14 minutes a week and adult men consume 24 hours and 25 minutes a week. This is quite a dose from the screen.

One of my major concerns and yours is what is television doing to our children. To the young child, the television can be a teacher, a window on the world, a trusted companion. Children probably develop a trust of the "tube" because it is a familiar and stable part of their world. It can be a comfort too—monsters can instantly disappear. And they can begin to look at life ahead as an endless, exciting serial of fantasies and animation, with a few "Cocopuffs" thrown in for snacks.

I'm not sure we really know what television does to children. There have been many studies by universities and private groups and there have been extensive Congressional hearings on this subject in recent years.

One study reports that children who view television become desensitized to violence in real life, that "normal emotional responses to human suffering become blunted and this desensitization may easily cause not only major increases in our society of acts of personal aggression but also a growing attitude of indifference and nonconcern for the victims of real-life violence."

Another expert says, "The accumulation of evidence suggests . . . that children will copy TV violence; that they often do not do so because of parental control and lack of access to weapons; that TV teaches a child that violence often succeeds and that problems can be solved by violence; that viewing TV violence blunts sensitivity to violence in the real world; that children remember specific acts of violence, and that preferring violent television at an early age leads to more aggressive teenage behavior."

Another study says, it is "not that children learn how to commit violence on television, but that television conditions them to deal

with real people as if they were on a television screen."

There is no consensus about the effect of television and television violence on children. In fact, there is not even a consensus about what violence is. Is it, for example, a murder, robbery, or argument; is it a push or shove? What about accidental violence like a strike of lightning or an automobile collision? Is violence the slaughter of a herd of cattle in HUD? Is it the killing of Bambi's mother? Despite these disputes, data from CBS independent researchers indicates that during prime time, the level of violence on television was as high or higher in 1976–77 than it was in 1972. We do know that from 8 to 8:30 pm every night there are, on the average, 14.7 million children between the ages of 2 and 11 in the television audience. (This same study shows that the number decreases as the night wears on and that, incredibly, from 12:30 am to 1 am, there are still 1.1 million children watching television! Quite frankly, I don't know why those children aren't in bed, but maybe they are). We also know that the average American child will see 18,000 murders on TV by the time he or she graduates from high school, says the American Medical Association.

Well, those are some of the facts. Where do we lay the blame? The House subcommittee that held a hearing last year concluded, simply, "On everybody." Putting a "Kojak" or "Deputy Dawg" on the screen involves the production community, networks, their affiliates, and other broadcast licensees. Advertisers—companies peddling "Wheaties" and "Digel"—support these programs too. And finally, the consumers, you and me, sit there in front of the "boob tube" and soak it up. The age-old law of supply and demand is operative here too: if there were less of a demand for violent programs, the supply would correspondingly diminish.

With our children, one answer is simply to turn it off. As independent free human beings, we can always turn that knob. One Congressional witness even suggested that TV manufacturers be required to put locks on the sets so that parents could "lock out" these shows from their kids. One response to that was locking it up makes it even more inviting and kids would go next door or somehow find a way to see the shooting, knifing, bludgeoning or whatever.

Well, that is the tip of the iceberg of the problem. The question obviously begging is what do we do. And here again, the answers are not easy. Our Constitution says we must have freedom of the press and freedom of expression. And I think most of us believe in that principle. The Family Viewing Hour—an attempt at self-regulation by the industry—is probably a good step. But, lawyers tell us, TV is dominated by three giant corporations and this approach may involve antitrust problems. The Federal Trade Commission is now trying to determine if advertising that teases little appetites with an endless array of sugar-coated cereals contradicts Section 15 of the FTC Act which provides that advertising cannot be misleading. Section 5 of the FTC Act prohibits "unfair or deceptive acts or practices in or affecting commerce." Does children's television advertising, especially advertising for highly sugared products, violate this law?

There have been some suggestions other than locks, that is. Local affiliates could be given the opportunity to prescreen programs in advance of the broadcast date. We could establish a children's television network; it could operate within the framework of the public broadcasting service. A former FCC chairman suggested that licensees be required to broadcast a signal, such as a small white dot, in the corner of the television screen to indicate that the program about to be viewed contains material designed primarily for adult viewing.

What every study I've read concludes is that the public, especially parents, need to be educated. And this is where you, the educators come in. You can help. "The most direct approach (to solving the problem)," concluded the House subcommittee, "would be to refrain from viewing programs that are known to contain violent material. The effectiveness of this approach could be heightened if, at the same time, viewers made the broadcaster and advertisers aware of the cause of their dissatisfaction." After all, we don't have to watch "Hawaii Five-O." We don't have to buy "Skin Quencher" if its advertisements are paying for "Police Story."

We certainly have as a nation a commitment to provide opportunities for young children to develop into happy, healthy, contented human beings. I would hope that all of our national policies have kept this as a central goal. But I'm afraid we have not quite done that, and the problem of television programming and its effect on children is a perfect example. We have been asleep. We have let an industry grow erratically and monstrously without even thinking about what it is doing to us. This is not so unique. There are many anti-children policies. Let me name a few:

The 1979 federal budget that came over to Congress last month totaled $562 billion. In it there is only 4 cents for education out of every federal dollar.

We have spent $50,000 per person overseas to train people to operate an M–60 tank. We spend $70 in federal funds to give one handicapped child an education.

For the price of one atomic submarine (it was $158 million several years ago) we could provide a nutritious school lunch every day for 1,417,111 children.

The unit cost of one F–18 combat fighter, $15 million, equals what we put into education research—the budget of the National Institute of Education.

For the price of one C–5A transport plane, $47 million, we could construct and staff 10 community colleges for one year.

Of all the mothers of children under 18, 46 percent are working today. That means there are 28.2 million children with working mothers. Only 900,000 of those children receive any kind of child care supported by federal funds. We have never seriously come to grips with the latch-key child.

We have a National Board for the Promotion of Rifle Practice that costs us $233,000 a year. But we don't have a Department of Education.

We dole out $236 million a year for ship construction, $388 million for ship operations, plus another $100 million in tax subsidies to maritime industry. But the 1979 federal budget only has $60 million for adolescent health services and $52 million for maternal and child health.

Since 1937, the federal government has spent over $4.2 billion in price support loans to tobacco producers. This figure comes close to the $5 billion we have spent on cancer research and prevention since 1965. This to me seems like a very contradictory and expensive federal policy.

We give subsidies to the cotton industry, martini lunches, oil companies, sugar importers and believe it or not, even beekeepers. I say something is wrong when our priorities as a nation get that mixed up.

Our priorities are out of whack. I'm about ready to say we need a children impact statement every time we make a law. Do we really believe in life, liberty and the pursuit of happiness for our children? We have a Mother's Day and a Father's Day. Maybe we should have a Children's Day. The bumper sticker I see on the highways makes good sense: "Have You Hugged Your Child Today?"

The researchers I referred to earlier suggest to us that television "blunts" and "desensitizes" children, that it encourages attitudes of "indifference" and "unconcern," that they are encouraged to "turn people off" as though they are turning off the television set. Is this what we want? Is this what our national policies ought to encourage, if not directly by neglect?

My message to you today is that we have to get serious about education, you and I. In the Congress, I vote for every education bill. No one can tell me education is too costly. I fight cuts in education spending. Just this week, I received my "children's rating" and I am pleased to say it is 100%. I wish it would be 500%.

Alfred North Whitehead has put it well: "When one considers in its length and breadth the importance of this question of the education of a nation's young, the broken lives, the defeated hopes, the national failures, which result from the frivolous inertia with which it is treated, it is difficult to restrain within oneself a savage rage." I say, "Let's do something about it." I say, "Let's have a little savage rage." Let's all turn into "lionesses." They're our "cubs."

AMBASSADOR LODGE ON THE PANAMA CANAL

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. SARASIN. Mr. Speaker, a great friend and statesman, Ambassador John Davis Lodge, has asked me to place the following article in the CONGRESSIONAL RECORD. The article appeared in the New York Times on November 29, 1977, and is authorized by Ambassador Lodge, I believe my colleagues will find the article of great interest:

[From the New York Times, Nov. 29, 1977]

THE CANAL: A RAMPART

(By John Davis Lodge)

WESTPORT, CONN.—The principal arguments vehemently raised in support of the Panama Canal treaties are not altogether convincing.

It is alleged in screeching tones that we stole it. That is contrary to the record. It was an act of constructive statesmanship by one of our great Presidents, Theodore Roosevelt. It constitutes a notable public service by the United States to the entire world. We should not be apologetic but proud of this unprecedented engineering achievement. We succeeded where the French failed. But for us, the Panama Canal would not exist. In one way or another it has been paid for by us many times over.

Should we now say that the Louisiana Purchase, by which President Thomas Jefferson bought one-third of the United States from Napoleon for $15 million, was a steal and that therefore we should return this vast area to France? And how about Alaska? And Hawaii?

It is asserted that the Panama Canal constitutes an anachronistic vestige of colonialism in a decolonializing world. Certainly the British, French, Spaniards and Portuguese have been shedding their colonies. But how about the Russians and their satellites? Are these satellites not in effect colonies?

Moreover, the Panama Canal Zone is not a colony. It is inhabited by many thousands of Americans. True, it is not contiguous to the United States, as it is to Panama. Is contiguity then the criterion? Well then, how about Alaska, contiguous to Canada and close to Siberia. Should we hand Alaska over to Canada or perhaps to Russia? Alaska is a state as is Hawaii. Yes—and we could con-

ceivably make a state out of the Panama Canal Zone.

It is declared that the Latin Americans resent the North American presence in the Canal Zone. Yet there are many others who fear Russian control of the canal by means of their control of Fidel Castro's Cuba and Castro's power and influence over Gen. Omar Torrijos Herrera, the current, temporary, unelected, left-wing, military dictator on Panama. And there are many others around the world who fear that the Panamanians, in spite of their threats and promises, will not run the canal as efficiently as we do. We run it very well indeed.

Argentina, Brazil, Chile, Bolivia, Uruguay, Paraguay and Ecuador have anti-Communist Governments and fear Communist infiltration of the Canal Zone. Many in these countries would dread our relinquishing control of it.

The principal argument advanced in favor of the treaties is that, as General Torrijos has warned us, if they are not ratified by the Senate there will be trouble in Panama—demonstrations, riots, bombs, guerrilla activity—and that therefore we must agree to the treaties as an act of appeasement—a mini-Munich, if you will—but, in effect, a shotgun arrangement.

We got tired of the Vietnam War, we refused to help in Angola, and so now it is proposed that 217 million Americans should cave in and run away before the ominous threat of 1.5 million people in Panama. This is the worst possible reason for ratification of the treaties, for it portrays us Americans as a supine pack of cowards, a paper tiger who will give in at the slightest threat of combat. It is succumbing to blackmail.

This is the argument that would cause us to lose face and friends and confidence in many parts of the world, particularly in South America, where our sanctimonious sermonizing about human rights has made us unpopular.

Certainly the treaties can properly be revised. However, let us recognize that in the normal struggle in which we are inextricably involved, for the United States to surrender control of the canal will, in this jungle world, present the enemy with an advantage. While in some ways the canal may be obsolete, in unfriendly hands it could present a difficult and dangerous problem for the United States, especially in the event of a showdown.

The overriding question is this: Is it in the interests of our national security, is it in the interest of the United States as leader of the non-Communist world to lessen our control of this vital waterway and rampart at a time when Russian imperialism, heavily and increasingly armed, is very much on the march? The national interest must be the determining factor. We should be governed by geological considerations. If we move out, will the enemy eventually move in?

SHORELINE EROSION

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. RUPPE. Mr. Speaker, with the support of several of my colleagues, I am today reintroducing the shoreline erosion management bill, H.R. 10015, that I earlier introduced on November 1.

After introducing H.R. 10015, I requested and received comments on this legislation from numerous State and Federal agencies concerned about the shoreline erosion problem on the Great Lakes. I am pleased that the comments I have received have been quite positive, having reviewed responses from Michigan, Ohio. Illinois, New York, as well as Federal agency comments. I am pleased that the bill I am introducing today has necessitated only minor modifications in light of these comments.

It is time that the Federal Government live up to its responsibilities in the Great Lakes area. After all, its control of water levels on the lakes at Niagara Falls and Sault Ste. Marie under the authority of the International Joint Commission and its involvement in the winter navigation program and interstate commerce on the lakes have been significant contributing factors to the shoreline erosion problems.

The approach established under this bill—a Federal, State, private partnership—is a major turning point in controlling the accelerated erosion process that is eating away at this magnificent fresh-water shoreline resource. Previous efforts to control this process have excluded the private property owners from participation, despite the fact that 70 percent of the critically eroding areas and 82 percent of the entire shoreline is privately owned. Now, by providing a low interest loan program for private property owners to be administered by the State and providing for State-Federal grants for eroding public property, we will be marshaling our resources in a cooperative endeavor to preserve this coastal resource for future generations.

It is my hope that this legislation will serve as the major vehicle for reversing the destructive erosion forces on the Great Lakes.

COMMUNITY EDUCATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. LEHMAN. Mr. Speaker, Congress will soon be considering the reauthorization of the community education program. Community schools have been a great success in Dade County and have generated a high degree of public enthusiasm.

In order to make my colleagues more aware of the potential of community education programs, I would like to share with them this editorial from the Miami Herald. The editorial is as follows:

COMMUNITY SCHOOL PROGRAM SCORES AN "A" ON ALL COUNTS

Top school administrators and a group of citizens gathered for lunch the other day to give new impetus to an old program, community schools. They advocate a proposal that almost anyone would agree makes sense: keeping the schools open during non-school hours for use by the community.

From a fiscal standpoint, this is appealing. Publicly financed buildings, playgrounds, libraries, auditoriums, and other facilities should be used for as many public functions as possible. Why should the gate to the school playground be locked at 3 o'clock, requiring neighborhood children to play in the street? Why should a community have to build an activities center when there is a nearby school that is closed more than it is open?

This is the situation with all but 57 of Dade County schools. Yet the county participates more fully in community schools than most places in the nation. It pioneered the program years ago.

Local supporters soon learned that despite its seeming simplicity, the program is fraught with obstacles. The greatest is the most obvious: reluctance of the school administrators to share their turf with outsiders. Basically the struggle is over sharing not buildings and playgrounds, but power.

Dade County School Superintendent J. L. Jones concedes as much. He is a strong supporter of the community-school concept. But like most other educators, he views it in much broader terms than most citizen advocates.

The latter are concerned primarily with better utilization of school facilities and programs in meeting community needs. But the educators see the community schools as a vehicle for gaining community control of the educational system.

In a way, each side perhaps is focused on the same object, but from opposite ends of the telescope.

While appearing to sympathize to some extent with the educators, Dr. Jones has decided, wisely, we think, that the best course is to let the citizens in, both in the buildings and in some of the decision-making. Though not persuaded that this will lead to better learning, he argues that participation is an "end in itself" because "it makes new resources available to the schools."

That is an interesting approach, considering that the aim of community schools is to bring more school resources to the community. If the reverse also occurs, and the schools get more resources from the community, then so much the better. It is not often, in the school system or anywhere else, that a program comes along whose benefits are so well balanced.

LITHUANIA'S INDEPENDENCE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Ms. MIKULSKI. Mr. Speaker, February 16 is a day of great importance for individuals of Lithuanian origin because this day commemorates the 60th anniversary of the restoration of the Republic of Luithuania. The proud citizens of this Baltic republic fought bravely for their independence, but in 1940 the Soviet Union, an ally of Nazi Germany at the time, seized and occupied all Lithuanian territory. At the end of World War II, the Soviets refused to restore the independence of the Baltic States.

Since that time the citizens of Lithuania have been under foreign rule. The domination of this people by the Soviet Union is a flagrant denial of the principle of national self-determination. Those Lithuanians who have not been able to escape from their homeland have been subjected to political repression, religious persecution, and a denial of their human rights.

I am a cosponsor of a concurrent resolution in the House introduced by Representative DORNAN which, expressing the sense of Congress, encourages the self-determination of the captive nations of Lithuania, Estonia, and Latvia. I was pleased to learn that in recent weeks representatives of these captive nations have visited Belgrade to appeal

to the conference on behalf of their countrymen under Soviet occupation.

To the Lithuanian people I express my continuing sentiments of support on this 60th anniversary celebration of independence. It is my hope that they may soon recover their homeland so that the next independence day will be celebrated in a free Lithuania.

THE COMMUNICATIONS ACT

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. ROSE. Mr. Speaker, the Communications Subcommittee of the Committee on Interstate and Foreign Commerce is engaged in highly important work—preparing legislation to give the Nation a modern communications law.

Under its distinguished chairman, the Honorable LIONEL VAN DEERLIN, the subcommittee will be bringing before this House a bill that could have a greater impact on the lifestyles of our citizens than that of the railroad legislation of the last century.

Mr. VAN DEERLIN, who was a radio and television news director in his home city of San Diego before coming to Congress, has written a perceptive article about the problem and the potential of rewriting the Communications Act of 1934. I commend this article, which appeared in Sunday's New York Times, to my colleagues:

BROADCASTING NEEDS A NEW ACT TO FOLLOW

(By Lionel Van Deelin)

Congress has a job to do. It ought to rewrite—and significantly update—the Communications Act of 1934. Believe it or not, what we see on television today is regulated by a 44-year-old law. When written, the law was intended to regulate broadcasting "in the public interest, convenience and necessity," whatever those words may have meant in 1934. Your telephone system, too, operates under this law—which mentioned only radio and wire communication. The Act antedated television, coaxial cable, satellites, direct microwave beams, laser beams, fiber optics and a host of other technologies which may change the lives of Americans as sweepingly as the Industrial Revolution. The authors of the Act could not anticipate the manner in which three networks would come to dominate broadcasting. Their key aim had been *localism*. Assignment of frequencies was supposed to tailor broadcasting service to the needs of individual communities.

The Act hasn't worked that way. It has, in fact, done almost the opposite. Today, in the face of F.C.C. rules intended to limit multiple station ownership in the 50 top markets, the following is true:

Each of the three networks owns five of the most profitable TV station licenses in the nation. (Their 15 outlets, which are one-fiftieth of U.S. commercial stations, yield one-fifth of the total earnings.)

In addition to their own stations, the networks provide more than 80 percent of each day's total programming on 585 other commercial outlets. Three out of four TV stations are licensed to, or affiliated with, the networks.

Finally, the bulk of programming on nonnetwork independent stations is mostly syndicated re-runs of network hits from earlier years.

It's not hard to understand why things have worked out this way. It takes money to produce quality programming; even a prosperous local broadcaster could not maintain the volume of entertainment or the breadth of news coverage produced for the wider total audience served by networks. But the flood of new transmission techniques sends a clear message: Wider programming choices are within our economic reach.

Too often, those choices have been denied the consumer or needlessly delayed by slow F.C.C. authorization. FM radio, with its superior ability and spectrum of space for hundreds of new stations, waited more than two decades for licensing. The reason? Its introduction threatened a major company's then-dominant place in communications manufacturing.

Pay TV—the option of watching programs without commercial interruption, for a fee—was long denied American householders first by a five-and-a-half year freeze by government regulators on all cable development and then, in 1972, by the imposition of rules by the F.C.C. which the courts later found to be arbitrary and capricious.

Now a bipartisan group in Congress is determined to forge a new Act, one more attuned to the times. We hope to establish a House position by year's end, and send a bill to the Senate early in the next Congress.

The consumer will benefit from a new law. The explosion in communications holds promise of vastly expanded services at ever decreasing costs. Old systems and new are coming together. Through home telephone service either cable or optical fiber can provide 30 to 60 new television channels. "Solid state" techniques and miniaturization have brought computers within reach of every home. The cable giant, Teleprompter, is already linking up New York's banks and may next put the equivalent of a teller's window into the lobbies of apartment houses—without the teller. Warner Cable is serving the west side of Columbus, Ohio, with a two-way TV system that extends the classroom into everyone's living room, and permits football fans to second-guess Woody Hayes by voting with a dial on their TV set for their optional play choice during a time-out. Our Postal Service needn't worry much longer about rain, sleet or the gloom of night—letters can move electronically long distance and need be hand delivered only within a city, just as telegrams go by wire from town to town and are then delivered as 'mailgrams' to the addressee.

Something called "video retrieval" is just around the corner: If tonight's TV log lists nothing tempting, one will be able to dial an old program or movie—or a replay of last night's hockey game. The demand for these kinds of options is demonstrated by the success of the home video tape recorder which was a pre-Christmas sellout in many department stores (at under $1,000, and falling). With one of these devices, the viewer can record for later replay a program he is watching, or a program other than the one he is watching—or he can set the device to record a program when he is not home. He can even rent tape cassettes and videodisks of programming unavailable on the air.

Network broadcasters are understandably nervous about what negative ramifications an updated Communications Act might hold for them. They recall a startling forecast by the communications advisers to President Ford: that the decade of the 1980's might see cables and satellites ending the need for conventional present-day networks. The long-throttled competitor, pay TV, is suddenly enjoying a boom. The owner of a local UHF station in Atlanta uses a combination of satellite and cable transmission to compete for audiences around the country. Hollywood talks of beaming new films via commercial satellite straight to local stations, bypassing the networks. Japanese broadcasters are now testing the transmission of satellite programming direct to home receivers, via rooftop antennas. Sophisticated telephone terminals still in the laboratory could significantly broaden the choice of news and entertainment flowing into the average home. Cassetes, videodiscs and the new 'electronic games" all challenge the broadcasters' domination of our home screens.

In a time of record profits (annual income $8.1 billion and growing) the broadcast industry feels embattled as never before. Yet rather than moving to equip itself for a new environment, the industry chooses to draw its wagons into a circle around the hopelessly outdated Communications Act of 1934.

Perhaps, as most commercial broadcasters insist, the nation's tastes *are* adequately served by a nightly diet of comedy, police shows and pap. If so, such fare will withstand the test of competition—and broadcasters can continue to enjoy a healthy return on investment without the protection of tight government regulation.

But the task of Congress is to match the Communications Act with the times; to make certain it serves the consuming public, and not just the varied industrial or business interests involved. Americans should be able to enjoy the full fruits of American ingenuity—the right to choose from the widest range of sources for their entertainment and—more important—their enrichment.

DAY REACHES HIS GOALS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. JACOBS. Mr. Speaker, just in case nobody believes there are Horatio Algers any more, I insert the column written by Thomas R. Keating in the Indianapolis Star on February 2, 1978—a good story about a good life:

DAY REACHES HIS GOALS

(By Thomas R. Keating)

Now that John Day is a state legislator, he doesn't have to hitchhike anymore or fret about how to buy his next meal or pay the rent.

Most of all he doesn't have to worry anymore about whether he has what it takes to reach his goals

A lot of people will tell you how they came up the hard way, but very few have been along the route John Day took.

John grew up in Holy Cross parish on the near Eastside. His parents were divorced when he was young and when he was graduated from Cathedral High School in 1956, he was on his own.

He rented a tiny apartment at 13th and Pennsylvania streets, got a federal loan to attend Marian College and set out to work.

He had to drop out a couple of times to deliver whiskey and work at a hospital and a variety of other places when he needed money. Sometimes he worked nights and went to school days. Other times he worked days and went to school nights.

He did this for six years while living alone on a budget of $2 a day.

He had no car, not what you would call an active social life and no one to turn to for an extra $10 or $20 to tide him over. He ate a lot of peanut butter and jelly sandwiches and often just didn't eat for a day or so. He hitchhiked to Marian and back for all his classes.

You would see him occasionally in those days, usually talking about an interest in politics that was fired by listening one night in 1959 to a speech given by a U.S. Senator named John Kennedy.

He always looked a little hungry then, a little nervous and a little overworked, but never even a little sorry for himself.

When his first goal, college graduation, was reached, Day got a job teaching at Roncalli High School and another government loan to attend graduate school at Indiana University. In less than three years, he had a master's degree in government and went to work in the probation department at Marion County Juvenile Court.

About this time, he also started work on another goal. He used to tell fellow students at Marian that someday he was going to help develop legislation to help people.

In 1968, Day ran for a seat in the legislature, won in the Democratic primary and lost in the general election. In 1970, he ran for a seat in the legislature, won in the primary and lost in the general election. In 1972, he ran for a seat in the legislature from the newly created 45th district and this time, lost in the primary.

You may be getting the idea he doesn't give up easily.

In 1974, he was elected to the legislature from District 45 and again in 1976.

District 45 is roughly bounded by 38th Street on the North, Keystone Avenue on the East, Fountain Square on the South and Harding Street on the West.

It is a district in which about 75 percent of the voters are black. Everyone ever elected to the General Assembly from the district has been black—except Day.

Unlike many men who come from less than modest beginnings and, when they become successful make a creed out of believing that there is no reason anyone who is poor cannot do the same thing. Day has devoted his time to legislation that would benefit the boy he once was rather than the men of power he has come to know.

On his first day in the legislature back in 1975, Day was sworn in and then waited all of about two minutes before introducing a bill called the Uniform Residential Landlord Act.

It is a bill that spells out the rights of tenants and landlords and, among other things, allows a tenant to break a lease if health and safety standards are not maintained.

Day set about working for the bill's passage with the doggedness that is by now as ingrained into his personality as the nervous intensity that marks even his relaxed moments.

In 1975, the bill was defeated in the house by a margin of 43 to 42. Day called all the representatives who voted nay and turned many of them around. On a second vote, the bill passed 53 to 25 with 20 abstentions. It then went to the senate and died.

In 1976, the bill was voted down in the house, 47 to 45.

In 1977, Day picked up a co-sponsor in the senate, Republican Speaker Pro-Tem John Thomas from Brazil. When the senate deadlocked, 25 to 25, however, Lt. Gov. Robert Orr broke the tie with a no vote and the bill expired again.

This session of the General Assembly, the senate version of the legislation finally passed, 23 to 21. The house will most likely vote on the bill within two weeks.

It should pass but if it doesn't, it will some day. With Day's record for persistance, it's almost a sure thing.

SALUTE TO FEDERAL PAPERWORK COMMISSION

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. JONES of Oklahoma. Mr. Speaker, almost daily we are reminded in the press of some Government cost overrun, a new bureaucratic nightmare, or another ineffective effort to deal with a problem. Little notice is given, however, when one small part of the Government functions exactly as it was designed.

Yet this very happening occurred last week when the Commission on Federal Paperwork, chaired by Congressman FRANK HORTON, terminated its work. Not only did this Commission complete its work on schedule, but it returned $1.25 million in unspent funds to the Federal Treasury. The Commission made approximately 810 recommendations on ways to reduce paperwork of which 60 percent were acted upon by Congress. There is an estimated $3.5 billion in first year savings as a result of the recommendations already being implemented, and an estimated first year savings of $10 billion if all recommendations are put into effect.

Thus I believe the news of such a successful endeavor by a Federal Commission should be made more available to the American public. Too often the public is exposed to Government endeavors which are unsuccessful. It is good to publicize when the Government does something effectively and efficiently.

"EUBIE" BLAKE BEGINS HIS 95TH YEAR

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. CONYERS. Mr. Speaker, today, February 7, is the 95th birthday of James Hubert "Eubie" Blake, one of America's greatest musical artists and composers. A creator of ragtime and Broadway musicals, he has become a legend in his time.

Eubie Blake was born in Baltimore in 1883, the last of 11 children and the only one to survive past infancy. His parents were once slaves. He learned his musical skills outside of school, joining a singing quartet at age 12, a vaudeville show at 15, and composed his first song, "The Charleston Rag," in his 16th year. Despite the limited opportunities to study music and difficult circumstances—for two decades he survived by performing in every manner of nightclubs, and even on the back of a horse-drawn wagon—Eubie played his music and composed his songs until they became the classics of the day.

In 1915 Eubie launched a new career in Broadway musicals by teaming up with Noble Sissle, his lifelong friend and partner. Along with the comedy team, Miller and Lyles, they created a series of all-black Broadway musicals that inspired a whole new generation of jazz artists and audiences alike. Its enormous success was followed by several other musical scores and memorable songs such as "Memories of You."

Eubie Blake symbolizes the greatness of jazz and its standing among audiences throughout the world as the classical music of America. At 95 Eubie Blake continues to delight musical audiences, for which we are all immensely grateful.

TRIBUTE TO JOHN CRAMER

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. UDALL. Mr. Speaker, not long ago, I introduced a "whistleblower's bill" to protect Government workers who report on things and people that go wrong in the Federal bureaucracy.

Learning of the semiretirement of John Cramer, it occurred to me that he probably was one of the alltime whistleblowers in this city, a man who whistled from a bully pulpit, a column that began in the old Washington Daily News and continued in the Washington Star.

John deserves recognition as one of the best journalists in Washington. For nearly 40 years, he has represented the best in journalism—a reporter with a deep pride in his craft who was fair, careful, and diligent with facts, fearless, and with a deep, human side.

He did not just blow whistles. John knew that the great majority of Federal employees are topnotch, reliable, conscientious people, and he wrote about their point of view, and about their problems.

In journalism, a reporter who gains respect from the opposition has hit one of the high marks of the business. John recently was the subject of such a tribute, in the form of a column written by Mike Causey of the Washington Post.

I include Mr. Causey's column in the CONGRESSIONAL RECORD. It is worth reading, because John Cramer is worth remembering.

[From the Washington Post]

"GODSPEED" TO RESPECTED RIVAL

(By Mike Causey)

After spending 36 years slaving over a hot typewriter (and loving every minute of it), John Cramer, The Washington Star's popular federal columnist is going into semi-retirement.

John's long career (begun with the old Washington Daily News in 1941) covers a lot of ground. He leaves a trail of delightful writing, top investigative reporting, and a legion of sadder but wiser federal officials who felt his wrath. And lots of friends and admiers. He's the dean of the crew of writers who cover government workers. John did it longer, and better than most.

For lots of people in and out of government it is sad that John is pulling the plug. The good news, however, is that he will write a column every Sunday in The Star. His colleague, Joseph Young, will do the Federal Column Tuesday through Saturday.

Cramer titled against the federal windmill in his lively column in the old Daily News until it merged with the Star in 1972. Crooked, dumb or pompous federal officials would tremble, as they opened the tabloid to page 2, where John always called it the way he saw it. Often the Daily News would make it easier with a banner headline to find his column.

John was usually for the underdog, and always for good government. He is credited with killing off a number of plans and legislative proposals that would have hurt government workers, or given undue benefits to officials.

At least two pieces of legislation dealing with the civil service are unofficially called

"The Cramer Act" and "The Cramer Amendment" because he pushed them into law. President Johnson once invited him to the White House for the signing of a "Cramer" law, along with the members of Congress who agreed that John had done more than the rest of them put together.

A major news magazine once decided to do a feature on Cramer. They wanted to find out what made the popular, and durable, columnist tick. A researcher asked what his philosophy was How he could cover the government daily for so long and maintain his sanity.

Cramer is said to have told them something like: "My philosophy is that the U.S. government is made up of some awfully good—people who are under some dreadfully bad management." Regular readers of the column know he never strayed from that philosophy, protecting the little people and deflating the big ones.

"John Cramer gave me a harder time than anybody in this town," said a top General Services Administration official. "He would tear a piece out of my hide regularly. But nobody was more honest, or fair." That kind of comment keeps cropping up when friend and foe talk about John Cramer.

Despite our rivalry, John and I did collaborate on a research project in the mid-1960s. It lasted for several years. The place was a 14th street NW restaurant called the Dolphin, located almost exactly between the Post and the News buildings. The original building, unmarked by any plaque to our research, remains.

The purpose of our studies was to determine the effects of certain selected distilled beverages on the brains of two Americans of Irish descent. We did it without compensation and today ask no praise for whatever humble contribution to science we might have made.

One day, John arrived early. He was several test tubes ahead of me.

A woman came into the restaurant. She walked over to the table, littered with olives, onions, lemon rinds and paraphernalia for stirring liquids. She stopped, studied John for a moment and said:

"Pardon me, aren't you John Cramer?"

(In those days, the Daily News ran a drawing of John's profile with his column.)

"Yes ma'am," John said.

"You look exactly like your picture in the newspaper," she said.

"I know," Cramer replied. "I'm sorry."

Actually, there is no need for John to be sorry, during his 36-year war and love affair with the bureaucracy. He did nice work.

FRANK BROPHY, OUTSTANDING CITIZEN

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1978

Mr. RHODES. Mr. Speaker, I would like to join my colleague in paying respects to Frank Brophy, who was a well-loved and respected citizen of our State, and a warm personal friend of mine.

Frank Brophy was a descendant of a family that pioneered banking in Arizona during the early copper mining days, founding banks at Bisbee and Douglas. From the time when Arizona had little but sunshine, sagebrush, and scattered settlements, the Brophys have been in the forefront of the banking industry that financed its growth. Frank was chairman of the board of Douglas Bank and active in Valley Bank, both institutions that have financed a wide range of economic development projects.

He was a writer, a rancher, and a firm and ardent supporter of States rights. He introduced pedigreed citrus and helped develop Sphinx dates. He participated in many civic activities, raised purebred cattle and fine horses, and was a director of the Arizona National Livestock Show, chairman of the Arizona Racing Commission, and a member of the State Fair Commission.

Frank Brophy was a colorful individual, a man of vision and vociferous enthusiasm for Arizona and the free enterprise system. I extend my condolences to his family, and feel a heavy sense of personal loss in his passing.

A NEW WATCHDOG TO KEEP WATCH ON THE OLD WATCHDOGS?

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. HYDE. Mr. Speaker, at the risk of incurring the wrath of consumer activists, and with the absolute certainty that I will be accused of being anticonsumer and probusiness, I vigorously oppose the creation of a "super" agency whose main purpose would be to represent the interests of consumers (as interpreted by this new elite) in Federal agency proceedings.

Proponents of this legislation contend that this new agency is necessary because existing agencies are not doing their job. The logic seems to be that we need a new watchdog to keep watch on the old watchdogs.

There are many things wrong with H.R. 9718, the Consumer Representation and Reorganization Act of 1977, the first of which is the autocratic manner in which it is being forced upon us, and in turn, the American people. This is only the latest example of numerous attempts to ram bad legislation down our throats.

H.R. 9718 has never been before committee, and cannot even be considered a committee substitute. The original legislation survived the Government Operations Committee by a one-vote margin, hardy indicative of strong committee support.

Nevertheless, the Democratic leadership, under mounting pressure from the White House to help Jimmy Carter keep a campaign promise, declared that the House would consider the newest version of the bill on February 7, and here we are.

The administration claims this measure will "reorganize certain consumer programs." They fail to point out that a single Executive order could consolidate all existing consumer agencies into one.

The new Office of Consumer Representation will have the authority to intervene in nearly every agency proceeding, and would place the full weight and power of the executive branch against the respondent, adding a huge array of powers already given existing agencies: A second prosecutor, free to intervene, investigate, depose, subpena, interrogate, examine, cross-examine.

Consumer advocates claim that an Office of Consumer Representation will have no difficulty in determining just what is in the consumer's interest. Which consumer? We are all consumers, with differing points of view.

The last time certain consumers insisted on mandatory seatbelts. Congress gave them what they wanted. The result: Congress was deluged with angry mail and rescinded the law, but not before it had cost consumers $2.4 billion extra for their new cars.

Which consumers will the new agency represent, those who agree with Ralph Nader on every issue? The environmentalist? The conservationist? The taxpayer? The poor? The middle class? The homeowner? The renter? The large family? The elderly? Obviously there is no one point of view for the consumer.

Which consumers would the new agency have represented in the recent FDA ban on saccharin?

What about the dozens of new statutes already on the books, from the Hazardous Substances Act to the Fair Labeling and Packaging Act, from the National Traffic and Motor Vehicle Safety Act to the Consumer Goods Pricing Act?

The American people do not want another new agency; they want less Government interference in their lives. They want President Carter to keep his campaign promise to streamline the Federal Government and reduce the size of the bureaucracy, not create more.

Congress ought to exercise tough oversight over those agencies which already exist to protect the public interest rather than create a new one.

LEGISLATING RESPONSIBLY: LIMITING LEGISLATION ON APPROPRIATIONS BILLS

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. HARRIS. Mr. Speaker, today I am introducing a resolution to limit legislation in appropriations bills and I am pleased that 26 Members of the House have joined me by cosponsoring this measure.

The separation of legislation and appropriations is a fundamental principle of constitutional government, from which derives our authorizations-appropriations process and the jurisdictional structure of our committees. However, the House has compromised this principle in several ways over the years.

Basically, my resolution, first, prohibits limitation amendments, which are conditions on spending that are allowed through practice in the House; and second, deletes the "Holman rule," which

has permitted certain changes in existing laws in appropriations bills. The text of my resolution, the history of the current rule, and my reasons for introducing this measure appeared in the CONGRESSIONAL RECORD on January 19 on page 125.

It is my belief that our authorizing committees can and should handle policy question thoroughly and deliberatively. Appropriations bills should be money measures for purposes authorized in law. They should not become "issue Christmas trees."

The following Members of the House are cosponsors of this resolution. I look forward to additional Members joining this bipartisan group:

LIST OF COSPONSORS

Mr. Brodhead, Mr. Buchanan, Mr. Carr, Mr. Cotter, Mr. Danielson, Mr. Edwards of California, Mrs. Fenwick, Mr. Fithian, Mr. Krebs, Mr. Mann, Mrs. Meyner, Ms. Mikulski, and Mr. Miller of California.

Mr. Moss, Mr. Ottinger, Mr. Patterson of California, Mr. Pattison of New York, Mr. Rose, Mr. Runnels, Mr. Ryan, Mr. Solarz, Mrs. Spellman, Mr. Stokes, Mr. Weaver, Mr. Whitley, and Mr. Zablocki.

CONGRESSMAN BEVILL'S LETTER TO THE PRESIDENT ON ADMINISTRATION NUCLEAR POLICIES

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. McCORMACK. Mr. Speaker, on January 25, the Honorable TOM BEVILL, chairman of the Public Works Subcommittee of the Committee on Appropriations, wrote to the President relating the impressions Congressman BEVILL had received during his recent trip to Europe. Congressman BEVILL visited the heads of the energy agencies of the Western European nations, met with the leaders of the International Atomic Energy Agency, and toured the French liquid metal fast breeder demonstration project.

Congressman BEVILL's impressions, as he related them in his letter to the President, provide an important message for all Americans, and constitute an important contribution to our thinking of one of the most significant aspects of a responsible national energy program. I am, with his permission, inserting a copy of Congressman BEVILL's letter to the President at this point into the RECORD:

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Partly because of the growing controversy between the Administration and the Congress with respect to the pace and direction of the nuclear power program, I have been looking more deeply into nuclear energy issues nationally and internationally.

Recently, I had an opportunity to visit with the Director General of the International Atomic Energy Agency, the Executive Director of the International Energy Agency, and energy officials in the Republic of Spain. I also visited the French East Breeder Reactor Demonstration project (Phoenix) and the nuclear waste vitrification facilities at Marcoule. Members of my Subcommittee staff visited similar nuclear facilities in the United Kingdom.

I found great concern that the U.S. is abandoning its position as the world leader in peaceful nuclear technology by its decisions to defer indefinitely reprocessing of nuclear fuel and delay development of the liquid metal fast breeder reactor. It seems that most nations of the world have had great confidence in the breadth and depth of the U.S. nuclear programs. They believed that our intense concern for nuclear safety and critical licensing processes could be depended upon to provide safe nuclear energy options for those nations that do not have our energy reserves, nor capital resources to invest in nuclear development. Now, there is great uncertainty as to our policy and intentions, and suspicion that our International Fuel Cycle Evaluation initiative masks an arbitrary decision by the Administration to limit development and use of nuclear power for energy purposes.

All of our contacts supported U.S. objectives of preventing further nuclear weapons proliferation and assuring adequate nuclear safeguards. But we found no responsible official at the technical level who believes we should defer reprocessing of light water reactor fuels or delay development of the uranium-plutonium cycle liquid metal fast breeder reactor because of proliferation or safeguards concerns. All seemed to think that with appropriate national and international agreements, present programs can be adequately safeguarded, and that the world needs for energy dictate aggressive development of nuclear energy capabilities, particularly a viable breeder reactor.

We found almost universal surprise and amazement at U.S. proposals to reexamine technologies previously rejected in favor of the LMFBR option since this seems unwarranted on any technical grounds.

Partly because of concern over U.S. policy, Spain, for example, has decided to order four large nuclear power plants from a non-U.S. supplier and to buy nuclear fuel from Russia. They have contracted with Britain and France for reprocessing. Such decisions aggravate our unfavorable trade balances and further weaken our position of leadership in nuclear matters.

IEA world energy projections indicate that other nations need to turn to a more permanent source of energy, such as fast breeder reactors, well before the turn of the century. Russia, France and Britain each have already developed and operated 250 MWe fast reactor prototypes comparable to our Clinch River project and have shown great progress in liquid metal technology. They are moving aggressively to reprocess present fuels and have demonstrated technology to reprocess fast reactor fuels. Their waste management programs seem comprehensive and adequately designed to deal with problems of nuclear wastes. These countries are already at work on commercial size breeder reactors.

In the U.S. it would seem sensible to move to more permanent energy sources at an early date to conserve our exhaustible fuels. Also, there is growing concern over the potential environmental consequences of greatly increased use of depletable resources for energy needs.

The Administration's 1979 budget calls for "a strong but reduced base technology for the the liquid metal fast breeder reactor" and again proposes cancellation of the Clinch River demonstration plant. Overall, the budget reflects a reduction in funds for the breeder program from $708 million in 1977, to $517 million in 1978 and further to $367 million in 1979—a decrease of nearly 50 percent in two years. The 1979 budget also reduces funding for nuclear fuel cycle activities by 13 percent.

These reductions seem inconsistent with Administration statements regarding the need to move to more permanent energy sources In addition, while the budget characterizes the Clinch River plant as an "unnecessarily expensive plant based on outmoded technology", nothing is proposed in its place which might help to move U.S. technology back to the forefront.

I know of the pressures being exerted by those who oppose the peaceful use of nuclear power in this country and who would like to stop our development programs. But it is obvious that others are proceeding without us and, in fact, may now be several years ahead of us. It appears that the choice is whether we decide to maintain a posture of leadership to assure safe use of nuclear energy in the world, and to secure our future energy options, or whether we abandon our leadership role to others and take added risk with respect to energy supplies through a hiatus in our nuclear development and demonstration programs. I think this latter course is dangerous to the Nation and strongly urge your personal reconsideration and redirection of the Administration's present planning.

I would be pleased to discuss this matter with you if you wish to do so.

Sincerely,

TOM BEVILL,
Chairman, Public Works Subcommittee.

KILLINGSWORTH: "THE CASE FOR THE HUMPHREY-HAWKINS BILL"

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. CONYERS. Mr. Speaker, with any new legislation that represents a major departure in the way Government solves problems, there is bound to be strong reaction. This is particularly the case with the Humphrey-Hawkins full employment bill. Conservative critics allege it will harm the economy. Critics on the left castigate it as being merely symbolic. Both positions misperceive the nature of H.R. 50.

The full employment bill does four things, which never have been tried before. It sets a goal of 4 percent or less unemployment (3 percent for adults) by 1983; coordinates economic and budget policy, as well as all phases of Federal activity, into a coherent full employment plan; utilizes a wide variety of policies to achieve the goals, including private sector incentives, public service jobs, and targeted investment, job training, and employment in economically depressed areas; and, provides safeguards against inflation. The very policy process which H.R. 50 establishes provides for monitoring and evaluation, thereby insuring that the most effective policy instruments will be chosen to achieve the full employment goals.

Last Friday Dr. Charles Killingsworth, the distinguished labor economist at Michigan State University, testified in support of H.R. 50 before the Senate Subcommittee on Employment, Poverty, and Migratory Labor, chaired by Senator GAYLORD NELSON. As a leading authority on employment policy, Dr. Killingsworth has considerable knowledge about the weaknesses of existing policy. I urge my colleagues to consider care-

fully his closely reasoned defense of Humphrey-Hawkins:

THE CASE FOR THE HUMPHREY-HAWKINS BILL
(By Charles C. Killingsworth*)

Rational discussion of the Humphrey-Hawkins Bill faces three impediments. The first impediment is the view that unemployment is now declining rapidly because of the operation of the "natural" forces in the economy, thereby reducing the need for measures like Humphrey-Hawkins. The second impediment is that there have been four different versions of the Humphrey-Hawkins Bill in the last several years, and the differences between these versions are in some respects quite substantial. The third impediment, related to the second, is that hardly anyone now writing or speaking for the popular media has actually read the full text of Humphrey-Hawkins IV, the version now under consideration. In this statement today, I wish to comment briefly on each of these impediments. Then I will turn to an appraisal of the most significant contributions that the bill would, in my judgment, make to employment policy in the United States.

Last month the Bureau of Labor Statistics announced that the national unemployment rate had dropped to 6.4 percent in December, 1977, and that revised seasonal adjustments showed a fairly steady decline in unemployment since the first quarter of the year. Some analysts have found these revised unemployments rates "incredible," but the general public finds no persuasive reason to doubt the validity of these official government figures.

Some opponents of Humphrey-Hawkins have suggested that the sharp recent drop in unemployment rates weakens the case for this proposed legislation. I believe that is a fallacious view. It is extremely important to recognize that at least half of the decline in unemployment since June, 1977, must be attributed to the rapid expansion of the Public Service Employment program since that date. More than 300,000 new jobs have been created in the last six months by that program. Most of those hired were unemployed when they got PSE jobs. There are also other governmental job creation programs which, although they have not expanded rapidly in the past six months, are quite large. College Work-Study, CETA youth programs, on-the-job training and similar on-going programs contribute to the employment total. My rough estimate is that about two million persons are currently enrolled in such programs (including 700,000 in Public Service Employment). If all of these programs had been terminated as of early December, the reported national unemployment rate would have been between 8.0 and 8.5 percent in that month, rather than the 6.4 percent actually reported. The Humphrey-Hawkins Bill implies continued reliance, as needed, on the direct job creation efforts of government. It is illogical, to put the matter mildly, to argue that because unemployment has now been substantially reduced—in large part by this policy—the need for Humphrey-Hawkins has also been reduced. This country still has the menacing problem of a labor market with inadequate capacity for spontaneous job creation in some areas.

It is understandable that some otherwise well-informed persons are not aware of the substantial differences between the successive versions of Humphrey-Hawkins. The sponsors of this bill have been remarkably responsive to the friendly and even the not-so-friendly critics of the proposal, and Humphrey-Hawkins IV is a markedly different bill from Humphrey-Hawkins I. So far as my personal views are concerned, I was unable to support Humphrey-Hawkins I; I had some reservations about Humphrey-Hawkins II; I endorsed Humphrey-Hawkins III; and I think Humphrey-Hawkins IV is a significant improvement over its predecessor. Many people with whom I have discussed the Humphrey-Hawkins proposal recently still have reservations based on provisions which no longer appear in the bill. A substantial educational effort will be necessary to overcome these obsolete criticisms.

Thus far, with a few outstanding exceptions the popular media have not been very helpful in informing the general public about the current Humphrey-Hawkins proposal. I get the impression that some of those writing and speaking on the subject have never actually read the full text of any of the proposals. Some of the assertions now being published appear to be based on gossip over one of the famous three-martini lunches. Thus, one respected national publication editorially condemns Humphrey-Hawkins IV on the ground that it is a "hollow promise" that will deliver nothing; and a few days later another national publication condemns the same bill on the ground that it will produce more inflation, more government spending, and more government intervention in the economy. It is hard to see how both could be right. I don't think either one is.

In my judgment, Humphrey-Hawkins makes four fundamental contributions to the development of a rational and effective employment policy in the United States. They are as follows:

(1) The bill recognizes fairly explicitly that merely pressing a button labeled "tax cuts" will not solve our chronic unemployment problem.

(2) The bill sets a goal of 4 percent unemployment (3 percent for adults) by 1983.

(3) The bill describes a variety of policy instruments that should be considered in developing a balanced program for the achievement of the target rate of unemployment.

(4) The bill provides a detailed set of procedures to be followed by the President and the Congress in developing the full employment program.

Some critics complain that the Humphrey-Hawkins Bill is virtually meaningless because it does not, by its own terms, provide a blueprint for the rapid achievement of full employment. I think understanding may be helped by comparing the Humphrey-Hawkins approach with the planning of a journey. First you pick a destination, and then a time of arrival. Then you get a set of road maps, showing the various routes you can follow to your destination. After these steps, you still have a great amount of planning to do; and after you are under way, you may have to change those plans because of unexpected conditions along the way. If you are a pessimist, you may keep in mind that there is a possibility that you may never reach your goal. But if you are a realist, you will know that it is certain you will never reach your goal if you never make a beginning. Humphrey-Hawkins provides that kind of beginning—the goal, the timetable, the road maps.

I think the most important contribution of Humphrey-Hawkins would be one that is only implied by the language of the bill. It would compel conscious planning of government policy for an explicit employment goal; thereby, it would induce a process of comparison, evaluation and selection of employment policy instruments on the basis of their relative effectiveness in reaching the goal of full employment. The result, I think, would be a considerable change in emphasis in our national employment policy. One briefly-stated example will illustrate the point. Since the early 1960s, our principal reliance has been on tax cuts to reduce unemployment. Relatively little effort has been made at high policy-making levels to compare the effectiveness, and especially the cost-effectiveness, of tax cuts and other employment policy instruments. Recent studies have shown, however, that of the various major employment policy instruments, tax cuts are the least cost-effective of all.

A tax cut of $8 billion, it has been shown, may be expected to create roughly 320,000 jobs. A Public Service Employment program costing $8 billion may be expected to create about 1,000,000 jobs initially. But that is an understatement of the total effect. By conservative estimating methods, it can be demonstrated that the spending of the PSE paychecks will create at least another 320,000 jobs. In other words, the secondary job creation effect of the PSE program is at least as large as the total effect of the tax cut. And it is important to emphasize a further point. The PSE program has been criticized on the ground that it creates jobs only in the public sector. That is a mistaken notion. Virtually all of the 320,000 jobs created by the spending of PSE paychecks will be in the private sector. The "bottom line" is that, with equal expenditures, the PSE program creates about four times as many jobs as a tax cut.

Furthermore, a tax cut is unlikely to do much to relieve the problem of communities that are hard-hit by structural unemployment—like Youngstown, Johnstown, Lackawanna, Akron, and a long list of others. Indeed, President Catrer's investment credit proposals may actually hasten the process of abandonment of aging production facilities, thus enlarging the overall problem of structural unemployment. And it is now generally recognized that tax cuts leave untouched the most extreme part of the national unemployment problem—that of black teenagers, especially those in central cities. By contrast, the PSE program can be (and to some extent already is) designed to reach precisely those communities and labor market groups that are helped least, or not at all, by tax cuts.*

I do not mean to imply that a Public Service Employment program is a panacea for unemployment. My point is that too often in the past our employment policy has been shaped by ad hoc decisions based on untested assumptions about the realtive effectiveness of this or that instrument, particularly tax cuts. The experience that we have accumulated in the last two decades with a variety of other remedies for unemployment—manpower training, subsidized private employment, relocation allowances, public works, and job banks, to mention a few—provides a basis for comparative analyses that will lead to the development of a more cost-effective and better-coordinated employment policy than we have had in the past.

I have left for the last what may be the most frequently-heard objection to the Humphrey-Hawkins Bill. Can we have full employment without inflation? My answer to that question is, probably not. But the question is quite misleading. I think inflation (to some degree at least) is likely to be with us for many years whether we have full employment or not. There is now a fairly widespread recognition among economists

*University Professor of Economics and Labor Industrial Relations, Michigan State University; President, Industrial Relations Research Association. The views stated herein are those of the author and should not be attributed to any organization with which he is affiliated.

*I have developed the ideas summarized in the paragraphs above in much more detail in a recent article (with Christopher T. King) entitled, "Tax Cuts and Employment Policy," published in a book entitled, Job Creation—What Works? (Salt Lake City: Olympus Press, 1977). The article has just been reprinted in full in the Congressional Record (House Proceedings) for January 26 and 30, 1978.

that in recent years our problem of inflation has not originated in the labor market. I do not believe that full employment will cure inflation. I do believe that inflation is an important problem, but it should be attacked at its true sources and not by the intolerable and ineffective "remedy" of high unemployment rates. The Humphrey-Hawkins Bill would make an indirect contribution to better control of inflation. I have just pointed out that this unemployment calls for the development of more cost-effective unemployment remedies than we have emphasized in the past. The predictions of accelerated inflation resulting from the Humphrey-Hawkins Bill have been based on analyses of the past, sometimes the very distant past), when our primary reliance has been on tax cuts, which are far more costly and far less effective as unemployment remedies than the more modern instruments developed in recent years. These predictions are as obsolete as the old-fashioned policies on which they are based.

One final observation. It would be fatuous to insist that Humphrey-Hawkins IV is perfect as it stands and that not a word or comma in it should be touched. I have some small remaining quibbles with it myself. But the bill itself includes explicit procedures for reconsideration of goals and methods in the light of experience. Furthermore, I believe that experience with employment and training legislation during the past two decades justifies considerable faith in the efficacy of legislative oversight, at least in this field. The example of the Manpower Development and Training Act of 1962 is instructive. Congress monitored that legislation closely. Major improvements in the law were enacted regularly, and the whole system was fundamentally revised after a dozen years of experience by the passage of the Comprehensive Employment and Training Act—which itself is now up for revision. As all informed persons know, this Subcommittee has played a key role in that process of steady improvement on the basis of experience. But improvement is not likely if you never even start the program. I believe that the Humphrey-Hawkins Bill represents a sound beginning, and I respectfully suggest that this Subcommittee would serve the nation and its people well by a favorable report on this bill.

THREE CHEERS FOR DR. BUTTERFIELD

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mrs. SCHROEDER. Mr. Speaker, the American Medical Association (AMA) recently adopted a statement on parent and newborn interaction supporting the bonding process between newborn infants and their mothers. The process enhances and humanizes the birth experience, allowing the mother, newborn infant, and father to make skin-to-skin contact and eye-to-eye contact in the moments immediately after birth.

Dr. L. Joseph Butterfield, M.D., chairman of the department of perintology at Children's Hospital in Denver and past chairman of the Committee on Maternal and Child Care, and one of my heroes, originally spearheaded the work of the AMA on the bonding philosophy and developed early drafts of the statement for the AMA. He has been working a long time trying to get the importance of the bonding concept recognized—it looks like he has finally done it.

The recognition of the importance of family-oriented childbirth is a major step in the right direction toward more family interaction. I think Dr. Butterfield hit the nail on the head when he said:

Until this entire country gets back into the family business, we are on a headlong course for disaster in terms of human relationships and family interaction.

THE NEED FOR AN INVESTIGATION OF ATTORNEY GENERAL BELL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. CRANE. Mr. Speaker, Attorney General Bell's handling of the replacement of David Marston as the U.S. attorney for the eastern district of Pennsylvania has raised questions nationwide—in legal circles, on Capitol Hill, among the general public—as to the credibility not only of candidate Carter's campaign pledge to appoint Federal judges and prosecutors "strictly on the basis of merit" but also of nominee Bell's commitment under oath before the Senate Judiciary Committee that the Justice Department "will not be used for political purposes."

Most recently, however, information has been produced which alleges the existence of a deal between Griffin Bell and Senator JAMES EASTLAND that, in return for taking appointments to the Federal district courts out of the patronage system, U.S. attorneys' nominations would remain as political plums. This agreement is reported to have taken place on December 13, 1976—one week before his nomination by President Carter to be Attorney General and 3 weeks before his testimony (to the contrary) at his confirmation hearings.

Various other shreds of evidence are surfacing—mainly at inopportune moments such as Jody Powell's briefings or Presidential news conferences. One of these intriguing tidbits is the Attorney General's testimony on June 22, 1977, before Congressman ROBERT DRINAN, who is the author of a bill to turn the appointment of all U.S. attorneys over to the Attorney General under the civil service merit system. When asked if he could support this legislation, Bell replied he could not due to "an agreement with the Senate," that is, the aforementioned deal with Senator EASTLAND. With this rather shocking statement to handle, the Justice Department first denied the existence of such an agreement. Of late, Justice has admitted that "an oral exchange between Judge Bell and Senator EASTLAND * * * in late December of 1976 or early January of 1977" did in fact occur. Obviously, the date of this exchange is crucial to the unraveling of this tale.

Further, Attorney General Bell is quoted as saying on January 9, 1978, that he (Bell) had "nothing against Mr. Marston * * * but this is the political system in this country." Finally, after firing Marston, Bell flatly stated that the U.S. attorney's removal was precipitated "not because of lack of merit qualifications, but solely because of political considerations."

Innuendo feeds on innuendo; suspicion breeds even more suspicion. At present, the position of the chief arbiter of justice in our land, the Attorney General, is under fire. Among other movements from various quarters, Republican National Committee Chairman Bill Brock has called for the Attorney General's resignation, citing his politicization of the Justice Department and its appointment process. Our system of justice is, at present, viewed with skepticism by a large number of the American people; Federal officials in particular are subject to intense scrutiny and/or disdain for what is often rightly perceived to be a comfortable distance above the sanctions of the law.

Thus, I have introduced legislation, House Resolution 1002, calling for the investigation by the House Judiciary Committee of any infractions of the law by Attorney General Bell. Congress is the appropriate body to launch such a discovery process, and it is with the House Judiciary Committee that such investigatory power rests. The questions and suspicions of the American pepole, the Congress, and members of the legal profession deserve credible and well-documented answers. Should any irregularities in conduct be uncovered, these, too, should be brought out into the open and the appropriate disciplinary steps taken. This country should not be forced to sit still and wonder while another gaping wound in our democratic system is allowed to fester.

Thus, my resort to a congressional investigation. Let us deal with this problem out in the open—in front of the TV cameras if necessary—and find the answers to these questions and allegations in a meaningful and comprehensive manner.

OUR NATION'S VETERANS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. YOUNG of Florida. Mr. Speaker, today the House Veterans' Affairs Subcommittee on Compensation, Pension and Insurance began to hold hearings on veterans' pension programs. During the course of the subcommittee's deliberations, numerous proposals dealing with our Nation's veterans will be considered. I had the opportunity to submit testimony on behalf of my own proposal which would provide a general service pension program for World War I veterans, as well as my proposal to protect veterans' pensions against cuts caused by increases in social security benefits. I believe very strongly that this legislation is of particular importance,

and would like to take this opportunity to bring my testimony to the attention of all my colleagues in the hope they, too, will actively work toward enactment of these proposals:

TESTIMONY OF HON. C. W. BILL YOUNG OF FLORIDA

Mr. Chairman, I appreciate having the opportunity to testify once again on the urgent need to provide special financial protection for our World War I veterans, as well as the need to protect all veterans' pensions against cuts caused by increases in social security benefits.

As you will recall, during last year's consideration of the Fiscal 1978 Budget Resolution, we were successful in adopting an amendment to H. Con. Res. 341 to increase budget authority by $700 million for the purpose of implementing a pension program for veterans of World War I—once such a penison program is approved by the Congress. During the debate of this important amendment, we received assurances that hearings would be held early this year on legislation to establish a World War I pension program. I am very pleased that this promise is being kept and that during the course of your Subcommittee's deliberations on pension reform, my bills and others to establish a World War I pension program will be considered.

Since I have actively fought for legislation to provide a general service pension for our veterans of the First World War throughout my tenure in the U.S. House of Representatives, it is extremely gratifying to note this resurgence of interest in the plight of World War I veterans by the Veterans' Affairs Committee. The creation of a general service pension program for these veterans and their widows is necessary if we are to provide them with benefits comparable to those provided the veterans of every other major war in which our country has, unfortunately, become involved. For example, veterans of the Spanish-American War and earlier conflicts were provided unrestricted pension programs; veterans of World War II, Korea and Vietnam are given broad benefits under the GI bill of rights. The legislation I have introduced (H.R. 1386 and H.R. 1387) is aimed at providing those World War I and Mexican Border veterans with some form of equity at a particularly difficult period in their lives.

My legislation proposes to extend the existing unrestricted pension program for Spanish-American War Veterans to include World War I and Mexican Border veterans and their survivors, and to increase the monthly pension rates under the expanded unrestricted pension program. The number of living World War I veterans fell below 1 million in fiscal year 1975 and, according to the Veterans' Administration, this figure is now somewhere around 700,000—and that number is decreasing at an average rate of 100,000 per year!

Mr. Chairman, when the cause of world freedom called, these Americans answered the challenge—often at great personal sacrifice. As their numbers rapidly decrease due to increasing age and, in many instances, deteriorating health, they need the help of the Nation they served so well. And they need this help now more than ever before. By ensuring these veterans and their families with adequate pensions—without regard to outside income—we will ensure that our World War I and Mexican Border veterans are able to maintain their dignity and respect during their remaining years.

I am also pleased to note that this able Subcommittee will consider another recurring problem facing all veterans, and the means by which to alleviate this problem relating to veterans' pensions versus social security increases. As I have previously testified before this Subcommittee, due to the large number of veterans residing in the Sixth Congressional District, I am also particularly aware of the plight of those veterans who have been stricken from the rolls, or who have had their pensions reduced, as a result of increased social security benefits. In response to the fact that VA pensions frequently go down when social security benefits automatically go up, the Congress has for the past several years enacted legislation providing increased veterans' benefits. Although these "catch-up" increases are usually not the same percentage as that of the social security increases, they are aimed at alleviating the present unfortunate situation confronting our Nation's veterans on a yearly basis. What is the object of doling out larger sums of social security to these people in an effort to allow them to barely keep pace with the rate of inflation while, at the same time, reducing their veterans' pensions as a result of these increased social security benefits?

Unless we enact legislation such as I've sponsored, this vicious cycle will continue to devastate our veterans year after year. My bill, H.R. 1385, is aimed at providing this necessary protection by stating that recipients of veterans' pensions are not to be penalized by increases in monthly social security benefits. Mr. Chairman, I urge this Subcommittee to delay no longer in correcting this inequitable situation so that our veterans will no longer have to face each New Year darkened by the prospect of lost or reduced pensions.

In conclusion, Mr. Chairman, I think the facts before us are crystal clear. Reform is long overdue, and the time remaining grows exceedingly short. We need to enact legislation to provide a general service pension program for World War I veterans, and we need to enact legislation to protect veterans pensions. I urge speedy committee action, and offer my assistance to do whatever is necessary to secure final approval of this legislation.

FORMER SECRETARY OF NAVY MIDDENDORF ALERTS US TO THE DANGER IN THE MEDITERRANEAN

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. KEMP. Mr. Speaker, earlier this week in a letter to the editor of the Washington Star (January 31, 1978), the distinguished former Secretary of the Navy, the Honorable J. William Middendorf II has provided a most impressive analysis of the dangerous situation now evolving in Italy. Italy is the host nation to our key naval installations in the Mediterranean. Moreover, Italy shares responsibility with the U.S. Navy for the security of NATO's southern flank. We all have an immense stake in the outcome of the parliamentary maneuvers now underway in Italy. Should these maneuvers succeed in placing Communist deputies in an Italian Government, the security of NATO could be gravely undermined. I commend Secretary Middendorf's letter to the attention of the Congress, and include the text of his well-informed letter:

REDS ON THE BLUE MEDITERRANEAN

The fall of the Italian government could signal peril ahead for the fragile fabric of the free world. Italy, a stalwart member of NATO, makes a major contribution to the security of Southern Europe and to its soft underbelly, the Mediterranean. The Italian navy, for example, presently shares with the U.S. Navy key responsibilities in keeping that body of water a relatively peaceful lake.

The large and growing Soviet naval presence in the area, coupled with the withdrawal of the British and our own increasingly strained naval resources, makes Italian support all the more valuable. Further, if it weren't for the availability of Italian port facilities, we would not be able to maintain anywhere near the peace-keeping presence there that we do now. The critically important stabilizing presence of the Sixth Fleet during the 1973 Middle East war would not have been possible without our use of these ports.

For one reason or another, most other Mediterranean ports have been closed to us, and the potential loss of Italian ports or, indeed, any weakening of Italy's NATO resolve and cooperation as a result of Communist influence within their government would be cataclysmic to the West.

The makeup of the new Italian government will thus be watched with greater than usual interest in the West. Southern Europe or, to be more precise, Latin Southern Europe, is faced with an inexorable advance of Communist parties from within. In Italy, France and Spain, Communist parties owe much of their success to their promise to build a different kind of Communist society one more humane than those in Eastern Europe, and independent of Moscow. Their leaders have repeatedly professed attachment to the principles of democracy and independence, have publicly criticized the repression of human rights in East European Communist countries and have promised that each Communist party has the right to decide on all internal matters without Moscow's interference.

Even if we don't question their sincerity, the real question is whether they can keep their promises once in power.

Let's take a closer look at the history of communism. Most Communist parties have started their political growth in "alliance" with other "progressive forces" in an attempt to solve some crucial national issue, usually to form a government. The next step is to share power in a government of "national unity," followed by a coup that leaves the Communists as the sole government.

The Communist moderate leaders of this first period are inevitably overthrown by hard-liners who accuse the former of weakness towards capitalism. The party is purged, bringing to the top those demanding "ideological purity." "Workers" and "peasants" replace intellectuals in key party positions. The terror begins: actual and potential opponents are physically exterminated, especially the moderate members of the Communist party. All revolutions must first devour their young.

One might argue that while this happened in Russia in 1917 (years later Kerensky, himself, told me how this process worked in his case) and in Eastern Europe in the late 1940s, times have changed. Not true. Look at the recent "national emergency" governments in South Vietnam and Cambodia in the transition period. The Communists first used representatives of churches and the bourgeoisie to gain their goals, then purged them all and even cracked down on the social categories that their former allies represented.

What this all means is that even if present Southern European Communist leaders were sincere in their desire to avoid the classical form of repressive communism, they would probably not be able to do so because of the unavoidable mechanics of the system.

It should be clear that the independence

of Communist countries towards Russia is imperfect and most temporary, while their sense of solidarity to Communist doctrine is constant. We should not underestimate the importance of their sharing a Communist ideology—they speak the same language. And there is also an emotional element: whatever differences exist, Russia remains the mother Communist country, and Moscow a Mecca for all Communists. Russian help will always be the preferred option to losing political power, because a pro-Moscow faction will always exist in any Communist party.

The recent very commendable statement by our State Department decrying Communist participation in the Italian government has been received with mixed feelings in Europe, and questions have been raised about our right to express opinions concerning momentous events in other countries. Like it or not, the fact remains that the United States is the main economic and military power in the free world, upon whose strength so many countries now depend. But we, too, depend on them. We cannot for long disregard what happens in other parts of the world. Embattled democratic forces in Southern Europe, under threat of communism, wait even long for our support.

Finally and more particularly, what these critics overlook is that we and Italy are members of a fundamental alliance and that the question of Communist participation in the government of an alliance member impinges directly on the solidarity and future of that alliance. The toleration shown by the democratic world to fascism in the 1930s led to the Second World War. We learned a bitter lesson the hard way. Let's not make the same mistake again.

J. WILLIAM MIDDENDORF II.

WASHINGTON, D.C.

ANOTHER VIEW OF THE WORLD OIL SITUATION IN 1985

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. STOCKMAN. Mr. Speaker, as is so often the case, the vital question of world oil supply and demand in the mid-1980's has become the subject of much controversy among experts. Because certain of these experts have jobs at the Central Intelligence Agency, their view has tended to predominate in public discussion. President Carter and Energy Secretary Schlesinger have defended many of the high-cost energy policy choices in the proposed National Energy Act by pointing to the tremendous crisis that is to befall the world in 1985.

The Central Intelligence Agency does not have a monopoly on information in this area, however. That is why I would like to commend the following article to my colleagues. It contains the views of Arnold Safer, a vice president of the Irving Trust Co. of New York, which is one of the world's largest banks. Mr. Safer argues that the OPEC oil price increases of the early 1970's will lead to a great expansion in non-OPEC-controlled supplies within the next few years. The implications of his article have considerable significance in our deliberations here as we consider proposals to force fuel substitution and uneconomic conservation programs upon the American consumer. I urge my colleagues to read this article as a first step to arriving at a balanced judgment on the question of what the world oil situation will be during the next decade:

WORLD OIL EXPERTS COULD BE WRONG, ECONOMIST SAYS

(By Arnold E. Safer, Vice President, Economics, Irving Trust Co.)

NEW YORK.—The very rise in world oil prices begun in 1974 is likely to lead to major oil surpluses around the world in the years ahead. Both geology and economics support this view. It is largely political trends which suggest the scarcity theory.

First, the world's proven reserves of crude oil were some 15 billion barrels higher in January 1977 than they were in January 1974, when the energy crisis burst onto the scene. In other words, over the past three years new discoveries outpaced consumption by an average of five billion barrels per year, extending our future oil consumption horizon from about 31 years to 33 years.

Second, new reserves from the North Sea and Mexico are likely to be identified rapidly over the next two or three years, so that the world's proven reserves will continue to increase at least into the early 1980s.

Third, to the extent that the geologist's concept of ultimately discoverable reserves is at all useful, the world is estimated to contain some additional 1.5 trillion barrels or enough oil to last for another 65 years at projected future consumption rates.

Fourth, with world economic activity likely to remain sluggish for some time ahead, there is little possibility of a major boom in petroleum demand.

Finally, U.S. energy policy is now committed to allowing higher prices for newly discovered natural gas, either through deregulation or continued regulation at higher prices. The prospect of higher prices has encouraged significant new drilling which in turn could lead to a greater availability of gas, thereby arresting the trend toward substitution of oil for gas.

While other energy sources remain mired in environmentalist controversy, drilling for new oil and gas in the U.S. and around the world is proceeding at a rapid pace.

In light of all these trends, we are projecting a continued easing of world oil markets at least through 1982 and potentially through 1985. Not only will more abundant oil supplies offer the prospect of lower oil prices (in real terms), but they will create the market environment in which the U.S. government could develop policies to dilute OPEC's price-setting powers.

Within the context of this gradual shift of the world's oil markets toward an excess supply condition, U.S. energy policy should seek to change the commercial mechanism by which oil is imported. Without this change, it is unlikely that oil consumers will benefit optimally from the improved conditions.

World Consumption

From 1955 to 1973, world oil consumption grew at an average rate of more than 7% per year. Since 1973, annual world consumption has grown at only slightly more than 1%. High prices, slow economic growth and a new emphasis on conservation have all contributed to the sharp decline in the growth.

Between 1977 and 1980, we project a 3.5% annual growth in world oil consumption—somewhat more rapid than in 1977 but still only about half the long-term historical rate. This forecast is based upon GNP projections for the U.S. (4%), Western Europe (2.5%) and Japan (5%). It assumes that oil consumption grows at about the same rate, despite government rhetoric about conservation and despite attempts to substitute alternate energy sources.

By late 1980 or early 1981, the world economy is likely to experience a recession. Its magnitude is not expected to be as severe as that of the 1974–75 downturn but it will be of sufficient depth to impact world oil consumption. Although the timing of the European and Japanese downturns might differ from that of the U.S., we have assumed a concurrence of recession throughout the world. As a result, we have projected a decline of around 3.5% in consumption in 1981.

After the downturn, we expect strong economic recovery. World consumption is projected to grow at 4% in 1982, at 3.5% in 1983 and at 3% in 1984 and 1985. The importance of the projected recession and recovery lies in its relation to the non-cyclical growth of supply. That is, large excess supplies can be expected by late 1980 or early 1981, representing a combination of declining demand and increasing supply—a situation likely to persist for some time and one which represents a significantly different perception of the world oil market than is prevalent now.

NON-OPEC SUPPLIES

Two key assumptions underlie our projections of non-OPEC oil supplies. First, we are assuming that oil production in the lower 48 states will not continue to decline but will increase marginally after 1978. In 1977, U.S. oil production in the lower 48 appeared to have stabilized with crude oil at 8.1 MMB/D, natural gas liquids at 1.7 MMB/D and refinery processing gains at 0.6 MMB/D. We are assuming that continued increases in U.S. exploratory activity will keep lower 48 production stable at 10.4 MMB/D in 1978 and that gradual price decontrol will move this production up to 11.0 MMB/D by 1982.

The second key assumption is the continued growth of Sino-Soviet oil exports to the well publicized CIA report cited by President Carter at the time of his energy proposals. The CIA suggested that the Soviet Union would turn from a net exporter of one MMB/D to a net importer of two MMB/D by 1985.

Since the CIA study was issued, there have been a number of critical reviews which found serious fault with CIA's assumption. In particular, there is no firm reason to believe that Soviet production will decline significantly. Even if it were to fall off, the Soviet's need for hard Western currencies suggests that they would continue to export oil and substitute coal and nuclear fuel for domestic needs.

We estimate 19.3 MMB/D of non-OPEC production in the noncommunist world in 1977, up from 17.6 MMB/D in 1976. Another 1.2 MMB/D of estimated net Sino-Soviet exports to the West increased the total 1977 supplies outside of OPEC to 20.5 MMB/D.

For 1978, we expect non-OPEC sources to supply 22.6 MMB/D with most of the increase coming from Alaska and the North Sea. Increased Mexican and Sino-Soviet oil will raise total non-OPEC supplies to 26.5 MMB/D by 1980 and to more than 29 MMB/D by 1982. Part of these new supplies will come from smaller but still significant increases in such areas as Argentina, Brazil and other non-OPEC countries in the Mideast, Africa and Asia.

The average annual growth rate of non-OPEC supplies between 1977 and 1982 is estimated at more than 9% while the growth in world demand is forecast at around 2.5% per year.

Estimating oil production bevond 1982 is only guessing at what might be discovered in still unexplored regions. There are many significant potential pools of new oil known to geologists. These include Argentina, Vietnam, the U.S. east coast and Alaska. (Significantly for the U.S. picture, the east coast exploratory drilling is due to start soon.) Policymakers cannot count on new reserves coming from these areas but neither can they discount them.

OPEC SUPPLIES

OPEC oil production reached its peak in 1973 at close to 31 MMB/D. It maintained roughly this rate in 1974 but production declined substantially in 1975 with world recession. In 1976 OPEC production rebounded to 30.5 MMB/D and in 1977 is estimated to have averaged around 30 MMB/D. This included a sizable inventory buildup toward the end of the year, partly due to normal seasonal patterns and partly due to hedge buying in anticipation of an OPEC price rise in January 1978.

In 1973 and 1974 OPEC production reached two-thirds of world consumption. In 1975 world consumption declined as a result of recession. OPEC production declined even more and the OPEC proportion of total world demand fell to less than 60%. With economic recovery in 1976 and 1977, world demand and OPEC production expanded at about the same rate and the OPEC proportion has remained around 60%.

Our forecast of future OPEC production is derived from the difference between projected world consumption and projected non-OPEC production. Thus, a dramatic decline is projected for OPEC production in 1981 and 1982. This results from the dual assumption of economic recession and increased non-OPEC supplies at that time. We are, therefore, projecting that OPEC will be supplying less than half of world consumption in 1981 and 1982.

As total requirements for OPEC oil begin to decline over the next five years, OPEC will be faced with a fundamental challenge to its internal cohesion. Some member countries will have to cut back production in the face of rising import costs, thereby jeopardizing development programs already in progress. The way for any one OPEC country to maintain its oil exports in the face of declining demand, however, would be to cut prices and the incentive to do so will grow as excess capacity builds over the next few years.

To prevent this, OPEC would either have to set up a centralized allocation system or agree to lower prices for all member countries in an attempt to stimulate overall demand for OPTC oil. The adoption of either alternative will further erode OPEC unity and mean increased bargaining power for consuming countries.

U.S. POLICY OPTIONS

U.S. foreign policy should recognize the possibility that the potential instability within OPEC could lead to political repercussions in the Mideast. Present foreign policy perceptions concerning the Mideast are clouded by the official forecast of increasing world energy scarcities and thus tighter OPEC control over world oil supplies in the middle 1980s.

Despite our projection of an easing of international markets, we expect that U.S. imports will rise to at least nine MMB/D by 1985 and could be as high as 12 MMB/D. This is neither as low as the administration's goal of 6 MMB/D nor as high as the 16 MMB/D projected by some government studies in the absence of the official energy policy.

U.S. demand is assumed to grow at 4% per year over the 1977–85 period. With Alaskan oil supplies building up from an average of 0.2 MMB/D in 1977 to an expected 1.7 MMB/D by 1980, imports can be held at a fairly constant rate of around eight MMB/D through that time.

By 1985, however, we expect U.S. demand to outstrip increases in domestic production. As a result, U.S. oil imports are likely to rise after 1981, putting further stress on the balance of payments.

Nevertheless, the terms of thesse oil imports after 1981 could be quite different than at present.

First, if OPEC is supplying less than half of the world's oil demand by 1982, versus 60% today, then the cartel may have a more difficult time maintaining its internal cohesion and could become more susceptible to arm's length bargaining over crude prices.

Second, if non-OPEC foreign sources are providing 30% of world demand by 1982, versus less than 20% today, then a greater number of oil import sources will be available than at the present time.

To take advantage of these changes, serious consideration should be given to altering the commercial mechanism by which oil is imported into the U.S. A market exchange system for oil—possibly regulated by representatives of both consuming and producing nations—would be a more useful approach than the current OPEC practice of indexing world oil prices to world inflation rates. Over the next few years, as OPEC's alternatives become more limited, this option might become more acceptable to them.

U.S. international oil policy should focus on setting the stage for a new approach to oil pricing. It should also continue a dialogue with the oil-exporting nations that might lead to OPEC's recognition of the mutual gains a neutral market pricing system could provide.

COTTON WORK GLOVE INDUSTRY SUFFERING DUE TO IMPORTS

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. COLEMAN. Mr. Speaker, today I had the opportunity to testify before the International Trade Commission so as to emphasize the dire situation now facing the American work glove industry due to rising imports of cotton work gloves from the People's Republic of China.

Hundreds of workers in my Sixth District of Missouri have lost their jobs during the past 4 years while imports from the PRC have more than tripled.

I know that many of my colleagues in the Congress face similar situations in their States, and I would like to take this opportunity to share with them my statement before the International Trade Commission:

STATEMENT OF THE HONORABLE E. THOMAS COLEMAN

Mr. Chairman, members of the Commission, I appreciate the opportunity to appear before you this morning in support of the petition filed by the Work Glove Manufacturers Association for import relief from cotton work gloves imported from the People's Republic of China.

The PRC has become an aggressive marketer of cotton work gloves in this country. I do not object to commercial relationships between our nation and a communist country, such as the PRC, so long as the relationship is mutually advantageous. But no country should be able to capriciously ignore the rules of fair trade to the detriment of American workers.

Rather than discuss all the legal issues with you at great length, which I am sure you are familiar with, I would like to focus on just one of the legal criteria for relief: market disruption. The definition of market disruption is found in Section 406(d)(2) of the 1974 Trade Act:

"Market disruption exists within a domestic industry whenever imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry."

I will leave it to the technicians who will follow me to specifically treat the questions of "like or directly competitive" articles and what constitutes a "rapidly increasing" level of imports. Let me briefly comment, however, on the question of material injury.

At one time the Sixth Congressional District of Missouri was the home of five cotton work glove factories, owned by two different companies: Lambert Manufacturing Company and Mid West Glove Corporation. Today for all practical purposes only two of these factories remain in production of cotton work gloves.

Mid West had a peak employment of about 425 in 1973–74. Today it employs 290 workers.

At one time it had about 160 employees involved in the manufacture of cotton work gloves in three different plants. Today only one factory remains—one factory is closed and the other has been sold but is no longer used for cotton work glove production—employing 50 people to produce cotton work gloves; 160 workers less than four years ago; 50 today.

Lambert Manufacturing has a similar story to tell. In 1974 it was employing about 170 people in the cotton work glove area. Today, it is down to 81 employees. Much to the credit of this employer, it has avoided laying off its employees. Instead it chose to scale down the work week, first to four days, then three days. But workers cannot afford to live on wages from a three day work week and many have left to look for other jobs. A large percentage of these workers are women, who either by age or family responsibilities cannot leave these communities to seek employment elsewhere. These people want to work—they don't want a government hand-out. But it is very difficult to find employment in a rural area.

Statistics cannot tell the human side of this tragedy in Rural America but they do serve as a fulcrum upon which your judgments must be based. So, let's take a brief look at the PRC's impact in this country. the PRC did not really begin to enter our market until 1973—the same year that our industry began its downward slide. In 1973 we imported 299,000 dozen pairs of cotton work gloves from the PRC. In 1976 that figure had more than tripled to 966,000 dozen pairs. And, the first 8 months of 1977 showed an almost 40% increase over the level of imports from the PRC in 1976.

Although I haven't seen any statistics to support this assertion yet, I am told that importers of cotton gloves are contending that there has been a decline in the level of imports from the PRC in the last few weeks and months. If this is so, two reasons for this phenomena come to mind. First, we have just come out of a dock strike that undoubtedly had a major impact on the unloadings of imported cotton work gloves. This factor alone may account for any recent "weakness" in the importation of these gloves from the PRC. The second factor may be this petition itself. When a petition similar to this one was filed in 1976 with the ITC, cotton work gloves imports dropped sharply during the months during which this Commission had that petition under consideration. Obviously, the petition had been filed at the peak of these imports, right? Wrong! Once the ITC rejected that petition the level of imports rocketed upwards again and has continued to rise until about the time a second petition is filed. I hope that ITC will not be lulled into a false sense of security by the recent aberration in what is a patently clear long term trend of increasing imports.

The diplomats may sound warnings of the repercussions that this petition may have on our relationships with the PRC. Nevertheless, you must not forget the mandate which Congress has given you in Section 406. A country's

ideology does not give it license to wreck havoc on a small, industry in this country.

Trade is not a one-way avenue that Communist nations can exploit at our expense. The PRC refuses to buy grain from American farmers. It buys from other nations. Yet, it has no qualms about dumping work gloves in this country to the detriment of American jobs. We need to send a clarion signal to the PRC that they can do business with the United States, but only according to the rules of fair trade.

Let me share with you some comments from a recent letter to President Carter to give you an idea of the concerns being voiced in my District:

"What if they should start importing peanuts from Red China at approximately 50% of your cost of production? What would your reaction be? We are sure that you would feel that there should be some type of restrictions placed on imported peanuts. . . . When one industry is so affected by imports, whether it be work gloves or peanuts, it starts a chain reaction which affects many other industries. So when we are speaking of the effect of imports on the Work Glove Industry, we are also speaking of the textile mills, the paper industry, the chemical industry, the tool and die industry, transportation, the corrugated box industry, and many, many others, and yes, possibly the farmers."

Let me suggest that perhaps even more important than the finding of serious injury is the type of relief which you will propose to the President. By statute the ITC is barred from recommending adjustment assistance. This is reassuring to my constituents who compare subsidies of this type to a "doctor placing a large band-aid on a critically ill cancer patient and telling him to go home, he is cured." Realistically, the only relief which will restore health to our domestic industry is an import quota.

I am fully confident you will upon the conclusion of these hearings find that the rising imports from the Peoples' Republic of China have caused material injury to the cotton work glove industry. By recommending the establishment of import quotas for cotton work gloves from the PRC you will have taken a significant step towards assuring the continuing vitality of our domestic work glove industry and the jobs of thousands of Americans.

Thank you again for your consideration of this serious problem.

THE SECOND CAREERS ACT OF 1978

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. WAXMAN. Mr. Chairman, today I am pleased to introduce the Second Careers Act of 1978. This legislation would create a comprehensive program for easing the unemployment crisis of the older worker. The program would be administered by the Department of Labor.

President Carter noted in his recent State of the Union Message that—

> Job opportunity—the chance to earn a decent living—is also a basic human right which we cannot and will not ignore.

Each American, regardless of age, should have the right to the opportunity for a job. In the truest sense, the right to work is basic to the right to survive. Older workers in this country are not afforded this basic human right and in fact begin to face age discrimination in employment and Federal job training programs as early as age 45.

The Second Careers Act of 1978 would redress in part the pattern of discrimination against older workers and afford them a suitable employment program which is responsive to their interests, life experiences, and the specific needs of our economy. The legislation would apply mainline employment techniques of the kind carried out by effective CETA title I programs for unemployed, underemployed and/or disadvantage people who are over 40 years of age. The bill provides subsidized wages for participants but with defined wage responsibilities for employers after a period of time.

Further, the bill includes the following kinds of mainline employment functions for program participants;

First. Analysis of the local labor force by comparative age factors. Such analysis would establish a defined universe of need for middle-aged and older workers in an area.

Second. Job market analysis—inventory of the available job stocks to determine new areas for job development.

Third. Development of a second career strategy plan. Such a plan would spell out the age profiles within the jurisdiction, the problems which workers over 40 have encountered, steps planners intend to take to meet the problems, and the specific programs to be implemented.

Fourth. Job and career counseling to promote responsible decisionmaking on the part of participants.

Fifth. Job development and employer relation functions which will promote effective job referral and placement.

Sixth. Allowance for programs which provide for participation in work or training on a part-time or flexible-time basis.

Recognizing that adequate research is unavailable to potential employers and the public on the capabilities of the older worker, the bill establishes the Institute on Age and Employment. The Institute would be charged with the promotion and dissemination of research on how to utilize the older worker more effectively. One year following enactment, the Institute would be required to forward to the Congress a formal policy and plan on how to better utilize middle age and older workers.

Included in the first year report would be policy options and alternatives to retirement which would emphasize retention and self-support of older workers. By developing an agenda on how to make employers aware of the ability and skills of older workers, the Institute would have have a practical impact on the personnel policies and practices of employers in both the public and private sectors.

Mr. Chairman, too often when we discuss the problems and needs of older Americans, we think exclusively in terms of social and health programs. While these programs are essential to improving the quality of life of older Americans, these programs view older Americans as individuals in need of support, who are otherwise unable to depend on their own resources. Many older persons can be productive, however, and do not need nor desire large amounts of support. These individuals wish to work, to be self-sufficient and continue contributing to society. Older workers cannot always find jobs however, and existing Federal job assistance programs are nonresponsive to their needs.

The U.S. Civil Rights Commission recently released a report which characterized age discrimination against older persons in Federal programs as "widespread." In a statement accompanying the report, the Commission said:

> We are shocked at the cavalier manner in which our society neglects older persons who often desperately need federally supported services and benefits.

In the case of job programs under the Comprehensive Employment and Training Act (CETA), the report confirmed what older workers have known all along—CETA administrators place the highest priority on finding jobs for people between age 22 and 44.

I readily admit that much of this bill could be put to work immediately through the current CETA structure. The fact is, however, that CETA does not work for older Americans. The older a person gets, the more difficult it will be to find a job and the less likely he or she will be to participate in an employment training program funded by the Federal Government. Age participation figures for CETA programs confirm this pattern. Persons between 55 and 65 receive just 5 percent of CETA provided services. Individuals over 65 represent a mere 0.9 percent of CETA recipients.

Over 1.4 million older workers are currently unemployed and actively seeking work. This figure represents almost 26 percent of all unemployed Americans. While the numbers of unemployed older Americans are lower than among younger age groups, we know that the length of unemployment is substantially higher for older job seekers. In fact, older workers can expect to be unemployed 30 percent to 70 percent longer than other age groups.

When we consider the category of "discouraged worker" the plight of the older worker becomes even more apparent. This group comprises workers who are no longer actively seeking work but are willing to take a job immediately if one were available. In 1975, there were over a million such workers. Over one-half were over 40 and about a third were over 55. As this pattern has held constant for the last 10 years, it suggests a structural discrimination based on age against older workers seeking a job. The recent report by the U.S. Civil Rights Commission confirms this trend.

These figures tell us that as long as an older worker remains employed, he is in good shape. However, should he later lose his job due to downturns in the economy or the pressure of technological change, he will have a difficult time rejoining the labor force. This trend is reinforced by a Federal job training program which fails to address the legitimate needs of the older worker.

There have been efforts to address the

employment problems of the older worker. Title IX of the Older Americans Act of 1965, the Community Service Employment Program for Older Americans, is specifically designed to provide jobs for Americans over age 55 who meet certain poverty criteria. Currently the program provides an estimated 37,500 jobs.

Measured against participants under CETA who are over 55, this number would constitute about half the group serviced. Yet measured against the estimated level of need for persons over 55 who both qualify for the senior aide program and who would take part if the opportunity were made available—estimated 5 million—the number pales into insignificance.

The need for employment support, job training and retaining and job placement services is demonstrated by the increase in complaints under the Age Discrimination in Employment Act of 1967. Over the last 3 years, complaints have increased by 55 percent. In addition, the numbers of persons over 40 joining together in litigation under the act have also increased. These actions indicate a pattern of discrimination and neglect on the part of the employer community, public and private sector, which must be corrected.

Last year, the House voted almost unanimously to enact amendments to the Age Discrimination in Employment Act of 1967. The legislation would raise the upper age limit for protection from age 65 to 70. Workers between ages 40 and 70, those who would be protected against age discrimination if the proposed 1977 amendments become law, make up over 40 percent of the U.S. work force and 36 percent of the population. This employment discrimination protection, however, is useless unless the Federal Government adopts formal employment policies to help older workers remain in the labor force.

The Federal Government must address ways to make work possible for persons who are out of the labor market involuntarily, employed at jobs which either pay little or employed at jobs which are becoming technologically obsolete. These individuals, older men and women, need to be placed back into the mainstream of American worklife. These workers do not want or need short term, artifically created jobs which disappear when the funds run out. They simply need to work at jobs which they physically can do, which pay decent wages and which provide them with a sense of being part of the working, contributing, taxpaying population.

Mr. Chairman, if America is to face the challenge of an expanded economy, the need for utilizing the capabilities and skills of older Americans will grow. The talents and experiences of older Americans represent a vast resource we dare not neglect. The time has come to champion a vibrant and fresh national policy toward employing the older worker. We need to adopt an aggressive and imaginative approach to using the skills of people in ways commensurate with their abilities.

I believe we have come late to the realization that an employment policy which takes jobs away from one age group in order to provide jobs for another is both shortsighted and cruel. It is time to articulate a domestic social policy which supports and encourages all those, regardless of age, who desire to work.

The Second Careers Act of 1978 provides an important first step toward achieving such goals. I invite my colleagues to join in cosponsoring this much needed legislation.

THE PANAMA CANAL GIVEAWAY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. HANSEN. Mr. Speaker, the great debate of the Panama Canal is scheduled to start soon. The American people remain overwhelmingly opposed to the potential treaties, even in light of the massive administration attempts to saturate the media with protreaty propaganda.

One of our colleagues, Congressman LARRY MCDONALD has written a highly informative article concerning the canal controversy which I include for the RECORD and forthrightly recommend to all of my colleagues as well as every American who is interested in learning the real truth behind the proposed canal pacts. The article follows:

[From the Review of the News, Jan. 25, 1978]

GIVEAWAY

(By Congressman LAWRENCE PATTON MCDONALD)

The 1903 treaty between Panama and the United States ceded the Canal Zone to our country "in perpetuity." This means America has the right to be the lawful sovereign over that territory forever. During the past year the American people have nonetheless been subjected to an unprecedented propaganda campaign directed by the White House and offering a variety of excuses—all of them false—to support the giveaway of the Panama Canal to a Castroite military dictator.

During the next few weeks the United States Senate will be asked to ratify the treaty so rashly signed by President Carter. Enormous pressure is being put on each undecided and opposed Senator. Like most politicians, they are trying to compromise. Panama will make any deal so long as we give up our sovereignty and ownership of this vital American property. It will then take possession of our Canal and do as it pleases—ignoring treaties just as Nasser did with the Suez Canal and calling on the Soviets to defend its new interests.

Though well aware of this, President Carter has let it be known that certain "compromises" and "adjustments" to the treaty can be worked out by agreements between himself and Torrijos. Senators are thus talking about brave—and utterly worthless—modifications of the treaty.

Some Senators are confused by these "red herring" issues, and others are being dazzled by the White House courtship. They must be reminded that no compromise will be tolerated. Senators who talk about modifying the treaties are like those who would change the wording of a death warrant to make it sound more courteous to the family of the condemned prisoner.

Curiously, this effort to engineer U.S. abandonment of our strategic territory on the Isthmus of Panama went into operation 32 years ago. The presentation of the current giveaway treaty to the U.S. Senate is the culmination of a campaign that started in 1946 when Soviet agent Alger Hiss, then head of the State Department's Office of Political Affairs, sent to the fledgling United Nations a list of so-called "U.S. occupied territories" which included the Canal Zone. It was Communist agent Alger Hiss who presented to the world the concept that America was merely renting the land through which we had built the Canal and that one day we would have to give it back. But the yearly annuity paid to Panama that Communist agent Alger Hiss and his successors present as "rent" was in fact assumed when the Canal Company took on the obligations that the former Panama Railroad Company had paid to Colombia before Panama revolted and became independent. It was assuredly not "rent."

Most reasonable Americans would expect that after a high-ranking official like Alger Hiss is exposed as a Communist agent working for a hostile foreign power our government would immediately review his work, detail the instances in which he influenced U.S. policies to the detriment of our national interests and to the advantage of his Communist bosses, and then reverse those policies. This has not been the case with the Canal Zone.

There is no constitutional, legal, or practical reason for this nation to give away her territory on the Isthmus in obedience to Communist demands. It cannot be too frequently emphasized that the 1903 treaty with Panama specifies 19 times that Panama has ceded this territory to the United States; it states 7 times that the territory has been ceded in perpetuity; and, it then specifically states that Panama retains no sovereignty and powers over the territory which has now been ceded to the United States. As for the legitimacy of the agreement, it is important to note that, following the November 1903 signing of the treaty by the representatives of the United States and Panama, every member of the Cabinet of the Panamanian Government then signed the treaty ceding to the United States the Zone where the Canal was to be built.

Striving to obscure and confuse the basic issue—that the Canal and Canal Zone are the lawfully held property of the United States—the Carter Administration has put together a concerted propaganda effort to try to deny the validity of U.S. sovereignty. The Administration's distortions include describing the railroad annuity as "rent" for "leasing" the Canal from Panama, and creating a bogus issue of whether under the new proposed giveaway treaty the U.S. can "intervene" in defense of the Canal. The whole question of whether the United States may or may not defend the Canal under the proposed treaty is a "red herring." Right now, under the 1903 treaty, we own both the Canal Zone and the Canal, and thus it is our constitutional responsibility to defend this American territory against any aggressor. Those Senators and Congressmen who have allowed themselves to be confused by this false issue of whether and under what circumstances the United States could intervene in Panama in defense of the Canal are doing America a serious disservice.

The issue is that, under the 1903 treaty, America owns the territory of the Canal Zone and Canal on the Isthmus. The proposed Carter-Torrijos treaty would abrogate that treaty and give sovereignty over the territory to Panama, a country ruled by a Marxist military dictator who has demonstrated his commitment to a Castro-style Communist dictatorship.

The proposed giveaway treaty also states that as soon as the present Canal Zone is handed over to control of the Torrijos regime, U.S. citizens who are employees of the planned Panama Canal Commission, contractors and their dependents, "shall abstain

from any political activity in the Republic of Panama" and be subject to the rule of dictator Omar Torrijos. How Torrijos and his Marxist henchmen will interpret this is indicated by the fact that Freedom House—on whose board of directors National Security Advisor Zbigniew Brzezinski sits—rates Panama's respect for human and political rights as low as that of any other dictatorship in the Western Hemisphere.

But indeed the ultimate challenge from the Administration's "new foreign policy" activists and propagandists who are engineering this giveaway is their implied claim that this nation has no legitimate strategic or defense interests outside the borders of the continental United States.

We must remember that the Communist strategists have made a specialty of taking the maximum advantage of any such precedents. Communist writers have badly stated that wresting control of the U.S. territory on the Isthmus of Panama is a key step to Communist takeover of the Caribbean and Central America. In March 1973, the secretary-general of the Panamanian Communist Party, which calls itself the *Partido del Pueblo* (P.D.P.), wrote in the official international Communist journal *World Marxist Review* that Panama must be seen as "another weak link in the chain of imperialist oppression, one of the fronts in the great struggle for liberation."

Abandonment of the Canal Zone territory would be a clear signal to the Kremlin that this country no longer has the will, the moral fiber, or the ability to defend its overseas possessions and rights against aggression from even so pathetically weak a Soviet stooge as General Omar Torrijos. If the Senate approves this giveaway, the full political and strategic backing of the Kremlin, Castro, and the apprentice Stalins in Jamaica, Panama, and Guyana will redouble pressure for U.S. abandonment of our naval base in Guantánamo, and for the "liberation" of the Commonwealth of Puerto Rico into the hands of a totalitarian Communist minority.

Furthermore, radical pressure has already been built to press for American termination of our various defense and economic agreements with such anti-Communist countries as the Republic of China, South Korea, the Philippines, Iran, South Africa, and most of Latin America. Both U.S. and foreign revolutionary organizations have already begun agitational campaigns against U.S. ownership of islands in the Pacific and a number of these militant groups have actually laid claims to possession of continental U.S. territory For example, revolutionary Chicano groups with backers in Mexico and Cuba now claim title to most of the American Southwest; and a racist terrorist organization called the Republic of New Africa, again with Cuban support, claims ownership of extensive areas of the American South.

It is not improbable that unless we draw the line America will eventually be told to divest itself of such so-called "colonialist, imperialist" possessions as the State of Hawaii and the Virgin Islands; told that the terms of the Gadsden and Louisiana Purchases must be considered invalid; and, finally, informed that Northern California and Alaska must go back to Soviet Russia since their sale by the Czar was not validated by the Russian people.

This is no joke. Don't forget that Soviet agent Alger Hiss first listed the Canal Zone as a "U.S. occupied territory" some 32 years ago. The Communists are patient. It is their expectation that one day instead of arguing about a Canal giveaway treaty with Torrijos, we will find ourselves negotiating with a future People's Republic of Mexico for visiting rights at the Alamo.

The Panama Canal treaty has become the single most important policy issue of the Carter Administration. The President signed the giveaway treaty in a staged carnival atmosphere, making the most of contrived television and newspaper coverage. Assorted dignitaries from a number of Latin American countries had been invited to attend, including the leaders of anti-Communist countries the Administration had needlessly insulted by crediting false Leftist claims about alleged violations of "human rights." This was done to fool the American people and persuade them to go along with the betrayal of this vital trade and strategic defense asset worth some $7 billion.

The President declared that, after the treaty was signed and made public, all the American people would see it as good for both Panama and the United States. We have been waiting for months and have yet to see anyone point to any benefit whatsoever for the United States. The Administration's lobbyists nonetheless continue trying to persuade the American people to reject common sense and accept, if not actively support, the giveaway of this $7 billion working testimonial to American ingenuity, determination, and administrative efficiency. The giveaway artists are relying upon created fear, on manufactured guilt, and on apathy.

The "fear" they promote is that there will be riots, an attempt to sabotage the Canal, or even guerrilla war against this United States territory if the giveaway treaty is rejected. Certainly Panama's Communists have whipped up riots previously. In 1964, some 23 Panamanian rioters were killed and 4 American soldiers lost their lives. The exhibition of U.S. determination to protect its property and its citizens put an end to the disorders.

As for vulnerability, the Canal like every other particle of American territory is defended ultimately only by our will to resist. If we won't defend the U.S. Canal Zone from guerrillas, will we defend Texas or Arizona? We would do well to remember that, when it comes to guerrilla warfare, it is the United States which has trained the Latin American military forces in the counterinsurgency tactics which have proved so successful that Castro's many attempts to initiate guerrilla operations have repeatedly been quashed wherever Leftist political factors did not intervene.

As for "guilt," the Administration's propagandists join with the radical Left in claiming that America's territories are examples of repressive "colonialism" and are repugant to "world opinion." In fast, anti-American "world opinion" is coordinated by Soviet K.G.B.'s "black propaganda" directorate, its Marxist allies in the Western countries, and by such international propaganda fronts as the misnamed World Peace Council. Americans should face the fact that the United States, with its representative form of government, its respect for the fullest range of human rights, and the example of the prosperity created by independent citizens under our Free Enterprise system will always be hated by the totalitarian dictatorships and oligarchies which predominate in the Communist camp and the Third World.

Assurances from the giveaway proponents that "all is well" and Panama is too far away to be concerned with are designed to lull people into believing that their elected Senators and Representatives can handle the Panama question without input from the voters. This is not so. Without a continuing flood of letters from American voters opposing the Canal betrayal, Senators and Congressmen will become vulnerable to intensive White House pressure to acquiesce. Dozens of federal-aid projects are being offered or withdrawn, support is being promised for a Senator's favorite legislation, political organizations suddenly provide or withhold funds for reelection campaigns, and so forth. But repeated letters and telegrams from concerned constituents will let Senators and Congressmen know that the voters oppose this dangerous giveaway of strategic American property and will tolerate no retreat whatever.

In its desperate efforts to secure ratification of the Canal Treaty, the Administration has even accepted the help of allies on the Marxist Left. Among those actively involved in supporting the Panama treaty are:

Coalition for a New Foreign and Military Policy (C.N.F.M.P.), a Washington-based lobbying group which formerly aided the Vietnamese Communists by urging Congress to cut off economic and military support to the anti-Communist Government of South Vietnam. The C.N.F.M.P. leadership works with the Soviet World Peace Council in urging unilateral Western disarmament and a massive slash in America's defense budget in order to fund bloated socialist welfare projects. It has been widely publicizing the fact that the White House credited it with being the principal influence in the President's decision to terminate the production of the B–1 bomber. The C.N.F.M.P.'s foreign-policy statements are drafted by associates of the Marxist Institute for Policy Studies (I.P.S.), where the late K.G.B. agent Orlando Letelier has been replaced by the self-admitted Castroite propagandist Saul Landau.

Washington Office on Latin America (W.O.L.A.), another Washington-based lobbying group which supports Castroite terrorist groups such as the Sandinista Liberation Front in Nicaragua. The W.O.L.A. is funded by some of the febrile extremists working with and in the National Council of Churches. It and its circle promote the "Christian socialist liberation theology," viewing Christ as a moral and intellectual forbear of terrorist Ché Guevara.

Washington's Ecumenical Program for Inter-American Communication and Action (E.P.I.C.A.), funded by the National Council of Churches. This pro-treaty group has staffed its offices with activist leaders of pro-terrorist Castroite groups including the Puerto Rican Solidarity Committee, the anti-Bicentennial July 4th Coalition, Non-Intervention in Chile, and the Panamanian Solidarity Committee.

American Friends Service Committee (A.F.S.C.), the Philadelphia-based "anti-imperialist" organization which is not part of the Society of Friends. This group supports terrorism and armed struggle so long as they are directed against what A.F.S.C. believes to be the root of all war and oppression—the American form of government and our Free Enterprise system. It is active in the fight for the giveaway treaty.

National Council of Churches, Committee on the Caribbean and Latin America, which is funded with the offerings of churchgoers who have no voice or vote in the disposition of their money. During this past year the N.C.C. took up the causes of the Wilmington 10, defendants convicted of arson and riot conspiracy in North Carolina, and of members of the terrorist American Indian Movement charged and convicted of violent felonies. It too is now neck deep in helping Mr. Carter sell the Canal giveaway.

Joining with these Leftist groups in supporting the treaties are a number of the largest U.S. banks, some of which are seriously overextended in unsecured "soft" loans to irresponsible Third World countries like Panama.

The total Panamanian debt to U.S. banks is $1.7 billion—almost all of it accumulated under dictator Torrijos. Panama must allocate some $47 million—which is 39 percent of its national Budget—to debt service on these massive loans. The loans were necessary because the Torrijos regime had run the Panamanian economy into the ground. Undoubtedly the directors of the creditor U.S. banks—which include Chase Manhattan

Bank, First National City Bank, Bank of America, Banker's Trust, First National Bank of Chicago, Republic National Bank of Dallas, and treaty negotiator Sol Linowitz's Marine Midland Bank—see that the only way of getting back their money with interest is to get control of the Canal and Canal Zone for Torrijos—so he can extort the money owed to the international banks from shipping fees. Not surprisingly, some of the large companies that have interlocking directorates with these banks have also joined in the campaign to give this strategic American territory to the Marxist regime in Panama.

The fight to block ratification of the giveaway treaties now pits the organized lobbyists of the White House, the radical Left, and the banking elite against an outraged American people. The people can win if they increase their efforts now with letters, telegrams, and telephone calls to their Senators. What must be emphasized is that American sovereignty over the U.S. Canal Zone must not be compromised. Period.

Already such ambitious politicians as Senator Howard Baker (R.-Tennessee) are proposing to add agreeable language to the treaty if only the Senate will consent to give away the Canal. Such reservations and codicils as are proposed, to repeat, will amount to little more than polite language in a death warrant. Our Senators must be urged to Vote No on the Canal treaties.

REPUBLICANS ARE TURNING TO CONABLE AS SPOKESMAN IN CONGRESS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. RHODES. Mr. Speaker, recently my good friend and colleague BARBER CONABLE was the subject of a profile in the New York Times. As many of us know, these journalistic sketches often can be wide of the mark in their portrayals of various individuals.

However, when the New York Times described BARBER CONABLE as a "Republican wheelhorse," in the most positive sense of that term, it scored a bullseye. I know that I speak for many Members on both sides of the aisle when I say that his voice is one to which I pay particular heed, especially when he addresses matters affecting fiscal and tax policy.

I hope my colleagues will enjoy reading this article as much as I have:

[From the New York Times, Jan. 21, 1978]

REPUBLICANS ARE TURNING TO CONABLE AS THEIR SPOKESMAN IN CONGRESS

WASHINGTON.—Although he is in his seventh term in Congress, he still gets mail addressed to "Barbara." And some of the letters come from women's rights groups "as if he's one of them," an aide says. Representative Barber B. Conable Jr. of upstate New York is not rankled by it. He has been accustomed for a long time to the "barbarazing" of his name.

What is far more important is that colleagues in the House have no trouble identifying him as a Republican wheelhorse. The 55-year-old conservative lawmaker from Genesee County in western New York is the floor manager and chief Republican spokesman for many of the major bills considered by the House. In the coming months, he will be one of the principal Republican voices on welfare revision and tax reform, including tax cuts.

On Capitol Hill he is considered the "most national" of New York State's 39 Representatives, a number of whom have been characterized as excessively parochial. In fact, Mr. Conable says: "I'm not very amenable to arguments that a bill 'is good for New York.'"

A NATIONAL APPROACH TO ISSUES

He insists on dealing with issues as national, not regional, matters. As for the question of more Federal help to New York City and state, he says: "A bill must not become just a New York position or it's foredoomed. What we do has got to make economic sense for the nation."

His Capitol Hill office is a reflection of a solid-citizen's love of tradition. There is a carefully preserved century-old desk with cabinet doors and more than 100 compartments and cubby holes that he calls "a cross between a juke box and an altar." The rugs are antiques handed down by his mother.

On the walls there is a collection of Indian artifacts, including ceremonial masks and 10 pipe-tomahawks, the first of them acquired when he was an Eagle Scout; also, about 20 prints of the Federal Capitol, some very rare.

His home is a farm house built in 1835 in Alexander, a crossroads village of 400 people. Behind it is his 180-acre forested plot where he goes to cut wood "when I feel out of sorts." A nature lover, he also plants thousands of seedlings to keep the forest young.

Mr. Conable is a self-styled "Jefferson Republican," and for the last year he has been the top-ranking Republican member on the powerful House Ways and Means Committee, which will be handling welfare and tax matters this year. He has achieved "almost cult status in Washington," says National Journal, a well-regarded Washington periodical. "House members, lobbyists and journalists speak admiringly of him, more because of his intellectual brilliance than because of his expertise."

Mr. Conable, the father of four, rarely spends a weekend in his comfortable town house not far from Capitol Hill. In his 13 years in Congress, he has never made fewer than 40 trips a year back to his district, which includes the western, largely Democratic half of Rochester, suburban Monroe County and the rural counties of Genesee, Livingston, Ontario and Wyoming, having much more in common with the Middle West than New York City.

Many Congressmen prepare news letters for the constituents back home, but it is doubtful if any spend as much effort and thought on it as Mr. Conable. He will sit in a high-backed swivel-chair—turn out a "Washington Report" that is not only full of details about what he has been working on but also offers such unorthodox political philosophy as this:

"For politicians, discretion is avoiding offense to the organized activists. It doesn't matter if the offense is justified. It doesn't matter if the organized activists are a minority of the people. Don't do it. Old Pol, even if it means you have to damage the majority, who are non-organized and non-activist."

As a minority member of Congress, no matter how effective he may be on various sections, of a bill, he is likely to be on the losing side on the final vote. For example, his detailed, carefully crafted plan for stabilizing the Social Security system with relatively small increases in employee-employer taxes, starting in 1981, was shoved aside by the Democratic majority.

Instead a bill with a substantial tax increase was approved, leading Mr. Conable to tell constituents in his "Washington Report" "the public reaction to this staggering increase in taxes has understandably been one of outrage."

The approved bill included features fought for by Mr. Conable to make significant improvements in the treatment of women under the Social Security system. Mr. Conable sums up his roll as follows: "As ranking member of Ways and Means, people listen to me when I talk. What is power? All it is, is influence. As long as people listen when I talk I've got some influence."

HIGH SILHOUETTE ROLE DROPPED

When Mr. Conable had the chance in January to take the top Republican spot on the Ways and Means Committee he quickly dropped his "high silhouette role" as G.O.P. policy chairman that he had held for three years. Party rules would not let him hold two such top positions.

As he explained to constituents, it was not a tough choice. "I never have been very ambitious politically, neither viewing the House as a career nor as a step to higher political office," he wrote. "The Ways and Means Committee is a great place for someone interested in legislating, in my mind the reason for my being here, and so I made it my preference."

He has had no serious trouble in beating Democrats in his district in recent years, including the popular Midge Constanza in 1974. She is now a top White House staff member.

The tall, bespectacled Mr. Conable got his A.B. Degree at Cornell in 1942 at the age of 19, completing the four-year course in three years. He joined the Marine Corps as a private, but by the time he went ashore with an assault wave at Iwo Jima in February 1945 he was a first lieutenant; and he finally worked his way up to the rank of colonel. He got his law degree at Cornell in 1948.

Mr. Conable enjoys concocting descriptions with some punch to them. Here are some recent Conable-isms:

On the Carter Administration's welfare revision plan—"It's got to be simplified. They haven't been honest about the cost of it so no one has confidence in the impact of the whole package. The cost estimate is phony as a $17 bill."

On the performance of Congress—"The 95th Congress is half over and if you started recounting our achievements you'd realize that, well, we're not halfway there. We started the year with a full plate, legislatively speaking. We're still chewing over the first big morsels we tried to swallow, and what's left looks more and more indigestible."

On a New York Congressional colleague who shall be nameless—"He's a dignified man and stands for nothing."

During the Gerald R. Ford-Ronald Reagan battle of 1976, Mr. Conable supported Mr. Ford all the way. While describing himself as a conservative, he contends that a lot of the Reagan conservatives "are not in the real world."

As a youngster, Barber Conable was teased by other boys who recited an old English rhyme:

"Barber, Barber, shave a pig,
How many hairs to make a wig?
Four and twenty that's enough.
Give the poor Barber a pinch of snuff."

A Conable great-grandfather married Sophia Barber, and both the Representative's grandfather and father were named "Barber." His father was county judge for Wyoming County and was succeeded by the Congressman's brother, John, who still holds the position.

Mr. Conable had three daughters (Anne, Jane and Emily) before begetting a son, and then remembering that old rhyme that used to ring in his ears, he says: "That's why I named my son Sam, and not Barber."

REMARKS OF DAVID B. SENTELLE

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. MARTIN. Mr. Speaker, I am happy and honored to be able to submit these inspirational remarks given at the Charlotte, N.C., Civitan Club's luncheon. Mr. David B. Sentelle graciously welcomed "aboard" new citizens in a way I know added to their excitement and exhilaration of the occasion. His heartfelt comments should cause all of us to pause and reflect on our free country, so thoughtfully described by Mr. Sentelle as the "greatest ship of state":

REMARKS OF DAVID B. SENTELLE

Ladies and Gentlemen, my fellow Americans, welcome aboard. Welcome to passage, if you would, of the greatest ship of state, sailing on the sea of international nationhood today. Welcome, if you would, to the right to complain.

Some years ago, a gentleman from a middle-eastern nation arrived in New York. From there, he moved to a midwestern city where, with the help of friends, he established a small restaurant which became a gathering place for the steel workers and union leaders in that mid-western city. For years, they gathered there to drink coffee, eat apple pie, and complain, as Americans are wont to complain about the state of our government.

For years, the proprietor made no contribution to these complaints. Suddenly, one day he joined in and complained as bitterly as anybody in the group. Finally the union president asked him—Ali, why is it that suddenly you have begun to join in our complaints? Ali told him—one does not complain when one is a guest in the home of his friends. Then he proudly produced the papers that proclaimed him an American citizen and declared that when one has married into the family, he has earned the right to gripe.

You are now members of the family, and I welcome you to the greatest griping society perhaps ever to exist in the world. Welcome, in short, to the family.

It is difficult to know what is important enough to say to new members of this family. In welcoming new citizens to the United States, it would be easy to talk about freedom. It would be easy to say—whatever nation you came from, or whatever government you existed under before, you have enjoyed no more freedom, and probably a great deal less, than will be yours for the rest of your life.

It would be easy, but it would be redundant. It would be safe to categorize the achievements of immigrants and contributions of persons born beyond these shores, to begin with Alexander Hamilton and his great role in the launching of his ship of state, and to read a list as long perhaps as my arm, closing with Henry Kissinger and his international reputation. It would be safe, but again, it would be redundant, as you know about freedom more than we.

So, do you know, that we are a nation of immigrants. So, do you know, that those of us who were born here, save for those few who belong to the Indian nation, are immigrants also. Even those of us who may not know the tangled web of our own roots know that our roots lie beyond the oceans and reach into some European or Asiatic or other non-American nation, and you know that too.

You know probably, more of this history of this nation than do most who were born in it.

It would be easy and safe again to talk about the strength and material success to which you have come, but again, you know it. You know that poverty in this nation is usually opulent compared to middle class of most of the nations of the world.

No, I wish instead to speak to you of the family that you have joined, of the love that exists therein. The English language is impoverished by having only one word for love. There ought to be, as there is in the Greek, a number of words to express different degrees and kinds of love, because there are many kinds of love.

And outside of divine love, probably the greatest and the most unselfish is that which exists within the family, between the parent and the child, or conversely between the child and the parent. That love can be the most beautiful when it is not the love between the natural parent and the natural child, but the love between the chosen. Billy Graham has said that going to church doesn't make you a Christian any more than going to a garage makes you a car. It is equally true that having a child doesn't make you a parent any more than having a piano makes you a musician.

A biological act produces natural children, even though the biological act may have been engaged in only for the gratification of biological desire. Not so with adoption. Adoption occurs because the new parent has love to offer; the new child has love to receive. Your act today and over the last few years has been an act of mutual adoption, for which I can think of few parallels.

One, perhaps the best, is from ancient Rome, when under the laws of that great nation, two adults, an older man and a younger man, who had found a love for each other to great to express in ordinary friendship, could go before a magistrate of ancient Rome and adopt each other as father and son, as did Julius and Augustus Caesar, as did Augustus and Agrippa, as has the United States and you.

Again, under the laws of North Carolina today, a child above the age of twelve may consent to his or her adoption by an adult, joining in that petition to the courts of North Carolina because of their mutual love, so has the United States and you.

For our nation is a parent. The word patriot comes from the Latin word for father. It is your love, your choice, of this new nation that has made you seek it as your new parent. It is the love of this nation for people like you that has made it accept you as its new child.

Welcome, then, to the family. Like all families, we have our problems. Like all families, we gripe and complain about each other. Among strangers, we wear masks. Among strangers, we do not show ourselves or our feelings, but to our families we can be who we are.

If you want to hear an amazing change in tone of voice, you just listen to a woman answer the telephone. And I guess the same is true of a man, but being a man, I don't see it in us. You listen to a woman answer the telephone, and when she doesn't know who's on the other end, she says—Hello?—in her sweetest voice. And then it's her husband who speaks on the other end, and he says—Hi, Honey—and she says—Oh, it's you—because she feels bad and she doesn't have to hide from him the fact that she feels bad. We can show who we really are, and she knows he loves her.

So it is in the family of a nation. We don't have to hide from each other when we feel bad. We can show who we really are. Welcome to that love, welcome to that honesty, wherever you have been at large in the world before, welcome home, for home now you are. Home, not in a comfortable, always peaceful, always gentle home, but home in a house boat, a rocking ship, that sails on stormy seas. A houseboat that sometimes runs out of fuel for its engines as we have run short on fuel for our industrial engines, these last few years.

A houseboat that sometimes suffers from a mutinous crew, at times perhaps on incompetent captain, but a houseboat that has sailed through storms before and with your help and the grace of God, will sail through the storms of today ready to receive, as it received you, those castaways who love its crew and love its passengers and wish to become one in their labors of setting a straight and true course.

THE PROBLEM OF HOSPITAL COSTS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. SYMMS. Mr. Speaker, almost everyone is aware of the high costs of medical care today, especially hospital costs. What many people do not realize, however, is that Government intervention into the private practice of medicine is largely to blame for skyrocketing costs of medical care in the United States.

The Educational Research Institute of the American Conservative Union released a study a few months ago which analyzed the problem of hospital costs. The study was performed by Ted Christopher, a junior at Harvard University. I commend Mr. Christopher's study to my colleagues in Congress:

THE PROBLEM OF HOSPITAL COSTS

(By Ted Christopher)

When Senator Edward M. Kennedy introduced the Carter Administration's plan to limit increases in hospital budgets, he called attention to the huge expenditures by Americans on hospital services: "Last year the nation's total hospital bill jumped to $55.4 billion, or more than $1000 per family . . . Americans today must work more than one full month of every year just to pay for their health care—two weeks' wages for hospital costs alone." [1]

As Kennedy and many others note, moreover, the trend is one of rising costs. President Carter puts it: "Since 1950, the cost of a day's care in the hospital has increased more than 1000 per cent—over eight times the rise in the Consumer Price Index. Today, the average hospital stay costs over $1300; just 12 years ago, a slightly shorter stay cost less than $300. And in the next year expenditures on hospital care may rise another 16 per cent." [2]

Different people variously attribute this sizable increase to patients, physicians and to the hospitals themselves. The President suggests that the private sector is somehow responsible or can alter the situation in some fashion. "The private sector's response to the challenges of cost containment will help decide its future role in our health care system."

Beyond these partial statements, however, there seems to be little public attention to the source of rising hospital—and other health care—costs. In particular, minimal notice is given the fact that the problems of

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Footnotes at end of article.

runaway health costs have become especially acute in the past decade, which happens to have been a period of sharply escalated Federal involvement in the medical field, through Medicare and Medicaid. There are numerous data suggesting the conjuncture of Federal involvement and rising costs is more than coincidence, that in fact the relationship is one of cause and effect.

It is noteworthy to begin with that, before the adoption of Medicare and Medicaid, the hospital price index was actually lower than the consumer price index, taking 1967 as the base year for comparison. In 1965, the CPI was 94.5, the hospital index 76.6. Five years later, consumer prices had risen to 116.3, a rather modest increase, while hospital prices had doubled to 145.4. Since 1970, consumer prices have risen to 172, while hospital prices have doubled yet again, to 282. In the decade after adoption of Medicare and Medicaid, in other words, hospital charges increased by roughly 300 per cent, consumer prices by 75 per cent.

The Department of Health, Education, and Welfare itself has stressed this correlation. "The medical price index," says HEW, "accelerated during 1965–70, but decelerated rapidly with the imposition of cost controls in 1971. Whereas prices for physicians and dental services did not move much faster than the CPI (except during 1965–70), the increases in rates for a hospital semi-private room ranged from two to three times the annual rate of increase experienced by the CPI, with notable acceleration recorded after the onset of Medicare." [3]

THE SPENDING EXPLOSION

In 1965, total spending for personal health care in the United States amounted to $41 billion—$31 billion in the private sector, $10 billion in the public sector. Since that time, there has been an exponential increase in the amount of money spent on health care. In 1974, the total figure was $104 billion, with the major increase occurring in the public sector. Private spending had gone up to $63 billion (about the same rate of increase as in the preceding decade), while government spending had grown to $41 billion.

The Council on Wage and Price Stability has summarized the process this way: "Since 1965, expenditures under private health insurance plans have increased 229 per cent—from $8.3 billion in 1965 to $27.3 billion in 1975. However, the proportion of total personal health care expenditures met by private health insurance has been relatively stable, reaching 26.5 per cent of expenditures in 1975.

"The rapid growth in private third-party payments in the last decade is dwarfed by the growth in public expenditures resulting from Medicare and Medicaid. Government expenditures for personal health care jumped 484 per cent from $7 billion to $40.9 billion, between 1965 and 1975. Government health care expenditure thus accounted for 39.7 per cent of personal health care expenditures in 1975, compared to 20.8 per cent in 1965. The government's impact is particularly noticeable in the hospital sector, where it met 55 per cent of expenditures in 1975." [4] (Even the growth of private insurance payments is traceable in considerable measure to official policy. This phenomenon, as noted by Harvard's Martin Feldstein in *The Public Interest*, has been strongly encouraged by tax treatment of insurance premiums as compared to taxes on personal income. "Individual's can deduct about half the premiums they pay for health insurance," Feldstein notes. "More important, employer payments for insurance are excluded from the taxable income of the employes as well as the employers. These premiums are also not subject to social security taxes or state income taxes. Thus, even for a relatively low income family, the inducement to buy insurance can be quite substantial . . ." [5])

The effect of such an increase in medical outlay would be inflationary on the face of it, since this rapid hike in spending meant a larger number of dollars were competing for medical services and facilities, bidding up the price of all the factors in the medical economy. While the supply side could and did expand in response to the sudden escalation of demand, it could not increase as rapidly as the number of dollars flowing into the system. Rising prices were the predictable result.

Beyond the sheer effect of raw demand, however, was the particular method of medical financing adopted under Medicare and Medicaid, stressing third party payments in behalf of consumers and after-the-fact reimbursement of providers. Through the impact of these programs, more than 90 per cent of hospital bills are now picked up by someone other than the patient, and 55 per cent are absorbed by the Federal government. The result, from the patient's standpoint, is that the service received is seen as "free," or nearly so, at the point of consumption.

PRICE IS NO OBJECT

Though this arrangement conforms to prevailing notions of medical care as a "right," it ignores the role of price as a regulator of demand. As prices go up, other things being equal, demand is curtailed; as prices go down, demand is increased. At a zero price for a scarce resource of service, demand would theoretically be infinite. In the case of hospital and other medical care, as the price to the consumer has been reduced at the point of consumption, demand for medical care, in quantity and quality, has risen sharply.

"In the United States," notes medical economist Paul Ginsburg of Michigan State University, "the system of hospital financing is approaching one where patients will have no incentive to consider price. Already, 90 per cent of hospital expenditures are covered by third-party payment . . . If third-party coverage is approaching 100 per cent it appears that neither charge nor cost-reimbursement is consonant with a 'quality' level of less than the limit of technology . . . With patients insensitive to price, and with costs or charges reimbursed, there is no restriction of increasing levels of quality . . . and quantity to the patients' saturation point." [6]

Representative Philip M. Crane (R-Ill.) likewise observes: "With only 10 per cent of hospital expenses being paid out of pocket by the consumers in 1977, there is obviously little incentive to choose the least expensive service since the difference in cost to the consumer is negligible. He pays only $5 more for the $100 treatment than the one costing $50." [7]

In view of these considerations, it is hardly surprising that, following the establishment of Medicare, hospital admissions among the elderly increased by 25 per cent and the length of hospital stays increased by 50 per cent. Dr. John B. Reiss of the New Jersey State Department of Health has noted: "The divorce of direct payment of use of health care, and payment for that care through third-party reimbursement may well have some effect on continuing increases in consumer demand for health care services. People who seek health care generally are not concerned with price at the time which they enter the system." [8] Joseph D. Hawkins, Texas State Insurance Commissioner, adds: "Insurance that at one time was purchased to cover the cost of unexpected illness and injury, increases health costs by stimulating the demand for broader, first dollar coverages. This, in turn, generates the provision of more complete, technical and expensive care." [9]

COST REIMBURSEMENT

As these comments suggest, the prevailing system of reimbursement to health care providers has also played an important role in boosting health expenditures. In essence, providers are reimbursed by the Federal government according to their costs or customary charges. This means, in a nutshell, that in order to get more money, the hospital needs only to spend more, passing the bill along to the Federal government. When confronted by a demand for augmented wages or a proposal to buy more expensive equipment to upgrade the quality of care, therefore, the hospital administrator has no particular reason to turn it down.

New York University economist Herbert Klarman explains: "Cost reimbursement . . . was widely adopted under Medicare and Medicaid. Under this method of payment a hospital is paid a daily rate related to its own cost of operation. The hospital administrator can no longer deny requests for higher wages or more supplies on the ground that money is lacking; to get money, he need only spend more." [10] Msgr. James P. Cassidy of the Department of Health and Hospitals of the Catholic Charities, Archdiocese of New York, agrees: "The more you spend, the greater your chance of reimbursement, and if you saved money in the past and did not spend your money, then you are penalized by lower reimbursement." [11]

Increased hospital wages have been one obvious effect of this procedure. Before 1965, salaries of hospital employees grew at a rate of about 5 per cent per year. Since then, the rate of increase has risen to double the previous level. Referring to expenditures by hospitals, columnist M. Stanton Evans has pointed out that "by far the vast majority of these expenditures—roughly 70 per cent—have gone to pay the wages of hospital personnel, as wages pushed steadily higher by employee demands have connected up with public funds." [12] Representative Crane has noted that in one year wage hikes alone constituted nearly 30 per cent of the rise in hospital costs.

In addition, cost reimbursement has prompted hospitals to install more costly equipment increasing the "quality" of care and thereby their appeal to prospective patient-customers and to health care professionals. As Senator Kennedy has stated, "the system tends to encourage hospitals to add expensive new facilities and technologies." [13] Kennedy notes that in the past six years the number of laboratory tests per patient has risen by eight per cent and that the cost of these tests has risen by ten per cent annually. Ralph Nader's Health Research Group adds: "Because of their desire to attract or keep medical staff members and to enhance the reputation of their institution, hospital administrators buy high-technology equipment and facilities, such as $500,000 CAT (computerized axial tomography) scanners and open-heart surgery units which they . . . could share with other hospitals." [14]

Representative Crane observes: "The number of intensive care units increased 130 per cent between 1970 and 1975, and the nursing hours per patient day in these units increased from 14.2 to 15.5 in the same period, adding to the cost of treatment . . . By the end of this year, U.S. hospitals will have 1,400 CAT scanners, which are used to detect cancer." [15]

Harvard's Feldstein confirms these observations. "It is our method of financing health services," he says, "that primarily determines the pattern of technological change itself. Hospitals would not be buying the latest, expensive medical technology if they could not afford it. What permits them to afford

it is our mode of insuring against hospital costs." [16]

In a recent issue of the New Republic, Eliot Marshall describes a process of hospital expansion, duplication of services and fight for greater "quality" in an environment where market considerations have largely been eliminated. He describes two lavish new hospitals going up in Boston, both of which provide private rooms and both of which are dependent on Federal financing. One features individual bathrooms for each patient, and an automated monorail system for the delivery of food and other supplies.

As Marshall puts it: "Political allegiances are important in the hospital war because the normal rules of competitive enterprise do not apply . . . Boston—like other parts of the country, including Florida, Washington, D.C., and Southern California—already has more hospitals than it needs. Yet private hospitals continue to expand and multiply, often with government financing and always with the exception of revenue from government health programs. . . . " [17]

In addition to all the above, a plethora of other government programs and regulations has added to the problem of medical costs. The Hill-Burton program, which in one year constructed 40 per cent of the new beds in non-federal short-term hospitals, is largely responsible for the present surplus of 100,000 hospital beds, each of which costs $20,000 a year to maintain. Federal pension requirements have forged many hospitals into costly programs, such as the $680,000 one which the Yale-New Haven Hospital adopted. Further, even the paperwork involved in licensing and quality standards, budget review, rate and reimbursement guidelines and countless other regulations helps to drive up expenses. And, of course, hospitals face the more familiar regulations as well—OSHA, EPA, FDA and so forth. As Representative Crane has noted: "If each of the more than 7,000 hospitals in the United States added just one more employee at $10,000 as the result of federal regulations, the annual added cost would be $70 million. Obviously the number of extra personnel is much higher than that at untold expense." [18]

In sum: By accelerating demand, creating incentives for both consumers and producers to seek more expensive services, and by introducing a host of complex regulations, the government has played the central role in creating the current problem of rising hospital costs.

FOOTNOTES

[1] *Congressional Record*, April 26, 1977
[2] House Document No. 95–129: "Health Care: Message from the President of the United States," April 25, 1977.
[3] *Health: United States*: 1975, DHEW Publication No. (HRA) 76–1232, p. 68.
[4] Executive Office of the President, Council on Wage and Price Stability, Staff Report, April 1976: *The Problem of Rising Health Care Costs*, p. 14.
[5] "The High Cost of Hospitals—And What To Do About It," *The Public Interest*, Summer 1977
[6] "Regulating the Price of Hospital Care," paper prepared for Regulatory Reform Conference, American Enterprise Institute, Washington, D.C. September 10–11, 1975
[7] *Congressional Record*, May 3, 1977
[8] Executive Office of the President, Council on Wage and Price Stability, *The Complex Puzzle of Rising Health Care Costs*, December, 1976; p. 10
[9] *Ibid.*, p. 11
[10] "Major Public Initiatives in Health Care," *The Public Interest*, Winter 1974
[11] *The Complex Puzzle of Rising Health Care Costs*, p. 12
[12] *Clear and Present Dangers*, Harcourt-Brace Jovanovich, 1975, p. 211
[13] *Congressional Record*, April 26, 1977
[14] *Congressional Quarterly*, April 30, 1977
[15] *Congressional Record*, May 3, 1977
[16] *The Public Interest*, Summer 1977
[17] "The Great Hospital War," *The New Republic*, May 28, 1977
[18] *Congressional Record*, May 3, 1977

THE PANAMA DEAL—MUZZLING CONGRESS, THE MILITARY, AND THE CONSUMER

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. HANSEN. Mr. Speaker, the proposed Panama Canal treaties are a sellout of American interests. President Carter's "fireside chat" last week was reflective of just how far the President is willing to go in his attempts to subvert the will of the majority of the American people. His efforts were not, however, successful as is witnessed by an article in the Washington Post which stated:

> Telephone calls to the White House ran 4 to 1 against the Panama Canal treaties after President Carter's televised speech urging the public to accept them.

The President is misinformed in his claims that the treaties are in the "highest national interest of the United States." This is untrue in almost every respect.

The overwhelming majority—30 to 1—of retired flag-rank military officers who no longer fear for their jobs and can speak freely, agree that our military security stands to be dangerously and irretrievably impaired.

Contrary to the President's statement, the United States will become more involved in colonialism and imperialism, rather than less. This is because the United States is currently handling matters regarding the Panama Canal which lies in U.S. territory largely without interference in Panama's internal affairs which would not be possible if the canal is absorbed as part of that nation.

At a time when our balance of payments is running at a record deficit, it is nothing but economic suicide to further impair our trade possibilities by turning over control of a major U.S. trade route to a foreign nation.

Furthermore, every household in the eastern part of the United States which stands to benefit by new domestic oil supplies from Alaska's northern slopes will find a bigger bill for heating oil every month thanks to the tolls and tariffs of dictator Torrijos. If the treaties are ratified, the price of sugar and other groceries for every U.S. family will also increase, not to help the beleaguered farmer, but to pad the pockets of the foreign middleman in Panama.

Mr. Speaker, there still exists a grave constitutional question concerning the proposed treaties which President Carter has failed to acknowledge. I have authored a resolution which is supported by a majority of the Members of this body which would assure the House a vote in the question of disposing of Government property as provided in article IV, section 3, clause 2 of the Constitution.

A substantial majority of the House are prepared to resist any attempt by the Executive or the Senate to usurp unauthorized authority or exclude the House from exercise of its appointed responsibilities to the Nation and its citizens.

As Members of the U.S. House of Representatives we would not presume to deprive the Senate of its constitutional powers regarding treaties because of article IV considerations. Likewise we would trust that the Senate would not presume to deprive the House of its designated authority.

This resolution will, no doubt, set back the Carter administration railroading efforts in the Senate since it clearly demonstrates that Senate majority leader, ROBERT BYRD of West Virginia, and Foreign Relations Committee leaders, JOHN SPARKMAN of Alabama and FRANK CHURCH of Idaho, do not enjoy the support of their constituency in giving away the canal as witnessed by the fact that all Members of the House from those three States are cosponsors of my resolution.

Additionally, Mr. Speaker, I call to your attention a recent article which I insert for the RECORD, by Mr. Kenneth Merin of the American Law Division of the Congressional Research Service which states:

> While it is impossible to make a categorical assertion that article IV, section 3, clause 2 is either exclusive or concurrent, it appears that those powers have been recognized as exclusive for purposes of disposal of property in and around the Canal Zone to Panama.

The complete text of Mr. Merin's remarks follows:

PANAMA—THE CONSTITUTIONAL QUESTION

(By Kenneth Merin)

Almost lost amidst the debate over the political, military, historical, and economic ramifications of the proposed Panama Canal Treaties is the constitutional question of whether American territory and property may be transferred to a foreign nation under the treaty making power. Article II, Section 2, clause 2 of the Constitution authorizes the President to negotiate and enter into treaties:

"He shall have the Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; . . ."

However, Article IV, Section 3, clause 2 grants Congress the power to dispose of territory and other Federal property:

"The Congress shall have Power to dispose of and make all Rules and Regulations inspecting the Territory or other Property belonging to the United States; . . ."

Certain powers granted by the Constitution to Congress are concurrent, and may be exercised by either the Congress, or the Executive through its treaty power. If the disposal power is concurrent, then American property interests may be conveyed to foreign nations without the approval of the House of Representatives. Exclusive powers may be exercised only by the Congress. If the disposal power is found to be exclusive, then both

Houses of Congress would be required to assent through legislation to any transfer of property interests.

CONSTITUTIONAL ANALYSIS

Two powers exercised by the Congress and generally conceded to be exclusive are the appropriations and revenue law powers. Their exclusive nature is readily apparent from the language of those Constitutional provisions. Thus, "All Bills for Raising Revenue shall originate in the House of Representatives; . . .", and, "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; . . .". Other provisions of the Constitution state the legislative powers of Congress in a permissive form, without the mandatory language used in the grants concerning appropriations and revenue powers.

LANGUAGE PERMISSIVE

The language of Article IV, Section 3, clause 2 is permissive, "The Congress shall have the Power . . .". Despite that language, the Supreme Court has constantly ruled that Congress' power to dispose of federal territory and property is exclusive. Those decisions, however, involved situations concerning the locus of authority within the federal system.

The Court did not consider the nature of the Congressional power as a limitation on the extent of the treaty power. In fact, Article IV does seem to be devoted to the distribution of authority between the State and Federal Governments. However, good arguments supporting both the exchange and concurrent interpretations of the disposal power may be culled from the Records of the Constitutional Convention, the various State Ratifying Conventions, and the Federalist Papers.

It does not appear that there is any clear answer to be obtained from the Constitution as to the exclusive or concurrent nature of Article IV as it relates to the disposal of property to a foreign power. Therefore, it is advisable to look to the past treaty practice of the United States in order to determine if that practice reveals precedent that may be considered controlling.

TREATY PRACTICE

Are previous disposals of territory and property (without implementing legislation) valid precedent for the proposition that the House of Representatives has no role in the disposition of Federal property interests? A comprehensive review of such actions suggests that they are distinguishable from the proposed cession of property to Panama.

One group of such treaties may be categorized as "boundary treaties". Through these instruments the United States delineated its borders. However, the settlement by treaty of a disputed boundary does not provide support for the concurrent nature of the disposal power, since a treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition.

Treaties that conveyed interests in land to the Indian tribes comprise the second group of treaties which have been suggested as a basis on which to find support for the concurrent nature of the disposal power. The Indian treaties do not serve to prove this point for several reasons.

First, many of those treaties did not grant the Indians a complete ownership interest in the land. Next, in those instances in which the Indian tribes received an ownership interest, the Federal Government still exercised ultimate control over the land through its power of eminent domain. That power obviously would not exist if lands were transferred to a foreign nation. Finally, Congress passed a law over a century ago that repudiated the practice of disposing of lands to the Indian tribes by treaty.

A third group of treaties does provide more of a basis on which to base a claim that treaty practice of the United States shows that the disposal power is concurrent. The prime example of this sort of treaty is the instrument returning Okinawa to Japan. That 1972 cession did convey Federal property to Japan, seemingly without congressional approval. The precedential value of this treaty is limited by the lack of congressional opposition to the transfer and by existing statutory language which may have been used as a basis under which the transfer was made.

CONCLUSION

The treaty making power, vested in the President to be exercised with the advice and consent of the Senate is extremely broad in scope. That power is limited when the Constitution confers an exclusive grant of authority on Congress.

Although there are excellent arguments in favor of the proposition that the authority to dispose of property is concurrent and may therefore be exercised under the treaty making power, those arguments are not altogether free from doubt. Supreme Court decisions have recognized the exclusive nature of Congress' Article IV powers as they relate to the Federal-State relationship.

Those rulings have never been qualified by other decisions characterizing the disposal as concurrent when used by the executive under the treaty making power. It does not appear that past treaty practice with either foreign nations or Indian tribes provides authoritative precedent establishing, with any degree of certainty, the exclusive or concurrent nature of Article IV, as that provision relates to disposal of land to a foreign sovereign.

It is clear that Congress has often asserted an exclusive right to dispose of federal territory and property. It is also apparent that both the Executive and the Senate have recognized that claim in past dispositions of property in the Canal Zone to Panama. Therefore, while it is impossible to make a categorical assertion that Article IV, Section 3, clause 2 is either exclusive or concurrent, it appears that those powers have been recognized as exclusive for purposes of disposal of property in and around the Canal Zone to Panama.

Finally, regardless of the nature of the Article IV power, the co-operation of all three branches of government is necessary for the effective implementation of American foreign policy. Although the President is the sole organ of communications with other nations, conclusion of a treaty without prior regard for congressional attitudes might adversely affect the continuing executive/congressional relationship.

PREVIOUS CESSIONS

The United States has transferred territory and property in and around the Canal Zone to the Republic of Panama on four previous occasions.

The 1932 and 1937 transfers were effected by Act of Congress. In 1943, a Joint Resolution approved an executive agreement calling for the transfer of property to Panama. Three provisions in a 1955 treaty with Panama provided for the disposition of territory and property. One of those provisions required implementing legislation. Although the other two provisions did not call for implementing legislation, a State Department official acknowledged that implementing legislation would be required for all three provisions.

Finally Mr. Speaker, I wish to call your attention to my previous remarks in the CONGRESSIONAL RECORD (Extensions of Remarks) of November 8, 1977, concerning the muzzling of the military on the Panama Canal subject.

As a continuance of my statements on this subject I include for the RECORD two recent articles, one from the January 25, 1978, issue of the Arizona Republic and one from the February 5, 1978, issue of the Washington Star. The articles speak for themselves, in one Secretary of Defense Harold Brown admitted to muzzling the Joint Chiefs on the Panama question and in the other an Army general has questioned the treaties and is preparing to retire in June. I highly recommend both articles to my colleagues in light of the seriousness of the implications of this matter. The articles follow:

JOINT CHIEFS FACE "MUZZLING" IF THEY OPPOSE CANAL PACTS

Secretary of Defense Harold Brown admitted on Tuesday that if any of the Joint Chiefs of Staff opposed ratification of the Panama Canal treaties, they would be "muzzled."

They would be free to criticize the treaties, but Brown said if they do they should be prepared to resign. However, he said all support the treaties.

Referring to some former chiefs who oppose the treaties, Brown said they are not as well informed. Some expressed opposition even before both treaties were completely written, Brown said.

Brown made the remarks in answer to a question from the audience after he had finished a speech on the treaties at a dinner sponsored by the Military Affairs Committee of the Phoenix Metropolitan Chamber of Commerce in the TowneHouse.

Brown told another questioner he doesn't think the canal is a white elephant, but doesn't want to overstate its values.

In his speech, Brown said the treaties, subject to Senate approval, are needed to keep Panama as a friend.

"We want the canal protected from external threats involving sophisticated weapons launched from outside Panama," Brown said. "Just as important, we want it protected from guerrilla or terrorist attacks or threats that could originate close by."

The Secretary emphasized that the United States "retains all rights necessary to take whatever actions may be required to ensure the canal's neutrality and security. Those rights include the right to use military force."

Basically, the United States feels it is in a better position to have a friendly nation running the canal than to have the United States operate it in an unfriendly atmosphere, Brown said.

In a press conference before the dinner, Brown praised the work of Adm. Stansfield Turner, Central Intelligence Agency director, who had been reported on the way out until President Carter expanded his authority Tuesday morning.

HE'S WORRIED—AND GOING TO RETIRE: GENERAL OFFERS CANAL PACT OPTION

(By Jeremiah O'Leary)

When the tall, distinguished-looking three-star general testified in full uniform before a Senate committee last week on his ideas for an alternative to the administration's proposed Panama Canal treaties, there were ominous vibrations throughout the Pentagon.

But Lt. Gen. Gordon Sumner, Jr., 53, chairman of the 19-nation Inter-American Defense Board, drew no flak from the White House or the Joint Chiefs of Staff for what some might regard as an expression of disagreement with the policy of his commander-in-chief.

For one thing, Sumner didn't say outright he was against the canal treaties, only that he has serious concerns about them and that

he had a proposal of his own if the Senate does not ratify the pacts.

For another, Sumner applied for retirement late last year, effective May 31, in light of his convictions about the canal treaties and therefore is somewhat out of reach of any rebuke or punitive action that might be contemplated.

"I felt I would be in a better position not to embarrass anybody if I put in my papers," Sumner said in an interview yesterday. "And I'm not thinking of becoming a martyr."

Sumner indicated he was aware of what happened to Maj. Gen. John K. Singlaub and Lt. Gen. Donn A. Starry for stepping out of line with public pronouncements.

Singlaub was removed as chief of staff for U.S. forces in Korea after publicly challenging President Carter's decision to pull U.S. troops out of Korea. Starry was rebuked for failing to clear a speech with the Pentagon in which he warned that the United States might wind up in the middle of a Sino-Soviet War.

But Sumner, in his testimony last week before the Senate Armed Services Committee, did no more than express his concern about the treaties and suggest an alernative if the treaties fail when the ratification vote is taken in about five weeks.

His proposal was that the United States would transfer control of the canal to the Inter-American Defense Board, the defensive arm of the Western Hemisphere under the Rio Treaty, to operate the waterway as an international utility. As members of the board, both Panama and the United States would participate in defense of the canal, Sumner said.

Under Sumner's proposal, the Canal Zone would remain intact under control of the board, and benefits to Panama could be increased by contracting out services now estimated to be worth $100 million a year.

Sumner was asked if he had thought he might be subject to disciplinary action for, in effect, making a proposal far different from the administration's official policy on Panama.

"What I have done is make my views known in a non-inflammatory way," Sumner said. "I have received no instructions from my government through channels since my position is international and not like that of the generals in charge of NATO and Southern Command.

"I had orders from the Joint Chiefs to testify, so I had to do that. I told them I wanted either a letter or a subpoena before I testified, and I was ordered to go ahead on the basis of a letter, not a subpoena. I would have been in violation of my orders if I had not testified.

"My position is that, as chairman of the IADB, the treaties are officially none of our business. As an Army officer, I have to support my government. As a person, I have serious worries about the treaties. Having received no instructions, I can say what I think."

Nevertheless, Sumner decided just before Christmas to retire with 35 years of service so he could speak his mind. While he carefully does not dissent from the treaties signed by Carter and Gen. Omar Torrijos, Panama's chief of state, Sumner openly declares the U.S. position in Latin America has "gone to hell and I don't want to be part of it."

Sumner is well-schooled in international affairs. He was Middle East adviser to Secretary of Defense James R. Schlesinger and before that was an aide to Secretary of Defense Melvin Laird.

He also has seen service in the Bureau of International Security Affairs, the "little State Department" of the Pentagon. Sumner is a native of Albuquerque, N.M., and joined the Army in November 1942. The was in the 2nd Division in World War II and the 1st Cavalry Division in the Korean War.

ADDITIONAL ASSISTANCE FOR SOVIET JEWISH REFUGEES NECESSARY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1978

Mr. SOLARZ. Mr. Speaker, in his budget request, the President has asked Congress to provide a $21.2 million increase in the State Department's U.S. refugee program to be used for "increased grants to voluntary agencies—to resettle Soviet and other refugees in the United States."

Mr. Speaker, I strongly support this additional funding and commend the President for his initiative in this crucial area. This unique immigrant group, refugees from a system that did not provide them with the freedoms that all Americans enjoy, has already made a useful contribution to our society. I look forward to the day when they will enjoy full American citizenship, and I am particularly pleased to take this opportunity to welcome the large numbers of families who have settled in the Brighton Beach and Boro Park neighborhoods in my district.

I ask that my testimony on behalf of the President's request submitted to the International Relations Committee be included at this point in the RECORD, and I urge all of my colleagues to support this essential program which makes clear America's willingness to support humanitarian goals through practical measures:

TESTIMONY OF REP. STEPHEN J. SOLARZ ON U.S. REFUGEE ASSISTANCE

Mr. Chairman, I am submitting this testimony to the Subcommittee in support of the President's budget request for a $21.2 million increase in the State Department's U.S. Refugee Program to be used for "increased grants to voluntary agencies . . . to resettle Soviet and other refugees in the United States." This funding is of the utmost importance to insure the successful absorption of Soviet refugees in our communities.

Since 1972, over 20,000 Jewish refugees have emigrated from the Soviet Union to the United States to escape political and religious persecution. About half of this total have come to New York City, and a large percentage of these have settled in the Brighton Beach and Boro Park neighborhoods in my district. These new immigrants have already become productive participants in our society, and I look forward to the day when they will enojoy the benefits of American citizenship.

Mr. Chairman, I am sure you are well aware of the massive commitment the American Jewish community has made to the resettlement of these refugees. The Jewish community spends an average of $10,000 for each Russian refugee family resettled in the United States, and in 1976 alone the American Jewish community spent over $19 million to help resettle the 5,000 Soviet refugees who arrived in the United States. I am assured that this commitment will continue in the years to come.

However, the current rate of refugee immigration to the United States has increased in recent years while the overall numbers of Jews leaving the Soviet Union has also increased somewhat in the recent past. Accordingly, private funds are no longer totally sufficient to take care of the enormous resettlement costs of this unique population.

Mr. Chairman, I am personally acquainted with the variety of programs that the Jewish Federations and agencies like the New York Association for New Americans and the Hebrew Immigrant Aid Society have provided for refugees coming to the United States. These agencies have provided funding for basic maintenance, clothing, household establishment, language training, health care, job training, family counseling and other activities. Because of these programs, the resettlement of Jewish refugees has been remarkably successful. For example, a recent follow-up study of 100 families who received service from the New York Association for New Americans shows a familiar pattern: the overwhelming majority of families are able to find a niche for themselves within a year, with 88 percent saying they were satisfied with their present life in New York and their prospects for the future.

Because of the costs associated with these remarkable programs, Jewish Federations and their agencies have applied for Federal categorical assistance to supplement private community support. Indeed, I have frequently personally interceded with various Federal agencies in the attempt to gain support for these necessary programs. Unfortunately, applications for this assistance have not been generally successful, and the discouraging experiences of New York City's Jewish agencies and the New York Association for New Americans have led me to believe that a special Federal program was essential for this unique group.

For this reason, I was extremely pleased to learn that President Carter has endorsed increased assistance to Soviet Jews in the State Department's U.S. refugee program to supplement ongoing Jewish community efforts in a fruitful partnership between the private and governmental sectors. I strongly urge the Subcommittee to approve the President's request, and I commend the Administration for its notable efforts in making the request this year.

Let me add one further note. I believe it is equally important for this Subcommittee to continue its ongoing initiative in authorizing $20 million to aid in the resettlement of Soviet Jewish refugees in Israel. In the past ten years, over 120,000 refugees have emigrated from the Soviet Union to Israel, and, as you know, governmental agencies like the General Accounting Office have found that U.S. funds contributed significantly to resettling these refugees. While we consider increasing assistance for those refugees coming to the United States, we should not forget that about half of Jewish emigrants from the Soviet Union do immigrate to Israel and continue to require assistance there.

These two congressional refugee resettlement authorizations should be seen in their proper light as complementary and essential. The few millions of dollars we will spend on these programs makes clear America's willingness to support humanitarian goals through practical measures.